The

Journal of the Assembly

OF THE

SEVENTY-FIFTH SESSION

OF THE

LEGISLATURE OF THE STATE OF NEVADA

2009

BEGUN ON MONDAY, THE SECOND DAY OF FEBRUARY, AND ENDED ON MONDAY, THE FIRST DAY OF JUNE

VOLUME 1

THE FIRST DAY—THE SEVENTY-THIRD DAY

SEE VOLUME 5 FOR INDEX

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ASSEMBLY LEGISLATIVE CALENDAR

(The Assembly actually met for a total of 79 days, though the session lasted through 120 calendar days; the table below is numbered by calendar days.)

Calendar Day	*Date*	*Page Number*
1	February 2, 2009	1
2	February 3, 2009	85
3	February 4, 2009	88
5	February 6, 2009	92
8	February 9, 2009	95
9	February 10, 2009	100
10	February 11, 2009	104
11	February 12, 2009	109
12	February 13, 2009	116
15	February 16, 2009	123
16	February 17, 2009	127
17	February 18, 2009	136
18	February 19, 2009	147
19	February 20, 2009	158
22	February 23, 2009	171
23	February 24, 2009	176
24	February 25, 2009	188
25	February 26, 2009	200
26	February 27, 2009	206
29	March 2, 2009	209
30	March 3, 2009	216
31	March 4, 2009	227
32	March 5, 2009	239
33	March 6, 2009	253
36	March 9, 2009	257
37	March 10, 2009	274
38	March 11, 2009	285
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40	March 13, 2009	308
43	March 16, 2009	321
44	March 17, 2009	362
45	March 18, 2009	368
46	March 19, 2009	382
47	March 20, 2009	387
50	March 23, 2009	393
51	March 24, 2009	411
54	March 27, 2009	424
57	March 30, 2009	435
58	March 31, 2009	450
59	April 1, 2009	481
60	April 2, 2009	503
64	April 6, 2009	580
67	April 9, 2009	649
68	April 10, 2009	758
71	April 13, 2009	769
72	April 14, 2009	854

Calendar Day	*Date*	*Page Number*
73	April 15, 2009	1062
74	April 16, 2009	1163
75	April 17, 2009	1409
78	April 20, 2009	1646
79	April 21, 2009	2435
80	April 22, 2009	2527
81	April 23, 2009	2535
82	April 24, 2009	2544
85	April 27, 2009	2548
86	April 28, 2009	2552
87	April 29, 2009	2562
89	May 1, 2009	2574
90	May 2, 2009	2646
93	May 5, 2009	2678
94	May 6, 2009	2705
96	May 8, 2009	2721
100	May 12, 2009	2728
101	May 13, 2009	2859
103	May 15, 2009	2926
104	May 16, 2009	3001
106	May 18, 2009	3125
107	May 19, 2009	3497
108	May 20, 2009	3686
109	May 21, 2009	4249
110	May 22, 2009	4723
111	May 23, 2009	5181
114	May 26, 2009	5482
115	May 27, 2009	5516
116	May 28, 2009	5563
117	May 29, 2009	5737
118	May 30, 2009	5809
119	May 31, 2009	5963
120	June 1, 2009	6170

LISTING OF ASSEMBLY BILLS AND ACTION THEREON

(Where a roll call vote was taken on final passage, such action is denoted by an asterisk following the page number.)

No. *Summary, Introducer and Page Reference*

1.... Prohibits certain demonstrations at a funeral, memorial service or ceremony. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Stewart, 50.

2.... Requires each officer of the Nevada Highway Patrol to complete certain training in the proper installation of a child restraint system. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Carpenter, 50, 211, 406.

3.... Requires the area immediately above and surrounding the interred remains in each veterans' cemetery in this State to be landscaped with natural grass. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblyman Manendo and Senator Hardy, 50, 503, 583, 598, 649, 2722, 2725, 2833*, 2834, 5181, 5513, 5514, 5561.

4.... Creates the Statewide Alert System for the Safe Return of Missing Older Persons. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. McClain, 51, 211, 406.

5.... Revises provisions governing safe and respectful learning environments in public schools. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Education, 51.

6.... Revises provisions governing certain emergency admissions to mental health facilities and hospitals. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Human Services, 51, 1646, 1647, 1746, 2157*, 2860, 2999.

7.... Makes appropriations for certain public health programs. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Ways and Means, 51, 211, 406.

8.... Makes various changes governing the investigations of the criminal history of certain employees and licensees and creates the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Health and Human Services, 51, 211, 406, 2129, 2169, 2431.

9.... Creates the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 52, 211, 406, 2706, 2707, 5764, 5771*, 5772, 5937, 6169.

10.... Makes various changes concerning certain health care professionals who report certain information to licensing boards or other governmental entities or who cooperate in investigations of certain health care professionals. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Human Services, 52, 481, 510, 529, 2129, 2130, 2167*, 2168, 5181, 5514.

11.... Revises provisions governing the Governor Guinn Millennium Scholarship Program. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Settelmeyer, 52.

12.... Revises the date of the primary election. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Gansert, 52.

13.... Revises provisions governing expenditures by school districts for textbooks, instructional supplies and instructional hardware. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 53, 1410, 1413, 1604*, 4250, 4463, 4466, 5179.

14.... Revises provisions governing testing and reporting of results of pupils. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Education, 53, 387, 405, 414, 759, 766, 843*, 2860, 2999.

15.... Revises provisions governing sterilization requirements for dogs and cats. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Manendo, 53, 582, 598, 754*, 4250, 4428, 4431, 4432, 4959, 4963, 5514.

16.... Provides for the disclosure of certain information to an emergency response employee concerning possible exposure to an infectious disease. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Committee on Commerce and Labor, 53, 481, 529, 643*, 3126, 4102, 4106, 4721.

No. *Summary, Introducer and Page Reference*

17 .... Revises provisions concerning persons who steal parts of streetlights and traffic-control devices. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Koivisto, 53.

18 .... Authorizes the issuance of bonds for environmental improvement projects for Lake Tahoe. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 54, 211, 406, 5553, 5554, 5641*, 5772, 6169.

19 .... Revises provisions governing education and makes appropriations. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Education, 54, 211, 406.

20 .... Revises provisions governing homes for individual residential care and other facilities and agencies licensed by the Health Division of the Department of Health and Human Services. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Human Services, 54, 649, 855, 888, 1154, 2679, 2701*, 3498, 3684.

21 .... Revises provisions governing the verification of motor vehicle liability insurance policies by the Department of Motor Vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Transportation, 54, 482, 533, 644*.

22 .... Revises provisions relating to certain trade practices. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 55, 2128, 2129, 2178, 2440*, 2441, 4723, 4922, 4955, 5514, 6257.

23 .... Revises provisions governing the crediting and refunding of overpayments of certain taxes and fees. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Taxation, 55, 309, 330, 363*, 2575, 2676.

24 .... Enacts provisions governing certain claims for compensation under industrial insurance. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 55, 2128, 2129, 2191, 2441*, 2860, 4116, 4127, 5677, 5772, 6389, 6401, 6497.

25 .... Revises provisions governing examinations of applicants for a Nevada driver's license. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Transportation, 55, 1063, 1064, 1067, 1724, 4969, 5514, 6167, 6498, 5920, 5921*.

26 .... Revises provisions governing charter schools. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Education, 56, 581, 582, 602, 754*, 3687, 4225, 4228, 4721.

27 .... Clarifies requirements and procedures for obtaining a Nevada identity theft passport. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 56, 200, 207, 213, 218, 219*, 362, 385.

28 .... Revises provisions governing hearings conducted by the Department of Motor Vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Transportation, 56, 368, 383, 390, 405*, 2575, 2676.

29 .... Revises provisions governing the use of money in the Account for License Plates for the Promotion of Agriculture Within This State. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, Agriculture, and Mining, 56, 147, 148, 227, 245, 255, 271, 281, 292*, 293, 2860, 2999.

30 .... Revises provisions governing the granting by the Commission on Economic Development of a partial abatement of certain taxes on a new or expanded business in this State. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Taxation, 56.

31 .... Revises certain powers of county governments. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Government Affairs, 57.

32 .... Provides that no government, governmental agency or political subdivision of a government may be required to identify or mark the approximate location of certain sewer service laterals. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Human Services, 57.

33 .... Revises provisions governing subsequent convictions of battery which constitutes domestic violence. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Judiciary, 57, 211, 406, 425, 443.

34 .... Authorizes prisoners in certain state correctional institutions or facilities to use certain electronic communication devices under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Corrections, Parole, and Probation, 57, 299, 319, 331, 363.

35 .... Revises provisions governing petitions by offenders under lifetime supervision for release from lifetime supervision. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 58, 503, 584, 754, 5776.

36 .... Revises provisions pertaining to lifetime supervision of sex offenders. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Corrections, Parole, and Probation, 58.

No. *Summary, Introducer and Page Reference*

37 .... Provides relief from paying the penalty for the late payment of the annual fee for a state business license under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Taxation, 58, 309, 331, 363*, 2575, 2676.

38 .... Provides that sex offenders who are under lifetime supervision must not have their civil rights automatically restored. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Corrections, Parole, and Probation, 58.

39 .... Revises the provisions of the North Las Vegas City Charter governing primary municipal elections. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Government Affairs, 58, 240, 255, 271, 281, 293*, 855, 1407.

40 .... Revises provisions governing the review and approval of plans for the construction or alteration of school buildings. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Government Affairs, 58, 211, 406, 1646, 1647, 1752, 2157*, 3498, 3684.

41 .... Makes various changes to voter registration and voting procedures for certain members of the Armed Forces of the United States and certain members of their families, and certain other voters who reside outside the United States. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 59, 769, 770, 1053*, 2860, 2878, 2891, 2999.

42 .... Grants administrative subpoena power for the Medicaid Fraud Control Unit within the Office of the Attorney General to obtain certain records and materials. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Committee on Judiciary, 59, 770, 786, 860.

43 .... Revises provisions prohibiting discrimination in employment, housing and public accommodations. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Government Affairs, 59.

44 .... Revises provisions relating to funds to stabilize the operation of local government. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 59.

45 .... Makes various changes to provisions governing public defenders. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Government Affairs, 60, 80, 211, 406, 1410, 1416, 1422.

46 .... Makes various changes concerning the right of certain persons to purchase or possess a firearm. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Judiciary, 60, 1164, 1176, 1605*, 3498, 4047, 4057, 5516, 5529, 5777, 5787, 5938, 6498.

47 .... Revises provisions relating to specialty courts. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Corrections, Parole, and Probation, 60, 1062, 1063, 1067, 1399*, 2860, 2999.

48 .... Allows a public body to resolve disputes in a contract for a public work by way of processes other than arbitration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 60, 1163, 1164, 1189, 1605*, 1606, 2860, 2999.

49 .... Authorizes a board of county commissioners, under certain circumstances, to provide a civil penalty in lieu of a criminal penalty for the violation of certain ordinances. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Government Affairs, 61, 650, 651, 656, 764*, 2860, 2999.

50 .... Prohibits certain demonstrations at a funeral, memorial service or ceremony. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Committee on Judiciary, 61.

51 .... Authorizes counties to adopt by ordinance fees for conducting certain activities that result in the disruption of vehicular and pedestrian traffic on public roads and rights-of-way. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 61.

52 .... Revises provisions relating to public hospitals and requires hospitals in certain larger counties to provide a report of certain information concerning patients to the Legislative Committee on Health Care. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Health and Human Services, 61, 1410, 1591, 1604*, 3126, 5546, 5547, 5737, 5764, 6235, 6238, 6497.

53 .... Revises provisions governing operators of body shops and garages. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Committee on Commerce and Labor, 62.

54 .... Authorizes certain counties to establish programs to provide financial assistance to certain persons. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 62, 2128, 2129, 2205, 2441*, 4723, 4905, 4911, 5514.

No. *Summary, Introducer and Page Reference*

55.... Creates the Public Education Stabilization Fund. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 62, 211, 406.

56.... Revises provisions governing pupils with disabilities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Education, 62, 854, 855, 897, 1154, 1155*, 3687, 4228, 4237, 4721.

57.... Prohibits certain activities related to the solicitation of an accident victim on behalf of a legal or health care practitioner. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Commerce and Labor, 62.

58.... Revises provisions governing residential landlords and tenants. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Koivisto, 63.

59.... Creates a rebuttable presumption against an award of custody or unsupervised visitation for any person who has abducted a child in the past. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 63, 855, 906, 1155*, 2647, 2703.

60.... Revises provisions concerning the administration and investment of public money. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 63, 240, 255, 271, 281, 292, 433, 2435, 2462, 2514, 2521*, 5181, 5498, 5513, 5737, 5812, 5952, 5953, 6000, 6498.

61.... Requires notification of certain victims of crime of the discharge, conditional release or escape of certain persons from the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Judiciary, 63, 770, 788, 1053*, 2575, 2676.

62.... Requires the State Board of Health and the district board of health in certain counties to prescribe the form and content of do-not-resuscitate orders. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Health and Human Services, 64.

63.... Makes various changes to provisions regarding justice courts. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 64, 855, 912, 1155, 2129, 2142, 2167, 2168*, 3498, 3684.

64.... Increases the number of judges in the Second and Eighth Judicial Districts. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Ways and Means, 64, 80, 211, 406, 758, 3126, 3129, 3424, 3484*, 5737, 5840, 5845, 6169.

65.... Provides for the collection and disposition of additional court fees. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 64, 1064, 1410, 1422, 1430, 3126, 3292, 3340, 3488*, 5677, 5839, 5845, 6169.

66.... Authorizes the governing body of a city to adopt an ordinance requiring the registration of vacant dwellings and buildings. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 64, 80.

67.... Authorizes boards of county commissioners to levy an ad valorem tax to pay the costs of public safety, health and welfare services. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 65.

68.... Provides for the issuance of a certificate of birth resulting in stillbirth. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Stewart, 65.

69.... Revises provisions governing the licensure of persons who sell nursery stock. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Natural Resources, Agriculture, and Mining, 65, 211, 216, 234, 246, 255, 271, 281, 292, 406.

70.... Designates English as the official language of the State of Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Stewart, 65.

71.... Authorizes the Real Estate Division of the Department of Business and Industry to keep confidential certain records and information obtained in regulating the sale of subdivided land. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 66, 854, 855, 915, 1155*, 2860, 2999.

72.... Eliminates the Alcoholic Beverage Awareness Program Account. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Taxation, 66.

73.... Makes various changes to provisions governing watercraft. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, Agriculture, and Mining, 66, 216, 234, 246, 255, 271, 281, 292, 1171, 1392, 1606*, 2860, 2999.

No. *Summary, Introducer and Page Reference*

74.... Revises provisions concerning tentative maps and final maps of certain subdivisions of land. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 66, 1646, 1647, 1755, 2157, 2158*, 2575, 2676.

75.... Requires the State Forester Firewarden to submit annual reports concerning fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin to certain persons and entities. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Natural Resources, Agriculture, and Mining, 66, 216, 234, 443, 446, 479, 499, 578, 644*, 3498, 3684.

76.... Revises provisions governing the placement of children who are in the custody of an agency which provides child welfare services. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Human Services, 67, 581, 582, 605, 754*, 3126, 3495.

77.... Revises provisions governing the unlawful killing or possession of wildlife. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Natural Resources, Agriculture, and Mining, 67.

78.... Requires the State Forester Firewarden to establish and carry out a program for operating conservation camps. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Corrections, Parole, and Probation, 67, 147, 163, 173*, 274, 296.

79.... Revises provisions concerning city elections. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 67, 650, 651, 656, 764*, 3126, 3495.

80.... Revises provisions relating to excavations. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Health and Human Services, 68, 1163, 1164, 1190, 1606*, 4723, 4744, 4751, 5514.

81.... Makes various changes relating to the Central Repository for Nevada Records of Criminal History. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Corrections, Parole, and Probation, 68, 211, 406, 1743, 1744, 1910, 2157, 2158, 2679, 2701*, 5516, 5561.

82.... Makes various changes relating to elections. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 68, 1603, 2128, 2129, 2212, 2431, 4504, 4568, 4678, 4679*.

83.... Makes various changes concerning the reporting and investigation of allegations of child abuse and neglect. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Human Services, 69.

84.... Revises provisions governing compensation. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Commerce and Labor, 69, 1646, 1647, 1758, 2157, 2158*, 4250, 5547, 5553, 5737, 5764, 6063, 6069, 6198.

85.... Provides for the formation of a committee to study laws concerning sex offender registration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Corrections, Parole, and Probation, 69, 1409, 1410, 1430, 1604*, 2860, 2999.

86.... Provides general authority for a local government to impose a new tax or fee or increase an existing tax or fee for any purpose upon voter approval. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 69.

87.... Revises provisions concerning the collection of debts owed to the State. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Government Affairs, 69, 321, 407, 1646, 1647, 1767, 2111, 2127, 2444, 2452, 2514, 2522*, 3687, 4330, 4348, 5179.

88.... Makes various changes relating to child pornography. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 70, 482, 545, 643, 645, 754, 756, 764, 1170, 1396, 1606*, 4250, 5773, 5776, 5937, 6409, 6411, 6497.

89.... Revises provisions governing the regulation of licensed child care facilities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Human Services, 70, 855, 917, 1155, 1156*, 3687, 4109, 4116, 4721.

90.... Revises certain provisions concerning the investigation and prosecution of deceptive trade practices. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 70, 581, 582, 608, 754, 755*, 4723, 4755*, 4761, 5514.

91.... Authorizes the State Treasurer to securitize the revenue stream produced by the Tobacco Master Settlement Agreement. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 71.

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92 .... Revises the provisions governing the benefits of a retired justice or judge. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 71, 211, 406, 3002, 3003, 3347*, 5677, 5806.

93 .... Revises the definition of the crime of assault. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Judiciary, 71, 482, 547, 644*, 2575, 2676.

94 .... Revises certain provisions relating to the redevelopment of communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 71.

95 .... Revises certain provisions concerning the investigation and prosecution of unfair trade practices. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 71, 211, 406, 1646, 1647, 1767, 2157, 2158*.

96 .... Clarifies eligibility for and the administration of Millennium Scholarships for students who are enrolled in more than one eligible institution. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Education, 72, 435, 459, 499, 578, 644*, 2575, 2676.

97 .... Requires the establishment of procedures for transferring governmental functions between and among local governments and state agencies. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 72, 854, 855, 923, 1156*, 2860, 2870, 2874, 2999.

98 .... Requires certain county fair and recreation boards to remit to the city of origin unobligated room tax revenues attributable to new transient lodging. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Taxation, 72.

99 .... Makes various changes relating to public safety. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Judiciary, 72, 211, 406, 855, 927, 1155, 2729, 2836*, 2837.

100 .... Revises provisions governing education. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Education, 73, 481, 549, 644*, 645, 3498, 4005, 4019, 4721.

101 .... Revises provisions governing the support of children. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Health and Human Services, 73, 1410, 1442, 1729*, 4250, 4640, 4659, 4678, 5179.

102 .... Revises provisions governing problem gambling. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Human Services, 73, 1164, 1197, 1606, 1607*, 4778, 4879, 4886, 5514.

103 .... Provides for the audit, inspection, review and survey of certain facilities for children. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Leslie, 74, 104, 113, 120, 122*, 240, 271.

104 .... Revises the provisions governing the failure to appear in court for the commission of certain misdemeanor traffic offenses. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Parnell, 74.

105 .... Makes various changes concerning genetic marker testing of certain criminal defendants. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Gansert, 74, 855, 944, 1156*, 2575, 2676.

106 .... Provides for the regulation of certified medication aides. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Health and Human Services, 74, 211, 406.

107 .... Creates the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease within the Health Division of the Department of Health and Human Services. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Oceguera, 75, 211, 406, 481, 563, 583, 2527, 2539*, 2860, 2891, 2895, 2999.

108 .... Revises provisions governing community managers of common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 75.

109 .... Revises provisions governing special license plates. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Transportation, 75, 425, 444, 479, 486, 583, 645, 750, 764, 765*, 3126, 4136, 4141, 4721.

110 .... Revises provisions relating to the compensation of members of the Commission on Special License Plates. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Transportation, 75.

111 .... Revises provisions governing certain residential facilities for groups and homes for individual residential care. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Health and Human Services, 75, 211, 406, 1163, 1164, 1204, 1595, 3002, 3083, 3084, 3108*, 5181, 5514.

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112 .... Establishes provisions relating to the coordinated response to public health emergencies and other health events. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Health and Human Services, 76, 211, 406, 1163, 1164, 1216, 1607*, 2860, 2999.

113 .... Revises provisions relating to the information specified on the label of the container for a prescription drug. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hogan, 76.

114 .... Makes changes concerning compensation to victims of crime. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 76, 171, 176, 197*, 2575, 2608, 2609, 2676.

115 .... Revises provisions governing the registration and protection of trademarks, trade names and service marks. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Cobb, 76, 211, 406.

116 .... Revises provisions concerning compensation for victims of crime. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Carpenter, 77, 855, 947, 1156*, 3498, 3684.

117 .... Makes various changes relating to parole hearings. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Corrections, Parole, and Probation, 77, 211, 406, 1062, 1063, 1077, 1399*, 3498, 3684.

118 .... Revises provisions governing associations of self-insured employers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Carpenter, 77.

119 .... Requires the comprehensive regional plan in certain counties to include provisions concerning the sustainability of certain water resources. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Leslie, 77, 2128, 2129, 2280, 2441, 2442*, 3498, 3684, 5050, 5178.

120 .... Makes changes concerning orders for protection of victims of sexual assault. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Judiciary, 78, 581, 582, 615, 755*, 2647, 2703.

121 .... Makes various changes concerning health care facilities that employ nurses. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Koivisto, 78, 211, 406, 1611, 1612, 1729, 1730*, 3126, 3495, 6167, 6498.

122 .... Makes various changes relating to the Office for Consumer Health Assistance. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Human Services, 78, 650, 651, 662, 765*, 2860, 2999, 4798.

123 .... Revises provisions governing certain offices of physicians and related facilities and surgical centers for ambulatory patients. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Human Services, 78, 211, 406, 855, 950, 1155, 2553, 2564*, 3498, 3684.

124 .... Revises provisions governing unemployment compensation. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Grady, 79, 481, 567, 587, 755*, 4250, 5179.

125 .... Requires surgical centers for ambulatory patients to obtain certain national certification. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Gansert, 79.

126 .... Makes various changes to the provisions relating to certain sexual offenses. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Grady, 79.

127 .... Requires certain pro rata refunds for the cancellation of the registration of vehicles owned by Armed Forces personnel assigned to serve abroad on active duty. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. McArthur, 79, 211, 406, 436.

128 .... Revises provisions relating to the reporting of campaign contributions and expenditures. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Hogan, 80.

129 .... Revises provisions governing common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Conklin, Anderson, Oceguera, Dondero Loop, Grady, Horne, Kirkpatrick, Mortenson, Ohrenschall and Parnell, 89, 770, 792, 817, 1054*, 3687, 4045, 4047, 4721.

130 .... Revises provisions governing metropolitan police departments. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Conklin, Kirkpatrick and Oceguera, 89, 1646, 1647, 1774, 2157, 2158*, 2159, 5182, 5481, 5542, 5544, 5545, 5737, 5764, 5832, 5938, 6498.

131 .... Revises provisions relating to certain payments to contractors. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 89.

132 .... Revises certain provisions relating to an award of damages in an action for forcible or unlawful entry or detention of real property. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Conklin, Anderson, Kirkpatrick and Oceguera, 90, 188, 203, 207, 213, 219, 220*, 426, 499.

133 .... Establishes provisions concerning the disbursement of escrow money in real estate transactions. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Conklin, Dondero Loop, Anderson, Grady, Mortenson, Oceguera, Ohrenschall and Parnell, 90, 271, 280, 293*, 2575, 2676.

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134.... Makes an appropriation to the Greater Las Vegas After-School All-Stars for certain after-school programs. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Ways and Means, 90, 211, 406.

135.... Requires the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Ways and Means, 90, 1744, 1945, 2157, 2159*, 4723, 4858, 4863, 5514, 6257.

136.... Establishes the State Program for Oral Health. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Parnell, McClain, Anderson, Smith, Hardy, Denis, Koivisto, Mastroluca; Senators Lee, Wiener, Carlton and Amodei, 92, 216, 235, 246, 255, 271, 281, 293*, 1410, 2524.

137.... Revises provisions governing branch laboratories of the State Hygienic Laboratory. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hardy, 93, 450, 486, 578, 645*, 1410, 2524.

138.... Creates a new requirement for railroad trains. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Anderson, Kihuen, Buckley, Carpenter, Conklin, Dondero Loop, Hambrick, Horne, Manendo, Mortenson, Oceguera and Segerblom, 93, 211, 406.

139.... Requires the compilation, analysis and reporting of information concerning low-income housing and housing suitable for use by persons with disabilities. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Commerce and Labor, 93, 211, 406, 425, 443, 2527, 2538, 2544, 2545*, 3126, 3495.

140.... Makes various changes to provisions relating to foreclosures of real property. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Commerce and Labor, 93, 211, 406, 1743, 1744, 1950, 2157, 2159*, 4723, 4831, 4845, 5677, 5678, 6170, 6185, 6198.

141.... Establishes a recovery fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Commerce and Labor, 94, 211, 362, 368, 406, 2527, 2539, 4723, 4918, 4922, 5514, 6257, 5921*.

142.... Authorizes the creation of affordable housing districts in certain counties. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hogan, 96.

143.... Provides for judicial review of certain decisions of a housing authority. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hogan, McClain, Koivisto, Denis and Pierce, 96.

144.... Revises various provisions relating to loans secured by liens on real property. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Hogan, McClain, Koivisto and Pierce, 96, 1743, 1744, 1962, 2157, 2159*, 4723, 4864, 4869, 5514.

145.... Requires school districts to grant the use of certain athletic fields to nonprofit organizations which provide programs for youth sports. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Hambrick, Carpenter, Cobb, Gustavson, Mortenson, Ohrenschall and Segerblom, 96, 650, 651, 669, 764, 1603.

146.... Provides for the establishment of a state business portal. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Oceguera, 96, 211, 406, 1410, 1462, 1549, 3129, 3292, 3307, 3424, 3425, 4679, 4712, 5179, 6061, 6498.

147.... Requires local governments, under certain circumstances, to grant preference to local bidders bidding on certain contracts for goods or services for a temporary period. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Spiegel, Kirkpatrick, Smith and Hambrick, 97, 1646, 1647, 1776, 2157, 2159, 2160*, 4778, 4886, 4895, 5514, 6238.

148.... Requires certain health and safety training for construction workers and supervisors. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Commerce and Labor, 97, 211, 406, 1062, 1063, 1082, 1171, 3126, 3292, 3300, 3488*, 5737, 5832, 5839, 6169.

149.... Revises provisions governing foreclosures on property. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Buckley, Oceguera, Conklin, Leslie, Smith, Aizley, Anderson, Atkinson, Bobzien, Claborn, Denis, Dondero Loop, Goicoechea, Grady, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mastroluca, McClain, Munford, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Spiegel, Stewart; Senators Horsford and Coffin, 97, 450, 487, 493, 583, 2646, 2688, 2697, 2698*, 4870, 4879, 5514, 6172.

150.... Provides for the regulation of tanning establishments by the State Board of Cosmetology. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Koivisto, McClain, Conklin, Bobzien, Dondero Loop, Kihuen and Ohrenschall, 100, 211, 406.

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151.... Makes various changes concerning mortgage lending. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Conklin, Buckley, Oceguera, Leslie, Dondero Loop, Aizley, Anderson, Claborn, Denis, Gansert, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mastroluca, McClain, Mortenson, Munford, Pierce, Segerblom, Smith, Spiegel, Stewart; Senators Carlton, Parks, Copening, Schneider, Coffin and Woodhouse, 100, 769, 770, 792, 819, 1054*, 4724, 4854, 4858, 5514.

152.... Makes various changes concerning mortgage lending and related professions. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Conklin, Bobzien, Oceguera, Spiegel, McClain, Aizley, Dondero Loop, Mastroluca; Senator Parks, 101, 211, 406, 769, 770, 792, 823, 1054*, 5181, 5315, 5324, 5514.

153.... Revises provisions governing the issuance of drivers' licenses to certain persons. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Transportation, 105.

154.... Revises provisions governing the policies of school districts relating to criminal gang activity. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Munford, Denis, Segerblom, Bobzien, Dondero Loop, Ohrenschall, Parnell and Pierce, 106, 227, 245, 255, 271, 281, 293*, 3498, 4019, 4021, 4721.

155.... Enacts provisions related to multicultural education. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Munford, Denis, Segerblom, Bobzien, Ohrenschall and Pierce, 106, 854, 855, 964, 1155.

156.... Requires certain courts to use collection agencies to collect certain debts. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Cobb, Gansert, Goedhart, Gustavson, Hambrick, Hardy, Settelmeyer and Stewart, 106.

157.... Provides that the head of a household which receives Temporary Assistance for Needy Families must accept certain employment. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Cobb, Gansert, Goedhart, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer and Stewart, 106.

158.... Revises provisions governing education. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Cobb, Gansert, Goedhart, Grady, Gustavson, Hambrick, Hardy, Settelmeyer and Stewart, 107, 211, 406.

159.... Prohibits the Governor or any other state officer or employee, without authorization by the Legislature, from binding the State to the requirements of an international trade agreement or otherwise committing the State to comply with the nontariff terms of an international trade agreement. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Pierce, Kirkpatrick, Koivisto, Aizley, Anderson, Arberry, Atkinson, Buckley, Carpenter, Claborn, Conklin, Denis, Goicoechea, Grady, Hogan, Horne, Kihuen, Leslie, Manendo, Mastroluca, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Segerblom, Smith, Spiegel; Senators Carlton, Parks, Copening and Woodhouse, 107, 1646, 1647, 1784, 2157, 2161*.

160.... Provides certain economic incentives for certain motion picture companies. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Aizley, Ohrenschall, Claborn, Kihuen, McClain, Mortenson, Munford, Segerblom; Senators Coffin and Parks, 111, 211, 406.

161.... Revises provisions relating to domestic violence. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Mortenson, 111.

162.... Requires certain policies of health insurance and health care plans to provide coverage for screening for and treatment of autism. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Ohrenschall, Buckley, Leslie, Woodbury, Conklin, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Denis, Dondero Loop, Goicoechea, Grady, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mastroluca, McClain, Mortenson, Munford, Oceguera, Parnell, Pierce, Segerblom, Smith, Stewart; Senators Horsford, Schneider, Lee, Wiener, Townsend, Amodei, Breeden, Care, Carlton, Coffin, Copening, Nolan, Parks, Rhoads and Woodhouse, 112, 211, 406, 2128, 2129, 2284, 2439, 2440*, 5181, 5325, 5346, 5369, 5514.

163.... Authorizes certain governmental entities to adopt regulations or ordinances to allow certain low emission and energy-efficient vehicles to be operated in designated lanes. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Ohrenschall, Atkinson, Christensen, Manendo, Aizley, Bobzien, Carpenter, Claborn, Cobb, Dondero Loop, Hambrick, Hogan, Kihuen, Kirkpatrick, Koivisto, Leslie, Mastroluca, Mortenson, Munford, Oceguera, Pierce, Segerblom, Smith; Senators Parks, Townsend, Breeden, Care, Copening, Nolan, Washington and Wiener, 112, 651, 672, 765*, 2575, 2676.

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164.... Revises certain provisions concerning the crime of battery. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Horne, Gansert, Anderson, Manendo, Kihuen, Aizley, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Conklin, Denis, Dondero Loop, Hambrick, Hardy, Kirkpatrick, Koivisto, Leslie, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Smith, Spiegel, Stewart; Senators Breeden, Wiener, Care, Parks, Copening, Horsford, Lee, Mathews, McGinness and Washington, 112, 436, 464, 499, 578, 645*, 2575, 2610, 2624, 2676.

165.... Revises the provisions governing the Fund to Stabilize the Operation of the State Government. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Buckley, Parnell, Conklin, Anderson, Oceguera, Aizley, Arberry, Atkinson, Bobzien, Carpenter, Claborn, Denis, Dondero Loop, Gansert, Goicoechea, Grady, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McClain, Mortenson, Munford, Ohrenschall, Pierce, Segerblom, Smith, Spiegel, Stewart, Woodbury; Senators Care, Wiener, Parks, Horsford, Hardy, Breeden, Coffin, Copening, Mathews and Schneider, 117, 211, 253, 265, 281, 294, 295*, 406, 4250, 4721.

166.... Makes various changes to provisions relating to employment practices. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Segerblom, Koivisto, Ohrenschall, Kihuen, Aizley, Mortenson, Munford, Pierce; Senators Parks and Copening, 117.

167.... Requires certain policies of health insurance and health care plans to provide coverage for acupuncture treatments in certain circumstances. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Segerblom, Koivisto, Ohrenschall, McClain, Aizley, Arberry, Atkinson, Bobzien, Claborn, Horne, Kihuen, Leslie, Mortenson, Parnell, Pierce, Smith, Spiegel; Senators Parks and Copening, 117.

168.... Revises sentencing provisions relating to certain convicted persons who provide substantial assistance in the investigation or prosecution of other offenses. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 118, 770, 792, 1054*, 2860, 2999.

169.... Makes various changes concerning the regulation of motor carriers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Atkinson, McClain, Segerblom, Anderson, Arberry, Carpenter, Claborn, Conklin, Denis, Dondero Loop, Goicoechea, Hardy, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, Mortenson, Parnell, Pierce, Smith and Spiegel, 118, 227, 245, 255, 271, 281, 295, 499, 578, 645*, 1647, 2524.

170.... Requires the Department of Motor Vehicles to use thumbprints to identify applicants for drivers' licenses and identification cards issued by the Department. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Atkinson, Anderson, Horne, Segerblom, Conklin, Carpenter, Claborn, Denis, Dondero Loop, Hogan, Kirkpatrick, Koivisto, McClain, Mortenson, Pierce and Smith, 118, 321, 407.

171.... Requires the State Board of Cosmetology to allow the use of fish in pedicures. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Segerblom, 119.

172.... Requires certain charitable organizations which receive proceeds from special license plates to provide additional organizational information annually to certain entities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Transportation, 119, 158, 173, 176*, 1647, 2524.

173.... Makes various changes relating to occupational diseases. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Mastroluca, Oceguera, Horne, Conklin, Smith, Atkinson, Bobzien, Buckley, Denis, Dondero Loop, Kirkpatrick and Parnell, 119, 271, 280, 295*, 296, 3498, 3684.

174.... Exempts the State Public Works Board from the requirements relating to construction managers at risk. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Kirkpatrick, 119, 240, 255, 271, 281, 296*, 2860, 2999.

175.... Temporarily revises the provisions governing the prequalification of bidders on public works of this State. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Atkinson, Horne, Oceguera, Smith, Conklin, Anderson, Arberry, Buckley, Claborn, Denis, Dondero Loop, Hogan, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, Ohrenschall, Parnell, Pierce and Spiegel, 120.

176.... Revises provisions relating to administrators of facilities for long-term care. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McClain, 123, 1743, 1744, 1968, 2157, 2161*, 2860, 2999.

177.... Revises provisions concerning short-term leases of passenger cars. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Oceguera, 123, 651, 673, 765*, 766, 2860, 2989, 2992, 3124.

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178 .... Makes various changes to provisions relating to industrial insurance. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Claborn, 124, 211, 406, 835, 836, 1155.

179 .... Revises provisions governing postconviction genetic marker analysis. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Horne, Segerblom, Kihuen, Anderson, Aizley, Arberry, Atkinson, Buckley, Carpenter, Conklin, Dondero Loop, Hambrick, Hardy, Kirkpatrick, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Spiegel, Stewart; Senators Parks, Care, Breeden, Coffin and Horsford, 124, 321, 407, 1743, 1744, 1970, 2157, 2161*, 3687, 4721.

180 .... Designates Engine No. 40 of the Nevada Northern Railway as an official state locomotive of the State of Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Goicoechea, Carpenter, Grady; Senators Amodei, McGinness and Rhoads, 124, 435, 478, 499, 578, 645*, 2575, 2676.

181 .... Revises provisions governing charter schools. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Smith, Horne, Parnell, Anderson, Atkinson, Conklin, Gansert, Kirkpatrick, Mastroluca, Mortenson, Oceguera, Pierce and Spiegel, 125, 1409, 1410, 1496, 1604*, 1605, 5181, 5188, 5259.

182 .... Makes various changes concerning crimes involving explosives. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Oceguera, 133, 387, 405, 414*, 1647, 2524.

183 .... Authorizes the Board of Wildlife Commissioners to establish an additional kind of drawing for the existing allotment of big game tags and wild turkey tags. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Goicoechea, Carpenter, Grady, Smith, Aizley, Bobzien, Goedhart, Gustavson, Hambrick, Hogan, Munford, Ohrenschall, Segerblom, Settelmeyer; Senator Rhoads, 133, 770, 794, 801.

184 .... Prohibits discrimination with regard to gender identity or expression. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Aizley, Segerblom, Ohrenschall, Kirkpatrick, Koivisto; Senator Parks, 134.

185 .... Makes an appropriation for the Women's Research Institute of Nevada and the National Education for Women's Leadership program at the University of Nevada, Las Vegas. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Assemblywomen McClain, Smith, Koivisto, Spiegel, Parnell, Buckley, Dondero Loop, Kirkpatrick, Leslie, Mastroluca, Pierce; Senators Carlton, Copening, Wiener and Woodhouse, 134, 407.

186 .... Revises the definition of "public utility" and "utility." Fiscal Note: Effect on Local Government: No. Effect on the State: No. Leslie, Bobzien, Pierce, Conklin, Kirkpatrick and Oceguera, 134, 1413, 1513, 1732*, 4250, 4329, 4330, 5179.

187 .... Authorizes the establishment by district courts of a program for the treatment of certain offenders who are veterans or members of the military. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Buckley, McClain, Parnell, Leslie, Bobzien, Aizley, Anderson, Arberry, Atkinson, Claborn, Conklin, Denis, Dondero Loop, Gansert, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mastroluca, Mortenson, Munford, Oceguera, Ohrenschall, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart; Senators Parks, Raggio, Wiener, Breeden, Copening, Horsford, Lee, Mathews and Woodhouse, 134, 299, 319, 331, 363, 364*, 2575, 2624, 2639, 2676.

188 .... Authorizes the Board of Regents of the University of Nevada to waive certain fees and tuition for certain persons. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Stewart, Settelmeyer, Hogan, Gansert, Christensen, Grady, Hardy, Manendo and Munford, 136, 481, 567, 572, 759, 766, 843*, 2575, 2676.

189 .... Revises provisions governing the eviction of certain tenants from property. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hogan, Kihuen, Pierce, Ohrenschall, Denis, Manendo and Mortenson, 136, 147, 148, 1063, 1085, 1092.

190 .... Provides for a study of issues regarding the death penalty. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Anderson, Leslie, Ohrenschall, Segerblom, Buckley, Atkinson, Claborn, Hogan, Horne, McClain, Munford and Pierce, 137, 854, 855, 966, 1156, 1157*.

191 .... Revises provisions governing certain examinations of the height and weight of pupils. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Denis, Kihuen, Parnell, Hardy, Anderson, Leslie and Smith, 137, 581, 582, 615, 755*, 3126, 4021, 4025, 4721.

192 .... Revises provisions governing certain performance contracts for operating cost-savings measures. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Kirkpatrick, Conklin, Hardy, Aizley, Bobzien, Denis, Koivisto and Pierce, 137, 1646, 1647, 1785, 2157, 2161*, 3126, 4090, 4099, 4721.

193 .... Provides for reporting by certain governmental entities concerning certain financial information. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Kirkpatrick, Bobzien, Hardy, Conklin, Aizley, Denis, Koivisto, Pierce, Settelmeyer; Senators Coffin and Care, 137, 503, 589, 643, 759, 766, 843*, 3498, 4130, 4132, 4721.

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194.... Makes various changes to provisions governing master guides and subguides. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Goicoechea, Bobzien, Hambrick and Settelmeyer, 138, 504, 590, 755*, 2860, 2999.

195.... Revises provisions concerning certain prevailing wage requirements. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Goicoechea, Goedhart, Hardy, Cobb, Carpenter, Christensen, Grady, Hambrick, Settelmeyer; Senator Rhoads, 138.

196.... Revises provisions relating to the licensure of facilities for refractive surgery. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Leslie, 138, 581, 582, 620, 755, 756*, 2860, 2999.

197.... Makes certain changes to provisions governing sales of subdivided land. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Segerblom, 152.

198.... Creates the Deferred Savings Option Program within the Public Employees' Retirement System. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Segerblom, 152.

199.... Revises provisions relating to fights between animals. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Gansert, Hardy, Aizley, Arberry, Claborn, Cobb, Gustavson, Horne, Kihuen, Leslie, Manendo, McClain, Munford, Settelmeyer, Stewart, Woodbury; Senators Townsend, Cegavske, Hardy, McGinness, Raggio and Washington, 152, 299, 319, 331, 364*, 365, 3687, 4721.

200.... Extends limited immunity from civil liability to certain medical providers who render gratuitous care under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Gansert, Hardy, Aizley, Cobb, Goedhart, Gustavson, Munford, Parnell, Settelmeyer, Stewart, Woodbury; Senators Cegavske, Hardy, Mathews, McGinness, Raggio, Rhoads, Townsend and Washington, 153.

201.... Prescribes the requirements for surrogate decision makers to give informed consent for certain behavioral or medical research. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Parnell, 153.

202.... Makes various changes concerning cosmetology and certain related practices. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hardy, 153, 1163, 1164, 1229, 1607*, 1608, 4724, 5369, 5382, 5677, 5678, 6000, 6014, 6062.

203.... Revises provisions relating to state financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Hardy, Buckley, Gansert, Smith, Bobzien, Aizley, Arberry, Cobb, Denis, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Kirkpatrick, Manendo, McArthur, Oceguera, Ohrenschall, Pierce, Settelmeyer, Spiegel, Stewart, Woodbury; Senators Hardy, Parks, Cegavske and Lee, 153, 321, 407.

204.... Revises provisions relating to common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Spiegel, McClain, Aizley, Anderson, Arberry, Bobzien, Buckley, Christensen, Claborn, Conklin, Denis, Hardy, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, Munford, Parnell, Pierce, Segerblom, Smith, Stewart, Woodbury; Senators Parks and Woodhouse, 154, 855, 968, 1157*, 3498, 4027, 4031, 4721.

205.... Makes various changes relating to the administration of property taxes. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Taxation, 154, 651, 677, 766*, 4250, 4609, 4639, 5179.

206.... Revises provisions relating to public health. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Human Services, 154, 1163, 1164, 1242, 1608*, 3498, 3684.

207.... Makes various changes concerning common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Carpenter, 161, 1410, 1515, 1604, 1605*, 3003, 5677, 5679, 5684, 5806.

208.... Revises provisions governing certification of crane operators. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Claborn and Hambrick, 162, 1646, 1647, 1795, 2157, 2161, 2162*, 3687, 4721.

209.... Revises provisions governing the attendance of certain offenders at meetings of panels of victims of crimes relating to driving under the influence. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Manendo, 162, 1062, 1063, 1092, 1399*, 2860, 2927, 2999.

210.... Revises provisions governing driving under the influence. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Manendo, 162.

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211 .... Makes various changes concerning the meetings of boards of trustees of school districts. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Munford, Aizley, Buckley, Claborn, Denis, Goedhart, Hogan, Horne, Koivisto, Mastroluca, Mortenson, Pierce, Segerblom, Settelmeyer and Stewart, 171.

212 .... Revises provisions governing eligibility for a Millennium Scholarship. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Munford, Pierce, Aizley, Anderson, Bobzien, Buckley, Claborn, Denis, Goedhart, Gustavson, Hogan, Horne, Kihuen, Koivisto, Manendo, Mastroluca, McClain, Mortenson, Ohrenschall, Segerblom, Settelmeyer and Stewart, 172.

213 .... Requires the establishment of the Cancer Drug Donation Program. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Anderson, Conklin, Horne, Kihuen, Parnell, Arberry, Atkinson, Carpenter, Dondero Loop, Gustavson, Hambrick, Kirkpatrick, Manendo, McArthur, McClain, Mortenson, Ohrenschall, Segerblom, Settelmeyer; Senator Cegavske, 196, 321, 407, 915, 1036, 1155, 2527, 2539*, 2860, 2999.

214 .... Revises provisions regarding industrial injuries and occupational diseases. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Parnell, 196, 321, 407, 424, 444, 5563, 5564, 5643, 5648*, 5937, 6169.

215 .... Makes various changes relating to construction. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Oceguera, 202, 436, 1646, 1647, 1648, 1727*, 5181.

216 .... Revises provisions relating to the Nevada Academy of Health. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Human Services, 203, 282, 292, 306, 319*, 855, 2605, 2608, 2676.

217 .... Prohibits minors from using cellular telephones and similar devices while operating motor vehicles. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Manendo, Aizley, Anderson, Carpenter, Claborn, Dondero Loop, Goicoechea, Hambrick, Hardy, Hogan, Koivisto, Leslie, McArthur, Mortenson, Munford, Ohrenschall, Parnell, Segerblom, Settelmeyer, Spiegel, Woodbury; Senators Breeden, Nolan, Schneider, Wiener and Woodhouse, 203.

218 .... Makes various changes relating to gaming. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 206, 425, 446, 479, 486, 1170, 1406, 1608, 2515, 2522*, 2523, 5182, 5481, 5488, 5492, 5495, 5497, 5738, 6169.

219 .... Enacts provisions governing certain blood tests for children. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblyman Hardy and Senator Horsford, 211, 382, 390, 405*, 2860, 2999.

220 .... Makes various changes regarding the purchase of property for school construction. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Smith, Anderson, Bobzien, Atkinson, Conklin, Kihuen, Leslie, Mastroluca and Oceguera, 212, 2435, 2477, 2514, 2515, 2523*, 3687, 4099, 4102, 4721.

221 .... Makes various changes relating to the provisions governing the Fund to Stabilize the Operation of the State Government. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Gansert, Hardy, Carpenter, Christensen, Cobb, Goedhart, Goicoechea, Grady, Hambrick, Kirkpatrick, McArthur, Settelmeyer, Stewart and Woodbury, 212, 321, 407.

222 .... Makes an appropriation to the Department of Health and Human Services to create the Nevada Autism Task Force and to provide funding for certain autism programs and services. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Ways and Means, 212, 321, 407.

223 .... Revises provisions concerning preferences for bidders on certain state purchasing and public works contracts. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Smith, McClain, Conklin, Buckley, Oceguera, Anderson, Bobzien, Claborn, Dondero Loop, Goicoechea, Hambrick, Hardy, Horne, Kirkpatrick, Manendo and Parnell, 212, 649, 2397, 2442, 2448, 2722, 2725, 2820, 2836, 2856*, 5806, 5924, 5937, 6062, 6069, 6259, 6272, 6497.

224 .... Revises provisions relating to unfair practices in settling insurance claims. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 213, 1646, 1647, 1798, 2157, 2162*.

225 .... Revises certain provisions relating to county fire departments. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Pierce, Atkinson, Buckley, Hogan, Kihuen, Kirkpatrick, Leslie, Munford, Oceguera and Segerblom, 217, 1646, 1647, 1719, 1721, 1727, 1728*, 4724, 4751, 4754, 5514.

226 .... Makes various changes concerning the financial organization of irrigation districts. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Goicoechea, Grady; Senators Amodei, McGinness and Rhoads, 217, 854, 855, 972, 1157, 1158*, 2575, 2676.

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227.... Revises provisions relating to the provision of foster care. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Human Services, 218, 436, 1646, 1647, 1648, 1656, 1727, 2927, 2955, 2959, 2980, 2981*, 5181, 5514.

228.... Revises the provisions relating to the diet of prisoners. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Settelmeyer, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Stewart, Woodbury; Senators Hardy and McGinness, 218.

229.... Enacts provisions governing fire-safe cigarettes. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Oceguera, Conklin, Aizley, Atkinson, Bobzien, Dondero Loop, Hogan, Kihuen, Manendo, McClain, Mortenson, Pierce, Segerblom, Spiegel; Senator Parks, 218, 321, 407, 1163, 1164, 1257, 1595, 2553, 2564, 2565*, 5737, 5739, 5748, 6169.

230.... Revises the provisions governing the carrying of a concealed firearm. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Segerblom, 232, 855, 974, 1158, 1159*, 3498, 3684.

231.... Exempts certain veterans from the requirement to pay any fee established for registration as an uncompensated lobbyist. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. McClain, Koivisto, Smith, Ohrenschall, Kihuen, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, Hogan, Horne, Kirkpatrick, Leslie, Manendo, Mastroluca, McArthur, Mortenson, Munford, Oceguera, Parnell, Pierce, Segerblom, Settelmeyer, Spiegel, Stewart and Woodbury, 232, 581, 582, 624, 756*, 2860, 2999.

232.... Revises provisions governing the Legislative Commission and the Interim Finance Committee. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Smith, Pierce, Horne, Arberry, McArthur, Aizley, Anderson, Buckley, Claborn, Denis, Gansert, Goicoechea, Hogan, Kihuen, Koivisto, Leslie, Manendo, Mastroluca, McClain, Munford, Oceguera, Ohrenschall, Parnell, Segerblom and Spiegel, 233, 581, 582, 626, 750, 1049, 1058, 1159, 1160*, 2860, 2999.

233.... Makes various changes concerning scrap metal. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Oceguera, Koivisto, Ohrenschall, Bobzien, Conklin, Aizley, Anderson, Arberry, Atkinson, Buckley, Carpenter, Claborn, Denis, Dondero Loop, Goicoechea, Hogan, Horne, Kihuen, Leslie, Manendo, McClain, Smith, Spiegel; Senators Cegavske and Parks, 233, 650, 651, 706, 766*, 3498, 4031, 4039, 4721.

234.... Requires the collection of biological specimens for genetic marker analysis from persons arrested for a felony. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Gansert, 233.

235.... Makes various changes to provisions governing the taxation of certain fuels and special fuels. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Hardy, Goicoechea, Aizley, Grady, Koivisto, Smith and Stewart, 233, 235, 236, 321, 407, 1647, 1648, 1666, 1727*, 1728.

236.... Revises provisions governing grants of money for water conservation and capital improvements to certain water systems. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Grady, Gansert, Goedhart, Goicoechea, Settelmeyer; Senator Amodei, 233, 2397, 2428, 2442*, 3126, 3495.

237.... Revises the provisions governing the certification of certain juveniles as adults for criminal proceedings. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 234, 482, 569, 645, 756, 765, 766, 843, 844*, 2647, 2703.

238.... Increases the penalty for soliciting a child for prostitution. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Horne, Anderson, Hambrick, Aizley, Bobzien, Buckley, Dondero Loop, Hogan, Kihuen, Manendo, Mortenson, Oceguera, Ohrenschall, Segerblom, Smith; Senators Parks and Horsford, 234, 321, 407, 1062, 1063, 1094, 1171, 2575, 2673, 2674*, 4724, 5514.

239.... Revises provisions relating to habitual criminals. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Ohrenschall, Horne, Munford and Segerblom, 234, 1062, 1063, 1096, 1171, 1398, 2523, 2524*, 3498, 3684.

240.... Makes various changes to provisions governing the sale of vehicles. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in City or County Jail or Detention Facility. Effect on the State: No. Committee on Transportation, 235.

241.... Requires a certain percentage of the money expended annually from the Wildlife Heritage Trust Account to be used solely for projects to control predators of mule deer in this State. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, Agriculture, and Mining, 242.

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242 .... Revises provisions governing the confidentiality of a report of trichomonosis in cattle. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, Agriculture, and Mining, 242, 299, 319, 331, 365*, 2860, 2999.

243 .... Requires certain employers to grant leave to parents, guardians and custodians of children to participate in certain school activities. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Assemblymen Mastroluca, Parnell, Denis, Smith, Anderson, Atkinson, Bobzien, Dondero Loop, Hardy, Kirkpatrick, Stewart, Woodbury; Senators Woodhouse and Copening, 242, 581, 582, 629, 756, 765, 766, 836, 852, 1049, 1160*, 4250, 4466, 4471, 5179.

244 .... Provides for the public auctioning of certain confiscated and forfeited firearms under certain circumstances. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Hambrick, Gustavson and Stewart, 242.

245 .... Revises certain provisions relating to voter identification. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Stewart, Hardy, Gansert, Carpenter, Goedhart, Goicoechea, Grady, Gustavson, McArthur, Munford, Settelmeyer and Woodbury, 243, 321, 407.

246 .... Makes various changes relating to hunting. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Bobzien, Smith, Ohrenschall, Aizley, Carpenter, Grady, Kirkpatrick, Munford, Segerblom, Settelmeyer; Spiegel; Senators Parks, Hardy and Lee, 243, 321, 407, 770, 797, 801, 2927, 2955, 2970, 2980, 2981, 4724, 5514, 6057, 6498, 5921*.

247 .... Revises provisions governing the operation of bicycles. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Assemblymen Bobzien, Leslie, Hardy, Denis, Aizley, Kihuen, Mastroluca, Ohrenschall, Pierce, Segerblom, Smith; Senators Copening, Parks, Hardy and Lee, 243, 915, 1041, 1160, 1595, 1597, 1604, 1605*, 2575, 2676.

248 .... Revises provisions governing holding companies. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Segerblom, Buckley, Oceguera, Horne, Conklin, Anderson, Kirkpatrick and Mortenson, 243, 362, 368, 383, 406, 415, 430*, 2860, 4963, 4967, 5514.

249 .... Revises provisions governing the abatement of certain nuisances and the protection of public health and safety. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Hardy, Horne, Conklin, Dondero Loop, Gansert, Hambrick, Hogan, Koivisto, Manendo, Smith, Spiegel, Stewart; Senators Hardy, Cegavske, Copening and Woodhouse, 244, 650, 651, 714, 766, 844*, 4724, 4955, 4959, 5514.

250 .... Revises provisions relating to certain affidavits or declarations of experts. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Manendo, 244, 321, 363, 369*, 1410, 2524.

251 .... Revises provisions relating to common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Manendo, Anderson, Carpenter, Dondero Loop, Horne, Kihuen, Mortenson, Munford, Ohrenschall, Segerblom and Spiegel, 244, 855, 975, 1063, 2128, 2151, 2167, 2168*, 2169, 3498, 4039, 4045, 4721.

252 .... Provides for the waiver of fees for the issuance of certain forms of identifying information for certain persons. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Anderson, Horne, Smith, Hardy, Aizley, Buckley, Carpenter, Conklin, Goedhart, Goicoechea, Hambrick, Kirkpatrick, McArthur and Segerblom, 244, 1409, 1410, 1520, 1732, 2129.

253 .... Revises the crime of resisting, delaying or obstructing a public officer in the discharge of his duties. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Cobb, Hambrick, Carpenter, Christensen, Claborn, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hardy, Hogan, Manendo, McArthur, Mortenson, Ohrenschall, Parnell, Settelmeyer, Stewart and Woodbury, 245, 581, 582, 633, 756, 766, 844*, 2575, 2676.

254 .... Makes the Ombudsman of Consumer Affairs for Minorities a permanent position within the Office of the Director of the Department of Business and Industry. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Denis and Kihuen, 254, 308, 319, 321, 407, 3126, 3131, 3424, 3484*, 5181, 5514.

255 .... Increases the tax on tobacco products and provides for use of the additional tax proceeds to expand certain health care delivery programs. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Leslie, 254, 649, 651.

256 .... Revises provisions governing the dates for certain elections. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Segerblom, McClain, Aizley, Claborn, Mortenson, Munford, Ohrenschall, Pierce; Senator Breeden, 254, 1646, 1647, 1800, 2157, 2162, 2442.

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257 .... Prohibits the taking of an excessive number of certain free publications under certain circumstances. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Kihuen, Horne, Anderson, Claborn, Conklin, Denis, Dondero Loop, McClain, Mortenson, Munford, Oceguera, Ohrenschall and Segerblom, 254, 770, 792, 829, 1054, 1055*, 2860, 2999, 4798.

258 .... Makes various changes concerning foreclosures and security deposits. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Horne, Manendo, Aizley, Atkinson, Conklin, Dondero Loop, Hambrick, Hogan, Kihuen, Munford, Ohrenschall, Segerblom, Spiegel, Stewart; Senator Parks, 255.

259 .... Makes various changes relating to criminal offenders. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Corrections, Parole, and Probation, 255, 1062, 1063, 1100, 1399*, 2860, 2981, 2989, 5516, 5529, 5938, 5946, 6000, 6498.

260 .... Requires training for persons required to report certain crimes against older persons. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. McClain, Arberry, Koivisto, Ohrenschall, Anderson, Aizley, Bobzien, Buckley, Claborn, Conklin, Denis, Hogan, Kirkpatrick, Leslie, Mastroluca, Mortenson, Munford, Pierce and Smith, 262, 407.

261 .... Authorizes the issuance of special volunteer medical licenses to osteopathic physicians. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Spiegel, Hardy, Smith, Hambrick, Hogan, Manendo, Mortenson, Pierce and Stewart, 263.

262 .... Makes various changes concerning marriage. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 263, 1647, 1648, 1682, 1727, 1728*, 4724, 5259, 5274, 5289, 5514.

263 .... Authorizes the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Leslie, 263, 407, 855, 979, 1161*, 3687, 4132, 4136, 4721.

264 .... Revises provisions relating to defendants who are incompetent. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Leslie, 263, 450, 494, 578, 645, 756, 766, 844*, 2575, 2676.

265 .... Revises provisions governing juvenile justice. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Denis, 264, 1062, 1063, 1108, 1399, 1400*.

266 .... Prohibits the sale of novelty lighters. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Oceguera, 264, 503, 598, 756, 766, 844, 845*, 4724, 4802, 4803, 5514.

267 .... Requires certain golf courses assessed as open-space real property to be designated as open-space real property under applicable zoning ordinances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Segerblom, 264, 855, 983, 1161, 1176, 2444, 2452*, 3687, 4721, 6497.

268 .... Requires certain policies of health insurance and health care plans to provide coverage for certain types of chemotherapy. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Christensen, Pierce; Senators Lee and Copening, 264.

269 .... Makes various changes concerning the provision of health care to certain children who do not reside with a parent or legal guardian. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Conklin, Buckley, Leslie, Smith, Kirkpatrick, Anderson, Arberry and Oceguera, 264, 265.

270 .... Makes changes regarding the disclosure of prescription records. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Conklin, Buckley, Kihuen, Koivisto, Hogan, Anderson, Arberry, Bobzien, Claborn, Denis, Horne, Kirkpatrick, Leslie, Manendo, McClain, Parnell, Pierce, Segerblom and Smith, 265.

271 .... Makes various changes relating to the collection of fines, administrative assessments, fees and restitution owed by certain convicted persons. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 265, 1164, 1266, 1608*, 3002.

272 .... Establishes provisions relating to broker's price opinions. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Christensen, Conklin, Gansert and Kirkpatrick, 265.

273 .... Makes various changes governing the use of tasers by peace officers. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Hogan, Pierce, Ohrenschall, Claborn, Kihuen, Koivisto, Mortenson, Munford and Segerblom, 276, 436.

274 .... Makes various changes regarding retail installment sales. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Aizley, Conklin, Ohrenschall, Koivisto, Atkinson, Bobzien, Goicoechea, Kirkpatrick, Manendo, Mastroluca and Segerblom, 276, 769, 770, 801, 1055*, 3126, 4127, 4130, 4721.

275 .... Revises the provisions governing certain taxes imposed on financial institutions. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Gansert, 276, 277, 321, 407.

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276 .... Revises provisions relating to the filing of a protest to an application to appropriate water. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Goedhart, Carpenter, Christensen, Cobb, Gansert, Goicoechea, Grady, Hambrick, Hardy, Settelmeyer, Stewart and Woodbury, 277.

277 .... Makes various changes concerning the excise tax on liquor. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Anderson, McClain, Leslie, Aizley, Atkinson, Bobzien, Carpenter, Conklin, Denis, Dondero Loop, Horne, Kihuen, Kirkpatrick, Manendo, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom and Smith, 277, 649, 651.

278 .... Revises provisions relating to the Public Employees' Benefits Program. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Anderson, Parnell, Aizley, Atkinson, Bobzien, Carpenter, Christensen, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Horne, Kihuen, Kirkpatrick, Leslie, Manendo, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Segerblom, Smith and Spiegel, 277.

279 .... Requires the preservation of certain biological evidence under certain circumstances. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Anderson, Horne, Ohrenschall, Atkinson, Denis, Dondero Loop, Hambrick, Kihuen, Leslie, Manendo, Mortenson, Munford, Oceguera, Parnell, Segerblom, Smith and Spiegel, 278, 436, 650, 651, 719, 764, 2729, 2837, 2895*, 5516, 5561.

280 .... Enacts revisions to the Uniform Interstate Family Support Act. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Segerblom, 278, 425, 446, 479, 499, 578, 645, 756, 766, 845*, 2575, 2676.

281 .... Makes various changes concerning workers' compensation. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Conklin, 278, 1646, 1647, 1840, 2157, 2162*, 4778, 4803, 4819, 5514.

282 .... Revises provisions governing the Public Employees' Retirement System. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Gansert, Carpenter, Christensen, Cobb, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Settelmeyer, Stewart and Woodbury, 278, 321, 407.

283 .... Revises provisions governing the payment of compensation to certain victims of crime. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Manendo, 279, 1062, 1063, 1110, 1171, 1398, 1647, 2444, 2722, 2725, 2834*, 5181, 5514.

284 .... Revises provisions governing homeland security. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Assemblymen Christensen, Anderson, Atkinson, Gansert, Hambrick, Kirkpatrick, Manendo, McArthur, Settelmeyer; Senators Hardy, Cegavske and Lee, 279, 1646, 1647, 1846, 2157, 2162, 2163*.

285 .... Requires a certain amount of time each school day for physical activity in elementary schools and revises provisions governing the use of school property. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Assemblymen Christensen, Atkinson, Anderson, Arberry, Buckley, Conklin, Gansert, Hambrick, Hardy, Kirkpatrick, Manendo, McArthur, Parnell, Settelmeyer, Stewart; Senators Wiener, Carlton, Cegavske, Hardy and Lee, 279, 650, 651, 728, 764, 1603.

286 .... Revises the provisions governing the crime of trespassing. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Christensen, Arberry, Anderson, Gansert, Hambrick, Hardy, Kirkpatrick, Manendo, McArthur, Settelmeyer, Stewart; Senators Hardy, Cegavske and Lee, 280, 650, 651, 730, 766, 845*, 2575, 2676.

287 .... Makes various changes concerning appraisals of real estate. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Horne, Atkinson, Conklin, Oceguera, Anderson, Arberry, Buckley, Hambrick, Kirkpatrick, Manendo, Mortenson, Segerblom, Spiegel; Senator Parks, 282, 1646, 1647, 1648, 1696, 1727, 1728*, 5181, 5382, 5400, 5418, 5514.

288 .... Revises provisions relating to the use of force. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Mortenson, Ohrenschall, Aizley, Arberry, Bobzien, Christensen, Claborn, Conklin, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, Kihuen, Koivisto, McArthur, Munford, Oceguera, Segerblom and Settelmeyer, 288.

289 .... Provides protection for paleontological sites. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Mortenson and Claborn, 288, 651, 730, 766, 845*, 2860, 2999.

290 .... Makes various changes relating to the sale of used vehicles. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Spiegel, Koivisto, Aizley, Atkinson, Bobzien, Conklin, Hambrick, Hogan, Kihuen, Kirkpatrick, Manendo, McClain, Munford, Ohrenschall, Stewart; Senator Copening, 288, 407, 1744, 1975, 2157, 2163, 2164*.

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291.... Revises provisions relating to motor vehicle registration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Spiegel, Koivisto, Bobzien, McClain, Aizley, Atkinson, Christensen, Conklin, Dondero Loop, Hambrick, Hogan, Kihuen, Manendo, Munford, Ohrenschall, Parnell, Pierce, Settelmeyer; Senator Parks, 289, 759, 760, 845, 846*.

292.... Revises provisions governing the Legislative Commission. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McArthur and Smith, 289.

293.... Makes various changes concerning appointments by the Governor to certain offices within the Executive Branch of State Government. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Anderson, Bobzien, Kirkpatrick, Smith, Conklin, Aizley, Arberry, Atkinson, Christensen, Dondero Loop, Gansert, Hogan, Horne, Kihuen, Koivisto, Leslie, Manendo, McClain, Mortenson, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Spiegel and Stewart, 289, 854, 855, 985, 1161, 1170, 1595, 1611*.

294.... Directs the Legislative Commission to conduct an interim study concerning group homes. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Kirkpatrick, Anderson, Arberry, Atkinson, Christensen, Claborn, Conklin, Gansert, Kihuen, Mortenson, Munford, Parnell, Pierce, Segerblom, Smith, Spiegel and Stewart, 290, 2859, 2863, 2980*, 4724, 5514.

295.... Allows a person who qualifies as both a veteran and the surviving spouse of a veteran to claim both veterans' exemptions from property taxes and governmental services taxes. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Settelmeyer, McClain, Christensen, Anderson, Bobzien, Carpenter, Cobb, Conklin, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mortenson, Oceguera, Segerblom, Spiegel, Stewart, Woodbury; Senators Amodei, Cegavske, Hardy, Lee, Parks and Woodhouse, 290, 387, 405, 414, 436.

296.... Revises provisions governing certain nonprofit carriers of elderly persons or persons with disabilities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Transportation, 290, 651, 730, 766, 846*, 4250, 4471, 4473, 5179.

297.... Enacts provisions governing tied body shops. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Transportation, 290, 759, 760, 836, 852, 860, 2439, 2445*.

298.... Revises provisions relating to public works. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Gansert, Hardy, Carpenter, Christensen, Cobb, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart, Woodbury; Senators Cegavske, Amodei and McGinness, 291, 436.

299.... Provides for the issuance of special license plates indicating support for Second Amendment rights. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Gustavson, Cobb, Anderson, Carpenter, Christensen, Dondero Loop, Goedhart, Goicoechea, Hambrick, Hardy, Hogan, Kihuen, Kirkpatrick, Manendo, McArthur, Mortenson, Munford, Ohrenschall, Segerblom, Settelmeyer, Stewart, Woodbury; Senators Breeden, Hardy, Lee, McGinness, Washington and Woodhouse, 291.

300.... Revises provisions governing the wearing of protective headgear when operating motorcycles. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Gustavson, Carpenter, Cobb, Goedhart, Goicoechea, Hambrick, McArthur, Mortenson, Munford, Ohrenschall, Settelmeyer; Senators Amodei, Lee and Washington, 291.

301.... Requires the Governor to proclaim March 31 as “Cesar Chavez Day” in the State of Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Kihuen, Denis, Munford, Anderson, Arberry, Bobzien, Buckley, Christensen, Claborn, Kirkpatrick, Leslie, McClain, Mortenson, Oceguera, Parnell, Pierce, Segerblom, Smith and Spiegel, 292, 450, 498, 578, 643, 645, 756, 766, 846*, 2860, 2999.

302.... Makes various changes to provisions relating to apprenticeships. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Claborn, 292, 321, 407.

303.... Revises the distribution of federal money received by the State of Nevada from mineral leases on federal lands in this State. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Goedhart, Carpenter, Christensen, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Settelmeyer, Stewart, Woodbury; Senators Lee and McGinness, 303, 321, 407.

304.... Makes various changes relating to the preservation and improvement of existing neighborhoods. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Assemblymen Segerblom, Ohrenschall, Aizley, Arberry, Atkinson, Claborn, Hogan, Horne, Kihuen, Koivisto, Manendo, Mortenson, Munford, Pierce, Smith, Stewart; Senators Coffin and Horsford, 303, 1163, 1164, 1274, 1608*, 5135, 5159, 5178, 5514, 6439.

305.... Provides for an ex officio State Paleontologist. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Mortenson, 303, 854, 855, 990, 1161, 1400*, 2860, 2999.

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306 .... Designates the month of April of each year as "Paleontological Awareness Month" in Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Mortenson, 303, 425, 446, 479, 499, 578, 645, 756, 766, 846*, 847, 2860, 2999.

307 .... Revises provisions governing the publication of certain information relating to property taxes. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Aizley, Bobzien, Ohrenschall, Dondero Loop, Grady, Hogan, Mastroluca, McClain, Segerblom; Senator Amodei, 304, 1647, 1854, 2157, 2164*, 3498, 4107, 4109, 4721.

308 .... Authorizes a labor organization to require an employee in a bargaining unit who is not a member of that labor organization to pay a service fee under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Koivisto, Claborn, Ohrenschall, McClain, Smith, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Conklin, Dondero Loop, Hogan, Horne, Kihuen, Kirkpatrick, Manendo, Mastroluca, Mortenson, Munford, Oceguera, Pierce, Segerblom and Spiegel, 304.

309 .... Revises provisions relating to crimes. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Koivisto, McClain, Manendo, Leslie, Bobzien, Aizley, Anderson, Arberry, Atkinson, Claborn, Conklin, Dondero Loop, Hambrick, Hogan, Horne, Kihuen, Kirkpatrick, Mastroluca, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Segerblom, Smith, Spiegel; Senators Carlton, Parks, Copening, Coffin and Schneider, 304, 1164, 1295, 1596, 2397, 2431*, 4778, 5289, 5293, 5296, 5677, 5678, 5856, 5859, 5871, 6015, 6018, 6069, 6304, 6311, 6497.

310 .... Revises provisions related to medicine. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Carpenter, 304, 321, 407.

311 .... Revises provisions governing the financial statements of common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Settelmeyer, Aizley, Bobzien, Buckley, Carpenter, Christensen, Cobb, Conklin, Denis, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Kirkpatrick, Manendo, Mastroluca, McArthur, Smith, Stewart, Woodbury; Senators Amodei, Hardy and Washington, 305, 855, 992, 1161, 1171, 1395, 1608*, 1609, 2860, 2999.

312 .... Revises provisions related to a special volunteer medical license. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Gansert and Hardy, 305, 2673.

313 .... Makes various changes relating to tenants of property. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Pierce, Hogan, Bobzien, Buckley, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, McClain, Munford, Segerblom; Senator Parks, 305, 769, 770, 801, 860, 1603, 2129, 2143, 2167, 2168*.

314 .... Makes various changes to provisions governing the practice of dentistry. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Woodbury, Hardy, Oceguera, Ohrenschall, Aizley, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Cobb, Conklin, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Kihuen, Kirkpatrick, Manendo, Mastroluca, McArthur, Munford, Parnell, Settelmeyer, Spiegel, Stewart; Senators Wiener, Carlton, Copening, Hardy and Parks, 305, 854, 855, 994, 1161, 1400*, 5181, 5418, 5424, 5514.

315 .... Revises the provisions pertaining to crimes relating to pornography involving minors. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Woodbury, Gansert, Aizley, Bobzien, Carpenter, Christensen, Cobb, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Kihuen, Kirkpatrick, Manendo, McArthur, Munford, Ohrenschall, Settelmeyer, Stewart; Senators Lee, Wiener, Breeden, Copening, Hardy and Parks, 306.

316 .... Revises provisions governing cellular telephone service. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Horne, Atkinson, Conklin, Buckley, Carpenter, Claborn, Dondero Loop, Hambrick, Kihuen, Kirkpatrick, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Smith; Senators Schneider, Wiener, Coffin, Copening and Woodhouse, 306.

317 .... Provides for the disbursement of a portion of the proceeds of the state tax imposed on certain businesses to regional organizations for economic development. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Oceguera, 306, 321, 407, 1647, 1857, 2128, 5809, 5811, 5812*, 6440, 6443, 6446.

318 .... Revises the requirements for instruction in American government and American history in public high schools. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Munford, Ohrenschall, Kihuen, Anderson, Claborn, Gustavson, Hambrick, Hogan, Koivisto, Manendo, McClain, Mortenson, Pierce, Segerblom, Spiegel and Stewart, 309.

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319.... Makes various changes relating to school employees. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Segerblom, Munford, Anderson, Kihuen, Smith, Aizley, Arberry, Atkinson, Bobzien, Claborn, Denis, Dondero Loop, Goedhart, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, McClain, Mortenson, Ohrenschall and Stewart, 310, 1062, 1063, 1111, 1400*, 5181, 5182, 5187, 5514, 6257.

320.... Revises provisions relating to guardianships. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Pierce, McClain, Bobzien, Ohrenschall, Atkinson, Buckley, Conklin, Denis, Goedhart, Kihuen, Leslie, Manendo, Oceguera, Segerblom; Senator Parks, 310, 2129, 2308, 2442*, 4778, 5296, 5304, 5314, 5677, 5678, 6048, 6058, 6198.

321.... Temporarily requires the diversion of a portion of the proceeds of an optional sales and use tax imposed in certain counties to the State to mitigate reductions in state revenue resulting from the current economic downturn. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Hogan, Segerblom, Bobzien, Goicoechea, Grady, Leslie, McClain and Munford, 310.

322.... Makes various changes concerning conduct related to racketeering. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Hogan, Manendo, McClain, Aizley, Arberry, Bobzien, Cobb, Denis, Goedhart, Goicoechea, Hambrick and Mastroluca, 310, 387, 405, 415, 430*, 2575, 2640, 2643, 2676.

323.... Revises provisions governing refunds of vehicle registration fees and governmental services taxes. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Grady, Carpenter, Cobb, Goicoechea, Gustavson, Hambrick, Hogan, Settelmeyer, Stewart and Woodbury, 311, 436.

324.... Makes various changes relating to ethics in government. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McArthur, Hardy, Gustavson, Aizley, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hogan, Manendo, Settelmeyer, Stewart and Woodbury, 311.

325.... Revises provisions relating to sex offenders. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Stewart, Gansert, Cobb, Goedhart, Grady, Gustavson, Hambrick, Hardy, Kirkpatrick, McArthur, Munford, Settelmeyer and Woodbury, 311, 1743, 1744, 1984, 2157, 2164*, 2165, 3687, 4417, 4428, 5179.

326.... Revises provisions governing controlled substances. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Denis, 311, 1163, 1164, 1301, 1609*, 3687, 4721.

327.... Requires the Board of Regents of the University of Nevada to submit a biennial report concerning the participation of certain protected classes in the Nevada System of Higher Education. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Denis, Arberry, Kihuen and Munford, 312, 481, 572, 645, 756, 766, 847*, 3498, 3684.

328.... Provides for an abatement of the ad valorem taxes levied on a single-family residence purchased by a first-time homeowner at a foreclosure sale. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Settelmeyer, Goedhart, Christensen, Anderson, Cobb, Gustavson, Hambrick, Kirkpatrick, Pierce, Stewart, Woodbury; Senators Amodei, Hardy and Raggio, 312, 321, 407.

329.... Provides funding for recreational facilities in certain smaller counties. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Goicoechea, Carpenter, Gansert, Goedhart, Grady, Gustavson, Hambrick, Settelmeyer, Stewart, Woodbury; Senators Rhoads and McGinness, 312, 582, 633, 756, 766, 847*, 3498, 3684.

330.... Establishes provisions relating to mortgage lending. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Kirkpatrick, 312.

331.... Provides for the appointment of a Small Business Ombudsman. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Settelmeyer, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Stewart, Woodbury; Senators McGinness, Nolan and Washington, 313, 321, 407, 854, 855, 1000, 1146, 1155.

332.... Revises provisions governing immunity from liability for donating, receiving or distributing certain grocery products or food. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Dondero Loop, Buckley, Manendo, Smith, Conklin, Aizley, Anderson, Arberry, Atkinson, Bobzien, Claborn, Denis, Goicoechea, Kirkpatrick, Koivisto, Leslie, McClain, Munford, Oceguera, Segerblom, Settelmeyer, Spiegel, Stewart and Woodbury, 313, 425, 446, 479, 499, 578, 645, 756, 766, 847*, 2575, 2676.

333.... Revises certain provisions relating to motor vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Denis and Atkinson, 313, 2129, 2316, 2443*, 3498, 4141, 4146, 4721.

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334 .... Makes an appropriation to the Nevada Rural Counties RSVP Program, Inc. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Parnell, McClain, Manendo, Anderson, Carpenter, Dondero Loop, Kihuen, Mortenson, Ohrenschall and Segerblom, 313, 321, 407.

335 .... Makes various changes relating to nuisances and criminal gangs. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Parnell, Anderson, Carpenter, Cobb, Dondero Loop, Gustavson, Hambrick, McArthur, Mortenson, Ohrenschall and Segerblom, 313, 1410, 1525, 1739*, 4250, 4355, 4363, 5179.

336 .... Revises provisions governing empowerment schools. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Hambrick, Gansert, Grady, Mortenson, Munford, Segerblom; Senator Parks, 314.

337 .... Creates the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure in the Office of the Attorney General. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Leslie, 314, 321, 407, 425, 2646, 2681, 2713*, 5181, 5514.

338 .... Authorizes a program to provide grants to nonprofit private entities concerning small business start-ups for veterans and senior citizens. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. McClain, 314, 321, 407, 854, 855, 1002, 1161, 1400*, 1401, 2575, 2676.

339 .... Authorizes the sale of electricity by an owner of property on which electricity is generated using renewable energy. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Christensen, Hardy, Settelmeyer, Aizley, Bobzien, Claborn, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hogan, Kirkpatrick, Mortenson, Munford, Segerblom, Stewart; Senators Parks and Cegavske, 315, 649.

340 .... Establishes the Nevada Opportunity Scholarship Program. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Christensen, Gustavson, Settelmeyer, Carpenter, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hardy, Stewart, Woodbury; Senator Cegavske, 315.

341 .... Revises provisions governing brand inspections of animals. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Gustavson, Christensen, Goedhart, Goicoechea, Grady, Hambrick, Hardy, McArthur, Settelmeyer, Stewart; Senators Lee, McGinness and Washington, 315.

342 .... Revises provisions governing state financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Gustavson, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury; Senators Hardy, McGinness and Washington, 316, 321, 407.

343 .... Revises provisions governing attendance requirements for pupils employed in the entertainment industry. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Manendo, 316.

344 .... Makes various changes to the provisions governing petitions for initiative and referendum. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Gustavson, 316.

345 .... Makes various changes concerning certain exemptions from property taxes and governmental services taxes. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Taxation, 316, 321, 407, 1410, 1534, 1549.

346 .... Makes various changes to provisions governing health insurance policies and plans. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Cobb, 317.

347 .... Makes various changes concerning foreign nationals. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Cobb, Hambrick, McArthur, Gustavson, Goedhart, Christensen, Gansert, Goicoechea, Grady, Hardy, Settelmeyer, Stewart, Woodbury; Senator Washington, 317, 583.

348 .... Requires public schools to post a notice of certain information concerning educational programs and services available within the public schools and the school district. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Munford, Anderson, Ohrenschall, Kihuen, Spiegel, Aizley, Arberry, Atkinson, Bobzien, Claborn, Denis, Gansert, Goedhart, Hogan, Kirkpatrick, Leslie, Manendo, McClain, Mortenson, Oceguera, Pierce, Segerblom and Stewart, 317, 650, 651, 733, 764, 1603, 1611*, 3498, 4026, 4027, 4721.

349 .... Revises provisions governing certain emergency medical technicians. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Parnell, Leslie, McClain, Bobzien, Goicoechea, Grady, Koivisto and Settelmeyer, 318, 436, 650, 651, 734, 764, 2729, 2842*, 5181, 5514.

350 .... Makes various changes relating to real property. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Munford, Kihuen, Segerblom, Aizley, Anderson, Claborn, Denis, Gansert, Hogan, McClain, Mortenson, Pierce, Settelmeyer and Stewart, 318, 1743, 1744, 1994, 2157, 2165*, 3687, 4057, 4090, 5517, 5529, 6273, 6304, 6497.

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351 .... Revises provisions governing the Governor Guinn Millennium Scholarship Program. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Christensen, Settelmeyer, Stewart and Woodbury, 318.

352 .... Makes various changes relating to the Spring Mountains National Recreation Area. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Mortenson, Segerblom, Bobzien, Claborn, Horne, Kihuen, Kirkpatrick, Manendo, Munford, Ohrenschall, Parnell, Pierce, Smith and Spiegel, 331, 1409, 1410, 1549, 1739*, 2860, 2999.

353 .... Makes various changes concerning certain crimes related to property. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Bobzien, Smith, Leslie, Parnell, Anderson, Goicoechea, Kirkpatrick and Settelmeyer, 331, 1062, 1063, 1117, 1401, 1403*, 2860, 2999.

354 .... Requires the Director of the State Department of Agriculture to appoint a person as a resource management specialist in the Department. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Goedhart, Cobb, Gustavson, Hambrick, McArthur, Stewart, Woodbury; Senator Rhoads, 331, 407, 5158.

355 .... Revises provisions related to certain public utilities that furnish water or sewage disposal. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Goedhart, Cobb, Gustavson, Hambrick, Hardy, Settelmeyer, Stewart, Woodbury; Senator McGinness, 332, 407, 2128, 2129, 2321, 2443, 3687, 4004, 4146*, 4147, 6062, 6498.

356 .... Revises provisions relating to the Public Employees' Retirement System. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Ohrenschall, McClain, Aizley, Anderson, Carpenter, Manendo, Mortenson, Segerblom; Senators Parks, Care and Schneider, 332.

357 .... Makes an appropriation to fund a public health nurse in Elko County. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Carpenter, 332, 407.

358 .... Makes an appropriation to the Department of Transportation to fund rural transit operations for elderly persons and persons with disabilities. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Carpenter, 332, 407.

359 .... Revises provisions governing certain personnel who work with children with autism. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Woodbury, Hardy, Gansert, Ohrenschall, Aizley, Atkinson, Bobzien, Christensen, Claborn, Denis, Dondero Loop, Goedhart, Goicoechea, Hambrick, Hogan, Kihuen, Kirkpatrick, Manendo, Munford, Oceguera, Pierce, Settelmeyer, Spiegel, Stewart; Senators Breeden, Schneider and Woodhouse, 332, 481, 572, 578, 583, 855, 1044, 1063, 1155, 2729, 2842, 2895, 2896*, 5181, 5514.

360 .... Authorizes the temporary creation of certain special districts. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Goicoechea, Gustavson and Settelmeyer, 333, 650, 651, 738, 766, 847, 2431, 2443*, 3687, 4348, 4350, 5179.

361 .... Makes changes relating to common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McArthur, 333, 1743, 1744, 2037, 2157, 2165*, 4250, 4363, 4370, 5179.

362 .... Revises provisions governing the development of certain programs and other activities conducted by the Department of Wildlife. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Claborn, 333, 759, 760, 847, 848*, 2860, 2999.

363 .... Provides for the collection and application of graywater for a single-family residence. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblywoman Leslie and Senator Care, 333.

364 .... Makes various changes concerning the protection of children. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Mastroluca, Buckley, Leslie, Smith, Denis and Pierce, 334, 855, 1006, 1161, 1170, 1732, 2157, 2165*, 2860, 2999.

365 .... Requires health insurance policies to cover treatment for eating disorders. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Leslie, 334, 436.

366 .... Makes various changes regarding deceptive trade practices. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Mastroluca, Conklin, Kirkpatrick and Pierce, 334.

367 .... Makes various changes relating to departments of alternative sentencing. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Settelmeyer, Cobb, Hardy, Anderson, Carpenter, Christensen, Conklin, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Kirkpatrick, Mastroluca, McArthur, McClain, Segerblom, Stewart and Woodbury, 334.

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368.... Authorizes courts to admit involuntarily certain persons to programs for community-based or outpatient services under certain circumstances. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Stewart, Hardy, Christensen, Claborn, Gustavson, Hambrick, Munford, Settelmeyer and Woodbury, 335, 2397, 2431.

369.... Revises provisions relating to the property tax exemption for the property of certain nonprofit organizations. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Mortenson, 335, 855, 1013, 1161, 1403*, 3498, 3684.

370.... Makes various changes to provisions governing pharmacies. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Carpenter, 335, 2128, 2129, 2331, 2443*, 4250, 4713, 4716, 5179.

371.... Revises provisions governing taxicabs. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Ohrenschall, 335.

372.... Makes various changes concerning registration of commercial motor vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Carpenter, 335, 582, 633, 756, 766, 836, 852, 1049, 1170, 1406, 1609*, 2860, 2999.

373.... Makes an appropriation for the State's share of the cost of establishing a veterans' home in northern Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. McClain, 336, 407.

374.... Revises provisions relating to the Public Employees' Retirement System. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McClain, 336.

375.... Requires a portion of the proceeds of property taxes currently levied for cooperative extension programs to be used to provide services for senior citizens. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McClain, 336.

376.... Revises provisions relating to the conservation of water. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Hogan, 336.

377.... Revises the policy of this State concerning water. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Bobzien, 337, 854, 855, 1015, 1161, 1403*, 1404, 2860, 2999.

378.... Revises provisions governing distributors of intoxicating liquor. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Oceguera, 337, 769, 770, 801, 1055*, 5181, 5425, 5428, 5432, 5514.

379.... Revises provisions relating to the care of indigent patients by certain hospitals. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Assemblymen Segerblom, Leslie, Dondero Loop, Horne, Manendo, Mortenson, Ohrenschall; Senator Carlton, 337, 360, 504.

380.... Makes various changes relating to the sexual exploitation of children. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hambrick, Anderson, Carpenter, Dondero Loop, Horne, Manendo, Ohrenschall and Parnell, 337, 1603, 1626, 1739*, 3498, 3684.

381.... Revises various provisions relating to arbitration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Segerblom, Ohrenschall, Anderson and Mortenson, 337, 769, 770, 801, 1055*, 5181, 5449, 5459, 5468, 5514, 6257.

382.... Makes certain changes concerning the reporting of suspected elder abuse. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McClain, 338.

383.... Provides for the incorporation of the City of Laughlin contingent upon the approval of the voters in the City. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Assemblyman Hardy and Senator Hardy, 338.

384.... Revises provisions governing certain unlawful acts committed by prisoners. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Kihuen, Manendo, Anderson, Denis, Gustavson, Hambrick, Horne, McArthur, Mortenson, Munford, Ohrenschall and Segerblom, 338, 1062, 1063, 1124, 1404*, 2575, 2676.

385.... Makes various changes concerning prisons. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Horne, 338, 1062, 1063, 1128, 1170, 1398, 1647, 2444, 5563, 5620, 5643, 5644, 5648, 5650*, 5937, 5946, 5950, 6062, 6069, 6411, 6415, 6498.

386.... Proposes to exempt sales to senior citizens of hearing aids, hearing aid accessories and ophthalmic or ocular devices or appliances from sales and use taxes and analogous taxes. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Horne, 339, 436, 651.

387.... Makes various changes to provisions concerning energy resources. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Conklin, Kirkpatrick, Leslie, Buckley, Oceguera and Bobzien, 339, 436, 1646, 1647, 1859, 2157, 2165, 2166*, 4724, 4761, 4776, 5514.

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388 .... Makes various changes relating to gaming. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Anderson and Manendo, 339, 1410, 1553, 1739*.

389 .... Revises provisions governing the protection of personal identifying information. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Assemblymen Parnell, Horne, Anderson, Kihuen, Koivisto, Carpenter, Conklin, Dondero Loop, Grady, Gustavson, Hambrick, Manendo, McArthur, Mortenson, Oceguera, Ohrenschall, Segerblom; Senator Amodei, 339, 769, 770, 792, 832, 1055*, 1056, 2860, 3116, 3119, 3495.

390 .... Revises provisions relating to business brokers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Stewart, Claborn, Hambrick and Munford, 340.

391 .... Makes various changes concerning tanning devices. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Koivisto, 340, 436.

392 .... Requires the use of project labor agreements on certain large-scale public works. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Koivisto, 340, 436.

393 .... Revises provisions governing charter schools. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Smith, 340, 481, 578, 645, 756, 766, 848*, 3498, 3684.

394 .... Creates an advisory bistate commission to study and make recommendations concerning various environmental and land-use issues. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Mortenson, 341, 436.

395 .... Provides for workplace relations discussions and agreements for certain state employees. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Aizley, Buckley, Bobzien, Kirkpatrick, Leslie, Pierce, Smith; Senator Parks, 341, 583, 2128, 2129, 2334, 2443, 2575, 2576, 2603*, 6197, 6216, 6235.

396 .... Revises provisions relating to motor vehicle registration. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Gansert, Grady, Hambrick, Hardy, Settelmeyer and Woodbury, 341, 436.

397 .... Authorizes redevelopment agencies to expend money to improve schools located within certain areas under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Hardy, Gansert, Goedhart, Hambrick, Stewart; Senator Hardy, 341, 1646, 1647, 1874, 2157, 2166, 2444, 2452*, 4183, 6488, 6491.

398 .... Limits disclosure of certain records of a health authority. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hardy, Gansert, Goedhart, Hambrick and Stewart, 342.

399 .... Requires certain entities to provide certain information concerning health care coverage to determine the eligibility of persons for Medicaid. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Gansert, Grady, Hambrick, Hardy, Settelmeyer and Woodbury, 342, 583, 1062, 1063, 1131, 1404, 2523, 2524*.

400 .... Limits the methods allowed for determining the taxable value of land by appraisal. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Settelmeyer, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick and Hardy, 342.

401 .... Extends the bonding capacity of the Nevada System of Higher Education. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Bobzien, 342, 407, 650, 2927, 2928, 3108*, 4724, 5514.

402 .... Revises provisions related to resource planning by public utilities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Bobzien, Leslie; Senator Parks, 342, 1642, 1739, 1740*, 3687, 4721.

403 .... Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Settelmeyer, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hardy, Stewart and Woodbury, 343, 582, 633, 756, 766, 848*, 3498, 3684.

404 .... Restores funding to the Indigent Accident Account of the Fund for Hospital Care to Indigent Persons. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Gansert, Goicoechea, Grady, Hambrick, Hardy, Settelmeyer and Woodbury, 343, 407.

405 .... Revises provisions relating to the Division of Industrial Relations of the Department of Business and Industry. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblyman Bobzien and Senator Parks, 343.

406 .... Makes various changes relating to the Public Employees' Benefits Program. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Gansert, Grady, Hambrick, Hardy, Settelmeyer and Woodbury, 343.

407 .... Increases the fee for reinstatement of a driver's license or commercial driver's license. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Bobzien, Smith; Senator Parks, 344, 759, 761, 848*, 2575, 2676.

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408.... Makes various changes relating to crimes. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Christensen, 344.

409.... Makes various changes concerning the Local Government Employee-Management Relations Board. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Bobzien, Pierce, Anderson, Claborn, Kirkpatrick, Koivisto, Leslie and McClain, 344, 407, 2128, 2129, 2353, 2365, 5553, 5554, 5641*.

410.... Makes various changes concerning workers' compensation. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Claborn, 344, 769, 770, 801, 1056*, 2860, 3114, 3116, 3495, 6057, 6498.

411.... Prohibits contractors from hiring certain employees. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Claborn and Kirkpatrick, 345.

412.... Makes certain changes concerning the towing of occupied vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Claborn, Atkinson, Bobzien, Gustavson, Hambrick, Hogan, Horne, Leslie, Manendo, McClain, Mortenson and Stewart, 345, 425, 446, 479, 499, 578, 645, 756, 766, 848, 849*, 2575, 2639, 2640, 2676.

413.... Enacts the Agreement Among the States to Elect the President by National Popular Vote. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Claborn, 345, 758, 759, 761, 849, 852, 1056, 2439, 2445, 2446*.

414.... Makes various changes to the requirements for emissions inspections of certain vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Claborn, Atkinson, Bobzien, Hambrick, Hogan, Leslie, Manendo, McClain, Mortenson and Stewart, 345, 451, 499, 759, 761, 849*, 3687, 4721.

415.... Makes various changes concerning the organization of county offices in certain smaller counties. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Goicoechea, Carpenter, Goedhart, Grady, Hardy, Settelmeyer, Stewart; Senator Rhoads, 346, 650, 651, 738, 766, 849*, 2860, 3119, 3123, 3495.

416.... Requires the State Engineer or a person designated by him to conduct an inventory of a basin before approving an application for an interbasin transfer of groundwater under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Goicoechea, Carpenter, Leslie, Gansert, Goedhart, Grady, Hardy, Smith; Senator Rhoads, 346, 1646, 1647, 1648, 1713, 1727, 1728*, 3498, 3684.

417.... Revises provisions governing the operation of vehicles. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Kirkpatrick, Atkinson and Pierce, 346, 582, 643, 756, 766, 849*, 850, 2575, 2676.

418.... Establishes provisions governing credit reporting relating to medical bills. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Kirkpatrick, Smith, Leslie, Bobzien, Koivisto, Mastroluca, McClain, Parnell and Pierce, 346.

419.... Revises provisions relating to county treasurers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Goicoechea, Carpenter; Senator Rhoads, 347.

420.... Clarifies provisions relating to a child care facility operated by a convention hall or other convention facility. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Kirkpatrick, Smith, Anderson, Bobzien, Koivisto, Leslie, Mastroluca, McClain, Parnell and Pierce, 347.

421.... Revises provisions governing charter schools. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Munford, Manendo, McClain, Mortenson and Stewart, 347.

422.... Makes various changes regarding the financing of local improvements with revenue pledged from sales and use taxes. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Smith, Buckley, Leslie, Anderson, Kirkpatrick, Bobzien, Conklin, Denis, Hardy, Koivisto, Mastroluca, McClain, Oceguera and Parnell, 347, 436, 650, 651, 4723, 4724, 4743*.

423.... Makes various changes relating to manufactured home communities. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Manendo, 348, 583.

424.... Makes various changes to provisions concerning parole. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Munford, Kihuen, McClain, Mortenson and Pierce, 348, 436.

425.... Revises provisions governing the licensure of certain educational personnel. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Dondero Loop, Parnell, Horne, Kihuen, Arberry, Bobzien, Conklin, Denis, Goicoechea, Gustavson, Hambrick, Koivisto, Manendo, Mastroluca, McClain, Mortenson, Ohrenschall, Segerblom and Smith, 348, 769, 770, 801, 1056*, 2860, 2992, 2999, 3124.

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426.... Requires the Division of Environmental Protection of the State Department of Conservation and Natural Resources to conduct a study concerning programs for reusing and recycling computers and other electronics. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Pierce, Arberry, Atkinson, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Segerblom; Senators Parks, Copening and Wiener, 348, 407, 651, 739, 764, 2679, 2701*, 5181, 5514.

427.... Provides for the assessment of certain real property used for grazing estray or feral horses as agricultural property. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Grady, McClain, Carpenter, Gansert, Hambrick, Parnell, Segerblom, Settelmeyer; Senators Amodei and Washington, 349, 382, 583.

428.... Revises provisions governing the licensure of certain educational personnel. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Dondero Loop, Parnell, Horne, Kihuen, Arberry, Bobzien, Conklin, Denis, Goicoechea, Hambrick, Koivisto, Manendo, Mastroluca, McClain, Mortenson, Ohrenschall, Segerblom and Smith, 349, 769, 860, 1161, 1404*, 2860, 2999.

429.... Revises provisions governing the required minimum expenditures for textbooks, instructional supplies and instructional hardware. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Smith, Anderson, Hardy, Buckley, Gansert, Leslie, Parnell; Senator Mathews, 349, 424, 759, 761, 850*, 2860, 2999.

430.... Prohibits certain activity regarding unsafe cribs and other children's products. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Pierce, Koivisto, Arberry, Atkinson, Hogan, Horne, Kihuen, Kirkpatrick, Leslie, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Segerblom; Senator Parks, 350, 436, 1413, 1557, 1740, 4184, 4202, 4209*, 5737, 5748, 5753, 6169.

431.... Makes various changes concerning the verification of the immigration status of certain employees. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Koivisto, Claborn, McClain, Kirkpatrick, Goedhart, Goicoechea and Parnell, 350.

432.... Revises provisions governing alcoholic beverage awareness programs. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Smith and Oceguera, 350, 407, 1164, 1305, 1609*, 2860, 2874, 2878, 2999.

433.... Provides that failure to wear a safety belt is a primary traffic offense. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Assemblymen Pierce, Horne, Buckley, Arberry, Atkinson, Hogan, Kihuen, Kirkpatrick, Leslie, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Segerblom; Senator Parks, 350, 855, 1019, 1161, 1404, 1595, 1596, 1604, 1605*, 4251, 6402.

434.... Makes various changes concerning the Public Employees' Retirement System. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Cobb, Carpenter, Christensen, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart and Woodbury, 351, 436.

435.... Makes various changes to the provisions governing mechanical voting systems. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Pierce, Ohrenschall, Arberry, Hogan, Kihuen, Kirkpatrick, Mortenson, Munford, Segerblom; Senator Parks, 351, 436.

436.... Provides for the payment of certain death benefits under industrial insurance under certain circumstances. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Smith, Conklin, Buckley, Oceguera, Gansert and Leslie, 351, 407, 1409, 1411.

437.... Provides for the issuance and sale of big game tags to be known as “Dream Tags.” Fiscal Note: Effect on Local Government: No. Effect on the State: No. Smith, Bobzien, Kirkpatrick, Buckley and Oceguera, 351, 407.

438.... Requires a notice of noncoverage to be included in a policy of health insurance under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Bobzien, Leslie, Smith, Hardy, Buckley, Anderson, Atkinson, Denis, Dondero Loop, Horne, Kirkpatrick, Koivisto, Manendo, McClain, Ohrenschall, Parnell and Segerblom, 352.

439.... Makes various changes to provisions governing policies of health insurance. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hardy, Gansert, Goedhart, Goicoechea, Hambrick and Stewart, 352.

440.... Revises provisions governing the reemployment of certain retired persons under the Public Employees' Retirement System. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hardy, Goedhart, Goicoechea and Stewart, 352.

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441.... Revises provisions governing transportation. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Ohrenschall, Bobzien, Aizley, Buckley, Claborn, Denis, Goedhart, Goicoechea, Hambrick, Hogan, Kihuen, Koivisto, Leslie, Manendo, McClain, Mortenson, Munford, Oceguera, Parnell, Segerblom; Senator Parks, 352, 436, 1410, 1563, 1740*, 2860, 2999.

442.... Revises provisions concerning lobbying. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Assemblymen Kirkpatrick, Segerblom, Conklin, Goicoechea, Munford, Pierce, Smith; Senators Cegavske and Horsford, 353, 2128, 2129, 2365, 2443, 2448, 2514, 2521*.

443.... Revises provisions concerning the election of Councilmen in the cities of Reno and Sparks contingent upon voter approval. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Leslie, 353, 425, 446, 479, 486, 836, 1056*.

444.... Repeals certain tax abatements and credits granted to certain businesses. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Kirkpatrick and Smith, 353.

445.... Establishes provisions relating to the licensure of music therapists. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Denis, 353, 583, 1161.

446.... Revises certain requirements for the proposed budget of the Executive Department of the State Government. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Buckley, 354, 407, 2563, 2576, 2674*, 4250, 4721, 6238.

447.... Revises provisions governing the repair of damaged vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Arberry, 354.

448.... Revises provisions governing incentive programs for renewable energy. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Bobzien, Conklin, Leslie; Senator Parks, 354, 436, 1646, 1647, 1877, 2157, 2166.

449.... Removes the cap on the amount of the homestead exemption. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Arberry, 354.

450.... Repeals the business excise tax. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Gustavson, Cobb, Goicoechea, Hambrick and McArthur, 355, 407.

451.... Establishes a program for the investment of state money in certificates of deposit at a reduced rate to provide lending institutions with money for reduced-rate loans to certain small businesses in this State. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Arberry, 355, 583, 2435, 2480, 2487, 4249, 4260, 4325, 4327*, 6488, 6492, 6497.

452.... Makes various changes to provisions relating to foreclosures of real property. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Arberry, 355.

453.... Revises provisions governing programs of incentive pay for certain employees of school districts. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Woodbury, Hardy, Carpenter, Christensen, Claborn, Cobb, Goedhart, Goicoechea, Grady, Hambrick, Manendo, Stewart; Senator Cegavske, 355.

454.... Revises certain provisions relating to housing. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Ohrenschall, Buckley, Manendo, Segerblom, Kihuen, Aizley, Anderson, Bobzien, Claborn, Conklin, Denis, Goicoechea, Hogan, Koivisto, Leslie, Mastroluca, McClain, Mortenson, Munford, Oceguera, Pierce, Smith; Senators Parks, Carlton and Lee, 356, 1163, 1164, 1309, 1609*, 4778, 5432, 5435, 5677, 5678, 6019, 6026, 6497.

455.... Provides for self-registration of certain motor vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Woodbury, Hardy, Aizley, Atkinson, Carpenter, Christensen, Claborn, Cobb, Denis, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Manendo, Spiegel, Stewart; Senator Cegavske, 356, 759, 762, 850, 1595, 1611*, 2860, 2999.

456.... Provides for renewable energy installations and energy efficiency improvements for residential property. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Bobzien, Leslie, Anderson, Denis, Dondero Loop, Manendo, Mastroluca, Ohrenschall, Parnell, Segerblom; Senator Parks, 356.

457.... Revises provisions relating to the energy efficiency of residential dwellings. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Ohrenschall, Anderson, Arberry, Atkinson, Bobzien, Buckley, Claborn, Conklin, Denis, Goedhart, Goicoechea, Hambrick, Hogan, Kihuen, Koivisto, Leslie, Manendo, McClain, Mortenson, Munford, Segerblom; Senators Parks and Lee, 356.

458.... Revises various provisions relating to funding for public education. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Buckley, Smith, Parnell and Kirkpatrick, 357, 583, 2729, 2730, 2820, 2854, 2856, 4250, 4432, 4462, 5179, 6439, 5922, 5923*.

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459.... Provides for the safekeeping of certain abandoned property. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. McClain, 357, 503, 598, 756, 766, 850*, 2860, 2999.

460.... Makes various changes relating to the Public Employees' Benefits Program. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Parnell, 357, 436.

461.... Makes various changes relating to older persons. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. McClain, 357, 407, 1603, 1630, 1642, 2729, 2847, 2896*, 5737, 5764, 5770, 6169.

462.... Revises the provisions governing sureties. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Ohrenschall and Segerblom, 358, 650, 651, 749, 766, 850*, 2647, 2703.

463.... Restricts a department, division or other agency of this State from employing a person as a consultant. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Smith, 358, 1164, 2552, 2553, 2557, 2565, 2570, 3687, 4350, 4355, 4761, 4778, 5130, 5134, 5182, 5514, 5923, 5923*, 6167, 6498.

464.... Requires the Department of Transportation to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblyman Hardy and Senator Hardy, 358.

465.... Revises provisions governing certain tax credits for housing development projects. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Grady, 358.

466.... Revises provisions relating to franchise agreements in certain counties. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Settelmeyer, Cobb, Gansert, Goicoechea and Grady, 359.

467.... Makes various changes relating to the prevailing wage requirements. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Pierce, Claborn, Koivisto, Manendo and Segerblom, 359, 2435, 2487, 2514, 2522*, 4724, 5473, 5480, 5514, 6168, 6498.

468.... Enacts certain provisions of the Nevada Taxpayer and Citizenship Protection Act. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Assemblymen Gustavson, Cobb, Goedhart, Goicoechea, Grady, Hambrick, Settelmeyer; Senator McGinness, 359.

469.... Revises provisions governing unemployment compensation. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Ways and Means, 359, 396, 414, 431, 432*, 652, 1058.

470.... Prohibits noncompete agreements with certain employees. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Anderson, 360, 1646, 1647, 1890, 2157, 2166*.

471.... Revises provisions relating to the sale of real property. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 379, 1743, 1744, 2045, 2439, 2452, 2458, 2459, 2514, 2522*, 3498, 4413, 4416, 4717, 4720, 5179.

472.... Revises provisions concerning the collection of credit card debt. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 379, 1163, 1164, 1318, 1609, 1610*, 2860, 2999.

473.... Revises provisions relating to medical and dental services for prisoners. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Corrections, Parole, and Probation, 379, 649, 651, 749, 766, 850, 851*, 3498, 3684.

474.... Revises parole eligibility for certain offenders. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Corrections, Parole, and Probation, 382, 1743, 1744, 2045, 2157, 2166*, 5181, 5469, 5470, 5473, 5514.

475.... Makes various changes concerning the revision of statutes. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Judiciary, 383, 855, 1021, 1404, 1405*, 2860, 2999.

476.... Makes changes relating to gaming enterprise districts. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 383, 1410, 1578, 1740*.

477.... Exempts a person who works for a landlord of a dwelling unit used for a residence for older persons from an additional background check. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 383, 435, 479, 499, 578, 645, 756, 766, 851*, 2575, 2676.

478.... Revises provisions relating to certain housing authorities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 388, 1646, 1647, 1892, 2157, 2166, 2167*, 5181, 5530, 5535, 5540, 5735.

479.... Revises the rate of taxation on moist snuff. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 388, 649, 651.

480.... Makes various changes relating to fees collected by the State Engineer. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 389, 854, 855, 1024, 1146, 1724, 1727, 1728, 1729*, 2860, 2999, 4969.

No. *Summary, Introducer and Page Reference*

481.... Revises provisions relating to certain crimes involving firearms, ammunition or explosives. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 389, 1062, 1063, 1137, 1405*, 2860, 2999.

482.... Makes various changes relating to the repair of motor vehicles. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Transportation, 389, 583, 1164, 1320, 1595, 2722, 2725, 2834*, 5516, 6033, 6048, 6498.

483.... Revises the provisions governing the terms of certain contracts between public bodies and certain design professionals on public works. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 389, 650, 651, 749, 766, 851, 852, 860, 2439, 2447, 2514, 2522*, 4724, 5540, 5542, 5735.

484.... Makes various changes concerning operators of tow cars. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Transportation, 389.

485.... Revises provisions governing the program to provide Temporary Assistance for Needy Families. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Human Services, 389.

486.... Makes various changes to provisions relating to mortgage lending. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Commerce and Labor, 390, 1163, 1164, 1337, 1610*, 3126, 3495.

487.... Revises provisions governing pupils enrolled in middle school and junior high school. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Education, 396, 769, 770, 809, 1056, 1057*, 3687, 4237, 4241, 4721.

488.... Revises provisions governing the employment of retired public employees. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Education, 397, 436, 650, 651, 2729, 2764, 2820, 2856*, 4724, 4913, 4918, 5514.

489.... Revises provisions governing charter schools. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Education, 397, 436, 1743, 1744, 2047, 2128.

490.... Revises certain qualifications for the licensure of private investigators. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 397, 769, 770, 813, 1057*.

491.... Makes various changes concerning the execution on property of a judgment debtor or defendant. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 397, 1164, 1346, 1610*, 3687, 4370, 4392, 5179.

492.... Imposes certain requirements on the enactment of legislation and the provision of notice regarding certain tax abatements and exemptions. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Government Affairs, 398, 649, 1646, 1647, 1897, 2157, 2167*, 4250, 4895, 4904, 5953, 6498.

493.... Requires the Public Employees' Retirement Board to identify and report concerning investments of money from the Public Employees' Retirement System in certain scrutinized companies with certain business activities or connections to Iran's petroleum sector. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assembly Committee on Government Affairs and Senate Committee on Finance, 398, 854, 855, 1027, 1146, 1642, 2127, 2157*, 3687, 4721, 6238.

494.... Requires certain local governmental entities to submit a report to the 76th Session of the Legislature concerning the consolidation or reorganization of certain functions. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Government Affair, 398, 2706, 2707, 2725, 2834*, 5937, 5950, 5952, 6498.

495.... Makes various changes to provisions governing professional negligence. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 398, 1410, 1580, 1740, 1743*.

496.... Revises provisions governing judicial discipline. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 399, 2129, 2371, 2444*, 3498, 4392, 4411, 5179.

497.... Provides for the collection and sharing of certain statistical data and information relating to the criminal justice system. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Judiciary, 399, 583, 1164, 1369, 1595, 3129, 3292, 3488*, 4724, 5514.

498.... Revises provisions relating to sentencing. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 399.

499.... Revises provisions relating to discovery in criminal proceedings. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 399, 1062, 1063, 1137, 1405*, 2860, 2999.

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500.... Revises provisions relating to domestic relations. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 400, 2129, 2390, 2444, 2514, 2518, 2523, 2524*, 3687, 4412, 4413, 5179.

501.... Revises provisions governing mechanics' and materialmen's liens. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 400.

502.... Makes various changes concerning private prisons. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Corrections, Parole, and Probation, 400, 1163, 1164, 1376, 1416, 1588, 1743.

503.... Creates an advisory committee to develop recommendations for the funding of highways in this State. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Transportation, 400, 1063, 1139, 1405*, 3003, 5938, 5969, 5973, 6498.

504.... Adds provisions relating to exchange and reporting of information relating to motor vehicle insurance. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Transportation, 401, 1064, 1647, 1905, 2128.

505.... Revises provisions governing charter schools and pupils enrolled in high school. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Education, 401, 769, 865, 1161, 1171, 1398, 1603, 2860, 2899, 2980*.

506.... Authorizes the creation of community land trusts. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Government Affairs, 401, 583.

507.... Transfers the Department of Cultural Affairs to the Office of the Secretary of State. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 401.

508.... Revises provisions governing the development of low-income housing. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 402, 1163, 1164, 1376, 1595, 2129, 2149, 2167, 2168*, 3498, 3684.

509.... Makes various changes to provisions governing certified court reporters. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 402, 769, 770, 813, 1057*, 2575, 2676.

510.... Revises various provisions governing the Public Utilities Commission of Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 402, 503, 504, 759, 2527, 2538, 2545*, 3126, 3495.

511.... Revises industrial insurance provisions relating to insurers and third-party administrators. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 402, 769, 770, 813, 1057*.

512.... Revises provisions relating to security deposits for the rental of real property. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 403, 854, 855, 1032, 1161, 1405*, 1406, 2860, 2999.

513.... Makes various changes to provisions governing licensing of escrow agencies and mortgage brokers, agents and bankers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 403, 1163, 1164, 1378, 1610*, 4778, 4845, 4854, 5514.

514.... Revises certain provisions governing criminal offenders. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Corrections, Parole, and Probation, 403.

515.... Makes various changes relating to the provision of and reimbursement for certain services to assist families. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 403, 583, 1163, 1164, 1388, 1610*.

516.... Revises provisions governing the use of money in the Wildlife Account. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, Agriculture, and Mining, 404, 759, 762, 851*, 2860, 2999.

517.... Provides that terms defined in the Nevada Revised Statutes have the same definitions in the corresponding portions of the Nevada Administrative Code. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 404, 650, 651, 749, 766, 851*, 2575, 2676.

518.... Makes a technical correction to previously enacted provisions regarding taxes for regional transportation projects. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Transportation, 404, 582, 643, 756, 766, 852*, 2575, 2676.

519.... Creates a statutory commission to review continuation of state agencies, boards and commissions and tax exemptions, abatements and earmarked revenue sources. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 404, 583, 650, 651.

520.... Makes various changes relating to state financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 405, 583.

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521.... Revises provisions governing coverage for cancer as an occupational disease of firefighters. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Commerce and Labor, 407, 1062, 1063, 1143, 1146, 1648, 1730, 1731*, 5846, 5963, 5966, 5969, 6498.

522.... Makes various changes relating to energy. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Commerce and Labor, 408, 583, 835, 836, 1155, 4969, 5059, 5129*, 5651, 5677, 5735.

523.... Makes various changes to provisions relating to housing. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Commerce and Labor, 408, 583, 835, 836, 1155, 3348, 3424, 3425, 3488, 3489*, 5737, 5812, 5831, 6000, 6032, 6415, 6439, 6498.

524.... Authorizes the Department of Transportation to establish a demonstration project for managed lanes in Clark County. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Transportation, 408.

525.... Creates the Division of Medical Professional Boards of the Department of Health and Human Services. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Human Services, 409, 414.

526.... Authorizes the issuance of bonds for environmental improvement projects for Lake Tahoe. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 409, 583.

527.... Revises provisions governing unemployment compensation. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Ways and Means, 409.

528.... Temporarily suspends the requirement that the State Library and Archives be open to the public during certain days and hours. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 508, 583, 2553, 2564, 2603, 2675, 2698*, 2699, 3498, 3684.

529.... Revises provisions governing certain accounts administered by the State Department of Agriculture. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 509, 583.

530.... Provides for the reversion of certain money in the Account for Programs for Innovation and the Prevention of Remediation to the State General Fund. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 509, 583, 2927, 2928, 3109*, 4250, 4721.

531.... Revises provisions governing the distribution of the proceeds of certain administrative assessments. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 509, 583, 3126, 3132, 3485*, 4250, 4721.

532.... Requires the Nevada System of Higher Education to provide administrative support to the Nevada State Commissioners of the Western Interstate Commission for Higher Education. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 509, 583.

533.... Makes a supplemental appropriation to the State Distributive School Account for unanticipated shortfalls in Fiscal Year 2008-2009 in certain tax revenue. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Ways and Means, 509, 583, 759, 763, 836, 842*, 2557, 2559.

534.... Makes a supplemental appropriation to the Office for Consumer Health Assistance in the Office of the Governor for unanticipated shortfalls in Fiscal Year 2008-2009 for the Bureau for Hospital Patients. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Ways and Means, 510, 583, 3126, 3135, 3674*, 4724, 5514.

535.... Makes various changes relating to the Legislature and the Legislative Counsel Bureau. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 652, 2574, 2648, 2699*, 5181, 5435, 5449, 5514.

536.... Requires the transfer of a certain sum of money from the Amateur Boxing Program Reserve of the Nevada Athletic Commission to the State General Fund. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 1165, 2544, 2575, 2659, 2699*.

537.... Transfers the powers and duties of the Division of Mortgage Lending of the Department of Business and Industry to the Division of Financial Institutions of the Department. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 1165, 1406.

538.... Transfers the program for the medical use of marijuana from the State Department of Agriculture to the Health Division of the Department of Health and Human Services. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Ways and Means, 1165, 1406, 2575, 2659, 2699*, 3498, 3684.

No. *Summary, Introducer and Page Reference*

539.... Transfers the powers and duties of the Manufactured Housing Division of the Department of Business and Industry to the Housing Division of the Department. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 1166, 1406.

540.... Requires the Local Government Employee-Management Relations Board to charge and collect a fee from local government employers. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Ways and Means, 1166, 1406, 5553, 5554, 5641*, 5772, 6169.

541.... Imposes an additional tax on the gross receipts from the rental of transient lodging in certain counties. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 1744, 2544, 3424.

542.... Temporarily delays the statutory deadline for notifying certain school employees of reemployment status. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 2538, 2544, 2548, 2550*, 2557, 2559.

543.... Temporarily redirects a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund and revises the provisions governing the imposition and use of a supplemental governmental services tax in certain counties. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Ways and Means, 2548, 2563, 3348, 3424, 3484, 4779, 4788, 4969, 5514, 6061, 6498, 5755*.

544.... Revises provisions governing the State Plan for Medicaid. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Ways and Means, 2549, 2563.

545.... Makes an appropriation to the City of Las Vegas to encourage the creation of small businesses. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Ways and Means, 2576, 2927.

546.... Revises provisions related to continuation of coverage for health insurance under the group policies of smaller employers. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Ways and Means, 2647, 2927, 3126, 3135, 3424, 3484*, 5937, 6169.

547.... Revises provisions governing the renewal of the registration of a motor vehicle. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 2647, 2927, 3126, 3141, 3424, 3484*, 3485, 4798, 4802, 5514.

548.... Revises the provisions governing the fees charged by certain governmental entities for accepting payments by credit cards, debit cards and electronic transfers of money. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 2680, 2927, 2930, 3108*, 3109, 5181, 5514.

549.... Temporarily suspends the requirement to transfer money from the Abandoned Property Trust Account in the State General Fund to the Millennium Scholarship Trust Fund. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 2680, 2927, 3126, 3144, 3674*, 4724, 5514.

550.... Requires the establishment of a commercial wedding program at all state parks. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 2680, 2927, 2930, 3109*.

551.... Imposes a tax on the provision of video service to subscribers in this State. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Ways and Means, 2680, 2927.

552.... Makes various changes regarding certain tax collection allowances and the payment of certain taxes to the State. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Ways and Means, 2680, 2927, 3399, 3424, 3485, 4724, 5514, 6061, 6498.

553.... Makes an appropriation for the coordination of services in Nevada Schools. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Ways and Means, 2681, 2927.

554.... Ratifies certain technical corrections made to NRS and Statutes of Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 2724, 2927, 2932, 3109*, 5516, 5561.

555.... Revises provisions governing the Senior Citizens' Property Tax Assistance Account. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 2861, 2927, 3126, 3144, 3675*, 5677, 5806.

556.... Eliminates the position of Weed Control Analyst within the State Department of Agriculture. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 2861, 2927, 3126, 3144, 3675*, 4724, 5514.

No. *Summary, Introducer and Page Reference*

557.... Makes a supplemental appropriation to the Department of Corrections for unanticipated shortfalls in Fiscal Year 2008-2009 for increased costs at various facilities. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Ways and Means, 2861, 2927, 3126, 3144, 3424, 3485*, 4724, 5514.

558.... Makes an appropriation for the continuation of programs dedicated to promoting citizen volunteerism. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Ways and Means, 2862, 2927, 6403, 6405*.

559.... Revises provisions governing discrimination in housing. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Ways and Means, 2862, 2927.

560.... Reorganizes the Regional Training Programs for the Professional Development of Teachers and Administrators. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 2862, 2927, 3126, 3146, 3675*, 4969, 5514.

561.... Eliminates the Consumer Affairs Division of the Department of Business and Industry for the 2009-2011 biennium and transfers certain duties and powers of the Division. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Ways and Means, 3688, 5563, 5566, 5643, 5648*, 5846, 5871, 5920, 5991, 6000, 6258, 6497.

562.... Makes various changes regarding state financial administration and makes appropriations for the support of the civil government of the State. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Ways and Means, 3688, 4005, 4251, 4252, 4259*, 4969, 5514, 6061, 6498.

563.... Ensures sufficient funding for K-12 public education for the 2009-2011 biennium. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Ways and Means, 4184, 4214, 4215, 4224*, 4504, 5179, 6062, 6498.

564.... Authorizes and provides funding for certain projects of capital improvement. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Ways and Means, 5763, 5764, 5771, 5772*, 5806, 6169.

VETOED ASSEMBLY BILLS OF THE 75TH SESSION

No. *Summary, Introducer and Page Reference*

22.... Revises provisions relating to certain trade practices. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 5991, 5992*, 6258.

25.... Revises provisions governing examinations of applicants for a Nevada driver's license. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Transportation, 5920, 5921*, 6168.

119.... Requires the comprehensive regional plan in certain counties to include provisions concerning the sustainability of certain water resources. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Leslie, 6215.

121.... Makes various changes concerning health care facilities that employ nurses. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Koivisto, 6029*, 6168.

122.... Makes various changes relating to the Office for Consumer Health Assistance. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Human Services, 4501, 4502*.

135.... Requires the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Ways and Means, 5992, 5994*, 6258.

141.... Establishes a recovery fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Commerce and Labor, 5921*, 6258.

146.... Provides for the establishment of a state business portal. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Oceguera, 5753, 5754*, 6062.

No. *Summary, Introducer and Page Reference*

147 .... Requires local governments, under certain circumstances, to grant preference to local bidders bidding on certain contracts for goods or services for a temporary period. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Spiegel, Kirkpatrick, Smith and Hambrick, 6029, 6030*, 6239.

246 .... Makes various changes relating to hunting. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Assemblymen Bobzien, Smith, Ohrenschall, Aizley, Carpenter, Grady, Kirkpatrick, Munford, Segerblom, Settelmeyer; Spiegel; Senators Parks, Hardy and Lee, 5921*, 6058.

257 .... Prohibits the taking of an excessive number of certain free publications under certain circumstances. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Kihuen, Horne, Anderson, Claborn, Conklin, Denis, Dondero Loop, McClain, Mortenson, Munford, Oceguera, Ohrenschall and Segerblom, 4502, 4503*.

267 .... Requires certain golf courses assessed as open-space real property to be designated as open-space real property under applicable zoning ordinances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Segerblom, 6213*.

304 .... Makes various changes relating to the preservation and improvement of existing neighborhoods. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Assemblymen Segerblom, Ohrenschall, Aizley, Arberry, Atkinson, Claborn, Hogan, Horne, Kihuen, Koivisto, Manendo, Mortenson, Munford, Pierce, Smith, Stewart; Senators Coffin and Horsford, 6030, 6031*, 6440.

307 .... Revises provisions governing the publication of certain information relating to property taxes. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Aizley, Bobzien, Ohrenschall, Dondero Loop, Grady, Hogan, Mastroluca, McClain, Segerblom; Senator Amodei, 6216.

319 .... Makes various changes relating to school employees. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Segerblom, Munford, Anderson, Kihuen, Smith, Aizley, Arberry, Atkinson, Bobzien, Claborn, Denis, Dondero Loop, Goedhart, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, McClain, Mortenson, Ohrenschall and Stewart, 6031*, 6258.

381 .... Revises various provisions relating to arbitration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Segerblom, Ohrenschall, Anderson and Mortenson, 6032*, 6258.

410 .... Makes various changes concerning workers' compensation. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Claborn, 5994, 5995*, 6058.

446 .... Revises certain requirements for the proposed budget of the Executive Department of the State Government. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Buckley, 5996, 5997*, 6239.

458 .... Revises various provisions relating to funding for public education. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Buckley, Smith, Parnell and Kirkpatrick, 5922, 5923*, 6440.

463 .... Restricts a department, division or other agency of this State from employing a person as a consultant. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Smith, 5923*, 6168.

467 .... Makes various changes relating to the prevailing wage requirements. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Pierce, Claborn, Koivisto, Manendo and Segerblom, 6032*, 6168.

473 .... Revises provisions relating to medical and dental services for prisoners. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Corrections, Parole, and Probation, 6216.

480 .... Makes various changes relating to fees collected by the State Engineer. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 4503*.

491 .... Makes various changes concerning the execution on property of a judgment debtor or defendant. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 6213, 6214*, 6239.

493 .... Requires the Public Employees' Retirement Board to identify and report concerning investments of money from the Public Employees' Retirement System in certain scrutinized companies with certain business activities or connections to Iran's petroleum sector. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assembly Committee on Government Affairs and Senate Committee on Finance, 5997, 5998*.

543 .... Temporarily redirects a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund and revises the provisions governing the imposition and use of a supplemental governmental services tax in certain counties. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Ways and Means, 5754, 5755*, 6062,

No. *Summary, Introducer and Page Reference*

552 .... Makes various changes regarding certain tax collection allowances and the payment of certain taxes to the State. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Committee on Ways and Means, 5755, 5756*, 6062.

562 .... Makes various changes regarding state financial administration and makes appropriations for the support of the civil government of the State. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Ways and Means, 5756, 5757*, 6062.

563 .... Ensures sufficient funding for K-12 public education for the 2009-2011 biennium. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Ways and Means, 5757, 5758*, 6062.

VETOED ASSEMBLY BILLS OF THE 74TH SESSION

No. *Summary, Introducer and Page Reference*

396 .... Makes various changes to the provisions governing common-interest communities. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Assemblymen Horne, Allen, Parks, and Gerhardt; Senators Hardy, Schneider, and Heck, 16, 20, 85, 87*.

INITATIVE PETITION

No. *Summary, Introducer and Page Reference*

1 .... Imposes an additional tax on the gross receipts from the rental of transient lodging in certain counties. 20, 147, 162, 163, 177, 183, 186*, 285, 296.

LISTING OF ASSEMBLY RESOLUTIONS AND ACTION THEREON

(Where a roll call vote was taken on final passage, such action is denoted by an asterisk following the page number.)

ASSEMBLY JOINT RESOLUTIONS

No. *Summary, Introducer and Page Reference*

1.... Proposes to amend the Nevada Constitution to revise the provisions governing a petition for a state initiative or referendum. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 127, 387, 405, 415, 432, 2436, 6245, 6253, 6257, 6258*, 6497.

2.... Revises provisions governing the approval of certain initiative petitions. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Goedhart, Christensen, Cobb, Goicoechea, Grady, Gustavson, Hambrick, Settelmeyer and Stewart, 159.

3.... Ratifies proposed constitutional amendment relative to equal rights for men and women. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen McClain, Pierce, Parnell, Koivisto, Spiegel, Anderson, Buckley, Claborn, Conklin, Dondero Loop, Hogan, Kihuen, Kirkpatrick, Leslie, Manendo, Mastroluca, Munford, Segerblom, Smith; Senators Parks, Carlton, Copening, Breeden, Horsford, Wiener and Woodhouse, 257.

4.... Proposes to amend the Nevada Constitution to provide for tax rebates for certain eligible pupils who attend private schools. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Goedhart, Cobb, Goicoechea, Grady, Gustavson, Hambrick, Settelmeyer and Stewart, 274.

5.... Proposes to amend the Nevada Constitution to revise provisions governing the convening and conduct of special sessions and the duration and adjournment of regular and special sessions. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Mortenson, Ohrenschall, Horne, Kihuen and Segerblom, 286, 758, 759, 763, 852, 1057*, 1058, 5182, 5482, 5488, 5561, 6194.

6.... Proposes to amend the Nevada Constitution to revise provisions concerning legislative sessions. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Assemblymen Segerblom, Ohrenschall, Koivisto, Buckley, McClain, Aizley, Anderson, Arberry, Atkinson, Claborn, Denis, Goicoechea, Hogan, Horne, Kihuen, Manendo, Mastroluca, Mortenson, Munford, Oceguera, Pierce, Settelmeyer, Smith; Senators Horsford, Coffin, Schneider, Breeden, Hardy and Woodhouse, 300, 770, 813, 1058*.

7.... Proposes to amend the Nevada Constitution to repeal provisions relating to lotteries. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Aizley, McClain, Kirkpatrick, Koivisto, Buckley, Arberry, Atkinson, Bobzien, Claborn, Conklin, Dondero Loop, Goicoechea, Grady, Hogan, Horne, Kihuen, Mortenson, Munford, Ohrenschall, Parnell, Pierce, Segerblom and Smith, 322, 424, 446, 479, 499, 578, 643, 645, 756, 766, 852, 1058, 1146, 1151, 1153*.

8.... Urges Congress to repeal certain provisions of the Voting Rights Act of 1965. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McArthur, 322.

9.... Requests that the Nevada Congressional Delegation oppose legislation which disenfranchises workers by removing their right to a private ballot union election. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McArthur, 322.

10.... Urges Congress to enact legislation requiring the Secretary of the Interior to convey ownership of certain land to the State of Nevada for the development of projects for renewable energy. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Buckley, 322, 650, 651, 749, 766, 852, 1058, 1146, 1153, 1154*, 2860, 2999.

11.... Urges Congress to implement the Homeowners and Bank Protection Act of 2007. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Koivisto, Arberry and Munford, 323.

12.... Proposes to amend the Nevada Constitution by adding the provisions of the Tax and Spending Control for Nevada initiative. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Cobb, Goedhart, Gustavson, Grady, McArthur and Settelmeyer, 323.

13.... Proposes to amend the Nevada Constitution to revise the procedure for reapportioning legislative districts. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Gansert, Hardy, Stewart, Grady and Hambrick, 330.

No. *Summary, Introducer and Page Reference*

14.... Urges the United States Environmental Protection Agency to grant California a waiver to achieve certain reductions in greenhouse gas emissions from motor vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Ohrenschall, Bobzien, Segerblom, Leslie, Hogan, Aizley, Arberry, Goedhart, Goicoechea, Kihuen, Mortenson, Munford, Oceguera, Pierce; Senator Parks, 360, 758, 759, 763, 852, 1058, 1063.

15.... Claims sovereignty under the Tenth Amendment to the U.S. Constitution. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Goicoechea, Settelmeyer, Grady, Carpenter, Ohrenschall, Christensen, Cobb, Gansert, Goedhart, Gustavson, Hambrick, Hardy, McArthur and Stewart, 360.

16.... Proposes to amend the Nevada Constitution to revise the provisions governing a petition for a state initiative or referendum. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 393.

ASSEMBLY JOINT RESOLUTIONS OF THE 74TH SESSION

No. *Summary, Introducer and Page Reference*

3.... Proposes to amend the Nevada Constitution to revise provisions relating to the taking of private property by eminent domain. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Assemblymen Hardy, Buckley, Ohrenschall, Horne, Gansert, Allen, Anderson, Arberry, Atkinson, Beers, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Goedhart, Goicoechea, Grady, Hogan, Kihuen, Kirkpatrick, Koivisto, Mabey, Manendo, Marvel, McClain, Mortenson, Munford, Oceguera, Parks, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Stewart, Weber, Womack; Senators Care, Heck, Cegavske, Hardy, Raggio, Beers, Coffin, Horsford, Lee, Mathews, McGinness, Nolan, Schneider, Townsend, Washington, Wiener and Woodhouse, 16, 47, 206, 213, 281, 296*, 855, 1407.

ASSEMBLY CONCURRENT RESOLUTIONS

No. *Summary, Introducer and Page Reference*

1.... Adopts the Joint Standing Rules of the Senate and Assembly for the 75th Session of the Legislature. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 21, 32, 85, 94.

2.... Directs the Legislative Commission to conduct an interim study concerning the governance and oversight of the system of public education. Committee on Education, 95, 2859, 2863, 4724.

3.... Designates February 11, 2009, as Tissue and Organ Donor Day in Nevada. Assemblymen Gansert, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Nolan, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 105, 109, 125.

4.... Commemorates the 100th anniversary of the organization of the Daughters of the American Revolution in Nevada. Assemblymen Parnell, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 109, 111, 116, 125.

5.... Directs the Legislative Commission to conduct an interim study of issues relating to women incarcerated in Nevada. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 116.

6.... Memorializes banking pioneer and lifelong Nevadan Gino Del Carlo. Assemblymen Anderson, Aizley, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 130, 131, 136, 170.

No. *Summary, Introducer and Page Reference*

7.... Designates the month of September 2009 as National Indoor Toxic Mold Awareness Month. Assemblymen Stewart, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 132, 133, 136, 170.

8.... Designates February 19, 2009, as E Clampus Vitus Day at the Nevada Legislature. Assemblymen Oceguera, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 148, 149, 163, 174.

9.... Memorializes longtime Reno lawyer, civic leader and philanthropist William O. "Bud" Bradley. Assemblymen Anderson, Aizley, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 189, 190, 200, 207.

10.... Memorializes Las Vegas pioneer, businessman, husband and father Eugene "Toby" Hoban. Assemblymen Ohrenschall, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Lee, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 201, 202, 206, 213.

11.... Recognizes March 2, 2009, as "Read Across America" Day in Nevada in commemoration of Dr. Seuss's birthday. Assemblymen Koivisto, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 209, 211, 217, 236.

12.... Honors Nevadans killed in the Global War on Terrorism. Assemblymen McClain, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 228, 232, 240, 271.

13.... Memorializes Doris Adair McDonald. Assemblymen Arberry, Aizley, Anderson, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Horsford, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 240, 242, 253, 271.

No. *Summary, Introducer and Page Reference*

14.... Commends the Nevada Women's Lobby on their 20th anniversary. Assemblymen Buckley, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Carlton, Cegavske, Coffin, Copening, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 259, 286, 319.

15.... Proclaims March 2009 as Women's History Month. Assemblymen McClain, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 261, 300, 319.

16.... Directs that certain actions be taken with respect to the Yucca Mountain Project. Assemblymen Cobb, Carpenter, Goicoechea, Grady, Gustavson, Hambrick, McArthur, Munford, Settelmeyer, Stewart, Woodbury; Senator Washington, 309.

17.... Accepts certain funds for unemployment compensation pursuant to the American Recovery and Reinvestment Act of 2009. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 361, 396, 411, 426, 432.

18.... Directs the Legislative Commission to conduct an interim study concerning mass transportation in this State. Committee on Transportation, 388.

19.... Directs the Legislative Commission to conduct an interim study of the requirements for reapportionment and redistricting. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 388, 2548, 2553, 3126, 3495.

20.... Commends Justice A. William Maupin for his extraordinary service to the State of Nevada. Assemblymen Buckley, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 412, 413, 426, 499.

21.... Commends the extraordinary work of the Angel Kiss Foundation in helping families of children with cancer. Assemblymen Smith, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 437, 504, 756.

22.... Designates March 31, 2009, to honor the Kerak Shrine Temple and the Zelzah Shrine Temple. Assemblymen Claborn, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 451, 504, 756.

23.... Expresses support for the 2010 Census. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 453, 504, 756.

24.... Encourages the celebration of America's immigrant roots. Assemblymen Denis, Kihuen, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 453, 504, 756.

No. *Summary, Introducer and Page Reference*

25.... Honors Andre Agassi for his philanthropic vision and congratulates the first graduating class of the Andre Agassi College Preparatory Academy. Assemblymen Buckley, Horne, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Horsford, Wiener, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington and Woodhouse, 482, 484, 504, 756.

26.... Memorializes native Nevadan and public servant David H. Fulstone II. Assemblymen Grady, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 484, 485, 504, 756.

27.... Honors the Nevada Parent Teacher Association for its dedicated service in Nevada. Assemblymen Denis, Smith, Parnell, Mastroluca, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Pierce, Segerblom, Settelmeyer, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 505, 508, 582, 756.

28.... Designates April 28, 2009, as Homeless Youth Awareness Day in Nevada. Assemblymen Conklin, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Horsford, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 2553, 2555, 2563, 2644.

29.... Recognizes Tuesday, April 28, 2009, as Equal Pay Day. Assemblymen McClain, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 2644.

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30.... Directs the Legislative Commission to conduct an interim study on the development and promotion of logistics and distribution centers and issues concerning infrastructure and transportation in this State. Buckley and Atkinson, 2679, 4474, 4495, 4504, 6062, 6102, 6104, 6498.

31.... Urges the Government of Turkey to grant the Ecumenical Patriarch international recognition and to respect the human rights and property rights of the Ecumenical Patriarchate. Assemblymen Ohrenschall, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 2706, 2707, 2722, 2923.

No. *Summary, Introducer and Page Reference*

32.... Urges Congress to provide financial assistance for the repair of the Truckee Canal. Buckley, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2717, 2730, 2999.

33.... Memorializes the former Director of the Legislative Counsel Bureau, Arthur J. Palmer. Assemblymen Anderson, Aizley, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury; Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 3127, 3128, 3498, 4247.

34.... Provides for the Interim Finance Committee to create the Subcommittee for Federal Stimulus Oversight. Committee on Ways and Means, 6197, 6440.

ASSEMBLY RESOLUTIONS

No. *Summary, Introducer and Page Reference*

1.... Adopts the Assembly Standing Rules for the 75th Session of the Legislature. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 32, 94.

2.... Provides for the appointment of Assembly attaches. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 45, 94, 5179.

3.... Provides allowances to the leadership and other members of the Assembly for periodicals, stamps, stationery and communications. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 46, 94.

4.... Provides for the appointment of an additional attache for the Assembly. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 288, 319.

5.... Adds William D. Swackhamer to the Assembly Wall of Distinction. Buckley, Oceguera and Gansert, 369, 390.

6.... Adds John W. Marvel to the Assembly Wall of Distinction. Buckley, Oceguera and Gansert, 371, 390.

7.... Adds Kimberly Ann Morgan to the Assembly Wall of Distinction. Buckley, Oceguera and Gansert, 375, 390.

8.... Provides for the appointment of an additional attache for the Assembly. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 427, 499.

9.... Expresses appreciation to the Chief Clerk and staff of the Assembly. Buckley, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2536, 2550.

10.... Expresses and explains the public policy governing Rule No. 23 of the Standing Rules of the Assembly for the 75th Session of the Legislature. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 4244, 5179.

11.... Amends Assembly Standing Rule Nos. 68 and 115 for the 75th Session of the Legislature to allow the Assembly to vote on a motion to reconsider the vote on a bill or resolution on the same day the motion is made. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 4250, 5179.

12.... Designates Assembly members of the Legislative Commission for the 2009-2011 biennium. Committee on Elections, Procedures, Ethics, and Constitutional Amendments, 5650, 6169.

LISTING OF SENATE BILLS AND ACTION THEREON

(Where a roll call vote was taken on final passage, such action is denoted by an asterisk following the page number.)

No. *Summary, Introducer and Page Reference*

1.... Makes an appropriation to the Legislative Fund for the costs of the 75th Legislative Session. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Horsford and Raggio, 80, 81*, 94.

2.... Makes an appropriation to the State Distributive School Account to ensure that the amount of money expended per pupil meets or exceeds the national average. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Schneider, 161.

3.... Creates the Legislative Committee on Child Welfare and Juvenile Justice. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Legislative Operations and Elections, 362, 5738, 5739, 6198, 6199, 6212*, 6497.

4.... Requires the establishment of a system for the electronic submission of applications for Medicaid and the Children's Health Insurance Program. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 161, 2575, 2576, 2729, 2771, 2896*, 3124.

6.... Revises provisions regarding occupational diseases of volunteer firefighters. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Lee, 161, 2436, 3001, 3013, 3485*, 3486, 4247.

7.... Makes various changes to the Advisory Council on the State Program for Fitness and Wellness. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Wiener, 856, 2647, 3001, 3013, 3083, 5563, 5620, 5643, 5648*, 5649, 5772, 6169.

8.... Makes various changes related to members of certain medical boards. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 2436, 2437, 3347, 3357, 3676*, 4721.

9.... Extends the maximum period that a hybrid electric vehicle may be used as a taxicab. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Carlton, 240, 245, 2927, 2932, 3109, 3123, 3486*, 4247.

10.... Revises provisions relating to the compensation of members of the Commission on Special License Plates. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Energy, Infrastructure and Transportation, 362.

12.... Revises provisions governing the Commission on Educational Excellence. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 1164, 1166, 2574, 2659, 2699*, 2726.

14.... Makes various changes to fees relating to a marriage license that fund the Account for Aid for Victims of Domestic Violence. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Mathews, 1164, 1166, 2575, 2659, 2699, 2700*, 2726.

15.... Ratifies corrections of certain errors in real estate provisions and revises related provisions in a legislative enactment from a previous session. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 116, 120, 2527, 2538, 2545*, 2571.

16.... Revises the provisions concerning regional transportation commissions in larger counties. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Washington, 362.

17.... Revises provisions governing health care records. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Wiener, 856, 2575, 2576, 3125, 3146, 3676*, 4250, 4355, 5738, 5787, 5790, 6498.

18.... Revises provisions governing speed limits in school zones and school crossing zones. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Washington, 1164, 1166.

19.... Revises provisions governing the award of grants of money by the Commission on Educational Excellence. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 651, 652, 2574, 2659, 2679.

20.... Revises provisions governing education. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Health and Education, 161.

23.... Revises provisions governing certain organizational matters within the Department of Health and Human Services. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 171, 172, 2721, 2725, 2834*, 3124.

No. *Summary, Introducer and Page Reference*

24.... Requires the Director of the Department of Health and Human Services, within the limits of available money, to include in the State Plan for Medicaid a program to provide preliminary determinations of eligibility for certain assistance. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 161, 2647, 2648, 5563, 5643.

26.... Revises provisions governing chiropractic physicians. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 1164, 1166, 3348, 3357, 3676*, 4250, 5179.

27.... Revises provisions relating to motor carriers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Energy, Infrastructure and Transportation, 240, 245, 2927, 2933, 3109, 3110*, 3684.

28.... Revises reporting requirements concerning missing persons and unidentified dead bodies. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Energy, Infrastructure and Transportation, 116, 120, 2527, 2538, 2545*, 2571.

31.... Revises provisions governing certain independent contractors with the State. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 1164, 1166, 4474, 4476, 4912*, 5677, 5806.

33.... Revises the provisions governing the administration of programs for the treatment of alcoholism or drug abuse for certain offenders with third offenses of driving under the influence. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Judiciary, 161.

34.... Makes certain changes concerning the use of court reporters in certain court proceedings. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 286, 292, 2933, 3110*, 3684.

35.... Revises provisions relating to the prosecution of certain offenses. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 651, 652, 2729, 2771, 2896*, 4250, 5776, 5938, 6448, 6449, 6497.

36.... Revises provisions governing panels that conduct certain competitive examinations for positions in the classified service of the State. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Legislative Operations and Elections, 651, 652.

37.... Authorizes the award of subgrants for certain purposes relating to the control of water pollution. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, 426, 428, 2729, 2773, 2896*, 2897, 3124.

38.... Revises the period of validity of certificates to apply restricted-use pesticides. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, 274, 280, 425, 446, 479, 499, 578, 645, 756, 766, 852, 1058, 1161, 1406, 1610*, 1611, 2524.

39.... Eliminates the requirement that the State Department of Agriculture provide annual proposed programs for the control of invasive species and certain endemic pests and weeds to counties. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, 274, 280, 406, 414, 432*, 433, 499.

40.... Revises provisions relating to the licensure of psychologists. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 1164, 1167.

41.... Makes various changes to provisions relating to public retirement systems. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 426, 428, 2860, 2863, 2981, 3083, 4858, 4912, 4913*, 5514.

42.... Exempts from the authority of the State Public Works Board and the deputy manager for compliance and code enforcement certain projects, improvements and buildings administered by other agencies. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 1164, 1167, 2729, 2773, 2861.

43.... Revises the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 652, 4474, 4490, 4495, 4496*, 5678, 5771, 6169.

44.... Designates certain employees of the Department of Corrections as category II peace officers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 321, 426, 428, 2729, 2773, 2897*, 3124.

45.... Revises provisions relating to certain criminal cases involving older persons and vulnerable persons. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 651, 653, 2646, 2683, 2713*, 2860, 2992, 4250, 5480, 5678, 5777, 6498.

46.... Authorizes an additional method for providing notification to state employees of certain personnel actions. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Legislative Operations and Elections, 138, 139.

No. *Summary, Introducer and Page Reference*

47 .... Authorizes the Department of Corrections to perform random drug and alcohol testing on certain employees. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Legislative Operations and Elections, 2436, 2437, 2515, 3125, 3149, 3675, 4004, 4005, 4432, 4639.

48 .... Repeals certain requirements regarding the delivery of cigarettes sold to consumers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Taxation, 426, 429, 2563, 2580, 2674*, 2675, 2703.

49 .... Creates a requirement for a written contract between a client and an architect, registered interior designer or residential designer under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 652, 653, 2678, 2687, 2713*, 2714, 2923.

52 .... Revises provisions relating to drivers' licenses and identification cards. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Energy, Infrastructure and Transportation, 321, 6258.

53 .... Makes various changes relating to the Office of the Secretary of State. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Government Affairs, 191, 652, 653, 2860, 2863, 2981, 3083, 4004, 4243*, 5179.

54 .... Revises the qualifications of the State Health Officer. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 651, 653, 2729, 2773, 2897*, 3498, 4355, 5481, 5678, 5730, 5732, 6169.

55 .... Makes various changes concerning commercial recordings. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 651, 653, 3687, 3689, 4215, 4220, 4221*, 5678, 5685, 5738, 6062, 6104, 6150.

57 .... Makes various changes relating to veterinary medicine. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 1411.

58 .... Revises provisions governing the licensure and regulation of audiologists and speech pathologists. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 1164, 1167.

59 .... Revises provisions governing telephone systems used for reporting emergencies in certain counties. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 652, 653, 2721, 2725, 2834, 2835*, 3124.

60 .... Revises provisions governing buildings and other property that has been used in crimes involving methamphetamine or certain other substances. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Health and Education, 1164, 2563, 3498, 3501, 4149*, 5182, 5514.

61 .... Revises provisions governing the authorized uses of money in a school district mitigation fund. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Taxation, 1164, 1167, 2722, 2725, 2835*, 3124.

62 .... Revises provisions governing special education. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 855, 856, 2729, 3002, 3014, 3486*, 4247.

63 .... Makes various changes concerning public financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 188, 196, 2860, 2863, 2870, 4004, 4243*, 5179.

65 .... Revises certain provisions relating to advocacy for residents of facilities for long-term care. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 426, 429, 1163, 1164, 1392, 1611, 1743, 2444, 2530, 2539, 2546*, 2571.

66 .... Revises certain provisions governing the appropriation of water. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, 1164, 1167, 2860, 2863, 2981, 3110*, 3684.

67 .... Revises provisions governing declarations of homestead. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Judiciary, 426, 429, 2527, 2538, 2546*, 2571.

68 .... Establishes responsibility for the maintenance of certain security walls within certain common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Schneider, 651, 653, 2729, 2774, 2897, 4184, 4209, 4215, 4221*, 5738, 5771, 5846, 6062, 6069, 6073.

69 .... Enacts provisions governing complementary integrative medicine. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Schneider, 161.

No. *Summary, Introducer and Page Reference*

70.... Requires certain offices of physicians and related facilities to obtain a permit under certain circumstances and requires annual inspections of surgical centers for ambulatory patients. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 161, 2647, 2648.

71.... Revises various provisions relating to veterans. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Health and Education, 362.

72.... Authorizes a registered pharmacist or a registered intern pharmacist to perform certain screening tests. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Cegavske, 2436, 2437, 3001, 3014, 3486*, 4247.

73.... Revises provisions governing energy conservation and efficiency standards. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Energy, Infrastructure and Transportation, 1647, 1744, 3347, 3359, 3676, 4004, 4214, 4244, 4300, 4717, 4912*, 5514.

74.... Makes various changes relating to assistance to finance housing. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 652, 653, 2926, 2933, 3110*, 3684.

76.... Revises provisions governing the administrative procedures for the summary suspension of licenses issued by certain state agencies. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Government Affairs, 855, 856, 2721, 2725, 2835*, 3124.

77.... Provides for the establishment of programs of teen mentoring in public high schools. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 426, 429, 2728, 2777, 2897*, 2898, 3498, 3684.

78.... Authorizes the Division of Mental Health and Developmental Services of the Department of Health and Human Services to regulate the provision of certain services to persons with mental retardation and persons with related conditions. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 1164, 2563, 2564, 5563, 5618, 5643, 5649*, 5806.

79.... Revises provisions governing various commissions, boards and committees relating to health. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 1410, 1411, 2860, 2863, 2981, 3110*, 3111, 3684.

80.... Revises provisions governing the P-16 Advisory Council. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Cegavske, 321.

81.... Establishes the Special Needs Scholarship Program. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Cegavske, 190.

82.... Makes various changes relating to prepaid or stored value cards. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 1410, 1411, 3498, 3512, 4004, 4242*, 5738, 5806.

83.... Makes various changes relating to the regulation of gaming. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 652, 653, 2563, 2580, 2675*, 2730, 2923.

84.... Authorizes cities to create departments of alternative sentencing. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 651, 653, 3125, 3156, 3676*, 3677, 5678, 5777, 6169.

85.... Revises provisions relating to the financial support of regional facilities for the detention of children. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Judiciary, 321.

89.... Makes various changes to the provisions governing manufactured housing. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Commerce and Labor, 2436, 2437, 3686, 3733, 4215, 4221*, 5517, 5561.

90.... Creates an emeritus title for certain architects, registered interior designers and residential designers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 116, 120, 2527, 2538, 2546*, 2571.

91.... Revises provisions governing architects, interior designers and residential designers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 116, 120, 2678, 2687, 2714*, 2923.

92.... Makes various changes relating to the regulation of notaries public. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Government Affairs, 652, 654, 3497, 3523, 4182*, 5738, 5806.

94.... Makes various changes relating to fire protection. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Government Affairs, 855, 857, 4183, 4184, 4300*, 5677, 5806.

No. *Summary, Introducer and Page Reference*

96.... Makes the District Attorney of Humboldt County the ex officio Public Administrator of Humboldt County. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 188, 196.

100.... Revises the provisions governing the period of revocation of a driver's license upon conviction of certain offenses involving driving under the influence. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Judiciary, 171, 172, 2729, 2779, 2898*, 4250, 4721.

101.... Makes various changes relating to securities. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Judiciary, 651, 654, 2729, 2783, 2898*, 4250, 4473, 5738, 5790, 5805, 6498.

103.... Revises provisions relating to the Public Employees' Benefits Program. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Legislative Operations and Elections, 2436, 2437, 2926, 2933, 3111, 4858, 4968*, 5514.

105.... Revises the provisions governing the matching funds required for grants made by the Board for Financing Water Projects. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 188, 196, 2729, 2798, 2898*, 3124.

106.... Revises provisions governing the purchase of a home or lot that is adjacent to open range. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 651, 654, 2575, 2663, 2679, 2730, 2836, 2857, 2898*, 3124.

108.... Revises provisions governing the placement of markers on lode mining claims. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, 855, 857, 2553, 2564, 2679, 2688, 2707, 4005, 4147, 4215, 4221*, 5182, 5514.

109.... Deletes the provisions that place each state grazing board within the State Department of Agriculture. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, 274, 280, 425, 446, 479, 499, 578, 645, 756, 766, 852, 1058, 1161, 1406, 1611, 1743, 2444, 2530, 2539, 2546, 2549, 2557, 2569*, 2570, 2722, 2725, 2726, 3002, 4250, 4609, 5514.

110.... Authorizes the State Quarantine Officer to adopt regulations specifying a schedule of administrative fines for certain violations relating to noxious weeds. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Natural Resources, 1410, 1411.

111.... Revises provisions governing membership on the Western Regional Water Commission and the Northern Nevada Water Planning Commission. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, 651, 654, 2729, 2798, 2898, 2899*, 3124.

113.... Makes various changes relating to the Advisory Commission on the Administration of Justice. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Horsford, 362, 6258, 6403*.

114.... Makes various changes relating to systems for obtaining and using solar energy and other renewable energy resources. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Schneider, 651, 654, 3347, 3359, 3424, 4495, 4496, 4568, 4679*, 5514.

116.... Makes failure to wear a safety belt in a motor vehicle a primary offense. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Energy, Infrastructure and Transportation, 188, 197.

117.... Repeals the Commission on Nuclear Projects and the Agency for Nuclear Projects and transfers certain duties to the Governor. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Cegavske, 362.

118.... Provides for the registration and regulation of warrantors of vehicle protection products and related sellers and warranty administrators of such products. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Commerce and Labor, 161.

119.... Revises provisions governing massage therapists. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Carlton, 2528, 4249, 4307, 4327, 4495, 4743, 5137, 5138, 5179*, 5517, 5547, 5553, 5738, 5938, 6150, 6168.

121.... Provides an exemption from certain licensing and regulation requirements for persons engaged in the sale of certain subdivisions. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 1164, 1167, 3347, 3359, 3677*, 4721.

122.... Revises the provisions governing refunds of property taxes for certain senior citizens. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Woodhouse, Schneider, Parks, Care, Copening, Breeden and Lee, 161.

124.... Expands the number of members of the boards of trustees of certain general improvement districts. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 1164, 1167, 3497, 3538, 4183*, 5677, 5806.

No. *Summary, Introducer and Page Reference*

125 .... Makes changes relating to personal identifying information. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senators Parks, Wiener, Schneider, Breeden, Care, Coffin, Copening, Horsford, Lee, Mathews, Woodhouse; Assemblymen Pierce, Anderson, Grady, Hardy, Hogan, Koivisto, Segerblom and Spiegel, 855, 857, 2729, 2798, 2861, 2923, 2981, 3111*, 3687, 4247.

127 .... Exempts qualified persons or groups providing construction oversight services to a long-term recovery group from regulation as a contractor. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Amodei, 2436, 2437, 3001, 3014, 3486*, 4247.

128 .... Requires certain persons to record foreclosure sales and sales of real property under a deed of trust within a certain period of time. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Senators Parks, Carlton, Horsford, Wiener, Amodei, Breeden, Cegavske, Coffin, Copening, Lee, Mathews, McGinness, Nolan, Schneider, Woodhouse; Assemblymen Conklin, Segerblom, Anderson, Koivisto, Pierce, Aizley, Bobzien, Buckley, Denis, Dondero Loop, Grady, Leslie, Manendo, McClain, Oceguera, Ohrenschall and Parnell, 2528, 3126, 3159, 3677*, 4250, 5179.

129 .... Revises provisions governing continuing education for dentists and dental hygienists. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hardy, 652, 654, 2678, 2687, 2714*, 2923.

130 .... Revises certain provisions governing certificates of permission to perform marriages. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Hardy, Lee, Washington and Cegavske, 1164, 1167, 2729, 2802, 2922*, 3124.

131 .... Revises provisions governing mental health consortiums that provide mental health services to children with emotional disturbance. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Cegavske, 855, 857, 2860, 2863, 2981, 3111*, 3684.

132 .... Revises provisions governing the treatment of animals. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Townsend, 161, 1647, 1744, 2927, 2933, 3111*, 3684.

134 .... Revises provisions concerning the increased penalty imposed for certain traffic violations occurring in work zones. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Coffin, 855, 857, 2860, 2863, 2981, 3111, 3112*, 3684.

135 .... Requires pupils enrolled in certain grades in public schools to wear school uniforms. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Coffin, 191.

136 .... Prohibits a person operating a motor vehicle from using a telephonic device to write, send or read a text-based communication while the motor vehicle is in motion or stopped at certain intersections. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Breeden, Wiener, Nolan, Schneider, Copening, Parks, Woodhouse; Assemblymen, Denis, Hambrick, Koivisto, Manendo, Munford, Ohrenschall, Parnell and Segerblom, 652, 654.

137 .... Provides for the placement of recycling containers in certain locations. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Senators Breeden, Parks, Copening, Woodhouse; Assemblymen Segerblom, Denis, Koivisto, Manendo, Munford, Ohrenschall and Parnell, 1647, 1744, 3001, 3014, 3424, 3492, 3675, 4301, 4325, 4328*, 5182, 5514.

139 .... Provides for the issuance of special license plates for family members of persons killed in the line of duty while on active duty in the Armed Forces of the United States. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Nolan, Coffin, Amodei, Breeden, Care, Carlton, Cegavske, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 274, 280, 2722, 2725, 2835*, 3124.

141 .... Enacts the Uniform International Wills Act. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 426, 429, 2575, 2663, 2700*, 2726.

142 .... Establishes the crime of criminal gang recruitment. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. McGinness, 274, 280, 2646, 2685, 2714*, 2860, 2999.

143 .... Makes an appropriation to the Interim Finance Committee for allocation to pay costs relating to the implementation of certain legislation. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 321, 5738, 5739, 6238, 6239, 6242, 6443*, 6498.

144 .... Enacts provisions governing public safety bomb squads. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Amodei, 855, 857, 2721, 2725, 2835*, 2836, 3124.

146 .... Provides funding to the Department of Wildlife for certain projects. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 217, 3113, 3114, 5553, 5554, 5641*, 5806.

147 .... Establishes provisions governing broadcasters during emergencies. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Wiener, Care, McGinness, Copening and Schneider, 652, 654, 2729, 2802, 2922*, 3124.

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148 .... Authorizes the Board of Regents of the University of Nevada to waive tuition and certain fees for certain members of the Armed Forces of the United States and their spouses and dependents. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Hardy, Amodei, Breeden, Care, Cegavske, Coffin, Copening, Horsford, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse, 362.

149 .... Exempts limited-purpose associations that are created for a rural agricultural residential common-interest community from certain fees. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Rhoads, 426, 429.

150 .... Creates the Public Education Stabilization Fund. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Rhoads, Amodei and McGinness, 321.

151 .... Provides for the payment of certain claims from the Recovery Fund of the State Contractors' Board. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Carlton, 2436, 2437, 3001, 3020, 3486*, 3487, 4247.

152 .... Enacts the Green Jobs Initiative. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Senators Horsford, Schneider, Carlton, Breeden, Wiener, Copening, Woodhouse; Assemblymen Buckley, Oceguera, Conklin, Kirkpatrick, Bobzien and Leslie, 362, 652, 654, 3686, 3776, 4004, 5178, 5563, 5623, 5643, 5649*, 5738, 5806.

153 .... Requires certain nonprofit corporations that solicit contributions to register with the Secretary of State. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Parks, 362.

154 .... Revises provisions governing mandatory bargaining with employees of local government employers. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Senators Breeden, Woodhouse, Wiener; Assemblymen Segerblom, Manendo, Anderson and Aizley, 2528.

155 .... Provides for possible funding for the Commission on Economic Development for certain purposes related to military installations. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. McGinness, 362.

156 .... Clarifies provisions governing the persons who may sign initiative petitions to recall public officers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Care, 1164, 1167, 2562, 2603, 2675*, 2703.

157 .... Establishes provisions governing payment for the provision of certain services and care and reports relating to those services and care. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 2528.

158 .... Revises provisions concerning tax increment areas created to benefit the Nevada State College. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hardy, 855, 857, 2721, 2725, 2836.

159 .... Requires the establishment of the Cancer Drug Donation Program. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senators Cegavske, Raggio, Nolan, Lee, Copening, Amodei, Breeden, Care, Carlton, Hardy, Mathews, McGinness, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Anderson, Stewart, Gansert, Cobb, Settelmeyer, Christensen, Goedhart and Mastroluca, 652, 654.

160 .... Makes various changes relating to public officers and employees. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 240, 245, 3497, 3542, 4004, 4242*, 4724, 5179.

161 .... Revises provisions governing the Nevada Youth Legislative Issues Forum. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senator Wiener and Assemblywoman Parnell, 652, 655, 2574, 2663, 2700*, 2726.

162 .... Revises the date of the primary election and provisions governing voter registration by mail. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Woodhouse, Coffin, Wiener, Horsford, Breeden, Copening, Parks and Schneider, 855, 857, 3348, 3360, 3677*, 4250, 5179.

163 .... Revises provisions governing safe and respectful learning environments in public schools to prohibit bullying and cyber-bullying. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Senator Wiener and Assemblywoman Parnell, 426, 429, 2728, 2802, 2922, 2923*, 3498, 3684.

164 .... Revises provisions governing charter schools and university schools for profoundly gifted pupils. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Health and Education, 855, 857, 2574, 2663, 2679, 2707, 2716*, 3002.

165 .... Requires certain utilities that supply electricity in this State to include in the resource plan of the utility certain provisions relating to demands made on its system by its customers. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Schneider, 652, 655, 3347, 3378, 3677*, 4721.

166 .... Designates the official state insect of Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senator Woodhouse and Assemblyman Stewart, 426, 429, 2535, 2544, 2549*, 2571.

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168 .... Revises provisions relating to prescription drugs. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Care, 1164, 1168.

169 .... Enacts the Revised Uniform Unincorporated Nonprofit Association Act of 2008. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 652, 655, 2729, 2808, 2861, 2923, 2981, 3112*, 3684.

170 .... Revises provisions governing payment for work performed for the operation and maintenance of ditches. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Amodei, 855, 857, 2927, 2933, 3112*, 3498, 3684.

172 .... Revises provisions governing the sale of subdivided land. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 426, 429, 3347, 3378, 3678*, 4721.

173 .... Provides for the construction of bus turnouts at certain locations in certain counties. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Lee, 1164, 1168, 4183, 4198, 4215, 4858, 4968*, 4969, 5677, 5806.

174 .... Exempts certain retired public employees who are serving as volunteer firefighters from certain consequences of reemployment with a public employer. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. McGinness, 855, 858, 2860, 2863, 2981, 3112*, 3684.

175 .... Enacts provisions governing flood management projects. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 426, 429, 2729, 2808, 2923, 2981, 3084, 3123, 3424, 3492, 3675, 4858, 4978, 5035, 5128*, 5678, 6235.

176 .... Makes various changes relating to time shares. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Schneider, 1164, 1168, 3686, 3785, 4215, 4221*, 5481, 5514.

177 .... Requires the Department of Taxation to create on the Internet a searchable database of certain tax rates in this State. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Raggio, Nolan, Townsend, Washington, Cegavske, Amodei, Care, Coffin, Copening, Horsford, Lee, McGinness, Parks, Rhoads and Wiener, 1164.

179 .... Expands the definition of a low-speed vehicle to include certain utility terrain vehicles. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Hardy, 411.

180 .... Makes various changes relating to the licensing and inspection of dental X-ray machines. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Hardy, 411.

181 .... Makes various changes regarding governmental administration. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Washington, 428.

182 .... Makes various changes relating to common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Schneider, 362, 2722, 2724, 5677, 5692, 5734*, 5806, 5839, 5938, 6198, 6449, 6488.

183 .... Revises various provisions governing common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Schneider, 1647, 1744, 3498, 3587, 3633, 4301, 4717, 4912*, 5738, 5771, 5846, 6000, 6015, 6498.

184 .... Establishes provisions relating to broker's price opinions. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senator Schneider and Assemblyman Christensen, 426, 430, 3686, 3788, 4215, 4221, 4222*, 5517, 5561.

185 .... Requires school districts to use certain environmentally sensitive cleaning and maintenance products. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Senators Copening, Parks, Wiener, Breeden, Coffin, Hardy, Lee, Mathews, Woodhouse; Assemblymen Bobzien, Aizley, Hogan, Mastroluca and Munford, 1410, 1411, 2728, 2808, 2861, 3002, 3123, 3487*, 4247.

186 .... Provides for the issuance of permits for the operation of facilities for the management of waste tires. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Senators Copening, Parks, Amodei, Coffin, Hardy, Lee, Rhoads, Woodhouse; Assemblymen Pierce, Segerblom, Goedhart, Manendo and Mastroluca, 362, 1647, 1745, 2574, 2673, 2679, 3292, 3492, 3678*, 4721.

188 .... Provides for the establishment of the Solar Thermal Systems Demonstration Program. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Schneider, 411, 3687, 3688, 5516, 5517, 5529, 5530*, 5806, 6169.

190 .... Revises provisions regarding the acquisition and disposal of real property by fair and recreation boards in certain larger counties. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 652, 655, 3686, 3790, 4215, 4222, 4224, 4325, 4328, 4858, 4978, 5050, 5128, 5129*, 5677, 5806.

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193 .... Revises provisions governing dealers in antiques. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Mathews, 1164, 1168, 3001, 3021, 3487*, 4247.

194 .... Revises provisions governing the appointment and duties of public administrators and guardians. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Senators Mathews, Care, Lee, McGinness, Raggio, Rhoads; Assemblymen Anderson, Goicoechea, Grady and Leslie, 652, 655, 2729, 2808, 2923, 2955, 3083, 3097, 3487*, 5738, 5806.

195 .... Revises provisions governing workers' compensation. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Carlton, 436, 2436, 2437, 3129, 3164, 3678*, 4250, 5179, 6058.

197 .... Revises provisions relating to the reissuance of certain prescription drugs. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Wiener, Parks, Copening, Woodhouse, Breeden, Amodei, Cegavske, Hardy, Horsford, Lee, McGinness, Nolan and Washington, 652, 655, 3686, 3791, 4215, 4222*, 4724, 5179.

199 .... Revises provisions governing the weighing of farm vehicles for purposes of vehicle registration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McGinness, 426, 430, 2553, 2564, 2604*, 2703.

201 .... Authorizes certain counties to impose additional taxes on fuels for motor vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senators Amodei, Washington, Townsend, Horsford, McGinness, Nolan, Raggio, Schneider; Assemblymen Buckley, Smith, Atkinson, Anderson, Bobzien, Gansert, Leslie, Oceguera and Parnell, 759, 2722, 2724, 2860, 2863, 2955, 2956, 2957*, 3495, 5938.

202 .... Provides the legislative approval required for an increase in the tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Taxation, 2528.

204 .... Revises provisions governing notice of an application for a permit to appropriate water. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Rhoads, 855, 858.

206 .... Establishes provisions governing the construction and operation of certain toll roads. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Lee, 1410, 1411.

207 .... Revises provisions relating to unlawful discrimination in places of public accommodation. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 652, 655, 2705, 2708, 2725, 2836, 2857, 2923, 2955, 2957*, 3495.

208 .... Authorizes public utilities and local government franchisees to increase their rates to account for a legislative change in the rate of the payroll tax imposed upon certain businesses. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Commerce and Labor, 411, 6062, 6062.

209 .... Revises provisions governing the Governor Guinn Millennium Scholarship Program. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Lee, 1164, 1168, 2574, 2935, 3112, 3113*, 3684.

210 .... Makes various changes to the provisions governing the disposition and reporting of campaign contributions. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Lee, 2528.

212 .... Revises provisions governing initiative petitions. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Rhoads, 436, 6027, 6198, 6203, 6212, 6242*, 6497.

213 .... Revises the Charter of the City of Sparks to make various changes in provisions concerning city government. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Washington, 652, 655, 2729, 2819, 2861, 4858, 4978, 5051, 5129*, 5678.

215 .... Extends the date for the reversion of money transferred to provide historical interpretive signs for the California Trail Wayside Sites to be located in eight northern Nevada counties of this State. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senator Rhoads and Assemblyman Carpenter, 652, 655, 2927, 2935, 3113*, 3684.

216 .... Revises provisions regarding the addition of shutters in common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Schneider, 1164, 1168, 2575, 2673, 2700*, 2726.

217 .... Enacts provisions relating to the Department of Motor Vehicles and registration under the federal Military Selective Service Act. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Coffin, 855, 858, 2927, 2935, 3113*, 3684.

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218 .... Revises certain provisions governing fees charged and duties performed by constables and revises certain provisions relating to motor vehicle registration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Parks, Coffin, Care, Nolan, Horsford, Breeden, Copening, Lee, Schneider, Wiener, Woodhouse; Assemblymen Spiegel, Atkinson, Koivisto, Anderson, Bobzien, Claborn, Manendo, Mastroluca, McClain, Ohrenschall, Pierce, Segerblom, Settelmeyer and Stewart, 1164, 1168, 1171, 3002, 3021, 3424, 3492, 3676, 4004, 4215, 4216, 4242*, 4724, 4864, 5481, 5738, 5831, 5832, 6169.

219 .... Revises provisions governing assessments on real property located within a weed control district. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, 1164, 1168, 2729, 2820, 2923, 2981, 3123, 3487*, 4247.

220 .... Provides for the establishment of the Chronic Obstructive Pulmonary Disease Program. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 652, 655, 2678, 2688, 2714*, 2923.

222 .... Makes various changes to provisions relating to state financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Hardy, 855, 858, 3002, 3026, 3424, 3492, 3678.

223 .... Revises the provisions relating to certain crimes involving credit cards and debit cards. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Wiener, 426, 430, 2552, 2564, 2604*, 2703.

224 .... Revises provisions concerning voting by members of certain public bodies. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Care, 652, 656.

226 .... Provides for a bonus to be paid to certain members of the Nevada National Guard and the Reserves called to active duty to combat terrorism. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Coffin, 436.

227 .... Revises certain provisions concerning identity theft. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Wiener, 2436, 2437, 3686, 3798, 4215, 4222*, 5481, 5514.

228 .... Revises provisions governing the ownership or operation of a dental office or clinic. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Carlton, 1164, 1168, 3348, 3378, 3678*, 3679, 4250, 5179.

229 .... Establishes the Physician Visa Waiver Program in the Health Division of the Department of Health and Human Services. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Carlton, 1647, 1745, 2860, 2863, 2981, 3123, 3424, 3425*, 4247.

230 .... Revises provisions governing certain licenses issued by the Real Estate Division of the Department of Business and Industry. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Carlton, 652, 656, 3686, 3801, 4004, 4214, 4215, 4244*, 5517, 5561.

231 .... Makes various changes concerning food establishments connected with a child care facility. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Cegavske, 855, 858, 2927, 2935, 3123, 3487*, 3488, 4250, 5179.

232 .... Proposes to exempt sales of certain durable medical equipment, mobility-enhancing equipment, hearing aids, hearing aid accessories, and ophthalmic or ocular devices or appliances from sales and use taxes and analogous taxes. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Woodhouse, Wiener, Care, Breeden, Mathews, Parks and Schneider, 436.

233 .... Revises provisions relating to immunizations. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Woodhouse, Breeden, Wiener, Parks, Horsford, Care, Coffin, Mathews and Schneider, 485.

234 .... Makes various changes concerning the short-term leasing of passenger cars. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Taxation, 1603, 3492, 3498, 3633, 4149, 4150*, 5179, 5938, 6498.

235 .... Revises the provisions relating to the jurisdiction of the juvenile court over certain offenses. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Parks, Horsford, Wiener, Woodhouse, Breeden, Care, Coffin, Copening, Lee; Assemblywoman Pierce, 426, 430, 2535, 2544, 2549, 2557, 2558*, 2644.

236 .... Revises provisions relating to certain programs for persons released from incarceration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Parks, Copening, Horsford, Breeden, Care, Coffin, Lee, Wiener, Woodhouse; Assemblywoman Pierce, 856, 5953, 5963, 6439*.

238 .... Revises certain provisions relating to the restoration of civil rights for certain criminal offenders. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Parks, Horsford, Coffin, Copening, Lee, Wiener, Woodhouse; Assemblywoman Pierce, 855, 858, 2926, 2936, 3123, 3489*, 4247.

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239.... Provides for greater coordination of Nevada's economic development and workforce development goals. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senators Horsford, Woodhouse, Care, Breeden, Parks, Amodei, Coffin, Copening, Lee, Mathews, Raggio, Rhoads, Washington, Wiener; Assemblymen Atkinson, Conklin, Bobzien, Manendo, Aizley, Buckley, Carpenter, Claborn, Dondero Loop, Goicoechea, Hogan, Kirkpatrick, Koivisto, McClain, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom and Spiegel, 1647, 1745, 4969, 4970, 4978, 5128*, 5738, 5806.

240.... Provides for the evaluation and establishment of the maximum speed on certain portions of State Route 159. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Breeden, Copening, Hardy, Horsford, Lee, Coffin, McGinness, Schneider, Woodhouse; Assemblymen, Manendo, Munford and Segerblom, 855, 858, 2575, 2673, 2700*, 2701, 2726.

241.... Requires the licensing of cat and dog breeders by the State Department of Agriculture. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Senators Breeden, Carlton, Wiener, Townsend, Horsford, Lee, Parks, Woodhouse; Assemblymen, Manendo, Munford and Segerblom, 411.

242.... Enacts provisions relating to energy efficiency. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Schneider, 436, 4504, 4720, 5846, 5855*, 5856, 6062, 6063, 6239.

243.... Requires local law enforcement agencies to enforce certain state laws. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Schneider, 2436, 2437, 3126, 3184, 3675, 4325, 4501*, 5481, 5514.

244.... Revises provisions governing automated external defibrillators. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Cegavske and Nolan, 855, 858, 3001, 3026, 3489*, 4247.

245.... Makes various changes relating to regional transportation commissions. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Lee, 2436, 2438, 3498, 3633, 4150, 4242, 4244, 4300, 4568, 4608, 4609, 4716*, 5182, 5514.

246.... Revises provisions governing the sale of vehicles. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Townsend, Hardy, Cegavske, Horsford, Lee, Mathews, McGinness and Rhoads, 1164, 1168, 3002, 3026, 3084, 4150, 4215, 4222, 4223*, 5517, 5553, 5738.

247.... Grants to Senator William J. Raggio the use of a special legislative license plate designated “State Senator 1” as a lifetime endowment. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Horsford, Townsend, Washington, Schneider, Cegavske, Breeden, Care, Carlton, Copening, Hardy, Lee, Mathews, McGinness, Nolan, Parks, Rhoads and Woodhouse, 426, 430, 3002, 3037, 3489*, 4247.

248.... Authorizes the extension of the validity of certain building permits and development agreements beyond the original expiration date under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Townsend, Hardy, Horsford, Lee, Mathews, McGinness and Rhoads, 1164, 1169, 3497, 3633, 4212*, 5677, 5806.

249.... Revises provisions relating to the medical professionals who may issue a health certificate to a person applying for employment as a taxicab driver. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Nolan, 855, 858.

251.... Revises certain provisions governing vehicles. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Nolan, 2436, 2438, 2927, 2936, 3123, 3489*, 3490, 4679, 5179.

252.... Revises provisions relating to solicitations of charitable donations. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Senators Parks, Copening, Woodhouse, Horsford, Wiener, Care, Lee; Assemblymen Anderson, Segerblom, Koivisto, Atkinson, Buckley, Dondero Loop, Manendo, McClain, Ohrenschall and Pierce, 2528.

253.... Makes various changes to provisions relating to common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Parks, 1164, 1169, 3126, 3186, 3679*, 4679, 5179.

254.... Makes various changes relating to ethical standards in real estate transactions. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Nolan, 1164, 1169, 2729, 2820, 2923, 2981, 3123, 3490*, 4247.

255.... Provides for a partial abatement of the ad valorem taxes imposed on certain residential rental dwellings. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Schneider, 508.

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256.... Designates an area on the grounds of Northern Nevada Adult Mental Health Services as a historic cemetery. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senator Mathews and Assemblywoman Smith, 436, 1164, 1169, 2706, 2708, 2725, 2836*, 3126, 3495.

259.... Establishes a temporary program for the alternative licensure of teachers. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Cegavske, 2528.

260.... Revises provisions relating to the management of treatment for persons with co-occurring disorders. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 436.

261.... Makes various changes relating to common-interest ownership. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Care, 1647, 1745, 3126, 3193, 3679*, 5481, 5514.

262.... Prescribes penalties for the cultivation of marijuana in greater amounts than is allowable for medical use. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senators Copening, Wiener, Cegavske, Lee, Nolan, Raggio; Assemblymen Oceguera, Horne, Gustavson and Stewart, 1164, 1169.

263.... Amends the Charters of the Cities of Carlin and Wells to revise provisions governing municipal elections. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Rhoads, 1410, 1411, 2926, 2939, 3123, 3490, 3492, 3675, 4978, 5120, 5129*, 5517, 5738, 5969, 6062, 6442, 6497.

264.... Directs the Legislative Commission to conduct an interim study concerning the powers delegated to local governments and requires the Legislative Commission to appoint an Interim Technical Advisory Committee for Intergovernmental Relations. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Care, 583, 5772, 5773, 6197, 6211*.

265.... Revises provisions relating to the Private Investigator's Licensing Board. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Carlton, 2436, 2438, 3348, 3381, 3679, 4004, 4243*, 5517, 5561.

266.... Makes various changes concerning the practice of medicine. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Carlton, 1410, 1412, 3347, 3388, 3679*, 4721.

267.... Makes various changes concerning governmental administration. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Wiener, 2528, 2529, 3497, 3637, 4212*, 5738, 5806.

268.... Makes various changes to provisions governing occupational licensing boards. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Carlton, 2436, 2438, 3347, 3388, 3679*, 3680, 4721.

269.... Makes various changes to provisions governing physicians and certain related professions. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Senator Carlton; Assemblymen Hardy and Smith, 2528, 2529, 3686, 3804, 4978, 5128*, 5678, 5679, 5738, 6258, 6316, 6389.

273.... Provides for various activities related to nonembryonic cells. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Schneider, 1410, 1412, 5135, 5137, 5153*, 5154, 5938, 6169.

274.... Creates an interdisciplinary committee to address issues relating to the juvenile justice system. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Horsford, Parks, Wiener and Copening, 428.

275.... Creates the Commission on Spending, Government Efficiency and Educational Equity. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Horsford, Wiener, Care, Parks, Woodhouse, Amodei, Carlton, Cegavske, Coffin, Copening, Lee, Mathews, Rhoads and Schneider, 411.

276.... Makes various changes concerning land sales agreements and compliance with the real property transfer tax. Fiscal Note: Effect on Local Government: No. Effect on the State: No. McGinness, 1410, 1412, 3126, 3212, 3680*, 4250, 5179.

277.... Revises various provisions relating to estates. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Wiener, 855, 858, 3126, 3223, 3680, 4004, 4243*, 5481, 5514, 6049, 6055.

278.... Requiring the Legislative Committee on Health Care to study certain issues concerning the provision of health care. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. McGinness, 583, 1647, 1745, 2927, 2941, 3123, 3490*, 4250, 5179.

280.... Enacts provisions governing hunting in the Carson Lake Wildlife Management Area. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. McGinness, 1410, 1412, 2679, 2688, 2714, 2715*, 2923.

281.... Revises provisions governing the reporting of campaign contributions and expenditures. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Townsend, 436.

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283.... Revises provisions governing the rights of domestic partners. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Parks and Coffin, 436, 2528, 2529, 2860, 2863, 2955, 2957, 2959, 3687, 4247, 5938, 6498.

284.... Exempts certain retired public officers and employees from disqualification for retirement allowances for reemployment with a public employer under the Public Employees' Retirement System. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Townsend, 583.

285.... Provides for a partial abatement from the sales and use tax for services, labor and materials related to aviation. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Townsend, 436.

286.... Establishes provisions relating to early intervention services. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senators Cegavske, Hardy, Lee, Parks, Raggio; Assemblymen Parnell and Settelmeyer, 411, 5772, 5773.

287.... Makes various changes concerning personal financial administration. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Wiener, 855, 859, 2706, 2711, 2725, 2836, 2857, 2861, 2923, 2981, 3123, 3490*, 4247.

288.... Revises provisions relating to occupational safety and health. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senator Carlton and Assemblyman Conklin, 436, 856, 2528, 2529, 3001, 3037, 3490*, 3491, 4247.

289.... Establishes a tax credit for certain businesses that donate money to school tuition organizations. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Senators Cegavske, Washington, Hardy, McGinness; Assemblymen Gansert and Christensen, 508.

290.... Authorizes patients of certain facilities to install electronic surveillance devices in the room of the patient. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Cegavske, 1647, 1745.

292.... Adopts the Uniform Representation of Children in Abuse, Neglect, and Custody Proceedings Act. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: No. Care, 2528, 2529.

293.... Makes various changes concerning the protection of children. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senator Cegavske and Assemblywoman Mastroluca, 508, 2436, 2438, 3348, 3388, 3424, 5563, 5632, 5643, 5649*, 5846, 5973, 5974, 6062.

294.... Authorizes certain requests for legislation and requires an interim study regarding the distribution of taxes among local governmental entities in this State. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Lee, 856, 3113, 3114.

295.... Revises provisions relating to dentistry. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Carlton, 2436, 2438, 4969, 4973, 4978, 5128*, 5517, 5547, 5553, 5738, 6239, 6311, 6316.

298.... Authorizes the Board of Regents of the University of Nevada to plan for and establish programs for the study of energy efficiency and renewable energy resources within the Nevada System of Higher Education. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senator Cegavske and Assemblywoman Dondero Loop, 1164, 1169, 2728, 2820, 2923, 2981, 3123, 3491*, 4247.

299.... Provides for the reimbursement of certain costs to Legislators under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Nolan, 3687, 3688.

300.... Requires the acceptance of the donation of certain improvements on certain state land by the Division of State Lands of the State Department of Conservation and Natural Resources. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Cegavske, Schneider; Assemblyman Manendo, 1410, 1412, 2679, 2688, 2715*, 2923.

302.... Authorizes certain agreements for the provision of medical care in certain hospitals. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Nolan, Parks, Cegavske, Amodei, Care, Copening, Hardy, Raggio, Wiener and Woodhouse, 855, 859, 2926, 2943, 3123, 3491*, 4247.

303.... Enacts the Interstate Compact on Educational Opportunity for Military Children. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Nolan, Amodei, Copening, Care, Cegavske, Hardy, Parks, Raggio, Wiener and Woodhouse, 436, 6062, 6063, 6402, 6403*.

304.... Revises provisions relating to tests for certain communicable diseases. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Senators Parks, Copening, Horsford, Carlton, Coffin, Schneider, Wiener; Assemblywomen Pierce, Leslie and Smith, 1164, 1169, 2678, 2688, 2715*, 2923.

305.... Makes various changes concerning dispensing a medication and providing a prescription for the sexual partner of a person diagnosed with a sexually transmitted disease. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Parks, Copening, Horsford, Carlton, Coffin, Schneider; Assemblywomen Pierce, Leslie, Mastroluca and Smith, 1647, 1745, 3492, 3499, 4212*, 4724, 4819, 5481.

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306 .... Authorizes the Health Division of the Department of Health and Human Services to establish a grant program to support the expansion of various health care services. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Carlton, Coffin, Parks, Horsford, Amodei, Care, Hardy, Mathews, McGinness, Townsend, Wiener, Woodhouse; Assemblymen Segerblom, Koivisto, Ohrenschall, Kihuen, Anderson, Arberry, Carpenter, Goicoechea and McClain, 1164, 6258.

307 .... Requires the Office of the Director of the Department of Health and Human Services to study issues relating to Medicaid. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Wiener, Horsford, Woodhouse, Cegavske, Parks, Amodei, Copening, Hardy, Lee, McGinness, Nolan, Schneider and Washington, 855, 859, 2678, 2688, 2715*, 2923.

309 .... Prohibits a person operating a motor vehicle from using a telephonic device to write, send or read a text-based communication while the motor vehicle is in motion or stopped at certain intersections. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Nolan and Breeden, 2129, 6440.

310 .... Revises provisions governing the regulation of trust companies. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Care, 2528, 2529, 3686, 3859, 4215, 4223*, 5517, 5561.

311 .... Requires the fluoridation of water provided by certain public water systems and water authorities in certain counties. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Senators Mathews, Lee, Horsford, Townsend; Assemblymen Anderson and Smith, 856, 4969, 4970.

312 .... Revises provisions governing the verification of motor vehicle liability insurance policies by the Department of Motor Vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Mathews, 1647, 1745, 2575, 2857, 3126, 3242, 3680*, 5517, 5561.

313 .... Revises provisions relating to guardianships. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Mathews, Horsford, Care, Lee; Assemblymen Anderson and Mortenson, 855, 859, 3126, 3254, 3680, 3681, 4184, 4243*, 5481, 5514.

314 .... Adopts the Uniform Power of Attorney Act. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Mathews, Amodei, Horsford, Lee, Townsend, Wiener; Assemblymen Hardy, Anderson, Carpenter, Grady and Ohrenschall, 1164, 1169, 2563, 2603, 2675*, 2703.

316 .... Directs the Legislative Committee on Health Care to consider the establishment of a health insurance exchange in Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senators Copening, Parks, Woodhouse, Wiener, Carlton; Assemblyman Segerblom, 5938, 5939, 6170, 6212*.

317 .... Requires instruction on financial literacy in the public high schools. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Senators Copening, Parks, Woodhouse, Wiener, Carlton; Assemblyman Segerblom, 436, 855, 859, 2705, 2711, 2725, 2836, 2857, 2923, 2981, 3123, 3491*, 4250, 5179.

318 .... Revises provisions governing tuition paid by persons in the Armed Forces of the United States and by veterans at campuses of the Nevada System of Higher Education. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Copening and Parks, 411, 3492, 3493, 5553, 5554, 5641*, 5642, 5806.

319 .... Revises provisions governing certain reports of sentinel events and related events. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senators Breeden, Parks, Carlton, Woodhouse; Assemblymen Segerblom, Leslie and Smith, 649, 2436, 2438, 2860, 2868, 2981, 3123, 3491*, 4247, 6057.

320 .... Revises provisions relating to dental hygiene. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Carlton, 2528, 2529.

325 .... Authorizes hospitals to establish a program concerning methicillin-resistant Staphylococcus aureus. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Cegavske, 1410, 1412, 2926, 2943, 3123, 3491, 3492*, 4247.

326 .... Revises provisions governing the system of public education in this State. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Cegavske and Raggio, 583.

327 .... Provides incentives for certain electrification projects. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Schneider, 1164, 1169.

330 .... Enacts the Initiative for a World-Class Education in Nevada. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Horsford, 436, 5938.

331 .... Provides a partial abatement of property taxes and certain sales and use taxes imposed on facilities that use solar or wind energy to generate electricity or process heat. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Commerce and Labor, 436.

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332 .... Revises provisions governing the use and taxation of certain fuels. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Energy, Infrastructure and Transportation, 2436, 2438, 3687, 3879, 4215, 4223, 4225*, 5678, 5685, 5772, 6063, 6081, 6102.

333 .... Makes various changes relating to real property. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 855, 859, 2860, 2868, 2981, 3123, 3492, 3681*, 5481, 5514.

334 .... Eliminates the formation of new corporations sole. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 855, 859.

335 .... Revises provisions regarding regulation of accountants. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Commerce and Labor, 2436, 2438, 2678, 2688, 2715*, 2716, 2923.

336 .... Removes the eligibility threshold for obtaining an exemption from certain requirements of the Local Government Budget and Finance Act. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 855, 859.

337 .... Revises the statutes of repose relating to certain actions concerning construction defects. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 1164, 1169.

338 .... Authorizes a landlord who leases or subleases any commercial premises to dispose of any abandoned personal property left on the commercial premises under certain circumstances. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 1647, 1745, 3686, 3885, 4215, 4223*, 5517, 5561.

339 .... Requires the Colorado River Commission of Nevada to review and analyze available information, studies and reports to assess the feasibility of constructing a hydrokinetic generation project below Hoover Dam. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Energy, Infrastructure and Transportation, 1164, 1170, 3001, 3037, 3492, 3681*, 4721.

340 .... Revises provisions governing the allocation of certain money from the Fund for a Healthy Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 1647, 1745, 2926, 2943, 3123, 3492, 3681*, 4721.

341 .... Revises the list of qualifications for relatives to receive supportive assistance from a program to provide supportive assistance to qualifying relatives of children who provide care for and obtain the legal guardianship of those children. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 436.

342 .... Expands the relatives who receive preference when a child is placed in the custody of a person other than the parent of the child by a court, an agency which provides child welfare services or other person. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 855, 859, 2552, 2564, 2604*, 2703.

343 .... Makes various changes concerning the application for and provision of certain treatment or services to a person involved in the child welfare system. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Health and Education, 1647, 1746, 2678, 2688, 2716*, 2923.

344 .... Authorizes the Director of the Department of Health and Human Services to create an interagency committee to evaluate the child welfare system. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 855, 859, 2552, 2564, 2604, 2605*, 2703.

346 .... Revises provisions relating to state financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Finance, 583.

348 .... Revises certain provisions of the Uniform Principal and Income Act (1997). Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 1164, 1170, 2678, 2688, 2716*, 2923.

349 .... Makes various changes relating to constructional defects. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 1410, 1412.

350 .... Makes various changes relating to business. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 2436, 2438, 3687, 3890, 4215, 4223*, 4224, 5481, 5514.

351 .... Makes various changes relating to common-interest communities. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 2436, 2439, 3498, 3647, 4212*, 5481, 5514.

352 .... Makes various changes to provisions governing mechanics' and materialmen's liens. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 1164, 1170.

353 .... Revises certain provisions relating to sealed records concerning criminal proceedings. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 1647, 1746.

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354 .... Revises provisions governing land use planning. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 1164, 1170, 4474, 4492, 4495, 4743, 4968, 5059, 5138, 5154, 5159*.

355 .... Enacts the Uniform Debt-Management Services Act. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Judiciary, 508, 2436, 2439, 3686, 3961, 4215, 4224, 4225, 4307, 4328, 5154*, 5517, 5561, 5873, 5915.

358 .... Revises provisions related to energy. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Energy, Infrastructure and Transportation, 436, 4724, 4777*, 4778, 5514.

359 .... Requires certain governmental entities to work cooperatively to establish the Henderson to North Las Vegas Fixed Guideway Corridor. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Energy, Infrastructure and Transportation, 583.

360 .... Revises provisions governing the sale and title of salvage vehicles. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: No. Committee on Energy, Infrastructure and Transportation, 1410, 1412, 2927, 2944, 3123, 3492, 3682*, 5481, 5514.

361 .... Revises provisions relating to employee leasing companies. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 2528, 2529, 3347, 3398, 3682*, 4721.

362 .... Clarifies and revises provisions related to the suspension or revocation of professional licenses by health care professional licensing boards. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 1410, 1412, 3347, 3398, 3682*, 4721.

363 .... Revises provisions relating to death benefits paid to surviving spouses under industrial insurance. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Commerce and Labor, 2528, 2529, 3347, 3398, 3675, 4215, 4244, 4306*, 5514, 6057.

364 .... Revises provisions relating to professional licensing boards and professional licenses. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 2528, 2529.

365 .... Establishes provisions relating to family trust companies. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Commerce and Labor, 2528, 2530, 3347, 3398, 3682*, 4721.

367 .... Makes various changes to the provisions governing the Public Employees' Retirement System. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 583.

368 .... Imposes an additional licensing fee on certain heavyweight motor vehicles. Fiscal Note: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes. Committee on Taxation, 583.

370 .... Makes various changes relating to the legislative process. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Legislative Operations and Elections, 3687, 3688, 4474, 4495, 4496*, 5514.

371 .... Makes various changes relating to interim studies and statutory committees of the Legislature. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Legislative Operations and Elections, 3492, 3493, 4474, 4495, 4496*, 5514.

372 .... Revises the Nevada Clean Indoor Air Act. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 583, 1647, 1746.

373 .... Directs the Legislative Commission to appoint a subcommittee to conduct an interim study concerning projects for the importation of water and to develop a sound strategy for the proposed use of water in this State. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Natural Resources, 436.

374 .... Creates the Legislative Committee to Oversee the Southern Nevada Water Authority. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Natural Resources, 436.

375 .... Establishes the Nevada Advisory Commission on Intergovernmental Relations. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Government Affairs, 583.

376 .... Makes various changes relating to the prevailing wage requirements. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Government Affairs, 2436, 2439, 3497, 3666, 4004, 4858, 5058*, 5059, 5678, 5806.

377 .... Revises provisions relating to certain public works. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Government Affairs, 583, 1647, 1746, 2860, 2870, 2981, 3123, 3492, 3682*, 3683, 4721.

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378 .... Establishes provisions relating to certain early childhood education programs. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 1648, 2647, 2648, 2728, 2820, 2861, 3292, 3480, 3683*, 4250, 5179.

379 .... Revises provisions governing certain educational programs. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 2436, 2439.

381 .... Revises provisions governing the immunization of children against certain diseases. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Health and Education, 2436.

382 .... Revises provisions relating to disproportionate share payments to certain hospitals. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Health and Education, 583, 3492, 3493, 5563, 5618, 5643, 5649*, 5806.

383 .... Requires certain warnings regarding the use of certain tobacco products. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 1647, 1746.

385 .... Revises provisions governing charter schools. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 583, 2528, 2530, 2728, 2820.

388 .... Revises provisions relating to insurance. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Commerce and Labor, 2528.

389 .... Revises provisions governing accountability in public schools. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 2528, 2530, 3001, 3038, 3425, 4214, 4244*, 4724, 4864, 5135, 5481, 5738, 5831, 6169.

390 .... Directs the Legislative Commission to provide for a study concerning the long-term care of certain persons in this State. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Health and Education, 485.

391 .... Revises provisions relating to charter schools. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Health and Education, 1164, 1170, 2574, 2673, 2701*, 2726.

392 .... Repeals an obsolete statute relating to annual payment for the purchasing warehouse building and adjacent land in Las Vegas. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 855, 860, 2535, 2544, 2550*, 2571.

393 .... Revises provisions governing barber schools. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Commerce and Labor, 2528, 2530.

394 .... Makes various changes to provisions relating to off-highway vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Energy, Infrastructure and Transportation, 583, 3113, 3114, 3498, 3671, 4249, 4265, 4325, 4328*, 4330, 5514, 5564, 6057.

395 .... Makes various changes regarding renewable energy and energy efficiency and alters the composition of the Commission on Economic Development. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Energy, Infrastructure and Transportation, 649, 3687, 3689, 5516, 5522, 5529, 5685, 5734, 5735, 5805, 5846, 6212*, 6213.

396 .... Revises provisions governing an investigation of a peace officer by a law enforcement agency. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 2436, 2439, 3497, 3671, 4005, 4858, 5059*, 5678, 5806.

397 .... Establishes provisions relating to the use of certain plastic bags. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Commerce and Labor, 583.

400 .... Makes an appropriation to the Nevada System of Higher Education for stale claims owed to the Public Employees' Benefits Program. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Finance, 2575, 2576, 5553, 5554, 5642*, 5806.

401 .... Makes an appropriation to the State Fire Marshal Division of the Department of Public Safety for refunds of certain fees. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Finance, 2575, 2576, 5553, 5554, 5642*, 5806.

403 .... Revises provisions relating to state financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Finance, 2575, 2576, 5563, 5618, 5643, 5650*, 5738, 5859, 6168, 6258, 6272, 6273.

408 .... Authorizes payments from the Patriot Relief Account in the State General Fund to certain members of the Nevada National Guard who return from deployment in a combat zone. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Finance, 2860, 2862, 3686, 3999, 4225*, 5179.

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409.... Authorizes on-line bidding on contracts for the construction, improvement and maintenance of highways. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 3113, 3114, 3498, 3674, 4213*, 5179.

411.... Revises provisions governing hunting, fishing and trapping. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 2722, 2724, 3687, 3999, 4242, 4244, 4716*, 4717, 5678, 5777, 5938, 6063, 6073, 6081.

412.... Revises provisions governing the employment of staff for the Office of the Governor. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 2722, 2724, 2729, 2820, 2861, 6026, 6027*, 6498.

414.... Reorganizes the Department of Information Technology. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 2722, 2724, 2729, 2820, 2923, 2981, 3123, 3492, 3683*, 4721.

415.... Establishes for the next biennium the amount to be paid to the Public Employees' Benefits Program for group insurance for certain active and retired public officers and employees. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Executive Budget. Committee on Finance, 3492, 3493, 3498, 3674, 4149, 4150, 4182*, 5179, 6498.

416.... Revises provisions governing the administration of certain tests, examinations and assessments in public schools. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 3492, 3493, 4249, 4322, 4325, 4328*, 5678, 5806.

418.... Reduces the period for bringing an action to enforce certain provisions relating to unclaimed property. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 5806, 5923, 5953, 6168, 6212*.

421.... Temporarily suspends longevity pay and merit pay increases for state employees. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 4250, 4251, 4754, 4777*, 4778, 5514.

422.... Makes a supplemental appropriation to the Department of Motor Vehicles for unanticipated shortfalls in revenue for Fiscal Year 2008-2009. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Finance, 4504, 5553, 5554, 5642*, 5806.

423.... Makes appropriations to the Interim Finance Committee for allocation to assist state agencies in paying electricity, heating and cooling costs. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Finance, 3492, 3493, 5553, 5554, 5642*, 5806.

424.... Makes an appropriation to the Fund for Insurance Premiums, commonly known as the Attorney General's Tort Claim Fund. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Committee on Finance, 3492, 3493, 5553, 5554, 5642, 5643*, 5806.

425.... Extends reversion for previous session appropriation for the Institute for Neuro-Immune Disease. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Finance, 3492, 3493, 5553, 5554, 5643*, 5806.

426.... Revises provisions relating to insurance. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 4679, 4724, 4754, 4777, 4778*, 5514.

427.... Revises provisions governing public employees. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 5732, 5733, 5734*, 6169.

428.... Revises provisions governing state financial administration. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 4724, 4744, 4754, 4778*, 5514.

429.... Provides additional revenue for the provision of governmental services. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole, 3689, 4822, 4831*, 5514, 5738, 6169.

430.... Transfers money from the Trust Fund for Public Health and the Fund for a Healthy Nevada to the State General Fund. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 4724, 4744, 5553, 5554, 5643*, 5806.

431.... Authorizes expenditures by agencies of the State Government. Fiscal Note: Effect on Local Government: No. Effect on the State: Executive Budget. Committee on Finance, 4724, 4744, 4754, 4778*, 5514, 5738, 6169.

432.... Provides for the creation of the Nevada Stabilization and Advancement Commission to address the economic, fiscal and long-term needs of the State of Nevada. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation not included in Executive Budget. Horsford, Care, Schneider, Wiener, Lee, Breeden, Carlton, Coffin, Copening, Mathews, Parks and Woodhouse, 4183.

No. *Summary, Introducer and Page Reference*

433.... Provides for salaries of certain state employees and provides for furloughs for certain public employees. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Finance, 4504, 4723, 4743*, 4744, 5514, 5738, 6169.

434.... Combines the Office of Disability Services of the Department of Health and Human Services and other disability programs with the Aging Services Division of the Department. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 5677, 5678, 5734*, 6169.

435.... Makes corrections to certain legislative measures. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Finance, 5516, 5517, 5529, 5530, 5734, 5735*, 6169.

VETOED SENEATE BILLS OF THE 75TH SESSION

No. *Summary, Introducer and Page Reference*

195.... Revises provisions governing workers' compensation. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Carlton, 6058, 6059*.

201.... Authorizes certain counties to impose additional taxes on fuels for motor vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senators Amodei, Washington, Townsend, Horsford, McGinness, Nolan, Raggio, Schneider; Assemblymen Buckley, Smith, Atkinson, Anderson, Bobzien, Gansert, Leslie, Oceguera and Parnell, 5938, 6215*.

234.... Makes various changes concerning the short-term leasing of passenger cars. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Taxation, 5938, 5999*.

283.... Revises provisions governing the rights of domestic partners. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Parks and Coffin, 5938, 6028, 6029*.

319.... Revises provisions governing certain reports of sentinel events and related events. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Senators Breeden, Parks, Carlton, Woodhouse; Assemblymen Segerblom, Leslie and Smith, 6058, 6060*.

363.... Revises provisions relating to death benefits paid to surviving spouses under industrial insurance. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes. Committee on Commerce and Labor, 6058, 6061*.

394.... Makes various changes to provisions relating to off-highway vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: Yes. Committee on Energy, Infrastructure and Transportation, 6058, 6062*.

415.... Establishes for the next biennium the amount to be paid to the Public Employees' Benefits Program for group insurance for certain active and retired public officers and employees. Fiscal Note: Effect on Local Government: May have Fiscal Impact. Effect on the State: Executive Budget. Committee on Finance, 5938, 5999, 6000*.

429.... Provides additional revenue for the provision of governmental services. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee of the Whole, 5758.

431.... Authorizes expenditures by agencies of the State Government. Fiscal Note: Effect on Local Government: No. Effect on the State: Executive Budget. Committee on Finance, 5760, 5761*.

433.... Provides for salaries of certain state employees and provides for furloughs for certain public employees. Fiscal Note: Effect on Local Government: No. Effect on the State: Contains Appropriation included in Executive Budget. Committee on Finance, 5761, 5762*.

LISTING OF SENATE RESOLUTIONS AND ACTION THEREON

(Where a roll call vote was taken on final passage, such action is denoted by an asterisk following the page number.)

SENATE JOINT RESOLUTIONS

No. *Summary, Introducer and Page Reference*

1.... Proposes to amend the Nevada Constitution to replace the State Board of Pardons Commissioners with the Clemency Board and to require the Legislature to provide for the organization and duties of the Clemency Board. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Parks, 855, 856, 2859, 2870, 2981, 3123, 3492, 3683*, 4721.

2.... Urges Congress to take certain actions concerning wilderness areas and wilderness study areas. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Natural Resources, 1164, 1165, 2859, 2870, 2981, 3123, 3492, 4213*, 5179.

3.... Urges the Federal Aviation Administration and the Clark County Department of Aviation to convene a stakeholders' group to develop and make recommendations to improve flight safety standards at the North Las Vegas Airport, particularly with respect to experimental homebuilt aircraft. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Senator Horsford and Assemblywoman Kirkpatrick, 1410, 1411, 2721, 2725, 2836, 2857, 2981, 3123, 3492, 4213*, 5179.

4.... Urges Congress to fund fully and protect the Medicare program. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Legislative Operations and Elections, 274, 276, 2859, 2870, 2981, 3123, 3492, 4213*, 5179.

5.... Urges the President and Congress to continue to support the participation of the Republic of China on Taiwan in the World Health Organization. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Legislative Operations and Elections, 281*, 319.

7.... Expresses opposition to congressional enactment of the National Landscape Conservation System. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Rhoads, 1164, 1165.

8.... Urges Congress to preserve the traditional power of the states over land and water use. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Rhoads, 855, 856.

9.... Urges Congress to revise certain provisions of federal law relating to hybrid vehicles. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Schneider, 426, 427, 2721, 2725, 2836, 2857, 2981, 3123, 3492, 4213*, 5179.

SENATE JOINT RESOLUTIONS OF THE 74TH SESSION

No. *Summary, Introducer and Page Reference*

2.... Proposes to amend the Nevada Constitution to revise provisions relating to the selection of justices and judges. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Raggio, Hardy, Care, Coffin, Carlton, Amodei, Mathews, Nolan, Titus and Townsend, 426, 427, 2859, 2870, 2981, 3123, 3492, 4214*, 5179.

3.... Proposes to amend the Nevada Constitution to revise certain provisions relating to elections. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Rhoads, Amodei and McGinness, 855, 856, 2436.

9.... Proposes to amend the Nevada Constitution to allow the Legislature to establish an intermediate appellate court. Fiscal Note: Effect on Local Government: No. Effect on the State: No. Committee on Judiciary, 188, 191, 424, 446, 479, 499, 578, 645, 756, 766, 852, 1058, 1161, 1406, 1611, 1743, 2444, 2530, 2539, 2546, 2550*, 2571.

SENATE CONCURRENT RESOLUTIONS

No. *Summary, Introducer and Page Reference*

6.... Urges counties to map and document certain county roads to preserve rights-of-way over public lands in Nevada. Amodei, 3684.

2.... Encourages entities that are engaged in monitoring the water quality of the Truckee River to coordinate certain activities. Committee on Natural Resources, 1063, 2563, 2575, 2703.

3.... Expresses disapproval of certain civil actions brought and maintained against the livestock industry and the Bureau of Land Management in Nevada. Committee on Natural Resources, 582, 2721, 2722, 2923.

No. *Summary, Introducer and Page Reference*

4.... Urges certain agencies which provide child welfare services to develop a standardized practice model and to address certain issues related to child and family services. Committee on Health and Education, 651, 652, 2552, 2563, 2644.

5.... Commends the Wildfire Support Group. Committee on Natural Resources, 582, 2722, 2730, 3498, 3684.

6.... Urges counties to map and document certain county roads to preserve rights-of-way over public lands in Nevada. Amodei, 504, 508, 2859, 2862, 3002, 3003.

7.... Urges public schools to develop and implement programs for improving academic performance and maximizing learning opportunities of pupils. Senators Wiener, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Woodhouse; Assemblymen Kihuen, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 124, 125, 143.

8.... Honors Guy Rocha for his extraordinary service as Nevada's State Archivist. Senators Horsford, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Dondero Loop, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 150, 174.

9.... Commemorates the 25th anniversary of the National Cowboy Poetry Gathering in Elko. Senators Rhoads, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Carpenter, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 155, 174, 2923.

10.... Memorializes Ensio Joseph Tosolini. Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Anderson, Aizley, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 173, 198.

11.... Memorializes former state Senator Richard E. Blakemore. Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Goedhart, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 197, 207.

12.... Urges the promotion of physical fitness in the schools. Senators Wiener, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Woodhouse; Assemblymen Denis, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 213, 250.

No. *Summary, Introducer and Page Reference*

13.... Urges colleges and universities in this State to establish campus safety programs. Senators Wiener, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Woodhouse; Assemblymen Mastroluca, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 235, 271.

14.... Honors Thalia Dondero for her outstanding service to the Nevada System of Higher Education and community organizations. Senators Woodhouse, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener; Assemblymen Kihuen, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 246, 296.

15.... Recognizes World Kidney Day on March 12, 2009. Senators Mathews, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Leslie, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 282, 319.

16.... Encourages the Nevada Development Authority to create a revolving fund to help support certain types of businesses. Schneider, 1063, 1064, 2721, 2724, 2923.

17.... Honors Charlotte Hill for her volunteerism and support of education. Senators Woodhouse, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener; Assemblymen Dondero Loop, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 384, 433.

18.... Commemorates the 50th anniversary of the Nevada Desert Research Institute. Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Bobzien, Aizley, Anderson, Arberry, Atkinson, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 406, 433.

19.... Directs the Legislative Commission to appoint a committee to conduct an interim study relating to the production and use of energy in the State. Committee on Energy, Infrastructure and Transportation, 5738, 6197.

20.... Designates March 25, 2009, as Diabetes Awareness Day in Nevada. Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Gansert, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 426, 428, 499.

21.... Promotes awareness of building, fire and life safety standards for certain facilities that board animals. Senators Wiener, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Woodhouse; Assemblymen Segerblom, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 426, 428, 499.

No. *Summary, Introducer and Page Reference*

22.... Encourages collaboration to increase participation in adult education programs and enrollment in college. Senators Cegavske, Amodei, Breeden, Care, Carlton, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Christensen, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 499, 756.

23.... Commemorates the 100th anniversary of the creation of Clark County. Senators Woodhouse, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener; Assemblymen Manendo, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 582, 583, 1058.

24.... Expresses the Legislature's support for improving civic education in this State and recognizes “Participatory Democracy Day.” Senators Horsford, Wiener, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Woodhouse; Assemblymen Anderson, Aizley, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2535, 2536, 2559.

25.... Designates April 22, 2009, as Equality Day in Nevada. Senators Parks, Breeden, Coffin, Copening, Wiener, Woodhouse; Assemblywoman Leslie, 2535, 2538, 2559.

26.... Provides for an interim study on employee misclassifications. Horsford, 6062, 6063, 6197.

27.... Honors educational personnel for the services they provide to their students and all of Nevada. Senators Woodhouse, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener; Assemblymen Denis, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2702, 2726.

28.... Recognizes the second week in May as Melanoma and Skin Cancer Detection and Prevention Week in Nevada and encourages the public to take measures to decrease incidents of skin cancer. Senators Copening, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Mastroluca, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2702, 2726.

29.... Memorializes former State Climatologist, John James. Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Gansert, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2702, 2726.

30.... Commemorates the 90th anniversary of the Reno Rodeo. Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Gansert, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2713, 2923.

No. *Summary, Introducer and Page Reference*

31.... Recognizes the month of May as Dandy-Walker Syndrome and Hydrocephalus Awareness Month. Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Gansert, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2718, 2923.

32.... Commends Frank W. Daykin, former Legislative Counsel and current Uniform Law Commissioner, for his public service. Senators Care, Amodei, Breeden, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Carpenter, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2718, 2923.

33.... Recognizes Nicholas Clayton Stevens as the 2008 Children's Miracle Network Miracle Child for Nevada. Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Gansert, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2726, 2923.

34.... Memorializes veteran, visionary and community builder Robert A. Swadell. Senators Cegavske, Amodei, Breeden, Care, Carlton, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Goedhart, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 2726, 2923.

35.... Urges Congress to enact legislation allowing states to collect sales taxes on remote sales, including sales on the Internet. Coffin, 3498, 3499, 4474, 4476, 5179.

36.... Memorializes Commander Luther H. Hook III, Executive Officer of the Naval Air Station Fallon. Senators McGinness, Nolan, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, Woodhouse; Assemblymen Grady, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury, 5772, 5773, 6169.

37.... Provides for the Interim Finance Committee to conduct a review of Nevada's revenue structure and to provide long-term stabilization of revenue. Senator Horsford and Assemblyman Oceguera, 5938, 5953, 6168, 6198, 6239, 6242, 6245, 6443, 6498.

38.... Directs the Legislative Commission to conduct an interim study concerning community redevelopment in Nevada. Horsford, 6498.

39.... Requires the Legislative Committee on Health Care to consider issues relating to the costs and payments for the provision of certain medical services and care. Senator Horsford and Assemblywoman Leslie, 6239, 6245, 6258, 6402.

ELECTED OFFICERS OF THE NEVADA STATE ASSEMBLY

Seventy-Fifth Session, 2009

———————

Title	*Name*	*Mailing Address*
Speaker	Barbara E. Buckley	5442 Holbrook Drive, Las Vegas 89103-2439
Speaker pro Tempore	Bernie Anderson	747 Glen Meadow Drive, Sparks 89434-1536
Chief Clerk	Susan Furlong Reil	401 South Carson Street, Carson City 89701-4747

PERSONNEL OF THE NEVADA STATE ASSEMBLY

Seventy-Fifth Session, 2009

District	*Name and Party*	*Mailing Address*
Carson City (part), Washoe (part), No. 40	Parnell, Bonnie (D)	804 Saratoga Way, Carson City 89703-3656
Clark, No. 1	Kirkpatrick, Marilyn K. (D)	4747 Showdown Drive, North Las Vegas 89031-2133
Clark, No. 2	Hambrick, John (R)	1930 Village Center Circle, Suite 3-419, Las Vegas 89134-6245
Clark, No. 3	Pierce, Peggy (D)	5304 Gipsy Avenue, Las Vegas 89107-3847
Clark, No. 4	McArthur, Richard (R)	4640 Panoramic Court Las Vegas 89129-1617-4718
Clark, No. 5	Dondero Loop, Marilyn. (D)	3724 Emerald Bay Circle, Las Vegas 89147-6816
Clark, No. 6	Munford, Harvey J. (D)	809 Sunny Place, Las Vegas 89106-2052
Clark, No. 7	Arberry, Morse Jr. (D)	1330 Virginia City Avenue, Las Vegas 89146-8721
Clark, No. 8	Buckley, Barbara E. (D)	5442 Holbrook Drive, Las Vegas 89103-2439
Clark, No. 9	Segerblom, Tick (D)	704 South 9th Street, Las Vegas 89101-7015
Clark, No. 10	Hogan, Joseph M. (D)	2208 Plaza De La Candela, Las Vegas 89102-4043
Clark, No. 11	Kihuen, Ruben J. (D)	P. O. Box 427, Las Vegas, 89125-0427
Clark, No. 12	Ohrenschall, James (D)	P. O. Box 97741, Las Vegas, 89193-7741
Clark, No. 13	Christensen, Chad (R)	9101 W. Sahara Avenue, Suite 105, Las Vegas 89117-5799
Clark, No. 14	Koivisto, Ellen M. (D)	1147 Timber Ridge Court, Las Vegas 89110-2545
Clark, No. 15	McClain, Kathy (D)	2457 Swan Lane, Las Vegas 89121-5242
Clark, No. 16	Oceguera, John (D)	7655 Chaumont Street, Las Vegas 89123-1491
Clark, No. 17	Atkinson, Kelvin (D)	5631 Indian Springs Street, North Las Vegas 89031-5078
Clark, No. 18	Manendo, Mark (D)	4629 Butterfly Circle, Las Vegas 89122-6149
Clark, No. 19	Claborn, Jerry (D)	6617 Network Circle, Las Vegas 89156-7015
Clark, No. 20	Hardy, Joseph P., M.D. (R)	P.O. Box 60306, Boulder City 89006-0306
Clark, No. 21	Spiegel, Ellen B. (D)	1953 Kachina Mountain Drive Henderson 89012-2219

District	*Name and Party*	*Mailing Address*
Clark, No. 22	Stewart, Lynn D. (R)	2720 Cool Lilac Avenue, Henderson 89052-3836
Clark, No. 23	Woodbury, Melissa (R)	9500 West Flamingo Road, Suite 203, Las Vegas, Nevada 89147-5721
Clark, No. 28	Denis, Moises (D)	3204 Osage Avenue, Las Vegas 89101-1838
Clark, No. 29	Mastroluca, April (D)	265 Copper Glow Court Henderson 89074-8744
Clark, No. 34	Horne, William C. (D)	2251 North Rampart Blvd., No. 357, Las Vegas 89128-7640
Clark, No. 37	Conklin, Marcus (D)	1600 Palmae Way, Las Vegas 89128-3244
Clark, No. 41	Aizley, Paul (D)	237 East Eldorado Lane Las Vegas 89123-1159
Clark, No. 42	Mortenson, John H. (Harry) (D)	3930 El Camino Road, Las Vegas 89103-2221
Douglas, Carson City (part), Washoe (part), No. 39	Settelmeyer, James (R)	2388 U.S. Highway 395, Minden 89423-8923
Elko, Humboldt (part), No. 33	Carpenter, John C. (R)	P. O. Box 190, Elko 89803-0190
Esmeralda, Lincoln, Mineral, Nye, Churchill (Part) No. 36	Goedhart, Edwin A. (R)	P. O. Box 70, Amargosa Valley 89020-0070
Eureka, Pershing, White Pine, Churchill (part), Humboldt (part), Lander (part), Lyon (part) Washoe (part) No. 35	Goicoechea, Pete (R)	P. O. Box 97, Eureka 89316-0097
Humboldt (part), Lander (part), Washoe (part), No. 32	Gustavson, Don (R)	P. O. Box 51601, Sparks 89435-1601
Storey, Lyon (part), Carson City (part) Churchill (part), No. 38	Grady, Tom (R)	43 Fairway Drive, Yerington 89447-2170
Washoe, No. 24	Bobzien, David P. (D)	1605 Wesley Drive, Reno 89503-2332
Washoe, No. 25	Gansert, Heidi S. (R)	316 California Avenue, #302, Reno 89509-1650
Washoe, No. 26	Cobb, Ty (R).	P. O. Box 34375, Reno 89533-4375
Washoe, No. 27	Leslie, Sheila (D)	825 Humboldt Street, Reno 89509-2009
Washoe, No. 30	Smith, Debbie (D)	3270 Wilma Drive, Sparks 89431-1173
Washoe, No. 31	Anderson, Bernie (D)	747 Glen Meadow Drive, Sparks 89434-1536

ATTACHÉS OF THE NEVADA STATE ASSEMBLY

Seventy-Fifth Session, 2009

Name	Title	City
Name	**Title**	**City**
Diane Keetch	Assistant Chief Clerk	Carson City
Lucinda Benjamin	History Clerk	Schurz
Matthew Baker	Journal Clerk/Technical Assistant	Carson City
Jeanne Douglass	Document Clerk	Carson City
Jason P. Hataway	Media Clerk	Carson City
Christie Peters	Recording Clerk	Carson City
Terry Sullivan	Sergeant at Arms	Washoe Valley
Robin L. Bates	Deputy Sergeant at Arms	Gardnerville
Rebecca Harris	Assistant Sergeant at Arms	Carson City
Mary A. Matheus	Assistant Sergeant at Arms	Carson City
Sharon P. Murphy	Assistant Sergeant at Arms	Carson City
Jennifer D. Osheroff	Assistant Sergeant at Arms	Carson City
Steven J. Sweeney	Assistant Sergeant at Arms	Carson City
Marge Griffin	Administrative Services Manager	Carson City
Sylvia Brown	Executive Assistant	Minden
Jasmine Shackley	Committee Services Manager	Carson City
Barbara L. Houger	Speaker's Executive Assistant	Carson City
Christina Bailey	Leadership Attaché	Minden
Wendy Kameda	Leadership Attaché	Henderson
Erin Smith	Leadership Attaché	Las Vegas
Betty J. Phenix	Leadership Receptionist	Minden
Laurel Armbrust	Speaker pro Tempore's Personal Secretary	Gardnerville
Leslie Danihel	Majority Floor Leader's Executive Assistant	Carson City
Toshiko McIntosh	Minority Floor Leader's Executive Assistant	Dayton
Alicia C. Taylor	Assistant Majority Floor Leader's Personal Secretary	Las Vegas
Diane Jackson	Assistant Minority Floor Leader's Personal Secretary	Carson City
Bonnie Borda Hoffecker	Majority Whip's Personal Secretary	Carson City
Nichole Bailey	Assistant Majority Whip's Personal Secretary	Reno
Joyce Hess	Assistant Majority Whip's Personal Secretary	Virginia City
Mark Sprinkle	Minority Whip's Personal Secretary	Las Vegas
Jaclyn Kaiser	Minority Whip's Personal Secretary	Reno
Kathryn L. Alden	Chief Clerk's Executive Assistant	Carson City
Lona M. Domenici	Committee Manager/Personal Secretary	Carson City
Judith Fisher	Committee Manager/Personal Secretary	Carson City
Harle Glover	Committee Manager/Personal Secretary	Carson City
Millicent Jorgenson	Committee Manager/Personal Secretary	Carson City
Jackie Valley	Committee Manager/Personal Secretary	Las Vegas
Cynthia Carter	Committee Manager	Carson City
Andrew Diss	Committee Manager	Reno
Katherine Malzahn-Bass	Committee Manager	Carson City
Daniel Peltier	Committee Manager	Sparks
Patti Adams	Ways and Means Committee Manager/Personal Secretary	Mesquite
Connie Davis	Lead Ways and Means Committee Secretary	Carson City
Christine Bashaw	Ways and Means Committee Secretary	Gardnerville
Linda Blevins	Ways and Means Committee Secretary	Carson City
Anne Bowen	Ways and Means Committee Secretary	Carson City
Linda J. Smith	Ways and Means Committee Secretary	Dayton
Carol J. Thomsen	Ways and Means Committee Secretary	Carson City
Janice Wright	Ways and Means Committee Secretary	Carson City
Victoria Kieffer	Ways and Means Committee Assistant	Genoa
Theresa Horgan	Lead Committee Secretary	Carson City
Patricia A. Blackburn	Committee Secretary	Dayton
Judith Coolbaugh	Committee Secretary	Carson City

ATTACHES OF THE NEVADA STATE ASSEMBLY—*Continued*

Karen Fox	Committee Secretary	Carson City
Mary Garcia	Committee Secretary	Minden
Robert G. Gonzalez	Committee Secretary	Carson City
Christopher Kanowitz	Committee Secretary	Sparks
Julie Kellen	Committee Secretary	Carson City
Kyle McAfee	Committee Secretary	Carson City
Sharon McCallen	Committee Secretary	Carson City
Sean McDonald	Committee Secretary	Verdi
Earlene M. Miller	Committee Secretary	Carson City
Emilie I. Reafs	Committee Secretary	Henderson
Darlene A. Rubin	Committee Secretary	Washoe Valley
Marlen R. Schultz	Committee Secretary	Sparks
Denise M. Sins	Committee Secretary	Carson City
Scarlett Smith	Committee Secretary	Carson City
Michelle Smothers	Committee Secretary	Carson City
Karyn Werner	Committee Secretary	Dayton
Cheryl L. Williams	Committee Secretary	Fallon
Mary Bean	Personal Secretary	Carson City
Jennifer A. Breeden	Personal Secretary	Henderson
Christopher Caldwell	Personal Secretary	Carson City
Bambi Chase	Personal Secretary	Reno
Stephany J. Corral	Personal Secretary	Carson City
Dionny Fonseca	Personal Secretary	Dayton
Cecilia Hackman	Personal Secretary	Gardnerville
Donna Hancock	Personal Secretary	Carson City
Patricia J. Hutson	Personal Secretary	Carson City
Luanne King	Personal Secretary	Stagecoach
Novella W. Kowallek	Personal Secretary	Reno
Denise A. Larsen	Personal Secretary	Carson City
Patricia A. Manning	Personal Secretary	Dayton
Ashley Massey	Personal Secretary	Sparks
Carolyn J. Maynick	Personal Secretary	Carson City
Connie Nellos	Personal Secretary	Carson City
Diane O'Connor	Personal Secretary	Reno
Valerie Osgood	Personal Secretary	Gardnerville
Sheree L. Rosevear	Personal Secretary	Silver City
Christina L. Salerno	Personal Secretary	Carson City
Cindy Southerland	Personal Secretary	Carson City
Janet F. Stokes	Personal Secretary	Carson City
Linda L. Utt	Personal Secretary	Carson City
Brittany J. Walker	Personal Secretary	Henderson
Olivia M. Lloyd	Committee Assistant	Carson City
Cheryl Higgs McClellan	Committee Assistant	Carson City
Steve Sisneros	Committee Assistant	Carson City
Sally A. Stoner	Committee Assistant	Carson City
Jocelyne Helzer	Proofreader	Carson City
Carl C. Meier	Proofreader	Minden
David E. Moore	Proofreader	Dayton
Kathryn Moser	Proofreader	Reno
Larry Peri	Proofreader	Carson City
Marcia Peterson	Proofreader	Carson City
Frank Taylor	Proofreader	Carson City
Ted Zuend	Proofreader	Carson City
Deanna Keirstead	Document Center Supervisor	Carson City
Sherwood Howard	Document Management Clerk/Committee Assistant	North Las Vegas
June Bennett	Data Information Technician	Carson City
Norman Budden	Supervisor, Bill Services	Carson City
Mary Carel	Assistant Supervisor, Bill Services	Carson City
Diane L. Bacus	Bill Services Clerk	Reno
Jack W. Cooke	Bill Services Clerk	Carson City
John A. Davis Jr.	Bill Services Clerk	Carson City
Mark S. Day	Bill Services Clerk	Carson City
Renee Ekleberry	Bill Services Clerk	Minden

ATTACHES OF THE NEVADA STATE ASSEMBLY—*Continued*

Gail A. Eller	Bill Services Clerk	Carson City
Michael Fettic	Bill Services Clerk	Carson City
Joyce E. Ghiselli	Bill Services Clerk	Carson City
Don W. Hataway	Bill Services Clerk	Carson City
Lois A. Lahair	Bill Services Clerk	Dayton
Robert V. Maynick	Bill Services Clerk	Carson City
Rick Redican	Bill Services Clerk	Carson City
Paul Saucedo	Bill Services Clerk	Carson City
Frank D. Tetz	Bill Services Clerk	Carson City
Daniel D. Webster	Bill Services Clerk	Carson City
Debra A. Williams	Bill Services Clerk	Carson City
Lucille Zuend	Bill Services Clerk	Carson City

EXPLANATION OF AMENDMENT LANGUAGE

Seventy-Fifth Session, 2009

EXPANATION: Matter in (1) bold italics is new language in the original bill; (2) bold italic underlining is new language proposed in the amendments; (3) strikethroughs are deleted language from the original bill; (4) double strikethroughs is language proposed to be deleted in a particular amendment; (5) double underlining is deleted language in the original bill that is proposed to be retained in a particular amendment; and (6) bold is newly added transitory language.

Journal

OF THE

ASSEMBLY OF THE STATE OF NEVADA

SEVENTY-FIFTH SESSION

THE FIRST DAY

CARSON CITY (Monday), February 2, 2009

Pursuant to the provisions of the Constitution and Statutes, the Assembly was called to order by Speaker Barbara E. Buckley at 12:01 p.m.

Madam Speaker presiding.
Roll called.
All present.

Prayer by the Chaplain, Pastor Tom Beck, Faith Lutheran Church, Reno, Nevada.

Hear my prayer, O God. Generous God, we have received as gifts every resource for our lives and even our lives themselves. Gracious One, You seek to work Your purpose and surround us with Your presence. In the beginning, You gave the first man, Adam, and the first woman, Eve, all they needed for life. You made for them a garden. You gave them work. You walked with them in the Garden. You gave them to each other. Gracious God, You have given us, also, a garden—the world around us, with fields, ranchlands, forests, and mines with their minerals, towns and cities that are webbed with roadways and railways. Generous God, you have given us, also, to each other. There is industry and commerce, arts, and learning—all that we need for daily life. You have ordained government so that justice and mercy may be preserved. Gracious God, we are the people of Your creation, who prosper by these means. For all Your rich gifts we give You thanks, Generous God.

In our garden, You have made us to be stewards and caretakers. The first man and woman in the Garden were given the responsibility to care for Your creation and delight in harvesting its produce. Give to us a keen sense of our responsibility to tend to Your garden well. Grant to each person who lives in Your creation the grace to receive Your blessings and to use Your blessings well. Especially this day we pray for Your blessing upon all the elected officials of this state.

These Assemblymen, Assemblywomen, Senators, this House, this Governor—all who labor for justice in Your garden. Grant to them Your gifts of wisdom and understanding, a spirit of counsel and might, the spirit of knowledge and fear of the Lord, the spirit of joy in Your presence.

Holy One, our days are not easy. Care of our garden is difficult. The way ahead is confused. When we look ahead, we do not see a straight path before us; we see crossroads. We struggle to choose the best way. In such anxious times when fear is close at hand, we pray You will grant to us a calm of peace. Enable us to make such decisions and take such actions that are pleasing to You, according to Your will. In a time when there are no easy solutions, guide us to make intelligent choices. Make us ever mindful of the blessings You give to Your creatures, that we, who are Your stewards, may take proper care of the gifts You send us.

Compassionate God, we grieve for the losses and hurt suffered by many. Grant us Your spirit of mercy as we labor for justice. Grant us wisdom that is informed by compassion. Gracious God, You have entrusted us to care for one another. Send Your spirit upon us that we may wisely use Your good gift of government to protect the weak and provide for the poor with justice and mercy. Breathe into this Legislature, the House, the Senate, and the Governor of this state, Your spirit, that in all our labors we toil together with mutual respect. Guide our labors with Your good purpose, that our works are in accord with Your good will.

Almighty God, You are not absent. We are not deserted. Be our strength and might. Compassionate and Holy One, remain among us that there will be justice and mercy for all of Your people. This is my prayer, Lord Jesus.

AMEN.

Joining Pastor Beck in prayer were Father Chuck Durante, representing Bishop Randolph Calvo, Diocese of Reno, Roman Catholic Church; District Supervisor Jerry Smith, representing Bishop Warner Brown, California-Nevada Conference of the United Methodist Church; Bishop Dan Edwards, Episcopal Diocese of Nevada; Bishop Mark Holmerud, Sierra Pacific Synod, Evangelical Lutheran Church in America; Bishop Stephen S. Talmage, Grand Canyon Synod, Evangelical Lutheran Church in America; Chris Rhodes, Vice Moderator, Presbytery of Nevada, Presbyterian Church, representing Rev. Carol Wood, Moderator; District Superintendent Reverend Candace Lansberry, representing Bishop Minerva Carcano, Desert Southwest Conference of the United Methodist Church; and Tim O'Callaghan, representing Bishop Anthony Pepe, Las Vegas Diocese, Roman Catholic Church.

Remarks by Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

MADAM SPEAKER:

I am pleased to thank the bishops and leaders of these faith communities which have formed this historic religious alliance in Nevada. This is the first time the heads of these five denominations, either in person or through their designated representatives, have come together in one location for the common purpose of supporting advocacy ministry in search of social justice, compassion, and fair treatment for all Nevadans. These leaders are the voices of the social conscience, representing thousands of people with faith, living in every community in our state. We appreciate their prayers and welcome their words of hope and support as we begin the task of serving the common good of the people of the State of Nevada.

Presentation of the Colors by the North Las Vegas Fire Department Honor Guard.

Pledge of allegiance to the Flag.

Special musical rendition of the *Star Spangled Banner*, *The Waking*, and *Home Means Nevada* by the University of Nevada Reno's Chamber Chorale, conducted by Jennifer Tibben-Lemke.

Madam Speaker appointed as a committee Assemblymen Horne and Carpenter to escort Chief Justice James Hardesty of the Supreme Court of the State of Nevada to the rostrum to readminister the oaths of office to the Assemblymen.

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

Assembly in recess at 12:26 p.m.

ASSEMBLY IN SESSION

At 12:55 p.m.
Madam Speaker presiding.
Quorum present.

Chief Justice Hardesty readministered the oaths of office to the Assemblymen.

Madam Speaker requested the Chief Clerk call the roll of each member.
Roll called.
Present: Assemblymen Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury.

Assemblyman Segerblom moved that Chief Justice Hardesty be given a unanimous vote of thanks for readministering the oath.
Motion carried unanimously.

Madam Speaker appointed Assemblymen Conklin, Leslie, and Stewart as a committee to inform the Senate that the Assembly was ready for business.

Madam Speaker appointed Assemblymen Oceguera, Anderson, and Gansert as a committee to inform the Governor that the Assembly was ready for business.

A committee from the Senate composed of Senators Carlton, Copening, and Hardy appeared before the bar of the Assembly and announced that the Senate was organized and ready for business.

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

Assembly in recess at 1:13 p.m.

ASSEMBLY IN SESSION

At 1:20 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS, AND NOTICES

Assemblyman Conklin reported that his committee had informed the Senate that the Assembly was ready for business.

Assemblyman Oceguera reported that his committee had informed the Governor that the Assembly was ready for business.

Remarks by Madam Speaker, Assemblyman Oceguera, and Assemblywoman Gansert.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

MADAM SPEAKER:

Welcome to the 75th Session of the Nevada Legislature. We recently completed our 25th Special Session, so you are now here for the 100th session of the Nevada Legislature.

Congratulations to our new legislators and your families: Assemblyman Paul Aizley, Assemblywoman Marilyn Dondero Loop, Assemblyman Don Gustavson, Assemblyman John Hambrick, Assemblywoman April Mastroluca, Assemblyman Richard McArthur, Assemblywoman Ellen Spiegel, and Assemblywoman Melissa Woodbury. You worked so hard to get here—knocking on doors, meeting with people, learning about things you never thought you would ever know a thing about or would want to know a thing about.

Campaigns are very difficult. Things are said about you that are not true or are half true, but you survived and you now have an opportunity to represent your districts and represent the state. What an honor.

To our returning legislators, welcome back. I have learned so much from all of you throughout the years. Your expertise is needed more than ever with the challenges which are facing us. The state needs the best of all of us in these very difficult times.

This session will be about what kind of state we want to be. While there are so many economic issues outside of our control, there are things that we can do, that we must do, immediately. We have opportunities to lead our state in the right direction. We have an opportunity to try to stabilize our housing market. Continued foreclosures are wrecking our economy. We were not in session when this foreclosure crisis started, but we can take action now. Right now 47,000 Nevadans are 30 days or more delinquent on their mortgages. One out of every 11 families faces foreclosure, and the rest of us face plummeting housing values as a result. We have seen residential construction come to a standstill. We see mounting job losses, and we see our budget figures affected as a result.

If we are to get our state on the road to economic recovery, we must do all that we can to stem the hemorrhaging in our housing market with meaningful measures to prevent foreclosures. This session we will have an opportunity to institute mediation for homeowners who wish to remain in their homes and who are desperate for a workout agreement but cannot get anyone to respond to their phone call. The program would operate statewide and would use senior judges and the judiciary to administer it. We are very fortunate to have a Nevada Supreme Court and a court system who have already pledged their full support towards making a program effective immediately. Lenders would be required to participate with owner-occupied homeowners and to work in good faith towards resolutions.

This Legislature will also examine recommendations issued by our interim committee that would allow renters to not be surprised when the home they are renting is in foreclosure before they know it and to crack down on some lenders who are still engaging in predatory lending practices. I find it ironic that we now have foreclosure consultants promising to help refinance people when they were the same people engaging in the predatory lending to begin with. We can do something about that. We must do something about that.

This legislative session, job creation will also be a priority. We all know, as we have gone across the state campaigning or talking to people, folks are terrified about the mounting job losses. In better times when we clung to the illusion that Nevada was recession proof, we never worried about coping with a 9 percent, and soon to be 10 percent, unemployment rate. Job creation has to be one of our top priorities. While there is discussion across the nation about renewable energy, we in Nevada are uniquely poised to do something about it because of our vast, valuable resources. That is why the Legislature must consider a green jobs initiative. We will be receiving stimulus money to support this program. If we jump on this opportunity and train individuals for the jobs of the future, not only do we create jobs, but we diversify our economy and our state's budget to be less reliant on gaming and sales taxes.

Another serious problem facing us this session is the public's loss of confidence in our health care system that resulted from the Hepatitis C crisis in southern Nevada. We were all horrified by the news reports that more than 40,000 patients received letters in the mail telling them to be tested for Hepatitis C and AIDS because an endoscopy center in southern Nevada used unsafe medical practices. Many of us knew someone who was affected by that crisis personally. This session, we will make it a priority to enact new patient safeguards to ensure that a situation like this will never happen again.

During this session, we must address the state's financial structure and our state's budget. I have said this a dozen times but this explains it the best, to me: in good times, we spend a little bit of money on a lot of things and get good at nothing, and in bad times, we destroy everything we just built. Who thinks that makes sense? What can we do differently?

Well, we start by looking at three things. First, budgeting. What we must do this session is comb through every budget. The three big ones: Education, Health and Human Services, and Public Safety. We have to work together.

We have to decide what we can cut, what we can reform, and what we must save.

We create a budget stabilization fund. We take 1.5 cents of every new dollar and put it into a fund so that when we have economic downturns, we are not forced to make cuts, only to rebuild programs when times get better. It means less money when times are good but less pain when times are bad. It also means that in the long run, we will save money because we will not be dismantling a program only to rebuild it again when times are good.

We set short-term and long-term spending priorities. We didn't get to last in the states' rankings in a day—we won't be first in a day. But if we do not chart a course of how we want to change the kind of state we are to improve, to make the state we love so much become better, we must engage in long term-planning.

We have to consider revenues to meet our state's priorities.

We should examine everything: uncollected taxes, how revenue is distributed between state and local government. Could consolidation of local governments yield more revenue for all? Gaps in revenues, how to address them. As I have gone across the state, I think one thing that so many people said that struck me is, "I do not know where my tax dollar goes. I do not know what goes to the city, what goes to the county, what goes to the state. I just want it all to work." That is our charge this legislative session. We have to make sure we do not lose money in the long run by implementing cuts of 36 percent overall to our state's higher education system, with both UNR and UNLV losing 50 percent.

When we face a crisis, it brings people together. Maybe that's a silver lining in today's crisis. If we focus on stabilizing the housing market, taking advantage of the stimulus money to prepare for the new green energy economy, make some cuts—but avoid draconian ones that will cost more in the long run—and overhaul our financial system, we will have done the best that we can do in this time of economic crisis.

We will come out of this economic downturn; it is just a matter of when. In the meantime, we must do all we can to focus on solutions that make sense for our state. That is what we were

elected to do and that is what our state and constituents deserve. I am honored to once again serve as the Speaker of this body and pledge to each and every one of you that I will do my best to work with every single member on all the issues facing the state and collectively help us all do the best that we can in these very challenging times. Thank you for the honor of serving as your Speaker for this legislative session.

ASSEMBLYMAN OCEGUERA:

Madam Speaker, esteemed colleagues, honored guests and friends, thank you for the opportunity and privilege to make a few comments before we get down to the people's business.

Accomplishing that business in 120 days will not be an easy task. Our state and national economies are in crisis. Nevada's tourist-based revenue structure is unable to keep up with the state's basic needs. We have made severe cuts to our state. Now, additional deep cuts have been proposed which would risk the public's health and safety. I could offer up the usual list of clichés as we begin our work. I could tell you that Nevada is at a crossroads, and it is time for everyone to come to the table. But Madam Speaker and my colleagues, every time we use those clichés, we distance ourselves from the people and the real problems that they face.

Last week, during some budget hearings, a struggling father and two of his children, one in a wheelchair, shared their story of how budget cuts were making it impossible for the children to get care under the state's Medicaid program. Physicians are no longer willing or able to take new patients because of the state's appallingly low reimbursement rate. When the family was leaving the hearing room, one of the children turned and smiled and said goodbye. She may not have understood the gravity of the discussion we were having, but I think we did. We have an obligation to her and so many like her. We have an obligation to our teachers and to the children in their classrooms. We have an obligation to our college students, to our seniors, and yes, we have an obligation to businesses, large and small, that employ our citizens. We have an obligation to everyone who pays taxes when they make a purchase, when they register a car, or when they buy a home. We are not forgetting them or the difficult times in which Nevadans find themselves. The most important obligation we have—I think that any policy maker has—is to consider how our decisions affect others.

I believe, Madam Speaker, that we have reasonable people in this state. Not just in this chamber, but also our businesses and communities. They understand we cannot let political dogma and tired clichés dictate Nevada's course. That does not mean we will always agree about the solutions to the problems, but we cannot let the objections of a few keep us from making tough decisions that we are expected to make. Everyone has to compromise and be willing to give a little. That is the price of democracy. We know it will not be easy. In addition to the immediate problem of crafting a budget that at a minimum reinstates basic public service needs, we need measures that spur economic recovery, create jobs, and stabilize our neighborhoods. And if Congress does provide us with the much-needed revenue to restore the worst of the budget reductions, we cannot afford to then wipe our brows in relief and say the budget is balanced and that we can go home. If we do that, if we make no provision for the future and instead rely on the economic stimulus to bail us out, we will be back here in the next legislative session, maybe in special session, addressing the same problems and offering up the same, old clichés about tough questions and tough decisions. Yes, the decisions are tough, so let us make them and be done with it.

If we listen to one another, if we accept that we may not get everything exactly as we want, if we maintain civility even when we disagree, we can do the job. It is what we were elected to do, and that is our obligation to Nevada. Thank you, Madam Speaker.

ASSEMBLYWOMAN GANSERT:

Madam Speaker, Majority Leader Oceguera, my distinguished colleagues, assembled friends and family, I will not recount what we already know and what has been foreshadowed by the speeches we have heard today as far as the state of our state.

I trust that we can all agree that the conditions are severe, the challenges daunting, the pressure mounting, and answers elusive.

Today the Democrats have majorities in both the Senate and Assembly and will be controlling the legislation in both houses.

In our chamber, we hold one-third of the seats. We are 14. Now some may suggest that given our numbers, we will not have a significant impact on legislation. But emphatically, I say not. Our caucus is diverse and we represent portions of every county in this state. We must take into account the impact of our decisions on all citizens of Nevada, from the working families of Green Valley to the retirees of Carson Valley. It is for the Nevadans of every county that we took our oath—not for the special interest groups, not for the lobbyists, and not for the partisan factions.

The challenges we face today are historic in size and scope. It is time to remember what the people of this state require of us—they want us to work for them. They want us to be good stewards of their money, and they want us to work together throughout this process.

On many decisions in the ensuing 75th Session, I can assure you that more often than not the final tally will be something other than 28-14. We Republicans are ready to support sensible legislation and will strive to put our mark on the new laws as long as they do not hurt our state. We want to be at the table, not on the sidelines.

There is a marked difference between flatly saying "no" and participating in healthy debate. It is the latter approach that we choose.

During this session, you can expect this Republican caucus and this Minority Leader to present stiff resistance to proposals that we do not believe are in the right direction for our state. However, we pledge today to work in a constructive manner with every member of this Legislature.

Now is the time to reform the way our state does business. We must define a new path that leads our state back to prosperity.

The Republican Assembly Caucus is dedicated to this task—to strengthen the future of our home, Nevada. Thank you.

COMMUNICATIONS

MESSAGES FROM THE GOVERNOR

OFFICE OF THE GOVERNOR

January 30, 2009

THE HONORABLE STEVEN HORSFORD, THE HONORABLE BARBARA BUCKLEY, NEVADA LEGISLATURE, 401 S. CARSON STREET, CARSON CITY, NEVADA 89701

DEAR MAJORITY LEADER HORSFORD AND SPEAKER BUCKLEY:

Enclosed please find my message to the 75th Session of the Nevada Legislature. As you know, I delivered the message, as required by Article 5, Section 10 of the Nevada Constitution, on Thursday, January 15, 2009, to a gathering of your colleagues and other guests in the Assembly Chamber in Carson City.

My staff and I look forward to working with all of you during the 75th Legislative Session.

Sincerely,
JIM GIBBONS
Governor

Assemblyman Oceguera requested that the Governor's State of the State Address as presented to the Legislative Commission's Special Committee to Receive the Governor's State of the State Address of January 15, 2009, be entered in the Journal.

Speaker Buckley, Majority Leader Horsford, Lt. Governor Krolicki, members of the Senate and the Assembly, Honorable Justices of the Supreme Court, Constitutional Officers, distinguished guests, and my fellow citizens: I stand here before you today, resolved to uphold the responsibility you entrusted to me to lead Nevada through good times and turbulent times. I am here to discuss the state of our state and our plan to address the challenges we are facing. But first, I would like to recognize some very special Nevadans. We have ten newly elected members of the Assembly and the Senate with us, and I would like to welcome: Shirley Breeden,

Allison Copening, Paul Aizley, Marilyn Dondero Loop, Don Gustavson, John Hambrick, April Mastroluca, Richard McArthur, Ellen Spiegel, and Melissa Woodbury.

I look forward to working with each of you in this session. And to Senator Parks, I wish you the best in your new role as well.

For 17 of you, this will be your last session, as term limits will require your retirement from your current positions. Nevada has benefited tremendously from your service, and I look forward to working with you to ensure that your final session is also your finest one.

We also have with us tonight Charles Hansen, Director of Nevada State Friends for K-9. Nevada State Friends for K-9 obtained private donations from corporations and individuals to allow the Nevada Department of Public Safety to purchase its only specially trained dogs that are used to halt the flow of drugs and drug money on our highways, a vital step in our ongoing efforts to keep meth and other drugs out of the hands of our children. Since the program's inception last month, the Nevada Department of Public Safety has reported it already seized more than 6 pounds of meth, 20 pounds of marijuana, 7 pounds of ecstasy, 2 pounds of cocaine, and $450,000 in cash. This money is being deposited into a state seizure account that, over time, will allow the K-9 program to be self-funded and to become a revenue source for the state. Please join me in thanking Charles Hansen and the Nevada Friends for K-9 for their great work.

I would also like to take a moment to recognize the fine work done by the members of the California-Nevada Tahoe Basin Fire Commission over the past year and a half. That Commission was formed in response to the devastating Angora fire at Lake Tahoe during the summer of 2007. The Commission made 90 detailed recommendations, and I will be promoting legislation during the upcoming session to implement them. Several of the Commissioners—Allen Biaggi, Bud Hicks, Pete Anderson, and Leo Drozdoff—are with us tonight; thank you. So on behalf of Nevada, I do thank them and Commission Co-chair Sig Rogich and all the other Commissioners and their staff for their efforts to help preserve and protect our Lake Tahoe Basin.

We have also with us Lieutenant Colonel Daniel Waters of the Nevada Army Guard, who has served in Panama, Kosovo, and Afghanistan. Colonel, thank you for a job well done. Our country has been safer because of you and thousands of other brave members of our military forces. I, sir, salute you.

I would like now to take a moment to ask that all our veterans in the audience please stand and be recognized. As a veteran myself of two wars, I thank you on behalf of a grateful state and a grateful nation.

I also want to take a moment to acknowledge the sacrifices of those who cannot be with us here tonight—Nevada military service personnel overseas fighting the war on terror. These members of our armed forces and their families endure great hardships to protect our country and deserve our respect and thanks as well.

I also want to take this time to express our thanks to the members of the Nevada Army Guard, 1st Squadron, 221st Cavalry. This armored reconnaissance squadron, led by Lieutenant Colonel John Cunningham, is in the process of preparing for deployment to Afghanistan in late April. This deployment of 600 soldiers will be the Nevada Army Guard's largest international deployment of one unit since World War II and the fourth major mission for the 221st since 2001. In addition, about 140 soldiers from the Las Vegas-based 1864th Transportation Company will also be deploying to Iraq and Kuwait in April. Our prayers go with all of you.

Finally, I want us all to take a moment to remember our injured and fallen heroes. Many Nevadans—many of our finest— have suffered greatly while serving our country, and some have made the ultimate sacrifice for our freedom. We cannot and do not forget their sacrifices for our nation. Thank you.

Today, Nevada faces historic challenges. Every day, people in our communities are seeing their work hours cut, their benefits and retirement programs reduced or eliminated, their tip and commission income shrinking, or their jobs eliminated altogether.

Many of our fellow citizens are losing their homes, losing their retirement savings, and losing their ability to continue to work and prosper in our state.

For years, Nevada led the nation in population growth, led the nation in small business growth, and led the nation in job creation. Economic expansion brought prosperity to every sector of the economy, and our state was the envy of many.

We have been that beacon on the hill of hope for those who wanted to work hard and prosper. While right now our beacon may not be as easy to see, it is our responsibility to ensure that we can help bring back the bright light of success to shine all across this state.

As we struggle through these tough times, we need to ensure that we are positioned to regain those lofty heights that we came to take for granted for so many years.

For many years, people believed that our state was recession proof. Unfortunately, this economic downturn has shown that this simply is not the case. When the nation, and indeed the world, are in economic turmoil, Nevada is also shaken by the tremors.

In fact, Nevada has actually fared worse in this national and worldwide economic crisis than many other states. The combination of tight credit markets, sharp declines in discretionary spending, and record low consumer confidence has caused our two major industries, construction and tourism, to suffer drastic reductions. Folks, the numbers are daunting.

The visitor count to our state normally increases every year. Instead, the past 12 months, our visitor count to Las Vegas has declined by over one million people, or 3.5 percent. To visualize that number, just look at the news clips of New Year's Eve on the Strip. Officials estimate that over 290,000 people visited Las Vegas to bring in the New Year. Now just imagine it empty, and you will have a good notion of how much our visitor count deteriorated just in November alone.

Our tourism destinations in other parts of the state have also seen similar or worse declines. The Reno-Sparks area, for example, saw declines of nearly 10 percent during the past year.

The fact is that when we have declining numbers of visitors and they are spending less money when they are here, that impacts the incomes of those who work in the tourist industry as well as those who sell goods and services to those workers. It is a snowball effect that continues to impact the entire economy.

The national credit crisis has also had a huge impact on Nevada's economy. For a long time, the joke was the state bird of Nevada was the construction crane. Now, many construction projects have been scaled back or deferred because credit has dried up. Again, the loss of those construction projects has rippled through our economy.

Even our mining industry has slowed down following worldwide decreases in the price of minerals, such as copper, molybdenum, and lithium. Copper, for example, has fallen from $4.10 per pound to less than $1.50 per pound in just six months, and some Nevada mines have slowed production and laid off workers.

With major declines in our premier industries, our state's unemployment rate has nearly doubled in the last year alone. While normally we enjoy an unemployment rate that is lower than the national average, our unemployment rate at the end of November was 8 percent and significantly higher than the national average. Every 1 percent increase in unemployment means another 14,000 Nevadans have lost their jobs. Last year alone, more than 42,000 of our fellow citizens lost their livelihoods, and many of those who kept their jobs only did so with reduced hours, lower wages and fewer benefits.

Reduced income for our residents has compounded our economic downturn. Business in our local restaurants is down significantly as is business in many of our retail establishments and service industries. Some companies and casinos that have been here for decades are closing their doors or scaling back their operations. We have even seen some of our state banks file for bankruptcy or be taken over by federal regulators.

The simple fact is that for most of the last year, our residents have paid more for gas, paid more for food, paid more to heat and cool their homes, and paid more for nearly every necessity of life. When you need to use every dollar to provide the basic necessities for your family, you do not have money for the extras in life. Too many do not even have money for the basics and are making decisions between heating their homes and buying needed medications.

I was particularly struck by a recent story in the *Wall Street Journal* about pawnshops and about how good business was for them. It came as little surprise that the story talked about people selling or pawning items for short-term loans to pay their bills. What was a big surprise was that businesses were doing the very same thing—in some cases, pawning large and expensive equipment in order to obtain the funds needed to cover their payroll and other expenses.

Folks, these are extraordinary times. As Governor, I must, first and foremost, look at the economic situation of our people in order to determine that our state government does not "pile on" and make our citizens' problems worse.

Nevada government should meet the needs of the people; people should not meet the needs of Nevada government.

Many of Nevada's families and businesses are being stretched to their breaking point and making remarkable sacrifices in the face of the most difficult economic downturn in our lifetimes. Ladies and gentlemen, I will not ask these businesses and I will not ask these individuals to pay more when they have less.

Make no mistake about it: higher taxes will cost more Nevadans their jobs. It is not the role of state government to put people out of work. Because when all is said and done, the prosperity of our state can only be truly measured by the prosperity of our people.

This does not mean we can turn a blind eye to our challenges or our responsibilities. State revenues are down 30 percent, and we must determine how best to live within our means, just like Nevada's families and its small and large businesses are doing all across this state.

We are not the only state facing tough times, and I am not the only Governor who is balancing a tough budget. Governors across this nation are coping with declining revenues. Some Governors are looking to raise income taxes, gas taxes, property taxes, sales taxes—taxes on nearly everything that people need, buy, or own. Others are recommending that school days be limited, releasing thousands of prisoners early, drastically cutting state workforces, or saddling future generations with significant debt.

Folks, these are solutions that I just cannot accept and that Nevadans should not accept. You know, in our state, tough times mean we work harder to stretch our resources.

We showed that resourcefulness with transportation projects during the past two years. In 2007, the Legislature agreed with my proposal to increase transportation funding by reallocating existing tax revenues, instead of imposing higher fuel taxes. The widening of I-15 in Las Vegas is well underway using those revenues. Future revenues from the 2007 transportation plan will also allow expansions on U.S. 95 and Highway 395.

In the upcoming session, I will also ask the Legislature to endorse other creative and innovative ways to build critical infrastructures without raising taxes, such as public-private partnerships to add much needed traffic reduction programs throughout the state, and particularly in southern Nevada where traffic problems are the most severe.

Folks, tough times always require tough choices, and we are definitely making tough choices in this Legislative session.

Recently, the Economic Forum met and forecasted General Fund revenues for the next biennium of $5.7 billion. Now by law, as Governor I am required to use those numbers in setting a budget for submission to the Legislature.

The budget that I submit today reflects our current economic realities. It is $2.2 billion smaller than the one we submitted just two years ago. It is also a budget based on the money we have, without taking more from residents and businesses that are already making do with less. Yes, it is also a budget that requires us to live within our means.

I take no joy in submitting a budget that eliminates, reduces, or changes many things that we have grown to expect in Nevada—many things that we have taken for granted when times have been good and many programs we have added when times have been great.

Many of these decisions have been agonizingly difficult. We have spent hundreds of hours working on these numbers to create a fiscally responsible budget that sustains us through the next two years and positions the state to regain our economic footing when the national and international economy rebounds.

We also worked to ensure that we gain the greatest possible efficiencies in government, prioritizing services and making certain that each available dollar is spent wisely. And for the first time in Nevada history, all the people of our state can view this budget themselves. The entire budget has been posted online at www.NevadaSpending.com.

I promised to bring transparency to your state government, and this is one of many steps we are taking to keep that promise. I encourage all Nevadans to look at this budget and offer your suggestions to your Legislators and to my office. Folks, this is your tax money and you deserve a voice in how it is spent.

This budget does not rely on creating any entirely new tax system for our state. Our existing tax system brought us record job growth and prosperity for decades. And, quite frankly, I have yet to see an example of any state that has a tax system that brings growth during good times and remains stable during downturns.

For those who suggest that we need a new tax system, I would ask them to show me a state that has what some call a more dependable, diversified tax system and that is not having the same kinds of revenue problems that we have today.

I do propose that we establish a new spending system in our state, one that requires a stronger cap on our budget increases in good times so that we have the additional reserves needed to get us through the inevitable tough times without raising taxes.

I think it is clear; the simple fact is that higher taxes kill economic growth and job creation. And I will not raise taxes today on people and businesses that are already struggling to get through these times, jeopardizing our state's growth and our prosperity for tomorrow. Higher taxes will just fuel the downward spiral, leading to more business closings, more job losses, and more foreclosures. Nor will I support a tax that targets only our profitable companies and industries. We need to retain and we need to attract companies that offer stable, high-paying jobs, not send them to other states. I will not do it.

When I ran for Governor, I told the people of this state my views on taxes. I am honored that they elected me and trusted me to keep my promise to them.

Likewise, I will not unfairly balance this budget on the backs of those in our society who can least afford to shoulder the burden, either. We have an obligation to preserve needed services for our children, our families, our seniors, and our veterans.

For example, our Health and Human Services budget preserves benefits for those who need state services. In fact, our Health and Human Services expenditures now encompass 34 percent of our General Fund expenditures—that's compared to 28 percent in the prior budget.

We have maintained Nevada Check-Up so low-income children can receive the health care they need and deserve. We have protected the eligibility limits for our long-term care program to ensure elderly Nevadans are cared for with the respect and dignity they have earned. We have sustained our Medicaid pharmacy program to ensure people can receive the prescription drugs they need to manage their health according to their doctor's orders. And while we have had to reduce the intensity of service, our budget also recognizes the value of personal care attendants who assist our elderly and disabled citizens so they can live in their homes instead of institutions.

And we protected the Senior Property Tax Rebate Program, because so many of our most economically vulnerable seniors rely on this benefit.

We have also protected juvenile justice programs and child welfare programs. For example, Nevada's Early Intervention Services provides care for children up to age three who have developmental delays and disabilities. Unfortunately, growth in this program has exceeded its funding, and we have hundreds of children waiting to receive needed services. So I have included in my budget an additional $9 million over the biennium to absorb this waiting list and accommodate the increased caseload that we expect to see in each of the next two years.

This is difficult to add to some programs while we are taking from others, but without Early Intervention Services, many of these children would never be able to achieve their full potential. Nevada's children are our most precious resource, and I will not allow those who need our help to go without those essential services. I will not allow these children to fall through the cracks.

This budget also maintains funding for the state's Child Care Assistance Program, which helps pay a portion of the cost of child care for low-income workers.

This budget also preserves programs for mentally challenged children and adults, health programs for women, benefits for seniors, and programs for our state's veterans, to whom we all owe a great debt of gratitude. I also insisted that we protect the all-day kindergarten programs that we have in place in at-risk schools.

These programs are expensive, but we cannot responsibly cut them, either. We have an obligation to ensure that we take care of those who must depend on such vital state services.

We also have an obligation to make the best use of every tax dollar we spend. One prime example of stretching our dollars is how we have managed medications for the state's mental health programs. To this end, we are utilizing a better process for identifying clients with

Medicaid, Medicare Part D, and private insurance options that will help pay for prescription drugs instead of the state bearing the burden of those costs.

We also negotiated for more free medications from pharmaceutical companies, and we are working with our doctors and physicians to ensure that they are prescribing the most economical and effective medications.

These and other measures let us save $11.4 million during the current fiscal year, and I have budgeted similar savings for each of the next two years, as well. Finding savings this way has helped us avoid major service cuts in mental health.

Our budget also recognizes that the weak economy will result in caseload increases for core services from the state. As I noted earlier, we estimate that for every 1 percent our state unemployment rate climbs, another 14,000 Nevadans will have lost their jobs. Aside from the stark effect the loss of work has on these individuals and families, there is a tremendous impact on the state's programs. For example, for that same each 1 percent of growth in unemployment, we expect nearly 17,000 new enrollees in Medicaid.

Folks, this budget projects that the number of Medicaid enrollees will climb by more than 43,000 between today and the end of the next biennium, and we expect Temporary Assistance for Needy Families to increase its enrollees by nearly one-third during that very same period. Ladies and gentlemen, all increases, all caseloads, are fully funded in this budget. I am proud that we have been able to protect and preserve core health and human services.

This budget also reflects my belief that public safety must remain a top priority, and we did not reduce funding that keeps Nevadans safe. In some cases, this meant that we had to restore some program funding, like funding for parole and probation officers, or we would be jeopardizing the safety of our citizens.

In order to be able to maintain funding for K-12 education and health and human services at viable levels, and to maintain public safety, we've had to make spending reductions in other areas.

For example, we had to reduce state funding for Nevada State Higher Education, but we kept intact our Millennium Scholarship program. While higher education reductions will bring challenges to the system, I want to note that we are still spending 13.7 percent of our total General Fund budget on higher education—now that's as compared to the national average of just 11.2 percent.

We also had to make funding reductions to our state parks and museums. However, our state and our people would lose too much if we closed these places completely, so we kept at least partial funding for these facilities so that our families and schools can still access our parks and museums.

Ladies and gentlemen, the largest budget item in our state is personnel costs, and we simply cannot afford to keep payroll costs at their current level, much less increase them.

Private businesses across the nation are laying off workers that they cannot afford to retain with their reduced revenues. I want to keep our state employees working for the people of our state. In just the last six months, our nation has escalated from an annual job loss figure of 8,000 workers to an annual job loss figure of 2.6 million workers. There are now more displaced workers today than at any point in modern history, surpassing the losses reported in every recession since 1950. Some private companies are also reducing wages and salaries by as much as 20 percent. Companies just do not have the money to maintain existing payroll costs.

Likewise, our state government also does not have the revenue to maintain its current payroll costs. But instead of massive layoffs, I want to keep our people working and minimize the financial impact as much as possible.

We really have only two choices: we can either lay people off—thousands of people—or we can keep Nevadans working. My philosophy as Governor has been and continues to be that we are served best by keeping Nevadans working. This is why we instituted a hiring freeze in the fall of 2007, when the first indications of our revenue shortfall materialized. That hiring freeze and other budget-reduction methods allowed us to preserve state jobs and minimize lay offs of our valued state workers and save money. I believed then, and I still believe now, that this approach is best for our state workers and for our people.

Today, to balance our need to reduce personnel costs with our goal of saving jobs, our budget includes a temporary 6 percent pay reduction for state employees instead of widespread layoffs.

I take no joy in asking state employees to work just as hard for the people of Nevada but for less money. And I make this pledge to our state employees and teachers: I will restore salary levels as soon as we can.

Let me tell you, I am also taking the same 6 percent reduction in my own salary, and I am asking the other constitutional officers and other branches of government do the very same.

We are also forced to freeze step increases and longevity pay. We cannot give raises with money we do not have. These increases, too, will be reinstated when we have the revenue to do so.

Only by taking these steps now can we preserve vital state services, take care of our most vulnerable citizens, and protect jobs. If we do not take the measures proposed in this budget, we will need to lay off thousands of state workers. I do not want to do that. We must keep Nevada working.

We are also going to reduce state government expenditures and expenses through agency consolidations and by elimination of duplicate service providers, for example, redundancy, and provide better services for our citizens. We can eliminate that redundancy by bringing all the various consumer affairs offices into one agency and by combining government agencies, such as Tourism and Economic Development, and the Division of Housing with the Division of Manufactured Housing.

Quite frankly, these consolidations work in the best interests of our state and should be undertaken regardless of our state's current economic condition. In good times or in tough times, wasting taxpayer money is simply wrong.

That is why I am also proposing legislation creating a Sunset Commission—to systematically review agencies, boards, and commissions to ensure that their ongoing operations and budgets are justified. The Sunset Commission will also review existing tax exemptions and abatement programs. Accountability and transparency in government is always needed, and the Sunset Commission will ensure that the SAGE Commission's work continues even after the SAGE Commission expires.

But we also need creative solutions to protect the State General Fund in the short term. That is why I am also proposing a temporary reallocation of some revenues from our most populous counties to the State General Fund to help us through these challenging times. Our state employees and teachers are being asked to do their part to help the state through this recession, and it would simply not be fair to ask them to shoulder that responsibility alone.

However, we must also remember that many of our local governments have invested significant sums in the local government investment pool, and in December the Legislature and I agreed to use that pool as collateral for a line of credit to get us, and to get this state, through the first part of 2009. It is imperative that we stand by our commitment to preserve the integrity and solvency of that pool, and that is why I have included in my budget sufficient funds to repay half of that line of credit, with the understanding that the other half will be repaid in the 2012-2013 biennium.

At the beginning of this budget process, I stated, "Everything is on the table." We had a responsibility to look at the needs of our state and the effectiveness of each and every program in order to determine how we could get where we needed to be and still provide needed services. And, folks, we did that.

Last year, I also established the SAGE Commission to look in detail at how we could save money, streamline programs, and make our state more efficient. To date, this bipartisan group of people have made outstanding savings recommendations, and I am proud to announce that this budget has benefited greatly from those recommendations.

By adopting SAGE Commission recommendations, the taxpayers of Nevada will save approximately $269 million in this budget and in excess of $600 million over the next five years. We save $157 million over the biennium just in changes to our benefits packages and also dramatically decrease our unfunded liabilities.

Folks, these are real savings for Nevada, and they allow us to ensure that our vital public services continue. I look forward to further recommendations from the SAGE Commission and will work to implement further cost savings during the next two years.

When I selected the members of the SAGE Commission, I admit that I expected such a stellar group to produce wonderful results. They are surpassing even my high expectations. This

bipartisan group is volunteering their time and significant expertise for the betterment of our state. They are earning thanks from every Nevadan, and I want to make sure that my thanks are added now, tonight.

I chose the members of the SAGE Commission based on recommendations from the leaders of both parties, and we ensured that the Commission's membership included people from various political and professional backgrounds. Consequently, the SAGE Commission is an excellent example of how a bipartisan, diverse group of people can work together to solve problems and identify creative solutions. I hope that we can follow that example during the upcoming legislative session.

We needed two special sessions in the past year to address revenue shortfalls from the last budget. Many said we could not account for nearly $1.5 billion in shortfalls without raising taxes or harming state services, but folks, we did it.

We started by making across-the-board reductions, and our government agencies absorbed those reductions. We also worked on raising revenues through existing taxes.

Our tax amnesty program brought in over $40 million. Of those funds, almost $9 million of delinquent local school support taxes were collected, providing much needed relief to education funding.

But as the national and state economy continued to deteriorate, even those steps were not enough. We needed to take additional measures to balance our budget, as required by our Constitution, which is when I asked the Legislature to work with me. I reached across the aisle to work with leaders of both parties to ensure that the solutions we implemented were the best possible for our state. I pledge to do the same now, and I ask that members of the Legislature look at this budget with an open mind and in good faith. As we proved in December's special session, Nevada is served best by cooperation among her elected leaders. Grandstanding and partisan bickering helps no one in this state, and Nevadans deserve better.

I believe this budget provides a fair and responsible solution that balances the need to provide vital services with the need to reduce our spending to the level our state can afford.

I also want to let the people of our state know that we are looking beyond our borders for ways to jump-start our economy. For example, Governor Schwarzenegger and I have discussed working together on obtaining federal assistance to build a high-speed train to connect our states, which we all agree would be mutually beneficial to our citizens.

I am also reaching out to our federal representatives for help. Along with other governors of other states, I met with President-elect Obama to discuss how the federal government can best help ensure that the country recovers quickly from the economic downturn. During that meeting, I stressed that federal spending on important infrastructure projects is needed to get people back to work quickly. I also stressed that time is of the essence and that this is no time for the red tape that can delay needed action.

I would also like to take this opportunity to wish President-elect Obama every success. Folks, he will be dealing with an economic environment that is at best challenging, and we will all benefit when our nation's economy turns around.

I have also had numerous communications with members of our federal delegation concerning how federal aid and Medicaid reimbursement increases can help our state, and I am encouraged by those discussions.

While we built this budget assuming certain levels of federal funding, we are hopeful that we can obtain increased federal funding to defray some of our expenses, particularly given the severe impact of the national downturn on Nevada's economy. If this funding materializes, we can put back into our budget funding for many educational and other programs that we simply cannot afford with existing revenues.

I also pledge to you that if our economy turns around during this budget cycle, I will restore funding to programs and salary levels to our state personnel. Folks, special sessions can be called in good times as well.

I would like to take a moment to thank all of the agency heads, department heads, and cabinet members who worked so hard with me during the past few months to create this budget. I also want to single out Budget Director Andrew Clinger and his entire staff for their tireless work putting budgets together and balancing that budget under very-very trying circumstances. We have had to make some very tough decisions, and I thank Andrew, for all your hard work. We

remain resolved to do our best to serve the needs of the people of our state, and I commend each person who worked with me to find these solutions.

I'm also commending the Legislature for your efforts to reduce the cost of government. Initially, the budget for this upcoming Legislative session was set at $20.5 million. But you agreed to reduce the amount appropriated in Senate Bill 1 for legislative session costs to $15 million, and I commend and thank you for that.

Now, I resolve to work with each and every one of you to meet our common goal: to ensure that Nevada provides vital services for our people while regaining positive levels of economic growth, job creation, and prosperity.

I ask that each and every one of us remember that we are all in this fiscal crisis together, and we will find the solutions together. I also want to remind everyone that this is not the first time that Nevada has faced major economic challenges. For example, Nevada faced worse problems during the mining depression of the 1880-1890s and during the Great Depression. We pulled out of the mining depression in large part based on reclamation projects that allowed agricultural development. We pulled out of the Great Depression with a combination of federal assistance, legalized gaming, and the "One Sound State" campaign, which focused on attracting businesses to Nevada by publicizing our business-friendly climate.

We also weathered the downturns in the 1980s, early 1990s, and survived the aftermath of September 11, 2001. Historically, we have emerged from economic challenges stronger through diversification. We can do the same now by focusing on developing our bountiful renewable energy resources and becoming an energy exporting state. Nevada has the talent, the expertise, the resources and creativity within its borders to not just meet our own power demands, but to export clean electricity to our neighbors.

Northern Nevada is our geothermal capital and southern Nevada is our solar capital and everywhere in between we can harness our wind resources. Our opportunities in this area are endless.

What we must do, and what I am focused on, is bridging the gap between our current capabilities and our renewable-powered future while economically meeting our current power needs.

To move to this future, we need to overcome the challenges caused by long permitting processes, inadequate transmission infrastructure, and limited incentives. We need to overcome those challenges now, or folks, in ten years, Nevada's powerful energy future will still be just talk here in our state, but reality in other states.

I spoke two years ago about making Nevada an energy-producing state, and we have not been idle since then. We are making progress in all of our major challenge areas, and my energy bill will bring us even closer to our goal. We have already streamlined Nevada's permitting process for the development of renewable energy. We also created the Renewable Energy Transmission Access Advisory Committee to identify renewable energy zones, review our current transmission capabilities, and identify ways to ensure that our renewable resources are brought efficiently and cost effectively to the market. Additionally, my 2009 energy bill is designed to push us to the leading edge of this growth industry. It includes provisions to further streamline the permitting process, particularly for small projects.

Over the years, we have learned that incentives work to help foster renewable energy investments. Therefore, as part of my energy bill, I propose to increase our renewable portfolio standards requirements and to extend our renewable energy tax credits by five more years.

I also propose that we implement other much-needed incentives to bring renewable energy development to Nevada, including economic incentives such as tax abatements for renewable energy manufacturers, renewable energy research and development, and for companies that actually build the much needed transmission lines.

Finally, we are currently in the process of creating a public-private partnership to pursue funding to build needed transmission lines. That partnership will include voices from the Executive Branch, the Legislative Branch, local government and private industry, working together to ensure that renewable energy transmission lines are built and built soon.

These kinds of economic incentives for diversification have helped Nevada pull out of recessions in the past, and I have no doubt they will bring businesses and jobs to our state now.

Considering the importance of renewable energy to our economic future and to job creation in our state, I am hoping that legislative leaders and private industry will work with me to make

Nevada a world leader in producing clean and renewable energy. We always do our best for the people of this state when a united government works with business leaders to create growth industries. Ladies and gentlemen, energy is an essential element of Nevada's future.

Even in the most trying times, I see a future filled with promise. I see a future filled with possibilities. I see a future in which we build for a better tomorrow, but never forget about the good work and endless sacrifices that provide our solid foundation.

I see a future in which pro-business and pro-resident tax structure keeps Nevadans working and a future where a smaller government means a more efficient government. I see a future in which a resilient and resourceful Nevada—a Battle Born Nevada—proves once again that her prosperity has been no accident. Her prosperity is a result of creative spirit of her people.

I am not going to stand before you this evening and tell you that the road ahead is easy or that we will all agree about how to address the very real challenges that confront us. What I will tell you is that I believe in Nevada and I believe in its people, and I am willing to work for you and with you to preserve what we all hold dear.

While no one knows exactly when this economic downturn will end, I assure you it will end. Growth, investment, and renewed consumer confidence are not going to come from my office or this chamber. They will come from you, the people of Nevada, and businesses that also believe in our state.

My pledge to you this evening is simple. I will take down whatever barriers I can, I will keep as many people working as I can, and I will do everything in my power to make tomorrow better than today.

Two years ago, I stood before you and spoke of one Nevada—a Nevada united, not one divided by regional or partisan differences.

I stand here tonight and ask again that we work together as one Nevada for our common good because only together can we ensure that our state weathers the economic storm and moves quickly to economic recovery and prosperity for all Nevada.

Thank you, God bless you, God bless Nevada, and good night.

MESSAGES FROM THE SECRETARY OF STATE

STATE OF NEVADA
OFFICE OF THE SECRETARY OF STATE

January 8, 2009

SUSAN FURLONG REIL, *Chief Clerk of the Assembly*
401 S. Carson Street
Carson City, Nevada 89701-4747

DEAR MS. FURLONG REIL:

In compliance with the laws of the State of Nevada, pursuant to NRS 218.395, I am returning Assembly Joint Resolution No. 3 of the 74th Session of the Nevada Legislature.

Respectfully,
ROSS MILLER
Secretary of State

STATE OF NEVADA
OFFICE OF THE SECRETARY OF STATE

January 8, 2009

SUSAN FURLONG REIL, *Chief Clerk of the Assembly*
401 S. Carson Street
Carson City, Nevada 89701-4747

DEAR MS. FURLONG REIL:

In compliance with the laws of the State of Nevada, pursuant to NRS 218.430, I am returning Assembly Bill 396, vetoed in the 74th Session of the Legislature, for consideration by the 2009 Legislature.

Respectfully,
ROSS MILLER
Secretary of State

STATE OF NEVADA
OFFICE OF THE SECRETARY OF STATE

February 2, 2009

SUSAN FURLONG REIL, *Chief Clerk of the Assembly*
401 S. Carson Street
Carson City, Nevada 89701-4747
DEAR MS. FURLONG REIL:

Pursuant to the Nevada Constitution, Article 19, Section 2, this office is required to transmit any statutory Initiative Petition to the Nevada Legislature once it convenes. In compliance with the laws of the State of Nevada enclosed is the statutory Initiative Petition entitled "Support Our Schools."

Respectfully,
ROSS MILLER
Secretary of State

By: Matthew M. Griffin
Deputy Secretary for Elections

SUPPORT OUR SCHOOLS

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. Purpose. This measure provides by statute for the imposition of an additional tax on the gross receipts from the rental of transient lodging in certain counties, and for the manner in which the proceeds of the tax must be used.

Sec. 2. Chapter 244 of NRS is hereby amended by adding thereto the provisions set fort as sections 3 and 4 of this measure.

Sec. 3. ***1. Except as otherwise provided in subsection 2, in any county whose population is 300,000 or more, the board of county commissioners shall impose a tax at the rate of 3 percent of the gross receipts from the rental of transient lodging in that county. Except as otherwise provided in subsection 2, the tax must be imposed throughout the county, including its incorporated cities, upon all persons in the business of providing lodging. The ordinance imposing the tax must include a schedule for the payment of the tax and the provisions of subsection 4.***

2. If the sum of the rates of all other taxes existing on July 31,2008, and imposed by the State of Nevada or any unit of local government on the gross receipts from the rental of transient lodging in any area of the county exceeds 10 percent, the tax imposed pursuant to this section in that area must be imposed at a rate equal to the difference between 13 percent and the sum of the rates of the existing taxes. If the sum of the rates of the existing taxes in any area of the county is equal to or greater than 13 percent, no additional tax may be imposed in that area pursuant to this section. For the purposes of this section, the sum of the rates of any existing taxes must be determined as of July 31, 2008, and any increase in the rate of an existing tax after that date does not reduce the rate of the tax imposed pursuant to this section.

3. The tax imposed pursuant to this section must be collected with and in the same manner as any other tax imposed by the county on the gross receipts from the rental of transient lodging. The tax may be shown as an addition to the charge for the rental of transient lodging. The person providing the transient lodging is liable to the county for the tax whether or not it is actually collected from a paying guest.

4. If the tax imposed pursuant to this section is not paid within the time set forth in the schedule for payment, the county shall charge and collect in addition to the tax:

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

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

Sec. 4. ***Except as otherwise provided in this section, the proceeds of the tax imposed pursuant to section 3 of this measure and any applicable penalty or interest must be paid by the county treasurer to the State Treasurer for credit to the State General Fund. The county treasurer may retain from the proceeds an amount sufficient to reimburse the county for the actual cost of collecting and administering the tax, to the extent that the county incurs any cost it would not have incurred but for the enactment of this section or section 3 of this measure, but in no case exceeding the amount authorized by statute for this purpose.***

Sec. 5. NRS 244.3359 is hereby amended to read as follows:

244.3359 1. A county whose population is 400,000 or more shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991, except pursuant to NRS 244.3351 [~~and 244.3352.~~] ***, 244.3352 and section 3 of this measure.***

2. A county whose population is 100,000 or more but less than 400,000 shall not impose a new tax on the rental of transient lodging or increase the rate of an existig tax on the rental of transient lodging after March 25, 1991 **[.]** ***, except pursuant to section 3 of this measure.***

3 . [~~The~~] ***Except as otherwise provided in subsection 2 and sections 4 and 6 of this measure, the*** Legislature hereby declares that the limitation imposed by subsection 2 will not be repealed or amended except to allow the imposition of an increase in such a tax for the promotion of tourism or for the construction or operation of tourism facilities by a convention and visitors authority.

Sec. 6. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this subsection, the proceeds of the tax imposed pursuant to section 3 of this measure and any applicable penalty or interest must be paid by the county treasurer to the State Treasurer for credit to the State Supplemental School Support Fund, which is hereby created in the State Treasury as a special revenue fund. The county treasurer may retain from the proceeds an amount sufficient to reimburse the county for the actual cost of collecting and administering the tax, to the extent that the county incurs any cost it would not have incurred but for the enactment of this section or section 3 of this measure, but in no case exceeding the amount authorized by statute for this purpose. Any interest or other income earned on the money in the State Supplemental School Support Fund must be credited to the Fund.

2. The money in the State Supplemental School Support Fund is hereby appropriated for the operation of the school districts and charter schools of the state, as provided in this section. The money so appropriated is intended to supplement and not replace any other money appropriated, approved or authorized for expenditure to fund the operation of the public schools for kindergarten through grade 12. Any money that remains in the State Supplemental School Support Fund at the end of the fiscal year does not revert to the State General Fund, and the balance in the State Supplemental School Support Fund must be carried forward to the next fiscal year.

3. On or before February 1, May 1, August 1 and November 1 of each year, the Superintendent of Public Instruction shall transfer from the State Supplemental School Support Fund all the proceeds of the tax imposed pursuant to section 3 of this measure, including any interest or other income earned thereon, and distribute the proceeds proportionally among the school districts and charter schools of the state. The proportionate amount of money distributed to each school district or charter school must be determined by dividing the number of students enrolled in the school district or charter school by the number of students enrolled in all the school districts and charter schools of the state. For the purposes of this subsection, the enrollment in each school district and the number of students who reside in the district and are enrolled in a charter school must be determined as of the last day of the first school month of the school district for the school year. This determination governs the distribution of money pursuant to this subsection until the next annual determination of enrollment is made. The Superintendent may retain from the proceeds of the tax an amount sufficient to reimburse the Superintendent for the actual cost of administering the provisions of this section, to the extent that the Superintendent incurs any cost he would

not have incurred but for the enactment of this section, but in no case exceeding the amount authorized by statute for this purpose.

4. The money received by a school district or charter school from the State Supplemental School Support Fund pursuant to this section must be used to improve the achievement of students and for the payment of salaries to attract and retain qualified teachers and other employees, except administrative employees, of the school district or charter school. Nothing contained in this section shall be deemed to impair or restrict the right of employees of the school district or charter school to engage in collective bargaining as provided by Chapter 288 of NRS.

5. On or before November 10 of each year, the board of trustees of each school district and the governing body of each charter school shall prepare a report to the Superintendent of Public Instruction, in the form prescribed by the Superintendent. The report must provide an accounting of the expenditures by the school district or charter school of the money it received from the State Supplemental School Support Fund during the preceding fiscal year.

6. As used in this section, "administrative employee" means any person who holds a license as an administrator, issued by the Superintendent of Public Instruction, and is employed in that capacity by a school district or charter school.

Sec. 7. NRS 387.030 is hereby amended to read as follows:

387.030 All money derived from interest on the State Permanent School Fund, together with all money derived from other sources provided by law, must:

1. [~~Be~~] ***Except as otherwise provided in section 6 of this measure, be*** placed in the State Distributive School Account which is hereby created in the State General Fund; and

2. Except as otherwise provided in NRS 387.528, be apportioned among the several school districts and charter schools of this State at the times and in the manner provided by law.

Sec. 8. Transitory provision.

1. Notwithstanding the expiration of section 4 of this measure on June 30,2011, any tax and any interest or penalty owing and unpaid as of that date and collected on or before October 1, 201 1, must be paid, deposited and credited to the State General Fund as provided in that section.

2. The Superintendent of Public Instruction shall make the initial transfer from the State Supplemental School Support Fund, as required by section 6 of this measure, on or before February 1, 2012.

3. The board of trustees of each school district and the governing body of each charter school shall prepare their initial reports to the Superintendent of Public Instruction, as required by section 6 of this measure, on or before November 10, 2012.

Sec. 9. Effective dates; expiration of certain provisions.

1. This section and sections 1 and 10 of this measure become effective:

(a) For the purposes of any challenge to the validity or legal sufficiency of this measure or any part of it,

on July 31, 2008; and

(b) For all other purposes:

(1) If subsection 2 is applicable, upon passage and approval; or

(2) If subsection 3 is applicable, upon completion of the canvass of votes by the Supreme Court.

2. If this measure is enacted by the 75th Session of the Legislature and approved by the Governor as provided in subsection 3 of Section 2 of Article 19 of the Nevada Constitution:

(a) Sections 2 to 5, inclusive, and section 8 of this measure become effective:

(1) Upon passage and approval, for the purposes of adopting the ordinance imposing the tax; and

(2) On July 1, 2009, for all other purposes.

(b) Section 4 of this measure expires by limitation on June 30, 2011.

(c) Sections 6 and 7 of this measure become effective on July 1, 2011.

3. If this measure is not enacted and approved as provided in subsection 2, but is approved by the voters after the measure has been referred or submitted to the voters pursuant to subsection 3 of Section 18 of Article 4 or subsection 3 of Section 2 of Article 19 of the Nevada Constitution:

(a) Sections 2 and 3 and sections 5 to 8, inclusive, of this measure become effective:

(1) Upon the completion of the canvass of votes by the Supreme Court, for the purposes of adopting the ordinance imposing the tax; and

(2) On January 1, 2011, for all other purposes.

(b) Section 4 of this measure shall not become effective.

Sec. 10. Severability. If any provision of this measure or its application to any person or circumstance is held to be invalid or ineffective, the invalidity or ineffectiveness must be given the narrowest possible construction and shall not affect any other provision or application of this measure.

CARSON CITY, NEVADA
CONSOLIDATED MUNICIPALITY AND STATE CAPITAL

February 2, 2009

DEAR SPEAKER BUCKLEY AND MEMBERS OF THE ASSEMBLY:

It gives me great pleasure to join with the citizens of Carson City to extend to you and all of the members of the Nevada State Legislature our official greetings and warm welcome as we prepare for the start of the 2009 Legislative Session.

Our community, like so many areas of Nevada, is rich in history and famous for its colorful past. We are extremely proud to carry the designation "Capital City." We understand that you have many difficult issues to tackle this session and we want to ensure that your work is complemented by an enjoyable stay in our City.

We would like to invite you to attend a "welcome" reception on February 3, 2009, between 5:30 - 7:00 p.m. to be held at City Hall, 201 North Carson Street. I want to assure you we are planning a relatively low key and casual event. Our objectives are to say hello and welcome you to Carson City, and also provide an opportunity to introduce you to other elected officials and city staff - there will be no complaining! We are easy to find as we are located next to and just north of the Capitol and its silver dome which can be seen for miles, representative of government for the citizens of the Great State of Nevada.

Again, it is our pleasure to have you in our community, and we look forward to seeing you on February 3rd. If there is any way we may be of assistance to you, please do not hesitate to call on me or any member of our city's staff. Best wishes for a successful session and thank you for allowing us to be your host these next few months.

Sincerely,
ROBERT L. CROWELL
Mayor

PRESENTATION OF PETITIONS

Initiative Petition No. 1—AN ACT relating to taxation; imposing an additional tax on the gross receipts from the rental of transient lodging in certain counties; providing for the use of the proceeds; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the petition be referred to the Committee on Taxation.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that vetoed Assembly Bill No. 396 of the 74th Session be made a Special Order of Business for Tuesday, February 3, 2009, at 11:10 a.m.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Concurrent Resolution No. 1—Adopting the Joint Standing Rules of the Senate and Assembly for the 75th Session of the Legislature.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Joint Rules of the Senate and Assembly for the 75th Session of the Legislature are hereby adopted as follows:

CONFERENCE COMMITTEES

Rule No. 1. Procedure Concerning.

1. In every case of an amendment of a bill, or joint or concurrent resolution, agreed to in one House, dissented from in the other, and not receded from by the one making the amendment, each House shall appoint a committee to confer with a like committee to be appointed by the other; and the committee so appointed shall meet publicly at a convenient hour to be agreed upon by their respective chairmen and announced publicly, and shall confer upon the differences between the two Houses as indicated by the amendments made in one and rejected in the other and report as early as convenient the result of their conference to their respective Houses.

2. The report shall be made available to all members of both Houses. The whole subject matter embraced in the bill or resolution shall be considered by the committee, and it may recommend recession by either House, new amendments, new bills or resolutions, or other changes as it sees fit. New bills or resolutions so reported shall be treated as amendments unless the bills or resolutions are composed entirely of original matter, in which case they shall receive the treatment required in the respective Houses for original bills, or resolutions, as the case may be.

3. The report of a conference committee may be adopted by acclamation. The report is not subject to amendment.

4. There shall be but one conference committee on any bill or resolution. A majority of the members of a conference committee from each House must be members who voted for the passage of the bill or resolution.

MESSAGES

Rule No. 2. Biennial Message of the Governor.

Upon motion, the biennial message of the Governor must be received and read and entered in full in the Journal of proceedings.

Rule No. 2.2. Other Messages From the Governor.

Whenever a message from the Governor is received, it shall be read and entered in full in the Journal of proceedings.

Rule No. 2.4. Proclamation by the Governor Convening Special Session.

Proclamations by the Governor convening the Legislature in special session must, by direction of the presiding officer of each House, be read immediately after the convening of the special session, and must be filed and entered in the Journal of proceedings.

Rule No. 2.6. Messages Between Houses.

Messages from the Senate to the Assembly shall be delivered by the Secretary or Assistant Secretary, and messages from the Assembly to the Senate shall be delivered by the Chief Clerk or Assistant Chief Clerk.

NOTICE OF FINAL ACTION

Rule No. 3. Communications.

Each House shall communicate its final action on any bill or resolution, or matter in which the other may be interested, by written notice. Each such notice sent by the Senate must be signed by the Secretary of the Senate, or a person designated by the Secretary. Each such notice sent by the Assembly must be signed by the Chief Clerk of the Assembly, or a person designated by the Chief Clerk.

BILLS AND JOINT RESOLUTIONS

Rule No. 4. Signature.

Each enrolled bill or joint resolution shall be presented to the presiding officers of both Houses for signature. They shall, after an announcement of their intention to do so is made in open session, sign the bill or joint resolution and their signatures shall be followed by those of the Secretary of the Senate and Chief Clerk of the Assembly.

Rule No. 5. Joint Sponsorship.

1. A bill or resolution introduced by a standing committee of the Senate or Assembly may, at the direction of the chairman of the committee, set forth the name of a standing committee of the other House as a joint sponsor, if a majority of all members appointed to the committee of the other House votes in favor of becoming a joint sponsor of the bill or resolution. The name of the committee joint sponsor must be set forth on the face of the bill or resolution immediately below the date on which the bill or resolution is introduced.

2. A bill or resolution introduced by one or more Legislators elected to one House may, at the direction of the Legislator who brings the bill or resolution forward for introduction, set forth the names of one or more Legislators who are members elected to the other House and who wish to be primary joint sponsors or non-primary joint sponsors of the bill or resolution. Not more than five Legislators from each House may be set forth on the face of a bill or resolution as primary joint sponsors. The names of each primary joint sponsor and non-primary joint sponsor must be set forth on the face of the bill or resolution in the following order immediately below the date on which the bill or resolution is introduced:

(a) The name of each primary joint sponsor, in the order indicated on the colored back of the introductory copy of the bill or resolution; and

(b) The name of each non-primary joint sponsor, in alphabetical order.

3. The Legislative Counsel shall not cause to be printed the name of a standing committee as a joint sponsor on the face of a bill or resolution unless the chairman of the committee has signed his name next to the name of the committee on the colored back of the introductory copy of the bill or resolution that was submitted to the front desk of the House of origin or the statement required by subsection 5. The Legislative Counsel shall not cause to be printed the name of a Legislator as a primary joint sponsor or non-primary joint sponsor on the face of a bill or resolution unless the Legislator has signed the colored back of the introductory copy of the bill or resolution that was submitted to the front desk of the House of origin or the statement required by subsection 5.

4. Upon introduction, any bill or resolution that sets forth the names of primary joint sponsors or non-primary joint sponsors, or both, must be numbered in the same numerical sequence as other bills and resolutions of the same House of origin are numbered.

5. Once a bill or resolution has been introduced, a primary joint sponsor or non-primary joint sponsor may only be added or removed by amendment of the bill or resolution. An amendment which proposes to add or remove a primary joint sponsor or non-primary joint sponsor must not be considered by the House of origin of the amendment unless a statement requesting the addition or removal is attached to the copy of the amendment submitted to the front desk of the House of origin of the amendment. If the amendment proposes to add or remove a Legislator as a primary joint sponsor or non-primary joint sponsor, the statement must be signed by that Legislator. If the amendment proposes to add or remove a standing committee as a joint sponsor, the statement must be signed by the chairman of the committee.

A copy of the statement must be transmitted to the Legislative Counsel if the amendment is adopted.

6. An amendment that proposes to add or remove a primary joint sponsor or non-primary joint sponsor may include additional proposals to change the substantive provisions of the bill or resolution or may be limited only to the proposal to add or remove a primary joint sponsor or non-primary joint sponsor.

PRINTING

Rule No. 6. Ordering and Distribution.

Each House may order the printing of bills introduced, reports of its own committees, and other matter pertaining to that House only; but no other printing may be ordered except by a concurrent resolution passed by both Houses. Each Senator is entitled to the free distribution of four copies of each bill introduced in each House, and each Assemblyman to such a distribution of two copies. Additional copies of such bills may be distributed at a charge to the person to whom they are addressed. The amount charged for distribution of the additional copies must be determined by the Director of the Legislative Counsel Bureau to approximate the cost of handling and postage for the entire session.

RESOLUTIONS

Rule No. 7. Types, Usage and Approval.

1. A joint resolution must be used to:

(a) Propose an amendment to the Nevada Constitution.

(b) Ratify a proposed amendment to the United States Constitution.

(c) Address the President of the United States, Congress, either House or any committee or member of Congress, any department or agency of the Federal Government, or any other state of the Union.

2. A concurrent resolution must be used to:

(a) Amend these Joint Rules.

(b) Request the return from the Governor of an enrolled bill for further consideration.

(c) Request the return from the Secretary of State of an enrolled joint or concurrent resolution for further consideration.

(d) Resolve that the return of a bill from one House to the other House is necessary and appropriate.

(e) Express facts, principles, opinion and purposes of the Senate and Assembly.

(f) Establish a joint committee of the two Houses.

(g) Direct the Legislative Commission to conduct an interim study.

3. A concurrent resolution or a resolution of one House may be used to:

(a) Memorialize a former member of the Legislature or other notable or distinguished person upon his death.

(b) Congratulate or commend any person or organization for a significant and meritorious accomplishment, but any request for drafting the resolution must be approved by the Senate Committee on Legislative Operations and Elections or the Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments before submission to the Legislative Counsel.

4. A resolution of one House may be used to request the return from the Secretary of State of an enrolled resolution of the same House for further consideration.

VETOES

Rule No. 8. Special Order.

1. Bills which have passed the Legislature, and which are returned after the Governor's disapproval, or veto of the same, shall:

(a) Be taken up and considered immediately upon the coming in of the message transmitting the same; or

(b) Become the subject of a special order.

2. When the message is received or, if made a special order, when the special order for their consideration is reached and called, the said message or statement shall be read, together with the bill or bills so disposed or vetoed; and the Secretary of the Senate and the Chief Clerk of the Assembly shall, without interruption, read the message and the bill consecutively, the bill following the message; and the message and the bill must not be read upon separate occasions; and no such bill or message shall be referred to any committee, or otherwise acted upon, save as provided by law and custom; that is to say, that immediately following such reading the only question (except as hereinafter stated) which shall be put by the Chair is, "Shall the bill pass, notwithstanding the objections of the Governor?"

3. It shall not be in order, at any time, to vote upon such vetoed bill without the same shall have first been read; and no motion shall be entertained after the Chair has stated the question save a motion for "The previous question," but the merits of the bill itself may be debated.

ADJOURNMENT

Rule No. 9. Limitations and Calculation of Duration.

1. In calculating the permissible duration of an adjournment for 3 days or less, the day of adjournment must not be counted but the day of the next meeting must be counted, and Sunday must not be counted.

2. The Legislature may adjourn for more than 3 days by motion based on mutual consent of the Houses or by concurrent resolution. One or more such adjournments, for a total of not more than 20 days during any regular session, may be taken to permit standing committees, select committees or the Legislative Counsel Bureau to prepare the matters respectively entrusted to them for the consideration of the Legislature as a whole.

Rule No. 9.5. Adjournment Sine Die.

1. The Legislature shall not take any action on a bill or resolution after midnight Pacific Daylight Time on the 120th calendar day of session.

2. A Legislator shall not take any action to impede the progress of the Legislature in completing its business by the time specified in subsection 1.

3. Any action taken in violation of subsection 2 shall be deemed out of order.

EXPENDITURES FROM THE LEGISLATIVE FUND

Rule No. 10. Manner of Authorization.

Except for routine salary, travel, equipment and operating expenses, no expenditures shall be made from the Legislative Fund without the authority of a concurrent resolution regularly adopted by the Senate and Assembly.

LEGISLATIVE COMMISSION

Rule No. 11. Membership and Organization.

1. When members of the minority party in the Senate or in the Assembly comprise one-third or less of the total number elected to that House, minority party membership for that House on the Legislative Commission must be:

(a) One, if such membership is less than one-fifth of the total number elected to that House.

(b) Two, if such membership is at least one-fifth but not more than one-third of the total number elected to that House. If the members of the minority party in the Senate or in the Assembly comprise more than one-third of the total number elected to that House, minority party membership for that House on the Commission must be three, being equal to the membership of the majority party.

2. Each House shall select one or more alternate members for each member from that House, designating them according to party or according to the individual member whom the alternate would replace.

3. A vacancy in the regular Senate or Assembly membership created by death or by resignation or by the Legislator's ceasing to be a member of the Legislature shall be filled by the proper alternate member as designated by that House. If there is no proper alternate member, the Legislative Commission shall fill the vacancy by appointing a Senator or Assemblyman of the same party.

4. If for any reason a member is or will be absent from a meeting and there are no alternates available, the Chairman of the Commission may appoint a member of the same House and political party to attend the meeting as an alternate.

5. The members shall serve until their successors are appointed by resolution as provided in NRS 218.660, except that the membership of any member who does not become a candidate for reelection or who is defeated for reelection shall terminate on the day next after the election and the vacancy shall be filled as provided in this Rule.

6. The Chairman shall be selected at the first meeting of the newly formed Legislative Commission and shall serve until his successor is appointed following the formation of the next Legislative Commission.

RECORDS OF COMMITTEE PROCEEDINGS

Rule No. 12. Duties of Secretary of Committee and Director.

1. Each standing committee of the Legislature shall cause a record to be made of the proceedings of its meetings.

2. The secretary of a standing committee shall:

(a) Label each record with the date, time and place of the meeting and also indicate on the label the numerical sequence in which the record was made;

(b) Keep the records in chronological order; and

(c) Deposit the records upon completion with the Director of the Legislative Counsel Bureau.

3. The Director of the Legislative Counsel Bureau shall:

(a) Make the records available for accessing by any person during office hours under such reasonable conditions as he may deem necessary;

(b) Retain the records for two bienniums and at the end of that period keep some form or copy of the record in any manner he deems reasonable to ensure access to the record in the foreseeable future.

LIMITATIONS ON INTRODUCTION AND REQUESTS FOR DRAFTING OF LEGISLATIVE MEASURES

Rule No. 14. Limitations on Drafting and Requirements for Introduction; Duplicative Measures; Indication of Requester on Committee Introductions.

1. Except as otherwise provided in subsection 5 and Joint Standing Rules Nos. 14.4, 14.5 and 14.6, after a regular legislative session has convened, the Legislative Counsel shall honor, if submitted before 5 p.m. on the 8th calendar day of the legislative session, not more than:

(a) Two requests from each Assemblyman; and

(b) Four requests from each Senator,

➥ for the drafting of a bill or resolution.

2. Except as otherwise provided in subsections 4 and 5 and Joint Standing Rules Nos. 14.4, 14.5 and 14.6, after a regular legislative session has convened, the Legislative Counsel shall honor, if submitted before 5 p.m. on the 19th calendar day of the legislative session, not more than 50 requests, in total, from the standing committees of each House for the drafting of a bill or joint resolution. The Majority Leader of the Senate and the Speaker of the Assembly shall, not later than the 1st calendar day of the legislative session, determine and provide the Legislative Counsel with a written list of the number of requests for the drafting of a bill that may be submitted by each standing committee of their respective Houses, within the

limit provided by this subsection. The lists may be revised any time before the 19th day of the legislative session to reallocate any unused requests or requests which were withdrawn before drafting began on the request.

3. A request for the drafting of a bill or resolution that is submitted by a standing committee pursuant to this section must be approved by a majority of all of the members appointed to the committee before the request is submitted to the Legislative Counsel.

4. A standing committee may only request the drafting of a bill or resolution or introduce a bill or resolution that is within the jurisdiction of the standing committee.

5. The Legislative Counsel shall not honor a request for the drafting of a bill or resolution submitted by a member or standing committee of the Senate or Assembly unless such information as is required to draft the measure is submitted to the Legislative Counsel with the request.

6. A measure introduced by a standing committee at the request of a Legislator or organization must indicate the Legislator or organization at whose request the measure was drafted.

7. The following measures must be introduced by a standing committee:

(a) Measures drafted at the request of agencies and officers of the Executive Branch of State Government, local governments, the courts and other authorized nonlegislative requesters.

(b) Measures requested by statutory committees and interim legislative studies.

(c) Bills requested by a standing committee, or by persons designated to request measures on behalf of a standing committee during the interim. Bills requested by or on behalf of a standing committee must be introduced by that committee.

8. Resolutions requested by or on behalf of a standing committee may be introduced by an individual member.

9. If two or more measures are being considered in the same House which are substantively duplicative, only the measure which has been assigned the lowest number for the purpose of establishing its priority in drafting may be considered, unless the measure with the lowest number is not introduced within 5 days after introduction of a measure with a higher number.

10. A Legislator may not change the subject matter of a request for a legislative measure after it has been submitted for drafting.

Rule No. 14.2. Limitations on Time for Introduction of Legislation.

1. Except as otherwise provided in Joint Standing Rules Nos. 14.4, 14.5 and 14.6:

(a) Unless the provisions of paragraph (b) or (c) are applicable, a bill or joint resolution may only be introduced on or before:

(1) The 10th calendar day following delivery of the introductory copy of the bill or joint resolution; or

(2) The last day for introduction of the bill or joint resolution as required by paragraph (d),

➥ whichever is earlier.

(b) If a bill or joint resolution requires revision after the introductory copy has been delivered, such information as is required to draft the revision must be submitted to the Legislative Counsel before the 10th calendar day following delivery of the introductory copy of the bill or joint resolution. The revised bill or joint resolution may only be introduced on or before:

(1) The 15th calendar day following delivery of the original introductory copy of the bill or joint resolution; or

(2) The last day for introduction of the bill or joint resolution as required by paragraph (d),

➥ whichever is earlier.

(c) If the bill or joint resolution requires a second or subsequent revision, such information as is required to draft the revision must be submitted to the Legislative Counsel before the 15th calendar day following delivery of the original introductory copy of the bill or

joint resolution. A bill or joint resolution revised pursuant to this subsection may only be introduced on or before:

(1) The 20th calendar day following delivery of the original introductory copy of the bill or joint resolution; or

(2) The last day for introduction of the bill or joint resolution as required by paragraph (d),

➥ whichever is earlier.

(d) Except as otherwise provided in subsection 3, the last day for introduction of a bill or joint resolution that was requested by:

(1) A Legislator is the 43rd calendar day of the legislative session.

(2) A standing or interim committee or other requester is the 50th calendar day of the legislative session.

2. The Legislative Counsel shall indicate on the face of the introductory copy of each bill or joint resolution the final date on which the bill or joint resolution may be introduced.

3. If the final date on which the bill or joint resolution may be introduced falls upon a day on which the House in which the bill or joint resolution is to be introduced is not in session, the bill or joint resolution may be introduced on the next day that the House is in session.

SCHEDULE FOR ENACTMENT OF BILLS

Rule No. 14.3. Final Dates for Action by Standing Committees and Houses.

Except as otherwise provided in Joint Standing Rules Nos. 14.4, 14.5 and 14.6:

1. The final standing committee to which a bill or joint resolution is referred in its House of origin may only take action on the bill or joint resolution on or before the 68th calendar day of the legislative session. A bill may be re-referred after that date only to the Committee on Finance or the Committee on Ways and Means and only if the bill is exempt pursuant to subsection 1 of Joint Standing Rule No. 14.6.

2. Final action on a bill or joint resolution may only be taken by the House of origin on or before the 79th calendar day of the legislative session.

3. The final standing committee to which a bill or joint resolution is referred in the second House may only take action on the bill or joint resolution on or before the 103rd calendar day of the legislative session. A bill may be re-referred after that date only to the Committee on Finance or the Committee on Ways and Means and only if the bill is exempt pursuant to subsection 1 of Joint Standing Rule No. 14.6.

4. Final action on a bill or joint resolution may only be taken by the second House on or before the 110th calendar day of the legislative session.

➥ No notice of reconsideration of any final vote on a bill or joint resolution is in order on the last day on which final action is allowed.

Rule No. 14.4. Emergency Requests.

1. After a legislative session has convened:

(a) The Majority Leader of the Senate and the Speaker of the Assembly may each submit to the Legislative Counsel, on his own behalf or on the behalf of another Legislator or a standing committee of the Senate or Assembly, not more than five requests for the drafting of a bill or resolution.

(b) The Minority Leader of the Senate and the Minority Leader of the Assembly may each submit to the Legislative Counsel, on his own behalf or on the behalf of another Legislator or a standing committee of the Senate or Assembly, not more than two requests for the drafting of a bill or resolution.

2. A request submitted pursuant to subsection 1:

(a) May be submitted at any time during the legislative session and is not subject to any of the provisions of subsections 1 and 2 of Joint Standing Rule No. 14, subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3.

(b) Is in addition to, and not in lieu of, any other requests for the drafting of a bill or resolution that are authorized to be submitted to the Legislative Counsel by the Majority

Leader of the Senate, Speaker of the Assembly, Minority Leader of the Senate or Minority Leader of the Assembly.

3. The list of requests for the preparation of legislative measures prepared pursuant to NRS 218.2475 must include the phrase "EMERGENCY REQUEST OF" and state the title of the person who requested each bill or resolution pursuant to this Rule. If the request was made on behalf of another Legislator or a standing committee, the list must also include the name of the Legislator or standing committee on whose behalf the bill or resolution was requested.

4. The Legislative Counsel shall cause to be printed on the face of the introductory copy of all reprints of each bill or resolution requested pursuant to this Rule the phrase "EMERGENCY REQUEST OF" and state the title of the person who requested the bill or resolution.

Rule No. 14.5. Waivers.

1. At the request of a Legislator or a standing or select committee of the Senate or Assembly, subsection 1 or 2 of Joint Standing Rule No. 14, subsection 1 of Joint Standing Rule No. 14.2 or any of the provisions of Joint Standing Rule No. 14.3, or any combination thereof, may be waived by the Majority Leader of the Senate and the Speaker of the Assembly, acting jointly, at any time during a legislative session. A request for a waiver submitted by a committee must be approved by a majority of all members appointed to the committee before the request is submitted to the Majority Leader and the Speaker.

2. A waiver granted pursuant to subsection 1:

(a) Must be in writing, executed on a form provided by the Legislative Counsel, and signed by the Majority Leader and the Speaker.

(b) Must indicate the date on which the waiver is granted.

(c) Must indicate the Legislator or committee on whose behalf the waiver is being granted.

(d) Must include the bill number for which the waiver is granted or indicate that the Legislative Counsel is authorized to accept and honor a request for a new bill or resolution.

(e) Must indicate the provisions to which the waiver applies.

(f) May include the conditions under which the bill for which the waiver is being granted must be introduced and processed.

3. The Legislative Counsel shall not honor a request for the drafting of a new bill or resolution for which a waiver is granted pursuant to this Rule unless such information as is required to draft the bill or resolution is submitted to the Legislative Counsel within 2 calendar days after the date on which the waiver is granted.

4. Upon the receipt of a written waiver granted pursuant to this Rule, the Legislative Counsel shall transmit a copy of the waiver to the Secretary of the Senate and the Chief Clerk of the Assembly. The notice that a waiver has been granted for an existing bill must be read on the floor and entered in the Journal, and a notation that the waiver was granted must be included as a part of the history of the bill on the next practicable legislative day. A notation that a waiver was granted authorizing a new bill or resolution must be included as a part of the history of the bill or resolution after introduction.

5. The Legislative Counsel shall secure the original copy of the waiver to the official cover of the bill or resolution.

6. No notice of reconsideration of any final vote on a bill is in order on the last day on which final action is allowed by a waiver.

Rule No. 14.6. Exemptions.

1. Upon request of the draft by or referral to the Senate Finance Committee or the Assembly Committee on Ways and Means, a bill which:

(a) Contains an appropriation; or

(b) Has been determined by the Fiscal Analysis Division to:

(1) Authorize the expenditure by a state agency of sums not appropriated from the State General Fund or the State Highway Fund;

(2) Create or increase any significant fiscal liability of the State;

(3) Implement a budget decision; or

(4) Significantly decrease any revenue of the State,

➥ is exempt from the provisions of subsections 1 and 2 of Joint Standing Rule No. 14, subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3. The Fiscal Analysis Division shall give notice to the Legislative Counsel to cause to be printed on the face of the bill the term "exempt" for any bills requested by the Senate Finance Committee or Assembly Committee on Ways and Means that have been determined to be exempt and shall give written notice to the Legislative Counsel, Secretary of the Senate and Chief Clerk of the Assembly of any bill which is determined to be exempt or eligible for exemption after it is printed. When a bill is determined to be exempt or eligible for an exemption after the bill was printed a notation must be included as a part of the history of the bill on the next practicable legislative day. The term "exempt" must be printed on the face of all reprints of the bill after the bill becomes exempt.

2. Unless exempt pursuant to paragraph (a) of subsection 1, all of the provisions of Joint Standing Rules Nos. 14, 14.2 and 14.3 apply to a bill until the bill becomes exempt pursuant to subsection 1. A bill that has become exempt does not lose the exemption regardless of subsequent actions taken by the Legislature.

3. A cumulative list of all bills determined by the Fiscal Analysis Division pursuant to subsection 1 to be exempt or eligible for exemption after being printed must be maintained and printed in the back of the list of requests for the preparation of legislative measures prepared pursuant to NRS 218.2475.

4. The provisions of subsections 1 and 2 of Joint Standing Rule No. 14, subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3 do not apply to:

(a) A measure that primarily relates to carrying out the business of the Legislature.

(b) A bill returned from enrollment for a technical correction.

(c) A bill that was previously enrolled but, upon request of the Legislature, has been returned from the Governor for further consideration.

Rule No. 14.7. Amendments.

1. The Legislative Counsel shall not honor a request for the drafting of an amendment to a bill or resolution if the subject matter of the amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of the bill or resolution.

2. For the purposes of this Rule, an amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of a bill or resolution if the amendment relates only to the general, single subject that is expressed in that title and not to the specific whole subject matter embraced in the bill or resolution.

3. This Rule must be narrowly construed to carry out the purposes for which it was adopted which is to ensure the effectiveness of the limitations set forth in Joint Standing Rules Nos. 14, 14.2 and 14.3.

CONTINUATION OF LEADERSHIP OF THE SENATE AND ASSEMBLY DURING THE INTERIM BETWEEN SESSIONS

Rule No. 15. Tenure and Performance of Statutory Duties.

1. Except as otherwise provided in subsections 2 and 3, the tenure of the President Pro Tem, Majority Leader and Minority Leader of the Senate and the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader of the Assembly extends during the interim between regular sessions of the Legislature.

2. The Senators designated to be the President Pro Tem, Majority Leader and Minority Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session of the Legislature if the Senator formerly holding the respective position is no longer a Legislator.

3. The Assemblymen designated to be the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader for the next succeeding regular session shall perform any

statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session.

Rule No. 16. Reserved.

DATE OF FIRST JOINT BUDGET HEARING

Rule No. 17. Requirement.

The first joint meeting of the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means to consider the budgets of the agencies of the State must be held on or before the 92nd calendar day of the regular session.

CRITERIA FOR REVIEWING BILLS THAT REQUIRE POLICIES OF HEALTH INSURANCE TO PROVIDE COVERAGE FOR CERTAIN TREATMENT OR SERVICES

Rule No. 18. Topics of Consideration.

Any standing committee of the Senate or Assembly to which a bill is referred requiring a policy of health insurance delivered or issued for delivery in this State to provide coverage for any treatment or service shall review the bill giving consideration to:

1. The level of public demand for the treatment or service for which coverage is required and the extent to which such coverage is needed in this State;

2. The extent to which coverage for the treatment or service is currently available;

3. The extent to which the required coverage may increase or decrease the cost of the treatment or service;

4. The effect the required coverage will have on the cost of obtaining policies of health insurance in this State;

5. The effect the required coverage will have on the cost of health care provided in this State; and

6. Such other considerations as are necessary to determine the fiscal and social impact of requiring coverage for the treatment or service.

INTERIM FINDINGS AND RECOMMENDATIONS OF LEGISLATIVE COMMITTEES

Rule No. 19. Date for Reporting.

Each legislative committee that adopted any findings or recommendations during the interim since the last regular session of the Legislature shall, no later than the 14th calendar day of the regular session, inform interested members of the Senate and Assembly of those findings and recommendations.

POLICY AND PROCEDURES REGARDING SEXUAL HARASSMENT

Rule No. 20. Maintenance of Working Environment; Procedure for Filing, Investigating and Taking Remedial Action on Complaints.

1. The Legislature hereby declares its intention to maintain a working environment which is free from sexual harassment. This policy applies to all Legislators and lobbyists. Each member and lobbyist is responsible to conduct himself or herself in a manner which will ensure that others are able to work in such an environment.

2. In accordance with Title VII of the Civil Rights Act, for the purposes of this Rule, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment;

(b) Submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person; or

(c) Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

3. Each person subject to these Rules must exercise his own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment. The following noninclusive list provides illustrations of conduct that the Legislature deems to be inappropriate:

(a) Verbal conduct such as epithets, derogatory comments, slurs or unwanted sexual advances, invitations or comments;

(b) Visual conduct such as derogatory posters, photography, cartoons, drawings or gestures;

(c) Physical conduct such as unwanted touching, blocking normal movement or interfering with the work directed at a person because of his sex;

(d) Threats and demands to submit to sexual requests to keep a person's job or avoid some other loss, and offers of employment benefits in return for sexual favors; and

(e) Retaliation for opposing, reporting or threatening to report sexual harassment, or for participating in an investigation, proceeding or hearing conducted by the Legislature or the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission,

➥ when submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person or such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

4. A person may have a claim of sexual harassment even if he has not lost a job or some other economic benefit. Conduct that impairs a person's ability to work or his emotional well-being at work constitutes sexual harassment.

5. If a Legislator believes he is being sexually harassed on the job, he may file a written complaint with:

(a) The Speaker of the Assembly;

(b) The Majority Leader of the Senate; or

(c) The Director of the Legislative Counsel Bureau, if the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate.

➥ The complaint must include the details of the incident or incidents, the names of the persons involved and the names of any witnesses.

6. Except as otherwise provided in subsection 7, the Speaker of the Assembly or the Majority Leader of the Senate, as appropriate, shall refer a complaint received pursuant to subsection 5 to a committee consisting of Legislators of the same House. A complaint against a lobbyist may be referred to a committee in either House.

7. If the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate, the Director of the Legislative Counsel Bureau shall refer the complaint to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments of the Assembly or the Committee on Legislative Operations and Elections of the Senate, as appropriate. If the Speaker of the Assembly or the Majority Leader of the Senate is a member of one of these committees, the Speaker or the Majority Leader, as the case may be, shall not participate in the investigation and resolution of the complaint.

8. The committee to which the complaint is referred shall immediately conduct a confidential and discreet investigation of the complaint. As a part of the investigation, the committee shall notify the accused of the allegations. The committee shall facilitate a meeting between the complainant and the accused to allow a discussion of the matter, if both agree. If the parties do not agree to such a meeting, the committee shall request statements regarding the complaint from each of the parties. Either party may request a hearing before the committee. The committee shall make its determination and inform the complainant and the accused of its determination as soon as practicable after it has completed its investigation.

9. If the investigation reveals that sexual harassment has occurred, the Legislature will take appropriate disciplinary or remedial action, or both. The committee shall inform the complainant of any action taken. The Legislature will also take any action necessary to deter any future harassment.

10. The Legislature will not retaliate against a person who files a complaint and will not knowingly permit any retaliation by the person's supervisors or coworkers.

11. The Legislature encourages a person to report any incident of sexual harassment immediately so that the complaint can be quickly and fairly resolved.

12. Action taken by a complainant pursuant to this Rule does not prohibit the complainant from also filing a complaint of sexual harassment with the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission.

13. All Legislators and lobbyists are responsible for adhering to the provisions of this policy. The prohibitions against engaging in sexual harassment and the protections against becoming a victim of sexual harassment set forth in this policy apply to employees, Legislators, lobbyists, vendors, contractors, customers and visitors to the Legislature.

14. This policy does not create any enforceable legal rights in any person.

VOTE ON GENERAL APPROPRIATION BILL

Rule No. 21. Waiting Period Between Introduction and Final Passage.

A period of at least 24 hours must elapse between the introduction of the general appropriation bill and a vote on its final passage by its House of origin.

USE OF LOCK BOXES BY STATE AGENCIES

Rule No. 22. Duties of Senate Standing Committee on Finance and Assembly Standing Committee on Ways and Means.

To expedite the deposit of state revenue, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means shall, when reviewing the proposed budget of a state agency which collects state revenue, require if practicable, the agency to deposit revenue that it has received within 24 hours after receipt. The Committees shall allow such agencies to deposit the revenue directly or contract with a service to deposit the revenue within the specified period.

Assemblyman Oceguera moved the adoption of the resolution.

Resolution adopted.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Concurrent Resolution No. 1 be immediately transmitted to the Senate.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Resolution No. 1—Adopting the Standing Rules of the Assembly for the 75th Session of the Legislature.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the Assembly Standing Rules are hereby adopted for the 75th Session of the Legislature as follows:

I. OFFICERS AND EMPLOYEES

Duties of Officers

Rule No. 1. Speaker of the Assembly.

1. All officers of the Assembly are subordinate to the Speaker in all that relates to the prompt, efficient and correct discharge of their official duties under the Speaker's supervision.

2. Possessing the powers and performing the duties described in this Rule, the Speaker shall:

(a) Take the chair at the hour to which the Assembly stands adjourned, call the members to order, and upon the appearance of a quorum, proceed to business.

(b) Preserve order and decorum and have general direction of the Chamber of the Assembly and the approaches thereto. In the event of any disturbance or disorderly conduct therein, order the same to be cleared.

(c) Decide all questions of order, subject to a member's right to appeal to the Assembly. On appeal from such decisions, the Speaker has the right, in the Speaker's place, to assign the reason for the decision.

(d) Have the right to name any member to perform the duties of the Chair, but such substitution must not extend beyond one legislative day.

(e) Have the power to accredit the persons who act as representatives of the news media and assign them seats.

(f) Sign all bills and resolutions passed by the Legislature as provided by law.

(g) Sign all subpoenas issued by the Assembly.

(h) Receive all messages and communications from other departments of the government and announce them to the Assembly.

(i) Represent the Assembly, declare its will and in all things obey its commands.

(j) Vote on final passage of a bill or resolution, but the Speaker shall not be required to vote in ordinary legislative proceedings except where the Speaker's vote would be decisive. In all yea and nay votes, the Speaker's name must be called last.

3. If a vacancy occurs in the office of Speaker, through death, resignation or disability of the Speaker, the Speaker Pro Tempore shall temporarily and for the period of vacancy or disability conduct the necessary business of the Assembly.

4. If a permanent vacancy occurs in the office of Speaker, the Assembly shall select a new Speaker.

Rule No. 2. Reserved.

Rule No. 3. Chief Clerk.

1. The Chief Clerk is elected by the Assembly and is responsible to the Speaker.

2. The Chief Clerk shall recruit, select, train and supervise all attaches employed to assist with the work of the Assembly.

3. The Chief Clerk shall administer the daily business of the Assembly.

4. The Chief Clerk shall adopt such administrative policies as she deems necessary to carry out the business of the Assembly.

Rule No. 4. Reserved.

Rule No. 5. Reserved.

Rule No. 6. Reserved.

The next rule is 10.

II. SESSIONS AND MEETINGS

Rule No. 10. Time of Meeting.

The Assembly shall meet each day at 11 a.m., unless the Assembly adjourns to some other hour.

Rule No. 11. Open Meetings.

All meetings of the Assembly and its committees must be open to the public.

Rule No. 12. Reserved.

The next rule is 20.

III. DECORUM AND DEBATE

Rule No. 20. Points of Order.

If any member, in speaking or otherwise, transgresses the rules of the Assembly, the Speaker shall, or any member may, call to order, in which case the member so called to order shall immediately sit down, unless permitted to explain; and if called to order by a member, such member shall immediately state the point of order. If the point of order be sustained by the presiding officer, the member shall not be allowed to proceed; but if it be not sustained, then he shall be permitted to go on. Every such decision from the presiding officer shall be subject to an appeal to the House; but no discussion of the question of order shall be allowed unless an appeal be taken from the decision of the presiding officer.

Rule No. 21. Portable Electronic Communication Devices.

1. A person who is within the Assembly Chambers or within an Assembly committee room shall not engage in a telephone conversation via the use of a portable telephone.

2. Before entering the Assembly Chambers or an Assembly committee room, any person who possesses a portable electronic communication device, such as a pager or telephone, that emits an audible alert, such as a ringing or beeping sound, to signal an incoming message or call, shall turn the audible alert off. A device that contains a nonaudible alert, such as a silent vibration, may be operated in a nonaudible manner within the Assembly Chambers or within an Assembly committee room.

Rule No. 22. Reserved.

Rule No. 23. Select Committee on Ethics; Legislative Ethics.

1. The Select Committee on Ethics consists of:

(a) Two members of the Assembly appointed by the Speaker from the majority political party;

(b) One member of the Assembly appointed by the Minority Leader from the minority political party; and

(c) Three qualified electors of the State, two of whom are appointed by the Speaker and one who is appointed by the Minority Leader, and none of whom is a present member of the Legislature or employed by the State of Nevada.

2. The Speaker shall appoint the Chairman and Vice Chairman of the Committee. The Vice Chairman shall serve as the acting Chairman if the Chairman is unable to serve for any reason during the consideration of a specific question.

3. The Speaker shall appoint an alternate member with the qualifications set forth in paragraph (a) of subsection 1 and an alternate member with the qualifications set forth in paragraph (c) of subsection 1. The Minority Leader shall appoint an alternate member with the qualifications set forth in paragraph (b) of subsection 1 and an alternate member with the qualifications set forth in paragraph (c) of subsection 1. If a member of the Committee is unable to serve for any reason during the consideration of a specific question, the alternate

appointed with the qualifications from the same paragraph in subsection 1 shall serve as a member of the Committee during the consideration of the specific question.

4. A member of the Committee is disqualified to serve during the consideration of a specific question if:

(a) The member is the requester of advice concerning the question of ethics or conflict of interest, or the member is the subject of the complaint concerning the specific question; or

(b) A reasonable person in the member's situation could not exercise independent judgment on the matter in question.

5. The Committee:

(a) May hear requests brought by members of the Assembly for advice on specific questions of potential breaches of ethics and conflicts of interest; and

(b) Shall hear complaints brought by members of the Assembly and others on specific questions of alleged breaches of ethics and conflicts of interest.

6. All proceedings held to consider the character, alleged misconduct, professional competence or physical or mental health of any person by the Committee on matters of ethics or conflicts of interest are confidential unless a Legislator:

(a) Against whom a complaint is brought requests a public hearing;

(b) Discloses the content of an opinion of the Committee at any time after his hearing; or

(c) Discloses the content of an advisory opinion issued to him by the Committee.

7. A complaint which alleges a breach of ethics or a conflict of interest must be:

(a) Made in writing on a form provided by the Chief Clerk of the Assembly;

(b) Signed and verified under penalty of perjury by the person making the allegation; and

(c) Filed with the Chairman of the Committee or, if the Chairman is the subject of the complaint, with the Vice Chairman. The Chairman or Vice Chairman, as appropriate, shall send a copy of the complaint, within 24 hours after receiving it, to the Legislator against whom the complaint is brought.

8. In determining whether a Legislator has a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his position upon the matter in question would be materially affected by:

(a) His acceptance of a gift or loan;

(b) His private economic interest; or

(c) His commitment to a member of his household or his immediate family.

9. Except as otherwise provided in subsection 10, if a Legislator knows he has a conflict of interest pursuant to subsection 8, the Legislator shall make a general disclosure of the conflict of interest on the record in a meeting of a committee or on the floor of the Assembly, as applicable. Such a disclosure must be entered:

(a) If the Legislator makes the disclosure in a meeting of a committee, in the minutes for that meeting.

(b) If the Legislator makes the disclosure on the floor of the Assembly, in the Journal.

10. If, on one or more prior occasions during the current session of the Legislature, a Legislator has made a general disclosure of a conflict of interest on the record in a meeting of a committee or on the floor of the Assembly, the Legislator is not required to make that general disclosure at length again regarding the same conflict of interest if, when the matter in question arises on subsequent occasions, the Legislator makes a reference on the record to the previous disclosure.

11. In determining whether to abstain from voting upon, advocating or opposing a matter concerning which a Legislator has a conflict of interest pursuant to subsection 8, the Legislator should consider whether:

(a) The conflict impedes his independence of judgment; and

(b) His interest is greater than the interests of an entire class of persons similarly situated.

12. The provisions of this Rule do not under any circumstances and regardless of any conflict of interest:

(a) Prohibit a Legislator from requesting or introducing a legislative measure; or

(b) Require a Legislator to take any particular action before or while requesting or introducing a legislative measure.

13. If a Legislator who is a member of a committee declares on the record when a vote is to be taken by the committee that he will abstain from voting because of the requirements of this Rule, the necessary quorum to act upon and the number of votes necessary to act upon the matter is reduced as though the Legislator abstaining were not a member of the committee.

14. Except as otherwise provided in the Joint Standing Rules, the standards and procedures set forth in this Rule which govern whether and to what extent a member of the Assembly has a conflict of interest, should disclose a conflict of interest or should abstain from voting upon, advocating or opposing a matter concerning which the member has a conflict of interest pursuant to subsection 8:

(a) Are exclusive and are the only standards and procedures that apply to members of the Assembly with regard to such matters; and

(b) Supersede and preempt all other standards and procedures with regard to such matters.

The next rule is 30.

IV. QUORUM, VOTING, ELECTIONS

Rule No. 30. Manner of Voting.

1. The presiding officer shall declare all votes, but the yeas and nays must be taken when called for by three members present, and the names of those calling for the yeas and nays must be entered in the Journal by the Chief Clerk.

2. The presiding officer shall call for yeas and nays by a division or by a roll call, either electronic or oral.

3. When taking the yeas and nays on any question, the electronic roll call system may be used, and when so used shall have the force and effect of any roll call under these rules.

4. When taking the yeas and nays by oral roll call, the Chief Clerk shall take the names of members alphabetically, except that the Speaker's name must be called last.

5. The electronic roll call system may be used to determine the presence of a quorum.

6. The yeas and nays must not be taken with the electronic roll call system until all members present are at their desks. The presiding officer may vote at the rostrum.

7. Only a member who:

(a) Has been certified by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments or a special committee of the Assembly; and

(b) Is physically present within the Assembly Chambers,

➥ may cast a vote in the Assembly.

8. A member shall not vote for another member on any roll call, either electronic or oral. Any member who votes for another member may be punished in any manner deemed appropriate by the Assembly.

Rule No. 31. Reserved.

Rule No. 32. Announcement of the Vote.

1. A member may change his vote at any time before the announcement of the vote if the voting is by voice, or at any time before the votes are electronically recorded if the voting is conducted electronically.

2. The announcement of the result of any vote shall not be postponed.

Rule No. 33. Voting by Division.

Upon a division and count of the Assembly on any question, no person without the bar shall be counted.

The next rule is 40.

V. LEGISLATIVE BODIES

Rule No. 40. Standing Committees.

The standing committees of the Assembly are as follows:

1. Ways and Means, fourteen members.
2. Judiciary, fourteen members.
3. Taxation, thirteen members.
4. Education, eleven members.
5. Elections, Procedures, Ethics, and Constitutional Amendments, thirteen members.
6. Natural Resources, Agriculture, and Mining, eleven members.
7. Transportation, eleven members.
8. Commerce and Labor, fourteen members.
9. Health and Human Services, eleven members.
10. Government Affairs, fourteen members.
11. Corrections, Parole, and Probation, fourteen members.

Rule No. 41. Appointment of Committees.

1. Except as otherwise provided in Assembly Standing Rule No. 23, all committees must be appointed by the Speaker, unless otherwise directed by the Assembly. The Speaker shall designate the chairman and vice chairman of each committee.

2. To facilitate the full participation of the members during an adjournment called pursuant to Joint Standing Rule No. 9 of the Senate and Assembly, the Speaker may temporarily appoint a member to a standing committee that is scheduled to meet during the adjournment if none of the committees to which the member is regularly assigned will be meeting during the adjournment.

Rule No. 42. Committee Action.

1. The committee shall have regular meetings scheduled by the Assembly leadership. A quorum of the committee is a majority of its members and may transact business except as limited by this Rule.

2. Except as limited by this Rule, a simple majority of those present may move, second and pass a motion by voice vote.

3. Definite action on a bill or resolution will require a majority of the entire committee.

4. A two-thirds majority of the entire committee is required to reconsider action on a bill or resolution.

5. Committee introduction of legislative measures which are not prefiled requires concurrence of a majority of the entire committee and does not imply commitment to support final passage.

6. The chairman must be present when the committee votes to take any final action regarding bills or resolutions, but the chairman is not required to vote.

7. No member of the committee may vote by proxy under any circumstances.

8. A committee shall not take a vote on the question of whether to exercise its statutory authority to issue a legislative subpoena unless the chairman has informed the Speaker of the intention of the committee to consider such a question.

Rule No. 43. Subcommittees.

Subcommittees made up of committee members may be appointed by the chairman to consider and report back on specific subjects or bills.

Rule No. 44. Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments has jurisdiction over matters relating to personnel. It shall recommend by resolution the appointment of all attaches and employees of the Assembly not otherwise provided for by law. It shall function as the Committee on Rules and as the Committee on Credentials of the Assembly.

Rule No. 44.5. Committee of the Whole.

If a Committee of the Whole is convened:

1. The Speaker shall preside as Chair of the Committee or name a Chair to preside.

2. A member of the Committee may speak not more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

3. The Chair may require any vote of the Committee to be recorded in the manner designated by the Chair.

4. All amendments proposed by the Committee:

(a) Must first be approved by the Committee.

(b) Must be reported by the Chair to the Assembly.

Rule No. 45. Procedure for Election Contests.

1. Upon receipt of a statement of contest from the Secretary of State pursuant to NRS 293.427, the Speaker shall, as soon as practicable, appoint a special committee to hear the contest or refer the contest to the Standing Committee on Elections, Procedures, Ethics, and Constitutional Amendments. The committee shall conduct a hearing to consider the contest. The committee shall keep written minutes of the hearing. The contestant has the burden of proving that any irregularities shown were of such a nature as to establish that the result of the election was changed thereby.

2. The contest must be submitted so far as may be possible upon depositions or by written or oral arguments as the Assembly may order. Any party to a contest may take the deposition of any witness at any time after the statement of contest is filed with the Secretary of State and before the contest is finally decided. At least 3 days' notice must be given to the prospective deponent and to the other party. If oral statements are made at any hearing before the Assembly or a committee thereof which purport to establish matters of fact, they must be made under oath. Strict rules of evidence do not apply.

3. The committee shall, not later than 5 calendar days after the contest was referred to the committee, report to the Assembly its findings on whether the contestant has met the burden of proving that any irregularities shown were of such a nature as to establish that the result of the election was changed thereby. The committee shall then report to the Assembly its recommendation on which person should be declared elected or report that it has no recommendation. The Assembly shall, as soon as practicable thereafter but not later than 7 calendar days after the Speaker received the statement of contest, vote whether to accept or reject the committee's recommendation without amendment, if a recommendation is made. If the recommendation is accepted, the Speaker shall declare the recommended person elected. If the recommendation is rejected or the committee did not make a recommendation, the Assembly shall consider immediately which person should be declared elected. The Speaker shall not adjourn the Assembly until it has declared a person to be elected.

4. If a person other than the person initially seated as a member of the Assembly pursuant to subsection 2 of NRS 293.427 is declared to be elected by the Assembly as a result of the contest, the Speaker shall inform the Governor of the identity of the person declared to be elected by the Assembly.

Rule No. 46. Committee Action.

Every committee vote on a matter pertaining to a bill or resolution must be recorded. The vote may be taken by roll call at the discretion of the chairman.

Rule No. 47. Committee Records.

The chairman of each committee shall keep, or cause to be kept, a complete record of the committee proceedings in which there must be entered:

1. The time and place of each meeting;

2. The attendance and absence of members;

3. The names of all persons appearing before the committee, with the names of persons, firms, corporations or associations in whose behalf such appearance is made; and

4. The subjects or measures considered and action taken.

Rule No. 48. Disposition of Committee Records.

All minutes, records and documents in the possession of committees and their chairmen must be filed in the offices of the Legislative Counsel Bureau upon their completion.

Rule No. 49. Committee Hearings.

1. The presence of a quorum of the committee is desirable but not required to conduct a public hearing. At the discretion of the chairman, members of the committee may attend, participate in and, if applicable, vote during the hearing via simultaneous telephone or video conference.

2. Public hearings are opened by the chairman who announces the subject under consideration and provides for those wishing to address the committee to be heard. These persons shall rise in an order determined by the chairman, address the chair and furnish their names, addresses and firms or other organizations represented. Committee members may address the chairman for permission to question the witness.

Rule No. 50. Reserved.

Rule No. 51. Reserved.

Rule No. 52. Concurrent Referrals.

When a bill or resolution is referred to two committees, the bill or resolution must go to the first committee named. If the first committee votes to amend the bill or resolution, it must be reprinted with amendments and then returned to the first committee or sent immediately to the next committee. If there is no amendment proposed by the first committee, or if the first committee acts upon the bill or resolution after amendment, the bill or resolution must be sent with the committee recommendation to the Chief Clerk for transmittal to the second committee.

The next rule is 60.

VI. RULES GOVERNING MOTIONS

Rule No. 60. Entertaining.

No motion may be debated until it is distinctly announced by the presiding officer. The presiding officer, upon his own motion or at the request of a member, may direct that the motion be reduced to writing and be read by the Chief Clerk before the motion is debated. A motion may be withdrawn by the maker at any time before amendment or before the motion is put to vote.

Rule No. 61. Reserved.

Rule No. 62. Reserved.

Particular Motions

Rule No. 63. Reserved.

Rule No. 64. Reserved.

Rule No. 65. Indefinite Postponement.

When a question is postponed indefinitely, the same question must not be considered again during the session and the question is not subject to a motion for reconsideration.

Rule No. 66. To Strike Enacting Clause.

A motion to strike out the enacting clause of a bill or resolution does not take precedence over any other subsidiary motion. If the motion is carried, it shall be considered equivalent to the rejection of such bill or resolution.

Rule No. 67. Division of Question.

Any member may call for a division of the question, which shall be divided, if it comprehends propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the Assembly. A motion to strike out being lost shall preclude neither amendment nor a motion to strike out and insert. A motion to strike out and insert shall be deemed indivisible.

Rule No. 68. To Reconsider—Precedence of.

A motion to reconsider shall have precedence over every other motion, except a motion to adjourn, or to fix the time to which to adjourn; and when the Assembly adjourns, while a motion to reconsider is pending, or before passing the order of business of Motions, Resolutions and Notices, the right to move a reconsideration shall continue to the next day of sitting. No notice of reconsideration of any final vote shall be in order on the:

1. *Last day on which final action is allowed; or*
2. *Day preceding the last day of the session.*

The next rule is 80.

VII. DEBATE

Rule No. 80. Speaking on Question.

No member shall speak more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

Rule No. 81. Previous Question.

The previous question shall be put only when demanded by three members. The previous question shall not be moved by the member last speaking on the question.

Rule No. 82. Privilege of Closing Debate.

The author of a bill, a resolution or a main question shall have the privilege of closing the debate, unless the previous question has been sustained.

The next rule is 91.

VIII. CONDUCT OF BUSINESS

A. Rules and Procedure

Rule No. 91. Rescission, Change or Suspension of Rule.

No standing rule or order of the Assembly shall be rescinded or changed without a vote of two-thirds of the members elected, and one day's notice being given of the motion therefor; but a rule or order may be suspended temporarily by a vote of two-thirds of the members present.

Rule No. 92. Notices of Bills, Topics and Public Hearings.

1. Except as otherwise provided in subsection 3, all committees shall provide adequate notice of public hearings on bills, resolutions or other topics which are to come before the committees. The notice must include the date, time, place and agenda to be covered. The notice must be posted conspicuously in the legislative building, appear in the Daily History and be made available to the news media. The Daily History must include the most current version of the notice that is available at the time the Daily History is created and an

informational statement informing the public where more current information, if any, regarding such notices may be found.

2. The noticing requirements of this Rule may be suspended for emergency situations but only after approval by a majority vote of a committee.

3. Subsection 1 does not apply to:

(a) Committee meetings held on the floor of the Assembly during a recess; or

(b) Conference committee meetings.

Rule No. 93. Reserved.

Rule No. 94. Privilege of the Floor and Lobbying.

No person, except Senators, former Assemblymen and state officers, may be admitted at the bar of the Assembly, except by special invitation on the part of some member; but a majority may authorize the Speaker to have the Assembly cleared of all such persons. No person may do any lobbying upon the floor of the Assembly at any time, and it is the duty of the Sergeant at Arms to remove any person violating any of the provisions of this Rule.

Rule No. 95. Material Placed on Legislators' Desks.

All papers, letters, notes, pamphlets and other written material placed upon an Assemblyman's desk shall contain the signature of the Legislator requesting the placement of such material on the desk or shall contain a designation of the origin of such material. This Rule does not apply to books containing the legislative bills and resolutions, the legislative Daily Histories, the legislative Daily Journals or Legislative Counsel Bureau material.

Rule No. 96. Peddling, Begging and Soliciting.

1. Peddling, begging and soliciting are strictly forbidden in the Assembly Chambers, and in the lobby, gallery and halls adjacent thereto.

2. No part of the Assembly Chambers may be used for, or occupied by signs or other devices for any kind of advertising.

3. No part of the hallways adjacent to the Assembly Chambers may be used for or occupied by signs or other devices for any kind of advertising for commercial or personal gain. Notices for nonprofit, nonpartisan, civic or special legislative events may be posted in a designated area of the hallways adjacent to the Assembly Chambers with the approval of the Chief Clerk.

Rule No. 97. Petitions and Memorials.

Petitions, memorials and other papers addressed to the Assembly, shall be presented by the Speaker, or by a member in the Speaker's place. A brief statement of the contents thereof shall be made by the introducer. They shall not be debated on the day of their being presented, but shall be on the table, or be referred, as the Assembly shall determine.

Rule No. 98. Request of Purpose.

A member may request the purpose of a bill or joint resolution upon its introduction.

Rule No. 99. Remarks.

It shall be in order for members to make remarks and to have such remarks entered in the Journal.

Rule No. 100. Precedence of Parliamentary Authority.

The precedence of parliamentary authority in the Assembly is:

1. The Constitution of the State of Nevada and judicial decisions thereon.

2. The Standing Rules of the Assembly and the Joint Standing Rules of the Senate and Assembly.

3. Custom, usage and precedence.

4. The Statutes of the State of Nevada.

5. Mason's Manual of Legislative Procedure.

Rule No. 101. Reserved.

Rule No. 102. Privileged Questions.

Privileged questions have precedence over all others in the following order:

1. ***Motions to fix the time to which the Assembly shall adjourn.***
2. ***Motions to adjourn.***
3. ***Questions relating to the rights and privileges of the Assembly or any of its members.***
4. ***A call of the House.***
5. ***Motions for special orders.***

Rule No. 103. Reserved.

B. Bills

Rule No. 104. Reserved.

Rule No. 105. Reserved.

Rule No. 106. Skeleton Bills.

The introduction of skeleton bills is authorized when, in the opinion of the sponsor and the Legislative Counsel, the full drafting of the bill would entail extensive research or be of considerable length. A skeleton bill will be provided for purposes of introduction and committee referral. Such a bill will be a presentation of ideas or statements of purpose, sufficient in style and expression to enable the Legislature and the committee to which the bill may be referred to consider the substantive merits of the legislation proposed.

Rule No. 107. Reserved.

Rule No. 108. Reserved.

Rule No. 109. Reading of Bills.

The presiding officer shall announce at each reading of a bill whether it be the first, second or third reading. The first reading of a bill shall be for information. If there is objection, the question shall be, "Shall the bill be rejected?" If the question to reject fails to receive a majority vote by the members present, or if there is no objection, the bill shall take the proper course. No bill shall be referred to a committee until after the first reading, nor amended until after the second reading.

Rule No. 110. Second Reading and Amendment of Bills.

1. All bills must be read the second time on the first legislative day after which they are reported by committee, unless a different day is designated by motion. Upon second reading, Assembly bills reported without amendments shall be placed on the General File and Senate bills reported without amendments shall be placed on the General File. Committee amendments reported with bills shall be considered upon their second reading or third reading, as appropriate, and such amendments may be adopted by a majority vote of the members present. Any amendment which is numbered, copied and made available to all members must be moved and voted upon by number. Assembly bills so amended must be reprinted, engrossed, and placed on the General File. Senate bills so amended must be reprinted, then engrossed or reengrossed, as applicable, and placed on the General File.

2. Any member may move to amend a bill during its second or third reading, and such a motion to amend may be adopted by a majority vote of the members present. Bills so amended on second reading must be treated the same as bills with committee amendments. Any bill so amended upon the General File must be reprinted and then engrossed or reengrossed, as applicable.

3. The reprinting of amended bills may be dispensed with only in accordance with the provisions of law.

Rule No. 111. Consent Calendar.

1. A standing committee may by unanimous vote of the members present report a bill with the recommendation that it be placed on the Consent Calendar. The question of recommending a bill for the Consent Calendar may be voted upon in committee only after the bill has been recommended for passage and only if no amendment is recommended.

2. The Chief Clerk shall maintain a list of bills recommended for the Consent Calendar. The list must be printed in the Daily History and must include the summary of each bill, and the date the bill is scheduled for consideration on final passage.

3. At any time before the presiding officer calls for a vote on the passage of the Consent Calendar, a member may give written notice to the Chief Clerk or state orally from the floor of the Assembly in session that he requests the removal of a particular bill from the Consent Calendar. If a member so requests, the Chief Clerk shall remove the bill from the Consent Calendar and transfer it to the Second Reading File. A bill removed from the Consent Calendar may not be restored to that Calendar.

4. During floor consideration of the Consent Calendar, members may ask questions and offer explanations relating to the respective bills.

5. When the Consent Calendar is brought to a vote, the bills remaining on the Consent Calendar must be read by number and summary and the vote must be taken on their final passage as a group.

Rule No. 112. Reserved.

Rule No. 113. General File.

All bills reported to the Assembly, by either standing or special committees, after receiving their second readings must be placed upon a General File, to be kept by the Chief Clerk. The Chief Clerk shall post a daily statement of the bills on the General File. The Chief Clerk shall likewise post notices of special orders as made.

Rule No. 114. Reserved.

Rule No. 115. Reconsideration of Vote on Bill.

On the first legislative day that the Assembly is in session succeeding that on which a final vote on any bill or resolution has been taken, a vote may be reconsidered on the motion of any member. Notice of intention to move such reconsideration must be given on the day on which the final vote was taken by a member voting with the prevailing party. It is not in order for any member to move a reconsideration on the day on which the final vote was taken, except by a majority of the members elected. There may be no reconsideration of a vote on a motion to indefinitely postpone. Motions to reconsider a vote upon amendments to any pending question may be made at once.

Rule No. 116. Vetoed Bills.

1. Bills that have passed both Houses of the Legislature and are transmitted to the Assembly accompanied by a message or statement of the Governor's disapproval or veto of the same must:

(a) Be taken up and considered immediately upon the coming in of the message transmitting the same; or

(b) Become the subject of a special order.

2. When the message is received, or if made a special order, when the special order is called, the said message or statement must be read together with the bill or bills so disapproved or vetoed. The message and bill must be read by the Chief Clerk without interruption, consecutively, one following the other, and not upon separate occasions. No such bill or message may be referred to any committee, or otherwise acted upon save as provided by law and custom; that is to say, that immediately following such reading the only

question, except as hereinafter stated, which may be put by the Speaker is, "Shall the bill pass, notwithstanding the objections of the Governor?" It shall not be in order, at any time, to vote upon such a vetoed bill unless the same shall first have been read, from the first word of its title to and including the last word of its final section. No motion may be entertained after the Speaker has stated the question, save a motion to adjourn or a motion for the previous question, but the merits of the bill itself may be debated. The message or statement containing the objections of the Governor to the bill must be entered in the Journal of the Assembly. The consideration of a vetoed bill, and the objections of the Governor thereto, shall be a privileged question, and shall take precedence over all others.

Rule No. 117. Reserved.

C. Resolutions

Rule No. 118. Treated as Bills—Joint Resolutions.

The procedure of enacting joint resolutions must be identical to that of enacting bills, except that:

1. Joint resolutions, upon enrollment, must be delivered to the Secretary of State; and

2. Joint resolutions proposing amendments to the Constitution must be entered in the Journal in their entirety.

Rule No. 119. Return from the Secretary of State.

An Assembly resolution may be used to request the return from the Secretary of State of an enrolled Assembly resolution for further consideration.

D. Order of Business

Rule No. 120. Order of Business.

The Order of Business must be as follows:

1. Call to Order.
2. Reading and Approval of Journal.
3. Presentation of Petitions.
4. Reports of Standing Committees.
5. Reports of Select Committees.
6. Communications.
7. Messages from the Senate.
8. Motions, Resolutions and Notices.
9. Introduction, First Reading and Reference.
10. Consent Calendar.
11. Second Reading and Amendment.
12. General File and Third Reading.
13. Unfinished Business of Preceding Day.
14. Special Orders of the Day.
15. Remarks from the Floor, limited to 10 minutes.

Rule No. 121. Reserved.

Rule No. 122. Reserved.

Rule No. 123. Reserved.

Rule No. 124. Reserved.

Rule No. 125. Reserved.

Rule No. 126. Reserved.

Rule No. 127. Reserved.

Rule No. 128. Reserved.

The next rule is 140.

IX. LEGISLATIVE INVESTIGATIONS AND MISCELLANEOUS

Rule No. 140. Compensation of Witnesses.

Witnesses summoned to appear before the Assembly or any of its committees must be compensated as provided by law for witnesses required to attend in the courts of the State of Nevada.

Rule No. 141. Use of the Assembly Chamber.

The Assembly Chamber shall not be used for any public or private business other than legislative, except by permission of the Assembly.

Assemblyman Oceguera moved the adoption of the resolution.

Resolution adopted.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Resolution No. 2—Providing for the appointment of Assembly attaches.

RESOLVED, That the following persons are elected as attaches of the Assembly for the 75th Session of the Legislature of the State of Nevada: Diane Keetch, Lucinda Benjamin, Matthew Baker, Jeanne Douglass, Jason P. Hataway, Christie Peters, Terry Sullivan, Robin L. Bates, Rebecca Harris, Mary A. Matheus, Sharon P. Murphy, Jennifer D. Osheroff, Steven J. Sweeney, Marge Griffin, Sylvia Brown, Jasmine Shackley, Barbara L. Houger, Christina Bailey, Wendy Kameda, Erin Smith, Betty J. Phenix, Laurel Armbrust, Leslie Danihel, Toshiko McIntosh, Alicia C. Taylor, Diane Jackson, Bonnie Borda Hoffecker, Joyce Hess, Emily M. Persaud, Mark Sprinkle, Jaclyn Kaiser, Kathryn L. Alden, Cynthia Carter, Lona M. Domenici, Judith Fisher, Harle Glover, Millicent Jorgenson, Jackie Valley, Andrew Diss, Katherine Malzahn-Bass, Daniel Peltier, Patti Adams, Connie Davis, Christine Bashaw, Linda Blevins, Anne Bowen, Linda J. Smith, Carol J. Thomsen, Janice Wright, Victoria Kieffer, Theresa Horgan, Patricia A. Blackburn, Judith Coolbaugh, Renee Ekleberry, Karen Fox, Mary Garcia, Robert G. Gonzalez, Christopher Kanowitz, Julie Kellen, Kyle McAfee, Sharon McCallen, Sean McDonald, Earlene M. Miller, Emilie I. Reafs, Darlene A. Rubin, Marlen R. Schultz, Denise M. Sins, Scarlett Smith, Michelle Smothers, Karyn Werner, Cheryl L. Williams, Mary Bean, Jennifer A. Breeden, Bambi Chase, Stephany J. Corral, Dionny Fonseca, Cecilia Hackman, Donna Hancock, Liz Hudson, Patricia J. Hutson, Luanne King, Novella W. Kowallek, Denise A. Larsen, Patricia A. Manning, Ashley Massey, Carolyn J. Maynick, Connie Nellos, Diane O'Connor, Valerie Osgood, Sheree L. Rosevear, Christina L. Salerno, Cindy Southerland, Janet F. Stokes, Linda L. Utt, Brittany J. Walker, Nichole Bailey, Cheryl Higgs McClellan, Olivia M. Lloyd, Sally A. Stoner, Jocelyne Helzer, Carl C. Meier, David E. Moore, Evelyn Moser, Kathryn Moser, Larry Peri, Marcia Peterson, Frank Taylor, Ted Zuend, Deanna Keirstead, Sherwood Howard, June Bennett, Norman Budden, Mary Carel, Diane L. Bacus, Jack W. Cooke, John A. Davis Jr., Mark S. Day, Gail A. Eller, Michael Fettic, Joyce E. Ghiselli, Don W. Hataway, Lois A. Lahair, Robert V. Maynick, Rick Redican, Paul Saucedo, Frank D. Tetz, Daniel D. Webster, Debra A. Williams and Lucille Zuend.

Assemblyman Oceguera moved the adoption of the resolution.

Resolution adopted.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Resolution No. 3—Providing allowances to the leadership and other members of the Assembly for periodicals, stamps, stationery and communications.

Assemblyman Oceguera moved the adoption of the resolution.

Resolution adopted.

Assemblyman Oceguera moved that persons as set forth on the Nevada Legislature's Press Accreditation List of February 2, 2009, be accepted as accredited press representatives, that they may be assigned space at the press table in the Assembly Chamber, that they be allowed the use of appropriate broadcasting facilities, and the list be included in this day's journal:

ASSOCIATED PRESS: Cathy Bussewitz, Brendan Riley; KKOH RADIO/CITADEL BROADCASTING CORP.: Ian L. Perry; KLAS-TV: Rich Czarny, Mark Mutcher; KNPB-TV: Michael Hagerty, Elizabeth Welti; KOLO-TV: Edward Barnett, Thomas Goepner; KRNV-TV: John Barrette, Charles Benn, Jack Brown, Victoria Campbell, Ryan Coleman, Ford Ryan Corl, Jeff Deitch, Roger Du Plessis, Kirk Frosdick, Joe Hart, Elizabeth Heywood, Kenny Holmes, Chuck King, Sherry Kudelka, Adam Randall, Bryan Samudio, Lemor Shlomof, Kimberly Strow, Lawrence Vosper; KTVN-TV: Jeffrey Foss, Darrell McComb, Jay Nobles, Brandon Rittiman; KUNR PUBLIC RADIO: Pam Dupree; LAHONTAN VALLEY NEWS: Christiane Lattin; LAS VEGAS SUN: J. Patrick Coolican, David Schwartz; NEVADA APPEAL: Niki Gladys, Peggy Santoro, Geoff Dornan; NEVADA BROADCASTERS ASSOCIATION: Adrienne Abbott-Gutirrez, Robert D. Fisher; RENO GAZETTE-JOURNAL: Guy Clifton, Anjeanette Damon; REYNOLDS SCHOOL OF JOURNALISM (UNR): Jessica Estepa; SENIOR SPECTRUM NEWSPAPER: Conniee McMullen; SIERRA NEVADA MEDIA GROUP: Scott McElhaney; TASMAN PACIFIC MEDIA GROUP: Peter J. Hutchinson; TRUCKEE MEADOWS COMMUNITY COLLEGE (JOURNALISM): Timothy Carlton Ill; THE VOICEBOX/THE COLLEGE RADIO SHOW: Donnell Pike-Anuken; WE THE PEOPLE: Shayne Del Cohen.

Motion carried.

Madam Speaker announced the following standing committees, the first-named member of each committee being the chair, the second-named being the vice chair:

COMMERCE AND LABOR—

Conklin, Atkinson, Anderson, Arberry, Buckley, Horne, Kirkpatrick, Manendo, McClain, Oceguera, Christensen, Gansert, Goedhart, Settelmeyer.

CORRECTIONS, PAROLE, AND PROBATION—

Horne, Segerblom, Anderson, Dondero Loop, Kihuen, Manendo, Mortenson, Ohrenschall, Parnell, Carpenter, Cobb, Gustavson, Hambrick, McArthur.

EDUCATION—

Parnell, Denis, Bobzien, Dondero Loop, Kihuen, Mastroluca, Munford, Hardy, McArthur, Stewart, Woodbury.

ELECTIONS, PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS—

Koivisto (Co-Chair, Co-Vice Chair) Mortenson (Co-Chair, Co-Vice Chair), Conklin, Horne, Kihuen, Munford, Ohrenschall, Segerblom, Smith, Cobb, Gansert, Hambrick, Settelmeyer.

GOVERNMENT AFFAIRS—

Kirkpatrick, Bobzien, Aizley, Atkinson, Claborn, Mastroluca, Munford, Pierce, Spiegel, Christensen, Goedhart, Settelmeyer, Stewart, Woodbury.

HEALTH AND HUMAN SERVICES—

Smith, Pierce, Denis, Leslie, Mastroluca, Parnell, Spiegel, Cobb, Hambrick, Hardy, Stewart.

JUDICIARY—

Anderson, Segerblom, Dondero Loop, Horne, Kihuen, Manendo, Mortenson, Ohrenschall, Parnell, Carpenter, Cobb, Gustavson, Hambrick, McArthur.

NATURAL RESOURCES, AGRICULTURE, AND MINING—

Claborn, Hogan, Aizley, Bobzien, Munford, Ohrenschall, Segerblom, Carpenter, Goicoechea, Grady, Gustavson.

TAXATION—

McClain, Kirkpatrick, Aizley, Anderson, Arberry, Koivisto, Leslie, Mortenson, Pierce, Goedhart, Grady, Gustavson, McArthur.

TRANSPORTATION—

Atkinson, Manendo, Claborn, Dondero Loop, Hogan, Kihuen, Spiegel, Carpenter, Christensen, Goicoechea, Woodbury.

WAYS AND MEANS—

Arberry, Leslie, Buckley, Conklin, Denis, Hogan, Koivisto, McClain, Oceguera, Smith, Gansert, Goicoechea, Grady, Hardy.

SELECT COMMITTEE ON ETHICS—

Oceguera, Koivisto, Hardy, Joseph Dini, Kimberly Morgan, Lynn Hettrick.

MAJORITY FLOOR LEADER—

John Oceguera.

ASSISTANT MAJORITY FLOOR LEADER—

Marcus Conklin.

MAJORITY WHIP—

Sheila Leslie.

ASSISTANT MAJORITY WHIP—

Debbie Smith.

ASSISTANT MAJORITY WHIP—

William C. Horne.

MINORITY FLOOR LEADER—

Heidi S. Gansert.

ASSISTANT MINORITY FLOOR LEADER—

Lynn Stewart.

MINORITY WHIP—

Chad Christensen.

MINORITY WHIP—

Pete Goicoechea.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Hardy, Buckley, Ohrenschall, Horne, Gansert, Allen, Anderson, Arberry, Atkinson, Beers, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Goedhart, Goicoechea, Grady, Hogan, Kihuen, Kirkpatrick, Koivisto, Mabey, Manendo, Marvel, McClain, Mortenson, Munford, Oceguera, Parks, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Stewart, Weber, and Womack; Senators Care, Heck, Cegavske, Hardy, Raggio, Beers, Coffin, Horsford, Lee, Mathews, McGinness, Nolan, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Joint Resolution No. 3 of the 74th Session—Proposing to amend the Nevada Constitution to revise provisions relating to the taking of private property by eminent domain.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 8 of Article 1 of the Nevada Constitution be amended to read as follows:

Sec. 8. 1. No person shall be tried for a capital or other infamous crime (except in cases of impeachment, and in cases of the militia when in actual service and the land and naval forces

in time of war, or which this State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the Legislature) except on presentment or indictment of the grand jury, or upon information duly filed by a district attorney, or Attorney General of the State, and in any trial, in any court whatever, the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself.

2. The Legislature shall provide by law for the rights of victims of crime, personally or through a representative, to be:

(a) Informed, upon written request, of the status or disposition of a criminal proceeding at any stage of the proceeding;

(b) Present at all public hearings involving the critical stages of a criminal proceeding; and

(c) Heard at all proceedings for the sentencing or release of a convicted person after trial.

3. Except as otherwise provided in subsection 4, no person may maintain an action against the State or any public officer or employee for damages or injunctive, declaratory or other legal or equitable relief on behalf of a victim of a crime as a result of a violation of any statute enacted by the Legislature pursuant to subsection 2. No such violation authorizes setting aside a conviction or sentence or continuing or postponing a criminal proceeding.

4. A person may maintain an action to compel a public officer or employee to carry out any duty required by the Legislature pursuant to subsection 2.

5. No person shall be deprived of life, liberty, or property, without due process of law.

6. Private property shall not be taken for public use without just compensation having been first made, or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterward made.

7. Except as otherwise provided in paragraphs (a) to (e), inclusive, the public uses for which private property may be taken do not include the direct or indirect transfer of any interest in the property to another private person or entity. A transfer of property taken by the exercise of eminent domain to another private person or entity is a public use in the following circumstances:

(a) The entity that took the property transfers the property to a private person or entity and the private person or entity uses the property primarily to benefit a public service, including, without limitation, a utility, railroad, public transportation project, pipeline, road, bridge, airport or facility that is owned by a governmental entity.

(b) The entity that took the property leases the property to a private person or entity that occupies an incidental part of an airport or a facility that is owned by a governmental entity and, before leasing the property:

(1) Uses its best efforts to notify the person from whom the property was taken that the property will be leased to a private person or entity that will occupy an incidental part of an airport or a facility that is owned by a governmental entity; and

(2) Provides the person from whom the property was taken with an opportunity to bid or propose on any such lease.

(c) The entity:

(1) Took the property in order to acquire property that was abandoned by the owner, abate an immediate threat to the safety of the public or remediate hazardous waste; and

(2) Grants a right of first refusal to the person from whom the property was taken that allows that person to reacquire the property on the same terms and conditions that are offered to the other private person or entity.

(d) The entity that took the property exchanges it for other property acquired or being acquired by eminent domain or under the threat of eminent domain for roadway or highway purposes, to relocate public or private structures or to avoid payment of excessive compensation or damages.

(e) The person from whom the property is taken consents to the taking.

8. In all actions in eminent domain:

(a) Before the entity that is taking property obtains possession of the property, the entity shall give to the owner of the property a copy of all appraisals of the property obtained by the entity.

(b) At the occupancy hearing, the owner of the property that is the subject of the action is entitled, at the property owner's election, to a separate and distinct determination as to whether the property is being taken for a public use.

(c) The entity that is taking property has the burden of proving that the taking is for a public use.

(d) Except as otherwise provided in this paragraph, neither the entity that is taking property nor the owner of the property is liable for the attorney's fees of the other party. This paragraph does not apply in an inverse condemnation action if the owner of the property that is the subject of the action makes a request for attorney's fees from the other party to the action.

9. Except as otherwise provided in this subsection, if a court determines that a taking of property is for public use, the taken or damaged property must be valued at its highest and best use without considering any future dedication requirements imposed by the entity that is taking the property. If property is taken primarily for a profit-making purpose, the property must be valued at the use to which the entity that is taking the property intends to put the property, if such use results in a higher value for the property.

10. In all actions in eminent domain, fair market value is the highest price, on the date of valuation, that would be agreed to by a seller, who is willing to sell on the open market and has reasonable time to find a purchaser, and a buyer, who is ready, willing and able to buy, if both the seller and the buyer had full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

11. In all actions in eminent domain, just compensation is that sum of money necessary to place the property owner in the same position monetarily as if the property had never been taken, excluding any governmental offsets except special benefits. Special benefits may only offset severance damages and may not offset the value for the property. Just compensation for the property taken by the exercise of eminent domain must include, without limitation, interest and reasonable costs and expenses, except attorney's fees, incurred by the owner of the property that is the subject of the action. The district court shall determine, in a posttrial hearing, the award of interest and award as interest the amount of money which will put the person from whom the property is taken in as good a position monetarily as if the property had not been taken. The district court shall enter an order concerning:

(a) The date on which the computation of interest will commence;

(b) The rate of interest to be used to compute the award of interest, which must not be less than the prime rate of interest plus 2 percent; and

(c) Whether the interest will be compounded annually.

12. Property taken by the exercise of eminent domain must be offered to and reverts to the person from whom the property was taken upon repayment of the original purchase price if, within 15 years after obtaining possession of the property, the entity that took the property:

(a) Fails to use the property for the public use for which the property was taken or for any public use reasonably related to the public use for which the property was taken; or

(b) Seeks to convey any right, title or interest in all or part of the property to any other person and the conveyance is not occurring pursuant to subsection 7.

➥ The entity that has taken the property does not fail to use the property under paragraph (a) if the entity has begun active planning for or design of the public use, the assembling of land in furtherance of planning for or design of the public use or construction related to the public use.

13. If any provision of subsections 7 to 12, inclusive, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or application of subsections 7 to 12, inclusive, which can be given effect without the invalid provision or application, and to this end the provisions of subsections 7 to 12, inclusive, are declared to be severable.

14. The provisions of subsections 7 to 12, inclusive, apply to an action in eminent domain that is filed on or after January 1, 2011.

And be it further

RESOLVED, That Section 22 of Article 1 of the Nevada Constitution, commonly known as the "People's Initiative to Stop the Taking of Our Land," if that section is approved and ratified by the voters at the 2008 General Election, is hereby repealed.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

PREFILED BILLS

By Assemblyman Stewart:

Assembly Bill No. 1—AN ACT relating to crimes against the public peace; prohibiting a person from engaging in a demonstration within a certain distance of the location where a funeral, memorial service or ceremony is being held; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblyman Carpenter:

Assembly Bill No. 2—AN ACT relating to public safety; requiring each officer of the Nevada Highway Patrol to complete certain training in the proper installation of a child restraint system; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblyman Manendo and Senator Hardy:

Assembly Bill No. 3—AN ACT relating to veterans' cemeteries; requiring the area immediately surrounding each plot in each veterans' cemetery in this State to be landscaped with turf grass; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblywoman McClain:

Assembly Bill No. 4—AN ACT relating to older persons; creating the Statewide Alert System for the Safe Return of Missing Older Persons; creating the Committee for the Statewide Alert System for the Safe Return of Missing Older Persons; prescribing the circumstances under which a law enforcement agency may activate the System; providing for immunity from civil liability for a broadcaster who broadcasts certain information pursuant to a notification of activation of the System; providing for immunity from

civil liability for certain persons who enter into agreements with the Committee to establish or maintain a website for the System; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Education:

Assembly Bill No. 5—AN ACT relating to education; revising provisions governing safe and respectful learning environments in public schools to include a prohibition on bullying; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 6—AN ACT relating to mental health; requiring the immediate release of certain persons admitted to mental health facilities or hospitals under the procedures for emergency admission; revising provisions relating to the process for emergency admissions of persons alleged to be persons with mental illness to certain mental health facilities; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 7—AN ACT relating to public health; making an appropriation to the Legislative Committee on Health Care for a study of certain services available for persons in the criminal justice system; making appropriations to the Division of Health Care Financing and Policy of the Department of Health and Human Services for certain programs for persons with disabilities; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 8—AN ACT relating to older persons; establishing the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons; requiring the Aging Services Division of the Department of Health and Human Services to maintain the Central Registry; providing for the release of certain information from the Central Registry to an employer or prospective employer under certain circumstances; providing immunity from civil and

criminal liability under certain circumstances for persons who release information from the Central Registry; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Bill No. 9—AN ACT relating to legislative affairs; creating the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs; prescribing the powers and duties of the Committee; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 10—AN ACT relating to health care; prohibiting certain retaliation or discrimination against registered nurses, licensed practical nurses and nursing assistants who report certain information, refuse to engage in certain conduct or participate in certain investigations or proceedings relating to the safety of patients; providing civil remedies and civil penalties for violations; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblyman Settelmeyer:

Assembly Bill No. 11—AN ACT relating to education; revising provisions governing the Governor Guinn Millennium Scholarship Program; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblywoman Gansert:

Assembly Bill No. 12—AN ACT relating to elections; revising the date of the primary election to the first Tuesday in September in each even-numbered year; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 13—AN ACT relating to education; authorizing the board of trustees of a school district to request a waiver from the required minimum expenditure for textbooks, instructional supplies and instructional hardware during an economic hardship; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Education:

Assembly Bill No. 14—AN ACT relating to education; requiring the Department of Education to adopt a model which measures the achievement of pupils from year to year; revising provisions governing the alternative criteria for receipt of a high school diploma; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblyman Manendo:

Assembly Bill No. 15—AN ACT relating to animals; requiring notice of any sterilization requirements for dogs and cats required by local ordinance to be posted in a public park and the office of each licensed veterinarian; requiring a retailer or dealer who sells a dog or cat to disclose to the purchaser any sterilization requirements for the animal required by local ordinance; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 16—AN ACT relating to emergency medical services; providing for the disclosure of certain information to an emergency response employee concerning possible exposure to an infectious disease; requiring certain notifications concerning such an exposure; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblywoman Koivisto:

Assembly Bill No. 17—AN ACT relating to crimes; increasing the penalty for stealing parts of streetlights and traffic-control devices under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 18—AN ACT relating to the Lake Tahoe Basin; authorizing the issuance of general obligation bonds to carry out a program for the protection of the Lake Tahoe Basin; extending the period for the issuance of certain bonds to carry out the program; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Education:

Assembly Bill No. 19—AN ACT relating to education; revising provisions governing the Commission on Educational Technology and the allocation of money by the Commission to school districts; making appropriations for certain educational programs and educational personnel; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 20—AN ACT relating to care facilities; requiring a licensee or applicant for a license to operate a home for individual residential care to comply with certain provisions concerning the criminal history of the licensee or applicant and any employee or independent contractor of the home; revising provisions concerning crimes which constitute grounds for the revocation, denial or suspension of a license to operate such a home or certain other agencies and facilities or the termination of their employees or independent contractors; requiring such a home to file a surety bond with the Administrator of the Health Division of the Department of Health and Human Services or deposit with a bank or trust company certain obligations as a substitute for the surety bond; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 21—AN ACT relating to motor vehicle insurance; revising provisions governing the verification of motor vehicle liability insurance policies by the Department of Motor Vehicles; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 22—AN ACT relating to trade practices; providing that certain persons who do not register with the Consumer Affairs Division of the Department of Business and Industry are engaged in a deceptive trade practice; authorizing the Commissioner of Consumer Affairs to impose a fine on persons who engage in such a deceptive trade practice; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Taxation:

Assembly Bill No. 23—AN ACT relating to state financial administration; revising provisions governing the crediting and refunding of overpayments of certain taxes and fees; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 24—AN ACT relating to industrial insurance; revising provisions relating to the duty of an insurer to accept or deny a claim for compensation; revising provisions relating to the selection of a physician or chiropractor by an injured employee; revising provisions relating to the denial of compensation due to discharge from employment for misconduct; revising provisions relating to the reopening of a claim; repealing provisions requiring the reduction of compensation by the amount of federal disability insurance benefits received by an injured employee; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 25—AN ACT relating to motor vehicles; removing the restriction on the authority of the Department of Motor Vehicles to waive certain examinations of applicants for a Nevada driver's license who are licensed in another jurisdiction but have not attained 25 years of age; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Education:

Assembly Bill No. 26—AN ACT relating to charter schools; revising the deadline for submission of an application for renewal of a written charter; revising provisions governing the exemption from annual performance audits for certain charter schools; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 27—AN ACT relating to crimes; revising the provisions governing the application of victims of identity theft for an identity theft passport; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 28—AN ACT relating to administrative hearings; revising provisions governing hearings conducted by the Department of Motor Vehicles; authorizing the taking of testimony in such hearings by telephone, videoconference or other electronic means; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Natural Resources, Agriculture, and Mining:

Assembly Bill No. 29—AN ACT relating to agriculture; authorizing the Director of the State Department of Agriculture to provide grants to nonprofit organizations from the Account for License Plates for the Promotion of Agriculture Within This State; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By the Committee on Taxation:

Assembly Bill No. 30—AN ACT relating to taxation; revising provisions governing the granting by the Commission on Economic Development of a partial abatement of certain taxes on a new or expanded business in this State; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 31—AN ACT relating to counties; authorizing boards of county commissioners to adopt procedures to sell the rights to name parks and other recreational and cultural centers owned by the county; requiring boards of county commissioners that sell such naming rights to create an enterprise fund for the park or recreational or cultural center; authorizing a board of county commissioners to provide for the imposition of a civil penalty in lieu of a criminal penalty for the violation of an ordinance concerning the licensing or regulation of businesses unless state law provides a criminal penalty for the same act or omission; revising provisions relating to the removal of graffiti from residential property; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 32—AN ACT relating to subsurface installations; providing that no government, governmental agency or political subdivision of a government may be required to identify or mark the approximate location of certain sewer service laterals; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 33—AN ACT relating to crimes; providing a specific penalty for certain subsequent convictions of battery which constitutes domestic violence without regard to the period between such convictions; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 34—AN ACT relating to prisons; authorizing a prisoner in an institution or facility of the Department of Corrections to use certain electronic communication devices under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 35—AN ACT relating to offenders; revising the procedures for determining whether to grant a petition by an offender for release from lifetime supervision; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 36—AN ACT relating to sex offenders; revising provisions pertaining to lifetime supervision of sex offenders; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By the Committee on Taxation:

Assembly Bill No. 37—AN ACT relating to state business licenses; authorizing the Department of Taxation to relieve a person from paying all or part of the penalty for the late payment of the annual fee for a state business license under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 38—AN ACT relating to sex offenders; providing that a sex offender who is under lifetime supervision must not have his civil rights automatically restored; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 39—AN ACT relating to the City of North Las Vegas; revising the provisions governing primary municipal elections; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 40—AN ACT relating to school facilities; revising provisions governing the review and approval of plans for the construction or

alteration of school buildings in certain school districts; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Bill No. 41—AN ACT relating to elections; making various changes concerning voter registration and voting procedures for certain members of the Armed Forces of the United States and their family members and certain other voters who reside outside the United States; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 42—AN ACT relating to the Office of the Attorney General; authorizing, under certain circumstances, certain officers of the Medical Fraud Control Unit within the Office of the Attorney General to issue a subpoena to obtain certain records and materials; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 43—AN ACT relating to civil actions; revising provisions prohibiting discrimination in employment, housing and public accommodations; tolling certain actions if a complaint alleging a violation of certain provisions relating to real property is filed with the Nevada Equal Rights Commission; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 44—AN ACT relating to local financial administration; revising the conditions under which a local government may use the money in a fund that it has established to stabilize the operation of the local government; increasing the maximum balance that a local government may keep in the fund; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 45—AN ACT relating to public defenders; authorizing the creation and discontinuation of county public defender offices; requiring the State to reimburse counties for expenditures made in providing defense services to indigent persons; requiring the State Public Defender to establish branch offices in counties that do not have a county public defender office; requiring, under certain circumstances, that the State Public Defender provide defense services to indigent persons in counties with a county public defender office; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 46—AN ACT relating to firearms; requiring a court to transmit certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; establishing procedures for those persons to petition a court to regain certain rights relating to the purchase or possession of a firearm; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 47—AN ACT relating to specialty courts; revising provisions relating to programs for the treatment of mental illness or mental retardation; revising provisions relating to programs of treatment for the abuse of alcohol or drugs; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 48—AN ACT relating to public works; allowing a public body to resolve a dispute arising between the public body and the contractor engaged on a public work by way of processes other than arbitration; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 49—AN ACT relating to counties; authorizing a board of county commissioners to provide for the imposition of a civil penalty in lieu of a criminal penalty for the violation of an ordinance concerning the licensing or regulation of businesses unless state law provides a criminal penalty for the same act or omission; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 50—AN ACT relating to crimes against the public peace; prohibiting a person from engaging in a demonstration within a certain distance of the location where a funeral, memorial service or ceremony is being held; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 51—AN ACT relating to county government; authorizing a board of county commissioners to adopt an ordinance to impose a fee for the conduct of certain activities that disrupt vehicular or pedestrian traffic on or within public roads, median strips, sidewalks and rights-of-way; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 52—AN ACT relating to health care; requiring hospitals in certain larger counties to provide certain types of emergency services and care; providing an exception if a hospital has entered into a written agreement with another hospital for the transfer and treatment of patients; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 53—AN ACT relating to automotive repairs; prohibiting a body shop or garageman from paying or offering to pay the operator of a tow car compensation of any kind for towing a motor vehicle to the body shop or garage or inducing a person to have his motor vehicle towed to the body shop or garage; providing penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 54—AN ACT relating to counties; authorizing certain counties to require that certain owners and occupants of property connect to a public water or sewer system; authorizing a board of county commissioners in such a county to establish a program to provide financial assistance to such persons; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 55—AN ACT relating to education; creating the Public Education Stabilization Fund; prescribing the circumstances under which money may be allocated from the Fund; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Education:

Assembly Bill No. 56—AN ACT relating to education; revising provisions governing the use of physical restraint and mechanical restraint on pupils with disabilities; revising provisions relating to reports of the use of restraints and reports of violations; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 57—AN ACT relating to insurance; creating restrictions on access to certain law enforcement reports; prohibiting payments for the solicitation of an accident victim on behalf of a legal or health care practitioner to obtain the proceeds of an insurance claim; providing penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywoman Koivisto:

Assembly Bill No. 58—AN ACT relating to real property; requiring a landlord to provide certain information to a tenant concerning charges by the landlord for services provided by a public utility; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 59—AN ACT relating to child custody; creating a rebuttable presumption against an award of custody or unsupervised visitation for a person who has committed an act of abduction against a child; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 60—AN ACT relating to public financial administration; eliminating certain requirements pertaining to the sale and liquidation of certain securities; authorizing the State Treasurer to deposit state money in out-of-state financial institutions under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 61—AN ACT relating to criminal procedure; requiring the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his designee to notify certain victims of crime of the discharge, conditional release or escape of certain persons from the custody of the Administrator; requiring courts to inform certain persons of their right to such notification; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 62—AN ACT relating to do-not-resuscitate orders; requiring the State Board of Health to prescribe the form and content of a do-not-resuscitate order for each county whose population is less than 400,000; requiring the district board of health to prescribe the form and content of a do-not-resuscitate order for a county whose population is 400,000 or more; providing that a do-not-resuscitate order issued by a physician in this State is valid only if the order is on a form approved by the State Board of Health or the district board of health; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 63—AN ACT relating to justice courts; authorizing the appointment of masters in justice courts under certain circumstances; revising provisions relating to the use of referees in justice courts; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 64—AN ACT relating to courts; increasing the number of district judges in the Second and Eighth Judicial Districts; increasing the number of district judges in the Eighth Judicial District who must be judges of the family court; making an appropriation; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 65—AN ACT relating to courts; providing for the collection and disposition of additional court fees; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 66—AN ACT relating to cities; authorizing the governing body of a city to adopt an ordinance requiring that the owner of a vacant dwelling or building register with the city, post signs and maintain

liability insurance; authorizing the governing body to impose a fee for such registration; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 67—AN ACT relating to the financial administration of counties; authorizing boards of county commissioners to levy an ad valorem tax to pay the costs of public safety, health and welfare services; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Concurrent Committees on Government Affairs and Taxation.

Motion carried.

By Assemblyman Stewart:

Assembly Bill No. 68—AN ACT relating to vital statistics; providing for the issuance of a certificate of birth resulting in stillbirth upon the request of a parent of a stillborn child; prohibiting the use of a certificate of birth resulting in stillbirth for certain purposes; authorizing the State Board of Health to adopt regulations concerning a certificate of birth resulting in stillbirth; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Natural Resources, Agriculture, and Mining:

Assembly Bill No. 69—AN ACT relating to nursery stock; requiring a person who engages in the commercial supplying of nursery stock to obtain a license from the Director of the State Department of Agriculture; exempting a retail florist or other person who sells cut flowers but does not sell nursery stock from the requirement to obtain such a license; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblyman Stewart:

Assembly Bill No. 70—AN ACT relating to governmental administration; pledging the support of the Legislature to ensure that English is preserved as the common language of this State; designating English as the official language of the State of Nevada; requiring that certain proceedings and records of this State be in English; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 71—AN ACT relating to real property; requiring the Real Estate Division of the Department of Business and Industry to keep confidential certain records and information obtained by the Division in regulating the sale of subdivided land; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Taxation:

Assembly Bill No. 72—AN ACT relating to alcoholic beverage awareness programs; eliminating the Alcoholic Beverage Awareness Program Account; providing that all money collected from the imposition of certain fines must be deposited with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By the Committee on Natural Resources, Agriculture, and Mining:

Assembly Bill No. 73—AN ACT relating to watercraft; revising the requirements for the operation of a vessel towing a person; deleting provisions governing certain equipment required on certain motorboats; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 74—AN ACT relating to land use planning; revising provisions governing the presentation of a final map of certain subdivisions of land; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Natural Resources, Agriculture, and Mining:

Assembly Bill No. 75—AN ACT relating to forestry; requiring the State Forester Firewarden to submit an annual report concerning fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin to the Governor, the Legislature, the Nevada Congressional Delegation and the

Tahoe Regional Planning Agency; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 76—AN ACT relating to the protection of children; exempting certain relatives from licensure as foster care providers as a condition to placing a child in their custody in certain circumstances; revising provisions governing the background check required for obtaining a license as a foster care provider and for placing a child who is in the custody of an agency which provides child welfare services in a home in an emergency situation; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Natural Resources, Agriculture, and Mining:

Assembly Bill No. 77—AN ACT relating to wildlife; making it unlawful to possess any wildlife that is taken, possessed or sold in violation of a law or regulation of another state or territory or of the United States, an Indian tribe or a foreign country; increasing the civil penalties for unlawfully killing or possessing certain big game mammals or for allowing a game bird, game mammal or game fish to go to waste in the field; amending certain other civil penalties relating to wildlife; authorizing the revocation of permits and privileges for the violation of certain provisions; providing penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 78—AN ACT relating to offenders; requiring the State Forester Firewarden to establish and carry out a program for operating conservation camps which use offenders; authorizing the State Forester Firewarden to enter into contracts and cooperative agreements to carry out the program; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Bill No. 79—AN ACT relating to city elections; authorizing the governing body of a city to conduct a city election in which all ballots must

be cast by mail under certain circumstances; providing that a candidate who receives a majority of votes cast in a city primary election must be declared elected; revising provisions concerning requests for an absent ballot; requiring that the voting results of a city election be posted on the Internet under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 80—AN ACT relating to excavations; setting forth the duties of an operator of a sewer main with respect to a sewer service lateral connected to that sewer main; revising provisions relating to the operators of subsurface installations; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 81—AN ACT relating to public safety; revising provisions relating to the information the Central Repository for Nevada Records of Criminal History is required to disseminate to a licensing agency and to a prospective or current employer and the purposes for which such information may be considered; repealing the provisions requiring the Director of the Department of Public Safety to establish a program to compile and analyze data concerning the recidivism of offenders who commit sexual offenses; repealing the provisions creating the Repository for Information Concerning Missing Persons within the Central Repository; making various other changes relating to the powers and duties of the Central Repository; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Bill No. 82—AN ACT relating to elections; making various changes relating to the administration and conduct of elections; providing penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 83—AN ACT relating to the protection of children; making various changes concerning the reporting and investigation of allegations of child abuse and neglect; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 84—AN ACT relating to unemployment compensation; establishing provisions for the collection of benefits required to be repaid to the Employment Security Division of the Department of Employment, Training and Rehabilitation; establishing a penalty for fraudulently obtaining unemployment benefits under certain circumstances; revising provisions relating to the authorized use of money in the Employment Security Fund by the Administrator of the Division; providing penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 85—AN ACT relating to public safety; revising the applicability of certain restrictions regarding residency imposed on a person who is convicted of a sexual offense; revising certain definitions relating to sex offenders; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 86—AN ACT relating to local government financial administration; providing general authority for a local government to impose a new tax or fee or increase an existing tax or fee for any purpose upon voter approval; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 87—AN ACT relating to state administration; revising the provisions governing the collection of certain debts owed to state agencies; revising certain provisions relating to the applicability of certain statutes of limitation to actions brought by or on behalf of the State; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 88—AN ACT relating to sexual offenses; establishing a civil remedy for a person who was a victim of a sexual offense which was used to promote child pornography; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 89—AN ACT relating to the protection of children; making various changes concerning the investigation of applicants for a license to operate a child care facility, licensees and others over whom applicants or licensees exercise some control; requiring applicants and licensees to terminate certain employees and remove certain residents and participants in outdoor youth programs who have been convicted of certain crimes or who have had a substantiated report of child abuse or neglect made against them; expanding the grounds for denying a license and for taking other disciplinary action against a licensee; authorizing the imposition of administrative fines for violations of certain laws and regulations concerning licensure of child care facilities; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 90—AN ACT relating to deceptive trade practices; requiring that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances; authorizing the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states; allowing the Attorney General to bring a civil action against a person engaging in certain deceptive trade practices; revising definitions relating to telecommunication services; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 91—AN ACT relating to the State Treasurer; revising the authority of the State Treasurer to invest money held in certain trust funds; authorizing the State Treasurer to create a nonprofit corporation to purchase and collect tobacco proceeds; defining the term "tobacco proceeds"; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 92—AN ACT relating to the judiciary; revising the provisions governing the benefits of a retired justice or judge; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 93—AN ACT relating to crimes; revising the definition of the crime of assault; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 94—AN ACT relating to redevelopment; eliminating the prohibition on the creation of certain tourism improvement districts; extending the maximum duration of certain redevelopment plans adopted with respect to larger cities in certain counties; clarifying that a redevelopment agency has the authority to make certain loans; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 95—AN ACT relating to unfair trade practices; revising the conduct to which the Nevada Unfair Trade Practice Act applies; revising the relief that the Attorney General may seek for violations of the Nevada Unfair Trade Practice Act; requiring that information received or shared in cooperation with the Federal Government or other states be kept confidential in certain circumstances; permitting the Attorney General to bring a civil action for violation of the Nevada Unfair Trade Practice Act or federal antitrust statutes on behalf of the State, its agencies, political subdivisions, districts or municipal corporations; increasing the amount of

money that may be kept in the Attorney General's Special Fund; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Education:

Assembly Bill No. 96—AN ACT relating to education; clarifying eligibility for and the administration of Millennium Scholarships for students who are enrolled in more than one eligible institution; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 97—AN ACT relating to governmental financial administration; requiring the establishment by regulation of procedures for transferring governmental functions between and among local governments; requiring the establishment by regulation of procedures for transferring governmental functions between and among local governments and state agencies; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Taxation:

Assembly Bill No. 98—AN ACT relating to counties; requiring certain county fair and recreation boards to remit unobligated room tax revenues attributable to new transient lodging to the city within which the new units of lodging are located; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 99—AN ACT relating to public safety; providing for an increased penalty for crimes committed against participants in the legal process; prohibiting a person from making public certain restricted information concerning a participant in the legal process or his immediate family under certain circumstances; prohibiting a person from filing a false lien against the real or personal property of a participant in the legal process; revising provisions prohibiting threats or intimidation addressed at certain persons to include a participant in the legal process; providing that murder committed to avoid or prevent the lawful execution of the official duties of a participant in the legal process is murder in the first degree; making murder

committed with the intent to intimidate or retaliate against a participant in the legal process an aggravating circumstance for purposes of the death penalty; authorizing judges to obtain fictitious addresses for certain public purposes; making various other changes relating to participants in the legal process; providing penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Education:

Assembly Bill No. 100—AN ACT relating to education; revising the duties of the Deputy Superintendent for Administrative and Fiscal Services in the Department of Education relating to charter schools; revising provisions governing charter schools and university schools for profoundly gifted pupils; revising provisions governing the annual reports of school districts and charter schools; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 101—AN ACT relating to the support of children; requiring certain counties to participate fully in the Program for the Enforcement of Child Support; authorizing other counties to participate in the Program; requiring each county that participates in the Program to pay the cost of the Program in that county; revising certain provisions governing the administration and enforcement of the Program; deleting provisions relating to the placement and confidentiality of certain records concerning the support of a dependent child; requiring a district court to review, on the record, certain recommendations of a master; revising provisions governing the failure of an employer to deliver money that is withheld from the income of an employee for child support; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 102—AN ACT relating to public health; authorizing a court to establish a program of treatment for problem gambling and to assign a person to the program; authorizing a problem gambler to elect to be assigned to such a program under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblywoman Leslie:

Assembly Bill No. 103—AN ACT relating to children; requiring the Legislative Auditor to conduct performance audits of governmental facilities for children as directed by the Legislative Commission; requiring the Legislative Auditor or his designee to inspect, review and survey governmental facilities for children and private facilities for children to determine whether such facilities adequately protect the health, safety and welfare of the children in the facilities; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblywoman Parnell:

Assembly Bill No. 104—AN ACT relating to bail; revising the provisions governing the failure to appear in court for the commission of certain misdemeanor traffic offenses; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblywoman Gansert:

Assembly Bill No. 105—AN ACT relating to criminal procedure; providing that a defendant convicted of certain offenses must submit a specimen for genetic marker testing without a court ordering him to do so; authorizing a board of county commissioners to accept gifts, grants and donations for the county's fund for genetic marker testing; revising the purposes for which a forensic laboratory that receives money from a fund for genetic marker testing may use the money; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 106—AN ACT relating to nursing; providing for the certification by the State Board of Nursing of nursing assistants as certified medication aides; authorizing a certified medication aide to possess and administer certain drugs and medications to patients in certain medical facilities; authorizing the Board to establish certain fees and charges; prohibiting certain acts relating to certified medication aides; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblyman Oceguera:

Assembly Bill No. 107—AN ACT relating to public health; creating the Advisory Committee for the Prevention and Treatment of Stroke within the Health Division of the Department of Health and Human Services; prescribing the duties of the Committee; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 108—AN ACT relating to common-interest communities; requiring the executive board of an association for a common-interest community to include certain information in the budget for the daily operation of the association; establishing certain standards for management agreements; establishing the duties, responsibilities and standards of practice for community managers; making various other changes pertaining to community managers; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 109—AN ACT relating to motor vehicles; authorizing the Department of Motor Vehicles to issue certain special license plates for use on motorcycles; prescribing the fees for special license plates for use on vehicles other than passenger cars and light commercial vehicles; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 110—AN ACT relating to the Commission on Special License Plates; providing for the payment of certain compensation to members of the Commission; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 111—AN ACT relating to public health; requiring a licensed facility for the dependent, medical facility or home for individual residential care to obtain an endorsement on the license if the facility or home offers housing for independent living; prohibiting certain residential

facilities for groups and homes for individual residential care from providing accommodations to certain persons; providing penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 112—AN ACT relating to public health; requiring the Governor to declare a public health emergency if there is an immediate threat to the health and safety of the public; creating the Committee on Public Health Emergencies; prescribing the powers and duties of the Committee; establishing provisions for responding to and resolving public health emergencies; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblyman Hogan:

Assembly Bill No. 113—AN ACT relating to prescription drugs; revising provisions relating to the information specified on the label of the container for a prescription drug; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 114—AN ACT relating to victims of crime; extending the time to appeal the denial of a claim for compensation to a victim of crime; providing for balances to remain within the Fund for the Compensation of Victims of Crime; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblyman Cobb:

Assembly Bill No. 115—AN ACT relating to trade regulations and practices; revising provisions governing the State's system for the registration and protection of trademarks, trade names and service marks; making various changes regarding administration of the system by the Secretary of State; authorizing the Secretary of State to prescribe certain fees; prohibiting certain misleading and deceptive practices; providing remedies and penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblyman Carpenter:

Assembly Bill No. 116—AN ACT relating to crimes; requiring a law enforcement agency and juvenile court to provide certain requested investigative and police reports within a specific period; excluding contributory conduct of a victim of domestic violence or sexual assault from consideration in certain determinations of compensation to the victim; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 117—AN ACT relating to convicted persons; providing that certain persons participating in a hearing concerning clemency or parole who speak a language other than English and do not know the English language are entitled to the services of an interpreter at public expense; revising provisions governing the mandatory parole of certain prisoners; making various other changes relating to parole hearings; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblyman Carpenter:

Assembly Bill No. 118—AN ACT relating to associations of self-insured employers; revising the type of financial statement that proposed members of an association must provide with an application for certification; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywoman Leslie:

Assembly Bill No. 119—AN ACT relating to planning; requiring the comprehensive regional plan in certain counties to include provisions concerning the identification and sustainability of certain supplies of water; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 120—AN ACT relating to protective orders; authorizing a victim of a sexual assault to seek a protective order against the person who allegedly committed the sexual assault; establishing procedures for obtaining such orders; providing penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblywoman Koivisto:

Assembly Bill No. 121—AN ACT relating to health care facilities; requiring certain health care facilities that employ nurses to establish a staffing plan and to provide adequate staffing; requiring the maintenance of certain records concerning statistics relating to patients and staffing; requiring such a health care facility to establish policies pursuant to which a direct care nurse may refuse a work assignment; requiring public disclosure of certain information relating to a staffing plan; providing administrative and criminal penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 122—AN ACT relating to the Office for Consumer Health Assistance; expanding the definition of "consumer" to include more situations in which assistance may be rendered; expanding the authority of the Director of the Office for Consumer Health Assistance to adopt necessary regulations; making various other changes relating to the Office for Consumer Health Assistance; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 123—AN ACT relating to public health; requiring offices of physicians and related facilities to obtain a permit and national accreditation before providing certain services involving anesthesia and sedation; requiring surgical centers for ambulatory patients to obtain national accreditation; requiring annual inspections of such offices, facilities and surgical centers; requiring that copies of reports relating to the use of anesthesia and sedation by physicians be submitted to the Health Division of the Department of Health and Human Services; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblyman Grady:

Assembly Bill No. 124—AN ACT relating to unemployment compensation; revising provisions relating to certain agricultural labor as employment; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywoman Gansert:

Assembly Bill No. 125—AN ACT relating to public health; requiring surgical centers for ambulatory patients to obtain accreditation by a nationally recognized accrediting organization approved by the State Board of Health; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblyman Grady (by request):

Assembly Bill No. 126—AN ACT relating to crimes; revising provisions relating to the designation of an attendant during certain criminal proceedings; revising provisions relating to the registration of sex offenders and offenders convicted of a crime against a child and the community notification of sex offenders; revising the provisions providing for the confidentiality of records and reports that reveal identity in cases involving certain sexual offenses; revising the provisions relating to the reporting of certain sexual offenses; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblyman McArthur:

Assembly Bill No. 127—AN ACT relating to motor vehicles; requiring a certain pro rata refund for the cancellation of the registration of a vehicle owned by a member of the Armed Forces of the United States who is assigned to serve abroad on active duty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblyman Hogan:

Assembly Bill No. 128—AN ACT relating to elections; revising provisions relating to the reporting of campaign contributions and expenditures; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the action whereby Assembly Bill No. 66 was referred to the Committee on Judiciary be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 66 be referred to the Committee on Government Affairs.

Motion carried.

Assemblyman Oceguera moved that the action whereby Assembly Bill No. 64 was referred to the Committee on Ways and Means be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 64 be referred to the Concurrent Committees on Judiciary and Ways and Means.

Motion carried.

Assemblyman Oceguera moved that the action whereby Assembly Bill No. 45 was referred to the Committee on Government Affairs be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 45 be referred to the Committee on Judiciary.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 2, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 1.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 1.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, bill considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Remarks by Assemblyman Oceguera.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 1.

Bill read third time.

Remarks by Assemblyman Oceguera.

Roll call on Senate Bill No. 1:

YEAS—42.

NAYS—None.

Senate Bill No. 1 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Aizley, the privilege of the floor of the Assembly Chamber for this day was extended to Mary Phillips, Malia Taylor Elliott, Holly Nicole Phillips, Spencer Raymond Elliott, Brooke Noel Phillips, Janice Banta, and Roger Banta.

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Ed Anderson, Lani Anderson, Eddie Anderson, Kelly Gardner, Rick Gardner, Michael Gardner, Whitney Gardner, Nancy Gardner, Clyda Anderson, Natha Clyde Anderson, Connor Eric Lindloff, Teague Richard Lindloff, and Cairn Lindloff.

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Jim Beasley, Juan Devarreau, Virgie Vincent, and Fabian Vincent.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Haley Atkinson, Bernice Atkinson, Kay Atkinson, Godist Corhn, Sherwood Howard, Taydra Heath, Julious Heath, and De-sha Hill.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Taylor Anderson, Ashley Massey, and Matt Dickson.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Aiden Kendrick, Edith Buckley, Tina Prieta, Julian Prieta, and Candace Ruisi.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Sherry LaGier and Deacon Craig LaGier.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Reed Christensen and Mark Sprinkle.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Carol Claborn and Shelly Hogan.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Dianne O'Conner, Jennifer Baker, Elizabeth Eva Cobb, Suellen Cobb, and Paul Jackson.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Mijanne Conklin, Anita Conklin, Carl Conklin, and Adrian Vaiesque.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Diana Gale, Kylle Gale, Armando Denis, David Cook, Susan Denis, Dallin Denis, Denae Denis, Daniel Denis, Diana Gale, and David Cook.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Mari Germain, Jim Germain, Thomas Pedro, Owen Sherwood, Mike Dondero, Rob Dondero, Judy Habbeshaw, Thalia Dondero, Lindsey Loop, Amy Loop, Rylie Kokoski, Michael Douglas, and Ron Parraguirre.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Guy Gansert, MacKenzie Gansert, Kirsten Gansert, Glenn Gansert, and Hank Gansert.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Jonathan Cockroft and Valerie Osgood.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Sean Cordes, Taylen Cordes, Cady Cordes, Jace Harmon, Addyson Harmon, Pat Grady, Gary Cordes, Tina Cordes, Paul Harmon, Tami Harmon, Tim Grady, Tanya Grady, Mackie Grady, and Maddie Grady.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Don V. Gustavson, former Assemblywoman Sharron Angle, Dan Madison, and Diane Madison.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Nancy Hambrick, Laura Sullivan, Mark Sullivan, and Ted Weiss.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Jill Hardy.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to Sandy Hogan, Kaye Rosso, and Randy Rosso.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Mary Jackson Horne, Chloe Horne, and Henry Horne.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Claritssa Sanchez, Blanca Kihuen, Armando Kihuen, and Dionny Fonseca.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Sarah Kirkpatrick, Tara Kirkpatrick, Jessica Kirkpatrick, Michael Kirkpatrick, and Jessica Ramirez.

On request of Assemblywoman Koivisto, the privilege of the floor of the Assembly Chamber for this day was extended to Victor Koivisto, Sr., Victor Koivisto, Jr., Kristina Koivisto, Patrick Guinan, Terry Horgan, Jackie Valley, Victor Koivisto III, Evan Fitzpatrick, Madeline Koivisto, Kenneth Fitzpatrick, Emily Fitzpatrick, and Kristi Koivisto.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Robin Reddle.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Dan Mastroluca, Kelsey Mastroluca, Nicholas Mastroluca, Debra Fritz, Stacey Wedding, Jeff Wedding, and Heather Szczepanski.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Trish McArthur, Bob McArthur, Susie McArthur, Betty Anne McArthur, and Nancy Illig.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Elliott Anderson, Justin Katz, and Rebecca Katz.

On request of Assemblyman Mortenson, the privilege of the floor of the Assembly Chamber for this day was extended to Helen Mortenson and Judie Fisher.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Patty Manning.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Eileen Montgomery, Chris Hansen, Karen Hansen, and Nancy M. Saitta.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Frank Daykin, former Assemblywoman Genie Ohrenschall, Michael DeLee, and Ashleigh Kreider.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Konnie McGruder, Dee Rose, and Helaine Jesse.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblywoman Gene Segerblom, Eva Segerglom, Mary Clare Day, and Madeleine Day.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Sherese Settelmeyer and Caitlyn Settelmeyer.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Christopher Beucherie, Bruce Bilbrey, Brad Stone, Xiomara Rodriguez, Alice Drengsen, Olivia Bouch, Aanika Bouch, Laureen Garcia, Emma Bouch, Anetta Wood, Greg Smith, Louise Smith, David Bilbrey, and Ann Marie Bilbrey.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to William Spiegel, Roslyn Barre, Elizabeth Trosper, and Cindy Southerland.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Dianne Stewart, Diane Jackson, Jessica Truman, Leo Seevers, and Diane Seevers.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to Ashley Peel, Jordan Peel, Bruce Woodbury, Rose Woodbury, and Chris Salerno.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, February 3, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 3:17 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SECOND DAY

CARSON CITY (Tuesday), February 3, 2009

Assembly called to order at 11:06 a.m.
Madam Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, Reverend Bruce Henderson.

Lord, we thank You for yet another day and these legislators who have come from near and from far. Today is our first Tuesday. Mother Goose taught us that Tuesday's child is full of grace. Well, that's indeed what we need to serve our people this year. With the current situations around us, we need nothing less than Your grace and mercy and favor to do our job. Please bless us with such. We pray gratefully in the Name of the Giver of all Good Gifts.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 2, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 1.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SPECIAL ORDERS OF THE DAY

The hour of 11:10 a.m. having arrived, vetoed Assembly Bill No. 396 of the 74th Session was considered.

Vetoed Assembly Bill No. 396 of the 74th Session.
Governor's message stating his objections read.
Bill read.

OFFICE OF THE GOVERNOR
JIM GIBBONS

June 15, 2007

The Honorable Ross Miller, *SECRETARY OF STATE*, CAPITOL BUILDING, 101 NORTH CARSON STREET, CARSON CITY, NEVADA 89701

RE: Assembly Bill 396 of the 74th Legislative Session

DEAR SECRETARY MILLER,

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 396 of the 74th Legislative Session, which is entitled:

AN ACT relating to common-interest communities; revising provisions governing restrictions on the use of systems for obtaining solar or wind energy; requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; revising the provisions governing the regulation of certain streets in common-interest communities; revising provisions concerning voting rights exercised by delegates or representatives; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; providing that a foreclosure on a unit is subject to an equity or right of redemption; providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; requiring applicants for a certificate for the management of a common-interest community to post certain bonds; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto.

This bill makes a variety of sweeping changes to common-interest communities.

Some aspects of this bill represent good public policy. Other aspects, however, could have unintended and unanticipated impacts on common-interest communities and those who live within those communities, including the possibility of increased assessments and the possibility of dramatic changes to common-areas without an opportunity for homeowners to participate. Furthermore, the concerning aspects of this bill were the result of substantive amendments at the close of session. The late date of the amendments prevented any opportunity for full hearings on the final version of this bill. I encourage the Legislature to hold such hearings during the next regular session in 2009, and to carefully consider the full impact of all aspects of this bill. For all of these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 396.

Sincerely
JIM GIBBONS
Governor

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Anderson, Gansert and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. Assembly Bill 396, which is a product of the Assembly Judiciary Committee, was overridden by the Governor. As already indicated, the bill draft contained various issues related to common-interest communities and was amended several times during the session. There are numerous bill drafts from members of this body already, some of which I consider to be very, very important, which the Judiciary Committee will take up. I will consider them, and they will be in front of this body. Therefore, the Assembly does not need to override the Governor's veto. I believe the Governor's veto should be sustained.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. Just a clarification. To sustain the veto, we vote "no," which is the red button our desks. There was some confusion earlier.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

"No" is red. An "aye" vote overrides and a "no" vote sustains the veto. Okay? Any questions or further comments?

The roll was called, and the Assembly sustained the veto of the Governor by the following vote:

YEAS—None.

NAYS—Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, Woodbury—42.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Gene Segerblom.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Armando Denis.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, February 4, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:16 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE THIRD DAY

CARSON CITY (Wednesday), February 4, 2009

Assembly called to order at 11:17 a.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present except Assemblyman Segerblom, who was excused.

Prayer by the Chaplain, Reverend Bruce Henderson.

Father, Wednesday's child may be full of woe, but we ask to be filled with joy and hope. May the problems around us be solvable. We ask for Your wisdom. We ask for Your presence. We pray confidently in the name of the One who said, "I am with you always."

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

COMMUNICATIONS

UNITED STATES SENATE
WASHINGTON, D.C. 20510-7012

January 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker*, State of Nevada Assembly, Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747

DEAR SPEAKER BUCKLEY:

I am writing to request the honor of speaking before both houses of the Nevada State Legislature at 12 noon on Wednesday, February 18, 2009.

My Reno office will be coordinating the details of my visit. Please call Mary Conelly at 775-686-5750 if you have any questions.

Thank you for your kind consideration.

With all best wishes,

Sincerely,

HARRY REID
Majority Leader
United States Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that CITYLIFE: Stephen A. Sebelius; LAS VEGAS SUN: John (Sam) Morris, Cy Ryan; NEVADA APPEAL: David Frank; NEVADA PRESS ASSOCIATION: Kevin Clifford; NEWS CARSONCITY.COM/18 NEWS: CARSON CITY: David D. Morgan; RENO GAZETTE-JOURNAL: Lisa Tolda; UNIVISION CHANNEL 41: Anya J. Arechiga, Martha Torres be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly Chambers and that they be allowed use of appropriate broadcasting facilities.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Conklin, Anderson, Oceguera, Dondero Loop, Grady, Horne, Kirkpatrick, Mortenson, Ohrenschall and Parnell:

Assembly Bill No. 129—AN ACT relating to common-interest communities; providing that the provisions governing common-interest communities do not modify the tariffs, rules and standards of a public utility; requiring the governing documents of an association to be consistent with the tariffs, rules and standards of a public utility; prohibiting an association from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Conklin, Kirkpatrick and Oceguera:

Assembly Bill No. 130—AN ACT relating to labor; revising provisions governing the approval by a metropolitan police department of negotiated agreements under the Local Government Employee-Management Relations Act; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 131—AN ACT relating to contractors; specifying certain agreements to which provisions relating to payments to contractors do not apply; authorizing a higher-tiered contractor to use money due a lower-tiered subcontractor to offset a debt in certain circumstances; revising the time within which a contractor must perform certain actions after receiving a payment; prohibiting an owner from conditioning payment to a prime contractor on receiving certain lien releases; revising certain time periods relating to a request for a change order; revising provisions relating to the payment of a prime contractor after a work of improvement is available for use or occupancy; revising provisions relating to certain notices by contractors; prohibiting a higher-tiered contractor from conditioning payment to a lower-tiered subcontractor on receiving certain lien releases; prohibiting lower-tiered subcontractors from recovering against higher-tiered contractors in certain circumstances; allowing interest to accrue on retention amounts in certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Conklin, Anderson, Kirkpatrick and Oceguera:

Assembly Bill No. 132—AN ACT relating to property; revising certain provisions relating to an award of damages in an action for forcible or unlawful entry or detention of real property; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Conklin, Dondero Loop, Anderson, Grady, Mortenson, Oceguera, Ohrenschall and Parnell:

Assembly Bill No. 133—AN ACT relating to escrows; establishing provisions concerning the disbursement of escrow money; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 134—AN ACT relating to education; making an appropriation to the Greater Las Vegas After-School All-Stars for the implementation and operation of certain after-school programs; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 135—AN ACT relating to state obligations; requiring the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Mike Bumgartner.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Heather Kydd.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, February 6, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:30 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FIFTH DAY

CARSON CITY (Friday), February 6, 2009

Assembly called to order at 11:06 a.m.
Madam Speaker presiding.
Roll called.
All present except Assemblyman Arberry, who was excused.
Prayer by the Chaplain, Reverend Bruce Henderson.

We thank God it's Friday! Lord, we pray for rest and renewal and refreshing on this, our first weekend. Like Friday's child, we, too, ask to be loving and giving. We pray in the Name of the Greatest Lover and Giver. And, oh yes, Lord, as we wear red today, we ask for help and public awareness for heart disease as well as other catastrophic ailments. Thank You.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.
Motion carried.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.
Motion carried.

Assembly in recess at 11:11 a.m.

ASSEMBLY IN SESSION

At 11:17 a.m.
Madam Speaker presiding.
Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Parnell, McClain, Anderson, Smith, Hardy, Denis, Koivisto, and Mastroluca; Senators Lee, Wiener, Carlton, and Amodei:

Assembly Bill No. 136—AN ACT relating to public health; establishing the State Program for Oral Health; creating the Advisory Committee on the State Program for Oral Health; authorizing the Health Division of the Department of Health and Human Services to apply for and accept grants and other money and adopt regulations to carry out the Program; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.
Motion carried.

By Assemblyman Hardy:

Assembly Bill No. 137—AN ACT relating to public health; authorizing the University of Nevada School of Medicine to designate certain branch laboratories of the State Hygienic Laboratory; and providing other matters properly relating thereto.

Assemblyman Hardy moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblymen Anderson, Kihuen, Buckley, Carpenter, Conklin, Dondero Loop, Hambrick, Horne, Manendo, Mortenson, Oceguera and Segerblom:

Assembly Bill No. 138—AN ACT relating to railroads; providing that no railroad train may be operated without at least two qualified employees; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 139—AN ACT relating to housing; requiring the Housing Division of the Department of Business and Industry to create and maintain a statewide low-income housing database; requiring certain owners of residential housing units to report to the Office of Disability Services of the Department of Health and Human Services information concerning each unit of housing that is available and suitable for use by a person with a disability; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 140—AN ACT relating to real property; creating the Office of the Ombudsman for Foreclosures; revising provisions relating to a notice of sale of real property under execution; establishing the crime of defacing a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale; establishing rights and duties of a purchaser of real property pursuant to a foreclosure sale and establishing rights and duties of a tenant in possession of such property; revising provisions relating to a sale of real property pursuant to a trustee's power of sale; requiring a landlord to make certain disclosures to a prospective tenant; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 141—AN ACT relating to mortgage lending; establishing a recovery fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolution No. 1; Assembly Resolutions Nos. 1, 2, 3; Senate Bill No. 1.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Mike Sprinkle.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, February 9, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:24 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE EIGHTH DAY

CARSON CITY (Monday), February 9, 2009

Assembly called to order at 11:14 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Arberry, Carpenter, and Cobb, who were excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

Lord, Who has given Your servants diversities of gifts, bless all who love and serve humanity. May this time of change help us remember the importance of making Your priorities our own. Lord, give wisdom and strength to our lawmakers as they seek to build bridges of consensus for the good of our land. Strengthen them with the assurance that the purposes of Your providence will prevail. Light up their small duties and routine chores with the knowledge that glory can reside in the common task. Reward them with Your peace and joy.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that CNN/COX: Steve Schorr; COVEREDGE: James L. Parker, William G. Pearce, Jr., Kevin Ross; KOLO-TV RENO: Robert Ray Kinney, Ed Pearce; KRNV-TV: Jack Bowe; KTVN-TV: Bill Brown; THE NEVADA OBSERVER: Dennis M. Locke be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly Chamber and that they be allowed use of appropriate broadcasting facilities.

Motion carried.

By the Committee on Education:

Assembly Concurrent Resolution No. 2—Directing the Legislative Commission to conduct an interim study concerning the governance and oversight of the system of K-12 public education in this State.

Assemblywoman Parnell moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblyman Hogan:

Assembly Bill No. 142—AN ACT relating to affordable housing; authorizing the creation of affordable housing districts in certain counties; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Hogan, McClain, Koivisto, Denis, and Pierce:

Assembly Bill No. 143—AN ACT relating to housing authorities; providing for judicial review of decisions to deny housing applications and certain other decisions of a housing authority; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Hogan, McClain, Koivisto, and Pierce:

Assembly Bill No. 144—AN ACT relating to real property; requiring certain annual or biennial examinations of mortgage brokers to include reviews of various written appraisals and other similar information; revising requirements which relate to the release of certain information on various mortgage brokers regarding ownership and management structure, annual or biennial examinations and other examinations or audits, investigations or hearings; suspending or revoking the license of certain mortgage brokers who receive the lowest possible rating on two consecutive annual or biennial examinations; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Hambrick, Carpenter, Cobb, Gustavson, Mortenson, Ohrenschall, and Segerblom:

Assembly Bill No. 145—AN ACT relating to school property; requiring boards of trustees of school districts to grant the use of certain athletic fields without charge to nonprofit organizations which provide programs for youth sports; and providing other matters properly relating thereto.

Assemblyman Hambrick moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblyman Oceguera:

Assembly Bill No. 146—AN ACT relating to business; providing for the establishment of a state business portal by the Secretary of State; revising the provisions relating to the issuance of state business licenses and transferring

the responsibilities concerning state business licenses from the Department of Taxation to the Secretary of State; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblywomen Spiegel, Kirkpatrick, and Smith:

Assembly Bill No. 147—AN ACT relating to purchasing by local governments; requiring local governments to grant a preference to local bidders bidding on certain contracts for goods or services; and providing other matters properly relating thereto.

Assemblywoman Spiegel moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 148—AN ACT relating to occupational safety; requiring employees on a construction site to receive certain health and safety training; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

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

Assembly in recess at 11:27 a.m.

ASSEMBLY IN SESSION

At 11:30 a.m.

Madam Speaker presiding.

Quorum present.

By Assemblymen Buckley, Oceguera, Conklin, Leslie, Smith, Aizley, Anderson, Atkinson, Bobzien, Claborn, Denis, Dondero Loop, Goicoechea, Grady, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mastroluca, McClain, Munford, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Spiegel and Stewart; Senators Horsford and Coffin:

Assembly Bill No. 149—AN ACT relating to real property; revising provisions governing foreclosures on property; providing for mediation under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

REMARKS FROM THE FLOOR

Assemblyman Stewart requested that his remarks be entered in the Journal.

Oftentimes, we hear of the poor educational system we have in the State of Nevada. It was my privilege this Saturday morning to be a state judge for the "We the People: The Citizen and the Constitution" competition, which was held in the Lloyd George U.S. Courthouse Building in Las Vegas under the direction of Judge Philip M. Pro and the "We the People" state director, Marsha Ellis. Five outstanding high schools participated in this: Gorman High School, West High School, Basic High School, Incline Village, and Reed High School. These students demonstrated outstanding ability in their knowledge of the *Constitution* and the cases. They made great quotes. They discussed various issues and had great experiences.

Reed High School, from Sparks, was the winner of this competition. They just did a marvelous job. As a judge, it was a very difficult job for me and the rest of the judges to try to discern which was the best out of these five schools. They did a marvelous job. I would just like to enter it into the record that we do have a lot of brilliant, outstanding students from the great State of Nevada. Thank you.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Barrick Neill.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Annie Shaver and Vince Krack.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Gloria Coleman.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Shelby Keefer.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Warren Russell.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Rob McCoy and Roger Tobler.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to George Garcia.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to John Wilson.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, February 10, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:32 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE NINTH DAY

CARSON CITY (Tuesday), February 10, 2009

Assembly called to order at 11:05 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Almighty God, help of the ages past, hope for the years to come, today, give our legislators in this house special gifts of wisdom and understanding that they may uphold what is right and follow what is true. As they pursue Your purposes, make them instruments of justice and peace who foster mutual understanding and cooperative endeavors. Lord, help them to remember that our times are in Your Hands, for You are the light that never fails and the life that never ends. In all their relationships, private and public, lead them in the paths of righteousness, for Your Name's sake.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Koivisto, McClain, Conklin, Bobzien, Dondero Loop, Kihuen, and Ohrenschall:

Assembly Bill No. 150—AN ACT relating to tanning establishments; providing for the regulation of tanning establishments by the State Board of Cosmetology; prohibiting a person from operating a tanning establishment unless he is licensed by the Board; prescribing the requirements for licensure; providing standards for the operation of tanning establishments and tanning equipment; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblymen Conklin, Buckley, Oceguera, Leslie, Dondero Loop, Aizley, Anderson, Claborn, Denis, Gansert, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mastroluca, McClain, Mortenson, Munford, Pierce, Segerblom, Smith, Spiegel, and Stewart; Senators Carlton, Parks, Copening, Schneider, Coffin, and Woodhouse:

Assembly Bill No. 151—AN ACT relating to mortgage lending; requiring a mortgage broker to include his license number on any loan secured by a lien on real property for which he engages in activity as a mortgage broker;

requiring certain financial institutions that offer nontraditional mortgage loan products to make certain disclosures to borrowers with respect to nontraditional mortgage loans; requiring such financial institutions to certify such disclosures to the Commissioner of Financial Institutions; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Conklin, Bobzien, Oceguera, Spiegel, McClain, Aizley, Dondero Loop and Mastroluca; Senator Parks:

Assembly Bill No. 152—AN ACT relating to mortgage lending; defining the term "loan modification consultant"; requiring certain mortgage lending professionals to be licensed as a mortgage agent or mortgage broker; revising the definition of "homeowner" as it applies to services performed by certain mortgage lending professionals; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Marcus Arberry.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Kenya Pierce.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Theresa Navarro and Jesselin Anthony.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Greg Bailor, Jr.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Jessie Beck Elementary School: Kailyn Bell, Christopher Bodner, Jack Butler, Ian Cartlidge, Victoria Chavez, Maria Cordova, Amethyst Cozzolino-Ford-Mcknight, Aurora DiBenedetto, Hannah Flynn, Kyla Ganchan-Romero, Joao Gonzalez Rios, Emily Grable, Jacob Griffin, Kaley Gunter, Michael Haung, Giselle Hurtado, Sophia Miranda, Natasha Moreno Rodriquez, Daniel Ortega, Zakary Shaw, Liam Wardell, Joceline Zertuche, Francisco Burgara, Kallista Brown, Bryce Cartlidge, Maddie Champagne, Leo Cogliano, Emma Condon, Victoria Rankin, Connor Foulk, Mauricio Garcia, Cristofer Guiterrez, Jennifer Hanson, Riyadh Hossain, Jarrett Jackson, Clairissa Keesey, Isabella Keller,

Kate Kruper, Buck Lovett, Danica Mathew, Dane Meyerhoff, Rebecca Murphy, Daren Ogilvie, Alyssa Sherman, Stephanie Stern, Crystal Soltyshak, Kannon Campbell, Celeste Carrillo, Alexia Cartlidge, Rockey Coffee, Jonah Gauntt, Cristopher Hernandez-Garcia, Tatum Higginbotham, Alejandra Horwitz, Carmen Hutchens, Garrett Klaich, Carter Knedgen, David Kyle, Courtney Lopez, Ryan Muller, Bryn Nebeker, Brian Nicolas, Andrei O'Brien, Kira Okuma, Andrea Poloa, Juna Priest, Wyatt Reviglio, Zade Salaho, Rianne Salvanera, Anthony Santana, Madeleine Smith; teachers Connie Bland, Kathy Garman, and Bonnie Serpa; chaperones Michelle Grable, Alyssa Bland, Heather Hagan, Mary Stern, Janice Foulk, Sonny Hossain, Elaine Hanson, Paula Murphy, Carla Higginbotham, Mercedes Horwitz, Jean Kyle, Patrice Klaich, Leslie Muller, Ben Garcia, Richard Priest, Janean Priest, Nick Reviglio, Melissa Smith, Mary O'Brien, Tim O'Brien, Mrs. Knedgen, Ashley Spangler, and Joanna Perry.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Cinthia Zermeno and Teresa Feliz Chavez.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Tim Healion and Bob Fulkerson.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Victoria Rocha.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Eduardo Flores.

On request of Assemblywoman Pierce, the privilege of the floor of the Assembly Chamber for this day was extended to Howard Watts.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Greg Brown.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Les Smith.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Juan Roman.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Beverly Rodriguez.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, February 11, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:20 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE TENTH DAY

CARSON CITY (Wednesday), February 11, 2009

Assembly called to order at 11:17 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

O Lord, keep our faith in the power of prayer as we unite our petitions in this sacred moment. We have asked for Your guidance in difficult decisions many times, yet it has not always been answered in the way we thought it should. Many of the situations and relationships which we have asked You to change have remained the same.

Forgive us for thinking, therefore, that You are unwilling to help us in our dilemmas or that there is nothing You can do. Remind us, O God, that when we plug in an electric iron and it fails to work, we do not conclude that electricity has lost its power, nor do we plead with the iron. We look at once to the wiring to find what has broken or blocked the connection with the source of power. May we do the same with ourselves, that You can work though us to do Your will. This we ask in the Name of our Lord.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 103, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ELLEN M. KOIVISTO, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Gansert, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Nolan, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 3—Designating February 11, 2009, as Tissue and Organ Donor Day in Nevada.

WHEREAS, According to recent statistics, more than 100,000 people in the United States are currently on the waiting list for organ transplants, and each day approximately 77 people receive the transplant that gives them a second chance at life, but 19 others die because not enough organs are available to meet our needs; and

WHEREAS, One donor can save up to eight lives by donating organs, and that same donor can greatly enhance the lives of an additional 50 people by donating tissue to be used to restore sight, cover burns, repair hearts, replace veins, and mend damaged connective tissue and cartilage in recipients; and

WHEREAS, As a result of the growing need for organs, living donation has become a common alternative, with almost a quarter of all organs coming from living donors; and

WHEREAS, Unbeknownst to many, a living donor may donate part of the pancreas, part of a lung, part of the liver, part of the intestine and, most commonly, a kidney; and

WHEREAS, People of all ages and medical histories should consider themselves potential donors, as people on the waiting list may need to be transplanted with an organ that is less than ideal if there is no other suitable organ available to save their lives; and

WHEREAS, The State of Nevada has simplified the process of signing up as a donor by giving Nevadans the option of specifying their wishes on their drivers' licenses or state identification cards and by making available on-line a Donor Registration Form for the Donor Registry for the State of Nevada; and

WHEREAS, The State has also made available an Organ Donor specialty license plate, from which a portion of the fees support the Gift of Life Education Fund that provides for the production and dissemination of educational materials regarding the importance of tissue and organ donation; and

WHEREAS, Giving the "Gift of Life" not only brings hope and healing to the recipients and their families but also may help ease the grief of the donor's own family by knowing that their tragic loss has helped so many other people; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Nevada Legislature hereby designates February 11, 2009, as Tissue and Organ Donor Day in Nevada to raise public awareness regarding tissue and organ donation and the effect it can have on so many people; and be it further

RESOLVED, That, by designating this day, the residents of Nevada are encouraged to take steps to obtain donor cards and to ensure that their wishes concerning tissue and organ donations are made known to their families; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Nevada Donor Network and The Transplant Network.

Assemblywoman Gansert moved the adoption of the resolution.

Remarks by Assemblymen Gansert and Manendo.

Resolution adopted.

Assemblywoman Gansert moved that all rules be suspended and that Assembly Concurrent Resolution No. 3 be immediately transmitted to the Senate.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Transportation:

Assembly Bill No. 153—AN ACT relating to motor vehicles; revising provisions governing the issuance of drivers' licenses to persons who are 16 or 17 years of age; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Munford, Denis, Segerblom, Bobzien, Dondero Loop, Ohrenschall, Parnell, and Pierce:

Assembly Bill No. 154—AN ACT relating to education; revising provisions governing the establishment by the board of trustees of a school district of a policy prohibiting criminal gang activity on school property; and providing other matters properly relating thereto.

Assemblyman Munford moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Munford, Denis, Segerblom, Bobzien, Ohrenschall, and Pierce:

Assembly Bill No. 155—AN ACT relating to education; requiring the State Board of Education to adopt a program of multicultural education for certain pupils; requiring certain licensed teachers to complete a course in multicultural education upon renewal of their license; and providing other matters properly relating thereto.

Assemblyman Munford moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Cobb, Gansert, Goedhart, Gustavson, Hambrick, Hardy, Settelmeyer, and Stewart:

Assembly Bill No. 156—AN ACT relating to courts; requiring district courts, justice courts and municipal courts to use collection agencies to collect certain debts; and providing other matters properly relating thereto.

Assemblyman Cobb moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Cobb, Gansert, Goedhart, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, and Stewart:

Assembly Bill No. 157—AN ACT relating to welfare; providing that the head of a household which receives Temporary Assistance for Needy Families must accept certain employment; and providing other matters properly relating thereto.

Assemblyman Cobb moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblymen Cobb, Gansert, Goedhart, Grady, Gustavson, Hambrick, Hardy, Settelmeyer, and Stewart:

Assembly Bill No. 158—AN ACT relating to education; prohibiting the board of trustees of a school district from expending more than a certain percentage of its total expenditures in each fiscal year for certain administrative expenses; revising provisions governing the Governor Guinn Millennium Scholarship Program; and providing other matters properly relating thereto.

Assemblyman Cobb moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblymen Pierce, Kirkpatrick, Koivisto, Aizley, Anderson, Arberry, Atkinson, Buckley, Carpenter, Claborn, Conklin, Denis, Goicoechea, Grady, Hogan, Horne, Kihuen, Leslie, Manendo, Mastroluca, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Segerblom, Smith, and Spiegel; Senators Carlton, Parks, Copening, and Woodhouse:

Assembly Bill No. 159—AN ACT relating to international trade agreements; prohibiting the Governor or any other state officer or employee from binding the State to the requirements of an international trade agreement without authorization by the Legislature; invalidating any prior consent to any such requirements in an international trade agreement; and providing other matters properly relating thereto.

Assemblywoman Pierce moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Adam Cegavske.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Sandi Smith, Ken Richardson, Heidi Smith, Joe Stivers, Jaclyn O'Malley, Tracey Copeland, Debbie Pinjuv, Danelle Snodgrass, Annie Norris, Stephanie DeBoor, Jude Hurin, Bonnie Bowlan, former Assemblywoman Dawn Gibbons, Trudy Larson, Jessica Drossulis, and Susan Drossulis.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Tom Fransway.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Roger Tobler.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Joshua Gust.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, February 12, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:36 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ELEVENTH DAY

CARSON CITY (Thursday), February 12, 2009

Assembly called to order at 11:18 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Forbid it, Lord, that we should walk through Your beautiful world with unseeing eyes. Forgive us for taking our good things for granted so that we are in danger of losing the fine art of appreciation. With such dire need in every other part of the world, make us so grateful for the bounties we enjoy, that we shall try, by Your help, to deserve them more. Where we are wrong, make us willing to change, and where we are right, make us easy to live with.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 11, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 3.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Parnell, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 4—Commemorating the 100th anniversary of the organization of the Daughters of the American Revolution in Nevada.

WHEREAS, On February 12, 1910, the Montezuma Chapter of the National Society Daughters of the American Revolution (DAR) was organized in Goldfield, Nevada, and February 12, 2010, marks the 100th anniversary of that event; and

WHEREAS, The Nevada Sagebrush Chapter DAR worked with Governor James Scrugham, Senator Tasker Oddie and Congressman Samuel Arentz to enact federal legislation transferring ownership of Fort Churchill to the State of Nevada, allowing the 1931 Nevada Legislature to pass Assembly Bill No. 148 which transferred ownership to a trust administered by the Nevada Sagebrush Chapter, and ownership was transferred back to the State in 1961 so that Fort Churchill might become a state historical monument; and

WHEREAS, The Nevada State Society DAR has been instrumental in the placement of numerous historical markers in Nevada, establishment of Nevada's State Park System, collection of early relics of Nevada, acquisition of the Carson City Mint for use as the Nevada State Museum, and purchase and restoration of Bowers Mansion as a Washoe County Regional Park; and

WHEREAS, Members of the Nevada State Society DAR planted an elm tree in 1932, still standing today, on the State Capitol grounds, to commemorate the bicentennial of George Washington's birth, purchased a replica colonial silver tea service, still in use today, for the Governor's Mansion in 1968, and raised more than $7,000 for the Sarah Winnemucca statue which stands in the National Statuary Hall Collection in the United States Capitol; and

WHEREAS, During World War II, members of the Nevada State Society DAR contributed thousands of hours of volunteer work and purchased substantial amounts of war bonds, and they continue to support our veterans and our troops overseas today; and

WHEREAS, Members of the Nevada State Society DAR have fostered a sense of patriotism and history in Nevada residents for the last 100 years through participation in naturalization ceremonies, historical essay contests, good citizenship programs, flag ceremonies and dedications, literacy programs, Constitution Week celebrations and residency-based scholarships; and

WHEREAS, The members of the Nevada State Society DAR have worked for a number of years to compile a 100-year written history of the works of the DAR in Nevada that they might be preserved for posterity as a part of the history of our great State; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Session of the Nevada Legislature recognize the 100th anniversary of the organization of the Daughters of the American Revolution in Nevada and applaud the efforts of the women, past and present, who work in support of the DAR tenets to promote patriotism, preserve American history and secure America's future through better education for children; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Nevada State Regent Anita Ruth Kirk Sheard.

Assemblywoman Parnell moved the adoption of the resolution.

Remarks by Assemblymen Parnell, Anderson, Segerblom, and Madam Speaker.

Assemblyman Oceguera requested the following remarks be entered in the Journal.

ASSEMBLYWOMAN PARNELL:

I was thinking this morning how ironic it is that we are here today, on February 12, 2009, as Daughters of the American Revolution enters into its 100th year in Nevada, forming nearly a hundred years ago in Goldfield, Nevada. It is so important that this anniversary happens, leading into this very important President's Day weekend. As we all know, we look up at the man who watches over us. It is the 200th birthday today of our 16th President, Abraham Lincoln. I think what this resolution does is give us pause to just really cherish our history and so honor these Daughters of the American Revolution, who are working every day to preserve that history, not only for us but for generations to come. Thank you, Madam Speaker.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I wish to rise in support of the resolution. Having a family member who received a scholarship from the Daughters of the American Revolution upon her graduation from high school, to continue her education, I know it's very, very important.

One particular part of my family just got off the boat yesterday, but the other side arrived here at Plymouth Colony and participated in the American Revolution and has a long history in both the eastern part of the United States and in the West. The Daughters of the American Revolution have done a remarkable job in furthering the education of many, many young people, and they have done this consistently, at least in the school district in which I had the pleasure to teach. Their scholarships for young people and their encouragement of participation are beyond reproach. I know there are other kinds of events that have taken place in their past, that sometimes we wish were not there, but that is often true of many groups that have a long history that reflects the unique nature of American history.

ASSEMBLYMAN SEGERBLOM:

I want to point out that 100 years ago the Daughters could not vote and yet today we have a female Speaker of the State Assembly. So, brag about that. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

With the permission of the body, I was able to take my nine-year-old son to see the statuary collection and see the Sarah Winnemucca statue. I was proud to be a Nevadan. Thank you for all your work on that project, as well.

Resolution adopted.

Assemblywoman Parnell moved that all rules be suspended and that Assembly Concurrent Resolution No. 4 be immediately transmitted to the Senate.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Aizley, Ohrenschall, Claborn, Kihuen, McClain, Mortenson, Munford, and Segerblom; Senators Coffin and Parks:

Assembly Bill No. 160—AN ACT relating to economic development; providing that certain fees relating to the operation of motor vehicles do not apply to certain motion picture companies; providing an abatement from certain sales and use taxes for certain motion picture companies; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblyman Mortenson:

Assembly Bill No. 161—AN ACT relating to domestic violence; revising the provisions relating to the mandatory arrest of a person for battery which constitutes domestic violence; revising the provisions relating to plea bargaining of a charge for battery which constitutes domestic violence; and providing other matters properly relating thereto.

Assemblyman Mortenson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Ohrenschall, Buckley, Leslie, Woodbury, Conklin, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Denis, Dondero Loop, Goicoechea, Grady, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mastroluca, McClain, Mortenson, Munford, Oceguera, Parnell, Pierce, Segerblom, Smith, and Stewart; Senators Horsford, Schneider, Lee, Wiener, Townsend, Amodei, Breeden, Care, Carlton, Coffin, Copening, Nolan, Parks, Rhoads, and Woodhouse:

Assembly Bill No. 162—AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide coverage for screening for and treatment of autism; and providing other matters properly relating thereto.

Assemblyman Ohrenschall moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Ohrenschall, Atkinson, Christensen, Manendo, Aizley, Bobzien, Carpenter, Claborn, Cobb, Dondero Loop, Hambrick, Hogan, Kihuen, Kirkpatrick, Koivisto, Leslie, Mastroluca, Mortenson, Munford, Oceguera, Pierce, Segerblom, and Smith; Senators Parks, Townsend, Breeden, Care, Copening, Nolan, Washington, and Wiener:

Assembly Bill No. 163—AN ACT relating to highways; requiring the Department of Transportation to adopt regulations to allow certified low emission and energy-efficient vehicles to be operated in a lane on certain highways designated for the preferential use or exclusive use of high-occupancy vehicles; and providing other matters properly relating thereto.

Assemblyman Ohrenschall moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Horne, Gansert, Anderson, Manendo, Kihuen, Aizley, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Conklin, Denis, Dondero Loop, Hambrick, Hardy, Kirkpatrick, Koivisto, Leslie, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Smith, Spiegel, and Stewart; Senators Breeden, Wiener, Care, Parks, Copening, Horsford, Lee, Mathews, McGinness, and Washington:

Assembly Bill No. 164—AN ACT relating to crimes; providing certain penalties for a battery that is committed by strangulation; increasing the penalty for a battery which constitutes domestic violence if the battery is committed by strangulation; increasing the penalty for a battery under other circumstances if the battery is committed by strangulation; and providing other matters properly relating thereto.

Assemblyman Horne moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 103.

Bill read second time and ordered to third reading.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I rise today to recognize, as my colleague from Assembly District 40 has done, the 200th anniversary of the birth of one of our greatest Americans, Abraham Lincoln. Abraham Lincoln was born in little more than a hut in Kentucky. He moved with his family to Indiana, where his mother died and where his father deserted him, along with his sister, for a period of several months. When his father finally came back, he came back with a new wife. This new wife had a great influence on Abraham Lincoln. She brought him newspapers and encouraged him to read. When he moved to Illinois, Mr. Lincoln became a soldier, a member of the state legislature, and a United States Congressman.

He then moved to Washington, D.C., where he became the first Republican President. But more than that, he was a President of all the people. Lincoln was known as the "Great Emancipator." He was a victorious commander-in-chief, the man who kept the Union together, and the man who preserved liberty for all of us. In recent years, he has come under condemnation by revisionist historians as being a tyrant, a henpecked husband, and a dictator. For many years, he was first in almost all polls. Recently in a *USA Today* poll, he came in third behind President Reagan and President Kennedy. It is my hope, as a great fan of Lincoln, that this 200th anniversary will bring him back to his rightful position as number one.

I have included on your desks some of the great quotes that Abraham Lincoln made throughout his career. I hope you will take a moment today to look that over and to reflect upon some of the great things and great deeds that Abraham Lincoln did.

In spite of the fact that Lincoln never lived in Nevada, he has a very special relationship with this great state. The State of Nevada became a state on October 31, 1864. Just a week later, Abraham Lincoln was elected to his second term as President. Lincoln, of course, gave his life for his country, being assassinated in April of 1865. The great Battle Born State of Nevada, in March of 1915, commemorated the great relationship we have with this great man by commissioning this picture that now looks down upon us. This picture was commissioned with Charles M. Sheehan. We paid a mere $1,300 for that picture. As Lincoln daily looks down upon us, I think he gives us a great message—the message of opportunity for all of us. It is possible, partly because of Lincoln, for one of the twins of David Bobzien, the daughter of Ty Cobb, or the son or daughter of William Horne to some day become President of this great nation.

In closing, I would like to quote from the second inaugural address of this great man, with advice, perhaps, to all of us. "With malice toward none, with charity for all, with a firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds" and to work together for the benefit of this great nation and this great state.

Thank you, Madam Speaker.

ASSEMBLYMAN HARDY:

There is probably no more appropriate day than today to speak about uniting. Being united is to live united. Sitting with me is the chairman of the board of the United Way of Southern Nevada, Larry Seedig. Hopefully you will be able to recognize him because today he is worth $50 million to you. And I will get there to explain.

The United Way of Southern Nevada is represented by multiple people behind me. They are going to stand and be recognized. It is important that you recognize them, too, not by clapping, but by what they look like. And I will get there, also.

Their mission for United Way at this point, in southern Nevada, is to consider health—particularly looking at increasing the number of immunized Nevada children, particularly in the age group of 0 to 3, with the goal of an 80 percent immunization rate by 2010. They are

interested in education, they are interested in financial stability, and they are interested in making sure that people have a financial literacy education.

And now I have gotten there.

There is $50 million left on the table, of earned income tax credits that exist right now in the coffers of Washington, D.C., that belong to citizens in the State of Nevada. If you want to talk about stimulus, imagine what is going to happen when you have your constituents talk with these people. Within ten days of filing your taxes electronically or six weeks filing with hard copy, assisted for free by these people, which includes any of you if you want, you can have your income tax filing done free, and for those people who have an annual income of under $4,200, they will get back 10 percent of their income. That means a $50 million stimulus in this year. Now there is another caveat that this goes back three years, so it is potential stimulus of $150 million, so that is a stimulus that you can have your constituents get very quickly. It is real. The money is there and waiting for the people to file that particular form.

I think it only appropriate to welcome the people from United Way on this day. I am wearing my T-shirt proudly. Thank you.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I believe that it was on this date—and I could be wrong because I did not look it up—that the National Association for the Advancement of Colored People came in to existence 100 years ago, as the result of an unusual event in Springfield, Illinois, which of course was in commemoration of the 100th anniversary of Lincoln's birth. Of course, Springfield has had major events occur there.

I note in my colleague from District 22's handout that a key to Lincoln's greatness is the phase in the Gettysburg address that "All men are created equal." I think this is the essence of the spirit of who the 16th President of the United States was. While he looks down on us I would feel remiss if I did not bring to the body's attention the importance of the quantum leap that has taken place in 100 years and the quantum leap that has yet to be made in order to bring Lincoln's dream to reality.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I just wanted to thank my colleague from southern Nevada for his comments about United Way and also remind everyone and thank them for their contribution to the 2-1-1 line in Nevada. The United Way has been a great partner for 2-1-1, especially in our times of budget problems. They continue to help keep those lines open, so I would like to acknowledge their work in that regard, as well.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Barbara Stone.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Brown Elementary School: Heather Almaraz, Jason Bang, Brylee Billings, Skylar Bradfield, Everett Brandt, Justin Buschine, Alex Coté, Hunter Cramer, Jake Folkers, Kaileen Fryar, Ariana Garcia, Maddie Holmes, Jonah Hyde, Taylor Martin, Karly McCutcheon, Brenton Olive, Blake Orton, Jess Osier, Jason Owens, Kyle Pinheiro, Miranda Slack-Welsh, Nicole Smith, Andrina Sofos, Selena Teglia, Dax Van Der Wal, Parker Webster, Sierra Webster, Hannah Blake, Benita Carbone, Shauna Clark, Cienna Dorny, Danielle Dowling, Anawnda Fox, Marcus Gage, Joel Guasch, Keiko Kamachi, Brendan Leo, Jaida Mabunda, Madeline McLain, Astha Mehta, Gabrielle Moorehead, Joanie Moorehead, Madison Nichols, Jose Carlos Otzoy, Grace Pfaff, Heidi Reed,

Brody Roelofs, Victoria Snyder, Brayden Steimle, Nathan Thom, Nicholas Tower, Ally Young, Hannah Carrera, Khalid Aziz, Taylor Bauer, Lindsay Calhoun, Cody Carlson, Tanner Cartinella, Joel Castillo, Savanna Cilonis, Ryan Costelloe, Emma Covert, Jacob Covert, Joseph Damonte, Evan Fehr, Sadie Guthrie, Bailey Hyde, Carly Kahl, Spencer Karam, Samantha Lewarne, Caitlyn Monahan, Maggie Nordahl, Alejandro Perez, Sarah Riar, John Simonsen, Ankeet Singh, Rheanna Smith, Kyra Moore, Sean Keilberg, Taylor Agulto, Brandon Blake, Tyler Blasquez, Mia Buckholz, Selena Camarena, David Camargo, Kaillynn Carrete, Ashton Evans, Heather Ficken, Zack Frey, Mellisa Gallagher, Riky Garcia, Wade Gearhart, Emily Gonzalez, Jackie Guiterrez, Katie Hardung, Gwen Jones, Sean Lacsamana, John Lee, Hugo Montelongo, Tyler Pitts, Braedon Rickman, Samantha Summers; teachers Dana Ayers, David Jones, Cindy Kahl, Kara Keyes; chaperones Rich Reed, Michele Tower, Jeremy Steimle, Madeline Bravo, Tamera Dorny, Lori Hardung, Heather Gallagher, Teresa Gearhart, Tina Buckholz, Claudia Ruiz, Steve McCutcheon, Sharon Owens, Amanda Romano, VaLynn Olive, Kristy Orton, Christina Bauer, Jody Covert, Jennifer Gutherie, Heidi Simonsen, and Brian Zabel; Bea Eichbaum, Cindy Trissel, and Lynn Kinsell.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Larry Seedig.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Anita Sheard, Stacy Woodbury, Kandy Little, Carolyn Chapman, Karen W. Lampus, and Rebecca Eisenman.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Allie Whalen.

Assemblyman Oceguera moved that the Assembly adjourn until February 13, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:48 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE TWELFTH DAY

CARSON CITY (Friday), February 13, 2009

Assembly called to order at 11:14 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman Hardy, who was excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

Two weeks in a row we are wearing red in honor of our hearts. Last Friday, we were reminded of the need to take good care of our physical hearts. This week we celebrate our emotional heart. We call it love. Three little words will be used this weekend, "I love you." May all of us be reminded of the source and the meaning of those words. One writer counsels us: "Dear friends, let us love one another, for love comes from God . . . . . since God so loved us, we also ought to love one another."

When we open our mouths to speak eloquently about love, but don't act lovingly, we would only be making meaningless noise like a loud gong or clanging cymbal. If I give everything I have to the poor and even sacrifice my body, I could boast about it; but if I did not love others, I would be of no value whatsoever.

Love is patient and kind. Love is not jealous or boastful or proud or rude. Love does not demand its own way. Love is not irritable, and it keeps no record of when it has been wronged. It is never glad about injustice but rejoices whenever the truth wins out. Love never gives up, never loses faith, is always hopeful, and endures through every circumstance.

There are three things that will endure—faith, hope, love—and the greatest of these is love.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 12, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 4.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 15, 28, 90, 91.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Concurrent Resolution No. 5—Directing the Legislative Commission to conduct an interim study of issues relating to women incarcerated in Nevada.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Buckley, Parnell, Conklin, Anderson, Oceguera, Aizley, Arberry, Atkinson, Bobzien, Carpenter, Claborn, Denis, Dondero Loop, Gansert, Goicoechea, Grady, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McClain, Mortenson, Munford, Ohrenschall, Pierce, Segerblom, Smith, Spiegel, Stewart, and Woodbury; Senators Care, Wiener, Parks, Horsford, Hardy, Breeden, Coffin, Copening, Mathews, and Schneider:

Assembly Bill No. 165—AN ACT relating to state financial administration; revising the provisions governing the Fund to Stabilize the Operation of the State Government; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblymen Segerblom, Koivisto, Ohrenschall, Kihuen, Aizley, Mortenson, Munford, and Pierce; Senators Parks and Copening:

Assembly Bill No. 166—AN ACT relating to employment practices; prohibiting employers from subjecting an employee to abusive conduct in a work environment; requiring a court to award damages, back pay and attorney's fees consistent with provisions set forth in Title VII of the Civil Rights Act of 1964 on prevailing claims of unlawful employment practices; revising provisions relating to unlawful employment practices to prohibit employers from discriminating against an employee with respect to a physical characteristic of the employee; revising provisions relating to the time in which an employee may seek relief in district court for a claim of unlawful employment practices; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Segerblom, Koivisto, Ohrenschall, McClain, Aizley, Arberry, Atkinson, Bobzien, Claborn, Horne, Kihuen, Leslie, Mortenson, Parnell, Pierce, Smith, and Spiegel; Senators Parks and Copening:

Assembly Bill No. 167—AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide coverage for acupuncture treatments in certain circumstances; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 168—AN ACT relating to controlled substances; revising sentencing provisions relating to certain convicted persons who provide substantial assistance in the investigation or prosecution of other persons involved in trafficking in controlled substances; and providing other matters properly relating thereto.

Assemblyman Anderson requested that the Assembly recess subject to the call of the Chair.

Assembly in recess at 11:22 a.m.

ASSEMBLY IN SESSION

At 11:23 a.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Atkinson, McClain, Segerblom, Anderson, Arberry, Carpenter, Claborn, Conklin, Denis, Dondero Loop, Goicoechea, Hardy, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, Mortenson, Parnell, Pierce, Smith, and Spiegel:

Assembly Bill No. 169—AN ACT relating to motor carriers; requiring impounding of certain vehicles when no certificate of public convenience and necessity has been issued to authorize their operation; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Atkinson, Anderson, Horne, Segerblom, Conklin, Carpenter, Claborn, Denis, Dondero Loop, Hogan, Kirkpatrick, Koivisto, McClain, Mortenson, Pierce, and Smith:

Assembly Bill No. 170—AN ACT relating to personal identification; requiring the Department of Motor Vehicles to maintain a database of thumbprints of applicants for drivers' licenses and identification cards; requiring the Department to include the thumbprint of a person on any driver's license or identification card issued to the person and to use the thumbprint to establish or confirm the identity of the person; requiring an applicant for the issuance or renewal of a driver's license or identification

card to submit his right thumbprint to the Department; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblyman Segerblom:

Assembly Bill No. 171—AN ACT relating to cosmetology; requiring the State Board of Cosmetology to allow the use of fish in pedicures; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 172—AN ACT relating to license plates; requiring certain charitable organizations which receive proceeds from the issuance of special license plates to provide annually to the Commission on Special License Plates and to the Department of Motor Vehicles certain additional information pertaining to the charitable organization; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Mastroluca, Oceguera, Horne, Conklin, Smith, Atkinson, Bobzien, Buckley, Denis, Dondero Loop, Kirkpatrick and Parnell:

Assembly Bill No. 173—AN ACT relating to occupational diseases; exempting certain claims for occupational diseases from requirements relating to the burden of proof that disease arose out of and in course of employment; providing that certain occupational diseases are occupational diseases of arson investigators; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblywoman Kirkpatrick:

Assembly Bill No. 174—AN ACT relating to public works; exempting the State Public Works Board from the requirements relating to construction managers at risk; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Atkinson, Horne, Oceguera, Smith, Conklin, Anderson, Arberry, Buckley, Claborn, Denis, Dondero Loop, Hogan, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, Ohrenschall, Parnell, Pierce and Spiegel:

Assembly Bill No. 175—AN ACT relating to public works; temporarily revising the provisions governing the prequalification of bidders on public works of this State; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 15.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 28.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 90.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 91.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 103.

Bill read third time.

Remarks by Assemblymen Leslie, Gansert, Anderson, and Carpenter.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN LESLIE:

Madam Speaker, Assembly Bill 103 requires the legislative auditor to conduct performance audits of governmental and private facilities for children to determine whether these facilities adequately protect the health, safety, and welfare and civil rights for the children in their care. The measure also requires any governmental or private facility for children to cooperate with the legislative auditor in the performance of his duties and to forward to the legislative auditor any complaint filed by a child or any other person on his behalf concerning the child's welfare.

Many in this body will remember the CRIPA investigation back in 2001, when it started the Civil Rights of Institutionalized Persons Act. That complaint was initiated by many youth and adults in relationship to one of our state institutions, the Youth Training Center, out in Elko.

These complaints were forwarded to the Department of Justice, and they began an investigation that thankfully has been resolved without additional federal intervention.

The CRIPA investigation contained many disturbing complaints from the youths that were substantiated by the investigators. These included reports of our staff using excessive force against these youths, punching youths in the chest; kicking their legs; grabbing shirts; shoving youths against lockers and walls; dipping, which means throwing youths to the floor; slapping them in the face; smashing youths' heads against doors; and pulling youths from their beds to the floor. The investigators found that typically the triggers for the use of force were youths disobeying or failing to follow directions, rather than posing an immediate harm or threat of harm to themselves or others. They were also subjected to verbal abuse in which their race, their family, their physical appearance and stature, their intelligence, or their perceived sexual orientation was aggressively attacked. It was very clear to the CRIPA investigators that staff used verbal abuse to provoke these youths into physical confrontations to provide a pretext for the use of force.

Thankfully, the situation has greatly improved out in Elko. We instituted a great training program and we put more mental health counselors out there. A number of us visited the institution and have been following it very closely over the years.

As a result of the CRIPA investigation, we are very concerned that the Legislature had not known that any of these problems existed, not only in our state institutions but also in our county detention facilities and other private institutions where youths are placed. So we had a bill last session where we set aside a little money and asked the legislative auditor to conduct a performance audit of every place where these children go under our authority. That audit is out if you want to pick up a copy. It's called the Review of Governmental and Private Facilities for Children, 2008. It has some very interesting findings; they reviewed thirteen of the facilities and their detailed findings and responses by the different placement agencies are contained in this audit. What A.B.103 does is institutionalize these kinds of audits in our legislative auditor, and we put it there because we wanted it to be an independent audit, not the Executive Branch investigating itself. We have very good results from the audit, lots of good information coming out, lots of recommendations for how we can improve these facilities. I urge your support of this bill and commend ourselves as a collective body, which was a bipartisan effort, to make sure that the youth placed in our care that their civil rights are protected, their physical rights are protected, and we can make sure that the kids in our care are getting the very best care that they can. I urge your support.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I rise in support of A.B. 103. I was on the Committee of Elections, Procedures, and Ethics when the auditors came in and talked about this. They did an outstanding job of going over the material and I think that this check on the system is very important for our youth. I appreciate the efforts on their behalf.

ASSEMBLYMAN ANDERSON:

I, too, rise in support of this piece of legislation. As you know, Madam Speaker, our colleague from Assembly District 33—as well as yourself and several others of us—were involved in a study over this particular issue, over some time. The former representative from Assembly District 9, who is no longer a member of this body but is now a Clark County Commissioner, took an early trip to Elko when the first FBI reports came in relative to the practices out there. We have, as a legislative body, been concerned about this particular issue. I do not believe that this particular problem, unfortunately, is going to come to an end, but we are now going to take yet another important step. I applaud my colleague for continuing to follow-up on this particular issue and think that it is a very, very important first step. I am pleased to see it as the first step of legislation that this body will take.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. As we have heard, we have had some problems, mainly in Elko. These problems have been pretty well resolved and I think our facilities for children out there now are doing quite well. I think we need to keep an eye on these facilities because you

never know what might happen. I believe putting it in the hands of our auditor gives us more control. I ask for your support of A.B. 103.

Roll call on Assembly Bill No. 103:

YEAS—41.

NAYS—None.

EXCUSED—Hardy.

Assembly Bill No. 103 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Kevin Clifford.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, February 16, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:40 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FIFTEENTH DAY

CARSON CITY (Monday), February 16, 2009

Assembly called to order at 11:24 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Dr. Ken Haskins.

Our Loving, Heavenly Father, today we remember our Presidents. The best of them, Abraham Lincoln, was raised on Your good Book. Like Lincoln, we, too, seek Your guidance. And so, guide and bless these servants of Yours in order that times of blessing and prosperity might come to those whom they serve. In Jesus' Name I pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblywoman McClain:

Assembly Bill No. 176—AN ACT relating to administrators of facilities for long-term care; renaming the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care as the Board of Examiners for Long-Term Care Administrators; revising provisions relating to disciplinary actions; granting subpoena powers to the Board; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblyman Oceguera:

Assembly Bill No. 177—AN ACT relating to motor vehicles; authorizing a short-term lessor and short-term lessee of a passenger car to agree that the lessee will be responsible for certain damages to the car under certain circumstances; authorizing a short-term lessor to exclude from a waiver of damages losses resulting from the theft of a leased car if the theft is committed by an authorized driver or by a person aided or abetted by an authorized driver; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblyman Claborn:

Assembly Bill No. 178—AN ACT relating to industrial insurance; prohibiting insurers from issuing certain insurance policies; establishing the Death Benefits Living Increase Account to provide for cost-of-living increases in the payment of death benefits; requiring insurers to provide additional information when informing claimants of the acceptance or denial of a claim; revising provisions relating to claims for a permanent partial disability or a temporary total disability; establishing provisions relating to reprisal or retaliatory actions by employers; revising provisions relating to the imposition of administrative fines and benefit penalties for certain violations; and providing other matters properly relating thereto.

Assemblyman Claborn moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Horne, Segerblom, Kihuen, Anderson, Aizley, Arberry, Atkinson, Buckley, Carpenter, Conklin, Dondero Loop, Hambrick, Hardy, Kirkpatrick, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Spiegel, and Stewart; Senators Parks, Care, Breeden, Coffin, and Horsford:

Assembly Bill No. 179—AN ACT relating to criminal procedure; authorizing certain persons convicted of a felony to petition the court for postconviction genetic marker analysis; revising the circumstances under which genetic marker analysis must be performed for those persons; requiring certain notices to be provided to the victims of the crimes allegedly committed by those persons; and providing other matters properly relating thereto.

Assemblyman Horne moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblymen Goicoechea, Carpenter, and Grady; Senators Amodei, McGinness, and Rhoads:

Assembly Bill No. 180—AN ACT relating to state emblems; designating Engine No. 40 of the Nevada Northern Railway as the official state locomotive; and providing other matters properly relating thereto.

Assemblyman Goicoechea moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 16, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 7.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 7.

Assemblyman Kihuen moved the adoption of the resolution.

Remarks by Assemblymen Kihuen and Anderson.

Resolution adopted.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Smith, Horne, Parnell, Anderson, Atkinson, Conklin, Gansert, Kirkpatrick, Mastroluca, Mortenson, Oceguera, Pierce, and Spiegel:

Assembly Bill No. 181—AN ACT relating to education; authorizing the governing body of a charter school to set a salary for the attendance of its members at meetings of the governing body; revising the requirements for a charter school to be eligible for an exemption from annual performance audits and to receive certain money for facilities; and providing other matters properly relating thereto.

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

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolutions Nos. 3 and 4.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Bernice Servilican and Natha Anderson.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Marge Sill.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Devin Harris, Grant Briscoe, and Armando Denis.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Debbie Pontius and Eleanor Davis.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Sheree Rosevear.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Keith Rheault.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Carmen Gilbert.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Tina Nappe.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Parnell.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Judi Caron, Diana Belding, Laureen Garcia, Sebastien Garcia, and Angelina Garcia.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Martin.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, February 17, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:48 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SIXTEENTH DAY

CARSON CITY (Tuesday), February 17, 2009

Assembly called to order at 11:17 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Dr. Ken Haskins.

Our Heavenly Father, apart from You we can do nothing, but with Your help nothing shall be impossible for us. These are trying times. We need Your help now more than ever. Provide these servants of Yours all things necessary to promote the best interests of the people whom they represent. In the Name of our Lord, we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Joint Resolution No. 1—Proposing to amend the Nevada Constitution to revise the provisions governing a petition for a state initiative or a referendum.

Legislative Counsel's Digest:

Pursuant to Section 2 of Article 19 of the Nevada Constitution, the people of the State of Nevada have reserved to themselves the power to propose statutes, amendments to statutes and amendments to the Nevada Constitution by initiative petition. If the petition meets certain criteria, it is placed on the general election ballot where the people of the State of Nevada are then given the right to vote to enact or reject such proposals. In 2006, however, a portion of this provision of the Nevada Constitution was held unconstitutional by the U.S. Court of Appeals for the Ninth Circuit. ***ACLU of Nev. v. Lomax***, 471 F.3d 1010 (9th Cir. 2006). The Ninth Circuit Court found that the requirement that an initiative petition contain a certain number of signatures gathered from 75 percent of the counties in this State in order to qualify for the ballot (the "13 Counties Rule") violated the equal protection principle of "one man, one vote" by diluting the votes of residents of densely populated counties and was not narrowly tailored. ***Id***. at 1013. Thus, the Ninth Circuit Court held that Section 2 of Article 19 of the Nevada Constitution violated the Equal Protection Clause of the Fourteenth Amendment to the U.S.

Constitution. ***Id.*** The Court further indicated that if a certain number of voters were required from state legislative districts rather than counties, it would alleviate the equal protection concerns.

This resolution proposes to amend Article 19 of the Nevada Constitution to remove the unconstitutional provisions and instead require that an initiative petition be signed by a number of the registered voters from each congressional district in this State which equals 10 percent of the number of voters who voted at the last preceding general election in the congressional district. This resolution further provides that the number of registered voters required to file an initiative petition must be determined at the time the copy of the petition is filed with the Secretary of State.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 1 of Article 19 of the Nevada Constitution be amended to read as follows:

Section 1. 1. A person who intends to circulate a petition that a statute or resolution or part thereof enacted by the legislature be submitted to a vote of the people, before circulating the petition for signatures, shall file a copy thereof with the secretary of state. He shall file the copy not earlier than August 1 of the year before the year in which the election will be held.

2. Whenever a number of registered voters of this state equal to 10 percent ~~[or more]~~ of the number of voters who voted at the last preceding general election shall express their wish by filing with the secretary of state, not less than 120 days before the next general election, a petition in the form provided for in Section 3 of this Article that any statute or resolution or any part thereof enacted by the legislature be submitted to a vote of the people, the officers charged with the duties of announcing and proclaiming elections and of certifying nominations or questions to be voted upon shall submit the question of approval or disapproval of such statute or resolution or any part thereof to a vote of the voters at the next succeeding election at which such question may be voted upon by the registered voters of the entire State. ***The number of registered voters required to file the petition must be determined at the time the copy of the petition is filed with the secretary of state pursuant to this Section.*** The circulation of the petition shall cease on the day the petition is filed with the secretary of state or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest.

3. If a majority of the voters voting upon the proposal submitted at such election votes approval of such statute or resolution or any part thereof, such statute or resolution or any part thereof shall stand as the law of the state and shall not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. If a majority of such voters votes disapproval of such statute or resolution or any part thereof, such statute or resolution or any part thereof shall be void and of no effect.

And be it further

RESOLVED, That Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of Section 6 of this Article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a number of registered voters ***from each congressional district in this State*** equal to 10 percent ~~[or more]~~ of the number of voters who voted at the last preceding general election in ~~[not less than 75 percent of the counties in the State, but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.]~~ ***the congressional district. The number of registered voters required to file the initiative petition must be determined at the time the copy of the initiative petition is filed with the Secretary of State pursuant to this Section.***

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the Legislature is held. After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the Secretary of State shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

5. If two or more measures which affect the same section of a statute or of the Constitution are finally approved pursuant to this Section, or an amendment to the Constitution is finally so approved and an amendment proposed by the Legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

Assemblyman Conklin moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Anderson, Aizley, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 6—Memorializing banking pioneer and lifelong Nevadan Gino Del Carlo.

WHEREAS, The members of the Nevada Legislature note with sorrow the passing of Gino Del Carlo on October 6, 2007, at the age of 61; and

WHEREAS, Gino Del Carlo was born in Virginia City on March 23, 1946, attended schools in his historic birthplace and graduated from the University of Nevada; and

WHEREAS, This honorable Nevadan heroically served his country as a captain in the United States Army, earning two Bronze Stars and two Purple Hearts as a helicopter pilot in the Vietnam War; and

WHEREAS, As a civilian, Gino Del Carlo continued to lead by example, working for the betterment of his community with allegiance and pride as a member of several organizations, including the Rotary Club of Reno, for which he served as President from 1983 to 1984; and

WHEREAS, The impressive career of this strong advocate of credit unions and firm believer in the power of grassroots advocacy spanned 35 years in Nevada banking, the last 13 of which he spent as the Chief Executive Officer of the Great Basin Federal Credit Union, where he left a legacy of a supportive culture in which both employees and members continue to grow, learn and succeed; and

WHEREAS, This adventurous spirit's love for the majestic Sierra Nevada beauty of his home state led him to become the 380th conqueror of the 165-mile Tahoe Rim Trail at the age of 59 alongside his son, Gino Joseph; and

WHEREAS, Always having a pleasant greeting and something upbeat to say, Gino Del Carlo was a friend and an inspiration to the community at large as well as anyone fortunate enough to have been acquainted with him; and

WHEREAS, This dedicated husband, father and grandfather left behind his best friend and loving wife Sara, his son and outdoor adventure partner Gino Joseph and his wife Nicole, his daughter Elizabeth and grandson Leo Lucca, as well as his mother Lora and seven brothers; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Session of the Nevada Legislature do hereby extend their earnest condolences to the family of Gino Del Carlo, whose infectious grin will be missed by his colleagues and countless friends; and be it further

RESOLVED, That Gino Del Carlo will be remembered by all who knew him as a tremendous leader, visionary and friend; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Gino's wife Sara, son Gino Joseph, daughter Elizabeth and mother Lora.

Assemblyman Anderson moved the adoption of the resolution.

Remarks by Assemblymen Anderson and Cobb.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

I think the Chief Clerk has done a marvelous job of reflecting on paper a great humanitarian and a good friend of mine. It is hard to describe Gino in a way that you might accurately perceive him. For my colleagues, I want to make them understand. He loved Virginia City. He loved Nevada beyond all belief. When I met him, we both were in college. He always reflected that love of Virginia City and that spirit that came from being from there. Now, those of you who have been up to Virginia City know that it is on the side of the hill. It is hard to imagine that Gino was a track star who held a Virginia City track record for up to ten years, I think. It may still be standing today. He took personal pride in his physical fitness. He played golf and had a love of the outdoors. Gino most cared about people, though, and that was where his focus was. I would urge my colleagues for the adoption of this resolution.

ASSEMBLYMAN COBB:

I rise in support of ACR 6. I am glad to see this resolution today because, for those of you who did not know Gino Del Carlo, it really does encapsulate a gentleman who I knew very well. He was a member of my Rotary Club in downtown Reno. He was a great member of our community and a person who came from a great family, from Virginia City, just like my family did. So, I am glad to see this come forward today. I urge your support. Thank you.

Resolution adopted.

Assemblyman Anderson moved that all rules be suspended and that Assembly Concurrent Resolution No. 6 be immediately transmitted to the Senate.

Motion carried.

By Assemblymen Stewart, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy,

Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 7—Designating the month of September 2009 as National Indoor Toxic Mold Awareness Month.

WHEREAS, People of all ages and backgrounds throughout the world have developed illnesses because of exposure to indoor toxic mold, and it is estimated that 500,000 deaths occur annually in the United States as a result of such exposure; and

WHEREAS, Most molds produce mycotoxins, which are toxic vapors created by mold spores, that are poisonous to humans and animals, and have even been used as biological weapons in war; and

WHEREAS, Aflatoxins are mycotoxins that are among the most carcinogenic substances known, and the United States Food and Drug Administration has enforced regulatory limits on aflatoxin concentrations in foods and feeds since 1965; and

WHEREAS, Mycotoxins enter the body through inhalation, ingestion or contact with the skin and can result in a multitude of symptoms, including, but not limited to, dermatitis, cough, rhinitis, nosebleeds, cold- and flu-like symptoms, headache, general malaise and fever; and

WHEREAS, Mycotoxin exposure can lead to toxic injury that may include multiple potentially life-threatening illnesses, affecting the skin and the nervous, vascular, respiratory, digestive, reproductive, urinary and immune systems, as well as forming cancers within the body; and

WHEREAS, Certain species of molds, referred to as "body temperature molds," can live and grow inside the human body, causing recurring infections and numerous other health problems as well as death; and

WHEREAS, Mycotoxin Toxic Exposure Injury is a chronic, debilitating condition causing serious economic, employment, housing, health, social and other consequences, including death; and

WHEREAS, While there is no practical way to eliminate all molds and mold spores in the indoor environment, indoor mold growth can be curtailed by controlling moisture and ensuring that any damp or wet building materials and furnishings are cleaned and dried within 24 to 48 hours to prevent mold growth; and

WHEREAS, National Indoor Toxic Mold Awareness Month is an opportunity to bring greater attention to the need for further education and consumer awareness about molds and mycotoxins; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the 75th Nevada Legislature designates September 2009 as National Indoor Toxic Mold Awareness Month; and be it further

RESOLVED, That the Legislature recognizes that by increasing awareness about indoor toxic mold, we can prevent needless hazardous conditions that take the lives of thousands every year and adversely affect the health and well-being of many more.

Assemblyman Stewart moved the adoption of the resolution.

Remarks by Assemblyman Stewart.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I appreciate the Chief Clerk for the fine job she did in reading that resolution with all the technical terms.

Madam Speaker, the purpose of this resolution is to make the people of Nevada more aware of the potential dangers of toxic mold. It is difficult to determine the extent of cases caused by toxic mold because it is often hard to detect, and its harm is sometimes attributed to other sources and diseases. Mold has learned to survive for years in cramped dark spaces, lying dormant. Eventually, either water or air will activate the mold; it thrives on cellulose building materials dampened by rain from leaky roofs or pipes. Of the thousand species of mold, two types, aspergillus and stachybotrys, have evolved as some of the most common deadly types of

mold. These two potential killers lie in walls beneath ceiling tiles or near sewage pipes and air vents ready to be activated by drips from leaky air conditioners or roofs. As the host colony is triggered by water, they send out millions of spores which look like dust and eventually become their own colonies. These colonies can thrive in houses, apartments, or commercial buildings, where they can become an extreme health hazard to the residents or occupants. This proclamation is patterned after one from the great State of Georgia where the mold awareness campaign has been very extensive. It is my hope that this proclamation will have the effect of warning the people of Nevada of the great potential dangers of toxic mold. Thank you, Madam Speaker.

Resolution adopted.

Assemblyman Stewart moved that all rules be suspended and that Assembly Concurrent Resolution No. 7 be immediately transmitted to the Senate.

Motion carried.

Assemblyman Oceguera moved that ASSOCIATED PRESS: Rachelle Gines; LAS VEGAS REVIEW-JOURNAL: Ed Vogel; LIBERTY AND JUSTICE FOR ALL TV: Daniel Joseph; MRJERZ.ORG: Ryan Jerz; RENO GAZETTE-JOURNAL: Tammy Krikorian; YE OLDE MORGUE: Robert W. Mulvana be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly chamber and that they be allowed use of appropriate broadcasting facilities.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblyman Oceguera:

Assembly Bill No. 182—AN ACT relating to crimes; revising the definition of the term "explosive" for the purposes of certain crimes involving explosives; reorganizing and reenacting various provisions pertaining to crimes involving explosives; making various other changes concerning crimes involving explosives; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Goicoechea, Carpenter, Grady, Smith, Aizley, Bobzien, Goedhart, Gustavson, Hambrick, Hogan, Munford, Ohrenschall, Segerblom, and Settelmeyer; Senator Rhoads (by request):

Assembly Bill No. 183—AN ACT relating to wildlife; authorizing the Board of Wildlife Commissioners to establish an additional kind of drawing for the existing allotment of big game tags; and providing other matters properly relating thereto.

Assemblyman Goicoechea moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblymen Aizley, Segerblom, Ohrenschall, Kirkpatrick, and Koivisto; Senator Parks:

Assembly Bill No. 184—AN ACT relating to gender identity; prohibiting employers from discriminating against employees with respect to the gender identity or expression of the employee; revising provisions governing drivers' licenses and identification cards to allow a person to apply for and receive a license or card indicating his choice of gender; and providing other matters properly relating thereto.

Assemblyman Aizley moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywomen McClain, Smith, Koivisto, Spiegel, Parnell, Buckley, Dondero Loop, Kirkpatrick, Leslie, Mastroluca, and Pierce; Senators Carlton, Copening, Wiener, and Woodhouse:

Assembly Bill No. 185—AN ACT making an appropriation for the Women's Research Institute of Nevada and the National Education for Women's Leadership program at the University of Nevada, Las Vegas; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblymen Leslie, Bobzien, Pierce, Conklin, Kirkpatrick, and Oceguera:

Assembly Bill No. 186—AN ACT relating to public utilities; revising the definition of “public utility” and “utility”; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblymen Buckley, McClain, Parnell, Leslie, Bobzien, Aizley, Anderson, Arberry, Atkinson, Claborn, Conklin, Denis, Dondero Loop, Gansert, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mastroluca, Mortenson, Munford, Oceguera, Ohrenschall, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, and Stewart; Senators Parks, Raggio, Wiener, Breeden, Copening, Horsford, Lee, Mathews, and Woodhouse:

Assembly Bill No. 187—AN ACT relating to criminal procedure; requiring courts to ask a defendant whether he is a veteran or a member of the military; authorizing the establishment by district courts of a program for the treatment of certain offenders who are veterans or members of the military; authorizing justice courts and municipal courts to transfer original jurisdiction of certain cases to the district court for the purpose of assigning offenders to the program of treatment; enacting various provisions pertaining

to the program of treatment; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Sara Del Carlo, Carol Ingalls, George Del Carlo, Vince Del Carlo, Paul Del Carlo, Jan Del Carlo, Tony Lopez, Jennifer Denoo, Elisabeth Hadler, and Dennis Flannigan.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Cole Christensen.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Jason Geddes and Michael Wixom.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Michael Cabrera.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Emily Adams.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Jennifer Breeden, Micah Horton, and James Nagel.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, February 18, 2009, at 11:30 a.m., and that it do so with former Assemblyman and Speaker Emeritus Joe Dini in the Assembly's thoughts and prayers.

Motion carried.

Assembly adjourned at 11:46 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SEVENTEENTH DAY

CARSON CITY (Wednesday), February 18, 2009

Assembly called to order at 11:15 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Dr. Ken Haskins.

Father of Lights, You are light and in You there is no darkness. Your word is a lamp unto our feet and a light unto our path. Cast Your light upon the issues facing us today. Grant these legislators clarity of vision, understanding, and wisdom in order for them to make good decisions that will improve the lives of all. I pray in the Name of the One who is the Light of the World.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 17, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolutions Nos. 6 and 7.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Stewart, Settelmeyer, Hogan, Gansert, Christensen, Grady, Hardy, Manendo, and Munford:

Assembly Bill No. 188—AN ACT relating to education; authorizing the Board of Regents of the University of Nevada to waive certain fees and tuition for a child, widow or widower of a person who was killed while serving in the Nevada National Guard; and providing other matters properly relating thereto.

Assemblyman Stewart moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Hogan, Kihuen, Pierce, Ohrenschall, Denis, Manendo, and Mortenson:

Assembly Bill No. 189—AN ACT relating to property; extending the period of time that a tenant has to comply with certain notices and

requirements to avoid being guilty of unlawful detainer; extending the period of time that a tenant has to comply with a notice to quit under certain circumstances; extending the period of time before which certain court orders become effective; and providing other matters properly relating thereto.

Assemblyman Hogan moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Anderson, Leslie, Ohrenschall, Segerblom, Buckley, Atkinson, Claborn, Hogan, Horne, McClain, Munford, and Pierce:

Assembly Bill No. 190—AN ACT relating to the death penalty; establishing a moratorium on the execution of sentences of death; providing for a study of issues regarding the death penalty; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Denis, Kihuen, Parnell, Hardy, Anderson, Leslie, and Smith:

Assembly Bill No. 191—AN ACT relating to education; removing the prospective expiration of a requirement that certain physical examinations in public schools include an examination of the height and weight of a representative sample of pupils; and providing other matters properly relating thereto.

Assemblyman Denis moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Kirkpatrick, Conklin, Hardy, Aizley, Bobzien, Denis, Koivisto, and Pierce:

Assembly Bill No. 192—AN ACT relating to local government purchasing; making various changes to the provisions governing performance contracts entered into by local governments for operating cost-savings measures; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Kirkpatrick, Bobzien, Hardy, Conklin, Aizley, Denis, Koivisto, Pierce, and Settelmeyer; Senators Coffin and Care:

Assembly Bill No. 193—AN ACT relating to state financial administration; requiring certain governmental entities to report periodically to the Interim Finance Committee concerning the collection and abatement of fees and taxes; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Goicoechea, Bobzien, Hambrick, and Settelmeyer (by request):

Assembly Bill No. 194—AN ACT relating to wildlife; expanding the system of assessing demerit points for wildlife convictions to include certain convictions concerning master guides and subguides; prohibiting a person from providing compensation to a person acting as a master guide or subguide without proof of licensure; requiring a master guide or subguide to report certain violations relating to wildlife; increasing the penalty for acting as a master guide or subguide without a license issued by the Department of Wildlife; providing penalties; and providing other matters properly relating thereto.

Assemblyman Goicoechea moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblymen Goicoechea, Goedhart, Hardy, Cobb, Carpenter, Christensen, Grady, Hambrick and Settelmeyer; Senator Rhoads:

Assembly Bill No. 195—AN ACT relating to public works; raising the estimated thresholds at or above which prevailing wage requirements apply to certain construction contracts; revising the description of contractors whom the Labor Commissioner must survey to determine the prevailing wage; and providing other matters properly relating thereto.

Assemblyman Goicoechea moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblywoman Leslie:

Assembly Bill No. 196—AN ACT relating to public health; revising provisions relating to the licensure of facilities for refractive surgery; providing for the closure of a facility for refractive surgery if the facility is operating without a license; and providing other matters properly relating thereto.

Assemblywoman Leslie moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 18, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 46.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 46.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess until 11:50 a.m.

Motion carried.

Assembly in recess at 11:31 a.m.

ASSEMBLY IN SESSION

At 11:51 a.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Madam Speaker appointed Assemblywoman Smith and Assemblyman Denis as a committee to invite the Senate to meet in Joint Session with the Assembly to hear an address by United States Senator Harry Reid.

The members of the Senate appeared before the Bar of the Assembly.

Madam Speaker invited the members of the Senate to chairs in the Assembly

IN JOINT SESSION

At 11:58 a.m.

President of the Senate presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present except Assemblyman Hambrick, who was excused.

The President of the Senate appointed a Committee on Escort consisting of Senator Weiner and Assemblyman Oceguera to wait upon Senator Reid and escort him to the Assembly Chamber.

The Committee on Escort in company with The Honorable Harry Reid, United States Senator from Nevada, appeared before the Bar of the Assembly.

The Committee on Escort escorted the Senator to the rostrum.

Madam Speaker welcomed Senator Reid and invited him to deliver his message.

United States Senator Harry Reid delivered his message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-FIFTH SESSION, 2009

This past Thursday, America celebrated the 200th birthday of its greatest president, Abraham Lincoln. The day before, I attended a ceremony at Ford's Theater, the site of his assassination at the hands of John Wilkes Booth. The next day, Thursday, I joined President Obama at a ceremony honoring Lincoln in the Capitol Rotunda.

The week's ceremonies afforded us the opportunity to think about the many special qualities of Abraham Lincoln that have captured our national imagination for these many years. I think the trait that I most admire about Lincoln is his unsurpassed ability to bring people together.

Days after he won re-election in 1864 to a second term, a term that would last about a month before his assassination, President Lincoln delivered an informal victory speech. With the Civil War nearly over and the Union's victory secure, Lincoln spoke of the task that was ahead, that must have seemed nearly as daunting as the war itself: how to restitch the broken bonds of our war-torn country. He said, “Now that the election is over, may not all, having a common interest, reunite in a common effort to save our common country.” President Lincoln died before the Union would be fully secured, but he left our nation a legacy that we must never forget—that in our darkest hours, when the challenges we face seem the most difficult, a vigorous pursuit of common ground will always light our path back home.

I have had the pleasure of addressing the Nevada Legislature many times throughout the course of my career. When I was a member of the Assembly, our sessions were held in the Capitol. Today, as always when I return, thoughts flood my mind of my six years as part of the Nevada State Legislature. For example, my vote was one that helped create this beautiful Legislative Building where we now gather. My years as President of the Senate cause me to reflect and be reminded of the best friend I ever had, the late and legendary Governor Mike O'Callaghan.

So in short, I look forward to today and every opportunity to visit old friends and share my thoughts on the legislative issues that confront our state and our country. We have met in prosperous times, some more so than others. In recent years, Nevada's economic growth has been so dramatic that our state's future seemed to be rolling along on the wheels of destiny. Today we are not so fortunate. A national economic collapse beyond our state's control has brought our progress to a dramatic halt. A triple punch of corporate greed, consumer debt, and lax government oversight has left Nevada and our country facing the worst financial crisis since the Great Depression. This vicious cycle of job loss, home foreclosures and declining tourism has left our state with plunging revenues, forcing you, our state legislature, to make difficult choices that threaten the progress we have made in years past. These are difficult facts to face. I wish I could come to you in better times with better news. I know you would prefer to be legislating for prosperity rather than recovery. But the people of Nevada deserve to know what is at stake. Every Nevadan should see the need for bold action and become engaged in the pursuit of near and long-term solutions. On the day he was elected President of our great nation, Barack Obama began working on a plan to address the economic crisis he inherited: spiraling unemployment, plummeting home values, and unchecked greed on Wall Street.

Last week, Congress completed action on the President's recovery plan. Despite our affection for President Obama and the strong Democratic majorities in Congress, we did not simply rubber stamp the President's plan. Democrats and Republicans engaged in a serious and vigorous debate, and ideas from both parties were adopted to improve this historic legislation. This bill had broad bipartisan support, especially from Republican governors from California to Florida and the states in between. In fact, we would not have passed the bill without the courage of three independent-minded Republicans. We have 58 Democrats in the Senate, soon to be 59, but we need 60 votes to end a filibuster. After marathon negotiations, Republican Senators Olympia Snowe, Susan Collins, and Arlen Specter joined Democrats to enable this clearly-needed legislation to pass the Congress so it can make its way to the President, who turned it into law with his signature in Denver yesterday.

Since this bill passed on Friday, there have been numerous accounts of the positive impact on our country. I am now going to spend some time talking about what it does for Nevada.

For Nevada, the bill we passed has three main components. It will protect and create 3.5 million jobs across our country, with tens of thousands of jobs right here in Nevada, with 90 percent of these jobs created in the private sector; this legislation will provide tax relief for Nevada's middle-class families struggling to make one paycheck last until the next one arrives; and it makes critical investments in education, transportation, renewable energy, and workforce training to pave the road for long-term recovery.

The total cost of this plan is significant, but economic experts from both sides of the aisle agree that bold action is needed and was needed. At a recent meeting in the Capitol, Mark Zandi, John McCain's chief economic advisor; Alan Blinder, a Clinton economic guru; and Martin Feldstein from prior Republican administrations, all told us that a bill such as the one we passed was essential to the country's economic recovery.

This legislation invests our tax dollars. But unlike the fiscal policies of the past decade, this plan recognizes that every dollar spent belongs to the American people. That is why it ensures accountability, transparency and oversight. It is not meant to line the pockets of the corporate CEOs who helped create this mess. Here at the state level, it is not meant to plug every budget hole to let leaders at the state and local levels avoid their responsibilities.

This important plan has one meaning for Nevada and our country: jobs, jobs, jobs, and more jobs. We invest hundreds of millions of dollars for highways, roads, bridges and another $50 million for mass transit here in Nevada. This will put people to work immediately. It will cause money to flow into Nevada for water and sewer projects that could approach $100 million. We empower the private sector to put thousands of people to work turning the sun, the wind, and geothermal energy into the electricity that will help curb our use of fossil fuels and make us more energy independent. We help businesses grow and create jobs with new forms of tax relief, including a provision that allows half the cost of capital investments to be deducted and a 100 percent deduction for small businesses. We invest nearly half a billion dollars in schools—technology in those schools, classrooms, labs, and other education programs to ensure that Nevada has a competitive workforce to attract new and innovative businesses.

The economic recovery plan also provides immediate assistance to Nevadans who are struggling to pay the bills, find a job, and in fact keep their heads above water. That means tens of millions of new dollars and benefits. It will mean that 200,000 Nevadans who have lost their jobs in this recession will receive $100 more per month to help make ends meet. And we help return our unemployed to the workforce by investing millions more in worker training and placement programs.

We provide new funding for school lunches, food stamps, child care services, and meals for senior citizens. We make a nearly half billion dollar investment in FMAP (Federal Medical Assistance Percentages) which will alleviate the pressure state Medicaid and county indigent care have and others areas of our state that have desperate budget needs. This is the largest percentage increase in FMAP funding for any state in the country.

We address the housing crisis by providing an $8,000 tax credit for first-time homebuyers and a program to help state and local governments, in partnership with community-based organizations, to purchase, build, and rehabilitate affordable housing.

And nearly all Nevadans will receive tax relief, with almost one million of our state's workers and their families receiving a $400 tax cut for individuals and $800 for married couples, and a $2,500 tax credit to help 32,000 Nevada families afford the cost of a college education.

Economists are confident that this plan will work. But we must remember that it is just the first leg of a three-legged stool. The second leg will be a comprehensive response to our housing crisis, as outlined in significant detail today by President Obama in Mesa, Arizona. The third leg will reform our broken banking system to get money flowing again with new accountability. We need regulation, but always remember what we do in government. We have to regulate just right because too much regulation is just as bad as not as not enough regulation.

We cannot expect our economy to turn around overnight. The people of Nevada understand that you cannot dig out of an eight-year ditch in eight weeks or even eight months. Nevadans have patience for the long road that lies ahead. But they do not have patience for more politics of finger pointing, foot dragging, or blame-shifting. As of yesterday, with the bill signing and new help for housing, the climb out of the big ditch has begun.

In the short time since President Obama took office, we have already seen a shift in the tone of Washington, D. C. No one expects Democrats and Republicans to suddenly agree on everything, but we have been engaging in serious pursuit of common ground, and that's a welcome change for all Americans. In just the first few weeks of this, the 111th Congress, we have not only passed the economic recovery plan, but also a lands bill that will protect Nevada's great outdoors, help the Reno economy through ReTRAC, enhance private development in Henderson. It even provides land for the expansion of the Nevada Cancer Institute, one of the country's premier treatment facilities for cancer. I am also happy to report the Carson City Land's Act that balances development and preservation in Carson City, which is part of this bill. In addition to what this legislation does for Nevada, it creates wilderness areas throughout the country, preserves our national parks, and as pundits and editorial writers all over this country have said, it is the most important environmental legislation to pass Congress in more than a quarter of a century. We passed the Lily Ledbetter Fair Pay Act to ensure pay equity in the workplace—legislation leading toward equal pay for men and women.

We also passed, on a bipartisan basis, a new Children's Health Insurance Program to provide quality coverage for kids who are sick. This is for millions of children, including tens of thousands here in Nevada. This includes regular doctor's care and the medicine they need to stay healthy.

One thing is also certain: that because of a provision I forced into a bill late last year, for the first time Nevada counties will receive full funding for county payments and Payments In Lieu of Taxes, which translates into millions of dollars for our state. So whatever problems we face today have been greatly lessened as a result of that legislative victory. This is especially so in rural Nevada. None of these major accomplishments would have been possible without serious-minded people from both parties working as partners.

The winds may be shifting in Washington, but bipartisanship is nothing new in Nevada. I am confident Speaker Buckley and Minority Leader Gansert are working together for the betterment of Nevada. In the Senate, young, talented Majority Leader Horsford will work in tandem with one of Nevada's historical figures, Minority Leader Raggio.

The winds have definitely shifted in one area for Nevada with this new administration, and that is the fight on Yucca Mountain. Now instead of fighting against the storm, Nevada has the wind at its back. In partnership with the other delegation members and state constitutional officers, we should finally see the Yucca project come to a close. I am doing everything that I can to stop the dump, but I am not the only one involved in this fight. This is not the time for the state to back off by cutting funding for the legal battles that are still being fought. We are in the last lap of the race, and Nevada needs every weapon to finally win this 20-year-plus battle.

I know that there is already debate on the best way to invest some portions of our state's recovery funds. The top consideration must be how we can put the most people back to work and rebuild Nevada's economy the most quickly. Any legislation is imperfect. As you know, legislation is the art of compromise. Legislation is the art of consensus building. Parts of this legislation will prove to be even better than we anticipate, but other parts of it may not meet our expectations. Together, this plan will work for Nevada.

In the words of President Lincoln, "I do the very best I know how, the very best I can. And I mean to keep on doing it to the end. If the end brings me out all right, what is said against me will not amount to anything. If the end brings me out all wrong, ten angels swearing I was right would make no difference."

The scope of this crisis may be unprecedented in our lifetimes, but we have faced our share of challenges before and risen to the occasion each time.

We may not know exactly when this crisis will end, but I am confident, with the signing of the economic recovery package and today's announcement in Phoenix by President Obama, that history will record yesterday—and yes, today—as the time when recovery began. Thank you all very much.

Senator Lee moved that the Senate and Assembly in Joint Session extend a vote of thanks to Senator Reid for his timely, able, and constructive message.

Seconded by Assemblyman Oceguera.
Motion carried unanimously.

The Committee on Escort escorted Senator Reid to the Bar of the Assembly.

Senator McGinness moved that the Joint Session be dissolved.
Seconded by Assemblyman Conklin.
Motion carried.

Joint Session dissolved at 12:21 p.m.

ASSEMBLY IN SESSION

At 12:22 p.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.
Motion carried.

Assembly in recess at 12:22 p.m.

ASSEMBLY IN SESSION

At 12:25 p.m.
Madam Speaker presiding.
Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Concurrent Resolution No. 7.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Nichole Bailey.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Al Martinez and Becky Estrada.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Neal Kornze, Leah Chubb, Don Clark, and Susan Clark.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Mike Hoffman, Colette Burau, Bill Bible, Ken Cervantes, Marilyn Cervantes, Gene Sullivan,

Anita Sullivan, Deanne Davidson, Kim Foster, Paul Davidson, Colette Burau, Vickie Bates, Joetta Brown, Christi Aldinger, Matthew Benton, and Charlie Seeman.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Emilie Wurster and Cooper Christensen.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Tom Clapp.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Elaine Brockhage and Amanda Dykes.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Diss and Alicia Taylor.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Armando Denis and Novella Kowallek.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Double Diamond Elementary School: Edwin Aguirre, Erick Aguirre, Sienna Bates, Jacob Casquejo, Kim Doan, Khue Doan, Brandon Fitzmaurice, Victoria Fitzmaurice, Johni Gumm, Alyssa Mayer, Ariana McConnell, Jorge Mejia, Ramon Mendoza-Moya, Taylor Neely, Zachary Whitely, Koa LaRose, Cierra Ucovich, Abigail Koehnlein, Zohra BenBrahim, Ashley Edwards, Christhea Balcon, Joseline Trujillo, Garrett Schotborgh, Hannah Cordero, Matthew Dace, Christian Gamit, Felicia Dietz, Chelsea Almanzar, John Alvarado, Alexandria Brooker, Adam Dean, Felicia Dietz, Riley Elsmore, Taylor Estes, Erik Gill, Tasnim Halim, Andrew Herschbach, Brett Hertzler, Casey Howells, Erin Hunt, Margaux Larsen, Heather Lindenberg, Ericka Logan, Abbie Malabuyoc, Joshua McDaniel, Jimmy Moran, Allison Munson, Eric Ruz, Veronika Scavacini, Emily Sirlock, Olivia Smirlock, McKenzie Taylor, Allison Wales, Kyle Wilson; teachers Clarisse Mayer and Courtney Hurlbert; Andrew Hettrick, and former Assemblyman Lynn Hettrick.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Cassidy Radtke, Deanna Abbott, Katherine Drew, and Jonathan Cockroft.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Hanna Rutherford.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Bruce Breslow.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Sheree Rosevear.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Hannah Darby and Jill Crandall.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Emily Persaud and Nathan Ring.

On request of Assemblywoman Koivisto, the privilege of the floor of the Assembly Chamber for this day was extended to Terry Horgan and Jackie Valley.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Michael Cabrera, Mark Barry, Edwin Suarez, and Greg Brower.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Suzanne Moore and Elizabeth Hudson.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Cecilia Hackman, Tamrah Torres, and Breanne McMeans.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Patricia Manning.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Eileen Montgomery.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Ralph Toddre, former Assemblywoman Genie Ohrenschall and Frank Daykin.

On request of Assemblywoman Pierce, the privilege of the floor of the Assembly Chamber for this day was extended to Jon Sasser.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Emily Morris and Colin Philips.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Robert McGowan, Chris Kanowitz, and Chris Beucherie.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Hunter Watterson.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to Cheyenne Contreras and Elizabeth Contreras.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, February 19, 2009, at 11:30 a.m. and that it do so in memory of Army Staff Sergeant Sean Diamond.

Motion carried.

Assembly adjourned at 12:27 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE EIGHTEENTH DAY

CARSON CITY (Thursday), February 19, 2009

Assembly called to order at 11:49 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman Hambrick, who was excused.

Prayer by the Chaplain, Dr. Ken Haskins.

O Lord, our Lord, how majestic is Your Name in all the Earth. We marvel at Your creative genius and at the work of Your hands: the star-filled sky, the snow-capped mountains, the painted deserts, and the mighty oceans. These and more sing Your praises. Lord, bless our creative efforts in order that the work of our hands may enrich the lives of those whom we serve for years to come. In Jesus' Name I pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 189, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Judiciary.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 78, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 29, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and rerefer to the Committee on Transportation.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Taxation, to which was referred Initiative Petition No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

KATHY MCCLAIN, *Chair*

Assemblyman Claborn moved that Assembly Bill No. 29 be rereferred to the Committee on Transportation.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 189 rereferred to the Committee on Judiciary.

Motion carried.

By Assemblymen Oceguera, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Assembly Concurrent Resolution No. 8—Designating February 19, 2009, as E Clampus Vitus Day at the Nevada Legislature.

WHEREAS, It has come to the attention of the Nevada Legislature that the Ancient and Honorable Order of E Clampus Vitus has maintained its honorable status throughout the known world and especially in this great State of Nevada; and

WHEREAS, The Ancient and Honorable and Exceedingly Humble Order of E Clampus Vitus has survived the test of time to become one of the longest surviving brotherhoods of men that continue to fulfill a fundamental need in providing protection and kindness while advancing the noble cause of Clamperdom to residents of the Silver State, especially all the "widders" and orphans, and descendants of the Argonauts; and

WHEREAS, The Honorable Order of E Clampus Vitus was founded in West Virginia in 1845 by Ephram Bee, owner of a tavern on the National Road, and shortly thereafter the warmhearted brothers affectionately became known as the "Clampin Vipers"; and

WHEREAS, In 1860, William Stewart founded the first Ancient and Honorable Order of E Clampus Vitus, Winnemucca Lodge #1, in the Utah Territory, in the unsuspecting peaceful town known as Carson City; and

WHEREAS, The creed of the Clamproctors, yesterday, as well as today, is "to protect the 'widders' and orphans, and MAINLY the 'widders' "; and

WHEREAS, The State of Nevada is proud to continue the tradition of 164 years of devoted service with the Nevada chapters, which now include the Snowshoe Thompson Chapter of Douglas County, the Julia C. Bulette Chapter of the Comstock, the Lucinda Jane Saunders Chapter of Elko County and the Queho Chapter of Clark County; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Session of the Nevada Legislature, of whom many are proud members of E Clampus Vitus, do hereby declare February 19, 2009, as E Clampus Vitus Day at the Nevada Legislature, a day to be marked by appropriate revelry and thanksgiving; and be it further

RESOLVED, That the Ancient and Honorable Order of E Clampus Vitus is praised and commended for its contributions to mankind and others, and recognized as an illustrious group of Clampers, Clampatrious, Vituscans and Frolicking Friars who must continue to serve and protect the residents of the Silver State; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Patriarchs of E Clampus Vitus.

Assemblyman Anderson moved the adoption of the resolution.

Remarks by Assemblyman Anderson.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

For me, one of the highlights of each legislative session is when we have the opportunity to honor the order of E Clampus Vitus, and since the "doin" this evening will be in recognition of the former Speaker, Joe Dini, this is of particular significance to me.

This fraternal organization, as we heard the Chief Clerk explain in the resolution, is now generally associated with the western mining camps in California and Nevada, but it had its origins elsewhere. Ephraim Bee, the founder of E Clampus Vitus, was a tavern owner in Lewisport, West Virginia. He was also an agent of the Underground Railroad. Ephraim Bee hid escaped slaves in caves near Lewisport. Sometimes he would give the townsfolk a raucous party to keep them occupied while the slaves moved on to the next station.

In 1845, Ephraim Bee announced that he had received a special commission from the Emperor of China to establish the ancient and honorable order of E Clampus Vitus. From there, the order spread far and wide, being carried west by the soldiers in the Mexican War and the miners in the California gold rush.

It is not hard to understand why E Clampus Vitus became so popular. The nineteenth century was the heyday of the fraternal orders—the Masons, the Odd Fellows, the ancient order of the Hibernians, and a score of others.

E Clampus Vitus was a thoroughly democratic organization and a conscious parody of these exclusive and pretentious orders. To poke fun at the pomp and ceremony of the fraternal organizations, with their fancy sashes, jeweled vests, and other elaborate headgear, the Clampers cut tin can lids into odd shapes and pinned them to their hats and their characteristic red shirts. This practice is still called "wearing your tin." You will note that many of these gentlemen have such items on their vests.

In the place of pretentious titles and orders, the Clampers elected officers with names like "The Noble Grand Humbug," "The Roisterous Iscutis," or "The Grand Imperturbable Hangman." Finally, in place of the elaborate initiation ceremonies, the Clampers admitted new members with a rowdy drinking party.

Today, the Clampers are best known for preserving the history of the western mining districts. When you visit one of Nevada's old mining camps, you will see bronze plaques marking the sites of taverns, bordellos, and other places that were important to the miners of the nineteenth century but would be forgotten today if it were not for the Clampers. After placing one of these historic markers, the Clampers revert to their origins as a "historic drinking society," holding a boisterous party known as the "doin's," of which we'll have one this evening.

So today we salute the contributions of one of Nevada's oldest, largest, and most disreputable fraternal organizations, the ancient and honorable order of E Clampus Vitus.

I want to thank you and I want to thank them for their contribution to our society and for the reminder that is possible to have a fun day regardless of where you are at. Thank you, Madam Speaker.

Resolution adopted.

Assemblyman Anderson moved that all rules be suspended and that Assembly Concurrent Resolution No. 8 be immediately transmitted to the Senate.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 19, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 8.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 8.

Assemblywoman Dondero Loop moved the adoption of the resolution.

Remarks by Assemblymen Dondero Loop, Munford, Christensen, Pierce, Leslie, Parnell, Anderson, Bobzien, Grady, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN DONDERO LOOP:

I would like to introduce my dear friend, Guy Rocha. Guy and I go way back. We were John S. Park Elementary School Panthers together, I think, in the second grade. Then we were Lancers at John C. Fremont Middle School. Then he decided not to be a Wildcat and went to Clark High School and left us all, but we stayed friends. He is a true product of public education in the State of Nevada and is a native Nevadan. I followed his work and we reconnected at a dinner recently when I realized he did not know he had made my best friend, Amy, cry throughout the entire third grade because he teased her about being Polish. We have straightened all that out. Amy has gotten her dozen red roses. We have found out that Guy was Polish and that is why he was telling those jokes to her. So all these years later we have found that out and it is now all laid to rest. I applaud him for everything he has done. We forgive you for crying every day. Thank you for the red roses to Amy. She is very happy and living in Boulder City now. Thank you for all your hard work, and thank you for being such a dear friend.

ASSEMBLYMAN MUNFORD:

Thank you, Madam Speaker. I would also would like to extend my congratulations and strong support for Guy Rocha. He was, at one time, one of my students at Clark High School. I am very impressed with his success, and I just wish him all good luck. I hope he gets what he's been looking for in the future. Thanks a lot for being part of my life.

ASSEMBLYMAN CHRISTENSEN:

Thank you for recognizing me, Madam Speaker. I stand in strong support of this measure to recognize our honoree. I am in strong protest, however, of his retiring. You will be greatly missed. I have heard that great things come out of Clark High School, and I admit, for full disclosure, that I graduated from Clark, as well. I didn't want that disclosure issue to come back on me. But, I just wanted to tell you that—and I am sure that I speak for many of us here in this body—some of my most fond memories in the three sessions that have been leading up to this one, is sitting over in the old Assembly Chamber and hearing those stories of knife wielding Assembly members and Senators, going through their brawls and passing laws. Those stories helped us feel so civil, here. Really, there are just some great memories of watching you speak and represent history in Nevada. I will truly miss you. Again, I want to recognize you for all the great things you have done for the state. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks.

I would note that Guy was the first and only state archivist in our state's history to make presentations to the full Assembly at the old Assembly Chamber, and it is one of our best days each session. We did that in 2003, 2005, 2007, and I am pleased to let all the freshman know that

he has agreed to present again this time, in 2009. We will look forward to that day, one of our most special floor sessions each session.

Guy, we so appreciate all you have done in your service to our state. We recognize that we have to preserve what you have built up over the years. We will do that. Thank you for all you have done for us.

ASSEMBLYWOMAN PIERCE:

Thank you, Madam Speaker. I rise in support of this resolution. I reiterate what everyone else has said. I am a history buff, and I just really always look forward to when we go to the old Capitol and you tell us about days gone by. I just wanted to thank you very much for your service to this state.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of this resolution. I just have a little request for Mr. Rocha since he will be addressing us next month or whenever we have our old Assembly Chamber floor session scheduled. I would like to hear the story of the Mesquite mosquito in regards to the old Assembly Chamber. Senator Reid told a story yesterday. It will be quite interesting, I think, for Mr. Rocha to research that for us. I think the Assembly will greatly benefit from hearing about the Mesquite mosquito. It is a challenge.

ASSEMBLYWOMAN PARNELL:

Thank you, Madam Speaker. I rise in support of SCR 8. As a friend of Guy's and he being one of my constituents, I wanted to just say, on behalf of the Capital City, and on behalf of all former history teachers, we just think you are a gem. We are glad you will at least be staying in Carson City, so hopefully you will continue to come to the State Library and do what you do so well. We wish you happiness and health in your retirement. Thank you.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I, too, rise in support of the resolution. As a history teacher and one who likes to believe they understand a little bit about Nevada history, I cannot emphasize enough the remarkable contribution, truly remarkable contribution of Mr. Rocha in breaking the myths that surround the oral history of the state as compared to that which is actually supported by records that are keenly kept. Without his strong endeavor, those myths would live forever. I look forward to both his written and televised presentations continuing in the tradition of making sure the historical record of our state is kept accurately.

We now have almost enough time to say we have a historic past, but we are still working on it. I thank you for your service. I regret his departure from state service and recognize, in part, it is because of the deep economic troubles facing his department and the area where he works. His retiring, being at the top end of the food ladder, means others might be able to stay and carry on the work that he has started. That kind of dedication is rare in any society. I think we should all recognize it. Thank you, Mr. Rocha.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Speaker. I rise in support of the resolution. I just would like to start on a personal note and thank Guy for the time I have spent with him and getting to know him and the friendship that he has with members of my family. I think it is important to note—and I want to thank you on a broader level as one of many people in this body who is not a native Nevadan—that ever since I have been here, I have been aware of his work and the things he has done to interpret our past and to help us to define ourselves as Nevadans, once we got here. I think it is also important to note—as you're concluding your service in your professional position—that we not lose sight, as Nevadans, of the importance of what it was and what it is that you do for our state as we hurtle into our very uncertain future. We always know where we came from. Thank you.

ASSEMBLYMAN GRADY:

Thank you, Madam Speaker. I do stand in support of this resolution. I think it is appropriate since this past weekend we just finished the state wrestling championships around the state. A very important part of history is that Guy was a state championship wrestler. Not only that, he

has helped many of the local high schools produce championship wrestlers, and for that we really appreciate him. Also, from a local government person, over the years, Guy has gone around to all the smaller communities. When I was mayor in Yerington, he was down there quite often helping us put our records together. If it had not been for Guy, many of the records for the smaller communities around the state would have been lost, and for that, I thank you and wish you happy retirement.

Resolution adopted.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblyman Segerblom:

Assembly Bill No. 197—AN ACT relating to real property; clarifying that the provisions governing an offer to sell subdivided land apply similarly to a reservation agreement concerning such land; establishing certain procedures for parties who enter into a reservation agreement; applying certain provisions governing sales of subdivided land to reservation agreements; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblyman Segerblom:

Assembly Bill No. 198—AN ACT relating to the Public Employees' Retirement System; creating the Deferred Savings Option Program within the Public Employees' Retirement System to allow certain public employees to obtain, upon retirement, a lump-sum payment with lower monthly retirement benefits; requiring the Public Employees' Retirement Board to conduct an experience study on the Program; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Gansert, Hardy, Aizley, Arberry, Claborn, Cobb, Gustavson, Horne, Kihuen, Leslie, Manendo, McClain, Munford, Settelmeyer, Stewart, and Woodbury; Senators Townsend, Cegavske, Hardy, McGinness, Raggio, and Washington:

Assembly Bill No. 199—AN ACT relating to animals; prohibiting a person from owning, possessing, keeping, training, promoting or purchasing an animal with the intent to use it to fight another animal or from selling an animal knowing that it is intended to be used to fight another animal; revising the provisions regarding witnesses to such fights; providing a penalty; and providing other matters properly relating thereto.

Assemblywoman Gansert moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblymen Gansert, Hardy, Aizley, Cobb, Goedhart, Gustavson, Munford, Parnell, Settelmeyer, Stewart, and Woodbury; Senators Cegavske, Hardy, Mathews, McGinness, Raggio, Rhoads, Townsend, and Washington:

Assembly Bill No. 200—AN ACT relating to civil actions; extending limited immunity from civil liability to certain medical providers who render gratuitous care under certain circumstances; and providing other matters properly relating thereto.

Assemblywoman Gansert moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblywoman Parnell:

Assembly Bill No. 201—AN ACT relating to public health; prescribing the requirements for a surrogate decision maker to give informed consent for certain behavioral or medical research on behalf of a subject who is incapable of giving such consent; prohibiting the requesting or giving of informed consent under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Assemblywoman Parnell moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblyman Hardy:

Assembly Bill No. 202—AN ACT relating to cosmetology; revising various definitions; revising provisions relating to the qualifications for examination as an instructor of aestheticians, an instructor in nail technology, a nail technologist or an aesthetician; revising provisions relating to cosmetologists' apprentices; establishing certain continuing education requirements; increasing the required instruction hours for an aesthetician; and providing other matters properly relating thereto.

Assemblyman Hardy moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Hardy, Buckley, Gansert, Smith, Bobzien, Aizley, Arberry, Cobb, Denis, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Kirkpatrick, Manendo, McArthur, Oceguera, Ohrenschall, Pierce, Settelmeyer, Spiegel, Stewart and Woodbury; Senators Hardy, Parks, Cegavske and Lee:

Assembly Bill No. 203—AN ACT relating to state financial administration; providing a procedure for the use of excess revenue remaining in the State General Fund at the close of a fiscal year; and providing other matters properly relating thereto.

Assemblyman Hardy moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblymen Spiegel, McClain, Aizley, Anderson, Arberry, Bobzien, Buckley, Christensen, Claborn, Conklin, Denis, Hardy, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, Munford, Parnell, Pierce, Segerblom, Smith, Stewart and Woodbury; Senators Parks and Woodhouse:

Assembly Bill No. 204—AN ACT relating to common-interest communities; extending the period of time certain liens have priority over other certain security interests; and providing other matters properly relating thereto.

Assemblywoman Spiegel moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Taxation:

Assembly Bill No. 205—AN ACT relating to the taxation of property; revising the provisions governing the calculation of certain partial abatements of taxes and the taxable value of improvements made on land, the designation of taxes on personal property as uncollectible and the taxation of open-space land which is converted to a higher use; clarifying the provisions governing the notification, appeal and revision of the valuation of property on the unsecured tax roll; delaying the required filing dates for certain statistical reports and petitions for the review of certain determinations regarding the applicability of a partial abatement; postponing the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors; providing a penalty; and providing other matters properly relating thereto.

Assemblywoman McClain moved that the bill be referred to the Committee on Taxation.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 206—AN ACT relating to public health; revising provisions relating to reports of sentinel events and patient safety by medical facilities; authorizing health authorities to conduct investigations of cases or suspected cases of an infectious disease and to issue cease and desist orders relating to those investigations; authorizing the Health Division of the Department of Health and Human Services to take control of certain medical records under certain circumstances; revising provisions relating to the licensure and discipline of certain medical facilities and facilities for the dependent; requiring the Director of the Office of Consumer Health Assistance to assist consumers in filing certain complaints; and providing other matters properly relating thereto.

Assemblywoman Smith moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 19, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 9.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 9.
Assemblyman Carpenter moved the adoption of the resolution.
Remarks by Assemblyman Carpenter.
Resolution adopted.

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

Assembly in recess at 12:32 p.m.

ASSEMBLY IN SESSION

At 12:35 p.m.
Madam Speaker presiding.
Quorum present.

REMARKS FROM THE FLOOR

Assemblyman Hardy requested that his remarks be entered in the Journal.

Today, I have two guests sitting with me who are going to stand with me; and I would invite the group coming from Clark County predominantly to also stand at this point. Sitting with me are Kelly Thomas Boyers and her son, Alec Thomas. In light of the fact that I am probably going to wax eloquent, I think it is probably appropriate to welcome them to the floor of the Assembly and recognize that they are budding lobbyists and they will probably be talking to each and every one of us. So, if you can welcome them to the floor of the Assembly.

If you will indulge me, Madam Speaker. Kelly is the mother of Adam Thomas; Alec is the brother of Adam Thomas. Adam Thomas, as you may recollect, almost one year ago was serving as the intern for Senator Michael Schneider when he was involved in a one-car accident, swerving to avoid a pedestrian. He was not safety belted in, was ejected from the vehicle, and subsequently died. Because Alec, being the brother, is attending a high school of religious origin, I thought it only fair to ask him about the concept of giving one's life. I would preface that by saying that when my Savior was asked, "Who is my neighbor?" he used the parable of the Good Samaritan to illustrate that each and every one of us has a neighbor. So that would lead me to the quote of the scripture in John 15:13, "Greater love hath no man than this, that a man lay down his life for his friends." I asked Alec, "Who were his friends?" and he appropriately answered, "Everyone".

His brother, Adam, who gave his life for a friend that he did not know, truly made a sacrifice. He may not have understood the sacrifice that was going to happen, but it is my testimony that the resurrection is real, and Adam has done something for someone he did not know. What a privilege it is for us to have a wonderful mother, a wonderful brother, here representing their son, their brother, to us and with us on the floor of the Assembly. May we all appreciate our children, our siblings, our spouses, and may we remember the sacrifices that so many people have given for us, would be my humble prayer.

Thank you, Madam Speaker.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Tom Crawford, Richard E. Jones, Elenilson Santos, Matthew J. Klahn, Richard Wilson, Stacey Wilhelmi, Darwin Huckebe, Rob Clark, Ellis Nelson, Scott Wood, Bob Inderbieten, Steve Sherman, Rick Carpenter, Jeremy Sternod, Ron Bradley, Scoop Robich, Tom Ries, John Boyne, James Ames, and Reid Slayden.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Charlie Seeman and Pat Grady.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Jackie Lynch and Jackson Lynch.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Chris Pitaro.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Julia King, Guy Rocha, Victoria Rocha, and Shane Rocha.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Ed Wright.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Faith Baptist Academy: Eliza Alt, Rosemary Cervi, Alex Miller, Andrew Montgomery, Jonathan Montgomery; chaperones Jack Hammonds, Justin Evans, and Sharon Wehing.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Lindsey Braire.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Kelly Thomas Boyers and Alec Thomas.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Jake Vuskin.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Kari Roth and Aaron Bengochea.

On request of Assemblywoman Koivisto, the privilege of the floor of the Assembly Chamber for this day was extended to Elly Futryk.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Melissa Marshond.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Kyle Poot.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Cecelia Hackman.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Dan Stark.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to the following members of Future Farmers of America: Kristin Wurtz, Ariel Marshall, Grae Matheus, Kali Evanson, Kadee Buckmaster, Ashley O'Flaherty, Tamia Lister, Megan Johnson, Lance Thompson, Clark Phillips, John Hoehne, Mason Garrett, Rachel Wagner, Coralee Ditnan, Jimmy Lotspeich, Charlie Mann, Nicole Connelly, Stephanie Licht, Casey Simmers, Daphne Reynolds, Dean Kelly, Josh Gruver, Brandon Suwinski, Jordan Oxborrow, Rachel Roundy, Mandy O'Donnell, Jacqueline Hoss, Tayler Landa, Rachael Evans, Rowdy Hutchison, Rachelle Rader, Nicole Witherow, Jasmine Dulgar, Angela Vesco, Nathan Whipple; chaperones Robin Simmers, Joe Baptist, Bill Laird, and Don Noorda.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Jonathan Licski.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Cindy Southerland.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, February 20, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:45 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE NINETEENTH DAY

CARSON CITY (Friday), February 20, 2009

Assembly called to order at 11:04 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Aizley and Arberry, who were excused.

Prayer by the Chaplain, Dr. Ken Haskins.

Our Loving Heavenly Father, You have taught us that it is more blessed to give than to receive and that it is better to serve than to be served. Bless these servants of Yours, who give so much in service to the citizens of this great State of Nevada. I pray in the Name of our Savior, who gave His all in service to others.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 172, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

COMMUNICATIONS

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-2801

February 18, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, THE HONORABLE BARBARA BUCKLEY, *Speaker*, Nevada Legislature, 401 S. Carson Street, Carson City, NV 89701-4747

DEAR SENATOR HORSFORD AND SPEAKER BUCKLEY:

I am writing to express my desire to address both Houses of the Legislature during the 2009 legislative session. I would enjoy the opportunity to address the Legislature about the recent American Recovery and Reinvestment Act and other national economic challenges that confront the Congress and the country. These issues affect Nevada citizens directly and the perspectives of the members of the Nevada Legislature are paramount to my decision making as we work to solve these issues to the benefit of our citizens.

I understand that March 30, 2009, at 11:00 AM, is available and if you could confirm the details regarding my address to the Legislature I would appreciate it. Please direct any communications to my District Director, Tod Story. He can be reached at 702-220-9823. Thank you and I look forward to hearing from you.

Sincerely,
SHELLEY BERKLEY
Member of Congress

By Assemblymen Goedhart, Christensen, Cobb, Goicoechea, Grady, Gustavson, Hambrick, Settelmeyer, and Stewart:

Assembly Joint Resolution No. 2—Proposing to amend the Nevada Constitution to require that an initiative petition which would create, generate or increase any public revenue in any form receive not less than a certain percentage of affirmative votes for approval at an election.

Legislative Counsel's Digest:

The Nevada Constitution currently provides that an initiative petition which proposes a statute or an amendment to a statute must, after verification by the Secretary of State of the number of signatures affixed to the petition, be transmitted to the Legislature, which may enact or reject the statute or amendment or take no action thereon. If the statute or amendment is rejected by the Legislature or if no action is taken thereon within 40 days, the Secretary of State is required to submit the question of approval or disapproval of the statute or amendment to a vote of the voters at the next succeeding general election. If a majority of the voters voting on the question at the election votes to approve the statute or amendment, it becomes law and takes effect upon completion of the canvass of votes by the Supreme Court. (Nev. Const. Art. 19, § 2)

This resolution proposes an amendment to the Nevada Constitution to provide that if an initiative petition proposes a statute, an amendment to a statute, the repeal of a statute or an amendment to the Nevada Constitution which would create, generate or increase any public revenue in any form, including, but not limited to, taxes, fees, assessments and rates, or increases in the computation bases for taxes, fees, assessments and rates, the approval of the petition requires the affirmative vote of not fewer than two-thirds of the voters voting on the question at each election required for the petition. If greater than one-third of the voters voting on the question at any such election vote to disapprove the petition, no further action may be taken on the petition.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That a new section, designated Section 7, be added to Article 19 of the Nevada Constitution to read as follows:

Sec. 7. If an initiative petition proposes a statute, an amendment to a statute, the repeal of a statute or an amendment to this Constitution which would create, generate or increase any public revenue in any form, including, but not limited to, taxes, fees, assessments and rates, or increases in the computation bases for taxes, fees, assessments and rates, the petition requires an affirmative vote of not fewer than two-thirds of the voters voting on the question to approve the petition at each election required for the petition. If greater than one-third of the voters voting on the question at any such election vote disapproval of the petition, no further action shall be taken on the petition.

And be it further

RESOLVED, That Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of ~~[Section 6]~~ ***Sections 6 and 7*** of this Article, the people reserve to

themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a number of registered voters equal to 10 percent or more of the number of voters who voted at the last preceding general election in not less than 75 percent of the counties in the State, but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the Legislature is held. After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. ~~[If]~~ ***Except as otherwise provided in Section 7 of this Article, if*** a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. ~~[If]~~ ***Except as otherwise provided in Section 7 of this Article, if*** a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If ***each of*** the conflicting provisions submitted to the voters ~~[are both]~~ ***is*** approved by ~~[a majority of]~~ the ***number of*** voters voting on ~~[such measures,]~~ ***the measure as required by this Constitution,*** the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall

be placed upon the ballot, the entire text of the proposed amendment. ~~[If]~~ ***Except as otherwise provided in Section 7 of this Article, if*** a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. ~~[If]~~ ***Except as otherwise provided in Section 7 of this Article, if*** a majority of such voters votes approval of such amendment, the Secretary of State shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. ~~[If]~~ ***Except as otherwise provided in Section 7 of this Article, if*** a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. ~~[If]~~ ***Except as otherwise provided in Section 7 of this Article, if*** a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

5. If two or more measures which affect the same section of a statute or of the Constitution are finally approved pursuant to this Section ~~[,]~~ ***and Section 7 of this Article,*** or an amendment to the Constitution is finally so approved and an amendment proposed by the Legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section ~~[,]~~ ***and Section 7 of this Article,*** another amendment is finally approved pursuant to this Section ~~[,]~~ ***and Section 7 of this Article,*** or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

Assemblyman Goedhart moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

NOTICE OF EXEMPTION

February 19, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 2.

GARY GHIGGERI
Fiscal Analysis Division

February 19, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 4, 6, 20, 24, 33, 69, 70, 118, 122 and 132.

GARY GHIGGERI
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblyman Carpenter:

Assembly Bill No. 207—AN ACT relating to common-interest communities; revising certain requirements for limited-purpose associations that are created for a rural agricultural residential common-interest

communities; providing that such a limited-purpose association is a public body for purposes of the Open Meeting Law; and providing other matters properly relating thereto.

Assemblyman Carpenter moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Claborn and Hambrick:

Assembly Bill No. 208—AN ACT relating to cranes; revising requirements for certification as a crane operator to include a certain amount of crane-related experience; and providing other matters properly relating thereto.

Assemblyman Claborn moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblyman Manendo:

Assembly Bill No. 209—AN ACT relating to driving under the influence; removing the discretion of a court to choose not to order an offender convicted of certain offenses relating to driving under the influence to attend a meeting of a panel of victims in person; and providing other matters properly relating thereto.

Assemblyman Manendo moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblyman Manendo:

Assembly Bill No. 210—AN ACT relating to driving under the influence; reducing the concentration of alcohol required for attendance of a program of treatment for the abuse of alcohol or drugs; reducing the concentration of alcohol required for mandatory court-ordered evaluations; reducing the concentration of alcohol required for court-ordered installation of a device to prevent a person from starting his motor vehicle; and providing other matters properly relating thereto.

Assemblyman Manendo moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Initiative Petition No. 1.

Petition read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the Assembly resolve itself into a Committee of the Whole on February 24, 2009, at the hour of 11:15 a.m. for the purpose of considering Initiative Petition No. 1 and that Initiative Petition No. 1 be made a Special Order of Business for February 24, 2009, immediately following the Committee of the Whole.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 78.

Bill read second time and ordered to third reading.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 19, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 8.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

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

Assembly in recess at 11:18 a.m.

ASSEMBLY IN SESSION

At 12:03 p.m.

Madam Speaker presiding.

Quorum present.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested the following proclamations be entered in the Journal.

A PROCLAMATION BY THE ELKO COUNTY BOARD OF COMMISSIONERS RECOGNIZING ASSEMBLYMAN JOHN C. CARPENTER

WHEREAS, John C. Carpenter, a native Nevadan, has productively operated ranches and local businesses in Northeastern Nevada, as well as being known as a life long Cowboy; and

WHEREAS, John and his beloved wife Roseann, raised their seven children—Jett, Linda, Scott, Doug, Susan, Elizabeth, Lois in Elko, Nevada; and

WHEREAS, John stepped into public life in the 1960s when he was elected to the Elko County Board of Commissioners in which he served 14 years; and

WHEREAS, in 1986 John was elected to the State of Nevada Assembly and has served with distinction and honor for 24 years in 12 regular sessions; and

WHEREAS, Assemblyman Carpenter is in his last term due to the voter approved term limits; and

WHEREAS, during his four decades of serving the citizens of Nevada as an elected official, John has exhibited devotion to duty for the benefit of his fellow citizens, and has provided dedicated service to Northeastern Nevada, and the entire State of Nevada.

NOW, THEREFORE, BE IT RESOLVED, that the Elko County Board of Commissioners, do hereby proclaim in dedication, and honor of service, the Elko County Law Enforcement Center shall hereby be known as the

JOHN C. CARPENTER
Law Enforcement Center

Adopted 19th day of February, 2009.

Board of County Commissioners
County of Elko, State of Nevada

SHERI EKLUND-BROWN, *Chair* — CHARLIE MYERS, *Vice Chair*
DEMAR DAHL — JOHN ELLISON

PROCLAMATION OF THE NEVADA STATE ASSEMBLY

WHEREAS, Born in Fallon, Nevada in 1930, John C. Carpenter grew up in a rural environment of the West, learning what a sense of community really meant; and

WHEREAS, Though he says politics is a terrible disease, serving the people of his home state became his brand of passion, and he has served the people of the State in the Nevada Legislature since 1987 and is now serving his last session, totaling ten special sessions and twelve regular sessions; and

WHEREAS, Prior to serving at the State level, John C. Carpenter served on various boards of Elko County including, the Hospital Board, Recreation Board, Elko Convention and Visitors Authority, and as Chairman of the Elko County Commission; and

WHEREAS, Over the years he developed a keen sense of leadership, honesty, courage, and the "cowboy way" that served him well in rounding up his colleagues when they thought about straying from the herd; and

WHEREAS, He provided us with a chance at learning what the cowboy way is all about by conducting the Cowboy Hall of Fame ceremony during each legislative session; and

WHEREAS, He taught us that being a cowboy may or may not have anything to do with riding a horse; that being a cowboy is a state of mind and simply put, you gotta have heart; and

WHEREAS, From him we also learned the cowboy rule that, "A cowboy always sets his hat upside down to catch all of God's good luck"; and

WHEREAS, After many years of standing by the cowboy code that says to write it on your heart, our favorite cowboy known as "The Boss" completes his long dusty ride leaving his brand on all of our hearts; now, therefore, be it

PROCLAIMED, That the State of Nevada recognizes the accomplishments of John C. Carpenter during his years of service and congratulates him on receiving the honor of having the Law Enforcement Center Building in Elko named after him, a building that will stand tall like our pardner in the Assembly.

Dated this 20th day of February, 2009.

BARBARA E. BUCKLEY,
Speaker of the Assembly

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. I'm speechless. I asked Terry, my friend there, what all these chairs are for. He said, "Oh, we got a bunch of Girl Scouts coming." I was talking to John Ellison, and I said, "I don't know where these Girls Scouts are." Pretty soon, I saw my wife, and I didn't know what the devil to think.

Thank you so much. This is such a great surprise. I could introduce my family, but I don't know whether I can remember all their names or not. I have such a great family. Wow—they've been so supportive of me all these years. Like I said one time, it has been a great ride, and Roseann has been with me all these years. I'm going to try to introduce my family: my son,

Jett—he's over there in the red tie; my son, Scott—he has a blue tie; my granddaughter, and my son, Doug. See, I got to figure out John, what are you really? He is married to my granddaughter, and she works for the federal government. Her and I are a little bit on the different sides of the political fence because Candi, she sort of belongs to the other party that I don't, but I love her so much, and she is such a great kid. Then there is my daughter, Elizabeth, and my other grandson, John. John is a pathologist down in Tucson, so if you want to get your skin read, he'll do it. I should say something about my three sons on the end, there. Jett has a computer deal in Boise, and Scott works for Barrick up in Elko. Doug is the one who has the world by the tail; he retired from the Air Force with 20 years, and now he just flies FedEx planes all around the world, so he is one of these triple- or double-dippers we got. My daughter Lois—she moved down to Arizona where it is warm. My daughter, Susan, teaches school up in Vancouver, Washington, and my other grandson, Doug—this is really difficult, and certainly don't ask me what day they were born on—and my other granddaughter, Kayla, and the other one, Stephanie, and they both live in Elko, and they like to play ball and things like that. Then there is my grandson, who is kind of a comedian. Stand up there, Tim. I tell him he needs to be a sports announcer because he has always got smart remarks and he loves sports, so you need to go where the big bucks are, Tim. And then my daughter, Linda. I think that I need to introduce my friend, John Ellison, because he is kind of family, too, you know. Maybe he is the one that thought about all of this deal. Are you the instigator?

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Yes, he is the mastermind.

ASSEMBLYMAN CARPENTER:

Are you the instigator? And then Cindy Ellison is John's wife, and she has worked 21 years for the justice court in Elko, so if you go through Elko and you get a ticket, she'll take your money.

Elizabeth—did I forget you? I don't think I did. I think I said Elizabeth. Well, my daughter, Elizabeth, she is the brains of the outfit. If you need any problem solved like financial or whatever, she'll help you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

We need her.

ASSEMBLYMAN CARPENTER:

This is pretty tough, you know. Roseann and I have been married how long, Roseann? Fifty-six years—holy Lord! Like I said before, Roseann has stood behind me in all these political endeavors through all these years, and she runs the businesses in Elko when I'm there or not there. Though I don't know how you pulled all this off; I thought I just talked to you this morning. I don't know how you got here so fast and got all these kids here. My Lord, it is quite an accomplishment.

Oh, she said they shipped them over here FedEx. I asked Doug one time, "What do you really do with FedEx?" And he says, "Oh, we deliver all the drugs right on time." You should be around on Christmas when these kids all come home. My Lord, I love to see them come, but I am sure glad when they leave. We have a great family, and we have so much fun. I thank everyone in the Assembly because it has been a great part of my life. I think sometimes we've done pretty good things, and sometimes we've done things not so good, but as all politicians, you got to take the good with the bad. Thank you so much for all these honors. Before I thought maybe I would be kind of glad to get out of the Assembly because Roseann and I have other things to do, but after standing here today, heck, I might just change my name—I guess I won't change my name and just come back as somebody else.

Anyway, thank you so much, Madam Speaker, and I do appreciate all the time. We have some other people over here: Rob Stokes, the county manager, and Cash Minor—he's the guy with all the bucks from Elko County—and my friend, Warren Russell, another county

commissioner, and then my really good friend, John Marvel. I didn't know John was going to show up today. Another thing, I invited Pat yesterday, and now she's got the habit, she's going to be here every day just like John's wife was. Did I miss anybody else? My other grandkids over there—Tyler and Rylee—and they are looking things over. We do have one great-grandchild. You'd think with all of these kids and all of these grandchildren, we'd have more than one great-grandchild—so that is kind of a hint, Candi. Even if you let her or him register in the other party, please get busy. Thank you all, and I don't know what else to say. I've probably been here spouting off too long, so thank you so much, Madam Speaker.

I just want to say one more thing: that I hope they don't expect me to pay all their hotel rooms tonight and give them a ride back home, because we'll have to go rob the bank or something.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Speaker. I, like the rest of this body, rise in support and in recognition of "The Man." He is the most respected man in this building. He has always been my mentor, whether it was trailing a bunch of sheep or following a bunch of cows, John Carpenter has always been "The Man." I do want to thank Elko County for at least naming their justice facility, i.e., the jail, for John Carpenter. At least that way if he decides to return to politics, he will have a place to stay. Welcome to all the Carpenter clan. What a great man, a great father you have; you should be very proud of him. I know I am, I know Elko County is, and all of Northeastern Nevada. Thank you, John.

ASSEMBLYMAN GRADY:

Thank you, Madam Speaker. The last two or three days that we have known about this it has been very difficult, as we meet at 6 A.M. in the morning to talk about what is going on during the day, to keep this from John. Like my colleague from Eureka, I'm not sure that with your many years on the Judiciary Committee why they named this building or if there are other reasons that we won't go into. We congratulate you. In the introductions, we did miss one person who has been here with the camera, and I'm so happy that yesterday John introduced my wife, Pat, and she came back a second day. We have Gladys Goicoechea, who is here all the way from Eureka for this function and to watch Eureka play in the state finals in basketball. Thank you, Madam Chair.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I wouldn't want the opportunity to pass me by to praise my good friend and colleague, Mr. Carpenter. As you may recall, when you, Madam Speaker, were the vice chair of the Judiciary Committee, John Carpenter had already set the standard for both of us in that time. The tradition within the Judiciary Committee is that if you are not in the "CAB,"— the Carpenter, Anderson, Buckley program, — the bill is not going to pass. The Carpenter exit is always there; the only way for a bill to get out of the Judiciary Committee is with John's seal of approval. I can clearly understand why the building in Elko is named for you because you left a dramatic mark on all of our hearts, here in this body, and on the community in which you serve. There isn't enough praise for all the things and contributions you have made to our citizens. Thank you, John.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Speaker. In my first session here about a hundred years ago, I was a real rebel and I was fighting like crazy — actually there were a few of us — against the quarter cent sales tax raise. We had developed a plot where we were going to call for this to have to be a vote of the people to raise the tax. Leadership did not want that, so we knew that they would call for a voice vote and no matter which way it went, they would say it failed. So we devised a plot where Bob Price would call for a division of the house and then there would be two people to stand up in support of that, and John Carpenter volunteered to be one and I was the other one. The leadership got wind of this and called us into a caucus, both leaderships. The Republicans went into caucus and so did the Democrats, and Mr. Perkins was wailing about how could anybody stoop to such a low practice. I looked at Bob Price and his head was red as a tomato and beads of sweat were pouring down, and so I tapped him on the shoulder and I said, "Ok," I

thought he was going to have a heart attack. I said, "It's over Bob, we'll capitulate, we'll just forget about this," and we did. I could not get ahold of Carpenter in the other caucus, and they were grilling him terribly. It was over an hour that he stood his ground. He would not back down. Once Carpenter gives you his word, nothing changes it. He is a great guy. He has always been my mentor, too, even though it is the other party.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I want to thank you for coordinating this with the people from Elko and the family being here. It means so much to all of us to meet your family. I want to thank John for all his years of service; he is a true statesman. When you look around in this building, there are certain people that have the respect — of everyone — it doesn't matter what party, what house, it just doesn't matter and that is John Carpenter. Thank you for being my mentor, too, and always welcoming the new people, for the respect you have in this body and the respect you show for others.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Speaker. I want to say to my colleague in Elko, I have been doing the cowboy breakfast, and I try to make it at least three or four days during the week. The one thing I have learned from you, and will be with my heart for a long time, is just be fair, keep your word. I think you bring this to the building and that a lot more people need to. You'll forever be remembered with me. Thank you for all your service.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I think one of the things that will live on after John leaves us is the cowboy sayings that he has left with us. I took the opportunity last year of compiling 13 of those sayings and sending them out to many of my friends. I remember one of them was, "Never ask you barber if you need a haircut." I know that these sayings will live on long afterwards. John, we love you and thank you for your great service. Thank you, Madam Speaker.

ASSEMBLYMAN HORNE:

Thank you, Madam Speaker. It is a good day for Mr. Carpenter. I wanted to give you my thanks for all the teaching you have given me, especially now, going into my fourth session. I remember, even as a freshman, Mr. Carpenter asking if—when we passed bills to put people in jail—if I was going to work hard to get them out. Then later he said, "But if Mr. Horne is okay with it, I probably am." That was a great compliment. Last session, we had a vote to override a veto. I went to Mr. Carpenter to ask him for his vote and his response was, "I stood with you in committee. I will stand with you now." That just speaks volumes on the character Mr. Carpenter has. You have heard it over and over again that his word is his bond and he sticks by it. I just hope all legislators, now and in the future, will emulate that, Mr. Carpenter. Thank you.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. As a member of the Cowboy Hall of Fame, I also wanted to congratulate you. It took me four sessions to become a member. Every session, I would come back and say, "Mr. Carpenter, this is my year." You would say, "Ohhh, I do not know yet. We will see. We will see." That was one of the proudest moments of my legislative career—the day I was inducted into the Cowboy Hall of Fame.

But I also remember my second session, when I had a very controversial bill and people said, "If you introduce that bill, they will use it against you. You will be a two-term Assemblywoman, and no one from the other party will vote for it. You will regret this day." Consulting with my good friend, the Judiciary chairman, I decided to go ahead and introduce the bill. My colleague from Elko was one of two people in the other party who voted for the bill, both in committee and on the floor. I asked him after the vote, "Why did you do it? Because I know there was a lot of pressure on you not to vote for this bill." And he just looked me in the eye and said, "Because you are right. We should not be doing that to this one group of people. You are absolutely right." I remember that day very clearly. I respect you so deeply. We have worked on so many things together, and like your granddaughter, I probably could not be any more different, politically speaking, than my good friend from Elko. But we have found so much

common ground on so many issues. I have deeply respected your position. Even when we have disagreed you have explained why. I value our friendship and our being colleagues in the Assembly more than you will ever know. Thank you, Mr. Carpenter.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. As a girl from the other party raised just down the road from my colleague, I felt like I had to get up and acknowledge how proud we are of Mr. Carpenter. I was thinking of the same story that my colleague from Reno told, which happened during my first session. I learned right away that the bills out of Judiciary had to meet the Carpenter test. That was something that I could always judge. But, you know, I didn't know much about this cowboy from Elko County. You got up and gave a floor speech that day that has stayed with me ever since. It taught me a lot about you and also about how we look at people. We do not always know what is in their hearts.

Also, we have not mentioned the Susie Q. We have had so much fun with your sense of humor and all the antics we have had over the years with the Susie Q and other things, including the Cowboy Hall of Fame. I am honored to be in that Hall of Fame. I congratulate you on your honor today and look forward to the next three months we have to work together. Congratulations.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Speaker. It is really an honor to stand and recognize our esteemed colleague from Elko. I was trying to think of what I would say. My heart is full, truly. A thought came to mind, something that I tried to quickly forget about, that just happened yesterday morning at the gym. I was getting ready to come into the office, and some of the gyms' patrons were also getting ready and carrying on about their absolute abhorrence for politicians. Now, of course, Madam Speaker, none of us are politicians; we are all statesmen. I do not know exactly who they were referring to, but they were carrying on and on and on. The more they spoke, I kept my head down and thought I better hurry and get out of there before they saw my Assembly license plate.

In sitting here, listening to us recognize someone who has given so much of his life, and this great family that has traveled so far to be here, too, to honor their father and grandfather and father-in-law—it is just great to be able to work with someone and to have had a mentor like our good Assemblyman. That's especially true in this day and age where people are looking for those great mentors, those political leaders like Assemblyman Carpenter, who can leave such a great mark on the state. Assemblyman, I just want to tell you I admire you very much, and as my colleagues have said, I just wanted to say thank you so much for standing your ground, for being such a true and honorable man. It has been a great honor to serve with you. Thank you, Madam Speaker.

ASSEMBLYMAN MANENDO:

Thank you, Madam Speaker. To my cowboy friend, John Carpenter, we have been doing this rodeo for 16 years; but even before that, I used to come up here, since the 1991 Session. What everybody would say is, "You need to get to know one person." That was John Carpenter. When I came in as a freshman, having the opportunity to then serve with you, we had a little conversation early on because we had a 21-21 tie that year. Mr. Carpenter was the type of person who you could just go and you could pick his brain. You could talk to him about what you really felt inside. He said to always vote your conscience, represent your district, do what you feel is right for the people you serve, and the chips will fall into play.

I, too, will miss serving with you. We will miss the Susie Q. I am so glad I am in the Cowboy Hall of Fame. Your mark on this institution and our state will live on forever. Thank you, Mr. Carpenter.

ASSEMBLYMAN ATKINSON:

Thank you, Madam Speaker. I think Mr. Carpenter is already laughing because he knows where I am going. What a great guy. I tell you, I have had the pleasure to serve in this house for four terms now. I have always been on a committee with Mr. Carpenter. He has always reminded me that I am a city boy. I remember talking to Mr. Carpenter and trying to find a way

to get into the Cowboy Hall of Fame. He kept reminding me, "You are not ready. You are not ready."

I was vice chair of Natural Resources and I will never forget—I had on a pink necktie and a pink shirt, and I went to committee and John reminded me, "You are not ready." I knew in order to get in, I would have to tone it down a little bit. I knew I was getting closer at the end of that session. Mr. Carpenter and Mr. Goicoechea gave me a present on the committee, which is usually not done for a vice chairman. But they gave me a cowboy hat—which the *Review Journal* ran in the paper one time—which I did not appreciate—and I knew that the following year, I may have my opportunity to get into the Cowboy Hall of Fame. So last year, they graciously put me in.

But I would like to say that Mr. Carpenter is one of the most honest, honest men you will ever meet. I always know in committee if I have lost his vote because he says, "Well, you know . . ." I just have to go, "Aw, shoot, I have lost that one." But I have always appreciated that because I have never had to wonder where he stood. He has always, always, always been totally honest with me if he cannot vote for something. He and I, just yesterday, were the last two people to leave the Transportation Committee—which is the committee I chair. We were just talking about a bill that we had just heard. I thought for a minute he was the chair because he was telling me it wasn't going anywhere. So, I took heed. But he is a great man. I have been blessed to meet you over the last few years and I am just hopeful you will take my calls because I know you let me in last year, but I have a lot of work to do, so I want to be able to call you for these issues and hopefully you will pick up the phone. Thank you.

ASSEMBLYMAN OHRENSCHALL:

Thank you, Madam Speaker. John, you have been a really good friend to me—a good mentor this term and my last term, as a freshman. My mother got to serve with you for 12 years. She loves you and thinks the world of you. My stepfather got to work with you when he was legislative counsel. I know he thinks the world of you. I always remember a speech you gave—I think it was the end of the 1995 Session—where you said that you might not see them again because elections happen, life happens, so try to end on good terms. I always remember that speech because it kind of taught me party labels, winning or losing elections, really are not that important to you. It is doing the right thing for the people. I value you being here and I value your friendship. Thank you.

ASSEMBLYMAN GUSTAVSON:

Thank you, Madam Speaker. I, too, would like to rise and say a few things about our colleague from Elko. It has been an honor to serve with you, John. This is my fifth term serving with you, especially on the Judiciary Committee. I think each and every one of us knows how much we all respect John. Whenever we are sitting in committee—we might be taking notes on our computer, doing our emails—but whenever John pushes that button and he starts to speak, everyone listens. We all know that when he has something to say, it is something very important. We would just like to thank you for all the good information you have given us over the years. John, we are all going to miss you very much. It has been a real honor to serve with you. You never know what he will do next year, though. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I just wanted to add a couple of words. I received an email from the *Elko Daily Press* a couple of days ago asking, "So why are you helping to honor John Carpenter? Why would you do that? You are kind of a Las Vegas Democrat, and what are you doing helping surprise the Elko cowboy?" It made me reflect back to when I first met John. I was seated next to him on the Assembly Judiciary Committee. You know, when you are a young lawyer, you think you know it all. I thought, "Who is this slow speaking cowboy that I am sitting next to in the Judiciary Committee?" It did not take me very long to find out that in many areas of the law, John knew a lot more than I did. He had been working on these laws for many, many years. He knew what every word was designed to do, something you cannot do when you are picking up the law cold.

I got to know him. I grew to respect him. He would ask me for free legal advice because I am really good at giving that. He called me his "smart, lady lawyer." "What does this bill mean?" I realized pretty early on that he really already knew what the bill meant. He just wanted to make sure it was the right thing. He would bring in his dog-eared copy of the bills and he had read every one of them the night before. There are some legislators who do not read every bill. John reads every bill. He is afraid something might happen that is going to hurt someone out there in the state. He wants us to get it right so that we are not adversely affecting people's lives. I respect that so much. I respect that he does not play games with his vote. He does what is right. If he is the only one voting against a bill, so be it, because it is the right thing to do.

Of all the folks in this building, you rank at the top for me as a legislator to emulate and one to respect. I am proud to have served with you. This recognition by the Elko County Commission will ensure that your name will be associated with justice, because that is what you have brought to this body and what you live in your own life, every day. Thank you.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolutions Nos. 6 and 7.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Bob Fulkerson.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, February 23, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:04 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE TWENTY-SECOND DAY

CARSON CITY (Monday), February 23, 2009

Assembly called to order at 11:14 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Ron Torkelsen.

Dear God, I pray this morning for the country we represent and the State of Nevada that these men and women govern. I recognize that it is no simple task given to these people. Our times are filled with economic challenge, an increase in job loss, a multitude of homeless families, and no simple solutions to the dilemma. Therefore, my pray this morning is that You will give each representative here the wisdom to know what is best for the people of Nevada and the courage to stand for what is right. I pray that they may look beyond personal preference and together work toward strengthening this state we call home.

Thank You, God, that we live in a nation of the free. I pray that these freedoms will be the motivation for the business of this day.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 114, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 20, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 23, 100.

CLAIRE J. CLIFT
Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Munford, Aizley, Buckley, Claborn, Denis, Goedhart, Hogan, Horne, Koivisto, Mastroluca, Mortenson, Pierce, Segerblom, Settelmeyer, and Stewart:

Assembly Bill No. 211—AN ACT relating to education; requiring the boards of trustees of school districts to carry out certain actions requested by

the general public under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Munford moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Munford, Pierce, Aizley, Anderson, Bobzien, Buckley, Claborn, Denis, Goedhart, Gustavson, Hogan, Horne, Kihuen, Koivisto, Manendo, Mastroluca, McClain, Mortenson, Ohrenschall, Segerblom, Settelmeyer, and Stewart:

Assembly Bill No. 212—AN ACT relating to education; revising provisions governing eligibility for a Millennium Scholarship; and providing other matters properly relating thereto.

Assemblyman Munford moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 23.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

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

Assembly in recess at 11:20 a.m.

ASSEMBLY IN SESSION

At 11:22 a.m.

Madam Speaker presiding.

Quorum present.

Motion carried.

Senate Bill No. 100.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

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

Assembly in recess at 11:23 a.m.

ASSEMBLY IN SESSION

At 11:24 a.m.

Madam Speaker presiding.

Quorum present.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 172.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 78.

Bill read third time.

Remarks by Assemblyman Carpenter.

Roll call on Assembly Bill No. 78:

YEAS—42.

NAYS—None.

Assembly Bill No. 78 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 23, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 10.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 10.

Assemblyman Anderson moved the adoption of the resolution.

Remarks by Assemblyman Anderson.

Assemblyman Anderson requested that his remarks be entered in the Journal.

I had the great honor of serving with Sergeant Major Tosolini in the National Guard. I joined it when I was in high school in September of 1960.

One of the gentlemen with us, Douglas Byington, was the commanding officer of the 221st Anti-Tank while his twin brother, Dallas, was the commanding officer of the 121st, where "Toss" was in the operations section. I was in the operations and intelligence section of the other firing battery, and thus I got the opportunity of working with someone who, to me, was already a hero and someone who cared very, very deeply about the country and the betterment of our society. When he became the first Sergeant Major in the history of the Guard—the Command Sergeant Major—he was the man in charge.

He was always the guy who cared the most for what the troops were really doing. A Command Sergeant Major is all about "the guys." It is about making sure the rank and file are there when it is cold, when water was up to our knees, when the fire was raging in front of us. As happens with guard troops, you are put on home defense against floods and fires. Toss was there to make sure the esprit de corps was always there.

He was the heart of the Guard. He was the heart of a veteran. You saw that in his actions in keeping alive the veterans' home here in Reno where we have a veterans' hospital that has been in existence since after World War II. Toss contributed to everything, to life. His great vitality and love of life was demonstrated in everything he did. There is no possible way that we can reflect in a simple statement the dedication of any veteran, but a man who fought in World War II, who carried that love into the Guard, who instilled every human being he met with a love of country—he had the purpose of sharing his life with all of us and for our own betterment.

Resolution adopted.

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

Assembly in recess at 11:42 a.m.

ASSEMBLY IN SESSION

At 11:43 a.m.
Mr. Speaker Pro Tempore presiding.
Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolution No. 8; Senate Concurrent Resolutions Nos. 8 and 9.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Claudette Tosolini, Douglas Byington, Mary McAuliffe, and Tina Burke.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Hidden Valley Elementary School: Zacary Baker, Connor Bates, Kassidy Byrne, Mickolas Chadwick, Nikolas Cisneros, Caitlyn Connell, Savanna Force, Matthew Frybarger, Arianie Gonzalez, Jazmin Gonzalez-Martinez, Kaimana Hamilton, Juan Hernandez, Nikolas Herr, Shrabya Joshee, Tory Krause, Zachary Lee, Jakob Lovato, Brady Odom, Maxwell Schumacher, Ashley Southworth, Hayley Thomas, Hunter Thomas, Flora Wong, Zhenni Yao, Benjamin Salinas Olivares, Denise Allen, Devon Anderson, Drake Anderson, Jonathan Baker, Maxwel Barainca, Cydney Bridge, Kristina Brodzinski, Alexandria Cota, Tristen Dourney, Delphina Drye, MCkenzie Fuate, Galil Gailson, Jordan Gross, Sabrina Guyer, Anni Hallerbach, Joseph Hamilton, Sean Henderson, David Johnson, Samantha McMickle Sabrina Oh, Jordyn (Renay) Parra, Quentin Porterfield, Chandler Sampson, Brandon Shaske , Kevin Stevenson, Steven Tobin, Keith (Brian) Turnipseed; teachers Denise Allen and Joni Meredith; chaperones Jacqualine Hallebach, Danelle Shaske, and Lynn Baker.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Tom Collins.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, February 24, 2009, at 10:30 a.m.

Motion carried.

Assembly adjourned at 11:47 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE TWENTY-THIRD DAY

CARSON CITY (Tuesday), February 24, 2009

Assembly called to order at 10:39 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Ron Torkelsen.

Dear God, Your scripture encourages people to "worry about nothing, pray about everything, and rejoice." The promise is that You can bring good from what appears to be chaos. The amazing truth is that You have chosen these people standing here to do just that. The evening news has reported the challenges and the decisions this body of people have been dealing with and it is no simple task. Therefore, I pray once again for the wisdom You have promised to give. Use these people today to do that which is best for this state and the people who live here.

Thank You for the success You have promised.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 114.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 172.

Bill read third time.

Remarks by Assemblyman Claborn.

Roll call on Assembly Bill No. 172:

YEAS—42.

NAYS—None.

Assembly Bill No. 172 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess until 11:15 a.m.

Motion carried.

Assembly in recess at 10:47 a.m.

ASSEMBLY IN SESSION

At 11:21 a.m.
Madam Speaker presiding.
Quorum present.

The hour of 11:15 having arrived, Madam Speaker announced the Assembly would resolve itself into a Committee of the Whole for the purpose of considering Initiative Petition No. 1.

IN COMMITTEE OF THE WHOLE

Chair Buckley presiding.
Quorum present.
Initiative Petition No. 1 considered.

ASSEMBLYWOMAN MCCLAIN:
Thank you, Madam Chair of the Committee of the Whole. Just a brief overview of IP 1, which imposes an additional tax on the gross receipts from the rental of transient lodging in certain counties. IP 1 requires the board of county commissioners of any county whose population is 300,000 or more to enact an ordinance imposing up to an additional 3 percent rate on the gross receipts of rental of transient lodging in that county, but not to exceed the total rate of 13 percent. If the total rate imposed in a county is less than 10 percent as of July 31, 2008, the entire 3 percent rate may be imposed. If the total rate imposed in a county as of July 31, 2008, exceeds 10 percent, the rate that must be imposed is the difference between 13 percent and the rate that is in effect as of that date. However, if the sum of the existing tax rate in any areas of July 31, 2008, is 13 percent or more, then no additional rate may be imposed. The proceeds of this tax, including applicable penalties and interest, must be paid by the county treasurer to the State Treasurer for credit to the State General Fund between July 1, 2009, and June 30, 2011. Beginning on July 1, 2011, the proceeds from this tax must be transferred by the county treasurer to the State Treasurer for credit to the State Supplemental School Support Fund, a new special revenue fund created within this act for the operation of school districts and charter schools in the state. The proceeds of the State Supplemental School Support Fund are to be distributed proportionately among all school districts and charter schools in the state to improve the achievement of students and retain qualified teachers as well as nonadministrative employees and is not intended to supplant or replace any other money appropriated, approved, or authorized to fund the operation of public schools for K through 12. The effective dates—if the Initiative Petition is enacted by the Legislature and approved by Governor pursuant to Article 19, Section 2, of the *Nevada Constitution*, the bill becomes effective upon passage and approval, and the ordinance imposing the tax in each county would become effective July 1, 2009. The proceeds from the tax would be credited to the State General Fund between July 1, 2009, and June 30 2011, and to the State Supplemental School Support Fund beginning on July 1, 2011. If Initiative Petition 1 is not enacted by the Legislature and approved by the Governor pursuant to Article 19, Section 2 of the *Nevada Constitution*, but it is approved by voters at the November 2010 General Election, the bill becomes effective upon canvas of the vote by the Supreme Court, and the ordinance imposing the tax in each county would become effective July 1, 2011. The proceeds for the tax would be credited to the State Supplemental School Support Fund beginning July 1, 2011, and no revenue would be credited to the State General Fund.

This is the Initiative Petition that was passed by the voters in three counties in the state with overwhelming support of 60 percent of the voters. We're going to have Brenda Erdoes give us the legal details of the initiative petition and walk through the bill for us. Thank you, Madam Chair.

CHAIR BUCKLEY:
Thank you Assemblywoman McClain. Brenda?

BRENDA ERDOES, LEGISLATIVE COUNSEL:

Thank you, Madam Chair. I was going to go through briefly with you the effects and the timeline that is required for this initiative petition. Mark is going to go through the different provisions of IP 1, and Russ is going to give you some numbers. Initiative petitions, as you probably know, are controlled by Section 2 of Article 19 of the *Nevada Constitution*. In subsection 3 of that section, it provides that initiative petitions like this one that have qualified and have been presented to the Legislature shall take precedence over all other measures except appropriation bills and shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the Legislature does choose to enact this IP 1 without change, without amendment, on or before March 13, 2009, the effect will be that, effective upon signature by the Governor, the bill will authorize or actually require the boards of county commissioners to adopt this additional room tax as specified in the bill. It would begin to be collected on July 1, 2009, then, for the duration of that—July 1, 2009 through June 30, 2011—the proceeds from those taxes would actually go into the State General Fund and would be available for use to help offset the budget shortfall. Beginning on July 1, 2011—the rooms that were let after that time—the tax is applied and those would then be going into the Supplemental School Support Fund, which is created in this IP. Basically at that point, you would have the structure all set up, and it would work pursuant to this bill.

If the Legislature does not enact IP 1 without amendment or before that date, according to this provision of the Constitution, what would happen is that the measure would go to the ballot in the 2010 General Election. If approved by the voters, the provisions are a little bit different. What happens is that the first tax is imposed for July 1, 2011, and it would go directly into the School Support Fund at that point. So there would be no use of this revenue in the State General Fund to help with the budget shortfall. In addition, because the ballot measure was passed and this was approved by the voters, the Legislature would be prohibited from amending the provision for three years after it becomes effective.

If the Legislature chooses the third course of action, if the Legislature chooses to reject this Initiative Petition and do something else—in other words, enact another bill or in fact you adopt an amendment to this IP 1—what would happen is it would most likely be held by the court to create a competing measure because the Constitution says that if the Legislature comes up with another statute on this same topic, it would be put on the ballot in the 2010 General Election alongside IP 1. If both of them pass, then the one that got the most votes would actually become effective. There is a provision for the Legislature, as proposed in the Constitution, to be able to enact a nonconflicting statute concerning room tax in a way that would not be a competing measure, but the definition there of nonconflicting is along the lines of that it wouldn't be anything that had the same provisions in common—things like that. So those kinds of issues in determining what's a conflicting measure or not would have to be made as we go along.

Basically, the three concepts here are if you pass it as is, and it goes through both houses, on or before March 13, then the tax would become effective July 1. If you don't do anything, this measure will be on the 2010 ballot. If it's approved by the voters, it won't be able to be amended for three years. If you put a competing measure on the ballot, then the one that got the most votes would be effective.

CHAIR BUCKLEY:

Questions of the Committee for Ms. Erdoes? I don't see any. Mark or Russell, did you want to comment about the fiscal impact or provide any information for the Committee from our Fiscal Analysis Division?

MARK STEVENS, FISCAL ANALYSIS DIVISION:

I was going to go through the provisions of the bill. Assemblywoman McClain has already done so. I'll try to go through this very quickly. It might be somewhat repetitious in part, but IP 1 requires the county commissioners of any county whose population is 300,000 or more to impose an additional room tax of up to 3 percent. That population provision would apply currently to Clark and Washoe Counties. If an existing room rate is 10 percent or less, an additional 3 percent room tax is imposed. If existing room tax rates exceed 10 percent, a tax rate must be imposed that would not exceed 13 percent. If the current tax rate is 13 percent or more, no additional tax would be applied. Room tax must be imposed throughout the county,

including its incorporated cities. The proceeds from the additional room tax imposed must be deposited into the State General Fund through June of 2011. For this biennium, the additional room tax dollars would go into the State General Fund, and those tax proceeds would not have any restriction on their use through June of 2011. Effective in July 2011, tax collections must be deposited into the State Supplemental School Support Fund to be used for operation of school districts and charter schools. These funds are intended to supplement, not replace, any other money appropriated or authorized to support the operation of public schools and K through 12. Money in the Supplemental School Support Fund would be distributed quarterly on a proportional basis among the school districts and charter schools based on student enrollment. Funds received by a school district or a charter school must be used to improve the achievement of students and for the payment of salaries to attract and retain qualified teachers and other employees, excluding administrative employees. Administrative employees are defined as any person who holds a license as an administrator issued by the Superintendent of Public Instruction and is employed in that capacity by a school district or charter school. A report on how these funds were utilized in the preceding school year must be made by each school district and charter school to the Superintendent of Public Instruction by November 10 of each year. There are different effective dates that go along with this legislation, depending on whether the Legislature and Governor approve it within the first 40 days. If they do not, Brenda has just reviewed that for you. I'd be happy to answer any questions, or Brenda could on the effective dates. That is, in short fashion, what is included in the provisions of Initiative Petition 1.

CHAIR BUCKLEY:

Thank you Mr. Stevens. Questions of the committee? I don't see any. Russell, did you have anything to add?

RUSSELL J. GUINDON, SENIOR DEPUTY FISCAL ANALYST, LEGISLATIVE COUNSEL BUREAU:

Yes, thank you, Madam Chair. The staff of the Fiscal Analysis Division has prepared a table that has been distributed to the members of the Assembly. It's entitled Table 1, and the first line is titled "Comparison of Budget Office, Fiscal Division, and Applied Analysis."

TABLE 1

COMPARISON OF BUDGET OFFICE, FISCAL DIVISION, AND APPLIED ANALYSIS ESTIMATES OF THE ROOM TAX REVENUE GENERATED IN FY 2009-10 AND FY 2010.11 FROM IMPLEMENTATION OF THE UP TO AN ADDITIONAL 3% ROOM TAX, BUT NOT TO EXCEED 13%, ROOM TAX PROPOSAL IN CLARK COUNTY AND WASHOE COUNTY

(Millions of Dollars)

	Budget Office:	Fiscal Division:	Applied Analysis:
Fiscal Year	3% Room Tax Estimate	3% Room Tax Estimate	3% Room Tax Estimate
FY 2009-10	$142.0	$111.2	$107.8
FY 2010-11	$150.0	$122.0	$123.7

NOTES:

1.) Amounts displayed for the Budget Office are the estimates included in The Executive Budget.

2.) Amounts displayed for the Fiscal Division are estimates prepared on February 24, 2009, based on information available from the Las Vegas Convention and Visitors Authority through December 2008.

3.) Amounts displayed for Applied Analysis are estimates provided to the Fiscal Division on February 23, 2009.

4.) In Clark County, the full 3% room tax rate can be imposed in the entire county except for a portion of the City of Las Vegas. Only 2% additional room tax rate can be imposed in City of Las Vegas for facilities with 75 rooms or more as current total combined room tax rate is 11 %.

5.) In Washoe County, only 1 % additional room tax rate can be imposed in Washoe County (unincorporated area) and Reno (excluding Downtown Area) as current total combined room tax rate is 12%. No additional room tax rate can be imposed in Sparks and Reno Downtown as current total combined room tax rate is 13.5%.

Prepared by the *Fiscal Analysis Division* February 24, 2009 - 7:40 AM

These are estimates that were prepared by the Budget Office, and their estimates were the estimates that were included in the Executive Budget as it was presented to you. The Fiscal Analysis Division—those are the estimates that we just ground through this morning. Then Jeremy Aguero with Applied Analysis was kind enough that he has been analyzing this issue as well as the Fiscal staff. He applied his most current estimates. So you see in Table 1, as Mr. Stevens has pointed out, that the room tax would become effective, if it's approved, July 1, 2009. Thus the rate would actually become effective then and start being imposed on rooms rented after that period. The estimates you have here are for Fiscal Year 2010 and Fiscal Year 2011. The Fiscal Analysis Division's current estimate for Fiscal Year 2010 is $111.2 million, and for Fiscal Year 2011 it's $122 million. You can see how those estimates compare to the Budget Office estimate that was included in the Executive Budget as well as the estimate that was prepared by Applied Analysis.

I think one of the critical things for staff to point out that was sort of discussed with regards to the provisions of the bill—in its actual application in the real world, you can impose up to the additional 3 percent room rate, but you cannot exceed 13 percent as a maximum rate. With regards to the mathematics of computing the additional rate, so you can see, it's spelled out here in footnotes 4 and 5 that in Clark County, you can—given the current rates that were in place July 31 2008—that you can impose the full 3 percent everywhere in Clark County, except for portions of the City of Las Vegas, and this is because in portions of the City of Las Vegas, that is those facilities with 75 or more rooms, the current combined rate is 11 percent. Thus, you can only impose up to 2 percent to get to the 13 percent maximum. In Washoe County, you can only impose an additional 1 percent room tax in the unincorporated area of Washoe County. In the Reno area, that is excluding the downtown area as the current rate there is 12 percent. Thus you can only impose the additional 1 percent to get to the 13 percent maximum. No additional room tax can be imposed in the Sparks area or the Reno downtown area, as the current combined rate in those two areas is 13.5 percent. With regards to the estimates that are there, Clark County has estimated in Fiscal Year 2010 to generate approximately $109.9 million of that $111.2 million. Washoe County would generate only approximately $1.3 million. Just to give you an idea of the breakout—and again, obviously Washoe County is the largest county—but because of the capping mechanism, the calculation, the Washoe County number is even smaller because of the rate that cannot be imposed in that county. There is one final issue that I would like to discuss with members of the Assembly, and that is the timing of the receipt of the funds.

The way the tax currently works is that there is approximately a two-month lag between when the business activity that occurs to generate the room tax collections and when it is recorded and received by the state. That is, May's business activity actually becomes July's collections. Thus, with the July 1 effective date, we won't be able to pick up and May and June's business activity. But with the way the provisions of the bill specify, the state, if it's approved, for those two years that we could get general fund money, the state will get 2 years or 24 months worth of money that would go into the general fund. Staff is still researching and looking into this issue, but it would appear that we would get 10 months worth of revenue in Fiscal Year 2010, a full 12 months worth of revenue in Fiscal Year 2011, and then those remaining two months would spill over into Fiscal Year 2012. With that, Madam Chair, that concludes my presentation and I can answer any questions that you may have.

CHAIR BUCKLEY:

Thank you for your remarks. Questions of the Committee? Assemblyman Christensen?

ASSEMBLYMAN CHRISTENSEN:
Thank you, Madam Chair. Quick question to you, sir, in regard to Table 1. I want to make sure that I heard you right. Did you say that we are looking at about $110 million from Clark County alone and $1 million from Washoe?

RUSSELL GUINDON:
Those are approximately close, rounding it—the $109.9 and $1.3 for Fiscal Year 2010.

ASSEMBLYMAN CHRISTENSEN:
I did not think that I heard that right, so I guess I did. Thank you, Madam Chair.

CHAIR BUCKLEY:
Assemblywoman Gansert?

ASSEMBLYWOMAN GANSERT:
Thank you, Madam Chair. In looking at these revised numbers, just so that everybody understands, to make it clear, the budget had $292 million roughly in it, and although these estimates have changed, if we don't, we have to plug that size hole no matter what. So we will still—if this was not to pass, we would still have $292 million, not one of the lower numbers, to have to find.

RUSSELL GUINDON:
That is correct. The Executive Budget is based on receiving $142 million in the first year of the biennium Fiscal Year 2010 and $150 million in 2011 from this revenue source. If it was not passed, either budget reductions would have to be made to that extent or additional revenue would have to be generated. Or if there is a shortfall in the revenue projection that was made in the Executive Budget, that amount of money would have to be generated from another revenue source or appropriations within the budget reduced.

CHAIR BUCKLEY:
Assemblywoman Gansert?

ASSEMBLYWOMAN GANSERT:
Thank you, Madam Chair. Yesterday we learned—it has been out there for a little while—that one of the bonds that we have with Lehman, we are not probably going to receive the proceeds of $50 million, and a portion of that is General Fund money, about $19 million, I think. Are there any other budget items that are outstanding or shortfalls that we may have to cover right now that we know of?

RUSSELL GUINDON:
None that immediately come to mind. As we go through the budget, there are going to be items that we run across that need to be fixed where an incorrect assumption was made or some other problem exists, but nothing that rises—that I know of right now—that rises to the level of the one that you mentioned.

CHAIR BUCKLEY:
Any other questions? Thank you very much. We appreciate your testimony.
There is a sign-in sheet for anyone who would like to testify, which is located outside those doors on a table. I have one person signed in so far to testify, Lynn Warne. Lynn, do you want to come down? Is there anyone else who would like to testify? Just state your name for the record and provide your testimony.

LYNN WARNE:
Thank you, Madam Speaker, for the opportunity to address this body on this very critical issue. For the record, my name is Lynn Warne, and I am the President of the Nevada State Education Association. I am here today representing the Committee for the Advancement of Education in Nevada and our 28,000 members statewide.
First, I would like to thank everyone involved in this process in general, and specifically our gaming partners for their understanding, foresight, and accountability in helping develop and

bring this IP before you today. But most importantly, I would like to recognize you, Madam Speaker, for your leadership, guidance, and impressive determination in guiding this proposal over the sometimes rocky road that has led us here today. This partnership would not be possible without a personal and passionate interest in the beginning to address this crisis on the part of Steve and Elaine Wynn. The educators of Nevada are grateful for their ardent advancement of the cause for quality education. This initiative will eventually provide a desperately needed dedicated source of revenue for our K-12 public education system.

I am sure I do not need to tell you about the problems we face today: overcrowded classrooms, educators who cannot make their mortgage payments or rent, the number of classes that are being taught by substitutes because we are unable to recruit qualified permanent educators. The voters of Nevada have spoken and have done so with a firm and decisive voice. The IP that you are considering is before you because over 130,000 Nevadans have demanded that you do so by signing the petition. They have sent you a message that enough is enough—that it is time to determine the process in which to begin making K-12 education a priority.

In addition to our two biggest counties, voters having overwhelmingly agreed on casting their affirmative votes on advisory questions. There were over 66 percent in Clark County and 57 percent in Washoe County, that the groundswell of public opinion is so compelling that even the Governor has chosen to include the proceeds of this measure in his budget. It is a message so insistent, widespread, and resonant that only the most reckless political politician would dare to ignore it. Your affirmative action on this petition will demonstrate your commitment to begin to address the funding crisis facing our K-12 education system. Educators, parents, and constituents alike will hear your message that there is hope for education and that you as a body care about the future of our children.

As I said earlier, this is not the end of our struggle, but with your help, it can be the beginning of the end. We today can take the first step to becoming a state that demonstratively is determined about improving education and has the courage and fortitude to do something about it. The road before us is not easy, nor is it well traveled, but together we can make that journey that will ensure a better future for our children. We can reverse this destructive downward spiral of underfunding and neglect. That journey back to respectable and well-functioning public schools is a long one, but today this body can take the first step in that historic passage. Thank you.

CHAIR BUCKLEY:

Thank you for your testimony. Questions of the Committee? There are none. Thank you.

Randy Robison? Thank you for being with us in this non-intimidating setting.

RANDY ROBISON:

Thank you, Madam Speaker, members of the committee. For the record, I am Randy Robison. I am appearing here today on behalf of the Nevada Association of School Superintendents. We approach this issue not as a tax issue but as a resource issue. For us, it has never been about a particular tax of any kind but about the resources that are necessary to provide the education to the students that we are required to provide by statute and also by the Constitution. In that regard, I would like to refer quickly to this document iNVEST 2009 that is published by the Nevada Association of School Superintendants and has been each year since 2003. But in this version, specifically we talk about the base budget. School districts and their ability to improve student achievement live and die by the base, the basic per pupil support amount guaranteed by the Nevada Plan and authorized by the Legislature. The base budget includes all of the non-headline grabbing expenditures essential to keeping schools running, things like stamps, milk, bus fuel, electricity, toilet paper, classroom instruction supplies, staples, maintenance, custodial supplies, and the list goes on and on. Literally thousands of things, big and small, that are required to keep schools open, buildings clean, and classrooms ready to support learning day after day.

Again, for us this is not a tax issue; it is a resource issue. When the economy slumps, we still have to provide school. When a business closes, we still have to provide school. When someone loses their job, as unfortunate as that is, we still have to provide school for their kids. For us, this is a resource issue. Others have mentioned that this is already part of the recommended budget.

One way or the other, we have to come up with that money to provide the education that we are required and obligated to provide. Thank you, Madam Chair.

CHAIR BUCKLEY:

Thank you for your testimony. Questions of the committee? I don't see any. Thank you for your testimony.

Is there anyone else who would like to provide testimony on Initiative Petition No. 1? Seeing none, I will close the public hearing on Initiative Petition No. 1.

Chair Buckley announced if there were no objections, the Committee of the Whole would recess subject to the call of the Chair.

Assembly in recess at 11:49 a.m.

IN COMMITTEE OF THE WHOLE

At 11:51 a.m.
Chair Buckley presiding.
Quorum present.

On motion of Assemblyman Oceguera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 11:51 a.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee of the Whole has considered Initiative Petition No. 1.

BARBARA E. BUCKLEY, *Chair*

SPECIAL ORDERS OF THE DAY

The Committee of the Whole having concluded, Initiative Petition No. 1 was considered.

Initiative Petition No. 1.

Initiative Petition read third time.

Remarks by Assemblymen Pierce, Cobb, Hambrick, Hardy, Mortenson, Stewart, Leslie, Gansert, Claborn, Arberry, Grady, and Settelmeyer.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN PIERCE:

Thank you, Madam Speaker. I rise in support of IP 1. I do not do this very often, so I am a little nervous, so bear with me. Not just for this election cycle, but going back for a couple of them, when I knock on people's doors, my constituents say over and over again, "education, education, education." They want it to be better; not just this year, but going back. I have young families in my district. They want education to be better. I have grandparents raising their grandchildren. They want education to be better. They know that we are 47th in the nation in education funding. They know that education is vitally important for the future of their families

and that a good education system is absolutely crucial for a healthy community and a healthy state.

One of the things they probably do not think much about is that it is impossible to attract good businesses that have good paying jobs to a state that does not have a good education system. Those were the things that my constituents said to me before the economy went south on us. Here we are today. We have already made devastating cuts to education, to health and human services, and to infrastructure funding. We still have a $1.8 billion hole in the budget we have to put together in the next one hundred or so days. I do not think anyone here is happy about doing this. We all wish the economy hadn't gone south. We all wish we had never of AIG—but here we are. I told my constituents that I would come up here and make the decisions necessary, especially on this—my constituents voted for this. My constituents said this is the way we want the state to go. So with that, I support this wholeheartedly, and I urge my colleagues to also do that. Thank you.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition to IP 1. Our tourism-based economy here in Nevada is hemorrhaging jobs. They just closed a casino in Mesquite. They have laid off thousands of workers at MGM and thousands of workers at Harrah's. Adding a tax to the rooms, which tourists pay, is going to discourage people from coming to Nevada and helping our tourism-based economy. It is like hanging a big sign that says, "Nevada does not want your business." I urge you to reconsider voting for this. I think it is going to hurt rather than help. I hope you will join me in voting against it. Thank you.

ASSEMBLYMAN HAMBRICK:

Thank you, Madam Speaker. I rise in opposition. We live in a society, and we have for many years, in which we care for the small issues. Occasionally my sense of humor belays the fact of the seriousness of some issues—but we are worried about the snail darter and the spotted owl. We have to worry about small business. We know that outside the boundaries of this state, perception is reality. Even though some may argue more eloquently than I on both sides of this issue, what will be reported in the largest papers? That we increased the room tax by pennies? Or we just increased the room tax? *The Wall Street Journal*, *The New York Times*, *The Washington Post*—they will all report these things. In the decision making process of those who may want to come to the state, what will affect them? Things like an unfortunate remark by the President, which he took back. But it was out there. You can't unring a bell.

We want people to come to the state. Will this be one more deciding factor that may cause them to not come to the state? It is a hard decision. All of us, no matter how we vote, should not be criticized by any outside factor. But please look at it. Just remember that perception is reality and we have to go forward, because we may suffer larger consequences in the long run than we really realize. Thank you, Madam Speaker.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker. I actually agree with everyone. Recognizing that, I do not think there is a good solution for this issue, and so this is how I reasonably tried to approach this issue. My constituents voted for it, and I represent them. The Governor, known for his thrifty approach to taxes—this is where I smile—put it personally into this budget. The Ways and Means Committee has been approaching the budget from a virtual zero-based budgeting approach with what I admit will be deep and wide cuts which will be implemented. We are in a fiscal hole. If we do not add some fill to that hole, we are going to be in an abysmal pit. We have recognized a certain amount of ambivalence and uncertainty and certainly not a consensus amongst the affected industries, some of whom have made a farsighted deal to avoid onerous taxes in the future on that particular industry.

Although the intent of this is to fund education, we have the opportunity to be flexible in the first two years of its implementation and collection to help the General Fund, and parenthetically, almost half the General Fund goes to education traditionally. This will, hopefully, protect the industry from a more onerous tax as well as keep us at the table in a cooperative way, trying to solve this complicated problem with a simple solution for which there is none. Thank you, Madam Speaker.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Speaker. For those who say this may curtail business in our state, I would like to ask, "When is the last time you called ahead to a convention city and asked what the room rate tax was and made a decision on whether to attend a convention based on the amount of the room tax?" I haven't looked recently, but a few sessions ago when I had a similar bill, there were many major convention states that had a much larger room tax than we did. Thank you, Madam Speaker.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I had a long list of reasons I am reluctantly supporting this measure; however, as I listened to my colleague from Boulder City, he ticked off every single one of them, so I will echo what he said. Thank you.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of IP 1. I would just like to remind our colleagues of some of the issues we have been hearing in Ways and Means this entire first month of the session. We've been hearing about how difficult it is to recruit and retain our teachers, and we're balancing that against a suggested 6 percent cut in salary and additional cuts in other benefits. We know the remediation funds had great results in the last biennium, and yet we see a zero in that column for remediation.

This coming week, we're going to hear about our higher education budgets that have been decimated, and we're facing a choice of closing one of the universities or closing all the community colleges, plus our professional schools. In health, we've been talking about an additional 5 percent cut in reimbursement to our hospitals, knowing that may mean that up three rural hospitals have to look at whether they have to close or not. We are still working on a plan to try and restore over half of the rural mental health clinics that have been cut from the budget. We are in a world of hurt. So is the industry. We absolutely know people who are losing their jobs because they are showing up on our Medicaid rolls. We are going to have to add a lot of money in caseload for those folks.

So what do we do? Today we have a chance to take a step forward and try to solve the problem and be a part of the solution. I know in Washoe County we're already over the 13 percent cap, and I've never heard that that is the reason people don't come to Reno—because we have a 13.5 percent room tax downtown. I urge you to think about the hole that this is going to create in our budget if we reject this initiative petition. Thank you, Madam Speaker.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. These are some of the tough decisions that we face during the session and other sessions. I can tell you many times this week people have said, "This is why you get paid the big bucks." I believe that we were elected to make these decisions and that our constituents want us to work together to find solutions. We are the stewards of the taxpayers' money, and I can attest that in Ways and Means, we're working every day from zero-based budgets. We are trying to reform government. We're trying to make significant changes; we do have that opportunity now. This initiative petition was supported by the voters, and it was supported by a very conservative Governor in his budget. As was testified today, that amount is $292 million dollars, and after going through these budgets, I don't know where we are going to find another $292 million dollars. We have cut higher ed, the Governor's cut higher ed, he has rolled back salaries. There really aren't very many good choices we can make. That is why I agree with all the previous speakers.

Our caucus will be split. We respect each others' decisions, something that has been very important to our caucus - that everybody can make up their own mind based on the evaluation of the situation. I personally will be supporting this because, again, it is in the Governor's budget. I don't know where else we are going to find the money, and it was supported by a vast number of voters.

ASSEMBLYMAN CLABORN:

Thank you, Madam Speaker. I rise in support of IP 1. The school system educated my children, the school system has educated my grandchildren, and I hope the school system will be here and have enough funds to support my great-grandchildren—I have two of them. I am going to use one of Wendell Williams' old clichés—our old Assembly friend in this building—it's the right thing to do. Thank you, Madam Speaker.

ASSEMBLYMAN ARBERRY:

Thank you, Speaker. I rise in support of this issue. This is a hard measure, and as my colleague just mentioned, my colleague that used to be here, that retired, was a strong educated man and he was strong behind education. We have to ask ourselves, when? It's got to be now. We always want to come in here and say we can't make these tough decisions, but we have to. Today is one of those days. I applaud you, I respect your decision, we are working together. As the minority leader just stated, we are trying to do this as a group—trying to take care of Nevadans. Education—no matter where you go when people find out that you are a legislator, they want to say to you, "Education is first." Just one example: I stopped by my eye doctor's office, and he had to hold this lady off from me. When she found out that I was a legislator, she wanted to come out of the room and let me have it. She wanted to give me her opinion that education comes first, and our kids deserve it. We need to push the right button, and that is the green button, and say the time is now and it will always be better for us to educate our kids. Thank you, Speaker.

ASSEMBLYMAN GRADY:

Thank you, Madam Speaker. I, like many of my colleagues, don't like this bill at all, but on the other hand, we have been meeting in a bipartisan manner to try and save rural mental health clinics, and I have three of them in my district that were ready to close. If we don't fill this hole, I will lose those clinics. Therefore, I feel it's an obligation to the people in my district that I will reluctantly support it. Thank you.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. I agree with all the previous speakers, this is a very difficult bill. I can see the good aspects of this bill, in the fact that it helps plug a hole, and I can see the bad aspects of the bill in relation to small businesses. Up to about two days ago, before we actually did the math and how each individual precinct and each individual assembly district voted, I was actually ready to flip a coin. It was just that close of a thing. Interesting enough, I'm probably one person in this room that can say it because I think I'm the only assembly district that actually voted this no. I will be following my constituents' vote. Thank you.

Roll call on Initiative Petition No. 1:

YEAS—35.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

Initiative Petition No. 1 having received a two-thirds majority, Madam Speaker declared it passed.

Initiative Petition ordered transmitted to the Senate.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Patricia Wenger.

On request of Assemblyman Mortenson, the privilege of the floor of the Assembly Chamber for this day was extended to George Phillips.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Brian Hurlburt.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, February 25, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:12 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE TWENTY-FOURTH DAY

CARSON CITY (Wednesday), February 25, 2009

Assembly called to order at 11:05 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Ron Torkelsen.

Dear God, we say in our Pledge of Allegiance to this country that we are "one nation under God." We print on our money "In God We Trust." I pray this morning that we will not forget that this country is founded on the trust in a supreme being. May we also remember that You have entrusted to us the responsibility of directing the business of this state. May we put our trust in You once again, and in return, may the wisdom You have promised be a gift to this Assembly today.

The decisions made here today and in the future will affect the lives of many people. May this not be forgotten as the business of this day is pursued, and I thank You in advance for the success You will give.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 132, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 24, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 63, 96, 105, 116; Senate Joint Resolution No. 9 of the 74th Session.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Anderson, Aizley, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell,

Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury; Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Assembly Concurrent Resolution No. 9—Memorializing longtime Reno lawyer, civic leader and philanthropist William O. "Bud" Bradley.

WHEREAS, The members of the Nevada Legislature are saddened by the passing of William O. "Bud" Bradley, longtime Reno lawyer, civic leader and philanthropist; and

WHEREAS, Bud Bradley, a native of White Pine County, was born on February 27, 1924, and attended Stanford University until his duty to serve his country compelled him to join the United States Navy Air Corps as a pilot and flight instructor in World War II; and

WHEREAS, Upon his return to Nevada after the war, Bud graduated from the University of Nevada, Reno, and went on to obtain a law degree at George Washington University Law School in 1950, met his future wife Joan Sheaff of Holcomb, Illinois, and opened a law office in Reno a mere five years later; and

WHEREAS, While first specializing in water rights law, Bud expanded his law firm, known today as Bradley, Drendel & Jeanney, so much so that the firm continues to be a leader in the representation of injured persons; and

WHEREAS, Bud was recognized by his colleagues as one of the top 100 lawyers in America and was inducted into The Inner Circle of Advocates in 1972; and

WHEREAS, Bud was an original trustee of the Reno Air Racing Association and the philanthropic organization, the E.L. Cord Foundation, which has distributed millions of dollars to charitable groups in northern Nevada; and

WHEREAS, Bud was honored for his civic leadership, particularly in education, when the University of Nevada, Reno, presented him with an Honorary Degree of Doctor of Laws in May 1993; and

WHEREAS, Preceded in death by Joan, his wife of 50 years, Bud passed away at home on January 17, 2008, at the age of 83; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Nevada Legislature offer their deepest condolences to the surviving family members of Bud, including his beloved sons Bill and Joe Bradley, and daughter Elizabeth Thomas; and be it further

RESOLVED, That Bud will be remembered as an extremely accomplished lawyer who continually worked to improve the communities of northern Nevada, as a role model in civic leadership and philanthropy, and as a true friend to Nevada; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Bud's children, Bill, Joe and Elizabeth.

Assemblyman Anderson moved the adoption of the resolution.

Remarks by Assemblymen Anderson, Carpenter and Madam Speaker.

Assemblyman Anderson requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. Bud Bradley was an advocate—a term often used but in my opinion really not understood, at least not understood as I have come to understand it and as exemplified by this "champion." The oldest use of the term is a fighter for the cause of the underdog, yet someone whose integrity is never questioned.

Bud was a pilot, as you have heard in the resolution, who loved the simple freedom of flight, who when the country was in need, gave up his studies at Stanford to move to the defense of the nation and then returned with his fellow veterans of the Greatest Generation to complete his undergraduate studies at the University of Nevada—before it had an R after its name. He did not become a doctor as his father had been in Ely and follow in that honorable profession but rather turned his attention to law school. We all are the better for having his involvement in the Reno community.

Miguel de Cervantes once wrote that if you "take away the cause, [and] the effect ceases." The Chief Clerk has read a few of the many accomplishments that Bud and his wife, Joan, have provided to our community. Certain groups would be nothing without their contribution for some time. The effect of his involvement, and their involvement, together, will live on in our community forever. It is something that we will have to cherish.

It was all about his wife, his two sons and daughter—the pride of their accomplishments and the groups they put forward, groups like the Assistance League of Washoe County, where Joan spent countless hours, and Bud came up with the financial support to make it happen.

When I listen to public radio, the cause remains because of Bud and Joan's involvement. The E.L. Cord Foundation may have provided the money, but the spirit behind it was the power of those two individuals. When I go to the air races and hear the roar of the planes, I hear his voice calling to the adventures of life—the life he loved and lived to its fullest roar. That was Bud Bradley, like a knight of old entering the lists as a champion for the cause—an advocate for the rights of the underdog and the full passions of life. That is the man we would honor today. Thank you, Madam Speaker. I would urge my colleagues to support this resolution and to adopt it.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. I rise in support of ACR 9. The Bradley family, as the resolution said, was very prominent in the Ely area. Bud's father took care of many of my relatives in their time of need. Bud was a native of White Pine County. When he got his law degree, he did represent many ranchers in that area because he was not afraid of the Bureau of Land Management and he certainly knew water law. I always will remember a story my uncles told me because Bud represented them in a number of incidents they had. He said that when we have the law on our side, we recite the law. If we have the facts on our side, we recite the facts. If we have neither one, we just pound on the desk. Bud Bradley won many cases by just pounding on the desk. It is great to be able to remember someone who came from my hometown and my home county. Thank you very much to my colleague from Sparks for bringing this resolution forward.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I began my legal career as a legal secretary working for a great trial lawyer. I would hear stories about the best and brightest trial lawyers in Nevada. One of the first ones I heard about was Bud Bradley. I think my colleagues from Sparks and Elko really captured the spirit of the best of the legal profession and that is those who represent the underdog; those who are not afraid to stand up to the powers that be when they are on the right side; those who are not afraid to do something just because it is the right thing to do regardless of the pecuniary outcome. That just describes Bud Bradley to a tee, as well as his children who live his legacy along with their mother. I am pleased to be able to add my support to this resolution and thank again my colleague from Sparks for bringing it forward.

Resolution adopted.

Assemblyman Anderson moved that all rules be suspended and that Assembly Concurrent Resolution No. 9 be immediately transmitted to the Senate.

Motion carried.

NOTICE OF EXEMPTION

February 24, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 81.

GARY GHIGGERI
Fiscal Analysis Division

February 24, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 53 and 135.

GARY GHIGGERI
Fiscal Analysis Division

By Committee on Judiciary:

Senate Joint Resolution No. 9 of the 74th Session—Proposing to amend the Nevada Constitution to allow the Legislature to establish an intermediate appellate court.

Legislative Counsel's Digest:

This resolution proposes an amendment to the Nevada Constitution to allow the Legislature to establish an intermediate appellate court, known as the court of appeals. If the Legislature establishes the court of appeals, the court must consist of at least three judges. The initial judges will be elected at the first general election after the creation of the court, and each judge will be elected to serve a term of 6 years.

The court will have appellate jurisdiction in civil cases arising in district court and in criminal cases within the original jurisdiction of the district courts. The Nevada Supreme Court must fix the jurisdiction of the court and provide for the review of appeals decided by the court.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That a new section, designated Section 3A, be added to Article 6 of the Nevada Constitution to read as follows:

Sec. 3A. 1. The Legislature may provide by law for the creation of a court of appeals.

2. If the Legislature creates a court of appeals pursuant to subsection 1, then:

(a) The court of appeals must consist of three judges or such greater number as the Legislature may provide by law. If the number of judges is so increased, the Supreme Court may provide by rule for the assignment of any appeal to a panel of three judges for decision.

(b) Except as otherwise provided in paragraph (c) and unless the Legislature provides for a term of fewer years pursuant to paragraph (d), each judge of the court of appeals must be elected by the qualified electors of this State at the general election for a term of 6 years beginning on the first Monday of January next after the election. The initial judges of the court of appeals must be elected by the qualified electors of this State at the first general election following the creation of the court of appeals.

(c) Notwithstanding the provisions of paragraph (b), if, at the time that the Legislature establishes a court of appeals, this Article provides for the appointment of each justice of the Supreme Court and judge of the district court by the Governor, each judge of the court of appeals must be appointed by the Governor in the manner and for the term provided in Section 20 of this Article.

(d) Except as otherwise provided in paragraph (e), if there is an increase in the number of judges of the court of appeals, each additional judge must be elected by the qualified electors of this State at the first general election following the increase for a term beginning on the first Monday of January next after the election. The Legislature shall provide for an initial term of 6 or fewer years for each additional judge so that the terms of all judges of the court of appeals expire at the same time.

(e) Notwithstanding the provisions of paragraph (d), if, at the time that there is an increase in the number of judges of the court of appeals, this Article provides for the appointment of each justice of the Supreme Court and judge of the district court by the Governor, each additional judge must be appointed by the Governor in the manner and for the term provided in Section 20 of this Article.

(f) The Supreme Court shall appoint one of the judges of the court of appeals to be chief judge. The chief judge serves a term of 4 years and may succeed himself. The chief judge may resign his position as chief judge without resigning from the court of appeals.

And be it further

RESOLVED, That Section 1 of Article 6 of the Nevada Constitution be amended to read as follows:

Section 1. The judicial power of this State ~~[shall be]~~ ***is*** vested in a court system, comprising a Supreme Court, ***a court of appeals, if established by the Legislature***, district courts ~~[,]~~ and justices of the peace. The Legislature may also establish, as part of the system, courts for municipal purposes only in incorporated cities and towns.

And be it further

RESOLVED, That Section 4 of Article 6 of the Nevada Constitution be amended to read as follows:

Sec. 4. *1.* The Supreme Court ~~[shall]~~ ***and the court of appeals, if established by the Legislature,*** have appellate jurisdiction in all civil cases arising in district courts, and also on questions of law alone in all criminal cases in which the offense charged is within the original jurisdiction of the district courts. ***If the Legislature establishes a court of appeals, the Supreme Court shall fix the jurisdiction of the court of appeals and provide for the review, where appropriate, of appeals decided by the court of appeals.*** The ~~[court shall]~~ ***Supreme Court and the court of appeals*** also have power to issue writs of mandamus, certiorari, prohibition, quo warranto ~~[,]~~ and habeas corpus and also all writs necessary or proper to the complete exercise of ~~[its appellate]~~ ***their*** jurisdiction. Each ~~[of the justices shall have power to]~~ ***justice of the Supreme Court and judge of the court of appeals may*** issue writs of habeas corpus to any part of the State, upon petition by, or on behalf of, any person held in actual custody ~~[,]~~ ***in this State*** and may make such writs returnable ~~[, before himself]~~ ***before the issuing justice or judge*** or the ~~[Supreme Court,]~~ ***court of which the justice or judge is a member,*** or before any district court in the State or ~~[before]~~ any judge of ~~[said courts.]~~ ***a district court.***

2. In case of the disability or disqualification, for any cause, of ~~[the Chief Justice or one of the associate justices]~~ ***a justice*** of the Supreme Court, ~~[or any two of them,]~~ the Governor ~~[is authorized and empowered to designate any]~~ ***may designate a judge of the court of appeals or a*** district judge ~~[or judges]~~ to sit in the place ~~[or places of such]~~ ***of the*** disqualified or disabled justice . ~~[or justices, and said judge or judges so designated shall receive their]~~ ***The judge designated by the Governor is entitled to receive his*** actual expense of travel and otherwise while sitting in the Supreme Court.

3. In case of the disability or disqualification, for any cause, of a judge of the court of appeals, the Governor may designate a district judge to sit in the place of the disabled or disqualified judge. The judge that the Governor designates is entitled to receive his actual expense of travel and otherwise while sitting in the court of appeals.

And be it further

RESOLVED, That Section 7 of Article 6 of the Nevada Constitution be amended to read as follows:

Sec. 7. The times of holding the Supreme Court ***, the court of appeals, if established by the Legislature,*** and ***the*** district courts ~~[shall]~~ ***must*** be as fixed by law. The terms of the Supreme Court ~~[shall]~~ ***must*** be held at the seat of government unless the Legislature otherwise provides by law, except that the Supreme Court may hear oral argument at other places in the State. ***The terms of the court of appeals, if established by the Legislature, must be held at the place provided by law.*** The terms of the district courts ~~[shall]~~ ***must*** be held at the county seats of their respective counties unless the Legislature otherwise provides by law.

And be it further

RESOLVED, That Section 8 of Article 6 of the Nevada Constitution be amended to read as follows:

Sec. 8. ***1.*** The Legislature shall determine the number of justices of the peace to be elected in each city and township of the State ~~[,]~~ and shall fix by law their qualifications, their terms of office and the limits of their civil and criminal jurisdiction, according to the amount in controversy, the nature of the case, the penalty provided ~~[,]~~ or any combination of these.

2. The provisions of this section affecting the number, qualifications, terms of office and jurisdiction of justices of the peace become effective on the first Monday of January, 1979.

3. The Legislature shall also prescribe by law the manner, and determine the cases , in which appeals may be taken from justices and other courts. The Supreme Court, ***the court of appeals, if established by the Legislature,*** the district courts ~~[,]~~ and such other courts ~~[,]~~ as the Legislature shall designate ~~[, shall be]~~ *are* courts of record.

And be it further

RESOLVED, That Section 11 of Article 6 of the Nevada Constitution be amended to read as follows:

Sec. 11. The justices of the Supreme Court ***, the judges of the court of appeals, if established by the Legislature,*** and the district judges ~~[shall be]~~ ***are*** ineligible to any office, other than a judicial office, during the term for which they ~~[shall]~~ have been elected or appointed . ~~[, and all]~~ ***All*** elections or appointments of any such judges by the people, Legislature ~~[,]~~ or otherwise ~~[,]~~ during said period ~~[,]~~ to any office other than judicial ~~[, shall be]~~ ***are*** void.

And be it further

RESOLVED, That Section 15 of Article 6 of the Nevada Constitution be amended to read as follows:

~~[Sec.]~~ ***Sec.*** 15. The justices of the Supreme Court ***, the judges of the court of appeals, if established by the Legislature,*** and ***the*** district judges ~~[shall]~~ ***are*** each ***entitled*** *to* receive for their services a compensation to be fixed by law and paid in the manner provided by law, which ~~[shall]~~ ***must*** not be increased or diminished during the term for which they ~~[shall]~~ have been elected, unless a vacancy occurs, in which case the successor of the former incumbent ~~[shall]~~ ***is entitled*** *to* receive only such salary as may be provided by law at the time of his election or appointment . ~~[; and provision shall]~~ ***A provision must*** be made by law for setting apart from each year's revenue a sufficient amount of money ~~[,]~~ to pay such compensation.

And be it further

RESOLVED, That Section 20 of Article 6 of the Nevada Constitution be amended to read as follows:

Sec. 20. 1. When a vacancy occurs before the expiration of any term of office in the Supreme Court ***or the court of appeals, if established by the Legislature,*** or among the district judges, the Governor shall appoint a justice or judge from among three nominees selected for such individual vacancy by the Commission on Judicial Selection.

2. The term of office of any justice or judge so appointed expires on the first Monday of January following the next general election.

3. Each nomination for the Supreme Court ~~[shall]~~ ***or the court of appeals, if established by the Legislature, must*** be made by the permanent Commission, composed of:

(a) The Chief Justice or an associate justice designated by him;

(b) Three members of the State Bar of Nevada, a public corporation created by statute, appointed by its Board of Governors; and

(c) Three persons, not members of the legal profession, appointed by the Governor.

4. Each nomination for the district court ~~[shall]~~ ***must*** be made by a temporary commission composed of:

(a) The permanent Commission;

(b) A member of the State Bar of Nevada resident in the judicial district in which the vacancy occurs, appointed by the Board of Governors of the State Bar of Nevada; and

(c) A resident of such judicial district, not a member of the legal profession, appointed by the Governor.

5. If at any time the State Bar of Nevada ceases to exist as a public corporation or ceases to include all attorneys admitted to practice before the courts of this State, the Legislature shall provide by law, or if it fails to do so the ***Supreme*** Court shall provide by rule, for the appointment of attorneys at law to the positions designated in this section to be occupied by members of the State Bar of Nevada.

6. The term of office of each appointive member of the permanent Commission, except the first members, is 4 years. Each appointing authority shall appoint one of the members first appointed for a term of 2 years. If a vacancy occurs, the appointing authority shall fill the vacancy for the unexpired term. The additional members of a temporary commission ~~[shall]~~

must be appointed when a vacancy occurs, and their terms ~~[shall]~~ expire when the nominations for such vacancy have been transmitted to the Governor.

7. An appointing authority shall not appoint to the permanent Commission more than:

(a) One resident of any county.

(b) Two members of the same political party.

➥ No member of the permanent Commission may be a member of ~~[a]~~ ***the*** Commission on Judicial Discipline.

8. After the expiration of 30 days from the date on which the Commission on Judicial Selection has delivered to him its list of nominees for any vacancy, if the Governor has not made the appointment required by this Section, he shall make no other appointment to any public office until he has appointed a justice or judge from the list submitted.

~~[➥ If a commission on judicial selection is established by another section of this Constitution to nominate persons to fill vacancies on the Supreme Court, such commission shall serve as the permanent Commission established by subsection 3 of this Section.]~~

And be it further

RESOLVED, That Section 21 of Article 6 of the Nevada Constitution be amended to read as follows:

Sec. 21. 1. A justice of the Supreme Court, ***a judge of the court of appeals, if established by the Legislature,*** a district judge, a justice of the peace or a municipal judge may, in addition to the provision of Article 7 for impeachment, be censured, retired, removed or otherwise disciplined by the Commission on Judicial Discipline. Pursuant to rules governing appeals adopted by the Supreme Court, a justice or judge may appeal from the action of the Commission to the Supreme Court, which may reverse such action or take any alternative action provided in this subsection.

2. The Commission is composed of:

(a) Two justices or judges appointed by the Supreme Court;

(b) Two members of the State Bar of Nevada, a public corporation created by statute, appointed by its Board of Governors; and

(c) Three persons, not members of the legal profession, appointed by the Governor.

➥ The Commission shall elect a Chairman from among its three lay members.

3. If at any time the State Bar of Nevada ceases to exist as a public corporation or ceases to include all attorneys admitted to practice before the courts of this State, the Legislature shall provide by law, or if it fails to do so the ***Supreme*** Court shall provide by rule, for the appointment of attorneys at law to the positions designated in this Section to be occupied by members of the State Bar of Nevada.

4. The term of office of each appointive member of the Commission, except the first members, is 4 years. Each appointing authority shall appoint one of the members first appointed for a term of 2 years. If a vacancy occurs, the appointing authority shall fill the vacancy for the unexpired term. An appointing authority shall not appoint more than one resident of any county. The Governor shall not appoint more than two members of the same political party. No member may be a member of a commission on judicial selection.

5. The Legislature shall establish:

(a) In addition to censure, retirement and removal, the other forms of disciplinary action that the Commission may impose;

(b) The grounds for censure and other disciplinary action that the Commission may impose, including, but not limited to, violations of the provisions of the Code of Judicial Conduct;

(c) The standards for the investigation of matters relating to the fitness of a justice or judge; and

(d) The confidentiality or nonconfidentiality, as appropriate, of proceedings before the Commission, except that, in any event, a decision to censure, retire or remove a justice or judge must be made public.

6. The Supreme Court shall adopt a Code of Judicial Conduct.

7. The Commission shall adopt rules of procedure for the conduct of its hearings and any other procedural rules it deems necessary to carry out its duties.

8. No justice or judge may by virtue of this section be:

(a) Removed except for willful misconduct, willful or persistent failure to perform the duties of his office or habitual intemperance; or

(b) Retired except for advanced age which interferes with the proper performance of his judicial duties, or for mental or physical disability which prevents the proper performance of his judicial duties and which is likely to be permanent in nature.

9. Any matter relating to the fitness of a justice or judge may be brought to the attention of the Commission by any person or on the motion of the Commission. The Commission shall, after preliminary investigation, dismiss the matter or order a hearing to be held before it. If a hearing is ordered, a statement of the matter ~~[shall]~~ ***must*** be served upon the justice or judge against whom the proceeding is brought. The Commission in its discretion may suspend a justice or judge from the exercise of his office pending the determination of the proceedings before the Commission. Any justice or judge whose removal is sought is liable to indictment and punishment according to law. A justice or judge retired for disability in accordance with this Section is entitled thereafter to receive such compensation as the Legislature may provide.

10. If a proceeding is brought against a justice of the Supreme Court, no justice of the Supreme Court may sit on the Commission for that proceeding. ***If a proceeding is brought against a judge of the court of appeals, no judge of the court of appeals may sit on the Commission for that proceeding.*** If a proceeding is brought against a district judge, no district judge from the same judicial district may sit on the Commission for that proceeding. If a proceeding is brought against a justice of the peace, no justice of the peace from the same township may sit on the Commission for that proceeding. If a proceeding is brought against a municipal judge, no municipal judge from the same city may sit on the Commission for that proceeding. If an appeal is taken from an action of the Commission to the Supreme Court, any justice who sat on the Commission for that proceeding is disqualified from participating in the consideration or decision of the appeal. When any member of the Commission is disqualified by this subsection, the Supreme Court shall appoint a substitute from among the eligible judges.

11. The Commission may:

(a) Designate for each hearing an attorney or attorneys at law to act as counsel to conduct the proceeding;

(b) Summon witnesses to appear and testify under oath and compel the production of books, papers, documents and records;

(c) Grant immunity from prosecution or punishment when the Commission deems it necessary and proper in order to compel the giving of testimony under oath and the production of books, papers, documents and records; and

(d) Exercise such further powers as the Legislature may from time to time confer upon it.

And be it further

RESOLVED, That Section 3 of Article 7 of the Nevada Constitution be amended to read as follows:

~~[Sec.]~~ ***Sec.*** 3. For any reasonable cause to be entered on the journals of each House, which may ~~[,]~~ or may not be sufficient grounds for impeachment, the ~~[Chief Justice and associate]~~ justices of the Supreme Court ***, the judges of the court of appeals, if established by the Legislature,*** and ***the*** judges of the district courts ~~[shall]~~ ***must*** be removed from office on the vote of two thirds of the members elected to each branch of the Legislature . ~~[, and the]~~ ***The*** justice or judge complained of ~~[, shall]~~ ***must*** be served with a copy of the complaint against him ~~[, and shall]~~ ***and*** have an opportunity of being heard in person or by counsel in his defense . ~~[, provided, that no]~~ ***No*** member of either branch of the Legislature ~~[shall be]~~ ***is*** eligible to fill the vacancy occasioned by such removal.

And be it further

RESOLVED, That Section 8 of Article 15 of the Nevada Constitution be amended to read as follows:

~~[Sec.]~~ ***Sec.*** 8. The Legislature shall provide for the speedy publication of all statute laws of a general nature ~~[,]~~ and such decisions of the Supreme Court ~~[,]~~ ***and the court of appeals, if established by the Legislature,*** as it may deem expedient . ~~[, and all]~~ *All* laws and judicial decisions ~~[shall]~~ ***must*** be free for publication by any person . ~~[; *provided*, that no]~~ ***No*** judgment of the Supreme Court ***or the court of appeals*** shall take effect and be operative until the opinion of the court in such case ~~[shall be]~~ ***is*** filed with the clerk of said court.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Anderson, Conklin, Horne, Kihuen, Parnell, Arberry, Atkinson, Carpenter, Dondero Loop, Gustavson, Hambrick, Kirkpatrick, Manendo, McArthur, McClain, Mortenson, Ohrenschall, Segerblom and Settelmeyer (by request):

Assembly Bill No. 213—AN ACT relating to cancer; requiring the State Board of Pharmacy to establish the Cancer Drug Donation Program; requiring the Board to adopt regulations to carry out the Program; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblywoman Parnell:

Assembly Bill No. 214—AN ACT relating to public employees; including certain employees of the Department of Public Safety and certain park rangers and employees of the Division of State Parks of the State Department of Conservation and Natural Resources in the definition of "police officer" for various purposes relating to industrial injuries and occupational diseases; and providing other matters properly relating thereto.

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

Motion carried.

Senate Bill No. 63.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 96.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 105.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 116.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 114.

Bill read third time.

Remarks by Assemblymen Parnell and Anderson.

Roll call on Assembly Bill No. 114:

YEAS—42.

NAYS—None.

Assembly Bill No. 114 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 25, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 11.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 11.

Assemblyman Goedhart moved the adoption of the resolution.

Remarks by Assemblymen Goedhart, Smith, and Carpenter.

Resolution adopted.

REMARKS FROM THE FLOOR

Assemblyman Ohrenschall requested that his remarks be entered in the Journal.

Thank you, Madam Speaker. I'm privileged to have a few guests today. The Nevada Commission on Autism Spectrum Disorders is hosting a luncheon here at the Legislature, and I want to thank everybody for wearing the blue pins. It means a lot to the families and everyone who is here. I would like to introduce some of my guests. From Touro University, I have Dr. Nicole Cavenagh. I have also the Associate Vice President from Touro University, Craig Seiden, and some very special guests, Megan Crandy and Alden Grant, who are young people who have benefited from evidence-based therapies. Alden's mom, Michele Tombari, is in the gallery. Michele wrote a letter that appeared in one of our Las Vegas papers last week, and I just want to read a brief excerpt:

> "In 1996, when my severely affected son was diagnosed, our insurance specifically excluded autism. We were forced into serious debt to provide a seven-year applied behavioral analysis program. My son now earns a 4.0 GPA in eighth grade, is a Life rank Boy Scout, and is a two-time Nevada Regional Robotics Champion. I was blessed to see my son recover; I was tortured by the children not given the opportunity to recover. For years many other parents and I fought for services here in

Nevada. This year I'm proud to say my 14-year-old son [Alden] has joined the cause."

He recently walked the halls in Carson City at the Legislative Building, requesting Assemblymen and Senators cosponsor a bill to help families who are raising kids with autism. It was an honor to hear him speak easily and persuasively with legislators about the importance of this bill and how it would allow others to become taxpaying citizens and live up to their potential.

That letter really touched me. Michele, I really thank you for writing it, and I want to thank everybody here, and I hope everyone will attend the luncheon. Please make my guests feel welcome.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Concurrent Resolution No. 10.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Sheri Bradley, Liza Bradley, Kris Thomas, Drew Bradley, Devon Thomas, Grace Thomas, Victoria Riley, Julie Ostrosky, Victoria Coolbaugh, Kathy Collan, Bill Bradley, Joe Bradley, and Elizabeth Thomas.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Michelle Throckmorton.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Roy Gomm Elementary School: Salina Alavi, Johnnye Bartlett, Tyler Black, Andrew Brookshank, Conner Bryan, Luke Coley, Olivia Devia, Noah Drymalski, Brandon Foster, Josh Foster, Olivia Gamboa, Lana Gomez-Rauw, Chris Gonfiantini, Karly Hand, Kyra Hunsberger, Reiss Jensen, Moriah Jickling, Cameron Jones, Jennifer Merkin, Leah Paquette, Zerick Anthony Patriani, Marcella Peek, Henry Pendleton, Madison Schuster, Eric Spitzer, Austin Whan, Kaylie Baker, Aaron Bauman, Hunter Brown, Kyle Caselli, Colby Daliposon, Teah Escalante, Samantha Fielder, Brooks Garcia, Alexis Jacinto, Rylee Jackson, Andy Johnston, Lara Jones, Kristina Lorenzetti, Jeron Martinez, Jenna Matthews, Alex O'Halloran, Daniel Ohlson, Justine Parra, Max Richman, Peter Rutherford, Cassidy Ruward, Sydney Smyth, Chase Staup, Amelia Suro, Andrew Swackhamer, Isabel Albright, Jean-Gabriel Atlan, Mathew Barnard, Erik Beidle, Alexandra Boyden, Sarah Cooper, Joshua DeGeus, Earl Fegert, Mason Gill, Tristan Gurnea, Alexa Hoops, Lauren Lim, Abigail Murphey, Kyle Rose, Scott Sax, Sarah Smith, Lizzy Stevenson, Megan Story, Nik Swednseid, Alex Tay, Marjorie Williams, Greg Woolsey, Nick Zanchetta, Sophie Ziegler, Rachel Pittman, Tim Garon, and Patrick Lanne; teachers Sonya Campbell, Jackie Borsum, and Karri Woodhead; chaperones Karen Bryan, Wendy Hand,

David Jickling, Tammy Jackson, Char Spoon, Kimberly Richman, Mary Story, Paige Stevenson, and Monique Tay.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Brian Blakemore, Catherine Blakemore, John Blakemore, Jann Van Horn, and Angela Blakemore.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Sheila Pontius, Ernie Pontius, Faye Spencer, and Eileen Montgomery.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Dr. Nicole Cavenagh, Craig Seiden, Megan Crandy, Alden Grant and Michele Tombari .

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Erin Lehman, Bonnie Deitrich, Kathy Walsh, Karen Ouellette, Bob Ouellette, Skip Garber, Nadine Garber, Stephanie Baeta, Helen Moreno, Frances Jackson, and Eileen Cohen.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, February 26, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:44 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE TWENTY-FIFTH DAY

CARSON CITY (Thursday), February 26, 2009

Assembly called to order at 11:09 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblywoman Leslie, who was excused.

Prayer by the Chaplain, Pastor Ron Torkelsen.

Dear God, in the Bible a promise is given that You are able to do immeasurably more than all we ask or imagine, according to Your power that is at work within us. As we look and listen at our surroundings we can see an incredible task before us. The people of Nevada are fearful of the future, job loss, home foreclosure, and their children's well being. These neighbors of ours are looking to this Assembly with hope that the government may be able to help stem the pain and worry of these circumstances. And yet, this is no simple task. Therefore, I pray for these men and women again today. I pray that their insight, wisdom, and compassion will be part of the solution to the pain, hurt, and hopelessness of so many they represent.

The task may not be simple but then your promise is to do more than we can possibly imagine. May your wisdom be ours. I pray that the decisions made here today will be those You can bless tomorrow.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 27, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 25, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 9.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:13 a.m.

ASSEMBLY IN SESSION

At 11:16 a.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Ohrenschall, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Lee, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 10—Memorializing Las Vegas pioneer, businessman, husband and father Eugene "Toby" Hoban.

WHEREAS, The members of the Nevada Legislature were deeply grieved to learn of the passing of Eugene "Toby" Hoban on January 22, 2008; and

WHEREAS, Toby was born on May 10, 1929, in Chicago, to Eugene and Frances Hoban, and eventually made Las Vegas his home for 48 years of his rich and fulfilling life; and

WHEREAS, His wife's grandmother first moved to Nevada in the late 1930s, and the Hobans now span six generations of proud Nevadans; and

WHEREAS, Loving and dedicated parents, Toby and his wife Mary Ann stayed involved with their children's education, from parents' clubs, raffles and carnivals at St. Anne Elementary School to Bishop Gorman High School football games; and

WHEREAS, This exemplary entrepreneur was a general contractor, owned a sheet metal business and worked at "Area 51"; and

WHEREAS, An adventurous spirit with a desire to help others, Toby became a part of the Jeep Posse in Clark County in the late 1950s, where he participated in search and rescue missions in conjunction with the Clark County Sheriff's Department; and

WHEREAS, He took his dedication to the public safety of his community a step further as a volunteer with the City of Las Vegas Police Department in the 1960s; and

WHEREAS, In addition to his career, family life and volunteer work, Toby also devoted time to community activities as a past Exalted Ruler and lifetime member of the Benevolent Protective Order of Elks 1468; and

WHEREAS, In 1975, he served as the General Chairman of the Helldorado Rodeo, a distinctively Las Vegan celebration of Nevada's western heritage since 1934; and

WHEREAS, On February 11, 2000, Eugene "Toby" Hoban and wife Mary Ann were given the key to the City of Las Vegas in celebration of their Fiftieth Wedding Anniversary; and

WHEREAS, Toby was preceded in death by his daughter Sheila, and he is survived by his beloved wife Mary Ann, whom he met at the age of 16, son Robert, daughter-in-law Renee, grandchildren Jennifer, John, Joseph and his wife Ashley, and Robert Jr. and his wife Tammy, and great-grandchildren Robert III and Nathan; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Session of the Nevada Legislature extend their sincere condolences to the family of Eugene "Toby" Hoban; and be it further

RESOLVED, That this great Nevadan be remembered by all for his devotion to his family, a long and successful career and an unyielding commitment to the betterment of his community, whether it was achieved by traversing Clark County on search and rescue missions or working

together with his fellow Elks to organize a rodeo to celebrate the culture of this State; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Eugene "Toby" Hoban's wife Mary Ann and his son Robert.

Assemblyman Ohrenschall moved the adoption of the resolution.

Remarks by Assemblyman Ohrenschall.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN OHRENSCHALL:

Thank you, Madam Speaker. In January of 2008, I was deeply saddened when I learned Eugene Toby Hoban had passed away. He was one my most beloved constituents, and one of the most beloved constituents of the predecessor in my seat, my mother, who represented District 12. It was always a treat when we got to visit with the Hoban family. I remember visiting with Toby in the living room, sitting in his big armchair, the King of the Hoban clan. He is someone who built and managed apartments, which was affordable housing in downtown Las Vegas. He helped a lot of people throughout his life, not just his family. He was integral in all our efforts to try and preserve the Huntridge neighborhood that we all grew up in. His son, Bob, is sitting with me today. He is very active with the city and serves on a couple of different boards, trying to improve things in the area that we grew up in. It is hard to know exactly what to say when you lose someone like that. He was a great father, a great husband, and a great pioneer for the city.

Resolution adopted.

Assemblyman Ohrenschall moved that all rules be suspended and that Assembly Concurrent Resolution No. 10 be immediately transmitted to the Senate.

Motion carried.

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

Assembly in recess at 11:22 a.m.

ASSEMBLY IN SESSION

At 11:23 a.m.

Madam Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblyman Oceguera:

Assembly Bill No. 215—AN ACT relating to contractors; expanding the circumstances under which an owner of a residence may recover damages from the Recovery Fund administered by the State Contractors' Board for an act or omission of a contractor; clarifies the application of the limitation on amounts paid out of the Recovery Fund; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 216—AN ACT relating to health; revising the membership and duties of the Nevada Academy of Health; removing the prospective expiration of the Nevada Academy of Health; and providing other matters properly relating thereto.

Assemblywoman Smith moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 132.

Bill read second time and ordered to third reading.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Manendo, Aizley, Anderson, Carpenter, Claborn, Dondero Loop, Goicoechea, Hambrick, Hardy, Hogan, Koivisto, Leslie, McArthur, Mortenson, Munford, Ohrenschall, Parnell, Segerblom, Settelmeyer, Spiegel and Woodbury; Senators Breeden, Nolan, Schneider, Wiener and Woodhouse:

Assembly Bill No. 217—AN ACT relating to traffic laws; prohibiting minors from using cellular telephones and similar devices while operating motor vehicles; and providing other matters properly relating thereto.

Assemblyman Manendo moved that the bill be referred to the Committee on Transportation.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Maria Bustos.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Brooke Elton.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Donna Schlemmer.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Emily Feinstein.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Elisabeth Lenz Elementary School: Ashley Agrella, Olivia Amundsen, Kate Bogarin, Morgan Brace, Gavin Bullis, Shedelande Cooper, Michelle Chen, Lindsay Chong, McKenna Conway, Emily Cook, Abriana Crocitto, Jacob Dacus, Abigail Felch, Jackson Feldman, Frank Ferguson, Emily Freitas, Deanna Haghighi, Issac Hernandez, Emma Klacking, Nathan Magrogan, Wyatt Miller, Romina Miranda-Camacho, Caden Parker, Daniel Roberti,

Luke Smagala, Michael Ung, Keelin Winans, Spencer George, Shaye Marshall, Madison Angotti, Tyler Assiff, Travis Bohall, Jack Lyn Bullard, Madison Cameron, Mackenzie Cassas, Stephanie Combs, Hunter Conatser, Andrew Dobrowski, Tayaunna Eldridge, Willow Games, Benjamin Grenert, Ryan Gustafson, Kylee Johnson, Spencer Lloyd, Rachael Matsukas, McKenna Meyer, Samanta Nolan, Chase Ortiz, Nicole Paiva, Mary Katherine Parmer, Julia Rhodes, Terry Dana, Kailey Wessel, Matthew Wieland, Kurt Young, Forrest Zeiter, Ariana Wilson, Arianna Adams, Jason Bauman, Ian Burns, Kayla Cerfoglio, Breana Davis, Audrey Dobson, Kendyll Etchegoyhen, Emma Foster, Diana Hanna, Shelby Harris, Farren Harrison, Kaelin Henry, Konnor Kirsten, Zachary Lyons, Blake Mcevoy, Eric Miskow, Hunter Murphy, Dylan Noel, Ryan O'Connor, Allison Piccinini, Christopher Sears, Kimberlynn Shields, Drezick Smith, Logan Steedman, Breanna Ward, Connor Welsh, Austin Wood, and Haley Woods; teachers William Mobley, Barbara Rhodes, and Christina Hughes; Sarah Watt and Taylor Draper.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Taylor Damon, Callie Dorn, Jesus Gonzales, Marlena Schoeter, and Nathan Whipple.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Charlie Mann.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Brandon Callahan.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Vik Sehdev.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Tonya Pack, Amelia Pack, Eric Pack, and Isaac Pack.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Lori Berg and Tami Berg.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Ricky Rivera, Karra Ussery, Megan Laudenslager, and Jimmy Lotspeich.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Renee Hoban, Jennifer Lynn Hoban, Ashely Hoban, Joseph Hoban, Nathan Hoban, Tammy Hoban, MaryAnn Hoban, Robert E. Hoban, Donna Stauff, Sheila Arnos, Robert E. Hoban II, Robert E. Hoban III, Michael Hoban, Reginald Burns, Annamae Mullins, Maureen Hoban, Wayne Garner, and John M. Hoban.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Ann Lynch, Linda Curtis, Mike Curtis, Jodi Pettersen, and Erin Lehman.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Henry.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Nomar Medina and Cathy Strachan.

Assemblyman Oceguera moved that the Assembly adjourn until February 27, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:31 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE TWENTY-SIXTH DAY

CARSON CITY (Friday), February 27, 2009

Assembly called to order at 11:43 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Carpenter, Leslie, Oceguera, Ohrenschall, and Segerblom, who were excused.

Prayer by the Chaplain, Pastor Ron Torklesen.

Dear God, we often refer to politics with a negative connotation. Whereas that may be true at times, it is not necessarily so. There is value in collective reasoning, and that is the premise for which we come here today, next week, and the next several months. The Bible teaches that You have placed people in a government because of their godly reasoning. I pray that those there today will use their capabilities for just that. And when the decisions of these next weeks and months have been concluded, we will see the wisdom in our choices.

Again, I pray for the collective wisdom of this Assembly and thank You for the successes You have promised.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Joint Resolution No. 3 of the 74th Session, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

HARRY MORTENSON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, February 26, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 10.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Judiciary:

Assembly Bill No. 218—AN ACT relating to gaming; authorizing the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in gaming; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 27.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 132 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolution No. 9; Senate Concurrent Resolution No. 11.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Roxie Christensen, Stevie Christensen, Anita Canfield, and Ashley Christensen.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Bud Clark and Greg Bailor.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Donner Springs Elementary School: Montana Benninger, Kimberly Bowman, Thomas Brown, Felipe Cedillo, Johnathon Excell, Tori Flaar, Jessica Fraser, Sergio David Guajardo, Gage Gunzburg, Kasandra Houng, Taya Jenkins, Cheyenne Kenney, Natiana Marino, Kensington Kay McCarthy, Vanessa Najarro, Skyler Reed, Tristan Schoppe, Alyssa Terrazas, Alexander Thomas, Zonnie Thompson, Yazmine Turner, Christina Young, Paige Anderson, Taylor Davidson, Tyler Day-Rosza, Steven Davis, Tyiel Duvall, Sebastian Johnson, Destiny Kopal, Macy Laird-Skiles, Ashley Lawrence, Domenic Merritt, Celina Miley, Sydne O'Neal, Alex Parrott, Serena Poudrier, Nicole Rodriguez, Antonia Salas, Felicia Sanchez, Arlene Santiago, Harrison Schoppe, Hannah Stiffler, Terran Suarez, Austin Teng, Robert Tousley, Ashley Warren, Jacob Wilkinson, Agustin Zalazar, Carolina Alonso, Sara Anguiano, Mariah Beaudette, Cierra Crill, Autumn Griffin, Bridget Hall, Jinayra Hernandez, Zevis Jacinto, Hanna Ludwig, Tony Maiorano, Samsom Moore, Austin Morgan, Redger Parker, Johanna Partoza, Kaimana Peredo, Logan Ramirez, Laura Reyes, Anjeanette Ruybalid, Rachel Sonerholm, Leonel Soto, Mezon Thompson, Isaiah Urquidez, Christian Ventayen, Lucio Alvarez Padilla, Leslie Ayon, Alexandra Cabral, Andrea

Davis, Jose Gonzales, Tristen Doss, Kyleigh Edwards, Brandon Cristobal, Tristan Fisher, Joshua Hill, Melissa Jimenez, Deidrick Johnson, Bryanne Pepple, Bridget McLean, Scott Mitchell, Cara Morrison, Xenia Paz, Miguel Rojas-Duarte, Kyle Ross, Jakob Saffle, Sabrina Sholes, Allynn Wells, Alex Yanez, Caitlin Amburgey, Aileen Banks, Faith Beers, Natalie Biancone, Jocelyn Bolonos-Sanchez, Cameron Criss, Nathan Edwards, Brennan Gatlin, Jessica Harris, Elena Hughes, Timothy Johnson, Chance Korte, Giannah Luna, Eanerra Maestas, Ashley Maples, Angelina Moran, Angelo Nino-DeGuzman , Jasmin Ortega, Ryan Rasch, Roberto Solano, Dahlia Soledad, Derrick Stanton', Johnattan Villasenor; teachers Michelle Langson, Jamee Banta, Jeanna Wu, Stacey Levy, and Robert Shader; chaperones Karla Cavajal, Laura Bonnell, Doleres, Wayne Docktor, Aimee Kopal, Natalie Jacinto, Veronica Toalson, Jose Barrera, Rosa Garcia , Brandi Hayes, Martha Munoz, Marlin Amburgey, Erin Gatlin , Kim Beers, Mike Biancone, Brandee Solano, Stephanie Davidson, and Sarah Anderson.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Blaine Osborn.

Assemblyman Conklin moved that the Assembly adjourn until Monday, March 2, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:53 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE TWENTY-NINTH DAY

CARSON CITY (Monday), March 2, 2009

Assembly called to order at 11:10 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Bruce Kochsmeier.

Our Father, we come to You at the beginning of a new week, grateful for Your presence in our lives. We give You thanks for the privilege of leading and caring for Your people. We acknowledge the complexity of this task. The needs are so diverse. The resources are limited. Bur there is no limit on the wisdom You offer us. Equip these leaders to seek Your counsel in all that they do. Show them ways to best serve as they face challenging issues today. Grant them Your perspective. Enable them to do what You know is best for this state. Thank You for being present in every moment of this session. Remind us that we can seek You at every turn for You are faithful. Grateful for this we humbly pray because You call us to seek You early.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Koivisto, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Assembly Concurrent Resolution No. 11—Recognizing March 2, 2009, as "Read Across America" Day in Nevada in commemoration of Dr. Seuss's birthday.

WHEREAS, Theodor Seuss Geisel was born on March 2, 1904, in Springfield, Massachusetts; and

WHEREAS, Theodor Seuss Geisel graduated from Dartmouth College in 1925 and began writing humorous articles and creating cartoons for various magazines; and

WHEREAS, His first children's book, *And to Think That I Saw It on Mulberry Street*, was rejected by 43 publishers until, in 1937, a friend published the book for him; and

WHEREAS, In May 1954, *Life* magazine published a report concerning illiteracy among school children, stating that, among other things, children were having trouble learning to read because the books were boring; and

WHEREAS, This comment inspired Theodor Seuss Geisel's publisher, Bennett Cerf, to compile a list of 400 words that he felt were important, asking Mr. Geisel to cut the list to 250 words, the number of words a first-grader could absorb, and using only those words, to write a book that would excite children; and

WHEREAS, Nine months later, Mr. Geisel, using only 220 of the words given to him, published *The Cat in the Hat*, which became an instant success; and

WHEREAS, In 1960, Bennett Cerf bet Mr. Geisel $50 that he could not write an entire book using only 50 words, and from that challenge came the famous children's book *Green Eggs and Ham*, which was also an instant success; and

WHEREAS, From that point on, Theodor Seuss Geisel became known as "Dr. Seuss," and children became enthused about reading every Dr. Seuss book available; and

WHEREAS, Dr. Seuss died on September 24, 1991, but his legacy of children's books will live forever as an inspiration to children everywhere to learn to read and to share in the laughter, enjoyment and knowledge that a book can provide; and

WHEREAS, In honor of Dr. Seuss and the joy of reading, the National Education Association has designated March 2, 2009, as a special day in their program "Read Across America," the nationwide initiative that promotes reading every day; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That March 2, 2009, is hereby recognized as "Read Across America" Day in Nevada in commemoration of Dr. Seuss's birthday; and be it further

RESOLVED, That children and adults are encouraged to read a favorite book together on this date and share the joy of reading; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Lynn Warne, President of the Nevada State Education Association, and Terry Hickman, Executive Director of the Nevada State Education Association.

Assemblyman Anderson moved the adoption of the resolution.

Remarks by Assemblyman Anderson.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Green Eggs and Ham is the traditional book that we think of with Dr. Seuss. I have, however, among my Dr. Seuss collection *Marvin Mooney Will You Please Go Now.* For the ten of us who are term-limited, this is a particularly poignant request from the people of the State. Therefore, I felt this particular book most reflected the fact that ten of us, anyway, hear the call very, very clearly.

The time has come. The time has come.
The time is now. Just go. Go. GO.
I don't care how.
You can go by foot.
You can go by cow.
Marvin K. Mooney, will you please go now!
You can go on skates.
You can go on skis.
You can go in a hat.
But please go. Please! I don't care.
You can go by bike.
You can go on a Zike-Bike if you like.
If you like you can go in an old, blue shoe.
Just go, go, Go! Please do, do, Do!
Marvin K. Mooney, I don't care how.
Marvin K. Mooney, will you please GO NOW!

You can go on stilts.
You can go by fish.
You can go in a Crunk-Car if you wish.
If you wish you may go by lion's tail.
Or stamp yourself and go by mail.
Marvin K. Mooney! Don't you know the time has come to go, go, GO!
Get on your way! Please, Marvin K.
You might like going in a Zumble-Zay.
You go by balloon—or broomstick.
OR you can go by camel in a bureau drawer.
You can go by Bumble-Boat . . . or jet. I don't care how you go. Just GET!
Get yourself a Ga-Zoom. You can go with a—BOOM.
Marvin, Marvin, Marvin! Will you leave this room!
Marvin K. Mooney! I don't care HOW.
Marvin K. Mooney! Will you please GO NOW!
I said GO and GO I meant . . .
The time had come. SO—Marvin went.

Resolution adopted.

Assemblyman Anderson moved that all rules be suspended and that Assembly Concurrent Resolution No. 11 be immediately transmitted to the Senate.

Motion carried.

NOTICE OF EXEMPTION

March 2, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 2, 4, 7, 8, 9, 18, 19, 33, 40, 45, 55, 64, 69, 81, 92, 95, 99, 106, 107, 111, 112, 115, 117, 121, 123, 127, 134, 138, 139, 140, 141, 146, 148, 150, 152, 158, 160, 162, 165 and 178.

MARK STEVENS
Fiscal Analysis Division

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:23 a.m.

ASSEMBLY IN SESSION

At 11:25 a.m.

Madam Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblyman Hardy and Senator Horsford:

Assembly Bill No. 219—AN ACT relating to health; requiring the Department of Health and Human Services to encourage each provider of health care or other services to perform a blood test to determine the amount of lead in each child receiving services from the provider of health care or

other services under certain circumstances; requiring a second blood test to be performed based on certain results; requiring a qualified laboratory that conducts a blood test for the presence of lead in a child to report the results of the test to the appropriate health authority under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Hardy moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblymen Smith, Anderson, Bobzien, Atkinson, Conklin, Kihuen, Leslie, Mastroluca, and Oceguera:

Assembly Bill No. 220—AN ACT relating to the subdivision of land; revising the requirements for the purchase of property for school construction; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblymen Gansert, Hardy, Carpenter, Christensen, Cobb, Goedhart, Goicoechea, Grady, Hambrick, Kirkpatrick, McArthur, Settelmeyer, Stewart, and Woodbury:

Assembly Bill No. 221—AN ACT relating to state financial administration; making various changes relating to the provisions governing the Fund to Stabilize the Operation of the State Government; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 222—AN ACT relating to financial administration; creating the Nevada Autism Task Force; making an appropriation to the Department of Health and Human Services for certain programs for the study and treatment of autism; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblymen Smith, McClain, Conklin, Buckley, Oceguera, Anderson, Bobzien, Claborn, Dondero Loop, Goicoechea, Hambrick, Hardy, Horne, Kirkpatrick, Manendo, and Parnell:

Assembly Bill No. 223—AN ACT relating to state governmental procurement; establishing bidders' preferences with respect to state purchasing contracts for service-disabled veterans and bona fide Nevada residents; establishing bidders' preferences with respect to state public works

contracts for service-disabled veterans; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 224—AN ACT relating to insurance; revising provisions relating to unfair practices in settling insurance claims; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 2, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 12.

SHERRY L. Rodriguez
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 12.

Assemblyman Denis moved the adoption of the resolution.

Remarks by Assemblyman Denis.

Resolution adopted.

Assemblyman Segerblom moved that Assembly Joint Resolution No. 3 of the 74th Session be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Conklin moved that Assembly Bills Nos. 27 and 132 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolution No. 10.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Steve Fargan.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Travis Shelley and Jennifer Lynn Isaak.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Steve Schafer, Andrew Munk, Noel Reich, Joey Robertson, Jacob Roll, Tyler Roll, Andi Bolstad, Chris Turk, Jackson Elley, Georgie Zielinski, Celestina Cubio-Torres, Hope Kincaid, Ashley Stevenson, Andrew Ashbey, Jacob Blackburn, Elaina Dunn, Kalei Elliott, Phillip Farris, Kole Kingslien, Britney Klapper, Jennifer Klapper, David McGaw, Monica Molina, Colten Vessels, Elizabeth Vessels, Kenzie Wilson, Tera Robinson, Mary Murdock, Amy Wines, Pete Mangum, Shelby Mangum, Jamie Schmidt, Lori Drew, and Rachel Willimott.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Tom Clapp.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Dylan Wells Brown.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Keith Rheault, Christopher Roller, Monica A.F. Lounsbery, Victoria A. Lounsbery, and Nicole J. Smith.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Randy Tapia.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Chris McGaw and Thomas Boni.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Kathryn Murdock and Savannah Drew.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Amanda VanPelt and Conner Siggins.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Desiree Moore and Kayla Neilson.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Rachel Jeauxdevine and Olivia Pishnak.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Megan Likens and Phoebe Mark.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, March 3, 2009, at 11 a.m., where it would reconvene in the old Assembly Chamber in the historic Capitol Building and that it do so in the memory of Thelma Clark.

Motion carried.

Assembly adjourned at 11:43 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE THIRTIETH DAY

CARSON CITY (Tuesday), March 3, 2009

Assembly called to order at 11:18 a.m. in the old Assembly Chamber in the historic Capitol Building.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Bruce Kochsmeier.

Gracious God, No one knows us as You do. How grateful we can be for this. Even more, we are grateful that in Your knowledge of us, You love us beyond our imagining. You delight in us as Your creation. You have created us for relationship with Yourself. You call us into relationship with one another as a reflection of this gift. You have created us for community. We are here today to care for Your community. You have entrusted the needs of the people of Nevada to these leaders. It is an awesome task. We pray that You would equip each of them today to do Your will. We ask that each of them would have a sense of Your special anointing—that they would know that You have chosen them for the work You have for them to do for You. Strengthen them, encourage them, give them conviction for the truth and openness to Your leading. Direct this session as we meet in this historic setting. Let all that takes place be pleasing in Your sight. We pray humbly and gratefully, seeking Your face.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Oceguera moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 136, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which were referred Assembly Bills Nos. 69, 73, 75, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

COMMUNICATIONS

SUPREME COURT OF NEVADA
JAMES W. HARDESTY, CHIEF JUSTICE
201 SOUTH CARSON STREET
CARSON CITY, NEVADA 89701-4702

February 25, 2009

SENATOR STEVEN A. HORSFORD, SPEAKER BARBARA E. BUCKLEY, Nevada Legislature, Legislative Building, 401 S. Carson Street, Carson City, NV 89701-4747

RE: State of the Judiciary Address—2009 Legislative Session

DEAR SENATOR HORSFORD AND SPEAKER BUCKLEY:

Pursuant to past protocol, I would like to request permission, as Chief Justice of the Supreme Court in 2009, to address a joint session of the Legislature on the State of the Judiciary on March 24, 2009, at 12 p.m. The court is hosting its annual reception for legislators at 5 p.m. that evening.

Your joint consideration of this matter would be much appreciated.

Sincerely,
JAMES W. HARDESTY
Chief Justice

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 2, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 11.

SHERRY L. Rodriguez
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

March 3, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 146.

GARY GHIGGERI
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Pierce, Atkinson, Buckley, Hogan, Kihuen, Kirkpatrick, Leslie, Munford, Oceguera, and Segerblom:

Assembly Bill No. 225—AN ACT relating to county fire departments; requiring a board of county commissioners that creates a district for a fire department to adopt an ordinance requiring the imposition and collection of fees for the transportation of sick or injured persons by the department to a medical facility; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Goicoechea and Grady; Senators Amodei, McGinness, and Rhoads (by request):

Assembly Bill No. 226—AN ACT relating to irrigation districts; revising limits on indebtedness and assessments of irrigation districts; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 227—AN ACT relating to public welfare; requiring licensure of certain agencies that provide services relating to the placement of children in foster care; requiring licensure of treatment foster homes; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblymen Settelmeyer, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Stewart, and Woodbury; Senators Hardy and McGinness:

Assembly Bill No. 228—AN ACT relating to prisoners; revising the provisions relating to the diet of prisoners; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblymen Oceguera, Conklin, Aizley, Atkinson, Bobzien, Dondero Loop, Hogan, Kihuen, Manendo, McClain, Mortenson, Pierce, Segerblom, and Spiegel; Senator Parks:

Assembly Bill No. 229—AN ACT relating to cigarettes; setting forth the testing requirements and performance standard for fire safety for cigarettes sold or offered for sale in this State; requiring a manufacturer of cigarettes to submit a written certification to the State Fire Marshal concerning the cigarettes that the manufacturer intends to sell in this State; imposing a fee for each cigarette listed in a certification; requiring packages of cigarettes to be marked to indicate compliance of the cigarettes with the testing requirements and performance standard; imposing civil penalties for various violations; creating the Cigarette Fire Safety Standard and Firefighter Protection Fund in the State Treasury; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 27

Bill read third time.

Remarks by Assemblymen Kihuen and Anderson.

Roll call on Assembly Bill No. 27:

YEAS—42.

NAYS—None.

Assembly Bill No. 27 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 132

Bill read third time.

Remarks by Assemblymen Conklin, Horne, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. Assembly Bill 132 clarifies that in an action for forcible or unlawful entry or detention of real property, actual damages include damages to real property and personal property.

The esteemed Judiciary Committee heard testimony about the Supreme Court's hearing on *Countrywide Home Loans v. Thitchener*. This is a case in which Countrywide Home Loans took over a property in foreclosure that in fact was not in default, and in the process, accidentally sold off some personal property of the rightful owner of the home. As it went to the Supreme Court, the Supreme Court determined that it could not differentiate, by statute, between damages to real property and personal property, found the statute ambiguous, and ruled only in the case of the real property—the home, the damage to the home—and left out of the suit things like a wedding dress, wedding photos, military awards, including medals—a lot of personal property that got sold off—that the family was never able to get back. This bill fixes what I would consider a severe injustice in the law by separating out and including in the statute both real property and personal property taken either forcibly or through unlawful entry or detention. Madam Speaker, I urge passage.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I have a question. Assemblyman Conklin, by defining actual damages in this manner, we're not precluding damages for things, such as if you are illegally evicted and you incur hotel costs, or other damages? They are still included even though they are not damages to your real property or personal property?

ASSEMBLYMAN CONKLIN:

Madam Speaker, I do not believe so. I am not an attorney, and my colleague may be able to better answer this. As I understand it, this is exclusive to the taking of the property—the property itself and anything in it—and not to do with any additional damages associated with not having access to that facility. In the particular *Thitchener* case, as it turned out, they were away from the home at the time, so they had another place to live. They were actually out of state at the time—it is a military family—but they were intending to come back. All their belongings were in the home. In this particular case, that was not an issue, but I certainly would defer to my colleague if a better answer is necessary.

ASSEMBLYMAN HORNE:

Madam Speaker, that question was not posed during the committee. However, this bill does not preclude other remedies in going forward for similar circumstances to your scenario or where a home is wrongfully taken in foreclosure and the personal property is also sold off or discarded. This bill doesn't preclude other remedies, such as you described in incurring hotel costs—let's say they are gone on vacation and they return to no home. They would still have that cause of action in a court of law.

Roll call on Assembly Bill No. 132:

YEAS—42.

NAYS—None.

Assembly Bill No. 132 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Welcome to this historic occasion. It is with a feeling of awe, I think, that most of us walk into the Assembly Chamber every day. What an incredible honor it is to come to the seat of democracy and back to our very beginnings. I think most of us, at one time or another, is suddenly taken aback by the awe, by the responsibility, and by the opportunities we've been given by the people in our district to do the best that we can to serve them. So we step back in time to recognize that this is an honor that has been passed down, that this is the best example of representative democracy, and to think a little bit about those whose footsteps we follow.

We are very pleased today to kick off our floor session in the old Assembly Chamber with a few words by our esteemed former archivist, Mr. Guy Rocha.

FORMER NEVADA STATE ARCHIVIST GUY ROCHA:

This is an auspicious occasion. You probably do not know, but the gentleman who gave the invocation—our Presbyterian minister here in Carson City—and I went to San Diego State together. We were working on our history degrees—his Bachelor's degree, my Master's degree—in the mid-1970s. Thank you, Madam Speaker, for bringing us back together, whoever is responsible for that. We even found ourselves somewhat challenged in working together on a project that resulted in the expansion of that wonderful church. We saved the part of the church that Orion Clemens was associated with as a trustee. Samuel Clemens, or "Mark Twain," gave a speech in order to raise enough money to finish that church. It is one of the few buildings left that has an association with Mark Twain. Bruce, it is good to be together after 35 years in this setting.

I had a homework assignment from our Assembly majority whip. It has been an adventure. I want to walk over here to the east door, which used to be a window, and I am going to give my initial presentation from there.

I chose this location because the "Mesquite Mosquito" has something to do with this door, which used to be a window but is now a door because of the renovation of this building in the late 1970s and early 1980s and the seismic retrofit. The Mesquite Mosquito—how many people have heard of that, since Senator Reid brought it to everyone's attention?

The late *Las Vegas Sun* reporter and columnist Bryn Armstrong gave Assemblyman Bryan K. Hafen the name Mesquite Mosquito after Hafen darted out the east window of this Chamber during the 1969 Legislative Session during a call of the house. He was up here by the door someplace, which was the exit point. Now, you know, it was 40 years ago, so I decided to call Bryan K. Hafen. I found him and he is still alive. He is living in Mesquite. He did admit to the act on impulse. He wanted to get the attention of his peers by exiting this building through that open window and down the fire escape. He showed up again at the bar of the Assembly, assisted by the Sergeant-at-arms. According to Joe Dini, a call of the house found him hanging out with Paul Laxalt, who was Governor at the time.

What is interesting here is that Bryan Hafen disagrees with Harry Reid that the controversial vote was on an abortion bill. U.S. Senate Majority Leader Reid makes that particular claim in his recent book, *The Good Fight*. Bryan Hafen says the bill related to raising the sales tax in Clark County. "I should know," he said. "I was there and voted on the bill."

Richard H. Bryan, our former esteemed Senator, Governor, and Attorney General, and serving in this Legislature as an Assemblyman in 1969, witnessed the flight of the Mesquite Mosquito. He said it was that "greyhound dog racing bill," but he wasn't sure.

Tim Hafen, Bryan Hafen's brother, who served as a fellow member of the Assembly in 1969—Bryan Hafen sat over here by the window and Tim Hafen said he sat over there on the other side of the room—said, "Well, I recall it being an abortion bill, but I am not sure. But there was a folding chair, when that was a window." Tim Hafen said as his brother mounted that chair, it crashed, and everybody saw him trying to scramble out the window.

I looked in the book and tried to find out who else was there, who else remembers. We do have a woman here today sitting at the Front Desk who was witness to that. Don Mello, who now lives in Dayton, thought it was the abortion bill. When I talked to Joe Dini this morning, who served in the same session in 1969, he said, "That's what I think it was." So, that makes the vote four for the abortion bill, one for the dog racing bill, and one for the Clark County sales tax bill. And there's a vote for the abortion bill right here by Jeanne Douglass, who is sitting at the far left of the front table.

Unfortunately, the 1969 legislative record—let me get this in as an advertisement—is not clear as to which bill led to the flight of the Mesquite Mosquito. This happened 40 years ago, and we cannot definitively figure this out. I read all Bryn Armstrong's Sunday *Las Vegas Sun* columns from the 1969 Legislative Session on microfilm over at the State Library and Archives and found no mention of the incident. Presumably Bryn Armstrong gave this information in a news report and news story, but not in one of his columns. That would have taken reading every day, virtually, and I couldn't do that. Here is what this experience told me. Memory can and does fail us all with the passage of time, but I think today you all will remember that there was an Assemblyman from Nevada in 1969 who unceremoniously was called the Mesquite Mosquito. Madam Assembly Majority Whip, I have met my homework assignment.

What I wanted to share with you today, and what I thought would be appropriate is the Great Depression in Nevada. I thought, "Why not?" Let's be instructive today. Perhaps we can learn something. The one thing we seemingly learn from history is that we do not learn from history. Not that history has all the answers, but how do we know if it can be instructive until we examine the past in light of the present?

Thanks to Assembly Speakers Richard Perkins and Barbara Buckley, this will be the fourth time I have had the distinct honor of regaling you, here in the old Chamber, with stories about what happened in this State Capitol.

The Legislature met in this building from 1871 until 1969, so the Mesquite Mosquito flew out during the last session. If you think this space is small, the Assembly and Senate Chambers were about half this size, until expanded in 1913-14 and first used in the 1915 Regular Session. There were no committee rooms and they didn't have offices. It was pretty primitive. When the Legislature convened here in 1931, Nevada had by far the smallest population in the nation—91,058 residents according to the recent U.S. Census. Carson City was the smallest state capital with a population of 1, 596. Oh, yes, a very different state, let me tell you.

The country, but not Nevada, was in the throes of the Great Depression. When Republican Governor Fred Balzar's message to the Legislature was read by the Chief Clerk of the Assembly and the Senate Secretary on January 20, 1931, Nevada was not in the Depression. Governor Balzar did not make the presentation. He did not have to. It is a tradition, but off and on governors have chosen to just submit it, and the message was read to the body. Perhaps it saved money. Let me read Balzar's message, because I think you will understand where he is coming from. This is January 20, 1931, in this Chamber:

> "The existing era of economic depression and industrial unemployment obtained throughout the nation, and to a minor degree within our own state, are facts well known to you and make necessary the most careful consideration of existing conditions before legislation is attempted as a possible remedy. It will therefore be well to thoughtfully examine the reports of all the several state offices, that the exact facts as to the internal condition of our state may be known. Most fortunately, the existing nationwide condition of financial stress is but lightly felt within

> our borders. When comparisons are made with conditions prevailing in other states, and this partly due to our solid financial standing and partly to the large federal expenditures which have heretofore been made within the state or those authorized to be made. Deeply as we regret conditions prevailing elsewhere, Nevadans may rejoice, notwithstanding the tremendous decline in our mining industry which approaches total extinction in some quarters, yet the future for the rare metallics as well non-metallics is very good.
>
> The expenditures proposed in connection with the Boulder Canyon Project in Clark County, running into many millions of dollars during the ensuing decade as well as those made at the Naval Ammunition Depot in Mineral County outside Hawthorne, are factors tending to lessen financial distress among our people. These disbursements, added to those authorized by Congress for additional highway construction, give promise that Nevadans can face the future in a most optimistic frame of mind."

The point is, you were taught the Great Depression affected every place the same. Nevada got into it late. Just like the great recession today—you wouldn't know it in northeastern Nevada. There are four jurisdictions—Elko, Eureka, Lander, and Humboldt Counties—that are not feeling it in the way the other 13 counties are. It is much more nuanced than you might think, even in the Great Depression. But we are going to feel it.

The 1931 Nevada State Legislature legalized casino gambling after it had been made illegal 21 years earlier, then lowered the residency period for migratory divorces to six weeks to outmaneuver states that had reduced their residency periods to three months. They were trying to get the business—just like legalizing casino gaming and getting the business that Nevada used to have a monopoly on.

With improved highways linking Nevada to neighboring states, the quickie wedding business—with no waiting period as in other states—also grew significantly. In addition, tolerated female prostitution thrived in most communities in Nevada, particularly in the two largest cities, Reno and Las Vegas. Senator Coffin, it was a different era. In can be argued that Nevada's long-time dependence on taxes derived from its legislated tourist businesses can be traced to the 1930s. What you have inherited as a tax dynamic and an economic dynamic starts here in the 1930s. The Nevada prior to that is the "old" Nevada, the frontier Nevada.

With the continued decline of the mining industry and the state's agricultural interests in deep debt due to extensive loans, many local banks, particularly in northern Nevada, failed in late 1932. A banking holiday was declared on November 1, 1932, after a run on the banks. Nevada clearly understood what the depths of the Great Depression were when Governor Balzar's message was read to the Legislature on January 17, 1933, again, in this Chamber:

> "In my message to the Legislature of 1927 and again in 1929, stress was placed upon the following statement: 'The people of Nevada do not want an increase but, on the contrary, expect a reduction in their tax burden.' Conditions existing at that time justified my comment. During the past three years, economic conditions throughout the nation have grown steadily worse until we have reached the point, in spite of all our efforts, with economical administration of the several departments of state, where it is now apparent that drastic reductions in expenditures must be had if we are to continue to stay on a cash basis, only to the causes which you are all familiar with. The state, our several counties, and many of our cities have been confronted with a serious decline in tax and other revenues, which in some instances almost approach the vanishing point. This diminution of receipts make necessary the careful and serious scrutiny of all appropriations proposed to be made for the State's purposes during the next two fiscal years. At the very onset of your session, you will be well to consider a material reduction in your number of attachés of your respective bodies below that obtained in the

> last legislature and also whether or not it will be possible to complete the work of the session in not to exceed 40 days, thus setting the example for all other departments of an enforced and drastic reduction in the public expenses.
>
> In the budget to be submitted to your honorable bodies in the near future, mark down the revisions of appropriations as will be recommended and wherever possible, all standing appropriations should be wholly eliminated or greatly reduced."

That is Fred Balzar, from January 17, 1933.

Well, the Legislature did not comply with a material reduction of attachés, and the session lasted the constitutional limit of 60 days—you know that constitutional separation of powers issue.

The 1933 Legislature passed an insurance premium tax but cut the *ad valorem* tax on taxable property, and dramatic cuts were made to the state's budget.

Arguably the worst years for Nevada during the Great Depression were 1932 through 1934.

Now I want to read Richard Kirman, who was the new governor. He was a Democrat while Balzar was a Republican. On January 22, 1935, once again the Senate Secretary and Assembly Clerk read the Governor's message to the Legislature.

> "It is almost unnecessary to state that for the past several years our state and the nation have been suffering from the most terrible depression in our history. Never since the establishment of the government of the United States have so many citizens been unemployed and dependent upon what would be termed "organized public charity." In industry throughout the nation, there's been practically a standstill, and only the drastic action taken by Congress and the President during the past two years has prevented a complete collapse of this form of government. This depression and financial industrial stagnation exists not only in America but throughout the world. Many and varied are the causes assigned, but I believe the consensus of considered and best opinion is that the natural letdown from the abnormal condition induced by the World War as well as post-war inflation, staggering unpaid war debts, and the loose practices indulged by the great financial powers of the world are the primary reasons for our present condition. The various relief agencies proposed by Franklin D. Roosevelt and sanctioned by Congress alone have saved America, and the sincere and grateful thanks of our people and our posterity will be recorded due to them, for the courageous manner in which vital problems have been and are being solved. Measures already enacted, as well as others to be proposed, will, it is hoped, prevent a return of such conditions."

Now, this is where the story gets interesting, and I will tell you why.

Although Nevada received the highest per capita federal dollars associated with New Deal programs and extensive highway construction among the 48 states at the time, the 1935 State Legislature decided some taxes had to be raised.

Following the end of the federal prohibition on alcohol manufacturing and consumption on December 5, 1933, the 1935 Legislature created a liquor tax and licensing fees. The Motor Vehicle Fuel Excise Tax and dealer licensing fees were increased. The *ad valorem* tax on taxable property increased. With the new tax revenues and the growing income from casino gambling, migratory divorce, quickie weddings, an upturn in the mining industry, and the continued infusion of federal dollars, Nevada had a surplus in 1936. Did you know that? That is why you called me here today.

At the same time, Governor Kirman, a long-time banker and conservative Democrat, joined business leaders from across the state in a "One Sound State" campaign. The intent was to draw millionaires from across the country to Nevada because of its low taxes. California millionaires were particularly targeted because their state income tax had been increased by their Legislature

in 1935. The extensive national marketing campaign advertised Nevada as a state with "no income tax, no inheritance tax, no sales tax, no tax on intangibles, but with a balanced budget and a surplus."

Literally scores of millionaires—among them Max Fleishmann, George Whittell, Jr., LaVere Redfield, and E. L. Cord—established residency in Nevada. The taxes on all the property purchased at Lake Tahoe, in and around Reno and Las Vegas, and throughout Nevada helped fill the state's coffers.

Although the *ad valorem* tax on taxable property was raised by the 1937 Legislature, by 1939 the state surplus was so large that the property tax rate was cut by 20 percent. I thought this was the Great Depression! Didn't it happen all the same way, everywhere? Let me continue.

A March 20, 1939, *San Francisco Chronicle* article entitled "Nevada Fires on Fort Taxation" playfully asked:

> "What is Nevada doing? Getting ready to secede from the Union? The Nevada Legislature wound up Saturday after cutting the state's taxes by 20 percent. That is unfair to organized taxers. And nobody in this session of the Legislature proposed any such levies. This marks Nevada as a community with no proper place in the American commonwealth of states. South Carolina achieved secession by firing on Fort Sumter. Nevada puts herself out alone by firing on Fort Taxation. Nevada has no need for the fancy taxes other states have been dolling themselves up with. The simple taxes she has produced too much money. Surplus has been piling up. The Legislature thought the surplus was getting too big, so it handed out a dividend to taxpayers by cutting taxes one-fifth. Unbelievable, but it is true. These people just do not belong in the United States."

Actually, the 1939 Legislature did impose a state gas tax for the first time at 5 cents a gallon. However, an effort to pass a 1937 legislative resolution a second time in 1939 to amend the state constitution to allow for a state lottery, with proceeds earmarked for old-age pensions, and send the measure to the voters in 1940, passed in the Senate but died in the Assembly due to the gaming lobby. My goodness, that was 70 years ago.

The Great Depression was clearly over in 1939 while the rest of the nation continued to struggle until the onset of World War II. Nevada's population had grown to 110,247 in 1940, the largest growth the state had seen since the resurgent mining booms in the first decade of the twentieth century.

Let me read Edward Peter Carville's 1941 message, which he read. He came to this Chamber and read it to the body. I have it here—January 21, 1941.

> "I am pleased to report that the financial condition of the state's various departments is sound. Each department is considering its affairs within the limits of the amounts set forth in the budget made during the 39th Session of the Legislature, and in several instances, reversion of funds will be made at the end of the biennium. Throughout the state, economic conditions are fundamentally sound. There has been a marked increase in revenues from gasoline and diesel taxes, liquor taxes, bullion taxes, plate taxes, and common carrier taxes."

We were no longer in a depression.

Today's "Great Recession" ranks as Nevada's third worst economic crisis, after the state's 20-plus year mining depression—which began in the late 1870s and lasted through 1900—and Nevada's six-year Great Depression in the 1930s.

The Nevada Legislature is facing a challenge of a magnitude it has not seen for more than 70 years. May you have the wisdom and leadership to lead our state out of the economic wilderness. Nevada must be reconfigured in order to thrive in the rest of the twenty-first century in ways much different than in the twentieth century when we relied so heavily on the tourism industry to fund the operations of our state.

We clearly know now that no state, especially Nevada, is recession-proof.

I wish you well and success in this political and economic challenge of a political lifetime. Thank you.

Assemblyman Oceguera requested that the following proclamation be entered in the Journal:

PROCLAMATION OF THE NEVADA STATE ASSEMBLY

WHEREAS, On March 3, 2009, the Nevada Assembly honors its history by holding its floor session in the former Assembly Chamber located in Nevada's monument to democracy, the State Capitol Building; and

WHEREAS, The earliest sessions of Nevada's Territorial and State Legislatures, from 1861 through 1869, were conducted in various rented facilities and the original Ormsby County Courthouse; and

WHEREAS, In 1869 the State Capitol Fund was created upon the passage of Assembly Bill 36, which called for the erection of the State Capitol Building at a cost not to exceed $100,000, using sandstone obtained from the Nevada State Prison quarry, located just outside of Carson City; and

WHEREAS, Construction on the State Capitol Building began on April 21, 1870, and the building was completed on May 1, 1871. Robert E. Lowery presided as the first Speaker of the Assembly to officiate in the new Chamber; and

WHEREAS, The State Capitol Building was designed by San Francisco architect Joseph Gosling and built by Carson City building contractor Peter Cavanaugh. Its architecture reflects Classical and Renaissance Revival and Italianate elements; and

WHEREAS, Nevada's government evolved in this historic landmark, where the Senate and Assembly convened until April 24, 1969, when the Legislature adjourned *sine die*, ending nearly a hundred years of tradition of the Nevada Legislature meeting in the State Capitol Building; and

WHEREAS, The number of Assembly members who met in this Chamber, which was originally called the Assembly Hall, ranged from a high of 53 in the sessions of 1913 and 1915, to a low of 30 members in the sessions of 1893 through 1899; and

WHEREAS, Near the end of the 1969 Legislative Session, an appropriation of $3.4 million was approved for the construction of Nevada's Legislative Building. The Senate and the Assembly moved to the Legislative Building in 1971; and

WHEREAS, It was with feelings of gratitude and respect for the past and hope for the future that Assembly Speaker Howard F. McKissick, Jr. bid farewell to this Chamber on the last night of the 55th Nevada Legislative Session by stating, "Let us then hold fast to the memory of those who went before us and, grateful that we have had an opportunity to participate in events that have taken place here, let us go forward with confidence to our new duties in our new Assembly Chamber in the soon-to-be-completed Legislative Building . . . [and] let us take with us the same pioneer spirit of all the Assemblymen of the State of Nevada who have helped shape our destiny, the willingness to enforce what is just, and the courage to change what is wrong"; now, therefore, be it

PROCLAIMED, That members of the Assembly of the 75th Regular Session of the Nevada Legislature look back with deep pride and appreciation on the hard work, courage, and vision of all who served in the State Capitol Building as members of the Nevada Assembly; and be it further

PROCLAIMED, That Nevada's political history and heritage must be preserved and brought back to life periodically through celebrations such as today's floor session in the former Chamber of the Nevada Assembly; and be it further

PROCLAIMED, That by conducting today's floor session in the former Assembly Chamber in the State Capitol Building, members of the Nevada Assembly reaffirm that the State Capitol Building is a treasured landmark and a symbol of the Silver State's rich and diverse history and people.

DATED this 3rd day of March, 2009.

BARBARA E. BUCKLEY
Speaker of the Assembly

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Pedro Moiola.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Dyshali Lammey.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from the Churchill County High School Young Republicans: Sarah Jamieson, Michael Perazzo, Toree Lammel, Sarah Frandsen, Kirby Pearce, Erik Kruckenberg, Tina Bernardo, Shelby Frandsen, Nathan Denney, Chris Bloomfield, Ryne Wood, Aaron Thomas, Geran Elkins, Seth Price, James Bake, Melissa Thomas, Ileigh Williams, Kenny Travis, Alicia Perazzo, and Cameron Sorensen.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Jessica VanVickle.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Jacqueline Taylor.

On request of Assemblyman Mortenson, the privilege of the floor of the Assembly Chamber for this day was extended to Skyler Halloway.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Jordon Arellano.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Miguel Hernandez.

Assemblyman Oceguera moved that the Assembly adjourn until March 4, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:09 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE THIRTY-FIRST DAY

CARSON CITY (Wednesday), March 4, 2009

Assembly called to order at 11:10 a.m.
Madam Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, Elder Carl Dahlen.

Let us pray. Hear me, our Lord and our God, as I pray on behalf of those gathered here today. Thank You, for Your many blessings. Thank You for the challenges You have laid before us. Thank You, that we can depend on You to provide the wisdom and the courage to meet those challenges. Lord, we ask that You would be with us as we have gathered. Be with us, Lord, not only in this Chamber but also in the committee rooms and the offices where the business of legislation is taking place. We ask Your blessing on all of those You have chosen to lead, in our state, in our counties and cities and towns, and in our nation. We look to You to show how You would have us act on behalf of the people of Nevada.

Help us to do what is right and not what is expedient. Help us to focus on issues and not on personalities. Help us to discern the path You would have us follow in these trying times. Let our efforts be to the benefit of all of the citizens of our state. Let all that we do and all that we say be to Your glory. You are our Lord and we are Your servants. You are our God and we are Your people. Bless us, our Lord and our God. Bless this Assembly. Bless this legislative session. Bless our Governor and his administration. Bless our state and our nation. Walk with us not only today but throughout the days ahead that Your will shall be done. Thank You, again, for all that You do for each and every one of us.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 154, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 169, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Transportation, to which was rereferred Assembly Bill No. 29, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen McClain, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 12—Honoring Nevadans who have lost their lives in the Global War on Terrorism.

WHEREAS, Since the launching of the Global War on Terrorism in response to attacks on the United States on September 11, 2001, through Operations Iraqi Freedom and Enduring Freedom, 4,865 Americans have lost their lives, including 47 Nevadans; and

WHEREAS, The service of these men and women required sacrifice, hardship, endurance, dedication, courage and the highest level of patriotism; and

WHEREAS, Those Nevada citizens who served our country in the name of freedom and justice deserve special recognition for their sacrifice; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That we honor every American who served and extend our heartfelt condolences to the Nevada friends and family members of those who made the ultimate sacrifice; and be it further

RESOLVED, That we continue to honor those recognized in previous legislative sessions: Marine Lance Corporal Nicholas H. Anderson, Las Vegas; Army Staff Sergeant Corey R. Barnes, Sparks; Army Sergeant Kenneth E. Bostic, Hawthorne; Marine Lance Corporal Raul S. Bravo, Elko; Army Captain Joshua T. Byers, Sparks; Marine Second Lieutenant James J. Cathey, Reno; Marine Lance Corporal Donald J. Cline Jr., Sparks; Army National Guard Specialist Anthony S. Cometa, Las Vegas; Army Corporal Matthew A. Commons, Boulder City; Army Private First Class David N. Crombie, Winnemucca; Army Specialist Jason A. Disney, Fallon; Army National Guard Chief Warrant Officer 3 John M. Flynn, Sparks; Army Sergeant John C. Griffith, Las Vegas; Army Specialist Daniel F. Guastaferro, Las Vegas; Marine Corporal Jesse Jaime, Henderson; Army Sergeant Robert P. Kassin, Las Vegas; Marine First Lieutenant Nathan M. Krissoff, Reno; Army Corporal Stanley J. Lapinski, Las Vegas; Army Corporal Shawn T. Lasswell Jr., Reno; Army Staff Sergeant Emmanuel L. Legaspi, Las Vegas; Marine Lance Corporal Jeremy Z. Long, Sun Valley; Marine Private First Class John Lukac, Las Vegas; Army Corporal Joseph L. Martinez, Las Vegas; Army Sergeant Gordon F. Misner II, Sparks; Army Private Second Class Joshua M. Morberg, Sparks; Army Sergeant Eric W. Morris, Sparks; Navy Petty Officer Second Class Eric S. Patton, Boulder City; Marine Reserve Lance Corporal Richard A. Perez Jr., Las Vegas; Marine First Lieutenant Frederick E. Pokorney Jr., Tonopah; Army Specialist Ignacio Ramirez, Henderson; Army Reserve First Sergeant Carlos N. Saenz, Las Vegas; Marine Corporal William I. Salazar, Las Vegas; Army Private First Class Thomas C. Siekert, Lovelock; Army National Guard Sergeant Patrick D. Stewart, Fernley; Army Reserve Specialist Teodoro Torres, Las Vegas; and Army Private First Class Phillip B. Williams, Gardnerville; and be it further

RESOLVED, That we pause today to reflect on the supreme sacrifice of the eleven Nevadans who have given their lives since the 74th Legislative Session: Army Sergeant Ezra Dawson, Las Vegas; Army Sergeant David J. Drakulich, Reno; Army Staff Sergeant Sean M. Gaul, Reno; Army Specialist Joshua S. Modgling, Las Vegas; Army Sergeant Alfred G. Paredez Jr., Las Vegas; Army Chief Warrant Officer 2 Joshua R. Rodgers, Carson City; Army Sergeant Anthony J. Schober, Gardnerville; Army Reserve Staff Sergeant Coby G. Schwab, Henderson; Army

Staff Sergeant Michael L. Townes, Las Vegas; Army Private First Class Alejandro R. Varela, Fernley; and Army Specialist Travis M. Virgadamo, Las Vegas; and be it further

RESOLVED, That the members of the 75th Session of the Nevada Legislature honor these brave Nevadans who made the ultimate sacrifice through their service, dedication and commitment to this country and their fellow man; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit 11 copies of this resolution to Tim Tetz, Executive Director of the Office of Veterans' Services, for transmittal to the family of each of those being honored.

Assemblywoman McClain moved the adoption of the resolution.

Remarks by Assemblywoman McClain.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Madam Speaker. Fellow members of the Assembly and distinguished guests, today is an important day. As Americans, we live in a secure and comfortable environment while somewhere around the world, a member of our military is sacrificing on our behalf. On September 11, 2001, our country's attack by an enemy intent on disrupting our security and our ideals saw our country unite as Americans and have a resurgence of patriotism not seen for many years. Thousands of young people across our nation and throughout Nevada answered the call to duty. The names we read today are fellow Nevadans who heeded the call to duty and made the ultimate sacrifice to preserve our ideals, our country, and our way of life. These brave Nevadans set aside their dreams, their lives, and their futures. They came from all across the state, from small towns and large cities. They are our neighbors, our students, our sons, and our daughters. They were our teachers, our mothers, and our brothers. Since the last legislative session, 11 more Nevadans have embarked on the eternal patrol. They came from all corners of our state—Las Vegas, Reno, Pahrump, Fernley, and Carson City. They came from all stripes, representing officers and enlisted. They came from all trades—infantry, armor, mechanics, and pilots. Today we pause to honor those we knew and loved, those Nevadans who heeded the call to service and forfeited all. We stand dedicated to remember the struggle, the resolve, and the sacrifice these Nevada heroes made. We must forever demonstrate they have not died in vain as we honor their commitment as soldiers from the great Battle Born State of Nevada.

ASSEMBLYMAN COBB:

Sergeant David J. Drakulich was 22 years of age. He graduated from Hug High School in 2003 and spent two semesters at Truckee Meadows Community College before enlisting in the Army. He loved his country and joined in order to serve. Sergeant Drakulich was a forward observer, rifleman, and parachutist for the 1st Battalion, 508th Parachute Infantry Regiment, 82nd Airborne Division, based out of Fort Bragg, North Carolina. He completed three tours in Iraq and Afghanistan. For his heroic efforts and sacrifice for our country, Sergeant Drakulich was awarded the Bronze Star. In his civilian life, David was an emerging and talented artist. His family has established the David Drakulich Memorial Art Foundation for Freedom of Expression, in his honor, to provide scholarships for students pursuing art as a vocation or hobby and as therapy for soldiers and students.

In the words of David's father, Joseph, who is joining me here today, "He was a Nevadan and an American." Sergeant Drakulich is part of a well known and prominent family in northern Nevada. Many of you know this. Personally, I did not know Sergeant Drakulich, but his life story is a common one. When I was in Iraq with the Department of Defense, I was amazed at the dedication of these soldiers, marines, airmen, and sailors. Many worked 12 hours on and 12 hours off, with up to 16-month tours. Sergeant Drakulich himself volunteered for three such tours. I agree with Mr. Drakulich. Your son was an outstanding Nevadan and American. Thank you.

ASSEMBLYWOMAN PIERCE:

Thank you, Madam Speaker. From District 3 in Las Vegas, Sergeant Alfred Paredez was a Las Vegas native. At the age of 32, on November 20, 2007, he made the ultimate sacrifice for

our nation in Baghdad. He is survived by his wife, his mother, and his step-father. Also from District 3, Sergeant Ezra Dawson, who was 31, also made the ultimate sacrifice in Konar Province, Afghanistan, on January 17, 2009. Sergeant Dawson was a member of the Nevada National Guard. He received many awards, including the Bronze Star and the Purple Heart. He is survived by his wife, Starlia. Thank you, Madam Speaker.

ASSEMBLYMAN GRADY:

Thank you, Madam Speaker. Alejandro Varela was born January 29, 1988, in Roseville, California, where he lived most of his life. While living with his father, Roger, in Fernley, he enlisted in the Army on January 29, 2006, which was his eighteenth birthday. He graduated Basic Training at Fort Benning, Georgia, on August 11, 2006, and was assigned to the 1st Cavalry Division at Fort Hood, Texas. He was deployed to Iraq at the end of October of 2006. Alejandro was killed May 19, 2007, in Baghdad when an IED blew up under the tank he was driving. All aboard were killed. His favorite things to do were to ride his quad in the Nevada desert and play paintball with his buddies. Today, I am honored to have Roger Varela, Alejandro's father, sitting with me. He has helped found the Gold Star Families in northern Nevada, a support group for grieving families. Thank you, Madam Speaker.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. On Thursday, August 30, 2007, Nevada lost one of its own. Army Specialist Travis M. Virgadamo died from noncombat injuries just outside of Baghdad in Iraq. He was the fifty-fourth member of the United States military with ties to Nevada to have died while serving in the nation's wars overseas since September 11, 2001. He was just 19 years old. Travis is survived by his mother, Jackie Juliano, of Pahrump; father Robert M. Virgadamo and stepmother Mary Jean Virgadamo of the Philippines; sister Katie Juliano of Pahrump; Nicole Virgadamo of the Phillipines; grandparents Katie and Bill O'Brian of Pahrump; and an aunt and uncle, Ann and John Glover of Minden. He was a young man with a lot of dreams and a lot of plans. We offer our heartfelt sympathy and condolences to his family and friends who have suffered this loss.

ASSEMBLYWOMAN PARNELL:

Thank you, Madam Speaker. Like so many other young men, following the attacks on September 11, 2001, 17-year-old Anthony Schober told his dad he wanted to join the Army. He wanted to do something for his country. On May 12, 2007, during his third tour of duty, Anthony lost his life in an ambush south of Baghdad. He received the Purple Heart and the Bronze Star. His family continues to grieve their loss, mostly especially when they see Hostess Ho-Ho's or a Dr. Pepper, two of his favorite junk foods that he was so famous for. Thank you, Anthony, for your service.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. I admit I do not know the two gentlemen as well as I wish I could have. I was fortunate to talk to the family and I was also fortunate that the Arlington Cemetery has an outstanding website on the soldiers and the Patriot Guard Riders also had a lot of information on the two gentlemen that I speak of today. I thank them all for honoring their services.

I am very honored and humbled to talk about the two soldiers today. Deciding to serve one's country by joining the military is a personal commitment that requires courage and fortitude, traits that belonged to the two men that I humbly talk about today.

Chief Warrant Officer Joshua Rodgers was a member of the 3rd General Support Aviation Battalion, 82nd Brigade Combat Team stationed in Fort Bragg, North Carolina. He lived there with his wife, Casey G. Rodgers of Gardnerville, and their three daughters, ages 2, 3, and 7. Just like me, he is a graduate of Douglas High School, graduating in 1997. Joshua and his wife were married in Trinity Lutheran Church in Gardnerville in 1997. He joined the Army right after high school. He served four years. He then returned to Nevada to serve as a Nevada correctional officer. Then, like many people, after September 11, 2001, he re-upped. He went into the Army and became a Warrant Officer. I can't say anything better than what his mom said. Joshua was a wonderful husband and son and he was their hero. He was faithful to his family, he was an

American, he was devoted to his family—family was everything to Joshua. I am grateful that she is here with us today.

I also want to talk about someone who was not necessarily, when he passed away, a Nevada resident, but his mother is one of my constituents. Army Staff Sergeant Sean Diamond, who we closed in honor of a couple of days ago, was a heavy construction equipment operator with the 610th Engineering Support Company, 14th Engineering Battalion, 55th Engineer Brigade based in Fort Lewis, Washington. He was serving his third tour of duty, participating in Operation Iraqi Freedom in As-Salam, Iraq. He first served in the military beginning in 1987. He left for a short break and then rejoined in 2000. He volunteered to go to Iraq when the war started and was most recently deployed in March 2008. During his military service, he received many awards, including the Bronze Star, the Army Achievement Medal with four-leaf cluster, the Presidential Unit Citation, the Combat Action and Expert Infantry Badges. Support for his family service was provided by his mother, Sally Wiley, of Gardnerville. She has membership in the local chapter of the Blue Star Moms of Northern Nevada, an organization whose purpose is to support the sons and daughters who serve in the military. Our thoughts go out to their families and friends who are truly in need of our prayers and our help.

Army Staff Sergeant Sean Diamond and Chief Warrant Officer Joshua Rodgers have fulfilled their duties. We thank them for their loyalty and their courage. They bring honor to our nation and knowing their memory will always be bright stars in the lives of all Americans. Thank you.

ASSEMBLYMAN BOBZIEN:

I rise in honor of Staff Sergeant Sean Gaul of Reno who gave his life on January 9, 2008, in Iraq when a makeshift bomb detonated during combat operations. Staff Sergeant Gaul, who was 29 years old, was killed in Iraq in the Diyala province while serving his fifth tour in Iraq and Afghanistan. Staff Sergeant Gaul moved to the Reno area when he was a child. He was a member of the Junior ROTC at Reed High School. Staff Sergeant Gaul studied marshal arts, participated in triathlons, biked, hiked, loved fly fishing, and being outdoors. Staff Sergeant Gaul left behind his wife, Jessica, a daughter, parents, and four sisters, as well as many other family members. He will be remembered as a devoted soldier, husband, and father. It is my privilege today to honor and thank Staff Sergeant Sean Gaul for his service, dedication, and sacrifice to our country.

ASSEMBLYWOMAN MASTROLUCA:

Thank you, Madam Speaker. I stand in honor of two young men who died serving their country, in doing something that so many of us want to do, wish we could do, but is hard for us to stand up and do. That is why we are remembering them today.

Twenty-two-year-old Army Private First Class Joshua S. Modgling was killed on June 19, 2007, in Iraq. Joshua grew up in southern Nevada, and he loved to play soccer, baseball, and football. His mom says she was so proud when he decided to join the Army because he needed some direction and he wanted to go to college. He was going to come home and go to college and start an automotive business with his brother. He paid the ultimate sacrifice in protecting our country.

On May 5, 2007, 25-year-old Army Staff Sergeant Coby G. Schwab was killed on his second tour of duty. He went back to Iraq a second time because his family said he did not want his buddies to fight the country's freedom-wrecking militants alone. He spent most of his life in Henderson and joined the Army in 2000 after graduating with honors in architecture. His mother said he sought adventure. He just wanted to jump out of airplanes and climb mountains.

We are so grateful for the sacrifice that these two young men made, and we must remember them always.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. Marine Lance Corporal Raul S. Bravo, from Elko, is a hero of our community. Luckily, he is the only young man from Elko to die in Iraq. In order that Raul will live forever in Elko, we planted a tree in his honor.

Resolution adopted unanimously.

Assemblywoman McClain moved that all rules be suspended and that Assembly Concurrent Resolution No. 12 be immediately transmitted to the Senate.

Motion carried unanimously.

Assemblywoman McClain moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:42 a.m.

ASSEMBLY IN SESSION

At 11:44 a.m.

Madam Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblyman Segerblom:

Assembly Bill No. 230—AN ACT relating to concealed firearms; requiring a sheriff to offer retired law enforcement officers the opportunity to obtain certification to carry a concealed firearm at least twice per year; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen McClain, Koivisto, Smith, Ohrenschall, Kihuen, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, Hogan, Horne, Kirkpatrick, Leslie, Manendo, Mastroluca, McArthur, Mortenson, Munford, Oceguera, Parnell, Pierce, Segerblom, Settelmeyer, Spiegel, Stewart, and Woodbury:

Assembly Bill No. 231—AN ACT relating to lobbying; exempting certain veterans from the requirement to pay any fee established for registration as an uncompensated lobbyist; and providing other matters properly relating thereto.

Assemblywoman McClain moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Smith, Pierce, Horne, Arberry, McArthur, Aizley, Anderson, Buckley, Claborn, Denis, Gansert, Goicoechea, Hogan, Kihuen, Koivisto, Leslie, Manendo, Mastroluca, McClain, Munford, Oceguera, Ohrenschall, Parnell, Segerblom, and Spiegel:

Assembly Bill No. 232—AN ACT relating to the State Legislature; revising provisions governing the Interim Finance Committee; and providing other matters properly relating thereto.

Assemblywoman Smith moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Oceguera, Koivisto, Ohrenschall, Bobzien, Conklin, Aizley, Anderson, Arberry, Atkinson, Buckley, Carpenter, Claborn, Denis, Dondero Loop, Goicoechea, Hogan, Horne, Kihuen, Leslie, Manendo, McClain, Smith, and Spiegel; Senators Cegavske and Parks:

Assembly Bill No. 233—AN ACT relating to scrap metal; enacting various requirements for transactions involving scrap metal and for persons involved in such transactions; providing that a person who removes, damages or destroys certain property to obtain scrap metal is guilty of a crime; increasing the penalty for stealing scrap metal under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblywoman Gansert:

Assembly Bill No. 234—AN ACT relating to genetic marker analysis; requiring that a biological specimen be obtained from a person arrested for a felony; providing a penalty; and providing other matters properly relating thereto.

Assemblywoman Gansert moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Hardy, Goicoechea, Aizley, Grady, Koivisto, Smith, and Stewart:

Assembly Bill No. 235—AN ACT relating to fuel taxes; providing for the taxation of ethanol as a motor vehicle fuel and biodiesel and blends of biodiesel and petroleum-based diesel as special fuels; making various changes concerning the licensure and regulation of persons who manufacture special fuel; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Hardy moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblymen Grady, Gansert, Goedhart, Goicoechea, and Settelmeyer; Senator Amodei (by request):

Assembly Bill No. 236—AN ACT relating to water conservation; revising the provisions governing grants of money for water conservation and capital

improvements to certain water systems to include a nonprofit association or nonprofit cooperative corporation that provides water service only to its members; and providing other matters properly relating thereto.

Assemblyman Grady moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 237—AN ACT relating to juveniles; revising the provisions governing the certification of certain juveniles as adults for criminal proceedings; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Horne, Anderson, Aizley, Bobzien, Buckley, Dondero Loop, Hogan, Kihuen, Manendo, Mortenson, Oceguera, Ohrenschall, Segerblom, and Smith; Senators Parks and Horsford:

Assembly Bill No. 238—AN ACT relating to crimes; providing that persons who are convicted of certain offenses involving pandering or prostitution of a child are subject to lifetime supervision; and providing other matters properly relating thereto.

Assemblyman Horne moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblymen Ohrenschall, Horne, Munford, and Segerblom:

Assembly Bill No. 239—AN ACT relating to crimes; revising provisions relating to habitual criminals, habitual felons and habitually fraudulent felons; and providing other matters properly relating thereto.

Assemblyman Ohrenschall moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 69.

Bill read second time and ordered to third reading.

Assembly Bill No. 73.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Claborn moved that Assembly Bill No. 75 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 4, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 13.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 13.

Assemblywoman Mastroluca moved the adoption of the resolution.

Remarks by Assemblywoman Mastroluca.

Resolution adopted.

SECOND READING AND AMENDMENT

Assembly Bill No. 136.

Bill read second time and ordered to third reading.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:59 a.m.

ASSEMBLY IN SESSION

At 12:02 p.m.

Madam Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Transportation:

Assembly Bill No. 240—AN ACT relating to vehicles; prohibiting a vehicle dealer from advertising or offering a used vehicle for sale or otherwise transferring or attempting to transfer ownership of the vehicle unless the dealer has satisfied any existing security interest in the vehicle; providing exceptions; increasing the amount of the bond required of a manufacturer, distributor, rebuilder or dealer who sells vehicles other than motorcycles, trailers or travel trailers; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the action whereby Assembly Bill No. 235 was referred to the Committee on Taxation be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 235 be referred to the Committee on Transportation.

Motion carried.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. When the veterans were being honored, I know many of you spoke about individual veterans that you had some knowledge of. I was a little bit emotional. As I have mentioned before, my former students are all over the place. Two of them were in dangerous places. Petty Officer 2nd Class Eric S. Patton and Army Corporal Matthew A. Commons, two graduates of Boulder City High School, were killed. I do not know the circumstances of Eric's death, but Matthew Commons was a Special Forces young man and was heroically killed in a fire fight in Afghanistan. I rise to honor them. Thank you, Madam Speaker.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolution No. 11.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Barbara Prendergast and Doug Byington.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Donielle Stevens and Charles Harton.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Margaret Puccinelli and Mike Musgrove.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Molina Rocio, Joseph Drakulich, Suzzie Wein, Daniel Trabke, Douglas Melson, and Jeanne Bishop-Parise.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Mamele Wright, Edward Schober, and Roberta Schober.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Bryan Ortiz and Luanne King.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Wayne Brotherton and Margaret Brotherton.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Alexandra Phillips, Maribel Sanchez, Jerry Finley, Roger Varela, and W. Wayne Willson.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Jake Ward, Charley Smith, and Robert Marshall.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Kara Housby, Robert Wesley, and Anthony Pollard.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Garrett Perchetti, Justin Beland, and Jayne Jordan.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Theo Meek.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Jantell Martin, Gina Crown, Chuck Fulkerson, and Jack Logan.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Sean Fellows, Scott Smith, Michell Herrera-Linqui, and Dan Klaich.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Tedi Taylor and Donna M. Forster.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Maria Alvarado, Michael Dakduk, Tim Tetz, Allen Butson, and Jamin Hansen.

On request of Assemblyman Mortenson, the privilege of the floor of the Assembly Chamber for this day was extended to Jessica Villasenor.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to W. Wayne Wilson, Vaughn Smith, Leslie Stephens, Maya Solomon, Mark Kirchner, and Roberta Kirchner.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Justin Gilbert.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Ed Mahoney, Norbert Monohan, John Zemlock, Sally Wiley, Deborah Walker, and Donna Baushke.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Lindsey Hull, William Maltman, R.G. Smith, and Jim Helsel.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to David L. Navratil.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Yolanda Newsom, William Baumann, Jeff Fuhler, Phillip LaChapelle, and Carole Turner.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, March 5, 2009, at 11 a.m., and do so in memory of Army Sergeant Ezra Dawson, Army Sergeant David J. Drakulich, Army Staff Sergeant Sean M. Gaul, Army Specialist Joshua S. Modgling, Army Sergeant Alfred G. Paredez Jr., Army Chief Warrant Officer 2 Joshua R. Rodgers, Army Sergeant Anthony J. Schober, Army Reserve Staff Sergeant Coby G. Schwab, Army Staff Sergeant Michael L. Townes, Army Private First Class Alejandro R. Varela, and Army Specialist Travis M. Virgadamo.

Motion carried.

Assembly adjourned at 12:15 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE THIRTY-SECOND DAY

CARSON CITY (Thursday), March 5, 2009

Assembly called to order at 11 a.m.
Madam Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, Pastor Bruce Kochsmeier.

Faithful Lord, thank You for the invitation to this life. Thank You for being our rock and salvation in every day. We praise You for Your unwavering care in all that we face. As this Assembly undertakes the work You have set before them, we pray that You would set the tone and tempo. Show each person here how to serve in the ways You give them. Give each servant ears to hear and words to speak. Give them minds that understand the issues. Fill them with imagination that leads beyond deadlocks. Use their creativity to lead the people of this state through these difficult days. Open them to being of one mind for Your purpose. Grant them energy and focus. Take away distractions and let Your peace reign in this Chamber and in all our lives as You lead us this and every day. We pray with confidence in the promises You have made to us to be our God as we seek You today and tomorrow and forever.

AMEN.

Pledge of allegiance to the Flag.

Madam Speaker announced if there were no objections the Assembly would recess for the purpose of hearing a musical presentation of the *National Anthem* by the Carson High School Choir, under the direction of Susan Sonnemaker.

Assembly in recess at 11:17 a.m.

ASSEMBLY IN SESSION

At 11:20 a.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

COMMUNICATIONS

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515-2803

February 25, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Nevada Assembly*, 401 South Carson Street, Carson City, Nevada 89701

DEAR SPEAKER BUCKLEY:

I respectfully request the opportunity to address the distinguished members of the Nevada Legislature on Wednesday, April 15, 2009. I look forward to sharing with you and your colleagues information regarding the important issues the United States Congress will be addressing in the upcoming months and how it will affect the state of Nevada.

I thank you in advance for your consideration of my request.

Sincerely,

DINA TITUS
Member of Congress

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 39, 60, 174, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 4, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 103; Senate Bills Nos. 9, 27, 160.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 12.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Arberry, Aizley, Anderson, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Horsford, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 13—Memorializing Doris Adair McDonald.

WHEREAS, The residents of the State of Nevada were deeply saddened to learn of the passing of Doris Adair McDonald, an exemplary citizen, loving wife, dedicated family woman and "Mom" to many, on October 14, 2008; and

WHEREAS, Doris was born in Butte, Montana, on August 16, 1926, to Maurice and Irene Lynch; and

WHEREAS, Her lifelong friendship with her beloved husband John began when they met at a dance in 1944, and continued as they were married on January 11, 1952, and eventually left Montana to make Las Vegas their home in August of 1960; and

WHEREAS, Doris was a devoted homemaker who loved spending time in her beautiful rose garden, which was her pride and joy, and taking care of her animals; and

WHEREAS, The McDonalds' home was where all of the neighborhood kids could feel safe and welcome, and Doris greatly enjoyed being "Mom" to all who came to visit; and

WHEREAS, Hospitable with her compassionate heart as well as her home, Doris touched the lives of many people in Las Vegas, from elected officials to those who grew up in her neighborhood, who still call her "Mom" to this day; and

WHEREAS, Sharing the traditions of the holiday season of Christmas and New Year's Eve, her favorite time of the year, and watching Notre Dame football with those she loved brought this exceptional woman great happiness; and

WHEREAS, Doris was a thoughtful and kind neighbor, loving wife and dedicated mother to her children as well as to those in her community; and

WHEREAS, Doris is survived by her loving husband of 56 years, John J. McDonald, daughters Jacquelyn Lavin and Kerry Lee McDonald, son Michael J. McDonald, grandson TJ Lavin, granddaughter Brooke Newton and grandson-in-law David, and great-granddaughter Justice Newton; and

WHEREAS, She was preceded in death by her sons-in-law Terry Pinter and Tommy Lavin; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Session of the Nevada Legislature extend their sincerest condolences to the family and friends of Doris Adair McDonald; and be it further

RESOLVED, That this caring neighbor will be remembered fondly by all who had the good fortune of knowing her for her warmth, hospitality and devotion to her family, which extended beyond bloodlines far into her community; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Doris' husband, John J. McDonald, and her children, Jacquelyn, Kerry Lee and Michael.

Assemblyman Arberry moved the adoption of the resolution.

Remarks by Assemblyman Arberry.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ARBERRY:

Thank you, Madam Speaker. I have some prepared remarks because this is a very moving issue for me. Councilman McDonald—I still give him that respect as councilman because he was my councilman when we first met, and we have been friends ever since. I wanted these remarks to be prepared so I wouldn't lose sight of what I really want to say to him, his family, and to this body.

The resolution certainly does a wonderful job of capturing some of the life of Doris Adair McDonald, who passed away last October. She was a special kind of person and mother who not only nurtured and loved her own children, but also their friends and all the kids in the neighborhood. Doris and her husband, John, lived in their home on Carmen Boulevard in Las Vegas for many years. I am very familiar with that neighborhood because I grew up not far from there.

I go way back with the councilman and his family, including our common ties to Western High School and my friendship with their son, Michael. When we first met, that was the first thing we bonded with because when you are a Western Warrior, you are always a Western Warrior.

"Mom" McDonald, as she was called by so many, touched so many lives in such a positive way for the nearly 50 years she lived in Las Vegas. It is my great honor and privilege to have known "Mom," and it is an honor to have her family here with us today. I would like to extend my most sincere condolences to her family and friends on their loss. But most of all, we are all here to celebrate and rejoice in the life of a woman who exemplified all the best qualities of a mother and a friend.

Musician Stevie Wonder once wrote a few lines about his own mother. He wrote, "Mama was my greatest teacher, a teacher of compassion, love, and fearlessness. If love is sweet as a flower, then my mother was a sweet flower of love." Doris "Mom" McDonald was just that kind of mother. She was a true blessing in our lives and the lives of so many, and she will be missed.

Resolution adopted.

Assemblyman Arberry moved that all rules be suspended and that Assembly Concurrent Resolution No. 13 be immediately transmitted to the Senate.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Natural Resources, Agriculture, and Mining:

Assembly Bill No. 241—AN ACT relating to wildlife; requiring a certain percentage of the money expended annually from the Wildlife Heritage Trust Account to be used solely for projects to control predators of mule deer in this State; and providing other matters properly relating thereto.

Assemblyman Claborn moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By the Committee on Natural Resources, Agriculture, and Mining:

Assembly Bill No. 242—AN ACT relating to diseased animals; providing that a report of trichomonosis in cattle submitted to the State Quarantine Officer is not confidential under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Claborn moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblymen Mastroluca, Parnell, Denis, Smith, Anderson, Atkinson, Bobzien, Dondero Loop, Hardy, Kirkpatrick, Stewart, and Woodbury; Senators Woodhouse and Copening:

Assembly Bill No. 243—AN ACT relating to education; requiring certain employers to grant leave to a parent, guardian or custodian of a child enrolled in public school or private school to participate in certain school conferences and activities; prohibiting employers from taking certain retaliatory actions against an employee who takes the authorized leave; providing a penalty; and providing other matters properly relating thereto.

Assemblywoman Mastroluca moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Hambrick, Gustavson, and Stewart:

Assembly Bill No. 244—AN ACT relating to firearms; providing for the public auctioning of certain confiscated and forfeited firearms under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Hambrick moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Stewart, Hardy, Gansert, Carpenter, Goedhart, Goicoechea, Grady, Gustavson, McArthur, Munford, Settelmeyer, and Woodbury:

Assembly Bill No. 245—AN ACT relating to elections; requiring photographic identification for voting; requiring county clerks to issue voter identification cards under certain circumstances; requiring persons who apply for absent ballots to provide certain information to county and city clerks; and providing other matters properly relating thereto.

Assemblyman Stewart moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Bobzien, Smith, Ohrenschall, Aizley, Carpenter, Grady, Kirkpatrick, Munford, Segerblom, Settelmeyer, and Spiegel; Senators Parks, Hardy, and Lee:

Assembly Bill No. 246—AN ACT relating to wildlife; providing for the issuance of an apprentice hunting license; prohibiting an apprentice hunter from hunting in this State unless he is accompanied and directly supervised by a mentor hunter; providing an exception from requirements concerning the completion of a course in the responsibilities of hunters; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Bobzien moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblymen Bobzien, Leslie, Hardy, Denis, Aizley, Kihuen, Mastroluca, Ohrenschall, Pierce, Segerblom, and Smith; Senators Copening, Parks, Hardy, and Lee:

Assembly Bill No. 247—AN ACT relating to bicycles; revising provisions governing the operation of bicycles; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Bobzien moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Segerblom, Buckley, Oceguera, Horne, Conklin, Anderson, Kirkpatrick, and Mortenson:

Assembly Bill No. 248—AN ACT relating to holding companies; revising provisions relating to the approval of certain mergers or acquisitions of control; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Hardy, Horne, Conklin, Dondero Loop, Gansert, Hambrick, Hogan, Koivisto, Manendo, Spiegel, and Stewart; Senators Hardy, Cegavske, Copening, and Woodhouse:

Assembly Bill No. 249—AN ACT relating to public health; authorizing a district health officer or his designee in certain counties who orders the extermination or abatement of mosquitoes, flies, other insects, rats or their breeding places to take certain actions to abate the nuisance; authorizing such a district health officer to order an owner of real property to abate and prevent the recurrence of such a nuisance; providing that all money expended by the health district in abating and preventing the recurrence of such a nuisance constitutes a lien upon the property; authorizing the health district to bring an action to foreclose the lien; and providing other matters properly relating thereto.

Assemblyman Hardy moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblyman Manendo (by request):

Assembly Bill No. 250—AN ACT relating to evidence; revising certain provisions governing the admissibility of certain affidavits or declarations; authorizing personal service of a request to have such affidavits or declarations admitted into evidence at certain trials; defining certain terms; and providing other matters properly relating thereto.

Assemblyman Manendo moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Manendo, Anderson, Carpenter, Dondero Loop, Horne, Kihuen, Mortenson, Munford, Ohrenschall, Segerblom, and Spiegel:

Assembly Bill No. 251—AN ACT relating to common-interest communities; revising the procedures for voting for a member of the executive board of an association under certain circumstances; requiring that the regulations governing the issuance of certificates for community managers must contain certain provisions relating to persons who formerly engaged in community management; and providing other matters properly relating thereto.

Assemblyman Manendo moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Anderson, Horne, Smith, Hardy, Aizley, Buckley, Carpenter, Conklin, Goedhart, Goicoechea, Hambrick, Kirkpatrick, McArthur, and Segerblom:

Assembly Bill No. 252—AN ACT relating to convicted persons; providing for the waiver of fees for the issuance of certain forms of identifying

information for certain persons released from prison; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblymen Cobb, Hambrick, Carpenter, Christensen, Claborn, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hardy, Hogan, Manendo, McArthur, Mortenson, Ohrenschall, Parnell, Settelmeyer, Stewart, and Woodbury:

Assembly Bill No. 253—AN ACT relating to crimes; making it a crime to remove the firearm or other weapon of a public officer while resisting, delaying or obstructing the public officer in the discharge of his duties; increasing the penalty for using a firearm in the course of such resistance, delay or obstruction; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Cobb moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 9.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 27.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 160.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 29.

Bill read second time and ordered to third reading.

Assembly Bill No. 154.

Bill read second time and ordered to third reading.

Assembly Bill No. 169.

Bill read second time and ordered to third reading.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:50 a.m.

ASSEMBLY IN SESSION

At 12:01 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills No. 69, 73, and 136 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 5, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 14.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 14.

Assemblyman Kihuen moved the adoption of the resolution.

Remarks by Assemblymen Kihuen, McClain, Carpenter, Christensen, Mortenson, Atkinson, Ohrenschall, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN KIHUEN:

The resolution certainly does a wonderful job of capturing some of the highlights of the personal and professional life of Thalia Dondero, who, as most of us know, is one of the most popular and distinguished public servants in the history of Nevada—not to mention that she is the mother of one of our esteemed colleagues who represents Assembly District 5 in the south. You all can see the apple does not fall too far from the tree. There is so much more, however. Let me just share a few things with you here today.

As a mother of five, Thalia was active for many years in organizations that focused on the well-being of children. As the resolution notes, she was twice elected as Homemaker of the Year for Nevada by *McCall's Magazine*. She was a leader in both the PTA and Scouting.

There are certain events in each of our lives that forever change the direction where we are headed. For Thalia, one such event occurred in 1972 when she ran for elective office for the first time. She did not win the race. If she had won, Thalia would have been a member of our body, here in the Nevada State Assembly. For all we know, she would still have been a member of the Legislature today. Rather than accept defeat and walk away from ever holding elective office, Thalia gave it another try in 1974 when she ran for the Clark County Commission. She was victorious that year. Over the following 20 years as a county commissioner, she demonstrated her remarkable abilities, leadership, vision, and strong sense of commitment to serving others. Just two years after Thalia left the county commission, she started another chapter in her remarkable life. In 1996 she ran unopposed for a seat on the University Board of Regents. She worked tirelessly over the following 12 years to promote higher education in Nevada. If it were

not for the Nevada Supreme Court ruling on term limits last summer, Thalia would still be a member and an enlightening voice on the Board of Regents.

When I think of Thalia, so many words come to mind—advocate, public servant, leader, conservationist, icon, and friend. Thalia, what a blessing you have been to so many Nevadans. We are going to miss you. Thank you, Madam Speaker.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Madam Speaker. I first met Thalia Dondero when I was a brand new employee in the 1990s in the Clark County Manager's Office. I have to tell you, the word was she was "District G" because it stood for "Grand Lady." One of the occasions that I remember was that we had the national NACO conference that year and there were lots of events and I got to accompany Thalia to a concert, which was one of the events at night. I sat in the front row with Thalia at a Wayne Newton concert and he was clearly flirting with her.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. I stand in support of SCR 14. I first met Thalia when I was a county commissioner for Elko. It always amazed me how well prepared she was. She was not only a county commissioner from Clark County, but she really supported all of Nevada, and I always did really appreciate her service. I want to congratulate you on your success, and may you go on to do bigger and better things. Thank you.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Speaker. As a boy, I grew up right in the neighborhood of Dondero Elementary School. While I did not have the opportunity to meet Mrs. Dondero until I became a legislator, we were able to spend some time together on the day of Governor Guinn's second inauguration, where I really got to know her. I just wanted to stand to share a thought. I know that for my own campaigns—as a father, I've got kids and a wife—each campaign I go through, there is a lot of work that goes into it. I have only been doing it a couple of times, and it just always seems like a lot. To hear of your history and the mark—truly the mark with a capital M—that you have made on this state, I just wanted to rise and say that I am in staunch support of this resolution. I just wanted to say it is truly an honor to be in the presence of such a great Nevadan. Thank you.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Speaker. I first met Thalia when she was a commissioner. I was often fighting for various zoning things and I thought Thalia was always one of the fairest commissioners. I did not know her very well at that time, but in the last couple of years I have gotten to know Thalia very well because we are involved in a bunch of things together with my wife. I have to tell you this lady is the most un-fatiguing, most energetic lady you can imagine. If she sees an injustice somewhere, she is going to dive in and she is going to work to try and fix it. She is a wonderful lady, and I thoroughly support this resolution.

ASSEMBLYMAN ATKINSON:

Thank you, Madam Speaker. I rise in support of SCR 14. I met Mrs. Dondero years and years ago, like my colleague from District 15, when she was a county commissioner. I remember that I used to run around the building kind of lost. I used to go by her office every once in a while and just talk to her. I would sit down and talk to her. I think we all get inspirations to do what we do or run for office or do some of the things we do for other people without them even knowing it. And I remember trying to figure out the difference between a politician and a public servant. When I look at Mrs. Dondero, I definitely understand what being a public servant really, really means.

I don't know if she will remember this, but I remember the day she lost her county commission seat, and I just had to go up to her office. Someone said, "Well, maybe she is not going to be here today." I said, "No. I am sure she will be here." I went up to see her, and she was visibly upset. I do not think she was upset because she lost, I think she was upset because she felt she was not going to be able to serve people. That really meant a lot to me. It kind of inspired me. I just wanted to let her know that and to thank her for the inspiration. We really

enjoy you. Someone said earlier they were going to miss you, but I do not think you are going anywhere. We will see you around.

ASSEMBLYMAN OHRENSCHALL:

Thank you, Madam Speaker. It is an honor to rise here and to speak to this resolution for Thalia. You have taught a lot to us as you have run for office. I know growing up in the Democratic Party, there is always a saying that if there are three people together on a sidewalk, Thalia would be there talking to them. You taught us, really, how to run fierce campaigns and how to work hard. I was talking to my mother today and chatting with her about what are the important things to say and what you mean to our family. She mentioned what good friends you and your late husband Harvey were and how much he meant to us. She mentioned a television commercial she saw back in 1972 when you and Gene Ford were both running for the Assembly, inviting people to come and hear you both talk. I think that is something else you have done. You really trailblazed the path for women in politics because those were the years that we fought for the Equal Rights Amendment and came so close in the 1970s. I just appreciate your service. It is an honor to get to speak to this resolution today, Thalia.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I want to also add my remarks in support of the resolution. You have meant so much to so many people, whether it is at the county commission level, the university level, or the state level. My colleague from Assembly District 12 spoke about trailblazing. I want to say—on behalf of women—we thank you for paving that way. I would not be the first woman Speaker in the State of Nevada but for the pioneering women who blazed that trail for all of us. We appreciate all you have done for women, all you have done for Nevadans, and all you will continue to do. I can attest to the fact that I do not believe you will be stopping your advocacy any time soon. Just last week I had the privilege of watching you and Senator Raggio share a few words about UNLV. As I watched that exchange, I thought, "Well, that is the secret to her success." No one cows you, because you know that you are right. That is what you fight for. We are so privileged to have you. I do not think that your advocacy will stop any time soon.

ASSEMBLYWOMAN DONDERO LOOP:

Thank you, Madam Speaker. I rise in support of SCR 14. First of all, with all due respect to my colleague from District 7, it is a great day for Wildcats today, and there are a lot of them in the building. I decided to share a little story with you. I know my family behind me knows what a great mom we have and that we are all so fortunate. I thought it might be just kind of nice to quickly recap, and I appreciate your indulgence with the family today. I direct your attention to a book called *A Hero Named Thalia*.

Born in Greeley, Colorado,
Then on to Bakersfield.
Her early years were really tough,
But Thalia wouldn't yield.

Elementary years were meager,
Bills were oft' overdue.
'Til one bright day a spark of hope,
Her teacher bought her shoes.

She remembers the Great Depression,
The dinner table bare.
Along the way they all picked fruit,
Love was the feast they shared.

Her next home was Las Vegas
Where one man changed her life.
His name — Harvey Dondero,
Soon she became his wife.

While Harvey was a teacher,
Thalia often volunteered.
"Someone has to do it!"
Was the motto that she cheered.

Early years with Frontier Council,
Green uniforms worn with pride.
Camps forever at Calico Basin,
Thalia did it all in stride.

She volunteered with Boy Scouts,
Girl Scouts and the PTA.
Junior League, high school booster clubs,
Stay out of Thalia's way.

A life dedicated to giving,
And rearing a family of five.
She mothered, tutored and counseled,
While home and community thrived.

With all her work outside the home
'Twas her family she held most dear.
Back in nineteen fifty eight,
They were voted "Family of the Year!"

Her kids grew and became successful,
She'd always done her best.
"It's time for something bigger," she thought,
"Politics — A brand new test!"

After executive director of Girl Scouts,
She wanted to do more.
Why not first female commissioner?
She did it — in seventy-four.

A county commissioner for 20 years,
Thalia could not stop giving.
Helping Las Vegas become a better place,
For education and family living.

Thalia stands for many things —
Courage, wisdom and allegiance.
In 1996 she was elected to the
Nevada Board of Regents.

A friend of the outdoors,
With a lifelong love of art.
A gourmet cook, her friends will say,
"The lady with the great big heart!"

Without means to go to college,
She taught thousands about living.
While earning her "PhD"
In the art of insatiable giving.

A mentor, a leader, a hero,
A woman beyond compare.
Las Vegas is a better place,
Thalia Dondero resided there.

I just want to tell you that we have a mother who really came from very, very meager means. She made our clothes. She cut our hair and she took care of and fed everyone in the neighborhood. She showed us what the art of giving and returning back to the community really was. I thank you for that, Mom. I thank you for being a great mother and a great role model. Thank you.

Resolution adopted.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Concurrent Resolution No. 12.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to David Branson.

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Michael McDonald, John McDonald, and Camille Duskin.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Linda Ponn.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Beth McMillan.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Monica Kales.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Trish Williamson.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Barbara Fenne.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Claire Kelley, Sarah Kelley, Stacy K. Endres, Brandon Arner, and B.J. Juneau.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Myrna Alforque Filipiniana and Vilma Gorre.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Jill Berryman.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Thalia Dondero, Mike Dondero, Jason Dondero, Judy Habbeshaw, Rob Dondero, Candy Schneider,

Dan Klaich, Molly Dondero, Linda Bellegray, Howard Rosenberg, Ron Parraguirre, Chris Dondero, Jim Rogers, and Jackie Leonord.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Carol Johnson.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Debbie Arrighi.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Roy Enochson.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Willis Allen.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Kendall Hardin.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Gerald Duskin.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to David Johnson and Lynne Sunderman.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Donna Brown.

On request of Assemblywoman Koivisto, the privilege of the floor of the Assembly Chamber for this day was extended to Annalise McKenzie.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Marvin Gillis.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Hal Weller.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Geoff Neuman and Richard McEnaney.

On request of Assemblyman Mortenson, the privilege of the floor of the Assembly Chamber for this day was extended to Candy Schneider.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Donald Brown.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Bobbie Ann Howell, Nettie Olivero, and Robert Fielding.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Scott Faulkner.

On request of Assemblywoman Pierce, the privilege of the floor of the Assembly Chamber for this day was extended to Amber Urioste.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Richard Hooker.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Sharon Schlegel.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Ann Clark and Patricia A. Wells.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to John Shelton.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Sally Ahistedt and Jutta Chambers.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to Joan Lolmaugh.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, March 6, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:23 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE THIRTY-THIRD DAY

CARSON CITY (Friday), March 6, 2009

Assembly called to order at 11:24 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman McArthur, who was excused.

Prayer by the Chaplain, Pastor Bruce Kochsmeier.

Eternal God, before any of us were a glimmer in someone's eye, You knew us and had plans for us. You knew this day would bring us to the tasks before us. As we face the events that unfold here, give us hearts to follow Your lead. Make each of these leaders mindful of Your indwelling Holy Spirit. Where there may be weariness, bring Your rest. Where there is anxiety, bring Your peace. Where there are differences, bring Your healing grace that these leaders may see and do Your will.

We are grateful, our Father, that we live in this free land where ordinary people like all of us are called to speak and act for the good of all. It is a huge and daunting honor. Let Your voice speak into the life of each person here today. Equip each of them to serve Your people. Fill them with a sense of Your directing hand. Give them joy that comes from letting You lead within us. Bless our State of Nevada for Your glory. With gratitude for Your provisions and confident of Your promise to heal the land of those who seek You in prayer, we offer our lives and this session up to You today.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 165, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 5, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 13.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:29 a.m.

ASSEMBLY IN SESSION

At 11:35 a.m.
Madam Speaker presiding.
Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Denis and Kihuen:

Assembly Bill No. 254—AN ACT relating to the Department of Business and Industry; making the Ombudsman of Consumer Affairs for Minorities a permanent position; and providing other matters properly relating thereto.

Assemblyman Denis moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblywoman Leslie:

Assembly Bill No. 255—AN ACT relating to state financial administration; increasing the tax on cigarettes; providing for the use of the additional revenue to pay for coverage of certain pregnant women, Medicaid and the Children's Health Insurance Program; requiring the Department of Health and Human Services to include presumptive eligibility to and certain coverage for pregnant women in the State Plan for Medicaid; and providing other matters properly relating thereto.

Assemblywoman Leslie moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblymen Segerblom, McClain, Aizley, Claborn, Mortenson, Munford, Ohrenschall, and Pierce; Senator Breeden:

Assembly Bill No. 256—AN ACT relating to elections; revising provisions governing the dates for certain elections; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Kihuen, Horne, Anderson, Claborn, Conklin, Denis, Dondero Loop, McClain, Mortenson, Munford, Oceguera, Ohrenschall, and Segerblom:

Assembly Bill No. 257—AN ACT relating to crimes; prohibiting the taking of an excessive number of certain free publications under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Kihuen moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Horne, Manendo, Aizley, Atkinson, Conklin, Dondero Loop, Hambrick, Hogan, Kihuen, Munford, Ohrenschall, Segerblom, Spiegel, and Stewart; Senator Parks:

Assembly Bill No. 258—AN ACT relating to property; allowing the new owner of real property or a mobile home after a foreclosure sale or trustee's sale to offer the tenant of the property a payment in exchange for the tenant vacating the property; requiring a security deposit received by a landlord to be placed in an escrow account; and providing other matters properly relating thereto.

Assemblyman Horne moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 259—AN ACT relating to criminal offenders; revising provisions relating to the residential confinement of certain offenders; authorizing a court to provide for the forfeiture of credits for good behavior of a parolee or a probationer under certain circumstances; revising provisions concerning certain credits to be applied to a period of probation or parole; and providing other matters properly relating thereto.

Assemblyman Horne moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 39.

Bill read second time and ordered to third reading.

Assembly Bill No. 60.

Bill read second time and ordered to third reading.

Assembly Bill No. 174.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 29, 69, 73, 136, 154, and 169 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Taylor Diamond and Jessica Young.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Julian Smith, JoAnne Smith, Joylyn Harmer, and Zoey Harmer.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Ann Clark.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, March 9, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:44 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE THIRTY-SIXTH DAY

CARSON CITY (Monday), March 9, 2009

Assembly called to order at 11:04 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblywoman Mastroluca, who was excused.

Prayer by the Chaplain, Brother Orey Crounk.

Our Father in Heaven, we gather ourselves this day that we might give thanks for the many blessings which Thou hast bestowed upon this great nation. We are grateful for the divinely appointed liberties of this land. We thank Thee for our countless freedoms and for the agency and independence to act of our own will and choice.

We accept that we live in a perilous age. We thank Thee for these difficult times, Father, for we know that the seeds of strength, of courage, and of resolve can only be planted through our collective struggles and our individual efforts. We know that the fruits of these times are beyond contestation or measure.

Will Thou bless all who do labor here this day? Bless them with a full remembrance of their call to this sacred duty that they might know of Thy boundless love for them. Bless them with power and with optimism. Sustain their courage, their health, and their determination. We ask that Thou would bless their families, each and all, that they, too, might find joy and not be found wanting.

We do ask, Father, that Thou would continue to pour out upon this nation a vast and infinite blessing that we might stand as a light and a hope unto this earth. We acknowledge Thy hand in all things and give thanks unto Thee for that which we cannot fully see.

We do humbly show our gratitude unto Thee for these things, Father, and ask these favors in accordance to Thy will and in the name of Thy son, who is Christ eternal.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen McClain, Pierce, Parnell, Koivisto, Spiegel, Anderson, Buckley, Claborn, Conklin, Dondero Loop, Hogan, Kihuen, Kirkpatrick, Leslie, Manendo, Mastroluca, Munford, Segerblom, and Smith; Senators Parks, Carlton, Copening, Breeden, Horsford, Wiener, and Woodhouse:

Assembly Joint Resolution No. 3—Ratifying a proposed amendment to the Constitution of the United States providing that equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

Legislative Counsel's Digest:

Under Article V of the United States Constitution, Congress has the power to propose an amendment to the federal Constitution and to determine the mode of ratification. (U.S. Const. art. V) In 1972, Congress passed the Equal Rights Amendment and sent it to the states for ratification, imposing a 7-year time limit for ratification, but later extended this time limit to June 30, 1982. The Equal Rights Amendment was ratified by 35 states before the deadline. Under *Coleman v. Miller*, 307 U.S. 433, at 450, 456 (1939), the United States Supreme Court held that, as a political question, Congress may determine whether an amendment is valid because ratifications of the amendment are made in a reasonable period of time, even after the deadline. This resolution ratifies the Equal Rights Amendment, which provides for equality of rights under the law regardless of sex.

WHEREAS, Both houses of the 92nd Congress of the United States of America, by a constitutional majority of two-thirds thereof, adopted the following resolution proposing to amend the Constitution of the United States of America:

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED (TWO-THIRDS OF EACH HOUSE CONCURRING THEREIN), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE .....

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification; and

WHEREAS, The 95th Congress of the United States purported to amend the resolution of the 92nd Congress to extend the time for ratification to June 30, 1982, thereby indicating its continued support of the amendment; and

WHEREAS, The Congress of the United States has adopted the 27th Amendment to the Constitution of the United States, which was proposed in 1789 by our First Congress, only recently ratified by three-fourths of the States and, on May 18, 1992, certified as the 27th Amendment; and

WHEREAS, The restricting time limit for the Equal Rights Amendment ratification is in the resolving clause and is not part of the amendment which was proposed by Congress and which has already been ratified by 35 states; and

WHEREAS, Having passed a time extension for the Equal Rights Amendment on October 20, 1978, Congress has demonstrated that a time limit in a resolving clause can be disregarded if it is not part of the proposed amendment; and

WHEREAS, The United States Supreme Court in *Coleman v. Miller*, 307 U.S. 433 (1939), recognized that Congress is in a unique position to judge the tenor of the nation, to be aware of the political, social and economic factors affecting the nation and to be aware of the importance to the nation of the proposed amendment; and

WHEREAS, If an amendment to the Constitution of the United States has been proposed by two-thirds of both houses of Congress and ratified by three-fourths of the state legislatures, it is for Congress, under the principles of *Coleman v. Miller*, to determine the validity of the state ratifications occurring after a time limit in the resolving clause, but not in the amendment itself; and

WHEREAS, The Legislature of the State of Nevada finds that the proposed amendment is meaningful and needed as part of the Constitution of the United States and that the present political, social and economic conditions demonstrate that constitutional equality for women and men continues to be a timely issue in the United States; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the proposed amendment to the Constitution of the United States of America is hereby ratified by the Legislature of the State of Nevada; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Secretary of State for his certification and transmittal to the Archivist of the United States pursuant to 1 U.S.C. §§ 106b and 112; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Assemblywoman McClain moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

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

Assembly in recess at 11:09 a.m.

ASSEMBLY IN SESSION

At 11:10 a.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

By Assemblymen Buckley, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury; Senators Amodei, Breeden, Carlton, Cegavske, Coffin, Copening, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 14—Commending the Nevada Women's Lobby on their 20th anniversary.

WHEREAS, The Nevada Women’s Lobby is a statewide, nonpartisan coalition of organizations and individual women and men who advocate on behalf of women, children and families; and

WHEREAS, Founded in 1988 by a dedicated group of women to improve the status of women and children in this State, the Nevada Women’s Lobby held their first public meeting on January 17, 1989, to introduce the organization to the community; and

WHEREAS, The original Steering Committee consisted of Sarah Chvilicek, Beth Elliot, Elaine Enarson, former State Senator Diana Glomb-Rogan, Helen Jones, Diane Loper, Nancy Moore, Elizabeth Pope and Diane Williams, and the current Steering Committee reflects a diverse demographic from across the State to champion their causes; and

WHEREAS, The primary work of the Nevada Women's Lobby focuses on lobbying public officials and lawmakers by working with other organizations for maximum effect; and

WHEREAS, The top legislative issues have included child support enforcement, domestic violence awareness and prevention, child care, education, child welfare, the treatment of incarcerated women, civil rights and women's health, including reproductive health; and

WHEREAS, Since 1989, the Nevada Women's Lobby has joined with other organizations and individuals during each legislative session for Grassroots Lobby Days, which is 3 days of training, inspiration and lobbying to learn how to more effectively work with the Nevada Legislature to serve the women, children and families of Nevada; and

WHEREAS, The Nevada Women's Lobby sponsors the Nevada Women's Summit, a statewide conference held in Las Vegas, and other workshops to increase awareness and participation in the political process, and the Nevada Women's Agenda, an affiliate of the Nevada Women's Lobby, concentrates its efforts on educating members and the public on the issues; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Nevada Legislature commend the Nevada Women's Lobby on their 20th anniversary of service and dedication to the women, children and families of our State; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Nevada Women's Lobby.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblywoman Buckley.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. It is a privilege to be able to sponsor this resolution and to welcome the Nevada Women's Lobby to what appears will be another successful Grassroots Lobby Day.

I am proud to stand here because I once came to lobby with the Nevada Women's Lobby on issues pertaining to children, women, child support, and you name it over the years. I was pleased to come up to the Nevada Legislature, but I was a little intimidated. I took workshops to learn how to lobby. Actually, I was sitting on the floor with a legislator who said, "Why don't you consider running for office?" I said I didn't know if I could do that. Well 16 years later, I am pleased with the training the Nevada Women's Lobby gave me, the confidence that it instilled in me, and for the work that they have done over the years.

Most of these women who are with us have full-time jobs. They are mothers and full-time employees but still say, "I need to devote some part of my time towards promoting issues relating to women and children, promoting civil rights issues, and basically making our state a better place." I applaud them for their twentieth anniversary. I have to recognize Bobbie Gang, their lobbyist for many, many years until Julianna Ormsby took over. I'm sure Bobby is listening to us via the Internet. I would like to thank the stalwarts of the organization, those who have been involved for years and years—our unsung heroes or unsung volunteers—for all that you have done. I would like to welcome the newest of the ranks that are coming to learn. We need you to be part of the process. We welcome you. We have had a number of colleagues who have either come from your ranks or have benefited from your work, as we have as a state. Thank you for being involved. We look forward to many, many more years of a successful partnership.

Resolution adopted.

Resolution ordered transmitted to the Senate.

By Assemblymen McClain, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson,

Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 15—Proclaiming March 2009 as Women's History Month.

WHEREAS, American women of every culture, class and ethnic background have participated in the founding and building of our nation and our State, have made historic contributions to the growth and strength of our nation and our State, and have played a critical role in shaping the economic, cultural and social fabric of our society, not in the least of ways through their participation in the labor force, working inside and outside the home, as well as through their participation in our nation's military forces; and

WHEREAS, In addition to securing their own rights of suffrage and equal opportunity, women have served as early leaders in the forefront of every major progressive social change movement, including the abolitionist, industrial labor and civil rights movements; and

WHEREAS, Despite these contributions, the role of women in the history of our nation and our State has been consistently overlooked and undervalued; and

WHEREAS, Various efforts and programs have been instituted in Nevada to reverse this trend and provide deserved recognition of the contributions of women; and

WHEREAS, Envisioned almost 30 years ago by Professor Anne Howard and Dr. Elaine Enarson, the major of Women's Studies was developed at the University of Nevada, Reno, in 1997 by Professor Jennifer Ring, and a master's degree and graduate certificate in Gender, Race and Identity was subsequently created by the current Director of the Women's Studies Program, Dr. Mary Stewart; and

WHEREAS, With its origins over 30 years ago as an interdisciplinary committee, subsequently a program and finally a department with Ellen Rose as its first director, the Women's Studies Department at the University of Nevada, Las Vegas, offers an undergraduate degree and graduate certificate in Women's Studies; and

WHEREAS, In addition to satisfying core curriculum requirements, the diverse course offerings in these academic programs at our state universities prepare students for a multitude of future careers and provide the students with insights into the ways in which such factors as gender, race, ethnicity, class, sexuality and age shape their lives; and

WHEREAS, Created in 1999 by Dr. Joanne Goodwin and Caryll Dziedziak, the Women's Research Institute of Nevada at the University of Nevada, Las Vegas, is a statewide research and policy center dedicated to improving the lives of women in Nevada through research and education, including through its publication of the *Status of Women in Nevada Report* and the creation of the Las Vegas Women Oral History Project; and

WHEREAS, Sponsored by the Women's Research Institute of Nevada and graduating its first class in 2003, the National Education for Women's (NEW) Leadership Nevada is an award-winning program open to all college students in Nevada which encourages students to take on public leadership and policymaking roles; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Session of the Nevada Legislature proclaim March 2009 as Women's History Month in celebration of the tremendous contributions that women have made to this nation and this State.

Assemblywoman McClain moved the adoption of the resolution.

Remarks by Assemblywoman McClain.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN MCCLAIN:

March of each year is designated as National Women's History month, with resolutions passed by Congress and many states to honor achievements of women from all walks of life. It is important to our state to recognize women in our history who have contributed to the strength of our state. Famous women leaders in Nevada—from Sarah Winnemucca to our first female Speaker of the State Assembly and the hundreds of Nevada women leaders who helped shape the Nevada culture—are recognized in this resolution.

Nevada women obtained the right to vote in 1914, six years before the *U.S. Constitution* was amended. In addition to political involvement as voters and elected officials, countless women have served and continue to serve as grassroots organizers. One of our early pioneers was Ann Martin, who ran for the U.S. Senate in 1918. Another one of our early leaders was our beloved Maya Miller, who ran for the U.S. Senate in 1974. While these two brave women were not successful in their congressional bids, they laid the groundwork for many of us who have successfully been elected to political offices across the state in the past 50-plus years. Nevada ranked second in the nation in 1999 for the number of women in the Legislature, with the first, Assemblywoman Sadie Hurst, being elected in 1918.

Today during National Women's History Month, we are highlighting two programs that have emerged from that history: the Women's Studies programs at UNR and UNLV. We honor the pioneers of those programs and can only imagine the opposition they must have faced in establishing degree programs around the study of women's accomplishments and awareness of gender issues in our society. These two highly successful programs provide statewide research and support for the Oral History Project, the New Leadership Program, and diverse courses in academic programs that prepare students for many careers in leadership roles in our state.

It is my honor to support National Women's History Month for our great State of Nevada. Thank you, Mr. Speaker pro Tempore.

Resolution adopted.

Resolution ordered transmitted to the Senate.

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

Assembly in recess at 11:24 a.m.

ASSEMBLY IN SESSION

At 11:29 a.m.

Madam Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen McClain, Arberry, Koivisto, Ohrenschall, Anderson, Aizley, Bobzien, Buckley, Claborn, Conklin, Denis, Hogan, Kirkpatrick, Leslie, Mastroluca, Mortenson, Munford, Pierce, and Smith:

Assembly Bill No. 260—AN ACT relating to older persons; requiring the Unit for the Investigation and Prosecution of Crimes Against Older Persons within the Office of the Attorney General to prepare and make available on the Internet an on-line course for the training of certain persons who are required to report certain crimes against older persons; mandating that the persons required to report those crimes complete the course not less than once each year; and providing other matters properly relating thereto.

Assemblywoman McClain moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Spiegel, Hardy, Smith, Hambrick, Hogan, Manendo, Mortenson, Pierce, and Stewart:

Assembly Bill No. 261—AN ACT relating to osteopathic medicine; authorizing the State Board of Osteopathic Medicine to issue special volunteer licenses to practice osteopathic medicine in certain circumstances; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 262—AN ACT relating to marriage; allowing certain married persons to remarry each other; revising the age for which consent of a parent, guardian or court is required to be married; revising provisions governing the documentation a person is required to present to obtain a marriage license; providing for the collection of additional fees relating to a marriage license; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblywoman Leslie:

Assembly Bill No. 263—AN ACT relating to public health; requiring the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly in certain counties; requiring the Division to adopt regulations and to establish a schedule of fees for services provided under the program; and providing other matters properly relating thereto.

Assemblywoman Leslie moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblywoman Leslie:

Assembly Bill No. 264—AN ACT relating to criminal procedure; revising provisions relating to procedures for the commitment to and conditional release from the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services of certain criminal defendants whom the court finds to be incompetent; and providing other matters properly relating thereto.

Assemblywoman Leslie moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblyman Denis:

Assembly Bill No. 265—AN ACT relating to juvenile justice; authorizing a juvenile court to impose certain penalties on a child who disobeys the terms of certain orders of disposition made by the juvenile court; and providing other matters properly relating thereto.

Assemblyman Denis moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblyman Oceguera:

Assembly Bill No. 266—AN ACT relating to lighters; prohibiting the sale of novelty lighters; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblyman Segerblom:

Assembly Bill No. 267—AN ACT relating to the taxation of property; repealing the provisions that require the assessment of property used as a golf course as an open-space use; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblymen Christensen and Pierce; Senators Lee and Copening:

Assembly Bill No. 268—AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide coverage for certain types of chemotherapy; and providing other matters properly relating thereto.

Assemblyman Christensen moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Conklin, Buckley, Leslie, Smith, Kirkpatrick, Anderson, Arberry, and Oceguera:

Assembly Bill No. 269—AN ACT relating to children; making various changes concerning the eligibility of children who do not reside with a parent or legal guardian for Medicaid and the provision of medical treatment and services to such children; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Health and Human Services.

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

Assembly in recess at 11:34 a.m.

ASSEMBLY IN SESSION

At 11:36 a.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Conklin withdrew the motion that Assembly Bill No. 269 be referred to the Committee on Health and Human Services.

Assemblyman Conklin moved that the bill be referred to the Concurrent Committees on Health and Human Services and Ways and Means.

Motion carried.

By Assemblymen Conklin, Buckley, Kihuen, Koivisto, Hogan, Anderson, Arberry, Bobzien, Claborn, Denis, Horne, Kirkpatrick, Leslie, Manendo, McClain, Parnell, Pierce, Segerblom, and Smith:

Assembly Bill No. 270—AN ACT relating to prescription drugs; restricting under certain circumstances the disclosure of records relating to prescriptions that contain data which identifies the patient or the prescribing practitioner; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 271—AN ACT relating to convicted persons; requiring the Office of Court Administrator to collect fines, administrative assessments, fees and restitution from a person convicted of certain offenses; providing that a person convicted of certain offenses may be placed on administrative probation under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Christensen, Conklin, Gansert, and Kirkpatrick:

Assembly Bill No. 272—AN ACT relating to real estate; defining "broker's price opinion"; authorizing a licensee to prepare a broker's price opinion under certain circumstances; specifying required contents of a broker's price opinion; and providing other matters properly relating thereto.

Assemblyman Christensen moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 165.

Bill read second time.

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

Amendment No. 27.

AN ACT relating to state financial administration; revising the provisions governing the Fund to Stabilize the Operation of the State Government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Fund to Stabilize the Operation of the State Government, also known as the Rainy Day Fund, is a special revenue fund into which surplus state revenues are deposited to be used in case of fiscal emergencies. Under existing law, the State Controller is required to deposit to the credit of the Fund 40 percent of the unrestricted balance of the State General Fund, as of the end of the previous fiscal year, that remains after subtracting an amount equal to 10 percent of all appropriations made from the State General Fund during that fiscal year for the operation of the State Government and the funding of schools. (NRS 353.288) Section 2 of this bill reduces from 10 percent to 7 percent the amount of the appropriations subtracted in calculating the current ~~[deposit into]~~ **transfer to** the Fund each biennium that is set forth in existing law. ~~[Section]~~ **Commencing with the fiscal year that begins on July 1, 2011, section** 2 also requires the State Controller to ~~[place an additional deposit in]~~ **transfer from the State General Fund to** the Fund **to Stabilize the Operation of the State Government** at the beginning of each fiscal year ~~[of]~~ 1 percent of the total anticipated revenue projected for that fiscal year by the Economic Forum in May of odd-numbered years, as adjusted by any legislation enacted by the Legislature that affects state revenue ~~[during]~~ **for** that fiscal year. Existing law requires that all projections of revenue and any other information concerning future state revenue contained in the proposed budget for the Executive Department of the State Government be based upon the projections and estimates prepared by the Economic Forum. (NRS 353.228, 353.230)

Section 2 of this bill also increases the maximum balance allowed in the Fund **to Stabilize the Operation of the State Government** from 15 percent to 20 percent of the total of all appropriations from the State General Fund for the operation of the State Government and the funding of schools and authorized expenditures from the State General Fund for the regulation of gaming for ~~[that]~~ **the** fiscal year **~~[.]~~ in which that revenue will be transferred to the Fund to Stabilize the Operation of the State Government.**

Finally, section 2 of this bill provides that the money transferred to the Fund to Stabilize the Operation of the State Government is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money to offset a budget shortfall or fiscal emergency in certain specified circumstances and clarifies the responsibility for determining whether the specified circumstances exist. Section 2 sets forth the procedure for the transfer of money in the Fund to Stabilize

the Operation of the State Government to the State General Fund by the Interim Finance Committee after a determination or declaration of such a budget shortfall or fiscal emergency.

Under existing law, the proposed budget for the Executive Department of the State Government for each fiscal year of a biennium is required to include a reserve of not less than 5 percent or more than 10 percent of the total of all proposed appropriations from the State General Fund for the operation of the State Government and authorized expenditures from the State General Fund for the regulation of gaming for that fiscal year. (NRS 353.213) Section 1 of this bill requires an additional reservation in the proposed biennial budget of an amount equal to 1 percent of the total anticipated revenue projected for each fiscal year of the biennium by the Economic Forum in December of even-numbered years, as adjusted by any changes or adjustments to state revenue recommended in the proposed budget for that biennium. This reserved money, as further adjusted by the Economic Forum in May **of odd-numbered years** and by any applicable legislation, is the money that will be ~~[deposited]~~ **transferred** by the State Controller ~~[in]~~ **from the State General Fund to** the Fund to Stabilize the Operation of the State Government at the beginning of each fiscal year of the biennium pursuant to section 2 ~~[.]~~ **of this bill. The proposed budget for the period that begins on July 1, 2011, and ends on June 30, 2013, is the first biennial budget for which such a reservation is required.**

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

Section 1. NRS 353.213 is hereby amended to read as follows:

353.213 1. In preparing the proposed budget for the Executive Department of the State Government for each biennium, the Chief shall not exceed the limit upon total proposed expenditures for purposes other than construction and reducing any unfunded accrued liability of the State Retirees' Health and Welfare Benefits Fund created by NRS 287.0436 from the State General Fund calculated pursuant to this section. The base for each biennium is the total expenditure, for the purposes limited, from the State General Fund appropriated and authorized by the Legislature for the biennium beginning on July 1, 1975.

2. The limit for each biennium is calculated as follows:

(a) The amount of expenditure constituting the base is multiplied by the percentage of change in population for the current biennium from the population on July 1, 1974, and this product is added to or subtracted from the amount of expenditure constituting the base.

(b) The amount calculated pursuant to paragraph (a) is multiplied by the percentage of inflation or deflation, and this product is added to or subtracted from the amount calculated pursuant to paragraph (a).

(c) Subject to the limitations of this paragraph:

(1) If the amount resulting from the calculations pursuant to paragraphs (a) and (b) represents a net increase over the base biennium, the Chief may increase the proposed expenditure accordingly.

(2) If the amount represents a net decrease, the Chief shall decrease the proposed expenditure accordingly.

(3) If the amount is the same as in the base biennium, that amount is the limit of permissible proposed expenditure.

~~[~~

3. The proposed budget for each fiscal year of the biennium must provide for a reserve of ~~[not]~~ *:*

(a) Not less than 5 percent ~~[nor]~~ ***or*** more than 10 percent of the total of all proposed appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and authorized expenditures from the State General Fund for the regulation of gaming for that fiscal year ~~[.~~

~~3.]~~ ***; and***

(b) ~~*[One]*~~ ***Commencing with the proposed budget for the period that begins on July 1, 2011, and ends on June 30, 2013, 1 percent of the total anticipated revenue for each of the two fiscal years of the biennium for which the budget is proposed, as projected by the Economic Forum for each of those fiscal years pursuant to paragraph (d) of subsection 1 of NRS 353.228 and as adjusted by any changes or adjustments to state revenue that are recommended in the proposed budget for those fiscal years.***

4. The revised estimate of population for the State issued by the United States Department of Commerce as of July 1, 1974, must be used, and the Governor shall certify the percentage of increase or decrease in population for each succeeding biennium. The Consumer Price Index published by the United States Department of Labor for July preceding each biennium must be used in determining the percentage of inflation or deflation.

~~[4.]~~ ***5.*** The Chief may exceed the limit to the extent necessary to meet situations in which there is a threat to life or property.

~~[5.]~~ ***6.*** As used in this section, "unfunded accrued liability" means a liability with an actuarially determined value which exceeds the value of the assets in the fund from which payments are made to discharge the liability.

Sec. 2. NRS 353.288 is hereby amended to read as follows:

353.288 1. The Fund to Stabilize the Operation of the State Government is hereby created as a special revenue fund. Except as otherwise provided in subsections ~~[2]~~ ***3*** and ~~[3,]~~ ***4,*** each year after the close of the ***previous*** fiscal year and before the issuance of the State Controller's annual report, the State Controller shall ~~[deposit to the credit of]~~ ***transfer from the State General Fund to*** the Fund ~~[40]~~ ***to Stabilize the Operation of the State Government****:*

(a) Forty percent of the unrestricted balance of the State General Fund, as of the close of the ***previous*** fiscal year, which remains after subtracting an amount equal to ~~[10]~~ ***7*** percent of all appropriations made from the State

General Fund during that ***previous fiscal*** year for the operation of all departments, institutions and agencies of State Government and for the funding of schools [.] ***; and***

(b) [One] Commencing with the fiscal year that begins on July 1, 2011, 1 percent of the total anticipated revenue for the fiscal year in which the [deposit] transfer will be made, as projected by the Economic Forum for that fiscal year pursuant to paragraph (e) of subsection 1 of NRS 353.228 and as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year.

2. ***Money transferred pursuant to subsection 1 to the Fund to Stabilize the Operation of the State Government is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in this section.***

3. The balance in the Fund [,] ***to Stabilize the Operation of the State Government,*** excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount, must not exceed [15] ***20*** percent of the total of all appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and for the funding of schools and authorized expenditures from the State General Fund for the regulation of gaming for the fiscal year in which that revenue will be [deposited in] ***transferred to*** the Fund [.]

[3.] ***to Stabilize the Operation of the State Government.***

4. Except as otherwise provided in this subsection and NRS 353.2735, beginning with the fiscal year that begins on July 1, 2003, the State Controller shall, at the end of each quarter of a fiscal year, transfer from the State General Fund to the Disaster Relief Account created pursuant to NRS 353.2735 an amount equal to not more than 10 percent of the aggregate balance in the Fund to Stabilize the Operation of the State Government during the previous quarter, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount created pursuant to NRS 414.135. The State Controller shall not transfer more than $500,000 for any quarter pursuant to this subsection.

[4. Money]

5. The Chief of the Budget Division of the Department of Administration may submit a request to the State Board of Examiners to transfer money from the Fund to Stabilize the Operation of the State Government [may be appropriated only:] ***to the State General Fund:***

(a) If the total actual revenue of the State falls short by 5 percent or more of the total anticipated revenue for the biennium in which the [appropriation is] ***transfer will be*** made [,] ***, as determined by the Legislature, or the Interim Finance Committee if the Legislature is not in session;*** or

(b) If the Legislature ***, or the Interim Finance Committee if the Legislature is not in session,*** and the Governor declare that a fiscal emergency exists.

6. The State Board of Examiners shall consider a request made pursuant to subsection 5 and shall, if it finds that a transfer should be made, recommend the amount of the transfer to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

7. If the Interim Finance Committee finds that a transfer recommended by the State Board of Examiners should and may lawfully be made, the Committee shall by resolution establish the amount and direct the State Controller to transfer that amount to the State General Fund. The State Controller shall thereupon make the transfer.

Sec. 2.5. **NRS 218.6827 is hereby amended to read as follows:**

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, ***353.288*** and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 3. ~~[The provisions of NRS 353.213 and 353.288, as amended by sections 1 and 2 of this act, apply initially to Fiscal Year 2011-2012.]~~

1. The Governor shall provide initially for the reserve required pursuant to paragraph (b) of subsection 3 of NRS 353.213, as amended by section 1 of this act, in the proposed biennial budget for the period that begins on July 1, 2011, and ends on June 30, 2013.

2. The fiscal year that begins on July 1, 2011, is the initial fiscal year in which a transfer of money must be made from the State General Fund to the Fund to Stabilize the Operation of the State Government pursuant to paragraph (b) of subsection 1 of NRS 353.288, as amended by section 2 of this act.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Remarks by Assemblyman Arberry.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 29, 39, 60, 69, 73, 136, 154, 169, and 174 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 133, 173 has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARCUS CONKLIN, *Chairman*

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bill No. 103; Assembly Concurrent Resolutions Nos. 12, 13; Senate Concurrent Resolution No. 13.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Carolyn Essex.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Felice White.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Byllie D'Amato Andrews, Jill Winter, Barbara Straight, and Julianna Ormsby.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Betty Hicks.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Yvette Williams.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Molly Taylor.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Dorie Guy.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Stephanie Parker.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Cyril Murphy, Sheila Portillo, Lynn Goya, Valerie McNay, and Anna Murphy.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to Stephanie Connol and Addie Crisp.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Sandy Eddy.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Angela Moor.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Annette Amdal.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Alisha Nielson-Twitchell.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Judy Huckle and Mayra Rodriquez.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Mary Stewart, Joann Goodwin, Sue Rhodes, and Brian Robinson.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Daniele Monroe-Moreno and Rose Joan Wade.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Monique Sulls, Mia Ji, and Christine Smith.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and parents of the Nevada Homeschool Network: Steve Ceresola, Dario Ceresola, Alixi Ceresola, Daunte Ceresola, Terry Schendel, Madeline I.S. Bush, Jessica Sykes, Sydney Sykes, Tatum Sykes, Sarah Sykes, Renee Breen, Devon Breen, Alex Breen, Noah Breen, Ethan Breen, Anita Ortiz, Elizabeth Ortiz,

Karen McRae, Olyvia Grace McRae, Isabelle Hope McRae, Dawn Johansen, Jeremiah Johansen, John Johansen, Debbie Blakely, Zachary Blakely, Coleman Blakely, Gavin Blakely, Amelia Blakely, Jessica Fuhrmann, Trinidy Fuhrmann, Tiera Fuhrmann, Mark Voderbruggen, Larena Fry, Dillon Voderbruggen, Brandi Jo Voderbruggen, Heather Haddox, Eli Haddox, Anzo Haddox, Abi Haddox, Zoe Haddox, Anna Goodwin, Sierra Goodwin, Ashley Goodwin, Raven Burdoin, Jake Burdoin, Catherine Cota, Dominique Cota, Sarah Cota, Dawn Lee, Amber Lee, Adam Lee, David Lee, Erika Hansen, Kjeleena Hansen, Isaiah Hansen, Carolin Hansa, Eric Beavers, Emerson Eli Hansa-Beavers, Vicki Stilz, Jennifer Stilz, Sheri Campbell, Paige Campbell, Megan Campbell, Jennifer Purciel, Ryan Purciel, Rylee Purciel, Pam Lehan, Caitlin Lehan, Lydia Lehan, Aimee McDonald, Kyle McDonald, Kaitlyn McDonald, Kallie McDonald, Kendall McDonald, Ruth Faigan, Sierra Faigan, Haley Faigan, Krista Cornell, Nate Cornell, Laurie Perez, Christian Perez, Lisa Swift, Scott Swift, Grant Swift, Weston Swift, Kelley Radow, Adam Radow, Gabriel Radow, Missy Pique, Dakota Pique, Caleb Pique, Jennifer MacMillan, James MacMillan, Kathy Esau, Roslyn Esau, Isabel Esau, Rolanda Chambers, Hunter Chambers, Charisse Isbell Chambers, Uma Lord, Venus Lord, Kyle Hollingshead, Jack Hollingshead, Tim Suessmith, and Samantha Suessmith.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Tina Marie Alzaga and Samantha Vernon.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Susan Severt, Mike Sprinkle, and Austin Sprinkle.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Shirley Hampton and Christine Allison.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, March 10, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:53 a.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE THIRTY-SEVENTH DAY

CARSON CITY (Tuesday), March 10, 2009

Assembly called to order at 11:19 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Denis and Mastroluca, who were excused.

Prayer by the Chaplain, President William Brewer.

Heavenly Father, we thank Thee for the opportunity to gather in this free land as a public body to discuss the business of the people of Nevada. We thank Thee for the freedoms we enjoy, and for this blessing of being able to govern ourselves. We ask Thee to bless these men and women who sacrifice much to do this work. We ask Thee to bless them that they may be guided in their efforts and that they would make decisions that will be for the greatest good of our people. Bless them that they would take care to maintain liberty, honor, virtue, and protect the families of Nevada. Bless them with joy in their work, and bless us as citizens, to be engaged with them in this process. We thank Thee and ask for these blessings in the name of Jesus Christ. AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 9, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 78; Senate Bills Nos. 38, 39, 109, 139, 142; Senate Joint Resolution No. 4.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Goedhart, Cobb, Goicoechea, Grady, Gustavson, Hambrick, Settelmeyer, and Stewart:

Assembly Joint Resolution No. 4—Proposing to amend the Nevada Constitution to provide for tax rebates for certain eligible pupils who attend private schools.

Legislative Counsel's Digest:

The Nevada Constitution provides for a uniform system of common schools and provides for their support and maintenance by direct legislative appropriation from the general fund. (Nev. Const. Art. 11, §§ 2, 6) This resolution proposes to amend the Nevada Constitution to provide education

tax rebates to parents or legal guardians of pupils enrolled in private schools of their choice in certain circumstances.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 2 of Article 11 of the Nevada Constitution be amended to read as follows:

~~[Section]~~ ***Sec.*** 2. ***1.*** The legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months in every year, and any school district which shall allow instruction of a sectarian character therein may be deprived of its proportion of the interest of the public school fund during such neglect or infraction, and the legislature may pass such laws as will tend to secure a general attendance of the children in each school district upon said public schools.

2. In addition to establishing and maintaining common schools, the legislature shall establish a companion program of per pupil funding which provides an education tax rebate to parents or legal guardians of eligible pupils enrolled in the private school of their choice using a portion of the money that would otherwise be paid to a school district on behalf of that pupil. A parent or legal guardian may be eligible for an education tax rebate if the following criteria are satisfied:

(a) The pupil is a resident of this State;

(b) The pupil has not graduated from high school or otherwise received a high school diploma;

(c) The pupil has not attained the age of 21 years before the beginning of the school year or during the school year for which the education tax rebate is requested; and

(d) The private school in which the pupil is enrolled must be located in this State and licensed in accordance with applicable state law.

3. Notwithstanding any other provision of this Constitution or state statute to the contrary, the education tax rebate must, except as otherwise provided in this subsection, be equal to 75 percent of the basic support guarantee per pupil, as established by law for the current fiscal year for public schools for pupils in grades 1 to 12, inclusive. If the actual direct costs of attending the private school chosen by the parents or legal guardian of the pupil are less than the amount of the education tax rebate specified in this subsection, the amount of the education tax rebate must be reduced accordingly.

4. The education tax rebate is provided to the parents or legal guardians of eligible pupils for the purpose of enrolling the pupil in the private school of their choice. If the parents or legal guardian enroll the pupil in a licensed private sectarian school, the education tax rebate shall not be deemed to violate the provisions of sections 2 and 10 of this Article regarding sectarian instruction or purpose.

5. Except as the legislature may otherwise provide by law, the school district in which the pupil participating in the education tax rebate program attends school or the school district in which the pupil resides is not required to provide transportation for the pupil to attend the private school.

6. The provisions of this article are self-executing, but the legislature may provide by law for procedures to facilitate the operation thereof, including, without limitation, procedures:

(a) Establishing the process for submitting an application for an education tax rebate, including proof of the age of the pupil; and

(b) Establishing appropriate safeguards to ensure that the education tax rebates which are provided are spent only as authorized by this section.

7. If any of the provisions of subsections 2 to 6, inclusive, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the provisions or application of subsections 2 to 6, inclusive, which can be given effect without the invalid provision or application, and to this end the provisions of subsections 2 to 6, inclusive, are declared to be severable.

Assemblyman Goedhart moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Joint Resolution No. 4.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Hogan, Pierce, Ohrenschall, Claborn, Kihuen, Koivisto, Mortenson, Munford, and Segerblom:

Assembly Bill No. 273—AN ACT relating to peace officers; authorizing a peace officer to use a taser on a person only as an alternative to deadly force and under certain circumstances; requiring each law enforcement agency to adopt regulations governing the use of tasers by its officers and to establish and maintain a database of each use of a taser by a peace officer; providing that each such database is a public record; prohibiting the issuance of a taser to a peace officer unless the taser is equipped with a camera; and providing other matters properly relating thereto.

Assemblyman Hogan moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Aizley, Conklin, Ohrenschall, Koivisto, Atkinson, Bobzien, Goicoechea, Kirkpatrick, Manendo, Mastroluca, and Segerblom:

Assembly Bill No. 274—AN ACT relating to retail installment sales; defining certain terms and revising certain definitions relating to retail installment sales; requiring that certain disclosures be made to a retail buyer; requiring that certain provisions relating to default be included in credit applications or contracts for the sale of vehicles; and providing other matters properly relating thereto.

Assemblyman Aizley moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywoman Gansert:

Assembly Bill No. 275—AN ACT relating to taxation; repealing the excise tax imposed on banks that is based on the number of branch offices maintained in this State; reducing the rate of the tax imposed on financial institutions that is based on wages paid to employees; and providing other matters properly relating thereto.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Gansert moved that the action whereby Assembly Bill No. 275 was referred to the Committee on Ways and Means be rescinded.

Motion carried.

Assemblywoman Gansert moved that Assembly Bill No. 275 be referred to the Committee on Taxation.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Goedhart, Carpenter, Christensen, Cobb, Gansert, Goicoechea, Grady, Hambrick, Hardy, Settelmeyer, Stewart, and Woodbury:

Assembly Bill No. 276—AN ACT relating to water; prohibiting the State Engineer from considering a protest to an application to appropriate water that is filed by a governmental agency or political subdivision of a government unless the protest is approved and signed by the person in charge of the agency or political subdivision; and providing other matters properly relating thereto.

Assemblyman Goedhart moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Anderson, McClain, Leslie, Aizley, Atkinson, Bobzien, Carpenter, Conklin, Denis, Dondero Loop, Horne, Kihuen, Kirkpatrick, Manendo, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, and Smith:

Assembly Bill No. 277—AN ACT relating to intoxicating liquor; increasing the excise tax on liquor; requiring the additional revenue be used for genetic marker testing of certain criminal offenders and for certain programs of treatment for the abuse of alcohol or drugs established in judicial districts; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblymen Anderson, Parnell, Aizley, Atkinson, Bobzien, Carpenter, Christensen, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Horne, Kihuen, Kirkpatrick, Leslie, Manendo, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Segerblom, Smith, and Spiegel:

Assembly Bill No. 278—AN ACT relating to the Public Employees' Benefits Program; requiring a local governmental agency that participates in the Program to provide certain written notification before withdrawing from the Program; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Anderson, Horne, Ohrenschall, Atkinson, Denis, Dondero Loop, Hambrick, Kihuen, Leslie, Manendo, Mortenson, Munford, Oceguera, Parnell, Segerblom, Smith, and Spiegel:

Assembly Bill No. 279—AN ACT relating to offenders; requiring the preservation of certain biological evidence under certain circumstances; providing for certain postconviction petitions pertaining to certain biological evidence; authorizing certain persons to be committed to the Department of Corrections for evaluation; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblyman Segerblom:

Assembly Bill No. 280—AN ACT relating to support; enacting revisions to the Uniform Interstate Family Support Act; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblyman Conklin:

Assembly Bill No. 281—AN ACT relating to industrial insurance; creating an expedited appeals process for certain claims by police officers, firefighters and emergency medical attendants; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Gansert, Carpenter, Christensen, Cobb, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Settelmeyer, Stewart, and Woodbury:

Assembly Bill No. 282—AN ACT relating to the Public Employees' Retirement System; amending the eligibility requirements for retirement of certain members of the System whose effective date of membership is on or after July 1, 2009; requiring that a portion of the unrestricted balance in the State General Fund at the end of each biennium be deposited in the Public Employees' Retirement Fund under certain circumstances; and providing other matters properly relating thereto.

Assemblywoman Gansert moved that the bill be referred to the Concurrent Committee on Government Affairs and Ways and Means.

Motion carried.

By Assemblyman Manendo (by request):

Assembly Bill No. 283—AN ACT relating to victims of crime; removing the limitation on the amount of compensation that may be awarded to certain victims of crime, the dependents of those victims and certain members of the victim's household; and providing other matters properly relating thereto.

Assemblyman Manendo moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Christensen, Anderson, Atkinson, Gansert, Hambrick, Kirkpatrick, Manendo, McArthur, and Settelmeyer; Senators Hardy, Cegavske, and Lee:

Assembly Bill No. 284—AN ACT relating to homeland security; increasing the number of voting members of the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities in this State; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Christensen, Atkinson, Anderson, Arberry, Buckley, Conklin, Gansert, Hambrick, Hardy, Kirkpatrick, Manendo, McArthur, Parnell, Settelmeyer, and Stewart; Senators Wiener, Carlton, Cegavske, Hardy, and Lee:

Assembly Bill No. 285—AN ACT relating to education; requiring the boards of trustees of school districts to adopt a policy for the elementary schools within the school district to provide a certain amount of time each school day for physical activity; requiring the boards of trustees of school districts to grant the use of school buildings and grounds without charge to nonprofit organizations, county departments of parks and recreation or other entities for physical activities; and providing other matters properly relating thereto.

Assemblyman Christensen moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Christensen, Arberry, Anderson, Gansert, Hambrick, Hardy, Kirkpatrick, Manendo, McArthur, Settelmeyer, and Stewart; Senators Hardy, Cegavske, and Lee:

Assembly Bill No. 286—AN ACT relating to trespassing; revising the provisions governing the crime of trespassing; and providing other matters properly relating thereto.

Assemblyman Christensen moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 38.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 39.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 109.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 139.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 142.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 133.

Bill read second time and ordered to third reading.

Assembly Bill No. 173.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that COVEREDGE: Daniel Bryant, Randy Hunter; KOLO-TV: Kendra Kostelecky; KRNV-TV: Robbie Beasom, Calli Fisher, Gem Gokmen, Meredith Richardson; NOW on PBS: Alexandra Dean, Yasmeen Qureshi; REYNOLDS SCHOOL OF JOURNALISM (UNR): Jeff Mosier, Emily Stott be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly Chambers and that they be allowed use of appropriate broadcasting facilities.

Motion carried.

Assemblyman Segerblom moved that Assembly Joint Resolution No. 3 of the 74th Session be taken from the Chief Clerk's desk and placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Joint Resolution No. 3 of the 74th Session.

Resolution read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 29, 39, 60, 69, 73, 136, 154, 165, 169, and 174 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 10, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Joint Resolution No. 5.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Joint Resolution No. 5.

Assemblyman Horne moved that all rules be suspended, reading so far had considered first reading, rules further suspended, resolution considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Joint Resolution No. 5.

Resolution read third time.

Remarks by Assemblyman Horne.

Roll call on Senate Joint Resolution No. 5:

YEAS—40.

NAYS—None.

EXCUSED—Denis, Mastroluca—2.

Senate Joint Resolution No. 5 having received a constitutional majority, Madam Speaker declared it passed.

Resolution ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 216, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 10, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 15.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 15.

Assemblywoman Leslie moved the adoption of the resolution.

Remarks by Assemblymen Leslie, Manendo, and Hardy.

Resolution adopted.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Horne, Atkinson, Conklin, Oceguera, Anderson, Arberry, Buckley, Hambrick, Kirkpatrick, Manendo, Mortenson, Segerblom, and Spiegel; Senator Parks:

Assembly Bill No. 287—AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; and providing other matters properly relating thereto.

Assemblyman Horne moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Wooster High School: Yecenia Garcia, Bernadette McCarty, Bailey Hill, Adam Fox, Justin Reid, Breanna Brown, Kristy Furgason, Brandi Montoya, Cinthia Monroy, Mike Evans, Juan Garcia, Francisco Gonzalez, Jonathan Carbajal, Ferdy Carpio, Sinead Boston, Alex Sanchez, Lynn Iosua, Gladys Pintor, Ellen Rahn, Marsha Najera, Freddy Wartella, Vanessa Robbins, Jamie Swigert, Jeremy Packer, Jaeanne Landaker, Jesse Smith, Nick Flores, Nicole Lucido, Niles Solberg, Amanda Sather, Crystal Godoy-Williamson, Jamie Espinoza, Jordan Byrne , Joey Winkler, Alvin Segura, Maddy Markiewitz, Leslie Somoza, Mayra Santiago, Samantha Bridegum, Ricardo Torres,

Michael Christy, Lloyd Clark, Jesse Carpio, Eduardo Hernandez, Jose Roque, Maverick Hernandez, Angelica Herrera, Christian Galindo, Stephanie Arce, and Dennis Najera.

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Carolyn Essex.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Pamela Brooks, Martha Durney, Nicole Donald, David Bobzien Sr., and Cathy Bobzien.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Ella Trujillo.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Laura Golod and Jane Airth.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Krystal Gallagher and Krissta Kirschenheifer.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Isaiah Price.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to Rose Jones Wade.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Thomas J. C. Chen and Dean H. L. Wang.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Annette Amdal.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Chris Kelley and Bob Griffin.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Mayra Martinez.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Felice White.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Amie Fender and Nathan Sosa.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Michael DeLee.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Caroline Khamis.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, March 11, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:08 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE THIRTY-EIGHTH DAY

CARSON CITY (Wednesday), March 11, 2009

Assembly called to order at 11:12 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Brother Christian Funk.

Our Father in Heaven, we come before You this day to thank Thee for the opportunity we have to live in this beautiful land. We thank Thee for these men and women who work to help ensure the blessings of liberty to all. We are thankful for the moisture that we have recently received. We are grateful for Thy guidance. We ask Thee to bless all of us that we may live worthy to receive the blessing of liberty. Bless these men and women that they will be inspired to do those things that will best help our community. Bless all the leaders of our nation and state with health and wisdom to perform their duties in a manner which is pleasing to Thee. Please continue to bless our area with the moisture that we need. We give thanks for all that we have. In the name of Jesus Christ.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

COMMUNICATIONS

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-2802

February 24, 2009

ASSEMBLYWOMAN BARBARA BUCKLEY, Nevada State Assembly, Legislative Building, 401 S. Carson Street, Carson City, NV 89701-4747

DEAR ASSEMBLYWOMAN BUCKLEY:

This letter serves as a formal request to address the joint session of the Nevada Legislature on Tuesday, April 14, 2009, at 1 p.m. It is my understanding that this date and time are available.

Should you have any questions or comments, please contact my district director, Verita Black Prothro at 775-686-5760.

I thank you in advance for this august opportunity.

Sincerely,
DEAN HELLER
Member of Congress

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 10, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Initiative Petition No. 1.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 14.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 34.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Mortenson, Ohrenschall, Horne, Kihuen, and Segerblom:

Assembly Joint Resolution No. 5—Proposing to amend the Nevada Constitution to limit the duration of special sessions of the Legislature to 20 days, limit matters which may be considered during a special session and provide that a special session may be convened by a petition signed by two-thirds of the Legislators of each house.

Under the Nevada Constitution, only the Governor may convene a special session of the Nevada Legislature. (Nev. Const. Art. 5 § 9) This resolution proposes to amend the Nevada Constitution to authorize the Legislature to convene a special session by signed petition of two-thirds of the members of each House of the Legislature. The resolution also provides that the bills introduced during the special session must relate to the purpose of the session, except that bills necessary to provide for the expenses of the session may also be introduced. Finally, the resolution limits the duration of any special session of the Legislature to 20 calendar days.

If this proposed resolution is passed by the 2009 Legislature, it must also be passed by the next Legislature and then approved and ratified by the people in an election, before the proposed amendments to the Nevada Constitution become effective.

WHEREAS, There are currently 32 state legislatures that have the ability to call a special legislative session when deemed necessary; and

WHEREAS, The Nevada Legislature is 1 of only 18 state legislative bodies in the nation that may not call a special session, and 1 of only 11 Legislatures that may not determine any of the subject matter to be considered at a special session; and

WHEREAS, The Nevada Constitution is grounded on the principle of three equal branches of State Government, with the ultimate authority and responsibility to enact necessary legislation being vested in the Legislative Branch, subject to final approval by the Governor; and

WHEREAS, Nevada's current constitutional language, which allows only the Governor to call the Legislature into special session, impedes and is contrary to the constitutional provision that vests the legislative authority of the State of Nevada in its elected Legislature; and

WHEREAS, The Nevada Legislature should be authorized to operate with a reasonable degree of independence from the Executive and Judicial Branches as is consistent with the separation of powers principle, and should be empowered to identify those topics that may require the Legislature to call a limited special session deemed in the best interest of the people of the State of Nevada; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That a new section, designated Section 2A, be added to Article 4 of the Nevada Constitution to read as follows:

Sec. 2A. 1. The Legislature may be convened, on extraordinary occasions, upon petition signed by two-thirds of the members of each House of the Legislature. A petition must specify the business to be transacted during the special session, indicate a date on or before which the Legislature is to convene and be transmitted to the Secretary of State. Upon receipt

of one or more substantially similar petitions signed, in the aggregate, by the required number of members, calling for a special session, the Secretary of State shall notify all members of the Legislature and the Governor that a special session will be convened pursuant to this section.

2. No bills, except those related to the business specified in the petition and those necessary to provide for the expenses of the session, may be introduced at a special session convened pursuant to this section.

3. A special session convened pursuant to this section takes precedence over a special session called by the Governor pursuant to Section 9 of Article 5 of this Constitution, unless otherwise provided in the petition calling for the special session.

4. The Legislature may provide by law for the procedure for convening a special session pursuant to this section.

5. The Legislature shall adjourn sine die a special session convened pursuant to this section not later than midnight Pacific standard time of the 20th calendar day of that session. Any legislative action taken after midnight Pacific standard time on the 20th calendar day is void.

And be it further

RESOLVED, That Section 2 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. The sessions of the Legislature shall be biennial, and shall commence on the 1st Monday of February following the election of members of the Assembly, unless the Governor of the State ***or the members of the Legislature*** shall, in the interim, convene the Legislature by proclamation ~~[.]~~ *or petition.*

2. The Legislature shall adjourn sine die each regular session not later than midnight Pacific standard time 120 calendar days following its commencement. Any legislative action taken after midnight Pacific standard time on the 120th calendar day is void, unless the legislative action is conducted during a special session . ~~[convened by the Governor.]~~

3. The Governor shall submit the proposed executive budget to the Legislature not later than 14 calendar days before the commencement of each regular session.

And be it further

RESOLVED, That Section 33 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec **.** ~~[.]~~ 33. The members of the Legislature shall receive for their services ~~[,]~~ a compensation to be fixed by law and paid out of the public treasury, for not to exceed 60 days during any regular session of the legislature and not to exceed 20 days during any special session *;* ~~[convened by the governor;]~~ but no increase of such compensation shall take effect during the term for which the members of either house shall have been elected Provided, that an appropriation may be made for the payment of such actual expenses as members of the Legislature may incur for postage, express charges, newspapers and stationery not exceeding the sum of Sixty dollars for any general or special session to each member; and Furthermore Provided, that the Speaker of the Assembly, and Lieutenant Governor, as President of the Senate, shall each, during the time of their actual attendance as such presiding officers receive an additional allowance of two dollars per diem.

And be it further

RESOLVED, That Section 9 of Article 5 of the Nevada Constitution be amended to read as follows:

~~[Sec. 9. The]~~ ***Sec. 9. 1. Except as otherwise provided in Section 2A of Article 4 of this Constitution, the*** Governor may , on extraordinary occasions, convene the Legislature by Proclamation and shall state to both houses when organized, the purpose for which they have been convened . ~~[, and the Legislature shall transact no legislative business, except that for which they were specially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in Session.]~~

2. No bills, except those related to the purpose for which the Legislature has been specially convened and those necessary to provide for the expenses of the session, may be introduced at a special session convened pursuant to this section.

3. The Legislature shall adjourn sine die a special session convened pursuant to this section not later than midnight Pacific standard time of the 20th calendar day of that session.

Any legislative action taken after midnight Pacific standard time on the 20th calendar day is void.

Assemblyman Mortenson moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Resolution No. 4—Providing for the appointment of an additional attaché for the Assembly.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That Steven Sisneros is elected as an additional attaché of the Assembly for the 75th Session of the Nevada Legislature.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblyman Oceguera.

Resolution adopted.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Mortenson, Ohrenschall, Aizley, Arberry, Bobzien, Christensen, Claborn, Conklin, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, Kihuen, Koivisto, McArthur, Munford, Oceguera, Segerblom, and Settelmeyer:

Assembly Bill No. 288—AN ACT relating to the use of force; revising the provisions governing justifiable homicide; revising the provisions governing civil liability in actions involving the use of force; and providing other matters properly relating thereto.

Assemblyman Mortenson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Mortenson and Claborn:

Assembly Bill No. 289—AN ACT relating to paleontology; requiring the Division of State Parks of the State Department of Conservation and Natural Resources to administer certain paleontological sites; authorizing a public entity, in consultation with an Indian tribe, to enter into a cooperative agreement concerning a paleontological site under certain circumstances; providing other protections for paleontological sites; and providing other matters properly relating thereto.

Assemblyman Mortenson moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblymen Spiegel, Koivisto, Aizley, Atkinson, Bobzien, Conklin, Hambrick, Hogan, Kihuen, Kirkpatrick, Manendo, McClain, Munford, Ohrenschall, and Stewart; Senator Copening:

Assembly Bill No. 290—AN ACT relating to vehicles; revising provisions governing the applicability of the implied warranty of merchantability to the

sale of a used vehicle by a used vehicle dealer; prohibiting a used vehicle dealer from excluding, modifying, negating or limiting the implied warranty of merchantability; providing remedies for a purchaser if a used vehicle does not conform with the implied warranty of merchantability; providing that a purchaser of a used vehicle may waive the implied warranty of merchantability under certain circumstances; requiring a contract for the sale of a used vehicle by a used vehicle dealer to contain certain statements; providing a penalty; and providing other matters properly relating thereto.

Assemblywoman Spiegel moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Spiegel, Koivisto, Bobzien, McClain, Aizley, Atkinson, Christensen, Conklin, Dondero Loop, Hambrick, Hogan, Kihuen, Manendo, Munford, Ohrenschall, Parnell, Pierce, and Settelmeyer; Senator Parks:

Assembly Bill No. 291—AN ACT relating to motor vehicles; revising penalties for failure to register certain motor vehicles; authorizing constables to enforce certain provisions relating to registration of motor vehicles; and providing other matters properly relating thereto.

Assemblywoman Spiegel moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen McArthur and Smith:

Assembly Bill No. 292—AN ACT relating to the State Legislature; revising provisions governing the Legislative Commission; and providing other matters properly relating thereto.

Assemblyman McArthur moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Anderson, Bobzien, Kirkpatrick, Smith, Conklin, Aizley, Arberry, Atkinson, Christensen, Dondero Loop, Gansert, Hogan, Horne, Kihuen, Koivisto, Leslie, Manendo, McClain, Mortenson, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Spiegel, and Stewart:

Assembly Bill No. 293—AN ACT relating to appointments; creating the Legislative Committee on Appointments; providing that appointments by the Governor to certain offices or positions within the Executive Branch of State Government are effective for only 90 days unless they are confirmed by the Committee; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Kirkpatrick, Anderson, Arberry, Atkinson, Christensen, Claborn, Conklin, Gansert, Kihuen, Mortenson, Munford, Parnell, Pierce, Segerblom, Smith, Spiegel, and Stewart:

Assembly Bill No. 294—AN ACT relating to group homes; directing the Legislative Commission to conduct an interim study concerning group homes; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Settelmeyer, McClain, Christensen, Anderson, Bobzien, Carpenter, Cobb, Conklin, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Horne, Kihuen, Kirkpatrick, Koivisto, Manendo, Mortenson, Oceguera, Segerblom, Spiegel, Stewart, and Woodbury; Senators Amodei, Cegavske, Hardy, Lee, Parks, and Woodhouse:

Assembly Bill No. 295—AN ACT relating to taxation; allowing a person who qualifies as both a veteran and the surviving spouse of a veteran to claim both veterans' exemptions from property taxes and governmental services taxes; and providing other matters properly relating thereto.

Assemblyman Settelmeyer moved that the bill be referred to the Committee on Taxation.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 296—AN ACT relating to motor carriers; revising the conditions for a nonprofit carrier of elderly persons or persons with disabilities to qualify for an exemption from the requirement to obtain a certificate of public convenience and necessity; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 297—AN ACT relating to insurers; prohibiting an insurer from owning or acquiring an interest in a body shop; providing an exception to the prohibition; setting forth the circumstances under which an insurer may use a favored facility agreement; requiring an insurer to post a certain notice in each tied body shop of the insurer; authorizing a person to bring and maintain an action against an insurer for injunctive and other appropriate relief for certain violations; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Gansert, Hardy, Carpenter, Christensen, Cobb, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart, and Woodbury; Senators Cegavske, Amodei, Copening, and McGinness:

Assembly Bill No. 298—AN ACT relating to public works; revising provisions relating to the payment of prevailing wages on public works; clarifying the definition of an "offense"; clarifying that the Labor Commissioner may impose an administrative penalty against a person for the commission of an offense; revising provisions relating to the temporary disqualification of certain contractors from being awarded contracts for public works; requiring the Labor Commissioner to adopt certain regulations; revising provisions relating to capital improvements constructed by or on behalf of the Nevada System of Higher Education; and providing other matters properly relating thereto.

Assemblywoman Gansert moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Gustavson, Cobb, Anderson, Carpenter, Christensen, Dondero Loop, Goedhart, Goicoechea, Hambrick, Hardy, Hogan, Kihuen, Kirkpatrick, Manendo, McArthur, Mortenson, Munford, Ohrenschall, Segerblom, Settelmeyer, Stewart, and Woodbury; Senators Breeden, Hardy, Lee, McGinness, Washington, and Woodhouse:

Assembly Bill No. 299—AN ACT relating to motor vehicles; providing for the issuance of special license plates indicating support for the rights guaranteed pursuant to the Second Amendment to the Constitution of the United States; imposing a fee for the issuance and renewal of such license plates; and providing other matters properly relating thereto.

Assemblyman Gustavson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Gustavson, Carpenter, Cobb, Goedhart, Goicoechea, Hambrick, McArthur, Mortenson, Munford, Ohrenschall, and Settelmeyer; Senators Amodei, Lee, and Washington:

Assembly Bill No. 300—AN ACT relating to motorcycles; revising provisions governing the wearing of protective headgear when operating motorcycles under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Gustavson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Kihuen, Denis, Munford, Anderson, Arberry, Bobzien, Buckley, Christensen, Claborn, Kirkpatrick, Leslie, McClain, Mortenson, Oceguera, Parnell, Pierce, Segerblom, Smith, and Spiegel:

Assembly Bill No. 301—AN ACT relating to days of observance; requiring the Governor annually to proclaim March 31 to be "Cesar Chavez Day"; and providing other matters properly relating thereto.

Assemblyman Kihuen moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Claborn:

Assembly Bill No. 302—AN ACT relating to apprenticeships; creating the Office of Apprenticeship within the Office of the Labor Commissioner; providing for funding for the State Apprenticeship Council and the State Director of Apprenticeship; requiring the adoption of regulations establishing registration fees and annual assessments for apprenticeship programs; and providing other matters properly relating thereto.

Assemblyman Claborn moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 34.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 216.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 69 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 60 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Claborn moved that Assembly Bill No. 73 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 29.

Bill read third time.

Remarks by Assemblyman Claborn.

Roll call on Assembly Bill No. 29:

YEAS—42.

NAYS—None.

Assembly Bill No. 29 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 39.

Bill read third time.

Remarks by Assemblyman Atkinson.

Roll call on Assembly Bill No. 39:

YEAS—42.

NAYS—None.

Assembly Bill No. 39 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 133.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Bill No. 133:

YEAS—42.

NAYS—None.

Assembly Bill No. 133 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 136.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Bill No. 136:

YEAS—42.

NAYS—None.

Assembly Bill No. 136 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 154.

Bill read third time.

Remarks by Assemblyman Munford.

Roll call on Assembly Bill No. 154:

YEAS—42.

NAYS—None.

Assembly Bill No. 154 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 11:42 a.m.

ASSEMBLY IN SESSION

At 11:43 a.m.
Mr. Speaker pro Tempore presiding.
Quorum present.

Assembly Bill No. 165.
Bill read third time.
Remarks by Assemblywomen Buckley and Gansert.
Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Last year, I had the opportunity to offer a counterpoint to the Governor's address on the state of our state. I thought long and hard about what I would say, and I decided to stick to the basics—and that is, as a state, we can do better. Let's look at our rankings.

- K-12, forty-seventh in the nation in per-pupil spending.
- Forty-fifth in fourth grade reading proficiency.
- Forty-fourth in fourth grade math proficiency.
- Forty-ninth in per capita state and local spending for higher education.
- Public health, forty-sixth in the nation in number of physicians per 100,000.
- Forty-ninth in the nation for nurses per 100,000.
- Thirty-fifth in the nation for those lacking access to primary health care.
- Third in the nation of children without health insurance.
- First in the nation for women not receiving prenatal care.
- Fiftieth in the number of eligible children covered by Medicaid.
- Fiftieth in the number of infants and toddlers fully immunized.
- Fiftieth for the number of children who see a doctor or a dentist once a year.
- First in suicide rate for our elderly, age 65 and above.
- Fortieth in per capita spending for mental health.

Then let's look at our financial structure. Ninety-three percent of our funds go three places: education, health and human services, and public safety. More than 60 percent of our revenue is received from sales and gaming taxes, so when times are tough and discretionary income goes down, we have a financial crisis. We do not have a rainy day fund that works when times are tough. We need to take a look at how we are operating as a state and change the way we operate.

I decided to travel around the state and ask for input. Spending priorities—how do we, as a state, improve in critical areas? How do we get out of last place in so many rankings? How do we stabilize and diversify our revenue? How do we create a business portal so folks aren't skating by while most Nevada businesses pay their fair share in what they owe? Should we re-examine tax breaks? How do we stop relying so heavily on gaming and sales taxes when we clearly know now that gaming is not recession-proof? Finally, how do we stop our boom-and-bust cycle, which causes us to build programs in good times only to destroy them when times are bad? In this budget alone, the Governor is proposing:

- Closing the teachers' training center, which was identified as crucial in meeting No Child Left Behind and training our teachers—we need this center.
- Closing almost every rural mental health clinic after we finally spent a decade building up the infrastructure.
- Starting an autism treatment program last session, only to stop in the middle of the children receiving treatment now.
- Closing facilities for juvenile delinquents when we finally established some capacity. Juvenile crime—the kids are still going to be committing crimes.

It makes no sense to build programs in good times only to destroy them when times are bad if you still need the services. And we do this every ten years.

Assembly Bill 165 addresses this by revamping the way we run our Rainy Day Fund. Right now, our Rainy Day Fund relies chiefly on voluntary appropriations. At the outset, let us be clear—we are experiencing the Great Recession. No rainy day fund is going to insulate us from times like these, but we are so unprepared compared to any other state. Our Rainy Day Fund does not do the job in a small economic downturn, much less give us any cushion in times like these, so while this memory is fresh in our minds, we can take a step to change the way we do business. Assembly Bill 165 operates like this: first, it lets our Rainy Day Fund accumulate to 20 percent of our annual General Fund budget, the largest in the country as a percentage of our annual General Fund revenue. The next highest is Massachusetts at 15 percent. Why so large? Again, right now 61 percent of our revenue comes from discretionary dollars—gaming and sales. As soon as there is a general economic downturn in the country people stop traveling. It is pretty elementary. How does the Rainy Day Fund work? There are two parts. First is a front-end contribution—1 percent of projected General Fund revenue. On the back end, there is 40 percent of all of the year-end General Fund surplus over 7 percent. Why 7 percent? Five percent has to go to the mandatory ending fund balance. Two percent is to give us some cushion because we will have bills incurred not yet payable.

The Rainy Day Fund will start us down the road towards fiscal responsibility and reduce the number of priority cuts that are required during an economic downturn. During my many town hall meetings on the Nevada 2020 endeavor, I asked for input, and I was amazed at how many people wanted to talk about the state of our state—who are committed to making our state a better place and better prepared to move up in the rankings and to be better prepared for economic downturns. Working together, we could achieve that. Assembly Bill 165 is one step towards achieving just that. I urge your support.

ASSEMBLYWOMAN GANSERT:

Thank you, Mr. Speaker pro Tempore. I rise in support of A.B. 165. I think we all agree that we need to save more money. While we may not agree on budget and policies all the time, we do agree that we have not put enough into our savings account for hard times like this. I appreciate the efforts of the Speaker and also of the Assemblyman from Boulder City, who has worked on this effort for quite some time. I urge support of this legislation.

Roll call on Assembly Bill No. 165:

YEAS—42.

NAYS—None.

Assembly Bill No. 165 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Assembly Bill No. 169 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 173.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Potential conflict of interest declared by Assemblymen Oceguera and Spiegel.

Roll call on Assembly Bill No. 173:

YEAS—42.

NAYS—None.

Assembly Bill No. 173 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 174.

Bill read third time.

Remarks by Assemblyman Claborn.

Roll call on Assembly Bill No. 174:

YEAS—42.

NAYS—None.

Assembly Bill No. 174 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed.

Bill ordered transmitted to the Senate.

Assembly Joint Resolution No. 3 of the 74th Session.

Resolution read third time.

Remarks by Assemblymen Mortenson and Hardy.

Roll call on Assembly Joint Resolution No. 3 of the 74th Session:

YEAS—42.

NAYS—None.

Assembly Joint Resolution No. 3 of the 74th Session having received a constitutional majority, Mr. Speaker pro Tempore declared it passed.

Resolution ordered transmitted to the Senate.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Initiative Petition No. 1; Assembly Bill No. 78; Senate Concurrent Resolution No. 14.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Justin Anderson.

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to John Edmund .

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Joey Gilbert.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Maritza Denis and Jeanie Leete.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Michael Ashe and Sam Genzone.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Mike Dolan and Robin Archuleta.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Silver Stage High School: Lani Angell, Alexis Balch, Lindy Cartwright, Cori Colatuono, Cheyenne Lawrence, Kaytlyn Weaver, Puran Bashir, Milly Dayanghirang, Kayla Dixon, Carissa Oberman, Andrea Pato, Michelle Jean Senour, Ronald Vaughn Stafford, Jessie L. Bader, Hannah Rowley, Kerrena Sandidge, Delmae Smith, Lindsey Lepire, Jason Ryan McGill, Jared Roberts, and Troy Valiska; teacher Michael Seal.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to the following members of the Farmers Insurance Group: Michael Achilli, Emmanuel Alonzo, Karen Alsum, Kyle Archuleta, Robin Archuleta, Michael Ashe, John Barsanti, Mark Binder, Jeff Blichfeldt, James Bowen, David Bowers, Dustin Broadus, Jeff Brooks, Stephanie Brooks, Stephen Brown, William Burgess, Georgana Cepeda, Lauren Chamberlain, Eric Chandler, Julia Clarke-Spataro, Bren Coffman, Robert Compan, Toni De La Fuente, Jim DeGraffenreid, Michael Dolan, Chris Drake, John Drakulich, Lou Durano, Jaudaun Eldridge, Jacqueline Emerson, David Ensley, Casey Estep, Jeff Fey, Greg Flanigan, Scott Fulwider, Greg Galli, Burt Garavaglia, Sam Genzone, Beverly Geyer, Pamela Goerke, Nancy Gonzales, Steve Guinn, Wynn Guinn, Joe Haas, Joseph Haas, Stacey Haggin, Diane Hamilton, Beveerly Hanson, Cassie Hanson, Cassie Hanson, Justin Hanson, Matt Heifner, Scott Held, Daryn Henry, James Henry, Jeff Heyer, Allan Hu, Mike Idehara, Shannon Idehara, Robert Jaramillo, Fred Jones, Samantha Kam, Bryce Kerr, Stacy Kleiner, Mary Jane Lake, Jason Lentz, Mindy Lim, Jack Love, Maryann Mangan, Miguel Martir, Hortencia Mckinnon, Michael McOsker, Julie Merrill, Robert Meyers, Mark Miller, Edward Montague, Julie Nelson, Melissa Nicholas, Paul Niemeier, Eric Odle, Eric Olivas, Alex Park, Scott Pick, Chris Porter, Lorraine Porter, Kenneth Price, Ken Purdy, David Riddle, Steven Schiebel, Julie Shaked, Donald Sim, Wyatt Sines, Karl Smith, Roy Smith, Steve Steele, Elizabeth Stella, Nick Stosic, Christopher Sutter, Toshi Suzuki, Annette Teixeira, Bradley Thiele, Marion Townes, Jeff Venuto, Shawn Ward, Gary Welte, Will Wilson, Cherie Wood, Martin Zukowski, Cindy Yenkowski, Laurie Yakubik, Elizabeth Xavier; Janie Oceguera and Kim Novie.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Chris Porter.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, March 12, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:12 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE THIRTY-NINTH DAY

CARSON CITY (Thursday), March 12, 2009

Assembly called to order at 11:21 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Christensen, Gansert, Hardy, and Koivisto, who were excused.

Prayer by the Chaplain, Brother Shane Jenkins.

Our Father in Heaven, we thank Thee for the opportunity to be gathered as Thy children in this great Assembly. We thank Thee for the men and women who give of their time and talents in order to serve the people of Nevada. We are thankful, Father, that we live in this great land and thank Thee for the blessings that Thou hast given unto us and for the leadership of those who have been elected by the people. We ask Thee to be with and bless the Assembly that they may be led in the decisions that they will make this day. Bless them that Thy spirit will be with them to provide insight and inspiration that they may act upon those items that will provide the most benefit and security to those they serve. Bless their families that they will be watched over and protected while they are engaged in this great work. We thank Thee, Father, for the opportunities and freedoms we enjoy while living in this, the United States of America. In the name of Jesus Christ.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 34, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 187, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which were referred Assembly Bills Nos. 199, 242, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 11, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 15.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Segerblom, Ohrenschall, Koivisto, Buckley, McClain, Aizley, Anderson, Arberry, Atkinson, Claborn, Denis, Goicoechea, Hogan, Horne, Kihuen, Manendo, Mastroluca, Mortenson, Munford, Oceguera, Pierce, Settelmeyer, and Smith; Senators Horsford, Coffin, Schneider, Breeden, Hardy, and Woodhouse:

Assembly Joint Resolution No. 6—Proposing to amend the Nevada Constitution to provide for annual legislative sessions and to provide that members of the Legislature be compensated for each day of a regular legislative session.

Legislative Counsel's Digest:

Existing provisions of the Nevada Constitution provide for biennial legislative sessions of 120 days and authorize members of the Legislature to receive compensation for the first 60 days of each regular session. This resolution proposes to amend the Nevada Constitution to provide for annual legislative sessions of 120 days in each odd-numbered year and of 60 days in each even-numbered year. (Nev. Const. Art. 4, § 2) The resolution further proposes to amend the Nevada Constitution to provide compensation for Legislators for each day of service during regular sessions. (Nev. Const. Art. 4, § 33)

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 2 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. The sessions of the Legislature shall be ~~[biennial,]~~ ***annual,*** and shall commence on the 1st Monday of February ***,*** ~~[following the election of members of the Assembly,]~~ unless the Governor of the State shall, in the interim, convene the Legislature by proclamation.

2. The Legislature shall adjourn sine die each regular session ***held in an odd-numbered year*** not later than midnight Pacific standard time 120 calendar days following its commencement. Any legislative action taken after midnight Pacific standard time on the 120th calendar day is void, unless the legislative action is conducted during a special session convened by the Governor.

3. ***The Legislature shall adjourn sine die each regular session held in an even-numbered year not later than midnight Pacific standard time 60 calendar days following its commencement. Any legislative action taken after midnight Pacific standard time on the 60th calendar day is void, unless the legislative action is conducted during a special session convened by the Governor.***

4. The Governor shall submit ***:***

(a) In odd-numbered years, the proposed executive budget ***; and***

(b) In even-numbered years, any proposed appropriations or proposed revisions to the executive budget,

➥ to the Legislature not later than 14 calendar days before the commencement of each regular session.

And be it further

RESOLVED, That Section 33 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec. ~~[1]~~ 33. The members of the Legislature shall receive for their services, a compensation to be fixed by law and paid out of the public treasury, for not to exceed ~~[60]~~ ***120*** days during any regular session of the legislature ***conducted during an odd-numbered year, not to exceed 60 days during any regular session of the Legislature conducted during an even-numbered year,*** and not to exceed 20 days during any special session convened by the governor; but no increase of such compensation shall take effect during the term for which the members of either house shall have been elected Provided, that an appropriation may be made for the payment of such actual expenses as members of the Legislature may incur for postage, express charges, newspapers and stationery not exceeding the sum of Sixty dollars for any general or special session to each member; and Furthermore Provided, that the Speaker of the Assembly, and Lieutenant Governor, as President of the Senate, shall each, during the time of their actual attendance as such presiding officers receive an additional allowance of two dollars per diem.

And be it further

RESOLVED, That Section 12 of Article 17 of the Nevada Constitution be amended to read as follows:

Sec. 12. The first regular session of the Legislature shall commence on the second Monday of December A.D. Eighteen hundred and Sixty Four, and the second regular session of the same shall commence on the first Monday of January A.D. Eighteen hundred and Sixty Six; and the third regular session of the Legislature shall be the first of the biennial sessions, and shall commence on the first Monday of January A.D. Eighteen hundred and Sixty Seven; and the regular sessions of the Legislature shall be held thereafter ~~[biennially.]~~

And be it further

RESOLVED, That Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of Section 6 of this Article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a number of registered voters equal to 10 percent or more of the number of voters who voted at the last preceding general election in not less than 75 percent of the counties in the State, but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than ~~[January 1 of the year preceding the year in which a regular session of the Legislature is held.]~~ ***1 year before the date on which the Legislature to which the petition will be transmitted commences its regular session.*** After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and

take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the Secretary of State shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

5. If two or more measures which affect the same section of a statute or of the Constitution are finally approved pursuant to this Section, or an amendment to the Constitution is finally so approved and an amendment proposed by the Legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

Assemblyman Segerblom moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Goedhart, Carpenter, Christensen, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Settelmeyer, Stewart, and Woodbury; Senators Lee and McGinness (by request):

Assembly Bill No. 303—AN ACT relating to state financial administration; revising the distribution of federal money received by the State of Nevada from mineral leases on federal lands in this State; and providing other matters properly relating thereto.

Assemblyman Goedhart moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblymen Segerblom, Ohrenschall, Aizley, Arberry, Atkinson, Claborn, Hogan, Horne, Kihuen, Koivisto, Manendo, Mortenson, Munford, Pierce, Smith, and Stewart; Senator Coffin:

Assembly Bill No. 304—AN ACT relating to land use regulation; making various changes pertaining to the preservation of existing neighborhoods, including historic neighborhoods; allowing certain providers of utility service to apply for and receive a rate adjustment to incorporate the costs of placing certain facilities underground; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Mortenson:

Assembly Bill No. 305—AN ACT relating to cultural affairs; providing for the Administrator of the Division of Museums and History of the Department of Cultural Affairs to require a museum director or a member of his staff to perform the functions of State Paleontologist; and providing other matters properly relating thereto.

Assemblyman Mortenson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Mortenson:

Assembly Bill No. 306—AN ACT relating to periods of observance; designating the month of April of each year as “Paleontological Awareness Month” in this State; and providing other matters properly relating thereto.

Assemblyman Mortenson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Aizley, Bobzien, Ohrenschall, Dondero Loop, Grady, Hogan, Mastroluca, McClain, and Segerblom; Senator Amodei:

Assembly Bill No. 307—AN ACT relating to property taxes; revising provisions governing the publication of certain information relating to property taxes for certain counties; and providing other matters properly relating thereto.

Assemblyman Aizley moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblymen Koivisto, Claborn, Ohrenschall, McClain, Smith, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Conklin, Dondero Loop, Hogan, Horne, Kihuen, Kirkpatrick, Manendo, Mastroluca, Mortenson, Munford, Oceguera, Pierce, Segerblom, and Spiegel:

Assembly Bill No. 308—AN ACT relating to labor organizations; authorizing a labor organization to require an employee in a bargaining unit who is not a member of the labor organization to pay a service fee to the labor organization under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Koivisto, McClain, Manendo, Leslie, Bobzien, Aizley, Anderson, Arberry, Atkinson, Claborn, Conklin, Dondero Loop, Hambrick, Hogan, Horne, Kihuen, Kirkpatrick, Mastroluca, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Segerblom, Smith, and Spiegel; Senators Carlton, Breeden, Parks, Copening, Wiener, Coffin, Mathews, Schneider, and Woodhouse:

Assembly Bill No. 309—AN ACT relating to crimes; revising provisions relating to the crime of stalking; increasing the penalties for the crime of stalking; revising the provisions relating to orders for protection against stalking, aggravated stalking and harassment; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblyman Carpenter:

Assembly Bill No. 310—AN ACT relating to medicine; discounting the fee for registration for certain physicians; discounting the fee for renewal of a license for certain homeopathic physicians, osteopathic physicians,

chiropractic physicians and podiatric physicians; and providing other matters properly relating thereto.

Assemblyman Carpenter moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Settelmeyer, Aizley, Bobzien, Buckley, Carpenter, Christensen, Cobb, Conklin, Denis, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Kirkpatrick, Manendo, Mastroluca, McArthur, Smith, Stewart, and Woodbury; Senators Amodei, Hardy, and Washington:

Assembly Bill No. 311—AN ACT relating to common-interest communities; revising provisions governing the audit and review of financial statements of common-interest communities; and providing other matters properly relating thereto.

Assemblyman Settelmeyer moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Gansert and Hardy:

Assembly Bill No. 312—AN ACT relating to physicians; revising provisions related to a special volunteer medical license; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Pierce, Bobzien, Buckley, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, McClain, Munford, and Segerblom; Senator Parks:

Assembly Bill No. 313—AN ACT relating to property; limiting the amount of fees a landlord may charge for a late or partial rent payment; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblymen Woodbury, Hardy, Oceguera, Ohrenschall, Aizley, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Cobb, Conklin, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Kihuen, Kirkpatrick, Manendo, Mastroluca, McArthur, Munford, Parnell, Settelmeyer, Spiegel, and Stewart; Senators Wiener, Carlton, Copening, Hardy, and Parks:

Assembly Bill No. 314—AN ACT relating to dentistry; authorizing the Board of Dental Examiners of Nevada to issue limited permits to treat patients under certain circumstances as part of a supervised course of dental education; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblymen Woodbury, Gansert, Aizley, Bobzien, Carpenter, Christensen, Cobb, Dondero Loop, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Kihuen, Kirkpatrick, Manendo, McArthur, Munford, Ohrenschall, Settelmeyer, and Stewart; Senators Lee, Wiener, Breeden, Copening, Hardy, and Parks:

Assembly Bill No. 315—AN ACT relating to crimes; revising the provisions pertaining to crimes relating to pornography involving minors; providing a penalty; and providing other matters properly relating thereto.

Assemblywoman Woodbury moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Horne, Atkinson, Conklin, Buckley, Carpenter, Claborn, Dondero Loop, Hambrick, Kihuen, Kirkpatrick, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, and Smith; Senators Schneider, Wiener, Coffin, Copening, and Woodhouse:

Assembly Bill No. 316—AN ACT relating to telecommunications; requiring a provider of cellular or other service to a portable telephone to provide written notice to a customer of certain changes relating to the customer's cellular telephone service; requiring a provider of such service to prorate certain early termination fees or penalties under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Horne moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblyman Oceguera:

Assembly Bill No. 317—AN ACT relating to taxation; providing for the disbursement of a portion of the proceeds of the state tax imposed on certain businesses to regional organizations for economic development; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 216 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Bill Miller and Kring Miller.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Douglas Homestead.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Kim Cantacessi.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Matthew Maggi, Janice Roberts, Jan Ricks, Ginger VanBrunt, LaVerne Jory, Annie LaMonica, Sharon Anderson, Jeri Offfenstein, Claudine Govier, Eileen Hedger, Ann Watts, Patsy Tolman, and Jean Siess.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Gayle Rogers and Linda Wilner.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Alice Martz and Dianna Fyke.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, March 13, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:43 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FORTIETH DAY

CARSON CITY (Friday), March 13, 2009

Assembly called to order at 11:30 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Hardy and Mastroluca, who were excused.

Prayer by the Chaplain, President David Johnson.

Our dear, kind Heavenly Father, we pause this morning before the start of today's legislative session to remember Thee and recognize Thy hand in our lives and give thanks for the many blessings and strengths that we daily enjoy.

We thank Thee this day for this great nation, the beautiful land in which we live and for the men and women who have sacrificed so very much that we might have the peace and security that we enjoy, even the members of our armed forces, past and present. We pray for their strength and safety.

We thank Thee, Father, for the men and women of this Legislature and their families who sacrifice so very much of their time, talents, convenience, and resources in our behalf. We pray that they will be blessed with all they need, even strength, endurance, perseverance, clarity of thought, judgment, and discernment to make righteous decisions and achieve lasting benefit for the people of this great state. We pray that we, the people of this state, will recognize and appreciate the desires and efforts of legislators expend in our behalf and that we may support them and their work in bringing about a better, kinder, stronger, and safer community and state.

We pray, Father, in Thy wisdom that Thou will bless this Legislature and the people of this great state and nation with the knowledge and wisdom Thou seeth we need, that after all we can do we may learn to depend on Thee to provide that which we lack and as a result, that honor and righteousness will triumph and peace, plenty, security, and brotherly love will be our goal and result.

We love Thee, dear Father, and we offer this prayer in the name of our Lord and Savior, Jesus Christ.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 254, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and rerefer to the Committee on Ways and Means.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Taxation, to which were referred Assembly Bills Nos. 23, 37, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KATHY MCCLAIN, *Chair*

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

Assembly in recess at 11:35 a.m.

ASSEMBLY IN SESSION

At 11:45 a.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Cobb, Carpenter, Goicoechea, Grady, Gustavson, Hambrick, McArthur, Munford, Settelmeyer, Stewart and Woodbury; Senator Washington:

Assembly Concurrent Resolution No. 16—Directing the Agency for Nuclear Projects and the Commission on Nuclear Projects to take certain action concerning the licensing and approval for the Yucca Mountain Project and encouraging the United States Department of Energy to place only certain nuclear waste in the underground repository at Yucca Mountain.

Assemblyman Cobb moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Munford, Ohrenschall, Kihuen, Anderson, Claborn, Gustavson, Hambrick, Hogan, Koivisto, Manendo, McClain, Mortenson, Pierce, Segerblom, Spiegel, and Stewart:

Assembly Bill No. 318—AN ACT relating to education; revising the requirements for instruction in American government and American history in the public high schools; and providing other matters properly relating thereto.

Assemblyman Munford moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Segerblom, Munford, Anderson, Kihuen, Smith, Aizley, Arberry, Atkinson, Bobzien, Claborn, Denis, Dondero Loop, Goedhart, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, McClain, Mortenson, Ohrenschall, and Stewart:

Assembly Bill No. 319—AN ACT relating to education; prescribing certain rights for school employees; requiring full compensation for all missed days of work for an unlicensed employee if sufficient grounds for his dismissal do not exist; revising provisions relating to certain licensed employees who are reinstated after dismissal from employment; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Pierce, McClain, Bobzien, Ohrenschall, Atkinson, Buckley, Conklin, Denis, Goedhart, Kihuen, Leslie, Manendo, Oceguera, and Segerblom; Senator Parks:

Assembly Bill No. 320—AN ACT relating to guardianships; requiring additional information in a petition for appointment of a guardian; requiring that a proposed ward be advised of his right to counsel; revising provisions relating to the attendance of a proposed ward at a guardianship hearing; requiring a guardian to petition a court before moving a ward into certain residential facilities under certain circumstances; and providing other matters properly relating thereto.

Assemblywoman Pierce moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Hogan, Segerblom, Bobzien, Goicoechea, Grady, Leslie, McClain, and Munford:

Assembly Bill No. 321—AN ACT relating to taxation; temporarily requiring the diversion of a portion of the proceeds of an optional sales and use tax imposed in certain counties to the State to mitigate reductions in state revenue resulting from the current economic downturn; and providing other matters properly relating thereto.

Assemblyman Hogan moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblymen Hogan, Manendo, McClain, Aizley, Arberry, Bobzien, Cobb, Denis, Goedhart, Goicoechea, Hambrick, and Mastroluca (by request):

Assembly Bill No. 322—AN ACT relating to crimes; providing that it is unlawful for a person to engage in certain fraudulent acts in the course of an enterprise or occupation; revising provisions relating to the crime of racketeering; providing penalties; and providing other matters properly relating thereto.

Assemblyman Hogan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Grady, Carpenter, Cobb, Goicoechea, Gustavson, Hambrick, Hogan, Settelmeyer, Stewart, and Woodbury:

Assembly Bill No. 323—AN ACT relating to vehicles; revising the amount of the refund of vehicle registration fees and governmental services taxes that the Department of Motor Vehicles is required to pay and the circumstances under which the refund must be made upon the cancellation of a vehicle registration; and providing other matters properly relating thereto.

Assemblyman Grady moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen McArthur, Hardy, Gustavson, Aizley, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hogan, Manendo, Settelmeyer, Stewart, and Woodbury:

Assembly Bill No. 324—AN ACT relating to ethics in government; revising provisions governing ethical standards for public officers and employees concerning gifts; revising the contents of statements of financial disclosure required to be filed by certain candidates for public office and public officers; and providing other matters properly relating thereto.

Assemblyman McArthur moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Stewart, Gansert, Cobb, Goedhart, Grady, Gustavson, Hambrick, Hardy, Kirkpatrick, McArthur, Munford, Settelmeyer, and Woodbury:

Assembly Bill No. 325—AN ACT relating to sex offenders; establishing certain restrictions regarding residency for persons who are convicted of certain sexual offenses; and providing other matters properly relating thereto.

Assemblyman Stewart moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblyman Denis:

Assembly Bill No. 326—AN ACT relating to controlled substances; exempting certain contracts entered into by the State Board of Pharmacy from the State Purchasing Act; revising provisions governing the tracking of prescriptions for controlled substances; requiring the Legislative Committee on Health Care to conduct a study of the abuse of prescription narcotic drugs in this State; and providing other matters properly relating thereto.

Assemblyman Denis moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblymen Denis, Arberry, Kihuen, and Munford:

Assembly Bill No. 327—AN ACT relating to higher education; requiring the Board of Regents of the University of Nevada to submit a biennial report to the Director of the Legislative Counsel Bureau for submission to the Legislature concerning the participation of certain protected classes in the Nevada System of Higher Education; and providing other matters properly relating thereto.

Assemblyman Denis moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Settelmeyer, Goedhart, Christensen, Anderson, Cobb, Gustavson, Hambrick, Kirkpatrick, Pierce, Stewart, and Woodbury; Senators Amodei, Hardy, and Raggio:

Assembly Bill No. 328—AN ACT relating to the taxation of property; providing for an abatement of the ad valorem taxes levied on a single-family residence purchased by a first-time homeowner at a foreclosure sale; and providing other matters properly relating thereto.

Assemblyman Settelmeyer moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblymen Goicoechea, Carpenter, Gansert, Goedhart, Grady, Gustavson, Hambrick, Settelmeyer, Stewart, and Woodbury; Senators Rhoads and McGinness (by request):

Assembly Bill No. 329—AN ACT relating to taxation; authorizing the board of county commissioners of certain smaller counties to use the money from a sales and use tax to support the operation and maintenance of a county recreational facility; requiring the county treasurer to deposit the money received in the appropriate fund; authorizing the imposition of the tax in White Pine County without further approval of the voters; and providing other matters properly relating thereto.

Assemblyman Goicoechea moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblywoman Kirkpatrick:

Assembly Bill No. 330—AN ACT relating to mortgage lending; revising provisions relating to holders of a beneficial interest in a loan; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblymen Settelmeyer, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Stewart, and Woodbury; Senators McGinness, Nolan, and Washington:

Assembly Bill No. 331—AN ACT relating to the State Government; creating the Office of the Business Ombudsman in the Office of the Governor; providing for the appointment of the Ombudsman; setting forth his duties; prohibiting a person from willfully obstructing, misleading or attempting to mislead the Ombudsman in the discharge of his duties; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Settelmeyer moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Dondero Loop, Buckley, Manendo, Smith, Conklin, Aizley, Anderson, Arberry, Atkinson, Bobzien, Claborn, Denis, Goicoechea, Kirkpatrick, Koivisto, Leslie, McClain, Munford, Oceguera, Segerblom, Settelmeyer, Spiegel, Stewart, and Woodbury:

Assembly Bill No. 332—AN ACT relating to civil liability; revising provisions governing immunity from liability for donating, receiving or distributing certain grocery products or food; and providing other matters properly relating thereto.

Assemblywoman Dondero Loop moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Denis and Atkinson:

Assembly Bill No. 333—AN ACT relating to tow cars; revising certain provisions relating to the towing of vehicles; and providing other matters properly relating thereto.

Assemblyman Denis moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Parnell, McClain, Manendo, Anderson, Carpenter, Dondero Loop, Kihuen, Mortenson, Ohrenschall, and Segerblom:

Assembly Bill No. 334—AN ACT making an appropriation to the Nevada Rural Counties RSVP Program, Inc., for programs that support senior citizens; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblymen Parnell, Anderson, Carpenter, Cobb, Dondero Loop, Gustavson, Hambrick, McArthur, Mortenson, Ohrenschall, and Segerblom:

Assembly Bill No. 335—AN ACT relating to criminal gangs; enhancing penalties and providing for the suspension of drivers' licenses for certain

crimes committed to promote criminal gang activity; authorizing a juvenile court to certify a child as an adult for certain offenses committed to promote criminal gang activity; making various changes relating to nuisances and criminal gangs; providing penalties; and providing other matters properly relating thereto.

Assemblywoman Parnell moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Hambrick, Gansert, Grady, Mortenson, Munford, and Segerblom; Senator Parks:

Assembly Bill No. 336—AN ACT relating to education; revising the membership of the design team for a school district that participates in the Program of Empowerment Schools; revising the membership of the empowerment team for each public school that participates in the Program; and providing other matters properly relating thereto.

Assemblyman Hambrick moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblywoman Leslie:

Assembly Bill No. 337—AN ACT relating to the protection of children; creating the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure; making various other changes concerning children who are endangered by drug exposure; and providing other matters properly relating thereto.

Assemblywoman Leslie moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblywoman McClain:

Assembly Bill No. 338—AN ACT relating to economic development; requiring the Commission on Economic Development to administer a program of grants to nonprofit organizations that provide loans for small businesses being started by veterans and senior citizens; establishing an account to provide funds for the program of grants; requiring that certain payments made by employers be deposited into the account; and providing other matters properly relating thereto.

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

Motion carried.

By Assemblymen Christensen, Hardy, Settelmeyer, Aizley, Bobzien, Claborn, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hogan, Kirkpatrick, Mortenson, Munford, Segerblom, and Stewart; Senators Parks, and Cegavske:

Assembly Bill No. 339—AN ACT relating to energy; authorizing an owner of property on which electricity is generated using renewable energy to sell the electricity to a person who leases or rents the property; and providing other matters properly relating thereto.

Assemblyman Christensen moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Christensen, Gustavson, Settelmeyer, Carpenter, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hardy, Stewart, and Woodbury; Senator Cegavske:

Assembly Bill No. 340—AN ACT relating to education; establishing the Nevada Opportunity Scholarship Program; authorizing parents and legal guardians of certain pupils to apply for participation in the Program; revising provisions governing the apportionment of money from the State Distributive School Account to provide for the payment of money for the education of pupils who participate in the Program; and providing other matters properly relating thereto.

Assemblyman Christensen moved that the bill be referred to the Committee on Ways and Means.

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

Assembly in recess at 11:59 a.m.

ASSEMBLY IN SESSION

At 12 noon.

Madam Speaker presiding.

Quorum present.

Assemblyman Christensen withdrew the motion that Assembly Bill No. 340 be referred to the Committee on Education.

Assemblyman Christensen moved that the bill be referred to the Concurrent Committees on Education and Ways and Means.

Motion carried.

By Assemblymen Gustavson, Christensen, Goedhart, Goicoechea, Grady, Hambrick, Hardy, McArthur, Settelmeyer, and Stewart; Senators Lee, McGinness, and Washington (by request):

Assembly Bill No. 341—AN ACT relating to brand inspections; requiring a governmental entity to obtain approval for the seizure of certain animals subject to brand inspection from the district court of the county in which the animals are seized; and providing other matters properly relating thereto.

Assemblyman Gustavson moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblymen Gustavson, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, and Woodbury; Senators Hardy, McGinness, and Washington:

Assembly Bill No. 342—AN ACT relating to state financial administration; requiring certain state agencies to adopt a program to improve the efficiency of and the services provided by the state agency; authorizing such a state agency to expend a portion of its budgetary savings resulting from carrying out such a program for certain purposes; and providing other matters properly relating thereto.

Assemblyman Gustavson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblyman Manendo (by request):

Assembly Bill No. 343—AN ACT relating to education; requiring the board of trustees of a school district to adopt a policy to exempt a pupil who is employed in the entertainment industry from the minimum number of days of attendance if the pupil has completed course-work requirements; and providing other matters properly relating thereto.

Assemblyman Manendo moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblyman Gustavson:

Assembly Bill No. 344—AN ACT relating to elections; eliminating requirements that various petitions for initiative and referendum be accompanied by an affidavit of the person who circulated the petition attesting to various facts about the circulation and signature-gathering process; and providing other matters properly relating thereto.

Assemblyman Gustavson moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By the Committee on Taxation:

Assembly Bill No. 345—AN ACT relating to taxation; revising the amounts of certain veterans' exemptions from property taxes and governmental services taxes; expanding the applicability of the exemptions from those taxes for veterans with permanent service-connected disabilities; and providing other matters properly relating thereto.

Assemblywoman McClain moved that the bill be referred to the Committee on Taxation.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 12:03 p.m.

ASSEMBLY IN SESSION

At 12:05 p.m.
Madam Speaker presiding.
Quorum present.

By Assemblyman Cobb:

Assembly Bill No. 346—AN ACT relating to insurance; revising requirements regarding the filing and approval of certain health insurance policies and plans; allowing basic coverage policies and plans to exclude certain mandatory coverage; revising provisions governing the availability and portability of certain health insurance; revising provisions governing continuing coverage under certain group health insurance; and providing other matters properly relating thereto.

Assemblyman Cobb moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Cobb, Hambrick, McArthur, Gustavson, Goedhart, Christensen, Gansert, Goicoechea, Grady, Hardy, Settelmeyer, Stewart, and Woodbury; Senator Washington:

Assembly Bill No. 347—AN ACT relating to foreign nationals; prohibiting an award of punitive damages to a person who is not a citizen of the United States; prohibiting the use of threats relating to the immigration status of a person to compel a person to perform certain acts; requiring a person to submit proof of citizenship to register to vote; prohibiting a person from voting when that person knows that he is not entitled to vote; providing that a person is not eligible for a Governor Guinn Millennium Scholarship if the person is not a citizen of the United States; providing that a person is not eligible to receive certain state benefits if the person is not a citizen of the United States; providing that a person applying for a driver's license must submit proof that the person is lawfully present in the United States; providing penalties; and providing other matters properly relating thereto.

Assemblyman Cobb moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Munford, Anderson, Ohrenschall, Kihuen, Spiegel, Aizley, Arberry, Atkinson, Bobzien, Claborn, Denis, Gansert, Goedhart, Hogan, Kirkpatrick, Leslie, Manendo, McClain, Mortenson, Oceguera, Pierce, Segerblom, and Stewart:

Assembly Bill No. 348—AN ACT relating to education; requiring each public school to post a notice of information concerning certain courses, services and programs available to pupils enrolled in the school district;

requiring that the notice be provided to the parents and legal guardians of those pupils; and providing other matters properly relating thereto.

Assemblyman Munford moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Parnell, Leslie, McClain, Bobzien, Goicoechea, Grady, Koivisto, and Settelmeyer:

Assembly Bill No. 349—AN ACT relating to emergency medical services; providing for the endorsement of intermediate emergency medical technicians to administer immunizations, dispense medication and provide certain services for a public health emergency or otherwise satisfy public health needs; and providing other matters properly relating thereto.

Assemblywoman Parnell moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblymen Munford, Kihuen, Segerblom, Aizley, Anderson, Claborn, Denis, Gansert, Hogan, McClain, Mortenson, Pierce, Settelmeyer, and Stewart:

Assembly Bill No. 350—AN ACT relating to common-interest communities; revising provisions relating to amendments to the declaration of a common-interest community, the terms of office and actions of members of the executive board of an association, the payment of fines and assessments, the rights of a unit's owner with respect to meetings and the review of certain documents, the foreclosure of a lien upon a unit and the sale of a unit; making various other changes relating to common-interest communities; and providing other matters properly relating thereto.

Assemblyman Munford moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Christensen, Settelmeyer, Stewart, and Woodbury:

Assembly Bill No. 351—AN ACT relating to education; changing the name of the Governor Guinn Millennium Scholarship Program to the Governor Guinn Millennium Scholarship and Millennium Loan Program; prescribing the criteria for eligibility to receive a Millennium Loan; prescribing the criteria for the repayment of a Millennium Loan upon graduation or withdrawal from an eligible institution; providing that certain students who reside in this State after graduation from an eligible institution are not required to pay interest on the Millennium Loan; and providing other matters properly relating thereto.

Assemblyman Christensen moved that the bill be referred to the Concurrent Committees on Education and Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 34.
Bill read second time and ordered to third reading.

Assembly Bill No. 187.
Bill read second time and ordered to third reading.

Assembly Bill No. 199.
Bill read second time and ordered to third reading.

Assembly Bill No. 242.
Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 254 be rereferred to the Committee on Ways and Means.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 216.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Assembly Bill No. 216:
YEAS—40.
NAYS—None.
EXCUSED—Hardy, Mastroluca—2.
Assembly Bill No. 216 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolutions Nos. 14, 15; Assembly Resolution No. 4; Senate Joint Resolution No. 5; Senate Concurrent Resolution No. 15.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Keely Thoreson and Luke Walker.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Leticia Bravo.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Jack Calvert.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, March 16, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:21 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FORTY-THIRD DAY

CARSON CITY (Monday), March 16, 2009

Assembly called to order at 11:46 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Alan Dorway.

Gracious God, thank You for another day to serve You and our neighbors. We pray today for all serving here in the Assembly. We seek Your presence as we deal with colleagues and staff and as we struggle to solve the complex issues of our state. Help us to always look beyond ourselves and our needs to the needs of those often overlooked or on the margins of society. Lord, we ask for You to lead us this week. In Jesus' name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 250, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

March 16, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 87, 170, 179, 203, 213, 214, 221, 222, 229, 235, 238, 245, 246, 254, 275, 282, 302, 303, 310, 317, 328, 331, 334, 337, 338, 342 and 345.

MARK STEVENS
Fiscal Analysis Division

March 16, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bills Nos. 44, 52, 80, 85, 143 and 150.

GARY GHIGGERI
Fiscal Analysis Division

By Assemblymen Aizley, McClain, Kirkpatrick, Koivisto, Buckley, Arberry, Atkinson, Bobzien, Claborn, Conklin, Dondero Loop, Goicoechea, Grady, Hogan, Horne, Kihuen, Mortenson, Munford, Ohrenschall, Parnell, Pierce, Segerblom, and Smith:

Assembly Joint Resolution No. 7—Proposing to amend the Nevada Constitution by repealing provisions relating to lotteries.

Legislative Counsel's Digest:

Section 24 of Article 4 of the Nevada Constitution prohibits the State or any political subdivision thereof from conducting a lottery. The provision allows, however, charitable or nonprofit organizations to conduct certain lotteries, provided that the proceeds benefit charitable and nonprofit activities in Nevada. This resolution repeals that provision of the Nevada Constitution, thereby removing the prohibition on conducting a lottery in this State.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 24 of Article 4 of the Nevada Constitution is hereby repealed.

TEXT OF REPEALED SECTION

Sec: 24. **Lotteries.**

1. Except as otherwise provided in subsection 2, no lottery may be authorized by this State, nor may lottery tickets be sold.

2. The State and the political subdivisions thereof shall not operate a lottery. The Legislature may authorize persons engaged in charitable activities or activities not for profit to operate a lottery in the form of a raffle or drawing on their own behalf. All proceeds of the lottery, less expenses directly related to the operation of the lottery, must be used only to benefit charitable or nonprofit activities in this State. A charitable or nonprofit organization shall not employ or otherwise engage any person to organize or operate its lottery for compensation. The Legislature may provide by law for the regulation of such lotteries.

Assemblyman Aizley moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblyman McArthur:

Assembly Joint Resolution No. 8—Urging Congress to repeal certain provisions of the Voting Rights Act of 1965.

Assemblyman McArthur moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblyman McArthur:

Assembly Joint Resolution No. 9—Requesting that the Nevada Congressional Delegation oppose legislation which disenfranchises workers by removing their right to a private ballot union election.

Assemblyman McArthur moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblywoman Buckley:

Assembly Joint Resolution No. 10—Urging Congress to enact legislation requiring the Secretary of the Interior to convey ownership of certain land to the State of Nevada for the development of projects for renewable energy.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblywomen Koivisto, Arberry, and Munford:

Assembly Joint Resolution No. 11—Urging Congress to implement the Homeowners and Bank Protection Act of 2007.

Assemblywoman Koivisto moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Cobb, Goedhart, Gustavson, Grady, McArthur and Settelmeyer:

Assembly Joint Resolution No. 12—Proposing to amend the Nevada Constitution by adding the provisions of the Tax and Spending Control for Nevada initiative.

Legislative Counsel's Digest:

This bill proposes to amend the Nevada Constitution by adding the provisions of the Tax and Spending Control for Nevada initiative (TASC). The provisions of this bill are substantially similar to versions of that initiative which were filed with the Secretary of State in conjunction with the 2006 General Election. The Legislative Counsel has not revised the language for clarity or consistency with the style and contents of the Nevada Constitution or the Nevada Revised Statutes. The initiative as submitted to the Legislative Counsel states that:

"If enacted, TASC for Nevada will add a new article to the Nevada Constitution:

Preventing state and local tax increases and new multi-year indebtedness except when referred to voters by 2/3 of the Nevada Legislature or of the local governing board, and passed by a majority of voters casting ballots at a general election (§ 2);

Limiting spending increases by the state, and by cities and counties chartered by the state, to inflation plus percentage change in population; allowing increases of these limits by the amount of voter-approved tax increases (§§ 4, 8);

If state or city revenues exceed spending limits, requiring the deposit of part of these revenues into a state Emergency Reserve Fund and Budget Stabilization ('Rainy Day') Fund, or a local Budget Reserve Fund;

Rebating any additional excess revenues to certain taxpayers;

Changing rules on the use of money in the existing state Rainy Day Fund, including requiring that 3/4 of the Legislature, rather than the Governor, declare any emergency (§§ 5, 6, 8);

Barring the state from imposing 'unfunded mandates' on cities and counties or 'shifting' costs to local governments (§ 7);

Providing for certain other important substantive changes to the Constitution (§§ 1, 9, 10);

Allowing suit for enforcement (§ 11)."

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That a new article, designated Article 10A, be added to the Nevada Constitution to read as follows:

ARTICLE. 10A. TAX AND SPENDING CONTROL FOR NEVADA

Sec. 1. General.

WHEREAS, A Nevada Supreme Court decision, Guinn v. Legislature, 119 Nev. 277 (2003), held that the amendment twice passed by the voters of Nevada and incorporated in Section 18 of Article 4 of the Nevada Constitution requiring Legislative supermajorities for the passage of bills or resolutions increasing public taxes was a mere "procedural" requirement, to be effectively negated by a purportedly "substantive" provision of the Constitution; and

WHEREAS, The supermajority requirement was intended by the sovereign People of Nevada to be a fundamental governing principle of this State; and

WHEREAS, Limitation on the growth of Government remains the intent of the sovereign People of Nevada; and

WHEREAS, Limitation on the amounts that may be appropriated or authorized for expenditure will restrain the growth of Government; now, therefore

BE IT RESOLVED BY THE PEOPLE OF NEVADA that this new Article, entitled Tax and Spending Control for Nevada, be added to the Nevada Constitution, reading as follows:

Sec. 2. The People's Right to Vote.

1. For any fiscal year that commences on or after January 1, 2013, state and local governments, excluding government enterprises and improvement districts, must receive voter approval for any new tax or rate increase above that of the prior year, or extension of an expiring tax, or a tax policy change directly causing a tax revenue gain to any such government. Voter approval is also required for the creation of any multi-fiscal year direct or indirect debt or other financial obligation after January 1, 2013, in order for the debt service payments of such debt or obligation to be exempted from Biennial Spending under Section 3, subsection 4 of this Article. Notwithstanding, debts or obligations with adequate present cash reserves, pledged irrevocably and held for payments in all future years, refinancing government bonded debt at a lower interest rate and adding new employees to existing pension plans shall not require a public vote under this Section.

2. Any election held to seek voter approval under subsection 1, must occur at an election conducted on the first Tuesday after the first Monday in November and must have been referred by at least a two-thirds affirmative vote of the members elected to each house for a state referral and two thirds of the governing board of a referring local government for a local referral. Passage of any such ballot question shall require the affirmative vote of a majority of the eligible voters casting a ballot at that election.

3. Every ballot question to determine voter approval under this Section by subsection 1 shall offer voters the options of "YES" or "NO" and shall include, in addition to normal descriptive language, the following statements in bolded capital letters:

(a) For any revenue approval question proposed to increase the amount of the State Spending Limit under Section 4 of this Article, the maximum dollar amount of the proposed increase in the State Spending Limit must be predetermined legislatively and the ballot and sample ballot must state in bold type immediately below the measure's title: "A 'YES' VOTE ON THIS MEASURE WILL AUTHORIZE THE STATE TO RAISE TAXES AND EXCEED STATE CONSTITUTIONAL LIMITS ON GOVERNMENT SPENDING BY [insert proposed spending limit increase]."

(b) For any revenue approval question proposed to increase the amount of the Local Government Spending Limit under Section 8 of this Article, the maximum dollar amount of the Local Government Spending Limit under Section 8 must be predetermined and the ballot and sample ballot must state in bold type immediately below the measure's title: "A 'YES'

VOTE ON THIS MEASURE WILL AUTHORIZE [insert appropriate local government] TO RAISE TAXES AND INCREASE LOCAL GOVERNMENT SPENDING BY [insert maximum projected revenue increase].”

(c) For all multi-fiscal year debt approval questions required by this section, the maximum dollar amount of the amount borrowed and the cost of debt service must be predetermined and the ballot and sample ballot must state in bold type immediately below the measure’s title: “A ‘YES’ VOTE ON THIS MEASURE WILL AUTHORIZE [insert ‘THE STATE’ or name of the appropriate local government] TO BORROW UP TO [insert maximum dollar amount financed under the measure] AT A TOTAL REPAYMENT COST OF [insert anticipated maximum total dollar amount of completed debt service].”

Sec. 3. Definitions.

1. “Inflation” means the change expressed as a percentage in the consumer price index for the Western States, U.S. city average, all goods, all urban consumers, as calculated by the Bureau of Labor Statistics of the United States Department of Labor, or its successor index, or a similar federal index more specific to Nevada, when established.

2. “Population” means the number of people residing in the state as determined by the annual estimates as calculated according to the procedures established as of fiscal year July 1, 2007, or substantially similar successor procedures, and such number shall be adjusted to match the Federal Decennial Census. If a court of competent jurisdiction in a final order shall adjudge successor procedures to not be substantially similar, “Population” shall mean the number of people residing in the state as determined by the annual Federal Census estimates.

3. “Biennial budget cycle” means the two year period of consecutive state fiscal years commencing upon the first day of July during a year in which a regular session of the legislature is held.

4. “Biennial spending” means the total amount of moneys to be spent during a biennial budget cycle, whether by appropriation, authorization or other means, except:

(a) Moneys received from the federal government, or from any person or entity in the form of a gift or grant;

(b) Appropriations funded by multi-fiscal year indebtedness, or payment and interest on multi-fiscal year indebtedness if created before January 1, 2013, or otherwise established pursuant to Section 2, subsection 1 of this Article;

(c) Appropriations funded by unemployment and disability insurance funds, permanent endowment funds, trust funds including the highway trust fund of Article 9, Section 5, and the public education trust fund of Article 11, Section 3, or pension funds;

(d) Appropriations funded from proceeds from the sale of government property to non-governmental entities at full cash value;

(e) Moneys appropriated for declared emergencies pursuant to Section 5 of this Article, moneys appropriated for refunds to taxpayers pursuant to Section 6 of this Article, and appropriations funded by the voter-approved release of a Refundable Surplus pursuant to Section 6, subsection 3 of this Article; or

(f) Moneys expended by government enterprises to provide goods or services to the public where the purchase of such good or service is discretionary.

5. “Local government spending” means the total amount of moneys appropriated by a local government to be spent during a fiscal year, except:

(a) Moneys or appropriations described in this Section by subsection 4, paragraphs (a) through (f); or

(b) Moneys appropriated for refunds or credits to taxpayers pursuant to Section 8 of this Article, and appropriations funded by the voter-approved spending of a Refundable Local Tax Surplus pursuant to Section 8, subsection 4 of this Article.

6. “State” means the state government including all branches, state offices, authorities, agencies, boards, commissions, institutions, instrumentalities and any division or unit of state government which are directly supported, in whole or in part, with tax funds.

7. “Multi-year indebtedness” means any evidence of indebtedness that is entered into or establishes a debt obligation of the State or a local government for longer than one fiscal year, and includes, but is not limited to, bonds, notes, certificates, and lease-purchase agreements.

8. "Emergency" means an extraordinary event or occurrence that could not have been reasonably foreseen or prevented and that requires immediate expenditure to preserve the health and safety of the people.

9. "Total state revenue" means all moneys received by the state from any source except any of the following:

(a) Moneys received from the federal government, or from any person or entity in the form of a gift or grant;

(b) Moneys received from multi-year indebtedness;

(c) Moneys which are income earned on moneys in permanent endowment funds or segregated trust funds under Article 9, Section 2, subsection 2 of this constitution, or moneys from sources designated for public highways trust fund pursuant to Article 9, Section 5 or the public education trust fund pursuant to Article 11, Section 3 of this constitution;

(d) Proceeds from the sale of government property to non-governmental entities at full cash value;

(e) Moneys appropriated for declared emergencies pursuant to Section 5 of this Article, moneys appropriated for refunds to taxpayers pursuant to Section 6 of this Article, and appropriations funded by the voter-approved release of a Refundable Surplus pursuant to Section 6, subsection 3 of this Article; and

(f) Moneys received by government enterprises.

10. "Local Tax Revenue" as used in Section 8 of this Article, means all moneys received by a local government excluding those categories described in this Section by subsection 9, paragraphs (a) through (f), and in Section 8, subsections 3 and 4.

11. "State Spending Limit" means the State Spending Limit specified pursuant to Section 4 of this Article.

12. "Local Government Spending Limit" means the Local Government Spending Limits specified pursuant to Section 8 of this Article.

13. "Local government population" means the number of people residing within a local jurisdiction as determined by a substantially accurate system of population measurement for local governments that is uniformly administered by the state and designated for that purpose. Should no such qualifying measurement system be established, the measure of state population pursuant to subsection 2 of this Section shall be employed to determine the Local Government Spending Limit in Section 8 of this Article.

14. "Government enterprise" is a government-owned business, government board or commission that lacks authority to tax and receives less than 10 percent of its annual revenue in the form of grants, transfers or appropriations from all Nevada state and local government entities combined.

15. "Tax policy change" means any policy change directly altering the formula, method of calculation, qualifications, exemptions, terms or scope of an assessed tax.

16. "Improvement district" pursuant to Section 2, subsection 1 of this Article does not include county commissioners sitting as the ex officio board of a General Improvement District under Chapter 318 of the Nevada Revised Statutes.

Sec. 4. State Spending Limits.

1. For any state biennial budget cycle that commences on or after January 1, 2013, increases in biennial spending shall be subject to a State Spending Limit calculated as follows: (i) the total amount of biennial spending in the preceding biennial budget cycle increased or decreased by the percentage change in the consumer price index pursuant to Section 3, subsection 1, for the two preceding calendar years ending during the preceding state biennial budget cycle, plus the percentage change in state population during the two preceding calendar years ending during the preceding state biennial budget cycle, or (ii) the State Spending Limit for the previous biennial budget cycle, whichever amount is greater.

2. Notwithstanding subsection 1 of this Section, the State Spending Limit may be adjusted to incorporate revenue changes approved by voters pursuant to Section 2 of this Article.

3. The proposed biennial budget prepared by the executive department of the state government shall not exceed the State Spending Limit.

4. For the initial state biennial budget cycle of 2013-2015, the base biennium for the calculation of the State Spending Limit under subsection 1 shall be the 2007-2009 biennium,

adjusted for the average biennial change in population and inflation occurring between January 1, 2009, and January 1, 2013.

Sec. 5. Emergency Reserve Fund.

1. For any state biennial budget cycle that commences after January 1, 2013, and in which total state revenue exceeds the State Spending Limit determined pursuant to Section 4 of this Article, and before making any transfers to the Budget Stabilization Fund or any refunds or credits as required by Section 6 of this Article, the state Controller shall, prior to the end of the state biennial budget cycle, transfer total state revenue collected in excess of the State Spending Limit to the Emergency Reserve Fund, which fund is hereby created in the state treasury, to the extent necessary to ensure that the balance of the fund at the end of the biennial budget cycle is an amount equal to 3 percent of the total State Spending Limit for the ensuing state biennial budget cycle. The state shall not be required to transfer to the Fund any moneys other than revenue in excess of the total State Spending Limit. Unused revenues remaining in the Emergency Reserve Fund apply to the Fund for the ensuing biennium. The Fund shall be in addition to, and shall not be used to meet, any other reserve requirement of this Constitution or of law.

2. Moneys in the Emergency Reserve Fund may be expended only for an emergency declared by law that meets the definition within this Article. "Emergency" does not mean a revenue shortfall or budget shortfall. Appropriation from the fund may occur only upon a three-fourths approval vote of all elected members of each house of the legislature. Interest or other income earned on the Emergency Reserve Fund shall accrue to the fund. If any transfers from the Emergency Reserve Fund are determined in a legal proceeding to have been illegal, such transfers must be replaced, with interest, from total state revenue in the ensuing fiscal year and shall be included in the calculation of biennial spending under Section 3, subsection 4 of this Article.

Sec. 6. Budget Stabilization Fund.

1. For any state biennial budget cycle that commences on or after January 1, 2013, if total state revenue as defined in Section 3 of this Article exceeds the State Spending Limit for that biennial budget cycle the excess shall be reserved or refunded as follows:

(a) The Legislature shall provide by law for the creation, as a special revenue fund, of a fund to stabilize the operation of the state government and to be known as the Budget Stabilization Fund. After any amount required to be transferred to the Emergency Reserve Fund of the state pursuant to Section 5 of this Article has been transferred, an amount of any remaining excess amount of total state revenue shall be transferred in the manner prescribed by the legislature by law to the Budget Stabilization Fund.

(b) The amount transferred to the Budget Stabilization Fund in accordance with this subsection shall be equal to the lesser of: (i) an amount equal to 50 percent of any such remaining excess amount of total state revenue, or (ii) the amount necessary to ensure that the balance in the Fund at the end of the biennium is an amount equal to 5 percent of the total State Spending Limit for the ensuing biennial budget. Interest or other income earned on moneys in the Fund shall accrue to the Fund.

(c) In no case shall additional moneys be transferred into the Fund if the balance in the fund is equal to or more than 5 percent of the total State Spending Limit for the ensuing biennial budget cycle.

(d) This fund shall constitute constitutional protection for the State of Nevada's current Fund to Stabilize Operation of State Government and for its purpose, and shall receive any moneys currently therein, with the exception of funds in the disaster relief account, which shall be placed within the Emergency Reserve Fund.

2. The State Controller shall transfer money from the Budget Stabilization Fund to the general fund in the minimum amount necessary to offset a shortfall in total state revenue below the State Spending Limit. Under no other circumstances shall the State Controller transfer moneys from the Budget Stabilization Fund.

3. After transfers are made to the Emergency Reserve and Budget Stabilization funds pursuant to Section 5 or Section 6 of this Article, an excess amount of total state tax revenue for a biennial budget cycle may remain. In such an event:

(a) Should the excess tax revenue be a sum equal to or greater than 0.5 percent of the State Spending Limit, it shall be deemed "Refundable Tax Surplus." By a two-thirds vote of each chamber, the Legislature may ask voters for approval, pursuant to Section 2, subsection 2 of this Article, to spend all or part of a Refundable Tax Surplus. Absent approval of the voters to spend the Refundable Tax Surplus, half of that Surplus shall be refunded or credited to taxpayers during the next ensuing fiscal year in proportionate relief of all state motor vehicle taxes and fees paid during the previous biennium, and the remaining half of that Surplus shall be refunded or credited to taxpayers during the next ensuing fiscal year in proportionate relief of state excise taxes paid by employers upon employee wages during the previous biennium. If any portion of the Surplus remains after fully satisfying either tax rebate category, that portion shall be refunded or credited proportionately to taxpayers against taxes paid in a manner determined by majority action of the Legislature.

(b) Should the excess tax revenue be a sum less than 0.5 percent of the State Spending Limit, it shall be deemed a "Saved State Tax Surplus" and shall constitute an obligation of the state government to be repaid to state taxpayers at such time as a subsequent Refundable Tax Surplus, in combination with that Saved Tax Surplus, exceeds 0.5 percent of the State Spending Limit.

Sec. 7. Mandated and Shifted Costs.

The Nevada Legislature shall not, directly or indirectly, enact laws or authorize the adoption of regulations, requiring the counties and cities of the State to provide new services, expand existing services or conduct new or additional governmental function without appropriating or designating state funding sources to fully support said new services, expansion of existing services and new or additional governmental functions. The proportion of state revenue paid to all local units of government, taken as a group, shall not be reduced below that proportion in effect at the adoption of this Article unless the state has relieved local governments of an obligation or expense. Where state laws or regulations directly or indirectly reduce the expenses of local governments, the proportion of state revenue paid to all local units of government may be reduced by up to the amount of the reduced expenses. Where costs are transferred from one unit of government to another unit of government, either by law, court order or agreement, the limitation imposed by Sections 4 and 8 of this Article shall be adjusted and transferred accordingly so that total costs of the transferred services are not increased as a result of such transfer.

Sec. 8. Local Government Spending Limits.

1. All local government spending by cities and counties chartered by the state for three or more years shall be subject to a Local Government Spending Limit. This limit shall apply to the first fiscal year for each city and county that commences on or after January 1, 2013, and shall limit city or county fiscal-year spending to the greater of:

(a) The total amount of local government spending in the preceding fiscal year increased by a percentage amount equal to the result obtained by adding the rate of inflation for the preceding calendar year, plus the percentage change in local government population during the preceding calendar year; or

(b) The Local Government Spending Limit for the previous fiscal year.

2. Notwithstanding subsection 1, the Local Government Spending Limit may be adjusted to incorporate revenue changes approved by voters pursuant to Section 2 of this Article.

3. When local tax revenue exceeds the Local Government Spending Limit, counties and cities may retain up to half of the budget surplus in any fiscal year for a Budget Reserve Fund. The purpose of the Fund shall be limited to offsetting a shortfall of revenue below the Local Government Spending Limit or addressing declared emergencies. The Budget Reserve Fund is limited to 5 percent of the Local Government Spending Limit.

4. After transfers are made to a county or city Budget Reserve Fund pursuant to subsection 3 of this section, an excess amount of local tax revenue for a fiscal year may remain. In that event:

(a) Should the excess tax revenue be equal to or greater than 1 percent of the Local Government Spending Limit, it shall be deemed "Refundable Local Tax Surplus." By a two-thirds vote of the local governing body, the local government may ask voters for approval, pursuant to Section 2, subsection 2 of this Article, to spend all or part of a Refundable Local

Tax Surplus. Absent approval of the voters to spend the Refundable Local Tax Surplus, that Surplus shall be held and credited to the next year's property tax bill for each private parcel in the jurisdiction of the local government, in proportion to each parcel's contribution to total property tax proceeds. If any portion of the Surplus remains thereafter, that portion shall be refunded or credited proportionately to taxpayers against taxes paid in a manner determined by majority action of the local government's governing board.

(b) Should the excess tax revenue be less than 1 percent of the Local Government Spending Limit, it shall be deemed a "Saved Local Tax Surplus," and shall constitute an obligation of the local government to be repaid to local government taxpayers at such time as a subsequent Refundable Local Tax Surplus, in combination with that Saved Local Tax Surplus, exceeds 1 percent of the Local Government Spending Limit.

Sec. 9. Amendment.

Any proposed amendment to this Constitution mandating specific state appropriations for projects or services, or establishing a minimum formula for state appropriations, for any purpose, that does not also establish a specific source of additional state revenue dedicated to fully funding those appropriations, must include the following voter advisory displayed in bolded capital letters above the ballot question on the ballot and the sample ballot:

> ***"NOTICE TO VOTERS: THIS MEASURE REQUIRES ADDITIONAL STATE EXPENSES WITHOUT CREATING A MEANS TO PAY FOR THEM. PASSAGE MAY REDUCE FUNDING FOR OTHER IMPORTANT GOVERNMENT FUNCTIONS."***

Sec. 10. Implementation.

All provisions of this Article are self-executing and severable and supersede conflicting state constitutional, state statutory, charter, or other state or local provisions. The legislature may enact such legislation as may be necessary to implement and enforce the provisions of this Article and repeal or amend all laws inconsistent with the provisions of this Article to conform to the provisions of this Article. In any circumstances where two or more reasonable interpretations of a provision of this Article exist, the correct interpretation shall be that which better restrains growth in government spending. In any circumstances where another provision of this Constitution is deemed to conflict with this Article, such other provision shall be superseded by this Article. If a court of competent jurisdiction in a final order shall adjudge any expenditure category, or revenue source, exempt from this section, the process of computing the State Spending Limit shall be adjusted accordingly and remaining provisions shall be in full force and effect.

Sec. 11. Enforcement.

Any Nevada taxpayer or class of Nevada taxpayers shall have standing to commence an action to enforce this Article. A court of record shall award successful plaintiffs costs and reasonable attorney fees in the suit. Should the Court determine that the action was frivolous, the Court may award reasonable expenses to the prevailing party.

Sec. 12. Effective Date.

This Article shall become effective on January 1, 2013.

Assemblyman Cobb moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Gansert, Hardy, Stewart, Grady, and Hambrick:

Assembly Joint Resolution No. 13—Proposing to amend the Nevada Constitution to authorize the Legislature to reapportion the legislative districts when a certain percentage of the districts have experienced changes in population.

Legislative Counsel's Digest:

The Nevada Constitution requires the Legislature to determine the number of Senators and Assemblymen and to apportion them among the several counties or among legislative districts every 10 years based on the data from the decennial census of the United States. (Nev. Const. Art. 4, § 5)

This bill proposes to amend the Nevada Constitution to authorize the Legislature to conduct a reapportionment of legislative districts in between the decennial censuses if the population in 15 percent of Assembly or Senate districts is greater than or less than, by more than 10 percent, the average population of the Assembly or Senate districts, respectively.

If this proposed resolution is passed by the 2009 Legislature, it must also be passed by the next Legislature and approved and ratified by the people in an election before the proposed amendment to the Nevada Constitution becomes effective.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 5 of Article 4 of the Nevada Constitution be amended to read as follows:

1. Senators and members of the Assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of Senators shall not be less than one-third nor more than one-half of that of the members of the Assembly.

2. It shall be the mandatory duty of the Legislature at its first session after the taking of the decennial census of the United States in the year 1950, and after each subsequent decennial census, to fix by law the number of Senators and Assemblymen, and apportion them among the several counties of the State, or among legislative districts which may be established by law, according to the number of inhabitants in them, respectively.

3. The Legislature may fix by law the number of Senators and Assemblymen and apportion them among the legislative districts and revise the legislative districts during a legislative session that falls during the period between decennial censuses whenever the population in:

(a) Fifteen percent or more of the assembly districts is greater or less than, by more than 10 percent, the average population of the assembly districts; or

(b) Fifteen percent or more of the senate districts is greater or less than, by more than 10 percent, the average population of the senate districts,

➥ using any measure of population that is found to be reliable by the Legislature. The Legislature may provide by law for procedures to facilitate the operation of this subsection.

Assemblywoman Gansert moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 23.

Bill read second time and ordered to third reading.

Assembly Bill No. 37.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 34, 187, 199, and 242 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Mortenson, Segerblom, Bobzien, Claborn, Horne, Kihuen, Kirkpatrick, Manendo, Munford, Ohrenschall, Parnell, Pierce, Smith, and Spiegel:

Assembly Bill No. 352—AN ACT relating to the Spring Mountains National Recreation Area; limiting certain powers of planning and zoning that may be exercised by local governments within the Area; limiting gaming in the Area to holders of restricted licenses; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Bobzien, Smith, Leslie, Parnell, Anderson, Goicoechea, Kirkpatrick, and Settelmeyer:

Assembly Bill No. 353—AN ACT relating to property; revising the abatement procedures and penalties for a violation of certain state laws that prohibit public nuisances; providing that those same procedures and penalties apply to a violation of a city or county ordinance that prohibits public nuisances; expanding the applicability of certain abatement procedures available to a board of county commissioners to include specifically the abatement of a public nuisance; authorizing the solid waste management authority in certain counties to establish a program for the control of unlawful dumping; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Goedhart, Cobb, Gustavson, Hambrick, McArthur, Stewart, and Woodbury; Senator Rhoads:

Assembly Bill No. 354—AN ACT relating to agriculture; requiring the Director of the State Department of Agriculture to appoint a person as a resource management specialist in the Department; setting forth the duties of the person appointed; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblymen Goedhart, Cobb, Gustavson, Hambrick, Hardy, Settelmeyer, Stewart, and Woodbury; Senator McGinness:

Assembly Bill No. 355—AN ACT relating to public utilities; providing simplified procedures for certain public utilities to change rates for water or sewage disposal; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Ohrenschall, McClain, Aizley, Anderson, Carpenter, Manendo, Mortenson, and Segerblom; Senators Parks, Care, and Schneider:

Assembly Bill No. 356—AN ACT relating to the Public Employees' Retirement System; providing that a person may present certain evidence to the Public Employees' Retirement System Board to be named a survivor beneficiary or additional payee of a deceased member who has not designated a survivor beneficiary or additional payee on a form provided by the System; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Carpenter:

Assembly Bill No. 357—AN ACT making an appropriation to fund a public health nurse in Elko County; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblyman Carpenter (by request):

Assembly Bill No. 358—AN ACT making an appropriation to the Department of Transportation to fund rural transit operations for elderly persons and persons with disabilities; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblymen Woodbury, Hardy, Gansert, Ohrenschall, Aizley, Atkinson, Bobzien, Christensen, Claborn, Denis, Dondero Loop, Goedhart, Goicoechea, Hambrick, Hogan, Kihuen, Kirkpatrick, Manendo, Munford, Oceguera, Pierce, Settelmeyer, Spiegel, and Stewart; Senators Breeden, Schneider, and Woodhouse:

Assembly Bill No. 359—AN ACT relating to education; requiring the boards of trustees of school districts and the governing bodies of charter schools to ensure that certain personnel possess the skills and qualifications

necessary to work with pupils with autism; prescribing the qualifications for a paraprofessional who assists pupils with autism; requiring the Health Division of the Department of Health and Human Services to ensure that certain personnel possess the skills and qualifications necessary to provide services to children with autism and their families; and providing other matters properly relating thereto.

Assemblywoman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Goicoechea, Gustavson, and Settelmeyer (by request):

Assembly Bill No. 360—AN ACT relating to special districts; authorizing the creation of certain special districts to manage certain federal funds provided to the State; requiring that certain federal funds be distributed directly to certain special districts; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman McArthur:

Assembly Bill No. 361—AN ACT relating to common-interest communities; providing that, under certain circumstances, a unit-owners' association may, without liability for trespass, enter the grounds of a vacant unit or a unit in foreclosure to abate a public nuisance or maintain the exterior of the unit; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblyman Claborn:

Assembly Bill No. 362—AN ACT relating to wildlife; revising provisions governing the use of the fee charged for processing an application for a game tag; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblywoman Leslie and Senator Care:

Assembly Bill No. 363—AN ACT relating to graywater; requiring the State Board of Health to adopt regulations concerning systems for the collection and application of graywater for a single-family residence; providing that state and local government agencies must not require a permit for or prohibit the collection and application of graywater for a single-family residence that meets certain requirements; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblymen Mastroluca, Buckley, Leslie, Smith, Denis, and Pierce:

Assembly Bill No. 364—AN ACT relating to the protection of children; making various changes to provisions governing the court-ordered admission of a child to a locked facility; requiring a court to provide for visitation of siblings who are separated after the parental rights of their parents are terminated; requiring the development of policies concerning certain medication given to children with emotional disturbances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblywoman Leslie:

Assembly Bill No. 365—AN ACT relating to health insurance; requiring policies of health insurance to provide coverage for treatment of an eating disorder; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Mastroluca, Conklin, Kirkpatrick, and Pierce:

Assembly Bill No. 366—AN ACT relating to deceptive trade practices; establishing a private right of action for civil remedies for a person injured by a person engaging in a deceptive trade practice; revising the definition of "deceptive trade practice"; revising provisions governing actions by victims of fraud; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Settelmeyer, Cobb, Hardy, Anderson, Carpenter, Christensen, Conklin, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Kirkpatrick, Mastroluca, McArthur, McClain, Segerblom, Stewart, and Woodbury:

Assembly Bill No. 367—AN ACT relating to departments of alternative sentencing; authorizing a department of alternative sentencing to supervise certain persons who are released from custody before trial or sentencing; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblymen Stewart, Hardy, Christensen, Claborn, Gustavson, Hambrick, Munford, Settelmeyer, and Woodbury:

Assembly Bill No. 368—AN ACT relating to mental health; authorizing courts to admit involuntarily certain persons suffering from mental illness to programs for community-based or outpatient services under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblyman Mortenson:

Assembly Bill No. 369—AN ACT relating to taxation; revising the provision providing property tax exemptions for the property of certain nonprofit organizations; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblyman Carpenter:

Assembly Bill No. 370—AN ACT relating to pharmacies; providing for the establishment of remote sites, satellite consultation sites and telepharmacies; requiring the State Board of Pharmacy to adopt regulations for the operation of such establishments; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblyman Ohrenschall:

Assembly Bill No. 371—AN ACT relating to taxicabs; requiring the Taxicab Authority to consider the interests of taxicab drivers in making certain decisions; providing that the Taxicab Authority must consider certain factors before establishing a permanent increase in the existing allocations of taxicabs; prohibiting a certificate holder from terminating the employment of a taxicab driver under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblyman Carpenter:

Assembly Bill No. 372—AN ACT relating to commercial motor vehicles; revising provisions regarding gross vehicle weight ratings and enforcement of weight limitations on certain motor vehicles and motor carriers; providing

for administrative fines for certain violations by motor carriers; revising provisions relating to purchase by motor carriers of temporary permits; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblywoman McClain:

Assembly Bill No. 373—AN ACT making an appropriation to the Office of Veterans' Services for the State's share of the cost of establishing a veterans' home in northern Nevada; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblywoman McClain:

Assembly Bill No. 374—AN ACT relating to the Public Employees' Retirement System; revising provisions governing the employment of retired public employees with public employers under the System; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblywoman McClain:

Assembly Bill No. 375—AN ACT relating to state financial administration; requiring a portion of the proceeds of property taxes currently levied for cooperative extension programs to be used by the Aging Services Division of the Department of Health and Human Services for services for senior citizens; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblyman Hogan:

Assembly Bill No. 376—AN ACT relating to water; requiring certain suppliers of water that wish to change the rates they charge for the use of water to estimate the amount of water that will be conserved by the change in rates; imposing certain reporting requirements on those suppliers of water; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Bobzien:

Assembly Bill No. 377—AN ACT relating to water; imposing an additional condition on the approval by the State Engineer of an application for the beneficial use of water; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Oceguera:

Assembly Bill No. 378—AN ACT relating to liquor; authorizing a wholesale dealer to receive original packages of a brand of liquor from an affiliate of the wholesale dealer located outside this State under certain circumstances; prohibiting a supplier from unreasonably withholding or delaying its approval of certain decisions relating to a franchise with a wholesaler under certain circumstances; imposing other prohibitions on a supplier; providing a remedy for violations; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Segerblom, Leslie, Dondero Loop, Horne, Manendo, Mortenson, and Ohrenschall; Senator Carlton:

Assembly Bill No. 379—AN ACT relating to health care; revising provisions governing the amount and type of care which certain hospitals must provide to indigent patients; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblymen Hambrick, Anderson, Carpenter, Dondero Loop, Horne, Manendo, Ohrenschall, and Parnell:

Assembly Bill No. 380—AN ACT relating to crimes; providing for the freezing and forfeiture of the assets of a person who commits certain offenses involving the pandering or prostitution of a child; imposing a civil penalty against a person convicted of certain offenses involving the pandering or prostitution of a child; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Segerblom, Ohrenschall, Anderson, and Mortenson:

Assembly Bill No. 381—AN ACT relating to trade practices; making provisions in certain contracts that require arbitration void and unenforceable

under certain circumstances; requiring certain disclosures by arbitral organizations; requiring certain disclosures in agreements to arbitrate; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywoman McClain:

Assembly Bill No. 382—AN ACT relating to crimes; revising the provisions pertaining to the persons who are required to report the abuse, neglect, exploitation or isolation of an older person; revising the provisions pertaining to the persons who are required to report the abuse, neglect, exploitation or isolation of a vulnerable person; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblyman Hardy and Senator Hardy:

Assembly Bill No. 383—AN ACT providing a charter for the City of Laughlin, in Clark County, Nevada; providing for an election to be held on the question of incorporation; making the incorporation of the City contingent upon approval of this act by qualified electors of the city; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Kihuen, Manendo, Anderson, Denis, Gustavson, Hambrick, Horne, McArthur, Mortenson, Munford, Ohrenschall, and Segerblom:

Assembly Bill No. 384—AN ACT relating to crimes; revising provisions making it a crime for prisoners to commit certain acts involving human excrement or bodily fluid; requiring certain law enforcement agencies to pay for certain examinations and testing requested by certain officers and employees who are victims of such a crime; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblyman Horne:

Assembly Bill No. 385—AN ACT relating to supervision of convicted persons; making various changes concerning the maximum caseload of each parole and probation officer who supervises convicted persons; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblyman Horne (by request):

Assembly Bill No. 386—AN ACT relating to taxes on retail sales; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption from the tax for hearing aids, hearing aid accessories and ophthalmic or ocular devices or appliances sold to senior citizens; providing for the exemptions from certain analogous taxes if the voters approve this amendment to the Sales and Use Tax Act of 1955; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Concurrent Committees on Taxation and Ways and Means.

Motion carried.

By Assemblymen Conklin, Kirkpatrick, Leslie, Buckley, Oceguera, and Bobzien:

Assembly Bill No. 387—AN ACT relating to public utilities; requiring public utilities to submit certain information regarding renewable energy to the Public Utilities Commission of Nevada; authorizing the Commission to approve construction or expansion of transmission facilities based on an expectation of future renewable energy development; revising provisions requiring certain providers of electric service to comply with a portfolio standard for renewable energy; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Anderson and Manendo:

Assembly Bill No. 388—AN ACT relating to gaming; revising the definition of "sports pools"; revising the provisions relating to the operation of gaming salons; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Parnell, Horne, Anderson, Kihuen, Koivisto, Carpenter, Conklin, Dondero Loop, Grady, Gustavson, Hambrick, Manendo, McArthur, Mortenson, Oceguera, Ohrenschall, and Segerblom; Senator Amodei:

Assembly Bill No. 389—AN ACT relating to personal identifying information; prohibiting a person from printing certain information concerning a credit card or debit card on any copy of a receipt retained by the

person; providing civil and criminal penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Stewart, Claborn, Hambrick, and Munford:

Assembly Bill No. 390—AN ACT relating to business brokers; revising the definition of "business broker"; revising certain requirements to engage in the business of a business broker; revising certain continuing education requirements for business brokers; revising certain requirements for the appointment of designated business brokers for the supervision of other business brokers; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywoman Koivisto:

Assembly Bill No. 391—AN ACT relating to tanning establishments; requiring that operators of tanning equipment be at least 18 years of age; restricting the use of tanning equipment by minors; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywoman Koivisto:

Assembly Bill No. 392—AN ACT relating to public works; requiring a public body to provide for the negotiation of a project labor agreement on a large-scale public work and to require a contractor or subcontractor to become a party to the project labor agreement as a condition of being awarded a contract; providing an exception; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblywoman Smith:

Assembly Bill No. 393—AN ACT relating to education; revising provisions relating to the enrollment of pupils in charter schools; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblyman Mortenson:

Assembly Bill No. 394—AN ACT relating to cooperative agreements; creating an advisory bistate commission to study various environmental and land-use issues that are common to the areas of Nye County, Nevada, Clark County, Nevada, Inyo County, California, and San Bernardino County, California, and make recommendations to certain governing bodies; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Aizley, Buckley, Bobzien, Kirkpatrick, Leslie, Pierce, and Smith; Senator Parks:

Assembly Bill No. 395—AN ACT relating to state employees; authorizing discussions of workplace relations for certain state employees; changing the name of the Local Government Employee-Management Relations Board to the Public Employment Relations Board; expanding the duties of the Board to include discussions of workplace relations for certain state employees; providing for workplace relations units of state employees and for their representatives; establishing procedures for discussing workplace relations and for making and amending workplace relations agreements; prohibiting certain unfair labor practices; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Gansert, Grady, Hambrick, Hardy, Settelmeyer, and Woodbury:

Assembly Bill No. 396—AN ACT relating to vehicles; authorizing the optional registration of vehicles for a 2-year period; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Hardy, Gansert, Goedhart, Hambrick, and Stewart; Senator Hardy:

Assembly Bill No. 397—AN ACT relating to community redevelopment; authorizing redevelopment agencies to expend money to improve schools located within redevelopment areas; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Hardy, Gansert, Goedhart, Hambrick, and Stewart:

Assembly Bill No. 398—AN ACT relating to public health; limiting disclosure of certain records of a health authority; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Gansert, Grady, Hambrick, Hardy, Settelmeyer, and Woodbury:

Assembly Bill No. 399—AN ACT relating to insurance; requiring the Commissioner of Insurance to establish and maintain a centralized database for the electronic interchange of certain information; requiring persons administering a publicly sponsored health plan to establish primacy before paying any claim for benefits; requiring the Division of Health Care Financing and Policy of the Department of Health and Human Services to respond to certain inquiries from the Commissioner of Insurance; providing civil penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Settelmeyer, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, and Hardy:

Assembly Bill No. 400—AN ACT relating to the taxation of property; limiting the methods allowed for determining the taxable value of land by appraisal; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblyman Bobzien:

Assembly Bill No. 401—AN ACT relating to the Nevada System of Higher Education; extending the authority of the Board of Regents of the University of Nevada to issue bonds and other securities for certain projects; amending the names of certain colleges; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Concurrent Committees on Government Affairs and Ways and Means.

Motion carried.

By Assemblymen Bobzien and Leslie; Senator Parks:

Assembly Bill No. 402—AN ACT relating to public utilities; providing that certain entities must be included as parties to a public hearing concerning a resource plan of a public utility; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Settelmeyer, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hardy, Stewart, and Woodbury:

Assembly Bill No. 403—AN ACT relating to taxes on retail sales; revising various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to authorize the Legislature to amend or repeal a provision of that Act without additional voter approval when necessary to resolve a conflict with a federal law or interstate agreement for the administration of sales and use taxes; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblymen Gansert, Goicoechea, Grady, Hambrick, Hardy, Settelmeyer, and Woodbury:

Assembly Bill No. 404—AN ACT relating to state financial administration; requiring the State Controller to return to the Indigent Accident Account of the Fund for Hospital Care to Indigent Persons certain money that was previously transferred out of that Account; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblyman Bobzien and Senator Parks:

Assembly Bill No. 405—AN ACT relating to the Division of Industrial Relations of the Department of Business and Industry; providing that certain measures intended to reduce operating costs must be allowed in buildings; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Gansert, Grady, Hambrick, Hardy, Settelmeyer, and Woodbury:

Assembly Bill No. 406—AN ACT relating to public employees; creating the State Retirees' Health and Welfare Benefits Defined Contribution Fund as an irrevocable trust to fund premiums and contributions for health and welfare benefits for certain state retirees; providing for the administration of the Fund; limiting certain expenditures by the Board of the Public

Employees' Benefits Program and limiting assessments by the Department of Administration to fund a portion of the costs of premiums or contributions for the Program to state retirees who begin full-time employment before a certain date; prohibiting a state agency from paying any part of the premiums or contributions for the Program for employees who have not completed at least 10 years of full-time employment; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Bobzien and Smith; Senator Parks:

Assembly Bill No. 407—AN ACT relating to motor vehicles; increasing the fee for the reinstatement of a driver's license or commercial driver's license that has been suspended, revoked, cancelled or disqualified under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblyman Christensen:

Assembly Bill No. 408—AN ACT relating to crimes; revising the definition of an "act of terrorism"; increasing the penalty for racketeering; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Bobzien, Pierce, Anderson, Claborn, Kirkpatrick, Koivisto, Leslie, and McClain:

Assembly Bill No. 409—AN ACT relating to public employees; requiring the Local Government Employee-Management Relations Board to conduct certain hearings using certain hearing officers; revising provisions governing the appointment of members to the Board; eliminating the Board's authority to appoint certain officers; revising the periods within which the Board must hear and decide certain complaints; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Claborn:

Assembly Bill No. 410—AN ACT relating to industrial insurance; allowing the provisions of certain collective bargaining agreements to supersede various statutory provisions relating to industrial insurance; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Claborn and Kirkpatrick:

Assembly Bill No. 411—AN ACT relating to contractors; prohibiting contractors from hiring certain employees for work relating to plumbing; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Claborn, Atkinson, Bobzien, Gustavson, Hambrick, Hogan, Horne, Leslie, Manendo, McClain, Mortenson, and Stewart:

Assembly Bill No. 412—AN ACT relating to traffic laws; authorizing an operator of a tow car to tow an occupied vehicle under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblyman Claborn:

Assembly Bill No. 413—AN ACT relating to elections; enacting the Agreement Among the States to Elect the President by National Popular Vote; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Claborn, Atkinson, Bobzien, Hambrick, Hogan, Leslie, Manendo, McClain, Mortenson, and Stewart:

Assembly Bill No. 414—AN ACT relating to air pollution; providing for a voluntary program of electronic submission of emissions information to the Department of Motor Vehicles through the use of onboard diagnostic and transmission equipment; providing for the establishment of standards for emissions from a reconstructed vehicle; revising provisions for the establishment of standards for emissions from a trimobile; revising provisions relating to the emissions inspections of certain heavy-duty diesel vehicles by the Department; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess until 5 p.m.

Motion carried.

Assembly in recess at 12:23 p.m.

ASSEMBLY IN SESSION

At 5:20 p.m.
Madam Speaker presiding.
Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Goicoechea, Carpenter, Goedhart, Grady, Hardy, Settelmeyer, and Stewart; Senator Rhoads:

Assembly Bill No. 415—AN ACT relating to counties; authorizing certain smaller counties to combine or separate certain county offices after approval by a vote of the residents of the county; making the County Clerk the ex officio County Treasurer in White Pine County except in certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Goicoechea, Carpenter, Leslie, Gansert, Goedhart, Grady, Hardy, and Smith; Senator Rhoads:

Assembly Bill No. 416—AN ACT relating to water; requiring the State Engineer or a person designated by him to conduct an inventory of a basin before approving an application for an interbasin transfer of groundwater under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Kirkpatrick, Atkinson, and Pierce:

Assembly Bill No. 417—AN ACT relating to traffic laws; revising provisions governing the operation of vehicles on highways and controlled-access highways; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Kirkpatrick, Smith, Leslie, Bobzien, Koivisto, Mastroluca, McClain, Parnell, and Pierce:

Assembly Bill No. 418—AN ACT relating to credit reporting; prohibiting the consideration of certain unpaid or unsettled medical bills under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Goicoechea and Carpenter; Senator Rhoads (by request):

Assembly Bill No. 419—AN ACT relating to county treasurers; making the County Clerk the ex officio County Treasurer in White Pine County; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Kirkpatrick, Smith, Anderson, Bobzien, Koivisto, Leslie, Mastroluca, McClain, Parnell, and Pierce:

Assembly Bill No. 420—AN ACT relating to care of children; clarifying that a convention hall or other convention facility may be an "accommodation facility" subject to certain provisions if it operates a licensed child care facility; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblymen Munford, Manendo, McClain, Mortenson, and Stewart:

Assembly Bill No. 421—AN ACT relating to education; prohibiting the governing body of a charter school from contracting with certain entities which are conducted for profit for the provision of certain services, programs and personnel; revising the provisions governing the membership of a committee to form a charter school; revising the provisions governing the membership of the governing body of a charter school; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Smith, Buckley, Leslie, Anderson, Kirkpatrick, Bobzien, Conklin, Denis, Hardy, Koivisto, Mastroluca, McClain, Oceguera, and Parnell:

Assembly Bill No. 422—AN ACT relating to the financing of local improvements; making various changes regarding certain types of financing using revenue pledged from sales and use taxes; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Manendo (by request):

Assembly Bill No. 423—AN ACT relating to manufactured home parks; requiring landlords to reduce the rent for certain older persons who are tenants of manufactured home parks; establishing the eligibility and procedural requirements which must be satisfied before such a person receives a reduction in rent; establishing the procedures by which a landlord may object to a reduction in rent; providing remedies and administrative civil penalties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Munford, Kihuen, McClain, Mortenson, and Pierce:

Assembly Bill No. 424—AN ACT relating to parole; requiring the release of certain offenders on parole when they become eligible; revising the considerations for determining whether to grant parole; making various other changes to provisions relating to parole; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By Assemblymen Dondero Loop, Parnell, Horne, Kihuen, Arberry, Bobzien, Conklin, Denis, Goicoechea, Gustavson, Hambrick, Koivisto, Manendo, Mastroluca, McClain, Mortenson, Ohrenschall, Segerblom, and Smith:

Assembly Bill No. 425—AN ACT relating to education; authorizing the Superintendent of Public Instruction to issue an additional license to teach elementary education, middle school or junior high school education or secondary education to certain licensed teachers; revising provisions governing the reciprocal licensure of teachers and other educational personnel; requiring the Commission on Professional Standards in Education to conduct a review of the regulations of the Commission governing the licensure and endorsement of special education teachers; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Pierce, Arberry, Atkinson, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, McClain, Mortenson, Munford, Oceguera, Ohrenschall, and Segerblom; Senators Parks, Copening, and Wiener:

Assembly Bill No. 426—AN ACT relating to recycling; prohibiting a manufacturer from selling or offering or delivering for sale in this State certain electronic devices under certain circumstances; requiring a manufacturer of such an electronic device to register with the Division of

Environmental Protection of the State Department of Conservation and Natural Resources under certain circumstances; requiring the payment of annual registration fees and recycling fees; prohibiting a retailer from selling or offering or delivering for sale in this State such an electronic device under certain circumstances; requiring the Division to prepare a monthly list of registered manufacturers; enacting other provisions relating to the recycling of such electronic devices; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By Assemblymen Grady, McClain, Carpenter, Gansert, Hambrick, Parnell, Segerblom, and Settelmeyer; Senators Amodei and Washington:

Assembly Bill No. 427—AN ACT relating to the taxation of property; providing for the agricultural use assessment of real property used for grazing estray or feral horses pursuant to an agreement with the State Department of Agriculture; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Concurrent Committees on Natural Resources, Agriculture, and Mining and Taxation.

Motion carried.

By Assemblymen Dondero Loop, Parnell, Horne, Kihuen, Arberry, Bobzien, Conklin, Denis, Goicoechea, Hambrick, Koivisto, Manendo, Mastroluca, McClain, Mortenson, Ohrenschall, Segerblom, and Smith:

Assembly Bill No. 428—AN ACT relating to education; authorizing the issuance and renewal of a special qualifications license to certain applicants who hold a bachelor's degree; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Smith, Anderson, Hardy, Buckley, Gansert, Leslie, and Parnell; Senator Mathews:

Assembly Bill No. 429—AN ACT relating to education; revising the provisions governing the required minimum expenditures for textbooks, instructional supplies and instructional hardware; revising provisions governing certain reporting required of university schools for profoundly gifted pupils; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Concurrent Committees on Education and Ways and Means.

Motion carried.

By Assemblymen Pierce, Koivisto, Arberry, Atkinson, Hogan, Horne, Kihuen, Kirkpatrick, Leslie, McClain, Mortenson, Munford, Oceguera, Ohrenschall, and Segerblom; Senator Parks:

Assembly Bill No. 430—AN ACT relating to children's products; prohibiting the advertisement, sale, lease, sublet or distribution of children's products under certain circumstances; prohibiting certain commercial activity regarding unsafe cribs; providing that a violation of provisions relating to unsafe cribs or to children's products is a deceptive trade practice; authorizing the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to ban or designate as a health or safety hazard any children's product; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Koivisto, Claborn, McClain, Kirkpatrick, Goedhart, Goicoechea, and Parnell:

Assembly Bill No. 431—AN ACT relating to verification of immigration status; making various changes concerning the verification of the immigration status of public employees and certain employees who work on a public works contract; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Smith and Oceguera:

Assembly Bill No. 432—AN ACT relating to intoxicating liquors; revising provisions relating to alcoholic beverage awareness programs; providing for enforcement of certain provisions by peace officers; revising the distribution of civil fines paid for certain violations; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblymen Pierce, Horne, Buckley, Arberry, Atkinson, Hogan, Kihuen, Kirkpatrick, Leslie, McClain, Mortenson, Munford, Oceguera, Ohrenschall, and Segerblom; Senator Parks:

Assembly Bill No. 433—AN ACT relating to county hospitals; requiring a county hospital to provide cancer treatment as part of its care to indigent persons; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By Assemblymen Cobb, Carpenter, Christensen, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, and Woodbury:

Assembly Bill No. 434—AN ACT relating to retirement benefits; creating a Public Employees' Retirement Management Board; requiring the Board to establish a defined contribution retirement plan for public employees; requiring new public employees to participate in the retirement plan; providing for the forfeiture of public employee retirement benefits if the employee is convicted of certain crimes; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Pierce, Ohrenschall, Arberry, Hogan, Kihuen, Kirkpatrick, Mortenson, Munford, and Segerblom; Senator Parks:

Assembly Bill No. 435—AN ACT relating to elections; limiting the use of mechanical voting systems whereby a vote is cast on a device which directly records the vote electronically to use by persons with disabilities; requiring the Secretary of State to adopt regulations to establish a system of auditing the results of votes cast on mechanical voting systems; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Smith, Conklin, Buckley, Oceguera, Gansert, and Leslie:

Assembly Bill No. 436—AN ACT relating to industrial insurance; providing for additional annual payments to certain persons entitled to receive death benefits; providing for an annual increase in certain death benefits; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Smith, Bobzien, Kirkpatrick, Buckley, and Oceguera:

Assembly Bill No. 437—AN ACT relating to wildlife; requiring the Board of Wildlife Commissioners to establish a program for the issuance of additional big game tags to be known as "Dream Tags"; providing for the sale of such tags by the Department of Wildlife to a nonprofit organization with certain qualifications; providing for the resale of the tags by the nonprofit organization and the expenditure of the money received by the nonprofit organization from the resale of the tags; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Concurrent Committees on Natural Resources, Agriculture, and Mining and Ways and Means.

Motion carried.

By Assemblymen Bobzien, Leslie, Smith, Hardy, Buckley, Anderson, Atkinson, Denis, Dondero Loop, Horne, Kirkpatrick, Koivisto, Manendo, McClain, Ohrenschall, Parnell, and Segerblom:

Assembly Bill No. 438—AN ACT relating to health insurance; requiring a notice of noncoverage of a medical condition to be included on the first page of a policy of health insurance, contract for health insurance or health care plan under certain circumstances; requiring the filing of a report concerning the notice of noncoverage; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Hardy, Gansert, Goedhart, Goicoechea, Hambrick, and Stewart:

Assembly Bill No. 439—AN ACT relating to health insurance; allowing basic coverage policies and plans for individuals to exclude certain mandatory coverage; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Hardy, Goedhart, Goicoechea, and Stewart:

Assembly Bill No. 440—AN ACT relating to public employees; repealing the prospective expiration of provisions governing the reemployment of certain retired public employees who are hired to fill positions for which there is a critical labor shortage; prohibiting such employees from reenrolling in the Public Employees' Retirement System; limiting the compensation and certain benefits paid to such employees; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Ohrenschall, Bobzien, Aizley, Buckley, Claborn, Denis, Goedhart, Goicoechea, Hambrick, Hogan, Kihuen, Koivisto, Leslie, Manendo, McClain, Mortenson, Munford, Oceguera, Parnell, and Segerblom; Senator Parks:

Assembly Bill No. 441—AN ACT relating to vehicles; clarifying that an electric bicycle is not a moped; requiring the owner of a moped or an electric bicycle to obtain a permit from the Department of Motor Vehicles; requiring

the owner of a moped to provide liability insurance; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Kirkpatrick, Segerblom, Conklin, Goicoechea, Munford, Pierce, and Smith; Senator Cegavske and Horsford:

Assembly Bill No. 442—AN ACT relating to lobbying; prohibiting an entity of the Executive, Legislative or Judicial Department of State Government, and local governments, from expending money for lobbying activities; prohibiting certain persons from receiving compensation or reimbursement for engaging in lobbying activities; prohibiting a person from expending money from a legislative appropriation or authorization for lobbying activities; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblywoman Leslie:

Assembly Bill No. 443—AN ACT relating to local government; creating a sixth ward for the City of Reno; requiring that the candidates for Councilman in the City of Reno and in the City of Sparks be voted for in a general election only by the registered voters of the ward that a candidate seeks to represent; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Concurrent Committees on Government Affairs and Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblywomen Kirkpatrick and Smith:

Assembly Bill No. 444—AN ACT relating to taxation; repealing certain tax abatements and credits granted to certain businesses; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Concurrent Committees on Government Affairs and Taxation.

Motion carried.

By Assemblyman Denis:

Assembly Bill No. 445—AN ACT relating to therapists; establishing provisions relating to the licensure of music therapists; replacing the Board of Massage Therapists with a new Board of Massage and Music Therapists; providing penalty; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblywoman Buckley:

Assembly Bill No. 446—AN ACT relating to state financial administration; revising certain requirements for the proposed budget of the Executive Department of the State Government; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblyman Arberry:

Assembly Bill No. 447—AN ACT relating to vehicles; revising provisions governing when a vehicle which has been wrecked, destroyed or otherwise damaged is a "total loss vehicle" based on its cost of repair; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Bobzien, Conklin, and Leslie; Senator Parks:

Assembly Bill No. 448—AN ACT relating to energy; providing for the participation in the Solar Energy Systems Incentive Program of a utility that operates a solar energy system pursuant to a solar power purchase agreement; requiring the Public Utilities Commission of Nevada to establish and maintain an Internet website to provide certain information to applicants for participation in the Solar Program; requiring a participant in the Solar Program to complete installation of a solar energy system within a specified time; providing for the withdrawal of a participant from the Solar Program or the Wind Energy Systems Demonstration Program under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblyman Arberry:

Assembly Bill No. 449—AN ACT relating to property; removing the cap on the amount of the homestead exemption; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Gustavson, Cobb, Goicoechea, Hambrick, and McArthur:

Assembly Bill No. 450—AN ACT relating to taxation; repealing the business excise tax; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblyman Arberry:

Assembly Bill No. 451—AN ACT relating to state obligations; establishing a program for the issuance of state obligations to provide venture capital to certain minority-owned businesses in this State; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Arberry:

Assembly Bill No. 452—AN ACT relating to real property; revising provisions relating to a notice of sale of real property under execution; establishing the crime of defacing a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale; establishing rights and duties of a purchaser of real property pursuant to a foreclosure sale and establishing rights and duties of a tenant in possession of such property; revising provisions relating to a sale of real property pursuant to a trustee's power of sale; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Woodbury, Hardy, Carpenter, Christensen, Claborn, Cobb, Goedhart, Goicoechea, Grady, Hambrick, Manendo, and Stewart; Senator Cegavske:

Assembly Bill No. 453—AN ACT relating to education; revising provisions governing programs of incentive pay for certain employees of school districts; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By Assemblymen Ohrenschall, Buckley, Manendo, Segerblom, Kihuen, Aizley, Anderson, Bobzien, Claborn, Conklin, Denis, Goicoechea, Hogan, Koivisto, Leslie, Mastroluca, McClain, Mortenson, Munford, Oceguera, Pierce, and Smith; Senators Parks, Carlton and Lee:

Assembly Bill No. 454—AN ACT relating to housing; revising certain provisions relating to the grounds of termination for certain rental or lease agreements affecting certain tenants in a manufactured home park; revising certain costs a landlord is required to pay in association with the closing or conversion of a manufactured home park; revising certain provisions relating to an appeal from a judgment in an unlawful detainer action; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Woodbury, Hardy, Aizley, Atkinson, Carpenter, Christensen, Claborn, Cobb, Denis, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Manendo, Spiegel, and Stewart; Senator Cegavske:

Assembly Bill No. 455—AN ACT relating to motor vehicles; authorizing the Department of Motor Vehicles to enter into agreements that authorize certain common, contract and private motor carriers and certain businesses or organizations to register motor vehicles without applying to the Department and to issue motor vehicle registration credentials on behalf of the Motor Carrier Division of the Department; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblymen Bobzien, Leslie, Anderson, Denis, Dondero Loop, Manendo, Mastroluca, Ohrenschall, Parnell, and Segerblom; Senator Parks:

Assembly Bill No. 456—AN ACT relating to energy; requiring the Director of the Office of Energy within the Office of the Governor to create a list of approved renewable energy installations and energy efficiency improvements for residential property; allowing a local governing body to establish a district to finance renewable energy installations and energy efficiency improvements for residential property; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By Assemblymen Ohrenschall, Anderson, Arberry, Atkinson, Bobzien, Buckley, Claborn, Conklin, Denis, Goedhart, Goicoechea, Hambrick, Hogan, Kihuen, Koivisto, Leslie, Manendo, McClain, Mortenson, Munford, and Segerblom; Senators Parks and Lee:

Assembly Bill No. 457—AN ACT relating to residential property; revising certain provisions relating to the energy efficiency of residential dwellings; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblywomen Buckley, Smith, Parnell, and Kirkpatrick:

Assembly Bill No. 458—AN ACT relating to public financial administration; creating the K-12 Public Education Stabilization Account; repealing the provisions applying certain tax abatements to taxes imposed for public education and authorizing certain tax credits against taxes imposed for public education; exempting certain taxes imposed for public education from the reallocation of property taxes levied on property in a redevelopment area; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblywoman McClain:

Assembly Bill No. 459—AN ACT relating to the military; providing for the safekeeping of certain abandoned property; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblywoman Parnell:

Assembly Bill No. 460—AN ACT relating to the Public Employees' Benefits Program; revising the membership of the Board of the Public Employees' Benefits Program; prohibiting the Board from entering into certain contracts; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblywoman McClain:

Assembly Bill No. 461—AN ACT relating to older persons; revising the provisions pertaining to the persons who are required to report the abuse, neglect, exploitation or isolation of an older person; providing for the establishment of a multidisciplinary team; increasing certain filing fees; making various other changes relating to older persons; making an appropriation; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblymen Ohrenschall and Segerblom:

Assembly Bill No. 462—AN ACT relating to criminal procedure; revising the provisions governing sureties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By Assemblywoman Smith:

Assembly Bill No. 463—AN ACT relating to governmental administration; restricting a department, division or other agency of this State or a local government from employing a person as a consultant; requiring a school district to submit to the Interim Finance Committee a report concerning each consultant employed by the school district; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblyman Hardy and Senator Hardy:

Assembly Bill No. 464—AN ACT relating to transportation; requiring the Department of Transportation to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project and to enter into one or more public-private partnerships to design, construct, develop, finance, operate or maintain the demonstration project; providing for the establishment of tolls, administrative fines and penalties; requiring the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle of a registered owner who fails to pay a required toll for the use of the demonstration project and to otherwise assist in the collection of such tolls, fines and penalties; authorizing the Department of Motor Vehicles to establish certain administrative fees; authorizing the issuance of revenue bonds or notes of the State; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By Assemblyman Grady:

Assembly Bill No. 465—AN ACT relating to assistance to finance housing; making various changes to provisions governing tax credits issued by the Housing Division of the Department of Business and Industry for certain housing development projects; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Settelmeyer, Cobb, Gansert, Goicoechea, and Grady:

Assembly Bill No. 466—AN ACT relating to franchise agreements; revising provisions relating to franchise agreements in certain counties; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Pierce, Claborn, Koivisto, Manendo, and Segerblom:

Assembly Bill No. 467—AN ACT relating to governmental financial administration; revising provisions relating to the prevailing wage requirements; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Gustavson, Cobb, Goedhart, Goicoechea, Grady, Hambrick, and Settelmeyer; Senator McGinness:

Assembly Bill No. 468—AN ACT relating to citizenship; requiring the Office of the Attorney General to negotiate and implement a cooperative law enforcement agreement with the Attorney General of the United States regarding the enforcement of federal immigration laws by certain state and local employees; making various changes concerning the verification of the immigration status of public employees and certain employees who work on public works projects; providing that certain alien students are not eligible to receive certain types of financial assistance through the Nevada System of Higher Education; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 469—AN ACT relating to unemployment compensation; adopting an alternate base period for determining entitlement to unemployment benefits; temporarily authorizing the payment of unemployment benefits for an extended period and increasing the total extended benefit payable under certain circumstances; requiring the Department of Employment, Training and Rehabilitation to take any additional actions necessary to ensure receipt by the State of Nevada of the benefits available for unemployment compensation pursuant to the American Recovery and Reinvestment Act of 2009; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By Assemblyman Anderson:

Assembly Bill No. 470—AN ACT relating to employment practices; prohibiting noncompete agreements for persons who hold a professional license; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Ohrenschall, Bobzien, Segerblom, Leslie, Hogan, Aizley, Arberry, Goedhart, Goicoechea, Kihuen, Mortenson, Munford, Oceguera, and Pierce; Senator Parks:

Assembly Joint Resolution No. 14—Urging the United States Environmental Protection Agency to grant California a waiver to achieve certain reductions in greenhouse gas emissions from motor vehicles.

Assemblyman Ohrenschall moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By Assemblymen Goicoechea, Settelmeyer, Grady, Carpenter, Ohrenschall, Christensen, Cobb, Gansert, Goedhart, Gustavson, Hambrick, Hardy, McArthur, and Stewart:

Assembly Joint Resolution No. 15—Claiming sovereignty under the Tenth Amendment of the U.S. Constitution.

Assemblyman Goicoechea moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Assemblyman Oceguera moved that the action whereby Assembly Bill No. 379 was referred to the Committee on Taxation be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 379 be referred to the Concurrent Committees on Health and Human Services and Taxation.

Motion carried.

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

Assembly in recess at 5:44 p.m.

ASSEMBLY IN SESSION

At 6:07 p.m.

Madam Speaker presiding.

Quorum present.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Concurrent Resolution No. 17—Accepting certain funds for unemployment compensation pursuant to the American Recovery and Reinvestment Act of 2009.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Ways and Means.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students form Wooster High School: Danny Knoob, Kylea Douglas, Trevor Shields, Jared Martinez, Sloan Miller, David Chan, Tim Contreras, Shelby Wharton, Matt Buckelew, Frances McGee, David Berg, Shaeley Widericksen, Sidney Leathers, Tyler Hendricks, Sharat Raghunathan, Nic Phillip, Jennie Mercado, Troy Sherman, Mike Samaniego, Estephania Jimenez, Sharise York, Kevin Razo, Caleb Mills, Holly Schlotzhauer, Matt Stewart-Francis, Tia Riddle, Kevin Singratanakul, Megan Donnelly, Stephanie Carpenter, Maria V. Oliva, and Saige Carruth.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Debbie Bergner and Jackie Bergner.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to William A. Bainter, Tony Almaraz, and Karen Lorenzo.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Barbara Thompson and Lisa Krasner.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Sheila Bazemore.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, March 17, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 6:10 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FORTY-FOURTH DAY

CARSON CITY (Tuesday), March 17, 2009

Assembly called to order at 11:20 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Alan Dorway.

Almighty God, bless those who hold office and lead our state here in the Assembly today. Guide them in their work and enable them to do their job with a spirit of kindness, wisdom, and justice. Let them feel Your grace as they serve faithfully and promote our general welfare. We pray through Your Son, Jesus our Lord.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 141, 248, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARCUS CONKLIN, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 16, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 27.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

March 16, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 3, 10, 16, 71, 113, 117, 148, 152, 153, 155, 182 and 186.

GARY GHIGGERI
Fiscal Analysis Division

SECOND READING AND AMENDMENT

Assembly Bill No. 250.
Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 23.
Bill read third time.
Remarks by Assemblywoman McClain.
Roll call on Assembly Bill No. 23:
YEAS—42.
NAYS—None.
Assembly Bill No. 23 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bill No. 34 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 37.
Bill read third time.
Remarks by Assemblywoman McClain.
Roll call on Assembly Bill No. 37:
YEAS—42.
NAYS—None.
Assembly Bill No. 37 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

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

Assembly in recess at 11:30 a.m.

ASSEMBLY IN SESSION

At 11:31 a.m.
Mr. Speaker pro Tempore presiding.
Quorum present.

Assembly Bill No. 187.
Bill read third time.
Remarks by Assemblymen Buckley and Cobb.
Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Two weeks ago we paid tribute to 47 Nevadans who have died since our last legislative session in either Operation Enduring Freedom or Operation Iraqi Freedom. This bill provides an opportunity to recognize the needs of those veterans who are returning from battle scarred from combat experiences. Physical wounds are sometimes easily identified, but scars are often not physical. Combat exposure damages mental, emotional, and cognitive faculties. Studies of returning vets and service members show histories of depression, Post Traumatic Stress Disorder, and traumatic brain injury. Often these diagnoses lead to a former service member becoming homeless.

The National Coalition for Homeless Veterans estimates that 4,715 of Nevada's veterans are homeless. Homeless veterans find themselves in court on nonviolent, quality of—life offenses: panhandling, loitering, and trespassing. Seventy-six percent of homeless veterans also experience alcohol, drug, and mental health problems and behaviors associated with these disorders land them in court. Research shows that integrated treatment programs through a court process are more successful than mental health substance abuse programs singly.

Assembly Bill 187 authorizes the district court to create an integrated, court-monitored treatment program for eligible veterans charged with a nonviolent crime. Veterans will have access to mental health counseling, Veterans Affairs services, substance abuse treatment, job training, family counseling, and mentoring programs. It allows the criminal judge to suspend the proceedings without entering a judgment of conviction and with the consent of an eligible veteran, place him or her on probation with terms that include successful treatment and completion of a drug treatment program. The court can then seal the record upon successful completion of the rehabilitative treatment ordered by the court. It is similar to other successful specialty courts that this Legislature has approved of over the last 10 to 15 years. Both the Second and Eighth Judicial District Courts are moving ahead to create such courts. This measure is based on a successful court operating in Buffalo, New York. By creating a court to meet the special needs of our returning veterans we will fulfill our unspoken commitment to them that their sacrifice and courage in defense of our country has not gone unnoticed or unappreciated. There have been a couple of critics of this bill who say our veterans don't deserve special treatment. I couldn't disagree more. They put their lives on the line for us and our country and come back, often to federally given care that is grossly deficient. I think this is the least we can do as a state, and I urge your support.

ASSEMBLYMAN COBB:

Thank you. There was discussion in committee about this bill and what we do for our veterans. I just want to rise in support of it. I hope everyone understands that oftentimes it is tough for those who have served our country to ask for help. It is hard to describe some of the issues that they may face when they return from a war zone. I think this would go a long way to helping those individuals, by allowing us to reach out and support those people who have served our country. Thank you.

Roll call on Assembly Bill No. 187:

YEAS—42.

NAYS—None.

Assembly Bill No. 187 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 199.

Bill read third time.

Remarks by Assemblywoman Gansert.

Roll call on Assembly Bill No. 199:

YEAS—42.

NAYS—None.

Assembly Bill No. 199 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 242.

Bill read third time.

Remarks by Assemblymen Ohrenschall, Segerblom, and Buckley.

Roll call on Assembly Bill No. 242:

YEAS—42.

NAYS—None.

Assembly Bill No. 242 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed.

Bill ordered transmitted to the Senate.

Mr. Speaker pro Tempore announced if there were no objections, the Assembly would recess in order to receive a special presentation by the Reno Irish Dance Company.

Assembly in recess at 11:46 a.m.

ASSEMBLY IN SESSION

At 12:01 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

Mr. Speaker pro Tempore requested the privilege of the Chair for the purpose of making the following remarks:

I am going to exercise the prerogative of the Chair to show why *Danny Boy* is so special to me. On this day in 1953, my cousin, who had lived with my family for about five years, joined the United States Army. He was in Korea and on this day, St. Patrick's Day, he was killed in action in Korea. It was a particularly difficult time, as a result, for my family. I am happy to report five years ago they made him a citizen of the United States. For those of you who may not realize it, immigrants to this country, by joining the military, do not immediately become a citizen even though they give their life for the country. That is the reason why immigrants are so important to us, always, but it also speaks to the heritage of the Irish in this country. I wanted to indicate why Senator Nolan always picks that particular tune. St. Patrick's Day is always so important to me, personally besides, being Irish and having the right to both smile and cry at the same time.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Brookfield School: Sam Assad, Sutton Delaney, Caellan Enad, Coralyn Fleming, Jacob Fyda, Bodie Glavish, Conner Hlade, Alexandra Hsueh, Anuttham Kandhadai, Kiernyn Loring, Cariana Megahn, Madison Moffett,

Susu Pelger, Grant Plummer, Lindsay Stover, Zachariya Assad, Alexandra Charland, Daniel d'Olimpio, Hunter Ferrel, Sabrina Fovel, Stuart Hayes, Alexandra LaBella, Nichole Leonard, Ashlee Monia, Mary Katherine Pappas, Natalie Phanco, Robert Pillon, Weldon Pitts, Ben Sluchak, Paula Tanesescu, Miranda Weinert, Chandler Zundel; and the following students from Bishop Manogue Catholic High School: Willa Bachman, Nick Brown, Nick DePaoli, Patrick Flaherty, Katherine Gray, Scot Klintworth, Kim Krtinich, Jacob Carrico, J.J. Gallagher, Wen Liu, Morgan Mueller, Alex Nash, Jehovani Ruiz, Dominic Silva-Martin, Joseph Archie, Stephen Bishop, Austin Bunnell, Logan Devalliere, Gabriela Doyle, Kyle Gimple, Spencer Gurries, Adam Heppner, James Lawson, Christopher Lee, John London, Angela Skowronek, Luke Walker, Matthew Myers, Kevin Berry, and Matt Vial; teacher Leslie Raggio Righetti.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Ely Kids Kount: Emily Champie, Ray Williams, Jennie Anderson, Brandon Baker, Cody Britton, Richard Chavez, Taylor Coleman, Shania Cook, Courtney Cunningham, Mandy Dickerman, Shelbie Dunn, Jonathan Farnsworth, Chazz Gregerson, Adrienne Grimes, Emily Herrmann, Chris Hibbs, Boni Horner, Riley Hutchinson, Brittany Johnson, Ashlee Lepak, Liz Lemrick, Cassi Mason, Jonathan Minier, Robert Mossow, Paulette Newman, Shelby Ogden, Ciana Parker, Bruce Pattison, Kourtnie Rice, Sabrina Richards, Victoria Roger, Shawn Roundy, Zachary Snow, Patrick Stogner, Kylee Stork, Dani Wise; chaperones John Plestina, Liz DeMay, Sam Hanson, and David Marz.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Keith Savage.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Jill Hardy, Hannah Larson, and Noah Larson.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Taylor Coleman, Emily Herrmann, and Jonathan Minier.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Candace Kant.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Charisa Williams and Tim Williams.

Assemblyman Oceguera moved that the Assembly adjourn until March 18, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:09 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FORTY-FIFTH DAY

CARSON CITY (Wednesday), March 18, 2009

Assembly called to order at 11:10 a.m.
Madam Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, Father Jeff Paul.

Gracious God, we give thanks for all the blessings of this life, especially for the leadership of Kim Morgan, Bill Swackhamer, and John Marvel, inducted today into the Nevada Assembly Wall of Distinction. As these three have exemplified the spirit of wisdom, charity, and justice, imbue us with that same spirit. Take away any arrogance or hatred which infects our hearts. Break down the walls that separate us. Unite us in bonds of love and work through our struggle and confusion to accomplish Your purposes on Earth, that with steadfast purpose we may follow the example of Kim and Swack and John to faithfully promote the wellbeing of all people so that all nations and races may serve You in harmony. In Your Name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 28, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

SECOND READING AND AMENDMENT

Assembly Bill No. 141.
Bill read second time and ordered to third reading.

Assembly Bill No. 248.
Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 141 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 250.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Assembly Bill No. 250:

YEAS—42.

NAYS—None.

Assembly Bill No. 250 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:18 a.m.

ASSEMBLY IN SESSION

At 11:21 a.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Buckley, Oceguera, and Gansert:

Assembly Resolution No. 5—Adding William D. Swackhamer to the Assembly Wall of Distinction.

WHEREAS, The Assembly of the Legislature of the State of Nevada has established an Assembly Wall of Distinction for those past members selected by leadership who served with great distinction and who made exemplary contributions to the State of Nevada; and

WHEREAS, The members of the Nevada Legislature are saddened by the loss of one of their own, former Assemblyman and Secretary of State William D. Swackhamer; and

WHEREAS, Born in Winnemucca, Nevada, and raised in Battle Mountain, Bill "Swack" Swackhamer joined the U.S. Army Corps in 1943 and fought in Italy during World War II, returning in 1946 to run his family's general store in Battle Mountain; and

WHEREAS, Swack was a shy, modest and unassuming man who enjoyed baseball and books and working in his general store in Battle Mountain; and

WHEREAS, Swack was handpicked by party officials in Lander County to run for the State Assembly and won his first term in 1946, representing the residents of Eureka, Lander and Pershing Counties as Assemblyman from 1946 to 1972, as Speaker of the Assembly for two regular sessions in 1957 and 1965 and for three special sessions in 1958, 1965 and 1966, and as Majority Floor Leader in the 1967 Regular Session and 1968 Special Session of the Legislature; and

WHEREAS, Swack's tenure in the Assembly included 14 regular and seven special legislative sessions, and as Assemblyman, he supported rural interests, including building hospitals, schools and other facilities in rural Nevada, securing funds for the improvement of county roads throughout the State and fighting government waste throughout his political career; and

WHEREAS, Swack made protecting the health and beauty of Lake Tahoe a focus of his career in public service, along with spearheading the effort to institute a gaming tax to create the Capital Construction Fund for Higher Education; and

WHEREAS, Former Speaker Swackhamer was appointed Nevada's Secretary of State in 1973 and won three successive elections, leaving office in 1987 after overseeing the computerization of that office's operations, a remarkable 40 years after his first election to the Assembly; and

WHEREAS, Swack had a wonderfully dry sense of humor and was known to advise other politicians who might be tempted to take themselves too seriously to first look across the aisle and remember, that person too was elected to public office; and

WHEREAS, Bill passed away while staying with his daughter Becky in Idaho on July 10, 2008, at the age of 93 and was buried alongside his beloved wife Joyce in his chosen resting place of Battle Mountain; now, therefore be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That Assemblyman and Secretary of State William D. Swackhamer, who gave 40 years of his life to steadfastly serving all Nevadans with intelligence, candor and determination, is hereby added to the Assembly Wall of Distinction.

Assemblywoman Smith moved the adoption of the resolution.

Remarks by Assemblywoman Smith and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of Assembly Resolution 5. Thank you for giving me this opportunity to say a few words about Bill Swackhamer. He is simply one of the finest public servants this state has ever seen, who like me, I am proud to say, hailed from Battle Mountain. I was not nervous until I walked in this morning and saw so many of my best friends from childhood and adulthood here today.

I didn't have the pleasure of personally knowing Swack, but growing up in Battle Mountain with other members of his family, I can say he was legendary. I certainly feel like I knew him. One thing that everyone who did know him will tell you is that he was a very funny man. When Beverly Harrell, a local madam in Nye County, ran for the Assembly and won her primary, her potential election to this hallowed body apparently worried someone enough that they stole the ballot box from the precinct in the general election. When Miss Harrell called Swack, who was then Secretary of State, to complain, she reportedly said, "Swack, I've been screwed," to which he simply replied, "I've no doubt you have." Sadly for Ms. Harrell, the ballot box was never recovered. While he was clearly an effective, well-respected legislator and Secretary of State, Swack was also an unassuming, friendly man who avoided self-promotion and grandstanding and never thought himself better than others.

One of Swack's deputies at the Secretary of State's office recently remembered the statement that you heard in the resolution—something he told them he thought was good advice for all of us—when he said, "If you ever start taking yourself too seriously, just look at the person seated across the aisle from you and remind yourself that he was also elected by the public." Swack never bragged about being a legislator, even though his accomplishments in this building impacted the lives of virtually every Nevadan for the better. In the early years of his service when he would return home from the Legislature, not everyone knew what he did. He would go back to work in the store, and his customers would sometimes say, "Hey, Swack, where have you been? I haven't seen you for awhile." In fact his wife Joyce said that he did not even tell her that he was an Assemblyman until after they were engaged because he didn't think it was important.

Swack was a veteran of World War II, a devoted husband and father, an exemplary public servant, and a man of grace, charm, wit, and modesty. Can you imagine—he served this state for virtually all of his public life? Again, displaying his wry sense of humor, he said at his retirement lunch in 1987, "You'll never really know how wonderful life is until you run for public office and then get out of it." I am proud to follow in Swack's footsteps from Battle Mountain to the state capital. Like so many in this room, when I look up at the portrait of Abraham Lincoln—that he had installed here—I hope we are all inspired as Swack was to work hard for the people of Nevada and to try every day to do so with humor, kindness, modesty, and

integrity. Swack knew a great leader when he saw one, and today in honoring William Swackhamer, I believe that we, too, are recognizing one of Nevada's great leaders. Thank you, Madam Speaker.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

With the permission of the body, I want to add a few words. When we were making the decision of whom to induct into the Assembly Wall of Distinction, I interviewed a lot of people who have been participating in this democracy and who have followed the work in these halls for many, many years. I heard so much about Swack's contributions, not only here, but as Secretary of State. So many of the comments that my colleagues made were the same ones that I heard—he cared about the state intensely, yet he was so modest and yet so funny. When some of us feel like we have served a long time, we can look at his record of service, and ours pale in comparison. There are so many contributions that we owe to his incredible service, whether creating the higher education funding or the Lake Tahoe funding. We thank you for sharing him with us and with the state.

Resolution adopted unanimously.

By Assemblymen Buckley, Oceguera, and Gansert:

Assembly Resolution No. 6—Adding John W. Marvel to the Assembly Wall of Distinction.

WHEREAS, The Assembly of the Legislature of the State of Nevada has established an Assembly Wall of Distinction for those past members selected by leadership who served with great distinction and who made exemplary contributions to the State of Nevada; and

WHEREAS, A native of this State, John W. Marvel was born in Battle Mountain, Nevada, and graduated from the University of Nevada, Reno; and

WHEREAS, At the urging of Norman Glaser and Dean Rhoads, Mr. Marvel ran for the Nevada Assembly and was first elected in 1978, serving for 30 years, which included 15 regular sessions and 11 special sessions; and

WHEREAS, During his service in the Nevada Legislature, this dedicated public servant was recognized as a leader of utmost integrity, resulting in his party's selecting him for service as Minority Floor Leader in 1993; and

WHEREAS, Assemblyman Marvel contributed in forming policy affecting the people of the State of Nevada by steadfastly working to protect the interests of Nevada's rural counties and successfully sponsoring legislation on a wide variety of subjects, though he is proudest of his legislative efforts to reform the prison system, tax structure and water laws of this State; and

WHEREAS, As an extension of his dedication to our State, this revered Legislator represented Nevada by casting one of its five electoral college votes for the 2004 presidential election; and

WHEREAS, Mr. Marvel earned distinction during his service in the Nevada Legislature through his contributions to national and regional legislative organizations, including the American Legislative Exchange Council and the Western Legislative Conference; and

WHEREAS, This longtime rancher with deep-rooted ties to rural Nevada served as President of the Nevada Cattlemen's Association; and

WHEREAS, A recognized expert in many fields, this distinguished Nevadan served as Chairman of the Nevada Tax Commission and the Lander County Planning Commission and as a member of the Advisory Council to the National Public Land Law Review Commission; and

WHEREAS, His expertise led Assemblyman Marvel to serve as an invaluable member and leader of many legislative committees, including as Chairman of the Ways and Means Committee during the 1985 regular session and Cochairman during the 1995 regular session; and

WHEREAS, Those who have had the good fortune to work with John have exceptionally high opinions of him and fondly regard him as a thoughtful, caring, down-to-earth, responsible man with a great sense of humor, who always thinks of others' needs first; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That Assemblyman John W. Marvel, who dedicated 30 years of his life to representing the interests of all Nevadans in the

State Assembly with diligence, integrity and fairness, is hereby added to the Assembly Wall of Distinction.

Assemblyman Carpenter moved the adoption of the resolution.

Remarks by Assemblymen Carpenter, Smith, Hambrick, Arberry, Grady, Ohrenschall, Christensen, Anderson, Leslie, Oceguera, Gansert, Stewart, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CARPENTER:

It is a great honor and privilege for me to honor my friend, John Marvel. John sat in this seat next to me for a number of years, and he was such a great friend. I think you are going to hear a lot of stories about what John did in the Assembly, but I would like to get back to his roots. His roots were really in the ranching business. John's grandfather, W.T. Jenkins, came here from Wales. He went into the sheep business and made a little money and then went back to Wales and married John's grandmother, Edith. W.T. passed away at an early age, and so Edith had to take over the business. Later on, John's mother Louise and his father Cap Marvel also had to run the business.

We have a story that says that the W.T. Jenkins Company had a permit to run 50,000 head of sheep on the national forest. The rumor was, though, that they had 100,000 sheep. I do not know whether that is true or not. Later on, along with his brothers Dick and Tom, they took over the family business. At that time, they only had about 35, 000 sheep but they had added about 8,000 mother cows, and in those days, they kept the steers until they were two or three years old, so in reality, they had about 15,000 cattle and they had to run two wagons. The wagons went out onto the range and they gathered the cattle up and ran the calves and all those kinds of things. John probably could tell you some stories about his days on the wagon.

John was a heck of a bronco rider. The story is that if a horse wanted to buck with John, he would just throw the reins away and let him try to buck him off. John was a real rancher. I think the way to sum this up and give other people a chance to talk is that John Marvel is a rancher's rancher and a legislator's legislator. Thank you very much, Madam Speaker.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of AR 6. I would be remiss as a Battle Mountain girl if I didn't rise in support of this resolution. Our lives have intertwined since I was a young girl. As I said, many of my best friends are sitting here today. When I arrived in the Legislature, John welcomed me as a colleague. It didn't matter that we were from different parties and didn't matter that we were from different generations. He is a consummate gentleman and teacher and mentor. I appreciate the time I have had to serve with him. Thank you, Madam Speaker.

ASSEMBLYMAN HAMBRICK:

Thank you, Madam Speaker. I rise in support of AR 6. It seems that one day in the 2005 Legislative Session, Mr. Marvel was walking down the hall and had a very worried expression on his face, with his wife being ill at the time. He ran into my attaché, Sheree Rosevear. She was wearing the hat she has on today. John's face lit up. What happened after that? Sheree was so impressed with it that the attachés' Happy Hat Day Contest was begun. They want to continue the tradition this year, and they sincerely hope that John will come back and be a judge at that contest. Thank you, Madam Speaker.

ASSEMBLYMAN ARBERRY:

Thank you, Madam Speaker. I rise in support of this resolution. As you know, I am probably the oldest of the bunch here. I go way back with Mr. Marvel and came in 1985. At that time, the Republicans were controlling this house. They took me under their wing and showed me my way. I have learned a lot, and Mr. Marvel and I became friends over the years. I am proud to say that he is not only a friend, but he is like a brother to me. Not too long ago, Mr. Marvel was under the weather a little bit, and we were having a hearing here in town. Mark Stevens, from

Fiscal said, "Did you know Mr. Marvel is in the hospital?" I said, "No." I immediately left the meeting and went over to see Mr. Marvel. When I got to the hospital, he was in Intensive Care. The nurse asked me, "Well, how do you know Mr. Marvel?" I said, "He is my brother." And they let me in.

Well, they had Mr. Marvel hooked up to all these gadgets and he looked like Dr. Frankenstein. He put a smile on his face and his son told me that he was glad I stopped by to see him. He hadn't had a chance to see his dad smile. That meant so much to me. Over the years, as you know, John and I sat next to each other. I would lean over to the rancher and I would ask, "Mr. Marvel, what is your opinion?" You know he has that gravelly voice and would say, "Well, you know, Moose, I think we need to go this way." I would say, "Mr. Marvel, we are going to go that way."

We served together when Speaker Dini was here, and we had a tied house. It was an honor serving with Mr. Marvel. When Speaker Dini said we would serve as co-chairs, I was honored to serve with him as a co-chair because it was a lot of fun. We still got a lot of things done. The bottom line was what we could do for education. His heart was strong for higher education and educating the kids in the State of Nevada. Mr. Marvel, I miss you, my brother. I miss you every day so take care of yourself.

ASSEMBLYMAN GRADY:

Thank you, Madam Speaker. I stand in support of A.R. 6. Before I started here, I happened to work for the Nevada League of Cities. I asked Mr. Dini, our Speaker Emeritus, who I should get to know in this building. He said, "Besides me, Mr. Carpenter and Mr. Marvel. We in the rurals have to stay together." Then I found out that John was a banker. My previous life was in banking also, so we hit it off. I think one of my proudest moments is today when I can say, "John, you can have your seat back—but only for today."

ASSEMBLYMAN OHRENSCHALL:

Thank you, Madam Speaker. I rise in support of the resolution. I am a sophomore legislator, and I consider myself really lucky that I got to serve with former Assemblyman Marvel. Last session I was a freshman on the Taxation Committee. I figured I would learn pretty fast and it would be no problem at all. I just can't tell you how impressed I was with John Marvel's encyclopedic knowledge of the budget and tax policy. I was really proud one time, last session, on the Natural Resources, Agriculture, and Mining Committee when me, the city slicker, got to vote with my rural colleagues in a little block. The bill didn't pass, but I remember I got to vote with Mr. Marvel and my rural colleagues. I want to thank him for the friendship he has shown to my family. Thank you.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Speaker. I rise in support of A.R. 6. It is such an honor to be able to rise and address these comments to you, Mr. Marvel. A handful of us who are still in this body were elected in 2002. I, too, asked who I should be close to and who really knows what is going on. I don't know that I was smart enough to ask about legislation and who I should go to for that—it was more regarding how do I get around this big building. I was definitely forwarded to you. You and I became very close immediately in that session. What was amazing, looking at the quality of our former colleague, is that even when he was sick—I know he wasn't feeling well, and I'm sure many of us would echo the same comment—his first question whenever he would see me was how my kids were doing, how my wife was doing, how my family was doing, and how I was doing. Again, at a time when I knew he wasn't really feeling well, it just goes to show where his heart was and that he really cared about the people that he served with. He was always putting our needs first. It will always be an honor to be able to say I served with him, a man who has made such a great positive dent on this state.

I just really honor you for all your sacrifice and hard work, both to you and your family. Thank you, Madam Speaker.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I also rise in support of the resolution. I had the opportunity to first meet John in 1987 when an organization that I belonged to and actively worked with at the

time was down here, concerned about finding additional dollars for education. They asked me to go by and speak with Mr. Marvel. It was my pleasure, having gone to college with members of his family and knowing the Marvel reputation and seeing some of his family in rodeos and various places. I thought it would be a great adventure not realizing what a great person I was going to come to know and to respect and to admire for his integrity and his undying love for children and his unwavering affection for his spouse. There is not a moment in the last 10 to 15 years that he has not been concerned about her and has treated each of us as if we were part of that same family. You can look at that long row of guests in the front row and recognize he treats us all with that same level of respect. I would feel remiss if I did not rise and support such a resolution.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of this resolution as well. When I first got assigned to the Audit Subcommittee three interims ago, I thought I was being punished. I really did. I went and Mr. Marvel was serving as the vice-chair when the Democrats were in control—but he was the chair for many years before that, off and on. He quickly made it clear to me that I was not being punished and that it actually was one of the best assignments in the building. We served for a long time on that Audit Subcommittee, which is really where you find out where the bodies are buried in state government. You find out what is working well and what's working not so well, who is doing a good job or who could do a better job. One interim I was chairing, and we asked the state bureaucrats some questions—and I am a bureaucrat, so I recognize a little bull when I hear it, as one bureaucrat to another. The best bull detector on that Audit Subcommittee, though, was John Marvel. Even when he wasn't chairing, he would hear something. You know how you get lulled sometimes in those long hearings, with people going on and on and on? He would cut right to the chase, and he would mumble something into my ear, and I would perk up and think I should pay closer attention to that.

And to tell you about his dedication to that Audit Subcommittee, at our last meeting when we met right before session, our audit staff actually honored Mr. Marvel. I have never seen that done before, where the Audit staff felt so compelled, that they gave him a plaque and made a statement to honor all his years of his work on that subcommittee. I know he takes great pride in that. I learned a lot from you, Mr. Marvel. He always told me to call him John, but I could never do that. I learned a lot from you, and I sincerely appreciate what you taught me and appreciate your service to our state. Thank you.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. I rise in support of A.R. 6. You know, growing up in northern Nevada, there were names that were synonymous with service: Dini, Getto, Carpenter, Jacobsen, and Dodge. Another one of those names for sure was Marvel. When someone like John Marvel would come to town, it was like President Obama coming to town. It was always neat to see.

It was an honor and privilege to be able to serve with Mr. Marvel. I sat in the front row of the Assembly for a few sessions, and I must have learned to speak "Marvel." They would always have someone sitting next to me that was a freshman, and they would say, "What did he say?" So I would translate. Over the years I think I have taught that language to a few freshmen. It was a privilege to do that as well. Thank you, Madam Speaker.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I, too, rise in support of A.R. 6. I have been very honored to serve with Mr. Marvel, and I appreciate all the work he has done. When I first came, I sat at the end of the row in Ways and Means. I sit in his chair now. I am on the cliff. I'm on the edge and have to stand up right. I learned so much. Mr. Marvel was always quite quiet, but every now and then he and Mr. Hettrick would start talking behind me, and I knew something important was coming up. I appreciate your work, and I also appreciate the example. You were never one to grandstand or make a lot of noise or be out front, but you always got to the point and stepped up when you needed to. I appreciate that mentoring you have provided me.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I, too, am very honored to have served with John Marvel. He is always such a humble, knowledgeable, great individual. He is a Republican treasure, but more importantly, he's a Nevada treasure.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

With the permission of the body, I, too, would like to thank John for his 30 years of service. John never was partisan. He always looked out first for the interests of the state and always looked out for the interests of the rural communities. He taught us folks from southern Nevada a thing or two about what it was really like in the rural communities. My colleague, the Majority Leader, talked about learning to speak "Marvel." I think what that really meant for me was that when John would speak in a committee—and he would be a few persons down from me on the row—it was always because someone wasn't speaking straight. He would set them right. The whole committee would notice when John would speak. That is a true sign that he had something to say. He did that time and time again. John, thank you for your dedication, your leadership, and for your service.

Resolution adopted unanimously.

By Assemblymen Buckley, Oceguera, and Gansert:

Assembly Resolution No. 7—Adding Kimberly Ann Morgan to the Assembly Wall of Distinction.

WHEREAS, The Assembly of the Legislature of the State of Nevada has established an Assembly Wall of Distinction for those past members selected by leadership who served with great distinction and who made exemplary contributions to the State of Nevada; and

WHEREAS, The Assembly wishes to add to its Wall of Distinction those past staff members who are selected by leadership to be acknowledged for their exemplary service to the Assembly; and

WHEREAS, Kimberly Ann Morgan was born in Washington, D.C., on October 1, 1956, and came to Nevada with her family in 1972; and

WHEREAS, Kim is the daughter of the esteemed Richard Linn Morgan, who dedicated many years of his professional life to improving public policy and education in Nevada through his work as a legislative advocate; and

WHEREAS, Ms. Morgan joined early in her father's steadfast commitment to public service by going to work with the Nevada State Library as a high school student in January of 1973; and

WHEREAS, Kim began her career with the Legislative Counsel Bureau as a typist in that same year and worked her way up through the organization, becoming a committee secretary in January of 1975; and

WHEREAS, Kim left Nevada in 1977 to attend the University of Oklahoma College of Law only to return to the Legislative Counsel Bureau in 1980 to take a position as Deputy Legislative Counsel; and

WHEREAS, Quickly rising to the positions of Assembly Bill Drafting Adviser and Chief Deputy Legislative Counsel, Kim tutored every new legislator in the Assembly for over 20 years in how to read the law and taught many young bill drafters how to write it; and

WHEREAS, Kim's intelligence, kindness, diligence and devotion to this institution were second to none and were in no small part responsible for many of the legislative successes celebrated in the Assembly; and

WHEREAS, Kim's concern for and generosity toward others have always extended beyond this institution to her community and church, as is evidenced by Kim's commitment to entering the priesthood through St. Peter's Episcopal Church of Carson City; and

WHEREAS, Kim's husband John Slider, her mother Barbara Morgan, her brother Randy Morgan and her late father Dick Morgan no doubt share in the Assembly's pride at being able to call Kim one of their own; and

WHEREAS, Kim's ongoing dedication to the State of Nevada, her community, her church and her family are an example to which we all can aspire; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That in recognition of her exemplary service to the Legislature, through which she ensured the skillful, timely production of legislation and helped us all learn what craft, dedication and compassion really look like, Kimberly Ann Morgan is hereby added to the Assembly Wall of Distinction.

Assemblyman Anderson moved the adoption of the resolution.

Remarks by Assemblymen Anderson, Oceguera, Carpenter, Leslie, Hardy, Ohrenschall, Horne, Conklin, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I rise in support of Assembly Resolution 7. To keep myself on track so I don't ramble all over the place, I have prepared written remarks. It is a difficult topic for me when it is someone as special as Kim Morgan.

Many of our new colleagues here in the Assembly have undoubtedly noticed with awe, as all of us do, the hard work of our professional staff this last couple of weeks—in fact it is ongoing. Those of us who have been here for a while recognize that this high mark was set, to a very large extent, by the individual we honor today, Kim Morgan, who dedicated over 25 years of her life to this institution.

I met Kim as a beginning legislator, not realizing at the time that we shared a common bond. Early on, I was won over by Kim's patience in explaining the bills to me as I asked questions time and time again only to see that sparkle in her eye when she finally hit the mark and I could give it back to her. When the chair of the Judiciary Committee assigned me to explain a complex technical element of the floor amendments that appeared, that is, place text flush to the left, it was Kim who provided me with the explanation of what "flush to the left" really meant.

In those early days, indeed, Kim was a filter who helped simplify and clarify the legislative process for me, and interacting with her was, and is, one of the rarest privileges I have enjoyed as a member of this body. As our system grew more complex, so did Kim's responsibilities, and when we transitioned from the bill books to computers, Kim was critical and crucial in helping the system developer maintain the integrity of the drafting system so the process still worked.

Kim was dedicated to helping legislators craft good laws. She made it her business to ensure that we made the most of the opportunity our constituents had granted us.

Our common bond turned out to be Kim's father, Dick Morgan. He was my good friend and mentor. In my first year of teaching, he had encouraged me to become involved in the professional organization of teaching. His advocacy for education left a lasting impression on me, and it raised the quality of programs available to students and teachers alike throughout our state. Dick Morgan was an advocate for opportunity. But Kim is indeed a reflection of both her parents. Barbara Morgan, whom I met in 1991, has that patient, quiet determination so common among the "steel magnolias" from the South. Like her mother, Kim is patient and determined. She will get the job done, no matter how difficult.

Like her father, who spent most of his adult life in public policy roles, Kim believes in the process. She believes that working within the process and patiently improving it are the means by which we both take advantage of the opportunities we have been offered and help others by providing opportunities to them.

I owe a personal debt of gratitude to Kim for her assistance to me, first as a member, then as co-chair, and finally as chair of the Judiciary Committee. Kim was always available to explain, to share ideas, to point out pitfalls—and to draft, and to draft, and to redraft, and to redraft and to draft yet again bills and amendments until we got it right. Many of my legislative successes I owe in great measure to Kim Morgan, but she shares in none of my legislative missteps. I have managed to do those missteps all by myself.

Having known Kim and her parents now for over a quarter of a century, I can say that they are linked by the common qualities of patience and determination, by the belief that we all must take part in the process if we are to improve it, and by the goal of providing opportunities for us all.

With that, Madam Speaker, I would urge adoption of the resolution.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. I stand in support of A.R. 7. When I first came to the Legislature, I had one and a half years of law school under my belt. You know, after the first year of law school, you kind of think you are pretty smart and know what you are doing, but you really don't know anything. Ms. Morgan was gracious enough to tell me that I did not know anything, without me knowing it. That was pleasant.

I see her as one of the shining examples of a public employee. She was here at all hours of the night, like our current counsel, and whether you were here at 8 a.m. or 2 a.m., you could call her office and talk about issues. That is amazing to me—the hours, time, and dedication. The Speaker and I were standing in the office just a moment ago when Kim came in and the Speaker said, "Boy, you look wonderful." Kim said, "It is sleep." Kim, congratulations and thank you for all you have done for the State of Nevada.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. I rise in support of A.R. 7. Kim really helped me out a lot. Sometimes I have a hard time saying what I want to really say. Kim could always straighten it out and make sure that I was saying what I really meant. Kim, thank you for all the help that you have given during the time we were such great friends. As my friend from Sparks said, your father was a great guy, and he and I really got along well. I just want to say we had great times, and you were a great mentor. Thank you for making all those stupid bills I had look okay. Thank you.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of this resolution. The first time I walked into Kim's office when I was a freshman, I think she called for me. I didn't know where Legal was but I found her and I walked in and immediately felt comfortable. It was the first time I had ever met anyone who had a messier desk than me. She's a piler. I am a piler, too, but she is really a piler. I was telling her today that I was always amazed at how any time I was there and I would ask her something, she would dig through her piles and she would come up with a paper. It always gave me hope that I could do that, too.

My best story is a late night I was reminded of. It was one of the special sessions, after my second session, the one on health care and medical malpractice. It was the first time I had been given a huge responsibility to be the one who decided in the middle of the night if an amendment was good enough. For you freshmen who haven't done an all-nighter yet, just wait. I was tired. It was 4 a.m. They sent me down the hall with this amendment and I was standing in that little hallway outside of Legal and some lobbyist rushed by and said, "The Majority Leader of the Senate is sending the Legislative Police after you." I was like, "What?" I was just standing there reading an amendment. Kim happened to walk by, and I'm sure she doesn't remember this, but she was so calm. "Come into my office. Come into my office. Let's sit down. Let's go through the amendment." She sat there so patiently. We went through the amendment and I could decide. The Legislative Police had no idea where I was, and I am sure she would never have given me up until I was comfortable with the amendment and could then walk down the hall and confidently say I was comfortable with the amendment and that we could end the session and go home. Thank you for that. Thank you for all the kindness you showed all of us and the patience you that you showed us when we didn't understand the first time, the tenth time, the twentieth time. We miss you.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker. I rise in support of A.R. 7. There is a limit to Kim Morgan's patience. I know someone who tested it. And it wasn't until this resolution that I understood what it was, something about "currently pursuing ordination as a priest." Now, I do not know what you call a woman priest in the Episcopal Church, but it is the appropriate place for this saint. I was in the 2003 Session, which some of you remember with various feelings. Kim—when I was trying to do a bill and get some amendment—emailed me something to the effect of "You are allowed three miracles. You have used two." I don't know if I ever had to use the third one, but knowing that you are entering an avocation now, may God bless you as you bless others. Thank you, Kim.

ASSEMBLYMAN OHRENSCHALL:

Thank you, Madam Speaker. I rise in support of AR 7. Kim, it is an honor to get to speak to this resolution today honoring you. I think one of the best decisions my stepfather ever made as legislative counsel was to hire a brilliant, young attorney back in 1980. I know my mother got to work with you for 12 years and what a great support you were to her and all her legislation. I am sorry I did not have the privilege to get to work with you on any bills, but I did in a way when I assisted my mother up here. We talked about fine public servants earlier, and I think Kim really is one of the finest public servants who have ever worked in this building. I am proud to speak to this resolution. Thank you, Madam Speaker.

ASSEMBLYMAN HORNE:

Thank you, Madam Speaker. I rise in support of A.R. 7. Similar to the Majority Leader, I came to this body right out of law school and was eager to get started and utilize my newfound education. Kim actually paid me a compliment on how organized my BDR request was and what I wanted to do. Eagerly I asked, "Can I get access to Westlaw or Lexus so I can further research and understand what some of this stuff is?" She politely said, "No." I later found out that those types of things you leave to the experts and you let the rest of use muddle through the way we do with your help. I really appreciate that. It is true that she was so patient, and the rest of her staff reflected that. I'll never forget that, it was so funny. At that point when you enter as freshman, you are used to everybody telling you yes, yes, absolutely, and she was no-no we're not going to go there. So thank you, congratulations, and we do miss you.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. I rise in support of Assembly Resolution 7. I probably won't get this opportunity any other time, so I am going to use it to say thank you to Miss Morgan. Her last session was my first but the Chinese have a philosophical saying, which is "Always remember the well from which you first drank." We have heard a lot of some of the legal help that Kim always gave, but some of the best advice she ever gave me was actually political, which you wouldn't expect to come from LCB. One day in Natural Resources we heard a bill, and there was a fight on the bill between the Attorney General's office and the Wildlife Division. I forget the full name because I have long since removed myself from the Natural Resources Committee. A bill changed one word from "shall" to "must" and I was a freshman and not an attorney, but I was fairly certain that "shall" meant "must." If you look it up in the dictionary, "shall," right on down the line, says "must." I listened, listened, and listened, and I got frustrated and there was a debate—it was like an hour and a half long hearing—and finally when it was all over, I was frustrated and I went down to Ms. Morgan's office and I said, "I don't get it, I didn't come up here to waste my time debating the meaning of the word 'shall' or 'must.' It means the same thing." I was probably looking for an argument. We talked through it and she said, "No, you are right." We went on for a little while and I just didn't get it. I was frustrated. I was completely exhausted and I had no resolution and I was about ready to get up and leave when she leaned over her desk and said, "You know, Mr. Conklin, sometimes we have to tell people we really mean it."

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

With permission of the body, I would like to add a couple of comments. We get spoiled here. We are used to exceptional employees, and there are some whose service ranks the highest—the most exceptional people who give their lives because they support what we do. Kim is one of those. She brought intelligence, compassion, patience of a saint is right—to my good friend the doctor. She would try to impart a lesson without making any of us feel stupid. I remember another aha moment such as the one she taught my good friend, the assistant majority leader. There was a debate between an insurance lobbyist and car lobbyist. I was working with them and it was difficult and it was contentious and they finally reached a resolution. I went to her and I said, "I'm on this subcommittee, and here is the resolution." She said, "That sounds really good, but don't forget the legislative process is not a negotiation between two parties. It is about what is right for the state. Is this right for the state?" "I think so, but maybe I'll come back tomorrow

and I will think about it a little bit more." It was those pearls of wisdom that she would hand down that made Kim so remarkable. The good news is that Kim is now moving on to another chapter after giving us her entire life for so long. Your lessons are still here. What you have taught the other bill drafters, the other employees, and us we carry on toserve the state we all love. Thank you.

Resolution adopted unanimously.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Commerce and Labor:

Assembly Bill No. 471—AN ACT relating to real property; providing that a court shall not award a deficiency judgment on the foreclosure of a mortgage or a deed of trust under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 472—AN ACT relating to credit cards; providing that subsequent purchasers of credit card debt may produce certain evidence to collect on the debt; requiring disclosure of certain information to collect credit card debt; requiring certain evidentiary standards to be met before entry of judgment under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 473—AN ACT relating to prisons; requiring the Department of Corrections to adopt regulations relating to medical emergencies and the provision of medical and dental services to prisoners; and providing other matters properly relating thereto.

Assemblyman Horne moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Aizley, the privilege of the floor of the Assembly Chamber for this day was extended to Denise Larsen.

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Kim Morgan, Barbara Morgan, and John Slider.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Speaker Emeritus Joseph Dini and former Chief Clerk Mouryne Dini.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman John Marvel, Willie Marvel, John E. Marvel, Dustin Marvel, Amanda Phelps, Darin Phelps, Michelle Slagle, Dave Slagle, Delaney Slagle, Marsha Grant, Susan Barnes, Harvey Barnes, Mike Marvel, Teresa Marvel, Pete Marvel, Kathy Marvel, Joe Marvel, Dave Goodall, Tim Anderson, Sharon Andreasen, Tom Andreasen, Shari Andreasen, Connie Davis, Patti Adams, Frank Adams, and Y Martin.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Donna Hancock.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Sutro Elementary School: Benjamin Anderson, David Anderson, Alexandra Anthis, Jason Anthis, Joseph Anthis, Mariela Arauz, David Avendano, Rodrigo Avila-Gudino, Breanna Benavides, Kirstyn Boling, Colt Bowers, Kyle Boyack, Hallie Branchcomb, Sahara Anne Burns, Danielle Cabrera, Fernando Carrillo Jr., Korey Combs, Skylar Cornwell, Jessica Corona Ayala, Zachary Crawshaw, Carson Crosby, Halen Dessaussois, Grace Dickenson, Jacob Dionne, Mallarie Dominguez, Johana Duenas, Jason Duran, Jack Estrada, Katie Etchegoyhen, Dallas Evans, Sierra Fleming, Zackary Franklin, Kailey Garcia, Cameron George, Samantha Gerhart, Jovani Gomez, Jesse Gonzalez Jr., Miriam Gonzalez, Breanna Greene, Jose Gutierrez Silva, Hannah Harris, Nicholaus Hein, Antony Hernandez, Dawson Johnson, Joshua Jukich, Kali Lampshire, Carlos Landa, Christopher Martin, Salvador Martinez Jr., Madison Masching, Sheldon Miller II, Kabrien Oliver, Alexa Ortega Cortes, William Owen, Tuesday Palmer-Rossi, Madison Peters, Hunter Purbaugh, Abirami Ravichandran, Salina Richmond, Delilah Rivera, Jada Robertson, Alexus Russell, Hugo Salcedo, Efrain Salgado-Ibarra Jr., August Scott, Zachary Scott, Devony Sgambati, David Springer, Tyler Starbuck, Kamryn Stevenson, Michelle Torres, Spenser Underwood, Katelin Victor, Curtis Willhite, Maddeson Wilmoth; teachers Sonya Kirby, Susan Novak, and Lauren Garnica.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Sheree Rosevear.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Nathaniel Waugh.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Virgil Getto and Pat Getto.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Alan Glover and Sue Merriwether.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Rebecca Tucker, John Tucker, Lloyd Backes, Cindy Backes, Leah Chiara, Delaney Sanchez, Cammy Taylor, Nicki McQueary, and Paula Rudolph.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Lexie Arancibia, Meagan Anders, Ryan Underwood, and David Slater.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, March 19, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:33 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FORTY-SIXTH DAY

CARSON CITY (Thursday), March 19, 2009

Assembly called to order at 11:22 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Alan Dorway.

Loving Lord, be present with the women and men who are serving today in the Assembly. We seek Your guidance as we go about the business of serving the people in Nevada. Remind all here how much we are loved by You. Help us to find comfort and peace throughout today knowing that You are always with us. In Your Holy Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 219, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Concurrent Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 427, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 474—AN ACT relating to parole; requiring mandatory release on parole for certain prisoners who were under the age of 16 years when the offense was committed and who meet certain requirements; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:26 a.m.

ASSEMBLY IN SESSION

At 11:32 a.m.
Madam Speaker presiding.
Quorum present.

By the Committee on Judiciary:

Assembly Bill No. 475—AN ACT relating to the revision of statutes; clarifying the effect of changes to the organization and numbering of Nevada Revised Statutes; directing the Legislative Counsel to reorganize the traffic laws; repealing certain obsolete definitions in the traffic laws; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 476—AN ACT relating to gaming; revising the boundaries of the Las Vegas Boulevard gaming corridor; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 477—AN ACT relating to public safety; exempting a person who works for a landlord of a dwelling unit used for a residence for older persons from an additional background check; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 28.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 248 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

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

Assembly in recess at 11:43 a.m.

ASSEMBLY IN SESSION

At 12:15 p.m.
Madam Speaker presiding.
Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 19, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 17.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 17.

Assemblywoman Dondero Loop moved the adoption of the resolution.

Remarks by Assemblywoman Dondero Loop.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN DONDERO LOOP:

C is for Charlotte Hill who showed Nevada that she cares
United Way, EOB, she was literally everywhere.

H is the Help she gave to the Help Center and more
She volunteered and assisted, never finding it a chore.

A is for the Applause she received while serving on committees
From Girl Scouts to UNLV; she was certainly serving our city.
R is for Raising funds for children to go to Summer Camp.
For all of those kids, she was a certainly an amazing champ.

L is for this Lady who assisted KLVX raise money
She really has become the Channel 10 honey.

O is for the Obligation she showed her family and community
She made sure all she touched had an equal opportunity.

T is for the Time she spent as a volunteer
The Realtors even made her the Citizen of the Year.

Another T in her name stands tall for Tennis court
Can you believe that she found time to play games of this fun sport?

E is for Education where she showed compassion and goodwill
Students now learn and thrive at a school named after Charlotte Hill.

After all of that, she keeps going and never stops
Now serving on the State Board of Education, she's the cream of the crop.

Now that we know what Charlotte stands for
We present her with this Resolution,
Join with me in honoring her
For all her fine Nevada contributions.

Resolution adopted.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bill No. 27.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Aizley, the privilege of the floor of the Assembly Chamber for this day was extended to Dan Cook.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Carol Howell.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Charlotte Hill, Linda Hill Wade, Candy Schneider, Geri Kodey, Tom Axtell, Anthony Ruggiero, Cliff Ferry, Christopher Wallace, Jan Biggerstaff, Gloria Bonaventura, Willia Chaney, Craig Wilkinson, Dave Cook, and Keith Rheault.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Double Diamond Elementary School: Luke Allen, Alyssa Brooks, Angel Diaz, Aaron Donado, Nichole Durocher, Ali Freeman, Parker Gaughan, Mason Heath, Eric Huang, Grant Kite, Chau Loan, Emily Lorge, Morgan Myers, Fabiola Orozco, Yoni Piper, Ryan Regier, Alex Riggsby, Jade Sundstrom, Nick Sundstrom, Ashley Tyler, Makayla Vega, Edson Velazquez, Nathan Wellfare, Jocelyn Zeitz, Myer Agnor, Kara Bainter, Brevon Bansuelo, Evan Blanchard, Jaden Cervantes, Carli Cheek, Hailee Ciccotti, Shelby Cole, Jason Dorn, Jorden Finch, Itzel Granados Dominguez, Cyril Hand, Andrew Kissell, Jared Lam, Maggie Leung, Kaylee Lyman, Corbin Mason, Thomas Oskam-Mouton, Ethan Pettipiece, Sidney Riley, Alicia Smith, Brenna Spackman, Jasmin Towns, Hunter Woolsey, Anthony Zamora, Makai Zuniga, Kyle Egtvedt, Mark Jimenez, and Esteban Garcia; teachers Angela Angelopoulos and Korina Santos; chaperones Lani Cervantes, Kevin Ciccotti, Aurora Granados Dominguez, and Christy Luke.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Jason Bleak.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Matt Rees.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Joan Hall.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Peggy Lindsey.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Tom Maher, Cara Hardy, and Ryan Hardy.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to John Phillipenas, John Panici and Steve Hayden.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Deny Coland, Kim Coland, Meg Kalley, Ewan Kalley, and Doug Kalley.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Ruthie Jones and B. J. Thomas.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, March 20, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 12:24 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FORTY-SEVENTH DAY

CARSON CITY (Friday), March 20, 2009

Assembly called to order at 11:49 a.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present except Assemblymen Arberry, Carpenter, and Christensen, who were excused.

Prayer by the Chaplain, Pastor Alan Dorway.

Lord of All Creation, guide is in Your spirit as we serve and work this day. Bring to our mind reminders of Your love, mercy, and grace that as we interact with others we would show kindness to one another, live in peace, and extend love in situations that are difficult. We are grateful for this new day and the new season of spring. We lift our prayers up to You.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 14, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Joint Resolution No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

HARRY MORTENSON, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bills Nos. 182, 322, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Taxation, to which was referred Assembly Bill No. 295, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KATHY MCCLAIN, *Chair*

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:54 a.m.

ASSEMBLY IN SESSION

At 12:08 p.m.
Mr. Speaker pro Tempore presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Transportation:

Assembly Concurrent Resolution No. 18—Directing the Legislative Commission to conduct an interim study concerning mass transportation in this State.

Assemblyman Conklin moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Concurrent Resolution No. 19—Directing the Legislative Commission to conduct an interim study of the requirements for reapportionment and redistricting in the State of Nevada.

Assemblywoman Koivisto moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Government Affairs:

Assembly Bill No. 478—AN ACT relating to governmental administration; revising provisions relating to certain housing authorities; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 479—AN ACT relating to state revenue; revising the rate of taxation on moist snuff; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Taxation.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 480—AN ACT relating to water; increasing certain fees collected by the State Engineer; providing for an automatic biennial increase of such fees; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 481—AN ACT relating to crimes; revising provisions relating to certain crimes involving firearms, ammunition or explosives; and providing other matters properly relating thereto.

Assemblyman Segerblom moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 482—AN ACT relating to motor vehicles; transferring the authority for the regulation of trade practices of garages, garagemen and body shops from the Commissioner of Consumer Affairs to the Department of Motor Vehicles; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 483—AN ACT relating to public works; revising the provisions governing the terms of certain contracts between public bodies and certain design professionals; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 484—AN ACT relating to tow cars; requiring the Nevada Transportation Authority to adopt regulations setting the maximum fees for vehicles towed under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 485—AN ACT relating to public welfare; revising provisions governing the receipt of benefits from the program to provide

Temporary Assistance for Needy Families; and providing other matters properly relating thereto.

Assemblywoman Smith moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 486—AN ACT relating to mortgage lending; requiring escrow agencies and agents, mortgage brokers, mortgage agents and mortgage bankers to pay restitution under certain circumstances; authorizing additional remedies and penalties for conducting business as an escrow agency or agent, mortgage broker, mortgage agent or mortgage banker without a license; providing for the exercise of jurisdiction over a party to a civil action; increasing the fine imposed on escrow agencies and agents for certain violations; requiring a mortgage broker to deposit a surety bond or other security; providing for the payment of a claim against a surety bond; establishing fiduciary obligations of a mortgage broker and mortgage agent; increasing the fine imposed on a mortgage broker or mortgage agent for conducting business without a license; authorizing the Commissioner of Mortgage Lending to adopt regulations relating to mortgage lending and other such professions; requiring certain persons and institutions in the business of servicing mortgage loans to register with the Commissioner; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 219.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 28 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Resolutions Nos. 5, 6, and 7.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Syrill Suter.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Dick Ross, Kathleen McSweeney, and Chris Linton.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Alandra Parrazo.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Nicole Shupp, Bill Dolan, and Mike Darby.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Lisa Meyers Gambini.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Heide Cruz.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Heather Kidd.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Coral Academy of Science: Justice Acosta, Jared Mundt, Alexis Palmer, Keeli Rodriguez, Darling Rose, Brasani West, Madison Shirley, Andrew Soto, Robin Verma, Bryn Taylor, Annemarie Vogedes, Annie Schiavone, Joslynn Smith, Jourdan Scheer, Kaylee Schindler, Payden Vonich, Aubrey Sadler, Alissa Adams, Isaiah Alpizar, Jana Valerie Andrion, Miles Antone, Jazmyne August, Jonathan Ballinger, Skyla Cadez, Guadalupe De Rosario Carmona, Jaimee Chancy, Trina Chowdhury, Jacob Clark, Kimberle Cordero, Kamilla Erwin, Joshua Ferrin, Vincent Fillipone, Faith Price, Aaron Spark, Andrew Johnson, Kevin Glass, Dhananjay Gogna, Jordan Haren, Regan Hughes, Cates Aaron, Kayla Jones, Alexander Kopp, Angeline Mallari, Nicholas Martin, Nathaniel McCrea, Rebecca Miller, Alana Nelson, Teya Perkins, Braden Piccinini, Kyle Quakenbush, Alyssa Raj, Danielle Ringor, and Carla Ramazan; teacher Wanda Mandeville; Angie Taylor.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Sherese Settelmeyer, Beverly Willard, and Tara Littlefield.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Britteney Sandler, Sharon Lane, and Elizabeth Halseth.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, March 23, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:24 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FIFTIETH DAY

CARSON CITY (Monday), March 23, 2009

Assembly called to order at 11:28 a.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present except Assemblyman Cobb, who was excused.

Prayer by the Chaplain, Pastor Robert Jennings-Teats.

O Wisdom on High, by You the humble are guided in judgment, and light rises up in the darkness for the righteous. Grant us, in all doubts and uncertainties, the grace to ask what You would have us do, that we may be saved from all false choices, and that in Your light we may see the light, and in Your straight path may not stumble. With a love for Your people in our hearts, a firm commitment to the best interest of Nevada in our thoughts, and with mutual respect even for our adversaries in our actions, we seek Your blessing. Give us Your light and Your truth, let them guides us; in Your Holy and Precious Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Joint Resolution No. 16—Proposing to amend the Nevada Constitution to revise the provisions governing a petition for a state initiative or referendum.

Legislative Counsel's Digest:

Pursuant to Section 2 of Article 19 of the Nevada Constitution, the people of the State of Nevada have reserved to themselves the power to propose statutes, amendments to statutes and amendments to the Nevada Constitution by initiative petition. If the petition meets certain criteria, it is placed on the general election ballot, where the people of the State of Nevada are then given the right to vote to enact or reject such proposals. In 2006, however, a portion of this provision of the Nevada Constitution was held unconstitutional by the U.S. Court of Appeals for the Ninth Circuit. *ACLU of Nev. v. Lomax*, 471 F.3d 1010 (9th Cir. 2006). The Ninth Circuit Court found that the requirement that an initiative petition contain a certain number of signatures gathered from 75 percent of the counties in this State in order to qualify for the ballot, the "13 Counties Rule," violated the equal protection principle of "one man, one vote" by diluting the votes of residents of densely

populated counties and was not narrowly tailored. *Id.* at 1013. Thus, the Ninth Circuit Court held that Section 2 of Article 19 of the Nevada Constitution violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. *Id.* The Court further indicated that if a certain number of voters were required from state legislative districts rather than counties, it would alleviate the equal protection concerns. This resolution proposes to amend Article 19 of the Nevada Constitution to remove the unconstitutional provisions and instead require that an initiative petition be signed by a number of the registered voters from each congressional district in this State which equals 10 percent of the number of voters who voted at the last preceding general election in the congressional district. This resolution further provides that the number of registered voters required to file an initiative or referendum petition must be determined by the Secretary of State not later than January 1 of the year before the year in which the election will be held.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 1 of Article 19 of the Nevada Constitution be amended to read as follows:

Section 1. 1. A person who intends to circulate a petition that a statute or resolution or part thereof enacted by the legislature be submitted to a vote of the people, before circulating the petition for signatures, shall file a copy thereof with the secretary of state. He shall file the copy not earlier than August 1 of the year before the year in which the election will be held.

2. Whenever a number of registered voters of this state equal to 10 percent ~~[or more]~~ of the number of voters who voted at the last preceding general election shall express their wish by filing with the secretary of state, not less than 120 days before the next general election, a petition in the form provided for in Section 3 of this Article that any statute or resolution or any part thereof enacted by the legislature be submitted to a vote of the people, the officers charged with the duties of announcing and proclaiming elections and of certifying nominations or questions to be voted upon shall submit the question of approval or disapproval of such statute or resolution or any part thereof to a vote of the voters at the next succeeding election at which such question may be voted upon by the registered voters of the entire State. ***The number of registered voters required to file the petition must be determined by the secretary of state not later than January 1 of the year before the year in which the election will be held.*** The circulation of the petition shall cease on the day the petition is filed with the secretary of state or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest.

3. If a majority of the voters voting upon the proposal submitted at such election votes approval of such statute or resolution or any part thereof, such statute or resolution or any part thereof shall stand as the law of the state and shall not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. If a majority of such voters votes disapproval of such statute or resolution or any part thereof, such statute or resolution or any part thereof shall be void and of no effect.

And be it further

RESOLVED, That Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of Section 6 of this Article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a number of registered voters ***from each congressional district in this State*** equal to 10 percent ~~[or more]~~ of the number of voters who voted at the last preceding general election in ~~[not less than 75 percent of the counties in the State, but the total number of~~

~~registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.~~] ***the congressional district. The number of registered voters required to file the initiative petition must be determined by the Secretary of State not later than January 1 of the year before the year in which the election will be held.***

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the Legislature is held. After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the Secretary of State shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was

originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

5. If two or more measures which affect the same section of a statute or of the Constitution are finally approved pursuant to this Section, or an amendment to the Constitution is finally so approved and an amendment proposed by the Legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

Assemblyman Conklin moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:38 a.m.

ASSEMBLY IN SESSION

At 11:57 a.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 469, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was referred Assembly Concurrent Resolution No. 17, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

MORSE ARBERRY JR., *Chair*

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Education:

Assembly Bill No. 487—AN ACT relating to education; requiring the development of an academic plan for pupils enrolling in their initial year at a

middle school or junior high school; requiring small learning communities in certain larger middle schools and junior high schools; requiring a program of peer and adult mentoring for pupils initially enrolling in middle school or junior high school; requiring a pupil enrolled in middle school or junior high school to conduct at least one conference on his educational progress; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By the Committee on Education:

Assembly Bill No. 488—AN ACT relating to education; revising provisions governing the allowances that may be paid to a retired public employee who accepts employment or an independent contract with the board of trustees of a school district or the governing body of a charter school in a position for which there is a critical labor shortage; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By the Committee on Education:

Assembly Bill No. 489—AN ACT relating to education; revising provisions relating to sponsorship of charter schools; creating the Nevada Charter School Institute for sponsorship of charter schools; prescribing the membership, duties and powers of the Institute; repealing the Subcommittee on Charter Schools of the State Board of Education; making appropriations; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 490—AN ACT relating to private investigators; revising the experience required for the issuance of a private investigator's license; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 491—AN ACT relating to civil actions; providing that a certain amount of money held in a bank that is likely to be exempt from execution is not subject to a writ of execution or garnishment; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property;

making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 492—AN ACT relating to taxation; imposing certain requirements on the enactment of abatements and exemptions from property taxes and sales and use taxes; requiring certain reports from the Department of Taxation; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 493—AN ACT relating to state purchasing contracts; prohibiting companies that are involved in specified activities in the country of Sudan from entering into a contract with certain state agencies for the provision of goods or services; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 494—AN ACT relating to the Legislature; requiring the Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the Legislature to consider consolidating services provided by local governments; requiring local governments to report their three largest categories of expenditure to the Legislative Commission in the manner prescribed by the Commission for the purposes of the study; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 495—AN ACT relating to professional negligence; revising the damages that may be awarded in certain actions based on professional negligence; revising various provisions relating to the statute of limitations in such actions; establishing certain evidentiary standards in such actions; repealing certain provisions related to such actions; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 496—AN ACT relating to the Commission on Judicial Discipline; revising the statute of limitations for filing certain complaints with the Commission; revising provisions concerning the grounds upon which the Commission may discipline a judge; authorizing the Commission to impose additional forms of discipline upon a judge who is the subject of a complaint; revising certain provisions concerning the confidentiality of the proceedings of the Commission; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 497—AN ACT relating to the criminal justice system; providing for the collection and sharing of certain statistical data and information relating to the criminal justice system; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 498—AN ACT relating to sentencing; authorizing a court to impose a sentence that is under the prescribed minimum sentence under certain circumstances; authorizing a court to grant probation to a person who is otherwise ineligible for probation under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 499—AN ACT relating to criminal procedure; requiring a prosecutor to provide a defendant with certain discovery when the defendant is brought before a magistrate after an arrest; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 500—AN ACT relating to domestic relations; revising provisions relating to adoptions; revising provisions relating to the termination of parental rights; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 501—AN ACT relating to liens; revising provisions governing the commencement of certain work; revising provisions concerning claims of a lien; revising provisions relating to the attachment of certain liens to property; revising the requirements of a surety bond; revising certain notice provisions; revising provisions concerning waiver of certain rights or obligations; revising provisions governing the waiver and release of a claim of a lien; making various other changes pertaining to liens; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 502—AN ACT relating to prisons; providing that certain provisions relating to the escape of a prisoner from a facility or institution operated by the Department of Corrections also apply to the escape of a prisoner from a private facility or institution operated by a private organization; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 503—AN ACT relating to transportation; creating an advisory committee to develop recommendations relating to the funding of the construction and maintenance of highways in this State; providing for the membership, compensation and duties of the advisory committee; authorizing the advisory committee to place advisory questions regarding its recommendations on the ballot for the general election to be held in 2010; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 504—AN ACT relating to traffic laws; authorizing the use by a local governmental agency of an automated enforcement system for gathering evidence to be used for the issuance of a traffic citation; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Education:

Assembly Bill No. 505—AN ACT relating to education; requiring the Department of Education to work in consultation with the Nevada System of Higher Education to establish a plan to ensure that high school pupils are ready for postsecondary education and the workplace; revising provisions governing the academic plans for ninth grade pupils; requiring instruction on financial responsibility in high school; authorizing the issuance of an adjusted adult diploma for certain persons; requiring peer and adult mentoring for ninth grade pupils; requiring school districts to adopt a policy for the remediation of deficient credits; requiring school districts to adopt a policy for pupils to report unlawful activities; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 506—AN ACT relating to affordable housing; specifically authorizing the creation of community land trusts to provide affordable housing; authorizing a community land trust to acquire land and to transfer ownership of the structures on land it owns to heads of certain qualified households subject to long-term ground leases on the real property and other restrictions; providing certain restrictions on the taxable value of the structures on land owned by a community land trust; exempting from taxation real property owned by a community land trust; requiring the adoption of regulations by the Housing Division of the Department of Business and Industry; authorizing the adoption of regulations by the Nevada Tax Commission; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 507—AN ACT relating to the Department of Cultural Affairs; transferring the Department of Cultural Affairs to the Office of the Secretary of State; transferring the powers and duties of the Director of the Department to the Secretary of State; transferring authority to appoint certain

officers and members of boards, commissions and councils to the Secretary of State; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 508—AN ACT relating to housing; prohibiting the Housing Division of the Department of Business and Industry from adopting regulations that restrict or defer the payment of profit and overhead to developers of certain projects under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 509—AN ACT relating to court reporters; revising definitions, educational requirements and provisions governing disciplinary actions with regard to certified court reporters; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 510—AN ACT relating to the Public Utilities Commission of Nevada; requiring that the entire Commission must act in certain matters; requiring that the Commission appoint an Executive Director; revising the dates by which certain applications must be filed; indicating that certain provisions of law do not prohibit the Commission from taking certain action; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 511—AN ACT relating to industrial insurance; repealing the prohibition against bringing or maintaining a cause of action against an insurer or third-party administrator for certain violations relating to industrial insurance; removing provisions authorizing benefit penalties to be imposed against insurers and third-party administrators; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 512—AN ACT relating to real property; providing that a tenant may give a landlord a surety bond, or a combination of a surety bond and other security, instead of a security deposit under certain circumstances; providing that upon termination of a landlord's interest in the property, the successor in interest must accept the tenant's security or surety bond; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 513—AN ACT relating to mortgage lending; requiring the licensing of a construction control as an escrow agent or agency; establishing education requirements for an escrow agent or agency; revising provisions relating to the jurisdiction of the Commissioner of Mortgage Lending; revising subpoena powers of the Commissioner; revising provisions relating to holders of a beneficial interest in a loan; eliminating the exemption of consumer finance companies from provisions relating to mortgage brokers, mortgage agents and mortgage bankers; revising provisions for the issuance of a certificate of exemption to a mortgage broker, mortgage agent or mortgage banker; requiring a mortgage broker to make additional disclosures under certain circumstances; revising provisions for the revocation of the license of a mortgage broker or mortgage agent; establishing provisions relating to hard money lenders; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Corrections, Parole, and Probation:

Assembly Bill No. 514—AN ACT relating to criminal offenders; revising provisions relating to the residential confinement of certain offenders; revising provisions concerning certain credits to be applied to a period of probation or parole; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 515—AN ACT relating to mental health; requiring policies of health insurance and contracts for health care services providing coverage for treatment by licensed marriage and family therapists or clinical social workers to also cover treatment by interns; requiring interest and income earned on money in the Account for Aid for Victims of Domestic

Violence to be credited to the Account; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Natural Resources, Agriculture, and Mining:

Assembly Bill No. 516—AN ACT relating to wildlife; requiring any matching money received by the Department of Wildlife from any source to be used only for the management of wildlife; providing that the Board of Wildlife Commissioners must approve the use of that money and certain fees deposited in the Wildlife Account; and providing other matters properly relating thereto.

Assemblyman Claborn moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

By the Committee on Judiciary:

Assembly Bill No. 517—AN ACT relating to administrative regulations; providing, with certain exceptions, that words or terms defined in the Nevada Revised Statutes have the same definitions in the corresponding portions of the Nevada Administrative Code; and providing other matters properly relating thereto.

Assemblyman Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 518—AN ACT relating to statutes; making a technical correction to previously enacted provisions regarding taxes for regional transportation projects; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Bill No. 519—AN ACT relating to state financial administration; creating a statutory commission to review the continuation of state agencies, boards and commissions and tax exemptions, abatements and earmarked revenue sources; and providing other matters properly relating thereto.

Assemblywoman Koivisto moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 520—AN ACT relating to state financial administration; making various changes relating to state financial administration; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 14.

Bill read second time and ordered to third reading.

Assembly Bill No. 182.

Bill read second time and ordered to third reading.

Assembly Bill No. 295.

Bill read second time and ordered to third reading.

Assembly Bill No. 322.

Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 1.

Resolution read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 28.

Bill read third time.

Remarks by Assemblymen Kihuen, Horne, and Atkinson.

Roll call on Assembly Bill No. 28:

YEAS—41.

NAYS—None.

EXCUSED—Cobb.

Assembly Bill No. 28 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 219.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 219:

YEAS—41.

NAYS—None.

EXCUSED—Cobb.

Assembly Bill No. 219 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 23, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 18.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 18.

Assemblyman Bobzien moved the adoption of the resolution.

Remarks by Assemblymen Bobzien, Gansert, and Anderson.

Resolution adopted.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 248 be taken from the Chief Clerk's desk and placed on the General File for the next legislative day.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess until 3:30 p.m.

Motion carried.

Assembly in recess at 12:32 p.m.

ASSEMBLY IN SESSION

At 3:37 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 39, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

AMENDED NOTICE OF EXEMPTION

March 23, 2009

The Fiscal Analysis Division hereby amends its Notice of Exemption dated March 2, 2009, as follows:

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 7, 18, 55, 69, 92, 134, 141, and 158.

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 2, 4, 8, 9, 19, 33, 40, 45, 64, 81, 95, 99, 106, 107, 111, 112, 115, 117, 121, 123, 127, 138, 139, 140, 146, 148, 150, 152, 160, 162, 165, and 178.

MARK STEVENS
Fiscal Analysis Division

March 23, 2009

The Fiscal Analysis Division hereby amends its Notice of Exemption dated March 16, 2009, as follows:

The Fiscal Analysis Division, pursuant to pursuant to Joint Standing Rule 14.6, has determined the exemption of Assembly Bills Nos. 203, 221, 222, 254, 302, 303, 334, and 342.

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of Assembly Bills Nos. 87, 170, 179, 213, 214, 229, 235, 238, 245, 246, 275, 282, 310, 317, 328, 331, 337, 338, and 345.

MARK STEVENS
Fiscal Analysis Division

NOTICE OF EXEMPTION

March 23, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 185, 357, 358, 373, 404 and 446.

MARK STEVENS
Fiscal Analysis Division

March 23, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 260, 263, 290, 354, 355, 401, 409, 426, 432, 436, 437, 450 and 461.

MARK STEVENS
Fiscal Analysis Division

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

Assembly in recess at 3:39 p.m.

ASSEMBLY IN SESSION

At 3:46 p.m.
Madam Speaker presiding.
Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Commerce and Labor:

Assembly Bill No. 521—AN ACT relating to occupational diseases; revising provisions governing coverage for cancer as an occupational disease of certain firefighters; expanding the list of substances which are deemed to be known carcinogens that are reasonably associated with specific disabling cancers; removing the provision that coverage for cancer as an occupational disease applies only to a firefighter who has been employed for 5 years or more; requiring certain annual physical examinations of firefighters who qualify for coverage for cancer as an occupational disease; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 522—AN ACT relating to energy; creating the Nevada Energy Commission; transferring the duties of the Office of Energy and the Task Force for Renewable Energy and Energy Conservation to the Nevada Energy Commission; revising certain standards for the conservation of energy in buildings; authorizing the granting of partial abatements of certain property taxes and local sales and use taxes to new facilities that generate electricity from renewable energy; requiring the Public Utilities Commission of Nevada to adopt regulations concerning the removal of financial disincentives for an electric utility to support energy conservation; providing for the issuance of industrial development revenue bonds for renewable energy transmission projects; imposing an excise tax on the generation of electricity from renewable energy; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Commerce and Labor:

Assembly Bill No. 523—AN ACT relating to mortgage lending; establishing provisions for the implementation of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; increasing certain administrative fines; establishing a recovery fund for persons defrauded by mortgage brokers, mortgage agents, residential mortgage loan originators or mortgage bankers; providing penalties; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Transportation:

Assembly Bill No. 524—AN ACT relating to transportation; authorizing the Department of Transportation to establish a demonstration project for managed lanes in Clark County and to enter into one or more public-private partnerships to design, construct, develop, finance, operate and maintain the demonstration project; authorizing the Board of Directors of the Department of Transportation to establish user fees, administrative fines and penalties; requiring the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle of a registered owner who fails to pay a required user fee for the use of such a demonstration project; authorizing the Department of Motor Vehicles to establish certain administrative fees; and providing other matters properly relating thereto.

Assemblyman Atkinson moved that the bill be referred to the Committee on Transportation.

Motion carried.

By the Committee on Health and Human Services:

Assembly Bill No. 525—AN ACT relating to health; creating the Division of Medical Professional Boards of the Department of Health and Human Services; transferring all of the administrative functions of the Board of Medical Examiners, Board of Homeopathic Medical Examiners and State Board of Osteopathic Medicine to the new division; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 526—AN ACT relating to the Lake Tahoe Basin; authorizing the issuance of general obligation bonds to carry out a program for the protection of the Lake Tahoe Basin; extending the period for the issuance of certain bonds to carry out the program; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 527—AN ACT relating to unemployment compensation; adopting an alternate base period for determining entitlement to unemployment benefits; temporarily authorizing the payment of unemployment benefits for an extended period and increasing the total extended benefit payable under certain circumstances; requiring the Department of Employment, Training and Rehabilitation to take any additional actions necessary to ensure receipt by the State of Nevada of the benefits available for unemployment compensation pursuant to the American Recovery and Reinvestment Act of 2009; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Stephen Wells and John Hallet.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Nevada Virtual Academy: Spencer Berger, Brin Hill, Alyssa Hawley, Jacob Hawley, Andrew Ryan Hermansen, Evan Soto-Harrison, Moriah Tague, Elizabeth Caudell, Andrew Caudell, Mackenzie Dalton, Jeremy Dalton, Ryan

Findley, Zackary Schuler, Krista Dennison, Raina Dennison, Danielle Hesnon, Stacy Henson, Alexis Henson, Jeremy Davidson; chaperones Gerald Schuler, Pamela Van Kirk, Thelma Henson, Rita Davidson, Janice Moskowitz, Kathleen Hill, Gina Pistone-Hawley, Brenda Marie Hermansen, Eric Soto-Harrison, Marisa Soto-Harrison, Juanita Caudell, and Paul Dalton; teacher Joy Findley; Jack Greenhalgh.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Mountain View Montessori School: Nia Anders, Brendan Fagen, Kenneth Grimes, Ryan Hodin, Sawako Sentoku, Samantha Adams, Morgan Barnes, Nina Bohlmann, Kienan Herman, Gabrielle Mudd, Trendon Oldridge, Olivia Piccirilli-Platt, Lindsay Reighley, Persiana Saffari, Emily Shields; teacher Olivia Meyer; chaperone Sonia Hodin; James Grindstaff IV, Shawna Grindstaff, James Grindstaff, and Sarah Grindstaff.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Brin Hill.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Ryan Findley.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Sam Madrano, Ed Cooper, and Robert Bilbray.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Emily Gadbois.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, March 24, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 3:51 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FIFTY-FIRST DAY

CARSON CITY (Tuesday), March 24, 2009

Assembly called to order at 11:16 a.m.
Mr. Speaker pro Tempore presiding.
Roll called.
All present except Assemblywoman Spiegel, who was excused.
Prayer by the Chaplain, Pastor Robert Jennings-Teats.

O Creator and Mighty God, You have promised strength for the weak, rest for the laborers, light for the way, grace for the trials, help from above, unfailing sympathy, undying love. Bless these servants with a renewed energy for the work to be done, and with an inner peace to face the major challenges that still lay ahead. O Creator and Mighty God, help us to run the race and press ahead to the finish in the grace of Your promise.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.
Motion carried.

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

Assembly in recess at 11:20 a.m.

ASSEMBLY IN SESSION

At 11:22 a.m.
Mr. Speaker pro Tempore presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

March 23, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 179, 180, 188, 208, 241, 275, 286 and 318.

GARY GHIGGERI
Fiscal Analysis Division

Assemblyman Oceguera moved that Assembly Concurrent Resolution No. 17 be taken from the Resolution File and placed on the Resolution File for the next legislative day.
Motion carried.

By Assemblymen Buckley, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 20—Commending Justice A. William Maupin for his extraordinary service to the State of Nevada.

WHEREAS, William Maupin was born into a medical family, his father serving for 30 years in the United States Army Medical Corps and his mother being an accomplished surgical nurse, and he was set to be the fourth generation of physicians in his family; and

WHEREAS, Fortunately for the justice system in Nevada, this young man considered becoming involved with the law and, upon hearing an attorney speak during Career Day at Western High School in Las Vegas, was inspired to pursue a judicial career; and

WHEREAS, Maupin attended the University of Nevada, Reno, and the University of Arizona College of Law, and after graduating ninth in his law class, began his professional legal career as a law clerk for the Attorney General's Office in Carson City; and

WHEREAS, Subsequent to working in several Nevada law firms and in the Public Defender's Office, where he developed a reputation as an excellent trial attorney, Maupin was appointed to the Eighth Judicial District Court in 1993, was elected to the Nevada Supreme Court in 1996, became Chief Justice in 2001, was elected again in 2002 and again served as Chief Justice in 2008; and

WHEREAS, Among this judicial scholar's accomplishments are the establishment of seminars to support paraprofessionals, impetus for Nevada's Court Annexed Arbitration Program, service on the Board of Governors of the State Bar of Nevada for 4 years and chairmanship of a Supreme Court committee tasked with reviewing judicial elections; and

WHEREAS, During his two terms on the Supreme Court, Justice Maupin created a Nevada legacy as he addressed overcrowded prisons and increasing drug habits in the State, helped assure adequate legal representation for the indigent and made great strides in fostering a better, more qualified judiciary of which all Nevadans can be proud; and

WHEREAS, Justice Maupin was the recipient of the Roger D. Foley Professionalism Award in 1997, and his name appears in *Who's Who in America*; and

WHEREAS, In addition to his judicial career and his family activities, William Maupin has demonstrated his great humanitarianism and stamina by learning to do eye exams and devoting a week in every year since 2002 to assisting a medical team in Haiti; and

WHEREAS, After serving 37 years in Nevada's legal community, Justice Maupin retired from the bench of the Nevada Supreme Court, and his service to Nevada, its residents and society in general embodies the words of Aristotle, "With regard to excellence, it is not enough to know, but we must try to have and use it"; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Nevada Legislature commend the Honorable Justice A. William Maupin for his extraordinary service to this State; and be it further

RESOLVED, That the Legislature expresses its profound respect and gratitude for his efforts to improve the judicial system in the State of Nevada; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Justice A. William Maupin.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblymen Buckley, Carpenter, and Mr. Speaker pro Tempore.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. It is my honor and privilege to be the sponsor of this resolution and to speak to the resolution today commending Justice Maupin for his many years of distinguished service to our Supreme Court, to our judiciary, and to our state.

The role of a Supreme Court Justice, if one throws himself into the position, is a difficult one. They have to hear complex and heated controversies, to inject scholarship, and to follow those endeavors that establish a body of law that can then guide those in our state. They have to champion reforms in making the justice system work more efficiently and work for the good of the people for whom it serves. Justice Maupin managed all of these tasks and did so with honor and distinction. Whether it was his level of scholarship in interpreting the law, whether it was his work in furthering the judiciary, expanding and truly championing the Court Annexed Arbitration Program, or championing the short trial system and alternative dispute mechanisms that would help the public, help the bar, and help resolve disputes quicker—Justice Maupin was at the forefront of all of them.

We pause to thank him for his many years of service and to thank that attorney who spoke at Career Day at Western High School so many years ago, who changed his path from the medical one to the legal one, because we are all the beneficiaries of that day and we thank that attorney and we thank Justice Maupin for all of those years of sacrifice, for all of the years when he set the example of what it is like to be a fine lawyer and a fine jurist and the best that our profession has to offer. Thank you, Justice Maupin.

ASSEMBLYMAN CARPENTER:

Thank you, Mr. Speaker pro Tempore. I stand in support of ACR 20. It seems to me that before Justice Maupin came to the Supreme Court, we were having all kind of problems. I have always looked to him for straightening things out. What I have always enjoyed about Justice Maupin is that he was always a gentleman, he always smiled, and sometimes he even came out to Elko. That was great. I congratulate you. I'm not sure what you are doing now, but I congratulate you on your service to the state and thank you very much.

Mr. Speaker pro Tempore requested the privilege of the Chair for the purpose of making the following remarks:

I, too, wish to support the resolution. I have had the pleasure of dealing with the Judiciary for the last 18 years. During that time I have come into contact with many outstanding jurists, among them was the one who we honor today. I appreciated his sense of humor, his ability to walk with the common man, and his foresight in dealing with the difficult loads of the Supreme Court. I think that in transition, he was an important bridge between the entire court and when it went to *en banc* hearing. His leadership proved insurmountable in trying to get us into the twenty-first century from the nineteenth. I believe it is a very commendable record, and I have always stood in awe of his ability to deal with his tremendous responsibilities and his great sense of humor. I believe he well deserves to be so recognized.

Resolution adopted.

Assemblywoman Buckley moved that all rules be suspended and that Assembly Concurrent Resolution No. 20 be immediately transmitted to the Senate.

Motion carried.

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

Assembly in recess at 11:35 a.m.

ASSEMBLY IN SESSION

At 11:36 a.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 525, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Health and Human Services.

MARCUS CONKLIN, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 525 be rereferred to the Committee on Health and Human Services.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 469.

Bill read second time and ordered to third reading.

Senate Bill No. 39.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 14 and 295 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 182.

Bill read third time.

Remarks by Assemblyman Oceguera.

Roll call on Assembly Bill No. 182:

YEAS—41.

NAYS—None.

EXCUSED—Spiegel.

Assembly Bill No. 182 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 11:41 a.m.

ASSEMBLY IN SESSION

At 11:42 a.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 248 and 322; Assembly Joint Resolution No. 1 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Madam Speaker appointed Assemblymen Segerblom and Hambrick as a committee to invite the Senate to meet in Joint Session with the Assembly to hear an address by Nevada Supreme Court Chief Justice James W. Hardesty.

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

Assembly in recess at 11:46 a.m.

ASSEMBLY IN SESSION

At 12:17 p.m.
Madam Speaker presiding.
Quorum present.

The members of the Senate appeared before the bar of the Assembly.

Madam Speaker invited the members of the Senate to chairs in the Assembly.

IN JOINT SESSION

At 12:19 p.m.
President of the Senate presiding.

The Secretary of the Senate called the Senate roll.
All present except Senator Coffin, who was excused.

The Chief Clerk of the Assembly called the Assembly roll.
All present except Assemblymen Gustavson, Koivisto, Oceguera and Spiegel, who were excused.

The President of the Senate appointed a Committee on Escort consisting of Senator Wiener and Assemblyman Horne to wait upon the Justices of the Nevada Supreme Court and escort them to the Assembly Chamber.

The President of the Senate appointed a Committee on Escort consisting of Senator Amodei and Assemblyman Anderson to wait upon the Honorable Chief Justice James W. Hardesty and escort him to the Assembly Chamber.

The Committee on Escort in company with the Justices of the Nevada Supreme Court appeared before the bar of the Assembly.

The Committee on Escort escorted the Justices to the Assembly Chamber.

The Committee on Escort in company with The Honorable Nevada Supreme Court Chief Justice James W. Hardesty appeared before the bar of the Assembly.

The Committee on Escort escorted the Chief Justice to the rostrum.

Madam Speaker welcomed Chief Justice Hardesty and invited him to deliver his message.

Chief Justice Hardesty delivered his message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-FIFTH SESSION, 2009

Thank you for the warm reception for the Judicial Branch of Nevada's government. Governor Gibbons, Lt. Governor Krolicki, Speaker Buckley, Senator Horsford, Senator Raggio, Assemblywoman Gansert, distinguished members of the Senate and the Assembly, honorable Constitutional officers and honored guests.

I have been looking forward to today with great anticipation. I would like to thank you for the opportunity to spend the next four or five hours talking about the State of the Judiciary in Nevada. I will try to keep my remarks shorter as admonished earlier by the Governor.

It is my privilege to speak on behalf of my friends and colleagues on the state Supreme Court—Associate Chief Justice Ron Parraguirre, Justice Michael Douglas, Justice Michael Cherry, Justice Nancy Saitta, Justice Mark Gibbons, and Justice Kris Pickering. I am also privileged to speak for our 72 district court judges, our 65 justices of the peace, our 21 municipal court judges, and the nearly 2,000 court staff throughout the state that serve in Nevada's judiciary. Together we work to provide fair and accessible justice, protect the rights of individuals, and preserve community welfare and safety. I am proud to serve with these dedicated public servants, and I offer my profound thanks for their service to all Nevadans and those who visit and do business in our state.

With us today are several of the state's judges including the chief judges from our two urban judicial district courts—Chief Judge Arthur Ritchie and Las Vegas Justice Court Chief Judge Ann Zimmerman. I also want to take this opportunity to recognize and thank Supreme Court Clerk Tracie Lindeman, state Court Administrator Ron Titus, the staff of the Administrative Office of the Courts and the Supreme Court's legal staff for their tireless work on behalf of the Judicial Branch of this state.

I would particularly like to thank the Legislature for your recognition today of former Justice Bill Maupin. As you noted in the proceedings this morning, he has made a lasting contribution to the rule of law and to the remarkable progress the Judiciary has experienced during his years on the bench. I spoke with Bill prior to today's ceremonies. He was so excited to receive this recognition that he offered to buy all of the legislators lunch if you would stay for my speech.

Today, I will offer a vision for the future of Nevada's Judiciary, describe a handful of the many accomplishments of Nevada's courts, and conclude by commenting on the impact that decisions made in this 75th Session of the Nevada Legislature might have on the face of justice in Nevada.

The core function of the judiciary is to resolve cases brought before the courts in a fair, impartial, and timely fashion—simple dispute resolution. But the Judiciary is now being called upon to do so much more.

A judge's duty is to do the right thing for the right reasons. That is the hallmark of justice. As Mark Twain commented in 1868, ". . . judges have the *Constitution* for their guidance. They have no right to any politics save the politics of rigid right and justice when they are sitting in

judgment upon the great matters that come before them." Of course, a few years later Twain would say with a wry wit, "Do right. This will gratify some people and astonish the rest."

In today's environment, though, what is the right role for Nevada's judiciary?

Over the years, and more so in recent times, the responsibilities of the judiciary have increased in ways we would not have imagined just two decades ago. Increasingly, our citizens are turning to the courts to secure assistance in a variety of complex civil and even social problems. The population growth in Nevada certainly has added pressure to our judicial system, as it has to state and local governments. Who among us could have seen 15 years ago that the courts would be inundated with construction defect cases that can tie up judges for months at a time? Or envisioned a single medical malpractice case that can affect the lives of thousands of our citizens in Clark County? During that same period, we have witnessed family court dockets grow to nearly 50 percent of all civil filings in district court. In 65 percent of those cases, both parties are self-represented, inevitably requiring more hearings and more judicial time. Our criminal courts are seeing a growing number of defendants who are committing increasingly serious crimes. The result is that during the past 13 years, our prison population grew almost 60 percent, adding 5,000 inmates to Nevada's prisons.

To paraphrase the chief judge for the State of New York, "Whether we like it or not, the state courts are in the eye of the storm; we have become the emergency room for society's worst ailments—substance abuse, family violence, mental illness, mortgage foreclosures, and so many more." This reality has forced the courts to approach cases in entirely new ways.

For many citizens, the only contact they have with government is through the courts. They may get a traffic ticket, be asked to serve as a juror, be called as a witness, or get a divorce. The courts should always remember, though, that each case involves someone's rights, someone's children, someone's property, or in some cases, someone's freedom. In criminal cases, the Judicial Branch protects a defendant's constitutional right to a fair trial and preserves the victim's interest in the outcome of the case.

But I wish to remind everyone—our duty to hear and resolve all of these cases are not optional. The courts are required by our constitution and statutes to decide such matters, often within legally mandated deadlines—and always timely, fairly, and efficiently.

Therefore, in my view, the vision for Nevada's Judicial Branch, today, is to be proactive in the management of its cases, innovative in its approach to dispute resolution, creative in its efforts to provide access to our courts, sensitive to the needs of people who come before us, accountable for our behavior and our decisions, fiscally responsible and transparent in all that we do. If we can meet these goals, modern day courts will continue to earn the public's trust and confidence.

Despite our challenges, I would maintain that the State of the Judiciary in Nevada is sound. Let me report on some of the many accomplishments of Nevada's courts since you last convened.

Our courts continue to labor under escalating caseloads, but for the first time in some years, district court criminal case filings have declined marginally. However, we have seen an increase in civil case filings in district and justice courts. These civil filings and the criminal case filings in justice courts and most urban municipal courts continue to overwhelm the system. And at the Supreme Court, filings set new records every year. The most recent Annual Report of the Nevada Judiciary adequately summarizes these statistics. But what do these statistics mean to the lives of real people and Nevada businesses? Let me give you one example. If you have an average civil case in the district court in Clark County, you will have to wait three years and six months for your case to come to trial. Is that acceptable? The answer is a resounding "no." Nevertheless, you should know, and I am very impressed, that our district courts disposed of over 103,000 cases. The justice courts resolved 235,000 nontraffic cases. The municipal courts concluded 60,000 nontraffic misdemeanor cases, and the Supreme Court decided nearly 2,000 matters. That is a total of more than 400,000 cases resolved by Nevada's judiciary in the last fiscal year.

Throughout the state, judges are using technology and innovative case management techniques to keep our most complex cases from being lost in a sea of uncertainty and expense. At the Complex Litigation Center in the Eighth Judicial District, Judges Alan Earl, Susan Johnson, and Timothy Williams supervise 291 construction defect cases affecting thousands of

Clark County residents and hundreds of construction companies and developers. The work of these judges brings order to chaos, has promoted settlements in many cases, and assured the parties that an ultimate resolution of their case will occur.

The judiciary is facing at another case management crisis in Clark County—the well publicized endoscopy litigation. Through February of this year, 446 cases involving thousands of individuals have been filed, presenting a significant challenge to the judicial system. Proactively, the judges of the Eighth Judicial District have consolidated these cases for management purposes under the able supervision of Judge Alan Earl. I feel it is important for the Legislature to understand exactly what the court is dealing with here. Millions of pages of documents are being filed with the court, hundreds of motions are being presented, and weekly tracking is necessary to keep the cases progressing. Like the construction defect cases, all of these matters involve Nevadans—their lives, their families, their businesses and their futures. We cannot afford to delay justice in these cases—or any other case.

And while we are on the subject of medical malpractice cases, you should also know that more than 400 such cases are pending today in Clark County. While the courts would like to have taken these cases to trial within the time frames established by the Supreme Court and the Legislature, that simply could not be accomplished in nearly a quarter of these cases because there are not enough judges or courtrooms to do so. One of my favorite success stories are business courts. These courts are there to expedite the resolution of legal disputes that might increase the cost of doing business in Nevada or force a business to close. In short, business courts keep companies in business and Nevadans working. Two years ago, the Supreme Court made a number of changes governing business court. Through the very capable efforts of Judges Elizabeth Gonzalez, Mark Denton, and Brent Adams, the business courts in Nevada are no longer an experiment. We can all be truly proud of their success. Clark County's Business Court docket has grown from 226 cases on June 30, 2006, to 543 cases on June 30, 2008. Recently, a Las Vegas attorney told me about a complex corporate and insurance regulatory issue she handled last year. The Nevada Insurance Commissioner ordered the parties to resolve the dispute by a date certain, and through the stewardship of Judge Gonzalez, the parties were able to settle the case well before the Commissioner's deadline. Your Legislative Commission subcommittee found that Nevada's business courts are preferable to the creation of a chancery court. The subcommittee also recommended some additional improvements in the business court. Assuming adequate resources can be provided, the Nevada Supreme Court is prepared to enact rules addressing the recommendations of your subcommittee.

Nevada's drug courts and other specialty courts continue their incredible journey, begun in 1992 when Nevada launched the nation's fifth drug court. It is a journey that saves lives and families and even the futures of unborn babies. The Legislature's continued support of these courts has enabled dedicated specialty court judges and staff to achieve successes that no one thought possible. The efforts of you in this room today have now extended the benefits of specialty courts to our rural communities.

Last fiscal year, the specialty court judges around the state served more than 2,200 participants and witnessed 1,235 graduates. Seventy-six drug free babies were born to participants—that is 76 babies who now have a chance to grow up without the limitations imposed on them prenatally by drug-addicted mothers. The success of these courts is illustrated by two stories, one out of Elko and one out of White Pine County. In Elko, Judge Andrew Puccinelli supervised a young woman I shall call Samantha. An abusive relationship followed by the death of her husband left Samantha alone with three children. She turned to drugs and lost her three children to the system. Ultimately and predictably, she ended up in the criminal justice system. After 32 months in drug court, Samantha is a changed woman—vibrant and exuberant. She is an employed, taxpaying, productive member of society and has regained her custody rights. The second story demonstrates the imagination and dedication of Judges Steve Dobrescu and Dan Papez in White Pine County. The story involves a young couple whose two children were taken away by the Division of Child and Family Services because the parents could not overcome their frequent use of marijuana and methamphetamine. The parents loved their children but repeatedly violated the case plans for reunification with their children because of their continuing drug addictions. Even though no criminal charges were pending, Judges Dobrescu and Papez ordered the parents to participate in drug court as part of the most recent

case plan. Last June, the children were returned to their parents, and in December, mom and dad both graduated from drug court. Now I must emphasize that these are but two of the hundreds of similar stories made possible by the specialty courts of our state. And I must also emphasize that were it not for the drug courts, many of these success stories would otherwise be passing through that revolving door in and out of prison at a considerable cost to society.

And then there is District Judge Jackie Glass, who supervises Clark County's Mental Health Court and the relatively new Competency Court. The Competency Court manages cases pretrial of defendants who may lack competency to go to trial. The expense and delay to the system caused by such cases is enormous. The success of Judge Glass's efforts is underscored by the case of former NFL football player Cole Ford. He came to the district court after being on the streets for some time, was talking nonsense, uncooperative, and clearly mentally ill. Through the concerted efforts of Judge Glass, doctors at Lake's Crossing, and both attorneys in the criminal case, Mr. Ford regained competency and was reunited with his family as a productive member of society.

In Las Vegas Municipal Court, Judges Bert Brown and Cedric Kerns and their colleagues continue to make history. Judge Brown supervised the Court's Women in Need, or WIN, program. A 21-year-old woman I shall call Laura had a history of arrests for solicitation, two felony convictions, and a drug abuse problem. She came to Las Vegas and for two years walked the streets selling herself to pay for her drugs. She was brutally beaten and frequently fell into abusive relationships. At age 23, Laura was arrested for solicitation and placed into the WIN court program which requires that participants abstain from drugs and alcohol, get drug tested regularly, and stay out of legal trouble. Under Judge Brown's supervision, Laura graduated from the program, is employed, and attending school where she is maintaining a 4.0 GPA. Judge Kerns supervises the HOPE Court, which deals with those who—because of homelessness or for other personal problems—find themselves repeatedly in the criminal justice system. HOPE stands for Habitual Offender Prevention and Education. Bernard is a 52-year-old man with an extensive criminal history who has served three prison terms. From 1998 to 2007, he was arrested 65 times and served a total of 656 days in jail. He was doing a life sentence on the installment plan. He had no hope. When he entered the HOPE Court as a result of yet another misdemeanor arrest, he had been homeless for over ten years. Under Judge Kerns' supervision, Bernard graduated from HOPE Court on January 15, 2009. By that time, he had been clean and sober and off the streets for two-and-a-half years with no arrests.

I thought this Legislature would be particularly interested in the results of your efforts to codify the DUI Court program. This specialty court deals with serious and chronic DUI offenders who have failed to appreciate their actions after prior jail or prison terms. These are the offenders I would expect will eventually kill or injure themselves or someone else while driving drunk. The DUI Court has been remarkably successful in breaking the destructive cycle of these offenders. As you know, the Nevada Supreme Court recently upheld the constitutionality of the legislation creating these courts. We also ordered that the opportunities of DUI Courts be extended to our rural communities Because of your legislation and the judiciary's implementation of DUI Courts, we can all be proud that we are making a difference in this troubling area.

All of us recognize that crime prevention starts with our young people. I would like to highlight three efforts in this area. Judge Ken Howard operates Kids Court in the Reno Municipal Court. Every month 30 fifth graders and their parents visit his court to see how justice is done at that level. There is a mock trial in the case of "BB Wolf vs. Curly Pig." There is an "Ask the Inmate" program and a discussion on issues from drug or alcohol abuse, to peer pressure, to choices young people must make, and of course, the value of staying in school. I also want to commend Judge William Voy's efforts to create the Nevada Safe House for Sexually Exploited Children. Judge Voy sees 150 girls each year come through the juvenile detention center in Clark County who are victims of sexual exploitation. Judge Voy's vision will work to intercept these girls and restore their lives.

Over the last four years, the judiciary has improved juvenile justice court practices and services for youth while protecting public safety through the application of the Juvenile Detention Alternatives Initiative (JDAI) funded by the Anne E. Casey Foundation. Judge William Voy in Clark County and Judge Frances Doherty in Washoe County have, along with

many others, developed alternatives to the overreliance on secure detention facilities for many juvenile offenders. Instead, healthy alternatives targeting the needs of individual children and families have been created. Using these alternatives, in Clark County the average daily population of detained juveniles has decreased by 31 percent. In Washoe County, the average daily detention population has decreased by 28 percent. Judge David Gamble in Douglas County and Judge Puccinelli in Elko County, operating with limited resources, have also applied JDAI principles and practices to create detention alternatives in their jurisdictions. Together, these collective efforts have taken the pressure off the need to construct new juvenile detention centers throughout the state.

The family mediation programs in Clark and Washoe Counties have provided an alternative avenue for families to resolve their domestic disputes. These families get an opportunity to work out their own differences and take control of their own lives with the assistance of trained mediators. In the process, families can avoid the expense, delays, and animosity that often accompany prolonged litigation in family courts. Since 2003, over 21,000 cases went through Clark County's Family Mediation Center. During the same time, Washoe County's Family Mediation Program accepted over 3,400 cases. More than three-quarters of all of these mediation cases were resolved to the mutual benefit of mothers, fathers, and their children.

I am particularly proud of the Supreme Court's continuing efforts to open the doors of the justice system to the eyes and ears of all Nevadans. The Nevada Supreme Court recently enacted rules prohibiting the sealing of files in civil cases. We have made our oral arguments available to the entire state via webcasts and podcasts. We have also successfully implemented electronic filing in all criminal cases, which will allow easier access to those records. On March 1, 2009, a Supreme Court rule went into effect that I believe will have a profound impact on the ability of litigants and lawyers to access our courts. The rule, which allows parties to appear in court telephonically or via video connections, should have its most dramatic impact on the civil legal needs of litigants in our rural communities. On March 29, the Court will launch a redesigned and expanded user-friendly website offering increased information about the court, its committees and commissions, its schedule, arguments, and decisions.

One of the roles of the Supreme Court is to establish commissions to study the justice system and make recommendations about how we can do our jobs better. The work of three commissions stands out. The Indigent Defense Commission chaired by Justice Cherry has been recognized nationally for its sweeping recommendations to improve indigent defense in criminal cases in Nevada. The Article 6 Commission, cochaired by William Dressel and Paula Gentile, has made substantial recommendations to improve the judicial discipline system and the speed with which the Commission on Judicial Discipline processes complaints against judges. And finally, the Access to Justice Commission, which I cochair with Justice Douglas, has recently issued a report concluding that the serious civil legal needs of the underprivileged in Nevada are not being met. We were stunned to learn that there is only one legal aid attorney for every 5,000 eligible persons in Nevada with civil legal needs. The Access to Justice Commission is pursuing increased funding and a statewide approach to address this serious crisis. I would like to take this opportunity to thank the 15 banking institutions in this state that, in the past five months, have increased their interest rates that they pay on lawyer trust accounts which help fund legal aid services in Nevada.

And I cannot conclude a discussion of the judiciary's accomplishments without mentioning the efforts of the courts to offer some help in the state's budgetary struggles. On this subject, two areas are particularly noteworthy. The Las Vegas Township Justice Court has completed a Traffic Amnesty Program which gave individuals the opportunity to resolve their unpaid traffic citations and avoid late fees and penalties. When the program ended on February 13, 2009, nearly 10,000 individuals had paid outstanding fines, bringing in $5.4 million for Clark County and the State of Nevada. An additional 9,600 individuals established payment plans to pay $5.8 million in outstanding fees and fines. Another 10,000 individuals, apparently fearing the Justice Court was headed their way, have requested traffic court dates to deal with their outstanding tickets. The Justice Court has contracted with a collection agency and has issued arrest warrants in pursuit of millions of additional dollars that are owed. I want to congratulate and recognize Chief Judge Zimmerman, her colleagues, and Court Administrator Ed Friedland. They deserve recognition for this effort.

At the state level, the Nevada Supreme Court reverted almost $2 million to the General Fund for Fiscal Year 2008. That was 23 percent of the General Fund appropriation to the Court excluding statutorily set judicial compensation. We are projecting that we could revert another $2.2 million for Fiscal Year 2009. That would amount to 24 percent of the Court's General Fund.

The list of these accomplishments is by no means exhaustive and cannot include our many other achievements. I believe, however, that it provides a substantial illustration of the invaluable work being performed every day by judges and staff throughout Nevada.

In all of these programs, I see an important partnership among the Judicial, Legislative, and Executive Branches. The Judiciary's ability to carry these programs forward is dependent, of course, upon the resources this Legislature can provide. I would like, therefore, to discuss the impact that decisions of the 75th Legislature may have on the future of the Judicial Branch and our ability to meet the growing needs of our citizens.

As you know, the judiciary has proposed a plan to help address the crucial need for additional judicial resources in Nevada. The complexity and volume of the caseload clearly demonstrates the need for new judges in Clark and Washoe Counties. In our rural courts, the need for technology, support staff, facilities, and other judicial resources cannot be questioned. This is why we have urged you to consider increasing the fees on civil case filings in district court. Nevada has not revised many of these fees since 1993, and in these harsh economic times, this is a logical alternative. Those who use the courts should rightfully take a greater role in funding those courts. We have taken great care to calibrate the increases in the filing fees to distribute the burdens as fairly as possible. The fees, as proposed, would be comparable to or below those charged by surrounding states. This measure has received broad-based support from county officials, trial lawyers, and members of the State Bar, all of whom recognize the pressing need for increased judicial services in civil cases. The sad reality, as I noted earlier, is that the Judicial Branch cannot effectively and timely respond to the needs of citizens and businesses without the added resources our plan will provide. Neither can we adopt the legislative recommendations for rule changes to our business courts without your help. I urge your support for measures pending in the Legislature to implement this plan.

The Senior Judge Program has become essential to the delivery of judicial services in Nevada. During Fiscal Year 2008 our senior judges spent more than 12,000 hours conducting settlement conferences, running specialty courts, and handling the calendars of district judges so that trials could proceed unabated. I would like to introduce two of our Senior District Judges—Peter Breen and Archie Blake. These two judges continue to manage the drug and mental health courts in Washoe County and ride the circuit to bring the benefits of the drug courts to the rural communities in western Nevada. We could not do it without them. I would urge your continued funding of the Senior Judge Program.

I would like to thank the Legislature for its continued support of SJR 9, which hopefully will result in the creation of an intermediate appellate court to meet the growing needs of litigants in our state. The State Senate has passed SJR 9 for a second time, and I would urge the Assembly to follow suit. The Supreme Court currently is responsible for all appellate matters, and we are one of the busiest appellate courts in the country. Nevada is by far the largest of the 11 states without an intermediate appellate court. I believe it is time for this state to take this step.

We are all concerned about the financial health of our state. I would urge the Legislature to consider two proposals that could have a significant impact on our fiscal needs. First, as many of you know, I have asked United States Senators Harry Reid and John Ensign to support federal legislation that would allow Nevada to intercept federal tax refunds of people who have not paid their financial obligations ordered by the courts. The State of Oregon estimated that a federal tax intercept program in that state would generate up to $61 million. I submit that we are not far off with that number in our state. I ask you to adopt a resolution calling upon our federal delegation to support the federal tax intercept bill proposed during the 110th Congress.

Second, the Advisory Commission on the Administration of Justice has suggested that the responsibility for the collection of court-ordered fees, fines, and victim restitution be centralized under the Administrative Office of the Courts. In this plan, the courts would partner with State Controller Kim Wallin, who has increased her efforts to collect much of the debt owed to our

state. These initiatives would not only pay for themselves, but provide badly needed resources to the entire state.

Ladies and gentlemen of the Legislature, I am excited about the future of the Judicial Branch in Nevada. I am proud that our courts continue to meet the challenges placed before us and are providing real solutions for today's problems. Nevada's judges and court staff are motivated, enthusiastic, innovative, and engaged in making this branch of government the best that it can be.

Our duty as judges is to deliver fair, impartial, principled, scholastic justice, and to do so with character and integrity. Our citizens should expect nothing less. But we in the judiciary can, and should, expect of ourselves much more.

Thank you.

Senator Carlton moved that the Senate and Assembly in Joint Session extend a vote of thanks to Chief Justice Hardesty for his timely, able, and constructive message.

Seconded by Assemblyman Ohrenschall.

Motion carried unanimously.

The Committee on Escort escorted Chief Justice Hardesty to the bar of the Assembly.

Senator Schneider moved that the Joint Session be dissolved.

Seconded by Assemblywoman Dondero Loop.

Motion carried.

Joint Session dissolved at 1:02 p.m.

ASSEMBLY IN SESSION

At 1:03 p.m.

Madam Speaker presiding.

Quorum present.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Kristy Grow.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Jeanette Bloom, Liza Schumacher, Cassandra Jackson, and Nenita Wasserman.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Diss.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from St. Albert the Great Catholic School: Christina Ackerman, Meghan Aspittle, Keanu Azul, Madeline Blackburn, Madeleine Browne, Rachel Chew, Kacie Conway, Mikaela DeRicco, Samantha Dinan, Christopher Gonzales, Ryder Haag, Dylan Hart, Artie Henderson, Tawni Henderson, Thomas Libang, Jacob Lucey, Joseph Mandagaran, Jochelle Martinez, Maggie Mayer,

Hannah Moore, Caitlyn Neville, Marco Ortiz-Cloninger, Schuyler Parco, Ruby Pollock, Johnny Reiley, Connor Rosevear, Brendan Sanchez, Kamea Sandstrom, Harry Schroeder, Hanna Spevak, Sarah Tintle; teachers Jodi Potter and Chrisine Mayer; chaperones Stacey Dinan, Buffy Aspittle, Alex Reiley, Nicole Browne, Betty DeRicco, Lisseth Henderson, and Mark Neville; the following members of Cub Scout Pack #512: A.J. Arkebauer, Christian Blasi, Clint Cook, Eddie Gredvig, Jordan Hoover, John Sturtz, Ian Sturtz, Bradley Thingelstad; chaperones and adult leaders Cari Arkebauer, Aaron Blasi, Heather Cook, Rob Gredvig, Dave Hoover, Kenn Sturtz, Kellie Crosby-Sturtz, Rob Thingelstad, and Dianna Thingelstad; Robin Johnson and Marshall Johnson.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Edward J. Cooper, Robert P. Bilbray, and Samuel C. C. Medrano.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Steve Dahl.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Nathan Sosa, Gene Segerblom, Eva Segerblom, and Robin Ligget.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Maria Letizia, Vena Lee Hardesty, and Sherry Heavrin.

Assemblyman Conklin moved that the Assembly adjourn until Friday, March 27, 2009 at 11 a.m.

Motion carried.

Assembly adjourned at 1:03 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FIFTY-FOURTH DAY

CARSON CITY (Friday), March 27, 2009

Assembly called to order at 11:32 a.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present except Assemblyman Munford, who was excused.

Prayer by the Chaplain, Pastor Dixie Jennings-Teats.

Gracious and Most Merciful One, we gather today in Your presence, trusting in Your manifold blessings. Help each one here as we struggle with difficult decisions in a difficult time. Place each one of us in the center of your compassion, to be able to respond compassionately in the decisions that are made. Place each of one of us in the center of your creativity, allowing us to see with new ideas and new approaches solutions we have not seen before. Place us in the center of Your unlimited insight, where we might understand the work each committee, each legislator does in the light of Your wholeness, learning from approaches that work from many places.

Lead us into Your new day, where we might learn to live simply, seeing blessing in each day, making the work of this body to aid those most in need. In the Name of Hope and Love in our world we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 214, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Concurrent Committee on Education, to which was referred Assembly Bill No. 429, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Assembly Joint Resolution No. 7; Senate Joint Resolution No. 9 of the 74th Session, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

HARRY MORTENSON, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 139, 306, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Concurrent Committee on Government Affairs, to which was referred Assembly Bill No. 443, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 337, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

DEBBIE SMITH, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Assembly Bill No. 337 be rereferred to the Committee on Ways and Means.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bills Nos. 33, 218, 280, 332, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which were referred Senate Bills Nos. 38, 109, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 412, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 109, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Koivisto moved that the action whereby Assembly Bill No. 443 was referred to the Concurrent Committee on Elections, Procedures, Ethics, and Constitutional Amendments be rescinded.

Motion carried.

COMMUNICATIONS

UNITED STATES SENATE
WASHINGTON, D.C. 20510-2805

March 25, 2009

SPEAKER BARBARA BUCKLEY, NEVADA STATE LEGISLATURE, 401 South Carson Street, Room 1104, Carson City, Nevada 89701

DEAR SPEAKER BUCKLEY:

I respectfully request that you allow me the honor and privilege of addressing a joint session of the Nevada State Legislature on Thursday, April 16, 2009. I would greatly appreciate it if you would provide me the time slot from 12:00 p.m. until 1:00 p.m.

I look forward to addressing the legislature.

Sincerely,
JOHN ENSIGN
United States Senator

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 24, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 20.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 37, 41, 44, 65, 77, 141, 149, 166.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 67.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, March 25, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 132; Senate Bills Nos. 48, 172, 175, 199, 223, 235, 247; Senate Joint Resolution No. 9; Senate Joint Resolution No. 2 of the 74th Session.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 20.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, March 26, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 163, 184.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 21.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 17.

Assemblywoman Buckley moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:44 a.m.

ASSEMBLY IN SESSION

At 11:45 a.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblywoman Buckley.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Assembly Concurrent Resolution No. 17 accepts the unemployment compensation stimulus money which is available to our state under the American Recovery and Reinvestment Act. The federal stimulus act will bring in approximately $270 million to Nevada, through the federal government agreeing to pay for a portion of the benefits that the state would pay for, were the feds not willing to do so, as well as expanding the eligibility for those benefits.

This is a companion measure to a bill on General File with regard to specific statutory changes that are necessary in order to obtain the unemployment stimulus funds. I will go more into the details of that when that bill appears on General File. At the present time, we have one of the highest unemployment rates in the nation. The latest figures show, for example, Carson City at 11.3 percent; Washoe County at 11.2 percent; Storey County at 12.6 percent; Nye County at 12.9 percent; Lyon County at 15.6 percent; Clark County at 10.1 percent. There is no doubt that Nevadans are out of work, and they cannot find jobs. This is the least we can do to help ease their trouble at this time as well as stimulate our economy, because this money in their pockets will be spent. I urge your support.

Resolution adopted and ordered transmitted to the Senate.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Resolution No. 8—Providing for the appointment of an additional attaché for the Assembly.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That Christopher Caldwell is elected as an additional attaché of the Assembly for the 75th Session of the Nevada Legislature.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblyman Oceguera.

Resolution adopted.

Senate Joint Resolution No. 9.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Joint Resolution No. 2 of the 74th Session.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Concurrent Resolution No. 20.

Assemblywoman Gansert moved the adoption of the resolution.

Remarks by Assemblywoman Gansert.

Mr. Speaker pro Tempore requested the privilege of the Chair for the purpose of making remarks.

Resolution adopted.

Senate Concurrent Resolution No. 21.

Assemblyman Segerblom moved the adoption of the resolution.

Remarks by Assemblymen Segerblom and Hardy.

Resolution adopted.

NOTICE OF EXEMPTION

March 24, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 181 and 274.

GARY GHIGGERI
Fiscal Analysis Division

Assemblyman Oceguera moved that NEVADA APPEAL/ASSOCIATED PRESS: Brad Horn; THE NEVADA SAGEBRUSH: Nick Coltrain; PROGRESS NOW NEVADA: Erin Neff be accepted as accredited press representatives, and that they be assigned space at the press table in the Assembly Chamber and that they be allowed the use of appropriate broadcasting facilities.

Motion carried.

Assemblyman Oceguera moved that the reading of histories on all Senate bills be dispensed with for this legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 37.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 41.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 44.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 48.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 65.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 67.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 77.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 141.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 149.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 163.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 166.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 172.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 175.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 184.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 199.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 223.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 235.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 247.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 248.

Bill read third time.

Remarks by Assemblyman Segerblom.

Conflict of interest declared by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 248:

YEAS—40.

NAYS—None.

NOT VOTING—Spiegel.

EXCUSED—Munford.

Assembly Bill No. 248 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 322.

Bill read third time.

Remarks by Assemblyman Hogan.

Roll call on Assembly Bill No. 322:

YEAS—41.

NAYS—None.

EXCUSED—Munford.

Assembly Bill No. 322 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 469.

Bill read third time.

Remarks by Assemblymen Buckley, Gansert, and Goicoechea.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Assembly Bill 469 enacts the statutory changes required in order for Nevada to accept the additional benefits that are available to our citizens under the federal stimulus act. The measure does two things. First, it adds an additional seven weeks—or more if the federal government decides to extend the provision—of state extended benefits for claimants who remain unemployed beyond the current 72-week eligibility. Under the provisions of the federal stimulus, 100 percent of the additional costs of the claims of these extended weeks are paid by the federal government. This provision would remain in place in our state law as long as the federal government agrees to pay 100 percent of these claims. The second provision provides for an alternative base period for purposes of qualifying for unemployment compensation. Basically, right now, in order to qualify for unemployment, you look at the five quarters that preceded the claim. Eligibility is calculated if you have enough time in the first four quarters. What this statute does is it allows you to look at the last four quarters out of the five. This provision allows additional people to qualify who wouldn't have qualified under the old test. The old test was developed because, before the advent of computerized records, you needed the 30 days to get the paper in the mail in order to calculate eligibility. Since those days are long gone and we are able to calculate eligibility quicker because of electronic recordkeeping, this alternative base period is possible, and it would qualify approximately 4,000 additional Nevadans for unemployment coverage.

The federal government will give us $77 million—money that will go into our trust fund if we do this. It is estimated that the cost of doing this—it depends on the actual numbers that are utilized—but basically it would finance this for anywhere from four to ten years. Our unemployment fund is scheduled to be $750 million in the hole by the end of this year. When that happens, the federal government, under the federal unemployment compensation scheme, allows the state to borrow funds from the federal government at a 5 percent interest rate. If we accept this $77 million, it obviously lessens the deficit and perhaps puts off for another fiscal year whether we will have to borrow money from the federal government. If our economy recovers sooner rather than later—and we know it will recover, it's just a matter of when—these additional resources may give greater solvency to our fund and put off the need of having to borrow as much, thereby ultimately saving employers costs in the long run.

This bill provides benefits to those in need. It is basically a way to inject additional dollars into the economy. The economic multiplier for every dollar of unemployment funds—it injects $2.15 into the economy. So it helps our economy, helps those who are unemployed, and allows us to return Nevada taxpayer dollars to Nevada by taking greatest advantage of the stimulus funds. I urge your support.

ASSEMBLYWOMAN GANSERT:

Thank you, Mr. Speaker pro Tempore. Our caucus had some questions. One was about the funds. When the funds run out, our funding of these additional benefits would terminated, is that correct?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. There are two separate provisions. First, on the extended benefit trigger, that sunsets so when the feds stop paying 100 percent, it goes away. We do not have the extended period of eligibility. With regard to the 4,000 workers who would now qualify under the alternative base period, we obviously will get anywhere from four to ten years worth of benefits out of that before it breaks even. A future Legislature could decide whether or not to then repeal that. We received a letter from the [U.S.] Department of Labor which was distributed to our Ways and Mean Committee confirming that a state could repeal the provision at any time without any federal penalty. It really depends on our future legislators

whether we decide this makes sense or not. There are a number of states that have this enacted already, even before the stimulus money came out. We heard from at least two employers in the testimony that this would benefit them because many of the folks who qualify under this second provision are construction workers and minimum wage workers. They want that workforce available when their work comes back. They do not want these workers to leave, so they thought it was an additional benefit to them. Those are the two kinds of "How long do they last? When do they expire?"—two different answers for the two different sets of claimants.

ASSEMBLYWOMAN GANSERT:

Thank you, Mr. Speaker pro Tempore. Could I ask one more question? Regarding the interest, it is my understanding of the interest—and I just want to confirm this—is that if we were to borrow from the federal government at the 5 percent rate—that's $77 million roughly, that would be about $4 million a year—that interest cannot be paid out of the Unemployment Insurance Trust; it has to be paid out of General Fund or other dollars. So this really could be potentially a General Fund-type savings in the future in that it could delay or reduce the amount we have to borrow.

ASSEMBLYWOMAN BUCKLEY:

Through you, Mr. Speaker pro Tempore, to the Assembly Minority Leader, that is correct.

ASSEMBLYMAN GOICOECHEA:

Thank you, Mr. Speaker pro Tempore. My concerns have been pretty much answered, but I do rise in support of the legislation. I think it does provide funding that is sorely needed at this time. They say, "Don't look a gift horse in the mouth." The teeth are a little long, but it's still a gift horse. Thank you.

Roll call on Assembly Bill No. 469:

YEAS—41.

NAYS—None.

EXCUSED—Munford.

Assembly Bill No. 469 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that all rules be suspended and that Assembly Bill No. 469 and Assembly Concurrent Resolution No. 17 be immediately transmitted to the Senate.

Motion carried.

Assemblyman Mortenson moved that Assembly Joint Resolution No. 1 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 39.

Bill read third time.

Remarks by Assemblyman Gustavson.

Roll call on Senate Bill No. 39:

YEAS—41.

NAYS—None.

EXCUSED—Munford.

Senate Bill No. 39 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 60 be taken from the Chief Clerk's desk and rereferred to the Committee on Government Affairs.

Motion carried.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. We are at the halfway mark, and I just want to take a moment and thank our staff for all that they do. The Fiscal Analysis Division—we've asked them basically to do the impossible, to begin now getting a sense of the Senate, the Assembly, our spending priorities. The documents they have prepared for our consideration are just amazing. They have worked so hard. The Governor had put forth a proposal to possibly furlough every DMV employee in the state and close office hours, which would have made the long lines of the past return again. A couple of our analysts in the past ten days were able to identify $3 million dollars in nonpersonnel savings, and because of their great work, we were able to avoid the cap issue. We have the Legal Division—my goodness, the amount of bills they produced for us, the amendments. We ask the impossible, and they say yes. The Research Division—so many individuals in this body have asked Research for talking points, for testimony, for help with constituent responses, and the answer is always yes. The Administrative Division, whether it is the Broadcast Unit that is videoconferencing meetings—"No, we need this, no this"—five hearings at the same time, trying to juggle it to serve our constituents in other parts of the state. They want to testify by remote means. General Services—we always need something else, please help, supplies, you name it. Buildings and Grounds—the number of people, the classes that come in, and the tours. You look at our grounds outside—they are the best kept in the city. We should be so proud of all of them. The Legislative Police, again, always a presence. If ever there is trouble, they are there looking out for us. So whether it is Broadcast, Buildings and Grounds, General Services, Accounting, IT, Janitorial, Police, our Las Vegas office trying to answer our constituent requests in that part of the state, you name it. Accounting, Auditing—some of the best folks in the world giving us the tools we need to ask questions to demand accountability. Our Front Desk staff, individual secretaries, committee secretaries, Sergeant at Arms, Bill Services—you walk by the bill office and they are already leaving for the day; our books are updated like magic every day. Proofreaders, document processing, and I am sure I left some out. You all have been doing such a great job for us. Please know how much all of us appreciate all of you. Thank you.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Concurrent Resolutions Nos. 17 and 18.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Daniel Armbrust.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Dan Heinz and Karen Boeger.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Scarlett Smith and Brian Smith.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Nathan Sosa, James Wright, Michelle Wagner, and Woodrow Allen.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, March 30, 2009, at 10:45 a.m.

Motion carried.

Assembly adjourned at 12:44 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FIFTY-SEVENTH DAY

CARSON CITY (Monday), March 30, 2009

Assembly called to order at 11:06 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman Horne, who was excused.

Prayer by the Chaplains, Bishops Randolph Calvo and Joseph Anthony Pepe.

Almighty and Everlasting God, from the abundance of Your mercy, enrich and safeguard Your civil servants. Strengthen them by Your blessings. May they always be thankful to You and bless You with unending joy. Lord, let the effect of your blessings remain with Your faithful servants, to give them new life and strength of spirit so that the power of Your love will enable them to accomplish what is right and good.

Almighty God, You have given all people one common origin and Your will is to gather them into one family. Fill the hearts of these legislators here present with the desire to ensure justice for all the citizens of this state. By their prudent deliberations and decisions, may they secure justice, equality for every man and woman; end all division; and build a human society of peace and love. We ask this in His Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

Madam Speaker appointed Assemblymen Atkinson and Woodbury as a committee to invite the Senate to meet in Joint Session with the Assembly to hear an address by United States Representative Shelley Berkley.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 96, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 180, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 477, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which was referred Assembly Bill No. 164, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 127, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 127 be rereferred to the Committee on Ways and Means.

Motion carried.

NOTICE OF EXEMPTION

March 26, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 226.

GARY GHIGGERI
Fiscal Analysis Division

March 26, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 195, 212, 242, 283, 288 and 331.

GARY GHIGGERI
Fiscal Analysis Division

March 30, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bill No. 295.

MARK STEVENS
Fiscal Analysis Division

March 30, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 215, 227, 273, 279, 298, 323, 349, 365, 386, 387, 391, 392, 394, 396, 422, 424, 430, 434, 435, 441, 448, 460, 488 and 489.

MARK STEVENS
Fiscal Analysis Division

March 30, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 232, 256, 260, 281, 285, 303, 317, 330, 341, 358, 373, and 374.

GARY GHIGGERI
Fiscal Analysis Division

By Assemblymen Smith, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Spiegel, Stewart and Woodbury; Senators

Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Assembly Concurrent Resolution No. 21—Commending the extraordinary work of the Angel Kiss Foundation in helping families of children with cancer.

WHEREAS, The Angel Kiss Foundation was originally created in Virginia in 1990 by David and Barbara Rosin, in memory of five-year-old Jarryd, their grandson, who was diagnosed in 1987 with leukemia, and after they relocated to Reno, they saw the need for an organization to help families in Nevada, and they established the Angel Kiss Foundation in 1997; and

WHEREAS, Frequently, families with children in Northern Nevada who have cancer must travel out of state to access treatment, which often results in an additional burden on families who are already facing the challenges of maintaining a household, caring for other children, making medical decisions and paying the astronomical costs associated with cancer; and

WHEREAS, Since its inception, the Foundation has provided more than $587,000 in direct assistance to more than 205 families in northern Nevada; and

WHEREAS, The Foundation serves northern Nevada as well as parts of central Nevada and the eastern Sierras in California; and

WHEREAS, In addition to financial assistance, the Foundation provides emotional support to children and families through its Connecting Families program, available to all families affected by pediatric cancer at no charge, with the goal of providing a safe social environment where children and families bond and parents keep abreast of all available resources through sharing experiences, ideas and information; and

WHEREAS, The Kids Club, one of the two subprograms of Connecting Families, allows children affected by pediatric cancer and their siblings to participate in activities such as pizza parties, art projects, cooking nights, pool tournaments, outings and games, while providing parents with some downtime without the need to pay child care costs; and

WHEREAS, Courage Together, the other subprogram, is a collaborative effort with the Keaton Raphael Memorial Foundation and provides peer support groups for children with cancer and their families in a safe, professionally supervised environment; and

WHEREAS, In addition to the core programs, which provide financial assistance and emotional support, the Angel Kiss Foundation offers many more services to children affected by cancer and their families, including professional referral services and an on-line community forum, and also hosts social events such as holiday parties; and

WHEREAS, The Angel Kiss Foundation's commendable work generously provides invaluable financial assistance and emotional support to cancer-stricken children and their families in times of their greatest need, ensuring that children in northern Nevada have access to treatment, regardless of their families' financial situations; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Session of the Nevada Legislature hereby express their sincere gratitude to the Angel Kiss Foundation; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Rosin Family and to Julie Tholl DeJan, Executive Director of the Angel Kiss Foundation.

Assemblywoman Smith moved the adoption of the resolution.

Remarks by Assemblymen Smith, Bobzien, and Gansert.

Resolution adopted and ordered transmitted to the Senate.

The President of the Senate and members of the Senate appeared before the Bar of the Assembly.

Madam Speaker invited the President of the Senate to the Speaker's rostrum.

Madam Speaker invited the Members of the Senate to chairs in the Assembly.

IN JOINT SESSION

At 11:24 a.m.
President of the Senate presiding.

The Secretary of the Senate called the Senate roll.
All present except Senator Nolan, who was excused.

The Chief Clerk of the Assembly called the Assembly roll.
All present except Assemblyman Horne, who was excused.

The President of the Senate appointed a Committee on Escort consisting of Senator Woodhouse and Assemblywoman Pierce to wait upon Representative Berkley and escort her to the Assembly Chamber.

The Committee on Escort in company with The Honorable Shelley Berkley, United States Representative from Nevada, appeared before the Bar of the Assembly.

The Committee on Escort escorted the Representative to the rostrum.

Madam Speaker welcomed Representative Berkley and invited her to deliver her message.

Shelley Berkley, United States Representative, delivered her message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-FIFTH SESSION, 2009

Thank you, Madam Speaker. I have to say what a pleasure it is to be here with all of you. It was awfully wonderful walking around the halls and seeing everyone and having an opportunity to talk, and to kiss, and to get reacquainted. I think it is just wonderful that today was "Matzo ball Monday" at your lunch in my honor. I appreciated that very, very much. I wanted to acknowledge and thank all of you for giving me the opportunity to speak with you. You know we have this lovely tradition, here in Nevada, where your federal officials come during your legislative session and speak with you. It was much easier when there were only three of us. Our numbers are growing, which is a good thing. I know how busy you all are, and I know how much time this takes. I will do my best not to take up too much of your time.

A special thank you goes to Speaker Buckley for opening up her House to me. I appreciate it. Of course, Majority Leader Horsford, it was lovely to see you. Senator Raggio, a pleasure always. Assembly Minority Leader Heidi Gansert, it's a pleasure to see you, as well. And, of course, Lt. Governor Krolicki, thank you for being here. Attorney General Catherine Cortez Masto, thank you again. Treasurer Kate Marshall, it is always a pleasure to see you. Controller Kim Wallin, it is lovely to see you and thank you for coming. Justices Hardesty and Cherry, thank you so much for taking time out of your busy schedules to be here.

There are a couple of other people I would love to acknowledge, if you would give me the opportunity. One is Bishop Pepe from Las Vegas. He is here and he and I have worked very, very closely together. He is accompanied by Bishop Calvo, as well. It is lovely to have spoken to them. I understand that this is Canada Day, and the Consul General from Canada is here with a delegation. It is always a pleasure to see our neighbors and good friends from the north. I thank them very much for being here, as well.

I served in this body 26 years ago. It is very easy for me to know the number of years because I had just had my son Max. Max is now 26 years old and has one more semester left at the Boyd School of Law. So I actually see a paycheck in his future, which makes me very happy. I am now serving in my sixth term as a member of the House of Representatives. Just like for you, the years go by very quickly. It means that this is the sixth time that I have had an opportunity to speak with all of you here in this body.

There is no question that these are very challenging times in our nation—difficult times for our constituents and our fellow citizens. Nevada has been particularly hard hit. We have the highest mortgage foreclosure rate in the country. One out of every 76 people have received foreclosure notices in Nevada. Over 14,000 of our fellow Nevadans have received foreclosure notices in January alone. We have one of the highest unemployment rates in the country. Officially, it is 10.1 percent, but I would argue with anyone that it is substantially higher. For the first time in decades, we are actually losing population in this state. Everything I do in Congress, every vote I cast, is cast with what's happening here at home paramount in my mind. My congressional district is one of the hardest hit in the country. It is my job to do everything I can to help create jobs, stimulate the economy, protect jobs here that people already have, and provide a safety net for those families who have lost their jobs and their homes. They have also lost hope in themselves and faith in the country. Because the mortgage foreclosure rate is so high, I have met both publicly and privately on numerous occasions with our new Housing Secretary, Secretary Donovan, to share with him what is going on in the State of Nevada. Our federal officials need to know what is happening on the ground.

Congress recently passed legislation to help homeowners stay in their homes. There were two components to the legislation that we passed. It will help a number of our fellow citizens. It will not be a panacea for everybody losing their homes. For those people that have loans that are held by Freddie Mac or Fannie Mae, if the mortgage is 105 percent of the value of the home, they are going to be able to refinance. For others that are significantly underwater, we are going to bring those mortgage payments down to 31 percent of their gross income. While we are helping, we need to make sure that people can actually afford the homes that they are living in.

The stimulus bill contained $2 billion for neighborhood stabilization programs. That allows municipalities to buy up and rehabilitate these foreclosed homes and either sell or rent them. It is very important to do this because we are losing neighborhood after neighborhood. The values of the homes which are remaining are going down, and the revenue to the municipalities is going down, as well, so I think this is a very important program. It is incomprehensible to me that lending institutions will not willingly renegotiate these loans. It seems that if you can afford to stay in your home and pay a mortgage of $1,100 a month and the mortgage is $1,400 a month that the lending institution should want to keep you in your home and renegotiate that loan. We have had a dickens of a time encouraging the lending institutions, nationally, to do just that. They keep telling us that they do not want to cram down, which means that if you are in bankruptcy, the bankruptcy attorney can lower the principal and the interest rates to keep you in your home. A little help from our lending institutions to help these people stay in their homes would make it easier for us to figure how we are going to help our fellow citizens.

Because the unemployment rate is so high, providing extended and expanded unemployment benefits was very important to me—making sure families had money coming in every month so they could put food on the table. An additional $100 a month is going to come to 195,000 of our fellow Americans, and as you well know, extended unemployment benefits are going to be given to an additional 40,000 laid off workers. Now, somebody said to me, "Congresswoman, it is only $100 a month. Is it going to make a big difference?" If you have zero, a hundred dollars a month is a big deal. If you are trying to take care of your kids, and pay your rent, and pay your electric bill, and keep a roof over your head, that extra $100 is important and is going to be a bridge that is going to help our fellow citizens that are unemployed get from here to there when there is an economic recovery in this country and in this state. And there will be.

Several weeks ago, Las Vegas became the target of every politician who had an axe to grind in Washington, D.C. The result of this barrage of anti-Las Vegas sentiment had a profoundly negative impact on the Las Vegas economy and, quite candidly, on our state's economy as well. The Las Vegas Valley lost 341 conventions and conferences since the beginning of the year. That has devastating consequences to our economy, and it means people get laid off because

those hotel rooms are not full. I finally had had enough of the attacks and of the reprehensible comments about my hometown and the district that I represent that encompasses Las Vegas. I went down to the floor of the House and I answered our critics, rather sharply, again and again and again. I grabbed ahold of people in the elevator and I grabbed ahold of people in the ladies room and any place that I found somebody that had said something negative about our state or the city of Las Vegas. I grabbed ahold of them and I told them how wrong they were.

Unfortunately, they are now avoiding me like the plague, but that is okay. The miracle of miracles it that after I started fighting back, the attacks stopped. Then we took to the floor last week—Congresswoman Dina Titus and a number of other people that come from tourist-based economy districts. We went down to the floor of the House to talk about the importance of tourism on this nation's economy. Nevada is still the best bang for the buck. Business travel must come back. They are not going to do better anyplace else but in the great State of Nevada. I am going to continue to promote our state and our largest industry. Why? It creates jobs and it keeps people working. It creates jobs and keeps those people that are still working, working some more. Until we stop the hemorrhaging and visitors start coming back to Nevada and businesses return to holding their conventions and conferences here in Nevada, I will continue to speak out on behalf of the people I represent—and on behalf of the Nevada State Legislature as well. You would expect nothing less from me.

I believe our nation has a remarkable opportunity to take this challenging time in our history and use it to implement long overdue changes that will enable us to come out of this recession stronger, more unified, healthier, better positioned to expand our economy and excel in the twenty-first century.

I am going to speak of three issues because each one of these will not only have a profound effect on our nation, they will have a profound effect on the State of Nevada and the people that we represent.

The first issue is health care. The way we do health care in this country, in my opinion, is "bass ackwards." We spend a majority of our health care dollars on end-of-life care, taking care of people in the last six months of their lives. What we ought to be doing is shifting the paradigm so that we are putting our health care dollars at the beginning, frontloading the system so we can have early detection and prevention of diseases that are killing us. To me, it not only will keep people healthier and living longer, it will also save billions of taxpayer dollars if we change the way we deliver health care services to our fellow citizens.

Let me speak about an issue that has a profound impact on all of us and that is the 47 million Americans that are currently uninsured. Eighteen percent of the people we represent here in Nevada have no health insurance. If you back out our senior citizens, 33 percent of those people under the age of 65 have no health insurance in the State of Nevada. Now, we are going to provide some sort of baseline health insurance because people that do not have health insurance still get sick. They need to see a doctor. What ultimately happens is that they go to the emergency room. It takes twice as much effort and ten times as much money, and it takes a bed away from someone who truly does need the emergency room. The cost of uninsured citizens in this country is costing all of us that have health insurance billions of dollars more. We cannot continue like this. I am hoping that we will be able to provide something. I am not talking about single payer, but some sort of baseline health insurance for every American. We need to do this. We need to do this for ourselves as well as for our fellow citizens that do not have insurance.

I was so pleased that I was able to vote for the State Children's Health Insurance Program (SCHIP), which is Nevada Check Up here. We have provided enough money to insure 4 million more children in this country. We will be able, because of the SCHIP program, to enable 37,000 more Nevada children to be part of our Nevada Check Up program. Right now, the State of Nevada has 70,000 children that are currently eligible for the program. We only provide funding for 22,500, and there is a cap at 25,000. The federal government passed this law. We are going to be providing the resources. If you could look at lifting the cap, to be able to accommodate the funding for the 37,000 more children that would be covered under SCHIP, I think we are going to keep these kids a lot healthier and give their parents a little peace of mind that when their children get sick, even if they do not have health insurance, they are going to be able to see a doctor, and I cannot imagine not doing that.

Quickly, there are a couple of issues that we are grappling with in Congress. We will have a comprehensive health care bill before the August recess. We have about 90 days to craft this. The Sustainable Growth Rate, SGR, is the rate that doctors are reimbursed in providing care for Medicare patients. The SGR is not sustainable, and we have been kicking this can down the road and there is no more road. If Congress doesn't act in January, there will be a 21 percent cut in Medicare reimbursement to doctors. I believe in extending and expanding health care to our fellow Americans. We are not going to be able to do this if we do not have doctors to take care of these patients, so we are going to change the Sustainable Growth Rate. There has to be a better way of reimbursing these doctors and making sure that we can continue to provide for older Americans. Why is this important? We have the fastest growing senior population in the United States in Nevada Congressional District 1. Short of me going to medical school so that when I go home on weekends I could start examining my senior citizens, we better figure out a way of saving Medicare and providing for reimbursement to the doctors so they will continue to take care of Medicare patients—it is that important.

In primary care versus specialties, I think we can all agree that Nevada does not have enough doctors, period. Now, there is an issue in Congress that we are working on. Let me give full disclosure that my step-daughter is a primary care physician, and my husband is a kidney specialist. What Congress wants to do, and the administration proposed, is providing more reimbursement for primary care doctors to encourage doctors to go into primary care. That is a wonderful thing. I am sure that my step-daughter can use more money. Frankly, we are tired of supporting her. I am all for that. The only thing that I am concerned about is the method by which the proposal works. The proposal says that we are going to help primary care physicians by taking it away from the specialties. In a state like Nevada where we don't have enough endocrinologists, we don't have enough nephrologists, we obviously don't have enough gastro guys and enough surgeons, the idea that we are going to be taking money, robbing Peter to pay Paul, doesn't make any sense to me. These are both important—primary care and specialists. We need to adequately fund them both.

In regards to health information technology, the stimulus package contained funding to computerize health care in this country within the next five years. It is going to reduce medical errors. If you have ever seen a doctor's handwriting, this is going to be nirvana and it is going to end up savings billions of dollars. I was a great proponent of that and I'm glad that we were finally able to pass it.

Let me talk about another issue that I think is very important to our nation and certainly to Nevada and that is energy. This nation must become energy independent, and we need to do it as quickly as possible. In my mind, energy independence is not only an environmental necessity—we are choking on the fossil fuels that we are contaminating our air with—it is an economic necessity. We can create an entire green economy that would be wonderful for the State of Nevada. This is a national security imperative. The United States of America as a superpower cannot continue to rely on unstable and dangerous dictators and terrorist regimes—like the Saudis, like the Venezuelans, like the Nigerians—to satisfy our energy needs. It is foolish. We should have started doing these 20 years ago, but we didn't, and it is not too late now. That is why these energy issues and initiatives are so important to me. Harnessing sun, wind, and geothermal in northern Nevada—Nevada can be the epicenter of renewable energy and a net exploiter to the other western states. What we need to do in addition to developing these resources, these renewable resources, is create the transmission lines that will carry the energy, not only to our fellow citizens here in Nevada but throughout the western United States. In the 1950s we developed a transportation highway system. My family came to Las Vegas on Route 66, which was one of those transcontinental highways that moved people from the East Coast to the West Coast. In the 1990s, we did a communications and information technology system. All of us are wired, and online, BlackBerry'd, and blueberried. For this decade, what we need to do is develop an energy transmission system, and we can do it. American ingenuity and technology are there; we just have to have the will to do it.

In the stimulus package, we provided enough resources to double renewable energy generating capacity in three years and to be able to power 6 million American homes with renewable energy. I am not saying that this is the panacea that we are going to use to stop using all oil and fossil fuel. That foolish I'm not. Ought we not to be moving in this direction and as

quickly as possible? Renewable energy initiatives are what this Congress is going to be concentrating on in the later part of this year. We will be coming up with a comprehensive piece of legislation that will move us further along. I don't know the details now, but I know it is going to be big and it is going to be for the future of this great country.

Let me mention briefly Yucca Mountain. President Obama campaigned in Nevada and elsewhere that if he was elected President, Yucca Mountain would not be the national repository for nuclear waste. He is our elected President, and he stated there will be no nuclear waste stored at Yucca Mountain, Nevada. For those that keep talking about an amazing payday from the federal government, I invite you—when you are not looking at your budget's red ink—to look at the federal government's budget red ink. There is no money. If you have to have the federal government pay you for doing something, like storing this nation's nuclear waste, then there's got to be something wrong with it or we would dying to get this stuff for nothing. I think Yucca Mountain is dead. We have a commission that is being formed that is going to come up with alternatives to Yucca Mountain. If we are going to continue to generate nuclear energy, we simply must figure out what we do with the radioactive toxic byproduct. It is not coming to Yucca Mountain, Nevada.

The last of the three issues I wanted to talk to you about is education. Like many of you, I am a product of the Nevada education system. For me, personally, it was the Clark County school system. I graduated from John C. Fremont Jr. High School and Valley High School. I am the first person in my family to go to college. I started at Nevada Southern University, which is now the University of Nevada Las Vegas. My boys both graduated from Bonanza High School. Max, as I mentioned, has one more semester left at the Boyd School of Law, and my son Sam is in the school of hotel administration. I talk to you not only as your colleague and a Congresswoman, but as a mother who has two generations invested in this state and in our school system. There are thousands of our fellow Nevadans just like my family, like my dad, who was a waiter when I was growing up. He was sending his daughters to college. It was the biggest thing in my parents' lives the day that I started at UNLV. Thousands of our fellow Nevadans depend on our system of higher education to educate them, to upgrade their own skills. Our university and community college system is the very center and core of academics in this state, our cultural activities, and athletic activities. It is the very essence of our social life. Now we've been talking about quality education and adequate funding of our education system since I was sitting where all of you are. We can't keep talking about it; we've got to do something, and we've got to do it fast.

Our nation is in serious peril of losing its competitive and qualitative edge in science and technology. We are not only competing with Georgia, Montana, and New York, we are competing with China and India. They are outpacing us in a most profoundly frightening way. Our children are falling behind academically. The dropout rate is unacceptable. We are graduating kids that are have trouble doing addition, doing math, can't make change, can't read full sentences, and don't have good comprehensive skills. We can't continue to underfund our own state's education system and pretend that an undereducated population will have no impact on our future. It does and it will. If we don't do something now, it is going to take us decades to recover from this. Congress voted to provide a hundred billion dollars in this stimulus package for education. We are providing money for Head Start, tax credits for college, money for early childhood education, school renovation, elementary and secondary school education. Nevada has to do its fair share. We need to step up and support funding for our state's education system. Our democracy is depending on a well educated electorate that makes informed decisions. This is more than just helping a kid go to school and getting a good education. It is more than the future of our state. Our very democracy depends on educating our children in the United States.

I am hesitant to say this because I know you are faced with a huge hole in our state budget. I am sensitive to it, believe me. I am grappling with the same things in Washington, D.C. I implore you to do whatever you can. I know you will. You are all in the same position I'm in. We all know how important education is. I think we have put it on the back burner for far too long and did not make the tough decisions when we had the money to do it. Let's not make that mistake again.

I acknowledge and appreciate the challenges that we have in this state and the challenges you have as elected officials. We have a lot of tough choices to make and a lot of tough decisions to

make. I want you to consider me, as you always have, as a partner and as a resource to you. We are in this thing together, and we are going to need to work out of this thing together, as well. Many times our nation has faced adversity in our history. We have managed to pick ourselves up and dust ourselves off and come back stronger and better than ever. We will survive this financial crisis and be better for it. Recovery will require sacrifice on all of our parts, careful planning, enforcement of existing regulations, implementation of new regulations, the elimination of others that have been counterproductive, and a vision for the future—a vision that includes revamping our health care system, our energy system, our education system, and our transportation system. We need to prepare this nation, ourselves, and our fellow citizens to conquer and excel in a world that is far different than the one that all of us were born into. I have no doubt in my mind that we will, but I appreciate the challenges on a day-to-day basis, as you sit here, and try to figure out how you are going to manage and move this state into a brighter future and a brighter tomorrow. It is going to take us awhile. We are going to get there. I can't thank all of you enough for the extraordinary effort and the time that you spend working on behalf of our fellow citizens. It is not easy. I want to thank all of you for your kind attention. Thank you very much.

Senator Hardy moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Berkley for her timely, able, and constructive message.

Seconded by Assemblywoman Spiegel.

Motion carried unanimously.

The Committee on Escort escorted Representative Berkley to the Bar of the Assembly.

Senator Breeden moved that the Joint Session be dissolved.

Seconded by Assemblywoman Mastroluca.

Motion carried.

Joint Session dissolved at 11:56 a.m.

ASSEMBLY IN SESSION

At 11:58 a.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Pierce moved that Assembly Bill No. 75 be taken from the Chief Clerk's desk and placed on the Second Reading File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 33 be taken from the Second Reading File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Arberry that Assembly Bill No. 139 be taken from the Second Reading File and rereferred to the Committee on Ways and Means.

Motion carried.

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

Assembly in recess at 12:01 p.m.

ASSEMBLY IN SESSION

At 12:03 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 214 be taken from the Second Reading File and rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 109.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 2.

AN ACT relating to motor vehicles; authorizing the Department of Motor Vehicles to issue certain special license plates for use on motorcycles; prescribing the fees for special license plates for use on vehicles other than passenger cars and light commercial vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if the Department of Motor Vehicles issues special license plates for use on a passenger car or light commercial vehicle and if those special license plates generate financial support for a charitable organization, the Department is authorized to issue the special license plates for use on a trailer or other type of vehicle that is not a passenger car or light commercial vehicle, but is prohibited from issuing the special license plates for use on a motorcycle or heavy commercial vehicle. (NRS 482.3824) ~~[This]~~ **Effective July 1, 2010, this** bill removes the prohibition against the Department issuing such special license plates for use on motorcycles and provides further that the fees for special license plates issued for use on vehicles other than passenger cars or light commercial vehicles must be the same as if the special license plates were issued for use on a passenger car or light commercial vehicle.

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

Section 1. NRS 482.3824 is hereby amended to read as follows:

482.3824 1. Except as otherwise provided in NRS 482.38279, with respect to any special license plate that is issued pursuant to NRS 482.3667 to 482.3825, inclusive, and for which ~~[an additional fee is]~~ ***additional fees are*** imposed for the issuance of the special license plate to generate financial support for a charitable organization:

(a) The Director shall, at the request of the charitable organization that is benefited by the particular special license plate:

(1) Order the design and preparation of souvenir license plates, the design of which must be substantially similar to the particular special license plate; and

(2) Issue such souvenir license plates, for a fee established pursuant to NRS 482.3825, only to the charitable organization that is benefited by the particular special license plate. The charitable organization may resell such souvenir license plates at a price determined by the charitable organization.

(b) The Department may, except as otherwise provided in this paragraph and after the particular special license plate is approved for issuance, issue the special license plate for a trailer ***, motorcycle*** or other type of vehicle that is not a passenger car or light commercial vehicle, excluding ~~[motorcycles and]~~ vehicles required to be registered with the Department pursuant to NRS 706.801 to 706.861, inclusive, upon application by a person who is entitled to license plates pursuant to NRS 482.265 ***or 482.272*** and who otherwise complies with the requirements for registration and licensing pursuant to this chapter ~~[.]~~ ***or chapter 486 of NRS.*** The Department may not issue a special license plate for such other types of vehicles if the Department determines that the design or manufacture of the plate for those other types of vehicles would not be feasible. In addition, if the Department incurs additional costs to manufacture a special license plate for such other types of vehicles, including, without limitation, costs associated with the purchase, manufacture or modification of dies or other equipment necessary to manufacture the special license plate for such other types of vehicles, those additional costs must be paid from private sources without any expense to the State of Nevada.

2. ***If, as authorized pursuant to paragraph (b) of subsection 1, the Department issues a special license plate for a trailer, motorcycle or other type of vehicle that is not a passenger car or light commercial vehicle, the Department shall charge and collect for the issuance and renewal of such a plate the same fees that the Department would charge and collect if the other type of vehicle was a passenger car or light commercial vehicle. As used in this subsection, "fees" does not include any applicable registration or license fees or governmental services taxes.***

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

(a) "Additional fees" has the meaning ascribed to it in NRS 482.38273.

(b) "Charitable organization" means a particular cause, charity or other entity that receives money from the imposition of ~~[an additional fee]~~ ***additional fees*** in connection with the issuance of a special license plate

pursuant to NRS 482.3667 to 482.3825, inclusive. The term includes the successor, if any, of a charitable organization.

Sec. 2. NRS 482.38274 is hereby amended to read as follows:

482.38274 "Charitable organization" has the meaning ascribed to it in ~~[~~subsection 2 of~~]~~ NRS 482.3824.

Sec. 3. **This act becomes effective on July 1, 2010.**

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 218.
Bill read second time and ordered to third reading.

Assembly Bill No. 280.
Bill read second time and ordered to third reading.

Assembly Bill No. 306.
Bill read second time and ordered to third reading.

Assembly Bill No. 332.
Bill read second time and ordered to third reading.

Assembly Bill No. 412.
Bill read second time and ordered to third reading.

Assembly Bill No. 443.
Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 7.
Bill read second time and ordered to third reading.

Senate Bill No. 38.
Bill read second time and ordered to third reading.

Senate Bill No. 109.
Bill read second time and ordered to third reading.

Senate Joint Resolution No. 9 of the 74th Session.
Bill read second time and ordered to third reading.

Assembly Bill No. 75.
Bill read second time.

The following amendment was proposed by Assemblywoman Pierce:

Amendment No. 31.

SUMMARY—Requires the State Forester Firewarden to submit annual reports concerning fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin to ~~[~~the Governor, the Legislature, the Nevada Congressional Delegation and the Tahoe Regional Planning Agency.~~]~~ **certain persons and entities.** (BDR 47-439)

AN ACT relating to forestry; requiring the State Forester Firewarden to submit an annual report concerning fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin to ~~[the Governor, the Legislature, the Nevada Congressional Delegation and the Tahoe Regional Planning Agency;]~~ **certain persons and entities;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the State Forester Firewarden, who is the executive head of the Division of Forestry of the State Department of Conservation and Natural Resources, in coordination and cooperation with the Tahoe Regional Planning Agency and the fire chiefs within the Lake Tahoe Basin, to report annually to the Governor, the Legislature, **the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System,** the Nevada Congressional Delegation and the Tahoe Regional Planning Agency regarding plans and activities relating to fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin.

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

Section 1. Chapter 528 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On or before January 1 of each year, the State Forester Firewarden shall, in coordination and cooperation with the Tahoe Regional Planning Agency and the fire chiefs within the Lake Tahoe Basin, submit a report concerning fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin to:

(a) The Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and Marlette Lake Water System created by NRS 218.53871 and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature;

(b) The Governor;

(c) The Tahoe Regional Planning Agency; and

(d) Each United States Senator and Representative in Congress who is elected to represent the State of Nevada.

2. The report submitted by the State Forester Firewarden pursuant to subsection 1 must address, without limitation:

(a) The status of:

(1) The implementation of plans for the prevention of fires in the Nevada portion of the Lake Tahoe Basin, including, without limitation, plans relating to the reduction of fuel for fires;

(2) Efforts concerning forest restoration in the Nevada portion of the Lake Tahoe Basin; and

(3) Efforts concerning rehabilitation of vegetation, if any, as a result of fire in the Nevada portion of the Lake Tahoe Basin.

(b) Compliance with:

(1) The goals and policies for fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin; and

(2) Any recommendations concerning fire prevention or public safety made by any fire department or fire protection district in the Nevada portion of the Lake Tahoe Basin.

(c) Any efforts to:

(1) Increase public awareness in the Nevada portion of the Lake Tahoe Basin regarding fire prevention and public safety; and

(2) Coordinate with other federal, state, local and private entities with regard to projects to reduce fire hazards in the Nevada portion of the Lake Tahoe Basin.

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Vicki Bates, Christie Aldinger, and Katherine Winans.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Don Robak, Dianne Robak, and Sandy Masters.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Alicia Taylor and Andrew Diss.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from St. Teresa of Avila's Catholic School: Hannah Abbott, Nick Andreas, Brandon Basa, Tyler Bray, Aidan Cantwell, Mackenzie Cartier, Claire Cochrane, Khyle Dayao, Alejando Escobar, Zachary Frewert, Brandon Gagnon, Nolan Hogan, Andrew Honein, Alek Henrickson, Olivia Larkin, Conner Larkin, Olivia Miller, Elaina Marchaegger, Stuart McElhaney, Ramneek Dahmi, Eddie Porter, Maggie Rich, Danny Rich, Derek Schafer, Kaitrin Wilde, and Mikaila Wilde; Denis Turcotte, Chantal Ramsay, Nadia Scipo del Campo, Yanick Godbout, Monica Arriola, Gayle Anderson, and Marc LePage.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Edward J. Cooper, Robert P. Bilbray, and Samuel C. C. Medrano.

On request of Assemblywoman Pierce, the privilege of the floor of the Assembly Chamber for this day was extended to Jon Sasser and Paul Bland.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Jennifer Breeden.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Marilyn McElhany.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Lorraine Garcia, Julie Tholl DeJan, Pete Parker, Carolyn Jensen, Lisa Fleck, and Michon Kessler.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, March 31, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:18 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FIFTY-EIGHTH DAY

CARSON CITY (Tuesday), March 31, 2009

Assembly called to order at 11:10 a.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Jacob Musselman.

God, author of wisdom and truth, today we pray that You would impart to these men and women Your insight. As these legislators search for the best answers, give divine inspiration and creativity to find solutions to problems and to keep justice and peace. Bless them with knowledge and innovation that they might overcome obstacles and boundaries. May these representatives lead the people of Nevada with confidence and integrity, and with each step forward, grant this great state, its leaders, and its people harmony and prosperity.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 149, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 301, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 137, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 264, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 414, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

COMMUNICATIONS

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-2802

March 30, 2009

SENATOR STEVEN HORSFORD, ASSEMBLYWOMAN BARBARA BUCKLEY, Nevada Legislature, Legislative Building, 401 S. Carson Street, Carson City, NV 89701-4747

DEAR SENATOR HORSFORD AND ASSEMBLYWOMAN BUCKLEY:

This letter serves as a formal request to address the joint session of the Nevada Legislature on April 17 at noon. It is my understanding that this date and time are available.

Should you have any questions or comments, please contact my district director, Verita Black Prothro at 775-686-5760.

I thank you in advance for this opportunity to discuss federal issues with members of the Nevada Legislature.

Sincerely,
DEAN HELLER
Member of Congress

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

Assembly in recess at 11:15 a.m.

ASSEMBLY IN SESSION

At 11:16 a.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Claborn, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 22—Designating March 31, 2009, to honor the Kerak Shrine Temple and the Zelzah Shrine Temple.

WHEREAS, What was to become the Ancient Arabic Order of the Nobles of the Mystic Shrine for North America, an international fraternity based on fun, fellowship and the Masonic principles of brotherly love, relief and truth, was formed in New York City in 1872 and now has

approximately 400,000 Shriners who are members of 191 temples throughout the United States, Canada, Mexico and the Republic of Panama; and

WHEREAS, While many associate the Shriners with the guys in parades wearing wild costumes who drive funny little cars or with circuses, clowns and, their distinctive symbol, the red fez with a black tassel, they are better known as the "World's Greatest Fraternity" that is responsible for funding and operating the "World's Greatest Philanthropy," the Shriners Hospitals for Children; and

WHEREAS, While formed primarily as a social organization, the Shriners, always involved in philanthropic work, wanted to do more for humanity, leading to the opening of 22 Shriners Hospitals for Children, often called the "heart and soul of the Shrine"; and

WHEREAS, Since 1922, Shriners Hospitals have helped approximately 865,000 children, at no charge to the families, regardless of financial need, and have a three-fold mission of expert treatment, cutting-edge research and outstanding teaching programs; and

WHEREAS, More than 8,000 physicians have received training at Shriners Hospitals over the past 20 years, and since beginning a formal research program more than 40 years ago, more than $515 million has been invested in research projects; and

WHEREAS, Children with orthopedic conditions, severe burns, spinal cord injuries, and cleft lip and palate are eligible for medical treatment and, in addition, receive psychosocial, nutritional and recreational care; and

WHEREAS, The Shriners Hospitals are supported by a $5 annual assessment from each Shriner, contributions, bequests and various fundraisers, one of the largest of which is the annual Shrine Circus, first performed in Detroit, Michigan, in 1906; and

WHEREAS, Fundraisers for the Kerak Shrine Temple, the Northern Nevada chapter, include such annual events as the Capitol Shrine Bowl in Sacramento, California, which funds the transportation of children to out-of-state Shriners Hospitals, and the Kerak Shrine Circus, in which some of the Shriners perform as the Kerak Klowns; and

WHEREAS, Fundraisers for the Zelzah Shrine Temple, the Southern Nevada chapter, include such annual events as the Justin Timberlake Shriners Hospitals for Children Open, the "Lance Burton & Friends" benefit and the Vidalia onion sale; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That March 31, 2009, is hereby designated to honor the Kerak Shrine Temple and the Zelzah Shrine Temple for their philanthropic work and dedication to the children of Nevada; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Art Cline, Potentate of the Kerak Shrine Temple, and to Thomas D. Welsh, Potentate of the Zelzah Shrine Temple.

Assemblyman Claborn moved the adoption of the resolution.

Remarks by Assemblymen Claborn, Mortenson, and Carpenter.

Resolution adopted and ordered transmitted to the Senate.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CLABORN:

It would be remiss of me if I did not take this opportunity to honor a Shriner and a great mentor to so many people in this building. I am speaking of Speaker Emeritus Joe Dini. Mr. Dini, we are here today to thank you for not only taking care of our Shriner children, but to honor you for all the wonderful things that you have done for all the children in this great state, be it funding for schools, health care, or so many other worthwhile causes. You have always answered the call because you were willing to step up to the plate so many times. You have touched thousands of hearts in Nevada. Mr. Dini, you will never be forgotten. We love you. We thank you for honoring us here today with your presence. Thank you, Mr. Dini.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Concurrent Resolution No. 23—Expressing support for the 2010 Census.

WHEREAS, The decennial Census is required by Article 1, Section 2 of the Constitution of the United States of America; and

WHEREAS, The Census presents a once-in-a-decade snapshot of the population and changing demographics of every state in the union; and

WHEREAS, The State of Nevada has a tremendous amount to gain through the Census process, given the remarkable growth this State has experienced over the last several decades; and

WHEREAS, This growth means more representation in Congress and more per capita dollars, ensuring that Nevada collects an equitable share of federal funding; and

WHEREAS, A recent analysis by the Nevada State Data Center and the Legislative Counsel Bureau indicated that every person missed by the Census reflects $917 in lost per capita federal funding per year; and

WHEREAS, Businesses, community groups and local governments throughout the State are coming together over the next 12 months to form "Complete Count Committees" and educate their fellow Nevadans on the importance of participation and the thousands of job opportunities the Census represents; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Session of the Nevada Legislature do hereby express their support for the 2010 Census; and be it further

RESOLVED, That April 1, 2009, to April 1, 2010, be proclaimed the "Year of the Census" as a means of demonstrating support for the Census in Nevada; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Jeff Hardcastle, Nevada State Demographer.

Assemblywoman Koivisto moved the adoption of the resolution.

Remarks by Assemblywoman Koivisto.

Resolution adopted.

By Assemblymen Denis, Kihuen, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 24—Encouraging the celebration of America's immigrant roots.

WHEREAS, Walt Whitman wrote of America, "Here is not merely a nation but a teeming nation of nations," and if we could be transported back to any street in America in the 19th century, we would be surrounded by the sounds of the many languages being spoken by the masses of people coming to this country looking for a better life; and

WHEREAS, Many immigrants came to America to escape famine, war, religious oppression and political turmoil in their native lands, as well as to seek economic opportunity and the freedoms that the world equates with our country; and

WHEREAS, In 1870, Nevada had more foreign-born residents per capita than any other state, mainly Irish, Chinese, English, Canadians, Germans and Italians, with many hoping to make their fortunes in the mining boom and return home with their riches; and

WHEREAS, Whether they were working as farmers, ranchers, cowboys, sheepherders, miners, railroad workers or any number of other jobs, the immigrants to Nevada seemed to abide by the German proverb "If I rest, I rust," setting a work ethic that prevails today; and

WHEREAS, No one embodied the successful immigrant more than Irishman John Mackay who started out as a miner and, through hard work and sound investments, became one of the world's richest and most respected men, memorialized by a statue of him as a miner holding a pick axe with his sleeves rolled up, which stands in front of the Mackay School of Mines building on the University of Nevada, Reno, campus; and

WHEREAS, While women immigrated in fewer numbers, those that braved the journey made their own contributions by bringing the arts, education, health care and religion, while others ventured into business, mining and ranching and became entrepreneurs in the land of opportunity; and

WHEREAS, Some notable immigrants are German-born Albert Einstein who won the Nobel Prize in Physics and spent his life working for peace, Spanish-born Severo Ochoa who is best known for being the first to synthesize RNA outside the cell for which he won the 1959 Nobel Prize in Medicine, Czechoslovakian-born Madeleine Albright who became the first female Secretary of State, Russian-born Irving Berlin who wrote some of America's most beloved songs, Taiwanese-born Dr. David Ho who is a leading researcher in the field of AIDS, Mexican-born Mario Molina who was the most prominent precursor to discovering the Antarctic ozone hole and a Nobel Prize winner in Chemistry for his role in clarifying the threat of chlorofluorocarbon gases to the Earth's ozone layer, and Italian-born Saint Frances X. Cabrini, the first American saint, who founded 67 schools, hospitals and orphanages, one for each year of her life, as well as world-famous athletes, artists, politicians and businessmen; and

WHEREAS, More than 65,000 immigrants, 11,000 of them women, are presently serving on active duty in the Armed Forces of the United States, and historically immigrants have served in great numbers to show their dedication to and love for their adopted country; and

WHEREAS, Hispanics are now the largest minority in the United States, two-thirds of whom are immigrants or the children of immigrants, and are recognized as having a positive impact on the social, cultural and economic development of America; and

WHEREAS, Cultural diversity brings richness to our lives and is one of America's strengths, whether it is the cuisine, the colorful fashions, the arts or the many celebrations such as St. Patrick's Day, Chinese New Year, Cinco de Mayo, Octoberfest or Halloween, all of which give Nevada an international, cosmopolitan feel that celebrates the coming together of people with different languages and backgrounds; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Nevada Legislature recognize the great contributions that immigrants have made to the vitality and growth of Nevada and America; and be it further

RESOLVED, That the Legislature urges the residents of Nevada to celebrate the ethnic and cultural diversity of its people and their traditions which have added to our wealth of great music, art, education, science and intellect.

Assemblyman Denis moved the adoption of the resolution.

Remarks by Assemblymen Denis, Spiegel, Anderson, Stewart, Kihuen, Cobb, Horne, Goedhart, Pierce, Munford, Mortenson, Ohrenschall, and Goicoechea.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN DENIS:

Thank you, Madam Speaker. As I was preparing for session this time, I thought many different things. One of the first thoughts that came to me was the story of a young Cuban man looking for a better life. He came to New York looking for something better, for work, and to get out of an oppressive situation where he was coming from. At the same time, a young woman, also from Cuba, was also looking for something better. She came to New England, to the New York area, to work as a nanny. She was coming from a situation where she had only finished the

fourth grade and needed to work to be able to send money back for her family. Of course, I am talking about my parents who came and, ultimately, met here. They were married and returned to Cuba only to come back a few years later to make America their home. They have never returned to Cuba.

I thought about the great blessing of having that culture in our family as I was growing up, to have the language, but not only the language, the food, the dancing, and all of those things, the wonderful things that we get from immigrants. And then I remember my Nevada history teacher in high school, Mr. Walker. He talked about the immigrants that came to Nevada—whether it was for mining or for farming, for gaming—all the different things that they have contributed. I brought this resolution forward so that we might be able to think of the positive things. I know these days there is a lot of debate about immigration, and I think we need to take the opportunity to appreciate those that have come and have made Nevada and the United States what it is. I urge your support.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Speaker. I rise in support of ACR 24. This resolution, in supporting America's immigrant roots and Nevada's immigrant roots, is something that is important, not just for those of us who are here today but for future generations. Speaking as someone who is a second and third generation American, one of the things that has happened, in my family, at least, is that the traditions and history have not been passed down. I contacted one of my cousins last night and was talking to her about our family history, and we cannot get straight the story of where my grandfather's family came from, how they left Eastern Europe, whether they were from Romania, Moldova, or Russia—we do not know. Our history is lost. Our family, going back generations, has spoken Yiddish in the home. Yiddish is lost, other than a few words most of us know. The language is lost. It is important for our children that we celebrate our culture, our heritage, and that we pass along those traditions and those stories. We owe it to ourselves. We owe it to our kids. I strongly urge your support of this resolution. Thank you.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. It is not surprising that I would rise for such an important resolution. I am mindful of my 1995 Session, when the house was evenly divided between Democrats and Republicans. The two vice chairs of Judiciary presented me with a picture of the Statue of Liberty, which now hangs in my study. They did so, I think, in part, because of the strong feelings I have about immigration and immigrants. I do not know why I become so emotional about this topic, but I do. I guess it is the pleasure of being Irish. I can cry and laugh at the same time.

Some of you may have heard me speak before of my father. I am very, very touched by my colleague from Assembly District 22 and his statement about his father coming here and meeting his mother, because my family story is much the same. While my parents both came from Ireland, they met here in the United States. I have a very, very large family on my mother's side that came here, but not a very large family that came here on my father's side. My father laid track. He was a "gandy dancer," as they are called. And at that time, immigrants were not allowed to have jobs on the railroad. They could lay track and work in track gangs but could not have positions that were higher than that.

He came here as a relatively young man because of problems in Ireland that had been going on for centuries, and rather than stay in that oppressive place, he immigrated here and took a job in Hazen. For those of you that have been to Hazen, Nevada, you know it is halfway between Fernley and Fallon. He went to work on the railroad laying track. His crew selected him to be—because he was a relatively large man at over six feet tall—to be their boxing champion. As a result, he went to Tonopah to box with the rest of the gandy dancers. He got to the semifinals and was eliminated. The head of the railroad was in Tonopah at the time and indicated to him that he should come by his office and that he might find him another job on the railroad. Thus, he became a brakeman and, ultimately, the senior brakeman on the entire Southern Pacific, between the Wharf in San Francisco and Salt Lake City. He met my mother, who came here as a governess for a doctor's family who had been touring in Europe and had stopped in Ireland. They decided she would be the appropriate governess for their children and brought her back to San Francisco. There is a large Irish population in San Francisco and they met there. As a result,

they appreciated the culture of staying here in the United States rather than going back to Ireland.

Next month I will have some cousins who will be visiting me from Ireland. Again, my father finished, I think, sixth grade, and my mother, maybe, the fourth. It was very, very clear to me, from a very, very early age and to my brothers, that the most important thing was education, and that education was an opportunity to have a choice in life. They saw America as a choice that they made and the opportunity to keep open the choice. The Statue of Liberty is about choice and keeping open opportunities. I think we see that in education—that promise of tomorrow—all the time. They valued it. I value it. I think the resolution speaks to that basic value. If you listen to the immigrants today, they tell their children to get an education because it opens choices for them. That is what has made this country, I believe, what it is—that strong opportunity of choices, the right choices. Immigrants have made those right choices for hundreds and hundreds of years. That is what brought us democracy in the first place. Thank you, Madam Speaker.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I rise in support of ACR 24. I come from an immigrant family. My great grandfather William Stewart came from Edinburgh, Scotland, in 1855. He came across the Atlantic, up the Mississippi, to St. Louis with his family and two children. One of their sons died and another one was born. They were Mormon pioneers and they were about to embark on a journey across the Great Plains with Brigham Young. The little boy that died—they did not want to leave him behind so they put him in a tin box and put him on the back of their covered wagon. They joined a handcart company in 1857, and my great, great grandmother Elizabeth Stewart was pregnant on the journey. In a snowstorm, she gave birth to her namesake, Elizabeth. The child lived just a few days and died, and then my great, great grandmother died just a short time later. Both of them were buried on the Plains.

Unlike my colleague from District 21, my great, great grandfather kept quite a detailed journal of what transpired and the difficulties they went through like snowstorms and climbing the Rocky Ridge and so forth. Finally, they arrived in Salt Lake City about a month behind schedule. He came with his two remaining children, one of them being my great grandfather, James Murdock Stewart. They came for religious freedom, for their beliefs, and economic prosperity. When I have a bad day and start whining about my plight or long, difficult times, I think back to them and the great sacrifices they made. I am so grateful for William and Elizabeth Stewart for the sacrifices that they made for me. I am very pleased to speak to this resolution.

Thank you.

ASSEMBLYMAN KIHUEN:

Thank you, Madam Speaker. I rise in support of ACR 24. I find it fitting, as the only immigrant serving here in this body currently, to say a few words. I would like to thank my colleague from District 28 for bringing this resolution forth. I think the resolution did an excellent job in illustrating the important role that immigrants have played in our country and the development of our country.

My family, like millions of families, came here 20 years ago. We came here from Guadalajara, Jalisco, Mexico, with only a couple of bucks in our pocket and a lot of hopes and a lot of dreams. But what is important for all of us to understand, I think, is that most of us are descendants of immigrants, unless some of us here are 100 percent Native Americans. I think my background is a perfect example. I have a Lebanese great grandfather, a British great grandmother, and Spanish great grandparents. I'm Mexican born and American raised.

I think, like me, most of us here have very diverse backgrounds. Many of those who came to America generations ago, regardless of their country of origin, were running from poverty, from political, religious, and social oppression, or from lack of opportunities in their homeland. They, one way or another, were discriminated against and struggled to make ends meet. They felt lonely and desperate. They overcame all of these things and worked their way up, achieving success, independently of how it was measured. Most of you are living proof that all their efforts were not in vain. Germans, British, French, Irish, Scottish, Italians, Swedes, Hebrews, Australians, Norwegians, Spaniards, Dutch, Mexicans, Portuguese, Africans—all shaped America into what it is today. They all came with a dream, with a hunger for freedom, craving for a shot at the opportunities that only this great country has to offer. As my colleague from

Armargosa Valley once told me not too long ago, "I believe that the diversity of our population contributes to our strength as Americans." I could not have said it better than him.

All of our immigrant roots have contributed to the diverse country we live in today. Only in this country, Madam Speaker, can an African American man, son of an immigrant father, be the leader of the Free World. And only in this country can a poor, skinny Mexican immigrant become a member of such an important body as the State Assembly. And for this, Madam Speaker, I urge your support.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in support of ACR 24. As the grandson of an immigrant and the great-great-great, grandson several times removed of an immigrant from Ireland named Mary O'Mahoney—which, of course, became Mahoney when she landed on our shores on the Pacific side of our country—I understand the value of our immigration system in America and how it has affected Nevada. I have with me today Paul Jackson, who many of you may have met. Paul is an immigrant from England. Besides the difficulty of having to learn American, which he has not mastered yet—but because of mistakes with the INS, it took him, instead of the normal 6 to 7 years to become a U.S. citizen, almost 20 years. This included a process of standing in line for one to three days at the INS offices in dealing with a lot of mistakes under the federal system. He said it was worthwhile. It was very important to him that he not only be a legal resident but a legal citizen of the United States. I am glad he eventually did, and I'm glad to call him my friend and glad that he's a fellow United States citizen. Thank you.

ASSEMBLYMAN HORNE:

Thank you, Madam Speaker. I rise in support of ACR 24. Just briefly, my two youngest children, Henry and Chloe, their mother and her family emigrated here from Argentina. What a very rich and large Argentinean community we have down in Clark County, to my surprise. It is so enjoyable watching the two of them grow up in both cultures—mine and their mother's. In particular, they grow up bilingual. We are really forcing that upon them. If only you could be a fly on the wall when Chloe or Henry bring me a school book to read to them in Spanish. If anyone is familiar with the Argentines, they believe that they speak Spanish and everyone else speaks something else. They just giggle, giggle, and giggle, with me butchering it to death, as I read their books to them. When I watch them interact between the families, I just think it is good.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I rise in support to ACR 24 as well. Most of you, some of you may not know, but I am a first generation American. My father was born and raised in Indonesia and spent four years in a concentration camp before emigrating to Holland. He missed high school. In four years he got a master's degree in economics from the University of Amsterdam. He met my mom there and they decided to leave. My mother really had an affection for America. She considered America as her liberators in Holland. They had been overtaken by the Nazis. She always had eternal gratefulness for the wonderful, heroic efforts that we had done as America to free them. So they emigrated in 1958 with a one-way plane ticket from the country of Holland. The deal was that the government paid the plane ticket but if they came back within two years, they had to pay the government back the cost of the plane ticket. He started a job milking cows and got a job as a bank teller. They said that degree does not mean too much in America, but you have to have another job because we know you cannot support yourself on that one income. So my mother washed clothes, she did people's laundry, she cleaned houses. Lo and behold, after about 35 years, my dad was on the top of the Atlantic Richfield tower for Bank of America and he was still bringing that same brown paper bag to lunch every day.

They have always told me every day growing up that they sacrificed a lot to bring me to the greatest country on the planet. They imbued in me a sense of public service and giving back to the community that I very much appreciate. Only in this country can you have these stories we have here in this chamber, of first and second generation Americans that have been allowed to contribute to the degree we have been able to. This is a very personal resolution to me, and I applaud my colleague from Assembly District 28 for bringing it forth. Thank you.

ASSEMBLYWOMAN PIERCE:

I thank my colleague from the south for bringing forth this resolution. The richness of our country has everything to do with the waves of immigration that have come up on our shores. As a music lover, I am especially appreciative. American music is incomparable, largely because of the infusion of music from all over the world. When I was a kid other kids would ask, "What are you?" meaning what is your nationality. I was one of the kids who would say, "I am Heinz 57. I have a little bit of everything." I had ancestors who were here before the Revolution and one of my grandfather's grandfathers came from Germany as a tailor in the middle of the nineteenth century. One of my grandmother's grandmothers was a Moran who came from Ireland at the time of the potato famine. I am, indeed, a mixture, as so many Americans are, and I celebrate that today and again thank my colleague from the south.

ASSEMBLYMAN MUNFORD:

Thank you, Madam Speaker. I rise in support of ACR 24. I speak on behalf of the only immigrated group that came against their will, the African Americans. Once they were here in America, against all odds and opposition against them, they were able to rise above the struggle. They made numerous contributions to this country in the field of music, literature, sports, and so on. I think that we sometimes forget the role that they played. I personally have a great-grandmother who was born in 1855, and I was able to visit with her, speak with her, and she shared some of her past with me. I have a grandfather who was born in 1876, ten years after slavery, and I saw him throughout a lot of my childhood days. Today, my mother is the matriarch of the family. She lives today and she is 92. We have a good heritage and family tree that has contributed a great deal to me. Thank you.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Speaker. I rise in support of ACR 24. I appreciate my colleague for bringing this ACR before us. My father was born in Norway and my mother was born in Russia. They met in Germany, where my dad was a stockbroker and my mother was going to school. Black Friday hit and wiped my dad out financially, and he decided to come to the United States to try and seek his fortune. He advised my mom to keep going to school, and he would send for her when he was established. Eventually he established, and by that time my mother was back in Russia. He asked her to come to the United States where they would get married. My mother was from a fairly affluent family and was having problems with the Communists which, of course, then was called the Bolsheviks, and she needed to get out of Russia. The safest way out was a steamer, and she headed for the Odessa in the Black Sea, again dodging the Bolsheviks on the way. She got there and found out that the quota for Russians was filled; so she bought a Turkish passport. She bought her way onto a mysterious steamer that was leaving Odessa and purportedly had a lot of relatives of the Czar on it. Eventually she made her way to Ellis Island. When she got to Ellis Island, she found out that the quota for Turks was filled. She called my dad. My dad had made friends with a gentleman who had a position in the State Department, who lived right next door. He went over and explained the problem, and they both took off for New York. The guy from the State Department, which Washingtonians call Foggy Bottom people, he managed to spirit my dad, himself, and a minister over to Ellis Island. Twelve o'clock that night, the minister married my dad and my mom. My dad had gotten his citizenship in between time. The next morning, the State Department guy insisted that my mother was a citizen and they should release her to go into the country—which they did. I am told that the next day the *New York Times* had blazing headlines about this story. Eventually my father, who started as a cabinetmaker, moved up to become the premier contractor that built gas stations in Washington, D.C. He built them for all the oil companies, Standard Oil, Sinclair. It is just wonderful how this country does allow someone who came in penniless to rise up and be what he eventually became. That is my story.

ASSEMBLYMAN OHRENSCHALL:

Thank you, Madam Speaker. I rise in support of ACR 24. I am very humbled by all the comments I have heard today. I am proud of my roots. I want to mention my grandmother who came from Greece after the end of World War II; she went through Ellis Island. She really loved this country. Her mother and her sister kept on trying to get her to move back to Greece; she

always refused. I am extremely fortunate that she lived into her eighties. One of proudest moments in her life was seeing her daughter elected to this body and able to give back to the country she loved so much. I wished she lived long enough to see her grandson elected. There is a big Greek Orthodox Church in Ely. It is really big. I remember asking my mother why is there this huge, grand Greek Orthodox Church in, of all places, Ely. Later I learned that in the nineteenth century when the mines needed workers, Greeks came to Utah and Nevada and helped mine the mines and helped give us a lot of the prosperity that built our state. Thank you.

ASSEMBLYMAN GOICOECHEA:

I guess I have to rise in support of ACR 24 and defend the Basques. I am going to make it very brief, very short. The Basque language being completely different from any other language—it most closely resembles, I believe, some words in Chinese. It is a difficult language. Most of those did come through Ellis Island. I think a story that has been reflected through the years, especially in northern Nevada and it has been told by different families, is that you got a tag pinned on you when you came through Ellis Island, and it said Elko, Nevada, on it—you were just a shipping crate. They put them on the railroad and they told them, "Order roast beef." They started across the country; about the third day of roast beef, a man watched his neighbor order ham and eggs. The waitress came by and he said, "Hamanyeggs." She said, "Fine, how would you like your eggs?" He said, "Hamanyeggs." She said, "Yes, but how would like them cooked?" His response was, "Oh, hell, a roasta beef." Again, the Basque, my grandfather immigrated with six other brothers into northern Elko County. My grandmother, who was a church bride—he did not know her in the old country—she was sent over, had three sons, and then she died in childbirth with the fourth. It was a hard time. For a wedding present, most of these brides got a new tent with a camp stove so they could be with the sheep. Thank you.

Resolution adopted and ordered transmitted to the Senate.

SECOND READING AND AMENDMENT

Assembly Bill No. 96.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 29.

AN ACT relating to education; clarifying eligibility for and the administration of Millennium Scholarships for students who are enrolled in more than one eligible institution; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that to be eligible for a Governor Guinn Millennium Scholarship a student must be enrolled in at least 6 semester credit hours in a community college or 12 semester credit hours in another eligible institution. (NRS 396.930) The law does not specify whether enrollment in more than one eligible institution affects a student's eligibility for a Scholarship or how to administer the Scholarship for such a student.

This bill clarifies that a student who is enrolled in more than one eligible institution is eligible for a Millennium Scholarship if the student meets certain requirements, and that the Scholarship must be administered by the eligible institution at which the student is enrolled in a program of study leading to a recognized degree or certificate. This bill also directs the Board of Regents of the University of Nevada to establish procedures and guidelines for the administration of Millennium Scholarships for students

who are enrolled in more than one eligible institution. (NRS 396.930, 396.934)

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

Section 1. NRS 396.930 is hereby amended to read as follows:

396.930 1. Except as otherwise provided in subsections 2 and 3, a student may apply to the Board of Regents for a Millennium Scholarship if he:

(a) Except as otherwise provided in paragraph (e) of subsection 2, has been a resident of this State for at least 2 years before he applies for the Millennium Scholarship;

(b) Except as otherwise provided in paragraph (c), graduated from a public or private high school in this State:

(1) After May 1, 2000, but not later than May 1, 2003; or

(2) After May 1, 2003, and, except as otherwise provided in paragraph (c) of subsection 2, not more than 6 years before he applies for the Millennium Scholarship;

(c) Does not satisfy the requirements of paragraph (b) and:

(1) Was enrolled as a pupil in a public or private high school in this State with a class of pupils who were regularly scheduled to graduate after May 1, 2000;

(2) Received his high school diploma within 4 years after he was regularly scheduled to graduate; and

(3) Applies for the Millennium Scholarship not more than 6 years after he was regularly scheduled to graduate from high school;

(d) Maintained in high school in the courses designated by the Board of Regents pursuant to paragraph (b) of subsection 2, at least:

(1) A 3.00 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2003 or 2004;

(2) A 3.10 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2005 or 2006; or

(3) A 3.25 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2007 or a later graduating class; and

(e) Is enrolled in at least:

(1) Six semester credit hours in a community college within the System; ~~[or]~~

(2) Twelve semester credit hours in another eligible institution ~~[.]~~ ***; or***

(3) A total of 12 or more semester credit hours in eligible institutions if the student is enrolled in more than one eligible institution.

2. The Board of Regents:

(a) Shall define the core curriculum that a student must complete in high school to be eligible for a Millennium Scholarship.

(b) Shall designate the courses in which a student must earn the minimum grade point averages set forth in paragraph (d) of subsection 1.

(c) May establish criteria with respect to students who have been on active duty serving in the Armed Forces of the United States to exempt such students from the 6-year limitation on applications ~~[that is]~~ set forth in subparagraph (2) of paragraph (b) of subsection 1.

(d) Shall establish criteria with respect to students who have a documented physical or mental disability or who were previously subject to an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., or a plan under Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq. The criteria must provide an exemption for those students from:

(1) The 6-year limitation on applications ~~[that is]~~ set forth in subparagraph (2) of paragraph (b) of subsection 1 and subparagraph (3) of paragraph (c) of subsection 1 and any limitation applicable to students who are eligible pursuant to subparagraph (1) of paragraph (b) of subsection 1.

(2) The minimum number of credits prescribed in paragraph (e) of subsection 1.

(e) Shall establish criteria with respect to students who have a parent or legal guardian on active duty in the Armed Forces of the United States to exempt such students from the residency requirement set forth in paragraph (a) of subsection 1 or subsection 3.

3. Except as otherwise provided in paragraph (c) of subsection 1, for students who did not graduate from a public or private high school in this State and who, except as otherwise provided in paragraph (e) of subsection 2, have been residents of this State for at least 2 years, the Board of Regents shall establish:

(a) The minimum score on a standardized test that such students must receive; or

(b) Other criteria that students must meet,

➥ to be eligible for Millennium Scholarships.

4. In awarding Millennium Scholarships, the Board of Regents shall enhance its outreach to students who:

(a) Are pursuing a career in education or health care;

(b) Come from families who lack sufficient financial resources to pay for the costs of sending their children to an eligible institution; or

(c) Substantially participated in an antismoking, antidrug or antialcohol program during high school.

5. The Board of Regents shall establish a procedure by which an applicant for a Millennium Scholarship is required to execute an affidavit declaring his eligibility for a Millennium Scholarship pursuant to the requirements of this section. The affidavit must include a declaration that the applicant is a citizen of the United States or has lawful immigration status, or that the applicant has filed an application to legalize his immigration status or will file an application to legalize his immigration status as soon as he is eligible to do so.

Sec. 2. NRS 396.934 is hereby amended to read as follows:

396.934 1. Except as otherwise provided in this section, within the limits of money available in the Trust Fund, a student who is eligible for a Millennium Scholarship is entitled to receive:

(a) If he is enrolled in a community college within the System, including, without limitation, a summer academic term, $40 per credit for each lower division course and $60 per credit for each upper division course in which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the community college that are not otherwise satisfied by other grants or scholarships, whichever is less. The Board of Regents shall provide for the designation of upper and lower division courses for the purposes of this paragraph. ~~[In no event may a student who is eligible for a Millennium Scholarship receive more than the cost of 12 semester credits per semester pursuant to this paragraph.]~~

(b) If he is enrolled in a state college within the System, including, without limitation, a summer academic term, $60 per credit for which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the state college that are not otherwise satisfied by other grants or scholarships, whichever is less. ~~[In no event may a student who is eligible for a Millennium Scholarship receive more than the cost of 12 semester credits per semester pursuant to this paragraph.]~~

(c) If he is enrolled in another eligible institution, including, without limitation, a summer academic term, $80 per credit for which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the university that are not otherwise satisfied by other grants or scholarships, whichever is less.

(d) If he is enrolled in more than one eligible institution, including, without limitation, a summer academic term, the amount authorized pursuant to paragraph (a), (b) or (c), or a combination thereof, in accordance with procedures and guidelines established by the Board of Regents.

➥ In no event may a student who is eligible for a Millennium Scholarship receive more than the cost of 12 semester credits per semester pursuant to this ~~[paragraph.]~~ ***subsection.***

2. No student may be awarded a Millennium Scholarship:

(a) To pay for remedial courses.

(b) For a total amount in excess of $10,000.

3. A student who receives a Millennium Scholarship shall:

(a) Make satisfactory academic progress toward a recognized degree or certificate, as determined by the Board of Regents pursuant to subsection 7; and

(b) If the student graduated from high school after May 1, 2003, maintain:

(1) At least a 2.60 grade point average on a 4.0 grading scale for each semester during the first year of enrollment in the Governor Guinn Millennium Scholarship Program.

(2) At least a 2.75 grade point average on a 4.0 grading scale for each semester during the second year of enrollment in the Governor Guinn Millennium Scholarship Program and for each semester during each year of enrollment thereafter.

~~*[*~~ ~~*If a student is enrolled in more than one eligible institution, the student must maintain a combined grade point average that meets the requirements of this subsection.]*~~

4. If a student does not satisfy the requirements of subsection 3 during one semester of enrollment, excluding a summer academic term, he is not eligible for the Millennium Scholarship for the succeeding semester of enrollment. If such a student:

(a) Subsequently satisfies the requirements of subsection 3 in a semester in which he is not eligible for the Millennium Scholarship, he is eligible for the Millennium Scholarship for his next semester of enrollment.

(b) Fails a second time to satisfy the requirements of subsection 3 during any subsequent semester, excluding a summer academic term, he is no longer eligible for a Millennium Scholarship.

5. A Millennium Scholarship must be used only:

(a) For the payment of registration fees and laboratory fees and expenses;

(b) To purchase required textbooks and course materials; and

(c) For other costs related to the attendance of the student at the eligible institution.

6. The Board of Regents shall certify a list of eligible students to the State Treasurer. The State Treasurer shall disburse a Millennium Scholarship for each semester on behalf of an eligible student directly to the eligible institution in which the student is enrolled, upon certification from the eligible institution of the number of credits for which the student is enrolled, which must meet or exceed the minimum number of credits required for eligibility and certification that the student is in good standing and making satisfactory academic progress toward a recognized degree or certificate, as determined by the Board of Regents pursuant to subsection 7. The Millennium Scholarship must be administered by the eligible institution as other similar scholarships are administered and may be used only for the expenditures authorized pursuant to subsection 5. ***If a student is enrolled in more than one eligible institution, the Millennium Scholarship must be administered by the eligible institution at which the student is enrolled in a program of study leading to a recognized degree or certificate.***

7. The Board of Regents shall establish ~~[~~criteria~~]~~ ***:***

(a) Criteria for determining whether a student is making satisfactory academic progress toward a recognized degree or certificate for purposes of subsection 6.

~~[~~8. The Board of Regents shall establish procedures~~]~~

(b) Procedures to ensure that all money from a Millennium Scholarship awarded to a student that is refunded in whole or in part for any reason is refunded to the Trust Fund and not the student.

(c) Procedures and guidelines for the administration of a Millennium Scholarship for students who are enrolled in more than one eligible institution.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 164.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 51.

AN ACT relating to crimes; providing certain penalties for a battery that is committed by strangulation; increasing the penalty for a battery which constitutes domestic violence if the battery is committed by strangulation; increasing the penalty for a battery under other circumstances if the battery is committed by strangulation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill revises provisions governing the crime of battery to provide the same penalties for a battery which is committed by strangulation as are imposed for a battery which results in substantial bodily harm. (NRS 200.481) **Section 3** also defines the term "strangulation" similarly to the manner in which the term is defined in a similar Minnesota law. (Minn. Stat. § 609.2247(1)(c))

Sections 4 and **5** of this bill revise provisions governing the crime of battery which constitutes domestic violence to impose a category C felony with a maximum fine of $15,000 upon any person who is convicted of a battery which constitutes domestic violence if the battery is committed by strangulation. (NRS 200.485)

Sections 1, 2, 6 and 7 of this bill amend certain provisions regarding additional penalties, battery with the intent to commit sexual assault, the reporting of certain crimes committed against a child and bail so that those provisions will apply in the same manner to a battery which resulted in substantial bodily harm and a battery which was committed by strangulation. (NRS 193.166, 200.400, 202.876, 178.484)

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

Section 1. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 6 of NRS 33.400 or subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

(e) A temporary or extended order issued pursuant to NRS 200.591,

➥ shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a minimum term of not less than 1 year and a maximum term of not more than 20 years. If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. The sentence prescribed by this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

4. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, ~~[or]~~ battery which results in substantial bodily harm ***or battery which is committed by strangulation as described in NRS 200.481 or 200.485*** if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

5. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 2. NRS 200.400 is hereby amended to read as follows:

200.400 1. As used in this section ~~[, "battery"]~~ ***:***

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Strangulation" has the meaning ascribed to it in NRS 200.481.

2. A person who is convicted of battery with the intent to commit mayhem, robbery or grand larceny is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

3. A person who is convicted of battery with the intent to kill is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years.

4. A person who is convicted of battery with the intent to commit sexual assault shall be punished:

(a) If the crime results in substantial bodily harm to the victim ~~[,]~~ ***or is committed by strangulation,*** for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served,

➥ as determined by the verdict of the jury, or the judgment of the court if there is no jury.

(b) If the crime does not result in substantial bodily harm to the victim and the victim is 16 years of age or older, for a category A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of life with the possibility of parole.

(c) If the crime does not result in substantial bodily harm to the victim and the victim is a child under the age of 16, for a category A felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of life with the possibility of parole.

➥ In addition to any other penalty, a person convicted pursuant to this subsection may be punished by a fine of not more than $10,000.

Sec. 3. NRS 200.481 is hereby amended to read as follows:

200.481 1. As used in this section:

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Child" means a person less than 18 years of age.

(c) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail or detention facility;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee,

including, without limitation, a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(d) "Provider of health care" has the meaning ascribed to it in NRS 200.471.

(e) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(f) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(g) "Sports official" has the meaning ascribed to it in NRS 41.630.

(h) ***"Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person*** ~~***[.]***~~ ***with the intent to cause bodily harm.***

(i) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

~~[(i)]~~ ***(j)*** "Taxicab driver" means a person who operates a taxicab.

~~[(j)]~~ ***(k)*** "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. Except as otherwise provided in NRS 200.485, a person convicted of a battery, other than a battery committed by an adult upon a child which constitutes child abuse, shall be punished:

(a) If the battery is not committed with a deadly weapon, and no substantial bodily harm to the victim results, except under circumstances where a greater penalty is provided in ~~[paragraph (d)]~~ ***this section*** or ~~[in]~~ NRS 197.090, for a misdemeanor.

(b) If the battery is not committed with a deadly weapon, and ***either*** substantial bodily harm to the victim results ~~[,]~~ ***or the battery is committed by strangulation,*** for a category C felony as provided in NRS 193.130.

(c) If ~~[the]~~ ***:***

(1) The battery is committed ~~[:~~

~~(1) Upon]~~ ***upon*** an officer, provider of health care, school employee, taxicab driver or transit operator who was performing his duty or upon a sports official based on the performance of his duties at a sporting event;

(2) The officer, provider of health care, school employee, taxicab driver, transit operator or sports official suffers substantial bodily harm ~~[;]~~ ***or the battery is committed by strangulation;*** and

(3) The person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official,

➥ for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than $10,000, or by both fine and imprisonment.

(d) If the battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who is performing his duty or upon a sports official based on the performance of his duties at a

sporting event and the person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official, for a gross misdemeanor, except under circumstances where a greater penalty is provided in this section.

(e) If the battery is committed with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

(2) Substantial bodily harm to the victim results ~~[,]~~ ***or the battery is committed by strangulation,*** for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $10,000.

(f) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, without the use of a deadly weapon, whether or not substantial bodily harm results ~~[,]~~ ***and whether or not the battery is committed by strangulation,*** for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

(g) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.

(2) Substantial bodily harm to the victim results ~~[,]~~ ***or the battery is committed by strangulation,*** for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years.

Sec. 4. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to ***subsection 2 or*** NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less

than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➥ The person shall be further punished by a fine of not less than $500, but not more than $1,000.

(c) For the third and any subsequent offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. ***Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than $15,000.***

3. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) Except as otherwise provided in this subsection, for the first offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

(b) Except as otherwise provided in this subsection, for the second offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

➥ If the person resides more than 70 miles from the nearest location at which counseling services are available, the court may allow the person to participate in counseling sessions in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470 every other week for the number of months required pursuant to paragraph (a) or (b) so long as the number of hours of counseling is not less than 6 hours per month. If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

~~[3.]~~ ***4.*** An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts

concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

~~[4.]~~ ***5.*** In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of $35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

~~[5.]~~ ***6.*** In addition to any other penalty, the court may require such a person to participate, at his expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Health Division of the Department of Health and Human Services.

~~[6.]~~ ***7.*** If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

~~[7.]~~ ***8.*** If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.

~~[8.]~~ ***9.*** As used in this section:

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

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 5. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to ***subsection 2 or*** NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➥ The person shall be further punished by a fine of not less than $500, but not more than $1,000.

(c) For the third and any subsequent offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. ***Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than $15,000.***

3. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) For the first offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

(b) For the second offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

➥ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

~~[3.]~~ ***4.*** An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts

concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

~~[4.]~~ ***5.*** In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of $35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

~~[5.]~~ ***6.*** In addition to any other penalty, the court may require such a person to participate, at his expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Health Division of the Department of Health and Human Services.

~~[6.]~~ ***7.*** If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

~~[7.]~~ ***8.*** If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.

~~[8.]~~ ***9.*** As used in this section:

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

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 6. NRS 202.876 is hereby amended to read as follows:

202.876 "Violent or sexual offense" means any act that, if prosecuted in this State, would constitute any of the following offenses:

1. Murder or voluntary manslaughter pursuant to NRS 200.010 to 200.260, inclusive.

2. Mayhem pursuant to NRS 200.280.

3. Kidnapping pursuant to NRS 200.310 to 200.340, inclusive.

4. Sexual assault pursuant to NRS 200.366.

5. Robbery pursuant to NRS 200.380.

6. Administering poison or another noxious or destructive substance or liquid with intent to cause death pursuant to NRS 200.390.

7. Battery with intent to commit a crime pursuant to NRS 200.400.

8. Administering a drug or controlled substance to another person with the intent to enable or assist the commission of a felony or crime of violence pursuant to NRS 200.405 or 200.408.

9. False imprisonment pursuant to NRS 200.460 ~~[,]~~ if the false imprisonment involves the use or threatened use of force or violence against the victim or the use or threatened use of a firearm or a deadly weapon.

10. Assault with a deadly weapon pursuant to NRS 200.471.

11. Battery which is committed with the use of a deadly weapon or which results in substantial bodily harm ~~[pursuant to]~~ ***as described in NRS 200.481 or battery which is committed by strangulation as described in*** NRS 200.481 ~~[,]~~ ***or 200.485.***

12. An offense involving pornography and a minor pursuant to NRS 200.710 or 200.720.

13. Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

14. Intentional transmission of the human immunodeficiency virus pursuant to NRS 201.205.

15. Open or gross lewdness pursuant to NRS 201.210.

16. Lewdness with a child pursuant to NRS 201.230.

17. An offense involving pandering or prostitution in violation of NRS 201.300, 201.320 or 201.340.

18. Coercion pursuant to NRS 207.190, if the coercion involves the use or threatened use of force or violence against the victim or the use or threatened use of a firearm or a deadly weapon.

19. An attempt, conspiracy or solicitation to commit an offense listed in subsections 1 to 18, inclusive.

Sec. 7. NRS 178.484 is hereby amended to read as follows:

178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.

2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail;

(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or

(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.

3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been

sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail; or

(b) A department of alternative sentencing directs the detention facility to admit the person to bail.

4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.

5. A person arrested for a violation of NRS 484.379, 484.3795, 484.37955, 484.379778, 488.410, 488.420 or 488.425 who is under the influence of intoxicating liquor must not be admitted to bail or released on his own recognizance unless he has a concentration of alcohol of less than 0.04 in his breath. A test of the person's breath pursuant to this subsection to determine the concentration of alcohol in his breath as a condition of admission to bail or release is not admissible as evidence against the person.

6. A person arrested for a violation of NRS 484.379, 484.3795, 484.37955, 484.379778, 488.410, 488.420 or 488.425 who is under the influence of a controlled substance, is under the combined influence of intoxicating liquor and a controlled substance, or inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle or vessel under power or sail must not be admitted to bail or released on his own recognizance sooner than 12 hours after his arrest.

7. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours after his arrest. If the person is admitted to bail more than 12 hours after his arrest, without appearing personally before a magistrate ~~[,]~~ or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which he has been arrested resulted in substantial bodily harm ~~[,]~~ ***or was committed by strangulation;***

(b) Five thousand dollars, if the person has:

(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which he has been arrested resulted in substantial bodily harm ~~[,]~~ ***or was committed by strangulation;*** or

(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which he has been arrested resulted in substantial bodily harm ~~[,]~~ ***or was committed by strangulation;*** or

(c) Fifteen thousand dollars, if the person has:

(1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 and there is reason to believe that the battery for which he has been arrested resulted in substantial bodily harm ~~[,]~~ ***or was committed by strangulation;*** or

(2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 33.018.

➥ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

8. A person arrested for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 must not be admitted to bail sooner than 12 hours after his arrest if:

(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;

(b) The person has previously violated a temporary or extended order for protection of the type for which he has been arrested; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath; or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

9. If a person is admitted to bail more than 12 hours after his arrest, pursuant to subsection 8, without appearing personally before a magistrate ~~[,]~~ or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591;

(b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591; or

(c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591.

➥ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court ~~[.]~~ or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

10. The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses.

11. Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems necessary to protect the health, safety and welfare of the community and to ensure that the person will appear at all times and places ordered by the court, including, without limitation:

(a) Requiring the person to remain in this State or a certain county within this State;

(b) Prohibiting the person from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on his behalf;

(c) Prohibiting the person from entering a certain geographic area; or

(d) Prohibiting the person from engaging in specific conduct that may be harmful to his own health, safety or welfare, or the health, safety or welfare of another person.

➥ In determining whether a condition is reasonable, the court shall consider the factors listed in NRS 178.4853.

12. If a person fails to comply with a condition imposed pursuant to subsection 11, the court may, after providing the person with reasonable notice and an opportunity for a hearing:

(a) Deem such conduct a contempt pursuant to NRS 22.010; or

(b) Increase the amount of bail pursuant to NRS 178.499.

13. An order issued pursuant to this section that imposes a condition on a person admitted to bail must include a provision ordering any law enforcement officer to arrest the person if he has probable cause to believe that the person has violated a condition of his bail.

14. Before a person may be admitted to bail, he must sign a document stating that:

(a) He will appear at all times and places as ordered by the court releasing him and as ordered by any court before which the charge is subsequently heard;

(b) He will comply with the other conditions which have been imposed by the court and are stated in the document; and

(c) If he fails to appear when so ordered and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

➥ The signed document must be filed with the clerk of the court of competent jurisdiction as soon as practicable, but in no event later than the next business day.

15. If a person admitted to bail fails to appear as ordered by a court and the jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial, the person who failed to appear is responsible for paying those costs as restitution.

16. For the purposes of subsections 8 and 9, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

17. As used in this section, "strangulation" has the meaning ascribed to it in NRS 200.481.

Sec. 8. NRS 432B.640 is hereby amended to read as follows:

432B.640 1. Upon receiving a referral from a court pursuant to subsection ~~[6]~~ ***7*** of NRS 200.485, an agency which provides child welfare services may, as appropriate, conduct an assessment to determine whether a psychological evaluation or counseling is needed by a child.

2. If an agency which provides child welfare services conducts an assessment pursuant to subsection 1 and determines that a psychological evaluation or counseling would benefit the child, the agency may, with the approval of the parent or legal guardian of the child:

(a) Conduct the evaluation or counseling; or

(b) Refer the child to a person that has entered into an agreement with the agency to provide those services.

Sec. 9. 1. This section and sections 1 to 4, inclusive, 6, 7 and 8 of this act become effective upon passage and approval.

2. Section 4 of this act expires by limitation on June 30, 2009.

3. Section 5 of this act becomes effective on July 1, 2009.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Assembly in recess at 12:15 p.m.

ASSEMBLY IN SESSION

At 12:16 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

Assembly Bill No. 180.

Bill read second time.

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

Amendment No. 40.

SUMMARY—Designates Engine No. 40 of the Nevada Northern Railway as ~~[the]~~ **an** official state locomotive of the State of Nevada. (BDR 19-734)

AN ACT relating to state emblems; designating Engine No. 40 of the Nevada Northern Railway as ~~[the]~~ **an** official state locomotive; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law designates various emblems of the State of Nevada, including a state tartan, a state artifact and a state fossil. This bill designates Engine No. 40 of the Nevada Northern Railway as ~~[the]~~ **an** official state locomotive of the State of Nevada.

WHEREAS, The Nevada Northern Railway East Ely yard complex in Ely, Nevada is designated a National Historic Landmark by the United States Secretary of the Interior; and

WHEREAS, Engine No. 40, a ten-wheeler built by Baldwin Locomotive Works in July of 1910, which operated daily between Ely and Cobre until the last regularly scheduled passenger run in July of 1941, is one of the most historically significant steam locomotives still in existence; and

WHEREAS, The Nevada Northern Railway and Engine No. 40 were integral in the development of the State of Nevada and are part of the history of the State of Nevada; now, therefore,

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

Section 1. Chapter 235 of NRS is hereby amended by adding thereto a new section to read as follows:

The steam locomotive of the Nevada Northern Railway known as Engine No. 40, built in 1910, is hereby designated as ~~[the]~~ an official state locomotive of the State of Nevada.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 477.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bills Nos. 75, 109, 218, 280, 306, 332, 412, 443; Assembly Joint Resolution No. 7; Senate Bills Nos. 38, 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assemblyman Conklin moved that DAILY SPARKS TRIBUNE/NEVADALABOR.COM: Andrew L. Barbano; KNPB-TV: Tyler McPherron; NEVADA SAGEBRUSH: Jessica Fryman be accepted as accredited press representatives, and that they be assigned space at the press table in the Assembly Chamber and that they be allowed the use of appropriate broadcasting facilities.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Jim Bennett.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman and Speaker Emeritus Joseph E. Dini, Jr.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Art Cline and Tom Welsh.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Bob Beach and Bruce Specter.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Larry Levine.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Caughlin Ranch Elementary School: Aramis Anastassatos, Sahara Armen, Brandon Bonnell, Joseph Castillo, Ariyani Challapalli, Lorena De La Rosa, Emily Dunn, Charlie Ennis, Maria Fernandez, Julia Hamlin, Samantha Harrison, Spencer Kase-Rohlfing, Kentaro Lee, Kyle Lemberes-Kauffman, Christian Parriott, Price Patton, Hayes Riedeman, Lily Sloan, Isabel Strait, Cruz Tambo, Lauren Vides, Shawn Wang, Cameron Young, Kimberly Zepeda, Amber Aramini, Brooke Betterton, Steven Cao, Kylee Capurro, Travis Fey, Michael Fralick, Hannah Hazelbaker, Yegor Ilchuck, Samantha Kazarian, William Kirwan, Kalsey Lee, Paula Makienko, Savanna McClung, Juliana Ness, Tyler Nied, Madison Osborne, Nick Parino, Tyler Pilling, Nedal Rejoub, Leticia Rendon, Clifford Stewart, Silvana Tillis, Kylee Tiojio, Joe Antonuccio, Christie Betker, Kemper Conboy, Ryleigh Coyle, Joel Dahan, Jenny Damke, Irene De La Rosa, Jake De Los Santos, Brooke Eriksen, Anna Evans, Jacob Greiner, Kelly Kane, Lan Le, Ryan May, Madelynn McGlynn, Megan Monroe, Denny Peters, Maddy Sims, Taylor Tasler-Oatley, Sarah Tsung, Haydn Ward, Max Zeltzer; teacher David Saulsbury; chaperones Melinda Wallace, Michelle Capurro, and Staci Kirwan; Emma Woods and Jacob Slaughter.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Roy Sargent.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Joe Alvarado.

On request of Assemblywoman Koivisto, the privilege of the floor of the Assembly Chamber for this day was extended to Bob Norton, Jeff Hardcastle, and David Byerman.

Assemblyman Conklin moved that the Assembly adjourn until Wednesday, April 1, 2009, 11 a.m.

Motion carried.

Assembly adjourned at 12:21 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE FIFTY-NINTH DAY

CARSON CITY (Wednesday), April 1, 2009

Assembly called to order at 11:08 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Jeremy Morgado.

Dear Heavenly Father, I thank You for the dedication and heart of the people in this Assembly. I ask You today to grant each person wisdom and understanding. I pray that You help each to discern what is right and needed for You to continue to prosper this great state and its people. I ask that You bless each member today. Bless their positions, bless their homes, and bless their families. Give each member the strength to endure and the patience to complete the needed task ahead. In Your Name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 124, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Education, to which was referred Assembly Bills Nos. 327, 393, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Education, to which was referred Assembly Bills Nos. 100, 188, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which was referred Assembly Bill No. 359, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, without recommendation, and rerefer to the Committee on Health and Human Services.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bills Nos. 10, 16, 107, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 88, 93, 237, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 21, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

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

Assembly in recess at 11:14 a.m.

ASSEMBLY IN SESSION

At 11:14 a.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Buckley, Horne, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury; Senators Horsford, Wiener, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington and Woodhouse:

Assembly Concurrent Resolution No. 25—Honoring Andre Agassi for his philanthropic vision and congratulating the first graduating class of the Andre Agassi College Preparatory Academy.

WHEREAS, In 1994, at the young age of 24 years and while still a professional tennis athlete, Andre Agassi founded the Andre Agassi Foundation to serve the needs of children within the community, including the opening of the Andre Agassi Boys and Girls Club; and

WHEREAS, While this work of the Foundation was vitally important, Andre Agassi realized that to give children real hope for a successful future, education would be the best vehicle; and

WHEREAS, In 2001, the Foundation opened the Andre Agassi College Preparatory Academy as a charter school in a socio-economically disadvantaged neighborhood in Las Vegas with the mission to enhance each student's character, motivation, self-discipline, self-respect and individualized learning to ensure that each of those students is adequately and fully prepared for college; and

WHEREAS, The Andre Agassi College Preparatory Academy currently enrolls 600 students in grades K-12 and has a waiting list of students each year; and

WHEREAS, The Andre Agassi College Preparatory Academy operates on the fundamental premise that if a child has the proper support, encouragement and respect, then a child may dare to dream of a successful future; and

WHEREAS, On June 12, 2009, 34 students will participate in the commencement ceremony of the first graduating class of the Andre Agassi College Preparatory Academy, and half of those students have already been accepted to 4-year colleges and universities; and

WHEREAS, Andre Agassi has expressed the belief that his professional work as a tennis player has enabled him to accomplish his real life's work, which is to help children and provide support to overcome obstacles, and Mr. Agassi is quoted as saying "through this support, thousands of children have the knowledge, confidence and skills to be successful. But most of all, they have hope"; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Session of the Nevada Legislature hereby honor Mr. Andre Agassi for his dedicated philanthropic work and vision on behalf of children; and be it further

RESOLVED, That the members of the 75th Session of the Nevada Legislature hereby congratulate the first graduating class of the Andre Agassi College Preparatory Academy for their hard work and accomplishments and hereby express support for a successful future for each of those students; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Mr. Andre Agassi, to Mr. Steve Miller, the Chief Executive Officer of the Andre Agassi Foundation, and to Ms. Marsha Irvin, the Chancellor for the Andre Agassi College Preparatory Academy.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblymen Buckley and Horne.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Andre Agassi is a product of Las Vegas. He is a superstar and was the best in tennis in the world for so many years. What does he choose to do with his time and the wealth that he accumulated? He decides to help children. He created a landmark charter school in Las Vegas and decided to put it in the heart of the most economically disadvantaged, traditionally segregated community in Las Vegas—to appeal to the students that there is nothing they can't achieve. He chose to visit the school, to spend his blood, sweat, and tears; to invest in a longer school day and more resources to prove that with the proper resources, any child can soar to the top. What an inspiration to us and what a treasure to have. We want to take this opportunity to thank Andre Agassi, Steffi, the family, the dedicated professionals at that school, and the kids for achieving their remarkable accomplishments through hard work. On this occasion, to celebrate the first graduating class, our congratulations go to all of those students. We know they are our future leaders. We applaud them and we applaud everyone involved in this amazing Nevada experiment.

Mr. Agassi will be with the Education Committee later and at the Boys and Girls Club later—something that our esteemed Assemblywoman from Carson City has arranged. We look forward to seeing him in our halls. It is with great pleasure that the Assembly supports Assembly Concurrent Resolution 25.

ASSEMBLYMAN HORNE:

Thank you, Mr. Speaker pro Tempore. I rise in support of Assembly Concurrent Resolution 25. I would like to say, being from Las Vegas and growing up there, it is absolutely wonderful that we have an example like Andre Agassi to do what he has done in the community. When he first retired from tennis, it would have been so easy for him to sit back on those athletic laurels and enjoy the rest of his life. I send out to the countless number of professional athletes that Las Vegas and Reno have generated over the years, that if they could do half of what Andre Agassi has done, the youth, particularly in our state, would benefit greatly. Thank you, Mr. Speaker pro Tempore.

Resolution adopted.

Assemblywoman Buckley moved that all rules be suspended and that Assembly Concurrent Resolution No. 25 be immediately transmitted to the Senate.

Motion carried.

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

Assembly in recess at 11:23 a.m.

ASSEMBLY IN SESSION

At 11:24 a.m.

Madam Speaker presiding.

Quorum present.

By Assemblymen Grady, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Assembly Concurrent Resolution No. 26—Memorializing native Nevadan and public servant David H. Fulstone II.

WHEREAS, David H. "Davey" Fulstone II, whose Lyon County family roots can be traced back to the 1800s, was born in Yerington on December 23, 1950, to David and Angelina Fulstone and lived in Yerington for his entire life; and

WHEREAS, This native Nevadan spent over 40 years farming with his father and was a staunch activist for agricultural issues and matters related to the Walker River as he kept abreast of current issues and tried to preserve the local heritage and way of life; and

WHEREAS, On September 10, 1977, David married his beloved wife Diane Reynolds, whose lifelong support, including accompanying him to Israel to study water conservation techniques and different methods of farming, was invaluable in every aspect of his life; and

WHEREAS, Because of his devotion to issues that were important to Mason Valley, this mentor and leader was actively involved in public service, serving on the Lyon County Board of Commissioners for 8 years, on the National Commission on Agricultural Finance as an appointee of President Reagan, on the Board of Directors of the Walker River Irrigation District and as President of the Nevada Farm Bureau for 10 years, during which he traveled to five European countries and to Japan on trade missions; and

WHEREAS, His community service also included membership in and two terms as President of the Rotary Club of Yerington, by which he was recognized as a Paul Harris Fellow, service on the Board of the Mason Valley Fire Protection District, membership in the Walker Basin Project Stakeholders Group and the establishment of a popular, local radio talk show; and

WHEREAS, In an effort to improve people's lives in our State and throughout the world, this dedicated Nevadan served on the Desert Research Institute Research Foundation Board; and

WHEREAS, One of the greatest attestations to a life well-lived is the praise of those who know a person best, and Davey's friends, neighbors and those with whom he worked offer the highest praise for him and express the hole his absence leaves in their hearts and in all of Lyon County because of his unique place in the community; and

WHEREAS, David Fulstone is survived by his wife Diane, his two sons Joshua and Jeffrey, his father David, his sister DeeAnn and innumerable friends; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Nevada Legislature wish to express their sincerest condolences to the family and friends of Davey Fulstone; and be it further

RESOLVED, That the best way to honor this dedicated public servant is for each individual Nevadan to follow his example of service to the community and the State and continually strive to advance the causes in which he believes; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Davey's loving wife Diane and his sons Joshua and Jeffrey.

Assemblyman Grady moved the adoption of the resolution.

Remarks by Assemblyman Grady.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN GRADY:

This resolution addresses many of Davey's accomplishments and activities during his short time with us. You cannot know of his compassion unless you knew Davey—he gave 100 percent to everything he tackled: his family, his ranching, and his involvement with DRI or the Farm Bureau. His last adventure was his radio show where he loved to do "Water Wednesday" where he talked about our local water issues.

Politics was his passion, either his own politics or helping others. He assisted in my campaigns along with his sister DeAnn. Davey loved to go to Washington, D.C. to help Senator Laxalt with his "D.C. Rocky Mountain Oyster Feed" each year.

Davey was at home with world leaders or with his ranch crew. Everyone was equal and important.

Madam Speaker, there was only one Davey Fulstone, and we were very fortunate to have him. Thank you, Madam Speaker.

Resolution adopted.

Assemblyman Grady moved that all rules be suspended and that Assembly Concurrent Resolution No. 26 be immediately transmitted to the Senate.

Motion carried.

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

Assembly in recess at 11:37 a.m.

ASSEMBLY IN SESSION

At 11:38 a.m.

Madam Speaker presiding.

Quorum present.

NOTICE OF EXEMPTION

March 31, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 233 and 390.

GARY GHIGGERI
Fiscal Analysis Division

Assemblyman Oceguera moved that the reading of histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 218 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Atkinson moved that Assembly Bill No. 109 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 443 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 137.

Bill read second time.

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

Amendment No. 70.

AN ACT relating to public health; **designating the State Hygienic Laboratory as the State Public Health Laboratory;** authorizing the University of Nevada School of Medicine to designate certain branch laboratories of the State **[**~~Hygienic~~**]** **Public Health** Laboratory; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the University of Nevada School of Medicine to maintain the State Hygienic Laboratory. The purpose of the State Hygienic Laboratory is to make available proper laboratory facilities to diagnose communicable diseases, make certain examinations, conduct certain research and undertake other technical and laboratory duties as are in the interest of the health of the general public. **This bill designates the State Hygienic Laboratory as the State Public Health Laboratory.**

Existing law also authorizes the University of Nevada School of Medicine to establish and maintain such branch laboratories of the State Hygienic Laboratory as may be necessary. (NRS 439.240) This bill authorizes the University of Nevada School of Medicine to designate, establish or maintain those branch laboratories. **This bill also requires a public agency that operates or controls such a branch laboratory to enter into a cooperative agreement concerning the branch laboratory.**

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

Section 1. NRS 439.240 is hereby amended to read as follows:

439.240 1. The University of Nevada School of Medicine shall maintain the State ~~[Hygienic]~~ ***Public Health*** Laboratory, ~~[heretofore established pursuant to the provisions of chapter 230, Statutes of Nevada 1909,]~~ and may ***designate,*** establish ~~[and]~~ ***or*** maintain such branch laboratories as may be necessary.

2. The purpose of the State ~~[Hygienic]~~ ***Public Health*** Laboratory is:

(a) To make available, at such charges as may be established, to health officials, the State Dairy Commission and licensed physicians of the State, proper laboratory facilities for the prompt diagnosis of communicable diseases.

(b) To make necessary examinations and analyses of water, natural ice, sewage, milk, food and clinical material.

(c) To conduct research into the nature, cause, diagnosis and control of diseases.

(d) To undertake such other technical and laboratory duties as are in the interest of the health of the general public.

3. The person in charge of the State ~~[Hygienic]~~ ***Public Health*** Laboratory, or his designee, must be a skilled bacteriologist.

4. The person in charge of the State ~~[Hygienic]~~ ***Public Health*** Laboratory may have such technical assistants as that person, in cooperation with the University of Nevada School of Medicine, considers necessary.

5. Reports of investigations conducted at the State ~~[Hygienic]~~ ***Public Health*** Laboratory may be published from time to time in bulletins and circulars.

6. If the University of Nevada School of Medicine designates a branch laboratory pursuant to subsection 1 that is operated or controlled by a public agency other than the University of Nevada School of Medicine, the public agency and the University of Nevada School of Medicine shall enter into a cooperative agreement pursuant to NRS 277.080 to 277.180, inclusive, concerning the branch laboratory. The cooperative agreement must include, without limitation, provisions setting forth the powers and duties of each party to the cooperative agreement.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 149.

Bill read second time.

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

Amendment No. 93.

AN ACT relating to real property; revising provisions governing foreclosures on property; providing for mediation under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth procedures governing foreclosures on real property upon default. A trustee under a deed of trust has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085) ~~[This]~~ **Section 1 of this** bill establishes additional restrictions on the trustee's power of sale with respect to owner-occupied housing by providing a homeowner with the right to request mediation under which he may receive a loan modification. Once a homeowner requests mediation, no further action may be taken to exercise the power of sale until the completion of the mediation. Each mediation must be conducted by a senior justice, judge, hearing master or other designee pursuant to rules adopted by the Nevada Supreme Court or an entity designated by the Nevada Supreme Court. **In addition, section 4 of this bill authorizes the Nevada Supreme Court to adopt rules providing for voluntary mediation with respect to a homeowner who is not in default but is at risk of default.**

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement ~~*[to which NRS 107.085 applies and]*~~ ***which concerns owner-occupied housing is subject to the provisions of this section.***

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee ~~*[includes]*~~ **:**

(a) Includes in the notice required by subsection 2 of NRS 107.085:

~~*[(a)]*~~ ***(1) Contact information which the grantor may use to reach a person with authority to negotiate a loan modification on behalf of the*** ~~*[trustee;*~~

~~*(b)]*~~ ***beneficiary of the deed of trust;***

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development; and

~~*[(c)]*~~ ***(3) A form upon which the grantor may indicate his election to enter into mediation or to waive mediation and one envelope addressed to the trustee and one envelope addressed to the*** ~~*[Administrative Office of the Courts,]*~~ ***Mediation Administrator, which the grantor may use to comply with the provisions of subsection 3*** ~~*[.]*~~ **;**

(b) Serves a copy of the notice upon the Mediation Administrator; and

(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 which provides that mediation has been completed in the matter.

3. The grantor shall, not later than 30 days after service of the notice upon him in the manner required by NRS 107.085, complete the form required by ~~*[paragraph (c)]*~~ ***subparagraph (3) of paragraph (a) of***

subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor indicates on the form his election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor to enter into mediation and file a copy of the form with the [Administrative Office of the Courts, which] Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be taken to exercise the power of sale until the completion of the mediation. If the grantor indicates on the form his election to waive mediation or fails to return the form to the trustee as required by this [paragraph,] subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or proof of service on the grantor of the notice required by subsection 2 of this section and subsection 2 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator shall provide to the trustee a certificate which provides that no mediation is required [.] in the matter.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection [7.] 8. The [trustee] beneficiary of the deed of trust or his representative and the grantor or his representative shall each attend the mediation. The [trustee] beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust , [and] the mortgage note [to the mediation.] and each assignment of the deed of trust or mortgage note. If the [trustee] beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the [trustee] beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

5. If the [trustee] beneficiary of the deed of trust or his representative fails to attend the mediation, does not bring to the mediation each document required by subsection 4 or does not have the authority or access to a person with the authority required by subsection 4, the district court of the county in which the trust property, or some part thereof, is situated may issue an order requiring a loan modification in the manner determined proper by the court.

6. If the grantor fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the district court of the county in which the trust property, or some part thereof, is situated shall [dismiss] issue an order dismissing the matter and the [mediation shall be deemed] Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed [for the purposes of this section.] in the matter.

8. The Supreme Court or an entity designated by the Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the District

Court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

9. The provisions of this section do not apply if:

(a) The grantor has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. As used in this section:

(a) "Mediation Administrator" means the entity so designated pursuant to subsection 8.

(b) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(c) "Owner-occupied housing" means housing that is occupied by the owner as his primary residence. The term does not include any time share or other property regulated under chapter 119A of NRS.

Sec. 2. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, ***and section 1 of this act,*** if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

Sec. 3. **NRS 107.085 is hereby amended to read as follows:**

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003 ~~[;~~ ~~and~~

~~(b) On]~~ ***, and, on*** the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32 ~~[.]~~ ***; or***

(b) The trust agreement concerns owner-occupied housing as defined in section 1 of this act.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

Your home loan is being foreclosed. In 60 days your home will be sold and you will be forced to move. For help, call:

Consumer Credit Counseling _____

The Attorney General _____

The Division of Financial Institutions _____
Legal Services _____
Your Lender _____
Nevada Fair Housing Center _____

4. This section does not prohibit a judicial foreclosure.

5. As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Sec. 4. **Chapter 2 of NRS is hereby amended by adding thereto a new section to read as follows:**

The Supreme Court may adopt rules providing for voluntary mediation with respect to a homeowner who is not in default but is at risk of default.

Sec. 5. NRS 459.646 is hereby amended to read as follows:

459.646 1. A person who, without participating in the management of a parcel of real property, holds or is the beneficiary of evidence of title to the property primarily to protect a security interest in the property is not a responsible party with respect to a release of a hazardous substance on the property if:

(a) The owner of the property is relieved from liability under NRS 459.610 to 459.658, inclusive, with respect to the release;

(b) The owner or holder of evidence of title did not cause the release; and

(c) The owner or holder of evidence of title does not participate actively in decisions concerning hazardous substances on the property.

2. A lender to a prospective purchaser who has filed an application to participate in the program pursuant to NRS 459.634 or a lender who forecloses his security interest in property pursuant to NRS 40.430 to 40.450, inclusive, or 107.080 to 107.100, inclusive, ***and section 1 of this act,*** and within a reasonable period after the foreclosure, not to exceed 2 years, sells, transfers or conveys the property to a prospective purchaser who has filed an application to participate in the program pursuant to NRS 459.634 is not a responsible party solely as a result of:

(a) Foreclosing a security interest in the property; or

(b) Making a loan to the prospective purchaser if the loan:

(1) Is to be used for acquiring property or removing or remediating hazardous substances on property; and

(2) Is secured by the property that is to be acquired or on which is located the hazardous substances that are to be removed or remediated.

~~[Sec. 4.]~~ ***Sec. 6.*** This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that upon return from the printer Assembly Bill No. 149 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 264.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 115.

AN ACT relating to criminal procedure; revising provisions relating to procedures for the commitment to and conditional release from the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services of certain criminal defendants whom the court finds to be incompetent; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a court dismisses the proceedings against a defendant who is charged with a category A or category B felony because the court finds that the defendant is incompetent with no substantial probability of attaining competence in the foreseeable future, the prosecuting attorney is authorized to file a motion with the court for a hearing to determine whether to commit the person to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services. **Section 4** of this bill amends existing law to provide that a prosecuting attorney may file such a motion if a court dismisses the proceedings against a defendant who is charged with any category A felony or certain listed category B felonies, rather than a defendant who is charged with any category A or any category B felony. **Section 4** also ~~[provides that such a motion is required to include a comprehensive risk assessment completed by the Division]~~ **: (1) requires a prosecuting attorney who files such a motion to request the Division to provide a comprehensive risk assessment** which indicates whether the person requires the level of security provided by a forensic facility ~~[.]~~ **; and (2) requires the Division to provide the comprehensive risk assessment to the court, the prosecuting attorney and the person's counsel.** (NRS 178.461)

Existing law also provides that if the court finds by clear and convincing evidence that the person has a mental disorder and is a danger to himself or others, the court is required to order that the person be committed to the custody of the Administrator until he is eligible for conditional release or after 10 years have passed, whichever period is shorter. **Section 4** of this bill amends existing law to: (1) add that the person's dangerousness is required to be at a level that requires placement of the person at a forensic facility as a prerequisite to the court committing the person to the custody of the Administrator; and (2) authorize, rather than require, the court to commit a person to the custody of the Administrator in those circumstances. (NRS 178.461) **Section 1** of this bill defines the term "forensic facility" for the purposes of those provisions.

Existing law provides the manner for determining eligibility for conditional release of a person committed to the custody of the Administrator pursuant to **section 4** of this bill. **Section 5** of this bill authorizes the Division or a person who is committed to the custody of the Administrator to petition the court which committed the person for conditional release. (NRS 178.463)

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

Section 1. ***"Forensic facility" has the meaning ascribed to it in NRS 175.539.***

Sec. 2. NRS 178.3981 is hereby amended to read as follows:

178.3981 As used in NRS 178.3981 to 178.471, inclusive, unless the context otherwise requires, the words and terms defined in NRS 178.3982 to 178.399, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 178.460 is hereby amended to read as follows:

178.460 1. If requested by the district attorney or counsel for the defendant within 10 days after the report by the Administrator or his designee is sent to them, the judge shall hold a hearing within 10 days after the request at which the district attorney and the defense counsel may examine the members of the treatment team on their report.

2. If the judge orders the appointment of a licensed psychiatrist or psychologist who is not employed by the Division to perform an additional evaluation and report concerning the defendant, the cost of the additional evaluation and report is a charge against the county.

3. Within 10 days after the hearing or 10 days after the report is sent, if no hearing is requested, the judge shall make and enter his finding of competence or incompetence, and if he finds the defendant to be incompetent:

(a) Whether there is substantial probability that the defendant can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future; and

(b) Whether the defendant is at that time a danger to himself or to society.

4. If the judge finds the defendant:

(a) Competent, the judge shall, within 10 days, forward his finding to the prosecuting attorney and counsel for the defendant. Upon receipt thereof, the prosecuting attorney shall notify the sheriff of the county or chief of police of the city that the defendant has been found competent and prearrange with the facility for the return of the defendant to that county or city for trial upon the offense there charged or the pronouncement of judgment, as the case may be.

(b) Incompetent, but there is a substantial probability that he can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future and finds that he is dangerous to himself or to society, the judge shall recommit the defendant

and may order the involuntary administration of medication for the purpose of treatment to competency.

(c) Incompetent, but there is a substantial probability that he can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future and finds that he is not dangerous to himself or to society, the judge shall order that the defendant remain an outpatient or be transferred to the status of an outpatient under the provisions of NRS 178.425.

(d) Incompetent, with no substantial probability of attaining competency in the foreseeable future, the judge shall order the defendant released from custody or, if the defendant is an outpatient, released from his obligations as an outpatient if, within 10 judicial days, the prosecuting attorney has not filed a motion pursuant to NRS 178.461 or if, within 10 judicial days, a petition is not filed to commit the person pursuant to NRS 433A.200. After the initial 10 judicial days, the person may remain an outpatient or in custody under the provisions of this chapter only as long as the motion or petition is pending unless the person is committed to the custody of the Administrator pursuant to NRS 178.461 or involuntarily committed pursuant to chapter 433A of NRS.

5. Except as otherwise provided in subsection ~~[3]~~ ***4*** of NRS 178.461, no person who is committed under the provisions of this chapter may be held in the custody of the Administrator or his designee longer than the longest period of incarceration provided for the crime or crimes with which he is charged or 10 years, whichever period is shorter. Upon expiration of the applicable period provided in this section, subsection ~~[3]~~ ***4*** of NRS 178.461 or subsection ~~[3]~~ ***4*** of NRS 178.463, the person must be returned to the committing court for a determination as to whether or not involuntary commitment pursuant to chapter 433A of NRS is required.

Sec. 4. NRS 178.461 is hereby amended to read as follows:

178.461 1. If the proceedings against a defendant who is charged with ~~[a]~~ ***any*** category A ***felony*** or ***a*** category B felony ***listed in subsection 6*** are dismissed pursuant to subsection 5 of NRS 178.425, the prosecuting attorney may, within 10 judicial days after the dismissal, file a motion with the court for a hearing to determine whether to commit the person to the custody of the Administrator pursuant to subsection ~~[2.]~~ ***3.*** The court shall hold the hearing within 10 judicial days after the motion is filed with the court.

2. ~~*[A motion filed pursuant to subsection 1 must include, without limitation,]*~~ ***If the prosecuting attorney files a motion pursuant to subsection 1, the prosecuting attorney shall, not later than the date on which he files the motion, request from the Division a comprehensive risk assessment*** ~~*[completed by the Division]*~~ ***which indicates whether the person requires the level of security provided by a forensic facility. The Division shall provide the requested comprehensive risk assessment to the court, the prosecuting attorney and counsel for the person not later than three judicial days before the hearing.***

3. At a hearing held pursuant to subsection 1, if the court finds by clear and convincing evidence that the person has a mental disorder ***,*** ~~[and]~~ that ~~[he]~~ ***the person*** is a danger to himself or others ~~[,]~~ ***and that the person's dangerousness is such that he requires placement at a forensic facility,*** the court ~~[must]~~ ***may*** order:

(a) The sheriff to take the person into protective custody and transport him to a ~~[division facility that is secure;]~~ ***forensic facility;*** and

(b) That the person be committed to the custody of the Administrator and kept under observation until the person is eligible for conditional release pursuant to NRS 178.463 or until the maximum length of commitment described in subsection ~~[3]~~ ***4*** has expired.

~~[3.]~~ ***4.*** The length of commitment of a person pursuant to subsection ~~[2]~~ ***3*** must not exceed 10 years, including any time that the person has been on conditional release pursuant to NRS 178.463.

~~[4.]~~ ***5.*** At least once every 12 months, the court shall review the eligibility of the defendant for conditional release.

6. The provisions of subsection 1 apply to any of the following category B felonies:

(a) Voluntary manslaughter pursuant to NRS 200.050;

(b) Mayhem pursuant to NRS 200.280;

(c) Kidnapping in the second degree pursuant to NRS 200.330;

(d) Assault with a deadly weapon pursuant to NRS 200.471;

(e) Battery with a deadly weapon pursuant to NRS 200.481;

(f) Aggravated stalking pursuant to NRS 200.575; ~~*[and]*~~

(g) First degree arson pursuant to NRS 205.010 ~~*[.]*~~ ***;***

(h) Burglary with a deadly weapon pursuant to NRS 205.060;

(i) Invasion of the home with a deadly weapon pursuant to NRS 205.067;

(j) Any category B felony involving the use of a firearm; and

(k) Any attempt to commit a category A felony.

Sec. 5. NRS 178.463 is hereby amended to read as follows:

178.463 1. ***The Division or a person who is committed to the custody of the Administrator pursuant to NRS 178.461 may petition the court which committed the person for conditional release.***

2. A person who is committed to the custody of the Administrator pursuant to NRS 178.461 is eligible for conditional release only after:

(a) The Division has completed a comprehensive risk assessment concerning the person;

(b) A decision to release the person from commitment with conditions imposed by the court in consultation with the Division has been made based on input from the person's treatment team, the prosecuting attorney, the counsel for the person and the team that will supervise the person in the community; and

(c) The court which committed the person has approved the conditional release.

~~[~~2.~~]~~ ***3.*** If a person is serving a period of conditional release pursuant to this section, the court must, at least once every 12 months, review the eligibility of the defendant for discharge from conditional release. If, at the conclusion of the review required by this subsection, the court finds by clear and convincing evidence that the person no longer has a mental disorder and that he is not a danger to himself or others, the court must discharge the person from conditional release.

~~[~~3.~~]~~ ***4.*** The length of the period of conditional release must not exceed 10 years, including any time that the person has been committed to the custody of the Administrator pursuant to NRS 178.461 and 178.464.

Sec. 6. NRS 178.464 is hereby amended to read as follows:

178.464 1. The Division shall notify the court which ordered the commitment of the person pursuant to NRS 178.461 if the person violates a condition of his release from commitment.

2. If the court is notified pursuant to subsection 1 of a violation, the court shall consult with the Division, the counsel for the person and the prosecuting attorney concerning the potential risk to the community that is posed by the noncompliance of the person with the conditions of release from commitment.

3. After consulting with the persons required by subsection 2 and considering the risks to the community, the court may issue a temporary order of detention to commit the person to custody ~~[~~,~~]~~ ***for evaluation,*** pending the hearing described in subsection 4. If the court issues such an order, the court must:

(a) Order the sheriff to take the person:

(1) Into protective custody and transport him to a forensic facility ***;*** ~~[~~operated by the Division;~~]~~ or

(2) To a jail where the person must remain in protective custody; and

(b) Provide a copy of the order to the counsel for the person and the prosecuting attorney.

4. Within 10 days after a person has been committed to the custody of the Administrator for evaluation pursuant to subsection 3, the court shall hold a hearing to determine whether to continue, modify or terminate the conditional release of the defendant.

~~[~~5. As used in this section, "forensic facility" has the meaning ascribed to it in NRS 175.539.~~]~~

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 301.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 414 be taken from the Second Reading File and rereferred to the Committee on Ways and Means.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 22.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 22.

Assemblyman Christensen moved the adoption of the resolution.

Remarks by Assemblyman Christensen.

Resolution adopted.

Assemblyman Atkinson moved that Assembly Bill No. 169 be taken from the Chief Clerk's desk and placed on General File.

Motion carried.

Assemblyman Oceguera moved that Assembly Bills Nos. 75, 96, 164, 169, 180, 280, 306, 332, 412, 477; Assembly Joint Resolution No. 7; Senate Bills Nos. 38, 109; and Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bill No. 132; Assembly Concurrent Resolution No. 20; Assembly Resolution No. 8; Senate Bill No. 39; and Senate Concurrent Resolutions 20 and 21.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Aizley, the privilege of the floor of the Assembly Chamber for this day was extended to Sari Aizley.

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Bud Garfinkel, former Assemblyman Artie Valentine, and Faye Valentine.

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblywoman Courtney Swain-McGowan and William Gise.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Joseph Johnson and former Assemblywoman Helen Foley.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Jessica Vigil, Dashun Jackson, Miriya Lawrence, Ben Sayeski, Jenny Tan, former Assembly Chief Clerk Mouryne Dini, and former Assemblyman and Speaker Emeritus Joseph E. Dini, Jr.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to DeAnn Fulstone and Kimberlee Rotchy.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman John Polish.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Sophia Colabianch, Ellie Lopez-Bowlan, and Kathy Gross.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblywoman Maureen Brower.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Greg Brower and former Assemblywoman Maureen Brower.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Donald B. Reid.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblymen Louis J. Capurro, Jr. and Randall V. Capurro.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Larry Reynolds, Lee Reynolds, Linda Gentry, Peggy Bitler, Ken Bitler, Andy Mackenzie, Karen Peterson, George LeMaitre, Pat Fietta, Bryan Masini, Sheila Masini, Ron Hughes, Barbara Hughes, Robert Gentry, Diane Fulstone, David Fulstone, Josh Fulstone and Jeff Fulstone.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblymen Bill Bilyeu and William Kissam.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblywoman Patricia D. Cafferata.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Joe Elliot.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblymen Bob Price and Harry B. Swanson.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Joe Johnson.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblymen Brooks S. Holcomb and Harold Jacobsen.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblywoman RoseMary Womack.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Melinda Thompson, Gene Fairchild, former Assemblyman Jerry Fairchild, Dorothy North, and former Assemblyman Gene Collins.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblymen Scott Sibley and David Goldwater.

On request of Assemblywoman Pierce, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblymen Louis A. Toomin and Valerie E. Weber.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Gardnerville Elementary School: Jaden Allredge, Allison Ansel, Holly Brown, Wyatte Caccamise, Madison Cole, Owen Elmquist, Bailey Gansberg, Raquel Garcia, Etienne Lekumberry, Tristen Lewellen, Dyllin Lopez, Connor Mone, Sam Nanse, Omar Nava, Jonah O'Connor, Esteban Pinedo, Nikki Rhead, Tory Roach, Nicole Rowe, Makayla Shaver, Brianna Starkey, Alexxaz Torres, Jesus Cervantes Mendoza, Cheyenne Aarons, Breanna Barret-Jimenez, Roger Briggs, Moses Broome, Kendal Cummins, Griffin Frensdorff, Adriana Garcia-Cortes, Jenna Hammond, Wyatt Hausman, Shiann Laugheed, Sean Koerner, Sabrina Lehrke, William Lento, Alexander May, Brooke Miller, Conor Preston, Mario Romero-Gonzalez, Julia Stiltz,

Nancy Valles, Jeff Van Pelt, Derek Wing, Kyle Anderson, Michael Angst-Smith, Madison Bailey, Brittany Barr, Alexander Bond, Anthony DeArcos, Shaelyn Dieter, Matthew Fejer, Jessica Flanagan, Marra Gardner, Nikki Hamada, Kenneth Hargreaves III, Edgar Hernandez, Laura Hernandez, James Hildman, Sarah Lewellen, Stephanie Long, Taylee Pickering, Whitney Sizemore, Robin Smuda, and Arturo Vivas; teachers Roxanne Usher, Dana A. Beres, and Danette Morgan; chaperones Tanya Miles-Orozco, Dianne Hamada, Lou Castellano, Lela Ornbaum, and Ruth Castellano.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblywoman Joan Lambert.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Robert Craddock.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Jack Close.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Robert M. Benkovich.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, April 2, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 11:59 a.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SIXTIETH DAY

CARSON CITY (Thursday), April 2, 2009

Assembly called to order at 11:16 a.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Dave Goodale.

Almighty Father, we thank You for the men and women who give their best in thought and work for the building and governing our state. Grant that we may continue always to work in harmony together and to benefit from the richness and variety of all contributions to our greatness. Guide us this day, we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 266, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which was referred Assembly Bill No. 510, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and rerefer to the Committee on Ways and Means.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 35, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 459, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 3, 193, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Concurrent Committee on Health and Human Services, to which was referred Assembly Bill No. 379, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 194, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JERRY D. CLABORN, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 510 be rereferred to the Committee on Ways and Means.

Motion carried.

COMMUNICATIONS

STATE OF NEVADA
SENATE

April 1, 2009

SPEAKER BARBARA E. BUCKLEY, Nevada State Assembly, Carson City, NV 89701-4747

DEAR SPEAKER BUCKLEY,

Senator Horsford is requesting the consent of the Assembly, in conformance with Section 15 of Article 4 of the Constitution of the State of Nevada, to adjourn the Senate's floor session from Wednesday, April 8, 2009, until Monday, April 13, 2009, at 11 a.m. This period of adjournment will allow our Standing Committees adequate time to hear all Senate measures before the next legislative deadline for Committee Bill Passage on April 10, 2009.

In order to accommodate your busy schedule, please note your decision on this request for our records.

Thank you so much for your consideration,

Sincerely,
CLAIRE J. CLIFT
Secretary of the Senate

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolutions Nos. 21, 22, 23, 24, 25, 26.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 6.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

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

Assembly in recess at 11:24 a.m.

ASSEMBLY IN SESSION

At 11:25 a.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Denis, Smith, Parnell, Mastroluca, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Pierce, Segerblom, Settelmeyer, Spiegel, Stewart and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Assembly Concurrent Resolution No. 27—Honoring the Nevada Parent Teacher Association for its dedicated service in Nevada.

WHEREAS, The Nevada Parent Teacher Association was founded in 1940 and serves our State as the largest volunteer advocacy group for children, families and teachers, placing emphasis on promoting active family involvement in the schools throughout our State; and

WHEREAS, The membership of the Nevada PTA is open to everyone and is as inclusive and diverse as the children for whom the members advocate, with representation from different economic, ethnic, religious, political and cultural backgrounds; and

WHEREAS, The organizational scheme of the Nevada PTA begins with volunteers who form local units that may join together to form councils, which compose PTA regions, and membership in the statewide unit, the Battle Born PTA, is open to everyone; and

WHEREAS, Each higher tier of the organization provides support for the groups of which it is composed, with the councils providing training, support, materials and expertise to the local units, the regions establishing close working relationships with councils and units to furnish service, training and networking opportunities, and the state level assisting in whatever way it is needed to achieve *one*voice for *every*child; and

WHEREAS, The mission of the Nevada PTA is threefold, first, to support and speak on behalf of children in our schools, in the community and before governmental bodies and organizations that make decisions affecting them, second, to assist parents in developing the skills they need to raise and protect their children, and third, to encourage parent and public involvement with the teachers of our schools, all at no cost to the State; and

WHEREAS, Throughout the 68 years since its inception, the Nevada PTA has contributed money needed to foster education in Nevada and has served our State through a multitude of programs, such as the Carry the Card program by which businesses offer discounts to PTA members, a website for booking vacations with discounted prices, contests for promotion of the arts, training programs for parents that encourage partnership with teachers and community members to build the future together, leadership programs and myriad other projects to foster the well-being of the young people in this State; and

WHEREAS, To achieve one of the most significant objectives of the Nevada PTA, the advocacy of legislation that enhances the health, education and welfare of our children, the Nevada PTA outlines positions, brings them to the forefront during legislative sessions and encourages the commitment to a quality education for all children; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the Nevada Legislature honor the Nevada Parent Teacher

Association for the dedicated service of its volunteers and express profound gratitude for the contributions they make to Nevada's children, parents and teachers.

Assemblyman Denis moved the adoption of the resolution.

Remarks by Assemblymen Denis, Smith, Mastroluca, Christensen, Parnell, Anderson, and Hambrick.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN DENIS:

Thank you, Madam Speaker. I rise in support of ACR 27. We had a discussion a couple of days ago about some immigrants in the 1890s—two women from Washington, D.C., Freebie A. Hurst and Alice M. Burney. They were greatly concerned about the nation's children. The United States was feeling the enormous impact of the Industrial Revolution, and an immense wave of immigration was flowing into the country. Children worked in factories, in mines, and in the streets of the cities. Some could not attend school or obtain enough food to eat. What could be done? They decided that the children of America needed a voice. They sent out a call to action and anticipated that maybe 200 mothers would respond. However, on February 17, 1897, more than 2,000 mothers, fathers, teachers, workers, and politicians gathered for the very first PTA meeting.

After setting bylaws and marking out areas that needed to be addressed, the group began its quest for children's safety, health, and productive futures. By the early 1900s, the PTA had grown in numbers and in strength. Their hard work and perseverance led to the creation of kindergarten classes, juvenile justice systems, and child labor laws. Other things that the founders helped create and get done throughout the years have been the hot lunch program, public health programs, mandatory immunizations for school, physical education classes in public schools, sex education for preteens, and increased wages for teachers. The television content ratings you see on the television today are things that the PTA has advocated for.

In 1940, concerned parents in Nevada created the Nevada PTA. It has continued to function so that today, it is the largest and oldest child advocacy group in Nevada. The Nevada PTA is beginning its seventieth year of advocating for Nevada's children. For almost 70 years, the Nevada PTA has promoted the education, health, and safety of children, youth, and families. They have advocated for education and health all of these years.

As the challenges have changed, the Nevada PTA has also evolved. Today the Nevada PTA continues its fight for children. PTA members help parents learn skills that they need to raise happy, confident children. There are local PTA programs in every level of the public school system, including elementary schools, middle schools, high schools, as well as special education schools and programs, and all of them work tirelessly to bring the home and school closer together so that parents can take an active role in their children's education and future. In addition, many of Nevada's leaders have been trained by Nevada PTA. It is with great honor that I bring the resolution before you today, and I urge your support of the resolution.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of ACR 27. I could not support this resolution more. It may make some of my colleagues change their minds about supporting it when I say that I probably wouldn't be here if it wasn't for the PTA. It is really the truth. I started out as a mom of a kindergartener that went to a meeting one day, and you know how it goes—the next thing I knew I was the treasurer.

I have been involved with this organization for 20 years and have served on the National Board and actually was involved with writing the parent involvement book that the National PTA wrote. I have learned so much. I have watched so many of my friends and colleagues, many in this house, have amazing opportunities for leadership development and learn about the many issues that affect our children, both in school and in our communities. Education policy is hard to learn and ever evolving, and this organization does such an amazing job of teaching its advocates and volunteers. I am so honored to be a lifetime member of the organization and urge my colleagues to support the resolution. Thank you.

ASSEMBLYWOMAN MASTROLUCA:

Thank you, Madam Speaker. I rise in support of ACR 27. My story is very similar to that of my colleague from the north—the only difference is I wasn't smart enough to say, "No, thank you!" when they asked me to be president at the first meeting. So the first meeting I ever went to was the meeting I chaired as president. I just kind of got sucked in after that and moved up in to the Nevada PTA Board. It was a wonderful experience and has been a life-changing experience for me. I, too, would not be standing here today if it wasn't for the experience I had in being part of this organization that has made such a positive impact on so many people's lives—not just the people that you see, not just the people who are visible in the community, but on the children—that is really what it is about. This organization makes an impact on the lives of every single child, whether that child belongs to PTA or whether that child goes to a school that has a PTA. They still care about every single child. I am so proud to be a part of such a wonderful organization.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Speaker. I rise in support of ACR 27. I really appreciate the remarks from my colleagues who spoke before me. In this day and age, in this state and here in this building, we work so hard to see our children achieve and to do well and to see academic excellence. I have, from the committees that I have been able to serve on, related to education in the last few years. It has become my firm opinion that the best way to get there is to evaluate policy and to do everything we can to help education. It is parents caring, getting involved, volunteering, and going to those meetings and getting sucked into serving.

I will have to give my wife a heads up; she is engaged in the PTA in our school. I think it is great that you are all here today—those parents who are there serving and this organization being put together with that mission in mind—and I support the resolution. I appreciate the opportunity to speak.

ASSEMBLYWOMAN PARNELL:

Thank you, Madam Speaker. I rise to support ACR 27. I joined the PTA Board of Directors 30 years ago. I would have to say that probably today, more than ever, we need you. We need parent involvement. Parent involvement is something that crosses party lines. It is not geographic. We all need to come together and to continue to do what is best, not only for your children, but for all the children. I just stand to thank you for all that you do.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I, too, rise in support of ACR 27. As we heard in the resolution, it has been an evolutionary organization. When I look at the changes that have taken place in education, I see at the forefront of every one of those fights, whether it was bringing new technology into the modern age or expanding for physical education programs, the PTA. The continual activity of the PTA extends way beyond just "my child" and that little time period when they are in the educational institution. The PTA has left a lasting mark. It has raised the boat of education for all, evolving from an elite group to one that broadened to every level of our society without that requirement of "my child has to be included." Every child, every day, is the most important—the parent brings that focus. When the child knows that the parent is involved, they are also involved. That communication line is open. The PTA provides that, and therefore, the PTA is absolutely essential. Their hard work can't be complimented enough.

ASSEMBLYMAN HAMBRICK:

Thank you, Madam Speaker. I rise in support of the resolution. Like my colleague from District 29, I was not smart enough to say no. I left the room and came back in and was president of the PTA.

It is a good day to recognize them because April is Child Abuse Awareness Month. The PTA I was involved with in Dumfries, Virginia, was focused on that for almost a year and brought this issue to the forefront in suburban D.C. and in northern Virginia. Without the PTA in that area, untold harm would have been done to our youngsters. They brought this issue countywide. I will never forget that. I have been involved in other youth issues, but the PTA was the start of my involvement. I am very, very grateful.

Resolution adopted.

Assemblyman Denis moved that all rules be suspended and that Assembly Concurrent Resolution No. 27 be immediately transmitted to the Senate.

Motion carried unanimously.

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

Assembly in recess at 11:40 a.m.

ASSEMBLY IN SESSION

At 11:42 a.m.

Madam Speaker presiding.

Quorum present.

Senate Concurrent Resolution No. 6.

Assemblyman Conklin moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

NOTICE OF EXEMPTION

April 1, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 255, 289, 293 and 355.

GARY GHIGGERI
Fiscal Analysis Division

Assemblyman Oceguera moved that in conformance with Section 15, Article IV of the Constitution of the State of Nevada, the Assembly consent to the adjournment of the Senate from Wednesday, April 8, 2009, until Monday, April 13, 2009.

Motion carried.

Assemblyman Oceguera moved that the reading of histories of all bills and resolutions be dispensed with for this legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 528—AN ACT relating to the Department of Cultural Affairs; eliminating the requirement that the State Library and Archives be open to the public during certain days and hours; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 529—AN ACT relating to state financial administration; revising provisions governing certain accounts administered by the State Department of Agriculture; providing that the interest and income earned on certain such accounts, after deducting any applicable charges, must be credited to those accounts; providing that the money in certain such accounts does not revert to the State General Fund at the end of any fiscal year; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 530—AN ACT relating to education; providing for the reversion of money in the Account for Programs for Innovation and the Prevention of Remediation to the State General Fund; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 531—AN ACT relating to administrative assessments; revising provisions governing the distribution of the proceeds of certain administrative assessments; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 532—AN ACT relating to higher education; requiring the Nevada System of Higher Education to provide administrative support to the Nevada State Commissioners of the Western Interstate Commission for Higher Education; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 533—AN ACT making a supplemental appropriation to the State Distributive School Account for unanticipated shortfalls in Fiscal Year 2008-2009 in certain tax revenue; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 534—AN ACT making a supplemental appropriation to the Office for Consumer Health Assistance in the Office of the Governor for unanticipated shortfalls in Fiscal Year 2008-2009 for the Bureau for Hospital Patients; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 10.

Bill read second time.

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

Amendment No. 56.

AN ACT relating to health care; prohibiting certain retaliation or discrimination against registered nurses, licensed practical nurses and nursing assistants who report certain information, refuse to engage in certain conduct or participate in certain investigations or proceedings relating to the safety of patients; providing civil remedies and civil penalties for violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a medical facility, physician or osteopathic physician from retaliating or discriminating against an employee who reports information concerning the conduct of a physician or osteopathic physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine, reports a sentinel event to the Health Division of the Department of Health and Human Services or cooperates or participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity concerning the conduct or sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. (NRS 449.205, 630.293, 633.505)

Sections 1, 3 and 5 of this bill provide additional protection against retaliation or discrimination for a registered nurse, licensed practical nurse or nursing assistant who: (1) reports certain information or concerns regarding the safety of patients; or (2) refuses to engage in conduct which would violate his duty to protect patients from actual or potential harm or which would subject him to disciplinary action by the State Board of Nursing.

Existing law provides that an employee of a medical facility, physician or osteopathic physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility, physician or osteopathic physician may file an action in court based on retaliation or discrimination. (NRS 449.207, 630.296, 633.507) **Sections 2, 4 and 6** of this bill expand these provisions by authorizing the court in such an action to award compensatory damages, reimbursement of lost wages and benefits, attorney's fees and punitive damages and to grant any equitable relief it considers appropriate. **Sections 2, 4 and 6** also provide that the Attorney General or any district attorney of this State may bring a civil action in the name of the State of Nevada to recover a civil penalty of not more than $10,000 for each such act of retaliation or discrimination.

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

Section 1. NRS 449.205 is hereby amended to read as follows:

449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

(2) Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

(3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2) ~~[.]~~ ***; or***

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility and who ~~[, in]~~ ***:***

(1) In accordance with the policy, if any, established by the medical facility:

~~[(1)]~~ ***(I)*** Reports to his immediate supervisor, in writing, that he does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and

~~[(2)]~~ ***(II)*** Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse or nursing assistant concerning his competence to provide various nursing services, he does not possess the knowledge, skill or

experience to comply with the assignment to provide nursing services to the patient, unless ~~[such]~~ ***the*** refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto ~~[.]~~ ***;***

(2) Reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(3) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing.

2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1.

3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.

4. As used in this section:

(a) "Physician" means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

(b) "Retaliate or discriminate":

(1) Includes, without limitation, ***any of*** the following ~~[action if such action is]~~ ***actions if*** taken solely because the employee ***,*** ~~[or the]~~ registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the ~~[~~employee~~]~~ ***person*** works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include ***an*** action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 2. NRS 449.207 is hereby amended to read as follows:

449.207 ***1.*** An employee of a medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility ***and*** who believes that he has been retaliated or discriminated against in violation of NRS 449.205 may file an action in a court of competent jurisdiction ***.*** ~~[~~for such relief as may be appropriate under the law.~~]~~

2. If a court determines that a violation of NRS 449.205 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action ~~*[described in subparagraph (1) of paragraph (b) of subsection 4 of NRS 449.205]*~~ ***to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 449.205, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing***

assistant constitutes retaliation or discrimination in violation of NRS 449.205.

6. A medical facility or any agent or employee thereof that violates the provisions of NRS 449.205 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 449.205.

Sec. 3. NRS 630.293 is hereby amended to read as follows:

630.293 1. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~[an]~~ ***:***

(a) An employee of the physician or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ ***(1)*** Reports to the Board ***of Medical Examiners*** information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ ***or***

(2) Reports a sentinel event to the Health Division ***of the Department of Health and Human Services*** pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who:

(1) Reports to the physician, the Board of Medical Examiners, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect

patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~[~~Cooperates~~]~~ ***An employee of the physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who cooperates*** or otherwise participates in an investigation or proceeding conducted by the Board ***of Medical Examiners*** or another governmental entity relating to conduct described in paragraph (a) or (b).

2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician*** because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** has taken an action described in subsection 1.

3. A physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician*** to take an action described in subsection 1.

4. As used in this section, "retaliate or discriminate":

(a) Includes, without limitation, ***any of*** the following ~~[~~action if such action is~~]~~ ***actions if*** taken solely because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** took an action described in subsection 1:

(1) Frequent or undesirable changes in the location where the ~~[~~employee~~]~~ ***person*** works;

(2) Frequent or undesirable transfers or reassignments;

(3) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(4) A demotion;

(5) A reduction in pay;

(6) The denial of a promotion;

(7) A suspension;

(8) A dismissal;

(9) A transfer; or

(10) Frequent changes in working hours or workdays.

(b) Does not include ***an*** action described in subparagraphs (1) to (10), inclusive, of paragraph (a) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 4. NRS 630.296 is hereby amended to read as follows:

630.296 ***1.*** An employee of a physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and*** who believes that he has been retaliated or discriminated against in violation of NRS 630.293 may file an action in a court of competent jurisdiction ***.*** ~~[for such relief as may be appropriate.]~~

2. If a court determines that a violation of NRS 630.293 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action ~~*[described in paragraph (a) of subsection 4 of NRS 630.293]*~~ ***to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 630.293, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 630.293.***

6. A physician or any agent or employee thereof that violates the provisions of NRS 630.293 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 630.293.

Sec. 5. NRS 633.505 is hereby amended to read as follows:

633.505 1. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~[an]~~ ***:***

(a) An employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ ***(1)*** Reports to the ***State*** Board ***of Osteopathic Medicine*** information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ ***or***

(2) Reports a sentinel event to the Health Division ***of the Department of Health and Human Services*** pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who:

(1) Reports to the osteopathic physician, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the osteopathic physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the osteopathic physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~[Cooperates]~~ ***An employee of the osteopathic physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who cooperates*** or otherwise participates in an investigation or proceeding conducted by the ***State*** Board ***of Osteopathic Medicine*** or another governmental entity relating to conduct described in paragraph (a) or (b).

2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician*** because the employee ***, registered nurse, licensed***

practical nurse or nursing assistant has taken an action described in subsection 1.

3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician*** to take an action described in subsection 1.

4. As used in this section, "retaliate or discriminate":

(a) Includes, without limitation, ***any of*** the following ~~[~~action if such action is~~]~~ ***actions if*** taken solely because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** took an action described in subsection 1:

(1) Frequent or undesirable changes in the location where the ~~[~~employee~~]~~ ***person*** works;

(2) Frequent or undesirable transfers or reassignments;

(3) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(4) A demotion;

(5) A reduction in pay;

(6) The denial of a promotion;

(7) A suspension;

(8) A dismissal;

(9) A transfer; or

(10) Frequent changes in working hours or workdays.

(b) Does not include ***an*** action described in subparagraphs (1) to (10), inclusive, of paragraph (a) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 6. NRS 633.507 is hereby amended to read as follows:

633.507 ***1.*** An employee of an osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and*** who believes that he has been retaliated or discriminated against in violation of NRS 633.505 may file an action in a court of competent jurisdiction ***.*** ~~[~~for such relief as may be appropriate under the law.~~]~~

2. If a court determines that a violation of NRS 633.505 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action ~~[described in paragraph (a) of subsection 4 of NRS 633.505]~~ to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 633.505, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 633.505.

6. An osteopathic physician or any agent or employee thereof that violates the provisions of NRS 633.505 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 633.505.

Sec. 7. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

The following amendment was proposed by Assemblyman Hardy:

Amendment No. 104.

AN ACT relating to health care; prohibiting certain retaliation or discrimination against registered nurses, licensed practical nurses and nursing assistants who report certain information, refuse to engage in certain conduct or participate in certain investigations or proceedings relating to the safety of patients; providing civil remedies and civil penalties for violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a medical facility, physician or osteopathic physician from retaliating or discriminating against an employee who reports **in good faith** information concerning the conduct of a physician or osteopathic physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine, reports a sentinel event to the Health Division of the Department of Health and Human Services or cooperates or participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another

governmental entity concerning the conduct or sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. (NRS 449.205, 630.293, 633.505)

Sections 1, 3 and 5 of this bill provide additional protection against retaliation or discrimination for a registered nurse, licensed practical nurse or nursing assistant who: (1) reports **in good faith** certain information or concerns regarding the safety of patients; or (2) refuses to engage in conduct which would violate his duty to protect patients from actual or potential harm or which would subject him to disciplinary action by the State Board of Nursing. **Sections 1, 3 and 5 also add a definition of "good faith" for purposes of the reporting.**

Existing law provides that an employee of a medical facility, physician or osteopathic physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility, physician or osteopathic physician may file an action in court based on retaliation or discrimination. (NRS 449.207, 630.296, 633.507) **Sections 2, 4 and 6** of this bill expand these provisions by authorizing the court in such an action to award compensatory damages, reimbursement of lost wages and benefits, attorney's fees and punitive damages and to grant any equitable relief it considers appropriate. **Sections 2, 4 and 6** also provide that the Attorney General or any district attorney of this State may bring a civil action in the name of the State of Nevada to recover a civil penalty of not more than $10,000 for each such act of retaliation or discrimination.

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

Section 1. NRS 449.205 is hereby amended to read as follows:

449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

(2) Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

(3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of

Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2) ~~[.]~~ ***; or***

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility and who ~~[, in]~~ ***:***

(1) In accordance with the policy, if any, established by the medical facility:

~~[(1)]~~ ***(I)*** Reports to his immediate supervisor, in writing, that he does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and

~~[(2)]~~ ***(II)*** Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse or nursing assistant concerning his competence to provide various nursing services, he does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless ~~[such]~~ ***the*** refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto ~~[.]~~ ***;***

(2) Reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(3) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing.

2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1.

3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.

4. As used in this section:

(a) ***An employee or other person makes a report in "good faith" pursuant to this section if he provides the information or report of improper activity with a reasonable basis in fact for reporting or providing the information. An employee or other person who knowingly provides or reports, or who reasonably ought to know he is providing or reporting, malicious, false or frivolous information, or information that is provided in reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.***

(b) "Physician" means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

~~[(b)]~~ ***(c)*** "Retaliate or discriminate":

(1) Includes, without limitation, ***any of*** the following ~~[action if such action is]~~ ***actions if*** taken solely because the employee ***,*** ~~[or the]~~ registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the ~~[employee]~~ ***person*** works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include ***an*** action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 2. NRS 449.207 is hereby amended to read as follows:

449.207 ***1.*** An employee of a medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility ***and*** who believes that he has been retaliated or discriminated against in violation of NRS 449.205 may file an action in a court of competent jurisdiction ***.*** ~~[for such relief as may be appropriate under the law.]~~

2. If a court determines that a violation of NRS 449.205 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action described in subparagraph (1) of paragraph ~~*[(b)]*~~ ***(c) of subsection 4 of NRS 449.205 is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 449.205, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 449.205.***

6. A medical facility or any agent or employee thereof that violates the provisions of NRS 449.205 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

Sec. 3. NRS 630.293 is hereby amended to read as follows:

630.293 1. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~[an]~~ ***:***

(a) An employee of the physician or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ ***(1)*** Reports to the Board ***of Medical Examiners*** information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ ***or***

(2) Reports a sentinel event to the Health Division ***of the Department of Health and Human Services*** pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who:

(1) Reports to the physician, the Board of Medical Examiners, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~[~~Cooperates~~]~~ ***An employee of the physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who cooperates*** or otherwise participates in an investigation or proceeding conducted by the Board ***of Medical Examiners*** or another governmental entity relating to conduct described in paragraph (a) or (b).

2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician*** because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** has taken an action described in subsection 1.

3. A physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician*** to take an action described in subsection 1.

4. As used in this section ***:*** ~~[, "retaliate or discriminate".]~~

(a) ***An employee or other person makes a report in "good faith" pursuant to this section if he provides the information or report of improper activity with a reasonable basis in fact for reporting or providing the information. An employee or other person who knowingly provides or reports, or who reasonably ought to know he is providing or reporting, malicious, false or frivolous information, or information that is provided in reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.***

(b) "Retaliate or discriminate":

(1) Includes, without limitation, ***any of*** the following ~~[~~action if such action is~~]~~ ***actions if*** taken solely because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** took an action described in subsection 1:

~~[(1)]~~ ***(I)*** Frequent or undesirable changes in the location where the ~~[~~employee~~]~~ ***person*** works;

~~[(2)]~~ ***(II)*** Frequent or undesirable transfers or reassignments;

~~[(3)]~~ ***(III)*** The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

~~[(4)]~~ ***(IV)*** A demotion;

~~[(5)]~~ ***(V)*** A reduction in pay;

~~[(6)]~~ ***(VI)*** The denial of a promotion;

~~[(7)]~~ ***(VII)*** A suspension;

~~[(8)]~~ ***(VIII)*** A dismissal;

~~[(9)]~~ ***(IX)*** A transfer; or

~~[(10)]~~ ***(X)*** Frequent changes in working hours or workdays.

~~[(b)]~~ ***(2)*** Does not include ***an*** action described in ~~[~~subparagraphs (1)~~]~~ ***sub-subparagraphs (I)*** to ~~[(10),]~~ ***(X),*** inclusive, of ~~[~~paragraph (a)~~]~~ ***subparagraph (1)*** if the action is taken in the normal course of employment or as a form of discipline.

Sec. 4. NRS 630.296 is hereby amended to read as follows:

630.296 ***1.*** An employee of a physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and*** who believes that he has been retaliated or discriminated against in violation of NRS 630.293 may file an action in a court of competent jurisdiction ***.*** ~~[~~for such relief as may be appropriate.~~]~~

2. If a court determines that a violation of NRS 630.293 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action described in paragraph ~~[(a)]~~ (b) of subsection 4 of NRS 630.293 is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 630.293, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 630.293.

6. A physician or any agent or employee thereof that violates the provisions of NRS 630.293 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

Sec. 5. NRS 633.505 is hereby amended to read as follows:

633.505 1. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~[an]~~ ***:***

(a) An employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ ***(1)*** Reports to the ***State*** Board ***of Osteopathic Medicine*** information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ ***or***

(2) Reports a sentinel event to the Health Division ***of the Department of Health and Human Services*** pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who:

(1) Reports to the osteopathic physician, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any

provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the osteopathic physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the osteopathic physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~[~~Cooperates~~]~~ ***An employee of the osteopathic physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who cooperates*** or otherwise participates in an investigation or proceeding conducted by the ***State*** Board ***of Osteopathic Medicine*** or another governmental entity relating to conduct described in paragraph (a) or (b).

2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician*** because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** has taken an action described in subsection 1.

3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician*** to take an action described in subsection 1.

4. As used in this section ***:*** ~~[~~, "retaliate or discriminate".~~]~~

(a) ***An employee or other person makes a report in "good faith" pursuant to this section if he provides the information or report of improper activity with a reasonable basis in fact for reporting or providing the information. An employee or other person who knowingly provides or reports, or who reasonably ought to know he is providing or reporting, malicious, false or frivolous information, or information that is provided in reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.***

(b) "Retaliate or discriminate":

(1) Includes, without limitation, ***any of*** the following ~~[action if such action is]~~ ***actions if*** taken solely because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** took an action described in subsection 1:

~~[(1)]~~ ***(I)*** Frequent or undesirable changes in the location where the ~~[employee]~~ ***person*** works;

~~[(2)]~~ ***(II)*** Frequent or undesirable transfers or reassignments;

~~[(3)]~~ ***(III)*** The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

~~[(4)]~~ ***(IV)*** A demotion;

~~[(5)]~~ ***(V)*** A reduction in pay;

~~[(6)]~~ ***(VI)*** The denial of a promotion;

~~[(7)]~~ ***(VII)*** A suspension;

~~[(8)]~~ ***(VIII)*** A dismissal;

~~[(9)]~~ ***(IX)*** A transfer; or

~~[(10)]~~ ***(X)*** Frequent changes in working hours or workdays.

~~[(b)]~~ ***(2)*** Does not include ***an*** action described in ~~[subparagraphs (1)]~~ ***sub-subparagraphs (I)*** to ~~[(10),]~~ ***(X),*** inclusive, of ~~[paragraph (a)]~~ ***subparagraph (1)*** if the action is taken in the normal course of employment or as a form of discipline.

Sec. 6. NRS 633.507 is hereby amended to read as follows:

633.507 ***1.*** An employee of an osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and*** who believes that he has been retaliated or discriminated against in violation of NRS 633.505 may file an action in a court of competent jurisdiction ***.*** ~~[for such relief as may be appropriate under the law.]~~

2. If a court determines that a violation of NRS 633.505 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action described in paragraph ~~[(a)]~~ (b) of subsection 4 of NRS 633.505 is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 633.505, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 633.505.

6. An osteopathic physician or any agent or employee thereof that violates the provisions of NRS 633.505 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

Sec. 7. This act becomes effective on July 1, 2009.

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

Assembly in recess at 11:48 a.m.

ASSEMBLY IN SESSION

At 11:51 a.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Hardy withdrew the motion whereby Amendment No. 104 to Assembly Bill No. 10 was submitted for adoption.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that upon return from the printer, Assembly Bill No. 10 be placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 16.

Bill read second time.

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

Amendment No. 86.

AN ACT relating to emergency medical services; providing for the disclosure of certain information to an emergency response employee concerning possible exposure to an infectious disease; requiring certain

notifications concerning such an exposure; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill requires each employer of emergency response employees in this State to designate ~~[an]~~ **at least one** employee to serve as ~~[the]~~ **a** designated officer to act on behalf of its emergency response employees with regard to their possible exposure to infectious diseases.

Section 7 of this bill requires a medical facility to notify ~~[the]~~ **a** designated officer of an emergency response employee who transported a victim of an emergency who the medical facility determines has an airborne infectious disease. **Section 8** of this bill authorizes an emergency response employee to request that his designated officer make an initial determination of the employee's possible exposure to an infectious disease. **Section 9** of this bill requires a medical facility to respond to a request from a designated officer of an emergency response employee regarding whether the employee may have been exposed to an infectious disease once the medical facility makes such a determination. **Section 10** of this bill provides that if information was insufficient for a medical facility to determine whether an emergency response employee was exposed to an infectious disease, the health officer in whose jurisdiction the medical facility is located shall evaluate the request and the response of the medical facility. **Section 11** of this bill requires a designated officer to notify each emergency response employee who responded to an emergency and may have been exposed to an infectious disease of the determination of the medical facility. **Section 12** of this bill provides limitations on the liability of a medical facility or designated officer and clarifies that the provisions of this bill do not authorize an emergency response employee to fail to respond or deny services to a victim of an emergency. **Section 12** further provides that this bill does not authorize or require a medical facility to test any victim of an emergency for the presence of an infectious disease and does not authorize or require certain persons to disclose the identity of such a victim or an emergency response employee.

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ***"Designated officer" means a person designated by an employer to serve as ~~[the]~~ a designated officer for its emergency response employees pursuant to section 6 of this act.***

Sec. 3. ***"Emergency response employee" means a firefighter, attendant, volunteer attendant, emergency medical technician, intermediate emergency medical technician, advanced emergency medical technician or other person who, in the course of his professional duties, responds to emergencies in this State.***

Sec. 4. ***"Exposed" or "exposure" means any circumstances which create a significant risk of a person becoming infected with an infectious disease.***

Sec. 5. ***"Infectious disease" means a disease caused by a living organism or other pathogen, including, without limitation, a fungus, bacillus, parasite, protozoan or virus.***

Sec. 6. ***Each employer of emergency response employees in this State shall designate ~~[an]~~ at least one employee to serve as ~~[the]~~ a designated officer to receive notifications and responses and make requests on behalf of its emergency response employees pursuant to sections 2 to 12, inclusive, of this act.***

Sec. 7. ***1. Except as otherwise provided in NRS 441A.195, if a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility determines that the victim has an airborne infectious disease, the medical facility shall notify ~~[the]~~ a designated officer of the emergency response employees of that determination.***

2. If a victim of an emergency is transported by emergency response employees to a medical facility, the victim dies at or before reaching the medical facility and the medical facility determines the cause of death of the victim, the medical facility shall notify ~~[the]~~ a designated officer of the emergency response employees of any determination by the medical facility that the victim had an airborne infectious disease.

3. The medical facility to which the victim is transported shall cause the notification required by subsection 1 or 2 to be made as soon as practicable, but not later than 48 hours after the determination is made.

4. The notification must include, without limitation:

(a) The name of the airborne infectious disease to which the emergency response employees may have been exposed; and

(b) The date on which the victim of the emergency was transported by the emergency response employees to the medical facility.

5. As used in this section, "airborne infectious disease" means an infectious disease transmitted from person to person by an aerosol, including, without limitation, tuberculosis.

Sec. 8. ***1. Except as otherwise provided in NRS 441A.195, if an emergency response employee believes that he may have been exposed to an infectious disease by a victim of an emergency who was transported, attended, treated or assisted by the emergency response employee, ~~[the]~~ a designated officer of the employee shall, upon the request of the employee, make an initial determination of the possible exposure of the employee to an infectious disease by:***

(a) Collecting the facts relating to the circumstances under which the employee may have been exposed to an infectious disease; and

(b) Evaluating the facts to determine whether the victim had an infectious disease and whether the employee may have been exposed to the disease.

2. If ~~[the]~~ a designated officer determines that ~~[the]~~ an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim was transported a written request for a response.

Sec. 9. ***1. If a medical facility receives a written request for a response pursuant to subsection 2 of section 8 of this act, the medical facility shall, as soon as practicable but not later than 48 hours after receiving the request, evaluate the facts submitted in the request and determine whether the emergency response employee was exposed to an infectious disease.***

2. If the medical facility determines that the emergency response employee may have been exposed or was not exposed to an infectious disease or that insufficient information exists for it to make a determination, the medical facility shall notify, in writing, the designated officer who submitted the request.

3. If a victim dies at or before reaching the medical facility and the medical facility receives a written request for a response pursuant to subsection 2 of section 8 of this act, the medical facility shall provide a copy of the request to any other medical facility that is ascertaining the cause of death of the victim.

Sec. 10. ***1. If a designated officer receives a notice from a medical facility pursuant to subsection 2 of section 9 of this act that insufficient information exists for the medical facility to make a determination of whether an emergency response employee was exposed to an infectious disease, the designated officer may submit a request for further evaluation to the health officer in whose jurisdiction the medical facility is located. A request submitted pursuant to this subsection must include the original request for a written response submitted by the designated officer pursuant to subsection 2 of section 8 of this act.***

2. If a health officer receives a request for further evaluation pursuant to subsection 1, the health officer shall evaluate the request and the request for a written response submitted by the designated officer pursuant to subsection 2 of section 8 of this act. An evaluation conducted pursuant to this subsection must be completed as soon as practicable but not later than 48 hours after the request for further evaluation is received.

3. If an evaluation conducted pursuant to subsection 2 indicates that the facts provided to the medical facility were:

(a) Sufficient to determine that an emergency response employee was exposed to an infectious disease, the health officer shall, on behalf of the designated officer, resubmit the request to the medical facility; or

(b) Insufficient to determine that an emergency response employee was exposed to an infectious disease, the health officer shall advise the

designated officer in writing regarding the collection and description of additional facts for further evaluation by the medical facility pursuant to section 9 of this act.

Sec. 11. ***1. If a designated officer receives a notice from a medical facility pursuant to section 9 of this act that an emergency response employee may have been exposed to an infectious disease, the designated officer shall, as soon as is practicable after receiving the notice, notify each emergency response employee who responded to the emergency and may have been exposed to an infectious disease.***

2. The notification must include, without limitation:

(a) A statement indicating that the emergency response employee may have been exposed to an infectious disease;

(b) The name of the infectious disease;

(c) The date on which the victim of the emergency was transported by the emergency response employee to the medical facility; and

(d) Any action that is medically appropriate for the emergency response employee to take.

Sec. 12. ***The provisions of sections 2 to 12, inclusive, of this act must not be construed to:***

1. Authorize any cause of action for damages or any civil penalty against a medical facility or designated officer that fails to comply with any requirement of those provisions.

2. Require or authorize a medical facility to test a victim of an emergency for the presence of an infectious disease.

3. Require or authorize a medical facility, designated officer or emergency response employee to disclose the identity of or identifying information about a victim of an emergency or an emergency response employee.

4. Authorize an emergency response employee to fail to respond or deny services to a victim of an emergency.

Sec. 13. NRS 450B.020 is hereby amended to read as follows:

450B.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 450B.025 to 450B.110, inclusive, ***and sections 2 to 5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 14. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 21.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 71.

AN ACT relating to motor vehicle insurance; revising provisions governing the verification of motor vehicle liability insurance policies by the Department of Motor Vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires every owner of a motor vehicle which is registered or required to be registered in this State to continuously provide insurance for the payment of tort liabilities arising from the maintenance or use of the motor vehicle. (NRS 485.185) **Existing law provides that an owner of certain motor vehicles who provides proof of liability insurance provided by an insurance company that is not approved to do business in this State may register the motor vehicle and have 7 calendar days to provide proof of liability by an insurance company that is licensed and approved to do business in this State. (NRS 482.215) Section 1.5 of this bill removes the provision allowing an owner 7 calendar days to provide proof of liability insurance by an insurance company that is licensed and approved to do business in this State. Existing law further provides that the owner of a fleet of motor vehicles and certain other motor vehicles must provide evidence of liability insurance on a form that is satisfactory to the Department. (NRS 482.215) Section 1.5 specifies that such liability insurance must be provided by an insurance company licensed and approved to do business in this State.** Existing law requires the Department of Motor Vehicles to create a system to verify that owners of motor vehicles, other than golf carts and larger motortrucks, truck tractors and buses, maintain the required liability insurance. (NRS 485.130, 485.313) **Section 3** of this bill adds provisions: (1) requiring the Department to work in cooperation with insurers to develop the system; (2) requiring that the verification be conducted through the secure transmission and receipt of information necessary to verify that owners of motor vehicles maintain the required liability insurance; (3) authorizing the Department to contract with any person to provide services relating to the system; and (4) making the system applicable to all motortrucks, truck tractors and buses.

Section 4 of this bill deletes provisions of existing law that prescribe the specific form and content of the records of motor vehicle liability policies which insurers must provide to the Department. (NRS 485.314) ~~[Sections 2 and 6 of this bill delete existing provisions which authorize the reinstatement of the registration of a motor vehicle if the owner establishes that his failure to have the required insurance was due to extenuating circumstances. (NRS 482.480, 485.317)]~~

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

Section 1. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415, 253.044 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

➥ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a

file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

(1) The safety of drivers of motor vehicles;

(2) Safety and thefts of motor vehicles;

(3) Emissions from motor vehicles;

(4) Alterations of products related to motor vehicles;

(5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;

(6) Monitoring the performance of motor vehicles;

(7) Parts or accessories of motor vehicles;

(8) Dealers of motor vehicles; or

(9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415, 253.044 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➥ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the ~~[~~database~~]~~ ***system*** created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that ~~[~~database.~~]~~ ***system.***

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 1.5. **NRS 482.215 is hereby amended to read as follows:**

482.215 1. All applications for registration, except applications for renewal of registration, must be made as provided in this section.

2. Except as otherwise provided in NRS 482.294, applications for all registrations, except renewals of registration, must be made in person, if practicable, to any office or agent of the Department or to a registered dealer.

3. Each application must be made upon the appropriate form furnished by the Department and contain:

(a) The signature of the owner, except as otherwise provided in subsection 2 of NRS 482.294, if applicable.

(b) His residential address.

(c) His declaration of the county where he intends the vehicle to be based, unless the vehicle is deemed to have no base. The Department shall use this declaration to determine the county to which the governmental services tax is to be paid.

(d) A brief description of the vehicle to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and the last license number, if known, and the state in which it was issued, and upon the registration of a new vehicle, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the vehicle.

(e) Except as otherwise provided in this paragraph, if the applicant is not an owner of a fleet of vehicles or a person described in subsection 5:

(1) Proof satisfactory to the Department or registered dealer that the applicant carries insurance on the vehicle **[**~~, and if the insurance is not~~**]** provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185 **;** **[**~~, the applicant must meet the requirements of NRS 485.185 within 7 calendar days;~~**]** and

(2) A declaration signed by the applicant that he will maintain the insurance required by NRS 485.185 during the period of registration. If the application is submitted by electronic means pursuant to NRS 482.294, the applicant is not required to sign the declaration required by this paragraph.

(f) If the applicant is an owner of a fleet of vehicles or a person described in subsection 5, evidence of insurance ~~[:]~~ ***provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185:***

(1) In the form of a certificate of insurance on a form approved by the Commissioner of Insurance;

(2) In the form of a card issued pursuant to NRS 690B.023 which identifies the vehicle ~~;~~ ~~[and indicates, at the time of application for registration, coverage which meets the requirements of NRS 485.185;]~~ or

(3) In another form satisfactory to the Department.

➥ The Department may file that evidence, return it to the applicant or otherwise dispose of it.

(g) If required, evidence of the applicant's compliance with controls over emission.

4. The application must contain such other information as is required by the Department or registered dealer and must be accompanied by proof of ownership satisfactory to the Department.

5. For purposes of the evidence required by paragraph (f) of subsection 3:

(a) Vehicles which are subject to the fee for a license and the requirements of registration of the Interstate Highway User Fee Apportionment Act, and which are based in this State, may be declared as a fleet by the registered owner thereof on his original application for or application for renewal of a proportional registration. The owner may file a single certificate of insurance covering that fleet.

(b) Other fleets composed of 10 or more vehicles based in this State or vehicles insured under a blanket policy which does not identify individual vehicles may each be declared annually as a fleet by the registered owner thereof for the purposes of an application for his original or any renewed registration. The owner may file a single certificate of insurance covering that fleet.

(c) A person who qualifies as a self-insurer pursuant to the provisions of NRS 485.380 may file a copy of his certificate of self-insurance.

(d) A person who qualifies for an operator's policy of liability insurance pursuant to the provisions of NRS 485.186 and 485.3091 may file evidence of that insurance.

Sec. 2. NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of $33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of $16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of $12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of $8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all ~~[of]~~ the cars registered to him.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of $33 and for each motorcycle other than a trimobile, an additional fee of $6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of $6 in addition to any other fees.

6. Except as otherwise provided in subsection ~~[9]~~ ***7*** of NRS 485.317, to ~~*[To]*~~ reinstate the registration of a motor vehicle ***that is*** suspended pursuant to that section: ~~*[NRS 485.317:]*~~

(a) A fee of $250 for a registered owner who failed to have insurance on the date specified ~~[in the form for verification that was mailed]~~ by the Department ***;*** ~~[pursuant to subsection 3 of NRS 485.317;]~~ or

(b) A fee of $50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

➥ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

7. For every travel trailer, a fee for registration of $27.

8. For every permit for the operation of a golf cart, an annual fee of $10.

9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of $33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of $33.

Sec. 3. NRS 485.313 is hereby amended to read as follows:

485.313 1. The Department ~~[shall]~~ ***:***

(a) Shall, in cooperation with insurers, create a system for verifying ***through the secure transmission and receipt of information*** that the owners of motor vehicles maintain the insurance required by NRS 485.185 ~~[.]~~ ***; and***

(b) May enter into a contract with any person to provide services relating to the system.

2. As used in this section, "motor vehicle" does not include ~~[~~:

~~(a) A~~] ***a*** golf cart as that term is defined in NRS 482.044.

~~[(b) A motortruck, truck tractor, bus or other vehicle that is registered pursuant to paragraph (e) of subsection 1 of NRS 482.482 or NRS 706.801 to 706.861, inclusive.]~~

Sec. 4. NRS 485.314 is hereby amended to read as follows:

485.314 1. ~~[On or before the 15th calendar day of each month, each]~~ ***Each*** insurer that has executed a contract of insurance for a motor vehicle liability policy which may be used to meet the requirements of NRS 485.185 shall ~~[provide the Department with]~~ ***maintain*** a record of each such policy ~~[issued, amended or terminated in the previous month on the date the record is provided. The record must include:~~

~~(a) The name or identification number of each insured named in the policy of insurance;~~

~~(b) The make, year and vehicle identification number of each motor vehicle included in the policy of insurance;~~

~~(c) The number, effective date and expiration date of the policy of insurance; and~~

~~(d) Any other information required by the Department.~~

~~2. The record provided pursuant to subsection 1 must be submitted]~~ in a ~~[form]~~ ***format*** approved by the Department and ~~[may include, without limitation, magnetic tape or any other electronic medium deemed acceptable by the Department.~~

~~3.]~~ ***provide the Department with access to the record.***

2. The Department shall notify the Commissioner of Insurance if an insurer:

(a) Fails to comply with subsection 1 ***;*** ~~[or 2;]~~ or

(b) In complying with subsection 1 ***,*** ~~[or 2,]~~ provides to the Department information that is false, incomplete or misleading.

Sec. 5. NRS 485.316 is hereby amended to read as follows:

485.316 1. Except as otherwise provided in ~~[subsections]~~ ***subsection*** 2 ~~[and 3]~~ and NRS 239.0115, information which is maintained in the ~~[database]~~ ***system*** created pursuant to NRS 485.313 is confidential.

2. The Department may only disclose information which is maintained in the ~~[database, upon request, to a]~~ ***system to:***

(a) A state or local governmental agency for the purpose of enforcing NRS 485.185, including investigating or litigating a violation or alleged violation ~~[~~.

~~3. The Department may only disclose information retrieved from the database to:~~

~~(a)~~**]** ***;***

(b) An authorized insurer;

(c) A person:

(1) With whom the Department has contracted to provide services relating to the system created pursuant to NRS 485.313; and

(2) To whom the information is disclosed only pursuant to a nondisclosure or confidentiality agreement which relates to the information;

(d) A person who requests information regarding his own status;

[~~(b)~~**]** ***(e)*** The parent or legal guardian of the person about whom the information is requested if the person is an unemancipated minor or legally incapacitated;

[~~(c)~~**]** ***(f)*** A person who has a power of attorney from the person about whom the information is requested;

[~~(d)~~**]** ***(g)*** A person who submits a notarized release from the person about whom the information is requested which is dated no more than 90 days before the date of the request; or

[~~(e)~~**]** ***(h)*** A person who has suffered a loss or injury in an accident involving a motor vehicle, or his authorized insurer or a representative of his authorized insurer, who requests:

(1) Information for use in the accident report; and

(2) For each motor vehicle involved in the accident:

(I) The name and address of each registered owner;

(II) The name of the insurer; and

(III) The number of the policy of liability insurance.

[~~4.~~**]** ***3.*** A person who knowingly violates the provisions of this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

[~~5.~~**]** ***4.*** As used in this section, "authorized insurer" has the meaning ascribed to it in NRS 679A.030.

Sec. 6. NRS 485.317 is hereby amended to read as follows:

485.317 1. **[**~~Subject to the limitations set forth in this subsection and subsection 2, the~~**]** ***The*** Department shall **[**~~, at least monthly,~~**]** **[**~~compare the current registrations of motor vehicles to the information in the database created pursuant to NRS 485.313 to~~**]** verify that each motor vehicle **[**~~:~~

~~(a) Which is newly~~**]** ***which is*** registered in this State **[**~~; or~~

~~(b) For which a policy of liability insurance has been issued, amended or terminated,~~

] is covered by a policy of liability insurance as required by NRS 485.185. **[**~~In identifying a motor vehicle for verification pursuant to this subsection, the Department may, if the motor vehicle was manufactured during or after 1981, use only the last eight digits of the vehicle identification number. In comparing the vehicle identification number of a motor vehicle to the vehicle~~

~~identification number in a policy of liability insurance, to determine if the two vehicle identification numbers match, the Department may find that the two vehicle identification numbers match if no fewer than seven of the last eight digits of the two vehicle identification numbers match.~~**]**

2. Except as otherwise provided in this subsection, the Department may use any information to verify **[**~~, pursuant to subsection 1,~~**]** whether **[**~~the~~**]** ***a*** motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If **[**~~, pursuant to subsection 1,~~**]** the Department **[**~~determines~~**]** ***is unable to verify*** that a motor vehicle is **[**~~not~~**]** covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a **[**~~form for verification~~**]** ***request for information*** by first-class mail to **[**~~each~~**]** ***the*** registered owner **[**~~that it determines has not maintained the insurance required by NRS 485.185.~~**]** ***of the motor vehicle.*** The owner shall **[**~~complete the form with~~**]** ***submit*** all the information which is requested **[**~~by~~**]** ***to*** the Department **[**~~, including whether he carries an owner's or operator's policy of liability insurance or a certificate of self-insurance, and return the completed form~~**]** within 20 days after the date on which the **[**~~form~~**]** ***request for information*** was mailed by the Department. If the Department does not receive the **[**~~completed form~~**]** ***requested information*** within 20 days after it mailed the **[**~~form~~**]** ***request*** to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless **[**~~he submits a completed form to~~**]** the Department ***is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185,*** within 15 days after the date on which the notice was sent by the Department **,** his registration will be suspended pursuant to subsection **[**~~5. This subsection does not prohibit an authorized agent of the owner from providing to the Department:~~

~~(a) The information requested by the Department pursuant to this subsection.~~

~~(b) Additional information to amend or correct information already submitted to the Department pursuant to this subsection.~~

~~4. When the Department receives a completed form for verification, it shall verify the information on the form.~~

~~5.~~**]** ***4.***

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the **[**~~form for verification set forth in subsection 3 is:~~

~~(a) Not returned to the Department by the registered owner or his authorized agent within the period specified in that subsection;~~

~~(b) Returned to the Department by the registered owner or his authorized agent and the Department is not able to verify the information on the form; or~~

~~(c) Returned by the registered owner or his authorized agent with an admission of having no insurance or without indicating an insurer or the number of a motor vehicle liability policy or a certificate of self-insurance.~~

~~6. If the Department suspends a registration pursuant to subsection 5 because:~~

~~(a) Neither the owner nor his authorized agent returned a form for verification within the specified period or the owner or his authorized agent returned a form for verification that was not completed sufficiently, and the owner or his authorized agent, thereafter:~~

~~(1) Proves to the satisfaction of the Department that there was a justifiable cause for his failure to do so;~~

~~(2) Submits a completed form regarding his insurance on the date stated in the form mailed by the Department pursuant to subsection 3; and~~

~~(3) Presents evidence of current insurance; or~~

~~(b) The owner or his authorized agent submitted to the Department a form for verification containing information that the Department was unable to verify and, thereafter, the owner or his authorized agent presents to the Department:~~

~~(1) A corrected form or otherwise verifiable evidence setting forth that the owner possessed insurance on the date stated in the form; and~~

~~(2) Evidence of current insurance,~~

~~➥ the Department shall rescind its suspension of the registration if it is able to verify the information on the form or the other evidence presented. The Department shall not charge a fee to reinstate a registration, the suspension of which was rescinded pursuant to this subsection. For the purposes of this subsection, "justifiable cause" may include, but is not limited to, the fact that the owner did not receive the form mailed by the Department pursuant to subsection 3.~~

~~7. Except as otherwise provided in subsections 8 and 9, if a registered owner whose registration is suspended pursuant to subsection 5, failed to have insurance on the date specified in the form for verification,~~**]** ***Department cannot verify the coverage of liability insurance required by NRS 485.185.***

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon **[**~~filing by the registered owner of evidence~~**]** ***verification*** of current insurance and payment of the fee for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.

[~~8.~~**]** ***6.*** If a registered owner proves to the satisfaction of the Department that his vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate his registration and, if applicable, reissue his license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate his registration or

reissue his license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.

~~[9.]~~ ***7.*** If the Department suspends the registration of a motor vehicle pursuant to subsection ~~[5]~~ ***4*** because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that he was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of $50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

➥ The Department shall adopt regulations to carry out the provisions of this subsection.

~~[10.]~~ ~~*[7.]*~~ ***8.*** For the purposes of verification of insurance by the Department pursuant to this section, a motor vehicle shall be deemed to be covered by liability insurance unless the motor vehicle is without coverage for a period of more than 7 days.

Sec. 7. This act becomes effective:

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

2. On February 1, 2010, for all other purposes.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 88.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 64.

AN ACT relating to sexual offenses; establishing a civil remedy for a person who was a victim of a sexual offense which was used to promote child pornography; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill establishes a civil cause of action for a person who, as a minor, was a victim of a sexual offense where any sexual portrayal of the offense was used to promote child pornography. A victim who prevails in such an action may recover his actual damages, which are deemed to be at least $150,000, plus attorney's fees and costs. ~~[Upon the victim's request, the~~

~~Attorney General may bring or maintain an action on behalf of the victim.]~~ **Section 3** of this bill establishes the statute of limitations for such an action.

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who, while a minor, was a victim of a sexual offense of which any sexual portrayal of such offense was used to promote child pornography and who suffered personal or psychological injury as a result may bring an action against any person who promoted or possessed the child pornography, regardless of whether the victim is now an adult.

2. A victim who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least $150,000, plus attorney's fees and costs.

3. A victim may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a victim has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.

4. It is not a defense to a cause of action under this section that a defendant did not know the victim or did not personally engage in the sexual conduct which involved the victim and which is depicted in the child pornography.

~~*[5. Upon the request of the victim the Attorney General may bring or maintain an action on behalf of any victim pursuant to this section. All damages awarded in any action brought pursuant to this section belong to the victim, but the Attorney General may seek and recover from the defendant reasonable attorney's fees and costs.*~~

~~*6.]*~~ ***5. An action may be brought pursuant to this section regardless of whether any person has been prosecuted or convicted of a sexual offense involving the victim.***

~~*[7.]*~~ ***6. As used in this section:***

(a) "Child pornography" means a violation of NRS 200.710 to 200.730, inclusive.

(b) "Sexual offense" means a violation of NRS 200.366, 200.710 to 200.730, inclusive, or 201.230.

Sec. 2. NRS 200.700 is hereby amended to read as follows:

200.700 As used in NRS 200.700 to 200.760, inclusive, ***and section 1 of this act,*** unless the context otherwise ~~[provides:]~~ ***requires:***

1. "Performance" means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. "Promote" means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. "Sexual conduct" means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person's body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

4. "Sexual portrayal" means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.

Sec. 3. NRS 11.215 is hereby amended to read as follows:

11.215 1. Except as otherwise provided in ***subsection 2 and*** NRS 217.007, an action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age must be commenced within 10 years after the plaintiff:

(a) Reaches 18 years of age; or

(b) Discovers or reasonably should have discovered that his injury was caused by the sexual abuse,

➥ whichever occurs later.

2. ***An action to recover damages pursuant to section 1 of this act must be commenced within 3 years after the occurrence of the following, whichever is later:***

(a) The court enters a verdict in a related criminal case; or

(b) The victim reaches the age of 18 years.

3. As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 93.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 23.

AN ACT relating to crimes; revising the definition of the crime of assault; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises the definition of the crime of assault by expanding the current definition to include unlawfully attempting to ~~[cause bodily harm to]~~ **use physical force against** another person **.** ~~[through the use of force, the attempted use of force or the threatened use of a deadly weapon.]~~

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

Section 1. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means ~~[~~intentionally~~]~~ ***:***

(1) Unlawfully attempting to ~~*[cause bodily harm to]*~~ ***use physical force against another person*** ~~*[through the use of force, the attempted use of force or the threatened use of a deadly weapon;]*~~ ***; or***

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon ~~[,]~~ or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon ~~[,]~~ or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event ~~[,]~~ and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon ~~[,]~~ or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon ~~[,]~~ or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 100.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 148.

AN ACT relating to education; revising the duties of the Deputy Superintendent for Administrative and Fiscal Services in the Department of Education relating to charter schools; revising provisions governing charter schools and university schools for profoundly gifted pupils; revising

provisions governing the annual reports of school districts and charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Deputy Superintendent for Administrative and Fiscal Services in the Department of Education investigates, inspects and reports on the funds and accounts of school districts. (NRS 385.315) **Section 1** of this bill requires the Deputy Superintendent to perform similar duties for the funds and accounts of charter schools and university schools for profoundly gifted pupils.

The governing body of a charter school is required to appoint a trustee upon closure of the school. (NRS 386.536) **Section 2** of this bill provides that the trustee appointed by the governing body is subject to the approval of the sponsor and requires the sponsor to make the appointment if the governing body is not able to do so. **Section 2 also provides that if the sponsor of a charter school provides financial compensation to the administrator or person appointed by the governing body, the sponsor may receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation for a period not to exceed 6 months.**

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from an annual performance audit and must instead undergo a performance audit every 3 years. (NRS 386.5515) **Section 3** of this bill provides that if such a charter school no longer satisfies the requirements for an exemption or if ~~[good cause]~~ **reasonable evidence of noncompliance concerning the educational progress** exists, the charter school shall submit to an annual performance audit.

Existing law provides that upon the request of a parent or legal guardian of a pupil enrolled in a charter school, the board of trustees of the school district in which the charter school is located shall authorize the pupil to participate in a class, extracurricular activity and sports within the school district under certain circumstances. Section 4 of this bill amends existing law to provide for such participation in the school district in which the pupil resides rather than the school district in which the charter school is located. (NRS 386.560)

The sponsor of a charter school may request, upon completion of each school year, reimbursement from the governing body of the school for the administrative costs associated with sponsorship. The total amount of such administrative costs must not exceed a specified percentage of the total amount of money apportioned to the charter school during the year. (NRS 386.570) **Section ~~[4]~~ 5** of this bill revises the schedule of payments for reimbursement of administrative costs from yearly to quarterly. **Section ~~[4]~~** also provides that to determine the maximum amount of administrative costs, the total amount apportioned to the charter school during the year must be adjusted by the final computation of apportionment for the school.

Sections ~~[5]~~ 6 and ~~[7]~~ 9 of this bill revise provisions governing the annual reports of charter schools and school districts. (NRS 386.600, 387.303)

The Department of Education is required to develop a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) **Section ~~[6]~~ 8** of this bill requires the development of such a formula and minimum expenditures for charter schools.

Existing law requires the board of trustees of a school district and a college or university within the Nevada System of Higher Education which sponsors a charter school to submit an annual report to the State Board of Education on the evaluation of the progress made by the charter school in achieving its educational goals and objectives. (NRS 386.610) Section 7 of this bill requires an annual report to be made by the Department for each charter school sponsored by the State Board.

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

Section 1. NRS 385.315 is hereby amended to read as follows:

385.315 In addition to his other duties, the Deputy Superintendent for Administrative and Fiscal Services, under the direction of the Superintendent of Public Instruction, shall:

1. Investigate any claim against any school fund or ~~[separate]~~ ***an*** account established under NRS 354.603 ***, 386.570 or 392A.083, as applicable,*** whenever a written protest against the drawing of a warrant, check or order in payment of the claim is filed with the county auditor ~~[.]~~ ***, the sponsor of the charter school or the Department.*** If, upon investigation, the Deputy Superintendent finds that any such claim is unearned, illegal or unreasonably excessive, he shall notify the county auditor and the clerk of the board of trustees ***, the governing body of the charter school or the governing body of the university school for profoundly gifted pupils*** who drew ***or authorized*** the order for the claim, stating the reasons in writing why the order is unearned, illegal or excessive. If so notified, the county auditor shall not draw his warrant in payment of the claim nor shall the board of trustees ***, governing body of the charter school or governing body of the university school for profoundly gifted pupils*** draw a check or order in payment of the claim from ~~[a separate]~~ ***an*** account established under NRS 354.603 ~~[.]~~ ***, 386.570 or 392A.083, as applicable.*** If the Deputy Superintendent finds that any protested claim is legal and actually due the claimant, he shall authorize the county auditor ***,*** ~~[or]~~ the board of trustees ***, the governing body of the charter school or the governing body of the university school for profoundly gifted pupils, as applicable,*** to draw his warrant or its check or order on an account established under NRS 354.603 ***, 386.570 or 392A.083, as applicable,*** for the claim, and the county auditor ***,*** ~~[or]~~ the board of trustees

or the appropriate governing body shall immediately draw his warrant or its check or order in payment of the claim.

2. Inspect the record books and accounts of boards of trustees, ***governing bodies of charter schools and governing bodies of university schools for profoundly gifted pupils*** and enforce the uniform method of keeping the financial records and accounts of school districts ~~[.]~~ ***, charter schools and university schools for profoundly gifted pupils.***

3. Inspect the school fund accounts of the county auditors of the several counties ~~[,]~~ and report the condition of the funds of any school district to the board of trustees thereof.

4. Inspect the ~~[separate]~~ accounts established by ***:***

(a) The boards of trustees under NRS 354.603 ~~[,]~~ and report the condition of the accounts to the respective boards of county commissioners and county treasurers.

(b) The governing bodies of charter schools under NRS 386.570 and report the condition of the accounts to the respective sponsors of the charter schools and governing bodies of the charter schools.

(c) The governing bodies of university schools for profoundly gifted pupils under NRS 392A.083 and report the condition of the accounts to the Board of Regents of the University of Nevada and the respective governing bodies of the university schools.

Sec. 2. NRS 386.536 is hereby amended to read as follows:

386.536 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 3,*** if a charter school ceases to operate voluntarily or upon revocation of its written charter, the governing body of the charter school shall appoint an administrator of the charter school ***, subject to the approval of the sponsor of the charter school,*** to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure. The administrator shall assume the responsibility for the records of the:

(a) Charter school;

(b) Employees of the charter school; and

(c) Pupils enrolled in the charter school.

2. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 1, the governing body of the charter school shall appoint a qualified person to assume those duties.

3. ***If the governing body of the charter school ceases to exist or is otherwise unable to appoint an administrator pursuant to subsection 1 or a qualified person pursuant to subsection 2, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 1.***

4. The governing body of the charter school ***or the sponsor of the charter school*** may, to the extent practicable, provide financial compensation to the administrator or person appointed ~~[pursuant to subsection 2]~~ to carry out the provisions of this section. ***If the sponsor of the charter school provides such financial compensation, the sponsor is entitled to receive***

reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation. Such reimbursement must not exceed costs incurred for a period longer than 6 months.

Sec. 3. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without ~~[showing good cause for such a request.]~~ ***reasonable evidence of noncompliance concerning the educational progress of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or*** ~~*[good cause]*~~ ***if reasonable evidence of noncompliance concerning the educational progress of the charter school exists based upon the annual report,*** ~~*[for an annual performance audit,]*~~ ***the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Such a charter school:***

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 4. **NRS 386.560 is hereby amended to read as follows:**

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers.

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** shall authorize the pupil to participate in sports at the public school that he would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➥ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

~~[Sec. 4.]~~ ***Sec. 5.*** NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in ***an account with*** a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of ~~[a]~~ ***each*** school ~~[year,]~~ ***quarter,*** the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school ~~[year]~~ ***quarter*** if the sponsor provided administrative services during that school ~~[year.]~~ ***quarter.*** The request must include an itemized list of those costs. Upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a

charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general

public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

~~[Sec. 5.]~~ ***Sec. 6.*** NRS 386.600 is hereby amended to read as follows:

386.600 1. On or before November 15 of each year, the governing body of each charter school shall submit to the sponsor of the charter school, the Superintendent of Public Instruction and the Director of the Legislative Counsel Bureau for transmission to the Majority Leader of the Senate and the Speaker of the Assembly a report that includes:

(a) A written description of the progress of the charter school in achieving the mission and goals of the charter school set forth in its application.

(b) ~~[~~For each licensed employee and nonlicensed teacher employed by the charter school on October 1 of that year:

~~(1) The amount of salary of the employee; and~~

~~(2) The designated assignment, as that term is defined by the Department, of the employee.~~

~~(c)]~~ For each fund maintained by the charter school, including, without limitation, the general fund of the charter school and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the governing body in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the final budget of the charter school, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

~~[~~(d) The count of pupils who are enrolled in a charter school in:

~~(1) Kindergarten;~~

~~(2) Grades 1 to 12, inclusive; and~~

~~(3) Special education pursuant to NRS 388.440 to 388.520, inclusive.~~

~~(e)]~~ ***(c)*** The actual expenditures of the charter school in the fiscal year immediately preceding the report.

~~[(f)]~~ ***(d)*** The proposed expenditures of the charter school for the current fiscal year.

~~[(g)]~~ ***(e)*** The salary schedule for licensed employees and nonlicensed teachers in the current school year and a statement of whether salary negotiations for the current school year have been completed. If salary

negotiations have not been completed at the time the salary schedule is submitted, the governing body shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations.

~~[(h)]~~ ***(f)*** The number of employees eligible for health insurance within the charter school for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

~~[(i)]~~ ***(g)*** The rates for fringe benefits, excluding health insurance, paid by the charter school for its licensed employees in the preceding and current fiscal years.

~~[(j)]~~ ***(h)*** The amount paid for extra duties, supervision of extracurricular activities and supplemental pay ~~[,]~~ and the number of employees receiving that pay in the preceding and current fiscal years.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each governing body pursuant to subsection 1.

3. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues and expenditures of the charter schools with the apportionment received by those schools from the State Distributive School Account for the preceding year.

Sec. 7. **NRS 386.610 is hereby amended to read as follows:**

386.610 1. On or before August 15 of each year, if the ***State Board,*** board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the ***Department, the*** board of trustees or the institution, as applicable, shall submit a written report to the State Board. The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the ***State Board, the*** board of trustees or ***the*** institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the ***Department, the*** school district or ***the*** institution, as applicable, to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

~~[Sec. 6.]~~ ***Sec. 8.*** NRS 387.206 is hereby amended to read as follows:

387.206 1. On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula ***for each school district and a***

formula for each charter school for determining the minimum amount of money that each school district ***and each charter school*** is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. The formula must be used only to develop expenditure requirements and must not be used to alter the distribution of money for basic support to school districts ~~[.]~~ ***and charter schools.***

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district ***and each charter school*** within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district ***or charter school*** must expend for textbooks, instructional supplies and instructional hardware for that fiscal year.

3. On or before January 1 of each year, the Department shall determine whether each school district ***and each charter school*** has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice provided pursuant to subsection 2. In making this determination, the Department shall use the report submitted by the school district pursuant to NRS 387.303 ~~[.]~~ ***and the charter school pursuant to NRS 386.600.***

4. Except as otherwise provided in subsection 5, if the Department determines that a school district ***or charter school*** has not expended the required minimum amount of money set forth in the notice provided pursuant to subsection 2, a reduction must be made from the basic support allocation otherwise payable to that school district ***or charter school*** in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies and instructional hardware and the minimum required combined expenditure set forth in the notice provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:

(a) Does not reduce the amount that the school district ***or charter school*** is required to expend on textbooks, instructional supplies and instructional hardware in the current fiscal year; and

(b) Must not exceed the amount of basic support that was provided to the school district ***or charter school*** for the fiscal year in which the minimum expenditure amount was not satisfied.

5. If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial budget submitted pursuant to NRS 387.303, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

6. If the actual enrollment of pupils in a charter school is less than the enrollment included in the projections used in the charter school's final budget required pursuant to NRS 386.550, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

~~[Sec. 7.]~~ ***Sec. 9.*** NRS 387.303 is hereby amended to read as follows:

387.303 1. Not later than November 10 of each year, the board of trustees of each school district shall submit to the Superintendent of Public Instruction and the Department of Taxation a report which includes the following information:

(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the school district in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

(b) ~~[The count of pupils computed pursuant to paragraph (a) of subsection 1 of NRS 387.1233.~~

~~(c)]~~ The school district's actual expenditures in the fiscal year immediately preceding the report.

~~[(d)]~~ ***(c)*** The school district's proposed expenditures for the current fiscal year.

~~[(e)]~~ ***(d)*** The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.

~~[(f)]~~ ***(e)*** The number of employees who received an increase in salary pursuant to subsection 2, 3 or 4 of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary retroactively pursuant to subsection 2 of NRS 391.160, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.

~~[(g)]~~ ***(f)*** The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

~~[(h)]~~ ***(g)*** The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.

~~[(i)]~~ ***(h)*** The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

~~[(j)]~~ ***(i)*** The expenditures from the account created pursuant to subsection ~~[3]~~ ***4*** of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year ~~[,]~~ and the specific amount spent on books and computer hardware and software for each grade level in the district.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.

3. In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the Superintendent of Public Instruction:

(a) Shall compile the information from the most recent compilation of reports submitted pursuant to subsection 2;

(b) May increase the line items of expenditures or revenues based on merit salary increases and cost of living adjustments or inflation, as deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;

(c) May adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;

(d) May consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether those enhancements or new programs are included in the per pupil basic support guarantee for inclusion in the biennial budget request to the Department of Administration; and

(e) Shall obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.

4. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.

5. The request prepared pursuant to subsection 3 must:

(a) Be presented by the Superintendent of Public Instruction to such standing committees of the Legislature as requested by the standing committees for the purposes of developing educational programs and providing appropriations for those programs; and

(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 353.230.

~~[Sec. 8.]~~ ***Sec. 10.*** NRS 392A.083 is hereby amended to read as follows:

392A.083 1. Each pupil who is enrolled in a university school for profoundly gifted pupils, including, without limitation, a pupil who is enrolled in a program of special education in a university school for profoundly gifted pupils, must be included in the count of pupils in the school district in which the school is located for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory school attendance pursuant to NRS 392.070.

2. A university school for profoundly gifted pupils is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive.

3. If a university school for profoundly gifted pupils receives money for special education program units directly from this State, the amount of money for special education that the school district pays to the university school for profoundly gifted pupils may be reduced proportionately by the amount of money the university school received from this State for that purpose.

4. All money received by a university school for profoundly gifted pupils from this State or from the board of trustees of a school district must be deposited in ***an account with*** a bank, credit union or other financial institution in this State.

5. The governing body of a university school for profoundly gifted pupils may negotiate with the board of trustees of the school district in which the school is located or the State Board for additional money to pay for services that the governing body wishes to offer.

6. To determine the amount of money for distribution to a university school for profoundly gifted pupils in its first year of operation in which state funding is provided, the count of pupils who are enrolled in the university school must initially be determined 30 days before the beginning of the school year of the school district in which the university school is located, based upon the number of pupils whose applications for enrollment have been approved by the university school. The count of pupils who are enrolled in a university school for profoundly gifted pupils must be revised on the last day of the first school month of the school district in which the university school is located for the school year, based upon the actual number of pupils who are enrolled in the university school.

7. Pursuant to subsection 6 of NRS 387.124, the governing body of a university school for profoundly gifted pupils may request that the apportionments made to the university school in its first year of operation be

paid to the university school 30 days before the apportionments are otherwise required to be made.

8. If a university school for profoundly gifted pupils ceases to operate pursuant to this chapter during a school year, the remaining apportionments that would have been made to the university school pursuant to NRS 387.124 for that school year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the university school reside.

9. If the governing body of a university school for profoundly gifted pupils uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the university school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

~~[Sec. 9.]~~ ***Sec. 11.*** This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 107.

Bill read second time.

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

Amendment No. 99.

SUMMARY—Creates the Advisory Committee for the Prevention and Treatment of Stroke **and Heart Disease** within the Health Division of the Department of Health and Human Services. (BDR 40-208)

AN ACT relating to public health; creating the Advisory Committee for the Prevention and Treatment of Stroke **and Heart Disease** within the Health Division of the Department of Health and Human Services; prescribing the duties of the Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 8 and 9 of this bill create the Advisory Committee for the Prevention and Treatment of Stroke **and Heart Disease** within the Health Division of the Department of Health and Human Services and prescribe the duties of the Committee. **Section 10** of this bill authorizes the Health Division to enter into contracts and to apply for and accept gifts, grants, donations and bequests to carry out the provisions of this bill.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Committee" means the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease created by section 8 of this act.***

Sec. 4. ***"Hospital" has the meaning ascribed to it in NRS 449.012.***

Sec. 5. ***"Primary prevention" means the treatment of risk factors for stroke, heart disease and other vascular disease in the general population before the onset of any symptoms.***

Sec. 6. ***"Provider of health care" has the meaning ascribed to it in NRS 629.031.***

Sec. 7. ***"Secondary prevention" means the treatment of patients who have developed symptoms of stroke, heart disease or other vascular disease that is designed to prevent the onset of additional symptoms and attacks of the condition.***

Sec. 8. ***1. The Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease is hereby created within the Health Division.***

2. The Committee consists of the following members:

(a) A board-certified neurologist who is licensed to practice in this State and who is experienced in treating victims of stroke, appointed by the Administrator;

(b) A [physician] board-certified cardiologist who is licensed to practice in this State and who [works in an emergency room,] is experienced in treating victims of heart disease and heart attacks, appointed by the Administrator;

(c) A provider of emergency medical services, appointed by the Administrator;

(d) A representative of the Health Division whose primary responsibilities relate to the licensure and certification of persons who provide emergency medical services, appointed by the Administrator;

(e) A representative of the American Heart Association or its successor, appointed by the Administrator;

(f) A person with knowledge or expertise in the prevention of chronic diseases, appointed by the Administrator;

(g) [A representative of a school of public health of the Nevada System of Higher Education, appointed by the Administrator;

(h)] A representative from rural Nevada, appointed by the Administrator;

[(i)] (h) A representative of hospitals in this State, appointed by the Administrator;

[(j)] (i) A representative of collectively bargained plans, self-funded plans or other entities that pay claims under a contract for health insurance in this State, appointed by the Administrator;

[(k)] (j) A registered nurse who is licensed to practice professional nursing in this State, appointed by the Administrator;

~~[(l)]~~ ***(k)*** ***A person who is a representative of a population disproportionally affected by heart disease or stroke, appointed by the Governor;***

~~[(m)]~~ ***(l)*** ***A person who is a survivor of stroke, appointed by the Majority Leader of the Senate; and***

~~[(n)]~~ ***(m)*** ***A person who is a survivor of*** ~~[stroke,]~~ ***heart disease, appointed by the Speaker of the Assembly.***

3. The Committee shall elect a Chairman and a Vice Chairman from among its members to initial terms expiring on June 30, 2011. After the initial election, each of those officers holds office for a term of 1 year beginning on July 1 of each year and may be reelected to one or more successive terms. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall elect a replacement for the remainder of the unexpired term.

4. After the initial terms, each member of the Committee serves a term of 2 years beginning on July 1. ~~[A]~~ ***Except for a member appointed pursuant to paragraph (f) of subsection 2, a member may be reappointed to one or more successive terms.***

5. A vacancy on the Committee must be filled for the remainder of the unexpired term in the same manner as the original appointment.

6. The members of the Committee serve without compensation. If sufficient money is available, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while attending meetings of the Committee or otherwise engaged in the business of the Committee.

Sec. 9. ***1. The Committee shall*** ~~[:]~~ ***, to the extent money is available from any source:***

(a) Adopt rules for its own governance.

(b) Meet at least once each calendar quarter and at other times upon the call of the Chairman.

(c) Make recommendations to the Health Division for the establishment of a comprehensive plan for the prevention of stroke, heart disease and other vascular disease in this State which must:

(1) Emphasize the development of a policy for the primary prevention and secondary prevention of stroke;

(2) Include recommendations to eliminate disparities in vascular health among populations that are disproportionally affected by stroke, heart disease and other vascular disease;

(3) Include recommendations concerning methods of increasing public knowledge and awareness relating to vascular health, including, without limitation, the prevention and treatment of stroke, heart disease and other vascular disease;

(4) Include recommendations concerning acute stroke treatment, including treatment during the hyperacute and emergency phases of stroke;

(5) Include recommendations concerning the rehabilitation of patients and continuous quality improvement activities for medical facilities and providers of health care; and

(6) Include recommendations concerning the notification and response of emergency medical services . ~~*[; and*~~

~~*(7) Not limit or otherwise address options concerning the transfer of a patient.]*~~

(d) On or before May 1 of each year, submit a written report to the Health Division summarizing the activities of the Committee and any recommendations it has made.

(e) In carrying out its duties, solicit suggestions and information from:

(1) Providers of emergency medical services;

(2) Associations of medical professionals;

(3) Hospitals;

(4) The Health Division;

(5) The Board of Medical Examiners and other boards responsible for issuing a license to a provider of health care; and

(6) Other persons with interests relating to vascular health as deemed necessary by the Committee.

2. In making the recommendations required by paragraph (c) of subsection 1, the Committee shall not consider or address any issue concerning the transfer of a patient.

3. A majority of the members of the Committee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Committee.

Sec. 10. ***1. The Health Division may:***

(a) Enter into contracts for any service necessary to carry out the provisions of sections 2 to 10, inclusive, of this act; and

(b) Apply for and accept gifts, grants, donations and bequests from any source to carry out the provisions of sections 2 to 10, inclusive, of this act.

2. Any money collected pursuant to subsection 1 and any money appropriated to carry out the provisions of sections 2 to 10, inclusive, of this act:

(a) Must be deposited in the State Treasury and accounted for separately in the State General Fund; and

(b) Except as otherwise provided by the terms of a specific gift, grant, donation or bequest, must only be expended to carry out the provisions of sections 2 to 10, inclusive, of this act.

3. The Administrator shall administer the account. Any interest or income earned on the money in the account must be credited to the account.

4. Any claims against the account must be paid as other claims against the State are paid.

Sec. 11. On or before July 1, 2010:

1. The Administrator of the Health Division of the Department of Health and Human Services shall appoint the following members to the Advisory Committee for the Prevention and Treatment of Stroke **and Heart Disease** created by section 8 of this act:

(a) One member each pursuant to paragraphs (a) to ~~[(g),]~~ **(f),** inclusive, of subsection 2 of section 8 of this act to initial terms commencing on July 1, 2010, and expiring on June 30, 2011.

(b) One member each pursuant to paragraphs ~~[(h)]~~ **(g)** to ~~[(k),]~~ **(j),** inclusive, of subsection 2 of section 8 of this act to initial terms commencing on July 1, 2010, and expiring on June 30, 2012.

2. The Governor shall appoint to the Committee one member pursuant to paragraph ~~[(l)]~~ **(k)** of subsection 2 of section 8 of this act to an initial term commencing on July 1, 2010, and expiring on June 30, 2012.

3. The Majority Leader of the Senate shall appoint to the Committee one member pursuant to paragraph ~~[(m)]~~ **(l)** of subsection 2 of section 8 of this act to an initial term commencing on July 1, 2010, and expiring on June 30, 2012.

4. The Speaker of the Assembly shall appoint one member to the Committee pursuant to paragraph ~~[(n)]~~ **(m)** of subsection 2 of section 8 of this act to an initial term commencing on July 1, 2010, and expiring on June 30, 2012.

Sec. 12. 1. This section and section 11 of this act become effective on October 1, 2009.

2. Sections 1 to 10, inclusive, of this act become effective on July 1, 2010.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 124 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 188.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 26.

SUMMARY—Authorizes the Board of Regents of the University of Nevada to waive certain fees and tuition for ~~[a child, widow or widower of a person who was killed while serving in the Nevada National Guard.]~~ **certain persons.** (BDR 34-915)

AN ACT relating to education; authorizing the Board of Regents of the University of Nevada to waive certain fees and tuition for a child, widow or widower of a person who was killed while serving in the Nevada National Guard; **authorizing the waiver of certain fees and tuition for the spouse or child of a person who is identified as a prisoner of war or missing in action while serving in the Armed Forces of the United States;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to waive certain fees for a member of the Nevada National Guard or a recruit for the Nevada National Guard. (NRS 396.544) Additionally, existing law requires the Board of Regents to pay certain fees and expenses for the dependent child of a police officer, firefighter, officer of the Nevada Highway Patrol or volunteer ambulance driver or attendant who was killed while performing his duties. (NRS 396.545) ~~[This]~~ **Section 2 of this** bill authorizes the Board of Regents to waive certain fees for a child, widow or widower of a person who was killed while performing his duties as a member of the Nevada National Guard. **Section 3 of this bill authorizes the Board of Regents to waive certain fees for the spouse or child of a person who is identified as a prisoner of war or missing in action while performing his duties as a member of the Armed Forces of the United States.**

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

Section 1. Chapter 396 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 2 and 3 of this act.**

Sec. 2. 1. The Board of Regents may grant a waiver of registration fees and laboratory fees for a child, widow or widower of a person who was killed while performing his duties as a member of the Nevada National Guard. For the purpose of assessing fees and charges against a person to whom such a waiver is granted, including, without limitation, tuition charges pursuant to NRS 396.540, the person shall be deemed to be a bona fide resident of this State.

2. A person is eligible for a waiver pursuant to subsection 1 if he maintains at least a 2.0 grade point average, on a 4.0 grading scale, each semester or the equivalent of a 2.0 grade point average if a different scale is used.

3. A child may use a waiver granted pursuant to this section for 10 years after he attains the age of 18 years or, if he enrolls in the System before the age of 18 years, for 10 years after the date of such enrollment. A widow or widower may use a waiver granted pursuant to this section for 10 years after the date of the death of the member.

4. The Board of Regents may request the Adjutant General to verify that a person is the child, widow or widower of a person who was killed

while performing his duties as a member of the Nevada National Guard. The Adjutant General shall, upon receiving such a request, notify the Board of Regents in writing concerning the status of that person.

Sec. 3. ***1. The Board of Regents may grant a waiver of registration fees and laboratory fees for a spouse or child of a person who is identified as a prisoner of war or missing in action while performing his duties as a member of the Armed Forces of the United States. For the purpose of assessing fees and charges against a person to whom such a waiver is granted, including, without limitation, tuition charges pursuant to NRS 396.540, the person shall be deemed to be a bona fide resident of this State.***

2. A person is eligible for a waiver pursuant to subsection 1 if he maintains at least a 2.0 grade point average, on a 4.0 grading scale, each semester or the equivalent of a 2.0 grade point average if a different scale is used.

3. A spouse may use a waiver granted pursuant to this section for 10 years after the date on which the member of the Armed Forces was identified as a prisoner of war or missing in action. A child may use a waiver granted pursuant to this section for 10 years after he attains the age of 18 years or, if he enrolls in the System before the age of 18 years, for 10 years after the date of such enrollment.

4. The Board of Regents may request such documentation as it deems necessary to verify that a person is the spouse or child of a member of the Armed Forces of the United States who is identified as a prisoner of war or missing in action while performing his duties as a member of the Armed Forces.

~~[Sec. 2.]~~ ***Sec. 4.*** This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 237.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 114.

AN ACT relating to juveniles; revising the provisions governing the certification of certain juveniles as adults for criminal proceedings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the certification of a child as an adult for criminal proceedings under certain circumstances. (NRS 62B.390) ~~[If a child is charged with an offense that would have been a felony if committed by an adult and the child was 14 years of age or older at the time of allegedly committing the offense, the juvenile court may, but is not required to, certify the child as an adult, which is commonly referred to as "discretionary~~

~~certification." Section 1 of this bill raises the threshold age at which a child may be certified as an adult under such discretionary certification from 14 years of age to 16 years of age.~~

~~Existing law also provides for~~ **Under the concept that is commonly referred to as** "presumptive certification," ~~[which requires]~~ the juvenile court **is required** to certify a child for criminal proceedings as an adult if the child is charged with certain offenses and was 14 years of age or older at the time of allegedly committing the offense, unless an exception applies. (NRS 62B.390) One such exception to presumptive certification is when the juvenile court specifically finds by clear and convincing evidence that the actions of the child were substantially the result of the substance abuse or emotional or behavioral problems of the child. The Nevada Supreme Court recently ruled that this exception to presumptive certification violates a child's right against self-incrimination under the Fifth Amendment to the United States Constitution by requiring the child to admit to criminal conduct to challenge certification. (*In re William M.*, 124 Nev. Adv. Op. No. 95 (2008)) ~~[Section 1 of this]~~ **This** bill eliminates the exception to presumptive certification that was found unconstitutional by the Nevada Supreme Court and provides instead that the juvenile court is not required to certify the child as an adult if the child has substance abuse or emotional or behavioral problems that may be appropriately treated through the jurisdiction of the juvenile court. ~~[Section 1]~~ **This bill** also raises the threshold age at which a child may be certified as an adult under presumptive certification from 14 years of age to 16 years of age.

~~[Finally, existing law provides for discretionary certification of a child who escapes or attempts to escape from a public or private facility for the detention or correctional care of children and who was 14 years of age or older at the time of escaping or attempting to escape. (NRS 62B.400) Section 2 of this bill raises the threshold age at which a child may be certified as an adult under such discretionary certification from 14 years of age to 16 years of age.]~~

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

Section 1. NRS 62B.390 is hereby amended to read as follows:

62B.390 1. Except as otherwise provided in subsection 2 and NRS 62B.400, upon a motion by the district attorney and after a full investigation, the juvenile court may certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) Is charged with an offense that would have been a felony if committed by an adult; and

(b) Was 14 ~~[16]~~ years of age or older at the time the child allegedly committed the offense.

2. Except as otherwise provided in subsection 3, upon a motion by the district attorney and after a full investigation, the juvenile court shall certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) Is charged with:

(1) A sexual assault involving the use or threatened use of force or violence against the victim; or

(2) An offense or attempted offense involving the use or threatened use of a firearm; and

(b) Was ~~[14]~~ ***16*** years of age or older at the time the child allegedly committed the offense.

3. The juvenile court shall not certify a child for criminal proceedings as an adult pursuant to subsection 2 if the juvenile court specifically finds by clear and convincing evidence that:

(a) The child is developmentally or mentally incompetent to understand his situation and the proceedings of the court or to aid his attorney in those proceedings; or

(b) ~~[The actions of the child were substantially the result of the substance abuse or emotional or behavioral problems of the child]~~ ***The child has substance abuse or emotional or behavioral problems*** and the substance abuse or emotional or behavioral problems may be appropriately treated through the jurisdiction of the juvenile court.

4. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 or 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the offense for which the child was certified, regardless of the nature of the related offense.

5. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 or 2 and the child's case has been transferred out of the juvenile court:

(a) The court to which the case has been transferred has original jurisdiction over the child;

(b) The child may petition for transfer of the case back to the juvenile court only upon a showing of exceptional circumstances; and

(c) If the child's case is transferred back to the juvenile court, the juvenile court shall determine whether the exceptional circumstances warrant accepting jurisdiction.

Sec. 2. ~~[NRS 62B.400 is hereby amended to read as follows:~~

~~62B.400 1. A child shall be deemed to be a prisoner who has escaped or attempted to escape from lawful custody in violation of NRS 212.090, and proceedings may be brought against the child pursuant to the provisions of this section, if the child:~~

~~(a) Is committed to or otherwise is placed in a public or private facility for the detention or correctional care of children, including, but not limited to, all state, regional and local facilities for the detention of children; and~~

~~(b) Escapes or attempts to escape from such a facility.~~

~~2. Upon a motion by the district attorney and after a full investigation, the juvenile court may certify the child for criminal proceedings as an adult pursuant to subsection 1 of NRS 62B.390 if the child was~~ **[**14**]** ***16*** ~~years of age or older at the time of the escape or attempted escape and:~~

~~(a) The child was committed to or placed in the facility from which the child escaped or attempted to escape because the child had been charged with or had been adjudicated delinquent for an unlawful act that would have been a felony if committed by an adult; or~~

~~(b) The child or another person aiding the child used a dangerous weapon to facilitate the escape or attempted escape.~~

~~3. If the child is certified for criminal proceedings as an adult pursuant to subsection 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the escape or attempted escape, regardless of the nature of the related offense.~~

~~4. If the child is not certified for criminal proceedings as an adult pursuant to subsection 2 or otherwise is not subject to the provisions of subsection 2, the escape or attempted escape shall be deemed to be a delinquent act, and proceedings may be brought against the child pursuant to the provisions of this title.~~**]** **(Deleted by amendment.)**

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that upon return from the printer, Assembly Bill No. 188 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 327.

Bill read second time and ordered to third reading.

Assembly Bill No. 359.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 112.

SUMMARY—Revises provisions governing ~~[the requirements for]~~ certain personnel who work with children with autism. (BDR 34-1024)

AN ACT relating to education; **creating the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism;** requiring **that** the boards of trustees of school districts and the

governing bodies of charter schools ~~[to]~~ **, to the extent money is available,** ensure that certain personnel possess the skills and qualifications necessary to work with pupils with autism; ~~[prescribing the qualifications for a paraprofessional who assists pupils with autism;]~~ requiring the Health Division of the Department of Health and Human Services to ensure that certain personnel possess the skills and qualifications necessary to provide services to children with autism and their families; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism to provide grants of money to school districts and charter schools for programs of training of certain personnel.

Section ~~[2]~~ **4** of this bill requires the board of trustees of each school district and the governing body of each charter school **, to the extent money is available from the Grant Fund,** to ensure that the personnel employed by the school district or charter school who work with pupils with autism receive the appropriate preparation and training necessary to serve those pupils. **Section** ~~[3]~~ **5** of this bill ~~[prescribes the requirements for personnel]~~ **requires the board of trustees** of **each** school ~~[districts]~~ **district** and **the governing body of each** charter ~~[schools]~~ **school, to the extent money is available from the Grant Fund, to ensure that the licensed educational personnel employed by the school district or charter school** who are assigned to assist a parent or legal guardian of a pupil with autism in making decisions about the services and programs available for the pupil ~~[.]~~ **receive the appropriate preparation and training necessary to assist those persons.** ~~[Section 4 of this bill requires that the parent or legal guardian of a pupil who is identified as being at risk for a diagnosis of autism be notified in a timely manner and referred to appropriate professionals for evaluation and treatment.]~~ **Section** ~~[5]~~ 7 of this bill ~~[prescribes the qualifications for a paraprofessional employed by a]~~ **requires the board of trustees of each** school district ~~[or]~~ **and the governing body of each** charter school **, to the extent money is available from the Grant Fund, to ensure that a paraprofessional who is employed by the school district or charter school** who is assigned to work with a pupil with autism ~~[.]~~ **receives the appropriate preparation and training necessary to serve those pupils.**

Section ~~[6]~~ **8** of this bill requires the personnel of the Health Division of the Department of Health and Human Services who provide early intervention services to possess the knowledge and skills necessary to provide services to children with autism and their families.

Section 9 of this bill requires that any money received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to assist school districts with the training of personnel to assist pupils with autism be deposited in the Grant Fund.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[5,]~~ 7, inclusive, of this act.

Sec. 2. As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, "Grant Fund" means the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism.

Sec. 3. 1. There is hereby created the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism to be administered by the Department. The Department may accept gifts, grants and donations from any source for deposit in the Grant Fund.

2. The money in the Grant Fund must be used only for the distribution of money to school districts and charter schools for programs of training as set forth in sections 4, 5 and 7 of this act and to provide assistance to licensed educational personnel who work with pupils with autism in obtaining an appropriate endorsement to teach those pupils.

3. The board of trustees of a school district or the governing body of a charter school may apply to the Department on a form prescribed by the Department for a grant of money from the Grant Fund. The application must include a description of the program of training for which the grant of money will be used.

~~[~~Sec. 2.~~]~~ ***Sec. 4. ~~[The]~~ 1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who work with pupils with autism receive the appropriate preparation and training necessary to serve those pupils. The training ~~[must]~~ may include, without limitation:***

~~[1.]~~ (a) The characteristics of autism, including, without limitation, behavioral and communication characteristics;

~~[2.]~~ (b) Methods for ~~[assessing,]~~ determining, on a regular and consistent basis, the specific needs of a pupil with autism to ensure the pupil is meeting the objectives and goals described in the individualized education program of the pupil or other educational plan prepared for the pupil;

~~[3.]~~ (c) The procedure for evaluating pupils who demonstrate behaviors which are consistent with autism;

~~[4.]~~ (d) Approaches for use in the classroom to assist a pupil with autism with communication and social development; and

~~[5.]~~ (e) Methods of providing support to pupils with autism and their families.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or

other entity to provide training for licensed educational personnel employed by the school district or charter school who work with pupils with autism in accordance with this section.

~~[Sec. 3.]~~ ***Sec. 5.*** ~~*[The]*~~ ***To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a parent or legal guardian of a pupil with autism in making decisions about the services and programs available for the pupil*** ~~*[:]*~~ ***receive the appropriate preparation and training:***

1. ~~*[Possess the knowledge and understanding of the scientific research and support for each method or approach that is available for the pupil and the ability to recognize the difference between an approach or method that is scientifically validated and one that is not;]*~~ ***On using the 2008 Report of the Nevada Autism Task Force and any subsequent report issued by the Nevada Autism Task Force created pursuant to chapter 348, Statutes of Nevada 2007, to determine best practices in the development of programs for pupils with autism; and***

2. ~~*[Possess the knowledge to accurately describe the research supporting each method or approach, including, without limitation, the knowledge necessary to provide an explanation that a method or approach is experimental if it is not supported by scientific evidence; and*~~

~~*3. Provide]*~~ ***To provide the parent or legal guardian with information on all options for treatment and intervention that may assist the pupil in his development and advancement.***

~~[Sec. 4.]~~ ***Sec. 6.*** ~~***[The board of trustees of each school district and the governing body of each charter school shall ensure that the teachers and other educational personnel employed by the school district communicate in a timely manner to the parent or legal guardian of a pupil who is identified as being at risk for a diagnosis of autism and immediately notify and refer the parent or legal guardian to the appropriate professionals for further evaluation and simultaneously refer the parent or legal guardian to any appropriate early intervention services and strategies.]***~~ **(Deleted by amendment.)**

~~[Sec. 5.]~~ ***Sec. 7. 1.*** ~~*[In addition to any other qualifications required by statute or regulation, a paraprofessional who is employed by]*~~ ***To the extent money is available from the Grant Fund, the board of trustees of*** ~~*[a]*~~ ***each school district*** ~~*[or]*~~ ***and the governing body of*** ~~*[a]*~~ ***each charter school shall ensure that a paraprofessional who is employed by the school district or charter school to provide assistance to pupils with autism*** ~~*[must possess the following qualifications:]*~~ ***receives the appropriate preparation and training to acquire:***

(a) Knowledge of autism, including, without limitation:

(1) The characteristics of autism and the range of spectrum disorders within a diagnosis of autism;

(2) An understanding of the importance of building relationships between pupils with autism, other pupils and teachers or adults to encourage the independence of a pupil with autism; and

(3) The ability to determine the patterns of behavior of pupils with autism;

(b) ~~[Demonstrated proficiency in providing]~~ The ability to provide structure and predictability through the consistent use of methods that support prior learning and continued development;

(c) ~~[Demonstrated proficiency in adapting, modifying or structuring]~~ The ability to adapt, modify or structure the environment based upon an understanding of the auditory, visual or other sensory stimuli which may be reinforcing, calming or distracting to the pupil;

(d) The ability to use positive behavioral supports, including, without limitation, the use of discrete trial, structured teaching methods, reinforcement and generalized approaches to enhance the pupil's education and prevent behavioral problems, as directed by the pupil's teacher or other appropriate personnel;

(e) The ability to accurately collect and record data on the progress of a pupil with autism and report to the pupil's teacher in a timely manner if a particular strategy or program is not producing the planned outcome for the pupil; and

(f) ~~[Demonstrated proficiency in the]~~ The ability to communicate effectively and consistently with pupils with autism using communication techniques designed for those pupils.

2. ~~[The]~~ To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for a paraprofessional who provides assistance to pupils with autism in accordance with this section.

~~[Sec. 6.]~~ ***Sec. 8.*** Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Health Division shall ensure that all personnel employed by the Health Division who provide early intervention services possess the knowledge and skills necessary to serve children with autism, including, without limitation:

(a) The procedure for screening a child for autism at least once before the child attains the age of 2 years;

(b) The procedure for evaluating children who demonstrate behaviors which are consistent with autism;

(c) The procedure for enrolling a child in early intervention services upon determining that the child has autism;

(d) Methods of providing support to children with autism and their families; and

(e) The procedure for developing an individualized family service plan in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431 et seq., or other appropriate plan for the child.

2. The Health Division shall ensure that the personnel employed by the Health Division to provide early intervention services to children with autism:

(a) Possess the knowledge and understanding of the scientific research and support for each method or approach that is available for the child and the ability to recognize the difference between an approach or method that is scientifically validated and one that is not;

(b) Possess the knowledge to accurately describe to parents and guardians the research supporting each method or approach, including, without limitation, the knowledge necessary to provide an explanation that a method or approach is experimental if it is not supported by scientific evidence;

(c) Immediately notify a parent or legal guardian if a child is identified as being at risk for a diagnosis of autism and refer the parent or legal guardian to the appropriate professionals for further evaluation and simultaneously refer the parent or legal guardian to any appropriate early intervention services and strategies; and

(d) Provide the parent or legal guardian with all options for treatment and intervention that may assist the child in his development and advancement.

Sec. 9. **Notwithstanding any other provision of law to the contrary, if any money is received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, which is designated for expenditure from the State Distributive Account in the State General Fund by the Legislature for Fiscal Years 2009-2010 and 2010-2011 to assist school districts with the training of personnel to assist pupils with autism, the money must be deposited in the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism created by section 3 of this act.**

~~[Sec. 7.]~~ ***Sec. 10.*** ~~[This act becomes]~~ **1. This section and section 9 of this act become effective upon passage and approval.**

2. Sections 1 to 8, inclusive, of this act become effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Parnell moved that upon return from the printer, Assembly Bill No. 359 be rereferred to the Committee on Health and Human Services.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 393.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills 75, 96, 137, 164, 169, 180, 264, 280, 301, 306, 332, 412, 477; Assembly Joint Resolution No. 7; Senate Bills No. 38, 109; and Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Melissa Burnham.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Lora Minter.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Julie Koch.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Anya Perez and Christina Perez.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Jim Clark.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Laura Boehm.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Brenda Talley, Robin Munier, and Thalia Dondero.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Jessica Kwok.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Robert Burnham, Kristi Tucker, Sheila Campbell, and Shannon Ramirez.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Jacob Batchelor, Benita Owens, Karen Cooney, and Amy Henderson.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Porsche Hughes.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Tami Berg and Radious Guess.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Lyn Bennet, Sherry Loncar, Erin Lehman, Lindy Lehman, and Brynn Lehman.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Ann Lynch, Wendell Newman, and Chuck Saylors.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Charlene Gumber and Chelsea Reid.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Susan Myhre.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, April 6, 2009, at 11 a.m., and that it do so in memory of former Assemblyman Jim Banner.

Motion carried.

Assembly adjourned at 12:18 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SIXTY-FOURTH DAY

CARSON CITY (Monday), April 6, 2009

Assembly called to order at 11:14 a.m.
Madam Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, Rajan Zed.

Om
bhur bhuvah svah
tat Savitur varenyam
bhargo devasya dhimahi
dhiyo you nah prachodayat

We meditate on the transcendental Glory of the Deity Supreme, who is inside the heart of the earth, inside the life of the sky, and inside the soul of the Heaven. May He stimulate and illuminate our minds.

Asato ma sad gamaya
Tamaso ma jyotir gamaya
Mrityor mamrtam gamaya

Lead me from the unreal to the Real.
Lead me from darkness to Light.
Lead me from death to immortality.

níyatam kuru karma tvam karma jyayo hyakarmanah
sarirayatrapi ca te na prasiddhyedakarmanah

yajnarthatkarmano'nyatra loko'yam karmabandhanah
tadartham karma kaunteya muktasangah samacara

Fulfill all your duties; action is better than inaction. Even to maintain your body, you are obliged to act. Selfish action imprisons the world. Act selflessly, without any thought of personal profit.

tasmadasaktah satatam karyam karma samacara
asakto hyacarankarma paramapnoti purusah
karmanaíva hi samsiddhimasthita janakadayah
lokasangrahamevapi sampasyankartumarhasi

Strive constantly to serve the welfare of the world; by devotion to selflessness one attains the supreme goal of life. Do your work with the welfare of others always in mind.

Om saha naavavatu
Saha nau bhunaktu
Saha viiryan karavaavahai
Tejasvi naavadhiitamastu
Maa vidhvishhaavahai

May we be protected together.
May we be nourished together.
May we work together with great vigor.
May our study be enlightening.

May no obstacle arise between us.

samani va akutih
samana hrdayani vah
samanam astu vo mano
yatha vah susahasti

United your resolve, united your hearts,
may your spirits be at one,
that you may long together dwell
in unity and concord!

Om Shanti, Shanti, Shanti.

Peace, Peace, Peace be unto all.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Oceguera moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 90, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Education, to which were referred Assembly Bills Nos. 26, 191, 243, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Assembly Bills Nos. 231, 232, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bills Nos. 76, 196 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 120, 253, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 15, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Taxation, to which was referred Assembly Bill No. 329, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Taxation, to which was referred Assembly Bill No. 403, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 372, 417, 518, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 15, 26, 76, 90, 120, 191, 196, 231, 232, 243, 253, 329, 372, 403, 417, and 518 just reported out of committee, be placed on the Second Reading File.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 2, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 27.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 23.

Also, I have the honor to inform your honorable body that the Senate on this day adopted, as amended, Senate Concurrent Resolutions Nos. 3 and 5.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 3.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Concurrent Resolution No. 5.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Concurrent Resolution No. 23.

Assemblyman Manendo moved the adoption of the resolution.

Remarks by Assemblyman Manendo.

Resolution adopted.

NOTICE OF EXEMPTION

April 2, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 278, 326, 385 and 394.

GARY GHIGGERI
Fiscal Analysis Division

April 6, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 149, 458, 520, 526, 528, 529, 530, 531, 532, 533 and 534.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 347, 359, 395, 399, 423, 427, 445, 451, 482, 497, 506, 515, 519, 522 and 523.

MARK STEVENS
Fiscal Analysis Division

April 6, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bills Nos. 284, 346 and 367.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 264, 359, 368, 372, 375, 377, 382 and 397.

GARY GHIGGERI
Fiscal Analysis Division

Assemblyman Oceguera moved that the reading of histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 107 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Atkinson moved that Assembly Bill No. 109 be taken from the Chief Clerk's desk and placed on General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 3.

Bill read second time.

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

Amendment No. 42.

SUMMARY—Requires each plot in each veterans' cemetery in this State to be landscaped with **natural** turf grass. (BDR 37-197)

AN ACT relating to veterans' cemeteries; requiring the area immediately surrounding each plot in each veterans' cemetery in this State to be

landscaped with **natural** turf grass; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Executive Director for Veterans' Services to establish, operate and maintain a veterans' cemetery in northern Nevada and a veterans' cemetery in southern Nevada and requires a cemetery superintendent to operate and maintain each cemetery. (NRS 417.200) This bill requires the cemetery superintendent to ensure that the area immediately surrounding each plot in each veterans' cemetery is landscaped with **natural** turf grass.

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

Section 1. NRS 417.200 is hereby amended to read as follows:

417.200 1. The Executive Director shall establish, operate and maintain a veterans' cemetery in northern Nevada and a veterans' cemetery in southern Nevada, and may, within the limits of legislative authorization, employ personnel and purchase equipment and supplies necessary for the operation and maintenance of the cemeteries. The Executive Director shall employ a cemetery superintendent to operate and maintain each cemetery.

2. ***The cemetery superintendent shall ensure that the area immediately surrounding each plot in each veterans' cemetery is landscaped with natural turf grass.***

3. A person desiring to provide voluntary services to further the establishment, maintenance or operation of either of the cemeteries shall submit a written offer to the cemetery superintendent which describes the nature of the services. The cemetery superintendent shall consider all such offers and approve those he deems appropriate. The cemetery superintendent shall coordinate the provision of all services so approved.

Sec. 2. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 35.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 25.

AN ACT relating to offenders; revising the procedures for determining whether to grant a petition by an offender for release from lifetime supervision; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises the circumstances under which a sentencing court or the State Board of Parole Commissioners must grant a petition by certain sex offenders for release from lifetime supervision. (NRS 176.0931) Specifically, this bill requires the court or Board to: (1) consider any reports submitted by the Division of Parole and Probation of the Department of Public Safety; and (2) ~~[grant the petition if, after considering such a report, the court or Board determines that the offender's conduct during his lifetime supervision indicates his release from supervision is appropriate and the offender satisfies the other criteria for release from supervision.]~~ **consider whether the person has been convicted of certain offenses within the past 7 years, rather than the past 10 years, after his last conviction or release from incarceration.**

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

Section 1. NRS 176.0931 is hereby amended to read as follows:

176.0931 1. If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision.

2. The special sentence of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.

3. A person sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision. The sentencing court or the Board shall ***consider any report submitted by the Division concerning the person and*** grant a petition for release from a special sentence of lifetime supervision if:

(a) The person has complied with the requirements of the provisions of NRS 179D.010 to 179D.550, inclusive;

(b) The person has not been convicted of an offense that poses a threat to the safety or well-being of others for an interval of at least ~~[10]~~ *7* consecutive years after his last conviction or release from incarceration, whichever occurs later; and

(c) The person is not likely to pose a threat to the safety of others, as determined by a person professionally qualified to conduct psychosexual evaluations, if released from lifetime supervision . ~~*[; and*~~

~~*(d) The person's conduct during his term of lifetime supervision indicates that release from lifetime supervision is appropriate, as determined by the sentencing court or Board after considering any report submitted by the Division.]*~~

4. A person who is released from lifetime supervision pursuant to the provisions of subsection 3 remains subject to the provisions for registration as a sex offender and to the provisions for community notification, unless he

is otherwise relieved from the operation of those provisions pursuant to the provisions of NRS 179D.010 to 179D.550, inclusive.

5. As used in this section:

(a) "Offense that poses a threat to the safety or well-being of others" includes, without limitation:

(1) An offense that involves:

(I) A victim less than 18 years of age;

(II) A crime against a child as defined in NRS 179D.0357;

(III) A sexual offense as defined in NRS 179D.097;

(IV) A deadly weapon, explosives or a firearm;

(V) The use or threatened use of force or violence;

(VI) Physical or mental abuse;

(VII) Death or bodily injury;

(VIII) An act of domestic violence;

(IX) Harassment, stalking, threats of any kind or other similar acts;

(X) The forcible or unlawful entry of a home, building, structure, vehicle or other real or personal property; or

(XI) The infliction or threatened infliction of damage or injury, in whole or in part, to real or personal property.

(2) Any offense listed in subparagraph (1) that is committed in this State or another jurisdiction, including, without limitation, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(b) "Person professionally qualified to conduct psychosexual evaluations" has the meaning ascribed to it in NRS 176.133.

(c) "Sexual offense" means:

(1) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(2) An attempt to commit an offense listed in subparagraph (1); or

(3) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Remarks by Assemblyman Horne.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 124.

Bill read second time.

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

Amendment No. 88.

AN ACT relating to unemployment compensation; revising provisions relating to certain agricultural labor as employment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In compliance with federal requirements, existing state law exempts from the Federal Unemployment Tax Act certain services performed by an alien admitted to the United States. To maintain compliance in the event of applicable changes in federal law, **section 1** of this bill provides that the existing exemption, as reflected under state law, must be eliminated if the federal exemption is eliminated. (NRS 612.090)

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

Section 1. NRS 612.090 is hereby amended to read as follows:

612.090 1. "Employment" includes agricultural labor if:

(a) The services are performed in the employ of a person who:

(1) Paid cash wages of $20,000 or more during any calendar quarter of the current calendar year or preceding calendar year to persons employed in agricultural labor ~~[;]~~ ***, including, without limitation, an alien described in subsection 4 without regard to whether the alien or the services performed by the alien are required to be covered by the Federal Unemployment Tax Act;*** or

(2) Employed 10 or more persons in agricultural labor ***, including, without limitation, an alien described in subsection 4 without regard to whether the alien or the services performed by the alien are required to be covered by the Federal Unemployment Tax Act,*** some portion of the day for at least 20 days, each day being in a different calendar week, during the current calendar year or preceding calendar year whether or not the weeks were consecutive or the persons were employed at the same moment of time; and

(b) The services are performed:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of the farm and its tools and equipment, or in salvaging timber

or clearing land of brush and other debris left by a hurricane, if the major part of the service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, 12 U.S.C. § 1141j, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) Except as otherwise provided in subsection 2, in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if the operator produced more than one-half of the commodity with respect to which such service is performed.

(5) Except as otherwise provided in subsection 2, in the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in subparagraph (4), but only if such operators produced more than one-half of the commodity with respect to which such service is performed.

(6) On a farm operated for profit although the service is not in the course of the employer's trade or business.

2. The provisions of subparagraphs (4) and (5) of paragraph (b) of subsection 1 do not apply to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

3. As used in this section, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for raising agricultural or horticultural commodities, and orchards.

4. The provisions of ~~[this section]~~ ***paragraph (b) of subsection 1*** do not apply to services performed ~~[before January 1, 1980,]~~ by an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act, 8 U.S.C. §§ 1184(c) and ~~[1101(a)(15)(H)]~~ ***1101(a)(15)(H)(ii)(a),*** respectively ~~[.]~~ ***, unless the alien or the services are required to be covered by the Federal Unemployment Tax Act.***

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 193.

Bill read second time.

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

Amendment No. 119.

AN ACT relating to state financial administration; requiring certain governmental entities to report periodically to the Interim Finance Committee concerning the collection and abatement of fees and taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires certain governmental entities of this State, beginning with the fourth quarter of Fiscal Year 2008-2009 and concluding with the third quarter of Fiscal Year 2010-2011, to report to the Interim Finance Committee within ~~[15]~~ **60** days after the end of the immediately preceding fiscal quarter regarding the taxes and fees that: (1) were legally due to be paid to the entity; (2) the entity was able to collect; and (3) the entity did not collect or was otherwise unable to collect ~~[.]~~ **, to the extent that such information is available to the entity.** This bill also requires the Commission on Economic Development to report to the Interim Finance Committee on the same time schedule regarding each tax or fee that the Commission abated, exempted or otherwise waived and the duration of the applicable abatement, exemption or waiver. **All reports required to be filed pursuant to this bill are required to be submitted on a form provided by the Director of the Legislative Counsel Bureau.**

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

Section 1. 1. Beginning on July 1, 2009, and extending through April 15, 2011, the following governmental entities shall, within ~~[15]~~ **60** days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2:

(a) The Department of Taxation.

(b) The State Gaming Control Board.

(c) The Department of Motor Vehicles.

(d) The Department of Employment, Training and Rehabilitation.

(e) The Department of Business and Industry.

(f) The Office of the State Controller.

(g) The Office of the Secretary of State.

2. Each report required to be filed pursuant to subsection 1 must **be submitted on a form provided by the Director of the Legislative Counsel Bureau and** include the following components:

(a) A statement of all taxes and fees that were legally due to be paid to the particular governmental entity in the immediately preceding fiscal quarter;

(b) A statement of the total of all taxes and fees that the particular governmental entity actually collected in the immediately preceding fiscal quarter;

(c) A statement of all taxes and fees that the particular governmental entity, in the immediately preceding fiscal quarter, failed to collect or otherwise did not collect as the result of an abatement, exemption or another reason **[~~; and~~] , to the extent that such information is available to the governmental entity;**

(d) A statement of the total amount of all taxes and fees that remain legally due to be paid to the particular governmental entity for any past fiscal years up to and including the immediately preceding fiscal quarter of the current fiscal year**[~~.~~] ; and**

(e) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

Sec. 2. 1. Beginning on July 1, 2009, and extending through April 15, 2011, the Commission on Economic Development shall, within **[~~15~~] 60** days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2.

2. Each report required to be filed pursuant to subsection 1 must **be submitted on a form provided by the Director of the Legislative Counsel Bureau and** include a description of every abatement, exemption or other type of waiver that the Commission on Economic Development granted with respect to a tax or fee during the immediately preceding fiscal quarter. The description must include, without limitation:

(a) An estimate of the total amount of money the payment of which was abated, exempted or otherwise waived; **[~~and~~]**

(b) The duration of the abatement, exemption or other type of waiver**[~~.~~] ; and**

(c) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

Sec. 3. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 194.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 120.

AN ACT relating to wildlife; **[~~expanding~~] revising** the system of assessing demerit points for wildlife convictions to **[~~include~~] exclude** certain convictions concerning master guides and subguides; prohibiting a person

from providing compensation to a person acting as a master guide or subguide without proof of licensure; ~~[requiring a master guide or subguide to report certain violations relating to wildlife; increasing]~~ **revising** the penalty for acting as a master guide or subguide without a license issued by the Department of Wildlife; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires **the Board of Wildlife Commissioners to establish a system of assessing demerit points for a person who is convicted of violating certain laws and regulations in this State relating to hunting, fishing and trapping. Existing law also sets forth certain laws for which a violation is not included in the system of assessing demerit points. (NRS 501.1812-501.1818) Section 3 of this bill includes acting as a guide or subguide without a license within the group of laws for which a violation is not included in the system of assessing demerit points. (NRS 501.1812)**

Existing law requires each person who provides service as a hunting or fishing guide for compensation or who provides that service as an incidental service to customers of a commercial enterprise to have a master guide license issued by the Department of Wildlife. Existing law also requires any person who assists a master guide and acts as a guide in the course of that activity to have a subguide license issued by the Department. (NRS 504.390) Existing law provides that a person who acts as a master guide or subguide without first obtaining a license from the Department is guilty of a gross misdemeanor. (NRS 504.395) **Section 9** of this bill ~~[increases]~~ **revises** the penalty for **committing** such a violation ~~[from]~~ **by providing that the person is guilty of** a gross misdemeanor ~~[to]~~ **for a first offense and guilty of** a category E felony ~~[.]~~ **for a second or subsequent offense. Section 9 also requires the Board of Wildlife Commissioners to revoke any hunting, fishing or trapping license, permit or privilege issued to the person and refuse to issue any new hunting, fishing or trapping license to the person for 5 years. Sections 1 and 2** of this bill conform existing references to such a violation to account for the change in the penalty. **Section 5** of this bill prohibits a person from knowingly compensating a person who engages in activity for which a master guide license or subguide license is required unless the person engaging in that activity provides proof that he is the holder of such a license to the person providing the compensation. **Section 5** makes a violation of that prohibition a ~~[gross]~~ misdemeanor. ~~[Section 6 of this bill requires a holder of a master guide license or subguide license to notify a game warden or other appropriate federal or state agency if the holder of the master guide license or subguide license observes or becomes aware of a violation of certain federal or state laws or regulations governing wildlife. Section 6 imposes a misdemeanor penalty against the holder of the master guide license or subguide license if he fails to report the violation promptly.]~~ **Sections 7 and 8** of this bill **define the word "compensation" and also** revise the **existing** definition of "guide"

for the purpose of requiring the issuance of master guide licenses and subguide licenses. (NRS 504.390)

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

Section 1. NRS 501.171 is hereby amended to read as follows:

501.171 1. A county advisory board to manage wildlife shall submit written nominations for appointments to the Commission upon the request of the Governor and may submit nominations at any other time.

2. After consideration of the written nominations submitted by a county advisory board to manage wildlife and any additional candidates for appointment to the Commission, the Governor shall appoint to the Commission:

(a) One member who is actively engaged in the conservation of wildlife;

(b) One member who is actively engaged in farming;

(c) One member who is actively engaged in ranching;

(d) One member who represents the interests of the general public; and

(e) Five members who during at least 3 of the 4 years immediately preceding their appointment held a resident license to fish or hunt, or both, in Nevada.

3. The Governor shall not appoint to the Commission any person who has been convicted of:

(a) A felony or gross misdemeanor for a violation of NRS 501.376;

(b) A gross misdemeanor for a violation of NRS 502.060 ***;*** ~~[or 504.395; or]~~

(c) ***A felony or gross misdemeanor for a violation of NRS 504.395; or***

(d) Two or more violations of the provisions of chapters 501 to 504, inclusive, of NRS,

➥ during the previous 10 years.

4. Not more than three members may be from the same county whose population is 400,000 or more, not more than two members may be from the same county whose population is 100,000 or more but less than 400,000, and not more than one member may be from the same county whose population is less than 100,000.

5. The Commission shall annually select a Chairman and a Vice Chairman from among its members. A person shall not serve more than two consecutive terms as Chairman.

Sec. 2. NRS 501.172 is hereby amended to read as follows:

501.172 1. A member of the Commission may be removed from office for just cause.

2. A member of the Commission must be removed from office for:

(a) A conviction of a felony or gross misdemeanor for a violation of NRS 501.376;

(b) A conviction of a gross misdemeanor for a violation of NRS 502.060 ***;*** ~~[or 504.395; or]~~

(c) ***A conviction of a felony or gross misdemeanor for a violation of NRS 504.395; or***

(d) Two or more convictions of violating the provisions of chapters 501 to 504, inclusive, of NRS.

Sec. 3. NRS 501.1812 is hereby amended to read as follows:

501.1812 As used in NRS 501.1812 to 501.1818, inclusive, unless the context otherwise requires:

1. "License" means a license or tag issued by the Department for:

(a) Recreational hunting or fishing; or

(b) Taking fur-bearing mammals, trapping unprotected mammals or selling raw furs for profit.

2. "Permit" means a permit issued by the Department for recreational hunting or fishing.

3. "Wildlife conviction" means a conviction obtained in any court of competent jurisdiction in this State, including, without limitation, a conviction obtained upon a plea of nolo contendere or upon a forfeiture of bail not vacated in any such court, for a violation of:

(a) A provision of this title or any regulation adopted pursuant to this title other than a provision of NRS 502.370, 502.390, 503.185, 503.310 or 504.295 to ~~[~~504.390,~~]~~ ~~*[504.380,]*~~ ***504.398,*** inclusive; or

(b) A provision of the Lacey Act ~~[~~Amendment~~]~~ ***Amendments*** of 1981, ~~[~~Public Law 97-79,~~]~~ ***16 U.S.C. §§ 3371 et seq.,*** if the violation of that provision is based on a violation of a law or regulation of this State.

Sec. 4. ~~[~~Chapter 504 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this act.~~]~~ **(Deleted by amendment.)**

Sec. 5. **Chapter 504 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A person shall not, directly or indirectly, knowingly compensate a person who holds himself out as providing guide service or engaging in business as a master guide or subguide, or acting in any other capacity for which a master guide license or subguide license is required pursuant to NRS 504.390, unless the person acting in that capacity provides proof that he is a holder of such a master guide license or subguide license to the person providing the compensation.

2. A person who violates the provisions of subsection 1 is guilty of a ~~*[gross]*~~ ***misdemeanor.***

Sec. 6. ~~[~~***1. If a holder of a master guide license or subguide license observes or otherwise becomes aware of a violation of any provision of this title, a regulation adopted pursuant to this title or a federal law or regulation governing wildlife, the holder of the license shall promptly report the violation to a game warden or other appropriate federal or state agency.***

2. In addition to any revocation of or refusal to issue a license pursuant to subsection 9 of NRS 504.390, a person who violates the

~~*provisions of subsection 1 is guilty of a misdemeanor.]*~~ **(Deleted by amendment.)**

Sec. 7. NRS 504.390 is hereby amended to read as follows:

504.390 1. As used in this section, unless the context ***otherwise*** requires ~~[otherwise, "guide"]~~ **:**

(a) "Compensation" means any remuneration given in exchange for providing guide service which is predicated on a business relationship between the parties. The term does not include any reimbursement for shared trip expenses, including, without limitation, expenses for gasoline, food or any other costs that are generally associated with persons who are engaging in recreational hunting or fishing together.

(b) "Guide" means to assist another person ***for compensation*** in hunting wild mammals or wild birds and fishing ~~[.]~~ and includes the transporting of another person or his equipment to hunting and fishing locations within a general hunting and fishing area whether or not the guide determines the destination or course of travel.

2. Each person who provides guide service for compensation or provides guide service as an incidental service to customers of any commercial enterprise, whether a direct fee is charged for the guide service or not, must obtain a master guide license from the Department. Such a license must not be issued to any person who has not reached 21 years of age.

3. Except as otherwise provided in this subsection, each person who assists a person who is required to have a master guide license and acts as a guide in the course of that activity must obtain a subguide license from the Department. Such a license must not be issued to any person who has not reached 18 years of age. The provisions of this subsection do not apply to a person who:

(a) Is employed by or assists a person who holds a master guide license solely for the purpose of cooking, cutting wood**,** ~~[or]~~ caring for, grooming or saddling livestock**,** ~~[,]~~ or ***transporting a person by motor vehicle to or from a public facility for transportation, including, without limitation, a public airport.***

(b) Holds a master guide license which authorizes him to provide services for the same species and in the same areas as the guide who employs him or requests his assistance and has submitted to the Department a notarized statement which indicates that he is employed by or provides assistance to the guide. The statement must be signed by both guides.

4. Fees for master guide and subguide licenses must be as provided in NRS 502.240.

5. Any person who desires a master guide license must apply for the license on a form prescribed and furnished by the Department. The application must contain the social security number of the applicant and such other information as the Commission may require by regulation. If that person was not licensed as a master guide during the previous licensing year, his application must be accompanied by a nonrefundable fee of $1,500.

6. Any person who desires a subguide license must apply for the license on a form prescribed and furnished by the Department. If that person was not licensed as a subguide during the previous licensing year, his application must be accompanied by a nonrefundable fee of $50.

7. It is unlawful for the holder of a master guide license to operate in any area where a special use permit is required without first obtaining a permit unless he is employed by or providing assistance to a guide pursuant to subsection 3.

8. The holder of a master guide license shall maintain records of the number of hunters and fishermen served, and any other information which the Department may require concerning fish and game taken by such persons. The information must be furnished to the Department on request.

9. If any licensee under this section, or person served by a licensee, is convicted of a violation of any provision of this title or chapter 488 of NRS, the Commission may revoke the license of the licensee and may refuse issuance of another license to the licensee for a period not to exceed 5 years.

10. The Commission may adopt regulations covering the conduct and operation of a guide service.

11. The Department may issue master guide and subguide licenses that are valid only in certain management areas, management units or administrative regions in such a manner as may be determined by the regulations of the Commission.

Sec. 8. NRS 504.390 is hereby amended to read as follows:

504.390 1. As used in this section, unless the context ***otherwise*** requires ~~[otherwise, "guide"]~~ **:**

(a) "Compensation" means any remuneration given in exchange for providing guide service which is predicated on a business relationship between the parties. The term does not include any reimbursement for shared trip expenses, including, without limitation, expenses for gasoline, food or any other expenses that are generally associated with persons who are engaging in recreational hunting or fishing together.

(b) "Guide" means to assist another person ***for compensation*** in hunting wild mammals or wild birds and fishing ~~[.]~~ and includes the transporting of another person or his equipment to hunting and fishing locations within a general hunting and fishing area whether or not the guide determines the destination or course of travel.

2. Each person who provides guide service for compensation or provides guide service as an incidental service to customers of any commercial enterprise, whether a direct fee is charged for the guide service or not, must obtain a master guide license from the Department. Such a license must not be issued to any person who has not reached 21 years of age.

3. Except as otherwise provided in this subsection, each person who assists a person who is required to have a master guide license and acts as a guide in the course of that activity must obtain a subguide license from the Department. Such a license must not be issued to any person who has not

reached 18 years of age. The provisions of this subsection do not apply to a person who:

(a) Is employed by or assists a person who holds a master guide license solely for the purpose of cooking, cutting wood**, [or]** caring for, grooming or saddling livestock**, [,]** or ***transporting a person by motor vehicle to or from a public facility for transportation, including, without limitation, a public airport.***

(b) Holds a master guide license which authorizes him to provide services for the same species and in the same areas as the guide who employs him or requests his assistance and has submitted to the Department a notarized statement which indicates that he is employed by or provides assistance to the guide. The statement must be signed by both guides.

4. Fees for master guide and subguide licenses must be as provided in NRS 502.240.

5. Any person who desires a master guide license must apply for the license on a form prescribed and furnished by the Department. The application must contain such information as the Commission may require by regulation. If that person was not licensed as a master guide during the previous licensing year, his application must be accompanied by a nonrefundable fee of $1,500.

6. Any person who desires a subguide license must apply for the license on a form prescribed and furnished by the Department. If that person was not licensed as a subguide during the previous licensing year, his application must be accompanied by a nonrefundable fee of $50.

7. It is unlawful for the holder of a master guide license to operate in any area where a special use permit is required without first obtaining a permit unless he is employed by or providing assistance to a guide pursuant to subsection 3.

8. The holder of a master guide license shall maintain records of the number of hunters and fishermen served, and any other information which the Department may require concerning fish and game taken by such persons. The information must be furnished to the Department on request.

9. If any licensee under this section, or person served by a licensee, is convicted of a violation of any provision of this title or chapter 488 of NRS, the Commission may revoke the license of the licensee and may refuse issuance of another license to the licensee for a period not to exceed 5 years.

10. The Commission may adopt regulations covering the conduct and operation of a guide service.

11. The Department may issue master guide and subguide licenses that are valid only in certain management areas, management units or administrative regions in such a manner as may be determined by the regulations of the Commission.

Sec. 9. NRS 504.395 is hereby amended to read as follows:

504.395 1. Any person who ***purposefully or knowingly*** acts as a master guide or as a subguide without first obtaining a license pursuant to NRS 504.390 is guilty of ***:***

(a) For a first offense, a gross misdemeanor.

(b) For a second or subsequent offense, a category E felony and shall be punished as provided in NRS 193.130.

2. Any vessel, vehicle, aircraft, pack or riding animal or other equipment used by a person operating in violation of subsection 1 is subject to forfeiture upon the conviction of that person of a gross misdemeanor ***or felony*** if that person knew or should have known that the vessel, vehicle, aircraft, animal or equipment would be used in violation of subsection 1.

3. In addition to any penalty imposed pursuant to subsection 1, if a person is convicted of violating a provision of that subsection, the Commission shall:

(a) Revoke any license, permit or privilege issued to that person pursuant to this title; and

(b) Refuse to issue any new license, permit or privilege to the person for 5 years after the date of the conviction.

Sec. 10. 1. This section and sections 1 to 7, inclusive, and 9 of this act become effective on October 1, 2009.

2. Section 7 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

3. Section 8 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Claborn moved the adoption of the amendment.

Remarks by Assemblyman Claborn.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assemblywoman Kirkpatrick moved that upon return from the printer Assembly Bill No. 3 be rereferred to the Committee on Ways and Means.

Motion carried.

Assembly Bill No. 266.

Bill read second time and ordered to third reading.

Assembly Bill No. 459.

Bill read second time and ordered to third reading.

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

Assembly in recess at 12:02 p.m.

ASSEMBLY IN SESSION

At 12:03 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 15.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 204.

SUMMARY—Revises provisions governing ~~[notice of]~~ sterilization requirements for dogs and cats. (BDR 50-203)

AN ACT relating to animals; requiring notice of any sterilization requirements for dogs and cats required by local ordinance to be posted in a public park and the office of each licensed veterinarian; requiring a retailer or dealer who sells a dog or cat to disclose to the purchaser any sterilization requirements for the animal required by local ordinance; **providing that any local ordinance that requires the sterilization of dogs may not be enforced with respect to certain dogs;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the sterilization of pets that are released by various releasing agencies, including societies to prevent cruelty to animals, animal shelters, nonprofit entities that provide temporary shelter for pets and organizations that take into custody pets which have been abandoned, abused or neglected. (NRS 574.600-574.660) **Section 1** of this bill requires each licensed veterinarian to post in his office written notice of any sterilization requirements for dogs or cats required by local ordinance. **Section 1** further requires a governmental entity with jurisdiction over a public park to post written notice in the park of any sterilization requirements for the animals required by local ordinance. **Sections 2 and 3** of this bill require a retailer or

dealer who sells a dog or cat to disclose to the purchaser any sterilization requirements for the animal required by local ordinance. (NRS 574.460, 574.470) A retailer or dealer who fails to comply with the disclosure requirements is subject to an administrative fine imposed by the Director of the State Department of Agriculture in an amount not to exceed $250 for the first violation, $500 for the second violation and $1,000 for each subsequent violation. (NRS 574.485) **Section 3 also provides that any local ordinance which requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily for hunting, purposes relating to farming or agriculture, breeding or drawing heavy loads, or as a service animal or service animal in training.**

Section 4 of this bill provides that a retailer, dealer or operator must not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500)

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensed veterinarian shall post written notice in a conspicuous place in his office of any sterilization requirements for dogs or cats required by local ordinance.

2. A governmental entity with jurisdiction over a public park in which dogs or cats are allowed shall post written notice in a conspicuous place in the park of any sterilization requirements for dogs or cats required by local ordinance.

3. As used in this section, "licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

Sec. 2. NRS 574.460 is hereby amended to read as follows:

574.460 1. A retailer or dealer shall, before selling a cat, provide the purchaser of the cat with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the cat was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the cat and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the cat, if any, and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the cat's sire and dam with the appropriate breed registry or any health certifications from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the cat before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the cat required by local ordinance.***

(h) The medical history of the cat, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and determined that the cat did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the cat is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) ***The date on which the veterinarian sterilized the cat, if applicable.***

(4) The name and address of the veterinarian who performed the examinations**,** ~~[or]~~ reexaminations ***or sterilization*** or administered any treatments or medications.

~~[(h)]~~ ***(i)*** That a copy of the veterinarian's evaluation of the health of the cat made pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as an attestation that he has read and understands the disclosures contained in the statement.

Sec. 3. NRS 574.470 is hereby amended to read as follows:

574.470 1. A retailer or dealer shall, before selling a dog, provide the purchaser of the dog with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the dog was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the dog and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the dog, if any, and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the dog's sire and dam with the appropriate breed registry or any health certificates from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the dog before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the dog required by local ordinance.***

(h) The medical history of the dog, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and determined that the dog did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the dog is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and, if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) ***The date on which the veterinarian sterilized the dog, if applicable.***

(4) The name and address of the veterinarian who performed the examinations ***,*** ~~[or]~~ reexaminations ***or sterilization*** or administered any treatments or medications.

~~[(h)]~~ ***(i)*** That a copy of the veterinarian's evaluation of the health of the dog performed pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as an attestation that he has read and understands the disclosures contained in the statement.

3. Any local ordinance that requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily:

(a) For hunting;

(b) For purposes relating to farming or agriculture;

(c) For breeding;

(d) For drawing heavy loads; or

(e) As a service animal or a service animal in training, as those terms are defined in NRS 426.097 and 426.099, respectively.

Sec. 4. **NRS 574.500 is hereby amended to read as follows:**

574.500 A retailer, dealer or operator shall not separate a dog or cat from its mother until it is ***8 weeks of age or*** accustomed to taking food or nourishment other than by nursing ~~[.]~~ ***, whichever is later.***

Assemblyman Claborn moved the adoption of the amendment.

Remarks by Assemblyman Claborn.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 26.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 28.

AN ACT relating to charter schools; revising the deadline for submission of an application for renewal of a written charter; revising provisions governing the exemption from annual performance audits for certain charter schools; **revising certain annual reports concerning the progress made by charter schools;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill changes the deadline by which a charter school must submit an application for renewal of the written charter from 90 days to 120 days before the expiration of the charter. (NRS 386.530)

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from the requirement of an annual performance audit and must instead undergo a performance audit every 3 years. (NRS 386.5515) **Section 2** of this bill provides that if such a charter school no longer satisfies the requirements for an exemption or if ~~[good cause]~~ **reasonable evidence of noncompliance concerning the educational progress** exists, the charter school will be required to submit to an annual performance audit. After undergoing the annual performance audit, the charter school may reapply for the exemption.

Existing law requires the board of trustees of a school district and a college or university within the Nevada System of Higher Education which sponsors a charter school to submit an annual report to the State Board of Education on the evaluation of the progress made by the charter school in achieving its educational goals and objectives. (NRS 386.610) Section 3 of this bill requires an annual report to be made by the Department of Education for each charter school sponsored by the State Board.

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

Section 1. NRS 386.530 is hereby amended to read as follows:

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than ~~[90]~~ ***120*** days before the expiration of the charter. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

Sec. 2. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not

request a performance audit of the charter school more frequently than every 3 years without ~~[showing good cause for such a request.]~~ ***reasonable evidence of noncompliance concerning the educational progress of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or*** ~~*[good cause exists for an annual performance audit,]*~~ ***if reasonable evidence of noncompliance concerning the educational progress of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Such a charter school:***

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 3. **NRS 386.610 is hereby amended to read as follows:**

386.610 1. On or before August 15 of each year, if the ***State Board, the*** board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the ***Department, the*** board of trustees or the institution, as applicable, shall submit a written report to the State Board. The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the ***State Board, the*** board of trustees or ***the*** institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the ***Department, the*** school district or ***the*** institution, as applicable, to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

~~[Sec. 3.]~~ ***Sec. 4.*** This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 76.

Bill read second time.

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

Amendment No. 68.

AN ACT relating to the protection of children; exempting certain relatives from licensure as foster care providers as a condition to placing a child in their custody in certain circumstances; revising provisions governing the background check required for obtaining a license as a foster care provider **;** ~~**[**and for placing a child who is in the custody of an agency which provides child welfare services in a home in an emergency situation;**]**~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the licensing authority for foster homes to obtain fingerprints from applicants for a license to conduct a foster home, prospective employees of the applicant or of a licensee and from any resident of the foster home who is 18 years of age or older for the purpose of conducting a criminal background check. (NRS 424.033) Existing law similarly requires such a background check of any adult resident of a home in which an agency which provides child welfare services wishes to place a child in an emergency situation. (NRS 432B.391) In addition, the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, amended title IV of the Social Security Act to require fingerprint-based checks of the national crime information databases and to require checks of any state registry of child abuse and neglect before placing a child in a prospective foster home or with adoptive parents. To comply with this federal Act, **section 1** of this bill requires the licensing authority for foster homes to ~~**[**conduct a preliminary name-based check of the records of criminal history for**]**~~ **obtain permission from** each applicant for a license to conduct a foster home, each prospective employee of the applicant or of a licensee and any resident of the foster home who is 18 years of age or older ~~**[**. (NRS 424.033) Section 1 further requires the licensing authority to obtain permission from each such person**]**~~ to conduct a child abuse and neglect screening in every state in which the person has resided during the last 5 years and then to conduct such a screening. In addition, **section 1** requires ~~**[**each licensing authority**]**~~ **the Division of Child and Family Services of the Department of Health and Human Services** to assist the licensing authorities of other states in conducting a child abuse and neglect screening of a person who has resided in this State if the person has signed a written permission authorizing the screening ~~**[**. Section 3 of this bill imposes the same requirements on an agency which provides child welfare services before placing a child in a home in an emergency situation and requires such cooperation by an agency which provides child welfare services with agencies in other states that are conducting a screening of a person who has resided in this State if the person has signed a written permission authorizing~~

~~the screening. (NRS 432B.391)~~**]** **and authorizes the Division to charge a fee for providing such information in an amount not to exceed the actual cost to the Division to provide the information.**

Existing law requires each foster home to be licensed. (NRS 424.030) "Foster home" includes a family home in which one to six children under the age of 18 are cared for by a person who is not related within the first degree of consanguinity or affinity with or without compensation. (NRS 424.013, 424.014) **Section 2** of this bill expands the exemptions from the provisions governing licensure of foster homes so that those provisions do not apply to a person who **[**~~voluntarily~~**]** provides care to a minor child who is in the custody of an agency which provides child welfare services if the caregiver is related to the child within the **[**~~third~~**]** **fifth** degree of consanguinity and the caregiver has not applied for a license. (NRS 424.090)

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

Section 1. NRS 424.033 is hereby amended to read as follows:

424.033 1. Each applicant for a license to conduct a foster home, prospective employee of that applicant or of a person who is licensed to conduct a foster home, or resident of a foster home who is 18 years of age or older must submit to the licensing authority or its approved designee **[**~~a~~**]** ***:***

(a) A complete set of his fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report to enable the licensing authority or its approved designee to conduct an investigation pursuant to NRS 424.031 **[**~~.~~**]** ***; and***

(b) Written permission to conduct a child abuse and neglect screening.

2. ***For each person who submits the documentation required pursuant to subsection 1, the licensing authority or its approved designee shall*** ~~[:~~

~~*(a) Conduct a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history; and*~~

~~*(b) Conduct]*~~ ***conduct a child abuse and neglect screening of the person in every state in which the person has resided during the immediately preceding 5 years.***

3. The licensing authority or its approved designee may exchange with the Central Repository or the Federal Bureau of Investigation any information respecting the fingerprints submitted.

[~~3.~~**]** ***4.*** ~~*[Each licensing authority in this State]*~~ ***The Division shall assist the licensing authority of another state that is conducting a child abuse and neglect screening of a person who has resided in this State by providing information which is necessary to conduct the screening if the person who is the subject of the screening has signed a written permission authorizing the licensing authority to conduct a child abuse and neglect screening. The Division may charge a fee for providing such information***

in an amount which does not exceed the actual cost to the Division to provide the information.

5. When a report from the Federal Bureau of Investigation is received by the Central Repository, it shall immediately forward a copy of the report to the licensing authority or its approved designee.

Sec. 2. NRS 424.090 is hereby amended to read as follows:

424.090 The provisions of this chapter do not apply to homes in which:

1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.

4. Care is provided to enable a child to take advantage of educational facilities that are not available in his home community.

5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is:

(a) Related to the ~~[~~caretaker~~]~~ ***caregiver*** by blood, adoption or marriage; and

(b) Not in the custody of an agency which provides child welfare services.

7. Care is ~~*[voluntarily]*~~ ***provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS if:***

(a) The caregiver is related to the child within the ~~*[third]*~~ ***fifth degree of consanguinity; and***

(b) The caregiver ~~*[has not applied for licensure]*~~ ***is not licensed pursuant to the provisions of this chapter.***

Sec. 3. ~~[NRS 432B.391 is hereby amended to read as follows:~~

~~432B.391 1. An agency which provides child welfare services or its approved designee [may,] shall, in accordance with the procedures set forth in 28 C.F.R. §§ 901 et. seq., conduct a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history of a resident who is 18 years of age or older of a home in which the agency which provides child welfare services wishes to place a child in an emergency situation to determine whether the person investigated has been arrested for or convicted of any crime.~~

~~2. Upon request of an agency which provides child welfare services that wishes to place a child in a home in an emergency situation, or upon request of the approved designee of the agency which provides child welfare services, a resident who is 18 years of age or older of the home in which the agency which provides child welfare services wishes to place the child must submit to the agency which provides child welfare services or its approved designee [a].~~

~~***(a) A*** complete set of his fingerprints and written permission authorizing the agency which provides child welfare services or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The agency which provides child welfare services or its approved designee shall forward the fingerprints to the Central Repository for Nevada Records of Criminal History within the time set forth in federal law or regulation**[.]**~~ ***; and***

~~***(b) Written permission to conduct a child abuse and neglect screening. The agency which provides child welfare services or its approved designee shall conduct a child abuse and neglect screening of the person in every state in which the person has resided during the immediately preceding 5 years.***~~

~~3. If a resident who is 18 years of age or older of a home in which an agency which provides child welfare services places a child in an emergency situation refuses to provide a complete set of fingerprints ***or written permission to conduct a child abuse and neglect screening*** to the agency which provides child welfare services or its approved designee upon request pursuant to subsection 2, the agency which provides child welfare services must immediately remove the child from the home.~~

~~***4. An agency which provides child welfare services shall assist an agency which provides child welfare services of another state and which is conducting a child abuse and neglect screening of a person who has resided in this State by providing information which is necessary to conduct the screening if the person who is the subject of the screening has signed a written permission authorizing the agency to conduct a child abuse and neglect screening.]*** **(Deleted by amendment.)**~~

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 90.

Bill read second time.

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

Amendment No. 155.

AN ACT relating to deceptive trade practices; requiring that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances; authorizing the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states; ~~[allowing the Attorney General to bring a civil action against a person engaging in certain deceptive trade practices; revising definitions relating to telecommunication services;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows the Attorney General to investigate suspected deceptive trade practices and to institute proceedings to seek certain remedies for such violations. (Chapter 598 of NRS)

Section 1 of this bill requires that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances. **Section 1** also authorizes the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states.

~~[Section 4 of this bill authorizes the Attorney General to seek civil remedies against persons engaging in certain deceptive trade practices. (NRS 598.0963)~~

~~Sections 10 and 11 of this bill revise definitions relating to telecommunication services.]~~

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Attorney General, in the course of the investigation of any alleged violations of this chapter, may obtain and use any intelligence, investigative information or other information obtained as the result of a subpoena or civil investigative demand or made available to the Attorney General on a confidential or similarly restricted basis. Any such intelligence or information received must retain its confidential status under the laws of this State and is exempt from the provisions of NRS 239.010.

2. The Attorney General may withhold from public inspection or refuse to disclose to a person, for such time as the Attorney General considers necessary, any intelligence or information obtained pursuant to subsection 1 or NRS 598.0963 that, in the Attorney General's judgment, would impede or otherwise interfere with an investigation that is currently pending.

3. The Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with officials of the Federal Government and the several states, including, but not limited to, the sharing of information and evidence obtained in accordance with subsection 1 or NRS 598.0963.

Sec. 2. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 4. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.

2. The Attorney General may institute ~~*[civil or]*~~ criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.*** The Attorney General is not required to obtain leave of the court before instituting ~~*[civil or]*~~ criminal proceedings pursuant to this subsection.

3. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 5. NRS 598.0967 is hereby amended to read as follows:

598.0967 1. The Commissioner and the Director, in addition to other powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** may issue subpoenas to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry and prescribe such forms and adopt such regulations as may be necessary to administer the provisions of NRS 598.0903 to

598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.*** Such regulations may include, without limitation, provisions concerning the applicability of the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** to particular persons or circumstances.

2. Service of any notice or subpoena must be made as provided in N.R.C.P. 45(c).

Sec. 6. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act;*** and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➥ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➥ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than $5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 7. NRS 598.0973 is hereby amended to read as follows:

598.0973 1. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to NRS 598.0979 to 598.099, inclusive, ***and section 1 of this act,*** if the court finds that a person has engaged in a deceptive trade practice directed toward an elderly person or a person with a disability, the court may, in addition to any other civil or criminal penalty, impose a civil penalty of not more than $12,500 for each violation.

2. In determining whether to impose a civil penalty pursuant to subsection 1, the court shall consider whether:

(a) The conduct of the person was in disregard of the rights of the elderly person or person with a disability;

(b) The person knew or should have known that his conduct was directed toward an elderly person or a person with a disability;

(c) The elderly person or person with a disability was more vulnerable to the conduct of the person because of the age, health, infirmity, impaired understanding, restricted mobility or disability of the elderly person or person with a disability;

(d) The conduct of the person caused the elderly person or person with a disability to suffer actual and substantial physical, emotional or economic damage;

(e) The conduct of the person caused the elderly person or person with a disability to suffer:

(1) Mental or emotional anguish;

(2) The loss of the primary residence of the elderly person or person with a disability;

(3) The loss of the principal employment or source of income of the elderly person or person with a disability;

(4) The loss of money received from a pension, retirement plan or governmental program;

(5) The loss of property that had been set aside for retirement or for personal or family care and maintenance;

(6) The loss of assets which are essential to the health and welfare of the elderly person or person with a disability; or

(7) Any other interference with the economic well-being of the elderly person or person with a disability, including the encumbrance of his primary residence or principal source of income; or

(f) Any other factors that the court deems to be appropriate.

Sec. 8. NRS 598.0974 is hereby amended to read as follows:

598.0974 A civil penalty must not be imposed against any person who engages in a deceptive trade practice pursuant to NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** in a civil proceeding brought by the Commissioner, Director or Attorney General if a fine has previously been imposed against that person by the Department of Motor Vehicles pursuant to NRS 482.554, for the same act.

Sec. 9. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in

any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act, NRS*** 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 10. ~~[NRS 598.9682 is hereby amended to read as follows:~~

~~598.9682 "Provider" means:~~

~~1. —[~~A telecommunication provider as defined in NRS 704.027;~~]~~ ***~~A person who is in the business of providing a telecommunication service;~~***

~~2. —~~An agent, employee, independent contractor or representative of such a ~~[~~telecommunication provider;~~]~~ ***~~person;~~*** ~~or~~

~~3. —~~A person who originates a charge for a telecommunication service and directly or indirectly bills a customer for the charge.~~]~~ **(Deleted by amendment.)**

Sec. 11. ~~[~~NRS 598.9684 is hereby amended to read as follows:

598.9684 ~~—~~"Telecommunication service" ~~[~~has the meaning ascribed to it in NRS 704.028.~~]~~ ***~~means a service that is designed or has the capability to generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound over a communication system or network, including, without limitation, a communication system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.~~]~~ **(Deleted by amendment.)**

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 120.

Bill read second time and ordered to third reading.

Assembly Bill No. 191.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 69.

SUMMARY— ~~[~~Removes the prospective expiration of a provision requiring~~]~~ **Revises provisions governing** certain examinations of the height and weight of pupils. (BDR ~~[~~S-827~~)]~~ **34-827)**

AN ACT relating to education; **revising provisions governing examinations of the height and weight of pupils enrolled in public schools;** removing the prospective expiration of ~~[~~a~~]~~ **the** requirement that ~~[~~certain physical examinations in public schools include an examination of the height and weight of a representative sample of pupils;~~]~~ **those examinations be conducted;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each school to conduct physical examinations of pupils in certain grades to determine if a child has scoliosis, a visual or auditory problem or a gross physical defect, and to conduct examinations of the height and weight of a representative sample of pupils in certain grades. (NRS 392.420) The requirement for examinations of the height and weight of a representative sample of pupils in certain grades is scheduled to expire on June 30, 2010. (Chapter 414, Statutes of Nevada 2007, p. 1873) ~~[~~This~~]~~

Section 2 of this bill removes the prospective expiration of the requirement that each school conduct examinations of the height and weight of a representative sample of pupils. **Section 1 of this bill revises the grades in which the examinations of the height and weight of a representative sample of pupils are conducted to require each school district to conduct and report on the examinations for grades 4, 7 and 10 and authorizes a school district to conduct the examinations in other grade levels. (NRS 392.420)**

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

Section 1. **NRS 392.420 is hereby amended to read as follows:**

392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:

(a) For visual and auditory problems:

(1) Before the completion of the first year of initial enrollment in elementary school;

(2) In at least one additional grade of the elementary schools; and

(3) In one grade of the middle or junior high schools and one grade of the high schools; and

(b) For scoliosis, in at least one grade of schools below the high schools.

➥ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this subsection must be trained by a school nurse to conduct the observation or examination.

2. In addition to the requirements of subsection 1, each school district shall conduct examinations of ***the*** height and weight of a representative sample of pupils ***enrolled*** in ~~[at least one grade of the:~~

~~(a) Elementary schools within the school district;~~

~~(b) Middle schools or junior high schools within the school district; and~~

~~(c) High schools]~~ ***grades 4, 7 and 10 in the schools*** within the school district. ***In addition to those grade levels, a school district may conduct examinations of the height and weight of a representative sample of pupils enrolled in other grade levels within the school district.***

➥ The Health Division of the Department of Health and Human Services shall define "representative sample" in collaboration with the school districts for purposes of this subsection.

3. If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.

4. A special examination for a possible visual or auditory problem must be provided for any child who:

(a) Is enrolled in a special program;

(b) Is repeating a grade;

(c) Has failed an examination for a visual or auditory problem during the previous school year; or

(d) Shows in any other way that he may have such a problem.

5. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.

6. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.

7. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:

(a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and

(b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.

8. The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.

9. ~~[Each]~~ ***Except as otherwise provided in this subsection, each*** school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. ***If a school district conducts examinations of the height and weight of a representative sample of pupils enrolled in grade levels other than the grade levels required by subsection 2, the results of those examinations***

must not be included in the report submitted to the State Health Officer. Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.

~~[Section 1.]~~ ***Sec. 2.*** Section 5 of chapter 414, Statutes of Nevada 2007, at page 1873, is hereby amended to read as follows:

Sec. 5. ~~[1.]~~ This section and sections 1 and 4 of this act become effective on July 1, 2007.

~~[2. Section 1 of this act expires by limitation on June 30, 2010.~~

~~3. Section 2 of this act becomes effective on July 1, 2010.]~~

~~[Sec. 2.]~~ ***Sec. 3.*** Section 2 of chapter 414, Statutes of Nevada 2007, at page 1872, is hereby repealed.

Sec. 4. **The Legislative Committee on Health Care shall, during the 2009-2010 interim, examine issues related to the weight and health of children, including, without limitation, any information reported to the State Health Officer pursuant to NRS 392.420, as amended by section 1 of this act. The Committee may identify programs, practices and studies to address the needs of children in this State related to maintaining a healthy weight.**

~~[Sec. 3.]~~ ***Sec. 5.*** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

Section 2 of chapter 414, Statutes of Nevada 2007, at page 1872:

Sec. 2. NRS 392.420 is hereby amended to read as follows:

392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:

(a) For visual and auditory problems:

(1) Before the completion of the first year of initial enrollment in elementary school;

(2) In at least one additional grade of the elementary schools; and

(3) In one grade of the middle or junior high schools and one grade of the high schools; and

(b) For scoliosis, in at least one grade of schools below the high schools.

➥ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this

subsection must be trained by a school nurse to conduct the observation or examination.

2. ~~[In addition to the requirements of subsection 1, each school district shall conduct examinations of height and weight of a representative sample of pupils in at least one grade of the:~~

~~(a) Elementary schools within the school district;~~

~~(b) Middle schools or junior high schools within the school district; and~~

~~(c) High schools within the school district,~~

~~➥ The Health Division of the Department of Health and Human Services shall define "representative sample" in collaboration with the school districts for purposes of this subsection.~~

~~3.]~~ If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.

~~[4.]~~ ***3.*** A special examination for a possible visual or auditory problem must be provided for any child who:

(a) Is enrolled in a special program;

(b) Is repeating a grade;

(c) Has failed an examination for a visual or auditory problem during the previous school year; or

(d) Shows in any other way that he may have such a problem.

~~[5.]~~ ***4.*** The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.

~~[6.]~~ ***5.*** In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.

~~[7.]~~ ***6.*** The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:

(a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and

(b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.

~~[8.]~~ ***7.*** The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be

exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.

~~[9.]~~ ***8.*** Each school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 196.

Bill read second time.

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

Amendment No. 57.

AN ACT relating to public health; revising provisions relating to the licensure of facilities for refractive surgery; providing for the closure of a facility for refractive surgery if the facility is operating without a license; **revising provisions governing collaboration agreements between optometrists and ophthalmologists;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person, state or local government or agency thereof to obtain a license to operate or maintain a medical facility, including a facility for refractive surgery. (NRS 449.0151, 449.030) Existing administrative regulations of the State Board of Health exempt a licensed ophthalmologist from these requirements for licensure of a facility if the ophthalmologist provides other ophthalmological medical services in addition to surgical treatments for refractive errors of the eye. (NAC 449.4502) **Section 7** of this bill codifies into statute an exemption for certain licensed ophthalmologists who provide surgical procedures in addition to surgical treatments for refractive errors of the eye and adds a requirement that the ophthalmologist file an affidavit with the Health Division of the Department of Health and Human Services attesting that he provides the additional surgical procedures.

Section 8 of this bill requires a facility for refractive surgery to ensure that: (1) all surgical treatments for refractive errors of the eye are performed by a licensed ophthalmologist; and (2) a licensed ophthalmologist is available for

postoperative care if the medical needs of a patient necessitate the services of an ophthalmologist.

Section 9 of this bill authorizes the Health Division to issue an order to cease and desist upon belief that a person, state or local government or an agency thereof is operating a facility for refractive surgery without a license. **Section 9** also provides that the Health Division may file an action in court for issuance of an injunction and imposition of a civil penalty.

Existing law authorizes an optometrist to, based upon the individual needs of a patient, collaborate with an ophthalmologist for the provision of care to the patient under certain conditions. (NRS 636.374) Section 13 of this bill adds to the conditions a requirement that the collaborating optometrist refer a patient back to the collaborating ophthalmologist, or another ophthalmologist in his absence, if the patient requires care by an ophthalmologist.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[9,]~~ **10,** inclusive, of this act.

Sec. 2. ***As used in sections 2 to ~~[9,]~~ 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Ophthalmologist" means a physician who is qualified to perform laser surgery or intense pulsed light therapy on the globe of the eye pursuant to NRS 630.371 or 633.693.***

Sec. 4. ***"Postoperative care" means assessing, monitoring or treating a patient while the patient is recovering or healing from a surgical treatment for a refractive error of the eye.***

Sec. 5. ***"Preoperative care" means assessing or treating a patient in preparation for a surgical treatment for a refractive error of the eye.***

Sec. 6. ***"Surgical treatment for a refractive error of the eye" means the surgical treatment of a patient with a refractive error of the eye by:***

1. Photorefractive keratectomy;

2. Laser in situ keratomileusis;

3. Conductive keratoplasty;

4. Implantation of an intraocular lens; or

5. Any other available technology, technique or procedure which surgically treats refractive errors of the eye and which has been approved by the United States Food and Drug Administration.

Sec. 7. ***A person is not required to obtain a license to operate and maintain a facility for refractive surgery pursuant to the provisions of this chapter if the person:***

1. Is an ophthalmologist;

2. Provides surgical procedures to patients at the facility in addition to preoperative care, postoperative care and surgical treatments for refractive errors of the eye; and

3. Files with the Health Division an affidavit attesting that the person provides surgical procedures at the facility in addition to preoperative care, postoperative care and surgical treatments for refractive errors of the eye.

Sec. 8. ***A facility for refractive surgery shall ensure that:***

1. All surgical treatments for refractive errors of the eye performed at the facility are performed only by an ophthalmologist.

2. The ophthalmologist who performs a surgical treatment for refractive errors of the eye at the facility:

(a) Is available in person for postoperative care if the medical needs of a patient necessitate the services of an ophthalmologist; or

(b) Enters into an agreement with another ophthalmologist to be available in person for postoperative care if the medical needs of the patient necessitate the services of an ophthalmologist.

Sec. 9. ***1. If the Health Division believes that a person who is required to obtain a license pursuant to this chapter is operating a facility for refractive surgery without such a license, the Health Division may issue an order to cease and desist the operation of the facility. The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service.***

2. An order issued pursuant to subsection 1 expires 30 days after the date of service unless the Health Division institutes an action in a court of competent jurisdiction seeking an injunction.

3. Upon a showing by the Health Division that a person is operating a facility for refractive surgery without a license issued pursuant to this chapter, a court of competent jurisdiction may:

(a) Enjoin the person from operating the facility.

(b) Impose a civil penalty to be recovered by the Health Division of not more than $10,000 for the first offense and of not less than $10,000 or more than $20,000 for a second or subsequent offense.

4. A person enjoined or penalized pursuant to subsection 3 may not apply for a license to operate a facility for refractive surgery for a period of 6 months after the date on which the court issues the injunction or penalty.

Sec. 10. The provisions of sections 2 to 10, inclusive, of this act do not prohibit an ophthalmologist from collaborating with an optometrist to provide care to a patient if the collaboration complies with the requirements of NRS 636.374.

~~[Sec. 10.]~~ ***Sec. 11.*** NRS 449.00387 is hereby amended to read as follows:

449.00387 ***1.*** "Facility for refractive surgery" means a freestanding facility that provides limited medical services ~~[for]~~ ***relating to surgical treatments for patients with refractive errors of the eye, including*** the ***preoperative care and*** evaluation of ***those*** patients ***,*** ~~[with refractive errors of~~

~~the eye and~~] the surgical treatment of those patients ~~[.]~~ ***and the postoperative care and evaluation of those patients.***

2. As used in this section:

(a) "Postoperative care" has the meaning ascribed to it in section 4 of this act.

(b) "Preoperative care" has the meaning ascribed to it in section 5 of this act.

~~[Sec. 11.]~~ ***Sec. 12.*** NRS 449.210 is hereby amended to read as follows:

449.210 1. Except as otherwise provided in ~~[subsections 2 and 3,]~~ ***subsection 2 and section 9 of this act,*** a person who operates a medical facility or facility for the dependent without a license issued by the Health Division is guilty of a misdemeanor.

2. A person who operates a residential facility for groups without a license issued by the Health Division:

(a) Is liable for a civil penalty to be recovered by the Attorney General in the name of the Health Division for the first offense of not more than $10,000 and for a second or subsequent offense of not less than $10,000 ~~[nor]~~ ***or*** more than $20,000;

(b) Shall ~~[be required to]~~ move all of the persons who are receiving services in the residential facility for groups to a residential facility for groups that is licensed at his own expense; and

(c) May not apply for a license to operate a residential facility for groups for a period of 6 months after he is punished pursuant to this section.

3. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used for the protection of the health, safety and well-being of patients, including residents of residential facilities for groups.

Sec. 13. **NRS 636.374 is hereby amended to read as follows:**

636.374 An optometrist may, based upon the individual needs of a particular patient, collaborate with an ophthalmologist for the provision of care to the patient, for a fixed fee, regarding one or more surgical procedures if:

1. The collaborating parties prepare and maintain in their respective medical records regarding the patient, written documentation of each procedure and other service performed by each collaborating party which includes the date each procedure and other service is performed;

2. The fixed fee is divided between the collaborating parties in proportion to the services personally performed by each of them; ~~[and]~~

3. ***The collaborating parties agree that the collaborating optometrist will refer the patient back to the collaborating ophthalmologist or, if the collaborating ophthalmologist is not available, another ophthalmologist designated by the collaborating ophthalmologist to provide care to the***

patient if the medical needs of the patient necessitate the provision of care by an ophthalmologist; and

4. The collaborating parties provide to the patient and maintain in their respective medical records regarding the patient, a written document, signed by each of the collaborating parties and the patient, containing:

(a) The name, business address and telephone number of each of the collaborating parties;

(b) The amount of the fixed fee for the procedures and services;

(c) The proportion of that fee to be received by each collaborating party;

(d) A statement, signed by the patient and a witness who is not one of the collaborating parties, that the patient voluntarily, knowingly and willingly desires the performance of the postoperative care by the collaborating optometrist;

(e) A statement that the patient is entitled to return to the collaborating ophthalmologist for postoperative care at any time after the surgery; and

(f) A statement which:

(1) Indicates that the practice of optometry and ophthalmology are respectively regulated by the Nevada State Board of Optometry and the Board of Medical Examiners; and

(2) Contains the address and telephone number of each of those Boards.

~~[Sec. 12.]~~ ***Sec. 14.*** This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 231.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 79.

AN ACT relating to lobbying; exempting certain veterans from the requirement to pay any fee established for registration as an uncompensated lobbyist; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Legislative Commission is authorized to establish fees for registration as a lobbyist. (NRS 218.932) This bill exempts a veteran who is not compensated for his lobbying activities and who provides proof of his discharge or release from military service under honorable conditions from the requirement to pay any fee established for registration as an uncompensated lobbyist.

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

Section 1. NRS 218.932 is hereby amended to read as follows:

218.932 1. The Legislative Commission shall adopt regulations to carry out the provisions of NRS 218.900 to 218.944, inclusive, may ***, except as otherwise provided in this subsection,*** require fees for registration, payable into the Legislative Fund, and may classify lobbyists for this purpose. ***A veteran who does not receive compensation for his lobbying activities is not required to pay any fee established for registration if he provides proof of his discharge or release from the Armed Forces of the United States , a reserve component thereof or the ~~[Nevada]~~ National Guard under honorable conditions.***

2. The Director shall:

(a) Prepare and furnish forms for the statements and reports required to be filed.

(b) Prepare and publish uniform methods of accounting and reporting to be used by persons required to file such statements and reports, including guidelines for complying with the reporting requirements of NRS 218.900 to 218.944, inclusive.

(c) Accept and file any information voluntarily supplied that exceeds the requirements of NRS 218.900 to 218.944, inclusive.

(d) Develop a filing, coding and cross-indexing system consistent with the purposes of NRS 218.900 to 218.944, inclusive.

(e) Make the statements and reports available for public inspection during regular office hours.

(f) Preserve the statements and reports for a period of 5 years from the date of filing.

(g) Compile and keep current an alphabetical list of registrants, including their address, the name and address of each person for whom the registrant is lobbying and the principal areas of interest on which he expects to lobby. A copy of the list must be furnished to each Legislator, to the clerks of the respective counties for preservation and public inspection, and to any person who requests a copy and pays the cost of reproduction.

Sec. 2. NRS 218.940 is hereby amended to read as follows:

218.940 1. Except as otherwise provided in this ~~[subsection,]~~ ***section,*** a registrant who files an activity report after the time provided in NRS 218.926 shall pay to the Director a fee for late filing of $10 for each day that it was late, but the Director may reduce or waive this fee upon a finding of just cause. ~~[The]~~

2. Except as otherwise provided in this subsection, the Legislative Commission may by regulation exempt a classification of lobbyist from the fee for late filing.

~~[2.]~~ ***A veteran who does not receive compensation for his lobbying activities is exempt from the fee for late filing if he provides proof of his discharge or release from the Armed Forces of the United States , a reserve component thereof or the ~~[Nevada]~~ National Guard under honorable conditions.***

3. An activity report with respect to which a late filing fee has been paid by the registrant or waived by the Director shall be deemed timely filed, and the late filing is not a public offense.

Sec. 3. This act becomes effective upon passage and approval.

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 232.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 80.

SUMMARY—Revises provisions governing the **Legislative Commission and the** Interim Finance Committee. (BDR 17-810)

AN ACT relating to the State Legislature; revising provisions governing the **Legislative Commission and the** Interim Finance Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Legislative Commission, consisting of 12 members, and requires the Legislature to determine by joint rule at each regular session the following for the Legislative Commission: (1) the method of determining the regular and alternate members; (2) the method for filling vacancies; (3) the terms of office of the members; and (4) the method of selecting and the term of office for the Chairman. (NRS 218.660) Subsection 5 of Joint Standing Rule No. 11 adopted by the 2009 Legislative Session provides that the membership of a member of the Legislative Commission who does not become a candidate for reelection or who is defeated for reelection terminates on the day next after the election and requires the vacancy to be filled as provided in the Rule. Section 1 of this bill codifies in statute the provisions of the Joint Standing Rule concerning the termination of the membership of a member of the Legislative Commission who does not become a candidate for reelection or who is defeated.

Under existing law, the Interim Finance Committee is created in the Legislative Counsel Bureau to perform certain fiscal functions primarily during the legislative interims. The Interim Finance Committee is composed of the members of the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, known as the money committees, during the current or immediately preceding legislative session. (NRS 218.6825)

Under existing law, the chairmanship of the Interim Finance Committee alternates each legislative interim between the immediate past Chairman of the money committee of each House of the Legislature. The term of the

Chairman of the Interim Finance Committee extends from the convening of one legislative session until the convening of the next legislative session. (NRS 218.6825) **~~[This]~~ Section 2 of this** bill provides that the term of the Chairman of the Interim Finance Committee terminates before the convening of the next regular session of the Legislature if a new Chairman of the applicable money committee has been designated, after the intervening general election, for the next regular session of the Legislature.

Existing law provides that the membership on the Interim Finance Committee of any member who does not become a candidate for reelection or who is defeated for reelection continues until the convening of the next legislative session. (NRS 218.6825) **~~[This]~~ Section 2 of this** bill terminates the membership of such a member on the day next after the general election, which is the same day on which his term of office as a Legislator ends. (Nev. Const. Art. 4, §§ 3, 4) **~~[This bill]~~ Section 2** provides for the appointment of an alternate to fill the vacancy until the members of the applicable money committee have been designated for the ensuing regular session of the Legislature or until another alternate has been appointed. **~~[This bill]~~ Section 2** also provides that the persons designated to serve on the money committees for the ensuing regular session become members of the Interim Finance Committee at the time those persons are so designated.

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

Section 1. **NRS 218.660 is hereby amended to read as follows:**

218.660 1. There is hereby created in the Legislative Counsel Bureau a Legislative Commission consisting of 12 members.

2. At each regular session of the Legislature held in odd-numbered years, the Senate shall, by resolution, designate six Senators as regular members of the Legislative Commission and six Senators as alternates, and the Assembly shall, by resolution, designate six Assemblymen as regular members of the Legislative Commission and six Assemblymen as alternates.

3. The Legislature shall determine by joint rule at each regular session of the Legislature in odd-numbered years:

(a) The method of determining the majority party and the minority party regular and alternate membership on the Legislative Commission.

(b) The method of filling vacancies on the Legislative Commission.

(c) ~~[The terms of office of members.~~

~~(d)]~~ The method of selecting the Chairman.

~~[(e)]~~ ***(d)*** The term of office of the Chairman.

4. The members of the Legislative Commission serve until their successors are appointed by resolution as provided in this section, except that the membership of any member who does not become a candidate for reelection or who is defeated for reelection terminates on the day next after the election and the vacancy must be filled as provided by the joint rule adopted pursuant to subsection 3.

~~[Section 1.]~~ ***Sec. 2.*** NRS 218.6825 is hereby amended to read as follows:

218.6825 1. There is hereby created in the Legislative Counsel Bureau an Interim Finance Committee ***. Except as otherwise provided in this section, the Interim Finance Committee is*** composed of the members of the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance during the current or immediately preceding session of the Legislature. ~~[The]~~

2. Except as otherwise provided in this subsection, the immediate past Chairman of the Senate Standing Committee on Finance is the Chairman of the Interim Finance Committee for the period ending with the convening of each even-numbered regular session of the Legislature. The immediate past Chairman of the Assembly Standing Committee on Ways and Means is the Chairman of the Interim Finance Committee during the next legislative interim, and the chairmanship alternates between the houses of the Legislature according to this pattern.

~~[2.]~~ ***The term of the Chairman of the Interim Finance Committee terminates if a new Chairman of the Assembly Standing Committee on Ways and Means or the Senate Standing Committee on Finance, as the case may be, is designated for the next regular session of the Legislature, in which case that person so designated serves as the Chairman of the Committee until the convening of that regular session.***

3. If any regular member of the ***Interim Finance*** Committee informs the Secretary that he will be unable to attend a particular meeting, the Secretary shall notify the Speaker of the Assembly or the Majority Leader of the Senate, as the case may be, to appoint an alternate for that meeting from the same house and political party as the absent member.

~~[3.]~~ ***4. Except as otherwise provided in subsection 5, the term of a member of the Interim Finance Committee expires upon the convening of the next regular session of the Legislature unless the member is replaced by the appointing authority. If the Speaker designate of the Assembly or the Majority Leader designate of the Senate designates members of the Assembly Standing Committee on Ways and Means or the Senate Standing Committee on Finance, as applicable, for the next ensuing regular session of the Legislature, the designated members become members of the Interim Finance Committee. A member may be reappointed.***

5. The membership of any member who does not become a candidate for reelection or who is defeated for reelection ~~[continues until the next session of the Legislature is convened.~~

~~4.]~~ ***terminates on the day next after the general election. The Speaker designate of the Assembly or the Majority Leader designate of the Senate, as the case may be, shall appoint an alternate to fill the vacancy on the Interim Finance Committee. Except as otherwise provided in this subsection, each alternate serves on the Committee:***

(a) If he is a member of the Assembly, until the Speaker designate of the Assembly designates the members of the Assembly Standing Committee on Ways and Means for the next ensuing regular session of the Legislature or appoints a different alternate.

(b) If he is a member of the Senate, until the Majority Leader designate of the Senate designates the members of the Senate Standing Committee on Finance for the next ensuing regular session of the Legislature or appoints a different alternate.

6. The Director of the Legislative Counsel Bureau shall act as the Secretary of the Interim Finance Committee.

~~[5.]~~ ***7.*** A majority of the members of the Assembly Standing Committee on Ways and Means and a majority of the members of the Senate Standing Committee on Finance, jointly, may call a meeting of the Interim Finance Committee if the Chairman does not do so.

~~[6.]~~ ***8.*** In all matters requiring action by the Interim Finance Committee, the vote of the Assembly and Senate members must be taken separately. No action may be taken unless it receives the affirmative vote of a majority of the Assembly members and a majority of the Senate members.

~~[7.]~~ ***9.*** Except during a regular or special session of the Legislature, each member of the Interim Finance Committee and appointed alternate is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a Committee meeting or is otherwise engaged in Committee work plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207. All such compensation must be paid from the Contingency Fund in the State Treasury.

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 243.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 152.

AN ACT relating to education; requiring certain employers to grant leave to a parent, guardian or custodian of a child enrolled in public school or private school to participate in certain school conferences**,** ~~[and]~~ activities ~~[;]~~ **and events;** prohibiting employers from taking certain retaliatory actions against an employee who takes the authorized leave; **authorizing a parent, guardian or custodian who is retaliated against to request a hearing before the Labor Commissioner;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires employers who employ 50 or more employees to grant to a parent, guardian or custodian of a child enrolled in a public school 4 hours of leave from his place of employment **, which must be taken in increments of 1 hour,** per school year per child to attend school-related activities **or events** or to volunteer at the school in which his child is enrolled. **Section 1** also requires the leave to be taken at a mutually agreed upon time and the employer is not required to pay the employee for the leave.

Existing law makes it unlawful for any employer or his agent to terminate the employment of a person who is a parent, guardian or custodian of a child enrolled in public school because the person attended a conference requested by a school administrator or was notified of an emergency involving the child at school. (NRS 392.920) **Section 2** of this bill revises the prohibited acts by an employer or his agent to include demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child. **Section 2** also prohibits the termination, demotion, suspension or other discrimination of a parent, guardian or custodian of a child who takes leave authorized by **section 1 ~~[.]~~ of this bill and authorizes a parent, guardian or custodian of a child who is terminated, demoted, suspended or otherwise discriminated against to request a hearing before the Labor Commissioner.**

Section 4 of this bill imposes the same requirements on employers for the parents, guardians and custodians of children enrolled in a private school. **Section 5** of this bill prohibits an employer or his agent from terminating, demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child enrolled in a private school for attending a conference requested by a school administrator, being notified of an emergency involving the child at school or taking leave authorized by **section 4**. **Section 5 also authorizes a hearing before the Labor Commissioner.**

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An employer shall grant a parent, guardian or custodian of a child who is enrolled in a public school leave from his place of employment for 4 hours per school year , which must be taken in increments of at least 1 hour, to:

(a) Attend parent-teacher conferences;

(b) Attend school-related activities ~~[; and]~~ during regular school hours;

(c) Volunteer or otherwise be involved at the school in which his child is enrolled ~~[.]~~ during regular school hours; and

(d) Attend school-sponsored events.

➥ The leave must be at a time mutually agreed upon by the employer and the employee.

2. An employer may require:

(a) An employee to provide a written request for the leave at least ~~*[48 hours]*~~ ***5 school days before the leave is taken; and***

(b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the school or school-related activity for one of the purposes set forth in subsection 1.

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in public school.

5. As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.

Sec. 2. NRS 392.920 is hereby amended to read as follows:

392.920 1. It is unlawful for an employer or his agent to:

(a) Terminate the employment of ***, or to demote, suspend or otherwise discriminate against,*** a person who, as the parent, guardian or custodian of a child:

(1) Appears at a conference requested by an administrator of the school attended by the child; ~~[or]~~

(2) Is notified during his work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to section 1 of this act if the employer is subject to the requirements of that section; or

(b) Assert to the person that his appearance or prospective appearance at such a conference ***,*** ~~[or]~~ the receipt of such a notification during his work ***or leave taken pursuant to section 1 of this act*** will result in the termination of his employment ~~[.]~~ ***or a demotion, suspension or other discrimination in the terms and conditions of his employment.***

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

3. A person ***who is*** discharged from employment ***or who is demoted, suspended or otherwise discriminated against*** in violation of subsection 1 may ~~[commence a civil action against his employer *within 1 year after the date of the alleged violation* and obtain:~~

~~(a) Wages and benefits lost as a result of the violation;~~

~~(b) An order of reinstatement without loss of position, seniority or benefits;~~

~~(c) Damages equal to the amount of the lost wages and benefits; and~~

~~(d) Reasonable attorney's fees fixed by the court.]~~ ***request a hearing before the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request***

such a hearing. The hearing must be conducted in the manner prescribed in NRS 607.205 to 607.215, inclusive.

Sec. 3. Chapter 394 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. ***1. An employer shall grant a parent, guardian or custodian of a child who is enrolled in a private school leave from his place of employment for 4 hours per school year , which must be taken in increments of at least 1 hour, to:***

(a) Attend parent-teacher conferences;

(b) Attend school-related activities [; and] during regular school hours;

(c) Volunteer or otherwise be involved at the school in which his child is enrolled [.] during regular school hours; and

(d) Attend school-sponsored events.

➥ ***The leave must be at a time mutually agreed upon by the employer and the employee.***

2. An employer may require:

(a) An employee to provide a written request for the leave at least [48 hours] 5 school days before leave is taken; and

(b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the private school or school-related activity for one of the purposes set forth in subsection 1.

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in private school.

5. As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.

Sec. 5. ***1. It is unlawful for an employer or his agent to:***

(a) Terminate the employment of, or to demote, suspend or otherwise discriminate against, a person who, as the parent, guardian or custodian of a child:

(1) Appears at a conference requested by an administrator of the private school attended by the child;

(2) Is notified during his work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to section 4 of this act if the employer is subject to the requirements of that section; or

(b) Assert to the person that his appearance or prospective appearance at such a conference, the receipt of such a notification during his work or leave taken pursuant to section 4 of this act will result in the termination of his employment or a demotion, suspension or other discrimination in the terms and conditions of his employment.

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

3. A person who is discharged from employment or who is demoted, suspended or otherwise discriminated against in violation of subsection 1 may ~~*[commence a civil action against his employer within 1 year after the date of the alleged violation and obtain:*~~

~~*(a) Wages and benefits lost as a result of the violation;*~~

~~*(b) An order of reinstatement without loss of position, seniority or benefits;*~~

~~*(c) Damages equal to the amount of the lost wages and benefits; and*~~

~~*(d) Reasonable attorney's fees fixed by the court.]*~~ ***request a hearing before the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a hearing. The hearing must be conducted in the manner prescribed in NRS 607.205 to 607.215, inclusive.***

Sec. 6. NRS 394.201 is hereby amended to read as follows:

394.201 NRS 394.201 to 394.351, inclusive, ***and sections 4 and 5 of this act*** may be cited as the Private Elementary and Secondary Education Authorization Act.

Sec. 7. This act becomes effective on ~~[July 1,]~~ **August 15,** 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 253.

Bill read second time and ordered to third reading.

Assembly Bill No. 329.

Bill read second time and ordered to third reading.

Assembly Bill No. 372.

Bill read second time and ordered to third reading.

Assembly Bill No. 403.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 164.

AN ACT relating to taxes on retail sales; revising various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to authorize the Legislature to amend ~~[or repeal]~~ a provision of that Act ~~[without additional voter approval]~~ **only** when necessary to resolve a

conflict with a federal law or interstate agreement for the administration of sales and use taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110) **Sections 1-9** of this bill carry out recent amendments to the Agreement regarding the exclusion of electronically transferred products from certain required definitions, the certification by the State of the software of certain computer programs that calculate the taxes due on a sale, a limited waiver of liability for sellers who fail to collect a tax increase that becomes effective within 30 days after the enactment of a statute which provides for that increase, and the exclusion of certain delivery charges from the calculation of sales and use taxes.

Existing law authorizes the adoption of an ordinance for the imposition of a sales and use tax in Nye County to support public safety services. (Nye County Sales and Use Tax Act of 2007) **Section 10** of this bill revises the requirements for such an ordinance in accordance with the provisions of the Streamlined Sales and Use Tax Agreement imposing restrictions on the date of implementation of changes in tax rates.

Existing law includes various provisions of the Sales and Use Tax Act of 1955. (NRS 372.010-372.115, 372.185-372.205, 372.260-372.284, 372.285-372.326, 372.327-372.345, 372.350) Under existing law, the provisions of that Act, which was submitted to and approved by the voters at the 1956 General Election, cannot be amended or repealed without additional voter approval. (Nev. Const. Art. 19, § 1) **Sections 11-19** of this bill provide for the submission to the voters of an amendment to that Act to authorize the Legislature to amend that Act ~~[without any additional voter approval]~~ **only** if such a legislative amendment is necessary to resolve a conflict with any federal law or interstate agreement for the administration of sales and use taxes, and the legislative amendment does not increase the rate of a tax imposed pursuant to that Act or narrow the scope of a tax exemption approved by the voters.

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

Section 1. Chapter 360B of NRS is hereby amended by adding thereto a new section to read as follows:

1. "Specified digital products" means electronically transferred digital audio works, digital audiovisual works and digital books.

2. As used in this section:

(a) "Digital audio works" means works that result from the fixation of a series of musical, spoken or other sounds, including ringtones.

(b) "Digital audiovisual works" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(c) "Digital books" means works that are generally recognized in the ordinary and usual sense as books.

(d) "Electronically transferred" means obtained by a purchaser by means other than tangible storage media.

(e) "Ringtones" means digitized sound files that are downloaded onto a device and may be used to alert the customer with respect to a communication.

Sec. 2. NRS 360B.225 is hereby amended to read as follows:

360B.225 The Department shall:

1. Review the software submitted for the certification of a certified automated system pursuant to the Agreement and, if the Department determines that the software ~~[adequately classifies each exemption from the sales and use taxes imposed in this State which is based upon the description of a product,]~~ ***accurately reflects the taxability of the product categories included in the program,*** certify its acceptance of the ~~[classifications made by the system.]~~ ***determination of the taxability of the product categories included in the program.***

2. Except as otherwise provided in subsection 3:

(a) If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that certified service provider, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:

(1) The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and

(2) Any penalties and interest on that amount.

(b) If a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that registered seller, waive any liability of the registered seller for:

(1) The amount of the sales or use tax which the registered seller fails to collect as a result of that reliance; and

(2) Any penalties and interest on that amount.

3. Notify a certified service provider or a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 if the Department determines that the taxability of any item or transaction is being incorrectly classified by the certified automated system used by the certified service provider or registered seller. The provisions of subsection 2 do not require the waiver of any liability for the incorrect classification of an item or transaction regarding which notice was provided to the certified service provider or registered seller pursuant to this subsection if the incorrect classification occurs more than 10 days after the receipt of that notice.

Sec. 3. NRS 360B.250 is hereby amended to read as follows:

360B.250 The Department shall:

1. If a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, waive any liability of the registered seller for:

(a) The amount of the sales or use tax which the registered seller fails to collect as a result of that reliance; and

(b) Any penalties and interest on that amount.

2. If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:

(a) The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and

(b) Any penalties and interest on that amount.

3. Waive any liability of a purchaser for any sum for which the liability of a registered seller or certified service provider is required to be waived pursuant to subsection 1 or 2 with regard to a transaction involving that purchaser.

4. If a purchaser fails to pay the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230, waive any liability of the purchaser for:

(a) The amount of the sales or use tax which the purchaser fails to pay as a result of that reliance; and

(b) Any penalties and interest on that amount.

5. If an increase in the rate of any sales or use tax imposed in this State becomes effective within 30 days after the enactment of a statute providing for that increase, waive any liability of a registered seller for:

(a) The amount of the sales or use tax which the registered seller fails to collect at the increased rate; and

(b) Any penalties and interest on that amount,

➥ ***unless the registered seller fails to collect the tax at the rate in effect immediately preceding that increase, the registered seller's failure to collect the tax at the increased rate extends beyond the first 30 days after the enactment of the statute providing for that increase, the registered seller fraudulently fails to collect the tax at the increased rate or the registered seller solicits purchasers based on the rate in effect immediately preceding that increase.***

Sec. 4. NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold must state separately any amount received by the seller for:

1. ***Any transportation, shipping or postage charges for the delivery of the property to a location designated by the purchaser.***

2. Any installation charges for the property;

~~[2.]~~ ***3.*** Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;

~~[3.]~~ ***4.*** Any interest, financing and carrying charges from credit extended on the sale; and

~~[4.]~~ ***5.*** Any taxes legally imposed directly on the consumer.

Sec. 5. NRS 360B.400 is hereby amended to read as follows:

360B.400 In administering the provisions of this chapter and chapters 372 and 374 of NRS, and in carrying out the provisions of the Agreement, the Department shall construe the terms defined in NRS 360B.405 to 360B.495, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, in the manner prescribed by those sections.

Sec. 6. NRS 360B.415 is hereby amended to read as follows:

360B.415 "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. ***The term does not include any specified digital products.***

Sec. 7. NRS 360B.425 is hereby amended to read as follows:

360B.425 "Delivery charges" means charges by a seller of personal property for the preparation and delivery of the property to a location designated by the purchaser of the property, including, but not limited to, charges for transportation, shipping, postage, handling, crating and packing ~~[.]~~ ***, except that the term does not include any charges for transportation, shipping or postage which are stated separately pursuant to NRS 360B.290.***

Sec. 8. NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

(a) The seller's cost of the property sold;

(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges ***which are not stated separately pursuant to NRS 360B.290*** and excluding any installation charges which are stated separately pursuant to NRS 360B.290; and

(d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

(a) ***Any delivery charges which are stated separately pursuant to NRS 360B.290;***

(b) Any installation charges which are stated separately pursuant to NRS 360B.290;

~~[(b)]~~ ***(c)*** Any credit for any trade-in which is:

(1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and

(2) Stated separately pursuant to NRS 360B.290;

~~[(c)]~~ ***(d)*** Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

~~[(d)]~~ ***(e)*** Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to NRS 360B.290; and

~~[(e)]~~ ***(f)*** Any taxes legally imposed directly on the consumer which are stated separately pursuant to NRS 360B.290.

3. The term includes consideration received by a seller from a third party if:

(a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(d) Any of the following criteria is satisfied:

(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.

(2) The purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.

(3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

Sec. 9. NRS 360B.485 is hereby amended to read as follows:

360B.485 "Tangible personal property" includes, but is not limited to, electricity, water, gas, steam and prewritten computer software. ***The term does not include any products that are transferred electronically to a purchaser.***

Sec. 10. Section 15 of the Nye County Sales and Use Tax Act of 2007, being chapter 545, Statutes of Nevada 2007, at page 3425, is hereby amended to read as follows:

Sec. 15. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate that does not exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed on the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed ~~[,]~~ ***or on which any change in the rate of tax becomes effective,*** which must ~~[not be earlier than]~~ ***be*** the first day of the ~~[second calendar month following]~~ ***first calendar quarter that begins at least 120 days after*** the effective date of the ordinance.

Sec. 11. The Legislature hereby finds and declares that:

1. There has been a rapid increase during recent years in the conduct of interstate commerce through telecommunication and electronic means.

2. Many of the merchants who transact these forms of interstate commerce have been discouraged by the substantial burdens of ascertaining and complying with the extremely diverse and detailed tax laws of each state from making the efforts necessary to collect sales and use taxes on behalf of the states in which they do not maintain a place of business.

3. As a result of the proliferation of these forms of interstate commerce and federal restrictions on the ability of each state to collect sales and use taxes from merchants who do not maintain a place of business in that state, the people of this State are losing millions of dollars in state and local tax revenue.

4. The nonpayment of Nevada sales and use taxes by merchants in other states provides those merchants with an unfair competitive advantage over local merchants who lawfully pay the sales and use taxes due in this State.

5. As a result of the similarity of these circumstances in the various states, considerable efforts are being made to provide more uniformity, simplicity and fairness in the administration and collection of sales and use taxes in this country, including the introduction and consideration of congressional legislation and the participation by Nevada and many other states in the Streamlined Sales and Use Tax Agreement.

6. Compliance with the Streamlined Sales and Use Tax Agreement and its amendments has and will continue to require amendments to the Nevada Sales and Use Tax Act, and it is anticipated that any congressional legislation will also necessitate such amendments.

7. The Nevada Sales and Use Tax Act was approved by referendum at the General Election in 1956 and therefore, pursuant to Section 1 of Article 19 of the Constitution of the State of Nevada, may not be "amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people."

8. Unlike the circumstances in other states where legislatures have the direct authority to amend sales and use tax laws in a timely manner, the period required for the legislative enactment and subsequent voter approval of any necessary amendments to the Nevada Sales and Use Tax Act has placed the ability of this State to comply with the Streamlined Sales and Use Tax Agreement and any congressional legislation in serious jeopardy.

9. It would be beneficial to the public welfare for the people of this State by direct vote to authorize the Legislature to enact without any additional voter approval such amendments to the Nevada Sales and Use Tax Act as are necessary to resolve conflicts with any congressional legislation or interstate agreements providing for the administration, collection or enforcement of sales and use taxes.

Sec. 12. At the General Election on November 2, 2010, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently

approved by the people of this State at the General Election held on November 6, 1956.

Sec. 13. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 14. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 2, 2010, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

AN ACT to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 788, is hereby amended by adding thereto a new section to be designated as section 153.5, immediately following section 153.2, to read as follows:

Sec. 153.5. ~~*[The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, only if such legislation:*~~

~~*1. Is necessary to resolve a conflict with any federal statute or regulation or interstate agreement for the administration, collection or enforcement of sales and use taxes;*~~

~~*2. Does not increase the rate of any tax imposed pursuant to this Act; and*~~

~~*3. Does not narrow the scope of any tax exemption provided pursuant to the provisions of sections 48 to 67.1, inclusive, of this Act, as amended by the direct vote of the people.]*~~ ***The people of the State of Nevada hereby authorize the Legislature to enact legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, only if such legislation meets all of the following criteria:***

1. It is necessary to resolve a conflict with any federal statute or regulation or interstate agreement for the administration, collection or enforcement of sales and use taxes;

2. It does not increase the rate of any tax imposed pursuant to this Act; and

3. It does not narrow the scope of any tax exemption provided pursuant to the provisions of sections 48 to 67.1, inclusive, of this Act, as amended by the direct vote of the people.

Sec. 2. This act becomes effective on January 1, 2011.

Sec. 15. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

~~[Shall the Sales and Use Tax Act of 1955 be amended to authorize the Legislature to amend or repeal any provision of this Act without an additional direct vote of the people if necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?]~~ **Shall the Sales and Use Tax Act of 1955 be amended to authorize the Legislature to amend a provision of this Act only if necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?**

Yes ☐ No ☐

Sec. 16. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

~~[The proposed amendment to the Sales and Use Tax Act of 1955 would authorize the Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval only if that legislation is necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes, that legislation does not increase the rate of any tax imposed pursuant to this Act, and that legislation does not narrow the scope of a tax exemption approved by the direct vote of the people.]~~ **The proposed amendment to the Sales and Use Tax Act of 1955 would authorize the Legislature to enact legislation amending a provision of this Act only if that legislation is necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes, that legislation does not increase the rate of any tax imposed pursuant to this Act, and that legislation does not narrow the scope of a tax exemption approved by the direct vote of the people.**

Sec. 17. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2011. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 18. All general election laws not inconsistent with this act are applicable.

Sec. 19. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act

and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the Office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 20. The amendatory provisions of section 10 of this act do not apply to any ordinance enacted before the effective date of this act.

Sec. 21. This act becomes effective upon passage and approval.

Assemblywoman McClain moved the adoption of the amendment.

Remarks by Assemblywoman McClain.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 417.

Bill read second time and ordered to third reading.

Assembly Bill No. 518.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 88 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that upon return from the printer Assembly Bill No. 193 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 301 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Oceguera moved that Assembly Joint Resolution No. 7 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 16.

Bill read third time.

Remarks by Assemblyman Oceguera.

Roll call on Assembly Bill No. 16:

YEAS—42.

NAYS—None.

Assembly Bill No. 16 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 21.
Bill read third time.
Remarks by Assemblyman Claborn.
Roll call on Assembly Bill No. 21:
YEAS—42.
NAYS—None.
Assembly Bill No. 21 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 75.
Bill read third time.
Remarks by Assemblyman Goicoechea.
Roll call on Assembly Bill No. 75:
YEAS—42.
NAYS—None.
Assembly Bill No. 75 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 93.
Bill read third time.
Remarks by Assemblyman Hambrick.
Roll call on Assembly Bill No. 93:
YEAS—42.
NAYS—None.
Assembly Bill No. 93 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 96.
Bill read third time.
Remarks by Assemblyman Denis.
Roll call on Assembly Bill No. 96:
YEAS—42.
NAYS—None.
Assembly Bill No. 96 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 100.
Bill read third time.
Remarks by Assemblyman Hardy.
Roll call on Assembly Bill No. 100:
YEAS—42.
NAYS—None.

Assembly Bill No. 100 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 137.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 137:

YEAS—42.

NAYS—None.

Assembly Bill No. 137 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 164.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 164:

YEAS—42.

NAYS—None.

Assembly Bill No. 164 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 169.

Bill read third time.

Remarks by Assemblyman Atkinson.

Roll call on Assembly Bill No. 169:

YEAS—42.

NAYS—None.

Assembly Bill No. 169 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 180.

Bill read third time.

Remarks by Assemblymen Goicoechea and Carpenter.

Roll call on Assembly Bill No. 180:

YEAS—42.

NAYS—None.

Assembly Bill No. 180 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 88, 109, 237, 264, 280, 301, 306, 327, 332, 393, 412, 477; Assembly Joint Resolution No. 7; Senate Bills Nos. 38 and 109; Senate Joint Resolution No. 9 of the

74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Cassandra Bell, Brad Truax, Loretta Harper, Doug Jydstrup, Patrick Collins, Juanita Oard, Mina Coy, Ivy Rasmussen, Scott Miller, Jennifer Webb-Cook, Peg Bean and Marian Conrad.

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Lavonne Lewis and Helen Hassel.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Verlia Davis-Hoggard.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Vikki Courtney.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Robert Benson.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to James Jempsa and Herb Santos.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Swanson.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Paul Vargas, Alan Morgan, and Ouida Brown.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Anna Avik.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Kerri Soper and Hilarie Grey.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Rudy Manthei.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Brianna Lamanna.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Reno High School: Gina Bradley, Roger Carlson, Eric Dickensheets,

William Dunn, Molly Gill, Arieal Jenkins, Griffin Kirsch, Christian Lees, Erik McCallister, Kylie Miller, Hannah Profit, Victoria Rae, Lexus Rogers, Juan Saldana, Bonnie Sullivan, Anthony Tran, Aaron Walsh, Ashley Ward, Olivia Alonso, Kendra Amidon, Chase Barnard, Sophia Bayless, Andrew Biasi, Anthony Banaldi, Richard Brizendine, Bonnie Brooksbank, Morgan Caverhill, Joan Chang, Kaitlyn Cole, Hina Gandher, Kylie Fortier, Erica Greif, Diana Jia, Michelle Laxalt, Michael Lin Brande, Matthew Linaman, Allana Noyes, Kelly O'Connell, Robert Ruelas, Gwendolyn Seeman, Zachary Speth, Ruby Sukhraj, Megan Tabano, Mauricio Urias, Marquise Van Tassel, Brent Welsh, Alexander Wilson, Jennifer Yates, Jamie Harris, Brian Alderman, Mitchell Benning, Paul Brizendine, Taylor Bruce, John Caverhill, Tianjiao Cheng, Ryan Chien, John Cooper, Amaro Dasilva, Samuel Elvick, Mallory Fisher, Courtney Gill, Whitney Ginsburg, Joseph Hoel, David Jamieson, Elliot Koontz, Nicole Lovass-Nagy, Charles Mcarthur, William Monroe, Catriona Moody, Jacob Parker, Shelby Parkinson, Cameron Piette, Samantha Puzey, Haley Quirk, Daniel Schuveiller, Brandi Van Ry, Shawn Walters, Michael Weiss, Grayson Wilt, Ethan Witt, Joseph Albright, Samuel Broadhead, Justice Colby, Ramiro Corral, Theresa Gabrielli, Dustin Gallo, David Graves, Alyssa Grew, Sterling Hall, Esther Hayes, Sarah Hettinger, Olivia Hu, Clinton Kolseth, Austin Koontz, Cheryl Lee, John Muir, Courtney Mutchler, Lauren Parobek, Maxwell Pullman, Kimberly Scheible, Claire Schneider, Kayla Sheridan, Erica Stoddard, Dylan Szewczak, Philip Tissier, Ariana Stobaugh, Danielle Ballard, Alyssa Bland, Ariana Cramer, Jeremy Freeman, Heather Hagan, Wesley Hansen, Joseph Hemenway, Johanna Josephson, Brianna Kelley, Aaron Laden, Wesley Munson, Kieran Murphy, Alexander Papadakos, Jorge Rubio, Drew Sheehy, Chase Taficanti, Tarra Budge, Marisol Arredondo, Nathan Barnard, Dorina Ceka, Trevoe Christensen, Samuel Dworkin, Meng Jiang, Josh Lundin, Christian Manning, Kate Manning, Smantha Montiel, Andrianna Moore, Gavin Meyers, Robin Pellicciarani, James Pierce, Justin Rashidi, Zachary Roubo, Gracian Sallaberry, Arielle Shapiro, Jessica Thai, Tatjana Thomas, Rebecca Thompson, Justin Warren, Alexander Weiske, and Britni Whitehead; former Assemblywoman Chris Giunchigliani.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Bridget Zick and Tom Wellman.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Ruby Caliendo and Shirley Webb.

On request of Assemblyman Mortenson, the privilege of the floor of the Assembly Chamber for this day was extended to Nedra Armstrong and Juana Jordan.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Verlia Hoggard and Shirley Hampton.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Suzanne Roozemdaal.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Kim Kallas, Evan Kallas, and Chelsea Kallas.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Mitchell Foreman.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Fred Redfern and Andrew Eisen.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Ruben Murillo, Maria Martinez, Leslie Stewart, Duff Stewart, Megan Stewart, Dayne Stewart, Erica Stewart, and Jaime Stewart.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, April 9, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:44 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SIXTY-SEVENTH DAY

CARSON CITY (Thursday), April 9, 2009

Assembly called to order at 11:40 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, James Satilek.

O my God! O my God! Unite the hearts of Thy servants and reveal to them Thy great purpose. May they follow Thy commandments and abide in Thy law. Help them, O God, in their endeavor and grant them strength to serve Thee. O God! Leave them not to themselves, but guide their steps by the light of Thy knowledge and cheer their hearts by Thy love. Verily, Thou art their helper and their Lord.

BAHÁ'U'LLÁH.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

NOTICE OF EXEMPTION

April 7, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 319.

GARY GHIGGERI
Fiscal Analysis Division

April 9, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 395.

GARY Ghiggeri
Fiscal Analysis Division

April 9, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bill No. 3.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 20, 223, 255, 277, 339, 479 and 492.

MARK STEVENS
Fiscal Analysis Division

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 473, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 279, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Education, to which were referred Assembly Bills Nos. 145, 285, 348, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which was referred Assembly Bill No. 488, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Joint Resolution No. 10, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 79, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 519, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Ways and Means.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 49, 360, 415, 483, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 422, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Concurrent Committee on Government Affairs, to which was referred Assembly Bill No. 401, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bills Nos. 122, 249, 349, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bills Nos. 286, 462, 517 has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which was referred Assembly Bill No. 233, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 289, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 426, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Taxation, to which was referred Assembly Bill No. 205, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Taxation, to which were referred Assembly Bills Nos. 255, 277, 479, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Concurrent Committee on Taxation, to which was referred Assembly Bill No. 386, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bills Nos. 163, 177, 296 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 255, 277, 422, 479, 488, and 519 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that Assembly Bills Nos. 49, 79, 122, 145, 163, 177, 205, 233, 249, 279, 285, 286, 289, 296, 348, 349, 360, 415, 426, 462, 473, 483, 517; Assembly Joint Resolution No. 10 just reported out committee, be placed on the Second Reading File.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 6, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 36.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 19, 35, 45, 54, 55, 68, 84, 101, 106, 111, 114.

Also, I have the honor to inform your honorable body that the Senate on this day adopted, as amended, Senate Concurrent Resolution No. 4.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, April 8, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 469; Senate Bills Nos. 129, 169, 207, 213, 215, 220, 224.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 43, 49, 53, 59, 74, 83, 92, 136, 147, 152, 159, 161, 165, 190, 194, 197, 230.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Senate Concurrent Resolution No. 4.

Assemblywoman Smith moved that the resolution be referred to the Committee on Health and Human Services.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Bill No. 535—AN ACT relating to the Legislature; making various changes relating to the Legislature and the Legislative Counsel Bureau; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 19.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 35.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 36.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 43.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 45.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 49.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 53.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 54.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 55.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 59.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 68.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 74.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 83.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 84.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

Senate Bill No. 92.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 101.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 106.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 111.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 114.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 129.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 136.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 147.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 152.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 159.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 161.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 165.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 169.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 190.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 194.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 197.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 207.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 213.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 215.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 220.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 224.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 230.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 49.

Bill read second time and ordered to third reading.

Assembly Bill No. 79.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 182.

AN ACT relating to city elections; authorizing the governing body of a city to conduct a city election in which all ballots must be cast by mail under certain circumstances; providing that a candidate who receives a majority of votes cast in a city primary election **in certain cities** must be declared elected; revising provisions concerning requests for an absent ballot; requiring that the voting results of a city election be posted on the Internet under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the governing body of a city to conduct a city election in which all ballots must be cast by mail if: (1) the election is a special election; (2) the election involves only offices and ballot questions that may be voted on by the voters of only one ward of the city; **or** (3) the election involves only a single office or ballot question**. ~~[; or (4) the governing body determines that doing so is in the best interest of the city.]~~** The provisions of existing law governing the conduct of city elections apply to such an election except for provisions concerning voting in person at polling places, voting by absent ballot and early voting in person. For the purpose of conducting such an election, each voting precinct in the city is treated as if it were a mailing precinct under existing law.

Under existing law, if a candidate for office in a city primary election held in a city whose population is 5,000 or more receives a majority of the votes cast for the office, only his name must be placed on the ballot for the city general election, and he must run unopposed in that election. (NRS 293C.175) **Section 3** of this bill provides instead that such a candidate must be declared elected to the office based on the majority vote in the primary election and that his name must not be placed on the ballot for the city

general election. ~~[Section 3 also extends the scope of this provision to apply to city elections held in all cities in Nevada.]~~

Section 4 of this bill eliminates a provision which enables a registered voter who is at least 65 years of age or who has a physical disability or condition that substantially impairs his ability to go to the polling place to request an absent ballot for all elections held during the year he requests an absent ballot, thus making it so that, with certain limited exceptions, any registered voter providing sufficient written notice may vote an absent ballot. (NRS 293C.310)

Existing law requires a counting board and a city clerk to post a signed copy of the voting results in a city election on the outside of the facility where the votes were counted, the courthouse or the city hall. (NRS 293C.380) **Section 5** of this bill requires ~~[instead]~~ that the results **also** be posted on an Internet website ~~[maintained by the city or the city clerk, if any, and requires the physical posting of the results only if neither]~~ **not later than the start of business on the day immediately following the election, if** the city ~~[nor]~~ **or** the city clerk maintains such a website. **Section 5** also eliminates the requirement that the copy of the voting results be signed before it may be posted.

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

Section 1. Chapter 293C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of a city may conduct a city election in which all ballots must be cast by mail if:

(a) The election is a special election; or

(b) The election is a primary city election or general city election in which the ballot includes only:

(1) Offices and ballot questions that may be voted on by the registered voters of only one ward; or

(2) One office or ballot question . ~~[; or~~

~~*(c) The governing body determines that conducting a city election in which all ballots must be cast by mail is in the best interest of the city.]*~~

2. The provisions of NRS 293C.265 to 293C.302, inclusive, 293C.305 to 293C.340, inclusive, and 293C.355 to 293C.361, inclusive, do not apply to an election conducted pursuant to this section.

3. For the purposes of an election conducted pursuant to this section, each precinct in the city shall be deemed to have been designated a mailing precinct pursuant to NRS 293C.342.

Sec. 2. NRS 293C.110 is hereby amended to read as follows:

293C.110 1. Except as otherwise provided in subsection 2, conduct of any city election is under the control of the governing body of the city, and it shall, by ordinance, provide for the holding of the election, appoint the

necessary election officers and election boards ~~[,]~~ and do all other things required to carry the election into effect.

2. ~~[The]~~ ***Except as otherwise provided in section 1 of this act, the*** governing body of the city shall provide for:

(a) Absent ballots to be voted in a city election pursuant to NRS 293C.305 to 293C.325, inclusive, and 293C.330 to 293C.340, inclusive; and

(b) The conduct of:

(1) Early voting by personal appearance in a city election pursuant to NRS 293C.355 to 293C.361, inclusive;

(2) Voting by absent ballot in person in a city election pursuant to NRS 293C.327; or

(3) Both early voting by personal appearance as described in subparagraph (1) and voting by absent ballot in person as described in subparagraph (2).

Sec. 3. NRS 293C.175 is hereby amended to read as follows:

293C.175 1. Except as otherwise provided in NRS 293C.115, a primary city election must be held in each city of population category one, and in each city of population category two that has so provided by ordinance, on the first Tuesday after the first Monday in April of every year in which a general city election is to be held, at which time there must be nominated candidates for offices to be voted for at the next general city election.

2. Except as otherwise provided in NRS 293C.115, a candidate for any office to be voted for at the primary city election must file a declaration of candidacy with the city clerk not less than 60 days ~~[nor]~~ ***or*** more than 70 days before the date of the primary city election. The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the governing body of the city by ordinance or resolution. The filing fees collected by the city clerk must be deposited to the credit of the general fund of the city.

3. All candidates, except as otherwise provided in NRS 266.220, must be voted upon by the electors of the city at large.

4. If, in a primary city election held in a city of population category one or two, one candidate receives more than a majority of votes cast in that election for the office for which he is a candidate, ***he must be declared elected to the office and*** his name ~~[alone]~~ must ***not*** be placed on the ballot for the general city election. If, in the primary city election, no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general city election.

Sec. 4. NRS 293C.310 is hereby amended to read as follows:

293C.310 1. Except as otherwise provided in NRS 293.502 and 293C.265, a registered voter who provides sufficient written notice to the city clerk may vote an absent ballot as provided in this chapter.

2. ~~[A registered voter who:~~

~~(a) Is at least 65 years of age; or~~

~~(b) Has a physical disability or condition that substantially impairs his ability to go to the polling place,~~

~~➥ may request an absent ballot for all elections held during the year he requests an absent ballot.~~

~~3.]~~ As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot that is signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State that is completed and signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

~~[4.]~~ ***3.*** A city clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as:

(a) A request for the primary city election and the general city election unless otherwise specified in the request; and

(b) A request for an absent ballot for the two primary and general elections immediately following the date on which the city clerk received the request.

~~[5.]~~ ***4.*** It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates any provision of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 5. NRS 293C.380 is hereby amended to read as follows:

293C.380 1. Except as otherwise provided in subsection 2, each counting board **,** before it adjourns, shall post a copy of the voting results in a conspicuous place on the outside of the place where the votes were counted.

2. If votes are cast on ballots that are mechanically or electronically tabulated in accordance with the provisions of this chapter, chapter 293 or 293B of NRS, the city clerk shall, as soon as possible, post copies of the tabulated voting results ***:***

(a) On an Internet website maintained by the city or the city clerk, if any, including, without limitation, a website maintained by the city clerk pursuant to NRS 293C.715; ~~*[or]*~~ ***and***

(b) ~~*[If neither the city nor the city clerk maintains an Internet website,*~~ in~~]~~ ***In*** a conspicuous place on the outside of the counting facility, courthouse or city hall. ***Copies of the voting results posted pursuant to this paragraph must be posted not later than the start of business on the day immediately following the day of the election.***

3. Each copy of the voting results posted in accordance with subsections 1 and 2 must set forth the accumulative total of all the votes cast within the city conducting the election **.** ~~[and must be signed by the members of the counting board or the computer program and processing accuracy board.]~~

Sec. 6. NRS 293C.387 is hereby amended to read as follows:

293C.387 1. The election returns from a special election, primary city election or general city election must be filed with the city clerk, who shall immediately place the returns in a safe or vault ~~[.]~~ ***designated by the city clerk.*** No person may handle, inspect or in any manner interfere with the returns until they are canvassed by the mayor and the governing body of the city.

2. After the governing body of a city receives the returns from all the precincts and districts in the city, it shall meet with the mayor to canvass the returns. The canvass must be completed on or before the sixth working day following the election.

3. In completing the canvass of the returns, the governing body of the city and the mayor shall:

(a) Note separately any clerical errors discovered; and

(b) Take account of the changes resulting from the discovery, so that the result declared represents the true vote cast.

4. After the canvass is completed, the governing body of the city and mayor shall declare the result of the canvass.

5. The city clerk shall enter upon the records of the governing body of the city an abstract of the result. The abstract must be prepared in the manner prescribed by regulations adopted by the Secretary of State and must contain the number of votes cast for each candidate.

6. After the abstract is entered, the:

(a) City clerk shall seal the election returns, maintain them in a vault for at least 22 months and give no person access to them during that period, unless access is ordered by a court of competent jurisdiction or by the governing body of the city.

(b) Governing body of the city shall, by an order made and entered in the minutes of its proceedings, cause the city clerk to:

(1) Certify the abstract;

(2) Make a copy of the certified abstract;

(3) Make a mechanized report of the abstract in compliance with regulations adopted by the Secretary of State;

(4) Transmit a copy of the certified abstract and the mechanized report of the abstract to the Secretary of State within 7 working days after the election; and

(5) Transmit on paper or by electronic means to each public library in the city, or post on a website maintained by the city or the city clerk on the Internet or its successor, if any, a copy of the certified abstract within 30 days after the election.

7. After the abstract of the results from a:

(a) Primary city election has been certified, the city clerk shall certify the name of each person nominated and the name of the office for which he is nominated.

(b) General city election has been certified, the city clerk shall:

(1) Issue under his hand and official seal to each person elected a certificate of election; and

(2) Deliver the certificate to the persons elected upon their application at the office of the city clerk.

8. The officers elected to the governing body of the city qualify and enter upon the discharge of their respective duties on the first regular meeting of that body next succeeding that in which the canvass of returns was made pursuant to subsection 2.

Sec. 7. NRS 293C.390 is hereby amended to read as follows:

293C.390 1. The voted ballots, rejected ballots, spoiled ballots, challenge lists, records printed on paper of voted ballots collected pursuant to NRS 293B.400, and stubs of the ballots used, enclosed and sealed, must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk. The records of voted ballots that are maintained in electronic form must, after canvass of the votes by the governing body of the city, be sealed and deposited in the vaults of the city clerk. The tally lists collected pursuant to NRS 293B.400 must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk without being sealed. All materials described by this subsection must be preserved for at least 22 months, and all such sealed materials must be destroyed immediately after that period. A notice of the destruction must be published by the city clerk in at least one newspaper of general circulation in the city ~~[,]~~ or **,** if no newspaper is of general circulation in that city, in a newspaper of general circulation in the nearest city, not less than 2 weeks before the destruction of the materials.

2. Unused ballots, enclosed and sealed, must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk and preserved for at least the period during which the election may be contested and adjudicated, after which the unused ballots may be destroyed.

3. The rosters containing the signatures of those persons who voted in the election and the tally lists deposited with the governing body of the city are subject to the inspection of any elector who may wish to examine them at any time after their deposit with the city clerk.

4. A contestant of an election may inspect all of the material relating to that election which is preserved pursuant to subsection 1 or 2, except the voted ballots.

5. The voted ballots deposited with the city clerk are not subject to the inspection of any person, except in cases of a contested election, and only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of the judge, body or board.

6. As used in this section, "vaults of the city clerk" means any place of secure storage designated by the city clerk.

Sec. 8. This act becomes effective upon passage and approval.

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 122.

Bill read second time.

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

Amendment No. 55.

AN ACT relating to the Office for Consumer Health Assistance; expanding the definition of "consumer" to include more situations in which assistance may be rendered; expanding the authority of the Director of the Office for Consumer Health Assistance to adopt necessary regulations; making various other changes relating to the Office for Consumer Health Assistance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Office for Consumer Health Assistance in the Office of the Governor to provide assistance to consumers in obtaining information or other assistance relating to a variety of medical issues. (NRS 223.550) **Section 1** of this bill adds to the definition of "consumer" a person who is in need of information or other assistance regarding **his** health care services or disputes related to the billing or payment of **his** medical claims. (NRS 223.510)

Section 2 of this bill expands the current authority of the Director of the Office for Consumer Health Assistance to adopt regulations relating to the Office for Consumer Health Assistance, which would allow, for example, the adoption of regulations addressing procedures for hearing disputes between patients and hospitals. (NRS 223.560, 223.570)

Section 4 of this bill authorizes a designee of the Director to hear, mediate, arbitrate or resolve by alternative means of dispute resolution disputes between patients and hospitals. (NRS 223.575)

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

Section 1. NRS 223.510 is hereby amended to read as follows:

223.510 "Consumer" means a natural person who:

1. Has or is in need of coverage under a health care plan;

2. Is in need of information or other assistance regarding a prescription drug program; ~~[or]~~

3. May need information concerning purchasing prescription drugs from Canadian pharmacies ~~[.]~~ ***; or***

4. Is in need of information or other assistance regarding his health care services or disputes in billing related to his medical claims.

Sec. 2. NRS 223.560 is hereby amended to read as follows:

223.560 ***1.*** The Director shall:

~~[1.]~~ ***(a)*** Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;

~~[2.]~~ ***(b)*** Assist consumers and injured employees in understanding their rights and responsibilities under health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

~~[3.]~~ ***(c)*** Identify and investigate complaints of consumers and injured employees regarding their health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:

~~[(a)]~~ ***(1)*** Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

~~[(b)]~~ ***(2)*** Providing counseling and assistance to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

~~[4.]~~ ***(d)*** Provide information to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance in this State;

~~[5.]~~ ***(e)*** Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;

~~[6.]~~ ***(f)*** Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

~~[7.]~~ ***(g)*** In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action;

~~[8.]~~ ***(h)*** Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services; and

~~[9.]~~ ***(i)*** Establish and maintain an Internet website which includes:

~~[(a)]~~ ***(1)*** Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328;

~~[(b)]~~ ***(2)*** Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; and

~~[(c)]~~ ***(3)*** A link to the website established and maintained pursuant to NRS 439A.270 which provides information to the general public concerning

the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State.

2. The Director may adopt such regulations as he deems to be necessary to carry out the provisions of NRS 223.500 to 223.580, inclusive.

Sec. 3. NRS 223.570 is hereby amended to read as follows:

223.570 1. The Director, within the limits of available money:

(a) Shall, to carry out the provisions of this section and NRS 223.560 and 223.580, employ at least two persons who have experience in the field of workers' compensation, including, without limitation, persons who have experience in administering claims or programs related to policies of industrial insurance, representing employees in contested claims relating to policies of industrial insurance or advocating for the rights of injured employees; and

(b) May, in addition to the persons required to be employed pursuant to paragraph (a), employ:

(1) Such persons in the unclassified service of the State as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580, including, without limitation, a provider of health care, as that term is defined in NRS 449.581.

(2) Such additional personnel as may be required to carry out the provisions of this section and NRS 223.560 and 223.580, who must be in the classified service of the State.

➥ A person employed pursuant to the authority set forth in this subsection must be qualified by training and experience to perform the duties for which the Director employs him.

2. The Director may:

(a) To the extent not otherwise prohibited by law, obtain such information from consumers, injured employees, health care plans, prescription drug programs and policies of industrial insurance as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580.

(b) **[**~~Adopt such regulations as he determines to be necessary to carry out the provisions of this section and NRS 223.560 and 223.580.~~

~~(c)~~**]** Apply for any available grants, accept any gifts, grants or donations and use any such gifts, grants or donations to aid the Office for Consumer Health Assistance in carrying out its duties pursuant to **[**~~subsections 8 and 9~~**]** ***paragraphs (h) and (i) of subsection 1*** of NRS 223.560.

3. The Director and his employees shall not have any conflict of interest relating to the performance of their duties pursuant to this section and NRS 223.560 and 223.580. For the purposes of this subsection, a conflict of interest shall be deemed to exist if the Director or employee, or any person affiliated with the Director or employee:

(a) Has direct involvement in the licensing, certification or accreditation of a health care facility, insurer or provider of health care;

(b) Has a direct ownership interest or investment interest in a health care facility, insurer or provider of health care;

(c) Is employed by, or participating in, the management of a health care facility, insurer or provider of health care; or

(d) Receives or has the right to receive, directly or indirectly, remuneration pursuant to any arrangement for compensation with a health care facility, insurer or provider of health care.

Sec. 4. NRS 223.575 is hereby amended to read as follows:

223.575 1. The Bureau for Hospital Patients is hereby created within the Office for Consumer Health Assistance in the Office of the Governor.

2. The Director:

(a) Is responsible for the operation of the Bureau, which must be easily accessible to the clientele of the Bureau.

(b) Shall appoint and supervise such additional employees as are necessary to carry out the duties of the Bureau. The employees of the Bureau are in the unclassified service of the State.

(c) On or before February 1 of each year, shall submit a written report to the Governor, and to the Director of the Legislative Counsel Bureau concerning the activities of the Bureau for Hospital Patients for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation, the number of complaints received by the Bureau, the number and type of disputes heard, mediated, arbitrated or resolved through alternative means of dispute resolution by the Director and the outcome of the mediation, arbitration or alternative means of dispute resolution.

3. The Director ***or his designee*** may, upon request made by either party, hear, mediate, arbitrate or resolve by alternative means of dispute resolution disputes between patients and hospitals. The Director ***or his designee*** may decline to hear a case that in his opinion is trivial, without merit or beyond the scope of his jurisdiction. The Director ***or his designee*** may hear, mediate, arbitrate or resolve through alternative means of dispute resolution disputes regarding:

(a) The accuracy or amount of charges billed to a patient;

(b) The reasonableness of arrangements made ***for a patient to pay any bill for medical services, including, without limitation, arrangements to pay hospital bills made*** pursuant to paragraph (c) of subsection 1 of NRS 439B.260; and

(c) Such other matters related to the charges for care provided to a patient as the Director ***or his designee*** determines appropriate for arbitration, mediation or other alternative means of dispute resolution.

➥ The designee must be an employee of the State and, except for the purposes of this subsection, must not be employed by or otherwise associated with the Bureau or the Office for Consumer Health Assistance.

4. The decision of the Director ***or his designee*** is a final decision for the purpose of judicial review.

5. Each hospital, other than federal and state hospitals, with 49 or more licensed or approved hospital beds shall pay an annual assessment for the support of the Bureau. On or before July 15 of each year, the Director shall notify each hospital of its assessment for the fiscal year. Payment of the assessment is due on or before September 15. Late payments bear interest at the rate of 1 percent per month or fraction thereof.

6. The total amount assessed pursuant to subsection 5 for a fiscal year must not be more than $100,000 **,** adjusted by the percentage change between January 1, 1991, and January 1 of the year in which the fees are assessed ~~[,]~~ in the Consumer Price Index (All Items) published by the United States Department of Labor.

7. The total amount assessed must be divided by the total number of patient days of care provided in the previous calendar year by the hospitals subject to the assessment. For each hospital, the assessment must be the result of this calculation multiplied by its number of patient days of care for the preceding calendar year.

Sec. 5. NRS 223.580 is hereby amended to read as follows:

223.580 On or before February 1 of each year, the Director shall submit a written report to the Governor, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:

1. A statement setting forth the number and geographic origin of the written and telephonic inquiries received by the Office for Consumer Health Assistance and the issues to which those inquiries were related;

2. A statement setting forth the type of assistance provided to each consumer and injured employee who sought assistance from the Director, including, without limitation, the number of referrals made to the Attorney General pursuant to ***paragraph (g) of*** subsection ~~[7]~~ ***1*** of NRS 223.560;

3. A statement setting forth the disposition of each inquiry and complaint received by the Director; and

4. A statement setting forth the number of external reviews conducted by external review organizations pursuant to NRS 695G.241 to 695G.310, inclusive, and the disposition of each of those reviews as reported pursuant to NRS 695G.310.

Sec. 6. NRS 453.3639 is hereby amended to read as follows:

453.3639 1. Except as otherwise provided in subsection 3, a person who is located within or outside this State shall not, via the Internet, fill or refill a prescription drug if:

(a) The person has reasonable cause to believe that the prescription is being filled or refilled for a person in this State; and

(b) The prescription drug has not been lawfully imported into the United States.

2. Except as otherwise provided in subsection 3, a person who is located within or outside this State shall not, via the Internet, fill or refill a prescription drug if:

(a) The person has reasonable cause to believe that the prescription is being filled or refilled for a person in this State; and

(b) The prescription was not delivered to the person in accordance with all applicable state and federal laws, regulations and standards.

3. The provisions of this section do not prohibit a Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to ***paragraph (i) of*** subsection ~~[9]~~ ***1*** of NRS 223.560 from providing prescription drugs through mail order service to residents of Nevada in the manner set forth in NRS 639.2328 to 639.23286, inclusive.

4. A person shall not knowingly aid another person in any act or transaction that violates any provision of this section.

5. Except as otherwise provided in subsection 6, a person who violates any provision of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. A person who violates any provision of this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $100,000, if the substance or drug involved:

(a) Is classified in schedule I; or

(b) Proximately causes substantial bodily harm to or the death of the intended recipient of the substance or drug or any other person.

7. The court shall not grant probation to or suspend the sentence of a person punished pursuant to subsection 6.

8. A person may be prosecuted, convicted and punished for a violation of this section whether or not the person is prosecuted, convicted or punished for violating any other specific statute based upon the same act or transaction.

Sec. 7. NRS 639.230 is hereby amended to read as follows:

639.230 1. A person operating a business in this State shall not use the letters "Rx" or "RX" or the word "drug" or "drugs," "prescription" or "pharmacy," or similar words or words of similar import, without first having secured a license from the Board.

2. Each license must be issued to a specific person and for a specific location and is not transferable. The original license must be displayed on the licensed premises as provided in NRS 639.150. The original license and the fee required for reissuance of a license must be submitted to the Board before the reissuance of the license.

3. If the owner of a pharmacy is a partnership or corporation, any change of partners or corporate officers must be reported to the Board at such a time as is required by a regulation of the Board.

4. Except as otherwise provided in subsection 6, in addition to the requirements for renewal set forth in NRS 639.180, every person holding a

license to operate a pharmacy must satisfy the Board that the pharmacy is conducted according to law.

5. Any violation of any of the provisions of this chapter by a managing pharmacist or by personnel of the pharmacy under the supervision of the managing pharmacist is cause for the suspension or revocation of the license of the pharmacy by the Board.

6. The provisions of this section do not prohibit a Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to ***paragraph (i) of*** subsection ~~[9]~~ ***1*** of NRS 223.560 from providing prescription drugs through mail order service to residents of Nevada in the manner set forth in NRS 639.2328 to 639.23286, inclusive.

Sec. 8. NRS 639.2328 is hereby amended to read as follows:

639.2328 1. Every pharmacy located outside Nevada that provides mail order service to or solicits or advertises for orders for drugs available with a prescription from a resident of Nevada must be licensed by the Board.

2. To be licensed or to renew a license, such a pharmacy must:

(a) Be licensed as a pharmacy, or the equivalent, by the state or country in which its dispensing facilities are located.

(b) Comply with all applicable federal laws, regulations and standards.

(c) Submit an application in the form furnished by the Board.

(d) Provide the following information to the Board:

(1) The name and address of the owner;

(2) The location of the pharmacy;

(3) The name of the pharmacist who is the managing pharmacist; and

(4) Any other information the Board deems necessary.

(e) Pay the fee required by regulation of the Board.

(f) Submit evidence satisfactory to the Board that the facility, records and operation of the pharmacy comply with the laws and regulations of the state or country in which the pharmacy is located.

(g) Submit certification satisfactory to the Board that the pharmacy complies with all lawful requests and directions from the regulatory board or licensing authority of the state or country in which the pharmacy is located relating to the shipment, mailing or delivery of drugs.

(h) Be certified by the Board pursuant to NRS 639.23288 if the pharmacy operates an Internet pharmacy.

3. In addition to the requirements of subsection 2, the Board may require such a pharmacy to be inspected by the Board.

4. The Board shall notify the Office for Consumer Health Assistance each time the Board licenses a Canadian pharmacy pursuant to this section and recommend that the Office for Consumer Health Assistance include each such pharmacy on the Internet website established and maintained pursuant to ***paragraph (i) of*** subsection ~~[9]~~ ***1*** of NRS 223.560.

Sec. 9. NRS 639.23284 is hereby amended to read as follows:

639.23284 1. Every pharmacy located outside Nevada that provides mail order service to a resident of Nevada:

(a) Shall report to the Board any change of information that appears on its license and pay the fee required by regulation of the Board.

(b) Shall make available for inspection all pertinent records, reports, documents or other material or information required by the Board.

(c) As required by the Board, must be inspected by the Board or:

(1) The regulatory board or licensing authority of the state or country in which the pharmacy is located; or

(2) The Drug Enforcement Administration.

(d) As required by the Board, shall provide the following information concerning each prescription for a drug that is shipped, mailed or delivered to a resident of Nevada:

(1) The name of the patient;

(2) The name of the prescriber;

(3) The number of the prescription;

(4) The date of the prescription;

(5) The name of the drug;

(6) The symptom or purpose for which the drug is prescribed, if requested by the patient pursuant to NRS 639.2352; and

(7) The strength and quantity of the dose.

2. In addition to complying with the requirements of subsection 1, every Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to ***paragraph (i) of*** subsection ~~[9]~~ ***1*** of NRS 223.560 that provides mail order service to a resident of Nevada shall not sell, distribute or furnish to a resident of this State:

(a) A controlled substance;

(b) A prescription drug that has not been approved by the federal Food and Drug Administration;

(c) A generic prescription drug that has not been approved by the federal Food and Drug Administration;

(d) A prescription drug for which the federal Food and Drug Administration has withdrawn or suspended its approval; or

(e) A quantity of prescription drugs at one time that includes more drugs than are prescribed to the patient as a 3-month supply of the drugs.

Sec. 10. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 145.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 151.

AN ACT relating to school property; requiring boards of trustees of school districts to grant the use of certain athletic fields ~~[without charge]~~ to nonprofit organizations which provide programs for youth sports; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the board of trustees of a school district is authorized to grant the use of school buildings and grounds by the general public for certain purposes. (NRS 393.071-393.0719) ~~[In addition, the board of trustees is authorized to grant without charge the use of school libraries to the general public during times that are not regular school hours. (NRS 393.07105, 393.0714)]~~

Section 1 of this bill requires the board of trustees of a school district, upon request, to grant ~~[without charge]~~ the use of any athletic field that does not contain lights at an elementary, middle school or junior high school within the school district to a nonprofit organization which provides programs for youth sports, subject to the availability of the athletic field. ~~[Sections 2-4 of this bill revise the existing provisions governing the use of school buildings and grounds to include the use of an athletic field by a nonprofit organization pursuant to section 1.]~~ **The provisions of section 1 do not apply if a school district has entered into an agreement with a local government to provide the use of the athletic fields or playgrounds of the school district to a community organization which provides programs for youth sports.**

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

Section 1. Chapter 393 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[The] ***Except as otherwise provided in subsection 3, the board of trustees of a school district shall, upon request, grant the use ~~[without charge]~~ of any athletic field which does not contain lights at each elementary school, middle school or junior high school within the school district to a nonprofit organization which provides programs for youth sports, including, without limitation, baseball, football, soccer and softball, during any time that ~~[is]~~ :***

(a) Is not regular school hours ~~[or that school-related]~~ ; or

(b) School-related activities do not require the use of the field,

↪ subject to the limitations, requirements and restrictions set forth in this section and NRS 393.071 to 393.0719, inclusive.

2. A nonprofit organization which provides programs for youth sports that is granted the use of an athletic field pursuant to subsection 1 must comply with any requirements of insurance coverage and indemnification required by the board of trustees of the school district.

3. If the board of trustees of a school district has entered into an agreement with one or more local governments to provide the use of the athletic fields or playgrounds of the school district to a community organization which provides programs for youth sports, the board of trustees of the school district is not required to comply with the provisions of subsection 1.

Sec. 2. NRS 393.071 is hereby amended to read as follows:

393.071 ~~[~~The~~]~~ ***Except as otherwise required by section 1 of this act, the*** board of trustees of any school district may grant the use of school buildings or grounds for public, literary, scientific, recreational or educational meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, subject to the limitations, requirements and restrictions set forth in NRS 393.071 to 393.0719, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 3. ~~[~~NRS 393.0713 is hereby amended to read as follows:

393.0713 ~~1. Except as otherwise provided in subsection 2, the privilege of using the buildings or grounds must not be granted for a period exceeding 1 year. The privilege is renewable and revocable in the discretion of the board of trustees at any time.~~

~~2. The time limitation set forth in subsection 1 does not apply to the use of a school library pursuant to NRS 393.07105~~ ~~[.]~~ ***or the use of an athletic field by a nonprofit organization pursuant to section 1 of this act,]*** **(Deleted by amendment.)**

Sec. 4. ~~[~~NRS 393.0719 is hereby amended to read as follows:

393.0719 ~~1. Lighting, heating, janitorial service and the services of the person referred to in NRS 393.0718, when needed, and other necessary expenses, in connection with the use of public school buildings and grounds pursuant to NRS 393.071 to 393.0719, inclusive,~~ ***and section 1 of this act*** ~~must be provided for out of school district funds of the respective school districts in the same manner as similar services are provided for, and except as otherwise provided in subsection 2, subject to reimbursement by the user in accordance with such policies and regulations as the board of trustees may adopt.~~

~~2. The board of trustees of a school district may not request reimbursement for the costs and expenses associated with the use of~~ ~~[~~a~~]~~ ~~:~~

(a) A ~~school library by the general public pursuant to NRS 393.07105~~ ~~[.]~~ ~~;~~ ***or***

(b) An athletic field by a nonprofit organization which provides programs for youth sports pursuant to section 1 of this act, except for any costs associated with the insurance required by that section.] **(Deleted by amendment.)**

Sec. 5. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 163.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 139.

SUMMARY— ~~[Requires the Department of Transportation]~~ **Authorizes certain governmental entities** to adopt regulations **or ordinances** to allow ~~[certified]~~ **certain** low emission and energy-efficient vehicles to be operated in ~~[a lane on certain highways designated for the preferential use or exclusive use of high-occupancy vehicles.]~~ **designated lanes.** (BDR 43-40)

AN ACT relating to highways; ~~[requiring]~~ **authorizing** the Department of Transportation to adopt regulations to allow certified low emission and energy-efficient vehicles to be operated in a lane on certain highways designated for the preferential use or exclusive use of high-occupancy vehicles; **authorizing counties and cities to adopt ordinances to allow certain low emission and energy-efficient vehicles to travel in designated lanes in planned communities;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This]~~ **Section 1.5 of this** bill ~~[requires]~~ **authorizes** the Department of Transportation to adopt regulations to allow certified low emission and energy-efficient vehicles to be operated in a lane on a highway under its jurisdiction designated for the preferential use or exclusive use of high-occupancy vehicles. **Section 1.7 of this bill authorizes counties and cities to adopt ordinances that allow certain low emission and energy-efficient vehicles, including golf carts, to travel in designated lanes within planned communities.**

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

Section 1. Chapter 484 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.5 and 1.7 of this act.**

Sec. 1.5. 1. To the extent not inconsistent with federal law, the Department of Transportation ~~*[shall,]*~~ ***may, in consultation with the Federal Highway Administration and the United States Environmental Protection Agency, adopt regulations establishing a program to allow a vehicle that is certified by the Administrator of the United States Environmental Protection Agency as a low emission and energy-efficient vehicle to be operated in a lane that is designated for the use of high-occupancy vehicles pursuant to NRS 484.312.***

2. As used in this section, "low emission and energy-efficient vehicle" has the meaning ascribed to it in 23 U.S.C. § 166(f)(3).

Sec. 1.7. 1. A county or city may adopt an ordinance to allow low emission and energy-efficient vehicles to travel in a designated lane on streets within a planned community.

2. As used in this section:

(a) "Low emission and energy-efficient vehicle" has the meaning ascribed to it in 23 U.S.C. § 166(f)(3) except that the term includes golf carts.

(b) "Planned community" has the meaning ascribed to it in NRS 116.075.

Sec. 2. ~~[This act becomes effective:]~~

1. **This section and section 1.7 of this act become effective upon passage and approval.**

2. Section 1.5 of this act becomes effective:

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

~~[2.]~~ **(b)** On ~~[October 1, 2009,]~~ **July 1, 2010,** for all other purposes.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 177.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 21.

AN ACT relating to motor vehicles; ~~[authorizing a short-term lessor and short-term lessee of a passenger car to agree that the lessee will be responsible for certain damages to the car under certain circumstances;]~~ authorizing a short-term lessor to exclude from a waiver of damages losses resulting from the theft of a leased car if the theft is committed by an authorized driver or by a person aided or abetted by an authorized driver; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law governing the business of short-term leases of passenger cars, ~~[the lessor and lessee may agree on the extent of the lessee's financial responsibility if the leased car is damaged during the term of the lease. (NRS 482.3154, 482.31545) Section 3 of this bill authorizes the lessee and lessor to agree that the lessee will be responsible for: (1) damages to a leased car from theft and vandalism even if the lessee is not at fault; and (2) the diminished value of a leased car resulting from physical or mechanical damage to the car for which the lessee is liable. "Diminished value," as~~

~~defined in section 1 of this bill, is the decrease in the fair market value of a car that has been damaged from what the car would have been worth if it had not been damaged and what it is likely to be worth if the damage is repaired properly.~~

~~A.~~ **a** short-term lessor may offer the lessee of a passenger car the opportunity to purchase a "waiver of damages" that relieves the lessee from financial responsibility for certain kinds of damage to the car. (NRS 482.3153, 482.3155-482.31565) **Section 5** of this bill authorizes a lessor to exclude from such a waiver any damages or loss attributable to the theft of the leased car if the theft is committed by the lessee or other authorized driver or by a person aided or abetted by such a driver.

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

Section 1. ~~[Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***"Diminished value" means the difference between:***~~

~~***1. The fair market value of a passenger car that has been damaged but repaired properly; and***~~

~~***2. What the fair market value of the same passenger car would have been had the car not been damaged at all.]*** **(Deleted by amendment.)**

Sec. 2. ~~[NRS 482.3151 is hereby amended to read as follows:~~

~~482.3151 As used in NRS 482.3151 to 482.3159, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 482.31515 to 482.3153, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.~~] **(Deleted by amendment.)**

Sec. 3. ~~[NRS 482.31535 is hereby amended to read as follows:~~

~~482.31535 1. Except as otherwise provided in NRS 482.3154, a short-term lessor and a short-term lessee of a passenger car may agree that the lessee will be responsible for:~~

~~(a) Physical damage to the car, up to and including its fair market value, regardless of the cause of the damage.~~

~~(b) Mechanical damage to the car, up to and including its fair market value, resulting from:~~

~~(1) A collision;~~

~~(2) An impact; or~~

~~(3) Any other type of incident,~~

~~, that is caused by a deliberate or negligent act or omission on the part of the lessee.~~

~~(c) Loss resulting from theft of the car, up to and including its fair market value.~~ ~~[~~, except that the lessee is presumed to have no liability for any loss resulting from theft if an authorized driver:

~~(1) Has possession of the ignition key furnished by the lessor or establishes that the ignition key furnished by the lessor was not in the car at the time of the theft; and~~

~~(2) Files an official report of the theft with an appropriate law enforcement agency within 24 hours after learning of the theft and cooperates with the lessor and the law enforcement agency in providing information concerning the theft.~~

~~➥ The lessor may rebut the presumption set forth in this paragraph by establishing that an authorized driver committed or aided and abetted the commission of the theft.~~**]**

~~(d) Physical damage to the car, up to and including its fair market value, resulting from vandalism .~~ **[**~~occurring after or in connection with the theft of the car, except that the lessee has no liability for any damage resulting from vandalism if the lessee has no liability for theft pursuant to paragraph (c).~~

~~(e) Physical damage to the car and loss of use of the car, up to $500, resulting from vandalism not related to the theft of the car and not caused by the lessee.~~**]**

~~***(e) [The diminished value of the car resulting from any physical or mechanical damage for which the lessee is liable.***~~

~~(f)~~**]** ~~Loss of use of the car if the lessee is liable for damage or loss.~~

[~~(g)~~**]** ***(f)*** ~~Actual charges for towing and storage and impound fees paid by the lessor if the lessee is liable for damage or loss.~~

[~~(h)~~**]** ***(g)*** ~~An administrative charge that includes the cost of appraisal and other costs incident to the damage, loss, loss of use, repair or replacement of the car.~~

~~2. For the purposes of this section, the fair market value must be determined in the customary market for the sale of the leased passenger car.~~**]** **(Deleted by amendment.)**

Sec. 4. **[**~~NRS 482.3154 is hereby amended to read as follows:~~

~~482.3154 1. The total amount of the short-term lessee's liability to the short-term lessor resulting from damage to a leased passenger car must not exceed the sum of the following:~~

~~(a) The estimated cost for parts that the short-term lessor would have to pay to replace damaged parts. Any discount, price reduction or adjustment received by the lessor must be subtracted from the estimate to the extent not already incorporated in the estimate or promptly credited or refunded to the short-term lessee.~~

~~(b) The estimated cost of labor to replace damaged parts of the passenger car, which must not exceed the product of:~~

~~(1) The rate of labor usually paid by the lessor to replace parts of the type that were damaged; and~~

~~(2) The estimated time for replacement.~~

~~➥ Any discount, price reduction or adjustment received by the short-term lessor must be subtracted from the estimate to the extent not already incorporated in the estimate or promptly credited or refunded to the lessee.~~

~~(c) The estimated cost of labor to repair damaged parts of the passenger car, which must not exceed the lesser of:~~

~~(1) The product of the rate for labor usually paid by the short-term lessor to repair parts of the type that were damaged and the estimated time for repair; or~~

~~(2) The sum of the costs for estimated labor and parts determined pursuant to paragraphs (a) and (b) to replace the same parts.~~

~~➡ Any discount, price reduction or adjustment received by the short-term lessor must be subtracted from the estimate to the extent not already incorporated in the estimate or promptly credited or refunded to the lessee.~~

~~(d) *The diminished value of the passenger car.*~~

~~***(e)*** Except as otherwise provided in subsection 2, the loss of use of the leased passenger car, which must not exceed the product of:~~

~~(1) The rate for the car stated in the short-term lessee's lease, excluding all optional charges; and~~

~~(2) The total of the estimated time for replacement and the estimated time for repair. For the purpose of converting the estimated time for repair into the same unit of time in which the rate of the lease is expressed, a day shall be deemed to consist of 8 hours.~~

~~**[**(e)**]** *(f)* Actual charges for towing and storage and impound fees paid by the short-term lessor.~~

~~2. Under any of the circumstances described in NRS 482.31555, the short-term lessor's loss of use of the passenger car must not exceed the product of:~~

~~(a) The rate for the car stated in the short-term lessee's lease, excluding all optional charges; and~~

~~(b) The period from the date of an accident to the date the car is ready to be returned to service if the lessor uses his best efforts to repair and return the car to service as soon as practicable.~~

~~3. An administrative charge pursuant to paragraph (h) of subsection 1 of NRS 482.31535 must not exceed:~~

~~(a) Fifty dollars if the total estimated cost for parts and labor is more than $100 and less than or equal to $500.~~

~~(b) One hundred dollars if the total estimated cost for parts and labor is more than $500 and less than or equal to $1,500.~~

~~(c) One hundred and fifty dollars if the total estimated cost for parts and labor is more than $1,500.~~

~~➡ No administrative charge may be imposed if the total estimated cost of parts and labor is $100 or less.~~**]** **(Deleted by amendment.)**

Sec. 5. NRS 482.31555 is hereby amended to read as follows:

482.31555 A short-term lessor may provide in a lease of a passenger car that a waiver of damages does not apply in the following circumstances:

1. Damage or loss resulting from an authorized driver's:

(a) Intentional, willful, wanton or reckless conduct.

(b) Operation of the car in violation of NRS 484.379.

(c) Towing or pushing with the car.

(d) Operation of the car on an unpaved road if the damage or loss is a direct result of the road or driving conditions.

2. Damage or loss occurring when the passenger car is:

(a) Used for hire.

(b) Used in connection with conduct that constitutes a felony.

(c) Involved in a speed test or contest or in driver training activity.

(d) Operated by a person other than an authorized driver.

(e) Operated in a foreign country or outside of the States of Nevada, Arizona, California, Idaho, Oregon and Utah, unless the lease expressly provides that the passenger car may be operated in other locations.

3. An authorized driver providing:

(a) Fraudulent information to the short-term lessor.

(b) False information to the lessor and the lessor would not have leased the passenger car if he had received true information.

4. Damage or loss resulting from the theft of the passenger car if committed by an authorized driver or a person aided or abetted by an authorized driver. A theft is presumed to have been committed by a person other than an authorized driver or a person aided or abetted by an authorized driver if the short-term lessee of the car:

(a) Has possession of the ignition key furnished by the lessor or establishes that the ignition key furnished by the lessor was not in the car at the time of the theft; and

(b) Files an official report of the theft with an appropriate law enforcement agency within 24 hours after learning of the theft and cooperates with the lessor and the law enforcement agency in providing information concerning the theft.

➥ The lessor may rebut the presumption set forth in this subsection by establishing that an authorized driver committed or aided and abetted another person in the commission of the theft.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 205.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 206.

AN ACT relating to the taxation of property; revising the provisions governing the calculation of certain partial abatements of taxes and the taxable value of improvements made on land, the designation of taxes on personal property as uncollectible and the taxation of open-space land **.;** ~~**[which is converted to a higher use;]**~~ clarifying the provisions governing the notification, appeal and revision of the valuation of property on the

unsecured tax roll; ~~[delaying the required filing dates]~~ **revising the requirements** for certain **segregation and** statistical reports and **projections of assessed value; delaying the required filing date for** petitions for the review of certain determinations regarding the applicability of a partial abatement; postponing the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 8 of this bill require a county assessor to make certain projections of assessed valuation of property for an upcoming fiscal year that had been made under existing law by the Department of Taxation. (NRS 361.390) Additionally, section 8 revises the dates when a county assessor must file with the Department certain statistical and segregation reports showing assessed values of property.

Existing law provides a partial abatement of the property taxes levied on property for which an assessed valuation has previously been established, a remainder parcel of real property, certain single-family residences and certain residential rental dwellings. (NRS 361.4722, 361.4723, 361.4724) **Sections ~~[1]~~ 2 and ~~[8-10]~~ 9-11** of this bill revise the formula for calculating the partial abatement in such a manner as to lower the cap on the tax liability of an owner of real property when the taxable value of the property is reduced as a result of the partial or complete destruction or removal of an improvement to the property or the correction of an overassessment of an improvement because of a factual error. **Section ~~[12]~~ 13** of this bill changes the date by which a petition must be filed for the review of a county assessor's determination regarding the applicability of a partial abatement from January 15 to the last day of the fiscal year for which the determination is effective. (NRS 361.4734)

Section ~~[2]~~ 3 of this bill allows a county assessor, when determining the cost to replace an improvement on land for the purpose of calculating taxable value, to use the **final** plans, drawings and other representations prepared by the architect or builder of the improvement to establish its size or quantity. (NRS 361.227)

Section ~~[3]~~ 4 of this bill provides statutory clarification that **a county assessor must provide notice of the assessed valuation of property on the secured tax roll on or before December 18 of the fiscal year in which the property is appraised or reappraised, but** the individual tax bills provided to the owners of **personal** property **billed** on the unsecured tax roll serve as notification of the assessed valuation of **~~[the]~~ that** property **.** ~~[after the regular appraisal or reappraisal of the property by the county assessor.]~~ (NRS 361.300)

Under existing law, a taxpayer desiring to appeal the assessment of property placed on the unsecured tax roll must, if the property was assessed after December 15 and on or before April 30, file that appeal with the State

Board of Equalization on or before May 15. (NRS 361.360) **Sections ~~[4-6]~~ 5-7** of this bill provide statutory clarification that a taxpayer desiring to appeal the assessment of property on the unsecured tax roll which was assessed at any other time may file that appeal with the county board of equalization on or before January 15. (NRS 361.345, 361.356, 361.357)

~~[Section 7 of this bill changes from July 31 to August 10 the date by which a county assessor must file with the Department of Taxation a statistical report showing values of property on the secured tax roll. (NRS 361.390)]~~

Existing law authorizes a county assessor to seize the personal property of a person who neglects or refuses to pay property taxes, and requires the county assessor to post a notice of the seizure within the immediate vicinity of the seized property before selling the property at public auction. (NRS 361.535) **Section ~~[13]~~ 14** of this bill makes it a gross misdemeanor for a person to remove, deface, cover or conceal that notice, or to move or sell, attempt to move or sell or assist another person to move or sell the seized property, before the delinquent taxes are paid.

Existing law allows a county tax receiver to petition the board of county commissioners to designate certain taxes on personal property as uncollectible, thereby relieving the tax receiver from liability for the failure to collect those taxes. (NRS 361.5607) **Section ~~[14]~~ 15** of this bill revises the criteria under which such a petition is authorized to require in every case that all appropriate collection procedures were followed without success, and that either the taxes have been delinquent for at least 3 years or the amount of the taxes is $25 or less.

Existing law requires the assessment of a golf course as open-space property and the payment of deferred property taxes when any open-space property is converted to a higher use. (NRS 361A.170, 361A.280) **Section ~~[16]~~ 18** of this bill specifies criteria for determining when a golf course ~~[has been converted to a higher use. (NRS 361A.031)]~~ **becomes disqualified for open-space use assessment. (NRS 361A.230) Sections ~~[15 and 18]~~ 16 and 20** of this bill clarify the amount of deferred property taxes due upon the conversion of any open-space property to a higher use.

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) **Sections ~~[20, 21 and 22]~~ 22, 23 and 24** of this bill provide for the continuation of this funding during the next biennium by postponing its prospective expiration until June 30, 2011.

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

Section 1. **NRS 360.690 is hereby amended to read as follows:**

360.690 1. Except as otherwise provided in NRS 360.730, the Executive Director shall estimate monthly the amount each local

government, special district and enterprise district will receive from the Account pursuant to the provisions of this section.

2. The Executive Director shall establish a base monthly allocation for each local government, special district and enterprise district by dividing the amount determined pursuant to NRS 360.680 for each local government, special district and enterprise district by 12, and the State Treasurer shall, except as otherwise provided in subsections 3 to 8, inclusive, remit monthly that amount to each local government, special district and enterprise district.

3. If, after making the allocation to each enterprise district for the month, the Executive Director determines there is not sufficient money available in the county's subaccount in the Account to allocate to each local government and special district the base monthly allocation determined pursuant to subsection 2, he shall prorate the money in the county's subaccount and allocate to each local government and special district an amount equal to its proportionate percentage of the total amount of the base monthly allocations determined pursuant to subsection 2 for all local governments and special districts within the county. The State Treasurer shall remit that amount to the local government or special district.

4. Except as otherwise provided in subsections 5 to 8, inclusive, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~[by the Department]~~ pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~[by the Department]~~ pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

5. Except as otherwise provided in subsection 6 or 7, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district and that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least $50,000,000 or that the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure or that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least $50,000,000 and the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation

attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~[by the Department]~~ pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~[by the Department]~~ pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

6. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in each of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a negative figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which

the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~[by the Department]~~ pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~[by the Department]~~ pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

7. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in any of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a positive figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~[by the Department]~~ pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected ~~[by the Department]~~ pursuant to NRS 361.390, and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

8. The Executive Director shall not allocate any amount to a local government or special district pursuant to subsection 4, 5, 6 or 7 unless the amount distributed and allocated to each of the local governments and special districts in the county in each preceding month of the fiscal year in which the

allocation is to be made was at least equal to the base monthly allocation determined pursuant to subsection 2. If the amounts distributed to the local governments and special districts in the county for the preceding months of the fiscal year in which the allocation is to be made were less than the base monthly allocation determined pursuant to subsection 2 and the Executive Director determines there is money remaining in the county's subaccount in the Account after the distribution for the month has been made, he shall:

(a) Determine the amount by which the base monthly allocations determined pursuant to subsection 2 for each local government and special district in the county for the preceding months of the fiscal year in which the allocation is to be made exceeds the amounts actually received by the local governments and special districts in the county for the same period; and

(b) Compare the amount determined pursuant to paragraph (a) to the amount of money remaining in the county's subaccount in the Account to determine which amount is greater.

➥ If the Executive Director determines that the amount determined pursuant to paragraph (a) is greater, he shall allocate the money remaining in the county's subaccount in the Account pursuant to the provisions of subsection 3. If the Executive Director determines that the amount of money remaining in the county's subaccount in the Account is greater, he shall first allocate the money necessary for each local government and special district to receive the base monthly allocation determined pursuant to subsection 2 and the State Treasurer shall remit that money so allocated. The Executive Director shall allocate any additional money in the county's subaccount in the Account pursuant to the provisions of subsection 4, 5, 6 or 7, as appropriate.

9. The percentage changes in population calculated pursuant to subsections 4 to 7, inclusive, must:

(a) Except as otherwise provided in paragraph (c), if the Bureau of the Census of the United States Department of Commerce issues population totals that conflict with the totals certified by the Governor pursuant to NRS 360.285, be an estimate of the change in population for the calendar year, based upon the population totals issued by the Bureau of the Census.

(b) If a new method of determining population is established pursuant to NRS 360.283, be adjusted in a manner that will result in the percentage change being based on population determined pursuant to the new method for both the fiscal year in which the allocation is made and the fiscal year immediately preceding the year in which the allocation is made.

(c) If a local government files a formal appeal with the Bureau of the Census concerning the population total of the local government issued by the Bureau of the Census, be calculated using the population total certified by the Governor pursuant to NRS 360.285 until the appeal is resolved. If additional money is allocated to the local government because the population total certified by the Governor is greater than the population total issued by the Bureau of the Census, the State Treasurer shall deposit that additional money

in a separate interest-bearing account. Upon resolution of the appeal, if the population total finally determined pursuant to the appeal is:

(1) Equal to or less than the population total initially issued by the Bureau of the Census, the State Treasurer shall transfer the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, to the Local Government Tax Distribution Account for allocation among the local governments in the county pursuant to subsection 4, 5, 6 or 7, as appropriate.

(2) Greater than the population total initially issued by the Bureau of the Census, the Executive Director shall calculate the amount that would have been allocated to the local government pursuant to subsection 4, 5, 6 or 7, as appropriate, if the population total finally determined pursuant to the appeal had been used and the State Treasurer shall remit to the local government an amount equal to the difference between the amount actually distributed and the amount calculated pursuant to this subparagraph or the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, whichever is less.

10. On or before February 15 of each year, the Executive Director shall provide to each local government, special district and enterprise district a preliminary estimate of the revenue it will receive from the Account for that fiscal year.

11. On or before March 15 of each year, the Executive Director shall:

(a) Make an estimate of the receipts from each tax included in the Account on an accrual basis for the next fiscal year in accordance with generally accepted accounting principles, including an estimate for each county of the receipts from each tax included in the Account; and

(b) Provide to each local government, special district and enterprise district an estimate of the amount that local government, special district or enterprise district would receive based upon the estimate made pursuant to paragraph (a) and calculated pursuant to the provisions of this section.

12. A local government, special district or enterprise district may use the estimate provided by the Executive Director pursuant to subsection 11 in the preparation of its budget.

~~[Section 1.]~~ ***Sec. 2.*** Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

If the taxable value of an improvement to real property is reduced as a result of:

1. The partial or complete destruction or removal of the improvement; or

2. The correction pursuant to NRS 361.768 of an overassessment of the improvement because of a factual error,

➥ then for the purpose of calculating the amount of any partial abatement to which the owner of the real property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the initial fiscal year for which that reduction in taxable value applies, the amount determined for the

immediately preceding fiscal year pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724, as applicable, must be reduced by the same percentage as the taxable value of the real property is reduced for that initial fiscal year as a result of the partial or complete destruction or removal of the improvement to the property or the correction of the overassessment of the improvement to the property.

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 361.227 is hereby amended to read as follows:

361.227 1. Any person determining the taxable value of real property shall appraise:

(a) The full cash value of:

(1) Vacant land by considering the uses to which it may lawfully be put, any legal or physical restrictions upon those uses, the character of the terrain, and the uses of other land in the vicinity.

(2) Improved land consistently with the use to which the improvements are being put.

(b) Any improvements made on the land by subtracting from the cost of replacement of the improvements all applicable depreciation and obsolescence. Depreciation of an improvement made on real property must be calculated at 1.5 percent of the cost of replacement for each year of adjusted actual age of the improvement, up to a maximum of 50 years.

2. The unit of appraisal must be a single parcel unless:

(a) The location of the improvements causes two or more parcels to function as a single parcel;

(b) The parcel is one of a group of contiguous parcels which qualifies for valuation as a subdivision pursuant to the regulations of the Nevada Tax Commission; or

(c) In the professional judgment of the person determining the taxable value, the parcel is one of a group of parcels which should be valued as a collective unit.

3. The taxable value of a leasehold interest, possessory interest, beneficial interest or beneficial use for the purpose of NRS 361.157 or 361.159 must be determined in the same manner as the taxable value of the property would otherwise be determined if the lessee or user of the property was the owner of the property and it was not exempt from taxation, except that the taxable value so determined must be reduced by a percentage of the taxable value that is equal to the:

(a) Percentage of the property that is not actually leased by the lessee or used by the user during the fiscal year; and

(b) Percentage of time that the property is not actually leased by the lessee or used by the user during the fiscal year, which must be determined in accordance with NRS 361.2275.

4. The taxable value of other taxable personal property, except a mobile or manufactured home, must be determined by subtracting from the cost of

replacement of the property all applicable depreciation and obsolescence. Depreciation of a billboard must be calculated at 1.5 percent of the cost of replacement for each year after the year of acquisition of the billboard, up to a maximum of 50 years.

5. The computed taxable value of any property must not exceed its full cash value. Each person determining the taxable value of property shall reduce it if necessary to comply with this requirement. A person determining whether taxable value exceeds that full cash value or whether obsolescence is a factor in valuation may consider:

(a) Comparative sales, based on prices actually paid in market transactions.

(b) A summation of the estimated full cash value of the land and contributory value of the improvements.

(c) Capitalization of the fair economic income expectancy or fair economic rent, or an analysis of the discounted cash flow.

➥ A county assessor is required to make the reduction prescribed in this subsection if the owner calls to his attention the facts warranting it, if he discovers those facts during physical reappraisal of the property or if he is otherwise aware of those facts.

6. The Nevada Tax Commission shall, by regulation, establish:

(a) Standards for determining the cost of replacement of improvements of various kinds.

(b) Standards for determining the cost of replacement of personal property of various kinds. The standards must include a separate index of factors for application to the acquisition cost of a billboard to determine its replacement cost.

(c) Schedules of depreciation for personal property based on its estimated life.

(d) Criteria for the valuation of two or more parcels as a subdivision.

7. In determining ***, for the purpose of computing taxable value,*** the cost of replacement of ***:***

(a) Any personal property ***,*** ~~[~~for the purpose of computing taxable value,~~]~~ the cost of all improvements of the personal property, including any additions to or renovations of the personal property, but excluding routine maintenance and repairs, must be added to the cost of acquisition of the personal property.

(b) An improvement made on land, a county assessor may use any final representations of the improvement ~~*[that are]*~~ ***prepared by the architect or builder of the improvement, including, without limitation, any final building plans, drawings, sketches and surveys, and any specifications included in such representations, as a basis for establishing any relevant measurements of size or quantity.***

8. The county assessor shall, upon the request of the owner, furnish within 15 days to the owner a copy of the most recent appraisal of the property, including, without limitation, copies of any sales data, materials presented on appeal to the county board of equalization or State Board of

Equalization and other materials used to determine or defend the taxable value of the property.

9. The provisions of this section do not apply to property which is assessed pursuant to NRS 361.320.

~~[Sec. 3.]~~ ***Sec. 4.*** NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the secured tax roll is completed and open for inspection by interested persons of the county.

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow him a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. Except as otherwise provided in subsection 4, each board of county commissioners shall by resolution, before December 1 of any fiscal year in which assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor:

(a) To cause such list and valuations to be printed and delivered by the county assessor or mailed by him on or before January 1 of the fiscal year in which assessment is made to each taxpayer in the county; or

(b) To cause such list and valuations to be published once on or before January 1 of the fiscal year in which assessment is made in a newspaper of general circulation in the county.

➥ In addition to complying with paragraph (a) or (b), the list and valuations may also be posted in a public area of the public libraries and branch libraries located in the county, in a public area of the county courthouse and the county office building in which the county assessor's office is located, and on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.

4. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as provided in paragraph (a) of subsection 3, to taxpayers whose property is assessed at $1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.

5. The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this section on a claim to be allowed and paid as are other claims against the county.

6. Whenever ***:***

(a) Any property ***on*** ~~[:~~

~~*(a) The]*~~ ***the secured tax roll*** is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal.

~~*(b) [The]*~~ ***Any personal property billed on the unsecured tax roll is appraised or reappraised pursuant to NRS 361.260, the delivery or mailing to the owner of such property of an individual tax bill or individual tax notice for the property shall be deemed to constitute adequate notice to the owner of the assessed valuation of the property as determined from the appraisal or reappraisal.***

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site, if any, that is operated or administered by or on behalf of the county or the county assessor.

~~**[Sec. 4.]**~~ ***Sec. 5.*** NRS 361.345 is hereby amended to read as follows:

361.345 1. Except as otherwise provided in subsection 2, the county board of equalization may ~~**[determine]**~~ ***:***

(a) Determine the valuation of any ***real or personal*** property ***placed on:***

(1) The secured tax roll which was assessed by the county assessor ~~**[, and may change]**~~ ***; or***

(2) The unsecured tax roll which was assessed by the county assessor on or after May 1 and on or before December 15; and

(b) Change and correct any valuation found to be incorrect either by adding thereto or by deducting therefrom such sum as is necessary to make it conform to the taxable value of the property assessed, whether that valuation was fixed by the owner or the county assessor. The county board of equalization may not reduce the assessment of the county assessor unless it is established by a preponderance of the evidence that the valuation established by the county assessor exceeds the full cash value of the property or is inequitable. A change so made is effective only for the fiscal year for which the assessment was made. The county assessor shall each year review all such changes made for the previous fiscal year and maintain or remove each change as circumstances warrant.

2. If a person complaining of the assessment of his property:

(a) Has refused or, without good cause, has neglected to give the county assessor his list under oath, as required by NRS 361.265; or

(b) Has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination required by NRS 361.260,

➥ the county assessor shall make a reasonable estimate of the property and assess it accordingly. No reduction may be made by the county board of equalization from the assessment of the county assessor made pursuant to this subsection.

3. If the county board of equalization finds it necessary to add to the assessed valuation of any property on the assessment roll, it shall direct the clerk to give notice to the person so interested by registered or certified letter, or by personal service, naming the day when it will act on the matter and allowing a reasonable time for the interested person to appear.

~~[Sec. 5.]~~ ***Sec. 6.*** NRS 361.356 is hereby amended to read as follows:

361.356 1. An owner of ***any real or personal*** property ***placed on:***

(a) The secured tax roll who believes that his property was assessed at a higher value than another property whose use is identical and whose location is comparable may appeal the assessment, on or before January 15 of the fiscal year in which the assessment was made, to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

(b) The unsecured tax roll which was assessed on or after May 1 and on or before December 15 who believes that his property was assessed at a higher value than another property whose use is identical and whose location is comparable may appeal the assessment, on or before the following January 15, to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. Before a person may file an appeal pursuant to subsection 1, the person must complete a form provided by the county assessor to appeal the assessment to the county board of equalization. The county assessor may, before providing such a form, require the person requesting the form to provide the parcel number or other identification number of the property that is the subject of the planned appeal.

3. If the board finds that an inequity exists in the assessment of the value of the land or the value of the improvements, or both, the board may add to or deduct from the value of the land or the value of the improvements, or both, either of the appellant's property or of the property to which it is compared, to equalize the assessment.

4. In the case of residential property, the appellant shall cite other property within the same subdivision if possible.

~~[Sec. 6.]~~ ***Sec. 7.*** NRS 361.357 is hereby amended to read as follows:

361.357 1. The owner of any ***real or personal*** property ***placed on:***

(a) The secured tax roll who believes that the full cash value of his property is less than the taxable value computed for the property in the current assessment year ~~[,]~~ may, not later than January 15 of the fiscal year in which the assessment was made, appeal to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

(b) The unsecured tax roll which was assessed on or after May 1 and on or before December 15 who believes that the full cash value of his property is less than the taxable value computed for the property in the current assessment year may, not later than the following January 15, appeal to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. Before a person may file an appeal pursuant to subsection 1, the person must complete a form provided by the county assessor to appeal the assessment to the county board of equalization. The county assessor may, before providing such a form, require the person requesting the form to provide the parcel number or other identification number of the property that is the subject of the planned appeal.

3. If the county board of equalization finds that the full cash value of the property on January 1 immediately preceding the fiscal year for which the taxes are levied is less than the taxable value computed for the property, the board shall correct the land value or fix a percentage of obsolescence to be deducted from the otherwise computed taxable value of the improvements, or both, to make the taxable value of the property correspond as closely as possible to its full cash value.

4. No appeal under this section may result in an increase in the taxable value of the property.

~~[Sec. 7.]~~ ***Sec. 8.*** NRS 361.390 is hereby amended to read as follows:

361.390 Each county assessor shall:

1. File with or cause to be filed with the Secretary of the State Board of Equalization, on or before March 10 of each year, the tax roll, or a true copy thereof, of his county for the current year as corrected by the county board of equalization.

2. Prepare and file with the Department on or before January 31, ~~[and again on or before]~~ March 5 ***and October 31*** of each year, a segregation report showing the assessed values for each taxing entity within the county on a form prescribed by the Department. The assessor shall make any projections required for the current fiscal year ~~[.]~~ ***and the upcoming fiscal year regarding real and personal property for which the taxable value is determined by the assessor.*** The Department shall make any projections required for the upcoming fiscal year ~~[.]~~ ***regarding the net proceeds of minerals and any property for which the taxable value is determined by the Nevada Tax Commission.***

3. Prepare and file with the Department on or before ~~[July 31]~~ ~~[August 10 for the secured roll and on or before]~~ May 5 for the unsecured roll, ***on or***

before August 10 for the secured roll, and on or before October 31 for the unsecured roll and the secured roll, a statistical report showing values for all categories of property on a form prescribed by the Department.

~~[Sec. 8.]~~ ***Sec. 9.*** NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, ***and section ~~[1]~~ 2 of this act,*** the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The greater of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years;

(II) Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year; or

(III) Zero; or

(2) Eight percent,

➥ whichever is less.

2. Except as otherwise provided in or required to carry out the provisions of NRS 361.4725 to 361.4728, inclusive, ***and section ~~[1]~~ 2 of this act,*** the owner of any remainder parcel of real property for which no assessed valuation was separately established for the immediately preceding fiscal year, is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for a fiscal year equal to the amount by which the

product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any amount of that assessed valuation attributable to any improvement to or change in the actual or authorized use of the property that would not have been included in the calculation of the assessed valuation of the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year, and if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The greater of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years;

(II) Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year; or

(III) Zero; or

(2) Eight percent,

➥ whichever is less.

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsections 1 and

2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section, "remainder parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property for development from one or more existing parcels of real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

~~[Sec. 9.]~~ ***Sec. 10.*** NRS 361.4723 is hereby amended to read as follows:

361.4723 The Legislature hereby finds and declares that an increase in the tax bill of the owner of a home by more than 3 percent over the tax bill of that homeowner for the previous year constitutes a severe economic hardship within the meaning of subsection 10 of Section 1 of Article 10 of the Nevada Constitution. The Legislature therefore directs a partial abatement of taxes for such homeowners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, ***and section*** ~~*[1]*~~ ***2 of this act,*** the owner of a single-family residence which is the primary residence of the owner is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to any property for which:

(a) No assessed valuation was separately established for the immediately preceding fiscal year; or

(b) The provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section, including, without limitation, regulations providing a methodology for applying the partial abatement provided pursuant to subsection 1 to a parcel of real property of which only a portion qualifies as a single-family residence which is the primary residence of the owner and the remainder is used in another manner.

5. The owner of a single-family residence does not become ineligible for the partial abatement provided pursuant to subsection 1 as a result of:

(a) The operation of a home business out of a portion of that single-family residence; or

(b) The manner in which title is held by the owner if the owner occupies the residence, including, without limitation, if the owner has placed the title in a trust for purposes of estate planning.

6. For the purposes of this section:

(a) "Primary residence of the owner" means a residence which:

(1) Is designated by the owner as the primary residence of the owner in this State, exclusive of any other residence of the owner in this State; and

(2) Is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence.

(b) "Single-family residence" means a parcel or other unit of real property or unit of personal property which is intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

(c) "Unit of personal property" includes, without limitation, any:

(1) Mobile or manufactured home, whether or not the owner thereof also owns the real property upon which it is located; or

(2) Taxable unit of a condominium, common-interest community, planned unit development or similar property,

➥ if classified as personal property for the purposes of this chapter.

(d) "Unit of real property" includes, without limitation, any taxable unit of a condominium, common-interest community, planned unit development or similar property, if classified as real property for the purposes of this chapter.

~~[Sec. 10.]~~ ***Sec. 11.*** NRS 361.4724 is hereby amended to read as follows:

361.4724 The Legislature hereby finds and declares that many Nevadans who cannot afford to own their own homes would be adversely affected by large unanticipated increases in property taxes, as those tax increases are passed down to renters in the form of rent increases and therefore the benefits of a charitable exemption pursuant to subsection 8 of Section 1 of Article 10 of the Nevada Constitution should be afforded to those Nevadans through an abatement granted to the owners of residential rental dwellings who charge rent that does not exceed affordable housing standards for low-income housing. The Legislature therefore directs a partial abatement of taxes for such owners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, ***and section*** ~~*[1]*~~ ***2 of this act,*** if the amount of rent collected from each of the tenants of a residential dwelling does not exceed the fair market rent for the county in which the dwelling is located, as most recently published by the United States Department of Housing and Urban Development, the owner of the dwelling is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to:

(a) Any hotels, motels or other forms of transient lodging;

(b) Any property for which no assessed valuation was separately established for the immediately preceding fiscal year; and

(c) Any property for which the provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section.

~~[Sec. 11.]~~ ***Sec. 12.*** NRS 361.4732 is hereby amended to read as follows:

361.4732 Except as otherwise required to carry out ***the provisions of section ~~[1]~~ 2 of this act and*** any regulations adopted pursuant to NRS 361.4733 ***,*** and notwithstanding any other provision of NRS 361.471 to 361.4735, inclusive, ***and section ~~[1]~~ 2 of this act*** to the contrary, after a parcel or other taxable unit of real property is annexed to a taxing entity:

1. The amount otherwise required to be determined pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724 with respect to that property for the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the amount of ad valorem taxes which would have been levied on the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier, based upon the tax rates that would have applied to the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier and without regard to any exemptions from taxation that applied to the property for the immediately preceding fiscal year but do not apply to the property for the current fiscal year; and

2. For the purposes of any other calculations required pursuant to the provisions of NRS 361.471 to 361.4735, inclusive, ***and section ~~[1]~~ 2 of this act,*** the combined overlapping tax rate applicable to that property for the fiscal year immediately preceding the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the combined overlapping tax rate that would have applied to the property for that year if the annexation had occurred 1 year earlier.

~~[Sec. 12.]~~ ***Sec. 13.*** NRS 361.4734 is hereby amended to read as follows:

361.4734 1. A taxpayer who is aggrieved by a determination of the applicability of a partial abatement from taxation pursuant to NRS 361.4722,

361.4723 or 361.4724 may, if the property which is the subject of that determination:

(a) Is not valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the county assessor of the county in which the property is located. The petition must be submitted on or before ~~[January 15]~~ ***June 30*** of the fiscal year for which the determination is effective. The county assessor shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

(b) Is valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the Department. The Department shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

2. A taxpayer who is aggrieved by a decision rendered by a county assessor or the Department pursuant to subsection 1 may, within 30 days after receiving notice of that decision, appeal the decision to the Nevada Tax Commission.

3. A taxpayer who is aggrieved by a determination of the Nevada Tax Commission rendered on an appeal made pursuant to subsection 2 is entitled to a judicial review of that determination.

~~[Sec. 13.]~~ ***Sec. 14.*** NRS 361.535 is hereby amended to read as follows:

361.535 1. If the person, company or corporation so assessed neglects or refuses to pay the taxes within 30 days after demand, the taxes become delinquent. If the person, company or corporation so assessed neglects or refuses to pay the taxes within 10 days after the taxes become delinquent, a penalty of 10 percent must be added. If the tax and penalty are not paid on demand, the county assessor or his deputy may seize, seal or lock enough of the personal property of the person, company or corporation so neglecting or refusing to pay to satisfy the taxes and costs. The county assessor may use alternative methods of collection, including, without limitation, the assistance of the district attorney.

2. The county assessor shall:

(a) Post a notice of the seizure, with a description of the property, in a public area of the county courthouse or the county office building in which the assessor's office is located, and within the immediate vicinity of the property being seized; and

(b) At the expiration of 5 days, proceed to sell at public auction, at the time and place mentioned in the notice, to the highest bidder, for lawful money of the United States, a sufficient quantity of the property to pay the taxes and expenses incurred. For this service, the county assessor must be allowed from the delinquent person a fee of $3. The county assessor is not required to sell the property if the highest bid received is less than the lowest acceptable bid indicated in the notice.

➥ ***A person who, after the notice of the seizure of the property is posted pursuant to this subsection within the immediate vicinity of the property being seized and before the delinquent taxes on the property are paid, and without the consent of the county assessor, removes, defaces, covers or otherwise conceals that notice, moves or sells the property, attempts to move or sell the property, or assists another person to move or sell the property, is guilty of a gross misdemeanor.***

3. If the personal property seized by the county assessor or his deputy consists of a mobile or manufactured home, an aircraft, or the personal property of a business, the county assessor shall publish a notice of the seizure once during each of 2 successive weeks in a newspaper of general circulation in the county. If the legal owner of the property is someone other than the registered owner and the name and address of the legal owner can be ascertained from public records, the county assessor shall, before publication, send a notice of the seizure by registered or certified mail to the legal owner. The cost of the publication and notice must be charged to the delinquent taxpayer. The notice must state:

(a) The name of the owner, if known.

(b) The description of the property seized, including the location, the make, model and dimensions and the serial number, body number or other identifying number.

(c) The fact that the property has been seized and the reason for seizure.

(d) The lowest acceptable bid for the sale of the property, which is the total amount of the taxes due on the property and the penalties and costs as provided by law.

(e) The time and place at which the property is to be sold.

➥ After the expiration of 5 days from the date of the second publication of the notice, the property must be sold at public auction in the manner provided in subsection 2 for the sale of other personal property by the county assessor.

4. Upon payment of the purchase money, the county assessor shall deliver to the purchaser of the property sold, with a certificate of the sale, a statement of the amount of taxes or assessment and the expenses thereon for which the property was sold, whereupon the title of the property so sold vests absolutely in the purchaser.

5. After a mobile or manufactured home, an aircraft, or the personal property of a business is sold and the county assessor has paid all the taxes and costs on the property, the county assessor shall deposit into the general fund of the county the first $300 of the excess proceeds from the sale. The county assessor shall deposit any remaining amount of the excess proceeds from the sale into an interest-bearing account maintained for the purpose of holding excess proceeds separate from other money of the county. If no claim is made for the money within 6 months after the sale of the property for which the claim is made, the county assessor shall pay the money into the general fund of the county. All interest paid on money deposited in the account pursuant to this subsection is the property of the county.

6. If the former owner of a mobile or manufactured home, aircraft, or personal property of a business that was sold pursuant to this section makes a claim in writing for the balance of the proceeds of the sale within 6 months after the completion of the sale, the county assessor shall pay the balance of the proceeds of the sale or the proper portion of the balance over to the former owner if the county assessor is satisfied that the former owner is entitled to it.

~~[Sec. 14.]~~ ***Sec. 15.*** NRS 361.5607 is hereby amended to read as follows:

361.5607 1. The tax receiver may petition the board of county commissioners to designate as uncollectible those taxes on personal property ~~[:]~~ ***for whose collection all appropriate procedures have been followed and have proved unsuccessful and:***

(a) Which have been delinquent for 3 years or more; ***or***

(b) Whose amount, including penalties and costs, is $25 or less ***.*** ~~[; and~~

~~(c) For whose collection all appropriate procedures have been followed and have proved unsuccessful.]~~

➥ The board may grant or deny the petition with respect to any or all of those taxes.

2. No future liability attaches to the county assessor or the county treasurer for any taxes designated as uncollectible by the board of county commissioners under this section.

~~[Sec. 15.]~~ ***Sec. 16.*** Chapter 361A of NRS is hereby amended by adding thereto a new section to read as follows:

When any portion of open-space land is converted to a higher use, the county assessor shall determine its taxable and open-space use values against which to compute the deferred tax for each fiscal year the property was under open-space assessment during the current fiscal year and the preceding 6 fiscal years, or such other period as is required pursuant to NRS 361A.283. The taxable values for each year must be comparable for the corresponding years to the taxable values for property similar, including, without limitation, in size, zoning and location, to the portion of property actually converted to a higher use. When open-space land that is used as a golf course is converted to a higher use, the taxable values for the property must be determined, for the purpose of computing the deferred tax, in accordance with the provisions of NRS 361.227 based upon the assessment of the land as a golf course.

~~[Sec. 16.]~~ ***Sec. 17.*** NRS 361A.031 is hereby amended to read as follows:

361A.031 1. "Converted to a higher use" means:

(a) ~~*[Except for property used as a golf course:*~~

~~*(1)]*~~ A physical alteration of the surface of the property enabling it to be used for a higher use;

(b) ~~[(2)]~~ The recording of a final map or parcel map which creates one or more parcels not intended for agricultural ***or open-space*** use;

(c) ~~[(3)]~~ The existence of a final map or parcel map which creates one or more parcels not intended for agricultural ***or open-space*** use; or

(d) ~~[(4)]~~ A change in zoning to a higher use made at the request of the owner.

~~[(b) For property used as a golf course, the cessation of the use of the property for golfing or golfing practice, except when the cessation is due to:~~

~~(1) A seasonal closure of the property to such use; or~~

~~(2) A temporary closure of the property for maintenance, repairs or any other purpose that is incidental to such use or necessary for the continuation of such use.]~~

2. The term does not apply to ~~[the property remaining after a]~~ ***any*** portion of the parcel ~~[is converted to a higher use pursuant to subparagraph (2) or (3) of~~ paragraph~~]~~ ~~[~~(b) or (c)~~]~~ ~~[(a)~~ of subsection 1 if the remaining portion~~]~~ ***that*** continues to qualify as agricultural ***or open-space*** real property.

3. The term does not include leasing the land to or otherwise permitting the land to be used by an agricultural association formed pursuant to chapter 547 of NRS.

4. As used in this section:

(a) "Final map" has the meaning ascribed to it in NRS 278.0145.

(b) "Parcel map" has the meaning ascribed to it in NRS 278.017.

Sec. 18. **NRS 361A.230 is hereby amended to read as follows:**

361A.230 1. The county assessor shall enter on the assessment roll the valuation based on open-space use until the property becomes disqualified for open-space use assessment by:

(a) Sale or transfer to an owner making it exempt from ad valorem property taxation;

(b) Removal of the open-space use assessment by the assessor, with the concurrence of the board, upon discovery that the property is no longer in the open-space use; ~~[or]~~

(c) ***If the open-space use assessment is based on the designation and classification of the property pursuant to subsection 1 of NRS 361A.170, the cessation of the use of the property for golfing or golfing practice, except for:***

(1) A seasonal closure of the property to such use;

(2) A temporary closure of the property for maintenance or repairs; or

(3) A temporary closure of the property, upon notification of the county assessor, for not more than 12 months for any other purpose that is incidental to such use or necessary for the continuation of such use; or

(d) If the open-space use assessment is based on a designation or classification adopted pursuant to subsection 2 of NRS 361A.170:

(1) Notification by the applicant to the assessor to remove the open-space use assessment; or

(2) Failure to file a new application as provided in NRS 361A.190.

2. Except as otherwise provided in paragraph (a) of subsection 1, the sale or transfer to a new owner or transfer by reason of death of a former owner

does not operate to disqualify open-space real property from open-space use assessment so long as the property continues to be used exclusively for an open-space use. If the open-space use assessment is based on a designation or classification adopted pursuant to subsection 2 of NRS 361A.170, the new owner must apply for open-space use assessment in the manner provided in NRS 361A.190.

3. Whenever open-space real property becomes disqualified under subsection 1, the county assessor shall send a written notice of disqualification by certified mail with return receipt requested to each owner of record. The notice must contain the assessed value for the ensuing fiscal year.

~~[Sec. 17.]~~ ***Sec. 19.*** NRS 361A.265 is hereby amended to read as follows:

361A.265 1. An owner of property which has received an agricultural or open-space use assessment:

(a) Must pay the full amount of deferred taxes calculated pursuant to NRS 361A.280 for any property for which a final map will be recorded pursuant to NRS 278.460 before the date on which the map is recorded ~~[.]~~ ***, if the existence or recording of the map will result in the conversion of any portion of the property to a higher use.***

(b) In all other cases may, before the conversion of any portion of the property to a higher use, pay the amount of deferred taxes which would be due upon the conversion of that property pursuant to NRS 361A.280.

2. An owner who desires to pay the deferred taxes must request, in writing, the county assessor to estimate the amount of the deferred taxes which would be due at the time of conversion. After receiving such a request, the county assessor shall estimate the amount of the deferred taxes due for the next property tax statement and report the amount to the owner.

3. An owner who voluntarily pays the deferred taxes may appeal the valuations and calculations upon which the deferred taxes were based in the manner provided in NRS 361A.273.

4. If a parcel that has been created after the secured tax roll has been closed is converted to a higher use, the assessor must change the roll to reflect the changes in the parcel or parcels and assess the new parcel or parcels at taxable value for the following fiscal year. The deferred tax must be assessed pursuant to NRS 361A.280.

~~[Sec. 18.]~~ ***Sec. 20.*** NRS 361A.280 is hereby amended to read as follows:

361A.280 If the county assessor is notified or otherwise becomes aware that a parcel or any portion of a parcel of real property which has received agricultural or open-space use assessment has been converted to a higher use ***,*** the county assessor shall add to the tax extended against that portion of the property on the next property tax statement the deferred tax, which is the difference between the taxes that would have been paid or payable on the basis of the agricultural or open-space use valuation and the taxes which

would have been paid or payable on the basis of the taxable value calculated pursuant to NRS 361A.155 ~~[,]~~ ***or section*** ~~*[15]*~~ ***16 of this act, as applicable,*** for each year in which agricultural or open-space use assessment was in effect for the property during the fiscal year in which the property ceased to be used exclusively for agricultural use or approved open-space use and the preceding 6 fiscal years. The county assessor shall assess the property pursuant to NRS 361.227 for the next fiscal year following the date of conversion to a higher use.

~~[Sec. 19.]~~ ***Sec. 21.*** NRS 361A.283 is hereby amended to read as follows:

361A.283 1. If the county assessor determines that the deferred tax for any fiscal year or years was not assessed in the year it became due, he may assess it anytime within 5 fiscal years after the end of the fiscal year in which a parcel or portion of a parcel was converted to a higher use.

2. If the county assessor determines that a parcel was assessed for agricultural ***or open-space*** use rather than at full taxable value for any fiscal year in which it did not qualify for agricultural ***or open-space*** assessment, he may assess the deferred tax for that year anytime within 5 years after the end of that fiscal year.

3. A penalty equal to 20 percent of the total accumulated deferred tax described in subsections 1 and 2 must be added for each of the years in which the owner failed to provide the written notice required by NRS 361A.270. The county assessor may waive this penalty if he finds extenuating circumstances sufficient to justify the waiver.

~~[Sec. 20.]~~ ***Sec. 22.*** Section 57 of chapter 496, Statutes of Nevada 2005, as amended by section 27 of chapter 415, Statutes of Nevada 2007, at page 1899, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

4. Section 23 of this act becomes effective on July 1, ~~[2009.]~~ ***2011.***

5. Section 43 of this act expires by limitation on June 30, ~~[2009.]~~ ***2011.***

~~[Sec. 21.]~~ ***Sec. 23.*** Section 16 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 23, is hereby amended to read as follows:

Sec. 16. 1. This section and sections 2, 4, 14 and 15 of this act become effective upon passage and approval.

2. Sections 6 to 12, inclusive, of this act become effective on January 1, 2009 ~~[.~~

~~3. Sections 4 and 6 to 12, inclusive, of this act~~ **,** ***and*** expire by limitation on June 30, 2009.

~~[4.]~~ ***3.*** Sections 1, 3 ~~[, 5]~~ and 13 of this act become effective on July 1, 2009.

~~[5.]~~ ***4.*** Sections 1 ~~[, 2, 3 and 5]~~ ***to 4, inclusive,*** of this act expire by limitation on June 30, 2011.

~~[Sec. 22.]~~ ***Sec. 24.*** Section 5 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 17, is hereby repealed.

Sec. 25. **The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.**

~~[Sec. 23.]~~ ***Sec. 26.*** 1. This section and sections ~~[2, 3, 20, 21 and 22]~~ **3, 4 and 22 to 25, inclusive,** of this act become effective upon passage and approval.

2. Sections 1 ~~[and 4 to 19,]~~ **, 2 and 5 to 21,** inclusive, of this act become effective on July 1, 2009.

TEXT OF REPEALED SECTION

Section 5 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 17:

Sec. 5. NRS 362.170 is hereby amended to read as follows:

362.170 1. There is hereby appropriated to each county the total of the amounts obtained by multiplying, for each extractive operation situated within the county, the net proceeds of that operation and any royalties paid by that operation, ***as estimated and paid pursuant to NRS 362.115, plus any amounts paid pursuant to NRS 362.130*** by the combined rate of tax ad valorem ~~[,]~~ ***for the fiscal year to which the payments apply,*** excluding any rate levied by the State of Nevada, for property at that site, plus a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to the county. The Department shall report to the State Controller on or before May 25 of each year the amount appropriated to each county, as calculated for each operation from the ~~[final statement made in February of that year]~~ ***estimate provided pursuant to NRS 362.115 for the current calendar year and any adjustments made pursuant to NRS 362.130*** for the preceding calendar year. The State Controller shall distribute all money due to a county on or before May 30 of each year. ***The Department shall report to the State Controller any additional payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 within 15 days after receipt of the payment, and the State Controller shall distribute the money to the appropriate county within 5 days after receipt of the report from the Department. For the purposes of this subsection, payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 apply to the fiscal year in which the statement of the estimated net proceeds is filed pursuant to paragraph (a) of subsection 1 of NRS 362.115.***

2. The county treasurer shall apportion to each local government or other local entity an amount calculated by:

(a) Determining the total of the amounts obtained by multiplying, for each extractive operation situated within its jurisdiction, the net proceeds of that operation and any royalty payments paid by that operation, by the rate levied on behalf of that local government or other local entity;

(b) Adding to the amount determined pursuant to paragraph (a) a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to that local government or local entity; and

(c) Subtracting from the amount determined pursuant to paragraph (b) a commission of 3 percent of that amount which must be deposited in the county general fund.

3. The amounts apportioned pursuant to subsection 2, including, without limitation, the amount retained by the county and excluding the percentage commission, must be applied to the uses for which each levy was authorized in the same proportion as the rate of each levy bears to the total rate.

4. The Department shall report to the State Controller on or before May 25 of each year the amount received as tax upon the net proceeds of geothermal resources which equals the product of those net proceeds multiplied by the rate of tax levied ad valorem by the State of Nevada.

Assemblywoman McClain moved the adoption of the amendment.

Remarks by Assemblywoman McClain.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 233.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 62.

AN ACT relating to scrap metal; enacting various requirements for transactions involving scrap metal and for persons involved in such transactions; providing that a person who removes, damages or destroys certain property to obtain scrap metal is guilty of a crime; increasing the penalty for stealing scrap metal under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2 and 3 of this bill define the terms "scrap metal" and "scrap metal processor."

Section 4 of this bill requires purchasers of scrap metal to hold current business licenses from both the State and the appropriate city or county and to have authorization to operate from the appropriate solid waste management authority.

Section 5 of this bill requires scrap metal processors to maintain certain records of all purchases of scrap metal by the scrap metal processors.

Section 6 of this bill allows peace officers or investigators to place a hold on certain property in the possession of a scrap metal processor alleged to be related to criminal activity for a specified period during the investigation or prosecution.

Section 7 of this bill requires that payments for purchases of scrap metal with a value of $150 or more by a scrap metal processor must be made by certain means and that a receipt containing certain specified information must be provided to the seller of the scrap metal. **Section 7 also allows only a single cash transaction of less than $150 each day between a scrap metal processor and a seller.**

Section 7.5 of this bill provides that a person who knowingly and willfully fails to comply with the provisions of sections 5, 6 and 7 is: (1) for a first or second offense within a period of 5 years, guilty of a misdemeanor with varying terms of imprisonment and fines; and (2) for a third or subsequent offense within a period of 5 years, guilty of a category E felony.

Section 9 of this bill excludes scrap metal from the definition of "junk" under chapter 647 of NRS. (NRS 647.015) **Section 11** of this bill expands the crime of receiving property stolen from certain utilities and political subdivisions of the State, a category D felony, to include transactions involving scrap metal. (NRS 647.145)

Section 10 of this bill provides that chapter 647 of NRS does not prevent counties from licensing, taxing and regulating dealers in junk **~~[.]~~ or scrap metal. (NRS 647.080)**

Section 12 of this bill provides that a person who willfully or maliciously removes, damages or destroys utility property, agricultural infrastructure, construction sites or certain other property to obtain scrap metal is guilty of a misdemeanor if the value of the removal or damage of property is less than $500 or a felony if the removal or damage is greater than $500 or interrupts a service provided by utility property.

Existing law generally provides that a person commits petit larceny and is guilty of a misdemeanor if he steals property with a value of less than $250. (NRS 205.240) Existing law also generally provides that a person commits grand larceny if he steals property with a value of $250 or more. (NRS 205.220) A person who commits grand larceny is guilty of a category C felony if the value of the property is less than $2,500 and is guilty of a category B felony if the value of the property is $2,500 or more. (NRS 205.222)

Section 13 of this bill: (1) provides that, if the value of the scrap metal stolen within a period of 90 days is less than $250, the person is guilty of a misdemeanor; (2) provides that, if the value of the scrap metal stolen within a period of 90 days is $250 or more, the person is guilty of a category C or B felony with varying terms of imprisonment and fines, depending upon the value of the scrap metal stolen within the 90-day period; (3) requires the court to order a person who steals scrap metal to pay restitution; and (4)

provides that the cost of repairing or replacing property damaged by the theft of scrap metal must be included in the value of the property that was stolen.

Sections 17 and 19 of this bill amend existing law to apply certain provisions governing larceny to the new crime of larceny described in **section 13** of this bill involving scrap metal. (NRS 205.251, 205.980)

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

Section 1. Chapter 647 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[7,]~~ **7.5,** inclusive, of this act.

Sec. 2. **1.** ***"Scrap metal" means ~~[nonferrous]~~ :***

(a) Nonferrous metals, scrap iron, stainless steel or other material or equipment which consists in whole or in part of metal and which is used in construction, agricultural operations, electrical power generation, transmission or distribution, cable, broadband or telecommunications transmission, railroad equipment, oil well rigs or any lights maintained by the State or a local government, including, without limitation, street lights, traffic-control devices, park lights or ballpark lights ~~[.]~~ ; and

(b) Catalytic converters.

2. The term does not include waste generated by a household, aluminum beverage containers, used construction scrap iron or materials consisting of a metal product in its original manufactured form which contains not more than 20 percent by weight nonferrous metal.

Sec. 3. ***"Scrap metal processor" means any person who:***

1. Engages in the business of purchasing, trading, bartering or otherwise receiving scrap metal; or

2. Uses machinery and equipment for processing and manufacturing iron, steel or nonferrous scrap into prepared grades, and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

Sec. 4. ***A person shall not purchase scrap metal unless that person:***

1. Possesses both a valid business license issued by the State pursuant to NRS 360.780 and a valid business license from the city or county, as applicable, in which the person purchases scrap metal; and

2. Has obtained all required authorizations to operate from, or is otherwise registered with, the solid waste management authority for the area in which the person purchases scrap metal.

Sec. 5. ***1. Every scrap metal processor shall maintain in his place of business a book or other permanent record in which must be made, at the time of each purchase of scrap metal, a record of the purchase that contains:***

(a) The date of the purchase.

(b) The name or other identification of the person or employee conducting the transaction on behalf of the scrap metal processor.

(c) A copy of the seller's valid personal identification card or valid driver's license issued by a state or a copy of the seller's valid United States military identification card.

(d) The name, street, house number and date of birth listed on the identification provided pursuant to paragraph (c) and a physical description of the seller, including his gender, height, eye color and hair color.

(e) A photograph, video record or digital record of the seller.

(f) The fingerprint of the right index finger of the seller. If the seller's right index finger is not available, the scrap metal processor must obtain the fingerprint of one of the seller's remaining fingers and thumbs.

(g) The license number and general description of the vehicle delivering the scrap metal that is being purchased.

(h) A description of the scrap metal that is being purchased which is consistent with the standards published and commonly applied in the scrap metal industry.

(i) The price paid by the scrap metal processor for the scrap metal.

2. All records kept pursuant to subsection 1 must be legibly written in the English language, if applicable.

3. A scrap metal processor shall document each purchase of scrap metal with a photograph or video recording which must be retained on-site for not less than 60 days after the date of the purchase.

4. All scrap metal purchased by the scrap metal processor and the records created in accordance with subsection 1, including, but not limited to, any photographs or video recordings, must at all times during ordinary hours of business be open to the inspection of a prosecuting attorney or any peace officer.

Sec. 6. ***1. A peace officer or investigator who is involved in the investigation or prosecution of criminal activity may place a written hold for not more than 7 business days on any property in the possession of a scrap metal processor that is related or allegedly related to the criminal activity. A hold pursuant to this section may be extended for an additional period of not more than 7 business days by a peace officer or investigator by providing written notice to the scrap metal processor.***

2. While a hold is placed on property pursuant to this section, the scrap metal processor shall not remove or dispose of the property to any person other than the peace officer or investigator who placed the hold on the property. A peace officer or investigator who placed a hold on property may obtain custody of the property from the scrap metal processor if the peace officer or investigator:

(a) Has obtained written authorization from the prosecuting attorney which includes, without limitation, a description of the property and an acknowledgment of the scrap metal processor's interest in the property; and

(b) Provides a copy of the written authorization to the scrap metal processor.

3. Property received by a peace officer or investigator pursuant to this section may be disposed of only in the manner set forth in NRS 52.385 or 179.125 to 179.165, inclusive.

4. A peace officer or investigator who places a hold on property pursuant to this section shall notify the scrap metal processor in writing when the investigation or prosecution has concluded or when the hold is no longer necessary, whichever occurs sooner.

Sec. 7. ***1. For each purchase of scrap metal with a value of $150 or more by a scrap metal processor, the scrap metal processor must pay the seller only by check or electronic transfer of money. For payments made by check to a seller who represents a business, the check must be made payable to the business using the name of the business.*** ~~*[Only one transaction may take place between the same seller and scrap metal processor each day.]*~~ ***A scrap metal processor shall not conduct more than one cash transaction of less than $150 with the same seller on the same day.***

2. A scrap metal processor shall provide a receipt to the seller on-site at the time of the purchase of scrap metal by the scrap metal processor. The receipt must include, without limitation, the following information:

(a) The date, time and place of the purchase;

(b) An identifying description and weight of the scrap metal that is being purchased;

(c) The price paid by the scrap metal processor for the scrap metal;

(d) A copy of the personal identification provided pursuant to paragraph (c) of subsection 1 of section 5 of this act; and

(e) The license number of the vehicle delivering the scrap metal that is being purchased.

Sec. 7.5. Unless a greater penalty is provided pursuant to specific statute, a person who knowingly and willfully violates any provision of section 5, 6 or 7 of this act:

1. For a first offense within a period of 5 years, is guilty of a misdemeanor and shall be punished by a fine of not more than $500.

2. For a second offense within a period of 5 years, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 6 months and by a fine of not more than $1,000.

3. For a third or subsequent offense within a period of 5 years, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 8. NRS 647.010 is hereby amended to read as follows:

647.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 647.011 to 647.018, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 647.015 is hereby amended to read as follows:

647.015 "Junk" includes old iron, copper, brass, lead, zinc, tin, steel and other metals, metallic cables, wires, ropes, cordage, bottles, bagging, rags, rubber, paper, and all other secondhand, used or castoff articles or material of any kind ~~[.]~~ ***, but does not include scrap metal.***

Sec. 10. NRS 647.080 is hereby amended to read as follows:

647.080 The provisions of this chapter do not impair the power of cities ***and counties*** in this State to license, tax and regulate any person, firm or corporation now engaged in or hereafter engaged in the buying and selling of junk ~~[.]~~ ***or scrap metal.***

Sec. 11. NRS 647.145 is hereby amended to read as follows:

647.145 1. Any ***person, including, but not limited to, any*** junk dealer ***, scrap metal processor*** or secondhand dealer, or any agent, employee or representative of a junk dealer ***, scrap metal processor*** or secondhand dealer, who buys or receives any junk ***or scrap metal*** which he knows or should reasonably know is ordinarily used by and belongs to a ***cable, broadband, telecommunications,*** telephone, telegraph, gas, water, electric or transportation company or county, city or other political subdivision of this State engaged in furnishing utility service, and who fails to use ordinary care in determining whether the person selling or delivering such junk ***or scrap metal*** has a legal right to do so, is guilty of criminally receiving such property.

2. A person convicted of criminally receiving junk ***or scrap metal*** is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 12. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who willfully and maliciously removes, damages or destroys any utility property, agricultural infrastructure or other agricultural property, lights maintained by the State or a local government, construction site or existing structure to obtain scrap metal shall be punished pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the value of the property removed, damaged or destroyed as described in subsection 1 is:

(a) Less than $500, a person who violates the provisions of subsection 1 is guilty of a misdemeanor.

(b) Five hundred dollars or more, a person who violates the provisions of subsection 1 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. If the removal, damage or destruction described in subsection 1 causes an interruption in the service provided by any utility property, a person who violates the provisions of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. In addition to any other penalty, the court may order a person who violates the provisions of subsection 1 to pay restitution.

5. In determining the value of the property removed, damaged or destroyed as described in subsection 1, the cost of replacing or repairing the property or repairing the utility property, agricultural infrastructure, agricultural property, lights, construction site or existing structure, if necessary, must be added to the value of the property.

6. As used in this section:

(a) "Scrap metal" has the meaning ascribed to it in section 2 of this act.

(b) "Utility property" means any facility, equipment or other property owned, maintained or used by a company or a city, county or other political subdivision of this State to furnish cable television or other video service, broadband service, telecommunication service, telephone service, telegraph service, natural gas service, water service or electric service, regardless of whether the facility, property or equipment is currently used to furnish such service.

Sec. 13. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who intentionally steals, takes and carries away scrap metal with a value of less than $250 within a period of 90 days is guilty of a misdemeanor.

2. A person who intentionally steals, takes and carries away scrap metal with a value of $250 or more within a period of 90 days is guilty of:

(a) If the value of the property taken is less than $2,500, a category C felony and shall be punished as provided in NRS 193.130; or

(b) If the value of the property taken is $2,500 or more, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.

3. In addition to any other penalty, the court shall order a person who violates the provisions of subsection 1 or 2 to pay restitution.

4. In determining the value of the property taken, the cost of repairing and, if necessary, replacing any property damaged by the theft of the scrap metal must be added to the value of the property.

5. As used in this section, "scrap metal" has the meaning ascribed to it in section 2 of this act.

Sec. 14. NRS 205.2175 is hereby amended to read as follows:

205.2175 As used in NRS 205.2175 to 205.2707, inclusive, ***and section 13 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 205.218 to 205.2195, inclusive, have the meanings ascribed to them in those sections.

Sec. 15. NRS 205.2195 is hereby amended to read as follows:

205.2195 "Property" means:

1. Personal goods, personal property and motor vehicles;
2. Money, negotiable instruments and other items listed in NRS 205.260;
3. Livestock, domesticated animals and domesticated birds; and

4. Any other item of value, whether or not the item is listed in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, or section 13 of this act.***

Sec. 16. NRS 205.240 is hereby amended to read as follows:

205.240 1. Except as otherwise provided in NRS 205.220, 205.226, 205.228 and 475.105, a person commits petit larceny if the person:

(a) Intentionally steals, takes and carries away, leads away or drives away:

(1) Personal goods or property, with a value of less than $250, owned by another person;

(2) Bedding, furniture or other property, with a value of less than $250, which the person, as a lodger, is to use in or with his lodging and which is owned by another person; or

(3) Real property, with a value of less than $250, that the person has converted into personal property by severing it from real property owned by another person.

(b) Intentionally steals, takes and carries away, leads away, drives away or entices away one or more domesticated animals or domesticated birds, with an aggregate value of less than $250, owned by another person.

2. ~~[A]~~ ***Unless a greater penalty is provided pursuant to section 13 of this act, a*** person who commits petit larceny is guilty of a misdemeanor. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 17. NRS 205.251 is hereby amended to read as follows:

205.251 For the purposes of NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, and section 13 of this act:***

1. The value of property involved in a larceny offense shall be deemed to be the highest value attributable to the property by any reasonable standard.

2. The value of property involved in larceny offenses committed by one or more persons pursuant to a scheme or continuing course of conduct may be aggregated in determining the grade of the larceny offenses.

Sec. 18. NRS 205.940 is hereby amended to read as follows:

205.940 1. Any person who in renting or leasing any personal property obtains or retains possession of such personal property by means of any false or fraudulent representation, fraudulent concealment, false pretense or personation, trick, artifice or device, including, but not limited to, a false representation as to his name, residence, employment or operator's license, is guilty of larceny and shall be punished as provided in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, and section 13 of this act.*** It is a complete defense to any civil action arising out of or involving the arrest or detention of any person renting or leasing personal property that any representation made by him in obtaining or retaining possession of the personal property is contrary to the fact.

2. Any person who, after renting or leasing any personal property under an agreement in writing which provides for the return of the personal property to a particular place at a particular time fails to return the personal property to such place within the time specified, and who, with the intent to

defraud the lessor or to retain possession of such property without the lessor's permission, thereafter fails to return such property to any place of business of the lessor within 72 hours after a written demand for the return of such property is made upon him by registered mail addressed to his address as shown in the written agreement, or in the absence of such address, to his last known place of residence, is guilty of larceny and shall be punished as provided in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, and section 13 of this act.*** The failure to return the personal property to the place specified in the agreement is prima facie evidence of an intent to defraud the lessor or to retain possession of such property without the lessor's permission. It is a complete defense to any civil action arising out of or involving the arrest or detention of any person upon whom such demand was made that he failed to return the personal property to any place of business of the lessor within 20 days after such demand.

Sec. 19. NRS 205.980 is hereby amended to read as follows:

205.980 1. A person who is convicted of violating any provision of NRS 205.060 or 205.2175 to 205.2707, inclusive, ***or section 13 of this act*** is civilly liable for the value of any property stolen and not recovered in its original condition. The value of the property must be determined by its retail value or fair market value at the time the crime was committed, whichever is greater.

2. A person who is convicted of any other crime involving damage to property is civilly liable for the amount of damage done to the property.

3. The prosecutor shall notify the victim concerning the disposition of the criminal charges against the defendant within 30 days after the disposition. The notice must be sent to the last known address of the victim.

4. An order of restitution signed by the judge in whose court the conviction was entered shall be deemed a judgment against the defendant for the purpose of collecting damages.

5. Nothing in this section prohibits a victim from recovering additional damages from the defendant.

Sec. 20. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 249.

Bill read second time.

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

Amendment No. 184.

ASSEMBLYMEN HARDY, HORNE, CONKLIN, DONDERO LOOP, GANSERT, HAMBRICK, HOGAN, KOIVISTO, MANENDO, **SMITH,** SPIEGEL AND STEWART

SUMMARY—Revises provisions governing the abatement of certain nuisances **[.]** **and the protection of public health and safety.** (BDR 40-1043)

AN ACT relating to public health; authorizing a district health officer or his designee **[in certain counties]** who orders the extermination or abatement of mosquitoes, flies, other insects, rats or their breeding places to take certain actions to abate the nuisance; authorizing **[such]** a district health officer to order an owner of real property to abate and prevent the recurrence of such a nuisance; providing that all money expended by the health district in abating and preventing the recurrence of such a nuisance constitutes a lien upon the property; authorizing the health district to bring an action to foreclose the lien; **providing a district board of health with certain authority relating to the protection of the public health and safety with respect to rental dwelling units;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.5 of this bill provides that the provisions of sections 1.5-4.5 of this bill apply to any health district created pursuant to NRS 439.362 or 439.370 (currently the Southern Nevada Health District in Clark County and the Washoe County Health District). Existing law authorizes health officers in this State to order the abatement or removal of any nuisance detrimental to the public health. (NRS 439.490) **Section 2** of this bill provides that **[, in a county whose population is 400,000 or more (currently Clark County),]** a district health officer or his designee who orders the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof may authorize and take certain actions to abate the nuisance. **Section 3** of this bill authorizes the district health officer to order the owner of any real property to abate and prevent the recurrence of such a nuisance. The health officer is required to provide notice of the order to the owner by mail addressed to the last known address of the owner. **Section 3** provides that if the owner does not abate the nuisance within the period specified in the order, the health district is required to abate the nuisance and take any action necessary to prevent its recurrence. **Section 4** of this bill provides that all money expended by the health district in abating the nuisance and preventing its recurrence constitutes a lien upon the real property which may be recovered in an action against the property.

Existing law provides that a district board of health may, by affirmative vote of a majority of its members, adopt certain regulations which take effect immediately upon approval of the regulations by the State Board of Health. (NRS 439.366) **Section [6] 4.5** of this bill specifically authorizes a district board of health to adopt regulations relating to any health hazard on residential property **[.] or any health hazard in a rental dwelling unit. Section 4.5 also authorizes a district board of health to adopt regulations to ensure the enforcement of laws that protect the public health and safety associated with the condition of rental dwelling units. In addition, section 4.5 authorizes a district board of health, in carrying out its duties**

relating to the protection of the public health and safety associated with the condition of rental dwelling units, to take any enforcement action it determines necessary and to establish an administrative hearing process.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2, 3 and 4]~~ **1.5 to 4.5, inclusive,** of this act.

Sec. 1.5. ***The provisions of sections 1.5 to 4.5, inclusive, of this act apply to any health district created pursuant to NRS 439.362 or 439.370.***

Sec. 2. ***A district health officer or his designee who issues an order for the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof may authorize and take any action necessary to abate the nuisance or prevent its recurrence, including, without limitation:***

1. Abate any stagnant pool of water or other breeding place for mosquitoes, flies, other insects or rats;

2. Treat with oil, other larvicidal material, other chemicals or other material any breeding place of mosquitoes, flies, other insects or rats;

3. Build, construct, repair and maintain necessary dikes, levees, cuts, canals or ditches upon any land, and acquire by purchase, condemnation or other lawful means, in the name of the health district, any land, right-of-way, easement, property or material necessary for the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof;

4. Enter into contracts to indemnify or compensate any owner of real or other property for any injury or damage caused by the use or taking of property for dikes, levees, cuts, canals or ditches;

5. Enter upon without hindrance any land, within or without the health district, to determine whether breeding places of mosquitoes, flies, other insects or rats exist upon that land; and

6. Determine whether any person subject to an order issued pursuant to section 3 of this act has complied with the order.

Sec. 3. ***1. A district health officer may issue an order requiring an owner of real property to abate and prevent the recurrence of any mosquitoes, flies, other insects, rats or any breeding place thereof by providing notice of the order to the owner by mail addressed to the last known address of the owner. The order must:***

(a) Provide that the owner shall abate the nuisance and prevent its recurrence; and

(b) Specify the period within which the abatement must be completed.

2. If the owner of the real property does not comply with the order within the time specified, the health district shall abate the nuisance and take all necessary steps to prevent its recurrence.

Sec. 4. ***1. All money expended by a health district in abating a nuisance and preventing its recurrence on real property pursuant to***

section 3 of this act constitutes a lien upon the property and may be recovered by an action against the property.

2. Notice of the lien must be filed and recorded by the health district in the office of the county recorder of the county in which the property is situated not later than 6 months after the date on which the health district completes the abatement.

3. Any action to foreclose the lien must be commenced not later than 6 months after the filing and recording of the notice of the lien.

4. An action commenced pursuant to subsection 3 must be brought by the health district in the name of the health district.

5. When the property is sold, enough of the proceeds to satisfy the lien and the costs of foreclosure must be paid to the health district and the surplus, if any, must be paid to the owner of the property if known, and if not known, must be paid into the court in which the lien was foreclosed for the use of the owner if ascertained.

Sec. 4.5. 1. In addition to any other powers, duties and authority conferred on a district board of health, the district board of health may by affirmative vote of a majority of all the members of the board adopt regulations consistent with law, which must take effect immediately on their approval by the State Board of Health, to:

(a) Regulate any health hazard on residential property; and

(b) Regulate any health hazard in a rental dwelling unit.

2. The district board of health may adopt regulations to ensure the enforcement of laws that protect the public health and safety associated with the condition of rental dwelling units and to recover all costs incurred by the district board of health relating thereto. Any regulation adopted pursuant to this subsection must be provided by the landlord of a rental dwelling unit to a tenant upon request to ensure that the landlord and the tenant understand their respective rights and responsibilities clearly.

3. In carrying out its duties relating to the protection of the public health and safety associated with the condition of rental dwelling units, the district board of health may:

(a) Take any enforcement action it determines necessary; and

(b) Establish an administrative hearing process, including, without limitation, the hiring of qualified hearing officers.

4. If a tenant of a rental dwelling unit provides written notice to the landlord pursuant to NRS 118A.355 specifying a failure by the landlord to maintain the dwelling unit in a habitable condition and requesting that the landlord remedy the failure and the landlord fails to remedy a material failure or to make a reasonable effort to do so within the time prescribed in NRS 118A.355, the tenant may, in addition to any remedy provided in NRS 118A.355, provide to the district board of health a copy of the written notice that the tenant provided to the landlord. If, upon inspection of the dwelling unit, the district board of health determines that either the landlord or the tenant has failed to maintain the dwelling unit in a habitable condition, the

district board of health may refer the matter to the administrative hearing process if established pursuant to subsection 3 or take any action with respect to the dwelling unit which is authorized by this section or the regulations adopted pursuant thereto.

5. Before the adoption, amendment or repeal of a regulation, the district board of health must give at least 30 days' notice of its intended action. The notice must:

(a) Include a statement of either the terms or substance of the proposal or a description of the subjects and issues involved and of the time when, the place where and the manner in which interested persons may present their views thereon;

(b) State each address at which the text of the proposal may be inspected and copied; and

(c) Be mailed to all persons who have requested in writing that they be placed on a mailing list, which must be kept by the board for such purpose.

6. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing, on the intended action to adopt, amend or repeal the regulation. With respect to substantive regulations, the district board of health shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposal and requests an oral hearing, the district board of health may proceed immediately to act upon any written submissions. The district board of health shall consider fully all written and oral submissions respecting the proposal.

7. The district board of health shall file a copy of all of its adopted regulations with the county clerk.

8. As used in this section:

(a) "Dwelling unit" has the meaning ascribed to it in NRS 118A.080.

(b) "Health hazard" means any biological, physical or chemical exposure or condition that may adversely affect the health of a person.

Sec. 5. ~~[NRS 439.361 is hereby amended to read as follows:~~

~~439.361 The provisions of NRS 439.361 to 439.368, inclusive, *and sections 2, 3 and 4 of this act* apply to a county whose population is 400,000 or more.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[NRS 439.366 is hereby amended to read as follows:~~

~~439.366 1. The district board of health has the powers, duties and authority of a county board of health in the health district.~~

~~2. The district health department has jurisdiction over all public health matters in the health district.~~

~~3. In addition to any other powers, duties and authority conferred on a district board of health by this section, the district board of health may by affirmative vote of a majority of all the members of the board adopt regulations consistent with law, which must take effect immediately on their approval by the State Board of Health, to:~~

~~(a) Prevent and control nuisances;~~

~~(b) Regulate sanitation and sanitary practices in the interests of the public health;~~

~~(c) Provide for the sanitary protection of water and food supplies;~~

~~(d) Protect and promote the public health generally in the geographical area subject to the jurisdiction of the health district;~~ **[**and**]**

~~(e) Improve the quality of health care services for members of minority groups and medically underserved populations~~ **[**.**]** ***; and***

(f) Regulate any health hazard on residential property.

~~4. Before the adoption, amendment or repeal of a regulation, the district board of health must give at least 30 days' notice of its intended action. The notice must:~~

~~(a) Include a statement of either the terms or substance of the proposal or a description of the subjects and issues involved, and of the time when, the place where and the manner in which interested persons may present their views thereon;~~

~~(b) State each address at which the text of the proposal may be inspected and copied; and~~

~~(c) Be mailed to all persons who have requested in writing that they be placed on a mailing list, which must be kept by the board for such purpose.~~

~~5. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing, on the intended action to adopt, amend or repeal the regulation. With respect to substantive regulations, the district board of health shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposal and requests an oral hearing, the district board of health may proceed immediately to act upon any written submissions. The district board of health shall consider fully all written and oral submissions respecting the proposal.~~

~~6. The district board of health shall file a copy of all of its adopted regulations with the county clerk.~~

~~7. As used in this section, "health hazard" means any biological, physical or chemical exposure or condition that may adversely affect the health of a person.~~ **(Deleted by amendment.)**

Sec. 7. NRS 439.490 is hereby amended to read as follows:

439.490 Every health officer **[**~~shall have authority to~~**]** ***or his designee may*** order the abatement or removal of any nuisance detrimental to the public health in accordance with the laws relating to such matters.

Sec. 8. This act becomes effective on July 1, 2009.

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 279.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 161.

AN ACT relating to offenders; requiring the preservation of certain biological evidence under certain circumstances; ~~[providing for certain postconviction petitions pertaining to certain biological evidence;]~~ authorizing certain persons to be committed to the Department of Corrections for evaluation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides that upon the conviction of a defendant for ~~[murder or a felony that is a sexual offense,]~~ **a category A or B felony,** an agency of criminal justice that possesses any biological evidence secured in connection with the investigation or prosecution of the defendant is required to preserve such evidence until the expiration of any sentence imposed on the defendant.

~~[Existing law authorizes a person under a sentence of death to file a postconviction petition requesting genetic marker analysis of evidence within the possession of the State that resulted in the conviction and sentence of death. (NRS 176.0918) Section 3 of this bill similarly authorizes a person convicted of murder or a felony that is a sexual offense to petition the court to request genetic marker testing for biological evidence in the possession of the State. If the court denies the petition, the petitioner may pay for such genetic marker testing himself.]~~

Sections 4, 6, 7, 9 and 10 of this bill ~~[reenact statutory provisions that were repealed in 1997 and]~~ authorize a court to commit **before sentencing or as a condition of probation,** offenders who have never been sentenced to imprisonment for more than 6 months as adults to the Department of Corrections ~~[for an initial evaluation period of 120 days. (Chapter 257, Statutes of Nevada 1997, p. 905)]~~ **or a local detention center for certain periods of evaluation. Such evaluations may be completed in conjunction with the Department of Health and Human Services.** Upon conclusion of the evaluation period of such an offender, the Department of Corrections is required to report its results and **the** recommendations **of the Department of Health and Human Services** to the court to assist the court in determining whether to grant probation or impose a sentence of imprisonment.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***1. Except as otherwise provided in this section, upon the conviction of a defendant for*** ~~*[murder or a felony that is a sexual offense,]*~~ ***a category A or B felony, an agency of criminal justice that has in its possession or custody any biological evidence secured in connection with***

the investigation or prosecution of the defendant shall preserve such evidence until the expiration of any sentence imposed on the defendant.

2. Biological evidence subject to the requirements of this section may be consumed for testing upon ~~[the approval of]~~ notice to the defendant.

3. An agency of criminal justice may establish procedures for:

(a) Retaining probative samples of biological evidence subject to the requirements of this section; and

(b) Disposing of bulk evidence that does not affect the suitability of such probative samples for testing.

4. The provisions of this section must not be construed to restrict or limit an agency of criminal justice from establishing procedures for the retention, preservation and disposal of biological evidence secured in connection with other criminal cases.

5. As used in this section:

(a) "Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.

(b) "Biological evidence" means any semen, blood, saliva, hair, skin tissue or other identified biological material removed from physical evidence.

(c) "Sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 3. ~~***[1. Except as otherwise provided in subsection 12, a person convicted of murder or a felony that is a sexual offense who meets the requirements of this section may file a postconviction petition requesting a genetic marker analysis of evidence within the possession or custody of the State which may contain genetic marker information relating to the investigation or prosecution that resulted in the conviction.***~~

~~***2. Such a petition must be filed with the clerk of the district court for the county in which the petitioner was convicted on a form prescribed by the Department of Corrections. A copy of the petition must be served by registered mail upon:***~~

~~***(a) The Attorney General; and***~~

~~***(b) The district attorney in the county in which the petitioner was convicted.***~~

~~***3. If a petition is filed pursuant to this section, the court shall determine which person or agency has possession or custody of the evidence and shall immediately issue an order requiring, during the pendency of the proceeding, each person or agency in possession or custody of the evidence to:***~~

~~***(a) Preserve all evidence within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section;***~~

~~***(b) Within 30 days, prepare an inventory of all evidence within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section; and***~~

~~(c) Within 30 days, submit a copy of the inventory to the petitioner, the prosecuting attorney and the court.~~

~~4. Within 30 days after the inventory of all evidence is prepared pursuant to subsection 3, the prosecuting attorney may file a written response to the petition with the court.~~

~~5. The court shall hold a hearing on a petition filed pursuant to this section.~~

~~6. The court shall order a genetic marker analysis if the court finds that:~~

~~(a) A reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified in the petition;~~

~~(b) The evidence to be analyzed exists; and~~

~~(c) The evidence was not previously subjected to:~~

~~(1) A genetic marker analysis involving the petitioner; or~~

~~(2) The method of analysis requested in the petition, and the method of additional analysis may resolve an issue not resolved by a previous analysis.~~

~~7. If the court orders a genetic marker analysis pursuant to subsection 6, the court shall:~~

~~(a) Order the analysis to be conducted promptly under reasonable conditions designed to protect the interest of the State and the petitioner in the integrity of the evidence and the analysis process.~~

~~(b) Select a forensic laboratory to conduct or oversee the analysis. The forensic laboratory selected by the court must:~~

~~(1) Be operated by this State or one of its political subdivisions, when possible; and~~

~~(2) Satisfy the standards for quality assurance that are established for forensic laboratories by the Federal Bureau of Investigation.~~

~~(c) Order the forensic laboratory selected pursuant to paragraph (b) to perform a genetic marker analysis of evidence. The analysis to be performed and evidence to be analyzed must:~~

~~(1) Be specified in the order; and~~

~~(2) Include such analysis, testing and comparison of genetic marker information contained in the evidence and the genetic marker information of the petitioner as the court determines appropriate under the circumstances.~~

~~(d) Order the production of any reports that are prepared by a forensic laboratory in connection with the analysis and any data and notes upon which the report is based.~~

~~(e) Order the preservation of evidence used in a genetic marker analysis performed pursuant to this section for purposes of a subsequent proceeding or analysis, if any.~~

~~8. If the results of a genetic marker analysis performed pursuant to this section are favorable to the petitioner:~~

~~*(a) The petitioner may bring a motion for a new trial based on the ground of newly discovered evidence pursuant to NRS 176.515; and*~~

~~*(b) The restriction on the time for filing the motion set forth in subsection 3 of NRS 176.515 is not applicable.*~~

~~*9. The court shall dismiss a petition filed pursuant to this section if:*~~

~~*(a) The requirements for ordering a genetic marker analysis pursuant to this section are not satisfied; or*~~

~~*(b) The results of a genetic marker analysis performed pursuant to this section are not favorable to the petitioner.*~~

~~*10. For the purposes of a genetic marker analysis pursuant to this section, a person who files a petition pursuant to this section shall be deemed to consent to the:*~~

~~*(a) Submission of a biological specimen by him to determine his genetic marker information; and*~~

~~*(b) Release and use of genetic marker information concerning the petitioner.*~~

~~*11. The expense of an analysis ordered pursuant to this section is a charge against the Department of Corrections and must be paid upon approval by the Board of State Prison Commissioners as other claims against the State are paid.*~~

~~*12. If the court dismisses a petition pursuant to subsection 9, the petitioner is entitled to have a genetic marker analysis performed at his own expense.*~~

~~*13. This section does not apply to a person who has filed a petition pursuant to NRS 176.0918.*~~

~~*14. The remedy provided by this section is in addition to, is not a substitute for and is not exclusive of any other remedy, right of action or proceeding available to a person convicted of murder or a felony that is a sexual offense.*~~

~~*15. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.097.]*~~ **(Deleted by amendment.)**

Sec. 4. *1. If a defendant has* ~~*[:*~~

~~*(a) Been]*~~ ***been*** *convicted of a felony for which he may be sentenced to imprisonment* ~~*[;]*~~ *and*

~~*[(b) Never]*~~ ***has never*** *been sentenced to imprisonment as an adult for more than 6 months,*

~~*[,*~~ *the court may, before sentencing the defendant* ~~*[, commit]*~~ ***or as a condition of probation:***

(a) Commit *him to the custody of the Director of the Department of Corrections for* ***a period of evaluation*** *not* ~~*[more than 120]*~~ ***to exceed 30*** *days* ***;*** ~~*[. The period of commitment may be extended once for another period of 60 days at the request of the Department. During the time for which a defendant is committed to the custody of the Director, the Director may assign the defendant to appropriate programs of rehabilitation to facilitate the evaluation of the defendant required under subsection 2.*~~

~~*2. The Department shall conduct a complete evaluation of the defendant during the time of commitment under this section, and shall inquire into such matters as his previous delinquency or criminal record, social background and capabilities, his mental, emotional and physical health, and the resources and programs available to suit his needs for rehabilitation.]*~~

(b) Provide for short-term incarceration in the custody of the local detention center or in the custody of the Director of the Department of Corrections for a period not to exceed 30 days; or

(c) Commit the defendant to the custody of the Director of the Department of Corrections for a period not to exceed 180 days as an intermediate sanction where intensive treatment will be provided under the supervision of the Director of the Department of Health and Human Services.

~~*[3.]*~~ ***2. The Department of Corrections shall return the defendant to the court not later than the end of the period*** ~~*[for which he was committed under this section and provide the court with a report of the results of its evaluation, including any recommendations which it believes will be helpful to the court in determining the proper sentence.]*~~ ***ordered under subsection 1, together with any evaluation of the defendant by the Department of Corrections and any recommendations of the Department of Health and Human Services.***

~~*[4.]*~~ ***3. During any period prescribed under subsection 1, the defendant may undergo:***

(a) An intake evaluation, including an evaluation of his dental, medical and mental health, provided by the Department of Corrections or the Department of Health and Human Services;

(b) Substance abuse treatment provided by the Department of Health and Human Services;

(c) Mental health treatment provided by the Department of Health and Human Services; and

(d) Job training and placement provided by the Department of Employment, Training and Rehabilitation.

4. Upon receiving the ~~*[report]*~~ ***evaluation and recommendations, the court shall sentence the defendant to:***

(a) An appropriate term of imprisonment , the duration of which must be computed from the date of commitment under subsection 1; or

(b) Probation, a condition of which must be that the defendant serve a number of days in the state prison equal to or greater than the number of days spent in confinement under subsection 1, including the day of commitment.

Sec. 5. NRS 176.0911 is hereby amended to read as follows:

176.0911 As used in NRS 176.0911 to 176.0917, inclusive, ***and*** ~~*[sections 2 and 3]*~~ ***section 2 of this act,*** unless the context otherwise requires, "CODIS" means the Combined DNA Indexing System operated by the Federal Bureau of Investigation.

Sec. 6. NRS 176.105 is hereby amended to read as follows:

176.105 1. If a defendant is found guilty and is ~~[sentenced]~~ ***:***

(a) To be committed to the custody of the Director of the Department of Corrections pursuant to section 4 of this act, the judgment of conviction must set forth the plea, the verdict or finding and the adjudication.

(b) Sentenced as provided by law, the judgment of conviction must set forth:

~~[(a)]~~ ***(1)*** The plea;

~~[(b)]~~ ***(2)*** The verdict or finding;

~~[(c)]~~ ***(3)*** The adjudication and sentence, including the date of the sentence, any term of imprisonment, the amount and terms of any fine, restitution or administrative assessment, a reference to the statute under which the defendant is sentenced and, if necessary to determine eligibility for parole, the applicable provision of the statute; and

~~[(d)]~~ ***(4)*** The exact amount of credit granted for time spent in confinement before conviction, if any.

2. If the defendant is found not guilty, or for any other reason is entitled to be discharged, judgment must be entered accordingly.

3. The judgment must be signed by the judge and entered by the clerk.

Sec. 7. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.159, inclusive, ***and section 4 of this act,*** unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist licensed to practice in this State;

(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS; or

(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.

3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;

(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

(j) Lewdness with a child pursuant to NRS 201.230;

(k) Sexual penetration of a dead human body pursuant to NRS 201.450;

(l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or

(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 8. ~~[NRS 176.515 is hereby amended to read as follows:~~

~~176.515 1. The court may grant a new trial to a defendant if required as a matter of law or on the ground of newly discovered evidence.~~

~~2. If trial was by the court without a jury the court may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.~~

~~3. Except as otherwise provided in NRS 176.0918~~ **[**,**]** ~~*and section 3 of this act,* a motion for a new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.~~

~~4. A motion for a new trial based on any other grounds must be made within 7 days after the verdict or finding of guilt or within such further time as the court may fix during the 7-day period.~~**]** **(Deleted by amendment.)**

Sec. 9. NRS 209.341 is hereby amended to read as follows:

209.341 The Director shall:

1. Establish, with the approval of the Board, a system of initial classification and evaluation for offenders who are ***committed to him for evaluation by the Department or*** sentenced to imprisonment in the state prison; and

2. Assign every person who is ***committed to him for evaluation by the Department or*** sentenced to imprisonment in the state prison to an appropriate institution or facility of the Department. The assignment must be based on an evaluation of the offender's records, particular needs and requirements for custody.

Sec. 10. NRS 209.385 is hereby amended to read as follows:

209.385 1. Each offender committed to the custody of the department for ***evaluation or*** imprisonment shall submit to such initial tests as the Director determines appropriate to detect exposure to the human

immunodeficiency virus. Each such test must be approved by regulation of the State Board of Health. At the time the offender is committed to custody and after an incident involving the offender:

(a) The appropriate approved tests must be administered; and

(b) The offender must receive counseling regarding the virus.

2. If the results of an initial test are positive, the offender shall submit to such supplemental tests as the Director determines appropriate. Each such test must be approved for the purpose by regulation of the State Board of Health.

3. If the results of a supplemental test are positive, the name of the offender must be disclosed to:

(a) The Director;

(b) The administrative officers of the Department who are responsible for the classification and medical treatment of offenders;

(c) The manager or warden of the facility or institution at which the offender is confined; and

(d) Each other employee of the Department whose normal duties involve him with the offender or require him to come into contact with the blood or bodily fluids of the offender.

4. The offender must be segregated from every other offender whose test results are negative if:

(a) The results of a supplemental test are positive; and

(b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, the infamous crime against nature, sexual intercourse in its ordinary meaning or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.

5. The Director, with the approval of the Board:

(a) Shall establish for inmates and employees of the Department an educational program regarding the virus whose curriculum is provided by the Health Division of the Department of Health and Human Services. A person who provides instruction for this program must be certified to do so by the Health Division.

(b) May adopt such regulations as are necessary to carry out the provisions of this section.

6. As used in this section:

(a) "Incident" means an occurrence, of a kind specified by regulation of the State Board of Health, that entails a significant risk of exposure to the human immunodeficiency virus.

(b) "Infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex.

Assemblyman Horne moved the adoption of the amendment.

Remarks by Assemblyman Horne.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 285.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 153.

AN ACT relating to education; requiring the boards of trustees of school districts to adopt a policy for the elementary schools within the school district to provide a certain amount of time each school day for physical activity; requiring the boards of trustees of school districts to grant the use of ~~[school buildings and grounds without charge]~~ **certain athletic fields** to nonprofit organizations ~~[, county departments of parks and recreation or other entities for physical activities;]~~ **which provide programs for youth sports;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district to provide instruction in physical education to the pupils enrolled in the public schools within the school district. (NRS 389.018) **Section 1** of this bill requires the board of trustees of each school district to adopt a policy for the elementary schools within the school district to provide at least 30 minutes of physical activity each school day ~~[,]~~ **during regular school hours,** which are not required to be consecutive minutes. The policy must include a provision for an exemption for certain pupils who are unable to participate. **The provisions of section 1 which require 30 minutes of physical activity each school day do not apply to pupils who are enrolled in a half-day kindergarten program.**

Existing law authorizes the board of trustees of a school district to grant the use of school buildings or grounds by the general public for certain purposes. (NRS 393.071-393.0719) ~~[In addition, the board of trustees is authorized to grant without charge the use of school libraries to the general public during times that are not regular school hours. (NRS 393.07105, 393.0714)]~~ **Section 2** of this bill requires the board of trustees of a school district, upon request, to grant ~~[without charge]~~ the use of ~~[school buildings and grounds]~~ **any athletic field that does not contain lights at an elementary school, middle school or junior high school within the school district** to a nonprofit organization ~~[, a county department for parks and recreation or other entity for physical activities,]~~ **which provides programs for youth sports,** subject to the availability of the ~~[school buildings or grounds.]~~ **athletic field. The provisions of section 2 do not apply if a school district has entered into an agreement with a local government to provide the use of the athletic fields or playgrounds of the school district to a community organization which provides programs of youth sports.**

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

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

1. The board of trustees of each school district shall adopt a policy for the pupils enrolled in the elementary schools in the school district which must be designed to encourage those pupils to develop the knowledge, attitudes, skills and motivation for a lifetime of physical activity and fitness.

2. The policy adopted pursuant to subsection 1 must include, without limitation:

(a) ~~[A]~~ Except as otherwise provided in subsection 3, a requirement that the elementary schools within the school district provide at least 30 minutes of physical activity each school day, after the beginning of the school day and during regular school hours, which does not have to be provided in consecutive minutes; and

(b) A provision for an exemption if a pupil is unable to participate in the physical activity because of an illness or a disability or is otherwise physically unable to participate.

3. The requirement of 30 minutes of physical activity each school day prescribed by the policy pursuant to subsection 2 does not apply to pupils who are enrolled in a half-day kindergarten program.

Sec. 2. Chapter 393 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[The]~~ 1. Except as otherwise provided in subsection 3, the board of trustees of each school district shall, upon request, grant the use ~~[without charge]~~ of ~~[school buildings and grounds, including, without limitation, playgrounds, multipurpose rooms or]~~ any athletic ~~[fields,]~~ field which does not contain lights at each ~~[public]~~ elementary school , middle school or junior high school within the school district to a nonprofit organization ~~[, a department of parks and recreation or other entity for physical activities]~~ which provides programs for youth sports, including, without limitation, baseball, football, soccer and softball, during any time that ~~[is]~~ :

(a) Is not regular school hours ~~[or that school-related]~~ ; or

(b) School-related activities do not require the use of the ~~[buildings or grounds,]~~ athletic field,

➥ subject to the limitations, requirements and restrictions set forth in NRS 393.071 to 393.0719, inclusive, and section 2 of this act.

2. A nonprofit organization which provides programs for youth sports that is granted the use of an athletic field pursuant to subsection 1 must comply withany requirements of insurance coverage and indemnification required by the board of trustees of the school district.

3. If the board of trustees of a school district has entered into an agreement with one or more local governments to provide the use of the athletic fields or playgrounds of the school district to a community organization which provides programs for youth sports, the board of trustees of the school district is not required to comply with the provisions of subsection 1.

Sec. 3. NRS 393.071 is hereby amended to read as follows:

393.071 ~~[The]~~ ***Except as otherwise provided in section 2 of this act, the*** board of trustees of any school district may grant the use of school buildings or grounds for public, literary, scientific, recreational or educational meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, subject to the limitations, requirements and restrictions set forth in NRS 393.071 to 393.0719, inclusive ~~[.]~~ ***and section 2 of this act.***

Sec. 4. ~~[NRS 393.0719 is hereby amended to read as follows:~~

~~393.0719 1. Lighting, heating, janitorial service and the services of the person referred to in NRS 393.0718, when needed, and other necessary expenses, in connection with the use of public school buildings and grounds pursuant to NRS 393.071 to 393.0719, inclusive, *and section 2 of this act* must be provided for out of school district funds of the respective school districts in the same manner as similar services are provided for, and except as otherwise provided in subsection 2, subject to reimbursement by the user in accordance with such policies and regulations as the board of trustees may adopt.~~

~~2. The board of trustees of a school district may not request reimbursement for the costs and expenses associated with the use of [a]~~ ~~***:***~~

~~***(a) A*** school library by the general public pursuant to NRS 393.07105~~ ~~[.]~~ ~~***;***~~ ~~***or***~~

~~***(b) School buildings or grounds by a nonprofit organization, a department of parks and recreation or other entity for physical activities pursuant to section 2 of this act.]*** **(Deleted by amendment.)**

Sec. 5. This act becomes effective on July 1, 2009.

Assemblywoman Mastroluca moved the adoption of the amendment.

Remarks by Assemblywoman Mastroluca.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 286.

Bill read second time and ordered to third reading.

Assembly Bill No. 289.

Bill read second time and ordered to third reading.

Assembly Bill No. 296.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 81.

SUMMARY—Revises provisions governing **certain** nonprofit carriers of elderly persons or persons with disabilities. (BDR 58-1116)

AN ACT relating to motor carriers; revising the conditions for ~~[a]~~ nonprofit ~~[carrier]~~ **carriers** of elderly persons or persons with disabilities **in certain larger counties (currently Clark County)** to qualify for an

exemption from the requirement to obtain a certificate of public convenience and necessity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the exemption from the requirement to obtain a certificate of public convenience and necessity for nonprofit carriers of elderly persons or persons with disabilities ~~[so that the exemption applies only to certain carriers that do not charge for transportation services.]~~ **based upon the size of the county in which the carrier operates.** (NRS 706.745)

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

Section 1. NRS 706.745 is hereby amended to read as follows:

706.745 1. The provisions of NRS 706.386 and 706.421 do not apply to:

(a) Ambulances;

(b) Hearses; or

(c) Common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705.

2. A common motor carrier that enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transit consisting of:

(a) Regular routes and fixed schedules;

(b) Nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170, if the transportation is available upon request and without regard to regular routes or fixed schedules;

(c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or

(d) In a county whose population is less than 100,000 or an incorporated city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

3. Under any agreement for a system of public transit that provides for the transportation of passengers that is described in subsection 2:

(a) The public entity shall provide for any required safety inspections; or

(b) If the public entity is unable to do so, the Authority shall provide for any required safety inspections.

4. In addition to the requirements of subsection 3, under an agreement for a system of public transit that provides for the transportation of passengers that is described in:

(a) Paragraph (a) of subsection 2, the public entity shall establish the routes and fares.

(b) Paragraph (c) or (d) of subsection 2, the common motor carrier:

(1) May provide transportation to any passenger who can board a vehicle with minimal assistance from the operator of the vehicle.

(2) Shall not offer medical assistance as part of its transportation service.

5. ~~[A]~~ ***In a county whose population:***

(a) Is less than 400,000, a nonprofit carrier of elderly persons or persons with disabilities ~~*[that does not charge for transportation services]*~~ is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

(b) Is 400,000 or more, a nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but:

(1) Only if the nonprofit carrier:

(I) Does not charge for transportation services;

(II) Provides transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705; or

(III) Enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission; and

(2) Such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

6. An incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transportation.

7. Before an incorporated city or a county enters into an agreement with a common motor carrier for a system of public transit that provides for the transportation of passengers that is described in paragraph (c) or (d) of subsection 2 in an area of the incorporated city or an area of the county, it must determine that:

(a) There are no other common motor carriers of passengers who are authorized to provide such services in that area; or

(b) Although there are other common motor carriers of passengers who are authorized to provide such services in the area, the common motor carriers of passengers do not wish to provide, or are not capable of providing, such services.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 348.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 154.

AN ACT relating to education; requiring each public school to post a notice of information concerning certain courses, services and programs available to pupils enrolled in the school district; requiring that the notice be ~~[provided]~~ **made available** to the parents and legal guardians of those pupils; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the board of trustees of each school district to prepare a notice of information identifying all the advanced placement courses, honors courses, international baccalaureate courses, special education services **, charter school programs** and any other educational programs available to pupils enrolled in the school district, including where those courses, services and programs are offered. Each public school within the school district is required to post ~~[the]~~ **a** notice in a conspicuous place at the school **indicating the availability and location of a complete list of the courses, services and programs identified by the school district and make that** ~~[and provide the]~~ notice **available** to the parents and legal guardians of pupils enrolled in the school.

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall prepare a written notice which identifies all the advanced placement courses, honors courses, international baccalaureate courses, special education services and any other educational programs available to pupils enrolled in the school district including, without limitation, to the extent information is available, programs offered by charter schools within the school district, which will assist in the advancement of the education of those pupils. The notice must:

(a) Specify where those courses, services and programs are available within the school district;

(b) Identify the grade level of pupils for which those courses, services and programs are available; and

(c) Be posted on the Internet website maintained by the school district.

2. Each public school shall:

(a) Post in one or more conspicuous places at the school ~~[the]~~ a notice ~~[prepared]~~ indicating the availability and location of a complete list of the courses, services and programs identified pursuant to subsection 1; and

(b) Ensure that the notice prepared pursuant to subsection 1 is ~~[provided]~~ made available to the parents and legal guardians of pupils

enrolled in the school at the beginning of each school year or upon a pupil's enrollment in public school, as applicable.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 349.

Bill read second time.

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

Amendment No. 183.

AN ACT relating to emergency medical services; providing for the endorsement of intermediate emergency medical technicians **and advanced emergency medical technicians** to administer immunizations, dispense medication and provide certain services for ~~[a public health]~~ **an** emergency or otherwise satisfy public health needs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the district board of health, in a county whose population is more than 400,000 (currently Clark County), and the State Board of Health, in a county whose population is less than 400,000, to establish the requirements, basic training and scope of practice for the certification of intermediate emergency medical technicians ~~[.]~~ **and advanced emergency medical technicians.** (NRS 450B.191, 450B.1915**, 450B.195, 450B.197**) This bill requires the State Board of Health, in a county whose population is less than 400,000, to prescribe regulations for the endorsement of intermediate emergency medical technicians **and advanced emergency medical technicians** to administer immunizations, dispense medication and provide certain services for the community in ~~[a public health]~~ **an** emergency or otherwise satisfy public health needs. The district board of health, in a county whose population is 400,000 or more, is authorized, but is not required, to adopt regulations for such an endorsement.

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement to administer immunizations, dispense medication and prepare and respond to certain public health needs issued in accordance with the regulations adopted pursuant to this section may:

(a) Administer immunizations and dispense medications;

(b) Participate in activities designed to prepare the community to meet anticipated health needs, including, without limitation, participation in public vaccination clinics; and

(c) Respond to an actual epidemic or other ~~[public health]~~ emergency in the community,

➥ under the direct supervision of the local health officer, or his designee, of the jurisdiction in which the immunization is administered or the medication is dispensed or in which the ~~[public health]~~ emergency or need exists.

2. The district board of health, in a county whose population is 400,000 or more, may adopt regulations for the endorsement of intermediate emergency medical technicians and advanced emergency medical technicians pursuant to this section. The regulations must:

(a) Prescribe the minimum training required to obtain such an endorsement;

(b) Prescribe the continuing education requirements or other evidence of continued competency for renewal of the endorsement;

(c) Prescribe the fee for the issuance and renewal of the endorsement, which must not exceed $5; and

(d) Not require licensure as an attendant as a condition of eligibility for an endorsement pursuant to this section.

3. The State Board of Health shall, for counties whose population is less than 400,000, adopt regulations for the endorsement of intermediate emergency medical technicians and advanced emergency medical technicians pursuant to this section. The regulations must:

(a) Prescribe the minimum training required to obtain such an endorsement;

(b) Prescribe the continuing education requirements or other evidence of continued competency for renewal of the endorsement;

(c) Prescribe the fee for the issuance and renewal of the endorsement, which must not exceed $5;

(d) To the extent practicable, authorize local health officers to provide the training and continuing education required to obtain and renew an endorsement; and

(e) Not require licensure as an attendant as a condition of eligibility for an endorsement pursuant to this section.

4. As used in this section ~~[, "local health officer"]~~ :

(a) "Emergency" means an occurrence or threatened occurrence for which, in the determination of the Governor, the assistance of state agencies is needed to supplement the efforts and capabilities of political subdivisions to save lives, protect property and protect the health and safety of persons in this State, or to avert the threat of damage to property or injury to or the death of persons in this State.

(b) "Local health officer" means a city health officer appointed pursuant to NRS 439.430, county health officer appointed pursuant to NRS

439.290 or district health officer appointed pursuant to NRS 439.368 or 439.400.

Sec. 2. NRS 450B.1915 is hereby amended to read as follows:

450B.1915 An intermediate emergency medical technician may perform any procedure and administer any drug ~~[approved]~~ ***:***

1. Approved by regulation of the board ~~[.]~~ ***; or***

2. Authorized pursuant to section 1 of this act, if the intermediate emergency medical technician has obtained an endorsement pursuant to that section.

Sec. 3. **NRS 450B.197 is hereby amended to read as follows:**

450B.197 An attendant or a firefighter who is an advanced emergency medical technician may perform any procedure and administer any drug ~~[approved]~~ ***:***

1. Approved by regulation of the board ~~[.]~~ ***; or***

2. Authorized pursuant to section 1 of this act, if the attendant or firefighter who is an advanced emergency medical technician has obtained an endorsement pursuant to that section.

~~[Sec. 3.]~~ ***Sec. 4.*** NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.

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

3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.

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

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

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

5. ~~[An]~~ ***Except as otherwise provided in subsection 6, an*** intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

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

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

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

6. ***An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to section 1 of this act, under the direct supervision of a local health officer or his designee pursuant to that section.***

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

~~[7.]~~ ***8.*** A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

~~[8.]~~ ***9.*** A medical student or student nurse in the course of his studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

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

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

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

~~[9.]~~ ***10.*** Any person designated by the head of a correctional institution.

~~[10.]~~ ***11.*** An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

~~[11.]~~ ***12.*** A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

~~[12.]~~ ***13.*** A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

~~[13.]~~ ***14.*** A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

~~[14.]~~ ***15.*** A physical therapist, but only if the drug or medicine is a topical drug which is:

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

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

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

~~[15.]~~ ***16.*** In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

~~[16.]~~ ***17.*** A veterinary technician at the direction of his supervising veterinarian.

~~[17.]~~ ***18.*** In accordance with applicable regulations of the Board, a registered pharmacist who:

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

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

(c) Administers immunizations in compliance with the "Standards of Immunization Practices" recommended and approved by the United States Public Health Service Advisory Committee on Immunization Practices.

~~[18.]~~ ***19.*** A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

~~[Sec. 4.]~~ ***Sec. 5.*** On or before July 1, 2009, the State Board of Health shall adopt regulations for the endorsement of intermediate emergency medical technicians **and advanced emergency medical technicians** pursuant to section 1 of this act.

~~[Sec. 5.]~~ ***Sec. 6.*** 1. This section and sections 1 and ~~[4]~~ **5** of this act become effective upon passage and approval for purposes of adopting regulations and on July 1, 2009, for all other purposes.

2. Sections 2**,** ~~[and]~~ 3 **and 4** of this act become effective on July 1, 2009.

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 360.

Bill read second time and ordered to third reading.

Assembly Bill No. 415.

Bill read second time and ordered to third reading.

Assembly Bill No. 426.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 220.

SUMMARY— ~~[Enacts provisions governing the recycling of certain electronic devices.]~~ **Requires the Division of Environmental Protection of the State Department of Conservation and Natural Resources to conduct a study concerning programs for reusing and recycling computers and other electronics.** (BDR ~~[40-466)]~~ **S-466)**

AN ACT relating to recycling; ~~[prohibiting a manufacturer from selling or offering or delivering for sale in this State certain electronic devices under certain circumstances; requiring a manufacturer of such an electronic device to register with the Division of Environmental Protection of the State Department of Conservation and Natural Resources under certain circumstances; requiring the payment of annual registration fees and recycling fees; prohibiting a retailer from selling or offering or delivering for sale in this State such an electronic device under certain circumstances; requiring the Division to prepare a monthly list of registered manufacturers; enacting other provisions relating to the recycling of such electronic devices; providing a penalty;]~~ **requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to conduct a study concerning programs for reusing and recycling computers and other electronics;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 2-32 of this bill provide for the recycling of covered electronic devices by manufacturers of the devices through a manufacturer program of recycling in this State or by the Division of Environmental Protection of the State Department of Conservation and Natural Resources through the state contractor program operated by the Division. Section 5 defines a covered electronic device as a computer monitor or television that has a viewing area which is greater than 4 inches measured diagonally and any desktop or portable computer. Section 21 prohibits a manufacturer from selling or offering or delivering for sale in this State any covered electronic device unless certain conditions are complied with. Section 22 requires each manufacturer to register with the Division and pay an annual registration fee. Section 23 authorizes certain manufacturers or a group of manufacturers to carry out a manufacturer program for recycling covered electronic devices by submitting a plan to the Division and complying with certain other requirements. Section 24 requires each manufacturer who participates in the state contractor program operated by the Division to pay a recycling fee in an amount determined by the Division. Section 26 prohibits a retailer from selling or offering or delivering for sale at retail in this State any covered electronic device unless certain conditions are complied with. Section 27~~

~~imposes several duties on the Division concerning the recycling of covered electronic devices in this State including: (1) preparing a monthly list of registered manufacturers and unregistered brands; (2) reviewing the plans of manufacturers who carry out a manufacturer program of recycling; (3) determining each manufacturer's return share and return share by weight of covered electronic devices for each calendar year; (4) establishing a state contractor program for recycling covered electronic devices; (5) determining the amount of annual registration fees and recycling fees; and (6) preparing a report for the Legislature concerning the operation of the statewide system for the collection, transportation and recycling of covered electronic devices. Section 31 specifies that the authority of incorporated cities and counties in this State to regulate the collection of solid waste is not limited by this bill. Section 32 provides a penalty for a violation of any provision of this~~**]** **This** bill **[.]** **requires the Division of Environmental Protection of the State Department of Conservation and Natural Resources to conduct a study concerning programs for reusing and recycling computers and other electronics. The study must include an inventory of any programs for donating or recycling computers and other electronics in this State and surrounding states and an evaluation of those programs. This bill also requires the Administrator of the Division to submit a report setting forth the results of the study and at least one recommendation for legislation to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.**

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

Section 1. ~~[Chapter 444A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 32, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[*As used in sections 2 to 32, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 20, inclusive, of this act have the meanings ascribed to them in those sections.*]~~ **(Deleted by amendment.)**

Sec. 3. ~~[*"Brand" means any name, symbol, word or mark that identifies a covered electronic device, other than any of its components, and attributes the device to the owner of the brand as the manufacturer.*]~~ **(Deleted by amendment.)**

Sec. 4. ~~[*"Collector" means any entity that collects a covered electronic device as part of a manufacturer program or the state contractor program.*]~~ **(Deleted by amendment.)**

Sec. 5. ~~[*1. "Covered electronic device" means:*~~

~~*(a) A computer monitor of any type that has a viewable area which is greater than 4 inches measured diagonally;*~~

~~*(b) A desktop computer or portable computer; or*~~

~~*(c) A television of any type that has a viewable area which is greater than 4 inches measured diagonally.*~~

~~*2. The term does not include:*~~

~~*(a) Any part of a motor vehicle;*~~

~~*(b) Any part of a larger piece of equipment designed and intended for use in an industrial, commercial or medical setting, including, without limitation, any diagnostic, monitoring or control equipment;*~~

~~*(c) A telephone or personal digital assistant of any type unless the telephone or personal digital assistant contains a viewable area which is greater than 4 inches measured diagonally; or*~~

~~*(d) Any part of a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier.]~~ (Deleted by amendment.)

Sec. 6. ~~[*"Covered entity" means:*~~

~~*1. Any household;*~~

~~*2. Any business that employs 10 or fewer persons;*~~

~~*3. Any not for profit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code that employs 10 or fewer persons; or*~~

~~*4. Any person who provides seven or fewer covered electronic devices to a collector at any one time.]~~ (Deleted by amendment.)

Sec. 7. ~~[*"Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.]~~ (Deleted by amendment.)

Sec. 8. ~~[*"Environmentally sound management practice" means any practice or other activity that complies with all applicable laws, including, without limitation:*~~

~~*1. Accurate recordkeeping;*~~

~~*2. Tracking of the disposition of recycled materials;*~~

~~*3. Conducting performance audits and inspections;*~~

~~*4. Complying with any applicable provisions for reuse and refurbishment;*~~

~~*5. Complying with any applicable employee health and safety requirements;*~~

~~*6. Maintaining liability insurance and financial assurances; and*~~

~~*7. Any other practice or activity specified in a regulation adopted by the Division pursuant to section 29 of this act.]~~ (Deleted by amendment.)

Sec. 9. ~~[*1. "Manufacturer" means any person, regardless of the selling technique used by the person, including by means of a remote sale:*~~

~~*(a) Who manufactures a covered electronic device under a brand that the person owns or is licensed to use;*~~

~~*(b) Who sells a covered electronic device which is manufactured by another person under a brand that the seller owns;*~~

~~*(c) Who manufactures a covered electronic device without affixing a brand;*~~

~~*(d) Who manufactures a covered electronic device to which the person affixes a brand that he does not own; or*~~

~~*(e) On whose account a covered electronic device that is manufactured outside the United States is imported into the United States, except that if, at the time the covered electronic device is imported into the United States, another person is registered as the manufacturer of the brand of the covered electronic device.*~~

~~*2. The term does not include a person with a license to manufacture a covered electronic device for delivery exclusively to or at the order of the issuer of the license.]*~~ **(Deleted by amendment.)**

Sec. 10. ~~*[“Manufacturer program” means a statewide program for collecting, transporting and recycling covered electronic devices that is carried out by a single manufacturer or group of manufacturers pursuant to section 23 of this act.]*~~ **(Deleted by amendment.)**

Sec. 11. ~~*[“Orphan device” means a covered electronic device the manufacturer of which is not identified.]*~~ **(Deleted by amendment.)**

Sec. 12. ~~*[“Person” includes a government, governmental agency and a political subdivision of a government.]*~~ **(Deleted by amendment.)**

Sec. 13. ~~*[“Portable computer” means any of the following devices which has a viewable area that is greater than 4 inches measured diagonally and which can be carried as a single unit by a person:*~~

~~*1. A laptop computer;*~~

~~*2. A notebook computer; or*~~

~~*3. A notepad computer.]*~~ **(Deleted by amendment.)**

Sec. 14. ~~*[“Premium service” means any at-location system upgrade service and at-home pickup service, including curbside pickup service, for the collection, transportation and recycling of covered electronic devices.]*~~ **(Deleted by amendment.)**

Sec. 15. ~~*[1. “Recycling” means:*~~

~~*(a) Any processing of a covered electronic device by disassembling, dismantling, shredding, transforming or remanufacturing the covered electronic device, or any processing of any component or by-product of the covered electronic device, into a usable or marketable raw material or product; or*~~

~~*(b) Any smelting of materials from a component that is removed from a covered electronic device to recover metals for reuse in accordance with any applicable law or regulation.*~~

~~*2. The term does not include:*~~

~~*(a) Any disposal in a landfill or incineration of a covered electronic device; or*~~

~~*(b) Any recovery or generation of energy by means of combusting a covered electronic device, or any component or by-product thereof, with or without other waste.]*~~ **(Deleted by amendment.)**

Sec. 16. ~~*[“Retailer” means any person who offers a new covered electronic device for sale at retail in this State by any means, including,*~~

~~*without limitation, any sale through a sales outlet, catalog, the Internet or any other remote offering of the covered electronic device.]*~~ **(Deleted by amendment.)**

Sec. 17. ~~*[“Return share” means the minimum percentage of covered electronic devices that a manufacturer is responsible for collecting, transporting and recycling.]*~~ **(Deleted by amendment.)**

Sec. 18. ~~*[“Return share by weight” means the minimum total weight of covered electronic devices that a manufacturer is responsible for collecting, transporting and recycling.]*~~ **(Deleted by amendment.)**

Sec. 19. ~~*[“Sale” or “sell” means any transfer of title for consideration, including, without limitation, a remote sale conducted through a sales outlet, catalog, the Internet or any other electronic means. The term does not include a lease.]*~~ **(Deleted by amendment.)**

Sec. 20. ~~*[“State contractor program” means a statewide program for the collection, transportation and recycling of covered electronic devices that is established by the Division pursuant to section 27 of this act.]*~~ **(Deleted by amendment.)**

Sec. 21. ~~*[1. Sections 2 to 32, inclusive, of this act apply to all manufacturers engaging in activities as a manufacturer on or after October 1, 2009.*~~

~~*2. Sections 2 to 32, inclusive, of this act do not apply to a reused or refurbished covered electronic device.*~~

~~*3. A manufacturer shall not sell or offer or deliver for sale in this State a covered electronic device unless:*~~

~~*(a) The covered electronic device is labeled with a brand and the label is permanently affixed to and readily visible on the covered electronic device; and*~~

~~*(b) The brand is included on the list prepared by the Division pursuant to section 27 of this act.]*~~ **(Deleted by amendment.)**

Sec. 22. ~~*[1. On or before December 31 of each year, each manufacturer of a covered electronic device that is sold or offered for sale in this State shall register with the Division, for a period to cover the upcoming calendar year, on a form provided by the Division. The registration must include:*~~

~~*(a) A list of each brand that is manufactured, sold or imported by the manufacturer, including any brand that is offered for sale in this State by the manufacturer;*~~

~~*(b) A statement indicating whether the manufacturer will carry out a manufacturer program or use the state contractor program for recycling covered electronic devices; and*~~

~~*(c) Any other information required by the Division for the registration.*~~

~~*2. Not later than July 1 of each year, each manufacturer of a covered electronic device that is sold or offered for sale in this State shall pay to the Division:*~~

~~*(a) For calendar years 2010 to 2013, inclusive:*~~

~~*(1) An annual registration fee of $15,000 if the manufacturer sold at least 1 percent of the total number of units of covered electronic devices sold in this State during the preceding calendar year.*~~

~~*(2) An annual registration fee of $5,000 if the manufacturer sold at least 0.1 percent but less than 1 percent of the total number of units of covered electronic devices sold in this State during the preceding calendar year.*~~

~~*(3) An annual registration fee of $200 if the manufacturer sold at least 0.01 percent but less than 0.1 percent of the total number of units of covered electronic devices sold in this State during the preceding calendar year.*~~

~~*(4) An annual registration fee of $40 if the manufacturer sold less than 0.01 percent of the total number of units of covered electronic devices sold in this State during the preceding calendar year.*~~

~~*(b) For calendar year 2014 and each calendar year thereafter, the amounts specified in paragraph (a) or an amount specified by the Division that the Division determines is necessary so that the total amount of annual registration fees collected will be approximately equal to the costs of the Division in carrying out the provisions of sections 2 to 32, inclusive, of this act, other than any costs incurred by the Division in carrying out the state contractor program.*~~

~~*3. If a manufacturer ceases to manufacture, sell or import a covered electronic device and a covered electronic device that was manufactured, sold or imported by the manufacturer is collected for recycling under a manufacturer program or the state contractor program, the manufacturer shall register with the Division and pay a registration fee of $250.*~~

~~*4. Any manufacturer subject to subsection 3 who receives a notice from the Division specifying the manufacturer's return share and return share by weight and who has not previously registered pursuant to this section shall, within 30 days after receiving the notice, register with the Division and pay to the Division a registration fee of $250.]*~~ **(Deleted by amendment.)**

Sec. 23. ~~*[1. A manufacturer who chooses to carry out a manufacturer program shall submit a plan to the Division at the time the manufacturer pays the annual registration fee required pursuant to section 22 of this act.*~~

~~*2. A plan submitted pursuant to subsection 1 must describe the manner in which the manufacturer will:*~~

~~*(a) Finance, manage and conduct a statewide program to collect covered electronic devices from covered entities in this State;*~~

~~*(b) Provide for environmentally sound management practices to collect, transport and recycle covered electronic devices;*~~

~~*(c) Provide for advertising and promotion of collection opportunities statewide and on a regular basis; and*~~

~~*(d) Include convenient service in each county in this State which includes at least one collection site for each city whose population is 10,000 or more. A collection site for a county may be the same as the collection site for a city in the county. Each collection site must be staffed and open to the public at a frequency that is adequate to meet the needs of the area being served. A program may provide collection service jointly with another program.*~~

~~*3. In addition to the requirements of subsection 2, a manufacturer choosing to carry out a manufacturer program shall:*~~

~~*(a) Meet or exceed the requirements for collection sites specified in subsection 2;*~~

~~*(b) Provide for the collection, transportation and recycling of covered electronic devices for covered entities free of charge, except that a manufacturer who provides premium service for a covered entity may charge for any additional cost of providing that premium service; and*~~

~~*(c) Carry out the plan required pursuant to this section.*~~

~~*4. A group of manufacturers may choose to carry out a manufacturer program as a single entity, if in doing so the manufacturers meet the sum of their individual return shares by weight pursuant to subsection 3 of section 27 of this act and that sum is at least 5 percent.*~~

~~*5. On or before July 1 of each year, a manufacturer who does not meet its return share by weight for the preceding calendar year shall pay to the Division for the amount not met at a rate determined by the Division to be equal to the amount the manufacturer would have paid, plus 10 percent, to be part of the state contractor program pursuant to section 27 of this act.*~~

~~*6. A manufacturer participating in the state contractor program pursuant to section 27 of this act shall, at the time of submitting the manufacturer's annual registration pursuant to section 22 of this act, notify the Division of the participation of the manufacturer in the state contractor program.*~~

~~*7. Except as otherwise provided in subsection 4, a manufacturer who has less than a 5 percent return share during a year shall participate in the state contractor program pursuant to section 27 of this act.]*~~ **(Deleted by amendment.)**

Sec. 24. ~~*[On or before September 1 of each year, a manufacturer who participates in the state contractor program shall pay a recycling fee to the Division in an amount determined by the Division pursuant to section 27 of this act to cover the costs of collecting, transporting and recycling the manufacturer's annual return share of covered electronic devices for the following year.]*~~ **(Deleted by amendment.)**

Sec. 25. ~~*[1. Except as authorized in subsection 2, the operator of a manufacturer program or the state contractor program or a collector participating in a manufacturer program or the state contractor program shall not charge a fee to a covered entity for the collection, transportation or recycling of a covered electronic device.*~~

~~*2. A collector who provides a premium service to a covered entity may charge the covered entity a fee for any additional cost of providing the premium service.]*~~ (Deleted by amendment.)

Sec. 26. ~~*[1. A retailer shall not sell or offer or deliver for sale in this State any covered electronic device unless:*~~

~~*(a) The covered electronic device is labeled with a brand and the label is permanently affixed to and readily visible on the covered electronic device;*~~

~~*(b) The brand is included on the list prepared by the Division pursuant to section 27 of this act; and*~~

~~*(c) The list prepared by the Division pursuant to section 27 of this act specifies that the manufacturer of the covered electronic device is in compliance with the requirements of sections 2 to 32, inclusive, of this act.*~~

~~*2. A retailer shall provide to a customer at the time of the sale of a covered electronic device information provided by the Division that sets forth details concerning where and how the customer may recycle a covered electronic device in this State. The information must be provided in printed form for in-store sales and in printable form for Internet sales and other sales where the Internet is used.]*~~ (Deleted by amendment.)

Sec. 27. ~~*[The Division shall:*~~

~~*1. Maintain and make available to the public the following lists, which must be revised on or before the first day of each month:*~~

~~*(a) A list of each registered manufacturer and the brand of that manufacturer;*~~

~~*(b) A list of each brand for which a manufacturer has not registered; and*~~

~~*(c) A list that identifies each manufacturer who has complied with sections 2 to 32, inclusive, of this act.*~~

~~*2. Review and approve all manufacturer plans that comply with the provisions of section 23 of this act and are submitted annually by manufacturers who choose to carry out a manufacturer program.*~~

~~*3. Except as otherwise provided in this section, determine the return share and return share by weight for each calendar year for each manufacturer. The return share must be determined by dividing the total weight of covered electronic devices of each manufacturer's brands by the total weight of covered electronic devices for all manufacturers' brands. The return share by weight must be determined by multiplying the return share for each manufacturer by the total weight in pounds of covered electronic devices, including orphan devices, collected from covered entities during the preceding calendar year.*~~

~~*4. For calendar years 2010 and 2011, determine the return share and return share by weight for each manufacturer based on the best available public return share data and public weight data from within the United States for covered electronic devices from covered entities. For subsequent years, the return share of covered electronic devices for each manufacturer must be based on the most recent annual sampling or count of covered*~~

~~*electronic devices and the total weight in pounds of covered electronic devices must be based on the total weight of covered electronic devices, including orphan devices, determined by the Division.*~~

~~*5. On or before May 1 of each year, provide to each manufacturer that had a return share determined pursuant to this section the amount of the return share and return share by weight of the manufacturer for the next year.*~~

~~*6. Establish a state contractor program for the collection, transportation and recycling of covered electronic devices from covered entities in this State. The state contractor program must:*~~

~~*(a) To the extent practicable, use existing collection and transportation services and recycling centers;*~~

~~*(b) Use environmentally sound management practices to collect, transport and recycle covered electronic devices;*~~

~~*(c) Provide for covered entities, free of charge, convenient and available collection services and sites for covered electronic devices in both rural and urban areas of this State;*~~

~~*(d) Advertise and promote collection opportunities statewide and on a regular basis; and*~~

~~*(e) Conduct a statistically significant sampling or actual count of the covered electronic devices collected and recycled by the state contractor program during each calendar year using a method approved by the Division and prepare a report not later than March 1 of the following calendar year that includes:*~~

~~*(1) A list of all brands identified during the sampling or count;*~~

~~*(2) The weight of covered electronic devices identified for each brand during the sampling or count; and*~~

~~*(3) The total weight of covered electronic devices, including orphan devices, collected from covered entities in this State by the state contractor program during the preceding calendar year.*~~

~~*7. Determine a manufacturer's annual registration fee for purposes of section 22 of this act using national market data prorated for this State based on statewide population.*~~

~~*8. Determine the amount of the recycling fee required to be paid pursuant to section 24 of this act by each manufacturer who participates in the state contractor program established pursuant to subsection 6. The Division shall determine the recycling fees as follows:*~~

~~*(a) Except as otherwise provided in paragraph (b), for each manufacturer the Division shall determine the recycling fee based on the manufacturer's annual return share and return share by weight determined pursuant to subsection 3; and*~~

~~*(b) For each manufacturer whose manufacture of covered electronic devices specified in paragraph (c) of subsection 1 of section 5 of this act exceeds its manufacture of covered electronic devices specified in paragraphs (a) and (b) of that subsection, the Division shall determine the*~~

~~*recycling fee based on the total return share and return share by weight determined pursuant to subsection 3 for all manufacturers described in this paragraph and allocated according to each manufacturer's percentage of the total number of covered electronic devices specified in paragraph (c) of subsection 1 of section 5 of this act and sold in this State during the preceding calendar year. The Division may use any national sales data to determine those percentages. The Division may assess a surcharge on the annual registration fee for manufacturers described in this paragraph to pay any additional costs incurred by the Division in carrying out this paragraph.*~~

~~*9. Maintain on its website information relating to collection opportunities for covered electronic devices, including, without limitation, collection site locations and hours. The information must be made available in a printable format for retailers.*~~

~~*10. On or before January 10 of each odd-numbered year, prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the next session of the Legislature concerning the operation of the statewide system for the collection, transportation and recycling of covered electronic devices.]*~~ **(Deleted by amendment.)**

Sec. 28. ~~*[1. The Division shall evaluate any federal law or regulation that establishes a national program for the collection, transportation and recycling of electronic devices.*~~

~~*2. If the Division determines that the federal law or regulation substantially meets or exceeds the requirements of sections 2 to 32, inclusive, of this act, the Division shall include information concerning that determination in the next biennial report it submits to the Legislature pursuant to section 27 of this act.]*~~ **(Deleted by amendment.)**

Sec. 29. ~~*[The Division may adopt regulations to carry out the provisions of sections 2 to 32, inclusive, of this act.]*~~ **(Deleted by amendment.)**

Sec. 30. ~~*[Any fees received pursuant to sections 2 to 32, inclusive, of this act must be accounted for separately and may be used only to carry out the provisions of sections 2 to 32, inclusive, of this act.]*~~ **(Deleted by amendment.)**

Sec. 31. ~~*[Sections 2 to 32, inclusive, of this act do not limit the authority of an incorporated city or any county in this State to regulate the collection of solid waste in the city or county.]*~~ **(Deleted by amendment.)**

Sec. 32. ~~*[A person who violates any provision of sections 2 to 32, inclusive, of this act or any regulation adopted pursuant to those provisions is guilty of a misdemeanor and, in addition to any other penalty, shall be fined not more than $100 for each day on which the violation continues.]*~~ **(Deleted by amendment.)**

Sec. 33. ~~[This act becomes effective:~~

~~1. Upon passage and approval for the purpose of adopting regulations and carrying out any preliminary administrative tasks that are required to carry out the provisions of this act; and~~

~~2. On October 1, 2009, for all other purposes.~~] **(Deleted by amendment.)**

Sec. 34. **1. The Division of Environmental Protection of the State Department of Conservation and Natural Resources shall, within the limits of available money, conduct or cause to be conducted a study concerning programs for reusing and recycling computers and other electronics.**

2. The study must include, without limitation:

(a) An inventory of any programs for donating or recycling computers and other electronics in this State and surrounding states; and

(b) An evaluation of those programs and their effectiveness, including, without limitation, an assessment of the environmental effect of those programs.

3. The Administrator of the Division shall submit a report setting forth the results of the study and at least one recommendation for legislation to carry out a program for reusing and recycling computers and other electronics in this State to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.

Sec. 35. **This act becomes effective on July 1, 2009.**

Assemblyman Claborn moved the adoption of the amendment.

Remarks by Assemblyman Claborn.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 462.

Bill read second time and ordered to third reading.

Assembly Bill No. 473.

Bill read second time and ordered to third reading.

Assembly Bill No. 483.

Bill read second time and ordered to third reading.

Assembly Bill No. 517.

Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 10.

Resolution read second time and ordered to third reading.

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

Assembly in recess at 12:33 p.m.

ASSEMBLY IN SESSION

At 12:35 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 109 be taken from its position on the General File and placed at the top of the General File.
Motion carried.

Assemblywoman Smith moved that Assembly Bill No. 232 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 109.
Bill read third time.
The following amendment was proposed by the Committee on Atkinson:
Amendment No. 174.
AN ACT relating to motor vehicles; **requiring that license plates without distinguishing marks be furnished for two vehicles used by the office of the county coroner;** authorizing the Department of Motor Vehicles to issue certain special license plates for use on motorcycles; prescribing the fees for special license plates for use on vehicles other than passenger cars and light commercial vehicles; and providing other matters properly relating thereto.
Legislative Counsel's Digest:
Existing law provides that license plates furnished for certain exempt vehicles maintained for and used by certain governmental entities must be free of distinguishing marks which would otherwise identify the vehicle as a governmental vehicle. (NRS 482.368) Section 1 of this bill adds two vehicles used by the office of a county coroner to the list of vehicles for which license plates without a distinguishing mark must be furnished.
Under existing law, if the Department of Motor Vehicles issues special license plates for use on a passenger car or light commercial vehicle and if those special license plates generate financial support for a charitable organization, the Department is authorized to issue the special license plates for use on a trailer or other type of vehicle that is not a passenger car or light commercial vehicle, but is prohibited from issuing the special license plates for use on a motorcycle or heavy commercial vehicle. (NRS 482.3824) Effective July 1, 2010, **section 2 of** this bill removes the prohibition against the Department issuing such special license plates for use on motorcycles and provides further that the fees for special license plates issued for use on vehicles other than passenger cars or light commercial vehicles must be the

same as if the special license plates were issued for use on a passenger car or light commercial vehicle.

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

Section 1. **NRS 482.368 is hereby amended to read as follows:**

482.368 1. Except as otherwise provided in subsection 2, the Department shall provide suitable distinguishing license plates for exempt vehicles. These plates must be displayed on the vehicles in the same manner as provided for privately owned vehicles. The fee for the issuance of the plates is $5. Any license plates authorized by this section must be immediately returned to the Department when the vehicle for which they were issued ceases to be used exclusively for the purpose for which it was exempted from the governmental services tax.

2. License plates furnished for:

(a) Those vehicles which are maintained for and used by the Governor or under the authority and direction of the Chief Parole and Probation Officer, the State Contractors' Board and auditors, the State Fire Marshal, the Investigation Division of the Department of Public Safety and any authorized federal law enforcement agency or law enforcement agency from another state;

(b) One vehicle used by the Department of Corrections, three vehicles used by the Department of Wildlife, two vehicles used by the Caliente Youth Center and four vehicles used by the Nevada Youth Training Center;

(c) Vehicles of a city, county or the State, if authorized by the Department for the purposes of law enforcement or work related thereto or such other purposes as are approved upon proper application and justification; ~~[and]~~

(d) ***Two vehicles used by the office of the county coroner of any county which has created that office pursuant to NRS 244.163; and***

(e) Vehicles maintained for and used by investigators of the following:

(1) The State Gaming Control Board;
(2) The State Department of Agriculture;
(3) The Attorney General;
(4) City or county juvenile officers;
(5) District attorneys' offices;
(6) Public administrators' offices;
(7) Public guardians' offices;
(8) Sheriffs' offices;
(9) Police departments in the State; and
(10) The Securities Division of the Office of the Secretary of State,

➥ must not bear any distinguishing mark which would serve to identify the vehicles as owned by the State, county or city. These license plates must be issued annually for $12 per plate or, if issued in sets, per set.

3. The Director may enter into agreements with departments of motor vehicles of other states providing for exchanges of license plates of regular

series for vehicles maintained for and used by investigators of the law enforcement agencies enumerated in paragraph ~~[(d)]~~ ***(e)*** of subsection 2, subject to all of the requirements imposed by that paragraph, except that the fee required by that paragraph must not be charged.

4. Applications for the licenses must be made through the head of the department, board, bureau, commission, school district or irrigation district, or through the chairman of the board of county commissioners of the county or town or through the mayor of the city, owning or controlling the vehicles, and no plate or plates may be issued until a certificate has been filed with the Department showing that the name of the department, board, bureau, commission, county, city, town, school district or irrigation district, as the case may be, and the words "For Official Use Only" have been permanently and legibly affixed to each side of the vehicle, except those vehicles enumerated in subsection 2.

5. As used in this section, "exempt vehicle" means a vehicle exempt from the governmental services tax, except a vehicle owned by the United States.

6. The Department shall adopt regulations governing the use of all license plates provided for in this section. Upon a finding by the Department of any violation of its regulations, it may revoke the violator's privilege of registering vehicles pursuant to this section.

~~[Section 1.]~~ ***Sec. 2.*** NRS 482.3824 is hereby amended to read as follows:

482.3824 1. Except as otherwise provided in NRS 482.38279, with respect to any special license plate that is issued pursuant to NRS 482.3667 to 482.3825, inclusive, and for which ~~[an additional fee is]~~ ***additional fees are*** imposed for the issuance of the special license plate to generate financial support for a charitable organization:

(a) The Director shall, at the request of the charitable organization that is benefited by the particular special license plate:

(1) Order the design and preparation of souvenir license plates, the design of which must be substantially similar to the particular special license plate; and

(2) Issue such souvenir license plates, for a fee established pursuant to NRS 482.3825, only to the charitable organization that is benefited by the particular special license plate. The charitable organization may resell such souvenir license plates at a price determined by the charitable organization.

(b) The Department may, except as otherwise provided in this paragraph and after the particular special license plate is approved for issuance, issue the special license plate for a trailer ***, motorcycle*** or other type of vehicle that is not a passenger car or light commercial vehicle, excluding ~~[motorcycles and]~~ vehicles required to be registered with the Department pursuant to NRS 706.801 to 706.861, inclusive, upon application by a person who is entitled to license plates pursuant to NRS 482.265 ***or 482.272*** and who otherwise complies with the requirements for registration and licensing pursuant to this

chapter ~~[.]~~ ***or chapter 486 of NRS.*** The Department may not issue a special license plate for such other types of vehicles if the Department determines that the design or manufacture of the plate for those other types of vehicles would not be feasible. In addition, if the Department incurs additional costs to manufacture a special license plate for such other types of vehicles, including, without limitation, costs associated with the purchase, manufacture or modification of dies or other equipment necessary to manufacture the special license plate for such other types of vehicles, those additional costs must be paid from private sources without any expense to the State of Nevada.

2. ***If, as authorized pursuant to paragraph (b) of subsection 1, the Department issues a special license plate for a trailer, motorcycle or other type of vehicle that is not a passenger car or light commercial vehicle, the Department shall charge and collect for the issuance and renewal of such a plate the same fees that the Department would charge and collect if the other type of vehicle was a passenger car or light commercial vehicle. As used in this subsection, "fees" does not include any applicable registration or license fees or governmental services taxes.***

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

(a) "Additional fees" has the meaning ascribed to it in NRS 482.38273.

(b) "Charitable organization" means a particular cause, charity or other entity that receives money from the imposition of ~~[an additional fee]~~ ***additional fees*** in connection with the issuance of a special license plate pursuant to NRS 482.3667 to 482.3825, inclusive. The term includes the successor, if any, of a charitable organization.

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 482.38274 is hereby amended to read as follows:

482.38274 "Charitable organization" has the meaning ascribed to it in ~~[subsection 2 of]~~ NRS 482.3824.

~~[Sec. 3.]~~ ***Sec. 4.*** ~~[This act becomes]~~

1. This section and section 1 of this act become effective on July 1, 2009.

2. Sections 2 and 3 of this act become effective on July 1, 2010.

Assemblyman Manendo moved the adoption of the amendment.

Remarks by Assemblyman Manendo.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assemblyman Oceguera moved that the Assembly recess until 1 p.m.

Motion carried.

Assembly in recess at 12:37 p.m.

ASSEMBLY IN SESSION

At 1:27 p.m.

Madam Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 15.

Bill read third time.

Remarks by Assemblymen Manendo and Grady.

Roll call on Assembly Bill No. 15:

YEAS—31.

NAYS—Christensen, Cobb, Gansert, Goedhart, Grady, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart, Woodbury—11.

Assembly Bill No. 15 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 26.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 26:

YEAS—42.

NAYS—None.

Assembly Bill No. 26 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bill No. 35 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 76.

Bill read third time.

Remarks by Assemblywoman Pierce.

Roll call on Assembly Bill No. 76:

YEAS—42.

NAYS—None.

Assembly Bill No. 76 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Assembly Bill No. 88 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 90.

Bill read third time.

Remarks by Assemblyman Conklin.
Roll call on Assembly Bill No. 90:
YEAS—42.
NAYS—None.
Assembly Bill No. 90 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 120.
Bill read third time.
Roll call on Assembly Bill No. 120:
YEAS—42.
NAYS—None.
Assembly Bill No. 120 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 124.
Bill read third time.
Remarks by Assemblyman Grady.
Roll call on Assembly Bill No. 124:
YEAS—42.
NAYS—None.
Assembly Bill No. 124 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 191.
Bill read third time.
Remarks by Assemblyman Denis.
Roll call on Assembly Bill No. 191:
YEAS—38.
NAYS—Cobb, Goedhart, Gustavson, McArthur—4.
Assembly Bill No. 191 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 194.
Bill read third time.
Remarks by Assemblyman Goicoechea.
Roll call on Assembly Bill No. 194:
YEAS—42.
NAYS—None.
Assembly Bill No. 194 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 196.
Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 196:

YEAS—42.

NAYS—None.

Assembly Bill No. 196 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 231.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 231:

YEAS—42.

NAYS—None.

Assembly Bill No. 231 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 88, 237, 243, 253, 264, 266, 280, 301, 306, 327, 329, 332, 372, 393, 403, 412, 417, 459, 477, 518; Assembly Joint Resolution No. 7; Senate Bills Nos. 38, 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolutions Nos. 21, 22, 23, 24, 25, 26, 27; Senate Concurrent Resolution No. 22.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Tom Letson.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Sydney Bogatz.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Sheila Ward and Nikki Barcia.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Rite of Passage Charter High School: Gustavo Banvelos, Bradley DeBoe, Andy Estrada, Clayton Freeman, Eric Garcia, Dylan Jenkens, Joshua Koeller,

Adam Lage, Anthony McCall, Jose Montiel, Garret Munson, Michael Ochoa, Ryan Putney, Michael Reed, Jose Rodriguez, Joseph Romero, Terry Taylor, Zachery Taylor, Terell Tindall, Michael Tveretinov, Shane Venberg, Dechawn Wallace, De'Andre Walters; teachers John Fitzgerald and Michael Reynolds; chaperones Rod Blanchart, John Trent, and Jason Williams.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, April 10, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 1:51 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SIXTY-EIGHTH DAY

CARSON CITY (Friday), April 10, 2009

Assembly called to order at 11:44 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Robert Foerfter.

O Thou compassionate Lord, Thou who art generous and able. We are servants of Thine, sheltered beneath Thy providence. Cast Thy glance of favor upon us. Give light to our eyes, hearing to our ears, and understanding and love to our hearts. Render our souls joyous and happy through Thy glad tidings. O Lord, point out to us the pathway of Thy kingdom and resuscitate all of us through the breaths of the Holy Spirit. Bestow upon us life everlasting and confer upon us neverending honor. Unify mankind and illume the world of humanity. May we all follow Thy pathway, long for Thy good pleasure, and seek the mysteries of Thy kingdom. O God, unite us and connect our hearts with Thine indissoluble bond. Verily, Thou art the Giver, Thou art the Kind One, and Thou art the Almighty.

ABDUL'L-BAHA.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 413, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Assembly Joint Resolutions Nos. 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

HARRY MORTENSON, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Joint Resolution No. 14, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Concurrent Committee on Judiciary, to which was referred Assembly Bill No. 64, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which were referred Assembly Bills Nos. 362, 516, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 291, 297, 407, 455, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 533, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 14, 414, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 188, 193, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

MORSE ARBERRY JR., *Chair*

Madam Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 429, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 291, 297, 362, 407, 413, 414, 429, 455, 516, 533; Assembly Joint Resolutions Nos. 5, 14 just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Oceguera moved that Assembly Bills Nos. 14, 188, 193, just reported out of committee, be placed on the General File.

Motion carried.

NOTICE OF EXEMPTION

April 10, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bill No. 510.

MARK STEVENS
Fiscal Analysis Division

NOTICE OF WAIVER

A Waiver requested by Senate Standing Committee on Taxation.

For: Senate Bill No. 201.

To Waive:

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

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

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

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

Has been granted effective: Friday, April 03, 2009.

STEVEN A. HORSFORD	BARBARA BUCKLEY
Senate Majority Leader	*Speaker of the Assembly*

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 291.

Bill read second time and ordered to third reading.

Assembly Bill No. 297.

Bill read second time and ordered to third reading.

Assembly Bill No. 362.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 272.

SUMMARY—Revises provisions governing the ~~[use]~~ **development** of certain ~~[fees charged for processing an application for a game tag.]~~ **programs and other activities conducted by the Department of Wildlife.** (BDR 45-709)

AN ACT relating to wildlife; revising provisions governing the ~~[use of the fee charged for processing an application for a game tag;]~~ **development of certain programs and other activities conducted by the Department of Wildlife;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law **requires the Board of Wildlife Commissioners to guide the Department of Wildlife in carrying out various provisions of law governing wildlife and boating. (NRS 501.181) Existing law also** provides that in addition to any fee charged and collected for a game tag, a fee of $3 must be charged for processing each application for a game tag, the revenue from which must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund and used by the Department of Wildlife for costs related to certain programs ~~[.]~~ **, management activities and research relating to wildlife.** (NRS 502.253) This bill provides that ~~[such revenue must only be used for costs related to projects approved by]~~ **any such programs, activities or research must be developed or conducted under the guidance of** the Board of Wildlife Commissioners **.** ~~[for the management and control of predatory wildlife for the enhancement of mule deer populations.]~~

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

Section 1. NRS 502.253 is hereby amended to read as follows:

502.253 1. In addition to any fee charged and collected pursuant to NRS 502.250, a fee of $3 must be charged for processing each application for a game tag, the revenue from which must be accounted for separately, deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund and used by the Department ~~[only]~~ for costs related to :

(a) Programs ~~[projects]~~ for the management and control of injurious predatory wildlife ;

(b) Wildlife management activities relating to the protection of nonpredatory game animals, sensitive wildlife species and related wildlife habitat;

(c) Conducting research, as needed, to determine successful techniques for managing and controlling predatory wildlife, including studies necessary to ensure effective programs for the management and control of injurious predatory wildlife; and

(d) Programs for the education of the general public concerning the management and control of predatory wildlife. ~~[for the enhancement of mule deer populations.]~~

2. The Department of Wildlife is hereby authorized to expend a portion of the money collected pursuant to subsection 1 to enable the State Department of Agriculture to develop and carry out the programs ~~[projects]~~ described in subsection 1.

3. ***Any*** ~~[project]~~ ***program developed or wildlife management activity or research conducted pursuant to this section must be*** ~~[approved by]~~ ***developed or conducted under the guidance of the Commission*** ~~[.]~~ ***pursuant to subsection 2 of NRS 501.181.***

4. The money in the Wildlife Account remains in the Account and does not revert to the State General Fund at the end of any fiscal year.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Claborn moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 407.

Bill read second time and ordered to third reading.

Assembly Bill No. 413.

Bill read second time and ordered to third reading.

Assembly Bill No. 414.

Bill read second time and ordered to third reading.

Assembly Bill No. 429.

Bill read second time and ordered to third reading.

Assembly Bill No. 455.

Bill read second time and ordered to third reading.

Assembly Bill No. 516.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 273.

AN ACT relating to wildlife; requiring any matching money received by the Department of Wildlife from any source to be used only for the management of wildlife; providing that **certain fees from the sale of licenses, tags or permits must be used under the guidance of** the Board of Wildlife Commissioners **; ~~[must approve the use of that money and certain fees deposited in the Wildlife Account;]~~** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law **requires the Board of Wildlife Commissioners to guide the Department of Wildlife in carrying out various provisions of law governing wildlife and boating. (NRS 501.181) Existing law also** requires that, with certain exceptions, all fees for the sale or issuance of stamps, tags, permits and licenses that are required to be deposited in the Wildlife Account be used only for the management of wildlife. (NRS 501.356) This bill expands that use requirement to include any matching money received by the Department **~~[of Wildlife]~~** from any source **. ~~[and]~~ This bill also** provides that **~~[any use of such]~~ certain** fees **~~[and matching money]~~** must be **~~[approved by]~~ used under the guidance of** the **~~[Board of Wildlife Commissioners.]~~ Commission.**

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

Section 1. NRS 501.356 is hereby amended to read as follows:

501.356 1. Money received by the Department from:

(a) The sale of licenses;

(b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;

(c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;

(d) Appropriations made by the Legislature; and

(e) All other sources, except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575 or in the Trout Management Account pursuant to NRS 502.327,

➥ must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

2. The interest and income earned on the money in the Wildlife Account, after deducting any applicable charges, must be credited to the Account.

3. Except as otherwise provided in subsection 4, the Department may use money in the Wildlife Account only to carry out the provisions of this title and chapter 488 of NRS and as provided in NRS 365.535, and the money must not be diverted to any other use.

4. Except as otherwise provided in NRS 502.250 and 504.155, all fees for the sale or issuance of stamps, tags, permits and licenses that are required to be deposited in the Wildlife Account pursuant to the provisions of this title ***and any matching money received by the Department from any source*** must be accounted for separately and ~~[may]~~ ***must*** be used ~~[only]~~ **:**

(a) Only for the management of wildlife ~~[.]~~ **;** ***and*** ~~*[only upon approval by]*~~

(b) If the fee is for the sale or issuance of a license, permit or tag other than a tag specified in subsection 5 or 6 of NRS 502.250, under the guidance of the Commission ~~*[.]*~~ ***pursuant to subsection 2 of NRS 501.181.***

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Claborn moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 533.

Bill read second time.

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

Amendment No. 271.

AN ACT making a supplemental appropriation to the State Distributive School Account for unanticipated shortfalls in Fiscal Year 2008-2009 in certain tax revenue; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the State Distributive School Account created by NRS 387.030 the sum of ~~[$329,279,867]~~ **$323,802,183** to cover unanticipated shortfalls in the revenue from the Local School Support Tax and the ad valorem tax pursuant to subsection 1 of NRS 387.195. This appropriation is supplemental to that made by section 2 of chapter 343, Statutes of Nevada 2007, at page 1553.

Sec. 2. This act becomes effective upon passage and approval.

Assemblywoman Leslie moved the adoption of the amendment.

Remarks by Assemblywoman Leslie.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Joint Resolution No. 5.

Resolution read second time and ordered to third reading.

Assembly Joint Resolution No. 14.

Resolution read second time and ordered to third reading.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 12:03 p.m.

ASSEMBLY IN SESSION

At 12:20 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bills Nos. 145, 285, and 348 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Arberry moved that Assembly Bills Nos. 279, 349, and 426 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 88 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 49.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 49:

YEAS—42.

NAYS—None.

Assembly Bill No. 49 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 79.

Bill read third time.

Remarks by Assemblywoman Koivisto.

Roll call on Assembly Bill No. 79:

YEAS—42.

NAYS—None.

Assembly Bill No. 79 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 109.

Bill read third time.

Remarks by Assemblyman Kihuen.

Roll call on Assembly Bill No. 109:

YEAS—42.

NAYS—None.

Assembly Bill No. 109 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Mastroluca moved that Assembly Bill No. 243 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 237 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 122.

Bill read third time.

Remarks by Assemblywoman Pierce.

Roll call on Assembly Bill No. 122:

YEAS—42.

NAYS—None.

Assembly Bill No. 122 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 163.

Bill read third time.

Remarks by Assemblymen Ohrenschall and Carpenter.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 163:

YEAS—41.

NAYS—McArthur.

Assembly Bill No. 163 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 177.

Bill read third time.

Remarks by Assemblyman Oceguera.

Roll call on Assembly Bill No. 177:

YEAS—42.

NAYS—None.

Assembly Bill No. 177 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 205.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 205:

YEAS—42.

NAYS—None.

Assembly Bill No. 205 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 233.

Bill read third time.

Remarks by Assemblyman Oceguera.

Roll call on Assembly Bill No. 233:

YEAS—42.

NAYS—None.

Assembly Bill No. 233 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 14, 188, 193, 237, 243, 249, 253, 264, 266, 280, 286, 289, 296, 301, 306, 327, 329, 332, 360, 372, 393, 403, 412, 415, 417, 459, 462, 473, 477, 483, 517, 518; Assembly Joint Resolutions Nos. 7, 10; Senate Bills Nos. 38, 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Dina Neal.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Haley Atkinson.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Scott Bogatz and Sydney Bogatz.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from George Westergard Elementary School: Nabila Akhter, Angelika Bumgarner, Michael Burns, Carson Buxton, Iris Cencer, Shi Chen, Duncan

Crabtree, Dina Ditto, Tyler Dix, Benjamin Friedman, Jonas Gedvila, Heather Gonzales, Kaden Hardy, Devante Houston, Raegan Huckaby, Taylor Kenney, Bailey Melcher, Alexis Meyers, Zachary Murphy, Ryan O'Day, Daren Pennington, Alizeh Qureshi, Tiago Rinaldini, Zane Schroeder, Katelyn Zarate, Noelani Ahtoong, Jesse Ayala-Rodriguez, Jessica Barnes, Dino Barthel-Rosa, Cassidy Dullanty, Andrea Gillespie, Sean Gutierrez, Sean Hernandez, Nicolas Jones, Shrabya Joshee, Aaron Lesher, Chris Mathews, Richard Nava, Isabella Nielsen, Jordyn Owens, Sarah Pennington, Gregory Potts, Isabelle Richards, Austin Saunders, Madeleine Stuart, Austin Taylor, Emily Thompsen, Aaron Vaught, Henry Weisberg, Oliva Wilkins, Angel Alvarado, Sonya Bogle, Andrew Clark, Lauren Delrosario, Payton Dobbs, Skyler Dohr, Mariah Druitt, Justin Dynes, Brooklyn Gaborno, Graham Haley, Subah Islam, Monica Jensen, Armaan Judge, Annika Kerns, Christina Kerr, Tamanna Khan, Dylan Marchand, Mollie Moore, Gabriel Newberry, Brittain Oliver, Nelson Padilla, Andrew Palmer, Abigail Rivera, Tahmora Tweet-Inman, Haley Webbert, Luis Arias, Jeffery Canepa, Joshua Canepa, Collin Farquhar, Brook Garrett, Maria Grajeda Jimenez, Jessica Greene, Ashley Hobert, Grace Holliday, Sheldon Jensen, Trajan Jones, Christanae King, Joanna Le Galloudec, Noah Marcaida, Cody McCarty, Logan Mead, Cynthia Mejia Rodriguez, Anthony Morin, Cameron Nichols, Ramos Garcia Guillermo, Megan Ross, Alexander Sanchez, Darion Shaw, Haley Tomlin, and Torrie Watson; teachers Tracy Chew, Kitty Gillette, Revae Henry, and Darcie Smith; chaperones Patsy Buxton, Mei-Yung Chen, Gail Huckaby, Heidi Barnes, Luis Barthel-Rosa, Jason Lesher, Tom Potts, Gina Thompsen, Jenny Weisberg, James Wilkins, Jessica Harrington, Tom Kerns, Nicole Hosselkus, Kim Kandaras, Angela Tweet, Mason Smiley, Yuonita Dillon-Lee, and Samantha Watson.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Megan Burns and Tom Burns.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Henry Horne and Chloe Horne.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Kelsey Mastroluca and Nicholas Mastroluca.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, April 13, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:46 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SEVENTY-FIRST DAY

CARSON CITY (Monday), April 13, 2009

Assembly called to order at 11:15 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Arberry and Carpenter, who were excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

Our Gracious Lord, we have sought You, but not diligently. We have seen, but not perceived. We have heard, but not understood. We have desired things heavenly, but clung to things on earth. Strengthen the members of this body to do Your will. As they learn to love, seek, perceive, desire, and understand Your will, give them the peace that comes from trusting You. We pray in the only One we can trust.

AMEN.

Presentation of the Colors by Troop 100 of the Boy Scouts of America.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 274, 313, 378, 381, 410, 490, 509, 511, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 151, 152, 389, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Education, to which were referred Assembly Bills Nos. 425, 428, 487, 505, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 41, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Joint Resolution No. 6, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

HARRY MORTENSON, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 42, 61, 129, 168, 257 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 183, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 246, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

JERRY D. CLABORN, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 41, 42, 61, 129, 151, 152, 168, 183, 246, 257, 274, 313, 378, 381, 389, 410, 425, 487, 490, 509, 511; Assembly Joint Resolution No. 6 just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Oceguera moved that KRNV-TV: Tad Dunbar; RENO GAZETTE-JOURNAL: Ray Hagar be accepted as accredited press representatives, and that they be assigned space at the press table in the Assembly Chamber and that they be allowed the use of appropriate broadcasting facilities.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 41.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 63.

SUMMARY—Makes various changes to voter registration and voting procedures for certain members of the Armed Forces of the United States and ~~[their family]~~ **certain** members **of their families,** and certain other voters who reside outside the United States. (BDR 24-324)

AN ACT relating to elections; making various changes concerning voter registration and voting procedures for certain members of the Armed Forces of the United States and their ~~[family members]~~ **spouses and dependents,**

and certain other voters who reside outside the United States; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 3, 6 and 9 of this bill authorize the use of a write-in ballot by certain members of the Armed Forces of the United States and certain other electors of this State who declare that at the time of an election they will be outside the United States and in an area that is remote from normal lines of communication. (NRS 293.270, 293.317)~~

~~Section 5 of this bill clarifies the authority of the Secretary of State to adopt emergency regulations to facilitate the delivery and receipt of absent ballots to members of the Armed Forces during a natural disaster or man-made conflict.]~~ **Section ~~[5 also]~~ 6 of this bill** authorizes the Secretary of State to adopt regulations concerning standards for the approved electronic transmission of certain applications, forms and ballots. (NRS 293.247)

~~[Sections 7 and 14]~~ **Section 8** of this bill ~~[expand]~~ **expands** the acceptable use of the form provided by the Federal Government from a special absent ballot to be used only in general elections and only for federal offices to allow its use in primary and special elections, in addition to general elections, and for state and local offices in addition to federal offices. ~~[These sections also provide]~~ **(NRS 293.3155)**

Section 15 of this bill provides that an elector of this State who resides outside the United States ~~[and who wishes to vote only for the federal offices]~~ may use the special absent ballot as a simultaneous application for registration and ballot to vote**.** ~~[only for federal offices in a primary, general or special election in this State.]~~ (NRS ~~[293.3155,]~~ 293.501)

Sections ~~[7, 8, 10, 11, 14, 15 and 17-21]~~ 8, 9, 11, 12, 15, 16, 18 and 20-22 of this bill allow certain members of the Armed Forces ~~[,]~~ **and** their ~~[family members]~~ **spouses and dependents,** and certain other electors of this State who reside outside the United States: (1) to request forms for registration, absent ballots, special absent ballots and the form provided by the Federal Government for simultaneous registration and request of an absent ballot; and (2) to return voted ballots by approved electronic transmission. (NRS 293.3155, 293.3157, 293.320, 293.323, 293.501, 293.502, 293.553, ~~[293.555,]~~ 293C.315, 293C.320, 293C.322)

Sections ~~[13]~~ 14 and ~~[16]~~ 17 of this bill allow certain citizens of the United States who have never resided in the United States to use the address of a parent who resides in this State for purposes of establishing residency for voter registration. (NRS 293.486, 293.507)

Section ~~[15]~~ 16 of this bill expands the eligibility for late registration by those who have recently returned to residency in the United States to include **: (1)** the ~~[family members]~~ **spouses and dependents** of members of the Armed Forces stationed outside the United States who have been recently discharged **;** and ~~[to include]~~ **(2)** persons recently separated from employment outside of the United States ~~[.]~~ **and the spouses and dependents of such persons.** (NRS 293.502)

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and ~~[3]~~ **4** of this act.

Sec. 2. ***"Approved electronic transmission" means the sending of information by facsimile machine or by use of the Internet pursuant to the acceptable standards set forth by regulations of the Secretary of State adopted pursuant to NRS 293.247.***

Sec. 3. ~~***[Notwithstanding any other provisions of this title:***~~

~~***1. A registered voter of this State who declares that at the time of a primary, general or special election he:***~~

~~***(a) Will reside outside the continental United States and will be an "absent uniformed services voter" or "overseas voter," as those terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.; and***~~

~~***(b) Because of a military assignment or other employment, will be physically located in an area that is remote from normal lines of communication, including, without limitation, mail, telephone, facsimile machines and electronic mail,***~~

~~***↵ may, before the particular election, request by mail or approved electronic transmission an absent ballot on which names of candidates for federal, state and local offices may be written.***~~

~~***2. The county clerk or city clerk, as appropriate, who receives a request pursuant to subsection 1 and is satisfied that the voter is entitled to receive such a ballot shall send the ballot by mail or approved electronic transmission to the address indicated on the application.***~~

~~***3. The ballot must list all the federal, state and local offices that are scheduled to appear on the ballot for that election, based on the known expiration of terms of offices.***~~

~~***4. With any ballot sent pursuant to this section, the county clerk or city clerk, as appropriate, shall include a listing of all the candidates who will appear on the ballot for the particular election and a list of any questions that have qualified to appear on the ballot to date, along with the number of the question that has been assigned by the Secretary of State. When writing in his vote for an office, the registered voter shall choose from the names included on the list for that office. When writing in his vote for a question, the registered voter shall indicate the number of the question and indicate a "Yes" or "No" vote.***~~

~~***5. The registered voter may vote by completing the ballot according to the instructions and returning it to the county clerk or city clerk, as appropriate, by:***~~

~~***(a) Mail, if it can be returned in a timely manner; or***~~

~~***(b) Approved electronic transmission.***~~

~~*6. A ballot returned pursuant to this section and received before the close of polls on election day must be counted in the same manner as other absent ballots. A ballot returned pursuant to this section must not be counted if the county clerk or city clerk, as appropriate, receives a regular absent ballot from that voter on or before the date of the primary, general or special election.*~~

~~*7. The Secretary of State shall adopt regulations governing:*~~

~~*(a) The declaration required by subsection 1, including, without limitation, whether the completion of a particular form provided by the Federal Government will suffice as that declaration;*~~

~~*(b) Any other criteria to be applied by the county clerk or city clerk, as appropriate, in determining that a registered voter is entitled to a ballot pursuant to this section; and*~~

~~*(c) The form for the ballot created by this section.]*~~ **(Deleted by amendment.)**

Sec. 4. ***"Special absent ballot" means the absent ballot provided by the Federal Government pursuant to 42 U.S.C. § 1973ff et seq. to any elector or registered voter of this State who is in the Armed Forces or resides outside the continental United States.***

Sec. 5. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, ***and*** ~~*[section]*~~ ***sections 2 and 4 of this act*** have the meanings ascribed to them in those sections.

~~**[Sec. 5.]**~~ ***Sec. 6.*** NRS 293.247 is hereby amended to read as follows:

293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. Permanent regulations of the Secretary of State that regulate the conduct of a primary, general, special or district election that are effective on or before December 31 of the year immediately preceding a primary, general, special or district election govern the conduct of that election.

2. The Secretary of State shall prescribe the forms for a declaration of candidacy, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.

3. The regulations must prescribe:

(a) The duties of election boards;

(b) The type and amount of election supplies;

(c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;

(d) The method to be used in distributing ballots to precincts and districts;

(e) The method of inspection and the disposition of ballot boxes;

(f) The form and placement of instructions to voters;

(g) The recess periods for election boards;

(h) The size, lighting and placement of voting booths;

(i) The amount and placement of guardrails and other furniture and equipment at voting places;

(j) The disposition of election returns;

(k) The procedures to be used for canvasses, ties, recounts and contests, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;

(l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;

(m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;

(n) The procedures to be used for the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system;

(o) The procedures to be used for the disposition of absent ballots in case of an emergency;

(p) ***The acceptable standards for the sending and receiving of applications, forms and ballots, by approved electronic transmission, by the county clerks and the electors or registered voters who are authorized to use approved electronic transmission pursuant to the provisions of this title;***

(q) ~~*[The standard for determining when a natural disaster or man-made conflict, the resolution of which requires substantial assistance from the Armed Forces of the United States, constitutes an emergency concerning the delivery and receipt of absent ballots to members of the Armed Forces that necessitates the adoption of emergency regulations pursuant to NRS 233B.0613;*~~

~~*(r)]*~~ The forms for applications to register to vote and any other forms necessary for the administration of this title; and

~~**[**(q)**]**~~ ~~*[(s)]*~~ ***(r)*** Such other matters as determined necessary by the Secretary of State.

4. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the statutes and regulations governing the conduct of primary, general, special and district elections in this State.

5. The Secretary of State shall prepare and distribute to each county and city clerk copies of:

(a) Laws and regulations concerning elections in this State;

(b) Interpretations issued by the Secretary of State's Office; and

(c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.

~~**[Sec. 6.]**~~ ***Sec. 7.*** NRS 293.270 is hereby amended to read as follows:

293.270 1. Voting at any election regulated by this title must be on printed ballots or by any other system approved by the Secretary of State or specifically authorized by law.

2. ~~[~~Voting~~]~~ ***Except as otherwise provided in NRS 293.3155 , ~~[and section 3 of this act,]~~ voting*** must be only upon candidates whose names appear upon the ballot prepared by the election officers, and no person may write in the name of an additional candidate for any office.

~~[Sec. 7.]~~ ***Sec. 8.*** NRS 293.3155 is hereby amended to read as follows:

293.3155 ~~*[1.]*~~ Notwithstanding any other provisions of this title ~~*[,]*~~ :

1. Any registered voter of this State who resides outside the continental United States may use ~~[the form provided by the Federal Government as]~~ a special absent ballot ~~*[may be used]*~~ for a ***primary,*** general ***or special*** election ***.*** ~~*[in this State by a person who meets the criteria set forth in subsection 2 or 3.*~~

~~*2. Any registered voter of this State who resides outside the continental United States may use the form described in subsection 1*~~ if the voter:

~~(a) Requests an absent ballot and the request is received by the county clerk not later than 30 days before the *primary*, general or *special* election; and~~

~~(b) Does not receive the absent ballot.]~~

2. The

~~*[3. Any elector of this State who resides outside the continental United States and who wishes to vote only for the federal offices that will appear on the regular ballot for the election may use the form described in subsection 1 as a simultaneous application for registration and special absent ballot for the federal candidates to be voted upon at the primary, general or special election. The elector who is voting only for the federal candidates may use the form even if he has not requested the regular absent ballot pursuant to subsection 2. The form must be counted in the same manner as a special absent ballot if the county clerk determines that the elector is entitled to be registered pursuant to the provisions of subsection 4 of NRS 293.501.*~~

~~*4. Except as otherwise provided in subsection 3, the]*~~ special absent ballot ~~[must]~~ ***may*** be used ~~[only]~~ for the offices of President and Vice President of the United States, United States Senator and Representative in Congress ~~[.]~~ ***, and for any state or local offices and ballot questions for which the ~~[elector or]~~ registered voter is entitled to cast his ballot.*** The ballot must allow the registered voter to vote by writing in his choice of a political party for each office or the name of a candidate whose name appears on the ballot for each office.

3. ~~*[5.]*~~ The ***special absent ballot may be voted by completing the ballot according to the instructions and returning it to the county clerk by:***

(a) Mail, if it can be returned in a timely manner; or

(b) Approved electronic transmission.

~~*[6. Except as otherwise provided in subsection 3, the]*~~

4. The special absent ballot must not be counted if:

(a) It is submitted from any location within the continental United States; ***or***

(b) ~~[The county clerk receives the request for an absent ballot less than 30 days before the *primary*, general *or special* election; or~~

~~(c)]~~ The county clerk receives the ***regular*** absent ballot ***from the voter*** on or before the date of the ***primary,*** general ***or special*** election.

5. As used in this section, "regular absent ballot" means the absent ballot prepared by the county clerk pursuant to NRS 293.309.

~~[Sec. 8.]~~ ***Sec. 9.*** NRS 293.3157 is hereby amended to read as follows:

293.3157 1. Any registered voter of this State who resides outside the continental United States may use ~~[a facsimile machine]~~ ***approved electronic transmission*** to request an absent ballot. ***Such a request must be received by the county clerk not later than 5 p.m. on the seventh day before the primary, general or special election.*** The registered voter shall state on the request whether ~~[he]~~ ***:***

(a) He requests the county clerk to send the absent ballot by mail or ~~[facsimile machine]~~ ***approved electronic transmission;*** and ~~[whether he]~~

(b) He will return the absent ballot to the county clerk by mail or ~~[facsimile machine.]~~ ***approved electronic transmission.***

2. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by mail, he shall include with his completed absent ballot the identification envelope provided by the county clerk. The identification envelope must be in the form prescribed by the Secretary of State and include, without limitation:

(a) A declaration, under penalty of perjury, stating that the registered voter resides within the precinct in which he is voting and is the person whose name appears on the envelope;

(b) The signature of the registered voter;

(c) The address that the registered voter provided on his application for voter registration; and

(d) A statement that the voter has not applied and will not apply to any other county clerk for an absent ballot.

3. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by ~~[facsimile machine,]~~ ***approved electronic transmission,*** he shall include with his completed absent ballot the following:

OATH OF VOTER

I, _____, acknowledge that by returning my voted ballot by ~~[facsimile transmission,]~~ ***approved electronic transmission,*** I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absent voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residential address is._____.

.

(Street Address) _____

(City) _____

(ZIP Code) _____

My current mailing address is _____.

.

My e-mail address is _____.

My facsimile transmission number is ***(if applicable)*** _____.

I am a resident of _____ County, State of Nevada, and I have not applied, nor do I intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this _____ day of _____, 20___.

(Signed)

_____

Voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT, ALL OF WHICH ARE RETURNED BY ~~[FACSIMILE TRANSMISSION.]~~ ***APPROVED ELECTRONIC TRANSMISSION.***

4. The county clerk, if so requested pursuant to subsection 1, shall use ~~[a facsimile machine]~~ ***approved electronic transmission*** to send an absent ballot and the oath, as required pursuant to subsection 3, to the registered voter.

5. Each county clerk shall ***, insofar as is practicable,*** ensure the secrecy of absent ballots that are submitted by ~~[facsimile machine.]~~ ***approved electronic transmission.***

6. The Secretary of State shall adopt regulations to carry out the provisions of this section.

~~[Sec. 9.]~~ ***Sec. 10.*** NRS 293.317 is hereby amended to read as follows:

293.317 Absent ballots, including special absent ballots**_**, ~~[described in NRS 293.3155]~~ **[,]** ~~*[and the absent ballots described in section 3 of this act,]*~~ received by the county or city clerk after the polls are closed on the day of election are invalid.

~~[Sec. 10.]~~ ***Sec. 11.*** NRS 293.320 is hereby amended to read as follows:

293.320 1. The county clerk shall determine before issuing an absent ballot that the person making application is a registered voter in the proper county.

2. Armed Forces personnel ***and overseas citizens*** who are not registered to vote and are applying for absent ballots must complete:

(a) The application to register to vote required by NRS 293.517 for registration; ~~[or]~~

(b) The form provided by the Federal Government for registration and request of an absent ballot, ***pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.*** ~~[,]~~ ***; or***

(c) A special absent ballot used only for purposes of registering the person to vote,

➥ before receiving an absent ballot.

3. If the county clerk rejects an application submitted pursuant to subsection 2 ~~[, [or submitted by an overseas voter,]~~ the county clerk shall inform the applicant of the reason for the rejection.

~~[Sec. 11.]~~ ***Sec. 12.*** **N**RS 293.323 is hereby amended to read as follows:

293.323 1. Except as otherwise provided in subsection 2 ~~[,]~~ ***and NRS 293.3157,*** if the request for an absent ballot is made by mail or facsimile machine, the county clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail **,** or by any class of mail if the Official Election Mail logo or an equivalent logo or mark created by the United States Postal Service is properly placed on the official absent ballot ***:*** ~~[,]~~ ~~[unless otherwise requested pursuant to NRS 293.3157,]~~ ~~[if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail]~~ ~~[, unless otherwise requested pursuant to NRS 293.3157,]~~ ~~[if the absent voter is in a foreign country but not on a military base:]~~

(a) An absent ballot;

(b) A return envelope;

(c) An envelope or similar device into which the ballot is inserted to ensure its secrecy;

(d) An identification envelope, if applicable pursuant to NRS 293.3157; and

(e) Instructions.

2. If the county clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the county clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter may mail his absent ballot to the county clerk or submit his absent ballot by facsimile machine.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2 and NRS 293.3157.

5. Before depositing a ballot in the mail or sending a ballot by facsimile machine, the county clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, his

political affiliation, if any, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

~~[Sec. 12.]~~ ***Sec. 13.*** NRS 293.325 is hereby amended to read as follows:

293.325 1. Except as otherwise provided in subsection 2, when an absent ballot is returned by a registered voter to the county clerk through the mail, by facsimile machine ***or other approved electronic transmission*** or in person, and record thereof is made in the absent ballot record book, the county clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If an absent ballot central counting board has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the mail, by facsimile machine ***or other approved electronic transmission*** or in person, the county clerk shall check the signature on the return envelope ~~[or]~~ ***,*** facsimile ***or other approved electronic transmission*** against the original signature of the voter on the county clerk's register. If the county clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the county clerk at all times. At the end of each day before election day, the county clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Not earlier than 4 working days before the election, the county clerk shall deliver the ballots to the absent ballot central counting board to be processed and prepared for counting pursuant to the procedures established by the Secretary of State to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293.273 or 293.305.

~~[Sec. 13.]~~ ***Sec. 14.*** NRS 293.486 is hereby amended to read as follows:

293.486 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 3,*** for the purposes of registering to vote, the address at which the voter actually resides is the street address assigned to the location at which the voter actually resides.

2. For the purposes of registering to vote, if the voter does not reside at a location that has been assigned a street address, the address at which the voter actually resides is a description of the location at which the voter actually resides. The description must identify the location with sufficient specificity to allow the county clerk to assign the location to a precinct.

3. ***A person who:***

(a) Is a citizen of the United States;

(b) Has never been a resident of any state but is lawfully entitled to reside in the United States;

(c) Would otherwise be an elector of this State; and

(d) Has a parent who has an actual residence in this State pursuant to subsection 1 or 2,

➥ may use the street address or description of the location at which his parent resides in this State as his address for the purposes of registering to vote in this State.

4. The provisions of this section do not authorize a person to register to vote if he is not otherwise eligible to register to vote.

~~[Sec. 14.]~~ ***Sec. 15.*** NRS 293.501 is hereby amended to read as follows:

293.501 Notwithstanding any other provisions of this title:

1. ~~[Any elector of this State who resides outside this State]~~ ***Armed Forces personnel and overseas citizens*** may use the form provided by the Federal Government ***for registration and request of an absent ballot*** pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act ***,*** ~~[of 1986,]~~ 42 U.S.C. ~~[§ 1973,]~~ ***§§ 1973ff et seq.,*** to register to vote in this State.

2. ~~[The county clerk shall not register a voter who submits the form from any location within this State.~~

~~3. If an elector registers to vote pursuant to the provisions of subsection 1, he shall be deemed to be registered as of the date that the form or the envelope containing the form is postmarked.]~~ ***An elector referred to in subsection 1*** ~~*[who also meets the registration requirements of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.,]*~~ ***may complete the form and return it by:***

(a) Mail, if it can be returned in a timely manner; or

(b) Approved electronic transmission.

3. ~~*[Any elector of this State who resides outside the continental United States and who wishes to vote only for the federal offices that will appear on the regular ballot for an election may use the form provided by the Federal Government as a simultaneous application for registration and special absent ballot pursuant to the provisions of this section and subsection 3 of NRS 293.3155.*~~

~~*4. If an elector referred to in subsection 3 completes the information requested in the voter's declaration or affirmation on the special absent ballot provided by the Federal Government or on the transmission envelope for the special absent ballot, the special absent ballot shall be deemed a complete application to register to vote.*~~

~~*5. The county clerk shall not register a voter who submits the form from any location within this State.*~~

~~*6. If an elector registers to vote pursuant to the provisions of subsection 3, he may complete the form and return it by:*~~

~~*(a) Mail, if it can be returned in a timely manner; or*~~

~~*(b) Approved electronic transmission.*~~

~~7.~~ ***If an elector registers to vote pursuant to the provisions of this section and returns the*** ~~[absent ballot or special absent ballot]~~ ***form provided by the Federal Government for registration and request of an absent ballot by:***

(a) Mail, he shall be deemed to be registered as of the date that the form or the envelope containing the form is postmarked.

(b) Approved electronic transmission, he shall be deemed to be registered as of the date on which he initiates the approved electronic transmission.

~~[Sec. 15.]~~ ***Sec. 16.*** NRS 293.502 is hereby amended to read as follows:

293.502 1. An elector ~~[who:~~

~~(a) Complies]~~ ***:***

(a) Who complies with the requirements for registration set forth in the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. ~~[§ 1973;~~

~~(b) Is]~~ ***§§ 1973ff et seq.;***

(b) Who ~~[is]~~ ***, not more than 60 days before an election:***

(1) Is discharged from the Armed Forces of the United States ***or*** ~~[whose family member]~~ ***is the spouse or dependent of an elector who is discharged from the Armed Forces ; or*** ~~[who is]~~

(2) Is separated from employment outside the territorial limits of the United States ~~[not more than 60 days before an election;]~~ ***or is the spouse or dependent of an elector who is separated from employment outside the territorial limits of the United States;***

(c) ~~[Presents]~~ ***Who presents*** evidence of ~~[his]~~ ***the*** discharge ~~[, the discharge of his family member or his]~~ ***or separation from employment described in paragraph (b)*** to the county clerk; and

(d) Is not registered to vote at the close of registration for that election,

➥ must be allowed to register to vote in the election.

2. Such an elector must:

(a) Register in person; and

(b) Vote in the office of the county clerk unless he is otherwise entitled to vote an absent ballot pursuant to federal law.

3. The Secretary of State shall adopt regulations to carry out a program of registration for such electors.

~~[Sec. 16.]~~ ***Sec. 17.*** NRS 293.507 is hereby amended to read as follows:

293.507 1. The Secretary of State shall prescribe:

(a) A standard form for applications to register to vote;

(b) A special form for registration to be used in a county where registrations are performed and records of registration are kept by computer; and

(c) A standard form for the affidavit described in subsection 5.

2. The county clerks shall provide forms for applications to register to vote to field registrars in the form and number prescribed by the Secretary of State.

3. Each form for an application to register to vote must include a:

(a) Unique control number assigned by the Secretary of State; and

(b) Receipt which:

(1) Includes a space for a person assisting an applicant in completing the form to enter his name; and

(2) May be retained by the applicant upon completion of the form.

4. The form for an application to register to vote must include:

(a) A line for use by the applicant to enter:

(1) The number indicated on the applicant's current and valid driver's license issued by the Department of Motor Vehicles, if the applicant has such a driver's license;

(2) The last four digits of the applicant's social security number, if the applicant does not have a driver's license issued by the Department of Motor Vehicles and does have a social security number; or

(3) The number issued to the applicant pursuant to subsection 5, if the applicant does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number.

(b) A line on which to enter the address at which the applicant ***or his parent*** actually resides, as set forth in NRS 293.486.

(c) A notice that the applicant may not list a business as the address required pursuant to paragraph (b) unless he actually resides there.

(d) A line on which to enter an address at which the applicant may receive mail, including, without limitation, a post office box or general delivery.

5. If an applicant does not have the identification set forth in subparagraph (1) or (2) of paragraph (a) of subsection 4, the applicant shall sign an affidavit stating that he does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number. Upon receipt of the affidavit, the county clerk shall issue an identification number to the applicant which must be the same number as the unique identifier assigned to the applicant for purposes of the statewide voter registration list.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsections 3, 4 and 5.

~~[Sec. 17.]~~ ***Sec. 18.*** NRS 293.553 is hereby amended to read as follows:

293.553 ~~*[1.]*~~ Any elector of this State who is in the service of the United States or attending an institution of learning, and by reason thereof is beyond the boundaries of this State, and who has not registered before or whose registration has been cancelled may, at any time, request from the county clerk of the county of the elector's residence ~~**[by mail]**~~ ~~**[**~~, telephone or telegram~~**]**~~ ~~*[or telephone]*~~ an application to register to vote. The county clerk, if satisfied that the elector is eligible for registration, shall forward the

application immediately. The county clerk shall, upon receipt of the completed application, file it in the manner provided by law.

~~[2. An elector described in subsection 1 who also meets the registration requirements of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., may request an application to register to vote by:~~

~~(a) Mail; or~~

~~(b) Approved electronic transmission.]~~

~~[Sec. 18.]~~ ***Sec. 19.*** ~~[NRS 293.555 is hereby amended to read as follows:~~

~~293.555 1. If the spouse or a dependent of an elector referred to in NRS 293.553 is an elector of this State but has not been registered, or his registration has been cancelled, and such spouse or dependent of the elector is required, by reason of the elector's being in the service of the United States, to reside beyond the boundaries of this State, such spouse or dependent may register in the manner provided by NRS 293.553.~~

2. A spouse or dependent described in subsection 1 who also meets the registration requirements of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., may request an application to register to vote by:

(a) Mail; or

(b) Approved electronic transmission.] **(Deleted by amendment.)**

~~[Sec. 19.]~~ ***Sec. 20.*** NRS 293C.315 is hereby amended to read as follows:

293C.315 1. Any registered voter of this State who resides outside the continental United States may use ~~[a facsimile machine]~~ ***approved electronic transmission*** to request an absent ballot. ***Such a request must be received by the city clerk not later than 5 p.m. on the seventh day before the primary, general or special election.*** The registered voter shall state on the request whether ~~[he]~~ ***:***

(a) He requests the city clerk to send the absent ballot by mail or ~~[facsimile machine]~~ ***approved electronic transmission;*** and ~~[whether he]~~

(b) He will return the absent ballot to the city clerk by mail or ~~[facsimile machine.]~~ ***approved electronic transmission.***

2. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by mail, he shall include with his completed absent ballot the identification envelope provided by the city clerk. The identification envelope must be in the form prescribed by the Secretary of State and include, without limitation:

(a) A declaration, under penalty of perjury, stating that the registered voter resides within the precinct or district in which he is voting and is the person whose name appears on the envelope;

(b) The signature of the registered voter;

(c) The address that the registered voter provided on his application for voter registration; and

(d) A statement that the voter has not applied and will not apply to any other city clerk for an absent ballot.

3. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by ~~[facsimile machine,]~~ ***approved electronic transmission,*** he shall include with his completed absent ballot the following:

OATH OF VOTER

I, _____, acknowledge that by returning my voted ballot by ~~[facsimile transmission,]~~ ***approved electronic transmission,*** I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absent voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residential address is _____.

(Street Address) _____

(City) _____

(ZIP Code) _____

My current mailing address is _____.

My e-mail address is _____.

My facsimile transmission number is ***(if applicable)*** _____.

I am a resident of _____ County, State of Nevada, and I have not applied, nor do I intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this _____ day of _____, 20___.

(Signed)

_____

Voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT, ALL OF WHICH ARE RETURNED BY ~~[FACSIMILE TRANSMISSION.]~~ ***APPROVED ELECTRONIC TRANSMISSION.***

4. The city clerk, if so requested pursuant to subsection 1, shall use ~~[a facsimile machine]~~ ***approved electronic transmission*** to send an absent ballot and the oath, as required pursuant to subsection 3, to the registered voter.

5. Each city clerk shall ***, insofar as is practicable,*** ensure the secrecy of absent ballots that are submitted by ~~[facsimile machine.]~~ ***approved electronic transmission.***

6. The Secretary of State shall adopt regulations to carry out the provisions of this section.

~~[Sec. 20.]~~ ***Sec. 21.*** NRS 293C.320 is hereby amended to read as follows:

293C.320 1. The city clerk shall determine before issuing an absent ballot that the person making application is a registered voter in the proper city.

2. Armed Forces personnel ***and overseas citizens*** who are not registered to vote and are applying for absent ballots must complete:

(a) The application to register to vote required by NRS 293.517 for registration; ~~[or]~~

(b) The form provided by the Federal Government for registration and request of an absent ballot, ***pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq. [,]; or***

(c) A special absent ballot used only for purposes of registering the person to vote,

➥ before receiving an absent ballot.

~~[Sec. 21.]~~ ***Sec. 22.*** NRS 293C.322 is hereby amended to read as follows:

293C.322 1. Except as otherwise provided in subsection 2 ~~[,]~~ ***and NRS 293C.315,*** if the request for an absent ballot is made by mail or facsimile machine, the city clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail **,** or by any class of mail if the Official Election Mail logo or an equivalent logo or mark created by the United States Postal Service is properly placed on the official absent ballot ***:*** ~~[,]~~ ~~[unless otherwise requested pursuant to NRS 293C.315,]~~ ~~[if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail]~~ ~~[, unless otherwise requested pursuant to NRS 293C.315,]~~ ~~[if the absent voter is in a foreign country but not on a military base:]~~

(a) An absent ballot;

(b) A return envelope;

(c) An envelope or similar device into which the ballot is inserted to ensure its secrecy;

(d) An identification envelope, if applicable pursuant to NRS 293C.315; and

(e) Instructions.

2. If the city clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the city clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter may mail his absent ballot to the city clerk or submit his absent ballot by facsimile machine.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2 and NRS 293C.315.

5. Before depositing a ballot with the United States Postal Service or sending a ballot by facsimile machine, the city clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

~~[Sec. 22.]~~ ***Sec. 23.*** NRS 293C.325 is hereby amended to read as follows:

293C.325 1. Except as otherwise provided in subsection 2, when an absent ballot is returned by a registered voter to the city clerk through the mail, by facsimile machine ***or other approved electronic transmission*** or in person, and record thereof is made in the absent ballot record book, the city clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If an absent ballot central counting board has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the mail, by facsimile machine ***or other approved electronic transmission*** or in person, the county clerk shall check the signature on the return envelope ***,*** ~~[or]~~ facsimile ***or other approved electronic transmission*** against the original signature of the voter on the county clerk's register. If the city clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the city clerk at all times. At the end of each day before election day, the city clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Not earlier than 4 working days before the election, the county clerk shall deliver the ballots to the absent ballot central counting board to be processed and prepared for counting pursuant to the procedures established by the Secretary of State to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293C.267 or 293C.297.

~~[Sec. 23.]~~ ***Sec. 24.*** This act becomes effective on July 1, 2009.

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 42.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 60.

AN ACT relating to the Office of the Attorney General; authorizing, under certain circumstances, ~~[certain officers of]~~ the ~~[Medicaid]~~ **Attorney General, acting through the Medicaid** Fraud Control Unit **,** ~~[within the Office of the Attorney General]~~ to issue a subpoena to obtain certain records and materials; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Medicaid Fraud Control Unit within the Office of the Attorney General as the agency responsible for the investigation and prosecution of violations of offenses with respect to the State Plan for Medicaid. (NRS 228.410) **Section 1** of this bill authorizes ~~[certain officers of]~~ **the Attorney General, acting through** the Unit **,** to issue a subpoena to obtain records and materials to carry out the duties and responsibilities of the Unit. **Section 1** further provides that a person who willfully fails or refuses to comply with such a subpoena is guilty of a misdemeanor.

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

Section 1. NRS 228.410 is hereby amended to read as follows:

228.410 1. The Attorney General has primary jurisdiction to investigate and prosecute violations of NRS 422.540 to 422.570, inclusive, and any fraud in the administration of the Plan or in the provision of medical assistance pursuant to the Plan. The provisions of this section notwithstanding, the Department of Health and Human Services and the Division of Health Care Financing and Policy of the Department of Health and Human Services shall enforce the Plan and any regulations adopted pursuant thereto.

2. For this purpose, the Attorney General shall establish within his office the Medicaid Fraud Control Unit. The Unit must consist of a group of qualified persons, including, without limitation, an attorney, an auditor and an investigator who, to the extent practicable, have expertise in nursing, medicine and the administration of medical facilities.

3. The Attorney General, acting through the Medicaid Fraud Control Unit:

(a) Is the single state agency responsible for the investigation and prosecution of violations of NRS 422.540 to 422.570, inclusive;

(b) Shall review reports of abuse or criminal neglect of patients in medical facilities which receive payments under the Plan and, when appropriate, investigate and prosecute the persons responsible;

(c) May review and investigate reports of misappropriation of money from the personal resources of patients in medical facilities that receive payments under the Plan and, when appropriate, shall prosecute the persons responsible;

(d) Shall cooperate with federal investigators and prosecutors in coordinating state and federal investigations and prosecutions involving fraud

in the provision or administration of medical assistance pursuant to the Plan, and provide those federal officers with any information in his possession regarding such an investigation or prosecution; and

(e) Shall protect the privacy of patients and establish procedures to prevent the misuse of information obtained in carrying out the provisions of this section.

4. When acting pursuant to ***this section or*** NRS 228.175 ***,*** ~~[or this section,]~~ the Attorney General may commence his investigation and file a criminal action without leave of court, and he has exclusive charge of the conduct of the prosecution.

5. ***In carrying out the duties and responsibilities of this section, the*** ~~*[chief executive officer of]*~~ ***Attorney General, acting through the Medicaid Fraud Control Unit,*** ~~*[or an officer designated by the chief executive officer,]*~~ ***may issue a subpoena for records and materials.***

6. A person who willfully fails or refuses to comply with a subpoena issued pursuant to this section is guilty of a misdemeanor.

7. As used in this section:

(a) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

(b) "Plan" means the State Plan for Medicaid established pursuant to NRS 422.271.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 61.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 58.

AN ACT relating to criminal procedure; requiring the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his designee to notify certain victims of crime of the discharge, conditional release or escape of certain persons from the custody of the Administrator; requiring courts to inform certain persons of their right to such notification; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his designee to notify certain victims of criminal acts of the discharge, conditional release or escape from the custody of the Administrator of certain persons committed to the custody of the Administrator, such as a person who was acquitted by reason of insanity or a person who was found incompetent with no substantial probability of

attaining competency in the foreseeable future. **This section also requires the Administrator to provide the victim notice of such a discharge or release within a certain period of time.** (NRS 175.539, 178.425) **Section 1** is patterned after a provision of existing law that similarly requires the Director of the Department of Corrections to notify a victim of an offender of the release into the community or escape of the offender from the custody of the Department. (NRS 209.521)

Section 3 of this bill requires a court to provide documentation to certain victims of a person committed to the custody of the Administrator and to certain other persons of their right to be notified of the information set forth in **section 1** of this bill. (NRS 178.5698)

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

Section 1. Chapter 178 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person is committed to the custody of the Administrator and is subject to the provisions of NRS 178.463 to 178.471, inclusive, a victim of the person may request the Administrator or his designee to notify the victim of the person's discharge, conditional release or escape from the custody of the Administrator by submitting to the Administrator:

(a) A written request for notification; and

(b) The current address of the victim.

2. If the Administrator or his designee receives a request for notification pursuant to subsection 1, the Administrator or his designee shall notify the victim if the person committed to the custody of the Administrator:

(a) Will be discharged or conditionally released pursuant to NRS 178.463 to 178.471, inclusive ~~*[;]*~~ ***, at least 10 days before the discharge or release; or***

(b) Has escaped from the custody of the Administrator.

3. A person described in subsection 1 must not be discharged or released from commitment, temporarily or otherwise, for any purpose unless notification of the discharge or release has been ~~*[given to]*~~ ***mailed to the last known address of every victim of the person who has requested notification pursuant to subsection 1.***

4. The Administrator or his designee may not be held responsible for any injury proximately caused by his failure to give any notice required pursuant to this section if no address was provided to the Administrator or his designee or if the address provided is inaccurate or not current.

5. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Administrator or his designee pursuant to this section is confidential.

6. As used in this section, "victim" means:

(a) A person, including, without limitation, a governmental entity, against whom an act has been committed for which the person committed to the custody of the Administrator has been charged;

(b) A person who has been injured or killed as a direct result of the commission of an act for which the person committed to the custody of the Administrator has been charged; or

(c) A relative of a person described in paragraph (a) or (b). For the purposes of this paragraph, a "relative" of a person includes:

(1) A spouse, parent, grandparent or stepparent;

(2) A natural born child, stepchild or adopted child;

(3) A grandchild, brother, sister, half brother or half sister; or

(4) A parent of a spouse.

Sec. 2. NRS 178.3981 is hereby amended to read as follows:

178.3981 As used in NRS 178.3981 to 178.471, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 178.3982 to 178.399, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 178.5698 is hereby amended to read as follows:

178.5698 1. The prosecuting attorney, sheriff or chief of police shall, upon the request of a victim or witness, inform him:

(a) When the defendant is released from custody at any time before or during the trial, including, without limitation, when the defendant is released pending trial or subject to electronic supervision;

(b) If the defendant is so released, the amount of bail required, if any; and

(c) Of the final disposition of the criminal case in which he was directly involved.

2. A request for information pursuant to subsection 1 must be made:

(a) In writing; or

(b) By telephone through an automated or computerized system of notification, if such a system is available.

3. If an offender is convicted of a sexual offense or an offense involving the use or threatened use of force or violence against the victim, the court shall provide:

(a) To each witness, documentation that includes:

(1) A form advising the witness of the right to be notified pursuant to subsection 5;

(2) The form that the witness must use to request notification in writing; and

(3) The form or procedure that the witness must use to provide a change of address after a request for notification has been submitted.

(b) To each person listed in subsection 4, documentation that includes:

(1) A form advising the person of the right to be notified pursuant to subsection 5 or 6 and NRS 176.015, 176A.630, 209.392, 209.3925, 209.521, 213.010, 213.040, 213.095 and 213.130 ~~[.]~~ ***and section 1 of this act;***

(2) The forms that the person must use to request notification; and

(3) The forms or procedures that the person must use to provide a change of address after a request for notification has been submitted.

4. The following persons are entitled to receive documentation pursuant to paragraph (b) of subsection 3:

(a) A person against whom the offense is committed.

(b) A person who is injured as a direct result of the commission of the offense.

(c) If a person listed in paragraph (a) or (b) is under the age of 18 years, each parent or guardian who is not the offender.

(d) Each surviving spouse, parent and child of a person who is killed as a direct result of the commission of the offense.

(e) A relative of a person listed in paragraphs (a) to (d), inclusive, if the relative requests in writing to be provided with the documentation.

5. Except as otherwise provided in subsection 6, if the offense was a felony and the offender is imprisoned, the warden of the prison shall, if the victim or witness so requests in writing and provides his current address, notify him at that address when the offender is released from the prison.

6. If the offender was convicted of a violation of subsection 3 of NRS 200.366 or a violation of subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, the warden of the prison shall notify:

(a) The immediate family of the victim if the immediate family provides their current address;

(b) Any member of the victim's family related within the third degree of consanguinity, if the member of the victim's family so requests in writing and provides his current address; and

(c) The victim, if he will be 18 years of age or older at the time of the release and has provided his current address,

➥ before the offender is released from prison.

7. The warden must not be held responsible for any injury proximately caused by his failure to give any notice required pursuant to this section if no address was provided to him or if the address provided is inaccurate or not current.

8. As used in this section:

(a) "Immediate family" means any adult relative of the victim living in the victim's household.

(b) "Sexual offense" means:

(1) Sexual assault pursuant to NRS 200.366;

(2) Statutory sexual seduction pursuant to NRS 200.368;

(3) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(4) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(5) Incest pursuant to NRS 201.180;

(6) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;

(7) Open or gross lewdness pursuant to NRS 201.210;

(8) Indecent or obscene exposure pursuant to NRS 201.220;

(9) Lewdness with a child pursuant to NRS 201.230;

(10) Sexual penetration of a dead human body pursuant to NRS 201.450;

(11) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

(12) An offense that, pursuant to a specific statute, is determined to be sexually motivated; or

(13) An attempt to commit an offense listed in this paragraph.

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Assembly in recess at 11:28 a.m.

ASSEMBLY IN SESSION

At 11:31 a.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 129, 151, 152, 257, and 389 be taken from their position on the Second Reading File and placed at the bottom of the Second Reading File.

Motion carried.

Assembly Bill No. 168.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 118.

SUMMARY—Revises sentencing provisions relating to certain convicted persons who provide substantial assistance in the investigation or prosecution of other ~~[persons involved in trafficking in controlled substances.]~~ **offenses.** (BDR 40-653)

AN ACT relating to controlled substances; revising sentencing provisions relating to certain convicted persons who provide substantial assistance in the investigation or prosecution of other ~~[persons involved in trafficking in~~

~~controlled substances;~~ **offenses;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides that a court may reduce or suspend the sentence of a person convicted of trafficking in a controlled substance if the court finds that the person rendered substantial assistance in the investigation or prosecution of ~~[another person involved in trafficking of a controlled substance.]~~ **any offense.** (NRS 453.3405) Additionally, this bill, which is modeled after the provisions contained in the Federal Sentencing Guidelines, provides that any reduction or suspension of a sentence must be for specified reasons stated by the court. (18 U.S.C.S. Appx § 5K1.1)

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

Section 1. NRS 453.3405 is hereby amended to read as follows:

453.3405 1. Except as ***otherwise*** provided in subsection 2, the adjudication of guilt and imposition of sentence of a person found guilty of trafficking in a controlled substance in violation of NRS 453.3385, 453.339 or 453.3395 must not be suspended and the person is not eligible for parole until he has actually served the mandatory minimum term of imprisonment prescribed by the section under which he was convicted.

2. The ~~[judge,]~~ ***court,*** upon an appropriate motion, may reduce or suspend the sentence of any person convicted of violating any of the provisions of NRS 453.3385, 453.339 or 453.3395 if ~~[he]~~ ***the court*** finds that the convicted person rendered substantial assistance in the ~~[identification, arrest or conviction of any of his accomplices, accessories, coconspirators or principals or]~~ ***investigation or prosecution*** of any ~~[other person involved in trafficking in a controlled substance in violation of NRS 453.3385, 453.339 or 453.3395.]~~ ***offense.*** The arresting agency must be given an opportunity to be heard before the motion is granted. Upon good cause shown, the motion may be heard in camera.

3. Any appropriate reduction or suspension of a sentence pursuant to subsection 2 must be determined by the court, for reasons stated by the court that may include, without limitation, consideration of the following:

(a) The court's evaluation of the significance and usefulness of the convicted person's assistance, taking into consideration the ~~[government's]~~ prosecuting attorney's evaluation of the assistance rendered;

(b) The truthfulness, completeness and reliability of any information or testimony provided by the convicted person;

(c) The nature and extent of the convicted person's assistance;

(d) Any injury suffered or any danger or risk of injury to the convicted person or his family resulting from his assistance; and

(e) The timeliness of the convicted person's assistance.

Sec. 2. The amendatory provisions of this act apply to any convicted person who is sentenced on or after ~~[October 1, 2009.]~~ **the effective date of this act.**

Sec. 3. **This act becomes effective upon passage and approval.**

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 183.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 270.

SUMMARY—Authorizes the Board of Wildlife Commissioners to establish an additional kind of drawing for the existing allotment of big game **tags and wild turkey** tags. (BDR 45-76)

AN ACT relating to wildlife; authorizing the Board of Wildlife Commissioners to establish an additional kind of drawing for the existing allotment of big game tags ~~[;]~~ and **wild turkey tags; and** providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Board of Wildlife Commissioners to ~~[adopt regulations establishing an additional drawing for]~~ **accept sealed bids for or auction not more than 15** big game tags ~~[, which may be entitled the Partnership in Wildlife Drawing.]~~ **and not more than 5 wild turkey tags each year.** (NRS 502.250) ~~[This]~~ **Section 2 of this** bill authorizes the Commission to ~~[establish another drawing for big game tags, which may be entitled the]~~ **award all or a portion of those tags through a** Silver State Tag Drawing. ~~[This bill]~~ **Section 2** provides that the amount of the ~~[application]~~ fee for ~~[any big game tag issued in the]~~ **processing an application for a** Silver State Tag ~~[Drawing]~~ must not be less than $15 or more than $50, as determined by regulations adopted by the Commission. ~~[This bill]~~ **Section 2** also provides that any money received from the application fee for the drawing, except for a certain amount of money for the costs of administering the drawing and the return of fees, must be deposited into the Wildlife Heritage Trust Account.

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

Section 1. **NRS 501.3575 is hereby amended to read as follows:**

501.3575 1. The Wildlife Heritage Trust Account is hereby created in the State General Fund. The money in the Account must be used by the Department as provided in this section for:

(a) The protection, propagation, restoration, transplantation, introduction and management of any game fish, game mammal, game bird or fur-bearing mammal in this State; and

(b) The management and control of predatory wildlife in this State.

2. Except as otherwise provided in NRS 502.250, money received by the Department from:

(a) A bid, auction ***, Silver State Tag Drawing*** or partnership in wildlife drawing conducted pursuant to NRS 502.250; and

(b) A gift of money made by any person to the Wildlife Heritage Trust Account,

➥ must be deposited with the State Treasurer for credit to the Account.

3. The interest and income earned on the money in the Wildlife Heritage Trust Account, after deducting any applicable charges, must be credited to the Account.

4. The Department may annually expend from the Wildlife Heritage Trust Account an amount of money not greater than 75 percent of the money deposited in the Account pursuant to subsection 2 during the previous year and the total amount of interest earned on the money in the Account during the previous year. The Commission shall review and approve expenditures from the Account. No money may be expended from the Account without the prior approval of the Commission.

5. The Commission shall administer the provisions of this section and may adopt any regulations necessary for that purpose.

~~[Section 1.]~~ ***Sec. 2.*** NRS 502.250 is hereby amended to read as follows:

502.250 1. The amount of the fee that must be charged for the following tags is:

Resident deer tag	$30
Resident antelope tag	60
Resident elk tag	120
Resident bighorn sheep tag	120
Resident mountain goat tag	120
Resident mountain lion tag	25
Nonresident deer tag	240
Nonresident antelope tag	300
Nonresident antlered elk tag	1,200
Nonresident antlerless elk tag	500
Nonresident bighorn sheep tag	1,200
Nonresident mountain goat tag	1,200
Nonresident mountain lion tag	100

2. The amount of the fee for other resident or nonresident big game tags must not exceed the highest fee for a resident or nonresident big game tag established pursuant to this section.

3. The amount of the fee for a tag determined to be necessary by the Commission for other species pursuant to NRS 502.130 must not exceed the

highest fee for a resident or nonresident tag established pursuant to this section.

4. A fee not to exceed $10 may be charged for processing an application for a game species or permit other than an application for an elk. A fee of not less than $5 but not more than $15 must be charged for processing an application for an elk, $5 of which must be deposited with the State Treasurer for credit to the Wildlife Obligated Reserve Account in the State General Fund and used for the prevention and mitigation of damage caused by elk or game mammals not native to this State. ***A fee of not less than $15 and not more than $50 must be charged for processing an application for a Silver State Tag.***

5. The Commission may accept sealed bids for **,** or ~~[may]~~ ~~[,]~~ ***award through*** ~~*[a Silver State Tag Drawing or]*~~ ***an*** auction ~~*[,]*~~ ***or a Silver State Tag Drawing, or any combination thereof,*** not more than 15 big game tags and not more than 5 wild turkey tags each year. To reimburse the Department for the cost of managing wildlife and administering and conducting the bid **,** ~~*[Silver State Tag Drawing or]*~~ auction ~~**[,]**~~ ***or Silver State Tag Drawing,*** not more than 18 percent of the total amount of money received from the bid **,** ~~*[Silver State Tag Drawing or]*~~ auction ***or Silver State Tag Drawing*** may be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund. Any amount of money received from the bid **,** ~~*[Silver State Tag Drawing or]*~~ auction ***or Silver State Tag Drawing*** that is not so deposited must be deposited with the State Treasurer for credit to the Wildlife Heritage Trust Account in the State General Fund in accordance with the provisions of NRS 501.3575.

6. The Commission may by regulation establish an additional drawing for big game tags, which may be entitled the Partnership in Wildlife Drawing. To reimburse the Department for the cost of managing wildlife and administering and conducting the drawing, not more than 18 percent of the total amount of money received from the drawing may be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund. Except as otherwise provided by regulations adopted by the Commission pursuant to subsection 7, the money received by the Department from applicants in the drawing who are not awarded big game tags must be deposited with the State Treasurer for credit to the Wildlife Heritage Trust Account in accordance with the provisions of NRS 501.3575.

7. The Commission may adopt regulations which authorize the return of all or a portion of any fee collected from a person pursuant to the provisions of this section.

~~**[Sec. 2.]**~~ ***Sec. 3.*** This act becomes effective on July 1, 2009.

Assemblyman Claborn moved the adoption of the amendment.

Remarks by Assemblyman Claborn.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 246.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 274.

AN ACT relating to wildlife; providing for the issuance of an apprentice hunting license; prohibiting an apprentice hunter from hunting in this State unless he is accompanied and directly supervised by a mentor hunter; providing an exception from requirements concerning the completion of a course in the responsibilities of hunters; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Wildlife to issue licenses to hunt and fish in Nevada. (Chapter 502 of NRS) **Section 1** of this bill provides for the issuance ~~[, without a fee,]~~ of an apprentice hunting license to a person who: (1) is 12 years of age or older; (2) has not previously been issued a hunting license in this State, another state or a Canadian province; and (3) except for the requirement of completing a course of instruction in the responsibilities of hunters, is otherwise qualified to obtain a hunting license. **Section 1 prohibits the Department from imposing a fee for the issuance of an apprentice hunting license but requires the applicant or mentor hunter to pay any service fees required by a license agent pursuant to NRS 502.040, the habitat conservation fee required by NRS 502.242 and any transaction fee if he conducts an online transaction with the Department.** **Section 1** also provides that it is unlawful for an apprentice hunter to hunt in this State unless he is accompanied and directly supervised by a mentor hunter who is 18 years of age or older and licensed to hunt in this State. A violation of this provision is a misdemeanor. (NRS 501.385) In addition, **section 1** provides that the mentor hunter must **: (1) ensure that the apprentice hunter safely handles and operates his firearm or weapon and complies with all applicable laws and regulations regarding hunting and the use of firearms; and (2)** maintain close visual and verbal contact with, provide adequate direction to and maintain the ability readily to assume control of any firearm or weapon from the apprentice hunter.

Existing law requires a person to complete a course of instruction in the responsibilities of hunters before obtaining a hunting license in this State. (NRS 502.330) **Section ~~[2]~~ 3** of this bill provides an exception from this requirement for a person who applies for an apprentice hunting license.

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

Section 1. Chapter 502 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall issue an apprentice hunting license to a person who:

(a) Is 12 years of age or older;

(b) Has not previously been issued a hunting license by the Department, another state or an agency of a Canadian province, including, without limitation, an apprentice hunting license; and

(c) Except as otherwise provided in subsection 5, is otherwise qualified to obtain a hunting license in this State.

2. ~~[The]~~ Except as otherwise provided in this subsection, the Department shall not impose a fee for the issuance of an apprentice hunting license. For each apprentice hunting license issued, the applicant or the mentor hunter for the applicant shall pay:

(a) Any service fee required by a license agent pursuant to NRS 502.040;

(b) The habitat conservation fee required by NRS 502.242; and

(c) Any transaction fee that is set forth in a contract of this State with a third-party electronic services provider for each online transaction that is conducted with the Department.

3. An apprentice hunting license authorizes the apprentice hunter to hunt in this State as provided in this section.

4. It is unlawful for an apprentice hunter to hunt in this State unless a mentor hunter accompanies and directly supervises the apprentice hunter at all times during a hunt. During the hunt, the mentor hunter shall ensure that:

(a) The apprentice hunter safely handles and operates the firearm or weapon used by the apprentice hunter; and

(b) The apprentice hunter complies with all applicable laws and regulations concerning hunting and the use of firearms.

5. A person is not required to complete a course of instruction in the responsibilities of hunters as provided in NRS 502.340 to obtain an apprentice hunting license.

6. The issuance of an apprentice hunting license does not:

(a) Authorize the apprentice hunter to obtain any other hunting license;

(b) Authorize the apprentice hunter to hunt any animal for which a tag is required pursuant to NRS 502.130; or

(c) Exempt the apprentice hunter from any requirement of this title.

7. The Commission may adopt regulations to carry out the provisions of this section.

8. As used in this section:

(a) "Accompanies and directly supervises" means maintains close visual and verbal contact with, provides adequate direction to and maintains the ability readily to assume control of any firearm or weapon from an apprentice hunter.

(b) "Apprentice hunter" means a person who obtains an apprentice hunting license pursuant to this section.

(c) "Mentor hunter" means a person 18 years of age or older who holds a hunting license issued in this State and who accompanies and directly

supervises an apprentice hunter. The term does not include a person who holds an apprentice hunting license pursuant to this section.

Sec. 2. **NRS 502.010 is hereby amended to read as follows:**

502.010 1. A person who hunts or fishes any wildlife without having first procured a license or permit to do so, as provided in this title, is guilty of a misdemeanor, except that:

(a) A license to hunt or fish is not required of a resident of this State who is under 12 years of age, unless required for the issuance of tags as prescribed in this title or by the regulations of the Commission.

(b) A license to fish is not required of a nonresident of this State who is under 12 years of age, but the number of fish taken by the nonresident must not exceed 50 percent of the daily creel and possession limits as provided by law.

(c) Except as otherwise provided in ***section 1 of this act and*** subsection 5 or 6 of NRS 202.300, it is unlawful for any child who is under 18 years of age to hunt any wildlife with any firearm, unless the child is accompanied at all times by his parent or guardian or is accompanied at all times by an adult person authorized by his parent or guardian to have control or custody of the child to hunt if the authorized person is also licensed to hunt.

(d) A child under 12 years of age, whether accompanied by a qualified person or not, shall not hunt big game in the State of Nevada. This section does not prohibit any child from accompanying an adult licensed to hunt.

(e) The Commission may adopt regulations setting forth:

(1) The species of wildlife which may be hunted or trapped without a license or permit; or

(2) The circumstances under which a person may fish without a license, permit or stamp in a lake or pond that is located entirely on private property and is stocked with lawfully acquired fish.

(f) The Commission may declare one day per year as a day upon which persons may fish without a license to do so.

2. This section does not apply to the protection of persons or property from unprotected wildlife on or in the immediate vicinity of home or ranch premises.

Sec. 3. **NRS 502.040 is hereby amended to read as follows:**

502.040 1. The Commission shall adopt regulations establishing:

(a) The procedures for applying to become a license agent.

(b) The standards to be met by license agents in the performance of their duties.

(c) The requirements for the furnishing of surety bonds by license agents.

(d) The manner of remitting money to the Department.

(e) The manner of accounting for licenses, tags, stamps, permits and other documents received, issued, sold or returned.

➥ A license agent's authority may be revoked by the Department for his failure to abide by the regulations of the Commission. The agent may appeal to the Commission for reinstatement.

2. An application to become a license agent must be accompanied by a fee of $100 for processing the application.

3. A license agent designated by the Department is responsible for the correct issuance of all licenses, tags, stamps, permits and other documents entrusted to him and, so far as he is able, for ensuring that no licenses are issued upon the false statement of an applicant. Before issuing any license, the license agent shall satisfy himself of the identity of the applicant and the place of his residence, and may require any applicant to present proof of his identity and residence.

4. A license agent is responsible to the Department for the collection of the correct and required fee, for the safeguarding of the money collected by him and for the prompt remission to the Department for deposit in accordance with NRS 501.356 of all money collected. The Department shall furnish to the license agent receipts for all money which he remits to it. A license agent shall furnish a receipt to the Department of all licenses, tags, stamps, permits and other documents which he receives from it.

5. For each license, tag, stamp, permit or other document he sells, ***and each apprentice hunting license he issues pursuant to section 1 of this act,*** a license agent is entitled to receive a service fee of:

(a) One dollar for each license, tag, permit or other document, in addition to the fee for the license, tag, permit or other document; and

(b) Ten cents for each stamp.

6. Any person authorized to enforce this chapter may inspect, during the license agent's normal business hours, any record or document of the agent relating to the issuance of any such license, stamp, tag, permit or other document.

7. All money collected by a license agent, except service fees collected pursuant to subsection 5, is public money of the State of Nevada, and the State has a prior claim for the amount of money due it upon all assets of the agent over all creditors, assignees or other claimants. The use of this money for private or business transactions is a misuse of public money and punishable under the laws provided.

~~[Sec. 2.]~~ ***Sec. 4.*** NRS 502.330 is hereby amended to read as follows:

502.330 1. ~~[No]~~ ***Except as otherwise provided in section 1 of this act, no*** hunting license may be obtained by any person born after January 1, 1960, unless he presents to the Department, or one of its authorized licensing agents:

(a) A certificate of successful completion of a course of instruction in the responsibilities of hunters as provided by NRS 502.340;

(b) An equivalent certificate of completion of a course in the responsibilities of hunters provided by ~~[a]~~ ***:***

(1) Another state ~~[or an]~~ ***;***

(2) An agency of a Canadian province for the management of wildlife; or

(3) An agency of a foreign country whose course of instruction meets or exceeds the standards established by the International Hunter Education Association, or its successor organization; or

(c) A hunting license issued to him in a previous year by the Department, ~~[a]~~ ***another*** state or an agency of a Canadian province, which bears a number or other unique mark evidencing successful completion of a course of instruction in the responsibilities of hunters.

2. Any person who has been convicted of violating NRS 503.165 or 503.175 may not obtain a hunting license until he has successfully completed a course in the responsibilities of hunters conducted pursuant to NRS 502.340.

Assemblyman Claborn moved the adoption of the amendment.

Remarks by Assemblyman Claborn.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that upon return from the printer, Assembly Bill No. 183 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that upon return from the printer, Assembly Bill No. 246 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 274.

Bill read second time and ordered to third reading.

Assembly Bill No. 313.

Bill read second time and ordered to third reading.

Assembly Bill No. 378.

Bill read second time and ordered to third reading.

Assembly Bill No. 381.

Bill read second time and ordered to third reading.

Assembly Bill No. 410.

Bill read second time and ordered to third reading.

Assembly Bill No. 425.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 224.

AN ACT relating to education; authorizing the Superintendent of Public Instruction to issue an additional license to teach elementary education, middle school or junior high school education or secondary education to

certain licensed teachers; revising provisions governing the reciprocal licensure of teachers and other educational personnel; requiring the Commission on Professional Standards in Education to conduct a review of the regulations of the Commission governing the licensure and endorsement of special education teachers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Superintendent of Public Instruction to issue a license to teach elementary education, middle school or junior high school education or secondary education to an applicant pursuant to regulations adopted by the Commission on Professional Standards in Education. (NRS 391.031, 391.033) Existing regulations of the Commission require a teacher licensed in this State to apply for and meet the requirements for an initial license to teach elementary education, middle school or junior high school education or secondary education, including participation in a program of student teaching or supervised teaching in the designated grade level, if he is applying for a license outside the grade level he is licensed to teach. (NAC 391.025, 391.095, 391.111, 391.120) **Section 1** of this bill authorizes the Superintendent to issue to a licensed teacher an additional license to teach elementary education, middle school or junior high school education or secondary education, other than for the teaching pupils with disabilities, which is outside his grade level of experience if he ~~[has 3 years of verified teaching experience in this State in the subject area he is qualified to teach.]~~ **meets the course work requirements and qualifications for the license.** A licensed teacher must not be required to participate in a program of student teaching or supervised teaching as a condition for the issuance of the additional license ~~[.]~~ **if he has 3 years of verified teaching experience.**

Existing law authorizes the Commission to adopt regulations that exempt an applicant from the examinations required for initial licensure of teachers and other educational personnel if the applicant has previous teaching experience or has performed other educational functions in another state. (NRS 391.021, 391.032) **Sections 4 and 5** of this bill remove the requirement that an applicant have previous experience and authorizes the exemption if the Commission determines that the examinations required for initial licensure in the other state are comparable to the examinations required for initial licensure in this State.

Section 6 of this bill requires the Commission to conduct a review of the regulations of the Commission governing the licensure and endorsement of special education teachers to improve and enhance the reciprocal licensure in this State of special education teachers from other states.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed to teach elementary education, middle school or junior high school education or secondary education in this State may apply for and the Superintendent of Public Instruction may issue to that person an additional license to teach elementary education, middle school or junior high school education or secondary education, other than for the teaching pupils with disabilities, which is outside his grade level of experience if he ~~*[has 3 years of verified teaching experience in this State in the academic subject he teaches and:*~~

~~*(a) If he holds a license to teach elementary education, holds an endorsement in that academic subject; or*~~

~~*(b) If he holds a license to teach middle school or junior high school education or secondary education, is highly qualified in that academic subject.]*~~ ***meets the course work requirements and qualifications for the license.***

2. A licensed teacher who applies for an additional license pursuant to this section must not be required to participate in a program of student teaching as a condition for the issuance of the additional license ~~*[.*~~

~~*3. As used in this section, "highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).]*~~ ***if he has 3 years of verified teaching experience.***

Sec. 2. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission:

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. ***The regulations must not prescribe qualifications which are more stringent than the qualifications set forth in section 1 of this act for a licensed teacher who applies for an additional license in accordance with that section.***

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

➥ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(11) If the Commission approves the Passport to Teaching certification from the American Board for Certification of Teacher Excellence as an alternative route to licensure, providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a Passport to Teaching certification from the American Board for Certification of Teacher Excellence;

(II) Passes each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; and

(III) Agrees to participate in a program of mentoring prescribed by the Commission for the first year of his employment as a teacher with a school district or charter school.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7), (10) or (11) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 3. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission:

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. ***The regulations must not prescribe qualifications which are more stringent than the qualifications set forth in section 1 of this act for a licensed teacher who applies for an additional license in accordance with that section.***

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

➥ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 4. NRS 391.021 is hereby amended to read as follows:

391.021 Except as otherwise provided in subparagraph (10) of paragraph (a) of subsection 1 of NRS 391.019 and NRS 391.027, the Commission shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the applicant to teach and his knowledge of each specific subject he proposes to teach. Each examination must include the following subjects:

1. The laws of Nevada relating to schools;
2. The Constitution of the State of Nevada; and
3. The Constitution of the United States.

➥ The provisions of this section do not prohibit the Commission from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide an exemption from the examinations for teachers and other educational personnel ~~[who have previous experience in teaching or performing other educational functions in]~~ ***from*** another state ~~[.]~~ ***if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.***

Sec. 5. NRS 391.032 is hereby amended to read as follows:

391.032 1. Except as otherwise provided in NRS 391.027, the Commission shall:

(a) Consider and may adopt regulations which provide for the issuance of conditional licenses to teachers and other educational personnel before completion of all courses of study or other requirements for a license in this State.

(b) Adopt regulations which provide for the reciprocal licensure of educational personnel from other states.

2. The regulations adopted pursuant to paragraph (b) of subsection 1 may provide an exemption from the examinations required for initial licensure for teachers and other educational personnel ~~[who have previous experience in teaching or performing other educational functions in]~~ ***from*** another state ~~[. If the Commission adopts regulations providing such an exemption, the Commission shall identify the examinations to which the exemption applies.]~~ ***if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.***

3. A person who is issued a conditional license must complete all courses of study and other requirements for a license in this State which is not conditional within 3 years after the date on which a conditional license is issued.

Sec. 6. 1. The Commission on Professional Standards in Education shall conduct a review of the regulations of the Commission governing the licensure and endorsement of special education teachers to improve and enhance the reciprocal licensure in this State of special education teachers from other states. The review must include an analysis of:

(a) The possible consolidation of the categorical special education endorsements into broader, noncategorical endorsements; and

(b) The possible issuance of a waiver of the requirement of specific course work for the categorical endorsements for teaching pupils with disabilities required by regulation of the Commission if a teacher has 3 years of verified teaching experience in a classroom providing instruction to pupils with the area of disability in which he seeks the categorical endorsement.

2. On or before January 1, 2010, the Commission shall submit to the Legislative Committee on Education a report of:

(a) The results of the review conducted pursuant to subsection 1; and

(b) Any regulations relating to the endorsements proposed by the Commission as a result of its review or, if the Commission is not proposing any regulations, a detailed explanation of why it is not.

3. On or before July 1, 2010, the Commission shall submit to the Legislative Committee on Education:

(a) A report of the regulations adopted by the Commission as a result of its review or, if no regulations are adopted, a detailed explanation of why the Commission did not adopt regulations; and

(b) Any recommendations for legislation relating to the licensure and endorsement of special education teachers.

Sec. 7. 1. This section and sections 1, 2, 4, 5 and 6 of this act become effective on July 1, 2009.

2. Section 3 of this act becomes effective on July 1, 2011.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 487.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 222.

AN ACT relating to education; requiring the development of an academic plan for pupils enrolling in their initial year at a middle school or junior high school; requiring small learning communities in certain larger middle schools and junior high schools; requiring a program of peer ~~[and adult]~~ mentoring for pupils initially enrolling in middle school or junior high school; requiring ~~[a pupil]~~ **the board of trustees of each school district to adopt a policy for pupils** enrolled in middle school or junior high school to conduct ~~[at least one]~~ **a pupil-led** conference on ~~[his]~~ educational progress; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district to adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. (NRS 388.205) **Section 2** of this bill requires the board of trustees of each school district to adopt a policy for each middle school and junior high school in the school district to develop an academic plan for each incoming middle school or junior high school pupil.

Existing law requires the board of trustees of each school district that includes at least one high school in which 1,200 pupils or more are enrolled and that includes ninth grade pupils to adopt a policy for each of those high schools to provide a program of small learning communities for the ninth grade pupils. (NRS 388.215) **Section 3** of this bill requires the board of trustees of each school district that includes at least one middle school or junior high school in which 500 pupils or more are enrolled to adopt a policy for each of those middle schools and junior high schools to provide a program of small learning communities for the incoming middle school or junior high school pupils.

Section 5 of this bill requires the board of trustees of each school district to adopt a policy for peer ~~[and adult]~~ mentoring **, which may include a component of adult mentoring,** for incoming middle school and junior high school pupils designed to increase the ability of those pupils to successfully

make the transition from elementary school to middle school or junior high school.

Section 6 of this bill requires the board of trustees of each school district to adopt a policy ~~[that requires a pupil]~~ **for pupils** enrolled in a middle school or junior high school to conduct **, if required by the board of trustees,** a **pupil-led** conference between the pupil, his parent or legal guardian and his teacher to review the educational development of the pupil **.** ~~[at least once during the enrollment of the pupil in the middle school or junior high school.]~~

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. The board of trustees of each school district shall adopt a policy for each middle school and junior high school in the school district to develop an academic plan for each pupil enrolled in the grade level at which the middle school or junior high school initially enrolls pupils. The academic plan must set forth:***

(a) The specific educational goals that the pupil intends to achieve before promotion to high school;

(b) An identification of the courses required for promotion to high school;

(c) An identification of all honors courses, career and technical education courses and other educational programs, courses and pathways available to the pupil which will assist in the advancement of the education of the pupil; and

(d) A description of the expectations of the teachers of pupils who are enrolled in middle school or junior high school.

2. The policy must require each pupil enrolled in his initial year at the middle school or junior high school and the pupil's parent or legal guardian to:

(a) Have sufficient opportunities to work in consultation with a school counselor to develop an academic plan for the pupil;

(b) Review the academic plan; and

(c) Review the academic plan at least once each school year until the pupil is promoted to high school in consultation with the school counselor and revise the plan as necessary.

3. If a pupil enrolls in a middle school or junior high school after the initial year of enrollment for that middle school or junior high school, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

4. An academic plan for a pupil must be used as a guide for the pupil and the pupil's parent or legal guardian to plan, monitor and manage the pupil's educational development and make determinations of the

appropriate courses of study for the pupil. If the pupil does not satisfy all the educational goals set forth in the academic plan, the pupil is eligible for promotion to high school if he otherwise satisfies the requirements for promotion to high school.

Sec. 3. ***1. The board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more shall adopt a policy for each of those middle schools and junior high schools to provide a program of small learning communities for pupils enrolled in the grade level at which those middle schools or junior high schools initially enroll pupils. The policy must require:***

(a) Where practicable, the designation of a separate area geographically within the middle school or junior high school where the pupils enrolled in their initial year at the middle school or junior high school attend classes;

(b) The collection and maintenance of information relating to pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of middle school or junior high school;

(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in his initial year at the middle school or junior high school, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;

(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in their initial year in a middle school or junior high school in the education of their children; and

(e) The assignment of:

(1) Guidance counselors;

(2) At least one licensed school administrator ~~*[,]*~~ ***or his designee; and***

(3) Appropriate adult mentors,

➥ specifically for the pupils enrolled in their initial year at the middle school or junior high school.

2. The principal of each middle school or junior high school in which 500 pupils or more are enrolled shall:

(a) Carry out a program of small learning communities in accordance with the policy prescribed by the board of trustees pursuant to subsection 1; and

(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods which are used to focus on the pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, the program of ~~*[peer and adult]*~~ ***mentoring provided pursuant to section*** ~~*[4]*~~ ***5 of this act.***

Sec. 4. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this act.

Sec. 5. ***1. The board of trustees of each school district shall adopt a policy for each middle school and junior high school in the school district to provide a program of peer*** ~~*[and]*~~ ***mentoring , which may include a component of adult mentoring , for pupils enrolled in the grade level at which the middle school or junior high school initially enrolls pupils. The policy must be designed to increase the ability of those pupils to successfully make the transition from elementary school to middle school or junior high school.***

2. The principal of each middle school or junior high school shall:

(a) Carry out a program of ~~*[peer and adult]*~~ ***mentoring in accordance with the policy adopted by the board of trustees pursuant to subsection 1; and***

(b) Submit an annual report to the board of trustees on:

(1) The specific activities of the program of ~~*[peer and adult]*~~ ***mentoring; and***

(2) The effectiveness of the program of ~~*[peer and adult]*~~ ***mentoring in increasing the ability of pupils to successfully make the transition to middle school or junior high school.***

3. This section does not prohibit a middle school or junior high school from continuing any other similar program of mentoring that the middle school or junior high school currently provides in a manner that is consistent with the policy prescribed by the board of trustees.

Sec. 6. ***1. The board of trustees of each school district shall adopt a policy*** ~~*[that requires]*~~ ***which allows the board of trustees to require a pupil enrolled in a middle school or junior high school in the school district to conduct a pupil-led conference between the pupil, his parent or legal guardian and his teacher to review the educational development of the pupil at least once during the enrollment of the pupil in the middle school or junior high school. The policy must include, without limitation:***

(a) Guidelines for preparing the pupil to conduct the conference, including, without limitation, the appropriate structure of a conference and topics of discussion for the conference; and

(b) A method for the pupil, his parent or legal guardian and the teacher to provide an evaluation of the conference.

2. ~~*[A]*~~ ***If a pupil is required to conduct a pupil-led conference ,*** ~~*[which is conducted by a pupil]*~~ ***the conference must be used as a guide for the pupil and the parent or legal guardian of the pupil to monitor the pupil's educational development. If the pupil does not conduct a pupil-led conference or if the parent or legal guardian of the pupil does not attend a pupil-led conference, the pupil is eligible for promotion to high school if he otherwise satisfies the requirements for promotion to high school.***

Sec. 7. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 490.

Bill read second time and ordered to third reading.

Assembly Bill No. 509.

Bill read second time and ordered to third reading.

Assembly Bill No. 511.

Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 6.

Resolution read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 401.

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to provide for annual legislative sessions and to provide ~~[that members of the Legislature be compensated for each day of a]~~ **for compensation for serving during each** regular legislative session.

Legislative Counsel's Digest:

Existing provisions of the Nevada Constitution provide for biennial legislative sessions of 120 days and authorize members of the Legislature to receive compensation for the first 60 days of each regular session. This resolution proposes to amend the Nevada Constitution to provide for annual legislative sessions of 120 days in each odd-numbered year and of 60 days in each even-numbered year. (Nev. Const. Art. 4, § 2) The resolution further proposes to amend the Nevada Constitution to provide compensation for Legislators for ~~[each day of service]~~ **60 days** during regular sessions. (Nev. Const. Art. 4, § 33)

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 2 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. The sessions of the Legislature shall be ~~[biennial,]~~ ***annual,*** and shall commence on the 1st Monday of February **,** ~~[following the election of members of the Assembly,]~~ unless the Governor of the State shall, in the interim, convene the Legislature by proclamation.

2. The Legislature shall adjourn sine die each regular session ***held in an odd-numbered year*** not later than midnight Pacific standard time 120 calendar days following its commencement. Any legislative action taken after midnight Pacific standard time on the 120th calendar day is void, unless the legislative action is conducted during a special session convened by the Governor.

3. ***The Legislature shall adjourn sine die each regular session held in an even-numbered year not later than midnight Pacific standard time 60 calendar days following its commencement. Any legislative action taken after midnight Pacific standard time on the 60th calendar day is void, unless the legislative action is conducted during a special session convened by the Governor.***

4. The Governor shall submit ***:***

(a) In odd-numbered years, the proposed executive budget ***; and***

(b) In even-numbered years, any proposed appropriations or proposed revisions to the executive budget,

➥ to the Legislature not later than 14 calendar days before the commencement of each regular session.

And be it further

RESOLVED, That Section 33 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec **.** ~~[:]~~ 33. The members of the Legislature shall receive for their services, a compensation to be fixed by law and paid out of the public treasury, for not to exceed 60 ~~*[120]*~~ days during any regular session of the legislature ***conducted during an odd-numbered year, not to exceed 60 days during any regular session of the Legislature conducted during an even-numbered year,*** and not to exceed 20 days during any special session convened by the governor; but no increase of such compensation shall take effect during the term for which the members of either house shall have been elected Provided, that an appropriation may be made for the payment of such actual expenses as members of the Legislature may incur for postage, express charges, newspapers and stationery not exceeding the sum of Sixty dollars for any general or special session to each member; and Furthermore Provided, that the Speaker of the Assembly, and Lieutenant Governor, as President of the Senate, shall each, during the time of their actual attendance as such presiding officers receive an additional allowance of two dollars per diem.

And be it further

RESOLVED, That Section 12 of Article 17 of the Nevada Constitution be amended to read as follows:

Sec. 12. The first regular session of the Legislature shall commence on the second Monday of December A.D. Eighteen hundred and Sixty Four, and the second regular session of the same shall commence on the first Monday of January A.D. Eighteen hundred and Sixty Six; and the third regular session of the Legislature shall be the first of the biennial sessions, and shall commence on the first Monday of January A.D. Eighteen hundred and Sixty Seven; and the regular sessions of the Legislature shall be held thereafter **.** ~~[biennially.]~~

And be it further

RESOLVED, That Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of Section 6 of this Article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a number of registered voters equal to 10 percent or more of the number of voters who voted at the last preceding general election in not less than 75 percent of the counties in the State, but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than ~~[January 1 of the year preceding the year in which a regular session of the Legislature is held.]~~ ***1 year before the date on which the Legislature to which the petition will be transmitted commences its regular session.*** After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in

which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the Secretary of State shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

5. If two or more measures which affect the same section of a statute or of the Constitution are finally approved pursuant to this Section, or an amendment to the Constitution is finally so approved and an amendment proposed by the Legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

Assemblyman Mortenson moved the adoption of the amendment.

Remarks by Assemblyman Mortenson.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the General File.

Assembly Bill No. 129.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 52.

AN ACT relating to common-interest communities; providing that the provisions governing common-interest communities do not modify the tariffs, rules and standards of a public utility; requiring the governing documents of an association to be consistent with the tariffs, rules and standards of a public utility; prohibiting an association from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill: (1) states that the provisions of chapter 116 of NRS do not modify the tariffs, rules and standards of a public utility; and (2) provides that the governing documents of associations of common-interest communities must be consistent and not conflict with the tariffs, rules and standards of a public utility.

Section 2 of this bill prohibits an association of any common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.

2. The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules and standards of a public utility is void and may not be enforced against a purchaser.

3. As used in this section, "public utility" has the meaning ascribed to it in NRS 704.020.

Sec. 2. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the parking or storage of ~~*[inoperable vehicles,]*~~ recreational vehicles, watercraft, trailers or commercial ***motor*** vehicles in the common-interest community to the extent authorized by law.

3. In any common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less ~~*[on a driveway, road, street, alley or other thoroughfare:]*~~ ***:***

(1) ~~*[While]*~~ ***In an area designated for parking for visitors, or on the driveway of or in front of the unit of a subscriber or consumer, while the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or***

(2) ~~*[If]*~~ ***In an area designated for parking for visitors, or on the driveway of or in front of his unit, if the person is:***

(I) A unit's owner ~~*[,]*~~ ***or a tenant of a unit's owner; and***

(II) ~~*[Parking the vehicle within 50 yards of his unit; and*~~

~~*(III)]*~~ ***Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or***

(b) Parking a law enforcement vehicle or emergency services vehicle : ~~*[on a driveway , road, street, alley or other thoroughfare:]*~~

(1) ~~*[While]*~~ ***In an area designated for parking for visitors, or on the driveway of or in front of the unit of a person to whom law enforcement or***

emergency services are being provided, while the person is engaged in his official duties; or

(2) ~~[If]~~ In an area designated for parking for visitors, or on the driveway of or in front of his unit, if the person is:

(I) A unit's owner ~~[,]~~ or a tenant of a unit's owner; and

(II) ~~[Parking the vehicle within 50 yards of his unit; and~~

~~(III)]~~ Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service; and

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 151.

Bill read second time.

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

Amendment No. 156.

AN ACT relating to mortgage lending; requiring a mortgage broker to include his license number on any loan secured by a lien on real property for which he engages in activity as a mortgage broker; requiring certain financial

institutions that offer nontraditional mortgage loan products to make certain disclosures to borrowers with respect to nontraditional mortgage loans; requiring such financial institutions to certify such disclosures to the Commissioner of Financial Institutions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a mortgage broker to include his license number on each loan secured by a lien on real property for which he engages in activity as a mortgage broker. If a mortgage broker fails to comply with **section 1**, the Commissioner of Mortgage Lending may impose an administrative fine of not more than $10,000 and may place conditions on the license of the mortgage broker or suspend or revoke the license. (NRS 645B.670) In addition, a mortgage broker who fails to comply with **section 1** is guilty of a misdemeanor. (NRS 645B.950)

Section 2 of this bill requires a financial institution that offers nontraditional mortgage loan products to make certain written disclosures to a borrower with respect to a nontraditional loan secured by a lien on real property. The disclosures must be written in language that is easy to understand **~~[.]~~ and printed in 10-point type or font.** In addition, **section 2** requires the financial institution to certify to the Commissioner of Financial Institutions that the disclosures have been made. **Section 2** also authorizes the financial institution to contract with a nonprofit consumer credit counseling **, housing counseling or legal services** agency to make the required certifications. A financial institution that fails to comply with **section 2** is guilty of a misdemeanor. (NRS 668.115)

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto a new section to read as follows:

A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker includes the license number of the mortgage broker.

Sec. 2. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A financial institution which is required to be licensed pursuant to the provisions of this title or title 56 of NRS and which offers nontraditional mortgage loan products that are secured by liens on real property shall, with respect to each nontraditional mortgage loan made by the financial institution, disclose to the borrower adequate information concerning the actual costs and risks of the nontraditional mortgage loan product offered.

2. The disclosure required by subsection 1 must be written in language that is easy to understand , must be printed in 10-point bold type or font and must include, without limitation:

(a) Information concerning potential increases in monthly payments, including information describing the circumstances under which interest rates or negative amortization could reach the contractual limits;

(b) Information concerning the maximum monthly payment that the borrower may be required to pay if amortizing payments are required and the interest rate and negative amortization caps are reached;

(c) Information concerning the circumstances under which structural payment changes will occur, the amount of the new payments and the method of calculating the amount of the new payments;

(d) Information concerning negative amortization, including information describing the potential for increases in the principal balance and decreases in home equity and any other potential adverse consequences to the borrower resulting from negative amortization;

(e) If a nontraditional mortgage loan product includes prepayment penalties, information explaining the prepayment penalties and the amount of the penalties;

(f) If the financial institution offers full-document home loans in addition to low-document home loans, no-document home loans or stated-document home loans, information concerning any pricing premium that attaches to the low-document home loans, no-document home loans or stated-document home loans; and

(g) For payment option adjustable-rate mortgages, information explaining each payment option available and the effect on the loan balance of each payment option.

3. A financial institution required to make a disclosure pursuant to subsection 1 shall, with respect to each nontraditional mortgage loan made by the financial institution, certify to the Commissioner that the financial institution has made the disclosure required by subsection 1. The financial institution may contract with a nonprofit consumer credit counseling , *housing counseling or legal services agency which has been operating as such for the immediately preceding 7 years to provide the certification required by this subsection.*

4. As used in this section:

(a) "Low-document home loan" has the meaning ascribed to it in NRS 598D.100.

(b) "No-document home loan" has the meaning ascribed to it in NRS 598D.100.

(c) "Nonprofit consumer credit counseling , *housing counseling or legal services agency" means* ~~*[a]*~~ :

(1) A person or organization which is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3), and which is certified by the United States Department of Housing and Urban Development; or

(2) A person or organization which is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3), and which:

~~*[(1) Provides]*~~

(I) As its primary business, provides specialized personal and group counseling services to a person who is seeking to purchase a home or obtain legal advice regarding a real estate transaction and who is suffering or who may suffer economic hardship because of the extension of credit;

~~*[(2) Acts]*~~

(II) Acts as an agent for a person who is suffering or who may suffer economic hardship because of the extension of credit in his efforts to resolve his economic hardships; ~~*[or*~~

~~*(3) Receives]*~~

(III) May receive money or any other thing of value for disbursement to one or more of the creditors of a person who is suffering or who may suffer economic hardship because of the extension of credit ~~*[.]*~~ ***; and***

(IV) If it has a board of directors, has a board of directors with a majority of members who are not employed by the agency or otherwise receive any direct or indirect financial benefit from the provision of any services by the agency.

(d) "Nontraditional mortgage loan product" has the meaning ascribed to it in NRS 658.190 and also includes an adjustable-rate mortgage, a low-document home loan, a no-document home loan and a stated-document home loan.

(e) "Stated-document home loan" has the meaning ascribed to it in NRS 598D.100.

Sec. 3. 1. The provisions of this act apply only to loans secured by liens on real property and nontraditional mortgage loan products offered on or after the effective date of this act.

2. For a loan secured by a lien on real property that is made on or after the effective date of this act but before October 1, 2009, a mortgage broker who does not include his license number on the loan as required by section 1 of this act may, without penalty, cure his failure to comply with section 1 of this act not later than 30 days after the date the loan is made.

3. For a nontraditional mortgage loan product offered on or after the effective date of this act but before October 1, 2009, a financial institution that:

(a) Is subject to the requirements of section 2 of this act; and

(b) Fails to comply with the provisions of section 2 of this act,

➥ may, without penalty, cure the failure to comply with section 2 of this act not later than 30 days after the date the nontraditional mortgage loan is made.

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 152.

Bill read second time.

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

Amendment No. 157.

AN ACT relating to mortgage lending; defining the term "loan modification consultant"; requiring certain mortgage lending professionals to be licensed as a mortgage agent or mortgage broker; revising the definition of "homeowner" as it applies to services performed by certain mortgage lending professionals; **revising provisions governing the applicability of requirements regarding foreclosure consultants and loan modification consultants; revising provisions governing compensation of foreclosure consultants;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill defines the term "loan modification consultant."

Existing law does not currently require a foreclosure consultant to be licensed. (NRS 645F.300-645F.450) **Section 3** of this bill requires a person who performs any of a variety of specified services for compensation, a foreclosure consultant and a loan modification consultant to be licensed under the provisions of chapter 645B of NRS, which governs mortgage brokers and mortgage agents. This licensing requirement makes such persons subject to the regulatory and penalty provisions set forth in chapter 645B of NRS.

Section 5 of this bill revises the definition of "homeowner" as it applies to services performed by foreclosure consultants by expanding the definition to include any record owner of residence, rather than only the record owner of a residence in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded or the notice of default and election to sell is recorded. (NRS 645F.360)

Section 6 of this bill provides that an attorney at law is exempt from the provisions governing a person who performs any covered service for compensation, a loan modification consultant, a foreclosure consultant or a foreclosure purchaser unless the services rendered by the attorney are performed in the course and scope of his employment by or other affiliation with a mortgage broker or mortgage agent. (NRS 645F.380)

Section 6.5 of this bill clarifies that a foreclosure consultant is prohibited from claiming, demanding, charging, collecting or receiving any compensation until after the foreclosure consultant has fully performed every covered service he contracted to perform or

represented he would perform, rather than after the performance of any individual service. (NRS 645F.400)

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

Section 1. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***"Loan modification consultant" means a person who, directly or indirectly, makes any solicitation, representation or offer to a homeowner to perform for compensation, or who, for compensation, performs any act that the person represents will adjust the terms of a mortgage loan in a manner not provided for in the original or previously modified mortgage loan. Such an adjustment includes, without limitation:***

1. A change in the payment amount;

2. A change in the loan amount;

3. A loan forbearance;

4. A change in the loan maturity; and

5. A change in the interest rate.

Sec. 3. ***A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant must be licensed pursuant to chapter 645B of NRS in the following manner:***

1. As a mortgage broker; or

2. If the person:

(a) Is an employee or independent contractor of a foreclosure consultant or loan modification consultant; and

(b) Is authorized by the foreclosure consultant or loan modification consultant to engage in, on behalf of the foreclosure consultant or loan modification consultant, any activity that would require the person, if he were not an employee or independent contractor of the foreclosure consultant or loan modification consultant, to be licensed pursuant to subsection 1,

➥ as a mortgage agent.

Sec. 4. NRS 645F.300 is hereby amended to read as follows:

645F.300 As used in NRS 645F.300 to 645F.450, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 645F.310 to 645F.370, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. NRS 645F.360 is hereby amended to read as follows:

645F.360 "Homeowner" means the record owner of a residence ***, including, without limitation, the record owner of a residence*** in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded pursuant to NRS 14.010 or the notice of default and election to sell is recorded pursuant to NRS 107.080.

Sec. 6. NRS 645F.380 is hereby amended to read as follows:

645F.380 The provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 and 3 of this act*** do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. An attorney at law rendering services in the performance of his duties as an attorney at law ~~[,]~~ ***, unless the attorney at law is rendering those services in the course and scope of his employment by or other affiliation with a mortgage broker or mortgage agent;***

2. A person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;

3. ~~[A person licensed as a real estate broker, broker-salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;~~

~~4.]~~ A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;

~~[5.]~~ ***4.*** A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

~~[6.]~~ ***5.*** Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

~~[7.]~~ ***6.*** A person ***, other than a mortgage agent or mortgage broker, who is*** licensed ~~[as an escrow agent, title agent, mortgage agent, mortgage broker or mortgage banker]~~ pursuant to ***chapter 692A or any*** chapter ~~[645A, 692A, 645B or 645E]~~ ***of title 54*** of NRS ~~[, respectively,]~~ while acting under the authority of his license;

~~[8.]~~ ***7.*** A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

~~[9.]~~ ***8.*** A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

Sec. 6.5. **NRS 645F.400 is hereby amended to read as follows:**

645F.400 A foreclosure consultant shall not:

1. Claim, demand, charge, collect or receive any compensation until after the foreclosure consultant has fully performed ~~[each]~~ ***every*** covered service that he contracted to perform or represented he would perform.

2. Claim, demand, charge, collect or receive any fee, interest or other compensation for any reason which is not fully disclosed to the homeowner.

3. Take any wage assignment, lien on real or personal property, assignment of a homeowner's equity or other interest in a residence in foreclosure or other security for the payment of compensation. Any such security is void and unenforceable.

4. Receive any consideration from any third party in connection with a covered service provided to a homeowner unless the consideration is first fully disclosed to the homeowner.

5. Acquire, directly or indirectly, any interest in the residence in foreclosure of a homeowner with whom the foreclosure consultant has contracted to perform a covered service.

6. Accept a power of attorney from a homeowner for any purpose, other than to inspect documents as provided by law.

Sec. 7. NRS 645F.430 is hereby amended to read as follows:

645F.430 A foreclosure purchaser who engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 and 3 of this act,*** including, without limitation, a foreclosure reconveyance, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $50,000, or by both fine and imprisonment.

Sec. 8. NRS 645F.440 is hereby amended to read as follows:

645F.440 1. In addition to the penalty provided in NRS 645F.430 and except as otherwise provided in subsection 5, if a foreclosure purchaser engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 and 3 of this act,*** including, without limitation, a foreclosure reconveyance, the transaction in which the foreclosure purchaser acquired title to the residence in foreclosure may be rescinded by the homeowner within 2 years after the date of the recording of the conveyance.

2. To rescind a transaction pursuant to subsection 1, the homeowner must give written notice to the foreclosure purchaser and a successor in interest to the foreclosure purchaser, if the successor in interest is not a bona fide purchaser, and record that notice with the recorder of the county in which the property is located. The notice of rescission must contain:

(a) The name of the homeowner, the foreclosure purchaser and any successor in interest who holds title to the property; and

(b) A description of the property.

3. Within 20 days after receiving notice pursuant to subsection 2:

(a) The foreclosure purchaser and the successor in interest, if the successor in interest is not a bona fide purchaser, shall reconvey to the homeowner title to the property free and clear of encumbrances which were created subsequent to the rescinded transaction and which are due to the actions of the foreclosure purchaser; and

(b) The homeowner shall return to the foreclosure purchaser any consideration received from the foreclosure purchaser in exchange for the property.

4. If the foreclosure purchaser has not reconveyed to the homeowner title to the property within the period described in subsection 3, the homeowner may bring an action to enforce the rescission in the district court of the county in which the property is located.

5. A transaction may not be rescinded pursuant to this section if the foreclosure purchaser has transferred the property to a bona fide purchaser.

6. As used in this section, "bona fide purchaser" means any person who purchases an interest in a residence in foreclosure from a foreclosure purchaser in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the foreclosure purchaser engaged in conduct which violates subsection 1.

Sec. 9. NRS 645F.450 is hereby amended to read as follows:

645F.450 The rights, remedies and penalties provided pursuant to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 and 3 of this act*** are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 645F.430.

Sec. 10. NRS 205.372 is hereby amended to read as follows:

205.372 1. A person who, with the intent to defraud a participant in a mortgage lending transaction:

(a) Knowingly makes a false statement or misrepresentation concerning a material fact or deliberately conceals or fails to disclose a material fact;

(b) Knowingly uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or deliberately uses or facilitates the use of another person's concealment or failure to disclose a material fact;

(c) Receives any proceeds or any other money in connection with a mortgage lending transaction that the person knows resulted from a violation of paragraph (a) or (b);

(d) Conspires with another person to violate any of the provisions of paragraph (a), (b) or (c); or

(e) Files or causes to be filed with a county recorder any document that the person knows to include a misstatement, misrepresentation or omission concerning a material fact,

➥ commits the offense of mortgage lending fraud which is a category C felony and, upon conviction, shall be punished by imprisonment in the state

prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, or by a fine of not more than $10,000, or by both fine and imprisonment.

2. A person who engages in a pattern of mortgage lending fraud or conspires or attempts to engage in a pattern of mortgage lending fraud is guilty of a category B felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, or by a fine of not more than $50,000, or by both fine and imprisonment.

3. Each mortgage lending transaction in which a person violates any provision of subsection 1 constitutes a separate violation.

4. Except as otherwise provided in this subsection, if a lender or any agent of the lender is convicted of the offense of mortgage lending fraud in violation of this section, the mortgage lending transaction with regard to which the fraud was committed may be rescinded by the borrower within 6 months after the date of the conviction if the borrower gives written notice to the lender and records that notice with the recorder of the county in which the mortgage was recorded. A mortgage lending transaction may not be rescinded pursuant to this subsection if the lender has transferred the mortgage to a bona fide purchaser.

5. The Attorney General may investigate and prosecute a violation of this section.

6. As used in this section:

(a) "Bona fide purchaser" means any person who purchases a mortgage in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the lender or any agent of the lender engaged in mortgage lending fraud in violation of this section.

(b) "Mortgage lending transaction" means any transaction between two or more persons for the purpose of making or obtaining, attempting to make or obtain, or assisting another person to make or obtain a loan that is secured by a mortgage or other lien on residential real property. The term includes, without limitation:

(1) The solicitation of a person to make or obtain the loan;

(2) The representation or offer to represent another person to make or obtain the loan;

(3) The negotiation of the terms of the loan;

(4) The provision of services in connection with the loan; and

(5) The execution of any document in connection with making or obtaining the loan.

(c) "Participant in a mortgage lending transaction" includes, without limitation:

(1) A borrower as defined in NRS 598D.020;

(2) An escrow agent as defined in NRS 645A.010;

(3) A foreclosure consultant as defined in NRS 645F.320;

(4) A foreclosure purchaser as defined in NRS 645F.330;

(5) An investor as defined in NRS 645B.0121;

(6) A lender as defined in NRS 598D.050;

(7) ***A loan modification consultant as defined in section 2 of this act;***

(8) A mortgage agent as defined in NRS 645B.0125;

~~[(8)]~~ ***(9)*** A mortgage banker as defined in NRS 645E.100; and

~~[(9)]~~ ***(10)*** A mortgage broker as defined in NRS 645B.0127.

(d) "Pattern of mortgage lending fraud" means one or more violations of a provision of subsection 1 committed in two or more mortgage lending transactions which have the same or similar intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

Sec. 11. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 257.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 116.

AN ACT relating to crimes; prohibiting the taking of an excessive number of certain free publications under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines the crime of theft and provides that theft is punishable as a misdemeanor if the value of the property involved in the theft is less than $250. (NRS 205.0832, 205.0835) Existing law also defines the crime of petit larceny and provides that petit larceny is punishable as a misdemeanor if the value of the personal goods or property involved in the petit larceny is less than $250. (NRS 205.240)

Section 1 of this bill, which is modeled after California Penal Code § 490.7, generally prohibits a person from taking more than 10 copies of a free or complimentary ~~[newspaper]~~ **periodical** if the person has the specific intent to: (1) profit by recycling the ~~[newspaper;]~~ **periodical;** (2) sell or barter the ~~[newspaper;]~~ **periodical;** (3) deprive others of the opportunity to read the ~~[newspaper;]~~ **periodical;** or (4) harm a business competitor. **Section 1** provides that a person who commits a first offense is guilty of a misdemeanor and subject to a fine of up to $250, and for a second or subsequent offense, is guilty of a misdemeanor punishable by up to 10 days in jail or a fine of up to $500, or both. The court may also order a person convicted of a first or second offense to perform community service in lieu of all or a part of the punishment.

Sections 1-3 of the bill also clarify that a violation of **section 1** does not constitute the crime of theft or petit larceny.

WHEREAS, Free publications provide an important source of information to the public and a valuable alternative to the news and ideas expressed in other local media, thereby contributing to the marketplace of ideas; and

WHEREAS, The Nevada Legislature should attempt to ensure that the marketplace of ideas is preserved and that contributors to that marketplace, such as free publications, are protected from improper and injurious interference with their mission; and

WHEREAS, The unauthorized taking of an excessive number of copies of free publications impoverishes the marketplace of ideas and injures the rights of a free publication's readers, writers, publishers and advertisers; now, therefore,

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person shall not take from a news rack more than 10 copies of the current issue of a free or complimentary ~~[newspaper]~~ periodical if the person has the specific intent to:

(a) Recycle the ~~[newspaper]~~ periodical for cash or other payment;

(b) Sell or barter the ~~[newspaper;]~~ periodical;

(c) Deprive others of the opportunity to read or enjoy the ~~[newspaper;]~~ periodical; or

(d) Harm a business competitor.

2. This section does not apply to the taking of a current issue of a free or complimentary issue:

(a) By the owner or operator of a news rack in which the copies are placed;

(b) By the owner or operator of the property on which the news rack is placed ~~[,]~~ , unless the news rack is on a portion of the property which is a public forum;

(c) By the publisher, printer, distributor or deliverer of the ~~[newspaper;]~~ periodical;

(d) By any person who advertises in the current issue of the ~~[newspaper;]~~ periodical;

(e) By any person who has the express permission of any person described in paragraphs (a) to (d), inclusive; or

(f) If the publisher has indicated on the news rack or in the ~~[newspaper]~~ periodical that the limitation set forth in this section does not apply to the current issue.

3. A person who violates this section:

(a) For the first offense, is guilty of a misdemeanor and shall be punished by a fine of not more than $250.

(b) For a second or subsequent offense, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 10 days, or by a fine of not more than $500, or by both fine and imprisonment.

4. In lieu of all or a part of the punishment which may be imposed pursuant to subsection 3, the convicted person may be sentenced to perform:

(a) For a first offense, 20 hours of community service pursuant to the conditions prescribed in NRS 176.087.

(b) For a second or subsequent offense, 40 hours of community service pursuant to the conditions prescribed in NRS 176.087.

5. A conviction under this section shall be deemed not to constitute a conviction for theft or petit larceny.

6. For the purposes of this section ~~*[, an]*~~ **:**

(a) An issue of a ~~*[newspaper]*~~ ***periodical is the "current issue" if not more than half the period until the distribution of the next issue of the*** ~~*[newspaper]*~~ ***periodical has passed.***

(b) "Periodical" means a newspaper or magazine that is published at regular fixed intervals and has consecutive issue or volume numbers.

Sec. 2. NRS 205.0832 is hereby amended to read as follows:

205.0832 1. Except as otherwise provided in subsection 2 ~~[,]~~ ***and section 1 of this act,*** a person commits theft if, without lawful authority, he knowingly:

(a) Controls any property of another person with the intent to deprive that person of the property.

(b) Converts, makes an unauthorized transfer of an interest in, or without authorization controls any property of another person, or uses the services or property of another person entrusted to him or placed in his possession for a limited, authorized period of determined or prescribed duration or for a limited use.

(c) Obtains real, personal or intangible property or the services of another person by a material misrepresentation with intent to deprive that person of the property or services. As used in this paragraph, "material misrepresentation" means the use of any pretense, or the making of any promise, representation or statement of present, past or future fact which is fraudulent and which, when used or made, is instrumental in causing the wrongful control or transfer of property or services. The pretense may be verbal or it may be a physical act.

(d) Comes into control of lost, mislaid or misdelivered property of another person under circumstances providing means of inquiry as to the true owner and appropriates that property to his own use or that of another person without reasonable efforts to notify the true owner.

(e) Controls property of another person knowing or having reason to know that the property was stolen.

(f) Obtains services or parts, products or other items related to such services which he knows are available only for compensation without paying

or agreeing to pay compensation or diverts the services of another person to his own benefit or that of another person without lawful authority to do so.

(g) Takes, destroys, conceals or disposes of property in which another person has a security interest, with intent to defraud that person.

(h) Commits any act that is declared to be theft by a specific statute.

(i) Draws or passes a check, and in exchange obtains property or services, if he knows that the check will not be paid when presented.

(j) Obtains gasoline or other fuel or automotive products which are available only for compensation without paying or agreeing to pay compensation.

2. A person who commits an act that is prohibited by subsection 1 which involves the repair of a vehicle has not committed theft unless, before the repair was made, he received a written estimate of the cost of the repair.

Sec. 3. NRS 205.240 is hereby amended to read as follows:

205.240 1. Except as otherwise provided in NRS 205.220, 205.226, 205.228 and 475.105 ~~[,]~~ ***and section 1 of this act,*** a person commits petit larceny if the person:

(a) Intentionally steals, takes and carries away, leads away or drives away:

(1) Personal goods or property, with a value of less than $250, owned by another person;

(2) Bedding, furniture or other property, with a value of less than $250, which the person, as a lodger, is to use in or with his lodging and which is owned by another person; or

(3) Real property, with a value of less than $250, that the person has converted into personal property by severing it from real property owned by another person.

(b) Intentionally steals, takes and carries away, leads away, drives away or entices away one or more domesticated animals or domesticated birds, with an aggregate value of less than $250, owned by another person.

2. A person who commits petit larceny is guilty of a misdemeanor. In addition to any other penalty, the court shall order the person to pay restitution.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 389.

Bill read second time.

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

Amendment No. 147.

AN ACT relating to personal identifying information; prohibiting a person from printing certain information concerning a credit card or debit card on any copy of a receipt retained by the person; **prohibiting a person from**

providing machines that do not allow a person to comply with the prohibition against printing certain information; providing civil and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing state and federal laws prohibit a person who accepts credit cards or debit cards for the transaction of business from printing the expiration date of the card or more than the last five digits of the account number of the card on any receipt provided to the cardholder. (NRS 597.945; 15 U.S.C. § 1681c(g)) ~~[This]~~ **Section 2 of this** bill prohibits such a person from printing more than the last five digits of the account number of the card on any copy of the receipt that is retained by the person who accepted the card. Additionally, ~~[this bill]~~ **section 2** prescribes a civil penalty of $500 for a person who violates these provisions and an additional penalty of $1,000 per week for a person who does not correct the violation. The aggregate amount of civil penalties imposed on a person for violations of these provisions which occur on the same premises must not exceed $4,500. ~~[This bill]~~ **Finally, section 2** authorizes the Attorney General or a district attorney to: (1) recover the civil penalties in a civil action; and (2) bring an action to enjoin any violation of the provisions of ~~[this bill.]~~ **section 2.** A person who violates any order or injunction issued to enjoin a violation of the provisions of ~~[this bill]~~ **section 2** is guilty of a gross misdemeanor.

Section 3 of this bill exempts from the applicability of section 2, from July 1, 2009, to December 31, 2009, a person who does not have the ability to control or adjust the manner in which a receipt is electronically printed.

Section 1 of this bill prohibits a manufacturer or a supplier from providing, selling or leasing a cash register or other machine or device that does not allow a person to comply with the provisions of section 2. Section 1 also authorizes the Attorney General or a district attorney to bring an action to enjoin any violation of the provisions of section 1. A person who violates any order or injunction issued to enjoin a violation of the provisions of section 1 is guilty of a gross misdemeanor.

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

Section 1. **Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A manufacturer or supplier of a cash register or other machine or device that prints receipts for transactions in which a credit card or debit card is used shall not provide, lease or sell for the transaction of business any equipment that does not allow a person to comply with the provisions of subsection 1 of NRS 597.945.

2. The Attorney General or the district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada against any person to restrain and prevent any violation of this section. The

court may issue an injunction for those purposes without proof of actual damage sustained by any person.

3. A person who violates any order or injunction issued pursuant to this section is guilty of a gross misdemeanor.

4. As used in this section:

(a) "Credit card" has the meaning ascribed to it in NRS 597.945.

(b) "Debit card" has the meaning ascribed to it in NRS 597.945.

(c) "Supplier" means a person engaged in the business of providing, leasing or selling cash registers or other machines or devices that are used to print receipts in the transaction of business.

~~[Section 1.]~~ ***Sec. 2.*** NRS 597.945 is hereby amended to read as follows:

597.945 1. Except as otherwise provided in this section, if a person accepts credit cards or debit cards for the transaction of business, the person shall not ***:*** ~~[do any of the following:]~~

(a) Print the expiration date of the credit card or debit card on any receipt provided to the cardholder ***;*** ~~[.]~~

(b) Print more than the last five digits of the account number of the credit card or debit card on any receipt provided to the cardholder ~~[.]~~ ***; or***

(c) Print more than the last five digits of the account number of the credit card or debit card on any copy of a receipt retained by the person.

2. This section:

(a) Applies only to receipts that are electronically printed.

(b) Does not apply to transactions in which the only means of recording the credit card or debit card number is:

(1) By handwriting the credit card or debit card number; or

(2) By imprinting or copying the credit card or debit card.

3. ~~[If any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions was first put into use before October 1, 2003, the provisions of this section do not apply to any transaction that occurs with regard to that cash register or other machine or device before January 1, 2008.]~~ ***A person who violates any provision of this section is liable for a civil penalty in the amount of $500. The person must be given notice of the violation and 2 weeks to correct the violation. A person who does not correct the violation within 2 weeks after receiving notice of the violation is liable for an additional civil penalty in the amount of $1,000 per week until the person corrects the violation, except that the aggregate amount of civil penalties imposed on a person for violations which occur on the same premises must not exceed $4,500.***

4. A civil penalty imposed pursuant to subsection 3 must be recovered in a civil action brought in the name of the State of Nevada by the Attorney General or by any district attorney in a court of competent jurisdiction. Any penalty collected pursuant to this section must be paid to the State Treasurer for credit to the State General Fund.

5. The Attorney General or the district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada against any person to restrain and prevent any violation of this section. The court may issue an injunction for those purposes without proof of actual damage sustained by any person.

6. A person who violates any order or injunction issued pursuant to this section is guilty of a gross misdemeanor.

7. As used in this section:

(a) "Credit card" means any instrument or device, whether known as a credit card, credit plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value on credit.

(b) "Debit card" means any instrument or device, whether known as a debit card or by any other name, that is issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value, subject to the issuer removing money from the checking account or savings account of the cardholder.

Sec. 3. **1. From July 1, 2009, to December 31, 2009, inclusive, the prohibitions set forth in subsection 1 of NRS 597.945 are applicable only to a person who has the control or ability to adjust the manner in which a receipt is electronically printed for transactions in which a credit card or debit card is used.**

2. As used in this section:

(a) "Credit card" has the meaning ascribed to it in NRS 597.945.

(b) "Debit card" has the meaning ascribed to it in NRS 597.945.

~~[Sec. 2.]~~ ***Sec. 4.*** **1.** This **section and sections 2 and 3 of this** act ~~[becomes]~~ **become** effective on July 1, 2009.

2. Section 1 of this act becomes effective on October 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 178, 522, 523, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

MARCUS CONKLIN, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 178, 522, 523 just reported out of committee, be placed on the Second Reading File.

Motion carried.

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

Assembly in recess at 12 noon.

ASSEMBLY IN SESSION

At 12:01 p.m.
Madam Speaker presiding.
Quorum present.

SECOND READING AND AMENDMENT

Assembly Bill No. 178.
Bill read second time and ordered to third reading.

Assembly Bill No. 522.
Bill read second time and ordered to third reading.

Assembly Bill No. 523.
Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bills Nos. 178, 522, 523 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 533 be taken from its position on the General File and placed at the top of the General File.
Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 372 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 297 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 243 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 443 be taken from the Chief Clerk's desk and placed at the top of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 443.
Bill read third time.
The following amendment was proposed by Assemblywoman Leslie:
Amendment No. 175.

SUMMARY—Revises provisions concerning the election of Councilmen in the cities of Reno and Sparks ~~[.]~~ **, contingent upon voter approval.** (BDR S-811)

AN ACT relating to local government; creating **, contingent upon voter approval,** a sixth ward for the City of Reno; requiring **, contingent upon voter approval,** that the candidates for Councilman in the City of Reno and in the City of Sparks be ~~[voted for]~~ **elected** in a general election only by the registered voters of the ward that a candidate seeks to represent; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The existing Charter of the City of Reno divides the City into five wards, each of which is represented on the City Council by a Councilman. A sixth Councilman represents the City at large. (Reno City Charter §§ 1.050, 2.010) **Section 1** of this bill increases the number of wards in Reno to six, and **sections 2-4** of this bill replace the office of Councilman at large with the office of Councilman to represent the newly created sixth ward. (Reno City Charter §§ 1.050, 2.010, 5.010, 5.020)

The existing charters of the Cities of Reno and Sparks provide that the candidates for Councilman to represent a particular ward must be voted on in a primary election only by the registered voters of that ward, but in a general election, must be ~~[voted on]~~ **elected** by the registered voters of the City at large. (Reno City Charter, §§ 5.010, 5.020; Sparks City Charter, §§ 5.010, 5.020) **Sections 3 and 4** of this bill amend the Charter of the City of Reno, and **sections 5 and 6** of this bill amend the Charter of the City of Sparks, to provide that all candidates for Councilman must be ~~[voted on]~~ **elected** in a general election by only the registered voters of the ward that a candidate seeks to represent.

Section 9 of this bill requires the City of Reno, and section 10 of this bill requires the City of Sparks, to place on the ballot for the 2010 general election the question of whether to amend their respective charters to provide that all candidates for Councilman must be elected in a general election by only the registered voters of the ward that a candidate seeks to represent. Section 11 of this bill provides that sections 1-4, 7 and 8 of this bill become effective only if the voters in the City of Reno approve the ballot question that is required by section 9 and that sections 5 and 6 of this bill become effective only if the voters in the City of Sparks approve the ballot question that is required by section 10.

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

Section 1. Section 1.050 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1365, is hereby amended to read as follows:

Sec. 1.050 Wards: Creation; boundaries.

1. The City must be divided into ~~[five]~~ ***six*** wards, which must be as nearly equal in population as can be conveniently provided. The territory comprising each ward must be contiguous, except that if any territory of the City which is not contiguous to the remainder of the City does not contain sufficient population to constitute a separate ward, it may be placed in any ward of the City.

2. The boundaries of the wards must be established and changed by ordinance, passed by a vote of at least five-sevenths of the City Council. The boundaries of the wards:

(a) Must be changed whenever the population, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, in any ward exceeds the population in any other ward by more than 5 percent.

(b) May be changed to include territory that has been annexed, or whenever the population in any ward exceeds the population in another ward by more than 5 percent by any measure that is found to be reliable by the City Council.

Sec. 2. Section 2.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1366, is hereby amended to read as follows:

Sec. 2.010 Mayor and City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of six Councilmen and a Mayor.

2. The Mayor and Councilmen must be qualified electors within the City. Each Councilman ***must be a resident of the ward from which he is*** elected ~~[from a ward]~~ ***and*** must continue to live in that ward for as long as he represents the ward.

3. The Mayor ~~[and one Councilman represent]~~ ***represents*** the City at large and one Councilman represents each ward. The Mayor and Councilmen serve for terms of 4 years.

4. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

Sec. 3. Section 5.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 87, Statutes of Nevada 2001, at page 557, is hereby amended to read as follows:

Sec. 5.010 General elections.

1. ~~[On the Tuesday after the first Monday in November 1998, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, a Mayor, Councilmen from the second and fourth wards, a Municipal Judge and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 3 or 4.~~

~~2. On the Tuesday after the first Monday in November 2000, and at each successive interval of 4 years, there must be elected by the qualified voters of~~

~~the City, at the general election, Councilmen from the first, third and fifth wards, one Councilman at large and two Municipal Judges, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 5 or 6.~~

~~3.~~ On the Tuesday after the first Monday in November 2002, and at each successive interval of 6 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, a Municipal Judge, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[4.]~~ ***2.*** On the Tuesday after the first Monday in November 2002, and at each successive interval of 4 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, a Mayor, Councilmen from the second and fourth wards, and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[5.]~~ ***3.*** On the Tuesday after the first Monday in November 2004, and at each successive interval of 6 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, three Municipal Judges, all of whom hold office for a term of 6 years and until their successors have been elected and qualified.

~~[6.]~~ ***4.*** On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, Councilmen from the first, third and fifth wards and one Councilman at large, all of whom hold office for a term of 4 years and until their successors have been elected and qualified ~~[.]~~ ***pursuant to subsection 5.***

5. On the Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected, at the general election, Councilmen from the first, third, fifth and sixth wards, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

6. In an election held pursuant to this section:

(a) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

(b) Candidates for Mayor, Municipal Judge and City Attorney must be elected by the registered voters of the City at large.

Sec. 4. Section 5.020 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 376, Statutes of Nevada 2005, at page 1438, is hereby amended to read as follows:

Sec. 5.020 Primary elections; declaration of candidacy.

1. A candidate for any office to be voted for at an election must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be deposited to the credit of the General Fund of the City.

2. If for any general election, there are three or more candidates for any office to be filled at that election, a primary election for any such office must be held on the date fixed by the election laws of this State for statewide elections, at which time there must be nominated candidates for the office to

be voted for at the next general election. If for any general election there are two or fewer candidates for any office to be filled at that election, their names must not be placed on the ballot for the primary election but must be placed on the ballot for the general election.

3. In the primary election:

(a) The names of the two candidates for Municipal Judge, City Attorney or a particular City Council seat, as the case may be, who receive the highest number of votes must be placed on the ballot for the general election.

(b) ~~[~~Candidates~~]~~ ***A candidate*** for ***the office of City*** Councilman ~~[~~who represent a specific ward~~]~~ must be voted upon only by the registered voters of ~~[~~that ward.~~]~~ ***the ward that he seeks to represent.***

(c) Candidates for Mayor ~~[~~and Councilman at large~~]~~ **,** ***Municipal Judge and City Attorney*** must be voted upon by ~~[~~all~~]~~ ***the*** registered voters of the City ~~[~~.

~~4. The Mayor and all Councilmen must be voted upon by all registered voters of the City at the general election.~~]~~ ***at large.***

Sec. 5. Section 5.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 52, Statutes of Nevada 2005, at page 104, is hereby amended to read as follows:

Sec. 5.010 General elections.

1. ~~[~~On the Tuesday after the first Monday in June 2001, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the first, third and fifth wards, a Municipal Judge for Department 1 and a City Attorney, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 3 or 4.

~~2. On the Tuesday after the first Monday in June 2003, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the second and fourth wards, a Mayor and a Municipal Judge for Department 2, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 5 or 6.~~

~~3.~~]** On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected **,** ~~[~~by the registered voters of the City,~~]~~ at the general election, Council members to represent the first, third and fifth wards and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[~~4. On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 4 years and until his successor has been elected and qualified, pursuant to subsection 7.

~~5.~~]** ***2.*** On the Tuesday after the first Monday in November 2006, and at each successive interval of 4 years, there must be elected **,** ~~[~~by the registered voters of the City,~~]~~ at the general election, Council members to represent the

second and fourth wards and a Mayor, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[6.]~~ ***3.*** On the Tuesday after the first Monday in November 2006, and at each successive interval of 6 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, a Municipal Judge for Department 2, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[7.]~~ ***4.*** On the Tuesday after the first Monday in November 2008, and at each successive interval of 6 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, a Municipal Judge for Department 1, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[8. All candidates at]~~

5. In an election that is held pursuant to this section ***:***

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large.

(b) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

Sec. 6. Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:

Sec. 5.020 Primary elections.

1. ***At an election that is held pursuant to this section:***

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large. ~~[Candidates to represent a ward as a member of the City Council]~~

(b) A candidate for the office of City Councilman must be voted upon ***only*** by the registered voters of the ward ~~[to be represented by them.]~~ ***that he seeks to represent.***

2. The names of the two candidates for Mayor, City Attorney and Municipal Judge and the names of the two candidates to represent the ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.

Sec. 7. The City Council of the City of Reno shall, not later than July 1, ~~[2009,]~~ **2011,** establish the boundaries of the ward created by the amendatory provisions of section 1 of this act, which must be designated the sixth ward, and change the boundaries of the first through fifth wards to comply with the provisions of section 1.050 of the Charter of the City of Reno, as amended by section 1 of this act.

Sec. 8. Notwithstanding the amendatory provisions of section 2 of this act, a Councilman of the City of Reno who holds office on July 1, ~~[2009,]~~ **2011,** shall:

1. If elected or appointed to represent a ward, continue to represent that ward for the remainder of his term of office.

2. If elected or appointed to represent the City at large, be deemed to represent only the ward created by the amendatory provisions of section 1 of this act for the remainder of his term of office.

Sec. 9. **The City Council of the City of Reno shall place on the ballot for the general election to be held on November 2, 2010, a question in substantially the following form:**

Shall the Charter of the City of Reno be amended to provide for a ward system for the election of Councilmen, providing that each Councilman must be elected in a general election by only the registered voters of the ward that he seeks to represent?

Sec. 10. **The City Council of the City of Sparks shall place on the ballot for the general election to be held on November 2, 2010, a question in substantially the following form:**

Shall the Charter of the City of Sparks be amended to provide for a ward system for the election of Councilmen, providing that each Councilman must be elected in a general election by only the registered voters of the ward that he seeks to represent?

~~[Sec. 9.]~~ ***Sec. 11.*** **1.** This **section and sections 9 and 10 of this** act ~~[becomes]~~ **become** effective ~~[:~~

~~1. Upon]~~ **upon** passage and approval**.** ~~[for the purpose of passing any ordinances and performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~2. On July 1, 2009, for all other purposes.]~~

2. Sections 1 to 4, inclusive, 7 and 8 of this act become effective on July 1, 2011, only if a majority of the voters voting on the question placed on the ballot pursuant to section 9 of this act vote affirmatively on the question.

3. Sections 5 and 6 of this act become effective on July 1, 2011, only if a majority of the voters voting on the question placed on the ballot pursuant to section 10 of this act vote affirmatively on the question.

Assemblywoman Leslie moved the adoption of the amendment.

Remarks by Assemblywoman Leslie

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 533.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 533:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

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

Bill ordered transmitted to the Senate.

Assembly Bill No. 14.
Bill read third time.
Remarks by Assemblywoman Parnell.
Roll call on Assembly Bill No. 14:
YEAS—40.
NAYS—None.
EXCUSED—Arberry, Carpenter—2.
Assembly Bill No. 14 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 188.
Bill read third time.

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

Assembly in recess at 12:13 p.m.

ASSEMBLY IN SESSION

At 12:15 p.m.
Madam Speaker presiding.
Quorum present.

Remarks by Assemblyman Stewart.
Roll call on Assembly Bill No. 188:
YEAS—40.
NAYS—None.
EXCUSED—Arberry, Carpenter—2.
Assembly Bill No. 188 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 193.
Bill read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Assembly Bill No. 193:
YEAS—40.
NAYS—None.
EXCUSED—Arberry, Carpenter—2.
Assembly Bill No. 193 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 237.
Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 237:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 237 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 249.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 249:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 249 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 253.

Bill read third time.

Remarks by Assemblyman Cobb.

Potential conflict of interest declared by Assemblyman Gustavson.

Roll call on Assembly Bill No. 253:

YEAS—39.

NAYS—Horne.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 253 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 264.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 264:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 264 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 266.

Bill read third time.

Remarks by Assemblymen Oceguera and Settelmeyer.

Roll call on Assembly Bill No. 266:

YEAS—28.

NAYS—Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—12.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 266 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 280.

Bill read third time.

Remarks by Assemblymen Segerblom and Gustavson.

Roll call on Assembly Bill No. 280:

YEAS—38.

NAYS—Goedhart, Gustavson—2.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 280 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 286.

Bill read third time.

Remarks by Assemblyman Christensen.

Roll call on Assembly Bill No. 286:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 286 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 289.

Bill read third time.

Remarks by Assemblyman Mortenson.

Roll call on Assembly Bill No. 289:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 289 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 291.

Bill read third time.

Remarks by Assemblywoman Spiegel.
Roll call on Assembly Bill No. 291:
YEAS—39.
NAYS—Gustavson.
EXCUSED—Arberry, Carpenter—2.
Assembly Bill No. 291 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

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

Assembly in recess at 12:40 p.m.

ASSEMBLY IN SESSION

At 1:07 p.m.
Madam Speaker presiding.
Quorum present.

Assembly Bill No. 296.
Bill read third time.
Remarks by Assemblyman Atkinson.
Roll call on Assembly Bill No. 296:
YEAS—40.
NAYS—None.
EXCUSED—Arberry, Carpenter—2.
Assembly Bill No. 296 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 301.
Bill read third time.
Remarks by Assemblyman Kihuen.
Roll call on Assembly Bill No. 301:
YEAS—40.
NAYS—None.
EXCUSED—Arberry, Carpenter—2.
Assembly Bill No. 301 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 306.
Bill read third time.
Remarks by Assemblyman Mortenson.
Roll call on Assembly Bill No. 306:
YEAS—40.
NAYS—None.
EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 306 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 327.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Assembly Bill No. 327:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 327 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 329.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Assembly Bill No. 329:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 329 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 332.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 332:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 332 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 360 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 362.

Bill read third time.

Remarks by Assemblyman Claborn.

Roll call on Assembly Bill No. 362:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 362 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 393.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 393:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 393 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 403.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 403:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 403 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 407.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 407:

YEAS—38.

NAYS—Goedhart, Gustavson—2.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 407 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 412.

Bill read third time.

Remarks by Assemblymen Claborn, Oceguera, and Atkinson.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 412:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 412 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 413 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 414.

Bill read third time.

Remarks by Assemblyman Claborn.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 414:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 414 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 415.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Assembly Bill No. 415:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 415 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 417.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 417:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 417 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 429.

Bill read third time.

Remarks by Assemblywoman Smith.

Conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 429:

YEAS—39.

NAYS—None.

NOT VOTING—Dondero Loop.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 429 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Assembly Bill No. 455 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 459.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 459:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 459 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 462.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 462:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 462 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 473.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 473:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur—6.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 473 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 477.

Bill read third time.

Roll call on Assembly Bill No. 477:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 477 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 483 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 516.

Bill read third time.

Remarks by Assemblyman Claborn.

Roll call on Assembly Bill No. 516:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

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

Bill ordered transmitted to the Senate.

Assembly Bill No. 517.

Bill read third time.

Remarks by Assemblyman Segerblom.

Roll call on Assembly Bill No. 517:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 517 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 518.

Bill read third time.

Remarks by Assemblyman Atkinson.

Roll call on Assembly Bill No. 518:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 518 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 243, 297, 372, 413, 483; Assembly Joint Resolutions Nos. 5, 7, 10, 14; Senate Bills Nos. 38, 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Melissa Sewell.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Dillon Brock, Grant Zampirro, and Levi Jenkins.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Outland, Quin Outland, Robin Huhn, and Nathan Schank.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Schyler Jarvis, Corey Lundy, and Brandon Pierce.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Ian Butler, Sawyer Janicek, Bryce James, Alan Gonzalez, Jackson Fitzsimmons, and Bryce McIntyre.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Karl Stephenson, Braedon Jenkins, Miles McDonald, Kari Stephenson, and Casey Stangel.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Rousse, Joshua Rousse, and Zac Smith.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Erik Nordland, Mathew Tooker, and Seon Montblanc.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Trevor Sollberger, Eric Pinger, and Logan Thompson.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Caleb Lawrence and Mathew Henson.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Tim Taylor, David Lyles, and Sean Kelly.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Ed Anderson.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Jacob McAllister.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Kyle Cook, Ian Burson, and Samuel Wilson.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Jeremiah Hendelins and Joshua Hendelins.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, April 14, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 1:59 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SEVENTY-SECOND DAY

CARSON CITY (Tuesday), April 14, 2009

Assembly called to order at 11: 24 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman Christensen, who was excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

We thank You, Lord, that there is no weather in heaven. Let not the dullness of this day get into our hearts or minds. May we be warm and cheerful, secure in the knowledge that You are still here, that no clouds can blot You out, nor rain drive You away.

As winter lingers and blows her icy breath along the city's streets, our love goes out to all who need encouragement, to all who lack food and clothing, to all who are cold and cheerless, to all who long for home and friendship. Help us, in our blessedness, to be more willing to share the good things of life. Give us generosity and that concern for others that shall mark us as Your disciples.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 71, 314, 338, 512, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Education, to which were referred Assembly Bills Nos. 56, 155, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Assembly Bills Nos. 190, 293 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 97, 226, 305, 331, 377, 480, 493, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 20, 89, 123, 263, 364, 433, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which was rereferred Assembly Bills No. 359, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 59, 63, 116, 204, 251, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which were referred Assembly Bills Nos. 99, 105, 230, 311, 475, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Taxation, to which were referred Assembly Bills Nos. 267, 369 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KATHY MCCLAIN, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 13, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 39; Assembly Joint Resolution No. 3 of the 74th Session; Senate Bills Nos. 158, 174, 222, 231, 249, 277, 302, 307, 333, 336, 342, 344, 392; Senate Joint Resolution No. 8; Senate Joint Resolution No. 3 of the 74th Session.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 216, Amendment No. 96, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 62, 76, 94, 108, 125, 131, 134, 144, 162, 164, 170, 204, 217, 238, 240, 244, 287, 313, 317, 334; Senate Joint Resolution No. 1.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 20, 56, 59, 63, 71, 89, 97, 99, 105, 116, 123, 155, 190, 204, 226, 230, 251, 263, 267, 293, 305, 311, 314, 331, 338, 359, 364, 369, 377, 433, 475, 480, 493, 512 just reported out of committee, be placed on the appropriate reading file.

Motion carried.

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Senate Joint Resolution No. 1.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Joint Resolution No. 8.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Joint Resolution No. 3 of the 74th Session.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

NOTICE OF EXEMPTION

April 13, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 7, 17, 236, 294, and 311.

GARY GHIGGERI
Fiscal Analysis Division

NOTICE OF WAIVER

A Waiver requested by Senator Horsford.

For: Senate Bill No. 288.

To Waive:

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

Has been granted effective: Friday, April 10, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 62.

Assemblyman Oceguera moved that the bill be referred to the Concurrent Committees on Education and Ways and Means.

Motion carried.

Senate Bill No. 76.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 94.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 108.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 125.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 131.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 134.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 144.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 158.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 162.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 164.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 170.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 174.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 204.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 217.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 222.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 231.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 238.

Assemblyman Oceguera moved that the bill be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

Senate Bill No. 240.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 244.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 249.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 277.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 287.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 302.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 307.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 313.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 317.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 333.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 334.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 336.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 342.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 344.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 392.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Assembly Bill No. 42 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 313 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 483 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Atkinson moved that Assembly Bill No. 297 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 428.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 302.

AN ACT relating to education; authorizing the issuance and renewal of a special qualifications license to certain applicants who hold a bachelor's degree; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Commission on Professional Standards in Education to adopt regulations providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree, a graduate degree or a doctoral degree in a field for which the applicant will provide instruction in a classroom and who meets certain other requirements. An applicant for a special qualifications license who holds a graduate degree must also submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school. (NRS 391.019) This bill expands the issuance of a special qualifications license to applicants who hold a bachelor's degree. This bill requires such an applicant who holds a bachelor's degree to participate in a program of student teaching or mentoring or to agree to participate in a program of mentoring **or courses of pedagogy** for the first 2 years of his employment as a teacher with a school district or charter school.

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

Section 1. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission:

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses.

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a ***bachelor's degree, a*** master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

➥ ***An applicant for licensure pursuant to this subparagraph who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring or courses of pedagogy for the first 2 years of his employment as a teacher with a school district or charter school.***

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the ***bachelor's degree,*** master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the ***bachelor's degree,*** master's degree or doctoral degree held by that person.

(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a ***bachelor's degree or a*** graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school ~~[.]~~ ***if he holds a graduate degree or, if he holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his employment as a teacher with a school district or charter school.***

➥ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(11) If the Commission approves the Passport to Teaching certification from the American Board for Certification of Teacher Excellence as an alternative route to licensure, providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a Passport to Teaching certification from the American Board for Certification of Teacher Excellence;

(II) Passes each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; and

(III) Agrees to participate in a program of mentoring prescribed by the Commission for the first year of his employment as a teacher with a school district or charter school.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7), (10) or (11) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 2. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission:

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses.

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a ***bachelor's degree, a*** master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

➥ ***An applicant for licensure pursuant to this subparagraph who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring or courses of pedagogy for the first 2 years of his employment as a teacher with a school district or charter school.***

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the ***bachelor's degree,*** master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the ***bachelor's degree,*** master's degree or doctoral degree held by that person.

(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a ***bachelor's degree or a*** graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school ~~[.]~~ ***if he holds a graduate degree or, if he holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his employment as a teacher with a school district or charter school.***

➥ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 3. 1. This section and section 1 of this act become effective on July 1, 2009.

2. Section 1 of this act expires by limitation on June 30, 2011.

3. Section 2 of this act becomes effective on July 1, 2011.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 505.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 223.

AN ACT relating to education; requiring the Department of Education to work in consultation with the Nevada System of Higher Education to establish a plan to ensure that high school pupils are ready for postsecondary education and the workplace; revising provisions governing the academic plans for ninth grade pupils; requiring instruction on financial responsibility in high school; authorizing the issuance of an adjusted adult diploma for certain persons; requiring peer ~~[and adult]~~ mentoring for ninth grade pupils; requiring school districts to adopt a policy for the remediation of deficient credits; requiring school districts to adopt a policy for pupils to report unlawful activities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Department of Education to work in consultation with the Nevada System of Higher Education to establish clearly defined goals and benchmarks for pupils enrolled in high schools to be adequately prepared for the educational requirements of postsecondary education and for success in the workplace.

Existing law requires the board of trustees of a school district to adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. (NRS 388.205) **Section 5** of this bill requires the policy to ensure that each ninth grade pupil and his parent or legal guardian are adequately notified of certain courses and programs available to the pupil which will assist in the advancement of the education of the pupil as well as the requirements for graduation, for admission to the Nevada System of Higher Education and for receipt of a Governor Guinn Millennium Scholarship.

Section 6 of this bill requires the board of trustees of each school district and the governing body of each charter school that operates as a high school to ensure that instruction on financial responsibility is provided to pupils enrolled in the public high schools in each school district and in each charter school that operates as a high school.

Existing law provides that a pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive an adjusted diploma if he satisfies the requirements set forth in his individualized education program. (NRS 389.805) **Section 7** of this bill **requires the State Board of Education to create an adjusted adult diploma and** provides that a pupil who was identified as a pupil with a disability and who did not graduate before the age of 22 years may receive an adjusted adult diploma under certain circumstances.

Section 9 of this bill requires the board of trustees of each school district to adopt a policy for a program of peer ~~[and adult]~~ mentoring **, which may include a component of adult mentoring,** designed to assist the ninth grade pupils in the transition from middle school or junior high school to high school.

Section 10 of this bill requires the board of trustees of each school district to adopt a policy which ensures that a pupil who is deficient in the number of credits required for promotion to the next grade or graduation from high school has sufficient opportunities ~~[during the school day]~~ to remediate his deficient credits.

Section 11 of this bill requires the board of trustees of each school district to adopt a policy that allows pupils enrolled in a school within the school district to report, anonymously if the pupils choose, any unlawful activities that are being conducted on school property, at an activity sponsored by a public school or on a school bus, commonly referred to as a "secret witness program."

Section 16 of this bill repeals NRS 392.090, 392.100 and 392.110, relating to the exemption of certain children from compulsory school attendance.

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall work in consultation with the Nevada System of Higher Education to establish a plan which sets forth clearly defined goals and benchmarks for pupils enrolled in the public high schools to ensure that those pupils are adequately prepared for the educational requirements of postsecondary education and for success in the workplace, including, without limitation, methods to ensure that the high school standards, graduation requirements and assessments are aligned with college and workforce readiness expectations.

2. The Superintendent of Public Instruction shall:

(a) On or before February 1 of each odd-numbered year, submit a report on the progress of the plan to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature; and

(b) On or before February 1 of each even-numbered year, submit a report on the progress of the plan to the Legislative Committee on Education.

Sec. 2. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty

schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community

college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) ***An adult diploma.***

(3) An adjusted diploma.

~~[(3)]~~ ***(4) An adjusted adult diploma.***

~~[(4)]~~ ***(5)*** A certificate of attendance.

(6) A certificate of educational equivalence for passage of the tests of general educational development for those pupils who are eligible pursuant to NRS 385.448.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

(gg) For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

2. A separate reporting for a group of pupils must not be made pursuant to this section if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

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

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

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 3. NRS 385.34692 is hereby amended to read as follows:

385.34692 1. The State Board shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.3469 that includes, without limitation, a summary of the following information for each school district, each charter school and the State as a whole:

(a) Demographic information of pupils, including, without limitation, the number and percentage of pupils:

(1) Who are economically disadvantaged, as defined by the State Board;

(2) Who are from major racial or ethnic groups, as defined by the State Board;

(3) With disabilities;

(4) Who are limited English proficient; and

(5) Who are migratory children, as defined by the State Board;

(b) The average daily attendance of pupils, reported separately for the groups identified in paragraph (a);

(c) The transiency rate of pupils;

(d) The percentage of pupils who are habitual truants;

(e) The percentage of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655;

(f) The number of incidents resulting in suspension or expulsion for:

(1) Violence to other pupils or to school personnel;

(2) Possession of a weapon;

(3) Distribution of a controlled substance;

(4) Possession or use of a controlled substance; and

(5) Possession or use of alcohol;

(g) For kindergarten through grade 8, the number and percentage of pupils who are retained in the same grade;

(h) For grades 9 to 12, inclusive, the number and percentage of pupils who are deficient in the number of credits required for promotion to the next grade or graduation from high school;

(i) The pupil-teacher ratio for kindergarten and grades 1 to 8, inclusive;

(j) The average class size for the subject area of mathematics, English, science and social studies in schools where pupils rotate to different teachers for different subjects;

(k) The number and percentage of pupils who graduated from high school;

(l) The number and percentage of pupils who received a:

(1) Standard diploma;

(2) Adult diploma;

(3) Adjusted diploma; ~~[and]~~

(4) ***Adjusted adult diploma;*** ~~*[and]*~~

(5) Certificate of attendance; ***and***

(6) Certificate of educational equivalence for passage of the tests of general educational development for those pupils who are eligible pursuant to NRS 385.448.

(m) The number and percentage of pupils who graduated from high school and enrolled in remedial courses at the Nevada System of Higher Education;

(n) Per pupil expenditures;

(o) Information on the professional qualifications of teachers;

(p) The average daily attendance of teachers and licensure information;

(q) Information on the adequate yearly progress of the schools and school districts;

(r) Pupil achievement based upon the examinations administered pursuant to NRS 389.550 and the high school proficiency examination;

(s) To the extent practicable, pupil achievement based upon the examinations administered pursuant to NRS 389.015 for grades 4, 7 and 10; and

(t) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. On or before September 7 of each year, the State Board shall:

(a) Provide for public dissemination of the summary prepared pursuant to subsection 1 by posting the summary on the Internet website maintained by the Department; and

(b) Submit a copy of the summary in an electronic format to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

4. The board of trustees of each school district and the governing body of each charter school shall ensure that the parents and guardians of pupils enrolled in the school district or charter school, as applicable, have sufficient information concerning the availability of the summary prepared by the State Board pursuant to subsection 1, including, without limitation, information

that describes how to access the summary on the Internet website maintained by the Department. Upon the request of a parent or guardian of a pupil, the Department shall provide the parent or guardian with a written copy of the summary.

5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.

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

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➥ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a

change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) ***An adult diploma.***

(3) An adjusted diploma.

~~[(3)]~~ ***(4) An adjusted adult diploma.***

~~[(4)]~~ ***(5)*** A certificate of attendance.

(6) A certificate of educational equivalence for passage of the tests of general educational development for those pupils who are eligible pursuant to NRS 385.448.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ee) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

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

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

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

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

recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee; and

(5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 5. NRS 388.205 is hereby amended to read as follows:

388.205 1. The board of trustees of each school district shall adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. The academic plan must set forth the specific educational goals that the pupil intends to achieve before graduation from high school. The plan may include, without limitation, the designation of a career pathway and enrollment in dual credit courses, career and technical education courses, advanced placement courses and honors courses.

2. ***The policy must ensure that each pupil enrolled in ninth grade and the pupil's parent or legal guardian are adequately notified and informed of the following information:***

(a) The advanced placement courses, honors courses, international baccalaureate courses, dual credit courses, career and technical education courses, including, without limitation, career and technical skills-building programs, and any other educational programs, pathways or courses available to the pupil which will assist in the advancement of the education of the pupil;

(b) The requirements for graduation from high school with a diploma and the types of diplomas available; ~~*[and]*~~

(c) The requirements for admission to the Nevada System of Higher Education and the eligibility requirements for a Governor Guinn Millennium Scholarship ~~*[.]*~~ ***; and***

(d) To the extent available, programs offered by charter schools within the school district.

3. The policy must require each pupil enrolled in ninth grade and the pupil's parent or legal guardian to:

(a) ~~[Work in]~~ ***Be notified of opportunities to work in*** consultation with a school counselor to develop ***and review*** an academic plan for the pupil; ***and***

(b) ~~[Sign the academic plan; and~~

~~(c)]~~ Review the academic plan at least once each school year in consultation with a school counselor and revise the plan if necessary.

~~[3.]~~ ***4.*** If a pupil enrolls in a high school after ninth grade, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

~~[4.]~~ ***5.*** An academic plan for a pupil must be used as a guide for the pupil and the parent or legal guardian of the pupil to plan, monitor and manage the pupil's educational and occupational development and make determinations of the appropriate courses of study for the pupil. If a pupil does not satisfy all the goals set forth in the academic plan, the pupil is eligible to graduate and receive a high school diploma if he otherwise satisfies the requirements for a diploma.

Sec. 6. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district and the governing body of each charter school that operates as a high school shall ensure that instruction on financial responsibility is provided to pupils in each public high school within the school district or in the charter school, as applicable. The instruction must include:

(a) The skills necessary to develop financial responsibility, including, without limitation:

(1) Making reasonable financial decisions by analyzing the alternatives and consequences to those financial decisions;

(2) Locating and evaluating financial information from various sources;

(3) Developing communication strategies to discuss financial issues;

(4) Controlling personal information; and

(5) Reviewing and summarizing federal and state consumer protection laws.

(b) The skills necessary to manage finances, including, without limitation:

(1) Developing a plan for spending and saving;

(2) Developing a system for keeping and using financial records; and

(3) Developing a personal financial plan.

(c) The skills necessary to understand the use of credit and the incurrence of debt, including, without limitation:

(1) Identifying the costs and benefits of various types of credit;

(2) Explaining the purpose of a credit report, including, without limitation, the manner in which a credit report is used by lenders;

(3) Describing the rights of a borrower regarding his credit report;

(4) Identifying methods to avoid and resolve debt problems; and

(5) Reviewing and summarizing federal and state consumer credit protection laws.

(d) The skills necessary to understand the basic principles of saving and investing, including, without limitation:

(1) Understanding how saving and investing contribute to financial well-being;

(2) Understanding the methods of investing and alternatives to investing;

(3) Understanding how to buy and sell investments; and

(4) Understanding how the regulation of financial institutions protects investors.

2. The instruction required by subsection 1 may be included within a course that pupils enrolled in high school are otherwise required to complete.

Sec. 7. NRS 389.805 is hereby amended to read as follows:

389.805 1. A pupil must receive a standard high school diploma if he:

(a) Passes all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school; or

(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety not less than three times before beginning grade 12 and the pupil:

(1) Passes the subject areas of mathematics and reading on the proficiency examination;

(2) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;

(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection ~~[3,]~~ ***4;*** and

(4) Otherwise satisfies the requirements for graduation from high school.

2. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if he satisfies the requirements set forth in his individualized education program. ~~[As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).]~~

3. ***The State Board shall prescribe an adjusted adult diploma. A person who did not satisfy the requirements for receipt of a standard high school diploma or an adjusted diploma may receive an adjusted adult diploma if he:***

(a) Was identified as a pupil with a disability and received instruction pursuant to an individualized education program;

(b) Did not graduate before attaining the age of 22 years;

(c) Except as otherwise provided in paragraph (d), meets all of the current requirements for graduation; and

(d) Has taken the high school proficiency examination administered pursuant to NRS 389.015 at least one time but failed to pass the examination in its entirety.

4. The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:

(a) An essay;

(b) A senior project; or

(c) A portfolio of work,

➥ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.

5. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 8. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 9, 10 and 11 of this act.

Sec. 9. ***1. The board of trustees of each school district shall adopt a policy for the high schools within the school district to provide a program of peer*** ~~*[and]*~~ ***mentoring, which may include a component of adult mentoring , designed to increase the ability of ninth grade pupils enrolled in high school to successfully make the transition from middle school or junior high school to high school.***

2. The principal of each high school shall:

(a) Carry out a program of ~~*[peer and adult]*~~ ***mentoring for the ninth grade pupils enrolled in the high school in accordance with the policy adopted by the board of trustees pursuant to subsection 1;***

(b) Submit an annual report to the board of trustees on:

(1) The specific activities of the program of ~~[peer and adult]~~ mentoring; and

(2) The effectiveness of the program of ~~[peer and adult]~~ mentoring in increasing the ability of ninth grade pupils to successfully make the transition from middle school or junior high school to high school.

3. This section does not prohibit the principal of a high school from continuing any other similar program of mentoring that the high school currently provides in a manner that is consistent with the policy prescribed by the board of trustees.

Sec. 10. ***The board of trustees of each school district shall adopt a policy of credit remediation which ensures that pupils who are deficient in the number of credits required for promotion to the next grade or for graduation from high school are provided sufficient opportunities ~~[during the school day]~~ , including, without limitation, opportunities during the school day, to complete appropriate remediation of deficient credits.***

Sec. 11. ***1. The board of trustees of each school district shall adopt a policy that allows a pupil enrolled in a public school within the school district to report, anonymously if the pupil chooses, any unlawful activity which is being conducted on school property, at an activity sponsored by a public school or on a school bus. The policy must include, without limitation:***

(a) The types of unlawful activities which a pupil may report; and

(b) The manner in which a pupil may report the unlawful activities.

2. The board of trustees of a school district may work in consultation with a local law enforcement agency or other governmental entity, corporation, business, organization or other entity to assist in the implementation of the policy adopted pursuant to subsection 1.

3. Each public school within the school district shall post prominently in various locations at the school the policy adopted pursuant to subsection 1, which must clearly denote the phone number and any other methods to make a report. If a public school maintains an Internet website for the school, the policy must also be posted on the school's website.

4. The board of trustees of each school district shall post the policy on the Internet website maintained by the school district.

Sec. 12. NRS 392.019 is hereby amended to read as follows:

392.019 1. Except as otherwise provided in this subsection, if a child is exempt from compulsory attendance pursuant to ***this section or*** NRS 392.070 ~~[, 392.100 or 392.110,]~~ and the child is employed to work in the entertainment industry pursuant to a written contract for a period of more than 91 school days, or its equivalent if the child resides in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, including, without limitation, employment with a motion picture company or employment with a production company hired by a casino or resort hotel, the entity that employs the child shall, upon the request of the parent or legal

guardian of the child, pay the costs for the child to receive at least 3 hours of tutoring per day for at least 5 days per week. In lieu of tutoring, the parent or legal guardian of such a child may agree with the entity that employs the child that the entity will pay the costs for the child to receive other educational or instructional services which are equivalent to tutoring. The provisions of this subsection apply during the period of a child's employment with an entity, regardless of whether the child has obtained the appropriate exemption from compulsory attendance at the time his contract with the entity is under negotiation.

2. ***The board of trustees of a school district may excuse a child who is employed pursuant to subsection 1 from full-time attendance.*** If such a child is exempt from ~~[~~compulsory~~]~~ attendance pursuant to ~~[~~NRS 392.100 or 392.110,~~]~~ ***this subsection,*** the tutoring or other educational or instructional services received by the child pursuant to subsection 1 must be approved by the board of trustees of the school district in which the child resides.

Sec. 13. NRS 392.170 is hereby amended to read as follows:

392.170 Upon the written complaint of any person, the board of trustees of a school district or the governing body of a charter school shall:

1. Make a full and impartial investigation of all charges against parents, guardians or other persons having control or charge of any child who is under 18 years of age and required to attend school pursuant to NRS 392.040 for violation of any of the provisions of NRS 392.040 to ~~[~~392.110,~~]~~ ***392.080,*** inclusive, or 392.130 to 392.160, inclusive.

2. Make and file a written report of the investigation and the findings thereof in the records of the board.

Sec. 14. NRS 392.180 is hereby amended to read as follows:

392.180 If it appears upon investigation that any parent, guardian or other person having control or charge of any child who is under 18 years of age and required to attend school pursuant to NRS 392.040 has violated any of the provisions of NRS 392.040 to ~~[~~392.110,~~]~~ ***392.080,*** inclusive, or 392.130 to 392.160, inclusive, the clerk of the board of trustees or the governing body of a charter school in which the child is enrolled, except as otherwise provided in NRS 392.190, shall make and file in the proper court a criminal complaint against the parent, guardian or other person, charging the violation, and shall see that the charge is prosecuted by the proper authority.

Sec. 15. NRS 392.215 is hereby amended to read as follows:

392.215 Any parent, guardian or other person who, with intent to deceive under NRS 392.040 to ~~[~~392.110,~~]~~ ***392.080,*** inclusive, or 392.130 to 392.165, inclusive:

1. Makes a false statement concerning the age or attendance at school;

2. Presents a false birth certificate or record of attendance at school; or

3. Refuses to furnish a suitable identifying document, record of attendance at school or proof of change of name, upon request by a local law enforcement agency conducting an investigation in response to notification pursuant to subsection 4 of NRS 392.165,

➥ of a child under 18 years of age who is under his control or charge, is guilty of a misdemeanor.

Sec. 16. NRS 392.090, 392.100 and 392.110 are hereby repealed.

Sec. 17. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

392.090 Juvenile court may permit child who has completed eighth grade to leave school. After review of the case, the juvenile court may issue a permit authorizing any child who has completed the eighth grade to leave school.

392.100 Attendance excused if child 14 years of age or older must support himself or his parent. Attendance required by the provisions of NRS 392.040 shall be excused when satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child, 14 years of age or over, must work for his own or his parent's support.

392.110 Attendance excused for child between 14 and 18 years of age who has completed eighth grade to enter employment or apprenticeship; written permit required.

1. Any child between the ages of 14 and 18 years who has completed the work of the first eight grades may be excused from full-time school attendance and may be permitted to enter proper employment or apprenticeship, by the written authority of the board of trustees excusing the child from such attendance. The board's written authority must state the reason or reasons for such excuse.

2. In all such cases, no employer or other person shall employ or contract for the services or time of such child until the child presents a written permit therefor from the attendance officer or board of trustees. The permit must be kept on file by the employer and, upon the termination of employment, must be returned by the employer to the board of trustees or other authority issuing it.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 20.

Bill read second time.

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

Amendment No. 285.

AN ACT relating to care facilities; requiring a licensee or applicant for a license to operate a home for individual residential care to comply with certain provisions concerning the criminal history of the licensee or applicant and any employee or independent contractor of the home; revising provisions

concerning crimes which constitute grounds for the revocation, denial or suspension of a license to operate such a home or certain other agencies and facilities or the termination of their employees or independent contractors; requiring such a home to file a surety bond with the Administrator of the Health Division of the Department of Health and Human Services or deposit with a bank or trust company certain obligations as a substitute for the surety bond; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill expands the applicability of certain statutory requirements that currently apply to certain agencies and facilities that are licensed by the Health Division of the Department of Health and Human Services.

Section 1 of this bill requires a home for individual residential care that submits a reapplication for licensure to the Health Division to include a statement that the home is in compliance with certain provisions concerning investigations of the criminal history of its employees and independent contractors. (NRS 449.060)

Section 2 of this bill requires such a home to file a surety bond with the Health Division. The required amount of the bond ranges from $5,000 to $50,000, depending on the number of persons who are employed by the home. The Administrator of the Health Division may exempt a home from this requirement based on undue hardship. (NRS 449.065) In lieu of a surety bond, **section 3** of this bill authorizes a home, with the approval of the Administrator, to deposit certain obligations with a bank or trust company. (NRS 449.067) **Section 9** of this bill authorizes payment from the surety bond or the substitute for the surety bond if a patient who is 60 years of age or older (NRS 449.063) sustains damage to his property as a result of any act or failure to act by the home. (NRS 427A.175)

Section 4 of this bill requires an applicant for a license to operate an agency to provide personal care services in the home or a home for individual residential care to submit to the Central Repository for Nevada Records of Criminal History two complete sets of the fingerprints of the applicant. (NRS 449.176) **Section 5** of this bill imposes a similar requirement on a home for individual residential care with respect to any person it hires or independent contractor with whom it contracts. (NRS 449.179)

Existing law sets forth certain crimes that are grounds for the denial, suspension or revocation of a license to operate certain facilities that are licensed by the Health Division. **Section 8** of this bill expands the list of crimes to include certain sexually related crimes, crimes involving domestic violence and other crimes involving the use or threat of use of force or violence against the victim and makes the provisions of the section applicable to a home for individual residential care. (NRS 449.188) **Section 7** of this bill requires that such a home terminate the employment or contract of any of its employees or independent contractors who are convicted of a crime specified in **section 8**. (NRS 449.185)

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

Section 1. NRS 449.060 is hereby amended to read as follows:

449.060 1. Each license issued pursuant to NRS 449.001 to 449.240, inclusive, expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Health Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.001 to 449.240, inclusive, or the standards and regulations adopted by the Board;

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a ~~[residential]~~ facility for intermediate care, a facility for skilled nursing ***,*** ~~[or]~~ a residential facility for groups ***or a home for individual residential care*** must include, without limitation, a statement that the facility ***,*** ~~[or]~~ agency ***or home*** is in compliance with the provisions of NRS 449.173 to 449.188, inclusive.

Sec. 2. NRS 449.065 is hereby amended to read as follows:

449.065 1. Except as otherwise provided in subsections 6 and 7 and NRS 449.067, each facility for intermediate care, facility for skilled nursing, residential facility for groups, ***home for individual residential care,*** agency to provide personal care services in the home and agency to provide nursing in the home shall, when applying for a license or renewing a license, file with the Administrator of the Health Division a surety bond:

(a) If the facility ***,*** ~~[or]~~ agency ***or home*** employs less than 7 employees, in the amount of $5,000;

(b) If the facility ***,*** ~~[or]~~ agency ***or home*** employs at least 7 but not more than 25 employees, in the amount of $25,000; or

(c) If the facility ***,*** ~~[or]~~ agency ***or home*** employs more than 25 employees, in the amount of $50,000.

2. A bond filed pursuant to this section must be executed by the facility ***,*** ~~[or]~~ agency ***or home*** as principal and by a surety company as surety. The bond must be payable to the Aging Services Division of the Department of Health and Human Services and must be conditioned to provide indemnification to an older patient who the Specialist for the Rights of Elderly Persons determines has suffered property damage as a result of any act or failure to act by the facility ***,*** ~~[or]~~ agency ***or home*** to protect the property of the older patient.

3. Except when a surety is released, the surety bond must cover the period of the initial license to operate or the period of the renewal, as appropriate.

4. A surety on any bond filed pursuant to this section may be released after the surety gives 30 days' written notice to the Administrator of the Health Division, but the release does not discharge or otherwise affect any claim filed by an older patient for property damaged as a result of any act or failure to act by the facility ***,*** ~~[or]~~ agency ***or home*** to protect the property of the older patient alleged to have occurred while the bond was in effect.

5. A license is suspended by operation of law when the facility ***,*** ~~[or]~~ agency ***or home*** is no longer covered by a surety bond as required by this section or by a substitute for the surety bond pursuant to NRS 449.067. The Administrator of the Health Division shall give the facility ***,*** ~~[or]~~ agency ***or home*** at least 20 days' written notice before the release of the surety or the substitute for the surety, to the effect that the license will be suspended by operation of law until another surety bond or substitute for the surety bond is filed in the same manner and amount as the bond or substitute being terminated.

6. The Administrator of the Health Division may exempt a residential facility for groups ***or a home for individual residential care*** from the requirement of filing a surety bond pursuant to this section if the Administrator determines that the requirement would result in undue hardship to the residential facility for groups ~~[.]~~ ***or home for individual residential care.***

7. The requirement of filing a surety bond set forth in this section does not apply to a facility for intermediate care, facility for skilled nursing, residential facility for groups, ***home for individual residential care,*** agency to provide personal care services in the home or agency to provide nursing in the home that is operated and maintained by the State of Nevada or an agency thereof.

Sec. 3. NRS 449.067 is hereby amended to read as follows:

449.067 1. As a substitute for the surety bond required pursuant to NRS 449.065, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups, ***a home for individual residential care,*** an agency to provide personal care services in the home and an agency to provide nursing in the home may deposit with any bank or trust company authorized to do business in this State, upon approval from the Administrator of the Health Division:

(a) An obligation of a bank, savings and loan association, thrift company or credit union licensed to do business in this State;

(b) Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States; or

(c) Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State, or guaranteed by this State, in an aggregate amount, based upon principal amount or market value, whichever is lower.

2. The obligations of a bank, savings and loan association, thrift company or credit union must be held to secure the same obligation as would the surety bond required by NRS 449.065. With the approval of the Administrator of the Health Division, the depositor may substitute other suitable obligations for those deposited, which must be assigned to the Aging Services Division of the Department of Health and Human Services and are negotiable only upon approval by the Administrator of the Aging Services Division.

3. Any interest or dividends earned on the deposit accrue to the account of the depositor.

4. The deposit must be an amount at least equal to the surety bond required by NRS 449.065 and must state that the amount may not be withdrawn except by direct and sole order of the Administrator of the Aging Services Division.

Sec. 4. NRS 449.176 is hereby amended to read as follows:

449.176 1. Each applicant for a license to operate a facility for intermediate care, facility for skilled nursing **,** ~~[or]~~ residential facility for groups ***, agency to provide personal care services in the home or home for individual residential care*** shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report.

2. The Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and immediately inform the administrator of the facility, ***agency or home,*** if any, and the Health Division of whether the applicant has been convicted of such a crime.

Sec. 5. NRS 449.179 is hereby amended to read as follows:

449.179 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing **,** ~~[or]~~ a residential facility for groups ***or a home for individual residential care*** shall:

(a) Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in NRS 449.188;

(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);

(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).

2. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing **,** ~~[or]~~ a residential facility for groups ***or a home for individual residential care*** is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that an investigation of his criminal history has been conducted by the Central Repository for Nevada Records of Criminal History within the immediately preceding 6 months and the investigation did not indicate that the employee or independent contractor had been convicted of any crime set forth in NRS 449.188.

3. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing **,** ~~[or]~~ a residential facility for groups ***or a home for individual residential care*** shall ensure that the criminal history of each employee or independent contractor who works at the agency or facility is investigated at least once every 5 years. The administrator or person shall:

(a) If the agency **,** ~~[or]~~ facility ***or home*** does not have the fingerprints of the employee or independent contractor on file, obtain two sets of fingerprints from the employee or independent contractor;

(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints on file or obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.

4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall determine whether the employee or independent contractor has been convicted of a crime listed in NRS 449.188 and immediately inform the Health Division and the administrator of, or the person licensed to operate, the agency **,** ~~[or]~~ facility ***or home*** at which the person works whether the employee or independent contractor has been convicted of such a crime.

5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an agency **,** ~~[or]~~ a facility ***or a home*** that submits fingerprints pursuant to this section for the reasonable cost of the investigation. The agency **,** ~~[or]~~ facility ***or home*** may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the agency **,** ~~[or]~~ facility ***or home*** requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.

Sec. 6. NRS 449.182 is hereby amended to read as follows:

449.182 Each agency to provide personal care services in the home, agency to provide nursing in the home, facility for intermediate care, facility for skilled nursing **,** ~~[and]~~ residential facility for groups ***and home for individual residential care*** shall maintain accurate records of the information concerning its employees and independent contractors collected pursuant to NRS 449.179 ~~[,]~~ and shall maintain a copy of the fingerprints submitted to the Central Repository for Nevada Records of Criminal History and proof that it submitted two sets of fingerprints to the Central Repository for its report. These records must be made available for inspection by the Health Division at any reasonable time **,** and copies thereof must be furnished to the Health Division upon request.

Sec. 7. NRS 449.185 is hereby amended to read as follows:

449.185 1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to NRS 449.179, or evidence from any other source, that an employee or independent contractor of an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing **,** ~~[or]~~ a residential facility for groups ***or home for individual residential care*** has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188, the administrator of, or the person licensed to operate, the agency **,** ~~[or]~~ facility ***or home*** shall terminate the employment or contract of that person after allowing him time to correct the information as required pursuant to subsection 2.

2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, he may immediately inform the agency **,** ~~[or]~~ facility ~~[.]~~ ***or home.*** An agency **,** ~~[or]~~ facility ***or home*** that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information received from the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

3. An agency **,** ~~[or]~~ facility ***or home*** that has complied with NRS 449.179 may not be held civilly or criminally liable based solely upon the ground that the agency **,** ~~[or]~~ facility ***or home*** allowed an employee or independent contractor to work:

(a) Before it received the information concerning the employee or independent contractor from the Central Repository;

(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;

(c) Based on the information received from the Central Repository, if the information received from the Central Repository was inaccurate; or

(d) Any combination thereof.

➥ An agency **,** ~~[or]~~ facility ***or home*** may be held liable for any other conduct determined to be negligent or unlawful.

Sec. 8. NRS 449.188 is hereby amended to read as follows:

449.188 1. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate a facility for intermediate care, facility for skilled nursing **,** ~~[or]~~ residential facility for groups ***or home for individual residential care*** to an applicant or may suspend or revoke the license of a licensee to operate such a facility ***or home*** if:

(a) The applicant or licensee has been convicted of:

(1) Murder, voluntary manslaughter or mayhem;

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

(3) Sexual assault, statutory sexual seduction, incest, lewdness ~~[,]~~ ***or*** indecent exposure **,** or any other sexually related crime ~~[;]~~ ***that is punished as a felony;***

(4) ***Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, within the immediately preceding 7 years;***

(5) A crime involving domestic violence that is punished as a felony;

(6) A crime involving domestic violence that is punished as a misdemeanor, within the immediately preceding 7 years;

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

~~[(5)]~~ ***(8)*** A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the ~~[past]~~ ***immediately preceding*** 7 years;

~~[(6)]~~ ***(9)*** Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;

~~[(7)]~~ ***(10)*** A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;

~~[(8)]~~ ***(11)*** A violation of any provision of NRS 422.450 to 422.590, inclusive;

~~[(9)]~~ ***(12)*** A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

~~[(10)]~~ ***(13)*** Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years; ~~[or]~~

~~[(11)]~~ ***(14)*** Any other felony involving ***the use or threatened use of force or violence against the victim or*** the use of a firearm or other deadly weapon ~~*[;]*~~ ~~[.]~~ ***; or***

(15) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years; or

(b) The licensee has, in violation of NRS 449.185, continued to employ a person who has been convicted of a crime listed in paragraph (a).

2. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate an agency to provide personal care services in

the home or an agency to provide nursing in the home to an applicant or may suspend or revoke the license of a licensee to operate such an agency if the licensee has, in violation of NRS 449.185, continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

3. As used in this section:

(a) ***"Domestic violence" means an act described in NRS 33.018.***

(b) "Medicaid" has the meaning ascribed to it in NRS 439B.120.

~~[(b)]~~ ***(c)*** "Medicare" has the meaning ascribed to it in NRS 439B.130.

Sec. 9. NRS 427A.175 is hereby amended to read as follows:

427A.175 1. Within 1 year after an older patient sustains damage to his property as a result of any act or failure to act by a facility for intermediate care, a facility for skilled nursing, a residential facility for groups, ***a home for individual residential care,*** an agency to provide personal care services in the home, an intermediary service organization or an agency to provide nursing in the home in protecting the property, the older patient may file a verified complaint with the Division setting forth the details of the damage.

2. Upon receiving a verified complaint pursuant to subsection 1, the Administrator shall investigate the complaint and attempt to settle the matter through arbitration, mediation or negotiation.

3. If a settlement is not reached pursuant to subsection 2, the facility, ***home,*** agency, organization or older patient may request a hearing before the Specialist for the Rights of Elderly Persons. If requested, the Specialist for the Rights of Elderly Persons shall conduct a hearing to determine whether the facility, ***home,*** agency or organization is liable for damages to the patient. If the Specialist for the Rights of Elderly Persons determines that the facility, ***home,*** agency or organization is liable for damages to the patient, he shall order the amount of the surety bond pursuant to NRS 449.065 or the substitute for the surety bond necessary to pay for the damages pursuant to NRS 449.067 to be released to the Division. The Division shall pay any such amount to the older patient or the estate of the older patient.

4. The Division shall create a separate account for money to be collected and distributed pursuant to this section.

5. As used in this section:

(a) "Agency to provide nursing in the home" has the meaning ascribed to it in NRS 449.0015;

(b) "Agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021;

(c) "Facility for intermediate care" has the meaning ascribed to it in NRS 449.0038;

(d) "Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039;

(e) ***"Home for individual residential care" has the meaning ascribed to it in NRS 449.0105;***

(f) "Intermediary service organization" has the meaning ascribed to it in NRS 426.218;

~~[(f)]~~ ***(g)*** "Older patient" has the meaning ascribed to it in NRS 449.063; and

~~[(g)]~~ ***(h)*** "Residential facility for groups" has the meaning ascribed to it in NRS 449.017.

Sec. 10. This act becomes effective on January 1, 2010.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 56.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 303.

AN ACT relating to education; revising provisions governing the use of physical restraint and mechanical restraint on pupils with disabilities; revising provisions relating to reports of the use of restraints and reports of violations; **providing for the reporting of the use of corporal punishment on a pupil in public school;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law prescribes the requirements for the use of physical restraint on a pupil with a disability enrolled in a public school or private school, including an exception to escort or carry a pupil to safety if the pupil is in danger. (NRS 388.5275, 394.368) Sections 1 and 4 of this bill revise the exception for escorting or carrying a pupil by removing the provision that the pupil may be escorted or carried only if he is in danger. Sections 1 and 4 also revise the deadline for reporting the use of physical restraint in an emergency from 1 working day to 3 working days after the use of the restraint.]~~ **Existing law prescribes the requirements for the use of physical restraint or mechanical restraint on a pupil with a disability who is enrolled in a public school or a private school. (NRS 388.521-388.5315, 394.353-394.378) Sections 1 and 7 of this bill require each school district and each private school which provides services to pupils with disabilities to submit annual reports to the Department of Education on the use of physical restraint and mechanical restraint on pupils with disabilities during the previous school year.**

Sections 3, 4, 9 and 10 of this bill provide that if physical restraint or mechanical restraint is used on a pupil with a disability three times during 1 school year, the circumstances of the restraint must be reviewed and reported. If such restraint is used five times during 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, developed pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., must be reviewed. If the restraint continues after such a review, the school district or private

school, as applicable, and the pupil's parent or legal guardian must explore additional positive behavioral approaches so that the restraint does not continue. (NRS 388.5275, 388.528, 394.368, 394.369)

Existing law prescribes the requirements for the use of mechanical restraint on a pupil with a disability enrolled in a public school or private school, including a requirement that the pupil's physician issue a medical order authorizing the use of mechanical restraint before the application of the restraint or not later than 15 minutes after the application of the restraint. (NRS 388.528, 394.369) **Sections ~~[2 and 5]~~ 4 and 10** of this bill eliminate the requirement of a medical order for each application of the mechanical restraint and instead require that a medical order authorizing the use of mechanical restraint be included in the pupil's individualized education program or the pupil's services plan, as applicable**. ~~[, developed pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq. Sections 2 and 5 also revise the deadline for reporting the use of mechanical restraint in an emergency from 1 working day to 3 working days after the use of the restraint.]~~**

Existing law provides that corporal punishment may not be used on a pupil in any public school. (NRS 392.4633) Section 6 of this bill provides that a person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency finds that the report is substantiated, the agency shall forward the report to the Department, local law enforcement agency and the county district attorney for further investigation.

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

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

1. The board of trustees of each school district shall, on or before August 1 of each year, prepare a report in the form prescribed by the Department that includes, without limitation, for each school within the school district:

(a) The number of instances in which physical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 388.521 to 388.5315, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil.

2. The board of trustees of each school district shall prescribe a form for each school within the school district to report the information set forth in subsection 1 to the school district and the time by which those reports must be submitted to the school district.

3. On or before August 15 of each year, the board of trustees of each school district shall submit to the Department the written report prepared by the board of trustees pursuant to subsection 1.

4. The Department shall compile the data received by each school district pursuant to subsection 3 and prepare a written report of the compilation, disaggregated by school district. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

5. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

~~[Section 1.]~~ ***Sec. 2.*** **NRS 388.521 is hereby amended to read as follows:**

388.521 As used in NRS 388.521 to 388.5315, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 388.5215 to 388.526, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 388.5275 is hereby amended to read as follows:

388.5275 1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if his resistance is minimal in intensity and duration;

(b) Escort or carry ~~[a]~~ ***the*** pupil ~~*[.]*~~ to safety if the pupil is in danger in his present location; or

(c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 ~~*[3]*~~ working day ~~*[days]*~~ after the procedure is used. A copy of the report must be provided to the board of trustees of the school district ~~[,]~~ ***or its designee,*** the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees ***or its designee*** determines that a denial of the pupil's rights has occurred, the board of trustees ~~[may]~~ ***or its designee shall*** submit a report to the Department in accordance with NRS 388.5315.

4. If a pupil with a disability has three reports of the use of physical restraint in his record pursuant subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report to the school district on its findings.

5. If a pupil with a disability has five reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall consider additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, behavioral assessment, a positive behavior plan and positive behavioral supports.

~~[Sec. 2.]~~ ***Sec. 4.*** NRS 388.528 is hereby amended to read as follows:

388.528 1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint ~~[is obtained]~~ from the pupil's treating physician ***is included in the pupil's individualized education program*** before the application of the mechanical restraint ***;*** ~~[or not later than 15 minutes after the application of the mechanical restraint;]~~

(c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the pupil as soon as practicable ~~[,]~~ ***after the application of the mechanical restraint;***

(d) The mechanical restraint is applied by a member of the staff of the school who is trained and qualified to apply mechanical restraint;

(e) The pupil is given the opportunity to move and exercise the parts of his body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician who signed the order;

(f) A member of the staff of the school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop or control his inappropriate behavior without the use of the restraint;

(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the school who applied the mechanical restraint;

(h) A member of the staff of the school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage.

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself because he lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's individualized education program.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 ~~[3]~~ working day ~~[days]~~ after the procedure is used. A copy of the report must be provided to the board of trustees of the school district ~~[,]~~ ***or its designee,*** the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees ***or its designee*** determines that a denial of the pupil's rights has occurred, the board of trustees ~~[may]~~ ***or its designee shall*** submit a report to the Department in accordance with NRS 388.5315.

4. If a pupil with a disability has three reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report of its findings to the school district.

5. If a pupil with a disability has five reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program has been reviewed, the

school district and the parent or legal guardian of the pupil shall consider additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, without limitation, mentoring, training, behavioral assessment, a positive behavior plan and positive behavioral supports.

~~[Sec. 3.]~~ ***Sec. 5.*** NRS 388.5315 is hereby amended to read as follows:

388.5315 1. A denial of rights of a pupil with a disability pursuant to NRS 388.521 to 388.5315, inclusive, ***and section 1 of this act*** must be entered in the pupil's cumulative record and a confidential file maintained for that pupil. Notice of the denial must be provided to the board of trustees of the school district ~~[.]~~ ***or its designee.***

2. If the board of trustees of a school district ***or its designee*** receives notice of a denial of rights pursuant to subsection 1, ~~[it]~~ ***the board of trustees or its designee*** shall cause a full report to be prepared which must set forth in detail the factual circumstances surrounding the denial. A copy of the report must be provided to the Department.

3. The Department:

(a) Shall receive reports made pursuant to subsection 2;

(b) May investigate apparent violations of the rights of pupils with disabilities; and

(c) May act to resolve disputes relating to apparent violations.

Sec. 6. **NRS 392.4633 is hereby amended to read as follows:**

392.4633 1. Corporal punishment ~~[may]~~ ***must*** not be administered upon a pupil in any public school.

2. Subsection 1 does not prohibit any teacher, principal or other licensed person from defending himself if attacked by a pupil.

3. ***A person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency determines that the complaint is substantiated, the agency shall forward the complaint to the Department, the appropriate local law enforcement agency within the county and the district attorney's office within the county for further investigation.***

4. As used in this section ~~[, "corporal punishment"]~~ **:**

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

(b) "Corporal punishment" means the intentional infliction of physical pain upon or the physical restraint of a pupil for disciplinary purposes. The term does not include the use of reasonable and necessary force:

~~[(a)]~~ ***(1)*** To quell a disturbance that threatens physical injury to any person or the destruction of property;

~~[(b)]~~ ***(2)*** To obtain possession of a weapon or other dangerous object within a pupil's control;

~~[(c)]~~ ***(3)*** For the purpose of self-defense or the defense of another person; or

~~[(d)]~~ ***(4)*** To escort a disruptive pupil who refuses to go voluntarily with the proper authorities.

Sec. 7. **Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The administrative head of each private school that provides instruction to pupils with disabilities shall, on or before August 15 of each year, prepare a report that includes, without limitation:

(a) The number of instances in which physical restraint was used at the private school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the private school and per pupil enrolled at the private school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the private school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the private school and per pupil enrolled at the private school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 394.353 to 394.378, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the private school and per pupil enrolled at the private school.

2. On or before August 15 of each year, the administrative head of each private school that provides instruction to pupils with disabilities shall submit to the Department the report prepared pursuant to subsection 1. The report must be in the form prescribed by the Department.

3. The Department shall compile the data submitted by each private school pursuant to subsection 2 and prepare a written report of the compilation, disaggregated by each private school. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

4. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

Sec. 8. **NRS 394.353 is hereby amended to read as follows:**

394.353 As used in NRS 394.353 to 394.378, inclusive, ***and section 7 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 394.354 to 394.365, inclusive, have the meanings ascribed to them in those sections.

~~[Sec. 4.]~~ ***Sec. 9.*** NRS 394.368 is hereby amended to read as follows:

394.368 1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate

threat of causing physical injury to himself or others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if his resistance is minimal in intensity and duration;

(b) Escort or carry ~~[a]~~ ***the*** pupil ~~*[,]*~~ to safety if the pupil is in danger in his present location; or

(c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record not later than 1 ~~*[3]*~~ working day ~~*[days]*~~ after the procedure is used. A copy of the report must be provided to the Superintendent, the administrator of the private school, the pupil's individualized education program team, if applicable, and the parent or guardian of the pupil. If the administrator of the private school determines that a denial of the pupil's rights has occurred, the administrator shall submit a report to the Superintendent in accordance with NRS 394.378.

4. If a pupil with a disability has three reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the private school in which the pupil is enrolled shall review the circumstances of the restraint on the pupil and report its findings to the Superintendent.

5. If a pupil with a disability has five reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program or services plan has been reviewed, the private school and the parent or legal guardian of the pupil shall consider additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, without limitation, mentoring, training, behavioral assessment, a positive behavior plan and positive behavioral supports.

~~**[Sec. 5.]**~~ ***Sec. 10.*** NRS 394.369 is hereby amended to read as follows:

394.369 1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint ~~**[**is obtained**]**~~ from the pupil's treating physician ***is included in the pupil's***

services plan developed pursuant to 34 C.F.R. 300.138 or the pupil's individualized education program, whichever is appropriate, before the application of the mechanical restraint ***;*** ~~[or not later than 15 minutes after the application of the mechanical restraint;]~~

(c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the pupil as soon as practicable after the application of the mechanical restraint;

(d) The mechanical restraint is applied by a member of the staff of the private school who is trained and qualified to apply mechanical restraint;

(e) The pupil is given the opportunity to move and exercise the parts of his body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician who signed the order;

(f) A member of the staff of the private school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop or control his inappropriate behavior without the use of the restraint;

(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the private school who applied the mechanical restraint;

(h) A member of the staff of the private school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage.

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself because he lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's service plan developed pursuant to 34 C.F.R. ~~[300.455]~~ ***300.138*** or the pupil's individualized education program, whichever is appropriate.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record not later than 1 ~~*[3]*~~ working day ~~*[days]*~~ after the procedure is used. A copy of the report must be provided to the Superintendent, the administrator of the private school, the pupil's individualized education program team, if applicable, and the parent or guardian of the pupil. If the administrator of the private school determines that a denial of the pupil's rights has occurred, the administrator shall submit a report to the Superintendent in accordance with NRS 394.378.

4. ***If a pupil with a disability has three reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the private***

school in which the pupil is enrolled shall review the circumstances of the use of the restraint on the pupil and provide a report to the Superintendent on its findings.

5. If a pupil with a disability has five reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program or services plan has been reviewed, the private school and the parent or legal guardian of the pupil shall consider additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, behavioral assessment, a positive behavior plan and positive behavioral supports.

6. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. 1414(d)(1)(A).

~~[Sec. 6.]~~ ***Sec. 11.*** This act becomes effective on July 1, 2009.

Assemblywoman Mastroluca moved the adoption of the amendment.

Remarks by Assemblywoman Mastroluca.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 59.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 59.

AN ACT relating to child custody; creating a rebuttable presumption against an award of custody or unsupervised visitation for a person who has committed an act of abduction against a child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that an award of child custody or visitation may only be made by considering the best interest of the child. (NRS 125.480, 125C.010) Further, existing law creates a rebuttable presumption that sole or joint custody of a child by a perpetrator of domestic violence is not in the best interest of the child. (NRS 125.480, 125C.230, 432B.157) **Section 1** of this bill, for cases involving divorce or other dissolution of marriage: (1) creates a similar rebuttable presumption against awarding sole or joint custody or unsupervised visitation to a perpetrator of an act of abduction against his child or any other child; (2) defines the term "abduction"; (3) provides certain acts that constitute conclusive evidence of an act of abduction; and (4) requires a court to follow certain procedures concerning how to determine custody when **, after a final order of custody has been entered,** a **magistrate determines probable cause exists that a** party to the

custody proceeding ~~[is charged with committing]~~ **has committed** an act of abduction ~~[during the proceeding or]~~ **against the child or any other child.** ~~[after a final order of custody has been entered.]~~ **Sections 2 and 3** of this bill incorporate the same presumption and provisions into chapter 125C of NRS concerning custody and visitation and chapter 432B of NRS concerning protection of children from abuse and neglect.

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

Section 1. NRS 125.480 is hereby amended to read as follows:

125.480 1. In determining custody of a minor child in an action brought under this chapter, the sole consideration of the court is the best interest of the child. If it appears to the court that joint custody would be in the best interest of the child, the court may grant custody to the parties jointly.

2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.

3. The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:

(a) To both parents jointly pursuant to NRS 125.490 or to either parent. If the court does not enter an order awarding joint custody of a child after either parent has applied for joint custody, the court shall state in its decision the reason for its denial of the parent's application.

(b) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.

(c) To any person related within the third degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.

(d) To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.

4. In determining the best interest of the child, the court shall consider and set forth its specific findings concerning, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his custody.

(b) Any nomination by a parent or a guardian for the child.

(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

(d) The level of conflict between the parents.

(e) The ability of the parents to cooperate to meet the needs of the child.

(f) The mental and physical health of the parents.

(g) The physical, developmental and emotional needs of the child.

(h) The nature of the relationship of the child with each parent.

(i) The ability of the child to maintain a relationship with any sibling.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

(k) Whether either parent or any other person seeking custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

(l) Whether either parent or any other person seeking custody has committed any act of abduction against the child or any other child.

5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving either party;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;

(c) The likelihood of future injury;

(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors which the court deems relevant to the determination.

➥ In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. ***A determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody has committed any act of abduction against the child or any other child creates a rebuttable presumption that sole or joint custody or unsupervised visitation of the child by the perpetrator of the abduction is not in the best interest of the child. If the parent or other person seeking custody does not rebut the presumption, the court shall not***

enter an order for sole or joint custody or unsupervised visitation of the child by the perpetrator and the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of abduction occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other person from whom the child was abducted.

8. For purposes of subsection 7, any of the following acts constitute conclusive evidence that an act of abduction occurred:

(a) A conviction of the defendant of any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct;

(b) A plea of guilty or nolo contendere by the defendant to any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct; or

(c) An admission by the defendant to the court of the facts contained in the charging document alleging a violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

9. [If, during the pendency of a child custody proceeding, criminal charges are filed against a party to the child custody proceeding alleging any act of abduction against the child or any other child, there is a rebuttable presumption that sole or joint custody or unsupervised visitation of the child by the alleged perpetrator of the abduction is not in the best interest of the child. If the party does not rebut the presumption, the court:

(a) Shall not enter the final order concerning custody of the child;

(b) Shall provisionally find that sole or joint custody or unsupervised visitation of the child by the alleged perpetrator of the abduction is not in the best interest of the child; and

(c) Shall, in accordance with subsections 7 and 8, reconsider the issue and enter the final order concerning custody of the child after the disposition of the criminal matter.

10.] If, after a court enters a final order concerning custody of the child, [criminal charges are filed against a person who has been awarded sole or joint custody or unsupervised visitation of the child alleging any] a magistrate determines there is probable cause to believe that an act of abduction has been committed against the child or any other child [,] and that a person who has been awarded sole or joint custody or unsupervised visitation of the child has committed the act, the court shall, upon a motion to modify the order concerning custody, reconsider the previous order concerning custody pursuant to subsections 7 [,] and 8 . [and 9.

11.] 10. As used in this section [, "domestic] ***:***

(a) "Abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

(b) "Domestic violence" means the commission of any act described in NRS 33.018.

Sec. 2. Chapter 125C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody of a child has committed any act of abduction against the child or any other child creates a rebuttable presumption that sole or joint custody or unsupervised visitation of the child by the perpetrator of the abduction is not in the best interest of the child. If the parent or other person seeking custody does not rebut the presumption, the court shall not enter an order for sole or joint custody or unsupervised visitation of the child by the perpetrator and the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of abduction occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other person from whom the child was abducted.

2. For purposes of subsection 1, any of the following acts constitute conclusive evidence that an act of abduction occurred:

(a) A conviction of the defendant of any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct;

(b) A plea of guilty or nolo contendere by the defendant to any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct; or

(c) An admission by the defendant to the court of the facts contained in the charging document alleging a violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

3. ~~*[If, during the pendency of a child custody proceeding, criminal charges are filed against a party to the child custody proceeding alleging any act of abduction against the child or any other child, there is a rebuttable presumption that sole or joint custody or unsupervised visitation of the child by the alleged perpetrator of the abduction is not in the best interest of the child. If the party does not rebut the presumption, the court:*~~

~~*(a) Shall not enter the final order concerning custody of the child;*~~

~~*(b) Shall provisionally find that sole or joint custody or unsupervised visitation of the child by the alleged perpetrator of the abduction is not in the best interest of the child; and*~~

~~*(c) Shall, in accordance with subsections 1 and 2, reconsider the issue and enter the final order concerning custody of the child after the disposition of the criminal matter.*~~

~~*4.]*~~ ***If, after a court enters a final order concerning custody of the child,*** ~~*[criminal charges are filed against a person who has been awarded sole or*~~

~~joint custody or unsupervised visitation of the child alleging any]~~ **a magistrate determines there is probable cause to believe that an act of abduction has been committed against the child or any other child ~~[,]~~ and that a person who has been awarded sole or joint custody or unsupervised visitation of the child has committed the act, the court shall, upon a motion to modify the order concerning custody, reconsider the previous order concerning custody pursuant to subsections 1 ~~[,]~~ and 2 . ~~[and 3.~~**

~~5.]~~ **4. As used in this section, "abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.**

Sec. 3. Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody of a child has committed any act of abduction against the child or any other child creates a rebuttable presumption that sole or joint custody or unsupervised visitation of the child by the perpetrator of the abduction is not in the best interest of the child. If the parent or other person seeking custody does not rebut the presumption, the court shall not enter an order for sole or joint custody or unsupervised visitation of the child by the perpetrator and the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of abduction occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other person from whom the child was abducted.

2. For purposes of subsection 1, any of the following acts constitute conclusive evidence that an act of abduction occurred:

(a) A conviction of the defendant of any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct;

(b) A plea of guilty or nolo contendere by the defendant to any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct; or

(c) An admission by the defendant to the court of the facts contained in the charging document alleging a violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

3. ~~[If, during the pendency of a child custody proceeding, criminal charges are filed against a party to the child custody proceeding alleging any act of abduction against the child or any other child, there is a rebuttable presumption that sole or joint custody or unsupervised visitation of the child by the alleged perpetrator of the abduction is not in the best interest of the child. If the party does not rebut the presumption, the court:~~

~~(a) Shall not enter the final order concerning custody of the child;~~

~~*(b) Shall provisionally find that sole or joint custody or unsupervised visitation of the child by the alleged perpetrator of the abduction is not in the best interest of the child; and*~~

~~*(c) Shall, in accordance with subsections 1 and 2, reconsider the issue and enter the final order concerning custody of the child after the disposition of the criminal matter.*~~

~~*4.*~~ ***If, after a court enters a final order concerning custody of the child,*** ~~*[criminal charges are filed against a person who has been awarded sole or joint custody or unsupervised visitation of the child alleging any]*~~ ***a magistrate determines there is probable cause to believe that an act of abduction has been committed against the child or any other child*** ~~*[,]*~~ ***and that a person who has been awarded sole or joint custody or unsupervised visitation of the child has committed the act, the court shall, upon a motion to modify the order concerning custody, reconsider the previous order concerning custody pursuant to subsections 1*** ~~*[,]*~~ ***and 2.*** ~~*[and 3.*~~

~~*5.]*~~ ***4.*** ***A court, agency, institution or other person who places a child in protective custody shall not release a child to the custody of a person who a court has determined pursuant to this section has engaged in one or more acts of abduction against the child or any other child, unless a court determines that it is in the best interest of the child for the perpetrator of the abduction to have custody of the child.***

~~*[6.]*~~ ***5.*** ***As used in this section, "abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.***

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 63.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 24.

AN ACT relating to justice courts; authorizing the appointment of masters in justice courts under certain circumstances; ~~[revising provisions relating to the use of referees in justice courts;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the appointment of masters in justice courts to perform certain duties as approved by the Nevada Supreme Court. The master must possess qualifications which are at least equal to those required of a justice of the peace in the township in which the master is appointed, and the master is entitled to receive a salary or a per diem salary set by the board of county commissioners. However, a master may not

preside over: (1) any misdemeanor action for an act of domestic violence, vehicular manslaughter or driving under the influence; or (2) any preliminary hearing for a gross misdemeanor or felony.

~~[Section 2 of this bill prohibits a referee in justice court from taking testimony and recommending orders in any action involving vehicular manslaughter. Section 2 also provides that for certain cases involving traffic offenses, the parties do not have the right to file an objection to a sentence imposed by a referee. Finally, section 2 provides that instead of receiving one-half of the hourly compensation of a justice of the peace, a referee is entitled to receive a per diem salary set by the board of county commissioners. (NRS 4.355)]~~

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

Section 1. Chapter 4 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In any county in which the appointment of masters by a justice court is authorized by the board of county commissioners, the local rules of practice adopted in a justice court within the county may authorize the appointment of one or more masters to perform certain duties that the Supreme Court has approved. If the justice court elects to appoint a master or masters, the local rules of practice adopted in that court must set forth the selection process for choosing a master.

2. A master appointed pursuant to subsection 1 must possess qualifications that are equal to or greater than the qualifications required of the justice of the peace for the township in which the master is appointed as set forth in NRS 4.010.

3. The Supreme Court shall provide by rule for a course of instruction in the elements of substantive law relating to the duties of any master appointed pursuant to subsection 1.

4. A master appointed pursuant to subsection 1 may not preside over:

(a) Any trial for a misdemeanor constituting:

(1) An act of domestic violence pursuant to NRS 33.018; or

(2) A violation of NRS 484.3775, 484.379 or 484.379778; or

(b) Any preliminary hearing for a gross misdemeanor or felony.

5. A person appointed as a master must take and subscribe to the official oath before acting as a master.

6. A master is entitled to receive a salary or a per diem salary set by the board of county commissioners. The annual sum expended for salaries of masters must not exceed the amount budgeted for those expenses by the board of county commissioners.

Sec. 2. ~~[NRS 4.355 is hereby amended to read as follows:~~

~~4.355 1. A justice of the peace in a township whose population is 40,000 or more may appoint a referee to take testimony and recommend orders and a judgment:~~

~~(a) In any action filed pursuant to NRS 73.010;~~

~~(b) In any action filed pursuant to NRS 33.200 to 33.360, inclusive;~~

~~(c) In any action for a misdemeanor constituting a violation of chapter 484 of NRS, except NRS~~ ***484.3775,*** ~~484.379 or 484.379778; or~~

~~(d) In any action for a misdemeanor constituting a violation of a county traffic ordinance.~~

~~2. The referee must meet the qualifications of a justice of the peace as set forth in subsections 1 and 2 of NRS 4.010.~~

~~3. The referee:~~

~~(a) Shall take testimony;~~

~~(b) Shall make findings of fact, conclusions of law and recommendations for an order or judgment;~~

~~(c) May, subject to confirmation by the justice of the peace, enter an order or judgment; and~~

~~(d) Has any other power or duty contained in the order of reference issued by the justice of the peace.~~

~~4. The findings of fact, conclusions of law and recommendations of the referee must be furnished to each party or his attorney at the conclusion of the proceeding or as soon thereafter as possible.~~ **[**Within**]** ~~***Except as otherwise provided in this subsection, within***~~ ~~5 days after receipt of the findings of fact, conclusions of law and recommendations, a party may file a written objection. If no objection is filed, the court shall accept the findings, unless clearly erroneous, and the judgment may be entered thereon. If an objection is filed within the 5-day period, the justice of the peace shall review the matter by trial de novo, except that if all of the parties so stipulate, the review must be confined to the record.~~ ~~***If the justice of the peace has given the referee the authority to take pleas and impose sentences in cases involving violations of traffic laws under chapter 484 of NRS, then in such cases:***~~

~~***(a) The parties do not have the right to file a formal objection pursuant to this subsection; and***~~

~~***(b) The court shall accept the sentence of the referee, unless clearly erroneous, and the judgment may be entered thereon.***~~

~~5. ***A person appointed as a referee must take and subscribe to the official oath before acting as a referee.***~~

~~***6.*** A referee~~ **[**~~must be paid one-half of the hourly compensation of a justice of the peace.~~**]** ~~***is entitled to receive a per diem salary set by the board of county commissioners. The annual sum expended for salaries of referees must not exceed the amount budgeted for that expense by the board of county commissioners.]***~~ **(Deleted by amendment.)**

Sec. 3. This act becomes effective ~~**[**upon passage and approval.**]**~~ **on July 1, 2009.**

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.
Amendment adopted.
Bill ordered reprinted, engrossed and to third reading.

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

Assembly in recess at 11:56 a.m.

ASSEMBLY IN SESSION

At 11:57 a.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 213, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 247, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 213, 247 just reported out of committee, be placed on the Second Reading File.
Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 71.
Bill read second time.
The following amendment was proposed by the Committee on Commerce and Labor:
Amendment No. 474.
SUMMARY— ~~[Requires]~~ **Authorizes** the Real Estate Division of the Department of Business and Industry to keep confidential certain records and information obtained in regulating the sale of subdivided land. (BDR 10-431)
AN ACT relating to real property; ~~[requiring]~~ **authorizing** the Real Estate Division of the Department of Business and Industry to keep confidential certain records and information obtained by the Division in regulating the sale of subdivided land; and providing other matters properly relating thereto.
Legislative Counsel's Digest:

Existing law authorizes the Real Estate Division of the Department of Business and Industry, under certain circumstances, to keep confidential the criminal and financial records obtained by the Division pursuant to chapter 645 of NRS concerning a real estate salesman or other person licensed pursuant to that chapter, an applicant for such a license or an owner-developer. (NRS 645.180) ~~[Section 1 of this]~~ **This** bill ~~[requires]~~ **authorizes** the Division, under certain circumstances, to keep confidential the criminal ~~[records,]~~ **and** financial records ~~[and social security number]~~ of each applicant for a license or permit issued pursuant to chapter 119 of NRS which governs the sale of subdivided land, and each person who holds such a license or permit. ~~[Section 2 of this bill allows such records and information to be shared with certain other governmental agencies but not with the public.]~~

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

Section 1. Chapter 119 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in *~~[subsection 1 of]~~* ***NRS 119.265, unless otherwise ordered by a court, the Division*** *~~[shall]~~* ***may keep confidential*** *~~[:~~*

~~1. The]~~ ***the criminal and financial records of a licensee, permittee or an applicant for a license or permit issued pursuant to this chapter .*** *~~[; and~~*

~~2. The social security number of a licensee, permittee or an applicant for a license or permit issued pursuant to this chapter.]~~

Sec. 2. ~~[NRS 119.265 is hereby amended to read as follows:~~

~~119.265 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a license or permit issued pursuant to this chapter.~~

~~2. [The]~~ ***Except as otherwise provided in section 1 of this act, the*** ~~complaint or other charging documents filed with the Division to initiate disciplinary action and all documents and other information considered by the Division or a hearing officer when determining whether to impose discipline are public records.]~~ **(Deleted by amendment.)**

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 89.

Bill read second time.

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

Amendment No. 286.

AN ACT relating to the protection of children; making various changes concerning the investigation of applicants for a license to operate a child care facility, licensees and others over whom applicants or licensees exercise some control; requiring applicants and licensees to terminate certain employees and remove certain residents and participants in outdoor youth programs who have been convicted of certain crimes or who have had a substantiated report of child abuse or neglect made against them; expanding the grounds for denying a license and for taking other disciplinary action against a licensee; authorizing the imposition of administrative fines for violations of certain laws and regulations concerning licensure of child care facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure of certain child care facilities. (NRS 432A.131-432A.220) As part of the process for obtaining a license, the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services conducts a background check of each applicant for a license, licensee, employee of an applicant or licensee and every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older. (NRS 432A.170, 432A.175) **Section 5** of this bill expands the list of crimes that the Bureau must inquire about as part of such an investigation and requires the Bureau to request information concerning every applicant, licensee, employee, resident or participant from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child to determine whether there has been a substantiated report of child abuse or neglect made against any of those persons. (NRS 432A.170) **Section 6** of this bill requires the Bureau to obtain permission from each such applicant, licensee, employee, resident or participant to obtain such information from the Statewide Central Registry. (NRS 432A.175) If an employee of an applicant or licensee, or a resident or participant, has been convicted of one of the crimes inquired about as part of the investigation, the Bureau is required to notify the applicant or licensee. Upon receiving such notice, **section 2** of this bill requires the applicant or licensee to terminate the employment of the employee, remove the resident from the child care facility or remove the participant from the outdoor youth program, as applicable, after affording the person an opportunity to correct the information. **Section 6** further requires an applicant or licensee to notify the Bureau when the applicant, licensee, employee, resident or participant is involved in certain legal proceedings or disciplinary hearings or charged with certain crimes. (NRS 432A.175)

Section 4 of this bill prohibits the Bureau from issuing a provisional license to operate a child care facility unless the Bureau has completed an investigation into the qualifications and background of the applicant and his employees to ensure that they have not been convicted of certain crimes or had a substantiated report of child abuse or neglect made against them. (NRS 432A.160)

Section 7 of this bill expands the grounds for denial of an application for a license to operate a child care facility and for taking disciplinary action against a licensee and authorizes the Bureau to impose administrative fines for a violation of the statutes governing licensure of child care facilities or the regulations adopted pursuant thereto. (NRS 432A.190)

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

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

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

3. During any period in which an employee, resident or participant seeks to correct information pursuant to subsection 2, it is within the discretion of the applicant or licensee whether to allow the employee, resident or participant to continue to work for or reside at the child care facility or participate in the outdoor youth program, as applicable.

Sec. 3. ***1. Each applicant for a license to operate a child care facility and licensee shall maintain records of the information concerning its employees and any residents of the child care facility or participants in any outdoor youth program who are 18 years of age or older that is collected pursuant to NRS 432A.170 and 432A.175, including, without limitation:***

(a) A copy of the fingerprints submitted to the Central Repository for Nevada Records of Criminal History;

(b) Proof that the applicant or licensee submitted ~~*[two sets of]*~~ ***fingerprints to the Central Repository for its report;***

(c) The written authorization to obtain information from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100; and

(d) Proof that the applicant or licensee requested information from the Statewide Central Registry.

2. The records maintained pursuant to subsection 1 must be made available for inspection by the Bureau at any reasonable time, and copies thereof must be furnished to the Bureau upon request.

Sec. 4. NRS 432A.160 is hereby amended to read as follows:

432A.160 1. ~~[The]~~ ***Except as otherwise provided in this section, the*** Bureau may issue a provisional license, effective for a period not exceeding 1 year, to a child care facility which:

(a) Is in operation at the time of adoption of standards and other regulations pursuant to the provisions of this chapter, if the Bureau determines that the facility requires a reasonable time under the particular circumstances, not to exceed 1 year from the date of the adoption, within which to comply with the standards and other regulations;

(b) Has failed to comply with the standards and other regulations, if the Bureau determines that the facility is in the process of making the necessary changes or has agreed to effect the changes within a reasonable time; or

(c) Is in the process of applying for a license, if the Bureau determines that the facility requires a reasonable time within which to comply with the standards and other regulations.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Bureau from refusing to renew or from revoking or suspending any license in any instance where the Bureau considers that action necessary for the health and safety of the occupants of any facility or the clients of any outdoor youth program.

3. A provisional license must not be issued pursuant to this section unless the Bureau has completed an investigation into the qualifications and background of the applicant and his employees pursuant to NRS 432A.170 to ensure that the applicant and each employee of the applicant, or every resident of the child care facility or participant in any outdoor youth program who is 18 years of age or older, has not been convicted of a crime listed in subsection 2 of NRS 432A.170 and has not had a substantiated report of child abuse or neglect made against him.

Sec. 5. NRS 432A.170 is hereby amended to read as follows:

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

(a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or his employees;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. The Bureau shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, to determine whether he has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

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

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

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

(e) Abuse or neglect of a child or contributory delinquency; ~~[or]~~

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS ~~[.]~~ ***;***

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. ***The Bureau shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.***

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

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

(a) Employee of an applicant or licensee, resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program, and then at least once every 6 years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every 6 years after the license is issued.

Sec. 6. NRS 432A.175 is hereby amended to read as follows:

432A.175 1. Every applicant ~~[,]~~ ***for a license to operate a child care facility,*** licensee and employee of ***such*** an applicant or licensee, and every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, shall submit to the Bureau, or to the person or agency designated by the Bureau, ***to enable the Bureau to conduct an investigation pursuant to NRS 432A.170,*** a:

(a) Complete set of fingerprints and a written authorization for the Bureau or its designee to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; ~~[and]~~

(b) Written statement detailing any prior criminal convictions ~~[.~~ ~~→ to enable the Bureau to conduct an investigation pursuant to NRS 432A.170.]~~ ***; and***

(c) Written authorization for the Bureau to obtain any information that may be available from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. If an employee of an applicant ***for a license to operate a child care facility*** or licensee, or ~~[such]~~ a resident ***of a child care facility*** or participant ~~[.]~~ ***in an outdoor youth program who is 18 years of age or older,*** has been convicted of any crime listed in subsection 2 of NRS 432A.170 ~~[.]~~ ***or has had a substantiated report of child abuse or neglect filed against him,*** the Bureau shall immediately notify the applicant or licensee ~~[.]~~ ***, who shall then comply with the provisions of section 2 of this act.***

3. An applicant for a license to operate a child care facility or licensee shall notify the Bureau within 2 days after receiving notice that:

(a) The applicant, licensee or an employee of the applicant or licensee, or a resident of the child care facility or participant in an outdoor youth program who is 18 years of age or older, or a facility or program operated by the applicant or licensee, is the subject of a lawsuit or any disciplinary proceeding; or

(b) The applicant or licensee, an employee, a resident or participant has been charged with a crime listed in subsection 2 of NRS 432A.170 or is being investigated for child abuse or neglect.

Sec. 7. NRS 432A.190 is hereby amended to read as follows:

432A.190 1. The Bureau may deny an application for a license ***to operate a child care facility*** or may suspend or revoke ~~[any license issued under the provisions of this chapter]~~ ***such a license*** upon any of the following grounds:

(a) Violation by the applicant or licensee or an employee of the applicant or licensee of any of the provisions of this chapter or of any other law of this State or of the standards and other regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the child care facility for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the child care facility, or the clients of the outdoor youth program.

(e) Conviction of any crime listed in subsection 2 of NRS 432A.170 committed by the applicant or licensee or an employee of the applicant or licensee, or by a resident of the child care facility or participant in the outdoor youth program who is 18 years of age or older.

(f) Failure to comply with the provisions of NRS 432A.178.

(g) Substantiation of a report of child abuse or neglect made against the applicant or licensee.

(h) Conduct which is found to pose a threat to the health or welfare of a child or which demonstrates that the applicant or licensee is otherwise unfit to work with children.

(i) Violation by the applicant or licensee of the provisions of section 2 of this act by continuing to employ a person, allowing a resident to continue to reside in the child care facility or allowing a participant in an outdoor youth program to continue to participate in the program if the employee, or the resident or participant who is 18 years of age or older, has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him.

2. In addition to the provisions of subsection 1, the Bureau may revoke a license to operate a child care facility if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Bureau shall maintain a log of any complaints that it receives relating to activities for which the Bureau may revoke the license to operate a child care facility pursuant to subsection 2. The Bureau shall provide to a child care facility:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Bureau either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➥ The facility shall make the information available to the public pursuant to NRS 432A.178.

4. ***In addition to any other disciplinary action, the Bureau may impose an administrative fine for a violation of any provision of this chapter or any regulation adopted pursuant thereto. The Bureau shall afford to any person so fined an opportunity for a hearing. Any money collected for the imposition of such a fine must be credited to the State General Fund.***

5. On or before February 1 of each odd-numbered year, the Bureau shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Bureau pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Bureau pursuant to subsection 2.

Sec. 8. **NRS 432A.220 is hereby amended to read as follows:**

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, ***and sections 2 and 3 of this act*** is guilty of a misdemeanor.

Sec. 9. **The Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services is not required to obtain the information required pursuant to subsections 2 and 3 of section 5 of this act concerning a person who, on October 1, 2009, is a licensee, employee of a licensee, or resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older until 6 years after the license was issued or renewed, or from the date of employment of an employee, residency of a resident or participation of a participant.**

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 97.

Bill read second time.

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

Amendment No. 124.

AN ACT relating to governmental financial administration; requiring the establishment by regulation of procedures for transferring governmental functions between and among local governments; requiring the establishment by regulation of procedures for transferring governmental functions between and among local governments and state agencies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Committee on Local Government Finance to adopt regulations to establish procedures for transferring a function from one local government to another local government.

This bill also requires the Committee on Local Government Finance, in consultation with the Director of the Department of Administration, to adopt regulations to establish procedures for transferring a function from a local government to a state agency or from a state agency to a local government.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Committee on Local Government Finance created pursuant to NRS 354.105 shall, in consultation with the Director of the Department of Administration, adopt regulations to establish procedures for transferring a function from a state agency to a local government or from a local government to a state agency.

2. The regulations adopted by the Committee on Local Government Finance pursuant to subsection 1 must:

(a) Be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

(b) Include provisions requiring:

(1) ~~*[At least 90 days']*~~ ***That, except as otherwise provided in subsection 3, notice to the affected state agency and local government of the intent to transfer a function from a state agency to a local government or from a local government to a state agency*** ~~*[; and]*~~ ***be given not less than 30 days before September 1 of an even-numbered year, unless a different period of notification is required by a statute or by contractual agreement.***

(2) That, except as otherwise provided in subsection 3, the effective date of the transfer of a function from a state agency to a local government or from a local government to a state agency not be any earlier than July 1 of the year after the year in which notice is given, as described in subparagraph (1).

(3) The exchange of such information between the affected state agency and local government as is necessary to complete the transfer, including, without limitation, such matters as a complete description of the function to be transferred and the mechanism to be used to pay for the performance of that function.

3. An affected state agency and local government may, by mutual agreement, waive the requirements set forth in subparagraphs (1) and (2) of paragraph (b) of subsection 2.

4. As used in this section, "local government" has the meaning ascribed to it in NRS 354.474.

Sec. 2. NRS 353.150 is hereby amended to read as follows:

353.150 NRS 353.150 to 353.246, inclusive, ***and section 1 of this act*** may be cited as the State Budget Act.

Sec. 3. NRS 353.246 is hereby amended to read as follows:

353.246 1. Except as otherwise provided in subsection 2 of this section and subsection 6 of NRS 353.210, the provisions of NRS 353.150 to 353.245, inclusive, ***and section 1 of this act*** do not apply to agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government.

2. The Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit their budgets to the Legislature in the same format as the proposed executive budget unless otherwise provided by the Legislative Commission. All projections of revenue and any other information concerning future state revenue contained in those budgets must be based upon the projections and estimates prepared by the Economic Forum pursuant to NRS 353.228.

Sec. 4. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Committee on Local Government Finance shall adopt regulations to establish procedures for transferring a function from one local government to another local government.

2. The regulations adopted by the Committee on Local Government Finance pursuant to subsection 1 must:

(a) Be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

(b) Include provisions requiring:

(1) At least ~~*[90]*~~ ***180 days' notice to the affected local governments of the intent to transfer a function from one local government to another local government*** ~~*[; and]*~~ ***, unless a different period of notification is required by a statute or by contractual agreement.***

(2) The exchange of such information between the affected local governments as is necessary to complete the transfer, including, without limitation, such matters as a complete description of the function to be transferred and the mechanism to be used to pay for the performance of that function.

Sec. 5. NRS 354.476 is hereby amended to read as follows:

354.476 As used in NRS 354.470 to 354.626, inclusive, ***and section 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 354.479 to 354.578, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 354.594 is hereby amended to read as follows:

354.594 The Committee on Local Government Finance shall determine and advise local government officers of regulations, procedures and report forms for compliance with NRS 354.470 to 354.626, inclusive ~~[.]~~ ***, and section 4 of this act.***

Sec. 7. NRS 354.626 is hereby amended to read as follows:

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or contract to

expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, ***and section 4 of this act*** is guilty of a misdemeanor ~~[.]~~ and upon conviction thereof ceases to hold his office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Purchase of coverage and professional services directly related to a program of insurance which require an audit at the end of the term thereof.

(b) Long-term cooperative agreements as authorized by chapter 277 of NRS.

(c) Long-term contracts in connection with planning and zoning as authorized by NRS 278.010 to 278.630, inclusive.

(d) Long-term contracts for the purchase of utility service such as, but not limited to, heat, light, sewerage, power, water and telephone service.

(e) Contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract or contracts entered into between local government employers and employee organizations.

(f) Contracts between a local government and any person for the construction or completion of public works, money for which has been or will be provided by the proceeds of a sale of bonds, medium-term obligations or an installment-purchase agreement and that are entered into by the local government after:

(1) Any election required for the approval of the bonds or installment-purchase agreement has been held;

(2) Any approvals by any other governmental entity required to be obtained before the bonds, medium-term obligations or installment-purchase agreement can be issued have been obtained; and

(3) The ordinance or resolution that specifies each of the terms of the bonds, medium-term obligations or installment-purchase agreement, except those terms that are set forth in subsection 2 of NRS 350.165, has been adopted.

➥ Neither the fund balance of a governmental fund nor the equity balance in any proprietary fund may be used unless appropriated in a manner provided by law.

(g) Contracts which are entered into by a local government and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing fiscal year and which, under the method of accounting adopted by the local

government, will be charged against an appropriation of a subsequent fiscal year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

(h) Long-term contracts for the furnishing of television or FM radio broadcast translator signals as authorized by NRS 269.127.

(i) The receipt and proper expenditure of money received pursuant to a grant awarded by an agency of the Federal Government.

(j) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

(k) The receipt by a local government of increased revenue that:

(1) Was not anticipated in the preparation of the final budget of the local government; and

(2) Is required by statute to be remitted to another governmental entity.

Sec. 8. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 99.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 50.

SUMMARY—Makes various changes relating to ~~[the security and safety of participants in the legal process.]~~ **public safety.** (BDR 15-410)

AN ACT relating to public safety; ~~[providing for an increased penalty for crimes committed against participants in the legal process; prohibiting a person from making public certain restricted information concerning a participant in the legal process or his immediate family under certain circumstances;]~~ prohibiting a person from filing a false lien against the real or personal property of ~~[a participant in the legal process;]~~ **another person;** revising provisions prohibiting threats or intimidation addressed at certain persons **;** ~~[to include a participant in the legal process; providing that murder committed to avoid or prevent the lawful execution of the official duties of a participant in the legal process is murder in the first degree; making murder committed with the intent to intimidate or retaliate against a participant in the legal process an aggravating circumstance for purposes of the death penalty;]~~ authorizing judges to obtain fictitious addresses for certain public purposes; ~~[making various other changes relating to participants in the legal process;]~~ providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 4 and 6 of this bill provide an additional penalty for committing a crime against any person with the intent to: (1) intimidate against a participant in the legal process; (2) retaliate against a participant in the legal process; or (3) because of the status of a person as a participant in the legal process. The additional penalty is modeled after similar existing additional penalties, such as the additional penalties for committing a crime with the use of a deadly weapon and for committing a crime against an older person or a vulnerable person. (NRS 193.161-193.169)~~

~~Section 8 of this bill prohibits a person from knowingly making public certain restricted personal information of a participant in the legal process or his immediate family with the intent to threaten, intimidate or incite the commission of crimes against the participant in the legal process or his immediate family.]~~

Section 9 of this bill prohibits a person from **intentionally** filing, attempting to file or conspiring to file certain false liens and encumbrances against the property of ~~[a participant in the legal process as the result of the performance of official duties by the participant in the legal process.]~~ **another person.**

Section 10 of this bill revises provisions prohibiting threats or intimidation toward certain persons to prohibit ~~[threats, intimidation or retaliation against a participant in the legal process.]~~ **taking any such action with the intent to retaliate against such a person.** (NRS 199.300)

~~[Section 11 of this bill revises the definition of murder in the first degree to include a killing committed to avoid or prevent the lawful execution of the official duties of a participant in the legal process. (NRS 200.030)~~

~~Section 12 of this bill establishes for the purposes of imposing the death penalty an aggravating circumstance for murdering a person with the intent to intimidate or retaliate against a participant in the legal process in the performance of his official duties, because of an act performed in his official capacity or because of his status as a participant. (NRS 200.033)]~~

Sections 13-27 of this bill authorize judges to obtain a fictitious address and to use that fictitious address for certain public purposes, such as running for office, registering to vote and obtaining a driver's license. The provisions regarding such use of a fictitious address are modeled after existing provisions that apply to victims of domestic violence. (NRS 217.462-217.471)

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

Section 1. ~~[Chapter 193 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[*"Immediate family of a participant in the legal process" includes:*~~

~~*1. The spouse, parent, sibling or child of the participant in the legal process;*~~

~~*2. A person to whom the participant in the legal process stands in loco parentis; and*~~

~~*3. Any person who resides in the same household as the participant in the legal process.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*[“Participant in the legal process” means a person who currently serves in, who formerly served in, or who currently is or formerly was a candidate for, any of the following positions, including a person acting pro tempore:*~~

~~*1. Justice, judge, justice of the peace, magistrate, court commissioner, master or referee.*~~

~~*2. Attorney General, assistant or deputy attorney general, solicitor general or investigator for the Office of the Attorney General.*~~

~~*3. District attorney, assistant or deputy district attorney or investigator for the district attorney.*~~

~~*4. City attorney, assistant or deputy city attorney or investigator for the city attorney.*~~

~~*5. Public defender, special or alternate public defender, assistant or deputy public defender, assistant or alternate special public defender, investigator for the public defender or investigator for the special or alternate public defender.*~~

~~*6. Contract counsel or court appointed counsel for an indigent defendant or investigator for contract counsel or court appointed counsel.*~~

~~*7. Chief Parole and Probation Officer or assistant parole or probation officer.*~~

~~*8. Grand or petit juror.*~~

~~*9. Witness in any judicial proceeding.*~~

~~*10. Court clerk, deputy court clerk, court administrator, member of the staff of a court administrator, court interpreter, court reporter, bailiff, court marshal or deputy sheriff acting as a court security officer.*~~

~~*11. Court appointed advocate or a victim or witness advocate.*~~

~~*12. Attorney, law clerk or judicial assistant.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*[1. Except as otherwise provided in subsection 6 and NRS 193.169, any person who commits a crime against a participant in the legal process or another person with the intent to intimidate or retaliate against the participant or because of the status, official role or duties of the participant shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years.*~~

~~*2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:*~~

~~*(a) The facts and circumstances of the crime;*~~

~~*(b) The criminal history of the person;*~~

~~*(c) The impact of the crime on any victim;*~~

~~*(d) Any mitigating factors presented by the person; and*~~

~~*(e) Any other relevant information.*~~

~~*3. The court shall state on the record that it has considered the information described in subsection 2 in determining the length of the additional penalty imposed.*~~

~~*4. The sentence prescribed by this section:*~~

~~*(a) Must not exceed the sentence imposed for the crime; and*~~

~~*(b) Runs consecutively with the sentence prescribed by statute for the crime.*~~

~~*5. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.*~~

~~*6. This section does not apply if:*~~

~~*(a) The fact that the victim is a participant in the legal process is a necessary element of the primary offense; or*~~

~~*(b) The punishment for the primary offense is already greater pursuant to specific statute because the victim of the primary offense is a participant in the legal process.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 193.010 is hereby amended to read as follows:~~

~~193.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 193.011 to 193.0245, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[NRS 193.169 is hereby amended to read as follows:~~

~~193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, *section 4 of this act,* NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection 3 of NRS 193.161, subsection 3 of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, *section 4 of this act,* 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~3. This section does not:~~

~~(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 or 2.~~

~~(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections *of NRS* listed in subsection 1 or 2 and introducing evidence to prove the alternative allegations.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[Chapter 199 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.]~~ **(Deleted by amendment.)**

Sec. 8. ~~*[1. A person shall not knowingly make any of the restricted personal information of a participant in the legal process or the immediate family of a participant in the legal process publicly available:*~~

~~*(a) With the intent to threaten, intimidate or incite the commission of a crime against the participant in the legal process or the immediate family of a participant in the legal process; or*~~

~~*(b) With the intent that the restricted personal information will be used to threaten, intimidate or facilitate the commission of a crime against the participant in the legal process or the immediate family of a participant in the legal process.*~~

~~*2. A person who violates subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.*~~

~~*3. As used in this section, "restricted personal information" includes a social security number, home address, home telephone number, mobile telephone number, personal electronic mail address and home facsimile number.]*~~ **(Deleted by amendment.)**

Sec. 9. **Chapter 199 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A person shall not intentionally file, attempt to file or conspire to file, in any public record or any private record generally available to the public, any false lien or encumbrance against the real or personal property of ~~*[a participant in the legal process on account of, or in response to, the performance of official duties by the participant in the legal process]*~~ ***another person if the person knows or has reason to know that such lien or encumbrance:***

(a) Is false, fictitious or fraudulent; or

(b) Contains any false, fictitious or fraudulent statement of material fact.

2. A person who violates subsection 1 is guilty of a category ~~*[D]*~~ ***E felony and shall be punished as provided in NRS 193.130. The court shall also order the person to pay*** ~~*[to the participant in the legal process]*~~ ***all reasonable attorney's fees and costs incurred by the other person as the result of the violation.***

Sec. 10. NRS 199.300 is hereby amended to read as follows:

199.300 1. A person shall not, directly or indirectly, address any threat or intimidation to a public officer, public employee, juror, referee, arbitrator, appraiser, assessor or any person authorized by law to hear or determine any controversy or matter, with the intent to ***retaliate against him or*** induce him,

contrary to his duty to do, make, omit or delay any act, decision or determination, if the threat or intimidation communicates the intent, either immediately or in the future:

(a) To cause bodily injury to any person;

(b) To cause physical damage to the property of any person other than the person addressing the threat or intimidation;

(c) To subject any person other than the person addressing the threat or intimidation to physical confinement or restraint; or

(d) To do any other act which is not otherwise authorized by law and is intended to harm substantially any person other than the person addressing the threat or intimidation with respect to his health, safety, business, financial condition or personal relationships.

2. ~~*[In addition to the prohibition set forth in subsection 1, a person shall not, directly or indirectly, address any threat or intimidation to a participant in the legal process with the intent to retaliate against him for any decision or determination or because of his present or former status as a participant in the legal process, if the threat or intimidation communicates the intent, either immediately or in the future, to cause an act described in paragraphs (a) to (d), inclusive, of subsection 1.*~~

~~*3.]*~~ The provisions of this section must not be construed as prohibiting a person from making any statement in good faith of an intention to report any misconduct or malfeasance by a public officer or employee.

3. ~~*[4.]*~~ A person who violates subsection 1 ~~*[or 2]*~~ is guilty of:

(a) If physical force or the immediate threat of physical force is used in the course of the intimidation or in the making of the threat:

(1) For a first offense, a category C felony and shall be punished as provided in NRS 193.130.

(2) For a second or subsequent offense, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

(b) If no physical force or immediate threat of physical force is used in the course of the intimidation or in the making of the threat, a gross misdemeanor.

4. ~~*[5.]*~~ As used in this section, "public employee" means any person who performs public duties for compensation paid by the State, a county, city, local government or other political subdivision of the State or an agency thereof, including, without limitation, a person who performs a service for compensation pursuant to a contract with the State, county, city, local government or other political subdivision of the State or an agency thereof.

Sec. 11. ~~[NRS 200.030 is hereby amended to read as follows:~~

~~200.030 1. Murder of the first degree is murder which is:~~

~~(a) Perpetrated by means of poison, lying in wait or torture, or by any other kind of willful, deliberate and premeditated killing;~~

~~(b) Committed in the perpetration or attempted perpetration of sexual assault, kidnapping, arson, robbery, burglary, invasion of the home, sexual abuse of a child, sexual molestation of a child under the age of 14 years, child abuse or abuse of an older person or~~ ***a*** ~~vulnerable person pursuant to NRS 200.5099;~~

~~(c) Committed to avoid or prevent the lawful arrest of any person by a peace officer or to effect the escape of any person from legal custody;~~

~~(d) Committed on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties by a person who intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person;~~ **[**~~or~~**]**

~~(e) Committed in the perpetration or attempted perpetration of an act of terrorism~~ **[**~~.~~**]** ***; or***

(f) Committed to avoid or prevent the lawful execution of the official duties of a participant in the legal process, to retaliate against a participant in the legal process for the performance of those official duties or because of the status of a participant in the legal process.

~~2. Murder of the second degree is all other kinds of murder.~~

~~3. The jury before whom any person indicted for murder is tried shall, if they find him guilty thereof, designate by their verdict whether he is guilty of murder of the first or second degree.~~

~~4. A person convicted of murder of the first degree is guilty of a category A felony and shall be punished:~~

~~(a) By death, only if one or more aggravating circumstances are found and any mitigating circumstance or circumstances which are found do not outweigh the aggravating circumstance or circumstances, unless a court has made a finding pursuant to NRS 174.098 that the defendant is a person with mental retardation and has stricken the notice of intent to seek the death penalty; or~~

~~(b) By imprisonment in the state prison:~~

~~(1) For life without the possibility of parole;~~

~~(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or~~

~~(3) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.~~

~~→ A determination of whether aggravating circumstances exist is not necessary to fix the penalty at imprisonment for life with or without the possibility of parole.~~

~~5. A person convicted of murder of the second degree is guilty of a category A felony and shall be punished by imprisonment in the state prison:~~

~~(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or~~

~~(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.~~

~~6. As used in this section:~~

~~(a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415;~~

~~(b) "Child abuse" means physical injury of a nonaccidental nature to a child under the age of 18 years;~~

~~(c) "School bus" has the meaning ascribed to it in NRS 483.160;~~

~~(d) "Sexual abuse of a child" means any of the acts described in NRS 432B.100; and~~

~~(e) "Sexual molestation" means any willful and lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desires of the perpetrator or of the child.~~] **(Deleted by amendment.)**

Sec. 12. ~~[NRS 200.033 is hereby amended to read as follows:~~

~~200.033 The only circumstances by which murder of the first degree may be aggravated are:~~

~~1. The murder was committed by a person under sentence of imprisonment.~~

~~2. The murder was committed by a person who, at any time before a penalty hearing is conducted for the murder pursuant to NRS 175.552, is or has been convicted of:~~

~~(a) Another murder and the provisions of subsection 12 do not otherwise apply to that other murder; or~~

~~(b) A felony involving the use or threat of violence to the person of another and the provisions of subsection 4 do not otherwise apply to that felony.~~

~~→ For the purposes of this subsection, a person shall be deemed to have been convicted at the time the jury verdict of guilt is rendered or upon pronouncement of guilt by a judge or judges sitting without a jury.~~

~~3. The murder was committed by a person who knowingly created a great risk of death to more than one person by means of a weapon, device or course of action which would normally be hazardous to the lives of more than one person.~~

~~4. The murder was committed while the person was engaged, alone or with others, in the commission of, or an attempt to commit or flight after committing or attempting to commit, any robbery, arson in the first degree, burglary, invasion of the home or kidnapping in the first degree, and the person charged:~~

~~(a) Killed or attempted to kill the person murdered; or~~

~~(b) Knew or had reason to know that life would be taken or lethal force used.~~

~~5. The murder was committed to avoid or prevent a lawful arrest or to effect an escape from custody.~~

6. The murder was committed by a person, for himself or another, to receive money or any other thing of monetary value.

7. The murder was committed upon a peace officer or firefighter who was killed while engaged in the performance of his official duty or because of an act performed in his official capacity, and the defendant knew or reasonably should have known that the victim was a peace officer or firefighter. For the purposes of this subsection, "peace officer" means:

(a) An employee of the Department of Corrections who does not exercise general control over offenders imprisoned within the institutions and facilities of the Department, but whose normal duties require him to come into contact with those offenders when carrying out the duties prescribed by the Director of the Department.

(b) Any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, when carrying out those powers.

8. The murder involved torture or the mutilation of the victim.

9. The murder was committed upon one or more persons at random and without apparent motive.

10. The murder was committed upon a person less than 14 years of age.

11. The murder was committed upon a person because of the actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation of that person.

12. The defendant has, in the immediate proceeding, been convicted of more than one offense of murder in the first or second degree. For the purposes of this subsection, a person shall be deemed to have been convicted of a murder at the time the jury verdict of guilt is rendered or upon pronouncement of guilt by a judge or judges sitting without a jury.

13. The person, alone or with others, subjected or attempted to subject the victim of the murder to nonconsensual sexual penetration immediately before, during or immediately after the commission of the murder. For the purposes of this subsection:

(a) "Nonconsensual" means against the victim's will or under conditions in which the person knows or reasonably should know that the victim is mentally or physically incapable of resisting, consenting or understanding the nature of his conduct, including, but not limited to, conditions in which the person knows or reasonably should know that the victim is dead.

(b) "Sexual penetration" means cunnilingus, fellatio or any intrusion, however slight, of any part of the victim's body or any object manipulated or inserted by a person, alone or with others, into the genital or anal openings of the body of the victim, whether or not the victim is alive. The term includes, but is not limited to, anal intercourse and sexual intercourse in what would be its ordinary meaning.

14. The murder was committed on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties by a person who intended

~~to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person. For the purposes of this subsection, "school bus" has the meaning ascribed to it in NRS 483.160.~~

~~15. The murder was committed with the intent to commit, cause, aid, further or conceal an act of terrorism. For the purposes of this subsection, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.~~

~~*16. The murder was committed with the intent to intimidate or retaliate against a participant in the legal process in the performance of his official duty or because of an act performed in his official capacity or because of his status as a participant in the legal process.]*~~ **(Deleted by amendment.)**

Sec. 13. NRS 6.020 is hereby amended to read as follows:

6.020 1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the following-named persons, and no others, are exempt from service as grand or trial jurors:

(a) While the Legislature is in session, any member of the Legislature or any employee of the Legislature or the Legislative Counsel Bureau;

(b) Any person who has a fictitious address pursuant to NRS 217.462 to 217.471, inclusive ~~[,]~~ ***, or sections 16 to 21, inclusive, of this act;*** and

(c) Any police officer as defined in NRS 617.135.

2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.

3. A person who is the age of 65 years or over who lives 65 miles or more from the court is exempt from serving as a grand or trial juror. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is the age of 65 years or over and lives 65 miles or more from the court, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.

Sec. 14. NRS 6.020 is hereby amended to read as follows:

6.020 1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the following-named persons, and no others, are exempt from service as grand or trial jurors:

(a) While the Legislature is in session, any member of the Legislature or any employee of the Legislature or the Legislative Counsel Bureau; and

(b) Any person who has a fictitious address pursuant to NRS 217.462 to 217.471, inclusive ~~[,]~~ ***, or sections 16 to 21, inclusive, of this act.***

2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall

order the juror excused from all service as a grand or trial juror, if the juror so desires.

3. A person who is the age of 65 years or over who lives 65 miles or more from the court is exempt from serving as a grand or trial juror. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is the age of 65 years or over and lives 65 miles or more from the court, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.

Sec. 15. Chapter 239B of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 21, inclusive, of this act.

Sec. 16. ***As used in sections 16 to 21, inclusive, of this act, unless the context otherwise requires, "participant" means a present or former municipal ~~[court]~~ judge, justice of the peace, district ~~[court]~~ judge or justice of the Supreme Court ~~[justice]~~ for whom a fictitious address has been issued.***

Sec. 17. ***1. Any present or former municipal ~~[court]~~ judge, justice of the peace, district ~~[court]~~ judge or justice of the Supreme Court ~~[justice]~~ may apply to the Secretary of State to have a fictitious address designated by the Secretary of State serve as the address of the municipal ~~[court]~~ judge, justice of the peace, district ~~[court]~~ judge or justice of the Supreme Court. ~~[justice.]~~***

2. An application for the issuance of a fictitious address must include:

(a) Sufficient evidence showing that the municipal ~~[court]~~ judge, justice of the peace, district ~~[court]~~ judge or justice of the Supreme Court ~~[justice]~~ presently serves or formerly served as such before the filing of the application;

(b) The address that is requested to be kept confidential;

(c) A telephone number at which the Secretary of State may contact the applicant;

(d) A question asking whether the applicant wishes to:

(1) Register to vote; or

(2) Change the address of his current registration;

(e) A designation of the Secretary of State as agent for the applicant for the purposes of:

(1) Service of process; and

(2) Receipt of mail;

(f) The signature of the applicant;

(g) The date on which the applicant signed the application; and

(h) Any other information required by the Secretary of State.

3. It is unlawful for a person knowingly to attest falsely or provide incorrect information in the application. A person who violates this subsection is guilty of a misdemeanor.

4. The Secretary of State shall approve or disapprove an application for a fictitious address within 5 business days after the application is filed. Once approved, the present or former municipal ~~[court]~~ judge, justice of

the peace, district ~~[court]~~ judge or justice of the Supreme Court ~~[justice]~~ shall be considered a participant.

Sec. 18. ***1. If the Secretary of State approves an application, he shall:***

(a) Designate a fictitious address for the participant; and

(b) Forward mail that he receives for a participant to that participant.

2. The Secretary of State shall not make any records containing the name, confidential address or fictitious address of a participant available for inspection or copying, unless:

(a) The address is requested by a law enforcement agency, in which case the Secretary of State shall make the address available to the law enforcement agency; or

(b) He is directed to do so by lawful order of a court of competent jurisdiction, in which case the Secretary of State shall make the address available to the person identified in the order.

3. If a pupil is attending or wishes to attend a public school that is located outside the zone of attendance as authorized by paragraph (c) of subsection 2 of NRS 388.040 or a public school that is located in a school district other than the school district in which the pupil resides as authorized by NRS 392.016, the Secretary of State shall, upon request of the public school that the pupil is attending or wishes to attend, inform the public school of whether the parent or legal guardian with whom the pupil resides is a participant. The Secretary of State shall not provide any other information concerning the pupil or the parent or legal guardian of the pupil to the public school.

Sec. 19. ***If a participant indicates to the Secretary of State that the participant wishes to register to vote or change the address of his current registration, the Secretary of State shall furnish the participant with the form developed by the Secretary of State pursuant to the provisions of NRS 293.5002.***

Sec. 20. ***The Secretary of State may cancel the fictitious address of a participant at any time if:***

1. The participant changes his confidential address from the one listed in the application and fails to notify the Secretary of State within 48 hours after the change of address; or

2. The Secretary of State determines that false or incorrect information was knowingly provided in the application.

Sec. 21. ***The Secretary of State shall adopt procedures to carry out the provisions of sections 16 to 21, inclusive, of this act.***

Sec. 22. NRS 281.050 is hereby amended to read as follows:

281.050 1. ~~[The]~~ ***Except as provided in subsection 3, the*** residence of a person with reference to his eligibility to office is his actual residence within the State or county or district, as the case may be, during all the period for which residence is claimed by him. If any person absents himself from the jurisdiction of his residence with the intention in good faith to return

without delay and continue his residence, the period of absence must not be considered in determining the question of residence.

2. ~~[If]~~ ***Except as provided in subsection 3, if*** a candidate who has filed for elective office moves his residence out of the State, county, district, ward, subdistrict or any other unit prescribed by law for which he is a candidate and in which he is required actually, as opposed to constructively, to reside, a vacancy is created thereby and the appropriate action for filling the vacancy must be taken. A person shall be deemed to have moved his residence for the purposes of this section if:

(a) He has acted affirmatively to remove himself from one place; and

(b) He has an intention to remain in another place.

3. ***If a municipal judge, a justice of the peace, a district judge or a justice of the Supreme Court*** ~~*[justice]*~~ ***who has obtained a fictitious address pursuant to sections 16 to 21, inclusive, of this act wishes to file for elective office, the county or city clerk or registrar of voters shall accept the fictitious address as his actual residence. The Secretary of State shall, upon request of the county or city clerk or registrar of voters of the county, city, district, ward, subdistrict or any other unit prescribed by law for which the municipal judge, justice of the peace, district judge or justice of the Supreme Court*** ~~*[justice]*~~ ***wishes to file for elective office, inform the county or city clerk or registrar of voters of whether the municipal judge, justice of the peace, district judge or justice of the Supreme Court*** ~~*[justice]*~~ ***is a participant and whether he is eligible to file for elective office in that county, city, district, ward, subdistrict or other unit. The Secretary of State shall not provide any other information concerning that person.***

4. The district court has jurisdiction to determine the question of residence in an action for declaratory judgment.

~~[4.]~~ ***5.*** As used in this section, "actual residence" means the place where a person is legally domiciled and maintains a permanent habitation. If the person maintains more than one such habitation, the place he declares to be his principal permanent habitation when filing a declaration or affidavit pursuant to NRS 293.177 or 293C.185 shall be deemed to be his actual residence.

Sec. 23. NRS 293.5002 is hereby amended to read as follows:

293.5002 1. The Secretary of State shall establish procedures to allow a person for whom a fictitious address has been issued pursuant to NRS 217.462 to 217.471, inclusive, ***or sections 16 to 21, inclusive, of this act*** to:

(a) Register to vote; and

(b) Vote by absent ballot,

➥ without revealing the confidential address of the person.

2. In addition to establishing appropriate procedures or developing forms pursuant to subsection 1, the Secretary of State shall develop a form to allow a person for whom a fictitious address has been issued to register to vote or to change the address of his current registration. The form must include:

(a) A section that contains the confidential address of the person; and

(b) A section that contains the fictitious address of the person.

3. Upon receiving a completed form from a person for whom a fictitious address has been issued, the Secretary of State shall:

(a) On the portion of the form that contains the fictitious address of the person, indicate the county and precinct in which the person will vote and forward this portion of the form to the appropriate county clerk; and

(b) File the portion of the form that contains the confidential address.

4. Notwithstanding any other provision of law, any request received by the Secretary of State pursuant to subsection 3 shall be deemed a request for a permanent absent ballot.

5. Notwithstanding any other provision of law:

(a) The Secretary of State and each county clerk shall keep the portion of the form developed pursuant to subsection 2 that he retains separate from other applications for registration.

(b) The county clerk shall not make the name, confidential address or fictitious address of the person who has been issued a fictitious address available for:

(1) Inspection or copying; or

(2) Inclusion in any list that is made available for public inspection,

➥ unless he is directed to do so by lawful order of a court of competent jurisdiction.

Sec. 24. NRS 388.040 is hereby amended to read as follows:

388.040 1. Except as otherwise provided in subsection 2, the board of trustees of a school district that includes more than one school which offers instruction in the same grade or grades may zone the school district and determine which pupils must attend each school.

2. The establishment of zones pursuant to subsection 1 does not preclude a pupil from attending a:

(a) Charter school;

(b) University school for profoundly gifted pupils;

(c) Public school outside the zone of attendance that the pupil is otherwise required to attend if the pupil is enrolled in the Program of School Choice for Children in Foster Care established pursuant to NRS 392B.100; or

(d) Public school outside the zone of attendance that the pupil is otherwise required to attend if the pupil has been issued a fictitious address pursuant to NRS 217.462 to 217.471, inclusive, or the parent or legal guardian with whom the pupil resides has been issued a fictitious address pursuant to NRS 217.462 to 217.471, inclusive ~~[.]~~ ***, or sections 16 to 21, inclusive, of this act.***

Sec. 25. NRS 392.016 is hereby amended to read as follows:

392.016 1. If a pupil has been issued a fictitious address pursuant to NRS 217.462 to 217.471, inclusive, or the parent or legal guardian with whom the pupil resides has been issued a fictitious address pursuant to NRS 217.462 to 217.471, inclusive, ***or sections 16 to 21, inclusive, of this act,*** the

pupil may attend a public school that is located in a school district other than the school district in which the pupil resides.

2. If a pupil described in subsection 1 attends a public school that is located in a school district other than the school district in which the pupil resides:

(a) The pupil must be included in the count of pupils of the school district in which the pupil attends school for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive.

(b) Neither the board of trustees of the school district in which the pupil attends school nor the board of trustees of the school district in which the pupil resides is required to provide transportation for the pupil to attend the public school.

3. The provisions of this section do not apply to a pupil who is ineligible to attend a public school pursuant to NRS 392.264 or 392.4675.

Sec. 26. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

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

3. ***The Department shall issue a driver's license which bears a fictitious address designated by the Secretary of State if the applicant has been***

issued a fictitious address pursuant to sections 16 to 21, inclusive, of this act. The Secretary of State shall, upon request of the Department, inform the Department whether the applicant has been issued a fictitious address pursuant to sections 16 to 21, inclusive, of this act, but shall not provide any other information concerning the applicant.

4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to ~~[subsection]~~ ***subsections*** 2 ***and 3*** is confidential.

~~[4.]~~ ***5.*** It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

~~[5.]~~ ***6.*** At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

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

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

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

~~[6.]~~ ***7.*** If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

~~[7.]~~ ***8.*** The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection ~~[5]~~ ***6*** information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 27. NRS 483.340 is hereby amended to read as follows:

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

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

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

4. ***The Department shall issue a driver's license which bears a fictitious address designated by the Secretary of State if the applicant has been issued a fictitious address pursuant to sections 16 to 21, inclusive, of this act. The Secretary of State shall, upon request of the Department, inform the Department whether the applicant has been issued a fictitious address pursuant to sections 16 to 21, inclusive, of this act, but shall not provide any other information concerning the applicant.***

5. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to ~~[~~subsection~~]~~ ***subsections*** 3 ***and 4*** is confidential.

~~[~~5.~~]~~ ***6.*** It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.

~~[~~6.~~]~~ ***7.*** At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

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

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

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

~~[7.]~~ ***8.*** If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

~~[8.]~~ ***9.*** The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection ~~[6]~~ ***7*** information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 28. 1. This section and sections ~~[1 to 13, inclusive,]~~ **9, 10, 13** and 15 to 26, inclusive, of this act become effective on October 1, 2009.

2. Section 14 of this act becomes effective on July 1, 2011.

3. Section 27 of this act becomes effective upon the later of:

(a) The effective date of the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005; or

(b) The expiration of any extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005.

4. Section 13 of this act expires by limitation on June 30, 2011.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 105.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 211.

AN ACT relating to criminal procedure; providing that a defendant convicted of certain offenses must submit a specimen for genetic marker testing without a court ordering him to do so; authorizing a board of county commissioners to accept gifts, grants and donations for the county's fund for genetic marker testing; revising the purposes for which a forensic laboratory that receives money from a fund for genetic marker testing may use the money; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Upon conviction of certain crimes, existing law provides for the issuance of a court order requiring: (1) certain personal identifying information of the defendant to be submitted to the Central Repository for Nevada Records of Criminal History; and (2) a biological specimen of the defendant to be

obtained for genetic marker testing. (NRS 176.0913) **Section 1** of this bill **: (1)** eliminates the need for a court order for these requirements **[.] ; and (2) provides that the biological specimen is not required if the defendant previously submitted a biological specimen for a prior conviction.**

Existing law provides that a defendant who submits a biological specimen for genetic testing must pay a fee for that testing, which is then deposited with the county treasurer for deposit in that county's fund for genetic marker testing. Money remaining in the fund, after the county treasurer pays the actual costs of obtaining a biological specimen, must be distributed to forensic laboratories engaging in genetic marker testing for use for certain purposes. (NRS 176.0915) **Section 2** of this bill authorizes a board of county commissioners to accept gifts, grants and donations for the county's fund for genetic marker testing and expands the purposes for which a forensic laboratory which receives money from the county's fund may use that money.

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

Section 1. NRS 176.0913 is hereby amended to read as follows:

176.0913 1. If a defendant is convicted of an offense listed in subsection 4 ***:*** **[**~~, the court, at sentencing, shall order that:~~**]**

(a) The name, social security number, date of birth and any other information identifying the defendant ***must*** be submitted to the Central Repository for Nevada Records of Criminal History; and

(b) A biological specimen ***must*** be obtained from the defendant pursuant to the provisions of this section and **[**~~that~~**]** the specimen ***must*** be used for an analysis to determine the genetic markers of the specimen.

2. If the defendant is committed to the custody of the Department of Corrections, the Department of Corrections shall arrange for the biological specimen to be obtained from the defendant. The Department of Corrections shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

3. If the defendant is not committed to the custody of the Department of Corrections, the Division shall arrange for the biological specimen to be obtained from the defendant. The Division shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917. Any cost that is incurred to obtain a biological specimen from a defendant pursuant to this subsection is a charge against the county in which the defendant was convicted and must be paid as provided in NRS 176.0915.

4. Except as otherwise provided in subsection 5, the provisions of subsection 1 apply to a defendant who is convicted of:

(a) A felony;

(b) A crime against a child as defined in NRS 179D.0357;

(c) A sexual offense as defined in NRS 179D.097;

(d) Abuse or neglect of an older person or a vulnerable person pursuant to NRS 200.5099;

(e) A second or subsequent offense for stalking pursuant to NRS 200.575;

(f) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (e), inclusive;

(g) Failing to register with a local law enforcement agency as a convicted person as required pursuant to NRS 179C.100, if the defendant previously was:

(1) Convicted in this State of committing an offense listed in paragraph (a), (d), (e) or (f); or

(2) Convicted in another jurisdiction of committing an offense that would constitute an offense listed in paragraph (a), (d), (e) or (f) if committed in this State;

(h) Failing to register with a local law enforcement agency after being convicted of a crime against a child as required pursuant to NRS 179D.450; or

(i) Failing to register with a local law enforcement agency after being convicted of a sexual offense as required pursuant to NRS 179D.450.

5. ~~[A] [court shall not order a] [biological specimen] [to] [must not be obtained from a defendant who has previously submitted such a specimen for conviction of a prior offense unless] [the] [a court determines that]~~ ***If it is determined that a defendant's biological specimen has previously been submitted for conviction of a prior offense,*** an additional sample is ~~[necessary.]~~ ***not required.***

6. Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the results of a genetic marker analysis and any information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, results of a genetic marker analysis or information identifying or matching a biological specimen with a person, except pursuant to:

(a) A court order; or

(b) A request from a law enforcement agency during the course of an investigation.

7. A person who violates any provision of subsection 6 is guilty of a misdemeanor.

Sec. 2. NRS 176.0915 is hereby amended to read as follows:

176.0915 1. If ~~[the court orders that]~~ a biological specimen ~~[be]~~ ***is*** obtained from a defendant pursuant to NRS 176.0913, the court, in addition to any other penalty, shall order the defendant, to the extent of his financial ability, to pay the sum of $150 as a fee for obtaining the specimen and for

conducting the analysis to determine the genetic markers of the specimen. The fee:

(a) Must be stated separately in the judgment of the court or on the docket of the court;

(b) Must be collected from the defendant before or at the same time that any fine imposed by the court is collected from the defendant; and

(c) Must not be deducted from any fine imposed by the court.

2. All money that is collected pursuant to subsection 1 must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

3. The board of county commissioners of each county shall by ordinance create in the county treasury a fund to be designated as the fund for genetic marker testing. The county treasurer shall deposit money that is collected pursuant to subsection 2 in the fund for genetic marker testing. The money must be accounted for separately within the fund.

4. Each month, the county treasurer shall use the money deposited in the fund for genetic marker testing to pay for the actual amount charged to the county for obtaining a biological specimen from a defendant pursuant to NRS 176.0913.

5. ***The board of county commissioners of each county may apply for and accept grants, gifts, donations, bequests or devises which the board of county commissioners shall deposit with the county treasurer for credit to the fund for genetic marker testing.***

6. If money remains in the fund after the county treasurer makes the payments required by subsection 4, the county treasurer shall pay the remaining money each month to the forensic laboratory that is designated by the county pursuant to NRS 176.0917 to conduct or oversee genetic marker testing for the county. A forensic laboratory that receives money pursuant to this subsection shall use the money to ~~[~~:

~~(a) Maintain and purchase equipment and supplies relating to genetic marker testing, including, but not limited to, equipment and supplies required by the Federal Bureau of Investigation for participation in CODIS; and~~

~~(b) Pay for the training and continuing education, including, but not limited to, the reasonable travel expenses, of employees of the forensic laboratory who conduct or oversee~~] ***cover any expense related to*** genetic marker testing.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 116.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 53.

AN ACT relating to crimes; requiring a law enforcement agency and juvenile court to provide certain requested investigative and police reports within a specific period; excluding contributory conduct of a victim of domestic violence or sexual assault from consideration in certain determinations of compensation to the victim; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

To receive compensation from the Fund for the Compensation of Victims of Crime, a fund which is created in existing law, a victim must submit an application to a compensation officer appointed by the State Board of Examiners, who conducts an investigation, determines eligibility and renders a decision about the payment of compensation to the victim. (NRS 217.090, 217.100, 217.260) During an investigation, a compensation officer may order certain reports, including investigative and police reports. (NRS 217.110)

Section 1 of this bill requires a law enforcement agency or juvenile court, as applicable, to provide the compensation officer with a copy of the requested investigative and police reports within 10 days after the receipt of such a request **[.] or within 10 days after the report is completed, whichever is later.** **Section 2** of this bill exempts certain contributory conduct of a victim in cases involving domestic violence or sexual assault from the required considerations of a compensation officer in determining whether to make an order for compensation.

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

Section 1. NRS 217.110 is hereby amended to read as follows:

217.110 1. Upon receipt of an application for compensation, the compensation officer shall review the application to determine whether the applicant qualifies for compensation. The compensation officer shall deny the claim within 5 days after receipt of the application if the applicant's ineligibility is apparent from the facts stated in the application. The applicant may appeal the denial to a hearing officer within 15 days after the decision. If the hearing officer determines that the applicant may be entitled to compensation, the hearing officer shall order the compensation officer to complete an investigation and render a decision pursuant to subsection 2. If the hearing officer denies the appeal, the applicant may appeal to an appeals officer pursuant to NRS 217.117.

2. If the compensation officer does not deny the application pursuant to subsection 1, or if he is ordered to proceed by the hearing officer, he shall conduct an investigation and, except as otherwise provided in subsection **[4,] *6,*** render a decision within 60 days after his receipt of the application or order. If **,** in conducting his investigation **,** the compensation officer believes that:

(a) Reports on the previous medical history of the victim;

(b) An examination of the victim and a report of that examination;

(c) A report on the cause of death of the victim by an impartial medical expert; or

(d) Investigative or police reports,

➥ would aid him in making his decision, the compensation officer may order the reports.

3. ~~[~~Upon~~]~~ ~~*[Within 10 days after receipt of* the request of~~]~~ ***If*** a compensation officer ***submits a request*** pursuant to subsection 2 for investigative or police reports which concern ~~[a]~~ ***:***

(a) A natural person, other than a minor, who committed a crime against the victim, a law enforcement agency shall provide the compensation officer with a copy of the requested investigative or police reports ~~*[; or]*~~ ***within 10 days after receipt of the request or within 10 days after the reports are completed, whichever is later.***

(b) A minor who committed a crime against the victim, a juvenile court or a law enforcement agency shall provide the compensation officer with a copy of the requested investigative or police reports ~~[.]~~ ***within 10 days after receipt of the request or within 10 days after the reports are completed, whichever is later.***

4. A law enforcement agency or a juvenile court shall not redact any information , except information deemed confidential, from an investigative or police report before providing a copy of the requested report to a compensation officer pursuant to subsection 3.

5. Any reports obtained by a compensation officer pursuant to ~~[this]~~ subsection ***3*** are confidential and must not be disclosed except upon the lawful order of a court of competent jurisdiction.

~~[4.]~~ ***6.*** When additional reports are requested pursuant to subsection 2, the compensation officer shall render a decision in the case, including an order directing the payment of compensation ~~[,]~~ if compensation is due, within 15 days after receipt of the reports.

Sec. 2. NRS 217.180 is hereby amended to read as follows:

217.180 1. ~~[In]~~ ***Except as otherwise provided in subsection 2, in*** determining whether to make an order for compensation, the compensation officer shall consider the provocation, consent or any other behavior of the victim that directly or indirectly contributed to his injury or death, the prior case or social history, if any, of the victim, the need of the victim or his dependents for financial aid and other relevant matters.

2. ***If the case involves a victim of domestic violence or sexual assault, the compensation officer shall not consider the provocation, consent or any other behavior of the victim that directly or indirectly contributed to his injury or death.***

3. If the applicant has received or is likely to receive an amount on account of his injury or the death of another from:

(a) The person who committed the crime that caused the victim's injury or from anyone paying on behalf of the offender;

(b) Insurance;

(c) The employer of the victim; or

(d) Another private or public source or program of assistance,

➥ the applicant shall report the amount received or that he is likely to receive to the compensation officer. Any of those sources that are obligated to pay an amount after the award of compensation shall pay the Board the amount of compensation that has been paid to the applicant and pay the remainder of the amount due to the applicant. The compensation officer shall deduct the amounts that the applicant has received or is likely to receive from those sources from the applicant's total expenses.

~~[3.]~~ ***4.*** An order for compensation may be made whether or not a person is prosecuted or convicted of an offense arising from the act on which the claim for compensation is based.

~~[4.]~~ ***5.*** As used in this section ~~[, "public]~~ ***:***

(a) "Domestic violence" means an act described in NRS 33.018.

(b) "Public source or program of assistance" means:

~~[(a)]~~ ***(1)*** Public assistance, as defined in NRS 422.050 and 422A.065;

~~[(b)]~~ ***(2)*** Social services provided by a social service agency, as defined in NRS 430A.080; or

~~[(c)]~~ ***(3)*** Other assistance provided by a public entity.

(c) "Sexual assault" has the meaning ascribed to it in NRS 200.366.

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 123.

Bill read second time.

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

Amendment No. 328.

AN ACT relating to public health; requiring offices of physicians and related facilities to obtain a permit and national accreditation before providing certain services involving anesthesia and sedation; **providing an exception for certain offices and facilities;** requiring surgical centers for ambulatory patients to obtain national accreditation; requiring annual inspections of such offices, facilities and surgical centers; requiring that copies of reports relating to the use of anesthesia and sedation by physicians be submitted to the Health Division of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain medical facilities, including hospitals, psychiatric hospitals, community triage centers and surgical centers for

ambulatory patients, to be licensed by the Health Division of the Department of Health and Human Services. (NRS 449.030)

Sections ~~[8-10]~~ 9-11 of this bill require offices of physicians and other facilities providing health care that are not licensed as a medical facility by the Health Division to obtain a permit from the Division before offering general anesthesia, conscious sedation or deep sedation and prescribe the procedure for obtaining such a permit. The office or facility must maintain current accreditation by a nationally recognized accrediting organization approved by the State Board of Health.

Section ~~[11]~~ 12 of this bill requires each surgical center for ambulatory patients to maintain current accreditation by a nationally recognized accrediting organization approved by the State Board of Health.

Section ~~[12]~~ 13 of this bill requires the Health Division to conduct annual and unannounced inspections of each office and facility which holds a permit issued by the Health Division and each surgical center for ambulatory patients which holds a license issued by the Health Division.

Section ~~[13]~~ 14 of this bill prescribes the sanctions which the Health Division may impose for a violation of **sections ~~[3-14]~~ 3-15** of this bill by an office or facility or by a surgical center for ambulatory patients.

Section ~~[14]~~ 15 of this bill requires the State Board of Health to prescribe regulations to carry out the provisions of **sections ~~[3-14]~~ 3-15** of this bill, including fees for the issuance and renewal of permits. The regulations are subject to review by the Legislative Committee on Health Care. (NRS 439B.225)

Section 8 of this bill provides that sections 3-15 of this bill do not apply to an office of a physician or other facility that is not licensed as a medical facility if the office or facility only administers medication to a patient to relieve the patient's anxiety or pain in certain circumstances.

Existing law requires a physician licensed to practice medicine or osteopathic medicine to report the number and types of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the physician at his office or certain other facilities. (NRS 630.30665, 633.524) **Sections ~~[19 and 22]~~ 20 and 23** of this bill require the Board of Medical Examiners and the State Board of Osteopathic Medicine to forward to the Health Division such reports.

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

Section 1. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, "licensing board" means any division or board empowered to adopt standards for **~~[~~**~~licensing~~**~~]~~** ***the issuance or renewal of licenses, permits*** or ***certificates of*** registration **~~[~~**~~or for the renewal of licenses or certificates of registration~~**~~]~~** pursuant to NRS 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634,

634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641, 641A, 641B, 641C, 652 or 654 of NRS.

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for ~~[licensing]~~ ***the issuance or renewal of licenses, permits*** or ***certificates of*** registration ~~[or to the renewal of a license or certificate of registration]~~ issued to a person or facility regulated by the board, giving consideration to:

(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;

(b) The effect of the regulation on the cost of health care in this State;

(c) The effect of the regulation on the number of licensed ***, permitted*** or registered persons and facilities available to provide services in this State; and

(d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 2. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to ~~[14,]~~ **15,** inclusive, of this act.

Sec. 3. ***As used in sections 3 to ~~[14,]~~ 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 7, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.***

Sec. 5. ***"Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.***

Sec. 6. ***"General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.***

Sec. 7. ***"Physician" means a person who is licensed to practice medicine pursuant to chapter 630 of NRS or osteopathic medicine pursuant to chapter 633 of NRS.***

Sec. 8. ***The provisions of sections 3 to 15, inclusive, of this act do not apply to an office of a physician or a facility that provides health care, other than a medical facility, if the office of a physician or the facility only administers a medication to a patient to relieve the patient's anxiety or pain and if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.***

~~[Sec. 8.]~~ ***Sec. 9. 1. An office of a physician or a facility that provides health care, other than a medical facility, must obtain a permit pursuant to section*** ~~*[9]*~~ ***10 of this act before offering to a patient a service of general anesthesia, conscious sedation or deep sedation. An office of a physician or a facility that provides health care, other than a medical facility, which operates at more than one location must obtain a permit for each location where a service of general anesthesia, conscious sedation or deep sedation is offered.***

2. To offer to a patient a service of general anesthesia, conscious sedation or deep sedation in this State, an office of a physician or a facility that provides health care, other than a medical facility, must maintain current accreditation by a nationally recognized organization approved by the Board. Upon receiving an initial permit, the office or facility shall, within 6 months after obtaining the permit, submit proof to the Health Division of accreditation by such an organization.

3. If an office of a physician or a facility that provides health care, other than a medical facility, fails to maintain current accreditation or if the accreditation is revoked or is otherwise no longer valid, the office or facility shall immediately cease offering to patients a service of general anesthesia, conscious sedation or deep sedation.

~~[Sec. 9.]~~ ***Sec. 10. 1. An office of a physician or a facility that provides health care, other than a medical facility, desiring a permit pursuant to sections 3 to*** ~~*[14,]*~~ ***15, inclusive, of this act must submit to the Health Division, on a form prescribed by the Health Division and accompanied by the appropriate fee, an application for a permit.***

2. Before issuing a permit, the Health Division shall conduct an on-site inspection pursuant to section ~~*[12]*~~ ***13 of this act of each office of a physician or facility that applies for a permit.***

3. Upon receipt of an application and the appropriate fee, the Health Division may, after conducting an inspection pursuant to section ~~*[12]*~~ ***13 of this act, issue a permit.***

4. A permit expires 1 year after the date of issuance and is renewable pursuant to section ~~*[10]*~~ ***11 of this act.***

~~[Sec. 10.]~~ ***Sec. 11. 1. The holder of a permit issued pursuant to section*** ~~*[9]*~~ ***10 of this act may annually submit to the Health Division, on a form prescribed by the Health Division and accompanied by the appropriate fee, an application for renewal of the permit before the date on which the permit expires. The application must include proof satisfactory***

to the Health Division that the office or facility maintains current accreditation by a nationally recognized organization approved by the Board.

2. Upon receipt of an application for renewal and the accompanying fee, the Health Division may renew a permit.

~~[Sec. 11.]~~ *Sec. 12. 1. To operate in this State, a surgical center for ambulatory patients must maintain current accreditation by a nationally recognized organization approved by the Board. Upon initial licensure, a surgical center for ambulatory patients shall, within 6 months after obtaining its license, submit proof to the Health Division of the accreditation of the surgical center by such an organization.*

2. Before issuing a license to a surgical center for ambulatory patients, the Health Division shall conduct an on-site inspection of the surgical center pursuant to section ~~[12.]~~ 13 of this act.

3. If a surgical center for ambulatory patients fails to maintain current accreditation or if the accreditation is revoked or is otherwise no longer valid, the surgical center shall immediately cease to operate.

~~[Sec. 12.]~~ *Sec. 13. 1. The Health Division shall conduct annual and unannounced on-site inspections of each office of a physician or a facility that provides health care, other than a medical facility, which holds a permit issued pursuant to section ~~[9.]~~ 10 of this act and each surgical center for ambulatory patients which holds a license issued pursuant to this chapter.*

2. An inspection conducted pursuant to this section must focus on the infection control practices and policies of the surgical center for ambulatory patients, the office or the facility that is the subject of the inspection. The Health Division may, as it deems necessary, conduct a more comprehensive inspection of a surgical center, office or facility.

3. Upon completion of an inspection, the Health Division shall:

(a) Compile a report of the inspection, including each deficiency discovered during the inspection, if any; and

(b) Forward a copy of the report to the surgical center for ambulatory patients, the office of the physician or the facility where the inspection was conducted.

4. If a deficiency is indicated in the report, the surgical center for ambulatory patients, the office of the physician or the facility shall correct each deficiency indicated in the report in the manner prescribed by the Board pursuant to section ~~[14.]~~ 15 of this act.

5. The Health Division shall annually prepare and submit to the Legislative Committee on Health Care and the Legislative Commission a report which includes:

(a) The number and frequency of inspections conducted pursuant to this section;

(b) A summary of deficiencies or other significant problems discovered while conducting inspections pursuant to this section and the results of any follow-up inspections; and

(c) Any other information relating to the inspections as deemed necessary by the Legislative Committee on Health Care or the Legislative Commission.

~~[Sec. 13.]~~ *Sec. 14. 1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of sections 3 to ~~[14,]~~ 15, inclusive, of this act, or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to section ~~[12]~~ 13 of this act, the Health Division, in accordance with the regulations adopted pursuant to section ~~[14]~~ 15 of this act, may take any of the following actions:*

(a) Decline to issue or renew a permit;

(b) Suspend or revoke a permit; or

(c) Impose an administrative penalty of not more than $1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum.

2. The Health Division may review a report submitted pursuant to NRS 630.30665 or 633.524 to determine whether an office of a physician or a facility is in violation of the provisions of sections 3 to ~~[14,]~~ 15, inclusive, of this act or the regulations adopted pursuant thereto. If the Health Division determines that such a violation has occurred, the Health Division shall immediately notify the appropriate professional licensing board of the physician.

3. If a surgical center for ambulatory patients violates the provisions of sections 3 to ~~[14,]~~ 15, inclusive, of this act, or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to section ~~[12]~~ 13 of this act, the Health Division may impose administrative sanctions pursuant to NRS 449.163.

~~[Sec. 14.]~~ *Sec. 15. 1. The Board shall adopt regulations to carry out the provisions of sections 3 to ~~[14,]~~ 15, inclusive, of this act, including, without limitation, regulations which:*

(a) Prescribe the amount of the fee required for applications for the issuance and renewal of a permit pursuant to sections ~~[9]~~ 10 and ~~[10]~~ 11 of this act.

(b) Prescribe the procedures and standards for the issuance and renewal of a permit.

(c) Identify the nationally recognized organizations approved by the Board for the purposes of the accreditation required for the issuance of a:

(1) License to operate a surgical center for ambulatory patients.

(2) Permit for an office of a physician or a facility that provides health care, other than a medical facility, to offer to a patient a service of general anesthesia, conscious sedation or deep sedation.

(d) Prescribe the procedures and scope of the inspections conducted by the Health Division pursuant to section ~~[12]~~ 13 of this act.

(e) Prescribe the procedures and time frame for correcting each deficiency indicated in a report pursuant to section ~~[12]~~ 13 of this act.

(f) Prescribe the criteria for the imposition of each sanction prescribed by section ~~[13]~~ 14 of this act, including, without limitation:

(1) Setting forth the circumstances and manner in which a sanction applies;

(2) Minimizing the time between the identification of a violation and the imposition of a sanction; and

(3) Providing for the imposition of incrementally more severe sanctions for repeated or uncorrected violations.

2. The regulations adopted pursuant to this section must require that the practices and policies of each holder of a permit to offer to a patient a service of general anesthesia, conscious sedation or deep sedation and each holder of a license to operate a surgical center for ambulatory patients provide adequately for the protection of the health, safety and well-being of patients.

~~[Sec. 15.]~~ ***Sec. 16.*** NRS 233B.063 is hereby amended to read as follows:

233B.063 1. At least 30 days before the time of giving notice of its intention to adopt, amend or repeal a permanent regulation **,** an agency shall deliver to the Legislative Counsel a copy of the proposed regulation. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for ~~[licensing]~~ ***the issuance or renewal of licenses, permits*** or ***certificates of*** registration ~~[or for the renewal of a license or a certificate of registration]~~ issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year

without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

~~[Sec. 16.]~~ ***Sec. 17.*** NRS 233B.070 is hereby amended to read as follows:

233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except as otherwise provided in NRS 293.247 or where a later date is specified in the regulation.

2. Except as otherwise provided in NRS 233B.0633, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.

5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.

6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Library and Archives Administrator, to the State Library and Archives Administrator for use by the public. If the agency is a licensing board as defined in NRS 439B.225 and it has adopted a permanent regulation relating to standards for ~~[licensing]~~ ***the issuance or renewal of licenses, permits*** or ***certificates of*** registration ~~[or for the renewal of a license or a certificate of registration]~~ issued to a person or facility regulated by the agency, the agency shall also

deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the Legislative Committee on Health Care within 10 days after the regulation is filed with the Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.

8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the leadlines and numbers of the sections. Any other material which an agency includes in a publication with its regulations must be presented in a form which clearly distinguishes that material from the regulations.

~~[Sec. 17.]~~ ***Sec. 18.*** Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

(a) In an office of a physician or osteopathic physician which holds a permit pursuant to sections 3 to ~~[14,]~~ 15, inclusive, of this act;

(b) In a facility which holds a permit pursuant to sections 3 to ~~[14,]~~ 15, inclusive, of this act;

(c) In a medical facility as that term is defined in NRS 449.0151; or

(d) Outside of this State.

2. As used in this section:

(a) "Conscious sedation" has the meaning ascribed to it in section 4 of this act.

(b) "Deep sedation" has the meaning ascribed to it in section 5 of this act.

(c) "General anesthesia" has the meaning ascribed to it in section 6 of this act.

~~[Sec. 18.]~~ ***Sec. 19.*** NRS 630.306 is hereby amended to read as follows:

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

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

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

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

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

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform.

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

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

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

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

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

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

13. Failure to comply with the requirements of section ~~[17]~~ 18 of this act.

~~[Sec. 19.]~~ ***Sec. 20.*** NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in

the manner prescribed by the Board which must be substantially similar to the manner prescribed by the Administrator of the Health Division ~~[of the Department of Health and Human Services]~~ for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the ~~[report]~~ ***reports*** required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 8 of NRS 630.306.

4. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 and 2; ~~[and]~~

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access ~~[.]~~ ***; and***

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 5.

5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

7. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

8. As used in this section:

(a) "Conscious sedation" ~~[means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.]~~ ***has the meaning ascribed to it in section 4 of this act.***

(b) "Deep sedation" ~~[means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.]~~ ***has the meaning ascribed to it in section 5 of this act.***

(c) "General anesthesia" ~~[means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.]~~ ***has the meaning ascribed to it in section 6 of this act.***

(d) ***"Health Division" has the meaning ascribed to it in NRS 449.009.***

(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

~~[Sec. 20.]~~ ***Sec. 21.*** Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An osteopathic physician shall not administer or supervise directly the administration of general anesthesia, conscious sedation or deep sedation to patients unless the general anesthesia, conscious sedation or deep sedation is administered:

(a) In an office of a physician or osteopathic physician which holds a permit pursuant to sections 3 to ~~[14,]~~ 15, inclusive, of this act;

(b) In a facility which holds a permit pursuant to sections 3 to ~~[14,]~~ 15, inclusive, of this act;

(c) In a medical facility as that term is defined in NRS 449.0151; or

(d) Outside of this State.

2. As used in this section:

(a) "Conscious sedation" has the meaning ascribed to it in section 4 of this act.

(b) "Deep sedation" has the meaning ascribed to it in section 5 of this act.

(c) "General anesthesia" has the meaning ascribed to it in section 6 of this act.

~~[Sec. 21.]~~ ***Sec. 22.*** NRS 633.511 is hereby amended to read as follows:

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

1. Unprofessional conduct.

2. Conviction of:

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

(b) A felony relating to the practice of osteopathic medicine;

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

(d) Murder, voluntary manslaughter or mayhem;

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

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

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

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

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. Gross or repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the requirements of section ~~[20]~~ 21 of this act.

~~[Sec. 22.]~~ ***Sec. 23.*** NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the Administrator of the Health Division ~~[of the Department of Health and Human Services]~~ for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the ~~[report]~~ ***reports*** required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.

4. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 and 2; ~~[and]~~

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access ~~[.]~~ ***; and***

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection 5.

5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

7. In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

8. As used in this section:

(a) "Conscious sedation" ~~[means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.]~~ ***has the meaning ascribed to it in section 4 of this act.***

(b) "Deep sedation" ~~[means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.]~~ ***has the meaning ascribed to it in section 5 of this act.***

(c) "General anesthesia" ~~[means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and~~

~~respond purposefully to physical stimulation or verbal commands.~~] ***has the meaning ascribed to it in section 6 of this act.***

(d) ***"Health Division" has the meaning ascribed to it in NRS 449.009.***

(e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

~~[Sec. 23.]~~ ***Sec. 24.*** The State Board of Health shall:

1. On or before October 1, 2009, adopt regulations pursuant to section ~~[14]~~ **15** of this act relating to the nationally recognized organizations approved by the Board for the accreditation of surgical centers for ambulatory patients required by section ~~[11]~~ **12** of this act.

2. On or before January 1, 2010, adopt all other regulations required by section ~~[14]~~ **15** of this act.

~~[Sec. 24.]~~ ***Sec. 25.*** A surgical center for ambulatory patients that holds a license pursuant to chapter 449 of NRS which was issued before October 1, 2009, shall, on or before March 31, 2010, submit to the Health Division of the Department of Health and Human Services documentation that the surgical center is accredited pursuant to the regulations adopted by the State Board of Health in accordance with section ~~[14]~~ **15** of this act.

~~[Sec. 25.]~~ ***Sec. 26.*** An office of a physician or a facility that provides health care, other than a medical facility, which offers to a patient a service of general anesthesia, conscious sedation or deep sedation must obtain a permit pursuant to section ~~[9]~~ **10** of this act on or before October 1, 2010.

~~[Sec. 26.]~~ ***Sec. 27.*** 1. This section and sections 1, ~~[14,]~~ 15, 16 **, 17** and ~~[23]~~ **24** of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2010, for all other purposes.

2. Sections 2 to ~~[13,]~~ **14,** inclusive, ~~[17]~~ **18** to ~~[22,]~~ **23,** inclusive, ~~[24]~~ **25** and ~~[25]~~ **26** of this act become effective on January 1, 2010.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 155.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 335.

AN ACT relating to education; requiring the State Board of Education to adopt a program of multicultural education for certain pupils; requiring certain licensed teachers to complete a course in multicultural education upon renewal of their license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the State Board of Education to adopt a program of multicultural education. **Section 1** also requires the boards of trustees of school districts to ensure that the program is provided to pupils enrolled in grades 2 through 12.

Section 2 of this bill requires a licensed teacher who submits an application on or after January 1, 2011, to submit proof of his completion of a course in multicultural education unless the teacher has previously completed such a course. **Section 2** also requires the Commission on Professional Standards in Education to prescribe the contents and credits required for a course in multicultural education.

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

Section 1. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board shall adopt regulations that prescribe a program of multicultural education, including, without limitation, information relating to the contributions made by men and women from various racial and ethnic backgrounds.

2. The board of trustees of each school district shall ensure that the program prescribed pursuant to subsection 1 is provided to pupils enrolled in grades 2 to 12, inclusive, with particular emphasis for pupils enrolled in elementary school, middle school and junior high school.

Sec. 2. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a licensed teacher who submits an application for renewal of his license to teach on or after January 1, 2011, shall submit with his application proof of the completion of a course in multicultural education.

2. A licensed teacher is not required to submit proof of the completion of a course pursuant to subsection 1 if the teacher has previously completed such a course and filed proof of the completion with the Superintendent of Public Instruction.

3. The Commission shall adopt regulations:

(a) That prescribe the required contents of a course in multicultural education which must be completed pursuant to this section;

(b) That prescribe the number of credits which must be earned by the licensed teacher in a course of multicultural education; and

(c) As otherwise necessary to carry out the requirements of this section.

Sec. 3. **1.** On or before January 1, 2010, the Commission on Professional Standards in Education shall adopt regulations to carry out the provisions of section 2 of this act.

2. On or before March 1, 2010, the Commission on Professional Standards in Education shall provide a report to the Legislative

Committee on Education on the status of the regulations adopted pursuant to section 2 of this act, including, without limitation, an estimate of the number of teachers who will be required to renew a license during 2011 with the proof of the completion of a course in multicultural education required by section 2 of this act.

Sec. 4. **The State Board of Education shall:**

1. On or before March 1, 2010, provide a report to the Legislative Committee on Education on the status of the regulations prescribing a program of multicultural education required by section 1 of this act, including, without limitation, the implementation of the regulations by the boards of trustees of school districts.

2. On or before February 1, 2011, provide a report to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature concerning the implementation of the program of multicultural education prescribed pursuant to section 1 of this act in the public schools and a preliminary report on the effectiveness of the program.

~~[Sec. 4.]~~ ***Sec. 5.*** The provisions of section 2 of this act apply to each licensed teacher in this State, regardless of the date on which his initial license was issued.

~~[Sec. 5.]~~ ***Sec. 6.*** This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 190.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 315.

SUMMARY— ~~[Establishes a moratorium on the execution of sentences of death and provides]~~ **Provides** for a study of issues regarding the death penalty. (BDR S-764)

AN ACT relating to the death penalty; ~~[establishing a moratorium on the execution of sentences of death;]~~ providing for a study of issues regarding the death penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill establishes a moratorium on the execution of sentences of death until July 1, 2011. The moratorium does not prohibit any proceeding or prosecution seeking a sentence of death, but bars any execution from being carried out until July 1, 2011.~~

~~Section 2 of this]~~ **This** bill requires the Audit Division of the Legislative Counsel Bureau to conduct a staff study on the fiscal costs of the death penalty in Nevada. The study must include, without limitation, an

examination and analysis of the costs of prosecuting and adjudicating capital cases compared to noncapital cases. The Legislative Auditor must submit a written report of findings to the Director of the Legislative Counsel Bureau on or before January 31, 2011.

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

Section 1. ~~[1. Notwithstanding the provisions of any law, rule of court or order issued by a court of competent jurisdiction, a moratorium on the execution of all sentences of death is hereby established until July 1, 2011, and the sentence of any person sentenced to death before, on or after the effective date of this act must not be executed until July 1, 2011.~~

~~2. Notwithstanding the provisions of any law, rule of court or order issued by a court of competent jurisdiction:~~

~~(a) If, before the effective date of this act, a court has issued a warrant of execution of a sentence of death that appoints a week within which the judgment of death is to be executed which is before July 1, 2011, the court shall, not later than 60 days after the effective date of this act, issue a new warrant of execution of the sentence of death appointing a week within which the judgment of death is to be executed which is on or after July 1, 2011.~~

~~(b) On or after the effective date of this act, a court shall not issue a warrant of execution of a sentence of death that appoints a week within which the judgment of death is to be executed which is before July 1, 2011.~~

~~3. The provisions of this section must not be construed to:~~

~~(a) Affect any procedures regarding charging, prosecution or sentencing with respect to any offense committed before, on or after the effective date of this act;~~

~~(b) Prevent any person from being sentenced to death before, on or after the effective date of this act;~~

~~(c) Constitute the granting of a commutation or pardon to a person sentenced to death before, on or after the effective date of this act;~~

~~(d) Alter or amend the sentence of any person sentenced to death before, on or after the effective date of this act; or~~

~~(e) Affect any appeal, petition for a writ of habeas corpus or other request for judicial relief filed before, on or after the effective date of this act.]~~ **(Deleted by amendment.)**

Sec. 2. 1. The Legislative Commission shall direct the Audit Division of the Legislative Counsel Bureau to conduct a staff study of the fiscal costs associated with the death penalty in this State.

2. The study conducted pursuant to this section must include an examination and analysis concerning the costs of prosecuting and adjudicating capital murder cases as compared to noncapital murder cases, including, without limitation, the costs relating to the death penalty borne by the State of Nevada and by the local governments in this State at each stage

of the proceedings in capital murder cases, including pretrial costs, trial costs, appellate and postconviction costs and costs of incarceration such as:

(a) The costs of legal counsel involved in the prosecution and defense of a capital murder case for all pretrial, trial and postconviction proceedings; and

(b) Additional procedural costs involved in capital murder cases as compared to noncapital murder cases, including, without limitation, costs relating to:

(1) Processing of bonds, including investigative costs of prosecutors, police and other staff;

(2) Investigation of a case before a person is charged with a crime, including costs for investigation by the prosecution and the defense;

(3) Pretrial motions;

(4) Extradition;

(5) Psychiatric and medical evaluations;

(6) Expert witnesses;

(7) Juries;

(8) Sentencing proceedings;

(9) Appellate and postconviction proceedings, including motions, writs of certiorari and state and federal petitions for postconviction relief;

(10) Requests for clemency;

(11) Incarceration of persons awaiting trial in capital murder cases and persons sentenced to death; and

(12) Execution of a sentence of death, including costs of facilities and staff.

3. On or before January 31, 2011, the Legislative Auditor shall submit a written report of any findings to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.

Sec. 3. This act becomes effective upon passage and approval **.** ~~[and expires by limitation on June 30, 2011.]~~

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 204.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 355.

SUMMARY—Revises provisions relating to ~~[the priority of certain liens against units in]~~ common-interest communities. (BDR 10-920)

AN ACT relating to common-interest communities; **requiring the executive board of a unit owners' association of a common-interest community to make available to each unit's owner certain information concerning the association's collection policy;** extending the period of time

certain liens have priority over other certain security interests; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, not less than 30 days or more than 60 days before the beginning of the fiscal year of a unit owners' association of a common-interest community, the executive board of the association must provide each unit's owner with certain information pertaining to the budget of the association. (NRS 116.31151) Section 1 of this bill requires the executive board to also make available to each unit's owner information pertaining to a policy established by the association for the collection of any fees, fines, assessments or costs imposed against a unit's owner, including the unit's owner's responsibility to pay such fees, fines, assessments or costs and the rights of the association to recover the fees, fines, assessments or costs if the unit's owner does not pay them.

Under existing law, a unit-owners' association of a common-interest community has priority over certain other creditors with respect to a lien on a unit for any construction penalty imposed against the unit's owner, any assessment levied against the unit or certain fines imposed against the unit's owner. Such a lien is also prior to a first security interest on the unit recorded before the assessments became delinquent to the extent of the assessments for common expenses based on the periodic budget adopted by the association which would have become due in the absence of acceleration during the 6 months preceding an action to enforce the lien. ~~[This]~~ **Section 2 of this** bill changes the 6-month threshold for super priority of a lien for an association to 2 years ~~.~~ **, if the unit is a single-family detached dwelling.** (NRS 116.3116)

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

Section 1. **NRS 116.31151 is hereby amended to read as follows:**

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards,

the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The policy must include, without limitation:

(a) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; and

(b) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner.

~~[Section 1.]~~ ***Sec. 2.*** NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➥ The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the ***2 years immediately preceding institution of an action to enforce the lien if the unit is a single-family detached dwelling or during the*** 6 months ~~*[2 years]*~~ immediately preceding institution of an action to enforce the lien ~~**[.]**~~ ***if the unit is any other type of dwelling.*** This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 226.

Bill read second time.

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

Amendment No. 173.

AN ACT relating to irrigation districts; revising limits on indebtedness and assessments of **and purchases by** irrigation districts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This]~~ **Existing law authorizes the board of directors of an irrigation district to purchase necessary machinery and materials for the construction or repair of an irrigation system. Under existing law, any transaction for such a purchase may not be for an amount greater than 5 cents per acre of land in the district. (NRS 539.255) Section 1 of this bill removes the limit on the amount that may be spent on one transaction.**

Section 2 of this bill increases the maximum allowable debt for irrigation districts from $350,000 to $500,000 and increases the maximum annual assessment of irrigation districts from $1.50 per acre of land to $5.00 per acre

of land. (NRS 539.480) **Of that assessment amount, not more than $1.50 per acre may go toward the current authorized use of the assessment: the ordinary and current expenses of the district.**

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

Section 1. **NRS 539.255 is hereby amended to read as follows:**

539.255 In case of necessity, the board of directors, by unanimous vote of those present at any regular or special meeting, may contract for the construction or repair of any part of the system of works, and may, in the ordinary course of business, purchase any necessary machinery or materials **.** ~~[in such amount in one transaction as will not exceed an amount equal to 5 cents for each acre of land in the district.]~~

~~[Section 1.]~~ ***Sec. 2.*** NRS 539.480 is hereby amended to read as follows:

539.480 1. For the purpose of organization or any of the purposes of this chapter, the board of directors may incur an indebtedness not exceeding in the aggregate the sum of ~~[$350,000,]~~ ***$500,000*** and may cause warrants or negotiable notes of the district to issue therefor, bearing interest which must not exceed by more than 5 percent the Index of Revenue Bonds which was most recently published before the bids are received or a negotiated offer is accepted. The board may levy an assessment on all lands in the district for the payment of those expenses.

2. ~~[Thereafter]~~ ***Subject to the provisions of subsections 3, 4 and 5, thereafter*** the board may levy ~~[an]~~ **:**

(a) An annual assessment, in the absence ***, except as otherwise provided in paragraph (b),*** of assessments therefor pursuant to any of the other provisions of this chapter, of not more than $1.50 ~~*[$5.00]*~~ per acre on all lands in the district for the payment of the ordinary and current expenses of the district, including the salaries of officers and other incidental expenses ~~[.~~ ~~The assessment]~~ ***; and***

(b) An annual assessment of not more than $5.00 per acre on all the lands in the district for deposit in a capital improvement fund for the construction, reconstruction or maintenance of the irrigation system of the district and any appurtenances necessary thereto.

3. Annual assessments levied pursuant to the provisions of subsection 2 may not cumulatively exceed $5.00 per acre.

4. No portion of the amount collected from the assessment levied pursuant to the provisions of paragraph (b) of subsection 2 may be used for the payment of the ordinary and current expenses of the district, including the salaries of officers and other incidental expenses.

5. The assessments authorized pursuant to the provisions of subsection 2 must be collected as provided in this chapter for the collection of other assessments.

~~[Sec. 2.]~~ ***Sec. 3.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 230.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 44.

AN ACT relating to concealed firearms; ~~[requiring a sheriff to offer]~~ **providing that certain** retired law enforcement officers **must be offered** the opportunity to obtain **the firearms qualification that is necessary for** certification to carry a concealed firearm at least twice per year; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a retired law enforcement officer who is a resident of this State to apply to the sheriff of the county in which he resides for certification to become a qualified retired law enforcement officer. (NRS 202.3678) Such certification confirms that the retired law enforcement officer meets the requirements to carry a concealed firearm under Nevada law and federal law. (NRS 202.350; 18 U.S.C. § 926C(d)) This bill requires ~~[a sheriff]~~ **the law enforcement agency from which a law enforcement officer retired** to offer **the** retired law enforcement ~~[officers]~~ **officer** the opportunity to obtain **the firearms qualification that is necessary to obtain** such certification at least twice per year.

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

Section 1. NRS 202.3678 is hereby amended to read as follows:

202.3678 1. A retired law enforcement officer who is a resident of this State may apply, on a form prescribed by regulation of the Department, to the sheriff of the county in which he resides for any certification required pursuant to 18 U.S.C. § 926C(d) to become a qualified retired law enforcement officer. Application forms for certification must be provided by the sheriff of each county upon request. ~~*[The sheriff of each county shall offer applicants for certification the opportunity to obtain certification at least twice per year.]*~~

2. ***A law enforcement agency in this State shall offer a retired law enforcement officer who retired from the law enforcement agency the opportunity to obtain the firearms qualification that is necessary to obtain the certification from the sheriff pursuant to subsection 1 at least twice per year at the same facility at which the law enforcement agency provides firearms training for its active law enforcement officers. The law enforcement agency may impose a nonrefundable fee in the amount necessary to pay the expenses for providing the firearms qualification.***

3. The sheriff shall provide the certification pursuant to subsection 1 to a retired law enforcement officer who submits a completed application and pays any fee required pursuant to ***this*** subsection ~~[3]~~ if the sheriff determines that the officer meets the standards for training and qualifications.

~~[3.]~~ The sheriff may impose a nonrefundable fee in the amount necessary to pay the expenses in providing the certification.

4. As used in this section ~~[, "qualified]~~ ***:***

(a) "Law enforcement agency" has the meaning ascribed to it in NRS 239C.065.

(b) "Qualified retired law enforcement officer" has the meaning ascribed to it in 18 U.S.C. § 926C.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 251.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 351.

AN ACT relating to common-interest communities; revising the procedures for voting for a member of the executive board of an association under certain circumstances; requiring that the regulations governing the issuance of certificates for community managers must contain certain provisions relating to persons who formerly engaged in community management; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides **that the executive board of a unit-owners' association may nominate a person to serve on the executive board and that qualified members of the association may also have their names placed on the ballot along with the nominees for election to the executive board. Existing law also provides** that the election of any member of the executive board of a unit-owners' association must be conducted by secret written ballot, unless the declaration of the association provides that voting rights may be exercised by delegates or representatives. (NRS 116.31034) **Section 1** of this bill provides that if **the number of candidates nominated for membership on the executive board is less than or equal to the number of open positions on the executive board, then the executive board may deem such nominees duly elected members of the executive board without conducting a formal election by the members of the association.** ~~[an election is for an incumbent member of the executive board who is running without opposition, no secret written ballot is required.]~~

Existing law requires the Commission on Common-Interest Communities and Condominium Hotels to adopt regulations governing the issuance of certificates for community managers. (NRS 116A.410) **Section 2** of this bill

provides that those regulations must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision by another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

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

Section 1. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association. ***Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to this subsection, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then:***

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The candidates so nominated shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the prescribed period for nominations; and

(c) The units' owners will receive notification that the candidates so nominated have been elected to the executive board.

5. Each person ~~[whose name is placed on the ballot]~~ ***who is nominated*** as a candidate for a member of the executive board ***pursuant to subsection 4*** must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot ***or, in the event ballots are not prepared and mailed pursuant to subsection 4,*** in the manner established ***for distribution of ballots*** in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** election of any member of the executive board must be conducted by secret written ballot unless ~~*[the election is for an incumbent member of the executive board who is unopposed in seeking reelection or unless]*~~ the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 2. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate.

(b) May require applicants to pass an examination in order to obtain a certificate. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) ***Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.***

(d) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~[(d)]~~ ***(e)*** Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~[(e)]~~ ***(f)*** Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 263.

Bill read second time.

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

Amendment No. 289.

SUMMARY— ~~[Requires]~~ **Authorizes** the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly in certain counties. (BDR 38-509)

AN ACT relating to public health; ~~[requiring]~~ **authorizing** the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly in certain counties; ~~[requiring]~~ **authorizing** the Division to adopt regulations ~~[and]~~ **to carry out the program; authorizing the Division** to establish a schedule of fees for services provided under the program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Aging Services Division of the Department of Health and Human Services to establish and administer a program to provide

the community-based services necessary to enable a frail elderly person to remain in his home and avoid placement in a facility for long-term care. (NRS 427A.250) **Section 1** of this bill ~~[requires]~~ **authorizes** the Division to establish a community-based and in-home program of all-inclusive care for the elderly, commonly referred to as a PACE program, in accordance with the provisions of federal law authorizing such programs. (42 U.S.C. 1396u-4; 42 C.F.R. Part 460) ~~[The]~~ **If the Division establishes a PACE program, the** program must be established in any county in this State whose population is 100,000 or more but less than 400,000 (currently Washoe County). **Section 1** ~~[requires]~~ **authorizes** the Division to adopt regulations necessary to establish and administer the program. **Section 1** also requires the Director of the Department **, if the Division wishes to establish a PACE program,** to submit to the Secretary of Health and Human Services any amendment to the State Plan for Medicaid necessary to enable the Division to establish the PACE program and to revise the program from time to time.

Section 2 of this bill authorizes the Division to contract with public or private entities to carry out the PACE program. (NRS 427A.260) **Section 3** of this bill authorizes the Division to apply for and accept any money available to establish and administer the program. **Section 3** further authorizes the Division to establish a schedule of fees to be charged for the provision of services under the program. (NRS 427A.270)

Section 4 of this bill clarifies that the PACE program established pursuant to **section 1** of this bill is in addition to any test program or demonstration program established by the Division concerning the various ways in which community-based services and all-inclusive care can be provided to frail elderly persons. (NRS 427A.280)

Section 7 of this bill requires the Division to submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or the Legislative Committee on Health Care semiannual reports on the progress of the Division in establishing a PACE program.

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

Section 1. Chapter 427A of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any program established pursuant to NRS 427A.250, the Division ~~[shall]~~ may establish and administer a program of all-inclusive care for the elderly, commonly known as a PACE program. The program may be carried out solely by the Division or in cooperation with another state agency, the Federal Government or any local government.

2. ~~[The]~~ A program established pursuant to subsection 1 must:

(a) Comply with the provisions of 42 U.S.C. 1396u-4, 42 C.F.R. Part 460 and any other federal regulations governing programs of all-inclusive care for the elderly; and

(b) Be established in any county in this State whose population is 100,000 or more but less than 400,000.

3. The Division ~~*[shall]*~~ ***may adopt regulations necessary to establish and administer the program.***

4. ~~*[The]*~~ ***If the Division wishes to establish a program pursuant to subsection 1, the Director shall submit to the Secretary of Health and Human Services any amendment to the State Plan for Medicaid necessary to enable the Division to establish the program and to revise the program from time to time.***

Sec. 2. NRS 427A.260 is hereby amended to read as follows:

427A.260 1. The Division may use personnel of the Division or it may contract with any appropriate public or private agency, organization or institution to provide ***a program of all-inclusive care for the elderly and to provide*** the community-based services necessary to enable a frail elderly person to remain in his home.

2. Any such contract must:

(a) Include a description of the type of service to be provided;

(b) ~~[~~Specify~~]~~ ***For:***

(1) A program of all-inclusive care for the elderly, specify the capitation rate to be paid for all-inclusive care for the elderly and the method of payment; and

(2) Any other community-based services, specify the price to be paid for each service and the method of payment; and

(c) Specify the criteria to be used to evaluate the provision of the service.

Sec. 3. NRS 427A.270 is hereby amended to read as follows:

427A.270 1. The Division may apply for, accept and expend any federal or private grant of money or other type of assistance that becomes available to carry out the provisions of NRS 427A.250 to 427A.280, inclusive ~~[.]~~ ***, and section 1 of this act.*** Any money received pursuant to this section must be deposited with the State Treasurer and accounted for separately in the State General Fund.

2. The Division shall, with the approval of the Commission and Director, establish a schedule of fees to be charged and collected for any service provided pursuant to NRS 427A.250 to 427A.280, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 4. NRS 427A.280 is hereby amended to read as follows:

427A.280 ~~[~~The~~]~~ ***In addition to the program established pursuant to section 1 of this act, the*** Division may initiate projects to test and demonstrate various ways of providing the community-based services ***and all-inclusive care*** necessary to enable a frail elderly person to remain in his home.

Sec. 5. NRS 427A.310 is hereby amended to read as follows:

427A.310 1. Except as otherwise provided in subsection 2, the Ombudsman for Aging Persons shall provide assistance to persons who are

60 years of age or older and do not reside in facilities for long-term care. The assistance must include at least the:

(a) Coordination of resources and services available to aging persons within their respective communities, including the services provided through ~~[~~the~~]~~ ***a*** program established pursuant to NRS 427A.250 ~~[~~,~~]~~ ***or section 1 of this act;***

(b) Dissemination of information to aging persons on issues of national and local interest, including information regarding the services of the Ombudsman and the existence of groups of aging persons with similar interests and concerns;

(c) Publication of a guide for use in each county of this State regarding the resources and services available for aging persons in the respective county; and

(d) Advocation of issues relating to aging persons.

2. Upon request by the Administrator, the Ombudsman for Aging Persons shall temporarily perform the duties of advocates for residents of facilities for long-term care specified in NRS 427A.125 to 427A.165, inclusive.

Sec. 6. NRS 123.259 is hereby amended to read as follows:

123.259 1. Except as otherwise provided in subsection 2, a court of competent jurisdiction may, upon a proper petition filed by a spouse or the guardian of a spouse, enter a decree dividing the income and resources of a husband and wife pursuant to this section if one spouse is an institutionalized spouse and the other spouse is a community spouse.

2. The court shall not enter such a decree if the division is contrary to a premarital agreement between the spouses which is enforceable pursuant to chapter 123A of NRS.

3. Unless modified pursuant to subsection 4 or 5, the court may divide the income and resources:

(a) Equally between the spouses; or

(b) By protecting income for the community spouse through application of the maximum federal minimum monthly maintenance needs allowance set forth in 42 U.S.C. 1396r-5(d)(3)(C) and by permitting a transfer of resources to the community spouse an amount which does not exceed the amount set forth in 42 U.S.C. 1396r-5(f)(2)(A)(ii).

4. If either spouse establishes that the community spouse needs income greater than that otherwise provided under paragraph (b) of subsection 3, upon finding exceptional circumstances resulting in significant financial duress and setting forth in writing the reasons for that finding, the court may enter an order for support against the institutionalized spouse for the support of the community spouse in an amount adequate to provide such additional income as is necessary.

5. If either spouse establishes that a transfer of resources to the community spouse pursuant to paragraph (b) of subsection 3, in relation to the amount of income generated by such a transfer, is inadequate to raise the

income of the community spouse to the amount allowed under paragraph (b) of subsection 3 or an order for support issued pursuant to subsection 4, the court may substitute an amount of resources adequate to provide income to fund the amount so allowed or to fund the order for support.

6. A copy of a petition for relief under subsection 4 or 5 and any court order issued pursuant to such a petition must be served on the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services when any application for medical assistance is made by or on behalf of an institutionalized spouse. ~~[He]~~ ***The Administrator*** may intervene no later than 45 days after receipt by the Division of Welfare and Supportive Services of the Department of Health and Human Services of an application for medical assistance and a copy of the petition and any order entered pursuant to subsection 4 or 5, and may move to modify the order.

7. A person may enter into a written agreement with his spouse dividing their community income, assets and obligations into equal shares of separate income, assets and obligations of the spouses. Such an agreement is effective only if one spouse is an institutionalized spouse and the other spouse is a community spouse or a division of the income or resources would allow one spouse to qualify for services under NRS 427A.250 to 427A.280, inclusive ~~[.]~~ ***, and section 1 of this act.***

8. An agreement entered into or decree entered pursuant to this section may not be binding on the Division of Welfare and Supportive Services of the Department of Health and Human Services in making determinations under the State Plan for Medicaid.

9. As used in this section, "community spouse" and "institutionalized spouse" have the meanings respectively ascribed to them in 42 U.S.C. 1396r-5(h).

Sec. 7. **The Aging Services Division of the Department of Health and Human Services shall, on or before March 1 and October 1 of each year, submit a report on the progress of the Division in establishing a PACE program pursuant to section 1 of this act to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, the Legislative Committee on Health Care.**

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 267.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 412.

SUMMARY— ~~[Repeals the provisions that require the assessment for purposes of property taxation of property used as a golf course as an open-space use.]~~ **Requires certain golf courses assessed as open-space real**

property to be designated as open-space real property under applicable zoning ordinances. (BDR 32-640)

AN ACT relating to the taxation of property; ~~[repealing the provisions that require the assessment of property used as a golf course as an open-space use;]~~ **requiring certain golf courses assessed as open-space real property to be designated as open-space real property under applicable zoning ordinances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, ~~[an owner of open-space real property may apply for the assessment of the property for taxation purposes on the basis of that open-space use, thereby deferring part of the tax liability of the property during the continuation of that open-space use. (Chapter 361A of NRS) If the open-space property is converted to a higher use, the deferred property taxes must be paid for the current fiscal year and the preceding 6 fiscal years. (NRS 361A.280) Sections 1-8 of this bill repeal the statutory provisions that mandate the assessment of a golf course as open-space real property. Section 9 of this bill requires the taxation of a golf course for the next and subsequent fiscal years in the same manner and amount as if the Legislature had never mandated its assessment as open-space real property, except that liability for the payment of deferred taxes will continue to apply for the same period as it does under existing law to property that ceases to be used as a golf course and does not otherwise qualify for open-space use assessment.]~~ **property used as a golf course must be assessed for property tax purposes as open-space real property. (NRS 361A.170) This bill requires the designation of such a golf course under any applicable zoning ordinance as open-space real property, unless the golf course is located in a common-interest community or planned unit development, or is operated in conjunction with and adjacent to a resort hotel.**

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

Delete existing sections 1 through 10 of this bill and replace with the following new sections 1 through 3:

Section 1. **NRS 361A.170 is hereby amended to read as follows:**

361A.170 1. Property used as a golf course is hereby designated and classified as open-space real property and must be assessed as an open-space use. ***Property assessed as open-space real property pursuant to this subsection must be designated under any applicable zoning ordinance as open-space real property, unless the property is:***

(a) Located in a common-interest community or planned unit development; or

(b) Operated in conjunction with and adjacent to a resort hotel as defined in NRS 463.01865.

2. In addition to the designation and classification of a golf course as open-space real property pursuant to subsection 1, the governing body of

each city or county shall, from time to time, specify by resolution additional designations or classifications under its master plan that are designed to promote the conservation of open space, the maintenance of natural features for control of floods and the protection of other natural and scenic resources from unreasonable impairment.

3. The board of county commissioners shall, from time to time, adopt by ordinance procedures and criteria which must be used in considering an application for open-space use assessment based on a designation or classification adopted pursuant to subsection 2. The criteria may include requirements respecting public access to and the minimum size of the property.

Sec. 2. **Each local government whose jurisdiction for zoning purposes includes one or more golf courses with a zoning designation that is not in compliance with the provisions of NRS 361A.170, as amended by this act, shall take such actions as are necessary to conform each such zoning designation as soon as practicable after the effective date of this act.**

Sec. 3. **This act becomes effective upon passage and approval.**

Assemblywoman McClain moved the adoption of the amendment.

Remarks by Assemblywoman McClain.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 293.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 402.

AN ACT relating to appointments; creating the Legislative Committee on Appointments; providing that appointments by the Governor to certain offices or positions within the Executive Branch of State Government ~~[are effective for only 90 days unless they are]~~ **must be** confirmed **or rejected** by the Committee ~~[,]~~ **within 60 days after the date of the appointment; providing that such an appointment shall be deemed to have been confirmed if the Committee fails to reject the appointment within that period;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Governor has the authority under existing law to appoint persons to offices and positions within the various departments, boards and commissions of the Executive Branch of State Government. **Section 1** of this bill provides that certain appointments by the Governor ~~[are effective for 90 days but are not effective after that time unless they are]~~ **must be** confirmed **or rejected** by the Legislative Committee on Appointments ~~[.]~~ **within 60 days after the date of the appointment. Section 1 also provides that the appointment shall be deemed to have been confirmed if the**

Committee fails to reject the appointment within the 60-day period. (NRS 209.121, 213.108, 232.050, 232.515, 360.120, 463.024, 463.050, 703.030)

Section 4 of this bill creates the Legislative Committee on Appointments, consisting of the Chair of the Senate Standing Committee on Legislative Operations and Elections and three members of the Senate and three members of the Assembly, appointed by the Legislative Commission. **Section 6** of this bill requires the Committee to investigate and hold hearings to determine whether a person appointed by the Governor ought to be confirmed in that appointment. **Section 6** also requires the Committee to limit the scope of its inquiries to the professional qualifications and experience of the appointee and his fitness to hold the office or position to which he has been appointed. Finally, **section 6** authorizes the Committee to require the appointee to cooperate with the Committee and to provide evidence and testimony to enable the Committee to determine whether the appointee ought to be confirmed in his appointment.

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

Section 1. Chapter 223 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Governor appoints a person to any of the following offices or positions, the appointment ~~*[is effective for 90 days after the date of the appointment but is not effective after that time unless the appointment has been]*~~ ***must be confirmed or rejected by the Legislative Committee on Appointments*** ~~*[created pursuant to section 4 of this act:]*~~ ***within 60 days after the date of the appointment:***

(a) The Director of the Department of Business and Industry.

(b) The Director of the State Department of Conservation and Natural Resources.

(c) The Director of the Department of Corrections.

(d) The Executive Director of the Department of Taxation.

(e) The Chairman of the Nevada Gaming Commission.

(f) A Commissioner of the Public Utilities Commission of Nevada.

(g) A member of the State Board of Parole Commissioners.

(h) A member of the State Gaming Control Board.

2. A person whom the Governor appoints to an office or position set forth in subsection 1 has full authority to perform and shall begin to discharge the duties of the office or position immediately upon his appointment, subject to confirmation or rejection by the Legislative Committee on Appointments.

3. If the Governor appoints a person to an office or position set forth in subsection 1, and the Legislative Committee on Appointments fails to ~~*[confirm]*~~ ***reject the appointment within*** ~~*[90]*~~ ***60 days after the date of the***

appointment, the appointment shall be deemed to have been ~~[rejected]~~ confirmed by the Legislative Committee on Appointments.

4. If the Governor appoints a person to an office or position set forth in subsection 1, and the Legislative Committee on Appointments rejects the appointment:

(a) The office or position to which the person was appointed becomes vacant immediately; and

(b) The Governor may not appoint the person to any office or position set forth in subsection 1 for at least 1 year.

5. As used in this section, "Legislative Committee on Appointments" means the Legislative Committee on Appointments created pursuant to section 4 of this act.

Sec. 2. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 8, inclusive, of this act.

Sec. 3. ***As used in sections 3 to 8, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Appointments.***

Sec. 4. ***1. There is hereby created the Legislative Committee on Appointments, consisting of:***

(a) Three members of the Senate appointed by the Legislative Commission, one of whom must be a member of the minority political party;

(b) Three members of the Assembly appointed by the Legislative Commission, one of whom must be a member of the minority political party; and

(c) The Chair of the Senate Standing Committee on Legislative Operations and Elections, who shall serve as the Chair of the Committee but may cast a vote only to break a tie.

2. Each appointed member serves for a term of 2 years commencing on July 1 of each odd-numbered year.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the next session of the Legislature convenes.

4. Vacancies on the Committee must be filled in the same manner as original appointments.

Sec. 5. ***1. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chair or a majority of the Committee.***

2. The Director of the Legislative Counsel Bureau or a person he designates shall act as the nonvoting recording Secretary.

3. The Committee shall adopt rules for its own management and government.

4. Except as otherwise provided in subsection 5, four members of the Committee constitute a quorum.

5. Any vote to ~~[confirm]~~ reject the Governor's appointment of a person to an office or a position set forth in section 1 of this act requires a majority of the members of the Senate appointed to the Committee and a majority of the members of the Assembly appointed to the Committee.

6. Each member of the Committee, except during a regular or special session of the Legislature, is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a meeting of the Committee or is otherwise engaged in the business of the Committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207. The salaries and expenses paid pursuant to this subsection and any other expenses of the Committee must be paid from the Legislative Fund.

Sec. 6. ***1. The Committee shall:***

(a) Investigate and hold hearings to determine whether a person appointed by the Governor to an office or position set forth in section 1 of this act ought to be confirmed in that appointment.

(b) Limit the scope of its inquiries to the professional qualifications and experience of the appointee and his fitness to hold the office or position to which he has been appointed.

2. The Committee shall not inquire into the administration, budget or activities of the agency to which the person has been appointed.

3. The Committee may require the appointee to:

(a) Testify before the Committee;

(b) Submit a copy of his professional resume or curriculum vitae and to provide evidence to substantiate the education and experience claimed therein;

(c) Consent to the performance of an investigation of his criminal history; and

(d) Provide any other evidence necessary to enable the Committee to determine whether the appointee ought to be confirmed in his appointment.

4. The Committee shall promptly notify the Governor and the Legislative Commission in writing of its confirmation or rejection of an appointment.

Sec. 7. ***1. In conducting the investigations and hearings of the Committee:***

(a) Any member of the Committee may administer oaths.

(b) The Chair of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chair may issue subpoenas to compel the attendance of witnesses and the production of books, papers or documents.

2. If a witness refuses to attend or testify or to produce books, papers or documents as required by the subpoena, the Chair may report to the district court by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books, papers or documents;

(b) That the witness has been subpoenaed by the Committee pursuant to this section; and

(c) That the witness has failed or refused to attend or to produce the books, papers or documents required by the subpoena before the Committee that are named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or to produce the books, papers or documents before the Committee.

3. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books, papers or documents before the Committee. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before

the Committee at the time and place fixed in the order and testify or produce the required books, papers or documents. Failure to obey the order constitutes contempt of court.

Sec. 8. ***Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and the Chair of the Committee.***

Sec. 9. The provisions of this act do not apply to any appointment made by the Governor before January 1, 2010.

Sec. 10. Notwithstanding the provisions of section 4 of this act, the Legislative Commission shall, as soon as practicable after the effective date of this act, make its initial appointments to the Legislative Committee on Appointments. The terms of the members who are appointed pursuant to this section end on June 30, 2011.

Sec. 11. This act becomes effective on January 1, 2010.

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 305.

Bill read second time.

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

Amendment No. 180.

AN ACT relating to cultural affairs; providing for the Administrator of the Division of Museums and History of the Department of Cultural Affairs to require a museum director or a member of his staff to perform the functions of State Paleontologist; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Administrator of the Division of Museums and History of the Department of Cultural Affairs may authorize or require each museum director to perform certain duties. (NRS 381.0063) This bill provides for the Administrator to require a museum director to serve as, or to designate a museum employee to serve as, ex officio State Paleontologist. This bill also requires the State Paleontologist to perform **, within the limits of available time, money and staff,** certain duties related to paleontological and fossil research and resources within the State.

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

Section 1. NRS 381.0063 is hereby amended to read as follows:

381.0063 1. The Administrator shall, in accordance with any directive received from the Director pursuant to NRS 232.005 or 378.0089, authorize or require each museum director to perform such duties set forth in ~~[~~subsection~~]~~ ***subsections*** 2 ***and 3*** as are necessary for the operation of the institution administered by the museum director, after giving consideration to:

(a) The size and complexity of the programs the museum director is required to administer;

(b) The number of personnel needed to carry out those programs;

(c) Requirements for accreditation; and

(d) Such other factors as are relevant to the needs of the institution and the Division.

2. The Administrator may authorize or require a museum director to:

(a) Oversee duties related to the auditing and approval of all bills, claims and accounts of the institution administered by the museum director.

(b) Receive, collect, exchange, preserve, house, care for, display and exhibit, particularly, but not exclusively, respecting the State of Nevada:

(1) Samples of the useful and fine arts, sciences and industries, relics, memorabilia, products, works, records, rare and valuable articles and objects,

including, without limitation, drawings, etchings, lithographs, photographs, paintings, statuary, sculpture, fabrics, furniture, implements, machines, geological and mineral specimens, precious, semiprecious and commercial minerals, metals, earths, gems and stones.

(2) Books, papers, records and documents of historic, artistic, literary or industrial value or interest by reason of rarity, representative character or otherwise.

(c) Collect, gather and prepare the natural history of Nevada and the Great Basin.

(d) Establish such programs in archeology, anthropology, ***paleontology,*** mineralogy, ethnology, ornithology and such other scientific programs as in the judgment of the Board and Administrator may be proper and necessary to carry out the objects and purposes appropriate to the institution administered by the museum director.

(e) Receive and collect property from any appropriate agency of the State of Nevada, or from accessions, gifts, exchanges, loans or purchases from any other agencies, persons or sources.

(f) House and preserve, care for and display or exhibit property received by an institution. This paragraph does not prevent the permanent or temporary retention, placement, housing or exhibition of a portion of the property in other places or locations in or outside of the State at the sole discretion of the Board.

(g) Make and obtain plans and specifications and let and supervise contracts for work or have the work done on force account or day labor, supplying material or labor, or otherwise.

(h) Receive, accept and obtain by exchange in the name of the State of Nevada all property loaned to the institution administered by the museum director for preservation, care, display or exhibit, or decline and reject the property in his discretion, and undertake to be responsible for all property loaned to the institution or make just payment of any reasonable costs or rentals therefor.

(i) Apply for and expend all gifts and grants that the institution administered by the museum director is authorized to accept in accordance with the terms and conditions of the gift or grant.

(j) Govern, manage and control the exhibit and display of all property and things of the institution administered by the museum director at other exhibits, expositions, world's fairs and places of public or private exhibition. Any property of the State of Nevada that may be placed on display or on exhibition at any world's fair or exposition must be taken into custody by the Administrator at the conclusion of the world's fair or exposition and placed and kept in the institution, subject to being removed and again exhibited at the discretion of the Administrator or a person designated by the Administrator.

(k) Negotiate and consult with and agree with other institutions, departments, officers and persons or corporations of and in the State of

Nevada and elsewhere respecting quarters for and the preservation, care, transportation, storage, custody, display and exhibit of articles and things controlled by the institutions and respecting the terms and cost, the manner, time, place and extent, and the return thereof.

(l) Trade, exchange and transfer exhibits and duplicates when the Administrator deems it proper. Such transactions shall not be deemed sales.

(m) Establish the qualifications for life, honorary, annual, sustaining and such other memberships as are established by the Board pursuant to NRS 381.0045.

(n) Adopt rules for the internal operations of the institution administered by the museum director, including, without limitation, the operation of equipment of the institution.

3. ***The Administrator shall require a museum director to serve as, or to designate*** ~~***[a qualified]***~~ ***an employee to serve as, ex officio State Paleontologist.*** ~~*[If an employee is designated by the museum director as the State Paleontologist, the museum director shall provide the State Paleontologist with the necessary supplies to carry out the duties of State Paleontologist.]*~~ ***The State Paleontologist shall*** ~~***[:]***~~ ***, within the limits of available time, money and staff:***

(a) Systematically inventory the paleontological resources within the State of Nevada;

(b) Compile a database of fossil resources within this State;

(c) Coordinate and promote paleontological research activities within this State ~~***[:]***~~ ***, including, without limitation, regulating and issuing permits to engage in such activities;***

(d) Disseminate and assist other persons in disseminating information gained from research conducted by the State Paleontologist; and

(e) Display and promote, and assist other persons in displaying and promoting, the paleontological resources of this State to enhance education, culture and tourism within this State.

4. The enumeration of the powers and duties that may be assigned to a museum director pursuant to this section is not exclusive of other general objects and purposes appropriate to a public museum.

~~**[**4.**]**~~ ***5.*** The provisions of this section do not prohibit the Administrator from making such administrative and organizational changes as are necessary for the efficient operation of the Division and its institutions and to ensure that an institution properly carries out the duties and responsibilities assigned to that institution.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 311.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 352.

AN ACT relating to common-interest communities; revising provisions governing the audit and review of financial statements of common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a unit owners' association with an annual budget of less than $75,000 to have its financial statement audited once every 4 fiscal years unless an audit for a fiscal year in which an audit will not be conducted is requested by 15 percent of the total number of voting members of the association. This bill **eliminates the requirement of an audit and instead** requires the financial statement of such an association to be reviewed ~~[once every 4 fiscal years]~~ **in the year immediately preceding the year in which a study of the association's reserves is conducted** unless ~~[an audit]~~ **a review** is otherwise requested by the voting members of the association.

Existing law also requires an association with an annual budget of $75,000 or more but less than $150,000 to have its financial statement audited once every 4 fiscal years and reviewed every fiscal year for which an audit is not conducted. This bill **eliminates the requirement of an audit and instead** requires the financial statement of such an association to be reviewed every fiscal year**.** ~~[unless an audit is otherwise requested by 15 percent of the total number of voting members of the association.]~~ (NRS 116.31144)

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

Section 1. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in subsection 2, the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be ~~[audited]~~ ***reviewed*** by an independent certified public accountant ~~[at least]~~ ~~[once every 4 fiscal years.]~~ ***during the year immediately preceding the year in which a study of the reserves of the association is to be conducted pursuant to NRS 116.31152.***

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be ~~[:~~

~~(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and~~

~~(2) Reviewed]~~ ***reviewed*** by an independent certified public accountant every fiscal year**.** ~~[for which an audit is not conducted.]~~

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which ~~[an audit]~~ ***a review*** of the financial statement of the association will not be conducted pursuant to ***paragraph (a) of*** subsection 1, the executive board shall cause the financial statement for

that fiscal year to be ~~[audited]~~ ***reviewed*** by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such ~~[an audit.]~~ ***a review.***

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; and

(b) The standards and format to be followed in auditing or reviewing financial statements of an association.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 314.

Bill read second time.

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

Amendment No. 158.

AN ACT relating to dentistry; authorizing the Board of Dental Examiners of Nevada to issue **a** limited ~~[permits to treat patients under certain circumstances as part of a supervised course of dental education;]~~ **license to supervise certain courses of continuing education involving live patients; authorizing students to participate in such courses of continuing education under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill allows a person ~~[licensed to practice dentistry in another jurisdiction]~~ **who has received a degree in dentistry from an accredited program** to receive a limited ~~[permit to treat a specified patient as part of a supervised course of dental education under certain circumstances. Section 1 also places certain restrictions on the treatment of a patient by a person who receives such a limited permit.]~~ **license to supervise certain courses of continuing education involving live patients.** A limited ~~[permit]~~ **license** issued under **section 1** expires ~~[5 years]~~ **1 year** after being issued and may be renewed ~~[for an additional year if necessary to complete the course of continuing dental education.]~~ **annually. Section 1 also: (1) authorizes the Board of Dental Examiners of Nevada to charge a fee for the issuance or renewal of the limited license; (2) authorizes the Board to suspend or revoke the limited license under certain circumstances; and (3) imposes a duty upon the holder of the limited license to report certain events to the Board.**

Section 2 of this bill provides that NRS 631.215 does not prevent a dentist who is licensed in another state or country from participating in a course of postgraduate continuing education in dentistry supervised by the holder of a limited license issued pursuant to section 1 under certain circumstances.

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

Section 1. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall, without a clinical examination required by NRS 631.240 or 631.300, issue a limited ~~*[permit]*~~ ***license to a person to*** ~~*[treat a specified patient if the person:*~~

~~*(a) Is a student enrolled in a supervised course of dental education presented as part of a program of postgraduate dental education; and*~~

~~*(b) Has a license to practice dentistry issued pursuant to the laws of another state or territory of the United States, the District of Columbia or a foreign country that authorizes the person to treat the specified patient in that jurisdiction.]*~~ ***supervise courses of continuing education involving live patients at an institute or organization with a permanent facility registered with the Board for the sole purpose of providing postgraduate continuing education in dentistry if the person has received a degree from a dental school or college accredited by the Commission on Dental Accreditation of the American Dental Association or its successor.***

2. ~~*[A person to whom a limited permit is issued pursuant to this section may only treat a specified patient who:*~~

~~*(a) Is a patient of the person in the jurisdiction in which the person is licensed to practice dentistry; and*~~

~~*(b) Has provided a properly executed informed consent to the treatment.*~~

~~*3. A limited license issued pursuant to this section authorizes the person to whom it is issued to practice only at the facility at which the supervised course of dental education is conducted while under the direct supervision of a member of the faculty at that facility.*~~

~~*4.]*~~ ***A limited*** ~~*[permit]*~~ ***license issued pursuant to this section expires*** ~~*[5 years]*~~ ***1 year after the date of its issuance and may be renewed*** ~~*[on or before the date of its expiration for 1 additional year if necessary for the completion of a supervised course of dental education.]*~~ ***annually upon submission of proof acceptable to the Board of compliance with subsection 1 and payment of any fee required pursuant to subsection 3.***

3. The Board may impose a fee of not more than $100 for the issuance and each renewal of a limited license issued pursuant to this section.

4. A limited license issued pursuant to this section may be suspended or revoked by the Board if the holder of the limited license:

(a) Has had his license to practice dentistry suspended, revoked or placed on probation in another state, territory or possession of the United States, the District of Columbia or a foreign country;

(b) Has been convicted of a felony or misdemeanor involving moral turpitude; or

(c) Has a documented history of substance abuse.

5. A holder of a limited license issued pursuant to this section shall notify the Board in writing by certified mail not later than 30 days after:

(a) The death of a patient being treated by a dentist under the supervision of the holder of a limited license;

(b) Any incident which:

(1) Results in the hospitalization of or a permanent physical or mental injury to a patient being treated by a dentist under the supervision of the holder of a limited license; and

(2) Occurs while the dentist is treating the patient under the supervision of the holder of a limited license; or

(c) Any event or circumstance described in subsection 4.

Sec. 2. **NRS 631.215 is hereby amended to read as follows:**

631.215 1. Any person shall be deemed to be practicing dentistry who:

(a) Uses words or any letters or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;

(b) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;

(c) Diagnoses, professes to diagnose or treats or professes to treat any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof;

(d) Extracts teeth;

(e) Corrects malpositions of the teeth or jaws;

(f) Takes impressions of the teeth, mouth or gums, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(g) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;

(h) Places in the mouth and adjusts or alters artificial teeth;

(i) Does any practice included in the clinical dental curricula of accredited dental colleges or a residency program for those colleges;

(j) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases;

(k) Uses X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(l) Determines:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable; or

(m) Dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(1) Dispensing or using a product that may be purchased over the counter for a person's own use; or

(2) Authorized by the regulations of the Board to engage in such activities without being a licensed dentist.

2. Nothing in this section:

(a) Prevents a dental assistant, dental hygienist or qualified technician from making radiograms or X-ray exposures or using X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes upon the direction of a licensed dentist.

(b) Prohibits the performance of mechanical work, on inanimate objects only, by any person employed in or operating a dental laboratory upon the written work authorization of a licensed dentist.

(c) Prevents students from performing dental procedures that are part of the curricula of an accredited dental school or college or an accredited school of dental hygiene or an accredited school of dental assisting.

(d) Prevents a licensed dentist or dental hygienist from another state or country from appearing as a clinician for demonstrating certain methods of technical procedures before a dental society or organization, convention or dental college or an accredited school of dental hygiene or an accredited school of dental assisting.

(e) Prohibits the manufacturing of artificial teeth upon receipt of a written authorization from a licensed dentist if the manufacturing does not require direct contact with the patient.

(f) Prevents a person who is actively licensed as a dentist in another jurisdiction from treating a patient if:

(1) The patient has previously been treated by the dentist in the jurisdiction in which the dentist is licensed;

(2) The dentist treats the patient only during a course of continuing education involving live patients which:

(I) Is conducted at an institute or organization with a permanent facility registered with the Board for the sole purpose of providing postgraduate continuing education in dentistry; and

(II) Meets all applicable requirements for approval as a course of continuing education; and

(3) The dentist treats the patient only under the supervision of a person licensed pursuant to section 1 of this act.

Sec. 3. **NRS 631.330 is hereby amended to read as follows:**

631.330 1. Licenses issued pursuant to NRS 631.271 and 631.275 ***and section 1 of this act*** must be renewed annually. All other licenses must be renewed biennially.

2. Except as otherwise provided in NRS 631.271 and 631.275 ~~[.]~~ ***and section 1 of this act:***

(a) Each holder of a license to practice dentistry or dental hygiene must, upon:

(1) Payment of the required fee;

(2) Submission of proof of completion of the required continuing education; and

(3) Submission of all information required to complete the renewal,

➥ be granted a renewal certificate which will authorize continuation of the practice for 2 years.

(b) A licensee must comply with the provisions of this subsection and subsection 1 on or before June 30. Failure to comply with those provisions by June 30 every 2 years automatically suspends the license, and it may be reinstated only upon payment of the fee for reinstatement and compliance with the requirements of this subsection.

3. If a license suspended pursuant to this section is not reinstated within 12 months after suspension, it is automatically revoked.

Sec. 4. **NRS 631.345 is hereby amended to read as follows:**

631.345 1. **[**~~The~~**]** ***Except as otherwise provided in section 1 of this act, the*** Board shall by regulation establish fees for the performance of the duties imposed upon it by this chapter which must not exceed the following amounts:

Application fee for an initial license to practice dentistry $1,500
Application fee for an initial license to practice dental hygiene 750
Application fee for a specialist's license to practice dentistry 300
Application fee for a limited license or restricted license to practice dentistry or dental hygiene 300
Application and examination fee for a permit to administer general anesthesia, conscious sedation or deep sedation. 750
Fee for any reinspection required by the Board to maintain a permit to administer general anesthesia, conscious sedation or deep sedation 500
Biennial renewal fee for a permit to administer general anesthesia, conscious sedation or deep sedation $600
Fee for the inspection of a facility required by the Board to renew a permit to administer general anesthesia, conscious sedation or deep sedation 350
Biennial license renewal fee for a general license, specialist's license, temporary license or restricted geographical license to practice dentistry 1,000
Annual license renewal fee for a limited license or restricted license to practice dentistry 300
Biennial license renewal fee for a general license, temporary license or restricted geographical license to practice dental hygiene 600
Annual license renewal fee for a limited license to practice dental hygiene 300
Biennial license renewal fee for an inactive dentist 400

Biennial license renewal fee for a dentist who is retired or has a disability..... 100
Biennial license renewal fee for an inactive dental hygienist..... 200
Biennial license renewal fee for a dental hygienist who is retired or has a disability..... 100
Reinstatement fee for a suspended license to practice dentistry or dental hygiene..... 500
Reinstatement fee for a revoked license to practice dentistry or dental hygiene..... 500
Reinstatement fee to return a dentist or dental hygienist who is inactive, retired or has a disability to active status..... 500
Fee for the certification of a license..... 50

2. Except as otherwise provided in this subsection, the Board shall charge a fee to review a course of continuing education for accreditation. The fee must not exceed $150 per credit hour of the proposed course. The Board shall not charge a nonprofit organization or an agency of the State or of a political subdivision of the State a fee to review a course of continuing education.

3. All fees prescribed in this section are payable in advance and must not be refunded.

Sec. 5. **NRS 631.350 is hereby amended to read as follows:**

631.350 1. Except as otherwise provided in NRS 631.271 and 631.347, ***and section 1 of this act,*** the Board may:

(a) Refuse to issue a license to any person;

(b) Revoke or suspend the license or renewal certificate issued by it to any person;

(c) Fine a person it has licensed;

(d) Place a person on probation for a specified period on any conditions the Board may order;

(e) Issue a public reprimand to a person;

(f) Limit a person's practice to certain branches of dentistry;

(g) Require a person to participate in a program to correct alcohol or drug abuse or any other impairment;

(h) Require that a person's practice be supervised;

(i) Require a person to perform community service without compensation;

(j) Require a person to take a physical or mental examination or an examination of his competence;

(k) Require a person to fulfill certain training or educational requirements;

(l) Require a person to reimburse a patient; or

(m) Any combination thereof,

➥ upon submission of substantial evidence to the Board that the person has engaged in any of the activities listed in subsection 2.

2. The following activities may be punished as provided in subsection 1:

(a) Engaging in the illegal practice of dentistry or dental hygiene;

(b) Engaging in unprofessional conduct; or

(c) Violating any regulations adopted by the Board or the provisions of this chapter.

3. The Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

5. The Board shall not administer a private reprimand.

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

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 331.

Bill read second time.

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

Amendment No. 327.

SUMMARY—Provides for the appointment of a **Small** Business Ombudsman. (BDR 18-1082)

AN ACT relating to the State Government; creating the Office of the **Small** Business Ombudsman in the Office of the Governor; providing for the appointment of the Ombudsman; setting forth his duties; prohibiting a person from willfully obstructing, misleading or attempting to mislead the Ombudsman in the discharge of his duties; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill establishes the Office of the **Small** Business Ombudsman in the Office of the Governor. The Governor is required to appoint the Ombudsman. The Ombudsman is in the unclassified service of the State and serves at the pleasure of the Governor. **Section 5** of this bill sets forth the duties of the Ombudsman, which include: (1) ensuring that **small** businesses which are subject to enforcement activities such as audits and on-site inspections by public agencies have a means to comment on their interactions with the employees of the public agency; (2) establishing a means of receiving the comments from affected **small** businesses about their interactions with employees of public agencies during enforcement activities; (3) establishing a rating system for public agencies; and (4) filing certain

reports based on substantiated comments from **small** businesses, findings of the Ombudsman and recommendations of the Ombudsman. **Section 7** of this bill makes it a misdemeanor to mislead, attempt to mislead or obstruct the Ombudsman in the discharge of his duties.

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

Section 1. Chapter 223 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, "Ombudsman" means the Small Business Ombudsman appointed pursuant to section 4 of this act.***

Sec. 3. ***The provisions of NRS 223.085 do not apply to the provisions of sections 2 to 7, inclusive, of this act.***

Sec. 4. ***1. The Office of the Small Business Ombudsman is hereby established in the Office of the Governor.***

2. The Governor shall appoint a person to serve as the Ombudsman. The Ombudsman:

(a) Is in the unclassified service of the State; and

(b) Serves at the pleasure of the Governor.

3. The Ombudsman must not have any conflict of interest relating to the performance of his duties pursuant to sections 2 to 7, inclusive, of this act.

Sec. 5. ***The Ombudsman shall:***

1. Work in coordination with each public agency that has regulatory authority over a small business in this State to ensure that small businesses which are subject to enforcement-related communication by employees of the public agency, including, without limitation, audits or on-site inspections, are provided with a means to comment on the enforcement activity conducted by the employees of the public agency.

2. Establish a means to receive comments from a small business regarding the actions of an employee of a public agency conducting an enforcement activity, a means to refer comments received to the director, administrator, chief or other person in charge of the public agency when appropriate and a means to keep the identity of the person or small business making the comment confidential.

3. Establish a rating system for public agencies which includes, without limitation, rating an agency on whether the public agency has notified the small businesses which it regulates about the Ombudsman and the purpose of the Office of the Small Business Ombudsman and whether the public agency has adopted a policy against reprisal and retaliation for the filing of complaints against a public agency with the Ombudsman.

4. Based upon substantiated comments received from small businesses, prepare a report evaluating the enforcement activities of the employees of public agencies, including a rating of the responsiveness to small

businesses of the regional and program offices of each public agency, and submit it to:

(a) The Governor on or before January 30 of each year; and

(b) The Director of the Legislative Counsel Bureau for transmittal to the Legislature on or before January 30 of each odd-numbered year.

5. Provide an affected public agency with the opportunity to comment on draft reports prepared pursuant to subsection 4 before the final report is submitted and include the comments of the public agency with the final report.

6. Compile a report of the findings and recommendations of the Ombudsman for each public agency and submit it to the Governor and the director, administrator, chief or other person in charge of each affected public agency on or before July 31 of each year.

7. As used in this section ~~*[, "public]*~~ **:**

(a) "Public agency" means an agency or political subdivision of this State.

(b) "Small business" means a business entity, including, without limitation, an affiliate of the business entity, which:

(1) Is independently owned and operated and not dominant in its field;

(2) Employs not more than 50 full-time employees; and

(3) Has gross annual sales of less than $5,000,000.

Sec. 6. ***The Ombudsman may employ such persons in the unclassified service of the State as he determines to be necessary to carry out the provisions of sections 2 to 7, inclusive, of this act.***

Sec. 7. ***A person who willfully obstructs, misleads or attempts to mislead the Ombudsman in the discharge of his duties pursuant to sections 2 to 7, inclusive, of this act is guilty of a misdemeanor.***

Sec. 8. This act becomes effective on January 1, 2010.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 338.

Bill read second time.

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

Amendment No. 284.

SUMMARY— ~~[Makes various changes]~~ **Authorizes a program to provide grants to nonprofit private entities** concerning small business start-ups for veterans and senior citizens. (BDR ~~[18-123)]~~ **53-123)**

AN ACT relating to economic development; ~~[requiring the Commission on Economic Development to administer a program of grants to nonprofit organizations that provide loans for small businesses being started by~~

~~veterans and senior citizens; establishing an account to provide funds for the program of grants; requiring that certain payments made by employers be deposited into the account;~~ **authorizing a program of grants to nonprofit entities to provide loans to veterans and senior citizens to start small businesses;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 2 and 3 of this bill require the Commission on Economic Development to establish and administer the Senior Citizen and Veteran Small Business Start-Up Account. The purpose of the Account is to provide grants of money to nonprofit entities, which must use the money to make start-up loans to senior citizens and veterans starting small businesses.~~

~~Existing law requires certain employers to make payments at the rate of .05 percent of the wages paid to employees into the Unemployment Compensation Administration Fund for a program of the employment and training of unemployed persons and persons employed in this State. (NRS 612.606) Sections 4 and 5 of this bill require that 30 percent of the money collected from those employers be deposited in the Senior Citizen and Veteran Small Business Start-Up Account.]~~ **Existing law requires certain employers to make payments into the Unemployment Compensation Administration Fund for the program for the employment and training of unemployed persons and persons employed in this State. (NRS 612.606, 612.607) This bill authorizes the expenditure of such money to establish a program to provide grants to nonprofit private entities to be used to make loans to veterans and senior citizens to start small businesses.**

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

Section 1. ~~[Chapter 231 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[*1. The Commission on Economic Development shall establish with the State Treasurer a special account in the State General Fund to be known as the Senior Citizen and Veteran Small Business Start-Up Account.*~~

~~*2. Any money received by the State Treasurer pursuant to NRS 612.607 must be deposited in the Account established pursuant to subsection 1.*~~

~~*3. The Commission may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of this section and section 3 of this act. Any money the Commission receives pursuant to this subsection must be deposited in the Account established pursuant to subsection 1.*~~

~~*4. The interest and income earned on money in the Account must be credited to the Account. Money that remains in the Account at the end of*~~

~~*the fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.*~~

~~*5. Any claims against the Account must be paid as other claims against the State are paid.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*[1. The Commission on Economic Development shall administer the Senior Citizen and Veteran Small Business Start Up Account established pursuant to section 2 of this act and may make grants of money to a nonprofit private entity for the purpose of allowing that entity to make loans of seed money to veterans and senior citizens to start small businesses.*~~

~~*2. A recipient may use the money only to make loans to be used as seed money by veterans and senior citizens to start small businesses.*~~

~~*3. Seed money loaned to a veteran or senior citizen pursuant to this section must be used to pay the costs of starting a new small business, including, without limitation:*~~

~~*(a) The costs of purchasing, leasing, renovating or building a facility.*~~

~~*(b) The procuring of signs, fixtures, supplies, inventory and advertising.*~~

~~*(c) Fees for building permits, business licenses and required inspections.*~~

~~*4. The Commission shall adopt regulations establishing criteria and standards relating to the eligibility for and use of any grants made pursuant to this section.*~~

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

~~*(a) "Seed money" means money used for setting up a new small business.*~~

~~*(b) "Senior citizen" has the meaning ascribed to it in NRS 439.650.*~~

~~*(c) "Small business" means a business conducted for profit which is intended to employ fewer than 150 full time or part time employees.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~**[**NRS 612.606 is hereby amended to read as follows:~~

~~612.606 1. Except as otherwise provided in subsection 4, in addition to any other contribution required by this chapter, each employer shall make payments into the Unemployment Compensation Administration Fund *created in NRS 612.605* for the program for the employment and training of unemployed persons and persons employed in this State *and the Senior Citizen and Veteran Small Business Start Up Account established pursuant to section 2 of this act* at the rate of .05 percent of the wages he pays.~~

~~2. The interest and forfeit provisions of NRS 612.620 and 612.740, respectively, are inapplicable to the payments required by this section.~~

~~3. In determining unemployment compensation contribution rates assigned to employers pursuant to this chapter, payments paid *pursuant to this section* into the Unemployment Compensation Administration Fund *created in NRS 612.605* for the program for the employment and training of unemployed persons and persons employed in this State **[**pursuant to this section**]** *and the Senior Citizen and Veteran Small Business Start Up Account established pursuant to section 2 of this act* must remain separate~~

~~from any other contribution paid pursuant to this chapter and must not be included in any manner in computing the contribution rates to be assigned to employers under NRS 612.550.~~

~~4. The provisions of this section do not apply to an employer:~~

~~(a) Who has been assigned a contribution rate of 5.4 percent pursuant to subsection 6 of NRS 612.550; or~~

~~(b) Who has elected to make reimbursement in lieu of contributions pursuant to NRS 612.553.]~~ **(Deleted by amendment.)**

Sec. 5. NRS 612.607 is hereby amended to read as follows:

612.607 1. All payments collected ~~*[due]*~~ pursuant to NRS 612.606 must be deposited in the Unemployment Compensation Administration Fund. ~~*[transferred to the State Controller for deposit in the State General Fund for distribution in the following manner:*~~

~~*(a) Seventy percent to the Unemployment Compensation Administration Fund created in NRS 612.605; and*~~

~~*(b) Thirty percent to the Senior Citizen and Veteran Small Business Start-Up Account established pursuant to section 2 of this act.*~~

~~*2.]*~~ At the end of each fiscal year, the State Controller shall transfer to the Clearing Account in the Unemployment Compensation Fund the amount by which the unencumbered balance of the money deposited in the Unemployment Compensation Administration Fund pursuant to this subsection ~~*[section]*~~ exceeds the amount of that money which the Legislature has authorized for expenditure during the first 90 days of the succeeding fiscal year.

2. ~~*[3.]*~~ Except for money transferred from the Unemployment Compensation Administration Fund pursuant to subsection 1, the Administrator may only expend the money collected for the employment and training of unemployed persons and persons employed in this State to:

(a) Establish and administer an employment training program which must foster job creation, minimize unemployment costs of employers and meet the needs of employers for skilled workers by providing training to unemployed persons**.** ~~**[;]**~~

(b) Establish or provide support for job training programs in the public and private sectors for training, retraining or improving the skills of persons employed in this State**.** ~~**[; and]**~~

(c) ***Establish a program to provide grants of money to a nonprofit private entity to be used to make loans of money to veterans and senior citizens to start small businesses. The Administrator shall adopt regulations establishing criteria and standards relating to the eligibility for and use of any grants made pursuant to this paragraph.***

(d) Pay the costs of the collection of payments required pursuant to NRS 612.606.

3. ~~*[4.]*~~ The money used for the program for the employment and training of unemployed persons and persons employed in this State must supplement and not displace money available through existing employment training

programs conducted by any employer or public agency and must not replace, parallel, supplant, compete with or duplicate in any way existing apprenticeship programs approved by the State Apprenticeship Council.

4. As used in this section:

(a) "Senior citizen" has the meaning ascribed to it in NRS 439.650.

(b) "Small business" means a business conducted for profit which:

(1) Employs 50 or fewer full-time employees; and

(2) Has gross annual sales of less than $5,000,000.

Sec. 6. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 364.

Bill read second time.

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

Amendment No. 276.

AN ACT relating to the protection of children; making various changes to provisions governing the court-ordered admission of a child to a locked facility; requiring a court to provide ~~[for]~~ **a hearing to determine whether to include rights to** visitation of siblings ~~[who are separated after the parental rights of their parents are terminated;]~~ **in a decree of adoption;** requiring the development of policies concerning certain medication given to children with emotional disturbances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the procedure for petitioning a court to order the admission of certain children with emotional disturbances to a locked facility for treatment. (NRS 432B.607-432B.6085) **Section** ~~[1]~~ **1.3** of this bill clarifies that as used in those provisions, "court-ordered admission of a child" includes a child for whom a petition is filed to continue placement after an emergency admission. **Section 1.5 of this bill requires each agency which provides child welfare services to establish appropriate policies concerning the monitoring, use and distribution of psychotropic medication to children who are in the custody of the agency. Section 11 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt consistent policies with respect to the distribution of such medication to children in division facilities.**

Section 3 of this bill requires a petition for the court-ordered admission of a child with an emotional disturbance into a locked facility to be filed within 5 days after an emergency admission ~~[.]~~ **or the child must be released.** (NRS 432B.6075) **Section 4** of this bill clarifies that the court proceeding for the court-ordered admission of a child who is alleged to be a child with an

emotional disturbance must include an evidentiary hearing. (NRS 432B.6076) **Section 5** of this bill expands the manner in which a person is allowed to oppose a petition for the court-ordered admission of a child into a locked facility to include an opposition stated verbally in court. **Section 6** of this bill provides that if a court authorizes a second evaluation team to examine a child who is subject to a court-ordered admission to a locked facility, the second examination must be conducted within 5 business days by a team that is not affiliated with, employed by or otherwise connected to the facility where the child has been admitted. (NRS 432B.6078) **Section 7** of this bill requires a court to apply the same standards in considering a petition to renew a court-ordered admission of a child as were applied to the original petition. **Section 8** of this bill extends the time for developing a plan for the care, treatment and training of a child subject to a court-ordered admission to a locked facility from 5 to 10 days after the child is admitted to the facility, and removes the requirement that the plan include certain criteria which the child must satisfy before discharge. ~~[Section 9 of this bill requires the court to include in an order terminating the parental rights of a child a plan for the child to have reasonable visitation with any sibling of the child if they are not placed together and provides that refusal to comply with any such order will be treated as contempt of court.~~

~~Section 10 of this bill requires the Administrator of the Division of Child and Family Services of the Department of Health and Human Services to ensure that appropriate policies are established concerning the prescribing, use and distribution of psychotropic medication to children in division facilities.]~~

Section 10 of this bill requires a court to conduct a hearing to determine whether to grant visitation rights to a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. Section 10 further requires the agency which provides child welfare services to provide the court that is conducting the adoption proceedings with a copy of any existing order for visitation with a sibling of the child and allows certain interested parties to petition to participate in the determination as to whether to include visitation rights in the adoption decree.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.3 and 1.5 of this act.**

Sec. 1.3. "Court-ordered admission of a child" includes, without limitation:

1. A child who is in the custody of an agency which provides child welfare services and who is not in a facility whom the court orders to be admitted to a facility; and

2. A child who has been placed in a facility under an emergency admission and whom the court orders to be admitted for the purpose of continuing the placement.

Sec. 1.5. Each agency which provides child welfare services shall establish appropriate policies concerning the monitoring, use and distribution of psychotropic medication to children who are in the custody of the agency.

Sec. 2. NRS 432B.607 is hereby amended to read as follows:

432B.607 As used in NRS 432B.607 to 432B.6085, inclusive, ***and section ~~[1]~~ 1.3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 432B.6071 to 432B.6074, inclusive, ***and section ~~[1]~~ 1.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 432B.6075 is hereby amended to read as follows:

432B.6075 ***1.*** A proceeding for a court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility may be commenced by the filing of a petition with the clerk of the court which has jurisdiction in proceedings concerning the child. The petition may be filed by the agency which provides child welfare services without the consent of a parent of the child. The petition must be accompanied:

~~[~~1.~~]~~ ***(a)*** By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the child alleged to be a child with an emotional disturbance and has concluded that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; or

~~[~~2.~~]~~ ***(b)*** By a sworn written statement by the petitioner that:

~~[~~(a)~~]~~ ***(1)*** The petitioner has, based upon his personal observation of the child alleged to be a child with an emotional disturbance, probable cause to believe that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; and

~~[~~(b)~~]~~ ***(2)*** The child alleged to be a child with an emotional disturbance has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. If a petition filed pursuant to this section is to continue the placement of the child after an emergency admission, the petition must be filed not later than 5 days after the emergency admission ~~[.]~~ or the child must be released.

Sec. 4. NRS 432B.6076 is hereby amended to read as follows:

432B.6076 1. Except as otherwise provided in NRS 432B.6077, if the court finds, after proceedings for the court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility ~~[.]~~ ***, including, without limitation, an evidentiary hearing:***

(a) That there is not clear and convincing evidence that the child with respect to whom the hearing was held exhibits observable behavior such that

he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the child must not be admitted to a facility.

(b) That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the admission, the child is unconditionally released from the facility pursuant to NRS 432B.6084.

2. Before issuing an order for admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the child, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the child.

Sec. 5. NRS 432B.6077 is hereby amended to read as follows:

432B.6077 1. An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has petitioned the court for the court-ordered admission of the child to a facility pursuant to NRS 432B.6075.

2. If a petition for the court-ordered admission of a child filed pursuant to NRS 432B.6075 is accompanied by the information described in ***paragraph (b) of*** subsection ~~[2]~~ ***1*** of NRS 432B.6075, the court shall order a psychological evaluation of the child.

3. If a court which receives a petition filed pursuant to NRS 432B.6075 for the court-ordered admission to a facility of a child who is in the custody of an agency which provides child welfare services determines pursuant to subsection 2 of NRS 432B.6076 that the child could be treated effectively in a less restrictive appropriate environment than a facility, the court must order the placement of the child in a less restrictive appropriate environment. In making such a determination, the court may consider any information provided to the court, including, without limitation:

(a) Any information provided pursuant to subsection 4;

(b) Any suggestions of psychologists, psychiatrists or other physicians who have evaluated the child concerning the appropriate environment for the child; and

(c) Any suggestions of licensed clinical social workers or other professionals or any adult caretakers who have interacted with the child and have information concerning the appropriate environment for the child.

4. If a petition for the court-ordered admission of a child who is in the custody of an agency which provides child welfare services is filed pursuant to NRS 432B.6075:

(a) Any person, including, without limitation, the child, may oppose the petition for the court-ordered admission of the child by filing a written opposition with the court ~~[,]~~ ***or stating the opposition in court;*** and

(b) The agency which provides child welfare services must present information to the court concerning whether:

(1) A facility is the appropriate environment to provide treatment to the child; or

(2) A less restrictive appropriate environment would serve the needs of the child.

Sec. 6. NRS 432B.6078 is hereby amended to read as follows:

432B.6078 1. Not later than 5 days after a child who is in the custody of an agency which provides child welfare services has been admitted to a facility pursuant to NRS 432B.6076, the agency which provides child welfare services shall inform the child of his legal rights and the provisions of NRS 432B.607 to 432B.6085, inclusive, ***and section*** ~~*[1]*~~ ***1.3 of this act,*** 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and, if the child or the child's attorney desires, assist the child in requesting the court to authorize a second examination by an evaluation team that includes a physician, psychiatrist or licensed psychologist ***who are not*** ~~*[affiliated with,]*~~ ***employed by*** ~~*[or otherwise]*~~ ***, connected to or otherwise affiliated with the facility*** other than a physician, psychiatrist or licensed psychologist who performed an original examination which authorized the court to order the admission of the child to the facility. ***A second examination must be conducted not later than 5 business days after the court authorizes the examination.***

2. If the court authorizes a second examination of the child, the examination must:

(a) Include, without limitation, an evaluation concerning whether the child should remain in the facility and a recommendation concerning the appropriate placement of the child which must be provided to the facility; and

(b) Be paid for by the governmental entity that is responsible for the agency which provides child welfare services, if such payment is not otherwise provided by the State Plan for Medicaid.

Sec. 7. NRS 432B.608 is hereby amended to read as follows:

432B.608 1. If the court issues an order for the admission to a facility of a child who is in the custody of an agency which provides child welfare services pursuant to NRS 432B.6076, the admission automatically expires at the end of 90 days if not terminated previously by the facility as provided for in subsection 2 of NRS 432B.6084.

2. At the end of the court-ordered period of treatment, the agency which provides child welfare services, the Division of Child and Family Services or any facility may petition to renew the admission of the child for additional periods not to exceed 60 days each.

3. For each renewal, the petition must set forth the specific reasons why further treatment in the facility would be in the best interests of the child ~~[.]~~ ***and the court shall apply the same standards when considering a petition to renew the admission of the child as were applied for the original petition for the court-ordered admission of the child.***

Sec. 8. NRS 432B.6081 is hereby amended to read as follows:

432B.6081 A facility which provides care, treatment or training to a child who is in the custody of an agency which provides child welfare services and who is admitted to the facility pursuant to NRS 432B.6076 shall develop a plan, in consultation with the child, for the continued care, treatment and training of the child upon discharge from the facility. The plan must:

1. Be developed not later than ~~[5]~~ ***10*** days after the child is admitted to the facility;

2. Be submitted to the court after each period of admission ordered by the court pursuant to NRS 432B.6076 in the manner set forth in NRS 432B.608; and

3. Include, without limitation:

(a) The anticipated date of discharge of the child from the facility;

(b) ~~[The criteria which must be satisfied before the child is discharged from the facility, as determined by the medical professional responsible for the care, treatment and training of the child in the facility;~~

~~(c)]~~ The name of any psychiatrist or psychologist who will provide care, treatment or training to the child after the child is discharged from the facility, if appropriate;

~~[(d)]~~ ***(c)*** A plan for any appropriate care, treatment or training for the child for at least 30 days after the child is discharged from the facility; and

~~[(e)]~~ ***(d)*** The suggested placement of the child after the child is discharged from the facility.

Sec. 9. ~~[NRS 128.110 is hereby amended to read as follows:~~

~~128.110 1. Whenever the procedure described in this chapter has been followed, and upon finding grounds for the termination of parental rights pursuant to NRS 128.105 at a hearing upon the petition, the court shall make a written order, signed by the judge presiding in the court, judicially depriving the parent or parents of the custody and control of, and terminating the parental rights of the parent or parents with respect to the child, and declaring the child to be free from such custody or control, and placing the custody and control of the child in some person or agency qualified by the laws of this State to provide services and care to children, or to receive any children for placement.~~

~~2. If the child is placed in the custody and control of a person or agency qualified by the laws of this State to receive children for placement, the person or agency, in seeking to place the child:~~

~~(a) May give preference to the placement of the child with any person related within the third degree of consanguinity to the child whom the person~~

~~or agency finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.~~

~~(b) Shall, if practicable, give preference to the placement of the child together with his siblings.~~

~~➡ Any search for a relative with whom to place a child pursuant to this subsection must be completed within 1 year after the initial placement of the child outside of his home.~~

~~***3. If a court terminates the parental rights of the parent or parents of a child and the child is placed separate from any sibling, the court shall include in the order a plan for the reasonable visitation of the child with any such sibling. If the child is subsequently moved or adopted and will remain or become separated from any sibling, the person or agency making the placement must request the court to issue an order requiring the visitation set forth in the earlier order issued pursuant to this subsection. If a person refuses to comply with or disobeys an order issued pursuant to this subsection, he may be punished as for a contempt of court.***~~ **(Deleted by amendment.)**

Sec. 10. **Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.

2. Any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency may petition the court to participate in the determination of whether to include an order of visitation with a sibling in the decree of adoption.

3. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child.

~~[Sec. 10.]~~ ***Sec. 11.*** NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children. The Commission must approve the credentials, training and experience of deputy administrators and administrative officers appointed for this purpose.

(c) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

(d) Ensure that appropriate policies are established concerning the prescribing, monitoring, use and distribution of psychotropic medication to children in division facilities [.] that are consistent with the policies established pursuant to section 1.5 of this act.

2. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Governor.

3. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

4. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

[Sec. 11.] ***Sec. 12.*** This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 369.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 268.

AN ACT relating to taxation; revising the provision providing property tax exemptions for the property of certain nonprofit organizations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Currently NRS 361.111 provides a tax exemption for property held by the Archaeological Conservancy, Nature Conservancy, American Land Conservancy and Nevada Land Conservancy. **[**This bill amends the statute to remove the names of specific organizations and provide the exemption for the property of nonprofit, 501(c)3 organizations that are organized principally for the conservation of land, cultural resources and natural resources.**]** The statute requires that the property is **[**being**]** held for acquisition by the State or a local governmental unit, and this bill includes the Federal Government as an additional entity. This bill also provides for an additional exemption from taxation if the property is being held indefinitely for purposes of **[**conservation, education or environmental protection.**]** **education, environmental protection or conservation.**

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

Section 1. NRS 361.111 is hereby amended to read as follows:

361.111 1. Except as otherwise provided in subsections 2 and 3, all real property and improvements thereon acquired by the Archaeological Conservancy, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy ~~[and held for ultimate acquisition by the State or a local governmental unit are]~~ ~~*[a nonprofit organization is]*~~ ***are*** exempt from taxation if:

(a) The ***property is held for ultimate acquisition by the Federal Government, the State or a local governmental unit and:***

(1) The Federal Government, the State or a local governmental unit has agreed, in writing, that acquisition of the property will be given serious consideration; and

~~[(b)]~~ ***(2)*** For property for which the State has given the statement required by ~~[paragraph (a),]~~ ***subparagraph (1),*** the governing body of the county in which the property is located has approved the potential acquisition of the property by the State ~~[.]~~ ***; or***

(b) The property will be held indefinitely and vested in the ~~*[nonprofit organization]*~~ ***Archaeological Conservancy, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy for the purposes of education, environmental protection or conservation.***

2. When the Archaeological Conservancy, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy ~~*[a nonprofit organization]*~~ transfers property it has held for purposes of ***education, environmental protection or*** conservation to any person, partnership, association, corporation or entity other than the ***Federal Government, the*** State or a local governmental unit, the property must be assessed at the rate set for first-class pasture by the Nevada Tax Commission for each year it was exempt pursuant to subsection 1 and the taxes must be collected as other taxes under this chapter are collected.

3. When the Archaeological Conservancy, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy ~~*[a nonprofit organization]*~~ transfers property it has held for purposes other than ***education, environmental protection or*** conservation to any person, partnership, association, corporation or entity other than the ***Federal Government, the*** State or a local governmental unit, the tax imposed by this chapter must be assessed against the property for each year it was exempt pursuant to subsection 1 and collected in the manner provided in this chapter.

4. The Nevada Tax Commission shall adopt regulations specifying the criteria for determining when property ~~[has been]~~ ***is*** held by the Archaeological Conservancy, Nature Conservancy, American Land Conservancy or Nevada Land Conservancy ~~*[a nonprofit organization]*~~ for

purposes of ***education, environmental protection or*** conservation **.** ~~*[,*~~ ~~*education or environmental protection.*~~

~~*5. As used in this section, "nonprofit organization" means a nonprofit corporation, association or organization that is:*~~

~~*(a) Recognized as exempt under section 501(c)(3) of the Internal Revenue Code; and*~~

~~*(b) Organized principally for the conservation of land, cultural resources and natural resources.]*~~

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman McClain moved the adoption of the amendment.

Remarks by Assemblywoman McClain.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 377.

Bill read second time.

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

Amendment No. 201.

SUMMARY—Revises ~~[provisions governing the approval of an application for the beneficial use of]~~ **the policy of this State concerning** water. (BDR 48-887)

AN ACT relating to water; ~~[imposing an additional condition on the approval by the State Engineer of an application for the beneficial use of water;]~~ **declaring the policy of this State to encourage the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[With certain exceptions, existing law requires the State Engineer to approve an application which contemplates the application of water to a beneficial use if: (1) the application is accompanied by the prescribed fees; (2) the proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and (3) the applicant provides proof satisfactory to the State Engineer of his intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence and proof satisfactory of his financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence. (NRS 533.370) This bill imposes as an additional condition on the approval of such an application that the proposed use or change must not adversely affect any surrounding surface or underground source of water.]~~ **This bill declares the policy of this State to encourage the State Engineer to consider the best available science in rendering decisions concerning**

the available surface and underground sources of water in Nevada. (NRS 533.024)

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

Section 1. ~~NRS 533.370 is hereby amended to read as follows:~~

~~533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:~~

~~(a) The application is accompanied by the prescribed fees;~~

~~(b) *The proposed use or change does not adversely affect any surrounding surface or underground source of water;*~~

~~*(c)* The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and~~

~~**[**(c)**]** *(d)* The applicant provides proof satisfactory to the State Engineer of:~~

~~(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and~~

~~(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.~~

~~2. Except as otherwise provided in this subsection and subsections 3 and 11 and NRS 533.365, the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:~~

~~(a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.~~

~~(b) Postpone action if the purpose for which the application was made is municipal use.~~

~~(c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.~~

~~3. Except as otherwise provided in subsection 11, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:~~

~~(a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.~~

~~(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.~~

~~4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.~~

~~5. Except as otherwise provided in subsection 11, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectible interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.~~

~~6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:~~

~~(a) Whether the applicant has justified the need to import the water from another basin;~~

~~(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;~~

~~(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;~~

~~(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and~~

~~(e) Any other factor the State Engineer determines to be relevant.~~

~~7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection 12, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.~~

~~8. If:~~

~~(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;~~

~~(b) The application involves an amount of water exceeding 250 acre-feet per annum;~~

~~(c) The application involves an interbasin transfer of groundwater; and~~

~~(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application,~~

~~↵ the State Engineer shall notice a new period of 45 days in which a person who is a successor in interest to a protestant or an affected water right owner may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.~~

~~9. Except as otherwise provided in subsection 10, a person who is a successor in interest to a protestant or an affected water right owner who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.~~

~~10. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is located and if the former owner of the water right or real property on which a domestic well is located had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if he were the former owner whose interest he succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer on a form provided by the State Engineer.~~

~~11. The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit.~~

~~12. The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.~~

~~13. As used in this section:~~

~~(a) "County of origin" means the county from which groundwater is transferred or proposed to be transferred.~~

~~(b) "Domestic well" has the meaning ascribed to it in NRS 534.350.~~

~~(c) "Interbasin transfer of groundwater" means a transfer of groundwater for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.~~] **(Deleted by amendment.)**

Sec. 2. **NRS 533.024 is hereby amended to read as follows:**

533.024 The Legislature declares that:

1. It is the policy of this State:

(a) To encourage and promote the use of effluent, where that use is not contrary to the public health, safety or welfare, and where that use does not interfere with federal obligations to deliver water of the Colorado River.

(b) To recognize the importance of domestic wells as appurtenances to private homes, to create a protectible interest in such wells and to protect their supply of water from unreasonable adverse effects which are caused by municipal, quasi-municipal or industrial uses and which cannot reasonably be mitigated.

(c) To encourage the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada.

2. The procedures in this chapter for changing the place of diversion, manner of use or place of use of water, and for confirming a report of conveyance, are not intended to have the effect of quieting title to or changing ownership of a water right and that only a court of competent jurisdiction has the power to determine conflicting claims to ownership of a water right.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 433.

Bill read second time.

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

Amendment No. 342.

SUMMARY—Requires county hospitals to provide **outpatient** cancer treatment as part of their care to indigent persons. (BDR 40-976)

AN ACT relating to county hospitals; requiring a county hospital to provide **outpatient** cancer treatment as part of its care to indigent persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Counties are required through county hospitals to provide care to indigent persons. (NRS 428.010, 450.420) This bill requires that the care include the **outpatient** treatment of cancer if the indigent person is a resident of ~~[Nevada]~~ **the county in which the hospital is located** and was a resident **of that county** at the time the person was diagnosed with cancer, but clarifies that this does not prohibit the hospital from providing uncompensated care for the **outpatient** treatment of cancer to other persons.

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

Section 1. NRS 450.420 is hereby amended to read as follows:

450.420 1. The board of county commissioners of the county in which a ~~[public]~~ ***county*** hospital is located may determine whether patients presented to the ~~[public]~~ ***county*** hospital for treatment are subjects of charity. Except as otherwise provided in NRS 439B.330, the board of county commissioners shall establish by ordinance criteria and procedures to be used in the determination of eligibility for medical care as medical indigents or subjects of charity.

2. ***A county hospital must provide outpatient cancer treatment to indigent persons who are residents of ~~[this State]~~ that county and were residents of ~~[this State]~~ that county at the time that they were diagnosed with cancer. This subsection does not prohibit a county hospital from providing uncompensated care for the outpatient treatment of cancer to other persons.***

3. The board of hospital trustees shall fix the charges for treatment of those persons able to pay for the charges, as the board deems just and proper. The board of hospital trustees may impose an interest charge of not more than 12 percent per annum on unpaid accounts. The receipts must be paid to the county treasurer and credited by him to the hospital fund. In fixing charges pursuant to this subsection the board of hospital trustees shall not include, or seek to recover from paying patients, any portion of the expense of the hospital which is properly attributable to the care of indigent patients.

~~[3.]~~ ***4.*** Except as provided in subsection ~~[4]~~ ***5*** of this section and subsection 3 of NRS 439B.320, the county is chargeable with the entire cost of services rendered by the hospital and any salaried staff physician or employee to any person admitted for emergency treatment, including all reasonably necessary recovery, convalescent and follow-up inpatient care required for any such person as determined by the board of trustees of the hospital, but the hospital shall use reasonable diligence to collect the charges from the emergency patient or any other person responsible for his support. Any amount collected must be reimbursed or credited to the county.

~~[4.]~~ ***5.*** The county is not chargeable with the cost of services rendered by the hospital or any attending staff physician or surgeon to the extent the hospital is reimbursed for those services pursuant to NRS 428.115 to 428.255, inclusive.

Sec. 2. NRS 450.425 is hereby amended to read as follows:

450.425 1. The board of county commissioners of a county in which a county hospital is established may, upon approval by a majority of the voters voting on the question in an election held throughout the county, levy an ad valorem tax of not more than 2.5 cents on each $100 of assessed valuation upon all taxable property in the county, to pay the cost of services rendered in the county by the hospital pursuant to subsection ~~[3]~~ ***4*** of NRS 450.420.

The approval required by this subsection may be requested at any primary or general election.

2. Any tax imposed pursuant to this section is in addition to the taxes imposed pursuant to NRS 428.050, 428.185 and 428.285. The proceeds of any tax levied pursuant to this section are exempt from the limitations imposed by NRS 354.59811, 428.050 and 428.285 and must be excluded in determining the maximum rate of tax authorized by those sections.

Sec. 3. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 475.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 197.

AN ACT relating to the revision of statutes; clarifying the effect of changes to the organization and numbering of Nevada Revised Statutes; directing the Legislative Counsel to reorganize the traffic laws ~~[.]~~ **and to revise the Nevada Revised Statutes and the Nevada Administrative Code to make the provisions gender neutral;** repealing certain obsolete definitions in the traffic laws; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Legislative Counsel to take certain actions to keep Nevada Revised Statutes current, including renumbering sections, rearranging sections and creating new titles, chapters and sections, as well as making various other revisions. (NRS 220.120) **Section 1** of this bill clarifies that if the Legislative Counsel renumbers any section of Nevada Revised Statutes, any citation to the previous number in any document, publication, signage or other place shall be deemed to have the same meaning and legal effect as if the citation were to the new number, unless another intent is otherwise specified.

To facilitate the reorganization of the traffic laws required by section 4 of this bill, section 3 of this bill repeals some obsolete definitions which are no longer used in any section of the Nevada Revised Statutes.

Section ~~[2]~~ **4** of this bill directs the Legislative Counsel to reorganize chapter 484 of NRS into several chapters by topic to make the provisions of that chapter easier to use and understand ~~[.]~~ **and to similarly revise the Nevada Administrative Code.** To avoid excessive costs resulting from the reorganization, **section** ~~[2]~~ **4** further directs that any documents, publications, signage or other places that contain references to the old numbers not be

replaced solely to change to the new numbers, but instead be changed when replacement becomes necessary for another purpose.

~~[Section 3 of this bill repeals some obsolete definitions in the traffic laws which are no longer used in any section.]~~

Section 5 of this bill directs the Legislative Counsel to revise the Nevada Revised Statutes and the Nevada Administrative Code so that they are gender neutral. Section 2 of this bill removes a provision that specifies that the masculine gender includes the feminine and neuter genders because that will no longer be necessary with the revision that will make the Nevada Revised Statutes gender neutral.

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

Section 1. NRS 220.120 is hereby amended to read as follows:

220.120 1. In preparing the annotations and keeping Nevada Revised Statutes current, the Legislative Counsel is authorized:

(a) To adopt such system of numbering as he deems practical.

(b) To cause the revision to be published in a number of volumes deemed convenient.

(c) To cause the volumes to be bound in loose-leaf binders of good, and so far as possible, permanent quality.

2. The pages of Nevada Revised Statutes must conform in size and printing style to the pages of the Statutes of Nevada, and roman style type must be used.

3. The Legislative Counsel shall classify and arrange the entire body of statute laws in logical order throughout the volumes, the arrangement to be such as will enable subjects of a kindred nature to be placed under one general head, with necessary cross references.

4. Notes of decisions of the Supreme Court, historical references and other material must be printed and arranged in such manner as the Legislative Counsel finds will promote the usefulness thereof.

5. The Legislative Counsel in keeping Nevada Revised Statutes current shall not alter the sense, meaning or effect of any legislative act, but may renumber sections and parts of sections thereof, change the wording of headnotes, rearrange sections, change reference numbers or words to agree with renumbered chapters or sections, substitute the word “chapter” for “article” and the like, substitute figures for written words and vice versa, change capitalization for the purpose of uniformity, correct inaccurate references to the titles of officers, the names of departments or other agencies of the State, local governments, or the Federal Government, and such other name changes as are necessary to be consistent with the laws of this state and correct manifest clerical or typographical errors.

6. The Legislative Counsel may create new titles, chapters and sections of Nevada Revised Statutes, or otherwise revise the title, chapter and sectional organization of Nevada Revised Statutes, all as may be required

from time to time, to effectuate the orderly and logical arrangement of the statutes. Any new titles, chapters, sections and organizational revisions have the same force and effect as the 58 titles originally enacted and designated as the Nevada Revised Statutes pursuant to chapter 2, Statutes of Nevada 1957.

7. ***If the Legislative Counsel renumbers any section of Nevada Revised Statutes because the section has been moved, divided or combined with another section during the reorganization of the statutes or for any other reason, the citation to the previously assigned number in any legal document, publication, signage or in any other place shall be deemed to have the same meaning and legal effect as if the citation were to the new number, regardless of how long it has been since the new number was assigned and regardless of any revisions made to the section after the assignment of the new number, unless another intent is otherwise specified.***

8. The Legislative Counsel shall assign NRS numbers to such new permanent and general laws enacted at any legislative session.

~~[8.]~~ ***9.*** The Legislative Counsel shall resolve all nonsubstantive conflicts between multiple laws enacted at any legislative session as if made by a single enactment. If multiple amendments to a single section of NRS are made during a legislative session, such amendments are all effective and must be compiled in a manner that is consistent with the intent of the Legislature as determined by the Legislative Counsel.

~~[9.]~~ ***10.*** The Legislative Counsel shall substitute the name of any agency, officer or instrumentality of the State or of a political subdivision whose name is changed by law or to which powers, duties and responsibilities have been transferred by law, for the name which the agency, officer or instrumentality previously used or which was previously vested with the same powers and charged with the same duties and responsibilities.

Sec. 2. **NRS 0.030 is hereby amended to read as follows:**

0.030 ***1.*** Except as otherwise expressly provided in a particular statute or required by the context:

~~[1. The masculine gender includes the feminine and neuter genders.~~

~~2.]~~ ***(a)*** The singular number includes the plural number, and the plural includes the singular.

~~[3.]~~ ***(b)*** The present tense includes the future tense.

~~[4.]~~

2. The use of a masculine noun or pronoun in conferring a benefit or imposing a duty does not exclude a female person from that benefit or duty. The use of a feminine noun or pronoun in conferring a benefit or imposing a duty does not exclude a male person from that benefit or duty.

Sec. 3. NRS 484.031 and 484.045 are hereby repealed.

Sec. 4. 1. When the next reprint of Nevada Revised Statutes is prepared by the Legislative Counsel, the Legislative Counsel shall cause the provisions of chapter 484 of NRS to be reorganized into several chapters organized by topic so that they are easier to use and understand.

2. To avoid any excessive cost, references to the previously assigned numbers of sections of chapter 484 of NRS in any legal document, publication, signage or in any other place must not be replaced to revise those references unless and until they would otherwise be replaced for some other reason.

3. In preparing supplements to the Nevada Administrative Code, the Legislative Counsel shall appropriately change any citation to any section of chapter 484 of NRS to refer to the new citation for the section and shall reorganize chapter 484 of the Nevada Administrative Code into chapters which correspond to the Nevada Revised Statutes.

Sec. 5. **1. In preparing supplements to the Nevada Revised Statutes and the Nevada Administrative Code, the Legislative Counsel shall make such changes as necessary so that the Nevada Revised Statutes and the Nevada Administrative Code are gender neutral. Such changes may include, without limitation, adding references to the feminine or masculine gender and revising other language as necessary to make the Nevada Revised Statutes and Nevada Administrative Code gender neutral.**

2. To the extent that revisions are made to the Nevada Revised Statutes pursuant to subsection 1, the revisions shall be construed as nonsubstantive and it is not the intent of the Nevada Legislature to modify any existing interpretations of any statute which is so revised.

~~[Sec. 4.]~~ ***Sec. 6.*** ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.]~~ **(Deleted by amendment.)**

~~[Sec. 5.]~~ ***Sec. 7.*** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

484.031 "Central business district" defined. "Central business district" means all highways within the area described as such by an ordinance of an incorporated city.

484.045 "Curb loading zone" defined. "Curb loading zone" means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 480.

Bill read second time.

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

Amendment No. 203.

AN ACT relating to water; ~~[increasing certain]~~ **revising the** fees collected by the State Engineer; providing for an automatic biennial increase of such fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill **adds several additional fees and** increases various **existing** fees collected by the State Engineer and provides for an automatic cumulative increase of ~~[such]~~ **certain** fees **collected by the State Engineer** by 5 percent every 2 years beginning on July 1, 2011. (NRS 533.435)

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

Section 1. NRS 533.435 is hereby amended to read as follows:

533.435 1. The State Engineer shall collect the following fees:

For examining and filing an application for a permit to appropriate water ..... ~~[$250.00]~~ ***$300.00***

This fee includes the cost of publication, which is ..... $50.

For reviewing a corrected application or map, or both, in connection with an application for a permit to appropriate water ***100.00***

For examining and acting upon plans and specifications for construction of a dam ..... ~~[500.00]~~ ***1,000.00***

For examining and filing an application for each permit to change the point of diversion, manner of use or place of use of an existing right ..... ~~[$150.00]~~ ~~*[$175.00]*~~ ***200.00***

This fee includes the cost of the publication of the application, which is $50.

For issuing and recording each permit to appropriate water for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water or watering livestock or wildlife purposes ..... ~~[150.00]~~ ~~*[250.00]*~~ ***300.00*** plus ~~[$2]~~ ~~*[$5]*~~ ***$3*** per acre-foot approved or fraction thereof.

For issuing and recording each permit to change an existing right whether temporary or permanent for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water, for watering livestock or wildlife purposes which change the point of diversion or place of use only ~~[, or for irrigational purposes which change the point of diversion or place of use only]~~ ..... ~~[100.00]~~ ***250.00*** plus ~~[$2]~~ ~~*[$5]*~~ ***$3*** per acre-foot approved or fraction thereof.

~~[For issuing and recording each permit to change the point of diversion or place of use only of~~

~~an existing right whether temporary or permanent for irrigational purposes~~**]** **[**~~200.00~~**]** ~~*[250.00 plus $5 per acre-foot approved or fraction thereof.]*~~

For issuing and recording each permit to appropriate or change the point of diversion or place of use of an existing right only whether temporary or permanent for watering livestock or wildlife purposes..... ~~*[300.00]*~~ ***200.00 plus $50*** for each second-foot of water approved or fraction thereof **.** **[** ~~$50.00~~**]**

For issuing and recording each permit to appropriate or change an existing right whether temporary or permanent for water for generating hydroelectric power which results in nonconsumptive use of the water..... ***400.00 plus $50*** for each second-foot of water approved or fraction thereof **.** **[** ~~100.00~~

~~This fee must not exceed $1,000.~~**]**

For issuing a waiver in connection with an application to drill a well ***100.00***

For filing a secondary application under a reservoir permit..... **[**~~200.00~~**]** ***250.00***

For approving and recording a secondary permit under a reservoir permit..... **[**~~200.00~~**]** ***450.00***

For reviewing each tentative subdivision map..... 150.00 plus $1 per lot.

For reviewing and approving each final subdivision map ***100.00***

For storage approved under a dam permit for privately owned nonagricultural dams which store more than 50 acre-feet..... **[**~~100.00~~**]** ***400.00*** plus $1 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.

For filing proof of completion of work..... **[**~~10.00~~**]** ***50.00***

For filing proof of beneficial use 50.00

For filing proof of resumption of a water right ***300.00***

For filing any protest ..... 25.00 ~~*[40.00]*~~

For filing any application for extension of time within which to file proofs..... 100.00

For reviewing a cancellation of a water right pursuant to a petition for review ***300.00***

For examining and filing a report of conveyance filed pursuant to paragraph (a) of subsection 1 of NRS 533.384..... **[**~~25.00~~**]** ***100.00*** plus **[**~~$10~~**]** ***$20*** per conveyance document **.**

For filing any other instrument ..... **[**~~1.00~~**]** ***10.00***

For making copy of any document recorded or filed in his office, for the first page..... 1.00

For each additional page..... $.20

For certifying to copies of documents, records or maps, for each certificate.....~~[1.00]~~ ***5.00***
For each blueprint copy of any drawing or map, per square foot .. ~~[.50]~~ ***5.00***
The minimum charge for a blueprint copy, per print..... 3.00
For colored mylar plots**.....*10.00***

2. ***On July 1, 2011, and on July 1 of each odd-numbered year thereafter, the State Engineer shall increase cumulatively the amount of each fee described in subsection 1 by 5 percent, rounded to the nearest dollar, as determined by the State Engineer.***

3. When fees are not specified in subsection 1 for work required of his office, the State Engineer shall collect the actual cost of the work.

~~[3.]~~ ***4.*** Except as otherwise provided in this subsection, all fees collected by the State Engineer under the provisions of this section must be deposited in the State Treasury for credit to the General Fund. All fees received for blueprint copies of any drawing or map must be kept by him and used only to pay the costs of printing, replacement and maintenance of printing equipment. Any publication fees received which are not used by him for publication expenses must be returned to the persons who paid the fees. If, after exercising due diligence, the State Engineer is unable to make the refunds, he shall deposit the fees in the State Treasury for credit to the General Fund. The State Engineer may maintain, with the approval of the State Board of Examiners, a checking account in any bank or credit union qualified to handle state money to carry out the provisions of this subsection. The account must be secured by a depository bond satisfactory to the State Board of Examiners to the extent the account is not insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 493.

Bill read second time.

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

Amendment No. 275.

JOINT SPONSOR: COMMITTEE ON FINANCE

SUMMARY— ~~[Prohibits companies that are involved in specified activities in the country of Sudan from entering into a contract with certain state agencies for the provision of goods or services.]~~ **Requires the Public Employees' Retirement Board to identify and report concerning investments of money from the Public Employees' Retirement System in certain scrutinized companies with certain business activities or connections to Iran's petroleum sector.** (BDR ~~[27-1232)]~~ **23-1232)**

AN ACT relating to ~~[state purchasing contracts; prohibiting companies that are involved in specified activities in the country of Sudan from entering into a contract with certain state agencies for the provision of goods or services;]~~ **public retirement systems; requiring the Public Employees' Retirement Board to identify and report concerning investments of money from the Public Employees' Retirement System in certain scrutinized companies with certain business activities or connections to Iran's petroleum sector;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law authorizes contracts between state agencies within the Executive Branch of Government and private contractors and sets forth requirements for the procurement of goods and services by those state agencies. (Chapter 333 of NRS) Section 13 of this bill prohibits certain "scrutinized companies" that are involved in specified activities in the country of Sudan from entering into a contract with a state agency for goods or services. Section 13 also provides for an exception to the prohibition on such contracts if the Governor determines it is in the best interest of the State. In addition, section 13 requires a prospective bidder for a contract with a state agency that currently or within the previous 3 years has had business activities or other operations outside of the United States to certify that the company is not a scrutinized company.~~

~~Section 14 of this bill requires certain reports to be submitted to the U.S. Attorney General and the Attorney General for the State of Nevada and authorizes the Attorney General for the State of Nevada to bring a civil action against a company that submits a false certification. Section 15 of this bill provides for a civil penalty to be imposed on a company that provides a false certification in an amount not to exceed $250,000, or an amount that is twice the amount of the contract price. In addition, section 15 provides that a company which provides a false certification is prohibited from entering into another contract with a state agency for not less than 3 years.]~~

Section 1 of this bill outlines the difficulties that the United Nations has experienced trying to control Iran's development of nuclear weapons and weapons of mass destruction. The United Nations has passed several resolutions condemning the actions of Iran and imposing sanctions on Iran. In addition, Congress adopted the Iran Sanctions Act of 1996 which imposes an embargo and various sanctions on Iran. Because of the volatility of Iran and the sanctions imposed on that country, section 1 expresses the concern of the Nevada Legislature about investment decisions by retirement systems in this State, including the Public Employees' Retirement System, to invest in publicly traded companies that conduct business activities with or have ties to Iran's petroleum-energy industry and encourages such retirement systems to use reason and prudence in making such investment decisions.

Section 13 of this bill requires the Public Employees' Retirement Board to identify certain scrutinized companies in which the Public Employees' Retirement System has direct holdings. Section 14 of this bill further requires the Board to prepare an annual report of investments of money from the System in those scrutinized companies. The report must be submitted to the Governor and the Legislature on or before February 1 of each year.

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

Delete existing sections 1 through 16 of this bill and replace with the following new sections 1 through 15:

Section 1. **The Nevada Legislature hereby finds and declares that:**

1. In 2008, the United Nations Security Council passed Resolution 1803 reaffirming prior resolutions of the Security Council, including Resolutions 1696 (2006), 1737 (2006) and 1747 (2007), and imposing sanctions on Iran for failing to suspend its uranium-enrichment activities which may lead to the development of nuclear weapons.

2. Security Council Resolution 1803 notes that the Director General of the International Atomic Energy Agency (IAEA) confirmed that Iran has not established full and sustained suspension of all enrichment-related and reprocessing activities and heavy water-related projects, has not resumed its cooperation with the IAEA, has not taken the other steps called for by the IAEA Board of Governors or complied with the prior resolutions.

3. The United Nations Security Council voted unanimously in Resolution 1803 to continue to freeze the financial assets and restrict the travel of persons or entities supporting Iran's proliferation sensitive nuclear activities or the development of nuclear weapon delivery and expanded the list of persons and entities subject to the freezing of assets and travel restrictions.

4. The United Nations Security Council, through its resolutions, has required that nations prevent the transfer to Iran of a broad range of proliferation sensitive items and related technical and financial assistance and resources and services related to these items that could contribute to Iran's proscribed nuclear activities or the development of nuclear weapon delivery systems.

5. The United Nations Security Council has also called for nations to exercise vigilance in entering into new commitments for financial support for trade with Iran, including the granting of export credits, guarantees or insurance, to their nationals or entities involved in such trade in order to avoid having such financial support contribute to proliferation sensitive nuclear activities or to the development of nuclear weapon delivery systems.

6. Resolution 1803 also calls for nations to exercise vigilance over the activities of financial institutions in their territories with all banks domiciled in Iran, as well as their branches and subsidiaries abroad because of their connections to proliferation sensitive nuclear activities and the development of nuclear weapon delivery systems.

7. In 1996, the United States Congress adopted the Iran and Libya Sanctions Act of 1996, Public Law 104-172, renewed the Act in 2001 and in 2006 renamed it the Iran Sanctions Act of 1996, Public Law 109-293.

8. Congress found that "[t]he efforts of the Government of Iran to acquire weapons of mass destruction and the means to deliver them and its support of acts of international terrorism endanger the national security and foreign policy interests of the United States and those countries with which the United States shares common strategic and foreign policy objectives."

9. The Iran Sanctions Act of 1996 requires the President of the United States to impose certain sanctions on any person or entity who, with actual knowledge, invests $20 million or more, either in a single investment or a combination of investments of at least $5 million each, which in the aggregate equal or exceed $20 million in any 12-month period, that directly and significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of that country.

10. Iran's financial ability to pay its debts is put at risk by the embargo and sanctions of the Iran Sanctions Act of 1996.

11. Actions by fiduciaries of public money, including selling, redeeming, divesting or withdrawing from investments (divestiture), should be considered with the purpose of improving investment performance, and such fiduciaries must apply reason and prudence in making such decisions with consideration given to all relevant, substantive information concerning the investment.

12. Because of the instability of markets that are vulnerable to embargo, loan restrictions and sanctions by the United States and the international community, including the United Nations Security Council, fiduciaries should use caution and exercise restraint in investing in such markets and, applying reason and prudence, should consider divestiture from such markets.

13. The Nevada Legislature is deeply concerned about investments in publicly traded companies that conduct business activities with or have ties to Iran's petroleum-energy industry because of the serious financial risk to the shareholders.

14. Retirement systems, including the Public Employees' Retirement System, which invest money on behalf of public employees in publicly traded companies that conduct business activities with or have ties to Iran's petroleum-energy industry must use reason and prudence in making such investments.

15. To protect Nevada's assets, it is in the best interest of the State for public retirement systems in this State, including the Public Employees' Retirement System, to use reason and prudence in deciding whether to invest or divest from publicly traded securities of entities that conduct business activities with and have ties to Iran's petroleum-energy industry.

16. It is the intent of the Legislature that public retirement systems in Nevada, including the Public Employees' Retirement System, continue to limit investments in entities that conduct business with or have ties to Iran's petroleum-energy industry in the manner set forth in this declaration only insofar as it continues to be consistent with the foreign policy of the United States.

Sec. 2. **Chapter 286 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 15, inclusive, of this act.**

Sec. 3. ***As used in sections 3 to 15, inclusive, of this act, the words and terms defined in sections 4 to 12, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Active business operations" means all business operations that are not inactive business operations.***

Sec. 5. ***"Business operations" means investing, with actual knowledge on or after August 5, 1996, in Iran's petroleum sector, which investment directly and significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran. The term does not include the retail sale of gasoline and related consumer products.***

Sec. 6. ***"Company" means any foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited-liability partnership, limited-liability company, or any other foreign entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries or parent companies or affiliates of these entities or business associations, that exist for the purpose of making a profit.***

Sec. 7. ***"Direct holdings" means all publicly traded equity securities of a company that are held directly by the public fund or in an account or fund in which the public fund owns all shares or interests.***

Sec. 8. ***"Inactive business operations" means the continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for that purpose.***

Sec. 9. ***"Iran" means the Islamic Republic of Iran.***

Sec. 10. ***"Petroleum resources" means petroleum or natural gas.***

Sec. 11. ***"Scrutinized business operations" means any active business operations that:***

1. Are subject to or liable for sanctions under the Iran Sanctions Act of 1996, Public Law 104-172, as amended; and

2. Involve the maintenance of:

(a) The company's existing assets or investments in Iran; or

(b) The deployment of new investments to Iran that meet or exceed the threshold referred to in the Iran Sanctions Act of 1996, as amended.

Sec. 12. "Scrutinized company" means any company engaging in scrutinized business operations.

Sec. 13. 1. Except as otherwise provided in section 15 of this act, the Board shall identify those scrutinized companies in which the System has direct holdings. In making the determination, the Board shall review and rely on publicly available information regarding companies with business operations in Iran, including information provided by nonprofit organizations, research firms, international organizations and governmental entities.

2. The Board shall create a list of all identified scrutinized companies pursuant to subsection 1.

3. The Board shall update the list on an annual basis with information provided and received from those entities listed in subsection 1.

Sec. 14. 1. Except as otherwise provided in section 15 of this act, the Board shall prepare an annual report of investments of money from the System in scrutinized companies as identified pursuant to section 13 of this act. The report must include the amount of money allocated in such investments and other data and statistics designed to explain the past and current extent to which funds from the System are invested in scrutinized companies.

2. The Board shall submit a copy of the report to the Governor and the Director of the Legislative Counsel Bureau for distribution to the Legislature on or before February 1 of each year which must cover all investments during the previous calendar year.

Sec. 15. The provisions of sections 13 and 14 of this act do not apply to:

1. Money invested in a defined contribution plan that is authorized by the Internal Revenue Code and administered by the Board; or

2. Investments in a company that is primarily engaged in:

(a) Supplying goods or services intended to relieve human suffering in Iran; or

(b) Promoting health, education, religious, welfare or journalistic activities in Iran.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 512.

Bill read second time.

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

Amendment No. 103.

AN ACT relating to real property; providing that a tenant may give a landlord a surety bond, or a combination of a surety bond and other security, instead of a security deposit under certain circumstances; providing that upon termination of a landlord's interest in the property, the successor in interest must accept the tenant's security or surety bond; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a landlord and a tenant to perform certain obligations with respect to a lease of real property. As part of a lease, a landlord may demand a tenant provide security for the tenant's obligations, such as: (1) payment of rent; (2) repairing damage to the premises; and (3) cleaning the dwelling. (NRS 118A.240-118A.250)

Section 2 of this bill provides that, instead of requiring a security deposit, a landlord may allow a tenant to provide the landlord with a surety bond, or a combination of a surety bond and other security, to cover the amount of security demanded by the landlord. This section also: (1) provides that a landlord is not required to accept a surety bond; **and** (2) provides that a landlord may not require a tenant to provide a surety bond in place of security **.** ~~**[**~~**;** ~~and (3) imposes a duty on the tenant to ensure the surety bond remains in effect.~~**]** **Section 2 also provides that a tenant may dispute items contained in a landlord's claim against a surety and prohibits a surety, under certain circumstances, from reporting a landlord's claim to a credit reporting agency unless the surety obtains a judgment against the tenant.** (NRS 118A.242)

Section 3 of this bill requires, at the termination of the landlord's interest in the dwelling unit under certain circumstances, that the successor in interest accept the tenant's security or surety bond, or a combination thereof, and prohibits the successor in interest from demanding additional security or surety during the term of the rental agreement. (NRS 118A.244)

Section 1 of this bill amends the existing definition of security to provide that a payment made to a licensed surety to secure a surety bond is not security for the purposes of determining security given to a landlord. (NRS 188A.240)

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

Section 1. NRS 118A.240 is hereby amended to read as follows:

118A.240 1. Any payment, deposit, fee or charge that is to be used for any of the following purposes is "security" and is governed by the provisions of this section and NRS 118A.242 and 118A.244:

(a) Remedying any default of the tenant in the payments of rent.

(b) Repairing damages to the premises other than normal wear caused by the tenant.

(c) Cleaning the dwelling unit.

2. "Security" does not include ~~**[**any**]**~~ ***:***

(a) Any payment, deposit or fee to secure an option to purchase the premises ~~[.]~~ ***; or***

(b) Any payment to a corporation qualified under the laws of this State as a surety, guarantor or obligator for a premium paid to secure a surety bond or a similar bond, guarantee or insurance coverage for purposes of securing a tenant's obligations to a landlord as described in NRS 118A.242.

Sec. 2. NRS 118A.242 is hereby amended to read as follows:

118A.242 1. The landlord may not demand or receive security ~~[,]~~ ***or a surety bond, or a combination thereof,*** including the last month's rent, whose total amount or value exceeds 3 months' periodic rent.

2. ***In lieu of paying all or part of the security required by the landlord, a tenant may, if the landlord consents, purchase a surety bond to secure the tenant's obligation to the landlord under the rental agreement to:***

(a) Remedy any default of the tenant in the payment of rent.

(b) Repair damages to the premises other than normal wear and tear.

(c) Clean the dwelling unit.

3. The landlord:

(a) Is not required to accept a surety bond purchased by the tenant in lieu of paying all or part of the security; and

(b) May not require a tenant to purchase a security bond in lieu of paying all or part of the security.

4. ~~*[If a landlord accepts a surety bond in lieu of all or part of the security, the tenant shall maintain the surety and ensure the surety remains in full force, unless the tenant has been relieved of the requirement to maintain the surety.*~~

~~*5.]*~~ Upon termination of the tenancy by either party for any reason, the landlord may claim of the security ***or surety bond, or a combination thereof,*** only such amounts as are reasonably necessary to remedy any default of the tenant in the payment of rent, to repair damages to the premises caused by the tenant other than normal wear and to pay the reasonable costs of cleaning the premises. The landlord shall provide the tenant with an itemized written accounting of the disposition of the security ***or surety bond, or a combination thereof,*** and return any remaining portion of the security to the tenant no later than 30 days after the termination of the tenancy by handing it to him personally at the place where the rent is paid, or by mailing it to him at his present address ~~[,]~~ or ***,*** if that address is unknown, at the tenant's last known address.

5. If a tenant disputes an item contained in an itemized written accounting received from a landlord pursuant to subsection 4, the tenant may send a written response disputing the item to the surety. If the tenant sends the written response within 30 days after receiving the itemized written accounting, the surety shall not report the claim of the landlord to a credit reporting agency unless the surety obtains a judgment against the tenant.

~~[3.]~~ ***6.*** If the landlord fails or refuses to return the remainder of a security deposit within 30 days after the end of a tenancy, he is liable to the tenant for damages:

(a) In an amount equal to the entire deposit; and

(b) For a sum to be fixed by the court of not more than the amount of the entire deposit.

~~[4.]~~ ***7.*** In determining the sum, if any, to be awarded under paragraph (b) of subsection ~~[3,]~~ ***6,*** the court shall consider:

(a) Whether the landlord acted in good faith;

(b) The course of conduct between the landlord and the tenant; and

(c) The degree of harm to the tenant caused by the landlord's conduct.

~~[5.]~~ ***8.*** Except for an agreement which provides for a nonrefundable charge for cleaning, in a reasonable amount, no rental agreement may contain any provision characterizing any security under this section as nonrefundable or any provision waiving or modifying a tenant's rights under this section. Any such provision is void as contrary to public policy.

~~[6.]~~ ***9.*** The claim of a tenant to security to which he is entitled under this chapter takes precedence over the claim of any creditor of the landlord.

Sec. 3. NRS 118A.244 is hereby amended to read as follows:

118A.244 1. Upon termination of the landlord's interest in the dwelling unit, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or his agent shall, within a reasonable time, do one of the following, which relieves him of further liability with respect to the security ~~[:]~~ ***or surety bond, or a combination thereof:***

(a) Notify the tenant in writing of the name, address and telephone number of his successor in interest, and that he has transferred to his successor in interest the portion of the ~~[any]~~ security ***or surety bond, or combination thereof,*** remaining after making any deductions allowed under NRS 118A.242 . ~~[and any documentation relating to any surety bond of the tenant.]~~

(b) Return to the tenant the portion of the security remaining after making any deductions allowed under NRS 118A.242.

➥ The successor has the rights, obligations and liabilities of the former landlord as to any securities which are owed under this section or NRS 118A.242 at the time of transfer.

2. The landlord shall, before he records a deed transferring any dwelling unit:

(a) Transfer to his successor, in writing, the portion of any tenant's security deposit or other money held by him which remains after making any deductions allowed under NRS 118A.242; or

(b) Notify his successor in writing that he has returned all such deposits or portions thereof to the tenant.

3. Upon the termination of a landlord's interest in the dwelling unit, whether by sale, assignment, death, appointment of receiver or otherwise, the successor in interest:

(a) Shall accept the tenant's security or surety bond, or a combination thereof; and

(b) Shall not require any additional security or surety bond, or a combination thereof, from the tenant during the term of the rental agreement.

Sec. 4. NRS 118A.250 is hereby amended to read as follows:

118A.250 The landlord shall deliver to the tenant upon his request a signed written receipt for ***the*** security ***or surety bond, or a combination thereof,*** and any other payments, deposits or fees, including rent, paid by the tenant and received by the landlord. The tenant may refuse to make rent payments until the landlord tenders the requested receipt.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 213.

Bill read second time.

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

Amendment No. 329.

AN ACT relating to cancer; requiring the State Board of Pharmacy to establish the Cancer Drug Donation Program; requiring the Board to adopt regulations to carry out the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a system for the reporting and analyzing of information relating to cancer and establishes task forces on prostate cancer and cervical cancer. (Chapter 457 of NRS)

Section 7 of this bill requires the State Board of Pharmacy to establish the Cancer Drug Donation Program. The Program will distribute and dispense cancer drugs donated to the Program to cancer patients. **Section 7** also authorizes persons to donate cancer drugs at any pharmacy, medical facility, health clinic or provider of health care that participates in the Program. The donated drugs must be in the original, unopened and sealed packages and must not be adulterated or misbranded. **Section 10** of this bill requires the Board to adopt regulations to carry out the Program. **Section 11** of this bill provides immunity from civil **or criminal** liability **or any disciplinary action by a professional licensing board** for ~~[~~damages caused by certain acts or omissions of a person other than a manufacturer of a cancer drug, pharmacy, medical facility, health clinic or provider of health care who donates~~]~~ **: (1) any person who exercises reasonable care in donating** a cancer drug to the Program ~~[.]~~ **; and (2) any pharmacy, medical facility, health clinic or provider of health care that exercises reasonable care in accepting, distributing or dispensing a cancer drug pursuant to the Program. Section 11 also provides that a manufacturer of a cancer drug**

is immune from civil or criminal liability for any claim or injury arising from the donation, acceptance, distribution or dispensation of the cancer drug pursuant to the Program.

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

Section 1. Chapter 457 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Cancer drug" means a prescription drug that is used to treat*** ~~*[:*~~

~~*1. Cancer or its side effects; or*~~

~~*2. The side effects of a prescription drug that is used to treat cancer or its side effects.*~~

~~*"The term includes medical supplies used in the administration of a cancer drug.]*~~ ***cancer.***

Sec. 4. ***"Medical facility" has the meaning ascribed to it in NRS 449.0151.***

Sec. 5. ***"Program" means the Cancer Drug Donation Program established pursuant to section 7 of this act.***

Sec. 6. ***"Provider of health care" has the meaning ascribed to it in NRS 629.031.***

Sec. 7. ***1. The State Board of Pharmacy shall establish and maintain the Cancer Drug Donation Program to accept, distribute and dispense cancer drugs donated to the Program.***

2. Any person may donate a cancer drug to the Program. A cancer drug may be donated at a pharmacy, medical facility, health clinic or provider of health care that participates in the Program.

3. A pharmacy, medical facility, health clinic or provider of health care that participates in the Program may charge a patient who receives a cancer drug a handling fee in accordance with the regulations adopted by the State Board of Pharmacy pursuant to section 10 of this act.

4. A cancer drug may be accepted, distributed or dispensed pursuant to the Program only if the cancer drug:

(a) Is in its original, unopened, sealed and tamper-evident unit dose packaging or, if packaged in single-unit doses, the single-unit dose packaging is unopened;

(b) Is not adulterated or misbranded; and

(c) Bears an expiration date that is later than 30 days after the drug is donated.

5. A cancer drug donated to the Program may not be:

(a) Resold; or

(b) Designated by the donor for a specific person.

6. The provisions of this section do not require a pharmacy, medical facility, health clinic or provider of health care to participate in the Program.

Sec. 8. ***A cancer drug donated for use in the Program may only be dispensed:***

1. By a pharmacist who is registered pursuant to chapter 639 of NRS;

2. Pursuant to a prescription written by a person who is authorized to write prescriptions; and

3. To a person who is eligible to receive cancer drugs dispensed pursuant to the Program.

Sec. 9. ***A pharmacy, medical facility, health clinic or provider of health care that participates in the Program:***

1. Shall comply with all applicable state and federal laws concerning the storage, distribution and dispensing of the cancer drugs; and

2. May distribute a cancer drug donated to the Program to another pharmacy, medical facility, health clinic or provider of health care for use in the Program.

Sec. 10. ***The State Board of Pharmacy shall adopt regulations to carry out the provisions of sections 2 to 11, inclusive, of this act. The regulations must prescribe, without limitation:***

1. The requirements for the participation of pharmacies, medical facilities, health clinics and providers of health care in the Program, including, without limitation:

(a) A requirement that each provider of health care who participates in the Program provide, as a regular course of practice, medical services and goods to persons with cancer; and

(b) A requirement that each medical facility that participates in the Program provide, as a regular course of practice, medical services and goods to persons with cancer;

2. The criteria for determining the eligibility of persons to receive cancer drugs dispensed pursuant to the Program, including, without limitation, a requirement that a person sign up with the State Board of Pharmacy on a form prescribed by the Board to be eligible to receive cancer drugs dispensed pursuant to the Program;

3. The categories of cancer drugs that may be accepted for distribution or dispensing pursuant to the Program; and

4. The maximum fee that a pharmacy, medical facility, health clinic or provider of health care may charge to distribute or dispense cancer drugs pursuant to the Program.

Sec. 11. ~~*[Any person other than a manufacturer of a cancer drug, pharmacy, medical facility, health clinic or provider of health care who donates]*~~

1. A person who exercises reasonable care in the donation of a cancer drug in accordance with the provisions of sections 2 to 11, inclusive, of this act, and the regulations adopted pursuant thereto, is not ~~*[liable for]*~~ ***subject***

to any civil [damages as a result of any act or omission, not amounting to gross negligence, by him in donating]* or criminal liability or disciplinary action by a professional licensing board for any loss, injury or death that results from the donation of the cancer drug.

2. A pharmacy, medical facility, health clinic or provider of health care which participates in the Program and which exercises reasonable care in the acceptance, distribution or dispensation of a cancer drug is not subject to civil or criminal liability or disciplinary action by a professional licensing board for any loss, injury or death that results from the acceptance, distribution or dispensation of the cancer drug.

3. A manufacturer of a cancer drug is not subject to civil or criminal liability for any claim or injury arising from the donation, acceptance, distribution or dispensation of the cancer drug pursuant to sections 2 to 11, inclusive, of this act and the regulations adopted pursuant thereto.

Sec. 12. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblywoman Smith:

Amendment No. 459.

JOINT SPONSOR: SENATOR CEGAVSKE

AN ACT relating to cancer; requiring the State Board of Pharmacy to establish the Cancer Drug Donation Program; requiring the Board to adopt regulations to carry out the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a system for the reporting and analyzing of information relating to cancer and establishes task forces on prostate cancer and cervical cancer. (Chapter 457 of NRS)

Section 7 of this bill requires the State Board of Pharmacy to establish the Cancer Drug Donation Program. The Program will distribute and dispense cancer drugs donated to the Program to cancer patients. **Section 7** also authorizes persons to donate cancer drugs at any pharmacy, medical facility, health clinic or provider of health care that participates in the Program. The donated drugs must be in the original, unopened and sealed packages and must not be adulterated or misbranded. **Section 10** of this bill requires the Board to adopt regulations to carry out the Program. **Section 11** of this bill provides immunity from civil liability for damages caused by certain acts or omissions of a person other than a manufacturer of a cancer drug, pharmacy, medical facility, health clinic or provider of health care who donates a cancer drug to the Program.

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

Section 1. Chapter 457 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Cancer drug" means a prescription drug that is used to treat:***

1. Cancer or its side effects; or

2. The side effects of a prescription drug that is used to treat cancer or its side effects.

➥ The term includes medical supplies used in the administration of a cancer drug.

Sec. 4. ***"Medical facility" has the meaning ascribed to it in NRS 449.0151.***

Sec. 5. ***"Program" means the Cancer Drug Donation Program established pursuant to section 7 of this act.***

Sec. 6. ***"Provider of health care" has the meaning ascribed to it in NRS 629.031.***

Sec. 7. ***1. The State Board of Pharmacy shall establish and maintain the Cancer Drug Donation Program to accept, distribute and dispense cancer drugs donated to the Program.***

2. Any person may donate a cancer drug to the Program. A cancer drug may be donated at a pharmacy, medical facility, health clinic or provider of health care that participates in the Program.

3. A pharmacy, medical facility, health clinic or provider of health care that participates in the Program may charge a patient who receives a cancer drug a handling fee in accordance with the regulations adopted by the State Board of Pharmacy pursuant to section 10 of this act.

4. A cancer drug may be accepted, distributed or dispensed pursuant to the Program only if the cancer drug:

(a) Is in its original, unopened, sealed and tamper-evident unit dose packaging or, if packaged in single-unit doses, the single-unit dose packaging is unopened;

(b) Is not adulterated or misbranded; and

(c) Bears an expiration date that is later than 30 days after the drug is donated.

5. A cancer drug donated to the Program may not be:

(a) Resold; or

(b) Designated by the donor for a specific person.

6. The provisions of this section do not require a pharmacy, medical facility, health clinic or provider of health care to participate in the Program.

Sec. 8. ***A cancer drug donated for use in the Program may only be dispensed:***

1. By a pharmacist who is registered pursuant to chapter 639 of NRS;

2. Pursuant to a prescription written by a person who is authorized to write prescriptions; and

3. To a person who is eligible to receive cancer drugs dispensed pursuant to the Program.

Sec. 9. ***A pharmacy, medical facility, health clinic or provider of health care that participates in the Program:***

1. Shall comply with all applicable state and federal laws concerning the storage, distribution and dispensing of the cancer drugs; and

2. May distribute a cancer drug donated to the Program to another pharmacy, medical facility, health clinic or provider of health care for use in the Program.

Sec. 10. ***The State Board of Pharmacy shall adopt regulations to carry out the provisions of sections 2 to 11, inclusive, of this act. The regulations must prescribe, without limitation:***

1. The requirements for the participation of pharmacies, medical facilities, health clinics and providers of health care in the Program, including, without limitation:

(a) A requirement that each provider of health care who participates in the Program provide, as a regular course of practice, medical services and goods to persons with cancer; and

(b) A requirement that each medical facility that participates in the Program provide, as a regular course of practice, medical services and goods to persons with cancer;

2. The criteria for determining the eligibility of persons to receive cancer drugs dispensed pursuant to the Program, including, without limitation, a requirement that a person sign up with the State Board of Pharmacy on a form prescribed by the Board to be eligible to receive cancer drugs dispensed pursuant to the Program;

3. The categories of cancer drugs that may be accepted for distribution or dispensing pursuant to the Program; and

4. The maximum fee that a pharmacy, medical facility, health clinic or provider of health care may charge to distribute or dispense cancer drugs pursuant to the Program.

Sec. 11. ***Any person other than a manufacturer of a cancer drug, pharmacy, medical facility, health clinic or provider of health care who donates a cancer drug in accordance with the provisions of sections 2 to 11, inclusive, of this act, and the regulations adopted pursuant thereto, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him in donating the cancer drug.***

Sec. 12. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 247.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 372.

AN ACT relating to bicycles; revising provisions governing the operation of bicycles; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that every person riding a bicycle upon a roadway is generally subject to the provisions of chapter 484 of NRS which apply to drivers of vehicles. (NRS 484.503) Existing law requires the driver of a vehicle to signal an intention to turn from a direct course continuously during not less than the last 100 feet traveled in a business or residential district and not less than the last 300 feet traveled in any other area. (NRS 484.343) **Section 2** of this bill exempts the operator of a bicycle from these requirements and instead requires the operator only to signal his intention to turn at least one time, unless the bicycle is in a designated turn lane or when safe operation of the bicycle requires the operator to keep both hands on the bicycle.

Existing law provides for the methods of giving signals by hand and arm. (NRS 484.347) **Section 3** of this bill authorizes an operator of a bicycle to signal for a right turn by extending his right hand and arm horizontally and to the right side of the bicycle.

Existing law prohibits the driving of a vehicle upon any sidewalk area. (NRS 484.451) **Section 4** of this bill provides that ~~[an operator of a bicycle may operate a bicycle upon any sidewalk area unless a local ordinance prohibits or restricts such operation. Section 4 also provides]~~ **a local authority may not enact any ordinance that requires the operation of bicycles upon sidewalks or side paths, and** that any **such** ordinance enacted by a local authority ~~[which requires the operation of bicycles only upon sidewalk areas]~~ is void.

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

Section 1. Chapter 484 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***1. Except as otherwise provided in subsection 2, an operator of a bicycle upon a roadway shall not turn from a direct course unless the movement may be made with reasonable safety and the operator gives an appropriate signal. The operator shall give the appropriate signal at least one time but is not required to give the signal continuously.***

2. An operator of a bicycle is not required to give a signal if:

(a) The bicycle is in a designated turn lane; or

(b) Safe operation of the bicycle requires the operator to keep both hands on the bicycle.

Sec. 3. ***An operator of a bicycle upon a roadway shall give all signals by hand and arm in the manner required by NRS 484.347, except that the operator may give a signal for a right turn by extending his right hand and arm horizontally and to the right side of the bicycle.***

Sec. 4. ***1.*** ~~*[Except as otherwise provided by a local ordinance described in subsection 2, an operator of a bicycle may operate the bicycle upon any sidewalk area.*~~

~~*2. The provisions of subsection 1 do not prohibit a]*~~ ***A local authority*** ~~*[from enacting]*~~ ***shall not enact an ordinance*** ~~*[prohibiting or restricting]*~~ ***requiring the operation of bicycles upon any sidewalk area or side path within its jurisdiction.***

~~*[3. Any ordinance enacted by a local authority which requires the operation of bicycles only upon sidewalk areas]*~~

2. Any ordinance that is enacted in violation of subsection 1 has no effect and is void.

3. As used in this section, "side path" means an area adjacent to a highway that is designated for travel by bicycles or any other means except by motor vehicle.

Sec. 5. NRS 484.501 is hereby amended to read as follows:

484.501 1. It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in NRS 484.505 to 484.513, inclusive ~~[.]~~ ***, and sections 2, 3 and 4 of this act.***

2. The parent of any child and the guardian of any ward shall not authorize or knowingly permit ~~[any such]~~ ***the*** child or ward to violate any of the provisions of this chapter.

3. The provisions applicable to bicycles ~~[shall]~~ apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

Sec. 6. NRS 484.503 is hereby amended to read as follows:

484.503 Every person riding a bicycle upon a roadway has all of the rights and is subject to all of the duties applicable to the driver of a vehicle except as otherwise provided in NRS 484.504 to 484.513, inclusive, ***and sections 2, 3 and 4 of this act*** and except as to those provisions of this chapter which by their nature can have no application.

Sec. 7. **The provisions of section 4 of this act apply to any ordinance adopted before, on or after October 1, 2009, and any ordinance which was adopted before that date and which is contrary to the provisions of section 4 of this act is void on October 1, 2009.**

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 359 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 359.

Bill read third time.

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

Amendment No. 288.

AN ACT relating to education; creating the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism; requiring that the boards of trustees of school districts and the governing bodies of charter schools, to the extent money is available, ensure that certain personnel possess the skills and qualifications necessary to work with pupils with autism; requiring the Health Division of the Department of Health and Human Services to ensure that certain personnel possess the skills and qualifications necessary to provide services to children with autism and their families; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism to provide grants of money to school districts and charter schools for programs of training of certain personnel.

Section 4 of this bill requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that the personnel employed by the school district or charter school who work with pupils with autism receive the appropriate preparation and training necessary to serve those pupils. **Section 5** of this bill requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a parent or legal guardian of a pupil with autism in making decisions about the services and programs available for the pupil receive the appropriate preparation and training necessary to assist those persons. **Section 7** of this bill requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that a paraprofessional who is employed by the school district or charter school who is assigned to work with a pupil with autism receives the appropriate preparation and training necessary to serve those pupils.

Section 8 of this bill requires the personnel of the Health Division of the Department of Health and Human Services who provide early intervention services **and the persons with whom the Health Division contracts to provide those services** to possess the knowledge and skills necessary to provide services to children with autism and their families.

Section 9 of this bill requires that any money received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to assist school districts with the training of personnel to assist pupils with autism be deposited in the Grant Fund.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, "Grant Fund" means the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism.***

Sec. 3. ***1. There is hereby created the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism to be administered by the Department. The Department may accept gifts, grants and donations from any source for deposit in the Grant Fund.***

2. The money in the Grant Fund must be used only for the distribution of money to school districts and charter schools for programs of training as set forth in sections 4, 5 and 7 of this act and to provide assistance to licensed educational personnel who work with pupils with autism in obtaining an appropriate endorsement to teach those pupils.

3. The board of trustees of a school district or the governing body of a charter school may apply to the Department on a form prescribed by the Department for a grant of money from the Grant Fund. The application must include a description of the program of training for which the grant of money will be used.

Sec. 4. ***1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who work with pupils with autism receive the appropriate preparation and training necessary to serve those pupils. The training may include, without limitation:***

(a) The characteristics of autism, including, without limitation, behavioral and communication characteristics;

(b) Methods for determining, on a regular and consistent basis, the specific needs of a pupil with autism to ensure the pupil is meeting the objectives and goals described in the individualized education program of the pupil or other educational plan prepared for the pupil;

(c) The procedure for evaluating pupils who demonstrate behaviors which are consistent with autism;

(d) Approaches for use in the classroom to assist a pupil with autism with communication and social development; and

(e) Methods of providing support to pupils with autism and their families.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for licensed educational personnel employed by the school district or charter school who work with pupils with autism in accordance with this section.

Sec. 5. ***To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a parent or legal guardian of a pupil with autism in making decisions about the services and programs available for the pupil receive the appropriate preparation and training:***

1. On using the 2008 Report of the Nevada Autism Task Force and any subsequent report issued by the Nevada Autism Task Force created pursuant to chapter 348, Statutes of Nevada 2007, to determine best practices in the development of programs for pupils with autism; and

2. To provide the parent or legal guardian with information on all options for treatment and intervention that may assist the pupil in his development and advancement.

Sec. 6. (Deleted by amendment.)

Sec. 7. ***1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that a paraprofessional who is employed by the school district or charter school to provide assistance to pupils with autism receives the appropriate preparation and training to acquire:***

(a) Knowledge of autism, including, without limitation:

(1) The characteristics of autism and the range of spectrum disorders within a diagnosis of autism;

(2) An understanding of the importance of building relationships between pupils with autism, other pupils and teachers or adults to encourage the independence of a pupil with autism; and

(3) The ability to determine the patterns of behavior of pupils with autism;

(b) The ability to provide structure and predictability through the consistent use of methods that support prior learning and continued development;

(c) The ability to adapt, modify or structure the environment based upon an understanding of the auditory, visual or other sensory stimuli which may be reinforcing, calming or distracting to the pupil;

(d) The ability to use positive behavioral supports, including, without limitation, the use of discrete trial, structured teaching methods, reinforcement and generalized approaches to enhance the pupil's education and prevent behavioral problems, as directed by the pupil's teacher or other appropriate personnel;

(e) The ability to accurately collect and record data on the progress of a pupil with autism and report to the pupil's teacher in a timely manner if a particular strategy or program is not producing the planned outcome for the pupil; and

(f) The ability to communicate effectively and consistently with pupils with autism using communication techniques designed for those pupils.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for a paraprofessional who provides assistance to pupils with autism in accordance with this section.

Sec. 8. Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Health Division shall ensure that ~~[all]~~ the personnel employed by the Health Division who provide early intervention services to children with autism and the persons with whom the Health Division contracts to provide early intervention services to children with autism possess the knowledge and skills necessary to serve children with autism, including, without limitation:

(a) The ~~[procedure for]~~ screening of a child for autism at ~~[least once before the child attains the age of 2 years;]~~ the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization;

(b) The procedure for evaluating children who demonstrate behaviors which are consistent with autism;

(c) The procedure for enrolling a child in early intervention services upon determining that the child has autism;

(d) Methods of providing support to children with autism and their families; and

(e) The procedure for developing an individualized family service plan in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. 1431 et seq., or other appropriate plan for the child.

2. The Health Division shall ensure that the personnel employed by the Health Division to provide early intervention services to children with autism ~~[:]~~ and the persons with whom the Health Division contracts to provide early intervention services to children with autism:

(a) Possess the knowledge and understanding of the scientific research and support for ~~[each method or approach that is available for the child]~~ the methods and approaches for serving children with autism and the ability to recognize the difference between an approach or method that is scientifically validated and one that is not;

(b) Possess the knowledge to accurately describe to parents and guardians the research supporting ~~[each method or approach,]~~ the methods and approaches, including, without limitation, the knowledge necessary to provide an explanation that a method or approach is experimental if it is not supported by scientific evidence;

(c) Immediately notify a parent or legal guardian if a child is identified as being at risk for a diagnosis of autism and refer the parent or legal guardian to the appropriate professionals for further evaluation and simultaneously refer the parent or legal guardian to any appropriate early intervention services and strategies; and

(d) Provide the parent or legal guardian with ~~[all options for treatment and intervention]~~ information on evidence-based treatments and interventions that may assist the child in his development and advancement.

3. The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention screenings to children and the persons with whom the Health Division contracts to provide early intervention screenings to children perform screenings of children for autism at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization.

Sec. 9. Notwithstanding any other provision of law to the contrary, if any money is received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, which is designated for expenditure from the State Distributive Account in the State General Fund by the Legislature for Fiscal Years 2009-2010 and 2010-2011 to assist school districts with the training of personnel to assist pupils with autism, the money must be deposited in the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism created by section 3 of this act.

Sec. 10. 1. This section and section 9 of this act become effective upon passage and approval.

2. Sections 1 to 8, inclusive, of this act become effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assemblyman Oceguera moved that the Assembly recess until 1 p.m.

Motion carried.

Assembly in recess at 12:40 p.m.

ASSEMBLY IN SESSION

At 1:33 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Mastroluca moved that Assembly Bill No. 243 be taken from its position on the General File and placed at the top of the General File.
Motion carried.

Assemblyman Atkinson moved that Assembly Bill No. 372 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

Assemblywoman Smith moved that Assembly Bill No. 232 be taken from the Chief Clerk's desk and placed on the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 243.
Bill read third time.
The following amendment was proposed by Assemblywoman Mastroluca:
Amendment No. 478.
AN ACT relating to education; requiring certain employers to grant leave to a parent, guardian or custodian of a child enrolled in public school or private school to participate in certain school conferences, activities and events; prohibiting employers from taking certain retaliatory actions against an employee who takes the authorized leave; authorizing a parent, guardian or custodian who is retaliated against to request a hearing before the Labor Commissioner; providing a penalty; and providing other matters properly relating thereto.
Legislative Counsel's Digest:
Section 1 of this bill requires employers who employ 50 or more employees to grant to a parent, guardian or custodian of a child enrolled in a public school 4 hours of leave from his place of employment, which must be taken in increments of 1 hour, per school year per child to attend school-related activities or events or to volunteer at the school in which his child is enrolled. **Section 1** also requires the leave to be taken at a mutually agreed upon time and the employer is not required to pay the employee for the leave.
Existing law makes it unlawful for any employer or his agent to terminate the employment of a person who is a parent, guardian or custodian of a child enrolled in public school because the person attended a conference requested by a school administrator or was notified of an emergency involving the child at school. (NRS 392.920) **Section 2** of this bill revises the prohibited acts by an employer or his agent to include demoting, suspending or otherwise

discriminating against a parent, guardian or custodian of a child. **Section 2** also prohibits the termination, demotion, suspension or other discrimination of a parent, guardian or custodian of a child who takes leave authorized by **section 1** of this bill and authorizes a parent, guardian or custodian of a child who is terminated, demoted, suspended or otherwise discriminated against to request a hearing before the Labor Commissioner. **If the dispute is not resolved, the parent, guardian or custodian may bring a civil action against his employer, as authorized in existing law.**

Section 4 of this bill imposes the same requirements on employers for the parents, guardians and custodians of children enrolled in a private school. **Section 5** of this bill prohibits an employer or his agent from terminating, demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child enrolled in a private school for attending a conference requested by a school administrator, being notified of an emergency involving the child at school or taking leave authorized by **section 4**. **Section 5** also authorizes a hearing before the Labor Commissioner. **If the dispute is not resolved, the parent, guardian or custodian may bring a civil action against his employer.**

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An employer shall grant a parent, guardian or custodian of a child who is enrolled in a public school leave from his place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:

(a) Attend parent-teacher conferences;

(b) Attend school-related activities during regular school hours;

(c) Volunteer or otherwise be involved at the school in which his child is enrolled during regular school hours; and

(d) Attend school-sponsored events.

➥ The leave must be at a time mutually agreed upon by the employer and the employee.

2. An employer may require:

(a) An employee to provide a written request for the leave at least 5 school days before the leave is taken; and

(b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the school or school-related activity for one of the purposes set forth in subsection 1.

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in public school.

5. As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.

Sec. 2. NRS 392.920 is hereby amended to read as follows:

392.920 1. It is unlawful for an employer or his agent to:

(a) Terminate the employment of ***, or to demote, suspend or otherwise discriminate against,*** a person who, as the parent, guardian or custodian of a child:

(1) Appears at a conference requested by an administrator of the school attended by the child; ~~[or]~~

(2) Is notified during his work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to section 1 of this act if the employer is subject to the requirements of that section; or

(b) Assert to the person that his appearance or prospective appearance at such a conference ***,*** ~~[or]~~ the receipt of such a notification during his work ***or leave taken pursuant to section 1 of this act*** will result in the termination of his employment ~~[.]~~ ***or a demotion, suspension or other discrimination in the terms and conditions of his employment.***

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

3. A person ***who is*** discharged from employment ***or who is demoted, suspended or otherwise discriminated against*** in violation of subsection 1 may ***request a hearing before the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a hearing. The hearing must be conducted in the manner prescribed in NRS 607.205 to 607.215, inclusive.***

4. If the Labor Commissioner is unsuccessful in resolving the dispute, the person who requested the hearing pursuant to subsection 3 may commence a civil action against his employer and obtain:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits;

(c) Damages equal to the amount of the lost wages and benefits; and

(d) Reasonable attorney's fees fixed by the court. ~~*[request a hearing before the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a hearing. The hearing must be conducted in the manner prescribed in NRS 607.205 to 607.215, inclusive.]*~~

Sec. 3. Chapter 394 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. ***1. An employer shall grant a parent, guardian or custodian of a child who is enrolled in a private school leave from his place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:***

(a) Attend parent-teacher conferences;

(b) Attend school-related activities during regular school hours;

(c) Volunteer or otherwise be involved at the school in which his child is enrolled during regular school hours; and

(d) Attend school-sponsored events.

➥ The leave must be at a time mutually agreed upon by the employer and the employee.

2. An employer may require:

(a) An employee to provide a written request for the leave at least 5 school days before leave is taken; and

(b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the private school or school-related activity for one of the purposes set forth in subsection 1.

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in private school.

5. As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.

Sec. 5. ***1. It is unlawful for an employer or his agent to:***

(a) Terminate the employment of, or to demote, suspend or otherwise discriminate against, a person who, as the parent, guardian or custodian of a child:

(1) Appears at a conference requested by an administrator of the private school attended by the child;

(2) Is notified during his work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to section 4 of this act if the employer is subject to the requirements of that section; or

(b) Assert to the person that his appearance or prospective appearance at such a conference, the receipt of such a notification during his work or leave taken pursuant to section 4 of this act will result in the termination of his employment or a demotion, suspension or other discrimination in the terms and conditions of his employment.

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

3. A person who is discharged from employment or who is demoted, suspended or otherwise discriminated against in violation of subsection 1 may request a hearing before the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a hearing. The hearing must be conducted in the manner prescribed in NRS 607.205 to 607.215, inclusive.

4. If the Labor Commissioner is unsuccessful in resolving the dispute, the person who requested the hearing pursuant to subsection 3 may commence a civil action against his employer and obtain:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits;

(c) Damages equal to the amount of the lost wages and benefits; and

(d) Reasonable attorney's fees fixed by the court.

Sec. 6. NRS 394.201 is hereby amended to read as follows:

394.201 NRS 394.201 to 394.351, inclusive, ***and sections 4 and 5 of this act*** may be cited as the Private Elementary and Secondary Education Authorization Act.

Sec. 7. This act becomes effective on August 15, 2009.

Assemblywoman Mastroluca moved the adoption of the amendment.

Remarks by Assemblywoman Mastroluca.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 41.

Bill read third time.

Remarks by Assemblywoman Koivisto.

Roll call on Assembly Bill No. 41:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Assembly Bill No. 41 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 61.

Bill read third time.

Remarks by Assemblyman Segerblom.

Roll call on Assembly Bill No. 61:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Assembly Bill No. 61 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 129.

Bill read third time.

Roll call on Assembly Bill No. 129:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Assembly Bill No. 129 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 151.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Bill No. 151:

YEAS—40.

NAYS—None.

NOT VOTING—Arberry.

EXCUSED—Christensen.

Assembly Bill No. 151 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 152.

Bill read third time.

Roll call on Assembly Bill No. 152:

YEAS—40.

NAYS—None.

NOT VOTING—Arberry.

EXCUSED—Christensen.

Assembly Bill No. 152 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 168.

Bill read third time.

Remarks by Assemblyman Mortenson.

Roll call on Assembly Bill No. 168:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Assembly Bill No. 168 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 257.

Bill read third time.

Remarks by Assemblyman Kihuen.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 257:
YEAS—41.
NAYS—None.
EXCUSED—Christensen.
Assembly Bill No. 257 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 274.
Bill read third time.
Remarks by Assemblyman Aizley.
Roll call on Assembly Bill No. 274:
YEAS—41.
NAYS—None.
EXCUSED—Christensen.
Assembly Bill No. 274 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 378.
Bill read third time.
Remarks by Assemblyman Oceguera.
Roll call on Assembly Bill No. 378:
YEAS—41.
NAYS—None.
EXCUSED—Christensen.
Assembly Bill No. 378 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 381.
Bill read third time.
Remarks by Assemblyman Segerblom.
Roll call on Assembly Bill No. 381:
YEAS—29.
NAYS—Carpenter, Cobb, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—12.
EXCUSED—Christensen.
Assembly Bill No. 381 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 389.
Bill read third time.
Remarks by Assemblymen Parnell and Horne.
Roll call on Assembly Bill No. 389:
YEAS—41.
NAYS—None.
EXCUSED—Christensen.

Assembly Bill No. 389 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 410.

Bill read third time.

Remarks by Assemblymen Claborn, Settelmeyer, Spiegel and Smith.

Roll call on Assembly Bill No. 410:

YEAS—30.

NAYS—Carpenter, Cobb, Gansert, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—11.

EXCUSED—Christensen.

Assembly Bill No. 410 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 413 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 425.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 425:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Assembly Bill No. 425 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 443.

Bill read third time.

Remarks by Assemblymen Leslie and Atkinson.

Roll call on Assembly Bill No. 443:

YEAS—35.

NAYS—Cobb, Goedhart, Gustavson, Hambrick, McArthur, Stewart—6.

EXCUSED—Christensen.

Assembly Bill No. 443 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 487.

Bill read third time.

Remarks by Assemblywomen Mastroluca and Parnell.

Roll call on Assembly Bill No. 487:

YEAS—39.

NAYS—Cobb, McArthur—2.

EXCUSED—Christensen.

Assembly Bill No. 487 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 490.

Bill read third time.

Roll call on Assembly Bill No. 490:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Assembly Bill No. 490 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 509.

Bill read third time.

Roll call on Assembly Bill No. 509:

YEAS—41.

NAYS—None.

EXCUSED—Christensen.

Assembly Bill No. 509 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 511.

Bill read third time.

Remarks by Assemblymen Conklin, Gansert, and Oceguera.

Roll call on Assembly Bill No. 511:

YEAS—29.

NAYS—Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—12.

EXCUSED—Christensen.

Assembly Bill No. 511 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Joint Resolution No. 5.

Resolution read third time.

Remarks by Assemblymen Mortenson and Settelmeyer.

Roll call on Assembly Joint Resolution No. 5:

YEAS—28.

NAYS—Carpenter, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

EXCUSED—Christensen.

Assembly Joint Resolution No. 5 having received a constitutional majority, Madam Speaker declared it passed.

Resolution ordered transmitted to the Senate.

Assembly Joint Resolution No. 6.

Resolution read third time.

Remarks by Assemblymen Segerblom, Cobb, Oceguera, and Horne.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Joint Resolution No. 6:

YEAS—29.

NAYS—Carpenter, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart—12.

EXCUSED—Christensen.

Assembly Joint Resolution No. 6 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Resolution ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 232; Assembly Joint Resolutions Nos. 7, 10, 14; Senate Bills Nos. 38, 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bill No. 469; Senate Concurrent Resolution No. 23.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Arnie Maurins and Sydney Coolbaugh.

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Verlia Davis-Hoggard.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Kathy Pennell.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to John Andrews, Dean Allen Shreve, and Nicole Marie Harvey.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Dan Walters.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Laura Oki.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Diane Drinkwater.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Dave Carr, Mike Hess, and Bruce Specter.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Liberty Baptist School: Alena Bigger, Irene Castaneda, Samantha Cuellar, Chase Custer, Bianca Fimbres, Caitlin Foster, Logan King, Anthony Reese, Alyssa Williams; chaperones Lorrie Bigger, Kathy Castaneda, Jessica Cuellar, Sarah Kercher, Jeanna Lemasson, and Yann Lemasson; Ian Campbell.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Danielle Milam and Diana Gale.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Julie Doyle, William Partier, Joan Partier, and Dan Ihnen.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following members of the American Association of University Women: Aurora Partridge, Jerry Alexander, Pat Alexander, Joey Ames, Charlotte Bass, Bernice Behrens, Sue Callahan, Vicky Caviglia, Jean Chapman, Verlita Conner, Barb Contos, Barbara Crossland, Jane Cunnien, Nancy Cunningham, Mona Dible, Jacki Falkenroth, Chuck Falkenroth, Teresa Feleciano, Sue Hawkins, Gina Jacobsen, Claire Keenan, Rita Malkin, Marlys Mandelos, Deborah Marche', Shirley McKinnon, Sunny Minedew, Kathy Nicholson, Jim Nicholson, Jean Pagni, Irene Pauls, Jean Pritsos, Karen Pritsos, Margee Richardson, Mahree Roberts, Gabi Schwarz, Marge Stein, Ellen Williams, Shirley Yates, Pat Furman, Betty Manfredi, Richard Manfredi; Charlotte Dinning and Ginger Traut.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Diane Baker and Jason Bleak.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Barbar Mathews.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Becky Orr.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Carol Lloyd.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Duncan McCoy.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to Byllie Andrews.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Lynne Bradley and Andres Vera.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Robbie Nickel.

On request of Assemblywoman Koivisto, the privilege of the floor of the Assembly Chamber for this day was extended to Sara Jones.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Nancy Cummings and Diane Drinkwater.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Green Valley Christian School: Jared Anderson, Taylor Austin, Tyrell Buhain, Anabella Cooper, Bailee Courtney, Kaycee Daniels, Dylan DeStout, Autumn Dewey, Dixon Etchings, Brookelyn Frazier, Samantha Golonka, Harrison Griffin, Gracie Haley, James-Ben Heskett, Courtney Klagues, Riley Koch, Emma Kohler, Devin Langston, Jamaica Lewis, Julia Maese, Conall McIntyre, Samantha Pochop, Isaiah Robinson, Christian Sanford, Sean Seubert, Caitlin Sunada, Mathew Vitolo, Jessica Zarley; chaperones Bonnie Seubert, Kristi McKay, April Haley, Terry Frazier, Kyle Nagy, Kim Pochop, Donna Daniels, Liz McIntyre, Penka Cooper, Joe Maese, Heather Ditto, Sandra Sanford; teachers Sonja Finley-Tratos, and Amy Buckels; Colleen Bell.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Daphne DeLeon.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Lucy Bouldin.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Kelly Benavedez.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Caren Jenkins, Pam Graber, and Rebecca Palmer.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Mary McCoy.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Judy Simon.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Jennifer Oliver.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Ron Hughes.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Joan Vaughan.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to Tom Fay.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, April 15, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 2:32 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SEVENTY-THIRD DAY

CARSON CITY (Wednesday), April 15, 2009

Assembly called to order at 11:06 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Give us open minds, O God, minds ready to receive and to welcome such new light of knowledge as it is Your will to reveal. Let not the past ever be so dear to us as to set a limit to the future. Give us the courage to change our minds when that is needed. Let us be tolerant of the thoughts of others, for we never know in what voice You will speak.

We pray that we may keep our ears open to Your voice and make us a little more deaf to whispers of men and women who would persuade us from our duty, for we know in our hearts that only in Your will is the peace and prosperity of our state.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 148, 399, 521, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which were referred Assembly Bills Nos. 117, 238, 259, 265, 384, 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 319, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 47, 209, 239, 283, 353, 481, 499 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was rereferred Assembly Bill No. 189, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 25, 503, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 25, 47, 117, 148, 189, 209, 238, 239, 259, 265, 283, 319, 353, 384, 385, 399, 481, 499, 503, 521 just reported out of committee, be placed on the appropriate reading file.

Motion carried.

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 251 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Parnell moved that Assembly Bill No. 359 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Koivisto moved that Assembly Joint Resolution No. 14 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 14, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 16.

Also, I have the honor to inform your honorable body that the Senate on this day adopted, as amended, Senate Concurrent Resolution No. 2.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 2.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Concurrent Resolution No. 16.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

NOTICE OF EXEMPTION

April 15, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 65 and 504.

MARK STEVENS
Fiscal Analysis Division

SECOND READING AND AMENDMENT

Assembly Bill No. 25.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 368.

SUMMARY—~~[Authorizes the waiver of certain]~~ **Revises provisions governing** examinations of applicants for a Nevada driver's license **.** ~~[who are licensed in another jurisdiction.]~~ (BDR 43-343)

AN ACT relating to motor vehicles; ~~[removing the restriction on the authority of the Department of Motor Vehicles to waive]~~ **prohibiting the waiver of** certain examinations of applicants for a Nevada driver's license who are licensed in another jurisdiction but have not attained ~~[25]~~ **21** years of age; **providing an exception; establishing fees for the administration of certain examinations for noncommercial drivers' licenses;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Motor Vehicles to waive certain examinations for a person applying for a Nevada driver's license who possesses a valid driver's license of the same type or class issued by another jurisdiction but does not allow such a waiver if the person has not attained 25 years of age. (NRS 483.330) ~~[This bill removes that restriction and allows]~~ **Section 1 of this bill prohibits** such a waiver for a person who has not attained ~~[25]~~ **21** years of age ~~[.]~~ **, subject to certain exceptions.**

Existing law authorizes the Department to require every applicant for a driver's license to submit to an examination that may include components which test the applicant's knowledge, skills and abilities. (NRS 483.330) Section 1.5 of this bill requires the Department to charge a fee of $25 for the administration of the examination for a noncommercial driver's license and a fee of $10 for each readministration of that examination to the same person.

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

Section 1. NRS 483.330 is hereby amended to read as follows:

483.330 1. The Department may require every applicant for a driver's license, including a commercial driver's license issued pursuant to NRS 483.900 to 483.940, inclusive, to submit to an examination. The examination may include:

(a) A test of the applicant's ability to understand official devices used to control traffic;

(b) A test of his knowledge of practices for safe driving and the traffic laws of this State;

(c) Except as otherwise provided in subsection 2, a test of his eyesight; and

(d) Except as otherwise provided in subsection 3, an actual demonstration of his ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type or class of vehicle for which he is to be licensed.

➥ The examination may also include such further physical and mental examination as the Department finds necessary to determine the applicant's fitness to drive a motor vehicle safely upon the highways.

2. The Department may provide by regulation for the acceptance of a report from an ophthalmologist, optician or optometrist in lieu of an eye test by a driver's license examiner.

3. If the Department establishes a type or classification of driver's license to operate a motor vehicle of a type which is not normally available to examine an applicant's ability to exercise ordinary and reasonable control of such a vehicle, the Department may, by regulation, provide for the acceptance of an affidavit from a:

(a) Past, present or prospective employer of the applicant; or

(b) Local joint apprenticeship committee which had jurisdiction over the training or testing, or both, of the applicant,

➥ in lieu of an actual demonstration.

4. The Department may waive an examination pursuant to subsection 1 for a person applying for a Nevada driver's license who possesses a valid driver's license of the same type or class issued by another jurisdiction unless that person:

(a) Has not attained ~~[25]~~ ***21*** years of age ~~[;]~~ ***, except that the Department may, based on the driving record of the applicant, waive the examination to demonstrate his ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the same type or class of vehicle for which he is to be licensed;***

(b) Has had his license or privilege to drive a motor vehicle suspended, revoked or cancelled or has been otherwise disqualified from driving during the immediately preceding 4 years;

(c) ~~[(b)]~~ Has been convicted of a violation of NRS 484.37955 or, during the immediately preceding 7 years, of a violation of NRS 484.379, 484.3795 or 484.379778 or a law of any other jurisdiction that prohibits the same or similar conduct;

(d) ~~[(c)]~~ Has restrictions to his driver's license which the Department must reevaluate to ensure the safe driving of a motor vehicle by that person;

(e) ~~[(d)]~~ Has had three or more convictions of moving traffic violations on his driving record during the immediately preceding 4 years; or

(f) ~~[(e)]~~ Has been convicted of any of the offenses related to the use or operation of a motor vehicle which must be reported pursuant to the provisions of Parts 1327 et seq. of Title 23 of the Code of Federal Regulations relating to the National Driver Register Problem Driver Pointer System during the immediately preceding 4 years.

Sec. 1.5. **NRS 483.410 is hereby amended to read as follows:**

483.410 1. Except as otherwise provided in subsection 6 and NRS 483.417, for every driver's license, including a motorcycle driver's license, issued and service performed, the following fees must be charged:

An original or renewal license issued to a person 65 years of age or older $13.50

An original or renewal license issued to any person less than 65 years of age 18.50

Administration of the examination required by NRS 483.330 for a noncommercial driver's license ***25.00***

Each readministration to the same person of the examination required by NRS 483.330 for a noncommercial driver's license ***10.00***

Reinstatement of a license after suspension, revocation or cancellation, except a revocation for a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778, or pursuant to NRS 484.384 and 484.385 ..... 40.00

Reinstatement of a license after revocation for a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778, or pursuant to NRS 484.384 and 484.385 ..... 65.00

A new photograph, change of name, change of other information, except address, or any combination 5.00

A duplicate license 14.00

2. For every motorcycle endorsement to a driver's license, a fee of $5 must be charged.

3. If no other change is requested or required, the Department shall not charge a fee to convert the number of a license from the licensee's social security number, or a number that was formulated by using the licensee's social security number as a basis for the number, to a unique number that is not based on the licensee's social security number.

4. Except as otherwise provided in NRS 483.417, the increase in fees authorized by NRS 483.347 and the fees charged pursuant to NRS 483.415 must be paid in addition to the fees charged pursuant to subsections 1 and 2.

5. A penalty of $10 must be paid by each person renewing his license after it has expired for a period of 30 days or more as provided in NRS 483.386 unless he is exempt pursuant to that section.

6. The Department may not charge a fee for the reinstatement of a driver's license that has been:

(a) Voluntarily surrendered for medical reasons; or

(b) Cancelled pursuant to NRS 483.310.

7. All fees and penalties are payable to the Administrator at the time a license or a renewal license is issued.

8. Except as otherwise provided in NRS 483.340, subsection 3 of NRS 483.3485, NRS 483.415 and 483.840, and subsection 3 of NRS 483.863, all money collected by the Department pursuant to this chapter must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that upon return from the printer Assembly Bill No. 25 be placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 47.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 212.

AN ACT relating to specialty courts; revising provisions relating to programs for the treatment of mental illness or mental retardation; revising provisions relating to programs of treatment for the abuse of alcohol or drugs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill eliminates the requirement that before a court may assign a defendant to a program for the treatment of mental illness or mental retardation, the prosecuting attorney must stipulate to the assignment if the underlying offense or a previous offense committed by the defendant involved the use or threatened use of force or violence. (NRS 176A.260) Sections 2-5 and 7]~~ **Sections 1.5 and 5.5 of this bill remove the 3-year waiting period and require a court to immediately, upon completion of a program for the treatment of mental illness or mental retardation or a program of treatment for the abuse of alcohol or drugs, seal all records relating to the case. (NRS 176A.265, 453.3365)**

Sections 2-5 and 7 of this bill ~~[authorize]~~ **require** a court, upon completion of a **presentence** program of treatment for the abuse of alcohol or drugs, to seal all records relating to the case. ~~[Section 6 of this bill reduces the list of crimes that make a defendant ineligible to participate in a program of treatment for the abuse of alcohol or drugs and authorizes a court to assign a defendant to the program of treatment if deemed appropriate by the court and not otherwise prohibited by specific statute. (NRS 458.300)]~~ **Section 7.5 of this bill provides that certain offenders who are convicted of driving under the influence and are accepted into a program of treatment for the abuse of alcohol or drugs must not have their license, permit or privilege to drive revoked. (NRS 484.37941)**

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

Section 1. ~~[NRS 176A.260 is hereby amended to read as follows:~~

~~176A.260 1. [Except as otherwise provided in subsection 2, if] If a defendant who suffers from mental illness or is mentally retarded tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.250.~~

~~2. [If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment.~~

~~3.] Upon violation of a term or condition:~~

~~(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.~~

~~(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.~~

~~[4.] 3. Upon fulfillment of the terms and conditions, the court shall discharge the defendant and dismiss the proceedings against him. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the~~

~~contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of him for any purpose.]~~ **(Deleted by amendment.)**

Sec. 1.5. **NRS 176A.265 is hereby amended to read as follows:**

176A.265 1. ~~[Three years after]~~ ***After*** a defendant is discharged from probation pursuant to NRS 176A.260, the court shall order sealed all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The court shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

2. If the court orders sealed the record of a defendant discharged pursuant to NRS 176A.260, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

Sec. 2. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 179.259 **,** ~~[and]~~ 453.3365 ~~[,]~~ ***and 458.330,*** a person may petition the court in which he was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 7 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Any gross misdemeanor after 7 years from the date of his release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 484.379 or 484.379778 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after 2 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) The local law enforcement agency of the city or county in which the conviction was entered;

(b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of ***Criminal*** Identification and Information, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual

molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(11) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(12) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

(16) An attempt to commit an offense listed in subparagraphs (1) to (15), inclusive.

Sec. 3. NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 176A.265, 179.245, 179.255, 179.259 **,** ~~[or]~~ 453.3365 ~~[,]~~ ***or 458.330,*** a copy of the order must be sent to:

1. The Central Repository for Nevada Records of Criminal History; and

2. Each public or private company, agency or official named in the order, and that person shall seal the records in his custody which relate to the matters contained in the order, shall advise the court of his compliance ~~[,]~~ and shall then seal the order.

Sec. 4. NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 **,** ~~[or]~~ 453.3365 ~~[,]~~ ***or 458.330:***

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if his civil rights previously have not been restored:

(1) The right to vote;

(2) The right to hold office; and

(3) The right to serve on a jury.

2. Upon the sealing of his records, a person who is restored to his civil rights must be given an official document which demonstrates that he has been restored to the civil rights set forth in paragraph (b) of subsection 1.

3. A person who has had his records sealed in this State or any other state and whose official documentation of the restoration of his civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has had his records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

4. A person who has had his records sealed in this State or any other state may present official documentation that he has been restored to his civil rights or a court order restoring his civil rights as proof that he has been restored to the right to vote, to hold office and to serve as a juror.

Sec. 5. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 ***,*** ~~[or]~~ 453.3365 ***or 458.330*** may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or ***a*** similar offense and that there is sufficient evidence reasonably to conclude that he will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 **,** ~~[or]~~ 453.3365 ***or 458.330*** in determining whether to grant a petition pursuant to NRS 176A.265, 179.245, 179.255, 179.259 **,** ~~[or]~~ 453.3365 ***or 458.330*** for a conviction of another offense.

Sec. 5.5. **NRS 453.3365 is hereby amended to read as follows:**

453.3365 1. Three years after a person is convicted and sentenced pursuant to subsection 3 of NRS 453.336, the court may order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order, if the:

(a) Person fulfills the terms and conditions imposed by the court and the parole and probation officer; and

(b) Court, after a hearing, is satisfied that the person is rehabilitated.

2. Except as limited by subsection 4, ~~[3 years]~~ after an accused is discharged from probation pursuant to NRS 453.3363, the court shall order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the person fulfills the terms and conditions imposed by the court and the Division of Parole and Probation of the Department of Public Safety. The court shall order those records sealed without a hearing unless the Division of Parole and Probation petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

3. If the court orders sealed the record of a person discharged pursuant to NRS 453.3363, it shall ~~[send]~~ ***cause*** a copy of the order to ***be sent to*** each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

4. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

Sec. 6. ~~[NRS 458.300 is hereby amended to read as follows:~~

~~458.300 —[Subject]~~

~~***1. Except as otherwise provided in subsection 2, subject*** to the provisions of NRS 458.290 to 458.350, inclusive, an alcoholic or a drug addict who has been convicted of a crime ***and who is not otherwise prohibited by specific statute from being assigned to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580*** is eligible to elect to be assigned by the court to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580 before he is sentenced . [unless:~~

~~1. The]~~

~~***2. Unless the court first determines that it is appropriate for an alcoholic or a drug addict to be assigned to a program of treatment for the***~~

~~*abuse of alcohol or drugs pursuant to NRS 453.580 and that the alcoholic or drug addict is not otherwise prohibited by specific statute from being assigned to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580, the alcoholic or drug addict is not eligible to elect to be assigned by the court to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580 if the* crime *for which the alcoholic or drug addict has been convicted* is:~~

~~(a) A crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS;~~

~~(b) A crime against a child as defined in NRS 179D.0357;~~

~~(c) A sexual offense as defined in NRS 179D.097; or~~

~~(d)~~ **[**~~An act which constitutes domestic violence as set forth in NRS 33.018;~~

~~2. The crime is that of trafficking of a controlled substance;~~

~~3. The crime is a~~**]** ***A*** ~~violation of NRS 484.379, 484.3795, 484.37955 or 484.379778~~ **.** **[**~~;~~

~~4. The alcoholic or drug addict has a record of two or more convictions of a crime described in subsection 1 or 2, a similar crime in violation of the laws of another state, or of three or more convictions of any felony;~~

~~5. Other criminal proceedings alleging commission of a felony are pending against the alcoholic or drug addict;~~

~~6. The alcoholic or drug addict is on probation or parole and the appropriate parole or probation authority does not consent to the election; or~~

~~7. The alcoholic or drug addict elected and was admitted, pursuant to NRS 458.290 to 458.350, inclusive, to a program of treatment not more than twice within the preceding 5 years.~~**]] (Deleted by amendment.)**

Sec. 7. NRS 458.330 is hereby amended to read as follows:

458.330 1. Whenever a person is placed under the supervision of a treatment facility, his sentencing must be deferred **[**~~,~~**]** and **[**~~, except as otherwise provided in subsection 4,~~**]** his conviction must be set aside if the treatment facility certifies to the court that he has satisfactorily completed the treatment program, and the court approves the certification and determines that the conditions upon the election of treatment have been satisfied.

2. If, upon the expiration of the treatment period, the treatment facility has yet to certify that the person has completed his treatment program, the court shall sentence him. If he has satisfied the conditions to the election of treatment and the court believes that he will complete his treatment on a voluntary basis, it may, in its discretion, set the conviction aside.

3. If, before the treatment period expires, the treatment facility determines that the person is not likely to benefit from further treatment at the facility, it shall so advise the court. The court shall then:

(a) Arrange for the transfer of the person to a more suitable treatment facility, if any; or

(b) Terminate the supervision and conduct a hearing to determine whether the person should be sentenced.

➥ Whenever a person is sentenced under this section, time spent in institutional care must be deducted from any sentence imposed.

4. ~~[Regardless of whether the person successfully completes treatment, the court shall not set aside the conviction of a person who has a record of two or more convictions of any felony for two or more separate incidences.]~~ ***Upon satisfactory completion of the treatment program, the court*** ~~*[may]*~~ ***shall order sealed all documents, papers and exhibits in the person's record, minute book entries and entries on dockets, and other documents related to the case in the custody of such other agencies and officers as are named in the court's order. The court*** ~~*[may]*~~ ***shall order those records sealed without a hearing unless the prosecution petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.*** ~~*[If]*~~ ***When the court orders sealed the records of a person pursuant to this subsection, the court shall*** ~~*[send]*~~ ***cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order. The provisions of this subsection apply only to the offense for which the person has been placed into treatment pursuant to NRS 458.290 to 458.350, inclusive.***

Sec. 7.5. **NRS 484.37941 is hereby amended to read as follows:**

484.37941 1. An offender who enters a plea of guilty or nolo contendere to a violation of NRS 484.379 or 484.379778 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484.3792 may, at the time he enters his plea, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 3 years if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners; and

(b) The offender agrees to pay the costs of the treatment to the extent of his financial resources.

➥ An alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor or a physician who diagnoses an offender as an alcoholic or abuser of drugs shall make a report and recommendation to the court concerning the length and type of treatment required for the offender.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a

hearing is not held, the court shall decide the matter and other information before the court.

4. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately, without entering a judgment of conviction and with the consent of the offender, suspend further proceedings and place him on probation for not more than 5 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(b) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for not more than 5 years and during treatment he may be confined in an institution or, at the discretion of the treatment facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a treatment facility, or if he fails to complete the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (c) of subsection 1 of NRS 484.3792. Any sentence of imprisonment may be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (b) of subsection 1 of NRS 484.3792.

(4) The provisions of NRS 483.460 requiring the revocation of his license, permit or privilege to drive do not apply.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence or set aside the conviction upon the election of treatment, except as otherwise provided in this section; and

(b) May enter a judgment of conviction and proceed as provided in paragraph (c) of subsection 1 of NRS 484.3792 for a violation of a condition ordered by the court.

6. To participate in a program of treatment, the offender must:

(a) Serve not less than 6 months of residential confinement;

(b) Install, at his own expense, a device for not less than 12 months;

(c) Not drive any vehicle unless it is equipped with a device;

(d) Agree to be subject to periodic testing for the use of alcohol or controlled substances while participating in a program of treatment; and

(e) Agree to any other conditions that the court deems necessary.

7. An offender may not apply to the court to undergo a program of treatment for alcoholism or drug abuse pursuant to this section if he has previously applied to receive treatment pursuant to this section or if he has previously been convicted of:

(a) A violation of NRS 484.3795;

(b) A violation of NRS 484.37955;

(c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955;

(d) A violation of paragraph (c) of subsection 1 of NRS 484.3792;

(e) A violation of subsection 2 of NRS 484.3792; or

(f) A violation of law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a), (b), (c) or (d).

8. As used is this section:

(a) "Device" has the meaning ascribed to it in NRS 484.3941.

(b) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

Sec. 8. This act becomes effective upon passage and approval.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 117.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 360.

SUMMARY—Makes various changes relating to ~~[prisoners and parole.]~~ **parole hearings.** (BDR 16-630)

AN ACT relating to convicted persons; ~~[providing that certain persons participating in a hearing concerning clemency or parole who speak a language other than English and do not know the English language are entitled to the services of an interpreter at public expense; revising provisions governing the mandatory parole of certain prisoners;]~~ making various ~~[other]~~ changes relating to parole hearings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 1 and 3 of this bill provide that an applicant or a witness at a clemency hearing or a prisoner, parolee or witness at a parole hearing who speaks a language other than English and does not know the English language is entitled to the services of an interpreter at public expense. (NRS 213.055, 213.128)~~

~~Section 2 of this bill revises existing law, which provides for the mandatory parole of certain prisoners 12 months before the end of their maximum terms in certain circumstances, to provide instead for mandatory consideration of parole for such prisoners. (NRS 213.1215)~~]

Section 4 of this bill authorizes the State Board of Parole Commissioners to grant parole to a prisoner without a meeting if the Board anticipates that parole will be granted. (NRS 213.130)

Section 5 of this bill provides that a member of the Board or a case hearing representative may recommend releasing a prisoner on parole without a hearing if certain conditions are met. **Section 5** also provides that such a recommendation remains subject to final approval by a majority of the Board. (NRS 213.133)

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

Section 1. ~~[NRS 213.055 is hereby amended to read as follows:~~

~~213.055 1. An applicant or a witness at a hearing upon an application for clemency who is a person with a communications disability as defined in NRS 50.050 is entitled to the services of an interpreter at public expense in accordance with the provisions of NRS 50.050 to 50.053, inclusive.~~

~~2. An applicant or a witness at a hearing upon an application for clemency who speaks a language other than English and does not know the English language is entitled to the services of an interpreter at public expense in accordance with the provisions of NRS 50.054.~~

~~3. The [interpreter must be appointed by the] Governor or a member of the Board designated by [him.] the Governor shall appoint an interpreter whose services are required pursuant to subsection 1 or 2.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 213.1215 is hereby amended to read as follows:~~

~~213.1215 1. Except as otherwise provided in subsections 3, 4 and 5 and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:~~

~~(a) Has not been released on parole previously for that sentence; and~~

~~(b) Is not otherwise ineligible for parole,~~

~~he must be [released] considered by the Board for release on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. The Board , after considering a prisoner for release on parole pursuant to this section and determining that the prisoner will be released on parole, shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.~~

~~2. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.~~

~~3. If the Board finds, at least 2 months before a prisoner would otherwise be [paroled] considered for release on parole pursuant to subsection 1, that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not [grant] consider the prisoner for release on parole as provided [for] in subsection 1. If, pursuant to this subsection, the Board does not [grant] consider the prisoner for release on parole as provided [for] in subsection 1, the Board shall provide to the prisoner a written~~

~~statement of its reasons for [denying] not considering the prisoner for release on parole.~~

~~4. If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole [,] but released to that agency.~~

~~5. If the Board has determined that a prisoner will be released on parole pursuant to this section but the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.~~

~~6. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence [had] if he were not [been] paroled.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 213.128 is hereby amended to read as follows:~~

~~213.128 1. A prisoner, parolee or [a] witness at the hearing of a case who is a person with a communications disability as defined in NRS 50.050 is entitled to the services of an interpreter at public expense in accordance with the provisions of NRS 50.050 to 50.053, inclusive.~~

~~2. A prisoner, parolee or witness at the hearing of a case who speaks a language other than English and does not know the English language is entitled to the services of an interpreter at public expense in accordance with the provisions of NRS 50.054.~~

~~3. The [interpreter must be appointed by the] Chairman of the Board or other person who presides at the hearing [.] shall appoint an interpreter whose services are required pursuant to subsection 1 or 2.]~~ **(Deleted by amendment.)**

Sec. 4. NRS 213.130 is hereby amended to read as follows:

213.130 1. The Department of Corrections shall:

(a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;

(b) Notify the ~~[State]~~ Board ~~[of Parole Commissioners]~~ of the eligibility of the prisoner to be considered for parole; and

(c) Before a meeting to consider the prisoner for parole, compile and provide to the Board data that will assist the Board in determining whether parole should be granted.

2. If a prisoner is being considered for parole from a sentence imposed for conviction of a crime which involved the use of force or violence against a victim and which resulted in bodily harm to a victim and if original or duplicate photographs that depict the injuries of the victim or the scene of the crime were admitted at the trial of the prisoner or were part of the report of the presentence investigation and are reasonably available, a representative sample of such photographs must be included with the information submitted to the Board at the meeting. A prisoner may not bring a cause of action against the State of Nevada, its political subdivisions, agencies, boards,

commissions, departments, officers or employees for any action that is taken pursuant to this subsection or for failing to take any action pursuant to this subsection, including, without limitation, failing to include photographs or including only certain photographs. As used in this subsection, "photograph" includes any video, digital or other photographic image.

3. Meetings to consider prisoners for parole may be held semiannually or more often, on such dates as may be fixed by the Board. All meetings are quasi-judicial and must be open to the public. No rights other than those conferred pursuant to this section or pursuant to specific statute concerning meetings to consider prisoners for parole are available to any person with respect to such meetings.

4. Not later than 5 days after the date on which the Board fixes the date of the meeting to consider a prisoner for parole, the Board shall notify the victim of the prisoner who is being considered for parole of the date of the meeting and of his rights pursuant to this subsection, if the victim has requested notification in writing and has provided his current address or if the victim's current address is otherwise known by the Board. The victim of a prisoner being considered for parole may submit documents to the Board and may testify at the meeting held to consider the prisoner for parole. A prisoner must not be considered for parole until the Board has notified any victim of his rights pursuant to this subsection and he is given the opportunity to exercise those rights. If a current address is not provided to or otherwise known by the Board, the Board must not be held responsible if such notification is not received by the victim.

5. The Board may deliberate in private after a public meeting held to consider a prisoner for parole.

6. The Board of State Prison Commissioners shall provide suitable and convenient rooms or space for use of the Board.

7. If a victim is notified of a meeting to consider a prisoner for parole pursuant to subsection 4, the Board shall, upon making a final decision concerning the parole of the prisoner, notify the victim of its final decision.

8. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this section is confidential.

9. The Board ***may grant parole without a meeting, pursuant to NRS 213.133, but the Board*** must not deny parole to a prisoner unless the prisoner has been given reasonable notice of the meeting and the opportunity to be present at the meeting. If the Board fails to provide notice of the meeting to the prisoner or to provide the prisoner with an opportunity to be present and determines that it may deny parole, the Board may reschedule the meeting.

10. During a meeting to consider a prisoner for parole, the Board shall allow the prisoner:

(a) At his own expense, to have a representative present with whom he may confer; and

(b) To speak on his own behalf or to have his representative speak on his behalf.

11. Upon making a final decision concerning the parole of the prisoner, the Board shall provide written notice to the prisoner of its decision not later than 10 working days after the meeting and, if parole is denied, specific recommendations of the Board to improve the possibility of granting parole the next time the prisoner is considered for parole, if any.

12. For the purposes of this section, "victim" has the meaning ascribed to it in NRS 213.005.

Sec. 5. NRS 213.133 is hereby amended to read as follows:

213.133 1. Except as otherwise provided in subsections 6 , ~~[and]~~ 7 ~~[,]~~ ***and 8,*** the Board may delegate its authority to hear, consider and act upon the parole of a prisoner and on any issue before the Board to a panel consisting of:

(a) Two or more members of the Board, two of whom constitute a quorum; or

(b) One member of the Board who is assisted by a case hearing representative.

2. No action taken by any panel created pursuant to paragraph (a) of subsection 1 is valid unless concurred in by a majority vote of those sitting on the panel.

3. The decision of a panel is subject to final approval by the affirmative action of a majority of the members appointed to the Board. Such action may be taken at a meeting of the Board ~~[,]~~ or without a meeting by the delivery of written approval to the ***Executive*** Secretary of the Board.

4. The degree of complexity of issues presented must be taken into account before the Board makes any delegation of its authority and before it determines the extent of a delegation.

5. The Board shall adopt regulations which establish the basic types of delegable cases and the size of the panel required for each type of case.

6. A hearing concerning the parole of a prisoner or any decision on an issue involving a person:

(a) Who committed a capital offense;

(b) Who is serving a sentence of imprisonment for life;

(c) Who has been convicted of a sexual offense involving the use or threat of use of force or violence;

(d) Who is a habitual criminal; or

(e) Whose sentence has been commuted by the State Board of Pardons Commissioners,

➥ must be conducted by at least three members of the Board, and action may be taken only with the concurrence of at least four members.

7. If a recommendation made by a panel deviates from the standards adopted by the Board pursuant to NRS 213.10885 or the recommendation of the Division, the Chairman must concur in the recommendation.

8. A member of the Board or a person who has been designated as a case hearing representative in accordance with NRS 213.135 may recommend to the Board that a prisoner be released on parole without a meeting if:

(a) The prisoner is not serving a sentence for a crime described in subsection 6;

(b) The parole standards created pursuant to NRS 213.10885 suggest that parole should be granted;

(c) There are no current requests for notification of hearings made in accordance with subsection 4 of NRS 213.130; and

(d) Notice to law enforcement of the eligibility for parole of the prisoner was given pursuant to subsection 5 of NRS 213.1085, and no person objected to granting parole without a meeting during the 30-day notice period.

9. A recommendation made in accordance with subsection 8 is subject to final approval by the affirmative action of a majority of the members appointed to the Board. The final approval by affirmative action must not take place until the expiration of the 30-day notice period to law enforcement of the eligibility for parole of the prisoner in accordance with subsection 5 of NRS 213.1085. Such action may be taken at a meeting of the Board or without a meeting of the Board by delivery of written approval to the Executive Secretary of the Board by a majority of the members.

Sec. 6. The amendatory provisions of ~~[:~~

~~1. Section 1 of this act apply to an applicant or a witness at a hearing for clemency held on or after July 1, 2009.~~

~~2. Sections 2,~~**]** **sections** 4 and 5 of this act apply to any prisoner who is in the custody of the Department of Corrections before, on or after July 1, 2009.

[~~3. Section 3 of this act apply to a prisoner, parolee or witness at a hearing for parole held on or after July 1, 2009.~~**]**

Sec. 7. This act becomes effective on July 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Remarks by Assemblyman Horne.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 148.

Bill read second time.

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

Amendment No. 245.

AN ACT relating to occupational safety; requiring employees on a construction site to receive certain health and safety training; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 10 of this bill requires: (1) supervisory employees working on a construction site to ~~[obtain certification that they have completed]~~ **complete** a specified 30-hour health and safety course not later than ~~[60]~~ **15** days after ~~[commencing work on the construction site;]~~ **being hired;** and (2) all other ~~[employees]~~ **construction workers** working on the construction site to ~~[obtain similar certification regarding]~~ **complete** a specified 10-hour course not later than ~~[60]~~ **15** days after ~~[commencing work on the construction site.]~~ **being hired.**

Section 8 of this bill allows the Division of Industrial Relations of the Department of Business and Industry to adopt regulations approving courses ~~[for certification. Section 9 of this bill requires the Division to issue a certification to any person who completes an approved course and provides that the certification expires after 10 years.]~~ **which may be used to fulfill the requirements of section 10.**

Section 11 of this bill requires employers to terminate the employment of an employee on a construction site who fails to provide proof of obtaining the required ~~[certification]~~ **training** not later than ~~[60]~~ **15** days after ~~[commencing work.]~~ **being hired. Section 12** of this bill provides for administrative fines for employers who continue to employ ~~[uncertified]~~ **certain** employees on a construction site after the ~~[60]~~ **15**-day period ~~[.]~~ **if those employees have not obtained the required training.**

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

Section 1. Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 12 of this act, inclusive, unless the context otherwise requires, the words and terms defined in sections 3 to 6 of this act, inclusive, have the meanings ascribed to them in those sections.***

Sec. 3. ***"Construction site" means any location at which construction work is being commenced or is in progress.***

Sec. 3.5. "Construction worker" means a person who actually performs physical work at a construction site:

1. To accomplish the construction or destruction involved in the construction project; or

2. Who supervises any person engaged in work described in subsection 1.

Sec. 4. ***"OSHA-10" means a 10-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.***

Sec. 5. ***"OSHA-30" means a 30-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.***

Sec. 6. ***"Supervisory employee" means any person having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday.***

Sec. 7. ***The Division may adopt such regulations as are necessary to carry out the provisions of sections 2 to 12, inclusive, of this act.***

Sec. 8. ***1. ~~[Any OSHA 10 or OSHA 30 course offered by the Division is an approved course for the purposes of certification pursuant to section 9 of this act.~~***

~~2.]~~ The Division may, by regulation, approve ~~[additional]~~ OSHA-10 or OSHA-30 courses for the purposes of ~~[certification pursuant to]~~ fulfilling the requirements of section ~~[9]~~ 10 of this act.

2. The Division shall establish a registry to track the providers of courses approved pursuant to subsection 1.

Sec. 9. ***~~[1. The Division shall:~~***

~~(a) Issue an OSHA 10 certification to any person who submits to the Division proof that he has completed an OSHA 10 course approved by the Division; and~~

~~(b) Issue an OSHA 30 certification to any person who submits to the Division proof that he has completed an OSHA 30 course approved by the Division.~~

~~2. A certification issued pursuant to this section expires 10 years after the date it is issued.]~~ **(Deleted by amendment.)**

Sec. 10. ***1. Not later than ~~[60]~~ 15 days after the date ~~[an employee]~~ a construction worker other than a supervisory employee ~~[begins work on a construction site,]~~ is hired, the ~~[employee]~~ construction worker must obtain ~~[from the Division]~~ an OSHA-10 ~~[certification]~~ completion card issued ~~[pursuant to]~~ upon completion of a course approved by the Division pursuant to section ~~[9]~~ 8 of this act.***

2. Not later than ~~[60]~~ 15 days after the date a supervisory employee ~~[begins work on a construction site,]~~ is hired, the supervisory employee must obtain ~~[from the Division]~~ an OSHA-30 ~~[certification]~~ completion card issued ~~[pursuant to]~~ upon completion of a course approved by the Division pursuant to section ~~[9]~~ 8 of this act.

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued.

Sec. 11. ***1. If ~~[an employee on a construction site]~~ a construction worker other than a supervisory employee fails to present his employer with a current and valid OSHA-10 ~~[certification]~~ completion card not later than***

~~[60]~~ **15 days after ~~[beginning work on a construction site,]~~ being hired, his employer shall terminate his employment.**

2. If a supervisory employee on a construction site fails to present his employer with a current and valid OSHA-30 ~~[certification]~~ completion card not later than ~~[60]~~ 15 days after ~~[beginning work on a construction site,]~~ being hired, his employer shall terminate his employment.

Sec. 12. **1. If the Division finds that an employer has failed to terminate an employee as required by section 11 of this act, it shall:**

~~[1.]~~ **(a) Upon the first violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than $500.**

~~[2.]~~ **(b) Upon the second violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than $1,000.**

~~[3.]~~ **(c) Upon the third and each subsequent violation, impose upon the employer the penalty ~~[for]~~ provided in NRS 618.635 as if the employer had committed a willful violation . ~~[authorized by NRS 618.635.]~~**

2. For the purposes of this section, any number of violations discovered in a single day constitute a single violation.

3. Before a fine or any other penalty is imposed upon an employer pursuant to this section, the Division must follow the procedures set forth in this chapter for the issuance of a citation, including, without limitation, the procedures set forth in NRS 618.475 for notice to the employer and an opportunity for the employer to contest the violation.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 189.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 117.

SUMMARY—Revises provisions governing the eviction of **certain** tenants from property. (BDR 3-655)

AN ACT relating to property; extending the period of time that ~~[a tenant has]~~ **certain tenants have** to comply with certain notices and requirements to avoid being guilty of unlawful detainer; extending the period of time that ~~[a tenant has]~~ **certain tenants have** to comply with a notice to quit under certain circumstances; ~~[extending the period of time before which certain court orders become effective;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides several circumstances under which a tenant of real property or a mobile home may be guilty of unlawful detainer.

(NRS 40.2512, 40.2514, 40.2516) For example, existing law provides that a tenant of real property is guilty of unlawful detainer if he: (1) fails to pay his rent; (2) fails to comply with a written notice directing him to either pay the rent or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. (NRS 40.2512) **Section 1** of this bill ~~[amends existing law to extend]~~ **extends** the 5-day period to 10 days **for residential premises,** so that such a tenant is not guilty of unlawful detainer until 10 days after the notice is served and he has failed to comply with the notice.

~~[Existing law also provides that a tenant of real property or a mobile home is guilty of unlawful detainer if he takes certain actions, including assigning or subletting the property in violation of the lease, and he remains in possession of the property after a 3 days' notice to quit has been served upon him. (NRS 40.2514) Section 2 of this bill amends existing law to extend the 3 days' notice to quit to a 5 days' notice to quit. Section 6 of this bill makes a similar change with respect to cases in which the property has been sold. (NRS 40.255)]~~

In addition, existing law provides that a tenant of real property is guilty of unlawful detainer if he: (1) fails to perform certain conditions of the lease; (2) fails to comply with a written notice directing him to perform the conditions or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. Further, existing law provides that the tenant or subtenant may save the lease from forfeiture by performing the conditions within 3 days after the notice is served. (NRS 40.2516) **Section 3** of this bill ~~[amends existing law to extend,]~~ **extends** from 5 days to 10 days, the period during which such a tenant or subtenant **of residential premises** may remain on the property before becoming guilty of unlawful detainer. **Section 3** also gives the tenant and subtenant **of residential premises** 7 days, rather than 3 days, to perform the condition and save the lease from forfeiture.

Existing law provides procedures for summary evictions and exclusions of certain tenants who fail to pay their rent. (NRS 40.253) Specifically, existing law authorizes a landlord to serve such a tenant with written notice directing the tenant to pay the rent or surrender the property within 5 days after service of the notice. **Section 4** of this bill extends that 5-day period to 10 days after service ~~[.]~~ **for residential premises.** Existing law also provides that, under certain circumstances, the landlord may obtain an order from the court directing the sheriff to remove the tenant within 24 hours after receiving the order. **Section 4** revises existing law to provide that **, for residential premises,** the sheriff may not remove the tenant earlier than 5 days after the sheriff receives the order, unless the rent is reserved by the week or less, in which case the sheriff may not remove the tenant earlier than 2 days after receipt of the order. Finally, **section 4** provides that ~~[if]~~ the court ~~[issues an order for summary removal of the tenant, the order will not take effect for a certain period of time during which if the tenant pays the rent and submits~~

~~proof of the payment to the court, the order will not take effect at all.~~**]** **is not required to hold a hearing concerning an alleged unlawful detainer until certain conditions are met, including that the time provided in this section for a tenant to pay rent or surrender the premises has expired.** (NRS 40.253)

~~**[** Section 5 of this bill amends existing law to extend the period during which a tenant may file an affidavit contesting an unlawful detainer under certain circumstances. (NRS 40.254)~~**]**

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

Section 1. NRS 40.2512 is hereby amended to read as follows:

40.2512 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after default in the payment of any rent and after a notice in writing, requiring in the alternative the payment of the rent or the surrender of the detained premises, remains uncomplied with for a period of 5 days, or in the case of ~~[~~a mobile home lot,~~]~~ ***residential premises,*** 10 days after service thereof. The notice may be served at any time after the rent becomes due.

Sec. 2. ~~[~~NRS 40.2514 is hereby amended to read as follows:

~~40.2514 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he:~~

~~1. Assigns or sublets the leased premises contrary to the covenants of the lease;~~

~~2. Commits or permits waste thereon;~~

~~3. Sets up or carries on therein or thereon any unlawful business;~~

~~4. Suffers, permits or maintains on or about the premises any nuisance that consists of conduct or an ongoing condition which constitutes an unreasonable obstruction to the free use of property and causes injury and damage to other tenants or occupants of that property or adjacent buildings or structures; or~~

~~5. Violates any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, therein or thereon,~~

~~→ and remains in possession after service upon him of [3] 5 days' notice to quit.~~**]** **(Deleted by amendment.)**

Sec. 3. NRS 40.2516 is hereby amended to read as follows:

40.2516 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property or mobile home is held, other than those mentioned in NRS 40.250 to 40.252, inclusive, and NRS 40.254, and after notice in writing, requiring in the alternative the performance of the condition or covenant or the surrender of the property, served upon him, and, if there is a subtenant in actual occupation of the

premises, also upon the subtenant, remains uncomplied with for 5 ***days or, in the case of residential premises, 10*** days after the service thereof. Within 3 ***days or, in the case of residential premises, 7*** days after the service, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person, interested in its continuance, may perform the condition or covenant and thereby save the lease from forfeiture **,** ~~[:]~~ but if the covenants and conditions of the lease, violated by the lessee, cannot afterwards be performed, then no notice need be given.

Sec. 4. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth ***full day or, in the case of residential premises, 10th*** full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ As used in this subsection, "day of service" means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or

constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. ~~[The]~~ ***If the tenant is in possession of commercial premises, the*** court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours ~~*[not earlier than 5 days]*~~ after receipt of the order . ***If the tenant is in possession of residential premises, the court may thereupon issue an order directing the sheriff or constable of the county to remove a tenant not earlier than 5 days after receipt of the order or, if the rent is reserved by a period of 1 week or less, not earlier than 2 days after receipt of the order.*** The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, ~~[and]~~ the filing by the landlord of the affidavit permitted by subsection 5 ~~[,]~~ ***and the expiration of the time specified in subsection 1 for the payment of rent or surrender of the premises,*** the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that ~~[there]~~ ***:***

(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. ~~[If the court determines that there]~~ ~~*[Except as otherwise provided in this paragraph, the order becomes effective at noon on the date set forth in the notice served pursuant to subsection 1 or 2 or at noon on the fifth day after the order is issued, whichever is later. The order will not become effective if the tenant tenders payment of the rent and submits proof of the payment to the court before the order is to become effective pursuant to this paragraph.]*~~

(b) There is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief ~~[,]~~ and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive.

➥ The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

➥ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460, and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 5. ~~[~~NRS 40.254 is hereby amended to read as follows:

~~40.254 Except as otherwise provided by specific statute, in addition to the remedy provided in NRS 40.251 and in NRS 40.290 to 40.420, inclusive, when the tenant of a dwelling unit which is subject to the provisions of chapter 118A of NRS, part of a low-rent housing program operated by a public housing authority, a mobile home or a recreational vehicle is guilty of an unlawful detainer, the landlord is entitled to the summary procedures provided in NRS 40.253 except that:~~

~~1. Written notice to surrender the premises must:~~

~~(a) Be given to the tenant in accordance with the provisions of NRS 40.280;~~

~~(b) Advise the tenant of the court that has jurisdiction over the matter; and~~

~~(c) Advise the tenant of his right to contest the notice by filing within [5] *10* days an affidavit with the court that has jurisdiction over the matter that he is not guilty of an unlawful detainer.~~

~~2. The affidavit of the landlord or his agent submitted to the justice court or the district court must contain:~~

~~(a) The date when the tenancy commenced, the term of the tenancy [,] and, if any, a copy of the rental agreement.~~

~~(b) The date when the tenancy or rental agreement allegedly terminated.~~

~~(c) The date when the tenant became subject to the provisions of NRS 40.251 to 40.2516, inclusive, together with any supporting facts.~~

~~(d) The date when the written notice was given, a copy of the notice and a statement that notice was served in accordance with NRS 40.280.~~

~~(e) A statement that the claim for relief was authorized by law.~~

~~3. If the tenant is found guilty of unlawful detainer as a result of his violation of any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, the landlord is entitled to be awarded any reasonable attorney's fees incurred by the landlord or his agent as a result of a hearing, if~~

~~any, held pursuant to subsection 6 of NRS 40.253 wherein the tenant contested the eviction.~~**] (Deleted by amendment.)**

Sec. 6. ~~[~~NRS 40.255 is hereby amended to read as follows:

~~40.255 1. Except as~~ ***otherwise*** provided in subsection 2, in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a ~~[~~3-day~~]*** 5-day*** written notice to quit has been served upon him, and also upon any subtenant in actual occupation of the premises, pursuant to NRS 40.280, may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

~~(a) Where the property or mobile home has been sold under an execution against him or a person under whom he claims, and the title under the sale has been perfected;~~

~~(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by him or a person under whom he claims, and the title under the sale has been perfected;~~

~~(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by such person or a person under whom he claims, and the title under such sale has been perfected; or~~

~~(d) Where the property or mobile home has been sold by him or a person under whom he claims, and the title under the sale has been perfected.~~

~~2. This section does not apply to the tenant of a mobile home lot in a mobile home park.~~**] (Deleted by amendment.)**

Sec. 7. This act becomes effective upon passage and approval.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that upon return from the printer Assembly Bill No. 189 be placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 209.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 398.

AN ACT relating to driving under the influence; ~~[~~~removing the discretion of a court to choose not to order~~]~~ **requiring** an offender convicted of certain offenses relating to driving under the influence to attend a **live** meeting of a panel of victims in person; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~[removes the discretion of a court to choose not to order]~~ **requires** an offender who is convicted of an offense relating to driving under the influence to attend a **live** meeting of a panel of victims ~~[, regardless of the distance of the meeting from an offender's residence.]~~ **in person, unless such a meeting is not available within 60 miles of the offender's residence. (NRS 484.3797)**

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

Section 1. NRS 484.3797 is hereby amended to read as follows:

484.3797 1. The judge or judges in each judicial district shall cause the preparation and maintenance of a list of the panels of persons who:

(a) Have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955 or 484.379778 or a law of any other jurisdiction that prohibits the same or similar conduct; and

(b) Have, by contacting the judge or judges in the district, expressed their willingness to discuss collectively the personal effect of those crimes.

➥ The list must include the name and telephone number of the person to be contacted regarding each such panel and a schedule of times and locations of the meetings of each such panel. The judge or judges shall establish, in cooperation with representatives of the members of the panels, a fee, if any, to be paid by defendants who are ordered to attend a meeting of the panel. The amount of the fee, if any, must be reasonable. The panel may not be operated for profit.

2. Except as otherwise provided in this subsection, if ~~[If]~~ a defendant pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill of, any violation of NRS 484.379, 484.3795, 484.37955 or 484.379778, the court shall, in addition to imposing any other penalties provided by law, order the defendant to:

(a) Attend ~~[,]~~ ***in person,*** at the defendant's expense, a ***live*** meeting of a panel of persons who have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955 or 484.379778 or a law of any other jurisdiction that prohibits the same or similar conduct, in order to have the defendant understand the effect such a crime has on other persons; and

(b) Pay the fee, if any, established by the court pursuant to subsection 1.

➥ The court may, but is not required to, order the defendant to attend such a meeting if one is not available within 60 miles of the defendant's residence.

3. A person ordered to attend a meeting pursuant to subsection 2 shall, after attending the meeting, present evidence or other documentation satisfactory to the court that he attended the meeting and remained for its entirety.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 238.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 361.

SUMMARY— ~~[Provides that persons who are convicted of certain offenses involving pandering or prostitution of a child are subject to lifetime supervision.]~~ **Increases the penalty for soliciting a child for prostitution.** (BDR ~~[14-177)]~~ **15-177)**

AN ACT relating to crimes; ~~[providing that persons who are convicted of certain offenses involving pandering or prostitution of a child are subject to lifetime supervision;]~~ **increasing the penalty for soliciting a child for prostitution;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law provides that a person is subject to lifetime supervision, following probation, imprisonment or parole, if the person is convicted of certain sexual offenses. (NRS 176.0931) This bill revises the list of such sexual offenses for which a person is subject to lifetime supervision to include the following offenses relating to pandering and prostitution, if the victim of the offense is less than 18 years of age when the offense is committed: (1) pandering, by inducing a person to become a prostitute through threats or other actions; (2) pandering, by placing a spouse in a house of prostitution through force, fraud, intimidation or threats; (3) living from the earnings of a prostitute; (4) pandering, by detaining a person in a house of prostitution because of any debt; and (5) pandering, by furnishing transportation to induce a person to become a prostitute or engage in prostitution. (NRS 201.300-201.340)]~~ **Existing law provides that any person who engages in solicitation for prostitution is guilty of a misdemeanor. (NRS 201.354) This bill provides that a person who solicits a child for prostitution is guilty of a category E felony.**

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

Section 1. ~~[NRS 176.0931 is hereby amended to read as follows:~~

~~176.0931 1. If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision.~~

~~2. The special sentence of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.~~

~~3. A person sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision. The sentencing court or the Board shall grant a petition for release from a special sentence of lifetime supervision if:~~

~~(a) The person has complied with the requirements of the provisions of NRS 179D.010 to 179D.550, inclusive;~~

~~(b) The person has not been convicted of an offense that poses a threat to the safety or well-being of others for an interval of at least 10 consecutive years after his last conviction or release from incarceration, whichever occurs later; and~~

~~(c) The person is not likely to pose a threat to the safety of others, as determined by a person professionally qualified to conduct psychosexual evaluations, if released from lifetime supervision.~~

~~4. A person who is released from lifetime supervision pursuant to the provisions of subsection 3 remains subject to the provisions for registration as a sex offender and to the provisions for community notification, unless he is otherwise relieved from the operation of those provisions pursuant to the provisions of NRS 179D.010 to 179D.550, inclusive.~~

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

~~(a) "Offense that poses a threat to the safety or well-being of others" includes, without limitation:~~

~~(1) An offense that involves:~~

~~(I) A victim less than 18 years of age;~~

~~(II) A crime against a child as defined in NRS 179D.0357;~~

~~(III) A sexual offense as defined in NRS 179D.097;~~

~~(IV) A deadly weapon, explosives or a firearm;~~

~~(V) The use or threatened use of force or violence;~~

~~(VI) Physical or mental abuse;~~

~~(VII) Death or bodily injury;~~

~~(VIII) An act of domestic violence;~~

~~(IX) Harassment, stalking, threats of any kind or other similar acts;~~

~~(X) The forcible or unlawful entry of a home, building, structure, vehicle or other real or personal property; or~~

~~(XI) The infliction or threatened infliction of damage or injury, in whole or in part, to real or personal property.~~

~~(2) Any offense listed in subparagraph (1) that is committed in this State or another jurisdiction, including, without limitation, an offense prosecuted in:~~

~~(I) A tribal court.~~

~~(II) A court of the United States or the Armed Forces of the United States.~~

~~(b) "Person professionally qualified to conduct psychosexual evaluations" has the meaning ascribed to it in NRS 176.133.~~

~~(c) "Sexual offense" means:~~

~~(1) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230~~ **[**or**]** ***, 201.300 to 201.340, inclusive, if the victim of the offense is less than 18 years of age when the offense is committed, NRS*** ~~201.450 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;~~

~~(2) An attempt to commit an offense listed in subparagraph (1); or~~

~~(3) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.~~**]** **(Deleted by amendment.)**

Sec. 1.5. **NRS 201.354 is hereby amended to read as follows:**

201.354 1. It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.

2. **[**~~Any~~**]** ***Except as otherwise provided in subsection 3, a*** person who violates subsection 1 is guilty of a misdemeanor.

3. A person who violates subsection 1 by soliciting a child for prostitution is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 2. **[**~~The amendatory provisions of this act apply to offenses committed on or after October 1, 2009.~~**]** **(Deleted by amendment.)**

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 239.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 61.

SUMMARY—Revises provisions relating to habitual criminals**. . .** **[**~~habitual felons and habitually fraudulent felons.~~**]** (BDR 15-9)

AN ACT relating to crimes; revising provisions relating to habitual criminals**; [**~~, habitual felons and habitually fraudulent felons;~~**]** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally authorizes a prosecuting attorney to prosecute a person as a habitual criminal, punishable as a category B felony, if the person: (1) is convicted of petit larceny, a crime which involves fraud or the intent to defraud, or any felony; and (2) has previously been convicted two times of a felony or three times of petit larceny or certain other crimes involving fraud or the intent to defraud. **[**~~Section 1 of this bill provides that a~~

~~person may be prosecuted as a habitual criminal, punishable as a category B felony, if he is convicted of a felony and has previously been convicted three times, rather than two times, of a felony. Section 1 also~~] **This bill** removes the provisions concerning convictions and prior convictions for petit larceny or certain crimes involving fraud or the intent to defraud. **Thus, a person may be prosecuted as a habitual criminal, punishable as a category B felony, if he is convicted of a felony and has previously been convicted two times of a felony.** (NRS 207.010)

Existing law provides that a person may be prosecuted as a habitual criminal, punishable as a category A felony, if the person: (1) is convicted of a felony; and (2) has previously been convicted three times of a felony or five times of petit larceny or certain other crimes which involve fraud or the intent to defraud. ~~[(NRS 207.010) Section 1 of this bill provides that such a person may be prosecuted as a habitual criminal, punishable as a category A felony, if he has previously been convicted five times, rather than three times, of a felony. Section 1 also~~] **This bill** removes the provisions concerning prior convictions for petit larceny or certain crimes involving fraud or the intent to defraud. **Thus, a person may be prosecuted as a habitual criminal, punishable as a category A felony, if he is convicted of a felony and has previously been convicted three times of a felony.** (NRS 207.010) ~~[Further, section 1 eliminates life without the possibility of parole as an option for sentencing for a conviction as a habitual criminal punishable as a category A felony. Finally, section 1 prohibits a trial judge from adjudicating a person as a habitual criminal, whether punishable as a category A or B felony, unless the person has served at least one prison term in a state or federal penal institution. (NRS 207.010)~~

~~Existing law provides that a person is a habitual felon if the person: (1) has been convicted of one of certain enumerated felonies; and (2) before the commission of that felony, the person was convicted two times of a felony included in those enumerated felonies. (NRS 207.012) Section 2 of this bill makes it discretionary rather than mandatory for a prosecuting attorney to prosecute a person as a habitual felon. Section 2 also makes it discretionary rather than prohibited for a trial judge to dismiss a habitual felon count in an indictment or information. (NRS 207.012)~~

~~Existing law provides that a person is a habitually fraudulent felon if: (1) the person has been convicted of a felony which involves fraud or the intent to defraud an older person, a person with a mental disability or a vulnerable person; and (2) before the commission of that felony, the person was convicted two times of a felony which involves fraud or the intent to defraud an older person, a person with a mental disability or a vulnerable person. (NRS 207.014) Section 3 of this bill amends the law in a manner similar to section 2 of this bill with regard to habitually fraudulent felons, making it discretionary rather than mandatory for a prosecuting attorney to prosecute a person as such a felon and making it discretionary rather than prohibited for a~~

~~trial judge to dismiss a habitually fraudulent felon count in an indictment or information. (NRS 207.014)~~**]**

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

Section 1. NRS 207.010 is hereby amended to read as follows:

207.010 1. Unless the person is prosecuted pursuant to NRS 207.012 or 207.014, a person convicted in this State of:

(a) Any **[**~~crime of which fraud or intent to defraud is an element, or of petit larceny, or of any~~**]** felony, who has previously been two ~~*[three]*~~ times convicted, whether in this State or elsewhere, of any crime which under the laws of the situs of the crime or of this State would amount to a felony **[**~~, or who has previously been three times convicted, whether in this State or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element,~~**]** is a habitual criminal and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years.

(b) Any felony, who has previously been three ~~*[five]*~~ times convicted, whether in this State or elsewhere, of any crime which under the laws of the situs of the crime or of this State would amount to a felony **[**~~, or who has previously been five times convicted, whether in this State or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or the intent to defraud is an element,~~**]** is a habitual criminal and shall be punished for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole;

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(3) ~~*[(2)]*~~ For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

2. It is within the discretion of the prosecuting attorney whether to include a count under this section in any information or file a notice of habitual criminality if an indictment is found. The trial judge may, at his discretion, dismiss a count under this section which is included in any indictment or information.

~~*[3. A trial judge shall not adjudicate a person as a habitual criminal unless the person has served a prior prison term in any state or federal penal institution.]*~~

Sec. 2. **[**~~NRS 207.012 is hereby amended to read as follows:~~

~~207.012 1. A person who:~~

~~(a) Has been convicted in this State of a felony listed in subsection 2; and~~

~~(b) Before the commission of that felony, was twice convicted of any crime which under the laws of the situs of the crime or of this State would be a felony listed in subsection 2, whether the prior convictions occurred in this State or elsewhere,~~

~~" is a habitual felon and shall be punished for a category A felony by imprisonment in the state prison:~~

~~(1) For life without the possibility of parole;~~

~~(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or~~

~~(3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.~~

~~2. The district attorney shall~~**]** ~~***It is within the discretion of the prosecuting attorney whether to*** include a count under this section in any information or **[**shall**]** file a notice of habitual felon if an indictment is found, if each prior conviction and the alleged offense committed by the accused constitutes a violation of subparagraph (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160, 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390, subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of NRS 200.450, subsection 5 of NRS 200.460, NRS 200.463, 200.464, 200.465, 200.467, 200.468, subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, NRS 200.710, 200.720, 201.230, 201.450, 202.170, 202.270, subsection 2 of NRS 202.780, paragraph (b) of subsection 2 of NRS 202.820, subsection 2 of NRS 202.830, NRS 205.010, subsection 4 of NRS 205.060, subsection 4 of NRS 205.067, NRS 205.075, 207.400, paragraph (a) of subsection 1 of NRS 212.090, NRS 453.3325, 453.333, 484.219, 484.3795 or 484.37955.~~

~~3. The trial judge may~~ **[**~~not~~**]** ~~***, at his discretion,*** dismiss a count under this section that is included in an indictment or information.~~**]** **(Deleted by amendment.)**

Sec. 3. ~~**[**NRS 207.014 is hereby amended to read as follows:~~

~~207.014 1. A person who:~~

~~(a) Has been convicted in this State of any felony committed on or after July 1, 1995, of which fraud or intent to defraud is an element; and~~

~~(b) Has previously been two times convicted, whether in this State or elsewhere, of any felony of which fraud or intent to defraud is an element before the commission of the felony under paragraph (a),~~

~~" is a habitually fraudulent felon and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, if the victim of each offense was an older person, a person with a mental disability or a vulnerable person.~~

~~2. [The]~~ ~~***It is within the discretion of the*** prosecuting attorney **[**shall**]** ***whether to*** include a count under this section in any information or **[**shall**]** file a notice of habitually fraudulent felon if an indictment is found, if the prior convictions and the alleged offense committed by the accused are felonies of which fraud or intent to defraud is an element and the victim of each offense was:~~

~~(a) An older person;~~

~~(b) A person with a mental disability; or~~

~~(c) A vulnerable person.~~

~~3. The trial judge may~~ [not]~~, at his discretion,~~ ~~dismiss a count under this section that is included in an indictment or information.~~

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

~~(a) "Older person" means a person who is:~~

~~(1) Sixty-five years of age or older if the crime was committed before October 1, 2003.~~

~~(2) Sixty years of age or older if the crime was committed on or after October 1, 2003.~~

~~(b) "Person with a mental disability" means a person who has a mental impairment which is medically documented and substantially limits one or more of the person's major life activities. The term includes, but is not limited to, a person who:~~

~~(1) Suffers from mental retardation;~~

~~(2) Suffers from a severe mental or emotional illness;~~

~~(3) Has a severe learning disability; or~~

~~(4) Is experiencing a serious emotional crisis in his life as a result of the fact that he or a member of his immediate family has a catastrophic illness.~~

~~(c) "Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.~~] **(Deleted by amendment.)**

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 259.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 253.

AN ACT relating to criminal offenders; revising provisions relating to the residential confinement of certain offenders; authorizing a court to provide for the forfeiture of credits for good behavior of a ~~[parolee or a]~~ probationer under certain circumstances; revising provisions concerning certain credits to be applied to a period of probation or parole; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that an offender who has been convicted of a category B felony is not eligible for residential confinement. **Section 1** of this bill requires the standards adopted by the Director of the Department of Corrections concerning eligibility for residential confinement to provide that an offender who has been convicted of a category B felony is eligible for residential confinement if: (1) the offender is not otherwise ineligible for residential confinement; and (2) the Director makes a written finding that

assigning the offender to residential confinement is not likely to pose a threat to the safety of the public. (NRS 209.392)

Existing law authorizes the State Board of Parole Commissioners to provide for the forfeiture of credits for good behavior of a parolee who violates a condition of his parole and, as appropriate, for the restoration of such credits. ~~[Section 2 of this bill authorizes a court to also provide for the forfeiture and restoration of such credits. (NRS 213.1518)]~~ **Section 4** of this bill ~~[similarly]~~ authorizes a court to provide for the forfeiture of credits for good behavior of a probationer who violates a condition of his probation and, as appropriate, for the restoration of such credits.

Existing law provides that an offender who is sentenced to serve a period of probation for a felony and who demonstrates certain good behavior must be allowed certain deductions from his period of probation. **Section 5** of this bill amends existing law to provide generally that a person who is sentenced to a period of probation for a felony or a gross misdemeanor must be allowed a deduction from his period of probation of: (1) ten days for each month he serves and is current on any fee to defray the cost of his supervision and on any fines, fees and restitution ordered by the court; and (2) an additional 10 days for each month he serves and is actively involved in employment or enrolled in certain programs. (NRS 176A.500)

Existing law authorizes a court to order a probationer who violates a condition of his probation to a term of residential confinement and to direct the person to be confined, for not more than 6 months, to a community correctional center, conservation camp, facility of minimum security or other place of confinement operated by the Department of Corrections for the custody, care or training of offenders, other than a prison designed to house 125 or more offenders within a secure perimeter. **Section 6** of this bill authorizes a court to direct such a person who was placed on probation for a felony conviction to be confined to any of those facilities and institutions, including a prison designed to house 125 or more offenders within a secure perimeter. Further, **section 6** of this bill authorizes the Department of Corrections to select the facility or institution in which to place the person. (NRS 176A.660)

Section 3 of this bill amends chapter 213 of NRS, which governs parolees in a manner similar to **section 6** of this bill. **Section 3** provides that a parolee who is returned to confinement in a facility or institution of the Department of Corrections is authorized to earn credits to reduce his sentence pursuant to chapter 209 of NRS, with the exception of certain credits which are earned by an offender who is released on parole. (NRS 213.152)

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

Section 1. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for

residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) Demonstrated a willingness and ability to establish a position of employment in the community;

(b) Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has been convicted of:

(1) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim within the immediately preceding 3 years;

(2) A sexual offense that is punishable as a felony; or

(3) ~~[~~A~~]~~ ***Except as otherwise provided in subsection 4, a*** category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778; or

(e) Has escaped or attempted to escape from any jail or correctional institution for adults,

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. ***The standards adopted by the Director pursuant to subsection 3 must provide that an offender who has been convicted of a category B felony is eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section if:***

(a) The offender is not otherwise ineligible pursuant to subsection 3 for an assignment to serve a term of residential confinement; and

(b) The Director makes a written finding that such an assignment of the offender is not likely to pose a threat to the safety of the public.

5. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

~~[5.]~~ ***6.*** The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

~~[6.]~~ ***7.*** An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 2. ~~[~~NRS 213.1518 is hereby amended to read as follows:

213.1518 ~~1. If a parolee violates a condition of his parole, he forfeits all or part of the credits for good behavior earned by him pursuant to chapter 209 of NRS after his release on parole, in the discretion of the Board~~ ~~.]~~ ~~*or a court of competent jurisdiction before which the parolee is brought.*~~

~~2. A forfeiture may be made only by the Board *or a court described in subsection 1* after proof of the violation and notice to the parolee.~~

~~3. The Board *or a court described in subsection 1* may restore credits forfeited for such reasons as it considers proper.~~

~~4. *If a court described in subsection 1 provides for the forfeiture or restoration of credits for good behavior of a parolee pursuant to this section, the clerk of the court shall notify the Chief of the forfeiture or restoration of credits.*~~

~~*5.* The Chief shall report to the Director of the Department of Corrections any forfeiture or restoration of credits pursuant to this section.~~**] (Deleted by amendment.)**

Sec. 3. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection ~~[6,]~~ ***7,*** if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require:

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement; or

(b) Require the parolee to be confined to a facility ***or institution*** of the Department of Corrections ~~[approved by the Board]~~ for a period not to exceed 6 months. ***The Department may select the facility or institution in which to place the parolee.***

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,

➥ must not be used.

4. ***A parolee who is confined to a facility or institution of the Department of Corrections pursuant to paragraph (b) of subsection 2:***

(a) May earn credits to reduce his sentence pursuant to chapter 209 of NRS; and

(b) Shall not be deemed to be released on parole for purposes of NRS 209.447 or 209.4475 during the period of that confinement.

5. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

~~[5.]~~ ***6.*** A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

~~[6.]~~ ***7.*** The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

~~[7.]~~ ***8.*** As used in this section ~~[, "facility"]~~ ***:***

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

Sec. 4. Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a court before which a probationer is brought pursuant to NRS 176A.630 determines that the probationer has violated a condition of his probation, the probationer forfeits all or part of the credits for good behavior earned by him pursuant to NRS 176A.500 during his probation, in the discretion of the court.

2. A forfeiture may be made only by the court after proof of the violation and notice to the probationer.

3. The court may restore credits forfeited for such reasons as it considers proper.

4. If the court provides for the forfeiture or restoration of credits for good behavior of a probationer pursuant to this section, the clerk of the court shall notify the Chief Parole and Probation Officer of the forfeiture or restoration of credits.

Sec. 5. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any

of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. ~~[An offender]~~ ***A person*** who is sentenced to serve a period of probation for a felony ~~[who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him,]~~ ***or a gross misdemeanor*** must be allowed for the period of his probation a deduction ~~[of 20]~~ ***as set forth in subsection 6 if the offender is:***

(a) Current with any fee to defray the cost of his supervision charged pursuant to NRS 213.1076 and with any fines, fees and restitution ordered by the court, including, without limitation, any payment of restitution required pursuant to NRS 176A.430; and

(b) Actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.

6. A person described in subsection 5 must be allowed for the period of his probation a deduction of:

(a) Ten days from that period for each month he serves ~~[.]~~ ***and is current on any fees to defray the cost of his supervision owed and on any fines, fees and restitution ordered by the court; and***

(b) Except as otherwise provided in subsection 7, an additional 10 days from that period for each month he serves and is actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.

7. A person who is sentenced to serve a period of probation for a felony or a gross misdemeanor and who is a participant in a specialty court program must ~~*[not]*~~ ***be allowed a deduction from the period of probation***

for being actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division ~~.~~ ***only if the person successfully completes the specialty court program. Such a deduction must not exceed the length of time remaining on the person's period of probation.***

8. As used in this section, "specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from mental illnesses or abuse alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 6. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division and require:

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement; or

(b) ~~[Direct]~~ ***If the person was placed on probation for a felony conviction, direct*** that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility ***or institution*** of the Department ~~[approved by the Division and the court]~~ for a period not to exceed 6 months. ***The Department may select the facility or institution in which to place the person.***

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,

➥ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section ~~[, "facility"]~~ ***:***

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

Sec. 7. 1. The amendatory provisions of this act apply to offenses committed before, on or after July 1, 2009.

2. For the purpose of calculating credits earned by a person pursuant to NRS 213.152, the amendatory provisions of section 3 of this act must be applied to credits earned by the person before, on or after July 1, 2009.

3. For the purpose of calculating credits earned by a person pursuant to NRS 176A.500, the amendatory provisions of section 5 of this act must be applied only to credits earned by the person on or after July 1, 2009.

Sec. 8. This act becomes effective on July 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 265.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 365.

AN ACT relating to juvenile justice; authorizing a juvenile court to impose certain penalties on ~~[a child]~~ **certain children** who ~~[disobeys]~~ **disobey** the terms of certain orders of disposition made by the juvenile court; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a person, other than a child, violates the terms of any order of disposition made by a juvenile court under title 5 of NRS, that person is guilty of a misdemeanor and may be punished for contempt, which punishment may include a fine, imprisonment not to exceed 25 days or both. (NRS 62E.040) **Section 2** of this bill provides that such imprisonment is imprisonment in a county jail. **Section 1** of this bill provides that if a child **, other than a child in need of supervision,** violates the terms of any order of disposition made by a juvenile court under title 5 of NRS, the juvenile court may order the child to **: (1)** pay a fine ~~[or to]~~ **; (2)** be placed, for not more than 10 days, in a detention facility or the county jail, as appropriate based on his age **; ~~[,]~~** or ~~[both.]~~ **(3) pay a fine and be placed in a detention facility or county jail, as appropriate.**

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

Section 1. Chapter 62E of NRS is hereby amended by adding thereto a new section to read as follows:

~~[If]~~ ***1. Except as otherwise provided in subsection 2, if a child commits an offense described in subsection 1 of NRS 62E.040, a juvenile court may order the child to:***

~~[1.]~~ ***(a) Pay a fine, not to exceed $500; or***

~~[2.]~~ ***(b) If the child:***

~~[(a)]~~ ***(1) Is less than 18 years of age, be placed in a facility for the detention of children for not more than 10 days; or***

~~[(b)]~~ ***(2) Is at least 18 years of age but less than 21 years of age, be placed in the county jail for not more than 10 days,***

➥ ***or both.***

2. The provisions of this section do not apply to a child who is adjudicated as a child in need of supervision.

Sec. 2. NRS 62E.040 is hereby amended to read as follows:

62E.040 1. Any person, except a child, who willfully violates, neglects or refuses to obey the terms of any order of disposition made by the juvenile court under the provisions of this title is guilty of a misdemeanor and may be punished for contempt.

2. Except as otherwise provided in this section, if the juvenile court determines that a person is guilty of contempt, the person may be punished by:

(a) A fine, not to exceed $500; or

(b) Imprisonment ~~[,]~~ ***in the county jail,*** not to exceed 25 days,

➥ or both.

3. The juvenile court may punish a person who is guilty of contempt by imprisonment ***in the county jail*** for more than 25 days if:

(a) The person is guilty of contempt for refusing to perform an act and the person has the power to perform the act; and

(b) The juvenile court specifies the act the person must perform in the warrant of commitment.

4. A person punished pursuant to subsection 3 may be imprisoned ***in the county jail*** until the person performs the act specified in the warrant of commitment.

Sec. 3. NRS 62E.100 is hereby amended to read as follows:

62E.100 Except as otherwise provided in NRS 62E.100 to 62E.300, inclusive ~~[.]~~ ***, and section 1 of this act:***

1. The provisions of NRS 62E.100 to 62E.300, inclusive, ***and section 1 of this act*** apply to the disposition of a case involving any child who is found to be within the purview of this title.

2. In addition to any other orders or actions authorized or required by the provisions of this title, if a child is found to be within the purview of this title:

(a) The juvenile court may issue any orders or take any actions set forth in NRS 62E.100 to 62E.300, inclusive, ***and section 1 of this act*** that the juvenile court deems proper for the disposition of the case; and

(b) If required by a specific statute, the juvenile court shall issue the appropriate orders or take the appropriate actions set forth in the statute.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 283.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 399.

AN ACT relating to victims of crime; ~~[removing]~~ **increasing** the ~~[limitation on the]~~ amount of compensation that may be awarded to certain victims of crime, the dependents of those victims and certain members of the victim's household; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Fund for the Compensation of Victims of Crime. (NRS 217.260) The victims of certain crimes, the dependents of those victims and certain members of the victim's household may apply to the State Board of Examiners for compensation from the Fund for certain expenses and losses, not to exceed $50,000 per award. (NRS 217.100, 217.160, 217.200) This bill ~~[removes]~~ **increases** the ~~[limit on the total]~~ amount of compensation that may be awarded ~~[.]~~ **to $100,000 and further authorizes an additional award of up to $50,000 in certain circumstances.**

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

Section 1. NRS 217.200 is hereby amended to read as follows:

217.200 1. The compensation officer may order the payment of compensation and the award of a Governor's certificate for meritorious citizen's service to a victim for:

(a) Medical expenses, expenses for psychological counseling and nonmedical remedial care and treatment rendered in accordance with a religious method of healing ~~[.]~~ that are actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) Loss of earnings or support that is reasonably incurred as a result of the total or partial incapacity of the victim for not longer than 52 weeks;

(c) Pecuniary loss to the dependents of a deceased victim;

(d) Funeral expenses that are actually and reasonably incurred as a result of the death of the victim; and

(e) Another loss which results from the personal injury or death of the victim and which the compensation officer determines to be reasonable.

2. The compensation officer may order the payment of compensation for a person who pays the funeral expenses of a victim.

3. ~~[An]~~ ***Except as otherwise provided in subsection 4, an*** award must not be made for more than ~~[$50,000.]~~ ***$100,000.***

4. Upon approval of the Board, an additional award of not more than $50,000 may be made to a victim. Before approving such an additional award, the Board must consider the amount of money remaining in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 and the particular circumstances of the victim.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 319.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 333.

AN ACT relating to education; prescribing certain rights for school employees; ~~[requiring full compensation for all missed days of work for an unlicensed employee if sufficient grounds for his dismissal do not exist;]~~ revising provisions relating to certain licensed employees who are reinstated after dismissal from employment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section]~~ **Sections 7 and 8** of this bill ~~[provides]~~ **provide** specified rights for a school employee in a meeting with an administrator or representative of a school district which ~~[involves the conduct, performance, employment status, discipline or transfer of]~~ **may result in disciplinary action against** the school employee, or which involves a complaint made by the school employee concerning his working conditions or the manner in which he is treated. ~~[Section 8 of this bill authorizes a school employee to submit a list of persons who are believed to have knowledge of the facts relevant to an allegation of improper conduct or performance by the employee and requires the school district to interview each person identified on the list. Section 9 of this bill requires an unlicensed employee who is dismissed from employment to be reinstated with full compensation, plus interest, for all missed days of work if sufficient grounds for dismissal do not exist.]~~ **Section ~~[10]~~ 11** of this bill requires the board of trustees of each school district to adopt a written policy prohibiting acts or statements that are intended to convince school employees to waive the rights provided by **sections 2- ~~[10]~~ 11** of this bill.

Section ~~[11]~~ 12 of this bill imposes restrictions on the involuntary transfer ~~[or reassignment]~~ of a licensed employee.

Under existing law, a licensed employee of a school district who is dismissed from employment must be reinstated with full compensation, plus

interest, if sufficient grounds for dismissal do not exist. (NRS 391.314) **Section ~~[14]~~ 15** of this bill requires full compensation for all missed days of work and provides that the employee is not required to mitigate damages.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[11,]~~ **12,** inclusive, of this act.

Sec. 2. ***As used in sections 2 to ~~[10,]~~ 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Administrator" has the meaning ascribed to it in NRS 391.311.***

Sec. 4. ***"Representative of a school district" means any person employed, appointed or retained by the board of trustees of a school district to investigate or otherwise act on behalf of the school district in any matter ~~[involving the conduct, performance, employment status, discipline or transfer of a]~~ that may result in disciplinary action against a school employee, or any complaint made by a school employee concerning his working conditions or the manner in which he is treated at work.***

Sec. 5. ***"School employee" means any licensed or unlicensed person employed by the board of trustees of a school district.***

Sec. 6. ***1. The provisions of sections 2 to ~~[10,]~~ 11, inclusive, of this act do not apply to any school employee who is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the extent of any conflict between the provisions of the agreement and the provisions of sections 2 to ~~[10,]~~ 11, inclusive, of this act.***

2. The provisions of sections 2 to ~~[10,]~~ 11, inclusive, of this act apply to an administrator if the matter ~~[involves the conduct, performance, employment status, discipline or transfer of the]~~ may result in disciplinary action against the administrator or if the administrator makes a complaint concerning his working conditions or the manner in which he is treated at work.

Sec. 7. ***1. Except as otherwise provided in subsection 1 of section 6 of this act or other specific statute, any meeting between a school employee and an administrator or representative of a school district ~~[which involves the conduct, performance, employment status, discipline or transfer of the school employee, or which involves a complaint made by the school employee concerning his working conditions or the manner in which he is treated,]~~ that may result in disciplinary action against the school employee is subject to the provisions of this section.***

2. If a meeting is governed by this section, the administrator or representative of the school district shall, not less than 48 hours before the meeting, provide written notice of the meeting to the school employee and, if the employee is governed by a collective bargaining agreement negotiated

pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.

3. The notice required by subsection 2 must include, without limitation:

(a) The date, time and place of the meeting;

(b) The purpose of the meeting; and

(c) The name and title of each representative of the school district that will be present at the meeting on behalf of the school district.

4. If a meeting governed by this section is convened to consider an allegation of improper conduct or performance by an employee, the notice required by subsection 2 must ~~*[be accompanied by a detailed description of the allegation of improper conduct or performance, including, without limitation:*~~

~~*(a) The name of each accuser;*~~

~~*(b) The date, time and place of the alleged improper conduct or performance; and*~~

~~*(c) A detailed explanation concerning the alleged improper conduct or performance.*~~

~~*→ If a notice is required to include the provisions of this subsection and the notice provided to the employee and his bargaining agent, if applicable, does not include these provisions, the school employee may refuse to answer questions about the alleged conduct or performance and must not be subject to discipline for such refusal.]*~~ ***provide the employee with notice of the specific concern to be discussed.***

5. If a meeting that is not otherwise subject to the provisions of this section is held between a school employee and an administrator or representative of a school district and, during the meeting, the administrator or representative raises an issue which subjects the meeting to the provisions of this section, the school employee must, upon request, be granted an immediate continuance of the meeting for not less than 48 hours. If a continuance is requested, the administrator or representative shall comply with the requirements of this section before reconvening the meeting.

~~*[6. A teacher who wishes to request a meeting which is subject to the provisions of this section concerning a complaint about his working conditions or the manner in which he is treated shall, in writing, notify the school district of the complaint and request such a meeting.]*~~

Sec. 8. ***1. A school employee who wishes to request a meeting concerning his working conditions or the manner in which he is treated at work may, in writing, notify the administrator or representative of the school district of the complaint and request such a meeting.***

2. If a meeting is requested pursuant to subsection 1, the administrator or representative of the school district shall, not less than 48 hours before the meeting, provide written notice of the meeting to the school employee and, if the employee is governed by a collective bargaining agreement

negotiated pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.

3. The notice required pursuant to subsection 2 must include, without limitation:

(a) The date, time and place of the meeting;

(b) The purpose of the meeting; and

(c) The name and title of each representative of the school district that will be present at the meeting on behalf of the school district.

~~[Sec. 8.]~~ ***Sec. 9.*** ~~[*A school employee against whom an allegation of improper conduct or performance is made may submit to the school district a list of persons who are believed to have knowledge of facts relevant to the allegation. Except as otherwise provided in NRS 391.314, if the school employee submits such a list, the board of trustees of the school district shall ensure that each person identified on the list is interviewed in full before the school employee may be suspended without pay or otherwise disciplined with respect to the allegation.*]~~ **(Deleted by amendment.)**

~~[Sec. 9.]~~ ***Sec. 10.*** ~~[*If sufficient grounds for dismissal of an unlicensed employee do not exist, the unlicensed employee must be reinstated with, and is entitled to, full compensation, plus interest at the rate established pursuant to NRS 99.040, for all missed days of work. The unlicensed employee is not required to mitigate his damages. Any decision of a hearing officer that is inconsistent with this section is invalid to the extent of the inconsistency.*]~~ **(Deleted by amendment.)**

~~[Sec. 10.]~~ ***Sec. 11. 1. The board of trustees of each school district shall adopt and enforce a written policy prohibiting administrators or agents of the school district from committing an act or making a statement which is intended to convince school employees to waive their rights pursuant to sections 2 to*** ~~*[10,]*~~ ***11, inclusive, of this act.***

2. The policy must include penalties for violation of the policy.

3. The school district shall ensure that a copy of the policy is provided to each employee who is employed by the school district. The principal of each school within the school district shall ensure that the policy is reviewed during a staff meeting at the school at least annually.

~~[Sec. 11.]~~ ***Sec. 12. 1.*** ~~*[Except as otherwise provided in subsection 2, an]*~~ ***An involuntary transfer*** ~~*[or reassignment]*~~ ***of a licensed employee must be based upon licensure and seniority and may not be made as a form of discipline.***

2. ~~*[A licensed employee may be reassigned for less than 30 days in response to temporary requirements for work.*~~

~~*3.]*~~ ***If a licensed employee believes an involuntary transfer*** ~~*[or reassignment]*~~ ***was made as a form of discipline, he is entitled to a hearing on that issue pursuant to the provisions of this section and NRS 391.311 to 391.3197, inclusive.***

~~[Sec. 12.]~~ ***Sec. 13.*** NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, ***and section ~~[11]~~ 12 of this act,*** unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, ***and section ~~[11]~~ 12 of this act*** is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.

6. "Probationary employee" means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

~~[Sec. 13.]~~ ***Sec. 14.*** NRS 391.3115 is hereby amended to read as follows:

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, ***and section ~~[11]~~ 12 of this act*** do not apply to:

(a) Substitute teachers; or

(b) Adult education teachers.

2. The provisions of NRS 391.311 to 391.3194, inclusive, ***and section ~~[11]~~ 12 of this act*** do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.

3. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are

employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, ***and section ~~[11]~~ 12 of this act*** for demotion, suspension or dismissal apply to them.

~~[Sec. 14.]~~ ***Sec. 15.*** NRS 391.314 is hereby amended to read as follows:

391.314 1. If a superintendent has reason to believe that cause exists for the dismissal of a licensed employee and he is of the opinion that the immediate suspension of the employee is necessary in the best interests of the pupils in the district, the superintendent may suspend the employee without notice and without a hearing. Notwithstanding the provisions of NRS 391.312, a superintendent may suspend a licensed employee who has been officially charged but not yet convicted of a felony or a crime involving moral turpitude or immorality. If the charge is dismissed or if the employee is found not guilty, he must be reinstated with back pay, plus interest, and normal seniority. The superintendent shall notify the employee in writing of the suspension.

2. Within 5 days after a suspension becomes effective, the superintendent shall begin proceedings pursuant to the provisions of NRS 391.312 to 391.3196, inclusive, to effect the employee's dismissal. The employee is entitled to continue to receive his salary and other benefits after the suspension becomes effective until the date on which the dismissal proceedings are commenced. The superintendent may recommend that an employee who has been charged with a felony or a crime involving immorality be dismissed for another ground set forth in NRS 391.312.

3. If sufficient grounds for dismissal do not exist, the employee must be reinstated with ***, and is entitled to,*** full compensation, plus interest ~~[.]~~ ***at the rate established pursuant to NRS 99.040, for all missed days of work.*** ~~*[The employee is not required to mitigate his damages. Any decision of a hearing officer that is inconsistent with this subsection is invalid to the extent of the inconsistency.]*~~

4. A licensed employee who furnishes to the school district a bond or other security which is acceptable to the board as a guarantee that he will repay any amounts paid to him pursuant to this subsection as salary during a period of suspension is entitled to continue to receive his salary from the date on which the dismissal proceedings are commenced until the decision of the board or the report of the hearing officer, if the report is final and binding. The board shall not unreasonably refuse to accept security other than a bond. An employee who receives salary pursuant to this subsection shall repay it if he is dismissed or not reemployed as a result of a decision of the board or a report of a hearing officer.

5. A licensed employee who is convicted of a crime which requires registration pursuant to NRS 179D.010 to 179D.550, inclusive, or is convicted of an act forbidden by NRS 200.508, 201.190, 201.265, 201.540, 201.560 or 207.260 forfeits all rights of employment from the date of his arrest.

6. A licensed employee who is convicted of any crime and who is sentenced to and serves any sentence of imprisonment forfeits all rights of employment from the date of his arrest or the date on which his employment terminated, whichever is later.

7. A licensed employee who is charged with a felony or a crime involving immorality or moral turpitude and who waives his right to a speedy trial while suspended may receive ~~[no]~~ ***not*** more than 12 months of back pay and seniority upon reinstatement if he is found not guilty or the charges are dismissed, unless proceedings have been begun to dismiss the employee upon one of the other grounds set forth in NRS 391.312.

8. A superintendent may discipline a licensed employee by suspending the employee with loss of pay at any time after a hearing has been held which affords the due process provided for in this chapter. The grounds for suspension are the same as the grounds contained in NRS 391.312. An employee may be suspended more than once during the employee's contract year, but the total number of days of suspension may not exceed 20 in 1 contract year. Unless circumstances require otherwise, the suspensions must be progressively longer.

~~[Sec. 15.]~~ ***Sec. 16.*** This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 353.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 209.

AN ACT relating to property; revising the abatement procedures and penalties for a violation of certain state laws that prohibit public nuisances; ~~[providing that those same procedures and penalties apply to a violation of a city or county ordinance that prohibits public nuisances;]~~ expanding the applicability of certain abatement procedures available to a board of county commissioners **;** ~~[to include specifically the abatement of a public nuisance;]~~ authorizing the solid waste management authority in ~~[certain]~~ **all** counties to establish a program for the control of unlawful dumping; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a court or magistrate to order an abatement of a public nuisance. **Section 1** of this bill additionally requires the court or

magistrate to impose a civil penalty on a person convicted of a public nuisance and provides additional procedures for the abatement of the nuisance, including, without limitation: (1) time limitations on the period during which the person must complete the abatement; and (2) procedures for an agency to abate the nuisance **, at the discretion of the agency,** if the person does not abate the nuisance. **Section 1** also requires that civil penalties collected under this section be deposited in an account used only for abatement **.** ~~[and requires the court to prioritize proceedings brought under this section on the court's calendar.]~~ (NRS 202.480)

~~[~~ ~~Section 2 of this bill: (1) specifically authorizes a board of county commissioners to adopt an ordinance prohibiting a public nuisance as defined in NRS 202.450; (2) provides that a person who violates the ordinance is guilty of a misdemeanor; and (3) requires a court or magistrate to impose the same civil penalties and follow the same procedures for abatement set forth in NRS 202.480, as amended by section 1 of this bill. Section 4 of this bill makes the same changes with respect to city ordinances that prohibit a public nuisance.]~~

Existing law authorizes a board of county commissioners to adopt an ordinance to secure a dangerous structure or condition. Section 2.5 of this bill amends existing law to authorize a board of county commissioners to adopt an ordinance to summarily abate certain dangerous structures or conditions and provides a process for providing the owner with notice of the summary abatement and for judicial review of the summary abatement. (NRS 244.3601)

Existing law authorizes a board of county commissioners to adopt an ordinance to administratively and on its own accord require an owner of a property to abate a dangerous structure, rubbish or noxious weeds. **Section 3** of this bill expands those provisions to apply to the abatement of ~~[a public]~~ **any other public** nuisance as defined in ~~[NRS 202.450 or an]~~ **the** ordinance **adopted by the board** which prohibits a ~~[public]~~ nuisance. (NRS 244.3605)

Existing law authorizes the solid waste management authority in each county with a population of 400,000 (currently Clark County) to establish a program for the control of unlawful dumping. **Section 5** of this bill ~~[lowers]~~ **removes** the population threshold to authorize the solid waste management authority in each county ~~[with a population of 100,000 or more (currently Clark and Washoe Counties)]~~ to establish such a program. (NRS 444.629)

Existing law provides that if a person is convicted of unlawfully disposing certain waste or sewage, a court clerk who receives any civil penalties from the person for the violation must remit the money to the district health department if the health authority initiated the action. **Section 6** of this bill requires the court clerk to remit the money to the district health department also if a person, other than the health authority, who is authorized to enforce the provisions of NRS 444.630 initiated the action for a violation of NRS 444.630. (NRS 444.635)

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

Section 1. NRS 202.480 is hereby amended to read as follows:

202.480 ***1.*** Any court or magistrate before whom there may be pending any proceeding for a violation of NRS 202.470 shall, in addition to any fine or other punishment which it may impose for such ***a*** violation, order ~~[such nuisance abated, and all property unlawfully used in the maintenance thereof destroyed by the sheriff at the cost of the defendant.]~~ ***:***

(a) The defendant to abate the nuisance. The abatement must begin within 3 days after the court or magistrate enters the order to abate and must be completed within the time period specified by the court or magistrate. The responsible agency shall supervise the abatement and report to the court or magistrate regarding whether the abatement was successfully completed within the time period specified by the court or magistrate.

(b) The defendant to pay a civil penalty of not less than $500 but not more than $5,000. If ordered by the court or magistrate, the penalty may be paid in installments. The responsible agency may attempt to collect a civil penalty or installment that is in default in any manner provided by law for the enforcement of a judgment.

~~[(c) The]~~

2. If a defendant is ordered to abate a nuisance pursuant to subsection 1 and fails to abate the nuisance within the time period specified by the court or magistrate, the responsible agency ~~[to]~~ may assume responsibility and abate the nuisance, at the expense of the defendant. ~~[, if the defendant does not abate the nuisance within the time period specified by the court or magistrate. The]~~ If the responsible agency ~~[which]~~ abates the nuisance, the responsible party shall report to the court or magistrate upon the successful completion of the abatement.

~~[2.]~~ ***3. Any civil penalty collected pursuant to subsection 1 must be deposited with the treasurer of the responsible agency in an account used solely to pay costs associated with any abatement ordered by a court or magistrate.***

~~[3. A court shall give priority to proceedings brought under NRS 202.470 on the court's calendar.]~~

4. As used in this section, "responsible agency" means an agency, officer, bureau, board, commission, department, division or any other unit of government of the State or a local government that is designated by a court or magistrate as the party responsible for carrying out ~~[the actions ordered by the court or magistrate]~~ any action pursuant to this section.

Sec. 2. ~~[Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***1. The board of county commissioners of a county may adopt an ordinance prohibiting a public nuisance within the county.***~~

~~*2. If a defendant pleads or is found guilty or guilty but mentally ill of violating a county ordinance that prohibits a public nuisance:*~~

~~*(a) The defendant is guilty of a misdemeanor; and*~~

~~*(b) The court or magistrate shall, in addition to any other fine or punishment it may impose for the violation, order:*~~

~~*(1) The abatement of the nuisance following the procedures set forth in NRS 202.480; and*~~

~~*(2) The defendant to pay a civil penalty as provided in NRS 202.480.*~~

~~*3. As used in this section, the term "public nuisance" means a public nuisance as defined in NRS 202.450.]*~~ **(Deleted by amendment.)**

Sec. 2.5. **NRS 244.3601 is hereby amended to read as follows:**

244.3601 1. Notwithstanding the abatement procedures set forth in NRS 244.360 **[,]** ***or 244.3605,*** a board of county commissioners may, by ordinance, provide for a reasonable means to secure ***or summarily abate*** a dangerous structure or condition that at least three persons who enforce building codes, housing codes, zoning ordinances or local health regulations, or who are members of a local law enforcement agency or fire department, determine in a signed, written statement to be an imminent danger**.** ~~[to the surrounding neighborhood. The]~~

2. Except as otherwise provided in subsection 3, the owner of the property on which the structure or condition is located must be given reasonable written notice that is:

(a) If practicable, hand-delivered or sent prepaid by United States mail to the owner of the property; or

(b) Posted on the property,

➥ before the structure or condition is so secured. The notice must state clearly that the owner of the property may challenge the action to secure ***or summarily abate*** the structure or condition and must provide a telephone number and address at which the owner may obtain additional information.

~~[2.]~~ ***3. If it is determined in the signed, written statement provided pursuant to subsection 1 that the structure or condition is an imminent danger and the result of the imminent danger is likely to occur before the notice and an opportunity to challenge the action can be provided pursuant to subsection 2, then the structure or condition which poses such an imminent danger that presents an immediate hazard may be summarily abated. A structure or condition summarily abated pursuant to this section may only be abated to the extent necessary to remove the imminent danger that presents an immediate hazard. The owner of the structure or condition which is summarily abated must be given written notice of the abatement after its completion. The notice must state clearly that the owner of the property may seek judicial review of the summary abatement and must provide an address and telephone number at which the owner may obtain additional information concerning the summary abatement.***

4. The costs of securing ***or summarily abating*** the structure or condition may be made a special assessment against the real property on which the

structure or condition is located and may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

~~[3.]~~ ***5.*** As used in this section ~~[, "imminent]~~ ***:***

(a) "Dangerous structure or condition" has the meaning ascribed to it in subsection 5 of NRS 244.3605.

(b) "Imminent danger" means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the ***life,*** safety ~~[, or]~~ health ***or property*** of:

~~[(a)]~~ ***(1)*** The occupants, if any, of the real property on which the structure or condition is located; or

~~[(b)]~~ ***(2)*** The general public.

Sec. 3. NRS 244.3605 is hereby amended to read as follows:

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

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

(b) Clear debris, rubbish and refuse which is not subject to the provisions of chapter 459 of NRS; ~~[or]~~

(c) Clear weeds and noxious plant growth ~~[,]~~ ***; or***

(d) Repair, clear, correct, rectify, safeguard or eliminate ~~*[a public]*~~ ***any other public nuisance*** ~~*[,]*~~ ***as defined in the ordinance adopted pursuant to this section,***

➥ to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

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

(1) Sent notice, by certified mail, return receipt requested, of the existence on his property of a ~~[condition]~~ ***public nuisance*** set forth in subsection 1 and the date by which he must abate the ~~[condition;]~~ ***public nuisance;*** and

(2) Afforded an opportunity for a hearing before the designee of the board and an appeal of that decision ***either*** to the board ~~*[. The ordinance must specify whether all such appeals which involve a public nuisance are to be made to the board of county commissioners]*~~ ***or to a court of competent jurisdiction*** ~~*[.]*~~ ***, as determined by the ordinance adopted pursuant to subsection 1.***

(b) Provide that the date specified in the notice by which the owner must abate the ~~[condition]~~ ***public nuisance*** is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the ~~[condition]~~ ***public nuisance*** on the property if the owner fails to abate the ~~[condition.]~~ ***public nuisance.***

(d) Provide for civil penalties for each day that the owner did not abate the ~~[~~condition~~]~~ ***public nuisance*** after the date specified in the notice by which the owner was required to abate the ~~[condition.~~

~~*(c) If the condition constitutes a public nuisance, provide for an expedited process, to include summary abatement, in those situations where the public nuisance involves a serious risk of immediate harm to public health, safety or welfare.]*~~ ***public nuisance.***

3. The ~~[board or its designee may direct the]~~ county ~~[to]~~ ***may*** abate the ~~[condition]~~ ***public nuisance*** on the property and may recover the amount expended by the county for labor and materials used to abate the ~~[condition]~~ ***public nuisance*** if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the ~~[condition]~~ ***public nuisance*** on his property within the period specified in the notice;

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

(c) The board ***or*** ~~*[, if the appeal involves a public nuisance,]*~~ ***a court of competent jurisdiction*** has denied the appeal of the owner and the owner has failed to abate the ~~[condition]~~ ***public nuisance*** within the period specified in the order.

4. In addition to any other reasonable means of recovering money expended by the county to abate the ~~[condition, the board may make]~~ ***public nuisance,*** the expense ***is*** a special assessment against the property upon which the ~~[condition]~~ ***public nuisance*** is located ~~[. The]~~ ***, and this*** special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section , "dangerous ~~*[:*~~

~~*(a) "Dangerous]*~~ structure or condition" means a structure or condition that ***is a public nuisance which*** may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) ~~*[(1)]*~~ Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

(b) ~~*[(2)]*~~ Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated ***by the board*** as a ***public*** nuisance in the ordinance, rule or regulation.

~~*[(b) "Public nuisance" means a public nuisance as defined in NRS 202.450 or an ordinance adopted pursuant to section 2 of this act.]*~~

Sec. 4. ~~[Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The city council of a city may adopt an ordinance prohibiting a public nuisance within the city.*~~

~~*2. If a defendant pleads or is found guilty or guilty but mentally ill for violating a city ordinance that prohibits a public nuisance:*~~

~~*(a) The defendant is guilty of a misdemeanor; and*~~

~~*(b) The court or magistrate shall, in addition to any other fine or punishment it may impose for the violation, order:*~~

~~*(1) The abatement of the nuisance following the procedures set forth in NRS 202.480; and*~~

~~*(2) The defendant to pay a civil penalty as provided in NRS 202.480.*~~

~~*3. As used in this section, the term "public nuisance" means a public nuisance as defined in NRS 202.450.]*~~ **(Deleted by amendment.)**

Sec. 5. NRS 444.629 is hereby amended to read as follows:

444.629 1. The solid waste management authority in each county ~~[whose population is]~~ ~~[400,000]~~ ~~*[100,000* or more]~~ may establish a program for the control of unlawful dumping and administer the program within its jurisdiction unless superseded.

2. The program established pursuant to subsection 1 must:

(a) Include standards and procedures for the control of unlawful dumping which are equivalent to or stricter than those established by statute or state regulation; and

(b) Provide for adequate administration and enforcement.

3. ~~[In a county whose population is]~~ ~~[400,000]~~ ~~*[100,000* or more, the]~~ ***The*** solid waste management authority may delegate to an independent hearing officer or hearing board the authority to determine violations and levy administrative penalties for violations of the provisions of NRS 444.440 to 444.645, inclusive, or any regulation adopted pursuant to those sections.

Sec. 6. NRS 444.635 is hereby amended to read as follows:

444.635 1. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a person convicted of violating NRS 444.555 and, in addition to the penalty imposed pursuant to NRS 444.583 or 444.630, any person convicted of violating NRS 444.583 or 444.630 is liable for a civil penalty upon each such conviction.

2. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a court before whom a defendant is convicted of a violation of the provisions of NRS 444.555, 444.583 or 444.630, shall order the defendant:

(a) For a first offense, to pay a civil penalty which is at least $500 but not more than $5,000.

(b) For a second offense, to pay a civil penalty which is at least $1,000 but not more than $5,500.

(c) For a third offense, to pay a civil penalty which is at least $1,500 but not more than $6,000.

(d) For any subsequent offense, to pay a civil penalty which is at least $500 more than the most recent previous civil penalty that the defendant was ordered to pay pursuant to this subsection.

3. If so provided by the court, a penalty imposed pursuant to this section may be paid in installments.

4. The solid waste management authority may attempt to collect all such penalties and installments which are in default in any manner provided by law for the enforcement of a judgment.

5. ~~[Each]~~ ***Except as otherwise provided in this subsection, each*** court which receives money pursuant to the provisions of this section shall forthwith remit the money to the Division of Environmental Protection of the State Department of Conservation and Natural Resources ~~[or, if]~~ ***, which shall deposit the money with the State Treasurer for credit in a separate account in the State General Fund. If*** the health authority initiated the action ~~[,]~~ ***or, if any other person authorized to enforce NRS 444.630 initiated the action and the money collected was for a violation of NRS 444.630, the court shall remit the money to*** the district health department which shall deposit the money ~~[with the State Treasurer for credit in a separate account in the State General Fund or]~~ with the county treasurer for deposit in an account for the district health department ***.*** ~~[, as the case may be.]~~ Money ~~[so]~~ deposited ***pursuant to this subsection*** must be:

(a) Used only to pay:

(1) Rewards pursuant to NRS 444.640;

(2) For education regarding the unlawful disposal of solid waste;

(3) For the cleaning up of dump sites; and

(4) For the management of solid waste; and

(b) Paid as other claims against the state or local governments are paid.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 384.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 252.

AN ACT relating to crimes; revising provisions making it a crime for prisoners to commit certain acts involving human excrement or bodily fluid; requiring certain law enforcement agencies to pay for certain examinations and testing requested by certain officers and employees who are victims of such a crime; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a crime for a prisoner who is in lawful custody or confinement, other than residential confinement, to commit certain acts involving human excrement or bodily fluid. (NRS 212.189) This bill expands

the applicability of that crime to include a prisoner who is under lawful arrest. In *Dumaine v. State* (103 Nev. 121 (1987)), the Nevada Supreme Court interpreted the phrase "under lawful arrest" as used in the definition of "prisoner" set forth in existing law (NRS 193.022 and 208.085) to mean that there is an actual restraint of the liberty of the person. The Court stated that one cannot be a prisoner until "one either submits to the control of the arresting officer or is captured, *i.e.,* taken and held in control." (*Dumaine*, 103 Nev. 121, 124) Thus, this bill provides that such a crime applies to a person being arrested if there has been an actual restraint of the liberty of that person because either the person has submitted to the control of the arresting law enforcement officer or the person has been captured.

Existing law also provides that if the victim of such a crime is an officer or employee of a prison, the person or governmental entity operating the prison in which the act occurred is required to pay for certain examinations or tests requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the crime. (NRS 212.189) This bill expands that provision by providing that if the victim of such a crime is an officer or employee of a law enforcement agency, the law enforcement agency that employs the officer or employee is required to pay for such examinations and testing requested by the officer or employee.

Existing law prohibits a prosecuting attorney from dismissing charges for such a crime, under certain circumstances, if the victim or intended victim is an officer or employee of a prison. (NRS 212.189) This bill amends existing law to apply similarly in cases in which the victim or intended victim is an officer or employee of a law enforcement agency.

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

Section 1. NRS 212.189 is hereby amended to read as follows:

212.189 1. Except as otherwise provided in subsection ~~[9,]~~ ***10,*** a prisoner ~~*[other than a prisoner who is in residential confinement,]*~~ who is ***under lawful arrest,*** in lawful custody or ***in lawful*** confinement ~~[,]~~ ***[***~~other than residential confinement,~~***]*** shall not knowingly:

(a) Store or stockpile any human excrement or bodily fluid;

(b) Sell, supply or provide any human excrement or bodily fluid to any other person;

(c) Buy, receive or acquire any human excrement or bodily fluid from any other person; or

(d) Use, propel, discharge, spread or conceal, or cause to be used, propelled, discharged, spread or concealed, any human excrement or bodily fluid:

(1) With the intent to have the excrement or bodily fluid come into physical contact with any portion of the body of ***another person, including, without limitation,*** an officer or employee of a prison or ***[***~~any other person,~~***]***

law enforcement agency, whether or not such physical contact actually occurs; or

(2) Under circumstances in which the excrement or bodily fluid is reasonably likely to come into physical contact with any portion of the body of ***another person, including, without limitation,*** an officer or employee of a prison or ~~[any other person,]~~ ***law enforcement agency,*** whether or not such physical contact actually occurs.

2. Except as otherwise provided in subsection ~~[3,]~~ ***4,*** if a prisoner ***who is under lawful arrest or in lawful custody*** violates any provision of subsection 1, the prisoner is guilty of ***:***

(a) For a first offense, a gross misdemeanor.

(b) For a second offense or any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

3. Except as otherwise provided in subsection 4, if a prisoner who is in lawful confinement, other than residential confinement, violates any provision of subsection 1, the prisoner is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

~~[3.]~~ ***4.*** If a prisoner ***who is under lawful arrest, in lawful custody or in lawful confinement*** violates any provision of paragraph (d) of subsection 1 and, at the time of the offense, the prisoner knew that any portion of the excrement or bodily fluid involved in the offense contained a communicable disease that causes or is reasonably likely to cause substantial bodily harm, whether or not the communicable disease was transmitted to a victim as a result of the offense, the prisoner is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,

➥ and may be further punished by a fine of not more than $50,000.

~~[4.]~~ ***5.*** A sentence imposed upon a prisoner pursuant to subsection 2 ~~[or 3.]~~ ***, 3 or 4:***

(a) Is not subject to suspension or the granting of probation; and

(b) Must run consecutively after the prisoner has served any sentences imposed upon him for the offense or offenses for which the prisoner was ***under lawful arrest,*** in lawful custody or ***in lawful*** confinement when he violated the provisions of subsection 1.

~~[5.]~~ ***6.*** In addition to any other penalty, the court shall order a prisoner who violates any provision of paragraph (d) of subsection 1 to reimburse the appropriate person or governmental body for the cost of any examinations or testing:

(a) Conducted pursuant to paragraphs (a) and (b) of subsection ~~[7,]~~ ***8;*** or

(b) Paid for pursuant to subparagraph (2) of paragraph (c) of subsection ~~[7.]~~ ***8.***

~~[6.]~~ ***7.*** The warden, sheriff, administrator or other person responsible for administering a prison shall immediately and fully investigate any act described in subsection 1 that is reported or suspected to have been committed in the prison.

~~[7.]~~ ***8.*** If there is probable cause to believe that an act described in paragraph (d) of subsection 1 has been committed in a prison:

(a) Each prisoner believed to have committed the act or to have been the bodily source of any portion of the excrement or bodily fluid involved in the act ~~[must]~~ ***shall*** submit to any appropriate examinations and testing to determine whether each such prisoner has any communicable disease.

(b) If possible, a sample of the excrement or bodily fluid involved in the act must be recovered and tested to determine whether any communicable disease is present in the excrement or bodily fluid.

(c) If the excrement or bodily fluid involved in the act came into physical contact with any portion of the body of an officer or employee of a prison or ~~[any other person:]~~ ***law enforcement agency:***

(1) The results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be provided to each such officer, employee or other person; and

(2) For each such officer or employee ~~[,]~~ ***:***

(I) Of a prison, the person or governmental body operating the prison where the act was committed shall pay for any appropriate examinations and testing requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the act ~~[.]~~ ***; and***

(II) Of any law enforcement agency, the law enforcement agency that employs the officer or employee shall pay for any appropriate examinations and testing requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the act.

(d) The results of the investigation conducted pursuant to subsection ~~[6]~~ *7* and the results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be submitted to the district attorney of the county in which the act was committed or to the Office of the Attorney General for possible prosecution of each prisoner who committed the act.

~~[8.]~~ ***9.*** If a prisoner is charged with committing an act described in paragraph (d) of subsection 1 and a victim or an intended victim of the act was an officer or employee of a prison ~~[,]~~ ***or law enforcement agency,*** the prosecuting attorney shall not dismiss the charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

~~[9.]~~ ***10.*** The provisions of this section do not apply to a prisoner ***who is in residential confinement or to a prisoner*** who commits an act described in subsection 1 if the act:

(a) Is otherwise lawful and is authorized by the warden, sheriff, administrator or other person responsible for administering the prison, or his designee, and the prisoner performs the act in accordance with the directions or instructions given to him by that person;

(b) Involves the discharge of human excrement or bodily fluid directly from the body of the prisoner and the discharge is the direct result of a temporary or permanent injury, disease or medical condition afflicting the prisoner that prevents the prisoner from having physical control over the discharge of his own excrement or bodily fluid; or

(c) Constitutes voluntary sexual conduct with another person in violation of the provisions of NRS 212.187.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 385.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 362.

SUMMARY—Makes various changes concerning the ~~[maximum caseload of]~~ **supervision of convicted persons by correctional officers and** parole and probation officers **.** ~~[who supervise convicted persons.]~~ (BDR 16-523)

AN ACT relating to supervision of convicted persons; **requiring the Board of State Prison Commissioners to establish guidelines setting forth the maximum number of prisoners who may be supervised by a correctional officer;** making various changes concerning the maximum caseload of each parole and probation officer who supervises convicted persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of State Prison Commissioners to regulate the number of officers and employees of the Department of Corrections. (NRS 209.111) Section 1 of this bill requires the Board to adopt a policy, in consultation with the Director of the Department and the State of Nevada Employees' Association, establishing guidelines for the maximum number of prisoners who may be supervised by a correctional officer at each facility and institution of the Department.

Under existing law, the Chief Parole and Probation Officer is appointed by the Director of the Department of Public Safety and is responsible, among other things, for supervising the fiscal affairs and responsibilities of the Division of Parole and Probation of the Department, for appointing personnel, assistants and employees for the Division, for formulating

methods of investigation, supervision, recordkeeping and reporting, and for developing policies of parole and probation. (NRS 213.1092, 213.1095) ~~[This]~~ **Section 2 of this** bill requires the Chief Parole and Probation Officer to adopt a policy establishing guidelines for the maximum caseload for each parole and probation officer. ~~[This bill]~~ **Section 2** further requires the Governor to establish the budget for the Division of Parole and Probation each biennium at an amount which anticipates staffing the Division to comply with those guidelines. The Chief Parole and Probation Officer is then required to report to the Interim Finance Committee at the end of each fiscal year ~~[in which]~~ **setting forth the maximum caseloads that were established for parole and probation officers and, if** the maximum caseload per officer ~~[is]~~ **was** not achieved **during the last fiscal year,** setting forth the amount of money needed to comply with that requirement.

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

Section 1. **NRS 209.111 is hereby amended to read as follows:**

209.111 ***1.*** The Board has full control of all grounds, buildings, labor, and property of the Department, and shall:

~~[1.]~~ ***(a)*** Purchase, or cause to be purchased, all commissary supplies, materials and tools necessary for any lawful purpose carried on at any institution or facility of the Department.

~~[2.]~~ ***(b)*** Regulate the number of officers and employees of the Department.

~~[3.]~~ ***(c)*** Prescribe regulations for carrying on the business of the Board and the Department.

2. The Board shall adopt a policy which establishes guidelines for the maximum number of prisoners who may be supervised by a correctional officer at each facility and institution of the Department. The Board shall establish the guidelines in consultation with the Director and the State of Nevada Employees' Association, or its successor organization. The Director, the State of Nevada Employees' Association or any other interested person may request the Board to review and revise the guidelines established pursuant to this subsection. The decision whether to revise the guidelines pursuant to such a request is in the sole discretion of the Board.

~~[Section 1.]~~ ***Sec. 2.*** Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Chief shall adopt a policy which establishes guidelines for a maximum caseload for each parole and probation officer of:

(a) Not more than 30 offenders who are subject to intensive supervision ~~[,]~~ or residential confinement or who are otherwise deemed high risk to reoffend;

(b) Not more than 45 offenders who are required to register as sex offenders if they are not subject to paragraph (a); or

(c) Not more than ~~[75]~~ 70 offenders who are not subject to paragraph (a) or (b).

2. The budget submitted to the Legislature by the Governor for the Division for each biennium must be set at an amount reasonably anticipated to allow the Division to achieve the maximum caseloads for parole and probation officers set forth in subsection 1.

3. ~~[If the Chief is unable to comply with the maximum caseloads for parole and probation officers set forth in subsection 1, he]~~ The Chief shall submit a report to the Interim Finance Committee at the end of each fiscal year ~~[in which]~~ setting forth the maximum caseloads that were established for parole and probation officers pursuant to subsection 1 and, if the maximum caseloads set forth in that subsection were not achieved for that fiscal year, setting forth the amount of money needed in order to comply with the provisions of subsection 1.

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 213.107 is hereby amended to read as follows:

213.107 As used in NRS 213.107 to 213.157, inclusive, ***and section ~~[1]~~ 2 of this act,*** unless the context otherwise requires:

1. "Board" means the State Board of Parole Commissioners.

2. "Chief" means the Chief Parole and Probation Officer.

3. "Division" means the Division of Parole and Probation of the Department of Public Safety.

4. "Residential confinement" means the confinement of a person convicted of a crime to his place of residence under the terms and conditions established by the Board.

5. "Sex offender" means any person who has been or is convicted of a sexual offense.

6. "Sexual offense" means:

(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450, or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(b) An attempt to commit any offense listed in paragraph (a); or

(c) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

7. "Standards" means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.

~~[Sec. 3.]~~ ***Sec. 4.*** This act becomes effective on July 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 399.

Bill read second time.

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

Amendment No. 249.

SUMMARY— ~~[Establishes provisions for the primacy of health care plans.]~~ **Requires certain entities to provide certain information concerning health care coverage to determine the eligibility of persons for Medicaid.** (BDR ~~[57-964)]~~ **38-964)**

AN ACT relating to insurance; requiring ~~[the Commissioner of Insurance to establish and maintain a centralized database for the electronic interchange of certain information; requiring persons administering a publicly sponsored health plan to establish primacy before paying any claim for benefits; requiring the Division of Health Care Financing and Policy of the Department of Health and Human Services to respond to certain inquiries from the Commissioner of Insurance; providing civil penalties;]~~ **certain entities to provide certain information relating to health care coverage to determine the eligibility of persons for Medicaid;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[~~ ~~Section 2 of this bill requires the Commissioner of Insurance to establish a centralized database for the electronic interchange of data relating to coverage under a health care plan to determine the primacy of a publicly sponsored health plan. Section 3 of this bill requires the person administering a publicly sponsored health plan to not pay any claim for benefits under that plan until a determination regarding the primacy of the publicly sponsored health plan has been determined in relation to any other health plan under which a person submitting a claim for benefits may also be covered. Section 4 of this bill requires the Commissioner to impose a penalty of not more than $1,000 for each occurrence of an insurer's failure or refusal to respond to an inquiry made by a publicly sponsored health plan regarding the enrollment status of any person. Section 4 also requires the Commissioner to permanently revoke an insurer's certificate of authority to transact business in this State for a second violation. Section 4 further requires the Attorney General to commence civil actions under both state and federal law for an insurer's failure or refusal to comply with requirements concerning the electronic interchange of information using the centralized database. Section 7 of this bill requires the Division of Health Care Financing and Policy of the Department of Health and Human Services to respond to inquiries from the Commissioner relating to a person's employment or income for purposes of determining the primacy of coverage under the State Plan for Medicaid in relation to the person's coverage under any other health plan.]~~

This bill requires certain entities that provide or administer health care coverage to provide on a monthly basis to the Division of Health Care Financing and Policy of the Department of Health and Human

Services or to its business associate records which identify persons who receive such health care coverage to allow the Division or its business associate to determine which persons are eligible to receive Medicaid.

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

Section 1. ~~[Chapter 680A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[*1. The Commissioner shall establish and maintain a centralized database to allow:*~~

~~*(a) Persons responsible for the administration of any publicly sponsored health plan, including, without limitation, the State Plan for Medicaid, the Public Employees' Benefits Program, the Children's Health Insurance Program or any governmental health plan of a political subdivision, to submit electronic inquiries to every insurer issued a certificate of authority in this State regarding the enrollment record of any person with respect to particular coverage of that person; and*~~

~~*(b) Every insurer receiving inquiries made pursuant to paragraph (a) to respond to such inquiries or, in the alternative, to transmit to the database responsive information concerning coverage and benefits for viewing by the person making the inquiry.*~~

~~*2. The centralized database described in subsection 1 must:*~~

~~*(a) Allow for the secure submission of personal identifying information of a person for purposes of checking coverage, including name, gender and date of birth; and*~~

~~*(b) Function in such a manner as to meet the minimum standards of quality for the interchange of electronic data as approved by the American National Standards Institute.*~~

~~*3. The Commissioner shall adopt regulations as are necessary to carry out the provisions of this section, including, without limitation, procedures to register into the database every insurer issued a certificate of authority in this State, requirements for access to the database and the transmittal of electronic data and procedures to provide assistance to persons for compliance with this section.*~~

~~*4. Any information concerning eligibility or coverage that is interchanged pursuant to this section is deemed an element of data and is exempt from the privacy and confidentiality provisions of 42 U.S.C. §§ 1320d to 1320d 9, inclusive, and any applicable state law, except that no person shall use such information for any purpose other than as described in this section.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[*1. A person administering a publicly sponsored health plan described in section 2 of this act:*~~

~~*(a) Shall presume that persons eligible for benefits under its plan may also be currently covered by another health plan provided by an insurer;*~~

~~*(b) Shall submit inquiries to the centralized database for transmittal to each insurer issued a certificate of authority regarding coverage of any person who submits a claim for benefits; and*~~

~~*(c) Shall not pay any claim made by a person or otherwise expend any public money relating to such a claim until it has received a response to an inquiry from each insurer to determine the primacy of its coverage in relation to the coverage of the person who submitted a claim for benefits, if any, under any other health plan.*~~

~~*2. An insurer shall respond to any inquiry made pursuant to subsection 1 within 24 hours.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~[*1. The Commissioner shall impose a penalty of not more than $1,000 for each failure or refusal to comply with subsection 2 of section 3 of this act, to be recovered by the Commissioner in a civil action in a court of competent jurisdiction. For purposes of this subsection, an attempt by an insurer to impose data elements or other burdens not expressly authorized by 42 U.S.C. §§ 1320d to 1320d-9, inclusive, and the Commissioner or related regulations shall be deemed a refusal to comply with subsection 2 of section 3 of this act.*~~

~~*2. Upon a showing by the Commissioner that a violation has occurred, the Attorney General shall:*~~

~~*(a) Subpoena the enrollment record for coverage from the insurer;*~~

~~*(b) Commence an action under 42 U.S.C. §§ 1320d to 1320d-9, inclusive, for administrative sanctions pursuant to the federal Health Insurance Portability and Accountability Act;*~~

~~*(c) Commence an action under 18 U.S.C. § 1035; and*~~

~~*(d) Commence an action in a court of competent jurisdiction to enjoin an insurer from noncompliance.*~~

~~*3. Upon a showing that a second violation has occurred, the Commissioner shall permanently revoke the certificate of authority issued to the noncompliant insurer. For purposes of this subsection, the Commissioner may consider, if he has such knowledge, an insurer's noncompliance with similar requirements imposed by another jurisdiction in determining whether a violation of section 3 of this act shall be deemed a first or second violation.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 680A.190 is hereby amended to read as follows:~~

~~680A.190 1. The Commissioner shall refuse to continue or shall suspend or revoke an insurer's certificate of authority:~~

~~(a) If such action is required by any provision of this Code;~~

~~(b) If it is a foreign insurer and it no longer meets the requirements for a certificate of authority, on account of deficiency of capital or surplus or otherwise;~~

~~(c) If it is a domestic insurer and it has failed to cure an impairment of capital or surplus within the time allowed therefor by the Commissioner under this Code or is otherwise no longer qualified for the certificate of authority;~~

~~(d) If the insurer's certificate of authority to transact insurance therein is suspended or revoked by its state of domicile, or state of entry into the United States of America if an alien insurer;~~

~~(e) For failure of the insurer to pay taxes on its premiums if required by this Code;~~ **[**~~or~~**]**

~~(f) For failure of the insurer to furnish information to the Commissioner relating to medical malpractice insurance issued by the insurer in this State or any other state~~ **[**~~.~~**]** ~~**; or**~~

~~***(g) For a second violation pursuant to subsection 3 of section 4 of this act.***~~

~~2. Except in case of insolvency, impairment of required capital or surplus, or suspension or revocation by another state, the Commissioner shall give the insurer at least 20 days' notice in advance of any such refusal, suspension or revocation under this section, and of the particulars of the reasons therefor. If the insurer requests a hearing thereon within those 20 days, the Commissioner's proposed action is automatically stayed until his order is made after the hearing.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[NRS 680A.200 is hereby amended to read as follows:~~

~~680A.200 1. Except as otherwise provided in NRS 616B.472, the Commissioner may refuse to continue or may suspend, limit or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:~~

~~(a) Violated or failed to comply with any lawful order of the Commissioner;~~

~~(b) Conducted his business in an unsuitable manner;~~

~~(c) Willfully violated or willfully failed to comply with any lawful regulation of the Commissioner; or~~

~~(d) Violated any provision of this Code other than one for violation of which suspension or revocation is mandatory.~~

~~2. [In]~~ ***Except as otherwise provided in subsection 3 of section 4 of this act, in*** ~~lieu of such a suspension or revocation, the Commissioner may levy upon the insurer, and the insurer shall pay forthwith, an administrative fine of not more than $2,000 for each act or violation.~~

~~3. Except as otherwise provided in chapter 696B of NRS, the Commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds if he finds after a hearing thereon that the insurer:~~

~~(a) Is in unsound condition, is being fraudulently conducted, or is in such a condition or is using such methods and practices in the conduct of its business as to render its further transaction of insurance in this State currently or prospectively hazardous or injurious to policyholders or to the public.~~

~~(b) With such frequency as to indicate its general business practice in this State:~~

~~(1) Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claims are in favor of an insured or in~~

~~favor of a third person with respect to the liability of an insured to the third person; or~~

~~(2) Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims.~~

~~(c) Refuses to be examined, or its directors, officers, employees or representatives refuse to submit to examination relative to its affairs, or to produce its books, papers, records, contracts, correspondence or other documents for examination by the Commissioner when required, or refuse to perform any legal obligation relative to the examination.~~

~~(d) Except as otherwise provided in NRS 681A.110, has reinsured all its risks in their entirety in another insurer.~~

~~(e) Has failed to pay any final judgment rendered against it in this State upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within 30 days after the judgment became final or within 30 days after dismissal of an appeal before final determination, whichever date is the later.~~

~~3. The Commissioner may, without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public officer who supervises insurance for that state.~~

~~4. No proceeding to suspend, limit or revoke a certificate of authority pursuant to this section may be maintained unless it is commenced by the giving of notice to the insurer within 5 years after the occurrence of the charged act or omission. This limitation does not apply if the Commissioner finds fraudulent or willful evasion of taxes.]~~ **(Deleted by amendment.)**

Sec. 7. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[~~ *~~The Division shall, within a reasonable time, respond to any inquiries submitted by the Commissioner of Insurance regarding information relating to the employment and income of any person for the purposes of determining the primacy of coverage under the State Plan for Medicaid in relation to the person's coverage under any other health plan.~~*~~]~~

1. A third party shall provide on a monthly basis to the Division or its business associate, if authorized by the Division, records identifying all persons to whom health care coverage is provided or administered by the third party to allow the Division or its business associate to determine which persons are eligible to receive Medicaid. The records must include, without limitation:

(a) With respect to the person with primary coverage:

(1) The person's first name, middle initial and last name;

(2) The person's date of birth;

(3) The person's gender;

(4) The person's social security number or policy number;

(5) The person's policy and group number;

(6) The name of the person's group or employer; and

(7) The beginning and ending dates of the person's coverage;

(b) With respect to each dependent of the person with primary coverage:

(1) The dependent's first name, middle initial and last name;

(2) The dependent's date of birth;

(3) The dependent's gender; and

(4) The dependent's social security number;

(c) The types of coverage provided to each person with primary coverage and each of his dependents; and

(d) Information regarding the pharmacy benefits of each person with primary coverage and each of his dependents.

2. A third party shall provide, upon request of the Division or its business associate, any additional information necessary to confirm a person's eligibility to receive Medicaid. The Division shall prescribe such additional information that its business associate may request pursuant to this subsection.

3. As used in this section:

(a) "Business associate" has the meaning ascribed to it in 45 C.F.R. § 160.103.

(b) "Third party" means a health insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1167(1), service benefit plan, self-insured plan, health maintenance organization, pharmacy benefits manager or other party that is, by statute, contract or agreement, legally responsible for the payment of a claim for a health care item or service, including, without limitation, a third-party administrator.

Sec. 8. ~~[Every person administering a publicly sponsored health plan shall:~~

~~1. On or before November 1, 2009, commence an audit of the primacy of its payments on claims for benefits by checking the identities of every person enrolled for coverage against the enrollment of such persons under any other health plan; and~~

~~2. On or before July 1, 2010, prepare and submit to the Interim Finance Committee a report of the audit required pursuant to subsection 1.]~~ **(Deleted by amendment.)**

Sec. 9. ~~[1. This section and sections 1, 2, 7 and 8 of this act become effective on July 1, 2009.~~

~~2. Sections 3 to 6, inclusive, of this act become effective on July 1, 2010.]~~ **(Deleted by amendment.)**

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 481.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 406.

AN ACT relating to crimes; revising provisions relating to certain crimes involving firearms, ammunition or explosives; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a crime for a person who is a fugitive from justice to own a firearm or to have a firearm in his possession or under his custody or control. (NRS 202.360) In *Gallegos v. Nevada*, 123 Adv. Op. 31, 163 P.3d 456 (2007), the Nevada Supreme Court held that provision to be unconstitutionally vague in violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution because it failed to define the term "fugitive from justice." This bill defines the term "fugitive from justice" for purposes of that crime, as well as for purposes of: (1) NRS 202.357, which prohibits the possession of electronic stun devices by, or the sale or giving of such devices to, a fugitive from justice; (2) NRS 202.362, which prohibits the sale or disposal of firearms or ammunition to a fugitive from justice; and (3) NRS 202.760, which prohibits the shipment or receipt of explosives by a fugitive from justice. The new definition of "fugitive from justice" is based in part on the manner in which the term is defined in federal law and in part on the manner in which the term is defined under existing case law in Nevada. (18 U.S.C. § 921(15); *Ex parte Lorraine*, 16 Nev. 63, 63 (1881); *Castriotta v. State*, 111 Nev. 67, 69 n.2, 888 P.2d 927, 929 n.2 (1995))

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

Section 1. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this chapter, unless the context otherwise requires, the term "fugitive from justice" means a person who has been found in this State after:

1. Being charged in another state with the commission of a ~~[crime]~~ felony and fleeing from that state to avoid prosecution for the ~~[crime;]~~ felony; or

2. Fleeing from another state to avoid giving testimony in any criminal proceeding.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 499.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 269.

AN ACT relating to criminal procedure; requiring a prosecutor to provide ~~[a defendant]~~ **certain defendants** with certain discovery when the defendant is brought before a magistrate after an arrest ~~[,]~~ **or at another time not less than 5 days before a preliminary examination;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a prosecutor is required to provide ~~[a]~~ **any** defendant with copies of certain discovery, including, without limitation, documents, reports, tests, tangible objects and recorded statements, not less than 2 days before a preliminary examination is held. (NRS 171.1965) This bill requires a prosecutor to provide a defendant **charged with a felony or a gross misdemeanor** with copies of such discovery at ~~[or before]~~ the time when the defendant is brought before a magistrate after an arrest pursuant to NRS 171.178 ~~[.]~~ **, or as soon as practicable thereafter, but in no event less than 5 days before a preliminary examination.**

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

Section 1. NRS 171.1965 is hereby amended to read as follows:

171.1965 1. ~~[Not]~~ ***At the time a person is brought before a magistrate pursuant to NRS 171.178, or as soon as practicable thereafter, but not*** less than ~~[2]~~ ***5*** judicial days before a preliminary examination, ~~*[At or before the time a person is brought before a magistrate pursuant to NRS 171.178,]*~~ the prosecuting attorney shall provide ~~[the]~~ ***a*** defendant ***charged with a felony or a gross misdemeanor*** with copies of any:

(a) Written or recorded statements or confessions made by the defendant, or any written or recorded statements made by a witness or witnesses, or any reports of statements or confessions, or copies thereof, within the possession or custody of the prosecuting attorney;

(b) Results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular case, or copies thereof, within the possession or custody of the prosecuting attorney; and

(c) Books, papers, documents or tangible objects that the prosecuting attorney intends to introduce in evidence during the case in chief of the State, or copies thereof, within the possession or custody of the prosecuting attorney.

2. The defendant is not entitled, pursuant to the provisions of this section, to the discovery or inspection of:

(a) An internal report, document or memorandum that is prepared by or on behalf of the prosecuting attorney in connection with the investigation or prosecution of the case.

(b) A statement, report, book, paper, document, tangible object or any other type of item or information that is privileged or protected from disclosure or inspection pursuant to the Constitution or laws of this State or the Constitution of the United States.

3. The provisions of this section are not intended to affect any obligation placed upon the prosecuting attorney by the Constitution of this State or the Constitution of the United States to disclose exculpatory evidence to the defendant.

4. The magistrate shall not postpone a preliminary examination at the request of a party based solely on the failure of the prosecuting attorney to permit the defendant to inspect, copy or photograph material as required in this section, unless the court finds that the defendant has been prejudiced by such failure.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 503.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 381.

AN ACT relating to transportation; creating an advisory committee to develop recommendations relating to the funding of the construction and maintenance of highways in this State; providing for the membership, compensation and duties of the advisory committee; authorizing the advisory committee to place advisory questions regarding its recommendations on the ballot for the general election to be held in 2010; **requiring the Secretary of State to appoint committees to prepare arguments for and against approval of the recommendation proposed in any such advisory question placed on the ballot;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates an advisory committee to develop recommendations for increasing funding for highways in this State. The committee consists of six members, three appointed by the Majority Leader of the Senate and three appointed by the Speaker of the Assembly. Not more than one member of the committee may be a member of the Senate, and not more than one member may be a member of the Assembly. The advisory committee: (1) is charged with developing recommendations relating to the funding of the construction and maintenance of highways in this State; and (2) is authorized to ask the voters of the State for their advice on those recommendations by placing advisory questions on the ballot for the general election to be held in 2010. **If the advisory committee places an advisory question on the ballot, the Secretary of State must appoint committees to prepare arguments for**

and against approval of the recommendation proposed in the advisory question.

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

Section 1. As used in this act, "advisory committee" means the advisory committee created by subsection 1 of section 2 of this act.

Sec. 2. 1. There is hereby created an advisory committee to develop recommendations for increasing the funding of highways in this State.

2. The advisory committee consists of six members appointed as follows:

(a) Three members appointed by the Majority Leader of the Senate; and

(b) Three members appointed by the Speaker of the Assembly.

3. Not more than one member of the advisory committee may be a member of the Senate, and not more than one member of the advisory committee may be a member of the Assembly.

4. The term of each member of the advisory committee commences on July 1, 2009, and expires on June 30, 2011.

5. Members of the advisory committee serve without compensation, except that while engaged in the business of the advisory committee, each member is entitled to the per diem allowance and travel expenses provided for state officers and employees generally, to be paid from the Legislative Fund.

6. The advisory committee shall meet at least once every 3 months.

7. At its first meeting, the advisory committee shall elect a Chairman and a Vice Chairman from among its members.

8. A vacancy in the membership of the advisory committee must be filled in the same manner as the original appointment.

Sec. 3. **1.** The advisory committee shall develop recommendations relating to increasing the funding of the construction and maintenance of highways in this State.

2. When developing recommendations pursuant to the provisions of subsection 1, the advisory committee shall consider, without limitation, the most recent, if any, transportation project lists developed by the Department of Transportation and the regional transportation commission of any county whose population is 100,000 or more.

Sec. 4. 1. The advisory committee may, at the general election held in 2010, ask the advice of the registered voters of the State on any question regarding the recommendations developed by the committee pursuant to section 3 of this act.

2. To place an advisory question on the ballot at the general election held in 2010, the advisory committee shall, not less than 120 days before the general election, submit to the Secretary of State a resolution that:

(a) Sets forth:

(1) Each question, in language indicating clearly that the question is advisory only;

(2) An explanation of the question; **and**

(3) ~~[Arguments for and against the question; and~~

~~(4)]~~ A description of the anticipated financial effect on the State; and

(b) Provides that the result of the voting on the question does not impose any legal requirement on the Legislature, any member of the Legislature or any other officer of the State.

3. If the advisory committee places an advisory question on the ballot pursuant to this section, on the sample ballot for the election, the advisory question must appear:

(a) With a title in substantially the following form: "Advisory Ballot Question No. ..."; and

(b) With its explanation, arguments and description of the anticipated financial effect.

Sec. 5. **1. For each advisory question to be placed on the ballot pursuant to the provisions of section 4 of this act, the Secretary of State shall, pursuant to subsection 4, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the recommendation proposed in the advisory question and the other committee must be composed of three persons who oppose approval by the voters of the recommendation proposed in the advisory question.**

2. If the Secretary of State is unable to appoint three persons who are willing to serve on a committee, he may appoint fewer than three persons to that committee, but he must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of the recommendation proposed in the advisory question and the committee that opposes approval by the voters of the recommendation proposed in the advisory question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the advisory question.

4. The Secretary of State shall consider appointing to a committee pursuant to this section:

(a) Any person who has expressed an interest in serving on the committee; and

(b) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

5. A committee appointed pursuant to this section:

(a) Shall elect a chairman for the committee;

(b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;

(c) May seek and consider comments from the general public;

(d) Shall, based on whether the members were appointed to advocate or oppose approval by the voters of the recommendation proposed in the advisory question, prepare an argument either advocating or opposing approval by the voters of the recommendation proposed in the advisory question;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The fiscal impact of the recommendation proposed in the advisory question;

(2) The environmental impact of the recommendation proposed in the advisory question; and

(3) The impact of the recommendation proposed in the advisory question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the Secretary of State not later than the date prescribed by the Secretary of State pursuant to subsection 6.

6. The Secretary of State shall provide, by rule or regulation:

(a) The maximum permissible length of an argument and rebuttal prepared pursuant to this section; and

(b) The date by which an argument and rebuttal prepared pursuant to this section must be submitted by a committee to the Secretary of State.

7. Upon receipt of an argument or rebuttal prepared pursuant to this section, the Secretary of State:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise regarding transportation and transportation-related issues; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

➥ The decision of the Secretary of State to reject a statement pursuant to this subsection is a final decision for the purposes of judicial review. Not later than 5 days after the Secretary of State rejects a statement pursuant to this subsection, the committee that prepared the statement may appeal that rejection by filing a complaint in the First Judicial District Court. The Court shall set the matter for hearing not later than 3 working days after the complaint is filed and shall give priority to such a complaint over all other matters pending before the court, except for criminal proceedings.

8. The Secretary of State may revise the language submitted by a committee pursuant to this section so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect of the language without the consent of the committee.

~~[Sec. 5.]~~ ***Sec. 6.*** This act becomes effective upon passage and approval.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 521.

Bill read second time.

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

Amendment No. 282.

AN ACT relating to occupational diseases; revising provisions governing coverage for cancer as an occupational disease of certain firefighters; expanding the list of substances which are deemed to be known carcinogens that are reasonably associated with specific disabling cancers; ~~[removing the provision]~~ **providing** that coverage for cancer as an occupational disease applies ~~[only]~~ to a firefighter who has been employed for ~~[5]~~ **2** years or more ~~[.]~~ **under certain circumstances;** requiring certain annual physical examinations of firefighters who qualify for coverage for cancer as an occupational disease; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, cancer which results in temporary disability, permanent disability or death is an occupational disease and compensable as such under the provisions of chapter 617 of NRS if the cancer develops or manifests itself out of and in the course of employment of a person who, for 5 years or more, has been employed as a full-time firefighter or has been acting as a volunteer firefighter and who, during the course of the employment, was exposed to a known carcinogen that is reasonably associated with the disabling cancer. Existing law also sets forth a list of substances that shall be deemed to be known carcinogens that are reasonably associated with specific disabling cancers. (NRS 617.453) This bill ~~[removes the provision]~~ **provides** that coverage for cancer as an occupational disease applies ~~[only]~~ if a firefighter has been employed for ~~[5]~~ **2** years or more. This bill also expands the list of substances which are deemed to be known carcinogens that are reasonably associated with specific disabling cancers. In addition, this bill requires each firefighter who qualifies for coverage for cancer as an occupational disease to submit to an annual physical examination ~~[which includes a thyroid ultrasound scan and a prostate specific antigen test,]~~ and requires the employer of the firefighter to pay for the physical examination.

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

Section 1. NRS 617.453 is hereby amended to read as follows:

617.453 1. Notwithstanding any other provision of this chapter, cancer, resulting in either temporary or permanent disability, or death, is an occupational disease and compensable as such under the provisions of this chapter if:

(a) The cancer develops or manifests itself out of and in the course of the employment of a person who , for ~~[5]~~ ***2*** years or more, has been:

(1) Employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public; or

(2) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; and

(b) It is demonstrated that:

(1) He was exposed, while in the course of the employment, to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program; and

(2) The carcinogen is reasonably associated with the disabling cancer.

2. With respect to a person who , for ~~[5]~~ ***2*** years or more, has been employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public, the following substances shall be deemed, for the purposes of paragraph (b) of subsection 1, to be known carcinogens that are reasonably associated with the following disabling cancers:

(a) Diesel exhaust, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with bladder cancer.

(b) Acrylonitrile, formaldehyde and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with brain cancer.

(c) Diesel exhaust and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with colon cancer.

(d) Formaldehyde shall be deemed to be a known carcinogen that is reasonably associated with Hodgkin's lymphoma.

(e) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with kidney cancer.

(f) Chloroform, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with liver cancer.

(g) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic hydrocarbon, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with lymphatic or haemotopoietic cancer.

(h) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with basal cell carcinoma, squamous cell carcinoma and malignant melanoma.

(i) Acrylonitrile, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with prostate cancer.

(j) Diesel exhaust, soot and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with testicular cancer.

(k) Diesel exhaust, benzene and X-ray radiation shall be deemed to be known carcinogens that are reasonably associated with thyroid cancer.

3. The provisions of subsection 2 do not create an exclusive list and do not preclude any person from demonstrating, on a case-by-case basis for the purposes of paragraph (b) of subsection 1, that a substance is a known carcinogen that is reasonably associated with a disabling cancer.

4. ***Each employee who is to be covered for cancer pursuant to the provisions of this section shall submit to a physical examination, including :***

(a) Upon employment, a chest X ray, a thyroid ultrasound scan, a blood panel, a urine occult blood test and:

(1) For men, a prostate-specific antigen test; and

(2) For women, a baseline mammogram; and

(b) On an annual basis while employed, a thyroid ultrasound scan and , for men, a prostate-specific antigen test . ~~*[, upon employment and thereafter on an annual basis during his employment.]*~~

5. All physical examinations required pursuant to subsection 4 must be paid for by the employer.

6. Compensation awarded to the employee or his dependents for disabling cancer pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization in accordance with the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

~~[5.]~~ ***7.*** Disabling cancer is presumed to have developed or manifested itself out of and in the course of the employment of any firefighter described in this section. This rebuttable presumption applies to disabling cancer diagnosed after the termination of the person's employment if the diagnosis occurs within a period, not to exceed 60 months, which begins with the last date the employee actually worked in the qualifying capacity and extends for a period calculated by multiplying 3 months by the number of full years of his employment. This rebuttable presumption must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented.

~~[6.]~~ ***8.*** The provisions of this section do not create a conclusive presumption.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that upon return from the printer, Assembly Bill No. 521 be placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Assembly Joint Resolutions Nos. 7 and 10 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Conklin moved that Assembly Bills Nos. 331, 480, and 493 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Madam Speaker appointed Assemblywoman Kirkpatrick and Assemblyman Hardy as a committee to invite the Senate to meet in Joint Session with the Assembly to hear an address by United States Representative Dina Titus.

The President of the Senate and members of the Senate appeared before the Bar of the Assembly.

Madam Speaker invited the President of the Senate to the Speaker's rostrum.

Madam Speaker invited the members of the Senate to chairs in the Assembly.

IN JOINT SESSION

At 12:04 p.m.

President of the Senate presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

The President of the Senate appointed a Committee on Escort consisting of Senator Carlton and Assemblyman Claborn to wait upon Representative Titus and escort her to the Assembly Chamber.

The Committee on Escort in company with the Honorable Dina Titus, United States Representative from Nevada, appeared before the Bar of the Assembly.

The Committee on Escort escorted the Representative to the rostrum.

Madam Speaker welcomed Representative Titus and invited her to deliver her message.

Dina Titus, United States Representative, delivered her message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-FIFTH SESSION, 2009

Madam Speaker, Majority Leader, Lieutenant Governor, Senator Raggio, Ms. Gansert, friends, colleagues, all of you, I am delighted to be back in Nevada. Thank you so much for welcoming me here. It is also very nice to see my colleagues from across the way and the Executive Branch. Thank you, too, for coming.

You know, I spent a lot of sessions here, right in this building, working with many of you on lots of different issues. It feels good to be back. It was really something yesterday to get inducted into the Hall of Fame along with Senator Joe Neal. It is nice to see him back, too. It was great. It was such an honor. I heard Senator Horsford very graciously acknowledge me as his mentor, and then Senator Raggio said, "Yes, and she was my tormentor." I figure that I must have been doing my job. I like that. And I loved every single minute of it, so thank you all for that good time. During my time here, I also sat through a lot of these addresses from members of Congress who came back to tell us what was going on in Washington, D.C. I very much appreciate your courtesy and your attention and your allowing me to do this. I do not want to take advantage of it, and I know how you feel so I will be short. I hope that gets me off on the right track.

This is a great tradition, though, and I am glad to be back to tell you what's going on in Washington, D.C. and some of the things I have been working on.

It is troubling times that we are in, and I know I don't have to tell you that. The challenges are great, but the optimism is high. I believe that people really want us to take action, as a government, and to get things done. They do not want us to just say, "No" and "Isn't it awful?" but rather to participate in trying to make a difference and take us in a direction of change. That's why this 111th Congress got off to a really good start. We hit the ground running just as you did here in the Legislature. I think we have done a lot of things to help address this economic situation that is crippling the state and the country.

Just in the first 100 days, we passed a SCHIP (State Children's Health Insurance Program) bill, the Lilly Ledbetter workplace nondiscrimination bill, the Serve America Act, the Omnibus Spending Bill from last year, and the American Recovery and Reinvestment Act, also known as the stimulus package. We didn't get into this hole overnight, and it is going to take a while for us to get out of it. But with some time and hard work and that kind of energy at the onset, I believe we can reverse this economic slide and start to turn things in a new direction so we can rebuild confidence, security, and growth.

As the President said yesterday, even though there are some small signs of the recovery—with us maybe starting to turn a little or at least having hit bottom and maybe moving in the other direction—the stark reality is that we are going to continue to face difficult times. It is going to take some patience and hard work before we see the recovery in Nevada begin to take effect.

Now, I know you have already heard from Senator Reid and Congresswoman Berkley about a lot of the details that are in the stimulus package, but there are a couple of things that I just want to share with you and highlight because I think they are important and they are impacting the state.

As you struggle to balance the budget in this Legislature without devastating those essential programs that people need and the services they rely on, I want you to remember that $1.5 billion is slated for the state as a result of that stimulus bill. And so I beseech you not to leave any of that money on the table because if you do, that money will just go to other states. Nevadans drastically need it. This isn't a liberal or conservative issue. This isn't a partisan

issue. This is a Nevada issue, and those dollars need to come to the state for those needed programs and so I ask you to take advantage of it. In addition to those dollars that are coming, other parts of the stimulus package that I believe will help the state include the fact that on April 1, 2009, nearly one million hardworking Nevadans began to see more money in their pockets from their paychecks as a result of the Making Work Pay tax credit that took effect. Workers will receive up to $400 per individual and $800 per couple. Also, next month recipients of social security and SSI (Supplemental Security Income), as well as veterans, will receive a $250 check in the mail. Stimulus dollars will also help with the state's growing Medicaid burden and will allow for the extension of unemployment benefits which are needed at a time when unemployment in the state is at a 25-year high.

During these tough economic times, I believe that these kinds of programs have put more money into people's pockets here in Nevada and can have a great impact on families who are struggling just to make ends meet and small businesses that are struggling to keep their doors open.

In addition to the stimulus package, Nevada will soon see the impact of $270 million that is coming to the state for what we have heard a thousand times—shovel-ready transportation and infrastructure projects. There is another $72 million to promote weatherization and energy efficiency programs. This money will create jobs, and they are jobs that cannot be outsourced. It will put Nevadans back to work. The weatherization money will also save Nevadans money of their own by making their energy bills lower. This is tied to the green jobs emphasis. Green jobs must be a significant part of our efforts to move Nevada towards a new economy, a new direction that diversifies the economy that we have and help to create additional jobs. I know this has been a focus of this legislative session, and I applaud the Senate Majority Leader for his bill that recognizes the importance that green jobs can have on Nevada and the need for training in this area.

One of the most serious crises and challenges that I am working on in Washington, D.C. has to do with housing. Again, I do not need to tell you this, but the housing crisis in Nevada is one of the worst in the country. I am encouraged by the first steps that have been taken by the Obama Administration to help homeowners in trouble. The President has created two new programs that I would encourage Nevadans who are struggling to make their payments to look into. We are having a big housing forum this Saturday to get this information out. I know the state is doing likewise. Nonprofits are doing the same thing. This loan modification and loan refinancing program can dramatically help many Nevadans.

If you combine this with the state program that I know the Speaker is working on, to require mediation between homeowners and mortgage lenders, I think together we can start to make a difference with this foreclosure problem. However, the programs will not be effective if people do not know about them. A lot of Americans do not understand what is available, what they qualify for, and how to go about receiving assistance. I am currently working on legislation that will notify homeowners, require the mortgage companies to notify the homeowners about the different programs that are available and which ones they might qualify for. When this passes, not only will it clearly explain the steps for receiving this assistance, but it will also help protect people from the scam artists that we know are preying on those who are the most desperate for help.

The foreclosure crisis in Nevada, though, is one of the most drastic in the country. It is going to take drastic action to fix. Some of these programs that help the problem generally will not help Nevadans because about 48 percent of the people are underwater on their mortgages, and many of them are at more than 105 percent. There was a study done recently that looked at the top 20 zip codes in the country where the foreclosure problems are the worst. Eleven of the top 20, nationally, are in Congressional District 3—the suburbs where growth occurred so drastically. This is a critical problem for me. I will continue to work with Washington, D.C. so that they know one size does not fit all. States like Nevada have special needs and will need special attention.

Another area of importance to the state is transportation. Our economy depends on bringing goods and people from outside, from other parts of the country and other parts of the world, here to Nevada. We want those tourists to come. We do not especially care if they do not leave, but we have to get them here, so transportation will be very important. As many of you know, I was

able to get a seat on the highly sought Transportation and Infrastructure Committee. It was the one that was the most requested because this is the session when we will be taking some very drastic action in that committee. We are going to begin next week, when Congress goes back into session, constructing and crafting the new surface transportation authorization bill. This will replace the SAFETEA (Safe, Accountable, Flexible, Efficient Transportation Equity Act) bill which expires in September. This is something that everyone wants to be involved in because this will involve the allocation of so many dollars for highway projects to the state. We have a real opportunity in Nevada to make our transportation system safer, less congested, and more energy efficient. At the same time we do this, we can have a major impact on economic development because, again, these are the projects that will create jobs. I would urge you, as a legislature, to play a very active role in where these dollars go and what projects should have priority. Do not leave this to a handful of bureaucrats, but rather be involved in that process.

As the committee moves forward in crafting this legislation, I would ask you please do not be shy about calling my office and telling me what Nevada needs because this authorization does not come along very often. We have to take advantage of it. I promise that I will be an advocate for the whole state as we move forward with this important bill.

Another committee that I'm honored to serve on is the House Education and Labor Committee. That seemed a natural with my background. I have several goals as a member of that committee. I hope, basically, that we can provide opportunities for growth over a lifetime—K-12, college, and then job training. The first challenge—and I know, again, that you are working on this as well—is reforming No Child Left Behind. We all know the problems. No Child Left Behind has kind of become an empty promise, and we have left too many children behind, especially in fast growing states like Nevada. We have heard it from teachers, administrators, parents, and even the students themselves tell us that it is little more than a slogan, as opposed to the fulfillment of a real promise. I think the goals are worthy. We need accountability. Everyone deserves a quality education, but I do not think we are doing it the right way, and I look forward to working with all of you as we reform that act.

I have spent the last 30 years—I get reminded of it, with 30 years sounding like a long time—teaching at UNLV and working with students. This is a great concern of mine, especially in this economy. I see too many students burdened down with debt. As they lose their jobs or their hours are cut back, it is even harder to pay for college. The cost of college is also increasing. In Congress, I was pleased to support the measure that will help with the cost of college by giving a $2,500 tax credit for college expenses and also increasing Pell Grants. I am asking you, please don't cut higher education to the point that students won't have anywhere to go or won't be able to learn or experience much when they get there. And let me be very clear on this point because there has been some confusion about it. My support for a waiver that would help Nevada during these tough economic times—in case you can't meet the federal requirements for getting the education stabilization funds—by no means is an indication that I think we should not fund and support education. Because I would never want you to shortchange education, so don't think my support of the waiver is an indication of that. It is not, because I believe education is the key to our future.

We have to be interested in job training and this economy in Nevada. Many of people in the jobs that were prospering are now finding themselves on the streets. People who were in tourism or who were in construction now need to look for new skills so that they can find new jobs in the new economy, and that is another emphasis that we need to focus on.

My third committee is Homeland Security. I am excited to sit on this committee because there is never a discussion anywhere on television or elsewhere when they talk about targets that Nevada isn't mentioned in that conversation. For that reason, I think I bring a unique voice to the discussion. Las Vegas is unlike any other city on the planet. In just one block of the district, you have the Eiffel Tower, the Pyramid, and the Statue of Liberty. All the world is condensed right there on one street. We have thousands of guests from around the world in just a few square miles. I am proud to tell my colleagues in Washington, D.C. about what wonderful amenities our hotels and convention centers offer. We want them to come, not just to Las Vegas, but throughout the state. Everyone has heard about the good times we have here and the wonderful shows and the food and the 24-hour entertainment. In just the last year, as we learned from the attack in India, a tourist center can also be a target for our enemies.

Since January, this committee has held hearings about preventing another Mumbai-style attack and securing out nation's skies. The new issue is keeping cyberspace safe. In addition, we are conducting some field studies along the border to look at the intensity of violence and the problems there with Mexico.

Nevada offers a lot to the Homeland Security Committee. I hope to bring them out for a field hearing so the members can see just what is going on in the state, and we can share with them what we do here. Of course, at the Nevada Test Site, for example, they have already trained 60,000 first responders from around the world on how to respond to an incident involving a weapon of mass destruction or some other chemical kind of incident. The individuals trained at the test site would be pivotal in the event of an emergency situation and could respond to a potential crisis anywhere in the world. As a matter of fact, our test site is the only place in the world where they have the opportunity to train in such a realistic environment. I look forward to working to enhance that aspect of that special facility we have in this state.

Also, when the committee comes out, I want to go "back of the house" in some casinos because our casinos also provide a vantage point into the future of security technology. These establishments use cutting-edge technology, state of the art equipment for surveillance and for security and they have some of the best trained personnel anywhere. They are very well equipped to keep thousands of guests safe, day or night, in many different kinds of circumstances. Our hotels and conference centers are also great models for preparedness. I believe that the government could learn from our private sector about some of the ways to help keep our nation safe.

It is those three committees that I am working on. I got a waiver for the third, but I believe all three will be closely related to things that you are doing in the Legislature and things that can work to the benefit of Nevada.

As a member of this Legislature for 20 years, I understand the challenges and constraints you are facing. These are extraordinary times. I know that the tasks ahead are going to require bold and creative action, both here in Carson City and in Washington, D.C. So let us not forget that although we are thousands of miles apart on most days, we are partners in this effort to create a strong Nevada on every day.

I am very proud to be representing Nevada in Congress at this historic and exciting moment. I assure you that I am working very hard for the people in this state. It is not a 9 a.m. to 5 p.m. job. I have learned that it is exactly a quarter of a mile from my office to the place where I vote on the floor. That is a lot further than it was when Senator Raggio bumped me up to the second floor here in the Legislative Building. I am there because I want to work hard and make a difference. I also want to assure you that although, technically, I represent the third district, I will always be an advocate for the entire state. I hope you will remember that and call on me, regardless of which county you might be from, because I know that only by working together can we have a strong state and federal partnership for the good of the people in Nevada.

I want to thank you for all the hard work that you are doing here on behalf of the people. I want to thank you, also, for welcoming me back so warmly and making me feel like I am a little missed, at least. I hope now that you will come back to see me in Washington, D.C. and let me return the hospitality. The latch string is always out. Thank you.

Senator Mathews moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Titus for her timely, able, and constructive message.

Seconded by Assemblyman Aizley.

Motion carried unanimously.

The Committee on Escort escorted Representative Titus to the Bar of the Assembly.

Senator Townsend moved that the Joint Session be dissolved.
Seconded by Assemblyman Goedhart.
Motion carried.

Joint Session dissolved at 12:31 p.m.

ASSEMBLY IN SESSION

At 12:33 p.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Oceguera moved that the Assembly recess until 1 p.m.
Motion carried.

Assembly in recess at 12:33 p.m.

ASSEMBLY IN SESSION

At 1:41 p.m.
Madam Speaker presiding.
Quorum present.

GENERAL FILE AND THIRD READING

Assembly Joint Resolution No. 7.
Resolution read third time.
Remarks by Assemblymen Aizley, Gansert, Smith, Cobb, Pierce, McClain, and Mortenson.
Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN AIZLEY:

Thank you, Madam Speaker. Assembly Joint Resolution 7 proposes to amend the Nevada Constitution by repealing Section 24 of Article 4 which prohibits the state or any political subdivision thereof from conducting a lottery. If approved in identical form during the 2011 Session of the Legislature, the proposal would be submitted to the voters for approval or disapproval at the 2012 General Election.

In looking up information about the lottery, I find that every argument I've seen for has a counter argument against the lottery. No matter what statement I hear people making, there is always a counter statement that contradicts those statements. For example, when I introduced the bill in committee, I introduced it as the bill that never dies. I heard someone in the back of the room say, "No, it's the bill that never lives." I think it is time to have the people of Nevada decide whether or not they want a lottery. The only statistics I will present to you are that there are 43 states that have lotteries now— Arkansas being the last to join. There are 34 states with casinos, and there are 30 states that have both lotteries and casinos. For a little bit of history, I found the first lottery was 100 B.C. introduced by the Han Dynasty in China, and the proceeds went to build the Great Wall. I request your support.

ASSEMBLYWOMAN GANSERT:

I appreciate the comments from the Assemblyman from Clark County because I know there is for and against. I have been here when we have voted on this three different times. If there is ever a time for a lottery, I would say that this is not the time. Our gaming companies in this state are hemorrhaging; they are having such a difficult time. They are the major industry, they are

the major employer. My fear would be that we would cannibalize what they bring to our state as far as revenue. They also have put such great investment in our state as far as infrastructure and their buildings and so forth. There is such a large industry in our state, and I would hate at this time to cannibalize them. I know that many of us supported IP 1 to try to get more money to education, and I was one of those people. So I think right now is not the time to ask for anything else.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of AJR 7. This gives the people the right to decide, and then the people have the right to decide whether they want to participate in the lottery. I am so frustrated because I hear day after day after day about our inability to adequately fund our education system. I think this is a very reasonable avenue to do that. First of all, let's let the people decide if that is a choice that they want to make. I hear from my constituents on a regular basis that this is a reasonable idea. I happen to believe that there are very different people who will participate in buying lottery tickets than may participate in regular gaming. I know that as my colleague, the sponsor of the bill, said, you can hear arguments on either side. We need to find additional revenue sources for our education system. We know today that we are hundreds of millions of dollars short of even being able to fund an inadequate budget today. I want to give the voters in my district and this state the opportunity to have this choice, to say that yes, this is a reasonable idea for us to have a new source of funding for our woefully funded education system.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition to AJR 7. In testimony, one of things that really caught my attention was the fact that a lot of the small tavern owners and those types of operations are really hurting right now in this current economy with some of the consequences of the smoking ban as well as the natural consequence of our economic downturn—with unemployment over 10 percent. We heard testimony that in California, they are moving more towards the electronic-type games to try to get more people to join in on the lotteries because they are waning in terms of their popularity. That is the same market of individuals that go into these small taverns, and small operators help employ people as waitresses, greeters, busboys, you name it. I think that we have to realize that if we are going to be supporting a gaming-type operation through the state, we are going to be hurting those that actually employ our fellow Nevadans. I would agree with my colleague from District 25; this would not be the time to be doing that and taking away from those who would actually help employ more people in our economy.

ASSEMBLYWOMAN PIERCE:

Thank you, Madam Speaker. We've heard over and over in this discussion that the most lucrative places that California sells their lottery tickets is on the Nevada border. Nevadans do support lotteries, and I happen to be a Nevadan who has a California lottery ticket in my pocket. I support this, and wish me luck tonight.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Madam Speaker. I was one of those lonely little freshmen that brought that bill back in 1999—I got slam dunked pretty good. Ever since then, it has come back in one form or another. If you look at the polls taken every session when the lottery comes up, the public support is 70 percent and above. I think they recognize that this is not casino gaming, it is not going to hurt the casinos. In fact, if the casinos would embrace it, they would actually make more money from it because any establishment that sells lottery tickets actually gets a cut of the sales, and then if somebody in that establishment actually wins, they get a big cut of the winnings. I have always said it is just so silly that we don't have a lottery, but when you think about when the Constitution was written, a lottery in those days is not what we think of as a lottery today. The lottery in those days was simply a sham or a shell game of some sort. When we copied California's Constitution, we copied that part of it. I would urge my support, and I appreciate my colleague to the west of me for bring the AJR 7 forward.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Speaker. I just want to remind you, we can argue whether this is good or bad for the people all day long, but we are not going to make that decision. We are deciding here whether to give this to the people to make a decision, and I am always for that. I think most legislators should feel that their constituents have the right to make a decision of this nature.

Roll call on Assembly Joint Resolution No. 7:

YEAS—31.

NAYS—Christensen, Cobb, Denis, Gansert, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—11.

Assembly Joint Resolution No. 7 having received a constitutional majority, Madam Speaker declared it passed.

Resolution ordered transmitted to the Senate.

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

Assembly in recess at 1:51 p.m.

ASSEMBLY IN SESSION

At 1:52 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

Assembly Joint Resolution No. 10.

Resolution read third time.

Remarks by Assemblymen Buckley, Goedhart, and Carpenter.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Assembly Joint Resolution 10 urges Congress to deed BLM land to the State of Nevada for the development of renewable energy projects. Nevada is in a unique position with regard to renewable energy. We have the wind, the sun, geothermal, and biomass. You name it; we have an abundance of natural resources that has us uniquely poised to be a leader in the new green energy economy. What will help us jump-start this spot that we have is if we are able to secure land to promote these projects. Sixty-seven percent of the land in Nevada is owned by the BLM. Why not get some of this land to do some pilot projects throughout the state? We could secure a number of goals. We could jump-start renewable energy projects, creating jobs that could help our economy. We could reclaim some of our land, taking it away from the federal government and deeding it to the state.

Several years ago I worked on a project with Senator Reid where Senator Reid secured two parcels of BLM land. They were given to the City of Las Vegas, and we built the first nonprofit, affordable assisted-living project called Silver Sky in Las Vegas. We did a request for proposal, we worked with nonprofit developers, and now we have a beautiful facility setting the template of how this could be done. If you are able to reduce the land costs, you're able to jump-start projects that would have not been able to go due to lack of financing, especially in these times.

If you ask renewable energy developers what is their biggest holdup in getting projects off the ground, it's land. Congress is devoted to trying to streamline that process, but in the meantime if we could secure a few pieces of land, and we do a request for proposal, we could get these projects off the ground much quicker.

I toured the state talking about innovative ways to do business to help our economy and to create jobs. As soon as we create more jobs, we are going to have less fiscal problems as a state.

This idea really resonated with people. So I bring this resolution forward as a way to further our place in establishing us as a leader in renewable energy and as a way for us to create jobs and deprive the federal government of a little bit of our land. I urge your support.

ASSEMBLYMAN GOEDHART:

I rise in support of AJR 10. In rural Nevada it is even worse that 67 percent. In Nye County, 98.1 percent of the land is federally controlled. In Lincoln County, it's 96 percent, and in Esmeralda County it is 98.6 percent. One of the biggest impediments to realizing the potential Nevada has in terms of renewable energy is exactly that: access to land. I know about it from first-hand experience, when we were trying to buy about 400 acres from the BLM. After seven years I finally succeeded in getting the BLM to sell us a 400-acre piece of land that we owned property on three sides of. My brother said to me, "Ed why did that take so long?" I said, "If you look back at Amargosa Valley, that was the first piece of land that we were able to privatize in over a third of a century, outside of an act of Congress supported by our Senator, Harry Reid." So I think that this takes us a step in the right direction. It will allow us to capitalize on the assets that Nevada has, and I urge your support.

ASSEMBLYMAN CARPENTER:

I stand in support of AJR 10. Anytime we can get some land from the federal government, we better do it. The only thing is that this resolution doesn't go far enough. We ought to ask for 100 percent. That would be a better kind of deal. I agree with everything that the Speaker said, and hopefully someday, although I won't be here, there will be a resolution coming through this house that will say we finally got some land back from the feds. Thank you.

Roll call on Assembly Joint Resolution No. 10:

YEAS—42.

NAYS—None.

Assembly Joint Resolution No. 10 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed.

Resolution ordered transmitted to the Senate.

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

Assembly in recess at 1:59 p.m.

ASSEMBLY IN SESSION

At 2 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 20.

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 20 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 56.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 56:

YEAS—42.

NAYS—None.

Assembly Bill No. 56 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bills Nos. 99, 123, 155, and 213 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Arberry moved that Assembly Bills Nos. 178, 331, 359, 522, and 523 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 59.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 59:

YEAS—42.

NAYS—None.

Assembly Bill No. 59 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Assembly Bill No. 63 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 71.

Bill read third time.

Roll call on Assembly Bill No. 71:

YEAS—42.

NAYS—None.

Assembly Bill No. 71 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 89.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Assembly Bill No. 89:

YEAS—42.

NAYS—None.

Assembly Bill No. 89 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 97.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 97:

YEAS—41.

NAYS—Carpenter.

Assembly Bill No. 97 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 105.

Bill read third time.

Remarks by Assemblywoman Gansert.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 105:

YEAS—42.

NAYS—None.

Assembly Bill No. 105 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 116.

Bill read third time.

Remarks by Assemblyman Carpenter.

Roll call on Assembly Bill No. 116:

YEAS—42.

NAYS—None.

Assembly Bill No. 116 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 190.

Bill read third time.

Remarks by Assemblymen Anderson, Cobb, and Segerblom.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. Assembly Bill 190 requires the Audit Division of the Legislative Counsel Bureau to conduct a staff study of the fiscal costs of the death penalty in

Nevada. The study must examine the cost of adjudicating capital cases as opposed to noncapital cases and must include the cost to the state and to the local governments at each stage of capital murder case proceedings. The Legislative Auditor shall submit a written report of the findings to the Director of the Legislative Counsel Bureau on or before January 31, 2011, for consideration by this body.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition to A.B. 190. This bill has been greatly amended. I still have a concern about this bill in terms of studying the cost of the death penalty. Although it was vetted in committee and the intent was put on the record that not only the cost of the death penalty, but also the potential cost savings of having the death penalty on the books should be part of the overall study, it has already been stipulated by law enforcement that it does cost more to try a death penalty case versus a nondeath penalty case. It is just a fact of life. To repeat the studies that have already been done in other jurisdictions to reach the same result, in my opinion, is a waste of money, and so we stipulate to the fact that it does cost more to prosecute a death penalty case versus a noncapital case. We believe, however, that there is cost savings involved with having the death penalty on the books when you look at pleading people out instead of taking them all the way through any type of trial. We already know what the result is going to be. I don't believe that this is necessary.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Speaker. To address the comment from the gentleman from northern Nevada, this bill will allow just that and fully weigh the cost of people not going to trial, which the death penalty may encourage or discourage, along with the costs saved by trying to prosecute people using the death penalty. Testimony was very strong that the death penalty is costing a fortune, and to study the cost is the minimum we can do. I urge support of the bill.

Roll call on Assembly Bill No. 190:

YEAS—30.

NAYS—Christensen, Cobb, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—12.

Assembly Bill No. 190 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 204.

Bill read third time.

Remarks by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 204:

YEAS—33.

NAYS—Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hardy, Settelmeyer, Stewart, Woodbury—9.

Assembly Bill No. 204 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 226.

Bill read third time.

Remarks by Assemblymen Goicoechea, Grady, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Speaker. Assembly Bill 226 increases the maximum allowable debt for an irrigation district from $350,000 to $500,000 and allows the irrigation district to impose an assessment of up to $5 per acre for deposit into a capital improvement fund. Presently, an irrigation district may also impose an assessment up to $1.50 an acre for ordinary expenses of the district. The total of that assessment cannot exceed the $5 limit. The bill also removes the cap on the amount of money that may be spent in cases of necessity for construction or repair.

This is enabling legislation for three districts: the Truckee-Carson Irrigation District (TCID), the Pershing County Water Conservation District (PCWCD), and the Walker River Irrigation District (WRID). Chapter 539 is a rather old section of law that needs a little bit of updating. In the case of the monies that could be spent out of necessity, in an emergency measure, that amount was set at 5 cents per acre. In the case of Pershing County, that wouldn't buy you a culvert. The assessment has not been changed in over 35 years. These districts really need the money to address the issues like the Fernley canal and the Rogers diversion in Pershing County. I ask for your support. We need to help them rebuild.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I heard some concerns that this measure might be seen as waving the white flag in terms of getting money from the federal government for the Fernley flood. Can you respond to that a little bit and tell me how much you think this would raise in terms of trying to fix things the way they need to be fixed?

ASSEMBLYMAN:

I understand what some of those concerns are. I have been working with some of the constituents in the Fallon area and TCID. Clearly, the TCID Board feels that they need to have the ability in place. If they need to generate the money, especially as match money, to rebuild the Fernley canal, they need this mechanism in place for the $5 per acre capital improvement fund. Again, it is only enabling. It gives them the ability to meet those needs.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

They won't be able to meet these needs, though, with this amount of money. We need help from the federal government, as well. Correct?

ASSEMBLYMAN GOICOECHEA:

That is correct. Presently, there is $2.5 million that has been funded on the federal side to do a study of the rehab of the Fernley canal. That is a concern to all of us. I understand today that they reduced the flows in the Fernley canal from 300 cubic feet per second to 250 cubic feet per second. If we cannot get more water across there, especially in these drought years, we are going to be in big trouble as far as irrigation in the Lahontan Valley.

ASSEMBLYMAN GRADY:

Thank you, Madam Speaker. I rise in support of this. To answer your earlier question, what money they could raise in the TCID will not even touch the Fernley canal. They are going to need considerable help from the federal government to get that canal fixed. Thank you.

Roll call on Assembly Bill No. 226:

YEAS—42.

NAYS—None.

Assembly Bill No. 226 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 230.

Bill read third time.

Remarks by Assemblyman Segerblom.

Potential conflict of interest declared by Assemblyman Gustavson.

Roll call on Assembly Bill No. 230:

YEAS—42.

NAYS—None.

Assembly Bill No. 230 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 232.

Bill read third time.

Remarks by Assemblymen Smith, Carpenter, Anderson and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN SMITH:

Assembly Bill 232 provides that the term of a member of the Interim Finance Committee or the Legislative Commission who does not run for reelection or who is defeated in the general election ends on the day following the general election. Vacancies on the Interim Finance Committee are to be filled by the Speaker of the Assembly or the Majority Leader of the Senate. Vacancies on the Legislative Commission are to be filled pursuant to the applicable joint rules of the Assembly and the Senate. The bill becomes effective October 1.

This became apparent in the last interim when we had special session and Interim Finance Committee meetings related to our budget shortfalls, and we realized that the current statute allowed members who were not returning to the Legislature to be able to attend as IFC members and potentially make budget decisions.

It seemed appropriate that the IFC and the Legislative Commission should also function with the same provisions.

ASSEMBLYMAN CARPENTER:

Do the same criteria apply to those of us that are term limited out? Because I need to know when to apply for my retirement.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

The way the bill is written, Mr. Carpenter, is that yes, it would apply because you are no longer a candidate for reelection. So following the election, the day after the election in November is when you would no longer be able to serve on the Interim Finance Committee or Legislative Commission, and an alternate would have to be appointed. Up until that time, you still serve in the Assembly. You are still a member, and so during that year you would still be permitted to serve. It is following the election day that it would kick in, and I think the reason behind it is because the day after the election, the new term starts for the future legislators.

ASSEMBLYMAN CARPENTER:

So you could serve on an interim committee, is that right?

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Yes, you could. You could serve during that year because you are still within the term of your office. Otherwise, your constituents would be deprived of a representative. This would only take effect the day after the election.

Assemblywoman Smith, is that correct?

ASSEMBLYWOMAN SMITH:

Thank you for the opportunity to respond to my colleague from rural Nevada. Absolutely. I made that extra effort in my floor statement to indicate that it is the day after the election, because everyone still serves until that time, and that is when the new legislators take over.

I regret to inform you that you are obligated and can't file for your retirement until the day after the election.

ASSEMBLYMAN CARPENTER:

Thank you. Probably some of my constituents would just as soon that I wasn't there.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I don't think so.

ASSEMBLYMAN ANDERSON:

My colleague from rural Nevada reminded me that he serves on an unusual committee that is made up predominantly of nonlegislative members, unlike our interim committees. Are committees like the sentencing commission affected similarly? It often meets after the election date, or at least it has in the past.

ASSEMBLYWOMAN SMITH:

This bill only provides for those two committees because they are two that are truly making decisions that effect the budget and regulations. This bill is limited to Interim Finance Committee and Legislative Commission. It did not deal with any of the other interim committees.

Roll call on Assembly Bill No. 232:

YEAS—42.

NAYS—None.

Assembly Bill No. 232 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 243.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 243:

YEAS—39.

NAYS—Cobb, Goedhart, Gustavson—3.

Assembly Bill No. 243 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 247.

Bill read third time.

Remarks by Assemblyman Bobzien, Settelmeyer, and Carpenter.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 247 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 263.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 263:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, Hambrick, McArthur—5.

Assembly Bill No. 263 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 267, 293, 305, 311, 314, 338, 364, 369, 377, 428, 433, 445, 505, 512; Senate Bills Nos. 38, 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Kim Foster, Vicki Bates, and Nancy Ernaut.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to David Saltman and Camille Saltman.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended Alan Power, Dick Devencenzi, and Jeff Fox.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Matt Maggey.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Dee McGinness.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Richard Scotti and Chris Carr.

On request of Assemblywoman Koivisto, the privilege of the floor of the Assembly Chamber for this day was extended to Betty Hicks.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Zainab Ali Al Mahari.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Green Valley Christian Academy: Gabriel Beajow, Matthew Buckels, Matthew Buford, Madison Cramer, Hunter Dale, Hayley Ellis, Kiayna Ford, Dara Franceschi, Alexa Harris, Caleb Ho, Jillian James, Zachary Kaempfer, Dakota Kouba, Lauren Longworth, Cole Lory, Jonathon McSwain, Jayda Medeiros, Alondra Mejia, Harlee Miscovich, Brianna Moers, Caitlin Nielen, Erica Olsen, Kendal Poff, Samantha Rios, Colin Smith, Jesse Sturdivant, Alexis Tomassi, Claire Tulak, Benjamin Webster, Katie Williams, Dylan Ziegler; chaperones Dario Franceschi, Ron Tulak, Charles McSwain, Robert Rios, Valerie James, Rich Kouba, Tina Poff, Nani Medeiros, Joannie Williams, Laurie Studivant, Jhovy Mejia, Kristen Farrell, Scott Ziegler, Becky Miscovich, Tricia Longworth, Nicole Dubois, Ty Lappen, Margaret Rios; teachers Tina Rodilosso and Marina Joyner.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Phillip Hoffman.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Michael Naft.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, April 16, 2009, at 10:30 a.m.

Motion carried.

Assembly adjourned at 2:52 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

The

Journal of the Assembly

OF THE

SEVENTY-FIFTH SESSION

OF THE

LEGISLATURE OF THE STATE OF NEVADA

2009

BEGUN ON MONDAY, THE SECOND DAY OF FEBRUARY, AND ENDED ON MONDAY, THE FIRST DAY OF JUNE

VOLUME 2

THE SEVENTY-FOURTH DAY—THE NINETY-THIRD DAY

SEE VOLUME 1 FOR TABLE OF CONTENTS
SEE VOLUME 5 FOR INDEX

ARRANGEMENT AND CONTENTS OF VOLUME 2

ASSEMBLY PROCEEDINGS 1163

THE SEVENTY-FOURTH DAY

CARSON CITY (Thursday), April 16, 2009

Assembly called to order at 11:24 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman Hardy, who was excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

O Lord, we in this place are weighed down by the problems of our state, nation, and world. Convict us of our share of personal responsibility for the situation in which we find ourselves. May we confess our part in creating our dilemmas, lest we feel no obligation to solve them. Help us to quit waiting for the other person to change his or her attitude and ways, lest we never give You the chance for which You have been waiting, to change us. This we ask in the lovely name of Him who came to change us all.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 202, 454, 472, 486, 513, 515, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 502, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

-Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 48, 229, 304, 508, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 65, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 80, 111, 112, 206, 326, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 46, 102, 271, 309, 491, 497, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Taxation, to which was referred Assembly Bill No. 432, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which were referred Assembly Bill No. 482, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 15, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 12, 61, 156, 193, 228, 254, 348, 391.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 14, 18, 26, 31, 40, 42, 58, 66, 121, 124, 130, 168, 173, 176, 209, 216, 218, 219, 246, 248, 253, 256, 262, 298, 304, 314, 327, 337, 339, 352, 354; Senate Joint Resolutions Nos. 2, 7.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 46, 48, 80, 102, 111, 112, 202, 206, 229, 271, 304, 309, 326, 432, 454, 472, 482, 486, 491, 497, 502, 508, 513, 515; Senate Bill No. 65 just reported out of committee, be placed on the appropriate reading file.

Motion carried.

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

NOTICE OF EXEMPTION

April 15, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 60, 78, 177 and 306.

GARY GHIGGERI
Fiscal Analysis Division

NOTICE OF WAIVER

A Waiver requested by Assemblywoman Smith.

For: Assembly Bill No. 463.

To Waive:

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

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).
With the following conditions:
May only be passed out of house of origin on or before Thursday, April 30, 2009.
Has been granted effective: Wednesday, April 15, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

Senate Joint Resolution No. 2.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Joint Resolution No. 7.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 536—AN ACT relating to state financial administration; requiring the transfer of a certain sum of money from the Amateur Boxing Program Reserve of the Nevada Athletic Commission to the State General Fund; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 537—AN ACT relating to state government; transferring the powers and duties of the Division of Mortgage Lending of the Department of Business and Industry to the Division of Financial Institutions of the Department; transferring the powers and duties of the Commissioner of Mortgage Lending to the Commissioner of Financial Institutions; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 538—AN ACT relating to controlled substances; transferring the program for the medical use of marijuana from the State Department of Agriculture to the Health Division of the Department of Health and Human Services; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 539—AN ACT relating to state government; transferring the powers and duties of the Manufactured Housing Division of the Department of Business and Industry to the Housing Division of the Department; transferring the powers and duties of the Administrator of the Manufactured Housing Division to the Administrator of the Housing Division; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 540—AN ACT relating to local government employers; requiring the Local Government Employee-Management Relations Board to charge and collect a fee from local government employers; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 12.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 14.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 18.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 26.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 31.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 40.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 42.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 58.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 61.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 66.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 121.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 124.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 130.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 156.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 168.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 173.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 176.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 193.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 209.

Assemblyman Oceguera moved that the bill be referred to the Concurrent Committees on Education and Ways and Means.

Motion carried.

Senate Bill No. 216.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 218.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 219.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 228.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 246.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 248.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 253.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 254.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 256.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 262.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 298.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 304.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 314.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 327.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 337.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 339.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 348.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 352.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 354.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 391.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Assembly Bill No. 372 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 88 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Atkinson moved that Assembly Bill No. 218 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Aizley moved that Assembly Bill No. 293 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Smith moved that Assembly Bill No. 364 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Horne moved that Assembly Bill No. 385 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Arberry moved that Assembly Bills Nos. 148, 238, 239, 283, 505 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Settelmeyer moved that Assembly Bill No. 311 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Madam Speaker appointed Assemblymen Bobzien and Christensen as a committee to invite the Senate to meet in Joint Session with the Assembly to hear an address by United States Senator John Ensign.

Assemblyman Oceguera moved that the action whereby Senate Bill No. 218 was referred to the Committee on Government Affairs be rescinded.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 218 be referred to the Committee on Transportation.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 73 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

The President of the Senate and members of the Senate appeared before the Bar of the Assembly.

Madam Speaker invited the President of the Senate to the Speaker’s rostrum.

Madam Speaker invited the members of the Senate to chairs in the Assembly.

IN JOINT SESSION

At 12:03 p.m.

President of the Senate presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present except Assemblyman Hardy, who was excused.

The President of the Senate appointed a Committee on Escort consisting of Senator Nolan and Assemblyman Hogan to wait upon Senator Ensign and escort him to the Assembly Chamber.

The Committee on Escort in company with the Honorable John Ensign, United States Senator from Nevada, appeared before the Bar of the Assembly.

The Committee on Escort escorted the Senator to the rostrum.

Madam Speaker welcomed Senator Ensign and invited him to deliver his message.

John Ensign, United States Senator, delivered his message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-FIFTH SESSION, 2009

Thank you Madam Speaker and distinguished leaders, fellow legislators, and honored guests. It is wonderful to be back here. This is a great tradition that we have in the State of Nevada, being a smaller state and having all of our federal legislators being able to come before our State Legislature and be able to address you once every two years. I stand before you as a fourth generation Nevadan, and I am mindful of the chapter being written in our state's history. I am optimistic that the lesson of this challenging time will ultimately be one of resilience. It will be a story of how we launched a new era of opportunity in our great State of Nevada.

In nearly 145 years, our state has witnessed times of unprecedented growth and times of great challenge. Today, we are facing difficult times that require really tough choices and strong leadership. But we know from history that more plentiful times are as close as our vision allows. The thread that has always pulled us out of the difficult times has been a spirit of innovation that seems to breed in our state. Mining has been a bedrock of our country from the early days of Dayton and the Comstock and is still doing extremely well today. The construction of Hoover Dam in 1931 pumped millions of dollars into the local economy. That year we also ended the ban on gambling, which was a major boost to the economy and still exists today. Large-scale federal efforts also seem to flock to Nevada, like the Army Air Corp Gunnery School that became Nellis Air Force Base, which was created in 1941; Stead Air Force Base in Reno, created in 1942; and the Naval Air Station in Fallon. And in 1950, construction started on what would become the Nevada Test Site. With these projects came thousands of civilian and military workers. Their benefits continue to pay off today. Nellis Air Force Base is an example. It has pumped hundreds of millions of dollars into the economy of southern Nevada.

With the resources that we have available in our community colleges, our universities, and our facilities such as the Desert Research Institute and the Nevada Test Site, we should be opening new doors of opportunity and leading the way in renewable energy growth and development. It is time to take Nevada and make it the epicenter of scientific and technological advancement.

I was excited this week to host a renewable energy grant workshop in Reno. We had nearly 400 Nevadans who participated to learn about the grant and loan opportunities and the new changes in the tax laws that are available for renewable energy. This is a significant sign that the people of this state are embracing our new role in the future of renewable energy and are excited about its possibilities. We are definitely witnessing a change in our landscape. The era of Yucca Mountain is, by most accounts, over. For years we chipped away at the funding, and we screamed and shouted when the Department of Energy ignored science and was less than forthright. We used the justice system to keep the process open and accountable. We worked together, Republicans and Democrats, to ensure that we wouldn't be the dumping ground for the rest of the country's nuclear waste. I am looking forward to a time in the very near future when we come together, not for a ribbon-cutting ceremony at Yucca Mountain, but to put the final nail in the coffin of Yucca Mountain.

Yucca Mountain is part of our past, and a bright new future is on the horizon. More and more solar panels are popping up across our deserts. Windmills are proposed across several parts of our state, and geothermal is surging in places like Reno, Fallon, and the Dixie Valley. Several years ago, we changed the way the proceeds from geothermal energy leasing were distributed. I think that was your bill, Governor Gibbons. They were modeled after the onshore oil and gas leasing system which has so greatly benefited states like Alaska. Right now, Nevada gets about 75 percent of the proceeds derived from the sale of geothermal electricity. There is no reason why we shouldn't benefit from solar and wind projects, as well. So that is why, next week, I

will be introducing in the U.S. Senate the Renewable Energy Permitting Act. States like Nevada, with tremendous renewable energy resources and an abundance of federal land, should be able to share in the proceeds from solar and wind development. With the formula that we will utilize, the State of Nevada and local governments will be able to collect millions of dollars in revenue. I think that should be good news to bodies like this in the future.

My greatest concerns as we lay the groundwork for this new era of opportunity in Nevada are whether we will we have the scientists, the engineers, the inventors, to sustain the kind of innovation that we want to be capable of. The time has come to make waves in Nevada education. We need to shake the system to its core and to rebuild the fundamentals of the classrooms in schools. We have to do this so our students have the tools that they need to take this state beyond just words of ambition. The defeatist attitude that says that we can't change is not acceptable. And no longer can we put special interests in front of educating our children. It is time to put the students first in more than just rhetoric.

We have some tremendous examples of what happens when we give first-class educators ownership of their schools. In Las Vegas, the writing was on the chalkboard for West Middle School just a few years ago. This school was persistently dangerous and consistently the lowest performing middle school in all of southern Nevada. One hundred percent of the students came from low income households, and 92 percent of the students were either black or Hispanic. These children had not just been left behind, their futures were sort of swept under the rug for someone else to deal with. Fortunately, there are educators who will never settle for that. Associate Superintendent Dr. Edward Goldman asked to take the school under his belt. He hired a young, hungry principal named Dr. Mike Barton and made sure that the school had empowerment-level funding. He also gave Dr. Barton tremendous reign over the school. That was in April of 2006. Today, the campus known as West Prep is a study in education innovation. They extended the school day by an hour and provided a third semester of voluntary summer school, which 40 percent of the kids voluntarily signed up for. The students wear uniforms. There is a newcomer track for students who are new to the United States and aren't proficient in English. Science and math classes are divided by gender. There is a law enforcement class that collaborates with the FBI, and a men-mentoring-men program. Both are keeping kids out of the dean's office, and students feel safe to go to school. Most importantly, they are finally learning.

When I visited the school, there was a chemistry lab. There was a young, African American girl there who looked really excited to get into her experiment. I walked up to her and said, "Can I interrupt you just for a moment?" She was there before the changes were made in the school. I asked, "What is the difference between now and what it was like before?" She responded, almost shockingly, to me. "The difference is, today, we get to learn." The test results in this school reflect that learning. The school has seen phenomenal test score growth, but there is still a lot of work to do. But there is a "can do" feeling in that school that has spread throughout the whole community. The school has expanded to the eleventh grade and will graduate its first senior class next year. Dr. Barton was given the freedom to lead the school. He isn't tied down by bureaucracy. He spends most of his time in the school as opposed to going to school district meetings, which, if you have talked to school principals, they go to almost every single day.

By the way, he can get rid of teachers that are bad. As a matter of fact, when he took over the school, out of the 65-plus teachers they had at the school—before he would take over the school, it was one of the things he asked for—he wanted the teachers that actually wanted to teach. He kept about eight of them. The rest of them he recruited from around the rest of the valley, and they want to be there, helping in this education innovation. Now he has a team in place that he knows will motivate his students and help them reach their potential.

We are fortunate to have many talented educators leading our schools and in our classrooms, such as Carrie Larson of C.T. Sewell Elementary School in Las Vegas and Gayle Magee of Empire Elementary School right here in Carson City. They were both recognized last year with the prestigious Milken Educator Award. Unfortunately, not enough of them are given the freedom to make a real difference, though, in our children's lives. Some of the most proven methods of improving education are to give schools more freedom, give parents more choice, and inspire students to learn. The one way to do that is to encourage competition in our

educational system. Less than a decade ago in New York City, two out of three public schools were underperforming and graduation rates were unmoved. Under a mayor-controlled system, charter schools have expanded now from 20 to 100. With increased competition, test scores have improved, and 10,000 additional students are now graduating. In addition, the gap between African Americans and Hispanics and whites and Asians is decreasing. Arnie Duncan, our new Secretary of Education under President Obama, recently visited New York City. Based on data on charter schools, he said, "Graduation rates are up. Test scores are up. Teacher salaries are up. Social promotion was eliminated. Dramatically increasing parental choice—that's real progress."

New York City is just one of the many communities that is shaking up education, in order to improve opportunities for their students. Washington, D.C. was another one. I led an effort last month to reinstate funding for the District of Columbia Opportunity Scholarship Program, which has provided vouchers for 1,700 poor children in Washington, D.C. It is a five-year-old program. The average income of recipients' families is $23,000 a year. The overwhelming majority of them are minorities. For these students, the program is a lifeline. I had the privilege of meeting many of these students, and they are incredible kids. They are able to escape the dangers of failing schools and start planning for a future that they otherwise could not even dream of. Unfortunately, special interest politics have derailed those dreams. An effort to extend the program was killed in the U.S. Senate. Those 1,700 kids who dared to think beyond their situation now may be forced to return to their failing schools. But the lessons of that program and the children and their experiences will prevail. We cannot afford to let politics or our egos or special interests dictate our children's futures.

There is not just one good answer, one silver bullet, to the problems facing education in our state and in our country. We need a comprehensive reform that takes into account teacher merit pay, vouchers, public school choice, and charter schools. There is not one model that is right for every student. We know that. That is why we have to make different models available so that our children and our students can excel.

My son Michael is currently enrolled in a private school in LasVegas for special needs kids. We are fortunate to be able to send him to that school. While there are public schools that serve the student population, they may not be right for every student with special needs or a learning disability. That is why I will soon introduce legislation to provide scholarships for students enrolled in special education to attend private or public schools of their parent's choice. They would be federally funded scholarships, available to all students with disabilities. Each voucher would be paid entirely from a portion of federal pooled IDEA (Individuals With Disabilities Education Act) money that is provided to each state. Parents could supplement the voucher if they wish. This could be especially helpful for those students with autism spectrum disorders who often struggle to find the right educational situation. A voucher program for disabled students in Florida has proven incredibly successful.

Just as we need new models for students with disabilities, we also need a new focus on the gifted kids in our schools. Most of you are aware of the fabulous work that the Davidsons are doing at the Davidson Academy and all the special people who are there on the campus of UNR. They bring together some of the very brightest young people, and they give them the tools to learn at whatever pace they can handle. They and many others believe that it makes no sense to keep a ten-year-old in a basic math classroom when that ten-year-old can learn college calculus. Unfortunately, too many of our gifted students aren't challenged and end up being made fun of. Twenty percent of high school dropouts are gifted students. These kids are often teased and called names, instead of encouraged to reach their potential. It is often assumed that because they are gifted, they are resourceful enough to get by. Is that what we really want? For them to just get by? Instead, imagine a school system where children are allowed to learn at the pace their brain can handle. Imagine more Davidson-type academies. Imagine Nevada, our state, becoming the state that is known for encouraging gifted kids to reach their potential. By the way, it wouldn't take more money to achieve this. But we will have to rethink how we treat gifted kids. A few states have programs that are working, but no state has a comprehensive program to deal with the gifted. You have the opportunity to do that. I hope you will consider it for the future of our children and the future of our state.

The ultimate goal for all of our children needs to be focused on teaching and preparing them to be productive and contributing members of our society. And that means we also need to ramp

up efforts so that our students can compete with their peers around the world in math, science, and technology and engineering. There is no question that these are the fields of the future. As we look to make Nevada the epicenter of renewable energy and technology and medicine, we will desperately need people to fill these roles. There have been some wonderful efforts across the state and most often taken on by teachers who have inspired their students. Programs like the Nevada Regional Science Bowl and the First Robotics Competition are also igniting a passion for science and engineering that we need to continue to fan. These all seem like lofty ambitions at a time of such economic uncertainty, but we can look for innovative ways to make changes that do not deplete already desperate budgets.

There is no getting around the fact that this Legislature is facing excruciating decisions. And I know that some of you are frustrated by my opposition to the recent stimulus bill. I believe that the stimulus bill was riddled with problems. First of all, the housing crisis is at the heart of the economic downturn. I think that everyone understands that, especially here in our state. I believe that the stimulus bill should have addressed the housing problem first, and that is why I offered a bill called Fix Housing First. It would have allowed most Nevadans to refinance or buy a home at around what today would be less than a 4 percent interest rate, fixed for 30 years. The average Nevada family would have had extra income of over $400 per month for 30 years. That is money they could have counted on spending to help the economy. That would have happened, by the way, across the country. As the economy goes for the country, the economy of Nevada also goes. We would have also given a $15,000 tax credit to buy a home. It seems to make sense. Housing is hurting, and we need to stimulate home buying in the United States. Just imagine if we had 4 percent or less interest rates today and a $15,000 tax credit to buy homes. Imagine the help that would be to our state's economy as well as the economy of the United States. Instead we have the stimulus bill that passed and the spending bills that are lining up after it; these will cost future generations of Nevadans. They will provide some help. They will provide some stimulus. But I believe—and the reason I voted against it is because the long-term debt that is added on to our children and our grandchildren was not worth the price that was being paid.

You see, in Washington, D.C., we are spending money we do not have. I actually respect the job that you have. You have to balance your budget. It is a constitutional requirement. Your job is much more challenging than ours in Washington, D.C. You see, we get to print money. It's money we don't have, but we get to print it. So your job is much, much more difficult. The reality is, though, that Nevadans are hurting. They are struggling. Foreclosures, bankruptcies, unemployment—they are the buzzwords of a deep and painful recession. But they do not have to be the defining words. Instead, we can turn to the innovation that has always been our answer in difficult times. During the Fourth of July celebration of 1915, Nevada pioneer judge C.C. Goodwin made this observation about Nevada's founders: "They found some obstacles in their way, which it seemed impossible to surmount. But they surmounted them. They found some problems that it seemed impossible to solve. But they solved them."

I look forward to working with all of you to solve what seem like impossible problems of today and to overcome the obstacles which seem insurmountable. I am going to leave you with a challenge. Just as the pioneers throughout Nevada's history turned adversity into opportunity, let's see this day of hardship and difficulty as the greatest opportunity of all. We can all agree on the importance of coming together—Republicans, Democrats, Independents alike—for the future of this state and blazing a new trail forward. Nevadans deserve nothing less.

Thank you. God bless you. God bless our state and our country. Thank you.

Senator Copening moved that the Senate and Assembly in Joint Session extend a vote of thanks to Senator Ensign for his timely, able, and constructive message.

Seconded by Assemblywoman Parnell.

Motion carried unanimously.

The Committee on Escort escorted Senator Ensign to the Bar of the Assembly.

Senator Cegavske moved that the Joint Session be dissolved.
Seconded by Assemblyman Cobb.
Motion carried.

Joint Session dissolved at 12:30 p.m.

ASSEMBLY IN SESSION

At 12:40 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman McClain moved that Assembly Bill No. 267 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 46.
Bill read second time.
The following amendment was proposed by the Committee on Judiciary:
Amendment No. 213.

AN ACT relating to firearms; requiring a court to transmit certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; establishing procedures for those persons to petition a court to regain certain rights relating to the purchase or possession of a firearm; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law requires states to transmit to the National Instant Criminal Background Check System records of adjudication of mental illness or incompetence, involuntary admission to mental health facilities and other records which indicate a person is prohibited from purchasing a firearm. Federal law also requires states to implement a program by which a person who was previously adjudicated mentally ill or involuntarily committed can apply to have his right to possess a firearm restored and ties this requirement to certain federal funding for states under the NICS Improvement Amendments Act of 2007. (Public Law 110-180) Nevada law prohibits a person from owning or possessing a firearm if he has been adjudicated as mentally ill or has been committed to any mental health facility. (NRS 202.360)

Sections 1-4 ~~[, 11]~~ and 13 of this bill require a court to transmit to the Central Repository for Nevada Records of Criminal History a record of any court order, judgment, plea or verdict concerning the involuntary admission of a person to a mental health facility, the appointment of a guardian for a person who has a mental defect, a finding that a person is incompetent to

stand trial, a verdict acquitting a person by reason of insanity or a plea of guilty but mentally ill, along with a statement that the record is being transmitted for inclusion in all appropriate databases of the National Instant Criminal Background Check System. (NRS 159.055, 174.035, 175.533, 175.539, 178.425, 433A.310)

Section 7 of this bill requires the Central Repository to take reasonable steps to ensure that the records transmitted to it by the court are included in each appropriate database of the National Instant Criminal Background Check System. In accordance with federal law, this section also provides a procedure for a person who is the subject of such a record to petition a court to have the record removed from the National Instant Criminal Background Check System and to have his right to possess or purchase a firearm restored.

Section 8 of this bill provides that the records transmitted by the court to the Central Repository are confidential, may not be used for any purpose other than for inclusion in each appropriate database of the National Instant Criminal Background Check System, and no cause of action **for damages** may be brought for transmission, failure to transmit, delay in transmitting or inaccuracies within such records.

Section 8.5 of this bill authorizes a person who is or believes he is the subject of a record of mental health held by the Central Repository to inspect and correct such records. This section, which is modeled after NRS 179A.150, also requires the Central Repository and the Director of the Department of Public Safety to adopt certain regulations relating to the inspection and correction of such records.

Section ~~[10]~~ 11.5 of this bill **~~[amends existing law to authorize]~~ requires** a court **, when appointing a general guardian,** to **~~[find that]~~ determine whether** a proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to federal law. **~~[(NRS 159.044, 159.055)]~~**

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

Section 1. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill.

2. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty or guilty but mentally ill is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty, guilty but mentally ill or nolo contendere, reserving in writing the right, on appeal from the judgment, to a

review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing his mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish by a preponderance of the evidence that:

(a) Due to a disease or defect of the mind, he was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, he either did not:

(1) Know or understand the nature and capacity of his act; or

(2) Appreciate that his conduct was wrong, meaning not authorized by law.

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty or guilty but mentally ill or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

7. A defendant may not enter a plea of guilty or guilty but mentally ill pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

➥ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. ***If the court accepts a plea of guilty but mentally ill pursuant to this section, the court shall cause*** ***, on a form prescribed by the Department of Public Safety,*** ***a record of that plea to be transmitted to the Central Repository for Nevada Records of Criminal History along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

9. As used in this section ~~[, a "disease]~~ ***:***

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 2. NRS 175.533 is hereby amended to read as follows:

175.533 1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, he was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. ***If the trier of fact finds a defendant guilty but mentally ill pursuant to subsection 1, the court shall cause , on a form prescribed by the Department of Public Safety, a record of the finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

4. As used in this section ~~[, a "disease]~~ ***:***

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 3. NRS 175.539 is hereby amended to read as follows:

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and he is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if he were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport him to a forensic facility for detention pending a hearing to determine his mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a person with mental illness, the court must order his discharge; or

(b) That there is clear and convincing evidence that the person is a person with mental illness, the court must order that he be committed to the custody of the Administrator of the Division of Mental Health and Developmental

Services of the Department of Health and Human Services until he is discharged or conditionally released therefrom in accordance with NRS 178.467 to 178.471, inclusive.

➥ The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the reports and the court shall proceed in the manner provided in NRS 178.467 to 178.471, inclusive.

4. ***If the court accepts a verdict acquitting a defendant by reason of insanity pursuant to this section, the court shall cause , on a form prescribed by the Department of Public Safety, a record of that verdict to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

5. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for offenders and defendants with mental disorders. The term includes, without limitation, Lakes Crossing Center.

(c) ***"National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.***

(d) "Person with mental illness" has the meaning ascribed to it in NRS 178.3986.

Sec. 4. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and that he is dangerous to himself or to society and that commitment is required for a determination of his ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or his designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or his designee as an outpatient for treatment, if it might be beneficial, and for a determination of his ability to receive treatment to competency and to attain competence. The court may require the defendant

to give bail for his periodic appearances before the Administrator or his designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or his designee or, if the defendant is charged with a misdemeanor, the judge finds him capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

6. If a defendant is found incompetent pursuant to this section, the court shall cause , on a form prescribed by the Department of Public Safety, a record of that finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

7. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 5. Chapter 179A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 ~~[, 7 and 8]~~ to 8.5, inclusive, of this act.

Sec. 6. ***"National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.***

Sec. 7. ***1. Upon receiving a record transmitted pursuant to NRS ~~[159.055,]~~ 174.035, 175.533, 175.539, 178.425 or 433A.310 ~~[,]~~ or section 11.5 of this act, the Central Repository shall take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Instant Criminal Background Check System.***

2. ~~[If]~~ Except as otherwise provided in subsection 3, if the Central Repository receives a record described in subsection 1, the person who is the subject of the record may petition the court for an order declaring that:

(a) The basis for the adjudication reported in the record no longer exists;

(b) The adjudication reported in the record is deemed not to have occurred for purposes of 18 U.S.C. § 922(d)(4) and (g)(4) and NRS 202.360; and

(c) The information reported in the record must be removed from the National Instant Criminal Background Check System.

3. To the extent authorized by federal law, if the record concerning the petitioner was transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310, the petitioner may not file a petition pursuant to subsection 2 until 5 years after the date of the order transmitting the record to the Central Repository.

4. A petition filed pursuant to subsection 2 must be:

(a) Filed in the court which made the adjudication or finding pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; and

(b) Served upon the district attorney for the county in which the court described in paragraph (a) is located.

5. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the petitioner has established that:

(a) The basis for the adjudication or finding made pursuant to NRS [159.055,] 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act concerning the petitioner no longer exists;

(b) The petitioner's record and reputation indicate that the petitioner is not likely to act in a manner dangerous to public safety; and

(c) Granting the relief requested by the petitioner pursuant to subsection 2 is not contrary to the public interest.

[4.] 6. Except as otherwise provided in this subsection, the petitioner must establish the provisions of subsection [3] 5 by a preponderance of the evidence. If the adjudication or finding concerning the petitioner was made pursuant to NRS [159.055 or] 433A.310 [,] or section 11.5 of this act, the petitioner must establish the provisions of subsection [3] 5 by clear and convincing evidence.

[5.] 7. The court, upon entering an order pursuant to this section, shall cause , on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository.

[6. Upon] *8. Within 5 business days after receiving a record of an order transmitted pursuant to subsection [5,] 7, the Central Repository shall take reasonable steps to ensure that information concerning the adjudication or finding made pursuant to NRS [159.055,] 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act is removed from the National Instant Criminal Background Check System.*

9. If the Central Repository fails to remove a record as provided in subsection 8, the petitioner may bring an action to compel the removal of the record. If the petitioner prevails in the action, the court may award the petitioner reasonable attorney's fees and costs incurred in bringing the action.

10. If a petition brought pursuant to subsection 2 is denied, the person who is the subject of the record may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.

Sec. 8. *1. Any record described in section 7 of this act is confidential and is not a public book or record within the meaning of NRS 239.010. A*

person may not use the record for any purpose other than for inclusion in the appropriate database of the National Instant Criminal Background Check System.

2. If a person or governmental entity is required to transmit, report or take any other action concerning a record pursuant to NRS [159.055,] 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 7 or 11.5 of this act, no [cause of] action for damages may be brought against the person or governmental entity for:

(a) Transmitting or reporting the record or taking any other required action concerning the record;

(b) Failing to transmit or report the record or failing to take any other required action concerning the record;

(c) Delaying the transmission or reporting of the record or delaying in taking any other required action concerning the record; or

(d) Transmitting or reporting an inaccurate or incomplete version of the record or taking any other required action concerning an inaccurate or incomplete version of the record.

Sec. 8.5. 1. The Central Repository shall permit a person who is or believes he may be the subject of information relating to records of mental health held by the Central Repository to inspect and correct any information contained in such records.

2. The Central Repository shall adopt regulations and make available necessary forms to permit inspection, review and correction of information relating to records of mental health by those persons who are the subjects thereof. The regulations must specify:

(a) The requirements for proper identification of the persons seeking access to the records; and

(b) The reasonable charges or fees, if any, for inspecting records.

3. The Director of the Department shall adopt regulations governing:

(a) All challenges to the accuracy or sufficiency of information or records of mental health by the person who is the subject of the allegedly inaccurate or insufficient record;

(b) The correction of any information relating to records of mental health found by the Director to be inaccurate, insufficient or incomplete in any material respect;

(c) The dissemination of corrected information to those persons or agencies which have previously received inaccurate or incomplete information; and

(d) A reasonable time limit within which inaccurate or insufficient information relating to records of mental health must be corrected and the corrected information disseminated.

4. As used in this section, "information relating to records of mental health" means information contained in a record:

(a) Transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; or

(b) Transmitted to the National Instant Criminal Background Check System pursuant to section 7 of this act.

Sec. 9. NRS 179A.010 is hereby amended to read as follows:

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, ***and section 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. ~~[NRS 159.044 is hereby amended to read as follows:~~

~~159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.~~

~~2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:~~

~~(a) The name and address of the petitioner.~~

~~(b) The name, date of birth and current address of the proposed ward.~~

~~(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:~~

~~(1) A social security number;~~

~~(2) A taxpayer identification number;~~

~~(3) A valid driver's license number;~~

~~(4) A valid identification card number; or~~

~~(5) A valid passport number.~~

~~(If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.~~

~~(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:~~

~~(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and~~

~~(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.~~

~~(e) Whether the proposed ward is a resident or nonresident of this State.~~

~~(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.~~

~~(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private~~

~~professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.~~

~~(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:~~

~~(1) A social security number;~~

~~(2) A taxpayer identification number;~~

~~(3) A valid driver's license number;~~

~~(4) A valid identification card number; or~~

~~(5) A valid passport number.~~

~~(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.~~

~~(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:~~

~~(1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;~~

~~(2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or~~

~~(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.~~

~~(k) Whether the appointment of a general or a special guardian is sought.~~

~~(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.~~

~~(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.~~

~~(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.~~

~~(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.~~

~~(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare~~

~~services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.~~

~~(q) Whether the proposed ward is a party to any pending criminal or civil litigation.~~

~~(r) Whether the guardianship is sought for the purpose of initiating litigation.~~

~~(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.~~

~~3. The petition may include a request that the court determine whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4).~~

~~4. As used in this section, "person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, incompetence, condition or disease, is:~~

~~(a) A danger to himself or others; or~~

~~(b) Lacks the capacity to contract or manage his own affairs.]~~ **(Deleted by amendment.)**

Sec. 11. ~~[NRS 159.055 is hereby amended to read as follows:~~

~~159.055 1. The petitioner has the burden of proving by clear and convincing evidence that the appointment of a guardian of the person, of the estate, or of the person and estate is necessary.~~

~~2. If it appears to the court that the allegations of the petition are sufficient and that a guardian should be appointed for the proposed ward, the court shall enter an order appointing a guardian. The order must:~~

~~(a) Specify whether the guardian appointed is guardian of the person, of the estate, of the person and estate or a special guardian;~~

~~(b) Specify whether the ward is a resident or nonresident of this State;~~

~~(c) Specify the amount of the bond to be executed and filed by the guardian; and~~

~~(d) Designate the names and addresses, so far as may be determined, of:~~

~~(1) The relatives of the proposed ward upon whom notice must be served pursuant to NRS 159.047; and~~

~~(2) Any other interested person.~~

~~3. A notice of entry of the court order must be sent to:~~

~~(a) The relatives of the proposed ward upon whom notice must be served pursuant to NRS 159.047; and~~

~~(b) Any other interested person.~~

~~4. If requested pursuant to subsection 3 of NRS 159.044, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing~~

~~a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this subsection that the proposed ward is a person with a mental defect, the court shall cause an order described in this section to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.~~

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

~~(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.~~

~~(b) "Person with a mental defect" has the meaning ascribed to it in NRS 159.044.]~~ **(Deleted by amendment.)**

Sec. 11.5. **Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

2. As used in this section:

(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

(b) "Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, incompetence, condition or disease, is:

(1) A danger to himself or others; or

(2) Lacks the capacity to contract or manage his own affairs.

Sec. 12. NRS 202.362 is hereby amended to read as follows:

202.362 1. Except as otherwise provided in subsection 3, a person within this State shall not sell or otherwise dispose of any firearm or ammunition to another person if he has actual knowledge that the other person:

(a) Is under indictment for, or has been convicted of, a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless he has received a pardon and the pardon does not restrict his right to bear arms;

(b) Is a fugitive from justice;

(c) Has been adjudicated as mentally ill or has been committed to any mental health facility; or

(d) Is illegally or unlawfully in the United States.

2. A person who violates the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

3. This section does not apply to a person who sells or disposes of any firearm or ammunition to:

(a) A licensed importer, licensed manufacturer, licensed dealer or licensed collector who, pursuant to 18 U.S.C. § 925(b), is not precluded from dealing in firearms or ammunition; or

(b) A person who has been granted relief from the disabilities imposed by federal laws pursuant to 18 U.S.C. § 925(c) ~~[.]~~ ***or section 7 of this act.***

Sec. 13. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person to a public or private mental health facility:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or others if allowed his liberty, the court may order the involuntary admission of the person for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division or any mental health facility that is not operated by the Division may petition to renew the detention of the person for additional periods not to exceed 6 months each. For each renewal, the petition must set forth to the court specific reasons why further treatment would be in the person's own best interests.

3. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in

the field of psychiatric mental health, which the court believes may be in the best interests of the person.

4. If the court issues an order involuntarily admitting a person to a public or private mental health facility pursuant to this section, the court shall , notwithstanding the provisions of NRS 433A.715, cause , on a form prescribed by the Department of Public Safety, a ~~[copy]~~ record of such order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

5. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 15. This act becomes effective on January 1, 2010.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 48.

Bill read second time.

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

Amendment No. 125.

AN ACT relating to public works; allowing a public body to resolve a dispute arising between the public body and the contractor engaged on a public work by way of ~~[processes other than arbitration;]~~ **methods of alternate dispute resolution;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a contract for a public work must include a provision that requires arbitration of a dispute between the public body and the contractor engaged on the public work. (NRS 338.150) This bill ~~[makes the inclusion of such a]~~ **revises the requirement of that** provision ~~[discretionary, thus allowing]~~ **to allow** the public body and the contractor to resolve a dispute relating to the contract for the public work by way of ~~[processes other than arbitration.]~~ **methods of alternate dispute resolution.**

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

Section 1. NRS 338.150 is hereby amended to read as follows:

338.150 1. ~~[Except as otherwise provided in subsection 3, any]~~ ***A*** public body charged with the drafting of specifications for a public work shall ~~*[may]*~~ include in the specifications a clause requiring ~~[arbitration of]~~ ***the use of a method of alternate dispute resolution before initiation of a***

judicial action if a dispute arising between the public body and the contractor engaged on a public work ~~[if the dispute]~~ cannot otherwise be settled.

2. ~~[Any dispute requiring arbitration must be handled in accordance with the construction industry's rules for arbitration as administered by the American Arbitration Association or the Nevada Arbitration Association.~~

~~3.]~~ The provisions of subsection 1 do not require the Department of Transportation to include such a clause in any contract entered into by the Department.

~~[~~ ~~4. This section does not prohibit the use of~~] ~~*[If a clause requiring arbitration of a dispute arising between a public body and a contractor is included in the specifications for a public work as allowed pursuant to subsection 1, the public body and the contractor are not prohibited from using*~~ alternate dispute resolution methods before arbitration.~~]~~

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 80.

Bill read second time.

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

Amendment No. 330.

AN ACT relating to excavations; setting forth the duties of an operator of a sewer main with respect to a sewer service lateral connected to that sewer main; revising provisions relating to the operators of subsurface installations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill sets forth the duties and rights of an operator of a sewer main with respect to a sewer service lateral connected to that sewer main when he is notified of a proposed excavation or demolition by an association for operators. **Section 4** also authorizes an operator of a sewer main, which may be a local government, to require the person responsible for the excavation or demolition to reimburse any costs incurred by the operator to locate and identify the connection. ~~[in an amount not exceeding $200 for each connection.~~

~~Section 5 of this bill requires a person conducting an excavation or demolition to provide certain information to the operator of a sewer main upon the location and identification of a connection of a sewer service lateral to the sewer main.]~~

Section 6 of this bill requires the operator of a sewer main to maintain certain information relating to the locations of connections of sewer service laterals to the sewer main.

Section 7 of this bill establishes limitations on the duties and responsibilities of an operator of a sewer main with respect to a connection of a sewer service lateral to the sewer main.

Section 12 of this bill sets forth the duties of a person who connects a sewer service lateral to a sewer main. (NRS 455.131)

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

Section 1. Chapter 455 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***"Sewer main" means a sewer line with a diameter that exceeds 6 inches.***

Sec. 3. ***"Sewer service lateral" means a pipe or conduit that connects a building or other property to a sewer main.***

Sec. 4. ~~*[1.]*~~ ***If an operator of a sewer main receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110:***

~~*[(a) For a sewer service lateral that was connected to the sewer main before October 1, 2009:*~~

~~*(1) For a proposed excavation or demolition which will be conducted by trenching, the operator of the sewer main shall make available to the person responsible for the excavation or demolition, for the purposes of inspection and making copies, documents in the possession of the operator showing the location of the connection of the sewer service lateral to the sewer main, including, without limitation, maps, drawings and diagrams. If the operator possesses no such documents, the operator shall provide the person responsible for the excavation or demolition with written notice that the operator does not have any such documents in his possession. If the operator complies with the provisions of this subparagraph, the operator shall not have any other duty or requirement with respect to locating or identifying the connection of the sewer service lateral to the sewer main.*~~

~~*(2)]*~~ ***1. For a proposed excavation or demolition*** ~~*[which will be conducted by a method not involving trenching,]*~~ ***the operator of the sewer main shall provide the person responsible for the excavation or demolition with the operator's best available information regarding the location of the connection of the sewer service lateral to the sewer main. The operator shall convey the information to the person responsible for the excavation or demolition in such manner as is determined by the operator which may include any one or more of the following methods, without limitation:***

~~*[(I)]*~~ ***(a) Identification of the location of the connection of the sewer service lateral to the sewer main;***

~~*[(II)]*~~ ***(b) Providing copies of documents relating to the location of the sewer service lateral within*** ~~*[a reasonable period of time;]*~~ ***2 working days; or***

~~[(III) Arranging to meet the person responsible for the excavation or demolition at the site of the proposed excavation or demolition to provide the best available information regarding the location of the connection of the sewer service lateral to the sewer main; or~~

~~(IV)]~~ ***(c) Placement of a triangular green marking along the sewer main*** ~~[.]~~ ***or the edge of the public right-of-way, pointing toward the real property serviced by the sewer service lateral to indicate that the location of the sewer service lateral is unknown.***

~~[(b) For a sewer service lateral that was connected to the sewer main on or after October 1, 2009, the operator of the sewer main shall locate and identify the sewer service lateral that is affected by the proposed excavation or demolition. The information to be provided pursuant to this paragraph by the operator to the person responsible for the excavation or demolition includes, without limitation, the locations at which the sewer service lateral:~~

~~(1) Is connected to the sewer main; and~~

~~(2) Exits the real property on which the sewer main is installed.]~~

2. ~~[The operator of the sewer main and the person who contacted the association for operators shall mutually agree to a reasonable amount of time within which the operator shall comply with subsection 1.]~~ ***The operator of a sewer main shall make its best efforts to comply with paragraph (a) or (c) of subsection 1 within 2 working days. If an operator of a sewer main cannot complete the requirements of paragraph (a) or (c) of subsection 1 within 2 working days, then the operator and the person responsible for the excavation or demolition must mutually agree upon a reasonable amount of time within which the operator must comply.***

3. ~~[If an operator of a sewer main locates and identifies the connection of a sewer service lateral to the sewer main pursuant to subparagraph (2) of paragraph (a) of subsection 1, the operator may require the person who is responsible for the excavation or demolition to reimburse the operator for the costs incurred by the operator to locate and identify the connection in an amount that is not more than $200 for each connection which is so located and identified.]~~ ***A government, governmental agency or political subdivision of a government that operates a sewer main may charge a person responsible for excavation or demolition in a public right-of-way for complying with this section in an amount that does not exceed the actual costs for the operator for compliance with this section. Costs assessed pursuant to this subsection are not subject to the provisions of NRS 354.59881 to 354.59889, inclusive.***

4. If the operator of a sewer main has received the information required pursuant to NRS 455.131 or has otherwise identified the location of the sewer service lateral in the public right-of-way, then the operator of the sewer main shall be responsible thereafter to identify the location of the sewer service lateral from that information.

Sec. 5. ~~[***A person conducting an excavation or demolition who locates and identifies the location of a connection of a sewer service lateral to a***~~

~~*sewer main shall provide the operator of the sewer main with written information describing the location of the connection, including, without limitation, global positioning system coordinates which:*~~

~~*1. Are either identified by latitude and longitude using decimal degrees or are identified using coordinates of the Universal Transverse Mercator system; and*~~

~~*2. Specify for each coordinate whether the North American Datum of 1927, North American Datum of 1983 or the World Geodetic System 1984 was used.]*~~ **(Deleted by amendment.)**

Sec. 6. ***An operator of a sewer main shall maintain all information relating to the locations of connections of sewer service laterals to the sewer main:***

1. Developed by the operator pursuant to section 4 of this act; or

2. Provided to the operator pursuant to ~~*[:*~~

~~*(a) Subsection]*~~ ***subsection 2 of NRS 455.131*** ~~*[; or*~~

~~*(b) Section 5 of this act.]*~~

Sec. 7. ~~*[1. Except as otherwise provided by law or in sections 4 and 6 of this act, an operator of a sewer main shall not have pursuant to this chapter any duty with respect to a connection of a sewer service lateral to the sewer main if the operator of the sewer main is not the operator of the sewer service lateral.*~~

~~*2.]*~~ ***An operator of a sewer main who is not otherwise required by law to be responsible for the maintenance, operation, ownership or repair*** ~~*[of a connection]*~~ ***of a sewer service lateral that connects to the sewer main does not assume any further duty with respect to a sewer service lateral pursuant to this chapter nor become responsible for the maintenance, operation, ownership or repair*** ~~*[of the connection]*~~ ***of the sewer service lateral that connects to the sewer main solely because the operator complied with the provisions of NRS 455.080 to 455.180, inclusive, and sections 2 to 7, inclusive, of this act.***

Sec. 8. NRS 455.080 is hereby amended to read as follows:

455.080 As used in NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 455.082 to 455.105, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 455.092 is hereby amended to read as follows:

455.092 "Excavation" means the movement or removal of earth, rock or other material in or on the ground by use of mechanical equipment or by the placement and discharge of explosives. The term includes augering, backfilling, ***boring,*** digging, ditching, drilling, grading, plowing-in, ripping, scraping, trenching and tunneling.

Sec. 10. NRS 455.107 is hereby amended to read as follows:

455.107 1. Except as otherwise provided in subsection 2, possession of a permit to conduct an excavation or demolition does not exempt a person

from complying with the provisions of NRS 455.080 to 455.180, inclusive ~~[.]~~ ***, and sections 2 to 7, inclusive, of this act.***

2. A person is exempt from complying with the provisions of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act,*** if he obtains the written consent of all operators involved in the proposed excavation or demolition before he receives a permit to conduct the excavation or demolition.

Sec. 11. NRS 455.130 is hereby amended to read as follows:

455.130 1. Except in an emergency or as otherwise provided in subsection 2 ~~[,]~~ ***or section 4 of this act,*** if an operator receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110, the operator shall:

(a) Locate and identify the subsurface installations and, if known, the number of subsurface installations that are affected by the proposed excavation or demolition to the extent and to the degree of accuracy that the information is available in the records of the operator or can be determined by using techniques of location that are commonly used in the industry, except excavating, within 2 working days or within a time mutually agreed upon by the operator and the person who is responsible for the excavation or demolition;

(b) Remove or protect a subsurface installation as soon as practicable if the operator decides it should be removed or protected; and

(c) Advise the person who contacted the association for operators of the location of the subsurface installations of the operator that are affected by the proposed excavation or demolition.

2. The operator shall notify the person who contacted the association for operators if the operator has no subsurface installations that are affected by the proposed excavation or demolition.

Sec. 12. NRS 455.131 is hereby amended to read as follows:

455.131 1. ~~[An]~~ ***Except as otherwise provided in subsection 2, an*** operator shall, for each subsurface installation that is installed on or after October 1, 2005, which cannot be detected from or above the surface of the ground by means of either the material used in constructing the subsurface installation or a conductor within the subsurface installation, install a permanent device which designates or provides a means of detecting a subsurface installation through the use of a noninvasive method from or above the surface of the ground. Such a device includes, without limitation, a tracer wire or a marker.

2. ***A person who connects a sewer service lateral to a sewer main*** ~~*[on or after October 1, 2009,]*~~ ***shall, at the option of the operator of the sewer main:***

(a) Install a permanent device as described in subsection 1 of a type designated by the operator of the sewer main ~~*[; or]*~~ ***at the connection of the sewer service lateral to the sewer main and where the sewer service lateral***

exits the public right-of-way and promptly provide the operator of the sewer main with the location of such permanent devices;

(b) ~~[Provide]~~ Promptly provide the operator of the sewer main with the location of the connection of the sewer service lateral to the sewer main and where the sewer service lateral exits the public right-of-way as described by global positioning system coordinates which:

(1) Are either identified by latitude and longitude using decimal degrees or are identified using coordinates of the Universal Transverse Mercator system; and

(2) Specify for each coordinate whether the North American Datum of 1927, North American Datum of 1983 or the World Geodetic System 1984 was used ~~[.]~~ ; or

(c) Provide to the operator of the sewer main notification of when the sewer service lateral is exposed so that the operator of the sewer main can identify the location of the sewer service lateral.

3. As used in this section:

(a) "Above ground marker" is a marker which is installed flush with the surface of the ground or which protrudes above the surface of the ground above a subsurface installation and includes information concerning the subsurface installation.

(b) "Electronic marker" is a marker which is buried at various depths below or near the surface of the ground above a subsurface installation and which contains a passive antenna that:

(1) Can be identified with detection equipment; and

(2) Does not require an internal power source.

(c) "Marker" is a device that physically designates the location of a subsurface installation at intermittent locations along or above the subsurface installation and includes, without limitation, an above ground marker or electronic marker.

(d) "Tracer wire" is a locating wire which is installed in conjunction with a subsurface installation and is connected to a transmitter that carries a signal which is read by a receiver above the surface of the ground for the detection of the location of the subsurface installation.

Sec. 13. NRS 455.150 is hereby amended to read as follows:

455.150 Any person who substantially complies with the provisions of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act*** is not liable for the cost of repairing any damage to a subsurface installation which results from his excavation or demolition.

Sec. 14. NRS 455.170 is hereby amended to read as follows:

455.170 1. An action for the enforcement of a civil penalty pursuant to this section may be brought before the Public Utilities Commission of Nevada by the Attorney General, a district attorney, a city attorney, the Regulatory Operations Staff of the Public Utilities Commission of Nevada, the governmental agency that issued the permit to conduct an excavation or demolition, an operator or a person conducting an excavation or demolition.

2. Any person who willfully or repeatedly violates a provision of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act*** is liable for a civil penalty:

(a) Not to exceed $1,000 per day for each violation; and

(b) Not to exceed $100,000 for any related series of violations within a calendar year.

3. Any person who negligently violates any such provision is liable for a civil penalty:

(a) Not to exceed $200 per day for each violation; and

(b) Not to exceed $1,000 for any related series of violations within a calendar year.

4. The amount of any civil penalty imposed pursuant to this section and the propriety of any settlement or compromise concerning a penalty must be determined by the Public Utilities Commission of Nevada upon receipt of a complaint by the Attorney General, the Regulatory Operations Staff of the Public Utilities Commission of Nevada, a district attorney, a city attorney, the agency that issued the permit to excavate or the operator or the person responsible for the excavation or demolition.

5. In determining the amount of the penalty or the amount agreed upon in a settlement or compromise, the Public Utilities Commission of Nevada shall consider:

(a) The gravity of the violation;

(b) The good faith of the person charged with the violation in attempting to comply with the provisions of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act*** before and after notification of a violation; and

(c) Any history of previous violations of those provisions by the person charged with the violation.

6. A civil penalty recovered pursuant to this section must first be paid to reimburse the person who initiated the action for any cost incurred in prosecuting the matter.

7. Any person aggrieved by a determination of the Public Utilities Commission of Nevada pursuant to this section may seek judicial review of the determination in the manner provided by NRS 703.373.

Sec. 15. NRS 455.180 is hereby amended to read as follows:

455.180 The provisions of NRS 455.080 to 455.170, inclusive, ***and sections 2 to 7, inclusive, of this act*** do not affect any civil remedies provided by law for personal injury or property damage and do not create a new civil remedy for any personal injury or property damage.

Sec. 16. **1. On or before December 31, 2010, each operator of a sewer main shall submit a report to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature which provides:**

(a) The number of sewer service lateral connections that the operator of the sewer main has identified between October 1, 2009, and September 30, 2010;

(b) The method that the operator of the sewer main used to locate such sewer service lateral connections; and

(c) The costs accrued by the operator of the sewer main to locate such sewer service lateral connections.

2. As used in this section:

(a) "Operator" has the meaning ascribed to it in NRS 455.096.

(b) "Sewer main" has the meaning ascribed to it in section 2 of this act.

(c) "Sewer service lateral" has the meaning ascribed to it in section 3 of this act.

Sec. 17. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 102.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 256.

AN ACT relating to public health; authorizing a court to establish a program of treatment for problem gambling and to assign a person to the program; authorizing a problem gambler to elect to be assigned to such a program under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court to assign a person who commits certain crimes to an appropriate program of treatment for the abuse of alcohol or drugs established by the court or to an appropriate facility for the treatment of abuse of alcohol or drugs which is certified by the Health Division of the Department of Health and Human Services. (NRS 453.580) **Section 6** of this bill authorizes a court to establish a program for the treatment of problem gambling. Existing law creates the Advisory Committee on Problem Gambling and provides a grant of money or a contract for services to certain programs for the prevention and treatment of problem gambling. (Chapter 458A of NRS) **Sections 7-12** of this bill provide that a problem gambler who has been convicted of certain crimes is eligible to be assigned by a court to a program of treatment and provide eligibility requirements and conditions that must be completed for such treatment.

Existing law allows a court to seal the records related to a dismissal or acquittal of criminal charges. (NRS 179.255) Section 14 of this bill allows a court to seal records relating to the setting aside of a conviction if the

person satisfactorily completed a program for treatment of problem gambling and satisfied the conditions upon the election of that treatment. The sealing of these records is subject to the same procedures, and has the same effect, as the sealing of records related to a dismissal or acquittal of criminal charges. (NRS 179.255, 179.265-179.301)

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

Section 1. Chapter 458A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ~~[*"Certified counselor" has the meaning ascribed to it in NRS 641C.050.*]~~ **(Deleted by amendment.)**

Sec. 3. ~~[*"Certified intern" has the meaning ascribed to it in NRS 641C.060.*]~~ **(Deleted by amendment.)**

Sec. 4. ***"Problem gambler" means a person who suffers from problem gambling.***

Sec. 5. ***"Problem gambling" has the meaning ascribed to it in NRS 641C.110.***

Sec. 5.5. 1. "Qualified mental health professional" means any of the following persons:

(a) A person who is certified as a problem gambling counselor pursuant to the provisions of chapter 641C of NRS.

(b) A person who is certified as a problem gambling counselor intern pursuant to the provisions of chapter 641C of NRS.

(c) A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS.

(d) A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling problem gamblers.

(e) A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS.

(f) A clinical professional counselor or clinical professional counselor intern who is licensed pursuant to chapter 641A of NRS.

(g) A marriage and family therapist or marriage and family therapist intern who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors to engage in the practice of counseling problem gamblers.

(h) A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling problem gamblers.

2. As used in this section, "practice of counseling problem gamblers" has the meaning ascribed to it in NRS 641C.105.

Sec. 6. ***1. A court may establish a program for the treatment of problem gambling to which it may assign a person pursuant to section 7 of this act. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the person is making satisfactory progress toward completion of the program.***

2. A program established pursuant to this section must be administered by a ~~[certified counselor or certified intern]~~ qualified mental health professional and must include, without limitation:

(a) Information and encouragement for the participant to cease problem gambling through educational, counseling and support sessions;

(b) The opportunity for the participant to understand the medical, psychological, social and financial implications of problem gambling; and

(c) Appropriate referral to community, health, substance abuse, religious and social service agencies for additional resources and related services, as needed.

3. Before the court assigns a person to a program for the treatment of problem gambling, the person must agree to pay the cost of the program to which he is assigned, to the extent of his financial resources. If the person does not have the financial resources to pay all the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

Sec. 7. ***Subject to the provisions of sections 2 to 12, inclusive, of this act, a problem gambler who has been convicted of a crime is eligible to elect to be assigned by the court to a program for the treatment of problem gambling before he is sentenced unless:***

1. The crime is:

(a) A crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS;

(b) A crime against a child as defined in NRS 179D.0357;

(c) A sexual offense as defined in NRS 179D.097; or

(d) An act which constitutes domestic violence as set forth in NRS 33.018;

2. The problem gambler has a record of two or more convictions of a crime described in subsection 1 or a similar crime in violation of the laws of another state, or of three or more convictions of any felony;

3. Other criminal proceedings alleging commission of a felony are pending against the problem gambler; or

4. The problem gambler is on probation or parole ~~[and]~~ , except that the problem gambler is eligible to make the election if the appropriate probation or parole authority ~~[does not consent]~~ consents to the election ~~[.]~~ or the court finds that the problem gambler is eligible to make the election after considering any objections made by the appropriate probation or parole authority.

Sec. 8. ***1. If the court has reason to believe that a person who has been convicted of a crime is a problem gambler*** ~~***[, or the person states that he is a problem gambler,]***~~ ***and the court finds that he is eligible to make the election as provided in section 7 of this act, the court shall hold a hearing before it sentences the person to determine whether or not he should receive treatment under the supervision of a*** ~~***[certified counselor or certified intern.]***~~ ***qualified mental health professional. The district attorney may present the court with any evidence concerning the advisability of permitting the person to make the election.***

2. At the hearing, the court shall advise the person that sentencing will be postponed if he elects to submit to treatment and is accepted into a program for the treatment of problem gambling. In offering the election, the court shall advise him that:

(a) The court may impose any conditions upon the election of treatment that could be imposed as conditions of probation;

(b) If he elects to submit to treatment and is accepted, he may be placed under the supervision of the ~~***[certified counselor or certified intern]***~~ ***qualified mental health professional for a period of not less than 1 year and not more than 3 years;***

(c) During treatment, he may be confined in an institution or, at the discretion of the ~~***[certified counselor or certified intern,]***~~ ***qualified mental health professional, released for treatment or supervised care in the community;*** ~~***[and]***~~

(d) If he satisfactorily completes treatment and satisfies the conditions upon the election of treatment, as determined by the court, the conviction will be set aside, but if he does not satisfactorily complete treatment and satisfy the conditions, he may be sentenced and the sentence executed ~~***[.]***~~ ***; and***

(e) If his conviction is set aside pursuant to section 10 of this act, he may, at any time after the conviction is set aside, file a petition pursuant to NRS 179.255 for the sealing of all records relating to the setting aside of the conviction.

Sec. 9. ***1. If the court, after a hearing, determines that a person is entitled to accept the treatment offered pursuant to section 7 of this act, the court shall order a*** ~~***[certified counselor or certified intern]***~~ ***qualified mental health professional to conduct an examination of the person to determine whether he is a problem gambler and is likely to be rehabilitated through treatment. The*** ~~***[certified counselor or certified intern]***~~ ***qualified mental health professional shall report to the court the results of the examination and recommend whether the person should be placed under supervision for treatment.***

2. If the court, acting on the report or other relevant information, determines that the person is not a problem gambler, is not likely to be rehabilitated through treatment or is otherwise not a good candidate for treatment, he may be sentenced and the sentence executed.

3. If the court determines that the person is a problem gambler, is likely to be rehabilitated through treatment and is a good candidate for treatment, the court may:

(a) Impose any conditions upon the election of treatment that may be imposed as conditions of probation;

(b) Defer sentencing until such time, if any, as sentencing is authorized pursuant to section 10 of this act; and

(c) Place the person under the supervision of a ~~[certified counselor or certified intern]~~ qualified mental health professional for not less than 1 year and not more than 3 years.

➥ The court may require such progress reports on the treatment of the person as it deems necessary.

4. A person who is placed under the supervision of a ~~[certified counselor or certified intern]~~ qualified mental health professional shall pay the cost of the program of treatment to which he is assigned and the cost of any additional supervision that may be required, to the extent of his financial resources. The court may issue a judgment in favor of the court or the ~~[certified counselor or certified intern]~~ qualified mental health professional for the costs of the treatment and supervision which remain unpaid at the conclusion of the treatment. The judgment constitutes a lien in like manner as a judgment for money rendered in a civil action, but in no event may the amount of the judgment include any amount of the debt which was extinguished by the successful completion of community service pursuant to subsection 5.

5. If the person who is placed under the supervision of a ~~[certified counselor or certified intern]~~ qualified mental health professional does not have the financial resources to pay all of the related costs:

(a) The court shall, to the extent practicable, arrange for the person to be assigned to a program that receives a sufficient amount of federal or state funding to offset the remainder of the costs; and

(b) The court may order the person to perform supervised community service in lieu of paying the remainder of the costs relating to his treatment and supervision. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of this State or a charitable organization that renders service to the community or its residents. The court may require the person to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which the person performs the community service, unless, if the insurance is industrial insurance, it is provided by the authority for which he performs the community service.

6. No person may be placed under the supervision of a ~~[certified counselor or certified intern]~~ qualified mental health professional pursuant

to this section unless the ~~[certified counselor or certified intern]~~ qualified mental health professional accepts him for treatment.

Sec. 10. ***1. Whenever a person is placed under the supervision of a ~~[certified counselor or certified intern,]~~ qualified mental health professional, his sentencing must be deferred and, except as otherwise provided in subsection 4, his conviction must be set aside if the ~~[certified counselor or certified intern]~~ qualified mental health professional certifies to the court that he has satisfactorily completed the program of treatment and the court approves the certification and determines that the conditions upon the election of treatment have been satisfied.***

2. If, upon the expiration of the treatment period, the ~~[certified counselor or certified intern]~~ qualified mental health professional has not certified that the person has completed his program of treatment, the court shall sentence him. If he has satisfied the conditions upon the election of treatment and the court believes that he will complete his treatment voluntarily, the court may set the conviction aside.

3. If, before the treatment period expires, the ~~[certified counselor or certified intern]~~ qualified mental health professional determines that the person is not likely to benefit from further treatment, the ~~[certified counselor or certified intern]~~ qualified mental health professional shall so advise the court. The court shall then:

(a) Arrange for the transfer of the person to a more suitable program, if any; or

(b) Terminate the supervision and conduct a hearing to determine whether the person should be sentenced.

➥ If a person is sentenced pursuant to this section, any time spent in institutional care must be deducted from any sentence imposed.

4. Regardless of whether the person successfully completes treatment, the court shall not set aside the conviction of a person who has a record of two or more convictions of any felony for two or more separate incidents.

Sec. 11. ***1. The determination of problem gambling and civil commitment pursuant to sections 2 to 12, inclusive, of this act shall not be deemed a criminal conviction.***

2. The records relating to the setting aside of a conviction pursuant to section 10 of this act may be sealed pursuant to NRS 179.255.

Sec. 12. ***The provisions of sections 2 to 12, inclusive, of this act do not require this State or any of its political subdivisions to establish or finance any program for the treatment of problem gambling.***

Sec. 13. NRS 458A.010 is hereby amended to read as follows:

458A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 458A.020 to 458A.050, inclusive, ***and sections 2 to ~~[5,]~~ 5.5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 14. **NRS 179.255 is hereby amended to read as follows:**

179.255 1. If a person has been arrested for alleged criminal conduct and the charges are dismissed or such person is acquitted of the charges, the person may petition:

(a) The court in which the charges were dismissed, at any time after the date the charges were dismissed; or

(b) The court in which the acquittal was entered, at any time after the date of the acquittal,

➥ for the sealing of all records relating to the arrest and the proceedings leading to the dismissal or acquittal.

2. ***If the conviction of a person is set aside pursuant to section 10 of this act, the person may petition the court that set aside the conviction, at any time after the conviction has been set aside, for the sealing of all records relating to the setting aside of the conviction.***

3. A petition filed pursuant to ~~[this section]~~ ***subsection 1 or 2*** must:

(a) Be accompanied by a current, verified record of the criminal history of the petitioner received from the local law enforcement agency of the city or county in which the petitioner appeared in court;

(b) Include a list of any other public or private agency, company, official and other custodian of records that is reasonably known to the petitioner to have possession of records of the arrest and of the proceedings leading to the dismissal or acquittal and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

~~[3.]~~ ***4.*** Upon receiving a petition pursuant to ~~[this section,]~~ ***subsection 1,*** the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the charges were dismissed or the acquittal was entered in a district court or ~~[Justice Court,]~~ ***justice court,*** the prosecuting attorney for the county; or

(b) If the charges were dismissed or the acquittal was entered in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

~~[4.]~~ ***5. Upon receiving a petition pursuant to subsection 2, the court shall notify:***

(a) If the conviction was set aside in a district court or justice court, the prosecuting attorney for the county; or

(b) If the conviction was set aside in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

6. If, after the hearing ***on a petition submitted pursuant to subsection 1***, the court finds that there has been an acquittal or that the charges were dismissed and there is no evidence that further action will be brought against

the person, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal or dismissal which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

7. If, after the hearing on a petition submitted pursuant to subsection 2, the court finds that the conviction of the petitioner was set aside pursuant to section 10 of this act, the court may order sealed all records relating to the setting aside of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 111.

Bill read second time.

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

Amendment No. 287.

AN ACT relating to public health; requiring a licensed facility for the dependent, medical facility or home for individual residential care to obtain an endorsement on the license if the facility or home offers housing for independent living; prohibiting certain residential facilities for groups and homes for individual residential care from providing accommodations to certain persons; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain facilities for the dependent, medical facilities and homes for individual residential care to obtain a license to operate such facilities and homes. (NRS 449.030) Existing law requires such a licensed facility or home that offers housing for independent living to post a notice indicating that the portion of the facility or home designated for independent living does not include the provision of personal care, supportive services or health-related services. (NRS 449.2487) **Sections 4 and 20** of this bill require such a facility or home to obtain an endorsement on its license on or before October 1, 2010, if the facility or home offers housing for independent living. **Section 7** of this bill requires the State Board of Health to adopt regulations governing the issuance and renewal of an endorsement, including fees. The regulations are subject to review by the Legislative Committee on Health Care. (NRS 439B.225) Existing law prescribes grounds for the denial, suspension or revocation of a license to operate a facility or home under chapter 449 of NRS and the disciplinary action and penalties that apply to a licensee for certain violations. (NRS 449.160, 449.163, 449.170, 449.210) **Sections 9-13** of this bill include the endorsement to offer housing for independent living within these provisions setting forth the grounds for

issuance and denial of an endorsement and the disciplinary action and penalties which apply.

Section 5 of this bill prohibits a residential facility for groups which is authorized to have 10 or fewer beds or a home for individual residential care from providing accommodations to a person who does not meet the requirements for admission unless that person is related to a resident ~~[or employee]~~ of the facility or home within the third degree of consanguinity.

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

Section 1. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, "licensing board" means any division or board empowered to adopt standards for ~~[licensing or registration or for the renewal of licenses or certificates]~~ ***the issuance or renewal of a license, an endorsement on a license or a certificate*** of registration pursuant to NRS 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641, 641A, 641B, 641C, 652 or 654 of NRS.

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for ~~[licensing or registration or to]~~ the ***issuance or*** renewal of a license ***, an endorsement on a license*** or ***a*** certificate of registration issued to a person or facility regulated by the board, giving consideration to:

(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;

(b) The effect of the regulation on the cost of health care in this State;

(c) The effect of the regulation on the number of licensed or registered persons and facilities available to provide services in this State; and

(d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 2. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. ***"Housing for independent living" means single dwelling units, including, without limitation, single dwelling units located in a multidwelling or a multipurpose building, which provide residential housing intended for independent living and which do not directly provide or coordinate the oversight of services to meet the scheduled and unscheduled needs of its residents, including, without limitation, the provision of personal care, supportive services and health-related services.***

Sec. 4. ***A facility for the dependent, a medical facility or a home for individual residential care that offers housing for independent living shall***

obtain an endorsement on its license authorizing the facility or home to offer housing for independent living.

Sec. 5. ***1. Except as otherwise provided in subsection 2, a residential facility for groups which is authorized to have 10 or fewer beds or a home for individual residential care shall not provide accommodations for a person who does not meet the requirements for admission to the facility or home.***

2. A residential facility for groups which is authorized to have 10 or fewer beds or a home for individual residential care may provide accommodations for a person who is related within the third degree of consanguinity to a resident ~~*[or employee]*~~ ***of the facility or home regardless of whether the person meets the requirements for admission to the facility or home.***

Sec. 6. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, ***and section 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 7. NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, ***and sections 3, 4 and 5 of this act*** and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive ~~[.]~~ ***, and sections 3, 4 and 5 of this act.***

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

➥ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility ***which is*** licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling ~~[.]~~ if the Health Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➥ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. ***The Board shall adopt regulations for the issuance and renewal of an endorsement to offer housing for independent living pursuant to section 4 of this act. The regulations must:***

(a) Prescribe the grounds for the approval, denial, suspension or revocation of an endorsement;

(b) Prescribe the fees for the issuance and renewal of an endorsement; and

(c) Require compliance with all applicable laws and regulations, including, without limitation:

(1) The provisions of NRS 449.2487;

(2) Any law, ordinance or governmental regulation concerning health, safety, sanitation or fitness for habitation of the facility or home;

(3) Any law, ordinance or governmental regulation concerning the construction, maintenance, operation, occupancy, use or appearance of the facility or home; and

(4) The provisions of chapter 446 of NRS and any other laws or regulations governing the preparation of meals.

12. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

Sec. 8. NRS 449.140 is hereby amended to read as follows:

449.140 1. Money received from licensing medical facilities and facilities for the dependent ***, including, without limitation, an endorsement on a license,*** must be forwarded to the State Treasurer for deposit in the State General Fund.

2. The Health Division shall enforce the provisions of NRS 449.001 to 449.245, inclusive, ***and sections 3, 4 and 5 of this act*** and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.

Sec. 9. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license ***or an endorsement on a license*** or may suspend or revoke any license ***or endorsement*** issued under the provisions of NRS 449.001 to 449.240, inclusive, ***and sections 3, 4 and 5 of this act*** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, ***and sections 3, 4 and 5 of this act*** or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license ***or endorsement*** is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent ***and an endorsement on such a license*** if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Health Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➥ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 10. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure ~~[,]~~ ***or endorsement,*** including any provision of NRS 439B.410 ~~[,]~~ ***or*** 449.001 to 449.240, inclusive, ***and sections 3, 4 and 5 of this act,*** or any condition, standard or regulation adopted by the Board, the Health Division **,** in accordance with the regulations adopted pursuant to NRS 449.165 **,** may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than $1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license ***or endorsement, or both,*** of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

3. The Health Division may require any facility that violates any provision of NRS 439B.410 ~~[,]~~ ***or*** 449.001 to 449.240, inclusive, ***and sections 3, 4 and 5 of this act*** or any condition, standard or regulation

adopted by the Board ~~[.]~~ to make any improvements necessary to correct the violation.

4. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 11. NRS 449.170 is hereby amended to read as follows:

449.170 1. When the Health Division intends to deny, suspend or revoke a license ~~[,]~~ ***or an endorsement on a license,*** or impose any sanction prescribed by NRS 449.163, it shall give reasonable notice to all parties by certified mail. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. Notice is not required if the Health Division finds that the public health requires immediate action. In that case, it may order a summary suspension of a license ***or endorsement*** or impose any sanction prescribed by NRS 449.163, pending proceedings for revocation or other action.

2. If a person wants to contest the action of the Health Division, he must file an appeal pursuant to regulations adopted by the Board.

3. Upon receiving notice of an appeal, the Health Division shall hold a hearing pursuant to regulations adopted by the Board.

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

Sec. 12. NRS 449.210 is hereby amended to read as follows:

449.210 1. Except as otherwise provided in subsections 2 and 3, a person who operates a medical facility or facility for the dependent without a license ***or an endorsement on a license, if applicable,*** issued by the Health Division is guilty of a misdemeanor.

2. A person who operates a residential facility for groups without a license ***or an endorsement on a license, if applicable,*** issued by the Health Division:

(a) Is liable for a civil penalty **,** to be recovered by the Attorney General in the name of the Health Division **,** for the first offense of not more than $10,000 and for a second or subsequent offense of not less than $10,000 nor more than $20,000;

(b) Shall be required to move all of the persons who are receiving services in the residential facility for groups to a residential facility for groups that is licensed at his own expense; and

(c) May not apply for a license to operate a residential facility for groups ***or an endorsement to offer housing for independent living, if applicable,*** for a period of 6 months after he is punished pursuant to this section.

3. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used for the protection of the health, safety and well-being of patients, including residents of residential facilities for groups.

Sec. 13. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~[.]~~ ***, and sections 3, 4 and 5 of this act:***

(a) Without first obtaining a license therefor ~~[,]~~ ***or an endorsement on a license, if applicable;*** or

(b) After his license ***or endorsement*** has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place ~~[, operate]~~ ***:***

(a) Operate and maintain such ***a*** facility without a license.

(b) Offer housing for independent living without an endorsement on the license.

Sec. 14. NRS 449.230 is hereby amended to read as follows:

449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive ~~[.]~~ ***, and sections 3, 4 and 5 of this act.***

2. The State Fire Marshal or his designee shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.037:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.037,

➥ to ensure the safety of the residents of the facility in an emergency.

3. The State Health Officer or his designee shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Health Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Health Division is notified that a residential facility for groups is operating without a license.

Sec. 15. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.001 to 449.245, inclusive ~~[.]~~ ***, and sections 3, 4 and 5 of this act.***

Sec. 16. NRS 233B.063 is hereby amended to read as follows:

233B.063 1. At least 30 days before the time of giving notice of its intention to adopt, amend or repeal a permanent regulation ***,*** an agency shall deliver to the Legislative Counsel a copy of the proposed regulation. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the

Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for ~~[licensing or registration or for]~~ the ***issuance or*** renewal of a license ***, an endorsement on a license*** or a certificate of registration issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

Sec. 17. NRS 233B.070 is hereby amended to read as follows:

233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except as otherwise provided in NRS 293.247 or where a later date is specified in the regulation.

2. Except as otherwise provided in NRS 233B.0633, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared

pursuant to NRS 233B.066. The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.

5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.

6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Library and Archives Administrator, to the State Library and Archives Administrator for use by the public. If the agency is a licensing board as defined in NRS 439B.225 and it has adopted a permanent regulation relating to standards for ~~[licensing or registration or for]~~ the ***issuance or*** renewal of a license ***, an endorsement on a license*** or a certificate of registration issued to a person or facility regulated by the agency, the agency shall also deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the Legislative Committee on Health Care within 10 days after the regulation is filed with the Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.

8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the leadlines and numbers of the sections. Any other material which an agency includes in a publication with its regulations must be presented in a form which clearly distinguishes that material from the regulations.

Sec. 18. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than $5,000 on, recover reasonable investigative fees and costs incurred from, suspend, revoke or place conditions on the license of, and place on probation any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, ***and sections 3, 4 and 5 of this act*** as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing not less than 10 days before the date of the hearing.

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

4. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 19. On or before January 1, 2010, the State Board of Health shall adopt regulations governing the issuance and renewal of an endorsement to offer housing for independent living required by NRS 449.037, as amended by section 7 of this act.

Sec. 20. Each licensed facility for the dependent, medical facility and home for individual residential care which offers housing for independent living shall, on or before October 1, 2010, obtain the endorsement required by section 4 of this act.

Sec. 21. 1. This section and sections 1, 2, 3, 6, 7, 16, 17 and 19 of this act become effective upon passage and approval.

2. Sections 5, 14, 15 and 18 of this act become effective on October 1, 2009.

3. Sections 4, 8 to 13, inclusive, and 20 of this act become effective on January 1, 2010.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 112.

Bill read second time.

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

Amendment No. 475.

SUMMARY—Establishes provisions relating to **the coordinated response to** public health emergencies **[.] and other health events.** (BDR 40-214)

AN ACT relating to public health; requiring the Governor to **[**declare**]** **determine whether** a public health emergency **or other health event requires a coordinated response** if there is an immediate threat to the health and safety of the public; **[**creating the Committee on Public Health Emergencies; prescribing the powers and duties of the Committee; establishing provisions for responding to and resolving**]** **providing for the establishment of an emergency team to coordinate a response to a** public health **[**emergencies;**]** **emergency or other health event; prescribing the membership, duties and scope of authority of such an emergency team;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Health Division of the Department of Health and Human Services and city, county and district boards of health to protect the public health of the residents of this State. (Chapter 439 of NRS)

Section [3] 15.5 of this bill requires the Governor to **[**declare**]** **determine whether** a public health emergency **or other health event exists that requires a coordinated response by an emergency team** when there is an immediate threat to the health and safety of the public. **[**Section 5 of this bill creates the Committee on Public Health Emergencies and prescribes the membership of the Committee. Section 9 of this bill prescribes the duties of the Committee, including the development of a plan for responding to and resolving public health emergencies and the coordination of a response to a public health emergency. Section 10 of this bill provides that if the Governor declares a public health emergency, the Committee may, by affirmative majority vote, temporarily close a facility which provides health care if the Committee determines that: (1) the facility is the cause of or significantly contributed to the public health emergency; and (2) the health, safety or welfare of the public imperatively requires the emergency closure of the facility. Section 10 also provides that the Committee may not require the closure of the facility for longer than is necessary to ensure that the facility no longer poses an immediate threat to the health, safety or welfare of the public. Section 12 of this bill provides that if the Governor declares a public health emergency, the Committee may, by affirmative majority vote, temporarily suspend certain state statutes and regulations to allow public agencies, law enforcement agencies and political subdivisions of this State to share information, medical records and other resources during the public health emergency. Section 13 of this bill requires the Chairman of the Committee under certain circumstances to appoint a subcommittee to investigate a public health emergency and to assist the Committee in the coordination of a response to the public health emergency. Section 14 of this bill sets forth the powers of the Committee and any subcommittee thereof in conducting investigations and hearings in connection with a public health

~~emergency. Section 15 of this bill requires the Committee and any subcommittee thereof to keep confidential certain information provided to the Committee or subcommittee during the course of an investigation of a public health emergency relating to the medical history and personal identifying information of persons.]~~ **Section 15.5 also prescribes the membership of such an emergency team.**

Section 15.7 of this bill prescribes the duties of the emergency team, including the investigation of the response of each state agency, division, board and other entity that is represented on the emergency team and the coordination of the response to the public health emergency or other health event with those agencies, divisions, boards and other entities.

Section 15.8 of this bill requires the chairman of the emergency team or his designee to provide information to the public and to certain persons regarding the progress of the work of the emergency team and to submit a report on the findings of the emergency team upon the resolution of the public health emergency or other health event.

Section 15.9 of this bill requires the emergency team to make recommendations to the State Board of Health and local boards of health regarding regulations and policies concerning public health emergencies or other health events and to evaluate the response of each state agency, division, board and other entity represented on the emergency team.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2 to 15,]~~ **15.1 to 15.9,** inclusive, of this act.

Sec. 2. ~~*[As used in sections 2 to 15, inclusive, of this act, unless the context otherwise requires, "Committee" means the Committee on Public Health Emergencies created by section 5 of this act.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*[1. If a local board of health identifies within its jurisdiction or the Health Division identifies within this State an immediate threat to the health and safety of the public, the local board of health or Health Division, as applicable, shall immediately transmit to the Governor a report of the immediate threat.*~~

~~*2. Upon receiving a report pursuant to subsection 1, the Governor shall determine whether a public health emergency exists. If the Governor determines that a public health emergency exists, he shall, by executive order, declare a public health emergency.*~~

~~*3. An executive order declaring a public health emergency must include, without limitation:*~~

~~*(a) The nature of the public health emergency;*~~

~~*(b) Each political subdivision and each geographic area subject to the declaration;*~~

~~*(c) The conditions that have brought about the public health emergency;*~~

~~*(d) The estimated duration of the public health emergency; and*~~

~~*(e) An identification of each person and entity responsible for responding to the public health emergency.*~~

~~*4. The Governor shall immediately transmit the executive order declaring a public health emergency to:*~~

~~*(a) The Legislature or, if the Legislature is not in session, to the Legislative Commission and the Legislative Committee on Health Care;*~~

~~*(b) The Committee;*~~

~~*(c) Each person and entity identified in the executive order as being responsible for responding to the public health emergency;*~~

~~*(d) Each political subdivision subject to the declaration; and*~~

~~*(e) Any other person or entity deemed necessary or advisable by the Governor.*~~

~~*5. The Governor shall declare a public health emergency terminated before the estimated duration stated in the executive order upon a finding that the public health emergency no longer poses an immediate threat to the health and safety of the public. Upon such a finding, the Governor shall notify each person and entity identified in subsection 4.*~~

~~*6. If a public health emergency lasts longer than the estimated duration stated in the executive order, the Governor is not required to reissue an executive order, but shall notify each person and entity identified in subsection 4 of the extension.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*[During a public health emergency, the Governor may, upon consultation with the Committee, request from a governor of a contiguous state assistance in carrying out an inspection of a facility which provides health care, including, without limitation, a medical facility, facility for the dependent, medical laboratory or office of a provider of health care. The Governor may enter into an agreement for the provision of such services relating to inspections.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~*[1. There is hereby created the Committee on Public Health Emergencies. The membership of the Committee consists of:*~~

~~*(a) The State Health Officer or a person appointed pursuant to subsection 3, as applicable;*~~

~~*(b) The Administrator of the Health Division;*~~

~~*(c) The Administrator of the Division of Health Care Financing and Policy of the Department;*~~

~~*(d) The Director of the Department of Public Safety; and*~~

~~*(e) The district health officer of each health district.*~~

~~*2. The State Health Officer or the person appointed pursuant to subsection 3, as applicable, is the Chairman of the Committee.*~~

~~*3. If the State Health Officer has a conflict of interest relating to a public health emergency or is otherwise unable to carry out his duties pursuant to sections 2 to 15, inclusive, of this act, the Director shall temporarily appoint a person to carry out the duties of the State Health*~~

~~*Officer prescribed in sections 2 to 15, inclusive, of this act until such time as the public health emergency has been resolved or the State Health Officer is able to resume his duties. The person appointed by the Director must meet the requirements prescribed in subsection 1 of NRS 439.090.*~~

~~*4. The Director or his designee shall act as the nonvoting Secretary of the Committee.*~~

~~*5. The Attorney General shall provide legal counsel to the Committee and any subcommittee created pursuant to section 13 of this act.]*~~ **(Deleted by amendment.)**

Sec. 6. ~~*[1. The Committee shall meet throughout the year at the times and places specified by a call of the Chairman or a majority of the Committee.*~~

~~*2. A majority of the members of the Committee constitutes a quorum, and a quorum may exercise all the power and authority conferred on the Committee.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~*[1. While engaged in the business of the Committee or any subcommittee created pursuant to section 13 of this act, a member of the Committee or subcommittee who is:*~~

~~*(a) Not a public employee is entitled to receive compensation of not more than $80 per day, as fixed by the Governor.*~~

~~*(b) A public employee may not receive any compensation for his services as a member of the Committee or subcommittee. Any member of the Committee or subcommittee who is a public employee must be granted administrative leave from his duties to engage in the business of the Committee or subcommittee without loss of his regular compensation. Such leave does not reduce the amount of the member's other accrued leave.*~~

~~*2. In addition to any compensation received pursuant to subsection 1, while engaged in the business of the Committee or a subcommittee thereof, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[The Chairman of the Committee shall:*~~

~~*1. As soon as practicable after the Governor declares a public health emergency pursuant to section 3 of this act, determine whether a subcommittee is required to be created pursuant to section 13 of this act.*~~

~~*2. Provide information to the general public and ensure that the public remains informed on the progress of the work of the Committee and any subcommittee created pursuant to section 13 of this act.*~~

~~*3. Act as the liaison between the Committee and the Governor, the Speaker of the Assembly, the Majority Leader of the Senate, the Attorney General and any other officer, agency or political subdivision of this State with an interest in the response to and resolution of the public health emergency.*~~

~~*4. Provide to the Governor and the Legislature or, if the Legislature is not in session, to the Legislative Commission and the Legislative Committee on Health Care:*~~

~~*(a) During the course of an investigation of a public health emergency, monthly updates, or more frequent updates if requested, on the progress of the work of the Committee and any subcommittee created pursuant to section 13 of this act; and*~~

~~*(b) Upon the resolution of a public health emergency, a report on the findings of the Committee and any subcommittee created pursuant to section 13 of this act and the action that was taken to resolve the public health emergency.]*~~ **(Deleted by amendment.)**

Sec. 9. ~~*[The Committee shall:*~~

~~*1. Work cooperatively with the State Board of Health and local boards of health in this State to develop a plan for a coordinated response to public health emergencies, which, to the extent practicable, must be consistent with the provisions of chapters 239C, 414 and 441A of NRS and any plans and procedures adopted pursuant to those chapters.*~~

~~*2. Evaluate the response of each agency in this State which has the authority to oversee public health emergencies and make recommendations to the agency, the Governor and the Legislature or, if the Legislature is not in session, to the Legislative Commission and the Legislative Committee on Health Care with respect to actions and measures that may be taken to improve such responses.*~~

~~*3. Investigate, or create a subcommittee pursuant to section 13 of this act to investigate, each public health emergency.*~~

~~*4. Coordinate the response to and resolution of each public health emergency.*~~

~~*5. Work cooperatively with the health authority and the law enforcement agency with jurisdiction over the public health emergency to secure the medical records, whether maintained in written, electronic or other form, of patients of a facility which provides health care, including, without limitation, a medical facility, facility for the dependent, medical laboratory or office of a provider of health care and which is closed pursuant to section 10 of this act or chapter 449 of NRS or otherwise ceases operation as a result of the involvement of the facility in a public health emergency. The medical records must be protected in accordance with the statutes and regulations of this State and federal law and made available to the patients of the facility in accordance with those laws.]*~~ **(Deleted by amendment.)**

Sec. 10. ~~*[1. If the Governor declares a public health emergency pursuant to section 3 of this act, notwithstanding the provisions of chapter 449 of NRS and any other statute or regulation of this State to the contrary, the Committee may, by an affirmative vote of the majority of the Committee, temporarily close a facility which provides health care, including, without limitation, a medical facility, facility for the dependent,*~~

~~*medical laboratory or office of a provider of health care, if the Committee determines that:*~~

~~*(a) The facility is the cause of or significantly contributed to the public health emergency; and*~~

~~*(b) The health, safety or welfare of the public imperatively requires the emergency closure of the facility.*~~

~~*2. The Committee may not require the closure of a facility for longer than is necessary to ensure that the facility no longer poses an immediate threat to the health, safety or welfare of the public.*~~

~~*3. The Attorney General shall take such legal actions as are necessary and appropriate to carry out and enforce the vote of the Committee to close a facility.]*~~ **(Deleted by amendment.)**

Sec. 11. ~~*[The Committee may:*~~

~~*1. Provide information to or otherwise educate providers of medical care and persons who are employed at facilities which provide health care to prevent and respond to public health emergencies, including, without limitation, education relating to the accepted standards for the control and prevention of disease;*~~

~~*2. Coordinate with the Centers for Disease Control and Prevention or other agency of the Federal Government in carrying out the provisions of sections 2 to 15, inclusive, of this act; and*~~

~~*3. Take such other actions as are necessary to resolve a public health emergency.]*~~ **(Deleted by amendment.)**

Sec. 12. ~~*[1. If the Governor declares a public health emergency pursuant to section 3 of this act, notwithstanding any other statute or regulation of this State to the contrary, the Committee may, by an affirmative vote of the majority of the Committee, adopt a resolution temporarily suspending the enforcement of a statute or regulation of this State which restricts the ability of a public agency, law enforcement agency or a political subdivision of this State to share information, medical records, reports, personnel or other resources if the Committee finds that:*~~

~~*(a) It is in the best interest of the public for the public agency, law enforcement agency or political subdivision to share information, medical records, reports, personnel or other resources; and*~~

~~*(b) The temporary suspension of the enforcement of the statute or regulation will protect the health and safety of the public.*~~

~~*2. A resolution adopted pursuant to this section must set forth the:*~~

~~*(a) Findings of fact which support suspending the enforcement of the statute or regulation;*~~

~~*(b) Specific statute or regulation, or part thereof, for which enforcement is being suspended; and*~~

~~*(c) Period during which such enforcement will be suspended, which must not be later than the date on which the public health emergency is resolved.*~~

~~*3. A resolution adopted pursuant to this section must be forwarded to the:*~~

~~*(a) Governor;*~~

~~*(b) State Board of Health;*~~

~~*(c) Legislature or, if the Legislature is not in session, to the Legislative Commission and the Legislative Committee on Health Care; and*~~

~~*(d) Public agency, law enforcement agency or political subdivision of this State which is responsible for enforcing the statute or regulation.]*~~ **(Deleted by amendment.)**

Sec. 13. ~~*[1. If the Governor declares a public health emergency pursuant to section 3 of this act and more than one public officer, public agency or political subdivision of this State has authority to oversee any aspect of the public health emergency, the Chairman of the Committee, with the approval of the Committee, shall create a subcommittee to:*~~

~~*(a) Investigate the underlying cause of the public health emergency;*~~

~~*(b) Make recommendations to the Committee concerning the response to and actions which must be taken to resolve the public health emergency;*~~

~~*(c) Assist the Committee in the coordination of the response to the public health emergency; and*~~

~~*(d) Provide reports and updates relating to the work of the subcommittee at the request of the Chairman of the Committee.*~~

~~*2. The membership of a subcommittee may consist of:*~~

~~*(a) If the public health emergency concerns a licensee of a professional licensing board created pursuant to title 54 of NRS, the chairman of each such professional licensing board;*~~

~~*(b) The administrative head of the district, county or city health department in the jurisdiction in which the emergency exists;*~~

~~*(c) The chairman of the board of health in the jurisdiction in which the emergency exists;*~~

~~*(d) The health officer in the jurisdiction in which the emergency exists;*~~

~~*(e) One or more members of the Committee; and*~~

~~*(f) Any other person deemed necessary by the Chairman of the Committee.*~~

~~*3. The Chairman of the Committee shall appoint the chairman of a subcommittee.*~~

~~*4. Within 30 days after the resolution of the public health emergency for which a subcommittee is created, the subcommittee shall be deemed dissolved.]*~~ **(Deleted by amendment.)**

Sec. 14. ~~*[1. In conducting the investigations and hearings of the Committee or a subcommittee created pursuant to section 13 of this act:*~~

~~*(a) The Secretary of the Committee or subcommittee, or in his absence any member of the Committee or a subcommittee, may administer oaths.*~~

~~*(b) The Chairman of the Committee or the chairman of a subcommittee may cause the deposition of witnesses, residing either within or outside of*~~

~~*this State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.*~~

~~*(c) The Chairman of the Committee or the chairman of a subcommittee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.*~~

~~*2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the Chairman of the Committee or the chairman of a subcommittee may report to the district court by petition, setting forth that:*~~

~~*(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;*~~

~~*(b) The witness has been subpoenaed by the Committee or subcommittee pursuant to this section; and*~~

~~*(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee or subcommittee which is named in the subpoena, or has refused to answer questions propounded to him,*~~

~~*" and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee or subcommittee.*~~

~~*3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee or subcommittee. A certified copy of the order must be served upon the witness.*~~

~~*4. If it appears to the court that the subpoena was regularly issued by the Committee or subcommittee, the court shall enter an order that the witness appear before the Committee or subcommittee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.]*~~ **(Deleted by amendment.)**

Sec. 15. ~~*[1. Except as otherwise provided in this section and NRS 439.538 or by resolution adopted pursuant to section 12 of this act, a person shall not make public the name of, or other personal identifying information about, any person whose medical information is provided to the Committee or a subcommittee created pursuant to section 13 of this act during the course of an investigation of a public health emergency without the consent of the person.*~~

~~*2. All information of a personal nature about the health of any person which is provided to the Committee or a subcommittee created pursuant to section 13 of this act during the course of an investigation of a public health emergency is confidential medical information and must not be disclosed to any person under any circumstances, including, without*~~

~~*limitation, pursuant to any subpoena, search warrant or discovery proceeding, except:*~~

~~*(a) As otherwise provided in NRS 439.538.*~~

~~*(b) As otherwise provided by resolution adopted pursuant to section 12 of this act.*~~

~~*(c) For statistical purposes, if the identity of the person is not discernible from the information disclosed.*~~

~~*(d) In reporting the actual or suspected abuse or neglect of a child or elderly person.*~~

~~*(e) To any person who has a medical need to know the information for his own protection or for the well-being of a patient or dependent person, as determined by the Committee.*~~

~~*(f) If the person who is the subject of the information consents in writing to the disclosure.*~~

~~*(g) If the disclosure is made to the Department and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.*~~

~~*(h) If the disclosure is authorized or required by NRS 239.0115 or another specific statute.]*~~ **(Deleted by amendment.)**

Sec. 15.1. ***As used in sections 15.1 to 15.9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 15.2, 15.3 and 15.4 of this act have the meanings ascribed to them in those sections.***

Sec. 15.2. ***"Emergency team" means an emergency team designated in an executive order of the Governor pursuant to section 15.5 of this act to respond to a public health emergency or other health event.***

Sec. 15.3. ***"Health care facility" means any facility licensed pursuant to chapter 449 of NRS.***

Sec. 15.4. ***"Provider of health care" has the meaning ascribed to it in NRS 629.031.***

Sec. 15.5. ***1. Except as otherwise provided in chapter 414 of NRS, if a health authority identifies within its jurisdiction a public health emergency or other health event that is an immediate threat to the health and safety of the public in a health care facility or the office of a provider of health care, the health authority shall immediately transmit to the Governor a report of the immediate threat.***

2. Upon receiving a report pursuant to subsection 1, the Governor shall determine whether a public health emergency or other health event exists that requires a coordinated response for the health and safety of the public. If the Governor determines that a public health emergency or other health event exists that requires such a coordinated response, the Governor shall issue an executive order:

(a) Stating the nature of the public health emergency or other health event;

(b) Stating the conditions that have brought about the public health emergency or other health event, including, without limitation, an identification of each health care facility or provider of health care, if any, related to the public health emergency or other health event;

(c) Stating the estimated duration of the immediate threat to the health and safety of the public; and

(d) Designating an emergency team comprised of:

(1) The State Health Officer or a person appointed pursuant to subsection 5, as applicable; and

(2) Representatives of state agencies, divisions, boards and other entities, including, without limitation, professional licensing boards, with authority by statute to govern or regulate the health care facilities and providers of health care identified as being related to the public health emergency or other health event pursuant to paragraph (b).

3. If additional state agencies, divisions, boards or other entities are identified during the course of the response to the public health emergency or other health event as having authority regarding a health care facility or provider of health care that is related to the public health emergency or other health event, the Governor shall direct that agency, division, board or entity to appoint a representative to the emergency team.

4. The State Health Officer or a person appointed pursuant to subsection 5, as applicable, is the chairman of the emergency team.

5. If the State Health Officer has a conflict of interest relating to a public health emergency or other health event or is otherwise unable to carry out his duties pursuant to sections 15.1 to 15.9, inclusive, of this act, the Director shall temporarily appoint a person to carry out the duties of the State Health Officer prescribed in sections 15.1 to 15.9, inclusive, of this act until such time as the public health emergency or other health event has been resolved or the State Health Officer is able to resume his duties. The person appointed by the Director must meet the requirements prescribed by subsection 1 of NRS 439.090.

6. The Governor shall immediately transmit the executive order to:

(a) The Legislature or, if the Legislature is not in session, to the Legislative Commission and the Legislative Committee on Health Care; and

(b) Any person or entity deemed necessary or advisable by the Governor.

7. The Governor shall declare a public health emergency or other health event terminated before the estimated duration stated in the executive order upon a finding that the public health emergency or other health event no longer poses an immediate threat to the health and safety of the public. Upon such a finding, the Governor shall notify each person and entity described in subsection 6.

8. If a public health emergency or other health event lasts longer than the estimated duration stated in the executive order, the Governor is not

required to reissue an executive order, but shall notify each person and entity identified in subsection 6.

9. The Attorney General shall provide legal counsel to the emergency team.

Sec. 15.6. During a public health emergency or other health event, the Governor may, upon consultation with the emergency team, request from a governor of a contiguous state assistance in carrying out an inspection of any health care facility or the office of a provider of health care. The Governor may enter into an agreement for the provision of such services relating to inspections.

Sec. 15.7. 1. The emergency team shall:

(a) Convene as soon as practicable after the executive order is issued pursuant to section 15.5 of this act; and

(b) Upon the advice of the Attorney General, investigate the response of each state agency, division, board and other entity that is represented on the emergency team to the public health emergency or other health event and work cooperatively to ensure the sharing of any material information and coordinate a response to the public health emergency or other health event with all the state agencies, divisions, boards and other entities represented on the emergency team.

2. The scope of powers and duties of the emergency team extends only to the respective jurisdiction of each state agency, division, board or other entity represented on the team and does not supersede the authority of a health authority to investigate the public health emergency or other health event within its jurisdiction.

Sec. 15.8. The chairman of the emergency team or a member of the emergency team designated by the chairman shall:

1. Provide information to the general public and ensure that the public remains informed on the progress of the work of the emergency team.

2. Act as the liaison between the emergency team and the Governor, the Speaker of the Assembly, the Majority Leader of the Senate, the Attorney General and any other officer, agency or political subdivision of this State with an interest in the response to and resolution of the public health emergency or other health event.

3. Provide to the Governor and the Legislature or, if the Legislature is not in session, to the Legislative Commission and the Legislative Committee on Health Care:

(a) During the course of an investigation of a public health emergency or other health event, monthly updates, or more frequent updates if requested, on the progress of the work of the emergency team; and

(b) Upon the resolution of the issues involved in the public health emergency or other health event, a report on the findings of the emergency team and the action that was taken to resolve the public health emergency or other health event and any consequences thereof.

Sec. 15.9. ***Upon the resolution of a public health emergency or other health event, the emergency team shall:***

1. Make recommendations to the State Board of Health and local boards of health with respect to regulations or policies which may be adopted to prevent public health emergencies and other health events or to improve responses to public health emergencies and other health events; and

2. Evaluate the response of each state agency, division, board or other entity represented on the emergency team and make recommendations to the Governor and the Legislature or, if the Legislature is not in session, to the Legislative Commission and the Legislative Committee on Health Care with respect to actions and measures that may be taken to improve such responses.

Sec. 16. NRS 439.130 is hereby amended to read as follows:

439.130 1. The State Health Officer shall:

(a) Enforce all laws and regulations pertaining to the public health.

(b) Investigate causes of disease, epidemics, source of mortality, nuisances affecting the public health, and all other matters related to the health and life of the people, and to this end he may enter upon and inspect any public or private property in the State.

(c) Direct the work of subordinates and may authorize them to act in his place and stead.

(d) ***Except as otherwise provided in subsection*** ~~*[3]*~~ ***5 of section*** ~~*[5]*~~ ***15.5 of this act, perform the duties prescribed in sections*** ~~*[2 to 15,]*~~ ***15.1 to 15.9, inclusive, of this act.***

(e) Perform such other duties as the Director may, from time to time, prescribe.

2. The Administrator shall direct the work of the Health Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

Sec. 17. NRS 439.150 is hereby amended to read as follows:

439.150 1. The State Board of Health is hereby declared to be supreme in all nonadministrative health matters. It has general supervision over all matters, except for administrative matters ~~[,]~~ ***and as otherwise provided in sections*** ~~*[2 to 15,]*~~ ***15.1 to 15.9, inclusive, of this act,*** relating to the preservation of the health and lives of citizens of this State and over the work of the State Health Officer and all district, county and city health departments, boards of health and health officers.

2. The Department is hereby designated as the agency of this State to cooperate with the federal authorities in the administration of those parts of the Social Security Act which relate to the general promotion of public health. It may receive and expend all money made available to the Health Division by the Federal Government, the State of Nevada or its political subdivisions, or from any other source, for the purposes provided in this chapter. In developing and revising any state plan in connection with federal

assistance for health programs, the Department shall consider, without limitation, the amount of money available from the Federal Government for those programs, the conditions attached to the acceptance of that money and the limitations of legislative appropriations for those programs.

3. Except as otherwise provided in NRS 576.128, the State Board of Health may set reasonable fees for the:

(a) Licensing, registering, certifying, inspecting or granting of permits for any facility, establishment or service regulated by the Health Division;

(b) Programs and services of the Health Division;

(c) Review of plans; and

(d) Certification and licensing of personnel.

➥ Fees set pursuant to this subsection must be calculated to produce for that period the revenue from the fees projected in the budget approved for the Health Division by the Legislature.

Sec. 18. ~~[On or before January 1, 2010, the Committee on Public Health Emergencies created by section 5 of this act shall complete the plan for a coordinated response to public health emergencies required pursuant to section 9 of this act.]~~ **(Deleted by amendment.)**

Sec. 19. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 202.

Bill read second time.

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

Amendment No. 434.

AN ACT relating to cosmetology; revising various definitions; revising provisions relating to the qualifications for examination as an instructor of aestheticians, an instructor in nail technology, a nail technologist or an aesthetician; revising provisions relating to cosmetologists' apprentices; ~~[establishing certain continuing education requirements;]~~ increasing the required instruction hours for an aesthetician; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 3 of this bill revise the definitions of "aesthetician" and "cosmetologist" to reference sugaring and threading. (NRS 644.0205, 644.023) **Section 5** of this bill changes the term "manicurist" to "nail technologist," and this bill carries out this change for variations of the term "manicurist" that appear in chapter 644 of NRS. (NRS 644.029)

Section 11 of this bill revises the requirements for admission to examination as an instructor of aestheticians, effective July 1, 2010. (NRS 644.1955) **Section 13** of this bill revises the requirements for admission to examination as an instructor in nail technology, effective July 1,

2010. (NRS 644.197) **Section 15** of this bill revises the requirements for admission to examination for a license as a nail technologist, effective July 1, 2010. (NRS 644.205) **Section 16** of this bill revises the requirements for admission to examination for a license as an aesthetician, effective July 1, 2010. (NRS 644.207)

Existing law sets forth various requirements that must be met before the State Board of Cosmetology may issue to a person a certificate of registration as a cosmetologist's apprentice. (NRS 644.217) **Section 17** of this bill: (1) eliminates the requirement that such a person be a resident of a county whose population is less than 50,000; (2) requires the training of the person as a cosmetologist's apprentice to be conducted at a licensed cosmetological establishment that is located 60 miles or more from a licensed school of cosmetology; and (3) authorizes the Board to waive, for good cause shown, various requirements for an applicant for a certificate of registration as a cosmetologist's apprentice.

~~[Section 25 of this bill establishes continuing education requirements for the renewal of a license as a nail technologist, electrologist, aesthetician, hair designer, demonstrator of cosmetics, cosmetologist or instructor, effective January 1, 2011. (NRS 644.325)]~~ **Section 29** of this bill increases from 120 to 150 the number of hours of instruction a student enrolled as an aesthetician must receive before commencing work on members of the public. (NRS 644.408)

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

Section 1. NRS 644.0205 is hereby amended to read as follows:

644.0205 "Aesthetician" means any person who engages in the practices of:

1. Beautifying, massaging, cleansing or stimulating the skin of the human body ~~[, except the scalp,]~~ by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

2. Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body ***;*** ~~[except the scalp;]~~ and

3. Removing superfluous hair from the body of any person by the use of depilatories, waxing***,*** ~~[or]~~ tweezers, ***sugaring or threading,***

➥ but does not include ~~*[sugaring or threading or]*~~ the branches of cosmetology of a cosmetologist, hair designer, electrologist or ~~[manicurist.]~~ ***nail technologist.***

Sec. 2. NRS 644.0225 is hereby amended to read as follows:

644.0225 "Cosmetological establishment" means any premises, mobile unit, building or part of a building where cosmetology is practiced, other than a licensed barbershop in which one or more licensed ~~[manicurists]~~ ***nail technologists*** practice.

Sec. 3. NRS 644.023 is hereby amended to read as follows:

644.023 "Cosmetologist" means a person who engages in the practices of:

1. Cleansing, stimulating or massaging the scalp or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

2. Cutting, trimming or shaping the hair.

3. Arranging, dressing, curling, waving, cleansing, singeing, bleaching, tinting, coloring or straightening the hair of any person with the hands, mechanical or electrical apparatus or appliances, or by other means, or similar work incident to or necessary for the proper carrying on of the practice or occupation provided by the terms of this chapter.

4. Removing superfluous hair from the surface of the body of any person by the use of electrolysis where the growth is a blemish, or by the use of depilatories, waxing ***,*** ~~[or]~~ tweezers, ***sugaring or threading,*** except for the permanent removal of hair with needles.

5. Manicuring the nails of any person.

6. Beautifying, massaging, stimulating or cleansing the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or any device, electrical or otherwise, for the care of the skin.

7. Giving facials or skin care or applying cosmetics or eyelashes to any person.

Sec. 4. NRS 644.024 is hereby amended to read as follows:

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, demonstrator of cosmetics and ~~[manicurist.]~~ ***nail technologist.***

Sec. 5. NRS 644.029 is hereby amended to read as follows:

644.029 ~~["Manicurist"]~~ ***"Nail technologist"*** means any person who, for compensation or by demonstration, engages in the practices of:

1. Care of another's fingernails or toenails.

2. Beautification of another's nails.

3. Extension of another's nails.

4. Massaging of another's hands, forearms, feet or lower legs.

Sec. 6. NRS 644.030 is hereby amended to read as follows:

644.030 1. The State Board of Cosmetology consisting of seven members appointed by the Governor is hereby created.

2. The Board must consist of four cosmetologists, one ~~[manicurist,]~~ ***nail technologist,*** one aesthetician and one member representing customers of cosmetology.

Sec. 7. NRS 644.040 is hereby amended to read as follows:

644.040 1. No person is eligible for appointment as a member of the Board:

(a) Who is not licensed as a ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician or cosmetologist under the provisions of this chapter.

(b) Who is not, at the time of appointment, actually engaged in the practice of his respective branch of cosmetology.

(c) Who is not at least 25 years of age.

(d) Who has not been a resident of this State for at least 3 years immediately before his appointment.

2. The requirements of paragraphs (a) and (b) of subsection 1 do not apply to a person appointed to represent customers of cosmetology.

3. Not more than one member of the Board may be connected, directly or indirectly, with any school of cosmetology, or have been so connected while previously serving as a member of the Board.

Sec. 8. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, demonstrator of cosmetics and cosmetologist, together with the names and addresses of all cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 9. NRS 644.193 is hereby amended to read as follows:

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, aesthetician or ~~[manicurist]~~ ***nail technologist*** for 1 year and submits written verification of his experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than $40 and not more than $75 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year ~~[from]~~ ***after*** the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

Sec. 10. NRS 644.195 is hereby amended to read as follows:

644.195 1. Each instructor must:

(a) Be licensed as a cosmetologist pursuant to this chapter.

(b) Have successfully completed the 12th grade in school or its equivalent.

(c) Have 1 year of experience as a cosmetologist or as a licensed student instructor.

(d) Have completed 1,000 hours of training as an instructor or 500 hours of training as a ***licensed*** provisional instructor in a school of cosmetology.

(e) Except as otherwise provided in subsection 2, take one or more courses in advanced techniques for teaching or training, approved by the Board, whose combined duration is at least 30 hours during each 2-year period.

2. The provisions of paragraph (e) of subsection 1 do not apply to an instructor who is initially licensed not more than 6 months before the renewal date of the license. An instructor who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in paragraph (e) whose combined duration is at least 15 hours during each 2-year period.

3. Each instructor shall pay an initial fee for a license of not less than $60 and not more than $90.

Sec. 11. NRS 644.1955 is hereby amended to read as follows:

644.1955 1. The Board shall admit to examination for a license as an instructor of aestheticians any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of ~~[~~800~~]~~ ***700*** hours of training as an instructor or ~~[~~400~~]~~ ***500*** hours of training as a ***licensed*** provisional instructor in a licensed school of cosmetology;

(e) Is licensed as an aesthetician pursuant to this chapter; and

(f) Has practiced as a full-time licensed aesthetician or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor of aestheticians shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor of aestheticians who is initially licensed not more than 6 months before the renewal date of the license. An instructor of aestheticians who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 12. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in ~~[~~manicuring~~]~~ ***nail technology*** any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of 500 hours of training as an instructor or 250 hours of training as a provisional instructor in a licensed school of cosmetology;

(e) Is licensed as a ~~[manicurist]~~ ***nail technologist*** pursuant to this chapter; and

(f) Has practiced as a full-time licensed ~~[manicurist]~~ ***nail technologist*** or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in ~~[manicuring]~~ ***nail technology*** shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in ~~[manicuring]~~ ***nail technology*** who is initially licensed not more than 6 months before the renewal date of the license. An instructor in ~~[manicuring]~~ ***nail technology*** who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 13. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in nail technology any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of 500 hours of training as an instructor or ~~[250 hours of training]~~ as a ***licensed*** provisional instructor in a licensed school of cosmetology;

(e) Is licensed as a nail technologist pursuant to this chapter; and

(f) Has practiced as a full-time licensed nail technologist or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in nail technology shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in nail technology who is initially licensed not more than 6 months before the renewal date of the license. An instructor in nail technology who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 14. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a ~~[manicurist]~~ ***nail technologist*** any person who has made application to the

Board in proper form, paid the fee ~~[,]~~ and who **,** before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. Has successfully completed the 10th grade in school or its equivalent.
4. Has had any one of the following:

(a) Practical training of at least 500 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed ~~[manicurist]~~ ***nail technologist*** for 1 year outside the State of Nevada.

Sec. 15. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee ~~[,]~~ and who **,** before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. Has successfully completed the 10th grade in school or its equivalent.
4. Has had any one of the following:

(a) Practical training of at least ~~[500]~~ ***600*** hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

Sec. 16. NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;
2. Is of good moral character;
3. Has successfully completed the 10th grade in school or its equivalent; and
4. Has received a minimum of ~~[600]~~ ***900*** hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

Sec. 17. NRS 644.217 is hereby amended to read as follows:

644.217 1. The Board may issue a certificate of registration as a cosmetologist's apprentice to a person if:

(a) The person is ~~[a resident of a county whose population is less than 50,000;~~

~~(b) The person is~~ required to travel more than 60 miles from his place of residence to attend a licensed school of cosmetology; and

~~[(c)]~~ ***(b)*** The training of the person as a cosmetologist's apprentice will be conducted at a licensed cosmetological establishment that is located ~~[in such a county.]~~ ***60 miles or more from a licensed school of cosmetology.***

2. ***The Board may, for good cause shown, waive the requirements of subsection 1 for a particular applicant.***

3. An applicant for a certificate of registration as a cosmetologist's apprentice must submit an application to the Board on a form prescribed by the Board. The application must be accompanied by a fee of $100 and must include:

(a) A statement signed by the licensed cosmetologist who will be supervising and training the cosmetologist's apprentice which states that the licensed cosmetologist has been licensed by the Board to practice cosmetology in this State for not less than 3 years immediately preceding the date of the application and that his license has been in good standing during that period;

(b) A statement signed by the owner of the licensed cosmetological establishment where the applicant will be trained which states that the owner will permit the applicant to be trained as a cosmetologist's apprentice at the cosmetological establishment; and

(c) Such other information as the Board may require by regulation.

~~[3.]~~ ***4.*** A certificate of registration as a cosmetologist's apprentice is valid for 2 years after the date on which it is issued and may be renewed by the Board upon good cause shown.

Sec. 18. NRS 644.220 is hereby amended to read as follows:

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than $75 and not more than $200.

(b) For examination as an electrologist, not less than $75 and not more than $200.

(c) For examination as a hair designer, not less than $75 and not more than $200.

(d) For examination as a ~~[~~manicurist,~~]~~ ***nail technologist,*** not less than $75 and not more than $200.

(e) For examination as an aesthetician, not less than $75 and not more than $200.

(f) For examination as an instructor of aestheticians, hair designers, cosmetology or ~~[~~manicuring,~~]~~ ***nail technology,*** not less than $75 and not more than $200.

➥ The fee for each reexamination is not less than $75 and not more than $200.

2. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is $75.

3. Each applicant referred to in subsections 1 and 2 shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 19. NRS 644.240 is hereby amended to read as follows:

644.240 Examinations for licensure as a cosmetologist may include:

1. Practical demonstrations in shampooing the hair, hairdressing, styling of hair, finger waving, coloring of hair, ~~[manicuring,]~~ ***nail technology,*** cosmetics, thermal curling, marcelling, facial massage, massage of the scalp with the hands, and cutting, trimming or shaping hair;

2. Written or oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity as applicable to the practice of a cosmetologist; and

(c) The laws of Nevada and the regulations of the Board relating to the practice of cosmetology; and

3. Such other demonstrations and tests as the Board may require.

Sec. 20. NRS 644.245 is hereby amended to read as follows:

644.245 The examination for a license as a ~~[manicurist]~~ ***nail technologist*** may include:

1. Practical demonstrations in manicuring, pedicuring or the wrapping or extension of nails;

2. Written and oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity in caring for the nails; and

(c) The laws of Nevada and regulations of the Board relating to cosmetology; and

3. Such other demonstrations and tests as the Board requires.

Sec. 21. NRS 644.260 is hereby amended to read as follows:

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ~~[manicurist,]~~ ***nail technologist,*** demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his fitness to practice that occupation of cosmetology; and

2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

Sec. 22. NRS 644.300 is hereby amended to read as follows:

644.300 Every licensed ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his place of business, as designated in the records of the Board, notify the Secretary of the Board of his new place of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

Sec. 23. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, ~~[manicurist,]~~ ***nail technologist,*** demonstrator of cosmetics and instructor expires:

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses issued for less than 1 1/2 years.

Sec. 24. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For ~~[manicurists,]~~ ***nail technologists,*** electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) For instructors, not less than $60 and not more than $100.

(c) For cosmetological establishments, not less than $100 and not more than $200.

(d) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, ~~[manicurist,]~~ ***nail technologist,*** demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

Sec. 25. ~~[NRS 644.325 is hereby amended to read as follows:~~

~~644.325 1. An application for renewal of any license issued pursuant to this chapter must be:~~

~~(a) Made on a form prescribed and furnished by the Board;~~

~~(b) Made on or before the date for renewal specified by the Board;~~

~~(c) Accompanied by the fee for renewal; and~~

~~(d) Accompanied by all information required to complete the renewal.~~

~~2. The fees for renewal are:~~

~~(a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.~~

~~(b) For instructors, not less than $60 and not more than $100.~~

~~(c) For cosmetological establishments, not less than $100 and not more than $200.~~

~~(d) For schools of cosmetology, not less than $500 and not more than $800.~~

~~3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for a cosmetological establishment and all persons licensed pursuant to this chapter.~~

~~4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.~~

~~***5. An applicant for the renewal of a license must complete, before the license may be renewed:***~~

~~***(a) Course work of a duration and type approved by the Board and relating to infection control, sign language, establishment management, or hair, skin or nail care;***~~

~~***(b) At least 2 credits of course work from a university or community college in general health, biology, chemistry, English, foreign language, cardiopulmonary resuscitation or first aid; or***~~

~~***(c) At least 8 hours of continuing education from a professional course or seminar presented by a person or nationally recognized organization approved by the Board.]*** **(Deleted by amendment.)**~~

Sec. 26. NRS 644.330 is hereby amended to read as follows:

644.330 1. A ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who has retired from practice for more than 4 years may have his license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

Sec. 27. NRS 644.360 is hereby amended to read as follows:

644.360 1. Every holder of a license issued by the Board to operate a cosmetological establishment shall display the license in plain view of members of the general public in the principal office or place of business of the holder.

2. Except as otherwise provided in this section, the operator of a cosmetological establishment may lease space to or employ only licensed ~~[manicurists,]~~ ***nail technologists,*** electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists at his establishment to provide cosmetological services. This subsection does not prohibit an operator of a cosmetological establishment from:

(a) Leasing space to or employing a barber. Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board and remains subject to the laws and regulations of this State applicable to his business or profession.

(b) Leasing space to any other professional, including, without limitation, a provider of health care pursuant to subsection 3. Each such professional remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

3. The operator of a cosmetological establishment may lease space at his cosmetological establishment to a provider of health care for the purpose of providing health care within the scope of his practice. The provider of health care shall not use the leased space to provide such health care at the same time a cosmetologist uses that space to engage in the practice of cosmetology. A provider of health care who leases space at a cosmetological establishment pursuant to this subsection remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

4. As used in this section:

(a) "Provider of health care" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

(b) "Space" includes, without limitation, a separate room in the cosmetological establishment.

Sec. 28. NRS 644.370 is hereby amended to read as follows:

644.370 A cosmetological establishment must, at all times, be under the immediate supervision of a licensed ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer or cosmetologist.

Sec. 29. NRS 644.408 is hereby amended to read as follows:

644.408 A student must receive the following minimum amount of instruction in the classroom before commencing work on members of the public:

1. A student enrolled as a cosmetologist must receive at least 300 hours.

2. A student enrolled as a hair designer must receive at least 300 hours.

3. A student enrolled as a ~~[manicurist]~~ ***nail technologist*** must receive at least 100 hours.

4. A student enrolled as an electrologist's apprentice must receive at least 150 hours.

5. A student enrolled as an aesthetician must receive at least ~~[120]~~ ***150*** hours.

Sec. 30. NRS 644.430 is hereby amended to read as follows:

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

(a) Failure of an owner of a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, electrologist, instructor, ~~[~~manicurist,~~]~~ ***nail technologist,*** demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

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

(c) Gross malpractice.

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

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

(f) Advertisement by means of knowingly false or deceptive statements.

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

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410.

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

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

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

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

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

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

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

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

Sec. 31. 1. This section and sections 1 to 9, inclusive, 12, 14, 17 to 24, inclusive, and 26 to 30, inclusive, of this act become effective upon passage and approval.

2. Sections 10, 11, 13, 15 and 16 of this act become effective on July 1, 2010.

~~[3. Section 25 of this act becomes effective on January 1, 2011.]~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 206.

Bill read second time.

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

Amendment No. 464.

AN ACT relating to public health; revising provisions relating to reports of sentinel events and patient safety by medical facilities; authorizing health authorities to conduct investigations of cases or suspected cases of an infectious disease **or exposure to biological, radiological or chemical agents** and to issue cease and desist orders relating to those investigations; authorizing the Health Division of the Department of Health and Human Services to take control of certain medical records under certain circumstances; revising provisions relating to the licensure and discipline of certain medical facilities and facilities for the dependent; requiring the Director of the Office of Consumer Health Assistance to assist consumers in filing certain complaints; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires medical facilities to report certain sentinel events to the Health Division of the Department of Health and Human Services. (NRS 439.800-439.890) **Section 2** of this bill requires medical facilities to prepare an annual summary of sentinel events and requires the Health Division to annually report to the State Board of Health concerning those summary reports. **Section 3** of this bill authorizes the Health Division to, upon receipt of a report of a sentinel event by a medical facility, request additional information, conduct an audit or conduct an investigation of the facility. **Section 9** of this bill authorizes the imposition of an administrative sanction to a medical facility that fails to submit a report of a sentinel event, does not have a patient safety plan or does not have a patient safety committee as required by law. (NRS 439.835, 439.865, 439.875, 439.885) **Section 10** of this bill changes the authority to adopt regulations relating to reports of sentinel events from the Administrator of the Health Division to the State Board of Health. (NRS 439.890)

Existing law establishes the office of the State Health Officer and establishes county, district and city boards of health. (NRS 439.090-439.130, 439.280-439.470) Existing law further prescribes the duties and responsibilities of those health authorities, including the prevention and control of nuisances, regulation of sanitation, protection of the public health and investigation of certain communicable diseases. (Chapters 439 and 441A of NRS) **Sections 13-17** of this bill authorize health authorities to **: (1)**

conduct investigations concerning infectious diseases or ~~[other events]~~ **exposure to biological, radiological or chemical agents** which significantly impair the health, safety or welfare of the public ~~[.]~~ **; (2) petition the court for a** subpoena **to compel the production of** information relevant to those investigations **;** and **(3)** issue cease and desist orders against a provider of health care or medical facility subject to such an investigation.

Section ~~[20]~~ 21 of this bill provides that if the Health Division suspends the license of a medical facility or facility for the dependent, the Health Division may take control of certain medical records of the facility and requires the State Board of Health to adopt regulations to pay for the services of a contractor to oversee the seizure and control of such records.

Existing law prohibits a medical facility, physician or osteopathic physician from retaliating or discriminating against an employee who reports information concerning the conduct of a physician or osteopathic physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine, reports a sentinel event to the Health Division of the Department of Health and Human Services or cooperates or participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity concerning the conduct or sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. (NRS 449.205)

Section 22 of this bill requires a medical facility to prepare and post a written notice for the employees of the medical facility and the nurses and nursing assistants who contract with the medical facility regarding these protections from retaliation and discrimination and the process for making a report.

Section ~~[21]~~ 23 of this bill amends existing provisions governing administrative sanctions against a medical facility or facility for the dependent which violates applicable laws and regulations by authorizing the Health Division to impose sanctions at a rate of not less than $1,000 and not more than $10,000 for each patient who was harmed or at risk of harm as a result of the violation. (NRS 449.163)

Existing law authorizes the Health Division to immediately suspend the license of a medical facility, facility for the dependent or other licensed facility if the public health, safety or welfare imperatively requires such suspension. (NRS 233B.127, 449.170) **Section ~~[22]~~ 24** of this bill amends existing law to specifically reference summary suspensions issued pursuant to NRS 233B.127. (NRS 449.170)

Existing law requires the Health Division to provide a copy of the results of certain inspections of certain medical facilities to any person who requests a copy of the report. **Section ~~[23]~~ 25** of this bill requires the Health Division to complete a report of each investigation and to include in the report any

recommendations of a health authority that also conducted an investigation of the facility. (NRS 449.200)

Section ~~[24]~~ 26 of this bill amends the duties of the Director of the Office for Consumer Health Assistance to require the Director to provide assistance to consumers who wish to file a complaint against a health care facility or a health care professional. (NRS 223.560)

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth in sections 2 and 3 of this act.

Sec. 2. ***1. On or before March 1 of each year, each medical facility shall provide to the Health Division, in the form prescribed by the State Board of Health, a summary of the reports submitted by the medical facility pursuant to NRS 439.835 during the immediately preceding calendar year. The summary must include, without limitation:***

(a) The total number and types of sentinel events reported by the medical facility, if any;

(b) A copy of the patient safety plan established pursuant to NRS 439.865;

(c) A summary of the membership and activities of the patient safety committee established pursuant to NRS 439.875; and

(d) Any other information required by the State Board of Health ~~[.]~~ concerning the reports submitted by the medical facility pursuant to NRS 439.835.

2. On or before June 1 of each year, the Health Division shall submit to the State Board of Health an annual summary of the reports and information received by the Health Division pursuant to this section. The annual summary must include, without limitation, a compilation of the information submitted pursuant to subsection 1 and any other pertinent information deemed necessary by the State Board of Health ~~[.]~~ concerning the reports submitted by the medical facility pursuant to NRS 439.835. The Health Division shall maintain the confidentiality of the reports submitted pursuant to NRS 439.835 and any other information requested by the State Board of Health concerning those reports when preparing the annual summary pursuant to this section.

Sec. 3. ***1. Upon receipt of a report pursuant to NRS 439.835, the Health Division may, as often as deemed necessary by the Administrator to protect the health and safety of the public, request additional information regarding the sentinel event or conduct an audit or investigation of the medical facility.***

2. A medical facility shall provide to the Health Division any information requested in furtherance of a request for information, an audit or an investigation pursuant to this section.

3. If the Health Division conducts an audit or investigation pursuant to this section, the Health Division shall, within 30 days after completing such an audit or investigation, report its findings to the State Board of Health.

4. A medical facility which is audited or investigated pursuant to this section shall pay to the Health Division the actual cost of conducting the audit or investigation.

Sec. 4. NRS 439.565 is hereby amended to read as follows:

439.565 1. Any person, corporation, firm, partnership, joint stock company, or any other association or organization which violates or proposes to violate this chapter, provisions of law requiring the immunization of children in public schools, private schools and child care facilities, any regulation of the State Board of Health or any regulation of a county, district or city board of health approved by the State Board of Health pursuant to this chapter may be enjoined by any court of competent jurisdiction.

2. Actions for injunction under this section may be prosecuted by the Attorney General, any district attorney in this State or any retained counsel of any local board of health in the name and upon the complaint of the State Board of Health or any local board of health, or upon the complaint of the State Health Officer or of any local health officer or his deputy.

3. A court may issue a permanent or temporary injunction, restraining order or other appropriate order pursuant to this section.

Sec. 5. NRS 439.800 is hereby amended to read as follows:

439.800 As used in NRS 439.800 to 439.890, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 439.802 to 439.830, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 439.802 is hereby amended to read as follows:

439.802 "Facility-acquired infection" means a localized or systemic condition which results from an adverse reaction to the presence of an infectious agent or its toxins and which was not detected as present or incubating at the time a patient was admitted to a medical facility, including, without limitation:

1. Surgical site infections;
2. Ventilator-associated pneumonia;
3. Central line-related bloodstream infections;
4. Urinary tract infections; and
5. Other categories of infections as may be established by the ~~[Administrator]~~ ***State Board of Health*** by regulation pursuant to NRS 439.890.

Sec. 7. NRS 439.835 is hereby amended to read as follows:

439.835 1. Except as otherwise provided in subsection 2:

(a) A person who is employed by a medical facility shall, within 24 hours after becoming aware of a sentinel event that occurred at the medical facility, notify the patient safety officer of the facility of the sentinel event; and

(b) The patient safety officer shall, within 13 days after receiving notification pursuant to paragraph (a), report the date, the time and a brief description of the sentinel event to:

(1) The Health Division; and

(2) The representative designated pursuant to NRS 439.855, if that person is different from the patient safety officer.

2. If the patient safety officer of a medical facility personally discovers or becomes aware, in the absence of notification by another employee, of a sentinel event that occurred at the medical facility, the patient safety officer shall, within 14 days after discovering or becoming aware of the sentinel event, report the date, time and brief description of the sentinel event to:

(a) The Health Division; and

(b) The representative designated pursuant to NRS 439.855, if that person is different from the patient safety officer.

3. The ~~[~~Administrator~~]~~ ***State Board of Health*** shall prescribe the manner in which reports of sentinel events must be made pursuant to this section ***.*** ~~*[, including, without limitation, a standardized form for submission of such reports.]*~~

Sec. 8. NRS 439.840 is hereby amended to read as follows:

439.840 1. The Health Division shall, to the extent of legislative appropriation and authorization:

(a) Collect and maintain reports received pursuant to NRS 439.835 ~~[;]~~ ***and section 2 of this act*** ~~*[;]*~~ ***and any additional information requested by the Health Division pursuant to section 3 of this act;*** and

(b) Ensure that such reports, and any additional documents created from such reports, are protected adequately from fire, theft, loss, destruction and other hazards and from unauthorized access.

2. Except as otherwise provided in NRS 239.0115, reports received pursuant to NRS 439.835 ***and subsection 1 of section 2 of this act and any additional information requested by the Health Division pursuant to section 3 of this act*** are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

Sec. 9. NRS 439.885 is hereby amended to read as follows:

439.885 ***1.*** If a medical facility:

~~[~~1.~~]~~ ***(a)*** Commits a violation of any provision of NRS 439.800 to 439.890, inclusive, ***and sections 2 and 3 of this act*** or for any violation for which an administrative sanction pursuant to NRS 449.163 would otherwise be applicable; and

~~[~~2.~~]~~ ***(b)*** Of its own volition, reports the violation to the Administrator,

➥ such a violation must not be used as the basis for imposing an administrative sanction pursuant to NRS 449.163.

2. If a medical facility commits a violation of any provision of NRS 439.800 to 439.890, inclusive, and sections 2 and 3 of this act and does not, of its own volition, report the violation to the Administrator, the

Health Division may, in accordance with the provisions of subsection 3, impose an administrative sanction:

(a) For failure to report a sentinel event, in an amount not to exceed $100 per day for each day after the date on which the sentinel event was required to be reported pursuant to NRS 439.835;

(b) For failure to adopt and implement a patient safety plan pursuant to NRS 439.865, in an amount not to exceed $1,000 for each month in which a patient safety plan was not in effect; and

(c) For failure to establish a patient safety committee or failure of such a committee to meet pursuant to the requirements of NRS 439.875, in an amount not to exceed $2,000 for each violation of that section.

3. Before the Health Division imposes an administrative sanction pursuant to subsection 2, the Health Division shall provide the medical facility with reasonable notice. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. If a medical facility wants to contest the action, the facility may file an appeal pursuant to the regulations of the State Board of Health adopted pursuant to NRS 449.165 and 449.170. Upon receiving notice of an appeal, the Health Division shall hold a hearing in accordance with those regulations.

~~*[3.]*~~ ***4. An administrative sanction collected pursuant to this section must be accounted for separately and used by the Health Division to provide training and education to employees of the Health Division, employees of medical facilities and members of the general public regarding issues relating to the provision of quality and safe health care.***

Sec. 10. NRS 439.890 is hereby amended to read as follows:

439.890 The ~~[Administrator]~~ ***State Board of Health*** shall adopt such regulations as the ~~[Administrator]~~ ***the Board*** determines to be necessary or advisable to carry out the provisions of NRS 439.800 to 439.890, inclusive ~~[.]~~ ***, and sections 2 and 3 of this act.***

Sec. 11. Chapter 441A of NRS is hereby amended by adding thereto the provisions set forth as sections 12 to 17, inclusive, of this act.

Sec. 12. ***"Infectious disease" means a disease which is caused by pathogenic microorganisms, including, without limitation, bacteria, viruses, parasites or fungi, which spread, either directly or indirectly, from one person to another. The term includes a communicable disease.***

Sec. 13. ***1. Except as otherwise required pursuant to NRS 441A.160, a health authority may conduct an investigation of a case or suspected case of*** ~~*[an]*~~ **:**

(a) An infectious disease within its jurisdiction ; or ~~*[any other event]*~~

(b) Exposure to a biological, radiological or chemical agent within its jurisdiction,

which significantly impairs the health, safety or welfare of the public within its jurisdiction.

2. Each health authority shall:

(a) Except as otherwise required pursuant to NRS 441A.170, report each week to the State Health Officer the number and types of cases or suspected cases of infectious diseases ~~[or other events]~~ or cases or suspected cases of exposure to biological, radiological or chemical agents which significantly impair the health, safety or welfare of the public reported to the health authority, and any other information required by the regulations of the Board.

(b) Report the results of an investigation conducted pursuant to subsection 1 to the State Health Officer within 30 days after concluding the investigation.

3. The Board may adopt regulations to carry out the provisions of sections 13 to 17, inclusive, of this act.

Sec. 14. ***1. A health authority which conducts an investigation pursuant to NRS 441A.160 or section 13 of this act ~~[may,]~~ shall, for the protection of the health, safety and welfare of the public, ~~[issue a subpoena for the release of information,]~~ have access to all medical records, laboratory records and reports, books and papers relevant to the investigation which are in the possession of a provider of health care or medical facility being investigated or which are otherwise necessary to carry out the investigation. The determination of what information is necessary to carry out the investigation is at the discretion of the health authority.***

2. If a health authority conducts an investigation pursuant to NRS 441A.160 or section 13 of this act, the health authority may require a provider of health care or medical facility being investigated to pay a proportionate share of the actual cost of carrying out the investigation, including, without limitation, the cost of notifying and testing patients who may have contracted an infectious disease , been exposed to a biological, radiological or chemical agent or otherwise been harmed.

Sec. 15. ***1. ~~[The]~~ Upon petition by a health authority to the district court for the county in which an investigation is being conducted by ~~[a]~~ the health authority pursuant to NRS 441A.160 or section 13 of this act , the court may issue a subpoena to compel the production of ~~[information,]~~ medical records, laboratory records and reports, books and papers as ~~[required by a subpoena issued by the health authority.]~~ set forth in section 14 of this act.***

2. If a witness refuses to produce any ~~[information,]~~ medical records, laboratory records and reports, books or papers required by a subpoena ~~[, the health authority may report to the district court for the county in which the investigation is pending by petition, setting forth that:~~

~~(a) Due notice has been given of the time and place of the production of the information, books and papers; and~~

~~(b) The witness has failed or refused to produce the information, books and papers required by subpoena before the health authority in the~~

~~*investigation named in the subpoena, or has refused to answer questions propounded to him in the course of the investigation,*~~

~~*—* and asking for an order of the court compelling the witness to produce the information, books or papers before the health authority.~~

~~*3. Upon receiving such a petition,]*~~ ***issued by a court pursuant to subsection 1, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not produced the ~~[information,]~~ medical records, laboratory records and reports, books or papers before the health authority. A certified copy of the order must be served upon the witness.***

~~*[4. If it appears to the court that the subpoena was regularly issued by the health authority, the court shall]*~~ ***The court may enter an order that the witness appear before the ~~[agency]~~ health authority at the time and place fixed in the order and produce the required ~~[information,]~~ medical records, laboratory records and reports, books or papers, and upon failure to obey the order , the witness must be dealt with as for contempt of court.***

Sec. 16. ***1. A public agency, law enforcement agency or political subdivision of this State which has information that is relevant to an investigation relating to an infectious disease or ~~[other event]~~ exposure to a biological, radiological or chemical agent which significantly impairs the health, safety and welfare of the public shall share the information and any medical records and reports with ~~[other agencies and political subdivisions]~~ the appropriate state and local health authorities if it is in the best interest of the public and ~~[will]~~ as necessary to further the investigation of the requesting ~~[agency or political subdivision.]~~ health authority.***

2. The Board shall adopt regulations to carry out this section, including, without limitation:

(a) Identifying the public agencies and political subdivisions with which the information set forth in subsection 1 may be shared;

(b) Prescribing the circumstances and procedures by which the information may be shared with those identified public agencies and political subdivisions; and

(c) Ensuring the confidentiality of the information if it is protected health information.

Sec. 17. ***1. During the course of or as a result of an investigation concerning the case or suspected case of an infectious disease or the case or suspected case of exposure to a biological, radiological or chemical agent pursuant to NRS 441A.160 or section 13 of this act, a health authority may, upon finding that a provider of health care or medical facility significantly contributed to a case of an infectious disease or to a case of exposure to a biological, radiological or chemical agent and that the public health imperatively requires:***

(a) Issue a written order directing the provider of health care or medical facility to cease and desist any act or conduct which is harmful to the health, safety or welfare of the public; and

(b) Take any other action to reduce or eliminate the harm to the health, safety or welfare of the public.

2. A written order directing a provider of health care or medical facility to cease and desist issued pursuant to subsection 1 must contain a statement of the:

(a) Provision of law or regulation which the provider of health care or medical facility is violating; or

(b) Standard of care that the provider of health care or medical facility is violating which led to the case of the infectious disease ~~[.]~~ ***or to the case of exposure to a biological, radiological or chemical agent.***

3. An order to cease and desist must be served upon the person or an authorized representative of the facility directly or by certified or registered mail, return receipt requested. The order becomes effective upon service.

4. An order to cease and desist expires 30 days after the date of service unless the health authority institutes an action in a court of competent jurisdiction seeking an injunction.

5. Upon a showing by the health authority that a provider of health care or medical facility is committing or is about to commit an act which is harmful to the health, safety or welfare of the public, a court of competent jurisdiction may enjoin the provider of health care or medical facility from committing the act.

Sec. 18. NRS 441A.010 is hereby amended to read as follows:

441A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 441A.020 to 441A.115, inclusive, ***and section 12 of this act*** have the meanings ascribed to them in those sections.

Sec. 19. NRS 441A.130 is hereby amended to read as follows:

441A.130 The State Health Officer shall inform each local health officer of the regulations adopted by the Board and the procedures established for investigating and reporting cases or suspected cases of ~~[communicable]~~ ***infectious*** diseases ~~[.]~~ ***and cases or suspected cases of exposure to biological, radiological or chemical agents pursuant to this chapter.***

Sec. 20. Chapter 449 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth in sections 21 and 22 of this act.**

Sec. 21. 1. If the Health Division suspends the license of a medical facility or a facility for the dependent pursuant to the provisions of this chapter, or if a facility otherwise ceases to operate, including, without limitation, pursuant to an action or order of a health authority pursuant to chapter 441A of NRS, the Health Division may, if deemed necessary by the Administrator of the Health Division, take control of and ensure the safety of the medical records of the facility.

2. Subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, the Health Division shall:

(a) Maintain the confidentiality of the medical records obtained pursuant to subsection 1.

(b) Share medical records obtained pursuant to subsection 1 with law enforcement agencies in this State and other governmental entities which have authority to license the facility or to license the owners or employees of the facility.

(c) Release a medical record obtained pursuant to subsection 1 to the patient or legal guardian of the patient who is the subject of the medical record.

3. The State Board of Health shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations for contracting with a person to maintain any medical records under the control of the Health Division pursuant to subsection 1 and for payment by the facility of the cost of maintaining medical records.

Sec. 22. 1. A medical facility shall prepare a written notice for the employees of the medical facility and for the nurses and nursing assistants who contract with the medical facility regarding the protections provided for actions taken pursuant to subsection 1 of NRS 449.205 and the legal remedy provided pursuant to NRS 449.207. The notice must include the process by which an employee, nurse or nursing assistant may make a report pursuant to subsection 1 of NRS 449.205.

2. A medical facility shall:

(a) Post in one or more conspicuous places at the medical facility the notice prepared pursuant to subsection 1; and

(b) Include the text of the written notice in any manual or handbook that the medical facility provides to employees and nurses and nursing assistants who contract with the medical facility concerning employment practices at the medical facility.

~~[Sec. 21.]~~ ***Sec. 23.*** NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 ~~[,]~~ ***or*** 449.001 to 449.240, inclusive, ***and section*** ~~*[20]*~~ ***21 of this act,*** or any condition, standard or regulation adopted by the Board, the Health Division in accordance with the regulations adopted pursuant to NRS 449.165 may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than $1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. ***If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than $1,000 and not more than $10,000 for each patient who was harmed or at risk of harm as a result of the violation.***

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

~~[3.]~~ ***4.*** The Health Division may require any facility that violates any provision of NRS 439B.410 ~~[,]~~ ***or*** 449.001 to 449.240, inclusive, ***and section*** ~~*[20]*~~ ***21 of this act,*** or any condition, standard or regulation adopted by the Board, to make any improvements necessary to correct the violation.

~~[4.]~~ ***5.*** Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

~~[Sec. 22.]~~ ***Sec. 24.*** NRS 449.170 is hereby amended to read as follows:

449.170 1. When the Health Division intends to deny, suspend or revoke a license, or impose any sanction prescribed by NRS 449.163, it shall give reasonable notice to all parties by certified mail. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. Notice is not required if the Health Division finds that the public health requires immediate action. In that case, it may order a summary suspension of a license ***pursuant to this section and NRS 233B.127*** or impose any sanction prescribed by NRS 449.163, pending proceedings for revocation or other action.

2. If a person wants to contest the action of the Health Division, he must file an appeal pursuant to regulations adopted by the Board.

3. Upon receiving notice of an appeal, the Health Division shall hold a hearing pursuant to regulations adopted by the Board.

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

~~[Sec. 23.]~~ ***Sec. 25.*** NRS 449.200 is hereby amended to read as follows:

449.200 The Health Division shall ~~[, upon]~~ ***:***

1. Prepare a report of the results of its inspections of medical facilities and facilities for the dependent regarding compliance with applicable regulations and standards. The report must be provided to the facility and include, without limitation, a recommendation of the Health Division for correcting any deficiencies and, if a deficiency is discovered as a result of an investigation by a county, district or city board of health or health officer, the recommendations of the board or health officer.

2. Upon request, disclose to any person or governmental entity the results of its inspections of facilities for skilled nursing, facilities for intermediate care and residential facilities for groups regarding their compliance with applicable regulations and standards.

~~[Sec. 24.]~~ ***Sec. 26.*** NRS 223.560 is hereby amended to read as follows:

223.560 The Director shall:

1. Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;

2. Assist consumers and injured employees in understanding their rights and responsibilities under health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

3. Identify and investigate complaints of consumers and injured employees regarding their health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:

(a) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and

(b) Providing counseling and assistance to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;

4. Provide information to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance in this State;

5. Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;

6. Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Director pursuant to this section;

7. In appropriate cases and pursuant to the direction of the Governor, refer a complaint or the results of an investigation to the Attorney General for further action;

8. Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services; ~~[and]~~

9. Establish and maintain an Internet website which includes:

(a) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328;

(b) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; and

(c) A link to the website established and maintained pursuant to NRS 439A.270 which provides information to the general public concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State ~~[.]~~ ***; and***

10. Assist consumers with filing complaints against health care facilities and health care professionals. As used in this subsection, "health care facility" has the meaning ascribed to it in NRS 449.800.

~~[Sec. 25.]~~ ***Sec. 27.*** NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the ~~[Administrator of the Health Division of the Department of Health and Human Services]~~ ***State Board of Health*** for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the report required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 8 of NRS 630.306.

4. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 and 2; and

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.

5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

7. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

8. As used in this section:

(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

~~[Sec. 26.]~~ ***Sec. 28.*** NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report annually to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the ~~[Administrator of the Health Division of the Department of Health and Human Services]~~ ***State Board of Health*** for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the report required pursuant to subsections 1 and 2 whether or not he performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.

4. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1 and 2; and

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.

5. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1 or 2 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

6. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

7. In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish

by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

8. As used in this section:

(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

~~[Sec. 27.]~~ ***Sec. 29.*** Any regulations adopted by the Administrator of the Health Division of the Department of Health and Human Services before July 1, 2009, pursuant to NRS 439.800 to 439.890, inclusive, and section 2 of this act remain in effect and may be enforced by the State Board of Health until the Board adopts regulations to repeal or replace those regulations.

~~[Sec. 28.]~~ ***Sec. 30.*** This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 229.

Bill read second time.

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

Amendment No. 198.

AN ACT relating to cigarettes; setting forth the testing requirements and performance standard for fire safety for cigarettes sold or offered for sale in this State; requiring a manufacturer of cigarettes to submit a written certification to the State Fire Marshal concerning the cigarettes that the manufacturer intends to sell in this State; imposing a fee for each cigarette

listed in a certification; requiring packages of cigarettes to be marked to indicate compliance of the cigarettes with the testing requirements and performance standard; imposing civil penalties for various violations; creating the Cigarette Fire Safety Standard and Firefighter Protection Fund in the State Treasury; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill, which is modeled on requirements first adopted in New York in 2004, sets forth the testing requirements and performance standard for fire safety for cigarettes sold or offered for sale in Nevada. **Section 10** of this bill prohibits the sale of any cigarettes in Nevada which do not meet the testing requirements or performance standard for cigarettes set forth in that section and which have not been certified in accordance with **section 11** of this bill or properly marked in accordance with **section 12** of this bill. **Section 10** also sets forth the testing requirements for cigarettes and the performance standard they must meet, using the ASTM International Standard ASTM E2187-04, while allowing for alternate testing methods and performance standards approved by the State Fire Marshal, and sets forth other requirements manufacturers must meet, such as keeping reports of testing.

Section 11 of this bill requires a manufacturer of cigarettes to submit to the State Fire Marshal a written certification concerning each cigarette the manufacturer intends to sell in Nevada, certifying that the cigarette meets the testing requirements and performance standard set forth in **section 10** of this bill, and to pay a fee of $250 to the State Fire Marshal for each cigarette listed in a certification. **Section 11.5 of this bill requires the Executive Director of the Department of Taxation to establish a procedure to ensure that agents, wholesale dealers and retail dealers receive notice of the cigarettes that have been certified by manufacturers.** **Section 12** of this bill requires that cigarettes which have been certified be marked with the letters "FSC," signifying "Fire Standard Compliant."

Section 13 of this bill provides for the imposition of a civil penalty against a manufacturer, wholesale dealer, retail dealer, agent or other person who violates any provision of this bill. **Section 14** of this bill authorizes the State Fire Marshal to adopt regulations to carry out the provisions of this bill. **Section 15** of this bill authorizes the Department of Taxation to inspect any packages of cigarettes to determine if they have been properly marked as required by **section 12** of this bill. **Section 16** of this bill authorizes the Attorney General, the Executive Director of the Department and the State Fire Marshal, and their authorized representatives, and any law enforcement officer to examine the books, papers, invoices and other records of persons in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in Nevada. **Section 17** of this bill creates the Cigarette Fire Safety Standard and Firefighter Protection Fund as a special revenue fund in the State Treasury.

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

Section 1. Chapter 477 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Agent" means a person authorized by the Department of Taxation to purchase and affix Nevada cigarette revenue stamps to packages of cigarettes.***

Sec. 4. ***"Cigarette" means any roll of tobacco:***

1. Wrapped in paper or any other substance not containing tobacco; or

2. Wrapped in any substance containing tobacco which, because of its appearance, its packaging and labeling or the type of tobacco used in the filler, is likely to be offered to or purchased by a person as a cigarette described in subsection 1.

Sec. 5. ***"Manufacturer" means:***

1. A person who manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced in any location and who intends the cigarettes to be sold in this State, including, without limitation, cigarettes intended to be sold in the United States through an importer; or

2. The successor in interest of any person described in subsection 1.

Sec. 6. ***"Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or other tobacco products.***

Sec. 7. ***"Sale" means any transfer of title or possession, conditional or otherwise, in any manner or by any means or agreement. The term includes, without limitation, cash and credit sales, the giving of cigarettes as samples, prizes or gifts and the exchanging of cigarettes for consideration other than money.***

Sec. 8. ***"Sell" means to make a sale or to offer or agree to make a sale.***

Sec. 9. ***"Wholesale dealer" means:***

1. Any person other than a manufacturer who sells cigarettes or other tobacco products to retail dealers or other persons for purposes of resale; and

2. Any person who owns, operates or maintains one or more vending machines which dispense cigarettes or other tobacco products and which are located on premises owned or occupied by another person.

Sec. 10. ***1. Except as otherwise provided in this section, a person shall not sell or offer to sell any cigarettes in this State unless:***

(a) The cigarettes have been tested in accordance with this section and meet the performance standard required by this section;

(b) The manufacturer has submitted to the State Fire Marshal, pursuant to section 11 of this act, a written certification in which the cigarettes are listed; and

(c) The packages that contain the cigarettes have been marked pursuant to section 12 of this act.

2. Except as otherwise provided in this section, all cigarettes that are sold or offered for sale in this State must comply with the following method of testing and performance standard:

(a) The cigarettes must be tested in accordance with the ASTM International Standard ASTM E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(b) The testing must be conducted on 10 layers of filter paper.

(c) The testing must be conducted by a laboratory which has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization or which meets any other comparable accreditation standard required by the State Fire Marshal.

(d) The laboratory conducting the testing must have a program for quality control that includes a procedure for determining the repeatability of the test results. The repeatability value must not exceed 0.19.

(e) Not more than 25 percent of the cigarettes tested in a test trial may exhibit full-length burns in the test trial. Compliance with the performance standard required by this paragraph must be determined based on a complete test trial consisting of 40 replicate tests for each cigarette tested.

3. This section does not require additional testing if the cigarettes have been tested for any other purpose in a manner that is consistent with this section.

4. Any testing performed or caused to be performed by the State Fire Marshal to determine the compliance of a cigarette with the performance standard required by this section must be conducted in accordance with this section.

5. Any cigarette listed in a certification submitted to the State Fire Marshal pursuant to section 11 of this act which uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard required by this section must have not less than two nominally identical bands on the paper surrounding the tobacco column, at least one of which must be located not less than 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two bands, one of which is located not less than 13 millimeters from the lighting end of the cigarette and one of which is located not less than 10 millimeters from:

(a) The filter end of the tobacco column if the cigarette is filtered; or

(b) The labeled end of the tobacco column if the cigarette is nonfiltered.

6. If the State Fire Marshal:

(a) Determines that a cigarette cannot be tested in accordance with the requirements of subsection 2, the manufacturer of the cigarette shall

propose an alternative method of testing and performance standard to the State Fire Marshal for approval and, if the State Fire Marshal approves the alternative method of testing and determines that the alternative performance standard proposed by the manufacturer is substantially equivalent to the performance standard set forth in paragraph (e) of subsection 2, the alternative method of testing and performance standard may be used to certify the cigarette pursuant to section 11 of this act; or

(b) Determines that:

(1) Another state has enacted requirements which are substantially similar to those set forth in this section for the fire safety of cigarettes and which include a method of testing and a performance standard that are substantially similar to those set forth in subsection 2; and

(2) The officials responsible for carrying out those requirements in the other state have approved the alternative method of testing and performance standard for a particular cigarette that the manufacturer has proposed as meeting the fire safety standards of the law of that state under a provision similar to this subsection,

➥ the State Fire Marshal shall authorize the manufacturer to use the alternative method of testing and performance standard to certify that cigarette for sale in this State, unless the State Fire Marshal has a reasonable basis for denying the authorization.

7. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes sold or offered for sale in this State for a period of 3 years after the completion of the testing and shall make copies of the reports available to the State Fire Marshal and the Attorney General upon written request. Any manufacturer that fails to make such copies available to the State Fire Marshal or Attorney General within 60 days after receiving a written request therefor is subject to a civil penalty not to exceed $10,000 for each day after the 60th day that the manufacturer fails to make the copies available.

8. The State Fire Marshal may, by regulation, adopt by reference a subsequent ASTM International Standard Test Method for Measuring the Ignition Strength of Cigarettes if he determines that the subsequent method of testing does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with the ASTM International Standard ASTM E2187-04 and the performance standard set forth in paragraph (e) of subsection 2. If the State Fire Marshal adopts the subsequent method of testing, it may be used as an alternative method for the certification of cigarettes.

9. This section does not prohibit:

(a) A wholesale dealer or retail dealer from selling his existing inventory of cigarettes on or after the effective date of this section if the wholesale dealer or retail dealer can establish that Nevada cigarette revenue stamps were affixed to the packages of cigarettes before the effective date of this

section and the cigarettes were purchased by the wholesale dealer or retail dealer before the effective date of this section in a quantity comparable to the inventory purchased by the wholesale dealer or retail dealer during the same period of the immediately preceding year.

(b) The sale of cigarettes solely for the purpose of consumer testing. As used in this paragraph, "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, to evaluate consumer acceptance of the cigarettes, using only the number of cigarettes that is reasonably necessary for that assessment.

10. As used in this section, unless the context otherwise requires:

(a) "Program for quality control" means a program pursuant to which laboratory procedures are established to ensure that:

(1) The test results are not affected by operator bias, systematic and nonsystematic methodological errors or equipment-related problems; and

(2) The repeatability of the test results remains within the required repeatability value set forth in paragraph (d) of subsection 2 for all test trials used to certify cigarettes.

(b) "Repeatability value" means the range of values within which the repeat results of cigarette test trials conducted by a single laboratory will fall 95 percent of the time.

Sec. 11. ***1. Each manufacturer shall submit to the State Fire Marshal a written certification of the cigarettes that the manufacturer intends to sell in this State attesting that each cigarette listed in the certification has been tested in accordance with and meets the applicable performance standard set forth in section 10 of this act.***

2. The description of each cigarette listed in the certification must include, without limitation:

(a) The brand or trade name on the package;

(b) The style, such as light or ultra light;

(c) The length in millimeters;

(d) The circumference in millimeters;

(e) The flavor, such as menthol or chocolate, if applicable;

(f) Whether the cigarette is filtered or nonfiltered;

(g) The package description, such as soft pack or box;

(h) The marking pursuant to section 12 of this act;

(i) The name, address and telephone number of the laboratory that conducted the testing of the cigarette; and

(j) The date that the testing occurred.

3. The State Fire Marshal shall make the certifications that are submitted to him pursuant to this section available to the Attorney General for purposes consistent with sections 2 to 19, inclusive, of this act and to the Executive Director of the Department of Taxation for the purpose of ensuring compliance with this section ~~[.]~~ ***and section 11.5 of this act.***

4. Each cigarette certified under this section must be recertified every 3 years.

5. A manufacturer shall pay to the State Fire Marshal a fee of $1,000 for each brand family of cigarettes listed in the certification. The fee paid ~~*[shall apply]*~~ ***applies to all cigarettes within the brand family certified and*** ~~*[shall]*~~ ***must include any new cigarettes certified within the brand family during the 3-year certification period. All fees collected pursuant to this section must be deposited in the Cigarette Fire Safety Standard and Firefighter Protection Fund created by section 17 of this act.***

6. If a manufacturer has certified a cigarette pursuant to this section and subsequently makes any change to the cigarette that is likely to alter its compliance with the performance standard required by section 10 of this act, the cigarette must not be sold or offered for sale in this State unless the manufacturer retests the cigarette pursuant to section 10 of this act and maintains the reports of the retesting in accordance with that section. Any altered cigarette that does not meet the applicable performance standard set forth in section 10 of this act must not be sold or offered for sale in this State.

Sec. 11.5. The Executive Director of the Department of Taxation shall establish a procedure to ensure that agents, wholesale dealers and retail dealers receive notice of the cigarettes that have been certified by manufacturers pursuant to section 11 of this act. The procedure may include, without limitation, listing the brands and styles of cigarettes which have been certified on an Internet website maintained by the Department.

Sec. 12. ***1. Packages that contain cigarettes which have been certified by a manufacturer in accordance with section 11 of this act must be marked to indicate compliance with section 10 of this act. The marking must be set forth in not less than 8-point type and consist of the letters "FSC," signifying "Fire Standard Compliant," and be permanently printed, stamped, engraved or embossed on the package at or near the UPC label.***

2. A manufacturer shall use only one marking and shall apply the marking uniformly for all packages, including, without limitation, packs, cartons, cases and brands marketed by that manufacturer.

3. A manufacturer that certifies a cigarette in accordance with section 11 of this act shall provide a copy of the certification to each wholesale dealer and agent to whom the manufacturer sells cigarettes. A wholesale dealer, retail dealer or agent shall allow the State Fire Marshal, the Executive Director of the Department of Taxation and the Attorney General, and their respective employees, to inspect the markings of cigarette packaging marked in accordance with this section.

Sec. 13. ***1. Any manufacturer, wholesale dealer, agent or other person that knowingly sells cigarettes in this State, other than through retail sale, in violation of section 10 of this act is subject to a civil penalty not to exceed $100 for each pack of such cigarettes sold, except that the***

penalty against the person must not exceed $100,000 during any 30-day period.

2. A retail dealer that knowingly sells cigarettes in this State in violation of section 10 of this act is subject to a civil penalty not to exceed $100 for each pack of such cigarettes sold, except that the penalty against the retail dealer must not exceed $25,000 during any 30-day period.

3. In addition to any other penalty prescribed by law, any manufacturer of cigarettes that knowingly makes a false certification pursuant to section 11 of this act is subject to a civil penalty of not less than $75,000 or more than $250,000 for each false certification.

4. A person who violates any other provision of sections 2 to 19, inclusive, of this act is subject to a civil penalty of not more than $1,000 for the first offense and not more than $5,000 for each subsequent offense.

5. A law enforcement officer, authorized representative of the Department of Taxation or authorized representative of the State Fire Marshal who discovers any cigarettes for sale in this State for which no certification has been submitted pursuant to section 11 of this act or which are not marked pursuant to section 12 of this act may seize the cigarettes. Cigarettes seized pursuant to this section must be destroyed after the true holder of the trademark rights in the cigarette brand is allowed to inspect the cigarettes.

6. Each violation of any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto constitutes a separate civil violation for which the State Fire Marshal or the Attorney General may obtain relief. In addition to any other remedy provided by law, the Attorney General may file an action in a court of competent jurisdiction concerning a violation of any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto, including, without limitation, petitioning for:

(a) Preliminary or permanent injunctive relief against any manufacturer, importer, wholesale dealer, retail dealer, agent or other person to enjoin the person from selling or affixing Nevada cigarette revenue stamps to any package of cigarettes that contains cigarettes which do not comply with the requirements of sections 2 to 19, inclusive, of this act. Upon obtaining judgment for injunctive relief, the State Fire Marshal or Attorney General shall provide a copy of the judgment to all wholesale dealers and agents to whom the cigarette has been sold.

(b) The recovery of any civil penalty authorized by the provisions of sections 2 to 19, inclusive, of this act.

(c) The recovery of any costs or damages incurred by this State because of a violation of sections 2 to 19, inclusive, of this act, including, without limitation, enforcement costs relating to a specific violation and attorney's fees.

7. All money collected pursuant to this section must be deposited in the Cigarette Fire Safety Standard and Firefighter Protection Fund created by section 17 of this act.

Sec. 14. ***The State Fire Marshal may adopt such regulations as he determines necessary to carry out the provisions of sections 2 to 19, inclusive, of this act.***

Sec. 15. ***The Department of Taxation, in the regular course of conducting inspections of wholesale dealers, retail dealers and agents pursuant to NRS 370.001 to 370.530, inclusive, may inspect any packages of cigarettes to determine if they have been marked in accordance with section 12 of this act. If the packages of cigarettes are not marked as required, the Executive Director of the Department of Taxation shall notify the State Fire Marshal*** ~~[.]~~ ***and may seize the packages of cigarettes pursuant to subsection 5 of section 13 of this act.***

Sec. 16. ***The Attorney General, the Executive Director of the Department of Taxation and the State Fire Marshal, and their authorized representatives, and any law enforcement officer may examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in this State, including, without limitation, any stock of cigarettes on the premises. Each person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in this State shall cooperate in any such examination.***

Sec. 17. ***1. The Cigarette Fire Safety Standard and Firefighter Protection Fund is hereby created in the State Treasury as a special revenue fund. All money received for the use of the Fund pursuant to sections 2 to 19, inclusive, of this act or from any other source must be deposited in the Fund.***

2. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

3. The State Fire Marshal shall administer the Fund and may expend any money in the Fund to support fire safety and fire prevention programs.

Sec. 18. ***On or before January 30 of each odd-numbered year, the State Fire Marshal shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of the provisions of sections 2 to 19, inclusive, of this act and any recommendations for legislation to improve the effectiveness of sections 2 to 19, inclusive, of this act.***

Sec. 19. ***1. The provisions of sections 2 to 19, inclusive, of this act must, to the extent practicable, be interpreted and construed to effectuate the general purpose of those provisions to make uniform the laws of those states that have enacted similar legislation.***

2. The provisions of sections 2 to 19, inclusive, of this act must not be construed to prohibit any person from manufacturing or selling cigarettes

that do not meet the requirements of section 10 of this act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale in this State.

Sec. 20. 1. Any ordinance or regulation adopted by a local government which conflicts with any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto is void and must not be given effect to the extent of the conflict.

2. Notwithstanding any specific statute to the contrary, no local government may adopt any ordinance or regulation which conflicts with any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto.

3. As used in this section, "local government" means any political subdivision of this State, including, without limitation, a county, city or town.

Sec. 21. 1. This section and sections 1, 14 and 20 of this act become effective upon passage and approval.

2. Sections 2 to 13, inclusive, and 15 to 19, inclusive, of this act become effective 1 year after passage and approval.

3. This section and sections 2 to 16, inclusive, 18, 19 and 20 of this act expire by limitation on the date upon which a federal law establishing standards for fire-safe cigarettes becomes effective.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 271.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 210.

AN ACT relating to convicted persons; requiring the Office of Court Administrator to collect fines, administrative assessments, fees and restitution from a person convicted of certain offenses; providing that a person convicted of certain offenses may be placed on administrative probation under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a fine, administrative assessment, fee or restitution imposed upon a defendant is delinquent: (1) the defendant is liable for a collection fee; (2) the entity responsible for collecting the delinquent amount may report the delinquency to credit reporting agencies, may contract with a collection agency and may request that the court take appropriate action; and (3) the court may request that a prosecuting attorney undertake collection efforts, may order the suspension of the driver's license of the defendant and may, in the case of a delinquent fine or administrative

assessment, order that the defendant be confined in the appropriate prison, jail or detention facility. (NRS 176.064)

Sections 1, 3 and 6 of this bill provide that if a defendant is ordered to pay a fine, administrative assessment, fee or restitution for a felony or gross misdemeanor, the Office of Court Administrator is responsible for: (1) collecting the fine, administrative assessment, fee or restitution; and (2) distributing the fine, administrative assessment, fee or restitution to the entity entitled to receive it. **Section 1** also requires **: (1)** each district court, the Chief of the Division of Parole and Probation of the Department of Public Safety and the Director of the Department of Corrections to provide, upon request and in the manner prescribed by the Office of Court Administrator, necessary information to the Office of Court Administrator regarding the amount of any fine, administrative assessment, fee or restitution owed by a person convicted of a felony or gross misdemeanor **[.] ; and (2) the Office of Court Administrator to collaborate with each judicial district, the Department of Public Safety, the Department of Corrections and any other state or local agency involved in the collection of fines, administrative assessments, fees or restitution.**

Existing law provides that a court may suspend the execution of the sentence of a person and grant probation to the person under certain circumstances. (NRS 176A.100) **Sections 2 and 5** of this bill provide that at the time of granting probation to a person convicted of a felony or gross misdemeanor **[,] or during or at the termination of the period of probation of such a person,** the court may also place the person on administrative probation, to commence after termination of the period of probation, if any fine, administrative assessment, fee or restitution is imposed against the person as part of his sentence. During the period of administrative probation: (1) the Office of Court Administrator is required to supervise the person to ensure the collection of any fine, administrative assessment, fee or restitution owed; (2) the person is not required to pay any fee for supervision; and (3) the person remains subject to certain statutory provisions that authorize the court to take action against the person, including suspending his driver's license **.** ~~[and ordering him to be imprisoned for willful failure to pay the amount owed.]~~

Section 4 of this bill authorizes the court to terminate the period of probation of a person and order that the person be placed on administrative probation if the person has satisfied all conditions of his probation other than the payment of any fines, administrative assessments, fees or restitution. (NRS 176A.500)

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

Section 1. NRS 176.064 is hereby amended to read as follows:

176.064 1. ***If a fine, administrative assessment, fee or restitution is imposed upon a defendant pursuant to this chapter for a felony or gross***

misdemeanor, the Office of Court Administrator shall ~~[:]~~ ***, in collaboration with the appropriate district court, the Department of Public Safety, the Department of Corrections and any other state or local agency involved in the collection of fines, administrative assessments, fees or restitution:***

(a) Collect the fine, administrative assessment, fee or restitution from each defendant through any lawful means, including, without limitation, taking any or all of the actions set forth in this section; and

(b) Distribute the fine, administrative assessment, fee or restitution collected to the entity that is entitled to receive the fine, administrative assessment, fee or restitution.

2. If a fine, administrative assessment, fee or restitution is imposed upon a defendant pursuant to this chapter, whether or not the fine, administrative assessment, fee or restitution is in addition to any other punishment, and the fine, administrative assessment, fee or restitution or any part of it remains unpaid after the time established by the court for its payment, the defendant is liable for a collection fee, to be imposed by the court at the time it finds that the fine, administrative assessment, fee or restitution is delinquent, of:

(a) Not more than $100, if the amount of the delinquency is less than $2,000.

(b) Not more than $500, if the amount of the delinquency is $2,000 or greater, but is less than $5,000.

(c) Ten percent of the amount of the delinquency, if the amount of the delinquency is $5,000 or greater.

~~[2. A state]~~

3. The Office of Court Administrator or ***a*** local entity that is responsible for collecting a delinquent fine, administrative assessment, fee or restitution may, in addition to attempting to collect the fine, administrative assessment, fee or restitution through any other lawful means, take any or all of the following actions:

(a) Report the delinquency to reporting agencies that assemble or evaluate information concerning credit.

(b) Request that the court take appropriate action pursuant to subsection ~~[3.]~~ ***4.***

(c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the delinquent amount and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection ~~[1,]~~ ***2,*** in accordance with the provisions of the contract.

~~[3.]~~ ***4.*** The court may, on its own motion or at the request of ~~[a state]~~ ***the Office of Court Administrator*** or ***a*** local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution, take any or all of the following actions, in the following order of priority if practicable:

(a) Request that a prosecuting attorney undertake collection of the delinquency, including, without limitation, the original amount and the

collection fee, by attachment or garnishment of the defendant's property, wages or other money receivable.

(b) Order the suspension of the driver's license of the defendant. If the defendant does not possess a driver's license, the court may prohibit the defendant from applying for a driver's license for a specified period. If the defendant is already the subject of a court order suspending or delaying the issuance of his driver's license, the court may order the additional suspension or delay, as appropriate, to apply consecutively with the previous order. At the time the court issues an order suspending the driver's license of a defendant pursuant to this paragraph, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the court issues an order pursuant to this paragraph delaying the ability of a defendant to apply for a driver's license, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the defendant's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.

(c) For a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

~~[4.]~~ ***5.*** Money collected from a collection fee imposed pursuant to subsection ~~[1]~~ ***2*** must be distributed in the following manner:

(a) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a municipal court, the money must be deposited in a special fund in the appropriate city treasury. The city may use the money in the fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution.

(b) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a Justice Court or district court, the money must be deposited in a special fund in the appropriate county treasury. The county may use the money in the special fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution.

(c) Except as otherwise provided in paragraph (d), if the money is collected by ~~[a state entity,]~~ ***the Office of Court Administrator,*** the money must be deposited in an account, which is hereby created in the State Treasury. The ***Office of*** Court Administrator may use the money in the account ~~[only]~~ to develop and implement a program for the collection of fines, administrative assessments, fees and restitution ~~[in this State.]~~ ***and to pay any costs associated with the administrative probation of persons as set forth in section 2 of this act.***

(d) If the money is collected by a collection agency, after the collection agency has been paid its fee pursuant to the terms of the contract, any remaining money must be deposited in the state, city or county treasury, whichever is appropriate, to be used ~~[only]~~ for the purposes set forth in paragraph (a), (b) or (c) of this subsection.

6. To carry out the provisions of this section ~~[, each]~~ :

(a) Each district court, the Chief of the Division of Parole and Probation of the Department of Public Safety and the Director of the Department of Corrections shall, upon the request of and in the manner prescribed by the Office of Court Administrator, provide to the Office of Court Administrator such information in their possession regarding the amount of any fine, administrative assessment, fee or restitution owed by a person convicted of a felony or gross misdemeanor as determined necessary by the Office of Court Administrator.

(b) The Office of Court Administrator shall collaborate with each district court, the Department of Public Safety, the Department of Corrections and any other state or local agency involved in the collection of fines, administrative assessments, fees or restitution.

Sec. 2. Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[At the time of granting probation to]~~ If a person is convicted of a felony or gross misdemeanor and granted probation pursuant to this chapter, the court may , at the time of granting probation or, upon request of the Office of Court Administrator or the Chief Parole and Probation Officer, during or at the termination of the period of probation, also impose a period of administrative probation, to commence after termination of the period of probation, if any fine, administrative assessment, fee or restitution is imposed on the person as part of his judgment and sentence.

2. During the period of administrative probation, the Office of Court Administrator shall supervise the person placed on administrative probation to ensure the collection of any fine, administrative assessment, fee or restitution imposed on the person as part of his judgment and sentence.

3. The period of administrative probation must last for a fixed time as determined by the court, except that the court may terminate the administrative probation before the fixed time if the person placed on administrative probation has paid all required fines, administrative assessments, fees and restitution.

4. A person placed on administrative probation:

(a) Is not required to pay any fee for supervision pursuant to NRS 213.1076 or any other provision of law during the period of administrative probation; and

(b) ~~[Remains]~~ Except as otherwise provided in this paragraph, remains subject to the provisions of NRS 176.064 ~~[. The]~~ , and the Office of Court

Administrator may attempt to collect any fines, administrative assessments, fees and restitution owed by the person through any lawful means, including, without limitation, taking any or all of the actions set forth in NRS 176.064. A person placed on administrative probation is not subject to confinement in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075, for a delinquent fine or administrative assessment.

5. Except as otherwise provided in this section, administrative probation pursuant to this section shall be deemed not to constitute a form of probation for the purposes of any other provision of law.

Sec. 3. NRS 176A.430 is hereby amended to read as follows:

176A.430 1. The court shall order as a condition of probation or suspension of sentence, in appropriate circumstances, that the defendant make full or partial restitution to the person or persons named in the order, at the times and in the amounts specified in the order unless the court finds that restitution is impracticable. Such an order may require payment for medical or psychological treatment of any person whom the defendant has injured. In appropriate circumstances, the court shall include as a condition of probation or suspension of sentence that the defendant execute an assignment of wages earned by him while on probation or subject to the conditions of suspension of sentence to the ~~[~~Division~~]~~ ***Office of Court Administrator*** for restitution.

2. All money received by the ~~[~~Division~~]~~ ***Office of Court Administrator*** for restitution for:

(a) One victim may; and

(b) More than one victim must,

➥ be deposited with the State Treasurer for credit to the Restitution Trust Fund. All payments from the Fund must be paid as other claims against the State are paid.

3. If restitution is not required, the court shall set forth the circumstances upon which it finds restitution impracticable in its order of probation or suspension of sentence.

4. Failure to comply with the terms of an order for restitution is a violation of a condition of probation or suspension of sentence unless the defendant's failure has been caused by economic hardship resulting in his inability to pay the amount due. The defendant is entitled to a hearing to show the existence of such a hardship.

5. If, within 3 years after the defendant has been discharged from probation, the ~~[~~Division~~]~~ ***Office of Court Administrator*** has not located the person to whom the restitution was ordered, the money paid by the defendant must be deposited with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.

Sec. 4. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended

or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

➥ ***At any time during the period of probation or suspension of sentence, if a probationer has satisfied all conditions of probation other than the payment of any fines, administrative assessments, fees or restitution, the court may terminate the period of probation and order that the person be placed on administrative probation as set forth in section 2 of this act. Any period of administrative probation ordered by the court pursuant to this subsection or section 2 of this act must not be counted or considered for the purposes of the limitation on the period of probation set forth in this subsection.***

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. An offender who is sentenced to serve a period of probation for a felony who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner

the duties assigned to him, must be allowed for the period of his probation a deduction of 20 days from that period for each month he serves.

Sec. 5. NRS 213.1076 is hereby amended to read as follows:

213.1076 1. The Division shall:

(a) Except as otherwise provided in this section, charge each parolee, probationer or person supervised by the Division through residential confinement a fee to defray the cost of his supervision.

(b) Adopt by regulation a schedule of fees to defray the costs of supervision of a parolee, probationer or person supervised by the Division through residential confinement. The regulation must provide for a monthly fee of at least $30.

2. The Chief may waive the fee to defray the cost of supervision, in whole or in part, if he determines that payment of the fee would create an economic hardship on the parolee, probationer or person supervised by the Division through residential confinement.

3. Unless waived pursuant to subsection 2, the payment by a parolee, probationer or person supervised by the Division through residential confinement of a fee charged pursuant to subsection 1 is a condition of his parole, probation or residential confinement.

4. This section does not apply to a person who is subject to administrative probation pursuant to NRS 176A.500 or section 2 of this act.

Sec. 6. NRS 213.126 is hereby amended to read as follows:

213.126 1. Unless complete restitution was made while the parolee was incarcerated, the Board shall impose as a condition of parole, in appropriate circumstances, a requirement that the parolee make restitution to the person or persons named in the statement of parole conditions, including restitution to a governmental entity for expenses related to extradition, at the times specified in the statement unless the Board finds that restitution is impracticable. The amount of restitution must be the amount set by the court pursuant to NRS 176.033. In appropriate circumstances, the Board shall include as a condition of parole that the parolee execute an assignment of wages earned by him while on parole to the ~~[~~Division~~]~~ ***Office of Court Administrator*** for restitution.

2. All money received by the ~~[~~Division~~]~~ ***Office of Court Administrator*** for restitution for:

(a) One victim may; and

(b) More than one victim must,

➥ be deposited in the State Treasury for credit to the Restitution Trust Fund which is hereby created.

3. The ~~[~~Division~~]~~ ***Office of Court Administrator*** shall make pro rata payments from the money received from the parolee to each person to whom the restitution was ordered pursuant to NRS 176.033. Such a payment must be made:

(a) If the money received from the parolee in a single payment is $200 or more or if the total accumulated amount received from the parolee is $200 or more, whenever money is received from the parolee.

(b) If the money received from the parolee in a single payment is less than $200 or if the total accumulated amount received from the parolee is less than $200, at the end of each year until the parolee has paid the entire restitution owed.

➥ Any money received from the parolee that is remaining at the end of each year must be paid at that time in pro rata payments to each person to whom the restitution was ordered. A final pro rata payment must be made to such persons when the parolee pays the entire restitution owed.

4. A person to whom restitution was ordered pursuant to NRS 176.033 may at any time file an application with the ~~[~~Division~~]~~ ***Office of Court Administrator*** requesting the ~~[~~Division~~]~~ ***Office of Court Administrator*** to make a pro rata payment from the money received from the parolee. If the ~~[~~Division~~]~~ ***Office of Court Administrator*** finds that the applicant is suffering a serious financial hardship and is in need of financial assistance, the ~~[~~Division~~]~~ ***Office of Court Administrator*** shall pay to the applicant his pro rata share of the money received from the parolee.

5. All payments from the Fund must be paid as other claims against the State are paid.

6. If restitution is not required, the Board shall set forth the circumstances upon which it finds restitution impracticable in its statement of parole conditions.

7. Failure to comply with a restitution requirement imposed by the Board is a violation of a condition of parole unless the parolee's failure was caused by economic hardship resulting in his inability to pay the amount due. The defendant is entitled to a hearing to show the existence of that hardship.

8. If, within 3 years after the parolee is discharged from parole, the ~~[~~Division~~]~~ ***Office of Court Administrator*** has not located the person to whom the restitution was ordered, the money paid to the ~~[~~Division~~]~~ ***Office of Court Administrator*** by the parolee must be deposited in the fund for the compensation of victims of crime.

Sec. 7. This act becomes effective on ~~[July 1, 2009.]~~ **January 1, 2010.**

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 304.

Bill read second time.

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

Amendment No. 228.

AN ACT relating to land use regulation; making various changes pertaining to the preservation of ~~[existing]~~ **historic** neighborhoods**; [**,

~~including historic neighborhoods; allowing certain providers of utility service to apply for and receive a rate adjustment to incorporate the costs of placing certain facilities underground;~~] and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain ~~[planning,]~~ **plans and** zoning ~~[and transportation plans and]~~ regulations must incorporate the consideration of certain policies, including the protection of existing neighborhoods and communities. (NRS 268.190, 278.02528, 278.0274, 278.150, 278.160, 278.170, 278.250 **)** ~~[, 408.290)~~ Sections 1, 3, 5-8, 13, 16 and 22 of this bill ~~require certain state and~~] **This bill requires certain** local governmental entities to address the preservation of historic neighborhoods ~~[and the effect of proposed streets and highways upon existing neighborhoods~~] in those plans and regulations.

~~[Existing law prescribes certain requirements for the vacation or abandonment by a city or county of a street. (NRS 278.480) Section 17 of this bill prohibits a city from requiring agreement from more than 80 percent of the abutting property owners as a prerequisite to vacating a street.~~

~~Under existing law, certain local governments are authorized to establish a local improvement district to finance a project to convert certain service facilities to underground facilities. (NRS 271.800, 271.850) Existing law also allows certain property owners to petition for the creation of a service district to pay for the cost of converting certain overhead electric and communication facilities to underground locations. (Chapter 704A of NRS) Under existing law, the cost of converting both types of facilities is borne by benefited property owners. Sections 20, 21, 23 and 24 of this bill allow service providers and public utility corporations who are subject to the jurisdiction of the Public Utilities Commission of Nevada to apply to and receive approval from the Commission to include underground conversion costs within their rate base, in part to preserve existing neighborhoods, including historic neighborhoods. Assessments against property owners to pay for such costs are required to be reduced to the extent that the costs are paid by rate adjustments. (NRS 704A.312)~~]

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

"Historic neighborhood" means a subdivided or developed area:

1. Which consists of 10 or more residential dwelling units;

2. Where at least two-thirds of the residential dwelling units are 40 or more years of age; and

3. Which has been identified by ~~*[a]*~~ ***the governing body*** ~~*[, planning commission, regional planning commission, coalition or agency or other governmental entity]*~~ ***of the city or county within which the area is located***

as having a distinctive character or traditional quality that can be distinguished from surrounding areas or new developments in the vicinity. Distinguishing characteristics of a historic neighborhood may include, without limitation:

(a) Significance to the cultural, social, political or economic history of the area in which it is located;

(b) Association with a significant person, group or event in local, state or national history;

(c) Representation of an established and familiar visual feature of an area because of its location, design, architecture or singular physical appearance; or

(d) Meeting the criteria for eligibility for listing on the State or National Register of Historic Places.

Sec. 2. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 278.02528 is hereby amended to read as follows:

278.02528 1. The regional planning coalition shall develop a comprehensive regional policy plan for the balanced economic, social, physical, environmental and fiscal development and orderly management of the growth of the region for a period of at least 20 years. The comprehensive regional policy plan must contain recommendations of policy to carry out each part of the plan.

2. In developing the plan, the coalition:

(a) May consult with other entities that are interested or involved in regional planning within the county.

(b) Shall ensure that the comprehensive regional policy plan includes goals, policies, maps and other documents relating to:

(1) Conservation, including, without limitation, policies relating to the use and protection of natural resources.

(2) Population, including, without limitation, standardized projections for population growth in the region.

(3) Land use and development, including, without limitation, a map of land use plans that have been adopted by local governmental entities within the region, and that the plan addresses, if applicable:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation.

(4) Transportation ***.*** ~~*[, including, without limitation, policies addressing the effect of proposed streets and highways upon existing neighborhoods.]*~~

(5) The efficient provision of public facilities and services, including, without limitation, roads, water and sewer service, police and fire protection, mass transit, libraries and parks.

(6) Air quality.

(7) Strategies to promote and encourage:

(I) The interspersion of new housing and businesses in established neighborhoods; ~~[and]~~

(II) ***The preservation of historic neighborhoods; and***

(III) Development in areas in which public services are available.

3. The regional planning coalition shall not adopt or amend the comprehensive regional policy plan unless the adoption or amendment is by resolution of the regional planning coalition:

(a) Carried by the affirmative votes of not less than two-thirds of its total membership; and

(b) Ratified by the board of county commissioners of the county and the city council of each city that jointly established the regional planning coalition pursuant to NRS 278.02514.

Sec. 4. NRS 278.02556 is hereby amended to read as follows:

278.02556 Except as otherwise provided in this section, a governing body, regional agency, state agency or public utility that is located in whole or in part within the region shall not adopt a master plan, facilities plan or other similar plan, or an amendment thereto, after March 1, 2001, unless the regional planning coalition has been afforded an opportunity to make recommendations regarding the plan or amendment. A governing body, regional agency, state agency or public utility may adopt an amendment to a land use plan described in paragraph ~~[(f)]~~ ***(g)*** of subsection 1 of NRS 278.160 without affording the regional planning coalition the opportunity to make recommendations regarding the amendment.

Sec. 5. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods ***, including, without limitation, historic neighborhoods,*** and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected

necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) ~~*[Address the effect of proposed streets and highways upon existing neighborhoods;*~~

~~*(d)]*~~ Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; and

(d) ~~*[(e)]*~~ Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each

sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

Sec. 6. ~~[NRS 278.150 is hereby amended to read as follows:~~

~~278.150 1. The planning commission shall prepare and adopt a comprehensive, long-term general plan for the physical development of the city, county or region which in the commission's judgment bears relation to the planning thereof.~~

~~2. The plan must be known as the master plan, and must be so prepared that all or portions thereof, except as otherwise provided in subsections 3~~ ~~**,**~~ ~~**[**~~and~~**]**~~ 4 ~~**[,]**~~ ~~***and 5,***~~ may be adopted by the governing body, as provided in NRS 278.010 to 278.630, inclusive, as a basis for the development of the city, county or region for such reasonable period of time next ensuing after the adoption thereof as may practically be covered thereby.~~

~~3. ***In counties whose population is less than 100,000, if the governing body of the city or county adopts only a portion of the master plan, it shall include in that portion a plan to identify and inventory historic neighborhoods, which is part of the historic neighborhood preservation plan provided in NRS 278.160.***~~

~~***4.*** In counties whose population is 100,000 or more but less than 400,000, if the governing body of the city or county adopts only a portion of the master plan, it shall include in that portion a conservation plan, ~~***a historic neighborhood preservation plan,***~~ a housing plan and a population plan as provided in NRS 278.160.~~

~~**[**4.**]**~~ ~~***5.*** In counties whose population is 400,000 or more, the governing body of the city or county shall adopt a master plan for all of the city or county that must address each of the subjects set forth in subsection 1 of NRS 278.160.~~**]** **(Deleted by amendment.)**

Sec. 7. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in subsection 4 ~~*[5]*~~ of NRS 278.150 and subsection 3 ~~*[4]*~~ of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils,

rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) ***Historic neighborhood preservation plan. The plan*** ~~*[must]*~~ ***:***

(1) Must include, without limitation:

~~*[*~~ ~~*(1) A plan to identify and]*~~

(I) An inventory of historic neighborhoods.

~~*[(2)]*~~ ***(II) A statement of goals and methods to encourage the preservation of historic neighborhoods.***

~~*[*~~ ~~*(3) The]*~~

(2) May include, without limitation, the creation of a commission to monitor and promote the preservation of historic neighborhoods.

~~*[(4) A plan to convert existing overhead service facilities, as defined in NRS 271.152, and existing overhead electric and communication facilities, as defined in NRS 704A.090, to underground facilities along major thoroughfares in historic neighborhoods.]*~~

(e) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

~~[(e)]~~ ***(f)*** Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing to individuals and families in the community, regardless of income level.

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.

(3) An analysis of projected growth and the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

~~[(f)]~~ ***(g)*** Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

~~[(g)]~~ ***(h)*** Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

~~[(h)]~~ ***(i)*** Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

~~[(i)]~~ ***(j)*** Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

~~[(j)]~~ ***(k)*** Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

~~[(k)]~~ ***(l)*** Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

~~[(l)]~~ ***(m)*** Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including,

without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

~~[(m)]~~ ***(n)*** School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

~~[(n)]~~ ***(o)*** Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

~~[(o)]~~ ***(p)*** Solid waste disposal plan. Showing general plans for the disposal of solid waste.

~~[(p)]~~ ***(q)*** Streets and highways plan. Showing ~~*[The streets and highways plan must:*~~

~~*(1) Show]*~~ the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes . ~~*[; and*~~

~~*(2) Address the effects of proposed streets and highways upon existing neighborhoods.]*~~

~~[(q)]~~ ***(r)*** Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

~~[(r)]~~ ***(s)*** Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 8. ~~[NRS 278.170 is hereby amended to read as follows:~~

~~278.170 1. Except as otherwise provided in subsections 2~~ ~~[~~and 3,~~]~~ ~~*3 and 4,*~~ the commission may prepare and adopt all or any part of the master plan or any subject thereof for all or any part of the city, county or region. Master regional plans must be coordinated with similar plans of adjoining regions, and master county and city plans within each region must be coordinated so as to fit properly into the master plan for the region.

~~2.~~ ***In counties whose population is less than 100,000, if the commission prepares and adopts less than all the subjects of the master plan, as outlined in NRS 278.160, it shall include, in its preparation and adoption, a***

~~***plan to identify and inventory historic neighborhoods, which is part of the historic neighborhood preservation plan provided in NRS 278.160.***~~

~~***3.*** In counties whose population is 100,000 or more but less than 400,000, if the commission prepares and adopts less than all subjects of the master plan, as outlined in NRS 278.160, it shall include, in its preparation and adoption, the conservation, ***historic neighborhood preservation,*** housing and population plans described in that section.~~

~~**[**3.**]** ***4.*** In counties whose population is 400,000 or more, the commission shall prepare and adopt a master plan for all of the city or county that must address each of the subjects set forth in subsection 1 of NRS 278.160.**]** **(Deleted by amendment.)**~~

Sec. 9. NRS 278.210 is hereby amended to read as follows:

278.210 1. Before adopting the master plan or any part of it in accordance with NRS 278.170, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time and place of which must be given at least by one publication in a newspaper of general circulation in the city or county, or in the case of a regional planning commission, by one publication in a newspaper in each county within the regional district, at least 10 days before the day of the hearing.

2. Before a public hearing may be held pursuant to subsection 1 in a county whose population is 100,000 or more on an amendment to a master plan, including, without limitation, a gaming enterprise district, if applicable, the person who requested the proposed amendment must hold a neighborhood meeting to provide an explanation of the proposed amendment. Notice of such a meeting must be given by the person requesting the proposed amendment to:

(a) Each owner, as listed on the county assessor's records, of real property located within a radius of 750 feet of the area to which the proposed amendment pertains;

(b) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest to the area to which the proposed amendment pertains, to the extent this notice does not duplicate the notice given pursuant to paragraph (a);

(c) Each tenant of a mobile home park if that park is located within a radius of 750 feet of the area to which the proposed amendment pertains; and

(d) If a military installation is located within 3,000 feet of the area to which the proposed amendment pertains, the commander of the military installation.

➥ The notice must be sent by mail at least 10 days before the neighborhood meeting and include the date, time, place and purpose of the neighborhood meeting.

3. Except as otherwise provided in NRS 278.225, the adoption of the master plan, or of any amendment, extension or addition thereof, must be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the total membership of the commission. The resolution must

refer expressly to the maps, descriptive matter and other matter intended by the commission to constitute the plan or any amendment, addition or extension thereof, and the action taken must be recorded on the map and plan and descriptive matter by the identifying signatures of the secretary and chairman of the commission.

4. Except as otherwise provided in NRS 278.225, no plan or map, hereafter, may have indicated thereon that it is a part of the master plan until it has been adopted as part of the master plan by the commission as herein provided for the adoption thereof, whenever changed conditions or further studies by the commission require such amendments, extension or addition.

5. Except as otherwise provided in this subsection, the commission shall not amend the land use plan of the master plan set forth in paragraph ~~[(f)]~~ ***(g)*** of subsection 1 of NRS 278.160, or any portion of such a land use plan, more than four times in a calendar year. The provisions of this subsection do not apply to:

(a) A change in the land use designated for a particular area if the change does not affect more than 25 percent of the area; or

(b) A minor amendment adopted pursuant to NRS 278.225.

6. An attested copy of any part, amendment, extension of or addition to the master plan adopted by the planning commission of any city, county or region in accordance with NRS 278.170 must be certified to the governing body of the city, county or region. The governing body of the city, county or region may authorize such certification by electronic means.

7. An attested copy of any part, amendment, extension of or addition to the master plan adopted by any regional planning commission must be certified to the county planning commission and to the board of county commissioners of each county within the regional district. The county planning commission and board of county commissioners may authorize such certification by electronic means.

Sec. 10. ~~[NRS 278.220 is hereby amended to read as follows:~~

~~278.220 Except as otherwise provided in subsection~~ [4] ~~5 of NRS 278.150 and NRS 278.225:~~

~~1. Upon receipt of a certified copy of the master plan, or of any part thereof, as adopted by the planning commission, the governing body may adopt such parts thereof as may practicably be applied to the development of the city, county or region for a reasonable period of time next ensuing.~~

~~2. The parts must thereupon be endorsed and certified as master plans thus adopted for the territory covered, and are hereby declared to be established to conserve and promote the public health, safety and general welfare.~~

~~3. Before adopting any plan or part thereof, the governing body shall hold at least one public hearing thereon, notice of the time and place of which must be published at least once in a newspaper of general circulation in the city or counties at least 10 days before the day of hearing.~~

~~4. No change in or addition to the master plan or any part thereof, as adopted by the planning commission, may be made by the governing body in adopting the same until the proposed change or addition has been referred to the planning commission for a report thereon and an attested copy of the report has been filed with the governing body. Failure of the planning commission so to report within 40 days, or such longer period as may be designated by the governing body, after such reference shall be deemed to be approval of the proposed change or addition.~~**] (Deleted by amendment.)**

Sec. 11. ~~[NRS 278.230 is hereby amended to read as follows:~~

~~278.230 1. Except as otherwise provided in subsection~~ **[**~~4~~**]** ***5*** ~~of NRS 278.150, whenever the governing body of any city or county has adopted a master plan or part thereof for the city or county, or for any major section or district thereof, the governing body shall, upon recommendation of the planning commission, determine upon reasonable and practical means for putting into effect the master plan or part thereof, in order that the same will serve as:~~

~~(a) A pattern and guide for that kind of orderly physical growth and development of the city or county which will cause the least amount of natural resource impairment and will conform to the adopted population plan, where required, and ensure an adequate supply of housing, including affordable housing; and~~

~~(b) A basis for the efficient expenditure of funds thereof relating to the subjects of the master plan.~~

~~2. The governing body may adopt and use such procedure as may be necessary for this purpose.~~**] (Deleted by amendment.)**

Sec. 12. NRS 278.235 is hereby amended to read as follows:

278.235 1. If the governing body of a city or county is required to include a housing plan in its master plan pursuant to NRS 278.150, the governing body, in carrying out the plan for maintaining and developing affordable housing to meet the housing needs of the community, which is required to be included in the housing plan pursuant to subparagraph (8) of paragraph **[**~~(e)~~**]** ***(f)*** of subsection 1 of NRS 278.160, shall adopt at least six of the following measures:

(a) At the expense of the city or county, as applicable, subsidizing in whole or in part impact fees and fees for the issuance of building permits collected pursuant to NRS 278.580.

(b) Selling land owned by the city or county, as applicable, to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value of the land, and requiring that any such savings, subsidy or reduction in price be passed on to the purchaser of housing in such a development. Nothing in this paragraph authorizes a city or county to obtain land pursuant to the power of eminent domain for the purposes set forth in this paragraph.

(c) Donating land owned by the city or county to a nonprofit organization to be used for affordable housing.

(d) Leasing land by the city or county to be used for affordable housing.

(e) Requesting to purchase land owned by the Federal Government at a discounted price for the creation of affordable housing pursuant to the provisions of section 7(b) of the Southern Nevada Public Land Management Act of 1998, Public Law 105-263.

(f) Establishing a trust fund for affordable housing that must be used for the acquisition, construction or rehabilitation of affordable housing.

(g) Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing.

(h) Providing money, support or density bonuses for affordable housing developments that are financed, wholly or in part, with low-income housing tax credits, private activity bonds or money from a governmental entity for affordable housing, including, without limitation, money received pursuant to 12 U.S.C. § 1701q and 42 U.S.C. § 8013.

(i) Providing financial incentives or density bonuses to promote appropriate transit-oriented housing developments that would include an affordable housing component.

(j) Offering density bonuses or other incentives to encourage the development of affordable housing.

(k) Providing direct financial assistance to qualified applicants for the purchase or rental of affordable housing.

(l) Providing money for supportive services necessary to enable persons with supportive housing needs to reside in affordable housing in accordance with a need for supportive housing identified in the 5-year consolidated plan adopted by the United States Department of Housing and Urban Development for the city or county pursuant to 42 U.S.C. § 12705 and described in 24 C.F.R. Part 91.

2. On or before January 15 of each year, the governing body shall submit to the Housing Division of the Department of Business and Industry a report, in the form prescribed by the Division, of how the measures adopted pursuant to subsection 1 assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year. The report must include an analysis of the need for affordable housing within the city or county that exists at the end of the reporting period.

3. On or before February 15 of each year, the Housing Division shall compile the reports submitted pursuant to subsection 2 and transmit the compilation to the Legislature, or the Legislative Commission if the Legislature is not in regular session.

Sec. 13. NRS 278.250 is hereby amended to read as follows:

278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive. Within the zoning district, it may

regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.

2. The zoning regulations must be adopted in accordance with the master plan for land use and be designed:

(a) To preserve the quality of air and water resources.

(b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.

(c) To consider existing views and access to solar resources by studying the height of new buildings which will cast shadows on surrounding residential and commercial developments.

(d) To reduce the consumption of energy by encouraging the use of products and materials which maximize energy efficiency in the construction of buildings.

(e) To provide for recreational needs.

(f) To protect life and property in areas subject to floods, landslides and other natural disasters.

(g) To conform to the adopted population plan, if required by NRS 278.170.

(h) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including public access and sidewalks for pedestrians, and facilities and services for bicycles.

(i) To ensure that the development on land is commensurate with the character and the physical limitations of the land.

(j) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development.

(k) To promote health and the general welfare.

(l) To ensure the development of an adequate supply of housing for the community, including the development of affordable housing.

(m) To ensure the protection of existing neighborhoods and communities, including the protection of ~~*[historic neighborhoods and]*~~ rural preservation neighborhoods ~~**[.]**~~ ~~*[, with specific consideration of the effects of proposed streets and highways upon existing neighborhoods and communities.]*~~ ***and, in counties whose population is 400,000 or more, the protection of historic neighborhoods.***

(n) To promote systems which use solar or wind energy.

(o) To foster the coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

3. The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.

4. In exercising the powers granted in this section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.

5. As used in this section:

(a) "Density bonus" means an incentive granted by a governing body to a developer of real property that authorizes the developer to build at a greater density than would otherwise be allowed under the master plan, in exchange for an agreement by the developer to perform certain functions that the governing body determines to be socially desirable, including, without limitation, developing an area to include a certain proportion of affordable housing.

(b) "Inclusionary zoning" means a type of zoning pursuant to which a governing body requires or provides incentives to a developer who builds residential dwellings to build a certain percentage of those dwellings as affordable housing.

(c) "Minimum density zoning" means a type of zoning pursuant to which development must be carried out at or above a certain density to maintain conformance with the master plan.

Sec. 14. NRS 278.4787 is hereby amended to read as follows:

278.4787 1. Except as otherwise provided in subsection 5, a person who proposes to divide land for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or chapter 278A of NRS, may, in lieu of providing for the creation of an association for a common-interest community, request the governing body of the jurisdiction in which the land is located to assume the maintenance of one or more of the following improvements located on the land:

(a) Landscaping;

(b) Public lighting;

(c) Security walls; and

(d) Trails, parks and open space which provide a substantial public benefit or which are required by the governing body for the primary use of the public.

2. A governing body shall establish by ordinance a procedure pursuant to which a request may be submitted pursuant to subsection 1 in the form of a petition, which must be signed by a majority of the owners whose property will be assessed and which must set forth descriptions of all tracts of land or residential units that would be subject to such an assessment.

3. The governing body may by ordinance designate a person to approve or disapprove a petition submitted pursuant to this section. If the governing body adopts such an ordinance, the ordinance must provide, without limitation:

(a) Procedures pursuant to which the petition must be reviewed to determine whether it would be desirable for the governing body to assume the maintenance of the proposed improvements.

(b) Procedures for the establishment of a maintenance district or unit of assessment.

(c) A method for:

(1) Determining the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(I) Benefit the development or subdivision in which the improvements are located; and

(II) Benefit the public;

(2) Assessing the tracts of land or residential units in the development or subdivision to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the development or subdivision in which the improvements are located; and

(3) Allocating an amount of public money to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the public.

(d) Procedures for a petitioner or other aggrieved person to appeal to the governing body a decision of the person designated by the governing body by ordinance adopted pursuant to this subsection to approve or disapprove a petition.

4. If the governing body does not designate by an ordinance adopted pursuant to subsection 3 a person to approve or disapprove a petition, the governing body shall, after receipt of a complete petition submitted at least 120 days before the approval of the final map for the land, hold a public hearing at least 90 days before the approval of the final map for the land, unless otherwise waived by the governing body, to determine the desirability of assuming the maintenance of the proposed improvements. If the governing body determines that it would be undesirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall specify for the record its reasons for that determination. If the governing body determines that it would be desirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall by ordinance:

(a) Determine the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(1) Benefit the development or subdivision in which the improvements are located; and

(2) Benefit the public.

(b) Create a maintenance district or unit of assessment consisting of the tracts of land or residential units set forth in the petition or include the tracts of land or residential units set forth in the petition in an existing maintenance district or unit of assessment.

(c) Establish the method or, if the tracts or units are included within an existing maintenance district or unit of assessment, apply an existing method for determining:

(1) The amount of an assessment to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements. The amount of the assessment must be determined in accordance with the proportion to which such maintenance will benefit the development or subdivision in which the improvements are located.

(2) The time and manner of payment of the assessment.

(d) Provide that the assessment constitutes a lien upon the tracts of land or residential units within the maintenance district or unit of assessment. The lien must be executed, and has the same priority, as a lien for property taxes.

(e) Prescribe the levels of maintenance to be provided.

(f) Allocate to the cost of providing the maintenance the appropriate amount of public money to pay for that part of the maintenance which creates the public benefit.

(g) Address any other matters that the governing body determines to be relevant to the maintenance of the improvements, including, without limitation, matters relating to the ownership of the improvements and the land on which the improvements are located and any exposure to liability associated with the maintenance of the improvements.

5. If the governing body requires an owner of land to dedicate a tract of land as a trail identified in the recreation plan of the governing body adopted pursuant to paragraph ~~[(j)]~~ ***(k)*** of subsection 1 of NRS 278.160, the governing body shall:

(a) Accept ownership of the tract; and

(b) Assume the maintenance of the tract and any other improvement located on the land that is authorized in subsection 1.

6. The governing body shall record, in the office of the county recorder for the county in which the tracts of land or residential units included in a petition approved pursuant to this section are located, a notice of the creation of the maintenance district or unit of assessment that is sufficient to advise the owners of the tracts of land or residential units that the tracts of land or residential units are subject to the assessment. The costs of recording the notice must be paid by the petitioner.

7. The provisions of this section apply retroactively to a development or subdivision with respect to which:

(a) An agreement or agreements between the owners of tracts of land within the development or subdivision and the developer allow for the provision of services in the manner set forth in this section; or

(b) The owners of affected tracts of land or residential units agree to dissolve the association for their common-interest community in accordance with the governing documents of the common-interest community upon approval by the governing body of a petition filed by the owners pursuant to this section.

Sec. 15. NRS 279.608 is hereby amended to read as follows:

279.608 1. If, at any time after the adoption of a redevelopment plan by the legislative body, the agency desires to take an action that will constitute a material deviation from the plan or otherwise determines that it would be necessary or desirable to amend the plan, the agency must recommend the amendment of the plan to the legislative body. An amendment may include the addition of one or more areas to any redevelopment area.

2. Before recommending amendment of the plan, the agency shall hold a public hearing on the proposed amendment. Notice of that hearing must be published at least 10 days before the date of hearing in a newspaper of general circulation, printed and published in the community, or, if there is none, in a newspaper selected by the agency. The notice of hearing must include a legal description of the boundaries of the area designated in the plan to be amended and a general statement of the purpose of the amendment.

3. In addition to the notice published pursuant to subsection 2, the agency shall cause a notice of hearing on a proposed amendment to the plan to be sent by mail at least 10 days before the date of the hearing to each owner of real property, as listed in the records of the county assessor, whom the agency determines is likely to be directly affected by the proposed amendment. The notice must:

(a) Set forth the date, time, place and purpose of the hearing and a physical description of, or a map detailing, the proposed amendment; and

(b) Contain a brief summary of the intent of the proposed amendment.

4. If after the public hearing, the agency recommends substantial changes in the plan which affect the master or community plan adopted by the planning commission or the legislative body, those changes must be submitted by the agency to the planning commission for its report and recommendation. The planning commission shall give its report and recommendations to the legislative body within 30 days after the agency submitted the changes to the planning commission.

5. After receiving the recommendation of the agency concerning the changes in the plan, the legislative body shall hold a public hearing on the proposed amendment, notice of which must be published in a newspaper in the manner designated for notice of hearing by the agency. If after that hearing the legislative body determines that the amendments in the plan, proposed by the agency, are necessary or desirable, the legislative body shall adopt an ordinance amending the ordinance adopting the plan.

6. As used in this section, "material deviation" means an action that, if taken, would alter significantly one or more of the aspects of a redevelopment plan that are required to be shown in the redevelopment plan pursuant to NRS 279.572. The term includes, without limitation, the vacation of a street that is depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]~~ ***(q)*** of subsection 1 of NRS 278.160 which has been adopted for the community and the relocation of a public park. The term

does not include the vacation of a street that is not depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]~~ ***(q)*** of subsection 1 of NRS 278.160 which has been adopted for the community.

Sec. 16. NRS 268.190 is hereby amended to read as follows:

268.190 Except as otherwise provided by law, the city planning commission may:

1. Recommend and advise the city council and all other public authorities concerning:

(a) The laying out, widening, extending, paving, parking and locating of streets, sidewalks and boulevards.

(b) The betterment of housing and sanitary conditions, and the establishment of zones or districts within which lots or buildings may be restricted to residential use, or from which the establishment, conduct or operation of certain business, manufacturing or other enterprises may be excluded, and limiting the height, area and bulk of buildings and structures therein.

2. Recommend to the city council and all other public authorities plans and regulations for the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, which must include for each city a ~~*[plan to identify and inventory historic neighborhoods, and a historic neighborhood preservation plan and]*~~ population plan if required by NRS 278.170 ***,*** ~~[and]~~ a plan for the development of affordable housing ~~[.]~~ ***and, for each city located in a county whose population is 400,000 or more, a plan to inventory and preserve historic neighborhoods.***

3. Perform any other acts and things necessary or proper to carry out the provisions of NRS 268.110 to 268.220, inclusive, and in general to study and propose such measures as may be for the municipal welfare and in the interest of protecting the municipal area's natural resources from impairment.

Sec. 17. ~~[Chapter 270 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***If the governing body of an incorporated city establishes by ordinance, regulation or rule a requirement that a street owned by the city may not be vacated unless the vacation is approved by a certain percentage of:***~~

~~***1. The property owners abutting the street; or***~~

~~***2. An association of property owners,***~~

~~***↵ the percentage required must not exceed 80 percent.]***~~ **(Deleted by amendment.)**

Sec. 18. ~~[NRS 270.180 is hereby amended to read as follows:~~

~~270.180~~ ~~***The provisions of*** NRS 270.160 and 270.170 ***and section 17 of this act*** are intended to supplement and not to supersede the existing laws relating to the vacation of city and town plats and do not apply to land divided pursuant to NRS 278.010 to 278.630, inclusive.~~**]** **(Deleted by amendment.)**

Sec. 19. ~~[Chapter 271 of NRS is hereby amended by adding thereto the provisions set forth as sections 20 and 21 of this act.]~~ **(Deleted by amendment.)**

Sec. 20. ~~[*1. A service provider subject to the jurisdiction of the Public Utilities Commission of Nevada may apply to the Commission for an adjustment in its rates to allow its recovery of all or part of the cost of converting existing overhead service facilities to underground facilities.*~~

~~*2. Within 120 days after receipt of such an application, the Commission shall hold a public hearing to consider whether to authorize such an adjustment and, if authorized, the methods to be used to allow the recovery.*~~

~~*3. The Commission shall render its written decision within 180 days after receiving the application for such an adjustment.*~~

~~*4. The Commission shall render its decision based on the record and may grant the application, deny it or grant it according to such terms, conditions or modifications as the Commission finds appropriate.*~~

~~*5. The Commission may grant an application for such an adjustment if it determines that:*~~

~~*(a) The conversion of existing overhead service facilities to underground facilities will help preserve the character of existing neighborhoods, including, without limitation, historic neighborhoods, improve safety or efficiency or otherwise improve the quality of life of the service provider's customers; and*~~

~~*(b) The cost of the conversion will be reasonable in consideration of the likely benefits.*~~

~~*6. If the Commission grants the application, the service provider must, within a reasonable time specified by the Commission, file with the Commission a tariff which sets forth the adjustment in the rates authorized as a result of the conversion.*~~

~~*7. A service provider shall annually present to the Commission a certified accounting of the cost of conversion and an accounting of the revenues it has received in that year from the adjustment in its rates.*~~

~~*8. As used in this section, "historic neighborhood" has the meaning ascribed to it in section 1 of this act.]*~~ **(Deleted by amendment.)**

Sec. 21. ~~[*If a service provider subject to the jurisdiction of the Public Utilities Commission of Nevada has been granted an adjustment in rates pursuant to section 20 of this act, the amount of assessments against tracts of land within a district to finance an underground conversion project must be reduced to reflect the proportion of the cost of the project, if any, which will be defrayed by that adjustment.]*~~ **(Deleted by amendment.)**

Sec. 22. ~~[NRS 408.290 is hereby amended to read as follows:~~

~~408.290 *1.* The Department may establish new routes into or in the vicinity of municipalities and metropolitan areas with the approval of the board of county commissioners of the county in which an addition is proposed and with the approval of the city council of any incorporated city~~

~~directly affected. *In establishing such new routes, the Department shall consider the effect of the routes upon existing neighborhoods, including, without limitation, historic neighborhoods.*~~

~~*2. As used in this section, "historic neighborhood" has the meaning ascribed to it in section 1 of this act.]*~~ **(Deleted by amendment.)**

Sec. 23. ~~[Chapter 704A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. A public utility corporation subject to the jurisdiction of the Public Utilities Commission of Nevada may apply to the Commission for an adjustment in its rates to allow its recovery of all or part of the cost of converting existing overhead electric and communication facilities to underground locations.*~~

~~*2. Within 120 days after receipt of such an application, the Commission shall hold a public hearing to consider whether to authorize such an adjustment and, if authorized, the methods to be used to allow the recovery.*~~

~~*3. The Commission shall render its written decision within 180 days after receiving the application for such an adjustment.*~~

~~*4. The Commission shall render its decision based on the record and may grant the application, deny it or grant it according to such terms, conditions or modifications as the Commission finds appropriate.*~~

~~*5. The Commission may grant an application for such an adjustment if it determines that:*~~

~~*(a) The conversion of existing overhead electric and communication facilities to underground locations will help to preserve the character of existing neighborhoods, including, without limitation, historic neighborhoods, improve safety or efficiency or otherwise improve the quality of life of the public utility corporation's customers; and*~~

~~*(b) The cost of the conversion will be reasonable in consideration of the likely benefits.*~~

~~*6. If the Commission grants the application, the public utility corporation must, within a reasonable time specified by the Commission, file with the Commission a tariff which sets forth the adjustment in the rates authorized as a result of the conversion.*~~

~~*7. A public utility corporation shall annually present to the Commission a certified accounting of the cost of conversion and an accounting of the revenues it has received in that year from the adjustment in its rates.*~~

~~*8. As used in this section, "historic neighborhood" has the meaning ascribed to it in section 1 of this act.]*~~ **(Deleted by amendment.)**

Sec. 24. ~~[NRS 704A.312 is hereby amended to read as follows:~~

~~704A.312 1. At any time after there occur the conditions stated in subsection 1 or in subsections 2 and 3 of NRS 704A.290, the governing body, by resolution, shall:~~

~~(a) Determine the total cost of the construction or conversion pertaining to the service district, including, without limitation, interest on any interim warrants relating thereto and all other incidental costs, based upon the actual costs known at the time of such determination of cost and otherwise upon the estimated costs stated in the joint report prepared under NRS 704A.180, as modified, if modified by the occurrence thereafter of factors affecting such costs and permitting their revision;~~

~~(b) *In the case of a conversion, determine and subtract the portion of the cost, if any, that will be paid by an adjustment in rates granted pursuant to section 23 of this act;*~~

~~*(c)* Determine the net cost of the construction or conversion to be defrayed by special assessments;~~

~~**[**(c)**]** *(d)* Order the municipal engineer to make out or to cause to be made out an assessment roll containing, among other matters:~~

~~(1) The name of each last known owner of each lot to be assessed, or if not known, a statement that the name is "unknown"; and~~

~~(2) A description of each tract to be assessed, and the amount of the proposed assessment thereon, apportioned upon the basis for assessments stated in the resolution of the governing body adopted pursuant to subsection 2 of NRS 704A.180, but subject to the provisions of subsections 5 and 6 of NRS 704A.240; and~~

~~**[**(d)**]** *(e)* Cause a copy of the resolution to be furnished by the municipal clerk to the municipal engineer.~~

~~2. If by mistake or otherwise any person is improperly designated in the assessment roll as the owner of any lot, or if the same is assessed without the name of the owner or each owner, as the case may be, or in the name of a person other than the owner, such assessment shall not for that reason be vitiated but shall, in all respects, be as valid upon and against such lot as though assessed in the name of the owner or each owner thereof, as the case may be; and when the assessment roll has been confirmed, such assessment shall become a lien on such lot and be collected as provided by law.~~

~~3. No assessment shall exceed the amount of the special benefits to the lot assessed nor exceed the amount of the reasonable market value of such lot for any one project for the construction or conversion of any one type of service facilities of a public utility corporation, as determined by the governing body.~~**]** **(Deleted by amendment.)**

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 309.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 337.

AN ACT relating to crimes; revising provisions relating to the crime of stalking; increasing the penalties for the crime of stalking; ~~[revising the provisions relating to orders for protection against stalking, aggravated stalking and harassment;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This bill revises provisions relating to the crime of stalking.]~~ **Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment.** (NRS 200.575 **, 200.591**) **Section 1** of this bill ~~[criminalizes]~~ **includes within the definition of the crime of stalking** a course of conduct which would cause a reasonable person to feel fearful for the safety of a third person ~~[or to suffer other emotional distress]~~ and which actually causes a victim to feel such fear **.** ~~[or to suffer such emotional distress.]~~ **Section 1** also increases the penalty for a first offense for the crime of stalking from a misdemeanor to a gross misdemeanor and makes a subsequent offense a category D felony. ~~[~~**]** Additionally, **section 1** ~~[of this bill]~~ adds text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony. ~~[Finally, section 1 provides that it is not a defense to prosecution for stalking that the person was not given notice that the course of conduct was unwanted or that the person did not intend to cause the victim to feel terrorized, frightened, intimidated, harassed or fearful for the safety of a third person or to suffer other emotional distress.~~

~~Section 2 of this bill authorizes the issuance of a temporary or extended order to restrict conduct related to the crime of stalking, aggravated stalking or harassment without a hearing, unless a hearing is requested by the adverse party. (NRS 200.591)]~~

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

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated ***,*** ~~[or]~~ harassed ~~[,]~~ ***or fearful for the safety of a third person*** **,** ~~*for to suffer other emotional distress,*~~ and that actually causes the victim to feel terrorized, frightened, intimidated ***,*** ~~[or]~~ harassed ~~[,]~~ ***or fearful for the safety of a third person*** **,** ~~*for to suffer other emotional distress,*~~ commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a ***gross*** misdemeanor.

(b) For any subsequent offense, is guilty of a ~~[gross misdemeanor.]~~ ***category D felony and shall be punished as provided in NRS 193.130.***

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site **,** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. ~~*[In any prosecution under this section, it is not a defense that the person:*~~

~~*(a) Was not given actual notice that the course of conduct was unwanted; or*~~

~~*(b) Did not intend to cause the victim to feel terrorized, frightened, intimidated, harassed or fearful for the safety of a third person or to suffer other emotional distress.*~~

~~*7.]*~~ As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) ~~*["Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.*~~

~~*(c)]*~~ "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

(c) ~~*[(d)]*~~ "Network" has the meaning ascribed to it in NRS 205.4745.

(d) ~~*[(e)]*~~ "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

(e) ~~*[(f)]*~~ ***"Text messaging" means a communication in the form of electronic text or one or more electronic images sent*** ~~*[by the actor]*~~ ***from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.***

~~*[(g)]*~~ ***(f)*** "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which

are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. ~~[~~NRS 200.591 is hereby amended to read as follows:

200.591 ~~—~~ 1. ~~—~~ In addition to any other remedy provided by law, a person who reasonably believes that the crime of stalking, aggravated stalking or harassment is being committed against him by another person may petition any court of competent jurisdiction for a temporary or extended order directing the person who is allegedly committing the crime to:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

2. ~~—~~ If a defendant charged with a crime involving harassment, stalking or aggravated stalking is released from custody before trial or is found guilty at the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named

~~in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.~~

~~3. A temporary order may be granted with or without notice to the adverse party~~ **[**.**]** ***and without holding a hearing, unless a hearing is requested by the adverse party.*** ~~An extended order may be granted only after:~~

~~(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and~~

~~(b) A hearing is held on the petition~~ **[**.**]** ***, if requested by the adverse party.***

~~4. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.~~

~~5. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:~~

~~(a) A temporary order is guilty of a gross misdemeanor.~~

~~(b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.~~

~~6. Any court order issued pursuant to this section must:~~

~~(a) Be in writing;~~

~~(b) Be personally served on the person to whom it is directed; and~~

~~(c) Contain the warning that violation of the order:~~

~~(1) Subjects the person to immediate arrest.~~

~~(2) Is a gross misdemeanor if the order is a temporary order.~~

~~(3) Is a category C felony if the order is an extended order.~~

~~7. A temporary or extended order issued pursuant to this section must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if:~~

~~(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;~~

~~(b) The person has previously violated a temporary or extended order for protection; or~~

~~(c) At the time of the violation or within 2 hours after the violation, the person has:~~

~~(1) A concentration of alcohol of 0.08 or more in his blood or breath; or~~

~~(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.~~**]** **(Deleted by amendment.)**

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site **,** **[**~~or~~**]** electronic mail ***, text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of

a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site **,** ~~[or]~~ electronic mail **,** ***text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 326.

Bill read second time.

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

Amendment No. 471.

AN ACT relating to controlled substances; ~~[exempting certain contracts entered into by the State Board of Pharmacy from the State Purchasing Act;]~~ revising provisions governing the tracking of prescriptions for controlled substances; requiring the Legislative Committee on Health Care to conduct a study of the abuse of prescription narcotic drugs in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires the State Board of Pharmacy to administer the Uniform Controlled Substances Act. (NRS 453.011-453.348) Section 1 of this bill provides that the Board may enter into such professional services contracts as the Board determines necessary to obtain federal money in the maximum amount available to this State and exempts such contracts from the requirements of chapter 333 of NRS governing state purchasing.]~~

Existing law provides for the creation of a computerized program to track prescriptions for controlled substances listed in schedule II, III or IV. **Section 7** of this bill requires that the database of the computerized program be made available on the Internet to persons who are authorized to dispense controlled substances in this State. **Section 7** further requires that the computerized program contain the contact information of each practitioner and person authorized to dispense controlled substances who ~~[has access]~~ **elects** to **access** the database of the program. In addition, **section 7** requires the Board and the Investigation Division of the Department of Public Safety to establish

a course of training in the computerized program and further requires that a person complete the course of training before the Board provides the person with access to the database of the program. (NRS 453.1545)

Section 9 of this bill requires the Legislative Committee on Health Care to conduct a study of the abuse of prescription narcotic drugs and the manner of monitoring and addressing such abuse in this State and to submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature on or before January 15, 2011.

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

Section 1. ~~[Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. To carry out the provisions of this section and NRS 453.011 to 453.348, inclusive, the Board may enter into such professional services contracts as it determines necessary to obtain federal money in the maximum amount available to this State.*~~

~~*2. All contracts authorized by this section are exempt from the requirements of chapter 333 of NRS.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 453.011 is hereby amended to read as follows:~~

~~453.011 1. NRS 453.011 to 453.348, inclusive, *and section 1 of this act* may be cited as the Uniform Controlled Substances Act.~~

~~2. The Uniform Controlled Substances Act (1990) is substituted in a continuing way for the provisions of NRS 453.011 to 453.348, inclusive, *and section 1 of this act,* except as those provisions are specifically amended.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 453.013 is hereby amended to read as follows:~~

~~453.013 NRS 453.011 to 453.348, inclusive, *and section 1 of this act* shall be so applied and construed as to effectuate its general purpose and to make uniform the law with respect to the subject of such sections among those states which enact it.]~~ **(Deleted by amendment.)**

Sec. 4. ~~[NRS 453.146 is hereby amended to read as follows:~~

~~453.146 1. The Board shall administer the provisions of NRS 453.011 to 453.552, inclusive, *and section 1 of this act* and may add substances to or delete or reschedule all substances enumerated in schedules I, II, III, IV and V by regulation.~~

~~2. In making a determination regarding a substance, the Board shall consider the following:~~

~~(a) The actual or relative potential for abuse;~~

~~(b) The scientific evidence of its pharmacological effect, if known;~~

~~(c) The state of current scientific knowledge regarding the substance;~~

~~(d) The history and current pattern of abuse;~~

~~(e) The scope, duration and significance of abuse;~~

~~(f) The risk to the public health;~~

~~(g) The potential of the substance to produce psychic or physiological dependence liability; and~~

~~(h) Whether the substance is an immediate precursor of a controlled substance.~~

~~3. The Board may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.~~

~~4. After considering the factors enumerated in subsection 2, the Board shall make findings with respect thereto and adopt a regulation controlling the substance if it finds the substance has a potential for abuse.~~

~~5. The Board shall designate as a controlled substance a steroid or other product which is used to enhance athletic performance, muscle mass, strength or weight without medical necessity. The Board may not designate as a controlled substance an anabolic steroid which is:~~

~~(a) Expressly intended to be administered through an implant to cattle, poultry or other animals; and~~

~~(b) Approved by the Food and Drug Administration for such use.~~**] (Deleted by amendment.)**

Sec. 5. ~~[NRS 453.153 is hereby amended to read as follows:~~

~~453.153 The Board and Division shall cooperate with each other in effectuating the purposes of NRS 453.011 to 453.552, inclusive~~ **[.] ~~, *and section 1 of this act.]*~~ (Deleted by amendment.)**

Sec. 6. ~~[NRS 453.154 is hereby amended to read as follows:~~

~~453.154 1. In this section, "diversion" means the transfer of a controlled substance from a lawful to an unlawful channel of distribution or use.~~

~~2. The Division shall regularly prepare and make available to other state regulatory, licensing and law enforcement agencies a report on the patterns and trends of distribution, diversion and abuse of controlled substances.~~

~~3. The Board and the Division may enter into written agreements with local, state and federal agencies to improve identification of sources of diversion and to improve enforcement of and compliance with NRS 453.011 to 453.348, inclusive, *and section 1 of this act* and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent or control diversion and abuse of controlled substances. The Board and the Division may convene periodic meetings to coordinate a state program to prevent and control diversion. The Board and the Division may arrange for cooperation and exchange of information among agencies and with other states and the Federal Government.~~

~~4. The Division shall report annually to the Governor and biennially to the presiding officer of each house of the Legislature on the outcome of the program with respect to its effect on distribution and abuse of controlled substances, including recommendations for improving control and prevention~~

~~of the diversion of controlled substances in this State.~~] **(Deleted by amendment.)**

Sec. 7. NRS 453.1545 is hereby amended to read as follows:

453.1545 1. The Board and the Division shall cooperatively develop a computerized program to track each prescription for a controlled substance listed in schedule II, III or IV that is filled by a pharmacy that is registered with the Board or that is dispensed by a practitioner who is registered with the Board. The program must:

(a) Be designed to provide information regarding:

(1) The inappropriate use by a patient of controlled substances listed in schedules II, III and IV to pharmacies, practitioners and appropriate state agencies to prevent the improper or illegal use of those controlled substances; and

(2) Statistical data relating to the use of those controlled substances that is not specific to a particular patient.

(b) Be administered by the Board, the Division, the Health Division of the Department and various practitioners, representatives of professional associations for practitioners, representatives of occupational licensing boards and prosecuting attorneys selected by the Board and the Division.

(c) Not infringe on the legal use of a controlled substance for the management of severe or intractable pain.

(d) Include the contact information of each person ~~*[to whom the Board has provided Internet access]*~~ ***who elects to access the database of the program pursuant to subsection 2, including, without limitation:***

(1) The name of the person;

(2) The physical address of the person;

(3) The telephone number of the person; and

(4) If the person maintains an electronic mail address, the electronic mail address of the person.

2. The Board shall provide ~~[each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III or IV with]~~ Internet access to the database of the program established pursuant to subsection 1 to ~~[carry out the provisions of NRS 639.23507.]~~ ***each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III or IV who:***

(a) Elects to access the database of the program; and

(b) Completes the course of instruction described in subsection 6.

3. The Board and the Division must have access to the program established pursuant to subsection 1 to identify any suspected fraudulent or illegal activity related to the dispensing of controlled substances.

4. The Board or the Division shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement

agency or occupational licensing board with the relevant information obtained from the program for further investigation.

5. Information obtained from the program relating to a practitioner or a patient is confidential and, except as otherwise provided by this section and NRS 239.0115, must not be disclosed to any person. That information must be disclosed:

(a) Upon the request of a person about whom the information requested concerns or upon the request on his behalf by his attorney; or

(b) Upon the lawful order of a court of competent jurisdiction.

6. ***The Board and the Division shall cooperatively develop a course of training for persons who*** ~~*[are provided with Internet access]*~~ ***elect to access the database of the program pursuant to subsection 2 and require each such person to complete the course of training before he is provided with Internet access to the database pursuant to subsection 2.***

7. The Board and the Division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

Sec. 8. ~~[NRS 453.159 is hereby amended to read as follows:~~

~~453.159 Any orders and regulations promulgated under any law affected by NRS 453.011 to 453.552, inclusive, *and section 1 of this act* and in effect on January 1, 1972, and not in conflict with it continue in effect until modified, superseded or repealed.]~~ **(Deleted by amendment.)**

Sec. 9. The Legislative Committee on Health Care shall:

1. In cooperation with the State Board of Pharmacy, the Board of Medical Examiners and the State Board of Osteopathic Medicine, conduct a study of the abuse of prescription narcotic drugs and the manner of monitoring and addressing the abuse of prescription narcotic drugs in this State; and

2. On or before January 15, 2011, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the abuse of prescription narcotic drugs and the manner of monitoring and addressing the abuse of prescription narcotic drugs in this State.

Sec. 10. This act becomes effective on July 1, 2009.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 432.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 414.

AN ACT relating to intoxicating liquors; revising provisions relating to alcoholic beverage awareness programs; providing for enforcement of certain provisions by peace officers; revising the distribution of civil fines paid for

certain violations; **requiring certain reports to be made to the Legislature;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain employees of certain establishments that sell alcohol must have successfully completed an alcoholic beverage awareness program. The owner of an establishment that is not in compliance must pay an administrative fine, to be imposed by the Department of Taxation. Money from the administrative fines must be divided equally into the Fund for the Compensation of Victims of Crime and the Alcoholic Beverage Awareness Program Account in the State General Fund. (NRS 369.630) ~~[~~This~~]~~ **Section 1 of this** bill provides that peace officers may enforce the requirements of the provision relating to employees having successfully completed the program by issuing a notice of a civil infraction for violations. ~~[~~This bill~~]~~ **Section 1** also revises the provision for distribution of the money received by the Department for fines from establishments found in violation, providing that ~~[~~25 percent of the money must be paid to the Fund for the Compensation of Victims of Crime and 75~~]~~ **instead of depositing 50 percent of the money in the Alcoholic Beverage Awareness Program Account, 50** percent of the money ~~[~~must be paid into the county treasury of the county where the establishment found in violation is located, and must be used for the purposes of law enforcement.~~]~~ **must be deposited in the account created in the State General Fund for the support of community juvenile justice programs and must be used only to enforce laws that prohibit the purchase, consumption or possession of alcoholic beverages by persons under the age of 21 years.**

Section 2 of this bill requires each recipient of money from the collection of fines for civil infractions to submit a report to the Legislature concerning the amount of money received and how the money was used. In addition, certain law enforcement agencies and the Department of Taxation are required to submit a report to the Legislature concerning the enforcement of the provisions requiring employees to participate in an alcoholic beverage awareness program.

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

Section 1. NRS 369.630 is hereby amended to read as follows:

369.630 1. Except as otherwise provided in subsection ~~[~~5,~~]~~ ***7,*** on and after July 1, 2007, a person who owns or operates an establishment shall not:

(a) Hire a person to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment unless:

(1) The person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or

(2) The person who owns or operates the establishment ensures that the person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, within 30 days after the date on which he is hired, successfully completes a certified program and obtains a valid alcohol education card; or

(b) Continue to employ a person who was hired before that date to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment unless:

(1) The person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or

(2) The person who owns or operates the establishment ensures that the person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, not later than July 31, 2007, successfully completes a certified program and obtains a valid alcohol education card.

2. ~~[The Department shall impose upon an owner or operator of an establishment who violates any of the provisions of this section an administrative fine of not more than:]~~ ***A violation of this section is a civil infraction, and when an owner or operator of an establishment is found in violation pursuant to subsection 3, a notice of infraction must be issued on a form prescribed by the Department, and must contain, without limitation, the following information:***

(a) The location at which the violation occurred;

(b) The date and time of the violation;

(c) The name of the establishment and the owner;

(d) The signature of the person who issued the notice of infraction;

(e) A copy of this section which allegedly is being violated;

(f) Information which advises of the manner in which, and the time within which, the notice of infraction must be answered; and

(g) Any other reasonable information which is prescribed by the Department.

3. The notice of infraction may be issued by any peace officer or by any person who is authorized by the Department to issue such a notice. A duplicate of the notice of infraction must be served on the person to whom it is issued either in person, by providing the notice to the person in charge of the establishment at the time the notice of infraction is issued, or by affixing the notice to the establishment in a conspicuous place.

4. The notice of infraction or a facsimile thereof must be filed with the Department and retained by the Department and is deemed to be a public record of matters which are observed pursuant to a duty imposed by law and is prima facie evidence of the facts which are alleged therein.

5. A person who responds to the notice of infraction must:

(a) ***Admit the commission of the infraction by paying to the Department the appropriate civil fine:***

(1) For the first violation within a 24-month period, $500.

~~[(b)]~~ ***(2)*** For the second violation within a 24-month period, $1,000.

~~[(c)]~~ ***(3)*** For the third and any subsequent violation within a 24-month period, $5,000.

~~[3.]~~ ***(b) Deny liability for the infraction by notifying the Department and requesting a hearing in the manner indicated on the notice of infraction. Upon receipt of such a request, the Department shall afford to the person making the request an opportunity for a hearing pursuant to the provisions of NRS 233B.121.***

6. Of the money collected by the Department from ~~[fines]~~ ***a civil fine*** pursuant to subsection ~~[2.]~~ ***5:***

(a) Fifty ~~*[Twenty-five]*~~ percent must be deposited with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime created by NRS 217.260.

(b) Fifty ~~*[Seventy-five]*~~ percent must be deposited in the ~~[Alcoholic Beverage Awareness Program Account, which is hereby created in the State General Fund. The Account must be administered by the Commission. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. The money in the Account must be used solely to reduce the costs for employees to complete programs certified by the Commission pursuant to subsection 3 of NRS 369.625.~~

~~4. Any law enforcement agency whose officer discovers a violation of this section shall report the violation to the Department.~~

~~5.]~~ ~~*[county treasury of the county in which the establishment is located, and must be used for the purposes of law enforcement.]*~~ ***account created in the State General Fund for the support of community juvenile justice programs and must be used only to enforce laws that prohibit the purchase, consumption or possession of alcoholic beverages by persons under the age of 21 years.***

7. The provisions of this section apply only in a jurisdiction that:

(a) Is located in a county whose population is 100,000 or more; or

(b) Is located in a county whose population is less than 100,000, if the governing body of the jurisdiction has, by the affirmative vote of a majority of its members, agreed to be bound by the provisions of this section.

~~[6.]~~ ***8.*** As used in this section:

(a) "Certified program" means an alcoholic beverage awareness program certified by the Commission pursuant to NRS 369.625.

(b) "Valid alcohol education card" means a card issued by a certified program which has been obtained or renewed within the immediately preceding 4 years.

Sec. 2. **1. Each recipient of money pursuant to subsection 6 of section 1 of this act shall submit a report to the Director of the**

Legislative Counsel Bureau on or before February 1, 2011, for distribution to the Legislature setting forth the amount of money received during the biennium, the manner in which the money was used and the amount of money that remains in the account of the recipient.

2. Each law enforcement agency in a county subject to the provisions of NRS 369.630 and the Department of Taxation shall prepare and submit a report to the Director of the Legislative Counsel Bureau on or before February 1, 2011, for distribution to the Legislature which sets forth the actions taken by the agency or the Department, as applicable, to enforce the provisions of NRS 369.600 to 369.635, inclusive, and the number of violations of those provisions that were discovered by them. The Department shall also include in the report the amount of money collected from fines imposed for such violations.

~~[Sec. 2.]~~ ***Sec. 3.*** This act becomes effective on July 1, 2009.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 454.

Bill read second time.

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

Amendment No. 442.

AN ACT relating to housing; revising certain provisions relating to the grounds of termination for certain rental or lease agreements affecting certain tenants in a manufactured home park; ~~[revising certain costs a landlord is required to pay in association with the closing or conversion of a manufactured home park;]~~ revising certain provisions relating to an appeal from a judgment in an unlawful detainer action; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires a landlord to pay to a tenant the costs of moving the tenant or the fair market value of a manufactured home under certain circumstances during the closing or conversion of a manufactured home park. Existing law also authorizes a landlord to remove and dispose of a manufactured home and requires the landlord to pay to the tenant the fair market value of the manufactured home if the tenant chooses not to move the manufactured home under certain other circumstances. Sections 1-4 of this bill require a landlord, under those circumstances, to pay to the tenant the fair market value of the manufactured home minus the reasonable cost of removing and disposing of the manufactured home or $5,000, whichever amount is greater. (NRS 118B.130, 118B.177, 118B.180, 118B.183)]~~

Section 5 of this bill provides that a rental agreement between a landlord and a tenant for the rental or lease of certain lots in a manufactured home park in this State may only be terminated on one or more of the grounds listed in

existing law regardless of the fact that a notice of termination may have been served upon the tenant. (NRS 118B.190, 118B.200)

Existing law provides that an eviction may be initiated by filing an unlawful detainer action or by using the procedures for summary eviction. (NRS 40.215-40.425) Existing law also generally provides that a person may obtain a stay of execution upon an appeal from an order entered in an action: (1) for summary eviction by filing with the trial court a bond in the amount of $250; and (2) for unlawful detainer if the person is a defendant and, within 10 days after the judgment is rendered, he files with the court or justice a bond with two or more sureties in the amount determined by the court or justice but that is not less than twice the amount of the judgment and costs. (NRS 40.380, 40.385) Existing law further provides that the summary eviction process may not be used against certain tenants in mobile home parks. (NRS 40.253) **Section 6** of this bill changes the amount of the bond that certain defendants who are tenants in a mobile home park are required to file to obtain a stay of execution upon an appeal from an order entered in an action for unlawful detainer from twice the amount of the judgment and costs to $250. **Section 6 also: (1) requires certain tenants in a mobile home park who retain possession of the premises that are the subject of the appeal to pay the landlord the rent in the amount provided in the underlying contract as it becomes due; and (2) authorizes, under certain circumstances, the court or justice to vacate the stay of execution if such a tenant fails to pay the rent.** (NRS 40.380)

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

Section 1. ~~[NRS 118B.130 is hereby amended to read as follows:~~

~~118B.130 1. A landlord may not change:~~

~~(a) An existing park to a park for older persons pursuant to federal law unless the tenants who do not meet those restrictions and may lawfully be evicted are moved to other parks at the expense of the landlord; or~~

~~(b) The restriction of a park for older persons pursuant to federal law unless the tenants are given the option of remaining in their spaces or moving to other parks at the expense of the landlord.~~

~~2. A tenant who elects to move pursuant to a provision of subsection 1 shall give the landlord notice in writing of his election to move within 75 days after receiving notice of the change in restrictions in the park.~~

~~3. At the time of providing notice of the change in restrictions in the park, the landlord shall provide to each tenant:~~

~~(a) The address and telephone number of the Division;~~

~~(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and~~

~~(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.~~

~~4. If a landlord is required to move a tenant to another park pursuant to subsection 1, he shall pay:~~

~~(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or~~

~~(b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles,~~ **.** ~~including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.~~

~~5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.~~

~~6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:~~

~~(a) May remove and dispose of the manufactured home; and~~

~~(b) Shall pay to the tenant the fair market value of the manufactured home~~ **[.]** ***less the reasonable cost of removing and disposing of the manufactured home or $5,000, whichever is greater.***

~~7. A landlord of a park in which restrictions have been or are being changed shall give written notice of the change to each:~~

~~(a) Tenant of the park who does not meet the new restrictions; and~~

~~(b) Prospective tenant before the commencement of the tenancy.~~

~~8. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:~~

~~(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or~~

~~(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.~~

~~9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 6.~~**]** **(Deleted by amendment.)**

Sec. 2. **[**~~NRS 118B.177 is hereby amended to read as follows:~~

~~118B.177 1. If a landlord closes a manufactured home park, or if a landlord is forced to close a manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park permanently for health or safety reasons, the landlord shall pay the amounts required by subsections 3, 4 and 5.~~

~~2. At the time of providing notice of the closure of the park, a landlord shall provide to each tenant:~~

~~(a) The address and telephone number of the Division;~~

~~(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and~~

~~(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.~~

~~3. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:~~

~~(a) The cost of moving each tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or~~

~~(b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles, ➥ including fees for inspection, any deposits for connecting utilities, and the cost of taking down, moving, setting up and leveling the manufactured home and its appurtenances in the new lot or park.~~

~~4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.~~

~~5. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:~~

~~(a) May remove and dispose of the manufactured home; and~~

~~(b) Shall pay to the tenant the fair market value of the manufactured home~~ **[.]** ***less the reasonable cost of removing and disposing of the manufactured home or $5,000, whichever is greater.***

~~6. Written notice of any closure must be served timely on each:~~

~~(a) Tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.~~

~~(b) Prospective tenant by:~~

~~(1) Handing each prospective tenant or his agent a copy of the written notice; and~~

~~(2) Maintaining a copy of the written notice at the entrance of the manufactured home park.~~

~~7. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:~~

~~(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or~~

~~(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.~~

~~8. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 5.~~

~~9. A landlord shall not increase the rent of a tenant after notice is served on the tenant as required by subsection 6.~~

~~10. If a landlord begins the process of closing a manufactured home park, he shall comply with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.~~

~~11. As used in this section, "timely" means not later than 3 days after the landlord learns of a closure.~~] **(Deleted by amendment.)**

Sec. 3. ~~[NRS 118B.180 is hereby amended to read as follows:~~

~~118B.180 1. A landlord may convert an existing manufactured home park into individual manufactured home lots for sale to manufactured home owners if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.~~

~~2. The landlord may undertake a conversion pursuant to this section only if:~~

~~(a) The landlord gives notice in writing to the Division and each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;~~

~~(b) The landlord offers, in writing, to sell the lot to the tenant at the same price the lot will be offered to the public and holds that offer open for at least 90 days or until the landlord receives a written rejection of the offer from the tenant, whichever occurs earlier;~~

~~(c) The landlord does not sell the lot to a person other than the tenant for 90 days after the termination of the offer required pursuant to paragraph (b) at a price or on terms that are more favorable than the price or terms offered to the tenant;~~

~~(d) If a tenant does not exercise his option to purchase the lot pursuant to paragraph (b), the landlord pays:~~

~~(1) The cost of moving the tenant's manufactured home and its appurtenances to a comparable location in this State or another state within 100 miles from the manufactured home park; or~~

~~(2) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles,~~ ~~, including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park;~~

~~(e) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, notice in writing is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot; and~~

~~(f) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.~~

~~3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:~~

~~(a) The address and telephone number of the Division;~~

~~(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and~~

~~(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.~~

~~4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.~~

~~5. If a tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:~~

~~(a) May remove and dispose of the manufactured home; and~~

~~(b) Shall pay to the tenant the fair market value of the manufactured home~~ [.] ~~*less the reasonable cost of removing and disposing of the manufactured home or $5,000, whichever is greater.*~~

~~6. Notice sent pursuant to paragraph (a) of subsection 2 or an offer to sell a manufactured home lot to a tenant required pursuant to paragraph (b) of subsection 2 does not constitute notice of termination of the tenancy.~~

~~7. Upon the sale of a manufactured home lot and a manufactured home which is situated on that lot, the landlord shall indicate what portion of the purchase price is for the manufactured home lot and what portion is for the manufactured home.~~

~~8. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:~~

~~(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or~~

~~(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.~~

~~9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 5.~~

~~10. The provisions of this section do not apply to a corporate cooperative park.~~] **(Deleted by amendment.)**

Sec. 4. [~~NRS 118B.183 is hereby amended to read as follows:~~

~~118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.~~

~~2. The landlord may undertake a conversion pursuant to this section only if:~~

~~(a) The landlord gives notice in writing to the Division and each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;~~

~~(b) The landlord pays the amounts required by subsections 4, 5 and 6;~~

~~(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot; and~~

~~(d) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.~~

~~3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:~~

~~(a) The address and telephone number of the Division;~~

~~(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and~~

~~(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.~~

~~4. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:~~

~~(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or~~

~~(b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles,~~ ~~including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.~~

~~5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.~~

~~6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:~~

~~(a) May remove and dispose of the manufactured home; and~~

~~(b) Shall pay to the tenant the fair market value of the manufactured home~~ **[**.**]** ***less the reasonable cost of removing and disposing of the manufactured home or $5,000, whichever is greater.***

~~7. A landlord shall not increase the rent of any tenant:~~

~~(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or~~

~~(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:~~

~~(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and~~

~~(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.~~

~~8. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:~~

~~(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or~~

~~(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.~~

~~9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 6.~~

~~10. The provisions of this section do not apply to a corporate cooperative park.~~**]** **(Deleted by amendment.)**

Sec. 5. NRS 118B.200 is hereby amended to read as follows:

118B.200 1. Notwithstanding the expiration of a period of a tenancy ~~[,]~~ ***or service of a notice pursuant to subsection 1 of NRS 118B.190,*** the rental agreement described in NRS 118B.190 may not be terminated except ~~[for:]~~ ***on one or more of the following grounds:***

(a) Failure of the tenant to pay rent, utility charges or reasonable service fees within 10 days after written notice of delinquency served upon the tenant in the manner provided in NRS 40.280;

(b) Failure of the tenant to correct any noncompliance with a law, ordinance or governmental regulation pertaining to manufactured homes or recreational vehicles or a valid rule or regulation established pursuant to NRS 118B.100 or to cure any violation of the rental agreement within a reasonable time after receiving written notification of noncompliance or violation;

(c) Conduct of the tenant in the manufactured home park which constitutes an annoyance to other tenants;

(d) Violation of valid rules of conduct, occupancy or use of park facilities after written notice of the violation is served upon the tenant in the manner provided in NRS 40.280;

(e) A change in the use of the land by the landlord pursuant to NRS 118B.180;

(f) Conduct of the tenant which constitutes a nuisance as defined in NRS 40.140 or which violates a state law or local ordinance, specifically including, without limitation:

(1) Discharge of a weapon;

(2) Prostitution;

(3) Illegal drug manufacture or use;

(4) Child molestation or abuse;

(5) Elder molestation or abuse;

(6) Property damage as a result of vandalism; and

(7) Operating a motor vehicle while under the influence of alcohol or any other controlled substance; or

(g) In a manufactured home park that is owned by a nonprofit organization or housing authority, failure of the tenant to meet qualifications relating to age or income which:

(1) Are set forth in the lease signed by the tenant; and

(2) Comply with federal, state and local law.

2. A tenant who is not a natural person and who has received three or more 10-day notices to quit for failure to pay rent in the preceding 12-month period may have his tenancy terminated by the landlord for habitual failure to pay timely rent.

Sec. 6. NRS 40.380 is hereby amended to read as follows:

40.380 ***1.*** Either party may, within 10 days, appeal from the judgment rendered. ~~[~~But~~]~~ ***Except as otherwise provided in subsection 2,*** an appeal by the defendant shall not stay the execution of the judgment, unless, within the 10 days, he ~~[~~shall execute and file~~]~~ ***executes and files*** with the court or justice his undertaking to the plaintiff, with two or more sureties, in an amount to be fixed by the court or justice, but which ~~[~~shall~~]~~ ***must*** not be less than twice the amount of the judgment and costs, to the effect that, if the judgment appealed from be affirmed or the appeal be dismissed, the appellant will pay the judgment and the cost of appeal, the value of the use and occupation of the property, and damages justly accruing to the plaintiff during the pendency of the appeal. Upon taking the appeal and filing the undertaking, all further proceedings in the case ~~[~~shall~~]~~ ***must*** be stayed.

2. If the appeal is by a defendant who is a tenant of a mobile home lot in a mobile home park or a tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215, the total amount of the sureties required to be executed and

filed with the court or justice pursuant to subsection 1 is $250 except as otherwise provided in this subsection. In an action concerning a lease of a such a lot in a mobile home park for which the monthly rent exceeds $1,000, the court or justice may, upon its or his own motion or that of a party, and upon a showing of good cause, order an additional bond to be posted to cover the expected costs on appeal.

3. A tenant of a mobile home lot in a mobile home park or a tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215 who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If such a tenant fails to pay rent within 10 days after the date on which the rent is due, the court or justice shall vacate the stay of execution upon proper motion by the landlord if the court or justice determines that the tenant has failed to pay the required rent for the applicable period. Any payment made by a tenant pursuant to this subsection must first be credited against the rent required for the current month.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 472.

Bill read second time.

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

Amendment No. 279.

AN ACT relating to credit cards; providing that ~~[subsequent purchasers of credit card debt may produce certain evidence to collect on the debt; requiring disclosure of certain information to collect credit card debt; requiring certain evidentiary standards to be met before entry of judgment under certain circumstances;]~~ **, in an action to collect credit card debt, a purchaser of credit card debt must include certain information in the complaint and satisfy certain evidentiary standards;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that an issuer of a credit card may establish liability for credit card debt by producing a written application for the credit card signed by the cardholder or by evidence that the cardholder incurred charges and made payments on the card. (NRS 97A.160) This bill provides that ~~[such evidence may also be established by]~~ **a judgment cannot be entered in favor of** a subsequent purchaser of credit card debt who attempts to collect on the debt ~~[.]~~ **unless the purchaser establishes liability for the debt in that manner.** ~~[~~

~~]~~ This bill also requires certain information to be disclosed in any complaint **filed by a purchaser of credit card debt in an action** to collect credit card debt **.** ~~[~~, including: (1) the name of the issuer of the credit card; (2) the account numbers assigned to the original account and any subsequent account; and (3) the date of the last transaction. Finally, this bill clarifies that a judgment, including a judgment by default, may not be entered without satisfying the standards of proof required in this section.~~]~~

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

Section 1. Chapter 97A of NRS is hereby amended by adding thereto a new section to read as follows:

~~*["Creditor" means an issuer or a person that subsequently]*~~

1. In an action brought to collect a credit card debt owed to a purchaser of credit card debt:

(a) The complaint must include, without limitation:

(1) The name of the issuer;

(2) The last four digits of the account number originally assigned by the issuer;

(3) All subsequent account numbers assigned to the credit card debt by all assignees of the credit card debt; and

(4) The date of the default on the credit card debt.

(b) No judgment in favor of the purchaser of credit card debt, including, without limitation, a default judgment, may be entered unless:

(1) The complaint includes the information required by paragraph (a) of subsection 1; and

(2) The purchaser of credit card debt has satisfied the standards of proof set forth in subsections 1 and 2 of NRS 97A.160.

2. As used in this section, "purchaser of credit card debt" means a person, other than a financial institution, that purchases any outstanding credit card debt.

Sec. 2. ~~[~~NRS 97A.010 is hereby amended to read as follows:

97A.010 ~~—~~ As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 97A.020 to 97A.130, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.~~]~~ **(Deleted by amendment.)**

Sec. 3. ~~[~~NRS 97A.160 is hereby amended to read as follows:

97A.160 ~~—~~ 1. ~~—~~ Notwithstanding the provisions of chapter 52 of NRS, in any action brought to collect a ***credit card*** debt owed to ~~[~~an issuer:~~]~~ ***a creditor:***

(a) The ~~[~~issuer~~]~~ ***creditor*** may establish that the cardholder is contractually liable for the debt owed by submitting the written application for a credit card account submitted to the issuer by the cardholder or evidence that the cardholder incurred charges on the account and made payments thereon.

(b) The amount owed may be established by photocopies of:

~~(1) The periodic billing statements provided by the issuer; or~~

~~(2) Information stored by the issuer on a computer, microfilm, microfiche or optical disc which indicate the amount of the debt owed.~~

~~***(c) Any complaint filed in the action must include, without limitation:***~~

~~***(1) The name of the issuer;***~~

~~***(2) The account number originally assigned by the issuer;***~~

~~***(3) Any subsequent account number used by a creditor of such debt; and***~~

~~***(4) The date of the last transaction.***~~

~~2. The content of such records must be authenticated:~~

~~(a) Pursuant to the procedures set forth in NRS 52.450 to 52.480, inclusive; or~~

~~(b) By the submission of a written affidavit sufficient to establish:~~

~~(1) The affiant as the custodian of the written records offered as evidence;~~

~~(2) That the written records offered as evidence were made in the ordinary course of the issuer's business; and~~

~~(3) That the written records are true and correct copies of the records retained by the issuer.~~

~~3. The liability of a person other than the cardholder for the amount of any debt owed to an issuer may be established by evidence indicating that the person caused the charge to be incurred on the credit card account.~~

~~4. An issuer shall retain any record necessary to establish the existence and amount of any debt owed to the issuer for at least 24 months after the record is first published, issued or filed.~~

~~***5. No judgment, including by default, may be entered unless the standards of proof in this section have been met.]***~~ **(Deleted by amendment.)**

Sec. 4. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 482.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 250.

AN ACT relating to motor vehicles; transferring the authority for the regulation of trade practices of garages, garagemen and body shops from the Commissioner of Consumer Affairs to the Department of Motor Vehicles; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for regulation of garages, garagemen and body shops by the Commissioner of Consumer Affairs and for their registration or

licensure with the Department of Motor Vehicles. (NRS 487.530-487.570, 487.600-487.690, 597.480-597.590) **Sections 2-21** of this bill transfer authority for regulation to the Department and provide for enforcement of those provisions by the Director of the Department.

Section 1 of this bill allows the Department of Motor Vehicles to fine a person who engages in certain deceptive trade practices relating to the sale or lease of a vehicle regardless of whether the person has been fined for that act under the provisions of NRS 598.0903 to 598.0999, inclusive. (NRS 482.554)

Section 29.3 of this bill creates a revolving account for the Bureau of Consumer Protection, overseen by the Consumer's Advocate, to be used for the undercover investigation of alleged violations of sections 4-21 of this bill or deceptive trade practices.

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

Section 1. **NRS 482.554 is hereby amended to read as follows:**

482.554 1. The Department may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms, or for the sale

of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. ~~[Except as otherwise provided in this subsection, the]~~ ***The*** administrative remedy provided in this section is not exclusive and is intended to supplement existing law. ~~[The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act.]~~ The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 1.5. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this act.

Sec. 2. ***"Body shop" means any place where the body of a motor vehicle is painted, fixed, repaired or replaced for compensation.***

Sec. 3. ***"Person authorizing repairs" means a person who uses the services of a garage. The term includes an insurance company, its agents or its representatives authorizing repairs to motor vehicles under a policy of insurance.***

Sec. 4. ***1. Each garageman shall display conspicuously in those areas of his place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:***

STATE OF NEVADA

REGISTERED GARAGE

THIS GARAGE IS REGISTERED WITH THE DEPARTMENT OF MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is REGISTERED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed $50. (cite to section 6 of this act)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 11 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 11 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or $100, whichever is less. (cite to section 7 of this act)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (cite to section 18 of this act)

~~*[YOU have the right to a FAIR RESOLUTION of any dispute that develops concerning the repair of your vehicle. (cite to this section of this act)]*~~

FOR MORE INFORMATION PLEASE CONTACT:

THE DEPARTMENT OF MOTOR VEHICLES

~~*[IN CLARK COUNTY: (702) 486-4368*~~

~~*ALL OTHER AREAS TOLL-FREE: 1-877-368-7828]*~~

2. Each body shop shall display conspicuously in those areas of its place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:

STATE OF NEVADA

LICENSED BODY SHOP

THIS BODY SHOP IS LICENSED BY THE DEPARTMENT OF MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is LICENSED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed $50. (cite to section 6 of this act)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 11 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 11 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or $100, whichever is less. (cite to section 7 of this act)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (cite to section 18 of this act)

~~*[YOU have the right to a FAIR RESOLUTION of any dispute that develops concerning the repair of your vehicle. (cite to this section of this act)]*~~

FOR MORE INFORMATION PLEASE CONTACT:

THE DEPARTMENT OF MOTOR VEHICLES

~~*[IN CLARK COUNTY: (702) 486-4368*~~
~~*ALL OTHER AREAS TOLL-FREE: 1-877-368-7828]*~~

3. The sign required pursuant to the provisions of subsection 1 or 2 must include a replica of the Great Seal of the State of Nevada. The Seal must be 2 inches in diameter and be centered on the face of the sign directly above the words "STATE OF NEVADA."

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

Sec. 5. ***Whenever any body shop or garageman accepts or assumes control of a motor vehicle for the purpose of making or completing any repair, the body shop or garageman shall comply with the provisions of sections 6 to 19, inclusive, of this act.***

Sec. 6. ***1. Except as otherwise provided in section 8 of this act, a person requesting or authorizing the repair of a motor vehicle that is more than $50 must be furnished a written estimate or statement signed by the person making the estimate or statement on behalf of the body shop or garageman indicating the total charge for the performance of the work necessary to accomplish the repair, including the charge for labor and all parts and accessories necessary to perform the work.***

2. If the estimate is for the purpose of diagnosing a malfunction, the estimate must include the cost of:

(a) Diagnosis and disassembly; and

(b) Reassembly, if the person does not authorize the repair.

3. The provisions of this section do not require a body shop or garageman to reassemble a motor vehicle if the body shop or garageman determines that the reassembly of the motor vehicle would render the vehicle unsafe to operate.

Sec. 7. ***Except as otherwise provided in section 8 of this act, if it is determined that additional charges are required to perform the repair authorized, and those additional charges exceed, by 20 percent or $100, whichever is less, the amount set forth in the estimate or statement required to be furnished pursuant to the provisions of section 6 of this act, the body shop or garageman shall notify the owner and insurer of the motor vehicle of the amount of those additional charges.***

Sec. 8. ***The person authorizing the repairs may waive the estimate or statement required pursuant to the provisions of section 6 of this act or the notification required by section 7 of this act by executing a written waiver of that requirement or notification. The waiver must be executed by the person authorizing the repairs at the time he authorizes those repairs.***

Sec. 9. ***If a body shop or garage performs repairs on a motor vehicle, the body shop or garage shall perform the repairs in accordance with any specifications of the manufacturer of the motor vehicle and the written estimate or statement of the cost of the repairs that is most recently agreed upon by the body shop or garage and the person authorizing repairs.***

Sec. 10. ***1. An owner and the insurer of a motor vehicle who have been notified of additional charges pursuant to section 7 of this act shall:***

(a) Authorize the performance of the repair at the additional expense; or

(b) Without delay, and upon payment of the authorized charges, take possession of the motor vehicle.

2. Until the election provided for in subsection 1 has been made, the body shop or garageman shall not undertake any repair which would involve such additional charges.

3. If the owner or insurer of the motor vehicle elects to take possession of the motor vehicle but fails to take possession within a 24-hour period after the election, the body shop or garageman may charge for storage of the vehicle.

Sec. 11. ***1. Whenever the repair work performed on a motor vehicle requires the replacement of any parts or accessories, the body shop or garageman shall, at the request of the person authorizing the repairs or any person entitled to possession of the motor vehicle, deliver to the person all parts and accessories replaced as a result of the work done.***

2. The provisions of subsection 1 do not apply to parts or accessories which must be returned to a manufacturer or distributor under a warranty arrangement or which are subject to exchange, but the customer, on request, is entitled to be shown the warranty parts for which a charge is made.

Sec. 12. ***The body shop or garageman shall retain copies of any estimate, statement or waiver required by sections 6 to 19, inclusive, of this act as an ordinary business record of the body shop or garage, for a period of not less than 1 year after the date the estimate, statement or waiver is signed.***

Sec. 13. ***In every instance where charges are made for the repair of a motor vehicle by a garageman, the garageman making the repairs shall comply with the provisions of sections 6 to 19, inclusive, of this act. A garageman is not entitled to detain a motor vehicle by virtue of any common law or statutory lien, or otherwise enforce such a lien, or to sue on any contract for repairs made by him unless he has complied with the requirements of sections 6 to 19, inclusive, of this act.***

Sec. 14. ***A person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:***

1. Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the repair of a motor vehicle; or

2. Engages in any other acts prescribed by the Director by regulation as a deceptive trade practice.

Sec. 15. ~~***[1. There is hereby created a Revolving Account for the Department of Motor Vehicles in the sum of $7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 4 to 21, inclusive, of this act.***~~

~~*2. The Director shall deposit the money in the Revolving Account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.*~~

~~*3. The Director or his designee may:*~~

~~*(a) Sign all checks drawn upon the Revolving Account; and*~~

~~*(b) Make withdrawals of cash from the Revolving Account.*~~

~~*4. Payments made from the Revolving Account must be promptly reimbursed from the legislative appropriation, if any, to the Director for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 4 to 21, inclusive, of this act. The claim for reimbursement must be processed and paid as other claims against the State are paid.*~~

~~*5. The Director shall:*~~

~~*(a) Approve any disbursement from the Revolving Account; and*~~

~~*(b) Maintain records of any such disbursement.]*~~ **(Deleted by amendment.)**

Sec. 16. ***1. The Director may request an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 4 to 21, inclusive, of this act.***

2. The Bureau of Consumer Protection in the Office of the Attorney General may conduct an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 4 to 21, inclusive, of this act on its own motion or upon a request received pursuant to subsection 1. Nothing in this subsection requires the Bureau to conduct an undercover investigation.

Sec. 17. ***1. In addition to any other penalty, the Director may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice as set forth in section 14 of this act. The Director shall provide to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.***

2. ~~*[The Director may negotiate the recovery of losses by a person aggrieved by a deceptive trade practice from the garageman who or body shop that engaged in the practice in lieu of imposing an administrative fine and may mediate any disputes between customers and garagemen or body shops.*~~

~~*3.]*~~ ***All administrative fines collected by the Director pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.***

~~*[4. Except as otherwise provided in this subsection, the]*~~

3. The administrative remedy provided in this section is not exclusive and is intended to supplement existing law. ~~*[The Director may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person*~~

~~*pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act.]*~~ ***The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.***

Sec. 18. ***1. If charges are made for the repair of a motor vehicle, the garageman or body shop making the charges shall present to the person authorizing repairs or the person entitled to possession of the motor vehicle a statement of the charges setting forth the following information:***

(a) The name and signature of the person authorizing repairs;

(b) A statement of the total charges;

(c) An itemization and description of all parts used to repair the motor vehicle indicating the charges made for labor; and

(d) A description of all other charges.

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

3. In the case of a motor vehicle registered in this State, no lien for labor or materials provided under NRS 108.265 to 108.367, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered and the legal owner of the motor vehicle. In all other cases, the notice must be made to the last known address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.

Sec. 19. ***1. On or before January 1 of each year, the Director of the Department shall prepare a report concerning garages, garagemen and body shops. The report must include:***

(a) The number of complaints relating to garages, garagemen and body shops made to and acted upon by the Department during the year for which the report is prepared;

(b) The number of investigations conducted during that year by the Department relating to garages, garagemen and body shops; and

(c) The outcome of each investigation specified in paragraph (b) and the extent to which any information relating to each investigation is subject to disclosure to the members of the public.

2. On or before January 1 of each even-numbered year, the Director of the Department shall submit the report required pursuant to subsection 1 to the Legislative Commission. On or before January 1 of each odd-numbered year, the Director of the Department shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(a) The Senate Standing Committee on Energy, Infrastructure and Transportation; and

(b) The Assembly Standing Committee on Transportation.

Sec. 20. ***The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada on the complaint of the Director, or of any person allegedly aggrieved by a violation of the provisions of sections 6 to 19, inclusive, of***

this act, to enjoin any violation of the provisions of sections 6 to 19, inclusive, of this act.

Sec. 21. ~~*[Except as otherwise provided in section 17 of this act, any]*~~ ***Any person who knowingly violates any provision of sections 5 to 19, inclusive, of this act is liable, in addition to any other penalty or remedy which may be provided by law, to a civil penalty of not more than $500 for each offense, which may be recovered by civil action on complaint of the Director or the district attorney.***

Sec. 21.5. **NRS 487.002 is hereby amended to read as follows:**

487.002 1. The Advisory Board on Automotive Affairs, consisting of seven members appointed by the Governor, is hereby created within the Department.

2. The Governor shall appoint to the Board:

(a) One representative of the Department;

(b) One representative of licensed operators of body shops;

(c) One representative of licensed automobile wreckers;

(d) One representative of registered garagemen;

(e) One representative of licensed operators of salvage pools; and

(f) Two representatives of the general public.

3. After the initial terms, each member of the Board serves a term of 4 years. The members of the Board shall annually elect from among their number a Chairman and a Vice Chairman. The Department shall provide secretarial services for the Board.

4. The Board shall meet regularly at least twice each year and may meet at other times upon the call of the Chairman. Each member of the Board is entitled to the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Board shall:

(a) Study the regulation of garagemen, automobile wreckers and operators of body shops and salvage pools, including, without limitation, the registration or licensure of such persons and the methods of disciplinary action against such persons;

(b) Analyze and advise the Department relating to any consumer complaints ~~**[**provided to the Department by the Consumer Affairs Division of the Department of Business and Industry pursuant to NRS 598.985 or otherwise**]**~~ received by the Department concerning garagemen, automobile wreckers or operators of body shops or salvage pools;

(c) Make recommendations to the Department for any necessary regulations or proposed legislation pertaining to paragraph (a) or (b);

(d) On or before January 15 of each odd-numbered year, prepare and submit a report concerning its activities and recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the Legislature; and

(e) Perform any other duty assigned by the Department.

Sec. 22. NRS 487.530 is hereby amended to read as follows:

487.530 As used in NRS 487.530 to ~~[487.570,]~~ ***487.690,*** inclusive, ***and sections 2 to 21, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS ~~[487.535]~~ ***487.540*** to 487.550, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 23. NRS 487.555 is hereby amended to read as follows:

487.555 The provisions of NRS 487.530 to ~~[487.570,]~~ ***487.690,*** inclusive, ***and sections 2 to 21, inclusive, of this act*** do not apply to a service station that is exclusively engaged in the business of selling motor vehicle fuel, lubricants or goods unrelated to the repair of motor vehicles.

Sec. 24. NRS 487.563 is hereby amended to read as follows:

487.563 1. Each person who submits an application for registration pursuant to the provisions of NRS 487.560 shall file with the Department a bond in the amount of $5,000, with a corporate surety for the bond that is licensed to do business in this State. The form of the bond must be approved by the Attorney General and be conditioned upon whether the applicant conducts his business as an owner or operator of a garage without fraud or fraudulent representation and in compliance with the provisions of ***sections 4 to 21, inclusive, of this act and*** NRS 487.530 to ~~[487.570,]~~ ***487.567,*** inclusive ***.*** ~~[, and 597.480 to 597.590, inclusive.]~~

2. The bond must be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the garageman may:

(a) Apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make payment.

(b) Present to the Director an order of a court requiring the Director to pay to the person an amount of compensation from the bond. The Director shall inform the surety, and the surety shall then make payment.

4. In lieu of a bond required to be filed pursuant to the provisions of subsection 1, a person may deposit with the Department, pursuant to the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank or savings and loan association located in this State, which must indicate an account of an amount equal to the amount of the bond that would otherwise be required pursuant to this section and that the amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing,

in an amount determined by him to compensate a person injured by an action of the garageman or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting that the Director release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. If a person fails to comply with an order of a court that relates to the repair of a motor vehicle, or fails to pay or otherwise discharge any final judgment rendered and entered against him or any court order issued and arising out of the repair of a motor vehicle in the operation of a garage, the Department shall revoke or refuse to renew the certificate of registration of the person who failed to comply with the order or satisfy the judgment.

7. The Department may reinstate or renew a certificate of registration that is revoked pursuant to the provisions of subsection 6 if the person whose certificate of registration is revoked complies with the order of the court.

8. A garageman whose registration has been revoked pursuant to the provisions of subsection 6 shall furnish to the Department a bond in the amount specified in subsection 1 before the reinstatement of his registration.

Sec. 25. NRS 487.564 is hereby amended to read as follows:

487.564 1. The Department may refuse to issue a registration or may suspend, revoke or refuse to renew a registration to operate a garage upon any of the following grounds:

(a) A false statement of a material fact in a certification for a salvage vehicle required pursuant to NRS 487.800.

(b) A false statement or certification for an inspection pursuant to NRS 487.800 which attests to the mechanical fitness or safety of a salvage vehicle.

(c) The Director determines that the garage or garageman has engaged in a deceptive trade practice or violated the provisions of ~~[NRS 597.480 to 597.590, inclusive.]~~ ***sections 4 to 21, inclusive, of this act.***

(d) Evidence of unfitness of the applicant or registrant pursuant to NRS 487.165.

(e) A violation of any regulation adopted by the Department governing the operation of a garage.

(f) A violation of any statute or regulation that constitutes fraud in conjunction with the repair of a motor vehicle or operation of a garage.

2. A person for whom a certificate of registration has been suspended or revoked pursuant to the provisions of this section, subsection 6 of NRS 487.563 or similar provisions of the laws of any other state or territory of the United States shall not be employed by, or in any manner affiliated with, the operation of a garage subject to registration in this State.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 26. NRS 487.600 is hereby amended to read as follows:

487.600 As used in NRS 487.600 to **[**~~487.690,~~**]** ***487.687,*** inclusive, unless the context otherwise requires, the words and terms defined in NRS **[**~~487.602~~**]** ***487.604*** to 487.608, inclusive, have the meanings ascribed to them in those sections.

Sec. 27. NRS 487.640 is hereby amended to read as follows:

487.640 1. No license may be issued to an operator of a body shop until he procures and files with the Department a good and sufficient bond in the amount of $10,000, with a corporate surety thereon licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct his business as an operator of a body shop without fraud or fraudulent representation, and in compliance with the provisions of ***sections 4 to 21, inclusive, of this act and*** NRS 487.600 to **[**~~487.690,~~**]** ***487.687,*** inclusive **. [**~~, and 597.480 to 597.590, inclusive.~~**]** The Department may, by agreement with any operator of a body shop who has been licensed by the Department for 5 years or more, allow a reduction in the amount of the bond of the operator, if the business of the operator has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than $1,000.

2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the operator of the body shop in violation of any of the provisions of ***sections 4 to 21, inclusive, of this act and*** NRS 487.600 to **[**~~487.690,~~**]** ***487.687,*** inclusive, **[**~~and 597.480 to 597.590, inclusive,~~**]** may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. In lieu of a bond an operator of a body shop may deposit with the Department, under the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing,

in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. When a deposit is made pursuant to subsection 4, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which he is liable under the deposit.

7. A deposit made pursuant to subsection 4 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

8. Any money received by the Department pursuant to subsection 4 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 28. NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and ***sections 4 to 21, inclusive, of this act or*** NRS 487.600 to **[**~~487.690,~~**]** ***487.687,*** inclusive **. [**~~, or 597.480 to 597.590, inclusive.~~**]**

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of guilty or guilty but mentally ill by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(j) The display of evidence of unfitness for a license pursuant to NRS 487.165.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.600 to ~~[~~487.690,~~]~~ ***487.687,*** inclusive, or to determine the suitability of an applicant or a licensee for licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 29. NRS 487.690 is hereby amended to read as follows:

487.690 Any person who violates any of the provisions of ***sections 4 to 21, inclusive, of this act or*** NRS ~~[~~487.600~~]~~ ***487.530*** to 487.680, inclusive, is guilty of a misdemeanor.

Sec. 29.3. **Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. There is hereby created a revolving account for the Bureau of Consumer Protection in the sum of $7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 4 to 21, inclusive, of this act.

2. The Consumer's Advocate shall deposit the money in the revolving account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.

3. The Consumer's Advocate or his designee may:

(a) Sign all checks drawn upon the revolving account; and

(b) Make withdrawals of cash from the revolving account.

4. Payments made from the revolving account must be promptly reimbursed from the legislative appropriation, if any, to the Consumer's Advocate for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 4 to 21, inclusive, of this act. The claim for reimbursement must be processed and paid as other claims against the State are paid.

5. The Consumer's Advocate shall:

(a) Approve any disbursement from the revolving account; and

(b) Maintain records of any such disbursement.

Sec. 29.7. **NRS 228.300 is hereby amended to read as follows:**

228.300 As used in NRS 228.300 to 228.390, inclusive, ***and section 29.3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 228.302 to 228.308, inclusive, have the meanings ascribed to them in those sections.

Sec. 30. ~~[NRS 598.985 is hereby amended to read as follows:~~

~~598.985 1. The Division and the Department shall cooperate to enhance the protection of persons who authorize the repair of motor vehicles by a garage that is registered with the Department pursuant to the provisions of NRS 487.530 to~~ [487.570,] ~~*487.567,* inclusive.~~

~~2. The Commissioner of Consumer Affairs may provide to the Department a copy of any complaint filed with the Division that alleges a deceptive trade practice pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, or a violation of the provisions of~~ [NRS 597.480 to 597.590, inclusive,] ~~*sections 4 to 21, inclusive, of this act* by a garage or garageman registered pursuant to the provisions of NRS 487.530 to~~ [487.570,] ~~*487.567,* inclusive. If the Commissioner provides the Department with a copy of a complaint, the Department is subject to the provisions of NRS 598.098 with respect to the complaint.~~

~~3. The Department may provide assistance to the Division in carrying out the provisions of NRS 598.990.~~] **(Deleted by amendment.)**

Sec. 31. ~~[NRS 598.990 is hereby amended to read as follows:~~

~~598.990 The Division shall:~~

~~1. Establish and maintain a toll-free telephone number for persons to report to the Division information concerning alleged violations of *sections 4 to 21, inclusive, of this act,* NRS 487.530 to~~ [487.570,] ~~*487.567,* inclusive,~~ [597.480 to 597.590, inclusive,] ~~and 598.0903 to 598.0999, inclusive.~~

~~2. Develop a program to provide information to the public concerning:~~

~~(a) The duties imposed on a body shop by the provisions of *sections 4 to 21, inclusive, of this act and* NRS 487.610 to~~ [487.690,] ~~*487.687,* inclusive ;~~ [, and 597.480 to 597.590, inclusive;]

~~(b) The duties imposed on a garageman by the provisions of~~ ***~~sections 4 to 21, inclusive, of this act and~~*** ~~NRS 487.530 to~~ **[**487.570,**]** ~~***487.567,*** inclusive~~ **[**~~, and 597.480 to 597.590, inclusive;~~**]**

~~(c) The rights and protections established for a person who uses the services of a garage or body shop;~~

~~(d) The repair of motor vehicles; and~~

~~(e) Deceptive trade practices relating to the repair of motor vehicles by a garage or body shop.~~**] (Deleted by amendment.)**

Sec. 32. NRS 686A.300 is hereby amended to read as follows:

686A.300 1. An insurer who issues insurance covering damage to a motor vehicle shall not delay making payment for any claim involving damage to a motor vehicle after receiving a statement of charges, pursuant to the provisions of **[**~~NRS 597.5705,~~**]** ***section 18 of this act,*** from any garage or licensed body shop previously authorized by the insured to perform the repairs required by that claim.

2. A delay, within the meaning of this section, is failure to issue a check or draft, payable to the garage or licensed body shop or jointly to the insured and the garage or licensed body shop, within 30 days after the insurer's receipt of the statement of charges for repairs which have been satisfactorily completed.

3. If the damaged vehicle is subject to a security interest or the legal owner of the damaged vehicle is different from the registered owner, the vehicle must be repaired by a garage or licensed body shop unless:

(a) The insurer has declared the vehicle a total loss; or

(b) The total charge for the repair of the vehicle, as set forth in the statement of charges presented pursuant to **[**~~NRS 597.5705,~~**]** ***section 18 of this act,*** is $300 or less.

4. Except as otherwise provided in subsection 3, nothing in this section shall be deemed to prohibit an insurer and insured from settling a claim involving damage to a motor vehicle without providing for the repair of the vehicle.

5. As used in this section, "licensed body shop" means a body shop for which a license has been issued pursuant to chapter 487 of NRS.

Sec. 33. NRS 487.535, 487.568, 487.570, 487.602, 597.480, 597.490, 597.500, 597.510, 597.520, 597.530, 597.535, 597.540, 597.550, 597.560, 597.570, 597.5701, 597.5702, 597.5703, 597.5704, 597.5705, 597.5706, 597.580 **,** ~~**[and]**~~ 597.590 **, 598.971, 598.975, 598.981, 598.985 and 598.990** are hereby repealed.

LEADLINES OF REPEALED SECTIONS

487.535 "Division" defined.

487.568 Penalty.

487.570 Garageman to comply with certain provisions relating to trade practices.

487.602 "Body shop" defined.

597.480 Definitions.

597.490 Display of sign required; contents of sign; penalty.

597.500 Duties of body shop or garageman on acceptance of vehicle for repair.

597.510 Estimate of costs required for certain repairs.

597.520 Notice of additional charges over estimate required in certain cases.

597.530 Waiver of estimate of costs or notice of additional charges; execution of waiver.

597.535 Duty of body shop and garage to repair vehicle in accordance with manufacturer's specifications and estimate of costs required for repair.

597.540 Duties of owner and insurer upon receipt of notice of additional charges.

597.550 Replaced parts to be delivered to person authorizing repairs if requested; exception.

597.560 Records to be retained by body shop or garageman.

597.570 Compliance with NRS 597.510 to 597.5706, inclusive; enforcement of liens and contracts.

597.5701 Certain acts deemed to be deceptive trade practice.

597.5702 Revolving account for Bureau of Consumer Protection: Creation; use; deposits; claims.

597.5703 Commissioner or Director authorized to request undercover investigation of alleged deceptive trade practice; Bureau of Consumer Protection authorized to conduct such investigation.

597.5704 Administrative fine for engaging in deceptive trade practice; deposit and use of money collected as administrative fine.

597.5705 Statement of charges required for repair of vehicle; violation constitutes misdemeanor; statement required for enforcement of lien.

597.5706 Submission of annual report by Commissioner to Legislative Commission.

597.580 Violations: Injunctive relief.

597.590 Violations: Civil penalties.

598.971 Definitions.

598.975 "Department" defined.

598.981 "Division" defined.

598.985 Division and Department to cooperate to protect persons who authorize repair of motor vehicles.

598.990 Division to establish and maintain toll-free telephone number concerning alleged violations and develop program to provide certain information to public.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 486.

Bill read second time.

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

Amendment No. 280.

AN ACT relating to mortgage lending; requiring escrow agencies and agents, mortgage brokers, mortgage agents and mortgage bankers to pay restitution under certain circumstances; authorizing additional remedies and penalties for conducting business as an escrow agency or agent, mortgage broker, mortgage agent or mortgage banker without a license; providing for the exercise of jurisdiction over a party to a civil action; increasing the fine imposed on escrow agencies and agents for certain violations; requiring a mortgage broker to deposit a surety bond or other security; providing for the payment of a claim against a surety bond; establishing fiduciary obligations of a mortgage broker and mortgage agent; increasing the fine imposed on a mortgage broker or mortgage agent for conducting business without a license; authorizing the Commissioner of Mortgage Lending to adopt regulations relating to mortgage lending and other such professions; requiring certain persons and institutions in the business of servicing mortgage loans to register with the Commissioner; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2, 13 and 19 of this bill authorize the Commissioner of Mortgage Lending to require escrow agencies, escrow agents, mortgage brokers, mortgage agents and mortgage bankers to pay restitution under certain circumstances. **Sections 3, 14 and 20** of this bill provide that if any person engages in the escrow business or the business of a mortgage broker, agent or banker without a license, the contract for the transaction in question may be voided by the other parties to the contract. **Sections 3, 17 and 20** of this bill authorize the Commissioner to impose an administrative fine of $50,000 under the same circumstances. **Sections 4, 5, 15, 16, 21 and 22** of this bill provide that parties to certain escrow and mortgage transactions may bring a civil suit against the person who has engaged in the escrow or mortgage business without a license and also establish provisions relating to the exercise of jurisdiction by a court of this State. **Section 6** of this bill increases the fine imposed on escrow agencies or agents from $500 to $10,000 for each occurrence of certain violations.

Sections 8 and 9 of this bill require a mortgage broker, as a condition to doing business in this State, to deposit with the Commissioner a corporate surety bond or other security in the amount of ~~[$25,000]~~ **$50,000** for the principal office and ~~[$10,000]~~ **$25,000** for each branch office, not to exceed

an aggregate amount of $75,000. **Section 10** of this bill allows a surety to cancel a bond with notice and requires the Commissioner to inform a mortgage broker or mortgage agent that his license will be revoked unless an equivalent bond or security is deposited before the cancellation. **Section 11** of this bill provides for the manner in which claims against a bond may be paid. **Section 12** of this bill provides that a mortgage broker or mortgage agent has a fiduciary obligation to his client.

Section 24 of this bill grants regulatory authority over mortgage lending and related professionals, including foreclosure consultants, to the Commissioner by requiring the Commissioner to adopt regulations relating to mortgage lending and other professionals.

Section 25 of this bill requires certain persons and institutions in the business of servicing mortgage loans **secured by a lien on real property located in this State** to register with the Commissioner.

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

Section 1. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ~~*[In a manner consistent with the provisions of chapter 622A of NRS, the]*~~

***1. The** holder of a license as an escrow agent or escrow agency may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.*

2. Notwithstanding the provision of paragraph (m) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 3. ***If a person, or any general partner, director, officer, agent or employee of a person, violates the provisions of NRS 645A.210 or 645A.220:***

1. Any contracts entered into by that person for the escrow transaction are voidable by the other party to the contract; and

2. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $50,000.

Sec. 4. ***In addition to any other remedy or penalty, if a person violates the provisions of NRS 645A.210 or 645A.220, the respective parties to the escrow transaction may bring a civil action against the person for:***

1. Actual and consequential damages;

2. Punitive damages, which are subject to the provisions of NRS 42.005;

3. Reasonable attorney's fees and costs; and

4. Any other legal or equitable relief that the court deems appropriate.

Sec. 5. ***1. A court of this State may exercise jurisdiction over a party to a civil action arising under the provisions of this chapter on any basis***

not inconsistent with the Constitution of the State of Nevada or the Constitution of the United States.

2. Personal service of summons upon a party outside this State is sufficient to confer upon a court of this State jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this State.

3. In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.

4. This section provides an additional manner of serving process and does not invalidate any other service.

Sec. 6. NRS 645A.090 is hereby amended to read as follows:

645A.090 1. The Commissioner may refuse to license any escrow agent or agency or may suspend or revoke any license or impose a fine of not more than ~~[~~$500~~]~~ ***$10,000*** for each violation by entering an order to that effect, with his findings in respect thereto, if upon a hearing, it is determined that the applicant or licensee:

(a) In the case of an escrow agency, is insolvent;

(b) Has violated any provision of this chapter or any regulation adopted pursuant thereto or has aided and abetted another to do so;

(c) In the case of an escrow agency, is in such a financial condition that he cannot continue in business with safety to his customers;

(d) Has committed fraud in connection with any transaction governed by this chapter;

(e) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact from, any principal or designated agent of a principal in the course of the escrow business;

(f) Has intentionally or knowingly made or caused to be made to the Commissioner any false representation of a material fact or has suppressed or withheld from the Commissioner any information which the applicant or licensee possesses;

(g) Has failed without reasonable cause to furnish to the parties of an escrow their respective statements of the settlement within a reasonable time after the close of escrow;

(h) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter;

(j) Has been convicted of a felony relating to the practice of escrow agents or agencies or any misdemeanor of which an essential element is fraud;

(k) In the case of an escrow agency, has failed to maintain complete and accurate records of all transactions within the last 6 years;

(l) Has commingled the money of others with his own or converted the money of others to his own use;

(m) Has failed, before the close of escrow, to obtain written escrow instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

(n) Has failed to disclose in writing that he is acting in the dual capacity of escrow agent or agency and undisclosed principal in any transaction; or

(o) In the case of an escrow agency, has:

(1) Failed to maintain adequate supervision of an escrow agent; or

(2) Instructed an escrow agent to commit an act which would be cause for the revocation of the escrow agent's license and the escrow agent committed the act. An escrow agent is not subject to disciplinary action for committing such an act under instruction by the escrow agency.

2. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of the license of a partnership, corporation or any other association that any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for such action had the applicant or licensee been a natural person.

3. The Commissioner may suspend any license for not more than 30 days, pending a hearing, if upon examination into the affairs of the licensee it is determined that any of the grounds enumerated in subsection 1 or 2 exist.

4. The Commissioner may refuse to issue a license to any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country.

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

Sec. 7. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 16, inclusive, of this act.

Sec. 8. ***1. Except as otherwise provided in section 9 of this act, as a condition to doing business in this State, each mortgage broker shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 4, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the mortgage broker and all mortgage agents employed by or associated with the mortgage broker.***

2. At the time of filing an application for a license as a mortgage agent ~~[,]~~ ***and at the time of filing an application for the renewal of a license as a mortgage agent, the applicant shall file with the Commissioner proof that the applicant is named as a principal on the corporate surety bond***

deposited with the Commissioner by the mortgage broker with whom he is associated or employed.

3. The bond must be in substantially the following form:

Know All Men by These Presents, that ....., as principal, and ....., as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any of the provisions of chapter 645B of NRS, in the sum of ....., lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the principal has been issued a license as a mortgage broker or mortgage agent by the Commissioner of Mortgage Lending and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, his agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 645B of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 645B of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645B of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the .....(day) of .....(month) of ...(year), and remains in force until the surety is released from liability by the Commissioner of Mortgage Lending or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Mortgage Lending.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at ....., Nevada, this .....(day) of .....(month) of ..….(year).

(Seal) .....
Principal.....
(Seal) .....
Surety.....
By.....
Attorney-in-fact.....

Licensed resident agent

4. Each mortgage broker shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of section 9 of this act in the following amounts:

(a) For the principal office, ~~[$25,000.]~~ $50,000.

(b) For each branch office, ~~[$10,000.]~~ $25,000.

➥ The total amount required for the corporate surety bond may not exceed $75,000, without regard to the number of branch offices, if any.

Sec. 9. ***1. As a substitute for the surety bond required by section 8 of this act, a mortgage broker may, in accordance with the provisions of this section, deposit with any bank or trust company authorized to do business in this State, in a form approved by the Commissioner:***

(a) An obligation of a bank, savings and loan association, thrift company or credit union licensed to do business in this State;

(b) Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States; or

(c) Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State, or guaranteed by this State.

2. The obligations of a bank, savings and loan association, thrift company or credit union must be held to secure the same obligation as would the surety bond. With the approval of the Commissioner, the depositor may substitute other suitable obligations for those deposited which must be assigned to the State of Nevada and are negotiable only upon approval by the Commissioner.

3. Any interest or dividends earned on the deposit accrue to the account of the depositor.

4. The deposit must be in an amount at least equal to the required surety bond and must state that the amount may not be withdrawn except by direct and sole order of the Commissioner. The value of any item deposited pursuant to this section must be based upon principal amount or market value, whichever is lower.

Sec. 10. ***1. The surety may cancel a bond upon giving 60 days' notice to the Commissioner by certified mail. Upon receipt by the Commissioner of such a notice, the Commissioner immediately shall notify the licensee who is the principal on the bond of the effective date of cancellation of the bond, and that his license will be revoked unless he furnishes an equivalent bond or a substitute form of security authorized by section 9 of this act before the effective date of the cancellation. The notice must be sent to the licensee by certified mail to his last address of record filed in the office of the Division.***

2. If the licensee does not comply with the requirements set out in the notice from the Commissioner, his license must be revoked on the date the bond is cancelled.

Sec. 11. ***1. Any person claiming against a bond may bring an action in a court of competent jurisdiction on the bond for damages to the extent covered by the bond. A person who brings an action on a bond shall notify the Commissioner in writing upon filing the action. An action may not be***

commenced after the expiration of 3 years following the commission of the act on which the action is based.

2. Upon receiving a request from a person for whose benefit a bond is required, the Commissioner shall notify the person:

(a) That a bond is in effect and of the amount of the bond; and

(b) If there is an action against the bond, the title, court and case number of the action and the amount sought by the plaintiff.

3. If a surety wishes to make payment without awaiting action by a court, the amount of the bond must be reduced to the extent of any payment made by the surety in good faith under the bond. Any payment must be based on written claims received by the surety before any action is taken by a court.

4. The surety may bring an action for interpleader against all claimants upon the bond. If it does so, it shall publish notice of the action at least once each week for 2 weeks in every issue of a newspaper of general circulation in the county where the mortgage broker has its principal place of business. The surety may deduct its costs of the action, including attorney's fees and publication, from its liability under the bond.

5. Claims against a bond have equal priority, and if the bond is insufficient to pay all claims in full, they must be paid on a pro rata basis. Partial payment of claims is not full payment, and any claimant may bring an action against the mortgage broker for the unpaid balance.

Sec. 12. ***1. In addition to any other duties set forth in this chapter, any person licensed pursuant to this chapter has a fiduciary obligation to a client.***

2. For the purposes of this section, a person's fiduciary obligation does not impose a requirement to offer or obtain access to loan products or services for a client other than those that are ~~*[available to]*~~ ***offered by the person at the time of the transaction.***

3. As used in this section, "fiduciary obligation" means a duty of good faith and fair dealing, including, without limitation, the duty to:

(a) Act in the client's best interest;

(b) Conduct only those mortgage transactions which are suitable for the client's needs;

(c) Disclose any financial, business, professional or personal interest the person has in conducting a mortgage transaction for the client;

(d) Disclose any material fact that the person knows or should know may affect the client's rights or interests or the ability to obtain the intended benefit from the mortgage transaction;

(e) Provide an accounting to the client that lists all money and property received from the client;

(f) Not accept or collect any fee for services rendered unless the fee was disclosed to the client before the service is provided; and

(g) Exercise reasonable care in performing any other duty relating to a mortgage transaction.

Sec. 13. ~~*[In a manner consistent with the provisions of chapter 622A of NRS, the]*~~

***1. The** holder of a license as a mortgage broker or mortgage agent may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.*

2. Notwithstanding the provision of paragraph (m) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 14. ***If a person, or any general partner, director, officer, agent or employee of a person violates the provisions of NRS 645B.900 or 645B.910, any contracts entered into by that person for the mortgage transaction are voidable by the other party to the contract.***

Sec. 15. ***In addition to any other remedy or penalty, if a person violates the provisions of NRS 645B.900 or 645B.910, the client may bring a civil action against the person for:***

1. Actual and consequential damages;

2. Punitive damages, which are subject to the provisions of NRS 42.005;

3. Reasonable attorney's fees and costs; and

4. Any other legal or equitable relief that the court deems appropriate.

Sec. 16. ***1. A court of this State may exercise jurisdiction over a party to a civil action arising under the provisions of this chapter on any basis not inconsistent with the Constitution of the State of Nevada or the Constitution of the United States.***

2. Personal service of summons upon a party outside this State is sufficient to confer upon a court of this State jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this State.

3. In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.

4. This section provides an additional manner of serving process and does not invalidate any other service.

Sec. 17. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than ~~[$10,000]~~ ***$50,000*** for each violation and, if the person has a license, the Commissioner shall revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker pursuant to NRS 645B.630.

Sec. 18. Chapter 645E of NRS is hereby amended by adding thereto the provisions set forth as sections 19 to 22, inclusive, of this act.

Sec. 19. ~~*[In a manner consistent with the provisions of chapter 622A of NRS, the]*~~

1. The holder of a license as a mortgage banker may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph (m) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 20. ***If a person, or any general partner, director, officer, agent or employee of a person violates the provisions of NRS 645E.900 or 645E.910:***

1. Any contracts entered into by that person for the mortgage transaction are voidable by the other party to the contract; and

2. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $50,000.

Sec. 21. ***In addition to any other remedy or penalty, if a person, or any general partner, director, officer, agent or employee of a person violates the provisions of NRS 645E.900 or 645E.910, the client may bring a civil action against the person for:***

1. Actual and consequential damages;

2. Punitive damages, which are subject to the provisions of NRS 42.005;

3. Reasonable attorney's fees and costs; and

4. Any other legal or equitable relief that the court deems appropriate.

Sec. 22. ***1. A court of this State may exercise jurisdiction over a party to a civil action arising under the provisions of this chapter on any basis not inconsistent with the Constitution of the State of Nevada or the Constitution of the United States.***

2. Personal service of summons upon a party outside this State is sufficient to confer upon a court of this State jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this State.

3. In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.

4. This section provides an additional manner of serving process and does not invalidate any other service.

Sec. 23. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 24 and 25 of this act.

Sec. 24. ***In addition to the other duties imposed upon him by law, the Commissioner shall adopt any regulations that are necessary to carry out the provisions of this chapter.***

Sec. 25. ***A person or institution engaged in the business of servicing mortgage loans that intends to conduct business in this State*** **for the purpose of servicing mortgage loans secured by a lien on real property located in this State** ***shall register with the Commissioner on a form prescribed by the Commissioner. The form must:***

1. Identify the state in which the institution is domiciled;

2. Identify the principal place of business of the institution; and

3. Provide such other information as the Commissioner may require.

Sec. 26. **The amendatory provisions of section 3 of this act apply to contracts entered into before, on or after October 1, 2009.**

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 491.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 336.

AN ACT relating to civil actions; providing that a certain amount of money held in a bank that is likely to be exempt from execution is not subject to a writ of execution or garnishment; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes

to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a judgment creditor to obtain a writ of execution, attachment or garnishment to levy on the property of a judgment debtor or defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property, however, is exempt from execution and therefore cannot be the subject of such a writ. (NRS 21.090) **Section 2** of this bill provides that a certain amount of money held in the bank account of a judgment debtor which is likely to be exempt from execution is not subject to a writ of execution or garnishment and must remain accessible to the judgment debtor. **Section 3** of this bill provides that a separate writ must be issued to levy on a safe-deposit box and provides a procedure for executing on such a writ. **Section 5** of this bill revises the exemptions from execution so that the exemption for certain plans and accounts for deferred payments applies not only to the money that is held in the account, but also to the proceeds paid from those accounts. **Section 5** also adds a new exemption for proceeds from a private disability ~~[pension]~~ **insurance** plan.

Section 6 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. **Sections 4 and 7** of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor so that the procedures listed in the notice reflect the changes made in **section 6**. **Sections 4 and 7** further revise the notice to provide additional information concerning the claiming of exemptions.

~~[Section 8 of this bill requires a sheriff to prepare an accounting every 90 days concerning the activity related to a writ of attachment or garnishment and provide the accounting to the judgment debtor. Section 12 of this bill similarly requires the judgment creditor to prepare an accounting every 90 days of the amount still owed by the judgment debtor and provide a copy of the report to the judgment debtor, the sheriff and any garnishee.]~~

Section 9 of this bill ~~[provides that not]~~ **prohibits a judgment creditor from submitting** more than ~~[one]~~ **two applications for a** writ of garnishment ~~[may be issued to a garnishee]~~ with respect to the same judgment for the same type of property ~~[, and not more than two writs of garnishment may be issued in any calendar year to levy on the same bank account of the judgment debtor. Sections 10 and 12 of this bill remove references to a writ of garnishment for 120 days and instead require that the writ continue until the debt is paid.]~~ **if the property is held in a financial institution.**

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in **section 2** of

this bill. **Section 12 of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment.** ~~[Sections 13 and]~~ **Section 14** of this bill ~~[provide]~~ **provides** that ~~[a constable must not collect a]~~ **the** fee for receiving and taking property on execution, attachment or court order ~~[unless the property is subsequently released to the judgment creditor.]~~ **collected by a constable is not payable in advance. Section 15** of this bill provides that certain benefits are exempt from execution regardless of whether they are mingled with other money. **Section 16 of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in section 6 of this bill.**

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. If a writ of execution or garnishment is levied on the bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, $2,500 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. Money which is reasonably identifiable as exempt from execution includes, without limitation:***

(a) Benefits provided pursuant to the Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits;

(b) Veterans' benefits; and

(c) Benefits provided pursuant to any other federal law.

2. If a writ of execution or garnishment is levied on the bank account of the judgment debtor and the provisions of subsection 1 do not apply, $1,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor.

3. If a judgment debtor has more than one account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable.

4. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2.

5. If money in an account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money, to determine whether the money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide an accounting of all deposits into and withdrawals from the account for the immediately preceding 90 days.

6. If a writ of execution or garnishment that is levied on the bank account of a judgment debtor is determined to be unenforceable [,] because all of the money in the account is exempt from execution pursuant to subsection 1 or invalid or in violation of the provisions of this chapter or chapter 31 of NRS, the bank must not charge a fee to the judgment debtor regardless of any agreement with or policy of the bank to the contrary.

Sec. 3. ***1. If a writ of execution or garnishment is levied on property in a safe-deposit box maintained at a financial institution, a separate writ must be issued from any writ that is issued to levy on an account of the judgment debtor with the financial institution. Notice of the writ must be served personally on the financial institution and promptly thereafter on any third person who is named on the safe-deposit box.***

2. During the period in which the writ of execution or garnishment is in effect, the financial institution must not allow the contents of the safe-deposit box to be removed other than as directed by the sheriff or by court order.

3. The sheriff may allow the person in whose name the safe-deposit box is held to open the safe-deposit box so that the contents may be removed pursuant to the levy. The financial institution may refuse to allow the forcible opening of the safe-deposit box to allow the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.

Sec. 4. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

18. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

21. Payments received as restitution for a criminal act.

22. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

23. A tax refund received from the earned income credit provided by federal law or a similar state law.

24. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~[a notarized affidavit claiming the]~~ ***an executed claim of*** exemption. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff ~~[and]~~ ***, the garnishee and*** the judgment creditor within ~~[8]~~ ***20 calendar*** days after the notice of execution ***or garnishment*** is ~~[mailed.]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be returned to you within ~~[5]~~ ~~*[8]*~~ ***9*** days after you ~~[file]~~ ***serve*** the ~~[affidavit]~~ ***claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless ~~[you or the judgment creditor files a motion]~~ ***the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~[motion]~~ ***objection to the claim of exemption and notice*** for the hearing to determine the issue of exemption must be filed within ~~[10]~~ ~~*[5]*~~ ***8*** days after the ~~[affidavit claiming]~~ ***claim of*** exemption is ~~[filed.]~~ ***served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 days before the date set for the hearing.*** The hearing to determine whether the property or money is exempt must be held within ~~[10]~~ ***7*** days after the ~~[motion]~~ ***objection to the claim of exemption and notice*** for the hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.***

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ ***EXECUTED CLAIM OF EXEMPTION*** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 5. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of himself and his family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining,

and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed $15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the $15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed $550,000 in value and the dwelling is situated upon lands not owned by him.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $500,000 in present value, held in ~~[:]~~ ***and any proceeds paid from:***

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks,

bonds or other funds on deposit with a financial institution, not to exceed $1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Proceeds received from a private disability ~~*[pension]*~~ ***insurance plan.***

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 6. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on, the judgment debtor must, within ~~[8]~~ ***20*** days after the notice ~~[prescribed in NRS 21.075 is mailed,]~~ ***of a writ of execution or garnishment is served on him by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on,*** serve on the sheriff ***, the garnishee*** and ***the*** judgment creditor and file with the clerk of the court issuing the writ of execution ~~[an affidavit setting out]~~ his claim of exemption ~~[.]~~ ***which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 20 days after the date of each withholding of his earnings.***

2. The clerk of the court shall provide the form for the ~~[affidavit.~~

~~2.]~~ ***claim of exemption and must further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form*** ~~*[.]*~~ ***or for filing the form with the court.***

3. When the ~~[affidavit]~~ ***claim of exemption*** is served, the sheriff ***or garnishee*** shall release the property ***and make the property available to the judgment debtor by not later than the end of business on the ninth day following such service*** if the ~~[judgment creditor,]~~ ***sheriff or garnishee has not received*** within ~~[5]~~ ***8*** days ~~[after written demand by the sheriff:~~

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

~~(1) Is in a sum equal to double the value of the property levied on; and~~

~~(2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~(b) Fails to file a motion~~] ***a copy of the objection to the claim of exemption and notice*** for a hearing ***from the judgment creditor*** to determine whether the property or money is exempt.

[~~.~~] The clerk of the court shall provide the form for the [~~motion.~~

~~3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.~~] ***objection to the claim of exemption and notice for a hearing to determine whether the property or money is exempt.***

4. ***An objection to the claim of exemption and notice for a hearing must be filed with the court within*** ~~*[5]*~~ ***8 days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 days before the date set for the hearing.***

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property [~~.~~] where [~~:~~

~~(a) No affidavit claiming~~] ***a claim of*** exemption is ***not*** served on him ***.*** [~~;~~ ~~or~~

~~(b) An affidavit claiming exemption is served on him, but the sheriff fails to release the property in accordance with this section.~~

~~5.~~] ***6.*** Unless the court continues the hearing for good cause shown, the hearing ***on an objection to a claim of exemption*** to determine whether the property or money is exempt must be held within [~~10~~] ***7*** days after the [~~motion~~] ***claim of objection and notice*** for [~~the~~] ***a*** hearing is filed.

[~~6. The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.~~] ***The judgment creditor has the burden to prove that the judgment debtor is not entitled to the claimed exemption at such a hearing.*** ~~*[The court shall issue a decision regarding the exemption within 5 days after the hearing by completing the order submitted with the judgment debtor's claim of exemption. The]*~~ ***After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.***

7. If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 days after the property is levied on, the garnishee shall release the property to the sheriff or, if the property is held by the sheriff, the sheriff shall release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. If a court determines after a hearing that an objection to a claim of exemption was claimed in bad faith ~~[,]~~ ***or if the judgment creditor had reason to know that the property was exempt from execution or submitted more than two applications for a writ of execution for the same judgment on the same property or account of the judgment debtor in violation of subsection 2 of NRS 31.249, the court shall award to the judgment debtor reasonable costs, attorney fees, actual damages and an amount not to exceed $1,000.***

10. The provisions of this section do not limit or prohibit any other remedy provided by law.

11. In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.

12. Regardless of whether the judgment debtor claims an exemption, any exemption to which the debtor is entitled may not be waived.

Sec. 7. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➥ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, ... (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

18. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

21. Payments received as restitution for a criminal act.

22. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

23. A tax refund received from the earned income credit provided by federal law or a similar state law.

24. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in

determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to the indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~[a notarized affidavit claiming the]~~ ***an executed claim of*** exemption. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff ~~[and]~~ ***, the garnishee and*** the judgment creditor within ~~[8]~~ ***20 calendar*** days after the notice of execution ***or garnishment*** is ~~[mailed.]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be returned to you within ~~[5]~~ ~~*[8]*~~ ***9*** days after you ~~[file]~~ ***serve*** the ~~[affidavit]~~ ***claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless the ~~[judgment creditor files a motion]~~ ***sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. ***The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 days before the date set for the hearing.*** The hearing must be held within ~~[10]~~ ***7*** days after the ~~[motion]~~ ***objection to the claim of exemption and notice*** for a hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.***

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ ***EXECUTED CLAIM OF EXEMPTION*** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court

for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 8. ~~[NRS 31.110 is hereby amended to read as follows:~~

~~31.110 1. The sheriff shall return the writ of attachment within 25 days after its receipt, with a certificate of his proceeding endorsed thereon or attached thereto. The certificate must contain the date, time and place of each levy upon real or personal property, a full inventory of the personal property attached, a description of all real property attached, and the date, time and place where each writ of garnishment was served. The sheriff shall also attach to the writ of attachment a true and correct copy of each writ of garnishment served.~~

2. Every 90 days thereafter the sheriff shall prepare an accounting and provide a report to the judgment debtor which sets forth any activity related to the writ of attachment and any writ of garnishment since the last report, including, without limitation, payments made by garnishees, the date and description of property received, any amount paid to satisfy the debt and the remaining amount owed.] **(Deleted by amendment.)**

Sec. 9. NRS 31.249 is hereby amended to read as follows:

31.249 1. No writ of garnishment in aid of attachment may issue except on order of the court. The court may order the writ of garnishment to be issued:

(a) In the order directing the clerk to issue a writ of attachment; or

(b) If the writ of attachment has previously issued without notice to the defendant and the defendant has not appeared in the action, by a separate order without notice to the defendant.

2. The plaintiff's application to the court for an order directing the issuance of a writ of garnishment must be by affidavit made by or on behalf of the plaintiff to the effect that the affiant is informed and believes that the named garnishee:

(a) Is the employer of the defendant; or

(b) Is indebted to or has property in his possession or under his control belonging to the defendant,

➥ and that to the best of the knowledge and belief of the affiant, the defendant's future wages, the garnishee's indebtedness or the property possessed is not by law exempt from execution. If the named garnishee is the State of Nevada, the writ of garnishment must be served upon the State Controller. ~~*[Not more than one writ of garnishment may be issued to the garnishee with respect to the same judgment for the same type of property, and not more than two writs of garnishment may be issued in any calendar year to levy on the same account of the judgment debtor in a bank.]*~~ ***A judgment creditor shall not submit more than two applications for a writ of***

garnishment with respect to the same judgment for the same type of property in any calendar year upon the same account of a judgment debtor if the property is held in a financial institution. A judgment creditor who submits more than two applications may be subject to the penalties set forth in subsection 9 of NRS 21.112.

3. The affidavit by or on behalf of the plaintiff may be contained in the application for the order directing the writ of attachment to issue or may be filed and submitted to the court separately thereafter.

4. Except as otherwise provided in this section, the grounds and procedure for a writ of garnishment are identical to those for a writ of attachment.

5. If the named garnishee is the subject of more than one writ of garnishment regarding the defendant, the court shall determine the priority and method of satisfying the claims, except that any writ of garnishment to satisfy a judgment for the collection of child support must be given first priority.

Sec. 10. ~~[NRS 31.260 is hereby amended to read as follows:~~

~~31.260 1. The writ of garnishment must:~~

~~(a) Be issued by the sheriff.~~

~~(b) Contain the name of the court and the names of the parties.~~

~~(c) Be directed to the garnishee defendant.~~

~~(d) State the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address.~~

~~(e) Require each person the court directs, as garnishees, to submit to the sheriff an answer to the interrogatories within 20 days after service of the writ upon the person.~~

~~2. The writ of garnishment must also notify the garnishee defendant that, if he fails to answer the interrogatories, a judgment by default will be rendered against him for:~~

~~(a) The amount demanded in the writ of garnishment or the value of the property described in the writ, as the case may be; or~~

~~(b) If the garnishment is pursuant to NRS 31.291, the amount of the lien created pursuant to that section,~~

~~↵ which amount or property must be clearly set forth in the writ of garnishment.~~

~~3. Execution on the writ of garnishment may occur only if the sheriff mails a copy of the writ with a copy of the notice of execution to the defendant in the manner and within the time prescribed in NRS 21.076. In the case of a writ of garnishment that continues for 120 days or until the amount demanded in the writ is satisfied, a copy of the writ and the notice of execution need only be mailed once to the defendant.]~~ **(Deleted by amendment.)**

Sec. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to ***be submitted with any writ of execution, attachment or garnishment to*** the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants, or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount ***of disposable earnings, as defined in NRS 31.295, that*** each defendant presently earns during a pay period. ***State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld. The minimum amount of disposable earnings may be determined, if the pay period is:***

Weekly: By multiplying 50 times the federal minimum hourly wage;

Biweekly: By multiplying 50 times the federal minimum hourly wage, times 2;

Semimonthly: By multiplying 50 times the federal minimum hourly wage, times 52, divided by 24; or

Monthly: By multiplying 50 times the federal minimum hourly wage, times 52, divided by 12.

State the amount that is subject to garnishment, which must not exceed 25 percent of the disposable earnings.

Answer:

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in which .....is interested? If so, state its value, and state fully all particulars.

Answer:

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to ..... or in which .....is interested, and now in the possession or under the control of others? If so, state particulars.

Answer:

Are you a financial institution with an account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section 1 of this act, $2,500 or the amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that ~~*[a]*~~ ***an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution , including, without limitation, payments of money described in section 1 of this act or, if no such deposit has been made, $1,000 or the amount in the account, whichever is less, is not subject to garnishment. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.***

Answer:

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer:

Garnishee

I (insert the name of the garnishee), do solemnly swear (or affirm) that the answers to the foregoing interrogatories by me subscribed are true.

(Signature of garnishee)

SUBSCRIBED and SWORN to before me this .... day of the month of .... of the year ....

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit his answers to the sheriff within the time required by the writ. ***The garnishee shall submit his answers to the judgment debtor within the same time.*** If the garnishee fails to do so, he shall be deemed in default.

Sec. 12. NRS 31.296 is hereby amended to read as follows:

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in his answer to garnishee interrogatories that he is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of $3 per pay period, not to exceed $12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every ~~*[90]*~~ ***120 days which sets forth , without limitation, the amount*** ~~*[still]*~~ ***owed by the judgment debtor , the costs and fees allowed pursuant to NRS 18.160 and*** ~~*[which lists]*~~ ***any accrued interest and costs .*** ~~*[.]*~~ ***on the judgment. The report must advise the judgment debtor of his right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.***

Sec. 13. ~~[NRS 258.125 is hereby amended to read as follows:~~

~~258.125 1. Constables are entitled to the following fees for their services:~~

~~For serving a summons or other process by which a suit is commenced in civil cases $17~~

~~For summoning a jury before a justice of the peace 7~~

~~For taking a bond or undertaking 5~~

~~For serving an attachment against the property of a defendant 9~~

~~For serving subpoenas, for each witness 15~~

~~For a copy of any writ, process or order or other paper, when demanded or required by law, per folio 3~~

~~For drawing and executing every constable's deed, to be paid by the grantee, who must also pay for the acknowledgment thereof 20~~

~~For each certificate of sale of real property under execution 5~~

~~For levying any writ of execution or writ of garnishment, or executing an order of arrest in civil cases, or order for delivery of personal property, with traveling fees as for summons 9~~

~~For serving one notice required by law before the commencement of a proceeding for any type of eviction 26~~

~~For serving not fewer than 2 nor more than 10 such notices to the same location, each notice 20~~

~~For serving not fewer than 11 nor more than 24 such notices to the same location, each notice 17~~

~~For serving 25 or more such notices to the same location, each notice 15~~

~~For mileage in serving such a notice, for each mile necessarily and actually traveled in going only 2~~

~~But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.~~

~~For each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution 21~~
~~For making and posting notices, and advertising property for sale on execution, not to include the cost of publication in a newspaper 9~~
~~For each warrant lawfully executed 48~~
~~For mileage in serving summons, attachment, execution, order, venire, subpoena, notice, summary eviction, writ of restitution or other process in civil suits, for each mile necessarily and actually traveled, in going only $2~~
~~But when two or more persons are served in the same suit, mileage may only be charged for the most distant, if they live in the same direction.~~
~~For mileage in making a diligent but unsuccessful effort to serve a summons, attachment, execution, order, venire, subpoena or other process in civil suits, for each mile necessarily and actually traveled, in going only 2~~
~~But mileage may not exceed $20 for any unsuccessful effort to serve such process.~~

~~2. [A]~~ ***Except as otherwise provided in this section, a*** ~~constable is also entitled to receive:~~

~~(a) For receiving and taking care of property on execution, attachment or order, his actual necessary expenses, to be allowed by the court which issued the writ or order, upon the affidavit of the constable that the charges are correct and the expenses necessarily incurred.~~ ***Such expenses must not be allowed by the court unless the property is subsequently released to the judgment creditor.***

~~(b) For collecting all sums on execution or writ, to be charged against the defendant, on the first $3,500, 2 percent thereof, and on all amounts over that sum, one-half of 1 percent.~~

~~(c) For service in criminal cases, except for execution of warrants, the same fees as are allowed sheriffs for like services, to be allowed, audited and paid as are other claims against the county.~~

~~(d) For removing or causing the removal of, pursuant to NRS 487.230, a vehicle that has been abandoned on public property, $50.~~

~~3. Deputy sheriffs acting as constables are not entitled to retain for their own use any fees collected by them, but the fees must be paid into the county treasury on or before the fifth working day of the month next succeeding the month in which the fees were collected.~~

~~4. Constables shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees collected during the preceding month, except fees which may be retained as compensation.]~~ **(Deleted by amendment.)**

Sec. 14. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~[fee]~~ ***fees*** described in ~~[paragraph]~~ ***paragraphs (a) and*** (d) of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his fees, which may be due him for services rendered by him in any suit or proceedings, he may have execution therefor in his own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 15. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~[, if they are not mingled with other money of the recipient,]~~ are exempt from any remedy for the collection of all debts, except debts incurred for necessaries furnished to the person or his spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

Sec. 16. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 497.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 225.

AN ACT relating to the criminal justice system; providing for the collection and sharing of certain statistical data and information relating to the criminal justice system; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Corrections and the Division of Parole and Probation of the Department of Public Safety to provide certain information to the Advisory Commission on the Administration of Justice and to assist the Commission in carrying out its statutory duties. (NRS 176.0127) **Section 1** of this bill requires the Central Repository for Nevada Records of Criminal History to: (1) compile and maintain records, reports and compilations of statistical data and information submitted by agencies of criminal justice within this State; (2) facilitate the efficient and timely exchange of necessary data, information, records, reports and compilations among the various agencies of criminal justice within this State; and (3) provide the Commission with any available statistical data, information and research requested by the Commission **.** ~~[and assist the Commission in the development of policies concerning criminal justice within this State.]~~

Section 3 of this bill requires the Department of Corrections to provide information and research to the Commission concerning rates of recidivism and the effectiveness of educational and vocational programs. **Section 4** of this bill requires each agency of criminal justice within this State that has such data or information in its possession to: (1) maintain records, reports and compilations of statistical data and information regarding domestic violence, specialty court programs, rates of recidivism, and the effectiveness and operation of educational and vocational programs for criminal offenders; and (2) submit such data and information to the Central Repository, which will provide the data and information to the Commission pursuant to **section 1** of this bill.

Section 5 of this bill: (1) requires the Court Administrator to assist the State Court System in collecting statistical data and other information and making reports relating to the operation of the criminal justice system in this State; and (2) deletes obsolete statutory language referring to a report that was required to be made to the Legislature in 2007.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Central Repository for Nevada Records of Criminal History shall:

(a) Compile and maintain ~~*[all]*~~ ***records, reports and compilations of statistical data and information submitted pursuant to NRS 179A.075.***

(b) To facilitate the efficient and timely exchange of necessary data, information, records, reports and compilations, coordinate with ~~*[all]*~~ ***agencies of criminal justice within this State, including :*** ~~*[, without limitation:]*~~

(1) State and local law enforcement agencies;

(2) Prosecutors ; ~~*[and public defenders;]*~~

(3) The Office of the Attorney General;

(4) The Judicial Branch of State Government;

(5) The Department of Corrections; and

(6) The Division.

(c) Provide the Commission with any available statistical data, information and research requested by the Commission . ~~*[and assist the Commission in the development of policies concerning criminal justice within this State.]*~~

Sec. 2. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, ***and section 1 of this act,*** "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 3. NRS 176.0127 is hereby amended to read as follows:

176.0127 1. ~~[The]~~ ***In addition to providing the statistical data and information required to be submitted pursuant to NRS 179A.075, the*** Department of Corrections shall:

(a) Provide the Commission with any available statistical information or research requested by the Commission and assist the Commission in the compilation and development of information requested by the Commission, including, but not limited to, information or research concerning the facilities and institutions of the Department of Corrections, the offenders who are or were within those facilities or institutions ***, rates of recidivism, the effectiveness of educational and vocational programs*** and the sentences which are being served or were served by those offenders;

(b) If requested by the Commission, make available to the Commission the use of the computers and programs which are owned by the Department of Corrections; and

(c) Provide the independent contractor retained by the Department of Administration pursuant to NRS 176.0129 with any available statistical information requested by the independent contractor for the purpose of performing the projections required by NRS 176.0129.

2. ~~[The]~~ ***In addition to providing the statistical data and information required to be submitted pursuant to NRS 179A.075, the*** Division shall:

(a) Provide the Commission with any available statistical information or research requested by the Commission and assist the Commission in the

compilation and development of information concerning sentencing, probation, parole and any offenders who are or were subject to supervision by the Division;

(b) If requested by the Commission, make available to the Commission the use of the computers and programs which are owned by the Division; and

(c) Provide the independent contractor retained by the Department of Administration pursuant to NRS 176.0129 with any available statistical information requested by the independent contractor for the purpose of performing the projections required by NRS 176.0129.

Sec. 4. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department **.** ~~[; and]~~

(b) ***To the extent that the agency has such statistical data and information in its possession, maintain records, reports and compilations of statistical data and information concerning the following:***

(1) ~~*[Cases and reports involving domestic]*~~ ***Domestic violence as described in NRS 33.018;***

(2) ~~*[Cases referred to specialty]*~~ ***Specialty court programs as defined in NRS 176.0613;***

(3) Rates of recidivism of criminal offenders; and

(4) The effectiveness and operation of educational and vocational programs for criminal offenders, including ~~*[, without limitation,]*~~ ***any such programs for probationers, inmates in state and local correctional facilities, and parolees.***

(c) Submit the ***statistical data and*** information collected ***pursuant to paragraphs (a) and (b)*** to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

➥ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so

notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with federal and state repositories to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 426.335 and 449.179; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof has a legitimate need to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➥ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➥ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

➥ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has his fingerprints submitted pursuant to NRS 426.335, 449.176 or 449.179.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the

Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2, and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 5. NRS 1.360 is hereby amended to read as follows:

1.360 Under the direction of the Supreme Court, the Court Administrator shall:

1. Examine the administrative procedures employed in the offices of the judges, clerks, court reporters and employees of all courts of this State and make recommendations, through the Chief Justice, for the improvement of those procedures;

2. Examine the condition of the dockets of the courts and determine the need for assistance by any court;

3. Make recommendations to and carry out the directions of the Chief Justice relating to the assignment of district judges where district courts are in need of assistance;

4. Develop a uniform system for collecting and compiling statistics and other data regarding the operation of the State Court System and transmit that

information to the Supreme Court so that proper action may be taken in respect thereto;

5. Prepare and submit a budget of state appropriations necessary for the maintenance and operation of the State Court System and make recommendations in respect thereto;

6. Develop procedures for accounting, internal auditing, procurement and disbursement for the State Court System;

7. Collect statistical and other data and make reports relating to the expenditure of all public money for the maintenance and operation of the State Court System and the offices connected therewith;

8. Compile statistics from the information required to be maintained by the clerks of the district courts pursuant to NRS 3.275 and make reports as to the cases filed in the district courts;

9. Formulate and submit to the Supreme Court recommendations of policies or proposed legislation for the improvement of the State Court System;

10. ***Assist the State Court System in collecting statistical data and other information and making reports relating to the operation of the criminal justice system in this State;***

11. On or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau a written report compiling the information submitted to the Court Administrator pursuant to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year;

~~[11.]~~ ***12.*** On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau a written report concerning:

(a) The distribution of money deposited in the special account created pursuant to NRS 176.0613 to assist with funding and establishing specialty court programs;

(b) The current status of any specialty court programs to which money from the account was allocated since the last report; and

(c) Such other related information as the Court Administrator deems appropriate;

~~[12.]~~ ***13.*** On or before February 15 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling the information submitted by clerks of courts to the Court Administrator pursuant to NRS 630.307 and 633.533 which includes only aggregate information for statistical purposes and excludes any identifying information related to a particular person;

~~[13. On or before February 15, 2007, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of participation in counseling sessions in a program for the treatment of persons who commit domestic violence ordered by a court pursuant to NRS 200.485 and the effect~~

~~of such counseling sessions on recidivism of the offenders who commit battery which constitutes domestic violence pursuant to NRS 33.018;~~] and

14. Attend to such other matters as may be assigned by the Supreme Court or prescribed by law.

Sec. 6. **This act becomes effective on July 1, 2010.**

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bill No. 502 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 508.

Bill read second time.

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

Amendment No. 357.

AN ACT relating to housing; prohibiting the Housing Division of the Department of Business and Industry from adopting regulations that restrict or defer **more than a certain percentage of** the payment of profit and overhead to developers of certain projects under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits the Housing Division of the Department of Business and Industry from financing any low-income residential housing unless the Administrator of the Division makes certain findings. (NRS 319.260) [~~This~~] **Section 1 of this** bill provides that if the Division adopts regulations establishing a program for the financing of the lease, purchase or development of low-income multifamily housing, the regulations may establish the maximum amount of pro forma profit and overhead for a developer of a project, but the regulations must not restrict or require the deferral of **more than 50 percent of** the payment of profits and overhead to a developer of a project that is: (1) constructed, developed, financed or insured in whole or in part through any program established by the United States Department of Housing and Urban Development; and (2) secured by a performance bond. **Section 2 of this bill deletes a provision which requires that any remaining balance of a certain appropriation from the State General Fund to the Housing Division must be reverted to the State General Fund on or before September 18, 2009.**

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

Section 1. Chapter 319 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Division adopts regulations which establish a program for the financing of projects, the regulations must not include any provision which restricts or requires the deferral of more than 50 percent of the payment of profits and overhead to a developer of a project that is:

(a) Constructed, developed, financed or insured in whole or in part through any program established by the United States Department of Housing and Urban Development; and

(b) Secured by a performance bond,

➥ except that such regulations may establish the maximum amount of pro forma profit and overhead for a developer of a project as a percentage of the appraised value of the project.

2. As used in this section, "project" means a housing facility for residential use which consists of two or more dwelling units for occupancy by eligible tenants on a rental basis. The term includes property which is to be leased, purchased or developed for sites for multifamily housing and upon which the Division takes a security interest and records a regulatory agreement, whether the Division issues bonds, a mortgage loan or a letter of credit for the lease, purchase or development of the multifamily housing.

Sec. 2. **Section 3 of chapter 348, Statutes of Nevada 2007, at page 1657, is hereby amended to read as follows:**

Sec. 3. 1. There is hereby appropriated from the State General Fund to the Housing Division of the Department of Business and Industry the sum of $1,000,000 to provide grants to encourage the creation of employer-assisted housing programs.

2. The Housing Division shall adopt regulations to govern the provision of grants pursuant to subsection 1, which must include, without limitation, criteria for determining eligibility for such programs.

3. ~~[Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.~~

~~4.]~~ As used in this section, "employer-assisted housing program" means a program for the provision of down-payment assistance, closing-cost assistance, reduced-interest mortgages, mortgage guarantees, rental subsidies or individual development account savings plans, or any combination thereof, to assist employees in securing affordable housing in this State.

Sec. 3. **1. This section and section 2 of this act become effective upon passage and approval.**

2. Section 1 of this act becomes effective on October 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 513.

Bill read second time.

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

Amendment No. 281.

AN ACT relating to mortgage lending; requiring the licensing of a construction control as an escrow agent or agency; establishing education requirements for an escrow agent or agency; revising provisions relating to the jurisdiction of the Commissioner of Mortgage Lending; revising subpoena powers of the Commissioner; revising provisions relating to holders of a beneficial interest in a loan; eliminating the exemption of consumer finance companies from provisions relating to mortgage brokers, mortgage agents and mortgage bankers; revising provisions for the issuance of a certificate of exemption to a mortgage broker, mortgage agent or mortgage banker; requiring a mortgage broker to make additional disclosures under certain circumstances; revising provisions for the revocation of the license of a mortgage broker or mortgage agent; ~~[establishing provisions relating to hard money lenders;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a construction control to be licensed as an escrow agent or agency. **Sections 3 and 4** of this bill establish educational prerequisites and continuing education requirements for an escrow agent or agency. **Sections 5, 9 and 15** of this bill provide that the jurisdiction and authority of the Commissioner of Mortgage Lending is unaffected by the expiration or voluntary surrender of a license as an escrow agent or agency, mortgage broker, mortgage agent or mortgage banker.

Sections 6, 12 and 18 of this bill provide that the Commissioner may subpoena documents without also subpoenaing the custodian of such documents. (NRS 645A.060, 645B.070, 645E.310)

Section 8 of this bill provides that if the beneficial interest in a loan for real property belongs to more than one natural person, the holders of 51 percent or more of the ~~[beneficial interests of record]~~ **outstanding principal balance** may act on behalf of all the holders of the beneficial interests of record.

Sections 10 and 16 of this bill eliminate the exemption of consumer finance companies from licensing and other requirements governing mortgage brokers, mortgage agents and mortgage bankers. (NRS 645B.015, 645E.150) **Sections 11 and 17 of this bill** revise existing law by requiring proof of the right to transact mortgage loans, if applicable, in another

jurisdiction as a condition to obtaining an exemption to licensing and other provisions governing mortgage brokers, agents and bankers. (NRS 645B.016, 645E.160)

Existing law requires a mortgage broker to include a servicing fee in any loan for which he engages in activity as a mortgage broker. (NRS 645B.305) **Section 13** of this bill limits the requirement to only such loans in which a private investor has acquired a beneficial interest. **Section 13** also requires a mortgage broker to make additional disclosures pertaining to fees earned by the mortgage broker and any impact such fees may have on the terms of the loan.

Section 14 of this bill revises existing law to provide that the Commissioner has the discretionary authority, rather than a mandatory obligation, to revoke the license of a mortgage broker or mortgage agent under certain circumstances. (NRS 645B.690)

~~**[** Section 19 of this bill prohibits hard money lenders from engaging in certain activities.**]**~~

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

Section 1. Chapter 627 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A construction control must be licensed pursuant to chapter 645A of NRS as an escrow agent or agency.

2. The Division of Mortgage Lending of the Department of Business and Industry may adopt regulations as are necessary to carry out the provisions of this section.

Sec. 2. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. ***1. In addition to any other requirement, an applicant for an original license as an escrow agent or agency must furnish proof satisfactory to the Commissioner of the successful completion of a course of instruction in the principles, practices, procedures, law and ethics of escrows, which course may be an extension or correspondence course offered by the Nevada System of Higher Education, by any other accredited college or university or by any other college or school approved by the Commissioner.***

2. An applicant for a license as an escrow agent or agency pursuant to NRS 645A.020 must meet the educational prerequisites required pursuant to this section not later than the date on which his application is received by the Office of the Commissioner.

3. The Commissioner shall adopt regulations setting forth standards for the educational prerequisites required pursuant to this section. The regulations must address standards for instructors, the scope and content of the instruction, required hours of instruction and such other criteria as the Commissioner considers necessary.

Sec. 4. ***1. The Commissioner shall adopt regulations that prescribe standards for the continuing education of persons licensed pursuant to this chapter.***

2. The standards adopted pursuant to subsection 1 must:

(a) Permit alternative subject material appropriate for specialized areas of practice and alternative sources of programs to ensure availability throughout the State and throughout the year;

(b) Set forth procedures pursuant to which the Commissioner may qualify providers to offer courses of continuing education, including, without limitation, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations and other organized educational programs on technical subjects;

(c) Set forth procedures pursuant to which the Commissioner may qualify those continuing education courses that he determines address the appropriate subject matter; and

(d) Set forth required hours of instruction and such other criteria as the Commissioner considers necessary.

3. Subject to the provisions of this section, the Commissioner has exclusive authority to determine which providers and courses may qualify for the purposes of continuing education under this chapter.

Sec. 5. ***The expiration or revocation of a license of an escrow agent or agency by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:***

1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the escrow agent or agency as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the escrow agent or agency.

Sec. 6. NRS 645A.060 is hereby amended to read as follows:

645A.060 1. In the conduct of any examination, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) ***Compel the production of any document by subpoena.***

(c) Administer oaths.

~~[(c)]~~ ***(d)*** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter, and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Every person subpoenaed pursuant to the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the

Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

Sec. 7. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. ***1. Except as otherwise provided by law*** ~~[,]~~ ***or by agreement between the parties and regardless of the date the interests were created, if the beneficial interest in a loan belongs to more than one natural person, the holders of 51 percent or more of the*** ~~[beneficial interests of record]~~ ***outstanding principal balance may act on behalf of all the holders of the beneficial interests of record on matters which require the action of the holders of the beneficial interests in the loan, including, without limitation:***

(a) The designation of a mortgage broker or mortgage agent, servicing agent or any other person to act on behalf of all the holders of the beneficial interests of record;

(b) The foreclosure of the property for which the loan was made;

(c) The sale, encumbrance or lease of real property owned by the holders resulting from a foreclosure or the receipt of a deed in lieu of a foreclosure in full satisfaction of a loan;

(d) The release of any obligation under a loan in return for an interest in equity in the real property or, if the loan was made to a person other than a natural person, an interest in equity of that entity; and

(e) The modification or restructuring of any term of the loan, deed of trust or other document relating to the loan, including, without limitation, changes to the maturity date, interest rate and the acceptance of payment of less than the full amount of the loan and any accrued interest in full satisfaction of the loan.

2. Any action which is taken pursuant to subsection 1 must be in writing.

3. The provisions of this section do not apply to a transaction involving two investors with equal interests.

Sec. 9. ***The expiration or revocation of a license of a mortgage broker or mortgage agent by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:***

1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the mortgage broker or mortgage agent as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the mortgage broker or mortgage agent.

Sec. 10. NRS 645B.015 is hereby amended to read as follows:

645B.015 Except as otherwise provided in NRS 645B.016, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, ~~[consumer finance companies,]~~ industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 11. NRS 645B.016 is hereby amended to read as follows:

645B.016 Except as otherwise provided in subsection 2 and NRS 645B.690:

1. A person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645B.015 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645B.015; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business ***, including, if applicable, the right to transact mortgage loans,*** and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645B.015 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645B.015.

5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage broker or mortgage agent or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent unless the person applies for and is issued:

(a) A license as a mortgage broker or mortgage agent, as applicable, pursuant to this chapter; or

(b) Another certificate of exemption.

6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 12. NRS 645B.070 is hereby amended to read as follows:

645B.070 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) ***Compel the production of any document by subpoena.***

(c) Administer oaths.

~~[(c)]~~ ***(d)*** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the

Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor and shall be punished as provided in NRS 645B.950.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.

Sec. 13. NRS 645B.305 is hereby amended to read as follows:

645B.305 A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker ***:***

1. Includes a disclosure:

(a) Describing, in a specific dollar amount, all fees earned by the mortgage broker;

(b) Explaining which party is responsible for the payment of the fees described in paragraph (a); and

(c) Explaining the probable impact the fees described in paragraph (a) may have on the terms of the loan, including, without limitation, the interest rates.

2. If a private investor has acquired a beneficial interest in the loan, includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.

Sec. 14. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner ~~[shall]~~ ***may*** revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker pursuant to NRS 645B.630.

Sec. 15. Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:

The expiration or revocation of a license of a mortgage banker by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:

1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the mortgage banker as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the mortgage banker.

Sec. 16. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, ~~[~~consumer finance companies,~~]~~ industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another

person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 17. NRS 645E.160 is hereby amended to read as follows:

645E.160 1. Except as otherwise provided in subsection 2, a person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business ***, including, if applicable, the right to transact mortgage loans,*** and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645E.150 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645E.150.

5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage banker or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage banker unless the person applies for and is issued:

(a) A license as a mortgage banker pursuant to this chapter; or

(b) Another certificate of exemption.

6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 18. NRS 645E.310 is hereby amended to read as follows:

645E.310 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) ***Compel the production of any document by subpoena.***

(c) Administer oaths.

~~[(c)]~~ ***(d)*** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and, in connection therewith, require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.

Sec. 19. ~~[Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***1. A hard money lender shall not:***~~

~~***(a) Service or arrange any hard money loan in which the hard money lender owns a beneficial interest; or***~~

~~***(b) Invest or otherwise acquire a beneficial interest in any hard money loan if the hard money lender owns or controls an interest in:***~~

~~***(1) The real property securing the hard money loan; or***~~

~~***(2) Any other loan also secured by the real property which secures the hard money loan.***~~

~~***2. As used in this section:***~~

~~***(a) "Hard money lender" means any person who makes or offers to make a hard money loan.***~~

~~***(b) "Hard money loan" means a loan which is secured by the value of the borrower's real property and which is issued with minimal or no consideration of the borrower's creditworthiness, including, without limitation, short-term bridge loans.***~~

~~*3. The Commissioner may adopt any regulations necessary to carry out the provisions of this section.*~~ **(Deleted by amendment.)**

Sec. 20. **Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows:**

The Commissioner shall adopt regulations establishing guidelines and limitations for the servicing or arranging of loans of which an investor has ownership or in which an investor has a beneficial interest.

Sec. 21. **1. This section and sections 1, 2 and 4 to 20, inclusive, of this act become effective upon passage and approval.**

2. Section 3 of this act becomes effective:

(a) On January 1, 2011, for the purposes of educational qualifications of escrow agents or agencies; and

(b) Upon passage and approval for all other purposes.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 515.

Bill read second time.

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

Amendment No. 444.

SUMMARY— ~~[Requires policies of health insurance and contracts for health care services providing coverage for treatment by certain professionals to also cover treatment by interns.]~~ **Makes various changes relating to the provision of and reimbursement for certain services to assist families.** (BDR 57-1175)

AN ACT relating to ~~[mental health;]~~ **domestic relations;** requiring policies of health insurance and contracts for health care services providing coverage for treatment by licensed marriage and family therapists or clinical social workers to also cover treatment by interns; requiring interest and income earned on money in the Account for Aid for Victims of Domestic Violence to be credited to the Account; **requiring social worker interns to make certain disclosures before providing services to a client;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-8 of this bill provide that if certain policies of health insurance or contracts for health care services provide coverage for treatment by licensed marriage and family therapists or clinical social workers, that coverage will also include treatment by interns.

Existing law requires a marriage and family therapist intern to inform a client that he is an intern before providing any services to the client. (NRS 641A.2876) Section 10 of this bill similarly requires a social worker intern to inform a client that he is an intern before providing any social work services to the client.

Section 9 of this bill provides that interest and income earned on money in the Account for Aid for Victims of Domestic Violence to be credited to the Account.

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

Section 1. NRS 689A.0483 is hereby amended to read as follows:

689A.0483 If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed marriage and family therapist or licensed clinical professional counselor, the insured is entitled to reimbursement for treatment by ~~[a]~~ ***:***

1. ***A*** marriage and family therapist ~~[or]~~ ***;***

2. ***A*** clinical professional counselor ***; or***

3. A marriage and family therapist intern who is working under the direct supervision of an approved supervisor as defined in NRS 641A.025 and,

➥ who is licensed pursuant to chapter 641A of NRS.

Sec. 2. NRS 689A.0485 is hereby amended to read as follows:

689A.0485 ***1.*** If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of the practice of a licensed associate in social work, social worker, independent social worker or clinical social worker, the insured is entitled to reimbursement for treatment by an associate in social work, social worker, independent social worker or clinical social worker who is licensed pursuant to chapter 641B of NRS ~~[.]~~ ***or a social worker intern.***

2. For the purposes of this section, "social worker intern" means an applicant for licensure:

(a) As an independent social worker pursuant to chapter 641B of NRS who has not yet completed the requirements of paragraph (b) of subsection 1 of NRS 641B.230; or

(b) As a clinical social worker pursuant to chapter 641B of NRS who has not yet completed the requirements of paragraph (b) of subsection 1 of NRS 641B.240,

➥ ***and who is working under the direct supervision of a qualified social worker in postgraduate social work approved by the Board of Examiners for Social Workers.***

Sec. 3. NRS 689B.0383 is hereby amended to read as follows:

689B.0383 If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed marriage and family therapist or licensed clinical professional counselor, the insured is entitled to reimbursement for treatment by ~~[a]~~ ***:***

1. ***A*** marriage and family therapist ~~[or]~~ ***;***

2. ***A*** clinical professional counselor ***; or***

3. A marriage and family therapist intern who is working under the direct supervision of an approved supervisor as defined in NRS 641A.025 and,

➥ who is licensed pursuant to chapter 641A of NRS.

Sec. 4. NRS 689B.0385 is hereby amended to read as follows:

689B.0385 ***1.*** If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of the practice of a licensed associate in social work, social worker, independent social worker or clinical social worker, the insured is entitled to reimbursement for treatment by an associate in social work, social worker, independent social worker or clinical social worker who is licensed pursuant to chapter 641B of NRS ~~[.]~~ ***or a social worker intern.***

2. For the purposes of this section, "social worker intern" means an applicant for licensure:

(a) As an independent social worker pursuant to chapter 641B of NRS who has not yet completed the requirements of paragraph (b) of subsection 1 of NRS 641B.230; or

(b) As a clinical social worker pursuant to chapter 641B of NRS who has not yet completed the requirements of paragraph (b) of subsection 1 of NRS 641B.240,

➥ ***and who is working under the direct supervision of a qualified social worker in postgraduate social work approved by the Board of Examiners for Social Workers.***

Sec. 5. NRS 695B.1973 is hereby amended to read as follows:

695B.1973 If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed marriage and family therapist or licensed clinical professional counselor, the insured is entitled to reimbursement for treatment by ~~[a]~~ ***:***

1. A marriage and family therapist ~~[or]~~ ***;***

2. A clinical professional counselor ***; or***

3. A marriage and family therapist intern who is working under the direct supervision of an approved supervisor as defined in NRS 641A.025 and,

➥ who is licensed pursuant to chapter 641A of NRS.

Sec. 6. NRS 695B.1975 is hereby amended to read as follows:

695B.1975 ***1.*** If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of the practice of a licensed associate in social work, social worker, independent social worker or clinical social worker, the insured is entitled to reimbursement for treatment by an associate in social work, social worker, independent social worker or clinical social worker who is licensed pursuant to chapter 641B of NRS ~~[.]~~ ***or a social worker intern.***

2. For the purposes of this section, "social worker intern" means an applicant for licensure:

(a) As an independent social worker pursuant to chapter 641B of NRS who has not yet completed the requirements of paragraph (b) of subsection 1 of NRS 641B.230; or

(b) As a clinical social worker pursuant to chapter 641B of NRS who has not yet completed the requirements of paragraph (b) of subsection 1 of NRS 641B.240,

➥ and who is working under the direct supervision of a qualified social worker in postgraduate social work approved by the Board of Examiners for Social Workers.

Sec. 7. NRS 695C.1773 is hereby amended to read as follows:

695C.1773 If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed marriage and family therapist or licensed clinical professional counselor, the insured is entitled to reimbursement for treatment by ~~[a]~~ ***:***

1. A marriage and family therapist ~~[or]~~ ***;***

2. A clinical professional counselor ***; or***

3. A marriage and family therapist intern who is working under the direct supervision of an approved supervisor as defined in NRS 641A.025 and,

➥ who is licensed pursuant to chapter 641A of NRS.

Sec. 8. NRS 695C.1775 is hereby amended to read as follows:

695C.1775 ***1.*** If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of the practice of a licensed associate in social work, social worker, independent social worker or clinical social worker, the insured is entitled to reimbursement for treatment by an associate in social work, social worker, independent social worker or clinical social worker who is licensed pursuant to chapter 641B of NRS ~~[.]~~ ***or a social worker intern.***

2. For the purposes of this section, "social worker intern" means an applicant for licensure:

(a) As an independent social worker pursuant to chapter 641B of NRS who has not yet completed the requirements of paragraph (b) of subsection 1 of NRS 641B.230; or

(b) As a clinical social worker pursuant to chapter 641B of NRS who has not yet completed the requirements of paragraph (b) of subsection 1 of NRS 641B.240,

➥ and who is working under the direct supervision of a qualified social worker in postgraduate social work approved by the Board of Examiners for Social Workers.

Sec. 9. NRS 217.440 is hereby amended to read as follows:

217.440 1. An Account for Aid for Victims of Domestic Violence is hereby created in the State General Fund. The Account must be administered by the Administrator of the Division.

2. ***The interest and income earned on the money in the Account for Aid for Victims of Domestic Violence, after deducting any applicable charges, must be credited to the Account.***

3. Any nonprofit organization in the State which is able to meet the requirements specified in subsection 7 of NRS 217.420 may apply for a grant from the Account for Aid for Victims of Domestic Violence.

~~[3.]~~ ***4.*** An application for a grant must be received by the Division before April 1 preceding the fiscal year for which the grant is sought.

Sec. 10. **Chapter 641B of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A social worker intern shall, before providing any social work services to a client:

(a) Inform the client that he is a social worker intern and is practicing under the supervision of a qualified social worker in postgraduate social work who has been approved by the Board; and

(b) Provide to the client the name of his approved supervisor.

2. A violation of the provisions of subsection 1 is grounds for initiating disciplinary action or for denying licensure.

3. For the purposes of this section, "social worker intern" means an applicant for licensure:

(a) As an independent social worker who has not yet completed the requirements of paragraph (b) of subsection 1 of NRS 641B.230; or

(b) As a clinical social worker who has not yet completed the requirements of paragraph (b) of subsection 1 of NRS 641B.240,

➥ and who is working under the direct supervision of a qualified social worker in postgraduate social work approved by the Board.

~~[Sec. 10.]~~ ***Sec. 11.*** This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 65.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 73.

Bill read third time.

The following amendment was proposed by the Assemblymen Carpenter, Claborn, and Mastroluca:

Amendment No. 138.

AN ACT relating to watercraft; revising the requirements for the operation of a vessel towing a person; deleting provisions governing certain equipment required on certain motorboats; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person who operates a boat that is towing a person on water skis or another device to be at least 14 years of age, or at least 12 years of age as long as there is a passenger on the boat who is at least 21 years of age and who is in a position to supervise. The skier must also be observed by another person on the boat. The observer must be at least 12 years of age, or at least 10 years of age as long as there is a passenger on the boat who is at least 21 years of age. (NRS 488.570) **Section 3** of this bill ~~[removes the authority for a person who is 12 or 13 years of age to operate]~~ **provides that a person who operates** such a boat ~~[, and]~~ **must be at least 16 years of age, or at least 14 years of age as long as there is a passenger on the boat who is at least 18 years of age and who is in a position to supervise the operator. Section 3** also ~~[removes the authority for]~~ **provides that** a person who is ~~[10 or 11]~~ **at least 14** years of age ~~[to]~~ **, or at least 12 years of age as long as there is a passenger on the boat who is at least 18 years of age, may** act as the observer of the ~~[operator of such a boat.]~~ **person being towed.**

Section 4 of this bill repeals a provision which requires certain motorboats to be equipped with an efficient bell or whistle. (NRS 488.198)

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

Section 1. NRS 488.295 is hereby amended to read as follows:

488.295 1. The owner of a boat livery shall keep a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated as a motorboat, the identification number thereof, ~~[and]~~ the departure date and time, and the expected time of return. The record ~~[shall]~~ ***must*** be preserved for at least 6 months.

2. The owner of a boat livery or his agent or employee shall not permit any motorboat, or any vessel designed or permitted by him to be operated as a motorboat, to depart from his premises unless it has been provided, either by owner or renter, with the equipment required by NRS 488.187, 488.193 ~~[, 488.198]~~ and 488.540 and any regulations ~~[made]~~ ***adopted*** pursuant thereto.

Sec. 2. NRS 488.540 is hereby amended to read as follows:

488.540 1. The Commission may establish and maintain for the operation of vessels on the waters of this State pilot rules in conformity with the pilot rules contained in ~~[the]~~ federal navigation laws or the Navigation Rules promulgated by the United States Coast Guard.

2. A person shall operate a vessel in this State in conformance with the pilot rules adopted by the Commission.

3. The operator of any vessel in this State shall maintain a proper lookout for other vessels, obstructions or hazards. An operator of a vessel who fails to maintain a proper lookout and causes injury to another person or property damage to another vessel is guilty of a misdemeanor.

4. A person shall not operate or give permission for the operation of a vessel which is not equipped as required by this section and NRS 488.185, 488.187 **[**,**]** ***and*** 488.193 **.** **[**and 488.198.**]**

Sec. 3. NRS 488.570 is hereby amended to read as follows:

488.570 1. A person shall not operate a vessel on any waters of this State towing a person on water skis, a surfboard, an inflatable device or any similar device unless the operator :

(a) Is ***[is]*** at least **[**14**]** ***16*** years of age ***[.]*** ; or

(b) Is at least **[**12**]** ***14*** years of age, if a passenger in the vessel is a person who is **[**21**]** ***18*** years of age or older and is in a position to supervise the operator.

2. A person shall not operate a vessel on any waters of this State towing a person on water skis, a surfboard, an inflatable device or any similar device unless there is in the vessel a person, in addition to the operator, who is in a position to observe the person being towed and is :

(a) At ***[at]*** least **[**12**]** ***14*** years of age ***[.]*** ; or

(b) At least **[**10**]** ***12*** years of age, if another passenger in the vessel is a person who is **[**21**]** ***18*** years of age or older.

➥ The observer shall continuously observe the person being towed and shall immediately display so as to be visible from every direction, an international orange flag of at least 12 inches in height by 12 inches in width when the person being towed is getting ready to be towed and has a rope or line extended to him, or ceases to be towed and is in the water awaiting pickup by the vessel.

3. When within 100 feet of the person in the water, every vessel, other than the vessel towing him, must be operated at a speed that leaves a flat wake, but in no case may it be operated at a speed greater than 5 nautical miles per hour.

4. A person shall not operate a vessel on any waters of this State towing a person on water skis, a surfboard or similar device, or engage in waterskiing, surfboarding or similar activity from sunset to sunrise, as established by the Nautical Almanac Office, United States Naval Observatory, Washington, D.C.

5. The provisions of this section do not apply to a performer engaged in a professional exhibition or a person engaged in an activity authorized under NRS 488.305.

Sec. 4. NRS 488.198 is hereby repealed.

Sec. 5. This act becomes effective on January 1, 2010.

TEXT OF REPEALED SECTION

488.198 Whistles; bells.

1. Every motorboat of class 1, 2 or 3 must be equipped with an efficient whistle or other mechanical appliance that produces sound.

2. Every motorboat of class 2 or 3 must be equipped with an efficient bell.

3. The provisions of this section do not apply to motorboats while competing in any race conducted pursuant to NRS 488.305 or, if the boats are designed and intended solely for racing, while engaged in navigation incidental to the tuning up of the boats and engines for a race.

Assemblyman Carpenter moved the adoption of the amendment.

Remarks by Assemblyman Carpenter.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 311.

Bill read third time.

The following amendment was proposed by Assemblyman Settelmeyer:

Amendment No. 492.

AN ACT relating to common-interest communities; revising provisions governing the audit and review of financial statements of common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a unit owners' association with an annual budget of less than $75,000 to have its financial statement audited once every 4 fiscal years unless an audit for a fiscal year in which an audit will not be conducted is requested by 15 percent of the total number of voting members of the association. **(NRS 116.31144)** This bill ~~[eliminates the requirement of an audit and instead]~~ requires the financial statement of such an association to be reviewed in the year immediately preceding the year in which a study of the association's reserves is conducted unless ~~[a review]~~ **an audit** is otherwise requested by **15 percent of** the voting members of the association.

Existing law also requires an association with an annual budget of $75,000 or more but less than $150,000 to have its financial statement audited once every 4 fiscal years and reviewed every fiscal year for which an audit is not conducted. **(NRS 116.31144)** This bill ~~[eliminates the requirement of an audit and instead]~~ requires the financial statement of such an association to be reviewed every fiscal year ~~[. (NRS 116.31144)]~~ **unless an audit is otherwise requested by 15 percent of the voting members of the association.**

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

Section 1. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in subsection 2, the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be ~~[audited]~~ ***reviewed*** by an independent certified public accountant ~~[at least once every 4 fiscal years.]~~ ***during the year immediately preceding the year in which a study of the reserves of the association is to be conducted pursuant to NRS 116.31152.***

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be ~~[~~:

~~(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and~~

~~(2) Reviewed~~] ***reviewed*** by an independent certified public accountant every fiscal year **.** ~~[for which an audit is not conducted.]~~

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year **,** ~~[for which] [an audit] [a review of the financial statement of the association will not be conducted pursuant to paragraph (a) of subsection 1,]~~ the executive board ***of an association to which paragraph (a) or (b) of subsection 1 applies*** shall cause the financial statement for that fiscal year to be audited ~~[reviewed]~~ by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit. ~~[a review.]~~

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; and

(b) The standards and format to be followed in auditing or reviewing financial statements of an association.

Assemblyman Settelmeyer moved the adoption of the amendment.

Remarks by Assemblyman Settelmeyer.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 88.

Bill read third time.

The following amendment was proposed by Assemblymen Anderson and Gansert:

Amendment No. 469.

AN ACT relating to sexual offenses; establishing a civil remedy for a person who was a victim of a sexual offense which was used to promote child pornography; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill establishes a civil cause of action for a person who, as a minor, was a victim of a sexual offense where any **depiction of** sexual ~~[portrayal]~~ **conduct** of the offense was used to promote child pornography. A victim who prevails in such an action may recover his actual damages, which are deemed to be at least $150,000, plus attorney's fees and costs. **Section 3** of this bill establishes the statute of limitations for such an action.

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who, while a minor, was a victim of a sexual offense of which any depiction of sexual [portrayal] conduct of such offense was used to promote child pornography and who suffered personal or psychological injury as a result may bring an action against any person who promoted or possessed the child pornography, regardless of whether the victim is now an adult.

2. A victim who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least $150,000, plus attorney's fees and costs.

3. A victim may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a victim has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.

4. It is not a defense to a cause of action under this section that a defendant did not know the victim or did not personally engage in the sexual conduct which involved the victim and which is depicted in the child pornography.

5. An action may be brought pursuant to this section regardless of whether any person has been prosecuted or convicted of a sexual offense involving the victim.

6. As used in this section:

(a) "Child pornography" means a violation of NRS 200.710 to 200.730, inclusive.

(b) "Sexual offense" means a violation of NRS 200.366 [, 200.710 to 200.730, inclusive,] or 201.230.

Sec. 2. NRS 200.700 is hereby amended to read as follows:

200.700 As used in NRS 200.700 to 200.760, inclusive, ***and section 1 of this act,*** unless the context otherwise **[**provides:**]** ***requires:***

1. "Performance" means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. "Promote" means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. "Sexual conduct" means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person's body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

4. "Sexual portrayal" means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.

Sec. 3. NRS 11.215 is hereby amended to read as follows:

11.215 1. Except as otherwise provided in ***subsection 2 and*** NRS 217.007, an action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age must be commenced within 10 years after the plaintiff:

(a) Reaches 18 years of age; or

(b) Discovers or reasonably should have discovered that his injury was caused by the sexual abuse,

➥ whichever occurs later.

2. ***An action to recover damages pursuant to section 1 of this act must be commenced within 3 years after the occurrence of the following, whichever is later:***

(a) The court enters a verdict in a related criminal case; or

(b) The victim reaches the age of 18 years.

3. As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the actions whereby Assembly Bills Nos. 239, 283, 385, and 505 were rereferred to the Committee on Ways and Means be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bills Nos. 239, 283, 385, and 505 be taken from General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess until 1:45 p.m.

Motion carried.

Assembly in recess at 1:13 p.m.

ASSEMBLY IN SESSION

At 2:17

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 47.
Bill read third time.
Roll call on Assembly Bill No. 47:
YEAS—41.
NAYS—None.
EXCUSED—Hardy.
Assembly Bill No. 47 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 117.
Bill read third time.
Remarks by Assemblyman Cobb.
Roll call on Assembly Bill No. 117:
YEAS—41.
NAYS—None.
EXCUSED—Hardy.
Assembly Bill No. 117 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 209.
Bill read third time.
Remarks by Assemblyman Manendo.
Roll call on Assembly Bill No. 209:
YEAS—37.
NAYS—Anderson, Conklin, Horne, Leslie—4.
EXCUSED—Hardy.
Assembly Bill No. 209 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 259.
Bill read third time.
Remarks by Assemblyman Kihuen.
Roll call on Assembly Bill No. 259:
YEAS—41.
NAYS—None.
EXCUSED—Hardy.
Assembly Bill No. 259 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 265.
Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Assembly Bill No. 265:

YEAS—41.

NAYS—None.

EXCUSED—Hardy.

Assembly Bill No. 265 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 305.

Bill read third time.

Remarks by Assemblyman Mortenson.

Roll call on Assembly Bill No. 305:

YEAS—41.

NAYS—None.

EXCUSED—Hardy.

Assembly Bill No. 305 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 314.

Bill read third time.

Roll call on Assembly Bill No. 314:

YEAS—41.

NAYS—None.

EXCUSED—Hardy.

Assembly Bill No. 314 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 319.

Bill read third time.

Remarks by Assemblymen Segerblom and Stewart.

Roll call on Assembly Bill No. 319:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart, Woodbury—13.

EXCUSED—Hardy.

Assembly Bill No. 319 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 338.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 338:

YEAS—41.

NAYS—None.

EXCUSED—Hardy.

Assembly Bill No. 338 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 353.

Bill read third time.

Remarks by Assemblymen Bobzien, Cobb, Smith, Goedhart, Oceguera, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Speaker. AB 353 revises the abatement procedures and penalties for violations of certain state public nuisances laws. A court or magistrate must order a person convicted of a public nuisance to abate the nuisance within a specified time, and the court must impose a civil penalty. Civil penalties collected must be deposited and used only for abatement. The measure allows the enforcement agency to assume responsibility to abate the nuisance at the defendant's expense if the defendant fails to do so. The bill also allows the board of county commissioners to adopt ordinances to allow for a summary abatement of a dangerous structure or condition to the extent necessary to remove the imminent danger that presents an immediate hazard, in addition to enforcing the abatement of a public nuisance defined by state law. The county may also enforce abatement of any other public nuisances defined by the ordinance. The bill removes the population threshold for a county's solid waste management authority to establish and administer a program for the control of unlawful dumping. In an action brought by the district health department or any other person authorized by state law against a person for the unlawful disposal of waste, the court clerk must remit several penalties collected from the defendant to the district health department.

This is legislation brought to this body by the Washoe County illegal dumping task force, including Washoe County, the Washoe County Sheriff's Department, and Keep Truckee Meadows Beautiful, in an attempt to combat illegal dumping and other problems that we have that are particularly acute in northern Nevada. One of the major components of the bill is the levying of the civil penalty, which is designed to provide a funding mechanism for actually being able to clean up some of these dumps that infect our land.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition to AB 353. I appreciate the intent of the bill, and there are some good policies. My main concern with the bill is the mandatory fine involved. In a time when Nevada is leading the nation—if not always at least for most of the time over the last year—in foreclosures, a lot of people are having a tough time paying their mortgage and staying in their home. If we have a mandatory fine of $500 to $5,000 where there is no discretion left within the court to lessen the fine or not even have a fine in a good faith effort to clear it up or for undue hardship, I think that is overly burdensome to our constituents. That is the only part of the bill I disagree with. I encourage a no vote on this bill simply because of that one provision that I feel would be too burdensome. Thank you.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of AB 353. I don't think there is an issue over which I have had as much contact from constituents as code enforcement. We have been working on this issue for a long time with the citizens group. It is amazing the items that you see—business and individuals dumping alongside the road or up in the foothills where our constituents walk. They don't have to pay the fine if they don't commit the violation. It's not as if something is being imposed for an action that doesn't take place. It is a lot of work and a lot of effort. We have done cleanup days with the community in my district and literally needed backhoes and dump trucks to haul out the trash that local businesses and individuals haul and

leave. If you can post a sign saying there is a fine, perhaps it will deter people from dumping. The main thing is—there's no fine if you don't do the crime. Thank you.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. In this bill, I need clarification. The fine that is being purposed, is that against the person who is committing the crime of dumping the trash or is it perhaps the innocent property holder or property owner who did not even know someone was discarding some rubbish? The reason why I bring that question is that in Armargosa Valley, we have Nye County code enforcements, and they can usually go after the folks that have what is considered to be a public nuisance and trash on their property. In a lot of cases, we have seen trash on federal property and we've repeatedly asked different federal agencies to go ahead and clean up the trash that is still on their property. We have gotten very limited success with cooperation from those folks. Those are some questions before I cast my vote.

ASSEMBLYMAN BOBZIEN:

To my colleague from Amargosa, the civil penalty is upon conviction.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

To whom would the fine be directed? Also, what about the federal government? Can we fine them?

ASSEMBLYMAN BOBZIEN:

The person who has committed the dumping—whether it's on public land or it's on private land, the person convicted of the nuisance is fined.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

This is when there is a criminal case pending, not a civil nuisance case, is that correct?

ASSEMBLYMAN BOBZIEN:

That is correct. This is the creation of a civil penalty on top of any other penalties.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Did that answer your question Mr. Goedhart?

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I don't know if it did, because the way I read the language, if you're an innocent property owner and someone dumps trash on your property, then you could be the one convicted of the crime. It's not necessarily the person who is doing the dumping. It is, in some cases, an innocent landowner who has been a recipient of trash dumped on his or her property.

Also, I don't think we heard from the bill sponsor about the applicability or enforceability to a federal agency as well. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Assemblywoman Smith?

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker, for a second time. I think another thing to remember here is that this is not a simple process. It's a lengthy process, and one of the things that we hear about when we go to a citizen advisory board or a neighborhood advisory board meeting is how long this process takes. It's not something that happens overnight. A lot of proof needs to take place, and I've seen them dig through a dump load of trash that was found somewhere to try and track

down the person who has left the trash. It is a very difficult and long process, and I don't think that it is one that is taken lightly.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Assemblyman Oceguera?

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker, I rise in support of AB 353. My role, outside of the Legislature, was at one time with the code enforcement division which was under my command. It is a long process, at least in North Las Vegas, to get to the point where we will even think about doing what this bill does. What I see this bill doing is giving that hammer at the end that process. If you are the innocent homeowner, as my colleague from Amargosa said, you're going to be notified several times over and over again for a lengthy process. At the end of that process, then you could be fined.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

This doesn't change the standard for what is considered a nuisance, whether you're an innocent property owner or a dumper, that is already in existing law.

Assemblymen Conklin, Anderson, and Leslie moved the previous question.

The question being the passage of Assembly Bill No. 353.

Roll call on Assembly Bill No. 353:

YEAS—36.

NAYS—Cobb, Goedhart, Gustavson, Hambrick, Ohrenschall—5.

EXCUSED—Hardy.

Assembly Bill No. 353 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 369.

Bill read third time.

Remarks by Assemblyman Mortenson.

Roll call on Assembly Bill No. 369:

YEAS—41.

NAYS—None.

EXCUSED—Hardy.

Assembly Bill No. 369 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 377.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 377:

YEAS—41.

NAYS—None.

EXCUSED—Hardy.

Assembly Bill No. 377 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 384.

Bill read third time.

Remarks by Assemblyman Kihuen.

Potential conflict of interest declared by Assemblyman Gustavson.

Roll call on Assembly Bill No. 384:

YEAS—41.

NAYS—None.

EXCUSED—Hardy.

Assembly Bill No. 384 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 399 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 428.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 428:

YEAS—41.

NAYS—None.

EXCUSED—Hardy.

Assembly Bill No. 428 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 433.

Bill read third time.

Remarks by Assemblymen Pierce, Stewart, Smith, Carpenter, and Goicoechea.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Assembly Bill No. 433 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 475.

Bill read third time.

Roll call on Assembly Bill No. 475:
YEAS—41.
NAYS—None.
EXCUSED—Hardy.
Assembly Bill No. 475 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 481.
Bill read third time.
Remarks by Assemblyman Cobb.
Roll call on Assembly Bill No. 481:
YEAS—41.
NAYS—None.
EXCUSED—Hardy.
Assembly Bill No. 481 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 499.
Bill read third time.
Remarks by Assemblyman Segerblom.
Roll call on Assembly Bill No. 499:
YEAS—41.
NAYS—None.
EXCUSED—Hardy.
Assembly Bill No. 499 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 503.
Bill read third time.
Remarks by Assemblyman Atkinson.
Roll call on Assembly Bill No. 503:
YEAS—37.
NAYS—Kirkpatrick, Mastroluca, Pierce, Smith—4.
EXCUSED—Hardy.
Assembly Bill No. 503 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 512.
Bill read third time.
Roll call on Assembly Bill No. 512:
YEAS—39.
NAYS—Claborn, Goedhart—2.
EXCUSED—Hardy.

Assembly Bill No. 512 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 218, 372; Senate Bill Nos. 38, 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assemblyman Oceguera moved that the action whereby Assembly Bill No. 537 was referred to the Committee on Commerce and Labor be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 537 be referred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that the action whereby Assembly Bill No. 538 was referred to the Committee on Health and Human Services be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 538 be referred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that the action whereby Assembly Bill No. 539 was referred to the Committee on Commerce and Labor be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 539 be referred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that the action whereby Assembly Bill No. 540 was referred to the Committee on Government Affairs be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 540 be referred to the Committee on Ways and Means.

Motion carried.

NOTICE OF EXEMPTION

April 16, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 537, 538, 539 and 540.

MARK STEVENS
Fiscal Analysis Division

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bill No. 39; Assembly Joint Resolution No. 3 of the 74th Session.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Bailey Charter Elementary School: Pablo Barrera, Caleb Barrett, Tre Bussey, Natasha Despres, Kalin Drake, Marissa Dupree-Maxwell, Sonia Elias-Hagler, Brandon Ellison, Sienha Fernandez, Kayli Funk, Edward Lopez, Hannah Marsh, Jacy Marymee, Tyra Mcgee-Garrett, Shannen Moline, Joshua Ravo, Emily Reid, Salvador Ruiz Martinez, Sonia Salazar-Banquicio, Johnny Vergara, Tommy Vitone, Jordan Williamson, Dan Scurlock, Erin Tibbs, Savannah Barber, Madelyn Bowers, Herb Cevallos, Alexia Cooper, Katie Corrales, Kaycee Craig, Tyler Dailey, Dakota Lund, Victoria Manus, Ricky Morales, Derrick Mwenewa, Frank River, Cynthia Rodriguez, Omar Rodriguez, Zoe Ruiz, Julia Saldana Torobio, Jaelynn Thomas, Robert Vitone, Dayne Wells, Makayla Wardrobe, Brendan Deshane, Daniel Ojeda, and Justin Anderson.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to the following members of Trenz: Janea Edgel, Ajay Dews, Ismael Navarrette, Andrea Menchaca, Jessica Menchaca, Devon Cashman, Rebecca Rodriguez, Kala Oakes, Julian Cisneros, Mandella Edwards, Laura Brown, Markia Jefferson, Ashley Dansby, DArelle Davis, Tyrone Cooper, Darryn Mcmillin, Ashley Clay, Avery Campbell, Tabitha Agnir, William Nichols Jr., Datne Garcia, Victoria Harris, Daniel Enriquez, Alexander Camacho, Dominque Tyler, Denise Williams, Joselyn Miller, Kiara Miller, Nicole Parks, F. A. Pridgon, Joyce Gorsuch, Nicolette Herrera, T.J. Ropelato, Breanna Lebsack, Curtis Davis and Jordan Pierce.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Vicki Bates and Kim Foster.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Sue Lowden and Mark J. Sprinkle.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Bruce Specter and Jennifer Baker.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Diss.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Pejman Bady.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Alandra Parrazo.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Pamela Gustafson.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Guy Rocha and Daphne Beleon.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Phillip Hoffman.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Sherese Settlmeyer and Beverly Willard.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended Tibi Ellis.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, April 17, 2009, at 10:30 a.m.

Motion carried.

Assembly adjourned at 3:09 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SEVENTY-FIFTH DAY

CARSON CITY (Friday), April 17, 2009

Assembly called to order at 11:15 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Give us open eyes, our Father, to see the beauty all around us and to see it in Your handiwork. Let all lovely things fill us with gladness and let them lift up our hearts in true worship. Give us this day, a strong and vivid sense that You are by our side. By Your grace, let us go nowhere this day where You cannot come nor court any companionship that would rob us of You.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 436, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which were referred Assembly Bills Nos. 85, 252, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

m Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 181, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 352, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 52, 101, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 207, 335, 388, 476, 495, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was referred Assembly Bills Nos. 45, 65 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, without recommendation, and rerefer to the Committee on Ways and Means.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Taxation, to which was referred Assembly Bill No. 146, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Taxation, to which was referred Assembly Bill No. 345, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 441, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 13, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 16, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 136, 137, 250; Senate Bills Nos. 273, 362.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 79, 82, 110, 185, 206, 263, 266, 276, 280, 300, 325, 349, 360; Senate Joint Resolution No. 3.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 13, 45, 52, 65, 85, 101, 146, 181, 207, 252, 335, 345, 352, 388, 441, 476, 495, just reported out of committee, be placed on the appropriate reading file.

Motion carried.

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.
Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 436, just reported out of committee, be rereferred to the Committee on Ways and Means.
Motion carried.

Senate Joint Resolution No. 3.
Assemblyman Oceguera moved that the resolution be referred to the Committee on Government Affairs.
Motion carried.

NOTICE OF EXEMPTION

April 16, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 57.

GARY GHIGGERI
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 79.
Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.
Motion carried.

Senate Bill No. 82.
Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Senate Bill No. 110.
Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.
Motion carried.

Senate Bill No. 185.
Assemblyman Oceguera moved that the bill be referred to the Committee on Education.
Motion carried.

Senate Bill No. 206.
Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.
Motion carried.

Senate Bill No. 263.
Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.
Motion carried.

Senate Bill No. 266.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 273.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 276.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 280.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 300.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 325.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 349.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 360.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 362.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 186, 430, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 186 and 430, just reported out of committee, be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 13.

Bill read second time.

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

Amendment No. 514.

AN ACT relating to education; authorizing the board of trustees of a school district to request a waiver from the required minimum expenditure for textbooks, instructional supplies and instructional hardware during an economic hardship; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Education to develop a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) **Section 1** of this bill authorizes a school district to request a waiver from all or a portion of the minimum expenditure requirements when a school district experiences an economic hardship. A request for a waiver must be reviewed by the Department of Education and the State Board of Examiners. The Interim Finance Committee makes the final determination regarding whether to grant a waiver. A school district that is granted a waiver is prohibited from using the money for collective bargaining with its licensed employees or for an adjustment of salaries and benefits of district employees.

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

Section 1. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district that experiences an economic hardship may submit a written request to the Department on a form prescribed by the Department for a waiver of all or a portion of the amount of money the school district is required to expend for textbooks, instructional supplies and instructional hardware pursuant to NRS 387.206 for the fiscal year.

2. Upon receipt of a written request pursuant to subsection 1, the Department shall consider the request and determine whether an economic hardship exists for the school district. The Department may request additional information from the school district in making the determination. If the Department determines that an economic hardship exists for the school district, the Department shall forward the request to the Interim Finance Committee and the State Board of Examiners, including the basis for its determination and any recommendations of the Department for the amount of a waiver.

3. Upon receipt of a written request from the Department pursuant to subsection 2, the State Board of Examiners shall consider the request and determine whether an economic hardship exists for the school district. If the State Board of Examiners determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of all or a portion of the expenditure requirements established for that school district for the fiscal year pursuant to NRS 387.206. The State Board of Examiners may request additional information from the school district in making the determination. If the State Board of Examiners determines that an economic hardship exists for the school district and that a waiver from all or a portion of the expenditure requirements is justified, the State Board of Examiners shall forward the request to the Interim Finance Committee, including the basis for its determination and its recommendation for the amount of the waiver. The Interim Finance Committee is not bound to follow the recommendations of the State Board of Examiners.

4. Upon receipt of a written request from the State Board of Examiners pursuant to subsection 3, the Interim Finance Committee shall consider the request and determine whether an economic hardship exists for the school district. If the Interim Finance Committee determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of all or a portion of the expenditure requirements established for that school district for the fiscal year pursuant to NRS 387.206. The Interim Finance Committee may request additional information from the school district in making the determination. If the Interim Finance Committee grants a waiver, the Committee shall by resolution set forth the:

(a) Grounds for its determination;

(b) Amount of the waiver; and

(c) Period for which the waiver is effective.

5. The board of trustees of a school district that is granted a waiver by the Interim Finance Committee pursuant to this section shall, upon expiration of the period for which the waiver is granted, provide a written accounting to the Interim Finance Committee and the Department that includes a ~~[reconciliation]~~ :

(a) Reconciliation of the ~~[actual]~~ revenue and expenditures with the projections of revenue and expenditures that were used to determine whether an economic hardship existed for the school district ~~[.]~~ ; and

(b) Description of how the money from the waiver was used.

6. If the Interim Finance Committee grants a waiver pursuant to this section and subsequently the economic hardship to the school district is mitigated because the actual revenue attributable to the school district exceeds projections or the actual expenses incurred by the school district are less than anticipated:

(a) The amount of the waiver must be reduced accordingly by the school district; and

(b) The amount of money the school district is required to expend for textbooks, instructional supplies and instructional hardware in the next fiscal year, as determined pursuant to subsection 1 of NRS 387.206, must be adjusted accordingly.

7. A school district that is granted a waiver pursuant to this section shall not use the money that would have otherwise been expended by the school district to meet the requirements of NRS 387.206 for the fiscal year to:

(a) Settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district and the school district.

(b) Adjust the schedules of salaries and benefits of the employees of the school district.

8. For purposes of this section, an economic hardship exists for a school district if:

(a) Projections of ~~*[actual]*~~ ***revenue do not meet or exceed the revenue anticipated at the time the basic support guarantees are established for the fiscal year pursuant to NRS 387.122; or***

(b) The school district incurs unforeseen expenses, including, without limitation, expenses related to a natural disaster.

Sec. 2. NRS 387.206 is hereby amended to read as follows:

387.206 1. On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. The formula must be used only to develop expenditure requirements and must not be used to alter the distribution of money for basic support to school districts.

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for that fiscal year. ***If a school district is granted a waiver pursuant to section 1 of this act, the Department shall provide written notice to the school district within 30 days after the Interim Finance Committee grants the waiver setting forth the***

revised amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for the fiscal year.

3. On or before January 1 of each year, the Department shall determine whether each school district has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice ***or the revised notice, as applicable,*** provided pursuant to subsection 2. In making this determination, the Department shall use the report submitted by the school district pursuant to NRS 387.303.

4. Except as otherwise provided in subsection 5, if the Department determines that a school district has not expended the required minimum amount of money set forth in the notice ***or the revised notice, as applicable,*** provided pursuant to subsection 2, a reduction must be made from the basic support allocation otherwise payable to that school district in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies and instructional hardware and the minimum required combined expenditure set forth in the notice ***or the revised notice, as applicable,*** provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:

(a) Does not reduce the amount that the school district is required to expend on textbooks, instructional supplies and instructional hardware in the current fiscal year; and

(b) Must not exceed the amount of basic support that was provided to the school district for the fiscal year in which the minimum expenditure amount was not satisfied.

5. If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial budget submitted pursuant to NRS 387.303, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bill No. 502 be taken from the Chief Clerk's desk and placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 45.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 395.

SUMMARY— ~~[Requires the State Public Defender to provide defense services to indigent persons in counties without county public defender offices and to fully fund such services.]~~ **Makes various changes to provisions governing public defenders.** (BDR 20-457)

AN ACT relating to public defenders; authorizing ~~[the creation and discontinuation of county]~~ **all counties to create an office of** public defender **;** ~~[offices;]~~ requiring the State to reimburse counties for ~~[expenditures made in providing defense services to indigent persons;]~~ **operating such an office;** requiring the State Public Defender to establish branch offices in counties that do not ~~[have a county]~~ **create an office of** public defender **;** ~~[office;]~~ requiring, under certain circumstances, that the State Public Defender provide defense services to indigent persons in counties with a county public defender office; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, any county whose population is 100,000 or more (currently Washoe and Clark Counties) must create an office of public defender to provide defense services to indigent persons, and any county whose population is less than 100,000 may, but is not required to, create such an office. (NRS 260.010) The State Public Defender provides defense services to indigent persons in counties that do not have a county public defender and may charge those counties, in amounts not to exceed limits previously set by the Legislature, for providing those services. (NRS 180.110) The State Public Defender and any county with a county public defender may contract with each other for the State Public Defender to provide defense services to indigent persons in that county if a court, for cause, has disqualified the county public defender or if the county public defender is otherwise unable to provide representation. (NRS 180.060, 260.065)

Section 2 of this bill removes the requirement that counties whose population is 100,000 or more create an office of public defender and instead authorizes any county to create such an office by ordinance. **Section 2 further provides that once created by the county, the office of public defender may not be discontinued.** In addition, **section 8** of this bill repeals the authority of the State Public Defender to charge counties for expenses related to the defense of indigent persons in counties that do not have a county public defender. **Section 1** of this bill ~~[authorizes]~~ **requires** a county that has established the office of public defender to submit a claim for reimbursement to the State Public Defender for the cost of operating the office. **Section 4** of this bill requires the State Public Defender to prescribe the form and time for filing such claims and further requires the State Public Defender to reimburse the counties from money appropriated for that purpose at least once every 3 months.

Section 5 of this bill requires the State Public Defender to establish at least one branch office in each county that does not have a county public defender. If **,** thereafter **,** the State Public Defender is notified that a county intends to

create an office of public defender, the State Public Defender is required to discontinue the branch office in that county on June 30 of the year in which it is notified, which notice must be received by March 1 of an odd-numbered year pursuant to **section 2** of this bill.

Section 6 of this bill revises the provision authorizing a county to contract with the State Public Defender to provide representation for a defendant when the county public defender is disqualified from providing or unavailable to provide representation so that the State Public Defender is required to provide representation in those circumstances.

Section 9 of this bill requires each county to notify the State Public Defender by October 1, 2009, whether it will have an office of county public defender, and the State Public Defender must create a branch office in each county without a county public defender by July 1, 2010. After July 1, 2010, a county may only create ~~[or discontinue]~~ an office of county public defender ~~[if]~~ **in the manner set forth in section 2 of this bill which requires** the county ~~[notifies]~~ **to notify** the State Public Defender by March 1 of an odd-numbered year of its intent to do so.

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

Section 1. Chapter 260 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A county whose board of county commissioners has:

(a) Created an office of county public defender pursuant to NRS 260.010; or

(b) Joined with one or more other counties pursuant to NRS 260.020 to establish one office of county public defender to serve those counties,

➥ ~~*[may]*~~ ***must submit a claim for reimbursement to the State Public Defender for the costs associated with operating the office of county public defender.***

2. A claim for reimbursement submitted pursuant to subsection 1 must be made in the form and at such times as prescribed by the State Public Defender pursuant to section 4 of this act.

Sec. 2. NRS 260.010 is hereby amended to read as follows:

260.010 1. ~~[In counties whose population is 100,000 or more, the boards of county commissioners shall create by ordinance the office of public defender.~~

~~2. Except as otherwise provided by subsection 4, in counties whose population is less than 100,000, boards~~] ***A board*** of county commissioners may ~~[in their respective counties create]~~ ~~*[:*~~

~~*(a) Create,]*~~ ***create,*** by ordinance, at the beginning of a fiscal year, the office of ***county*** public defender.

~~[3. Except as otherwise provided in subsection 4, if~~]

~~[(b) If the county has an office of county public defender, discontinue, by ordinance, at the beginning of a fiscal year, the office of county public defender.]~~

2. ***If*** a board of county commissioners intends to create the office of county public defender, the board ~~[shall]~~ ***must*** notify the State Public Defender in writing on or before March 1 of any odd-numbered year and the office may not be created before July 1 of the same year in which the notice was given.

~~[4. If the county contribution approved by the Legislature exceeds the estimate provided to the county on December 1 by more than 10 percent for either year of the biennium, the]~~

3. ***A*** board of county commissioners ~~[may create]~~ ***that has created*** the office of county public defender ~~[on July 1 of the next even-numbered year if]~~ ***pursuant to this section or NRS 260.020 shall not discontinue*** ~~[the]~~ ***that office.*** ~~[of county public defender:~~

~~(a) Unless~~ the board notifies the State Public Defender on or before March ~~1]~~ ~~[~~of the same year in which the office is to be created.

~~5.]~~ ~~[of an odd-numbered year that the board intends to discontinue the office of county public defender; and~~

~~(b) Before July 1 of the same year in which the notice is given.]~~

4. The office of ***county*** public defender when created must be filled by appointment by the board of county commissioners.

~~[6.]~~ ***5.*** The ***county*** public defender serves at the pleasure of the board of county commissioners.

Sec. 3. NRS 260.065 is hereby amended to read as follows:

260.065 Any county in which the office of ***county*** public defender has been created may ~~[contract for]~~ ***use*** the services of the State Public Defender in providing representation for indigent persons when the court, for cause, disqualifies the county public defender or when the county public defender is otherwise unable to provide representation.

Sec. 4. Chapter 180 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Public Defender shall prescribe the form and time of filing for counties to submit claims for reimbursement for the costs associated with operating an office of county public defender established pursuant to NRS 260.010 or 260.020.

2. At least once every 3 months, and upon verification of a claim for reimbursement submitted by a county to the State Public Defender pursuant to section 1 of this act, the State Public Defender shall authorize reimbursement to the county by the State from money appropriated for that purpose.

Sec. 5. NRS 180.040 is hereby amended to read as follows:

180.040 1. The Office of the State Public Defender shall be in Carson City, Nevada, and the Buildings and Grounds Division of the Department of Administration shall provide necessary office space.

2. The ~~*[Subject to the provisions of subsection 3, the]*~~ State Public Defender ~~[may establish branch offices necessary to perform his duties. He shall designate]~~ ***shall establish at least one branch office in each county that*** ~~*[:*~~

~~*(a) Has]*~~ ***has not established an office of county public defender.***

~~*[(b) Has established an office of county public defender but the board of county commissioners in such county has notified the State Public Defender pursuant to subsection 3 of NRS 260.010 that the board will discontinue the office of county public defender.*~~

~~*3. A branch office established pursuant to paragraph (b) of subsection 2 must be established as of July 1 of the same year that the State Public Defender is notified that the board of county commissioners intends to discontinue the office of county public defender.*~~

~~*4.]*~~ ***3. Except as otherwise provided in subsection*** ~~*[5,]*~~ ***4, the State Public Defender shall maintain each branch office established pursuant to this section.***

~~*[5.]*~~ ***4. If the State Public Defender is notified pursuant to subsection 2 of NRS 260.010 that a board of county commissioners intends to create an office of county public defender, the State Public Defender shall discontinue each branch office in that county on June 30 of the same year in which it is notified.***

~~*[6.]*~~ ***5. The State Public Defender shall designate*** a deputy state public defender to supervise each ~~[such office.]~~ ***branch office established and maintained pursuant to this section.***

Sec. 6. NRS 180.060 is hereby amended to read as follows:

180.060 1. The State Public Defender may, before being designated as counsel for that person pursuant to NRS 171.188, interview an indigent person when he has been arrested and confined for a public offense or for questioning on suspicion of having committed a public offense.

2. The State Public Defender shall, when designated pursuant to NRS 62D.030, 62D.100, 171.188 or 432B.420, and within the limits of available money, represent without charge each indigent person for whom he is appointed.

3. When representing an indigent person, the State Public Defender shall:

(a) Counsel and defend him at every stage of the proceedings, including revocation of probation or parole; and

(b) Prosecute any appeals or other remedies before or after conviction that he considers to be in the interests of justice.

4. In cases of postconviction proceedings and appeals arising in counties in which the office of ***county*** public defender has been created pursuant to the provisions of chapter 260 of NRS, where the matter is to be presented to the Supreme Court, the State Public Defender shall prepare and present the case and the public defender of the county shall assist and cooperate with the State Public Defender.

5. The State Public Defender ~~[may contract with]~~ ***shall provide to*** any county in which the office of ***county*** public defender has been created ~~[to provide]~~ representation for indigent persons when the court, for cause, disqualifies the county public defender or when the county public defender is otherwise unable to provide representation.

Sec. 7. NRS 180.090 is hereby amended to read as follows:

180.090 Except as ***otherwise*** provided in ***NRS 180.040,*** subsections 4 and 5 of NRS 180.060 ~~[,]~~ ***and section 4 of this act,*** the provisions of this chapter apply only to counties in which the office of public defender has not been created pursuant to the provisions of chapter 260 of NRS.

Sec. 8. NRS 180.110 is hereby repealed.

Sec. 9. 1. Subject to the provisions of subsections 2 and 3 and chapter 260 of NRS, a board of county commissioners for a county that does not have an office of county public defender on July 1, 2009, may create, by ordinance, the office of county public defender.

2. Except as otherwise provided in NRS 260.010, a board of county commissioners may not create an office of county public defender unless it notifies the State Public Defender in writing on or before October 1, 2009, that it intends to create such an office.

3. A board of county commissioners that notifies the State Public Defender pursuant to subsection 2 ~~[:~~

~~(a) Shall]~~ **shall** create the office as of July 1, 2010 **.** ~~[; and~~

~~(b) May not discontinue the office except pursuant to the provisions of NRS 260.010.]~~

4. Subject to the provisions of subsections 5 and 6, a board of county commissioners for a county that has an office of county public defender on July 1, 2009, may, by ordinance, discontinue that office.

5. Except as otherwise provided in NRS 260.010, a board of county commissioners may not discontinue an office of county public defender unless it notifies the State Public Defender, in writing, on or before October 1, 2009, that it intends to discontinue the office.

6. A board of county commissioners that notifies the State Public Defender pursuant to subsection 5 **that it intends to discontinue the office of public defender** shall discontinue the office as of July 1, 2010.

7. On July 1, 2010, the State Public Defender shall establish at least one branch office in each county that:

(a) Does not have an office of county public defender on July 1, 2009, and whose board of county commissioners does not notify the State Public Defender pursuant to subsection 2 that it intends to create the office; and

(b) Has an office of county public defender on July 1, 2009, and whose board of county commissioners notifies the State Public Defender pursuant to subsection 5 that it intends to discontinue the office.

Sec. 10. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

180.110 Collection of charges to counties for services.

1. Each fiscal year the State Public Defender may collect from the counties amounts which do not exceed those authorized by the Legislature for use of his services during that year.

2. The State Public Defender shall submit to the county an estimate on or before the first day of May and that estimate becomes the final bill unless the county is notified of a change within 2 weeks after the date on which the county contribution is approved by the Legislature. The county shall pay the bill:

(a) In full within 30 days after the estimate becomes the final bill or the county receives the revised estimate; or

(b) In equal quarterly installments on or before the 1st day of July, October, January and April, respectively.

➥ The counties shall pay their respective amounts to the State Public Defender who shall deposit the amounts with the Treasurer of the State of Nevada and shall expend the money in accordance with his approved budget.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Segerblom moved that upon return from the printer, Assembly Bill No. 45 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 65.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 345.

AN ACT relating to courts; providing for the collection and disposition of additional court fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) authorizes a district court to charge and collect certain additional filing fees; (2) requires the fees to be deposited into a special county account maintained for the benefit of the court; and (3) provides that the fees may be used only for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment and technology.

Section 3 of this bill authorizes a board of county commissioners to impose by ordinance a filing fee of not more than $20 to be paid on the commencement of any civil action or proceeding in the district court and provides that the fee may be used only for programs for court security **or for reimbursement of capital costs for maintaining new judicial**

departments and must not supplant existing budgets for court security. **Section 5 of this bill requires a county clerk to collect a fee of $50 upon the filing of any notice of default and election to sell and provides that such fees must be deposited in a special account to support a program of foreclosure mediation established by Supreme Court Rule. (NRS 107.080)**

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

Section 1. Chapter 19 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:***

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f) [and (g)], or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer $99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by him or them $99

(c) On the filing of a petition for [setting aside an estate without administration,] letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is $200,000 or more $352

(2) Where the stated value of the estate is more than $20,000 but less than $200,000 ..... $99

(3) Where the stated value of the estate is $20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto $200

(e) [On the filing of a motion other than a motion for summary judgment or a joinder thereto $35

(f)] On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto..... $1,359

[(g)] (f) On the commencement of:

(1) [A class action;

(2)] An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

[(3)] (2) Any other action defined as "complex" pursuant to

the local rules of practice,

➥ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding $349

~~[(h)]~~ (g) On the filing of a third-party complaint, to be paid by the filing party $135

~~[(i)]~~ (h) On the filing of a motion to certify or decertify a class, to be paid by the filing party ..... ~~[$250]~~ $349

~~[(j) On the filing of a petition for leave to compromise the claim of a minor, to be paid by the petitioner $250]~~

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court $10

2. ~~[The]~~ Except as otherwise provided in subsection 4, fees collected pursuant to this section must be deposited into a special account maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff; and

(b) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraph (a), to:

(1) Reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;

(2) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

~~[(2)]~~ (3) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

~~[(3)]~~ (4) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

~~[(4)]~~ (5) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court ; ~~[, except that money in the account may not be used to acquire furniture, fixtures or equipment for judicial chambers;~~

~~(5)]~~ (6) Acquire advanced technology;

~~[(6)]~~ (7) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court; or

~~[(7) Enter into long-term interlocal agreements to pay for capital costs incurred by the county.]~~

(8) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer [all] :

(a) An amount equal to $20 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating a program for legal services as set forth in NRS 19.031 all the money received from the clerk of the court or county clerk pursuant to this subsection.

(b) All remaining fees collected pursuant to this section during the preceding month.

Sec. 3. ***1. In any county, the board of county commissioners may, in addition to any other fee required by law, impose by ordinance a filing fee of not more than $20 to be paid on the commencement of any civil action or proceeding in the district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, except as otherwise required pursuant to NRS 19.034.***

2. On or before the fifth day of each month, in a county where a fee has been imposed pursuant to subsection 1, the clerk of the court shall account for and pay over to the county treasurer any such fees collected by him during the preceding month for credit to an account for programs for court security in the county general fund. The money in that account [may] :

(a) May be used only for programs for court security [and must] or to reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;

(b) Must not be used to supplant existing budgets for court security [. Any remaining balance in the account] ; and

(c) If any balance remains, may be carried forward to the next fiscal year.

3. As used in this section, "programs for court security" includes, without limitation:

(a) Funding for additional positions for bailiffs, marshals, security guards or similar personnel;

(b) Supplementing existing funding used to pay bailiffs, marshals, security guards and similar personnel;

(c) Acquiring necessary capital goods for court security;

(d) Providing security training and education to personnel;

(e) Conducting security audits; and

(f) Acquiring or using appropriate technology relating to court security . [; and

~~*(g) Other purposes relating to court security, as approved by the chief judge or his designee.]*~~

Sec. 4. ~~[NRS 41.200 is hereby amended to read as follows:~~

~~41.200 1. If an unemancipated minor has a disputed claim for money against a third person, either parent, or if the parents of the minor are living separate and apart, then the custodial parent, or if no custody award has been made, the parent with whom the minor is living, or if a general guardian or guardian of the estate of the minor has been appointed, then that guardian, has the right to compromise the claim. Such a compromise is not effective until it is approved by the district court of the county where the minor resides, or if the minor is not a resident of the State of Nevada, then by the district court of the county where the claim was incurred, upon a verified petition in writing, regularly filed with the court.~~

~~2. The petition must set forth:~~

~~(a) The name, age and residence of the minor;~~

~~(b) The facts which bring the minor within the purview of this section, including:~~

~~(1) The circumstances which make it a disputed claim for money;~~

~~(2) The name of the third person against whom the claim is made; and~~

~~(3) If the claim is the result of an accident, the date, place and facts of the accident;~~

~~(c) The names and residence of the parents or the legal guardian of the minor;~~

~~(d) The name and residence of the person or persons having physical custody or control of the minor;~~

~~(e) The name and residence of the petitioner and the relationship of the petitioner to the minor;~~

~~(f) The total amount of the proceeds of the proposed compromise and the apportionment of those proceeds, including the amount to be used for:~~

~~(1) Attorney's fees and whether the attorney's fees are fixed or contingent fees, and if the attorney's fees are contingent fees, the percentage of the proceeds to be paid as attorney's fees;~~

~~(2) Medical expenses; and~~

~~(3) Other expenses,~~

~~and whether these fees and expenses are to be deducted before or after the calculation of any contingency fee;~~

~~(g) Whether the petitioner believes the acceptance of this compromise is in the best interest of the minor; and~~

~~(h) That the petitioner has been advised and understands that acceptance of the compromise will bar the minor from seeking further relief from the third person offering the compromise.~~

~~3. If the claim involves a personal injury suffered by the minor, the petitioner must submit all relevant medical and health care records to the court at the compromise hearing. The records must include documentation of:~~

~~(a) The injury, prognosis, treatment and progress of recovery of the minor; and~~

~~(b) The amount of medical expenses incurred to date, the nature and amount of medical expenses which have been paid and by whom, any amount owing for medical expenses and an estimate of the amount of medical expenses which may be incurred in the future.~~

~~4. If the court approves the compromise of the claim of the minor, the court must direct the money to be paid to the father, mother or guardian of the minor, with or without the filing of any bond, or it must require a general guardian or guardian ad litem to be appointed and the money to be paid to the guardian or guardian ad litem, with or without a bond, as the court, in its discretion, deems to be in the best interests of the minor.~~

~~5. Upon receiving the proceeds of the compromise, the parent or guardian to whom the proceeds of the compromise are ordered to be paid~~ **[**~~,~~**]** ~~shall establish a blocked financial investment for the benefit of the minor with the proceeds of the compromise. Money may be obtained from the blocked financial investment only pursuant to subsection 6. Within 30 days after receiving the proceeds of the compromise, the parent or guardian shall file with the court proof that the blocked financial investment has been established. If the balance of the investment is more than $10,000, the parent, guardian or person in charge of managing the investment shall annually file with the court a verified report detailing the activities of the investment during the previous 12 months. If the balance of the investment is $10,000 or less, the court may order the parent, guardian or person in charge of managing the investment to file such periodic verified reports as the court deems appropriate. The court may hold a hearing on a verified report only if it deems a hearing necessary to receive an explanation of the activities of the investment.~~

~~6. The beneficiary of a block financial investment may obtain control of or money from the investment:~~

~~(a) By an order of the court which held the compromise hearing; or~~

~~(b) By certification of the court which held the compromise hearing that the beneficiary has reached the age of 18 years, at which time control of the investment must be transferred to the beneficiary or the investment must be closed and the money distributed to the beneficiary.~~

~~7.~~ **[**~~The clerk of the district court shall not charge any fee for filing a petition for leave to compromise or for placing the petition upon the calendar to be heard by the court.~~

~~8.~~**]** ~~As used in this section, the term "blocked financial investment" means a savings account established in a depository institution in this State, a certificate of deposit, a United States savings bond, a fixed or variable annuity contract~~ **[**~~,~~**]** ~~or another reliable investment that is approved by the court.~~**] (Deleted by amendment.)**

Sec. 5. **NRS 107.080 is hereby amended to read as follows:**

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. The county clerk shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect the sum of $50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The fees collected must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be placed to the credit of the Account. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county clerk to the State Controller for credit to the Account. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

~~[Sec. 5.]~~ ***Sec. 6.*** This act becomes effective on July 1, 2009.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Segerblom moved that upon return from the printer, Assembly Bill No. 65 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 85.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 254.

SUMMARY— ~~[Revises provisions relating to sex offenders.]~~ **Provides for the formation of a committee to study laws concerning sex offender registration.** (BDR 14-259)

AN ACT relating to ~~[public safety; revising the applicability of certain restrictions regarding residency imposed on a person who is convicted of a sexual offense; revising certain definitions relating to sex offenders;]~~ **crimes; establishing the Advisory Committee to Study Laws Concerning Sex Offender Registration; prescribing the duties of the Committee; requiring the Committee to prepare and submit to the Legislative Commission a biennial report;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 1, 4 and 5 of this bill amend existing law to provide that the restrictions on the location of a residence of a person convicted of certain sexual offenses apply only to a person who establishes a residence at a location on or after October 1, 2007. (NRS 176A.410, 213.1243, 213.1255)~~

~~Section 2 of this bill amends existing law, which defines the term "sex offender" for the purposes of certain statutes, to provide that the term means a person who is convicted of certain sexual offenses after July 1, 1961, rather than July 1, 1956. (NRS 179D.095)~~

~~Section 3 of this bill amends the existing definition of the term "sexual offense," which is defined for the purposes of certain statutes relating to sex offenders, to include specific definitions of the terms "sexual act" and "sexual conduct." (NRS 179D.097)]~~

Existing law requires certain sex offenders to register with certain law enforcement agencies. (Chapter 179D of NRS) This bill creates an advisory committee to study state and federal laws concerning sex offender registration. The advisory committee must consist of the Attorney General, one member of the Assembly appointed by the

Speaker of the Assembly, one member of the Senate appointed by the Senate Majority Leader, representatives of law enforcement agencies, district attorneys' offices and public defenders' offices and a representative of the American Civil Liberties Union and any other organization authorized by the Attorney General to appoint a member of the advisory committee. The advisory committee must prepare and submit to the Legislative Commission a biennial report of its findings and recommendations for proposed legislation concerning sex offender registration.

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

Section 1. ~~[NRS 176A.410 is hereby amended to read as follows:~~

~~176A.410 1. Except as otherwise provided in subsection 6, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:~~

~~(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime.~~

~~(b) Reside at a location only if:~~

~~(1) The residence has been approved by the parole and probation officer assigned to the defendant.~~

~~(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.~~

~~(3) The defendant keeps the parole and probation officer assigned to the defendant informed of his current address.~~

~~(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.~~

~~(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant.~~

~~(e) Participate in and complete a program of professional counseling approved by the Division.~~

~~(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance.~~

~~(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant.~~

~~(h) Abstain from consuming, possessing or having under his control any alcohol.~~

~~(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection 5.~~

~~(j) Not use aliases or fictitious names.~~

~~(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant.~~

~~(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact.~~

~~(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a defendant who is a Tier III offender.~~

~~(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.~~

~~(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant.~~

~~(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant.~~

~~(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant.~~

~~(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.~~

~~2. Except as otherwise provided in subsection 6, if a defendant is convicted of an offense listed in subsection 6 of NRS 213.1255 against a~~

~~child under the age of 14 years, the defendant is a Tier III offender and the court grants probation or suspends the sentence of the defendant, the court shall, in addition to any other condition ordered pursuant to subsection 1, order as a condition of probation or suspension of sentence that the defendant:~~

~~(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.~~ ***The provisions of this paragraph apply to a defendant who establishes a residence at a location on or after October 1, 2007.***

~~(b) As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.~~

~~(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.~~

~~3. A defendant placed under the system of active electronic monitoring pursuant to subsection 2 shall:~~

~~(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.~~

~~(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.~~

~~(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.~~

~~4. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a defendant pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.~~

~~5. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness~~ **[,]** ~~and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:~~

~~(a) The victim or the witness;~~

~~(b) The defendant;~~

~~(c) The parole and probation officer assigned to the defendant;~~

~~(d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and~~

~~(c) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.~~

~~6. The court is not required to impose a condition of probation or suspension of sentence listed in subsections 1 and 2 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.~~

~~7. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.097.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 179D.095 is hereby amended to read as follows:~~

~~179D.095 1. "Sex offender" means a person who, after July 1,~~ **[**~~1956,~~**]** ***1961,*** ~~is or has been:~~

~~(a) Convicted of a sexual offense listed in NRS 179D.097; or~~

~~(b) Adjudicated delinquent by a court having jurisdiction over juveniles of a sexual offense listed in NRS 62F.200 if the offender was 14 years of age or older at the time of the offense.~~

~~2. The term includes, without limitation, a sex offender who is a student or worker within this State but who is not otherwise deemed a resident offender pursuant to subsection 2 or 3 of NRS 179D.460.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 179D.097 is hereby amended to read as follows:~~

~~179D.097 1. "Sexual offense" means any of the following offenses:~~

~~(a) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.~~

~~(b) Sexual assault pursuant to NRS 200.366.~~

~~(c) Statutory sexual seduction pursuant to NRS 200.368.~~

~~(d) Battery with intent to commit sexual assault pursuant to subsection 4 of NRS 200.400.~~

~~(e) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this section.~~

~~(f) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this section.~~

~~(g) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.~~

~~(h) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.~~

~~(i) Incest pursuant to NRS 201.180.~~

~~(j) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.~~

~~(k) Open or gross lewdness pursuant to NRS 201.210.~~

~~(l) Indecent or obscene exposure pursuant to NRS 201.220.~~

~~(m) Lewdness with a child pursuant to NRS 201.230.~~

~~(n) Sexual penetration of a dead human body pursuant to NRS 201.450.~~

~~(o) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.~~

~~(p) Any other offense that has an element involving a sexual act or sexual conduct with another.~~

~~(q) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (p), inclusive.~~

~~(r) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.~~

~~(s) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this section. This subsection includes, without limitation, an offense prosecuted in:~~

~~(1) A tribal court.~~

~~(2) A court of the United States or the Armed Forces of the United States.~~

~~(t) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This subsection includes, without limitation, an offense prosecuted in:~~

~~(1) A tribal court.~~

~~(2) A court of the United States or the Armed Forces of the United States.~~

~~(3) A court having jurisdiction over juveniles.~~

~~2. The term does not include an offense involving consensual sexual conduct if the victim was:~~

~~(a) An adult, unless the adult was under the custodial authority of the offender at the time of the offense; or~~

~~(b) At least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.~~

~~3. As used in this section:~~

~~(a) "Sexual act" means any of the following acts or any combination thereof:~~

~~(1) Contact between the penis and the vulva or the penis and the anus. For the purposes of this subparagraph, contact involving the penis occurs upon penetration, however slight.~~

~~(2) Contact between the mouth and the penis, the mouth and the vulva or the mouth and the anus.~~

~~(3) Any intrusion, however slight, of the anal or genital opening of another person by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.~~

~~*(4) The intentional touching, not through the clothing, of the genitalia of another person under the age of 16 years, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.*~~

~~*(b) "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse or physical conduct with a person's unclothed genitals or pubic area.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~[NRS 213.1243 is hereby amended to read as follows:~~

~~213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.~~

~~2. Lifetime supervision shall be deemed a form of parole for:~~

~~(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and~~

~~(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.~~

~~3. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:~~

~~(a) The residence has been approved by the parole and probation officer assigned to the person.~~

~~(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.~~

~~(c) The person keeps the parole and probation officer informed of his current address.~~

~~4. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this subsection apply only to a sex offender who is a Tier 3 offender.~~

~~5. Except as otherwise provided in subsection 9, if a sex offender is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the sex offender is a Tier 3 offender and the~~

~~sex offender is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the sex offender:~~

~~(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.~~ ***The provisions of this paragraph apply to a sex offender who establishes a residence at a location on or after October 1, 2007.***

~~(b) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.~~

~~(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.~~

~~6. A sex offender placed under the system of active electronic monitoring pursuant to subsection~~ **[**~~4~~**]** ***5*** ~~shall:~~

~~(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.~~

~~(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.~~

~~(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.~~

~~7. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a sex offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.~~

~~8. Except as otherwise provided in subsection 7, a sex offender who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.~~

~~9. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsections 3, 4 and 5 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.~~

~~10. If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of~~

~~the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.~~

~~11. For the purposes of prosecution of a violation by a sex offender of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.~~] **(Deleted by amendment.)**

Sec. 5. ~~[NRS 213.1255 is hereby amended to read as follows:~~

~~213.1255 1. Except as otherwise provided in subsection 4, in addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child under the age of 14 years and who is a Tier 3 offender, the Board shall require that the parolee:~~

~~(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.~~ ***The provisions of this paragraph apply to a parolee who establishes a residence at a location on or after October 1, 2007.***

~~(b) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.~~

~~(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.~~

~~2. A parolee placed under the system of active electronic monitoring pursuant to subsection 1 shall:~~

~~(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.~~

~~(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.~~

~~(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.~~

~~3. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a parolee pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not~~

~~prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.~~

~~4. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.~~

~~5. In addition to any conditions of parole required to be imposed pursuant to subsection 1 and NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child under the age of 14 years, the Board shall, when appropriate:~~

~~(a) Require the parolee to participate in psychological counseling.~~

~~(b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present.~~

~~6. The provisions of subsections 1 and 5 apply to a prisoner who was convicted of:~~

~~(a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;~~

~~(b) Abuse or neglect of a child pursuant to subparagraph (1) of paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a) of subsection 2 of NRS 200.508;~~

~~(c) An offense punishable pursuant to subsection 2 of NRS 200.750;~~

~~(d) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;~~

~~(e) Lewdness with a child pursuant to NRS 201.230;~~

~~(f) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony; or~~

~~(g) Any combination of the crimes listed in paragraphs (a) to (f), inclusive.~~] **(Deleted by amendment.)**

Sec. 5.1. **Chapter 179D of NRS is hereby amended by adding thereto the provisions set forth as 5.3 to 5.7, inclusive, of this act.**

Sec. 5.3. ***As used in sections 5.3 to 5.7, inclusive, of this act, "Committee" means the Advisory Committee to Study Laws Concerning Sex Offender Registration.***

Sec. 5.4. ***1. The Advisory Committee to Study Laws Concerning Sex Offender Registration is hereby created.***

2. The Committee consists of the following members:

(a) The Attorney General or his designee;

(b) One member of the Assembly appointed by the Speaker of the Assembly;

(c) One member of the Senate appointed by the Majority Leader of the Senate;

(d) One member appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;

(e) One member appointed by the Nevada District Attorneys Association, or a successor organization;

(f) One member who is a public defender, appointed by the governing body of the State Bar of Nevada;

(g) One member appointed by the American Civil Liberties Union, or a successor organization; and

(h) Any member appointed by an organization that has been authorized by the Attorney General to appoint a member of the Committee pursuant to section 5.5 of this act.

3. The Attorney General or his designee is the Chairman of the Committee.

4. Each member who is appointed to the Committee serves a term of 2 years. Except as otherwise provided in subsection 3 of section 5.5 of this act:

(a) Members may be reappointed for additional terms of 2 years in the same manner as the original appointments; and

(b) Any vacancy occurring in the membership of the Committee must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

5. The Committee shall meet at least twice each year and may meet at such further times as deemed necessary by the Chairman.

6. A majority of the members of the Committee constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Committee.

7. The Committee shall comply with the provisions of chapter 241 of NRS, and all meetings of the Committee must be conducted in accordance with that chapter.

8. For each day or portion of a day during which a member of the Committee who is a Legislator attends a meeting of the Committee or is otherwise engaged in the business of the Committee, except during a regular or special session of the Legislature, he is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers generally; and

(c) Travel expenses provided pursuant to NRS 218.2207.

➥ The compensation, per diem allowances and travel expenses of the members of the Committee who are Legislators must be paid from the Legislative Fund.

9. While engaged in the business of the Committee, to the extent of legislative appropriation, the members of the Committee who are not Legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

10. A member of the Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and

attend meetings of the Committee and perform any work necessary to carry out the duties of the Committee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Committee to:

(a) Make up the time he is absent from work to carry out his duties as a member of the Committee; or

(b) Take annual leave or compensatory time for the absence.

11. The Attorney General shall provide the Committee with such staff as is necessary to carry out the duties of the Committee.

Sec. 5.5. 1. An organization which is concerned with state and federal laws concerning the registration of sex offenders and which wishes to appoint a member to the Committee pursuant to paragraph (h) of subsection 2 of section 5.4 of this act may apply to the Attorney General, or his designee, for authorization to appoint a member to the Committee. At his discretion, the Attorney General may authorize the organization to appoint a member to the Committee.

2. At any time after the Attorney General has authorized an organization to appoint a member to the Committee, the Attorney General may revoke the organization's authorization to appoint a member to the Committee.

3. If, after receiving authorization to appoint a member to the Committee, an organization ceases to exist or has its authorization to appoint a member to the Committee revoked by the Attorney General, any member of the Committee appointed by the organization may complete the term to which he was appointed, and upon the completion of that term, the organization, or a successor organization, may not appoint a member to the Committee.

Sec. 5.6. The Committee shall:

1. Identify and study issues relating to state and federal law concerning the registration of sex offenders and any litigation concerning those laws.

2. Prepare a report of the activities and findings of the Committee and any recommendations for proposed legislation concerning the registration of sex offenders developed by the Committee.

3. On or before September 1 of each even-numbered year, submit the report prepared pursuant to subsection 2 to the Director of the Legislative Counsel Bureau for submission to the Legislative Commission.

Sec. 5.7. 1. The Attorney General may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of sections 5.3 to 5.7, inclusive, of this act.

2. Any money received pursuant to this section must be deposited in the Special Account for the Support of the Committee, which is hereby created in the State General Fund. Interest and income earned on money in the Account must be credited to the Account. Money in the Account may only

be used for the support of the Committee and its activities pursuant to sections 5.3 to 5.7, inclusive, of this act.

Sec. 5.9. **Not later than July 15, 2009:**

1. The Nevada Sheriffs' and Chiefs' Association, or a successor organization, shall appoint the member described in paragraph (d) of subsection 2 of section 5.4 of this act;

2. The Nevada District Attorneys Association, or a successor organization, shall appoint the member described in paragraph (e) of subsection 2 of section 5.4 of this act;

3. The governing board of the State Bar of Nevada shall appoint the member described in paragraph (f) of subsection 2 of section 5.4 of this act; and

4. The American Civil Liberties Union, or a successor organization, shall appoint the member described in paragraph (g) of subsection 2 of section 5.4 of this act.

Sec. 6. This act becomes effective upon passage and approval.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 101.

Bill read second time.

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

Amendment No. 341.

AN ACT relating to the support of children; ~~[requiring certain counties]~~ **authorizing each county in this State** to participate ~~[fully]~~ in the Program for the Enforcement of Child Support; ~~[authorizing other counties to participate in the Program;]~~ requiring each county that participates in the Program to pay the cost of the Program in that county; revising certain provisions governing the administration and enforcement of the Program; deleting provisions relating to the placement and confidentiality of certain records concerning the support of a dependent child; requiring a district court to review, on the record, certain recommendations of a master; revising provisions governing the failure of an employer to deliver money that is withheld from the income of an employee for child support; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill ~~[requires]~~ **authorizes** each county ~~[whose population is 100,000 or more (currently Clark and Washoe Counties)]~~ **in this State** to participate ~~[fully]~~ in the Program for the Enforcement of Child Support created under federal law**.** ~~[and to]~~ **If a county participates in the Program, the county must** pay for the cost of the Program in that county. **Section 1** also authorizes ~~[any other]~~ **a** county ~~[to participate]~~ **that participates** in the Program **[**~~. If such a county participates in the Program,~~

~~the county must pay for the cost of~~] **to withdraw from** the Program [~~in that county.~~] **after providing a notice of withdrawal to the Division of Welfare and Supportive Services of the Department of Health and Human Services.**

Section 2 of this bill provides that any payment of public assistance made by the Division [~~of Welfare and Supportive Services of the Department of Health and Human Services~~] for the support of a child creates a debt against the responsible parent, regardless of any court order for custody or support of the child to the contrary. (NRS 425.360)

Section 3 of this bill specifies that the Administrator of the Division or his designee is responsible for and is required to supervise the Program. (NRS 425.365)

Sections 5, 7, 10, 14 and 15 of this bill specify that the approval by a district court of a recommendation made by a master concerning the support of a dependent child must be made in accordance with certain procedural requirements. (NRS 425.382, 425.383, 425.3836, 425.540)

Sections 6, 11, 12, 19 and 21 of this bill delete provisions of existing law that require a master, after making a recommendation for the support of a dependent child, or a district court to ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is paid are placed in the records relating to the matter and remain confidential. (NRS 425.3828, 425.3844, 425.3855, 125.230, 125B.055)

Section 8 of this bill authorizes a master who conducts a hearing relating to the support of a dependent child to conduct the hearing by telephone or by any audiovisual or other electronic means outside the judicial district in which the master is appointed. (NRS 425.3832)

Section 9 of this bill provides that if a district court reviews a recommendation of a master concerning the support of a dependent child, the review must be conducted on the record of the case before the master. (NRS 425.3834)

Under existing law, a master who makes a recommendation concerning the support of a dependent child must furnish the recommendation to each party in the case before the master. Each party may then file an objection to the recommendation within 10 days after receiving the recommendation. If a notice of objection is not filed, the district court must accept the recommendation and may enter judgment thereon. **Section 11** of this bill provides that if a notice of objection is not filed, the recommendation of the master shall be deemed approved by the district court and the clerk of the court may file the recommendation. (NRS 425.3844)

Section 13 of this bill provides that a financial institution which is doing business in Nevada and which receives notification of a lien against a responsible parent from an agency for the enforcement of child support located in another state is required to encumber all assets held by the financial institution on behalf of the responsible parent and surrender those assets upon the enforcement of the lien. **Section 13** also provides immunity

from liability for the agency located in another state for disclosing information and providing assets to certain other persons. (NRS 425.460)

Sections 16 and 17 of this bill set forth penalties that may be imposed against an employer who fails to deliver to the appropriate enforcing authority any money that the employer is required to withhold from an employee's wages for child support owed by the employee. The penalties include, without limitation, the payment of punitive damages to the person to whom the child support is owed. (NRS 31A.095, 31A.120)

Section 18 of this bill deletes provisions of existing law that require a court that grants a decree of divorce to ensure that the social security numbers of both parties to the decree are provided to the Division. (NRS 125.130)

Section 22 of this bill revises provisions governing the amounts paid by a parent for medical support for a child pursuant to a court order requiring the payment of that support. (NRS 125B.085)

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

Section 1. Chapter 425 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each county ~~*[whose population is 100,000 or more shall]*~~ ***may participate*** ~~*[fully]*~~ ***in the Program*** ~~*.*~~ ~~*[and]*~~ ***If a county participates in the Program, the county shall pay the cost of the Program in that county. Any services provided by the county under the Program must be provided in accordance with:***

(a) Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq., and any regulations adopted pursuant thereto; ~~*[and]*~~

(b) Any regulations adopted pursuant to NRS 425.365 ~~*[.*~~

~~*2. Each county whose population is less than 100,000 may participate in the Program. If such a county participates in the Program, the county shall pay the cost of the Program in that county in accordance with a]*~~ ***; and***

(c) A contract entered into with the Division ~~*[.]*~~ ***for that purpose.***

2. If a county participates in the Program pursuant to subsection 1, the county may, on or before September 1 of each even-numbered year, elect to withdraw from the Program by submitting a notice of withdrawal to the Division. If a county submits a notice of withdrawal pursuant to this subsection, the withdrawal becomes effective on July 1 of the next following year.

Sec. 2. NRS 425.360 is hereby amended to read as follows:

425.360 1. Any payment of public assistance pursuant to this chapter creates a debt for support to the Division by the responsible parent, ~~[whether or not]~~ ***regardless of:***

(a) Any court order for custody or support to the contrary, including, without limitation, an order for joint physical custody; or

(b) Whether the parent received prior notice that his child was receiving public assistance.

2. The Division is entitled to the amount to which a dependent child or a person having the care, custody and control of a dependent child would have been entitled for support, to the extent of the assignment of those rights to support pursuant to NRS 425.350, and may prosecute or maintain any action for support or execute any administrative remedy existing under the laws of this State to obtain reimbursement of money expended for public assistance from any liable third party, including ***, without limitation,*** an insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C.A. § 1167(1), service benefit plan, self-insured plan or health maintenance organization. If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent. This entitlement applies to, but is not limited to, a temporary order for spousal support, a family maintenance order or an alimony order, whether or not allocated to the benefit of the child on the basis of providing necessaries for the caretaker of the child, up to the amount paid by the Division in public assistance to or for the benefit of a dependent child. The Division may petition the appropriate court for modification of its order on the same grounds as a party to the action.

3. If there is no court order for support, or if the order provides that no support is due but the facts on which the order was based have changed, the amount due is the amount computed pursuant to NRS 125B.070 and 125B.080, using the Nevada average wage, determined by the Employment Security Division of the Department of Employment, Training and Rehabilitation, if the gross income of the responsible parent cannot be otherwise ascertained.

4. Debts for support may not be incurred by a parent or any other person who is the recipient of public assistance for the benefit of a dependent child for the period when the parent or other person is a recipient.

5. If a state agency is assigned any rights of a dependent child or a person having the care, custody and control of a dependent child who is eligible for medical assistance under Medicaid, the person having the care, custody and control of the dependent child shall, upon request of the state agency, provide to the state agency information regarding the dependent child or a person having the care, custody and control of a dependent child to determine:

(a) Any period during which the dependent child or a person having the care, custody and control of a dependent child may be or may have been covered by an insurer; and

(b) The nature of any coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured dependent

child or a person having the care, custody and control of a dependent child and the identifying number of the policy, evidence of coverage or contract.

6. As used in this section, "joint physical custody" means the physical custody of a dependent child for which the time spent by the dependent child with each responsible parent or with the responsible parent and a custodian of the child is equal.

Sec. 3. NRS 425.365 is hereby amended to read as follows:

425.365 ***1.*** The Administrator ***or his designee is responsible for and shall supervise the Program, subject to administrative supervision by the Director of the Department of Health and Human Services.***

2. The Administrator may adopt such regulations and take such actions as are necessary to carry out the provisions of this chapter.

Sec. 4. NRS 425.370 is hereby amended to read as follows:

425.370 ***Subject to administrative supervision by the Director of the Department of Health and Human Services pursuant to NRS 425.365:***

1. Whenever the Division provides public assistance on behalf of a child, the Division and the prosecuting attorney shall take appropriate action to carry out the Program with regard to that child.

2. As to any other child, the Division and the prosecuting attorney shall, when such action is required by the Social Security Act ***,*** ~~[(]~~ 42 U.S.C. §§ 301 et seq. ***,*** ~~[),]~~ take appropriate action to carry out the Program.

Sec. 5. NRS 425.382 is hereby amended to read as follows:

425.382 1. Except as otherwise provided in NRS 425.346, the Chief may proceed pursuant to NRS 425.3822 to 425.3852, inclusive, after:

(a) Payment of public assistance by the Division; or

(b) Receipt of a request for services to carry out the Program.

2. Subject to approval by the district court ~~[,]~~ ***pursuant to NRS 425.3844,*** a master may:

(a) Take any action authorized pursuant to chapter 130 of NRS, including any of the actions described in subsection 2 of NRS 130.305.

(b) Except as otherwise provided in chapter 130 of NRS and NRS 425.346:

(1) Issue and enforce an order for the support of a dependent child, and modify or adjust such an order in accordance with NRS 125B.145;

(2) Require coverage for health care of a dependent child;

(3) Establish paternity;

(4) Order a responsible parent to comply with an order for the support of a dependent child, specifying the amount and the manner of compliance;

(5) Order the withholding of income;

(6) Determine the amount of any arrearages and specify a method of payment;

(7) Enforce orders by civil or criminal contempt, or both;

(8) Set aside property for satisfaction of an order for the support of a dependent child;

(9) Place liens and order execution on the property of the responsible parent;

(10) Order a responsible parent to keep the master informed of his current residential address, telephone number, employer, address of employment and telephone number at the place of employment;

(11) Issue a bench warrant for a responsible parent who has failed after proper notice to appear at a hearing ordered by the master and enter the bench warrant in any local and state computer system for criminal warrants;

(12) Order the responsible parent to seek appropriate employment by specified methods;

(13) Order the responsible parent to participate in a program intended to resolve issues that prevent the responsible parent from obtaining employment, including, without limitation, a program for the treatment of substance abuse or a program to address mental health issues;

(14) Upon the request of the Division, require a responsible parent to:

(I) Pay any support owed in accordance with a plan approved by the Division; or

(II) Participate in such work activities, as that term is defined in 42 U.S.C. § 607(d), as the Division deems appropriate;

(15) Award reasonable attorney's fees and other fees and costs; and

(16) Grant any other available remedy.

Sec. 6. NRS 425.3828 is hereby amended to read as follows:

425.3828 1. If a written response setting forth objections and requesting a hearing is received by the office issuing the notice and finding of financial responsibility within the specified period, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the parent by regular mail.

2. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall:

(a) Include in that recommendation:

(1) If the paternity of the dependent child is established by the recommendation, a declaration of that fact.

(2) The amount of monthly support to be paid, including directions concerning the manner of payment.

(3) The amount of arrearages owed.

(4) Whether coverage for health care must be provided for the dependent child.

(5) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[.]~~ regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(6) The names of the parents or legal guardians of the child.

(7) The name of the person to whom, and the name and date of birth of the dependent child for whom **,** support is to be paid.

(8) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(9) A statement that objections to the recommendation may be filed with the district court and served upon the other party within 10 days after receipt of the recommendation.

(b) Ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is to be paid are **[**:

~~(1) Provided~~**]** ***provided*** to the enforcing authority.

[~~(2) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.~~**]**

3. The parent must be sent a copy of the recommendation for the support of a dependent child by regular mail addressed to the last known address of the parent, or if applicable, the last known address of the attorney for the parent.

4. The recommendation for the support of a dependent child is final upon approval by the district court pursuant to NRS 425.3844. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, and the master enters a recommendation for the support of a dependent child, the court may grant relief from the recommendation on the grounds set forth in paragraph (b) of Rule 60 of the Nevada Rules of Civil Procedure.

Sec. 7. NRS 425.383 is hereby amended to read as follows:

425.383 1. After the entry of a recommendation for the support of a dependent child by the master that has been approved by the district court **[**~~,~~**]** ***pursuant to NRS 425.3844,*** or after entry of an order for the support of a dependent child by a district court regarding which the Chief is authorized to proceed pursuant to NRS 425.382 to 425.3852, inclusive, the responsible parent, the person entitled to support or the enforcing authority may move for the amount of the child support being enforced to be modified or adjusted in accordance with NRS 125B.145.

2. The motion must:

(a) Be in writing.

(b) Set out the reasons for the modification or adjustment.

(c) State the address of the moving party.

(d) Be served by the moving party upon the responsible parent or the person entitled to support, as appropriate, by first-class mail to the last known address of that person.

3. The moving party shall mail or deliver a copy of the motion and the original return of service to the Chief.

4. The Chief shall set the matter for a hearing within 30 days after the date of receipt of the motion unless a stipulated agreement between the parties is reached. The Chief shall send to the parties and person with physical custody of the dependent child a notice of the hearing by first-class mail to the last known address of those persons.

5. A motion for modification or adjustment requested pursuant to this section does not prohibit the Chief from enforcing and collecting upon the existing order for support of a dependent child unless so ordered by the district court.

6. The only support payments that may be modified or adjusted pursuant to this section are monthly support payments that:

(a) A court of this State has jurisdiction to modify pursuant to chapter 130 of NRS; and

(b) Accrue after the moving party serves notice that a motion has been filed for modification or adjustment.

7. The party requesting the modification or adjustment has the burden of showing a change of circumstances and good cause for the modification or adjustment, unless the request is filed in accordance with subsection 1 of NRS 125B.145.

Sec. 8. NRS 425.3832 is hereby amended to read as follows:

425.3832 1. Except as otherwise provided in this chapter, a hearing conducted pursuant to NRS 425.382 to 425.3852, inclusive, must be conducted in accordance with the provisions of this section by a qualified master appointed pursuant to NRS 425.381.

2. Subpoenas may be issued by:

(a) The master.

(b) The attorney of record for the office.

➥ Obedience to the subpoena may be compelled in the same manner as provided in chapter 22 of NRS. A witness appearing pursuant to a subpoena, other than a party or an officer or employee of the Chief, is entitled to receive the fees and payment for mileage prescribed for a witness in a civil action.

3. Except as otherwise provided in this section, the master need not observe strict rules of evidence ~~[.]~~ but shall apply those rules of evidence prescribed in NRS 233B.123.

4. The affidavit of any party who resides outside of the judicial district is admissible as evidence regarding the duty of support, any arrearages and the establishment of paternity. The master may continue the hearing to allow procedures for discovery regarding any matter set forth in the affidavit.

5. The physical presence of a person seeking the establishment, enforcement, modification or adjustment of an order for the support of a dependent child or the establishment of paternity is not required.

6. A verified petition, an affidavit, a document substantially complying with federally mandated forms and a document incorporated by reference in

any of them, not excluded under NRS 51.065 if given in person, is admissible in evidence if given under oath by a party or witness residing outside of the judicial district.

7. A copy of the record of payments for the support of a dependent child, certified as a true copy of the original by the custodian of the record, may be forwarded to the master. The copy is evidence of facts asserted therein and is admissible to show whether payments were made.

8. Copies of bills for testing for paternity, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 20 days before the hearing, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

9. Documentary evidence transmitted from outside of the judicial district by telephone, telecopier or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

10. The master may ~~[permit]~~ ***:***

(a) Conduct a hearing by telephone, audiovisual means or other electronic means outside of the judicial district in which he is appointed.

(b) Permit a party or witness residing outside of the judicial district to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location outside of the judicial district.

➥ The master shall cooperate with courts outside of the judicial district in designating an appropriate location for the ***hearing,*** deposition or testimony.

11. If a party called to testify at a hearing refuses to answer a question on the ground that the testimony may be self-incriminating, the master may draw an adverse inference from the refusal.

12. A privilege against the disclosure of communications between husband and wife does not apply.

13. The defense of immunity based on the relationship of husband and wife or parent and child does not apply.

Sec. 9. NRS 425.3834 is hereby amended to read as follows:

425.3834 1. Upon issuance by a district court of an order approving a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, the Chief shall enforce and collect upon the order, including arrearages.

2. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, is final upon approval by the district court pursuant to NRS 425.3844. Upon such approval, the recommendation is in full force and effect while any judicial review is pending unless the recommendation is stayed by the district court.

3. The district court may review ~~[, pursuant to the rules adopted therefor by the district judges of the judicial district in which the court is located,]~~ a recommendation entered by a master pursuant to NRS 425.382 to 425.3852,

inclusive. ***If a review is conducted, the district court shall review the recommendation on the record of the case before the master.***

Sec. 10. NRS 425.3836 is hereby amended to read as follows:

425.3836 1. After the issuance of an order for the support of a dependent child by a court, the Chief may issue a notice of intent to enforce the order. The notice must be served upon the responsible parent in the manner prescribed for service of summons in a civil action or mailed to the responsible parent by certified mail, restricted delivery, with return receipt requested.

2. The notice must include:

(a) The names of the person to whom support is to be paid and the dependent child for whom support is to be paid.

(b) The amount of monthly support the responsible parent is required to pay by the order for support.

(c) A statement of the arrearages owed pursuant to the order for support.

(d) A demand that the responsible parent make full payment to the enforcing authority within 14 days after the receipt or service of the notice.

(e) A statement that the responsible parent may be required to provide coverage for the health care of the dependent child when coverage is available to the parent at a reasonable cost.

(f) A statement of any requirements the Division will request pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[,]~~ regarding a plan for the payment of support by the responsible parent or the participation of the responsible parent in work activities.

(g) A statement that if the responsible parent objects to any part of the notice of intent to enforce the order, he must send to the office that issued the notice a written response within 14 days after the date of receipt of service that sets forth any objections and includes a request for a hearing.

(h) A statement that if full payment is not received within 14 days or a hearing has not been requested in the manner provided in paragraph (g), the Chief is entitled to enforce the order and that the property of the responsible parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(i) A reference to NRS 425.382 to 425.3852, inclusive.

(j) A statement that the responsible parent is responsible for notifying the office of any change of address or employment.

(k) A statement that if the responsible parent has any questions, he may contact the appropriate office or consult an attorney.

(l) Such other information as the Chief finds appropriate.

3. If a written response setting forth objections and requesting a hearing is received within the specified period by the office issuing the notice of intent to enforce the order, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the responsible parent by regular mail. If a written response and request for hearing is not received within the

specified period by the office issuing the notice, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall include in that recommendation:

(a) The amount of monthly support to be enforced, including directions concerning the manner of payment.

(b) The amount of arrearages owed and the manner of payment.

(c) Whether coverage for health care must be provided for the dependent child.

(d) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[.]~~ ~~,~~ regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(e) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, the withholding of wages, garnishment, liens and execution on liens.

4. After the district court approves the recommendation for the support of a dependent child, the recommendation is final. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. This section does not prevent the Chief from using other available remedies for the enforcement of an obligation for the support of a dependent child at any time.

6. The master may hold a hearing to enforce a recommendation for the support of a dependent child after the recommendation has been entered and approved by the district court ~~[.]~~ ***pursuant to NRS 425.3844.*** The master may enter a finding that the parent has not complied with the order of the court and may recommend to the district court that the parent be held in contempt of court. The finding and recommendation is effective upon review and approval of the district court.

Sec. 11. NRS 425.3844 is hereby amended to read as follows:

425.3844 1. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, must be furnished to each party or his attorney at the conclusion of the proceedings or as soon thereafter as possible.

2. Within 10 days after receipt of the recommendation, any party may file with the district court and serve upon the other parties a notice of objection to the recommendation. The notice must include:

(a) A copy of the master's recommendation;

(b) The results of any blood tests or tests for genetic identification examined by the master;

(c) A concise statement setting forth the reasons that the party disagrees with the master's recommendation, including any affirmative defenses that must be pleaded pursuant to the Nevada Rules of Civil Procedure;

(d) A statement of the relief requested;

(e) The notice and finding of financial responsibility if the Chief issued such a notice and finding; and

(f) Any other relevant documents.

3. ~~[The district court shall:~~

~~(a)]~~ If ***, within 10 days after receipt of the recommendation,*** a notice of objection is ~~[not]~~ ***:***

(a) Not filed, ~~[accept]~~ the recommendation entered by the master ~~[,~~ ~~including a recommendation establishing paternity, unless clearly erroneous,]~~ ***shall be deemed approved by the district court,*** and ***the clerk of the district court may file the recommendation pursuant to subsection 7 and*** judgment may be entered thereon; or

(b) ~~[If a notice of objection is filed within the 10-day period,]~~ ***Filed, the district court shall*** review the matter pursuant to NRS 425.3834.

4. A party who receives a notice of objection pursuant to subsection 2 is not required to file an answer to that notice. The district court shall review each objection contained in the notice.

5. If a notice of objection includes an objection to a recommendation establishing paternity, the enforcement of any obligation for the support of the child recommended by the master must, upon the filing and service of the notice, be stayed until the district court rules upon the determination of paternity. The obligation for the support of the child continues to accrue during the consideration of the determination of paternity and must be collected as arrears after the completion of the trial if the court approves the recommendation of the master.

6. If a recommendation entered by a master ***,*** ~~[pursuant to NRS 425.382 to 425.3852, inclusive,]~~ including a recommendation establishing paternity, ***is deemed approved by the district court pursuant to paragraph (a) of subsection 3 and the recommendation*** modifies or adjusts a previous order for support issued by any district court in this State, that district court ~~[shall review the recommendation and approve or reject the recommendation issued]~~ ***must be notified of the recommendation*** by the master.

7. Upon approval by the district court of a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, a copy of the recommendation, with the approval of the court endorsed thereon, must be filed:

(a) In the office of the clerk of the district court;

(b) If the order of the district court approving the recommendation of the master modifies or adjusts a previous order issued by any district court in this State, with the original order in the office of the clerk of that district court; and

(c) With any court that conducts a proceeding related thereto pursuant to the provisions of chapter 130 of NRS.

8. A district court that approves a recommendation pursuant to this section shall ensure that, before the recommendation is filed pursuant to

subsection 7, the social security numbers of the parents or legal guardians of the child are **[**~~:~~

~~(a) Provided~~**]** ***provided*** to the enforcing authority.

[~~(b) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.~~**]**

9. Upon the approval and filing of the recommendation as provided in subsection 7, the recommendation has the force, effect and attributes of an order or decree of the district court, including, but not limited to, enforcement by supplementary proceedings, contempt of court proceedings, writs of execution, liens and writs of garnishment.

Sec. 12. NRS 425.3855 is hereby amended to read as follows:

425.3855 A district court that enters an order pursuant to NRS 425.382 to 425.3852, inclusive, or an order approving a recommendation for the support of a dependent child made by a master shall ensure that the social security numbers of the parents or legal guardians of the child are **[**~~:~~

~~1. Provided~~**]** ***provided*** to the enforcing authority.

[~~2. Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.~~**]**

Sec. 13. NRS 425.460 is hereby amended to read as follows:

425.460 1. The Administrator shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible.

2. A financial institution doing business in this State shall:

(a) Cooperate with the Administrator in carrying out subsection 1.

(b) Use the system to provide to the Division for each calendar quarter the name, address of record, social security number or other number assigned for taxpayer identification, and other identifying information for each responsible parent who maintains an account at the financial institution, as identified by the Division by name and social security number or other number assigned for taxpayer identification.

(c) In response to the receipt from the Division ***or an agency for the enforcement of child support located in another state*** of:

(1) Notification of a lien against a responsible parent which:

(I) Arises pursuant to NRS 125B.142; or

(II) Is entitled to full faith and credit pursuant to NRS 125B.144,

➥ encumber **[**~~such~~**]** ***all*** assets held by the financial institution on behalf of the responsible parent **[**~~as may be required by the Chief.~~**]** ***and surrender those assets upon the enforcement of the lien pursuant to those sections.***

(2) A notice of attachment pursuant to subsection 2 of NRS 425.470, surrender to the Chief such assets held by the financial institution on behalf of the responsible parent as may be required by the Chief.

(d) Except as otherwise provided in paragraph (c), in response to the receipt of notice of a lien which is entitled to full faith and credit pursuant to NRS 125B.144 or notice of a levy on such a lien, encumber or surrender, as the case may be, such assets held by the financial institution on behalf of the responsible parent as may be required to enforce the lien.

➥ A financial institution doing business in this State which receives from the Division ***or an agency for the enforcement of child support located in another state*** a notice of lien, notice of attachment or notice of levy on a lien is not required to encumber or surrender any assets received by the financial institution on behalf of the responsible parent after the financial institution received the notice of lien, notice of attachment or notice of levy on a lien.

3. A financial institution may not be held liable in any civil or criminal action for:

(a) Any disclosure of information to the Division ***or an agency for the enforcement of child support located in another state*** pursuant to this section.

(b) Encumbering or surrendering any assets held by the financial institution pursuant to this section.

(c) Any other action taken in good faith to comply with the requirements of this section.

4. If a court issues an order to return to a responsible parent any assets surrendered by a financial institution pursuant to subsection 2, the Division ***or an agency for the enforcement of child support located in another state*** is not liable to the responsible parent for any of those assets that have been provided to another person or agency in accordance with the order for the payment of support.

Sec. 14. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person:

(a) Has failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Is in arrears in the payment for the support of one or more children,

➥ and the district court issues an order approving the recommendation of the master ~~[,]~~ ***pursuant to NRS 425.3844,*** the court shall provide a copy of the order to all agencies that issue professional, occupational or recreational licenses, certificates or permits.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional, occupational or recreational license, certificate or permit to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, the professional, occupational or recreational licenses issued to the person by that agency will be automatically suspended.

Such an order must not apply to a license, certificate or permit issued by the Department of Wildlife or the State Land Registrar if that license, certificate or permit expires less than 6 months after it is issued.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

(1) A copy of the court order;

(2) A statement of the amount of the arrearage; and

(3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 15. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person who is issued a professional or occupational license, certificate or permit pursuant to title 54 of NRS:

(a) Has failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Is in arrears in the payment for the support of one or more children,

➥ and the district court issues an order approving the recommendation of the master ~~[,]~~ ***pursuant to NRS 425.3844,*** the court shall provide a copy of the order to all agencies that issue professional or occupational licenses, certificates or permits pursuant to title 54 of NRS.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional or occupational license, certificate or permit pursuant to title 54 of NRS to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, any professional or occupational license, certificate or permit issued pursuant to title 54 of NRS to the person by that agency will be automatically suspended.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

(1) A copy of the court order;

(2) A statement of the amount of the arrearage; and

(3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 16. NRS 31A.095 is hereby amended to read as follows:

31A.095 1. If an employer ~~[wrongfully]~~ ***:***

(a) Wrongfully refuses to withhold income as required pursuant to NRS 31A.025 to 31A.190, inclusive, after receiving a notice to withhold income that was sent by certified mail pursuant to subsection 2 of NRS 31A.070 ~~[,]~~ ***;***

(b) Fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080; or ~~[knowingly]~~

(c) Knowingly misrepresents the income of an employee,

➥ the enforcing authority may apply for and the court may issue an order directing the employer to appear and show cause why he should not be subject to the penalty prescribed in subsection 2 of NRS 31A.120.

2. At the hearing on the order to show cause, the court, upon a finding that the employer wrongfully refused to withhold income as required ***, failed to deliver money to the enforcing authority as required*** or knowingly misrepresented an employee's income:

(a) May order the employer to comply with the requirements of NRS 31A.025 to 31A.190, inclusive;

(b) May order the employer to provide accurate information concerning the employee's income;

(c) May fine the employer pursuant to subsection 2 of NRS 31A.120; and

(d) Shall require the employer to pay the amount the employer failed or refused to withhold from the obligor's income ~~[.]~~ ***or failed to deliver to the enforcing authority.***

Sec. 17. NRS 31A.120 is hereby amended to read as follows:

31A.120 1. It is unlawful for an employer to use the withholding of income to collect an obligation of support as a basis for refusing to hire a potential employee, discharging the employee or taking disciplinary action against him. Any employer who violates this section shall hire or reinstate the employee with no loss of pay or benefits, is liable for any payments of support not withheld ~~[,]~~ and shall be fined $1,000. If an employee prevails in an action based on this section, the employer is liable, in an amount not less than $2,500, for payment of the employee's costs and attorney's fees incurred in that action.

2. If an employer ~~[wrongfully]~~ ***:***

(a) Wrongfully refuses to withhold from the income of an obligor as required pursuant to NRS 31A.025 to 31A.190, inclusive ~~[,]~~ ***;***

(b) Fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080; or ~~[knowingly]~~

(c) Knowingly misrepresents the income of the employee,

➥ he shall pay the amount he refused to withhold ***or failed to deliver*** to the enforcing authority and may be ordered to pay punitive damages to the person to whom support is owed in an amount not to exceed $1,000 for each

pay period he failed to withhold income as required **,** ***failed to deliver money to the enforcing authority as required*** or knowingly misrepresented the income of the employee.

Sec. 18. NRS 125.130 is hereby amended to read as follows:

125.130 1. A judgment or decree of divorce granted pursuant to the provisions of this chapter is a final decree.

2. Whenever a decree of divorce from the bonds of matrimony is granted in this State by a court of competent authority, the decree fully and completely dissolves the marriage contract as to both parties.

3. A court that grants a decree of divorce pursuant to the provisions of this section shall ensure that the social security numbers of both parties are ~~[~~**:**

~~(a) Provided to the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(b) Placed~~**]** ***placed*** in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

4. In all suits for divorce, if a divorce is granted, the court may, for just and reasonable cause and by an appropriate order embodied in its decree, change the name of the wife to any former name which she has legally borne.

Sec. 19. NRS 125.230 is hereby amended to read as follows:

125.230 1. The court in such actions may make such preliminary and final orders as it may deem proper for the custody, control and support of any minor child or children of the parties.

2. A court that enters an order pursuant to subsection 1 for the support of any minor child or children shall ensure that the social security numbers of the parties are ~~[~~**:**

~~(a) Provided~~**]** ***provided*** to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

~~[~~~~(b) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.~~**]**

Sec. 20. NRS 125.510 is hereby amended to read as follows:

125.510 1. In determining the custody of a minor child in an action brought pursuant to this chapter, the court may, except as otherwise provided in this section **,** ~~[and]~~ chapter 130 of NRS ~~[:]~~ ***and NRS 425.360:***

(a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest; and

(b) At any time **,** modify or vacate its order, even if the divorce was obtained by default without an appearance in the action by one of the parties.

➥ The party seeking such an order shall submit to the jurisdiction of the court for the purposes of this subsection. The court may make such an order upon the application of one of the parties or the legal guardian of the minor.

2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if

it is shown that the best interest of the child requires the modification or termination. The court shall state in its decision the reasons for the order of modification or termination if either parent opposes it.

3. Any order for custody of a minor child or children of a marriage entered by a court of another state may, subject to the jurisdictional requirements in chapter 125A of NRS, be modified at any time to an order of joint custody.

4. A party may proceed pursuant to this section without counsel.

5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.

6. All orders authorized by this section must be made in accordance with the provisions of chapter 125A of NRS and must contain the following language:

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.

7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify that the terms of the Hague Convention ***on the Civil Aspects of International Child Abduction*** of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.

8. If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual

residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

9. Except where a contract providing otherwise has been executed pursuant to NRS 123.080, the obligation for care, education, maintenance and support of any minor child created by any order entered pursuant to this section ceases:

(a) Upon the death of the person to whom the order was directed; or

(b) When the child reaches 18 years of age if he is no longer enrolled in high school, ***or*** otherwise, when he reaches 19 years of age.

10. As used in this section, a parent has "significant commitments in a foreign country" if he:

(a) Is a citizen of a foreign country;

(b) Possesses a passport in his name from a foreign country;

(c) Became a citizen of the United States after marrying the other parent of the child; or

(d) Frequently travels to a foreign country.

Sec. 21. NRS 125B.055 is hereby amended to read as follows:

125B.055 1. A court that, on or after October 1, 1998, issues or modifies an order in this State for the support of a child shall ~~[~~:

~~(a) Obtain~~] ***obtain*** and provide to the Division of Welfare and Supportive Services of the Department of Health and Human Services such information regarding the order as the Division of Welfare and Supportive Services determines is necessary to carry out the provisions of 42 U.S.C. § 654a.

~~[(b) Ensure that the social security numbers of the child and the parents of the child are placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.]~~

2. Within 10 days after a court of this State issues an order for the support of a child, each party to the cause of action shall file with the ~~[court that issued the order and the]~~ Division of Welfare and Supportive Services:

(a) His social security number;

(b) His residential and mailing addresses;

(c) His telephone number;

(d) His driver's license number; and

(e) The name, address and telephone number of his employer.

➥ Each party shall update the information filed with the ~~[court and the]~~ Division of Welfare and Supportive Services pursuant to this subsection within 10 days after that information becomes inaccurate.

3. The Division of Welfare and Supportive Services shall adopt regulations specifying the particular information required to be provided pursuant to subsection 1 to carry out the provisions of 42 U.S.C. § 654a.

Sec. 22. NRS 125B.085 is hereby amended to read as follows:

125B.085 1. Except as otherwise provided in NRS 125B.012, every court order for the support of a child issued or modified in this State on or after June 2, 2007, must include a provision specifying that one or both parents are required to provide medical support for the child and any details relating to that requirement.

2. As used in this section, "medical support" includes, without limitation, coverage for health care under a plan of insurance ~~[,]~~ ***that is reasonable in cost and accessible,*** including, without limitation, the payment of any premium, copayment or deductible and the payment of medical expenses. ***For the purpose of this subsection:***

(a) Payments of cash for medical support or the costs of coverage for health care under a plan of insurance are "reasonable in cost" if:

(1) In the case of payments of cash for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or

(2) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of the parent.

(b) Coverage for health care under a plan of insurance is "accessible" if the plan:

(1) Is not limited to coverage within a geographical area; or

(2) Is limited to coverage within a geographical area and the child resides within that geographical area.

Sec. 23. ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.]~~ **(Deleted by amendment.)**

Sec. 24. 1. This section and sections 1 to 14, inclusive, and 16 to 23, inclusive, of this act become effective on October 1, 2009.

2. Section 14 of this act expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

3. Section 15 of this act becomes effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 146.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 476.

AN ACT relating to business; providing for the establishment of a state business portal by the Secretary of State; revising the provisions relating to the issuance of state business licenses and transferring ~~[the]~~ **certain** responsibilities concerning state business licenses from the Department of Taxation to the Secretary of State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides for the establishment of a state business portal by the Secretary of State to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal. The Secretary of State is required to: (1) **establish, through cooperative efforts, the standards and requirements necessary to design, build and implement the state business portal; (2)** establish the standards and requirements necessary for a state or local agency to participate in the state business portal; ~~[(2)]~~ **(3)** authorize a state or local agency to participate in the state business portal if the Secretary of State determines that the agency meets the standards and requirements necessary for such participation; ~~[(3) prescribe the appropriate forms and format]~~ **(4) determine the appropriate requirements** to be used by businesses and governmental agencies conducting transactions through use of the state business portal; and ~~[(4)]~~ **(5)** adopt regulations and take any appropriate action as necessary to provide for the establishment, operation and maintenance of the state business portal.

Section 3 of this bill authorizes the Secretary of State, within the limit of money ~~[available]~~ **authorized** to him and subject to the approval of the State Board of Examiners, to enter into contracts and other lawful agreements with private or public entities to assist the Secretary of State in establishing, operating or maintaining the state business portal.

Section 4 of this bill provides that the Secretary of State may apply for and accept any gift, donation, bequest, grant or other source of money to provide for the establishment, operation and maintenance of the state business portal.

Sections 6-18 of this bill transfer ~~[the]~~ **certain** duties and responsibilities concerning the issuance of state business licenses from the Department of Taxation to the Secretary of State. (NRS 360.760-360.798)

WHEREAS, Historically, various state and local governmental agencies have often required businesses to submit various applications for necessary

licenses, permits and approvals, through the use of numerous forms and formats and multiple web sites, as determined by those separate agencies; and

WHEREAS, Advances in information technology enable governmental agencies to make the exchange of information from business to government, from government to business, and across governmental agencies more efficient and effective for all parties; and

WHEREAS, States that make required transactions among businesses and governmental agencies faster, easier and cheaper than other states provide a competitive advantage for businesses under their jurisdiction and thereby encourage economic development within their jurisdiction; and

WHEREAS, The State of Nevada should strive to become the national leader for online interaction between business and government; and

WHEREAS, The establishment of a state business portal by the Secretary of State would provide a single, secure portal for the transaction of business and would improve efficiency, eliminate redundancy, streamline the establishment of businesses, improve accountability and enhance economic development in this State; now, therefore,

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

Section 1. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***1. The Secretary of State shall provide for the establishment of a state business portal to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal.***

2. The Secretary of State shall:

(a) Establish, through cooperative efforts, the standards and requirements necessary to design, build and implement the state business portal;

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

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

~~*[(c) Prescribe the appropriate forms and format]*~~

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

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

Sec. 3. ***Within the limit of money*** ~~*[available]*~~ ***authorized to him and subject to the approval of the State Board of Examiners, the Secretary of***

State may enter into contracts and other lawful agreements with private or public entities to assist the Secretary of State in establishing, operating or maintaining the state business portal and carrying out the provisions of this chapter.

Sec. 4. ***The Secretary of State may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this chapter.***

Sec. 5. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 6 to 18, inclusive, of this act.

Sec. 6. ***As used in sections 6 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 10, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 7. ***1. Except as otherwise provided in subsection 2, "business" means:***

(a) Any person, except a natural person, that performs a service or engages in a trade for profit;

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity; or

(c) Any ~~[business]~~ entity organized pursuant to this title, including, without limitation, those ~~[business]~~ entities required to file with the Secretary of State ~~[.]~~ , whether or not the entity performs a service or engages in a business for profit.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A business organized pursuant to chapter 82 or 84 of NRS.

Sec. 8. ***~~[~~"Exhibition" means a trade show or convention, craft show, sporting event or any other similar event involving the exhibition of***

~~*property, products, goods, services or athletic or physical skill.]*~~ **(Deleted by amendment.)**

Sec. 9. ***"State business license" means the business license required pursuant to this chapter.***

Sec. 10. ***"Wages" means any remuneration paid for personal services, including commissions, and bonuses and remuneration payable in any medium other than cash.***

Sec. 11. ***1.*** ~~*[Except as otherwise provided in subsection 7, a]*~~ ***A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:***

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

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

2. An application for a state business license must:

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

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

(c) Be accompanied by a fee of $100; and

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

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

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

(a) The owner ~~*[, if the]*~~ ***of a business that is owned by a natural person .*** ~~*[;]*~~

(b) A member or partner ~~*[, if the business is owned by]*~~ ***of an association or partnership .*** ~~*[; or]*~~

(c) A general partner of a limited partnership.

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

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

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application . ~~*[, if the business is owned by a corporation.*~~

~~*4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.*~~

~~5.]~~ ***4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.***

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

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

(a) Is organized pursuant to this title, other than a business organized pursuant to chapter 82 or 84 of NRS;

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

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

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

7. ~~*[A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to section 15 of this act.*~~

~~8.]~~ ***As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.***

Sec. 12. ***If a person fails to obtain a state business license and pay the fee required pursuant to section 11 of this act*** ~~*[in a timely manner]*~~ ***before conducting a business in this State and the person is:***

1. ~~*[A business]*~~ ***An entity required to file an annual list with the Secretary of State pursuant to this title, the person:***

(a) Shall pay a penalty of $100 in addition to the ~~*[initial]*~~ ***annual state business license fee;***

(b) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and

(c) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in paragraph (a).

2. Not ~~*[a business]*~~ ***an entity required to file an*** ~~*[initial or]*~~ ***annual list with the Secretary of State, the person shall pay a penalty in the amount of $100 in addition to the*** ~~*[initial]*~~ ***annual state business license fee.***

Sec. 13. ***1. A natural person is not required to obtain more than one state business license for any combination of activities conducted by that person which are reported to the Internal Revenue Service for any federal tax year on two or more of the forms described in paragraph (b) of subsection 1 of section 7 of this act.***

2. As used in this section, "federal tax year" means any period of 12 months for which a person is required to report income, tax deductions and tax credits pursuant to the provisions of the Internal Revenue Code and any regulations adopted pursuant thereto.

Sec. 14. ***1. ~~[Except as otherwise provided in subsection 2, a]~~ A person who ~~[has been issued]~~ applies for renewal of a state business license shall submit a fee of $100 to the Secretary of State:***

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

(b) If the person is not an entity required to file an annual list with the Secretary of State pursuant to this title ~~[:~~

~~(1) On]~~ , on the last day of the month in which the anniversary date of issuance of the state business license occurs in each year ~~[; or~~

~~(2) At such other annual date as the Secretary of State and person may mutually agree,~~

~~]~~ , unless the person submits a written statement to the Secretary of State, at least 10 days before that date, indicating that the person will not be conducting a business in this State after that date.

2. The Secretary of State ~~[may reduce the amount of any initial fee required pursuant to subparagraph (2) of paragraph (b) of subsection 1 to allow credit for the remaining portion of a year for which the fee has been paid for the state business license pursuant to subparagraph (1) of paragraph (b) of subsection 1 or section 11 of this act.]~~ shall, 90 days before the last day for filing an application for renewal of the state business license of a person who holds a state business license, provide to the person a notice of the state business license fee due pursuant to this section and a reminder to file the application for renewal required pursuant to this section. Failure of any person to receive a notice does not excuse the person from the penalty imposed by law.

3. If a person fails to submit the annual state business license fee required pursuant to this section in a timely manner and the person is:

(a) ~~[A business]~~ An entity required to file an annual list with the Secretary of State pursuant to this title, the person:

(1) Shall pay a penalty of $100 in addition to the annual state business license fee;

(2) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and

(3) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in subparagraph (1).

(b) Not ~~[a business]~~ an entity required to file an annual list with the Secretary of State, the person shall pay a penalty in the amount of $100 in addition to the annual state business license fee. The Secretary of State shall provide to the person a written notice that:

(1) Must include a statement indicating the amount of the fees and penalties required pursuant to this section and the costs remaining unpaid.

(2) May be provided electronically, if the person has requested to receive communications by electronic transmission, by electronic mail or other electronic communication.

Sec. 15. ***~~[1. A person or governmental entity that operates a facility at which one or more exhibitions are held is responsible for the payment of a licensing fee pursuant to this section on behalf of the persons who do not have a state business license but who take part in the exhibition for a purpose related to the conduct of a business.~~***

~~2. The operator of the facility shall pay the licensing fee required by subsection 1 either:~~

~~(a) On an annual basis by remitting to the Secretary of State the sum of $5,000 on or before July 1 for all the exhibitions held at that facility during the fiscal year beginning on that day; or~~

~~(b) On a quarterly basis by remitting to the Secretary of State an amount equal to the product of the total number of businesses taking part in each exhibition at the facility during a calendar quarter who do not have a state business license multiplied by the number of days on which the exhibition is held at the facility during the calendar quarter, multiplied in turn by $1.25 for each exhibition held at the facility during the calendar quarter.~~

~~3. If the operator of a facility at which an exhibition is held has not paid the licensing fee as provided in paragraph (a) of subsection 2, the operator of the facility shall, on or before the last day of each calendar quarter in which an exhibition is held at that facility, remit to the Secretary of State the licensing fee in the amount required by paragraph (b) of subsection 2 for all the exhibitions held at that facility during that calendar quarter.~~

~~4. The licensing fees due pursuant to this section must be calculated, reported and paid separately from any other fees due from the operator of the facility pursuant to this chapter.~~

~~5. The Secretary of State may adopt such regulations as it deems necessary to carry out the provisions of this section.]~~ **(Deleted by amendment.)**

Sec. 15.5. The Secretary of State may adopt such regulations as are necessary to carry out the provisions of this chapter.

Sec. 16. ***1. The Secretary of State shall deposit all money received pursuant to this chapter with the State Treasurer for credit to the Account for Operation of the State Business Portal.***

2. The money in the Account may be used, to the extent of legislative authorization, only for the costs of ~~[establishing,]~~ :

(a) Establishing, operating and maintaining the state business portal established pursuant to sections 2, 3 and 4 of this act, including, without limitation, the payment of any fixed sum or any percentage of revenue that is required to be paid under the terms of any contract or agreement entered into by the Secretary of State and a private or public entity pursuant to section 3 of this act [.] ; and

(b) Administering the provisions of this chapter.

3. Any money remaining in the Account at the end of a fiscal year in excess of the amount authorized for expenditure during that fiscal year must be transferred to the State General Fund.

Sec. 17. ***1. Except as otherwise provided in this chapter and NRS 239.0115, the records and files of the Secretary of State concerning the administration of this chapter are confidential and privileged. The Secretary of State, and any employee of the Secretary of State engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Secretary of State nor any employee of the Secretary of State may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.***

2. The records and files of the Secretary of State concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Secretary of State and production of records, files and information on behalf of the Secretary of State or a person in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his authorized representative of a copy of any document filed by the person pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to any person authorized to audit the accounts of the Secretary of State in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. The Secretary of State may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

4. The Secretary of State shall periodically, as he deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which he has a record. The list must include the mailing address of the business as reported to the Secretary of State.

Sec. 18. ***1. If a person who holds a state business license fails to comply with a provision of this chapter or a regulation of the Secretary of State adopted pursuant thereto, the Secretary of State may revoke or suspend the state business license of the person.*** ~~*[Before so doing, the Secretary of State must hold a hearing after 10 days' written notice to the licensee. The notice must specify the time and place of the hearing and require the licensee to show cause why his license should not be revoked.]*~~

2. If the license is suspended or revoked, the Secretary of State shall ~~*[give]*~~ ***provide written notice of the action to the person who holds the state business license.***

3. ~~*[The notices required by this section may be served personally, by mail or, if the person has agreed to receive communications by electronic transmission, by electronic mail or other electronic communication.*~~

~~*4.]*~~ ***The Secretary of State shall not issue a new license to the former holder of a revoked state business license unless the Secretary of State is satisfied that the person will comply with the provisions of this chapter and the regulations of the Secretary of State adopted pursuant thereto.***

Sec. 19. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, on or before the last day of the first month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

(a) The name of the corporation;

(b) The file number of the corporation, if known;

(c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;

(d) The address, either residence or business, of each officer and director listed, following the name of the officer or director;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

(a) A declaration under penalty of perjury that the corporation:

(1) Has complied with the provisions of ~~[NRS 360.780;]~~ ***sections 6 to 18, inclusive, of this act;*** and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

(a) Subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

5. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 2, cause to be mailed to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the

appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

Sec. 20. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of its certificate of corporate existence with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors;

(b) The information required pursuant to NRS 77.310; and

(c) The signature of an officer of the corporation.

2. Each list filed pursuant to subsection 1 must be accompanied by:

(a) A declaration under penalty of perjury that the foreign corporation has complied with the provisions of ~~[~~NRS 360.780~~]~~ ***sections 6 to 18, inclusive, of this act*** and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the foreign corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

3. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

4. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the

corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any corporation to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

6. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 21. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign nonprofit corporation;

(b) The file number of the foreign nonprofit corporation, if known;

(c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;

(d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the foreign nonprofit corporation certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign nonprofit corporation:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of $25.

4. The Secretary of State shall, 60 days before the last day for filing each annual list, cause to be mailed to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.5239, inclusive,

and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign nonprofit corporation to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.5239, inclusive.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 22. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited-liability company;

(b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of $125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the

resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, cause to be mailed to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file a list required by subsection 2. Failure of any company to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 23. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited-liability company with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list on a form furnished by him that contains:

(a) The name of the foreign limited-liability company;

(b) The file number of the foreign limited-liability company, if known;

(c) The names and titles of all its managers or, if there is no manager, all its managing members;

(d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the foreign limited-liability company certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited-liability company:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

4. If a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, cause to be mailed to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited-liability company to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

Sec. 24. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, on or before the last day of the first month after the filing of its certificate of registration with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the registered limited-liability partnership;

(b) The file number of the registered limited-liability partnership, if known;

(c) The names of all of its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the registered limited-liability partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the registered limited-liability partnership has complied with the provisions of ~~[NRS 360.780, an acknowledgment]~~ ***sections 6 to 18, inclusive, of this act and acknowledges*** that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

3. If a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to the registered limited-liability partnership a notice of the fee due pursuant to subsection 2 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice or form does not excuse it from complying with the provisions of this section.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection 2 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 25. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign registered limited-liability partnership;

(b) The file number of the foreign registered limited-liability partnership, if known;

(c) The names of all its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the foreign registered limited-liability partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign registered limited-liability partnership:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

4. If a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.544, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign registered limited-liability partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.544, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 26. NRS 87A.290 is hereby amended to read as follows:

87A.290 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied

with the provisions of ~~[NRS 360.780]~~ ***sections 6 to 18, inclusive, of this act*** and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list. Failure of any limited partnership to receive a notice or form does not excuse it from the penalty imposed by NRS 87A.300.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 87A.240 and may not be substituted for filings submitted pursuant to NRS 87A.240.

Sec. 27. NRS 87A.560 is hereby amended to read as follows:

87A.560 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign limited partnership, which is required to comply with the provisions of NRS 87A.560 to 87A.600, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 87A.560 to 87A.600, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 28. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of ~~[NRS 360.780]~~ ***sections 6 to 18, inclusive, of this act*** and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $175.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list. Failure of any limited partnership to receive a notice or form does not excuse it from the penalty imposed by NRS 88.400.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

Sec. 29. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 30. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, on or before the last day of the first month after the filing of its certificate of trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list signed by at least one trustee that contains the name and street address of at least one trustee and the information required pursuant to NRS 77.310. Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the business trust:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

3. If a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.660, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of a business trust to receive the forms does not excuse it from the penalty imposed by law.

5. An annual list for a business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 31. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign business trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign business trust;

(b) The file number of the foreign business trust, if known;

(c) The name of at least one of its trustees;

(d) The address, either residence or business, of the trustee listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a trustee of the foreign business trust certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign business trust:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

4. If a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign business trust to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 32. NRS 89.250 is hereby amended to read as follows:

89.250 1. Except as otherwise provided in subsection 2, a professional association shall, on or before the last day of the first month after the filing of its articles of association with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its organization occurs in each year, file with the Secretary of State a list showing the names and addresses, either residence or business, of all members and employees in the professional association and certifying that all

members and employees are licensed to render professional service in this State.

2. A professional association organized and practicing pursuant to the provisions of this chapter and NRS 623.349 shall, on or before the last day of the first month after the filing of its articles of association with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its organization occurs in each year, file with the Secretary of State a list:

(a) Showing the names and addresses, either residence or business, of all members and employees of the professional association who are licensed or otherwise authorized by law to render professional service in this State;

(b) Certifying that all members and employees who render professional service are licensed or otherwise authorized by law to render professional service in this State; and

(c) Certifying that all members who are not licensed to render professional service in this State do not render professional service on behalf of the professional association except as authorized by law.

3. Each list filed pursuant to this section must be:

(a) Made on a form furnished by the Secretary of State and must not contain any fiscal or other information except that expressly called for by this section.

(b) Signed by the chief executive officer of the professional association.

(c) Accompanied by a declaration under penalty of perjury that the professional association:

(1) Has complied with the provisions of ~~[NRS 360.780;]~~ ***sections 6 to 18, inclusive, of this act;*** and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by this section, the professional association shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the professional association shall pay to the Secretary of State a fee of $125.

Sec. 33. NRS 244.335 is hereby amended to read as follows:

244.335 1. Except as otherwise provided in subsections 2, 3 and 4, a board of county commissioners may:

(a) Except as otherwise provided in NRS 244.331 to 244.3345, inclusive, 598D.150 and 640C.100, regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns.

(b) Except as otherwise provided in NRS 244.3359 and 576.128, fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.

2. The county license boards have the exclusive power in their respective counties to regulate entertainers employed by an entertainment by referral service and the business of conducting a dancing hall, escort service, entertainment by referral service or gambling game or device permitted by law, outside of an incorporated city. The county license boards may fix, impose and collect license taxes for revenue or for regulation, or for both revenue and regulation, on such employment and businesses.

3. A board of county commissioners shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

4. The board of county commissioners or county license board shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of ~~[~~NRS 360.780.~~]~~ ***sections 6 to 18, inclusive, of this act.*** The county license board shall provide upon request an application for a business license pursuant to ~~[~~NRS 360.780.~~]~~ ***sections 6 to 18, inclusive, of this act.*** As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied for the purposes of NRS 244.3358 or 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months after the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against the property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 244.3357, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation ***or Secretary of State*** for the exchange of information concerning taxpayers.

Sec. 34. NRS 268.095 is hereby amended to read as follows:

268.095 1. Except as otherwise provided in subsection 4, the city council or other governing body of each incorporated city in this State, whether organized under general law or special charter, may:

(a) Except as otherwise provided in subsection 2 and NRS 268.0968 and 576.128, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

(b) Assign the proceeds of any one or more of such license taxes to the county within which the city is situated for the purpose or purposes of making the proceeds available to the county:

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655, inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities.

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general or special obligations issued by the city for a purpose authorized by the laws of this State.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the laws of this State;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. The city council or other governing body of an incorporated city shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

3. The proceeds of any tax imposed pursuant to this section that are pledged for the repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

4. The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of ~~[NRS 360.780.]~~ ***sections 6 to 18, inclusive, of this act.*** The city licensing agency shall provide upon request an application for a business license pursuant to ~~[NRS 360.780.]~~ ***sections 6 to 18, inclusive, of this act.*** As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months following the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation ***or the Secretary of State*** for the exchange of information concerning taxpayers.

8. The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, any other law. No part of this section repeals or affects any other law or any part thereof, it being intended that this section provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 35. **NRS 360.760 is hereby amended to read as follows:**

360.760 As used in NRS 360.760 to ~~[360.798,]~~ ***360.796,*** inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[360.765 to 360.775, inclusive,]~~ ***360.767, 360.773 and 360.774*** have the meanings ascribed to them in those sections.

Sec. 36. **NRS 360.773 is hereby amended to read as follows:**

360.773 "State business license" means the business license required pursuant to ~~[NRS 360.780.]~~ ***sections 6 to 18, inclusive, of this act.***

Sec. 37. **NRS 360.780 is hereby amended to read as follows:**

360.780 ~~[1. Except as otherwise provided in subsection 7, a person shall not conduct a business in this State unless he has a state business license issued by the Department.~~

~~2. An application for a state business license must:~~

~~(a) Be made upon a form prescribed by the Department;~~

~~(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business;~~

~~(c) Be accompanied by a fee of $100; and~~

~~(d) Include any other information that the Department deems necessary.~~

~~3. The application must be signed by:~~

~~(a) The owner, if the business is owned by a natural person;~~

~~(b) A member or partner, if the business is owned by an association or partnership; or~~

~~(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.~~

~~4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.~~

~~5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.~~

~~6. For the purposes of NRS 360.760 to 360.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:~~

~~(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;~~

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

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

~~7.]~~ A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 360.787.

Sec. 38. **NRS 360.790 is hereby amended to read as follows:**

360.790 The Department shall deposit all money it receives pursuant to NRS 360.760 to ~~[360.798,]~~ ***360.796,*** inclusive, in the State Treasury for credit to the State General Fund.

Sec. 39. **NRS 360.795 is hereby amended to read as follows:**

360.795 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration of NRS 360.760 to ~~[360.798,]~~ ***360.796,*** inclusive, are confidential and privileged. The Department, and any employee of the Department engaged in the administration of NRS 360.760 to ~~[360.798,]~~ ***360.796,*** inclusive, or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of NRS 360.760 to ~~[360.798,]~~ ***360.796,*** inclusive, are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his authorized representative of a copy of any document filed by the person pursuant to NRS 360.760 to ~~[360.798,]~~ ***360.796,*** inclusive.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

4. The Executive Director shall periodically, as he deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which he has a record. The list must include the mailing address of the business as reported to the Department.

~~[Sec. 35.]~~ ***Sec. 40.*** NRS 372.220 is hereby amended to read as follows:

372.220 1. Every retailer who sells tangible personal property for storage, use or other consumption in this State shall register with the Department and give:

(a) The name and address of all agents operating in this State.

(b) The location of all distribution or sales houses or offices or other places of business in this State.

(c) Such other information as the Department may require.

2. Every business that purchases tangible personal property for storage, use or other consumption in this State shall, at the time the business obtains a business license pursuant to ~~[NRS 360.780,]~~ ***sections 6 to 18, inclusive, of this act,*** register with the Department on a form prescribed by the Department. As used in this section, "business" has the meaning ascribed to it in ~~[NRS 360.765.]~~ ***section 7 of this act.***

~~[Sec. 36.]~~ ***Sec. 41.*** NRS 459.3824 is hereby amended to read as follows:

459.3824 1. The owner or operator of a facility shall pay to the Division an annual fee based on the fiscal year. The annual fee for each facility is the sum of a base fee set by the State Environmental Commission and any additional fee imposed by the Commission pursuant to subsection 2. The annual fee must be prorated and may not be refunded.

2. The State Environmental Commission may impose an additional fee upon the owner or operator of a facility in an amount determined by the Commission to be necessary to enable the Division to carry out its duties pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto. The additional fee must be based on a graduated schedule adopted by the Commission which takes into consideration the quantity of hazardous substances located at each facility.

3. After the payment of the initial annual fee, the Division shall send the owner or operator of a facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

4. The State Environmental Commission may modify the amount of the annual fee required pursuant to this section and the timing for payment of the annual fee:

(a) To include consideration of any fee paid to the Division for a permit to construct a new process or commence operation of a new process pursuant to NRS 459.3829; and

(b) If any regulations adopted pursuant to NRS 459.380 to 459.3874, inclusive, require such a modification.

5. The owner or operator of a facility shall submit, with any payment required by this section, the business license number assigned by the ~~[Department of Taxation]~~ ***Secretary of State*** upon compliance by the owner with ~~[NRS 360.780.]~~ ***the provisions of sections 6 to 18, inclusive, of this act.***

6. All fees fines, penalties and other money collected pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto, other than a fine collected pursuant to subsection 3 of NRS 459.3834, must be deposited with the State Treasurer for credit to the Fund for Precaution Against Chemical Accidents, which is hereby created as a special revenue fund. All interest earned on the money in the Fund must be credited to the Fund.

~~[Sec. 37.]~~ ***Sec. 42.*** NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of ~~[NRS 360.780.]~~ ***sections 6 to 18, inclusive, of this act.***

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice

must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

Sec. 43. **Chapter 719 of NRS is hereby amended by adding thereto a new section to read as follows:**

The Secretary of State may require a governmental agency of this State or a governmental agency of a political subdivision of this State, as a condition of participation in the state business portal established pursuant to sections 2, 3 and 4 of this act, to send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

Sec. 44. **NRS 719.350 is hereby amended to read as follows:**

719.350 1. Except as otherwise provided in subsection 6 of NRS 719.290 **[.]** ***and section 43 of this act,*** each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

2. **[To]** ***Except as otherwise provided in section 43 of this act, to*** the extent that a governmental agency uses electronic records and electronic signatures under subsection 1, the governmental agency, giving due consideration to security, may specify:

(a) The manner and format in which the electronic records must be created, generated, sent, communicated, received and stored and the systems established for those purposes;

(b) If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(c) Processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality and auditability of electronic records; and

(d) Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

3. Except as otherwise provided in subsection 6 of NRS 719.290 **[.]** ***and section 43 of this act,*** the provisions of this chapter do not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

[~~Sec. 38.~~**]** ***Sec. 45.*** NRS **[**~~360.760,~~**]** 360.765, **[**~~360.767, 360. 773, 360.774,~~**]** 360.775, **[**~~360.780,~~**]** 360.782, 360.784 **[**~~, 360.787, 360. 790, 360.795, 360.796~~**]** and 360.798 are hereby repealed.

~~[Sec. 39.]~~ ***Sec. 46.*** 1. Except as otherwise provided in subsection 2, a person who holds a state business license which was issued pursuant to NRS 360.760 to 360.798, inclusive, before January 1, 2010, and which is not expired or revoked ~~[:~~

~~(a) Shall be deemed to hold a state business license issued pursuant to sections 6 to 18, inclusive, of this act until the date of expiration of his state business license issued pursuant to NRS 360.760 to 360.798, inclusive; and~~

~~(b) Is]~~ **is** not required to obtain a state business license pursuant to sections 6 to 18, inclusive, of this act until the expiration of his state business license issued pursuant to NRS 360.760 to 360.798, inclusive.

2. If a person who holds a state business license which was issued pursuant to NRS 360.760 to 360.798, inclusive, before January 1, 2010, and which is not expired or revoked is ~~[a business]~~ **an entity** that is required to file an annual list with the Secretary of State pursuant to title 7 of NRS, the person ~~[:~~

~~(a) Shall be deemed to hold a state business license issued pursuant to sections 6 to 18, inclusive, of this act until the date on which the person is required to file an annual list pursuant to title 7 of NRS; and~~

~~(b) Is]~~ **is not** required to obtain a state business license pursuant to sections 6 to 18, inclusive, of this act ~~[at the time of filing]~~ **until the expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive, unless the entity is required to file** the annual list pursuant to title 7 of NRS ~~[, except that the]~~ **before the expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive, in which case the person is required to obtain a state business license pursuant to sections 6 to 18, inclusive, of this act at the time of filing the annual list. The** amount of the fee for obtaining the state business license pursuant to sections 6 to 18, inclusive, of this act must be prorated to reflect credit for the period remaining before expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive.

~~[Sec. 40.]~~ ***Sec. 47.*** This act becomes effective ~~[on]~~ **:**

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

2. On January 1, 2010 ~~[.]~~ **, for all other purposes.**

LEADLINES OF REPEALED SECTIONS

~~[~~ ~~360.760 Definitions.]~~

360.765 "Business" defined.

~~[~~ ~~360.767 "Exhibition" defined.~~

~~360.773 "State business license" defined.~~

~~360.774 "Unauthorized alien" defined.]~~

360.775 "Wages" defined.

~~[360.780 State business license required; application and fee for license; activities constituting conduct of business; participation in exhibition.]~~

360.782 Limitation on number of licenses natural person is required to obtain.

360.784 Annual fee for license: Amount; submission; penalty for late payment.

~~[360.787 Payment of licensing fees by operator of facility where exhibition is held; regulations.~~

~~360.790 Deposit of proceeds in State General Fund.~~

~~360.795 Confidentiality of records and files of Department.~~

~~360.796 Unlawful hiring or employment of unauthorized alien: Hearing; administrative fine; regulations.]~~

360.798 Enforcement of provisions: Revocation or suspension of license; denial of new license.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 181.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 304.

AN ACT relating to education; **revising provisions governing the membership of a committee to form a charter school and the governing body of a charter school; revising provisions for the process of review of an application to form a charter school;** authorizing the governing body of a charter school to set a salary for the attendance of its members at meetings of the governing body; revising the requirements for a charter school to be eligible for an exemption from annual performance audits and to receive certain money for facilities; **revising various other provisions governing charter schools; repealing the Subcommittee on Charter Schools;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes the membership of a committee to form a charter school and prescribes the process for the initial review of an application to form a charter school by the Department of Education. (NRS 386.520) Section 1 of this bill revises the membership of the committee and the process for review of the application by the Department.

Upon approval of an application by the Department, existing law provides that a committee to form a charter school may submit an application to the proposed sponsor. (NRS 386.525) Section 2 of this bill revises provisions governing the review of such an application if the State Board of Education is the proposed sponsor.

Existing law authorizes the governing body of a charter school to submit a request for an amendment to the written charter. (NRS 386.527) Section 3 of this bill provides that if the sponsor of the

charter school denies the request for an amendment, the sponsor must provide written notice of the reasons for the denial.

Existing law requires the Department to provide certain information regarding the charter schools operating in this State. (NRS 386.545) Section 5 of this bill provides that if the Department requests certain information from a charter school that is not required by specific statute, the Department shall include in the request a mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will cost the charter school money.

Existing law prescribes the membership, qualifications and powers of the governing body of a charter school and requires the governing body to hold at least quarterly meetings. (NRS 386.549) **Section ~~[1]~~ 6** of this bill **revises provisions governing the membership of the governing body and** authorizes the governing body ~~[of a charter school]~~ **, upon a majority vote of the members,** to set a salary for the attendance of its members at meetings of the governing body, not to exceed $80 per meeting per month.

Existing law prescribes the requirements for a charter school to be exempt from an annual performance audit and undergo a performance audit every 3 years and to be eligible for available money from legislative appropriations or otherwise for facilities. A charter school is eligible if at least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination. (NRS 386.5515) **Section ~~[2]~~ 7** of this bill revises this eligibility provision to require that at least 75 percent of the pupils enrolled in the charter school in grade 12 in the immediately preceding school year **who have** satisfied the coursework requirements for graduation ~~[and]~~ **have** passed the high school proficiency examination.

Existing law provides that the pupils enrolled in charter schools must be included in the count for the purposes of apportionments and allowances from the State Distributive School Account and provides for the reimbursement of administrative costs to the sponsor of a charter school. (NRS 386.570) Section 9 of this bill requires the State Board to prescribe a process which ensures that all charter schools, regardless of sponsor, have information of all sources of funding for the public schools provided through the Department. Section 9 also changes the percentage of administrative costs that the State Board or a college or university may receive for sponsorship after the first year of operation of a charter school from 1.5 percent to 1 percent.

Existing law prescribes the process for a parent or legal guardian of a child to file a notice of intent to homeschool the child with the superintendent of schools of the school district. (NRS 392.700) Section 10 of this bill provides that if such a child seeks admittance or entrance to a public school after being homeschooled, the parent or legal guardian shall notify the superintendent to withdraw the notice of intent to

homeschool. Section 10 further provides that if such a child enrolls in a charter school, the charter school shall notify the board of trustees of the school district in which the child resides.

Existing law creates the Subcommittee on Charter Schools. (NRS 386.507) Section 11 of this bill repeals the Subcommittee.

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

Section 1. **NRS 386.520 is hereby amended to read as follows:**

386.520 1. A committee to form a charter school must consist of ~~[at least three teachers, as defined in subsection 4.]~~ ***:***

(a) Two members who are educational personnel licensed pursuant to chapter 391 of NRS;

(b) One parent or legal guardian who is not a teacher or employee of the proposed charter school; and

(c) Two members who possess knowledge and expertise in one or more of the following areas:

(1) Accounting;

(2) Financial services;

(3) Law; or

(4) Human resources.

2. In addition to the ~~[teachers]~~ ***members*** who serve ~~[,]~~ ***pursuant to subsection 1,*** the committee may ~~[consist of:]~~ ***include, without limitation, not more than four additional members as follows:***

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

➥ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

~~[2.]~~ ***3.*** Before a committee to form a charter school may submit an application to the board of trustees of a school district, ~~[the Subcommittee on Charter Schools,]~~ the State Board or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The application must include all information prescribed by the Department by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive.

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the opportunities for pupils to learn;

(2) Encouraging the use of effective methods of teaching;

(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates of enrollment for the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method of selecting the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

~~[3.]~~ ***4.*** The Department shall review an application to form a charter school to determine whether it is ***substantially*** complete ~~[.]~~ ***and compliant.*** If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall ~~[deny the application.]~~ ***provide written notice to the applicant that the application is ineligible for consideration by the proposed sponsor.***

5. The Department shall provide written notice to the applicant of its approval or denial of the application. If the Department ~~[denies]~~ ***determines that*** an application ~~[,]~~ ***is not substantially complete and compliant,*** the Department shall include in the written notice the ~~[reason for the denial]~~ ***basis for that determination*** and the deficiencies in the application. ***The staff designated by the Department shall meet with the applicant to confer on the method to correct the identified deficiencies.*** The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[4. As used in subsection 1, "teacher" means a person who:~~

~~(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and~~

~~(b) Has at least 2 years of experience as an employed teacher.~~

~~"The term does not include a person who is employed as a substitute teacher.]~~

Sec. 2. **NRS 386.525 is hereby amended to read as follows:**

386.525 1. Upon ~~[approval of an application]~~ ***determination*** by the Department ~~[,]~~ ***that an application is substantially complete and compliant,*** a committee to form a charter school may submit the application to the board of trustees of the school district in which the proposed charter school will be located, a college or university within the Nevada System of Higher Education or ~~[directly to the Subcommittee on Charter Schools.]~~ ***the State Board.*** If the board of trustees of a school district, a college or a university, as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. The board of trustees, the college, the university or the ~~[Subcommittee on Charter Schools,]~~ ***State Board,*** as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the Department.

2. The Department shall assist the board of trustees of a school district, the college or the university, as applicable, in the review of an application.

The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

3. If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection 3, the applicant may submit a written request ***to the State Board*** for sponsorship by the State Board ~~[to the Subcommittee on Charter Schools created pursuant to NRS 386.507]~~ not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

5. If the ~~[Subcommittee on Charter Schools]~~ ***State Board*** receives an application pursuant to subsection 1 or 4, it shall ~~[hold]~~ ***consider the application at*** a meeting ~~[to consider the application. The meeting]~~ ***which*** must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~[Subcommittee]~~ ***State Board*** shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The ~~[Subcommittee]~~ ***State Board*** may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.

~~[6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The State Board may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.]~~ Not more than 30 days after the meeting, the State Board shall provide written notice of its determination to the applicant.

~~[7.]~~ ***6.*** If the State Board denies ***or fails to act upon*** an application, ~~[it]~~ ***the denial or failure to act must be based upon a finding that the applicant failed to adequately address objective criteria established by regulation of the Department or the State Board. The State Board*** shall include in the written notice the reasons for the denial ***or the failure to act*** and the deficiencies in the application. ***The staff designated by the Department shall meet with the applicant to confer on the method to correct the identified***

deficiencies. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[8.]~~ ***7.*** If the State Board denies an application after it has been resubmitted pursuant to subsection ~~[7,]~~ ***6,*** the applicant may, not more than 30 days after the receipt of the written notice from the State Board, appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~[9.]~~ ***8.*** On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the State Board, a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 3. **NRS 386.527 is hereby amended to read as follows:**

386.527 1. If the State Board, the board of trustees of a school district or a college or university within the Nevada System of Higher Education approves an application to form a charter school, it shall grant a written charter to the applicant. The State Board, the board of trustees, the college or the university, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the State Board approves the application:

(a) The State Board shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State Board shall adopt:

(a) An application process for a charter school that requests a change in the sponsorship of the charter school, which must not require the applicant to

undergo the requirements of an initial application to form a charter school; and

(b) Objective criteria for the conditions under which such a request may be granted.

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in paragraphs (a) to (o), inclusive, of subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school**.** ~~[if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate.]~~ If the proposed amendment complies with the provisions of this section, NRS 386.500 to 386.610, inclusive, and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. ~~[If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.]~~ ***If the sponsor denies the request for an amendment, the sponsor shall provide written notice to the governing body of the charter school setting forth the reasons for the denial.***

7. The State Board shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

(a) Period for which such a written charter is valid; and

(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.

➥ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

8. The holder of a written charter that is issued pursuant to subsection 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the State Board pursuant to subsection 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

➥ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 4. **NRS 386.540 is hereby amended to read as follows:**

386.540 1. The Department shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the Department, the board of trustees of a school district, the ~~[~~Subcommittee on Charter Schools~~]~~ ***State Board*** and a college or university within the Nevada System of Higher Education, and the contents of the application;

(c) The process for submission of an application to renew a written charter; ~~[~~and~~]~~

(d) The criteria and type of investigation that must be applied by the board of trustees, ~~[~~the Subcommittee on Charter Schools,~~]~~ the State Board and a

college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school**, ~~[or]~~** an application to renew a written charter **~~[.]~~** ***or a request for amendment of a written charter; and***

(e) The process for submission of an amendment of a written charter pursuant to NRS 386.527 and the contents of the application.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

(b) Requirements for performance audits and financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(c) Requirements for performance audits every 3 years and financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

Sec. 5. **NRS 386.545 is hereby amended to read as follows:**

386.545 1. The Department and the board of trustees of a school district shall:

(a) Upon request, provide information to the general public concerning the formation and operation of charter schools; and

(b) Maintain a list available for public inspection that describes the location of each charter school.

2. The sponsor of a charter school shall:

(a) Provide reasonable assistance to an applicant for a charter school and to a charter school in carrying out the provisions of NRS 386.500 to 386.610, inclusive;

(b) Provide technical and other reasonable assistance to a charter school for the operation of the charter school;

(c) Provide information to the governing body of a charter school concerning the availability of money for the charter school, including, without limitation, money available from the Federal Government; and

(d) Provide timely access to the electronic data concerning the pupils enrolled in the charter school that is maintained pursuant to NRS 386.650.

3. If the board of trustees of a school district is the sponsor of a charter school, the sponsor shall:

(a) Provide the charter school with an updated list of available substitute teachers within the school district.

(b) Provide access to school buses for use by the charter school for field trips. The school district may charge a reasonable fee for the use of the school buses.

(c) If the school district offers summer school or Internet-based credit recovery classes, allow the pupils enrolled in the charter school to participate if space is available. The school district shall apply the same fees, if any, for

participation of the pupils enrolled in the charter school as it applies to pupils enrolled in the school district.

4. The Department shall provide appropriate information, education and training for charter schools and the governing bodies of charter schools concerning the applicable provisions of title 34 of NRS and other laws and regulations that affect charter schools and the governing bodies of charter schools.

5. If the Department prescribes a process for charter schools to report certain information, the Department may request the identified information regardless if that information is required to be submitted by charter schools pursuant to a specific statute. Upon such a request, a charter school shall provide the information if the Department includes a detailed description of the requested information and the mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will cost money for the charter school.

~~[Section 1.]~~ ***Sec. 6.*** NRS 386.549 is hereby amended to read as follows:

386.549 1. The governing body of a charter school:

(a) Must consist of:

(1) At least ~~[three]~~ ***two*** teachers, as defined in subsection 5; or

(2) ~~[Two teachers,]~~ ***One teacher*** as defined in subsection 5, and one person who previously held a license to teach issued pursuant to chapter 391 of NRS as long as his license was held in good standing, including, without limitation, a retired teacher.

(b) Must consist of at least one parent or legal guardian of a pupil enrolled in the charter school who is not a teacher or administrator at the charter school.

~~[(b)]~~ ***(c)*** May ~~[consist of,]~~ ***include,*** without limitation, parents and representatives of nonprofit organizations and businesses. Not more than two persons who serve on the governing body may represent the same organization or business or otherwise represent the interests of the same organization or business. A majority of the members of the governing body must reside in this State. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

2. A person may serve on the governing body only if he submits an affidavit to the Department indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to the person by the Department.

3. The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the

Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

4. The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which the charter school is located. ~~*[Each]*~~ ***Upon an affirmative vote of a majority of the membership of the governing body, each member is entitled to receive a salary of not more than $80 for attendance at each meeting, as fixed by the governing body, not to exceed payment for more than one meeting per month.***

5. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➥ The term does not include a person who is employed as a substitute teacher.

~~**[**Sec. 2.**]**~~ ***Sec. 7.*** NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled ***in grade 12*** in the charter school ~~**[**who are required to take**]**~~ ***in the immediately preceding school year who have completed the required coursework for graduation*** ~~*[and]*~~ ***have passed*** the high school proficiency examination ~~**,** **[**have passed that examination,**]**~~ if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without showing good cause for such a request.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 8. **NRS 386.560 is hereby amended to read as follows:**

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located ***or in which a pupil enrolled in the charter school resides*** or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers.

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** shall authorize the pupil to participate in sports at the public school that he would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➥ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 9. **NRS 386.570 is hereby amended to read as follows:**

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose. ***The State Board shall prescribe a process which ensures that all charter schools, regardless of sponsor, have information about all sources of funding for the public schools provided through the Department, including local funds pursuant to NRS 387.1235.***

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of a school year, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school year if the sponsor provided administrative services during that school year. The request must include an itemized list of those costs. Upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the

reimbursement, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

(b) For any year after the first year of operation of the charter school, ~~[1.5]~~ ***1*** percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with

applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 10. **NRS 392.700 is hereby amended to read as follows:**

392.700 1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written notice of intent to homeschool the child. The Department shall develop a standard form for the notice of intent to homeschool. The form must not require any information or assurances that are not otherwise required by this section or other specific statute. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents who wish to homeschool their child.

2. The notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

3. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance.

4. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

5. A notice of intent to homeschool must include only the following:

(a) The full name, age and gender of the child;

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) An educational plan for the child that is prepared pursuant to subsection 12;

(e) If applicable, the name of the public school in this State which the child most recently attended; and

(f) An optional statement that the parent may sign which provides:

I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

6. Each superintendent of schools of a school district shall accept notice of intent to homeschool that is filed with him pursuant to this section and meets the requirements of subsection 5, and shall not require or request any additional information or assurances from the parent who filed the notice.

7. The school district shall provide to a parent who files a notice a written acknowledgment which clearly indicates that the parent has provided notification required by law and that the child is being homeschooled. The written acknowledgment shall be deemed proof of compliance with Nevada's compulsory school attendance law. The school district shall retain a copy of the written acknowledgment for not less than 15 years. The written acknowledgment may be retained in electronic format.

8. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if he is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

9. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child. ***The parent or legal guardian of the child shall notify the superintendent of schools of the school district that the parent or legal guardian requests that the notice of intent to homeschool filed pursuant to this section be withdrawn. If such a child enrolls in a charter school, the charter school shall notify the board of trustees of the school district in which the child resides of the child's enrollment in the charter school.*** A homeschooled child seeking admittance to public high school must comply with NRS 392.033.

10. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

11. Each school district shall allow homeschooled children to participate in the high school proficiency examination administered pursuant to NRS 389.015 and all college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test. Each school district shall ensure that the homeschooled children who reside in the school district have adequate notice of the availability of information concerning such examinations on the Internet website of the school district maintained pursuant to NRS 389.004.

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the notice of intent to homeschool filed pursuant to this section. If the educational plan contains the requirements of this section, the educational plan must not be used in any manner as a basis for denial of a notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

13. No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his child based on religious preference unless it is:

(a) Essential to further a compelling governmental interest; and

(b) The least restrictive means of furthering that compelling governmental interest.

14. As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.

Sec. 11. **NRS 386.507 is hereby repealed.**

~~[Sec. 3.]~~ ***Sec. 12.*** This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

386.507 Subcommittee on Charter Schools: Appointment of members; terms. The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his service on the Subcommittee, his term on the Subcommittee expires when his membership on the State Board expires. Members of the Subcommittee may be reappointed.

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 186.

Bill read second time.

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

Amendment No. 247.

AN ACT relating to public utilities; revising the definition of "public utility" and "utility"; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises the definition of "public utility" and "utility" to exempt certain persons who own and operate renewable energy systems. (NRS 704.021)

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

Section 1. NRS 704.021 is hereby amended to read as follows:

704.021 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to $25,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

9. Persons who ~~[are engaged in the business of owning and operating]~~ for compensation own or operate individual systems which use renewable energy to generate electricity and ~~[selling]~~ sell the electricity generated from those systems if each individual system is:

(a) Located on the premises of another person; ~~[and]~~

(b) ~~[Intended primarily to offset part or all]~~ Used to produce not more than 150 percent of that other person's requirements for electricity ~~[.]~~ on an annual basis for the premises on which the individual system is located; and

(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

➥ As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 207.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 354.

AN ACT relating to common-interest communities; revising certain requirements for limited-purpose associations that are created for a rural agricultural residential common-interest communities; providing that such a limited-purpose association is a public body for purposes of the Open Meeting Law; **providing that a study of the reserves of an association may be conducted by a person without a permit under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a limited-purpose association that is created for a rural agricultural residential common-interest community must comply with certain requirements set forth in chapter 116 of NRS. **Section 1** of this bill exempts such a limited-purpose association from the requirement to: (1) pay a fee to the Real Estate Administrator for each unit in the association as required pursuant to NRS 116.31155; (2) comply with certain rules for meetings of the executive board; and (3) conduct a study every 5 years of the reserves required to repair, replace and restore the major components of the common elements of the community, and take certain actions concerning the study. (NRS 116.1201, 116.31083, 116.31152, 116.31155)

Existing law requires each limited-purpose association that is created for a rural agricultural residential common-interest community to comply with chapter 241 of NRS, which is commonly referred to as the Open Meeting Law. (NRS 116.31075) **Section 2** of this bill amends the definition of "public body" for purposes of the Open Meeting Law to include a limited-purpose

association that is created for a rural agricultural residential common-interest community. (NRS 241.015) Thus, such a limited-purpose association will be subject to enforcement action by the Attorney General if the association violates the Open Meeting Law. (NRS 241.037)

Existing law provides that at least once every 5 years, the executive board of an association shall cause a study of the reserves of the association required to repair, replace and restore the major components of the association to be conducted by a person who holds a permit to conduct such a study. (NRS 116.31152) Sections 1.3 and 1.7 of this bill provide that if the common-interest community contains 20 or fewer units and is located in a county with a population of 50,000 or less (currently counties other than Carson City, Clark and Washoe Counties), the study may be conducted by any person whom the executive board deems qualified to conduct the study.

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

Section 1. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155 ~~[,]~~ ***, unless the limited-purpose association is created for a rural agricultural residential common-interest community;***

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038 ~~[,]~~ ***;***

(II) NRS 116.31083 and 116.31152 ~~[,]~~ ***, unless the limited-purpose association is created for a rural agricultural residential common-interest community;*** and

~~[(II)]~~ ***(III)*** NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and

other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 1.3. **NRS 116.31152 is hereby amended to read as follows:**

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements;

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. ~~[The]~~ ***Except as otherwise provided in this subsection, the*** study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to chapter 116A of NRS. ***If the common-interest community contains 20 or fewer units and is located in a county whose population is 50,000 or less, the study of the reserves required by subsection 1 may be conducted by any person whom the executive board deems qualified to conduct the study.***

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements that the association is obligated to repair, replace or restore;

(b) An identification of the major components of the common elements that the association is obligated to repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the common elements identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of repairing, replacement or restoration of the major components of the common elements identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 1.7. **NRS 116A.420 is hereby amended to read as follows:**

116A.420 1. Except as otherwise provided in this section ~~[,]~~ ***and subsection 2 of NRS 116.31152,*** a person shall not act as a reserve study specialist unless the person holds a permit.

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists who hold permits.

3. The Division may investigate any reserve study specialist who holds a permit to ensure that the reserve study specialist is complying with the provisions of this chapter and chapters 116 and 116B of NRS and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist who holds a permit has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to issue a permit to a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the permit of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

Sec. 2. NRS 241.015 is hereby amended to read as follows:

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

1. "Action" means:

(a) A decision made by a majority of the members present during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present during a meeting of a public body;

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

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

2. "Meeting":

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

(1) The gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over

which the public body has supervision, control, jurisdiction or advisory power.

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

(I) Less than a quorum is present at any individual gathering;

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

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

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

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

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

3. Except as otherwise provided in this subsection, "public body" means ~~[any]~~ ***:***

(a) Any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405 ~~[.]~~ ***; and***

(b) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201.

➥ "Public body" does not include the Legislature of the State of Nevada.

4. "Quorum" means a simple majority of the constituent membership of a public body or another proportion established by law.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 252.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 366.

SUMMARY—Provides for the waiver of fees for the issuance of certain forms of identifying information for certain persons **.** ~~[released from prison.]~~ (BDR 40-521)

AN ACT relating to ~~[convicted persons;]~~ **personal identification;** providing for the waiver of fees for the issuance of certain forms of identifying information for certain persons **;** ~~[released from prison;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the waiver of certain fees relating to the issuance of certified copies of birth certificates and duplicate drivers' licenses and identification cards to homeless persons. (NRS 440.175, 440.700, 483.417, 483.825) **Sections 1-4** of this bill provide for a similar waiver of such fees for **: (1)** persons who were released from prison within the immediately preceding 6 months ~~[.]~~ **; and (2) persons who were within the custody of the Division of Child and Family Services of the Department of Health and Human Services within the immediately preceding 6 months or who are scheduled to be released from the custody of the Division within 6 months, after submitting the required documentation for a fee waiver.** **Section 5** of this bill requires the Department of Motor Vehicles to encourage vendors that have entered into an agreement with the Department to produce photographs for drivers' licenses and identification cards to waive the costs charged to the Department to produce photographs for duplicate drivers' licenses and identification cards for such ~~[former prisoners.]~~ **persons who were released from prison and such persons who were released or are scheduled to be released from the custody of the Division.**

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

Section 1. NRS 440.175 is hereby amended to read as follows:

440.175 1. Upon request, the State Registrar may furnish statistical data to any federal, state, local or other public or private agency, upon such terms or conditions as may be prescribed by the Board.

2. No person may prepare or issue any document which purports to be an original, certified copy, certified abstract or official copy of:

(a) A certificate of birth, death or fetal death, except as authorized in this chapter or by the Board.

(b) A certificate of marriage, except a county clerk, county recorder or a person so required pursuant to NRS 122.120.

(c) A decree of divorce or annulment of marriage, except a county clerk or the judge of a court of record.

3. A person or governmental organization which issues certified or official copies pursuant to paragraph (a) of subsection 2 shall:

(a) Not charge a fee for issuing a certified or official copy of a certificate of birth to ~~[a]~~ ***:***

(1) A homeless person who submits a signed affidavit on a form prescribed by the State Registrar stating that the person is homeless.

(2) A person who submits documentation from the Department of Corrections verifying that the person was released from prison within the immediately preceding 6 months.

(3) A person who submits documentation from the Division of Child and Family Services of the Department of Health and Human Services verifying that the person was released from the custody of the Division within the immediately preceding 6 months or is scheduled to be released within 6 months after submitting the documentation.

(b) Remit to the State Registrar:

(1) For each registration of a birth or death in its district, ...$2.

(2) For each copy issued of a certificate of birth in its district, other than a copy issued pursuant to paragraph (a), $7.

(3) For each copy issued of a certificate of death in its district, ...$1.

Sec. 2. NRS 440.700 is hereby amended to read as follows:

440.700 1. Except as otherwise provided in this section, the State Registrar shall charge and collect the following fees:

For searching the files for one name, if no copy is made $8
For verifying a vital record 8
For establishing and filing a record of paternity (other than a hospital-based paternity), and providing a certified copy of the new record 20
For a certified copy of a record of birth 13
For a certified copy of a record of death originating in a county in which the board of county commissioners has not created an account for the support of the office of the county coroner pursuant to NRS 259.025 10
For a certified copy of a record of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025 11
For correcting a record on file with the State Registrar and providing a certified copy of the corrected record 20
For replacing a record on file with the State Registrar and providing a certified copy of the new record 20
For filing a delayed certificate of birth and providing a certified copy of the certificate 20
For the services of a notary public, provided by the State Registrar..... 2
For an index of records of marriage provided on microfiche to a person other than a county clerk or a county recorder of a county of this State $200
For an index of records of divorce provided on microfiche to a person other than a county clerk or a county recorder of a county in this State 100
For compiling data files which require specific changes in computer programming 200

2. The fee collected for furnishing a copy of a certificate of birth or death includes the sum of $3 for credit to the Children's Trust Account created by NRS 432.131.

3. The fee collected for furnishing a copy of a certificate of death includes the sum of $1 for credit to the Review of Death of Children Account created by NRS 432B.409.

4. The State Registrar shall not charge a fee for furnishing a certified copy of a record of birth to ~~[~~a~~]~~ ***:***

(a) A homeless person who submits a signed affidavit on a form prescribed by the State Registrar stating that the person is homeless.

(b) A person who submits documentation from the Department of Corrections verifying that the person was released from prison within the immediately preceding 6 months.

(c) A person who submits documentation from the Division of Child and Family Services of the Department of Health and Human Services verifying that the person was released from the custody of the Division within the immediately preceding 6 months or is scheduled to be released within 6 months after submitting the documentation.

5. The fee collected for furnishing a copy of a certificate of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025 includes the sum of $1 for credit to the account for the support of the office of the county coroner of the county in which the certificate originates.

6. Upon the request of any parent or guardian, the State Registrar shall supply, without the payment of a fee, a certificate limited to a statement as to the date of birth of any child as disclosed by the record of such birth when the certificate is necessary for admission to school or for securing employment.

7. The United States Bureau of the Census may obtain, without expense to the State, transcripts or certified copies of births and deaths without payment of a fee.

Sec. 3. NRS 483.417 is hereby amended to read as follows:

483.417 1. The Department shall waive the fee prescribed by NRS 483.410 and the increase in the fee required by NRS 483.347 not more than one time for furnishing a duplicate driver's license to ~~[~~a~~]~~ ***:***

(a) A homeless person who submits a signed affidavit on a form prescribed by the Department stating that the person is homeless.

(b) A person who submits documentation from the Department of Corrections verifying that the person was released from prison within the immediately preceding 6 months.

(c) A person who submits documentation from the Division of Child and Family Services of the Department of Health and Human Services verifying that the person was released from the custody of the Division within the immediately preceding 6 months or is scheduled to be released within 6 months after submitting the documentation.

2. A vendor that has entered into an agreement with the Department to produce photographs for drivers' licenses pursuant to NRS 483.347 may

waive the cost it charges the Department to produce the photograph of a homeless person ***, ~~[or]~~ person released from prison , or person released or scheduled to be released from the custody of the Division of Child and Family Services*** for a duplicate driver's license.

3. If the vendor does not waive pursuant to subsection 2 the cost it charges the Department and the Department has waived the increase in the fee required by NRS 483.347 for a duplicate driver's license furnished to a ~~[homeless]~~ person pursuant to subsection 1, the ~~[homeless]~~ person shall reimburse the Department in an amount equal to the increase in the fee required by NRS 483.347 if the ~~[homeless]~~ person:

(a) Applies to the Department for the renewal of his driver's license; and

(b) Is employed at the time of such application.

4. The Department may accept gifts, grants and donations of money to fund the provision of duplicate drivers' licenses without a fee to ~~[homeless persons.]~~ ***persons pursuant to subsection 1.***

Sec. 4. NRS 483.825 is hereby amended to read as follows:

483.825 1. The Department shall waive the fee prescribed by NRS 483.820 and the increase in the fee required by NRS 483.347 not more than one time for furnishing a duplicate identification card to ~~[a]~~ ***:***

(a) A homeless person who submits a signed affidavit on a form prescribed by the Department stating that the person is homeless.

(b) A person who submits documentation from the Department of Corrections verifying that the person was released from prison within the immediately preceding 6 months.

(c) A person who submits documentation from the Division of Child and Family Services of the Department of Health and Human Services verifying that the person was released from the custody of the Division within the immediately preceding 6 months or is scheduled to be released within 6 months after submitting the documentation.

2. A vendor that has entered into an agreement with the Department to produce photographs for identification cards pursuant to NRS 483.347 may waive the cost it charges the Department to produce the photograph of a homeless person ***, ~~[or]~~ person released from prison , or person released or scheduled to be released from the custody of the Division of Child and Family Services*** for a duplicate identification card.

3. If the vendor does not waive pursuant to subsection 2 the cost it charges the Department and the Department has waived the increase in the fee required by NRS 483.347 for a duplicate identification card furnished to a ~~[homeless]~~ person pursuant to subsection 1, the ~~[homeless]~~ person shall reimburse the Department in an amount equal to the increase in the fee required by NRS 483.347 if the ~~[homeless]~~ person:

(a) Applies to the Department for the renewal of his identification card; and

(b) Is employed at the time of such application.

4. The Department may accept gifts, grants and donations of money to fund the provision of duplicate identification cards without a fee to ~~[homeless persons.]~~ ***persons pursuant to subsection 1.***

5. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.

Sec. 5. The Department of Motor Vehicles shall encourage each vendor that has entered into an agreement with the Department to produce photographs for drivers' licenses and identification cards pursuant to NRS 483.347 to waive **, pursuant to subsection 2 of NRS 483.417, as amended by section 3 of this act, and subsection 2 of NRS 483.825, as amended by section 4 of this act,** the cost ~~[it]~~ **that the vendor** charges the Department to produce photographs for duplicate drivers' licenses or identification cards furnished to ~~[persons]~~ **:**

1. Persons released from prison within the immediately preceding 6 months ~~[pursuant to subsection 2 of NRS 483.417, as amended by section 3 of this act, and subsection 2 of NRS 483.825, as amended by section 4 of this act.]~~ **; and**

2. Persons released from the custody of the Division of Child and Family Services of the Department of Health and Human Services within the immediately preceding 6 months or scheduled to be released from the custody of the Division within 6 months after submitting the required documentation to the Department of Motor Vehicles.

Sec. 6. This act becomes effective on July 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 335.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 344.

AN ACT relating to criminal gangs; enhancing penalties and providing for the suspension of drivers' licenses for certain crimes committed to promote criminal gang activity; ~~[authorizing a juvenile court to certify a child as an adult for certain offenses committed to promote criminal gang activity;]~~ making various changes relating to nuisances and criminal gangs; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who commits a felony to promote the activities of a criminal gang is subject to an additional penalty under certain circumstances. (NRS 193.168) **Section 1** of this bill provides that if a person commits a crime normally punishable as a misdemeanor or gross misdemeanor to promote the activities of a criminal gang and if the person has previously been convicted of ~~[a]~~ **at least three** similar ~~[violation,]~~ **violations,** then: (1) the person may be found guilty of a category E felony;

and (2) the driver's license of the person may be suspended for a certain period. **Section 2** of this bill clarifies that if a person is subject to the increased penalty provided in **section 1**, the person is not subject to certain other additional penalties. (NRS 193.169)

Existing law provides that certain places used for certain illegal activities constitute a private nuisance, which creates civil liability and allows any person whose property is affected to bring a civil action to abate the nuisance and recover damages. (NRS 40.140) **Section 3** of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a private nuisance. Existing law also provides that certain places used for certain illegal activities constitute a public nuisance, and any person responsible for such a public nuisance who does not abate the public nuisance is guilty of a misdemeanor. (NRS 202.450, 202.470) **Section 5** of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a public nuisance.

~~[Section 4 of this bill authorizes a juvenile court to certify a child as an adult if the child: (1) is charged with an offense that would have been punishable pursuant to section 1 of this bill if committed by an adult; and (2) was 14 years of age or older at the time the child allegedly committed the offense.]~~

Sections 6 and 7 of this bill authorize the board of county commissioners of a county and the governing body of a city to adopt an ordinance authorizing the filing of a civil action, under certain circumstances, to: (1) enjoin the activities of a specific member of a criminal gang; and (2) recover money damages, attorney's fees and costs against a member of a criminal gang and the owner of a business or place that constitutes a nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang. **Sections 6 and 7** also provide that a member of a criminal gang who is subject to an injunction and who knowingly and intentionally commits a material violation of that injunction is guilty of a misdemeanor.

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

Section 1. Chapter 193 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in NRS 193.169, if:

(a) A person commits a violation of a statute that is punishable as a misdemeanor or gross misdemeanor pursuant to that statute;

(b) The person commits that violation knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

(c) The person has previously been convicted of ~~[a]~~ at least three similar ~~[violation,]~~ violations,

➥ the person may be deemed to be guilty of a category E felony and may be punished as provided in NRS 193.130.

2. If a person is punished pursuant to this section, the court may, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years and requiring the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court may issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. If the court issues an order pursuant to this subsection, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses, together with a copy of the order.

3. The court shall not punish a person pursuant to this section unless:

(a) The indictment, information or complaint charging the person with the violation specifically indicates that the State is seeking to punish the person pursuant to this section and specifically alleges that the violation was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

4. In any proceeding to punish a person pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

(a) Characteristics of persons who are members of criminal gangs;

(b) Specific rivalries between criminal gangs;

(c) Common practices and operations of criminal gangs and the members of those gangs;

(d) Social customs and behavior of members of criminal gangs;

(e) Terminology used by members of criminal gangs;

(f) Codes of conduct, including criminal conduct, of particular criminal gangs; and

(g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.

Sec. 2. NRS 193.169 is hereby amended to read as follows:

193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's

conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection 3 of NRS 193.161, subsection 3 of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

3. ***A person who is punished pursuant to section 1 of this act must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.***

4. This section does not:

(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 ***, 2*** or ~~[2.]~~ ***3.***

(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1 ***, 2*** or ~~[2]~~ ***3*** and introducing evidence to prove the alternative allegations.

Sec. 3. NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section:

(a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog; ~~[or]~~

(c) A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(1) Which has not been deemed safe for habitation by a governmental entity; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog ~~[.]~~ ***; or***

(d) A building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang,

➥ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

➥ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section:

(a) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(b) ***"Criminal gang" has the meaning ascribed to it in NRS 193.168.***

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(c)]~~ ***(d)*** "Shooting range" means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

Sec. 4. ~~[NRS 62B.390 is hereby amended to read as follows:~~

~~62B.390 1. Except as otherwise provided in subsection 2 and NRS 62B.400, upon a motion by the district attorney and after a full investigation, the juvenile court may certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult~~ **[**~~,~~**]** ~~if the child:~~

~~(a) Is charged with~~ **[**~~an~~**]** ~~:~~

(1) An ~~offense that would have been a felony if committed by an adult;~~ **[**~~and~~**]** ***or***

(2) An offense that would have been punishable pursuant to section 1 of this act if committed by an adult; and

~~(b) Was 14 years of age or older at the time the child allegedly committed the offense.~~

~~2. Except as otherwise provided in subsection 3, upon a motion by the district attorney and after a full investigation, the juvenile court shall certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult [,] if the child:~~

~~(a) Is charged with:~~

~~(1) A sexual assault involving the use or threatened use of force or violence against the victim; or~~

~~(2) An offense or attempted offense involving the use or threatened use of a firearm; and~~

~~(b) Was 14 years of age or older at the time the child allegedly committed the offense.~~

~~3. The juvenile court shall not certify a child for criminal proceedings as an adult pursuant to subsection 2 if the juvenile court specifically finds by clear and convincing evidence that:~~

~~(a) The child is developmentally or mentally incompetent to understand his situation and the proceedings of the court or to aid his attorney in those proceedings; or~~

~~(b) The actions of the child were substantially the result of the substance abuse or emotional or behavioral problems of the child and the substance abuse or emotional or behavioral problems may be appropriately treated through the jurisdiction of the juvenile court.~~

~~4. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 or 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the offense for which the child was certified, regardless of the nature of the related offense.~~

~~5. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 or 2 and the child's case has been transferred out of the juvenile court:~~

~~(a) The court to which the case has been transferred has original jurisdiction over the child;~~

~~(b) The child may petition for transfer of the case back to the juvenile court only upon a showing of exceptional circumstances; and~~

~~(c) If the child's case is transferred back to the juvenile court, the juvenile court shall determine whether the exceptional circumstances warrant accepting jurisdiction.]~~ **(Deleted by amendment.)**

Sec. 5. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor or controlled substance analog is unlawfully sold, served, stored, kept, manufactured, used or given away; ~~[or]~~

(f) ***That is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang; or***

(g) Where vagrants resort,

➥ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

➥ is a public nuisance.

4. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by a governmental entity and:

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

➥ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

7. As used in this section:

(a) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(b) ***"Criminal gang" has the meaning ascribed to it in NRS 193.168.***

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(c)]~~ ***(d)*** "Shooting range" has the meaning ascribed to it in NRS 40.140.

Sec. 6. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of any other law or ordinance, each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file a civil action in a court of competent jurisdiction to seek any or all of the following relief:

(a) A temporary or permanent injunction against any specific member of a criminal gang to enjoin his activity which is associated with the criminal gang and which is occurring within the county.

(b) The recovery of money damages, attorney's fees and costs from:

(1) Any member of a criminal gang that is engaging in criminal activities within the county; and

(2) The owner of a building or place located within the county that has been found to be a public nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, but only if the owner has actual notice that the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang.

2. Any money damages awarded in an action brought pursuant to this section must be:

(a) Paid by, or collected from:

(1) Any assets of the criminal gang or its members that were derived from the criminal activities of the criminal gang or its members;

(2) Any assets of the owner of a building or place that has been found to constitute a public nuisance; or

(3) Any combination of the assets described in subparagraphs (1) and (2).

(b) Deposited into a separate, segregated fund in the county treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activities of the criminal gang or the existence of the building or place that constitutes a public nuisance.

3. A member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section or the other provision of law, or both.

4. An action may not be brought pursuant to this section against:

(a) Any governmental entity; or

(b) Any charitable or nonprofit organization that is conducting, with ordinary care and skill, activities relating to prevention or education concerning criminal gangs.

5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.

Sec. 7. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of any other law or ordinance, each governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file a civil action in a court of competent jurisdiction to seek any or all of the following relief:

(a) A temporary or permanent injunction against any specific member of a criminal gang to enjoin his activity which is associated with the criminal gang and which is occurring within the city.

(b) The recovery of money damages, attorney's fees and costs from:

(1) Any member of a criminal gang that is engaging in criminal activities within the city; and

(2) The owner of a building or place located within the city that has been found to be a public nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, but only if the owner has actual notice that the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang.

2. Any money damages awarded in an action brought pursuant to this section must be:

(a) Paid by, or collected from:

(1) Any assets of the criminal gang or its members that were derived from the criminal activities of the criminal gang or its members;

(2) Any assets of the owner of a building or place that has been found to constitute a public nuisance; or

(3) Any combination of the assets described in subparagraphs (1) and (2).

(b) Deposited into a separate, segregated fund in the city treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activities of the criminal gang or the existence of the building or place that constitutes a public nuisance.

3. A member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section or the other provision of law, or both.

4. An action may not be brought pursuant to this section against:

(a) Any governmental entity; or

(b) Any charitable or nonprofit organization that is conducting, with ordinary care and skill, activities relating to prevention or education concerning criminal gangs.

5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.

Assemblyman Segerblom moved the adoption of the amendment.

Assemblyman Horne moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:43 a.m.

ASSEMBLY IN SESSION

At 11:45 a.m.

Madam Speaker presiding.

Quorum present.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 345.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 413.

SUMMARY—Makes various changes concerning **[**~~the veterans'~~**]** **certain** exemptions from property taxes and governmental services taxes. (BDR 32-101)

AN ACT relating to taxation; revising the **[**~~amounts of certain veterans'~~**]** **provisions governing the calculation of** exemptions from property taxes

and governmental services taxes ~~[;]~~ **for surviving spouses, persons who are blind and veterans;** expanding the applicability of the exemptions from those taxes for veterans with permanent service-connected disabilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law exempts from property taxation certain specified amounts of the assessed value of the property of surviving spouses and of persons who are blind, and requires the annual adjustment of those amounts to account for increases in the Consumer Price Index from July 2003. (NRS 361.080, 361.085) Sections 2 and 3 of this bill update the specified amounts to reflect the increases in the Consumer Price Index from July 2003, require the annual adjustment of the exemption amounts to account for increases in the Consumer Price Index from July 2008, and clarify the portion of the Index applicable to each adjustment.

Existing law exempts from property taxation $2,000 of the assessed value of the property of a veteran who served on active duty under certain specified circumstances and requires the annual adjustment of that amount to account for increases in the Consumer Price Index from July 2003. (NRS 361.090) **Section ~~[2]~~ 4** of this bill increases that exemption to $2,500, requires the annual adjustment of that amount to account for increases in the Consumer Price Index from July 2008, and clarifies the portion of the Index applicable to each adjustment.

Existing law provides an exemption from property taxation for the property of a veteran with a permanent service-connected disability, or of his surviving spouse, in the amount of $20,000 of assessed value for a veteran with a total disability, $15,000 of assessed value for a veteran with a disability of 80 to 99 percent and $10,000 of assessed value for a veteran with a disability of 60 to 79 percent, and requires the annual adjustment of those amounts to account for increases in the Consumer Price Index from July 2003. (NRS 361.091) **Section ~~[3]~~ 5** of this bill expands the applicability of the exemption to include a veteran whose disability, regardless of the percentage thereof, renders him unemployable, ~~[increases the amount of the exemption for such a veteran and a veteran with a total disability to 100 percent of assessed value,]~~ updates the specified amounts ~~[for veterans with partial disabilities]~~ to reflect the increases in the Consumer Price Index from July 2003, ~~[expands the applicability of the exemption to include a veteran with a disability of 40 to 59 percent in the amount of $5,000 of assessed value,]~~ requires the annual adjustment of the exemption amounts to account for increases in the Consumer Price Index from July 2008, and clarifies the portion of the Index applicable to each adjustment. ~~[Sections 4 and 8]~~ **Section 12** of this bill ~~[cause]~~ **causes** the provisions expanding the applicability of the ~~[exemption]~~ **exemptions in sections 6 and 11 of this bill** to terminate on July 1, 2049.

Sections ~~[5-8]~~ 7-12 of this bill similarly revise the corresponding ~~[veterans']~~ exemptions from governmental services taxes.

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

Section 1. The Legislature hereby finds that each exemption provided by this act from any ad valorem tax on property:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

2. Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

Sec. 2. **NRS 361.080 is hereby amended to read as follows:**

361.080 1. The property of surviving spouses, not to exceed the amount of ~~[$1,000]~~ ***$1,190*** assessed valuation, is exempt from taxation, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State to the same family.

2. For the purpose of this section, property in which the surviving spouse has any interest shall be deemed the property of the surviving spouse.

3. The person claiming such an exemption must file with the county assessor an affidavit declaring that he is a bona fide resident of this State and that the exemption has been claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

6. Beginning with the ~~[2005-2006]~~ ***2010-2011*** Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index ***for All Urban Consumers, West Urban Area*** (All ~~[Items)]~~ ***Items, Not Seasonally Adjusted),*** from July ~~[2003]~~ ***2008*** to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 3. **NRS 361.085 is hereby amended to read as follows:**

361.085 1. The property of each person who is blind, not to exceed the amount of ~~[$3,000]~~ ***$3,560*** of assessed valuation, is exempt from taxation, including community property to the extent only of the interest therein of the person who is blind, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State on account of the same person.

2. The person claiming such an exemption must file with the county assessor an affidavit declaring that he is a bona fide resident of the State of Nevada who meets all the other requirements for the exemption and that the exemption is not claimed in any other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

3. Upon first claiming the exemption in a county the claimant shall furnish to the assessor a certificate of a licensed physician setting forth that he has examined the claimant and has found him to be a person who is blind.

4. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

5. Beginning with the ~~[2005-2006]~~ ***2010-2011*** Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index ***for All Urban Consumers, West Urban Area*** (All ~~[Items)]~~ ***Items, Not Seasonally Adjusted),*** from July ~~[2003]~~ ***2008*** to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

6. As used in this section, "person who is blind" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20°.

~~[Sec. 2.]~~ ***Sec. 4.*** NRS 361.090 is hereby amended to read as follows:

361.090 1. The property, to the extent of ~~[$2,000]~~ ***$2,500*** assessed valuation, of any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 continuous days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11,

1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(c) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the government of the United States, regardless of the number of days served on active duty,

➥ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first ~~[$2,000]~~ ***$2,500 of the*** assessed valuation of property in which an applicant has any interest shall be deemed the property of the applicant.

3. The exemption may be allowed only to a claimant who files an affidavit with his claim for exemption on real property pursuant to NRS 361.155. The affidavit may be filed at any time by a person claiming exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county in this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

5. Persons in actual military service are exempt during the period of such service from filing the annual forms for renewal of the exemption, and the county assessors shall continue to grant the exemption to such persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his behalf during the period of such service by any person having knowledge of the facts.

6. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the county assessor shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

7. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or

false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

8. Beginning with the ~~[2005-2006]~~ ***2010-2011*** Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to ~~[the]~~ ***each*** amount the product of the amount multiplied by the percentage increase in the Consumer Price Index ***for All Urban Consumers, West Urban Area*** (All ~~[Items)]~~ ***Items, Not Seasonally Adjusted),*** from July ~~[2003]~~ ***2008*** to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

~~[Sec. 3.]~~ ***Sec. 5.*** NRS 361.091 is hereby amended to read as follows:

361.091 1. ~~[A]~~ ***The property of a*** bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or ***of*** his surviving spouse, is ~~[entitled to an exemption.~~

~~2. The amount of exemption is based on the total percentage of permanent service-connected disability. The maximum allowable exemption for total permanent disability is the first $20,000 assessed valuation. A person with]~~ ***exempt from taxation to the extent of:***

(a) If he has a permanent service-connected disability of 100 percent or his permanent service-connected disability renders him unemployable, ~~[100 percent]~~ $23,770 of assessed value.

(b) Except as otherwise provided in paragraph (a), if he has a permanent service-connected disability of:

~~[(a)]~~ ***(1)*** Eighty to 99 percent, inclusive, ~~[is entitled to an exemption of $15,000]~~ ***$17,820 of*** assessed value.

~~[(b)]~~ ***(2)*** Sixty to 79 percent, inclusive, ~~[is entitled to an exemption of $10,000]~~ ***$11,880 of*** assessed value.

~~[(3) Forty to 59 percent, inclusive, $5,000 of assessed value.]~~

➥ For the purposes of this section, any property in which an applicant has any interest is deemed to be the property of the applicant.

~~[3.]~~ ***2.*** The exemption may be allowed only to a claimant who has filed an affidavit with his claim for exemption on real property pursuant to NRS 361.155. The affidavit may be made at any time by a person claiming an exemption from taxation on personal property.

~~[4.]~~ ***3.*** The affidavit must be made before the county assessor or a notary public and be filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada, that he meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county within this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

~~[5.]~~ ***4.*** Before allowing any exemption pursuant to the provisions of this section, the county assessor shall require proof of the applicant's status, and for that purpose shall require ~~[him to produce]~~ ***production of*** an original or certified copy of:

(a) An honorable discharge or other document of honorable separation from the Armed Forces of the United States which indicates the total percentage of his permanent service-connected disability ~~[;]~~ ***or that his permanent service-connected disability renders him unemployable;***

(b) A certificate of satisfactory service which indicates the total percentage of his permanent service-connected disability ~~[;]~~ ***or that his permanent service-connected disability renders him unemployable;*** or

(c) A certificate from the Department of Veterans Affairs or any other military document which shows that he has incurred a permanent service-connected disability and ~~[which]~~ indicates the total percentage of that disability ~~[,]~~ ***or that the disability renders him unemployable,*** together with a certificate of honorable discharge or satisfactory service.

~~[6.]~~ ***5.*** A surviving spouse claiming an exemption pursuant to this section must file with the county assessor an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran who incurred a permanent service-connected disability for the 5 years preceding his death;

(b) The veteran was eligible for the exemption at the time of his death or would have been eligible if he had been a resident of the State of Nevada;

(c) The surviving spouse has not remarried; and

(d) The surviving spouse is a bona fide resident of the State of Nevada.

➥ The affidavit required by this subsection is in addition to the certification required pursuant to subsections ~~[4 and 5.]~~ ***3 and 4.*** After the filing of the original affidavit required by this subsection, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

~~[7. If]~~ ***6. Except as otherwise provided in this subsection, if*** a veteran or the surviving spouse of a veteran submits, as proof of disability, documentation that indicates a percentage of permanent service-connected disability for more than one permanent service-connected disability, the amount of the exemption must be based on the total of those combined percentages, not to exceed 100 percent. ***This subsection does not apply to a veteran or the surviving spouse of a veteran who submits proof of the unemployability of the veteran as a result of his permanent service-connected disability.***

~~[8.]~~ ***7.*** If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 361.090.

~~[9.]~~ ***8.*** If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

~~[10.]~~ ***9.*** Beginning with the ~~[2005-2006]~~ ***2010-2011*** Fiscal Year, the monetary amounts in ~~*[paragraph (b) of]*~~ subsection ~~[2]~~ ***1*** must be adjusted for each fiscal year by adding to ~~[the]~~ ***each*** amount the product of the amount multiplied by the percentage increase in the Consumer Price Index ***for All Urban Consumers, West Urban Area*** (All ~~[Items)]~~ ***Items, Not Seasonally Adjusted),*** from July ~~[2003]~~ ***2008*** to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

~~[Sec. 4.]~~ ***Sec. 6.*** NRS 361.091 is hereby amended to read as follows:

361.091 1. The property of a bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or of his surviving spouse, is exempt from taxation to the extent of:

(a) If he has a permanent service-connected disability of 100 percent ~~[or his permanent service-connected disability renders him unemployable,]~~ $23,770 of assessed value.

(b) ~~[Except as otherwise provided in paragraph (a), if]~~ ***If*** he has a permanent service-connected disability of ~~[:~~

~~(1) Eighty]~~ ***80*** to 99 percent, inclusive, $17,820 of assessed value.

~~[(2) Sixty]~~ ***(c) If he has a permanent service-connected disability of 60*** to 79 percent, inclusive, $11,880 of assessed value.

➥ For the purposes of this section, any property in which an applicant has any interest is deemed to be the property of the applicant.

2. The exemption may be allowed only to a claimant who has filed an affidavit with his claim for exemption on real property pursuant to NRS 361.155. The affidavit may be made at any time by a person claiming an exemption from taxation on personal property.

3. The affidavit must be made before the county assessor or a notary public and be filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada, that he meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county within this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

4. Before allowing any exemption pursuant to the provisions of this section, the county assessor shall require proof of the applicant's status, and for that purpose shall require production of an original or certified copy of:

(a) An honorable discharge or other document of honorable separation from the Armed Forces of the United States which indicates the total percentage of his permanent service-connected disability ***;*** ~~**[**or that his permanent service-connected disability renders him unemployable;**]**~~

(b) A certificate of satisfactory service which indicates the total percentage of his permanent service-connected disability ***;*** ~~**[**or that his permanent service-connected disability renders him unemployable;**]**~~ or

(c) A certificate from the Department of Veterans Affairs or any other military document which shows that he has incurred a permanent service-connected disability and indicates the total percentage of that disability ***,*** ~~**[**or that the disability renders him unemployable,**]**~~ together with a certificate of honorable discharge or satisfactory service.

5. A surviving spouse claiming an exemption pursuant to this section must file with the county assessor an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran who incurred a permanent service-connected disability for the 5 years preceding his death;

(b) The veteran was eligible for the exemption at the time of his death or would have been eligible if he had been a resident of the State of Nevada;

(c) The surviving spouse has not remarried; and

(d) The surviving spouse is a bona fide resident of the State of Nevada.

➥ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 3 and 4. After the filing of the original affidavit required by this subsection, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

6. ~~**[**Except as otherwise provided in this subsection, if**]**~~ ***If*** a veteran or the surviving spouse of a veteran submits, as proof of disability, documentation that indicates a percentage of permanent service-connected disability for more than one permanent service-connected disability, the amount of the exemption must be based on the total of those combined percentages, not to exceed 100 percent. ~~**[**This subsection does not apply to a veteran or the surviving spouse of a veteran who submits proof of the unemployability of the veteran as a result of his permanent service-connected disability.**]**~~

7. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 361.090.

8. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

9. Beginning with the 2010-2011 Fiscal Year, the monetary amounts in subsection 1 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index for All Urban Consumers, West Urban Area (All Items, Not Seasonally Adjusted), from July 2008 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 7. **NRS 371.101 is hereby amended to read as follows:**

371.101 1. Vehicles registered by surviving spouses, not to exceed the amount of ~~[$1,000]~~ ***$1,190*** determined valuation, are exempt from taxation, but the exemption must not be allowed to anyone but actual bona fide residents of this State, and must be filed in but one county in this State to the same family.

2. For the purpose of this section, vehicles in which the surviving spouse has any interest shall be deemed to belong entirely to that surviving spouse.

3. The person claiming the exemption shall file with the Department in the county where the exemption is claimed an affidavit declaring his residency and that the exemption has been claimed in no other county in this State for that year. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. Beginning with the ~~[2005-2006]~~ ***2010-2011*** Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to ~~[each]~~ ***the*** amount the product of the amount multiplied by the percentage increase in the Consumer Price Index ***for All Urban Consumers, West Urban Area*** (All ~~[Items]~~ ***Items, Not Seasonally Adjusted),*** from ~~[December 2003]~~ ***July 2008*** to the ~~[December]~~ ***July*** preceding the fiscal year for which the adjustment is calculated.

Sec. 8. **NRS 371.102 is hereby amended to read as follows:**

371.102 1. Vehicles registered by a person who is blind, not to exceed the amount of ~~[$3,000]~~ ***$3,560*** determined valuation, are exempt from taxation, but the exemption must not be allowed to anyone but bona fide residents of this State, and must be filed in but one county in this State on account of that person.

2. The person claiming the exemption must file with the county assessor of the county where the exemption is claimed an affidavit declaring that he is an actual bona fide resident of the State of Nevada, that he is a person who is blind and that the exemption is claimed in no other county in this State. The

affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

3. Upon first claiming the exemption in a county, the claimant shall furnish to the county assessor a certificate of a physician licensed under the laws of this State setting forth that he has examined the claimant and has found him to be a person who is blind.

4. Beginning with the ~~[2005-2006]~~ ***2010-2011*** Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to ~~[each]~~ ***the*** amount the product of the amount multiplied by the percentage increase in the Consumer Price Index ***for All Urban Consumers, West Urban Area*** (All ~~[Items]~~ ***Items, Not Seasonally Adjusted),*** from ~~[December 2003]~~ ***July 2008*** to the ~~[December]~~ ***July*** preceding the fiscal year for which the adjustment is calculated.

5. As used in this section, "person who is blind" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20 degrees.

~~[Sec. 5.]~~ ***Sec. 9.*** NRS 371.103 is hereby amended to read as follows:

371.103 1. Vehicles, to the extent of ~~[$2,000]~~ ***$2,500*** determined valuation, registered by any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served a minimum of 90 continuous days on active duty none of which was for training purposes, who was assigned to active duty at some time between January 1, 1961, and May 7, 1975;

(c) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(d) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the government of the United States, regardless of the number of days served on active duty,

➥ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States,

or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first ~~[$2,000]~~ ***$2,500 of the*** determined valuation of vehicles in which such a person has any interest shall be deemed to belong to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he is an actual bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

4. Persons in actual military service are exempt during the period of such service from filing annual affidavits of exemption and the Department shall grant exemptions to those persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his behalf during the period of such service by any person having knowledge of the facts.

5. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the Department shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

6. If any person files a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof a tax exemption is allowed to a person not entitled to the exemption, he is guilty of a gross misdemeanor.

7. Beginning with the ~~[2005-2006]~~ ***2010-2011*** Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index ***for All Urban Consumers, West Urban Area*** (All ~~[Items)]~~ ***Items, Not Seasonally Adjusted),*** from ~~[December]~~ ~~[2003]~~ ***July 2008*** to the ~~[December]~~ ***July*** preceding the fiscal year for which the adjustment is calculated.

~~[Sec. 6.]~~ ***Sec. 10.*** NRS 371.104 is hereby amended to read as follows:

371.104 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his surviving

spouse, is entitled to a veteran's exemption from the payment of governmental services taxes on vehicles ***to the extent*** of ~~[the following determined valuations:]~~ ***:***

(a) If he has a disability of 100 percent ~~[, the first $20,000]~~ ***or his disability renders him unemployable,*** ~~*[100 percent]*~~ ***the first $23,770*** of determined valuation.

(b) ***Except as otherwise provided in paragraph (a):***

(1) If he has a disability of 80 to 99 percent, inclusive, the first ~~[$15,000]~~ ***$17,820*** of determined valuation.

~~[(c)]~~ ***(2)*** If he has a disability of 60 to 79 percent, inclusive, the first ~~[$10,000]~~ ***$11,880*** of determined valuation.

~~*[(3) If he has a disability of 40 to 59 percent, inclusive, the first $5,000 of determined valuation.]*~~

2. For the purpose of this section, the first ~~[$20,000]~~ ***$23,770*** of determined valuation of vehicles in which an applicant has any interest shall be deemed to belong entirely to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is claimed in no other county within this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

4. Before allowing any exemption pursuant to the provisions of this section, the Department shall require proof of the applicant's status, and for that purpose shall require production of:

(a) A certificate from the Department of Veterans Affairs ***or any other military document which shows*** that the veteran has incurred a permanent service-connected disability ~~[, which shows]~~ ***and indicates*** the percentage of that disability ~~[,]~~ ***or that the disability renders him unemployable;*** and

(b) Any one of the following:

(1) An honorable discharge;

(2) A certificate of satisfactory service; or

(3) A certified copy of either of these documents.

5. A surviving spouse claiming an exemption pursuant to this section must file with the Department in the county where the exemption is claimed an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran with a disability for the 5 years preceding his death;

(b) The veteran with a disability was eligible for the exemption at the time of his death; and

(c) The surviving spouse has not remarried.

➥ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 3 and 4. After the filing of the original affidavit required by this subsection, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

6. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 371.103.

7. If any person makes a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

8. Beginning with the ~~[~~2005-2006~~]~~ ***2010-2011*** Fiscal Year, the monetary amounts in subsections 1 and 2 ~~*[paragraph (b) of subsection 1]*~~ must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index ***for All Urban Consumers, West Urban Area*** (All ~~[~~Items~~]~~ ***Items, Not Seasonally Adjusted),*** from ~~[~~December~~]~~ ~~[~~2003~~]~~ ***July 2008*** to the ~~[~~December~~]~~ ***July*** preceding the fiscal year for which the adjustment is calculated.

~~[~~Sec. 7.~~]~~ ***Sec. 11.*** NRS 371.104 is hereby amended to read as follows:

371.104 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his surviving spouse, is entitled to a veteran's exemption from the payment of governmental services taxes on vehicles to the extent of:

(a) If he has a disability of 100 percent **,** ~~[~~or his disability renders him unemployable,~~]~~ the first $23,770 of determined valuation.

(b) ~~[~~Except as otherwise provided in paragraph (a):

~~(1)~~**]** If he has a disability of 80 to 99 percent, inclusive, the first $17,820 of determined valuation.

~~[(2)]~~ ***(c)*** If he has a disability of 60 to 79 percent, inclusive, the first $11,880 of determined valuation.

2. For the purpose of this section, the first $23,770 of determined valuation of vehicles in which an applicant has any interest shall be deemed to belong entirely to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is claimed in no other county within this State. After the filing of the original affidavit, the county assessor shall mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➥ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

4. Before allowing any exemption pursuant to the provisions of this section, the Department shall require proof of the applicant's status, and for that purpose shall require production of:

(a) A certificate from the Department of Veterans Affairs or any other military document which shows that the veteran has incurred a permanent service-connected disability and indicates the percentage of that disability ***;*** ~~**[**or that the disability renders him unemployable;**]**~~ and

(b) Any one of the following:

(1) An honorable discharge;

(2) A certificate of satisfactory service; or

(3) A certified copy of either of these documents.

5. A surviving spouse claiming an exemption pursuant to this section must file with the Department in the county where the exemption is claimed an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran with a disability for the 5 years preceding his death;

(b) The veteran with a disability was eligible for the exemption at the time of his death; and

(c) The surviving spouse has not remarried.

➥ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 3 and 4. After the filing of the original affidavit required by this subsection, the county assessor shall mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption.

6. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 371.103.

7. If any person makes a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof the person is allowed a tax exemption to which he is not entitled, he is guilty of a gross misdemeanor.

8. Beginning with the 2010-2011 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index for All Urban Consumers, West Urban Area (All Items, Not Seasonally Adjusted), from July 2008 to the July preceding the fiscal year for which the adjustment is calculated.

~~**[**Sec. 8.**]**~~ ***Sec. 12.*** 1. This section and sections 1 ~~**[**, 2, 3, 5 and 6**]**~~ **to 5, inclusive, and 7 to 10, inclusive,** of this act become effective on July 1, 2009.

2. Sections ~~[4]~~ **6** and ~~[7]~~ **11** of this act become effective on July 1, 2049.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman McClain moved that upon return from the printer, Assembly Bills Nos. 146 and 345 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 352.

Bill read second time.

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

Amendment No. 367.

AN ACT relating to the Spring Mountains National Recreation Area; limiting certain powers of planning and zoning that may be exercised by local governments within the Area; limiting gaming in the Area to holders of restricted licenses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Spring Mountains National Recreation Area includes Mt. Charleston and other land, both public and private, outside of Las Vegas. **Sections 1-8** of this bill prohibit local governments from making certain changes relating to zoning and development in the Spring Mountains National Recreation Area. A similar prohibition is provided for the Red Rock Canyon National Conservation Area and adjacent lands. (Chapter 105, Statutes of Nevada 2003, p. 595) **Section 9** of this bill prohibits the Nevada Gaming Commission from issuing a nonrestricted license for any location in the Spring Mountains National Recreation Area, thereby limiting gaming in the Area only to current and future operations that hold restricted gaming licenses. (NRS 463.160, 463.161, 463.180, 463.190, 463.240)

WHEREAS, The Spring Mountains and their surrounds are a natural wonder within the State of Nevada that is uniquely beautiful and of scenic interest; and

WHEREAS, The Spring Mountains National Recreation Area includes several distinctive and significant geologic and natural heritage features, including, without limitation, Mount Charleston, Kyle Canyon, Griffith Peak, Harris Springs, Harris Mountain, the Deer Creek mountain pass, Angel Peak, Macks Canyon, Lee Canyon, Mummy Mountain, McFarland Peak, Bonanza Peak, Cold Creek, Wheeler Well, Charcoal Kilns, Mount Stirling Wilderness Study Area, Wallace Canyon, Carpenter Canyon, Trout Canyon, Lovell Canyon, Mountain Springs ~~[, Potosi Mountain]~~ and Native American archeological sites, including petroglyphs and agave roasting pits; and

WHEREAS, In addition to their scenic beauty and geologic significance, the Spring Mountains provide numerous recreational opportunities to visitors from both within and without the State of Nevada, including, without limitation, hiking, climbing, bicycling, camping, horseback riding and winter sports such as snowshoeing and alpine and cross-country skiing; and

WHEREAS, With regard to tourism, the Spring Mountains provide a dramatic counterpoint to the activities offered within the more urban portions of Clark County, helping to draw to the area tourists who might not otherwise be interested in participating in gaming, attending shows or other such activities; and

WHEREAS, A significant part of the reason that the Spring Mountains are of interest to tourists, sightseers and recreational users is that they provide an area of sanctuary from the congestion and sprawl of the more urban portions of Clark County; and

WHEREAS, If the scenic views, natural beauty and rural character of the Spring Mountains were to be encroached upon by development that is on a large scale or of an inappropriate character, the value of the Spring Mountains National Recreation Area, with respect to tourism, sightseeing and recreation would be greatly diminished, to the detriment of Clark County and the State of Nevada as a whole; now, therefore,

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

Section 1. NRS 278.0239 is hereby amended to read as follows:

278.0239 In the region of this State for which ***the Spring Mountains National Recreation Area Act and*** the Red Rock Canyon Conservation Area and Adjacent Lands Act ~~[establishes]~~ ***establish*** limits upon development, the powers conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to those limits.

Sec. 2. NRS 244.154 is hereby amended to read as follows:

244.154 In the region of this State for which ***the Spring Mountains National Recreation Area Act and*** the Red Rock Canyon Conservation Area and Adjacent Lands Act ~~[establishes]~~ ***establish*** limits upon development, the powers conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to those limits.

Sec. 3. NRS 268.105 is hereby amended to read as follows:

268.105 In the region of this State for which ***the Spring Mountains National Recreation Area Act and*** the Red Rock Canyon Conservation Area and Adjacent Lands Act ~~[establishes]~~ ***establish*** limits upon development, the powers conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to those limits.

Sec. 4. NRS 269.617 is hereby amended to read as follows:

269.617 In the region of this State for which ***the Spring Mountains National Recreation Area Act and*** the Red Rock Canyon Conservation Area and Adjacent Lands Act ~~[establishes]~~ ***establish*** limits upon development, the

powers conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to those limits.

Sec. 5. Sections 5 to 9, inclusive, of this act shall be known as the Spring Mountains National Recreation Area Act.

Sec. 6. The Legislature hereby finds and declares that this special act, which regulates activity in the Spring Mountains National Recreation Area, is necessary because of:

1. The unusual beauty of the Spring Mountains National Recreation Area;

2. The rapidly increasing population and growth in the region around the Spring Mountains National Recreation Area; and

3. The need to harmonize:

(a) The retention of the scenic beauty, small-town values, historic and cultural character, sense of community and recreational opportunities for visitors and residents of the Spring Mountains National Recreation Area; and

(b) Residential and commercial development within the Spring Mountains National Recreation Area.

Sec. 7. As used in this act, "Spring Mountains National Recreation Area" means the following tracts of land:

1. All of sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, Township 17 South, Range 53 East, MDM;

2. The west half of section 3, all of sections 4, 5, 6, 7, 8 and 9, the west half of section 10 and all of sections 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, Township 17 South, Range 54 East, MDM;

3. All of sections 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, Township 17 South, Range 55 East, MDM;

4. All of section 31, Township 17 South, Range 56 East, MDM;

5. All of section 1, Township 18 South, Range 53 East, MDM;

6. All of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, Township 18 South, Range 54 East, MDM;

7. All of Township 18 South, Range 55 East, MDM;

8. All of Township 18 South, Range 56 East, MDM;

9. All of sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, Township 18 South, Range 57 East, MDM;

10. All of sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14 and 15, Township 19 South, Range 54 East, MDM;

11. All of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18, the east half of section 20 and all of sections 21, 22, 23, 24, 25, 26, 27, 34, 35 and 36, Township 19 South, Range 55 East, MDM;

12. All of Township 19 South, Range 56 East, MDM;

13. All of Township 19 South, Range 57 East, MDM;

14. All of sections 6, 7, 18, 19, 30 and 31, Township 19 South, Range 58 East, MDM;

15. All of sections 1, 2, 3, 10, 11, 12, 13, 14, 24 and 25, Township 20 South, Range 55 East, MDM;

16. All of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35 and 36, Township 20 South, Range 56 East, MDM;

17. All of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, Township 20 South, Range 57 East, MDM;

18. All of sections 6 and 7, Township 20 South, Range 58 East, MDM;

19. All of sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, Township 21 South, Range 56 East, MDM;

20. All of sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, Township 21 South, Range 57 East, MDM;

21. All of sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 35 and 36, Township 22 South, Range 57 East, MDM;

22. All of section 19, all of section 20 except the northeast quarter and all of sections 29 **[,] and** 30, ~~[31 and 32,]~~ Township 22 South, Range 58 East, MDM;

23. All of sections 1, 2, 11, 12, 13, 14, 24 and 25, Township 23 South, Range 57 East, MDM; and

24. All of sections ~~[5, 6,]~~ 7, 8, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29 and 30, Township 23 South, Range 58 East, MDM.

Sec. 8. With respect to the Spring Mountains National Recreation Area, a local government:

1. Shall not, in regulating the use of those lands:

(a) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act;

(b) Establish any new nonresidential zoning districts, other than for public facilities; or

(c) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities.

2. May regulate matters to include, without limitation, landscaping, buffering, screening, signage and lighting.

3. Retains all other authority regarding planning, zoning and regulation of uses of land.

Sec. 9. 1. Notwithstanding any other provision of law, the Nevada Gaming Commission shall not issue a nonrestricted license for any location in the Spring Mountains National Recreation Area.

2. As used in this section, "nonrestricted license" has the meaning ascribed to it in NRS 463.0177.

Sec. 10. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 388.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 483.

AN ACT relating to gaming; revising the definition of "sports pools"; revising the provisions relating to the operation of gaming salons; **revising the provisions relating to off-track pari-mutuel wagering;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines a "sports pool" as the business of accepting wagers on sporting events by any system or method of wagering. (NRS 463.0193) The regulations of the Nevada Gaming Commission provide that a "sports pool" means a business that accepts wagers on sporting events or other events. (Regulation 22.010 of the Nevada Gaming Commission) **Section 2** of this bill amends the statutory definition to include "other events" within the definition of "sports pool" in a manner consistent with the regulations.

Existing law requires the Commission to adopt regulations setting forth the standards of operation for a gaming salon, including policies and procedures governing **the games offered and** minimum wagers for any game offered, and those regulations must provide that minimum wagers for slot machines must not be less than $500. (NRS 463.4073) **Section 3** of this bill ~~[eliminates the requirement]~~ **provides** that the regulations **must not allow more than five slot machines in a gaming salon and** must establish minimum wagers for slot machines of not less than ~~[$500.]~~ **$50.**

Sections 5 and 7 of this bill clarify that, in addition to authorizing off-track pari-mutuel wagering on horse races, existing law also authorizes off-track pari-mutuel wagering on dog races. (NRS 464.005, 466.095)

Existing law authorizes the Commission to appoint an Off-Track Pari-Mutuel Wagering Committee, which, if appointed, is required to grant to the Off-Track Pari-Mutuel Wagering Committee the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering. (NRS 464.020) Section 6 of this bill provides that any agreement negotiated by the Off-Track Pari-Mutuel Wagering Committee with a track relating to off-track pari-mutuel wagering must not set a different rate for intrastate wagers placed on the licensed premises of a race book and wagers placed through the use of communications technology.

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

Section 1. NRS 463.016425 is hereby amended to read as follows:

463.016425 1. "Interactive gaming" means the conduct of gambling games through the use of communications technology that allows a person, utilizing money, checks, electronic checks, electronic transfers of money, credit cards, debit cards or any other instrumentality, to transmit to a computer information to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. The term does not include the operation of a race book or sports pool that uses communications technology approved by the Board pursuant to regulations adopted by the Commission to accept wagers originating within this state for races **,** or sporting events ~~[.]~~ ***or other events.***

2. As used in this section, "communications technology" means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wire, cable, radio, microwave, light, optics or computer data networks, including, without limitation, the Internet and intranets.

Sec. 2. NRS 463.0193 is hereby amended to read as follows:

463.0193 "Sports pool" means the business of accepting wagers on sporting events ***or other events*** by any system or method of wagering.

Sec. 3. NRS 463.4073 is hereby amended to read as follows:

463.4073 The Commission shall, with the advice and assistance of the Board, adopt regulations setting forth:

1. The policies and procedures for approval of a license to operate a gaming salon.

2. The standards of operation for a gaming salon, including, without limitation, policies and procedures governing:

(a) Surveillance and security systems.

(b) The games offered. The regulations must provide that the games offered must include table games and may include ***not more than five*** slot machines.

(c) Minimum wagers for any game offered. The regulations must provide that minimum wagers for slot machines must not be less than ~~[$500.]~~ ***$50.***

Sec. 4. ~~[This act becomes effective upon passage and approval.]~~ **(Deleted by amendment.)**

Sec. 5. **NRS 464.005 is hereby amended to read as follows:**

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

1. "Gross revenue" means the amount of the commission received by a licensee that is deducted from off-track pari-mutuel wagering, plus breakage and the face amount of unpaid winning tickets that remain unpaid for a period specified by the Nevada Gaming Commission.

2. "Off-track pari-mutuel system" means a computerized system, or component of such a system, that is used with regard to a pari-mutuel pool to transmit information such as amounts wagered, odds and payoffs on races.

3. "Off-track pari-mutuel wagering" means any pari-mutuel system of wagering approved by the Nevada Gaming Commission for the acceptance of wagers on:

(a) ~~[Races]~~ ***Horse or dog races*** which take place outside of this state; or

(b) Sporting events.

4. "Operator of a system" means a person engaged in providing an off-track pari-mutuel system.

5. "Pari-mutuel system of wagering" means any system whereby wagers with respect to the outcome of a race or sporting event are placed in a wagering pool conducted by a person licensed or otherwise permitted to do so under state law, and in which the participants are wagering with each other and not against that person. The term includes off-track pari-mutuel wagering.

Sec. 6. **NRS 464.020 is hereby amended to read as follows:**

464.020 1. The Nevada Gaming Commission is charged with the administration of this chapter for the protection of the public and in the public interest.

2. The Nevada Gaming Commission may issue licenses permitting the conduct of the pari-mutuel system of wagering, including off-track pari-mutuel wagering, and may adopt, amend and repeal regulations relating to the conduct of such wagering.

3. The wagering must be conducted only by the licensee at the times determined by the Nevada Gaming Commission and only:

(a) Within the enclosure wherein the race or other sporting event which is the subject of the wagering occurs; or

(b) Within a licensed gaming establishment which has been approved to conduct off-track pari-mutuel wagering.

➥ This subsection does not prohibit a person licensed to accept, pursuant to regulations adopted by the Nevada Gaming Commission, off-track pari-mutuel wagers from accepting wagers made by wire communication from patrons within the State of Nevada, from other states in which such wagering is legal or from places outside the United States in which such wagering is legal.

4. The regulations of the Nevada Gaming Commission may include, without limitation:

(a) Requiring fingerprinting of an applicant or licensee, or other method of identification.

(b) Requiring information concerning an applicant's antecedents, habits and character.

(c) Prescribing the method and form of application which any applicant for a license issued pursuant to this chapter must follow and complete before consideration of his application by the Nevada Gaming Commission.

(d) Prescribing the permissible communications technology and requiring the implementation of border control technology that will ensure that a

person cannot place a wager with a race book in this State from another state or another location where placing such a wager is illegal.

5. The Nevada Gaming Commission may appoint an Off-Track Pari-Mutuel Wagering Committee consisting of 11 persons who are licensed to engage in off-track pari-mutuel wagering. If the Commission appoints such a Committee, it shall appoint to the Committee:

(a) Five members from a list of nominees provided by the State Association of Gaming Establishments whose members collectively paid the most gross revenue fees to the State pursuant to NRS 463.370 in the preceding year;

(b) Three members who, in the preceding year, paid gross revenue fees pursuant to NRS 463.370 in an amount that was less than the average amount of gross revenue fees paid by licensees engaged in off-track pari-mutuel wagering in the preceding year; and

(c) Three other members.

➥ If a vacancy occurs in a position on the Committee for any reason, including, but not limited to, termination of a member, the Commission shall appoint a successor member who satisfies the same criteria in paragraph (a), (b) or (c) that applied to the member whose position has been vacated.

6. If the Nevada Gaming Commission appoints an Off-Track Pari-Mutuel Wagering Committee pursuant to subsection 5, the Commission shall:

(a) Grant to the Off-Track Pari-Mutuel Wagering Committee the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering with:

(1) A person who is licensed or otherwise permitted to operate a wagering pool in another state; and

(2) A person who is licensed pursuant to chapter 464 of NRS as an operator of a system.

(b) ***Require that any agreement negotiated by the Off-Track Pari-Mutuel Wagering Committee with a track relating to off-track pari-mutuel wagering must not set a different rate for intrastate wagers placed on the licensed premises of a race book and wagers placed through the use of communications technology.***

(c) Require the Off-Track Pari-Mutuel Wagering Committee to grant to each person licensed pursuant to this chapter to operate an off-track pari-mutuel race pool the right to receive, on a fair and equitable basis, all services concerning wagering in such a race pool that the Committee has negotiated to bring into or provide within this State.

7. The Nevada Gaming Commission shall, and it is granted the power to, demand access to and inspect all books and records of any person licensed pursuant to this chapter pertaining to and affecting the subject of the license.

Sec. 7. **NRS 466.095 is hereby amended to read as follows:**

466.095 The Nevada Gaming Commission shall not issue any license ~~[under this chapter]~~ to conduct dog racing or pari-mutuel wagering in

connection with ~~[any dog race.]~~ ***dog racing pursuant to this chapter. This section does not prohibit off-track pari-mutuel wagering on dog racing pursuant to chapter 464 of NRS.***

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 430.

Bill read second time.

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

Amendment No. 440.

AN ACT relating to children's products; prohibiting the advertisement, sale, lease, sublet or distribution of children's products under certain circumstances; prohibiting certain commercial activity regarding unsafe cribs; providing that a violation of provisions relating to unsafe cribs or to children's products is a deceptive trade practice; authorizing the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to ban or designate as a health or safety hazard any children's product; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill provides that a retailer of a new or used product intended for children under 12 years of age may not advertise, sell or offer for sale, lease, sublet or otherwise distribute the product if the product is subject to a recall notice, is subject to a warning indicating that the use of the product constitutes a health or safety hazard or has been banned or designated as a health or safety hazard by the United States Consumer Product Safety Commission, the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General or the manufacturer of the product. **Section 7** also requires a retailer to subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission and manufacturers from whom the retailer receives children's products. **Section 7** further requires a retailer to comply with all instructions issued for the disposal, return, repair, retrofitting, labeling or remediation of children's products which are the subject of a recall notice or other warning. ~~[Section 8 of this bill requires the Attorney General to assist retailers in this State with obtaining recall notices that have been issued relating to children's products. Such assistance must include dedicating a portion of the website of the Attorney General to provide a link to a website which provides product recall notices and lists products banned or designated hazardous by the Consumer Advocate.]~~ **Section 18** of this bill makes it a deceptive trade practice for a person to **knowingly and willfully** violate any provision relating to unsafe cribs or to children's products that are subject to a recall notice or a warning, which

therefore puts such violations within the purview of the provisions in chapter 598 of NRS that impose civil and criminal penalties. (NRS 598.092) **Section 19** of this bill authorizes the Consumer's Advocate to ban or designate as a health or safety hazard any children's product. (NRS 228.380)

Sections 9-17 of this bill establish the Infant Crib Safety Act. **Section 14** prohibits persons from remanufacturing, retrofitting, selling, contracting to sell or resell, subletting or otherwise placing in the stream of commerce a crib that is unsafe for use by an infant. **Section 14** also describes the types of cribs that are presumed unsafe. **Section 15** establishes civil penalties for persons who violate any provision relating to unsafe cribs. **Section 16** exempts antique or vintage cribs from the provisions relating to unsafe cribs if such a crib is accompanied with a written notice provided by a commercial user stating that it is not intended for use by an infant. **Section 16** further releases from liability any commercial user who complies with the notice requirement. **Section 17** authorizes any person to maintain an action against a commercial user who violates any provision relating to unsafe cribs.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Children's product" means a consumer product that is designed or intended:***

1. For the care of or use by a child under 12 years of age; or

2. To come into physical contact with a child under 12 years of age at the time the product is used.

➥ For the purposes of this subsection, "children's product" does not include any medication, drug, food or other product that is intended to be ingested.

Sec. 4. ***"Consumer's Advocate" means the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General.***

Sec. 5. ***"Retailer" means a person who, in the ordinary course of his business, advertises, sells or offers for sale, leases, sublets or otherwise distributes a new or used children's product to consumers in this State, including, without limitation, thrift stores, second-hand stores and consignment stores.***

Sec. 6. ***"Warning" means a communication which is about a health or safety hazard that a children's product poses to consumers and which is:***

1. Directed to a retailer; and

2. Intended to inform the retailer about the health or safety hazard, instruct the retailer to remove the children's product from the retailer's

inventory or provide the retailer with a method to eliminate the health or safety hazard from the children's product.

➥ For the purposes of this section, "warning" does not include a communication which is directed to consumers and affixed to the children's product or any packaging material for the children's product or provided by the retailer to the consumer as part of a transaction relating to the children's product.

Sec. 7. ***1. A retailer shall not advertise, sell or offer for sale, lease, sublet or otherwise distribute a children's product to consumers in this State if the children's product is:***

(a) Subject to a recall notice issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency;

(b) The subject of a warning issued by the manufacturer of the children's product or the United States Consumer Product Safety Commission or its successor agency indicating that the intended use of the children's product constitutes a health or safety hazard, unless the retailer has eliminated the hazard in strict compliance with any standards and instructions that are provided in or related to the warning; or

(c) Banned or designated as a health or safety hazard by the Consumer's Advocate pursuant to NRS 228.380.

2. A retailer shall:

(a) Subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission or its successor agency and manufacturers from whom the retailer receives children's products;

(b) Dispose of any children's product identified in a recall notice or a warning issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency, the Consumer's Advocate or the manufacturer of the children's product in strict compliance with disposal instructions included with or related to the recall notice or the warning; and

(c) Comply strictly with instructions issued with or related to a recall notice or a warning issued by the United States Consumer Product Safety Commission or its successor agency, the Consumer's Advocate or the manufacturer of the children's product for the return, repair, retrofitting, labeling or remediation of any children's product.

Sec. 8. ~~***[1. The Attorney General shall assist retailers in obtaining information necessary to subscribe to or arrange to receive recall notices and warnings relating to children's products and otherwise to comply with section 7 of this act.***~~

~~***2. The assistance required pursuant to subsection 1 must include, without limitation, the dedication of a portion of the website established and maintained by the Office of the Attorney General which must contain:***~~

~~***(a) A link which connects to a website maintained by or in cooperation with the United States Consumer Product Safety Commission or its***~~

~~*successor agency for the purpose of disseminating recall notices and warnings; and*~~

~~*(b) A list of all children's products banned or designated a health or safety hazard by the Consumer's Advocate.]*~~ **(Deleted by amendment.)**

Sec. 9. ***Sections 9 to 17, inclusive, of this act may be referred to as the Infant Crib Safety Act.***

Sec. 10. ***As used in sections 9 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 11, 12 and 13 of this act have the meanings ascribed to them in those sections.***

Sec. 11. ***"Commercial user" means any person, firm, corporation, association or nonprofit corporation, or any agent or employee thereof, including, without limitation, a child care facility licensed and in good standing pursuant to chapter 432A of NRS, who:***

1. Deals in cribs of the kind governed by sections 9 to 17, inclusive, of this act;

2. By virtue of the person's occupation, purports to have knowledge or skill peculiar to cribs of the kind governed by sections 9 to 17, inclusive, of this act; or

3. Is in the business of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing cribs in the stream of commerce.

Sec. 12. ***"Crib" means:***

1. Any full-size baby crib as described in 16 C.F.R. § 1508.3; or

2. Any non-full-size baby crib as that term is defined in 16 C.F.R. § 1509.2(b).

Sec. 13. ***"Infant" means a child who is under 3 years of age.***

Sec. 14. ***1. A person, including, without limitation, a commercial user, shall not remanufacture, retrofit, sell, contract to sell or resell, lease, sublet or otherwise place in the stream of commerce a crib that is unsafe for use by an infant.***

2. A crib is presumed to be unsafe if it does not conform to the standards set forth in:

(a) 16 C.F.R. Part 1303;

(b) 16 C.F.R. Part 1508;

(c) 16 C.F.R. Part 1509; and

(d) The American Society for Testing and Materials voluntary standards F966-90, F1169.88 and F406.

3. Cribs that are presumed to be unsafe pursuant to subsection 2 also include, without limitation, cribs with one or more of the following features or characteristics:

(a) Corner posts that extend more than 1/16 of an inch;

(b) Spaces between side slats more than 2 3/8 inches;

(c) Mattress supports that can be easily dislodged from any point of the crib;

(d) Cutout designs on the end panels;

(e) Rail height dimensions that do not conform to the following:

(1) The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is at least 9 inches; or

(2) The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is at least 26 inches;

(f) Any screw, bolt or hardware that is loose or not secured;

(g) Sharp edges, points, rough surfaces or any wood surfaces that are not smooth and free from splinters, splits or cracks; or

(h) Tears in mesh or fabric sides.

4. For the purposes of paragraph (c) of subsection 3, a mattress support is deemed to be easily dislodged if it cannot withstand a 25-pound upward force from beneath the crib.

Sec. 15. ***1. A commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $1,000.***

2. A person other than a commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $200.

Sec. 16. ***1. The provisions of sections 9 to 15, inclusive, of this act do not apply to any antique or vintage crib if the antique or vintage crib is:***

(a) Not intended for use by an infant; and

(b) At the time of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing in the stream of commerce, is accompanied with a written notice provided by the commercial user stating that the crib is not intended for use by an infant and that the crib is dangerous for use by an infant.

2. A commercial user who complies with the notice requirement in subsection 1 shall not be held liable for any death or injury as a result of the use of an antique or vintage crib in a manner inconsistent with the warning provided in the written notice.

3. As used in this section, "antique or vintage crib" means a crib that is:

(a) Fifty years or older, as measured from the current year;

(b) Maintained as a collector's item; and

(c) Not intended for use by an infant.

Sec. 17. ***In addition to any other remedy provided by law, any person may maintain an action against a commercial user who violates the provisions of section 14 of this act, seek to enjoin the remanufacture, retrofitting, sale, contract to sell or resell, lease or subletting of a crib that is unsafe for an infant and seek reasonable attorney's fees and costs.***

Sec. 18. NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a "deceptive trade practice" when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments ~~[,]~~ or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property ~~[,]~~ or

fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

➥ specifying that no refunds or exchanges are allowed.

11. ~~[Violates]~~ Knowingly and willfully violates section 7 or 14 of this act.

Sec. 19. NRS 228.380 is hereby amended to read as follows:

228.380 1. Except as otherwise provided in this section, the Consumer's Advocate may exercise the power of the Attorney General in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C, 599B and 711 of NRS.

2. The Consumer's Advocate may not exercise any powers to enforce any criminal statute set forth in:

(a) Chapter 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any transaction or activity that involves a proceeding before the Public Utilities Commission of Nevada if the Consumer's Advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities; or

(b) Chapter 711 of NRS.

3. The Consumer's Advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.

4. The powers of the Consumer's Advocate do not extend to proceedings before the Public Utilities Commission of Nevada directly relating to discretionary or competitive telecommunication services.

5. For the purposes of sections 2 to 8, inclusive, of this act, the Consumer's Advocate may ban or designate as a health or safety hazard any children's product. The Consumer's Advocate may adopt any regulations necessary to carry out the provisions of this subsection. As used in this subsection, "children's product" has the meaning ascribed to it in section 3 of this act.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 441.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 382.

AN ACT relating to vehicles; clarifying that an electric bicycle is not a moped; requiring the owner of a moped or an electric bicycle to obtain a permit from the Department of Motor Vehicles; requiring the owner of a moped to provide liability insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law includes electric bicycles in the definition of a moped. (NRS 482.069) **Section 2** of this bill provides a definition of "electric bicycle" which is separate from that of a moped, and **section 6** of this bill revises the definition of "moped" to include certain scooters and cycles but to exclude electric bicycles. ~~[Section 3 of this bill provides for the Department of Motor Vehicles to issue a permit for an electric bicycle if the electric bicycle is equipped with certain safety equipment required for riding a bicycle on the highways of this State, and section 9 of this bill provides for a fee to be collected by the Department for such a permit. (NRS 482.480)]~~ **Section 1 of this bill requires that electric bicycles be allowed on any trail or pedestrian walkway that is intended for use by bicycles and is constructed using certain federal funds. Section 1.3 of this bill requires the Department of Motor Vehicles to include electric bicycles in educational programs concerning bicycle safety. (NRS 480.700) Section 8** of this bill ~~[limits the exemption]~~ **exempts electric bicycles** from vehicle registration requirements**.** ~~[to an electric bicycle that has obtained a permit from the Department.]~~ (NRS 482.210) **Sections 19-27** of this bill provide that electric bicycles are subject to the same traffic laws and various other requirements as bicycles. **Section 35.5 of this bill requires the Motor Vehicle Recovery and Transportation Planner of the Department to include electric bicycles in the development and administration of plans relating to the establishment, construction and maintenance of bicycle lanes and routes in this State. (NRS 408.234)**

Under existing law, the owner of a vehicle defined as a moped is exempt from vehicle registration requirements and vehicle liability insurance requirements. (NRS 482.210, 485.185) A moped driven on the highways of this State must be equipped with certain safety equipment such as headlamps, tail lamps, turn signals, reflectors, brakes and mirrors, and the operator must obey traffic laws. (NRS 486.261-486.311, 486.331) ~~[Section 8 of this bill limits the exemption from registration requirements to a moped that has obtained a permit from the Department. Section 4 of this bill provides for the Department to issue a permit for a moped if the moped is equipped with the safety equipment required for driving on the highways of this State and if the owner of the moped has obtained vehicle liability insurance for the moped, and section 9 provides for a fee to be collected by the Department for such a permit. (NRS 482.480) Section 31 of this bill requires the owner of a moped~~

~~operating under a permit issued by the Department to obtain vehicle liability insurance. (NRS 485.185)~~] **Sections 6, 12, 17 and 33 of this bill exclude electric bicycles from the definition of "moped," and amend the definition of "moped" to include motor-driven scooters, motor-driven cycles and similar vehicles with engines that produce not more than 1500 watts final output.**

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

Section 1. **Chapter 480 of NRS is hereby amended by adding thereto a new section to read as follows:**

Electric bicycles, as defined in section 2 of this act, must be allowed on any trail or pedestrian walkway that is intended for use by bicycles and is constructed using federal funding obtained pursuant to 23 U.S.C. § 217.

Sec. 1.3. **NRS 480.700 is hereby amended to read as follows:**

480.700 1. The Department shall develop an educational program concerning bicycle safety which must be:

(a) Suitable for children and adults; and

(b) Developed by a person who is trained in the techniques of bicycle safety.

2. The program must be designed to:

(a) Aid bicyclists in improving their riding skills;

(b) Inform bicyclists of applicable traffic laws and encourage observance of those laws; and

(c) Promote bicycle safety.

3. As used in this section, "bicycle" has the meaning ascribed to it in NRS 484.019 and includes an electric bicycle as defined in section 2 of this act.

~~[Section 1.]~~ ***Sec. 1.7.*** Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***"Electric bicycle" means a device upon which a person may ride, having two ~~[tandem]~~ or three wheels , ~~[either of which is over 14 inches in diameter,]~~ or every such device generally recognized as a bicycle that has fully operable pedals and is propelled by a small electric engine which produces not more than ~~[2]~~ 1 gross brake horsepower and which ~~[has a displacement of]~~ produces not more than ~~[50 cubic centimeters,]~~ 750 watts final output, and:***

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. ~~[Is]~~ Powered solely by such a small electric engine, is capable of a maximum speed of not more than ~~[30]~~ 20 miles per hour on a flat surface ~~[with not more than 1 percent grade in any direction when the motor is engaged.]~~ while carrying an operator who weighs 170 pounds.

➥ The term does not include a moped.

Sec. 3. ~~[*A permit for the operation of an electric bicycle may be issued by the Department if the electric bicycle is equipped as required by NRS 484.513.*]~~ **(Deleted by amendment.)**

Sec. 4. ~~[*A permit for the operation of a moped may be issued by the Department if the moped is equipped as required by NRS 486.251 to 486.311, inclusive, and evidence of insurance as required for the registration of a motor vehicle is submitted when the application for the permit is made.*]~~ **(Deleted by amendment.)**

Sec. 5. NRS 482.010 is hereby amended to read as follows:

482.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 482.0105 to 482.137, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 6. NRS 482.069 is hereby amended to read as follows:

482.069 "Moped" means a ~~[~~vehicle which looks and handles essentially like a bicycle and~~]~~ ***motor-driven scooter, motor-driven cycle or similar vehicle that*** is propelled by a small engine which produces not more than 2 gross brake horsepower ~~[~~and which~~]~~ **,** has a displacement of not more than 50 cubic centimeters **~~[~~**,~~]~~** ***or produces not more than 1500 watts final output,*** and:

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. Is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than 1 percent grade in any direction when the motor is engaged.

➥ ***The term does not include an electric bicycle.***

Sec. 7. NRS 482.070 is hereby amended to read as follows:

482.070 "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term ***"electric bicycle,"*** "tractor" or "moped" as defined in this chapter.

Sec. 7.5. **NRS 482.087 is hereby amended to read as follows:**

482.087 "Passenger car" means a motor vehicle designed for carrying 10 persons or less, except a motorcycle **~~[~~**, power cycle~~]~~** or motor-driven cycle.

Sec. 8. NRS 482.210 is hereby amended to read as follows:

482.210 1. The provisions of this chapter requiring the registration of certain vehicles do not apply to:

(a) Special mobile equipment.

(b) Implements of husbandry temporarily drawn, moved or otherwise propelled upon the highways.

(c) Any mobile home or commercial coach subject to the provisions of chapter 489 of NRS.

(d) ***Electric bicycles*** **.** ~~[*which are operating pursuant to a permit issued pursuant to this chapter.*]~~

(e) Golf carts which are:

(1) Traveling upon highways properly designated by the appropriate city or county as permissible for the operation of golf carts; and

(2) Operating pursuant to a permit issued pursuant to this chapter.

~~[(e)]~~ ***(f)*** Mopeds~~.~~ ~~[~~.

~~(f)]~~ ~~*[which are operating pursuant to a permit issued pursuant to this chapter.]*~~

(g) Towable tools or equipment as defined in NRS 484.202.

~~[(g)]~~ ***(h)*** Any motorized conveyance for a wheelchair, whose operator is a person with a disability who is unable to walk about.

2. For the purposes of this section, "motorized conveyance for a wheelchair" means a vehicle which:

(a) Can carry a wheelchair;

(b) Is propelled by an engine which produces not more than 3 gross brake horsepower ~~[or]~~ **,** has a displacement of not more than 50 cubic centimeters ~~[,]~~ ***or produces not more than 2250 watts final output;***

(c) Is designed to travel on not more than three wheels; and

(d) Can reach a speed of not more than 30 miles per hour on a flat surface with not more than a grade of 1 percent in any direction.

➥ The term does not include a tractor.

Sec. 8.3. **NRS 482.265 is hereby amended to read as follows:**

482.265 1. The Department shall furnish to every owner whose vehicle is registered two license plates for a motor vehicle other than a motorcycle ~~[or power cycle,]~~ and one license plate for all other vehicles required to be registered hereunder. Upon renewal of registration, the Department may issue one or more license plate stickers, tabs or other suitable devices in lieu of new license plates.

2. The Director shall have the authority to require the return to the Department of all number plates upon termination of the lawful use thereof by the owner under this chapter.

3. Except as otherwise specifically provided by statute, for the issuance of each special license plate authorized pursuant to this chapter:

(a) The fee to be received by the Department for the initial issuance of the special license plate is $35, exclusive of any additional fee which may be added to generate funds for a particular cause or charitable organization;

(b) The fee to be received by the Department for the renewal of the special license plate is $10, exclusive of any additional fee which may be added to generate financial support for a particular cause or charitable organization; and

(c) The Department shall not design, prepare or issue a special license plate unless, within 4 years after the date on which the measure authorizing the issuance becomes effective, it receives at least 250 applications for the issuance of that plate.

Sec. 8.7. **NRS 482.275 is hereby amended to read as follows:**

482.275 1. The license plates for a motor vehicle other than a motorcycle ~~[, power cycle]~~ or motor vehicle being transported by a licensed

vehicle transporter must be attached thereto, one in the rear and, except as otherwise provided in subsection 2, one in the front. The license plate issued for all other vehicles required to be registered must be attached to the rear of the vehicle. The license plates must be so displayed during the current calendar year or registration period.

2. If the motor vehicle was not manufactured to include a bracket, device or other contrivance to display and secure a front license plate, and if the manufacturer of the motor vehicle provided no other means or method by which a front license plate may be displayed upon and secured to the motor vehicle:

(a) One license plate must be attached to the motor vehicle in the rear; and

(b) The other license plate may, at the option of the owner of the vehicle, be attached to the motor vehicle in the front.

3. The provisions of subsection 2 do not relieve the Department of the duty to issue a set of two license plates as otherwise required pursuant to NRS 482.265 or other applicable law and do not entitle the owner of a motor vehicle to pay a reduced tax or fee in connection with the registration or transfer of the motor vehicle. If the owner of a motor vehicle, in accordance with the provisions of subsection 2, exercises the option to attach a license plate only to the rear of the motor vehicle, the owner shall:

(a) Retain the other license plate; and

(b) Insofar as it may be practicable, return or surrender both plates to the Department as a set when required by law to do so.

4. Every license plate must at all times be securely fastened to the vehicle to which it is assigned so as to prevent the plate from swinging and at a height not less than 12 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible, and must be maintained free from foreign materials and in a condition to be clearly legible.

5. Any license plate which is issued to a vehicle transporter or a dealer, rebuilder or manufacturer may be attached to a vehicle owned or controlled by that person by a secure means. No license plate may be displayed loosely in the window or by any other unsecured method in any motor vehicle.

Sec. 9. ~~[~~NRS 482.480 is hereby amended to read as follows:

~~482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:~~

~~1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of $33.~~

~~2. Except as otherwise provided in subsection 3:~~

~~(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of $16.50.~~

~~(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of $12.~~

~~(c) For each of the ninth or more such cars registered to a person, a fee for registration of $8.~~

~~3. The fees specified in subsection 2 do not apply:~~

~~(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all of the cars registered to him.~~

~~(b) To cars that are part of a fleet.~~

~~4. For every motorcycle, a fee for registration of $33 and for each motorcycle other than a trimobile, an additional fee of $6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.~~

~~5. For each transfer of registration, a fee of $6 in addition to any other fees.~~

~~6. Except as otherwise provided in subsection 9 of NRS 485.317, to reinstate the registration of a motor vehicle suspended pursuant to that section:~~

~~(a) A fee of $250 for a registered owner who failed to have insurance on the date specified in the form for verification that was mailed by the Department pursuant to subsection 3 of NRS 485.317; or~~

~~(b) A fee of $50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,~~

~~→ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.~~

~~7. For every travel trailer, a fee for registration of $27.~~

~~8. For every permit for the operation of~~ ***an electric bicycle, a moped or*** ~~a golf cart, an annual fee of $10.~~

~~9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of $33.~~

~~10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of $33.~~ **(Deleted by amendment.)**

Sec. 10. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

"Electric bicycle" means a device upon which a person may ride, having two ~~*[tandem]*~~ ***or three wheels*** ~~*, [either of which is over 14 inches in diameter,]*~~ ***or every such device generally recognized as a bicycle that has fully operable pedals and is propelled by a small electric engine which produces not more than*** ~~*[2]*~~ ***1 gross brake horsepower and which*** ~~*[has a displacement of]*~~ ***produces not more than*** ~~*[50 cubic centimeters,]*~~ ***750 watts final output, and:***

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. ~~[Is]~~ Powered solely by such a small electric engine, is capable of a maximum speed of not more than ~~[30]~~ 20 miles per hour on a flat surface ~~[with not more than 1 percent grade in any direction when the motor is engaged.]~~ while carrying an operator who weighs 170 pounds.

➥ The term does not include a moped.

Sec. 11. NRS 483.020 is hereby amended to read as follows:

483.020 As used in NRS 483.010 to 483.630, inclusive, ***and section 10 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, ***and section 10 of this act*** have the meanings ascribed to them in those sections.

Sec. 12. NRS 483.088 is hereby amended to read as follows:

483.088 "Moped" means a ~~[vehicle which looks and handles essentially like a bicycle and]~~ ***motor-driven scooter, motor-driven cycle or similar vehicle that*** is propelled by a small engine which produces not more than 2 gross brake horsepower ~~[and which]~~ , has a displacement of not more than 50 cubic centimeters ~~[,]~~ ***or produces not more than 1500 watts final output,*** and:

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. Is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than 1 percent grade in any direction when the motor is engaged.

➥ The term does not include an electric bicycle.

Sec. 13. NRS 483.090 is hereby amended to read as follows:

483.090 "Motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails. "Motor vehicle" includes ***a*** moped. ***The term does not include an electric bicycle.***

Sec. 14. NRS 483.203 is hereby amended to read as follows:

483.203 The position of Drivers' Education and Safety Officer is hereby created in the Department. The Drivers' Education and Safety Officer:

1. Shall plan and administer a program of safety education which includes safety information concerning interaction among motor vehicles, bicycles ***, electric bicycles, mopeds*** and pedestrians.

2. May provide grants to local governmental entities, including school districts, for assistance in carrying out the program of safety education.

Sec. 15. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

"Electric bicycle" means a device upon which a person may ride, having two ~~[tandem]~~ or three wheels , ~~[either of which is over 14 inches in diameter,]~~ or every such device generally recognized as a bicycle that has fully operable pedals and is propelled by a small electric engine which produces not more than ~~[2]~~ 1 gross brake horsepower and which ~~[has a

~~*displacement of]*~~ ***produces*** *not more than* ~~*[50 cubic centimeters,]*~~ ***750 watts final output, and:***

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. ~~*[Is]*~~ ***Powered solely by such a small electric engine, is*** *capable of a maximum speed of not more than* ~~*[30]*~~ ***20*** *miles per hour on a flat surface* ~~*[with not more than 1 percent grade in any direction when the motor is engaged.]*~~ ***while carrying an operator who weighs 170 pounds.***

➥ ***The term does not include a moped.***

Sec. 16. NRS 484.013 is hereby amended to read as follows:

484.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 484.014 to 484.217, inclusive, ***and section 15 of this act*** have the meanings ascribed to them in those sections.

Sec. 17. NRS 484.0798 is hereby amended to read as follows:

484.0798 "Moped" means a ~~[vehicle which looks and handles essentially like a bicycle and]~~ ***motor-driven scooter, motor-driven cycle or similar vehicle that*** is propelled by a small engine which produces not more than 2 gross brake horsepower ~~[and which]~~ **,** has a displacement of not more than 50 cubic centimeters **~~[,]~~** ***or produces not more than 1500 watts final output,*** and:

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. Is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than 1 percent grade in any direction when the motor is engaged.

➥ ***The term does not include an electric bicycle.***

Sec. 18. NRS 484.083 is hereby amended to read as follows:

484.083 "Motorcycle" means every motor vehicle equipped with a seat or saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, ~~[including a power cycle but]~~ excluding ***an electric bicycle,*** a tractor or a moped.

Sec. 18.3. **NRS 484.101 is hereby amended to read as follows:**

484.101 "Passenger car" means every motor vehicle, except motorcycles ~~[, power cycles]~~ and motor-driven cycles, designed for carrying 10 passengers or less and used for the transportation of persons.

Sec. 18.7. **NRS 484.313 is hereby amended to read as follows:**

484.313 1. The Department of Transportation or a local authority, after considering the advice of the Nevada Bicycle Advisory Board, may with respect to any controlled-access highway under its jurisdiction:

(a) Require a permit for the use of the highway by pedestrians, bicycles or other nonmotorized traffic or by any person operating a power cycle; or

(b) If it determines that the use of the highway for such a purpose would not be safe, prohibit the use of the highway by pedestrians, bicycles or other nonmotorized traffic **.** ~~[or by any person operating a power cycle.]~~

2. Any person who violates any prohibition or restriction enacted pursuant to subsection 1 is guilty of a misdemeanor.

Sec. 19. NRS 484.324 is hereby amended to read as follows:

484.324 1. The driver of a motor vehicle shall not:

(a) Intentionally interfere with the movement of a person lawfully riding a bicycle ~~[,]~~ ***or an electric bicycle;*** or

(b) Overtake and pass a person riding a bicycle ***or an electric bicycle*** unless he can do so safely without endangering the person riding the bicycle ~~[.]~~ ***or electric bicycle.***

2. The driver of a motor vehicle shall yield the right-of-way to any person riding a bicycle ***or an electric bicycle*** on the pathway or lane. The driver of a motor vehicle shall not enter, stop, stand, park or drive within a pathway or lane provided for bicycles ***or electric bicycles*** except:

(a) When entering or exiting an alley or driveway;

(b) When operating or parking a disabled vehicle;

(c) To avoid conflict with other traffic;

(d) In the performance of official duties;

(e) In compliance with the directions of a police officer; or

(f) In an emergency.

3. Except as otherwise provided in subsection 2, the driver of a motor vehicle shall not enter or proceed through an intersection while driving within a pathway or lane provided for bicycles ~~[.]~~ ***or electric bicycles.***

4. The driver of a motor vehicle shall:

(a) Exercise due care to avoid a collision with a person riding a bicycle ~~[,]~~ ***or an electric bicycle;*** and

(b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision.

5. The operator of a bicycle ***or an electric bicycle*** shall not:

(a) Intentionally interfere with the movement of a motor vehicle; or

(b) Overtake and pass a motor vehicle unless he can do so safely without endangering himself or the occupants of the motor vehicle.

Sec. 20. NRS 484.501 is hereby amended to read as follows:

484.501 1. It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in NRS 484.505 to 484.513, inclusive.

2. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

3. The provisions applicable to bicycles ***and electric bicycles*** shall apply whenever a bicycle ***or an electric bicycle*** is operated upon any highway or upon any path set aside for the exclusive use of bicycles ***or electric bicycles*** subject to those exceptions stated herein.

Sec. 21. NRS 484.503 is hereby amended to read as follows:

484.503 Every person riding a bicycle ***or an electric bicycle*** upon a roadway has all of the rights and is subject to all of the duties applicable to the driver of a vehicle except as otherwise provided in NRS 484.504 to

484.513, inclusive, and except as to those provisions of this chapter which by their nature can have no application.

Sec. 22. NRS 484.504 is hereby amended to read as follows:

484.504 1. Except as otherwise provided in this section, a peace officer, a firefighter, an emergency medical technician certified pursuant to chapter 450B of NRS or an employee of a pedestrian mall, who operates a bicycle ***or an electric bicycle*** while he is on duty, is not required to comply with any provision of NRS or any ordinance of a local government relating to the operation of a bicycle ***or an electric bicycle*** while on duty if he:

(a) Is responding to an emergency call or the peace officer is in pursuit of a suspected violator of the law; or

(b) Determines that noncompliance with any such provision is necessary to carry out his duties.

2. The provisions of this section do not:

(a) Relieve a peace officer, firefighter, emergency medical technician or employee of a pedestrian mall from the duty to operate a bicycle ***or an electric bicycle*** with due regard for the safety of others.

(b) Protect such a person from the consequences of his disregard for the safety of others.

3. As used in this section, "pedestrian mall" has the meaning ascribed to it in NRS 268.811.

Sec. 23. NRS 484.505 is hereby amended to read as follows:

484.505 1. A person propelling a bicycle ***or an electric bicycle*** shall not ride other than upon or astride a permanent and regular seat attached thereto.

2. No bicycle ***or electric bicycle*** shall be used to carry more persons at one time than the number for which it is designed and equipped.

Sec. 24. NRS 484.507 is hereby amended to read as follows:

484.507 No person riding upon any bicycle, ***electric bicycle,*** coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

Sec. 25. NRS 484.509 is hereby amended to read as follows:

484.509 1. Every person operating a bicycle ***or an electric bicycle*** upon a roadway shall, except:

(a) When traveling at a lawful rate of speed commensurate with the speed of any nearby traffic;

(b) When preparing to turn left; or

(c) When doing so would not be safe,

➥ ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

2. Persons riding bicycles ***or electric bicycles*** upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles ~~[.]~~ ***or electric bicycles.***

Sec. 26. NRS 484.511 is hereby amended to read as follows:

484.511 No person operating a bicycle ***or an electric bicycle*** shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handle bars.

Sec. 27. NRS 484.513 is hereby amended to read as follows:

484.513 1. Every bicycle ***or electric bicycle*** when in use at night must be equipped with:

(a) A lamp on the front which emits a white light visible from a distance of at least 500 feet to the front;

(b) A red reflector on the rear of a type approved by the Department which must be visible from 50 feet to 300 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle; and

(c) Reflective material of a sufficient size and reflectivity to be visible from both sides of the bicycle for 600 feet when directly in front of the lawful lower beams of the head lamps of a motor vehicle, or in lieu of such material, a lighted lamp visible from both sides from a distance of at least 500 feet.

2. Every bicycle ***or electric bicycle*** must be equipped with a brake which will enable the operator to make the wheels skid on dry, level, clean pavement.

Sec. 28. NRS 484.595 is hereby amended to read as follows:

484.595 1. Every motor vehicle and combination of vehicles, at all times and under all conditions of loading, upon application of the service brake, shall be capable of:

(a) Developing a braking force that is not less than the percentage of its gross weight tabulated in subsection 2 for its classification;

(b) Decelerating to a stop from not more than 20 miles per hour at not less than the feet per second per second tabulated in subsection 2 for its classification; and

(c) Stopping from a speed of 20 miles per hour, in not more than the distance tabulated in subsection 2 for its classification, such distance to be measured from the point at which movement of the service brake pedal or control begins.

2. The required braking forces, decelerations and braking distances are tabulated as follows:

Classification of Vehicles	Braking force as a percentage of gross vehicle or combination weight	Deceleration in fee per second	Brake system application and braking distance in feet from an initial speed of 20 m.p.h.

Passenger vehicles with a seating capacity of 10 people or less including driver, not having manufacturer's gross vehicle weight rating	52.8%	17	25
All motorcycles ~~[,]~~ ***and*** mopeds ~~[and motor-driven cycles]~~	43.5%	14	30
Single-unit vehicles with manufacturer's gross vehicle weight rating of 10,000 pounds or less	43.5%	14	30
Single-unit vehicles with manufacturer's gross weight rating of more than 10,000 pounds	43.5%	14	40
Combination of a two-axle towing vehicle and trailer with a gross trailer weight of 3,000 pounds or less	43.5%	14	40
Buses, regardless of the number of axles, not having a manufacturer's gross weight rating	43.5%	14	40
All combinations of vehicles in driveaway-towaway operations	43.5%	14	40
All other vehicles and combinations of vehicles	43.5%	14	50

3. Tests for deceleration and stopping distance shall be made on a substantially level (not to exceed plus or minus 1-percent grade), dry, smooth, hard surface that is free from loose material.

Sec. 29. NRS 484.601 is hereby amended to read as follows:

484.601 Every motor vehicle, trailer, semitrailer, house trailer and pole trailer, and every combination of such vehicles, except motorcycles ~~[,]~~ ***and*** mopeds ~~[and power cycles,]~~ ~~[and motor-driven cycles,]~~ equipped with brakes shall have the braking system so arranged that one control device can be used to operate all service brakes. The braking system on the towed vehicle may be surge actuated brakes. This requirement does not prohibit vehicles from being equipped with an additional control device to be used to operate brakes on the towed vehicles. This regulation does not apply to driveaway or towaway operations unless the brakes on the individual vehicles are designed to be operated by a single control on the towing vehicle.

Sec. 30. NRS 484.779 is hereby amended to read as follows:

484.779 1. Except as otherwise provided in subsection 3, a local authority may adopt, by ordinance, regulations with respect to highways under its jurisdiction within the reasonable exercise of the police power:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Designating particular highways as one-way highways and requiring that all vehicles thereon be moved in one specific direction.

(c) Designating any highway as a through highway, requiring that all vehicles stop before entering or crossing the highway, or designating any intersection as a stop or a yield intersection and requiring all vehicles to stop or yield at one or more entrances to the intersection.

(d) Designating truck **,** ~~[and]~~ bicycle ***and electric bicycle*** routes.

(e) Adopting such other traffic regulations related to specific highways as are expressly authorized by this chapter.

2. An ordinance relating to traffic control enacted under this section is not effective until official devices for traffic control giving notice of those local traffic regulations are posted upon or at the entrances to the highway or part thereof affected as is most appropriate.

3. An ordinance enacted under this section is not effective with respect to:

(a) Highways constructed and maintained by the Department of Transportation under the authority granted by chapter 408 of NRS; or

(b) Alternative routes for the transport of radioactive, chemical or other hazardous materials which are governed by regulations of the United States Department of Transportation,

➥ until the ordinance has been approved by the Board of Directors of the Department of Transportation.

4. As used in this section, "hazardous material" has the meaning ascribed to it in NRS 459.7024.

Sec. 31. ~~[NRS 485.185 is hereby amended to read as follows:~~

~~485.185 Every owner of a motor vehicle which is registered or required to be registered in this State *or operating pursuant to a permit issued pursuant to NRS 482.398 or section 4 of this act* shall continuously provide, while the motor vehicle is present or registered in this State, insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State:~~

~~1. In the amount of $15,000 for bodily injury to or death of one person in any one accident;~~

~~2. Subject to the limit for one person, in the amount of $30,000 for bodily injury to or death of two or more persons in any one accident; and~~

~~3. In the amount of $10,000 for injury to or destruction of property of others in any one accident,~~

~~➥ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.]~~ **(Deleted by amendment.)**

Sec. 32. NRS 485.313 is hereby amended to read as follows:

485.313 1. The Department shall create a system for verifying that the owners of motor vehicles maintain the insurance required by NRS 485.185.

2. As used in this section, "motor vehicle" does not include:

(a) ~~[A]~~ ***Except as otherwise provided in subsection 1 of NRS 482.398, a*** golf cart as that term is defined in NRS 482.044.

(b) A motortruck, truck-tractor, bus or other vehicle that is registered pursuant to paragraph (e) of subsection 1 of NRS 482.482 or NRS 706.801 to 706.861, inclusive.

Sec. 33. NRS 486.038 is hereby amended to read as follows:

486.038 "Moped" means a ~~[~~vehicle which looks and handles essentially like a bicycle and~~]~~ ***motor-driven scooter, motor-driven cycle or similar vehicle that*** is propelled by a small engine which produces not more than 2 gross brake horsepower ~~[~~and which~~]~~ **,** has a displacement of not more than 50 cubic centimeters **~~[,]~~** ***or produces not more than 1500 watts final output,*** and:

1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and

2. Is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than 1 percent grade in any direction when the motor is engaged.

➥ ***The term does not include an electric bicycle as defined in section 10 of this act.***

Sec. 34. NRS 486.041 is hereby amended to read as follows:

486.041 "Motorcycle" means every motor vehicle equipped with a seat or a saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, ~~[~~including a power cycle but~~]~~ excluding ***an electric bicycle as defined in section 10 of this act,*** a tractor and a moped.

Sec. 35. NRS 486A.110 is hereby amended to read as follows:

486A.110 "Motor vehicle" means every vehicle which is self-propelled, but not operated on rails, used upon a highway for the purpose of transporting persons or property. The term does not include ~~[a:]~~ ***:***

1. ~~*[Electric]*~~ ***An electric bicycle as defined in section 10 of this act;***

2. ~~[Farm]~~ ***A farm*** tractor as defined in NRS 482.035;

~~[2.]~~ ***3.*** ~~[Moped]~~ ***A moped*** as defined in NRS 482.069; and

~~[3.]~~ ***4.*** ~~[Motorcycle]~~ ***A motorcycle*** as defined in NRS 482.070.

Sec. 35.5. **NRS 408.234 is hereby amended to read as follows:**

408.234 1. The position of Motor Vehicle Recovery and Transportation Planner is hereby created in the Department.

2. The Motor Vehicle Recovery and Transportation Planner shall:

(a) Develop and administer a plan for the construction of motor vehicle recovery and bicycle lanes that are not less than 3 feet wide in all new construction and major repair work on every highway in the State, in accordance with appropriate standards of design;

(b) Develop a plan for the maintenance of motor vehicle recovery and bicycle lanes throughout the State;

(c) Prepare and distribute information on motor vehicle recovery and bicycle lanes, bicycle safety manuals and bicycle route maps throughout the State;

(d) Develop standards for the design of motor vehicle recovery and bicycle lanes and bicycle paths and routes;

(e) Develop standardized signs and markings which indicate bicycle lanes;

(f) Determine where appropriate signs and markings will be located on state highways and coordinate their placement;

(g) Establish a statewide plan of motor vehicle recovery and bicycle lanes and bicycle paths and routes and update the plan annually;

(h) Identify projects which are related to motor vehicle recovery and bicycle lanes and place each project in its proper order of priority;

(i) Investigate possible sources of money which may be available to promote motor vehicle recovery and bicycle lanes and bicycle facilities and programs throughout this State and solicit money from those sources;

(j) Provide assistance to the Department of Motor Vehicles and the Department of Public Safety in coordinating activities which are related to motor vehicle and bicycle safety in the communities of this State;

(k) Investigate the programs of the Rails-to-Trails Conservancy and where feasible, participate in those programs;

(l) Identify the potential effect of bicycle programs on tourism in this State; and

(m) Carry out any other duties assigned to him by the Director.

3. The Director may remove any of the duties set out in subsection 2 if he determines that the duty is no longer necessary or appropriate.

4. As used in this section, "bicycle" has the meaning ascribed to it in NRS 484.019 and includes an electric bicycle as defined in section 2 of this act.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 476.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 509.

AN ACT relating to gaming; revising the boundaries of the Las Vegas Boulevard gaming corridor; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the Nevada Gaming Commission is prohibited from approving a nonrestricted license for an establishment in a county

whose population is 400,000 or more (currently Clark County) unless the establishment is located in a gaming enterprise district, which is defined as "an area that has been approved by a county, city or town as suitable for operating an establishment that has been issued a nonrestricted license." (NRS 463.0158, 463.308) If the location of a proposed establishment is within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone, but not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3084. (NRS 463.3082) However, if the location of a proposed establishment is not within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone and not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3086, which contains certain additional requirements that are not contained in NRS 463.3084, such as the requirements that: (1) the property line of the proposed establishment must be not less than 500 feet from the property line of a developed residential district and not less than 1,500 feet from the property line of a public school, private school or structure used primarily for religious services or worship; and (2) a three-fourths vote of the governing body of the county, city or town is required for designation of the location as a gaming enterprise district. (NRS 463.3086)

This bill revises the boundaries of the Las Vegas Boulevard gaming corridor to include certain new areas. ~~[that are adjacent to the current boundaries.]~~ Consequently, if a proposed establishment which is located in a new area of the Las Vegas Boulevard gaming corridor and which is not already in a gaming enterprise district were to seek to have the location designated as a gaming enterprise district, the determination of whether the location may be designated as a gaming enterprise district would be based upon the criteria set forth in NRS 463.3084, rather than the criteria set forth in NRS 463.3086.

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

Section 1. NRS 463.3076 is hereby amended to read as follows:

463.3076 The location of a proposed establishment shall be deemed to be within the Las Vegas Boulevard gaming corridor if the property line of the proposed establishment ~~[~~:

~~1. Is within 1,500 feet of the centerline of Las Vegas Boulevard;~~

~~2. Is south of the intersection of Las Vegas Boulevard and that portion of St. Louis Avenue which is designated State Highway No. 605; and~~

~~3. Is adjacent to or north of the northern edge line of State Highway No. 146.]~~ ***is located within the area described in subsection 1 or 2 as follows:***

1. Beginning at the point of the northern edge line of State Highway No. 146 that is 1,500 feet west of the centerline of Las Vegas Boulevard, then proceeding north to the northern edge line of Tropicana Avenue, then proceeding west to the eastern edge line of Interstate 15, then proceeding north to the eastern edge line of ~~[the Union Pacific Railroad Right-of-Way,]~~ Industrial Road, then proceeding north to the southern edge line of ~~[United States Highway No. 95,]~~ New York Avenue, then proceeding east to the intersection of the extension of the southern edge line of New York Avenue and the western edge line of ~~[Las Vegas Boulevard,]~~ Main Street, then proceeding south to the southern edge line of St. Louis Avenue, then proceeding east to the western edge line of Santa Rita Drive, then proceeding south along a line that is 1,500 feet east of the centerline of Las Vegas Boulevard to the western edge line of Paradise Road, then proceeding south to the ~~[northern]~~ southern edge line of ~~[Tropicana]~~ Sands Avenue, then proceeding west to a point that is 1,500 feet east of the centerline of Las Vegas Boulevard, then proceeding south along a line that is 1,500 feet from the centerline of Las Vegas Boulevard to the northern edge line of State Highway No. 146, then proceeding west to the point of beginning.

2. Beginning at the intersection of the western edge line of Las Vegas Boulevard and the extension of the northern edge line of Lewis Avenue, then proceeding north to the southern edge line of Stewart Avenue, then proceeding west to the eastern edge line of Casino Center Boulevard, then proceeding north to the southern edge line of United States Highway No. 95, then proceeding west to the western edge line of the Union Pacific Railroad Right-of-Way, then proceeding south to a point that is perpendicular to the extension of the northern edge line of Lewis Avenue, then proceeding east to the point of beginning.

Assemblyman Segerblom moved the adoption of the amendment.

Remarks by Assemblyman Segerblom.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 495.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 409.

AN ACT relating to professional negligence; revising the **limitation on the amount of noneconomic** damages that may be awarded in certain actions based on professional negligence; revising ~~[various provisions relating to]~~ the statute of limitations in such actions; ~~[establishing certain evidentiary standards in such actions; repealing certain provisions related to such actions;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a limitation of $350,000 in noneconomic damages in actions based on professional negligence. (NRS 41A.035) **Section 1** of this bill ~~[eliminates the limitation on noneconomic damages and provides explicitly that economic damages may be awarded in such actions. Section 2 of this bill increases the period in which to bring an action to trial for professional negligence to 5 years after the date on which the action is filed. (NRS 41A.061)~~

~~The Nevada Supreme Court has ruled that the mandatory dismissal of an action filed without an affidavit of medical expert does not apply to a res ipsa loquitur case, because an expert affidavit is unnecessary in factual situations where medical negligence is presumed. (Szydel v. Markman, 121 Nev. 453 (2005)) Section 3 of this bill codifies the holding in the Szydel decision and provides that the medical expert may be a person whose practice includes the type of practice engaged in at the time of the alleged negligence such that he can testify, under oath, that he is familiar with the accepted standard of care. (NRS 41A.071)~~

~~Section 4 of this bill increases the limit on fees payable for an opinion letter from independent counsel from $1,500 to $5,000 in professional negligence cases where a settlement judge recommends settlement for limits of the insurance policy. (NRS 41A.085)]~~ **provides for an exception to the limitation on noneconomic damages if the defendant's conduct is determined to constitute gross negligence.**

Section 5 of this bill ~~[provides that]~~ **increases the period of the statute of** limitations ~~[of actions]~~ for **an action for** injury or death against a provider of health care ~~[may not be commenced]~~ **from not more than 3 years after the date of injury or 1 year after the plaintiff discovers or should have discovered the injury to not** more than 4 years after the date of injury or 2 years after the plaintiff discovers or should have discovered the injury. (NRS 41A.097) ~~[Section 5 also provides for certain tolling of the limitations where the provider of health care fails or refuses to provide medical records to the patient and for certain claims where the injury was not discoverable except by certain medical methods.~~

~~Existing law provides that there is a conclusive presumption that a patient has consented to a medical, surgical or dental procedure under certain circumstances. (NRS 41A.110) Section 7 of this bill provides that such circumstances create a rebuttable presumption, rather than a conclusive presumption, that the patient has consented to the procedure. Section 8 of this bill repeals certain provisions relating to actions against providers of health care based upon professional negligence, including: (1) limitations on contingent fee contracts in such actions; (2) several liability of a provider of health care; and (3) the introduction of certain evidence relating to collateral benefits and payment of future damages by periodic payments. (NRS 7.095, 41A.045, 42.021)]~~

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

Section 1. NRS 41A.035 is hereby amended to read as follows:

41A.035 ~~[In]~~

1. Except as otherwise provided in subsection 2, in an action for injury or death against a provider of health care based upon professional negligence, the injured plaintiff may recover ~~*[economic damages and]*~~ noneconomic damages ~~*[.]*~~ , but the amount of noneconomic damages awarded in such an action must not exceed $350,000.

2. In an action for damages based upon professional negligence, the limitation on noneconomic damages set forth in subsection 1 does not apply if the conduct of the defendant is determined to constitute gross negligence.

3. For the purposes of this section, "gross negligence" means failure to exercise the required degree of care, skill or knowledge that amounts to:

(a) A conscious indifference to the consequences which may result from the gross negligence; and

(b) A disregard for and indifference to the safety and welfare of the patient.

Sec. 2. ~~[NRS 41A.061 is hereby amended to read as follows:~~

~~41A.061 1. Upon the motion of any party or upon its own motion, unless good cause is shown for the delay, the court shall, after due notice to the parties, dismiss an action involving medical malpractice or dental malpractice if the action is not brought to trial within [:~~

~~(a) Three years after the date on which the action is filed, if the action is filed on or after October 1, 2002, but before October 1, 2005.~~

~~(b) Two~~~~]~~ ***5*** ~~years after the date on which the action is filed . [, if the action is filed on or after October 1, 2005.]~~

~~2. Dismissal of an action pursuant to subsection 1 is a bar to the filing of another action upon the same claim for relief against the same defendants.~~

~~3. Each district court shall adopt court rules to expedite the resolution of an action involving medical malpractice or dental malpractice.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 41A.071 is hereby amended to read as follows:~~

~~41A.071 [If]~~ ***Except as otherwise provided in NRS 41A.100, if*** ~~an action for medical malpractice or dental malpractice is filed in the district court, the district court shall dismiss the action, without prejudice, if the action is filed without an affidavit, supporting the allegations contained in the action, submitted by a medical expert who practices or has practiced in an area that [is]~~ ***:***

~~***1. Is*** substantially similar to the type of practice engaged in at the time of the alleged malpractice **[.] ; or***~~

~~*2. Includes the type of practice engaged in at the time of the alleged negligence such that the medical expert can testify, under oath, that he is familiar with the accepted standard of care.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~[NRS 41A.085 is hereby amended to read as follows:~~

~~41A.085 1. In an action for damages for medical malpractice or dental malpractice in which the defendant is insured pursuant to a policy of insurance covering the liability of the defendant for a breach of his professional duty toward a patient:~~

~~(a) At any settlement conference, the judge may recommend that the action be settled for the limits of the policy of insurance.~~

~~(b) If the judge makes the recommendation described in paragraph (a), the defendant is entitled to obtain from independent counsel an opinion letter explaining the rights of, obligations of and potential consequences to the defendant with regard to the recommendation. The insurer shall pay the independent counsel to provide the opinion letter described in this paragraph, except that the insurer is not required to pay more than~~ ~~[~~$1,500~~]~~ ~~*$5,000*~~ ~~to the independent counsel to provide the opinion letter.~~

~~2. [The]~~ ~~*This*~~ ~~section does not:~~

~~(a) Prohibit the plaintiff from making any offer of settlement.~~

~~(b) Require an insurer to provide or pay for independent counsel for a defendant except as expressly provided in this section.]~~ **(Deleted by amendment.)**

Sec. 5. NRS 41A.097 is hereby amended to read as follows:

41A.097 1. Except as otherwise provided in subsection ~~*[subsections 2 and]*~~ 3, an action for injury or death against a provider of health care may not be commenced more than 4 years after the date of injury or 2 years after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs first, for :

(a) Injury ~~*[injury]*~~ to or the wrongful death of a person occurring before October 1, 2002, based ~~*[:*~~

~~*(a) Based]*~~ upon alleged professional negligence of the provider of health care;

(b) Injury to or the wrongful death of a person occurring before October 1, 2002, from ~~*[From]*~~ professional services rendered without consent; or

(c) Injury to or the wrongful death of a person occurring before October 1, 2002, from ~~*[From]*~~ error or omission in practice by the provider of health care.

2. Except as otherwise provided in subsection 3, an action for injury or death against a provider of health care may not be commenced more than ~~[3]~~ ***4*** years after the date of injury or ~~[1 year]~~ ***2 years*** after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs first, for:

(a) Injury to or the wrongful death of a person occurring on or after October 1, 2002, based upon alleged professional negligence of the provider of health care;

(b) Injury to or the wrongful death of a person occurring on or after October 1, 2002, from professional services rendered without consent; or

(c) Injury to or the wrongful death of a person occurring on or after October 1, 2002, from error or omission in practice by the provider of health care.

3. This time limitation is tolled for any period during which the provider of health care has ~~[~~:

~~*(a) Has]*~~ concealed any act, error or omission upon which the action is based and which is known or through the use of reasonable diligence should have been known to him . ~~*[; or*~~

~~*(b) Fails or refuses to provide the person's medical records, or during which such medical records are unavailable.*~~

~~*3. This time limitation is tolled for any period during which the injury of the person is not discoverable except by means of diagnostic testing through the use of radiography, computerized tomography, magnetic resonance imaging, positron emission tomography or similar methods.]*~~

4. For the purposes of this section , the parent, guardian or legal custodian of any minor child is responsible for exercising reasonable judgment in determining whether to prosecute any cause of action limited by subsection 1 or 2. If the parent, guardian or custodian fails to commence an action on behalf of that child within the prescribed period of limitations, the child may not bring an action based on the same alleged injury against any provider of health care upon the removal of his disability, except that in the case of:

(a) Brain damage or birth defect, the period of limitation is extended until the child attains 10 years of age.

(b) Sterility, the period of limitation is extended until 2 years after the child discovers the injury. ***:***

~~*[(a) The "injury" of a person shall be deemed to occur when all elements of the cause of action have accrued.*~~

~~*(b) The "wrongful death" of a person shall be deemed to occur on the date of that person's death.]*~~

Sec. 6. ~~[~~NRS 41A.100 is hereby amended to read as follows:

~~41A.100 1. Liability for personal injury or death is not imposed upon any provider of medical care based on alleged negligence in the performance of that care unless evidence consisting of expert medical testimony, material from recognized medical texts or treatises or the regulations of the licensed medical facility wherein the alleged negligence occurred is presented to demonstrate the alleged deviation from the accepted standard of care in the specific circumstances of the case and to prove causation of the alleged personal injury or death, except that such evidence is not required and a rebuttable presumption that the personal injury or death was caused by negligence arises where evidence is presented that the personal injury or death occurred in any one or more of the following circumstances:~~

~~(a) A foreign substance other than medication or a prosthetic device was unintentionally left within the body of a patient following surgery;~~

~~(b) An explosion or fire originating in a substance used in treatment occurred in the course of treatment;~~

~~(c) An unintended burn caused by heat, radiation or chemicals was suffered in the course of medical care;~~

~~(d) An injury was suffered during the course of treatment to a part of the body not directly involved in the treatment or proximate thereto; or~~

~~(e) A surgical procedure was performed on the wrong patient or the wrong organ, limb or part of a patient's body.~~

~~2. Expert medical testimony provided pursuant to subsection 1 may only be given by a provider of medical care who practices or has practiced in an area that [is]:~~

~~***(a) Is*** substantially similar to the type of practice engaged in at the time of the alleged negligence [.]~~ ~~***; or***~~

~~***(b) Includes the type of practice engaged in at the time of the alleged negligence such that the provider of medical care can testify, under oath, that he is familiar with the accepted standard of care.***~~

~~3. As used in this section, "provider of medical care" means a physician, dentist, registered nurse or a licensed hospital as the employer of any such person.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[NRS 41A.110 is hereby amended to read as follows:~~

~~41A.110 [A]~~ ~~***There is a rebuttable presumption that a*** physician licensed to practice medicine under the provisions of chapter 630 or 633 of NRS, or a dentist licensed to practice dentistry under the provisions of chapter 631 of NRS, has [conclusively] obtained the consent of a patient for a medical, surgical or dental procedure, as appropriate, if he has done the following:~~

~~1. Explained to the patient in general terms, without specific details, the procedure to be undertaken;~~

~~2. Explained to the patient alternative methods of treatment, if any, and their general nature;~~

~~3. Explained to the patient that there may be risks, together with the general nature and extent of the risks involved, without enumerating such risks; and~~

~~4. Obtained the signature of the patient to a statement containing an explanation of the procedure, alternative methods of treatment and risks involved, as provided in this section.]~~ **(Deleted by amendment.)**

Sec. 8. ~~[NRS 7.095, 41A.045 and 42.021 are hereby repealed.]~~ **(Deleted by amendment.)**

~~[~~

~~**TEXT OF REPEALED SECTIONS**~~

~~**7.095 Limitations on contingent fees for representation of persons in certain actions against providers of health care. [This section was**~~

~~**proposed by an initiative petition and approved by the voters at the 2004 General Election and therefore is not subject to legislative amendment or repeal until after November 23, 2007.]**~~

~~1. An attorney shall not contract for or collect a fee contingent on the amount of recovery for representing a person seeking damages in connection with an action for injury or death against a provider of health care based upon professional negligence in excess of:~~

~~(a) Forty percent of the first $50,000 recovered;~~

~~(b) Thirty-three and one-third percent of the next $50,000 recovered;~~

~~(c) Twenty-five percent of the next $500,000 recovered; and~~

~~(d) Fifteen percent of the amount of recovery that exceeds $600,000.~~

~~2. The limitations set forth in subsection 1 apply to all forms of recovery, including, without limitation, settlement, arbitration and judgment.~~

~~3. For the purposes of this section, "recovered" means the net sum recovered by the plaintiff after deducting any disbursements or costs incurred in connection with the prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and general and administrative expenses incurred by the office of the attorney are not deductible disbursements or costs.~~

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

~~(a) "Professional negligence" means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.~~

~~(b) "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, dentist, registered nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, or a licensed hospital and its employees.~~

~~**41A.045 Several liability of defendants for damages; abrogation of joint and several liability. [This section was proposed by an initiative petition and approved by the voters at the 2004 General Election and therefore is not subject to legislative amendment or repeal until after November 23, 2007.]**~~

~~1. In an action for injury or death against a provider of health care based upon professional negligence, each defendant is liable to the plaintiff for economic damages and noneconomic damages severally only, and not jointly, for that portion of the judgment which represents the percentage of negligence attributable to the defendant.~~

~~2. This section is intended to abrogate joint and several liability of a provider of health care in an action for injury or death against the provider of health care based upon professional negligence.~~

42.021 Actions based on professional negligence of providers of health care: Introduction of certain evidence relating to collateral benefits; restrictions on source of collateral benefits; payment of future damages by periodic payments. [This section was proposed by an initiative petition and approved by the voters at the 2004 General Election and therefore is not subject to legislative amendment or repeal until after November 23, 2007.]

1. In an action for injury or death against a provider of health care based upon professional negligence, if the defendant so elects, the defendant may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the injury or death pursuant to the United States Social Security Act, any state or federal income disability or worker's compensation act, any health, sickness or income disability insurance, accident insurance that provides health benefits or income disability coverage, and any contract or agreement of any group, organization, partnership or corporation to provide, pay for or reimburse the cost of medical, hospital, dental or other health care services. If the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount that the plaintiff has paid or contributed to secure his right to any insurance benefits concerning which the defendant has introduced evidence.

2. A source of collateral benefits introduced pursuant to subsection 1 may not:

(a) Recover any amount against the plaintiff; or

(b) Be subrogated to the rights of the plaintiff against a defendant.

3. In an action for injury or death against a provider of health care based upon professional negligence, a district court shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump sum payment if the award equals or exceeds $50,000 in future damages.

4. In entering a judgment ordering the payment of future damages by periodic payments pursuant to subsection 3, the court shall make a specific finding as to the dollar amount of periodic payments that will compensate the judgment creditor for such future damages. As a condition to authorizing periodic payments of future damages, the court shall require a judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor.

5. A judgment ordering the payment of future damages by periodic payments entered pursuant to subsection 3 must specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments will be made. Such payments must only be subject to modification in the event of the death of the judgment creditor. Money

~~damages awarded for loss of future earnings must not be reduced or payments terminated by reason of the death of the judgment creditor, but must be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately before his death. In such cases, the court that rendered the original judgment may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subsection.~~

~~6. If the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the periodic payments as specified pursuant to subsection 5, the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including, but not limited to, court costs and attorney's fees.~~

~~7. Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to make further payments ceases and any security given pursuant to subsection 4 reverts to the judgment debtor.~~

~~8. As used in this section:~~

~~(a) "Future damages" includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.~~

~~(b) "Periodic payments" means the payment of money or delivery of other property to the judgment creditor at regular intervals.~~

~~(c) "Professional negligence" means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.~~

~~(d) "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, or a licensed hospital and its employees.]~~

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 502.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 251.

AN ACT relating to prisons; **requiring the Board of State Prison Commissioners to adopt regulations pertaining to a facility or institution operated by a private organization;** providing that certain provisions relating to ~~[the escape of a prisoner from a facility or institution operated by the Department of Corrections]~~ **a prisoner confined in a facility or institution** also apply to ~~[the escape of a prisoner from]~~ **a prisoner confined in** a private facility or institution operated by a private organization; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of State Prison Commissioners to adopt regulations for carrying out the business of the Board and of the Department of Corrections. (NRS 209.111) Section 1 of this bill requires the Board to adopt additional regulations establishing the maximum number of prisoners that may be incarcerated in a private facility or institution and the ratio of prisoners to correctional officers that must be maintained in a private facility or institution.

Existing law makes it a crime for: (1) a prisoner to escape from prison or to manufacture or possess certain items used in an escape; (2) a person to aid a prisoner in escaping from prison; (3) a person who has custody of a prisoner to allow the prisoner to escape; and (4) a person to conceal an escaped prisoner. (NRS 212.080, 212.090, 212.093, 212.100, 212.110, 212.120, 212.130) Existing law also provides certain procedures for issuing a warrant for the arrest of an escaped prisoner and the manner in which expenses for recapturing the prisoner must be paid. (NRS 212.030-212.080) ~~[This]~~ **Further, existing law makes it a crime to: (1) provide certain items to a prisoner, including certain weapons, an intoxicant or a controlled substance and certain communications devices; or (2) engage in certain behavior concerning a prisoner, such as engaging in sexual conduct or certain unlawful acts relating to human excrement or bodily fluid. (NRS 212.160-212.189) Section 2 of this** bill provides that those provisions also apply to a prisoner ~~[who escapes from]~~ **incarcerated in** a private prison operated by a private organization as well as to certain **other** persons **,** ~~[who allow his escape, aid in his escape or conceal the escaped prisoner. This bill]~~ **Section 2** also provides that the private organization that operates a private facility or institution must **: (1)** reimburse the State for expenses incurred by the State in recapturing ~~[the escaped]~~ **a** prisoner ~~[.]~~ **who escapes from the private facility or institution; and (2) provide training to its employees that is equivalent to the training provided to a correctional officer in this State.**

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

Section 1. **Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. To ensure the safety of the residents of the State of Nevada, the Board shall adopt regulations establishing:

(a) The maximum number of prisoners who may be incarcerated in a private facility or institution; and

(b) The ratio of prisoners to correctional officers that must be maintained in such a facility or institution.

2. The ratio of prisoners to correctional officers established pursuant to subsection 1 must not exceed the ratio established for facilities and institutions of the Department for prisoners subject to the same level of security.

3. As used in this section:

(a) "Prisoner" has the meaning ascribed to it in section 2 of this act.

(b) "Private facility or institution" has the meaning ascribed to it in section 2 of this act.

~~[Section 1.]~~ ***Sec. 2.*** Chapter 212 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this section and NRS 212.030 to 212.130, inclusive, and 212.160 to 212.189, inclusive, apply to:

(a) A person who has custody of a prisoner assigned to a private facility or institution in this State; and

(b) A prisoner assigned to a private facility or institution in this State,

➥ to the same extent that those provisions would apply if the prisoner had been assigned to a facility or institution operated by the Department.

2. A private organization that operates a private facility or institution must provide training to any person employed by the private facility or institution to perform the duties of a correctional officer described in subsection 5 of NRS 209.131. The training must be equivalent to the training provided to a correctional officer in this State.

3. The private organization that operates a private facility or institution must reimburse the State for any expenses charged against the State or paid by the State pursuant to NRS 212.040, 212.050 or 212.070 concerning a prisoner who escaped from the private facility or institution.

~~[3.]~~ ***4. As used in this section:***

(a) "Prisoner" means any person who is:

(1) Convicted of a crime under the laws of this State and sentenced to imprisonment in the state prison; or

(2) Convicted of a crime under the laws of another jurisdiction and sentenced to imprisonment by that jurisdiction.

(b) "Private facility or institution" means a facility or institution operated by a private organization to house prisoners.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 52.

Bill read second time.

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

Amendment No. 417.

SUMMARY—Requires hospitals in certain larger counties to provide ~~[~~certain types of emergency services and care.~~]~~ **a report of certain information concerning patients to the Legislative Committee on Health Care.** (BDR ~~[~~40-448~~]~~ **S-448)**

AN ACT relating to health care; requiring **certain** hospitals in certain larger counties to ~~[~~provide certain types of emergency services and care; providing an exception if a hospital has entered into a written agreement with another hospital for~~]~~ **report information to the Legislative Committee on Health Care concerning** the transfer ~~[~~and treatment~~]~~ of patients ~~[~~.~~]~~ **to another hospital;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Hospitals in this State are required to provide emergency services and care, and it is unlawful for a hospital or a physician working in a hospital emergency room to refuse to accept or treat a patient in need of emergency services and care. (NRS 439B.410) ~~[~~Section 1 of this~~]~~ **This** bill requires ~~[~~a hospital located in a county whose population is 400,000 or more (currently Clark County) to provide certain types of emergency services and care if the hospital has on its medical staff a physician who is privileged to practice in that type of specialty service or care or to enter into an agreement with another hospital to provide the specific service or care not offered by the hospital.~~]~~ **certain hospitals located in larger counties to provide a report of certain information to the Legislative Committee on Health Care concerning the transfer of patients from the hospital to another hospital and the availability of specialty medical services in the hospital. Such a report must be made quarterly beginning on September 15, 2009, and cover information from June 1, 2009, through August 31, 2010.**

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

Section 1. ~~[~~NRS 439B.410 is hereby amended to read as follows:~~]~~

~~439B.410 1. Except as otherwise provided in subsection [4,] 5, each hospital in this State has an obligation to provide emergency services and care, including care provided by physicians and nurses, and to admit a patient where appropriate, regardless of the financial status of the patient.~~

~~*2. Except as otherwise provided in this subsection and subsection 5, each hospital located in a county whose population is 400,000 or more shall, to satisfy its obligation pursuant to subsection 1, provide the following services and care if the hospital has on its medical staff at least one physician who is privileged to practice in the type of specialty service or care:*~~

~~*(a) Cardiology services;*~~

~~*(b) Gastroenterological services;*~~
~~*(c) General surgical services;*~~
~~*(d) Neurosurgical services;*~~
~~*(e) Ophthalmology services;*~~
~~*(f) Oral and maxillofacial surgical services;*~~
~~*(g) Orthopedic services;*~~
~~*(h) Otolaryngology services; and*~~
~~*(i) Urological services.*~~

~~"*A hospital that does not offer a type of emergency service or care required by this subsection shall enter into a written agreement for the transfer and treatment of patients with another hospital to provide that specific type of emergency service or care.*~~

~~*3.* Except as otherwise provided in subsection **[**4,**]** *5*, it is unlawful for a hospital or a physician working in a hospital emergency room to:~~

~~(a) Refuse to accept or treat a patient in need of emergency services and care; or~~

~~(b) Except when medically necessary in the judgment of the attending physician:~~

~~(1) Transfer a patient to another hospital or health facility unless, as documented in the patient's records:~~

~~(I) A determination has been made that the patient is medically fit for transfer;~~

~~(II) Consent to the transfer has been given by the receiving physician, hospital or health facility;~~

~~(III) The patient has been provided with an explanation of the need for the transfer; and~~

~~(IV) Consent to the transfer has been given by the patient or his legal representative; or~~

~~(2) Provide a patient with orders for testing at another hospital or health facility when the hospital from which the orders are issued is capable of providing that testing.~~

~~**[**3.**]** *4.* A physician, hospital or other health facility which treats a patient as a result of a violation of subsection **[**2**]** *3* by a hospital or a physician working in the hospital is entitled to recover from that hospital an amount equal to three times the charges for the treatment provided that was billed by the physician, hospital or other health facility which provided the treatment, plus reasonable attorney's fees and costs.~~

~~**[**4.**]** *5.* This section does not prohibit the transfer of a patient from one hospital to another:~~

~~(a) When the patient is covered by an insurance policy or other contractual arrangement which provides for payment at the receiving hospital;~~

~~(b) After the county responsible for payment for the care of an indigent patient has exhausted the money which may be appropriated for that purpose pursuant to NRS 428.050, 428.285 and 450.425; or~~

~~(c) When the hospital cannot provide the services needed by the patient~~ **[.]** ~~*and the hospital has entered into a written agreement for the transfer and treatment of patients, if such an agreement is required pursuant to subsection 2.*~~

~~➥ No transfer may be made pursuant to this subsection until the patient's condition has been stabilized to a degree that allows the transfer without an additional risk to the patient.~~

[5.**]** ~~*6.*~~ ~~As used in this section:~~

~~(a) "Emergency services and care" means medical screening, examination and evaluation by a physician or, to the extent permitted by a specific statute, by a person under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment and surgery by a physician necessary to relieve or eliminate the emergency medical condition or active labor, within the capability of the hospital. As used in this paragraph:~~

~~(1) "Active labor" means, in relation to childbirth, labor that occurs when:~~

~~(I) There is inadequate time before delivery to transfer the patient safely to another hospital; or~~

~~(II) A transfer may pose a threat to the health and safety of the patient or the unborn child.~~

~~(2) "Emergency medical condition" means the presence of acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:~~

~~(I) Placing the health of the patient in serious jeopardy;~~

~~(II) Serious impairment of bodily functions; or~~

~~(III) Serious dysfunction of any bodily organ or part.~~

~~(b) "Medically fit" means that the condition of the patient has been sufficiently stabilized so that he may be safely transported to another hospital, or is such that, in the determination of the attending physician, the transfer of the patient constitutes an acceptable risk. Such a determination must be based upon the condition of the patient, the expected benefits, if any, to the patient resulting from the transfer and whether the risks to the patient's health are outweighed by the expected benefits, and must be documented in the patient's records before the transfer.~~

[6.**]** ~~*7.*~~ ~~If an allegation of a violation of the provisions of subsection~~ **[**2**]** ~~*3*~~ ~~is made against a hospital licensed pursuant to the provisions of chapter 449 of NRS, the Health Division of the Department shall conduct an investigation of the alleged violation. Such a violation, in addition to any criminal penalties that may be imposed, constitutes grounds for the denial, suspension or revocation of such a license, or for the imposition of any sanction prescribed by NRS 449.163.~~

[7.**]** ~~*8.*~~ ~~If an allegation of a violation of the provisions of subsection~~ **[**2**]** ~~*3*~~ ~~is made against:~~

~~(a) A physician licensed to practice medicine pursuant to the provisions of chapter 630 of NRS, the Board of Medical Examiners shall conduct an investigation of the alleged violation. Such a violation, in addition to any criminal penalties that may be imposed, constitutes grounds for initiating disciplinary action or denying licensure pursuant to the provisions of subsection 3 of NRS 630.3065.~~

~~(b) An osteopathic physician licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS, the State Board of Osteopathic Medicine shall conduct an investigation of the alleged violation. Such a violation, in addition to any criminal penalties that may be imposed, constitutes grounds for initiating disciplinary action pursuant to the provisions of subsection 1 of NRS 633.131.~~**]**

1. Each hospital located in a county whose population is 400,000 or more which is licensed to have more than 70 beds shall provide to the Legislative Committee on Health Care reports with information concerning the transfer of patients from one hospital to another hospital. Such information must include:

(a) The number of patients who are transferred from the hospital to another hospital;

(b) The number of patients who were received by the hospital that were transferred from another hospital;

(c) The reason for each transfer of a patient to another hospital;

(d) The availability of specialty services and care in the hospital; and

(e) Whether each patient who was transferred from the hospital had insurance or some other guaranteed form of payment for services.

2. Each hospital subject to the provisions of subsection 1 shall provide a report to the Legislative Committee on Health Care with the information required at least once every 3 months, and the reports must include information from June 1, 2009, through August 31, 2010. The first report must be made by September 15, 2009, and must include information from June 1, 2009, through August 31, 2009. Subsequent reports must include information for the period since the last report.

3. The information reported pursuant to this section must be made available to each person or entity that provides information pursuant to this section to the extent that it is not required to be kept confidential.

4. The information reported pursuant to this section must be maintained and reported in a manner consistent with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

5. As used in this section, "specialty services" includes, without limitation:

(a) Cardiology services;

(b) Gastroenterological services;

(c) General surgical services;

(d) Neurosurgical services;

(e) Ophthalmology services;
(f) Oral and maxillofacial surgical services;
(g) Orthopedic services;
(h) Otolaryngology services; and
(i) Urological services.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Madam Speaker appointed Assemblymen Kihuen and Goicoechea as a committee to invite the Senate to meet in Joint Session with the Assembly to hear an address by United States Representative Dean Heller.

Assemblyman Atkinson moved that Assembly Bill No. 247 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Atkinson moved that Assembly Bill No. 455 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblywoman Smith moved that Assembly Bill No. 433 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 508 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Koivisto moved that Assembly Bill No. 293 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 111 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 229 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 482 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 497 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 309 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 433.

Bill read third time.

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

Amendment No. 513.

SUMMARY—Requires county hospitals **in certain larger counties** to provide outpatient cancer treatment as part of their care to indigent persons. (BDR 40-976)

AN ACT relating to county hospitals; requiring a county hospital **in certain larger counties** to provide outpatient cancer treatment as part of its care to indigent persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Counties are required through county hospitals to provide care to indigent persons. (NRS 428.010, 450.420) This bill ~~[requires]~~ **provides** that **in a county whose population is 400,000 or more (currently Clark County)** the care **provided by a county hospital must** include the outpatient treatment of cancer if the indigent person is a resident of ~~[the]~~ **that** county ~~[in which the hospital is located]~~ and was a resident of that county at the time the person was diagnosed with cancer, but clarifies that this does not prohibit the hospital from providing uncompensated care for the outpatient treatment of cancer to other persons.

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

Section 1. NRS 450.420 is hereby amended to read as follows:

450.420 1. The board of county commissioners of the county in which a ~~[public]~~ ***county*** hospital is located may determine whether patients presented to the ~~[public]~~ ***county*** hospital for treatment are subjects of charity. Except as otherwise provided in NRS 439B.330, the board of county commissioners shall establish by ordinance criteria and procedures to be used in the determination of eligibility for medical care as medical indigents or subjects of charity.

2. ~~*[A]*~~ ***In each county whose population is 400,000 or more, a county hospital must provide outpatient cancer treatment to indigent persons who are residents of that county and were residents of that county at the time that they were diagnosed with cancer. This subsection does not prohibit a county hospital from providing uncompensated care for the outpatient treatment of cancer to other persons.***

3. The board of hospital trustees shall fix the charges for treatment of those persons able to pay for the charges, as the board deems just and proper. The board of hospital trustees may impose an interest charge of not more than 12 percent per annum on unpaid accounts. The receipts must be paid to the county treasurer and credited by him to the hospital fund. In fixing charges pursuant to this subsection the board of hospital trustees shall not include, or seek to recover from paying patients, any portion of the expense of the hospital which is properly attributable to the care of indigent patients.

~~[3.]~~ ***4.*** Except as provided in subsection ~~[4]~~ ***5*** of this section and subsection 3 of NRS 439B.320, the county is chargeable with the entire cost of services rendered by the hospital and any salaried staff physician or employee to any person admitted for emergency treatment, including all reasonably necessary recovery, convalescent and follow-up inpatient care required for any such person as determined by the board of trustees of the hospital, but the hospital shall use reasonable diligence to collect the charges from the emergency patient or any other person responsible for his support. Any amount collected must be reimbursed or credited to the county.

~~[4.]~~ ***5.*** The county is not chargeable with the cost of services rendered by the hospital or any attending staff physician or surgeon to the extent the hospital is reimbursed for those services pursuant to NRS 428.115 to 428.255, inclusive.

Sec. 2. NRS 450.425 is hereby amended to read as follows:

450.425 1. The board of county commissioners of a county in which a county hospital is established may, upon approval by a majority of the voters voting on the question in an election held throughout the county, levy an ad valorem tax of not more than 2.5 cents on each $100 of assessed valuation upon all taxable property in the county, to pay the cost of services rendered in the county by the hospital pursuant to subsection ~~[3]~~ ***4*** of NRS 450.420. The approval required by this subsection may be requested at any primary or general election.

2. Any tax imposed pursuant to this section is in addition to the taxes imposed pursuant to NRS 428.050, 428.185 and 428.285. The proceeds of any tax levied pursuant to this section are exempt from the limitations imposed by NRS 354.59811, 428.050 and 428.285 and must be excluded in determining the maximum rate of tax authorized by those sections.

Sec. 3. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Pierce moved the adoption of the amendment.

Remarks by Assemblywoman Pierce.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 247.

Bill read third time.

The following amendment was proposed by Assemblyman Bobzien:

Amendment No. 503.

AN ACT relating to bicycles; revising provisions governing the operation of bicycles; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that every person riding a bicycle upon a roadway is generally subject to the provisions of chapter 484 of NRS which apply to drivers of vehicles. (NRS 484.503) Existing law requires the driver of a vehicle to signal an intention to turn from a direct course continuously during not less than the last 100 feet traveled in a business or residential district and not less than the last 300 feet traveled in any other area. (NRS 484.343) **Section 2** of this bill exempts the operator of a bicycle from these requirements and instead requires the operator only to signal his intention to turn at least one time, unless the bicycle is in a designated turn lane or when safe operation of the bicycle requires the operator to keep both hands on the bicycle.

Existing law provides for the methods of giving signals by hand and arm. (NRS 484.347) **Section 3** of this bill authorizes an operator of a bicycle to signal for a right turn by extending his right hand and arm horizontally and to the right side of the bicycle.

~~[Existing law prohibits the driving of a vehicle upon any sidewalk area. (NRS 484.451) Section 4 of this bill provides that a local authority may not enact any ordinance that requires the operation of bicycles upon sidewalks or side paths, and that any such ordinance enacted by a local authority is void.]~~

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

Section 1. Chapter 484 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[,]~~ **and** 3 ~~[and 4]~~ of this act.

Sec. 2. ***1. Except as otherwise provided in subsection 2, an operator of a bicycle upon a roadway shall not turn from a direct course unless the movement may be made with reasonable safety and the operator gives an appropriate signal. The operator shall give the appropriate signal at least one time but is not required to give the signal continuously.***

2. An operator of a bicycle is not required to give a signal if:

(a) The bicycle is in a designated turn lane; or

(b) Safe operation of the bicycle requires the operator to keep both hands on the bicycle.

Sec. 3. ***An operator of a bicycle upon a roadway shall give all signals by hand and arm in the manner required by NRS 484.347, except that the operator may give a signal for a right turn by extending his right hand and arm horizontally and to the right side of the bicycle.***

Sec. 4. ~~[1. A local authority shall not enact an ordinance requiring the operation of bicycles upon any sidewalk area or side path within its jurisdiction.~~

~~2. Any ordinance that is enacted in violation of subsection 1 has no effect and is void.~~

~~3. As used in this section, "side path" means an area adjacent to a highway that is designated for travel by bicycles or any other means except by motor vehicle.]~~ **(Deleted by amendment.)**

Sec. 5. NRS 484.501 is hereby amended to read as follows:

484.501 1. It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in NRS 484.505 to 484.513, inclusive ~~[.]~~ ***, and sections 2 [,] and 3 [and 4] of this act.***

2. The parent of any child and the guardian of any ward shall not authorize or knowingly permit ~~[any such]~~ ***the*** child or ward to violate any of the provisions of this chapter.

3. The provisions applicable to bicycles ~~[shall]~~ apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

Sec. 6. NRS 484.503 is hereby amended to read as follows:

484.503 Every person riding a bicycle upon a roadway has all of the rights and is subject to all of the duties applicable to the driver of a vehicle except as otherwise provided in NRS 484.504 to 484.513, inclusive, ***and sections 2 [,] and 3 [and 4] of this act*** and except as to those provisions of this chapter which by their nature can have no application.

Sec. 7. ~~[The provisions of section 4 of this act apply to any ordinance adopted before, on or after October 1, 2009, and any ordinance which was adopted before that date and which is contrary to the provisions of section 4 of this act is void on October 1, 2009.]~~ **(Deleted by amendment.)**

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

The President of the Senate and members of the Senate appeared before the Bar of the Assembly.

Madam Speaker invited the President of the Senate to the Speaker's rostrum.

Madam Speaker invited the members of the Senate to chairs in the Assembly.

IN JOINT SESSION

At 12:09 p.m.

President of the Senate presiding.

The Secretary of the Senate called the Senate roll.
All present.

The Chief Clerk of the Assembly called the Assembly roll.
All present.

The President of the Senate appointed a Committee on Escort consisting of Senator Rhoads and Assemblyman Munford to wait upon Representative Heller and escort him to the Assembly Chamber.

The Committee on Escort in company with the Honorable Dean Heller, United States Representative from Nevada, appeared before the Bar of the Assembly.

The Committee on Escort escorted the Representative to the rostrum.

Madam Speaker welcomed Representative Heller and invited him to deliver his message.

Dean Heller, United States Representative, delivered his message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-FIFTH SESSION, 2009

Madam Speaker, thank you very much. It is great to be home. I have already seen Senator Townsend look at his watch so I know I am limited here in the amount of my time. It is a Friday afternoon, and a lot of you have places to go, so I will try to meet those expectations. Thank you very much for having me here today. Mr. President, thank you, and thank you also for your friendship and the opportunity to spend some time here. I walked from the Assembly over to the Senate and lowered the average ages, I think, of both houses by doing that. It was great to spend some time in the State Senate. Senator Raggio, of course, it is good to see you. Leader Horsford, it is always a pleasure. Leader Oceguera and, of course, Leader Gansert, thank you very much for the opportunity to be here. I want to thank the Chief Justice for being here, also. I appreciate you spending a few minutes of your time to be with me. I want to thank, of course, Kim Wallin, our State Controller, for being here; also, the representatives from the other constitutional offices for being here. Of course, there are two names here that I want to make sure that I do acknowledge, two people that came in here into this house with me back in 1991. I was telling someone recently that if I were still here, I would be term-limited out after this session. Of course, those people are Warren Hardy and Bernie Anderson, two people that I came in here with, and it has been an honor and a privilege to serve with them over the years.

I want to, of course, thank my wife for being here. I want to thank my mother for being here. I still believe I am the only member of Congress whose mom still cuts his hair. I want to thank her for dragging my father out for this event. There is an empty lot across the street from this building. That empty lot used to be my fathers' engine and transmission shop. He taught me a lot of principles that I adhere to today. It is a thrill to have him with me today.

It is an honor and a privilege to serve in the second Congressional District. My district is 105,000 square miles. I try to explain that to Easterners. I told one representative from Illinois, "Consider driving from Washington, D.C., all the way to Chicago, and then a couple of hours after that. That is how much time it would take you to drive across my congressional district." For Clark County and all the other 16 counties, it really is an honor and great privilege to be able to serve them. For this reason, natural resource issues continue to be my priority. There are many rural legislators in here that know how important mining, public land management, and preventing wildfires are in northern Nevada. Recently, I found myself testifying in front of the Natural Resource Committee. In fact, I was with the chairwoman of the Elko County

Commission, talking against the destructive mining reform that they are now discussing. This year I was named the policy chair of the Western Caucus. This is a group of nearly 40 members of Congress who are primary defenders of balanced public land access, private property rights, and responsible natural resource developments in the U.S. House of Representatives. I believe this leadership position in this caucus allows me to be a stronger advocate for Nevada.

Now, when I was first elected to Congress, I was given some sage advice. I was told not to expect to get on an exclusive committee. I was told I would not pass any legislation, nor would I be able to achieve any amendments on the House floor. Simply put, I was told to not expect to get anything done. However, in my freshman year, in the minority, I was able to pass four pieces of legislation, more legislation than any of our House delegation. I amended the mining reform legislation on the House floor and was appointed to the Financial Services Committee, which is an exclusive committee. Now, starting my second term, I have been appointed to the most influential committee in Congress, the House Ways and Means Committee. This committee deals with issues such as taxes, energy, health care, and trade, all issues that I believe are very important for Nevada and all of which directly affect Nevadans. Every day I go to work to advocate for our great state and let Nevadans know that there is someone in Washington, D.C. who is on their side.

Now, when I am in Washington, D.C., whether I am sitting in committee or I am on the House floor, I evaluate each piece of legislation with the "more, higher, less" test. The "more, higher, less" test is: Does it provide more competition, higher quality, at less cost? If that piece of legislation passes out of committee and it meets that test, I vote for it. If there's a piece of legislation out there that doesn't meet the "more, higher, less" test, I vote against it. This is the true test that motivates entrepreneurs. The "more, higher, less" test is the true test that motivates small businesses. I believe it should be the test that motivates government. I want to give you an example of this approach, in school choice. The District of Columbia has a program in place to provide scholarships to students in underperforming schools so that they can attend schools with proven academic success. This program shows that students learn more, they perform at a higher level, and it costs the taxpayers less. Washington, D.C. spends approximately $14,000 per pupil. Under the school choice program, the cost per pupil is $7,500. Again, the students learn more, they perform at a higher level, and it costs the taxpayers less—more, higher, less.

Unfortunately, this successful program has been targeted to end by Democratic leadership. Instead of empowering parents to do what is right for their own children, the power is returned back to government bureaucrats. In this same vein, the recently passed budget includes what is called a cap and trade system on carbon emissions that will levy $646 billion in new taxes. In some estimates, the Congressional Budget Office estimates it as high as $3 trillion. This new scheme is nothing more than a sales tax on energy that will affect every working American in our country, because it taxes every form of energy we depend upon. The basic goal of this program is to make energy so expensive it influences consumers' behavior, to curb consumption. According to the EPA, electricity costs will rise between 44 and 79 percent under this system. It will potentially cost every Nevadan an estimated $850 or, for a family of four, nearly $3,400 in higher energy costs every year. Every time you turn on a light, buy a loaf of bread, or pick up your children from school, you will be paying higher taxes.

High energy prices not only hurt economic growth but they also cause inflation and have a negative effect on consumer spending. Our economy cannot afford this program. Instead of penalizing people for using energy and companies that produce energy, Congress should encourage innovation, pursue the development of alternative energy, and explore our own natural resources until we can bridge the gap that takes this country off of its dependence of foreign sources of energy.

It is no secret that Nevada is rich in renewable energy potential. We have an abundance of geothermal, solar, and wind energy. In Congress, I have voted in favor of a national renewable portfolio standard similar to the one already instituted here in Nevada. I am currently drafting solar energy legislation to help promote the development of solar energy on public lands. This legislation will direct the Secretary of the Interior to identify public lands best suited for solar energy and draft environmental assessments. The legislation applies an integrated royalty schedule to make the development of solar energy plants more cost efficient. I expect to introduce this legislation shortly after Congress comes back into session. Bringing renewable

energy to Nevada will create more jobs, a higher quality of life, and keep energy prices low. It is legislation that meets the "more, higher, less" test.

If "more, higher, less" was applied to the recently passed stimulus bill, Nevada and our nation would be better off today. I was disappointed by the partisanship leading up to that vote. Some in this room even announced support for the legislation before it was drafted. There was not a single person who did not believe that action was needed but the final product was a raw deal for Nevadans and the American taxpayers. Nevada was at the bottom of the list for assistance, even though we lead the nation in foreclosures and have more than 10 percent unemployment. The American public ended up with a $1.1 trillion spending bill that dedicated very little to infrastructure, while nearly $100 billion was spent to create 33 new government agencies. It greased the path for hundreds of millions of dollars in AIG bonuses, a company that received more than $170 billion in bailout money. A real opportunity to help Nevadans and the American people was squandered. With the promises of higher taxes, more spending, and bigger deficits, this Congress has committed to saddling our children and grandchildren with a record debt. As many of you know, I have four children and many of you have four children. In fact, I know Leader Gansert has four children. Based upon legislation that has passed just in the last four months, her four children and my four children will collectively owe the federal government more than $240,000 as their portion of the national debt. As the only member of the Nevada delegation to vote against the Wall Street bailout, I take my responsibility as a steward of the taxpayer's dollar very seriously and fight for saner fiscal policies in Congress. The goal should be to leave our children with a better quality of life then we have.

A tracking of stimulus money shows that a hastened bill that no one read did not have the necessary quality controls to safeguard taxpayer dollars. More than $500,000 in stimulus money has been dedicated to build a skateboard park; there is $3 million to increase the number of bike racks in Washington, D.C. and nearly $600,000 to establish a homeless program in a town that does not have a homeless problem. When HUD was asked why they distributed the money, they said, "We hope it encouraged these new grantees to develop creative strategies for the funding." What HUD is saying is we should create a homeless problem so we can accept more government bailouts.

These are but a few examples of the many across our nation. I voted against the stimulus because it did not pass the "more, higher, less" test.

Let me end by saying that I know these are tough economic times. I assure you that Speaker Buckley's job today is more difficult than Speaker Pelosi's, for no other reason than Nevada is required to balance its budget. In Washington, D.C., we print money, borrow from foreign countries, or we simply add it to the debt. No balanced budget is required. For this reason, your decisions are tough. I have full faith and confidence in this body as a whole. It is more important than ever that we work together, find common ground, and make the right decisions that will put Nevada back on its feet and put Nevadans back to work. If we can succeed together, Nevada's best days are yet to come.

Thank you very much and thank you for the opportunity to come here, to be home and spend some time with you. Thank you.

Senator Care moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Heller for his timely, able, and constructive message.

Seconded by Assemblyman Grady.

Motion carried unanimously.

The Committee on Escort escorted Representative Heller to the Bar of the Assembly.

Senator Washington moved that the Joint Session be dissolved.

Seconded by Assemblyman Settelmeyer.

Motion carried.

Joint Session dissolved at 12:27 p.m.

ASSEMBLY IN SESSION

At 1:40 p.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 380, 461, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 380 and 461, just reported out of committee, be placed on the Second Reading File.

Motion carried.

NOTICE OF EXEMPTION

April 17, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 82, 145, 285 and 505.

MARK STEVENS
Fiscal Analysis Division

April 17, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 234.

GARY GHIGGERI
Fiscal Analysis Division

Assemblyman Arberry moved that Assembly Bills Nos. 145, 285, and 505 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 348 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 313 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera withdrew the motion that Assembly Bill No. 313 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that the all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 13, 52, 85, 181, 207, 247, and 433.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bills Nos. 13, 52, 85, 181, and 207 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

GENERAL FILE AND THIRD READING

Assembly Bill No. 13.
Bill read third time.
Remarks by Assemblywoman Smith.
Potential conflict of interest declared by Assemblywoman Dondero Loop.
Roll call on Assembly Bill No. 13:
YEAS—41.
NAYS—None.
NOT VOTING—Dondero Loop.
Assembly Bill No. 13 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 52.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Assembly Bill No. 52:
YEAS—42.
NAYS—None.
Assembly Bill No. 52 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 85.
Bill read third time.
Roll call on Assembly Bill No. 85:
YEAS—42.
NAYS—None.
Assembly Bill No. 85 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 181.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Assembly Bill No. 181:
YEAS—42.
NAYS—None.

Assembly Bill No. 181 having received a constitutional majority, Madam Speaker declared it passed, amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 207.

Bill read third time.

Remarks by Assemblyman Carpenter.

Roll call on Assembly Bill No. 207:

YEAS—42.

NAYS—None.

Assembly Bill No. 207 having received a constitutional majority, Madam Speaker declared it passed, amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 247.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 247:

YEAS—42.

NAYS—None.

Assembly Bill No. 247 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 433.

Bill read third time.

Remarks by Assemblymen Smith and Hardy.

Roll call on Assembly Bill No. 433:

YEAS—42.

NAYS—None.

Assembly Bill No. 433 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 46.

Bill read third time.

Roll call on Assembly Bill No. 46:

YEAS—42.

NAYS—None.

Assembly Bill No. 46 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 48.

Bill read third time.

Roll call on Assembly Bill No. 48:

YEAS—42.

NAYS—None.

Assembly Bill No. 48 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 73.

Bill read third time.

Remarks by Assemblymen Carpenter and Christensen.

Roll call on Assembly Bill No. 73:

YEAS—42.

NAYS—None.

Assembly Bill No. 73 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 80.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 80:

YEAS—37.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Settelmeyer—5.

Assembly Bill No. 80 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 88.

Bill read third time.

Roll call on Assembly Bill No. 88:

YEAS—38.

NAYS—Carpenter, Christensen, Goedhart, Ohrenschall—4.

Assembly Bill No. 88 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 102.

Bill read third time.

Remarks by Assemblymen Cobb and Anderson.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN COBB:

I rise in opposition to AB 102. The concept of diversion programs is something I'm in favor of; I think that they have produced a great result for the state. I did have a few problems with this bill. There is too much discretion, in my opinion, in terms of subjectivity of how you identify a problem gambler to begin with if the courts chose to set up this program. The amendment itself also made this program available to repeat offenders, which I do not agree with, and I also have concern with the supervision of the individuals in the program. There is a real concreteness there when you are talking about supervising individuals with drug habits or alcohol abuse because they have to test every morning. There is no test for problem gaming, and there is no way to ensure they are staying out of gambling establishments. I think that it is a little too subjective. I'm worried that we would be putting too many people into the diversion

program instead of dealing with them by prosecuting them. I will be voting no on the bill, thank you.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. Assembly Bill 102 authorizes the court to establish a program for the treatment of problem gambling to which a problem gambler convicted of certain crimes may be assigned. This assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the person is making satisfactory progress toward completion of the program. The bill further authorizes a defendant to file a petition requesting the courts to seal his criminal record after the completion of the treatment program. The bill becomes effective on October 1, 2009.

Let me partially answer the question that was raised by my colleague from Reno. The question relative to diversion court programs has always rested on how does the court make the determination and how does it follow up as to whether this or any other program is being successfully completed. In this particular area, we recognized for some time the physiological addictive nature of gaming. There are ongoing programs in getting people diverted into it. We heard testimony within the community and follow-up information from treatment providers who indicated that there are established tests for this physiological problem, and this merely gives the opportunity for courts to create such diversion programs, if they feel it is adequate and it meets those criteria. Both the testing for those people getting in and the relationship of the district attorney's office is the same as it is for other diversion programs, so it is a very, very good program. In fact, it is one we have been long waiting for in this particular state. We are the leading edge of what is the proper thing to do in gaming.

Roll call on Assembly Bill No. 102:

YEAS—34.

NAYS—Christensen, Cobb, Goicoechea, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart—8.

Assembly Bill No. 102 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 112.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 112:

YEAS—42.

NAYS—None.

Assembly Bill No. 112 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 202.

Bill read third time.

Remarks by Assemblyman Hardy.

Potential conflict of interest declared by Assemblymen Goicoechea and Settelmeyer.

Roll call on Assembly Bill No. 202:

YEAS—38.

NAYS—Cobb, Goedhart, Gustavson, McArthur—4.

Assembly Bill No. 202 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 206.

Bill read third time.

Remarks by Assemblyman Cobb.

Roll call on Assembly Bill No. 206:

YEAS—42.

NAYS—None.

Assembly Bill No. 206 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Assembly Bill No. 218 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 271.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 271:

YEAS—42.

NAYS—None.

Assembly Bill No. 271 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 304.

Bill read third time.

Remarks by Assemblyman Segerblom.

Roll call on Assembly Bill No. 304:

YEAS—42.

NAYS—None.

Assembly Bill No. 304 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 311.

Bill read third time.

Remarks by Assemblyman Settelmeyer.

Roll call on Assembly Bill No. 311:

YEAS—42.

NAYS—None.

Assembly Bill No. 311 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 326.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Assembly Bill No. 326:

YEAS—42.

NAYS—None.

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

Bill ordered transmitted to the Senate.

Assembly Bill No. 372.

Bill read third time.

Remarks by Assemblyman Carpenter.

Roll call on Assembly Bill No. 372:

YEAS—42.

NAYS—None.

Assembly Bill No. 372 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 432.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 432:

YEAS—42.

NAYS—None.

Assembly Bill No. 432 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 454.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 454:

YEAS—38.

NAYS—Cobb, Goedhart, McArthur—3.

NOT VOTING—Carpenter.

Assembly Bill No. 454 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 472.

Bill read third time.

Roll call on Assembly Bill No. 472:
YEAS—42.
NAYS—None.
Assembly Bill No. 472 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 486.
Bill read third time.
Roll call on Assembly Bill No. 486:
YEAS—41.
NAYS—None.
NOT VOTING—Arberry.
Assembly Bill No. 486 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 491.
Bill read third time.
Roll call on Assembly Bill No. 491:
YEAS—42.
NAYS—None.
Assembly Bill No. 491 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 513.
Bill read third time.
Roll call on Assembly Bill No. 513:
YEAS—41.
NAYS—None.
NOT VOTING—Arberry.
Assembly Bill No. 513 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 515.
Bill read third time.
Roll call on Assembly Bill No. 515:
YEAS—42.
NAYS—None.
Assembly Bill No. 515 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 38.
Bill read third time.
Roll call on Senate Bill No. 38:
YEAS—42.
NAYS—None.

Senate Bill No. 38 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill Nos. 65 and 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 455.

Bill read third time.

Remarks by Assemblywoman Woodbury.

Roll call on Assembly Bill No. 455:

YEAS—42.

NAYS—None.

Assembly Bill No. 455 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 293.

Bill read third time.

Remarks by Assemblymen Anderson and Gansert.

Roll call on Assembly Bill No. 293:

YEAS—34.

NAYS—Carpenter, Claborn, Goedhart, Goicoechea, Grady, Gustavson, Hardy, McArthur—8.

Assembly Bill No. 293 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 348.

Bill read third time.

Remarks by Assemblyman Munford.

Roll call on Assembly Bill No. 348:

YEAS—42.

NAYS—None.

Assembly Bill No. 348 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 121, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 121 just reported out of committee, be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 121.

Bill read second time.

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

Amendment No. 470.

AN ACT relating to health care facilities; requiring certain ~~[~~health care facilities that employ nurses to establish a staffing plan and to provide adequate staffing; requiring the maintenance of certain records concerning statistics relating to patients and staffing; requiring such a health care facility to establish policies pursuant to which a direct care nurse may refuse a work assignment; requiring public disclosure of certain information relating to a staffing plan; providing administrative and criminal penalties;~~]~~ **hospitals in larger counties to establish a staffing committee; requiring certain health care facilities to make available to the Health Division of the Department of Health and Human Services a documented staffing plan;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[~~Sections 13 and 28 of this bill require health care facilities in counties with a population of 100,000 or more (currently Clark and Washoe Counties) to submit annually to the Health Division of the Department of Health and Human Services a staffing plan for the provision of nursing services that the health care facility certifies is sufficient to ensure the adequate and appropriate delivery of health care services for the ensuing year. Section 14 of this bill requires that the staffing plan include ratios of the maximum number of patients that may be assigned to a direct care nurse. Section 14 also establishes nurse to patient ratios that vary depending on the nature of nursing care that is required for patients in particular units of the health care facility. In addition, section 14 provides exceptions to those ratios if: (1) the staffing plan is developed by a joint labor management committee or pursuant to a collective bargaining agreement; (2) the staffing plan establishes a joint labor management committee to resolve disputes relating to nurse staffing issues; or (3) the State Board of Health establishes higher ratios pursuant to section 15 of this bill. Section 17 of this bill requires a health care facility to operate in conformity with its staffing plan. Sections 16-20 of this bill impose other operating requirements on a health care facility concerning its staffing plan. Sections 22-27 of this bill authorize the Labor Commissioner, the Health Division and the Department to enforce those parts of a health care facility's staffing plan that fall within their

~~respective jurisdictions.]~~ **Section 12 of this bill requires certain hospitals in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to establish a staffing committee. Section 13 of this bill requires certain health care facilities in a county whose population is 100,000 or more to make available to the Health Division of the Department of Health and Human Services a documented staffing plan.**

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 28, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 28, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ~~***[“Acuity system” means an established measurement system or method which:***~~

~~***1. Predicts the requirements for nursing care for a patient based on the severity of the illness of the patient, the need for specialized equipment and technology, the intensity of nursing interventions required and the complexity of clinical nursing judgment required to design, carry out and evaluate the plan for nursing care for the patient;***~~

~~***2. Details the amount of daily nursing care required both in the number of nurses and in the skill mix of nursing personnel required for each patient in a unit;***~~

~~***3. Is stated in terms that can be readily used and understood by the direct care nursing staff; and***~~

~~***4. Takes into consideration the services for nursing care provided by health care employees other than licensed nurses.]***~~ **(Deleted by amendment.)**

Sec. 4. ~~***[“Certified nursing assistant” means a person who has been certified by the State Board of Nursing pursuant to NRS 632.2852 to practice as a nursing assistant in this State.]***~~ **(Deleted by amendment.)**

Sec. 5. ~~***[“Direct care nurse” means a registered nurse who has principal responsibility to oversee or carry out medical regimens or nursing care for one or more patients.]***~~ **(Deleted by amendment.)**

Sec. 6. ~~***[“Documented staffing plan” means a detailed written plan setting forth the minimum number, skill mix and classification of licensed nurses required in each unit in a health care facility for a specific year based on reasonable projections derived from the patient census and average acuity level within each unit during the previous year, if applicable, the size and geography of the unit, the nature of services provided and any foreseeable changes in the size or function of the unit during the current year.]***~~ **(Deleted by amendment.)**

Sec. 7. ***”Health care facility” means:***

1. A hospital;

2. An independent center for emergency medical care;

3. A psychiatric hospital; and

~~4. [A rural hospital; and~~

~~5.]~~ A surgical center for ambulatory patients.

Sec. 8. ***"Nurse" means a person licensed pursuant to chapter 632 of NRS to practice nursing, including, without limitation, a licensed practical nurse. The term does not include a certified nursing assistant.***

Sec. 9. ***~~["Skill mix" means the totality of particular nursing skills that are necessary to provide adequate care to a patient in a unit of a health care facility.]~~*** **(Deleted by amendment.)**

Sec. 10. ***~~["Staffing level" means the actual numerical nurse-to-patient ratio by licensed nurse classification within a unit.]~~*** **(Deleted by amendment.)**

Sec. 11. ***"Unit" means a component within a health care facility for providing patient care.***

Sec. 12. 1. ~~[A health care facility shall ensure that it is staffed in accordance with sections 2 to 28, inclusive, of this act in such a manner as to provide sufficient, appropriately qualified nursing staff of each classification in each unit within the health care facility to meet the individualized needs for nursing care of the patients therein.]~~ Each hospital located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds shall establish a staffing committee to develop a documented staffing plan as required pursuant to section 13 of this act. The staffing committee must consist of:

(a) Not less than one-half of the total members from the licensed nursing staff who are providing direct patient care at the hospital; and

(b) Not less than one-half of the total members appointed by the administration of the hospital.

2. The staffing committee of a hospital shall meet at least quarterly.

3. Each hospital that is required to establish a staffing committee pursuant to this section shall prepare a written report concerning the establishment of the staffing committee, the activities and progress of the staffing committee and a determination of the efficacy of the staffing committee. The hospital shall submit the report on or before December 31 of each:

(a) Even-numbered year to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) Odd-numbered year to the Legislative Committee on Health Care.

Sec. 13. ***~~[1.]~~ 1. As a condition of licensing, a health care facility located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds shall ~~[annually submit]~~ make available to the Health Division a documented staffing plan and a written certification that the documented staffing plan is ~~[sufficient to provide]~~ adequate ~~[and appropriate delivery of health care services]~~ to meet the***

needs of the patients ~~[for the ensuing year.]~~ of the health care facility. The documented staffing plan must ~~[:]~~ include, without limitation:

~~[(a) Include staffing ratios that meet the minimum requirements set forth in section 14 of this act;~~

~~(b) Be adequate to meet all other requirements related to staffing established by specific statute, and any regulations adopted pursuant thereto, that may be applicable;~~

~~(c) Identify and use an acuity system that has been approved by the Health Division to address fluctuations in actual acuity levels of patients and requirements for nursing care that require increased staffing levels above the minimum staffing ratios set forth in the plan;~~

~~(d) Factor in other activities in each unit, including, without limitation, discharges, transfers and admissions, and administrative and support tasks, that are expected to be performed by direct care nurses in addition to the provision of nursing care;~~

~~(e) Identify the assessment tool used to validate the acuity system upon which the plan relies;~~

~~(f) Identify the system or method that will be used to document actual staffing within each unit on a daily basis;~~

~~(g) If applicable, include a written assessment of the accuracy of the plan during the previous year based on the actual staffing needs during that year; and~~

~~(h) Identify each classification of the nursing staff referred to in the plan and include a statement that sets forth the minimum qualifications for each such classification.~~

~~2. A health care facility shall develop its documented staffing plan in consultation with the direct care nursing staff for each unit in the health care facility or, if the direct care nursing staff is represented by a recognized collective bargaining unit, with the representatives of the collective bargaining unit.~~

~~3. As used in this section, "assessment tool" means a measurement system pursuant to which the accuracy of an acuity system is reviewed by comparing the staffing level in each unit against the actual requirements for nursing care.]~~

(a) A detailed written plan setting forth the number, skill mix and classification of licensed nurses required in each unit in the health care facility, which must take into account the experience of the clinical and nonclinical support staff with whom the nurses collaborate, supervise or otherwise delegate assignments;

(b) A description of the types of patients who are treated in each unit, including, without limitation, the type of care required by the patients;

(c) A description of the activities in each unit, including, without limitation, discharges, transfers and admissions;

(d) A description of the size and geography of each unit;

(e) A description of any specialized equipment and technology available for each unit; and

(f) Any foreseeable changes in the size or function of each unit.

2. A documented staffing plan must provide sufficient flexibility to allow for adjustments based upon changes in a unit of the health care facility.

Sec. 14. ***[1. Except as otherwise provided in this section and section 15 of this act, a documented staffing plan must include the following ratios of the maximum number of patients that may be assigned to a direct care nurse in each unit in the health care facility:***

(a) A ratio of one direct care nurse to one patient in each:

(1) Operating room; and

(2) Trauma emergency unit.

(b) A ratio of one direct care nurse to two patients in each:

(1) Critical care unit;

(2) Intensive care unit;

(3) Labor and delivery unit; and

(4) Postanesthesia unit.

(c) A ratio of one direct care nurse to three patients in each:

(1) Antepartum unit;

(2) Emergency room;

(3) Pediatric unit;

(4) Intermediate unit, also commonly known as a "step-down unit"; and

(5) Telemetry unit.

(d) A ratio of one direct care nurse to four patients in each:

(1) Intermediate care nursery; and

(2) Medical, surgical and acute care psychiatric unit.

(e) A ratio of one direct care nurse to five patients in each rehabilitation unit.

(f) A ratio of one direct care nurse to six patients in each:

(1) Postpartum unit, including units providing care to not more than three couplets; and

(2) Nursery for well babies.

(g) Such other ratios, as determined by the Board, for any units not otherwise identified in this subsection, including, without limitation, psychiatric units in health care facilities other than hospitals that provide acute care.

2. A nurse, including a nurse administrator or supervisor, who does not have principal responsibility for caring for a patient, as would a direct care nurse, must not be included in the calculation of any nurse to patient ratios established pursuant to subsection 1.

3. A health care facility shall adjust its minimum staffing ratios as necessary to reflect the need for additional direct care nurses to ensure that

~~*each unit within the health care facility is adequately staffed. The adjustment must be made in accordance with an approved acuity system.*~~

~~*4. A health care facility that includes a licensed practical nurse or a certified nursing assistant in the nursing staff of a unit of the health care facility shall include in its documented staffing plan the following ratios for the maximum number of patients that may be assigned to a licensed practical nurse or a certified nursing assistant in the unit:*~~

~~*(a) A ratio of one licensed practical nurse to six patients in any unit.*~~

~~*(b) A ratio of one certified nursing assistant to eight patients in any unit.*~~

~~*5. The provisions of this section do not apply to a health care facility if:*~~

~~*(a) The documented staffing plan of the health care facility:*~~

~~*(1) Is developed by a joint labor management committee or pursuant to a collective bargaining agreement with the appropriate recognized bargaining unit; and*~~

~~*(2) Includes a provision for the enforcement of the documented staffing plan and the resolution of any dispute concerning the documented staffing plan that authorizes either side to call for binding arbitration of the dispute; or*~~

~~*(b) The health care facility has established a joint labor-management committee to resolve issues related to staffing ratios pursuant to which either side is authorized to request binding arbitration or, if the joint labor-management committee is established pursuant to a collective bargaining agreement, the bargaining unit is authorized to issue a notice of intent to strike pursuant to the terms of the collective bargaining agreement in lieu of binding arbitration.*~~

~~*As for the purposes of this section, a joint labor management committee must be composed of equal numbers of management and nonmanagement employees of the health care facility who are appointed by management and labor respectively or pursuant to a collective bargaining agreement.]*~~ **(Deleted by amendment.)**

Sec. 15. ~~*[The Health Division shall adopt:*~~

~~*1. Regulations prescribing the methods by which it will approve an acuity system for use by a health care facility, including, without limitation, a system for class approval of acuity systems; and*~~

~~*2. Such other regulations as are necessary to carry out the provisions of sections 2 to 28, inclusive, of this act, including, without limitation:*~~

~~*(a) Regulations concerning the submission of a documented staffing plan by a health care facility; and*~~

~~*(b) Regulations that establish nurse to patient staffing ratios that are higher than the ratios set forth in section 14 of this act.]*~~ **(Deleted by amendment.)**

Sec. 16. ~~*[1. The skill mix reflected in the documented staffing plan of a health care facility must ensure that all the following elements of the nursing process are performed in the planning and delivery of nursing care for each patient:*~~

~~*(a) Assessment;*~~

~~*(b) Nursing diagnosis;*~~

~~*(c) Planning;*~~

~~*(d) Intervention;*~~

~~*(e) Evaluation; and*~~

~~*(f) Patient recovery.*~~

~~*2. The skill mix in a documented staffing plan for a health care facility must not require or assume that any functions relating to nursing care required by chapter 632 of NRS, and any regulations adopted pursuant thereto, or any other recognized standards for the practice of nursing required to be performed by a registered nurse are to be performed by a licensed practical nurse, a certified nursing assistant or any other unlicensed person.]*~~ **(Deleted by amendment.)**

Sec. 17. ~~*[1. As a condition of licensure, a health care facility must at all times be staffed in accordance with its documented staffing plan, except that the provisions of this subsection do not preclude a health care facility from providing higher direct care nurse to patient staffing ratios than the ratios otherwise established in its documented staffing plan.*~~

~~*2. A health care facility may assign a nurse to a unit or a clinical area and include the nurse in the count of assigned nursing staff for the purposes of compliance with its minimum required staffing level if:*~~

~~*(a) The nurse is appropriately licensed for assignment to that unit or clinical area;*~~

~~*(b) The health care facility has provided prior orientation to the nurse before assigning the nurse to that unit or clinical area; and*~~

~~*(c) The health care facility has verified that the nurse is capable of providing competent nursing care to the patients in that unit or clinical area.]*~~ **(Deleted by amendment.)**

Sec. 18. ~~*[1. As a condition of licensure, a health care facility must maintain accurate daily records showing for each unit:*~~

~~*(a) The number of patients admitted, released and present in the unit;*~~

~~*(b) The individual acuity level of each patient present in the unit; and*~~

~~*(c) The identity and duty hours of each direct care nurse in the unit.*~~

~~*2. As a condition of licensure, a health care facility must maintain daily statistics, by unit, of mortality, morbidity, infection, accident, injury and medical errors.*~~

~~*3. Records required to be kept pursuant to this section must be:*~~

~~*(a) Maintained for at least 7 years; and*~~

~~*(b) Available upon request to the Health Division and the general public, except that records released to the general public must not contain any personal identifying information, other than the acuity level, concerning a person.]*~~ **(Deleted by amendment.)**

Sec. 19. ~~*[1. As a condition of licensure, a health care facility must adopt and disseminate to its direct care nursing staff a written policy that*~~

~~*sets forth the circumstances under which a direct care nurse may refuse a work assignment.*~~

~~*2. The written policy concerning work assignments must, at a minimum, allow a direct care nurse to refuse an assignment:*~~

~~*(a) For which the direct care nurse is not prepared because of lack of education, training or experience to fulfill safely and without compromising or jeopardizing the safety of the patients, the ability of the direct care nurse to meet foreseeable needs of the patients and the licensure of the direct care nurse; or*~~

~~*(b) Which otherwise violates any provision of sections 2 to 28, inclusive, of this act.*~~

~~*3. The written policy concerning work assignments must contain:*~~

~~*(a) Reasonable requirements for prior notice to the supervisor of the direct care nurse of the request, including supporting reasons, by the direct care nurse to be relieved of the work assignment;*~~

~~*(b) Reasonable requirements which provide, if feasible, an opportunity for the supervisor to review a request by the direct care nurse to be relieved of the work assignment, including any specific conditions supporting the request, and based upon that review:*~~

~~*(1) Relieve the direct care nurse of the work assignment as requested; or*~~

~~*(2) Deny the request; and*~~

~~*(c) A process pursuant to which a direct care nurse may exercise his right to refuse a work assignment if the supervisor denies the request of the nurse to be relieved of the work assignment if:*~~

~~*(1) The supervisor rejected the request without proposing a remedy or, if a remedy is proposed, the proposed remedy would be inadequate or untimely;*~~

~~*(2) The process for filing a complaint with the Health Division or any other appropriate regulatory entity, including any investigation that would be required, would be untimely to address the concerns of the direct care nurse in refusing a work assignment; and*~~

~~*(3) The direct care nurse in good faith believes that the work assignment meets the conditions established in the written policy justifying refusal.]*~~ **(Deleted by amendment.)**

Sec. 20. ~~*[1. A health care facility shall post in a conspicuous place readily accessible to the general public a notice prepared by the Health Division that sets forth in summary form the mandatory provisions of sections 2 to 28, inclusive, of this act. Mandatory and actual staffing levels of nurses in each unit must be posted daily in a conspicuous place that is readily accessible to the general public.*~~

~~*2. Upon request, a health care facility shall make available to the general public copies of its documented staffing plan filed with the Health Division. The health care facility shall post in each unit within the health*~~

~~*care facility, or otherwise make readily available to the nursing staff in that unit, during each work shift:*~~

~~*(a) A copy of the current documented staffing plan for that unit;*~~

~~*(b) Documentation of the number of direct care nurses required to be present during the work shift based on the approved adopted acuity system; and*~~

~~*(c) Documentation of the actual number of direct care nurses present during the work shift.]*~~ **(Deleted by amendment.)**

Sec. 21. ~~*[The Health Division shall ensure the general compliance of a health care facility with the provisions of sections 2 to 28, inclusive, of this act relating to documented staffing plans and adopt such regulations as are necessary or appropriate to carry out the provisions of this section. The regulations must, without limitation, provide:*~~

~~*1. For unannounced, random visits at a health care facility to determine whether the facility is in compliance with sections 2 to 28, inclusive, of this act;*~~

~~*2. An accessible and confidential system pursuant to which the nursing staff or the general public may report the failure of a health care facility to comply with the requirements of sections 2 to 28, inclusive, of this act;*~~

~~*3. A systematic means for investigating and correcting violations of sections 2 to 28, inclusive, of this act;*~~

~~*4. For public access to information regarding reports of inspections, results, deficiencies and corrections; and*~~

~~*5. A process for imposing the penalties for violations of the staffing requirements set forth in sections 2 to 28, inclusive, of this act.]*~~ **(Deleted by amendment.)**

Sec. 22. ~~*[Notwithstanding any provision of sections 2 to 28, inclusive, of this act to the contrary, the Labor Commissioner may take such actions as he determines necessary to ensure that a health care facility is in compliance with sections 2 to 28, inclusive, of this act.]*~~ **(Deleted by amendment.)**

Sec. 23. ~~*[If the Health Division determines that a health care facility has violated any provision of sections 2 to 28, inclusive, of this act, the Health Division may:*~~

~~*1. Suspend or revoke the license of the health care facility pursuant to NRS 449.160.*~~

~~*2. Impose an administrative fine:*~~

~~*(a) If the health care facility has violated any requirements relating to staffing set forth in sections 2 to 28, inclusive, of this act, of $15,000 per day, per violation, for each day that the violation occurs or continues.*~~

~~*(b) If the health care facility has failed to post notice as required by section 20 of this act, of $1,000 for each day that the notice is not posted as required.*~~

~~*(c) If the health care facility has violated any provision of section 19 of this act, of $15,000 per violation.]*~~ **(Deleted by amendment.)**

Sec. 24. ~~[1. If, after an investigation, the Health Division determines that a health care facility is not in compliance with any provision of sections 2 to 28, inclusive, of this act or any regulations adopted pursuant thereto, the Health Division shall notify the health care facility of all deficiencies in its compliance. The notice may include an order to take corrective action within a time specified, including, without limitation:~~

~~(a) Revising the documented staffing plan of the health care facility;~~

~~(b) Reducing the number of patients within a unit in the health care facility;~~

~~(c) Temporarily closing a unit to any further admissions of patients until corrections are made; and~~

~~(d) Temporarily transferring patients to another unit within the health care facility until corrections are made.~~

~~2. The Health Division may issue an order to take corrective action on an emergency basis, without prior notice or opportunity for a hearing, if the investigation by the Health Division demonstrates that the noncompliance of the health care facility is compromising patient care or poses an immediate danger to the health or safety of patients.~~

~~3. An order to take corrective action issued by the Health Division pursuant to this section must be in writing and contain a statement of the reasons for issuing the order. If a health care facility fails to comply with an order to take corrective action within the time specified or, if no time has been specified, in a timely manner, the Health Division may take such action as it deems appropriate, including, without limitation:~~

~~(a) Appointing an administrative overseer for the health care facility;~~

~~(b) Closing the health care facility or unit to the admission of patients;~~

~~(c) Placing the emergency room of the health care facility on bypass status; and~~

~~(d) Suspending or revoking the license of the health care facility.]~~ **(Deleted by amendment.)**

Sec. 25. ~~[Any person who willfully violates any provision of sections 2 to 28, inclusive, of this act in a manner that evidences a pattern or practice of violations which is likely to have a serious and adverse impact on patient care or the potential for serious injury or death to patients or employees of the health care facility is guilty of a misdemeanor.]~~ **(Deleted by amendment.)**

Sec. 26. ~~[A person or health care facility that fails to report or falsifies information, or that coerces, threatens, intimidates or otherwise influences another person to fail to report or to falsify information, required to be reported pursuant to sections 2 to 28, inclusive, of this act is guilty of a gross misdemeanor and shall be punished by a fine of not more than $15,000 for each such incident.]~~ **(Deleted by amendment.)**

Sec. 27. ~~[The Department of Health and Human Services:~~

~~1. May, upon a determination that a health care facility has violated any provision of sections 2 to 28, inclusive, of this act:~~

~~*(a) Order the health care facility to reimburse the State Plan for Medicaid for an amount to be determined by the Department;*~~

~~*(b) Terminate the participation of the health care facility in the State Plan for Medicaid for a period to be determined by the Department; or*~~

~~*(c) Order the health care facility to reimburse the State Plan for Medicaid and to terminate the participation of the health care facility in the State Plan for Medicaid.*~~

~~*2. Shall, if a health care facility falsifies or causes to be falsified documentation required by sections 2 to 28, inclusive, of this act, prohibit the health care facility from receiving any reimbursements from the State Plan for Medicaid for 6 months.]*~~ **(Deleted by amendment.)**

Sec. 28. ~~*[The provisions of sections 2 to 28, inclusive, of this act do not apply to a health care facility in a county whose population is less than 100,000.]*~~ **(Deleted by amendment.)**

Sec. 29. NRS 449.040 is hereby amended to read as follows:

449.040 Any person, state or local government or agency thereof desiring a license under the provisions of NRS 449.001 to 449.240, inclusive, ***and sections 2 to 28, inclusive, of this act*** must file with the Health Division an application on a form prescribed, prepared and furnished by the Health Division, containing:

1. The name of the applicant and, if a natural person, whether the applicant has attained the age of 21 years.
2. The type of facility to be operated.
3. The location of the facility.
4. In specific terms, the nature of services and type of care to be offered, as defined in the regulations.
5. The number of beds authorized by the Director of the Department of Health and Human Services or, if such authorization is not required, the number of beds the facility will contain.
6. The name of the person in charge of the facility.
7. Such other information as may be required by the Health Division for the proper administration and enforcement of NRS 449.001 to 449.240, inclusive ~~[.]~~ ***, and sections 2 to 28, inclusive, of this act.***
8. Evidence satisfactory to the Health Division that the applicant is of reputable and responsible character. If the applicant is a firm, association, organization, partnership, business trust, corporation or company, similar evidence must be submitted as to the members thereof ~~[,]~~ and the person in charge of the facility for which application is made. If the applicant is a political subdivision of the State or other governmental agency, similar evidence must be submitted as to the person in charge of the institution for which application is made.
9. Evidence satisfactory to the Health Division of the ability of the applicant to comply with the provisions of NRS 449.001 to 449.240, inclusive, ***and sections 2 to 28, inclusive, of this act*** and the standards and regulations adopted by the Board.

10. Evidence satisfactory to the Health Division that the facility conforms to the zoning regulations of the local government within which the facility will be operated or that the applicant has applied for an appropriate reclassification, variance, permit for special use or other exception for the facility.

11. If the facility to be licensed is a residential establishment as defined in NRS 278.02384, and if the residential establishment is subject to the distance requirements set forth in subsection 3 of NRS 278.02386, evidence satisfactory to the Health Division that the residential establishment will be located and operated in accordance with the provisions of that subsection.

Sec. 30. ~~[~~NRS 449.060 is hereby amended to read as follows:

~~449.060 1. Each license issued pursuant to NRS 449.001 to 449.240, inclusive, *and sections 2 to 28, inclusive, of this act* expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Health Division finds, after an investigation, that the facility has not:~~

~~(a) Satisfactorily complied with the provisions of NRS 449.001 to 449.240, inclusive, *and sections 2 to 28, inclusive, of this act* or the standards and regulations adopted by the Board;~~

~~(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or~~

~~(c) Conformed to all applicable local zoning regulations.~~

~~2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a residential facility for intermediate care, a facility for skilled nursing or a residential facility for groups must include, without limitation, a statement that the facility or agency is in compliance with the provisions of NRS 449.173 to 449.188, inclusive.~~] **(Deleted by amendment.)**

Sec. 31. ~~[~~NRS 449.070 is hereby amended to read as follows:

~~449.070 The provisions of NRS 449.001 to 449.240, inclusive, *and sections 2 to 28, inclusive, of this act* do not apply to:~~

~~1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.~~

~~2. Foster homes as defined in NRS 424.014.~~

~~3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.~~] **(Deleted by amendment.)**

Sec. 32. ~~[~~NRS 449.160 is hereby amended to read as follows:

~~449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of~~

~~NRS 449.001 to 449.240, inclusive,~~ ***and sections 2 to 28, inclusive, of this act*** ~~upon any of the following grounds:~~

~~(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive,~~ ***and sections 2 to 28, inclusive, of this act*** ~~or of any other law of this State or of the standards, rules and regulations adopted thereunder.~~

~~(b) Aiding, abetting or permitting the commission of any illegal act.~~

~~(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.~~

~~(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.~~

~~(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.~~

~~(f) Failure to comply with the provisions of NRS 449.2486.~~

~~2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:~~

~~(a) Is convicted of violating any of the provisions of NRS 202.470;~~

~~(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or~~

~~(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.~~

~~3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Health Division shall provide to a facility for the care of adults during the day:~~

~~(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;~~

~~(b) A report of any investigation conducted with respect to the complaint; and~~

~~(c) A report of any disciplinary action taken against the facility.~~

~~The facility shall make the information available to the public pursuant to NRS 449.2486.~~

~~4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:~~

~~(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and~~

~~(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.~~**] (Deleted by amendment.)**

Sec. 33. ~~[NRS 449.163 is hereby amended to read as follows:~~

~~449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410, 449.001 to 449.240, inclusive,~~ ***and sections 2 to 28, inclusive, of this act*** ~~or any condition, standard or regulation adopted by the Board, the Health Division in accordance with the regulations adopted pursuant to NRS 449.165 may:~~

~~(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;~~

~~(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;~~

~~(c) [Impose]~~ ***Except as otherwise provided in section 23 of this act, impose*** ~~an administrative penalty of not more than $1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and~~

~~(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:~~

~~(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or~~

~~(2) Improvements are made to correct the violation.~~

~~2. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:~~

~~(a) Suspend the license of the facility until the administrative penalty is paid; and~~

~~(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.~~

~~3. The Health Division may require any facility that violates any provision of NRS 439B.410, 449.001 to 449.240, inclusive,~~ ***and sections 2 to 28, inclusive, of this act*** ~~or any condition, standard or regulation adopted by the Board, to make any improvements necessary to correct the violation.~~

~~4. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.~~**] (Deleted by amendment.)**

Sec. 34. **The provisions of section 12 of this act do not require a hospital to establish a new staffing committee if the hospital has a staffing committee in place on or before October 1, 2009.**

~~[Sec. 34.]~~ ***Sec. 35.*** The Health Division of the Department of Health and Human Services shall not renew the license of any health care facility, as that term is defined in section 7 of this act, if the health care facility has not ~~[submitted]~~ **made available** to the Health Division a documented staffing

plan ~~[as]~~ **if such a health care facility is** required ~~[by]~~ **to have such a plan pursuant to** section 13 of this act.

~~[Sec. 35.]~~ ***Sec. 36.*** ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.]~~ **(Deleted by amendment.)**

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 380.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 407.

AN ACT relating to crimes; providing for the freezing and forfeiture of the assets of a person who commits certain offenses involving the pandering or prostitution of a child; ~~[imposing a civil penalty against]~~ **authorizing a court to impose an additional criminal fine on** a person convicted of certain offenses involving the pandering or prostitution of a child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes several crimes relating to pandering or prostitution, including: (1) pandering by inducing a person to become a prostitute through threats or other actions; (2) pandering by placing a spouse in a house of prostitution through force, fraud, intimidation or threats; (3) living from the earnings of a prostitute; (4) pandering by detaining a person in a house of prostitution because of any debt; and (5) pandering by furnishing transportation to induce a person to become a prostitute or engage in prostitution. (NRS 201.300-201.340)

Section 2 of this bill provides that: (1) the assets of a person who commits an offense involving the pandering or prostitution of a child are subject to forfeiture; and (2) **in a proceeding for such a forfeiture,** a temporary restraining order may be entered by the court to freeze the assets of such a person. **Sections 2 and 5.5 of this bill require the proceeds of the forfeiture, which remain after satisfying certain protected interests and paying certain expenses related to the forfeiture proceeding, be distributed to programs for the prevention of child prostitution which are designated by the district attorney of the county.**

Section 3 of this bill ~~[imposes a civil penalty, in addition to any criminal penalty,]~~ **provides that, in addition to the criminal penalties prescribed by statute, a court may impose additional criminal fines** on a person who is convicted of an offense involving pandering or prostitution of a child.

~~[Section 4 of this bill, which is patterned after similar provisions in the Nevada Revised Statutes that establish restrictions on the use of plea bargaining for certain crimes, provides that if a person is charged with committing an offense involving pandering or prostitution of a child, the~~

~~prosecuting attorney is prohibited from dismissing the charge in exchange for a plea, unless the prosecutor knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.]~~

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

Section 1. Chapter 201 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***1. All assets derived from or relating to any violation of NRS 201.300 to 201.340, inclusive, in which the victim of the offense is a child when the offense is committed are subject to forfeiture pursuant to NRS 179.121 and a proceeding for their forfeiture may be brought pursuant to NRS 179.1156 to 179.121, inclusive.***

2. In any proceeding for forfeiture brought pursuant to NRS 179.1156 to 179.121, inclusive, the plaintiff may apply for, and a court may issue without notice or hearing, a temporary restraining order to preserve property which would be subject to forfeiture pursuant to this section if:

(a) The forfeitable property is in the possession or control of the party against whom the order will be entered; and

(b) The court determines that the nature of the property is such that it can be concealed, disposed of or placed beyond the jurisdiction of the court before a hearing on the matter.

3. A temporary restraining order which is issued without notice may be issued for not more than 10 days and may be extended only for good cause or by consent. The court shall provide notice and hold a hearing on the matter before the order expires.

4. Any proceeds derived from a forfeiture of property pursuant to this section and remaining after the distribution required by subsection 1 of NRS 179.118 must be deposited with the county treasurer and distributed to programs for the prevention of child prostitution which are designated to receive such distributions by the district attorney of the county.

Sec. 3. ***1. ~~[In addition to any criminal penalty, if]~~ If a person ~~[violates]~~ is convicted of a violation of any provision of NRS 201.300 to 201.340, inclusive, and the victim of the ~~[offense]~~ violation is a child who is:***

(a) At least 14 years of age but less than 18 years of age when the offense is committed, ~~[except as otherwise provided in subsection 2, the person is liable for a civil penalty of $100,000.]~~ the court may, in addition to the punishment prescribed by statute for the offense and any fine imposed pursuant to subsection 2, impose a fine of not more than $100,000.

(b) Less than 14 years of age when the offense is committed, ~~[except as otherwise provided in subsection 2, the person is liable for a civil penalty of $500,000.]~~ the court may, in addition to the term of imprisonment prescribed by statute for the offense and any fine imposed pursuant to subsection 2, impose a fine of not more than $500,000.

2. If a person ~~[violates]~~ is convicted of a violation of any provision of NRS 201.300 to 201.340, inclusive, the victim of the offense is a child when the offense is committed and the offense also involves a conspiracy to commit a violation of NRS 201.300 to 201.340, inclusive, ~~[pursuant to NRS 199.480, the person is liable for a civil penalty of $1,000,000.~~

~~3. Money collected from a civil penalty pursuant to this section must be deposited with the county treasurer and distributed:~~

~~(a) In an amount equal to 60 percent of the civil penalty collected, to an account to be administered by the district attorney to defray the cost of operational expenses.~~

~~(b) In an amount equal to 40 percent of the civil penalty collected, to an account used for programs addressing the needs of victims of the crimes described in NRS 201.300 to 201.340, inclusive.]~~ the court may, in addition to the punishment prescribed by statute for the offense of a provision of NRS 201.300 to 201.340, inclusive, and any fine imposed pursuant to subsection 1, impose a fine of not more than $500,000.

3. The provisions of subsections 1 and 2 do not create a separate offense but provide an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

Sec. 4. ***~~[If a person is charged with a violation of NRS 201.300 to 201.340, inclusive, in which the victim of the offense is a child when the offense is committed, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial.]~~*** **(Deleted by amendment.)**

Sec. 5. NRS 201.295 is hereby amended to read as follows:

201.295 As used in NRS 201.295 to 201.440, inclusive, ***and sections 2 ~~[, 3 and 4]~~ and 3 of this act,*** unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.
2. "Child" means a person less than 18 years of age.
3. "Prostitute" means a male or female person who for a fee engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.
4. "Prostitution" means engaging in sexual conduct for a fee.
5. "Sexual conduct" means any of the acts enumerated in subsection 3.

Sec. 5.5. **NRS 179.118 is hereby amended to read as follows:**

179.118 1. The proceeds from any sale or retention of property declared to be forfeited and any interest accrued pursuant to subsection 2 of NRS 179.1175 must be applied, first, to the satisfaction of any protected interest established by a claimant in the proceeding, then to the proper expenses of the proceeding for forfeiture and resulting sale, including the expense of effecting the seizure, the expense of maintaining custody, the expense of advertising and the costs of the suit.

2. Any balance remaining after the distribution required by subsection 1 must be deposited as follows:

(a) Except as otherwise provided in this subsection, if the plaintiff seized the property, in the special account established pursuant to NRS 179.1187 by the governing body that controls the plaintiff.

(b) Except as otherwise provided in this subsection, if the plaintiff is a metropolitan police department, in the special account established by the Metropolitan Police Committee on Fiscal Affairs pursuant to NRS 179.1187.

(c) Except as otherwise provided in this subsection, if more than one agency was substantially involved in the seizure, in an equitable manner to be directed by the court hearing the proceeding for forfeiture.

(d) If the property was seized pursuant to NRS 200.760, in the State Treasury for credit to the Fund for the Compensation of Victims of Crime to be used for the counseling and the medical treatment of victims of crimes committed in violation of NRS 200.366, 200.710 to 200.730, inclusive, or 201.230.

(e) If the property was seized as the result of a violation of NRS 202.300, in the general fund of the county in which the complaint for forfeiture was filed, to be used to support programs of counseling of persons ordered by the court to attend counseling pursuant to NRS 62E.290.

(f) If the property was forfeited pursuant to section 2 of this act, with the county treasurer to be distributed in accordance with the provisions of subsection 4 of section 2 of this act.

Sec. 6. NRS 179.121 is hereby amended to read as follows:

179.121 1. All personal property, including, without limitation, any tool, substance, weapon, machine, computer, money or security, which is used as an instrumentality in any of the following crimes is subject to forfeiture:

(a) The commission of or attempted commission of the crime of murder, robbery, kidnapping, burglary, invasion of the home, grand larceny ~~[,]~~ ***or*** theft if it is punishable as a felony ***;*** ~~[, or pandering;]~~

(b) The commission of or attempted commission of any felony with the intent to commit, cause, aid, further or conceal an act of terrorism;

(c) A violation of NRS 202.445 or 202.446;

(d) The commission of any crime by a criminal gang, as defined in NRS 213.1263; or

(e) A violation of NRS 200.463 to 200.468, inclusive, ***201.300 to 201.340, inclusive,*** 202.265, 202.287, 205.473 to 205.513, inclusive, 205.610 to 205.810, inclusive, 370.380, 370.382, 370.395, 370.405 or 465.070 to 465.085, inclusive.

2. Except as otherwise provided for conveyances forfeitable pursuant to NRS 453.301 or 501.3857, all conveyances, including aircraft, vehicles or vessels, which are used or intended for use during the commission of a felony or a violation of NRS 202.287, 202.300 or 465.070 to 465.085, inclusive, are subject to forfeiture except that:

(a) A conveyance used by any person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to the felony or violation;

(b) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge, consent or willful blindness;

(c) A conveyance is not subject to forfeiture for a violation of NRS 202.300 if the firearm used in the violation of that section was not loaded at the time of the violation; and

(d) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the felony. If a conveyance is forfeited, the appropriate law enforcement agency may pay the existing balance and retain the conveyance for official use.

3. For the purposes of this section, a firearm is loaded if:

(a) There is a cartridge in the chamber of the firearm;

(b) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; or

(c) There is a cartridge in the magazine and the magazine is in the firearm or there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

4. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 461.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 255.

AN ACT relating to older persons; revising the provisions pertaining to the persons who are required to report the abuse, neglect, exploitation or isolation of an older person; providing for the establishment of a multidisciplinary team; increasing certain filing fees; making various other changes relating to older persons; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain persons, including, without limitation, medical professionals, therapists and social workers, are required to make a report if the person knows or reasonably believes an older person has been abused, neglected, exploited or isolated. (NRS 200.5093) **Section 1** of this bill ~~[amends existing law to require any person to make a report if he knows or reasonably believes an older person has been abused, neglected, exploited or~~

~~isolated. Section 1 also provides that: (1) a clergyman or other religious leader is not required to make a report if he~~] **adds to the list of persons required to make such a report: (1) religious leaders, unless the religious leader** acquired knowledge of the abuse, neglect, exploitation or isolation during a confession; and (2) [~~an attorney is not required to make a report if he~~] **attorneys, unless the attorney** acquired knowledge of the abuse, neglect, exploitation or isolation from a client who is or may be accused of the crime. [~~Finally, section 1 requires that a~~]

Existing law requires certain governmental entities to forward to the Aging Services Division of the Department of Health and Human Services and to the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General a copy of the final report of the investigation of a report of abuse, neglect, exploitation or isolation of an older person **. (NRS 200.5093) Section 1 of this bill: (1) adds the Repository for Information Concerning Crimes Against Older Persons to the list of entities that must be forwarded a copy of such a report; and (2) changes the period within which the report** must be forwarded [~~to the Aging Services Division of the Department of Health and Human Services within 3 days after the completion of the report, rather than the 90 days under existing law, and to the Repository for Information Concerning Crimes Against Older Persons within~~] **from 90 days after the completion of the report to** 30 days after the completion of the report.

[~~Section 2 of this bill provides that a prosecuting attorney shall not dismiss any charge of abuse, neglect, exploitation or isolation of an older person or vulnerable person in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. (NRS 200.5099)~~]

Section 3 of this bill imposes a filing fee of $10 for deposit in the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons. (Chapter 19 of NRS)

Existing law allows a prospective witness who may be unable to attend or may be prevented from attending a trial or hearing to have his deposition taken, if his testimony is material, in order to prevent a failure of justice. (NRS 174.175) At a trial or hearing, a part or all of a deposition may be used if it appears that: (1) the witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick; (4) the witness has become of unsound mind; or (5) the party offering the deposition could not procure the attendance of the witness by subpoena. (NRS 174.215) **Section 4** of this bill expands the list of prospective witnesses who may have their deposition taken to include older persons. (NRS 174.175)

Section 5 of this bill [~~requires~~] **allows** the Repository for Information Concerning Crimes Against Older Persons to include records of every incident of elder abuse reported to any entity and certain additional information related to each incident. (NRS 179A.450)

Section 6 of this bill ~~[requires]~~ **allows** the Unit for the Investigation and Prosecution of Crimes Against Older Persons to establish a multidisciplinary team to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse ~~[or]~~ **,** neglect **or isolation** and prescribes its membership **.** ~~[and duties.]~~ (NRS 228.270) **The establishment of such a team does not grant the Unit supervisory authority over any state or local agency that investigates or prosecutes allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation.**

Section 7 of this bill requires the Peace Officers' Standards and Training Commission to adopt regulations that require all peace officers to receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons. (NRS 289.510)

Section 10 of this bill makes an appropriation to the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons.

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

Section 1. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described ~~*[Except as otherwise provided]*~~ in subsection 4 and ~~*[, any person]*~~ who , in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and

Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must ~~*[is not required to]*~~ be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

(m) A clergyman, practitioner of Christian Science or a religious healer, unless he acquired knowledge of the abuse, neglect, exploitation or isolation from the offender during a confession.

(n) An attorney, unless he has acquired knowledge of the abuse, neglect, exploitation or isolation from a client who is or may be accused of the abuse, neglect, exploitation or isolation.

5. A report may be made by any other person.

6. ~~*[A clergyman, practitioner of Christian Science or a religious healer, if he has acquired the knowledge of the abuse, neglect, exploitation or isolation from the offender during a confession.*~~

~~*(b) An attorney, if he has acquired the knowledge of the abuse, neglect, exploitation or isolation from a client who is or may be accused of the abuse, neglect, exploitation or isolation.*~~

~~*5.]*~~ If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. ~~*[6.]*~~ A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded ***within 30 days after the completion of the report*** to the ***:***

(a) Aging Services Division ~~**[**within**]** **[**90**]** *[3 days after the completion of the report]* **[**, and a copy of any final report of an investigation must be forwarded to the**]** ***;***

(b) Repository for Information Concerning Crimes Against Older Persons ~~*[within 30 days after the completion of the report;]*~~ ***created by NRS 179A.450; and***

(c) Unit for the Investigation and Prosecution of Crimes**.** ~~**[**within 90 days after *the* completion of the report.**]**~~

8. ~~*[7.]*~~ If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. ~~*[8.]*~~ A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. ~~*[9.]*~~ As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 2. ~~**[**NRS 200.5099 is hereby amended to read as follows:~~

~~200.5099 1. Except as otherwise provided in subsection 6, any person who abuses an older person or a vulnerable person is guilty:~~

~~(a) For the first offense, of a gross misdemeanor; or~~

~~(b) For any subsequent offense or if the person has been previously convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.~~

~~2. Except as otherwise provided in subsection 7, any person who has assumed responsibility, legally, voluntarily or pursuant to a contract, to care for an older person or a vulnerable person and who:~~

~~(a) Neglects the older person or vulnerable person, causing the older person or vulnerable person to suffer physical pain or mental suffering;~~

~~(b) Permits or allows the older person or vulnerable person to suffer unjustifiable physical pain or mental suffering; or~~

~~(c) Permits or allows the older person or vulnerable person to be placed in a situation where the older person or vulnerable person may suffer physical pain or mental suffering as the result of abuse or neglect,~~

~~➥ is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.~~

~~3. Except as otherwise provided in subsection 4, any person who exploits an older person or a vulnerable person shall be punished, if the value of any money, assets and property obtained or used:~~

~~(a) Is less than $250, for a misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $2,000, or by both fine and imprisonment;~~

~~(b) Is at least $250, but less than $5,000, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than $10,000, or by both fine and imprisonment; or~~

~~(c) Is $5,000 or more, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years, or by a fine of not more than $25,000, or by both fine and imprisonment,~~

~~➥ unless a more severe penalty is prescribed by law for the act which brought about the exploitation. The monetary value of all of the money, assets and property of the older person or vulnerable person which have been obtained or used, or both, may be combined for the purpose of imposing punishment for an offense charged pursuant to this subsection.~~

~~4. If a person exploits an older person or a vulnerable person and the monetary value of any money, assets and property obtained cannot be determined, the person shall be punished for a gross misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $2,000, or by both fine and imprisonment.~~

~~5. Any person who isolates an older person or a vulnerable person is guilty:~~

~~(a) For the first offense, of a gross misdemeanor; or~~

~~(b) For any subsequent offense, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $5,000.~~

~~6. A person who violates any provision of subsection 1, if substantial bodily or mental harm or death results to the older person or vulnerable person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.~~

~~7. A person who violates any provision of subsection 2, if substantial bodily or mental harm or death results to the older person or vulnerable person, shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.~~

~~8. In addition to any other penalty imposed against a person for a violation of any provision of NRS 200.5091 to 200.50995, inclusive, the court shall order the person to pay restitution.~~

~~9. *If a person is charged with a violation of any provision of NRS 200.5091 to 200.50995, inclusive, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial.*~~

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

~~(a) "Allow" means to take no action to prevent or stop the abuse or neglect of an older person or a vulnerable person if the person knows or has reason to know that the older person or vulnerable person is being abused or neglected.~~

~~(b) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care and custody of an older person or a vulnerable person.~~

~~(c) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of an older person or a vulnerable person as evidenced by an observable and substantial impairment of the ability of the older person or vulnerable person to function within his normal range of performance or behavior.~~**] (Deleted by amendment.)**

Sec. 3. Chapter 19 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided by specific statute, on the commencement of any civil action or proceeding in the district court, other than the commencement of a proceeding for an adoption, the county clerk

of a county, in addition to any other fees provided by law, shall charge and collect $10 from the party commencing the action or proceeding.

2. On or before the first Monday of each month, the county clerk shall pay over to the county treasurer the amount of all fees collected by him pursuant to subsection 1 and the county treasurer shall place that amount to the credit of the State General Fund. Quarterly, the county treasurer shall remit all money so collected to the State Controller, who shall place the money in the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to NRS 228.285.

Sec. 4. NRS 174.175 is hereby amended to read as follows:

174.175 1. If it appears that a prospective witness ***is an older person or*** may be unable to attend or prevented from attending a trial or hearing, that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information or complaint may upon motion of a defendant or of the State and notice to the parties order that his testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. If the deposition is taken upon motion of the State, the court shall order that it be taken under such conditions as will afford to each defendant the opportunity to confront the witnesses against him.

2. If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may direct that his deposition be taken. After the deposition has been subscribed the court may discharge the witness.

3. This section does not apply to the prosecutor, or to an accomplice in the commission of the offense charged.

4. As used in this section, "older person" means a person who is 60 years of age or older.

Sec. 5. NRS 179A.450 is hereby amended to read as follows:

179A.450 1. The Repository for Information Concerning Crimes Against Older Persons is hereby created within the Central Repository.

2. The Repository for Information Concerning Crimes Against Older Persons must contain a complete and systematic record of all reports of crimes against older persons committed in this State **.** ~~[~~that~~]~~ ***The record*** must be prepared in a manner approved by the Director of the Department ~~[.]~~ ***and*** ~~*[must include all of]*~~ ***may include, without limitation, the following information:***

(a) All incidents that are reported to any entity.

(b) All cases that are currently under investigation and the type of such cases.

(c) All cases that are referred for prosecution and the type of such cases.

(d) All cases in which prosecution is declined or dismissed and any reason for such action.

(e) All cases that are prosecuted and the final disposition of such cases.

(f) All cases that are resolved by agencies which provide protective services and the type of such cases.

3. The Director of the Department shall compile and analyze the data collected pursuant to this section to assess the incidence of crimes against older persons.

4. On or before July 1 of each year, the Director of the Department shall prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature that sets forth statistical data on crimes against older persons.

5. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of an individual victim of a crime.

6. As used in this section, "older person" means a person who is 60 years of age or older.

Sec. 6. NRS 228.270 is hereby amended to read as follows:

228.270 ***1.*** The Unit may investigate and prosecute any alleged abuse, neglect, exploitation or isolation of an older person in violation of NRS 200.5099 or 200.50995 and any failure to report such a violation pursuant to NRS 200.5093:

~~[1.]~~ ***(a)*** At the request of the district attorney of the county in which the violation occurred;

~~[2.]~~ ***(b)*** If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or

~~[3.]~~ ***(c)*** Jointly with the district attorney of the county in which the violation occurred.

2. ~~*[In addition to any team established pursuant to NRS 200.5098, or any investigation or prosecution pursuant to subsection 1, the Unit shall]*~~ ***The Unit may organize or sponsor one or more multidisciplinary teams to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be from abuse , ~~[or]~~ neglect ~~[.]~~ or isolation. A multidisciplinary team ~~[must]~~ may include, without limitation, the following members : ~~[who serve at the pleasure of the Attorney General:]~~***

(a) A representative of the Unit;

(b) Any law enforcement agency that is involved with the case under review;

(c) The district attorney's office in the county where the case is under review;

(d) The Aging Services Division of the Department of Health and Human Services or the county's office of protective services, if one exists in the county where the case is under review;

(e) A representative of the coroner's office; and

(f) Any other ~~*[representatives of any other organizations concerned with the abuse, neglect, exploitation, isolation or death of the older person as]*~~ ***medical professional or financial professional that the Attorney General deems appropriate for the review.***

~~*3. [A multidisciplinary team shall review the abuse, neglect, exploitation, isolation or death of an older person upon receiving a written request from a person related to the older person within the third degree of consanguinity, if the request is received within 1 year after the date of the alleged conduct.*~~

~~*4.]*~~ ***Each organization represented on a multidisciplinary team may share with other members of the team information in its possession concerning the older person who is the subject of the review or any person who was in contact with the older person and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential.***

~~*[5. A multidisciplinary team may, upon request, provide a report concerning its review to a person related to the older person within the third degree of consanguinity.]*~~

4. The organizing or sponsoring of a multidisciplinary team pursuant to subsection 2 does not grant the Unit supervisory authority over, or restrict or impair the statutory authority of, any state or local agency responsible for the investigation or prosecution of allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be the result of abuse, neglect or isolation.

Sec. 7. NRS 289.510 is hereby amended to read as follows:

289.510 1. The Commission:

(a) Shall meet at the call of the Chairman, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance;

(3) Qualifications for instructors of peace officers; and

(4) Requirements for the certification of a course of training.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.600, inclusive.

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children; **[**~~and~~**]**

(c) ***Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons; and***

(d) May require that training be carried on at institutions which it approves in those regulations.

Sec. 8. **[**~~NRS 388.880 is hereby amended to read as follows:~~

~~388.880 1. Except as otherwise provided in subsection 2, if any person who knows or has reasonable cause to believe that another person has made a threat of violence against a school official, school employee or pupil reports in good faith that threat of violence to a school official, teacher, school police officer, local law enforcement agency or potential victim of the violence that is threatened, the person who makes the report is immune from civil liability for any act or omission relating to that report. Such a person is not immune from civil liability for any other act or omission committed by the person as a part of, in connection with or as a principal, accessory or conspirator to the violence, regardless of the nature of the other act or omission.~~

~~2. The provisions of this section do not apply to a person who:~~

~~(a) Is~~ **[**~~acting in his professional or occupational capacity and is~~**]** ~~required to make a report pursuant to NRS 200.5093, 200.50935 or 432B.220.~~

~~(b) Is required to make a report concerning the commission of a violent or sexual offense against a child pursuant to NRS 202.882.~~

~~3. As used in this section:~~

~~(a) "Reasonable cause to believe" means, in light of all the surrounding facts and circumstances which are known, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.~~

~~(b) "School employee" means a licensed or unlicensed person who is employed by:~~

~~(1) A board of trustees of a school district pursuant to NRS 391.100; or~~

~~(2) The governing body of a charter school.~~

~~(c) "School official" means:~~

~~(1) A member of the board of trustees of a school district.~~

~~(2) A member of the governing body of a charter school.~~

~~(3) An administrator employed by the board of trustees of a school district or the governing body of a charter school.~~

~~(d) "Teacher" means a person employed by the:~~

~~(1) Board of trustees of a school district to provide instruction or other educational services to pupils enrolled in public schools of the school district.~~

~~(2) Governing body of a charter school to provide instruction or other educational services to pupils enrolled in the charter school.~~**] (Deleted by amendment.)**

Sec. 9. **[**~~NRS 394.177 is hereby amended to read as follows:~~

~~394.177 1. Except as otherwise provided in subsection 2, if any person who knows or has reasonable cause to believe that another person has made a threat of violence against a school official, school employee or pupil reports in good faith that threat of violence to a school official, teacher, school police officer, local law enforcement agency or potential victim of the violence that is threatened, the person who makes the report is immune from civil liability for any act or omission relating to that report. Such a person is not immune from civil liability for any other act or omission committed by the person as a part of, in connection with or as a principal, accessory or conspirator to the violence, regardless of the nature of the other act or omission.~~

~~2. The provisions of this section do not apply to a person who:~~

~~(a) Is~~ **[**~~acting in his professional or occupational capacity and is~~**]** ~~required to make a report pursuant to NRS 200.5093, 200.50935 or 432B.220.~~

~~(b) Is required to make a report concerning the commission of a violent or sexual offense against a child pursuant to NRS 202.882.~~

~~3. As used in this section:~~

~~(a) "Reasonable cause to believe" means, in light of all the surrounding facts and circumstances which are known, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.~~

~~(b) "School employee" means a licensed or unlicensed person, other than a school official, who is employed by a private school.~~

~~(c) "School official" means:~~

~~(1) An owner of a private school.~~

~~(2) A director of a private school.~~

~~(3) A supervisor at a private school.~~

~~(4) An administrator at a private school.~~

~~(d) "Teacher" means a person employed by a private school to provide instruction and other educational services to pupils enrolled in the private school.~~**] (Deleted by amendment.)**

Sec. 10. There is hereby appropriated from the State General Fund to the Account for the Unit for the Investigation and Prosecution of Crimes Against

Older Persons to be used for the purposes set forth in NRS 228.285 the sum of:

For the Fiscal Year 2009-2010 $250,000

For the Fiscal Year 2010-2011 $250,000

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 493 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 461 upon return from the printer, be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 493 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 402, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 402 just reported out of committee, be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 402.

Bill read second time.

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

Amendment No. 439.

AN ACT relating to public utilities; ~~[providing that certain entities must be included as]~~ **requiring the Public Utilities Commission of Nevada to determine the** parties to a public hearing concerning a resource plan of a public utility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~[specifies that]~~ **requires the Public Utilities Commission of Nevada to determine** the parties to a public hearing on the adequacy of a plan to increase supply or decrease demands filed by a public utility ~~[include:~~

~~(1) the utility itself; (2) the Division of Environmental Protection of the State Department of Conservation and Natural Resources; and (3) certain nonprofit corporations or associations.]~~ **and allows a person or governmental entity to petition to intervene as a party in the hearing. This bill also authorizes the Commission to limit or prohibit continued participation of an intervener in certain circumstances.** (NRS 704.746)

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

Section 1. NRS 704.746 is hereby amended to read as follows:

704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. ***The Commission shall determine the parties to*** ~~*[a]*~~ ***the public hearing*** ~~*[include, without limitation:*~~

~~*(a) The utility.*~~

~~*(b) The Division of Environmental Protection of the State Department of Conservation and Natural Resources.*~~

~~*(c) Any domestic nonprofit corporation or association, formed in whole or in part to promote conservation of natural beauty, to protect the environment, personal health or other biological values, to preserve historical sites, to promote consumer interests, to represent commercial and industrial groups or to promote the orderly development of the areas in which the facility is to be located, if it has filed with the Commission a notice of intent to be a party within a time frame established by the Commission.]*~~ ***on the adequacy of the plan. A person or governmental entity may petition the Commission for leave to intervene as a party. The Commission must grant a petition to intervene as a party in the hearing if the person or entity has relevant material evidence to provide concerning the adequacy of the plan. The Commission may limit participation of an intervener in the hearing to avoid duplication and may prohibit continued participation in the hearing by an intervener if the Commission determines that continued participation will unduly broaden the issues, will not provide additional relevant material evidence or is not necessary to further the public interest.***

3. In addition to any party to the ~~[At the]~~ hearing **,** any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

~~[3.]~~ ***4.*** After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers of the utility, associated with the following possible measures and sources of supply:

(1) Improvements in energy efficiency;

(2) Pooling of power;

(3) Purchases of power from neighboring states or countries;

(4) Facilities that operate on solar or geothermal energy or wind;

(5) Facilities that operate on the principle of cogeneration or hydrogeneration; and

(6) Other generation facilities.

~~[4.]~~ ***5.*** The Commission may give preference to the measures and sources of supply set forth in paragraph (c) of subsection ~~[3]~~ ***4*** that:

(a) Provide the greatest economic and environmental benefits to the State;

(b) Are consistent with the provisions of this section; and

(c) Provide levels of service that are adequate and reliable.

~~[5.]~~ ***6.*** The Commission shall:

(a) Adopt regulations which determine the level of preference to be given to those measures and sources of supply; and

(b) Consider the value to the public of using water efficiently when it is determining those preferences.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Kim Foster and Vicki Bates.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Mark Sprinkle.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Bruce Specter, Jennifer Baker, Greg Bailor, John Martin, and Mary Jane Harding.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Tommy Rowe and Valerie Osgood.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Kenneth Penn.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Harrison Griffin and Josh Griffin

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Guy Rocha and Daphne Beleon.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Robert Schultz and Pete Harding.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Bruce Breslow.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, April 20, 2009, at 10:30 a.m.

Motion carried.

Assembly adjourned at 2:58 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday) April 20, 2009

Assembly called to order at 10:55 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Monte Fast.

Let us learn a lesson when our prayers are not answered, when a recession won't go away quickly, when frustration threatens our happiness. The Creator, to whom we pray, knows more than we. God balances His answers in ways beyond our knowledge, goals, or aspirations. At times, we experience disappointment. The lesson then is, who do we trust? The answer, for this nation, is stamped in its coin.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 84, 95, 208, 215, 224, 281, 287, 387, 448, 470 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 256, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 40, 74, 87, 130, 147, 159, 192, 225, 284, 397, 416, 478, 492, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 6, 227, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 262, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Taxation, to which was referred Assembly Bill No. 307, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Taxation, to which was referred Assembly Bill No. 317, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 235, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Transportation, to which was referred Assembly Bill No. 504, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 6, 40, 74, 84, 87, 95, 130, 147, 159, 192, 208, 215, 225, 224, 227, 235, 256, 262, 281, 284, 287, 307, 317, 387, 397, 416, 448, 470, 478, 492, 504 just reported out of committee, be placed on the appropriate reading file.

Motion carried.

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 17, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 169, 172, 182; Senate Bill No. 353.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 73, 132, 137, 183, 186, 229, 239, 261, 278, 290, 305, 312, 338, 340, 343, 372, 377, 383.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 283 and 385.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 521.

MARK STEVENS
Fiscal Analysis Division

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 378.

GARY GHIGGERI
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 215, 227, 235, 262, 287, and 416 be taken from their position on the Second Reading File and placed at the top of the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 215.

Bill read second time.

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

Amendment No. 435.

SUMMARY— ~~[Expands the circumstances under which an owner of a residence may recover damages from the Recovery Fund administered by the State Contractors' Board.]~~ **Requires a contractor or an applicant for an original or a renewal of a contractor's license to obtain and maintain certain liability insurance.** (BDR 54-893)

AN ACT relating to contractors; ~~[expanding the circumstances under which an owner of a residence may recover damages from the Recovery Fund administered by the State Contractors' Board for an act or omission of a contractor; clarifying the application of the limitation on amounts paid out of the Recovery Fund;]~~ **requiring licensed contractors and applicants for issuance or renewal of a contractor's license to obtain and provide proof of liability insurance;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law allows an owner of a single-family residence to recover from the Recovery Fund administered by the State Contractors' Board when the owner suffers damages for an act or omission by a residential contractor who has contracted to perform qualified services on the residence. (NRS 624.420, 624.430, 624.470, 624.510) This bill expands the circumstances for recovery from the Recovery Fund to allow an owner of any residence to recover from the Recovery Fund when the owner suffers damages for an act or omission by any contractor who performs any services on the residence, regardless of whether the services were performed pursuant to a contract. This bill also clarifies the application of the limitation on the amount of money which the Board or its designee may pay out of the Recovery Fund by stating that the~~

~~limit applies on a per-unit basis.~~] **Section 1 of this bill requires a contractor licensed pursuant to chapter 624 of NRS or an applicant for an original or renewal license under that chapter to obtain, maintain and provide proof of insurance, with coverage having specified limits of liability for claims for injury to persons or damage to property which may arise from or in connection with the work of the contractor or applicant or his agents, representatives, employees or subcontractors.**

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

Section 1. **Chapter 624 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Before granting an original or renewal of a contractor's license to an applicant, the Board shall require that the applicant submit to the Board proof of insurance against claims for injury to persons or damage to property which may arise from or in connection with work that is subject to regulation pursuant to this chapter performed by the applicant or his agents, representatives, employees or subcontractors in an amount not less than the amount set forth in subsection 2.

2. To satisfy the requirements of this section, a licensee or an applicant for a contractor's license shall obtain and provide proof of insurance with coverage that has limits of liability not less than:

(a) If the Board places on the license a limit on contracting or bidding to contract in an amount less than $1,000,000, $300,000 in the aggregate and $100,000 for each occurrence;

(b) If the Board places on the license a limit on contracting or bidding to contract in an amount $1,000,000 or greater but less than $10,000,000, $2,000,000 in the aggregate and $1,000,000 for each occurrence; and

(c) If the Board places on the license a limit on contracting or bidding to contract in an amount that is $10,000,000 or greater or is unlimited, $3,000,000 in the aggregate and $3,000,000 for each occurrence.

3. If a licensee applies to the Board for a temporary increase in the limit on contracting or bidding to contract which the Board has placed on his license, the Board shall require the licensee to submit proof of insurance with coverage that has limits of liability as provided in subsection 2 that correspond to the temporary limit on contracting or bidding to contract. The insurance required pursuant to this subsection may be contingent upon approval by the Board of the temporary increase in the limit on contracting or bidding to contract.

4. A licensee shall maintain the insurance required pursuant to this section at all times during which he holds his license.

5. The Board may impose an administrative fine against a licensee in an amount not greater than $10,000, in addition to any other penalty authorized by this chapter, if the licensee:

(a) Causes injury to persons or damage to property which arises from or in connection with work that is subject to regulation pursuant to this chapter performed by the licensee or his agents, representatives, employees or subcontractors; and

(b) Has failed to comply with the requirements of subsection 2 or 3.

Sec. 1.3. **NRS 624.220 is hereby amended to read as follows:**

624.220 1. The Board shall adopt regulations necessary to effect the classification and subclassification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as defined by NRS 624.215 and the regulations of the Board.

2. The Board shall limit the field and scope of the operations of a licensed contractor by establishing a monetary limit on a contractor's license, and the limit must be the maximum contract a licensed contractor may undertake on one or more construction contracts on a single construction site or subdivision site for a single client. The Board may take any other action designed to limit the field and scope of the operations of a contractor as may be necessary to protect the health, safety and general welfare of the public. The limit must be determined after consideration of the factors set forth in NRS 624.260 to 624.265, inclusive **~~[.]~~** ***and section 1 of this act.***

3. A licensed contractor may request that the Board increase the monetary limit on his license, either on a permanent basis or for a single construction project. A request submitted to the Board pursuant to this subsection must be in writing on a form prescribed by the Board and accompanied by such supporting documentation as the Board may require. If a request submitted pursuant to this section is for a single construction project, the request must be submitted to the Board at least 2 working days before the date on which the licensed contractor intends to submit his bid for the project.

4. Subject to the provisions of regulations adopted pursuant to subsection 5, nothing contained in this section prohibits a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

5. The Board shall adopt regulations establishing a specific limit on the amount of asbestos that a licensed contractor with a license that is not classified

for the abatement or removal of asbestos may abate or remove pursuant to subsection 4.

~~[Section 1.]~~ ***Sec. 1.5.*** **[~~NRS 624.283 is hereby amended to read as follows:~~**

~~624.283 1. Each license issued under the provisions of this chapter expires 2 years after the date on which it is issued, except that the Board may~~

~~by regulation prescribe shorter or longer periods and prorated fees to establish a system of staggered biennial renewals. Any license which is not renewed on or before the date for renewal is automatically suspended.~~

~~2. A license may be renewed by submitting to the Board:~~

~~(a) An application for renewal;~~

~~(b) The fee for renewal fixed by the Board;~~

~~(c) Any assessment required pursuant to NRS 624.470 **;** **[**if the holder of the license is a residential contractor as defined in NRS 624.450;**]** and~~

~~(d) All information required to complete the renewal.~~

~~3. The Board may require a licensee to demonstrate his financial responsibility at any time through the submission of:~~

~~(a) A financial statement that is:~~

~~(1) Prepared by an independent certified public accountant; or~~

~~(2) Submitted on a form or in a format prescribed by the Board **,** together with an affidavit which verifies the accuracy of the financial statement; and~~

~~(b) If the licensee performs residential construction, such additional documentation as the Board deems appropriate.~~

~~4. If a license is automatically suspended pursuant to subsection 1, the licensee may have his license reinstated upon filing an application for renewal within 6 months after the date of suspension and paying, in addition to the fee for renewal, a fee for reinstatement fixed by the Board, if he is otherwise in good standing and there are no complaints pending against him. If he is otherwise not in good standing or there is a complaint pending, the Board shall require him to provide a current financial statement prepared by an independent certified public accountant or establish other conditions for reinstatement. An application for renewal must be accompanied by all information required to complete the renewal. A license which is not reinstated within 6 months after it is automatically suspended may be cancelled by the Board, and a new license may be issued only upon application for an original contractor's license.**]** (Deleted by amendment.)**

Sec. 1.7. **NRS 624.3013 is hereby amended to read as follows:**

624.3013 The following acts, among others, constitute cause for disciplinary action pursuant to NRS 624.300:

1. Failure to keep records showing all contracts, documents, receipts and disbursements by a licensee of all of his transactions as a contractor and to keep them open for inspection by the Board or Executive Officer for a period of not less than 3 years after the completion of any construction project or operation to which the records refer.

2. Misrepresentation of a material fact by an applicant or licensee in connection with any information or evidence furnished the Board in connection with official matters of the Board.

3. Failure to establish financial responsibility pursuant to NRS 624.220 and 624.260 to 624.265, inclusive, ***and section 1 of this act*** at the time of renewal of the license or at any other time when required by the Board.

4. Failure to keep in force the bond or cash deposit pursuant to NRS 624.270 for the full period required by the Board.

5. Failure in any material respect to comply with the provisions of this chapter or the regulations of the Board.

Sec. 2. ~~[~~NRS 624.420 is hereby amended to read as follows:

~~624.420 "Injured person" means an owner who is damaged by the failure of a [residential] contractor to perform [qualified] services adequately [.] *with regard to a residence owned by the owner.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~[~~NRS 624.430 is hereby amended to read as follows:

~~624.430 "Owner" means [a] :~~

~~*1. A* natural person who owns a [single family residence and who contracts with a residential contractor for the performance of qualified services with respect to the] residence [.] *; or*~~

~~*2. A representative of a homeowners' association that is responsible for a residence or appurtenance and is acting within the scope of his duties pursuant to chapter 116 or 117 of NRS.*~~

~~➥ The term includes a subsequent owner.]~~ **(Deleted by amendment.)**

Sec. 4. ~~[~~NRS 624.460 is hereby amended to read as follows:

~~624.460 "Subsequent owner" means a natural person who purchases a [single family] residence from the owner of the residence.]~~ **(Deleted by amendment.)**

Sec. 5. ~~[~~NRS 624.470 is hereby amended to read as follows:

~~624.470 1. Except as otherwise provided in subsection 3, in addition to the fee for a license required pursuant to NRS 624.280, a [residential] contractor shall pay to the Board an assessment not to exceed the following amount, if the monetary limit on his license is:~~

~~Not more than $1,000,000 $200 per biennium~~

~~More than $1,000,000 but limited 500 per biennium~~

~~Unlimited 1,000 per biennium~~

~~2. The Board shall administer and account separately for the money received from the assessments collected pursuant to subsection 1. The Board may refer to the money in the account as the "Recovery Fund."~~

~~3. The Board shall reduce the amount of the assessments collected pursuant to subsection 1 when the balance in the account reaches 150 percent of the largest balance in the account during the previous fiscal year.~~

~~4. Except as otherwise provided in NRS 624.540, the money in the account must be used to pay claims made by owners who are damaged by the failure of a [residential] contractor to perform [qualified] services adequately, as provided in NRS 624.400 to 624.560, inclusive.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[~~NRS 624.480 is hereby amended to read as follows:

624.480 Except as otherwise provided in NRS 624.490, an injured person who wishes to recover from the account must file a complaint with the Board or its designee within 4 years after the completion of ~~[qualified]~~

~~*the*~~ services~~.~~ **[.]** ~~*that a contractor is alleged to have failed to perform adequately.]*~~ **(Deleted by amendment.)**

Sec. 7. **[**~~NRS 624.490 is hereby amended to read as follows:~~

~~624.490 Within 2 years after an injured person has obtained a judgment in any court of competent jurisdiction for recovery of damages against a~~ **[**~~residential~~**]** ~~contractor for an act or omission of the~~ **[**~~residential~~**]** ~~contractor that is in violation of this chapter or the regulations adopted pursuant thereto, the injured person may apply to the Board for satisfaction of the judgment from the account if:~~

~~1. The proceedings in connection with the judgment have terminated, including appeals;~~

~~2. He submits an application on a form established for this purpose by the Board;~~

~~3. He submits proof satisfactory to the Board of the judgment; and~~

~~4. Upon obtaining payment from the account, he assigns his rights to enforce the judgment to the Board.~~**] (Deleted by amendment.)**

Sec. 8. **[**~~NRS 624.510 is hereby amended to read as follows:~~

~~624.510 1. Except as otherwise provided in NRS 624.490 and subsection 2, an injured person is eligible for recovery from the account if the Board or its designee finds that the injured person suffered actual damages as a result of an act or omission of a~~ **[**~~residential~~**]** ~~contractor that is in violation of this chapter or the regulations adopted pursuant thereto.~~

~~2. An injured person is not eligible for recovery from the account if:~~

~~(a) The injured person is the spouse of the licensee, or a personal representative of the spouse of the licensee;~~

~~(b) The injured person was associated in a business relationship with the licensee other than the contract at issue; or~~

~~(c) At the time of~~ **[**~~contracting~~**]** ~~*entering into an agreement for services* with the~~ **[**~~residential~~**]** ~~contractor, the license of the~~ **[**~~residential~~**]** ~~contractor was suspended or revoked pursuant to NRS 624.300.~~

~~3. If the Board or its designee determines that an injured person is eligible for recovery from the account pursuant to this section or NRS 624.490, the Board or its designee may pay out of the account:~~

~~(a) The amount of actual damages suffered, but not to exceed $35,000~~ **[**~~;~~**]** ~~*per unit;* or~~

~~(b) If a judgment was obtained as set forth in NRS 624.490, the amount of actual damages included in the judgment and remaining unpaid, but not to exceed $35,000~~ **[**~~.~~**]** ~~*per unit.*~~

~~4. The decision of the Board or its designee regarding eligibility for recovery and all related issues is final and not subject to judicial review.~~

~~5. If the injured person has recovered a portion of his loss from sources other than the account, the Board shall deduct the amount recovered from the other sources from the amount payable upon the claim and direct the difference to be paid from the account.~~

~~6. To the extent of payments made from the account, the Board is subrogated to the rights of the injured person, including, without limitation, the right to collect from a surety bond or a cash bond. The Board and the Attorney General shall promptly enforce all subrogation claims.~~

~~7. The amount of recovery from the account based upon claims made against any single contractor must not exceed $400,000.~~

~~8. As used in this section, "actual damages" includes attorney's fees or costs in contested cases appealed to the Supreme Court of this State. The term does not include any other attorney's fees or costs.~~**] (Deleted by amendment.)**

Sec. 9. ~~**[**NRS 624.520 is hereby amended to read as follows:~~

~~624.520 1. A~~ **[**~~residential~~**]** ~~contractor shall notify an owner with whom he~~ **[**~~contracts~~**]** ***enters an agreement to perform services*** ~~of the rights of the owner pursuant to NRS 624.400 to 624.560, inclusive, including, without limitation, providing a written statement explaining those rights in any agreement or contract for~~ **[**~~qualified~~**]** ~~services. The written statement must be in substantially the following form:~~

~~RESIDENTIAL CONSTRUCTION RECOVERY FUND~~

~~Payment may be available from the Recovery Fund if you are damaged financially by a project performed on your residence pursuant to~~ **[**~~a~~**]** ***an agreement or*** ~~contract, including~~ ***, without limitation,*** ~~construction, remodeling, repair or other improvements, and the damage resulted from certain specified violations of Nevada law by a contractor licensed in this State. To obtain information relating to the Recovery Fund and filing a claim for recovery from the Recovery Fund, you may contact the State Contractors' Board at the following locations:~~

~~State Contractors' Board State Contractors' Board~~

~~9670 Gateway Drive, Suite 100 2310 Corporate Circle, Suite 200~~

~~Reno, Nevada 89521Henderson, Nevada 89074~~

~~Telephone number: (775) 688-1141 Telephone number: (702) 486-1100~~

~~2. The Board may impose upon a contractor an administrative fine:~~

~~(a) Of not more than $100 for the first violation of subsection 1; and~~

~~(b) Of not more than $250 for a second or subsequent violation of subsection 1.~~

~~3. The Board shall deposit any money received pursuant to this section in the account established pursuant to NRS 624.470.~~**] (Deleted by amendment.)**

Sec. 10. **[**~~NRS 624.530 is hereby amended to read as follows:~~

~~624.530 The provisions of NRS 624.400 to 624.560, inclusive, do not limit the authority of the Board to take disciplinary action against a~~ **[**~~residential~~**]** ~~contractor.~~**] (Deleted by amendment.)**

Sec. 11. **[**~~NRS 624.622 is hereby amended to read as follows:~~

~~624.622 1. A prime contractor shall provide a copy of any notice given to an owner pursuant to subsection 1 or 2 of NRS 624.610 to each lower-tiered subcontractor with whom the prime contractor has entered into an~~

~~agreement. Upon receipt of payment pursuant to NRS 624.609, the prime contractor shall notify all such lower tiered subcontractors in writing of his receipt of payment.~~

~~2. A condition, stipulation or provision in an agreement which:~~

~~(a) Requires a prime contractor to waive any rights provided in~~ **[**~~this section,~~**]** ~~NRS 624.609~~ **[**~~, 624.610, 624.620~~**]** ***to 624.622, inclusive,*** ~~or 624.630, or which limits those rights;~~

~~(b) Relieves an owner of any obligation or liability imposed pursuant to NRS 624.606 to 624.630, inclusive; or~~

~~(c) Requires a prime contractor to waive, release or extinguish a claim or right for damages or an extension of time that the prime contractor may otherwise possess or acquire as a result of delay, acceleration, disruption or an impact event that is unreasonable under the circumstances, that was not within the contemplation of the parties at the time the agreement was entered into, or for which the prime contractor is not responsible,~~

~~➥ is against public policy and is void and unenforceable.~~

~~3. All notices required pursuant to~~ **[**~~this section,~~**]** ~~NRS 624.609~~ **[**~~, 624.610 and 624.620~~**]** ***to 624.622, inclusive,*** ~~must be:~~

~~(a) Delivered personally, in which case the prime contractor shall obtain a notarized statement from the person who delivered the notice as proof of delivery;~~

~~(b) Sent by facsimile and delivered by regular mail, in which case the prime contractor shall retain proof of a successful transmission of the facsimile;~~

~~(c) Delivered by certified mail; or~~

~~(d) Delivered in the manner provided for in the agreement.~~

~~4.~~ **[**~~This section,~~**]** ~~NRS 624.609~~ **[**~~, 624.610 and 624.620~~**]** ***to 624.622, inclusive,*** ~~do not apply to an agreement between:~~

~~(a) A prime contractor and a natural person who owns~~ ***and occupies*** ~~a single-family residence for the performance of~~ **[**~~qualified~~**]** ~~services with respect to the residence; or~~

~~(b) A public body and a prime contractor for the performance of work and labor on a public work.~~

~~5. Within 5 days after an owner receives a written request for the information set forth in paragraphs (a), (b) and (c) from a lower-tiered subcontractor, the owner shall notify the lower-tiered subcontractor in writing of the following:~~

~~(a) The date the owner made a specified payment to his prime contractor;~~

~~(b) Whether the owner has paid the entire amount of a specified payment to his prime contractor; and~~

~~(c) The amount withheld by the owner from a specified payment to the prime contractor and the condition or reason for the withholding.~~**]** **(Deleted by amendment.)**

Sec. 12. ~~[The amendatory provisions of this act apply only to agreements entered into on or after October 1, 2009, between a contractor and an owner of a residence.]~~ **(Deleted by amendment.)**

Sec. 13. ~~[NRS 624.440 and 624.450 are hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 14. **This act applies to licenses issued or renewed pursuant to chapter 624 of NRS after October 1, 2009.**

~~[~~

~~TEXT OF REPEALED SECTIONS~~

~~624.440 "Qualified services" defined. "Qualified services" means any construction, remodeling, repair or improvement performed by a residential contractor on a single-family residence occupied by the owner of the residence.~~

~~624.450 "Residential contractor" defined. "Residential contractor" means a contractor who is licensed pursuant to this chapter and who contracts with the owner of a single-family residence to perform qualified services.]~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 227.

Bill read second time.

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

Amendment No. 332.

AN ACT relating to public welfare; requiring licensure of certain **foster care** agencies that provide services relating to the placement of children in foster care; requiring licensure of ~~[treatment]~~ **specialized** foster homes; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 4-7 of this bill require persons who wish to operate ~~[an]~~ **a foster care** agency that assists an agency which provides child welfare services in placing or arranging for the placement of children in foster care to obtain a license from the Division of Child and Family Services of the Department of Health and Human Services.

Existing law requires persons who operate a family foster home or group foster home to obtain a license from the appropriate licensing authority. (Chapter 424 of NRS) The Division of Child and Family Services has adopted regulations for family and group foster homes pursuant to this chapter and has also adopted similar standards for treatment homes, which are a specialized type of foster home. (NAC 424.075, 424.650-424.705) **Section 3** of this bill defines what constitutes a ~~["treatment]~~ **"specialized** foster home" and **sections 8-14** of this bill ~~[put into]~~ **set forth in** statute the requirement that persons who operate a ~~[treatment]~~ **specialized** foster home

obtain a license from the appropriate licensing authority. (NRS 424.010, 424.014, 424.020, 424.030, 424.0365, 424.040, 424.085)

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ~~[~~"Agency which places children for foster care"~~]~~ ***"Foster care agency" means a nonprofit corporation, ~~[organized pursuant to chapter 82 of NRS and]~~ for-profit corporation or sole proprietorship, which is licensed by the Division, that assists an agency which provides child welfare services in the placement of children in foster care, including, without limitation, providing ~~[services relating to the screening,]~~ :***

1. Screening, recruiting and training of persons to provide family foster care ~~[. The term includes a nonprofit corporation which operates a treatment foster home and places children for care in its treatment foster home.]~~ , specialized foster care and group foster care;

2. Case management services;

3. Referral services;

4. Supportive services for persons providing foster care to meet the needs of children in foster care;

5. Coordination of case plans and treatment plans; and

6. Services, or facilitating the provision of such services, to children placed in foster care.

Sec. 3. ~~[~~"Treatment"~~]~~ ***"Specialized foster home" means a ~~[natural person, partnership, firm, corporation or association providing]~~ family home which provides full-time care and services for one to six children who:***

1. Require special care for physical, mental or emotional issues;

2. Are under ~~[18]~~ 21 years of age;

3. Are not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home; ~~[and]~~

4. Are received, cared for and maintained for compensation ~~[or otherwise, including the provision of permanent free care.]~~ ; and

5. Are in the custody of and placed in the home by an agency which provides child welfare services.

Sec. 4. ***The Division shall:***

1. Establish reasonable minimum standards for foster care agencies . ~~[which place children for foster care .]~~

2. In consultation with foster care agencies and each agency which provides child welfare services, adopt:

(a) Regulations concerning the operation of ~~[an agency which places children for]~~ a foster care ~~[.]~~ agency, including, without limitation, a foster care agency which provides family foster care, specialized foster care or

group foster care for children placed by an agency which provides child welfare services.

(b) Regulations regarding the issuance of nonrenewable provisional licenses to operate a foster care agency. The regulations must provide that a provisional license is valid for not more than 1 year.

(c) Any other regulations necessary to carry out its powers and duties regarding the placement of children for foster care, including, without limitation, such regulations necessary to ensure compliance with the provisions of this chapter and any regulations adopted pursuant thereto.

3. Prescribe a reasonable fee for the issuance of a provisional license and for the issuance and renewal of a license to operate [an agency which places children for] a foster care [.] agency.

Sec. 5. ***1. Except as otherwise provided in this section, a person shall not operate a foster care agency or otherwise assist an agency which provides child welfare services in placing or in arranging the placement of any child in foster care without obtaining a license pursuant to section 6 of this act. This subsection applies to agents, servants, physicians and attorneys of the parents or guardians of a child.***

2. This section does not prohibit a parent or guardian from placing or arranging the placement of, or assisting in placing or arranging the placement of, his child in foster care.

Sec. 6. ***1. An application for a license to operate [an agency which places children for] a foster care agency must be in a form prescribed by the Division. Such a license is effective for [1 year] 2 years after the date of its issuance and may be renewed [annually.] upon expiration.***

2. An applicant must provide reasonable and satisfactory assurance to the Division that the applicant will conform to the standards established and the regulations adopted by the Division pursuant to section 4 of this act.

3. Upon application for renewal, the Division may renew a license if the Division determines that the licensee conforms to the standards established and the regulations adopted by the Division pursuant to section 4 of this act.

4. The Division may issue a nonrenewable provisional license in accordance with the regulations adopted by the Division pursuant to section 4 of this act.

Sec. 7. ***1. After notice and hearing, the Division may:***

(a) Deny an application for a license to operate [an agency which places children for] a foster care agency if the Division determines that the applicant does not meet the standards established and comply with the regulations adopted by the Division pursuant to section 4 of this act.

(b) Upon a finding of deficiency, require a foster care agency to prepare a plan of corrective action and, within 90 days or a shorter period prescribed by the Division, require the foster care agency to complete the plan of corrective action.

(c) Refuse to renew a license or may revoke a license or provisional license if the Division finds that the ~~*[agency which places children for]*~~ ***foster care agency has refused or failed to meet any of the established standards or has violated any of the regulations adopted by the Division pursuant to section 4 of this act.***

2. A notice of the time and place of the hearing must be mailed to the last known address of the applicant or licensee at least 15 days before the date fixed for the hearing.

3. When an order of the Division is appealed to the district court, the trial may be de novo.

Sec. 8. NRS 424.010 is hereby amended to read as follows:

424.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 424.012 to 424.017, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 424.014 is hereby amended to read as follows:

424.014 "Foster home" includes a family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** and group foster home.

Sec. 10. NRS 424.020 is hereby amended to read as follows:

424.020 1. The Division, in consultation with each licensing authority in a county whose population is 100,000 or more, shall adopt regulations to:

(a) Establish procedures and requirements for the licensure of family foster homes ***,*** ~~*[treatment]*~~ ***specialized foster homes*** and group foster homes; and

(b) Monitor such licensure.

2. The Division, in cooperation with the State Board of Health and the State Fire Marshal, shall:

(a) Establish reasonable minimum standards for family foster homes ***,*** ~~*[treatment]*~~ ***specialized foster homes*** and group foster homes.

(b) Prescribe rules for the regulation of family foster homes ***,*** ~~*[treatment]*~~ ***specialized foster homes*** and group foster homes.

3. All family foster homes ***,*** ~~*[treatment]*~~ ***specialized foster homes*** and group foster homes licensed pursuant to this chapter must conform to the standards established and the rules prescribed in subsection 2.

Sec. 11. NRS 424.030 is hereby amended to read as follows:

424.030 1. No person may conduct a family foster home ***, a*** ~~*[treatment]*~~ ***specialized foster home*** or a group foster home without receiving a license to do so from the licensing authority.

2. No license may be issued to a family foster home ***, a*** ~~*[treatment]*~~ ***specialized foster home*** or a group foster home until a fair and impartial investigation of the home and its standards of care has been made by the licensing authority or its designee.

3. Any family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home that conforms to the established standards of care and prescribed rules must receive a regular license from the licensing authority, which

~~[must]~~ ***may*** be in force for ~~[1 year]~~ ***2 years*** after the date of issuance. On reconsideration of the standards maintained, the license may be renewed ~~[annually.]~~ ***upon expiration.***

4. If a family foster home ***, a*** ~~*[treatment]*~~ ***specialized foster home*** or ***a*** group foster home does not meet minimum licensing standards but offers values and advantages to a particular child or children and will not jeopardize the health and safety of the child or children placed therein, the family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home may be issued a special license, which must be in force for 1 year after the date of issuance and may be renewed annually. No foster children other than those specified on the license may be cared for in the home.

5. The license must show:

(a) The name of the persons licensed to conduct the family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home.

(b) The exact location of the family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home.

(c) The number of children that may be received and cared for at one time.

(d) If the license is a special license issued pursuant to subsection 4, the name of the child or children for whom the family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home is licensed to provide care.

6. No family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home may receive for care more children than are specified in the license.

7. In consultation with each licensing authority in a county whose population is 100,000 or more, the Division may adopt regulations regarding the issuance of provisional and special licenses.

Sec. 12. NRS 424.0365 is hereby amended to read as follows:

424.0365 1. A licensee that operates a ~~*[treatment]*~~ ***specialized foster home or a*** group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the home;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the home;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; and

(h) Such other matters as required by the licensing authority or pursuant to regulations of the Division.

2. The Division shall adopt regulations necessary to carry out the provisions of this section.

Sec. 13. NRS 424.040 is hereby amended to read as follows:

424.040 A licensing authority or its designee shall visit every licensed family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** and group foster home as often as necessary to ensure that proper care is given to the children.

Sec. 14. NRS 424.085 is hereby amended to read as follows:

424.085 1. Except as otherwise provided by specific statute, a person who is licensed by the licensing authority pursuant to NRS 424.030 to conduct a family foster home ***, a*** ~~*[treatment]*~~ ***specialized foster home*** or ***a*** group foster home is not liable for any act of a child in his foster care unless the person licensed by the licensing authority took an affirmative action that contributed to the act of the child.

2. The immunity from liability provided pursuant to this section includes, without limitation, immunity from any fine, penalty, debt or other liability incurred as a result of the act of the child.

Sec. 15. NRS 432B.180 is hereby amended to read as follows:

432B.180 The Division of Child and Family Services shall:

1. Administer any money granted to the State by the Federal Government.

2. Plan, coordinate and monitor the delivery of child welfare services provided throughout the State.

3. Provide child welfare services directly or arrange for the provision of those services in a county whose population is less than 100,000.

4. Coordinate its activities with and assist the efforts of any law enforcement agency, a court of competent jurisdiction, an agency which provides child welfare services and any public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children and for permanent placement of children.

5. Involve communities in the improvement of child welfare services.

6. Evaluate all child welfare services provided throughout the State and, if an agency which provides child welfare services is not complying with any federal or state law relating to the provision of child welfare services, regulations adopted pursuant to those laws or statewide plans or policies relating to the provision of child welfare services, require corrective action of the agency which provides child welfare services.

7. If an agency which provides child welfare services fails to take corrective action required pursuant to subsection 6 within a reasonable period, take one or more of the following actions against the agency which provides child welfare services:

(a) Withhold money from the agency which provides child welfare services;

(b) Impose an administrative fine against the agency which provides child welfare services;

(c) Provide the agency which provides child welfare services with direct supervision and recover the cost and expenses incurred by the Division in providing such supervision; and

(d) Require the agency which provides child welfare services to determine whether it is necessary to impose disciplinary action that is consistent with the personnel rules of the agency which provides child welfare services against an employee who substantially contributes to the noncompliance of the agency which provides child welfare services with the federal or state laws, regulations adopted pursuant to such laws or statewide plans or policies, including, without limitation, suspension of the employee without pay, if appropriate.

➥ The Division shall adopt regulations to carry out the provisions of this subsection, including, without limitation, regulations which prescribe the circumstances under which action must be taken against an agency which provides child welfare services for failure to take corrective action and which specify that any such action by the Division must not impede the provision of child welfare services.

8. In consultation with each agency which provides child welfare services, request sufficient money for the provision of child welfare services throughout this State.

9. Deposit any money received from the administrative fines imposed pursuant to this section with the State Treasurer for credit to the State General Fund. The State Treasurer shall account separately for the money deposited pursuant to this subsection. The money in the account may only be used by the Division to improve the provision of child welfare services in this State, including, without limitation:

(a) To pay the costs associated with providing training and technical assistance and conducting quality improvement activities for an agency which provides child welfare services to assist the agency in any area in which the agency has failed to take corrective action; and

(b) Hiring a qualified consultant to conduct such training, technical assistance and quality improvement activities.

10. Coordinate with and assist:

(a) Each agency which provides child welfare services in recruiting, training and licensing providers of family foster care as defined in NRS 424.017; ~~[and]~~

(b) ***Each*** ~~*[agency which places children for]*~~ ***foster care agency licensed pursuant to sections 4 to 7, inclusive, of this act in screening, recruiting and training providers of family foster care as defined in NRS 424.017; and***

(c) A nonprofit or community-based organization in recruiting and training providers of family foster care as defined in NRS 424.017 if the Division determines that the organization provides a level of training that is equivalent to the level of training provided by an agency which provides child welfare services.

Sec. 16. NRS 392.210 is hereby amended to read as follows:

392.210 1. Except as otherwise provided in subsection 2, a parent, guardian or other person who has control or charge of any child and to whom notice has been given of the child's truancy as provided in NRS 392.130 and 392.140, and who fails to prevent the child's subsequent truancy within that school year, is guilty of a misdemeanor.

2. A person who is licensed pursuant to NRS 424.030 to conduct a family foster home ***, a*** ~~***[treatment]***~~ ***specialized foster home*** or ***a*** group foster home is liable pursuant to subsection 1 for a child in his foster care only if the person has received notice of the truancy of the child as provided in NRS 392.130 and 392.140, and negligently fails to prevent the subsequent truancy of the child within that school year.

Sec. 17. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

➥ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

➥ Except as otherwise provided in subsection 12, the regulations of the State Fire Marshal apply throughout the State, but except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a school district except as otherwise provided in NRS 393.110, or a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire

department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes **,** ~~*[treatment]*~~ ***specialized foster homes*** and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) Except as otherwise provided in subsection 12 and NRS 393.110, assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

➥ on request or as he deems necessary.

10. Except as otherwise provided in this subsection, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

12. Except as otherwise provided in this subsection, any regulations of the State Fire Marshal concerning matters relating to building codes, including, without limitation, matters relating to the construction, maintenance or safety of buildings, structures and property in this State:

(a) Do not apply in a county whose population is 400,000 or more which has adopted a code at least as stringent as the International Fire Code and the International Building Code, published by the International Code Council. To maintain the exemption from the applicability of the regulations of the State Fire Marshal pursuant to this subsection, the code of the county must be at least as stringent as the most recently published edition of the International Fire Code and the International Building Code within 1 year after publication of such an edition.

(b) Apply in a county described in paragraph (a) with respect to state-owned or state-occupied buildings or public schools in the county and in those local jurisdictions in the county in which the State Fire Marshal is requested to exercise that authority by the chief executive officer of that

jurisdiction. As used in this paragraph, "public school" has the meaning ascribed to it in NRS 385.007.

Sec. 18. The Division of Child and Family Services of the Department of Health and Human Services shall, on or before ~~[October 1, 2009,]~~ **July 1, 2010,** adopt the regulations required pursuant to section 4 of this act and NRS 424.020, as amended by section 10 of this act.

Sec. 19. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, ~~[2010,]~~ **2011,** for all other purposes.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 235.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 194.

AN ACT relating to fuel taxes; providing for the taxation of ethanol **and methanol** as ~~[a]~~ motor vehicle ~~[fuel]~~ **fuels** and biodiesel and blends of biodiesel and petroleum-based diesel as special fuels; making various changes concerning the licensure and regulation of persons who manufacture special fuel; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the taxation of certain motor vehicle fuels, including gasoline. (NRS 365.060, 365.175-365.192) **Section 3** of this bill includes ethanol **and methanol** within the definition of "motor vehicle fuel" and thereby requires ethanol **and methanol** to be taxed in the same manner and at the same rate as gasoline. In addition, the inclusion of ethanol **and methanol** as ~~[a]~~ motor vehicle ~~[fuel]~~ **fuels** will subject dealers, suppliers, exporters and transporters of ethanol **and methanol** to the same requirements and penalties currently applicable to dealers, suppliers, exporters and transporters of gasoline, including, without limitation, requirements concerning licensing, bonding, recordkeeping and the collection and payment of taxes. (NRS 365.270, 365.290, 365.322, 365.324, 365.330, 365.500-365.530, 365.570-365.605) **Sections 1.7 and 1.9 of this bill authorize the Department of Motor Vehicles to take certain administrative action against a person licensed pursuant to chapter 365 of NRS or a person who acts as a motor vehicle fuel supplier without a license, including the imposition of administrative fines and the suspension or revocation of the license of a licensee under certain circumstances.**

Existing law provides for the taxation of certain special fuels for motor vehicles, including any combustible gas or liquid other than the fuels which are taxed as motor vehicle fuels pursuant to chapter 365 of NRS, and any

emulsion of water-phased hydrocarbon fuel used in a motor vehicle. (NRS 366.060, 366.190, 366.195) **Sections 5, 6 and 10** of this bill provide for the taxation of biodiesel and blends of biodiesel and **a** petroleum-based ~~[diesel]~~ **product** as special fuels.

Section 7 of this bill defines a "special fuel manufacturer" as a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his personal use in this State or for sale or delivery in **or outside of** this State. **Section 11** of this bill exempts a special fuel manufacturer from regulation as a special fuel supplier. **Section 14** of this bill prohibits a person from acting as a special fuel manufacturer without first obtaining a license from the Department of Motor Vehicles. The Department is authorized to adopt regulations relating to the issuance of a license to a special fuel manufacturer and to collect fees for the issuance of such a license. (NRS 366.220)

~~[~~Section 19~~]~~ **Sections 18.5 and 19.5** of this bill ~~[~~requires~~]~~ **require** a special fuel manufacturer to file ~~[~~quarterly~~]~~ tax returns with the Department ~~[.]~~ **in the same manner as a special fuel dealer. (NRS 366.370, 366.386) Section 21** of this bill requires a special fuel manufacturer to pay the taxes on special fuels imposed by chapter 366 of NRS. (NRS 366.540) **Section 8** of this bill requires a special fuel manufacturer to submit certain monthly reports to the Department. ~~[~~Section 20 of this bill provides for the imposition of delinquent fees, penalties and interest if a special fuel manufacturer fails to file a tax return or pay a tax by the date due.~~]~~ **Section 15** of this bill provides that the Department must require a special fuel manufacturer who is habitually delinquent in the payment of special fuel taxes to execute a bond payable to the State in an amount of not less than $2,500. (NRS 366.235) **Section 22** of this bill requires a special fuel manufacturer to keep certain records as required by the Department. (NRS 366.685)

Sections 8.5 and 23.3 of this bill authorize the Department to take certain administrative action against a person licensed pursuant to chapter 366 of NRS or a person who acts as special fuel supplier without a license, including the imposition of administrative fines and the suspension or revocation of the license of a licensee under certain circumstances. (NRS 366.735) A special fuel manufacturer or any other person who makes a false or fraudulent report with the intent to evade the taxes imposed pursuant to chapter 366 of NRS is guilty of a gross misdemeanor. (NRS 366.710) A special fuel manufacturer who violates any other provision of chapter 366 of NRS as amended by this bill is guilty of a misdemeanor. (NRS 366.720, 366.730)

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

Section 1. Chapter 365 of NRS is hereby amended by adding thereto ~~[~~a new section to read as follows:~~]~~ **the provisions set forth as sections 1.3 to 1.9, inclusive, of this act.**

Sec. 1.3. ***"Ethanol" means denatured ethyl alcohol ~~[derived from agricultural products and]~~ produced for use as a fuel.***

Sec. 1.5. ***"Methanol" means anhydrous methyl alcohol produced for use as a fuel.***

Sec. 1.7. ***1. The Department may take disciplinary action in accordance with subsection 2 against any person who, below the terminal rack:***

(a) Sells or stores for personal consumption any motor vehicle fuel for a use which the person selling or storing the fuel knows, or has reason to know, is a taxable use of the fuel and does not report and pay the applicable tax to the Department;

(b) Willfully alters the volume or composition of any motor vehicle fuel which is intended for a taxable use and does not report and pay the applicable tax to the Department; or

(c) Sells motor vehicle fuel which the person selling the fuel knows, or has reason to know, is formulated in a manner that violates any provision of state or federal law governing standards for the formulation of motor vehicle fuel.

2. For any violation described in subsection 1, the Department may:

(a) For a first violation within 4 years, impose an administrative fine of not more than $2,500 and suspend any license issued to the person pursuant to the provisions of this chapter for not more than 30 days;

(b) For a second violation within 4 years, impose an administrative fine of not more than $5,000 and suspend any license issued to the person pursuant to the provisions of this chapter for not more than 60 days; and

(c) For a third or subsequent violation within 4 years, impose an administrative fine of not more than $10,000 and revoke any license issued to the person pursuant to the provisions of this chapter.

Sec. 1.9. ***1. If the Department determines through an audit that a retailer has sold motor vehicle fuel which substantially exceeds the ethanol tolerance for motor vehicle fuel prescribed by federal law, the Department may:***

(a) For a first violation and each subsequent violation committed during the first violation year, impose an administrative fine of not more than $1,000 on the retailer and the supplier of the motor vehicle fuel. The total fines imposed on a person pursuant to this paragraph must not exceed $100,000.

(b) For each violation committed during the second violation year, impose an administrative fine of not more than $2,500 on the retailer and the supplier of the motor vehicle fuel and suspend any license issued to the retailer or the supplier pursuant to the provisions of this chapter for not more than 60 days. The total fines imposed on a person pursuant to this paragraph must not exceed $250,000.

(c) For each violation committed during the third or subsequent violation year, impose an administrative fine of not more than $5,000 on

the retailer and the supplier of the motor vehicle fuel and permanently revoke any license issued to the retailer or the supplier pursuant to the provisions of this chapter. The total fines imposed on a person pursuant to this paragraph must not exceed $500,000.

2. As used in this section:

(a) "Substantially exceeds" means that a motor vehicle fuel contains a concentration of alcohol or is formulated in a manner which exceeds the standards for the formulation of motor vehicle fuel established by federal law in an amount established by the Department.

(b) "Supplier" includes a person who acts as a supplier of motor vehicle fuel but who is not licensed to engage in business as a supplier pursuant to the provisions of this chapter.

(c) "Violation year" means any calendar year in which the retailer or supplier commits a violation.

Sec. 2. NRS 365.010 is hereby amended to read as follows:

365.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 365.015 to 365.092, inclusive, ***and*** ~~*[section 1]*~~ ***sections 1.3 and 1.5 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 365.060 is hereby amended to read as follows:

365.060 "Motor vehicle fuel" means gasoline, natural gasoline, casinghead gasoline ***, methanol, ethanol*** or any other inflammable or combustible liquid, regardless of the name by which the liquid is known or sold, the chief use of which in this State is for the propulsion of motor vehicles, motorboats or aircraft other than jet or turbine-powered aircraft. The term does not include kerosene, gas oil, fuel oil, fuel for jet or turbine-powered aircraft, diesel fuel, ***biodiesel, biodiesel blend,*** liquefied petroleum gas and an emulsion of water-phased hydrocarbon fuel, as that term is defined in NRS 366.026.

Sec. 3.5. **NRS 365.600 is hereby amended to read as follows:**

365.600 1. ~~[The]~~ ***Except as otherwise provided in sections 1.7 and 1.9 of this act, the*** Department may impose an administrative fine, not to exceed $2,500, for a violation of any provision of this chapter, or any regulation or order adopted or issued pursuant thereto.

2. The Department shall afford to any person ~~[so]~~ fined ***pursuant to this section or section 1.7 or 1.9 of this act*** an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

~~[2.]~~ ***3.*** All administrative fines collected by the Department pursuant to subsection 1 ***or section 1.7 or 1.9 of this act*** must be deposited with the State Treasurer to the credit of the State Highway Fund.

~~[3.]~~ ***4.*** In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 4. Chapter 366 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to ~~[8,]~~ **8.5,** inclusive, of this act.

Sec. 5. ***"Biodiesel" means a fuel composed of mono-alkyl esters of long-chain fatty acids*** ~~*[derived from vegetable oils or animal fats, including, without limitation, straight vegetable oil and lipid-bearing algae.]*~~ ***or any other fuel sold or labeled as biodiesel which is suitable for use as a fuel in a motor vehicle.***

Sec. 6. ***"Biodiesel blend" means a blend of biodiesel and a petroleum-based*** ~~*[diesel]*~~ ***product suitable for use as a fuel in a motor vehicle.***

Sec. 7. ***"Special fuel manufacturer" means a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his personal use in this State or for sale or delivery in or outside of this State.***

Sec. 8. ***Each special fuel manufacturer shall, not later than the last day of each month, submit to the Department a written report which sets forth:***

1. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer manufactured, blended, produced, refined, prepared, distilled or compounded in this State;

2. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer manufactured, blended, produced, refined, prepared, distilled or compounded for personal use in this State;

3. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer sold or delivered in this State;

4. The name and mailing address of each person to whom the special fuel manufacturer sold or delivered special fuel containing biodiesel or biodiesel blend in this State; and

5. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer sold or distributed to each person described in subsection 4.

Sec. 8.5. 1. If the Department determines through an audit that a retailer has sold special fuel containing biodiesel or biodiesel blend which substantially exceeds the biodiesel tolerance for the biodiesel blend posted by the retailer, the Department may:

(a) For a first violation and each subsequent violation committed during the first violation year, impose an administrative fine of not more than $1,000 on the retailer and the supplier of the special fuel. The total fines imposed on a person pursuant to this paragraph must not exceed $100,000.

(b) For each violation committed during the second violation year, impose an administrative fine of not more than $2,500 on the retailer and the supplier of the special fuel and suspend any license issued to the retailer or the supplier pursuant to the provisions of this chapter for not more than 60 days. The total fines imposed on a person pursuant to this paragraph must not exceed $250,000.

(c) For each violation committed during the third or subsequent violation year, impose an administrative fine of not more than $5,000 on the retailer and the supplier of the special fuel and permanently revoke any license issued to the retailer or the supplier pursuant to the provisions of this chapter. The total fines imposed on a person pursuant to this paragraph must not exceed $500,000.

2. As used in this section:

(a) "Substantially exceeds" means that a special fuel contains a biodiesel blend which exceeds the total volume displayed on the special fuel pump in an amount established by the Department.

(b) "Supplier" includes a person who acts as a supplier of special fuel but who is not licensed to engage in business as a supplier pursuant to the provisions of this chapter.

(c) "Violation year" means any calendar year in which the retailer or supplier commits a violation.

Sec. 9. NRS 366.020 is hereby amended to read as follows:

366.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 366.025 to 366.100, inclusive, ***and sections 5, 6 and 7 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. NRS 366.060 is hereby amended to read as follows:

366.060 "Special fuel" means any combustible gas or liquid used for the generation of power for the propulsion of motor vehicles, including ***, without limitation, biodiesel, biodiesel blend and*** an emulsion of water-phased hydrocarbon fuel. The term does not include motor vehicle fuel as defined in chapter 365 of NRS.

Sec. 11. NRS 366.070 is hereby amended to read as follows:

366.070 ***1.*** "Special fuel supplier" means a person who:

~~[1.]~~ ***(a)*** Imports or acquires immediately upon importation into this State special fuel from within or without a state, territory or possession of the United States or the District of Columbia into a terminal located in this State;

~~[2.]~~ ***(b)*** Produces, manufactures or refines special fuel in this State; or

~~[3.]~~ ***(c)*** Otherwise acquires for distribution in this State special fuel with respect to which there has been no previous taxable sale or use.

2. The term does not include a special fuel manufacturer.

Sec. 12. NRS 366.150 is hereby amended to read as follows:

366.150 1. The Department or its authorized agents may:

(a) Examine the books, papers, records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user ***, special fuel manufacturer*** or any other person transporting or storing special fuel;

(b) Investigate the character of the disposition which any person makes of special fuel; and

(c) Stop and inspect a motor vehicle that is using or transporting special fuel,

➥ to determine whether all excise taxes due pursuant to this chapter are being properly reported and paid.

2. The fact that the books, papers, records and equipment described in paragraph (a) of subsection 1 are not maintained in this State at the time of demand does not cause the Department to lose any right of examination pursuant to this chapter at the time and place those books, papers, records and equipment become available.

3. If a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ***,*** ~~[or]~~ special fuel user ***or special fuel manufacturer*** wishes to keep proper books and records pertaining to business done in Nevada elsewhere than within the State of Nevada for inspection as provided in this section, he must pay a fee for the examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the examiner is actually engaged in examining those books and records, plus the actual expenses of the examiner during the time that the examiner is absent from this State for the purpose of making the examination, but the time must not exceed 1 day going to and 1 day coming from the place where the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing those books and records. Not more than two such examinations may be charged against any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ***,*** ~~[or]~~ special fuel user ***or special fuel manufacturer*** in any year.

4. Any money received must be deposited by the Department to the credit of the fund or operating account from which the expenditures for the examination were paid.

5. Upon the demand of the Department, each special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ***,*** ~~[or]~~ special fuel user ***or special fuel manufacturer*** shall furnish a statement showing the contents of the records to such extent and in such detail and form as the Department may require.

Sec. 13. NRS 366.160 is hereby amended to read as follows:

366.160 1. All records of mileage operated, origin and destination points within this State, equipment operated in this State, gallons or cubic feet consumed ~~[,]~~ and tax paid must at all reasonable times be open to the public.

2. All supporting schedules, invoices and other pertinent papers relative to the business affairs and operations of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ***,*** ~~[or]~~ special fuel user ~~[,]~~ ***or special fuel manufacturer,*** and any information obtained by an investigation of the records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ***,*** ~~[or]~~ special fuel user ~~[,]~~ ***or special fuel manufacturer,*** shall be deemed confidential and must not be revealed to any person except as necessary to administer this chapter or as otherwise provided by NRS 239.0115 or by any other law.

Sec. 14. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter:

(a) Before becoming a special fuel dealer, special fuel supplier, special fuel exporter, special fuel transporter ***,*** ~~[or]~~ special fuel user ~~[,]~~ ***or special fuel manufacturer,*** a person must apply to the Department, on forms to be prescribed by the Department, for a license authorizing the applicant to engage in business as a special fuel dealer, special fuel supplier, special fuel exporter ***,*** ~~[or]~~ special fuel transporter ~~[,]~~ ***or special fuel manufacturer,*** or to operate as a special fuel user.

(b) It is unlawful for any person to be:

(1) A special fuel dealer without holding a license as a special fuel dealer pursuant to this chapter.

(2) A special fuel supplier without holding a license as a special fuel supplier pursuant to this chapter.

(3) A special fuel exporter without holding a license as a special fuel exporter pursuant to this chapter.

(4) A special fuel transporter without holding a license as a special fuel transporter pursuant to this chapter.

(5) A special fuel user without holding a license as a special fuel user pursuant to this chapter.

(6) A special fuel manufacturer without holding a license as a special fuel manufacturer pursuant to this chapter.

2. The Department may adopt regulations relating to the issuance of any license pursuant to this chapter and the collection of fees therefor.

Sec. 14.3. **NRS 366.221 is hereby amended to read as follows:**

366.221 1. Except as otherwise provided in subsection 2, a special fuel user's license is not required of the following classes of special fuel users:

(a) Operators of motor vehicles who make occasional trips into this State for service or repair.

(b) Operators of house coaches as defined in NRS 484.067.

(c) Operators of motor vehicles having a declared gross weight of 26,000 pounds or less.

(d) Operators of unladen motor vehicles purchased in this State for the trip from the point of delivery to the state boundary.

(e) Operators of motor vehicles who make occasional trips into or across this State for nonprofit or eleemosynary purposes.

(f) Operators of motor vehicles which are operated exclusively within this State.

2. A person otherwise exempt pursuant to subsection 1 who does not purchase special fuel in this State in an amount commensurate with his consumption of special fuel in the propulsion of motor vehicles on the highways of this State shall secure a special fuel user's license.

Sec. 14.7. **NRS 366.223 is hereby amended to read as follows:**

366.223 1. A special fuel user may, in lieu of causing a motor vehicle that has a declared gross weight in excess of 26,000 pounds to be licensed

pursuant to the provisions of NRS 366.220, obtain a temporary permit for special fuel from a vendor authorized to issue permits pursuant to NRS 481.051 before entering ~~[the State or immediately upon entering]~~ the State. The fee for a temporary permit for special fuel is $30 and is not refundable.

2. Except as otherwise provided in subsection 3, a temporary permit for special fuel authorizes the operation of such a motor vehicle over the highways of this State from point of entry to point of exit for not more than 24 consecutive hours.

3. The Department may issue to the owner or operator of a common motor carrier of passengers a temporary permit for special fuel that authorizes the operation of the motor carrier for not more than 120 consecutive hours.

4. The Department may adopt regulations relating to the issuance of a temporary permit for special fuel pursuant to this section.

Sec. 15. NRS 366.235 is hereby amended to read as follows:

366.235 1. An applicant for or holder of a license as a special fuel supplier or special fuel dealer shall provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond or bonds of any holder of such a license must be fixed by the Department at not less than three times the estimated maximum monthly tax, determined in such a manner as the Department deems proper, but the amount must not be less than $1,000 for a special fuel supplier and must not be less than $100 for a special fuel dealer. If a special fuel supplier or special fuel dealer is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department may increase the amount of his security to not more than five times the estimated maximum monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of $100.

2. If a special fuel user ***or special fuel manufacturer*** is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department shall require the special fuel user ***or special fuel manufacturer*** to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond must not be less than $2,500.

3. No recovery on any bond, execution of any new bond or suspension or revocation of any license as a special fuel supplier, special fuel dealer ***,*** ~~[or]~~

special fuel user ***or special fuel manufacturer*** affects the validity of any bond.

4. In lieu of a bond or bonds, an applicant for or holder of a license as a special fuel supplier or special fuel dealer, or a person required to provide a bond pursuant to subsection 2, may deposit with the State Treasurer, under such terms as the Department may prescribe, an equivalent amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department.

5. If the holder of a license as a special fuel supplier or special fuel dealer is required to provide a bond of more than $5,000, the Department may reduce the requirements for the bond to not less than $5,000 upon the faithful performance of the special fuel supplier or special fuel dealer of all the requirements of this chapter and the punctual payment of all taxes due the State of Nevada for the 3 preceding calendar years.

6. The Department shall immediately reinstate the original requirements for a bond for a holder of a license as a special fuel supplier or special fuel dealer upon his:

(a) Lack of faithful performance of the requirements of this chapter; or

(b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.

7. For the purposes of this section, a person is "habitually delinquent" if, within any 12-month period, the person commits each of the following acts or commits either of the following acts more than once:

(a) Fails timely to file a monthly or quarterly special fuel tax return, unless the Department determines that:

(1) The failure to file was caused by circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care; and

(2) The person has paid any penalty and interest imposed by the Department because of the failure to file.

(b) Fails timely to submit to the Department any tax collected by the person pursuant to this chapter.

Sec. 16. NRS 366.240 is hereby amended to read as follows:

366.240 1. Except as otherwise provided in subsection 2, the Department shall:

(a) Upon receipt of the application and bond in proper form, issue to the applicant a special fuel supplier's or special fuel dealer's license.

(b) Upon receipt of the application in proper form, issue to the applicant a special fuel exporter's, special fuel transporter's ***,*** ~~[or]~~ special fuel user's ***or special fuel manufacturer's*** license.

2. The Department may refuse to issue a license pursuant to this section to any person:

(a) Who formerly held a license issued pursuant to this chapter or a similar license of any other state, the District of Columbia, the United States, a territory or possession of the United States or any foreign country which, before the time of filing the application, has been revoked for cause;

(b) Who applies as a subterfuge for the real party in interest whose license, before the time of filing the application, has been revoked for cause;

(c) Who, if he is a special fuel supplier or special fuel dealer, neglects or refuses to furnish a bond as required by this chapter;

(d) Who is in default in the payment of a tax on special fuel in this State, any other state, the District of Columbia, the United States, a territory or possession of the United States or any foreign country;

(e) Who has failed to comply with any provision of this chapter; or

(f) Upon other sufficient cause being shown.

Sec. 17. NRS 366.250 is hereby amended to read as follows:

366.250 Any applicant whose application for a special fuel supplier's license, special fuel dealer's license, special fuel exporter's license, special fuel transporter's license **,** ~~[or]~~ special fuel user's license ***or special fuel manufacturer's license*** has been denied may petition the Department for a hearing. The Department shall:

1. Grant the applicant a hearing.

2. Provide to the applicant, not less than 10 days before the hearing, written notice of the time and place of the hearing.

Sec. 18. NRS 366.270 is hereby amended to read as follows:

366.270 If any person ceases to be a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter **,** ~~[or]~~ special fuel user ***or special fuel manufacturer*** within this State by reason of the discontinuance, sale or transfer of his business, he shall:

1. Notify the Department in writing at the time the discontinuance, sale or transfer takes effect. The notice must give the date of the discontinuance, sale or transfer, and the name and address of any purchaser or transferee.

2. Surrender to the Department the license issued to him by the Department.

3. If he is:

(a) A special fuel user registered under the Interstate Highway User Fee Apportionment Act, ~~*[or a special fuel manufacturer,]*~~ file the tax return required pursuant to NRS 366.380 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(b) A special fuel supplier, file the tax return required pursuant to NRS 366.383 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(c) A special fuel dealer ~~[,]~~ ***or special fuel manufacturer,*** file the tax return required pursuant to NRS 366.386 and pay all taxes, interest and

penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A special fuel exporter, file the report required pursuant to NRS 366.387 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(e) A special fuel transporter, file the report required pursuant to NRS 366.695 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

Sec. 18.5. **NRS 366.370 is hereby amended to read as follows:**

366.370 1. Except as otherwise provided in this chapter, the excise tax imposed by this chapter with respect to the use or sale of special fuel during any calendar quarter is due on or before the last day of the first month following the quarterly period to which it relates.

2. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

3. Payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing payment properly addressed to the Department.

4. A special fuel supplier shall pay the tax imposed by this chapter at the time he files his tax return pursuant to NRS 366.383.

5. A special fuel dealer ***or special fuel manufacturer*** shall pay the tax imposed by this chapter at the time he files his tax return pursuant to NRS 366.386.

Sec. 19. ~~[NRS 366.380 is hereby amended to read as follows:~~

~~366.380 1. On or before the last day of January, April, July and October in each year, each special fuel user registered under the Interstate Highway User Fee Apportionment Act ***and each special fuel manufacturer*** shall file with the Department a quarterly tax return for the preceding quarter, regardless of the amount of excise tax due, on a form prescribed by the Department. The special fuel user ***or special fuel manufacturer*** shall include with the tax return payment of any excise tax due. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.~~

~~2. The return must show such information as the Department may reasonably require for the proper administration and enforcement of this chapter.]~~ **(Deleted by amendment.)**

Sec. 19.5. **NRS 366.386 is hereby amended to read as follows:**

366.386 1. On or before the last day of the month following each reporting period, a special fuel dealer ***or special fuel manufacturer*** shall file with the Department a tax return for the preceding reporting period, regardless of the amount of tax collected, on a form prescribed by the Department.

2. The tax return must:

(a) Include information required by the Department for the administration and enforcement of this chapter; and

(b) Be accompanied by a remittance, payable to the Department, for the amount of the tax due.

3. Except as otherwise provided in this subsection, the reporting period for a special fuel dealer ***or special fuel manufacturer*** is a calendar month. Upon application by a special fuel dealer ~~[,]~~ ***or special fuel manufacturer,*** the Department may assign to the special fuel dealer ***or special fuel manufacturer*** for a specific calendar year:

(a) A reporting period consisting of that entire calendar year if the Department estimates, based upon the tax returns filed by the special fuel dealer ***or special fuel manufacturer*** for the preceding calendar year, that the special fuel dealer ***or special fuel manufacturer*** will sell not more than 200 gallons of special fuel in this State each calendar month of that reporting period.

(b) Two reporting periods consisting of 6 consecutive calendar months, commencing on the first day of January and July, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer ***or special fuel manufacturer*** for the preceding calendar year, that the special fuel dealer ***or special fuel manufacturer*** will sell more than 200 gallons but not more than 500 gallons of special fuel in this State each calendar month during those reporting periods.

(c) Four reporting periods consisting of 3 consecutive months, commencing on the first day of January, April, July and October, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer ***or special fuel manufacturer*** for the preceding calendar year, that the special fuel dealer ***or special fuel manufacturer*** will sell more than 500 gallons but less than 5,000 gallons of special fuel in this State each calendar month during those reporting periods.

Sec. 20. ~~[NRS 366.395 is hereby amended to read as follows:~~

~~366.395 1. Any special fuel user ***or special fuel manufacturer*** who fails to file a tax return or pay any excise tax by the date due shall pay, in addition to any tax that may be due, a delinquent filing fee of $50 and a penalty of 10 percent of the amount of tax owed, plus interest on the amount of any tax that may be due at the rate of 1 percent per month or fraction thereof, from the date the tax was due until the date of payment.~~

~~2. A tax return, statement or payment is considered delinquent if it is not received by the Department on or before the date the tax return, statement or payment is due, as prescribed by the provisions of this chapter.~~

~~3. A tax return, statement or payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any country upon an envelope containing the tax return, statement or payment.~~**]** **(Deleted by amendment.)**

Sec. 21. NRS 366.540 is hereby amended to read as follows:

366.540 1. The tax provided for by this chapter must be paid by special fuel suppliers, special fuel dealers ***,*** ~~[and]~~ special fuel users ~~[.]~~ ***and special fuel manufacturers.*** A special fuel supplier or special fuel dealer shall pay to the Department the excise tax he collects from purchasers of special fuel with the return filed pursuant to NRS 366.383 or 366.386, respectively. The tax paid by a special fuel user must be computed by multiplying the tax rate per gallon provided in this chapter by the amount that the number of gallons of special fuel consumed by the special fuel user in the propulsion of motor vehicles on the highways of this State exceeds the number of gallons of special fuel purchases by him. ***The tax paid by a special fuel manufacturer must be computed by multiplying the tax rate per gallon provided in this chapter by the number of gallons of special fuel that the special fuel manufacturer places into*** ***or sells for placement into*** ***the supply tank of a motor vehicle in this State.***

2. If the Department determines that a special fuel supplier or special fuel dealer, or any unlicensed person who collects an excise tax, has failed to submit a tax return when due pursuant to this chapter or failed to pay the tax when due pursuant to this chapter, the Department may order the special fuel supplier, special fuel dealer or unlicensed person to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State. The special fuel supplier, special fuel dealer or unlicensed person shall comply with the order immediately upon receiving notification of the order from the Department.

3. A retailer who receives or sells special fuel for which the taxes imposed pursuant to this chapter have not been paid is liable for the taxes and any applicable penalty or interest if the retailer knew or should have known that the applicable taxes on the special fuel had not been paid.

Sec. 22. NRS 366.685 is hereby amended to read as follows:

366.685 1. Every special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user ***, special fuel manufacturer*** and retailer, and every other person transporting or storing special fuel in this State shall keep such records, receipts, invoices and other pertinent papers with respect thereto as the Department requires.

2. The records, receipts, invoices and other pertinent papers described in subsection 1 must be preserved for 4 years after the date on which the record, receipt, invoice or other pertinent paper was created or generated.

3. The records, receipts, invoices and other pertinent papers must be available at all times during business hours to the Department or its authorized agents.

4. In addition to any other penalty that may be imposed, any violation of the provisions of this section constitutes grounds for the Department to deny any future application for a license pursuant to this chapter that is submitted by a person who is determined to be responsible for the violation.

Sec. 22.5. **NRS 366.692 is hereby amended to read as follows:**

366.692 1. Each special fuel supplier ***or special fuel manufacturer*** shall prepare and provide a record of shipment to each person who purchases more than 25 gallons of special fuel and transports the special fuel from the place of purchase. The record of shipment must include the:

(a) Place where the special fuel was purchased;

(b) Place to which the purchaser declares the special fuel will be transported;

(c) Number of gallons of special fuel transported;

(d) Color and concentration of the dye added to the special fuel, if any; and

(e) Name and address of the purchaser of the special fuel.

2. Each person who transports special fuel in this State shall:

(a) Keep the record of shipment required by subsection 1 in the vehicle in which the special fuel is transported until the special fuel is delivered to the purchaser; and

(b) Upon request from a peace officer, allow the peace officer to inspect the record of shipment.

Sec. 23. NRS 366.720 is hereby amended to read as follows:

366.720 1. Any person who:

(a) Fails or refuses to pay the tax imposed by this chapter;

(b) Engages in business in this State as a ***special fuel manufacturer,*** special fuel user, special fuel exporter, special fuel dealer or special fuel supplier, or acts in this State as a special fuel transporter, without being the holder of a license to engage in that business or to act in that capacity;

(c) Fails to make any of the reports required by this chapter;

(d) Makes any false statement in any application, report or statement required by this chapter;

(e) Refuses to permit the Department or any authorized agent to examine records as provided by this chapter;

(f) Fails to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this State as required by this chapter;

(g) Makes any false statement in connection with an application for the refund of any money or taxes provided in this chapter;

(h) Violates the provisions of NRS 366.265;

(i) Fails or refuses to stop his motor vehicle for an inspection to determine if all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid; or

(j) Refuses to allow the Department or an authorized agent to inspect a motor vehicle to determine whether all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid,

➥ is guilty of a misdemeanor.

2. Each day or part thereof during which any person engages in business as a ***special fuel manufacturer,*** special fuel dealer, special fuel supplier or special fuel exporter or acts as a special fuel transporter without being the

holder of a license authorizing him to engage in that business or to act in that capacity constitutes a separate offense within the meaning of this section.

Sec. 23.3. **NRS 366.735 is hereby amended to read as follows:**

366.735 1. The Department may take disciplinary action in accordance with subsection 2 against any person who ~~[:]~~ ***, below the terminal rack:***

(a) Sells or stores ***for personal consumption*** any dyed special fuel for a use which the person selling or storing such fuel knows, or has reason to know, is a taxable use of the fuel ~~[:]~~ ***and does not report and pay the applicable tax to the Department;***

(b) Willfully ~~[~~alters or attempts to alter the strength of composition~~]~~ ***decreases or attempts to decrease the concentration*** of any dye in any special fuel intended to be used for a taxable purpose ~~[:]~~ ~~or~~ ***and does not report and pay the applicable tax to the Department;***

(c) Uses dyed special fuel for a taxable purpose ~~[:]~~ ***and does not report and pay the applicable tax to the Department;***

(d) Willfully increases or attempts to increase the volume of any special fuel intended to be used for a taxable purpose by adding to the fuel any quantity of special fuel for which the tax imposed pursuant to this chapter has not been paid or any quantity of other product for which any tax imposed pursuant to the laws of this State has not been paid; or

(e) Willfully manufactures, sells, distributes for sale or attempts to manufacture, sell or distribute for sale any special fuel intended to be used for a taxable purpose and for which the tax imposed pursuant to this chapter has not been paid.

2. For any violation described in subsection 1, the Department may:

(a) If the violation is a first offense, impose an administrative fine of not more than $2,500 and suspend any license issued to that person pursuant to this chapter for not more than 30 days;

(b) If the violation is a second offense within a period of 4 years, impose an administrative fine of not more than $5,000 and suspend any license issued to that person pursuant to this chapter for not more than 60 days; and

(c) If the violation is a third or subsequent offense within a period of 4 years, impose an administrative fine of not more than $10,000 and revoke any license issued to that person pursuant to this chapter.

Sec. 23.7. **NRS 366.740 is hereby amended to read as follows:**

366.740 1. Except as otherwise provided in NRS 366.733 and 366.735 ~~[,]~~ ***and section 8.5 of this act,*** the Department may impose an administrative fine, not to exceed $2,500, for a violation of any provision of this chapter, or any regulation or order adopted or issued pursuant thereto.

2. The Department shall afford to any person fined pursuant to this section or NRS 366.733 or 366.735 ***or section 8.5 of this act*** an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. All administrative fines collected by the Department pursuant to subsection 1 or NRS 366.733 or 366.735 ***or section 8.5 of this act*** must be deposited with the State Treasurer to the credit of the State Highway Fund.

4. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 24. NRS 365.072 is hereby repealed.

Sec. 25. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on October 1, 2009, for all other purposes.

TEXT OF REPEALED SECTION

365.072 "Petroleum-ethanol mixture" defined. "Petroleum-ethanol mixture" means a fuel containing a minimum of 10 percent by volume of ethyl alcohol derived from agricultural products.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 262.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 400.

AN ACT relating to marriage; **authorizing certain persons to issue marriage licenses in certain counties;** allowing certain married persons to remarry each other; ~~[revising the age for which consent of a parent, guardian or court is required to be married;]~~ revising provisions governing the documentation a person is required to present to obtain a marriage license; ~~[providing for the collection of additional fees relating to a marriage license;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that before persons may be joined in marriage, a marriage license must be obtained for that purpose from the county clerk. (NRS 122.040) Sections 1-1.7 of this bill provide that in counties whose population is less than 400,000 (currently all counties other than Clark County), a person who meets certain qualifications may be certified by the county clerk as a marriage licensing agent and may issue marriage licenses at a commercial wedding chapel.

Existing law provides that a person cannot marry another person if he or she has a wife or husband living. (NRS 122.020) **Section 1.9** of this bill provides that if a male and female are the husband and wife of each other, they may be rejoined in marriage.

~~[Existing law provides that if a person is at least 16 years of age but less than 18 years of age, that person cannot marry without the consent of a parent or legal guardian. If a person is less than 16 years of age, the person~~

~~must also have the authorization of a district court. (NRS 122.020, 122.025) Sections 1 and 2 of this bill provide that a person at least 15 years of age but less than 18 years of age may marry with the consent of a parent or guardian, and that additional district court authorization is necessary for a person less than 15 years of age.]~~

Section 3 of this bill provides that in the application for a marriage license: (1) proof of an applicant's name and age ~~[is discretionary; (2)]~~ **may be evidenced by a birth certificate and either** any secondary document ~~[showing]~~ **that contains** the applicant's name and ~~[age]~~ **a photograph of the applicant, or any document for which identification must be verified as a condition for receipt of the document; [**~~with a birth certificate will be accepted; (3)]~~ **(2)** if the applicant appears over ~~[18]~~ **25** years of age, documented proof of age is not required; ~~[(4)]~~ **(3)** an applicant cannot be denied a marriage license for ~~[failure to provide his]~~ **stating that he does not have a** social security number ~~[if he does not know it;]~~ **or stating that an answer to a question on the application is unknown; and [**~~(5)]~~ **(4)** a parent giving consent to a minor to marry can prove his relationship with the minor using the minor's birth certificate **. [**~~; and (6) if an applicant meets the requirements of the statute, the county clerk must issue him a marriage license.]~~ (NRS 122.040)

~~[Section 4 of this bill increases the additional fee collected by the commissioner of civil marriages or his deputy when solemnizing a marriage from $5 to $20 for the Account for Aid for Victims of Domestic Violence in the State General Fund and adds a $10 fee to be placed in the State General Fund. (NRS 122.181)~~

~~Section 5 of this bill provides that the county clerk shall collect, if authorized by the board of county commissioners, an additional fee of $5 for the Account for Aid for Victims of Domestic Violence in the State General Fund when certifying a copy of a certificate of marriage or when certifying an abstract of a certificate of marriage. (NRS 246.180)]~~

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

Section 1. **Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 1.7, inclusive, of this act.**

Sec. 1.1. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and sections 1.2 and 1.3 of this act have the meanings ascribed to them in those sections.

Sec. 1.2. "Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.

Sec. 1.3. "Marriage licensing agent" means a person certified pursuant to section 1.4 of this act to issue marriage licenses at a commercial wedding chapel.

Sec. 1.4. 1. In a county whose population is less than 400,000, the county clerk may certify a person as a marriage licensing agent. A marriage licensing agent may issue marriage licenses at a commercial wedding chapel pursuant to this chapter and regulations adopted by the county clerk.

2. A person shall not act as a marriage licensing agent unless the person is issued a certificate as a marriage licensing agent by the county clerk pursuant to this section.

3. The county clerk:

(a) Shall establish a course of training for applicants for certification as marriage licensing agents.

(b) Shall adopt regulations establishing standards of practice for marriage licensing agents.

(c) May investigate any marriage licensing agent to ensure that the marriage licensing agent is complying with the provisions of this chapter and the standards of practice adopted by the county clerk.

4. In addition to any other remedy or penalty, if the county clerk or a hearing panel appointed by the county clerk, after notice and hearing, finds that a marriage licensing agent has violated any provision of this chapter or the standards of practice adopted by the county clerk, the county clerk or the hearing panel may take appropriate disciplinary action against the marriage licensing agent.

5. In addition to any other remedy or penalty, the county clerk may:

(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the county clerk; or

(b) Suspend or revoke the certificate of a person who has failed to pay money which the person owes to the county clerk.

Sec. 1.5. 1. An applicant for certification as a marriage licensing agent must:

(a) Be at least 21 years of age.

(b) Have at least 3 years of verifiable employment experience working for a commercial wedding chapel.

(c) Not have been convicted of a felony.

(d) Submit to the county clerk completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of a complete set of his fingerprints to the Central Repository for Nevada Records of Criminal History for its report and for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the applicant by the county clerk. The applicant's fingerprints must be taken by an agency of law enforcement.

(e) Possess computer and printer equipment compatible with software for the issuance of a marriage license.

(f) Submit to the county clerk the fee for the training course established by the county clerk pursuant to section 1.4 of this act and complete the

training course. The county clerk shall establish the fee for the training program, which must not exceed $100.

(g) Pay to the county clerk an additional initial fee to be established by the county clerk for software installation and technical support at the business location of the marriage licensing agent.

2. A marriage licensing agent shall:

(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;

(b) Collect from an applicant for a marriage license all fees required by law to be collected;

(c) Remit all fees collected to the county clerk, in the manner required by the standards of practice adopted by the county clerk; and

(d) Comply with all provisions of this chapter and the standards of practice adopted by the county clerk.

Sec. 1.6. 1. An applicant for certification as a marriage licensing agent shall submit to the county clerk the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the county clerk.

3. A certificate may not be issued by the county clerk if the applicant:

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

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

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

Sec. 1.7. 1. If the county clerk receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been issued a certificate as a marriage licensing agent, the county clerk shall deem the certificate to be suspended

at the end of the 30th day after the date on which the court order was issued unless the county clerk receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The county clerk shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the county clerk receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 1.8. **NRS 122.002 is hereby amended to read as follows:**

122.002 ~~[As used in this chapter, "commissioner"]~~ ***"Commissioner*** township" means a township whose population is 15,500 or more, as most recently certified by the Governor pursuant to NRS 360.285, and which is located in a county whose population is 100,000 or more.

Sec. 1.9. NRS 122.020 is hereby amended to read as follows:

122.020 1. ~~[A]~~ ***Except as otherwise provided in this section, a*** male and a female person, at least 18 years of age, not nearer of kin than second cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.

2. ***A male and a female person who are the husband and wife of each other may be rejoined in marriage.***

3. A person at least 16 ~~*[15]*~~ years of age but less than 18 years of age may marry only if he has the consent of:

(a) Either parent; or

(b) His legal guardian.

Sec. 2. ~~[NRS 122.025 is hereby amended to read as follows:~~

~~122.025 1. A person less than~~ [16] ~~*15* years of age may marry only if he has the consent of:~~

~~(a) Either parent; or~~

~~(b) Such person's legal guardian,~~

~~and such person also obtains authorization from a district court as provided in subsection 2.~~

~~2. In extraordinary circumstances, a district court may authorize the marriage of a person less than~~ [16] ~~*15* years of age if the court finds that:~~

~~(a) The marriage will serve the best interests of such person; and~~

~~(b) Such person has the consent required by paragraph (a) or (b) of subsection 1.~~

~~Pregnancy alone does not establish that the best interests of such person will be served by marriage, nor may pregnancy be required by a court as a condition necessary for its authorization for the marriage of such person.~~] **(Deleted by amendment.)**

Sec. 3. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State ~~[.]~~ ***or a marriage licensing agent.*** Except as otherwise provided in this subsection ~~[.]~~ ***and section 1.4 of this act,*** the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. ~~[Before]~~ ***Except as otherwise provided in this section, before*** issuing a marriage license, the county clerk ***or marriage licensing agent*** shall ~~*[may]*~~ require each applicant to provide proof of the applicant's name and age. The county clerk ***or marriage licensing agent*** may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and ~~[a]~~ ~~*[any]*~~ ***:***

(1) Any secondary ~~[form of identification]~~ ***document*** that contains the name ***and a photograph*** of the applicant ~~[.]~~ ***; or***

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that ~~[the county clerk determines]~~ provides ~~[proof of]~~ the applicant's name and age. ***If the applicant clearly appears over the age of ~~[18]~~ 25 years, no documentation of proof of age is required.***

3. Except as otherwise provided in subsection 4, the county clerk ***or marriage licensing agent*** issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk ***or marriage licensing agent*** shall ~~*[may]*~~ ***, except as otherwise provided in this subsection,*** require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ***or marriage licensing agent*** shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. ***The county clerk or marriage licensing agent shall not deny a license to an applicant ~~[for stating that an answer is unknown.]~~ who states that he does not have a social security number or who states that any other answer is unknown.***

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk ~~[,]~~ ***or marriage licensing agent,*** the county clerk ***or marriage licensing agent*** may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~[,]~~ ***or marriage licensing agent,*** or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~[.]~~ ***or marriage licensing agent.*** If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ***or marriage licensing agent*** in writing. If the county clerk ***, the marriage licensing agent*** or the district court waives the requirements of subsection 3, the county clerk ***or marriage licensing agent*** shall require the applicant who is able to appear before the county clerk ***or marriage licensing agent*** to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ***or marriage licensing agent*** shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. ***The county clerk or marriage licensing agent shall not deny a license to an applicant ~~[for stating that an answer is unknown.]~~ who states***

that he does not have a social security number or who states that any other answer is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ***or marriage licensing agent*** shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ***or marriage licensing agent*** and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. ***If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk or marriage licensing agent shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2 .*** ~~*[or on a notarized statement of consent by the parent.]*~~

7. If the authorization of a district court is required, the county clerk ***or marriage licensing agent*** shall issue the license if that authorization is given to him in writing.

~~**[**~~7.~~**]**~~ ~~*[8. The county clerk shall issue a marriage license to each applicant who fulfills the requirements set forth in this section.*~~

~~*9.]*~~ ***8.*** All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~**[**~~8.~~**]**~~ ~~*[10.]*~~ ***9.*** A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3.5. **NRS 122.040 is hereby amended to read as follows:**

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State ~~. [or a marriage licensing agent.]~~ Except as otherwise provided in this subsection ~~, [and section 1.4 of this act,]~~ the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices

of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk ~~[or marriage licensing agent]~~ shall require each applicant to provide proof of the applicant's name and age. The county clerk ~~[or marriage licensing agent]~~ may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and:

(1) Any secondary document that contains the name and a photograph of the applicant; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.

3. Except as otherwise provided in subsection 4, the county clerk ~~[or marriage licensing agent]~~ issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk ~~[or marriage licensing agent]~~ shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ~~[or marriage licensing agent]~~ shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk ~~[or marriage licensing agent]~~ shall not deny a license to an

applicant who states that he does not have a social security number or who states that any other answer is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk**,** ~~[or marriage licensing agent,]~~ the county clerk ~~[or marriage licensing agent]~~ may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~[or marriage licensing agent,]~~ or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk **.** ~~[or marriage licensing agent.]~~ If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ~~[or marriage licensing agent]~~ in writing. If the county clerk ~~[, the marriage licensing agent]~~ or the district court waives the requirements of subsection 3, the county clerk ~~[or marriage licensing agent]~~ shall require the applicant who is able to appear before the county clerk ~~[or marriage licensing agent]~~ to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ~~[or marriage licensing agent]~~ shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk ~~[or marriage licensing agent]~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any other answer is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ~~[or marriage licensing agent]~~ shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ~~[or marriage licensing agent]~~ and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk ~~[or marriage licensing agent]~~ shall accept, as proof

that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.

7. If the authorization of a district court is required, the county clerk ~~[or marriage licensing agent]~~ shall issue the license if that authorization is given to him in writing.

8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 4. ~~[NRS 122.181 is hereby amended to read as follows:~~

~~122.181 1. The commissioner of civil marriages or his deputy commissioner of civil marriages is entitled to receive as his fee for solemnizing a marriage $45. The fee must be deposited in the county general fund.~~

~~2. The commissioner of civil marriages or his deputy commissioner of civil marriages shall also at the time of solemnizing a marriage collect the additional sum of [$5]~~ ***~~[$20~~*** ~~for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the clerk to the State Controller for credit to that Account.~~

~~3. The commissioner of civil marriages or his deputy commissioner of civil marriages shall also at the time of solemnizing a marriage collect the additional sum of $10. The fees collected must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be placed to the credit of the State General Fund. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the county clerk to the State Controller for credit to the State General Fund.]~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 246.180 is hereby amended to read as follows:~~

~~246.180 1. If the board of county commissioners has adopted an ordinance pursuant to NRS 246.100, the county clerk shall charge and collect the following fees:~~

~~(a) For filing any certificate of marriage, $10.~~

~~(b) For copying any certificate of marriage, $1 per page.~~

~~(c) For a certified copy of a certificate of marriage, $10.~~

~~(d) For a certified abstract of a certificate of marriage, $10.~~

~~(e) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of $5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county~~

~~***treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the clerk to the State Controller for credit to that Account.***~~

~~2. In addition to the fees described in subsection 1, a county clerk may charge and collect an additional fee not to exceed $3 for filing a certificate of marriage, if the board of county commissioners has adopted an ordinance authorizing the additional fee. The county clerk shall pay to the county treasurer the amount of fees collected by him pursuant to this subsection for credit to the account established pursuant to NRS 246.190.~~

~~3. A county clerk shall charge and collect the fees specified in this section for copying a document specified in this section at the request of the State of Nevada or any city or town within the county. For copying, and for his certificate and seal upon the copy, the county clerk shall charge the regular fee.~~

~~4. Except as otherwise provided in an ordinance adopted pursuant to NRS 244.207, county clerks shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees related to filing certificates of marriage collected during the preceding month.~~

~~5. For purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his official capacity.~~] **(Deleted by amendment.)**

Sec. 5.1. **NRS 122.045 is hereby amended to read as follows:**

122.045 1. Except as otherwise provided in subsection 2, if any information in a marriage license is incorrect, the county clerk may charge and collect from a person a fee of not more than $25 for the preparation of an affidavit of correction.

2. The county clerk may not charge and collect from a person any fee for the preparation of an affidavit of correction pursuant to subsection 1 if the only errors to be corrected in the marriage license are clerical errors that were made by the county clerk ~~[.]~~ ***or marriage licensing agent.***

3. All fees collected by the county clerk pursuant to this section must be deposited in the county general fund.

Sec. 5.2. **NRS 122.050 is hereby amended to read as follows:**

122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:

MARRIAGE LICENSE

(EXPIRES 1 YEAR AFTER ISSUANCE)

State of Nevada }

} ss.

County of ..... }

These presents are to authorize any minister who has obtained a certificate of permission, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection 3 of NRS 122.080, or a municipal judge if authorized pursuant to subsection 4 of NRS 122.080 or any commissioner of civil marriages or his deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Wife deceased .... Divorced .... Annulled .... When .... Where .... And .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Husband deceased .... Divorced .... Annulled .... When .... Where ....; and to certify the marriage according to law.

Witness my hand and the seal of the county ***or signature of the marriage licensing agent***, this ... day of the month of ……. of the year .....

.....

(Seal) Clerk ***or (Signature) Marriage Licensing Agent***

.....

Deputy clerk

Sec. 5.3. **NRS 122.055 is hereby amended to read as follows:**

122.055 1. The county clerk ***or marriage licensing agent*** may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.

2. The county clerk ***or marriage licensing agent*** shall have printed or stamped on the reverse of the form instructions for obtaining a certified copy or certified abstract of the certificate of marriage.

Sec. 5.4. **NRS 122.062 is hereby amended to read as follows:**

122.062 1. Any licensed or ordained minister in good standing within his denomination, whose denomination, governing body and church, or any of them, are incorporated or organized or established in this state, may join together as husband and wife persons who present a marriage license obtained from any county clerk ***or marriage licensing agent*** of the State, if the minister first obtains a certificate of permission to perform marriages as provided in this section and NRS 122.064 to 122.073, inclusive. The fact that a minister is retired does not disqualify him from obtaining a certificate of

permission to perform marriages if, before his retirement, he had active charge of a congregation within this state for a period of at least 3 years.

2. A temporary replacement for a licensed or ordained minister certified pursuant to this section and NRS 122.064 to 122.073, inclusive, may solemnize marriages pursuant to subsection 1 during such time as he may be authorized to do so by the county clerk in the county in which he is a temporary replacement, for a period not to exceed 90 days. The minister whom he temporarily replaces shall provide him with a written authorization which states the period during which it is effective.

3. Any chaplain who is assigned to duty in this state by the Armed Forces of the United States may solemnize marriages if he obtains a certificate of permission to perform marriages from the county clerk of the county in which his duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof by him of his military status as a chaplain and of his assignment.

4. A county clerk may authorize a licensed or ordained minister whose congregation is in another state to perform marriages in the county if the county clerk satisfies himself that the minister is in good standing with his denomination or church. The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. Such a minister may perform not more than five marriages in this state in any calendar year.

Sec. 5.5. **NRS 122.210 is hereby amended to read as follows:**

122.210 If any county clerk ***or marriage licensing agent*** shall issue or sign any marriage license in any manner other than is authorized by this chapter, he shall forfeit and pay a sum not exceeding $1,000 to and for the use of the person aggrieved.

Sec. 5.6. **NRS 122.220 is hereby amended to read as follows:**

122.220 1. It is unlawful for any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him a license from the county clerk ***or marriage licensing agent*** as provided by law.

2. Any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 6. **1.** This **section and sections 1 to 3, inclusive, and 4 to 5.6, inclusive, of this** act ~~[becomes]~~ **become** effective on July 1, 2009.

2. Section 3.5 of this act becomes effective on July 1, 2011.

3. Sections 1 to 1.9, inclusive, 3 and 5.1 to 5.6, inclusive, of this act expire by limitation on June 30, 2011.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 287.

Bill read second time.

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

Amendment No. 437.

AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; **providing for the registration and regulation of appraisal management companies; revising the requirements for continuing education for appraisers;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section ~~[3]~~ 4 of this bill prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances. **Sections 1, 2, ~~[4]~~ 24 and ~~[6]~~ 27** of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

Section ~~[5]~~ 25 of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.

Sections 5-22 and 26 of this bill provide for the registration and regulation of appraisal management companies.

Section 23 of this bill revises the requirements for continuing education for appraisers.

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

Section 1. NRS 645.635 is hereby amended to read as follows:

645.635 The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an

exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of NRS 645.254.

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesman's or salesman's responsibility and must be deemed to be in compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of NRS 645.254.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of NRS 645.254.

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

11. Any violation of section ~~[3]~~ 4 of this act.

Sec. 2. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[,]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have

rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) ***Has violated section ~~[3]~~ 4 of this act;***

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

~~[~~(u)~~]~~ ***(v)*** Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and

which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) ***Has violated section ~~[3]~~ 4 of this act;***

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

~~[(j)]~~ ***(k)*** Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 3. Chapter 645C of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 4 to 21, inclusive, of this act.**

Sec. 4. 1. A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal.

2. Subsection 1 does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser:

(a) Consider additional appropriate property information;

(b) Provide further detail, substantiation or explanation for the appraiser's conclusion as to value; or

(c) Correct errors in his appraisal.

Sec. 5. "Appraisal firm" means a person, limited-liability company, partnership, association or corporation which, for compensation, prepares and communicates appraisals.

Sec. 6. "Appraisal management company" means a person, limited-liability company, partnership, association or corporation which for compensation:

1. Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;

2. Administers a network of appraisers performing real estate appraisal services as independent contractors;

3. Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or

4. Otherwise serves as a third-party broker of appraisal services.

➥ The term does not include an appraisal firm.

Sec. 7. 1. There is hereby created the Account for Appraisal Management Companies in the State General Fund. The Account must be administered by the Administrator.

2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, all money received by the Commission or the Division pursuant to sections 7 to 21, inclusive, of this act must be:

(a) Deposited in the Account;

(b) Accounted for separately; and

(c) Used only to administer the provisions of sections 7 to 21, inclusive, of this act.

3. If the Commission imposes a fine or a penalty, the Commission shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.

Sec. 8. Except as otherwise provided in section 9 of this act, it is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an appraisal management company without first obtaining a registration from the Division pursuant to sections 7 to 21, inclusive, of this act.

Sec. 9. The provisions of sections 7 to 21, inclusive, of this act do not apply to:

1. A person, limited-liability company, partnership, association or corporation other than an appraisal management company which, in the normal course of its business, employs persons for the performance of real estate appraisal services; or

2. An appraisal management company that enters into not more than nine contracts annually with independent contractors in this State.

Sec. 10. 1. A person who wishes to be registered as an appraisal management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee required pursuant to section 15 of this act. An application must:

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the appraisal management company will conduct business within this State;

(b) State the name under which the applicant will conduct business as an appraisal management company;

(c) List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the appraisal management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person;

(d) Include a general business plan and a description of the policies and procedures that the appraisal management company and its employees and independent contractors will follow in providing real estate appraisal services pursuant to this chapter;

(e) Include a financial statement of the applicant; and

(f) Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the appraisal management company as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, the Division shall issue a registration to an applicant as an appraisal management company if:

(a) The application is verified by the Division and complies with the requirements of sections 7 to 21, inclusive, of this act.

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Submits satisfactory proof to the Division that he has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an appraisal management company in a manner which safeguards the interests of the general public.

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude.

(3) Has not made a false statement of material fact on his application.

(4) Has not had a license that was issued pursuant to the provisions of this chapter suspended, revoked or voluntarily surrendered in lieu of suspension or revocation within the 10 years immediately preceding the date of his application.

(5) Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

(6) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission or the Administrator.

(c) The applicant certifies that he:

(1) Has a process in place to verify that each independent contractor that provides services to the appraisal management company is the holder of a license in good standing to practice appraisal in this State.

(2) Has a process in place to review the work of each independent contractor that provides services to the appraisal management company to

ensure that those services are conducted in accordance with the Uniform Standards of Professional Appraisal Practice.

(3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.

(d) The applicant discloses whether or not the company uses an appraiser fee schedule. For the purposes of this paragraph, "appraiser fee schedule" means a list of the various real estate appraisal services requested by the appraisal management company from independent contractors and the amount the company will pay for the performance of each service listed.

Sec. 11. 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a registration as an appraisal management company shall include the social security number of the applicant in the application submitted to the Division.

(b) An applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Division.

3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:

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

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

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

Sec. 12. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the

Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Division.

3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:

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

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

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

Sec. 13. 1. An applicant for registration under sections 7 to 21, inclusive, of this act shall file with the Division, in a form prescribed by regulation, an irrevocable consent appointing the Administrator his agent for service of process in a noncriminal proceeding against him, a successor or personal representative which arises under sections 7 to 21, inclusive, of this act or a regulation or order of the Commission after the consent is filed, with the same force and validity as if served personally on the person filing the consent.

2. A person who has filed a consent complying with subsection 1 in connection with a previous application for registration need not file an additional consent.

3. If a person, including a nonresident of this State, engages in conduct prohibited or made actionable by sections 7 to 21, inclusive, of this act or a regulation or order of the Commission and the person has not filed a consent to service of process under subsection 1, engaging in the conduct constitutes the appointment of the Administrator as the person's agent for service of process in a noncriminal proceeding against him, a successor or personal representative which grows out of the conduct.

4. Service under subsection 1 or 3 may be made by leaving a copy of the process in the Office of the Administrator, but it is not effective unless:

(a) The plaintiff, who may be the Administrator, sends notice of the service and a copy of the process by registered or certified mail, return

receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if no consent to service of process has been filed, at the last known address, or takes other steps which are reasonably calculated to give actual notice; and

(b) The plaintiff files an affidavit of compliance with this subsection in the proceeding on or before the return day of the process, if any, or within such further time as the court, or the Administrator in a proceeding before him, allows.

5. Service as provided in subsection 4 may be used in a proceeding before the Administrator or by the Administrator in a proceeding in which he is the moving party.

6. If the process is served under subsection 4, the court, or the Administrator in a proceeding before him, may order continuances as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

Sec. 14. A registration issued pursuant to sections 7 to 21, inclusive, of this act expires each year on the date of its issuance, unless it is renewed. To renew such a registration, the registrant must submit to the Division on or before the expiration date:

1. An application for renewal;

2. The fee required to renew the registration pursuant to section 15 of this act; and

3. All information required to complete the renewal.

Sec. 15. A person must pay the following fee to be issued or to renew a registration as an appraisal management company pursuant to sections 7 to 21, inclusive, of this act:

1. To be issued a registration, the applicant must pay a fee set by the Division by regulation of not more than $2,500 for the principal office and not more than $100 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Division deems necessary.

2. To renew a registration, the applicant must pay a fee set by the Division by regulation of not more than $500 for the principal office and not more than $100 for each branch office.

Sec. 16. 1. If an appraisal management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the appraisal management company.

2. The Commission shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

(a) A definition for the term "qualified employee";

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 17. 1. It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion,

extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation:

(a) Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal;

(b) Withholding or threatening to withhold future business for an independent appraiser;

(c) Terminating an agreement with an independent contractor without prior written notice;

(d) Directly or indirectly promising future business for or increased compensation to an independent contractor;

(e) Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor;

(f) Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor;

(g) Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be loaned to a borrower, other than a copy of the sales contract for purchase transactions;

(h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits;

(i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless:

(1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or

(2) The second or subsequent appraisal or automated valuation model is performed pursuant to a bona fide appraisal review or quality control process;

(j) Compensating an appraiser in a manner which the appraisal management company knew or reasonably should have known would result in the conduct of appraisal services inconsistent with applicable appraisal standards;

(k) Accepting a fee for performing appraisal management services if the fee is contingent on:

(1) An appraisal report having a predetermined analysis, opinion or conclusion;

(2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or

(3) The consequences resulting from an appraisal assignment; or

(l) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.

2. Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report.

Sec. 18. It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent contractor, including, without limitation, removing the signature of the appraiser.

Sec. 19. 1. If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.

2. An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated the provisions of sections 7 to 21, inclusive, of this act and may revoke, suspend or deny renewal of a registration in the manner set forth in NRS 645C.500 to 645C.550, inclusive.

Sec. 20. 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a registration, the Division shall deem the registration to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a registration that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the registration stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 21. 1. For each violation committed by an applicant for a registration issued pursuant to sections 7 to 21, inclusive, of this act, whether or not he is issued a registration, the Commission may impose upon the applicant an administrative fine of not more than $10,000 if the applicant:

(a) Has knowingly made or caused to be made to the Commission any false representation of material fact;

(b) Has suppressed or withheld from the Commission any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act; or

(c) Has violated any provision of sections 7 to 21, inclusive, of this act, a regulation adopted pursuant to sections 7 to 21, inclusive, of this act or an order of the Commission in completing and filing his application for a registration or during the course of the investigation of the application for a registration.

2. For each violation committed by an appraisal management company, the Commission may impose upon the appraisal management company an administrative fine of not more than $10,000, may suspend, revoke or place conditions on the registration or may do both, if the appraisal management company, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which the appraisal management company is required to be registered pursuant to sections 7 to 21, inclusive, of this act;

(b) Does not conduct its business in accordance with the law or has violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission;

(c) Has made a material representation in connection with any transaction governed by this chapter;

(d) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the appraisal management company knew or, by the exercise of reasonable diligence, should have known;

(e) Has knowingly made or caused to be made to the Commission any false representation of material fact or has suppressed or withheld from the Commission any information which the appraisal management company possesses and which, if submitted by the appraisal management company, would have rendered the appraisal management company ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act;

(f) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude; or

(g) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

Sec. 22. **NRS 645C.010 is hereby amended to read as follows:**

645C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645C.020 to 645C.130, inclusive, ***and sections 5 and 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 23. **NRS 645C.430 is hereby amended to read as follows:**

645C.430 1. An appraiser must complete the requirements for continuing education prescribed by regulations adopted by the Commission as a condition to the renewal of an active certificate or license or the reinstatement of an inactive certificate or license. Until the Commission adopts those regulations, the standards for continuing education are as follows:

(a) For the renewal of an active certificate or license, not less than 30 hours of instruction within the 2 years immediately preceding the application for renewal.

(b) For the reinstatement of a certificate or license which has been on inactive status**, [:**

~~(1) For not more than 2 years, or for more than 2 years including the initial period of certification or licensure, not less than 30 hours of instruction.~~

~~(2) For more than 2 years, no part of which includes the initial period of certification or licensure,~~**]** not less than 15 hours of instruction per year for each year that the certificate or license was on inactive status**. [**~~, not to exceed 60 hours of instruction.~~**]**

➥ The required hours of instruction must include the most recent edition of the 7-hour National Uniform Standards of Professional Appraisal Practice Update Course.

2. As used in this section, an "hour of instruction" means at least 50 minutes of actual time spent receiving instruction.

[~~Sec. 4.~~**]** ***Sec. 24.*** NRS 645C.460 is hereby amended to read as follows:

645C.460 1. Grounds for disciplinary action against a certified or licensed appraiser or registered intern include:

(a) Unprofessional conduct;

(b) Professional incompetence;

(c) ***Any violation of section*** ~~*[3]*~~ ***4 of this act;***

(d) A criminal conviction for a felony relating to the practice of appraisers or any offense involving moral turpitude; and

[~~(d)~~**]** ***(e)*** The suspension **[**~~or~~**]** **,** revocation ***or voluntary surrender in lieu of other discipline*** of a registration card, certificate, license or permit to act as an appraiser in any other jurisdiction.

2. If grounds for disciplinary action against an appraiser or intern exist, the Commission may do one or more of the following:

(a) Revoke or suspend his certificate, license or registration card.

(b) Place conditions upon his certificate, license or registration card, or upon the reissuance of a certificate, license or registration card revoked pursuant to this section.

(c) Deny the renewal of his certificate, license or registration card.

(d) Impose a fine of not more than $10,000 for each violation.

3. If a certificate, license or registration card is revoked by the Commission, another certificate, license or registration card must not be

issued to the same appraiser or intern for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the appraiser or intern satisfies all the requirements for an original certificate, license or registration card.

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

~~[Sec. 5.]~~ ***Sec. 25.*** NRS 645C.470 is hereby amended to read as follows:

645C.470 A certified or licensed appraiser or registered intern is guilty of unprofessional conduct if he:

1. Willfully uses a trade name, service mark or insigne indicating membership in an organization for appraisers of which he is not a member;

2. Violates any order of the Commission, agreement with the Division, provision of this chapter or provision of any regulation adopted pursuant to this chapter;

3. Fails to disclose to any person with whom he is dealing any material fact or other information he knows, or in the exercise of reasonable care and diligence should know, concerning or relating to any real estate he appraises, including any interest he has in the real estate;

4. Knowingly communicates a false or fraudulent appraisal to any interested person or otherwise engages in any deceitful, fraudulent or dishonest conduct;

5. ~~[Enters]~~ ***Prepares or provides or enters*** into a contract to prepare ***or provide*** an appraisal ~~[by which]~~ ***if*** his compensation is based partially or entirely on ***, or is otherwise affected by,*** the amount of the appraised value of the real estate;

6. Before obtaining his license or registration card, engaged in any conduct of which the Division is not aware that would be a ground for the denial of a certificate, license or registration card; or

7. Makes a false statement of material fact on his application.

Sec. 26. **NRS 645C.555 is hereby amended to read as follows:**

645C.555 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate, license ***, registration*** or registration card or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate, license ***, registration*** or registration card or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

~~[Sec. 6.]~~ ***Sec. 27.*** NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[.]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) ***Has violated section ~~[3]~~ 4 of this act;***

(p) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; or

~~[(p)]~~ ***(q)*** Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

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

Sec. 28. **1. This section, sections 5 to 11, inclusive, 13 to 22, inclusive, and 26 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2010, for all other purposes.**

2. Sections 1 to 4, inclusive, 23, 24, 25 and 27 of this act become effective on July 1, 2009.

3. The provisions of sections 11 and 20 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Section 12 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 416.

Bill read second time.

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

Amendment No. 508.

AN ACT relating to water; requiring the State Engineer or a person designated by him to conduct an inventory of a basin before approving an application for an interbasin transfer of groundwater under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Engineer to consider certain factors when determining if an application for an interbasin transfer of groundwater must be rejected, including whether there is a justified need to import the water from another basin, if there is an advisable plan for the conservation of water in place, whether the proposed action is environmentally sound and whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported. (NRS 533.370) In addition to those requirements, **section 4** of this bill requires that, before the State Engineer may approve an interbasin

transfer of groundwater, he must conduct an inventory of the basin from which the water is to be exported if it is a basin which the State Engineer has not already inventoried. The inventory must include: (1) the total amount of surface water and groundwater ~~[in the basin;]~~ **appropriated in accordance with a decreed, certified or permitted right;** (2) **an estimate of** the amount **and location** of **all surface** water ~~[already appropriated]~~ **and groundwater available for appropriation** in the basin; **and** (3) ~~[the number of persons who have a decreed, certified or permitted right to appropriate water in the basin; and (4)]~~ the names of ~~[those persons.]~~ **each owner of record of a decreed, certified or permitted right in the basin.** The applicant for the interbasin transfer of groundwater must pay a fee to cover the cost of conducting the inventory. **Section 4 also requires the State Engineer to complete an inventory within 1 year after commencing the inventory. Section 5 of this bill expands the definition of "person" for purposes of chapter 533 of NRS to include a political subdivision of this State.**

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 533.010 to 533.023, inclusive, and section 3 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Interbasin transfer of groundwater" means a transfer of groundwater for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.***

Sec. 4. ***1. In addition to the requirements of NRS 533.370, before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater ~~[for]~~ from a basin which the State Engineer has not previously inventoried or for which he has not conducted , or caused to be conducted, a study pursuant to NRS 532.165 or 533.368, the State Engineer or a person designated by the State Engineer shall conduct an inventory of the basin from which the water is to be exported. The inventory must include : ~~[, without limitation:]~~***

(a) The total amount of surface water and groundwater appropriated ~~[for]~~ in accordance with a decreed, certified or permitted right;

(b) An estimate of the amount and location of all surface water and groundwater that is available for appropriation in the basin; and

~~[~~ ~~(b) The amount of water already appropriated in the basin;]~~

(c) ~~[The number of persons who have a decreed, certified or permitted right to appropriate water in the basin; and~~

~~(d)]~~ The name of each ~~[person identified in paragraph (c).]~~ owner of record set forth in the records of the Office of the State Engineer for each decreed, certified or permitted right in the basin.

2. The provisions of this section do not:

(a) Require the State Engineer to initiate or complete a determination of the surface water or groundwater rights pursuant to NRS 533.090 to 533.320, inclusive, or to otherwise quantify any vested claims of water rights in the basin before approving an application for an interbasin transfer of groundwater from the basin; or

(b) Prohibit the State Engineer from considering information received from or work completed by another person to include in the inventory, if the inventory is otherwise conducted in accordance with the provisions of subsection 1.

3. The State Engineer shall charge the applicant a fee to cover the cost of the inventory. The amount of the fee must not exceed the cost to the State Engineer of conducting the inventory.

4. The State Engineer shall complete any inventory conducted pursuant to subsection 1 within 1 year after commencing the inventory.

Sec. 5. NRS 533.010 is hereby amended to read as follows:

533.010 ~~[~~As used in this chapter, "person"~~]~~ ***"Person"*** includes the United States~~,~~ ***,*** ~~[and]~~ this State ~~[.]~~ ***and any political subdivision of this State.***

Sec. 6. NRS 533.015 is hereby amended to read as follows:

533.015 ~~[~~As used in this chapter,~~]~~ "State Engineer" ~~[~~shall be deemed to mean~~]~~ ***means*** the State Engineer or any duly authorized assistant.

Sec. 7. NRS 533.020 is hereby amended to read as follows:

533.020 ~~[~~As used in this chapter, "stream~~]~~ ***"Stream*** system" ~~[~~shall be interpreted as including~~]~~ ***includes*** any stream, together with its tributaries and all streams or bodies of water to which the same may be tributary.

Sec. 8. NRS 533.023 is hereby amended to read as follows:

533.023 ~~[~~As used in this chapter, "wildlife~~]~~ ***"Wildlife*** purposes" includes the watering of wildlife and the establishment and maintenance of wetlands, fisheries and other wildlife habitats.

Sec. 9. ~~[~~NRS 533.324 is hereby amended to read as follows:

533.324 — As used in NRS 533.325, 533.345 and 533.425, ***and section 4 of this act,*** "water already appropriated" includes water for whose appropriation the State Engineer has issued a permit but which has not been applied to the intended use before an application to change the place of diversion, manner of use or place of use is made.~~]~~ **(Deleted by amendment.)**

Sec. 10. NRS 533.369 is hereby amended to read as follows:

533.369 1. All money collected pursuant to subsection 3 of NRS 533.368 ***or subsection*** ~~*[2]*~~ ***3 of section 4 of this act*** must be deposited with the State Treasurer for credit to a special Account for Studies Concerning Water.

2. The interest and income earned on the money in the Account for Studies Concerning Water, after deducting any applicable charges, must be credited to the Account.

3. The money received pursuant to subsection 3 of NRS 533.368 ***or subsection*** ~~*[2]*~~ ***3 of section 4 of this act*** must be used to defray the cost of conducting the studies required pursuant to subsection 1 of NRS 533.368 ~~[.]~~

and the inventories required pursuant to subsection 1 of section 4 of this act. Any money paid by an applicant that exceeds the amount required to conduct a study must be refunded to the applicant.

4. Any balance remaining in the Account does not revert to the State General Fund at the end of the fiscal year.

Sec. 11. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the State Engineer of:

(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and subsections 3 and 11 and NRS 533.365, the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.

(b) Postpone action if the purpose for which the application was made is municipal use.

(c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection 11, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.

(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court

actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

5. Except as otherwise provided in subsection 11, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectible interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection 12, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

8. If:

(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;

(b) The application involves an amount of water exceeding 250 acre-feet per annum;

(c) The application involves an interbasin transfer of groundwater; and

(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application,

➥ the State Engineer shall notice a new period of 45 days in which a person who is a successor in interest to a protestant or an affected water right owner may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

9. Except as otherwise provided in subsection 10, a person who is a successor in interest to a protestant or an affected water right owner who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.

10. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is located and if the former owner of the water right or real property on which a domestic well is located had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if he were the former owner whose interest he succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer on a form provided by the State Engineer.

11. The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit.

12. The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

13. As used in this section:

(a) "County of origin" means the county from which groundwater is transferred or proposed to be transferred.

(b) "Domestic well" has the meaning ascribed to it in NRS 534.350.

~~[(c) "Interbasin transfer of groundwater" means a transfer of groundwater for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.]~~

Sec. 12. **The amendatory provisions of this act do not apply to an application for an interbasin transfer of groundwater for which a notice of hearing is issued before July 1, 2009.**

~~[Sec. 12.]~~ ***Sec. 13.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 225 be taken from its position on the Second Reading File and placed at the top of the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 225.

Bill read second time.

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

Amendment No. 359.

AN ACT relating to county fire departments; requiring a board of county commissioners that creates a district for a fire department to adopt an ordinance requiring the imposition and collection of fees for the transportation of sick or injured persons by the department to a medical facility; **requiring such an ordinance in a county whose population is over 400,000 to limit the number of such transports by the department and to report to the Legislature the fees charged for and the number of such transports;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of county commissioners, in a county where a district for a fire department has been created and where the fire department transports sick or injured persons to a medical facility, to adopt an ordinance that either: (1) requires the fire department to impose and collect fees to defray the expenses of furnishing such transportation; or (2) prohibits the imposition and collection of such fees. (NRS 244.2961) **Section 1** of this bill repeals the option of adopting an ordinance prohibiting the imposition and collection of such fees. **Section 1 also requires that, in a county whose population is 400,000 or more (currently Clark County), such an ordinance limit the number of transports the fire department may make each month to not more than 25 percent of the transports made each month by all public and private entities in the county.** **Section 2** of this bill, with respect to a county that has already adopted an ordinance

prohibiting the imposition and collection of such fees, allows the county until January 1, 2010, to amend or repeal that ordinance. **Section 3 of this bill requires the board of county commissioners of a county whose population is 400,000 or more to submit an annual report to the Legislature on the number of monthly transports made by the fire department, both in total and as a percentage of total transports by all public and private entities, and the fees charged for those transports.**

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

Section 1. NRS 244.2961 is hereby amended to read as follows:

244.2961 1. The board of county commissioners may by ordinance create a district for a fire department. The board of county commissioners is ex officio the governing body of any district created pursuant to this section and may:

(a) Organize, regulate and maintain the fire department.

(b) Appoint and prescribe the duties of the fire chief.

(c) Designate arson investigators as peace officers.

(d) Regulate or prohibit the storage of any explosive, combustible or inflammable material in or transported through the county, and prescribe the distance from any residential or commercial area where it may be kept. Any ordinance adopted pursuant to this paragraph that regulates places of employment where explosives are stored must be at least as stringent as the standards and procedures adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(e) Establish, by ordinance, a fire code and other regulations necessary to carry out the purposes of this section.

(f) Include the budget of the district in the budget of the county.

(g) Hold meetings of the governing body of the district in conjunction with the meetings of the board of county commissioners without posting additional notices of the meetings within the district.

2. If the fire department transports sick or injured persons to a medical facility, the board of county commissioners shall adopt ~~[:]~~ ***an ordinance:***

(a) ~~[An ordinance:~~

~~(1)]~~ Requiring the fire department to defray the expenses of furnishing such transportation by imposing and collecting fees; and

~~[(2)]~~ ***(b)*** Establishing a schedule of such fees **.** ~~[; or~~

~~(b) An ordinance prohibiting the imposition and collection of any fees for such transportation.]~~

3. ***The board of county commissioners of a county whose population is 400,000 or more shall, when adopting an ordinance pursuant to subsection 2, limit the number of transports of sick or injured persons to a medical facility that the fire department may make each month to not more than 25 percent of the total number of such transports made in the county in the corresponding month during the previous year by both the fire department***

and all private entities that make such transports, excluding transports made in any incorporated city in the county.

4. The other officers and employees of the county shall perform duties for the district that correspond to the duties they perform for the county.

~~[4.]~~ ***5.*** All persons employed to perform the functions of the fire department are employees of the county for all purposes.

Sec. 2. A board of county commissioners shall amend any ordinance previously adopted by that body which does not conform with the provisions of NRS 244.2961, as amended by section 1 of this act, by January 1, 2010. Any ordinance that does not comply with NRS 244.2961, as amended by section 1 of this act, by January 1, 2010, shall be deemed to conform with NRS 244.2961, as amended by section 1 of this act, by operation of law.

Sec. 3. **The board of county commissioners of a county whose population is 400,000 or more shall submit an annual report to the Director of the Legislative Counsel Bureau no later than January 15 of each year for transmittal to the Legislature, if the Legislature is in session that year, or to the Legislative Commission, if the Legislature is not in session that year. The report must include, without limitation:**

1. The fees charged for transport by the fire department of sick or injured persons to a medical facility;

2. The number of such transports made per month by the fire department;

3. The number of such transports made per month by the fire department as a percentage of all transports made to medical facilities on a monthly basis; and

4. A statement detailing, if applicable, any event of an unusual nature that might have had an effect on the percentage of all transports in a month made by the fire department, including, without limitation, a natural disaster or other emergency situation that resulted in a large number of persons who needed to be transported to a medical facility.

~~[Sec. 3.]~~ ***Sec. 4.*** This act becomes effective on July 1, 2009.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved to withdraw Amendment No. 359 to Assembly Bill No. 225.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 225.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 522.

AN ACT relating to county fire departments; requiring a board of county commissioners that creates a district for a fire department to adopt an ordinance requiring the imposition and collection of fees for the transportation of sick or injured persons by the department to a medical

facility; **mandating that such an ordinance in a county whose population is 400,000 or more limit the number of such transports by the department and require an annual report to the Legislature of the fees charged for, and the number of, such transports;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of county commissioners, in a county where a district for a fire department has been created and where the fire department transports sick or injured persons to a medical facility, to adopt an ordinance that either: (1) requires the fire department to impose and collect fees to defray the expenses of furnishing such transportation; or (2) prohibits the imposition and collection of such fees. (NRS 244.2961) **Section 1** of this bill repeals the option of adopting an ordinance prohibiting the imposition and collection of such fees ~~.~~ **, except in counties for which a nonprofit corporation has been granted an exclusive franchise to provide ambulance service. Section 1 also requires that, in a county whose population is 400,000 or more (currently Clark County), such an ordinance limit the number of transports the fire department may make annually to not more than 1,000 transports, with an exception for emergency situations in which a private ambulance is not available.** **Section 2** of this bill, with respect to a county that has already adopted an ordinance prohibiting the imposition and collection of such fees, allows the county until January 1, 2010, to amend or repeal that ordinance. **Section 3 of this bill requires the board of county commissioners of a county whose population is 400,000 or more to submit an annual report to the Legislature regarding the number of yearly transports made by the fire department and the fees charged for those transports.**

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

Section 1. NRS 244.2961 is hereby amended to read as follows:

244.2961 1. The board of county commissioners may by ordinance create a district for a fire department. The board of county commissioners is ex officio the governing body of any district created pursuant to this section and may:

(a) Organize, regulate and maintain the fire department.

(b) Appoint and prescribe the duties of the fire chief.

(c) Designate arson investigators as peace officers.

(d) Regulate or prohibit the storage of any explosive, combustible or inflammable material in or transported through the county, and prescribe the distance from any residential or commercial area where it may be kept. Any ordinance adopted pursuant to this paragraph that regulates places of employment where explosives are stored must be at least as stringent as the standards and procedures adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(e) Establish, by ordinance, a fire code and other regulations necessary to carry out the purposes of this section.

(f) Include the budget of the district in the budget of the county.

(g) Hold meetings of the governing body of the district in conjunction with the meetings of the board of county commissioners without posting additional notices of the meetings within the district.

2. ~~[If]~~ ***Except as otherwise provided in subsection 6, if*** the fire department transports sick or injured persons to a medical facility, the board of county commissioners shall adopt ~~[:]~~ ***an ordinance:***

(a) ~~[An ordinance:~~

~~(1)]~~ Requiring the fire department to defray the expenses of furnishing such transportation by imposing and collecting fees; and

~~[(2)]~~ ***(b)*** Establishing a schedule of such fees ***.*** ~~[; or~~

~~(b) An ordinance prohibiting the imposition and collection of any fees for such transportation.]~~

3. ***The board of county commissioners of a county whose population is 400,000 or more shall, when adopting an ordinance pursuant to subsection 2:***

(a) Limit the number of transports of sick or injured persons to a medical facility that may be made by the fire department to not more than 1,000 such transports per year, except that the fire department may, exclusive of the limit, make any such emergency transport that is necessary for the health or life of a sick or injured person when other ambulance services are not available; and

(b) Require the fire department to report to the board the total number of transports of sick or injured persons to a medical facility that are made by the fire department each month.

4. The other officers and employees of the county shall perform duties for the district that correspond to the duties they perform for the county.

~~[4.]~~ ***5.*** All persons employed to perform the functions of the fire department are employees of the county for all purposes.

6. The provisions of subsection 2 do not apply to any county for which a nonprofit corporation has been granted an exclusive franchise for ambulance service in that county.

Sec. 2. A board of county commissioners shall amend any ordinance previously adopted by that body which does not conform with the provisions of NRS 244.2961, as amended by section 1 of this act, by January 1, 2010. Any ordinance that does not comply with NRS 244.2961, as amended by section 1 of this act, by January 1, 2010, shall be deemed to conform with NRS 244.2961, as amended by section 1 of this act, by operation of law.

Sec. 3. **The board of county commissioners of a county whose population is 400,000 or more shall submit an annual report to the Director of the Legislative Counsel Bureau not later than January 15 of each year for transmittal to the Legislature, if the Legislature is in**

session that year, or to the Legislative Commission, if the Legislature is not in session that year. The report must include, without limitation:

1. The fees charged by the fire department for transport of sick or injured persons to a medical facility; and

2. The number of such transports that are made by the fire department each calendar year.

[~~Sec. 3.~~**]** ***Sec. 4.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 25 and 480 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 25.

Bill read third time.

Remarks by Assemblyman Atkinson.

Roll call on Assembly Bill No. 25:

YEAS—40.

NAYS—Cobb, Gustavson—2.

Assembly Bill No. 25 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 480.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 529.

AN ACT relating to water; revising the fees collected by the State Engineer; **[**~~providing for an automatic biennial increase of such fees;~~**]** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill adds several additional fees and increases various existing fees collected by the State Engineer**.** **[**~~and provides for an automatic cumulative increase of certain fees collected by the State Engineer by 5 percent every 2 years beginning on July 1, 2011. (NRS 533.435)~~**]**

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

Section 1. NRS 533.435 is hereby amended to read as follows:

533.435 1. The State Engineer shall collect the following fees:

For examining and filing an application for a permit to appropriate water .....**[**~~$250.00~~**]** ***$300.00***

This fee includes the cost of publication, which is ..... $50.

For reviewing a corrected application or map, or both, in connection with an application for a permit to appropriate water ***100.00***

For examining and acting upon plans and specifications for construction of a dam .....**[**~~500.00~~**]** ***$1,000.00***

For examining and filing an application for each permit to change the point of diversion, manner of use or place of use of an existing right .....**[**~~$150.00~~**]** ***200.00***

This fee includes the cost of the publication of the application, which is $50.

For issuing and recording each permit to appropriate water for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water or watering livestock or wildlife purposes .....**[**~~150.00~~**]** ***300.00***

plus **[**~~$2~~**]** ***$3*** per acre-foot approved or fraction thereof.

For issuing and recording each permit to change an existing right whether temporary or permanent for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water, for watering livestock or wildlife purposes which change the point of diversion or place of use only **[**~~, or for irrigational purposes which change the point of diversion or place of use only~~**]**..... **[**~~100.00~~**]** ***250.00***

plus **[**~~$2~~**]** ***$3*** per acre-foot approved or fraction thereof.

[~~For issuing and recording each permit to change the point of diversion or place of use only of an existing right whether temporary or permanent for irrigational purposes~~ ~~200.00~~**]**

For issuing and recording each permit to appropriate or change the point of diversion or place of use of an existing right only whether temporary or permanent for watering livestock or wildlife purposes.....***200.00***

plus $50 for each second-foot of water approved or fraction thereof **. [**~~$50.00~~**]**

For issuing and recording each permit to appropriate or change an existing right whether temporary or permanent for water for generating hydroelectric power which results in nonconsumptive use of the water.....***400.00***

plus $50 for each second-foot of water approved or fraction thereof **. [**~~100.00~~

~~This fee must not exceed $1,000.~~**]**

For issuing a waiver in connection with an application to drill a well ***100.00***

For filing a secondary application under a reservoir permit .. **[**~~200.00~~**]** ***250.00***

For approving and recording a secondary permit under a reservoir permit ..... **[**~~200.00~~**]** ***450.00***

For reviewing each tentative subdivision map.....150.00

plus $1 per lot.

For reviewing and approving each final subdivision map ***100.00***

For storage approved under a dam permit for privately owned nonagricultural dams which store more than 50 acre-feet ..... **[**~~100.00~~**]** ***400.00***

plus $1 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.

For filing proof of completion of work ..... **[**~~10.00~~**]** ***50.00***

For filing proof of beneficial use 50.00

For filing proof of resumption of a water right ***300.00***

For filing any protest 25.00

For filing any application for extension of time within which to file proofs 100.00

For reviewing a cancellation of a water right pursuant to a petition for review ***300.00***

For examining and filing a report of conveyance filed pursuant to paragraph (a) of subsection 1 of NRS 533.384 ..... **[**~~25.00~~**]** ***$100.00***

plus **[**~~$10~~**]** ***$20*** per conveyance document **.**

For filing any other instrument ..... **[**~~1.00~~**]** ***10.00***

For making copy of any document recorded or filed in his office, for the first page 1.00

For each additional page ..... .20

For certifying to copies of documents, records or maps, for each certificate ..... **[**~~1.00~~**]** ***5.00***

For each blueprint copy of any drawing or map, per square foot ..... **[**~~.50~~**]** ***5.00***

The minimum charge for a blueprint copy, per print 3.00

For colored mylar plots ***10.00***

2. ~~*[On July 1, 2011, and on July 1 of each odd-numbered year thereafter, the State Engineer shall increase cumulatively the amount of each fee described in subsection 1 by 5 percent, rounded to the nearest dollar, as determined by the State Engineer.*~~

~~*3.]*~~ When fees are not specified in subsection 1 for work required of his office, the State Engineer shall collect the actual cost of the work.

3. ~~*[4.]*~~ Except as otherwise provided in this subsection, all fees collected by the State Engineer under the provisions of this section must be deposited in the State Treasury for credit to the General Fund. All fees received for blueprint copies of any drawing or map must be kept by him and used only to pay the costs of printing, replacement and maintenance of printing equipment. Any publication fees received which are not used by him for publication expenses must be returned to the persons who paid the fees. If, after exercising due diligence, the State Engineer is unable to make the refunds, he shall deposit the fees in the State Treasury for credit to the General Fund. The State Engineer may maintain, with the approval of the

State Board of Examiners, a checking account in any bank or credit union qualified to handle state money to carry out the provisions of this subsection. The account must be secured by a depository bond satisfactory to the State Board of Examiners to the extent the account is not insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 215, 225, 227, 235, 262, 287, 416, and 480.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bills Nos. 215, 225, 227, 235, 262, 416, and 480 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 215.

Bill read third time.

Remarks by Assemblyman Oceguera.

Roll call on Assembly Bill No. 215:

YEAS—42.

NAYS—None.

Assembly Bill No. 215 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Assembly Bill No. 227 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 235.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 235:

YEAS—42.

NAYS—None.

Assembly Bill No. 235 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 262.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 262:

YEAS—42.

NAYS—None.

Assembly Bill No. 262 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 287.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 287:

YEAS—42.

NAYS—None.

Assembly Bill No. 287 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 416.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Assembly Bill No. 416:

YEAS—42.

NAYS—None.

Assembly Bill No. 416 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 225.

Bill read third time.

Remarks by Assemblywomen Pierce, Gansert and Kirkpatrick.

Roll call on Assembly Bill No. 225:

YEAS—38.

NAYS—Cobb, Goedhart, Gustavson, McArthur—4.

Assembly Bill No. 225 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 480 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 480.
Bill read third time.
Remarks by Assemblyman Goedhart.
Roll call on Assembly Bill No. 480:
YEAS—39.
NAYS—Cobb, Gustavson, Hambrick—3.
Assembly Bill No. 480 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

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

Assembly in recess at 11:38 a.m.

ASSEMBLY IN SESSION

At 11:39 a.m.
Madam Speaker presiding.
Quorum present.

Assembly Bill No. 101.
Bill read third time.
Remarks by Assemblyman Hambrick.
Roll call on Assembly Bill No. 101:
YEAS—42.
NAYS—None.
Assembly Bill No. 101 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 121.
Bill read third time.
Remarks by Assemblywomen Koivisto and Smith.
Assemblymen Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN KOIVISTO:

Thank you, Madam Speaker. Assembly Bill 121 requires certain hospitals in Washoe and Clark Counties to create staffing committees responsible for drafting documented staffing plans that address the number, skill mix, and classification of licensed nurses required for each unit in the facility. Certain other health care facilities in the same counties must also make available to the Health Division documented staffing plans.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of AB 121. I just wanted to commend my colleague from District 14; this could be the bill that memorializes her efforts. This is a bill that has been worked on for probably five sessions, and it's with a great deal of effort and work that this has been accomplished in this session. It took a lot of effort from a lot of folks, and I want

to commend her and say this is really a big step forward for the people who work in those facilities.

Roll call on Assembly Bill No. 121:

YEAS—41.

NAYS—Goedhart.

Assembly Bill No. 121 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 521 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 521.

Bill read third time.

Remarks by Assemblymen Conklin, Gansert, Hardy, and Oceguera.

Potential conflict of interest declared by Assemblyman Oceguera.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. Assembly Bill 521 provides that a person employed as a firefighter for two years or more is entitled to a rebuttal presumption that disabling cancer arose out of and in the course of employment if he was exposed to a known carcinogen reasonably associated with his cancer. This measure adds four substances to the list of known carcinogens reasonably associated with certain disabling cancers of firefighters. It also requires each covered employee to submit to a physical examination upon employment and annually during his employment at the employer's expense.

Having had a member of my family pass away, who retired as a firefighter in California, from a very aggressive cancer, I just can't stress enough how important it is that we take care of the people who we rely on to protect our lives. I urge passage of this bill.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I rise in opposition to AB 521. The testimony that we had—some was compelling, but I was very concerned about the fiscal notes. Right now there are some of the different cases where you would be presumed to have gotten the cancer from exposure at five years—this was moving it to two years and also expanding it to include prostrate cancer and skin cancer and some other things. For that reason, I am in opposition to this bill.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker. I rise in support of firefighters but unfortunately am opposed to the bill as written. I have a problem with trying to legislate into statute how often we do a thyroid ultrasound and a PSA without age limits or without some fencing off of the issues. In my research I looked at particularly thyroid cancer, and I appreciated the information that I received from firefighters about the increased incidence of thyroid cancer of firefighters in Clark County.

I have not been able to corroborate, through the medical literature on thyroid cancer particularly. I think a yearly thyroid ultrasound may be an over-shoot as well as a yearly PSA,

which has its own problem, at what age if at all and how often it should been done. I will be voting against this.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. First, under Rule 23, I am employed as a professional firefighter, but this bill will not affect me any differently than any other firefighter, so I will be voting for it.

I rise in support of AB 521. I think too often in the heat of this legislative process, those of us in this Chamber get so immersed in the details of the amendments and the process and the numbers on the spreadsheets that we lose sight of the human faces we are dealing with. I think we all recognize that firefighters risk their lives every day to protect us. There are some pretty good movies and TV shows that have done a good job portraying firefighters and the jobs they do—rescuing people, comforting victims. What is not well understood is the risk they take after the fire, when they breathe toxic chemicals or it is absorbed through their skin. Even on the smallest of fires, too many firefighters are contracting forms of cancer. This bill simply says that we are going to make sure those that get cancer get taken care of.

To put a human face on that issue, we have with us today in the gallery, 16 firefighters who are battling cancer as a result of their work on our behalf. They come from all parts of this state; they live in the districts of ten of us sitting on this floor. They range in age from 31 to 59 and have between 4 years of service and 34 years of service. They have thyroid cancer, cancer of the pituitary gland, prostrate cancer, testicular cancer, kidney cancer, lymphoma cancer, and stage four brain cancer; their prognoses vary. This legislation will not affect them, but these men felt it important to be here today to make sure that the men and women that come after them have full protection of our laws to ensure that when firefighters are diagnosed with cancer as a result of an exposure on the job, they can get treatment and they can get the help they deserve.

Madam Speaker, if you will indulge me for just a moment I would like to name those folks that are in our gallery today:

Dean Fletcher, age 50, 28 years of service, papillary thyroid cancer, hails from District 13; Jayson Calhoun, age 32, 14 years of service, tumor on the pituitary, comes from District 13; Tyler Ferguson, age 31, 6 years of service, thyroid cancer, District 13; Kevin Evans, age 38, 4.5 years of service, brain cancer, District 3; Jeff Friend, age 36, 6 years of service, thyroid cancer, coming from my own district; Dave Jarvis, age 59, 29 years of service, prostate cancer, District 31; Tim Iveson, age 49, 25 years of service, prostate cancer, District 25; Jim Colombini, age 55, 30 years of service, prostate cancer, District 25; Mark Bohach, age 48, 25 years of service, thyroid cancer, District 40; Greg Johnson, age 51, 28 years of service, prostate cancer, District 39; Greg Gross, age 57, 34 years of service, testicular cancer, District 39; Aaron Crownover, age 35, 10 years of service, thyroid cancer, District 26; Shawn Gilbert, age 47, 29 years of service, kidney cancer, District 32; Lee Robles, age 53, 24 years of service, lymphomic cancer, District 24; Shawn Williams, age 46, 28 years of service, prostate cancer; and Ralph Luna, age 48, 28 years of service, prostate cancer, District 22.

Madam Speaker, I urge your support of this legislation. We have worked on this for so many years. We have finally shown that the cities and the counties are not taking care of this problem as they should. It is still a rebuttable presumption. If we do this test—the testing at the beginning which does cost a little money up front, but then we know if you have cancer when you came on the job or you don't—then the presumption can be rebutted. I urge your support.

Roll call on Assembly Bill No. 521:

YEAS—29.

NAYS—Carpenter, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

Assembly Bill No. 521 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 186.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 186:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 186 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 252 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 364 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 364.

Bill read third time.

The following amendment was proposed by Assemblymen Mastroluca, Smith, Hardy and Buckley:

Amendment No. 530.

AN ACT relating to the protection of children; making various changes to provisions governing the court-ordered admission of a child to a locked facility; requiring a court to provide a hearing to determine whether to include rights to visitation of siblings in a decree of adoption; requiring the development of policies concerning certain medication given to children with emotional disturbances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the procedure for petitioning a court to order the admission of certain children with emotional disturbances to a locked facility for treatment. (NRS 432B.607-432B.6085) **Section 1.3** of this bill clarifies that as used in those provisions, "court-ordered admission of a child" includes a child for whom a petition is filed to continue placement after an emergency admission. **Section 1.5** of this bill requires each agency which provides child welfare services to establish appropriate policies ~~[concerning the monitoring, use and distribution of]~~ **to ensure that children in the custody of the agency have timely access to clinically appropriate** psychotropic medication**.** ~~[to children who are in the custody of the agency.]~~ **Section 11** of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt consistent policies

with respect to ~~[the distribution of]~~ **access to** such medication ~~[to]~~ **by** children in division facilities.

Section 3 of this bill requires a petition for the court-ordered admission of a child with an emotional disturbance into a locked facility to be filed within 5 days after an emergency admission or the child must be released. (NRS 432B.6075) **Section 4** of this bill clarifies that the court proceeding for the court-ordered admission of a child who is alleged to be a child with an emotional disturbance must include an evidentiary hearing. (NRS 432B.6076) **Section 5** of this bill expands the manner in which a person is allowed to oppose a petition for the court-ordered admission of a child into a locked facility to include an opposition stated verbally in court. **Section 6** of this bill provides that if a court authorizes a second evaluation team to examine a child who is subject to a court-ordered admission to a locked facility, the second examination must be conducted within 5 business days by a team that is not affiliated with, employed by or otherwise connected to the facility where the child has been admitted. (NRS 432B.6078) **Section 7** of this bill requires a court to apply the same standards in considering a petition to renew a court-ordered admission of a child as were applied to the original petition. **Section 8** of this bill extends the time for developing a plan for the care, treatment and training of a child subject to a court-ordered admission to a locked facility from 5 to 10 days after the child is admitted to the facility, and removes the requirement that the plan include certain criteria which the child must satisfy before discharge.

Section 10 of this bill requires a court to conduct a hearing to determine whether to grant visitation rights to a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. **Section 10** further requires the agency which provides child welfare services to provide the court that is conducting the adoption proceedings with a copy of any existing order for visitation with a sibling of the child and allows certain interested parties to petition to participate in the determination as to whether to include visitation rights in the adoption decree.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. ***"Court-ordered admission of a child" includes, without limitation:***

1. A child who is in the custody of an agency which provides child welfare services and who is not in a facility whom the court orders to be admitted to a facility; and

2. A child who has been placed in a facility under an emergency admission and whom the court orders to be admitted for the purpose of continuing the placement.

Sec. 1.5. ***Each agency which provides child welfare services shall establish appropriate policies*** ~~*[concerning the monitoring, use and distribution of psychotropic medication to children who are in the custody of the agency.]*~~ ***to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. The policies must include, without limitation, policies concerning:***

1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

3. The concurrent use by a child of three or more classes of psychotropic medication; and

4. The concurrent use by a child of two psychotropic medications of the same class.

Sec. 2. NRS 432B.607 is hereby amended to read as follows:

432B.607 As used in NRS 432B.607 to 432B.6085, inclusive, ***and section 1.3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 432B.6071 to 432B.6074, inclusive, ***and section 1.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 432B.6075 is hereby amended to read as follows:

432B.6075 ***1.*** A proceeding for a court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility may be commenced by the filing of a petition with the clerk of the court which has jurisdiction in proceedings concerning the child. The petition may be filed by the agency which provides child welfare services without the consent of a parent of the child. The petition must be accompanied:

~~[1.]~~ ***(a)*** By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the child alleged to be a child with an emotional disturbance and has concluded that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; or

~~[2.]~~ ***(b)*** By a sworn written statement by the petitioner that:

~~[(a)]~~ ***(1)*** The petitioner has, based upon his personal observation of the child alleged to be a child with an emotional disturbance, probable cause to believe that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; and

~~[(b)]~~ ***(2)*** The child alleged to be a child with an emotional disturbance has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. If a petition filed pursuant to this section is to continue the placement of the child after an emergency admission, the petition must be

filed not later than 5 days after the emergency admission or the child must be released.

Sec. 4. NRS 432B.6076 is hereby amended to read as follows:

432B.6076 1. Except as otherwise provided in NRS 432B.6077, if the court finds, after proceedings for the court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility ~~[.]~~ ***, including, without limitation, an evidentiary hearing:***

(a) That there is not clear and convincing evidence that the child with respect to whom the hearing was held exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the child must not be admitted to a facility.

(b) That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the admission, the child is unconditionally released from the facility pursuant to NRS 432B.6084.

2. Before issuing an order for admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the child, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the child.

Sec. 5. NRS 432B.6077 is hereby amended to read as follows:

432B.6077 1. An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has petitioned the court for the court-ordered admission of the child to a facility pursuant to NRS 432B.6075.

2. If a petition for the court-ordered admission of a child filed pursuant to NRS 432B.6075 is accompanied by the information described in ***paragraph (b) of*** subsection ~~[2]~~ ***1*** of NRS 432B.6075, the court shall order a psychological evaluation of the child.

3. If a court which receives a petition filed pursuant to NRS 432B.6075 for the court-ordered admission to a facility of a child who is in the custody of an agency which provides child welfare services determines pursuant to subsection 2 of NRS 432B.6076 that the child could be treated effectively in a less restrictive appropriate environment than a facility, the court must order the placement of the child in a less restrictive appropriate environment. In making such a determination, the court may consider any information provided to the court, including, without limitation:

(a) Any information provided pursuant to subsection 4;

(b) Any suggestions of psychologists, psychiatrists or other physicians who have evaluated the child concerning the appropriate environment for the child; and

(c) Any suggestions of licensed clinical social workers or other professionals or any adult caretakers who have interacted with the child and have information concerning the appropriate environment for the child.

4. If a petition for the court-ordered admission of a child who is in the custody of an agency which provides child welfare services is filed pursuant to NRS 432B.6075:

(a) Any person, including, without limitation, the child, may oppose the petition for the court-ordered admission of the child by filing a written opposition with the court ~~[,]~~ ***or stating the opposition in court;*** and

(b) The agency which provides child welfare services must present information to the court concerning whether:

(1) A facility is the appropriate environment to provide treatment to the child; or

(2) A less restrictive appropriate environment would serve the needs of the child.

Sec. 6. NRS 432B.6078 is hereby amended to read as follows:

432B.6078 1. Not later than 5 days after a child who is in the custody of an agency which provides child welfare services has been admitted to a facility pursuant to NRS 432B.6076, the agency which provides child welfare services shall inform the child of his legal rights and the provisions of NRS 432B.607 to 432B.6085, inclusive, ***and section 1.3 of this act,*** 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and, if the child or the child's attorney desires, assist the child in requesting the court to authorize a second examination by an evaluation team that includes a physician, psychiatrist or licensed psychologist ***who are not employed by, connected to or otherwise affiliated with the facility*** other than a physician, psychiatrist or licensed psychologist who performed an original examination which authorized the court to order the admission of the child to the facility. ***A second examination must be conducted not later than 5 business days after the court authorizes the examination.***

2. If the court authorizes a second examination of the child, the examination must:

(a) Include, without limitation, an evaluation concerning whether the child should remain in the facility and a recommendation concerning the appropriate placement of the child which must be provided to the facility; and

(b) Be paid for by the governmental entity that is responsible for the agency which provides child welfare services, if such payment is not otherwise provided by the State Plan for Medicaid.

Sec. 7. NRS 432B.608 is hereby amended to read as follows:

432B.608 1. If the court issues an order for the admission to a facility of a child who is in the custody of an agency which provides child welfare services pursuant to NRS 432B.6076, the admission automatically expires at the end of 90 days if not terminated previously by the facility as provided for in subsection 2 of NRS 432B.6084.

2. At the end of the court-ordered period of treatment, the agency which provides child welfare services, the Division of Child and Family Services or any facility may petition to renew the admission of the child for additional periods not to exceed 60 days each.

3. For each renewal, the petition must set forth the specific reasons why further treatment in the facility would be in the best interests of the child ~~[.]~~ ***and the court shall apply the same standards when considering a petition to renew the admission of the child as were applied for the original petition for the court-ordered admission of the child.***

Sec. 8. NRS 432B.6081 is hereby amended to read as follows:

432B.6081 A facility which provides care, treatment or training to a child who is in the custody of an agency which provides child welfare services and who is admitted to the facility pursuant to NRS 432B.6076 shall develop a plan, in consultation with the child, for the continued care, treatment and training of the child upon discharge from the facility. The plan must:

1. Be developed not later than ~~[5]~~ ***10*** days after the child is admitted to the facility;

2. Be submitted to the court after each period of admission ordered by the court pursuant to NRS 432B.6076 in the manner set forth in NRS 432B.608; and

3. Include, without limitation:

(a) The anticipated date of discharge of the child from the facility;

(b) ~~[The criteria which must be satisfied before the child is discharged from the facility, as determined by the medical professional responsible for the care, treatment and training of the child in the facility;~~

~~(c)]~~ The name of any psychiatrist or psychologist who will provide care, treatment or training to the child after the child is discharged from the facility, if appropriate;

~~[(d)]~~ ***(c)*** A plan for any appropriate care, treatment or training for the child for at least 30 days after the child is discharged from the facility; and

~~[(e)]~~ ***(d)*** The suggested placement of the child after the child is discharged from the facility.

Sec. 9. (Deleted by amendment.)

Sec. 10. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to

NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.

2. Any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency may petition the court to participate in the determination of whether to include an order of visitation with a sibling in the decree of adoption.

3. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child.

Sec. 11. NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children. The Commission must approve the credentials, training and experience of deputy administrators and administrative officers appointed for this purpose.

(c) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

(d) ~~[Ensure that]~~ Establish appropriate policies ~~[are established concerning the prescribing, monitoring, use and distribution of psychotropic medication]~~ to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the policies established pursuant to section 1.5 of this act.

2. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Governor.

3. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

4. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

Sec. 12. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 335.
Bill read third time.
Remarks by Assemblyman Anderson.
Roll call on Assembly Bill No. 335:
YEAS—40.
NAYS—Leslie.
EXCUSED—Parnell.
Assembly Bill No. 335 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 352.
Bill read third time.
Remarks by Assemblymen Mortenson and Segerblom.
Roll call on Assembly Bill No. 352:
YEAS—37.
NAYS—Cobb, Gustavson, Hambrick, McArthur—4.
EXCUSED—Parnell.
Assembly Bill No. 352 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 380.
Bill read third time.
Remarks by Assemblyman Hambrick.
Roll call on Assembly Bill No. 380:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 380 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 388.
Bill read third time.
Remarks by Assemblyman Anderson.
Roll call on Assembly Bill No. 388:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 388 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 402.
Bill read third time.
Remarks by Assemblymen Bobzien and Denis.

Potential conflict of interest declared by Assemblyman Denis.

Roll call on Assembly Bill No. 402:

YEAS—33.

NAYS—Christensen, Cobb, Gansert, Goicoechea, Gustavson, Hambrick, Hardy, Settelmeyer—8.

EXCUSED—Parnell.

Assembly Bill No. 402 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 430 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 441.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 441:

YEAS—40.

NAYS—Stewart.

EXCUSED—Parnell.

Assembly Bill No. 441 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 476.

Bill read third time.

Roll call on Assembly Bill No. 476:

YEAS—40.

NAYS—Hardy.

EXCUSED—Parnell.

Assembly Bill No. 476 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 495.

Bill read third time.

Remarks by Assemblymen Segerblom, Cobb, Horne, Anderson, Hardy, Leslie, Settelmeyer, Oceguera, and Stewart.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Speaker. Assembly Bill 495 addresses the limited instances when there's gross negligence in medical malpractice. Currently, there's a $350,000 cap on all malpractice awards. This exempts that for gross malpractice, which is for very exceptional cases. It also extends the statute of limitations for malpractice from three years after the date of injury to four years or from one year after the discovery to two years after its discovery. This addresses the

issues that arose in southern Nevada where really abusive conduct took place and there was no remedy for the injured victims. Thank you.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition of Assembly Bill 495. This boils down to two, separate issues. One is the issue of punishment versus proper recovery. There was not a single person on the Judiciary Committee, who considered this bill, who did not believe that people should be properly compensated for medical malpractice. The problem is that we already have full recovery for economic damages. The reason why we put in place the cap on noneconomic damages—the movement behind it—was so that we could keep our doctors here in Nevada, which was the name of the movement. The concept is that you are going to try to punish bad doctors by having their insurance companies pay higher noneconomic damages. However, you are going to end up casting too wide of a net, and you are going to take in all the good doctors as well. What's going to happen is that insurance premiums are going to increase, as we saw in the past. The good doctors are going to start getting priced out of our market, as well. Of course, we are going to pass that cost along to average Nevadans who are going to have less access to health care. I do not think this is the proper way to punish bad doctors, by including all the good doctors in there as well. I think that this is going to cause problems for our healthcare system here in Nevada. I urge a "no" vote. Thank you.

ASSEMBLYMAN HORNE:

Thank you, Madam Speaker. I rise in support of Assembly Bill 495. Currently under our law, we have bad doctors that are protected by our existing law. I do not think anyone had that intention in mind when we passed previous legislation. I want to read to you. When we talk about gross negligence, we mean: "A conscious indifference to the consequences which may result from gross negligence and a disregard for and indifference to safety and welfare to the patient." This standard that a doctor has to reach is enormous. This doctor is completely and totally not paying attention, not having his patient's welfare at hand when he achieves this. Right now, we have doctors who are protected by our law, and they shouldn't be. During the committee hearing, we heard people say, "Well we should prosecute them criminally." I do not disagree with that. But should our laws also protect the criminals from doing this? I do not think so. I do not think that's what anyone had in mind.

I remember the time when doctors were difficult to find. That is when my wife and I had to drive from Summerlin all the way out to Henderson to have my son Henry delivered. That is where we found the doctor we chose. I get it. But I believe that sometimes when you pass legislation for protection, sometimes it gets too stifling and it has an effect that was not intended. This is that case. Now we have legislation and laws in place where we can have bad doctors come in, operate, perform, do absolutely horrible things, and not receive any punishment for that. Now, you have to ask yourself if the standard I read to you is typical of our doctors in the State of Nevada. I don't think it is. I do not think anyone believes it is. I believe that a jury, when presented with these types of facts, is smart enough to know what gross negligence is and what it isn't. Everyone was talking about how 60 percent of the voters approved of these restrictions and this cap. However, what doesn't make sense is that they appreciate the 60 percent of the voters saying this but yet they do not trust a jury to understand what gross negligence is. I think we can trust the jury to know what gross negligence is, and they will do the right thing. This is a good bill, and I urge your support.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I believe that the preceding speaker took care of most of the points I was going to raise. However, I think it is important for us to recognize, when we are talking about gross negligence, that we are talking about the absolute indifference to the normal practices established within the medical groups. That is what happened in southern Nevada. I think there were two big questions that came in front of us in the last couple of sessions relative to this issue. One is the huge cost of insurance for doctors to cover themselves. One would have expected then, having seen the initiative pass, that there would have been a dramatic decline in rates and a greater number of insurance offerings. That is not true. It came only because doctors reformulated themselves, along with the insurance companies, to take care of their problems.

That is the reason why there were additional carriers in this area. Have we seen a huge decline in their rates? No. In fact, if anything, for those outside of the Clark County area, their rates actually went up to the same level. So there was one rate throughout the state where before there was a divided rate. It has not helped all the doctors as anticipated. The reality is that the patient who is harmed by a physician, where the physician knows what he is doing and chooses to make a profit rather than look out for the best interests of his patient—that is what we are looking for. With this bill, we also extend the statute of limitations, which I think makes it a very important part of the opportunity, recognizing the insidious nature of some of these health problems, to be diagnosed later on and just giving the people of the State of Nevada the opportunity to make sure if they cannot be returned to full health, at least there is an opportunity for their families in some way to be compensated.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker. When we look at the criminal courts and the regulatory boards that should be involved with the punishing of bad doctors, I think there's a difference between that process and the process of casting that wider net, as my colleague from the north was talking about. When we look at the critical access to care, we have a challenge of getting enough doctors in Nevada. If we allow the good doctors to not apply to come to Nevada, then we decrease the level of our care. So we have other things that we are trying to do in order to be able to assure we have quality care in Nevada. I do not think that this will actually do anything for increasing the quality of care as much as we need to go through the appropriate regulations, the appropriate statutes, whether they are civil or criminal. I do not think this gets there. I think it would be detrimental to the access of care. Thank you, Madam Speaker.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of Assembly Bill 495. While I agree with my colleague from Boulder City that we need access to health care, I believe we also need access to justice when someone has been harmed by a medical error. During the past interim, as the chair of the Legislative Committee on Health Care, we were deeply enmeshed in the hepatitis C tragedy in Las Vegas. Many people contracted that disease by the direct bad action of a doctor. We had victims come and testify before our committee and tell us how they were not only harmed medically, but now, because of this law, the existing law, they had no access to justice. We have to fix that. I think this bill is a reasonable alternative, I think the committee did a great job settling on gross negligence, and I think it's an appropriate bill. I urge your support.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. I rise to oppose Assembly Bill 495. On Friday I was sitting here watching the screen, and for some reason the screen started to spin. I ended up going down to the ER, and what I had was an inner ear infection that gave me vertigo really bad. It was interesting because all the doctors just wanted to talk about how this bill will adversely affect them. What they are saying is that at a time when they are trying to increase access to health care, we bring this bill forward. In that respect, I will be voting no against this bill because of what those doctors said and also because I will stand behind my voters, who voted 2 to 1 for the Keep Our Doctors in Nevada initiative. Thank you.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. I rise in support of Assembly Bill 495. For those of you who were here in 2003, you remember this battle on medical malpractice, and it was one that was hard fought, if you will. There were tears from both sides, and there were compelling arguments from both sides. But the standard that we agreed on in that session—and the standard that I think all sides agreed on—was the gross negligence standard. I don't think that standard makes a bigger net; it makes a smaller net. It's only those doctors who are the bad doctors who are affected by that. Between the time we had that special session in 2002 and the time the initiative was passed, insurance companies were coming back to Nevada. The rates were going down. And then the initiative petition occurred. Those folks, with the initiative petition, basically are having complete immunity. They have $350,000, no matter what they do. It just doesn't make sense to me. Also, on the statute of limitations question with the hepatitis C situation in

Las Vegas that my colleague talked about, they're up against their statute of limitations right now. So that's still fresh in your mind. That is still happening. Some people are still just finding out, but the statute of limitations is up and they're basically out of luck. Those are the reasons I rise in support of this, Madam Speaker, and I urge your support.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I have a number of doctors in my district saying they are going to have to go to Bullhead City to practice medicine if this goes into effect. Thank you. I will be voting no.

Roll call on Assembly Bill No. 495:

YEAS—26.

NAYS—Arberry, Carpenter, Christensen, Cobb, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Munford, Settelmeyer, Stewart, Woodbury—15.

EXCUSED—Parnell.

Assembly Bill No. 495 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bill No. 502 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Senate Bills Nos. 65 and 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 140, 144, 176 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which were referred Assembly Bills Nos. 81, 325, 474, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 179, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 489, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 350, 361, 471, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 290, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 135, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 81, 135, 140, 144, 176, 179, 290, 325, 350, 361, 471, 474, and 489 just reported out of committee, be placed on the Second Reading File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 541—AN ACT relating to taxation; imposing an additional tax on the gross receipts from the rental of transient lodging in certain counties; providing for the use of the proceeds; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 73.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 132.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 137.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 183.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 186.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 229.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 239.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 261.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 278.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 290.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 305.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 312.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 338.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 340.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 343.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 353.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 372.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 377.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 383.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 6.

Bill read second time.

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

Amendment No. 523.

AN ACT relating to mental health; ~~[requiring the immediate]~~ **authorizing the** release of certain persons admitted to mental health facilities or hospitals under the procedures for emergency admission; revising provisions relating to the process for emergency admissions of persons alleged to be persons with mental illness to certain mental health facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes the procedures for emergency admission to a mental health facility or hospital. (NRS 433A.145, 433A.150, 433A.160) Under existing law, a person with mental illness who voluntarily admits himself and whose status is changed to an emergency admission must not be detained more than 48 hours after the change in status is made. (NRS 433A.145) Under existing law, a person who is alleged to be a person with mental illness must be released within 72 hours after an emergency admission. (NRS 433A.150) **Sections 3 and 4 of this bill provide that a facility may continue to detain a person if a petition is filed by the end of**

the business day on which the 48 hours or 72 hours, whichever is applicable, expires. Sections 1, 3 and 4 of this bill ~~[require the immediate]~~ **authorize the** release of a person who is admitted under an emergency admission if ~~[the administrative officer]~~ **a licensed physician on the medical staff** of the mental health facility or hospital ~~[receives a certificate signed by a psychiatrist, licensed psychologist, licensed physician, licensed clinical social worker or a registered nurse with certain qualifications]~~ **signs a certificate** stating that the ~~[professional]~~ **physician** has examined the person and that the person ~~[should be released.]~~ **is not a person with mental illness.**

Section 5 of this bill changes the time before which a person alleged to be a person with a mental illness must be examined by one of certain enumerated medical professionals from before the person may be transported to before the person may be admitted to a public or private mental health facility under an emergency admission. **Section 5 also requires a petition to be filed with a district court if a person with a mental illness must be held for more than 72 hours for the treatment of a medical condition, other than a psychiatric illness, before being admitted to a mental health facility. (NRS 433A.165)**

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

Section 1. Chapter 433A of NRS is hereby amended by adding thereto a new section to read as follows:

~~[The administrative officer]~~ A licensed physician on the medical staff of a facility operated by the Division or of any other public or private mental health facility or hospital ~~[shall]~~ may release a person admitted pursuant to NRS 433A.160 upon ~~[receipt]~~ completion of a certificate which meets the requirements of NRS 433A.180 signed by a ~~[psychiatrist, licensed psychologist,]~~ licensed physician ~~[, clinical social worker licensed pursuant to chapter 641B of NRS or registered nurse who holds a master's degree or doctoral degree in the field of psychiatric nursing]~~ on the medical staff of the facility or hospital stating that he has personally observed and examined the person and that he has concluded that the person ~~[should be released from that facility or hospital.]~~ is not a person with a mental illness.

Sec. 2. NRS 433A.115 is hereby amended to read as follows:

433A.115 1. As used in NRS 433A.115 to 433A.330, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, "person with mental illness" means any person whose capacity to exercise self-control, judgment and discretion in the conduct of his affairs and social relations or to care for his personal needs is diminished, as a result of a mental illness, to the extent that he presents a clear and present danger of harm to himself or others, but does not include any person in whom that capacity is diminished by epilepsy, mental retardation, ~~[Alzheimer's disease,]~~ ***dementia, delirium,*** brief periods of intoxication caused by alcohol or drugs, or dependence upon

or addiction to alcohol or drugs, unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

2. A person presents a clear and present danger of harm to himself if, within the ~~[next]~~ ***immediately*** preceding 30 days, he has, as a result of a mental illness:

(a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, he will be unable to satisfy his need for nourishment, personal or medical care, shelter, self-protection or safety, and if there exists a reasonable probability that his death, serious bodily injury or physical debilitation will occur within the next following 30 days unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, ***and section 1 of this act*** and adequate treatment is provided to him;

(b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide, and if there exists a reasonable probability that he will commit suicide unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, ***and section 1 of this act*** and adequate treatment is provided to him; or

(c) Mutilated himself, attempted or threatened to mutilate himself or committed acts in furtherance of a threat to mutilate himself, and if there exists a reasonable probability that he will mutilate himself unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, ***and section 1 of this act*** and adequate treatment is provided to him.

3. A person presents a clear and present danger of harm to others if, within the ~~[next]~~ ***immediately*** preceding 30 days, he has, as a result of a mental illness, inflicted or attempted to inflict serious bodily harm on any other person, or made threats to inflict harm and committed acts in furtherance of those threats, and if there exists a reasonable probability that he will do so again unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, ***and section 1 of this act*** and adequate treatment is provided to him.

Sec. 3. NRS 433A.145 is hereby amended to read as follows:

433A.145 1. If a person with mental illness is admitted to a public or private mental health facility or hospital as a voluntary client, the facility or hospital shall not change the status of the person to an emergency admission unless the hospital or facility receives, before the change in status is made, an application for an emergency admission pursuant to NRS 433A.160 and the certificate of a psychiatrist, psychologist or physician pursuant to NRS 433A.170.

2. A person whose status is changed pursuant to subsection 1 must not ~~[:~~ ~~*(a) Not]*~~ be detained in excess of 48 hours after the change in status is made, unless ~~[within that period]~~ ***, before the close of the business day on***

which the 48 hours expires, a written petition is filed with the clerk of the district court pursuant to NRS 433A.200.

~~*[(b) Be released immediately upon receipt by the administrative officer of the mental health facility or hospital of a certificate pursuant to section 1 of this act.]*~~

3. If the period specified in ~~*[paragraph (a) of]*~~ subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

Sec. 4. NRS 433A.150 is hereby amended to read as follows:

433A.150 1. Any person alleged to be a person with mental illness may, upon application pursuant to NRS 433A.160 and subject to the provisions of subsection 2, be detained in a public or private mental health facility or hospital under an emergency admission for evaluation, observation and treatment.

2. Except as otherwise provided in subsection 3, a person detained pursuant to subsection 1 must be released within ~~*[:*~~

~~*(a) Within]*~~ 72 hours, including weekends and holidays, after the ***certificate required pursuant to NRS 433A.170 and the*** examination required by paragraph (a) of subsection 1 of NRS 433A.165 ~~[has]~~ ***have*** been completed, if such an examination is required, or within 72 hours, including weekends and holidays, after the person arrives at the mental health facility or hospital, if an examination is not required by paragraph (a) of subsection 1 of NRS 433A.165, unless ~~[within that period]~~ ***, before the close of the business day on which the 72 hours expires,*** a written petition for an involuntary court-ordered admission is filed with the clerk of the district court pursuant to NRS 433A.200, including, without limitation, the documents required pursuant to NRS 433A.210, or the status of the person is changed to a voluntary admission . ~~*[; or*~~

~~*(b) Immediately upon receipt by the administrative officer of the mental health facility or hospital of a certificate pursuant to section 1 of this act unless the status of the person is changed to a voluntary admission.]*~~

3. If the period specified in ~~*[paragraph (a) of]*~~ subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

Sec. 5. NRS 433A.165 is hereby amended to read as follows:

433A.165 1. Before a person alleged to be a person with mental illness may be ~~[transported]~~ ***admitted*** to a public or private mental health facility pursuant to NRS 433A.160, the person must:

(a) First be examined by a licensed physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS or an advanced practitioner of nursing ***at any location where such a physician, physician assistant or advanced practitioner of nursing is authorized to conduct such an***

examination to determine whether the person has a medical problem, other than a psychiatric problem, which requires immediate treatment; and

(b) If such treatment is required, be admitted for the appropriate medical care:

(1) To a hospital if the person is in need of emergency services or care; or

(2) To another appropriate medical facility if the person is not in need of emergency services or care.

2. ***If a person with a mental illness has a medical problem in addition to a psychiatric problem which requires medical treatment that requires more than 72 hours to complete, the licensed physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS or an advanced practitioner of nursing who examined the person must:***

(a) On the first business day after determining that such medical treatment is necessary file with the clerk of the district court a written petition to admit the person to a public or private mental health facility pursuant to NRS 433A.160 after the medical treatment has been completed. The petition must:

(1) Include, without limitation, the medical condition of the person and the purpose for continuing the medical treatment of the person; and

(2) Be accompanied by a copy of the application for the emergency admission of the person required pursuant to NRS 433A.160 and the certificate required pursuant to NRS 433A.170.

(b) Seven days after filing a petition pursuant to paragraph (a) and every 7 days thereafter, file with the clerk of the district court an update on the medical condition and treatment of the person.

3. The examination and any transfer of the person from a facility when the person has an emergency medical condition and has not been stabilized must be conducted in compliance with:

(a) The requirements of 42 U.S.C. § 1395dd and any regulations adopted pursuant thereto, and must involve a person authorized pursuant to federal law to conduct such an examination or certify such a transfer; and

(b) The provisions of NRS 439B.410.

~~[3.]~~ ***4.*** The cost of the examination must be paid by the county in which the person alleged to be a person with mental illness resides if services are provided at a county hospital located in that county or a hospital or other medical facility designated by that county, unless the cost is voluntarily paid by the person alleged to be a person with mental illness or, on his behalf, by his insurer or by a state or federal program of medical assistance.

~~[4.]~~ ***5.*** The county may recover all or any part of the expenses paid by it, in a civil action against:

(a) The person whose expenses were paid;

(b) The estate of that person; or

(c) A responsible relative as prescribed in NRS 433A.610, to the extent that financial ability is found to exist.

~~[5.]~~ ***6.*** The cost of treatment, including hospitalization, for ~~[an]~~ ***a person who is*** indigent must be paid pursuant to NRS 428.010 by the county in which the person alleged to be a person with mental illness resides.

~~[6.]~~ ***7. The provisions of this section do not require the Division to provide examinations required pursuant to subsection 1 at a Division facility if the Division does not have the:***

(a) Appropriate staffing levels of physicians, physician assistants, advanced practitioners of nursing or other appropriate staff available at the facility as the Division determines is necessary to provide such examinations; or

(b) Appropriate medical laboratories as the Division determines is necessary to provide such examinations.

8. The Division shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations that:

(a) Define "emergency services or care" as that term is used in this section; and

(b) Prescribe the type of medical facility that a person may be admitted to pursuant to subparagraph (2) of paragraph (b) of subsection 1.

~~[7.]~~ ***9.*** As used in this section, "medical facility" has the meaning ascribed to it in NRS 449.0151.

Sec. 6. NRS 433A.180 is hereby amended to read as follows:

433A.180 ~~[No]~~

1. An application or certificate authorized under ***subsection 1 of*** NRS 433A.160 or ***NRS*** 433A.170 ~~[may]~~ ***or section 1 of this act must not*** be considered if made by a psychiatrist, psychologist ~~*[, marriage and family therapist, social worker, registered nurse]*~~ or physician who is related by blood or marriage ***within the first degree of consanguinity or affinity*** to the person alleged to be a person with mental illness, or who is financially interested in the facility in which the person alleged to be a person with mental illness is to be detained. ~~[No]~~

2. An application or certificate of any examining person authorized under NRS 433A.170 ~~[may]~~ ***must not*** be considered unless it is based on personal observation and examination of the person alleged to be a person with mental illness made by such examining person not more than 72 hours prior to the making of the application or certificate. The certificate ~~[shall]~~ ***required pursuant to NRS 433A.170 must*** set forth in detail the facts and reasons on which the examining person based his opinions and conclusions.

3. A certificate authorized pursuant to section 1 of this act must not be considered unless it is based on personal observation and examination of the person alleged to be a person with mental illness made by ~~*[such examining person.]*~~ ***the examining physician. The certificate authorized pursuant to section 1 of this act must set forth in detail the facts and reasons on which the examining*** ~~*[person]*~~ ***physician based his opinions and conclusions.***

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 40.

Bill read second time.

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

Amendment No. 126.

AN ACT relating to school facilities; revising provisions governing the review and approval of plans for the construction or alteration of school buildings in certain school districts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill removes the requirement that a school district in a county whose population is 400,000 or more (currently Clark County) submit plans, designs and specifications **for new school buildings and facilities and for additions and alterations** to the State Public Works Board and requires such a school district to ~~[obtain the review and approval of the county building department or other appropriate local building department in the county in the same manner as all other counties.]~~ **establish a building department for the school district.**

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

Section 1. NRS 393.110 is hereby amended to read as follows:

393.110 1. Each school district shall, in the design, construction and alteration of school buildings and facilities, comply with the applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if a school district complies solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

2. In a ~~*[each]*~~ county ~~*[:]*~~ whose population is 400,000 or more:

(a) ~~[Except as otherwise provided in paragraph (c), unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building, the board of trustees of the county school district shall submit the plans, designs and specifications to, and obtain the written approval of the plans, designs and specifications by, the State Public Works Board. The State Public Works Board shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public~~

~~Works Board is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works Board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.~~**]** ***The board of trustees of the school district shall establish a building department for the school district.***

(b) **[**~~Except as otherwise provided in paragraph (c), before letting any contract or contracts for any addition to or alteration of an existing school building which involves structural systems, or exiting, sanitary or fire protection facilities, the board of trustees of the county school district shall submit the plans, designs and specifications to, and obtain the written approval of the plans, designs and specifications by, the State Public Works Board. The State Public Works Board shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public Works Board is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works Board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.~~**]** ***Except as otherwise provided in NRS 477.030, the board of trustees of the school district shall regulate all matters relating to the construction, maintenance and safety of buildings, facilities, structures and property of the school district.***

(c) **[**~~The State Public Works Board may enter into an agreement with the appropriate building department of a county or city to review plans, designs and specifications of a school district pursuant to paragraph (a) or (b). If the State Public Works Board enters into such an agreement, the board of trustees of the school district shall submit a copy of its plans, designs and specifications for any project to which paragraph (a) or (b) applies to the building department before commencement of the project for the approval of that building department. The building department shall review the plans, designs and specifications and provide responsive comment as expeditiously as practicable. The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a building department pursuant to this paragraph. A building department that has entered into an agreement pursuant to this paragraph is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for the review conducted pursuant to this paragraph.~~**]** ***Except as otherwise provided in NRS 477.030, the board of trustees of the school district shall adopt any building, electrical or safety codes as necessary to carry out the provisions of this subsection.***

(d) The board of trustees of the school district shall ensure that the building department established by the board of trustees reviews the plans,

designs and specifications for the erection of new school buildings and for the addition to or alteration of existing school buildings and facilities.

(e) The building department established by the board of trustees shall, in accordance with subsection 4, conduct a review of plans, designs and specifications for the erection of new school buildings and for the addition to or alteration of existing school buildings and facilities.

(f) The provisions of NRS 278.585 do not apply to the school district in its regulation of buildings, facilities, structures and property of the school district.

3. In a county whose population is less than 400,000:

(a) Except as otherwise provided in paragraph (b), unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building or for any addition to or alteration of an existing school building, the board of trustees of the county school district shall submit the plans, designs and specifications to, and obtain written approval of the plans, designs and specifications by, the building department of the county or ~~[another]~~ ***other appropriate*** local building department in the county, ~~[as applicable,]~~ and all other local agencies or departments whose approval is necessary for the issuance of the appropriate permit. The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a building department pursuant to this paragraph.

(b) If there is no county building department or other ***appropriate*** local building department in the county in which the school district is located, the board of trustees of the school district shall enter into an agreement with the State Public Works Board, a private certificate holder or a local building department in another county to obtain the required reviews of the plans, designs and specifications and to have the required inspections conducted. The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a private certificate holder or ~~[local]~~ building department pursuant to this paragraph.

(c) A permit for construction must be issued before the school district commences construction.

(d) The county building department or other ***appropriate*** local building department, the State Public Works Board or the private certificate holder, as applicable, shall conduct inspections of all work to determine compliance with the approved plans, designs and specifications. An inspection of the work by the State Fire Marshal is not required if the work is inspected by the private certificate holder or ~~[local]~~ building department.

(e) A department, agency, private certificate holder or the State Public Works Board is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for:

(1) Review of the plans, designs or specifications as required by this subsection; or

(2) The inspections conducted pursuant to this subsection.

4. *[3.]* In conducting reviews pursuant to this section, the State Public Works Board, building department or private certificate holder, as applicable, shall verify that the plans, designs and specifications comply with:

(a) The applicable requirements of the relevant codes adopted by this State, including, without limitation, the applicable requirements of any relevant codes and regulations adopted by the State Fire Marshal;

(b) The applicable requirements of the relevant codes adopted by the local authority having jurisdiction; and

(c) All applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., ~~[inclusive,]~~ and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

5. *[4.]* No contract for any of the purposes specified in this section made by a board of trustees of a school district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to or altering any school building in contravention of this section.

6. *[5.]* As used in this section, "private certificate holder" means a person who, as applicable, holds a valid certification issued by the International Code Council or its successor:

(a) To review plans, designs and specifications for the erection of, addition to or alteration of a school building;

(b) To inspect work to ensure that the erection of, addition to or alteration of a school building is carried out in conformance with the relevant plans, designs and specifications; or

(c) To perform the activities described in paragraphs (a) and (b).

Sec. 2. **NRS 278.585 is hereby amended to read as follows:**

278.585 ~~[All]~~ ***Except as otherwise provided in NRS 393.110, all*** persons and political subdivisions shall comply with the appropriate city or county building code.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 74.

Bill read second time.

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

Amendment No. 43.

SUMMARY—Revises provisions concerning ~~[the presentation of a]~~ **tentative maps and** final ~~[map]~~ **maps** of certain subdivisions of land. (BDR 22-472)

AN ACT relating to land use planning; revising provisions ~~[governing the presentation of a]~~ **concerning tentative maps and** final ~~[map]~~ **maps** of certain subdivisions of land; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes certain requirements for the proposed dividing of land into five or more units for the purpose of transfer or development, unless otherwise exempted. (NRS 278.320-278.460) **The initial action in the process of dividing such land is the submission of a tentative map of the proposed subdivision, and the concluding action is the recordation of an approved final map. (NRS 278.330, 278.460) Existing law establishes deadlines for the appropriate planning authority and various other affected governmental entities to act or report on such a tentative or final map. A subdivider and the appropriate planning authority can agree to extend those deadlines. (NRS 278.350) Section 1 of this act provides that if a subdivider enters into such an agreement covering a portion of an approved tentative map, no requirements other than those imposed on each of the final maps in a series of final maps may be placed on a map when the agreement is entered into, unless the requirement is directly attributable to a change in applicable laws which affect the public health, safety or welfare.**

Under existing law, a subdivider whose tentative map of ~~[such]~~ a proposed subdivision has been approved by the appropriate planning authority is required to present a final map covering the entire subdivision or the first of a series of successive final maps covering portions of the subdivision within 2 years after the approval of his tentative map, with certain exceptions, or proceedings concerning the subdivision are terminated. (NRS 278.360) ~~[This]~~ **Section 2 of this** bill extends the deadline for submission of either type of final map to 4 years after approval of the tentative map. ~~[As an alternative to this 4-year period, this bill also authorizes a city or county to adopt an ordinance which requires the planning authority to establish the period for submission of such a final map for each subdivision for which a tentative map has been approved. Such a period is required to be established based on consideration of specific criteria set forth in the ordinance relating to the public health, safety and welfare and may not be less than 2 years or more than 4 years after approval of the subdivider's tentative map.]~~

Under existing law, if a subdivider is presenting a series of final maps, each successive map is required to be presented within 1 year after the previous final map in the series was recorded, unless the planning authority grants an extension of not more than 1 additional year. The planning authority is prohibited from imposing any additional requirements on a successive map for which an extension is granted unless the requirement is

directly attributable to a change in the applicable laws which affect the public health, safety or welfare. (NRS 278.360) ~~[This bill]~~ **Section 2** extends the deadline for the presentation of a successive final map to 2 years after recordation of the previous final map in the series and extends the period for which an extension of that deadline may be granted to 2 additional years. ~~[This bill also clarifies that a change in a local ordinance which affects the public health, safety or welfare allows a planning authority, in the course of granting an extension, to impose an additional requirement on a final map in a series of final maps.]~~

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

Section 1. **NRS 278.350 is hereby amended to read as follows:**

278.350 Unless a longer time is provided in an agreement entered into pursuant to NRS 278.0201:

1. The time limit for acting and reporting on a tentative or final map may be extended by mutual consent of the subdivider and the governing body or planning commission, as the case may be.

2. If no action is taken within the time limits set forth in NRS 278.010 to 278.630, inclusive, a tentative map as filed shall be deemed to be approved, and the clerk of the governing body, or the planning commission if it has been authorized to take final action, shall certify the map as approved.

3. The time limits set forth in NRS 278.010 to 278.630, inclusive, for tentative and final maps are suspended for a period, not to exceed 1 year, during which this State or the Federal Government takes any action to protect the environment or an endangered species which prohibits, stops or delays the processing of a tentative map or the development, processing or recordation of a final map.

4. If the subdivider enters into an agreement pursuant to subsection 1 covering a portion of an approved tentative map, no requirements other than those imposed on each of the final maps in a series of final maps may be placed on a map when the agreement is entered into unless the requirement is directly attributable to a change in applicable laws which affects the public health, safety or welfare.

~~[Section 1.]~~ ***Sec. 2.*** NRS 278.360 is hereby amended to read as follows:

278.360 1. Unless a longer time is provided in an agreement entered into pursuant to NRS 278.0201 ~~[,]~~ ***or 278.350:***

(a) Unless the time is extended , ~~[or a different period is established pursuant to subsection 2,]~~ the subdivider shall present to the governing body, or the planning commission or the director of planning or other authorized person or agency if authorized to take final action by the governing body, within ~~[2]~~ ***4*** years after the approval of a tentative map:

(1) A final map, prepared in accordance with the tentative map, for the entire area for which a tentative map has been approved; or

(2) The first of a series of final maps covering a portion of the approved tentative map. If the subdivider elects to present a successive map in a series of final maps, each covering a portion of the approved tentative map, the subdivider shall present to the governing body, or the planning commission or the director of planning or other authorized person or agency if authorized to take final action by the governing body, on or before the ***second*** anniversary of the date on which the subdivider recorded the first in the series of final maps:

(I) A final map, prepared in accordance with the tentative map, for the entire area for which the tentative map has been approved; or

(II) The next final map in the series of final maps covering a portion of the approved tentative map.

(b) If the subdivider fails to comply with the provisions of paragraph (a), all proceedings concerning the subdivision are terminated.

(c) The governing body or planning commission may grant an extension of not more than ~~[~~1 year~~]~~ ***2 years*** for the presentation of any final map after the ~~[~~1 year~~]~~ ***2-year*** period for presenting a successive final map has expired.

2. ~~*[A governing body may adopt an ordinance that requires the governing body, or the planning commission or the director of planning or other authorized person or agency if authorized to take final action by the governing body, to establish the period within which each subdivider whose tentative map has been approved must comply with the provisions of paragraph (a) of subsection 1. Each such period:*~~

~~*(a) Must be established based on consideration of criteria prescribed in the ordinance relating to the protection of the public health, safety and welfare.*~~

~~*(b) May not be less than 2 years or more than 4 years after the approval of the subdivider's tentative map.*~~

~~*3.]*~~ If the subdivider is presenting in a timely manner a series of final maps, each covering a portion of the approved tentative map, no requirements other than those imposed on each of the final maps in the series may be placed on the map when an extension of time is granted unless the requirement is directly attributable to a change in applicable laws ~~*[, including, without limitation, local ordinances,]*~~ which affect the public health, safety or welfare.

~~**[Sec. 2.]**~~ ***Sec. 3.*** **1.** This act becomes effective upon passage and approval.

2. Section 2 of this act expires by limitation on June 30, 2013.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 84.

Bill read second time.

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

Amendment No. 430.

AN ACT relating to unemployment compensation; ~~[establishing]~~ **revising** provisions for the collection of benefits required to be repaid to the Employment Security Division of the Department of Employment, Training and Rehabilitation; establishing a penalty for fraudulently obtaining unemployment benefits under certain circumstances; revising provisions relating to the authorized use of money in the Employment Security Fund by the Administrator of the Division; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 2-8 of this bill establish provisions for the repayment and collection of unemployment compensation benefits that were fraudulently obtained. Section 2 requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to mail a notice to a person's employer to inform the employer of his duties to withhold the person's income under certain circumstances. Section 3 requires the Administrator to mail a notice to the person who is subject to the withholding of income for the repayment of benefits. Section 4 establishes an employer's duties to withhold income upon receipt of a notice to withhold income that is issued by the Administrator. Section 5 provides that a notice to withhold income which is sent to an employer is binding upon that employer and authorizes the employer to deduct $3 from the amount paid to the employee each time a withholding is made as reimbursement for any costs associated with making the withholding. Section 6 provides that the Administrator may apply for and the court may issue an order directing an employer to appear and show cause why he should not be subject to a penalty if the employer refuses to make withholdings after receipt of a notice to withhold. Section 7 prohibits an employer from wrongfully refusing to make required withholdings, from knowingly misrepresenting the income of the employee whose income is subject to the withholding or from discharging, disciplining or refusing to hire an employee due to the requirement to withhold that employee's income, and provides penalties for such violations. Section 8 establishes, for an employer, immunity from any civil action for any conduct taken in compliance with a notice to withhold income.]~~

Section 8.5 of this bill authorizes the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to assess against a person who is overpaid benefits certain administrative fees prescribed by an agency of the United States. Section 9 of this bill revises existing law by providing that certain fraudulent activity conducted by a person in order to obtain or increase any unemployment benefit or payment, including the filing of a claim while incarcerated without expressly disclosing that the person is incarcerated, constitutes unemployment insurance fraud. **Section 9** also

requires a person who commits unemployment insurance fraud to repay to the Administrator all of the benefits received by that person, in addition to any interest, penalties and ~~[assessments.]~~ **costs.** **Section 9** further provides that a person is disqualified from receiving unemployment compensation benefits for a specified period, but authorizes the Administrator to waive the period of disqualification **for good cause shown or** if the person adheres to a repayment schedule. Additionally, **section 9** provides that a person who obtains benefits of $250 or more while committing unemployment insurance fraud shall be punished in the same manner as if he committed theft. **Section 9** also provides that the repayment of such benefits may not be done by the withholding of benefits otherwise due and payable to the person unless the period of disqualification is waived by the Administrator. Finally, **section 9** authorizes the Administrator to impose a ~~[fine]~~ **penalty** equal to not more than **25 or** 50 percent of the total amount of benefits improperly obtained by a person ~~.[.]~~ **, depending on the amount improperly obtained by the person.** (NRS 612.445)

Section 10 of this bill revises existing law by authorizing the Administrator to use money from the Employment Security Fund for the payment of costs of any program or the implementation of procedures for the proper payment of benefits and the collection of contributions and reimbursements. (NRS 612.615)

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

Section 1. ~~[Chapter 612 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[*1. The Administrator shall mail, by first class mail, a notice to withhold income to the employer of a person required to pay money to the Administrator upon:*~~

~~*(a) The filing of a certificate pursuant to NRS 612.630 which relates to the person; or*~~

~~*(b) Entry of a judgment of conviction of the person for a violation of any provision of this chapter.*~~

~~*2. If the employer does not begin to withhold income from the person after receiving the notice to withhold income that was mailed pursuant to subsection 1, the Administrator shall, by certified mail, return receipt requested, mail to the employer another notice to withhold income.*~~

~~*3. A notice to withhold income may be issued electronically and must:*~~

~~*(a) Contain the social security number of the person;*~~

~~*(b) Specify the total amount to be withheld from the income of the person, including any interest, penalties or assessments accrued pursuant to the provisions of this chapter;*~~

~~*(c) Describe the limitation for withholding income prescribed in NRS 31.295;*~~

~~*(d) Describe the prohibition against terminating the employment of a person because of withholding and the penalties for wrongfully refusing to withhold in accordance with the notice to withhold income; and*~~

~~*(e) Explain the duties of an employer upon the receipt of the notice to withhold income.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*[1. The Administrator shall notify the person who is subject to the withholding of income by first-class mail to his last known address:*~~

~~*(a) That his income is being withheld;*~~

~~*(b) That a notice to withhold income applies to any current or subsequent employer;*~~

~~*(c) That a notice to withhold income of the person has been mailed to his employer;*~~

~~*(d) Of the information provided to his employer pursuant to section 2 of this act;*~~

~~*(e) That he may contest the withholding; and*~~

~~*(f) Of the grounds and procedures for contesting the withholding.*~~

~~*2. The provisions of this section are applicable only to a person against whom there is filed a certificate or entered a judgment of conviction as described in subsection 1 of section 2 of this act.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*[An employer who receives a notice to withhold income pursuant to section 2 of this act shall:*~~

~~*1. Withhold the amount stated in the notice from the income due to the person beginning with the first pay period that occurs within 14 days after the date the notice was mailed to the employer and continuing until:*~~

~~*(a) The Administrator notifies the employer to discontinue the withholding; or*~~

~~*(b) The full amount required to be paid to the Administrator has been paid, as indicated by a written statement to the employer from the Administrator;*~~

~~*2. Deliver the money withheld to the Administrator within 7 days after the date of each payment of the regularly scheduled payroll of the employer; and*~~

~~*3. Notify the Administrator when the person subject to withholding terminates his employment and provide the last known address of the person and the name of any new employer of the person, if known.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~*[1. A notice to withhold income sent pursuant to section 2 of this act is binding upon any employer of the person to whom it is mailed. To reimburse the employer for his costs in making the withholding, the employer may deduct $3 from the amount paid to the person each time the employer makes a withholding.*~~

~~*2. Except as otherwise provided in subsection 3, if an employer receives notices to withhold income sent pursuant to section 2 of this act for more than one employee, the employer may consolidate the amounts of money*~~

~~*that are payable to the Administrator and pay those amounts with one check, but the employer shall attach to each check a statement identifying by name and social security number each person for whom payment is made and the amount transmitted for that person.*~~

~~*3. If the provisions of NRS 353.1467 apply, the employer shall make payment to the Administrator by way of any method of electronic transfer of money allowed by the Administrator. If an employer makes such payment by way of electronic transfer of money, the employer shall transmit separately the name and appropriate identification number, if any, of each person for whom payment is made and the amount transmitted for that person.*~~

~~*4. An employer shall cooperate with and provide relevant information to the Administrator as necessary to enable the Administrator to enforce any obligation to pay money to the Administrator pursuant to this chapter. A disclosure made in good faith pursuant to this subsection does not give rise to any action for damages resulting from the disclosure.*~~

~~*5. As used in this section, "electronic transfer of money" has the meaning ascribed to it in NRS 353.1467.]*~~ **(Deleted by amendment.)**

Sec. 6. ~~*[1. If an employer wrongfully refuses to withhold income as required pursuant to sections 2 to 8, inclusive, of this act, after receiving a notice to withhold income that was sent by certified mail pursuant to subsection 2 of section 2 of this act, or knowingly misrepresents the income of an employee, the Administrator may apply for and the court may issue an order directing the employer to appear and show cause why he should not be subject to the penalties prescribed in subsection 2 of section 7 of this act.*~~

~~*2. At the hearing on the order to show cause, the court, upon a finding that the employer wrongfully refused to withhold income as required or knowingly misrepresented an employee's income:*~~

~~*(a) May order the employer to comply with the requirements of sections 2 to 8, inclusive, of this act;*~~

~~*(b) May order the employer to provide accurate information concerning the employee's income;*~~

~~*(c) May fine the employer pursuant to subsection 2 of section 7 of this act; and*~~

~~*(d) Shall require the employer to pay the amount the employer failed or refused to withhold from the employee's income.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~*[1. It is unlawful for an employer to use the withholding of income to collect an obligation to pay money to the Administrator as a basis for refusing to hire a potential employee, discharging an employee or taking disciplinary action against an employee. Any employer who violates this section shall hire or reinstate any such employee with no loss of pay or benefits, is liable for any amounts not withheld and shall be fined $1,000. If an employee prevails in an action based on this section, the employer is*~~

~~*liable, in an amount not less than $2,500, for payment of the employee's costs and attorney's fees incurred in that action.*~~

~~*2. If an employer wrongfully refuses to withhold from the income of a person as required pursuant to sections 2 to 8, inclusive, of this act or knowingly misrepresents the income of the person, the employer shall pay the amount the employer refused to withhold to the Administrator and may be ordered to pay punitive damages to the Administrator in an amount not to exceed $1,000 for each pay period the employer failed to withhold income as required or knowingly misrepresented the income of the person.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[1. An employer who complies with a notice to withhold income sent pursuant to section 2 of this act that is regular on its face may not be held liable in any civil action for any conduct taken in compliance with the notice.*~~

~~*2. Compliance by an employer with a notice to withhold income sent pursuant to section 2 of this act is a discharge of the employer's liability to the person as to that portion of the income affected.*~~

~~*3. If a court issues an order to stay a withholding of income, the Administrator may not be held liable in any civil action to the person who is the subject of the withholding of income for any money withheld before the stay becomes effective.]*~~ **(Deleted by amendment.)**

Sec. 8.5. **NRS 612.365 is hereby amended to read as follows:**

612.365 1. Any person who is overpaid any amount as benefits under this chapter is liable for the amount overpaid unless:

(a) The overpayment was not due to fraud, misrepresentation or willful nondisclosure on the part of the recipient; and

(b) The overpayment was received without fault on the part of the recipient, and its recovery would be against equity and good conscience, as determined by the Administrator.

2. The amount of the overpayment must be assessed to the liable person, and he must be notified of the basis of the assessment. The notice must specify the amount for which the person is liable. In the absence of fraud, misrepresentation or willful nondisclosure, notice of the assessment must be mailed or personally served not later than 1 year after the close of the benefit year in which the overpayment was made.

3. At any time within 5 years after the notice of overpayment, the Administrator may recover the amount of the overpayment by using the same methods of collection provided in NRS 612.625 to 612.645, inclusive, 612.685 and 612.686 for the collection of past due contributions or by deducting the amount of the overpayment from any benefits payable to the liable person under this chapter.

4. The Administrator may waive recovery or adjustment of all or part of the amount of any such overpayment which he finds to be uncollectible or the recovery or adjustment of which he finds to be administratively impracticable.

5. ***To the extent allowed pursuant to federal law, the Administrator may assess any administrative fee prescribed by an applicable agency of the United States regarding the recovery of such overpayments.***

6. Any person against whom liability is determined under this section may appeal therefrom within 11 days after the date the notice provided for in this section was mailed to, or served upon, the person. An appeal must be made and conducted in the manner provided in this chapter for the appeals from determinations of benefit status. The 11-day period provided for in this subsection may be extended for good cause shown.

Sec. 9. NRS 612.445 is hereby amended to read as follows:

612.445 ~~[~~When the Administrator finds that any~~]~~

1. A person ~~[~~has made~~]~~ ***shall not make*** a false statement or representation, knowing it to be false, or knowingly ~~[~~failed~~]~~ ***fail*** to disclose a material fact in order to obtain or increase any benefit or other payment under this chapter, ***including, without limitation, by failing to properly report earnings or by filing a claim for benefits using the social security number, name or other personal identifying information of another person. A person who violates the provisions of this subsection commits unemployment insurance fraud.***

2. When the Administrator finds that a person has committed unemployment insurance fraud pursuant to subsection 1, the person shall repay to the Administrator for deposit in the Fund a sum equal to all of the benefits received by or paid to the person for each week with respect to which the false statement or representation was made or to which he failed to disclose a material fact ~~[~~. The~~]~~ ***in addition to any interest, penalties and*** ~~*[assessments]*~~ ***costs related to that sum.***

3. Except as otherwise provided in this subsection and subsection 8, the person is disqualified from receiving unemployment compensation benefits under this chapter ~~[~~for~~]~~ ***:***

(a) For a period ~~[~~of~~]~~ ***beginning with the first week claimed in violation of subsection 1 and ending*** not more than 52 consecutive weeks ~~[~~beginning with~~]~~ ***after*** the week in which it is determined that ~~[~~an improper~~]~~ ***a*** claim was filed ~~[~~involving the false statement or representation or failure to disclose a material fact.~~]~~ ***in violation of subsection 1; or***

(b) Until the sum described in subsection 2, in addition to any interest, penalties or ~~*[assessments]*~~ ***costs related to that sum, is repaid to the Administrator,***

➥ ***whichever is longer.*** The Administrator shall fix the period of disqualification according to the circumstances in each case.

4. It is a violation of subsection 1 for a person to file a claim, or to cause or allow a claim to be filed on his behalf, if:

(a) The person is incarcerated in the state prison or any county or city jail or detention facility or other correctional facility in this State; and

(b) The claim does not expressly disclose his incarceration.

5. A person who obtains benefits of $250 or more in violation of subsection 1 shall be punished in the same manner as theft pursuant to subsection 3 or 4 of NRS 205.0835.

6. In addition to the repayment of benefits required pursuant to subsection 2, if the amount of benefits which must be repaid is greater than $1,000, the Administrator may impose a ~~[fine]~~ penalty equal to not more than :

(a) If the amount of such benefits is greater than $1,000 but not greater than $2,500, 25 percent; or

(b) If the amount of such benefits is greater than $2,500, 50 percent ,
➥ of the total amount of benefits received by the person in violation of subsection 1 or any other provision of this chapter.

7. Except as otherwise provided in subsection 8, a person may not pay benefits as required pursuant to subsection 2 by using benefits which would otherwise be due and payable to the person if he was not disqualified.

8. The Administrator may waive the period of disqualification prescribed in subsection 3 for good cause shown or if the person adheres to a repayment schedule authorized by the Administrator that is designed to fully repay benefits received from an improper claim, in addition to any related interest, penalties and ~~[assessments,]~~ costs, within 18 months. If the Administrator waives the period of disqualification pursuant to this subsection, the person may repay benefits and any related interest, penalties and ~~[assessments]~~ costs as required pursuant to subsection 2 by using any benefits which are due and payable to the person.

9. The Administrator may recover any money required to be paid pursuant to this section in accordance with the provisions of NRS 612.365 and may collect interest on any such money in accordance with the provisions of NRS 612.620.

Sec. 10. NRS 612.615 is hereby amended to read as follows:

612.615 1. There is hereby created the Employment Security Fund as a special revenue fund.

2. All interest and forfeits collected under NRS 612.618 to 612.675, inclusive, ~~[and sections 2 to 8, inclusive, of this act]~~ and 612.740 must be paid into the Fund.

3. All money which is deposited or paid into the Fund is hereby appropriated and made available to the Administrator. The money may not be expended or made available for expenditure in any manner which would permit its substitution for, or a corresponding reduction in, federal payments which would, in the absence of this money, be available to finance expenditures for the administration of the employment security laws of the State of Nevada.

4. This section does not prevent this money from being used as a revolving fund to cover expenditures, necessary and proper under the law, for

which federal payments have been duly requested but not yet received, subject to the repayment to the Fund of such expenditures when received.

5. The money in this Fund must be used by the Administrator for the payment of costs of ~~[administration]~~ ***:***

(a) Administration which are found not to have been properly and validly chargeable against federal grants received for or in the Unemployment Compensation Administration Fund ~~[.]~~ ***; or***

(b) Any program or the implementation of procedures deemed necessary by the Administrator to ensure the proper payment of benefits and collection of contributions and reimbursements pursuant to this chapter.

6. Any balances in this Fund do not lapse at any time, but are continuously available to the Administrator for expenditure consistent with this chapter.

7. Money in this Fund must not be commingled with other state money, but must be maintained in a separate account on the books of the depositary.

Sec. 11. NRS 612.715 is hereby amended to read as follows:

612.715 ~~[Whoever]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, whoever*** makes a false statement or representation knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for himself or for any other person, is guilty of a misdemeanor.

Sec. 12. NRS 612.720 is hereby amended to read as follows:

612.720 ~~[Whenever]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, whenever*** two or more persons ~~[shall]~~ conspire to obtain or increase any benefit or other payment under this chapter by a false statement or representation knowing it to be false, or by knowingly failing to disclose a material fact, or whenever any person makes a series of false statements or representations knowing them to be false, to obtain or increase benefit payments under this chapter over a period of more than 1 week, every such person is guilty of a gross misdemeanor.

Sec. 13. NRS 612.725 is hereby amended to read as follows:

612.725 ~~[Any]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, any*** person residing in this State who claims benefits under any agreement existing between the Division and some other state or the Federal Government, who willfully makes a false statement or representation or knowingly fails to disclose a material fact to obtain or increase benefits under the provisions of the unemployment law of any other state or the Federal Government is guilty of a misdemeanor.

Sec. 14. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 87 be taken from its position on the Second Reading File and placed at the bottom of the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 95.

Bill read second time.

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

Amendment No. 431.

AN ACT relating to unfair trade practices; **authorizing the Attorney General to bring an action to prevent a proposed merger, acquisition or joint venture involving certain entities under certain circumstances;** revising the conduct to which the Nevada Unfair Trade Practice Act applies; revising the relief that the Attorney General may seek for violations of the Nevada Unfair Trade Practice Act; requiring that information received or shared in cooperation with the Federal Government or other states be kept confidential in certain circumstances; permitting the Attorney General to bring a civil action for violation of the Nevada Unfair Trade Practice Act or federal antitrust statutes on behalf of the State, its agencies, political subdivisions, districts or municipal corporations; increasing the amount of money that may be kept in the Attorney General's Special Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Attorney General to investigate suspected violations of the Nevada Unfair Trade Practice Act and to institute proceedings to seek certain remedies for such violations. (Chapter 598A of NRS)

Section 1 of this bill provides that if there has been a review of a proposed merger, acquisition or joint venture involving entities engaged in the business of insurance by the Attorney General and one or more state agencies, the Antitrust Division of the United States Department of Justice or the Federal Trade Commission, the Attorney General may file an action against the proposed merger, acquisition or joint venture within a certain time frame.

Section 1.5 of this bill authorizes the Attorney General to investigate, review and bring an enforcement action against any proposed merger, acquisition or joint venture involving entities engaged in the business of insurance, notwithstanding certain provisions limiting the scope of the Nevada Unfair Trade Practice Act. (NRS 598A.040)

~~[Sections 1 and]~~ **Section 2** of this bill ~~[revise]~~ **revises** the conduct considered a violation of the Nevada Unfair Trade Practice Act. (NRS ~~[598A.040,]~~ 598A.060)

Sections 3, 5 and 7 of this bill revise the relief that the Attorney General may seek for violations of the Nevada Unfair Trade Practice Act. (NRS 598A.070, 598A.090, 598A.160) **Section 7** also permits the Attorney General to bring an action on behalf of the State, its agencies, political subdivisions, districts or municipal corporations for violations of the Nevada Unfair Trade Practice Act or federal antitrust law.

Sections 4 and 6 of this bill require that information received or shared in cooperation with the Federal Government or other states be kept confidential in certain circumstances. (NRS 598A.080, 598A.110) **Section 6** also allows the disclosure of confidential information when used to bring an action for a violation of federal or other state antitrust statutes.

Section 8 of this bill increases the amount of money that may be kept in the Attorney General's Special Fund before reverting to the State General Fund. (NRS 598A.260)

~~[Section 10 of this bill repeals the provision which requires other state antitrust statutes to be considered when interpreting the Nevada Unfair Trade Practice Act.]~~

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

Section 1. **Chapter 598A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. In the event of a proposed merger, acquisition or joint venture involving entities engaged in the business of insurance in this State, any party proposing the merger, acquisition or joint venture may provide to the Attorney General the information required to be filed with the agency having jurisdiction over the proposal for review. The Attorney General may issue a letter to the parties within 30 days after the parties provide notice of the proposed merger, acquisition or joint venture indicating that the Attorney General will not file an action pursuant to this section.

2. Except as otherwise provided in subsections 3 and 4, if there is a review of a proposed merger, acquisition or joint venture involving entities engaged in the business of insurance in this State by the Attorney General and one or more state agencies, the Antitrust Division of the United States Department of Justice or the Federal Trade Commission, the Attorney General may file legal or regulatory action to seek relief or other remedies from the proposed merger, acquisition or joint venture. Any such legal or regulatory action must be filed before the expiration of the longer of:

(a) Thirty days after entry of a final order subject to petition for judicial review by a state agency regarding the proposed merger, acquisition or joint venture; or

(b) Thirty days after the Attorney General receives formal written notification of a final decision by either the Antitrust Division of the United States Department of Justice or the Federal Trade Commission regarding the proposed merger, acquisition or joint venture.

3. The Attorney General may petition the court to seek an extension of the filing period prescribed in subsection 2 for good cause shown. It is within the court's discretion to grant or deny such relief.

4. Nothing in this section prohibits the parties to the proposed merger, acquisition or joint venture and the Attorney General from agreeing to an extension of the filing period prescribed in subsection 2.

5. Nothing in this section precludes the exercise of any other power granted to the Attorney General.

~~[Section 1.]~~ ***Sec. 1.5.*** NRS 598A.040 is hereby amended to read as follows:

598A.040 The provisions of this chapter do not apply to:

1. Any labor, agricultural or horticultural organizations organized for the purpose of self-help and not for profit to itself nor to individual members thereof, while lawfully carrying out its legitimate objects.

2. Bona fide religious and charitable activities of any nonprofit corporation, trust or organization established exclusively for religious or charitable purposes.

3. Conduct which is expressly authorized, regulated or approved by:

(a) A statute of this State or of the United States;

(b) An ordinance of any city or county of this State, except for ordinances relating to video service providers; or

(c) An administrative agency of this State or of the United States or of a city or county of this State, having jurisdiction of the subject matter ~~[.]~~ ***,***

➥ except that notwithstanding the provisions of this subsection or chapter 686A or 692C of NRS, the Attorney General may investigate, review and bring an enforcement action pursuant to this chapter against any proposed merger, acquisition or joint venture involving entities engaged in the business of insurance in this State.

4. Conduct or agreements relating to rates, fares, classifications, divisions, allowances or charges, including charges between carriers and compensation paid or received for the use of facilities and equipment, that are authorized, regulated or approved by the Nevada Transportation Authority pursuant to chapter 706 of NRS.

5. ~~*[4.]*~~ Restrictive covenants:

(a) Which are part of a contract of sale for a business and which bar the seller of the business from competing with the purchaser of the business sold within a reasonable market area for a reasonable period of time; or

(b) Which are part of a commercial shopping center lease and which bar the parties from permitting or engaging in the furnishing of certain services or the sale of certain commodities within the commercial shopping center where such leased premises are located.

Sec. 2. NRS 598A.060 is hereby amended to read as follows:

598A.060 1. Every activity enumerated in this subsection constitutes a contract, combination or conspiracy in restraint of trade, and it is unlawful to conduct any part of any such activity ***affecting commerce*** in this State:

(a) Price fixing, which consists of raising, depressing, fixing, pegging or stabilizing the price of any commodity or service, and which includes, but is not limited to:

(1) Agreements among competitors to depress prices at which they will buy essential raw material for the end product.

(2) Agreements to establish prices for commodities or services.

(3) Agreements to establish uniform discounts, or to eliminate discounts.

(4) Agreements between manufacturers to price a premium commodity a specified amount above inferior commodities.

(5) Agreements not to sell below cost.

(6) Agreements to establish uniform trade-in allowances.

(7) Establishment of uniform cost surveys.

(8) Establishment of minimum markup percentages.

(9) Establishment of single or multiple basing point systems for determining the delivered price of commodities.

(10) Agreements not to advertise prices.

(11) Agreements among competitors to fix uniform list prices as a place to start bargaining.

(12) Bid rigging, including the misuse of bid depositories, foreclosures of competitive activity for a period of time, rotation of jobs among competitors, submission of identical bids, and submission of complementary bids not intended to secure acceptance by the customer.

(13) Agreements to discontinue a product, or agreements with anyone engaged in the manufacture of competitive lines to limit size, styles or quantities of items comprising the lines.

(14) Agreements to restrict volume of production.

(b) Division of markets, consisting of agreements between competitors to divide territories and to refrain from soliciting or selling in certain areas.

(c) Allocation of customers, consisting of agreements not to sell to specified customers of a competitor.

(d) Tying arrangements, consisting of contracts in which the seller or lessor conditions the sale or lease of commodities or services on the purchase or leasing of another commodity or service.

(e) Monopolization of trade or commerce in this State, including, without limitation, ***monopolization involving unilateral conduct,*** attempting to monopolize or otherwise combining or conspiring to monopolize trade or commerce in this State.

(f) Except as otherwise provided in subsection 2, consolidation, conversion, merger, acquisition of shares of stock or other equity interest, directly or indirectly, of another person engaged in commerce in this State or the acquisition of any assets of another person engaged in commerce in this State that may:

(1) Result in the monopolization of trade or commerce in this State or would further any attempt to monopolize trade or commerce in this State; or

(2) Substantially lessen competition or be in restraint of trade.

2. The provisions of paragraph (f) of subsection 1 do not:

(a) Apply to a person who, solely for an investment purpose, purchases stock or other equity interest or assets of another person if the purchaser does not use his acquisition to bring about or attempt to bring about the substantial lessening of competition in this State.

(b) Prevent a person who is engaged in commerce in this State from forming a subsidiary corporation or other business organization and owning and holding all or part of the stock or equity interest of that corporation or organization.

Sec. 3. NRS 598A.070 is hereby amended to read as follows:

598A.070 1. The Attorney General shall:

(a) Enforce the provisions of this chapter.

(b) Investigate suspected violations of the provisions of this chapter.

(c) Institute proceedings on behalf of the State, its agencies, political subdivisions, districts or municipal corporations, or as parens patriae of the persons residing in the State for:

(1) Injunctive relief to prevent and restrain a violation of any provision of this chapter.

(2) Civil penalties for violations of the provisions of this chapter.

(3) Criminal penalties for violations of the provisions of this chapter.

(4) Other equitable relief, including, without limitation, restitution, disgorgement and unjust enrichment, for violations of the provisions of this chapter.

2. Any district attorney in this State, with the permission or at the direction of the Attorney General, shall institute proceedings in the name of the State of Nevada for any violation of the provisions of this chapter.

Sec. 4. NRS 598A.080 is hereby amended to read as follows:

598A.080 The Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with officials of the Federal Government and the several states, including **,** but not limited to ~~[the]~~ ***:***

1. The sharing of information and evidence obtained in accordance with NRS 598A.100 ~~[.]~~ ***, if the officials agree in writing to comply with the provisions of NRS 598A.110; and***

2. The receipt of information and evidence by the Attorney General from the officials during an investigation of a violation of this chapter. If the information and evidence are provided on a confidential basis, the information and evidence are subject to the provisions of NRS 598A.110.

Sec. 5. NRS 598A.090 is hereby amended to read as follows:

598A.090 The district courts have jurisdiction over actions and proceedings for violations of the provisions of this chapter and may:

1. Issue temporary restraining orders and injunctions to prevent and restrain violations of the provisions of this chapter.

2. Impose civil and criminal penalties and award damages as provided in this chapter.

3. Grant mandatory injunctions reasonably necessary to eliminate practices which are unlawful under the provisions of this chapter.

4. Grant other equitable relief, including, without limitation, restitution, disgorgement and unjust enrichment, for violations of the provisions of this chapter.

Sec. 6. NRS 598A.110 is hereby amended to read as follows:

598A.110 Any procedure, testimony taken, document or other tangible evidence produced, or answer made under NRS 598A.100 ***is confidential and*** shall be kept confidential by the Attorney General***,*** ~~[prior to the institution of an action brought under this chapter for the alleged violation of the provisions of this chapter under investigation,]~~ unless:

1. Confidentiality is waived by the person upon whom the written investigative demand is made or pursuant to NRS 239.0115;

2. Disclosure is authorized by ~~[the district]~~ ***a*** court ~~[,]~~ ~~[or]~~ ***of competent jurisdiction;***

3. ***Disclosure is made pursuant to an action brought under this chapter, the federal antitrust statutes or other state antitrust statutes; or***

4. Disclosure is made pursuant to NRS 598A.080. ***Any information or evidence disclosed pursuant to this subsection remains confidential.*** ~~[to all parties except those to whom disclosure is authorized pursuant to NRS 598A.080.]~~

Sec. 7. NRS 598A.160 is hereby amended to read as follows:

598A.160 1. The Attorney General may bring a civil action for any violation of the provisions of this chapter in the name of the State of Nevada and is entitled to recover damages and secure other relief provided by the provisions of this chapter:

(a) As parens patriae of the persons residing in this State, with respect to damages sustained directly or indirectly by such persons, or, alternatively, if the court finds in its discretion that the interests of justice so require, as a representative of a class or classes consisting of persons residing in this State who have been damaged directly or indirectly; or

(b) ~~[As]~~ ***On behalf of or as*** parens patriae, with respect to direct or indirect damages ***to the State, its agencies, political subdivisions, districts or municipal corporations, and*** to the general economy of the State of Nevada or any political subdivision thereof.

2. In any action under this section, this State:

(a) May recover ***treble*** the aggregate damage sustained by the persons on whose behalf this State sues, without separately proving the individual claims of each such person. Proof of such damages must be based on:

(1) Statistical or sampling methods;

(2) The pro rata allocation of illegal overcharges of sales occurring within the State of Nevada; or

(3) Such other reasonable system of estimating aggregate damages as the court may permit.

(b) Shall distribute, allocate or otherwise pay the amounts so recovered in accordance with state law, or in the absence of any applicable state law, as the district court may authorize, subject to the requirement that any distribution procedure adopted afford each person on whose behalf this State sues a reasonable opportunity individually to secure the pro rata portion of such recovery attributable to his or its respective claims for damages, less litigation and administrative costs, including attorney fees, before any of the recovery is escheated.

3. The Attorney General may bring a civil action for any violation of the federal antitrust statutes in the name of the State of Nevada and is entitled to recover damages and secure other relief provided by the federal antitrust statutes:

(a) As parens patriae of the persons residing in this State; or

(b) On behalf of or as parens patriae of the State, its agencies, political subdivisions, districts or municipal corporations.

Sec. 8. NRS 598A.260 is hereby amended to read as follows:

598A.260 1. All money obtained as awards, damages or civil penalties for the State of Nevada and its agencies by the Attorney General as a result of enforcement of statutes pertaining to unfair trade practices, whether by final judgment, settlement or otherwise, must be deposited in the State Treasury as follows:

(a) All attorney's fees and costs and 50 percent of all recoveries for credit to the Attorney General's Special Fund.

(b) The balance of the recoveries for credit to the State General Fund.

2. Money deposited in the State Treasury for credit to the Attorney General's Special Fund pursuant to subsection 1 must be used for payment of the expenses of enforcing the statutes pertaining to unfair trade practices and NRS 228.500 to 228.640, inclusive. Those expenses which are in excess of the amount available in the Fund must be paid out of the legislative appropriation for the support of the Office of Attorney General.

3. On June 30 of each fiscal year, any amount in excess of ~~[~~$450,000~~]~~ ***$900,000*** in the Attorney General's Special Fund of the money collected pursuant to subsection 1 reverts to the State General Fund.

4. The balance of the money in the Attorney General's Special Fund that is collected pursuant to subsection 1 must not exceed ~~[~~$500,000.~~]~~ ***$1,500,000.*** If money deposited in the State Treasury for credit to the Attorney General's Special Fund pursuant to subsection 1 would cause that balance to exceed ~~[~~$500,000~~]~~ ***$1,500,000*** if credited to the Fund, the amount of the deposit which would cause the balance to exceed ~~[~~$500,000~~]~~ ***$1,500,000*** immediately reverts to the State General Fund.

Sec. 9. ~~[~~NRS 704.6884 is hereby amended to read as follows:

~~704.6884— The provisions of NRS 704.6881 to 704.6884, inclusive, must not be construed to exempt telecommunication providers from any other applicable statute of this State or the United States relating to consumer and antitrust protections.~~ [The exemption provided in paragraph (c) of subsection

~~3 of NRS 598A.040 does not apply to conduct of, or actions taken by, a telecommunication provider in violation of the standards established pursuant to subsection 1 of NRS 704.6881.]~~ **] (Deleted by amendment.)**

Sec. 10. ~~[NRS 598A.050 is hereby repealed.]~~ **(Deleted by amendment.)** ~~[~~

~~TEXT OF REPEALED SECTION~~

~~598A.050 Construction of chapter. The provisions of this chapter shall be construed in harmony with prevailing judicial interpretations of the federal antitrust statutes.]~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 130.

Bill read second time.

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

Amendment No. 325.

SUMMARY—Revises provisions governing the ~~[approval by]~~ **membership of** a metropolitan police ~~[department of negotiated agreements under the Local Government Employee-Management Relations Act.]~~ **committee on fiscal affairs.** (BDR 22-632)

AN ACT relating to ~~[labor;]~~ **police departments;** revising provisions governing the ~~[approval by]~~ **membership of** a metropolitan police ~~[department of negotiated agreements under the Local Government Employee-Management Relations Act;]~~ **committee on fiscal affairs;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that **each representative of a political subdivision that participates on** a metropolitan police ~~[department be represented in negotiations under the Local Government Employee-Management Relations Act (chapter 288 of NRS) by its]~~ committee on fiscal affairs ~~[and the sheriff, or their designated representatives. (NRS 280.320)]~~ **must be a member of the governing body of the political subdivision and serves at the pleasure of the governing body making the appointment. (NRS 280.130)** This bill provides ~~[that the persons who represent the department in such negotiations have the exclusive authority, by a majority vote of those persons, to approve on behalf of the department any agreement resulting from the negotiations.]~~ **instead that each member of the committee serves for a term of 2 years and may be removed for cause by a majority vote of the other members of the committee.**

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

Section 1. ~~[NRS 280.320 is hereby amended to read as follows:~~

~~280.320 1. A department is a local government employer for the purpose of the Local Government Employee-Management Relations Act and a public employer for the purpose of the Public Employees' Retirement Act.~~

~~2. In negotiations arising under the provisions of chapter 288 of NRS:~~

~~(a) The committee or two or more persons designated by it; and~~

~~(b) The sheriff or a person designated by him,~~

~~→ shall represent the department.~~

~~3. *Notwithstanding any specific statute to the contrary, the persons who represent the department in such negotiations have the exclusive authority, by a majority vote of those persons, to approve on behalf of the department any agreement resulting from the negotiations.*~~

~~*4.* In negotiations arising under the provisions of chapter 288 of NRS, a school police unit must be considered a separate bargaining unit.~~**]** **(Deleted by amendment.)**

Sec. 2. **NRS 280.130 is hereby amended to read as follows:**

280.130 1. The committee consists of two representatives from each participating political subdivision.

2. Representatives of the participating political subdivisions are not entitled to receive any additional compensation or be reimbursed by the department for any expenses incurred while serving on the committee.

3. Each representative of a participating political subdivision must be a member of its governing body**.** ~~[and serves at the pleasure of the governing body making the appointment.]~~ ***Except as otherwise provided in subsection 4, the term of each member of the committee is 2 years. The committee, by a majority vote of the other members, may remove a member of the committee at any time for cause.***

4. The members of the committee shall, by ***a*** majority vote, select an additional member of the committee from the general public from a list consisting of three persons nominated by each participating political subdivision and three persons nominated by the sheriff. That person:

(a) Must reside in the area served by the department.

(b) Shall serve until August 1 next succeeding and until his successor is selected.

(c) May succeed himself.

(d) Is entitled to receive as compensation $40 for each day of service.

(e) Is entitled to reimbursement for his necessary travel and per diem expenses in the manner provided by the committee for the reimbursement of officers and employees of the department.

5. If the members of the committee fail to agree on the additional member to be selected pursuant to subsection 4 within 30 days after their initial meeting following the merger or by August 1 of any year thereafter, the additional member of the committee must be appointed by the Governor without regard to the lists submitted. The person so appointed must reside in the area served by the department.

6. At its first meeting and in August of each year thereafter, the committee shall select one of its members to act as chairman.

~~[Sec. 2.]~~ ***Sec. 3.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 147.

Bill read second time.

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

Amendment No. 123.

ASSEMBLYMEN Spiegel, Kirkpatrick **,** ~~[AND]~~ Smith **; AND HAMBRICK**

SUMMARY—Requires local governments **, under certain circumstances,** to grant preference to local bidders bidding on certain contracts for goods or services. (BDR 27-753)

AN ACT relating to purchasing by local governments; requiring local governments **, under certain circumstances,** to grant a preference to local bidders bidding on certain contracts for goods or services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a 5-percent preference in bidding on public works and certain highway construction projects for contractors who provide evidence of the payment of certain taxes. (NRS 338.1389, 338.147, 338.1693, 338.1727, 408.3883, 408.3886) Sections 1 and 2 of this bill provide for a 5-percent preference in bidding on local governmental purchasing contracts for contractors who qualify as a "local bidder," and set forth the ~~[parameters within which the governing body of a local government is required to define that term.]~~ **criteria by which a bidder may qualify as a local bidder.**

Under existing law, certain local governmental contracts for certain goods and services are stated to be, by their nature, not adapted to award by competitive bidding. (NRS 332.115) Sections 1 and 3 of this bill provide that, irrespective of this exclusion from competitive bidding, local governmental contracts for the following types of goods and services must reflect ~~[a 5-percent preference]~~ **consideration** for local contractors if the governing body of the local government or its authorized representative has a choice of more than one person or vendor to fulfill the contract: (1) professional services; (2) perishable goods; (3) insurance; (4) hardware and associated peripheral equipment and devices for computers; (5) software for computers; (6) books, library materials and subscriptions; (7) items for resale through a retail outlet operated in this State by a local government or the State of Nevada; and (8) the design of, and equipment and services associated with, systems of communication.

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

Section 1. Chapter 332 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[With]~~ Except as otherwise provided in subsections 5 and 6, with respect to the awarding of a contract pursuant to NRS 332.065 ~~[,]~~ for which the estimated annual amount to perform the contract is more than $25,000, a responsive and responsible bidder who is a local bidder shall be deemed to have submitted a lower bid than a competing bidder who is not a local bidder if the amount of the bid of the local bidder is not more than 5 percent higher than the amount bid by the competing bidder.

2. With respect to the awarding of a contract of the type described in paragraph (b), (e), (f), (g), (h), (i), (n) or (q) of subsection 1 of NRS 332.115, if a governing body or its authorized representative has a choice of more than one person or vendor to fulfill the contract, at least one of whom is a local bidder, the contract must be awarded in such a manner as to reflect the preference described in subsection ~~[1.~~

~~3. The governing body of each local government that awards contracts as described in subsection 1 shall, by ordinance or regulation, define the term "local bidder" for the purposes of that subsection.~~

~~4. In carrying out the duty set forth in subsection 3, the governing body shall define the term "local bidder" so that:~~

~~(a) A bidder is not deemed to be a local bidder unless the bidder produces evidence that the bidder has contributed financially to one or more local governments in this State.~~

~~(b) The financial contribution necessary for a bidder to be deemed a local bidder is evaluated solely on the basis of taxes or fees paid.~~

~~(c) A bidder desiring to be deemed a local bidder has the burden of proving the quantity of taxes and fees paid by providing to the governing body cancelled checks, credit card or debit card receipts, bank statements or other indicia of payment satisfactory to the governing body.~~

~~(d) The governing body retains discretion to determine the geographic area within which the payment of taxes or fees applies toward a bidder qualifying as a local bidder.~~

~~5.]~~ 6 of that section.

3. To qualify as a local bidder for the purposes of this section:

(a) If the bidder is a business of which at least 51 percent of the ownership interest is held by a member of a minority group, a woman or a service-disabled veteran, the business must have continuously employed at least one full-time employee in this State during the immediately preceding 1-year period.

(b) If the bidder is a business that does not meet the requirements of paragraph (a), the business must have:

(1) Continuously conducted business operations in this State during the immediately preceding 2-year period; and

(2) Continuously employed at least one full-time employee in this State during the immediately preceding 2-year period.

4. Governing bodies and their authorized representatives shall consult with the Purchasing Division of the Department of Administration to develop uniform standards for businesses to submit proof of their status for the purposes of subsection 3. Such uniform standards may include, without limitation, certification by reputable and reliable public or private entities to determine whether at least 51 percent of the ownership interest of a business is or is not held by a member of a minority group, a woman or a service-disabled veteran.

5. The provisions of this section do not require a local government or its authorized representative to award a contract to a bidder whose quality of services, supplies, materials, equipment or labor does not conform to the requirements of the local government or if the public interest would be served by rejection of the bid.

6. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular contract because of the provisions of this section, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that contract.

7. As used in this section:

(a) "Minority group" has the meaning ascribed to it in NRS 232.472.

(b) "Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of 0 percent or greater as determined by the United States Department of Veterans Affairs.

Sec. 2. NRS 332.065 is hereby amended to read as follows:

332.065 1. If a governing body or its authorized representative has advertised for or requested bids in letting a contract, the governing body or its authorized representative must, except as otherwise provided in subsection 2, award the contract to the lowest responsive and responsible bidder. The lowest responsive and responsible bidder ~~[may]~~ ***must*** be judged on the basis of:

(a) Price;

(b) Conformance to specifications;

(c) Qualifications;

(d) Past performance;

(e) Performance or delivery date;

(f) Quality and utility of services, supplies, materials or equipment offered and the adaptability of those services, supplies, materials or equipment to the required purpose of the contract;

(g) ***The status of the bidder as a local bidder, as determined pursuant to section 1 of this act;***

(h) The best interests of the public; and

~~[(h)]~~ ***(i)*** Such other criteria as may be set forth by the governing body or its authorized representative in the advertisement or request for bids, as applicable, that pertains to the contract.

2. The governing body or its authorized representative:

(a) Shall give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than a comparable nonrecycled product.

(b) May give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than 5 percent more than a comparable nonrecycled product.

(c) May purchase recycled paper products if the specific recycled paper product is:

(1) Available at a price which is not more than 10 percent higher than that of paper products made from virgin material;

(2) Of adequate quality; and

(3) Available to the purchaser within a reasonable period.

3. If **,** after the lowest responsive and responsible bidder has been awarded the contract, during the term of the contract he does not supply goods or services in accordance with the bid specifications, or if he repudiates the contract, the governing body or its authorized representative may reaward the contract to the next lowest responsive and responsible bidder without requiring that new bids be submitted. Reawarding the contract to the next lowest responsive and responsible bidder is not a waiver of any liability of the initial bidder awarded the contract.

4. As used in this section:

(a) "Postconsumer waste" means a finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item.

(b) "Recycled paper product" means all paper and wood-pulp products containing in some combination at least 50 percent of its total weight:

(1) Postconsumer waste; and

(2) Secondary waste,

➥ but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

(c) "Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value.

Sec. 3. NRS 332.115 is hereby amended to read as follows:

332.115 1. Contracts which by their nature are not adapted to award by competitive bidding, including contracts for:

(a) Items which may only be contracted from a sole source;

(b) Professional services;

(c) Additions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person;

(d) Equipment which, by reason of the training of the personnel or of an inventory of replacement parts maintained by the local government is compatible with existing equipment;

(e) Perishable goods;

(f) Insurance;

(g) Hardware and associated peripheral equipment and devices for computers;

(h) Software for computers;

(i) Books, library materials and subscriptions;

(j) Motor vehicle fuel purchased by a local law enforcement agency for use in an undercover investigation;

(k) Motor vehicle fuel for use in a vehicle operated by a local law enforcement agency or local fire department if such fuel is not available within the vehicle's assigned service area from a fueling station owned by the State of Nevada or a local government;

(l) Purchases made with money in a store fund for prisoners in a jail or local detention facility for the provision and maintenance of a canteen for the prisoners;

(m) Supplies, materials or equipment that are available pursuant to an agreement with a vendor that has entered into an agreement with the General Services Administration or another governmental agency located within or outside this State;

(n) Items for resale through a retail outlet operated in this State by a local government or the State of Nevada;

(o) Commercial advertising within a recreational facility operated by a county fair and recreation board;

(p) Goods or services purchased from organizations or agencies whose primary purpose is the training and employment of persons with disabilities; and

(q) The design of, and equipment and services associated with, systems of communication,

➥ are not ~~*[, except as otherwise provided in subsection 2 of section 1 of this act,]*~~ subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative.

2. The purchase of equipment for use by a local law enforcement agency in the course of an undercover investigation is not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative, if:

(a) The equipment is an electronic or mechanical device which by design is intended to monitor and document in a clandestine manner suspected criminal activity; or

(b) Purchasing the equipment pursuant to such requirements would limit or compromise the use of such equipment by an agency authorized to conduct such investigations.

3. The purchase of personal safety equipment for use by a response agency or any other local governmental agency is not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative, if:

(a) The personal safety equipment will be used by personnel of the response agency or other local governmental agency in preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters in which the health, safety or welfare of those personnel may be compromised, impaired or otherwise threatened; and

(b) The cost of the personal safety equipment is comparable to the cost of similar personal safety equipment that is available for purchase by the public.

4. The governing body of a hospital required to comply with the provisions of this chapter, or its authorized representative, may purchase goods commonly used by the hospital, under a contract awarded pursuant to NRS 332.065, without additional competitive bidding even if at the time the contract was awarded:

(a) The vendor supplying such goods to the person awarded the contract was not identified as a supplier to be used by the person awarded the contract; or

(b) The vendor was identified as a supplier but was not identified as the supplier of such goods.

➥ The governing body of the hospital shall make available for public inspection each such contract and records related to those purchases.

5. This section does not prohibit a governing body or its authorized representative from advertising for or requesting bids.

6. ***Notwithstanding the provisions of subsections 1 to 5, inclusive, and except as otherwise provided in subsections 7 and 8, if a governing body or its authorized representative is choosing between two or more businesses, contractors or vendors to fulfill a contract described in paragraph (b), (e), (f), (g), (h), (i), (n) or (q) of subsection 1, the governing body or authorized representative, as applicable, shall:***

(a) Include within its selection criteria consideration of the following factors:

(1) The number of residents of this State that the business, contractor or vendor employs;

(2) The amount of taxes and fees paid by the business, contractor or vendor to state and local governmental entities in Nevada;

(3) The length of time in which the business, contractor or vendor has maintained business operations in this State or the applicable local jurisdiction; and

(4) If the contract to be fulfilled is a contract described in paragraph (b) of subsection 1, the number of owners and principals of the business, contractor or vendor who are residents of this State.

(b) If the governing body or authorized representative uses a point system or similar scoring rubric, and if one or more of the businesses, contractors or vendors being considered qualifies as a local bidder pursuant to section 1 of this act, the status of being a local bidder must account for not less than 5 percent of the points or score awarded.

7. The provisions of subsection 6 do not require a local government or its authorized representative to award a contract to a business, contractor or vendor whose quality of services, supplies, materials, equipment or labor does not conform to the requirements of the local government or if the public interest would be served by rejection of the offer to fulfill the contract.

8. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular contract because of the provisions of subsection 6, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that contract.

9. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 239C.030.

(b) "Personal safety equipment" means safety equipment that personnel of a response agency or other local governmental agency:

(1) Use in the course of preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters; or

(2) Wear or otherwise carry on a regular basis.

➥ The term includes, without limitation, firearms, boots, bulletproof vests or other types of body armor, protective garments, protective eyewear, gloves, helmets, and any specialized apparatus, equipment or materials approved or recommended by the United States Department of Homeland Security.

(c) "Response agency" means an agency of a local government that provides services related to law enforcement, firefighting, emergency medical care or public safety.

Sec. 4. **NRS 625.530 is hereby amended to read as follows:**

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the

work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed $35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of chapter 623 of NRS or this chapter.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees ~~[.]~~ ***, but this sentence does not prohibit consideration of the factors set forth in subsection 6 of NRS 332.115.*** If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him, the public agency may terminate negotiations and select another engineer, land surveyor or architect.

Sec. 5. **Each local government that awards a contract in accordance with the provisions of section 1 of this act or NRS 332.115, as amended by section 3 of this act, or both, shall, on or before October 1 of each year in which it awards such a contract, submit to the Director of the Legislative Counsel Bureau a report setting forth:**

1. The number of transactions conducted by the local government that are subject to the provisions of this act.

2. The number of businesses, contractors and vendors that qualified as local bidders pursuant to section 1 of this act.

3. A description of each type of transaction conducted by the local government which was subject to the provisions of this act, including, without limitation:

(a) Whether the transaction was for goods or services.

(b) The particular type of goods or services involved in the transaction.

(c) The total dollar amount of the transaction.

4. The number of businesses, contractors and vendors that:

(a) Were awarded a contract without being qualified as a local bidder or without receiving any consideration as a local bidder.

(b) Were awarded a contract, in whole or in part, because they were qualified as a local bidder or received consideration as a local bidder.

The information required pursuant to this paragraph must include, for each such contract, the dollar amount of the contract.

5. Any other information determined to be relevant by the Director of the Legislative Counsel Bureau.

~~[Sec. 4.]~~ ***Sec. 6.*** This act becomes effective ~~[upon passage and approval.]~~ **on July 1, 2009.**

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 159.

Bill read second time.

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

Amendment No. 487.

SUMMARY—Prohibits the Governor or any other state officer or employee **, without authorization by the Legislature,** from binding the State to the requirements of an international trade agreement ~~[without authorization by the Legislature.]~~ **or otherwise committing the State to comply with the nontariff terms of an international trade agreement.** (BDR ~~[19-386)]~~ **52-386)**

AN ACT relating to international trade agreements; prohibiting the Governor or any other state officer or employee **, without authorization by the Legislature,** from binding the State to the requirements of an international trade agreement ~~[without authorization by the Legislature;]~~ **or otherwise committing the State to comply with the nontariff terms of an international trade agreement;** invalidating any prior consent to any such requirements in an international trade agreement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Certain international trade agreements, such as the Agreement on Government Procurement, obligate states and local governments to certain requirements concerning government purchasing. **Section 1** of this bill prohibits the Governor or any other state officer or employee **, without authorization by the Legislature,** from **: (1)** binding the State to the requirements of an international trade agreement ~~[without authorization by the Legislature.]~~ **or otherwise committing the State to comply with the nontariff terms of an international trade agreement; or (2) giving consent to the Federal Government to bind the State to the requirements of an international trade agreement or otherwise indicating that the State will comply with the nontariff terms of an international trade agreement.** **Section 2** of this bill invalidates any prior consent to such requirements of an international trade agreement.

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

Section 1. Chapter ~~[237A]~~ **597** of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state officer or employee, including the Governor, may not:

(a) Bind the State to the requirements of an international trade agreement or otherwise commit the State to comply with the nontariff terms of an international trade agreement; or

(b) Give consent to the Federal Government to bind the State to the requirements of an international trade agreement or otherwise indicate that the State will comply with the nontariff terms of an international trade agreement.

2. The Governor may not bind the State or give consent to the Federal Government to bind the State to the requirements of an international trade agreement ~~[only if]~~ or otherwise commit the State to comply with the nontariff terms of an international trade agreement unless the Legislature has enacted legislation that explicitly authorizes the Governor to do so.

3. As used in this section, "international trade agreement" means a trade agreement between the Federal Government and a foreign country to which the State, at the request of the Federal Government, is a ~~[party.]~~ participant. The term does not include a trade agreement between the State and a foreign country to which the Federal Government is not a party.

Sec. 2. 1. Any consent that the Governor or any other state officer or employee has given on or before the effective date of this act for the State to be bound by the requirements of an international trade agreement is hereby declared to be invalid, and the State is not bound by such requirements.

2. As used in this section, "international trade agreement" has the meaning ascribed to it in section 1 of this act.

Sec. 3. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 192.

Bill read second time.

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

Amendment No. 326.

AN ACT relating to local government purchasing; making various changes to the provisions governing performance contracts entered into by local governments for operating cost-savings measures; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes and sets forth the requirements for local governments to enter into performance contracts for the purchase and installation of operating cost-savings measures to reduce costs related to such

matters as energy, water and the disposal of waste, and related labor costs. (NRS 332.300-332.440) Existing law sets forth the procedures by which a local government will compile a list of the qualified service companies that it determines have a record of established projects or have demonstrated technical, operational, financial and managerial capabilities to design and carry out operating cost-savings measures. Under existing law, the local government must solicit proposals for a performance contract from such companies. (NRS 332.350, 332.360) **Sections 2-5, 11 and 12** of this bill provide that a company must apply to the local government, meet certain qualifications and be preapproved by a local government before it may submit a proposal for a performance contract.

Section 6 of this bill requires that performance contracts for operating cost-savings measures identify the specific dollar amount and units or percentages of consumption that will be eliminated or avoided as a result of the operating cost-savings measures.

Section 6.5 of this bill requires a local government that enters into a performance contract for operating cost-savings measures to submit a report annually to the Legislature or, when the Legislature is not in session, the Interim Finance Committee.

Section 8 of this bill amends the definition of "building" to provide that performance contracts apply only to existing buildings. (NRS 332.310)

Section 9 of this bill adds ground source systems of heating and cooling to the list of operating cost-savings measures that may be included in a performance contract. (NRS 332.330)

Section 13 of this bill eliminates the option for a performance contract to be structured as a shared-savings contract. (NRS 332.370)

Section 14 of this bill provides that the bonding requirements set forth in the provisions of chapter 339 of NRS apply to performance contracts that exceed $100,000. (NRS 332.390)

Existing law authorizes a local government to reinvest any savings realized under a performance contract into operating cost-savings measures. (NRS 332.410) **Section 15** of this bill requires that such reinvestment comply with the provisions of NRS 332.300-332.440 and **sections ~~[2-6]~~ 2-6.5** of this bill.

~~[Existing law requires that performance contracts guarantee that operating cost savings are realized by the local government if actual cost savings do not meet the predicted cost savings. Section 16 of this bill provides that a local government may reduce the payments on a performance contract that is an installment payment contract if the actual operating cost savings do not meet the predicted operating cost savings. (NRS 332.440)]~~

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

Section 1. Chapter 332 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[6,]~~ **6.5,** inclusive, of this act.

Sec. 2. ***1. Except as otherwise provided in section 5 of this act, a person who wishes to qualify as a qualified service company and submit a proposal for a performance contract with a local government must file an application with the local government.***

2. Upon receipt of an application pursuant to subsection 1, the local government shall:

(a) Investigate the applicant to determine whether he is qualified to bid on a performance contract; and

(b) After conducting the investigation, determine whether the applicant is qualified to bid on a performance contract. ~~*[The determination must be made within 45 days after receipt of the application.]*~~

3. The local government shall notify each applicant in writing of its determination. ~~*[If an application is denied, the notice must set forth the reasons for the denial and inform the applicant of his right to a hearing pursuant to section 4 of this act.]*~~

4. The local government may determine an applicant is qualified to bid:

(a) On a specific project; or

(b) On more than one project over a period of time to be determined by the local government.

5. Except as otherwise provided in section 5 of this act, the local government shall ~~*[not use any criteria other than]*~~ ***use only the criteria described in section 3 of this act in determining whether to approve or deny an application.***

6. Except as otherwise provided in NRS 239.0115, financial information and other data pertaining to the net worth of an applicant which is gathered by or provided to a local government to determine the financial ability of an applicant to perform a contract is confidential and not open to public inspection.

Sec. 3. ***1. Except as otherwise provided in section 5 of this act, a local government shall use the following criteria for determining whether a person satisfies the requirements to be a qualified service company pursuant to NRS 332.360:***

~~*[1.]*~~ ***(a) Whether the applicant possesses a business license issued pursuant to NRS 360.780;***

~~*[2.]*~~ ***(b) Whether the applicant possesses a valid contractor's license issued pursuant to chapter 624 of NRS of a class corresponding to the work required by the local government and, if engineering work is required, whether the applicant possesses a valid license as a professional engineer issued pursuant to chapter 625 of NRS;***

~~*[3.]*~~ ***(c) Whether the applicant has the ability to obtain the necessary bonding for the work required by the local government;***

~~*[4.]*~~ ***(d) Whether the applicant has successfully completed an appropriate number of projects as determined by the local government, but not to exceed five projects, during the 5 years immediately preceding the***

date of application of similar size, scope or type as the work required by the local government;

~~[5.]~~ (e) Whether the principal personnel employed by the applicant have the necessary professional qualifications and experience for the work required by the local government;

~~[6.]~~ (f) Whether the applicant has breached any contracts with a public agency or person in this State or any other state during the 5 years immediately preceding the date of application;

~~[7.]~~ (g) Whether the applicant has been disqualified from being awarded a contract by any governing body in the State of Nevada;

~~[8.]~~ (h) Whether the applicant has been convicted of a violation for discrimination in employment during the 2 years immediately preceding the date of application;

~~[9.]~~ (i) Whether the applicant has the ability to obtain and maintain insurance coverage for public liability and property damage within limits sufficient to protect the applicant and all the subcontractors of the applicant from claims for personal injury, accidental death and damage to property that may arise in connection with the work required by the local government;

~~[10.]~~ (j) Whether the applicant has established a safety program that complies with the requirements of chapter 618 of NRS;

~~[11.]~~ (k) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the work required by the local government;

~~[12.]~~ (l) Whether, during the 5 years immediately preceding the date of application, the applicant has filed as a debtor under the provisions of the United States Bankruptcy Code;

~~[13.]~~ (m) Whether the application is truthful and complete; and

~~[14.]~~ (n) Whether, during the 5 years immediately preceding the date of the application, the applicant has, as a result of causes within the control of the applicant or a subcontractor or supplier of the applicant, failed to perform any contract:

~~[(a)]~~ (1) In the manner specified by the contract and any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative;

~~[(b)]~~ (2) Within the time specified by the contract unless extended by the person or governmental entity that awarded the contract or its authorized representative; or

~~[(c)]~~ (3) For the amount of money specified in the contract or as modified by any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative.

➥ Evidence of the failures described in this subsection may include, without limitation, the assessment of liquidated damages against the

applicant, the forfeiture of any bonds posted by the applicant, an arbitration award granted against the applicant or a decision by a court of law against the applicant.

2. Except as otherwise provided in section 5 of this act, in addition to the criteria described in subsection 1, the local government may use any other relevant criteria that are necessary to determine whether a person satisfies the requirements to be a qualified service company pursuant to NRS 332.360.

Sec. 4. ~~[1. If, within 10 days after receipt of the notice denying an application pursuant to section 2 of this act, the applicant files a written request for a hearing with the local government, the governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.~~

~~2. The hearing must be held at a time and place prescribed by the local government. At least 10 days before the date set for the hearing, the local government shall serve the applicant with written notice of the hearing. The notice may be served by personal delivery to the applicant or by certified mail to the last known business or residential address of the applicant.~~

~~3. The applicant has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a performance contract.~~

~~4. In conducting a hearing pursuant to this section, the governing body may:~~

~~(a) Administer oaths;~~

~~(b) Take testimony;~~

~~(c) Issue subpoenas to compel the attendance of witnesses to testify before the governing body;~~

~~(d) Require the production of related books, papers and documents; and~~

~~(e) Issue commissions to take testimony.~~

~~5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.~~

~~6. The governing body shall issue a decision on the matter during the hearing. The decision of the governing body is a final decision for purposes of judicial review.]~~ **(Deleted by amendment.)**

Sec. 5. ***Notwithstanding the provisions of section 3 of this act, a governing body may deem a person a qualified service company if the person has been determined by:***

1. The State Public Works Board or a local government pursuant to NRS 338.1379 to be qualified to bid on a public work; or

2. Another local government pursuant to section 2 of this act to be qualified as a qualified service company.

Sec. 6. ***A performance contract that guarantees operating cost savings must identify the specific dollar amount and units or percentages of consumption that the qualified service company anticipates will be eliminated or avoided on a long-term basis as a result of the operating cost-savings measures that the local government is implementing.***

Sec. 6.5. 1. Each local government that enters into a performance contract pursuant to NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act, shall, on or before February 1 of each year, prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature if the Legislature is in session, or to the Interim Finance Committee if the Legislature is not in session.

2. The report required pursuant to subsection 1 must include, without limitation:

(a) The status of the construction and financing of the operating cost-savings measures described in the performance contract.

(b) The cumulative amount of operating cost-savings that have resulted from the operating cost-savings measures.

(c) The amount of operating cost-savings that are projected for the future.

(d) Any other information required by the Legislature or Interim Finance Committee.

Sec. 7. NRS 332.300 is hereby amended to read as follows:

332.300 As used in NRS 332.300 to 332.440, inclusive, ***and sections 2 to ~~[6,]~~ 6.5, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 332.310 to 332.350, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 332.310 is hereby amended to read as follows:

332.310 "Building" means any ***existing*** structure, building or facility, including any equipment, furnishings or appliances within the ***existing*** structure, building or facility, that is owned or operated by a local government. The term includes, without limitation, occupied and unoccupied ***existing*** structures, buildings and facilities, and any other ***existing*** improvements owned or operated by a local government that incur operating costs.

Sec. 9. NRS 332.330 is hereby amended to read as follows:

332.330 "Operating cost-savings measure" ~~[~~means~~]~~ ***:***

1. Means any improvement, repair or alteration to a building, or any equipment, fixture or furnishing to be added or used in a building that is designed to reduce operating costs, including ***, without limitation,*** those costs related to electrical energy and demand, thermal energy, water consumption, waste disposal and contract-labor costs, and increase the operating efficiency of the building for the appointed functions that are cost-effective. ~~[~~The term includes,~~]~~

2. Includes, without limitation:

~~[1. Procurement of low-cost energy supplies, including electricity and natural gas.~~

~~2. Procurement of cost savings as a result of outsourcing energy needs for electrical power, heating and cooling.~~

~~3.~~] ***(a)*** Operational or maintenance labor savings resulting from reduced costs for maintenance contracts as provided through reduction of required maintenance or operating tasks, including, without limitation, replacement of filters and lighting products, and equipment failures.

~~[4.~~] ***(b)*** Investment in equipment, products and materials, and strategies for building operation, or any combination thereof, designed to reduce energy and other utility expenses, including, without limitation:

~~[(a)~~] ***(1)*** Costs for materials and labor required to replace old equipment with new, more efficient equipment.

~~[(b)~~] ***(2)*** Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated windows or doors, reductions in glass area, and other modifications to windows and doors that will reduce energy consumption.

~~[(c)~~] ***(3)*** Automated or computerized energy control systems.

~~[(d)~~] ***(4)*** Replacement of, or modifications to, heating, ventilation or air-conditioning systems.

~~[(e)~~] ***(5)*** Replacement of, or modifications to, lighting fixtures.

~~[(f)~~] ***(6)*** Improvements to the indoor air quality of a building that conform to all requirements of an applicable building code.

~~[(g)~~] ***(7)*** Energy recovery systems.

~~[(h)~~] ***(8)*** Systems for combined cooling, heating and power that produce steam or other forms of energy, for use primarily within the building or a complex of buildings.

~~[(i)~~] ***(9)*** Installation of, or modifications to, existing systems for daylighting, including lighting control systems.

~~[(j)~~] ***(10)*** Installation of, or modification to, technologies that use renewable or alternative energy sources.

~~[(k)~~] ***(11)*** Programs relating to building operation that reduce operating costs, including, without limitation, computerized programs, training and other similar activities.

~~[(l)~~] ***(12)*** Programs for improvement of steam traps to reduce operating costs.

~~[(m)~~] ***(13)*** Devices that reduce water consumption in buildings, for lawns and for other irrigation applications.

~~[(n)~~] ***(14)*** Any additional improvements to building infrastructures that produce energy and operating cost savings, significantly reduce energy consumption or increase the operating efficiency of the buildings for their appointed functions, provided that such improvements comply with applicable building codes.

~~[(o)~~] ***(15)*** Trash compaction and waste minimization.

~~[5.]~~ ***(16) Ground source systems for heating and cooling.***

(c) Investment in educational programs relating to ~~[occupational behavior that are designed to reduce the consumption of energy or water, or both, and the generation of waste.]~~ ***the operation and maintenance of any equipment installed to reduce operating costs.***

3. Does not include the construction of a new building or any addition to a building that increases the square footage of the building.

Sec. 10. NRS 332.340 is hereby amended to read as follows:

332.340 "Performance contract" means a ***written*** contract between a local government and a qualified service company for the evaluation, recommendation and implementation of one or more operating cost-savings measures.

Sec. 11. NRS 332.350 is hereby amended to read as follows:

332.350 "Qualified service company" means a person ~~[with a record of established projects or a person with demonstrated technical, operational, financial and managerial capabilities to design and carry out operating cost-savings measures and other similar building improvements, and who has the ability to secure necessary financial measures to ensure related guarantees for operating cost savings.]~~ ***who is qualified to bid on a performance contract pursuant to section 2 or 5 of this act.***

Sec. 12. NRS 332.360 is hereby amended to read as follows:

332.360 1. Notwithstanding any provision of this chapter and chapter 338 of NRS to the contrary, a local government may enter into a performance contract with a qualified service company for the purchase and installation of an operating cost-savings measure to reduce costs related to energy, water and the disposal of waste, and related labor costs. Such a performance contract may be in the form of an installment payment contract or a lease-purchase contract. Any operating cost-savings measures put into place as a result of a performance contract must comply with all applicable building codes.

2. ~~[The local government shall determine those companies that satisfy the requirements of qualified service companies for the purposes of NRS 332.300 to 332.440, inclusive. The local government shall prepare and issue a request for qualifications to not less than three potential qualified service companies.~~

~~3. In sending out a request for qualifications, the local government:~~

~~(a) Shall attempt to identify at least one potential qualified service company located within this state; and~~

~~(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.~~

~~4. The local government shall use objective criteria to determine those companies that satisfy the requirements of qualified service companies. The objective criteria for evaluation must include the following areas as substantive factors to assess the capability of such companies:~~

~~(a) Design;~~

~~(b) Engineering;~~

~~(c) Installation;~~

~~(d) Maintenance and repairs associated with performance contracts;~~

~~(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost savings retrofit;~~

~~(f) Monitoring projects after the projects are installed;~~

~~(g) Data collection and reporting of savings;~~

~~(h) Overall project experience and qualifications;~~

~~(i) Management capability;~~

~~(j) Ability to access long-term financing;~~

~~(k) Experience with projects of similar size and scope; and~~

~~(l) Such other factors determined by the local government to be relevant and appropriate to the ability of a company to perform the project.~~

~~➥ In determining whether a company satisfies the requirements of a qualified service company, the local government shall also consider the financial health of the company as evidenced by its financial statements and ratings and whether the company holds the appropriate licenses required for the design, engineering and construction to be completed.~~

~~5. The local government shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.~~**]** If **[**~~the~~**]** ***a*** local government is interested in entering into a performance contract, the local government shall notify each appropriate qualified service company and coordinate an opportunity for each such qualified service company to:

(a) Perform a preliminary and comprehensive audit and assessment of all potential operating cost-savings measures that might be implemented within the buildings of the local government, including any operating cost-savings measures specifically requested by the local government; and

(b) Submit a proposal and make a related presentation to the local government for all such operating cost-savings measures that the qualified service company determines would be practicable to implement.

[~~6.~~**]** ***3.*** The local government shall:

(a) Evaluate the proposals and presentations made pursuant to subsection **[**~~5;~~**]** ***2;*** and

(b) Select a qualified service company,

➥ pursuant to the provisions of **[**~~this chapter for evaluating and awarding contracts.~~**]**

[~~7.~~**]** ***NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act.***

4. The local government may retain the professional services of a third-party consultant with the requisite technical expertise to assist the local government in evaluating the proposals and presentations pursuant to subsection 3. Such a third-party consultant must possess a business license issued pursuant to NRS 360.780 and any other applicable licenses issued

by a licensing board in this State in the same discipline in which the consultant will be advising the local government.

5. The qualified service company selected by the local government pursuant to subsection ~~[6.]~~ ***3*** shall prepare a financial-grade operational audit. Except as otherwise provided in this subsection, the audit prepared by the qualified service company becomes, upon acceptance, a part of the final performance contract and the costs incurred by the qualified service company in preparing the audit shall be deemed to be part of the performance contract. If, after the audit is prepared, the local government decides not to execute the performance contract, the local government shall pay the qualified service company that prepared the audit the costs incurred by the qualified service company in preparing the audit if the local government has specifically appropriated money for that purpose.

~~[8.]~~ ***6.*** The local government shall retain the professional services of a third-party consultant with the requisite technical expertise to assist the local government in reviewing the operating cost-savings measures proposed by the qualified service company and may procure sufficient funding from the qualified service company, through negotiation, to pay for the third-party consultant. Such a third-party consultant must be ***licensed pursuant to chapter 625 of NRS and*** certified by the Association of Energy Engineers as a "Certified Energy Manager" or hold similar credentials from a comparable nationally recognized organization. A third-party consultant retained pursuant to this subsection shall work on behalf ***and for the benefit*** of the local government in coordination with the qualified service company.

Sec. 13. NRS 332.370 is hereby amended to read as follows:

332.370 1. A performance contract may be financed through a person other than the qualified service company.

2. A performance contract ~~[may]~~ ***must*** be structured ~~[as:~~

~~(a) A performance contract that guarantees]~~ ***to guarantee*** operating cost savings, which includes, without limitation, the design and installation of equipment, the operation and maintenance, if applicable, of any of the operating cost-savings measures and the guaranteed annual savings which must meet or exceed the total annual contract payments to be made by the local government, including any financing charges to be incurred by the local government over the life of the performance contract. The local government may require that these savings be verified annually or over a sufficient period that demonstrates savings.

~~[(b) A shared savings contract which includes provisions mutually agreed upon by the local government and qualified service company as to the negotiated rate of payments based upon operating cost savings and a stipulated maximum consumption level of energy or water, or both energy and water, over the life of the contract.]~~

Sec. 14. NRS 332.390 is hereby amended to read as follows:

332.390 ***1.*** If a performance contract entered into pursuant to NRS 332.300 to 332.440, inclusive, ***and sections 2 to ~~[6,]~~ 6.5, inclusive, of***

this act requires the employment of skilled mechanics, skilled workmen, semiskilled mechanics, semiskilled workmen or unskilled labor to perform the performance contract, the performance contract must include a provision relating to the prevailing wage as required pursuant to NRS 338.020 to 338.090, inclusive.

2. Before a qualified service company enters into a performance contract pursuant to NRS 332.300 to 332.440, inclusive, and sections 2 to ~~[6,]~~ 6.5, inclusive, of this act, that exceeds $100,000, the qualified service company must furnish to the contracting body any bonds required pursuant to NRS 339.025. The provisions of chapter 339 of NRS apply to any performance contract described in this subsection.

Sec. 15. NRS 332.410 is hereby amended to read as follows:

332.410 A local government may reinvest any savings realized under a performance contract whenever practical into ***other*** operating cost-savings measures provided the local government ~~[is]~~ ***:***

1. Is satisfying all its other obligations under the performance contract ~~[.]~~ ***; and***

2. Complies with the requirements of NRS 332.300 to 332.440, inclusive, and sections 2 to ~~[6,]~~ 6.5, inclusive, of this act, when reinvesting the savings into other operating cost-savings measures.

Sec. 16. ~~[NRS 332.440 is hereby amended to read as follows:~~

~~332.440 ***1.*** A performance contract must include appropriate financial mechanisms determined to be necessary by the city or county treasurer, as appropriate, to guarantee that operating cost savings are realized by the local government if the actual cost savings do not meet the predicted cost savings.~~

~~***2. If the performance contract is an installment payment contract, the performance contract must authorize the local government to reduce the amount of payments if the actual operating cost savings do not meet the predicted operating cost savings.]*** **(Deleted by amendment.)**

Sec. 17. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 208.

Bill read second time.

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

Amendment No. 283.

AN ACT relating to cranes; revising requirements for certification as a crane operator to include a certain amount of crane-related experience; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires 1,000 hours of training prior to certification as either a mobile crane operator or tower crane operator. In addition, this bill requires that at least 500 of the 1,000 hours of training must be in tower crane operation in order to qualify for certification as a tower crane operator. (NRS 618.880)

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

Section 1. NRS 618.880 is hereby amended to read as follows:

618.880 1. The Division shall adopt regulations establishing standards and procedures for the operation of cranes, including, without limitation, regulations requiring the:

(a) Establishment and implementation of site safety plans and procedures for the erection and dismantling of tower cranes;

(b) Establishment of a clear zone around the erection, dismantling or other highly hazardous lifts with a crane;

(c) Annual certification of the mechanical lifting parts of the crane; and

(d) Certification of tower cranes each time a tower crane is erected and additional annual certifications of tower cranes while they continue to be in use.

2. Except as otherwise provided in subsection 3:

(a) The Division shall adopt regulations requiring the establishment and implementation of programs for the certification of all persons who operate:

(1) Tower cranes; or

(2) Mobile cranes having a usable boom length of 25 feet or greater or a maximum machine rated capacity of 15,000 pounds or greater.

(b) A person shall not operate a tower crane or a mobile crane described in subparagraph (2) of paragraph (a) unless the person holds certification as a crane operator issued pursuant to this subsection for the type of crane being operated.

(c) An applicant for certification as a crane operator must hold a certificate which:

(1) Is issued by an organization whose program of certification for crane operators:

(I) Is accredited by the National Commission for Certifying Agencies or an equivalent accrediting body approved by the Division; ~~[or]~~ ***and***

(II) Meets other criteria ***as may be*** established by the Division; ~~[and]~~

(2) Certifies that the person has met the standards to be a crane operator established by ~~[the American Society of Mechanical Engineers]~~ ***ASME International,*** in its standards B30.3, B30.4 or B30.5 as adopted by regulation of the Division ~~[.]~~ ***;***

(3) Requires a minimum of 1,000 hours of crane-related experience or training during the 5-year period immediately preceding the issuance of a mobile crane operator certification; ~~*[and]*~~

(4) Requires a minimum of 1,000 hours of crane-related experience or training, of which a minimum of 500 hours is specific to tower crane operation, during the 5-year period immediately preceding the issuance of a tower crane operator certification ~~[.]~~ ***; and***

(5) Does not require an examination during which the applicant must operate a crane if the applicant:

(I) Is seeking recertification for the type of crane for which he currently holds a valid certification; and

(II) Has 1,000 hours of experience operating the type of crane for which he is seeking certification during the 5-year period immediately preceding the issuance of his recertification.

(d) The organization that issues a certification pursuant to this subsection is responsible for the verification of hours of experience or training required by this subsection.

3. The provisions of subsection 2 do not apply to a person who:

(a) Is an employee of a utility while the person is engaged in work for or at the direction of the utility;

(b) Operates an electric or utility line truck that is regulated pursuant to 29 C.F.R. § 1910.269 or 29 C.F.R. Part 1926, Subpart V; ~~[or]~~

(c) Operates an aerial or lifting device, whether or not self-propelled, that is designed and manufactured with the specific purpose of lifting one or more persons in a bucket or basket or on a ladder or platform and holding those persons in the lifted position while they perform tasks. Such devices include, without limitation:

(1) A bucket truck or lift;

(2) An aerial platform;

(3) A platform lift; or

(4) A scissors lift ~~[.]~~ ***; or***

(d) Operates a crane as a trainee under the direct supervision of an operator who has a valid certification in accordance with subsection 2 for the type of crane being operated by the trainee. As used in this paragraph, "direct supervision" means that the person who is supervising the trainee:

(1) Is in the immediate area of the trainee;

(2) Can see the trainee;

(3) Is able to communicate effectively with the trainee; and

(4) Has no duties other than to observe the operation of the crane by the trainee.

4. ***A certification used to satisfy the requirements of this section for a crane operator expires 5 years after the date that it is issued and may be renewed by providing proof deemed acceptable by the Division that the crane operator has fulfilled the requirements of subsection 2.***

5. As used in this section, "utility" means any public or private utility, whether or not the utility is subject to regulation by the Public Utilities Commission of Nevada, that provides, at wholesale or retail:

(a) Electric service;

(b) Gas service;

(c) Water or sewer service;

(d) Telecommunication service, including, without limitation, local exchange service, long distance service and personal wireless service; or

(e) Television service, including, without limitation, community antenna television, cable television and other video service.

Sec. 2. **Any person who obtains certification as a crane operator pursuant to paragraph (c) of subsection 2 of NRS 618.880 before July 1, 2011, is exempt from the requirements of subparagraphs (3) and (4) of paragraph (c) of subsection 2 of NRS 618.880, as amended by section 1 of this act, until the earlier of the date his certification expires or July 1, 2016.**

Sec. 3. **This act becomes effective upon the later of:**

1. July 1, 2011; or

2. The date the Governor declares that the Federal Government has adopted provisions governing the certification of crane operators.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 224.

Bill read second time.

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

Amendment No. 436.

AN ACT relating to insurance; revising provisions relating to unfair practices in settling insurance claims; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes it an unfair practice in settling insurance claims **, other than claims involving a policy of health insurance,** for an insurer to deny the payment of an amount due pursuant to a provision of first-party coverage under an insurance policy if that amount is not in dispute. This bill also authorizes an insured who is injured as a result of the denial of such payment to recover costs and reasonable attorney's fees under certain circumstances. (NRS 686A.310)

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

Section 1. NRS 686A.310 is hereby amended to read as follows:

686A.310 1. Engaging in any of the following activities is considered to be an unfair practice:

(a) Misrepresenting to insureds or claimants pertinent facts or insurance policy provisions relating to any coverage at issue.

(b) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(c) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.

(d) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss requirements have been completed and submitted by the insured.

(e) Failing to effectuate prompt, fair and equitable settlements of claims in which liability of the insurer has become reasonably clear.

(f) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds, when the insureds have made claims for amounts reasonably similar to the amounts ultimately recovered.

(g) Attempting to settle a claim by an insured for less than the amount to which a reasonable person would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.

(h) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured, his representative, agent or broker.

(i) Failing, upon payment of a claim, to inform insureds or beneficiaries of the coverage under which payment is made.

(j) Making known to insureds or claimants a practice of the insurer of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(k) Delaying the investigation or payment of claims by requiring an insured or a claimant, or the physician of either, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(l) Failing to settle claims promptly, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

(m) Failing to comply with the provisions of NRS 687B.310 to 687B.390, inclusive, or 687B.410.

(n) Failing to provide promptly to an insured a reasonable explanation of the basis in the insurance policy, with respect to the facts of the insured's claim and the applicable law, for the denial of his claim or for an offer to settle or compromise his claim.

(o) Advising an insured or claimant not to seek legal counsel.

(p) Misleading an insured or claimant concerning any applicable statute of limitations.

(q) ~~*[Denying]*~~ ***Except for claims involving a policy of health insurance, denying the payment of any amount due pursuant to a provision of first-party coverage under an insurance policy if that amount is not in dispute.***

2. In addition to any rights or remedies available to the Commissioner, an insurer is liable to its insured for any damages ***, including, without limitation, costs and reasonable attorney's fees,*** sustained by the insured as a result of the commission of any act set forth in subsection 1 as an unfair practice.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 256.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 403.

AN ACT relating to elections; revising provisions governing the dates for certain elections; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 8 of this bill changes the date of the primary election from the twelfth Tuesday before the general election in each even-numbered year to the ~~[first]~~ **second** Tuesday ~~[after the first Monday]~~ in June of each even-numbered year. (NRS 293.175) As a result of changing the date of the primary election, **sections 3-7 and 9-17** of this bill amend various other dates relating to elections, such as the date for filing declarations of candidacy.

Existing law authorizes the governing body of a city incorporated pursuant to general law to choose by ordinance whether to: (1) hold city elections on the statewide election cycle; or (2) hold a primary city election on the first Tuesday after the first Monday in April and hold a general city election on the first Tuesday after the first Monday in June of odd-numbered years. (NRS 293C.115, 293C.140, 293C.145, 293C.175) **Sections 19-22** of this bill require that cities be on the statewide election cycle as of the year 2012. **Sections 1, 2, 18 and ~~[23]~~ 21-29** of this bill amend various other dates relating to city elections, such as the date for filing declarations of candidacy. **Section 57** of this bill provides that officials of affected cities who are elected in 2009 will hold office until the city elections are held in 2012. The officials of such cities who are elected in 2011 will hold office until the city elections are held in 2014.

Certain cities that are created by charters hold general municipal elections in June of odd-numbered years. (Boulder City, Caliente, Elko, Henderson, Las Vegas, North Las Vegas and Yerington) **Sections 30-56** of this bill amend the charters of those cities to require that the cities hold primary and general city elections on the same dates as the statewide primary and general

elections. The terms of office of officials of such cities who were elected in 2007 will be extended until the city elections are held in 2012.

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

Section 1. NRS 293.059 is hereby amended to read as follows:

293.059 "General city election" means an election held pursuant to NRS ~~[293C.115,]~~ 293C.140 or 293C.145. The term includes a general municipal election held pursuant to the provisions of a special charter of an incorporated city.

Sec. 2. NRS 293.079 is hereby amended to read as follows:

293.079 "Primary city election" means an election held pursuant to NRS ~~[293C.115 or]~~ 293C.175. The term includes a primary municipal election held pursuant to the provisions of a special charter of an incorporated city.

Sec. 3. NRS 293.128 is hereby amended to read as follows:

293.128 1. To qualify as a major political party, any organization must, under a common name:

(a) On January 1 preceding any primary election, have been designated as a political party on the applications to register to vote of at least 10 percent of the total number of registered voters in this State; or

(b) File a petition with the Secretary of State not later than the last Friday in ~~[April]~~ ***February*** before any primary election signed by a number of registered voters equal to or more than 10 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

2. If a petition is filed pursuant to paragraph (b) of subsection 1, the names of the voters need not all be on one document, but each document of the petition must be verified by the circulator thereof to the effect that the signers are registered voters of this State according to his best information and belief and that the signatures are genuine and were signed in his presence. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document. The documents which are circulated for signature must then be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last Friday in ~~[April]~~ ***February*** preceding a primary election.

3. In addition to the requirements set forth in subsection 1, each organization which wishes to qualify as a political party must file with the Secretary of State a certificate of existence which includes the:

(a) Name of the political party;

(b) Names and addresses of its officers;

(c) Names of the members of its executive committee; and

(d) Name of the person who is authorized by the party to act as registered agent in this State.

4. A political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.

Sec. 4. NRS 293.165 is hereby amended to read as follows:

293.165 1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 4 and 5.

2. A vacancy occurring in a nonpartisan nomination after the close of filing and on or before 5 p.m. of the second Tuesday in ~~[June]~~ ***April*** must be filled by filing a nominating petition that is signed by registered voters of the State, county, district or municipality who may vote for the office in question. The number of registered voters who sign the petition must not be less than 1 percent of the number of persons who voted for the office in question in the State, county, district or municipality at the last preceding general election. The petition must be filed not earlier than the first Tuesday in ~~[May]~~ ***March*** and not later than the fourth Tuesday in ~~[June.]~~ ***April.*** The petition may consist of more than one document. Each document must bear the name of one county and must be signed only by a person who is a registered voter of that county and who may vote for the office in question. Each document of the petition must be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, to the county clerk of the county named on the document. A candidate nominated pursuant to the provisions of this subsection:

(a) Must file a declaration of candidacy or acceptance of candidacy and pay the statutory filing fee on or before the date the petition is filed; and

(b) May be elected only at a general election, and his name must not appear on the ballot for a primary election.

3. A vacancy occurring in a nonpartisan nomination after 5 p.m. of the second Tuesday in ~~[June]~~ ***April*** and on or before 5 p.m. on the first Tuesday after the primary election must be filled by the person who receives the next highest vote for the nomination in the primary.

4. No change may be made on the ballot for the general election after 5 p.m. on the first Tuesday after the primary election **.** ~~[of the year in which the general election is held.]~~ If a nominee dies after that time and date, his name must remain on the ballot for the general election and, if elected, a vacancy exists.

5. All designations provided for in this section must be filed on or before 5 p.m. on the first Tuesday after the primary election. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.

Sec. 5. NRS 293.1715 is hereby amended to read as follows:

293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.

2. The names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the party has filed a certificate of existence and a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:

(a) At the last preceding general election, the minor political party polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party has been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or

(c) Not later than the second Friday in ~~[August]~~ ***June*** preceding the general election, files a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

3. The name of a candidate for partisan office for a minor political party other than a candidate for the office of President or Vice President of the United States must be placed on the ballot for the general election if the party has filed:

(a) A certificate of existence;

(b) A list of candidates for partisan office containing the name of the candidate pursuant to the provisions of NRS 293.1725 with the Secretary of State; and

(c) Not earlier than the first Monday in ~~[May]~~ ~~*[March,]*~~ ***April*** preceding the general election and not later than 5 p.m. on the ~~[second]~~ ***first*** Friday after the first Monday in ~~[May,]~~ ~~*[March,]*~~ ***April,*** a petition on behalf of the candidate with the Secretary of State containing not less than:

(1) Two hundred fifty signatures of registered voters if the candidate is to be nominated for a statewide office; or

(2) One hundred signatures of registered voters if the candidate is to be nominated for any office except a statewide office.

➥ A minor political party that places names of one or more candidates for partisan office on the ballot pursuant to this subsection may also place the names of one or more candidates for partisan office on the ballot pursuant to subsection 2.

4. The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.

5. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 or paragraph (c) of subsection 3 with the Secretary of State before the petition may be circulated for signatures.

Sec. 6. NRS 293.1725 is hereby amended to read as follows:

293.1725 1. Except as otherwise provided in subsection ~~[4,]~~ ***6,*** a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:

(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715;

(b) Files ***or will file*** a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715; or

(c) Whose candidates are entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715,

➥ must file with the Secretary of State a list of its candidates for partisan office ***.***

2. The list of candidates for partisan office required pursuant to subsection 1 must be filed with the Secretary of State:

(a) If the minor political party is described in paragraph (a) or (b) of subsection 1, not earlier than the first Monday in ~~[May]~~ ***March*** preceding the election nor later than 5 p.m. on the ~~[second]~~ ***first*** Friday after the first Monday in ~~[May.]~~ ***March. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in March.***

(b) If the minor political party is described in paragraph (c) of subsection 1, not earlier than the first Monday in April preceding the election nor later than 5 p.m. on the first Friday after the first Monday in April. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in April.

3. The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. The Secretary of State shall strike from the list each candidate who is not entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715 if the minor political party is not entitled to place candidates on the ballot pursuant to subsection 2 of NRS 293.1715. ~~[The list may be amended not later than 5 p.m. on the second Friday after the first Monday in]~~ ~~[~~May.~~]~~ ~~*[March.*~~

~~2.]~~ ***4.*** The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the filing officer with whom each candidate must file his declaration of candidacy.

~~[3.]~~ ***5.*** Each candidate on the list must file his declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of his minor political party is filed with the Secretary of State nor later than 5 p.m. on the ~~[second]~~ ***first*** Friday after the first Monday in ~~[May.]~~ ~~*[March.]*~~

~~[4.]~~ ***:***

(a) If the list is filed pursuant to paragraph (a) of subsection 2, March.

(b) If the list is filed pursuant to paragraph (b) of subsection 2, April.

6. A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has

qualified to place the names of its candidates for partisan office on the ballot for the general election pursuant to subsection 2 of NRS 293.1715 must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in September.

Sec. 7. NRS 293.174 is hereby amended to read as follows:

293.174 1. If the qualification of a minor political party is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the third Friday in ~~[August.]~~ ***June.*** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the third Friday in ~~[August.]~~ ***June.*** A challenge pursuant to this subsection must be filed with the First Judicial District Court if the petition was filed with the Secretary of State.

2. If the qualification of a candidate of a minor political party other than a candidate for the office of President or Vice President of the United States is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[May.]~~ ~~*[March.]*~~ ***April.*** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[May.]~~ ~~*[March.]*~~ ***April.*** A challenge pursuant to this subsection must be filed with:

(a) The First Judicial District Court; or

(b) If a candidate who filed a declaration of candidacy with a county clerk is challenged, the district court for the county where the declaration of candidacy was filed.

Sec. 8. NRS 293.175 is hereby amended to read as follows:

293.175 1. The primary election must be held on the ~~[12th Tuesday before the general election]~~ ~~*[first]*~~ ***second Tuesday*** ~~*[after the first Monday]*~~ in ***June of*** each even-numbered year.

2. Candidates for partisan office of a major political party and candidates for nonpartisan office must be nominated at the primary election.

3. Candidates for partisan office of a minor political party must be nominated in the manner prescribed pursuant to NRS 293.171 to 293.174, inclusive.

4. Independent candidates for partisan office must be nominated in the manner provided in NRS 293.200.

5. The provisions of NRS 293.175 to 293.203, inclusive, do not apply to:

(a) Special elections to fill vacancies.

(b) The nomination of the officers of incorporated cities.

(c) The nomination of district officers whose nomination is otherwise provided for by statute.

Sec. 9. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in ~~[~~May~~]~~ ***March*** of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in ~~[~~May.~~]~~ ***March.***

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ……, I, the undersigned ……., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……, in the City or Town of ……., County of ……, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 10. NRS 293.180 is hereby amended to read as follows:

293.180 1. Ten or more registered voters may file a certificate of candidacy designating any registered voter as a candidate for:

(a) Their major political party's nomination for any partisan elective office, or as a candidate for nomination for any nonpartisan office other than a judicial office, not earlier than the first Monday in ~~[April]~~ ***February*** of the year in which the election is to be held nor later than 5 p.m. on the first Friday in ~~[May;]~~ ***March;*** or

(b) Nomination for a judicial office, not earlier than the first Monday in December of the year immediately preceding the year in which the election is to be held nor later than 5 p.m. on the first Friday in January of the year in which the election is to be held.

2. When the certificate has been filed, the officer in whose office it is filed shall notify the person named in the certificate. If the person named in the certificate files an acceptance of candidacy and pays the required fee, as provided by law, he is a candidate in the primary election in like manner as if he had filed a declaration of candidacy.

3. If a certificate of candidacy relates to a partisan office, all of the signers must be of the same major political party as the candidate designated.

Sec. 11. NRS 293.200 is hereby amended to read as follows:

293.200 1. An independent candidate for partisan office must file with the appropriate filing officer:

(a) A copy of the petition of candidacy that he intends to subsequently circulate for signatures. The copy must be filed not earlier than the January 2 preceding the date of the election and not later than 25 working days before the last day to file the petition pursuant to subsection 4.

(b) Either of the following:

(1) A petition of candidacy signed by a number of registered voters equal to at least 1 percent of the total number of ballots cast in:

(I) This State for that office at the last preceding general election in which a person was elected to that office, if the office is a statewide office;

(II) The county for that office at the last preceding general election in which a person was elected to that office, if the office is a county office; or

(III) The district for that office at the last preceding general election in which a person was elected to that office, if the office is a district office.

(2) A petition of candidacy signed by 250 registered voters if the candidate is a candidate for statewide office, or signed by 100 registered voters if the candidate is a candidate for any office other than a statewide office.

2. The petition may consist of more than one document. Each document must bear the name of the county in which it was circulated, and only registered voters of that county may sign the document. If the office is not a statewide office, only the registered voters of the county, district or municipality in question may sign the document. The documents that are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition pursuant to subsection 4. Each person who signs the petition shall add to his signature the address of the place at which he actually resides, the date that he signs the petition and the name of the county where he is registered to vote. The person who circulates each document of the petition shall sign an affidavit attesting that the signatures on the document are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.

3. The petition of candidacy may state the principle, if any, which the person qualified represents.

4. Petitions of candidacy must be filed not earlier than the first Monday in ~~[~~May~~]~~ ~~*[March]*~~ ***April*** preceding the general election and not later than 5 p.m. on the ~~[~~second~~]~~ ***first*** Friday after the first Monday in ~~[~~May.~~]~~ ~~*[March.]*~~ ***April.***

5. No petition of candidacy may contain the name of more than one candidate for each office to be filled.

6. A person may not file as an independent candidate if he is proposing to run as the candidate of a political party.

7. The names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.

8. If the candidacy of any person seeking to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[~~May.~~]~~ ~~*[March.]*~~ ***April.*** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[~~May.~~]~~ ~~*[March.]*~~ ***April.***

9. Any challenge pursuant to subsection 8 must be filed with:

(a) The First Judicial District Court if the petition of candidacy was filed with the Secretary of State.

(b) The district court for the county where the petition of candidacy was filed if the petition was filed with a county clerk.

10. An independent candidate for partisan office must file a declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the first Monday in ~~[~~May~~]~~ ~~*[March]*~~ ***April*** of the year in which the election is held nor later than 5 p.m. on the ~~[~~second~~]~~ ***first*** Friday after the first Monday in ~~[~~May.~~]~~ ~~*[March.]*~~ ***April.***

Sec. 12. NRS 293.205 is hereby amended to read as follows:

293.205 1. Except as otherwise provided in NRS 293.208, on or before the third Wednesday in ~~[~~May~~]~~ ***March*** of every even-numbered year, the county clerk shall establish election precincts, define the boundaries thereof, abolish, alter, consolidate and designate precincts as public convenience, necessity and economy may require.

2. The boundaries of each election precinct must follow visible ground features or extensions of visible ground features, except where the boundary coincides with the official boundary of the State or a county or city.

3. Election precincts must be composed only of contiguous territory.

4. As used in this section, "visible ground feature" includes a street, road, highway, river, stream, shoreline, drainage ditch, railroad right-of-way or any other physical feature which is clearly visible from the ground.

Sec. 13. NRS 293.206 is hereby amended to read as follows:

293.206 1. On or before the last day in ~~[~~May~~]~~ ***March*** of every even-numbered year, the county clerk shall provide the Secretary of State and the Director of the Legislative Counsel Bureau with a copy or electronic file of a map showing the boundaries of all election precincts in the county.

2. If the Secretary of State determines that the boundaries of an election precinct do not comply with the provisions of NRS 293.205, he must provide the county clerk with a written statement of noncompliance setting forth the reasons the precinct is not in compliance. Within 15 days after receiving the notice of noncompliance, the county clerk shall make any adjustments to the boundaries of the precinct which are required to bring the precinct into compliance with the provisions of NRS 293.205 and he shall submit a corrected copy or electronic file of the precinct map to the Secretary of State and the Director of the Legislative Counsel Bureau.

3. If the initial or corrected election precinct map is not filed as required pursuant to this section or the county clerk fails to make the necessary changes to the boundaries of an election precinct pursuant to subsection 2, the Secretary of State may establish appropriate precinct boundaries in compliance with the provisions of NRS 293.205 to 293.213, inclusive. If the Secretary of State revises the map pursuant to this subsection, he shall submit a copy or electronic file of the revised map to the Director of the Legislative Counsel Bureau and the appropriate county clerk.

4. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 14. NRS 293.208 is hereby amended to read as follows:

293.208 1. Except as otherwise provided in subsections 2, 3 and 5 and in NRS 293.206, no election precinct may be created, divided, abolished or consolidated, or the boundaries thereof changed, during the period between the third Wednesday in ~~[May]~~ ***March*** of any year whose last digit is 6 and the time when the Legislature has been redistricted in a year whose last digit is 1, unless the creation, division, abolishment or consolidation of the precinct, or the change in boundaries thereof, is:

(a) Ordered by a court of competent jurisdiction;

(b) Required to meet objections to a precinct by the Attorney General of the United States pursuant to the Voting Rights Act of 1965, 42 U.S.C. §§ 1971 and 1973 et seq., and any amendments thereto;

(c) Required to comply with subsection 2 of NRS 293.205;

(d) Required by the incorporation of a new city; or

(e) Required by the creation of or change in the boundaries of a special district.

➥ As used in this subsection, "special district" means any general improvement district or any other quasi-municipal corporation organized under the local improvement and service district laws of this State as enumerated in title 25 of NRS which is required by law to hold elections or any fire protection district which is required by law to hold elections.

2. If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

3. A new election precinct may be established at any time if it lies entirely within the boundaries of any existing precinct.

4. If a change in the boundaries of an election precinct is made pursuant to this section during the time specified in subsection 1, the county clerk must:

(a) Within 15 days after the change to the boundary of a precinct is established by the county clerk or ordered by a court, send to the Director of the Legislative Counsel Bureau and the Secretary of State a copy or electronic file of a map showing the new boundaries of the precinct; and

(b) Maintain in his office an index providing the name of the precinct and describing all changes which were made, including any change in the name of the precinct and the name of any new precinct created within the boundaries of an existing precinct.

5. Cities of population categories two and three are exempt from the provisions of subsection 1.

6. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 15. NRS 293.368 is hereby amended to read as follows:

293.368 1. Whenever a candidate whose name appears upon the ballot at a primary election dies after 5 p.m. of the second Tuesday in ~~[~~June,~~]~~ ***April,*** his name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, he shall be deemed nominated and ~~[~~there shall be a~~]~~ ***the*** vacancy in the nomination ~~[~~that~~]~~ must be filled as provided in NRS 293.165 or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.

3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on the first Tuesday after the primary election, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, he shall be deemed elected and the office to which he was elected shall be deemed vacant at the beginning of the term for which he was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 16. NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection 2, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Except as otherwise provided in NRS 295.121 or 295.217, arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in ~~[~~May~~]~~ ***March*** preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

2. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

3. A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county or city clerks within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.

4. A county or city clerk:

(a) Shall assign a unique identification number to a question submitted pursuant to this section; and

(b) May charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and description of the anticipated financial effect on the ballot.

Sec. 17. NRS 293B.354 is hereby amended to read as follows:

293B.354 1. The county clerk shall, not later than ~~[June]~~ ***April*** 15 of each year in which a general election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

2. The city clerk shall, not later than January 1 of each year in which a general city election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.

3. Each plan must include:

(a) The location of the central counting place and of each polling place and receiving center;

(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;

(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and

(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.

Sec. 18. NRS 293B.354 is hereby amended to read as follows:

293B.354 1. The county clerk shall, not later than April 15 of each year in which a general election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

2. The city clerk shall, not later than ~~[January 1]~~ ***April 15*** of each year in which a general city election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.

3. Each plan must include:

(a) The location of the central counting place and of each polling place and receiving center;

(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;

(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and

(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.

Sec. 19. NRS 293C.115 is hereby amended to read as follows:

293C.115 ~~[1.]~~ The governing body of a city incorporated pursuant to general law ~~[may]~~ ***shall*** by ordinance provide for a primary city election and a general city election on ~~[~~**:**

~~(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or~~

~~(b) The~~~~]~~ ***the*** dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.

~~[2. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165, and in NRS 293.175, 293.177, 293.345 and 293.368 apply for purposes of conducting the primary city elections and general city elections of the city.~~

~~3. If a governing body of a city adopts an ordinance pursuant to subsection 1:~~

~~(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and~~

~~(b) Each elected city official holds office until the end of his term and until his successor has been elected and qualified.~~]

Sec. 20. NRS 293C.140 is hereby amended to read as follows:

293C.140 1. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** general city election must be held in each city of population categories one and two on the first Tuesday after the first Monday in ~~[June]~~ ***November*** of the first ~~[odd-numbered]~~ ***even-numbered*** year after incorporation, and ~~[on the same day every]~~ ***at each successive interval of*** 2 years ***,*** ~~[thereafter as determined by law, ordinance or resolution,]~~ at which time there must be elected the elective city officers, the offices of which are required next to be filled by election. All candidates, except as otherwise provided in NRS 266.220, at the general city election must be voted upon by the electors of the city at large.

2. ~~[Unless the terms of office of city councilmen are extended by an ordinance adopted pursuant to NRS 293C.115, the]~~ ***The*** terms of office of city councilmen are 4 years, which terms must be staggered. The councilmen elected to office immediately after incorporation shall decide, by lot, among themselves which of their offices expire at the next general city election, and thereafter the terms of office must be 4 years ***.*** ~~[unless the terms are extended by an ordinance adopted pursuant to NRS 293C.115.]~~

Sec. 21. NRS 293C.145 is hereby amended to read as follows:

293C.145 1. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** general city election must be held in each city of population category three on the first Tuesday after the first Monday in ~~[June]~~ ***November*** of the first ~~[odd-numbered]~~ ***even-numbered*** year after incorporation, and ~~[on the same day every]~~ ***at each successive interval of*** 2 years ***.*** ~~[thereafter, as determined by ordinance.]~~

2. There must be one mayor and three or five councilmen, as the city council shall provide ~~[,]~~ by ordinance, for each city of population category three. ~~[Unless the terms of office of the mayor and the councilmen are extended by an ordinance adopted pursuant to NRS 293C.115, the]~~ ***The*** terms of office of the mayor and the councilmen are 4 years, which terms must be staggered. The mayor and councilmen elected to office immediately after incorporation shall decide, by lot, among themselves which two of their offices expire at the next general city election, and thereafter the terms of office must be 4 years ~~. [unless the terms are extended by an ordinance adopted pursuant to NRS 293C.115.]~~ If a city council thereafter increases the number of councilmen, it shall, by lot, stagger the initial terms of the additional members.

3. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** candidate for any office to be voted for at the general city election must file a declaration of candidacy with the city clerk not ~~[less than 60 days nor more than 70 days before the day of the general city election.]~~ ***earlier than the first Monday in March preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in March.*** The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the city council by ordinance or resolution.

4. Candidates for mayor must be voted upon by the electors of the city at large. Candidates for councilmen must be voted upon by the electors of their respective wards to represent the wards in which they reside or by the electors of the city at large in accordance with the provisions of chapter 266 of NRS.

Sec. 22. NRS 293C.175 is hereby amended to read as follows:

293C.175 1. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** primary city election must be held in each city of population category one, and in each city of population category two that has so provided by ordinance, on the ~~[first]~~ ***second*** Tuesday ~~[after the first Monday]~~ in ~~[April]~~ ***June*** of every year in which a general city election is to be held, at which time there must be nominated candidates for offices to be voted for at the next general city election.

2. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** candidate for any office to be voted for at the primary city election must file a declaration of candidacy with the city clerk not ~~[less than 60 days nor more than 70 days before the date of the primary city election.]~~ ***earlier than the first Monday in March preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in March.*** The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the governing body of the city by ordinance or resolution. The filing fees collected by the city clerk must be deposited to the credit of the general fund of the city.

3. All candidates, except as otherwise provided in NRS 266.220, must be voted upon by the electors of the city at large.

4. If, in a primary city election held in a city of population category one or two, one candidate receives more than a majority of votes cast in that election for the office for which he is a candidate, his name alone must be placed on the ballot for the general city election. If, in the primary city election, no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general city election.

Sec. 23. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS ~~[293C.115 and]~~ 293C.190, a name may not be printed on a ballot to be used at a primary city election ~~[,]~~ unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than ~~[70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.]~~ ***the first Monday in March preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in March.***

2. A declaration of candidacy required to be filed by this section must be in substantially the following form:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

City of.....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, ..., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to,

complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the city clerk a different address for

that purpose, in which case the city clerk shall mail the copy to the last address so designated.

6. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the city clerk:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.

7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 24. NRS 293C.190 is hereby amended to read as follows:

293C.190 1. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** vacancy occurring in a nomination for a city office after the close of filing and on or before 5 p.m. of the ~~[first]~~ ***second*** Tuesday ~~[after the first Monday in March in a year in which a general city election is held]~~ ***in April*** must be filled by filing a nominating petition that is signed by at least 1 percent of the persons who are registered to vote and who voted for that office at the last preceding general city election. ~~[Except as otherwise provided in NRS 293C.115, the]~~ ***The*** petition must be filed not earlier than the ~~[third]~~ ***first*** Tuesday in ~~[February]~~ ***March*** and not later than the ~~[third]~~ ***fourth*** Tuesday ~~[after the third Monday]~~ in ~~[March.]~~ ***April.*** A candidate nominated pursuant to the provisions of this subsection may be elected only at a general city election, and his name must not appear on the ballot for a primary city election.

2. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** vacancy occurring in a nomination for a city office after 5 p.m. of the ~~[first]~~ ***second*** Tuesday ~~[after the first Monday in March]~~ ***in April*** and on or before 5 p.m. of the ~~[second]~~ ***first*** Tuesday after the ~~[second Monday in April]~~ ***primary city election*** must be filled by the person who received the next highest vote for the nomination in the primary city election.

3. ~~[Except to place a candidate nominated pursuant to subsection 1 on the ballot and except as otherwise provided in NRS 293C.115, no]~~ ***No*** change may be made on the ballot for the general city election after 5 p.m. ~~[of]~~ ***on*** the ~~[second]~~ ***first*** Tuesday after the ~~[second Monday in April of the year in which the general]~~ ***primary*** city election ~~[.]~~ ***.*** ~~[is held.]~~ If a nominee dies after

that time and date, his name must remain on the ballot for the general city election and, if elected, a vacancy exists.

4. ~~[Except as otherwise provided in NRS 293C.115, all]~~ ***All*** designations provided for in this section must be filed on or before 5 p.m. on the ~~[second]~~ ***first*** Tuesday after the ~~[second Monday in April of the year in which the general]~~ ***primary*** city election ***.*** ~~[is held.]~~ The filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on that date.

Sec. 25. NRS 293C.291 is hereby amended to read as follows:

293C.291 If a candidate whose name appears on the ballot at a primary city election or general city election dies after the applicable date set forth in ~~[:~~

~~1.]~~ NRS 293C.370 ~~[; or~~

~~2. NRS 293.368, if the governing body of the city has adopted an ordinance pursuant to paragraph (a) of subsection 1 of NRS 293C.115,~~

~~➥]~~ but before the time of the closing of the polls on the day of the election, the city clerk shall post a notice of the candidate's death at each polling place where the candidate's name will appear on the ballot for the primary city election or general city election.

Sec. 26. NRS 293C.345 is hereby amended to read as follows:

293C.345 ~~[Except as otherwise provided in NRS 293C.115, the]~~ ***The*** city clerk shall mail to each registered voter in each mailing precinct and in each absent ballot mailing precinct, before 5 p.m. on the third Thursday in ~~[March]~~ ***May*** and before 5 p.m. on the fourth Tuesday in ~~[May]~~ ***October*** of any year in which a general city election is held, an official mailing ballot to be voted by him at the election.

Sec. 27. NRS 293C.370 is hereby amended to read as follows:

293C.370 ~~[Except as otherwise provided in NRS 293C.115:]~~

1. Whenever a candidate whose name appears upon the ballot at a primary city election dies after 5 p.m. of the ~~[first]~~ ***second*** Tuesday ~~[after the first Monday]~~ in ~~[March,]~~ ***April,*** his name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary city election receives the number of votes required to receive the nomination to the office for which he was a candidate, the nomination is filled as provided in subsection 2 of NRS 293C.190.

3. Whenever a candidate whose name appears upon the ballot at a general city election dies after 5 p.m. of the ~~[second]~~ ***first*** Tuesday after the ~~[second Monday in April,]~~ ***primary city election,*** the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, he shall be deemed elected and the office to which he was elected shall be deemed vacant at the beginning of

the term for which he was elected. The vacancy created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 28. NRS 266.405 is hereby amended to read as follows:

266.405 1. In addition to the mayor and city council, there must be in each city of population category one or two a city clerk, a city treasurer ~~[,]~~ or **,** if those offices are combined pursuant to subsection 4, a city clerk and treasurer, a municipal judge and a city attorney. The offices of city clerk, city treasurer, municipal judge and city attorney may be either elective or appointive offices, as provided by city ordinance. Except as otherwise provided in this subsection **, [**~~and unless the terms of those elected officers are extended by an ordinance adopted pursuant to NRS 293C.115,~~**]** the elected officers shall hold their respective offices for 4 years and until their successors are elected and qualified. The cities of population category three may by ordinance provide that the mayor and city councilmen must be elected and shall hold office for 2 years **. [**~~unless the terms of office of the mayor and city councilmen are extended by an ordinance adopted pursuant to NRS 293C.115.~~**]**

2. In each city of population category one or two ~~[,]~~ in which the officers are appointed pursuant to ordinance, the mayor, with the advice and consent of the city council, shall appoint all of the officers.

3. In cities of population category three, the mayor, with the advice and consent of the city council, may appoint any officers as may be deemed expedient.

4. The city council may provide by ordinance for the office of city clerk and the office of city treasurer to be combined into the office of city clerk and treasurer.

Sec. 29. NRS 267.110 is hereby amended to read as follows:

267.110 1. Any city having adopted a charter pursuant to the provisions of NRS 267.010 to 267.140, inclusive, has pursuant to the charter:

(a) All of the powers enumerated in the general laws of the State for the incorporation of cities.

(b) Such other powers necessary and not in conflict with the Constitution and laws of the State of Nevada to carry out the commission form of government.

2. The charter, when submitted, must:

(a) Fix the number of commissioners, their terms of office and their duties and compensation.

(b) Provide for all necessary appointive and elective officers for the form of government therein provided, and fix their salaries and emoluments, duties and powers.

(c) Fix, in accordance with the provisions of NRS 293C.140 and 293C.175 or with the provisions of NRS 293C.145 **, [**~~, or with the provisions of paragraph (a) of subsection 1 of NRS 293C.115,~~**]** the time for the first and subsequent elections for all elective officers. After the first election and the

qualification of the officers who were elected, the old officers and all boards or offices and their emoluments must be abolished.

Sec. 30. Section 4 of the charter of Boulder City is hereby amended to read as follows:

Section 4. Number; selection ***;*** ~~[and term;]~~ recall.

1. The City Council shall have four Councilmen and a Mayor elected from the City at large in the manner provided in Article IX ***.*** ~~[, for terms of four years and until their successors have been elected and have taken office as provided in section 16, subject to recall as provided in section 111.5.]~~ No Councilman shall represent any particular constituency or district of the City, and each Councilman shall represent the entire City. (Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996)

2. (Repealed by Amd. 1; 6-4-1991)

3. The Councilmen and the Mayor are subject to recall as provided in section 111.5.

Sec. 31. Section 96 of the charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of city elections.

1. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. ~~[All]~~ ***The Mayor and two Council members elected at the general city election held on the Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 4.***

3. On the first Tuesday after the first Monday in June 2009, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, two Council members, both of whom hold office until their successors have been elected and qualified pursuant to subsection 5.

4. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general city election to be held for that purpose, a Mayor and two Council members, all of whom hold office for a period of 4 years and until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, two Council members, both of whom hold

office for a period of 4 years until their successors have been elected and qualified.

6. Except as otherwise provided in subsections 2 and 3, all full terms of office in the City Council are ~~[four]~~ ***4*** years, and Council members must be elected at large without regard to precinct residency. ~~[Two full-term Council members and the Mayor are to be elected in each year immediately preceding a federal presidential election, and two full-term Council members are to be elected in each year immediately following a federal presidential election.]~~ In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions. (Add. 17; Amd. 1; 11-5-1996)

(a) In the event one or more ~~[two-year]~~ ***2-year*** term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such position(s). Candidates receiving the greatest respective number of votes must be declared elected to the respective available ~~[two-year]~~ ***2-year*** positions. (Add. 15; Amd. 2; 6-4-1991)

~~[3.]~~ ***7.*** A city primary election must be held on the ~~[first Tuesday after the first Monday in April of each odd-numbered year and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.]~~ ***date fixed by the election laws of this State for statewide elections.***

(a) A primary election must not be held if no more than double the number of Council members to be elected file as candidates. A primary election must not be held for the office of Mayor if no more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected. (Add. 17; Amd. 1; 11-5-1996)

(b) If, in the primary city election, a candidate receives votes equal to a majority of voters casting ballots in that election, he shall be considered elected to one of the vacancies and his name shall not be placed on the ballot for the general city election. (Add. 10; Amd. 7; 6-2-1981)

(c) In each primary and general election, voters ~~[shall be]~~ ***are*** entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections. (Add. 11; Amd. 5; 6-7-1983)

~~[4.]~~ ***8.*** The conduct of all municipal elections ~~[shall]~~ ***must*** be under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the

recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

Sec. 32. The Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 55, is hereby amended by adding thereto a new section to be designated section 5.120, immediately following section 5.110, to read as follows:

Sec. 5.120 Continuation of certain officers.

The two Councilmen elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 33. Section 2.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as last amended by chapter 98, Statutes of Nevada 1977, at page 202, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of five Councilmen, including the Mayor.

2. The Mayor and each Councilman ~~[shall]~~ ***must*** be:

(a) Bona fide residents of the City for at least 2 years immediately prior to their election.

(b) Qualified electors within the City.

3. All Councilmen, including the Mayor, ~~[shall]~~ ***must*** be voted upon by the registered voters of the City at large and shall serve for terms of 4 years except as ***otherwise*** provided in ~~[subsection 3 of section]~~ ***sections*** 5.010 ~~[.]~~ ***and 5.120.***

4. The Mayor and Councilmen shall receive a salary in an amount fixed by the City Council. Such salary ~~[shall]~~ ***must*** not be increased or diminished during the term of the recipient.

Sec. 34. Section 5.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as amended by chapter 71, Statutes of Nevada 1975, at page 82, is hereby amended to read as follows:

Sec. 5.010 ~~[Municipal]~~ ***General municipal*** elections.

1. On the ~~[1st Tuesday after the 1st Monday in June 1973, there shall be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and one Councilman, who shall hold office for a period of 4 years and until their successors have been elected and qualified.]~~ ***first Tuesday after the first Monday in June 2009, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and two Councilmen who shall hold office until their successors have been elected and qualified pursuant to subsection 3.***

2. On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in ~~[June 1975,]~~ ***November 2012,*** and at each successive interval of 4 years ***,*** ~~[thereafter,]~~ there ~~[shall]~~ ***must*** be elected by the qualified voters of the

City **,** at a general election to be held for that purpose **,** two Councilmen ~~[~~,~~]~~ who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. ~~[On the 1st Tuesday after the 1st Monday in June 1975, there shall be elected by the qualified voters of the City at a general election to be held for that purpose one Councilman, who shall hold office for a period of 2 years and until his successor has been elected and qualified.~~

~~4.]~~ On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in ~~[June 1977,]~~ ***November 2014,*** and at each successive interval of 4 years, there ~~[shall]~~ ***must*** be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and two Councilmen ~~[~~,~~]~~ who shall hold office for a period of 4 years and until their successors have been elected and qualified.

Sec. 35. The Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, at page 474, is hereby amended by adding thereto a new section to be designated section 5.110, immediately following section 5.100, to read as follows:

Sec. 5.110 Continuation of certain officers.

The Mayor and two members of the City Council elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 36. Section 2.010 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as last amended by chapter 51, Statutes of Nevada 2001, at page 449, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four members and the Mayor.

2. The members of the City Council must be:

(a) Bona fide residents of the City for at least 2 years before their election.

(b) Qualified electors within the City.

3. All members of the City Council must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in sections 5.010 and 5.110,*** shall serve for terms of 4 years.

4. The members of the City Council must receive a salary in an amount fixed by the City Council.

Sec. 37. Section 5.010 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at page 463, is hereby amended to read as follows:

Sec. 5.010 ~~[Municipal]~~ ***General municipal*** elections.

1. ~~[On the first Tuesday after the first Monday in June 1975, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and two members of the City Council, who shall hold office for a period of 4 years and until their successors have been elected and qualified.~~

~~2.]~~ On the first Tuesday after the first Monday in June ~~[~~1973, and at each successive interval of 4 years thereafter,~~]~~ ***2009,*** there must be elected by the qualified voters of the City, at a general election to be held for that purpose, two members of the City Council ~~[,]~~ who shall hold office ~~[~~for a period of 4 years and~~]~~ until their successors have been elected and qualified ~~[.]~~ ***pursuant to subsection 3.***

2. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and two members of the City Council who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, two members of the City Council who shall hold office for a period of 4 years and until their successors have been elected and qualified.

Sec. 38. The Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 402, is hereby amended by adding thereto a new section to be designated as section 5.120, immediately following section 5.110, to read as follows:

Sec. 5.120 Continuation of certain officers.

1. The three Councilmen elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.020.

2. The Municipal Judge for Department 1 elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of his successor pursuant to subsection 5 of section 5.020.

3. The Municipal Judge for Department 3 elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of his successor pursuant to subsection 3 of section 5.020.

Sec. 39. Section 2.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2206, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and the Mayor.

2. The Mayor must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the City.

3. Each Councilman must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the ward which he represents.

(c) A resident of the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, except that changes in ward boundaries pursuant to the provisions of section 1.040 do not affect the right of any elected Councilman to continue in office for the term for which he was elected.

4. All Councilmen, including the Mayor, must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in sections 5.020 and 5.120,*** shall serve for terms of 4 years.

5. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council. The City Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Councilmen during the term for which they have been elected or appointed.

Sec. 40. Section 4.015 of the Charter of the City of Henderson, being chapter 231, Statutes of Nevada 1991, as last amended by chapter 209, Statutes of Nevada 2001, at page 970, is hereby amended to read as follows:

Sec. 4.015 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by, the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may from time to time establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each.

3. At the first municipal primary or general election which follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for a term of not more than 5 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. ~~[Each]~~ ***Except as otherwise provided in subsection 3, each*** Municipal Judge must be voted upon by the registered voters of the City at large ~~[.]~~ ***and, except as otherwise provided in sections 5.020 and 5.120, shall serve for terms of 6 years.***

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic number, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

6. The Senior Municipal Judge is selected by a majority of the sitting judges for a term of 2 years. If no Municipal Judge receives a majority of the votes, the Senior Municipal Judge is the Municipal Judge who has continuously served as a Municipal Judge for the longest period.

Sec. 41. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary election.

1. A primary election must be held on the ~~[Tuesday after the first Monday in April of each odd-numbered year,]~~ ***date fixed by the election laws of this State for statewide elections,*** at which time there must be nominated candidates for offices to be voted for at the next general ~~[municipal]~~ election.

2. A candidate for any office to be voted for at any primary ~~[municipal]~~ election must file a declaration of candidacy as provided by the election laws of this State.

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general election. If in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he is a candidate, he must be declared elected and no general election need be held for that office.

Sec. 42. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 209, Statutes of Nevada 2001, at page 971, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ~~[A general election must be held in the City on the first Tuesday after the first Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time the registered voters of the City shall elect city officers to fill the available elective positions.~~

~~2. All candidates for the office of Mayor, Councilman and Municipal Judge must be voted upon by the registered voters of the City at large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015 of this Charter, the term of office for a Municipal Judge is 6 years.~~

~~3.]~~ ***On the first Tuesday after the first Monday in June 2009, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a:***

(a) Mayor and Councilman who shall hold office until their successors have been elected and qualified pursuant to subsection 4.

(b) Municipal Judge for Department 2 who shall hold office until his successor has been elected and qualified pursuant to subsection 6.

2. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, three Councilmen who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Municipal Judge for Department 3 who shall hold office for a period of 6 years until his successor has been elected and qualified.

4. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and Councilman who shall hold office for a period of 4 years until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Municipal Judge for Department 1 who

shall hold office for a period of 6 years until his successor has been elected and qualified.

6. On the ***first*** Tuesday after the first Monday in ~~[June 2001]~~ ***November 2016,*** and ~~[every]~~ ***at each successive interval of*** 6 years ***,*** ~~[thereafter,]~~ there must be elected by the qualified voters of the City, at a general ~~[municipal]~~ election to be held for that purpose, a Municipal Judge for Department ~~[1]~~ ***2*** who will hold office until his successor has been elected and qualified.

~~[4. On the Tuesday after the first Monday in June 2003 and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who will hold office until his successor has been elected and qualified.~~

~~5. On the Tuesday after the first Monday in June 2005 and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office until his successor has been elected and qualified.]~~

Sec. 43. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 5.140, immediately following section 5.130, to read as follows:

Sec. 5.140 Continuation of certain officers.

1. The Mayor and Councilmen from odd-numbered wards elected at the general election held on the Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.020.

2. The Municipal Judges for Departments 2, 3 and 5 elected at the general election held on the Tuesday after the first Monday in June 2005 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 3 of section 5.020.

Sec. 44. Section 1.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:

Sec. 1.140 Elective offices.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) One Councilman from each ward.

(c) Municipal Judges.

2. ~~[The]~~ ***Except as otherwise provided in sections 5.020 and 5.140, the*** terms of office of the Mayor and Councilmen are 4 years.

3. Except as otherwise provided in subsection 3 of section 4.010 ~~[of this Charter,]~~ and ***sections 5.020 and 5.140,*** the term of office of a Municipal Judge is 6 years.

Sec. 45. Section 1.160 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 338, Statutes of Nevada 2007, at page 1533, is hereby amended to read as follows:

Sec. 1.160 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the office of Mayor, Councilman or Municipal Judge must be filled by the majority vote of the entire City Council within 30 days after the occurrence of that vacancy. A person may be selected to fill a prospective vacancy before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official, including, without limitation, any applicable residency requirement.

2. No appointment extends beyond the first regular meeting of the City Council that follows the next general municipal election, at that election the office must be filled for the remainder of the unexpired term, or beyond the first regular meeting of the City Council after the Tuesday

after the first Monday in the next succeeding ~~[June]~~ ***November*** in an ~~[odd-numbered]~~ ***even-numbered*** year, if no general municipal election is held in that year.

Sec. 46. Section 4.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 338, Statutes of Nevada 2007, at page 1536, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: Qualifications of Municipal Judges; salary; Master Judge; departments; Alternate Judges.

1. Each Municipal Judge shall devote his full time to the duties of his office and must be:

(a) A duly licensed member, in good standing, of the State Bar of Nevada, but this qualification does not apply to any Municipal Judge who is an incumbent when this Charter becomes effective as long as he continues to serve as such in uninterrupted terms.

(b) A qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for the department for which he is a candidate.

(c) Voted upon by the registered voters of the City at large.

2. The salary of the Municipal Judges must be fixed by ordinance and be uniform for all departments of the Municipal Court. The salary

may be increased during the terms for which the Judges are elected or appointed.

3. The Municipal Judges of the six departments shall elect a Master Judge from among their number. The Master Judge shall hold office for a term of 2 years commencing on July 1 of each ~~[odd-numbered year.]~~ ***year of a general municipal election.*** If a vacancy occurs in the position of Master Judge, the Municipal Judges shall elect a replacement for the remainder of the unexpired term. If two or more Municipal Judges receive an equal number of votes for the position of Master Judge, the candidates who have received the tie votes shall resolve the tie vote by the drawing of lots. The Master Judge:

(a) Shall establish and enforce administrative regulations for governing the affairs of the Municipal Court.

(b) Is responsible for setting trial dates and other matters which pertain to the Court calendar.

(c) Shall perform such other Court administrative duties as may be required by the City Council.

4. Alternate Judges in sufficient numbers may be appointed annually by the Mayor, each of whom:

(a) Must be a duly licensed member, in good standing, of the State Bar of Nevada and have such other qualifications as are prescribed by ordinance.

(b) Has all of the powers and jurisdiction of a Municipal Judge while he is acting as such.

(c) Is entitled to such compensation as may be fixed by the City Council.

5. Any Municipal Judge, other than an Alternate Judge, automatically forfeits his office if he ceases to be a resident of the City.

Sec. 47. Section 5.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary municipal elections.

1. ~~[On the Tuesday after the first Monday in April 2001, and at each successive interval of 4 years, a]~~ ***A*** primary ~~[municipal]~~ election must be held in the City ~~[at which time candidates for half of the offices of Councilman and for Municipal Judge, Department 2, must be nominated.~~

~~2. On the Tuesday after the first Monday in April 2003, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for Mayor, for the other half of the offices of Councilman and for Municipal Judge, Department 1, must be nominated.~~

~~3.]~~ ***on the date fixed by the election laws of this State for statewide elections.***

2. In the primary election:

(a) The candidates for Councilman who are to be nominated ~~[as provided in subsections 1 and 2]~~ must be nominated and voted for separately according to the respective wards. ~~[The candidates from each even-numbered ward must be nominated as provided in subsection 1, and the candidates from each odd-numbered ward must be nominated as provided in subsection 2.~~

~~4.]~~ ***(b)*** If the City Council has established an additional department or departments of the Municipal Court pursuant to section 4.010 of this Charter ~~[,]~~ and, as a result, more than one office of Municipal Judge is to be filled at any election, the candidates for those offices must be nominated and voted upon separately according to the respective departments.

~~[5.]~~ ***3.*** Each candidate for ~~[the municipal offices which are provided for in subsections 1, 2 and 4]~~ ***municipal office*** must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be paid into the City Treasury.

~~[6.]~~ ***4.*** If, in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes which are cast in that election for the office for which he is a candidate, he must be declared elected for the term which commences on the day of the first regular meeting of the City Council next succeeding the meeting at which the canvass of the returns is made, and no general election need be held for that office. If, in the primary election, no candidate receives a majority of votes which are cast in that election for the office for which he is a candidate, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general election.

Sec. 48. Section 5.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1415, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ~~[A]~~ ***On the first Tuesday after the first Monday in June 2009, there must be elected, at a*** general ~~[municipal]~~ election ~~[must be]~~ held in the City ~~[on the Tuesday after the 1st Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time there must be elected those officers whose offices are required to be filled by election in that year.]~~ ***for that purpose:***

(a) The Councilmen from even-numbered wards who shall hold office until their successors have been elected and qualified pursuant to subsection 4.

(b) The Municipal Judges for Departments 1, 4 and 6 who shall hold office until their successors have been elected and qualified pursuant to subsection 5.

2. ***On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected, at a general election to be held for that purpose, the Mayor and Councilmen from odd-numbered wards who shall hold office for a period of 4 years and until their successors have been elected and qualified.***

3. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 6 years, there must be elected, at a general election to be held for that purpose, Municipal Judges for Departments 2, 3 and 5 who shall hold office for a period of 6 years and until their successors have been elected and qualified.

4. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected, at a general election to be held for that purpose, the Councilmen from even-numbered wards who shall hold office for a period of 4 years and until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 6 years, there must be elected, at a general election to be held for that purpose, Municipal Judges for Departments 1, 4 and 6 who shall hold office for a period of 6 years and until their successors have been elected and qualified.

6. All candidates for elective office, except the office of Councilman, must be voted upon by the registered voters of the City at large.

Sec. 49. The Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1210, is hereby amended by adding thereto a new section to be designated as section 5.100, immediately following section 5.090, to read as follows:

Sec. 5.100 Continuation of certain officers.

1. The Municipal Judge for Department 1 elected at the general election held on the Tuesday after the first Monday in June 2005 shall continue in office until the election, and qualification thereafter, of his successor pursuant to subsection 3 of section 5.010.

2. The two Councilmen elected at the general election held on the Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 50. Section 2.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and a Mayor.

2. The Mayor must be:

(a) A bona fide resident of the City for at least 6 months immediately preceding his election.

(b) A qualified elector within the City.

3. Each Councilman:

(a) Must be a qualified elector who has resided in the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for his office.

(b) Must continue to live in the ward he represents, except that changes in ward boundaries made pursuant to section 1.045 of this Charter will not affect the right of any elected Councilman to continue in office for the term for which he was elected.

4. At the time of filing, if so required by an ordinance duly enacted, candidates for the office of Mayor and Councilman shall produce evidence in satisfaction of any or all of the qualifications provided in subsection 2 or 3, whichever is applicable.

5. Each Councilman must be voted upon only by the registered voters of the ward that he seeks to represent, and ***except as otherwise provided in sections 5.010 and 5.100,*** his term of office is 4 years.

6. The Mayor must be voted upon by the registered voters of the City at large, and ***except as otherwise provided in section 5.010,*** his term of office is 4 years.

7. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

Sec. 51. Section 4.005 of the Charter of the City of North Las Vegas, being chapter 215, Statutes of Nevada 1997, as amended by chapter 73, Statutes of Nevada 2003, at page 484, is hereby amended to read as follows:

Sec. 4.005 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may, from time to time, by ordinance, establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each additional department.

3. At the first municipal primary or municipal general election that follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for an initial term of not more than 6 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. Except as otherwise provided by the ordinance establishing an additional department, each Municipal Judge must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in sections 5.010 and 5.100,*** holds office for a period of 6 years and until his successor has been elected and qualified.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic numeral, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

Sec. 52. Section 5.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 5.010 General municipal elections.

1. On the Tuesday after the first Monday in June ~~[~~1977, and at each successive interval of 4 years thereafter,~~]~~ ***2009,*** there must be elected, at a general election to be held for that purpose, a ***:***

(a) Mayor and two Councilmen ~~[,]~~ who shall hold office ~~[~~for a period of 4 years and~~]~~ until their successors have been elected and qualified ~~[.]~~ ***pursuant to subsection 4.***

(b) Municipal Judge for Department 2 who shall hold office until his successor has been elected and qualified pursuant to subsection 5.

2. On the ***first*** Tuesday after the first Monday in ~~[~~June 1975,~~]~~ ***November 2012,*** and at each successive interval of 4 years ***,*** ~~[~~thereafter,~~]~~ there must be elected, at a general election to be held for that purpose, two Councilmen ~~[,]~~ who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. ***On the first Tuesday after the first Monday in November 2012, and at each successive interval of 6 years, there must be elected, at a general election to be held for that purpose, a Municipal Judge for Department 1 who shall hold office for a period of 6 years and until his successor has been elected and qualified.***

4. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected, at a general election to be held for that purpose, a Mayor and two Councilmen who shall hold office until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 6 years, there must be elected, at a general election to be held for that purpose, a Municipal Judge for Department 2 who shall hold office for a period of 6 years and until his successor has been elected and qualified.

6. In such a general election:

(a) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

(b) Candidates for all other elective offices must be elected by the registered voters of the City at large.

Sec. 53. Section 5.020 of the Charter of the City of North Las Vegas, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2692, is hereby amended to read as follows:

Sec. 5.020 Primary municipal elections; declaration of candidacy.

1. The City Council shall provide by ordinance for candidates for elective office to declare their candidacy and file the necessary documents. The seats for City Councilmen must be designated by the numbers one through four, which numbers must correspond with the wards the candidates for City Councilmen will seek to represent. A candidate for the office of City Councilman shall include in his declaration of candidacy the number of the ward which he seeks to represent. Each candidate for City Council must be designated as a candidate for the City Council seat that corresponds with the ward that he seeks to represent.

2. If for any general municipal election there are three or more candidates for the offices of Mayor or Municipal Judge, or for a particular City Council seat, a primary election for any such office must be held on the ~~[Tuesday following the first Monday in April preceding the general election.]~~ ***date fixed by the election laws of this State for statewide elections.*** In the primary election:

(a) A candidate for the office of City Councilman must be voted upon only by the registered voters of the ward that he seeks to represent.

(b) Candidates for all other elective offices must be voted upon by the registered voters of the City at large.

3. Except as otherwise provided in subsection 4, after the primary election, the names of the two candidates for Mayor, Municipal Judge and each City Council seat who receive the highest number of votes must be placed on the ballot for the general election.

4. If one of the candidates for Mayor, Municipal Judge or a City Council seat receives a majority of the total votes cast for that office in the primary election, he shall be declared elected to office and his name must not appear on the ballot for the general election.

Sec. 54. The Charter of Yerington, being chapter 465, Statutes of Nevada 1971, at page 901, is hereby amended by adding thereto a new section to be designated as section 5.110, immediately following section 5.100, to read as follows:

Sec. 5.110 Continuation of certain officers.

The Mayor and two Councilmen elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 55. Section 2.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as last amended by chapter 98, Statutes of Nevada 1977, at page 213, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Councilmen.

2. The Councilmen ~~[shall]~~ ***must*** be:

(a) Bona fide residents of the City for at least 6 months immediately preceding their election.

(b) Qualified electors in the City.

3. All Councilmen ~~[shall]~~ ***must*** be voted upon by the registered voters of the City at large and ***, except as otherwise provided in sections 5.010 and 5.110,*** shall serve for terms of 4 years.

4. The Councilmen shall receive a salary in an amount fixed by the City Council.

Sec. 56. Section 5.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 912, is hereby amended to read as follows:

Sec. 5.010 ~~[Municipal]~~ ***General municipal*** elections.

1. ~~[On the 1st Tuesday after the 1st Monday in June 1975, and at each successive interval of 4 years, there shall be elected by the qualified voters of the City at a general election to be held for that purpose a Mayor and two Councilmen, who shall hold office for a period of 4 years and until their successors have been elected and qualified.~~

~~2.~~] On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in June ~~[1977, and at each successive interval of 4 years thereafter,]~~ ***2009,*** there ~~[shall]~~ ***must*** be elected by the qualified voters of the City ***,*** at a general election to be held for that purpose ***,*** two Councilmen ~~[,]~~ who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~[.]~~ ***pursuant to subsection 3.***

2. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and two Councilmen who shall hold

office for a period of 4 years and until their successors have been elected and qualified.

3. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, two Councilmen who shall hold office for a period of 4 years and until their successors have been elected and qualified.

Sec. 57. Notwithstanding any other provision of law to the contrary, if a city incorporated pursuant to general law holds a general city election in:

1. June 2009, the elective city officers who are elected at such general city election shall continue in office until the election, and qualification thereafter, of their successors in the general city election to be held on the first Tuesday after the first Monday in November 2012.

2. June 2011, the elective city officers who are elected at such general city election shall continue in office until the election, and qualification thereafter, of their successors in the general city election to be held on the first Tuesday after the first Monday in November 2014.

Sec. 57.5. **Notwithstanding any other provision of law to the contrary, if the term of any elective city officer whose term of office expires in 2011 or 2013 is not otherwise extended or shortened pursuant to sections 1 to 57, inclusive, of this act, the person or entity designated by law to fill vacancies that occur on the city council of the city shall appoint the incumbent elective city officer to serve as City Councilman, Mayor, Municipal Judge or other elective city officer, as applicable, in that office until his successor is elected and qualified at the general election in 2012 or 2014, as applicable, if that person is willing to serve in that capacity. If the person is not willing to serve in that capacity, the position must be filled in the same manner as if a vacancy occurred in the position.**

Sec. 58. 1. This section and sections 3 to 17, inclusive, and ~~[sections]~~ 30 to ~~[57,]~~ **57.5,** inclusive, of this act become effective upon passage and approval.

2. Sections 1, 2 and 18 to 29, inclusive, of this act become effective on July 1, 2011.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 281.

Bill read second time.

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

Amendment No. 278.

AN ACT relating to industrial insurance; creating an expedited appeals process for certain claims by police officers, firefighters and emergency medical attendants; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill authorize certain contested claims relating to certain occupational diseases of police officers, firefighters and emergency medical attendants to be submitted directly to an appeals officer, thereby bypassing the hearing officer to whom the contested claim would need to be submitted under existing law. (NRS 616C.315) **Section 2** also requires that the appeals officer set a hearing date within ~~[30]~~ **60** days after receiving a notice of any such contested claim. (NRS 616C.345) **Section 3** of this bill requires that the appeals officer render a decision for any such contested claim within 15 days after certain specified events. (NRS 616C.360)

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

Section 1. NRS 616C.315 is hereby amended to read as follows:

616C.315 1. Any person who is subject to the jurisdiction of the hearing officers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may request a hearing before a hearing officer of any matter within the hearing officer's authority. The insurer shall provide, without cost, the forms necessary to request a hearing to any person who requests them.

2. A hearing must not be scheduled until the following information is provided to the hearing officer:

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

3. Except as otherwise provided in NRS 616B.772, 616B.775, 616B.787, 616C.305 and 616C.427, a person who is aggrieved by:

(a) A written determination of an insurer; or

(b) The failure of an insurer to respond within 30 days to a written request mailed to the insurer by the person who is aggrieved,

➥ may appeal from the determination or failure to respond by filing a request for a hearing before a hearing officer. Such a request must include the information required pursuant to subsection 2 and, except as otherwise provided in subsections 4 and 5, must be filed within 70 days after the date on which the notice of the insurer's determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond to a written request for a determination

within 30 days after receipt of such a request shall be deemed by the hearing officer to be a denial of the request.

4. The period specified in subsection 3 within which a request for a hearing must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that he was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his spouse, parent or child.

5. Failure to file a request for a hearing within the period specified in subsection 3 may be excused if the person aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to request a hearing. The claimant or employer shall notify the insurer of a change of address.

6. The hearing before the hearing officer must be conducted as expeditiously and informally as is practicable.

7. The parties to a contested claim may, if the claimant is represented by legal counsel, agree to forego a hearing before a hearing officer and submit the contested claim directly to an appeals officer.

8. A claimant may, with regard to a contested claim arising from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or 617.487 as described in subsection 2 of NRS 616C.345, submit the contested claim directly to an appeals officer pursuant to subsection 2 of NRS 616C.345 without the agreement of any other party.

Sec. 2. NRS 616C.345 is hereby amended to read as follows:

616C.345 1. Any party aggrieved by a decision of the hearing officer relating to a claim for compensation may appeal from the decision by, except as otherwise provided in subsections ~~[8 and 9,]~~ ***9 and 10,*** filing a notice of appeal with an appeals officer within 30 days after the date of the decision.

2. ***A claimant aggrieved by a written determination of the denial of a claim, in whole or in part, by an insurer, or the failure of an insurer to respond in writing within 30 days to a written request of the claimant mailed to the insurer, concerning a claim arising from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or 617.487 may file a notice of a contested claim with an appeals officer. The notice must include the information required pursuant to subsection 3 and, except as otherwise provided in subsections 9 and 11, must be filed within 70 days after the date on which the notice of the insurer's determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond in writing to a written request for a determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request. The insurer shall provide, without cost, the forms necessary to file a notice of a contested claim to any person who requests them.***

3. A hearing must not be scheduled until the following information is provided to the appeals officer:

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

~~[3.]~~ ***4.*** If a dispute is required to be submitted to a procedure for resolving complaints pursuant to NRS 616C.305 and:

(a) A final determination was rendered pursuant to that procedure; or

(b) The dispute was not resolved pursuant to that procedure within 14 days after it was submitted,

➥ any party to the dispute may, except as otherwise provided in subsections ~~[8 and 9,]~~ ***9 and 10,*** file a notice of appeal within 70 days after the date on which the final determination was mailed to the employee, or his dependent, or the unanswered request for resolution was submitted. Failure to render a written determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request.

~~[4.]~~ ***5.*** Except as otherwise provided in NRS 616C.380, the filing of a notice of appeal does not automatically stay the enforcement of the decision of a hearing officer or a determination rendered pursuant to NRS 616C.305. The appeals officer may order a stay, when appropriate, upon the application of a party. If such an application is submitted, the decision is automatically stayed until a determination is made concerning the application. A determination on the application must be made within 30 days after the filing of the application. If a stay is not granted by the officer after reviewing the application, the decision must be complied with within 10 days after the date of the refusal to grant a stay.

~~[5.]~~ ***6.*** Except as otherwise provided in subsections ~~[2 and 6,]~~ ***3 and 7,*** within 10 days after receiving a notice of appeal pursuant to this section or NRS 616C.220, 616D.140 or 617.401, or within 10 days after receiving a notice of a contested claim pursuant to subsection 7 of NRS 616C.315, the appeals officer shall:

(a) Schedule a hearing on the merits of the appeal or contested claim for a date and time within 90 days after his receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and

(b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents at least 30 days before the date and time scheduled.

~~[6. A]~~

7. Except as otherwise provided in subsection 12, a request to schedule the hearing for a date and time which is:

(a) Within 60 days after the receipt of the notice of appeal or contested claim; or

(b) More than 90 days after the receipt of the notice or claim,

➥ may be submitted to the appeals officer only if all parties to the appeal or contested claim agree to the request.

~~[7. An]~~

8. ~~*[Except as otherwise provided in subsection 12, an]*~~ ***An*** appeal or contested claim may be continued upon written stipulation of all parties, or upon good cause shown.

~~[8.]~~ ***9.*** The period specified in subsection 1 ***, 2*** or ~~[3]~~ ***4*** within which a notice of appeal ***or a notice of a contested claim*** must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that he was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his spouse, parent or child.

~~[9.]~~ ***10.*** Failure to file a notice of appeal within the period specified in subsection 1 or ~~[3]~~ ***4*** may be excused if the party aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to appeal the determination. The claimant, employer or insurer shall notify the hearing officer of a change of address.

11. Failure to file a notice of a contested claim within the period specified in subsection 2 may be excused if the claimant shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to file the notice. The claimant or employer shall notify the insurer of a change of address.

12. Within 10 days after receiving a notice of a contested claim pursuant to subsection 2, the appeals officer shall:

(a) Schedule a hearing on the merits of the contested claim for a date and time within ~~*[30]*~~ ***60 days after his receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and***

(b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents ~~*[at least 20 days before the date and time scheduled.]*~~ ***within 10 days after scheduling the hearing.***

➥ The scheduled date must allow sufficient time for full disclosure, exchange and examination of medical and other relevant information. A party may not introduce information at the hearing which was not previously disclosed to the other parties unless all parties agree to the introduction.

Sec. 3. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Order an independent medical examination and refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an external review organization, submit the matter to an external review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

6. Any party to the appeal ***or contested case*** or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

7. ~~[The]~~ ***Except as otherwise provided in subsection 8, the*** appeals officer shall render his decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

8. ***The appeals officer shall render his decision on a contested claim submitted pursuant to subsection 2 of NRS 616C.345 within 15 days after:***

(a) The date of the hearing; or

(b) If the appeals officer orders an independent medical examination, the date the appeals officer receives the report of the examination,

➥ unless both parties to the contested claim agree to a later date.

9. The appeals officer may affirm, modify or reverse any decision made by ~~[the]~~ ***a*** hearing officer and issue any necessary and proper order to give effect to his decision.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 284.

Bill read second time.

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

Amendment No. 369.

AN ACT relating to homeland security; increasing the number of voting members of the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities **, public entities and private businesses** in this State; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Nevada Commission on Homeland Security and requires the Governor to appoint to the Commission 14 voting members that he determines to be appropriate, including certain mandatory appointments. (NRS 239C.120) **Section 1** of this bill increases the number of voting members of the Commission to 16 and requires the Governor to appoint ~~[two voting members who reflect the ethnic and geographical diversity of this State.]~~ **one voting member who represents Native American tribal communities in northern Nevada and one voting member who represents Native American tribal communities in southern Nevada.**

Existing law provides that the Governor may, by executive order, determine that certain documents, records and other information relating to preventing and responding to acts of terrorism are confidential. Such documents, records and other information are not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by and released to public safety and public health personnel. (NRS 239C.210) **Section 2** of this bill extends that authority to include vulnerability assessments and emergency response plans of utilities **, public entities and private businesses** in this State.

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

Section 1. NRS 239C.120 is hereby amended to read as follows:

239C.120 1. The Nevada Commission on Homeland Security is hereby created.

2. The Governor shall appoint to the Commission ~~[14]~~ ***16*** voting members that he determines to be appropriate and who serve at his pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more;

(b) The chief of the county fire department in each county whose population is 100,000 or more;

(c) A member of the medical community in a county whose population is 400,000 or more; ~~[and]~~

(d) An employee of the largest incorporated city in each county whose population is 400,000 or more ~~[.]~~ ***;*** ~~*[and]*~~

(e) ~~*[Two members who reflect the ethnic and geographical diversity of this State.]*~~ ***One member who represents Native American tribal communities in northern Nevada; and***

(f) One member who represents Native American tribal communities in southern Nevada.

3. The Governor shall appoint:

(a) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; and

(b) The agent in charge of the office of the Federal Bureau of Investigation in this State,

➥ as nonvoting members of the Commission.

4. The ~~[Senate]~~ Majority Leader ***of the Senate*** shall appoint one member of the Senate as a nonvoting member of the Commission.

5. The Speaker of the Assembly shall appoint one member of the Assembly as a nonvoting member of the Commission.

6. Except for the initial members, the term of office of each member of the Commission who is a Legislator is 2 years and commences on July 1 of the year of appointment.

7. The Governor or his designee shall:

(a) Serve as Chairman of the Commission; and

(b) Appoint a member of the Commission to serve as Vice Chairman of the Commission.

Sec. 2. NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by or released to public safety and public health

personnel if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare.

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) Assessments, plans or records that evaluate or reveal the susceptibility of fire stations, police stations and other law enforcement stations to acts of terrorism or other related emergencies.

(b) Drawings, maps, plans or records that reveal the critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, natural gas or other forms of energy.

(c) Documents, records or other items of information which may reveal the details of a specific emergency response plan or other tactical operations by a response agency and any training relating to such emergency response plans or tactical operations.

(d) Handbooks, manuals or other forms of information detailing procedures to be followed by response agencies in the event of an act of terrorism or other related emergency.

(e) Documents, records or other items of information that reveal information pertaining to specialized equipment used for covert, emergency or tactical operations of a response agency, other than records relating to expenditures for such equipment.

(f) Documents, records or other items of information regarding the infrastructure and security of frequencies for radio transmissions used by response agencies, including, without limitation:

(1) Access codes, passwords or programs used to ensure the security of frequencies for radio transmissions used by response agencies;

(2) Procedures and processes used to ensure the security of frequencies for radio transmissions used by response agencies; and

(3) Plans used to reestablish security and service with respect to frequencies for radio transmissions used by response agencies after security has been breached or service has been interrupted.

(g) Vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. As used in this paragraph, "public entities" means departments, agencies or instrumentalities of the State or any of its political subdivisions. The term includes general improvement districts.

3. If a person knowingly and unlawfully discloses a document, record or other item of information subject to an executive order issued pursuant to subsection 1 or assists, solicits or conspires with another person to disclose such a document, record or other item of information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

4. As used in this section, "public safety and public health personnel" includes:

(a) State, county and city emergency managers;

(b) Members and staff of terrorism early warning centers or fusion intelligence centers in this State;

(c) Employees of fire-fighting or law enforcement agencies, if the head of the agency has designated the employee as having an operational need to know information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism; and

(d) Employees of a public health agency, if the agency is one that would respond to a disaster and if the head of the agency has designated the employee as having an operational need to know information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism. As used in this paragraph, "disaster" has the meaning ascribed to it in NRS 414.0335.

Sec. 3. NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility shall:

(a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility; and

(b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility.

2. Each utility shall:

(a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and

(b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility and any other information concerning a utility that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

4. **[**~~A~~**]** ***Except as otherwise provided in NRS 239C.210, a*** person shall not disclose such information, except:

(a) Upon the lawful order of a court of competent jurisdiction;

(b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility, as determined by the Division;

(c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or

(d) Pursuant to the provisions of NRS 239.0115.

5. If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 488.

AN ACT relating to homeland security; increasing the number of voting members of the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities in this State; **clarifying that certain documents, records and other items of information may be inspected by and released to the Legislative Auditor when conducting a postaudit;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Nevada Commission on Homeland Security and requires the Governor to appoint to the Commission 14 voting members that he determines to be appropriate, including certain mandatory appointments. (NRS 239C.120) **Section 1** of this bill increases the number of voting members of the Commission to 16 and requires the Governor to appoint two voting members who reflect the ethnic and geographical diversity of this State.

Existing law provides that the Governor may, by executive order, determine that certain documents, records and other information relating to preventing and responding to acts of terrorism are confidential. Such documents, records and other information are not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by and released to public safety and public health personnel. (NRS 239C.210) **Section 2** of this bill extends that authority to include vulnerability assessments and emergency response plans of utilities in this State. **Section 2 also clarifies that the documents, records and other items of information subject to executive order of confidentiality for security purposes may be inspected by and released to the Legislative Auditor when conducting a postaudit.**

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

Section 1. NRS 239C.120 is hereby amended to read as follows:

239C.120 1. The Nevada Commission on Homeland Security is hereby created.

2. The Governor shall appoint to the Commission ~~[14]~~ ***16*** voting members that he determines to be appropriate and who serve at his pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more;

(b) The chief of the county fire department in each county whose population is 100,000 or more;

(c) A member of the medical community in a county whose population is 400,000 or more; ~~[and]~~

(d) An employee of the largest incorporated city in each county whose population is 400,000 or more ~~[.]~~ ***; and***

(e) Two members who reflect the ethnic and geographical diversity of this State.

3. The Governor shall appoint:

(a) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; and

(b) The agent in charge of the office of the Federal Bureau of Investigation in this State,

➥ as nonvoting members of the Commission.

4. The ~~[Senate]~~ Majority Leader ***of the Senate*** shall appoint one member of the Senate as a nonvoting member of the Commission.

5. The Speaker of the Assembly shall appoint one member of the Assembly as a nonvoting member of the Commission.

6. Except for the initial members, the term of office of each member of the Commission who is a Legislator is 2 years and commences on July 1 of the year of appointment.

7. The Governor or his designee shall:

(a) Serve as Chairman of the Commission; and

(b) Appoint a member of the Commission to serve as Vice Chairman of the Commission.

Sec. 2. NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by or released to ~~[public]~~ ***:***

(a) Public safety and public health personnel ***; and***

(b) The Legislative Auditor conducting a postaudit pursuant to NRS 218.737 to 218.893, inclusive,

➥ if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare.

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) Assessments, plans or records that evaluate or reveal the susceptibility of fire stations, police stations and other law enforcement stations to acts of terrorism or other related emergencies.

(b) Drawings, maps, plans or records that reveal the critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, natural gas or other forms of energy.

(c) Documents, records or other items of information which may reveal the details of a specific emergency response plan or other tactical operations by a response agency and any training relating to such emergency response plans or tactical operations.

(d) Handbooks, manuals or other forms of information detailing procedures to be followed by response agencies in the event of an act of terrorism or other related emergency.

(e) Documents, records or other items of information that reveal information pertaining to specialized equipment used for covert, emergency or tactical operations of a response agency, other than records relating to expenditures for such equipment.

(f) Documents, records or other items of information regarding the infrastructure and security of frequencies for radio transmissions used by response agencies, including, without limitation:

(1) Access codes, passwords or programs used to ensure the security of frequencies for radio transmissions used by response agencies;

(2) Procedures and processes used to ensure the security of frequencies for radio transmissions used by response agencies; and

(3) Plans used to reestablish security and service with respect to frequencies for radio transmissions used by response agencies after security has been breached or service has been interrupted.

(g) Vulnerability assessments and emergency response plans of utilities in this State.

3. If a person knowingly and unlawfully discloses a document, record or other item of information subject to an executive order issued pursuant to subsection 1 or assists, solicits or conspires with another person to disclose such a document, record or other item of information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

4. As used in this section, "public safety and public health personnel" includes:

(a) State, county and city emergency managers;

(b) Members and staff of terrorism early warning centers or fusion intelligence centers in this State;

(c) Employees of fire-fighting or law enforcement agencies, if the head of the agency has designated the employee as having an operational need to know information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism; and

(d) Employees of a public health agency, if the agency is one that would respond to a disaster and if the head of the agency has designated the employee as having an operational need to know information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism. As used in this paragraph, "disaster" has the meaning ascribed to it in NRS 414.0335.

Sec. 3. NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility shall:

(a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility; and

(b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility.

2. Each utility shall:

(a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and

(b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility and any other information concerning a utility that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

4. ~~[A]~~ ***Except as otherwise provided in NRS 239C.210, a*** person shall not disclose such information, except:

(a) Upon the lawful order of a court of competent jurisdiction;

(b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility, as determined by the Division;

(c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or

(d) Pursuant to the provisions of NRS 239.0115.

5. If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 307.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 98.

AN ACT relating to property taxes; revising provisions governing the publication of certain information relating to property taxes for ~~[certain]~~ counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a ~~[county whose population is 100,000 or more (currently Clark and Washoe Counties)]~~ **board of county commissioners** to publish the annual list of all taxpayers on the secured roll and the property values only on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor, thereby removing the requirement to publish this information in a newspaper of general circulation in the county or to mail the list to each taxpayer. ~~[There are no changes to the requirements of publication for a county whose population is less than 100,000. (NRS 361.300)]~~

Section 2 of this bill amends the requirements for **publishing** notices of delinquencies for ~~[a county whose population is 100,000 or more,]~~ **counties by** providing for publication of such notices on the website or other Internet site. ~~[There are no changes to the requirements for publication of delinquencies for a county whose population is less than 100,000. (NRS 361.565)]~~

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

Section 1. NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the

secured tax roll is completed and open for inspection by interested persons of the county.

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow him a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. ~~[Except as otherwise provided in subsection 4, each]~~ ***Each*** board of county commissioners ~~*[of a county whose population is 100,000 or more]*~~ shall by resolution, before December 1 of any fiscal year in which an assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor ~~[:]~~ ***to cause such list and valuations to be posted on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.***

~~*[4. Except as otherwise provided in subsection 5, each board of county commissioners of a county whose population is less than 100,000 shall by resolution, before December 1 of any fiscal year in which assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor:*~~

~~(a) To cause such list and valuations to be printed and delivered by the county assessor or mailed by him on or before January 1 of the fiscal year in which assessment is made to each taxpayer in the county; or~~

~~(b) To cause such list and valuations to be published once on or before January 1 of the fiscal year in which assessment is made in a newspaper of general circulation in the county.~~

~~→ In addition to complying with paragraph (a) or (b), the]~~

4. The list and valuations may also be posted in a public area of the public libraries and branch libraries located in the county, ~~[in a public area of]~~ the county courthouse ~~[and]~~ ***or*** the county office building in which the county assessor's office is located***.*** ~~[, and on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.]~~

~~[~~4.~~]~~ ~~*[5. A board of county commissioners of a county whose population is less than $100,000*~~ may, ~~in the resolution required by subsection]~~ ~~[~~3,~~]~~ ~~*[4,*~~ authorize the county assessor not to deliver or mail the list, as provided in ~~paragraph (a) of subsection]~~ ~~[~~3,~~]~~ ~~*[4,*~~ to taxpayers whose property is assessed at $1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.~~]~~

5. ~~*[6.]*~~ The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this

section on a claim to be allowed and paid as are other claims against the county.

6. ~~[7.]~~ Whenever property is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal.

7. ~~[8.]~~ If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 ~~[7]~~ for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. ~~[9.]~~ Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. ~~[10.]~~ In addition to complying with subsections 6 ~~[7]~~ and 7. ~~[8,]~~ a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site ~~[, if any,]~~ that is operated or administered by or on behalf of the county or the county assessor.

Sec. 2. NRS 361.565 is hereby amended to read as follows:

361.565 1. ~~[Except as otherwise provided in subsection 3, if]~~ ***If*** the tax remains delinquent 30 days after the first Monday in April of each year, the tax receiver of the county shall cause notice of the delinquency to be published at least once ***on the website or other Internet site that is operated or administered by or on behalf of the county or county assessor*** ~~[or in the newspaper which publishes the list of taxpayers]~~ pursuant to ~~[subsection 3 or 4 of]~~ NRS 361.300 ~~[, as appropriate. If there is no Internet site for the county or county assessor or newspaper in the county, the notice must be posted in at least five conspicuous places within the county.]~~

2. The cost of publication in each case must be charged to the delinquent taxpayer, and is not a charge against the State or county. The publication must be made at not more than legal rates.

3. ~~[If the delinquent property consists of unimproved real estate assessed at a sum not exceeding $25, the notice must be given by posting a copy of the notice in three conspicuous places within the county without publishing the notice in a newspaper.~~

~~4.]~~ The notice must contain the information required for a notice mailed pursuant to NRS 361.5648.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 317.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 143.

AN ACT relating to taxation; providing for the disbursement of a portion of the proceeds of the state tax imposed on certain businesses to regional organizations for economic development; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Department of Taxation to disburse to a regional organization for economic development which directly assists in the location or expansion of a business in this State, other than a gaming business, 50 percent of the state business tax paid by that business for 10 fiscal years as a result of the location or expansion of the business in this State. The total amount of these disbursements, together with any other amounts allocated by the Legislature, to such a regional organization during any fiscal year is limited to $1 million. The money disbursed to such a regional organization must be used to promote economic development in this State and not for administrative expenses.

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

Section 1. Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, the Department shall, on a quarterly basis, disburse to an eligible organization 50 percent of the amount of tax paid by an employer pursuant to NRS 363B.110, after the deduction of any abatements and exemptions to which that employer is entitled, which is attributable to any employment that results from the location or expansion, with the direct assistance of that eligible organization, of the business of that employer in this State. The provisions of this subsection apply only to the applicable amount of tax paid by the employer for each calendar quarter that:

(a) Commences not less than 30 days after the eligible organization files with the Department an affidavit, executed by an officer of the employer, stating that the eligible organization directly:

(1) Recruited the employer to locate its business in this State or otherwise directly assisted the employer to locate its business in this State; or

(2) Assisted the employer with the expansion of its existing business in this State; and

(b) Ends not later than the last day of the 10th fiscal year after the commencement of the pertinent location or expansion by the employer of its business in this State.

2. The total amount disbursed to each eligible organization during each fiscal year pursuant to this section, together with any other amounts allocated or appropriated by the Legislature to the eligible organization for that fiscal year, must not exceed $1,000,000.

3. Any money disbursed to an eligible organization pursuant to this section:

(a) Must be expended by the eligible organization to promote the advantages of locating or expanding businesses in this State, to recruit and attract businesses from outside this State, to retain and expand businesses in this State, and to engage in research and analysis in support of economic development in this State; and

(b) Must not be expended for any administrative expenses of the eligible organization.

4. The Department may:

(a) Require an eligible organization to submit such documentation as the Department determines to be necessary for the administration of this section.

(b) Refuse to make any further disbursements of money pursuant to this section to an eligible organization that:

(1) Fails or refuses to submit any documentation as required by the Department pursuant to paragraph (a); or

(2) Expends any money received pursuant to this section in a manner that does not comply with the requirements of subsection 3.

5. Any disbursement of money to an eligible organization pursuant to this section shall be deemed to constitute an appropriation of public money for the purposes of NRS 218.855.

6. For the purposes of this section:

(a) "Eligible organization" means a regional organization for economic development ~~*[whose service territory includes a county whose population is 100,000 or more,]*~~ ***which is recognized by the Commission on Economic Development and which:***

(1) Operates on a nonprofit basis;

(2) Receives funding from dues paid by the members of the organization; and

(3) Does not constitute a government, governmental agency or political subdivision of a government.

(b) "Employer" does not include any employer who is required to hold a license issued by the Nevada Gaming Commission pursuant to title 41 of NRS.

Sec. 2. NRS 363B.060 is hereby amended to read as follows:

363B.060 The Department shall:

1. Administer and enforce the provisions of this chapter, and may adopt such regulations as it deems appropriate for those purposes.

2. ~~[~~Deposit~~]~~ ***Except as otherwise provided in section 1 of this act, deposit*** all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 387.

Bill read second time.

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

Amendment No. 490.

AN ACT relating to public utilities; requiring public utilities to submit certain information regarding renewable energy to the Public Utilities Commission of Nevada; authorizing the Commission to approve construction or expansion of transmission facilities based on an expectation of future renewable energy development; revising provisions requiring certain providers of electric service to comply with a portfolio standard for renewable energy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section ~~[3]~~ **6** of this bill requires a utility to submit with its plan to increase its supply of electricity or decrease the demands made by its customers a description of specific geographic zones where renewable energy could be used to generate electricity but transmission facilities are inadequate to deliver such electricity to customers.

Section ~~[4]~~ **7** of this bill requires the Public Utilities Commission of Nevada to consider the level of financial commitment from developers of renewable energy projects when evaluating a plan submitted pursuant to NRS 704.741.

Section ~~[5]~~ **8** of this bill allows the Commission to accept a transmission plan if it would help the utility to meet the portfolio standard defined in NRS 704.7805**.** ~~[~~regardless of the actual use of the facilities by the utility. Section 5 also: (1) deems any facility acquired or constructed pursuant to an approved transmission plan to be a prudent investment; and (2) allows a utility to recover certain costs for such a facility.~~]~~

Section ~~[1]~~ **4.3** of this bill requires the Commission ~~[~~and any public utility that files a plan pursuant to NRS 704.741~~]~~ to report to the Director of the Legislative Counsel Bureau by February 15 of each odd-numbered year concerning any transmission plan proposed or accepted since the last report.

Section ~~[6]~~ **9** of this bill revises the amount of electricity that a provider must generate, acquire or save to satisfy the portfolio standard from ~~[~~2013~~]~~ **2025** onward. **Section** ~~[6]~~ **9** also revises the amount of electricity that must be generated or acquired from solar energy renewable systems to satisfy the portfolio standard ~~[.]~~ **from 2015 onward. Additionally, section 9 exempts**

providers of new electric resources from the portfolio standard that is applicable to other providers of electric service.

Section 4.7 of this bill creates a portfolio standard specifically for electricity sold by providers of new electric resources. Sections 10.3 and 10.7 of this bill revise provisions governing providers of new electric resources to comport with the provisions of section 4.7 of this bill.

Section ~~[8]~~ 11 of this bill requires the plan described in **section ~~[3]~~ 6** to be filed not later than January 1, 2011. **Section 12 of this bill requires the Commission to adopt regulations designating renewable energy zones not later than January 1, 2010.**

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

Section 1. **NRS 701B.290 is hereby amended to read as follows:**

701B.290 1. After a participant installs a solar energy system included in the Solar Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 **~~[.]~~** ***and section 4.7 of this act.***

2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.

3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned to and become the property of the utility administering the Program.

Sec. 2. **NRS 701B.640 is hereby amended to read as follows:**

701B.640 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 ***and section 4.7 of this act*** equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 3. **NRS 701B.870 is hereby amended to read as follows:**

701B.870 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 ***and section 4.7 of this act*** equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.

~~[Section 1.]~~ ***Sec. 4.*** Chapter 704 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 4.3 and 4.7 of this act**.

Sec. 4.3. ~~*[1.]*~~ ***On or before February 15 of each odd-numbered year, the Commission shall review, approve and submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all information about any transmission plan proposed or adopted by the Commission since the last report.***

~~*[2. On or before February 15 of each odd-numbered year, a public utility required to file a plan pursuant to NRS 704.741 shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all information about any transmission plan proposed or adopted by the Commission for that public utility since the last report.]*~~

Sec. 4.7. 1. If the Commission issues an order approving an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.325 regarding a provider of new electric resources and an eligible customer, the Commission must establish in the order a portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the order. Except as otherwise provided in subsection 2, the portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) If the order was issued during or before calendar year 2008, not less than 9 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

(b) If the order was issued in calendar year 2009 or 2010, not less than 12 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

(c) If the order was issued in calendar year 2011 or 2012, not less than 15 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

(d) If the order was issued in calendar year 2013 or 2014, not less than 18 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

(e) If the order was issued in calendar year 2015 through 2024, inclusive, not less than 20 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

(f) If the order was issued in calendar year 2025 or any calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

2. If the Commission, pursuant to section 10.3 of this act, approves an increase in the amount of electricity that an eligible customer may purchase from a provider of new electric resources, the Commission shall establish in the order approving the increase a new portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the orders described in this subsection and subsection 1. The new portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is not less than the applicable percentage in subsection 1 which corresponds to the calendar year in which the Commission issues the order approving the increase.

3. Of the total amount of electricity that a provider of new electric resources is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures.

4. If, for the benefit of one or more eligible customers, the eligible customer of a provider of new electric resources has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider of new electric resources generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

5. As used in this section:

(a) "Eligible customer" has the meaning ascribed to it in NRS 704B.080.

(b) "Provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.

~~[Sec. 2.]~~ ***Sec. 5.*** NRS 704.736 is hereby amended to read as follows:

704.736 The application of NRS 704.736 to 704.751, inclusive, ***and section*** ~~*[1]*~~ ***4.3 of this act*** is limited to any public utility in the business of supplying electricity which has an annual operating revenue in this state of $2,500,000 or more.

~~[Sec. 3.]~~ ***Sec. 6.*** NRS 704.741 is hereby amended to read as follows:

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

2. The Commission shall, by regulation ~~[, prescribe]~~ **:**

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

~~[(a)]~~ ***(1)*** Forecast the future demands; and

~~[(b)]~~ ***(2)*** Determine the best combination of sources of supply to meet the demands or the best method to reduce them ~~[.]~~ ***; and***

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

3. The Commission shall require the utility to include in its plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

4. The Commission shall require the utility to include in its plan ~~*[a description of specific geographic zones where renewable energy resources are sufficient to develop substantial generation capacity and where inadequate transmission constrains the delivery of electricity from those resources to customers. The description must include]*~~ ***a plan for construction or expansion of transmission facilities*** ~~*[for each zone in a manner that is beneficial and cost-effective for the customers of the utility.]*~~ ***to serve renewable energy zones.***

5. As used in this section, "renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

~~[Sec. 4.]~~ ***Sec. 7.*** NRS 704.746 is hereby amended to read as follows:

704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. At the hearing any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

3. After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers of the utility, associated with the following possible measures and sources of supply:

(1) Improvements in energy efficiency;

(2) Pooling of power;

(3) Purchases of power from neighboring states or countries;

(4) Facilities that operate on solar or geothermal energy or wind;

(5) Facilities that operate on the principle of cogeneration or hydrogeneration; and

(6) Other generation facilities.

4. The Commission may give preference to the measures and sources of supply set forth in paragraph (c) of subsection 3 that:

(a) Provide the greatest economic and environmental benefits to the State;

(b) Are consistent with the provisions of this section; and

(c) Provide levels of service that are adequate and reliable.

5. The Commission shall:

(a) Adopt regulations which determine the level of preference to be given to those measures and sources of supply; and

(b) Consider the value to the public of using water efficiently when it is determining those preferences.

6. The Commission shall:

(a) Consider the level of financial commitment from developers of renewable energy projects in each ~~[geographic]~~ renewable energy zone, as ~~[described]~~ designated pursuant to subsection ~~[4]~~ 2 of NRS 704.741; and

(b) Adopt regulations establishing a process for considering such commitments ~~[.]~~ including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

~~[Sec. 5.]~~ ***Sec. 8.*** NRS 704.751 is hereby amended to read as follows:

704.751 1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting the plan as filed or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and

(b) Within 180 days for all portions of the plan not described in paragraph (a).

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting the amendment as filed or specifying any portions of the amendment it deems to be inadequate within 135 days of the filing of the amendment.

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

4. The Commission may accept a transmission plan submitted pursuant to subsection 4 of NRS 704.741 for a ~~[geographic]~~ renewable energy zone if the Commission determines that the construction or expansion of transmission facilities would facilitate the utility meeting the portfolio standard, as defined in NRS 704.7805 . ~~[, regardless of the extent of the actual use of the facilities by the utility. In deciding whether to accept the transmission plan, the Commission need not consider the adequacy of existing service or the need for additional service.]~~

5. ~~[Once a transmission plan submitted pursuant to subsection 4 of NRS 704.741 is accepted by the Commission, acquisition or construction of a facility described in the plan shall be deemed a prudent investment and the utility may recover all just and reasonable costs of planning and constructing~~

~~*the facility in an appropriate proceeding before the Commission pursuant to NRS 704.110.]*~~ ***The Commission shall adopt regulations establishing the criteria for determining the adequacy of a transmission plan submitted pursuant to subsection 4 of NRS 704.741.***

Sec. 8.2. **NRS 704.775 is hereby amended to read as follows:**

704.775 1. The billing period for net metering must be a monthly period.

2. The net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for the electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The value of the excess electricity must not be used to reduce any other fee or charge imposed by the utility.

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive ~~[.]~~ ***, and section 4.7 of this act.***

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 ***and section 4.7 of this act*** equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 8.4. **NRS 704.7801 is hereby amended to read as follows:**

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, ***and section 4.7 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 704.7802 to 704.7819, inclusive, have the meanings ascribed to them in those sections.

Sec. 8.6. **NRS 704.7805 is hereby amended to read as follows:**

704.7805 "Portfolio standard" means the amount of electricity that a provider must generate, acquire or save from portfolio energy systems or efficiency measures, as established by the Commission pursuant to NRS 704.7821 ~~[.]~~ ***and section 4.7 of this act.***

Sec. 8.8. **NRS 704.7815 is hereby amended to read as follows:**

704.7815 "Renewable energy system" means:

1. A facility or energy system that:

(a) Uses renewable energy or energy from a qualified energy recovery process to generate electricity; and

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process via:

(1) A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy or energy from a qualified energy recovery process and which is connected to a facility or system owned, operated or controlled by a provider of electric service; ~~[or]~~

(2) A power line which is shared with not more than one facility or energy system generating electricity from nonrenewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service ~~[.]~~ ***; or***

(3) A power line which:

(I) Is connected to a facility or system owned, operated or controlled by a provider of electric service; and

(II) Is not owned, operated or controlled by the provider of electric service.

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive.

~~[Sec. 6.]~~ ***Sec. 9.*** NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 ~~[20]~~ percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar ~~[year]~~ ***years*** 2015 ~~[2025 and for each calendar year thereafter,]~~ ***through 2024, inclusive,*** not less than 20 ~~[25]~~ percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(g) For calendar year 2025 and for each calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. ~~[Except as otherwise provided in subsection 3, in]~~ ***In*** addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than ***:***

(1) For calendar years 2009 through 2014, inclusive, 5 ~~[6]~~ percent of that amount must be generated or acquired from solar renewable energy systems.

(2) For calendar year 2015 and for each calendar year thereafter, 6 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use

energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. ~~[The provisions of paragraphs (b) and (c) of subsection 2 do not apply to a provider of new electric resources pursuant to chapter 704B of NRS with respect to its use of an energy efficiency measure that is financed by a customer, or which is a geothermal energy system for the provision of heated water to one or more customers and which reduces the consumption of electricity or any fossil fuel, except that, of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures.~~

~~4.]~~ If, for the benefit of one or more retail customers in this State, the provider ~~[, or the customer of a provider of new electric resources pursuant to chapter 704B of NRS,]~~ has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

~~[5.]~~ ***4.*** The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.

~~[6.]~~ ***5.*** Except as otherwise provided in subsection ~~[7,]~~ ***6,*** each provider shall comply with its portfolio standard during each calendar year.

~~[7.]~~ ***6.*** If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own

renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

~~[8.]~~ ***7.*** The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

8. The provisions of this section do not apply to a provider of new electric resources as defined in NRS 704B.130.

9. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 9.3. **NRS 704.7822 is hereby amended to read as follows:**

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act,*** a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer; and

2. On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

Sec. 9.5. **NRS 704.7823 is hereby amended to read as follows:**

704.7823 1. Except as otherwise provided in subsection 2, any electricity generated by a provider using any system that involves drawing or creating electricity from tires must be deemed to have not come from a renewable energy system for the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[.]~~ ***or section 4.7 of this act.***

2. For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[.]~~ ***or section 4.7 of this act,*** a provider shall be deemed to have generated or acquired 0.7 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a system that utilizes a reverse polymerization process, if:

(a) The system is installed on the premises of a retail customer; and

(b) On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

3. As used in this section:

(a) "Reverse polymerization process" means a process that generates electricity from a tire that:

(1) Uses microwave reduction; and

(2) Does not involve combustion of the tire.

(b) "Tire" includes any tire for any vehicle or device in, upon or by which any person or property is or may be transported or drawn upon land.

Sec. 9.7. **NRS 704.7828 is hereby amended to read as follows:**

704.7828 1. The Commission shall adopt regulations to carry out and enforce the provisions of NRS 704.7801 to 704.7828, inclusive ~~[.]~~ ***, and section 4.7 of this act.*** The regulations adopted by the Commission may include any enforcement mechanisms which are necessary and reasonable to ensure that each provider of electric service complies with its portfolio standard. Such enforcement mechanisms may include, without limitation, the imposition of administrative fines.

2. If a provider does not comply with its portfolio standard for any calendar year and the Commission has not exempted the provider from the requirements of its portfolio standard pursuant to NRS 704.7821 ~~[.]~~ ***or section 4.7 of this act,*** the Commission may impose an administrative fine against the provider or take other administrative action against the provider, or do both.

3. The Commission may impose an administrative fine against a provider based upon:

(a) Each kilowatt-hour of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; or

(b) Any other reasonable formula adopted by the Commission.

4. In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the

provider complies with its portfolio standard, as determined by the Commission.

5. If the Commission imposes an administrative fine against a utility provider:

(a) The administrative fine is not a cost of service of the utility provider;

(b) The utility provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and

(c) The Commission shall not allow the utility provider to recover any portion of the administrative fine from its retail customers.

6. All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.

~~[Sec. 7.]~~ ***Sec. 10.*** NRS 704.873 is hereby amended to read as follows:

704.873 If a public utility that is subject to the provisions of NRS 704.736 to 704.751, inclusive, ***and section*** ~~[1]~~ ***4.3 of this act*** applies to the Commission for a permit for the construction of a utility facility:

1. The Commission has exclusive jurisdiction with regard to the determination of whether a need exists for the utility facility; and

2. No other permitting entity may consider, in its review of any application for a permit, license or other approval for the construction of the utility facility, whether a need exists for the utility facility.

Sec. 10.3. **Chapter 704B of NRS is hereby amended by adding thereto a new section to read as follows:**

Before an eligible customer may increase the amount of electricity the eligible customer purchases from a provider of new electric resources in accordance with an order of the Commission which approved an application filed pursuant to NRS 704B.310 or a request filed pursuant to NRS 704B.325, the eligible customer must apply to and receive approval from the Commission for the increase. If the Commission approves the increase, the Commission must issue a written order approving the increase.

Sec. 10.5. **NRS 704B.320 is hereby amended to read as follows:**

704B.320 1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this State that is available to the electric utility and the existing demand for energy in this State that is consumed by the customers of the electric utility, as determined by the Commission.

2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which is purchased at the same price, terms and conditions as the energy purchased by the eligible customer for its own use; and

(2) The capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as the capacity and ancillary services purchased by the eligible customer for its own use; and

(b) Offers to assign the rights to the contract to the electric utility for use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2, the eligible customer shall include with its application filed pursuant to NRS 704B.310 all information concerning the contract offered to the electric utility that is necessary for the Commission to determine whether it is in the best interest of the remaining customers of the electric utility for the electric utility to accept the rights to the contract. Such information must include, without limitation, the amount of the energy and capacity to be purchased under the contract, the price of the energy, capacity and ancillary services and the duration of the contract.

4. Notwithstanding any specific statute to the contrary, information concerning the price of the energy, capacity and ancillary services and any other terms or conditions of the contract that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

5. If the Commission determines that the contract:

(a) Is not in the best interest of the remaining customers of the electric utility, the electric utility shall not accept the rights to the contract, and the eligible customer is entitled to all rights to the contract.

(b) Is in the best interest of the remaining customers of the electric utility, the electric utility shall accept the rights to the contract and the eligible customer shall assign all rights to the contract to the electric utility. A contract that is assigned to the electric utility pursuant to this paragraph shall be deemed to be an approved part of the resource plan of the electric utility and a prudent investment, and the electric utility may recover all costs for the energy, capacity and ancillary services acquired pursuant to the contract. To the extent practicable, the Commission shall take actions to ensure that the electric utility uses the energy, capacity and ancillary services acquired pursuant to each such contract only for the benefit of the remaining

customers of the electric utility that are not eligible customers, with a preference for the remaining customers of the electric utility that are residential customers with small loads.

6. The provisions of this section do not exempt the electric utility, in whole or in part, from the requirements imposed on the electric utility pursuant to NRS 704.7801 to 704.7828, inclusive, ***and section 4.7 of this act,*** to comply with its portfolio standard. The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

Sec. 10.7. **NRS 704B.325 is hereby amended to read as follows:**

704B.325 1. An eligible customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources may purchase energy, capacity or ancillary services from an alternative provider without obtaining the approval of the Commission if the terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer.

2. If any terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, do not conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer, the eligible customer must obtain approval from the Commission before those nonconforming terms and conditions are enforceable.

3. If the eligible customer files a request with the Commission for approval of any nonconforming terms and conditions, the Commission shall review and make a determination concerning the request on an expedited basis. ***If the Commission approves the request, the Commission must issue a written order approving the request.***

4. Notwithstanding any specific statute to the contrary, information concerning any terms and conditions of the transaction with the alternative provider that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the affected electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

~~[Sec. 8.]~~ ***Sec. 11.*** Any public utility required to file a plan pursuant to NRS 704.741 that would not otherwise be required to file a new plan before January 1, 2011, shall submit an amendment to its existing plan by January 1, 2011, that complies with the provisions relating to a transmission plan in **NRS 704.741, as amended by** section ~~[3]~~ **6** of this act.

Sec. 11.5. **If the Public Utilities Commission of Nevada issued an order before July 1, 2009, to which paragraph (a) or (b) of subsection 1 of section 4.7 of this act applies, the Commission must revise the order, as needed, to meet the requirements of paragraph (a) or (b) of subsection 1 of section 4.7 of this act, as applicable. For the purposes of section 4.7 of this act, a revised order issued in accordance with this section shall be deemed to have been issued on the date that the original order was issued.**

Sec. 12. **The Public Utilities Commission of Nevada shall, not later than January 1, 2010, adopt regulations that designate renewable energy zones as defined in NRS 704.741, as amended by section 6 of this act.**

~~[Sec. 9.]~~ ***Sec. 13.*** **1.** This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on June 30, 2011.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 397.

Bill read second time.

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

Amendment No. 371.

SUMMARY—Authorizes redevelopment agencies to expend money to improve schools located within ~~[redevelopment]~~ **certain** areas ~~[.]~~ **under certain circumstances.** (BDR 22-130)

AN ACT relating to community redevelopment; authorizing redevelopment agencies to expend money **, subject to certain limitations,** to improve schools located within ~~[redevelopment areas;]~~ **certain cities or counties; requiring redevelopment agencies to file certain reports with the Director of the Legislative Counsel Bureau and with their respective governing bodies;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the legislative body of a community, having recognized the need for a redevelopment agency to function in the community, to establish a redevelopment revolving fund. (NRS 279.386, 279.396, 279.410, 279.620) Existing law also specifies the manner in which, and the permissible purposes for which, money may be expended from the redevelopment revolving fund. (NRS 279.628) This bill expands the permissible purposes for which money may be expended from a redevelopment revolving fund to include use by a redevelopment agency for the improvement **, with certain limitations,** of schools in a **city or county with a** redevelopment area ~~[.]~~ **within its boundaries.**

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

Section 1. **Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. In addition to the report required pursuant to the provisions of subsection 2, and subject to the provisions of subsection 3, for each redevelopment area for which a redevelopment plan is adopted pursuant to the provisions of NRS 279.586 after the effective date of this act, on or before the January 1 next after the adoption of the plan, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:

(a) A legal description of the boundaries of the redevelopment area;

(b) The date on which the redevelopment plan for the redevelopment area was adopted;

(c) The scheduled termination date of the redevelopment plan;

(d) The total sum of the assessed value of the taxable property in the redevelopment area for:

(1) The fiscal year immediately preceding the adoption of the redevelopment plan; and

(2) The fiscal year during which the redevelopment plan was adopted, if such fiscal year ends before the reporting deadline;

(e) The combined overlapping tax rate of the redevelopment area;

(f) The property tax rate of the redevelopment area;

(g) The property tax revenue expected to be received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area during the first fiscal year that the agency will receive an allocation pursuant to the provisions of NRS 279.676;

(h) Copies of any memoranda of understanding that the agency enters into during the fiscal year in which the redevelopment plan was adopted; and

(i) The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

2. On or before January 1 of each year, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area for the previous fiscal year:

(a) The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area;

(b) The combined overlapping tax rate of the redevelopment area;

(c) The property tax rate of the redevelopment area;

(d) The total sum of the assessed value of the taxable property in the redevelopment area;

(e) If the amount reported pursuant to the provisions of paragraph (d) is less than the amount reported pursuant to the provisions of paragraph (d), or for any other previous fiscal year, an explanation of the reason for the difference;

(f) Copies of any memoranda of understanding that the agency enters into;

(g) The amortization schedule for any debt incurred for the redevelopment area, and the reasons for incurring the debt; and

(h) Any change to the boundary of the redevelopment area and an explanation of the reason for the change.

3. Any report for a redevelopment area submitted pursuant to the provisions of subsection 1 must be submitted with the report for the redevelopment area submitted pursuant to the provisions of subsection 2.

Sec. 2. **NRS 279.382 is hereby amended to read as follows:**

279.382 The provisions contained in NRS 279.382 to 279.685, inclusive, ***and section 1 of this act,*** may be cited as the Community Redevelopment Law.

Sec. 3. **NRS 279.384 is hereby amended to read as follows:**

279.384 As used in NRS 279.382 to 279.685, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, have the meanings ascribed to them in those sections.

~~[Section 1.]~~ ***Sec. 4.*** NRS 279.628 is hereby amended to read as follows:

279.628 1. By resolution of the legislative body adopted by a majority vote any money in the redevelopment revolving fund may be expended from time to time for:

(a) The acquisition of real property in any redevelopment area.

(b) The clearance, aiding in relocation of occupants of the site and preparation of any redevelopment area for redevelopment.

2. By resolution of the legislative body adopted by a two-thirds vote, any money in the redevelopment revolving fund may be paid to the agency, upon such terms and conditions as the legislative body may prescribe for any of the following purposes:

(a) Deposit in a trust fund to be expended for the acquisition of real property in any redevelopment area.

(b) The clearance of any redevelopment area for redevelopment.

(c) Any expenses necessary or incidental to the carrying out of a redevelopment plan which has been adopted by the legislative body.

(d) ~~*[To]*~~ ***Subject to the provisions of subsection 3, to be used by the agency for the improvement of schools in*** ~~*[any redevelopment area.]*~~ ***the community.***

3. Money paid to the agency pursuant to paragraph (d) of subsection 2 may only be in the form of grants and may not be used for any regular expenses of a school.

Sec. 5. **On or before January 1, 2010, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:**

1. A legal description of the boundaries of the redevelopment area;

2. The date on which the redevelopment plan for the redevelopment area was adopted;

3. The scheduled termination date of the redevelopment plan;

4. The total sum of the assessed value of the taxable property in the redevelopment area for:

(a) The fiscal year immediately preceding the adoption of the redevelopment plan; and

(b) The fiscal year during which the redevelopment plan was adopted;

5. The combined overlapping tax rate of the redevelopment area;

6. The property tax rate of the redevelopment area;

7. The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area for the fiscal year ending June 30, 2009;

8. Copies of any memoranda of understanding that the agency enters into during the fiscal year ending June 30, 2009; and

9. The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

~~[Sec. 2.]~~ ***Sec. 6.*** This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 448.

Bill read second time.

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

Amendment No. 441.

AN ACT relating to energy; ~~[providing for the participation in the Solar Energy Systems Incentive Program of a utility that operates a solar energy system pursuant to a solar power purchase agreement; requiring the Public Utilities Commission of Nevada to establish and maintain an Internet website to provide certain information to applicants for participation in the Solar Program; requiring a participant in the Solar Program to complete installation of a solar energy system within a specified time; providing for the withdrawal of a participant from the Solar Program or the Wind Energy~~

~~Systems Demonstration Program under certain circumstances;~~] **revising provisions governing participation in and the administration of the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program **, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program** to provide incentives to persons to install solar energy systems **, wind energy systems and waterpower energy systems on certain property. (NRS 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.890)** [~~on: (1) private residential and small business property; (2) public and other property; and (3) school property. (NRS 701B.010-701B.290) Participation in the Solar Program is limited, and the total amount of capacity allocated to each category of participation in the Solar Program is capped. Section 13 of this bill removes the limitations on the total amount of capacity allocated to the categories of participation in the Solar Program and instead provides for limitations on the capacity allocated to individual systems in the Solar Program. Section 13 also authorizes the Public Utilities Commission of Nevada to waive the limitations on capacity for individual systems under certain circumstances. (NRS 701B.260)~~

~~Section 12 of this bill requires an applicant to submit with his application to participate in the Solar Program an estimate of the cost of the installation of the solar energy system. (NRS 701B.250) In addition, section 3 of this bill requires an applicant for participation in the category of private residential property to: (1) obtain an evaluation of the energy consumption of the residential property; and (2) include a copy of the evaluation with his application. Section 6 of this bill requires the Commission to establish and maintain an Internet website to provide an applicant for participation in the Solar Program with access to information concerning the status of his application.~~

~~Section 11 of this bill requires the Commission to adopt regulations establishing the qualifications and requirements which a utility that is a party to a solar power purchase agreement must meet to participate in the Solar Program and to be eligible to receive incentives offered through the Solar Program. (NRS 701B.210)~~

~~Section 4 of this bill provides that the installation of a solar energy system on public property is deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the solar energy system is financed in whole or in part by public money.~~

~~Section 14 of this bill requires the Commission to withdraw a participant from the Solar Program if he does not finalize the contract for installation of the solar energy system or complete installation of the solar energy system within a specified time. (NRS 701B.270) Section 5 of this bill authorizes the~~

~~Commission to grant a waiver from withdrawal to a participant who fails to finalize such a contract or complete the installation of a solar energy system within the prescribed period. Sections 7 and 17 of this bill establish similar provisions governing the withdrawal of participants from the Wind Energy Systems Demonstration Program. (NRS 701B.580, 701B.630)~~

Sections 2, 3 and 7-14 of this bill revise provisions governing the Solar Energy Systems Incentive Program. Section 10 requires the Public Utilities Commission of Nevada to adopt regulations to carry out the Solar Program in a manner designed to meet the goal of the Legislature of the installation of not less than 50 megawatts of solar energy systems in this State by 2019. (NRS 701B. 200)

Sections 4, 5 and 15-20 of this bill revise provisions governing the Wind Energy Systems Demonstration Program. Section 19 requires the Commission to adopt regulations to carry out the Wind Demonstration Program in a manner designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of wind energy systems in this State by 2012. (NRS 701B.590)

Sections 6 and 21-26 of this bill revise provisions governing the Waterpower Energy Systems Demonstration Program. Section 25 requires the Commission to carry out the Waterpower Demonstration Program in a manner designed to meet the goal of the Legislature of the installation of not less than 500 kilowatts of waterpower energy systems in this State by 2012. (NRS 701B.840)

Section 27 of this bill repeals certain provisions relating to the renewable energy programs, including provisions which authorize the Task Force for Renewable Energy and Energy Conservation to administer certain provisions relating to the renewable energy programs and provisions which place certain capacity limits on participation in the programs. (NRS 701B.100, 701B.170, 701B.220, 701B.260, 701B.270, 701B.490, 701B.530, 701B.610, 701B.620, 701B.630, 701B.760, 701B.770, 701B.830, 701B.850, 701B.890)

Section 28 of this bill requires the Commission to adopt regulations to carry out the renewable energy programs consistent with the provisions of chapter 701B of NRS as amended by this bill. Section 28 also provides that the incentives offered to participants in each of the programs on July 1, 2008, must continue to be offered to participants in the program unless and until the Commission establishes different incentives. Section 28 further requires that any capacity from previous program years which was authorized for the Solar Energy Systems Incentive Program and which remains unallocated on July 1, 2009, be allocated as soon as practicable to qualified applicants who were placed on the prioritized waiting list established pursuant to the former provisions of NRS 701B.260 before July 1, 2009.

Section 29 of this bill requires the Commission to conduct a study concerning performance-based rebates, including, without limitation,

feed-in tariffs and standard offer contracts for renewable energy production and, on or before July 1, 2010, to submit a written report of the study to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

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

Delete existing sections 1 through 18 of this bill and replace with the following new sections 1 through 30:

Section 1. **Chapter 701B is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.**

Sec. 2. ***The installation of a solar energy system on public property pursuant to NRS 701B.010 to 701B.290, inclusive, and sections 2 and 3 of this act shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the solar energy system is financed in whole or in part by public money.***

Sec. 3. ***1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility shall select the applicant for participation in the Solar Program.***

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility may approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

5. Upon receipt of an incentive claim form submitted pursuant to subsection 4 and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits his eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of his solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. An applicant who forfeits his eligibility for the incentive for which the applicant was

originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of his solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of his solar energy system.

Sec. 4. The installation of a wind energy system on public property pursuant to NRS 701B.400 to 701B.650, inclusive, and sections 4 and 5 of this act shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the wind energy system is financed in whole or in part by public money.

Sec. 5. 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility shall select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of an incentive claim form submitted pursuant to subsection 5 and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Program, except that an applicant forfeits his eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of his wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. An applicant who forfeits his eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of his wind energy system, and the amount of the incentive for which such an applicant is eligible must be

determined on the date on which the applicant completes the installation of his wind energy system.

Sec. 6. 1. An applicant who wishes to participate in the Waterpower Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility shall select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of an incentive claim form submitted pursuant to subsection 5 and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Program, except that an applicant forfeits his eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of his waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program. An applicant who forfeits his eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of his waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of his waterpower energy system.

Sec. 7. **NRS 701B.010 is hereby amended to read as follows:**

701B.010 The provisions of NRS 701B.010 to 701B.290, inclusive, ***and sections 2 and 3 of this act*** apply to the Solar Energy Systems Incentive Program.

Sec. 8. **NRS 701B.020 is hereby amended to read as follows:**

701B.020 As used in NRS 701B.010 to 701B.290, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 701B.030 to 701B.180, inclusive, have the meanings ascribed to them in those sections.

Sec. 9. **NRS 701B.080 is hereby amended to read as follows:**

701B.080 "Participant" means a person who has been selected by ~~[the Task Force]~~ ***a utility*** to participate in the Solar Program.

Sec. 10. **NRS 701B.200 is hereby amended to read as follows:**

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, ***and sections 2 and 3 of this act,*** including, without limitation, regulations that establish:

1. The ~~[type of incentives available to participants in the Solar Program and the level or amount of those incentives;~~

~~2. The requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:~~

~~(a) A detailed plan for advertising the Solar Program;~~

~~(b) A detailed budget and schedule for carrying out and administering the Solar Program;~~

~~(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;~~

~~(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;~~

~~(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and~~

~~(f) Any other information required by the Commission.]~~ ***capacity goals for the Solar Program designed to meet the goal of the Legislature of the installation of not less than 50 megawatts of solar energy systems in this State by 2019 and the goals for each category of the Solar Program.***

2. A system of incentives that are based on rebates that decline as the capacity goals for the Solar Program and the goals for each category of the Solar Program are met. The rebates must be structured to reduce the cost of solar energy systems and must be based on predicted energy savings.

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 11. **NRS 701B.210 is hereby amended to read as follows:**

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in each applicable category of:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property; and

2. The form and content of ~~[the master application which a utility must submit to the Task Force pursuant to NRS 701B.250.]~~ ***an energy audit or survey of the property of a participant in the Solar Program.***

Sec. 12. **NRS 701B.230 is hereby amended to read as follows:**

701B.230 1. ~~[Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plan for carrying out and administering the Solar Program within its service area for a program year.~~

~~2. The Commission shall:~~

~~(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the Commission; and~~

~~(b) Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Solar Program.~~

~~3.]~~ A utility shall carry out and administer the Solar Program within its service area . ~~[in accordance with the utility's annual plan as approved by the Commission.~~

~~4.]~~ ***2. A utility shall include in the report required pursuant to NRS 704.7825 a report of the performance of the Solar Program for the previous calendar year and any other information required by the Commission.***

3. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

4. A utility shall establish and maintain an Internet website to provide an applicant with the ability to access information concerning the status of his application and the status of the incentives available for each category of the Solar Program.

Sec. 13. **NRS 701B.240 is hereby amended to read as follows:**

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The Solar Program must have three categories as follows:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~[Task Force]~~ ***utility*** for inclusion in the Solar Program pursuant to NRS 701B.250 and ~~[701B.260;]~~ ***section 3 of this act;***

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.

Sec. 14. **NRS 701B.250 is hereby amended to read as follows:**

701B.250 1. If an applicant desires to participate in the Solar Program**,** ~~[~~for a program year,~~]~~ the applicant must submit an application to a utility. ~~[~~If an applicant desires to participate in the category of school property or public and other property, the applicant may submit an application for multiple program years, not to exceed 5 years.~~]~~

2. ~~[~~Each year on or before the date established by the Commission, a~~]~~ ***A*** utility shall review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program**.** ~~[~~and submit to the Task Force:

~~(a) The utility's recommendations as to which applications should be approved for participation in the Solar Program; and~~

~~(b) A master application containing all the applications recommended by the utility.~~

~~3. At any time after submitting an application to a utility, an applicant may install or energize his solar energy system if the solar energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who installs or energizes his solar energy system under such circumstances remains eligible to participate in the Solar Program, and the installation or energizing of the solar energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to NRS 701B.260.~~]

Sec. 15. **NRS 701B.400 is hereby amended to read as follows:**

701B.400 NRS 701B.400 to 701B.650, inclusive, ***and sections 4 and 5 of this act*** may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 16. **NRS 701B.410 is hereby amended to read as follows:**

701B.410 As used in NRS 701B.400 to 701B.650, inclusive, ***and sections 4 and 5 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 701B.420 to 701B.560, inclusive, have the meaning ascribed to them in those sections.

Sec. 17. **NRS 701B.470 is hereby amended to read as follows:**

701B.470 "Participant" means a person who has been selected by ~~[~~the Task Force~~]~~ ***a utility*** pursuant to ~~[~~NRS 701B.620~~]~~ ***section 5 of this act*** to participate in the Wind Demonstration Program.

Sec. 18. **NRS 701B.580 is hereby amended to read as follows:**

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590;

(b) Submit an application to a utility and be selected by the ~~[Task Force]~~ ***utility*** for inclusion in the Program pursuant to ~~[NRS 701B.610 and 701B.620;]~~ ***section 5 of this act;***

(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 19. **NRS 701B.590 is hereby amended to read as follows:**

701B.590 The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The ~~[qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:~~

~~(a) School property;~~

~~(b) Other public property;~~

~~(c) Private residential property and small business property; and~~

~~(d) Agricultural property.~~

~~2. The type of incentives available to participants in the Program and the level or amount of those incentives.~~

~~3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:~~

~~(a) A detailed plan for advertising the Program;~~

~~(b) A detailed budget and schedule for carrying out and administering the Program;~~

~~(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;~~

~~(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;~~

~~(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and~~

~~(f) Any other information required by the Commission.~~**]** ***capacity goals for the Program designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of wind energy systems in this State by 2012 and the goals for each category of the Program.***

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 20. **NRS 701B.600 is hereby amended to read as follows:**

701B.600 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area**.** **[**~~in accordance with its annual plan as approved by the Commission pursuant to NRS 701B.610.~~**]**

2. ***A utility shall include in the report required pursuant to NRS 704.7825 a report of the performance of the Program for the previous calendar year and any other information required by the Commission.***

3. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

4. A utility shall establish and maintain an Internet website to provide an applicant with the ability to access information concerning the status of his application and the status of the incentives available for each category of the Program.

Sec. 21. **NRS 701B.700 is hereby amended to read as follows:**

701B.700 NRS 701B.700 to **[**~~701B.890,~~**]** ***701B.880,*** inclusive, ***and section 6 of this act*** may be cited as the Waterpower Energy Systems Demonstration Program Act.

Sec. 22. **NRS 701B.710 is hereby amended to read as follows:**

701B.710 As used in NRS 701B.700 to **[**~~701B.890,~~**]** ***701B.880,*** inclusive, ***and section 6 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 701B.720 to 701B.810, inclusive, have the meanings ascribed to them in those sections.

Sec. 23. **NRS 701B.740 is hereby amended to read as follows:**

701B.740 "Participant" means a person who has been selected by **[**~~the Commission~~**]** ***a utility*** to participate in the Waterpower Demonstration Program.

Sec. 24. **NRS 701B.820 is hereby amended to read as follows:**

701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for agricultural uses.

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4 and apply to ***a utility*** and be selected by the ~~[Task Force]~~ ***utility*** for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

Sec. 25. **NRS 701B.840 is hereby amended to read as follows:**

701B.840 The Commission shall adopt regulations that establish:

1. The ~~[level, amount and type of incentives available for participants in the Waterpower Demonstration Program.~~

~~2. The requirements for an annual plan for the administration and delivery of the Waterpower Demonstration Program. The requirements for an annual plan must include, without limitation:~~

~~(a) An advertising plan;~~

~~(b) A detailed budget;~~

~~(c) A schedule;~~

~~(d) Administrative processes, including, without limitation, a copy of the application and process for accepting applications;~~

~~(e) An inspection and verification process;~~

~~(f) Proposed training and educational activities; and~~

~~(g) Any other information required by the Commission.]~~ ***capacity goals for the Program designed to meet the goal of the Legislature of the installation of not less than 500 kilowatts of waterpower energy systems in this State by 2012 and the goals for each category of the Program.***

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 26. **NRS 701B.860 is hereby amended to read as follows:**

701B.860 ***1.*** Each utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Waterpower Demonstration Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

2. A utility shall include in the report required pursuant to NRS 704.7825 a report of the performance of the Program for the previous calendar year and any other information required by the Commission.

3. A utility shall establish and maintain an Internet website to provide an applicant with the ability to access information concerning the status of

his application and the status of the incentives available for each category of the Program.

Sec. 27. **NRS 701B.100, 701B.170, 701B.220, 701B.260, 701B.270, 701B.490, 701B.530, 701B.610, 701B.620, 701B.630, 701B.760, 701B.770, 701B.830, 701B.850 and 701B.890 are hereby repealed.**

Sec. 28. **1. On or before February 1, 2010, the Public Utilities Commission of Nevada shall adopt the regulations to carry out:**

(a) The provisions of NRS 701B.010 to 701B.290, inclusive, as amended by this act, and sections 2 and 3 of this act;

(b) The provisions of NRS 701B.400 to 701B.650, inclusive, as amended by this act, and sections 4 and 5 of this act; and

(c) The provisions of NRS 701B.700 to 701B.880, inclusive, as amended by this act, and section 6 of this act.

2. The incentives offered to participants in the Solar Energy Systems Incentive Program on July 1, 2008, must remain in effect unless or until the Commission establishes different incentives pursuant to the regulations adopted pursuant paragraph (a) of subsection 1.

3. Any capacity from previous program years which was authorized for the Solar Energy Systems Incentive Program pursuant to the former provisions of NRS 701B.260, and any regulations adopted pursuant thereto, and which remains unallocated on July 1, 2009, must be allocated as soon as practicable to qualified applicants who were placed on the prioritized waiting list established pursuant to the former provisions of NRS 701B.260 and any regulations adopted pursuant thereto before July 1, 2009, and such applicants must be offered the incentives which were offered to participants in the Solar Program on July 1, 2008.

4. The incentives offered to participants in the Wind Energy Systems Demonstration Program on July 1, 2008, must remain in effect during the period the Program is in effect unless or until the Commission establishes different incentives pursuant to the regulations adopted pursuant to paragraph (b) of subsection 1.

5. The incentives offered to participants in the Waterpower Energy Systems Demonstration Program on July 1, 2008, must remain in effect during the period the Program is in effect unless or until the Commission establishes different incentives pursuant to the regulations adopted pursuant to paragraph (c) of subsection 1.

Sec. 29. **The Public Utilities Commission of Nevada shall:**

1. Conduct a study concerning performance-based rebates, including, without limitation, feed-in tariffs and standard offer contracts for renewable energy production; and

2. On or before July 1, 2010, submit a written report of the study conducted pursuant to subsection 1 to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 30. **1. This act becomes effective on July 1, 2009.**

2. Sections 4, 5, 6 and 15 to 26, inclusive, of this act expire by limitation on June 30, 2011.

LEADLINES OF REPEALED SECTIONS

701B.100 "Program year" defined.

701B.170 "Task Force" defined.

701B.220 Regulations: Establishment of incentives for participation.

701B.260 Capacity allocated to each category; reallocation of capacity; procedure for selection and notification of participants; approval of applicant's solar energy system.

701B.270 Withdrawal of participant for noncompliance; forfeiture of incentives.

701B.490 "Program year" defined.

701B.530 "Task Force" defined.

701B.610 Duty of utility to file annual plan; review and approval of annual plan by Commission; procedure for recommendation and review of applications; capacity allocated to each category.

701B.620 Procedure for selection and notification of participants; reallocation of capacity; authorization to install or energize solar energy system while application is pending.

701B.630 Withdrawal of participant for noncompliance; forfeiture of incentives.

701B.760 "Program year" defined.

701B.770 "Task Force" defined.

701B.830 Duties of Task Force.

701B.850 Duty of utility to file annual plan; review of annual plan by Commission; procedure for recommendation and review of applications; capacity allocated to each category.

701B.890 Withdrawal of participant for noncompliance.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 470.

Bill read second time.

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

Amendment No. 525.

SUMMARY—Prohibits noncompete agreements ~~[for persons who hold a professional license.]~~ **with certain employees.** (BDR 53-1021)

AN ACT relating to employment practices; prohibiting noncompete agreements ~~[for persons who hold a professional license;]~~ **with an at-will employee other than a physician;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits any person, association, company or corporation from taking actions to prevent a person who leaves its employ from obtaining employment elsewhere in the State but allows a contract to prohibit an employee from pursuing a similar vocation in competition with or becoming employed by a competitor. (NRS 613.200) This bill ~~[prohibits]~~ **allows** such contracts ~~[with respect to a person who holds a professional license in this State.]~~ **only with employees who are not employed at-will and with physicians, homeopathic physicians and osteopathic physicians. Such contracts are not valid or enforceable if entered into with an at-will employee who is not a physician, homeopathic physician or osteopathic physician.**

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

Section 1. NRS 613.200 is hereby amended to read as follows:

613.200 1. Except as otherwise provided in this section, any person, association, company or corporation within this State, or any agent or officer on behalf of the person, association, company or corporation, who willfully does anything intended to prevent any person who for any cause left or was discharged from his or its employ from obtaining employment elsewhere in this State is guilty of a gross misdemeanor and shall be punished by a fine of not more than $5,000.

2. In addition to any other remedy or penalty, the Labor Commissioner may impose against each culpable party an administrative penalty of not more than $5,000 for each such violation.

3. If a fine or an administrative penalty is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Labor Commissioner.

4. The ~~[Except as otherwise provided in subsection 5, the]~~ provisions of this section do not prohibit a person, association, company, corporation, agent or officer from negotiating, executing and enforcing an agreement ***that is supported by valuable consideration and is otherwise reasonable in scope and duration*** with ~~[an]~~ ***:***

(a) An employee of the person, association, company or corporation ***who is not an at-will employee or with a physician, homeopathic physician or osteopathic physician*** which, upon termination of the employment, prohibits the employee ***or physician*** from ~~[:~~

~~(a) Pursuing]~~ ***pursuing*** a similar vocation in competition with or becoming employed by a competitor of the person, association, company or corporation ***.*** ~~[; or]~~ ***Such an agreement is not valid or enforceable if entered into with an at-will employee who is not a physician, homeopathic physician or osteopathic physician.***

(b) ~~[Disclosing]~~ ***An employee of the person, association, company or corporation which, upon termination of the employment, prohibits the***

employee from disclosing any trade secrets, business methods, lists of customers, secret formulas or processes or confidential information learned or obtained during the course of his employment with the person, association, company or corporation**. [,**

~~" if the agreement is supported by valuable consideration and is otherwise reasonable in its scope and duration.~~

~~*5. The provisions of paragraph (a) of subsection 4 do not apply to any employee who holds a professional license pursuant to the provisions of title 54 of NRS.]~~ ***Such an agreement is valid and enforceable regardless of whether the employee is employed at-will.***

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 478.

Bill read second time.

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

Amendment No. 493.

AN ACT relating to governmental administration; revising provisions relating to certain housing authorities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the Housing Authorities Law of 1947. (NRS 315.140-315.780) In relevant part, under the provisions of this Law, each county, city and town of the State has a housing authority which is a municipal corporation and which is presided over by five commissioners. (NRS 315.320, 315.370) The housing authorities governed by this Law exist primarily to ensure that veterans and persons of low income are able to find safe and sanitary housing at affordable prices. (NRS 315.330, 315.340, 315.440, 315.460, 315.510)

This bill, in a county whose population is 400,000 or more (currently Clark County), allows two or more (housing) authorities to form a regional (housing) authority. Such a regional authority is created by a resolution agreed to between or among, as applicable, the governing bodies of the local governments that desire to participate in the regional authority. A regional authority has the same powers and duties as a regular authority, except on an expanded geographic scale. **A regional authority also has the authority to repeal local laws, ordinances and regulations that are in conflict with each other. Upon the formation of a regional authority, the individual authorities of the county and the cities participating in the regional authority are dissolved.**

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

Section 1. Chapter 315 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[, 3 and 4]~~ **to 6, inclusive,** of this act.

Sec. 2. ***"Regional authority" means an authority formed pursuant to section 3 of this act.***

Sec. 3. ***1. In a county whose population is 400,000 or more, any two or more authorities may form a regional authority.***

2. To form a regional authority as described in subsection 1, the governing body of the county and the governing body of each city and town located within the county that desires to participate in the regional authority shall adopt a resolution setting forth:

(a) The intent to regionalize some or all of their powers;

(b) ~~*[The purpose of the]*~~ ***A reference to the development of a plan for transitioning to a regional authority*** ~~*;*~~ ~~*[, which may include, without limitation:*~~

~~*(1) Aiding and cooperating with local agencies in the administration, planning, undertaking, construction and operation of housing projects to provide decent, safe and sanitary housing that is affordable to:*~~

~~*(I) Persons of low income; and*~~

~~*(II) Persons who are preferred tenants for the purposes of tenant selection as set forth in NRS 315.510; and*~~

~~*(2) Assisting local housing agencies in carrying out any other activities that are authorized pursuant to or in furtherance of the provisions of NRS 315.140 to 315.780, inclusive, and sections 2, 3 and 4 of this act;]*~~

(c) The geographic scope of the regional authority; ~~*[and]*~~

(d) That, upon the formation of the regional authority, any individual authorities of the local governments who form the regional authority are dissolved; and

(e) Such other matters as the governing bodies determine to be necessary or advisable.

3. If the formation of a regional authority pursuant to this section involves fiscal matters, the ownership of real property or the consolidation of functions, such matters must be resolved by written contract, agreement or other arrangement entered into by the governing bodies who form the regional authority.

Sec. 4. ***1. Upon the adoption of a resolution pursuant to section 3 of this act forming a regional authority,*** ~~*[five]*~~ ***nine persons must be appointed to serve as commissioners of the authority*** ~~*[. If the regional authority was formed by:*~~

~~*(a) A county and one other local government in that county:*~~

~~*(1)]*~~ ***as follows:***

(a) The governing body of the county shall appoint ~~*[three]*~~ ***two persons to serve as commissioners of the authority;*** ~~*[and*~~

~~*(2) The chief executive of the city or the]*~~

(b) The governing body of the ~~[town, as the case may be,]~~ largest city in the county shall appoint two persons to serve as commissioners of the authority ~~[:~~

~~(b) A county and two other local governments in that county:~~

~~(1)]~~ ;

(c) The governing body of the second largest city in the county shall appoint two persons to serve as commissioners of the authority;

~~[~~ ~~(2) With respect to the larger participating city or town, the chief executive of the city or the governing body of the town, as the case may be, shall appoint two persons to serve as commissioners of the authority; and~~

~~(3) With respect to the smaller participating city or town, the chief executive of the city or the governing body of the town, as the case may be, shall appoint one person to serve as a commissioner of the authority.~~

~~(c) A county and three other local governments in that county:~~

~~(1)]~~ (d) The governing body of the third largest city in the county shall appoint two persons to serve as commissioners of the authority; and

~~[~~ ~~(2) With respect to each of the other three participating cities or towns, the chief executive of the city or the governing body of the town, as the case may be, shall appoint one person to serve as a commissioner of the authority.~~

~~(d) A county and four other local governments in that county:~~

~~(1) The governing body of the county shall appoint one person to serve as a commissioner of the authority; and~~

~~(2) With respect to each of the other four participating cities or towns, the chief executive of the city or the governing body of the town, as the case may be, shall appoint one person to serve as a commissioner of the authority.~~

~~2. Three]~~

(e) One commissioner who serves on behalf of tenants must be selected as described in subsection 3.

➥ None of the persons appointed to serve as commissioners of the authority may be elected officials of any governmental entity.

2. Six of the commissioners who are first appointed pursuant to subsection 1 must be designated to serve for terms of 1, 2 and 3 years, respectively, from the date of their appointment, and ~~[two]~~ three must be designated to serve for terms of 4 years from the date of their appointment, but thereafter commissioners must be appointed for a term of office of 4 years. The persons appointed initially to serve as commissioners pursuant to subsection 1 shall determine by lot whether they are designated pursuant to this subsection to serve for a term of 1 year, 2 years, 3 years or 4 years.

3. The ~~[first commissioner appointed after the authority has provided assistance to at least eight persons]~~ commissioner who serves on behalf of tenants must be a current recipient of assistance from the authority who was selected from a list of at least five eligible nominees submitted for this purpose by an organization which represents tenants of housing projects. If no such organization exists, the commissioner must be selected from a list of nominees submitted for this purpose from persons who currently receive

assistance from the authority. Thereafter, at least one commissioner must be such a recipient who was nominated and appointed in the same manner. If, during his term, the commissioner ceases to be a recipient of assistance, he must be replaced in the manner set forth in this subsection by a person who is a recipient of assistance.

4. In making the appointments described in subsection 1, the relevant local governments shall seek recommendations for appointment from a diverse background of interests with a view toward:

(a) Balancing gender and ethnicity; and

(b) Soliciting appointees who have experience in fields such as, without limitation:

(1) Real estate;

(2) Financial planning;

(3) Legal aid;

(4) Education;

(5) Public safety;

(6) The provision of public services; and

(7) The assistance of persons of low income.

5. All vacancies must be filled for the unexpired term.

Sec. 5. A regional authority may, in addition to exercising the powers set forth in NRS 315.440 and 315.460 and any other relevant provisions of this chapter:

1. Repeal conflicting local laws, ordinances and regulations;

2. Jointly, or with another authority, exercise any powers, privileges and rights that are exercised or capable of being exercised by a local housing agency of this State; and

3. Exercise such other powers as the governing bodies of the local governments that formed the regional authority may agree upon.

Sec. 6. A regional authority may not request a reservation of land from the Bureau of Land Management unless the governing body of the jurisdiction within which the applicable land of the Bureau is located adopts a resolution of approval.

Sec. 7. **NRS 315.021 is hereby amended to read as follows:**

315.021 As used in NRS 315.021 to 315.071, inclusive, unless the context otherwise requires:

1. "Housing authority" means a housing authority created pursuant to this chapter. ***The term includes a regional authority formed pursuant to section 3 of this act.***

2. "Landlord" means a person who owns or manages any premises that he rents or leases to a tenant pursuant to a contract with a housing authority.

3. "Premises" means a particular apartment or other residential unit of public housing occupied by a tenant, or a residential unit that is occupied by a tenant pursuant to a federally assisted housing program administered by a housing authority.

4. "Public housing" means the residential accommodations operated by a housing authority or a landlord.

~~[Sec. 5.]~~ ***Sec. 8.*** NRS 315.140 is hereby amended to read as follows:

315.140 NRS 315.140 to 315.780, inclusive, ***and sections 2*** ~~*[, 3 and 4]*~~ ***to 6, inclusive, of this act*** may be referred to as the Housing Authorities Law of 1947.

~~[Sec. 6.]~~ ***Sec. 9.*** NRS 315.150 is hereby amended to read as follows:

315.150 Unless the context otherwise requires, the definitions contained in NRS 315.160 to 315.300, inclusive, ***and section 2 of this act*** govern the construction of NRS 315.140 to 315.780, inclusive ~~[.]~~ ***, and sections 2*** ~~*[, 3 and 4]*~~ ***to 6, inclusive, of this act.***

~~[Sec. 7.]~~ ***Sec. 10.*** NRS 315.160 is hereby amended to read as follows:

315.160 1. In the case of an authority of a city or town, "area of operation" shall include such city or town and the area within 5 miles of the territorial boundaries thereof; but the area of operation of an authority of any city or town shall not include any area which lies within the territorial boundaries of some other city or town as herein defined, unless a resolution shall have been adopted by the governing body of such other city or town (and by any authority which shall have been theretofore established and authorized to exercise its powers in such city or town) declaring that there is a need for such authority to exercise its powers within that city or town.

2. In the case of an authority of a county, "area of operation" shall include all of the county for which it is created; but a county authority shall not undertake any housing project or projects within the boundaries of any city or town, as herein defined, unless a resolution shall have been adopted by the governing body of such city or town (and by any authority which shall have been theretofore established and authorized to exercise its powers in such city or town) declaring that there is a need for the county authority to exercise its powers within such city or town.

3. In the case of a regional authority, "area of operation" shall include:

(a) All of the territory within the geographic scope of the regional authority, as referred to in paragraph (c) of subsection 2 of section 3 of this act; and

(b) Any other territory regarding which the regional authority and another authority agree to exercise joint power or control.

~~[Sec. 8.]~~ ***Sec. 11.*** NRS 315.170 is hereby amended to read as follows:

315.170 "Authority" means any of the public corporations created or authorized to be created by NRS 315.140 to 315.780, inclusive, ***and sections 2*** ~~*[, 3 and 4]*~~ ***to 6, inclusive, of this act*** and any housing authority established and operating prior to July 1, 1975, under the provisions of the Housing Authorities Law of 1943 or the Housing Law of 1951. ***The term includes a regional authority.***

Sec. 12. **NRS 315.380 is hereby amended to read as follows:**

315.380 ***1.*** An authority shall select a chairman and a vice chairman from its commissioners.

2. For the purpose of managing a regional authority, the commissioners of the regional authority shall select an executive director by way of a competitive, open and public process.

~~[Sec. 9.]~~ ***Sec. 13.*** NRS 315.435 is hereby amended to read as follows:

315.435 Except as otherwise provided in NRS 315.9835, a housing authority shall not operate in any area in which an authority already established is operating without the consent by resolution of the authority already operating therein. ***For the purposes of this section, the formation of a regional authority pursuant to section 3 of this act shall be deemed to constitute consent by resolution of the authority of any participating local governmental entity.***

~~[Sec. 10.]~~ ***Sec. 14.*** NRS 315.440 is hereby amended to read as follows:

315.440 Within its area of operation, an authority may:

1. Prepare, carry out and operate housing projects and provide for the construction, reconstruction, improvement, extension, alteration, or repair of any such project or any part thereof.

2. Determine where there is unsafe, insanitary or overcrowded housing.

3. Make studies and recommendations relating to the problem of eliminating unsafe, insanitary or overcrowded housing.

4. Cooperate with the city, the county, the State, or any political subdivision thereof in action taken in connection with such problems.

5. If it is a regional authority, work cooperatively with the relevant local jurisdictions concerning new developments or housing projects, or both. The relevant local jurisdictions with which a regional authority works cooperatively concerning new developments or housing projects, or both, shall provide to the regional authority such support and assistance as the regional authority may require.

Sec. 15. **As soon as practicable after July 1, 2009, and after the adoption of a resolution pursuant to section 3 of this act, the governing bodies of Clark County, the City of Las Vegas, the City of Henderson and the City of North Las Vegas shall appoint the commissioners described in section 4 of this act.**

~~[Sec. 11.]~~ ***Sec. 16.*** ~~[This act becomes]~~

1. This section and sections 1 to 5, inclusive, and 7 to 15, inclusive, of this act become effective on July 1, 2009.

2. Section 6 of this act becomes effective on January 1, 2010.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 492.

Bill read second time.

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

Amendment No. 481.

SUMMARY—Imposes certain requirements on the enactment of **legislation and the provision of notice regarding certain tax** abatements and exemptions**.** ~~[from property taxes and sales and use taxes.]~~ (BDR 32-602)

AN ACT relating to taxation; imposing certain requirements on the enactment of ~~[abatements and]~~ exemptions from property taxes and sales and use taxes; **imposing certain requirements on legislation revising the authority of the Commission on Economic Development to approve abatements of taxes; requiring the Commission to notify affected political subdivisions before taking action on such abatements;** requiring certain reports from the Department of Taxation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This bill imposes various requirements upon]~~ **Section 1 of this bill carries out the provisions of Section 6 of Article 10 of the Nevada Constitution, which became effective on November 25, 2008, through the statutory imposition of those constitutional requirements regarding** the enactment by the Legislature of any ~~[legislation that authorizes, requires or increases the amount of any abatements or]~~ exemptions from property taxes or sales and use taxes**.** ~~[.]~~

Existing law authorizes the Commission on Economic Development to grant to certain businesses partial abatements of property taxes, business taxes and local sales and use taxes. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 363B.120, 374.357, 701A.210) Sections 2 and 3 of this bill impose various requirements upon future state legislation expanding the authority of the Commission to approve any abatements of taxes and ~~[requires]~~ **require** the Department of Taxation to prepare biennial reports for the Legislature on whether the costs of ~~[those]~~ **such future** abatements ~~[or exemptions]~~ exceed the benefits thereof. ~~[In addition to carrying out the provisions of Section 6 or Article 10 of the Nevada Constitution, which became effective on November 25, 2008, this bill makes all future abatements and exemptions of property taxes and sales and use taxes inapplicable to: (1) the portions of those taxes that are imposed for public education; and (2) any entity that receives other public funding or property at no cost or a reduced cost.]~~

Section 4 of this bill requires the Commission on Economic Development to provide notice to affected political subdivisions at least 30 days before taking action on an application for any abatement of taxes imposed on a business. Section 5 of this bill repeals various provisions which partially duplicate the provisions of section 4.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 2, 3 and 4 of this act.**

Sec. 2. ~~*[1.]*~~ ***In accordance with Section 6 of Article 10 of the Constitution of the State of Nevada:***

~~*[(a)]*~~ ***1. The Legislature shall not enact an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail unless the Legislature finds that the exemption:***

~~*[(1)]*~~ ***(a) Will achieve a bona fide social or economic purpose and the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and***

~~*[(2)]*~~ ***(b) Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.***

~~*[(b)]*~~ ***2. In enacting an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail, the Legislature shall ensure that the requirements for claiming the exemption are as similar as practicable for similar classes of taxpayers.***

Sec. 3. ~~*[2.]*~~ ***1. Any state legislation enacted on or after July 1, 2009, which authorizes*** ~~*[,]*~~ ***or requires the Commission on Economic Development to approve any abatement of taxes or increases the amount of any abatement of*** ~~*[or exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:]*~~ ***taxes which the Commission is authorized or required to approve:***

(a) Expires by limitation 10 years after the effective date of that legislation.

(b) Does not apply to:

(1) Any taxes imposed ~~*[for public education;]*~~ ***pursuant to NRS 374.110 or 374.190; or***

(2) Any entity that receives:

(I) Any funding from a governmental entity, other than any private activity bonds as defined in 26 U.S.C. § 141; or

(II) Any real or personal property from a governmental entity at no cost or at a reduced cost.

(c) Requires each recipient of the abatement ~~*[or exemption]*~~ ***to submit to the Department, on or before the last day of each even-numbered year,*** ~~*[the*~~

~~*results of an independent audit of the recipient provided in sufficient detail for the Department to determine]*~~ ***a report on whether the recipient is in compliance with the terms of the abatement .*** ~~*[or exemption and whether the costs of the abatement or exemption exceed the benefits of the abatement or exemption.]*~~ ***The Department shall establish a form for the report and may adopt such regulations as it determines to be appropriate to carry out this paragraph. The report must include, without limitation:***

(1) The date the recipient commenced operation in this State;

(2) The number of employees actually employed by the recipient and the average hourly wage of those employees;

(3) An accounting of any fees paid by the recipient to the State and to local governmental entities;

(4) An accounting of the property taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(5) An accounting of the sales and use taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(6) An accounting of the total capital investment made in connection with the project to which the abatement applies; and

(7) An accounting of the total investment in personal property made in connection with the project to which the abatement applies.

~~*[3.]*~~ ***2. On or before*** ~~*[February]*~~ ***January 15 of each odd-numbered year, the Department shall:***

(a) Based upon the information submitted to the Department pursuant to paragraph (c) of subsection ~~*[2,]*~~ ***1, prepare a written report of its findings regarding whether the costs of the abatement*** ~~*[or exemption]*~~ ***exceed the benefits of the abatement ;*** ~~*[or exemption;]*~~ ***and***

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

~~*[4. As used in this section, "taxes imposed for public education" means:*~~

~~*(a) Any ad valorem tax authorized or required by chapter 387 of NRS;*~~

~~*(b) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020;*~~

~~*(c) The taxes imposed by NRS 374.110, 374.190 and 374A.010; and*~~

~~*(d) Any other ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.]*~~

Sec. 4. 1. If the Commission on Economic Development receives an application for any abatement of taxes imposed on a business, the Commission shall, at least 30 days before the meeting at which the Commission takes any action on the application, provide notice of the application to:

(a) The governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the business is or will be located; and

(b) The governing body of any other political subdivision that could be affected by the abatement.

2. The notice required by this section must set forth the date, time and location of the meeting at which the Commission on Economic Development will consider the application.

3. The Commission on Economic Development shall adopt regulations relating to the notice required by this section.

Sec. 5. **NRS 360.750 is hereby amended to read as follows:**

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[5,]~~ ***4,*** continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly

wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either

paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. ~~If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the~~

~~person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.~~

~~5.~~ If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

~~6.~~ *5.* An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

~~7.~~ *6.* If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~8.~~ *7.* A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection ~~7~~ *6* in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

~~9.~~ *8.* The Commission on Economic Development:

(a) Shall adopt regulations relating to ~~:~~

~~(1) The~~ *the* minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and

~~(2) The notice that must be provided pursuant to subsection 4.~~

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[10.]~~ ***9.*** The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[11.]~~ ***10.*** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

~~[Sec. 2.]~~ ***Sec. 6.*** This act becomes effective on July 1, 2009.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 504.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 377.

SUMMARY— ~~[Authorizes local governmental agencies to use automated systems to enforce traffic laws.]~~ **Adds provisions relating to exchange and reporting of information relating to motor vehicle insurance.** (BDR 43-461)

AN ACT relating to traffic laws; ~~[authorizing the use by a local governmental agency of an automated enforcement system for gathering evidence to be used for the issuance of a traffic citation;]~~ **requiring the Department of Motor Vehicles to contract with an outside party to establish, maintain and operate a system for the exchange of information relating to the insurance status of motor vehicles; providing for components that must be included in the system; requiring insurers of motor vehicles to provide information each day to the Department regarding insurance policies issued, amended or terminated;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law prohibits a governmental entity and any agent thereof from using photographic, video or digital equipment to gather evidence for issuing traffic citations unless the equipment is handheld or installed in a vehicle or facility of a law enforcement agency. (NRS 484.910) This bill authorizes a local governmental agency to use an automated enforcement system,~~

~~including a red light camera, for gathering evidence to be used for the issuance of a traffic citation.~~] **Existing law requires the owner of a motor vehicle registered, or required to be registered, in this State to provide insurance for the motor vehicle. (NRS 485.185) Existing law also provides a means by which nonresident owners of motor vehicles not registered in this State may provide proof of financial responsibility. (NRS 485.309) Section 3 of this bill requires the Department of Motor Vehicles to contract with an outside party to establish, maintain and operate a system for the exchange of information relating to the insurance status of motor vehicles. Section 3 also lists the components that must be included in the system. Section 4 of this bill requires insurers of motor vehicles to provide information daily to the Department regarding insurance policies that have been issued, amended or terminated.**

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

Section 1. ~~[NRS 484.910 is hereby amended to read as follows:~~

~~484.910 —[A]~~

~~1. Except as otherwise provided in subsection 2, a~~ ~~governmental entity and any agent thereof shall not use photographic, video or digital equipment for gathering evidence to be used for the issuance of a traffic citation for a violation of this chapter unless the equipment is held in the hand or installed temporarily or permanently within a vehicle or facility of a law enforcement agency.~~

~~2. A local governmental agency may use an automated enforcement system for gathering evidence to be used for the issuance of a traffic citation for:~~

~~(a) A violation of this chapter.~~

~~(b) A violation of an ordinance, rule or regulation of the local governmental agency.~~

~~3. A local governmental agency that wishes to use an automated enforcement system pursuant to subsection 2 must:~~

~~(a) Provide for a public information campaign regarding the implementation of the automated enforcement system at least 30 days before the commencement of the use of the automated enforcement system.~~

~~(b) Identify the presence of an automated enforcement system by erecting signs which clearly indicate the presence of the automated enforcement system and which are visible to traffic approaching from all directions, or erect signs at all major entrances to its jurisdiction, including, without limitation, freeways, bridges and state highways.~~

~~4. A citation issued through the use of an automated enforcement system must:~~

~~(a) Insofar as practicable, comply with the applicable provisions of NRS 484.799;~~

~~*(b) Be issued to the registered owner of the vehicle;*~~

~~*(c) Include or be accompanied by a photograph of the driver of the vehicle;*~~

~~*(d) Be mailed or otherwise delivered to the registered owner of the vehicle within 10 working days after the date of the incident; and*~~

~~*(e) Afford the person cited:*~~

~~*(1) The opportunity to appeal or otherwise challenge the citation by appearance before a magistrate, justice or judge, as appropriate; or*~~

~~*(2) The opportunity to respond by mail within 30 days after the mailing of the citation, by submitting to the court having jurisdiction over the alleged offense, a photocopy of the driver's license of the registered owner of the vehicle and a signed and notarized affidavit stating that the owner was not the driver of the vehicle. A court having jurisdiction over the alleged offense which receives an affidavit and photocopy pursuant to this subparagraph shall dismiss the citation without requiring a court appearance by the registered owner if it finds that there is reason to believe the registered owner was not the driver of the vehicle at the time of the incident.*~~

~~*5. A contract between a local governmental agency and a manufacturer or supplier of an automated enforcement system must:*~~

~~*(a) Require the manufacturer or supplier to provide sufficient evidence of a traffic violation in a timely manner to facilitate the issuance of a citation within the period prescribed in paragraph (d) of subsection 4; and*~~

~~*(b) Provide that the manufacturer or supplier must not receive:*~~

~~*(1) Any payments or compensation based on the number of citations issued; or*~~

~~*(2) A percentage of the revenue generated as a result of the use of the automated enforcement system.*~~

~~*6. As used in this section:*~~

~~*(a) "Automated enforcement system" means a contrivance, device or mechanism, or any combination thereof, which is used to obtain evidence of a moving traffic violation without operation by a person. The term includes, without limitation, a red light camera.*~~

~~*(b) "Red light camera" means a camera which:*~~

~~*(1) Is adapted for use or placed at an intersection or crosswalk in which movement of vehicles or pedestrians, or both, is controlled by an official traffic control device that is operated electrically, electronically or mechanically; and*~~

~~*(2) Is capable of photographing or otherwise capturing images or representations of the following in a simultaneous or approximately simultaneous manner:*~~

~~*(I) The license plate number of a vehicle;*~~

~~*(II) The signal displayed by or upon the official traffic control device as the vehicle enters or exits, or both, the intersection or crosswalk;*~~

~~*(III) The position of the vehicle within the intersection or crosswalk relative to the signal displayed by or upon the official traffic control device; and*~~

~~*(IV) The date and time.]*~~ **(Deleted by amendment.)**

Sec. 2. **Chapter 485 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.**

Sec. 3. ***1. The Department shall contract with an outside party to establish, maintain and operate a system for the electronic exchange of information relating to the insurance status of a motor vehicle with federal law enforcement agencies and with state and local law enforcement agencies outside of this State.***

2. The system must provide for, without limitation, the following:

(a) A check by a peace officer of the insurance status of a motor vehicle;

(b) A report by the Department of the insurance status of a motor vehicle registered in this State;

(c) A check by the Department of the insurance status of a motor vehicle when the owner of a motor vehicle registers the motor vehicle with the Department;

(d) A check by an attendant or emergency medical technician, as those terms are defined in NRS 450B.050 and 450B.065, respectively, of the insurance status of a motor vehicle involved in an accident, to the scene of which the attendant or emergency medical technician has been dispatched;

(e) A check by a financial institution of the insurance status of a motor vehicle being offered or serving as collateral for a loan granted by the financial institution;

(f) A check by a court of the insurance status of a motor vehicle registered to a person appearing before the court on charges relating to the insurance status of the motor vehicle;

(g) A check by a natural person, via an automated telephone system, of the insurance status of a motor vehicle;

(h) Subject to the provisions of subsection 3, a system to allow for the photographic capture of an image of the license plate of a motor vehicle for the purpose of verifying the insurance status of the motor vehicle; and

(i) By way of secure, dedicated and electronic portals to the system, the receipt by the following entities of information determined by the Department to be appropriate, from the system, immediately upon request:

(1) An insurance agent or broker licensed in this State;

(2) An association of insurance agents or brokers licensed in this State;

(3) An insurer licensed in this State;

(4) An association of insurers licensed in this State;

(5) A new or used motor vehicle dealer licensed in this State;

(6) A long-term or short-term lessor of motor vehicles licensed in this State;

(7) A financial institution with a lien on a motor vehicle registered or required to be registered in this State;

(8) An organization that works to prevent driving under the influence of alcohol or a controlled substance;

(9) A civil liberties or privacy advocacy group;

(10) A civil rights advocacy group; and

(11) A consumer organization.

3. If an image of the license plate of a motor vehicle is captured pursuant to the provisions of paragraph (h) of subsection 2 and the registered owner of the motor vehicle is providing valid insurance on the motor vehicle, the system provided for in paragraph (h) of subsection 2 shall not store, electronically or otherwise, the image or any other record of the motor vehicle for a period longer than 1 minute.

4. Any information exchanged pursuant to the provisions of this section must include only information relating to a motor vehicle and may not include any personal identifying information, including, without limitation, the name or address of any person.

5. A contract entered into by the Department pursuant to the provisions of this section must require the party with whom the Department contracts to provide all the money for the establishment of the system. The party may receive compensation for the establishment, maintenance and operation of the system only from revenues received by the State as a direct result of the operation of the system.

6. As used in this section, "insurance status of a motor vehicle" means the status of that motor vehicle regarding whether the registered owner of the motor vehicle is providing valid insurance on the motor vehicle as required pursuant to the provisions of NRS 485.185 or, for a motor vehicle not registered in this State, as required by the laws of the jurisdiction in which the motor vehicle is registered or is required to be registered.

Sec. 4. 1. In addition to any requirements of NRS 485.313 to 485.318, inclusive, each business day, each insurer that has executed a contract of insurance for a motor vehicle liability policy which may be used to meet the requirements of NRS 485.185 or 485.309 shall provide the Department with a record of each such policy issued, amended or terminated the previous day. The record must include:

(a) The number, effective date and expiration date of the policy;

(b) The make, model, year and vehicle identification number of each motor vehicle included in the policy; and

(c) The zip code of residence of the holder of the policy or, if the holder is not a resident of this State, the state of residence.

2. The record provided pursuant to subsection 1 must be submitted in a form approved by the Department.

3. The Department shall notify the Commissioner of Insurance if an insurer:

(a) Fails to comply with subsection 1 or 2; or

(b) In complying with subsection 1 or 2, provides to the Department information that is false, incomplete or misleading.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 81.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 49.

AN ACT relating to public safety; revising provisions relating to the information the Central Repository for Nevada Records of Criminal History is required to disseminate to a licensing agency and to a prospective or current employer and the purposes for which such information may be considered; repealing the provisions requiring the Director of the Department of Public Safety to establish a program to compile and analyze data concerning the recidivism of offenders who commit sexual offenses; **requiring the Director of the Department of Health and Human Services to establish a substantially similar program within the Department to compile and analyze data concerning the recidivism of juvenile sex offenders;** repealing the provisions creating the Repository for Information Concerning Missing Persons within the Central Repository; ~~[making various other changes relating to the powers and duties of the Central Repository;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 of this bill defines the term "records of criminal history of the United States or another state" for the purposes of disseminating certain information relating to certain offenses to employers and the use of such information.

Section 2 of this bill ~~[: (1)]~~ authorizes the Records and Technology Division of the Department of Public Safety to request and receive from the Federal Bureau of Investigation information on the background and personal history of certain persons about whom an agency of this State or a local government is authorized by law to have accurate personal information for the protection of the agency or persons within the agency's jurisdiction**.** ~~[; and (2) eliminates the requirement that the Division investigate certain persons who operate or work for certain medical facilities and who work for certain organizations and agencies which provide personal care services. (NRS 179A.075) Section 17 of this bill requires the Office of Disability Services of the Department of Health and Human Services, rather than the Central Repository for Nevada Records of Criminal History, to review the record of criminal history and the report obtained from the Federal Bureau of Investigation for the purpose of making employment-related decisions concerning employees of certain organizations and agencies which provide~~

~~personal care services. (NRS 426.335) Sections 22 and 23 of this bill similarly amend existing law with regard to the review of such information by the Health Division of the Department for the purpose of making decisions relating to the licensure of persons who operate certain medical facilities and employment-related decisions concerning prospective and current employees of certain medical facilities. (NRS 449.176, 449.179)~~**] (NRS 179A.075)**

Section 3 of this bill **[**~~expands the information the Central Repository is required to disseminate to a licensing agency and to a prospective or current employer and authorizes the licensing agency to use the information in connection with licensure and the prospective or current employer to use the information in connection with employing or retaining an employee, prospective employee, volunteer or prospective volunteer. Section 3 also~~**]** **: (1) revises the circumstances in which an agency of criminal justice must provide records of criminal history to the Division of Welfare and Supportive Services of the Department of Health and Human Services or to the Aging Services Division of the Department; and (2)** removes the requirement that agencies of criminal justice provide a person's records of criminal history to the person's attorney under certain circumstances. (NRS 179A.100)

[~~Sections 6-10 of this bill revise the provisions governing the dissemination of information concerning the criminal history of prospective and current employees who work in positions involving children to: (1) expand the provisions to apply to persons who work in positions involving "vulnerable persons," which includes children, certain elderly persons and certain persons with disabilities; (2) expand the type of information disseminated by providing for the dissemination of records of criminal history in Nevada and records of criminal history of the United States or another state; (3) limit the dissemination of such records to government employers whose employees work with vulnerable persons; and (4) expand the dissemination of such records to licensing agencies whose applicants or licensees serve vulnerable persons. (NRS 179A.180-179A.240)~~**]**

Existing law requires the Director of the Department of Public Safety to establish a program within the Central Repository for Nevada Records of Criminal History to compile and analyze data concerning the recidivism of offenders who commit sexual offenses and to assess the effectiveness of certain programs for the treatment of juvenile sex offenders. Section 25 of this bill repeals those provisions of existing law. (NRS 179A.270, 179A.280, 179A.290) Sections 15.3, 15.5 and 15.7 of this bill require the Director of the Department of Health and Human Services to establish a substantially similar program within the Department to compile and analyze data concerning the recidivism of juvenile sex offenders and to assess the effectiveness of certain programs for the treatment of juvenile sex offenders.

Section 15.9 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to provide certain information collected by the Division concerning acts committed by a child adjudicated delinquent to the Director of the Department rather than to the Central Repository for use in the program established pursuant to sections 15.3, 15.5 and 15.7 of this bill. (NRS 62H.220)

Section 19 of this bill: (1) removes the provisions authorizing the Central Repository and the Investigation Division of the Department of Public Safety to send requests for certain identifying information regarding certain missing children to the parents or guardians of such children; (2) removes the duty of a law enforcement agency which receives such identifying information to transmit that information to the Central Repository and the Investigation Division; and (3) removes the duty of the Central Repository and the Investigation Division to compare any such identifying information received with the information on file concerning unidentified deceased children. (NRS 432.200)

Section 25 of this bill repeals the provisions which **[**~~: (1) authorize notice of information relating to certain offenses to be disseminated to certain employers; (2) require the Director of the Department of Public Safety to establish a program within the Central Repository to compile and analyze data concerning the recidivism of offenders who commit sexual offenses and to assess the effectiveness of certain programs for the treatment of juvenile sex offenders; (3)~~**]** provide for the creation of the Repository for Information Concerning Missing Persons within the Central Repository and the provision of a toll-free telephone service concerning information about missing persons **. [**~~; and (4) require a sheriff or a chief of police to forward registration information concerning a convicted person to the Central Repository.~~**]** (NRS **[**~~62H.220, 179A.190, 179A.270, 179A.280, 179A.290,~~**]** 179A.400, 179A.410**) [**~~, 179C.160)~~**]**

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

Section 1. **[**~~NRS 179A.072 is hereby amended to read as follows:~~

~~179A.072 "Sex offender" has the meaning ascribed to it in NRS~~ **[**~~179D.400.~~**]** ***[179D.095.]*** **(Deleted by amendment.)**

Sec. 1.3. **Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:**

"Records of criminal history of the United States or another state" means records which originated in an agency of criminal justice of the Federal Government or an agency of criminal justice of another state.

Sec. 1.7. **NRS 179A.010 is hereby amended to read as follows:**

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, ***and section 1.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 2. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

➥ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with ~~[federal and state]~~ repositories ***of the United States and other states*** to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose

record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 426.335 and 449.179; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof ~~[has a legitimate need]~~ ***is authorized by law*** to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➥ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➥ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of

each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

➥ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has his fingerprints submitted pursuant to NRS 426.335, 449.176 or 449.179.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) ~~[(g)]~~ On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) ~~[(h)]~~ Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 ~~[,]~~ and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 3. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer ***which are the result of a name-based inquiry and*** which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive ~~[.]~~ ***from a name-based inquiry,*** the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives his written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does

not reveal the name of an individual victim of an offense ~~[.]~~ ***or the information described in subsection 7 of NRS 179B.250.*** A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the ~~[~~notice~~]~~ ***information*** on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an ~~*[a licensing agency or an]*~~ employer is entitled or authorized to receive, the Central Repository shall disseminate to a ~~*[licensing agency or a]*~~ prospective or current employer, or a person or entity designated to receive the information ~~*[records]*~~ on behalf of such an ~~*[the licensing agency or]*~~ employer, the information described in subsection 4 of NRS 179A.190 ~~*[a record of criminal history and any records of criminal history of the United States or another state]*~~ concerning an ~~*[applicant, licensee,]*~~ employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information ~~*[such records]*~~ if the ~~*[licensing agency or]*~~ employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. ~~*[such records.]*~~ The Central Repository shall search for and disseminate such information ~~*[the records]*~~ in the manner set forth in NRS 179A.210 for the dissemination of a notice of information. ~~*[such records.]*~~

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to ~~*[a licensing agency or]*~~ an employer who requests information ~~*[or records]*~~ and to whom ***such*** information is ~~*[or records are]*~~ disseminated pursuant to subsections 4 and 5 . ~~*[, unless the licensing agency or employer is authorized to request the information or records pursuant to NRS 179A.200.]*~~

7. ~~*[A licensing agency:*~~

~~*(a) May consider a record of criminal history or any records of criminal history of the United States or another state concerning an applicant or licensee for use in connection with licensure and for such other uses for which dissemination of such records to the licensing agency is authorized by law; and*~~

~~*(b) Is not liable in an action alleging discrimination based upon consideration of the information obtained pursuant to this section.*~~

~~*8. A prospective or current employer:*~~

~~*(a) May consider a record of criminal history or any records of criminal history of the United States or another state concerning an employee, prospective employee, volunteer or prospective volunteer for use in*~~

~~*connection with employing or retaining the employee, prospective employee, volunteer or prospective volunteer and for such other uses for which dissemination of such records to the prospective or current employer is authorized by law; and*~~

~~*(b) Is not liable in an action alleging discrimination based upon consideration of the information obtained pursuant to this section.*~~

~~*9.*~~] Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history ~~[or his attorney of record]~~ when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee ~~[,]~~ or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative ~~[.]~~ ***, as needed to ensure the safety of investigators and caseworkers.***

(q) The Aging Services Division of the Department of Health and Human Services or its designated representative ~~[.]~~ ***, as needed to ensure the safety of investigators and caseworkers.***

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

8. ~~*[10.]*~~ Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

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

~~*(a) "Applicant" means an applicant for a license or similar type of authorization issued by a licensing agency.*~~

~~*(b) "Licensee" means the holder of a license, certificate, registration, permit or similar type of authorization issued by a licensing agency.*~~

~~*(c) "Licensing agency" means a governmental agency or political subdivision of this State that issues a license, certificate, registration, permit or similar type of authorization to a person.]*~~

Sec. 4. ~~[NRS 179A.105 is hereby amended to read as follows:~~

~~179A.105 An employer who fails to request:~~

~~1. The information contained in a record of registration concerning a volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, as authorized pursuant to subsection 4 of NRS 179A.100; or~~

~~2. [The information described in subsection 4 of NRS 179A.190]~~ ***A record of criminal history or any records of criminal history of the United States or another state*** concerning a volunteer or prospective volunteer, ~~as authorized pursuant to subsection 5 of NRS 179A.100,~~

~~, is not liable to a child served by the employer for civil damages suffered by the child as a result of [an offense listed in subsection 4 of NRS 179A.190]~~ ***any crime*** ~~committed against the child by such a volunteer or prospective volunteer.]~~ **(Deleted by amendment.)**

Sec. 5. NRS 179A.110 is hereby amended to read as follows:

179A.110 ***A record of criminal history or any records of criminal history of the United States or another state obtained pursuant to this***

chapter must be used solely for the purpose for which the record was requested. No person who receives information relating to records of criminal history pursuant to this chapter or who receives information ~~*[a record of criminal history or any records of criminal history of the United States or another state,]*~~ pursuant to NRS 179A.180 to 179A.240, inclusive, may disseminate ~~[it]~~ ***the information*** ~~*[for such records]*~~ further without express authority of law or in accordance with a court order. This section does not prohibit the dissemination of material by an employee of the electronic or printed media in his professional capacity for communication to the public.

Sec. 6. ~~[NRS 179A.180 is hereby amended to read as follows:~~

~~179A.180 As used in NRS 179A.180 to 179A.240, inclusive, unless the context otherwise requires:~~

~~1. *"Applicant" means an applicant for a license, certificate, registration, permit or similar type of authorization issued by a licensing agency.*~~

~~*2.* "Employee" means a person who renders time and services to [an] *a government* employer [,] *for compensation* and whose regular course of duties places that person in a position to:~~

~~(a) Exercise supervisory or disciplinary control over [children;] *vulnerable persons;*~~

~~(b) Have direct access to or contact with [children] *vulnerable persons* served by the *government* employer; or~~

~~(c) Have access to information or records maintained by the *government* employer relating to identifiable [children] *vulnerable persons* served by the *government* employer,~~

~~→ [and includes a prospective employee,] but does not include a *prospective employee,* volunteer or prospective volunteer.~~

~~[2. "Employer"]~~

~~*3. "Government employer"* means [a person, or] a governmental agency or political subdivision of this State that is not an agency of criminal justice, whose employees regularly render services to [children,] *vulnerable persons,* including , without limitation , care, treatment, transportation, instruction, companionship, entertainment and custody.~~

~~*4. "Licensee" means the holder of a license, certificate, registration, permit or similar type of authorization issued by a licensing agency.*~~

~~*5. "Licensing agency" means a governmental agency or political subdivision of this State which is not an agency of criminal justice and which issues a license, certificate, registration, permit or similar type of authorization to persons who:*~~

~~*(a) Regularly render services to vulnerable persons, including, without limitation, care, treatment, transportation, instruction, companionship, entertainment and custody; or*~~

~~*(b) Operate nongovernmental entities that regularly render such services to vulnerable persons.*~~

~~*6. "Vulnerable person" means:*~~

~~*(a) A natural person who is less than 18 years of age;*~~

~~*(b) An older person as defined in NRS 179A.450; or*~~

~~*(c) A person with a disability as defined in NRS 426.068.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~[NRS 179A.200 is hereby amended to read as follows:~~

~~179A.200 1. In addition to any other information which~~ **[**~~an~~**]** ~~*a licensing agency or a prospective or current government* employer is authorized to request pursuant to this chapter,~~ **[**~~an~~**]** ~~*a licensing agency or a prospective or current government* employer may request from the Central Repository~~ **[**~~notice of information relating to the offenses listed in subsection 4 of NRS 179A.190~~**]** ~~*a record of criminal history or any records of criminal history of the United States or another state, or any combination thereof,* concerning an *applicant, licensee,* employee~~ **[**~~.~~**]** ~~*, prospective employee, volunteer or prospective volunteer.*~~

~~2. A request for~~ **[**~~notice of information relating to the offenses listed in subsection 4 of NRS 179A.190~~**]** ~~*a record of criminal history or any records of criminal history of the United States or another state, or any combination thereof, concerning an applicant, licensee, employee, prospective employee, volunteer or prospective volunteer* from~~ **[**~~an~~**]** ~~*a licensing agency or government* employer must conform to the requirements of the Central Repository. The request must include:~~

~~(a) The name and address of the *licensing agency or government* employer, and the name and signature of the person requesting~~ **[**~~the notice~~**]** ~~*such records* on behalf of the *licensing agency or government* employer;~~

~~(b) The name and address of the~~ **[**~~employer's~~**]** ~~facility *in which the applicant will be or the licensee is licensed to operate or* in which the *applicant, licensee,* employee *, prospective employee, volunteer or prospective volunteer* is employed *or volunteers* or *is* seeking to become employed~~ **[**~~;~~**]** ~~*or to volunteer;*~~

~~(c) The name, a complete set of fingerprints and other identifying information of the *applicant, licensee,* employee~~ **[**~~;~~**]** ~~*, prospective employee, volunteer or prospective volunteer;*~~

~~(d) Signed consent by the *applicant, licensee,* employee *, prospective employee, volunteer or prospective volunteer* authorizing:~~

~~(1) The *licensing agency or government* employer to forward the fingerprints of the *applicant, licensee,* employee *, prospective employee, volunteer or prospective volunteer* to the Central Repository for submission to the Federal Bureau of Investigation for its report;~~

~~(2) A search~~ **[**~~of information relating to the offenses listed in subsection 4 of NRS 179A.190 concerning the employee;~~**]** ~~*for the records requested by the licensing agency or government employer pursuant to subsection 1;* and~~

~~(3) The release of~~ **[**~~a notice concerning that information;~~**]** ~~*any records requested by the licensing agency or government employer pursuant to subsection 1;*~~

~~(e) The mailing address of the~~ ***applicant, licensee,*** ~~employee~~ ***, prospective employee, volunteer or prospective volunteer*** ~~or a signed waiver of the right of the~~ ***applicant, licensee,*** ~~employee~~ ***, prospective employee, volunteer or prospective volunteer*** ~~to be sent a copy of [the information] such records disseminated to the licensing agency or government employer as a result of the search ; [of the records of criminal history;] and~~

~~(f) The signature of the~~ ***applicant, licensee,*** ~~employee~~ ***, prospective employee, volunteer or prospective volunteer*** ~~indicating that he has been notified of:~~

~~(1) [The types of information for which notice is subject to dissemination pursuant to NRS 179A.210, or a description of the information;~~

~~(2)] The [employer's] right of the licensing agency or government employer to require a check of [the] such records [of criminal history] as a condition of licensure, employment [;] or service as a volunteer; and~~

~~[(3) The employee's]~~

~~(2) The right [,] of the applicant, licensee, employee, prospective employee, volunteer or prospective volunteer pursuant to NRS 179A.150 [,] to challenge the accuracy or sufficiency of any [information] such records disseminated to the licensing agency or government employer.]~~ **(Deleted by amendment.)**

Sec. 8. NRS 179A.210 is hereby amended to read as follows:

179A.210 1. Upon receipt of a request from an ~~[a licensing agency or a prospective or current government]~~ employer for notice of information relating to the offenses listed in subsection 4 of NRS 179A.190, ~~[a record of criminal history or any records of criminal history of the United States or another state, or any combination thereof,]~~ the Central Repository shall undertake a search for the information, ~~[such records,]~~ unless the request does not conform to the requirements of the Repository. The search must be based on the fingerprints of the ~~[applicant, licensee,]~~ employee, ~~[prospective employee, volunteer or prospective volunteer]~~ or on a number furnished to the ~~[applicant, licensee,]~~ employee ~~[, prospective employee, volunteer or prospective volunteer]~~ for identification pursuant to a previous search, as provided by the ~~[licensing agency or government]~~ employer, and must include:

(a) Identifying any information relating to the offenses listed in subsection 4 of NRS 179A.190 ~~[such records]~~ concerning the ~~[applicant, licensee,]~~ employee ~~[, prospective employee, volunteer or prospective volunteer]~~ in the Central Repository; ~~[and]~~

(b) Requesting information relating to the offenses listed in subsection 4 of NRS 179A.190 ~~[such records]~~ concerning the ~~[applicant, licensee,]~~ employee ~~[, prospective employee, volunteer or prospective volunteer]~~ from [federal repositories and] repositories of ***the United States or*** other states, if authorized by federal law or an agreement entered into pursuant to NRS 179A.075 ~~[.]~~ ;

(c) If the information pertains to an arrest for which no disposition has been reported, contacting appropriate officers in the local jurisdiction where the arrest or prosecution occurred to verify and update the information; and

(d) Determining whether the information relating to the offenses listed in subsection 4 of NRS 179A.190 is the type of information for which notice is subject to dissemination pursuant to this section.

2. Notice of information relating to the offenses listed in subsection 4 of NRS 179A.190 may be disseminated to an employer who has requested it only if a check of the pertinent records indicates:

(a) A conviction for any such offense, or a conviction based on an arrest or on an initial charge for any such offense;

(b) An arrest or an initial charge for a sexual offense that is pending at the time of the request; or

(c) Two or more incidents resulting in arrest or initial charge for a sexual offense that have not resulted in a conviction.

3. If a search of

~~[2. If the request made pursuant to subsection 1 is a request for a record of criminal history and any records of criminal history of the United States or another state, in addition to searching,]~~ the records of the Central Repository ~~[,]~~ reveals no information for which notice is subject to release, the Central Repository shall submit the fingerprints of the ~~[applicant, licensee, employee , prospective employee, volunteer or prospective volunteer]~~ to the Federal Bureau of Investigation for a search of its records of criminal history. The Central Repository shall review all information received from the Federal Bureau of Investigation. Notice of any information received from the Federal Bureau of Investigation may be disseminated only if the information is of a kind for which notice is subject to release pursuant to this section.

4. ~~[3.]~~ Within 30 days after receipt of a request by an ~~[a licensing agency or a prospective or current government]~~ employer for notice of information relating to the offenses listed in subsection 4 of NRS 179A.190, ~~[a record of criminal history or any records of criminal history of the United States or another state, or any combination thereof,]~~ the Central Repository shall send a written report of the results of the search to the ~~[licensing agency or government]~~ employer and to the employee, except that if the employee has waived his right to receive the results of the search, the report must be sent only to the employer. If the search revealed:

(a) No information for which notice is subject to release, the report must include a statement to that effect; or

(b) Information about the employee for which notice is subject to release, the report must include a notice of the type of information, limited to the descriptions set forth in subsection 2, revealed by the search. The notice must not include any further facts or details concerning the information. A statement of the purpose for which the notice is being disseminated, and the

procedures by which the employee might challenge the accuracy and sufficiency of the information, must also be included with the report.

5. ~~*[For use in connection with the licensure of an applicant or licensee or for use in connection with hiring, retaining, suspending or discharging an employee, prospective employee, volunteer or prospective volunteer. The licensing agency or government employer shall not make such a determination based on information contained in such records until:*~~

~~*(a) The licensing agency or government employer has afforded the applicant, licensee, employee, prospective employee, volunteer or prospective volunteer a reasonable amount of time, as determined jointly by the licensing agency and the applicant or licensee or the government employer and the employee, prospective employee, volunteer or prospective volunteer, to correct or complete such records; and*~~

~~*(b) The applicant, licensee, employee, prospective employee, volunteer or prospective volunteer has corrected or completed the record or has failed or declined to do so.*~~

~~*4.]*~~ Upon receipt of corrected information relating to the offenses listed in subsection 4 of NRS 179A.190 for which notice was ~~*[a record of criminal history or any records of criminal history of the United States or another state which were]*~~ disseminated under this section, the Central Repository shall send written notice of the correction to:

(a) The ~~*[applicant, licensee,]*~~ employee ~~*[, prospective employee, volunteer or prospective volunteer]*~~ who was the subject of the search ~~*[,]*~~ , unless the employee has waived his right to receive such a notice;

(b) All ~~*[licensing agencies and government]*~~ employers to whom notice of the results of the search were disseminated within 3 months before the correction; and

(c) Upon request of the ~~*[applicant, licensee,]*~~ employee, ~~*[prospective employee, volunteer or prospective volunteer,]*~~ any other ~~*[licensing agencies or government]*~~ employers who previously received the information.

6. ~~*[5.]*~~ Upon receipt of new information relating to the offenses listed in subsection 4 of NRS 179A.190 ~~*[a record of criminal history or any records of criminal history of the United States or another state]*~~ concerning an ~~*[applicant, licensee,]*~~ employee ~~*[, prospective employee, volunteer or prospective volunteer]*~~ who was the subject of a search within the previous 3 months, for which notice is ~~*[such records are]*~~ subject to dissemination under this section, the Central Repository shall send written notice of the information to:

(a) The ~~*[applicant, licensee,]*~~ employee ~~*[, prospective employee, volunteer or prospective volunteer]*~~ who was the subject of the search ~~*[,]*~~ , unless the employee has waived his right to receive such a notice;

(b) All ~~*[licensing agencies and government]*~~ employers to whom a report of the results of the search were disseminated within 3 months before the correction; and

(c) Upon request of the ~~*[applicant, licensee,]*~~ employee, ~~*[prospective employee, volunteer or prospective volunteer,]*~~ any other ~~*[licensing agencies or government]*~~ employers who previously received a report of the results of the search.

Sec. 9. ~~**[**~~NRS 179A.230 is hereby amended to read as follows:

~~179A.230 1. A person who is the subject of a request for **[**notice of information**]** ***a record of criminal history or any records of criminal history of the United States or another state, or any combination thereof,*** pursuant to NRS 179A.180 to 179A.240, inclusive, may recover his actual damages in a civil action against:~~

~~(a) The Central Repository for an intentional or grossly negligent:~~

~~(1) Dissemination of **[**information relating to the offenses listed in subsection 4 of NRS 179A.190**]** ***any such records*** not authorized for dissemination; or~~

~~(2) Release of **[**information relating to the offenses listed in subsection 4 of NRS 179A.190**]** ***any such records*** to a person not authorized to receive **[**the information;**]** ***such records;***~~

~~(b) The Central Repository for an intentional or grossly negligent failure to correct any **[**notice of information relating to the offenses listed in subsection 4 of NRS 179A.190**]** ***such records*** which **[**was**]** ***were*** disseminated pursuant to NRS 179A.180 to 179A.240, inclusive; or~~

~~(c) **[**An**]** ***A licensing agency or a government*** employer, ***a*** representative of **[**an**]** ***a licensing agency or government*** employer ***, a licensee*** or ***an*** employee for an intentional or grossly negligent violation of NRS 179A.110. Punitive damages may be awarded against **[**an**]** ***a licensing agency or a government*** employer, ***a*** representative of **[**an**]** ***a licensing agency or government*** employer ***, a licensee*** or ***an*** employee whose violation of NRS 179A.110 is malicious.~~

~~2. **[**An**]** ***A government*** employer is liable to a **[**child**]** ***vulnerable person*** served by the ***government*** employer for damages suffered by the **[**child**]** ***vulnerable person*** as a result of **[**an offense listed in subsection 4 of NRS 179A.190**]** ***a crime*** committed against the **[**child**]** ***vulnerable person*** by an employee if, at the time the ***government*** employer hired the employee, the employee was the subject of **[**information relating to the offenses for which notice was available for dissemination to the employer**]** ***a record of criminal history or any record of criminal history of the United States or another state, relating to a crime committed against a vulnerable person*** and the ***government*** employer:~~

~~(a) Failed, without good cause, to request **[**notice of the information**]** ***such records*** pursuant to NRS 179A.180 to 179A.240, inclusive; or~~

~~(b) Was unable to obtain **[**the information**]** ***such records*** because the employee refused to consent to the search and release of **[**the information,**]** ***such records*** and the ***government*** employer hired or retained the employee despite this refusal.~~

~~.~~ The amount of damages for which ~~[~~an~~]~~ ***a government*** employer is liable pursuant to this subsection must be reduced by the amount of damages recovered by the ~~[~~child~~]~~ ***vulnerable person*** in an action against the employee for damages sustained as a result of ~~[~~an offense listed in subsection 4 of NRS 179A.190.~~]~~ ***a crime committed against the vulnerable person.***

3. An action pursuant to this section must be brought within 3 years after:

(a) The occurrence upon which the action is based; or

(b) The date upon which the party bringing the action became aware or reasonably should have become aware of the occurrence, whichever was earlier, if he was not aware of the occurrence at the time of the occurrence.

4. This section does not limit or affect any other rights, claims or causes of action arising by statute or common law.~~]~~ **(Deleted by amendment.)**

Sec. 10. ~~[~~NRS 179A.240 is hereby amended to read as follows:

179A.240 A person who knowingly and willfully:

1. Uses NRS 179A.180 to 179A.240, inclusive, to obtain or seek to obtain information relating to ~~[~~the offenses listed in subsection 4 of NRS 179A.190~~]~~ ***a record of criminal history or any record of criminal history of the United States or another state*** under false pretenses;

2. Disseminates or attempts to disseminate information relating to ~~[~~the offenses listed in subsection 4 of NRS 179A.190~~]~~ ***a record of criminal history or any record of criminal history of the United States or another state*** that he knows was not received in accordance with the provisions of this chapter; or

3. Disseminates or attempts to disseminate information relating to ~~[~~the offenses listed in subsection 4 of NRS 179A.190~~]~~ ***a record of criminal history or any record of criminal history of the United States or another state*** that he knows is false, inaccurate or incomplete,

~~.~~ is guilty of a misdemeanor.~~]~~ **(Deleted by amendment.)**

Sec. 11. ~~[~~NRS 179A.310 is hereby amended to read as follows:

179A.310 1. The Revolving Account to Investigate the Background of Volunteers Who Work With Children is hereby created in the State General Fund.

2. The Director of the Department shall administer the Account to Investigate the Background of Volunteers Who Work With Children. The money in the Account must be expended only to pay the costs of the Central Repository to process requests from nonprofit agencies to determine whether a volunteer of a nonprofit agency who works directly with children or a prospective volunteer of the nonprofit agency who will work directly with children has committed an offense ~~[~~listed in subsection 4 of NRS 179A.190.~~]~~ ***contained in a record of criminal history or any records of criminal history of the United States or another state.*** The existence of the Account to Investigate the Background of Volunteers Who Work With Children does not create a right in any person to receive money from the Account.

~~3. The Director of the Department may apply for and accept any gift, donation, bequest, grant or other source of money. Any money so received must be deposited in the Account to Investigate the Background of Volunteers Who Work With Children.~~

~~4. The interest and income earned on money in the Account from any gift, donation or bequest, after deducting any applicable charges, must be credited to the Account. Money from any gift, donation or bequest that remains in the Account at the end of the fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.~~

~~5. The Director of the Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation:~~

~~(a) The procedure by which a person may apply for a grant of money from the Account to Investigate the Background of Volunteers Who Work With Children;~~

~~(b) The criteria that the Department will consider in determining whether to award such a grant of money from the Account; and~~

~~(c) Procedures to distribute the money in the Account in a fair and equitable manner.~~

~~6. The following facts must not be considered as evidence of negligence or causation in any civil action brought against a nonprofit agency:~~

~~(a) The fact that the nonprofit agency did not apply for a grant of money from the Account.~~

~~(b) The fact that the nonprofit agency did not request that the Central Repository, through the use of the Account, determine whether a volunteer or prospective volunteer of the nonprofit agency has committed an offense~~ **[**~~listed in subsection 4 of NRS 179A.190.~~**]** ~~*contained in a record of criminal history or any records of criminal history of the United States or another state.]*~~ **(Deleted by amendment.)**

Sec. 12. ~~**[**NRS 179B.110 is hereby amended to read as follows:~~

~~179B.110 "Sex offender" has the meaning ascribed to it in NRS~~ **[**~~179D.400.~~**]** ~~*179D.095.]*~~ **(Deleted by amendment.)**

Sec. 13. ~~**[**NRS 179B.250 is hereby amended to read as follows:~~

~~179B.250 1. The Department shall establish and maintain within the Central Repository a community notification website to provide the public with access to certain information contained in the statewide registry in accordance with the procedures set forth in this section.~~

~~2. The community notification website must:~~

~~(a) Be maintained in a manner that will allow the public to obtain relevant information for each offender by a single query for any given zip code or geographical radius set by the user;~~

~~(b) Include in its design all the search field capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website maintained by the Attorney General of the United States pursuant to 42 U.S.C. § 16920;~~

~~(c) Include, to the extent practicable, links to sex offender safety and education resources;~~

~~(d) Include instructions on how to seek correction of information that a person contends is erroneous; and~~

~~(e) Include a warning that the information on the website should not be used to unlawfully injure, harass or commit a crime against any person named in the registry or residing or working at any reported address and a notice that any such action could result in civil or criminal penalties.~~

~~3. For each inquiry to the community notification website, the requester may provide:~~

~~(a) The name of the subject of the search;~~

~~(b) Any alias of the subject of the search;~~

~~(c) The zip code of the residence, place of work or school of the subject of the search; or~~

~~(d) Any other information concerning the identity or location of the subject of the search that is deemed sufficient in the discretion of the Department.~~

~~4. For each inquiry to the community notification website made by the requester, the Central Repository shall:~~

~~(a) Explain the levels of registration and community notification that are assigned to sex offenders pursuant to NRS 179D.010 to 179D.550, inclusive; and~~

~~(b) Explain that the Central Repository is prohibited by law from disclosing certain information concerning certain offenders, even if those offenders are listed in the statewide registry.~~

~~5. If an offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of the search, the Central Repository shall disclose to the requester information in the statewide registry concerning the offender as provided pursuant to subsection 6.~~

~~6. After each inquiry to the community notification website made by the requester, the Central Repository shall inform the requester that:~~

~~(a) No offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of the search;~~

~~(b) The search of the statewide registry has not produced information that is available to the public through the statewide registry; or~~

~~(c) An offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of the search. Except as otherwise provided in subsection 7, if a search of the statewide registry results in a match pursuant to this paragraph, the Central Repository shall provide the requester with the following information:~~

~~(1) The name of the offender and all aliases that the offender has used or under which the offender has been known.~~

~~(2) A complete physical description of the offender.~~

~~(3) A current photograph of the offender.~~

~~(4) The year of birth of the offender.~~

~~(5) The complete address of any residence at which the offender resides or will reside.~~

~~(6) The address of any location where the offender is or will be:~~

~~(I) A student, as defined in NRS 179D.110; or~~

~~(II) A worker, as defined in NRS 179D.120.~~

~~(7) The license plate number and a description of any motor vehicle owned or operated by the offender.~~

~~(8) The following information for each offense for which the offender has been convicted:~~

~~(I) The offense that was committed, including a citation to and the text of the specific statute that the offender violated.~~

~~(II) The court in which the offender was convicted.~~

~~(III) The name under which the offender was convicted.~~

~~(IV) The name and location of each penal institution, school, hospital, mental facility or other institution to which the offender was committed for the offense.~~

~~(V) The city, township or county where the offense was committed.~~

~~(9) The tier level of registration and community notification assigned to the offender pursuant to NRS 179D.010 to 179D.550, inclusive.~~

~~(10) Any other information required by federal law.~~

~~7. If a search of the statewide registry results in a match pursuant to paragraph (c) of subsection 6, the Central Repository shall not provide the requester with:~~

~~(a) The identity of any victim of a sexual offense or crime against a child;~~

~~(b) Any information relating to a Tier I offender unless he has been convicted of a sexual offense against a child or a crime against a child;~~

~~(c) The social security number of the offender;~~

~~(d) The name of any location where the offender is or will be:~~

~~(1) A student, as defined in NRS 179D.110; or~~

~~(2) A worker, as defined in NRS 179D.120;~~

~~(e) Any reference to arrests of the offender that did not result in conviction;~~

~~(f) Any other information that is included in the record of registration for the offender other than the information required pursuant to paragraph (c) of subsection 6; or~~

~~(g) Any other information exempted from disclosure by the Attorney General of the United States pursuant to federal law.~~

~~8. For each inquiry to the community notification website, the Central Repository shall maintain a log of the information provided by the requester to the Central Repository and the information provided by the Central Repository to the requester.~~

~~9. A person may not use information obtained through the community notification website as a substitute for [~~information relating to the offenses

~~listed in subsection 4 of NRS 179A.190~~**]** ***~~a record of criminal history or any records of criminal history of the United States or another state~~*** ~~that must be provided by the Central Repository pursuant to NRS 179A.180 to 179A.240, inclusive, or another provision of law.~~

~~10. The provisions of this section do not prevent law enforcement officers, the Central Repository and its officers and employees, or any other person from:~~

~~(a) Accessing information in the statewide registry pursuant to NRS 179B.200;~~

~~(b) Carrying out any duty pursuant to chapter 179D of NRS; or~~

~~(c) Carrying out any duty pursuant to another provision of law.~~

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

~~***(a) "Record of criminal history" has the meaning ascribed to it in NRS 179A.070.***~~

~~***(b)*** "Tier I offender" has the meaning ascribed to it in NRS 179D.113.**]** **(Deleted by amendment.)**

Sec. 14. **[**~~NRS 62H.030 is hereby amended to read as follows:~~

~~62H.030 1. The juvenile court shall make and keep records of all cases brought before the juvenile court.~~

~~2. Except as otherwise provided in this section and NRS 217.110, records of any case brought before the juvenile court may be opened to inspection only by court order to persons who have a legitimate interest in the records.~~

~~3. The following records and information may be opened to inspection without a court order:~~

~~(a) Records of traffic violations which are being forwarded to the Department of Motor Vehicles;~~

~~(b) Records which have not been sealed and which are required by the Division of Parole and Probation for preparation of presentence investigations and reports pursuant to NRS 176.135 or general investigations and reports pursuant to NRS 176.151;~~

~~(c) Records which have not been sealed and which are to be used, pursuant to chapter 179D of NRS, by:~~

~~(1) The Central Repository;~~

~~(2) The Division of Parole and Probation; or~~

~~(3) A person who is conducting an assessment of the risk of recidivism of an adult or juvenile sex offender; *and*~~

~~(d) Information maintained in the standardized system established pursuant to NRS 62H.200.~~ **[**~~; and~~

~~(e) Information that must be collected by the Division of Child and Family Services pursuant to NRS 62H.220.~~**]**

~~4. The clerk of the court shall prepare and cause to be printed forms for social and legal records and other papers as may be required.~~**]** **(Deleted by amendment.)**

Sec. 15. **[**~~NRS 62H.110 is hereby amended to read as follows:~~

~~62H.110—The provisions of NRS 62H.100 to 62H.170, inclusive, do not apply to:~~

~~1.—Information maintained in the standardized system established pursuant to NRS 62H.200;~~

~~2.—Information that must be collected by the Division of Child and Family Services pursuant to NRS 62H.220;~~

~~3.]—Records that are subject to the provisions of NRS 62F.260; or~~

~~4.] 3.—Records relating to a traffic offense that would have been a misdemeanor if committed by an adult.~~ **(Deleted by amendment.)**

Sec. 15.1. **Chapter 62H of NRS is hereby amended by adding thereto the provisions set forth as sections 15.3, 15.5 and 15.7 of this act.**

Sec. 15.3. ***The Legislature hereby finds and declares that:***

1. A significant number of offenders in Nevada have been convicted of sexual offenses. Many of these offenders have been convicted of sexual offenses on more than one occasion, and many of these offenders began committing sexual offenses as juveniles.

2. There is a great need for a continuing statistical analysis regarding the recidivism of juvenile sex offenders so that the most appropriate punishment and treatment may be identified to prevent these juvenile sex offenders, as juveniles, from committing further acts that, if committed by adults, would be sexual offenses or, later as adults, from committing sexual offenses.

Sec. 15.5. ***As used in this section and sections 15.3 and 15.7 of this act:***

1. "Juvenile sex offender" means a child adjudicated delinquent for an act that, if committed by an adult, would be a sexual offense.

2. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(e) Incest pursuant to NRS 201.180;

(f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;

(g) Open or gross lewdness pursuant to NRS 201.210;

(h) Indecent or obscene exposure pursuant to NRS 201.220;

(i) Lewdness with a child pursuant to NRS 201.230;

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

(k) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

(l) An attempt to commit an offense listed in paragraphs (a) to (k), inclusive;

(m) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or

(n) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this subsection.

Sec. 15.7. 1. The Director of the Department of Health and Human Services shall establish within the Department a program to compile and analyze data concerning juvenile sex offenders. The program must be designed to:

(a) Provide statistical data relating to the recidivism of juvenile sex offenders; and

(b) Use the data provided by the Division of Child and Family Services of the Department of Health and Human Services pursuant to NRS 62H.220 to assess the effectiveness of programs for the treatment of juvenile sex offenders.

2. The Director of the Department of Health and Human Services shall report the statistical data and findings from the program to:

(a) The Legislature at the beginning of each regular session.

(b) The Advisory Commission on the Administration of Justice on or before January 31 of each even-numbered year.

3. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of a juvenile sex offender or the identity of an individual victim of a crime.

Sec. 15.9. **NRS 62H.220 is hereby amended to read as follows:**

62H.220 1. For each child adjudicated delinquent for an unlawful act that would have been a sexual offense if committed by an adult, the Division of Child and Family Services shall collect from the juvenile courts, local juvenile probation departments and the staff of the youth correctional services, as directed by the Department of Health and Human Services:

(a) The information listed in NRS 62H.210;

(b) The name of the child; and

(c) All information concerning programs of treatment in which the child participated that:

(1) Were directly related to the delinquent act committed by the child; or

(2) Were designed or utilized to prevent the commission of another such act by the child in the future.

2. The Division of Child and Family Services shall provide the information collected pursuant to subsection 1 to the ~~[Central Repository]~~ ***Director of the Department of Health and Human Services*** for use in the program established pursuant to ~~[NRS 179A.270, 179A.280 and 179A.290.]~~ ***sections 15.3, 15.5 and 15.7 of this act.***

3. Except as otherwise provided in NRS 239.0115, all information containing the name of the child and all information relating to programs of treatment in which the child participated is confidential and must not be used

for a purpose other than that provided for in this section and ~~[NRS 179A.290.]~~ ***section 15.7 of this act.***

4. As used in this section, "sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(e) Incest pursuant to NRS 201.180;

(f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;

(g) Open or gross lewdness pursuant to NRS 201.210;

(h) Indecent or obscene exposure pursuant to NRS 201.220;

(i) Lewdness with a child pursuant to NRS 201.230;

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

(k) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony;

(l) Annoyance or molestation of a minor pursuant to NRS 207.260;

(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive;

(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or

(o) An offense committed in another jurisdiction that, if committed in this State, would have been an offense listed in this subsection.

Sec. 16. NRS 239B.010 is hereby amended to read as follows:

239B.010 1. Any agency of the State or any political subdivision may request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person:

(a) Who has applied to it for a license as required by any statute or local ordinance which it has the power to grant or deny;

(b) With whom it intends to enter into a relationship of employment or a contract for personal services;

(c) Who has applied to it to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission; or

(d) About whom it ~~[has a legitimate need]~~ ***is authorized by law*** to have accurate personal information for the protection of the agency or the people within its jurisdiction.

2. Except as otherwise provided in subsection 3:

(a) To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to subsection 1, the agency or political subdivision must:

(1) Require the person to submit a complete set of his fingerprints; and

(2) Forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(b) Only the Central Repository may:

(1) Receive fingerprints from an agency of the State or any political subdivision for submission to the Federal Bureau of Investigation pursuant to this section;

(2) Submit those fingerprints to the Federal Bureau of Investigation; and

(3) Receive a report from the Federal Bureau of Investigation based on the submission of those fingerprints.

3. If an agency or political subdivision that wishes to request and receive information from the Federal Bureau of Investigation concerning a person pursuant to subsection 1 is required by federal law to comply with specific procedures to request and receive such information from the Federal Bureau of Investigation:

(a) The provisions of subsection 2 do not apply to the agency or political subdivision; and

(b) The agency or political subdivision must comply with the specific procedures required by federal law.

Sec. 17. ~~[NRS 426.335 is hereby amended to read as follows:~~

~~426.335 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the holder of a certificate to operate an intermediary service organization shall:~~

~~(a) Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in subsection 1 of NRS 426.341;~~

~~(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);~~

~~(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).~~

~~2. The holder of a certificate to operate an intermediary service organization is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that an investigation of his criminal history has been conducted [by the Central Repository for Nevada Records of Criminal History] within the immediately preceding 6 months and the investigation did not indicate that the employee or independent contractor had been convicted of any crime set forth in subsection 1 of NRS 426.341.~~

~~3. The holder of a certificate to operate an intermediary service organization shall ensure that the criminal history of each employee or independent contractor who works at or for the intermediary service~~

~~organization is investigated at least once every 5 years. The holder of the certificate shall:~~

~~(a) If the intermediary service organization does not have the fingerprints of the employee or independent contractor on file, obtain two sets of fingerprints from the employee or independent contractor;~~

~~(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints on file or obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.~~

~~4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall~~ ***search the record of criminal history of the employee or independent contractor and forward the record of criminal history to the Office together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 3. The Office shall review the record and report and*** ~~determine whether the employee or independent contractor has been convicted of a crime listed in subsection 1 of NRS 426.341 and immediately inform~~ **[**~~the Office and~~**]** ~~the holder of a certificate to operate the intermediary service organization for which the person works whether the employee or independent contractor has been convicted of such a crime.~~

~~5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an intermediary service organization that submits fingerprints pursuant to this section for the reasonable cost of~~ **[**~~the investigation.~~**]** ***taking any action described in this section.*** ~~The intermediary service organization may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the intermediary service organization requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.~~

~~***6. As used in this section, "record of criminal history" has the meaning ascribed to it in NRS 179A.070.]***~~ **(Deleted by amendment.)**

Sec. 18. ~~**[**NRS 426.339 is hereby amended to read as follows:~~

~~426.339 1. Upon receiving information~~ **[**~~from~~**]** ***provided to the Office by*** ~~the Central Repository for Nevada Records of Criminal History pursuant to NRS 426.335, or evidence from any other source, that an employee or independent contractor of an intermediary service organization has been convicted of a crime listed in subsection 1 of NRS 426.341, the holder of a certificate to operate the intermediary service organization shall terminate the employment or contract of that person after allowing him time to correct the information pursuant to subsection 2.~~

~~2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, he may immediately inform the intermediary service organization. An intermediary service organization that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information [received from] *provided by* the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.~~

~~3. An intermediary service organization that has complied with NRS 426.335 may not be held civilly or criminally liable based solely upon the ground that the intermediary service organization allowed an employee or independent contractor to work:~~

~~(a) Before it received the information concerning the employee or independent contractor [from] *provided by* the Central Repository;~~

~~(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;~~

~~(c) Based on the information [received from] *provided by* the Central Repository, if the information [received from] *provided by* the Central Repository was inaccurate; or~~

~~(d) Any combination thereof.~~

~~4. An intermediary service organization may be held liable for any other conduct determined to be negligent or unlawful.]~~ **(Deleted by amendment.)**

Sec. 19. NRS 432.200 is hereby amended to read as follows:

432.200 1. A law enforcement agency shall accept every report of a missing child which is submitted to the agency, including, but not limited to, a report made by telephone. Upon receipt of such a report, the agency shall immediately conduct a preliminary investigation and classify the cause of the disappearance of the child as "runaway," "abducted by his parent," "abducted by a stranger" or "cause of disappearance unknown," and shall:

(a) Transmit all available information about the child to the Clearinghouse [~~and to the Central Repository for Nevada Records of Criminal History~~] within 36 hours after the report is received;

(b) Immediately notify such persons and make such inquiries concerning the missing child as the agency deems necessary;

(c) Fully comply with the requirements of the National Child Search Assistance Act of 1990, Title XXXVII of Public Law 101-647, 104 Stat. 4966; and

(d) Enter into the National Crime Information Center's Missing Person File , [~~and the Repository for Information Concerning Missing Persons within the Central Repository for Nevada Records of Criminal History,~~] as miscellaneous information, any person reasonably believed to have unlawfully abducted or detained the missing child, or aided or abetted the unlawful abduction or detention.

2. A law enforcement agency which has jurisdiction over the investigation of an abducted child and which has obtained a warrant for the arrest of a person suspected in the child's disappearance or concealment shall

immediately notify the National Crime Information Center for the entry into the Center's Wanted Person File of identifying and descriptive information concerning:

(a) The suspect; and

(b) As miscellaneous information, the missing child.

➥ The agency shall cross-reference information entered pursuant to this section with the National Crime Information Center's Missing Person File **.** ~~[and with the Repository for Information Concerning Missing Persons within the Central Repository for Nevada Records of Criminal History.]~~

3. If a missing child is less than 16 years of age or has not been located within 30 days after a report is filed, the law enforcement agency that received the initial report shall ***:*** ~~[, and the Division or the Central Repository for Nevada Records of Criminal History may:]~~

(a) Send to the child's parent or guardian a request for certain identifying information regarding the child that the National Crime Information Center recommends be provided; and

(b) Ask the child's parent or guardian to provide such identifying information regarding the child.

➥ ~~[If a law enforcement agency receives the identifying information, it shall transmit all information so released to it to the Division and to the Central Repository. The Division and the Central Repository shall, upon receipt of the identifying information about the missing child, compare the information with the information that is on file concerning unidentified deceased children.]~~ This subsection does not preclude the voluntary release of identifying information about the missing child by his parent or guardian at any time.

4. The parent or guardian of a child reported as missing shall promptly notify the appropriate law enforcement agency if the child is found or returned. The law enforcement agency shall then transmit that fact to the National Crime Information Center ~~[, the Central Repository for Nevada Records of Criminal History]~~ and the Clearinghouse.

5. Nothing in this section requires a law enforcement agency to activate the Statewide Alert System for the Safe Return of Abducted Children created by NRS 432.340.

~~[6. As used in this section, "Division" means the Investigation Division of the Department of Public Safety.]~~

Sec. 20. ~~[Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*"Record of criminal history" has the meaning ascribed to it in NRS 179A.070.]*~~ **(Deleted by amendment.)**

Sec. 21. ~~[NRS 449.001 is hereby amended to read as follows:~~

~~449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, *and section 20 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 22. ~~[NRS 449.176 is hereby amended to read as follows:~~

~~449.176 1. Each applicant for a license to operate a facility for intermediate care, facility for skilled nursing or residential facility for groups shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report.~~

~~2. The Central Repository for Nevada Records of Criminal History shall~~ ***search the record of criminal history of the applicant and forward the record to the Health Division together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 1. The Health Division shall review the record and report and*** ~~determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and immediately inform the administrator of~~ ***, or the person licensed to operate,*** ~~the facility [, if any, and the Health Division] of whether the applicant has been convicted of such a crime.]~~ **(Deleted by amendment.)**

Sec. 23. ~~[NRS 449.179 is hereby amended to read as follows:~~

~~449.179 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups shall:~~

~~(a) Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in NRS 449.188;~~

~~(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);~~

~~(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).~~

~~2. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that an investigation of his criminal history has been conducted [by the Central Repository for Nevada Records of Criminal History] within the immediately preceding 6 months and the investigation did not indicate that the employee or independent contractor had been convicted of any crime set forth in NRS 449.188.~~

~~3. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups shall ensure that the criminal history of each employee or independent contractor who works at the agency or facility is investigated at least once every 5 years. The administrator or person shall:~~

~~(a) If the agency or facility does not have the fingerprints of the employee or independent contractor on file, obtain two sets of fingerprints from the employee or independent contractor;~~

~~(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints on file or obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.~~

~~4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall~~ ***search the record of criminal history of the employee or independent contractor and forward the record to the Health Division together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 3. The Health Division shall review the records and report and*** ~~determine whether the employee or independent contractor has been convicted of a crime listed in NRS 449.188 and immediately inform the~~ **[**~~Health Division and the~~**]** ~~administrator of, or the person licensed to operate, the agency or facility at which the person works whether the employee or independent contractor has been convicted of such a crime.~~

~~5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an agency or a facility that submits fingerprints pursuant to this section for the reasonable cost of~~ **[**~~the investigation.~~**]** ***taking any action described in this section.*** ~~The agency or facility may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the agency or facility requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.~~**]** **(Deleted by amendment.)**

Sec. 24. **[**~~NRS 449.185 is hereby amended to read as follows:~~

~~449.185 1. Upon receiving information~~ **[**~~from~~**]** ***provided by*** ~~the Central Repository for Nevada Records of Criminal History pursuant to NRS 449.179, or evidence from any other source, that an employee or independent contractor of an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188, the administrator of, or the person licensed to operate, the agency or facility~~

~~shall terminate the employment or contract of that person after allowing him time to correct the information as required pursuant to subsection 2.~~

~~2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, he may immediately inform the agency or facility. An agency or facility that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information [~~received from~~] ~~*provided by* the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.~~

~~3. An agency or facility that has complied with NRS 449.179 may not be held civilly or criminally liable based solely upon the ground that the agency or facility allowed an employee or independent contractor to work:~~

~~(a) Before it received the information concerning the employee or independent contractor [~~from~~] ~~*provided by* the Central Repository;~~

~~(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;~~

~~(c) Based on the information [~~received from~~] ~~*provided by* the Central Repository, if the information [~~received from~~] ~~*provided by* the Central Repository was inaccurate; or~~

~~(d) Any combination thereof.~~

~~→ An agency or facility may be held liable for any other conduct determined to be negligent or unlawful.]~~ **(Deleted by amendment.)**

Sec. 25. NRS ~~[62H.220, 179A.190,]~~ 179A.270, 179A.280, 179A.290, 179A.400 ~~[,]~~ **and** 179A.410 ~~[and 179C.160]~~ are hereby repealed.

TEXT OF REPEALED SECTIONS

~~[62H.220 Division of Child and Family Services to collect certain information regarding child adjudicated delinquent for sexual offense; confidentiality.~~

~~1. For each child adjudicated delinquent for an unlawful act that would have been a sexual offense if committed by an adult, the Division of Child and Family Services shall collect from the juvenile courts, local juvenile probation departments and the staff of the youth correctional services, as directed by the Department of Health and Human Services:~~

~~(a) The information listed in NRS 62H.210;~~

~~(b) The name of the child; and~~

~~(c) All information concerning programs of treatment in which the child participated that:~~

~~(1) Were directly related to the delinquent act committed by the child; or~~

~~(2) Were designed or utilized to prevent the commission of another such act by the child in the future.~~

~~2. The Division of Child and Family Services shall provide the information collected pursuant to subsection 1 to the Central Repository for~~

~~use in the program established pursuant to NRS 179A.270, 179A.280 and 179A.290.~~

~~3. Except as otherwise provided in NRS 239.0115, all information containing the name of the child and all information relating to programs of treatment in which the child participated is confidential and must not be used for a purpose other than that provided for in this section and NRS 179A.290.~~

~~4. As used in this section, "sexual offense" means:~~

~~(a) Sexual assault pursuant to NRS 200.366;~~

~~(b) Statutory sexual seduction pursuant to NRS 200.368;~~

~~(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;~~

~~(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;~~

~~(e) Incest pursuant to NRS 201.180;~~

~~(f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;~~

~~(g) Open or gross lewdness pursuant to NRS 201.210;~~

~~(h) Indecent or obscene exposure pursuant to NRS 201.220;~~

~~(i) Lewdness with a child pursuant to NRS 201.230;~~

~~(j) Sexual penetration of a dead human body pursuant to NRS 201.450;~~

~~(k) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony;~~

~~(l) Annoyance or molestation of a minor pursuant to NRS 207.260;~~

~~(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive;~~

~~(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or~~

~~(o) An offense committed in another jurisdiction that, if committed in this State, would have been an offense listed in this subsection.~~

~~179A.190 Notice of information may be disseminated to employers; use by employer; employer not liable for discrimination; other dissemination or release; offenses for which notice may be disseminated.~~

~~1. Notice of information relating to the offenses listed in subsection 4 may be disseminated to employers pursuant to NRS 179A.180 to 179A.240, inclusive.~~

~~2. An employer may consider such a notice of information concerning an employee when making a decision to hire, retain, suspend or discharge the employee, and is not liable in an action alleging discrimination based upon consideration of information obtained pursuant to NRS 179A.180 to 179A.240, inclusive.~~

~~3. The provisions of NRS 179A.180 to 179A.240, inclusive, do not limit or restrict any other statute specifically permitting the dissemination or release of information relating to the offenses listed in subsection 4.~~

~~4. The offenses for which a notice of information may be disseminated pursuant to subsection 1 includes information contained in or concerning a~~

~~record of criminal history, or the records of criminal history of the United States or another state, relating in any way to:~~

~~(a) A sexual offense;~~

~~(b) A conviction for a felony within the immediately preceding 7 years;~~

~~(c) An act committed outside this State that would constitute a sexual offense if committed in this State or a conviction for an act committed outside this State that would constitute a felony if committed in this State; and~~

~~(d) The aiding, abetting, attempting or conspiring to engage in any such act in this State or another state.~~**]**

179A.270 Legislative declaration. The Legislature hereby finds and declares that:

1. A significant number of offenders in Nevada have been convicted of sexual offenses. Many of these offenders have been convicted of sexual offenses on more than one occasion and many of these offenders began committing sexual offenses as juveniles.

2. There is a great need for a continuing statistical analysis regarding the recidivism of offenders who commit sexual offenses so that the most appropriate punishment and treatment may be identified to prevent these offenders from committing further sexual offenses.

179A.280 Definitions. As used in this section and NRS 179A.270 and 179A.290:

1. "Juvenile sex offender" means a child adjudicated delinquent for an act that, if committed by an adult, would be a sexual offense.

2. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(e) Incest pursuant to NRS 201.180;

(f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;

(g) Open or gross lewdness pursuant to NRS 201.210;

(h) Indecent or obscene exposure pursuant to NRS 201.220;

(i) Lewdness with a child pursuant to NRS 201.230;

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

(k) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

(l) An attempt to commit an offense listed in paragraphs (a) to (k), inclusive;

(m) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or

(n) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this subsection.

179A.290 Establishment; purposes; assistance from Department of Corrections and Division of Parole and Probation; report; limitations.

1. The Director of the Department shall establish within the Central Repository a program to compile and analyze data concerning offenders who commit sexual offenses. The program must be designed to:

(a) Provide statistical data relating to the recidivism of offenders who commit sexual offenses; and

(b) Use the data provided by the Division of Child and Family Services of the Department of Health and Human Services pursuant to NRS 62H.220 to:

(1) Provide statistical data relating to the recidivism of juvenile sex offenders after they become adults; and

(2) Assess the effectiveness of programs for the treatment of juvenile sex offenders.

2. The Division of Parole and Probation and the Department of Corrections shall assist the Director of the Department in obtaining data and in carrying out the program.

3. The Director of the Department shall report the statistical data and findings from the program to:

(a) The Legislature at the beginning of each regular session.

(b) The Advisory Commission on the Administration of Justice on or before January 31 of each even-numbered year.

4. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of a juvenile sex offender or the identity of an individual victim of a crime.

179A.400 Creation; contents; retention of records; dissemination of information.

1. The Repository for Information Concerning Missing Persons is hereby created within the Central Repository.

2. The Repository for Information Concerning Missing Persons must contain a complete and systematic record of all persons who reside in this State who are reported missing.

3. Each record must include, without limitation, a data field for the following information concerning a missing person:

(a) The missing person's:

(1) Name, sex and race;

(2) Date and place of birth;

(3) Height and weight;

(4) Eye and hair color;

(5) Skin tone;

(6) Fingerprint classification;

(7) Social security number;

(8) Blood type;

(9) Footprint;

(10) Body X rays;

(11) Dental X rays, models and photographs; and

(12) Prescription for eyeglasses or contact lenses;

(b) Remarks of any dentist concerning the missing person;

(c) Any scar, mark, tattoo or other identifying characteristic of the missing person;

(d) The number, state and date of expiration of the driver's license of the missing person;

(e) The year, make, model, style, color and vehicle identification number of the motor vehicle of the missing person;

(f) The number, state, type and date of expiration of the license plate of the motor vehicle of the missing person;

(g) The date of last contact with the missing person;

(h) Whether the missing person is circumcised;

(i) The type and description of any jewelry the missing person may be wearing;

(j) The identifier of the originating agency; and

(k) The originating case number.

4. The Central Repository shall maintain each record of a missing person for 20 years after the person is located.

5. Records within the Repository for Information Concerning Missing Persons may be disseminated by an agency of criminal justice without restriction.

179A.410 Telephone service to disseminate information; availability; agencies of criminal justice to provide toll-free number upon request.

1. The Central Repository shall:

(a) Provide a toll-free telephone service for people within and outside of this State to disseminate information about missing persons; and

(b) Make the telephone service available for not less than 8 hours per day, 7 days per week, except that the Central Repository need not make the service available on a legal holiday.

2. Each agency of criminal justice in this State shall provide the toll-free number for the telephone service to each person who requests information of the agency about a missing person.

[~~179C.160 Registration information forwarded to Central Repository. Upon registering a convicted person pursuant to the provisions of this chapter, a sheriff or a chief of police shall forward all information concerning such registration to the Central Repository for Nevada Records of Criminal History in the manner prescribed by the Director of the Department of Public Safety.~~**]**

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 135.

Bill read second time.

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

Amendment No. 480.

AN ACT relating to state obligations; requiring the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State to borrow money or otherwise become obligated and to issue state securities or other evidence of the obligations, subject to various requirements. (NRS 349.150-349.364) This bill requires the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations may be issued or incurred. The review is required of certain obligations which require future state payments in an amount of $5,000,000 or more after the then-current budget biennium and which are not otherwise subject to review or exempt from review pursuant to statute. If the issuance or incurrence of an obligation is approved by the State Board of Finance, the State Treasurer is responsible for administering the issuance or incurrence of the obligation. This bill also allows the State Treasurer to exempt such obligations from review. ~~[or to approve their issuance or incurrence without approval by the State Board of Finance or administration by the State Treasurer.]~~

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

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

(1) The structure of the obligation;

(2) The methods by which the obligation is to be sold or marketed, if applicable;

(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and

(4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and

(c) The State Board of Finance approves issuing or incurring the obligation.

2. The State Treasurer shall provide the report required by subsection 1 not later than ~~[60]~~ 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation , except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within ~~[that]~~ the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3. ~~[The State Treasurer may at any time authorize the state agency, officer or employee to issue or incur the obligation without the approval of the State Board of Finance or administration by the State Treasurer pursuant to subsection 3.]~~

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:

(1) With money appropriated on or before the date the obligation is issued or incurred;

(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is required to be repaid from a source other than state appropriations.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.

(i) A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

~~[5.]~~ ***6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.***

~~[6.]~~ ***7. As used in this section:***

(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

(1) Unconditionally required to be made;

(2) Required to be made only if an appropriation therefor is made; or

(3) Required to be made only on the occurrence or nonoccurrence of other conditions.

(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing ~~*[or other obligation to pay money]*~~ ***issued or incurred by or on behalf of the State or any department or agency of the State which requires future state payments in an amount of $5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.***

Sec. 2. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

(1) The structure of the obligation;

(2) The methods by which the obligation is to be sold or marketed, if applicable;

(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and

(4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and

(c) The State Board of Finance approves issuing or incurring the obligation.

2. The State Treasurer shall provide the report required by subsection 1 not later than 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation, except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3.

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:

(1) With money appropriated on or before the date the obligation is issued or incurred;

(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is required to be repaid from a source other than state appropriations.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) ~~[A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.~~

~~(i)]~~ A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.

7. As used in this section:

(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

(1) Unconditionally required to be made;

(2) Required to be made only if an appropriation therefor is made; or

(3) Required to be made only on the occurrence or nonoccurrence of other conditions.

(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing issued or incurred by or on behalf of the State or any

department or agency of the State which requires future state payments in an amount of $5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.

Sec. 3. 1. This section and section 1 of this act become effective on July 1, 2009.

2. Section 2 of this act becomes effective on May 1, 2013.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 140.

Bill read second time.

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

Amendment No. 432.

SUMMARY—Makes various changes to provisions relating to foreclosures of real property. (BDR ~~[54-228)]~~ **2-228)**

AN ACT relating to real property; ~~[creating the Office of the Ombudsman for Foreclosures;]~~ revising provisions relating to a notice of sale of real property under execution; establishing the crime of defacing a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale; establishing rights and duties of a purchaser of real property pursuant to a foreclosure sale and establishing rights and duties of a tenant in possession of such property; revising provisions relating to a sale of real property pursuant to a trustee's power of sale; requiring a landlord to make certain disclosures to a prospective tenant; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill creates the Office of the Ombudsman for Foreclosures to provide information relating to the foreclosure process.]~~ **Sections 2 and 7** of this bill revise existing law by requiring that a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale be served upon the State Board of Health if the real property is operated as a licensed health facility. ~~[Sections 2 and 7 also require such notices to include the contact information for the Office of the Ombudsman for Foreclosures and the lender's loss mitigation department.]~~ **Sections 2 and ~~[7 further]~~ 6.7 of this bill** require **, if the sale of property is a residential foreclosure,** a separate notice to be served upon any tenant or subtenant, other than the judgment debtor, in actual occupation of the real property subject to a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale to inform the tenant or subtenant that the property is subject to a notice of sale. (NRS 21.130 **) ~~[, 107.080)]~~** **Sections 3 and 8** of this bill make it unlawful for a person to willfully

remove or deface a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale which is posted on real property. (NRS 21.140, 107.084) **Sections 4 and 6** of this bill require the purchaser of a vacant residential property at a foreclosure sale or a trustee's sale to maintain the exterior of the property. **Sections 4 and 6** also authorize the appropriate governmental entity to assess a civil penalty of up to $1,000 per day, under certain circumstances, for failure to maintain the property.

Existing law provides that a person who holds over and continues in possession of real property that has been foreclosed after a 3-day notice to quit has been served upon him may be removed. (NRS 40.255) **Section 5** of this bill provides that a tenant or subtenant, other than the person whose name appears on the mortgage or deed of trust, may be removed only after the expiration of a specified period not to exceed 60 days ~~[.]~~ **if the property has been sold as a residential foreclosure.** **Section 5** also requires the tenant or subtenant who remains in occupation of the real property to remit rent to the new owner of the property pending expiration of the specified period. **Section 5** further prohibits any person from entering a record of eviction for a tenant or subtenant who vacates the property within the specified period ~~[.]~~ **if the property has been sold as a residential foreclosure.** Finally, **section 5** allows the new owner of the real property **, if the property has been sold as a residential foreclosure,** to negotiate a new purchase, lease or rental agreement with the tenant or subtenant in occupation of the property or to offer a payment in exchange for the tenant or subtenant vacating the property on a date earlier than the end of the specified period.

Section 5.5 of this bill requires a landlord to file proof of service with the court of any notice required to be served before the removal of a person who holds over and continues in possession of real property after receiving a 3-day notice to quit. (NRS 40.280)

Section 9 of this bill requires a landlord to disclose in writing to a prospective tenant if the property to be leased or rented is the subject of foreclosure proceedings. **Section 9** also makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

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

Section 1. ~~[Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The Office of the Ombudsman for Foreclosures is hereby created within the Division.*~~

~~*2. The Commissioner shall appoint the Ombudsman.*~~

~~*3. The Ombudsman must be qualified by training and experience to perform the duties and functions of his office.*~~

~~*4. The Ombudsman shall:*~~

~~*(a) Assist homeowners to understand their rights and responsibilities with respect to the foreclosure process in this State by providing any*~~

~~*relevant information, including, without limitation, an explanation of the applicable provisions of NRS and the time frame within which the foreclosure process occurs; and*~~

~~*(b) Perform such other tasks as are necessary to carry out his duties and the functions of his office.]*~~ **(Deleted by amendment.)**

Sec. 2. NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 ~~[nor]~~ ***or*** more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:

(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor ~~[.]~~ ***and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;***

(2) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; ~~[and]~~

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than $500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse ~~[.]~~ ***; and***

(4) ~~*[Posting]*~~ ***If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.***

2. ~~*[The]*~~ ***If the sale of property is a residential foreclosure, the notice must include, without limitation:***

(a) The ~~[contact information of the Office of the Ombudsman for Foreclosures;]~~ physical address of the property; and

(b) The contact information of the ~~[lender's loss mitigation department, if any, or any other person associated with the lender]~~ party who ~~[may]~~ is authorized to provide information relating to the foreclosure status of the property.

3. ~~[A]~~ If the sale of property is a residential foreclosure, a separate notice must be served by personal delivery or by certified mail, return receipt requested, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises at the same time the notice of the sale is given pursuant to subsection 1. The separate notice must include, without limitation:

(a) A statement informing the tenant or subtenant that:

(1) A notice of the sale of the property has been issued;

(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to eviction proceedings; and

(3) The provisions of chapter 40 of NRS govern the applicable eviction proceedings; and

(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.

4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor ***or any other person entitled to notice*** has not been properly notified as required in this section and NRS 21.075 and 21.076.

5. As used in this section, ~~["loss mitigation department" means the department of the lender which is responsible for overseeing the delinquency of loans prior to the initiation of foreclosure proceedings.]~~ "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 3. NRS 21.140 is hereby amended to read as follows:

21.140 1. An officer selling without the notice prescribed by NRS 21.075, 21.076 and 21.130 forfeits $500 to the aggrieved party, in addition to his actual damages.

2. ~~[A]~~ ***It is unlawful for a*** person ***to*** willfully ~~[taking]~~ ***take*** down or ~~[defacing]~~ ***deface*** the notice posted pursuant to NRS 21.130, if done before the sale or, if the judgment is satisfied before sale, before the satisfaction of the judgment ***.*** ~~[, forfeits]~~ ***In addition to any other penalty, any person who violates this subsection shall forfeit*** $500 to the aggrieved party.

Sec. 4. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any vacant residential property purchased or acquired by a person at a foreclosure sale pursuant to NRS 40.430 must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by [first class] certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located . ~~[; and~~

~~*(c) If the property is within a common-interest community, the executive board of the association.]*~~

Sec. 5. NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as provided in ~~[subsection]~~ ***subsections*** 2 ~~[,]~~ ***and 7,*** in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to quit has been served upon him ~~[, and also upon any subtenant in actual occupation of the premises, pursuant to NRS 40.280,]~~ may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

(a) Where the property or mobile home has been sold under an execution against him or a person under whom he claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by him or a person under whom he claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by such person or a person under whom he claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by him or a person under whom he claims, and the title under the sale has been perfected.

2. ~~*[A]*~~ ***If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, after receiving a notice of the change of ownership of the real property or mobile home and after the expiration of a notice period beginning on the date the notice was received by the tenant or subtenant and expiring:***

(a) ~~*[Except as otherwise provided in paragraph (b), for]*~~ ***For all periodic tenancies with a period of less than*** ~~*[60 days,]*~~ ***1 month, after not less than the number of days in the period; and***

(b) ~~*[For month-to-month tenancies after not less than 30 days; and*~~

~~*(c)]*~~ ***For all other periodic tenancies or tenancies at will, after not less than 60 days.***

3. During the notice period described in subsection 2:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and

(b) The tenant or subtenant continues to have the rights, obligations and liabilities he had pursuant to chapter 118A of NRS under the lease or rental agreement which he entered into with the previous owner or landlord regarding the property.

4. The notice described in subsection 2 must contain a statement:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement he entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection 2; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings.

5. [No] If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection 2.

6. [Nothing] If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit [the] :

(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection 2 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or

(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

[(a)] (1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or

[(b)] (2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection 2.

7. This section does not apply to the tenant of a mobile home lot in a mobile home park.

8. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 5.5. **NRS 40.280 is hereby amended to read as follows:**

40.280 1. Except as otherwise provided in NRS 40.253, the notices required by NRS 40.251 to 40.260, inclusive, may be served:

(a) By delivering a copy to the tenant personally, in the presence of a witness;

(b) If he is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the tenant at his place of residence or place of business; or

(c) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property, delivering a copy to a person there residing, if the person can be found, and mailing a copy to the tenant at the place where the leased property is situated.

2. Service upon a subtenant may be made in the same manner as provided in subsection 1.

3. Before an order to remove a tenant is issued pursuant to subsection 5 of NRS 40.253, a landlord shall file with the court a proof of service of any notice required by that section. ***Before a person may be removed as prescribed in NRS 40.290 to 40.420, inclusive, a landlord shall file with the court proof of service of any notice required pursuant to NRS 40.255.*** Except as otherwise provided in subsection 4, this proof must consist of:

(a) A statement, signed by the tenant and a witness, acknowledging that the tenant received the notice on a specified date;

(b) A certificate of mailing issued by the United States Postal Service; or

(c) The endorsement of a sheriff, constable or other process server stating the time and manner of service.

4. If service of the notice was not delivered in person to a tenant whose rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, proof of service must include:

(a) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or his agent; or

(b) The endorsement of a sheriff or constable stating the:

(1) Time and date the request for service was made by the landlord or his agent;

(2) Time, date and manner of the service; and

(3) Fees paid for the service.

Sec. 6. Chapter 107 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 6.3 and 6.7 of this act.**

Sec. 6.3. 1. Any vacant residential property purchased or acquired by a person at a trustee's sale pursuant to NRS 107.080 must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by ~~[first-class]~~ certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located . ~~[; and~~

~~(c) If the property is within a common-interest community, the executive board of the association.]~~

Sec. 6.7. 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default, election to sell and the notice of sale must:

(a) Be posted in a conspicuous place on the property on the same day the notice of default, election to sell and the notice of sale is recorded pursuant to NRS 107.080; and

(b) Include, without limitation:

(1) The physical address of the property; and

(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

3. A separate notice must be served upon any tenant or subtenant, if any, other than the grantor or his successor in interest, in actual occupation of the premises at the same time the notice of the sale is given pursuant to subsection 4 of NRS 107.080. The separate notice must be served in the manner prescribed in NRS 40.280 and must include, without limitation:

(a) A statement informing the tenant or subtenant that:

(1) A notice of the sale of the property has been issued;

(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to the eviction process; and

(3) The provisions of chapter 40 of NRS govern the applicable eviction process; and

(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.

4. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.080.

Sec. 7. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, ~~[and]~~ to the person who holds the title of record on the date the notice of default and election to sell is recorded ~~[,]~~ ***and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health,*** at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must ~~[describe]~~ ***:***

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2 ~~[.]~~ ***; and***

(b) If the property is a residential foreclosure, comply with the provisions of section 6.7 of this act.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor ***,*** ~~[and]~~ any other person entitled to notice pursuant to this section ***and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health,*** by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; ~~[and]~~

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated ~~[.]~~ ***; and***

(d) ~~*[Posting a copy of the notice in a conspicuous place on the property.]*~~ ***If the property is a residential foreclosure, complying with the provisions of section 6.7 of this act.***

5. ~~*[The notice of sale must include, without limitation:*~~

~~*(a) The contact information of the Office of the Ombudsman for Foreclosures; and*~~

~~*(b) The contact information of the lender's loss mitigation department, if any, or any other person associated with the lender who may provide information relating to the foreclosure status of the property.*~~

~~*6. A separate notice must be served by personal delivery or by certified mail, return receipt requested, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises at the same time the notice of the sale is given pursuant to subsection 4. The separate notice must include, without limitation:*~~

~~*(a) A statement informing the tenant or subtenant that:*~~

~~*(1) A notice of the sale of the property has been issued;*~~

~~*(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to eviction proceedings; and*~~

~~*(3) The provisions of chapter 40 of NRS govern the applicable eviction proceedings; and*~~

~~*(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.*~~

~~*7.]*~~ Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, ~~*[8,]*~~ an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. ~~*[8.]*~~ If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to

subsection 5 ~~[7]~~ within 120 days after the date on which the person received actual notice of the sale.

7. ~~[9.]~~ The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

~~[10.]~~ ***8. As used in this section,*** ~~["loss mitigation department" means the department of the lender which is responsible for overseeing the delinquency of loans prior to the initiation of foreclosure proceedings.]~~ ***"residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.***

Sec. 8. NRS 107.084 is hereby amended to read as follows:

107.084 ~~[A]~~ ***It is unlawful for a*** person ~~[who]~~ ***to*** willfully ~~[removes]~~ ***remove*** or ~~[defaces]~~ ***deface*** a notice posted pursuant to subsection 4 of NRS 107.080, if done before the sale or, if the default is satisfied before the sale, before the satisfaction of the default ***.*** ~~[,]~~ ***In addition to any other penalty, any person who violates this section*** is liable in the amount of $500 to any person aggrieved by the removal or defacing of the notice.

Sec. 9. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A landlord shall disclose in writing to a prospective tenant if the property to be leased or rented is the subject of any foreclosure proceedings.

2. A willful violation of subsection 1 constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 144.

Bill read second time.

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

Amendment No. 277.

AN ACT relating to real property; ~~[requiring certain annual or biennial examinations of mortgage brokers to include reviews of various written appraisals and other similar information;]~~ **prohibiting public disclosure of the results of an annual examination of a mortgage broker under certain circumstances; revising provisions relating to appraisals of real property securing a loan in which an investor invests money;** revising requirements which relate to the release of certain information on various mortgage brokers regarding ownership and management structure, annual or biennial examinations and other examinations or audits, investigations or hearings; suspending or revoking the license of certain mortgage brokers who receive

the lowest possible rating on two consecutive annual or biennial examinations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires annual or biennial examinations for various mortgage brokers. (NRS 645B.060) **Section 1** of this bill ~~[requires such examinations to include a review of certain written appraisals of real property and other similar information.]~~ **prohibits the results of an annual examination from being released to the public until after a period of time set by the Commissioner of Mortgage Lending to determine any objections made by the mortgage broker to the results.**

Existing law provides requirements regarding certain information on mortgage brokers that is to be made available for public inspection. (NRS 645B.090) **Section 2** of this bill revises those requirements in regard to mortgage brokers who **make or** offer for sale in this State any ~~[security which is exempt from registration under state or federal law and purports to make]~~ investments in promissory notes secured by liens on real property. The revised requirements relate to information regarding ownership and management structure, annual or biennial examinations, other examinations or audits, investigations or hearings, and standards for withholding other information.

Existing law prohibits a mortgage broker or mortgage agent from accepting money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property unless the mortgage broker has first obtained a written appraisal of the real property securing the loan. (NRS 645B.300) Section 2.5 of this bill requires the appraisal to be made not more than 6 months before the mortgage broker's first solicitation for the loan and the appraisal to meet certain standards. Section 2.5 further requires a mortgage broker to make additional disclosures to an investor if the investor waives the requirement that an appraisal be obtained.

Existing law provides requirements regarding disciplinary action for certain violations of law relating to the business of a mortgage broker. (NRS 645B.690) **Section 3** of this bill revises those requirements in regard to mortgage brokers who **make or** offer for sale in this State any ~~[security which is exempt from registration under state or federal law and purports to make]~~ investments in promissory notes secured by liens on real property. If such a mortgage broker receives the lowest possible rating on two consecutive annual or biennial examinations, the license of that mortgage broker will be suspended or revoked.

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

Section 1. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise

general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt regulations:

(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.

(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker . ~~*[and an examination of all or a sample, as determined by the Commissioner, of any written appraisals performed pursuant to NRS 645B.300 and any other similar information used to appraise real property in regard to the acceptance of money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on the real property.]*~~ The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until ~~[any objections made by the mortgage broker have been decided by the Commissioner.]~~ ***after a period of time set by the Commissioner*** ~~*[during which the mortgage broker may submit any objections to the annual examination.]*~~ ***to determine any objections made by the mortgage broker.***

(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon

the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct ~~[~~biennial~~]~~ examinations of a mortgage broker **,** ~~[~~instead of annual examinations,~~]~~ as described in paragraph (d) of subsection 2, ***on a biennial instead of an annual basis*** if the mortgage broker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and

(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.

Sec. 2. NRS 645B.090 is hereby amended to read as follows:

645B.090 1. Except as otherwise provided in this section or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to this chapter are open to public inspection.

2. Except as otherwise provided in subsection 3, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in his judgment, would:

(a) Impede or otherwise interfere with an investigation ***or examination*** that is currently pending against a mortgage broker; ~~[or]~~

(b) Have an undesirable effect on the welfare of the public ~~[.]~~ ~~[or the welfare of any mortgage broker or mortgage agent; or~~

~~(c) Give any mortgage broker a competitive advantage over any other mortgage broker.~~**]** ***; or***

(c) Reveal personal information in violation of NRS 239B.030.

3. Except as otherwise provided in NRS 645B.092, the Commissioner shall disclose the following information concerning a mortgage broker to any person who requests it ~~[:]~~ ***, including, without limitation, a member of the news media:***

(a) The findings and results of any investigation which has been completed during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter and which has resulted in a finding by the Commissioner that the mortgage broker committed a violation of a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner; ~~[and]~~

(b) The nature of any disciplinary action that has been taken during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter ~~[.]~~ ***; and***

(c) If the mortgage broker makes or offers for sale in this State any ~~*[security which is exempt from registration under state or federal law and purports to make]*~~ ***investments in promissory notes secured by liens on real property:***

(1) Any information in the possession of the Commissioner regarding the present and past ownership and management structure of the mortgage broker; and

(2) The findings and results of:

(I) All examinations or investigations of the mortgage broker conducted pursuant to NRS 645B.060 during the immediately preceding 5 years, including, without limitation, annual or biennial examinations of the mortgage broker conducted pursuant to NRS 645B.060, including, without limitation, the rating for each annual or biennial examination and an explanation of the standards for determining that rating; and

(II) Any other examination or audit, investigation or hearing which has been completed during the immediately preceding 3 years against the mortgage broker pursuant to the provisions of this chapter.

Sec. 2.5. **NRS 645B.300 is hereby amended to read as follows:**

645B.300 1. Except as otherwise provided in subsection 4, a mortgage broker or mortgage agent shall not accept money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker has obtained a written appraisal of the real property securing the loan.

2. The written appraisal of the real property:

(a) ***Must be completed not more than 6 months before the mortgage broker's first solicitation for the loan;***

(b) Must meet the standards set forth in the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of The Appraisal Foundation;

(c) Must be performed by an appraiser who is authorized to perform appraisals in this State ~~[;]~~ ***or in the state where the real property securing the loan is located;*** and

~~[(b)]~~ ***(d)*** Must not be performed by the mortgage broker or a mortgage agent, unless the mortgage broker or mortgage agent is certified or licensed to perform such an appraisal pursuant to chapter 645C of NRS.

3. A copy of the written appraisal of the real property must be:

(a) Maintained at each office of the mortgage broker where money is accepted from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on the real property; and

(b) Made available during normal business hours for inspection by each such investor and the Commissioner.

4. A mortgage broker is not required to obtain a written appraisal of the real property pursuant to this section if the mortgage broker obtains a written waiver of the appraisal from each investor who acquires ownership of or a beneficial interest in a loan secured by a lien on the real property. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection.

5. ***If the mortgage broker obtains a written waiver of the appraisal as provided in subsection 4, the mortgage broker shall provide to each investor before he accepts any money from the investor a separate written disclosure which contains the information analyzed, the valuation methods and techniques employed and the reasoning for any opinion regarding value provided by or on behalf of the mortgage broker.***

6. As used in this section, "appraisal" has the meaning ascribed to it in NRS 645C.030.

Sec. 3. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner shall ***suspend or*** revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker pursuant to NRS 645B.630.

3. If a mortgage broker:

(a) ~~[Offers]~~ Makes or offers for sale in this State any ~~[security which is exempt from registration under state or federal law and purports to make]~~ investments in promissory notes secured by liens on real property; and

(b) Receives the lowest possible rating on two consecutive annual or biennial examinations pursuant to NRS 645B.060,

➥ the Commissioner shall suspend or revoke the license of the mortgage broker.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 176.

Bill read second time.

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

Amendment No. 246.

AN ACT relating to administrators of facilities for long-term care; renaming the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care as the Board of Examiners for Long-Term Care Administrators; revising provisions relating to disciplinary actions; granting subpoena powers to the Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill change the name of the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care to the Board of Examiners for Long-Term Care Administrators.

Existing law establishes various penalties the Board may impose as disciplinary action against nursing facility administrators and administrators of a residential facility for groups who commit certain violations. (NRS 654.190) **Section 3** of this bill increases the **maximum** administrative fine the Board may impose upon such persons from $5,000 to $10,000 for each violation. **Section 3** also provides that the Board may deny the issuance or renewal of a license and impose any combination of authorized disciplinary actions against such persons for a violation. Additionally, **section 3** revises the **~~[~~~~time within which written notice of a hearing must be provided to a licensee against whom a complaint is brought, from 10 days to 5 days before the date of the hearing,~~~~]~~ manner in which notice of a hearing relating to disciplinary action must be given to a licensee.** Furthermore,

section 3 establishes the Board's authority to subpoena witnesses and documents.

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

Section 1. NRS 654.020 is hereby amended to read as follows:

654.020 "Board" means the ~~[~~Nevada State~~]~~ Board of Examiners for ~~[~~Administrators of Facilities for~~]~~ Long-Term Care ~~[.]~~ ***Administrators.***

Sec. 2. NRS 654.050 is hereby amended to read as follows:

654.050 The ~~[~~Nevada State~~]~~ Board of Examiners for ~~[~~Administrators of Facilities for~~]~~ Long-Term Care ~~[,]~~ ***Administrators,*** consisting of the Director of the Department of Health and Human Services or his designee and six members appointed by the Governor, is hereby created within the Department of Health and Human Services.

Sec. 3. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than ~~[~~$5,000~~]~~ ***$10,000 for each violation*** on, recover reasonable investigative fees and costs incurred from, suspend, revoke ***, deny the issuance or renewal of*** or place conditions on the license of, and place on probation ***or impose any combination of the foregoing on*** any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing ~~[~~not less than~~]~~ ~~[~~10~~]~~ ~~*[5* days before the date of the hearing.~~]~~ ***pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his right to attend the hearing.***

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

4. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

5. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chairman of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 179.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 162.

AN ACT relating to criminal procedure; authorizing certain persons convicted of a **category A or B** felony to petition the court for postconviction genetic marker analysis; **providing the information that must be contained in a petition for such postconviction genetic marker analysis;** revising the circumstances under which genetic marker analysis must be performed for those persons; requiring certain notices to be provided to the victims of the crimes allegedly committed by those persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person convicted of a crime and sentenced to death may petition a court to conduct postconviction genetic marker analysis to prove a credible claim of innocence if the person meets certain requirements. For example, the person must show that the evidence has not previously been submitted to such analysis or that the method of analysis requested and the additional analysis may resolve an issue not resolved by previous analysis. (NRS 176.0918)

Section 1 of this bill amends existing law to allow any person **who is** convicted of a **category A or B** felony ~~,~~ **and under a sentence of imprisonment,** regardless of whether he is under a sentence of death, to petition the court for postconviction genetic marker analysis after meeting certain other requirements. **This section provides that a petition must be made under penalty of perjury and must contain certain information. Further, this section provides for the court to determine whether to dismiss the petition, schedule a hearing or assign counsel to further review, supplement and present the petition to the court.** This section also

amends existing law to provide that genetic marker analysis may be performed on evidence previously submitted to analysis if: (1) the results of a previous analysis were inconclusive; (2) the evidence was not previously submitted to the type of analysis requested and the requested analysis may resolve an issue not resolved by the previous analysis; or (3) the requested analysis would provide results significantly more accurate and probative of the identity of the perpetrator. This section further requires the district attorney of the appropriate county **, under certain circumstances,** to notify the victims of the crime at issue in the petition of certain information related to the petition. (NRS 176.0918)

Section 3 of this bill provides that the new procedures set forth in the bill apply to persons who were convicted of an offense before, on or after the effective date of this bill.

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

Section 1. NRS 176.0918 is hereby amended to read as follows:

176.0918 1. A person convicted of a ~~[crime and under sentence of death]~~ ***category A or B felony who is under sentence of imprisonment for that conviction and*** who ***otherwise*** meets the requirements of this section may file a postconviction petition requesting a genetic marker analysis of evidence within the possession or custody of the State which may contain genetic marker information relating to the investigation or prosecution that resulted in the judgment of conviction **.** ~~[and sentence of death. The]~~ ***If the case involves a sentence of death, the*** petition must include, without limitation, the date scheduled for the execution, if it has been scheduled.

2. Such a petition must be filed with the clerk of the district court for the county in which the petitioner was convicted on a form prescribed by the Department of Corrections. A copy of the petition must be served by registered mail upon:

(a) The Attorney General; and

(b) The district attorney in the county in which the petitioner was convicted.

3. ***A petition filed pursuant to this section must be accompanied by a declaration under penalty of perjury attesting that the information contained in the petition does not contain any material misrepresentation of fact and that the petitioner has a good faith basis relying on particular facts for the request. The petition must include, without limitation:***

(a) Information identifying specific evidence either known or believed to be in the possession or custody of the State that can be subject to genetic marker analysis;

(b) The rationale for why a reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified in paragraph (a);

(c) An identification of the type of genetic marker analysis the petitioner is requesting to be conducted on the evidence identified in paragraph (a);

(d) If applicable, the results of all prior genetic marker analysis performed on evidence in the trial which resulted in the petitioner's conviction; and

(e) A statement that the type of genetic marker analysis the petitioner is requesting was not available at the time of trial or, if it was available, that the failure to request genetic marker analysis before the petitioner was convicted was not a result of a strategic or tactical decision as part of the representation of the petitioner at the trial.

4. If a petition is filed pursuant to this section, the court ~~[shall]~~ ***may:***

(a) Dismiss the petition without a hearing if the court determines, based on the information contained in the petition, that the petitioner does not meet the requirements set forth in this section;

(b) After determining whether the petitioner is indigent pursuant to NRS 171.188 and whether counsel was appointed in the case which resulted in the conviction, appoint counsel for the limited purpose of reviewing, supplementing and presenting the petition to the court; or

(c) Schedule a hearing on the petition. If the court schedules a hearing on the petition, the court shall determine which person or agency has possession or custody of the evidence and shall immediately issue an order requiring, during the pendency of the proceeding, each person or agency in possession or custody of the evidence to:

~~[(a)]~~ ***(1)*** Preserve all evidence within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section;

~~[(b)]~~ ***(2)*** Within ~~[30]~~ ***90*** days, prepare an inventory of all evidence ***relevant to the claims in the petition*** within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section; and

~~[(c)]~~ ***(3)*** Within ~~[30]~~ ***90*** days, submit a copy of the inventory to the petitioner, the prosecuting attorney and the court.

~~[4.]~~ ***5.*** Within ~~[30]~~ ***90*** days after the inventory of all evidence is prepared pursuant to subsection ~~[3,]~~ ***4,*** the prosecuting attorney may file a written response to the petition with the court.

~~[5. The]~~

6. If the court ~~[shall hold]~~ ***holds*** a hearing on a petition filed pursuant to this section ~~[.~~

~~6.]~~ ***, the hearing must be presided over by the judge who conducted the trial that resulted in the conviction of the petitioner, unless that judge is unavailable. Any evidence presented at the hearing by affidavit must be served on the opposing party at least 15 days before the hearing.***

7. The court shall order a genetic marker analysis ***, after considering the information contained in the petition pursuant to subsection 3 and any other evidence,*** if the court finds that:

(a) A reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified in the petition;

(b) The evidence to be analyzed exists; and

(c) ~~[~~The~~]~~ ***Except as otherwise provided in subsection*** ~~*[7,]*~~ ***8, the*** evidence was not previously subjected to ~~[~~:

~~(1) A~~~~]~~ ***a*** genetic marker analysis **.** ~~[~~involving the petitioner; or

~~(2) The method of analysis requested in the petition, and the method of additional analysis may resolve an issue not resolved by a previous analysis.~~~~]~~

~~[~~*7.*~~]~~ ***8. If the evidence was previously subjected to a genetic marker analysis, the court shall order a genetic marker analysis pursuant to subsection*** ~~*[6]*~~ ***7 if the court finds that:***

(a) The result of the previous analysis was inconclusive;

(b) The evidence was not subjected to the type of analysis that is now requested and the requested analysis may resolve an issue not resolved by the previous analysis; or

(c) The requested analysis would provide results that are significantly more accurate and probative of the identity of the perpetrator than the previous analysis.

~~*[8.]*~~ ***9.*** If the court orders a genetic marker analysis pursuant to subsection ~~[~~6~~]~~ ~~[~~,~~]~~ ~~*[or 7,]*~~ ***7 or 8,*** the court shall:

(a) Order the analysis to be conducted promptly under reasonable conditions designed to protect the interest of the State ***and the petitioner*** in the integrity of the evidence and the analysis process.

(b) Select a forensic laboratory to conduct or oversee the analysis. The forensic laboratory selected by the court must:

(1) Be operated by this State or one of its political subdivisions, when possible; and

(2) Satisfy the standards for quality assurance that are established for forensic laboratories by the Federal Bureau of Investigation.

(c) Order the forensic laboratory selected pursuant to paragraph (b) to perform a genetic marker analysis of evidence. The analysis to be performed and evidence to be analyzed must:

(1) Be specified in the order; and

(2) Include such analysis, testing and comparison of genetic marker information contained in the evidence and the genetic marker information of the petitioner as the court determines appropriate under the circumstances.

(d) Order the production of any reports that are prepared by a forensic laboratory in connection with the analysis and any data and notes upon which the report is based.

(e) Order the preservation of evidence used in a genetic marker analysis performed pursuant to this section for purposes of a subsequent proceeding or analysis, if any.

(f) Order the results of the genetic marker analysis performed pursuant to this section to be sent to the State Board of Parole Commissioners if the results of the genetic marker analysis are not favorable to the petitioner.

~~[~~8.~~]~~ ~~*[9.]*~~ ***10.*** If the results of a genetic marker analysis performed pursuant to this section are favorable to the petitioner:

(a) The petitioner may bring a motion for a new trial based on the ground of newly discovered evidence pursuant to NRS 176.515; and

(b) The restriction on the time for filing the motion set forth in subsection 3 of NRS 176.515 is not applicable.

~~[~~9.~~]~~ ~~*[10.]*~~ ***11.*** The court shall dismiss a petition filed pursuant to this section if:

(a) The requirements for ordering a genetic marker analysis pursuant to this section are not satisfied; or

(b) The results of a genetic marker analysis performed pursuant to this section are not favorable to the petitioner.

~~[~~10.~~]~~ ~~*[11.]*~~ ***12.*** For the purposes of a genetic marker analysis pursuant to this section, a person ~~[~~under sentence of death~~]~~ who files a petition pursuant to this section shall be deemed to consent to the:

(a) Submission of a biological specimen by him to determine his genetic marker information; and

(b) Release and use of genetic marker information concerning the petitioner.

~~[~~11.~~]~~ ~~*[12. The]*~~

13. The petitioner shall pay the cost of a genetic marker analysis performed pursuant to this section, unless the petitioner is incarcerated at the time he files the petition, found to be indigent pursuant to NRS 171.188 and the results of the genetic marker analysis are favorable to the petitioner. If the petitioner is not required to pay the cost of the analysis pursuant to this subsection, the expense of an analysis ordered pursuant to this section is a charge against the Department of Corrections and must be paid upon approval by the Board of State Prison Commissioners as other claims against the State are paid.

~~[~~12.~~]~~ ~~*[13.]*~~ ***14.*** The remedy provided by this section is in addition to, is not a substitute for and is not exclusive of any other remedy, right of action or proceeding available to a person convicted of a crime ***.*** ~~[~~and under sentence of death.~~]~~

~~*[14.]*~~ ***15. If a petitioner files a petition pursuant to this section, the court schedules a hearing on the petition and a victim of the crime for which the petitioner was convicted has requested notice pursuant to NRS 178.5698, the district attorney in the county in which the petitioner was convicted shall provide to*** ~~*[any victim of the crime for which the petitioner was convicted]*~~ ***the victim notice of:***

(a) The fact that the petitioner filed a petition pursuant to this section;

(b) The time and place of ~~*[any]*~~ ***the hearing*** ~~*[that may be held]*~~ ***scheduled by the court as a result of the petition; and***

(c) The outcome of any hearing on the petition.

Sec. 2. NRS 176.0919 is hereby amended to read as follows:

176.0919 1. After a judge grants a petition requesting a genetic marker analysis pursuant to NRS 176.0918, if ***the case involves a sentence of death and*** a judge determines that the genetic marker analysis cannot be completed before the date of the execution of the petitioner, the judge shall stay the execution of the judgment of death pending the results of the analysis.

2. If ***the case involves a sentence of death and*** the results of an analysis ordered and conducted pursuant to NRS 176.0918 are not favorable to the petitioner:

(a) Except as otherwise provided in paragraph (b), the Director of the Department of Corrections shall, in due course, execute the judgment of death.

(b) If the judgment of death has been stayed pursuant to subsection 1, the judge shall cause a certified copy of his order staying the execution of the judgment and a certified copy of the report of genetic marker analysis that indicates results which are not favorable to the petitioner to be immediately forwarded by the clerk of the court to the district attorney. Upon receipt, the district attorney shall pursue the issuance of a new warrant of execution of the judgment of death in the manner provided in NRS 176.495.

Sec. 3. This act applies to a person who was convicted of an offense before, on or after October 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 290.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 533.

AN ACT relating to vehicles; revising provisions governing the applicability of the implied warranty of merchantability to the sale of a used vehicle by a used vehicle dealer; prohibiting a used vehicle dealer from excluding, modifying, negating or limiting the implied warranty of merchantability; providing remedies for a purchaser if a used vehicle does not conform with the implied warranty of merchantability; providing that a purchaser of a used vehicle may waive the implied warranty of merchantability under certain circumstances; requiring a contract for the sale of a used vehicle by a used vehicle dealer to contain certain statements; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill provides that in a contract for the sale of a used vehicle by a used vehicle dealer, the implied warranty of merchantability codified in NRS 104.2314 expires at midnight on the 15th day after delivery

of the used vehicle or upon the used vehicle being driven 500 miles, whichever occurs first. **Section 4** additionally prohibits a used vehicle dealer from excluding, modifying, negating or limiting the implied warranty of merchantability or limiting any right or remedy of the purchaser for failure of the used vehicle to conform with the implied warranty of merchantability. **Section 5** of this bill provides that a used vehicle conforms with the implied warranty of merchantability if the used vehicle functions substantially free of certain defects. **Section 5** additionally provides certain remedies to the purchaser if the used vehicle does not conform with the implied warranty of merchantability, including returning the used vehicle to the used vehicle dealer and receiving a refund of the full amount paid by the purchaser toward the purchase price of the used vehicle. **These remedies are in addition to any other remedies provided by existing law.**

Section 6 of this bill provides that a contract for the sale of a used vehicle by a used vehicle dealer must contain a statement providing that the used vehicle is fit for ordinary use for 15 days or 500 miles after delivery of the used vehicle to the purchaser, whichever occurs first. **Section 7** of this bill provides that a purchaser may waive the implied warranty of merchantability for a particular defect under certain circumstances. **Section 8** of this bill provides that if a used vehicle dealer violates certain provisions of this bill, the contract for the sale of a used vehicle is voidable by the purchaser. **Section 7.5 of this bill provides that the provisions of sections 2-8 of this bill do not apply to the sale of a used vehicle which is covered by an express warranty of a manufacturer.**

Section 15.5 of this bill provides that the forms for the application for credit and contracts to be used in the sale of a used vehicle prescribed by the Commissioner of Financial Institutions must contain statements substantially similar to the statements described in sections 6 and 7 of this bill. (NRS 97.299)

Existing law provides various protections for a person who purchases a used vehicle which has been driven 75,000 miles or more. (NRS 482.36661-482.36667) **Sections 10-14** of this bill make those provisions applicable to any used vehicle sold by a used vehicle dealer, regardless of the mileage of the used vehicle.

Section 16 of this bill repeals certain provisions governing express written warranties provided by a used vehicle dealer **[.]** **and the imposition of administrative fines.** (NRS 482.36662, 482.36663 **[).]** **, 482.36666)**

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. ***"Implied warranty of merchantability" means the implied warranty described in NRS 104.2314.***

Sec. 3. ***To the extent of any conflict with the provisions of chapter 104 of NRS, the provisions of NRS 482.36655 to 482.36667, inclusive, and sections 2 to 8, inclusive, of this act control with respect to the sale in this State of a used vehicle by a used vehicle dealer.***

Sec. 4. ***1. The implied warranty of merchantability in a contract for the sale of a used vehicle by a used vehicle dealer expires:***

(a) At midnight on the 15th calendar day after the date of delivery of the used vehicle to the purchaser; or

(b) Upon the used vehicle being driven 500 miles after its delivery to the purchaser,

➥ whichever occurs earlier.

2. A used vehicle dealer shall not exclude, modify, negate or limit the implied warranty of merchantability with respect to the sale of a used vehicle or limit any right or remedy of the purchaser for failure of the used vehicle to conform with the implied warranty of merchantability.

3. For the purposes of this section, the computation of:

(a) Days following the date of delivery of the used vehicle to the purchaser must not include any day on which the used vehicle fails to conform with the implied warranty of merchantability.

(b) Miles driven must not include miles driven to obtain or in connection with the repair, service or diagnostic testing of a used vehicle which fails to conform with the implied warranty of merchantability.

Sec. 5. ***1. A used vehicle that is sold by a used vehicle dealer conforms with the implied warranty of merchantability if the used vehicle functions substantially free of any defect which:***

(a) Significantly limits the use of the used vehicle on any public highway; and

(b) Is not the result of any damage that occurs after the sale of the used vehicle, including, without limitation, damage resulting from off-road use, racing, towing, abuse, misuse, neglect, failure to perform ordinary maintenance or failure to maintain adequate levels of oil, engine coolant or other required fluids or lubricants.

2. If, during the effective period of the warranty of merchantability, the purchaser of a used vehicle discovers a defect that constitutes the failure of the used vehicle to conform with the implied warranty of merchantability, the purchaser shall notify the used vehicle dealer as soon as practicable, but not later than 30 days after the purchaser discovers the defect.

3. Before a purchaser may pursue the remedy prescribed in subsection 4:

(a) The purchaser must give the notice required by subsection 2;

(b) The used vehicle dealer must have a reasonable opportunity to repair the used vehicle; and

(c) The purchaser must pay one-half of the cost of the first two repairs that are necessary to bring the used vehicle into conformity with the

implied warranty of merchantability, but not more than $25 for each repair.

4. If, after a reasonable opportunity, the used vehicle dealer is unable to repair the used vehicle to conform with the implied warranty of merchantability, the purchaser may elect to return the used vehicle to the used vehicle dealer who shall:

(a) Accept the return of the used vehicle; and

(b) Not later than 5 business days after the return of the vehicle:

(1) Refund to the purchaser the full amount paid by the purchaser toward the purchase price of the used vehicle; and

(2) Satisfy any security interest taken in the used vehicle.

5. A used vehicle dealer is not liable under this section to the purchaser for any amount other than the amount described in subsection 4, unless the used vehicle dealer had actual knowledge of or should have known of a defect in the used vehicle as a result of the circumstances in which the used vehicle was acquired or sold and did not disclose the defect to the purchaser.

6. The remedy provided in this section is not exclusive and is intended to supplement existing law.

Sec. 6. ***1. A contract for the sale of a used vehicle by a used vehicle dealer must contain the following conspicuous statement printed in boldface type and not less than 10-point font:***

Nevada law requires that this used vehicle be fit for the ordinary purposes for which the used vehicle is used for 15 days or 500 miles after delivery of the used vehicle to you (the purchaser), whichever occurs earlier, except with regard to particular defects disclosed on the first page of this contract. You (the purchaser) will not have to pay more than $25 for each of the first two repairs if this warranty is violated.

2. The statement required by subsection 1 does not create an express warranty in a contract for the sale of a used vehicle by a used vehicle dealer.

Sec. 7. ***A purchaser may waive the implied warranty of merchantability in a contract for the sale of a used vehicle only:***

1. For a particular defect in the used vehicle; and

2. If the following conditions are satisfied:

(a) The used vehicle dealer fully and accurately discloses the particular defect to the purchaser;

(b) The purchaser agrees to purchase the used vehicle after the disclosure of the particular defect is made; and

(c) The purchaser, before taking delivery of the used vehicle, signs and dates the following conspicuous statement which must be printed on the first page of the contract in boldface type and not less than 10-point font:

Attention purchaser: Sign here only if the used vehicle dealer has disclosed to you that this used vehicle has the following particular defects and you agree to purchase the used vehicle after this disclosure:

1._____

2._____

3._____.

Sec. 7.5. ***The provisions of sections 2 to 8, inclusive, of this act do not apply to the sale by a used vehicle dealer of a used vehicle which is covered by an express warranty of a manufacturer.***

Sec. 8. ***If a used vehicle dealer violates any provision of sections 2 to 8, inclusive, of this act, the contract for the sale of a used vehicle is voidable by the purchaser.***

Sec. 9. NRS 482.36655 is hereby amended to read as follows:

482.36655 As used in NRS 482.36655 to 482.36667, inclusive, ***and sections 2 to 8, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 482.3666 and 482.366605 ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. NRS 482.36661 is hereby amended to read as follows:

482.36661 Before a used vehicle dealer may sell to a retail customer a used vehicle **,** ~~**[**the odometer of which registers 75,000 miles or more,**]**~~ the used vehicle dealer must conduct a reasonably thorough inspection of the soundness and safety of the vehicle's engine and drivetrain and disclose in writing any defects in the engine or drivetrain known to him or which he reasonably should have known after he conducts the inspection.

Sec. 11. NRS 482.36664 is hereby amended to read as follows:

482.36664 1. A retail customer who purchases a used vehicle ~~**[**the odometer of which registers 75,000 miles or more**]**~~ may submit to the Department a written complaint regarding the used vehicle dealer ~~**[.]**~~ ***only after making a good faith attempt to resolve the complaint with the used vehicle dealer.*** The Department shall, within 10 days after it receives a complaint pursuant to this section, provide a copy of the complaint to the used vehicle dealer who is the subject of the complaint.

2. A complaint submitted ***by the retail customer*** pursuant to subsection 1 must include:

(a) A clear and concise statement of the complaint and the facts relating to the complaint;

(b) Copies of any documents relating to the complaint; and

(c) A statement of the manner in which the retail customer wishes to have the complaint resolved.

3. Upon receipt of a complaint pursuant to this section, the Department shall investigate the complaint and determine whether the used vehicle dealer who is the subject of the complaint has violated the provisions of NRS 482.36655 to 482.36667, inclusive, ***and sections 2 to 8, inclusive, of this act*** or the regulations adopted by the Department pursuant thereto.

4. If the Department determines that a used vehicle dealer has violated the provisions of NRS 482.36655 to 482.36667, inclusive, ***and sections 2 to 8, inclusive, of this act*** or the regulations adopted by the Department pursuant thereto, the Department shall notify the used vehicle dealer of that

determination and recommend to the dealer the actions that he may take to resolve the complaint.

5. A retail customer or used vehicle dealer who is aggrieved by the decision of the Department may appeal the decision to the Director.

Sec. 12. NRS 482.36665 is hereby amended to read as follows:

482.36665 The Department shall maintain a record of the complaints submitted to the Department pursuant to NRS 482.36664. The record must include a statement of whether the dealer was found to have violated the provisions of NRS 482.36655 to 482.36667, inclusive, ***and sections 2 to 8, inclusive, of this act*** or the regulations adopted pursuant thereto, and if so, whether the used vehicle dealer resolved the complaint in the manner recommended by the Department or in any other manner acceptable to the Department and the retail customer who filed the complaint.

Sec. 13. ~~[NRS 482.36666 is hereby amended to read as follows:~~

~~482.36666 1. If the Department determines from the record maintained pursuant to NRS 482.36665 that on more than three occasions a used vehicle dealer has:~~

~~(a) Been found to have violated the provisions of NRS 482.36655 to 482.36667, inclusive, *and sections 2 to 8, inclusive, of this act* or the regulations adopted pursuant thereto; and~~

~~(b) Failed to resolve those complaints in the manner recommended by the Department pursuant to NRS 482.36664 or in any other manner acceptable to the Department and the retail customer who filed the complaint,~~

~~→ the Department may impose an administrative fine, not to exceed $2,500, for each additional violation of the provisions of NRS 482.36655 to 482.36667, inclusive .] , *and sections 2 to 8, inclusive of this act.* The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.~~

~~2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Account for Regulation of Used Vehicle Dealers, which is hereby created in the State Highway Fund. Money in the Account may be used only for the administration of NRS 481.048 and NRS 482.36655 to 482.36667, inclusive .] *, and sections 2 to 8, inclusive, of this act.***~~

~~3. In addition to any other remedy provided by law, the Department may compel compliance with NRS 482.36655 to 482.36667, inclusive, *and sections 2 to 8, inclusive, of this act,* and any regulation adopted pursuant thereto, by injunction or other appropriate remedy, and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.] **(Deleted by amendment.)***

Sec. 14. NRS 482.36667 is hereby amended to read as follows:

482.36667 The Department may adopt regulations to carry out the provisions of NRS 482.36655 to 482.36667, inclusive ~~[.]~~ ***, and sections 2 to 8, inclusive, of this act.***

Sec. 15. NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive ~~[.]~~ ***, and sections 2 to 8, inclusive, of this act;***

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive.

3. If the claimant is the prevailing party, the court shall award him:

(a) Any damages that he has sustained; and

(b) His costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

Sec. 15.5. **NRS 97.299 is hereby amended to read as follows:**

97.299 1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:

(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;

(b) The application for credit is made to or through the seller of the vehicle;

(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) Include the following notice in at least 10-point bold type:

NOTICE TO BUYER

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.

3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.

4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.

5. ***The form for the application for credit and contract to be used in the sale of a used vehicle prescribed by the Commissioner pursuant to subsection 1 must contain statements that are substantially similar to the statements described in subsection 1 of section 6 of this act and paragraph (c) of subsection 2 of section 7 of this act.***

6. As used in this section:

(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.

(b) "Dealer" has the meaning ascribed to it in NRS 482.020.

(c) "Used vehicle" has the meaning ascribed to it in NRS 482.132.

Sec. 16. NRS 482.36662**,** ~~[and]~~ 482.36663 **and 482.36666** are hereby repealed.

Sec. 17. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.

TEXT OF REPEALED SECTIONS

482.36662 Written warranty required under certain circumstances; contents of warranty.

1. A used vehicle dealer who sells to a retail customer a used vehicle the odometer of which registers 75,000 miles or more shall provide to that retail customer an express written warranty which complies with the requirements set forth in subsection 2 and is valid for the period set forth in the schedule of warranties created pursuant to NRS 482.36663, if the used vehicle dealer is the subject of more than three substantiated complaints filed against him with the Department of Motor Vehicles during a 12-month period.

2. An express written warranty required pursuant to subsection 1 must contain a statement that, in the event the operation of the used vehicle becomes impaired as a result of a defect in a component or system of the

vehicle's engine or drivetrain, the used vehicle dealer shall, with reasonable promptness, correct the defect or cause the defect to be corrected.

482.36663 Duration of warranty. If an express written warranty is provided to a retail customer for a used vehicle pursuant to NRS 482.36662, the duration of the warranty must be determined pursuant to this section. If, on the date the vehicle was purchased from the used vehicle dealer, the odometer in the used vehicle registered:

1. At least 75,000 but less than 80,001 miles, the warranty is valid for a period of 30 days therefrom or until the odometer in the vehicle registers 1,000 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

2. At least 80,001 but less than 85,001 miles, the warranty is valid for a period of 20 days therefrom or until the odometer in the vehicle registers 600 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

3. At least 85,001 but less than 90,001 miles, the warranty is valid for a period of 10 days therefrom or until the odometer in the vehicle registers 300 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

4. At least 90,001 but less than 100,001 miles, the warranty is valid for a period of 5 days therefrom or until the odometer in the vehicle registers 150 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

5. At least 100,001 miles, the warranty is valid for a period of 2 days therefrom or until the odometer in the vehicle registers 100 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

➥ The period for which a warranty is valid pursuant to this section must be tolled during any period in which the dealer has possession of the vehicle or the operation of the vehicle is impaired and the vehicle is inoperable due to a defect in the vehicle's engine or drivetrain.

482.36666 Administrative fines; opportunity for hearing; deposit of fines; injunctions and other remedies.

1. If the Department determines from the record maintained pursuant to NRS 482.36665 that on more than three occasions a used vehicle dealer has:

(a) Been found to have violated the provisions of NRS 482.36655 to 482.36667, inclusive, or the regulations adopted pursuant thereto; and

(b) Failed to resolve those complaints in the manner recommended by the Department pursuant to NRS 482.36664 or in any other manner acceptable to the Department and the retail customer who filed the complaint,

➥ the Department may impose an administrative fine, not to exceed $2,500, for each additional violation of the provisions of NRS 482.36655 to 482.36667, inclusive. The Department shall afford to any person so

fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Account for Regulation of Used Vehicle Dealers, which is hereby created in the State Highway Fund. Money in the Account may be used only for the administration of NRS 481.048 and NRS 482.36655 to 482.36667, inclusive.

3. In addition to any other remedy provided by law, the Department may compel compliance with NRS 482.36655 to 482.36667, inclusive, and any regulation adopted pursuant thereto, by injunction or other appropriate remedy, and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 325.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 364.

AN ACT relating to sex offenders; ~~[establishing certain restrictions regarding residency for]~~ **prohibiting** persons who are convicted of certain sexual offenses ~~[.]~~ **from having contact with a victim or witness;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a person is convicted of ~~[certain offenses against a child under the age of 14 years, the person is a Tier III sex offender and the person is on probation, lifetime supervision or parole, the person is subject to certain restrictions concerning the place of his residence, such as not residing within 1,000 feet of any place that is designed primarily for use by or for children. (NRS 176A.410, 213.1243, 213.1255) This bill provides that such a person may reside at a location only if the residence is not located within 1,000 feet of the property line of the property on which a victim of the person resides. This bill also clarifies that: (1) the previously enacted restrictions on the residency of such a person apply only to a person who establishes a residence on or after October 1, 2007, which is the date on which those restrictions became law; and (2) the additional restrictions on residency of such a person contained in this bill apply only to a person who establishes a residence on or after October 1, 2009, which is the date this bill becomes effective.]~~ **certain sexual offenses and the court grants probation or suspends the sentence of the defendant, or if such a person is released on parole, that person must not have any contact with the victim or a witness who testified against him unless approved by a parole and**

probation officer. (NRS 176A.410, 213.1245) Sections 1 and 2.5 of this bill provide that such a person may not have any such contact unless approved in writing by the Chief Parole and Probation Officer or his designee. Section 2 of this bill similarly prohibits a sex offender under lifetime supervision from having any contact with a victim or a witness who testified against him unless approved in writing by the Chief. (NRS 213.1243)

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

Section 1. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 6, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime.

(b) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the defendant.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The defendant keeps the parole and probation officer assigned to the defendant informed of his current address.

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant.

(e) Participate in and complete a program of professional counseling approved by the Division.

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance.

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant.

(h) Abstain from consuming, possessing or having under his control any alcohol.

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the ~~[parole and probation officer assigned to the defendant,]~~ ***Chief Parole and Probation Officer or his designee*** and a written agreement is entered into and signed in the manner set forth in subsection 5.

(j) Not use aliases or fictitious names.

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant.

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact.

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a defendant who is a Tier III offender.

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant.

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant.

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant.

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. Except as otherwise provided in subsection 6, if a defendant is convicted of an offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the defendant is a Tier III offender and the court grants probation or suspends the sentence of the defendant, the court

shall, in addition to any other condition ordered pursuant to subsection 1, order as a condition of probation or suspension of sentence that the defendant:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. ~~[The provisions of this paragraph apply to a defendant who establishes a residence at a location on or after October 1, 2007.]~~

(b) ~~[Reside at a location only if the residence is not located within 1,000 feet of the property line of the property on which a victim of the defendant resides. The provisions of this paragraph apply to a defendant who establishes a residence at a location on or after October 1, 2009.~~

~~(c)]~~ As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) ~~[(d)]~~ Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

3. A defendant placed under the system of active electronic monitoring pursuant to subsection 2 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

4. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a defendant pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

5. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The defendant;

(c) The parole and probation officer assigned to the defendant;

(d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; ~~[and]~~

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child ~~[.]~~ ***; and***

(f) The Chief Parole and Probation Officer or his designee.

6. The court is not required to impose a condition of probation or suspension of sentence listed in subsections 1 and 2 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

7. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 2. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:

(a) The residence has been approved by the parole and probation officer assigned to the person.

(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(c) The person keeps the parole and probation officer informed of his current address.

4. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this subsection apply only to a sex offender who is a Tier 3 ~~[III]~~ offender.

5. Except as otherwise provided in subsection 9, if a sex offender is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the sex offender is a Tier 3 ~~[III]~~ offender and the sex offender is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the sex offender:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. ~~[The provisions of this paragraph apply to a sex offender who establishes a residence at a location on or after October 1, 2007.]~~

(b) ~~[Reside at a location only if the residence is not located within 1,000 feet of the property line of the property on which a victim of the sex offender resides. The provisions of this paragraph apply to a sex offender who establishes a residence at a location on or after October 1, 2009.~~

~~(c)]~~ As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) ~~[(d)]~~ Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

6. A sex offender placed under the system of active electronic monitoring pursuant to subsection 4 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

7. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a sex offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

8. Except as otherwise provided in subsection 7, a sex offender who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

9. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsections 3, 4 and 5 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

10. ***The Board shall require as a condition of lifetime supervision that the sex offender not have contact or communicate with a victim of the sexual offense or a witness who testified against the sex offender or solicit another person to engage in such contact or communication on behalf of the sex offender, unless approved by the Chief or his designee and a written agreement is entered into and signed.***

11. If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.

~~[11.]~~ ***12.*** For the purposes of prosecution of a violation by a sex offender of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

Sec. 2.5. **NRS 213.1245 is hereby amended to read as follows:**

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.097, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the parolee.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The parolee keeps the parole and probation officer informed of his current address.

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee.

(d) Participate in and complete a program of professional counseling approved by the Division.

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance.

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee.

(g) Abstain from consuming, possessing or having under his control any alcohol.

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the ~~[~~parole and probation officer assigned to the parolee,~~]~~ ***Chief or his designee*** and a written agreement is entered into and signed in the manner set forth in subsection 2.

(i) Not use aliases or fictitious names.

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee.

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.097 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact.

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a parolee who is a Tier 3 offender.

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee.

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee.

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee.

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his

enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The parolee;

(c) The parole and probation officer assigned to the parolee;

(d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; ~~[and]~~

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child ~~[.]~~ ***; and***

(f) The Chief or his designee.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 3. ~~[NRS 213.1255 is hereby amended to read as follows:~~

~~213.1255 1. Except as otherwise provided in subsection 4, in addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child under the age of 14 years and who is a Tier 3 *[III]* offender, the Board shall require that the parolee:~~

~~(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. *[The provisions of this paragraph apply to a parolee who establishes a residence at a location on or after October 1, 2007.]*~~

~~(b) *[Reside at a location only if the residence is not located within 1,000 feet of the property line of the property on which a victim of the parolee resides. The provisions of this paragraph apply to a parolee who establishes a residence at a location on or after October 1, 2009.*~~

~~*(c)]* As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.~~

~~(c) *[(d)]* Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.~~

~~2. A parolee placed under the system of active electronic monitoring pursuant to subsection 1 shall:~~

~~(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.~~

~~(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.~~

~~(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.~~

~~3. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a parolee pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.~~

~~4. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.~~

~~5. In addition to any conditions of parole required to be imposed pursuant to subsection 1 and NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child under the age of 14 years, the Board shall, when appropriate:~~

~~(a) Require the parolee to participate in psychological counseling.~~

~~(b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present.~~

~~6. The provisions of subsections 1 and 5 apply to a prisoner who was convicted of:~~

~~(a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;~~

~~(b) Abuse or neglect of a child pursuant to subparagraph (1) of paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a) of subsection 2 of NRS 200.508;~~

~~(c) An offense punishable pursuant to subsection 2 of NRS 200.750;~~

~~(d) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;~~

~~(e) Lewdness with a child pursuant to NRS 201.230;~~

~~(f) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony; or~~

~~(g) Any combination of the crimes listed in paragraphs (a) to (f), inclusive.~~**]** **(Deleted by amendment.)**

Sec. 4. The amendatory provisions of ~~[~~**:**

~~1. Section 1 of this act apply to a person who is granted probation or a suspension of sentence before, on or after October 1, 2009.~~

~~2. Section 2 of this act apply to a person who is placed under a program of lifetime supervision before, on or after October 1, 2009.~~

~~3. Section 3 of~~] this act apply to a person who is [~~released on parole before,~~] **convicted** on or after October 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 350.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 350.

AN ACT relating to common-interest communities; revising provisions relating to [~~amendments to the declaration of a common interest community, the terms of office and actions of members of the executive board of an association,~~] **costs of collection and** the payment of fines and assessments, the rights of a unit's owner with respect to meetings and the [~~review of certain documents, the foreclosure of a lien upon a unit and the sale of a unit;~~] **budgets for the daily operation of a common-interest community; establishing certain standards for management agreements; establishing the duties, responsibilities and standards of practice for community managers;** making various other changes relating to common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section [~~1~~] **1.5** of this bill [~~increases the percentage of units' owners required to approve an amendment to the declaration of a common interest community from a majority of units' owners to 85 percent of units' owners. (NRS 116.2117)~~] **authorizes an association to charge a reasonable fee for costs associated with collecting any past due obligation. Section 3** of this bill provides that in addition to complying with the business-judgment rule, officers and members of the executive board of an association are required to act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. (NRS 116.3103)

Existing law authorizes an executive board to impose fines for certain violations of the governing documents and to assess interest on any unpaid fines at a rate established by the association, not to exceed the legal rate per annum. (NRS 116.31031) **Section 4** of this bill eliminates the authority to charge interest on any past due fines. [~~Existing law also provides that any past due assessment for common expenses bears interest at a rate not to exceed 18 percent per year. (NRS 116.3115)~~] **Section 9** of this bill provides that the association may [~~not~~] charge [~~more than: (1) five percent simple interest per year~~] **the prime rate plus 2 percent** on a past due assessment, beginning when the assessment is 60 days past due**.** [~~; or (2) three percent simple interest per year on a past due special assessment, beginning when the special assessment is 90 days past due.~~

~~Existing law provides that: (1) the term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant; and (2) unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board. (NRS 116.31034) Section 5 of this bill provides that: (1) the term of office of a member of the executive board may not exceed 2 years under any circumstances; and (2) if the common-interest community consists of more than 50 units, no person may serve as a member of the executive board for more than two consecutive terms and a period of at least 6 years must elapse before a person who formerly served as a member of the executive board may serve as a member of the executive board again.~~**]**

Sections 6-8 of this bill provide that: (1) a unit's owner may receive, free of charge, a copy **or summary** of the minutes of a meeting of the ~~[association]~~ **units' owners** or executive board in electronic ~~[or paper format;]~~ **format at no cost to the unit's owner or, if the association is unable to provide a copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page;** (2) **at each meeting of the units' owners or executive board,** a unit's owner must be allowed to speak **for a minimum of 2 minutes at the beginning of the meeting and** for a minimum of ~~[5]~~ **2** minutes on each agenda item **at the time the agenda item is being addressed;** ~~[at a meeting of the association or the executive board;]~~ and (3) ~~[the written remarks of a unit's owner must be included in the minutes of such meetings and read into the record under certain circumstances.]~~ **a meeting of the executive board must be held at a time other than during normal business hours at least twice per year.** (NRS 116.3108, 116.31083, 116.31085)

~~[Sections 10 and 12 of this bill provide that a unit's owner is entitled to receive certain documents regarding the association and that there must not be any charges for reviewing certain books, records and other papers of the association. (NRS 116.31151, 116.31175)~~

~~Existing law provides that any penalties, fees, charges, late charges, fines and interest are assessments which may become a lien upon a unit, and that lien may then be foreclosed. (NRS 116.3116-116.31168) Sections 11 and 21 of this bill retain the authority of an association to place a lien upon a unit, but provide that such a lien may not be foreclosed.~~

~~Sections 13 and 15 of this bill provide that a presentation containing a description and summary of the governing documents must be made available to the purchaser of a unit. (NRS 116.4102, 116.4109)~~

~~Sections 17 and 18 of this bill: (1) expand the jurisdiction of the Commission for Common-Interest Communities and Condominium Hotels to include alleged violations of the governing documents of an association; (2) revise the amounts of administrative fines that may be imposed; and (3) revise the circumstances under which attorney's fees may be granted to a prevailing party. (NRS 116.745, 116.785)~~**]**

Section 10 of this bill requires an executive board to: (1) provide in the budget for the daily operation of the association an itemized list of expenses in excess of $100 expected to be incurred in each month; and (2) include in the budget a requirement that any money budgeted for nonrecurring expenses in excess of $100, other than expenses necessary for emergency repairs or emergency services, may not be expended without first obtaining the signatures of at least two members of the executive board. (NRS 116.31151) Section 10 also requires the budget to be available for review at a location not to exceed 60 miles from the common-interest community.

Section 12 of this bill requires the books, records and other papers of an association to be available for review at the business office of the association or a location not to exceed 60 miles from the common-interest community. Section 12 also requires that a copy of such documents must be provided to a unit's owner in electronic format at no cost to the unit's owner or, if the association is unable to provide a copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page. (NRS 116.31175)

Section 12.3 of this bill provides that if a unit's owner is the subject of retaliatory action based on certain complaints or requests, he may bring an action to recover compensatory damages and attorney's fees and costs. (NRS 116.31183)

Sections 13.5 and 15 of this bill require a public offering or a resale package to include a statement listing all current and expected fees for each unit.

Section 18.3 of this bill establishes the requirements concerning the disclosures that a community manager must make before entering into a management agreement and incorporates into statute the existing requirements contained in the Nevada Administrative Code. (NAC 116.310)

Section 18.4 of this bill sets forth the requirements of a management agreement and incorporates into statute the existing requirements contained in the Nevada Administrative Code. (NAC 116.305)

Section 18.5 of this bill sets forth the responsibilities and duties of a community manager, incorporates into statute many of the existing provisions of the Nevada Administrative Code and adds certain new responsibilities and duties. (NAC 116.300) Section 18.5 also provides that a community manager acts as a fiduciary at all times and must exercise ordinary and reasonable care in performing his duties.

Section 18.6 of this bill incorporates into statute many of the existing provisions of the Nevada Administrative Code pertaining to standards of practice for community managers and conduct warranting disciplinary action and establishes certain new requirements, such as provisions governing the acceptance of any compensation, gift or any other item of material value by the community manager. (NAC 116.341)

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

Section 1. ~~[NRS 116.2117 is hereby amended to read as follows:~~

~~116.2117 1. Except [as otherwise provided in NRS 116.21175, and except] in cases of amendments that may be executed by a declarant under subsection 6 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, subsection 4 of NRS 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats and plans, may be amended only by vote or agreement of units' owners of units to which at least [a majority] *85 percent* of the votes in the association are allocated, or any larger [majority] *percentage* the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.~~

~~2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.~~

~~3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.~~

~~4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit, the allocated interests of a unit or the uses to which any unit is restricted, in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units.~~

~~5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.]~~ **(Deleted by amendment.)**

Sec. 1.5. **Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. If the governing documents authorize an association to charge a unit's owner the costs of collecting any past due obligation, the association may charge the unit's owner a reasonable fee to cover such costs. The Commission shall adopt regulations establishing the amount of the fee that an association may charge pursuant to this section.

2. The provisions of this section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past

due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, an officer or employee of the association, a community manager or a collection agency.

3. As used in this section:

(a) "Costs of collecting" includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit's owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if a lawsuit is filed to enforce any past due obligation or any costs awarded by a court.

(b) "Obligation" means any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit's owner pursuant to any provision of this chapter or the governing documents.

Sec. 2. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements

described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments ~~[.]~~ ***pursuant to NRS 116.3115.***

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 3. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries ~~[.]~~ ***and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association.*** The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.

2. The executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

Sec. 4. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or guest of a unit's owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or guest of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or guest of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any ~~[interest,]~~ charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

3. The executive board must schedule the date, time and location for the hearing on the violation so that the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed:

(a) Pays the fine;

(b) Executes a written waiver of the right to the hearing; or

(c) Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

8. Any past due fine ~~[:]~~ ***must not bear interest, but*** ~~[:~~

~~(a)]~~ ~~[Bears interest at the rate established by the association, not to exceed the legal rate per annum.~~

~~(b)]~~ ~~[May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the residents of the common-interest community, the rate established by the association for the costs of collecting the past due fine:~~

~~(1) May not exceed $20, if the outstanding balance is less than $200.~~

~~(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.~~

~~(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.~~

~~(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.~~

~~(5) May not exceed $500, if the outstanding balance is $5,000 or more.~~**]**

[~~(c)~~**]** ~~*[(b) May]*~~ ***may*** include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

[~~9. As used in this section:~~

~~(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.~~

~~(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any~~**]** **[**interest,**]** **[**~~charges for late payment or costs of collecting the past due fine are added.~~**]**

Sec. 5. **[**~~NRS 116.31034 is hereby amended to read as follows:~~

~~116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.~~

~~2. The term of office of a member of the executive board may not exceed 2 years.~~ **[**~~, except for members who are appointed by the declarant. Unless the governing documents provide otherwise,~~**]** ***If the common interest community consists of 50 or fewer units,*** ~~there is no limitation on the number of terms that a person may serve as a member of the executive board.~~ ***If the common interest community consists of more than 50 units, no person may serve as a member of the executive board for more than two consecutive terms and a period of at least 6 years must elapse before a person who formerly served as a member of the executive board may serve as a member of the executive board again.***

~~3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:~~

~~(a) Members of the executive board who are appointed by the declarant; and~~

~~(b) Members of the executive board who serve a term of 1 year or less.~~

~~4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.~~

~~5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:~~

~~(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and~~

~~(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.~~

~~➡ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.~~

~~6. Unless a person is appointed by the declarant:~~

~~(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.~~

~~(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:~~

~~(1) That master association; or~~

~~(2) Any association that is subject to the governing documents of that master association.~~

~~7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:~~

~~(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and~~

~~(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.~~

~~8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:~~

~~(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common interest community or to any other mailing address designated in writing by the unit's owner.~~

~~(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.~~

~~(c) A quorum is not required for the election of any member of the executive board.~~

~~(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.~~

~~(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.~~

~~(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.~~

~~9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.~~] **(Deleted by amendment.)**

Sec. 6. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least

10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic*** ~~*[for paper format,]*~~ ***format at no charge to the unit's owner*** ~~*[.]*~~ ***or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page.***

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period ~~*[on]*~~ ***at the beginning of each meeting and a period at the time each agenda item is addressed*** devoted to comments by units' owners and discussion of those comments. ***A unit's owner must be granted a minimum of*** ~~*[5]*~~ ***2 minutes to speak at the beginning of the meeting and a minimum of 2 minutes to speak on each agenda item*** ~~*[.]*~~ ***at the time the agenda item is being addressed.*** Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. ~~[A]~~ ***Except as otherwise provided in this subsection, a*** copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic*** ~~*[or paper format,]*~~ ***format at no charge to the unit's owner. If the unit's owner requests a copy of the minutes or a summary of the minutes of the meeting and the association is unable to provide the copy or summary in electronic format, the association shall provide a paper copy or summary to the unit's owner at a cost not to exceed 10 cents per page.***

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners . ~~[unless a unit's owner has submitted written comments 24 hours before the meeting, which must be included in their entirety and read into the record before any vote or action is taken.]~~

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 7. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every 90 days ~~[.]~~ ***and must be held at a time other than during standard business hours at least twice annually.***

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request ~~[~~and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~]~~ ***, in electronic*** ~~*[or paper format,]*~~ ***format at no charge to the unit's owner*** ~~*[.]*~~ ***or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page.***

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. ~~[~~The period required to be~~]~~ ***A period at the beginning of each meeting and a period at the time each agenda item is addressed must be*** devoted to comments by the units' owners and discussion of those comments . ~~[~~must be scheduled for the beginning of each meeting.~~]~~ ***A unit's owner must be granted a minimum of*** ~~*[5]*~~ ***2 minutes to speak at the beginning of each meeting and a minimum of 2 minutes to speak on each agenda item*** ~~*[.]*~~ ***at the time the agenda item is being addressed.*** In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. ~~[A]~~ ***Except as otherwise provided in this subsection, a*** copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic*** ~~*[or paper format,]*~~ ***format at no charge to the unit's owner. If the unit's owner requests a copy of the minutes or a summary of the minutes of the meeting and the association is unable to provide the copy or summary in electronic format, the association shall provide a written copy or summary to the unit's owner at a cost not to exceed 10 cents per page.***

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings . ~~*[unless a unit's owner has submitted written comments 24 hours before the meeting, which must be included in their entirety and read into the record before any vote or action is taken.]*~~

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 8. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting ~~[.]~~ ***, but must allow a unit's owner a minimum of ~~[5]~~ 2 minutes to speak at the beginning of the meeting and a minimum of 2 minutes to speak on each agenda item ~~[.]~~ at the time the agenda item is being addressed.***

2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract, unless it is a contract between the association and an attorney.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive, or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; and

(b) Is not entitled to attend the deliberations of the executive board.

5. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the

decision to the person who was subject to being sanctioned at the hearing or to his designated representative.

6. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 9. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary.

3. Any ~~[~~past due~~]~~ assessment for common expenses or installment thereof ***that is 60 days or more past due*** bears interest at ~~[~~the rate established by the association~~]~~ ~~[~~not exceeding 18~~]~~ ~~*[, which must not exceed 5* percent *simple interest* per year.~~]~~ ***a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.***

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

~~[10. Notwithstanding any other provision of law, the association may levy any special assessment:~~

~~(a) To repair, replace or restore any major component of the common elements;~~

~~(b) To provide adequate funding for the reserves designated to repair, replace or restore any major component of the common elements; or~~

~~(c) For any capital improvement,~~

~~→ only by vote or agreement of units' owners of units to which at least two-thirds of the votes in the association are allocated, or any larger majority the declaration specifies.~~

~~11. If any special assessment is approved pursuant to subsection 10, payment of the special assessment must be made in accordance with the following schedule:~~

~~(a) If the amount of the special assessment is $750 or less, in one payment.~~

~~(b) If the amount of the special assessment is more than $750 but less than $1,500, in no fewer than 3 equal installments.~~

~~(c) If the amount of the special assessment is $1,500 or more but less than $2,000, in no fewer than 4 equal installments.~~

~~(d) If the amount of the special assessment is $2,000 or more but less than $3,000, in no fewer than 6 equal installments.~~

~~(e) If the amount of the special assessment is $3,000 or more, in equal installments of no less than $500.~~

~~→ The first payment or installment of any special assessment must be made within 120 days after notice of approval of the special assessment, and there must be an interval of at least 60 days between each installment.~~

~~*12. Any special assessment or installment thereof that is more than 90 days past due bears interest at the rate established by the association, which must not exceed 3 percent simple interest per year.*~~

~~*13. If any assessment or special assessment pursuant to this section is past due, a statement must be mailed, return receipt requested, to the mailing address of record of the unit's owner within 60 days after the assessment or special assessment becomes past due and every 60 days thereafter if the assessment or special assessment remains past due. If any statement required pursuant to this section is not mailed to the unit's owner within 10 days of the date required pursuant to this section:*~~

~~*(a) The association shall be deemed to have waived any right to interest due pursuant to this section; and*~~

~~*(b) The unit's owner is not required to pay such interest.]*~~

Sec. 10. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) ~~*[The financial statement for the prior fiscal year.*~~

~~*(b) Any audit prepared pursuant to NRS 116.31144.*~~

~~*(c)]*~~ The budget for the daily operation of the association. The budget must include, without limitation, the ***following:***

(1) The estimated annual revenue and expenditures of the association ~~**.** **[**and any**]**~~

(2) Any contributions to be made to the reserve account of the association.

(3) For each month in which expenses in excess of $100 are estimated to be incurred, an itemized list of the expenses expected to be incurred during that month.

(4) A requirement that any money budgeted for nonrecurring expenses in excess of $100, other than expenses necessary for emergency repairs or emergency services, must not be expended without first obtaining the signatures of at least two members of the executive board.

(b) ~~*[(d)]*~~ The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary

to repair, replace or restore any major component of the common elements or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets ~~*[financial documents]*~~ of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, ~~*[documents,]*~~ accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties ~~[;]~~ ~~*[at a designated common area located within the common-interest community;]*~~ ***but not to exceed 60 miles from the physical location of the common-interest community;*** and

(b) Copies of the budgets ~~*[financial documents]*~~ will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. ***The executive board must provide full disclosure concerning the proposed budget and allow comments by units' owners and discussion of those comments.*** Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

Sec. 11. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. ~~**[**Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section.**]**~~ If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➥ The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~*[10. The association may not foreclose any lien upon any unit pursuant to this section.]*~~

Sec. 12. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review ***at the business office of the association or a designated*** ~~*[common area located within]*~~ ***business location not to exceed 60 miles from the physical location of the common-interest community and*** during the regular working hours of the association, including, without limitation, ~~*[any draft documents, legal opinions or correspondence,]*~~ all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees; ~~*[and]*~~

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an ~~*[any]*~~ amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section. ***Upon written request of a unit's owner, copies must be provided to the unit's owner, in electronic*** ~~*[or paper]*~~ ***format at no charge*** ~~*[.]*~~ ***or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page.***

Sec. 12.3. **NRS 116.31183 is hereby amended to read as follows:**

116.31183 ***1.*** An executive board, a member of an executive board or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

~~**[**1.**]**~~ ***(a)*** Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association; or

~~**[**2.**]**~~ ***(b)*** Requested in good faith to review the books, records or other papers of the association.

2. In addition to any other remedy provided by law, upon a violation of this section, a unit's owner may bring a separate action to recover:

(a) Compensatory damages; and

(b) Attorney's fees and costs of bringing the separate action.

Sec. 12.7. **NRS 116.31185 is hereby amended to read as follows:**

116.31185 1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:

(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or

(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.

2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association, a community manager or any person working for a community manager shall not accept, directly or

indirectly, any gifts, incentives, gratuities, rewards or other items of value from:

(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or

(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable community or association which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.

3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

4. A declarant, an affiliate of a declarant or any person responsible for the construction of a community or association, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:

(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to NRS 116.31031 for violations of the governing documents of the association; or

(b) Any percentage or proportion of those fines.

6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:

(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers ***set forth in sections 18.5 and 18.6 of this act and any additional standards of practice*** adopted by the Commission ***by regulation*** pursuant to NRS 116A.400;

(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the common-interest community; and

(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.

Sec. 13. ~~[NRS 116.4102 is hereby amended to read as follows:~~

~~116.4102 1. Except as otherwise provided in subsection 2, a declarant, before offering any interest in a unit to the public, shall prepare a public offering statement conforming to the requirements of NRS 116.4103 to 116.4106, inclusive.~~

~~2. A declarant may transfer responsibility for the preparation of all or a part of the public offering statement to a successor declarant pursuant to NRS 116.3104 and 116.31043, or to a dealer who intends to offer units in the common-interest community. In the event of any such transfer, the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection 1.~~

~~3. Any declarant or dealer who offers a unit to a purchaser shall deliver a public offering statement in the manner prescribed in subsection 1 of NRS 116.4108. The declarant or his transferee under subsection 2 is liable under NRS 116.4108 and 116.4117 for any false or misleading statement set forth therein or for any omission of a material fact therefrom with respect to that portion of the public offering statement which he prepared. If a declarant or dealer did not prepare any part of a public offering statement that he delivers, he is not liable for any false or misleading statement set forth therein or for any omission of a material fact therefrom unless he had actual knowledge of the statement or omission or, in the exercise of reasonable care, should have known of the statement or omission.~~

~~4. If a unit is part of a common interest community and is part of any other real estate in connection with the sale of which the delivery of a public offering statement is required under the laws of this State, a single public offering statement conforming to the requirements of NRS 116.4103 to 116.4106, inclusive, as those requirements relate to the real estate in which the unit is located, and to any other requirements imposed under the laws of this State, may be prepared and delivered in lieu of providing two or more public offering statements. If the requirements of this chapter conflict with those of another law of this State, the requirements of this chapter prevail.~~

~~5. Before offering any interest in a unit to the public, in addition to preparing a public offering statement for a purchaser pursuant to this section, a declarant shall make available to a purchaser a presentation, conducted in person or through the use of multimedia technology, containing a description and summary of the governing documents. As used in this subsection, "multimedia technology" means an audio compact disc, digital video disc, computer file or other similar technology that allows a person to view or listen to recorded material.]~~ **(Deleted by amendment.)**

Sec. 13.5. **NRS 116.4103 is hereby amended to read as follows:**

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat or plan is not required.

(e) A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.

(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) ***In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates***

on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

(m) The information statement set forth in NRS 116.41095.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 14. ~~[NRS 116.4105 is hereby amended to read as follows:~~

~~116.4105 If the declaration provides that ownership or occupancy of any units [,] is or may be in time shares, the public offering statement shall disclose, in addition to the information required by NRS 116.4103 and 116.41035:~~

~~1. The number and identity of units in which time shares may be created;~~

~~2. The total number of time shares that may be created;~~

~~3. The minimum duration of any time shares that may be created; and~~

~~4. The extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in NRS 116.3116 . [and 116.31162.]]~~ **(Deleted by amendment.)**

Sec. 15. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; and

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

(e) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates

on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails

to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

~~*[7. In addition to the resale package required to be furnished to a purchaser pursuant to this section, the association shall make available to a purchaser, at the expense of the association, a presentation, conducted in person or through the use of multimedia technology, containing a description and summary of the governing documents. As used in this subsection, "multimedia technology" means an audio compact disc, digital video disc, computer file or other similar technology that allows a person to view or listen to recorded material.]*~~

Sec. 16. ~~[~~NRS 116.41095 is hereby amended to read as follows:

~~116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:~~

~~BEFORE YOU PURCHASE PROPERTY IN A COMMON-INTEREST COMMUNITY~~

~~DID YOU KNOW . . .~~

~~1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE PURCHASE AGREEMENT?~~

~~When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand-deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.~~

~~2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?~~

~~These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.~~

~~3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?~~

~~As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowners' association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowners' association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the common elements of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to provide adequate funding for reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.~~

~~4. [IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?~~

~~If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.~~

~~5.] YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?~~

~~Many common-interest communities have a homeowners' association. In a new development, the association will usually be controlled by the developer~~

~~until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional community managers to carry out these responsibilities.~~

~~Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the CC&Rs and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If you have a dispute with the association, its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, the Nevada Real Estate Division and the Commission for Common-Interest Communities and Condominium Hotels. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.~~

~~[~~6.~~]~~ ~~5. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?~~

~~The law requires you to provide a prospective purchaser of your property with a copy of the community's governing documents, including the CC&Rs,~~

~~association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see Nevada Revised Statutes 116.4109.~~

~~[7.] *6.* YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?~~

~~Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:~~

~~(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.~~

~~(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.~~

~~(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.~~

~~(d) To inspect, examine, photocopy and audit financial and other records of the association.~~

~~(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.~~

~~[8.] *7.* QUESTIONS?~~

~~Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Nevada Real Estate Division, at (telephone number).~~

~~Buyer or prospective buyer's initials:_____~~

~~Date:_____]~~ **(Deleted by amendment.)**

Sec. 17. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, unless the context otherwise requires, "violation" means a violation of ~~[any]~~ ***:***

1. Any provision of this chapter ~~[, any]~~ ***;***

2. Any regulation adopted pursuant ~~[thereto or any]~~ ***to this chapter;***

3. Any order of the Commission or a hearing panel ~~[.]~~ ***; or***

4. Any provision of the governing documents of an association.

Sec. 18. ~~[NRS 116.785 is hereby amended to read as follows:~~

~~116.785 1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation, the Commission or the hearing panel may take any or all of the following actions:~~

~~(a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.~~

~~(b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation.~~

~~(c) Impose an administrative fine~~ [~~of~~] ***against:***

(1) A unit's owner or tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto. The amount of the administrative fine must be ~~not more than~~ [~~$1,000~~] ***$100*** ~~for each violation~~ [~~.~~] ***, except that the total of all administrative fines imposed against a unit's owner or tenant pursuant to this subparagraph must not exceed $400 during any 2-year period.***

(2) An association, any officer, employee or agent of an association, any member of an executive board, any community manager who holds a certificate and any other community manager, any person who holds a permit to conduct a study of the reserves of an association issued pursuant to chapter 116A of NRS, and any declarant or affiliate of a declarant. Except as otherwise provided in this subparagraph, the amount of the administrative fine must be not more than $2,000 for each violation and the total of all administrative fines imposed against any person pursuant to this subparagraph must not exceed $6,000 during any 2-year period. If a person has committed three violations within a 2-year period, an administrative fine may be imposed of not more than $4,500 for each additional violation that occurs within the 2-year period and the limitation of $6,000 on the total of all administrative fines imposed against the person during the 2-year period does not apply.

~~2. If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his office or position if the Commission or the hearing panel, after notice and hearing, finds that:~~

~~(a) The respondent has knowingly and willfully committed a violation; and~~

~~(b) The removal is in the best interest of the association.~~

~~3. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than $1,000 for each violation.~~

~~4. If the Commission or the hearing panel takes any disciplinary action pursuant to this section, the Commission or the hearing panel may order the respondent to pay the costs of the proceedings incurred by the Division,~~

~~including, without limitation, the cost of the investigation~~ **.** **[**~~and reasonable attorney's fees.~~**]**

~~5. In any matter brought before the Commission or a hearing panel pursuant to the provisions of this chapter, regardless of whether or not the governing documents provide for such fees to be granted to a prevailing party, attorney's fees may be granted to:~~

~~(a) A unit's owner who is the prevailing party; or~~

~~(b) Any person other than a unit's owner who is the prevailing party, except that if the matter is brought before the Commission or a hearing panel based upon an affidavit filed by a unit's owner pursuant to NRS 116.760, that unit's owner must not be required to pay any attorney's fees unless it is determined that the affidavit was filed in bad faith or for a vexatious purpose.~~

~~6. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation, if the respondent is a member of an executive board or an officer of an association:~~

~~(a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and~~

~~(b) The respondent may not be held personally liable for those fines and costs.~~**]** **(Deleted by amendment.)**

Sec. 18.05. **Chapter 116A of NRS is hereby amended by adding thereto the provisions set forth as sections 18.1 to 18.6, inclusive, of this act.**

Sec. 18.1. ***"Client" means an executive board that has entered into a management agreement with a community manager.***

Sec. 18.2. ***"Management agreement" means an agreement for the management of a common-interest community.***

Sec. 18.3. ***Before entering into a management agreement, a community manager shall disclose in writing to the prospective client any material and relevant information which he knows, or by the exercise of reasonable care and diligence should know, relate to the performance of the management agreement, including any matters which may affect his ability to comply with the provisions of this chapter or chapter 116 or 116B of NRS. Such written disclosure must include, without limitation:***

1. Whether he, or any member of his organization, expects to receive any direct or indirect compensation, gifts or profits from any person who will perform services for the client and, if so, the identity of the person and the nature of the services rendered.

2. Any affiliation with or financial interest in any person or business who furnishes any goods or services to the association.

3. Any pecuniary relationships with any unit's owner, member of the executive board or officer of the association.

Sec. 18.4. ***1. Any management agreement must:***

(a) Be in writing and signed by all parties;

(b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited-liability partnership, limited-liability company or other entity;

(c) State the term of the management agreement;

(d) State the basic consideration for the services to be provided and the payment schedule;

(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:

(1) The costs for any new association or start-up costs;

(2) The fees for special or nonroutine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;

(3) Reimbursable expenses;

(4) The fees for the sale or resale of a unit or for setting up the account of a new member; and

(5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;

(f) State the identity and the legal status of the contracting parties;

(g) State any limitations on the liability of each contracting party;

(h) Include a statement of the scope of work of the community manager;

(i) State the spending limits of the community manager;

(j) Include provisions relating to the grounds and procedures for termination of the community manager;

(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:

(1) A requirement that the community manager or his employer shall maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of $1,000,000 or more;

(2) An indication of which contracting party will maintain fidelity bond coverage; and

(3) A statement as to whether the association will maintain directors and officers liability coverage for the executive board;

(l) Include provisions for dispute resolution;

(m) Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;

(n) State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;

(o) State the frequency and extent of regular inspections of the common-interest community; and

(p) State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.

2. In addition to any other requirements under this section, a management agreement may:

(a) Provide for mandatory binding arbitration; or

(b) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal provision.

3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:

(a) The names and addresses of all insurance companies;

(b) The total amount of coverage; and

(c) The amount of any deductible.

4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.

5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.

6. Except as otherwise provided in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company.

7. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS.

Sec. 18.5. ***In addition to any additional standards of practice for community managers adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall:***

1. Except as otherwise provided by specific statute, at all times:

(a) Act as a fiduciary in any client relationship; and

(b) Exercise ordinary and reasonable care in the performance of his duties.

2. Comply with all applicable:

(a) Federal, state and local laws, regulations and ordinances; and

(b) Lawful provisions of the governing documents of each client.

3. Keep informed of new developments in the management of a common-interest community through continuing education, including, without limitation, new developments in law, insurance coverage and accounting principles.

4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager.

5. Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.

6. At all times ensure that:

(a) The financial transactions of a client are current, accurate and properly documented; and

(b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:

(1) Proper maintenance of accounting records;

(2) Documentation of the authorization for any purchase orders, expenditures or disbursements;

(3) Verification of the integrity of the data used in business decisions;

(4) Facilitation of fraud detection and prevention; and

(5) Compliance with all applicable laws and regulations governing financial records.

7. Prepare or cause to be prepared interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of an association is fairly presented in accordance with all applicable laws and regulations.

8. Cause to be prepared annually a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common-interest community, which must be made available to the Division.

9. Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.

10. Cooperate with the Division in resolving complaints filed with the Division.

11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.

12. Maintain and invest association funds in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, Securities Investor

Protection Corporation, or a private insurer approved pursuant to NRS 678.755, or in government securities that are backed by the full faith and credit of the United States Government.

13. Except as required under collection agreements, maintain the various funds of the association in separate financial accounts in the name of the association and ensure that the association is authorized to have direct access to those accounts.

14. Provide notice to each unit's owner that the executive board is aware of all legal requirements pursuant to the applicable laws and regulations.

15. Maintain internal accounting controls, including, without limitation, segregation of incompatible accounting functions.

16. Ensure that the executive board develops and approves written investment policies and procedures.

17. Recommend in writing to each client that the association register with the Division, maintain its registration and file all papers with the Division and the Secretary of State as required by law.

18. Comply with the directions of a client, unless the directions conflict with the governing documents of the association or the applicable laws or regulations of this State.

19. Recommend in writing to each client that the association be in compliance with all applicable federal, state and local laws, regulations and ordinances and the governing documents of the association.

20. Obtain, when practicable, at least three qualified bids for any capital improvement project for the association.

21. Develop written collection policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:

(a) That the executive board approve all write-offs of debt; and

(b) That the community manager provide timely updates and reports as necessary.

Sec. 18.6. In addition to the standards of practice for community managers set forth in section 18.5 of this act and any additional standards of practice adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall not:

1. Except as otherwise required by law or court order, disclose confidential information relating to a client, which includes, without limitation, the business affairs and financial records of the client, unless the client agrees to the disclosure in writing.

2. Impede or otherwise interfere with an investigation of the Division by:

(a) Failing to comply with a request of the Division to provide documents;

(b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or

(c) Concealing any facts or documents relating to the business of a client.

3. Commingle money or other property of a client with the money or other property of another client, another association, the community manager or the employer of the community manager.

4. Use money or other property of a client for his own personal use.

5. Be a signer on a withdrawal from a reserve account of a client.

6. Except as otherwise permitted by the provisions of the court rules governing the legal profession, establish an attorney-client relationship with an attorney or law firm which represents a client that employs the community manager or with whom the community manager has a management agreement.

7. Provide or attempt to provide to a client a service concerning a type of property or service:

(a) That is outside his field of experience or competence without the assistance of a qualified authority unless the fact of his inexperience or incompetence is disclosed fully to the client and is not otherwise prohibited by law; or

(b) For which he is not properly licensed.

8. Intentionally apply a payment of an assessment from a unit's owner towards any fine, fee or other charge that is due.

9. Refuse to accept from a unit's owner payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.

10. Collect any fees or other charges from a client not specified in the management agreement.

11. Accept any compensation, gift or any other item of material value as payment or consideration for a referral or in the furtherance or performance of his normal duties unless:

(a) Acceptance of the compensation, gift or other item of material value complies with the provisions of NRS 116.31185 or 116B.695 and all other applicable federal, state and local laws, regulations and ordinances; and

(b) Before acceptance of the compensation, gift or other item of material value, the community manager provides full disclosure to the client and the client consents, in writing, to the acceptance of the compensation, gift or other item of material value by the community manager.

Sec. 18.7. **NRS 116A.010 is hereby amended to read as follows:**

116A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 116A.020 to 116A.130, inclusive, ***and sections 18.1 and 18.2 of this act*** have the meanings ascribed to them in those sections.

Sec. 18.8. **NRS 116A.400 is hereby amended to read as follows:**

116A.400 1. Except as otherwise provided in this section, a person shall not act as a community manager unless the person holds a certificate.

2. ~~[The]~~ ***In addition to the standards of practice for community managers set forth in sections 18.5 and 18.6 of this act, the*** Commission shall by regulation ~~[provide for the]~~ ***adopt any additional*** standards of practice for community managers who hold certificates ~~[.]~~ ***that the Commission deems appropriate and necessary.***

3. The Division may investigate any community manager who holds a certificate to ensure that the community manager is complying with the provisions of this chapter and chapters 116 and 116B of NRS and ~~[the]~~ ***any additional*** standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a community manager who holds a certificate has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the ***additional*** standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the community manager.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the certificate of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to:

(a) A financial institution that is engaging in an activity permitted by law.

(b) An attorney who is licensed to practice in this State and who is acting in that capacity.

(c) A trustee with respect to the property of the trust.

(d) A receiver with respect to property subject to the receivership.

(e) A member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

Sec. 18.9. **NRS 116B.695 is hereby amended to read as follows:**

116B.695 1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:

(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or

(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.

2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association or a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:

(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or

(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable condominium hotel or association which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.

3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

4. A declarant, an affiliate of a declarant or any person responsible for the construction of a condominium hotel or association ~~[,]~~ shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:

(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to this chapter for violations of the governing documents of the association; or

(b) Any percentage or proportion of those fines.

6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:

(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers ***set forth in sections 18.5 and 18.6 of this act and any additional standards of practice*** adopted by the Commission ***by regulation*** pursuant to NRS 116A.400;

(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the association of the condominium hotel; and

(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.

Sec. 19. ~~[NRS 278A.170 is hereby amended to read as follows:~~

~~278A.170 The procedures for enforcing payment of an assessment for the maintenance of common open space provided in NRS 116.3116~~ **[**~~to 116.31168, inclusive,~~**]** ~~are also available to any organization for the ownership and maintenance of common open space established other than under this chapter or chapter 116 of NRS and entitled to receive payments from owners of property for such maintenance under a recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude which provides that any reasonable and ratable assessment thereon for the organization's costs of maintaining the common open space constitutes a lien or encumbrance upon the property.~~**]** **(Deleted by amendment.)**

Sec. 20. **[**~~NRS 649.020 is hereby amended to read as follows:~~

~~649.020 1. "Collection agency" means all persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to another.~~

~~2. "Collection agency" does not include any of the following unless they are conducting collection agencies:~~

~~(a) Individuals regularly employed on a regular wage or salary, in the capacity of credit men or in other similar capacity upon the staff of employees of any person not engaged in the business of a collection agency or making or attempting to make collections as an incident to the usual practices of their primary business or profession.~~

~~(b) Banks.~~

~~(c) Nonprofit cooperative associations.~~

~~(d) Unit owners' associations and the board members, officers, employees and units' owners of those associations when acting under the authority of and in accordance with chapter 116 or 116B of NRS and the governing documents of the association, except for those community managers included within the term "collection agency" pursuant to subsection 3.~~

~~(e) Abstract companies doing an escrow business.~~

~~(f) Duly licensed real estate brokers, except for those real estate brokers who are community managers included within the term "collection agency" pursuant to subsection 3.~~

~~(g) Attorneys and counselors at law licensed to practice in this State, so long as they are retained by their clients to collect or to solicit or obtain payment of such clients' claims in the usual course of the practice of their profession.~~

~~3. "Collection agency":~~

~~(a) Includes a community manager while engaged in the management of~~ **[**~~a common interest community or the management of~~**]** ~~an association of a condominium hotel if the community manager, or any employee, agent or affiliate of the community manager, performs or offers to perform any act associated with the foreclosure of a lien pursuant to NRS~~ **[**~~116.31162 to 116.31168, inclusive, or~~**]** ~~116B.635 to 116B.660, inclusive; and~~

~~(b) Does not include any other community manager while engaged in the management of [a common interest community or the management of] an association of a condominium hotel.~~

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

~~(a) "Community manager" has the meaning ascribed to it in NRS 116.023 or 116B.050.~~

~~(b) "Unit owners' association" has the meaning ascribed to it in NRS 116.011 or 116B.030.]~~ **(Deleted by amendment.)**

Sec. 21. ~~[NRS 116.21175, 116.31162, 116.31163, 116.311635, 116.31164, 116.31166 and 116.31168 are hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 22. This act becomes effective on July 1, 2009.

~~[~~

~~LEADLINES OF REPEALED SECTIONS~~

~~116.21175 Procedure for seeking confirmation from district court of certain amendments to declaration.~~

~~116.31162 Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.~~

~~116.31163 Foreclosure of liens: Mailing of notice of default and election to sell to certain interested persons.~~

~~116.311635 Foreclosure of liens: Providing notice of time and place of sale; service of notice of sale; contents of notice of sale; proof of service.~~

~~116.31164 Foreclosure of liens: Procedure for conducting sale; purchase of unit by association; execution and delivery of deed; use of proceeds of sale.~~

~~116.31166 Foreclosure of liens: Effect of recitals in deed; purchaser not responsible for proper application of purchase money; title vested in purchaser without equity or right of redemption.~~

~~116.31168 Foreclosure of liens: Requests by interested persons for notice of default and election to sell; right of association to waive default and withdraw notice or proceeding to foreclose.]~~

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 361.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 353.

SUMMARY—Makes changes relating to ~~[the destruction or deterioration of foreclosed or vacant units in]~~ common-interest communities. (BDR 10-940)

AN ACT relating to common-interest communities; providing that, under certain circumstances, a unit-owners' association may, without liability for trespass, enter the grounds of a vacant unit or a unit in foreclosure to abate a public nuisance or maintain the exterior of the unit; **providing that a unit-owners' association may request a copy of certain deeds of trust under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law assigns the responsibility for maintenance of a unit in a common-interest community to the owner of the unit, and maintenance of a common element in the community to the unit-owners' association. (NRS 116.3107) Existing law provides procedures for the executive board of the association to fine a unit's owner who fails to maintain his residence according to the governing documents. (NRS 116.31031)

Section 1 of this bill provides that the association may, without liability for trespass, enter on the grounds of a unit that is vacant or that is in the foreclosure process, whether vacant or not, to maintain the exterior of the unit or abate a public nuisance on the exterior of the unit if **, after notice and a hearing,** the unit's owner refuses or fails to do so. **Section 1** also provides that: (1) any amount of the costs for such maintenance or abatement which are not paid by the unit's owner will be a lien against the unit; and (2) the lien has priority over ~~[all]~~ **certain** other liens, claims, encumbrances and titles **, depending on whether the unit is a single-family detached dwelling,** except certain liens **recorded before the declaration for the association was recorded and certain liens** of assessments and ~~[general]~~ taxes.

Section 2 of this bill specifically authorizes a unit-owners' association to charge a unit's owner for the maintenance and abatement services provided pursuant to **section 1** of the bill. **(NRS 116.3102) Section 3** of this bill further provides that a lien for such maintenance and abatement services has priority over a first security interest on the unit under certain circumstances ~~[.]~~ **if the unit is a single-family detached dwelling. (NRS 116.3116)**

Section 4 of this bill provides that a unit-owners' association may record in the office of the county recorder a request for a trustee or other authorized person to provide the association with a copy of the deed after the sale of a unit upon a deed of trust for any unit within the association. (NRS 107.090)

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A ~~[lending institution which]~~ person who holds a security interest in a unit must provide the association with ~~[the]~~ his contact information ~~[of the lending institution, including any department of the lending institution

~~which handles residential mortgages,]~~ ***as soon as reasonably practicable , but not later than 30 days after the ~~[lending institution is aware that:]~~ person:***

(a) ~~[A person has filed]~~ Files an action for recovery of a debt secured by the unit pursuant to NRS 40.430; or

(b) ~~[A person has recorded]~~ Records or has recorded on his behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080 . ~~[; or~~

~~***(c) The association or another authorized person has executed and caused to be recorded a notice of default and election to sell the unit pursuant to NRS 116.31162.]***~~

2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association , including its employees, agents and community manager, may , but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to ~~[do so:]~~ take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of the unit in accordance with the governing documents, including, without limitation, any provisions governing landscaping, standing water or snow removal.

(b) Remove or abate a public nuisance on the exterior of the unit which:

(1) Is visible from any common area of the community ~~[,]~~ or public streets;

(2) Threatens the health or safety of the residents of the common-interest community;

(3) Results in blighting or deterioration of the unit or surrounding area; and

(4) Adversely affects the use and enjoyment of nearby units.

3. If a unit is vacant and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association , including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance as described in subsection 2 if the unit's owner refuses or fails to do so.

4. The association may order that the costs of any maintenance or abatement conducted pursuant to subsection 2 or 3, including, without limitation, any inspection fees, notification and collection costs and interests, be charged against the unit. The association has a lien on the unit for any unpaid amount of the charges.

5. A lien described in subsection 4 ~~[:~~

~~*(a) Bears]*~~ ***on any unit bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges and all interest due is paid. ~~[;~~***

~~*(b) Is coequal with the most recent lien on the unit which secures the payment of any assessments and which has priority over all security interests described in paragraph (b) of subsection 2 of NRS 116.3116;*~~

~~*(c) Is not subject to extinguishment by the sale of the unit because of the nonpayment by the first lien holder; and*~~

~~*(d) Is]*~~

6. A lien described in subsection 4 on a unit which is a single-family detached dwelling is prior and superior to all liens, claims, encumbrances and titles other than the liens ~~[of assessments described in paragraph (b) and general taxes.]~~ described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116.

~~*[6.]*~~ ***7. A person who purchases or acquires the unit at a foreclosure sale pursuant to NRS 40.430 ~~[,]~~ or a trustee's sale pursuant to NRS 107.080 ~~[or a foreclosure sale pursuant to NRS 116.31162 to 116.31168, inclusive,]~~ shall maintain the exterior of the unit in accordance with the governing documents of the association. Units may only be removed from an association in accordance with the governing documents of the association pursuant to this chapter.***

~~*[7.]*~~ ***8. Notwithstanding any other provision of law, an association, its directors or members of the executive board, ~~[or]~~ employees, agents or community manager who enter the grounds of a unit pursuant to this section are not liable for trespass.***

9. As used in this section, "vacant" means a unit:

(a) Which appears unoccupied;

(b) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and

(c) On which the owner has failed to pay assessments for more than 30 days.

Sec. 2. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners ~~[.]~~ ***, including, without limitation, any services provided pursuant to section 1 of this act.***

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a

conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 3. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➥ The lien is also prior to all security interests described in paragraph (b) to the extent of ***any charges incurred by the association on a unit which is a single-family detached dwelling pursuant to section 1 of this act and to the extent of*** the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not

affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

Sec. 4. **NRS 107.090 is hereby amended to read as follows:**

107.090 1. As used in this section, "person with an interest" means any person who has or claims any right, title or interest in, or lien or charge upon, the real property described in the deed of trust, as evidenced by any document or instrument recorded in the office of the county recorder of the county in which any part of the real property is situated.

2. A person with an interest or any other person who is or may be held liable for any debt secured by a lien on the property desiring a copy of a notice of default or notice of sale under a deed of trust with power of sale upon real property may at any time after recordation of the deed of trust

record in the office of the county recorder of the county in which any part of the real property is situated an acknowledged request for a copy of the notice of default or of sale. The request must state the name and address of the person requesting copies of the notices and identify the deed of trust by stating the names of the parties thereto, the date of recordation, and the book and page where it is recorded.

3. The trustee or person authorized to record the notice of default shall, within 10 days after the notice of default is recorded and mailed pursuant to NRS 107.080, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice, addressed to:

(a) Each person who has recorded a request for a copy of the notice; and

(b) Each other person with an interest whose interest or claimed interest is subordinate to the deed of trust.

4. The trustee or person authorized to make the sale shall, at least 20 days before the date of sale, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice of time and place of sale, addressed to each person described in subsection 3.

5. ***An association may record in the office of the county recorder of the county in which a unit governed by the association is situated an acknowledged request for a copy of the deed upon sale of the unit pursuant to a deed of trust. A request recorded by an association must include, without limitation:***

(a) A legal description of the unit or the assessor's parcel number of the unit;

(b) The name and address of the association; and

(c) A statement that the request is made by an association.

6. A request recorded by an association pursuant to subsection 5 regarding a unit supersedes all previous requests recorded by the association pursuant to subsection 5 regarding the unit.

7. If a trustee or person authorized to record a notice of default records the notice default for a unit regarding which an association has recorded a request pursuant to subsection 5, the trustee or authorized person shall mail to the association a copy of the deed upon the sale of the unit pursuant to a deed of trust within 15 days after the trustee records the deed upon the sale of the unit.

8. No request recorded pursuant to the provisions of subsection 2 ***or 5*** affects the title to real property ~~[.]~~ ***, and failure to mail a copy of the deed upon the sale of the unit after a request is made by an association pursuant to subsection 5 does not affect the title to real property.***

9. As used in this section:

(a) "Association" has the meaning ascribed to it in NRS 116.011.

(b) "Unit" has the meaning ascribed to it in NRS 116.093.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 471 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 474.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 363.

AN ACT relating to parole; requiring mandatory release on parole for certain prisoners who were under the age of 16 years when the offense was committed and who meet certain requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the mandatory release on parole of certain prisoners 12 months before the expiration of their maximum term if they have not previously been released on parole and are not otherwise ineligible for parole. (NRS 213.1215) This bill requires mandatory parole of prisoners who were sentenced to life imprisonment with the possibility of parole and who were less than 16 years of age at the time of the offense if they have: (1) served the minimum term of their sentence; (2) completed **a program of general education or** an industrial or ~~[a]~~ vocational **training** program; (3) ~~[completed a program of general education;]~~ **not been identified by the Department of Corrections as a member of a group posing a security threat;** and (4) not committed ~~[,]~~ **a major violation of the regulations of the Department of Corrections and not been housed in disciplinary segregation** within the immediately preceding ~~[12]~~ **24** months **.** ~~[, a serious infraction of the regulations of the Department of Corrections.]~~

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

Section 1. ~~[Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*Notwithstanding any other provision of law, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that he committed the offense for which he was imprisoned must be released on parole if:*~~

~~*1. The prisoner has served the minimum term of imprisonment imposed by the court;*~~

~~*2. The prisoner has completed an industrial or vocational training program;*~~

~~*3. The prisoner has completed a program of general education; and*~~

~~*4. The prisoner has not committed, within the immediately preceding 12 months, a serious infraction of the regulations of the Department of Corrections.]*~~ **(Deleted by amendment.)**

Sec. 2. ~~[~~NRS 213.107 is hereby amended to read as follows:~~]~~

213.107 ~~As used in NRS 213.107 to 213.157, inclusive,~~ ***and section 1 of this act,*** ~~unless the context otherwise requires:~~

~~1. "Board" means the State Board of Parole Commissioners.~~

~~2. "Chief" means the Chief Parole and Probation Officer.~~

~~3. "Division" means the Division of Parole and Probation of the Department of Public Safety.~~

~~4. "Residential confinement" means the confinement of a person convicted of a crime to his place of residence under the terms and conditions established by the Board.~~

~~5. "Sex offender" means any person who has been or is convicted of a sexual offense.~~

~~6. "Sexual offense" means:~~

~~(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450, or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;~~

~~(b) An attempt to commit any offense listed in paragraph (a); or~~

~~(c) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.~~

~~7. "Standards" means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.~~~~]~~~~ (Deleted by amendment.)~~

Sec. 3. **NRS 213.1215 is hereby amended to read as follows:**

213.1215 1. Except as otherwise provided in ~~[~~subsections 3, 4 and 5~~]~~ ***this section*** and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

➥ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that he committed the offense for which he was imprisoned must be released on parole if:

(a) The prisoner has served the minimum term of imprisonment imposed by the court;

(b) The prisoner has completed a program of general education or an industrial or vocational training program;

(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and

(d) The prisoner has not, within the immediately preceding 24 months:

(1) Committed a major violation of the regulations of the Department of Corrections; or

(2) Been housed in disciplinary segregation.

3. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

~~[2.]~~ ***4.*** Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

~~[3.]~~ ***5.*** If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 ~~[,]~~ ***or 2*** that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1 ~~[,]~~ ***or 2.*** If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1 ~~[,]~~ ***or 2,*** the Board shall provide to the prisoner a written statement of its reasons for denying parole.

~~[4.]~~ ***6.*** If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

~~[5.]~~ ***7.*** If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

~~[6.]~~ ***8.*** For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 489.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 334.

AN ACT relating to education; revising provisions relating to sponsorship of charter schools; creating the Nevada Charter School Institute for

sponsorship of charter schools; prescribing the membership, duties and powers of the Institute; repealing the Subcommittee on Charter Schools of the State Board of Education; making appropriations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the formation of charter schools and authorizes school districts, the State Board of Education and colleges and universities within the Nevada System of Higher Education to sponsor charter schools. (NRS 386.500-386.610) **Sections 18-27** of this bill create the Nevada Charter School Institute and prescribe the membership of the Charter School Institute. **Section 30** of this bill removes the authority of the State Board of Education to sponsor charter schools and authorizes the Nevada Charter School Institute to sponsor charter schools. (NRS 386.515) **Sections 35 and 41** of this bill authorize the Nevada Charter School Institute to adopt regulations relating to charter schools and eliminates the authority of the Department of Education and the State Board of Education to adopt regulations relating to charter schools. (NRS 386.540, 386.578) **Section 2 of this bill transfers the duty to prepare an annual report of accountability information of all the charter schools in this State from the board of trustees of a school district to the Nevada Charter School Institute. (NRS 385.347) Sections 50 and 51** of this bill require the Director of the Nevada Charter School Institute and other persons employed by the Charter School Institute to be appointed or hired, as appropriate, beginning on July 1, 2009, and certain other dates. **Section 52** of this bill requires the members of the Charter School Institute to be appointed on or before January 1, 2010. **Section 55** of this bill transfers the sponsorship of all State Board-sponsored charter schools to the Nevada Charter School Institute beginning with the 2010-2011 school year.

Section 47 of this bill repeals the Subcommittee on Charter Schools of the State Board of Education. (NRS 386.507)

Section 48 of this bill appropriates money to the Account for the Nevada Charter School Institute created by **section 27** of this bill for the establishment and operation of the Nevada Charter School Institute for the 2009-2011 biennium.

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

Section 1. NRS 385.005 is hereby amended to read as follows:

385.005 1. The Legislature reaffirms its intent that public education in the State of Nevada is essentially a matter for local control by local school districts. The provisions of this title are intended to reserve to the boards of trustees of local school districts within this State such rights and powers as are necessary to maintain control of the education of the children within their respective districts. These rights and powers may only be limited by other specific provisions of law.

2. The responsibility of establishing a statewide policy of integration or desegregation of public schools is reserved to the Legislature. The responsibility for establishing a local policy of integration or desegregation of public schools consistent with the statewide policy established by the Legislature is delegated to the respective boards of trustees of local school districts and to the governing body of each charter school.

3. The State Board shall, and ***the Nevada Charter School Institute,*** each board of trustees of a local school district, the governing body of each charter school and any other school officer may, advise the Legislature at each regular session of any recommended legislative action to ensure high standards of equality of educational opportunity for all children in the State of Nevada.

Sec. 2. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district**.** ~~**[**, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the~~**]** **[**State Board**]** ~~**[***Nevada Charter School Institute* and the charter schools sponsored by a college or university within the Nevada System of Higher Education.**]**~~

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole**.** ~~**[**, including, without limitation, each charter school in the district.**]**~~ The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district**,** ~~**[**, including, without limitation, each charter school in the district,**]**~~ and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district ~~[, including, without limitation, pupils enrolled in charter schools in the district,]~~ with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, ~~[including, without limitation, each charter school in the district,]~~ information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➥ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole ~~[~~, ~~including, without limitation, each charter school in the district,]~~ and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole ~~[~~. ~~, including, without limitation, each charter school in the district.]~~

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole**.** ~~[, including, without limitation, each charter school in the district.]~~ The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) ~~[On and after July 1, 2005, the]~~ ***The*** number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) ~~[On and after July 1, 2006, the]~~ ***The*** number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) ~~[On and after July 1, 2005, the]~~ ***The*** number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) ~~[On and after July 1, 2006, the]~~ ***The*** number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole**.** ~~[, including, without limitation, each charter school in the district.]~~ If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If

a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including ~~[:~~

~~(1) Any~~ ***any*** special programs for pupils at an individual school ~~, and~~

~~(2) The curriculum used by each charter school in the district.]~~

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole ~~[, including, without limitation, each charter school in the district.]~~

(2) For each elementary school, middle school and junior high school in the district, ~~[including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school,]~~ information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole ~~[, including, without limitation, each charter school in the district.]~~

(j) Efforts made by the school district and by each school in the district ~~[, including, without limitation, each charter school in the district,]~~ to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district ~~[, including, without limitation, each charter school in the district.]~~

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district ~~[, including, without limitation, each charter school in the district.]~~

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole**.** ~~[, including, without limitation, each charter school in the district.]~~

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole**.** ~~[, including, without limitation, each charter school in the district.]~~

(p) The transiency rate of pupils for each school in the district and the district as a whole**.** ~~[, including, without limitation, each charter school in the district.]~~ For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole**.** ~~[, including, without limitation, each charter school sponsored by the district.]~~ The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole**.** ~~[, including, without limitation, each charter school in the district.]~~

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, ~~[including, without limitation, each charter school in the district,]~~ the percentage of pupils who graduated from that high school ~~[or charter school]~~ in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school**,** ~~[, including, without limitation, each charter school,]~~ and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district,]~~ the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district,]~~ the number and percentage of pupils who failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole**.** ~~[, including, without limitation, each charter school in the district.]~~

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district ~~[, including, without limitation, each charter school in the district,]~~ has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district**.** ~~[, including, without limitation, each charter school the district.]~~ The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, ~~[including, without limitation, each charter school that operates as a high school,]~~ information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district,]~~ information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ee) Such other information as is directed by the Superintendent of Public Instruction.

3. ***The Nevada Charter School Institute shall, on or before August 15 of each year, prepare an annual report of accountability of charter schools in this State concerning the accountability information prescribed by the Department pursuant to this section. The Department shall prescribe by regulation the information that must be prepared by the Nevada Charter School Institute, which must include, without limitation, the information contained in paragraphs (a) to (ee), inclusive, of subsection 2, as applicable for charter schools.***

4. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 ***or maintained by a charter school for purposes of the reporting required pursuant to subsection 3*** must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

~~[4.]~~ ***5.*** The annual report of accountability prepared pursuant to subsection 2 ***or 3, as applicable,*** must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

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

~~[5.]~~ ***6.*** The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to ~~[subsection]~~ ***subsections*** 2 ***and 3*** and provide the forms to the respective school districts ~~[.]~~ ***and the Nevada Charter School Institute.***

(b) Provide statistical information and technical assistance to the school districts ***and the Nevada Charter School Institute*** to ensure that the reports provide comparable information with respect to each school in each district ***, each charter school*** and among the districts ***and charter schools*** throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

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

~~[6.]~~ ***7.*** The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

~~[7.]~~ ***8.*** On or before August 15 of each year ~~[, the]~~ **:**

(a) The board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

~~[8.]~~ ***(b) The Nevada Charter School Institute shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in each charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3.***

9. On or before August 15 of each year, the board of trustees of each school district ***and the Nevada Charter School Institute*** shall:

(a) Provide written notice that the report required pursuant to subsection 2 ***or 3, as applicable,*** is available on the Internet website maintained by the school district ~~[,]~~ ***or the Nevada Charter School Institute,*** if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) ~~*[Nevada Charter School Institute;*~~

~~*(5)]*~~ Committee; and

(5) ~~*[(6)]*~~ Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 ***or 3, as applicable,*** in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet

website maintained by the school district ~~[,]~~ ***or the Nevada Charter School Institute,*** if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, ~~[including, without limitation, each charter school in the district,]~~ the residents of the district ~~[,]~~ and the parents and guardians of pupils enrolled in schools in the district ~~. [, including, without limitation, each charter school in the district.~~

~~9.]~~ ***If the Nevada Charter School Institute does not maintain a website, the Nevada Charter School Institute shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school in this State and the parents and guardians of pupils enrolled in each charter school in this State.***

10. Upon the request of the Governor, an entity described in paragraph (a) of subsection ~~[8]~~ ***9*** or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2 ~~[.~~

~~10.]~~ ***or 3, as applicable.***

11. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 3. NRS 385.349 is hereby amended to read as follows:

385.349 1. The board of trustees of each school district ***and the Nevada Charter School Institute*** shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.347 on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) ~~[The]~~ ***If prepared by a school district, the*** information set forth in subsection 1 of NRS 385.34692, reported for the school district as a whole and for each school within the school district;

(b) ***If prepared by the Nevada Charter School Institute, the information set forth in subsection 1 of NRS 385.34692, reported for the charter schools in this State as a whole and for each charter school in this State;***

(c) Information on the involvement of parents and legal guardians in the education of their children; and

~~[(c)]~~ ***(d)*** Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. The Department shall, in consultation with the Bureau ~~[and]~~ the school districts ~~[,]~~ ***and the Nevada Charter School Institute,*** prescribe a form that contains the basic information required by subsection 1. The board

of trustees of a school district ***or the Nevada Charter School Institute*** may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year, the board of trustees of each school district ***and the Nevada Charter School Institute*** shall:

(a) Submit the summary in an electronic format to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) ~~*[Nevada Charter School Institute;*~~

~~*(5)]*~~ Committee;

(5) ~~*[(6)]*~~ Bureau; and

(6) ~~*[(7)]*~~ Schools within the school district ~~[.]~~ ***or charter schools, as applicable.***

(b) Provide for the public dissemination of the summary ***of the school district or the Nevada Charter School Institute, as applicable,*** by posting a copy of the summary on the Internet website maintained by the school district ~~[.]~~ ***or the Nevada Charter School Institute,*** if any. If a school district ***or the Nevada Charter School Institute*** does not maintain a website, the district ***or the Nevada Charter School Institute*** shall otherwise provide for public dissemination of the summary. The board of trustees of each school district ***and the Nevada Charter School Institute*** shall ensure that the parents and guardians of pupils enrolled in the school district ***or each charter school, as applicable,*** have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website maintained by the school district ~~[.]~~ ***or the Nevada Charter School Institute,*** if any. Upon the request of a parent or legal guardian, the school district ***or the Nevada Charter School Institute, as applicable,*** shall provide the parent or legal guardian with a written copy of the summary.

~~[5. The board of trustees of each school district shall report the information required by this section for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the] [State Board] *[Nevada Charter School Institute* and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]~~

Sec. 3.3. **NRS 385.357 is hereby amended to read as follows:**

385.357 1. The principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school, prepare a plan to improve the achievement of the pupils enrolled in the school.

2. The plan developed pursuant to subsection 1 must include:

(a) A review and analysis of the data pertaining to the school upon which the report required pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as applicable,*** is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at the school that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as defined in NRS 389.018.

(d) Policies and practices concerning the core academic subjects which have the greatest likelihood of ensuring that each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school will make adequate yearly progress and meet the minimum level of proficiency prescribed by the State Board.

(e) Annual measurable objectives, consistent with the annual measurable objectives established by the State Board pursuant to NRS 385.361, for the continuous and substantial progress by each group of pupils identified in paragraph (b) of subsection 1 of that section who are enrolled in the school to ensure that each group will make adequate yearly progress and meet the level of proficiency prescribed by the State Board.

(f) Strategies, consistent with the policy adopted pursuant to NRS 392.457 by the board of trustees of the school district in which the school is located, to promote effective involvement by parents and families of pupils enrolled in the school in the education of their children.

(g) As appropriate, programs of remedial education or tutoring to be offered before and after school, during the summer, or between sessions if the school operates on a year-round calendar for pupils enrolled in the school who need additional instructional time to pass or to reach a level considered proficient.

(h) Strategies to improve the academic achievement of pupils enrolled in the school, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at the school to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of pupils enrolled in the school, as deemed appropriate by the principal.

(i) An identification, by category, of the employees of the school who are responsible for ensuring that the plan is carried out effectively.

(j) In consultation with the school district or governing body, as applicable, an identification, by category, of the employees of the school district or governing body, if any, who are responsible for ensuring that the plan is carried out effectively or for overseeing and monitoring whether the plan is carried out effectively.

(k) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(l) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(m) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by the school district in which the school is located in complying with this paragraph.

(o) A summary of the effectiveness of appropriations made by the Legislature that are available to the school to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(p) A budget of the overall cost for carrying out the plan.

3. In addition to the requirements of subsection 2, if a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623, the plan must comply with 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto.

4. Except as otherwise provided in subsection 5, the principal of each school shall, in consultation with the employees of the school:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school.

5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 and a support team has been established for the school, the support team shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS 385.3741. If the school is a Title I school that has been designated as demonstrating need for improvement, the support team established for the school shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the support team, outside experts.

6. On or before November 1 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the plan or the revised plan, as applicable, to:

(a) If the school is a public school of the school district, the superintendent of schools of the school district.

(b) If the school is a charter school, the governing body of the charter school.

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

8. If a school is designated as demonstrating exemplary achievement, high achievement or adequate achievement, or if a school that is not a Title I school is designated as demonstrating need for improvement, not later than 45 days after receipt of the plan or the revised plan, as applicable, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan if it meets the requirements of this section.

9. On or before December 15 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the final plan or the final revised plan, as applicable, to the:

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee;

(f) Bureau; and

(g) Board of trustees of the school district in which the school is located ~~[.]~~ ***or the Nevada Charter School Institute, as applicable.***

10. A plan for the improvement of a school must be carried out expeditiously, but not later than January 1 after approval of the plan pursuant to subsection 7 or 8, as applicable.

Sec. 3.5. **NRS 385.358 is hereby amended to read as follows:**

385.358 1. The principal of each public school, including, without limitation, each charter school, shall prepare a summary of accountability information on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) The information set forth in subsection 1 of NRS 385.34692, reported only for the school;

(b) Information on the involvement of parents and legal guardians in the education of their children; and

(c) Such other information as is directed by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. The Department shall, in consultation with the Bureau **,** ~~[and]~~ the school districts ~~[.]~~ ***and the Nevada Charter School Institute,*** prescribe a form that contains the basic information required by subsection 1. The principal of a school may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year:

(a) The principal of each public school shall submit the summary in electronic format to the:

(1) Department;

(2) Bureau; and

(3) Board of trustees of the school district in which the school is located ~~[.]~~ ***or, if the school is a charter school, to the Nevada Charter School Institute.***

(b) The school district in which the school is located shall ensure that the summary is posted on the Internet website maintained by the school, if any, or the Internet website maintained by the school district, if any. ***The Nevada Charter School Institute shall ensure that each summary of a charter school is posted on the Internet website maintained by the charter school, if any, or the Internet website maintained by the Institute, if any.*** If the summary is not posted on the website of the school **,** ~~[or]~~ the school district

~~[,]~~ ***or the Nevada Charter School Institute, as applicable,*** the school district ***or the Nevada Charter School Institute, as applicable,*** shall otherwise provide for public dissemination of the summary.

(c) The principal of each public school shall ensure that the parents and legal guardians of the pupils enrolled in the school have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website, if any, and how a parent or guardian may otherwise access the summary.

(d) The principal of each public school shall provide a written copy of the summary to each parent and legal guardian of a pupil enrolled in the school.

Sec. 3.7. **NRS 385.359 is hereby amended to read as follows:**

385.359 1. The Bureau shall contract with a person or entity to:

(a) Review and analyze, in accordance with the standards prescribed by the Committee pursuant to subsection 2 of NRS 218.5354, the:

(1) Annual report of accountability prepared by:

(I) The State Board pursuant to NRS 385.3469; ~~[and]~~

(II) The board of trustees of each school district pursuant to ***subsection 2 of*** NRS 385.347 ~~[.]~~ ***; and***

(III) The Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.

(2) Plan to improve the achievement of pupils prepared by:

(I) The State Board pursuant to NRS 385.34691;

(II) The board of trustees of each school district pursuant to NRS 385.348; and

(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any.

(b) Submit a written report to and consult with the State Board and the Department regarding any methods by which the State Board may improve the accuracy of the report of accountability required pursuant to NRS 385.3469 and the plan to improve the achievement of pupils required pursuant to NRS 385.34691, and the purposes for which the report and plan to improve are used.

(c) Submit a written report to and consult with each school district ***and the Nevada Charter School Institute*** regarding any methods by which the district ***or the Nevada Charter School Institute*** may improve the accuracy of the report required pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as applicable,*** and the plan to improve the achievement of pupils required pursuant to NRS 385.348, and the purposes for which the report and plan to improve are used.

(d) If requested by the Bureau, submit a written report to and consult with individual schools identified by the Bureau regarding any methods by which the school may improve the accuracy of the information required to be reported for the school pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as***

applicable, and the plan to improve the achievement of pupils required pursuant to NRS 385.357.

(e) Submit written reports and any recommendations to the Committee and the Bureau concerning:

(1) The effectiveness of the provisions of NRS 385.3455 to 385.391, inclusive, in improving the accountability of the schools of this State;

(2) The status of each school district that is designated as demonstrating need for improvement pursuant to NRS 385.377 and each school that is designated as demonstrating need for improvement pursuant to NRS 385.3623; and

(3) Any other matter related to the accountability of the public schools of this State, as deemed necessary by the Bureau.

2. The consultant with whom the Bureau contracts to perform the duties required pursuant to subsection 1 must possess the experience and knowledge necessary to perform those duties, as determined by the Committee.

Sec. 4. NRS 385.3613 is hereby amended to read as follows:

385.3613 1. Except as otherwise provided in subsection 2, on or before June 15 of each year, the Department shall determine whether each public school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

2. On or before June 30 of each year, the Department shall determine whether each public school that operates on a schedule other than a traditional 9-month schedule is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, the Department shall make a determination for the charter school in consultation with the ~~[State Board]~~ ***Charter School Institute*** or the institution ***within the Nevada System of Higher Education*** that sponsors the charter school, as applicable. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before June 15 or June 30 of each year, as applicable, the Department shall transmit:

(a) Except as otherwise provided in paragraph (b) or (c), the determination made for each public school to the board of trustees of the school district in which the public school is located.

(b) To the ~~[State Board]~~ ***Nevada Charter School Institute*** the determination made for each charter school that is sponsored by the ~~[State Board.]~~ ***Institute.***

(c) The determination made for the charter school to the institution that sponsors the charter school if a charter school is sponsored by a college or university within the Nevada System of Higher Education.

4. Except as otherwise provided in this subsection, the Department shall determine that a public school has failed to make adequate yearly progress if any group identified in paragraph (b) of subsection 1 of NRS 385.361 does not satisfy the annual measurable objectives established by the State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school shall be deemed to have made adequate yearly progress even though a group identified in paragraph (b) of subsection 1 of NRS 385.361 did not satisfy the annual measurable objectives of the State Board.

5. In addition to the provisions of subsection 4, the Department shall determine that a public school has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils enrolled in the school who were required to take the examinations; or

(b) Except as otherwise provided in subsection 6, for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils in the group enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils in that group enrolled in the school who were required to take the examinations.

6. If the number of pupils in a particular group who are enrolled in a public school is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 5 based solely upon that particular group.

(b) The pupils in such a group must be included in the overall count of pupils enrolled in the school who took the examinations.

➥ The State Board shall prescribe the mechanism for determining the number of pupils that must be in a group for that group to yield statistically reliable information.

7. If an irregularity in testing administration or an irregularity in testing security occurs at a school and the irregularity invalidates the test scores of pupils, those test scores must be included in the scores of pupils reported for the school, the attendance of those pupils must be counted towards the total number of pupils who took the examinations and the pupils must be included in the total number of pupils who were required to take the examinations.

8. As used in this section:

(a) "Irregularity in testing administration" has the meaning ascribed to it in NRS 389.604.

(b) "Irregularity in testing security" has the meaning ascribed to it in NRS 389.608.

Sec. 5. NRS 385.362 is hereby amended to read as follows:

385.362 1. If a public school fails to make adequate yearly progress for 1 year:

(a) Except as otherwise provided in ~~[~~paragraph (b),~~]~~ ***paragraphs (b) and (c),*** the board of trustees of the school district in which the school is located shall ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. For a charter school sponsored by the school district, the board of trustees shall provide the technical assistance to the charter school in conjunction with the governing body of the charter school.

(b) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall ensure, in conjunction with the governing body of the charter school, that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(c) For a charter school sponsored by ~~[~~the State Board or by~~]~~ a college or university within the Nevada System of Higher Education, the Department shall ensure, in conjunction with the governing body of the charter school, that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a public school fails to make adequate yearly progress for 1 year, the principal of the school shall ensure that the plan to improve the achievement of pupils enrolled in the school is reviewed, revised and approved in accordance with NRS 385.357.

Sec. 6. NRS 385.366 is hereby amended to read as follows:

385.366 1. Based upon the information received from the Department pursuant to NRS 385.3613, the board of trustees of each school district shall, on or before July 1 of each year, issue a preliminary designation for each public school in the school district in accordance with the criteria set forth in NRS 385.3623, excluding charter schools sponsored by the ~~[~~State Board~~]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education. The board of trustees shall make preliminary designations for all charter schools that are sponsored by the board of trustees. The Department shall make preliminary designations for all charter schools that are sponsored by the ~~[~~State Board~~]~~ ***Nevada Charter School Institute*** and all charter schools sponsored by a college or university within the Nevada System of Higher Education. The initial designation of a school as demonstrating need for improvement must be based upon 2 consecutive years of data and information for that school.

2. Before making a final designation for a school, the board of trustees of the school district or the Department, as applicable, shall provide the school an opportunity to review the data upon which the preliminary designation is based and to present evidence in the manner set forth in 20 U.S.C. §

6316(b)(2) and the regulations adopted pursuant thereto. If the school is a public school of the school district or a charter school sponsored by the board of trustees, the board of trustees of the school district shall, in consultation with the Department, make a final determination concerning the designation for the school on August 1. If the school is a charter school sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, the Department shall make a final determination concerning the designation for the school on August 1.

3. On or before August 1 of each year, the Department shall provide written notice of the determinations made pursuant to NRS 385.3613 and the final designations made pursuant to this section as follows:

(a) The determinations and final designations made for all schools in this State to the:

(1) Governor;

(2) State Board;

(3) Committee; and

(4) Bureau.

(b) The determinations and final designations made for all schools within a school district to the:

(1) Superintendent of schools of the school district; and

(2) Board of trustees of the school district.

(c) The determination and final designation made for each school to the principal of the school.

(d) The determination and final designation made for each charter school sponsored by the Nevada Charter School Institute to the Institute.

Sec. 7. NRS 385.3661 is hereby amended to read as follows:

385.3661 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance

in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[~~the State Board or by~~]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

3. In addition to the requirements of subsection 1 or 2, as applicable, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) Except as otherwise provided in ~~[~~paragraph (b),~~]~~ ***paragraphs (b) and (c),*** the board of trustees of the school district shall provide school choice to the parents and guardians of pupils enrolled in the school, including, without limitation, a charter school sponsored by the school district, in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(b) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.***

(c) For a charter school sponsored by ~~[~~the State Board or by~~]~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

Sec. 8. NRS 385.3693 is hereby amended to read as follows:

385.3693 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

Sec. 9. NRS 385.372 is hereby amended to read as follows:

385.372 1. In addition to the requirements of NRS 385.3693, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years for failing to make adequate yearly progress:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Except as otherwise provided in subsection 2, provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the Nevada Charter School Institute, the Institute shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.***

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall work

cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Except as otherwise provided in subsection 3, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of supplemental educational services for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of supplemental educational services for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the charter school as if the delay never occurred.

Sec. 10. NRS 385.3721 is hereby amended to read as follows:

385.3721 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years, the support team established for the school pursuant to this section shall carry out the requirements of NRS 385.3741 and 385.3742.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of

the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[(d)]~~ ***(e)*** The Department shall establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.

Sec. 11. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as applicable,*** is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to NRS 392.456.

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(f) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(g) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the ~~[State Board,]~~ ***Nevada Charter School Institute,*** the support team shall make the recommendations to the ~~[State Board]~~ ***Institute*** and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor, the State Board and the Department.

(h) In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Comply with NRS 385.357;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the name and duties of each person who is responsible for carrying out the revisions.

(i) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the ~~[~~State Board, the Department~~]~~ ***Nevada Charter School Institute, the Institute*** shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, ~~[~~that~~]~~ ***the*** institution ***that sponsors the charter school*** shall assist the school with carrying out and monitoring the plan for improvement of the school.

(j) Prepare a quarterly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

(k) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise quarterly progress report for use by each support team in accordance with paragraph (j) of subsection 1.

Sec. 11.5. **NRS 385.3742 is hereby amended to read as follows:**

385.3742 1. In addition to the duties prescribed in NRS 385.3741, a support team established for a school shall prepare an annual written report that includes:

(a) Information concerning the most recent plan to improve the achievement of the school's pupils, including, without limitation, an evaluation of:

(1) The appropriateness of the plan for the school; and

(2) Whether the school has achieved the goals and objectives set forth in the plan;

(b) The written revisions to the plan to improve the achievement of the school's pupils submitted by the support team pursuant to NRS 385.3741;

(c) A summary of each program for remediation, if any, purchased for the school with money that is available from the Federal Government, this state and the school district in which the school is located, including, without limitation:

(1) The name of the program;

(2) The date on which the program was purchased and the date on which the program was carried out by the school;

(3) The percentage of personnel at the school who were trained regarding the use of the program;

(4) The satisfaction of the personnel at the school with the program; and

(5) An evaluation of whether the program has improved the academic achievement of the pupils enrolled in the school who participated in the program;

(d) An analysis of the problems and factors at the school which contributed to the designation of the school as demonstrating need for improvement, including, without limitation, issues relating to:

(1) The financial resources of the school;

(2) The administrative and educational personnel of the school;

(3) The curriculum of the school;

(4) The facilities available at the school, including the availability and accessibility of educational technology; and

(5) Any other factors that the support team believes contributed to the designation of the school as demonstrating need for improvement; and

(e) Other information concerning the school, including, without limitation:

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(2) Records of the attendance and truancy of pupils who are enrolled in the school;

(3) The transiency rate of pupils who are enrolled in the school;

(4) A description of the number of years that each teacher has provided instruction at the school and the rate of turnover of teachers and other educational personnel employed at the school;

(5) A description of the participation of parents and legal guardians in the educational process and other activities relating to the school;

(6) A description of each source of money for the remediation of pupils who are enrolled in the school; and

(7) ~~[A]~~ ***Except as otherwise provided in subparagraph (8), a*** description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs (k) to (n), inclusive, of subsection 2 of NRS 385.347.

(8) For a charter school, a description of the disciplinary problems of the pupils enrolled in the charter school as reported in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.

2. On or before November 1, the support team ***of a school other than a charter school*** shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Board of trustees of the school district in which the school is located;

(c) Superintendent of schools of the school district in which the school is located;

(d) Department; and

(e) Bureau.

➥ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the school.

3. On or before November 1, the support team for a charter school shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Nevada Charter School Institute;

(c) Department; and

(d) Bureau.

➥ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the charter school.

Sec. 12. NRS 385.3743 is hereby amended to read as follows:

385.3743 1. In addition to the requirements of NRS 385.3721, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a

provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the Nevada Charter School Institute, the Institute shall:***

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of corrective action for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D).

If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

Sec. 13. NRS 385.3744 is hereby amended to read as follows:

385.3744 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years for failing to make adequate yearly progress, the support team established for the school shall consider whether corrective action is appropriate for the school. If the support team determines that corrective action is appropriate, the support team shall make a recommendation for corrective action for the school, including, without limitation, the type of corrective action that is recommended from the list of corrective actions authorized pursuant to subsection 2. The recommendation must be submitted to:

(a) For a school of the school district or a charter school sponsored by the board of trustees of the school district, the board of trustees.

(b) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute.***

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department.

2. Regardless of whether a support team recommends corrective action for a school, ***the Nevada Charter School Institute may, for a charter school sponsored by the Institute,*** the Department may, for a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take one or more of the following corrective actions for the school:

(a) Develop and carry out a new curriculum at the school, including the provision of appropriate professional development relating to the new curriculum.

(b) Significantly decrease the managerial authority of the employees at the school.

(c) Extend the school year or the school day.

3. The ***Nevada Charter School Institute, the*** Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the ***Nevada Charter School Institute, the*** Department or the board of trustees, as applicable, may proceed with corrective action as if the delay never occurred.

Sec. 14. NRS 385.3745 is hereby amended to read as follows:

385.3745 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years, the

support team established for the school pursuant to NRS 385.3721 shall carry out the requirements of NRS 385.3741, 385.3742 and 385.3744, as applicable.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall continue a support team for the school.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[(d)]~~ ***(e)*** The Department shall continue a support team for the charter school.

Sec. 15. NRS 385.3746 is hereby amended to read as follows:

385.3746 1. In addition to the requirements of NRS 385.3745, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the Nevada Charter School Institute, the Institute shall:***

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of a plan for restructuring for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the board of trustees shall proceed with a plan for restructuring the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of a plan for restructuring for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

4. Before the board of trustees of a school district ***, the Nevada Charter School Institute*** or the Department proceeds with a plan for restructuring, the board of trustees ***, the Institute*** or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees ***, the Institute*** or the Department, as applicable, will develop a plan for restructuring the school;

(b) An opportunity to comment before the plan to restructure is developed; and

(c) An opportunity to participate in the development of the plan to restructure.

Sec. 16. NRS 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years for failure to make adequate yearly progress, the support team for the school shall:

(a) If corrective action was not taken against the school pursuant to NRS 385.3744, consider whether corrective action is appropriate for the school.

(b) If corrective action was taken against the school pursuant to NRS 385.3744, consider whether further corrective action is appropriate or whether consequences or sanctions, or both, are appropriate for the school.

2. Regardless of whether a support team recommends corrective action or consequences or sanctions for a school, ***the Nevada Charter School Institute may, for a charter school sponsored by the Institute,*** the Department may, for a charter school sponsored by ~~[~~the State Board or by~~]~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

3. The ***Nevada Charter School Institute, the*** Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action or restructuring pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the ***Nevada Charter***

School Institute, the Department or the board of trustees, as applicable, may proceed with corrective action or with consequences or sanctions, or both, for the school, as appropriate, as if the delay never occurred.

4. Before the board of trustees ***, the Nevada Charter School Institute*** or the Department proceeds with consequences or sanctions, the board of trustees ***, the Charter School Institute*** or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees ***, the Charter School Institute*** or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 16.5. **NRS 385.620 is hereby amended to read as follows:**

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347 **[.]** ***and similar information included in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.***

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

Sec. 17. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 27, inclusive, of this act.

Sec. 18. ***As used in NRS 386.500 to 386.610, inclusive, and sections 18 to 27, inclusive, of this act, the words and terms defined in NRS 386.500 and sections 19 and 20 of this act have the meanings ascribed to them in those sections.***

Sec. 19. ***"Charter School Institute" means the Nevada Charter School Institute created by section 21 of this act.***

Sec. 20. ***"Director" means the Director of the Charter School Institute.***

Sec. 21. ***1. The Nevada Charter School Institute, consisting of seven members, is hereby created. The membership of the Charter School Institute consists of:***

(a) Two members appointed by the Governor in accordance with subsection 2;

(b) Two members, who must not be Legislators, appointed by the Majority Leader of the Senate in accordance with subsection 2;

(c) Two members, who must not be Legislators, appointed by the Speaker of the Assembly in accordance with subsection 2; and

(d) One member appointed by an association of charter schools pursuant to subsection 3.

2. The Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall ensure that the membership of the Charter School Institute:

(a) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology; and

(6) The laws and regulations applicable to charter schools; and

(b) Insofar as practicable, reflects the ethnic and geographical diversity of this State.

3. The Charter School Institute shall establish a list of associations of charter schools that operate within this State and designate the order in which such associations may appoint a member to the Charter School

Institute. Except as otherwise provided in subsection 5, an association may not appoint more than one member to the Charter School Institute unless each association designated pursuant to this subsection has had an opportunity to make an appointment.

4. Each member of the Charter School Institute must be a resident of this State.

5. After the initial terms, the term of each member of the Charter School Institute is 3 years, commencing on July 1 of the year he is appointed. A vacancy in the membership of the Charter School Institute must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member shall continue to serve on the Charter School Institute until his successor is appointed.

6. The members of the Charter School Institute shall select a Chairman and Vice Chairman from among its members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

7. Each member of the Charter School Institute is entitled to receive:

(a) For each day or portion of a day during which he attends a meeting of the Institute, a salary of not more than $80, as fixed by the Institute; and

(b) For each day or portion of a day during which he attends a meeting of the Institute or is otherwise engaged in the business of the Institute, the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 22. ***1. The members of the Charter School Institute shall meet throughout the year at the times and places specified by a call of the Chairman or a majority of the members.***

2. Four members of the Charter School Institute constitute a quorum, and a quorum may exercise all the power and authority conferred on the Charter School Institute.

Sec. 23. ***1. The Charter School Institute shall appoint a Director of the Institute for a term of 3 years. The Charter School Institute may remove the Director from office for inefficiency, neglect of duty, malfeasance in office or for other just cause.***

2. A vacancy must be filled by the Charter School Institute for the remainder of the unexpired term.

3. The Director is in the unclassified service of the State.

Sec. 24. ***The Director shall not pursue any other business or occupation or hold any other office of profit without the approval of the Charter School Institute.***

Sec. 25. ***The Director shall:***

1. Execute, direct and supervise all administrative, technical and procedural activities of the Charter School Institute in accordance with the policies prescribed by the Charter School Institute;

2. Organize the Charter School Institute in a manner which will assure efficient operation and service of the Charter School Institute;

3. Serve as the Executive Secretary of the Charter School Institute; and

4. Perform such other duties as are prescribed by law or the Charter School Institute.

Sec. 26. ***The Charter School Institute may employ such persons as it deems necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 18 to 27, inclusive, of this act.***

Sec. 27. ***1. The Account for the Nevada Charter School Institute is hereby created in the State General Fund, to be administered by the Director.***

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

3. The money in the Account may be used only for the establishment and maintenance of the Charter School Institute.

4. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

5. The Director may accept gifts, grants and bequests. Any money from gifts, grants and bequests must be deposited in the Account and may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with this section.

Sec. 28. NRS 386.500 is hereby amended to read as follows:

386.500 ~~[For the purposes of NRS 386.500 to 386.610, inclusive, a]~~ ***A*** pupil is "at risk" if he has an economic or academic disadvantage such that he requires special services and assistance to enable him to succeed in educational programs. The term includes, without limitation, pupils who are members of economically disadvantaged families, pupils who are limited English proficient, pupils who are at risk of dropping out of high school and pupils who do not meet minimum standards of academic proficiency. The term does not include a pupil with a disability.

Sec. 29. NRS 386.508 is hereby amended to read as follows:

386.508 There is hereby created a school district to be designated as the Charter School District for ~~[State Board Sponsored]~~ ***Charter School Institute-Sponsored*** Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the ~~[State Board]~~ ***Charter School Institute*** or sponsored by a college or university within the Nevada System of Higher Education. The ~~[State Board]~~ ***Charter School Institute*** is hereby deemed the Board of Trustees of the School District. The School District is created for the sole purpose of providing local educational agency status to the School District for purposes of federal law governing charter schools.

Sec. 30. NRS 386.515 is hereby amended to read as follows:

386.515 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district. An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

2. The ~~[State Board]~~ ***Charter School Institute*** shall sponsor charter schools whose applications have been approved by the ~~[State Board]~~ ***Charter School Institute*** pursuant to NRS 386.525. Except as otherwise provided by specific statute, if the ~~[State Board]~~ ***Charter School Institute*** sponsors a charter school, the ~~[State Board or the Department]~~ ***Charter School Institute*** is responsible for the evaluation, monitoring and oversight of the charter school.

3. A college or university within the Nevada System of Higher Education may sponsor charter schools.

Sec. 31. NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of at least three teachers, as defined in subsection 4. In addition to the teachers who serve, the committee may consist of:

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

➥ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

2. Before a committee to form a charter school may submit an application to the board of trustees of a school district, the ~~[Subcommittee on Charter Schools, the State Board]~~ ***Charter School Institute*** or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The application must include all information prescribed by the ~~[Department]~~ ***Charter School Institute*** by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive ~~[.]~~ ***, and sections 18 to 27, inclusive, of this act.***

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the opportunities for pupils to learn;

(2) Encouraging the use of effective methods of teaching;

(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates of enrollment for the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method of selecting the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

3. The Department shall review an application to form a charter school to determine whether it is complete. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall deny the application. The Department shall provide written notice to the applicant of its approval or denial of the application. If the Department denies an application, the Department shall include in the written notice the reason for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➥ The term does not include a person who is employed as a substitute teacher.

Sec. 32. NRS 386.525 is hereby amended to read as follows:

386.525 1. Upon approval of an application by the Department, a committee to form a charter school may submit the application to the board of trustees of the school district in which the proposed charter school will be located, a college or university within the Nevada System of Higher Education or ~~[directly to the Subcommittee on Charter Schools.]~~ ***the Charter School Institute.*** If the board of trustees of a school district, a college or a university, as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. The board of trustees, the college, the university or the ~~[Subcommittee on Charter Schools,]~~ ***Charter School Institute,*** as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, ***and sections 18 to 27, inclusive, of this act*** and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the ~~[Department.]~~ ***Charter School Institute.***

2. The Department shall assist the board of trustees of a school district, ***the Charter School Institute,*** the college or the university, as applicable, in the review of an application. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

3. If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection 3, the applicant may submit a written request for sponsorship by the ~~[State Board to the Subcommittee on Charter Schools created pursuant to NRS 386.507]~~ ***Charter School Institute*** not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

5. If the ~~[Subcommittee on Charter Schools]~~ ***Charter School Institute*** receives an application pursuant to subsection 1 or 4, it shall hold a meeting to consider the application. The meeting must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~[Subcommittee]~~ ***Charter School Institute*** shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The ~~[Subcommittee may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.~~

~~6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The State Board]~~ ***Charter School Institute*** may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. Not more than 30 days after the meeting, the ~~[State Board]~~ ***Charter School Institute*** shall provide written notice of its determination to the applicant.

~~[7.]~~ ***6.*** If the ~~[State Board]~~ ***Charter School Institute*** denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[8.]~~ ***7.*** If the ~~[State Board]~~ ***Charter School Institute*** denies an application after it has been resubmitted pursuant to subsection ~~[7,]~~ ***6,*** the applicant may, not more than 30 days after the receipt of the written notice from the ~~[State Board,]~~ ***Charter School Institute,*** appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~[~~9.~~]~~ ***8.*** On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the ~~[~~State Board,~~]~~ ***Charter School Institute,*** a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 33. NRS 386.527 is hereby amended to read as follows:

386.527 1. If the ~~[~~State Board,~~]~~ ***Charter School Institute,*** the board of trustees of a school district or a college or university within the Nevada System of Higher Education approves an application to form a charter school, it shall grant a written charter to the applicant. The ~~[~~State Board,~~]~~ ***Charter School Institute,*** the board of trustees, the college or the university, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the ~~[~~State Board~~]~~ ***Charter School Institute*** approves the application:

(a) The ~~[~~State Board~~]~~ ***Charter School Institute*** shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board ***, the Charter School Institute*** nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board ***, the Charter School Institute*** nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. The governing body of a charter school may request, at any time, a ~~[~~change~~]~~ ***transfer*** in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The ~~[~~State Board~~]~~ ***Charter School Institute*** shall adopt:

(a) An application ~~[~~process for~~]~~ ***to request a transfer of the sponsorship of*** a charter school ***,*** ~~[~~that requests a change in the sponsorship of the charter school,~~]~~ which must not require the applicant to undergo the requirements of an initial application to form a charter school; and

(b) Objective criteria for the conditions under which such a request may be granted.

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in paragraphs (a) to (o), inclusive, of subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the ~~[State Board]~~ ***Charter School Institute*** or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate. If the proposed amendment complies with the provisions of ~~[this section,]~~ NRS 386.500 to 386.610, inclusive, ***and sections 18 to 27, inclusive, of this act,*** and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.

7. The ~~[State Board]~~ ***Charter School Institute*** shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

(a) Period for which such a written charter is valid; and

(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.

➥ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

8. The holder of a written charter that is issued pursuant to subsection 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the ~~[~~State Board~~]~~ ***Charter School Institute*** pursuant to subsection 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

➥ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 34. NRS 386.530 is hereby amended to read as follows:

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than 90 days before the expiration of the charter. The application must include the information prescribed by the regulations of the ~~[~~Department.~~]~~ ***Charter School Institute.*** The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the ~~[~~Department.~~]~~ ***Charter School Institute.*** The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the ~~[Department.]~~ ***Charter School Institute.*** The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the ~~[Department.]~~ ***Charter School Institute.*** The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

Sec. 35. NRS 386.540 is hereby amended to read as follows:

386.540 1. ~~[The Department]~~ ***Subject to the provisions of subsections 3 and 4, the Charter School Institute*** shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the Department, the board of trustees of a school district, the ~~[Subcommittee on Charter Schools]~~ ***Charter School Institute*** and a college or university within the Nevada System of Higher Education, and the contents of the application;

(c) The process for submission of an application to renew a written charter; and

(d) The criteria and type of investigation that must be applied by the board of trustees, the ~~[Subcommittee on Charter Schools, the State Board]~~ ***Charter School Institute*** and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school or an application to renew a written charter.

2. ***Subject to the provisions of subsections 3 and 4, the Charter School Institute may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 18 to 27, inclusive, of this act, including, without limitation, regulations that prescribe the:***

(a) Requirements for performance audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(b) Requirements for performance audits every 3 years for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

3. The Department may adopt regulations ***relating to the finances and budgets of charter schools*** as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, ***and sections 18 to 27, inclusive, of this act,*** including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

(b) Requirements for ~~[~~performance audits and~~]~~ financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(c) Requirements for ~~[~~performance audits every 3 years and~~]~~ financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

4. The State Board may disapprove any regulation adopted by the Charter School Institute if the regulation:

(a) Threatens the efficient operation of the public schools in this State; or

(b) Creates an undue financial hardship for any charter school in this State.

➥ A regulation shall be deemed approved if the State Board does not disapprove the regulation within 45 days after it is adopted by the Charter School Institute.

Sec. 36. NRS 386.547 is hereby amended to read as follows:

386.547 The ~~[~~State Board~~]~~ ***Charter School Institute*** shall:

1. Review all statutes and regulations from which charter schools are exempt and determine whether such exemption assisted or impeded the charter schools in achieving their educational goals and objectives.

2. Make available information concerning the formation and operation of charter schools in this State to pupils, parents and legal guardians of pupils, teachers and other educational personnel and members of the general public.

Sec. 37. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required ~~[~~by the Department~~]~~ ***pursuant to NRS 386.540*** contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the ~~[~~State Board,~~]~~ ***Charter School Institute,*** for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the ~~[~~Department~~]~~ ***Charter School Institute*** one time every 3 years. The sponsor of the charter school and the ~~[~~Department~~]~~ ***Charter School Institute*** shall not request a performance audit of the charter school more frequently than every 3 years without showing good cause for such a request.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 38. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of a school year, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school year if the sponsor provided administrative services during that school year. The request must include an itemized list of those costs. Upon receipt of such a request, the governing body shall pay the reimbursement to the ~~[~~board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors~~]~~ ***sponsor of*** the charter school. If a governing body fails to pay the reimbursement, the charter school shall be deemed to have violated its

written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. ~~[If the board of trustees of a school district is the sponsor of a charter school, the]~~ ***The*** amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed ~~[:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~*4. If the Charter School Institute is the sponsor of a charter school, the amount of money that may be paid to the Institute pursuant to subsection 3 for administrative expenses in 1 school year must not exceed]*~~ ***2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.***

~~*[5. If]* [the State Board or] [a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the] [Department or to the] [institution] [, as applicable,] [pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.]~~

~~[5.]~~ ~~*[6.]*~~ ***4.*** To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

~~[6.]~~ ~~*[7.]*~~ ***5.*** If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

~~[~~7.~~]~~ ~~*[8.]*~~ ***6.*** The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The ~~[~~State Board~~]~~ ***Charter School Institute*** may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~[~~8.~~]~~ ~~*[9.]*~~ ***7.*** If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 39. NRS 386.576 is hereby amended to read as follows:

386.576 1. The Fund for Charter Schools is hereby created in the State Treasury as a revolving loan fund, to be administered by the ~~[~~Department.~~]~~ ***Charter School Institute.***

2. The money in the revolving fund must be invested as other state funds are invested. All interest and income earned on the money in the revolving fund must be credited to the revolving fund. Any money remaining in the revolving fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.

3. All payments of principal and interest on all the loans made to a charter school from the revolving fund must be deposited in the State Treasury for credit to the revolving fund.

4. Claims against the revolving fund must be paid as other claims against the State are paid.

5. The ~~[~~Department~~]~~ ***Charter School Institute*** may accept gifts, grants, bequests and donations from any source for deposit in the revolving fund.

Sec. 40. NRS 386.577 is hereby amended to read as follows:

386.577 1. After deducting the costs directly related to administering the Fund for Charter Schools, the ~~[~~Department~~]~~ ***Charter School Institute*** may use the money in the Fund for Charter Schools, including repayments of principal and interest on loans made from the Fund, and interest and income earned on money in the Fund, only to make loans at or below market rate to charter schools for the costs incurred:

(a) In preparing a charter school to commence its first year of operation; and

(b) To improve a charter school that has been in operation.

2. The total amount of a loan that may be made to a charter school in 1 year must not exceed $25,000.

Sec. 41. NRS 386.578 is hereby amended to read as follows:

386.578 1. If the governing body of a charter school has a written charter issued pursuant to NRS 386.527, the governing body may submit an

application to the ~~[~~Department~~]~~ ***Charter School Institute*** for a loan from the Fund for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The ~~[~~Department~~]~~ ***Charter School Institute*** shall, within the limits of money available for use in the Fund, make loans to charter schools whose applications have been approved. If the ~~[~~Department~~]~~ ***Charter School Institute*** makes a loan from the Fund, the ~~[~~Department~~]~~ ***Charter School Institute*** shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. ~~[~~The State Board:~~]~~ ***Subject to the provisions of subsection 3 of NRS 386.540, the Charter School Institute:***

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the ~~[~~Department~~]~~ ***Charter School Institute*** by a charter school that desires to receive a loan from the Fund; and

(2) Period for repayment and the rate of interest for loans made from the Fund.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

Sec. 41.5. **NRS 386.605 is hereby amended to read as follows:**

386.605 1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is required pursuant to subsection ~~[~~2~~]~~ ***3*** of NRS 385.347 to the ~~[~~board of trustees of the school district in which the charter school is located~~]~~ ***Nevada Charter School Institute*** for inclusion in the report of the ~~[~~school district~~]~~ ***Institute*** pursuant to that section. The information must be submitted by the charter school in a format prescribed by the ~~[~~board of trustees.~~]~~ ***Nevada Charter School Institute.***

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218.5356 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted by charter schools pursuant to this section and NRS 385.357, consult with the ***Nevada Charter School Institute and the*** governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 42. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, if the board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the board of trustees or the institution, as applicable, shall submit a written report to the ~~[~~State Board.~~]~~ ***Charter School Institute.*** The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the board of trustees or institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the school district or institution, as applicable, to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the ~~[Department,]~~ ***Charter School Institute,*** the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 42.5. **NRS 386.650 is hereby amended to read as follows:**

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, ***the Nevada Charter School Institute, the*** school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➥ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction but must not be used for the purpose of evaluating an individual teacher or paraprofessional.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each ~~[charter school and]~~ university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 43. NRS 386.745 is hereby amended to read as follows:

386.745 1. Except as otherwise provided in subsection 10, the empowerment team of a public school, other than a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, that develops an empowerment plan pursuant to NRS 386.740 shall submit the proposed empowerment plan to the designee of the board of trustees appointed pursuant to this subsection for review and approval pursuant to this section. The board of trustees shall designate a person to review each proposed empowerment plan and recommend the approval or denial of the plan to the board of trustees.

2. The board of trustees shall approve or deny the empowerment plan. The approval or denial of an empowerment plan must be based solely upon the contents of the plan and may not consider the amount of money required to carry out the empowerment plan if the plan is within the limits of the total apportionment to the school pursuant to subsection 4 of NRS 386.740.

3. Except as otherwise provided in subsection 10, if the board of trustees approves an empowerment plan, the president of the board of trustees, the principal of the public school and the chairman of the empowerment team, if the principal is not the chairman, shall each sign the plan. The empowerment plan is effective for 3 years unless the empowerment team determines that

the school will no longer operate under the plan or the board of trustees of the school district revokes the plan.

4. Except as otherwise provided in subsection 10, if the board of trustees denies an empowerment plan, the board of trustees shall:

(a) Return the plan to the empowerment team with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.

5. Except as otherwise provided in subsection 10, an empowerment plan for a public school is not effective and a public school shall not operate as an empowerment school unless the plan is signed by the president of the board of trustees of the school district, the principal of the public school and the chairman of the empowerment team, if the principal is not the chairman. If an empowerment plan includes a request for a waiver from a statute contained in this title or a regulation of the State Board ***, the Nevada Charter School Institute*** or the Department, a public school may operate under the approved plan but the requested waivers from state law are not effective unless approved by the State Board pursuant to subsection 7.

6. Except as otherwise provided in subsection 10, the empowerment team may submit a written request to the board of trustees for an amendment to the empowerment plan approved pursuant to this section, including an explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

7. If the empowerment plan includes a request for a waiver from a statute or regulation, the board of trustees shall forward the approved empowerment plan to the State Board for review of the request for a waiver. The State Board shall review the empowerment plan and may approve or deny the request for a waiver from a statute or regulation unless the statute or regulation is required by federal law or is required to carry out federal law. ***If the statute or regulation for which the request is submitted is within the jurisdiction of the Nevada Charter School Institute, the State Board shall work in consultation with the Institute in reviewing the request and in making a determination on the request.***

8. If the State Board approves the request for a waiver for a school, the Department shall provide written notice of the approval to the board of trustees of the school district that submitted the empowerment plan on behalf of the school.

9. If the State Board denies a request for a waiver, the State Board shall:

(a) Return the request to the school district with a written statement indicating the reason for the denial; and

(b) Except as otherwise provided in subsection 10, provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. A request for

a waiver may be resubmitted by the school district, after the empowerment team corrects any deficiencies, not more than once in a school year.

10. If an empowerment team has not been established pursuant to the exception provided in subsection 2 of NRS 386.730, the principal of the school shall carry out the responsibilities and duties assigned to the empowerment team pursuant to this section.

Sec. 44. NRS 386.750 is hereby amended to read as follows:

386.750 1. Except as otherwise provided in subsection 7, the empowerment team of a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education which develops an empowerment plan pursuant to NRS 386.740 shall submit the proposed plan to the Department for transmission to the State Board for review and approval pursuant to this section.

2. The State Board shall review each proposed empowerment plan and approve or deny the plan, including a request for a waiver from a statute contained in this title or a regulation of the State Board ***, the Nevada Charter School Institute*** or the Department, if applicable. The approval or denial of an empowerment plan must be based solely upon the contents of the plan and may not consider the amount of money required to carry out the empowerment plan if the plan is within the limits of the total apportionment to the charter school pursuant to subsection 4 of NRS 386.740. ***If the charter school is sponsored by the Nevada Charter School Institute, the State Board shall work in consultation with the Institute in reviewing the plan and making a determination on the plan.***

3. Except as otherwise provided in subsection 7, if the State Board approves an empowerment plan, the President of the State Board, the principal of the charter school and the chairman of the empowerment team, if the principal is not the chairman, shall each sign the plan. The empowerment plan is effective for 3 years unless the empowerment team determines that the school will no longer operate under the plan or the State Board revokes the plan.

4. Except as otherwise provided in subsection 7, if the State Board denies an empowerment plan, the State Board shall:

(a) Return the plan to the empowerment team with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.

5. Except as otherwise provided in subsection 7, an empowerment plan for a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education is not effective and a charter school shall not operate as an empowerment school unless the plan is signed by the President of the State

Board, the principal of the charter school and the chairman of the empowerment team, if the principal is not the chairman.

6. Except as otherwise provided in subsection 7, the empowerment team may submit a written request to the Department for an amendment to the empowerment plan approved pursuant to this section, including an explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

7. If an empowerment team has not been established pursuant to the exception provided in subsection 2 of NRS 386.730, the principal of the school shall carry out the responsibilities and duties assigned to the empowerment team pursuant to this section.

Sec. 45. NRS 386.760 is hereby amended to read as follows:

386.760 1. Each empowerment school, other than a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, shall, on a quarterly basis, submit to the board of trustees of the school district in which the school is located a report that includes:

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

2. Each charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education which is approved to operate as an empowerment school shall, on a quarterly basis, submit to the Department a report that includes:

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

3. The board of trustees of a school district shall conduct a financial audit of each empowerment school within the school district, other than a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education. Each financial audit must be conducted on an annual basis and more frequently if determined necessary by the board of trustees.

4. The Department shall conduct a financial audit of each charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education which operates as an empowerment school on an annual basis and more frequently if determined necessary by the Department.

5. On or before July 1 of each year, the board of trustees of each school district shall compile the reports and audits required pursuant to subsections 1 and 3, if any, and forward the compilation to the:

(a) Governor;

(b) Department; and

(c) Legislative Committee on Education.

6. On or before July 1 of each year, the Department shall compile the reports and audits required pursuant to subsections 2 and 4, if any, and forward the compilation to the:

(a) Governor; and

(b) Legislative Committee on Education.

Sec. 46. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part-time in the program. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. The apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

8. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, he may pay out the apportionments monthly, each

approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 46.3. **NRS 388.795 is hereby amended to read as follows:**

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347 ~~[.]~~ ***and similar information included in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.***

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➥ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the

Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 46.7. **NRS 392.128 is hereby amended to read as follows:**

392.128 1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

(a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of the school district ***or the Nevada Charter School Institute*** pursuant to subsection ~~[7]~~ ***8*** of NRS 385.347;

(b) Identify factors that contribute to the truancy of pupils in the school district;

(c) Establish programs to reduce the truancy of pupils in the school district, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;

(d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chairman of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the chairman of an advisory board divides the advisory board into subcommittees, the chairman shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas

within the school district in which community services are not available to assist pupils who are truant. As used in this subsection, "family resource center" has the meaning ascribed to it in NRS 430A.040.

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

Sec. 47. NRS 386.507 is hereby repealed.

Sec. 48. 1. There is hereby appropriated from the State General Fund to the Account for the Nevada Charter School Institute created by section 27 of this act the sum of:

For the 2009-2010 Fiscal Year $326,253

For the 2010-2011 Fiscal Year $390,063

2. The sums appropriated by subsection 1 must be used to establish and operate the Nevada Charter School Institute, including appointing and hiring persons pursuant to sections 50 and 51 of this act, obtaining office space and equipment, reimbursing members of the Institute pursuant to section 21 of this act and for other operating expenses as necessary to carry out the duties and responsibilities of the Institute.

3. Notwithstanding the provisions of section 27 of this act to the contrary, any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 49. On or before September 1, 2010, the Department of Education shall transfer to the Account for the Nevada Charter School Institute created by section 27 of this act any unexpended money collected by the Department pursuant to NRS 386.570 during the 2009-2010 school year for reimbursement of the administrative costs associated with sponsorship of charter schools sponsored by the State Board of Education.

Sec. 50. Notwithstanding the provisions of section 23 of this act to the contrary, on July 1, 2009, or immediately thereafter, the Governor shall appoint a Director of the Nevada Charter School Institute created by section 21 of this act to a term of 3 years. Upon the expiration of the term of the Director or if a vacancy occurs before the expiration of the term, the Nevada

Charter School Institute shall appoint the Director in accordance with section 23 of this act.

Sec. 51. 1. To assist the Nevada Charter School Institute created by section 21 of this act in carrying out its duties and responsibilities, the Director of the Nevada Charter School Institute shall:

(a) On October 1, 2009, or immediately thereafter, hire an administrative assistant and an accounting assistant; and

(b) On January 1, 2010, or immediately thereafter, hire an educational consultant.

2. On July 1, 2010, one management analyst position in the Department of Education with job duties and responsibilities that relate to charter schools must be transferred to the Nevada Charter School Institute.

Sec. 52. On or before January 1, 2010, the members of the Nevada Charter School Institute created by section 21 of this act shall be appointed to terms commencing on January 1, 2010, as follows:

1. One member appointed by the Governor to a term that expires on June 30, 2011.

2. One member appointed by the Governor to a term that expires on June 30, 2013.

3. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2011.

4. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2013.

5. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2011.

6. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2013.

7. One member must be appointed by an association of charter schools to a term that expires on June 30, 2013. For the initial selection pursuant to this subsection, the Superintendent of Public Instruction shall designate the association of charter schools that is authorized to appoint a member of the Nevada Charter School Institute.

Sec. 53. The Legislative Counsel shall, in preparing the reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

Sec. 54. Any regulations adopted by the Department of Education or the State Board of Education before January 1, 2010, pursuant to NRS 386.500 to 386.610, inclusive, remain in effect and may be enforced by the Nevada Charter School Institute created by section 21 of this act until the Institute adopts regulations to repeal or replace those regulations.

Sec. 55. A charter school that is approved to operate as a State Board of Education-sponsored charter school on or before June 30, 2010, shall be deemed to be sponsored by the Nevada Charter School Institute commencing on July 1, 2010, and the current written charter of the charter school shall remain in effect until the expiration of that charter, unless the written charter is revoked by the Nevada Charter School Institute pursuant to NRS 386.535. Before expiration of the written charter, such a charter school may apply to the Nevada Charter School Institute for renewal of its written charter pursuant to NRS 386.530, as amended by section 34 of this act.

Sec. 56. 1. The Department of Personnel shall, upon the request of an employee of the Department of Education or the State Board of Education whose employment is terminated as a result of this act, place the employee on an appropriate reemployment list maintained by the Department of Personnel and allow a preference for each of those employees on that list. The Department of Personnel shall maintain each such employee on the reemployment list until October 1, 2011, or until the employee is reemployed by the Executive Branch of State Government, whichever occurs earlier.

2. The provisions of this section apply regardless of whether the employee was in the classified, unclassified or nonclassified service of the State of Nevada.

Sec. 57. 1. This section and sections 48, 50 to 53, inclusive, and 56 of this act become effective on July 1, 2009.

2. Sections **2,** 17 to 27, inclusive, 35, 41 and 54 of this act become effective on January 1, 2010, for purposes of adopting regulations and on July 1, 2010, for all other purposes.

3. Sections 1**, 3** to ~~[16.]~~ **16.5,** inclusive, 28, 29, 30 to 34, inclusive, 36 to 40, inclusive, ~~[42]~~ **41.5** to 47, inclusive, 49 and 55 of this act become effective on July 1, 2010.

4. Sections 43, 44 and 45 of this act expire by limitation on June 30, 2011.

TEXT OF REPEALED SECTION

386.507 Subcommittee on Charter Schools: Appointment of members; terms. The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his service on the Subcommittee, his term on the Subcommittee expires when his membership on the State Board expires. Members of the Subcommittee may be reappointed.

Assemblyman Denis moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 87.

Bill read second time.

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

Amendment No. 511.

AN ACT relating to state administration; revising the provisions governing the collection of certain debts owed to state agencies; revising certain provisions relating to the applicability of certain statutes of limitation to actions brought by or on behalf of the State; **establishing certain presumptions applicable to certain civil actions against employers who fail to provide mandatory industrial insurance or coverage for occupational disease;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, unless a specific statute provides for the collection of a debt owed to an agency of the Executive Branch of State Government, the collection of the debt is governed by the provisions of chapter 353C of NRS. (NRS 353C.090) Under existing law, an agency may engage in its own collection efforts using the procedures and remedies established by chapter 353C of NRS or the agency may request the State Controller to act as its collection agent for that purpose. (NRS 353C.195) **Section 17** of this bill requires the State Controller to act as the collection agent for all agencies ~~[that]~~ **which** do not have specific statutes concerning their debt collection ~~[.]~~ **or which have not obtained a waiver from the State Controller authorizing the agency to engage in its own collection efforts.** Accordingly, **section 17** also requires all such agencies to assign their debts to the State Controller for collection within 60 days after the debt becomes past due **or such other time agreed upon by the agency and the State Controller,** unless the debtor ~~[requests an administrative hearing to contest]~~ **has administratively contested** the existence or amount of the debt. Finally, **section 17** ~~[requires an agency to pay a fee of $10 to the State Controller for each debt assigned to him for collection.]~~ **authorizes an agency that has specific statutory authority to engage in its own collection efforts to assign a debt to the State Controller for collection or to exercise in its own debt collection efforts the additional rights and remedies conferred on the State Controller to collect debts.** (NRS 353C.195) **Section 11** of this bill increases the amount of reimbursement allowed for the costs and fees actually incurred to collect the debt **to an amount** not to exceed 35 percent of the debt or $50,000, whichever is less. **Sections 10,** ~~[12, 13, 15]~~ **12-16 and 18-20** of this bill make technical changes to substitute the State Controller as the person authorized to undertake the collection of debts owed to an agency using the procedures and remedies provided under existing law. (NRS 353C.130, 353C.140, 353C.150, **353C.160,** 353C.180, **353C.190,** 353C.200, 353C.210, 353C.220)

Sections 2-6 of this bill establish new procedures, rights and remedies in connection with the collection of debts owed to agencies. **Section 2**

authorizes **, with certain exceptions,** an agency to refuse to conduct business with a person who has an unpaid debt to the State and also authorizes the State Controller to refuse to make a payment to such a debtor. ~~[Section 3 requires an agency, before assigning a debt to the State Controller, to send a certified letter to the debtor notifying him that his debt will be turned over to the State Controller for collection unless the debtor pays the debt in full or requests an administrative hearing to contest the existence or amount of the debt.]~~ **Section 4** authorizes the State Controller to appoint a private debt collector or other person as his agent to obtain a summary judgment against a debtor and to record that judgment or to file a certificate of liability with a county recorder. **Section 5** authorizes the State Controller, with the approval of the agency to which the debt is owed, to accept the payment of a portion of a debt as satisfaction of the full amount of the debt if the State Controller believes that doing so is likely to generate more net revenue for the State than continuing his efforts to collect the full amount of the debt. **Section 6** authorizes the State Controller to sell a debt that is no longer collectible in a suit by the Attorney General because of the expiration of the statute of limitations applicable to such a suit.

Section 7 of this bill requires the State Controller to transfer to an agency any money collected by the State Controller on behalf of the agency minus any costs incurred or fees paid by the State Controller to collect ~~[the]~~ **any** debt **that has been assigned to him for collection by the agency** and any interest paid by a debtor under an agreement with the State Controller for the payment of the debt on an installment basis. **Sections 8, 9 and 22 of this bill revise certain rulemaking authority relating to the collection of debts. (NRS 353C.110, 353C.120)**

Existing law includes chapter 11 of NRS which contains most of the statutes that limit the amount of time following the accrual of a cause of action during which a civil action may be filed. These statutes are commonly referred to as statutes of limitation. Existing law also provides that the same statutes of limitation that apply to actions brought by private individuals also apply to actions brought on behalf of the State, other than actions for the recovery of real property. **Section 21** of this bill reverses the provisions governing the statutes of limitation for causes of actions brought in the name of the State or for the benefit of the State to provide that none of the provisions of chapter 11 of NRS concerning statutes of limitation apply to actions brought by or on behalf of the State, other than actions for the recovery of real property. (NRS 11.255)

Under existing law, an employer who fails to maintain mandatory industrial insurance coverage and mandatory coverage for occupational disease for an employee is liable to the Division of Industrial Relations of the Department of Business and Industry for any costs incurred by the Division to compensate the employee if he is injured or contracts an occupational disease that arises out of and in the course of his employment. (NRS 616C.220, 617.401) Sections 21.3 and 21.7 of this bill

create a presumption that in any suit brought against such an employer to recover those costs, the Division's payments were: (1) justified by the circumstances of the claim; (2) reasonable and necessary; and (3) made in accordance with applicable law. Sections 21.3 and 21.7 also authorize the State Controller to bring suit in his own name to collect debts arising under those sections if the Division assigns the debts to him for collection.

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

Section 1. Chapter 353C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***1. Except as otherwise provided in this section, an agency may refuse to conduct a transaction with, and the State Controller may refuse to draw his warrant in favor of, a person who owes a debt to an agency until the debt is paid or the debtor enters into an agreement, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.***

2. An agency may not refuse to conduct a transaction with, and the State Controller may not refuse to draw his warrant in favor of, a debtor if:

(a) The refusal violates or is prohibited by a state or federal law or court order;

(b) The refusal violates a term or condition of a grant, contract or other agreement that the agency administers or to which the agency is a party; or

(c) The State Controller determines that the refusal is inequitable.

Sec. 3. ~~***[1. Except as otherwise provided in this section, an agency must, before assigning a debt to the State Controller pursuant to NRS 353C.195, notify the debtor that his debt will be assigned to the State Controller for collection unless the debtor:***~~

~~***(a) Pays the debt in full; or***~~

~~***(b) Requests an administrative hearing, pursuant to this section, to contest the existence or amount of the debt.***~~

~~***2. The notice must be sent by certified mail to the last known address of the debtor and must identify the agency to which the debt is owed, the amount of the debt and the date on which the debt will be turned over to the State Controller for collection.***~~

~~***3. The State Controller may, at the request of an agency, prepare and send to a debtor on behalf of the agency the notice required by this section.***~~

~~***4. A debtor who receives a notice pursuant to this section is entitled to an administrative hearing to contest the existence or amount of the debt. Each agency, or the State Controller on behalf of the agency, may adopt such regulations as are necessary to provide an administrative hearing for the purposes of this subsection.]***~~ **(Deleted by amendment.)**

Sec. 4. ***1.*** ~~***[If]***~~ ***Notwithstanding any specific statute to the contrary, if an agency has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller may:***

(a) Appoint a private debt collector or any other person as his agent to:

(1) File an application for the entry of summary judgment against the debtor pursuant to NRS 353C.150; or

(2) Record a certificate of liability against the debtor in the office of a county recorder pursuant to NRS 353C.180; and

(b) Authorize his agent to incur any reasonable costs, including, without limitation, attorney's fees, that are necessary to carry out his duties pursuant to the appointment.

2. The State Controller must, before he appoints an agent pursuant to this section, determine that making the appointment is likely to generate more net revenue for the State than other methods available to the State Controller to collect the debt.

Sec. 5. ~~***[Unless prohibited by a]***~~ ***Notwithstanding any specific statute*** ~~***[,]***~~ ***to the contrary, the State Controller may enter into an agreement with a debtor to accept the payment of a portion of the debt in full satisfaction of the debt, including any penalty and interest, if:***

1. The State Controller determines that accepting the agreed upon amount is likely to generate more net revenue for the State than continuing efforts to collect the full amount of the debt; and

2. The agency to which the debt is owed approves.

Sec. 6. ***If the period of limitation for the collection of a debt set forth in NRS 353C.140 has expired, the State Controller may, in lieu of requesting the State Board of Examiners to designate the debt as a bad debt pursuant to NRS 353C.220, sell the debt to any person.***

Sec. 7. ***If the State Controller collects any money from a debtor or receives any money from a private debt collector or other person to whom the State Controller has assigned the collection of a debt, the State Controller shall , unless prohibited by federal law, transfer the money to the agency to which the debt is owed minus the amount of:***

1. Any costs incurred or fees paid by the State Controller to collect ~~***[the]***~~ ***any debt*** ~~***[.]***~~ ***assigned to him for collection by the agency.***

2. Any interest on the debt collected by the State Controller under the terms of an agreement with the debtor, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

Sec. 7.5. **NRS 353C.090 is hereby amended to read as follows:**

353C.090 The provisions of this chapter apply to an agency only to the extent that no other specific statute exists which provides for the collection of debts due the agency ~~[. To]~~ ***or, if such a specific statute exists, the agency has assigned a debt to the State Controller pursuant to NRS 353C.195. Except in the case of such an assignment, to*** the extent that the provisions of this chapter conflict with such a specific statute, the provisions of the specific statute control.

Sec. 8. NRS 353C.110 is hereby amended to read as follows:

353C.110 The ~~[~~Director of the Department of Administration and the Attorney General may jointly~~]~~ ***State Controller may*** adopt such regulations as are necessary to carry out the provisions of this chapter.

Sec. 9. NRS 353C.120 is hereby amended to read as follows:

353C.120 1. Each agency shall submit to the State Controller periodic reports of the debts owed to the agency. The State Controller shall maintain the reports **.** ~~[~~to the extent that resources are available. The Director of the Department of Administration and~~]~~ ***The State Controller and*** the Attorney General shall jointly prescribe the time, form and manner of the reports.

2. Except to the extent that the information on the reports is declared to be confidential by a specific statute of this State or federal law, the State Controller shall make the reports available for public inspection and may, without charge, make available for access on the Internet or its successor, if any, the information contained in the reports.

Sec. 10. NRS 353C.130 is hereby amended to read as follows:

353C.130 ~~[~~An agency~~]~~ ***The State Controller*** may enter into an agreement with a debtor which provides for the payment of a debt owed by the debtor to ~~[~~the~~]~~ ***an*** agency on an installment basis over a 12-month or lesser period. Upon good cause shown by the debtor, the ~~[~~agency~~]~~ ***State Controller*** may extend the period during which installment payments will be made for more than a 12-month period.

Sec. 11. NRS 353C.135 is hereby amended to read as follows:

353C.135 Except as otherwise provided by specific statute, a person who owes a debt of more than $200 pursuant to this chapter shall, in addition to the debt, pay as reimbursement for the costs and fees actually incurred to collect the debt an amount not to exceed ~~[~~25~~]~~ ***35*** percent of the amount of the debt or ~~[~~$25,000,~~]~~ ***$50,000,*** whichever is less. Any prejudgment or postjudgment interest on the debt authorized by law must not be included in the calculation of the costs and fees actually incurred to collect the debt.

Sec. 12. NRS 353C.140 is hereby amended to read as follows:

353C.140 If a person has not paid a debt that the person owes to an agency, the Attorney General, upon the request of the ~~[~~agency:~~]~~ ***State Controller:***

1. Except as otherwise provided in this section, shall bring an action in a court of competent jurisdiction; or

2. If the action is a small claim subject to chapter 73 of NRS, may bring an action in a court of competent jurisdiction,

➥ on behalf of this State ~~[~~and the agency~~]~~ to collect the debt, plus any applicable penalties and interest. The action must be brought not later than 4 years after the date on which the debt became due or within 5 years after the date on which a certificate of liability was last recorded pursuant to NRS 353C.180, as appropriate.

Sec. 13. NRS 353C.150 is hereby amended to read as follows:

353C.150 1. In addition to any other remedy provided for in this chapter, if a person who owes a debt to an agency:

(a) Fails to pay the debt when it is due, or fails to pay an agreed upon amount in satisfaction of the debt; or

(b) Defaults on a written or other agreement ~~[with an agency]~~ relating to the payment of the debt,

➥ the ~~[agency]~~ ***State Controller*** may, within 4 years after the date on which the debt became due or the date on which the debtor defaulted, as appropriate, file with the office of the clerk of a court of competent jurisdiction an application for the entry of summary judgment against the debtor for the amount due.

2. ~~[An agency that intends to file an application for the entry of summary judgment pursuant to this section]~~ ***The State Controller*** shall, not less than 15 days before the date on which ~~[the agency]~~ ***he*** intends to file the application, notify the debtor of ~~[its]~~ ***his*** intention to file the application. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~[,]~~ ***to which the debt is owed,*** the amount sought to be recovered and the date on which the application will be filed with the court.

3. An application for the entry of summary judgment must:

(a) Be accompanied by a certificate that specifies:

(1) The amount of the debt, including any interest and penalties due;

(2) The name and address of the debtor, as the name and address of the debtor appear on the records of the ~~[agency;]~~ ***State Controller;***

(3) The basis for the determination ~~[by the agency]~~ of the amount due; and

(4) That the ~~[agency]~~ ***State Controller*** has complied with the applicable provisions of law relating to the determination of the amount required to be paid; and

(b) Include:

(1) A request that judgment be entered against the debtor for the amount specified in the certificate; and

(2) Evidence that the debtor was notified of the application for the entry of summary judgment in accordance with subsection 2.

Sec. 14. NRS 353C.160 is hereby amended to read as follows:

353C.160 The court clerk, upon the filing of an application for the entry of summary judgment which complies with the requirements set forth in NRS 353C.150, shall forthwith enter a judgment ~~[for the agency]~~ against the debtor in the amount of the debt, plus any penalties and interest, as set forth in the certificate. The ~~[agency]~~ ***State Controller*** shall serve a copy of the judgment, together with a copy of the application and the certificate, upon the debtor against whom the judgment is entered, either by personal service or by mailing a copy to the last known address of the debtor **.** ~~[as it appears in the records of the agency.]~~

Sec. 15. NRS 353C.180 is hereby amended to read as follows:

353C.180 1. In addition to any other remedy provided for in this chapter, ~~[an agency]~~ ***the State Controller*** may, within 4 years after the date that a debt becomes due, record a certificate of liability in the office of a county recorder which states:

(a) The amount of the debt, together with any interest or penalties due thereon;

(b) The name and address of the debtor ***,*** as the name and address of the debtor appear on the records of the ~~[agency;]~~ ***State Controller;***

(c) That the ~~[agency]~~ ***State Controller*** has complied with all procedures required by law for determining the amount of the debt; and

(d) That the ~~[agency]~~ ***State Controller*** has notified the debtor in accordance with subsection 2.

2. ~~[An agency that intends to file a certificate of liability pursuant to this section]~~ ***The State Controller*** shall, not less than 15 days before the date on which ~~[the agency]~~ ***he*** intends to file the certificate, notify the debtor of ~~[its]~~ ***his*** intention to file the certificate. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~[,]~~ ***to which the debt is owed,*** the amount sought to be recovered and the date on which the certificate will be filed with the county recorder.

3. From the time of the recording of the certificate, the amount of the debt, including interest which accrues on the debt after the recording of the certificate, constitutes a lien upon all real and personal property situated in the county in which the certificate was recorded that is owned by the debtor or acquired by the debtor afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien on all real and personal property situated in the county in which the certificate was recorded and continues for 5 years after the date of recording unless sooner released or otherwise discharged.

4. Within 5 years after the date of the recording of the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the date of recording, the lien is extended for 5 years to all real and personal property situated in the county that is owned by the debtor or acquired by the debtor afterwards, unless the lien is sooner released or otherwise discharged.

Sec. 16. NRS 353C.190 is hereby amended to read as follows:

353C.190 1. The State Controller may ~~[, to the extent that resources are available,]~~ offset any amount due an agency from a debtor against any amount owing to that debtor by any agency, regardless of whether the agency which owes the amount is the same agency to which the debtor owes the debt. Whenever the combined amount owing to a debtor by all agencies is insufficient to offset all the amounts due the agencies from the debtor, the State Controller shall allocate the amount available from the debtor among the agencies in such a manner as the State Controller determines is appropriate.

2. If a debtor who owes a debt to an agency has a claim against that agency or another agency and refuses or neglects to file his claim with the agency within a reasonable time, the ~~[head of the agency to which the debtor owes the debt]~~ ***State Controller*** may file the claim on behalf of the debtor. If the State Controller ~~[approves]~~ ***files*** the claim, it has the same force and effect as though filed by the debtor. The amount due the debtor from the agency is the net amount otherwise owing to the debtor after any offset as provided in this section.

3. The State Controller shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, the manner in which offsets will be allocated among agencies.

Sec. 17. NRS 353C.195 is hereby amended to read as follows:

353C.195 ***Except as otherwise provided in this section or by a specific statute ~~[,]~~ or federal law:***

1. The State Controller ~~[may, if requested by any state agency,]~~ ***shall*** act as the collection agent for ~~[that]~~ ***each*** agency.

2. ~~[If the State Controller acts as the collection agent for an agency, the agency may]~~ ***An agency shall*** coordinate all its debt collection efforts through the State Controller . ~~*[, including, without limitation, requesting the State Controller to prepare and send to a debtor the notice required pursuant to section 3 of this act.]*~~

3. ~~[An]~~ Unless an agency and the State Controller agree on a different time, an agency shall assign a debt to the State Controller for collection not later than ~~[:~~

~~*(a) Sixty]*~~ ***60 days after the debt becomes past due . ~~[; or~~***

~~*(b) If the debtor has requested an administrative hearing pursuant to section 3 of this act to contest the existence or amount of the debt and has obtained the final decision of the agency, 10 days after the exhaustion of any administrative remedies provided pursuant to chapter 233B of NRS.*~~

~~*4. The State Controller shall charge and collect from an agency a fee of $10 for each debt assigned to him by the agency for collection.]*~~

4. An agency shall not assign a debt to the State Controller for collection if the debt is administratively contested by the debtor. For the purposes of this subsection, a debt is not administratively contested if:

(a) The debtor and the agency have agreed on the existence and amount of the debt;

(b) The debtor has failed to contest timely the existence or amount of the debt in accordance with the administrative procedures prescribed by the agency; or

(c) The debtor has timely contested the debt in accordance with the administrative procedures prescribed by the agency and the agency has issued a final decision concerning the existence and amount of the debt.

5. Upon the request of an agency, the State Controller shall waive a requirement of this section:

(a) If the State Controller determines that the agency has the resources to engage in its own debt collection efforts; or

(b) For good cause shown.

6. If the State Controller waives the requirements of subsection 1 or 2 for an agency, the agency may exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect a debt.

7. An agency that is authorized by specific statute to collect a debt on behalf of or in trust for a particular person or entity may assign the debt to the State Controller for collection pursuant to this section. If such an agency does not assign a debt to the State Controller pursuant to this section, the agency may, in addition to any right or remedy conferred on the agency by specific statute to collect a debt, exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect the debt.

Sec. 18. NRS 353C.200 is hereby amended to read as follows:

353C.200 1. Except as otherwise provided in subsection 2, ***if*** an agency ***has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller*** may enter into a contract with a private debt collector or any other person for the assignment of the collection of ~~[a]~~ ***the*** debt if the ~~[agency:]~~ ***State Controller:***

(a) Determines the assignment is likely to generate more net revenue than equivalent efforts by the ~~[agency]~~ ***State Controller*** to collect the debt, including collection efforts pursuant to this chapter;

(b) Determines the assignment will not compromise future collections of state revenue; and

(c) Notifies the debtor in writing at his address of record that the debt will be turned over for private collection unless the ~~[debt is paid.]~~ ***debtor:***

(1) Pays the debt in full; or

(2) Enters into an agreement, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

2. ~~[An agency shall not enter into a contract with a private debt collector or any other person for the assignment of the collection of a debt if the debt has been contested by the debtor.~~

~~3.]~~ A contract for the assignment of the collection of a debt may provide for:

(a) Payment by the ~~[agency]~~ ***State Controller*** to the private debt collector or other person of the costs of collection and fees for collecting the debt; or

(b) Collection by the private debt collector or other person from the debtor of the costs of collection and fees for collecting the debt.

~~[4.]~~ ~~*[3.*~~ ~~Any contract entered into pursuant to this section is subject to approval by the]~~ ~~[Director of the Department of Administration and the State Controller.]~~ ~~*[Attorney General.]*~~

Sec. 19. NRS 353C.210 is hereby amended to read as follows:

353C.210 1. Notwithstanding any specific statute to the contrary, ~~[an agency to which a debt is owed]~~ ***the State Controller*** may, in addition to any other remedy provided for in this chapter, give notice of the amount of ~~[the]~~ ***a*** debt ***owed to this State*** and a demand to transmit to any person, including, without limitation, any officer, agency or political subdivision of this State, who has in his possession or under his control any credits or other personal property belonging to the debtor ~~[,]~~ or who owes any debts to the debtor that remain unpaid. The notice and demand to transmit must be delivered personally or by certified or registered mail:

(a) Not later than 4 years after the debt became due; or

(b) Not later than 6 years after the last recording of an abstract of judgment pursuant to NRS 353C.170 or a certificate of liability pursuant to NRS 353C.180.

2. If such notice is given to an officer or agency of this State, the notice must be delivered before the ~~[agency which sent the notice]~~ ***State Controller*** may file a claim ~~[with the State Controller]~~ pursuant to NRS 353C.190 on behalf of the debtor.

3. An agency that receives a notice and demand to transmit pursuant to this section may satisfy any debt owed to it by the debtor before it honors the notice and demand to transmit. If the agency is holding a bond or other property of the debtor as security for debts owed or that may become due and owing by the debtor, the agency is not required to transmit the amount of the bond or other property unless the agency determines that holding the bond or other property of the debtor as security is no longer required.

4. Except as otherwise provided by specific statute, a person who receives a demand to transmit pursuant to this section shall not thereafter transfer or otherwise dispose of the credits or other personal property of, or debts owed to, the person who is the subject of the demand to transmit without the consent of the ~~[agency which sent the demand to transmit.]~~ ***State Controller.***

5. Except as otherwise provided by specific statute, a person who receives ~~[from an agency]~~ a demand to transmit pursuant to this section shall, within 10 days thereafter, inform the ~~[agency]~~ ***State Controller*** of, and transmit to the ~~[agency]~~ ***State Controller*** within the time and in the manner requested by the ~~[agency,]~~ ***State Controller,*** all credits or other personal property in his possession or control that belong to, and all debts that he owes to, the person who is the subject of the demand to transmit. Except as otherwise provided in subsection 6, no further notice is required to be served on such persons.

6. Except as otherwise provided by specific statute, if the property of the debtor consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the ~~[agency which sent the demand to transmit]~~ ***State Controller*** until otherwise notified by the ~~[agency.]~~ ***State Controller.*** If the debt of the debtor is not paid within 1 year

after the date on which the ~~[agency]~~ ***State Controller*** issued the original demand to transmit, the ~~[agency]~~ ***State Controller*** shall:

(a) Issue another demand to transmit to the person responsible for making the payments that informs him to continue transmitting payments to the ~~[agency;]~~ ***State Controller;*** or

(b) Notify the person that his duty to transmit the payments to the ~~[agency]~~ ***State Controller*** has ceased.

7. If the notice and demand to transmit is intended to prevent the transfer or other disposition of a deposit in a bank or other depository institution, or of any other credit or personal property in the possession or under the control of the bank or depository institution, the notice must be delivered or mailed to any branch or office of the bank or depository institution at which the deposit is carried or the credit or personal property is held.

8. If any person to whom ~~[an agency]~~ ***the State Controller*** delivers a notice and demand to transmit transfers or otherwise disposes of any property or debts required by this chapter to be transmitted to the ~~[agency,]~~ ***State Controller,*** the person is, to the extent of the value of the property or the amount of the debts so transferred or disposed of, liable to the ~~[agency]~~ ***State Controller*** for any portion of the debt that the ~~[agency]~~ ***State Controller*** is unable to collect from the debtor solely by reason of the transfer or other disposition of the property or debt.

9. A debtor who owes a debt to an agency ***for*** which ***the State Controller*** delivers a notice and demand to transmit concerning the debtor pursuant to this section is entitled to an administrative hearing before that agency to challenge the collection of the debt pursuant to the demand to transmit. Each agency may adopt such regulations as are necessary to provide an administrative hearing for the purposes of this subsection.

Sec. 20. NRS 353C.220 is hereby amended to read as follows:

353C.220 1. If ~~[an agency]~~ ***the State Controller*** determines that it is impossible or impractical to collect a debt, ~~[the agency]~~ ***he*** may request the State Board of Examiners to designate the debt as a bad debt. The State Board of Examiners, by an affirmative vote of the majority of the members of the Board, may designate the debt as a bad debt if the Board is satisfied that the collection of the debt is impossible or impractical. If the debt is not more than $50, the State Board of Examiners may delegate to its Clerk the authority to designate the debt as a bad debt. ~~[An agency that is aggrieved by]~~ ***The State Controller may appeal*** a denial of a request to designate the debt as a bad debt by the Clerk ~~[may appeal that denial]~~ to the State Board of Examiners.

2. Upon the designation of a debt as a bad debt pursuant to this section, the State Board of Examiners or its Clerk shall immediately notify the State Controller thereof. Upon receiving the notification, the State Controller shall direct the removal of the debt from the books of account of the State of Nevada. A bad debt that is removed pursuant to this section remains a legal and binding obligation owed by the debtor to the State of Nevada.

3. ~~[If resources are available, the]~~ ***The*** State Controller shall keep a master file of all debts that are designated as bad debts pursuant to this section. ~~[If such a file is established and maintained, for]~~ ***For*** each such debt, the State Controller shall record the name of the debtor, the amount of the debt, the date on which the debt was incurred and the date on which it was removed from the records and books of account of ~~[the agency or]~~ the State of Nevada, and any other information concerning the debt that the State Controller determines is necessary.

Sec. 21. NRS 11.255 is hereby amended to read as follows:

11.255 1. ~~[The]~~ ***Except as otherwise provided in subsection 2, the*** provisions of this chapter ~~[concerning actions other than for the recovery of real property shall]~~ ***do not*** apply to actions ***which accrue on or after the effective date of this act that are*** brought in the name of the State ~~[,]~~ or for the benefit of the State **.** ~~[, in the same manner as to actions by private individuals.]~~

2. ~~[Except as provided in]~~ ***The provisions of*** NRS 11.030 and 11.040 ~~[, there shall be no limitation of]~~ ***apply to*** actions brought in the name of the State, or for the benefit of the State, for the recovery of real property.

Sec. 21.3. **NRS 616C.220 is hereby amended to read as follows:**

616C.220 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

➥ to administer claims against the uninsured employers' claim account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the uninsured employers' claim account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He suffers an accident or injury which arises out of and in the course of his employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the injured employee pursuant to NRS 616C.215.

➥ An employee who suffers an accident or injury while on temporary assignment outside the State is not eligible to receive compensation from the uninsured employers' claim account unless he has been denied workers' compensation in the state in which the accident or injury occurred.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory industrial insurance coverage for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS is liable for all payments made on his behalf, including any benefits, administrative costs or attorney's fees paid from the uninsured employers' claim account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. ***For the purposes of this paragraph, the payments made by the Division that are described in subsection 5 are presumed to be:***

(1) Justified by the circumstances of the claim;

(2) Made in accordance with applicable law; and

(3) Reasonable and necessary.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the employee's injury.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving notice of the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

➥ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

➥ the Division shall authorize payment from the uninsured employers' claim account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of

NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to chapters 616A to 616D, inclusive, of NRS, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

➥ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than $10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS.

15. If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.

Sec. 21.7. **NRS 617.401 is hereby amended to read as follows:**

617.401 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

➥ to administer claims against the Uninsured Employers' Claim Account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the Uninsured Employers' Claim Account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He contracts an occupational disease that arose out of and in the course of employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the employee pursuant to NRS 616C.215.

➥ An employee who contracts an occupational disease that arose out of and in the course of employment while on temporary assignment outside the State is not entitled to receive compensation from the Uninsured Employers' Claim Account unless he has been denied workers' compensation in the state in which the disease was contracted.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory coverage for occupational diseases for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of this chapter is liable for all payments made on his behalf, including, but not limited to, any benefits, administrative costs or attorney's fees paid from the Uninsured Employers' Claim Account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. ***For the purposes of this paragraph, the payments made by the Division that are described in subsection 5 are presumed to be:***

(1) Justified by the circumstances of the claim;

(2) Made in accordance with applicable law; and

(3) Reasonable and necessary.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the occupational disease.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

➥ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

➥ the Division shall authorize payment from the Uninsured Employers' Claim Account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to this chapter, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the Account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

➥ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than $10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of this chapter.

15. If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.

Sec. 22. A regulation jointly adopted by the Director of the Department of Administration and the Attorney General pursuant to NRS 353C.110 remains in effect until it is amended or repealed by the State Controller pursuant to the amendatory provisions of this act.

Sec. 23. This act becomes effective:

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

2. On July 1, 2009, for all other purposes.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that upon return from the printer, Assembly Bill No. 87 be placed on the Chief Clerk's desk.

Motion carried.

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

Assembly in recess at 1:21 p.m.

ASSEMBLY IN SESSION

At 1:27 p.m.

Madam Speaker presiding.

Quorum present.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 493 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Horne moved that Assembly Bill No. 251 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Atkinson moved that upon return from the printer, Assembly Bill No. 504 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that upon return from the printer, Assembly Bill No. 317 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Denis moved that upon returned from the printer, Assembly Bill No. 489 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess until 4 p.m.

Motion carried.

Assembly in recess at 1:35 p.m.

ASSEMBLY IN SESSION

At 5:20 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 22, 24, 162, 355, 370, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 442, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 82, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 54, 119, 395, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 409, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 320, 496, 500 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was rereferred Assembly Bill No. 8, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 333, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 252.

MARK STEVENS
Fiscal Analysis Division

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 309.

GARY GHIGGERI
Fiscal Analysis Division

Assemblyman Oceguera moved that Assembly Bills Nos. 8, 22, 24, 54, 82, 119, 162, 320, 333, 355, 370, 395, 409, 442, 496, and 500 just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 313 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 63 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Smith moved that Assembly Bill No. 10 be taken from the Chief Clerk's desk and placed at the top of General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 508 be taken from the Chief Clerk's desk and placed on the General File immediately following Assembly Bill No. 313.

Motion carried.

Assembly Bill No. 10.

Bill read third time.

The following amendment was proposed by Assemblyman Arberry:

Amendment No. 526.

SUMMARY— ~~[Prohibits retaliation or discrimination against registered nurses, licensed practical nurses and nursing assistants who report certain information relating to the safety of patients.]~~ **Makes various changes concerning certain health care professionals who report certain information to licensing boards or other governmental entities or who cooperate in investigations of certain health care professionals.** (BDR 40-219)

AN ACT relating to health care; prohibiting certain retaliation or discrimination against registered nurses, licensed practical nurses and nursing assistants who report certain information, refuse to engage in certain conduct or participate in certain investigations or proceedings relating to the safety of patients; providing civil remedies and civil penalties for violations; **prohibiting the licensing boards of physicians from taking adverse action against a physician who discloses or cooperates in the investigation of a violation of any law, rule or regulation by an applicant or licensee;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a medical facility, physician or osteopathic physician from retaliating or discriminating against an employee who reports **in good faith** information concerning the conduct of a physician or osteopathic physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine, reports **in good faith** a sentinel event to the Health Division of the Department of Health and Human Services or cooperates or participates in **good faith in** an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity concerning the conduct or sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. (NRS 449.205, 630.293, 633.505)

Sections 1, 3 and 5 of this bill provide additional protection against retaliation or discrimination for a registered nurse, licensed practical nurse or nursing assistant who: (1) reports **in good faith** certain information or concerns regarding the safety of patients; or (2) refuses to engage in conduct which would violate his duty to protect patients from actual or potential harm or which would subject him to disciplinary action by the State Board of Nursing. **Sections 1, 3 and 5 also add a definition of "good faith."**

Existing law provides that an employee of a medical facility, physician or osteopathic physician or a registered nurse, licensed practical nurse or

nursing assistant who is employed by or contracts to provide nursing services for the medical facility, physician or osteopathic physician may file an action in court based on retaliation or discrimination. (NRS 449.207, 630.296, 633.507) **Sections 2, 4 and 6** of this bill expand these provisions by authorizing the court in such an action to award compensatory damages, reimbursement of lost wages and benefits, attorney's fees and punitive damages and to grant any equitable relief it considers appropriate. **Sections 2, 4 and 6** also provide that the Attorney General or any district attorney of this State may bring a civil action in the name of the State of Nevada to recover a civil penalty of not more than $10,000 for each such act of retaliation or discrimination.

Existing law provides immunity from civil liability to physicians, homeopathic physicians and osteopathic physicians for providing certain information concerning an applicant for a license or a licensee in good faith to their licensing boards and others for the decisions or actions taken by them in good faith in response to information received by the board. (NRS 630.364, 630A.540, 633.691) Sections 4.3, 4.7 and 7 of this bill further prohibit the licensing board of a physician, homeopathic physician or osteopathic physician from taking any adverse action against a physician, homeopathic physician or osteopathic physician for disclosing a violation of any law, rule or regulation to a governmental entity or for cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation.

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

Section 1. NRS 449.205 is hereby amended to read as follows:

449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

(2) Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

(3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2) ~~[.]~~ ***; or***

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility and who ~~[, in]~~ ***:***

(1) In accordance with the policy, if any, established by the medical facility:

~~[(1)]~~ ***(I)*** Reports to his immediate supervisor, in writing, that he does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and

~~[(2)]~~ ***(II)*** Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse or nursing assistant concerning his competence to provide various nursing services, he does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless ~~[such]~~ ***the*** refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto ~~[.]~~ ***;***

(2) ~~*[Reports]*~~ ***In good faith, reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:***

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(3) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing.

2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1.

3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any

other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.

4. As used in this section:

(a) ***"Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.***

(b) "Physician" means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

~~[(b)]~~ ***(c)*** "Retaliate or discriminate":

(1) Includes, without limitation, ***any of*** the following ~~[action if such action is]~~ ***actions if*** taken solely because the employee ***,*** ~~[or the]~~ registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the ~~[employee]~~ ***person*** works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include ***an*** action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 2. NRS 449.207 is hereby amended to read as follows:

449.207 ***1.*** An employee of a medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility ***and*** who believes that he has been retaliated or discriminated against in violation of NRS 449.205 may file an action in a court of competent jurisdiction ***.*** ~~[for such relief as may be appropriate under the law.]~~

2. If a court determines that a violation of NRS 449.205 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 449.205, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 449.205.

6. A medical facility or any agent or employee thereof that violates the provisions of NRS 449.205 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 449.205.

Sec. 3. NRS 630.293 is hereby amended to read as follows:

630.293 1. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~[~~an~~]~~ ***:***

(a) An employee of the physician or a person acting on behalf of the employee who in good faith:

~~[~~(a)~~]~~ ***(1)*** Reports to the Board ***of Medical Examiners*** information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

~~[~~(b)~~]~~ ***or***

(2) Reports a sentinel event to the Health Division ***of the Department of Health and Human Services*** pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who:

(1) ~~*[Reports]*~~ ***In good faith, reports to the physician, the Board of Medical Examiners, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:***

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~[~~Cooperates~~]~~ ***An employee of the physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who cooperates*** or otherwise participates in an investigation or proceeding conducted by the Board ***of Medical Examiners*** or another governmental entity relating to conduct described in paragraph (a) or (b).

2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician*** because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** has taken an action described in subsection 1.

3. A physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician*** to take an action described in subsection 1.

4. As used in this section, "retaliate or discriminate":

(a) ***"Good faith" means honesty in fact in the reporting of the information or in the cooperation of the investigation concerned.***

(b) "Retaliate or discriminate":

(1) Includes, without limitation, ***any of*** the following ~~[~~action if such action is~~]~~ ***actions if*** taken solely because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** took an action described in subsection 1:

~~[(1)]~~ ***(I)*** Frequent or undesirable changes in the location where the ~~[employee]~~ ***person*** works;

~~[(2)]~~ ***(II)*** Frequent or undesirable transfers or reassignments;

~~[(3)]~~ ***(III)*** The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

~~[(4)]~~ ***(IV)*** A demotion;

~~[(5)]~~ ***(V)*** A reduction in pay;

~~[(6)]~~ ***(VI)*** The denial of a promotion;

~~[(7)]~~ ***(VII)*** A suspension;

~~[(8)]~~ ***(VIII)*** A dismissal;

~~[(9)]~~ ***(IX)*** A transfer; or

~~[(10)]~~ ***(X)*** Frequent changes in working hours or workdays.

~~[(b)]~~ ***(2)*** Does not include ***an*** action described in ~~[subparagraphs (1) to (10),]~~ ***sub-subparagraphs (I) to (X),*** inclusive, of ~~[paragraph (a)]~~ ***subparagraph (1)*** if the action is taken in the normal course of employment or as a form of discipline.

Sec. 4. NRS 630.296 is hereby amended to read as follows:

630.296 ***1.*** An employee of a physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and*** who believes that he has been retaliated or discriminated against in violation of NRS 630.293 may file an action in a court of competent jurisdiction **.** ~~[for such relief as may be appropriate.]~~

2. If a court determines that a violation of NRS 630.293 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 630.293, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing

assistant constitutes retaliation or discrimination in violation of NRS 630.293.

6. A physician or any agent or employee thereof that violates the provisions of NRS 630.293 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 630.293.

Sec. 4.3. **NRS 630.364 is hereby amended to read as follows:**

630.364 1. Any person or organization who furnishes information concerning an applicant for a license or a licensee in good faith ~~[and without malicious intent]~~ in accordance with the provisions of this chapter is immune from any civil action for furnishing that information.

2. The Board and any of its members and its staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and the employees or volunteers of a diversion program are immune from any civil liability for:

(a) Any decision or action taken in good faith ~~[and without malicious intent]~~ in response to information acquired by the Board.

(b) Disseminating information concerning an applicant for a license or a licensee to other boards or agencies of the State, the Attorney General, any hospitals, medical societies, insurers, employers, patients and their families or any law enforcement agency.

3. ***The Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against a physician for:***

(a) Disclosing to a governmental entity a violation of any law, rule or regulation by an applicant for a license to practice medicine or by a physician; or

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

4. As used in this section ~~[, "diversion]~~ ***:***

(a) "Diversion program" means a program approved by the Board to correct a licensee's alcohol or drug dependence or any other impairment.

(b) "Governmental entity" includes, without limitation:

(1) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(2) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(3) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(4) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(5) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

Sec. 4.7. **NRS 630A.540 is hereby amended to read as follows:**

630A.540 ***1.*** In addition to any other immunity provided by the provisions of chapter 622A of NRS:

~~[1.]~~ ***(a)*** Any person who furnishes information to the Board, in good faith ~~[and without malicious intent]~~ in accordance with the provisions of this chapter, concerning a person who is licensed or certified or applies for a license or certificate under this chapter is immune from civil liability for furnishing that information.

~~[2.]~~ ***(b)*** The Board and its members, staff, counsel, investigators, experts, committees, panels, hearing officers and consultants are immune from civil liability for any decision or action taken in good faith ~~[and without malicious intent]~~ in response to information received by the Board.

~~[3.]~~ ***(c)*** The Board and any of its members are immune from civil liability for disseminating information concerning a person who is licensed or certified or applies for a license or certificate under this chapter to the Attorney General or any board or agency of the State, hospital, medical society, insurer, employer, patient or his family or law enforcement agency.

2. The Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against a homeopathic physician for:

(a) Disclosing to a governmental entity a violation of any law, rule or regulation by an applicant for a license to practice homeopathic medicine or by a homeopathic physician; or

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

3. As used in this section, "governmental entity" includes, without limitation:

(a) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(b) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(c) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(d) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(e) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

Sec. 5. NRS 633.505 is hereby amended to read as follows:

633.505 1. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~[an]~~ ***:***

(a) An employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ ***(1)*** Reports to the ***State*** Board ***of Osteopathic Medicine*** information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ ***or***

(2) Reports a sentinel event to the Health Division ***of the Department of Health and Human Services*** pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who:

(1) ~~*[Reports]*~~ ***In good faith, reports to the osteopathic physician, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:***

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the osteopathic physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the osteopathic physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~[Cooperates]~~ ***An employee of the osteopathic physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who cooperates*** or otherwise participates in an investigation or proceeding conducted by the

State Board ***of Osteopathic Medicine*** or another governmental entity relating to conduct described in paragraph (a) or (b).

2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician*** because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** has taken an action described in subsection 1.

3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician*** to take an action described in subsection 1.

4. As used in this section, "retaliate or discriminate":

(a) ***"Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.***

(b) "Retaliate or discriminate":

(1) Includes, without limitation, ***any of*** the following ~~[~~action if such action is~~]~~ ***actions if*** taken solely because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** took an action described in subsection 1:

~~[(1)]~~ ***(I)*** Frequent or undesirable changes in the location where the ~~[~~employee~~]~~ ***person*** works;

~~[(2)]~~ ***(II)*** Frequent or undesirable transfers or reassignments;

~~[(3)]~~ ***(III)*** The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

~~[(4)]~~ ***(IV)*** A demotion;

~~[(5)]~~ ***(V)*** A reduction in pay;

~~[(6)]~~ ***(VI)*** The denial of a promotion;

~~[(7)]~~ ***(VII)*** A suspension;

~~[(8)]~~ ***(VIII)*** A dismissal;

~~[(9)]~~ ***(IX)*** A transfer; or

~~[(10)]~~ ***(X)*** Frequent changes in working hours or workdays.

~~[(b)]~~ ***(2)*** Does not include ***an*** action described in ~~[~~subparagraphs (1) to (10),~~]~~ ***sub-subparagraphs (I) to (X),*** inclusive, of ~~[~~paragraph (a)~~]~~ ***subparagraph (1)*** if the action is taken in the normal course of employment or as a form of discipline.

Sec. 6. NRS 633.507 is hereby amended to read as follows:

633.507 ***1.*** An employee of an osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and*** who believes that he has been retaliated or discriminated against in violation of

NRS 633.505 may file an action in a court of competent jurisdiction **.** ~~[for such relief as may be appropriate under the law.]~~

2. If a court determines that a violation of NRS 633.505 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 633.505, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 633.505.

6. An osteopathic physician or any agent or employee thereof that violates the provisions of NRS 633.505 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 633.505.

Sec. 7. **NRS 633.691 is hereby amended to read as follows:**

633.691 ***1.*** In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, repeated malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or

assistance or any consequential damages, if the person or organization acted ~~[without malicious intent.]~~ ***in good faith.***

2. The Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against an osteopathic physician for:

(a) Disclosing to a governmental entity a violation of a law, rule or regulation by an applicant for a license to practice osteopathic medicine or by an osteopathic physician; or

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

3. As used in this section, "governmental entity" includes, without limitation:

(a) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(b) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(c) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(d) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(e) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

~~[Sec. 7.]~~ ***Sec. 8.*** This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 63.

Bill read third time.

The following amendment was proposed by Assemblywoman Buckley:

Amendment No. 535.

AN ACT relating to justice courts; authorizing the appointment of masters in justice courts under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the appointment of masters in justice courts to perform certain duties as approved by the Nevada Supreme Court. The master must possess qualifications which are at least equal to those required of a justice of the peace in the township in which the master is appointed, and the master **may not perform any duties of a master until the master has completed the course of instruction prescribed by the Nevada Supreme Court. Further, the master** is entitled to receive a salary

or a per diem salary set by the board of county commissioners. However, a master may not preside over: (1) any misdemeanor action for an act of domestic violence, vehicular manslaughter or driving under the influence; or (2) any preliminary hearing for a gross misdemeanor or felony.

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

Section 1. Chapter 4 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In any county in which the appointment of masters by a justice court is authorized by the board of county commissioners, the local rules of practice adopted in a justice court within the county may authorize the appointment of one or more masters to perform certain duties that the Supreme Court has approved. If the justice court elects to appoint a master or masters, the local rules of practice adopted in that court must set forth the selection process for choosing a master.

2. A master appointed pursuant to subsection 1 must possess qualifications that are equal to or greater than the qualifications required of the justice of the peace for the township in which the master is appointed as set forth in NRS 4.010.

3. The Supreme Court shall provide by rule for a course of instruction in the elements of substantive law relating to the duties of any master appointed pursuant to subsection 1. A master appointed pursuant to subsection 1 may not perform any duties of a master until he has completed the course of instruction described in this subsection.

4. A master appointed pursuant to subsection 1 may not preside over:

(a) Any trial for a misdemeanor constituting:

(1) An act of domestic violence pursuant to NRS 33.018; or

(2) A violation of NRS 484.3775, 484.379 or 484.379778; or

(b) Any preliminary hearing for a gross misdemeanor or felony.

5. A person appointed as a master must take and subscribe to the official oath before acting as a master.

6. A master is entitled to receive a salary or a per diem salary set by the board of county commissioners. The annual sum expended for salaries of masters must not exceed the amount budgeted for those expenses by the board of county commissioners.

Sec. 2. (Deleted by amendment.)

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 313.

Bill read third time.

The following amendment was proposed by Assemblymen Anderson and Conklin:

Amendment No. 521.

SUMMARY— ~~[Prohibits excessive late fees in rental agreements.]~~ **Makes various changes relating to tenants of property.** (BDR 10-912)

AN ACT relating to property; limiting the amount of fees a landlord may charge for a late or partial rent payment; **revising provisions governing unlawful detainer; extending the period for complying with a notice to quit by certain tenants in certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a tenant is obligated to pay periodic rent to a landlord in exchange for use of the premises. A landlord must include, as part of the rental agreement, a provision which sets forth the charges, if any, which may be required for late or partial payment of rent. (NRS 118A.200)

This bill limits the amount of the late fee that may be charged by a landlord for late or partial payment of rent. **Section 1** of this bill provides: (1) for monthly or longer periodic terms, the late fee may not exceed ~~[2]~~ **3** percent of the periodic payment for payments made ~~[5 to 9]~~ **3 to 6** days late, and may not exceed an additional ~~[3]~~ **4** percent of the periodic payment if payment is made ~~[10]~~ **7** days or more late; (2) for **certain** weekly periodic terms, the late fee may not exceed ~~[2]~~ **7** percent of the weekly payment for payments made ~~[3 to 6 days late, and may not exceed an additional 3 percent of the weekly payment if payment is made 7 days or more]~~ late; and (3) that a late fee imposed by a landlord may only be imposed once for a late payment**.** ~~[and may not be deducted from a subsequent payment to place the subsequent payment in default.]~~

Existing law specifies when a tenant of real property or a mobile home is guilty of unlawful detainer, including when the tenant: (1) fails to pay his rent; (2) fails to comply with a written notice directing him to either pay the rent or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. (NRS 40.2512) Section 2 of this bill extends the 5-day period to 7 days if the premises are used as a residence.

A tenant of real property is also guilty of unlawful detainer under existing law if he: (1) fails to perform certain conditions of the lease; (2) fails to comply with a written notice directing him to perform the conditions or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. The tenant or subtenant may save the lease from forfeiture, however, by performing the conditions within 3 days after the notice is served. (NRS 40.2516) Section 3 of this bill extends from 5 to 7 days the period during which a tenant or subtenant of premises that are used as a residence may remain on the property before being guilty of unlawful detainer. Section 3 also

extends the period by which such a tenant or subtenant must perform the conditions to save the lease from forfeiture from 3 to 5 days.

Existing law provides that, under certain circumstances, a landlord may obtain an order from the court directing the sheriff to remove a tenant who has failed to pay rent within 24 hours after receiving the order. (NRS 40.253) Section 4 of this bill extends that period if the tenant is in possession of a dwelling, apartment or mobile home or if the rent is reserved by a period of 1 week or less so that the sheriff may not remove the tenant sooner than 2 days after the sheriff receives the order.

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

Section 1. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A landlord shall not require, as part of a rental agreement, the tenant to pay a late fee for late or partial payment of rent in excess of the provisions of this section.

2. If the tenancy is from month to month and rent is due in monthly installments or if the tenancy is for a period greater than month to month as established by the rental agreement and the rent is:

(a) At least ~~*[5]*~~ ***3 days overdue but less than*** ~~*[10]*~~ ***7 days overdue, a landlord may charge a late fee not to exceed*** ~~*[2]*~~ ***3 percent of the periodic rent.***

(b) ~~*[Ten]*~~ ***Seven days or more overdue, a landlord may charge a late fee in addition to the late fee described in paragraph (a) not to exceed*** ~~*[3]*~~ ***4 percent of the periodic rent.***

3. If the tenancy is from week to week and the rent is ~~*[:*~~

~~**(a) At least 3 days overdue but less than 7 days**~~*]* ***overdue, a landlord may charge a late fee not to exceed*** ~~*[2]*~~ ***7 percent of the weekly rent.***

~~*[(b) Seven days or more overdue, a landlord may charge a late fee in addition to the late fee described in paragraph (a) not to exceed 3 percent of the weekly rent.]*~~ ***As used in this subsection, "tenancy" does not include occupancy of any transient lodging for less than 30 consecutive calendar days.***

4. If the rent is subsidized by the United States Department of Housing and Urban Development, the United States Department of Agriculture, a state agency, a public housing authority or a local government, any late fee charged by a landlord must be calculated in accordance with the provisions of this section on the tenant's share of the rent and the rent subsidy must not be included in the calculation.

5. If a late fee is imposed under this section, a landlord may only impose the late fee once for each late or partial payment. ~~*[A landlord may not deduct a late fee from a subsequent rental payment and cause the subsequent rental payment to be in default.]*~~

6. Any provision of a rental agreement prohibited by this section is void as contrary to public policy and the tenant may recover any actual damages incurred through the inclusion of the prohibited provision.

Sec. 2. **NRS 40.2512 is hereby amended to read as follows:**

40.2512 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after default in the payment of any rent and after a notice in writing, requiring in the alternative the payment of the rent or the surrender of the detained premises, remains uncomplied with for a period of 5 days, or in the case of ~~[a mobile home lot, 10]~~ ***premises used as a residence, 7*** days after service thereof. The notice may be served at any time after the rent becomes due.

Sec. 3. **NRS 40.2516 is hereby amended to read as follows:**

40.2516 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property or mobile home is held, other than those mentioned in NRS 40.250 to 40.252, inclusive, and NRS 40.254, and after notice in writing, requiring in the alternative the performance of the condition or covenant or the surrender of the property, served upon him, and, if there is a subtenant in actual occupation of the premises, also upon the subtenant, remains uncomplied with for 5 days ***or, when the premises are used as a residence, for 7 days*** after the service thereof. Within 3 days after the service, ***or within 5 days after the service when the premises are used as a residence,*** the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person, interested in its continuance, may perform the condition or covenant and thereby save the lease from forfeiture; but if the covenants and conditions of the lease, violated by the lessee, cannot afterwards be performed, then no notice need be given.

Sec. 4. **NRS 40.253 is hereby amended to read as follows:**

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ As used in this subsection, "day of service" means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the Justice Court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. ~~[The]~~ ***If the tenant is in possession of commercial premises, the*** court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. ***If the tenant is in possession of a dwelling, apartment or mobile home or if the rent is reserved by a period of 1 week or less, the court may thereupon issue an***

order directing the sheriff or constable of the county to remove the tenant not sooner than 2 days after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the Justice Court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that ~~[there]~~ ***:***

(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. ~~[If the court determines that there]~~

(b) There is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief ~~[,]~~ and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive.

➥ The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 for the inventory,

moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

➥ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460, and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 5. **The provisions of section 1 of this act apply only to a rental agreement entered into on or after July 1, 2009.**

~~[Sec. 2.]~~ ***Sec. 6.*** This act becomes effective on July 1, 2009.

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 508.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 531.

AN ACT relating to housing; prohibiting the Housing Division of the Department of Business and Industry from adopting regulations that restrict or defer more than a certain percentage of the payment of profit and overhead to developers of certain projects under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits the Housing Division of the Department of Business and Industry from financing any low-income residential housing unless the Administrator of the Division makes certain findings. (NRS 319.260) **Section 1** of this bill provides that if the Division adopts regulations establishing a program for the financing of the lease, purchase or development of low-income multifamily housing, the regulations may establish the maximum amount of pro forma profit and overhead for a developer of a project, but the regulations must not restrict or require the deferral of more than ~~[50]~~ **60** percent of the payment of profits and overhead to a developer of a project that is: (1) constructed, developed, financed or insured in whole or in part through any program established by the United States Department of Housing and Urban Development; and (2) secured by a performance bond. **Section 2** of this bill deletes a provision which requires that any remaining balance of a certain appropriation from the State General Fund to the Housing Division must be reverted to the State General Fund on or before September 18, 2009.

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

Section 1. Chapter 319 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Division adopts regulations which establish a program for the financing of projects, the regulations must not include any provision which restricts or requires the deferral of more than ~~[50]~~ 60 percent of the payment of profits and overhead to a developer of a project that is:

(a) Constructed, developed, financed or insured in whole or in part through any program established by the United States Department of Housing and Urban Development; and

(b) Secured by a performance bond,

➥ except that such regulations may establish the maximum amount of pro forma profit and overhead for a developer of a project as a percentage of the appraised value of the project.

2. As used in this section, "project" means a housing facility for residential use which consists of two or more dwelling units for occupancy by eligible tenants on a rental basis. The term includes property which is to be leased, purchased or developed for sites for multifamily housing and upon which the Division takes a security interest and records a regulatory agreement, whether the Division issues bonds, a mortgage loan or a letter of credit for the lease, purchase or development of the multifamily housing.

Sec. 2. Section 3 of chapter 348, Statutes of Nevada 2007, at page 1657, is hereby amended to read as follows:

Sec. 3. 1. There is hereby appropriated from the State General Fund to the Housing Division of the Department of Business and Industry the sum of $1,000,000 to provide grants to encourage the creation of employer-assisted housing programs.

2. The Housing Division shall adopt regulations to govern the provision of grants pursuant to subsection 1, which must include, without limitation, criteria for determining eligibility for such programs.

3. ~~[Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.~~

~~4.]~~ As used in this section, "employer-assisted housing program" means a program for the provision of down-payment assistance, closing-cost assistance, reduced-interest mortgages, mortgage guarantees, rental subsidies or individual development account savings plans, or any combination thereof, to assist employees in securing affordable housing in this State.

Sec. 3. 1. This section and section 2 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on October 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 251.

Bill read third time.

The following amendment was proposed by Assemblyman Horne:

Amendment No. 520.

AN ACT relating to common-interest communities; revising the procedures for voting for a member of the executive board of an association under certain circumstances; requiring that the regulations governing the issuance of certificates for community managers must contain certain provisions relating to persons who formerly engaged in community management; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the executive board of a unit-owners' association may nominate a person to serve on the executive board and that qualified members of the association may also have their names placed on the ballot along with the nominees for election to the executive board. Existing law also provides that the election of any member of the executive board of a unit-owners' association must be conducted by secret written ballot, unless the declaration of the association provides that voting rights may be exercised by delegates or representatives. (NRS 116.31034) **Section 1** of this bill provides that **, before notice is provided to each unit's owner of his eligibility to serve on the executive board, the executive board may**

determine that if the number of candidates nominated for membership on the executive board is less than or equal to the number of open positions on the executive board, **the appropriate officer of the association will send a notice to each unit's owner informing each unit's owner that a unit's owner who is qualified to be a member of the executive board may nominate himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice. If the executive board decides to send such a notice and, at the closing of the period for nominations, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association must conduct an election for membership on the executive board. If, after any additional nominations, the number of candidates nominated for membership on the executive board continues to be less than or equal to the number of open positions on the executive board,** then ~~[the executive board may deem]~~ such nominees **shall be deemed to be** duly elected members of the executive board **.** ~~[without conducting a formal election by the members of the association.]~~

Existing law requires the Commission on Common-Interest Communities and Condominium Hotels to adopt regulations governing the issuance of certificates for community managers. (NRS 116A.410) **Section 2** of this bill provides that those regulations must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision by another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

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

Section 1. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an

equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to ~~[this]~~ subsection ~~[,]~~ 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then ~~[,]~~ the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section ~~[,~~

~~(b) The candidates so]~~ and the nominated candidates shall be deemed to be duly elected to the executive board ~~[not later than 30 days after the date of the closing of the prescribed period for nominations; and~~

~~(c) The units' owners will receive notification that the candidates so nominated have been elected to the executive board.~~

~~5.~~] unless:

(1) A unit's owner who is qualified to serve on the executive board nominates himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and

(2) The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board to be greater than the number of members to be elected to the executive board.

(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.

6. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive

board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board, then:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and

(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.

7. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.

8. Each person ~~[whose name is placed on the ballot]~~ ***who is nominated*** as a candidate for a member of the executive board ***pursuant to subsection 4 or 5*** must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot ***or, in the event ballots are not prepared and mailed pursuant to subsection*** ~~[4,]~~ ***6,*** in the manner established ***for distribution of ballots*** in the bylaws of the association.

~~[6.]~~ ***9.*** Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or

his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

~~[7.]~~ ***10.*** An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

~~[8.]~~ ***11.*** ~~[The]~~ ***Except as otherwise provided in subsection*** ~~*[4,]*~~ ***6, the*** election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

~~[9.]~~ ***12.*** Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 2. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate.

(b) May require applicants to pass an examination in order to obtain a certificate. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) ***Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.***

(d) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~[(d)]~~ ***(e)*** Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~[(e)]~~ ***(f)*** Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 6, 40, 74, 81, 84, 95, 130, 135, 140, 144, 147, 159, 176, 179, 192, 208, 224, 256, 281, 284, 290, 307, 325, 350, 361, 387, 397, 448, 470, 474, 478, and 492.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bills Nos. 6, 40, 74, 81, 84, 95, 130, 135, 140, 144, 147, 159, 176, 179, 192, 208, 224, 256, 281, 284, 290, 307, 325, 350, 361, 364, 387, 397, 448, 470, 474, 478, and 492 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 493.

Bill read third time.

Roll call on Assembly Bill No. 493:

YEAS—40.

NAYS—Koivisto.

EXCUSED—Parnell.

Assembly Bill No. 493 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 6.

Bill read third time.

Remarks by Assemblyman Hardy.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 6:

YEAS—40.

NAYS—Anderson.

EXCUSED—Parnell.

Assembly Bill No. 6 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 40.

Bill read third time.

Roll call on Assembly Bill No. 40:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 40 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 74.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 74:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 74 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that upon return from the printer, Assembly Bill No. 81 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 84.

Bill read third time.

Roll call on Assembly Bill No. 84:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 84 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 95.

Bill read third time.

Roll call on Assembly Bill No. 95:

YEAS—30.

NAYS—Carpenter, Christensen, Cobb, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart—11.

EXCUSED—Parnell.

Assembly Bill No. 95 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 130.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 130:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 130 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 135.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 135:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 135 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 140.

Bill read third time.

Roll call on Assembly Bill No. 140:

YEAS—30.

NAYS—Christensen, Cobb, Gansert, Goedhart, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—11.

EXCUSED—Parnell.

Assembly Bill No. 140 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 144.

Bill read third time.

Remarks by Assemblyman Hogan.

Roll call on Assembly Bill No. 144:

YEAS—40.

NAYS—None.

NOT VOTING—Arberry.

EXCUSED—Parnell.

Assembly Bill No. 144 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 147.

Bill read third time.

Remarks by Assemblymen Spiegel, Settelmeyer, Smith, and Kirkpatrick.

Assemblymen Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Speaker. Assembly Bill 147 grants a 5 percent preference to local businesses and businesses owned by women, minorities, or service-disabled veterans when bidding on local government purchasing contracts over $25,000. A local business is defined as one that has employed at least one person in Nevada for two years. For businesses owned by women, minorities, or service-disabled veterans to be eligible for the preference, the business must have employed at least one person in Nevada for one year. When awarding certain local

government purchasing contracts that are not adapted to competitive bidding, the local government must give consideration to the number of local employees and other relevant local contacts of the person or business seeking the contract. If the local government uses a points system or similar scoring rubric to make decisions on awarding such contracts, it must ensure that the factors demonstrating that the local government contracts of the bidder account for not less than 5 percent of the points. The bid requires annual reporting by the local government to the Legislature on a number of contracts awarded to local businesses or businesses owned by women, minorities, or service-disabled veterans and becomes effective on July 1, 2009.

This is important legislation because AB 147 is a miniature stimulus package that uses our state's resources to strengthen local economy statewide, support local businesses, diversify our economy, decrease unemployment, and support state economic development goals. Some of our business sectors have unemployment in excess of 50 percent and too many of our tax dollars flow out of Nevada, never to return. Our small businesses and their employees need the help that AB 147 provides, which is why this bill is supported by chambers of commerce throughout the state. I urge your support for AB 147.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. I rise in opposition to AB 147. The bill discusses a concept of the 5 percent preference, but the question is where do you get that type of money in these economic times? To me, that either means we are going to do 5 percent less jobs or we are going to have to raise taxes to get the additional 5 percent. In that respect, we are generally talking about products such as paper and things of that nature that are not manufactured within the state. These are just other individuals being middle men on these types of projects. So that means that the state would have less money, or rather government would have less money, to give to other worthy projects. I urge you to vote no on this bill.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of AB 147. Just a couple of days ago, we were in a budget hearing and I asked one of our state agencies if we were seeing more competition from out of state on these bids. I have been worried about this since the economy is so tough, and especially with the stimulus money coming—if we would be giving some of that up to out-of-state employers and consequently their employees who would be taking that money back home. The answer was that they had just opened a contract for a $120,000 bid, and there was a contractor from Arizona bidding on that—a small bid like that attracted someone from out of state. I think it is obvious that if we keep the work here, those paychecks go in the pockets of our state residents and that money cycles back through our businesses and our economy. I urge my colleagues to support this bill.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Speaker. First, I would like to clarify that within the bill there is a provision that if it is not in the public's best interest, local government absolutely should not be required to spend more than what it costs to do the job. I will tell you, we have seen many contracts that we are losing for less than thousands of dollars. For example, I pay a utility bill within Clark County; we send that utility bill to Arizona for data processing with my tax dollars. It is great to have other states doing so well. I will tell you, 37 states across the nation are looking at this very exact issue because we need to keep our tax dollars in our state at a time when we need it. So I would ask that you support this bill.

Roll call on Assembly Bill No. 147:

YEAS—33.

NAYS—Christensen, Cobb, Gansert, Goedhart, Gustavson, McArthur, Settelmeyer, Woodbury—8.

EXCUSED—Parnell.

Assembly Bill No. 147 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 159.
Bill read third time.
Remarks by Assemblymen Pierce and Settelmeyer.
Roll call on Assembly Bill No. 159:
YEAS—34.
NAYS—Christensen, Cobb, Gansert, Gustavson, Hambrick, McArthur, Settelmeyer—7.
EXCUSED—Parnell.
Assembly Bill No. 159 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 176.
Bill read third time.
Remarks by Assemblywoman McClain.
Roll call on Assembly Bill No. 176:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 176 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 179.
Bill read third time.
Roll call on Assembly Bill No. 179:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 179 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 192.
Bill read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Assembly Bill No. 192:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 192 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 208.
Bill read third time.
Remarks by Assemblyman Claborn.

Potential conflict of interest declared by Assemblyman Gustavson.

Roll call on Assembly Bill No. 208:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 208 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 224.

Bill read third time.

Roll call on Assembly Bill No. 224:

YEAS—27.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

EXCUSED—Parnell.

Assembly Bill No. 224 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblywoman Kirkpatrick moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 6:07 p.m.

ASSEMBLY IN SESSION

At 6:08 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 256 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 281.

Bill read third time.

Roll call on Assembly Bill No. 281:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 281 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 284.

Bill read third time.

Remarks by Assemblyman Christensen.

Roll call on Assembly Bill No. 284:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 284 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 290.

Bill read third time.

Remarks by Assemblymen Spiegel, Goedhart, Atkinson and Madam Speaker.

ASSEMBLYWOMAN SPIEGEL:

Assembly Bill 290 provides that in a contract for the sale of a used vehicle by a used vehicle dealer, the implied warranty expires at midnight on the fifteenth calendar day after delivery of the used vehicle or upon the used vehicle being driven 500 miles, whichever occurs first. Additionally, a used vehicle dealer is prohibited from excluding, modifying, negating, or limiting the implied warranty of merchantability or limiting any right or remedy of the purchaser for failure of the used vehicle to conform to the implied warranty of merchantability. The bill also provides certain remedies to the purchaser if the used vehicle does not conform to the implied warranty of merchantability. The measure exempts used vehicles still under a manufacturer's warranty. A person may waive the implied warranty of merchantability for a particular defect under certain circumstances. Also, the bill provides various protections for a person who purchases a used vehicle sold by a used vehicle dealer, regardless of the mileage of the used vehicle. Finally, the bill repeals certain provisions governing express written warranties provided by used vehicle dealers and the imposition of administrative fines for violations of a used vehicle dealer. This bill is effective upon passage and approval for the purposes of adopting regulations and on October 1, 2009, for all other purposes.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I know that in the past if we wanted or needed some old ranch vehicles, we would sometimes go to dealerships, on recent trade-ins, where they would have what's called "back row" cars. We would go with our mechanic and look over the vehicles, whether they were trucks or pickup trucks or cars. We would buy those at a reduced price under the conditions of "as is, where is." In other words, there were no warranties expressed or implied. Would this legislation preclude people from being able to do that?

ASSEMBLYMAN ATKINSON:

Thank you, Madam Speaker. I do rise in support of Assembly Bill No. 290. This bill is a good consumer bill. This is not about the individual who has the amount of money to go get a hobby car or who can go buy a car that they know will need work and can fix it up. This bill is about the consumer who has a little bit of money, who has gone out to a dealership and bought a car with the little money they have, $3,000 or $4,000, because they do not have enough money to go finance a more expensive car. That consumer should know that car is in operable condition. This bill, again, is not about someone who can afford to fix up a car. This is for someone who drives off the lot and believes the car they just purchased will be able to run. In some instances, we are finding that cars people are driving off the lot are, one or two days later, no longer operating. Now, they are out of their $3,000, $4,000, or $5,000 and have a car that is not operating. So that is who this bill is for. And yes, that does fall under the "as is," category because even if you are selling "as is" someone should be able to rely on that car for at least 15 days. Thank you, Madam Speaker.

ASSEMBLYWOMAN SPIEGEL:

Just in answer to my colleague to the north's question, you can buy something from the back of the lot, but the dealer just needs to tell you what is wrong with it and says, "You are going to get a fabulous price on this because there are problems with the transmission, there are problems with the radiator, there are problems with this." They disclose it, you buy it, you get the great price, and then those items are exempt because it has been disclosed.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

More specifically, that is contained in section 7 of the bill, page 4, which states that a purchaser may specifically waive the implied warranty if it is disclosed and that there is actually a form to allow the back of the row purchasers, still.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I guess, in that case, for those implied warranties to be waived, from what I read in that section, the dealer would have to explicitly state each and every flaw in the car, whether it was a leaking radiator or a hose. In that case, it would still preclude the dealers from being able to sell those. What they would end up doing is taking them through an auction. A lot of auctions are available to people, but there are less financing options with those auctions. Also, people who are trading in old cars with 150,000 miles on them to the dealerships are going to find out that the dealerships won't take those cars in on trade. They will force all of those sells to be on craigslist or through curbstoners, who jump titles. I applaud the sponsor of the bill and what her intent was, but I think there are other ways to go about it, and I think this would be akin to shooting a fly with an elephant gun. Thank you.

Roll call on Assembly Bill No. 290:

YEAS—32.

NAYS—Christensen, Cobb, Gansert, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart—9.

EXCUSED—Parnell.

Assembly Bill No. 290 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 307.

Bill read third time.

Remarks by Assemblymen Aizley and Carpenter.

Roll call on Assembly Bill No. 307:

YEAS—31.

NAYS—Anderson, Buckley, Carpenter, Claborn, Goicoechea, Gustavson, Hardy, Kirkpatrick, Smith, Stewart—10.

EXCUSED—Parnell.

Assembly Bill No. 307 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 325.

Bill read third time.

Remarks by Assemblyman Stewart.

Roll call on Assembly Bill No. 325:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 325 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 350.

Bill read third time.

Remarks by Assemblyman Munford.

Potential conflict of interest declared by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 350:

YEAS—39.

NAYS—Atkinson, Spiegel—2.

EXCUSED—Parnell.

Assembly Bill No. 350 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 361.

Bill read third time.

Remarks by Assemblyman McArthur.

Potential conflict of interest declared by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 361:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 361 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 364.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 364:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

EXCUSED—Parnell.

Assembly Bill No. 364 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 387.

Bill read third time.

Remarks by Assemblyman Conklin.

Potential conflict of interest declared by Assemblyman Denis.

Assemblyman Conklin requested that his remarks be entered in the Journal.

Thank you, Madam Speaker. I just want to get some remarks on the record, particularly pertaining to Chapter 704B, which is amended in this bill. What I want to be on the record is simply this: the amendment pertaining to 704B is designed to answer a very long disputed question between the energy providers and those who have gotten off the grid. It simply says

when you have been allowed to get off of the grid by the PUC, the standard of renewable energy which exists at that time will be your standard as long as you keep that order in existence and you do not change or increase your energy usage. If you increase your energy usage once you are off the grid, then you have to apply for new energy and meet the new standard, which will be higher. Thank you, Madam Speaker, I urge passage.

Roll call on Assembly Bill No. 387:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.

Assembly Bill No. 387 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 397 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 448 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 470.

Bill read third time.

Roll call on Assembly Bill No. 470:
YEAS—26.
NAYS—Arberry, Carpenter, Christensen, Cobb, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Kirkpatrick, McArthur, Settelmeyer, Stewart, Woodbury—15.
EXCUSED—Parnell.

Assembly Bill No. 470 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 474.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 474:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.

Assembly Bill No. 474 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 478.

Bill read third time.

Remarks by Assemblyman Christensen.

Roll call on Assembly Bill No. 478:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 478 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 492

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Assemblyman Arberry moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 6:40 p.m.

ASSEMBLY IN SESSION

At 6:42 p.m.

Madam Speaker presiding.

Quorum present.

Roll call on Assembly Bill No. 492:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 492 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the reprinting of Assembly Bills Nos. 10, 63, 251, 313, and 508 be dispensed with.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 10.

Bill read third time.

Remarks by Assemblywoman Leslie.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 10:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 10 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 63.

Bill read third time.

Remarks by Assemblyman Anderson.

Conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 63:

YEAS—40.

NAYS—None.

NOT VOTING—Dondero Loop.

EXCUSED—Parnell.

Assembly Bill No. 63 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 313.

Bill read third time.

Remarks by Assemblymen Pierce, Gansert, and Conklin.

Roll call on Assembly Bill No. 313:

YEAS—23.

NAYS—Arberry, Atkinson, Christensen, Claborn, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Horne, McArthur, Settelmeyer, Stewart, Woodbury—17.

NOT VOTING—Carpenter.

EXCUSED—Parnell.

Assembly Bill No. 313 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 508.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 508:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 508 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 251.

Bill read third time.

Remarks by Assemblyman Manendo.

Potential conflict of interest declared by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 251:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 251 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

SECOND READING AND AMENDMENT

Assembly Bill No. 8.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 396.

SUMMARY— ~~[Establishes]~~ **Makes various changes governing the investigations of the criminal history of certain employees and licensees and creates** the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons. (BDR 38-98)

AN ACT relating to ~~[older persons;]~~ **public safety; revising certain provisions governing the investigations of the criminal history of certain employees and licensees;** establishing the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons; requiring the Aging Services Division of the Department of Health and Human Services to maintain the Central Registry; providing for the release of certain information from the Central Registry to an employer or prospective employer under certain circumstances; providing immunity from civil and criminal liability under certain circumstances for persons who release information from the Central Registry; **making it a crime to submit fingerprints to an employer or licensing board under false pretenses;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Office of Disability Services of the Department of Health and Human Services, rather than the Central Repository for Nevada Records of Criminal History, to review the record of criminal history and the report obtained from the Federal Bureau of Investigation to make employment-related decisions concerning employees of certain organizations and agencies which provide personal care services. (NRS 426.335) Sections 17, 18 and 19 of this bill similarly amend provisions regarding the review of such information by the Health Division of the Department of Health and Human Services for the purpose of making decisions relating to the licensure of persons who operate certain medical facilities and employment-related decisions concerning prospective and current employees of certain medical facilities. (NRS 449.176, 449.179, 449.185) Section 15 of this bill makes it a category D felony to submit fingerprints to an employer or licensing board under any false pretense when the fingerprints will be used to conduct an investigation of the criminal history of the person.

Certain persons are required to report cases of suspected abuse, neglect, exploitation or isolation of older persons. (NRS 200.5093) **Sections 2-14** of this bill establish the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons and require the Aging Services Division of the Department of Health and Human Services to maintain the Central Registry. **Section 10** provides for the release of certain information from the Central Registry to an employer or prospective employer upon written authorization from the person who is the subject of the background investigation by the employer or prospective employer. **Section 13** provides immunity from civil and criminal liability for persons who lawfully release information from the Central Registry. **Section 14** makes it a misdemeanor to release information contained in the Central Registry to an unauthorized person.

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

Section 1. **NRS 426.335 is hereby amended to read as follows:**

426.335 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the holder of a certificate to operate an intermediary service organization shall:

(a) Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in subsection 1 of NRS 426.341;

(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);

(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).

2. The holder of a certificate to operate an intermediary service organization is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that ~~[an investigation]~~ ***a search*** of his criminal history has been conducted by the Central Repository for Nevada Records of Criminal History within the immediately preceding 6 months and the ~~[investigation]~~ ***search*** did not indicate that the employee or independent contractor had been convicted of any crime set forth in subsection 1 of NRS 426.341.

3. The holder of a certificate to operate an intermediary service organization shall ensure that the criminal history of each employee or independent contractor who works at or for the intermediary service organization is investigated at least once every 5 years. The holder of the certificate shall:

(a) ~~[If the intermediary service organization does not have the fingerprints of the employee or independent contractor on file, obtain]~~ ***Obtain*** two sets of fingerprints from the employee or independent contractor;

(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints ~~[on file or]~~ obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.

4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall ***search the record of criminal history of the employee or independent contractor and forward the record of criminal history to the Office together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 3. The Office shall review the record and report and*** determine whether the employee or independent contractor has been convicted of a crime listed in subsection 1 of NRS 426.341 and immediately inform ~~[the Office and]~~ the holder of a certificate to operate the intermediary service organization for which the person works whether the employee or independent contractor has been convicted of such a crime.

5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an intermediary service organization that submits fingerprints pursuant to this section for the reasonable cost of ~~[the investigation.]~~ ***taking any action described in this section.*** The intermediary service organization may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the intermediary service organization requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.

6. As used in this section, "record of criminal history" has the meaning ascribed to it in NRS 179A.070.

Sec. 1.3. **NRS 426.339 is hereby amended to read as follows:**

426.339 1. Upon receiving information ~~[from]~~ ***provided to the Office by*** the Central Repository for Nevada Records of Criminal History pursuant to NRS 426.335, or evidence from any other source, that an employee or independent contractor of an intermediary service organization has been convicted of a crime listed in subsection 1 of NRS 426.341, the holder of a certificate to operate the intermediary service organization shall terminate the employment or contract of that person after allowing him time to correct the information pursuant to subsection 2.

2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, he may immediately inform the intermediary service organization. An intermediary service organization

that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information ~~[received from]~~ ***provided by*** the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

3. An intermediary service organization that has complied with NRS 426.335 may not be held civilly or criminally liable based solely upon the ground that the intermediary service organization allowed an employee or independent contractor to work:

(a) Before it received the information concerning the employee or independent contractor ~~[from]~~ ***provided by*** the Central Repository;

(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;

(c) Based on the information ~~[received from]~~ ***provided by*** the Central Repository, if the information ~~[received from]~~ ***provided by*** the Central Repository was inaccurate; or

(d) Any combination thereof.

➥ An intermediary service organization may be held liable for any other conduct determined to be negligent or unlawful.

~~[Section 1.]~~ ***Sec. 1.7.*** Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to*** ~~*[9,]*~~ ***9.5, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Abuse" has the meaning ascribed to it in NRS 200.5092.***

Sec. 4. ***"Central Registry" means the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons established by section 10 of this act.***

Sec. 5. ***"Exploitation" has the meaning ascribed to it in NRS 200.5092.***

Sec. 6. ***"Isolation" has the meaning ascribed to it in NRS 200.5092.***

Sec. 7. ***"Neglect" has the meaning ascribed to it in NRS 200.5092.***

Sec. 8. ***"Older person" has the meaning ascribed to it in NRS 200.5092.***

Sec. 9. ***"Protective Services" has the meaning ascribed to it in NRS 200.5092.***

Sec. 9.5. "Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.

Sec. 10. ***1. There is hereby established a Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons. The Division shall maintain the Central Registry.***

2. The Central Registry must contain:

(a) The information concerning each report submitted and investigation conducted pursuant to NRS 200.5093 if the investigation of the report results in [the belief] reasonable cause to believe that an older person [is] has been abused, neglected, exploited or isolated [;] or the investigation substantiates that abuse, neglect, exploitation or isolation of an older person has occurred;

(b) Statistical information on the protective services provided in this State; and

(c) Any other information which the Administrator determines to be in furtherance of this chapter.

3. The Division may release information contained in the Central Registry to an employer or prospective employer:

(a) If the person who is the subject of a background investigation by the employer or prospective employer provides written authorization for the release of the information; and

(b) Either:

(1) The employer or prospective employer is required by law to conduct the background investigation of the person for employment purposes; or

(2) The person who is the subject of the background investigation could, in the course of his employment, have regular and substantial contact with older persons , [or regular and substantial contact with children,]

➥ but only to the extent necessary to inform the employer or prospective employer whether the person who is the subject of the background investigation is believed to have abused, neglected, exploited or isolated an older person. The Division shall not release any information concerning the identity of a victim or of a person who made a report.

4. Except as otherwise provided in this section or by other specific statute, the information contained in the Central Registry may be accessed only by an employee of the Division or an employee of an office for protective services established by a county of this State.

Sec. 10.5. 1. After the Division makes a determination to include information in the Central Registry pursuant to subsection 2 of section 10 of this act, the Division shall provide written notification to the person about whom the information pertains concerning his right to appeal the determination and shall provide information on the process for such an appeal.

2. The Division shall adopt regulations to establish the process for such an appeal and shall adopt such other regulations as necessary to carry out the provisions of sections 2 to 14, inclusive, of this act.

Sec. 11. ***1. Except as otherwise provided in subsection 2, the Division shall maintain a record of:***

(a) The name and identifying data, dates and circumstances of each person requesting or receiving information from the Central Registry; and

(b) Any other information which the Administrator determines might be helpful in furthering the purposes of this chapter.

2. The Division is not required to maintain a record of information concerning requests for information from or the receipt of information by employees of the Division or an office for protective services established by a county of this State.

Sec. 12. ***1. Information contained in the Central Registry must not be released unless:***

(a) The right of the applicant to the information is confirmed;

(b) The information concerns a report submitted pursuant to NRS 200.5093 which resulted in ~~[the belief]~~ reasonable cause to believe that an older person ~~[had]~~ has been abused, neglected, exploited or isolated ~~[;]~~ or substantiation that abuse, neglect, exploitation or isolation of an older person has occurred;

(c) The released information discloses the disposition of the case; and

(d) If the information is being provided pursuant to subsection 3 of section 10 of this act, the person who is the subject of the background investigation provides written authorization for the release of the information.

2. The information contained in the Central Registry concerning cases in which a report results in the belief that an older person has been abused, neglected, exploited or isolated must be deleted from the Central Registry not later than 10 years after the date on which the information is entered into the Central Registry.

Sec. 13. ***If a person who is authorized to release data and information pursuant to sections 2 to 14, inclusive, of this act releases the data and information in good faith and in accordance with sections 2 to 14, inclusive, of this act, the person is immune from civil and criminal liability for any act or omission related to such release.***

Sec. 14. ***Any person who willfully releases data or information contained in the Central Registry to an unauthorized person in violation of sections 2 to 14, inclusive, of this act is guilty of a misdemeanor.***

Sec. 15. **Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:**

A person who submits fingerprints to his employer or any licensing board under any false pretense to be used to search the records of criminal history of the person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~**[Sec. 15.]**~~ ***Sec. 16.*** NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning

the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:

(a) Pursuant to a criminal prosecution;

(b) Pursuant to NRS 200.50982; ~~[or]~~

(c) ***Pursuant to the provisions of sections 2 to 14, inclusive, of this act; or***

(d) To persons or agencies enumerated in subsection 3,

➥ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person or a vulnerable person is available only to:

(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;

(i) If the older person or vulnerable person is deceased, the executor or administrator of his estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor

or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or

(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of

NRS, information contained in the report must be submitted to the board that issued the license.

Sec. 17. **NRS 449.176 is hereby amended to read as follows:**

449.176 1. Each applicant for a license to operate a facility for intermediate care, facility for skilled nursing or residential facility for groups shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report.

2. The Central Repository for Nevada Records of Criminal History shall ***search the record of criminal history of the applicant and forward the record to the Health Division together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 1. The Health Division shall review the record and report and*** determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and immediately inform the administrator of the facility ~~[, if any, and the Health Division]~~ of whether the applicant has been convicted of such a crime.

3. As used in this section, "record of criminal history" has the meaning ascribed to it in NRS 179A.070.

Sec. 18. **NRS 449.179 is hereby amended to read as follows:**

449.179 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups shall:

(a) Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in NRS 449.188;

(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);

(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).

2. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that ~~[an investigation]~~ ***a search*** of his criminal history has been conducted by the Central Repository for Nevada Records of Criminal History within the immediately preceding 6 months and the ~~[investigation]~~

search did not indicate that the employee or independent contractor had been convicted of any crime set forth in NRS 449.188.

3. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups shall ensure that the criminal history of each employee or independent contractor who works at the agency or facility is investigated at least once every 5 years. The administrator or person shall:

(a) ~~[If the agency or facility does not have the fingerprints of the employee or independent contractor on file, obtain]~~ ***Obtain*** two sets of fingerprints from the employee or independent contractor;

(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints ~~[on file or]~~ obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.

4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall ***search the record of criminal history of the employee or independent contractor and forward the record to the Health Division together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 3. The Health Division shall review the record and report and*** determine whether the employee or independent contractor has been convicted of a crime listed in NRS 449.188 and immediately inform ~~[the Health Division and]~~ the administrator of, or the person licensed to operate, the agency or facility at which the person works whether the employee or independent contractor has been convicted of such a crime.

5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an agency or a facility that submits fingerprints pursuant to this section for the reasonable cost of ~~[the investigation.]~~ ***taking any action described in this section.*** The agency or facility may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the agency or facility requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.

6. As used in this section, "record of criminal history" has the meaning ascribed to it in NRS 179A.070.

Sec. 19. **NRS 449.185 is hereby amended to read as follows:**

449.185 1. Upon receiving information ~~[from]~~ ***provided by*** the Central Repository for Nevada Records of Criminal History pursuant to NRS 449.179, or evidence from any other source, that an employee or independent contractor of an agency to provide personal care services in the

home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188, the administrator of, or the person licensed to operate, the agency or facility shall terminate the employment or contract of that person after allowing him time to correct the information as required pursuant to subsection 2.

2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, he may immediately inform the agency or facility. An agency or facility that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information ~~[received from]~~ ***provided by*** the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

3. An agency or facility that has complied with NRS 449.179 may not be held civilly or criminally liable based solely upon the ground that the agency or facility allowed an employee or independent contractor to work:

(a) Before it received the information concerning the employee or independent contractor ~~[from]~~ ***provided by*** the Central Repository;

(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;

(c) Based on the information ~~[received]~~ ***provided by*** from the Central Repository, if the information ~~[received]~~ ***provided by*** from the Central Repository was inaccurate; or

(d) Any combination thereof.

➥ An agency or facility may be held liable for any other conduct determined to be negligent or unlawful.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 22.

Bill read second time.

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

Amendment No. 428.

AN ACT relating to trade practices; providing that certain persons ~~[who do not register with the Consumer Affairs Division of the Department of Business and Industry are engaged in a deceptive trade practice; authorizing the Commissioner of Consumer Affairs to impose a fine on persons who engage in such a deceptive trade practice;]~~ **may bring a civil action for various deceptive trade practices or other violations; providing that various actions related to certain persons with an inability to reasonably protect their rights or interests constitute a deceptive trade practice; allowing equitable relief for certain actions related to consumer fraud;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines activities that constitute deceptive trade practices and provides for the imposition of civil and criminal penalties against persons who engage in deceptive trade practices. (Chapter 598 of NRS)

Section ~~[2]~~ 1 of this bill provides that certain persons ~~[who do not register with the Consumer Affairs Division of the Department of Business and Industry are engaged in a deceptive trade practice.]~~ **may bring a civil action for damages for deceptive trade practices and violations of chapter 598 of NRS or any regulation adopted pursuant to that chapter.**

Section ~~[4]~~ 5.5 of this bill ~~[authorizes the Commissioner of Consumer Affairs to impose a fine on a person who engages in such a deceptive trade practice.]~~ **defines as a deceptive trade practice knowingly taking advantage of certain persons with an inability to reasonably protect their rights or interests.**

Section 14 of this bill allows equitable relief for various actions involving consumer fraud.

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 2, 3 and 4 of this act.]~~ **a new section to read as follows:**

1. Except as otherwise provided in subsection 2, in addition to any other remedy or penalty, if a person suffers damage as a result of a deceptive trade practice or a violation of this chapter or any regulation adopted pursuant to this chapter, that person may commence a civil action against any other person who engaged in the act or violation to recover statutory damages of up to $5,000 per act or violation.

2. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the act or violation:

(a) Was not intentional;

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

3. For the purposes of this section, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to a person's obligations under this chapter is not a bona fide error.

Sec. 2. ~~***[A person engages in a "deceptive trade practice" if, in the course of his business or occupation, he is required to be registered with the Division pursuant to any provision of this chapter or NRS 599B.080 and he fails to register with the Division.]***~~ **(Deleted by amendment.)**

Sec. 3. ~~*[“Division” means the Consumer Affairs Division of the Department of Business and Industry.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*[1. In addition to any other remedy or penalty, if a person engages in a deceptive trade practice, as defined in section 2 of this act, the Commissioner may impose a fine of:*~~

~~*(a) For the first violation, $500;*~~

~~*(b) For the second violation, $1,500; and*~~

~~*(c) For each subsequent violation, $3,000.*~~

~~*2. All money collected from fines imposed pursuant to this section must be deposited in the State General Fund.]*~~ **(Deleted by amendment.)**

Sec. 5. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, ~~*[and sections 2 and 3 of this act]*~~ have the meanings ascribed to them in those sections.

Sec. 5.5. **NRS 598.092 is hereby amended to read as follows:**

598.092 A person engages in a “deceptive trade practice” when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments, or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property, or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

➥ specifying that no refunds or exchanges are allowed.

11. Knowingly takes advantage of another person's inability to reasonably protect his own rights or interests in a consumer transaction when such an inability is due to illiteracy or to a mental or physical infirmity which manifests itself as an incapability to understand the language or terms of any agreement or as another similar condition.

Sec. 6. ~~[NRS 598.0953 is hereby amended to read as follows:~~

~~598.0953 1. Evidence that a person has engaged in a deceptive trade practice is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.~~

~~2. The deceptive trade practices listed in NRS 598.0915 to 598.0925, inclusive,~~ ***~~and section 2 of this act~~*** ~~are in addition to and do not limit the types of unfair trade practices actionable at common law or defined as such in other statutes of this State.~~**~~]~~** **(Deleted by amendment.)**

Sec. 7. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act*** do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~***[sections 2, 3 and 4]***~~ ***section 1 of this act*** do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~***[.]***~~ ***, and*** ~~***[sections 2, 3 and 4]***~~ ***section 1 of this act.***

Sec. 8. NRS 598.096 is hereby amended to read as follows:

598.096 When the Commissioner, Director or Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice, he may:

1. Request the person to file a statement or report in writing under oath or otherwise, on such forms as may be prescribed by the Commissioner, Director or Attorney General, as to all facts and circumstances concerning the sale or advertisement of property by the person, and such other data and information as the Commissioner, Director or Attorney General may deem necessary.

2. Examine under oath any person in connection with the sale or advertisement of any property.

3. Examine any property or sample thereof, record, book, document, account or paper as he may deem necessary.

4. Make true copies, at the expense of the Consumer Affairs Division of the Department of Business and Industry, ~~***[Division,]***~~ of any record, book, document, account or paper examined pursuant to subsection 3, which copies may be offered into evidence in lieu of the originals thereof in actions brought pursuant to NRS 598.097 and 598.0979.

5. Pursuant to an order of any district court, impound any sample of property which is material to the deceptive trade practice and retain the property in his possession until completion of all proceedings as provided in NRS 598.0903 to 598.0999, inclusive ~~***[.]***~~ ***, and*** ~~***[sections 2, 3 and 4]***~~ ***section 1 of this act.*** An order may not be issued pursuant to this subsection unless:

(a) The Commissioner, Director or Attorney General ~~***[,]***~~ and the court give the accused full opportunity to be heard; and

(b) The Commissioner, Director or Attorney General proves by clear and convincing evidence that the business activities of the accused will not be impaired thereby.

Sec. 9. ~~***[NRS 598.0966 is hereby amended to read as follows:***~~

~~598.0966 1. There is hereby created a revolving account for the [Consumer Affairs Division of the Department of Business and Industry] *Division* in the sum of $7,500, which must be used for the payment of expenses related to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice.~~

~~2. The Commissioner shall deposit the money in the revolving account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.~~

~~3. The Commissioner or his designee may:~~

~~(a) Sign all checks drawn upon the revolving account; and~~

~~(b) Make withdrawals of cash from the revolving account.~~

~~4. Payments made from the revolving account must be promptly reimbursed from the legislative appropriation, if any, to the [Consumer Affairs] Division for the expenses related to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice. The claim for reimbursement must be processed and paid as other claims against the State are paid.~~

~~5. The Commissioner shall:~~

~~(a) Approve any disbursement from the revolving account; and~~

~~(b) Maintain records of any such disbursement.]~~ **(Deleted by amendment.)**

Sec. 10. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act,*** the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act,*** or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses,

charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive **[**~~,~~**]** ***, and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act;*** and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➥ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➥ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than $5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 11. NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 3 and in subsection 1 of NRS 598.0999, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act:***

(a) In an action brought by the Attorney General, Commissioner or Director, must be deposited in the State General Fund and may only be used to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act.***

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly persons or persons with disabilities; and

(b) Programs for the education of consumers which are directed toward elderly persons or persons with disabilities, law enforcement officers, members of the judicial system, persons who provide social services and the general public.

3. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act;*** or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act*** in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the Consumer Affairs Division of the Department of Business and Industry ~~*[Division]*~~ or the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 12. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act,*** upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act.***

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act,*** if the court finds that a person has

willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act,*** 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 13. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~***[sections 2, 3 and 4]***~~ ***section 1 of this act,*** but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without his fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain

fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution or other lender of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 14. NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive . ~~[, and section 2 of this act.]~~

3. If the claimant is the prevailing party, the court shall award him:

(a) Any damages that he has sustained; ~~[and]~~

(b) ***Any equitable relief that the court deems appropriate; and***

(c) His costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

Sec. 15. NRS 482.554 is hereby amended to read as follows:

482.554 1. The Department may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, ***without limitation,*** returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, ~~*[and section 2 of this act,]*~~ that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms, or for the sale of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act*** for the same act. The provisions of this section do not deprive a

person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 16. NRS 489.401 is hereby amended to read as follows:

489.401 The following grounds, among others, constitute grounds for disciplinary action pursuant to NRS 489.381:

1. The intentional publication, circulation or display of any advertising which constitutes a deceptive trade practice as that term is defined in NRS 598.0915 to 598.0925, inclusive . ~~*[, and section 2 of this act.]*~~

2. Failure to include in any advertising the name of the licensed dealer, general serviceman or specialty serviceman, or the name under which he is doing business.

3. Making any substantial misrepresentation or false promise which is likely to influence, persuade or induce, or continually failing to fulfill promises to sell, breaching agreements or contracts or making false promises by any means.

4. Failure to disclose all terms and conditions of a sale, purchase or lease or offer to sell, purchase or lease a manufactured home, mobile home or commercial coach.

5. Failure to disclose to a person with whom the licensed dealer is dealing with regard to the sale, purchase or lease of a manufactured home any material facts, structural defects or other material information which the licensed dealer knew, or which by the exercise of reasonable care and diligence should have known, concerning the manufactured home or concerning the sale, purchase or lease of the manufactured home.

6. Failure to comply with the provisions of NRS 489.595.

7. Representing to any lender, guaranteeing agency or other interested party, orally or through the preparation of false documents:

(a) An amount in excess of the actual sales price;

(b) A false amount as the down payment, earnest money deposit or other valuable consideration;

(c) Terms differing from those actually agreed upon; or

(d) False information on a credit application.

8. Inducing an applicant to falsify his credit application.

9. Failure to obtain from the holder of any lien or security interest in a manufactured home, mobile home or commercial coach, within 10 days before the closure of a sale of the manufactured home, mobile home or commercial coach, a written acknowledgment that the holder of the lien or security interest has received written notification of the sale.

Sec. 17. NRS 645B.189 is hereby amended to read as follows:

645B.189 1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form:

Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker who has received his initial license within the past 12 months shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act*** concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

5. If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act*** concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 18. **This act becomes effective on July 1, 2009.**

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Assembly in recess at 6:57 p.m.

ASSEMBLY IN SESSION

At 7:18 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 24.

Bill read second time.

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

Amendment No. 429.

AN ACT relating to industrial insurance; revising provisions relating to the duty of an insurer to accept or deny a claim for compensation; revising provisions relating to the selection of a physician or chiropractor by an injured employee; revising provisions relating to the denial of compensation due to discharge from employment for misconduct; revising provisions relating to the ~~[reopening]~~ **closure** of a claim; repealing provisions requiring the reduction of compensation by the amount of federal disability insurance benefits received by an injured employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an insurer is required to accept or deny a claim for compensation within 30 days after the insurer has been notified of an industrial accident. (NRS 616C.065) **Section 2** of this bill provides that if an insurer is ordered by the Administrator of the Division of Industrial Relations of the Department of Business and Industry, a hearing or appeals officer, a district court or the Supreme Court of Nevada to make a new determination relating to a claim for compensation, such a determination must be made within 30 days after the order.

Existing law provides that an injured employee may choose an alternative treating physician or chiropractor after making his initial choice if the alternative choice is made within 90 days after the injury. (NRS 616C.090) **Section 3** of this bill clarifies existing law by providing that an injured employee may make the alternative choice without the insurer's approval if the alternative choice is made within 90 days after the injury. **Section 3** also provides that an injured employee may make a change in the treating physician or chiropractor at any time, subject to the insurer's approval. **Section 3 further requires an insurer to provide to an injured employee whose request for a change in the treating physician or chiropractor has been denied the specific reason for the denial.**

Section 4 of this bill provides that the affidavit or declaration of a qualified laboratory director, chemist or any other person meeting certain qualifications may be used to prove the existence of alcohol or controlled substances in an employee's system in denying, reducing or suspending the payment of compensation for an injury. (NRS 616C.230)

Section 5 of this bill revises existing provisions governing the denial of compensation to injured employees who have been discharged for misconduct by ~~[adding further facts that must be proven by the insurer before he may deny compensation and by]~~ providing that only compensation for temporary total disability may be denied. (NRS 616C.232)

Section 5.5 of this bill revises existing law by requiring an insurer to notify an injured employee whose claim will be closed whether an evaluation for a permanent partial disability has been scheduled or, if such an evaluation has not been scheduled, that the reason is because the insurer determined there is no possibility of a permanent impairment of any kind. (NRS 616C.235)

~~[Section 6 of this bill revises existing law to require, as one of the criteria that must be met for an insurer to reopen a claim to modify a compensation arrangement more than 1 year after the date on which the claim was closed, a showing that a substantial contributing cause, rather than the primary cause, of the change in circumstances which warrants a modification to the compensation arrangement is the injury for which the claim was originally made.~~

~~(NRS 616C.390)~~

~~Section 7 of this bill removes a showing that the insurer committed certain violations from the criteria that must be met to require an insurer to reopen a claim for permanent partial disability. (NRS 616C.392)]~~

Section 9 of this bill repeals the provisions requiring a reduction in the compensation received by an employee for temporary disability, permanent partial disability or permanent total disability by the amount of federal disability insurance benefits received by the employee. (NRS 616C.430)

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

Section 1. NRS 616C.050 is hereby amended to read as follows:

616C.050 1. An insurer shall provide to each claimant:

(a) Upon written request, one copy of any medical information concerning his injury or illness.

(b) A statement which contains information concerning the claimant's right to:

(1) Receive the information and forms necessary to file a claim;

(2) Select a treating physician or chiropractor and an alternative treating physician or chiropractor in accordance with the provisions of NRS 616C.090;

(3) Request the appointment of the Nevada Attorney for Injured Workers to represent him before the appeals officer;

(4) File a complaint with the Administrator;

(5) When applicable, receive compensation for:

(I) Permanent total disability;

(II) Temporary total disability;

(III) Permanent partial disability;

(IV) Temporary partial disability;

(V) All medical costs related to his injury or disease; or

(VI) The hours he is absent from the place of employment to receive medical treatment pursuant to NRS 616C.477;

(6) Receive services for rehabilitation if his injury prevents him from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection ~~[7]~~ ***8*** of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

Sec. 2. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.

2. ***If an insurer is ordered by the Administrator, a hearing officer, an appeals officer, a district court or the Supreme Court of Nevada to make a new determination, including, without limitation, a new determination regarding the acceptance or denial of a claim for compensation, the insurer shall make the new determination within 30 days after the date on which the insurer has been ordered to do so.***

3. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

~~[3.]~~ ***4.*** Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

~~[4.]~~ ***5.*** The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 ***or 2*** by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

~~[5.]~~ ***6.*** The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection ~~[4]~~ ***5*** shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

~~[6.]~~ ***7.*** Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.

~~[7.]~~ ***8.*** For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

~~[8.]~~ ***9.*** As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 3. NRS 616C.090 is hereby amended to read as follows:

616C.090 1. The Administrator shall establish a panel of physicians and chiropractors who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractors on the panel who are reasonably accessible to his employees.

2. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 may choose his treating physician or chiropractor from the panel of physicians and chiropractors. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor from the panel if the choice is made within 90 days after his injury. The insurer shall notify the first physician or chiropractor in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractor must be reimbursed only for the services he rendered to the injured employee up to and including the date of notification. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is on the panel. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list.

3. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 must choose his treating physician or chiropractor pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor pursuant to the terms of the contract ***without the approval of the insurer*** if the choice is made within 90 days after his injury. If the injured employee, after choosing his treating physician or chiropractor, moves to a county which is not served by the organization for managed care or providers of health care services named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractor, the injured employee must choose a treating physician or chiropractor who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractor. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care services pursuant to NRS 616B.527, as appropriate. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list. If the employee fails to select a physician or chiropractor, the insurer may select a physician or chiropractor with that specialization. If a physician or chiropractor with that specialization is not available pursuant to the terms of the contract, the organization for managed care or the provider of health care services may select a physician or chiropractor with that specialization.

4. ***If the injured employee is not satisfied with the physician or chiropractor selected by himself or by the insurer, the organization for managed care or the provider of health care services pursuant to subsection 3, the injured employee may make an alternative choice of physician or chiropractor pursuant to the terms of the contract. A change in the treating physician or chiropractor may be made at any time but is subject to the approval of the insurer, which must be granted within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the insurer denies a request for a change in the treating physician or chiropractor under this subsection, the insurer must include in a written notice of denial to the injured employee the specific reason for the denial of the request.***

5. Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any

charges for medical treatment or other accident benefits furnished or ordered by any physician, chiropractor or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such physician, chiropractor or other person.

~~[5.]~~ ***6.*** The Administrator may order necessary changes in a panel of physicians and chiropractors and shall suspend or remove any physician or chiropractor from a panel for good cause shown.

~~[6.]~~ ***7.*** An injured employee may receive treatment by more than one physician or chiropractor if the insurer provides written authorization for such treatment.

~~[7.]~~ ***8.*** The Administrator shall design a form that notifies injured employees of their right pursuant to subsections 2 ***,*** ~~[and]~~ 3 ***and 4*** to select an alternative treating physician or chiropractor and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

Sec. 4. NRS 616C.230 is hereby amended to read as follows:

616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

(a) Caused by the employee's willful intention to injure himself.

(b) Caused by the employee's willful intention to injure another.

(c) Proximately caused by the employee's intoxication. If the employee was intoxicated at the time of his injury, intoxication must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

(d) Proximately caused by the employee's use of a controlled substance. If the employee had any amount of a controlled substance in his system at the time of his injury for which the employee did not have a current and lawful prescription issued in his name or that he was not using in accordance with the provisions of chapter 453A of NRS, the controlled substance must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS ***50.310,*** 50.315 ***or 50.320*** is admissible to prove the existence of any alcohol or the existence, quantity or identity of a controlled substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.

(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

3. No compensation is payable for the death, disability or treatment of an employee if his death is caused by, or insofar as his disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his recovery, his compensation may be reduced or suspended.

5. An injured employee's compensation, other than accident benefits, must be suspended if:

(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of his employment; and

(b) It is within the ability of the employee to correct the nonindustrial condition or injury.

➥ The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer may elect to pay for the treatment of the nonindustrial condition or injury.

Sec. 5. NRS 616C.232 is hereby amended to read as follows:

616C.232 1. If an injured employee is discharged from his employment as a result of misconduct, an insurer may deny compensation ***for temporary total disability*** to the injured employee because of that discharge for misconduct only if the insurer proves by a preponderance of the evidence that:

(a) The injured employee was discharged from his employment solely for his misconduct and not for any reason relating to his claim for compensation; and

(b) It is the injured employee's discharge from his employment for misconduct, and not his injury, that is the sole cause for the injured employee's inability to return to work with the preinjury employer . ~~*[; and*~~

~~*(c) If the injured employee had not been discharged from his employment for misconduct, the preinjury employer would be entitled to return the injured employee to work at:*~~

~~*(1) The position the employee held at the time of his injury; or*~~

~~*(2) Temporary, light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor, as provided in NRS 616C.475.]*~~

2. An insurer waives its rights under subsection 1 if the insurer does not make a determination to deny or suspend compensation to the injured employee within 70 days after the date on which the insurer learns that the injured employee has been discharged for misconduct.

3. An insurer may not deny any compensation pursuant to this section except for compensation for temporary total disability pursuant to subsection 1.

Sec. 5.5. **NRS 616C.235 is hereby amended to read as follows:**

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer

shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must include, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement that if the claimant does not agree with the determination, he has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A suitable form for requesting a resolution of the dispute must be enclosed with the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.

(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.

(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.

2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than $300, the insurer may close the claim at any time after he sends, by first-class mail addressed to the last known address of the claimant, written notice that includes a statement which prominently displays that:

(a) The claim is being closed pursuant to this subsection;

(b) The injured employee may appeal the closure of the claim pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive; and

(c) If the injured employee does not appeal the closure of the claim or appeals the closure of the claim but is not successful, the claim cannot be reopened.

3. In addition to the notice described in subsection 2, an insurer shall send to each claimant who receives less than $300 in medical benefits within 6 months after the claim is opened a written notice that explains the circumstances under which a claim may be closed pursuant to subsection 2. The written notice provided pursuant to this subsection does not create any right to appeal the contents of that notice. The written notice must be:

(a) Sent by first-class mail addressed to the last known address of the claimant; and

(b) A document that is separate from any other document or form that is used by the insurer.

4. The closure of a claim pursuant to subsection 2 is not effective unless notice is given as required by subsections 2 and 3.

5. In addition to the requirements of this section, an insurer shall include in the written notice described in subsection 2:

(a) If an evaluation for a permanent partial disability has been scheduled pursuant to NRS 616C.490, a statement to that effect; or

(b) If an evaluation for a permanent partial disability will not be scheduled pursuant to NRS 616C.490, a statement explaining that the reason is because the insurer has determined there is no possibility of a permanent impairment of any kind.

Sec. 6. ~~[NRS 616C.390 is hereby amended to read as follows:~~

~~616C.390 Except as otherwise provided in NRS 616C.392:~~

~~1. If an application to reopen a claim to increase or rearrange compensation is made in writing more than 1 year after the date on which the claim was closed, the insurer shall reopen the claim if:~~

~~(a) A change of circumstances warrants an increase or rearrangement of compensation during the life of the claimant;~~

~~(b) [~~The primary~~] *A substantial contributing* cause of the change of circumstances is the injury for which the claim was originally made; and~~

~~(c) The application is accompanied by the certificate of a physician or a chiropractor showing a change of circumstances which would warrant an increase or rearrangement of compensation.~~

~~2. After a claim has been closed, the insurer, upon receiving an application and for good cause shown, may authorize the reopening of the claim for medical investigation only. The application must be accompanied by a written request for treatment from the physician or chiropractor treating the claimant, certifying that the treatment is indicated by a change in circumstances and is related to the industrial injury sustained by the claimant.~~

~~3. If a claimant applies for a claim to be reopened pursuant to subsection 1 or 2 and a final determination denying the reopening is issued, the claimant shall not reapply to reopen the claim until at least 1 year after the date on which the final determination is issued.~~

~~4. Except as otherwise provided in subsection 5, if an application to reopen a claim is made in writing within 1 year after the date on which the claim was closed, the insurer shall reopen the claim only if:~~

~~(a) The application is supported by medical evidence demonstrating an objective change in the medical condition of the claimant; and~~

~~(b) There is clear and convincing evidence that [~~the primary~~] *a substantial contributing* cause of the change of circumstances is the injury for which the claim was originally made.~~

~~5. An application to reopen a claim must be made in writing within 1 year after the date on which the claim was closed if:~~

~~(a) The claimant was not off work as a result of the injury; and~~

~~(b) The claimant did not receive benefits for a permanent partial disability.~~

~~→ If an application to reopen a claim to increase or rearrange compensation is made pursuant to this subsection, the insurer shall reopen the claim if the requirements set forth in paragraphs (a), (b) and (c) of subsection 1 are met.~~

~~6. If an employee's claim is reopened pursuant to this section, he is not entitled to vocational rehabilitation services or benefits for a temporary total disability if, before his claim was reopened, he:~~

~~(a) Retired; or~~

~~(b) Otherwise voluntarily removed himself from the workforce,~~

~~" for reasons unrelated to the injury for which the claim was originally made.~~

~~7. One year after the date on which the claim was closed, an insurer may dispose of the file of a claim authorized to be reopened pursuant to subsection 5, unless an application to reopen the claim has been filed pursuant to that subsection.~~

~~8. An increase or rearrangement of compensation is not effective before an application for reopening a claim is made unless good cause is shown. The insurer shall, upon good cause shown, allow the cost of emergency treatment , the necessity for which has been certified by a physician or a chiropractor.~~

~~9. A claim that closes pursuant to subsection 2 of NRS 616C.235 and is not appealed or is unsuccessfully appealed pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive, may not be reopened pursuant to this section.~~

~~10. The provisions of this section apply to any claim for which an application to reopen the claim or to increase or rearrange compensation is made pursuant to this section, regardless of the date of the injury or accident to the claimant. If a claim is reopened pursuant to this section, the amount of any compensation or benefits provided must be determined in accordance with the provisions of NRS 616C.425.~~**]** **(Deleted by amendment.)**

Sec. 7. **[**~~NRS 616C.392 is hereby amended to read as follows:~~

~~616C.392 1. An insurer shall reopen a claim to consider the payment of compensation for a permanent partial disability if:~~

~~(a) The claim was closed and the claimant was not scheduled for an evaluation of the injury in accordance with NRS 616C.490;~~ ***and***

~~(b) The claimant demonstrates by a preponderance of the evidence that, at the time that the case was closed, the claimant was, because of the injury, qualified to be scheduled for an evaluation for a permanent partial disability .~~ **[**~~; and~~

~~(c) The insurer has violated a provision of NRS 616D.120 with regard to the claim.~~

~~2. The demonstration required pursuant to paragraph (b) of subsection 1 must be made with documentation that existed at the time that the case was closed.~~

~~3.~~**]** ~~**2.** Notwithstanding any specific statutory provision to the contrary, the consideration of whether a claimant is entitled to payment of compensation for a permanent partial disability for a claim that is reopened pursuant to this section must be made in accordance with the provisions of the applicable statutory and regulatory provisions that existed on the date on which the claim was closed, including, without limitation, using the edition~~

~~of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that was applicable on the date the claim was closed.]~~ **(Deleted by amendment.)**

Sec. 8. NRS 616C.475 is hereby amended to read as follows:

616C.475 1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or his dependents, is entitled to receive for the period of temporary total disability, 66 2/3 percent of the average monthly wage.

2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his dependents are entitled to receive such benefits when the injured employee is released from incarceration if he is certified as temporarily totally disabled by a physician or chiropractor.

3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within 14 working days after receipt of the initial certification of disability and regularly thereafter.

4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.

5. Payments for a temporary total disability must cease when:

(a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;

(b) The employer offers the employee light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or

(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.

6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the Division for the injured employee to request continued compensation for the temporary total disability.

7. A certification of disability issued by a physician or chiropractor must:

(a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;

(b) Specify whether the limitations or restrictions are permanent or temporary; and

(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection 3 ***or 4*** of NRS 616C.090.

8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of his accident may offer temporary, light-duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light-duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light-duty employment made by the employer must specify a position that:

(a) Is substantially similar to the employee's position at the time of his injury in relation to the location of the employment and the hours he is required to work;

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his injury; and

(c) Has the same employment benefits as the position of the employee at the time of his injury.

Sec. 9. NRS 616C.430 is hereby repealed.

Sec. 10. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

616C.430 Reduction of compensation by amount of federal disability insurance benefits received by employee.

1. If an employee who is entitled to compensation under chapters 616A to 616D, inclusive, of NRS for temporary total disability, permanent partial disability or permanent total disability becomes entitled to federal disability insurance benefits under section 202 or 223 of the Social Security Act, as amended, 42 U.S.C. §§ 402 and 423, respectively, the employee's compensation under chapters 616A to 616D, inclusive, of NRS must be reduced by the amount of the federal benefits being received by him.

2. This section must not be applied to reduce the employee's compensation under chapters 616A to 616D, inclusive, of NRS to any greater extent than his federal benefits would have otherwise been reduced by the Social Security Administration under section 224 of the Social Security Act, as amended, 42 U.S.C. § 424a. After any reduction pursuant to this section, the combination of his state compensation and federal benefits must be at least as much as the greater of:

(a) The benefits payable pursuant to chapters 616A to 616D, inclusive, of NRS, without the reduction; or

(b) The benefits payable under the Social Security Act, without any reduction.

3. After a reduced amount of compensation for an employee has been established pursuant to this section, no further reduction in his compensation may be made because he receives an increase in his benefits under the Social Security Act as the result of an adjustment based on an increase in the cost of living.

4. No compensation may be reduced pursuant to this section until the Social Security Administration has determined the amount of benefits payable to the employee under section 202 or 223 of the Social Security Act and he has begun to receive those benefits.

5. If an employee:

(a) Fails to report the amount of benefits which he is receiving under section 202 or 223 of the Social Security Act, within 30 days after he is requested in writing by the insurer to make that report; or

(b) Fails to provide the insurer with a written authorization for the Social Security Administration to release information on the employee's average current earnings and the amount of benefits to which he is entitled, within 30 days after he is requested to provide that authorization,

➥ the insurer may reduce by 50 percent the compensation which the employee would otherwise receive pursuant to chapters 616A to 616D, inclusive, of NRS. Any compensation which is withheld pursuant to this subsection must be paid to the employee when he has furnished the report or authorization as requested.

6. If the provisions of section 224 of the Social Security Act are amended:

(a) To allow an employee to receive more compensation under chapters 616A to 616D, inclusive, of NRS without any reduction in benefits payable under section 202 or 223 of the Social Security Act; or

(b) To lower the maximum sum of compensation payable under chapters 616A to 616D, inclusive, of NRS and benefits payable under section 202 or 223 of the Social Security Act,

➥ the reduction imposed by this section must be increased or decreased correspondingly.

7. No reduction in compensation may be made under this section for any period of entitlement which:

(a) Occurs before January 1, 1982;

(b) Occurs before the employee has been given a written notice by mail of the intended reduction; or

(c) Includes any week after the week in which the employee becomes 62 years of age.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 54.

Bill read second time.

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

Amendment No. 465.

SUMMARY—Authorizes certain counties to ~~[require that certain owners and occupants of property connect to a public water or sewer system.]~~ **establish programs to provide financial assistance to certain persons.** (BDR 20-473)

AN ACT relating to counties; ~~[authorizing certain counties to require that certain owners and occupants of property connect to a public water or sewer system;]~~ authorizing a board of county commissioners in ~~[such a county]~~ **certain counties** to establish ~~[a program]~~ **programs** to provide financial assistance to ~~[such]~~ persons ~~[,]~~ **to connect to a public water or sewer system or to make property resistant to flood damage;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill authorizes the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to ~~[require an owner or occupant of property located outside a city or town to connect to a public water or sewer system. This bill also authorizes such a board of county commissioners to]~~ establish **: (1)** a program to provide financial assistance to persons ~~[who are required]~~ to connect to ~~[the]~~ **a** public water or sewer system ~~[. Existing law already allows the board of county commissioners of a county whose population is 400,000 or more (currently Clark County) to require disconnection from private sewer systems. (NRS 244.366) Existing law also already allows the board of county commissioners of any county to require certain persons to connect to an available water system if the State Environmental Commission makes certain determinations. (NRS 244.3655) Under the provisions of this bill, no determinations by the State Environmental Commission are required.]~~ **under certain circumstances; and (2) a program to provide financial assistance to owners of public or private property to make such property resistant to flood damage.**

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 2 and 3 of this act.**

Sec. 2. 1. ~~[The]~~ Except as otherwise provided in this section, if a board of county commissioners of a county whose population is 100,000 or more but less than 400,000 ~~[, upon such terms and conditions as the board may set forth:

~~(a) Has the power, outside of the limits of incorporated cities and towns:~~

~~*(1) To provide that it is unlawful for any persons, associations and corporations owning, occupying or in any way controlling any building or other structure, any part of which is within 400 feet of any street, alley, court, passageway, other public highway, right of way, easement or other alley owned or occupied by the county in which a public water or sewer system is then in existence and use, to construct, otherwise acquire, to cause or permit to be constructed or otherwise acquired, or to use or continue to use any private water or sewer system.*~~

~~*(2) To provide for the disconnection of plumbing facilities from private water or sewer systems described in subparagraph (1) and for the discontinuance and elimination of such private water or sewer systems.*~~

~~*(3) To require that a person, association or corporation described in subparagraph (1) connect to the public water or sewer system which is then in existence and use.*~~

~~*(b) May establish and operate]*~~ ***operates a public water or sewer system, the board may:***

(a) Establish by ordinance a program to provide financial assistance to persons ~~*[that the county requires]*~~ ***within a particular water basin to connect to*** ~~*[a]*~~ ***the public water or sewer system .*** ~~*[pursuant to this subsection.*~~

~~*(c) May accept]*~~

(b) Accept gifts, grants and other sources of money to pay the costs associated with a program established pursuant to paragraph ~~*[(b).]*~~ ***(a).***

2. An ordinance adopted by a board of county commissioners pursuant to paragraph (a) of subsection 1 must include, without limitation, a finding of the board that the creation of a program to provide financial assistance to persons to connect to a public water or sewer system furthers a legitimate public purpose.

3. If a board of county commissioners establishes a program to provide financial assistance pursuant to subsection 1, the board:

(a) Must establish a plan for the management and protection of the groundwater in the water basin to which the program to provide financial assistance applies. Such a plan must include, without limitation, provisions for the management of the use of the groundwater in the water basin by residents of the county and other users of water in the county.

(b) Except as otherwise provided in subsection 4, may set forth conditions or limitations on any financial assistance provided pursuant to the program.

4. Financial assistance provided pursuant to a program established pursuant to subsection 1:

(a) May be in the form of grants or loans, or any combination thereof.

(b) May only be used to pay the necessary and actual expenses to:

(1) Disconnect from a private water or sewer system;

(2) Eliminate a private water or sewer system; and

(3) Connect to the public water or sewer system.

5. A board may not establish a program to provide financial assistance pursuant to subsection 1 unless the board finds that establishing such a program is necessary to provide the public with a safe and reliable water and sewer system.

6. The requirements of NRS 244.3655 do not apply to actions taken by a board of county commissioners pursuant to this section.

7. Nothing in this section shall be so construed as to require:

(a) A board of county commissioners to provide financial assistance to any property owner pursuant to this section; or

(b) A property owner to apply for or accept financial assistance pursuant to a program of financial assistance established pursuant to this program.

~~[3.]~~ ***8. As used in this section, "water or sewer system" means a facility or facilities for the collection, pumping, treatment, storage or conveyance of water or sewage and includes, without limitation, mains, conduits, aqueducts, pipes, pipelines, ditches, canals, pumping stations, and all appurtenances, equipment and machinery necessary or useful and convenient for obtaining, storing, transporting or transferring water or sewage.***

Sec. 3. 1. Except as otherwise provided in this section, a board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may:

(a) Establish by ordinance a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded in order to make such property resistant to flood damage.

(b) Accept gifts, grants and other sources of money to pay the costs associated with a program established pursuant to paragraph (a).

(c) Pay costs associated with a program established pursuant to paragraph (a) through the use of:

(1) Revenue and bond proceeds derived from a flood management project, except that no bond proceeds may be used to provide any loans pursuant to the program.

(2) Funds from the infrastructure fund of the county.

(3) Gifts, grants and other sources of money available to the board of county commissioners.

2. An ordinance adopted by a board of county commissioners pursuant to paragraph (a) of subsection 1:

(a) Must include, without limitation, a finding of the board that the creation of a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded is necessary to promote and protect the public health, safety and welfare.

(b) May include a provision that the award of financial assistance is subject to any limitation or condition that the board determines is necessary.

3. Financial assistance provided pursuant to a program established pursuant to subsection 1:

(a) May be in the form of grants or loans, or any combination thereof.

(b) May only be used to pay the actual and necessary costs to make private or public property resistant to flood damage, including, without limitation, flood-proofing the property, erecting barriers, elevating foundations of buildings, structures or improvements, and relocating buildings, structures or improvements to areas that are not likely to be flooded.

(c) May not be awarded:

(1) To protect any building, structure or improvement unless the building, structure or improvement exists or construction has begun on the building, structure or improvement on or before July 1, 2009.

(2) To relocate any building, structure or improvement to property that is also in an area likely to be flooded.

(3) Unless the property owner:

(I) Submits an application for financial assistance on or before June 30, 2019.

(II) Has not received and agrees not to apply for any further financial assistance to make his property resistant to flood damage from a tourism improvement district established pursuant to NRS 271A.070, a tax increment area created pursuant to NRS 278C.155, a redevelopment area established pursuant to NRS 279.426, a program for the rehabilitation of residential neighborhoods established pursuant to NRS 279A.030 or a program for the rehabilitation of abandoned residential properties established pursuant to NRS 279B.030.

(III) Satisfies any conditions adopted by the board of county commissioners.

4. The board of county commissioners may delegate its authority to administer a program of financial assistance established pursuant to this section to a flood management authority.

5. The board of county commissioners or, if the board has delegated its authority to administer a program of financial assistance pursuant to subsection 4, a flood management authority may bring an action against the property owner for the collection of any delinquent payments, charges, fees, interest or penalties related to any loan provided pursuant to a program established pursuant to this section.

6. Nothing in this section shall be so construed as to require:

(a) A board of county commissioners to provide financial assistance to any property owner pursuant to this section; or

(b) A property owner to apply for or accept financial assistance pursuant to a program of financial assistance established pursuant to this program.

7. As used in this section:

(a) "Drainage and flood control project" has the meaning ascribed to it in NRS 244A.027.

(b) "Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of

which include the acquisition, construction, improvement, operation and maintenance of a flood management project.

(c) "Flood management project," or any phrase of similar import, means a project or improvement that is located within or without a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the county or any flood or storm waters of a stream of which the source is located outside of the county. The term includes, without limitation:

(1) A drainage and flood control project;

(2) A project to construct, repair or restore an ecosystem;

(3) A project to mitigate any adverse effect of flooding or flood management activity or improvement;

(4) A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;

(5) A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;

(6) A park project that is related to a flood management project;

(7) Any landscaping or similar amenity that is constructed:

(I) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or

(II) To mitigate any adverse effect on the environment relating to a flood management project;

(8) A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;

(9) A project to protect and manage a floodplain;

(10) A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including, without limitation, any monitoring, measurement or assessment of that system; and

(11) Any real property or interest in real property that is acquired to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management, or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.

Sec. 4. **NRS 244.36605 is hereby amended to read as follows:**

244.36605 ***1. In a county whose population is 100,000 or more but less than 400,000, if the county provides financial assistance through a program established pursuant to section 2 or 3 of this act, the board of county commissioners may elect by ordinance to have delinquent repayments of loans, including, without limitation, charges, fees, interest***

and penalties, collected on the tax roll, or collected with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. If the board makes such an election, the board shall cause:

(a) A description of each lot or parcel of real property or each mobile or manufactured home with respect to which the charges are delinquent on May 1; and

(b) The amount of the delinquent charges,

➥ to be prepared and submitted to the tax receiver of the county, in a form approved by the tax receiver, not later than June 1.

2. In a county whose population is less than 400,000:

~~[1.]~~ ***(a)*** The board of county commissioners of a county which provides sewerage, storm drainage or water service, or any combination of those services, may elect by ordinance to have delinquent charges for any or all of those services collected on the tax roll, or collected with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. If the board makes such an election, the board shall cause:

~~[(a)]~~ ***(1)*** A description of each lot or parcel of real property or each mobile or manufactured home with respect to which the charges are delinquent on May 1; and

~~[(b)]~~ ***(2)*** The amount of the delinquent charges,

➥ to be prepared and submitted to the tax receiver of the county, in a form approved by the tax receiver, no later than June 1.

~~[2.]~~ ***(b)*** The powers authorized by this section are alternative to all other powers of the county for the collection of such delinquent charges ~~[.~~

~~3.]~~ ***or repayments.***

(c) The real property may be described by reference to maps prepared by and on file in the office of the county assessor or by descriptions used by him.

~~[4.]~~ ***(d)*** The amount of any such delinquent charge ***or repayment*** constitutes a lien against the lot or parcel of land or mobile or manufactured home against which the charge has been imposed as of the time when the lien of taxes on the roll or on mobile or manufactured homes attach.

~~[5.]~~ ***(e)*** Except as otherwise provided in ~~[subsection 7,]~~ ***paragraph (g),*** the tax receiver of the county shall include the amount of the delinquent charges ***or repayments*** on bills for taxes levied against the respective lots and parcels of land or mobile or manufactured homes, as applicable. Thereafter the amount of the delinquent charges ***or repayments*** must be collected at the same time and in the same manner and by the same persons as, together with and not separately from, the general taxes for the county.

~~[6.]~~ ***(f)*** All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to

the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to delinquent charges ~~[for services]~~ ***or repayments*** that are collected in the manner authorized by this section.

~~[7.]~~ ***(g)*** The tax receiver of the county may issue separate bills for delinquent charges ***or repayments*** that are collected in the manner authorized by this section and separate receipts for collection on account of those charges.

Sec. 5. **NRS 377B.160 is hereby amended to read as follows:**

377B.160 The money in the infrastructure fund, including interest and any other income from the fund:

1. In a county whose population is 400,000 or more, must only be expended by the water authority, distributed by the water authority to its members, distributed by the water authority pursuant to NRS 377B.170 to a city or town located in the county whose territory is not within the boundaries of the area served by the water authority or to a public entity in the county which provides water or wastewater services and which is not a member of the water authority or, if no water authority exists in the county, expended by the board of county commissioners for:

(a) The acquisition, establishment, construction, improvement or equipping of water and wastewater facilities;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a); or

(c) Any combination of those purposes.

➥ The board of county commissioners may only expend money from the infrastructure fund pursuant to this subsection in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100.

2. In a county whose population is 100,000 or more but less than 400,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities relating to public safety;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a);

(c) The ongoing expenses of operation and maintenance of projects described in subparagraph (1) of paragraph (a), if such projects were included in a plan adopted by the board of county commissioners pursuant to subsection 6 of NRS 377B.100 before January 1, 2003; ~~[or]~~

(d) ***Any program to provide financial assistance to owners of public and private property in areas likely to be flooded in order to make such property***

resistant to flood damage that is established pursuant to section 3 of this act; or

(e) Any combination of those purposes.

3. In a county whose population is less than 100,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction, improvement or equipping of:

(1) Water facilities; or

(2) Wastewater facilities;

(b) The acquisition, establishment, construction, operation, maintenance or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities for the disposal of solid waste;

(c) The construction or renovation of facilities for schools;

(d) The construction or renovation of facilities having cultural or historical value;

(e) Projects described in subsection 2 of NRS 373.028;

(f) The acquisition, establishment, construction, expansion, improvement or equipping of facilities relating to public safety or to cultural and recreational or judicial functions;

(g) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects, facilities and activities described in paragraphs (a) to (f), inclusive; or

(h) Any combination of those purposes.

~~[Sec. 2.]~~ ***Sec. 6.*** This act becomes effective upon passage and approval.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 82.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 405.

AN ACT relating to elections; making various changes relating to the administration and conduct of elections; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.5 of this bill sets forth requirements for and responsibilities of an organizer of a voter registration drive, including registering with the Secretary of State and attending training offered by the Secretary of

State, and provides for penalties and the imposition of fines for violations.

~~[Under existing law, most candidates for public office are required to file a declaration of candidacy or an acceptance of candidacy not earlier than the first Monday in May of the year in which the election is to be held or later than 5 p.m. on the second Friday after the first Monday in May. (NRS 293.1715, 293.1725, 293.177, 293.200) Sections 2-4 and 6 of this bill provide that all declarations or acceptances of candidacy and related documents must be filed not earlier than the first Monday in January of the year in which the election is to be held and not later than 5 p.m. on the second Friday after that first Monday in January.]~~

Section 5 of this bill increases the deadline for filing written challenges of candidacy from 5 days to ~~[15]~~ **10** days after the last day a person may withdraw his candidacy. NRS 293.182)

~~[Existing law provides that election precincts may contain a maximum of 1,500 active and registered voters.]~~ **Section 7** of this bill ~~[provides that in a county whose population is 400,000 or more (currently Clark County),]~~ **increases the maximum number of active and registered voters that** election precincts may contain ~~[a maximum of]~~ **from 1,500 to** 3,000 active and registered voters. (NRS 293.207)

Sections 8 and 15 of this bill provide that the creation of mailing precincts **or absent ballot mailing precincts** must be approved by the Secretary of State ~~[.]~~ **under certain circumstances.** (NRS 293.213, 293.343)

Sections ~~[1,]~~ **1.9, 9, 11, 12, 14, 20 and 22** of this bill authorize the Secretary of State to establish a system for electors in the State to register to vote electronically. (NRS 293.1277, 293.250, 293.272, 293.2725, 293.506 and 293.517)

Section 10 of this bill provides that if two or more candidates in an election have the same given name and surname and one candidate is an incumbent, the word "Incumbent" must be written on the ballot next to name of the candidate who is the incumbent. (NRS 293.2565) **Section 13 of this bill requires the posting at polling places on election day of information concerning the eligibility of a candidate, question or other matter to appear on the ballot as a result of judicial determination or by operation of law. (NRS 293.3025)**

Section 16 of this bill authorizes the Secretary of State to assess a charge, not to exceed the cost of printing the applications, against a political party or other entity that requests more than 50 applications to register to vote by mail ~~[.]~~ **in any 12-month period.** (NRS 293.443)

Existing law requires county clerks to report to the Secretary of State certain information regarding primary and general elections. The Secretary of State is required to report this information to the Legislature not later than 30 days before the start of a regular legislative session. Section 17.2 of this bill changes the deadline for that report to within 10 days before or after the first day of each regular legislative

session.
(NRS 293.4695)

Section 17.4 of this bill requires that recruitment offices of the United States Armed Forces serve as voter registration agencies. (NRS 293.504)

Section 18 of this bill prohibits a voter registration agency from **knowingly** employing a person whose duties will include the registration of voters if the person has been convicted of a felony involving theft, fraud or dishonesty. (NRS 293.5045)

Section 19 of this bill prohibits a county clerk from **knowingly** appointing to be a field registrar any person who has been convicted of a felony involving theft, fraud or dishonesty. (NRS 293.505)

Section 22.2 of this bill changes the date on which a person who registers to vote by mail is deemed to be registered to the earlier of the date on which the application is postmarked or received by the county clerk. (NRS 293.5235)

Section 23 of this bill amends the deadlines for the county clerk to transmit the number of registered voters in the county to the Secretary of State for the primary and general elections. (NRS 293.567)

Section 24 of this bill increases the penalty for intimidating voters from a gross misdemeanor to a category E felony. (NRS 293.710)

Section 25 of this bill increases the penalty for interfering with the conduct of an election from a gross misdemeanor to a category C felony. (NRS 293.730)

Section 25.2 of this bill provides that polling information from a voter regarding whether the voter intends to vote for or against a particular political party, candidate or ballot question is not "electioneering." (NRS 293.740)

Section 26 of this bill increases the penalty for the removal or destruction of certain voting supplies and equipment from a gross misdemeanor to a category B felony. (NRS 293.750)

Section 27 of this bill provides that if a person tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots, such an act is punishable as: (1) a category B felony, punishable by imprisonment in the state prison for a minimum term of not less than 2 years or more than 10 years, if the act was committed with the intent to prevent the proper operation of that system, device or program; and (2) a category A felony, punishable by imprisonment in the state prison for a fixed term of 40 years, with eligibility for parole beginning when a minimum of 15 years has been served, if the act was committed with the intent to influence the outcome of an election. (NRS 293.755)

Section 28 of this bill makes certain unlawful acts relating to the registration of voters a category C felony rather than a category E felony. (NRS 293.800)

Section 29.3 of this bill requires certain persons to register with the Secretary of State before making an expenditure on behalf of a candidate or group of candidates which is not solicited or approved by the candidate or group.

Section 30 of this bill amends the definition of "committee for political action" to include a **natural** person**.** ~~[or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at an election.]~~ (NRS 294A.0055)

Sections 29.5, 32.2-32.5, 33.1, 33.2, 34.2, 34.3, 35, 38.2, 40.5 and 41.5 of this bill provide that, except under certain circumstances, campaign contribution and expenditure reports related to candidates for state, county and district offices must be filed electronically with the Secretary of State. (NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280, 294A.362, 294A.373, 294A.390)

Sections 32, 36 and 36.5 of this bill prohibit: (1) a person from committing to make certain campaign contributions; and (2) a candidate from accepting a commitment to make certain campaign contributions. (NRS 294A.100, 294A.287, 294A.300)

Sections 33 and 35 of this bill provide the acceptable methods for disposing of unspent campaign contributions or unspent money in a legal defense fund. (NRS 294A.200, 294A.286)

Section 34 of this bill requires committees for political action to file with the Secretary of State an updated form of registration ~~[at least every 180 days.]~~ **on or before January 15 of each year.** (NRS 294A.230)

Existing law requires the Secretary of State to design a universal form for campaign contribution and expenditure reports. Section 40.5 of this bill requires the Secretary of State to design a form for each campaign contribution and expenditure report. (NRS 294A.373)

Sections 44.1, 44.2, 44.3 and 44.5-45.5 of this bill provide that, except under certain circumstances, appointed and elected public officers must file electronically statements of financial disclosure with the Secretary of State rather than the Nevada Commission on Ethics. (NRS 281A.290, 281A.600-281A.650) Section 44.4 of this bill requires that all ethical acknowledgment forms be filed with the Commission on Ethics not later than 30 days after a public officer takes office and annually thereafter on or before January 15. (NRS 281A.500)

Section 46 repeals provisions governing the registration of and reporting of contributions and expenses by certain persons and groups relating to ballot questions. (NRS 294A.150, 294A.220, 294A.281-294A.284)

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

Section 1. **Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1, 1.3 and 1.5 of this act.**

Sec. 1.1. ***"Organizer of voter registration" means any person who organizes a voter registration drive pursuant to section 1.5 of this act.***

Sec. 1.3. ***"Voter registration drive" means distributing and collecting 10 or more applications to register to vote pursuant to section 1.5 of this act.***

Sec. 1.5. ***1. Before commencing a voter registration drive, the organizer of voter registration shall:***

(a) File a statement of intent to conduct voter registration with the Secretary of State in the form prescribed by the Secretary of State; and

(b) Complete a training course offered by the Secretary of State for organizers of voter registration.

2. An organizer of voter registration:

(a) Shall maintain in the State a registered agent who resides or is located in this State upon whom all legal process and any demand or notice authorized by law to be served upon it may be served. The organizer of voter registration shall include the contact information for the registered agent with the statement of intent filed pursuant to subsection 1.

(b) May register voters in this State.

(c) May employ persons to assist the organizer of voter registration in registering voters in the State. The organizer of voter registration shall not provide compensation to any person hired pursuant to this paragraph that is based on the number of completed applications to register to vote that the person submits.

(d) Shall not knowingly employ a person to register voters in this State if the person has been convicted of a felony involving theft, fraud or dishonesty.

3. Except as otherwise provided in this subsection, a completed application to register to vote that is collected pursuant to a voter registration drive must be:

(a) Delivered personally to the county clerk not later than 10 calendar days after the elector signs the application; or

(b) Mailed to the county clerk and postmarked not later than 10 calendar days after the elector signs the application.

➥ Any completed application to register to vote that is signed by an elector 14 calendar days or less before the date for the close of registration set forth in NRS 293.560 and 293C.527 must be delivered or postmarked on the day on which the elector signs the application.

4. A person who registers voters in this State pursuant to a voter registration drive shall not:

(a) Seek to influence an applicant's political preference or party registration; or

(b) Make any statement or take any action to discourage an applicant from registering to vote.

➥ A person who violates any of the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. The Secretary of State shall impose the following fines for each violation:

(a) If an organizer of voter registration does not complete the training course offered by the Secretary of State pursuant to subsection 1, a fine of not more than $1,000.

(b) If an organizer of voter registration does not file with the Secretary of State the contact information for its registered agent required pursuant to paragraph (a) of subsection 2, a fine of not more than $1,000.

(c) If an organizer of voter registration employs a person in violation of paragraph (d) of subsection 2, a fine of not more than $5,000 per person who is employed by the organizer of voter registration in violation of that paragraph.

(d) If an organizer of voter registration does not submit a completed application to register to vote within the applicable period set forth in subsection 3, a fine of not more than $50 for each business day that the application is late.

6. If the Secretary of State has imposed a fine against an organizer of voter registration pursuant to paragraph (d) of subsection 5 three times or more, the Secretary of State may impose an additional fine of not more than $1,000.

7. The Secretary of State may adopt regulations necessary to administer the provisions of this section.

Sec. 1.7. **NRS 293.010 is hereby amended to read as follows:**

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, ***and sections 1.1 and 1.3 of this act*** have the meanings ascribed to them in those sections.

~~[Section 1.]~~ ***Sec. 1.9.*** NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county.

2. If more than 500 names have been signed on the documents submitted to him, a county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, he shall ensure that every application in the file is examined, including any application in his possession which may not yet be entered into his records. **[**The**]** ***Except as otherwise provided in this subsection, the*** county clerk shall rely only on the appearance of the signature and the address and date included with each signature ***in the file of applications to register to vote*** in making his determination. ***If the Secretary of State establishes pursuant to NRS 293.506 a system to allow persons to register electronically to vote in this State, the county clerk may rely on such other indicia as prescribed by the Secretary of State in making his determination.***

4. Except as otherwise provided in subsection 6, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of his examination and transmit the documents with the certificate to the Secretary of State. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

5. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

6. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

7. The Secretary of State may by regulation establish further procedures for carrying out the provisions of this section.

Sec. 2. ~~**[**NRS 293.1715 is hereby amended to read as follows:~~

~~293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.~~

~~2. The names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the party has filed a certificate of existence and a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:~~

~~(a) At the last preceding general election, the minor political party polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;~~

~~(b) On January 1 preceding a primary election, the minor political party has been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or~~

~~(c) Not later than the second Friday in August preceding the general election, files a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.~~

~~3. The name of a candidate for partisan office for a minor political party other than a candidate for the office of President or Vice President of the United States must be placed on the ballot for the general election if the party has filed:~~

~~(a) A certificate of existence;~~

~~(b) A list of candidates for partisan office containing the name of the candidate pursuant to the provisions of NRS 293.1725 with the Secretary of State; and~~

~~(c) Not earlier than the first Monday in~~ **[**May preceding**]** ~~***January of the year in which*** the general election ***is to be held*** and not later than 5 p.m. on the second Friday after the first Monday in~~ **[**May,**]** ~~***January,*** a petition on behalf of the candidate with the Secretary of State containing not less than:~~

~~(1) Two hundred fifty signatures of registered voters if the candidate is to be nominated for a statewide office; or~~

~~(2) One hundred signatures of registered voters if the candidate is to be nominated for any office except a statewide office.~~

~~→ A minor political party that places names of one or more candidates for partisan office on the ballot pursuant to this subsection may also place the names of one or more candidates for partisan office on the ballot pursuant to subsection 2.~~

~~4. The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.~~

~~5. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 or paragraph (c) of subsection 3 with the Secretary of State before the petition may be circulated for signatures.~~**]** **(Deleted by amendment.)**

Sec. 3. ~~**[**NRS 293.1725 is hereby amended to read as follows:~~

~~293.1725 1. Except as otherwise provided in subsection 4, a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:~~

~~(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715;~~

~~(b) Files a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715; or~~

~~(c) Whose candidates are entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715,~~

~~must file with the Secretary of State a list of its candidates for partisan office not earlier than the first Monday in~~ **[**May preceding**]** ~~***January of the year in which*** the election~~ **[**nor**]** ~~***is to be held or*** later than 5 p.m. on the second Friday after the first Monday in~~ **[**May.**]** ~~***January.*** The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. The Secretary of State shall strike from the list each candidate who is not entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715 if the minor political party is not entitled to place candidates on the ballot pursuant to subsection 2 of NRS 293.1715. The list may be amended not later than 5 p.m. on the second Friday after the first Monday in~~ **[**May.**]** ~~***January.***~~

~~2. The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the filing officer with whom each candidate must file his declaration of candidacy.~~

~~3. Each candidate on the list must file his declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of his minor political party is filed with the Secretary of State~~ **[**nor**]** ~~***or*** later than 5 p.m. on the second Friday after the first Monday in~~ **[**May.**]** ~~***January.***~~

~~4. A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has qualified to place the names of its candidates for partisan office on the ballot for the general election pursuant to subsection 2 of NRS 293.1715 must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in September.~~**]** **(Deleted by amendment.)**

Sec. 4. ~~**[**NRS 293.177 is hereby amended to read as follows:~~

~~293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy~~ **[**,**]** ~~and has paid the fee required by NRS 293.193 not earlier than~~ **[**:

~~(a) For a candidate for judicial office,~~**]** ~~the first Monday in January of the year in which the election is to be held~~ **[**nor**]** ~~***or*** later than 5 p.m. on the second Friday after the first Monday in January .~~ **[**; and

~~(b) For all other candidates, the first Monday in May of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in May.~~**]**

~~2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:~~

~~(a) For partisan office:~~

~~DECLARATION OF CANDIDACY OF .... FOR THE~~
~~OFFICE OF .....~~
~~State of Nevada~~
~~County of~~

~~For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ……., I, the undersigned ……., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.~~

~~(Designation of name)~~

~~(Signature of candidate for office)~~
~~Subscribed and sworn to before me~~
~~this ... day of the month of ... of the year ...~~

~~Notary Public or other person~~
~~authorized to administer an oath~~
~~(b) For nonpartisan office:~~
~~DECLARATION OF CANDIDACY OF .... FOR THE~~
~~OFFICE OF .....~~
~~State of Nevada~~
~~County of~~
~~For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside~~

~~at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ……., and the address at which I receive mail, if different than my residence, is ……; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.~~

~~(Designation of name)~~

~~(Signature of candidate for office)~~
~~Subscribed and sworn to before me~~
~~this ... day of the month of ... of the year ...~~

~~Notary Public or other person~~
~~authorized to administer an oath~~

~~3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:~~

~~(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or~~

~~(b) The candidate does not present to the filing officer:~~

~~(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or~~

~~(2) A current utility bill, bank statement, paycheck [,] or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.~~

~~4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:~~

~~(a) May not be withheld from the public; and~~

~~(b) Must not contain the social security number or driver's license or identification card number of the candidate.~~

~~5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.~~

~~6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer:~~

~~(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and~~

~~(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.~~

~~7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.~~ **(Deleted by amendment.)**

Sec. 5. NRS 293.182 is hereby amended to read as follows:

293.182 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than ~~[5]~~ ***[15]*** ***10 calendar*** days after the last day the person may withdraw his candidacy pursuant to NRS 293.202, an elector may file with the filing officer for the office a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the

Constitution or a statute of this State, including, without limitation, a requirement concerning age or residency. Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and court costs of the challenged person.

2. A challenge filed pursuant to subsection 1 must:

(a) Indicate each qualification the person fails to meet;

(b) Have attached all documentation and evidence supporting the challenge; and

(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

(b) A filing officer other than the Secretary of State shall immediately transmit the challenge to the district attorney.

4. If the Attorney General or district attorney determines that probable cause exists to support the challenge, the Attorney General or district attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, or if the person fails to appear at the hearing:

(a) The name of the person must not appear on any ballot for the election for the office for which he filed the declaration of candidacy or acceptance of candidacy; and

(b) The person is disqualified from entering upon the duties of the office for which he filed the declaration of candidacy or acceptance of candidacy.

6. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and court costs of the challenged person.

Sec. 6. ~~[~~NRS 293.200 is hereby amended to read as follows:~~]~~

~~293.200 1. An independent candidate for partisan office must file with the appropriate filing officer:~~

~~(a) A copy of the petition of candidacy that he intends to subsequently circulate for signatures. The copy must be filed not [~~earlier than the January 2

~~preceding the date of the election and not~~**]** ~~later than 25 working days before the last day to file the petition pursuant to subsection 4.~~

~~(b) Either of the following:~~

~~(1) A petition of candidacy signed by a number of registered voters equal to at least 1 percent of the total number of ballots cast in:~~

~~(I) This State for that office at the last preceding general election in which a person was elected to that office, if the office is a statewide office;~~

~~(II) The county for that office at the last preceding general election in which a person was elected to that office, if the office is a county office; or~~

~~(III) The district for that office at the last preceding general election in which a person was elected to that office, if the office is a district office.~~

~~(2) A petition of candidacy signed by 250 registered voters if the candidate is a candidate for statewide office~~ **[**,**]** ~~or signed by 100 registered voters if the candidate is a candidate for any office other than a statewide office.~~

~~2. The petition may consist of more than one document. Each document must bear the name of the county in which it was circulated, and only registered voters of that county may sign the document. If the office is not a statewide office, only the registered voters of the county, district or municipality in question may sign the document. The documents that are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition pursuant to subsection 4. Each person who signs the petition shall add to his signature the address of the place at which he actually resides, the date that he signs the petition and the name of the county~~ **[**where**]** ~~*in which* he is registered to vote. The person who circulates each document of the petition shall sign an affidavit attesting that the signatures on the document are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.~~

~~3. The petition of candidacy may state the principle, if any, which the person qualified represents.~~

~~4. Petitions of candidacy must be filed not earlier than the first Monday in~~ **[**May**]** ~~*January* preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in~~ **[**May.**]** ~~*January.*~~

~~5. No petition of candidacy may contain the name of more than one candidate for each office to be filled.~~

~~6. A person may not file as an independent candidate if he is proposing to run as the candidate of a political party.~~

~~7. The names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.~~

~~8. If the candidacy of any person seeking to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in~~ **[**May.**]** ~~*January.*~~

~~Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in~~ [May.] ***January.***

~~9. Any challenge pursuant to subsection 8 must be filed with:~~

~~(a) The First Judicial District Court if the petition of candidacy was filed with the Secretary of State.~~

~~(b) The district court for the county~~ [where] ***in which*** ~~the petition of candidacy was filed if the petition was filed with a county clerk.~~

~~10. An independent candidate for partisan office must file a declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the first Monday in~~ [May] ***January*** ~~of the year in which the election is held~~ [nor] ***or*** ~~later than 5 p.m. on the second Friday after the first Monday in~~ [May.] ~~***January.]***~~ **(Deleted by amendment.)**

Sec. 7. NRS 293.207 is hereby amended to read as follows:

293.207 1. Election precincts must be established on the basis of the number of registered voters therein, with a maximum of ~~*[:*~~

~~*(a) In a county whose population is 400,000 or more, 3,000 registered voters who are not designated inactive pursuant to NRS 293.530 per precinct in those precincts in which a mechanical voting system is used.*~~

~~*(b) In a county whose population is less than 400,000,*~~ ~~1,500~~] ***3,000*** registered voters who are not designated inactive pursuant to NRS 293.530 per precinct in those precincts in which a mechanical voting system is used.

2. Except as otherwise provided in subsections 3 and 4, the county clerk may consolidate two or more contiguous election precincts into a single voting district to conduct a particular election as public convenience, necessity and economy may require.

3. If a county clerk proposes to consolidate two or more contiguous election precincts, in whole or in part, pursuant to subsection 2, the county clerk shall, at least 14 days before consolidating the precincts, cause notice of the proposed consolidation to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the consolidation.

4. A person may file a written objection to the proposed consolidation with the county clerk. The county clerk shall consider each written objection filed pursuant to this subsection before consolidating the precincts.

Sec. 8. NRS 293.213 is hereby amended to read as follows:

293.213 1. Whenever there were not more than 20 voters registered in a precinct for the last preceding general election, the county clerk may ~~*[,*~~ ~~with the approval of the Secretary of State,~~*]* establish that precinct as a mailing precinct.

2. Except as otherwise provided in NRS 293.208, the county clerk in any county ~~[where]~~ ***in which*** an absent ballot central counting board is appointed may ~~*[, with the approval of the Secretary of State,]*~~ abolish two or more

existing mailing precincts and combine those mailing precincts into absent ballot precincts. Those mailing precincts must be designated absent ballot mailing precincts.

3. In any county ~~[where]~~ ***in which*** an absent ballot central counting board is appointed, any established precinct which had less than 200 ballots cast at the last preceding general election, or any newly established precinct with less than 200 registered voters, may be designated an absent ballot mailing precinct.

4. ***If a county clerk wishes to establish a mailing precinct or an absent ballot mailing precinct that does not meet the requirements of subsection 1, 2 or 3, the county clerk must obtain approval from the Secretary of State before establishing the mailing precinct or absent ballot mailing precinct.***

5. The county clerk shall, at least 14 days before establishing or designating a precinct as a mailing precinct or absent ballot mailing precinct or before abolishing a mailing precinct pursuant to this section, cause notice of such action to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the action.

Sec. 9. NRS 293.250 is hereby amended to read as follows:

293.250 1. The Secretary of State shall, in a manner consistent with the election laws of this State, prescribe:

(a) The form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, applications to register to vote, lists, applications, registers, rosters, statements and abstracts required by the election laws of this State.

(b) The procedure to be followed ~~[when]~~ ***:***

(1) If the Secretary of State establishes pursuant to NRS 293.506 a system to allow persons to register electronically to vote in this State.

(2) When a computer is used to ~~[register voters and to]~~ keep records of registration.

2. The Secretary of State shall prescribe with respect to the matter to be printed on every kind of ballot:

(a) The placement and listing of all offices, candidates and measures upon which voting is statewide, which must be uniform throughout the State.

(b) The listing of all other candidates required to file with him, and the order of listing all offices, candidates and measures upon which voting is not statewide, from which each county or city clerk shall prepare appropriate ballot forms for use in any election in his county.

3. The Secretary of State shall place the condensation of each proposed constitutional amendment or statewide measure near the spaces or devices for indicating the voter's choice.

4. The fiscal note for, explanation of, arguments for and against ~~[,]~~ and rebuttals to such arguments of each proposed constitutional amendment or statewide measure must be included on all sample ballots.

5. The condensations and explanations for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Attorney General. The arguments and rebuttals for or against constitutional amendments and statewide measures proposed by initiative or referendum must be prepared in the manner set forth in NRS 293.252. The fiscal notes for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Fiscal Analysis Division of the Legislative Counsel Bureau. The condensations, explanations, arguments, rebuttals and fiscal notes must be in easily understood language and of reasonable length, and whenever feasible must be completed by August 1 of the year in which the general election is to be held.

6. The names of candidates for township and legislative or special district offices must be printed only on the ballots furnished to voters of that township or district.

7. A county clerk:

(a) May divide paper ballots into two sheets in a manner which provides a clear understanding and grouping of all measures and candidates.

(b) Shall prescribe the color or colors of the ballots and voting receipts used in any election which the clerk is required to conduct.

Sec. 10. NRS 293.2565 is hereby amended to read as follows:

293.2565 1. Except as otherwise provided in subsection 2, in any election regulated by this chapter, the name of a candidate printed on a ballot may be the given name and surname of the candidate or a contraction or familiar form of his given name followed by his surname. A nickname of not more than 10 letters may be incorporated into the name of a candidate. The nickname must be in quotation marks and appear immediately before the surname of the candidate. A nickname must not indicate any political, economic, social or religious view or affiliation and must not be the name of any person, living or dead, whose reputation is known on a statewide, nationwide or worldwide basis ~~[,]~~ or in any other manner deceive a voter regarding the person or principles for which he is voting.

2. ~~[Except as otherwise provided in subsection 3, in]~~ ***In*** any election regulated by this chapter, if two or more candidates have the same ***given name and*** surname ~~[or surnames so similar as to be likely to cause confusion]~~ and:

(a) None of the candidates is an incumbent, the middle names or middle initials, if any, of the candidates must be included in the names of the candidates ***;*** ~~[as printed on the ballot;]~~ or

(b) One of the candidates is an incumbent, the name of the incumbent must be listed first and ~~[must be printed in bold type.~~

~~3. Where a system of voting other than by paper ballot is used and the provisions of paragraph (b) of subsection 2 are applicable, the Secretary of State may distinguish a candidate who is an incumbent in a manner other than printing the name of the incumbent in bold type provided that the manner used clearly emphasizes the name of the incumbent in a manner similar to printing his name in bold type.~~ ***the word "Incumbent" must be written next to the name of the candidate who is the incumbent.***

Sec. 11. NRS 293.272 is hereby amended to read as follows:

293.272 1. Except as otherwise provided in subsection 2 and in NRS 293.2725 and 293.3083, a person who registered ***electronically or by mail*** to vote ~~[~~pursuant to the provisions of NRS 293.5235~~]~~ shall, for the first election in which he votes at which that registration is valid, vote in person unless he has previously voted in the county in which he is registered to vote.

2. The provisions of subsection 1 do not apply to a person who:

(a) Is entitled to vote in the manner prescribed in NRS 293.343 to 293.355, inclusive;

(b) Is entitled to vote an absent ballot pursuant to federal law or NRS 293.316 or 293.3165;

(c) Is disabled;

(d) Submits or has previously submitted a written request for an absent ballot that is signed by the registered voter before a notary public or other person authorized to administer an oath; or

(e) Requests an absent ballot in person at the office of the county clerk.

Sec. 12. NRS 293.2725 is hereby amended to read as follows:

293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers ***electronically or*** by mail to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place only if the person presents to the election board officer at the polling place:

(1) A current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck ~~[,]~~ or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517; and

(b) May vote by mail only if the person provides to the county or city clerk:

(1) A copy of a current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck ~~[,]~~ or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517.

2. The provisions of this section do not apply to a person who:

(a) Registers to vote by mail and submits with his application to register to vote:

(1) A copy of a current and valid photo identification; or

(2) A copy of a current utility bill, bank statement, paycheck ~~[,]~~ or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;

(b) Registers to vote by mail and submits with his application to register to vote a driver's license number or at least the last four digits of his social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in his application;

(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;

(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or

(e) Is entitled to vote otherwise than in person under any other federal law.

Sec. 13. NRS 293.3025 is hereby amended to read as follows:

293.3025 The Secretary of State and each county and city clerk shall ensure that a copy of each of the following is posted in a conspicuous place at each polling place on election day:

1. A sample ballot;

2. Information concerning the date and hours of operation of the polling place;

3. Instructions for voting and casting a ballot, including a provisional ballot;

4. Instructions concerning the identification required for persons who registered by mail and are first-time voters for federal office in this State;

5. Information concerning the accessibility of polling places to persons with disabilities; ~~[and]~~

6. General information concerning federal and state laws which prohibit acts of fraud and misrepresentation ~~[.]~~ ***; and***

7. Information concerning the eligibility of a candidate, a ballot question or any other matter appearing on the ballot as a result of judicial determination or by operation of law, if any.

Sec. 14. NRS 293.3083 is hereby amended to read as follows:

293.3083 A person may cast a ballot by mail to vote for a candidate for federal office, which must be treated as a provisional ballot by the county or city clerk if the person:

1. Applies ***electronically or*** by mail to register to vote and has not previously voted in an election for federal office in this State;

2. Fails to provide the identification required pursuant to paragraph (b) of subsection 1 of NRS 293.2725 to the county or city clerk at the time that he mails his ballot; and

3. Completes the written affirmation set forth in subsection 1 of NRS 293.3082.

Sec. 15. NRS 293.343 is hereby amended to read as follows:

293.343 1. A registered voter who resides in an election precinct in which there were not more than 200 voters registered for the last preceding general election, or in a precinct in which it appears to the satisfaction of the county clerk ***and Secretary of State*** that there are not more than 200 registered voters, may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

2. Whenever the county clerk ~~*[, with the approval of the Secretary of State,]*~~ has designated a precinct as a mailing precinct, registered voters residing in that precinct may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

3. In a county whose population is 100,000 or more, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) Shall designate at least one polling place in the county as the polling place where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

4. In a county whose population is less than 100,000, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) May designate one or more polling places in the county as the polling place where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

5. Polling places designated pursuant to subsection 3 or 4 may include, without limitation, polling places located as closely as practicable to the mailing precincts.

Sec. 16. NRS 293.443 is hereby amended to read as follows:

293.443 1. Except as otherwise provided in subsection 3, the expense of providing all ballots, forms and other supplies to be used at any election regulated by this chapter or chapter 293C of NRS and all expenses necessarily incurred in the preparation for, or the conduct of, any such

election is a charge upon the municipality, county, district or State, as the case may be.

2. The county or city clerk may submit the printing of ballots for competitive bidding.

3. If a political party or other entity requests more than 50 applications to register to vote by mail in any 12-month period, the clerk ***or the Secretary of State*** may assess a charge, not to exceed the cost of printing the applications.

Sec. 17. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280, ~~[294A.283,]~~ 294A.360 and 294A.362 and all reports on contributions received by and expenditures made from a legal defense fund submitted to the Secretary of State pursuant to NRS 294A.286.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 17.2. **NRS 293.4695 is hereby amended to read as follows:**

293.4695 1. Each county clerk shall collect the following information regarding each primary and general election, on a form provided by the Secretary of State and made available at each polling place in the county, each polling place for early voting in the county, the office of the county clerk and any other location deemed appropriate by the Secretary of State:

(a) The number of ballots that have been discarded or for any reason not included in the final canvass of votes, along with an explanation for the exclusion of each such ballot from the final canvass of votes.

(b) A report on each malfunction of any mechanical voting system, including, without limitation:

(1) Any known reason for the malfunction;

(2) The length of time during which the mechanical voting system could not be used;

(3) Any remedy for the malfunction which was used at the time of the malfunction; and

(4) Any effect the malfunction had on the election process.

(c) A list of each polling place not open during the time prescribed pursuant to NRS 293.273 and an account explaining why each such polling place was not open during the time prescribed pursuant to NRS 293.273.

(d) A description of each challenge made to the eligibility of a voter pursuant to NRS 293.303 and the result of each such challenge.

(e) A description of each complaint regarding a ballot cast by mail or facsimile filed with the county clerk and the resolution, if any, of the complaint.

(f) The results of any audit of election procedures and practices conducted pursuant to regulations adopted by the Secretary of State pursuant to this chapter.

(g) The number of provisional ballots cast and the reason for the casting of each provisional ballot.

2. Each county clerk shall submit to the Secretary of State, on a form provided by the Secretary of State, the information collected pursuant to subsection 1 not more than 60 days after each primary and general election.

3. The Secretary of State may contact any political party and request information to assist in the investigation of any allegation of voter intimidation.

4. The Secretary of State shall establish and maintain an Internet website pursuant to which he shall solicit and collect voter comments regarding election processes.

5. The Secretary of State shall compile the information and comments collected pursuant to this section into a report that he shall submit to the Director of the Legislative Counsel Bureau for transmission to the Legislature ~~[not later than 30]~~ ***within 10*** days before ***or after*** the ~~[start]~~ ***first day*** of each regular session of the Legislature.

6. The Secretary of State may make the report required pursuant to subsection 5 available on an Internet website established and maintained by the Secretary of State.

Sec. 17.4. **NRS 293.504 is hereby amended to read as follows:**

293.504 1. The following offices shall serve as voter registration agencies:

(a) Such offices that provide public assistance as are designated by the Secretary of State;

(b) Each office that receives money from the State of Nevada to provide services to persons in this State who are disabled;

(c) The offices of the Department of Motor Vehicles;

(d) The offices of the city and county clerks;

(e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable; ~~[and]~~

(f) ***Recruitment offices of the United States Armed Forces; and***

(g) Such other offices as the Secretary of State deems appropriate.

2. Each voter registration agency shall:

(a) Post in a conspicuous place, in at least 12-point type, instructions for registering to vote;

(b) ~~[~~Make~~]~~ ***Except as otherwise provided in subsection 3, distribute*** applications to register to vote which may be returned by mail ~~[~~available to each person who applies for or receives~~]~~ ***with each application for*** services or assistance from the agency ~~[,]~~ ***and with each application for recertification, renewal or a change of address related to such services or assistance.***

(c) Provide the same amount of assistance to an applicant in completing an application to register to vote as the agency provides to a person completing any other forms for the agency; and

(d) Accept completed applications to register to vote.

3. ***A voter registration agency is not required to provide an application to register to vote pursuant to paragraph (b) of subsection 2 to a person who applies for or receives services or assistance from the agency if the person declines to register to vote and submits to the agency a written form that meets the requirements of 42 U.S.C. § 1973gg-5(6). No information related to the declination to register to vote may be used for any purpose other than voter registration.***

4. Except as otherwise provided in this subsection and NRS 293.524, any application to register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election. The county clerk shall accept any application to register to vote which is obtained from a voter registration agency pursuant to this section and completed by the fifth Sunday preceding an election if he receives the application not later than 5 days after that date.

~~[~~4.~~]~~ ***5.*** The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to register to vote at recruitment offices of the United States Armed Forces.

Sec. 18. NRS 293.5045 is hereby amended to read as follows:

293.5045 1. A person who works in a voter registration agency shall not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display a political preference or party allegiance in a place where it can be seen by an applicant;

(c) Make any statement or take any action to discourage an applicant from registering to vote; or

(d) Make any statement or take any action which would lead the applicant to believe that a decision to register to vote has any effect on the availability of any services or benefits provided by the State or Federal Government.

2. A person who violates any of the provisions of ~~[this section]~~ ***subsection 1*** is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. A voter registration agency shall not ~~*[, either]*~~ ***knowingly*** ~~*[or unknowingly,]*~~ ***employ a person whose duties will include the registration of voters if the person has been convicted of a felony involving theft, fraud or dishonesty. The Secretary of State may impose against a voter registration agency a fine of not more than $5,000 per person who is employed by the voter registration agency in violation of this subsection.***

Sec. 19. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which he is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform his duties as the county clerk may direct. ***The county clerk shall not*** ~~*[, either]*~~ ***knowingly*** ~~*[or unknowingly,]*~~ ***appoint any person to be a field registrar who has been convicted of a felony involving theft, fraud or dishonesty.***

3. A field registrar shall demand of any person who applies for registration all information required by the application to register to vote and shall administer all oaths required by this chapter.

4. When a field registrar has in his possession five or more completed applications to register to vote, he shall forward them to the county clerk, but in no case may he hold any number of them for more than 10 days.

5. Each field registrar shall forward to the county clerk all completed applications in his possession immediately after the fifth Sunday preceding an election. Within 5 days after the fifth Sunday preceding any general election or general city election, a field registrar shall return all unused applications in his possession to the county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.

6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.

7. Each field registrar shall post notices sent to him by the county clerk for posting in accordance with the election laws of this State.

8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Delegate any of his duties to another person; or

(b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself out to be or attempt to exercise the duties of a field registrar unless he has been so appointed.

10. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Solicit a vote for or against a particular question or candidate;

(b) Speak to a voter on the subject of marking his ballot for or against a particular question or candidate; or

(c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election,

➥ while he is registering an elector.

11. When the county clerk receives applications to register to vote from a field registrar, he shall issue a receipt to the field registrar. The receipt must include:

(a) The number of persons registered; and

(b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or

(b) Register a person who fails to provide satisfactory proof of identification and the address at which he actually resides.

13. A county clerk, field registrar, employee of a voter registration agency, person assisting a voter pursuant to subsection 13 of NRS 293.5235 or any other person providing a form for the application to register to vote to an elector for the purpose of registering to vote:

(a) If the person who assists an elector with completing the form for the application to register to vote retains the form, shall enter his name on the duplicate copy or receipt retained by the voter upon completion of the form; and

(b) Shall not alter, deface or destroy an application to register to vote that has been signed by an elector except to correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required.

14. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

15. A person who violates any of the provisions of subsection 8, 9, 10, 12 or 13 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 20. NRS 293.506 is hereby amended to read as follows:

293.506 ***1.*** A county clerk may, with approval of the board of county commissioners, establish a system for using a computer to ~~[register voters and to]~~ keep records of registration. ~~[The county clerk may, for that purpose, issue to a voter a card, bearing the signature of the voter, attesting to his registration.]~~

2. The Secretary of State may establish a system to allow persons to submit applications electronically to register to vote and adopt any regulations necessary to carry out the provisions of this subsection.

Sec. 21. NRS 293.510 is hereby amended to read as follows:

293.510 1. In counties ~~[where]~~ ***in which*** computers are not used to register voters, ~~[the]~~ ***a*** county clerk shall:

(a) Segregate original applications to register to vote according to the precinct in which the registered voters reside and arrange the applications in each precinct or district in alphabetical order. The applications for each precinct or district must be kept in a separate binder which is marked with the number of the precinct or district. This binder constitutes the election board register.

(b) Arrange the duplicate applications of registration in alphabetical order for the entire county and keep them in binders or a suitable file which constitutes the registrar of voters' register.

2. In any county ~~[where]~~ ***in which*** a computer is used to register voters, ~~[the]~~ ***a*** county clerk shall:

(a) Arrange the original applications to register to vote for the entire county in a manner in which an original application may be quickly located. These original applications constitute the registrar of voters' register.

(b) Segregate the applications to register to vote in a computer file according to the precinct or district in which the registered voters reside ~~[,]~~ and for each precinct or district **,** have printed a computer listing which contains the applications to register to vote in alphabetical order. These listings of applications to register to vote must be placed in separate binders which are marked with the number of the precinct or district. These binders constitute the election board registers.

Sec. 22. NRS 293.517 is hereby amended to read as follows:

293.517 1. Any elector residing within the county may register ~~[:]~~ ***to vote:***

(a) Except as otherwise provided in NRS 293.560 and 293C.527, by appearing before the county clerk, a field registrar**,** ~~[or]~~ a voter registration agency ~~[,]~~ ***or a person who registers voters pursuant to a voter registration drive,*** completing the application to register to vote, giving true and satisfactory answers to all questions relevant to his identity and right to vote ~~[,]~~ and providing proof of his residence and identity;

(b) By completing and mailing or personally delivering to the county clerk an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) Pursuant to the provisions of NRS 293.501 or 293.524; ~~[or]~~

(d) At his residence with the assistance of a field registrar pursuant to NRS 293.5237 ~~[.]~~ ***; or***

(e) By submitting an application electronically to register to vote, if the Secretary of State has established a system pursuant to NRS 293.506 to allow persons to submit applications electronically to register to vote.

➥ The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering him. If the applicant registers to vote pursuant to this subsection and fails to provide proof of his residence and identity, the applicant must provide proof of his residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083. For the purposes of this subsection, a voter registration card issued pursuant to subsection 6 does not provide proof of the residence or identity of a person.

2. The application to register to vote must be signed and verified under penalty of perjury by the elector registering.

3. Each elector who is or has been married must be registered under his own given or first name ~~[,]~~ and not under the given or first name or initials of his spouse.

4. An elector who is registered and changes his name must complete a new application to register to vote. He may obtain a new application:

(a) At the office of the county clerk or field registrar;

(b) By submitting an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to register to vote; ~~[or]~~

(d) At any voter registration agency ~~[.]~~ ***; or***

(e) By submitting an application electronically to register to vote, if the Secretary of State has established a system pursuant to NRS 293.506 to allow persons to submit applications electronically to register to vote.

➥ If the elector fails to register under his new name, he may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may be required to furnish proof of identity and subsequent change of name.

5. Except as otherwise provided in subsection 7, an elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of his application to register to vote.

6. After the county clerk determines that the application to register to vote of a person is complete and that the person is eligible to vote pursuant to NRS 293.485, he shall issue a voter registration card to the voter which contains:

(a) The name, address, political affiliation and precinct number of the voter;

(b) The date of issuance; and

(c) The signature of the county clerk.

7. If an elector submits an application to register to vote or an affidavit described in paragraph (c) of subsection 1 of NRS 293.507 that contains any handwritten additions, erasures or interlineations, the county clerk may object to the application to register to vote if he believes that because of such handwritten additions, erasures or interlineations, the application to register to vote of the elector is incomplete or that the elector is not eligible to vote pursuant to NRS 293.485. If the county clerk objects pursuant to this subsection, he shall immediately notify the elector and the district attorney of the county. Not later than 5 business days after the district attorney receives such notification, the district attorney shall advise the county clerk as to whether:

(a) The application to register to vote of the elector is complete and the elector is eligible to vote pursuant to NRS 293.485; and

(b) The county clerk should proceed to process the application to register to vote.

➥ If the district attorney advises the county clerk to process the application to register to vote, the county clerk shall immediately issue a voter registration card to the applicant pursuant to subsection 6.

Sec. 22.2. **NRS 293.5235 is hereby amended to read as follows:**

293.5235 1. Except as otherwise provided in NRS 293.502, a person may register to vote by mailing an application to register to vote to the county clerk of the county in which he resides. The county clerk shall, upon request, mail an application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to register to vote may be used to correct information in the registrar of voters' register.

2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is personally delivered to the county clerk shall be deemed to have been returned by mail.

3. The applicant must complete the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 10 and signing the application.

4. The county clerk shall, upon receipt of an application, determine whether the application is complete.

5. If he determines that the application is complete, he shall, within 10 days after he receives the application, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

6. Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, he shall, as soon

as possible, mail a notice to the applicant informing him that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after he receives the information, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

➥ If the applicant does not provide the additional information within the prescribed period, the application is void.

7. The applicant shall be deemed to be registered or to have corrected the information in the register **[**:

~~(a) If the application is received by the county clerk or postmarked not more than 3 working days after the applicant completed the application, on the date the applicant completed the application; or~~

~~(b) If the application is received by the county clerk or postmarked more than 3 working days after the applicant completed the application,~~**]** on the ***earlier of the*** date ***on which*** the application is ***postmarked or*** received by the county clerk.

8. If the applicant fails to check the box described in paragraph (b) of subsection 10, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at his assigned polling place.

9. The Secretary of State shall prescribe the form for an application to register to vote by mail which must be used to register to vote by mail in this State.

10. The application to register to vote by mail must include:

(a) A notice in at least 10-point type which states:

NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.

(b) The question, "Are you a citizen of the United States?" and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.

(c) The question, "Will you be at least 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.

(d) A statement instructing the applicant not to complete the application if the applicant checked "no" in response to the question set forth in paragraph (b) or (c).

(e) A statement informing the applicant that if the application is submitted by mail and the applicant is registering to vote for the first time, the applicant must submit the information set forth in paragraph (a) of subsection 2 of NRS 293.2725 to avoid the requirements of subsection 1 of NRS 293.2725 upon voting for the first time.

11. Except as otherwise provided in subsection 5 of NRS 293.518, the county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.

12. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person's current residence is other than that indicated on his application to register to vote in the manner set forth in NRS 293.530.

13. A person who, by mail, registers to vote pursuant to this section may be assisted in completing the application to register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to provide the information required by this subsection will not result in the application being deemed incomplete.

14. An application to register to vote must be made available to all persons, regardless of political party affiliation.

15. An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.

16. A person who willfully violates any of the provisions of subsection 13, 14 or 15 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

17. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 23. NRS 293.567 is hereby amended to read as follows:

293.567 After the close of registration for each primary election but not later than the ~~[second Friday next]~~ ***Friday*** preceding the primary election and after the close of registration for each general election but not later than the ~~[second Friday next]~~ ***Friday*** preceding the general election, the county clerk shall ascertain by precinct and district the number of registered voters in the county and their political affiliation, if any, and shall transmit that information to the Secretary of State.

Sec. 24. NRS 293.710 is hereby amended to read as follows:

293.710 1. It is unlawful for any person, in connection with any election or petition ~~[,]~~ ***or the registration of voters,*** whether acting himself or through another person in his behalf, to:

(a) Use or threaten to use any force, ***intimidation,*** coercion, violence, restraint or undue influence;

(b) Inflict or threaten to inflict any physical or mental injury, damage, harm or loss upon the person or property of another;

(c) Expose or publish or threaten to expose or publish any fact concerning another in order to induce or compel such other to vote or refrain from voting for any candidate or any question;

(d) Impede or prevent, by abduction, duress or fraudulent contrivance, the free exercise of the franchise by any voter, or thereby to compel, induce or prevail upon any elector to give or refrain from giving his vote; or

(e) Discharge or change the place of employment of any employee with the intent to impede or prevent the free exercise of the franchise by such employee.

2. ~~[Unless a greater penalty is provided by law, any violation]~~ ***A person who violates a provision*** of this section is ~~[a gross misdemeanor.]~~ ***guilty of a category E felony and shall be punished as provided in NRS 193.130.***

Sec. 25. NRS 293.730 is hereby amended to read as follows:

293.730 1. A person shall not:

(a) Remain in or outside of any polling place so as to interfere with the conduct of the election.

(b) Except an election board officer, receive from any voter a ballot prepared by the voter.

(c) Remove a ballot from any polling place before the closing of the polls.

(d) Apply for or receive a ballot at any election precinct or district other than the one at which he is entitled to vote.

(e) Show his ballot to any person, after voting, so as to reveal any of the names voted for.

(f) Inside a polling place, ask another person for whom he intends to vote.

(g) Except an election board officer, deliver a ballot to a voter.

(h) Except an election board officer in the course of his official duties, inside a polling place, ask another person his name, address or political affiliation.

2. A voter shall not:

(a) Receive a ballot from any person other than an election board officer.

(b) Deliver to an election board or to any member thereof any ballot other than the one received.

(c) Place any mark upon his ballot by which it may afterward be identified as the one voted by him.

3. Any person who violates any provision of this section is guilty of a ~~[gross misdemeanor.]~~ ***category C felony and shall be punished as provided in NRS 193.130.***

Sec. 25.2. **NRS 293.740 is hereby amended to read as follows:**

293.740 1. Except as otherwise provided in subsection 2, it is unlawful inside a polling place or within 100 feet from the entrance to the building or other structure in which a polling place is located:

(a) For any person to solicit a vote or speak to a voter on the subject of marking his ballot.

(b) For any person, including an election board officer, to do any electioneering on election day.

➥ The county clerk or registrar of voters shall ensure that, at the outer limits of the area within which electioneering is prohibited, notices are continuously posted on which are printed in large letters "Distance Marker: No electioneering between this point and the entrance to the polling place."

2. The provisions of subsection 1 do not apply to the conduct of a person in a private residence or on commercial or residential property that is within 100 feet from the entrance to a building or other structure in which a polling place is located. The provisions of subsection 1 are not intended to prohibit a person from voting solely because he is wearing a prohibited political insigne and is reasonably unable to remove the insigne or cover it. In such a case, the election board officer shall take such action as is necessary to allow the voter to vote as expediently as possible and then assist the voter in exiting the polling place as soon as is possible.

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

4. As used in this section, "electioneering" means campaigning for or against a candidate, ballot question or political party by:

(a) Posting signs relating to the support of or opposition to a candidate, ballot question or political party;

(b) Distributing literature relating to the support of or opposition to a candidate, ballot question or political party;

(c) Using loudspeakers to broadcast information relating to the support of or opposition to a candidate, ballot question or political party;

(d) Buying, selling, wearing or displaying any badge, button or other insigne which is designed or tends to aid or promote the success or defeat of any political party or a candidate or ballot question to be voted upon at that election; ***or***

(e) ~~[Polling or otherwise soliciting from a voter information as to whether the voter intends to vote or has voted for or against a particular political party, candidate or ballot question; or~~

~~(f)]~~ Soliciting signatures to any kind of petition.

Sec. 26. NRS 293.750 is hereby amended to read as follows:

293.750 Any person who, during an election, removes or destroys any of the supplies or equipment placed in the booths or compartments ~~[,]~~ or removes or defaces the cards of instruction posted as prescribed by this chapter, is guilty of a ~~[gross misdemeanor.]~~ ***category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.***

Sec. 27. NRS 293.755 is hereby amended to read as follows:

293.755 1. A person who tampers or interferes with, or attempts to tamper or interfere with **,** a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to prevent the proper operation of that device, system or program is guilty of a

category ~~[~~D~~]~~ ***B*** felony and shall be punished ~~[as provided in NRS 193.130.]~~ ***by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.***

2. ***A person who tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to influence the outcome of an election is guilty of a category A felony and shall be punished by imprisonment in the state prison for a definite term of 40 years, with eligibility for parole beginning when a minimum of 15 years has been served.***

3. The county or city clerk shall report any alleged violation of this section to the district attorney who shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

Sec. 28. NRS 293.800 is hereby amended to read as follows:

293.800 1. A person who, for himself or another person, willfully gives a false answer or answers to questions propounded to him by the registrar or field registrar of voters relating to the information called for by the application to register to vote, or who willfully falsifies his application in any particular, or who violates any of the provisions of the election laws of this State ~~[,]~~ or knowingly encourages another person to violate those laws is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. A public officer or other person, upon whom any duty is imposed by this title, who willfully neglects his duty ~~[,]~~ or willfully performs it in such a way as to hinder the objects and purposes of the election laws of this State, except where another penalty is provided, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. If the person is a public officer, his office is forfeited upon conviction of any offense provided for in subsection 2.

4. A person who causes or endeavors to cause his name to be registered, knowing that he is not an elector or will not be an elector on or before the day of the next ensuing election in the precinct or district in which he causes or endeavors to cause the registration to be made, and any other person who induces, aids or abets the person in the commission of either of the acts is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. A field registrar or other person who ~~[:]~~ ***provides to an elector an application to register to vote and:***

(a) Knowingly falsifies an application ~~[to register to vote]~~ or knowingly causes an application to be falsified; ~~[or]~~

(b) Knowingly provides money or other compensation to another for a falsified application ~~[to register to vote,]~~ ***; or***

(c) Intentionally fails to submit to the county clerk a completed application on account of the elector's political party affiliation,

➥ is guilty of a category ~~[E]~~ ***C*** felony and shall be punished as provided in NRS 193.130.

Sec. 29. NRS 293C.715 is hereby amended to read as follows:

293C.715 1. If a city clerk maintains a website on the Internet for information relating to ***candidates and*** elections, the website must contain public information maintained, collected or compiled by the city clerk that relates to elections, which must include, without limitation:

(a) The locations of polling places for casting a ballot on election day in such a form that a registered voter may search the list to determine the location of the polling place at which the registered voter is required to cast a ballot; ~~[and]~~

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293C.387 ~~[.]~~ ***; and***

(c) The reports that the city clerk receives pursuant to chapter 294A of NRS from candidates for city office.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by a city clerk pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by the Secretary of State, a county clerk or another city clerk, the city clerk may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 29.2. **Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 29.3 and 29.5 of this act.**

Sec. 29.3. ***1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates, or of any person involved in the campaign of that candidate or group and who intends to make an expenditure in excess of $100 on behalf of the candidate or group which is not solicited or approved by the candidate or group shall register with the Secretary of State before making any such expenditure.***

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

Sec. 29.5. ***1. A candidate, person, committee, political party, group or business entity that is required to file a report described in subsection 1 of NRS 294A.373 is not required to file the report electronically if the candidate, person, committee, political party, group or business entity:***

(a) Did not receive or expend money in excess of $10,000; and

(b) Submits to the Secretary of State an affidavit stating that:

(1) The candidate, person, committee, political party, group or business entity does not own or have the ability to access the technology

necessary to file electronically the report described in subsection 1 of NRS 294A.373; and

(2) The candidate, person, committee, political party, group or business entity does not have the financial ability to purchase or acquire access to the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373.

2. Each affidavit submitted pursuant to subsection 1 must be in the form prescribed by the Secretary of State and signed under penalty of perjury.

Sec. 30. NRS 294A.0055 is hereby amended to read as follows:

294A.0055 1. "Committee for political action" means any ***individual natural person or*** group of natural persons or entities that solicits or receives contributions from any other person, group or entity and:

(a) Makes or intends to make contributions to candidates or other persons; or

(b) Makes or intends to make expenditures,

➥ designed to affect the outcome of any primary, general or special election or question on the ballot.

2. "Committee for political action" does ~~[:~~

~~*(a) Includes, without limitation, a person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot.*~~

~~*(b) Does]*~~ not include:

(a) ~~*[(1)]*~~ An organization made up of legislative members of a political party whose primary purpose is to provide support for their political efforts.

(b) ~~*[(2)]*~~ An entity solely because it provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public.

(c) ~~[An individual natural person.~~

~~(d)]~~ ~~*[(3)]*~~ An individual corporation or other business organization who has filed articles of incorporation or other documentation of organization with the Secretary of State pursuant to title 7 of NRS.

~~[(e)]~~ ~~*[(4)]*~~ ***(d)*** A labor union.

~~[(f)]~~ ~~*[(5)]*~~ ***(e)*** A personal campaign committee or the personal representative of a candidate who receives contributions or makes expenditures that are reported as campaign contributions or expenditures by the candidate.

~~[(g)]~~ ~~*[(6)]*~~ ***(f)*** A committee for the recall of a public officer.

Sec. 31. NRS 294A.007 is hereby amended to read as follows:

294A.007 1. "Contribution" means a gift, loan, conveyance, deposit, payment, transfer or distribution of money or of anything of value other than the services of a volunteer, and includes:

(a) The payment by any person, other than a candidate, of compensation for the personal services of another person which are rendered to a:

(1) Candidate;

(2) Person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group; ***or***

(3) Committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates **,** ~~[~~**,** ~~or~~

~~(4) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot,~~**]**

➥ without charge to the candidate, person, committee or political party.

(b) The value of services provided in kind for which money would have otherwise been paid, such as paid polling and resulting data, paid direct mail, paid solicitation by telephone, any paid paraphernalia that was printed or otherwise produced to promote a campaign and the use of paid personnel to assist in a campaign.

2. As used in this section, "volunteer" means a person who does not receive compensation of any kind, directly or indirectly, for the services he provides to a campaign.

Sec. 32. NRS 294A.100 is hereby amended to read as follows:

294A.100 1. A person shall not make ***or commit to make*** a contribution or contributions to a candidate for any office, except a federal office, in an amount which exceeds $5,000 for the primary election or primary city election, regardless of the number of candidates for the office, and $5,000 for the general election or general city election, regardless of the number of candidates for the office **.** ~~[~~**,** ~~during the period:~~

~~(a) Beginning from 30 days before the regular session of the Legislature immediately following the last election for the office and ending 30 days before the regular session of the Legislature immediately following the next election for the office, if that office is a state, district, county or township office; or~~

~~(b) Beginning from 30 days after the last election for the office and ending 30 days before the next general city election for the office, if that office is a city office.~~**]**

2. A candidate shall not accept a contribution ***or commitment to make a contribution*** made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 32.2. **NRS 294A.120 is hereby amended to read as follows:**

294A.120 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 he received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The provisions of this

subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each campaign contribution in excess of $100 he receives during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each campaign contribution in excess of $100 he received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $100 he received during the period and contributions received during the reporting period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to

NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall list each of the campaign contributions that he receives on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) A district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign contributions must be ~~[:]~~ ***:***

(a) If the candidate is a candidate for city office, filed with the ~~[officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A]~~ ***city clerk. The*** candidate may mail or transmit the report to ~~[that officer]~~ ***the city clerk*** by regular mail, certified mail, facsimile machine or electronic means.

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, district or county office, filed electronically with the Secretary of State.

7. A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~7. Every county clerk who receives from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after he receives the report.]~~ ***Secretary of State or city clerk, as the case may be.***

8. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 32.3. **NRS 294A.125 is hereby amended to read as follows:**

294A.125 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives contributions in any year before the year in which the general election or general city election in which the candidate intends to seek election to public office is held shall, for:

(a) The year in which he receives contributions in excess of $10,000, list each of the contributions that he receives and the expenditures in excess of $100 made in that year.

(b) Each year after the year in which he received contributions in excess of $10,000, until the year of the general election or general city election in which the candidate intends to seek election to public office is held, list each of the contributions that he received and the expenditures in excess of $100 made in that year.

2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution in excess of $100 and contributions that a contributor has made cumulatively in excess of that amount.

4. The report must be ***:*** ~~[filed:]~~

(a) ~~[With the officer with whom the candidate will file the declaration of candidacy or acceptance of candidacy for the public office the candidate intends to seek. A]~~ ***If the candidate is a candidate for city office, filed with the city clerk. The*** candidate may mail or transmit the report to ~~[that officer]~~ ***the city clerk*** by regular mail, certified mail, facsimile machine or electronic means.

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, district or county office, filed electronically with the Secretary of State.

5. A report shall be deemed to be filed ~~[with the officer:~~

~~(1) On the date it was mailed if it was sent by certified mail.~~

~~(2) On]~~ ***on*** the date it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~(b) On or before January 15 of the year immediately after the year for which the report is made.~~

~~5. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report of contributions and expenditures pursuant to subsection 4 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.]~~ ***Secretary of State or city clerk, as the case may be.***

Sec. 32.4. **NRS 294A.128 is hereby amended to read as follows:**

294A.128 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives a loan which is guaranteed by a third party, forgiveness of a loan previously made to the candidate or a written commitment for a contribution shall, for the period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report:

(a) If a loan received by the candidate was guaranteed by a third party, the amount of the loan and the name and address of each person who guaranteed the loan;

(b) If a loan received by the candidate was forgiven by the person who made the loan, the amount that was forgiven and the name and address of the person who forgave the loan; and

(c) If the candidate received a written commitment for a contribution, the amount committed to be contributed and the name and address of the person who made the written commitment.

2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. The reports required by subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

~~[4. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report pursuant to subsection 1 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.]~~

Sec. 32.5. **NRS 294A.140 is hereby amended to read as follows:**

294A.140 1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party, committee sponsored by a political party and business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 he or it received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of the candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a

candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election for that office, for the period from 11 days before the general election or general city election through June 30 of that year,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of $100 since the beginning of the current reporting period.

4. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

6. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of candidates for offices at such special elections shall report each contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports of contributions required pursuant to this section must be ***:*** ~~[filed with:]~~

(a) ~~[If the candidate is elected from one county, the county clerk of that county;~~

~~(b)]~~ If the candidate is ~~[elected from one city,]~~ ***a candidate for city office, filed with*** the city clerk ***.*** ~~[of that city ; or~~

~~(c) If]~~ ***A person, committee, political party or business entity may file the report with the city clerk by regular mail, certified mail, facsimile machine or electronic means.***

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is ~~[elected from more than one county or city,]~~ ***a candidate for state, district or county office, filed electronically with*** the Secretary of State.

8. ~~[A person or entity may file the report with the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.]~~ A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.~~

~~10.]~~ ***Secretary of State or city clerk, as the case may be.***

9. Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if he or it receives no contributions.

Sec. 33. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of $100 that he incurs and each amount in excess of $100 that he disposes of pursuant to NRS 294A.160 ***or subsection 4 of NRS 294A.286*** during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 ~~[.]~~ ***or 294A.286.***

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of $100 that he incurs on the form designed and provided by the Secretary of State pursuant NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means ~~[,]~~ or delivered personally.

7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after ~~[he receives]~~ receipt of the report.

Sec. 33.1. **NRS 294A.200 is hereby amended to read as follows:**

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of $100 that he incurs and each amount in excess of $100 that he disposes of pursuant to NRS 294A.160 or subsection 4 of NRS 294A.286 during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 or 294A.286.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of $100 that he incurs on the form designed and provided by the Secretary of State pursuant NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be ***:***

(a) If the candidate is a candidate for city office, filed with the ~~[officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy.]~~ ***city clerk.*** A candidate may mail or transmit the report to ~~[that officer]~~ ***the city clerk*** by regular mail, certified mail, facsimile machine or electronic means.

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, county or district office, filed electronically with the Secretary of State.

7. A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means or delivered personally.~~

~~7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the]~~ Secretary of State ~~[within 10 working days after receipt of the report.]~~ ***or city clerk, as the case may be.***

Sec. 33.2. **NRS 294A.210 is hereby amended to read as follows:**

294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury. The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election for that office, for the period from 11 days before the general election or general city election through the June 30 of that year,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

3. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

5. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports must be filed with:

(a) ~~[If the candidate is elected from one county, the county clerk of that county;~~

~~(b)]~~ If the candidate is ~~[elected from one city,]~~ ***a candidate for city office,*** the city clerk of that city; or

~~[(c)]~~ ***(b)*** If the candidate is ~~[elected from more than one county or city,]~~ ***a candidate for state, district or county office,*** the Secretary of State.

8. If an expenditure is made on behalf of a group of candidates, the reports must be itemized by the candidate. ~~[A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.]~~

9. A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.]~~ ***Secretary of State or city clerk, as the case may be.***

10. Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if he or it receives no contributions.

Sec. 34. NRS 294A.230 is hereby amended to read as follows:

294A.230 1. Each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by him.

2. The form must require:

(a) The name of the committee;

(b) The purpose for which it was organized;

(c) The names, addresses and telephone numbers of its officers;

(d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;

(e) The name, address and telephone number of its registered agent; and

(f) Any other information deemed necessary by the Secretary of State.

3. A committee for political action shall file with the Secretary of State ~~[an]~~ ***:***

(a) An amended form for registration within 30 days after any change in the information contained in the form for registration.

(b) A form for registration ~~*[at least every 180 days]*~~ ***on or before January 15 of each year, regardless of whether there is a change in the information contained in the most recent form for registration filed by the committee for political action with the Secretary of State.***

4. The Secretary of State shall include on his Internet website the information required pursuant to subsection 2.

Sec. 34.2. **NRS 294A.270 is hereby amended to read as follows:**

294A.270 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

➥ report each contribution received or made by the committee in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each contribution received by the committee, and each contribution made by the committee in excess of $100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each contribution received by the committee, and each contribution made by the committee in excess of $100.

4. ~~[Each]~~ ***Except as otherwise provided in section 29.5 of this act, each*** report of contributions must be filed ***electronically*** with the Secretary of State. ~~[The committee may mail or transmit the report by regular mail, certified mail, facsimile machine or electronic means.]~~ A report shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the Secretary of State**.** ~~[if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~

5. The name and address of the contributor and the date on which the contribution was received must be included on the report for each

contribution, whether from or to a natural person, association or corporation, in excess of $100 and contributions which a contributor or the committee has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 34.3. **NRS 294A.280 is hereby amended to read as follows:**

294A.280 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

➥ report each expenditure made by the committee in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each expenditure made by the committee in excess of $100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each expenditure made by the committee in excess of $100.

4. ~~[Each]~~ ***Except as otherwise provided in section 29.5 of this act, each*** report of expenditures must be filed ***electronically*** with the Secretary of State. ~~[The committee may mail or transmit the report to the Secretary of State by regular mail, certified mail, facsimile machine or electronic means.]~~ A report shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the Secretary of State**.** ~~[if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~

Sec. 35. NRS 294A.286 is hereby amended to read as follows:

294A.286 1. A person who administers a legal defense fund shall:

(a) Within 5 days after the creation of the legal defense fund, notify the Secretary of State of the creation of the fund on a form provided by the Secretary of State; and

(b) For the same period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report any contribution received by or expenditure made from the legal defense fund.

2. The reports required by paragraph (b) of subsection 1 must be submitted on the form designed and provided by the Secretary of State

pursuant to NRS 294A.373. Each form must be signed by the administrator of the legal defense fund under penalty of perjury.

3. The reports required by paragraph (b) of subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

4. Not later than the 15th day of the second month after the conclusion of all civil, criminal or administrative claims or proceedings for which a candidate or public officer established a legal defense fund, the candidate or public officer shall:

(a) Return the unspent money to contributors;

(b) ~~*[Contribute the money to:*~~

~~*(1) The campaigns of other candidates for public office or the payment of debts related to their campaigns;*~~

~~*(2) A political party;*~~

~~*(3) A person or group of persons advocating the passage or defeat of a question or group of questions on the ballot; or*~~

~~*(4) Any combination of persons or groups set forth in subparagraphs (1), (2) and (3);*~~

~~*(c)]*~~ ***Donate the money to any tax-exempt nonprofit entity; or***

~~*[(d)]*~~ ***(c) Dispose of the money in any combination of the methods provided in paragraphs (a)*** ~~*[,]*~~ ***and (b).*** ~~*[and (c).]*~~

Sec. 36. NRS 294A.287 is hereby amended to read as follows:

294A.287 1. A person shall not make a contribution or contributions to the legal defense fund of a candidate or public officer in an amount which exceeds $10,000 **.** ~~**[**during the applicable period prescribed in NRS 294A.100 pertaining to the office the candidate is seeking or that the public officer holds.**]**~~

2. A candidate or public officer shall not accept a contribution to his legal defense fund that is made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 36.5. **NRS 294A.300 is hereby amended to read as follows:**

294A.300 1. It is unlawful for a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect to solicit or accept any monetary contribution, or solicit or accept a commitment to make such a contribution for any political purpose during the period beginning:

(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;

(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or

(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.

2. ***A person shall not make or commit to make a contribution or commitment prohibited by subsection 1.***

3. This section does not prohibit the payment of a salary or other compensation or income to a member of the Legislature, the Lieutenant Governor or the Governor during a session of the Legislature if it is made for services provided as a part of his regular employment or is additional income to which he is entitled.

~~[3.]~~ ***4.*** As used in this section, "political purpose" includes, without limitation, the establishment of, or the addition of money to, a legal defense fund.

Sec. 37. NRS 294A.347 is hereby amended to read as follows:

294A.347 1. A statement which:

(a) Is published within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election;

(b) Expressly advocates the election or defeat of a clearly identified candidate for a state or local office; and

(c) Is published by a person who receives compensation from the candidate, an opponent of the candidate ~~[,]~~ or a ~~[person, party, committee or business entity required to report expenditures pursuant to NRS 294A.210,]~~ ***committee for political action,***

➥ must contain a disclosure of the fact that the person receives compensation pursuant to paragraph (c) and the name of the person ~~[, party, committee or business entity]~~ ***or committee for political action*** providing that compensation.

2. A statement which:

(a) Is published by a candidate within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election; and

(b) Contains the name of the candidate,

➥ shall be deemed to comply with the provisions of this section.

3. As used in this section, "publish" means the act of:

(a) Printing, posting, broadcasting, mailing or otherwise disseminating; or

(b) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated.

Sec. 38. NRS 294A.360 is hereby amended to read as follows:

294A.360 1. Every candidate for city office at a primary city election or general city election shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than January 15 of each year, for the period from January 1 of the previous year

through December 31 of the previous year. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general city election for that office through the year immediately preceding the next general city election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 ~~[.]~~ ***or subsection 4 of NRS 294A.286.***

2. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election;

(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election; and

(c) July 15 of the year of the general city election for that office, for the period from 11 days before the general city election through the June 30 of that year.

3. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election; and

(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election.

4. Except as otherwise provided in subsection 5, every candidate for city office at a special election shall so file those reports:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election.

5. Every candidate for city office at a special election to determine whether a public officer will be recalled shall so file those reports 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

Sec. 38.2. **NRS 294A.362 is hereby amended to read as follows:**

294A.362 1. In addition to reporting information pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.360, each candidate who is required to file a report of campaign contributions and expenses pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 or 294A.360 shall report on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 goods and services provided in kind for which money would otherwise have been paid. The candidate shall list on the form each such campaign contribution in excess of $100 that he receives during the reporting period, each such campaign contribution from a contributor received during the reporting period which cumulatively exceeds $100, and each such expense in excess of $100 he incurs during the reporting period.

2. The Secretary of State and each city clerk shall not require a candidate to list the campaign contributions and expenses described in this section on any form other than the form designed and provided by the Secretary of State pursuant to NRS 294A.373.

3. The report of campaign contributions and expenses described in this section must be filed in the same manner and at the same time as the candidate files the reports required pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.360.

Sec. 39. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210 ~~[, 294A.220,]~~ ***and*** 294A.280 ~~[and 294A.283]~~ must consist of a list of each expenditure in excess of $100 or $1,000, as is appropriate, that was made during the periods for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each expense in excess of $100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

(a) Office expenses;
(b) Expenses related to volunteers;
(c) Expenses related to travel;
(d) Expenses related to advertising;
(e) Expenses related to paid staff;
(f) Expenses related to consultants;
(g) Expenses related to polling;
(h) Expenses related to special events;

(i) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid; and

(j) Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160 ~~[.]~~ ***or subsection 4 of NRS 294A.286.***

Sec. 40. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280, ~~[294A.283,]~~ 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to NRS 294A.286.

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, ~~*[or]*~~ committee , political party, group and business entity that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, ~~*[or]*~~ committee , political party, group or business entity that is required to use the form.

Sec. 40.5. **NRS 294A.373 is hereby amended to read as follows:**

294A.373 1. The Secretary of State shall design ~~[a single form]~~ ***forms*** to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280, 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to NRS 294A.286.

2. The ~~[form]~~ ***forms*** designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. ~~[Upon request, the]~~ ***The*** Secretary of State shall provide ~~[a]~~ ***to each person, committee, political party, group and business entity that is required to file a report described in subsection 1:***

(a) If the person, committee, political party, group or business entity is required to submit the report to a city clerk, a copy of the form ***;*** ~~[designed pursuant to this section to each person, committee, political party, group and business entity that is required to file a report described in subsection 1.]~~

(b) If the person, committee, political party, group or business entity is required to submit the report electronically to the Secretary of State, access through a secure website to the form; or

(c) If the person, committee, political party, group or business entity is required to submit the report electronically to the Secretary of State and has submitted an affidavit to the Secretary of State pursuant to section 29.5 of this act, a copy of the form.

4. ***If a person, committee, political party, group or business entity is required to submit electronically a report described in subsection 1, the form must be signed electronically under penalty of perjury.***

5. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of ***, or access to,*** a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party, group or business entity ***.*** ~~[that is required to use the form.]~~

6. The Secretary of State may adopt any regulations necessary to carry out of the provisions of this section.

Sec. 41. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;

2. An acceptance of candidacy;

3. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.377;

4. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or

5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280 ~~[, 294A.283]~~ or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,

➥ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280 ~~[, 294A.283]~~ or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420,

must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 41.5. **NRS 294A.390 is hereby amended to read as follows:**

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;

2. An acceptance of candidacy; ***or***

3. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.377**,** ~~[~~;

~~4. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or~~

~~5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280 or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,~~**]**

➥ shall furnish the candidate ***or entity*** with **[**~~the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An~~**]** ***an*** explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280 or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 42. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, **[**~~294A.150,~~**]** 294A.200, 294A.210, **[**~~294A.220,~~**]** 294A.270, 294A.280 **[**~~, 294A.283~~**]** and 294A.286, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of $100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of $100.

4. The expenditures exceeding $100 made by a:

(a) Person on behalf of a candidate other than himself.

(b) Group of persons or business entity advocating the election or defeat of a candidate.

(c) Committee for the recall of a public officer.

5. The contributions in excess of $100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates.

6. **[**~~The contributions in excess of $1,000 made to and the expenditures exceeding $1,000 made by a:~~

~~(a) Person or group of persons organized formally or informally, including a business entity who advocates the passage or defeat of a question or group of questions on the ballot and who receives or expends money in an amount in excess of $10,000 for such advocacy, except as otherwise provided in paragraph (b).~~

~~(b) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of $10,000 for such advocacy.~~

~~7.~~**]** The total contributions received by and expenditures made from a legal defense fund.

Sec. 43. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, **[**~~294A.150,~~**]** 294A.200, 294A.210, **[**~~294A.220,~~**]** 294A.230, ***294A.250,*** 294A.270, 294A.280, **[**~~294A.283,~~**]** 294A.286, ***294A.350,*** 294A.360 or 294A.377 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, **[**~~294A.150,~~**]** 294A.160, 294A.200, 294A.210, **[**~~294A.220,~~**]** 294A.230, ***294A.250,*** 294A.270, 294A.280, **[**~~294A.283,~~**]** 294A.286, 294A.300, 294A.310, ***294A.350,*** 294A.360 or 294A.377 is subject to a civil penalty of not more than $5,000 for each violation and

payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, $25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, $50 for each day the report is late.

(c) If the report is more than 15 days late, $100 for each day the report is late.

➥ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of $100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 44. NRS 306.040 is hereby amended to read as follows:

306.040 1. Upon determining that the number of signatures on a petition to recall is sufficient pursuant to NRS 293.1276 to 293.1279, inclusive, the Secretary of State shall notify the county clerk, the officer with whom the petition is to be filed pursuant to subsection 4 of NRS 306.015 and the public officer who is the subject of the petition.

2. After the verification of signatures is complete ~~[,]~~ but not later than the date a complaint is filed pursuant to subsection 5 or the date the call for a special election is issued, whichever is earlier, a person who signs a petition to recall may request the Secretary of State to strike his name from the petition. If the person demonstrates good cause therefor and the number of such requests received by the Secretary of State could affect the sufficiency of the petition, the Secretary of State shall strike the name of the person from the petition.

3. Not sooner than 10 days ~~[nor]~~ ***or*** more than 20 days after the Secretary of State completes the notification required by subsection 1, if a complaint is not filed pursuant to subsection 5, the officer with whom the petition is filed

shall issue a call for a special election in the jurisdiction in which the public officer who is the subject of the petition was elected to determine whether the people will recall him.

4. The call for a special election pursuant to subsection 3 or 6 must include, without limitation:

(a) The last day on which a person may register to vote to qualify to vote in the special election; ~~[and]~~

(b) The last day on which a petition to nominate other candidates for the office may be filed ~~[.]~~ ***; and***

(c) Whether any person is entitled to vote in the special election pursuant to 293.343 to 293.355, inclusive.

5. The legal sufficiency of the petition may be challenged by filing a complaint in district court not later than 5 days, Saturdays, Sundays and holidays excluded, after the Secretary of State completes the notification required by subsection 1. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 30 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

6. Upon the conclusion of the hearing, if the court determines that the petition is sufficient, it shall order the officer with whom the petition is filed to issue a call for a special election in the jurisdiction in which the public officer who is the subject of the petition was elected to determine whether the people will recall him. If the court determines that the petition is not sufficient, it shall order the officer with whom the petition is filed to cease any further proceedings regarding the petition.

Sec. 44.1. **Chapter 281A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A public officer who is required to file electronically a statement of financial disclosure with the Secretary of State pursuant to NRS 281A.600 or 281A.610 is not required to file the statement electronically if the public officer submits to the Secretary of State an affidavit stating that:

(a) The public officer does not own or have the ability to access the technology necessary to file electronically the statement of financial disclosure; and

(b) The public officer does not have the financial ability to purchase or acquire access to the technology necessary to file electronically the statement of financial disclosure.

2. Each affidavit submitted pursuant to subsection 1 must be in the form prescribed by the Secretary of State and signed under penalty of perjury.

Sec. 44.2. **NRS 281A.290 is hereby amended to read as follows:**

281A.290 The Commission shall:

1. Adopt procedural regulations:

(a) To facilitate the receipt of inquiries by the Commission;

(b) For the filing of a request for an opinion with the Commission;

(c) For the withdrawal of a request for an opinion by the person who filed the request; and

(d) To facilitate the prompt rendition of opinions by the Commission.

2. Prescribe, by regulation, ~~[forms for the submission of statements of financial disclosure and procedures for the submission of statements of financial disclosure filed pursuant to NRS 281A.600 and]~~ forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500, maintain files of such statements and make the statements available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

4. ~~[Except as otherwise provided in NRS 281A.600, inform]~~ ***Inform*** the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

6. Publish a manual for the use of public officers and employees that contains:

(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281A.440, for the future guidance of all persons concerned with ethical standards in government;

(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; and

(c) An abstract of the requirements of this chapter.

➥ The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the abstracts and published opinions of the Commission.

Sec. 44.3. **NRS 281A.470 is hereby amended to read as follows:**

281A.470 1. Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of his own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct his inquiry to that committee instead of the Commission.

(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the ~~[Commission]~~ ***Secretary of State*** for review; and

(2) Upon review, approved by the ~~[Commission.]~~ ***Secretary of State.***

2. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

Sec. 44.4. **NRS 281A.500 is hereby amended to read as follows:**

281A.500 1. Every public officer shall acknowledge that he has received, read and understands the statutory ethical standards. The acknowledgment must be on a form prescribed by the Commission and must ~~[accompany the first statement of financial disclosure that the public officer is required to file]~~ ***be filed*** with the Commission ~~[pursuant to NRS 281A.600 or the Secretary of State pursuant to NRS 281A.610.]~~ ***not later than 30 days after he takes office and on or before January 15 of each year thereafter.***

2. The Commission ~~[and the Secretary of State]~~ shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

3. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal pursuant to NRS 283.440.

Sec. 44.5. **NRS 281A.600 is hereby amended to read as follows:**

281A.600 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 3 and section 44.1 of this act,*** if a public officer who was appointed to the office for which he is serving is entitled to receive annual compensation of $6,000 or more for serving in that office, he shall file ***electronically*** with the ~~[Commission]~~ ***Secretary of State*** a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after his appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

➥ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. If a person is serving in a public office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for

that initial office to satisfy the requirements of subsection 1 for every other public office to which he is appointed and in which he is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

4. ~~[The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:~~

~~(a) The name of each public officer who failed to file his statement of financial disclosure within the period before the notice is sent;~~

~~(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;~~

~~(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and~~

~~(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.~~

~~5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.~~

~~6.]~~ A statement of financial disclosure shall be deemed to be filed ~~[with the Commission:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~ ***Secretary of State.***

5. Except as otherwise provided in section 44.1 of this act, the Secretary of State shall provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.

Sec. 45. NRS 281A.610 is hereby amended to read as follows:

281A.610 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 4 and section 44.1 of this act,*** each candidate for public

office who will be entitled to receive annual compensation of $6,000 or more for serving in the office that he is seeking and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which he is serving shall file ***electronically*** with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if he is elected to the office.

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires. The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which he is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281A.600, he need not file the statement required by subsection 1 for the full calendar year for which he previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

5. A statement of financial disclosure shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the Secretary of State**.** ~~[if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281A.290.~~]

~~[~~7.~~]~~ ~~[~~The~~]~~

6. Except as otherwise provided in section 44.1 of this act, the Secretary of State shall ~~[~~prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.~~]~~ ***provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.***

Sec. 45.2. **NRS 281A.620 is hereby amended to read as follows:**

281A.620 1. Statements of financial disclosure, as approved pursuant to NRS 281A.470 or in such ***electronic*** form as the ~~[~~Commission~~]~~ ***Secretary of State*** otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) His length of residence in the State of Nevada and the district in which he is registered to vote.

(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which he or a member of his household has a legal or beneficial interest;

(2) Whose fair market value is $2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom he or a member of his household owes $5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of $200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial

interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.

2. The ~~[Commission shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The Commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281A.470.]~~ ***Secretary of State may adopt any regulations necessary to carry out the provisions of this section.***

3. As used in this section:

(a) "Business entity" means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.

(b) "Household" includes:

(1) The spouse of a candidate for public office or public officer;

(2) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and

(3) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.

Sec. 45.3. **NRS 281A.630 is hereby amended to read as follows:**

281A.630 1. Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS 281A.600, 281A.610 and 281A.620 must be retained by the ~~[Commission or]~~ Secretary of State for 6 years after the date of filing.

2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.

Sec. 45.4. **NRS 281A.640 is hereby amended to read as follows:**

281A.640 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the ~~[Commission and to the]~~ Secretary of State, in a form prescribed by the ~~[Commission,]~~ ***Secretary of State,*** on or before December 1 of each year by:

(a) Each county clerk for all public officers of the county and other local governments within the county other than cities;

(b) Each city clerk for all public officers of the city;

(c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and

(d) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.

2. ~~[The Secretary of State, each]~~ ***Each*** county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the ~~[Commission,]~~ ***Secretary of State,*** and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Secretary of State, in a form prescribed by the ~~[Commission,]~~ ***Secretary of State,*** a list of each candidate for public office who filed a declaration of candidacy or acceptance of candidacy with that officer within 10 days after the last day to qualify as a candidate for the applicable office.

Sec. 45.5. **NRS 281A.650 is hereby amended to read as follows:**

281A.650 The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk who receives from a candidate for public office a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate **:**

1. If the candidate is a candidate for judicial office, the form prescribed by the ~~[Commission]~~ ***Administrative Office of the Courts*** for the making of a statement of financial disclosure ~~[.]~~ **;**

2. If the candidate is not a candidate for judicial office and is required to file electronically the statement of financial disclosure, access to the electronic form prescribed by the Secretary of State; or

3. If the candidate is not a candidate for judicial office, is required to submit the statement of financial disclosure electronically and has submitted an affidavit to the Secretary of State pursuant to section 44.1 of this act, the form prescribed by the Secretary of State,

➥ accompanied by instructions on how to complete the form ~~[, where it must be filed]~~ and the time by which it must be filed.

Sec. 46. NRS 294A.150, 294A.220, 294A.281, 294A.282, 294A.283 and 294A.284 are hereby repealed.

Sec. 47. **1.** This **section and sections 1 to 29.3, inclusive, 30, 31, 32, 33, 34, 35 to 38, inclusive, 39, 40, 41, 42, 43, 44 and 46 of this** act ~~[becomes]~~ **become** effective on July 1, 2009.

2. Sections 29.5, 32.2 to 32.5, inclusive, 33.1, 33.2, 34.2, 34.3, 38.2, 40.5, 41.5 and 44.1 to 45.5, inclusive, of this act become effective on January 16, 2011.

LEADLINES OF REPEALED SECTIONS

294A.150 Person or group of persons, including business entities, advocating passage or defeat of question on ballot who receives or

expends money in excess of $10,000 to report contributions received; period covered; form; filing.

294A.220 Person or group of persons, including business entities, advocating passage or defeat of question on ballot who receives or expends money in excess of $10,000 to report expenditures; deadline; period covered; form; filing.

294A.281 Registration.

294A.282 Registered agent.

294A.283 Reporting of contributions and expenditures; period covered; deadline; form; filing.

294A.284 Reporting of certain information concerning compensation of persons to circulate petitions.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 119.

Bill read second time.

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

Amendment No. 532.

SUMMARY—Requires the comprehensive regional plan in certain counties to include provisions concerning the ~~[identification and]~~ sustainability of certain ~~[supplies of]~~ water ~~[.]~~ **resources.** (BDR 22-750)

AN ACT relating to planning; requiring the comprehensive regional plan in certain counties to include provisions concerning the ~~[identification and]~~ sustainability of certain ~~[supplies of]~~ water ~~[.]~~ **resources;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the regional planning commission of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to develop a comprehensive regional plan for the physical development and orderly growth of the region. (NRS 278.0272) The comprehensive regional plan must include goals, policies, maps and other documents relating to population, conservation, limitation of premature expansion, land use, transportation, public facilities and services, annexation, intergovernmental coordination and certain utility projects. (NRS 278.0274) **Existing law also provides for the development by the Northern Nevada Water Planning Commission of a comprehensive plan concerning supplies of water within the planning area for the comprehensive plan and for the adoption of such a plan by the Western Regional Water Commission. (NRS 540A.010; Chapter 531, Statutes of Nevada 2007, pp. 3285-3304)** This bill requires the comprehensive regional plan to include several provisions concerning the availability of water **resources** for growth and development, including a statement setting forth the total population of

the **[**~~county~~**]** **region** that may be supported by the **[**~~identified and~~**]** sustainable **[**~~supply of~~**]** water **[**~~in the county as determined by the water planning commission of the county.~~**]** **resources identified in the comprehensive plan adopted by the Western Regional Water Commission**.

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

Section 1. **[**~~NRS 278.026 is hereby amended to read as follows:~~

~~278.026 As used in NRS 278.026 to 278.029, inclusive, unless the context otherwise requires:~~

~~1. "Affected entity" means a public utility, franchise holder, local or regional agency, or any other entity having responsibility for planning or providing public facilities relating to transportation, solid waste, energy generation and transmission, conventions and the promotion of tourism, air quality or public education. The term does not include:~~

~~(a) A state agency; or~~

~~(b) A public utility which is subject to regulation by the Public Utilities Commission of Nevada.~~

~~2. "Facilities plan" means a plan for the development of public facilities which will have a regional impact or which will aid in accomplishing regional goals relating to transportation, solid waste, energy generation and transmission, conventions and the promotion of tourism, air quality or public education. The term does not include a plan for the development of a specific site or regulations adopted by an affected entity to implement the comprehensive regional plan.~~

~~3. "Governing board" means the governing board for regional planning created pursuant to NRS 278.0264.~~

~~4. "Joint planning area" means an area that is the subject of common study and planning by the governing body of a county and one or more cities.~~

~~5. "Project of regional significance," with respect to a project proposed by any person other than a public utility, means a project which:~~

~~(a) Has been identified in the guidelines of the regional planning commission as a project which will result in the loss or significant degradation of a designated historic, archeological, cultural or scenic resource;~~

~~(b) Has been identified in the guidelines of the regional planning commission as a project which will result in the creation of significant new geothermal or mining operations;~~

~~(c) Has been identified in the guidelines of the regional planning commission as a project which will have a significant effect on the natural resources, public services, public facilities, including, without limitation, schools, or the adopted regional form of the region; or~~

~~(d) Will require a change in zoning, a special use permit, an amendment to a master plan, a tentative map or other approval for the use of land which, if approved, will have an effect on the region of increasing:~~

~~(1) Employment by not less than 938 employees;~~

~~(2) Housing by not less than 625 units;~~

~~(3) Hotel accommodations by not less than 625 rooms;~~

~~(4) Sewage by not less than 187,500 gallons per day;~~

~~(5) Water usage by not less than 625 acre feet per year; or~~

~~(6) Traffic by not less than an average of 6,250 trips daily.~~

~~➢ The term does not include any project for which a request for an amendment to a master plan, a change in zoning, a tentative map or a special use permit has been approved by the local planning commission before June 17, 1989.~~

~~6. "Project of regional significance," with respect to a project proposed by a utility, includes:~~

~~(a) An electric substation;~~

~~(b) A transmission line that carries 60 kilovolts or more;~~

~~(c) A facility that generates electricity greater than 5 megawatts;~~

~~(d) Natural gas storage and peak shaving facilities; and~~

~~(e) Gas regulator stations and mains that operate over 100 pounds per square inch.~~

~~7. "Sphere of influence" means~~ ***, except as otherwise provided in NRS 278.0274,*** ~~an area into which a city plans to expand as designated in the comprehensive regional plan within the time designated in the comprehensive regional plan.~~**] (Deleted by amendment.)**

Sec. 2. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population. ***This portion of the plan must set forth the total population of the*** ~~*[county]*~~ ***region that may be supported by the*** ~~*[identified and]*~~ ***sustainable*** ~~*[supply of]*~~ ***water*** ~~*[in the county as determined by the water planning commission of the county.]*~~ ***resources identified in the comprehensive plan adopted by the Western Regional Water Commission pursuant to section 34 of chapter 531, Statutes of Nevada 2007, at page 3293, if applicable to the region. The provisions of this subsection do not limit or otherwise affect any authority or duty of the State Engineer.***

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) ~~*[Estimate the amount of water required for those future uses;]*~~ ***Set forth a pattern of development consistent with the total population of the region that may be supported by the sustainable water resources described in subsection 1;***

(d) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; ~~[and~~

~~(d)]~~ ***(e)*** Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area ~~[.]~~ ***; and***

(f) Set forth policies that require ~~*[, as a condition of the approval of any land use, proof of the availability of water as determined by the water planning commission of the county in accordance with subsection 1;*~~

~~*(g) Include the estimated area of potential development of the region that is supported by the identified and sustainable supply of water determined pursuant to subsection 1;*~~

~~*(h) Include the amount of water required to support all development that is approved but is not yet built; and*~~

~~*(i) Set forth policies and criteria, including, without limitation, any required amendment to a master plan of a local government, that may be used to terminate any approval of land use for which water is not committed.]*~~ ***each applicable master plan of a local government to be consistent with the pattern of development and total population specified in paragraph (c).***

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future. ~~*[and which is within the estimated area of potential development of the region specified in paragraph (g) of subsection 4.]*~~

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 162.

Bill read second time.

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

Amendment No. 433.

AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide **an option of** coverage for screening for and treatment of autism; **authorizing the Board of Psychological Examiners to license behavior analysts and autism behavior therapists;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures, including

colorectal cancer screenings, cytological screening tests and mammograms, in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its employees. (NRS 608.1555) **Sections 1-** ~~[10]~~ **8.5** of this bill require ~~[those]~~ **certain** health care plans and policies of insurance ~~[, other than the State Plan for Medicaid,]~~ to also provide **an option of** coverage for the screening for, including the diagnosis of, and the treatment of autism spectrum disorders in certain circumstances.

Sections 12 and 13 of this bill provide for the licensure of behavior analysts and autism behavior therapists by the Board of Psychological Examiners.

The provisions of this bill apply prospectively to any policy of insurance or health care plan issued or renewed on or after ~~[October 1, 2009.]~~ **January 1, 2011.**

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

Section 1. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A ~~*[policy of health insurance]*~~ ***health benefit plan must provide an option of coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders*** ~~*[.]*~~ ***for persons covered by the policy under the age of 18 or, if enrolled in high school, under the age of 21.***

2. Optional coverage provided pursuant to this section must be subject to:

(a) A maximum benefit of not less than $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusions or limitations of a policy of health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. An insurer that offers or issues a policy of health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period ~~*[or other condition]*~~ ***for optional coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or***

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

~~[3. An insurer that offers or issues a policy of health insurance which provides coverage for prescription drugs shall not:~~

~~(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the policy; or~~

~~(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.]~~

4. ~~[An]~~ ***Except as provided in subsections 1 and 2, an insurer who offers optional coverage pursuant to subsection 1 shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.***

5. ~~[The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the policy.]~~ ***Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:***

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. ~~[A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2009, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.]~~ ***Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.***

7. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means [any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders,] a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior [.] provided by a licensed behavior analyst or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.

[(d) "Board certified] (g) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization [.] , and who is licensed as a behavior analyst by the Board of Psychological Examiners.

[(e)] (f) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

[(f)] (e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis , [or any other behavioral therapy,] that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

[(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:

(1) Prevent the onset of an illness, condition, injury or disability;

(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or

(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.]

(h) ["Pharmaceutical] "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed

medically ~~[appropriate]~~ necessary to determine the need or effectiveness of the medications.

(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) "Screening for autism spectrum disorders" means ~~[all]~~ medically ~~[appropriate]~~ necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(l) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(m) "Treatment ~~[of autism spectrum disorders"]~~ plan" means ~~[habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with]~~ a plan to treat an autism spectrum disorder that is prescribed by a licensed physician ~~[,]~~ or licensed psychologist ~~[or board certified behavior analyst who determines the care to be medically appropriate.]~~ and is developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 2. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 3. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A ~~[policy of group health insurance]~~ health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders ~~[.]~~ to persons covered by the policy of group health insurance under the age of 18 or, if enrolled in high school, under the age of 21.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health insurance policy to the same extent as other medical services or prescription drugs covered by the policy.

3. An insurer that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period ~~[for other condition]~~ for

coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

~~*[3. An insurer that offers or issues a policy of group health insurance which provides coverage for prescription drugs shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the policy; or*~~

~~*(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.]*~~

4. ~~[An]~~ Except as provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. ~~[The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the policy.]~~ Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after ~~[October 1, 2009,]~~ January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with ~~[subsection]~~ subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means ~~[any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders,]~~ a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior ~~[,]~~ provided by a licensed behavior analyst or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.

~~[(d) "Board certified]~~ (g) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization ~~[,]~~ and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(e)]~~ (f) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(f)]~~ (e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis , ~~[or any other behavioral therapy,]~~ that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:~~

~~(1) Prevent the onset of an illness, condition, injury or disability;~~

~~(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or~~

~~*(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.]*~~

(h) ~~[“Pharmaceutical]~~ “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically ~~[appropriate]~~ necessary to determine the need or effectiveness of the medications.

(i) ”Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) ”Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) ”Screening for autism spectrum disorders” means ~~[all]~~ medically ~~[appropriate]~~ necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(l) ”Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(m) ”Treatment ~~[of autism spectrum disorders”]~~ plan” means ~~[habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with]~~ a plan to treat an autism spectrum disorder that is prescribed by a licensed physician ~~[,]~~ or licensed psychologist ~~[or board certified behavior analyst who determines the care to be medically appropriate.]~~ and is developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 3.5. **Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the policy of group health insurance under the age of 18 or, if enrolled in high school, under the age of 21.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health insurance policy to the same extent as other medical services or prescription drugs covered by the policy.

3. An insurer that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed behavior analyst or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(f) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(g) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.

(h) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(l) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(m) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and is developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 4. ~~[Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. An insurer that offers or issues a contract for hospital or medical service must provide coverage for screening for autism spectrum disorders and for treatment of autism spectrum disorders.*~~

~~*2. An insurer that offers or issues a contract for hospital or medical service which provides coverage for outpatient care shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the contract; or*~~

~~*(b) Refuse to issue a contract for hospital or medical service or cancel a contract for hospital or medical service solely because the person applying for or covered by the contract uses or may use in the future any of the services listed in subsection 1.*~~

~~*3. An insurer that offers or issues a contract for hospital or medical service which provides coverage for prescription drugs shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the contract; or*~~

~~*(b) Refuse to issue a contract for hospital or medical service or cancel a contract for hospital or medical service solely because the person applying for or covered by the contract uses or may use in the future any of the services listed in subsection 1.*~~

~~*4. An insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*~~

~~*5. The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the contract.*~~

~~*6. A contract subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2009, has the legal effect of including the coverage required by subsection 1, and any provision of the contract or the renewal which is in conflict with subsection 1 is void.*~~

~~*7. As used in this section:*~~

~~*(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*~~

~~*(b) "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*~~

~~*(c) "Behavioral therapy" means any interactive therapy derived from evidence based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior.*~~

~~*(d) "Board certified behavior analyst" means a person who holds current certification as a board certified behavior analyst issued by the*~~

~~*Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.*~~

~~*(e) "Evidence based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*~~

~~*(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis or any other behavioral therapy, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*~~

~~*(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:*~~

~~*(1) Prevent the onset of an illness, condition, injury or disability;*~~

~~*(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or*~~

~~*(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.*~~

~~*(h) "Pharmaceutical care" means medications prescribed by a licensed physician and any health related services deemed medically appropriate to determine the need or effectiveness of the medications.*~~

~~*(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*~~

~~*(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*~~

~~*(k) "Screening for autism spectrum disorders" means all medically appropriate assessments, evaluations or tests to diagnose whether a person has an autism spectrum disorder.*~~

~~*(l) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*~~

~~*(m) "Treatment of autism spectrum disorders" means habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist or board certified behavior analyst who determines the care to be medically appropriate.]~~ **(Deleted by amendment.)**

Sec. 5. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a health maintenance organization must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders [.] to persons

covered by the health care plan under the age of 18 or, if enrolled in high school, under the age of 21.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health insurance policy to the same extent as other medical services or prescription drugs covered by the policy.

3. A health care plan issued by a health maintenance organization that provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period ~~[or other condition]~~ for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

~~[3. A health care plan issued by a health maintenance organization that provides coverage for prescription drugs shall not:~~

~~(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the plan; or~~

~~(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.]~~

4. ~~[A]~~ Except as provided in subsections 1 and 2, a health maintenance organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. ~~[The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the plan.]~~ Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after ~~[October 1, 2009,]~~ January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with ~~[subsection]~~ subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means ~~[any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders,]~~ a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior ~~[.]~~ provided by a licensed behavior analyst or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.

~~[(d) "Board certified]~~ (g) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization ~~[.]~~ and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(e)]~~ (f) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(f)]~~ (e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis , ~~[or any other behavioral therapy,]~~ that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:~~

~~(1) Prevent the onset of an illness, condition, injury or disability;~~

~~(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or~~

~~(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.]~~

(h) ~~[**"Pharmaceutical]~~ "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically ~~[appropriate]~~ necessary to determine the need or effectiveness of the medications.

(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) "Screening for autism spectrum disorders" means ~~[all]~~ medically ~~[appropriate]~~ necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(l) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(m) "Treatment ~~[of autism spectrum disorders"]~~ plan" means ~~[habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with]~~ a plan to treat an autism spectrum disorder that is prescribed by a licensed physician ~~[,]~~ or licensed psychologist ~~[or board certified behavior analyst who determines the care to be medically appropriate.]~~ and is developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 6. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.200, inclusive, ***and section 5 of this act,*** 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 7. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if he finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, ***and section 5 of this act,*** or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080; or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of final adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 8. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a managed care organization must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders ~~[.]~~ to persons covered by the health care plan under the age of 18 or, if enrolled in high school, under the age of 21.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health insurance policy to the same extent as other medical services or prescription drugs covered by the policy.

3. A managed care organization that offers or issues a health care plan which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period ~~[or other condition]~~ for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

~~[3. A managed care organization that offers or issues a health care plan which provides coverage for prescription drugs shall not:~~

~~(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the plan; or~~

~~(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.]~~

4. ~~[A]~~ Except as provided in subsections 1 and 2, a managed care organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. ~~[The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the plan.]~~ Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. An evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after ~~[October 1, 2009,]~~ January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with ~~[subsection]~~ subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means [any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders,] a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior [.] provided by a licensed behavior analyst or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.

[(d) "Board certified] (g) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization [.] and who is licensed as a behavior analyst by the Board of Psychological Examiners.

[(e)] (f) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

[(f)] (e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis , [or any other behavioral therapy,] that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

[(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:

(1) Prevent the onset of an illness, condition, injury or disability;

(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or

~~*(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.]*~~

(h) ~~*[“Pharmaceutical]*~~ ***“Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically*** ~~*[appropriate]*~~ ***necessary to determine the need or effectiveness of the medications.***

(i) ”Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) ”Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) ”Screening for autism spectrum disorders” means ~~*[all]*~~ ***medically*** ~~*[appropriate]*~~ ***necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.***

(l) ”Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(m) ”Treatment ~~*[of autism spectrum disorders”]*~~ ***plan” means*** ~~*[habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with]*~~ ***a plan to treat an autism spectrum disorder that is prescribed by a licensed physician*** ~~*[,]*~~ ***or licensed psychologist*** ~~*[or board certified behavior analyst who determines the care to be medically appropriate.]*~~ ***and is developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.***

Sec. 8.5. **NRS 695G.090 is hereby amended to read as follows:**

695G.090 1. Except as otherwise provided in subsection 3, the provisions of this chapter apply to each organization and insurer that operates as a managed care organization and may include, without limitation, an insurer that issues a policy of health insurance, an insurer that issues a policy of individual or group health insurance, a carrier serving small employers, a fraternal benefit society, a hospital or medical service corporation and a health maintenance organization.

2. In addition to the provisions of this chapter, each managed care organization shall comply with:

(a) The provisions of chapter 686A of NRS, including all obligations and remedies set forth therein; and

(b) Any other applicable provision of this title.

3. The provisions of NRS 695G.164, 695G.200 to 695G.230, inclusive, ~~[~~and~~]~~ 695G.430 ***and section 8 of this act*** do not apply to a managed care organization that provides health care services to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children’s Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services.

This subsection does not exempt a managed care organization from any provision of this chapter for services provided pursuant to any other contract.

Sec. 9. [~~Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance must provide coverage for screening for autism spectrum disorders and for treatment of autism spectrum disorders.*~~

~~*2. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for outpatient care shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or*~~

~~*(b) Refuse to issue a plan of self-insurance or cancel a plan of self-insurance solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.*~~

~~*3. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for prescription drugs shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the plan; or*~~

~~*(b) Refuse to issue a plan of self-insurance or cancel a plan of self-insurance solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.*~~

~~*4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*~~

~~*5. The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the plan.*~~

~~*6. A plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2009, has the legal effect of including the coverage required by subsection 1, and any provision of the plan or the renewal which is in conflict with subsection 1 is void.*~~

~~*7. As used in this section:*~~

~~*(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*~~

~~*(b) "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*~~

~~*(c) "Behavioral therapy" means any interactive therapy derived from evidence based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior.*~~

~~*(d) "Board certified behavior analyst" means a person who holds current certification as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.*~~

~~*(e) "Evidence based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*~~

~~*(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis or any other behavioral therapy, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*~~

~~*(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:*~~

~~*(1) Prevent the onset of an illness, condition, injury or disability;*~~

~~*(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or*~~

~~*(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.*~~

~~*(h) "Pharmaceutical care" means medications prescribed by a licensed physician and any health-related services deemed medically appropriate to determine the need or effectiveness of the medications.*~~

~~*(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*~~

~~*(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*~~

~~*(k) "Screening for autism spectrum disorders" means all medically appropriate assessments, evaluations or tests to diagnose whether a person has an autism spectrum disorder.*~~

~~*(l) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*~~

~~*(m) "Treatment of autism spectrum disorders" means habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist or board certified behavior analyst who determines the care to be medically appropriate.]~~ **(Deleted by amendment.)**

Sec. 10. ~~[~~NRS 287.04335 is hereby amended to read as follows:

~~287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, *and section 8 of this act* in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.~~**]** **(Deleted by amendment.)**

Sec. 11. ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.~~**]** **(Deleted by amendment.)**

Sec. 12. **Chapter 641 of NRS is hereby amended by adding thereto a new section to read as follows:**

The Board shall adopt regulations that establish the grounds for disciplinary action for a licensed behavior analyst or autism behavior therapist.

Sec. 13. **NRS 641.170 is hereby amended to read as follows:**

641.170 1. Each application ***for licensure as a psychologist*** must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. ***Each application for licensure as a behavior analyst or autism behavior therapist must be accompanied by evidence satisfactory to the Board that the applicant:***

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has completed education or training in accordance with the requirements established by regulations of the Board.

3. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure ~~[as a psychologist;]~~ ***;*** and

(b) Issue a written statement to the applicant of its determination.

3. The written statement issued to the applicant pursuant to subsection ~~[2]~~ ***3*** must include:

(a) If the Board determines that the qualifications of the applicant are insufficient for licensure, a detailed explanation of the reasons for that determination.

(b) If the applicant ***for licensure as a psychologist*** has not earned a doctorate in psychology from an accredited educational institution approved by the Board and the Board determines that his doctorate-level training from an accredited educational institution is not equivalent in subject matter and extent of training, a detailed explanation of the reasons for that determination.

Sec. 14. **NRS 641.180 is hereby amended to read as follows:**

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license ***as a psychologist*** must pass the Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board. In addition to this written examination, the Board may require an oral examination in whatever applied or theoretical fields it deems appropriate.

2. The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.

3. The Board shall notify each applicant of the results of his written examination and supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.

4. If an applicant fails the examination, he may request in writing that the Board review his examination.

5. The Board may waive the requirement of a written examination for a person who:

(a) Is licensed in another state;

(b) Has 10 years experience; and

(c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 15. **The Board of Psychological Examiners shall begin licensing behavior analysts and autism behavior therapists pursuant to section 13 of this act no later than January 1, 2010.**

Sec. 16. **1. This act becomes effective upon passage and approval for the purpose of adopting regulations and licensing behavior analysts and autism behavior therapists.**

2. This section and sections 3 to 15, inclusive, of this act become effective on October 1, 2009.

3. Sections 1 and 2 of this act become effective on January 1, 2011.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 320.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 346.

AN ACT relating to guardianships; requiring additional information in a petition for appointment of a guardian; requiring that a proposed ward be advised of his right to counsel; revising provisions relating to the attendance of a proposed ward at a guardianship hearing; requiring a guardian to petition a court before moving a ward into certain residential facilities under certain circumstances; **making various other changes relating to guardianships;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires that a petitioner for the appointment of a guardian provide the court with an assessment completed by a licensed physician of the proposed ward's needs and limitations in capacity before the court makes a final order in the case. (NRS 159.044)

Section 2 of this bill provides that a proposed ward must be advised of his right to counsel in the guardianship proceeding ~~[.]~~ **and requires that certain information or responses provided by the ward relating to his right to counsel and to the proceeding be transmitted to the court.** (NRS 159.0485)

Existing law provides that a proposed ward found in this State must attend a hearing for the appointment of a guardian unless a certificate is signed

indicating the reasons the proposed ward cannot appear. (NRS 159.0535) **Section 3** of this bill provides that a proposed ward who is unable to attend a hearing for the appointment of a general or special guardian may attend by videoconference. **Section 3** further provides that if a proposed ward cannot attend the hearing or appear by videoconference, the court must have ~~[an agent or employee of the court or a licensed physician employed by the proposed guardian]~~ **the person who signs the certificate to excuse the proposed ward from attending the hearing** meet with the proposed ward and report back to the court regarding the proposed ward's desire for representation at the hearing, preferences if a guardianship is imposed and ~~[relevant medical]~~ **any** information ~~[.]~~ **the person believes may have limited any of the proposed ward's responses.**

Existing law provides that a guardian must file with the court annually, or at such other times the court deems appropriate, a written report on the condition of the ward and the exercise of authority and the performance of duties by the guardian. (NRS 159.081) Section 4 of this bill: (1) provides that a guardian must also file with the court a report within 10 days of moving a ward to a residential facility which provides long-term care and which restricts the ward from leaving the facility without supervision; and (2) establishes procedures for the handling of such a report following its filing.

Section ~~[4]~~ 5 of this bill requires a guardian to petition the court and receive the court's consent before moving a ward into a residential facility which **provides long-term care and** restricts the ward from leaving the facility without supervision. However, a guardian does not need to petition the court if the court has already granted the guardian the authority to move the ward to such a facility or if ~~[there is an emergency. If the guardian moves the ward to such a facility based on an emergency, the guardian must: (1) include information concerning the placement in the annual report filed by the guardian if the placement is for less than 15 days; or (2) petition the court for authorization to continue the placement if the placement is for more than 15 days.]~~ **a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of the county's office of protective services recommends the transfer in writing.** (NRS 159.113)

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

Section 1. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;

(2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

3. Before the court makes a finding pursuant to NRS 159.054, the petitioner must provide the court with an assessment of the needs of the proposed ward completed by a licensed physician which identifies the limitations of capacity of the proposed ward and how such limitations affect the ability of the proposed ward to maintain his safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed ward must be filed.

Sec. 2. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. ***At the first hearing for the appointment of a guardian, the court shall advise a proposed ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his right to counsel and determine whether the proposed ward wishes to be represented by counsel in the guardianship proceeding. If the proposed ward is not in attendance at the hearing*** ~~*[or]*~~ ***because the proposed ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the*** ~~*[agent or employee of the court or the licensed physician meeting with and interviewing the proposed ward]*~~ ***person who signs the certificate pursuant to NRS 159.0535 to excuse the proposed ward from attending the hearing shall advise the proposed ward of his right to counsel and determine whether the proposed ward wishes to be represented by counsel in the guardianship proceeding.***

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel, at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney must represent the adult ward or proposed adult ward until relieved of the duty by court order.

~~[2.]~~ ***3.*** Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation which must be paid from the estate of the adult ward or proposed adult ward. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

Sec. 3. NRS 159.0535 is hereby amended to read as follows:

159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician who is licensed to practice in this State specifically states the condition of the proposed ward ~~[,]~~ ***,*** ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[.]~~ ***and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward;*** or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward ~~[,]~~ ***,*** ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[.]~~ ***and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward.***

2. ***A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward cannot attend by videoconference,*** ~~*[the court, before*~~

~~*appointing a general or special guardian, shall appoint a person who is an agent or employee of the court to meet with and interview the proposed ward. If the hearing for the appointment of a general or special guardian is held in a county whose population is less than 100,000, the court may allow a licensed physician employed by the proposed guardian to meet with and interview the proposed ward in place of an agent or employee of the court. The person who meets with and interviews the proposed ward shall submit to the court a written report about the proposed ward which includes, without limitation:*~~

~~*(a) Whether or not the proposed ward wishes]*~~ ***the person who signs the certificate pursuant to subsection 1 shall:***

(a) Inform the proposed ward that the petitioner wishes to become the guardian of the proposed ward;

(b) Ask the proposed ward for a response to the guardianship petition;

(c) Inform the proposed ward of his right to counsel and ask whether the proposed ward wishes to be represented by counsel in the guardianship proceeding; and

~~*[(b) The]*~~

(d) Ask the preferences of the proposed ward for ~~*[a]*~~ ***the appointment of a particular person as his guardian .*** ~~*[, a health care provider, housing and any other matter relevant to the guardianship; and*~~

~~*(c) Any relevant medical information.]*~~

3. The person who signs the certificate pursuant to subsection 1 shall state in the certificate:

(a) That the proposed ward has been advised of his right to counsel and asked whether he wishes to be represented by counsel in the guardianship proceeding;

(b) The responses of the proposed ward to the questions asked pursuant to subsection 2; and

(c) Any conditions that the person believes may have limited the responses by the proposed ward.

4. The court may prescribe the form in which the certificate must be filed. If the certificate consists of separate parts, each part must be signed by the person executing the certificate pursuant to subsection 1.

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

Sec. 4. **NRS 159.081 is hereby amended to read as follows:**

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian; ~~[and]~~

(b) ***Within 10 days of moving a ward to a residential facility which provides long-term care and restricts the ward from leaving the facility without supervision; and***

(c) At such other times as the court may order.

2. ***A report filed pursuant to paragraph (b) of subsection 1 must:***

(a) Include a copy of the written recommendation upon which the transfer was made;

(b) Be served, without limitation, on the attorney for the ward, if any, and on the nearest advocate for residents of facilities for long-term care within the Aging Services Division of the Department of Health and Human Services; and

(c) Be accompanied by the form prescribed by the court which allows the guardian to indicate whether or not the guardian consents to have the Aging Services Division interview the ward and prepare and transmit a report to the court concerning the transfer of the ward.

3. If the guardian consents to the preparation and transmittal of the report to the court, the Aging Services Division shall prepare the report and transmit the report to the court, the guardian and the attorney for the ward, if any. In preparing the report, the Division is not required to review generally whether the ward's transfer exceeded the services provided to residents pursuant to NRS 427A.135.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

~~[3.]~~ ***5.*** The court is not required to hold a hearing or enter an order regarding the report.

~~[Sec. 4.]~~ ***Sec. 5.*** NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Change the state of residence or domicile of the ward.

(k) Exercise the right of the ward to take under or against a will.

(l) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(m) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(n) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(o) Except as otherwise provided in subsection 6, move the ward into a residential facility which provides long-term care and which restricts the ward from leaving the facility without supervision.

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

6. Without filing a petition pursuant to paragraph (o) of subsection 1, a guardian may move a ward into a residential facility which provides long-term care and which restricts the ward from leaving the facility without supervision [:

~~*(a) If the]*~~ ***if:***

(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or

(b) ~~*[In an emergency. An emergency change of placement must be certified by a licensed physician, and such certification must be submitted to the court and served on all persons set forth in NRS 159.034 within 3 days after the emergency change of placement. If the emergency change of placement is for:*~~

~~*(1) Less than 15 days, the guardian shall describe the emergency change of placement, including the justification for such placement, in the annual report required pursuant to NRS 159.081. The guardian shall also petition the court for a review of the annual report, including the emergency change of placement, not later than 60 days after the anniversary date of the appointment of the guardian.*~~

~~*(2) Fifteen days or more, the guardian shall, on or before the 15th day of the emergency change of placement, file with the court and serve on all persons set forth in NRS 159.034 a petition seeking authorization from the court for the continued placement of the ward in the residential facility which restricts the ward from leaving the facility without supervision. The court shall hear a petition made pursuant to this subparagraph within 10 days after the petition is filed.]*~~ ***The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.***

7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 333.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 383.

SUMMARY—Revises certain provisions relating to ~~[the towing of]~~ **motor** vehicles. (BDR 58-835)

AN ACT relating to ~~[tow cars;]~~ **motor vehicles;** revising certain provisions relating to the towing of vehicles; **authorizing an electronic notification to the Department of Motor Vehicles of the transfer of ownership of a motor vehicle; authorizing the Department to provide certain information about the transfer of ownership of a motor vehicle to tow car operators and other interested parties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Nevada Transportation Authority to reduce any charge for preparing or satisfying a lien which is filed by the operator of a tow car if the Authority determines that all or part of the charge

is attributable to the operator's failure to prepare or satisfy the lien in a timely manner. (NRS 706.4468)

Existing law presumes that an abandoned motor vehicle was abandoned by its registered owner. The registered owner is thus responsible for the costs of removing and disposing of the vehicle. Existing law also provides for the rebuttal of this presumption. (NRS 487.220) Section 2 of this bill provides a similar presumption, and opportunity for rebuttal, for the registered owner of a vehicle that is towed at the request of the owner of real property from which the vehicle is towed. (NRS 706.4477)

Existing law provides that if an operator of a tow car tows a motor vehicle at the request of someone other than the owner, the operator is required to notify the owner of certain information within a particular period of time. (NRS 706.4479) **Section ~~[2]~~ 3** of this bill: (1) requires such information to be provided ~~[7 days]~~ earlier than the existing law; and (2) adds to the list of the information that must be provided notice to the registered and legal owner of the vehicle as to the actions the owner may take to reduce his liability for any potentially applicable assessments, fees, penalties or other charges ~~[.]~~ **, and as to the opportunity to rebut presumptions about the ownership of a vehicle.**

Section 4 of this bill authorizes a person who transfers ownership of a motor vehicle to notify the Department of Motor Vehicles of the transfer electronically. Section 4 also authorizes the Department to provide information regarding vehicle ownership transfers to tow car operators and other interested parties. (NRS 482.400)

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

Section 1. NRS 706.4468 is hereby amended to read as follows:

706.4468 1. Each operator of a tow car shall file its charges for preparing or satisfying a lien to which the operator is entitled against a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle. The Authority ~~[may]~~ ***:***

(a) May investigate any charge filed pursuant to this subsection and revise the charge as necessary to ensure that the charge is reasonable.

(b) Shall reduce any charge filed pursuant to this subsection if the Authority determines that the charge is unreasonable because the charge is attributable, in whole or in part, to failure on the part of the operator of the tow car to prepare or satisfy his lien in a timely manner.

2. An operator of a tow car may not impose a charge or any part of a charge filed pursuant to subsection 1 unless the operator:

(a) Has initiated the procedure by which a person may satisfy a lien; and

(b) Stores the vehicle for at least 96 hours.

3. If an operator of a tow car stores a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle for at least 96 hours but not more than 336 hours, the operator may charge an amount not to exceed 50 percent of the charge approved by the Authority pursuant to subsection 1 for preparing or satisfying a lien.

4. If an operator of a tow car stores a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle for more than 336 hours, the operator may charge an amount not to exceed 50 percent of the charge approved by the Authority pursuant to subsection 1 for preparing or satisfying a lien in addition to the amount charged pursuant to subsection 3.

Sec. 2. **NRS 706.4477 is hereby amended to read as follows:**

706.4477 ***1.*** If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer:

~~[1.]~~ ***(a)*** The person requesting the towing must be the owner of the real property from which the vehicle is towed or his authorized agent and must sign a specific request for the towing. For the purposes of this section, the operator is not an authorized agent of the owner of the real property.

~~[2.]~~ ***(b)*** The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.

~~[3.]~~ ***(c)*** Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

~~[4.]~~ ***(d)*** The operator may be directed to terminate the towing by a law enforcement officer.

2. The registered owner of a motor vehicle towed pursuant to the provisions of subsection 1:

(a) Is presumed to have left the motor vehicle on the real property from which the vehicle is towed; and

(b) Is responsible for the cost of removal and storage of the motor vehicle.

3. The registered owner may rebut the presumption in subsection 2 by showing that:

(a) He transferred his interest in the motor vehicle:

(1) Pursuant to the provisions set forth in NRS 482.399 to 482.420, inclusive; or

(2) As indicated by a bill of sale for the vehicle that is signed by the registered owner; or

(b) The vehicle is stolen, if he submits evidence that, before the discovery of the vehicle, he filed an affidavit with the Department or a written report with an appropriate law enforcement agency alleging the theft of the vehicle.

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 706.4479 is hereby amended to read as follows:

706.4479 1. If a motor vehicle is towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the

operator shall, in addition to the requirements set forth in the provisions of chapter 108 of NRS:

(a) Notify the registered and legal owner of the motor vehicle by certified mail not later than ~~[21]~~ ***14*** days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle or not later than ~~[15]~~ ~~*[8]*~~ ***7 business*** days after placing any other vehicle in storage:

(1) Of the location where the motor vehicle is being stored;

(2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;

(3) Of the charge for towing and storage; ~~[and]~~

(4) Of the date and time the vehicle was placed in storage ~~[.]~~ ***;*** ~~*[and]*~~

(5) Of the actions that the registered and legal owner of the vehicle may take to recover his vehicle while incurring the lowest possible liability in accrued assessments, fees, penalties or other charges ~~*[.]*~~ ***; and***

(6) Of the opportunity to rebut the presumptions set forth in NRS 487.220 and 706.4477.

(b) If the identity of the registered and legal owner is not known or readily available, make every reasonable attempt and use all resources reasonably necessary, as evidenced by written documentation, to obtain the identity of the owner and any other necessary information from the agency charged with the registration of the motor vehicle in this State or any other state within:

(1) Twenty-one days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(2) Fifteen days after placing any other motor vehicle in storage.

➥ The operator shall attempt to notify the owner of the vehicle by certified mail as soon as possible, but in no case later than 15 days after identification of the owner is obtained for any motor vehicle.

2. If an operator includes in his tariff a fee to be charged to the registered and legal owner of a vehicle for the towing and storage of the vehicle, the fee may not be charged:

(a) For more than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(b) For more than 15 days after placing any other vehicle in storage,

➥ unless the operator complies with the requirements set forth in subsection 1.

Sec. 4. **NRS 482.400 is hereby amended to read as follows:**

482.400 1. Except as otherwise provided in this subsection and subsections ~~[2, 5 and 6,]~~ ***3, 6 and 7,*** and NRS 482.247, upon a transfer of the title to, or the interest of an owner in, a vehicle registered or issued a certificate of title under the provisions of this chapter, the person or persons whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of title issued for the vehicle,

together with the residence address of the transferee, in the appropriate spaces provided upon the reverse side of the certificate. The Department may, by regulation, prescribe alternative methods by which a signature may be affixed upon a manufacturer's certificate of origin or a manufacturer's statement of origin issued for a vehicle. The alternative methods must ensure the authenticity of the signatures.

2. ***Within 5 days after the transfer of the title to, or the interest of an owner in, a vehicle registered or issued a certificate of title under the provisions of this chapter, the person or person whose title or interest is to be transferred may submit electronically to the Department a notice of the transfer. The Department may provide, by request and at the discretion of the Department, information submitted to the Department pursuant to this section to a tow car operator or other interested party. The Department shall adopt regulations establishing:***

(a) Procedures for electronic submissions pursuant to this section; and

(b) Standards for determining who may receive information from the Department pursuant to this section.

3. The Department shall provide a form for use by a dealer for the transfer of ownership of a vehicle. The form must be produced in a manner which ensures that the form may not be easily counterfeited. Upon the attachment of the form to a certificate of title issued for a vehicle, the form becomes a part of that certificate of title. The Department may charge a fee not to exceed the cost to provide the form.

~~[3.]~~ ***4.*** Except as otherwise provided in subsections ~~[4, 5 and 6,]~~ ***5, 6 and 7,*** the transferee shall immediately apply for registration as provided in NRS 482.215 and shall pay the governmental services taxes due.

~~[4.]~~ ***5.*** If the transferee is a dealer who intends to resell the vehicle, he is not required to register, pay a transfer or registration fee for, or pay a governmental services tax on the vehicle. When the vehicle is resold, the purchaser shall apply for registration as provided in NRS 482.215 and shall pay the governmental services taxes due.

~~[5.]~~ ***6.*** If the transferee consigns the vehicle to a wholesale vehicle auctioneer:

(a) The transferee shall, within 30 days after that consignment, provide the wholesale vehicle auctioneer with the certificate of title for the vehicle, executed as required by subsection 1, and any other documents necessary to obtain another certificate of title for the vehicle.

(b) The wholesale vehicle auctioneer shall be deemed a transferee of the vehicle for the purposes of subsection ~~[4.]~~ ***5.*** The wholesale vehicle auctioneer is not required to comply with subsection 1 if he:

(1) Does not take an ownership interest in the vehicle;

(2) Auctions the vehicle to a vehicle dealer or automobile wrecker who is licensed as such in this or any other state; and

(3) Stamps his name, his identification number as a vehicle dealer and the date of the auction on the certificate of title and the bill of sale and any other documents of transfer for the vehicle.

~~[6.]~~ ***7.*** A charitable organization which intends to sell a vehicle which has been donated to the organization must deliver immediately to the Department or its agent the certificate of registration and the license plate or plates for the vehicle, if the license plate or plates have not been removed from the vehicle. The charitable organization must not be required to register, pay a transfer or registration fee for, or pay a governmental services tax on the vehicle. When the vehicle is sold by the charitable organization, the purchaser shall apply for registration as provided in NRS 482.215 and pay the governmental services taxes due.

~~[7.]~~ ***8.*** As used in this section, "wholesale vehicle auctioneer" means a dealer who:

(a) Is engaged in the business of auctioning consigned motor vehicles to vehicle dealers or automobile wreckers, or both, who are licensed as such in this or any other state; and

(b) Does not in the ordinary course of his business buy, sell or own the vehicles he auctions.

~~[Sec. 3.]~~ ***Sec. 5.*** **1.** This **section and sections 1, 2 and 3 of this** act ~~[becomes]~~ **become** effective on July 1, 2009.

2. Section 4 of this act becomes effective on October 1, 2010.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 355.

Bill read second time.

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

Amendment No. 438.

AN ACT relating to public utilities; providing simplified procedures **and methodologies** for certain public utilities to change rates for water or sewage disposal; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill provides simplified procedures]~~ **Existing law requires the Public Utilities Commission of Nevada to adopt regulations that provide for a simplified procedure or methodology** for certain public utilities to change rates for water or services for the disposal of sewage. (NRS 704.095) **Section 1 ~~[: (1)]~~ of this bill** modifies the requirements to qualify for ~~[the]~~ simplified procedures ~~[; (2) exempts a qualified utility from certain rate change requirements; (3) allows]~~ **and methodologies which must provide for the filing of** a letter of advice ~~[to be used]~~ for certain rate changes **. ~~[; (4) provides for a simplified application to be used for certain rate changes; (5) provides a time limit for certain decisions of the Public~~**

~~Utilities Commission of Nevada; and (6) provides, with regard to the simplified procedures, requirements related to discovery and data requests, depositions, prepared testimony and settlement conferences.]~~

Sections 3 and 4 of this bill modify the exemption for certain public utilities from certain filing and resource planning requirements. (NRS 704.110, 704.661)

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

Section 1. NRS 704.095 is hereby amended to read as follows:

704.095 ***1.*** The Commission shall adopt regulations which provide ~~[a simplified procedure or methodology]~~ ***simplified procedures or methodologies***

~~*[1. A public utility that qualifies under subsection 2 may, in its discretion, use the procedures set forth in this section]*~~ for a change of rates for those public utilities which ~~*[for water or services for the disposal of sewage.*~~

~~*2. To qualify to use the procedures set forth in this section for a change of rates for water or services for the disposal of sewage, a public utility must]*~~ furnish water or services for the disposal of sewage, or both, to persons within this State for compensation, and which:

~~[1.]~~ ***(a)*** Serve 3,000 or fewer persons; and

~~[2.]~~ ***(b)*** Had ~~*[must:*~~

~~*(a) For a change of rates for water:*~~

~~*(1) Furnish water to 3,000 or fewer persons; and*~~

~~*(2) Have had]*~~ during the immediately preceding 12-month period gross sales for water or services for the disposal of sewage ~~[, or both,]~~ amounting to ~~[~~$1,000,000~~]~~ ~~*[$3,000,000]*~~ ***$2,000,000*** or less . ~~*[; and*~~

~~*(b) For a change of rates for services for the disposal of sewage:*~~

~~*(1) Furnish services for the disposal of sewage to 3,000 or fewer persons; and*~~

~~*(2) Have had during the immediately preceding 12-month period gross sales for services for the disposal of sewage amounting to $3,000,000 or less.*~~

~~*3. If a public utility qualifies under subsection 2, the qualifying utility:*~~

~~*(a) Is exempt from the requirements of paragraphs (c) and (d) of subsection 3 of NRS 704.110 and NRS 704.661.*~~

~~*(b) May change its rates for water or services for the disposal of sewage pursuant to this section. If the qualifying utility proceeds pursuant to this section, the qualifying utility:*~~

~~*(1) Is exempt from the requirements of paragraphs (a), (f) and (h) of subsection 1 of NRS 704.100.*~~

~~*(2) May file with the Commission a letter of advice, without any related application or hearing, to change its rates if the change is a percentage change which is the same as the previous annual percentage change of the Consumer Price Index (All Items), as published by the Bureau of Labor*~~

~~*Statistics of the United States Department of Labor, or its successor, regardless of the amount the annual gross operating revenue of the qualifying utility may increase due to the change. A qualifying utility may change its rates pursuant to this paragraph not more than once per year.*~~

~~*(3) May file with the Commission a simplified application, as prescribed by the Commission, to change its rates if the change is not the same as the previous annual percentage change of the Consumer Price Index (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, or its successor. The Commission may hold a hearing regarding the simplified application.*~~

~~*4. If a qualifying utility files a letter of advice or simplified application pursuant to subsection 3, the Commission shall, not later than 120 days following its receipt of the letter of advice or simplified application, issue a written order approving or disapproving, in whole or in part, the proposed changes in rates.*~~

~~*5. For any hearing conducted concerning a simplified application filed pursuant to this section:*~~

~~*(a) In regard to discovery before the hearing:*~~

~~*(1) Only 30 data requests, with each subpart of a larger request counting towards the total of 30, may be made of a party to the hearing unless the Commission, upon a showing of good cause, orders otherwise; and*~~

~~*(2) Depositions may not be taken of a party unless the Commission, upon a showing of good cause, orders otherwise;*~~

~~*(b) Prepared testimony is not required before the hearing unless the Commission, upon a showing of good cause, orders otherwise; and*~~

~~*(c) In regard to settlement conferences before the hearing:*~~

~~*(1) An initial settlement conference must be held not later than 45 days after the filing of an application pursuant to this section;*~~

~~*(2) A second settlement conference must be held at least 20 days before the date of the hearing; and*~~

~~*(3) The parties shall meet and confer in good faith at each settlement conference to resolve as many issues as possible.*~~

~~*6. The Commission shall adopt regulations necessary to carry out the provisions of this section.*~~

~~*7. As used in this section, "data request" means a comprehensive vehicle for obtaining discovery and includes, without limitation, interrogatories, requests for admission and requests for production of documents or inspection of property.*~~] ***If a public utility furnishes both water and services for the disposal of sewage, its gross sales for each service must be considered separately for determining whether the public utility qualifies under this paragraph for either service.***

2. The regulations adopted by the Commission pursuant to subsection 1 must provide, without limitation, for the filing of letters of advice to

change rates based on a nationally recognized inflation index approved by the Commission.

Sec. 2. ~~[~~NRS 704.100 is hereby amended to read as follows:

704.100 ~~1. Except as otherwise provided in NRS 704.075~~ ***, 704.095*** ~~and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS [~~704.095 or~~]~~ 704.097:

~~(a) A public utility shall not make changes in any schedule, unless the public utility:~~

~~(1) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or~~

~~(2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of paragraph (f).~~

~~(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.~~

~~(c) An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection 9 of NRS 704.110.~~

~~(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.~~

~~(e) A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.~~

~~(f) Except as otherwise provided in paragraph (g), if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed $2,500:~~

~~(1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and~~

~~(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.~~

~~(g) If the applicant is a small-scale provider of last resort and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed $50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.~~

~~(h) In making the determination pursuant to paragraph (f) or (g), the Commission shall first consider all timely written protests, any presentation that~~
~~the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.~~

~~2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.]~~ **(Deleted by amendment.)**

Sec. 3. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 ~~*[, 704.095]*~~ and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to

revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in December 2007, and at least once every 36 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in December 2008, and at least once every 36 months thereafter.

(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of ~~[$500,000]~~ ***$2,000,000*** or more for at least 1 year during the immediately preceding 3 years and which had not filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. ***If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.***

(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of ~~[$500,000]~~ ***$2,000,000*** or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. ***If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.***

➥ The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and

decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration, in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or 9, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection 9; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate

adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. An electric utility shall adjust its rates on a quarterly basis based on changes in the public utility's recorded costs of purchased fuel or purchased power in the following manner:

(a) An electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) Each electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) An electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The

annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of purchased fuel and purchased power included in each quarterly rate adjustment and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

10. If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 9 and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

11. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

12. As used in this section:

(a) ”Electric utility” has the meaning ascribed to it in NRS 704.187.

(b) ”Electric utility that primarily serves densely populated counties” means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.

(c) ”Electric utility that primarily serves less densely populated counties” means an electric utility that, with regard to the provision of electric service,

derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.

Sec. 4. NRS 704.661 is hereby amended to read as follows:

704.661 1. A ~~*[Except as otherwise provided in NRS 704.095, a]*~~ public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, and which had an annual gross operating revenue of $1,000,000 or more for at least 1 year during the immediately preceding 3 years shall, on or before March 1 of every third year, in the manner specified by the Commission, submit a plan to the Commission to provide sufficient water or services for the disposal of sewage to satisfy the demand made on its system by its customers. ***If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this subsection for either service.***

2. The Commission shall adopt regulations to provide for the contents of and the method and schedule for preparing, submitting, reviewing and approving ~~[the]~~ ***a*** plan ~~[required]~~ ***submitted*** pursuant to subsection 1.

3. Within 180 days after a public utility has filed a plan pursuant to subsection 1, the Commission shall issue an order accepting the plan as filed or specifying any portion of the plan it finds to be inadequate.

4. If a plan submitted pursuant to subsection 1 and accepted by the Commission pursuant to subsection 3 and any regulations adopted pursuant to subsection 2 identifies a facility for acquisition or construction, the facility shall be deemed to be a prudent investment and the public utility may recover all just and reasonable costs of planning and constructing or acquiring the facility.

5. All prudent and reasonable expenditures made by a public utility to develop a plan filed pursuant to subsection 1, including, without limitation, any environmental, engineering or other studies, must be recovered from the rates charged to the public utility's customers.

Sec. 5. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 370.

Bill read second time.

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

Amendment No. 538.

AN ACT relating to pharmacies; providing for the establishment of remote sites, satellite consultation sites and telepharmacies; requiring the State Board

of Pharmacy to adopt regulations for the operation of such establishments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the issuance of a license to an applicant to conduct a pharmacy upon compliance with all licensing requirements. (NRS 639.231) This bill authorizes the establishment of remote sites and satellite consultation sites for the dispensing of prescriptions, and telepharmacies, which are connected to such sites via computer link, video link and audio link to enable a registered pharmacist at the telepharmacy to oversee the dispensing of prescriptions to patients at a remote site or satellite consultation site.

Section 6 of this bill requires a remote site or satellite consultation site to be located at least 50 miles from the nearest pharmacy and **in a service area with a total population of less than 2,000. Section 6 also** authorizes such sites to be operated by a pharmaceutical technician. **Section 6 further requires the State Board of Pharmacy to adopt regulations which establish the manner of determining a "service area." Sections 8 and 9** of this bill exempt those sites from the requirement that every pharmacy must be managed by a registered pharmacist. (NRS 639.220, 639.284)

Section 5 of this bill requires the State Board of Pharmacy to adopt regulations for the operation of remote sites, satellite consultation sites and telepharmacies.

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***"Remote site" means a pharmacy staffed by a pharmaceutical technician and equipped to facilitate communicative access to a pharmacy and its registered pharmacists via computer link, video link and audio link during regular business hours.***

Sec. 3. ***"Satellite consultation site" means a site that only dispenses filled prescriptions which are prepared at a pharmacy and delivered to that site and where a registered pharmacist at the pharmacy that prepared the prescription provides consultation to patients via computer link, video link and audio link during regular business hours.***

Sec. 4. ***"Telepharmacy" means a pharmacy that is accessible by a remote site or a satellite consultation site via computer link, video link and audio link.***

Sec. 5. ***The Board shall adopt regulations as are necessary for the safe and efficient operation of remote sites, satellite consultation sites and telepharmacies.***

Sec. 6. ***1. In addition to the requirements set forth in this chapter and any other specific statute, a remote site or satellite consultation site must be located*** ~~*[at]*~~ **:**

(a) At least 50 miles or more from the nearest pharmacy [.] ; and

(b) In a service area with a total population of less than 2,000.

2. A remote site or satellite consultation site may be operated by a pharmaceutical technician without the physical presence of a managing pharmacist, except that the managing pharmacist of the telepharmacy shall also be deemed the managing pharmacist of the remote site or satellite consultation site.

3. The Board shall adopt regulations for the purposes of this section, which establish the manner of determining a "service area." Such a "service area" must be a geographical area of between 5 and 10 miles in radius. In adopting the regulations, the Board may consider, without limitation, the ease or difficulty of access to the nearest pharmacy and the availability of roadways.

Sec. 7. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, ***and sections 2, 3 and 4 of this act*** have the meanings ascribed to them in those sections.

Sec. 8. NRS 639.220 is hereby amended to read as follows:

639.220 1. Except as otherwise provided in NRS 639.2324, 639.2326 ~~[and]~~ **,** 639.2327 ~~[,]~~ ***and section 6 of this act,*** each pharmacy must be managed by a registered pharmacist, approved by the Board, who is responsible for compliance by the pharmacy and its personnel with all state and federal laws and regulations relating to the operation of the pharmacy and the practice of pharmacy.

2. Except as otherwise provided in NRS 639.2321, if the managing pharmacist is the only registered pharmacist employed in the pharmacy, the Board may authorize his absence each day for a total period of not to exceed 2 hours for the purpose of taking meals if:

(a) A registered pharmacist is on call during his absence;

(b) A sign, as prescribed by regulations of the Board, is posted for public view in the pharmacy indicating the absence of the pharmacist and the hours of his absence; and

(c) All drugs, poisons, chemical and restricted devices are kept safe in a manner prescribed by regulations of the Board.

➥ The authorization required from the Board must be in writing and be retained in the pharmacy and available for inspection.

3. Except as otherwise provided in this subsection ~~[.]~~ ***and section 6 of this act:***

(a) A person shall not act as a managing pharmacist for more than one licensed pharmacy.

(b) Each managing pharmacist shall be on duty in the pharmacy and active in the management of the pharmacy full-time, but he need not be present during the time the pharmacy is open for business if he designates another pharmacist employed in the pharmacy to assume his duties in his absence.

(c) The managing pharmacist is responsible for the activities of his designee.

➥ A waiver from the limitation set forth in paragraph (a) may be granted by the Board to the managing pharmacist of a pharmacy located in a hospital with fewer than 100 beds or in a correctional institution housing fewer than 1,500 inmates.

4. The Board must be notified before there is a change in the managing pharmacist.

Sec. 9. NRS 639.284 is hereby amended to read as follows:

639.284 ~~[~~Any~~]~~ ***Except as otherwise provided in section 6 of this act, any*** person who:

1. Being the licensed proprietor of a pharmacy, fails to place a registered pharmacist in charge of such pharmacy, or permits the compounding or dispensing of drugs or prescriptions, or the selling of drugs, poisons or devices, the sale of which is restricted by the provisions of this chapter, by any person other than a registered pharmacist or an intern pharmacist, is guilty of a misdemeanor.

2. Is not a registered pharmacist and who takes charge of or acts as manager of any pharmacy, compounds or dispenses any prescription, or sells any drug, poison or device, the sale of which is restricted by the provisions of this chapter, is guilty of a misdemeanor.

Sec. 10. The State Board of Pharmacy shall, on or before January 1, 2010, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 11. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 395.

Bill read second time.

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

Amendment No. 518.

AN ACT relating to state employees; authorizing discussions of workplace relations for certain state employees; ~~[~~changing the name of the Local Government Employee-Management Relations Board to the Public Employment Relations Board;~~]~~ expanding the duties of the ~~[~~Board~~]~~ **Personnel Commission** to include discussions of workplace relations for certain state employees; providing for workplace relations units of state employees and for their representatives; establishing procedures for discussing workplace relations and for making and amending workplace relations agreements; prohibiting certain unfair labor practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Title 23 of NRS governs public employment. This bill authorizes discussions of workplace relations between the State and certain state employees. ~~[Section 46 of this bill renames the Local Government Employee-Management Relations Board as the Public Employment Relations Board.]~~ **Sections 18-20** of this bill expand the duties of the ~~[Public Employment Relations Board]~~ **Personnel Commission** to include hearing and deciding disputes between the State and certain state employees. **Section 21** of this bill authorizes certain state employees to organize and join employee organizations, or refrain from engaging in that activity, and, as applicable, to discuss workplace relations through exclusive representatives. **Section 22** of this bill establishes requirements concerning workplace relations agreements. **Sections 24 and 25** of this bill prescribe certain unfair labor practices in the context of discussions of workplace relations. **Section 27** of this bill provides for the creation and organization of workplace relations units of state employees. **Sections 28-31** of this bill provide for the election or designation of exclusive representatives of workplace relations units. **Section 32** of this bill requires the exclusive representative of a workplace relations unit to engage in discussions of workplace relations with the Executive Department of the State Government on behalf of the employees within the unit.

Section 34 of this bill requires the Executive Department and an exclusive representative to begin negotiations regarding a workplace relations agreement within 60 days after one party notifies the other of a desire to negotiate. **Sections 35-38** of this bill provide for mediation, arbitration and judicial review of disputes between the Executive Department and a workplace relations unit. **Section 40** of this bill authorizes certain supplemental discussions between the Executive Department and the exclusive representative of a workplace relations unit of any terms and conditions of employment that do not affect all the employees of the workplace relations unit. **Section 44.3 of this bill revises the authority of the Governor to appoint the members of the Personnel Commission by requiring the Majority Leader of the Senate and the Speaker of the Assembly to each appoint one of the members to the Commission. (NRS 284.030)**

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

Section 1. Title 23 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 42, inclusive, of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. *"Arbitration" means a process of dispute resolution where the parties involved in an impasse or grievance dispute submit their dispute to a third party for a final and binding decision.*

Sec. 4. ~~*[*"Board" means the Public Employment Relations Board created pursuant to NRS 288.080.*]*~~ **(Deleted by amendment.)**

Sec. 4.5. "Commission" means the Personnel Commission created by NRS 284.030.

Sec. 5. *"Confidential employee" means an employee who provides administrative support to an employee who assists in the formulation, determination and effectuation of personnel policies or managerial policies concerning discussions of workplace relations or supplemental discussions of workplace relations.*

Sec. 6. *"Discussions of workplace relations" means a method to determine the terms and conditions of employment for all employees within a workplace relations unit through negotiation, mediation or arbitration between the Executive Department and the exclusive representative of the workplace relations unit pursuant to this chapter.*

Sec. 7. *1. "Employee" means a person who:*

(a) Is employed in the classified service of the State pursuant to chapter 284 of NRS, including, without limitation, persons employed in the classified service by the Nevada System of Higher Education; or

(b) Is employed by the Public Employees' Retirement System and who is required to be paid in accordance with the pay plan for the classified service of the State.

2. The term does not include:

*(a) A managerial employee whose primary function, as determined by the ~~[Board,]~~ **Commission,** is to administer and control the business of any agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department and who is vested with discretion and independent judgment with regard to the general conduct and control of that agency, board, bureau, commission, department, division, elected officer or unit;*

(b) An elected official and any person appointed to fill a vacancy in an elected office;

(c) A confidential employee;

(d) A temporary employee who is employed for a fixed period of 4 months or less;

(e) A commissioned officer and an enlisted member of the Nevada National Guard;

(f) A justice of the Supreme Court and a judge of a district court;

(g) Inmates of state institutions even though they may be receiving compensation for services performed for the institution; or

(h) Any person employed by the Legislature.

Sec. 8. *"Exclusive representative" means an employee organization that, as a result of designation by the ~~[Board,]~~ **Commission,** has the*

exclusive right to represent all employees within a workplace relations unit and to negotiate with the Executive Department pursuant to this chapter concerning the terms and conditions of employment for those employees.

Sec. 9. ***"Executive Department" means an agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department of State Government.***

Sec. 10. ***"Fair share agreement" means an agreement between an employer and an exclusive representative under which any of the employees in a workplace relations unit are required to pay a proportionate share of the costs of discussions of workplace relations, the administration of a workplace relations agreement and the negotiation of other matters affecting the terms and conditions of employment.***

Sec. 11. ***"Grievance" means an act, omission or occurrence which an employee or an exclusive representative constitutes in his belief an injustice relating to any condition arising out of the relationship between an employer and an employee, including, without limitation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or agreement.***

Sec. 12. ***"Mediation" means assistance by an impartial third party to reconcile differences between the Executive Department and an exclusive representative through interpretation, suggestion and advice.***

Sec. 13. ***"Professional employee" means an employee engaged in work that:***

1. Is predominately intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

2. Involves the consistent exercise of discretion and judgment in its performance;

3. Is of such a character that the result accomplished or produced cannot be standardized in relation to a given period; and

4. Requires advanced knowledge in a field of science or learning customarily acquired through a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from general academic education, an apprenticeship or training in the performance of routine mental or physical processes.

Sec. 14. ***"Supervisory employee" means an employee who has authority to:***

1. Hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or who has the responsibility to direct such employees; or

2. Adjust the grievances of other employees or effectively recommend such an action, if the exercise of that authority requires the use of independent judgment and is not of a routine or clerical nature.

➥ The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday. Nothing in this

section may be construed to mean that an employee who has been given incidental administrative duties is classified as a supervisory employee.

Sec. 15. ***"Terms and conditions of employment" includes, without limitation:***

1. Hours and working conditions;

2. Grievances;

3. Discipline and discharge; and

4. Any other term or condition of employment that does not require an appropriation from the Legislature to be given effect.

Sec. 16. ***"Workplace relations unit" means a collection of employees that the ~~[Board]~~ Commission has established as a workplace relations unit pursuant to section 27 of this act.***

Sec. 17. ***1. The Legislature hereby finds and declares that there is a great need to:***

(a) Promote orderly and constructive relations between the State and its employees; and

(b) Increase the efficiency of State Government.

2. It is therefore within the public interest that the Legislature enact provisions:

(a) Granting certain state employees the right to associate with others in organizing and choosing representatives for the purpose of discussing workplace relations;

(b) Requiring the State to recognize, negotiate and discuss workplace relations with employee organizations that represent state employees and to enter into written agreements evidencing the result of discussions of workplace relations; and

(c) Establishing standards and procedures that protect the rights of state employees, the Executive Department and the people of the State.

Sec. 18. ***1. The ~~[Board]~~ Commission may adopt rules governing:***

(a) Proceedings before ~~[it,]~~ the Commission pursuant to this chapter;

(b) Procedures for fact-finding;

(c) The recognition of exclusive representatives;

(d) The establishment of workplace relations units; and

(e) Such other matters as are necessary for the ~~[Board]~~ Commission to carry out its duties pursuant to this chapter.

2. The ~~[Board]~~ Commission may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by the Executive Department, an employee or an exclusive representative. The ~~[Board]~~ Commission shall conduct a hearing within 90 days after it decides to hear a complaint. If the ~~[Board]~~ Commission finds, after a hearing, that the complaint has merit, the ~~[Board]~~ Commission may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by that action. The ~~[Board]~~ Commission shall issue its decision within 120 days after the hearing on the complaint is completed.

3. Any party aggrieved by the failure of any person to obey an order of the ~~[Board]~~ Commission issued pursuant to subsection 2, or the ~~[Board]~~ Commission at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.

4. The ~~[Board]~~ Commission may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

5. The ~~[Board]~~ Commission may decide without a hearing a contested matter:

(a) In which all of the legal issues have been previously decided by the ~~[Board,]~~ Commission, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

6. The ~~[Board]~~ Commission may award reasonable costs, which may include attorney's fees, to the prevailing party.

Sec. 19. ***1. For the purpose of hearing and deciding appeals or complaints, the ~~[Board]~~ Commission may issue subpoenas requiring the attendance of witnesses before it, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.***

2. The district court in and for the county in which any hearing is being conducted by the ~~[Board]~~ Commission may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the ~~[Board.]~~ Commission.

3. If a witness refuses to attend or testify or produce any papers required by such a subpoena, the ~~[Board]~~ Commission may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by the subpoena before the ~~[Board]~~ Commission in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books or papers before the ~~[Board.]~~ Commission.

4. The court, upon petition of the ~~[Board,]~~ Commission, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the ~~[Board.]~~ Commission. A certified copy of the order must be served upon the witness.

If it appears to the court that the subpoena was regularly issued by the ~~[Board,]~~ Commission, the court shall thereupon enter an order that the witness appear before the ~~[Board]~~ Commission at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order, the witness must be dealt with as for contempt of court.

Sec. 20. ***Every hearing and determination of an appeal or complaint by the ~~[Board]~~ Commission is a contested case subject to the provisions of law which govern the administrative decision and judicial review of such cases.***

Sec. 21. ***1. For the purposes of discussions of workplace relations, supplemental discussions of workplace relations and other mutual aid or protection, employees have the right to:***

(a) Organize, form, join and assist employee organizations, engage in discussions of workplace relations and supplemental discussions of workplace relations through exclusive representatives and engage in other concerted activities; and

(b) Refrain from engaging in such activity.

2. Discussions of workplace relations and supplemental discussions of workplace relations entail a mutual obligation of the Executive Department and an exclusive representative to meet at reasonable times and to discuss workplace relations in good faith with respect to:

(a) The terms and conditions of employment;

(b) The negotiation of an agreement;

(c) The resolution of any question arising under an agreement; and

(d) The execution of a written contract incorporating the provisions of an agreement, if requested by either party.

Sec. 22. ***1. Each workplace relations agreement must be in writing and must include, without limitation:***

(a) A procedure to resolve grievances which culminates in final and binding arbitration;

(b) A provision which provides that an officer of the Executive Department may, upon written authorization by an employee within the workplace relations unit, withhold a sufficient amount of money from the salary or wages of the employee pursuant to NRS 281.129 to pay dues or similar fees to the exclusive representative of the workplace relations unit; and

(c) At the election of the exclusive representative, and notwithstanding any other provision of law, a fair share agreement.

2. Except as otherwise provided in subsection 3, the procedure to resolve grievances required in an agreement pursuant to paragraph (a) of subsection 1 is the exclusive means available for resolving grievances related to the administration of the agreement.

3. An employee in a workplace relations unit may pursue a grievance related to any disciplinary action taken against him by his employer through:

(a) The procedure provided in the agreement pursuant to paragraph (a) of subsection 1; or

(b) Any procedure available to him pursuant to the provisions of chapter 284 of NRS,

➥ but once the employee has properly filed his grievance pursuant to paragraph (a) or (b), he may not proceed to file his grievance in the alternative manner.

4. If there is a conflict between a provision of an agreement between the Executive Department and an exclusive representative and:

(a) Any regulation adopted by the Executive Department, the provision of the agreement prevails unless the provision of the agreement is outside of the lawful scope of discussions of workplace relations.

(b) An existing statute, the provision of the agreement may not be given effect unless the Legislature amends the existing statute in such a way as to eliminate the conflict.

Sec. 23. ***1. A fair share agreement included in a workplace relations agreement pursuant to section 22 of this act must not be for an amount exceeding the amount of dues uniformly required of members.***

2. An amount agreed to be paid pursuant to a fair share agreement must not include any fees for contributions relating to the election or support of any candidate for political office.

3. This section does not prohibit an employee from making voluntary political contributions in conjunction with his payment pursuant to a fair share agreement.

Sec. 24. ***1. It is a prohibited practice for the Executive Department or its designated representative willfully to:***

(a) Refuse to engage in discussions of workplace relations or otherwise fail to discuss workplace relations in good faith with an exclusive representative, including, without limitation, refusing to engage in mediation or arbitration.

(b) Interfere with, restrain or coerce an employee in the exercise of any right guaranteed pursuant to this chapter.

(c) Dominate, interfere with or assist in the formation or administration of an employee organization.

(d) Discriminate in regard to hiring, tenure or any terms and conditions of employment to encourage or discourage membership in an employee organization.

(e) Discharge or otherwise discriminate against an employee because the employee has:

(1) Signed or filed an affidavit, petition or complaint or has provided any information or given any testimony pursuant to this chapter; or

(2) Formed, joined or chosen to be represented by an employee organization.

(f) Discriminate because of race, color, religion, sex, sexual orientation, age, disability, national origin, or political or personal reasons or affiliations.

(g) Deny rights accompanying a designation as an exclusive representative.

2. It is a prohibited practice for an employee organization or its designated agent willfully to:

(a) When acting as an exclusive representative, refuse to engage in discussions of workplace relations or otherwise fail to discuss workplace relations in good faith with the Executive Department, including, without limitation, refusing to engage in mediation or arbitration.

(b) Interfere with, restrain or coerce an employee in the exercise of any right guaranteed pursuant to this chapter.

(c) Discriminate because of race, color, religion, sex, sexual orientation, age, disability, national origin, or political or personal reasons or affiliations.

Sec. 25. *1. To establish that a party committed a prohibited practice in violation of section 24 of this act, the party aggrieved by the practice must:*

(a) File a complaint with the ~~[Board]~~ Commission not later than 6 months after the alleged prohibited practice occurred; and

(b) Send a copy of the complaint to the other party by certified mail, return receipt requested, or by any other method authorized by the ~~[Board.]~~ Commission.

2. Not later than 10 days after receiving a complaint pursuant to paragraph (b) of subsection 1, a party shall file a response to the complaint with the ~~[Board.]~~ Commission.

3. The ~~[Board]~~ Commission shall conduct a preliminary investigation of the complaint. Based on its investigation:

(a) If the ~~[Board]~~ Commission determines that the complaint has no basis in law or fact, the ~~[Board]~~ Commission shall dismiss the complaint.

(b) If the ~~[Board]~~ Commission determines that the complaint may have a basis in law or fact, the ~~[Board]~~ Commission shall order a hearing to be conducted in accordance with:

(1) The provisions of chapter 233B of NRS that apply to a contested case; and

(2) The rules adopted by the ~~[Board]~~ Commission pursuant to section 18 of this act.

4. If the ~~[Board]~~ Commission finds at the hearing that the party accused in the complaint has committed a prohibited practice, the ~~[Board:]~~ Commission:

(a) Shall order the party to cease and desist from engaging in the prohibited practice; and

(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.

5. The ~~[Board]~~ Commission may petition the district court for enforcement of its orders.

6. Any order or decision issued by the ~~[Board]~~ Commission pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the ~~[Board]~~ Commission must file a petition for judicial review not later than 10 days after being served with the order or decision of the ~~[Board.]~~ Commission.

Sec. 26. ***1. The ~~[Board]~~ Commission may appoint a hearing officer to conduct a hearing that the ~~[Board]~~ Commission is otherwise required to conduct pursuant to section 25 of this act.***

2. A decision of the hearing officer may be appealed to the ~~[Board.]~~ Commission.

3. On appeal to the ~~[Board,]~~ Commission, the ~~[Board]~~ Commission may consider the record of the hearing or may conduct a hearing de novo. A hearing de novo conducted by the ~~[Board]~~ Commission must be conducted in accordance with:

(a) The provisions of chapter 233B of NRS that apply to a contested case; and

(b) The rules adopted by the ~~[Board]~~ Commission pursuant to section 18 of this act.

4. If the ~~[Board]~~ Commission finds at the hearing that the party accused in the complaint has committed a prohibited practice, the ~~[Board:]~~ Commission:

(a) Shall order the party to cease and desist from engaging in the prohibited practice; and

(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.

5. The ~~[Board]~~ Commission may petition the district court for enforcement of its orders.

6. Any order or decision issued by the ~~[Board]~~ Commission pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the ~~[Board]~~ Commission must file a petition for judicial review not later than 10 days after being served with the order or decision of the ~~[Board.]~~ Commission.

Sec. 27. ***1. The ~~[Board]~~ Commission shall, in accordance with the rules adopted pursuant to section 18 of this act, establish workplace relations units on a statewide basis, including, without limitation, the workplace relations units described in subsection 2.***

2. The ~~[Board]~~ Commission shall establish one workplace relations unit for each of the following occupational groups, and each such workplace relations unit must include all supervisory employees at the working level of the occupational group:

(a) Labor, maintenance, custodial and institutional employees, including, without limitation, employees of penal and correctional institutions who are not responsible for security at those institutions.

(b) Administrative and clerical employees, including, without limitation, legal support staff and employees whose work involves general office work, or keeping or examining records and accounts.

(c) Technical aides to professional employees, including, without limitation, computer programmers, tax examiners, conservation employees and crew supervisors.

(d) Professional employees, including, without limitation, physical therapists and other employees in medical and other professions related to health.

(e) Employees, other than professional employees, who provide health care and personal care, including, without limitation, employees who provide care for children.

(f) Category I peace officers and category II peace officers.

(g) Category III peace officers.

(h) Supervisory employees not otherwise included in other workplace relations units.

(i) Employees of the Nevada System of Higher Education, except such employees who are category I peace officers.

(j) Employees of the State Department of Conservation and Natural Resources who:

(1) Perform emergency fire suppression; or

(2) Provide direct support to the employees described in subparagraph (1).

3. The ~~[Board]~~ Commission shall, in accordance with the rules adopted pursuant to section 18 of this act, establish the exact classifications of employees within each workplace relations unit. The ~~[Board]~~ Commission may assign a new classification to a workplace relations unit based upon the similarity of the new classification to other classifications within the workplace relations unit.

4. The ~~[Board]~~ Commission shall not change an established workplace relations unit arbitrarily.

5. The ~~[Board]~~ Commission shall determine whether the employment functions of any group of employees performing managerial functions preclude the inclusion of those employees in a workplace relations unit.

6. As used in this section:

(a) "Category I peace officer" has the meaning ascribed to it in NRS 289.460.

(b) "Category II peace officer" has the meaning ascribed to it in NRS 289.470.

(c) "Category III peace officer" has the meaning ascribed to it in NRS 289.480.

Sec. 28. ***If no employee organization is designated as the exclusive representative of a workplace relations unit and an employee organization files with the ~~[Board]~~ Commission a list of its membership showing that the employee organization represents more than 50 percent of the employees within the workplace relations unit, the ~~[Board]~~ Commission shall designate the employee organization as the exclusive representative of the workplace relations unit without ordering an election.***

Sec. 29. ***1. If no employee organization is designated as the exclusive representative of a workplace relations unit, the ~~[Board]~~ Commission shall order an election to be conducted within the workplace relations unit if:***

(a) An employee organization files with the ~~[Board]~~ Commission a written request for an election which includes a list of its membership showing that it represents at least 30 percent but not more than 50 percent of the employees within the workplace relations unit; and

(b) No other election to choose, change or discontinue representation has been conducted within the workplace relations unit during the preceding 12 months.

2. If the ~~[Board]~~ Commission designates an employee organization as the exclusive representative of a workplace relations unit following an election pursuant to subsection 1 or pursuant to section 28 of this act, the ~~[Board]~~ Commission shall order an election:

(a) If either:

(1) Another employee organization files with the ~~[Board]~~ Commission a written request for an election which includes a list of its membership showing that the employee organization represents at least 50 percent of the employees within the workplace relations unit; or

(2) A group of employees within the workplace relations unit files with the ~~[Board]~~ Commission a written request for an election which includes a list showing that more than 50 percent of the employees within the workplace relations unit have requested that an election be conducted to change or discontinue representation;

(b) If applicable, the request filed pursuant to paragraph (a) is filed not more than 270 days and not less than 225 days before the date on which the current workplace relations agreement in effect for the workplace relations unit expires; and

(c) If no other election to choose, change or discontinue representation has been conducted within the workplace relations unit during the preceding 12 months.

Sec. 30. ***1. If the ~~[Board]~~ Commission orders an election within a workplace relations unit pursuant to section 29 of this act, the ~~[Board]~~***

Commission shall order that each of the following be placed as a choice on the ballot for the election:

(a) If applicable, the employee organization that requested the election pursuant to section 29 of this act and the employee organization that is presently designated as the exclusive representative of the workplace relations unit;

(b) Any other employee organization that, on or before the date that is prescribed by the rules adopted by the [Board,] Commission, files with the [Board] Commission a written request to be placed on the ballot for the election and includes with the written request a list of its membership showing that the employee organization represents at least 30 percent of the employees within the workplace relations unit; and

(c) A choice for "no representation."

2. If a ballot for an election contains more than two choices and none of the choices on the ballot receives a majority of the votes cast at the initial election, the [Board] Commission shall order a runoff election between the two choices on the ballot that received the highest number of votes at the initial election.

3. If the choice for "no representation" receives a majority of the votes cast at the initial election or at any runoff election, the [Board] Commission shall designate the workplace relations unit as being without representation.

4. If an employee organization receives a majority of the votes cast at the initial election or at any runoff election, the [Board] Commission shall designate the employee organization as the exclusive representative of the workplace relations unit.

Sec. 31. ***1. The [Board] Commission shall preside over all elections that are conducted pursuant to this chapter and shall determine the eligibility requirements for employees to vote in any such election.***

2. An employee organization that is placed as a choice on the ballot for an election or any employee who is eligible to vote at an election may file with the [Board] Commission a written objection to the results of the election. The objection must be filed not later than 10 days after the date on which the notice of the results of the election is given by the [Board.] Commission.

3. In response to a written objection filed pursuant to subsection 2 or upon its own motion, the [Board] Commission may invalidate the results of an election and order a new election if the [Board] Commission finds that any conduct or circumstances raise substantial doubt that the results of the election are reliable.

Sec. 32. ***1. Except as otherwise provided in subsection 2, an exclusive representative shall:***

(a) Act as the agent and exclusive representative of all employees within each workplace relations unit that it represents; and

(b) In good faith and on behalf of each workplace relations unit that it represents, individually or collectively, engage in discussions of workplace relations with the Executive Department concerning the terms and conditions of employment for the employees within each workplace relations unit that it represents, including, without limitation, any terms and conditions of employment that are within the scope of supplemental discussions of workplace relations pursuant to section 40 of this act.

2. If an employee is within a workplace relations unit that has an exclusive representative, the employee has the right to present grievances to the Executive Department at any time and to have those grievances adjusted without the intervention of the exclusive representative if:

(a) The exclusive representative is given an opportunity to be present at any meetings or hearings related to the adjustment of the grievance; and

(b) The adjustment of the grievance is not inconsistent with the provisions of the workplace relations agreement or any supplemental workplace relations agreement then in effect.

Sec. 33. ***If the ~~[Board]~~ Commission designates an employee organization as the exclusive representative of a workplace relations unit pursuant to this chapter, an officer of the Executive Department shall not, pursuant to NRS 281.129, withhold any amount of money from the salary or wages of an employee within the workplace relations unit to pay dues or similar fees to an employee organization other than the employee organization that is the exclusive representative of the workplace relations unit.***

Sec. 34. ***The Executive Department and an exclusive representative shall begin negotiations concerning a workplace relations agreement within 60 days after one party notifies the other party of the desire to negotiate.***

Sec. 35. ***1. If the parties do not reach a workplace relations agreement within 120 days after the date on which the parties began negotiations or any later date which is set by agreement of the parties, either party may request a mediator from the Federal Mediation and Conciliation Service.***

2. The mediator shall bring the parties together as soon as possible after his appointment and shall attempt to settle each issue in dispute within 30 days after his appointment or any later date which is set by agreement of the parties.

Sec. 36. ***1. If the mediator determines that his services are no longer helpful or if the parties do not reach a workplace relations agreement through mediation within 30 days after the appointment of the mediator or any later date which is set by agreement of the parties, the mediator shall discontinue mediation and the parties shall attempt to agree upon an impartial arbitrator.***

2. If the parties do not agree upon an impartial arbitrator within 5 days after the date on which mediation is discontinued pursuant to subsection 1

or on or before any later date which is set by agreement of the parties, the parties shall request from the Federal Mediation and Conciliation Service a list of seven potential arbitrators. The parties shall select an arbitrator from this list by alternately striking one name until the name of only one arbitrator remains, and that arbitrator must hear the dispute in question. The party who will strike the first name must be determined by a coin toss.

3. The arbitrator shall begin arbitration proceedings within 60 days after his selection or any later date which is set by agreement of the parties.

4. The arbitrator and the parties shall apply and follow the procedures for arbitration that are prescribed by the rules adopted by the ~~[Board.]~~ Commission. During arbitration, the parties retain their respective duties to negotiate in good faith.

5. The arbitrator may administer oaths or affirmations, take testimony and issue and seek enforcement of subpoenas in the same manner as the ~~[Board]~~ Commission pursuant to section 19 of this act, and, except as otherwise provided in subsection 6, the provisions of section 19 of this act apply to subpoenas issued by the arbitrator.

6. The Executive Department and the exclusive representative shall each pay one-half of the cost of arbitration.

Sec. 37. ***1. For each separate issue that is in dispute after arbitration proceedings are held pursuant to section 36 of this act, the arbitrator shall incorporate either the final offer of the Executive Department or the final offer of the exclusive representative into his decision. The arbitrator shall not revise or amend the final offer of either party on any issue.***

2. To determine which final offers to incorporate into his decision, the arbitrator shall assess the reasonableness of:

(a) The position of each party as to each issue in dispute; and

(b) The contractual terms and provisions contained in each final offer.

3. In assessing reasonableness pursuant to subsection 2, the arbitrator shall:

(a) Compare the terms and conditions of employment for the employees within the workplace relations unit with the terms and conditions of employment for other employees performing similar services and for other employees generally:

(1) In public employment in comparable communities; and

(2) In private employment in comparable communities; and

(b) Consider, without limitation, such other factors as are normally or traditionally used as part of discussions of workplace relations, mediation, arbitration or other methods of dispute resolution to determine the terms and conditions of employment for employees in public or private employment.

4. The arbitrator shall render a written decision within 45 days after the conclusion of the arbitration proceedings or before any later date which is set by agreement of the parties.

5. Except as otherwise provided in section 38 of this act, each provision that is included in a decision of the arbitrator is final and binding upon the parties.

Sec. 38. ***1. Except as otherwise provided in this section, a party may seek judicial review in the district court of the decision of an arbitrator made pursuant to section 37 of this act based upon jurisdictional grounds or upon the grounds that the decision:***

(a) Was procured by fraud, collusion or other similar unlawful means; or

(b) Was not supported by competent, material and substantial evidence on the whole record and based upon the factors set forth in section 37 of this act.

2. If a party seeks judicial review pursuant to this section, the district court may stay the contested portion of the decision of the arbitrator until the court rules on the matter.

3. The district court may affirm or reverse the contested portion of the decision of the arbitrator, in whole or in part, but the court may not remand the matter to the arbitrator or require any additional fact-finding or decision making by the arbitrator.

4. If the district court reverses any part of the contested portion of the decision of the arbitrator, the court shall enter an order invalidating that part of the decision of the arbitrator, and that part of the decision of the arbitrator is void and must not be given effect.

Sec. 39. ***1. If a provision of a workplace relations agreement does not require an amendment to existing statute by the Legislature to be given effect, the provision becomes effective pursuant to the provisions of the workplace relations agreement.***

2. If a provision of the workplace relations agreement requires an amendment to existing statute by the Legislature to be given effect, the provision becomes effective, if at all, on the date on which the necessary amendment to existing statute becomes effective.

Sec. 40. ***1. Except as otherwise provided in this section, the Executive Department and the exclusive representative of the workplace relations unit may engage in supplemental discussions of workplace relations concerning any terms and conditions of employment which are peculiar to or which uniquely affect fewer than all the employees within the workplace relations unit if such supplemental terms and conditions of employment are not included in any provision of the workplace relations agreement then in effect between the Executive Department and the workplace relations unit.***

2. The Executive Department and an exclusive representative may engage in supplemental discussions of workplace relations pursuant to subsection 1 for fewer than all the employees within two or more workplace relations units that the exclusive representative represents if the

requirements of subsection 1 are met for each such workplace relations unit.

3. If the parties reach a supplemental workplace relations agreement pursuant to this section, the provisions of the supplemental workplace relations agreement:

(a) Must be in writing; and

(b) Shall be deemed to be incorporated into the provisions of each workplace relations agreement then in effect between the Executive Department and the employees who are subject to the supplemental workplace relations agreement if the provisions of the supplemental workplace relations agreement do not conflict with the provisions of the workplace relations agreement.

4. If any provision of the supplemental workplace relations agreement conflicts with any provision of the workplace relations agreement, the provision of the supplemental workplace relations agreement is void and the provision of the workplace relations agreement must be given effect.

5. The provisions of the supplemental workplace relations agreement expire at the same time as the other provisions of the workplace relations agreement into which they are incorporated.

6. The Executive Department and an exclusive representative may, during discussions of workplace relations conducted pursuant to this chapter, negotiate and include in a workplace relations agreement any terms and conditions of employment that would otherwise be within the scope of supplemental workplace relations conducted pursuant to this section.

Sec. 41. ***1. Except as otherwise provided by specific statute, an employee organization and the Executive Department may sue or be sued as an entity pursuant to this chapter.***

2. If any action or proceeding is brought by or against an employee organization pursuant to this chapter, the district court in and for the county in which the employee organization maintains its principal office or the county in which the claim arose has jurisdiction over the claim.

3. A natural person and his assets are not subject to liability for any judgment awarded pursuant to this chapter against the Executive Department or an employee organization.

Sec. 42. ***The terms of any workplace relations agreement remain in effect until a new workplace relations agreement takes effect.***

Sec. 43. NRS 281.129 is hereby amended to read as follows:

281.129 1. Any officer of the State, except the Legislative Fiscal Officer, who disburses money in payment of salaries and wages of officers and employees of the State:

(a) May, upon written requests of the officer or employee specifying amounts, withhold those amounts and pay them to:

(1) Charitable organizations;

(2) Employee credit unions;

(3) Except as otherwise provided in paragraph (b), insurers;

(4) The United States for the purchase of savings bonds and similar obligations of the United States; and

(5) ~~[Employee]~~ ***Except as otherwise provided in section 33 of this act, employee*** organizations and labor organizations.

(b) Shall, upon receipt of information from the Public Employees' Benefits Program specifying amounts of premiums or contributions for coverage by the Program, withhold those amounts from the salaries or wages of officers and employees who participate in the Program and pay those amounts to the Program.

2. The State Controller may adopt regulations necessary to withhold money from the salaries or wages of officers and employees of the Executive Department.

Sec. 44. NRS 284.013 is hereby amended to read as follows:

284.013 1. Except as otherwise provided in subsection 4, this chapter does not apply to:

(a) Agencies, bureaus, commissions, officers or personnel in the Legislative Department or the Judicial Department of State Government, including the Commission on Judicial Discipline;

(b) Any person who is employed by a board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS; or

(c) Officers or employees of any agency of the Executive Department of the State Government who are exempted by specific statute.

2. Except as otherwise provided in subsection 3, the terms and conditions of employment of all persons referred to in subsection 1, including salaries not prescribed by law and leaves of absence, including, without limitation, annual leave and sick and disability leave, must be fixed by the appointing or employing authority within the limits of legislative appropriations or authorizations.

3. Except as otherwise provided in this subsection, leaves of absence prescribed pursuant to subsection 2 must not be of lesser duration than those provided for other state officers and employees pursuant to the provisions of this chapter. The provisions of this subsection do not govern the Legislative Commission with respect to the personnel of the Legislative Counsel Bureau.

4. Any board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS which contracts for the services of a person, shall require the contract for those services to be in writing. The contract must be approved by the State Board of Examiners before those services may be provided.

5. To the extent that they are inconsistent or otherwise in conflict, the provisions of this chapter do not apply to any terms and conditions of employment that are properly within the scope of and subject to the provisions of a workplace relations agreement or a supplemental workplace relations agreement that is enforceable pursuant to the provisions of

sections 2 to 42, inclusive, of this act. As used in this subsection, "terms and conditions of employment" has the meaning ascribed to it in section 15 of this act.

Sec. 44.3. **NRS 284.030 is hereby amended to read as follows:**

284.030 ~~[1.]~~ There is hereby created in the Department a personnel commission composed of five members appointed ~~[by the Governor.~~

~~2.]~~ ***as follows:***

1. The Governor shall appoint:

(a) ~~[Three members]~~ ***One member*** who ~~[are representatives]~~ ***is a representative*** of the general public and ~~[have]~~ ***has*** a demonstrated interest in or knowledge of the principles of public personnel administration.

(b) One member who is a representative of labor and has a background in personnel administration.

(c) One member who is a representative of employers or managers and has a background in personnel administration.

2. The Majority Leader of the Senate shall appoint one member who is a representative of the general public and has a demonstrated interest in or knowledge of the principles of public personnel administration.

3. The Speaker of the Assembly shall appoint one member who is a representative of the general public and has a demonstrated interest in or knowledge of the principles of public personnel administration.

Sec. 44.5. **NRS 284.040 is hereby amended to read as follows:**

284.040 1. The members of the Commission ~~[shall]~~ serve at the pleasure of the ~~[Governor,]~~ ***appointing authority,*** but no appointment ~~[shall]~~ ***may*** extend beyond a period of 4 years ~~[from]~~ ***after*** the date of expiration of the preceding appointment.

2. Continued absence from meetings ~~[shall constitute]~~ ***constitutes*** good and sufficient cause for removal of a member by the ~~[Governor.]~~ ***appointing authority.***

Sec. 44.7. **NRS 284.065 is hereby amended to read as follows:**

284.065 1. The Commission has only such powers and duties as are authorized by law.

2. In addition to the powers and duties set forth elsewhere in this chapter ~~[,]~~ ***and sections 2 to 42, inclusive, of this act,*** the Commission shall:

(a) Advise the Director concerning the organization and administration of the Department.

(b) Report to the Governor biennially on all matters which the Commission may deem pertinent to the Department and concerning any specific matters previously requested by the Governor.

(c) Advise and make recommendations to the Governor ~~[or]~~ ***and*** the Legislature relative to the personnel policy of the State.

(d) Adopt regulations to carry out the provisions of this chapter.

(e) Foster the interest of institutions of learning and of civic, professional and employee organizations in the improvement of personnel standards in the state service.

(f) Review decisions of the Director in contested cases involving the classification or allocation of particular positions.

(g) Exercise any other advisory powers necessary or reasonably implied within the provisions and purposes of this chapter.

Sec. 45. ~~[NRS 288.030 is hereby amended to read as follows:~~

~~288.030 "Board" means the [Local Government Employee-Management] *Public Employment* Relations Board.]~~ **(Deleted by amendment.)**

Sec. 46. ~~[NRS 288.080 is hereby amended to read as follows:~~

~~288.080 1. The [Local Government Employee-Management] *Public Employment* Relations Board is hereby created, consisting of three members, broadly representative of the public and not closely allied with any employee organization *, the State* or *any* local government employer, not more than two of whom may be members of the same political party. The term of office of each member is 4 years.~~

~~2. The Governor shall appoint the members of the Board.]~~ **(Deleted by amendment.)**

Sec. 46.5. **The terms of the members of the Personnel Commission appointed by the Governor pursuant to paragraphs (a), (b) and (c) of subsection 2 of NRS 284.030 expire on June 30, 2009.**

Sec. 46.7. **As soon as practicable on or after July 1, 2009:**

1. The Governor shall appoint members to the Personnel Commission pursuant to paragraphs (a), (b) and (c) of subsection 1 of NRS 284.030, as amended by section 44.3 of this act.

2. The Majority Leader of the Senate shall appoint a member to the Personnel Commission pursuant to subsection 2 of NRS 284.030, as amended by section 44.3 of this act.

3. The Speaker of the Assembly shall appoint a member to the Personnel Commission pursuant to subsection 3 of NRS 284.030, as amended by section 44.3 of this act.

Sec. 47. **1.** This **section and section 46.5 of this act become effective upon passage and approval.**

2. Sections 1 to 46, inclusive, and 46.7 of this act ~~[becomes]~~ **become** effective on July 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 409.

Bill read second time.

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

Amendment No. 536.

AN ACT relating to public employees; requiring the Local Government Employee-Management Relations Board to conduct certain hearings using certain hearing officers; revising provisions governing the appointment of

members to the Board; ~~[eliminating the Board's authority to appoint certain officers;]~~ revising the periods within which the Board must hear and decide certain complaints; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Local Government Employee-Management Relations Board has exclusive jurisdiction to hear and determine complaints brought by local government employers, local government employees or employee organizations concerning various aspects of collective bargaining. (NRS 288.110) The Board also has jurisdiction to consider appeals filed by employee organizations that are aggrieved by the determinations of local government employers concerning which employee groups may constitute bargaining units for purposes of collective bargaining. (NRS 288.170) **Section 3** of this bill requires the Board to conduct the proceedings concerning such complaints or appeals using **a** hearing ~~[officers assigned by the Hearings Division of the Department of Administration.]~~ **officer selected by the parties from a list of arbitrators obtained from the Federal Mediation and Conciliation Service or by appointing the Commissioner of the Board to serve as hearing officer. Section 4** of this bill requires a hearing officer to prepare and submit to the Board a record of the proceedings concerning the complaint or appeal and to include in the record **findings of fact, proposed conclusions of law and** a proposed decision or order. **Section 5** of this bill requires the Board to issue its final decision or order upon the completion of its review of the record submitted by the hearing ~~[officers.]~~ **officer. Section 11** of this bill requires the Board to issue its final decision not later than 1 year after the filing of a complaint if the matter is heard by a hearing officer and not later than 180 days after the filing of a complaint if the Board **hears the complaint in the absence of an evidentiary hearing or** decides a contested matter without a hearing. (NRS 288.110)

Under existing law, the Board may not consider any complaint or appeal that is filed more than 6 months after the occurrence which is the subject of the complaint or appeal. (NRS 288.110) **Section 11** of this bill reduces this period to 180 days.

Section 7 of this bill requires that ~~[the final]~~ **each** decision or order of the Board in any complaint or appeal must be consistent with the decisions or orders previously issued by the Board in similar cases unless the Board includes in ~~[a final]~~ **the** decision or order an analysis of each previous case that has been cited to the Board which establishes that the decision or order issued in that case is erroneous or is inapposite to or distinguishable from the decision or order in the complaint or appeal at issue.

Section 7.5 of this bill requires the Board to charge and collect a fee, not to exceed $200, for the filing of a complaint or appeal with the Board or for the filing of any other pleading that constitutes the initial appearance of a party in such a proceeding.

Under existing law, the Local Government Employee-Management Relations Board consists of three members who are appointed by the Governor. (NRS 288.080) **Section 9** of this bill provides that the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall each appoint one member of the Board.

~~[Section 10 of this bill eliminates the Board's authority under existing law to employ a Commissioner and a Secretary. (NRS 288.090) Sections 13-18 of this bill eliminate various references to the Commissioner. (NRS 288.034, 288.190, 288.200, 288.201, 288.202, 288.203)]~~

Section 10.5 of this bill increases the salary that a member of the Board is entitled to receive from a maximum of $80 to a maximum of $150 for each day in which he is engaged in the business of the Board.

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

Section 1. Chapter 288 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[7,]~~ **7.5,** inclusive, of this act.

Sec. 2. ~~[*"Hearing officer" means a hearing officer, appeals officer or special appeals officer assigned by the Chief of the Hearings Division of the Department of Administration to conduct hearings in contested matters on behalf of the Board.*]~~ **(Deleted by amendment.)**

Sec. 3. ***1.*** ~~*[Except as otherwise provided in subsection 5 of NRS 288.110, if]*~~ ***If the Board decides to hear and determine any complaint or appeal filed with the Board pursuant to this chapter*** ~~*[,]*~~ ***that requires the taking of testimony or other evidence, the Board shall*** ~~*[request that the Chief of the Hearings Division of the Department of Administration assign]*~~ ***appoint a hearing officer to conduct the proceedings concerning the complaint or appeal on behalf of the Board.*** ~~*[The Board shall include in its request a short and plain statement of the matters at issue.*~~

~~*2. The Chief of the Hearings Division of the Department of Administration shall assign a hearing officer within 30 days after he receives the request.*~~

~~*3. A hearing officer assigned pursuant to this section must be an attorney admitted to practice in this State.*~~

~~*4. The Board shall, within the limits of legislative appropriations, reimburse the Department of Administration for the services of a hearing officer at a rate not to exceed $100 per hour.]*~~

2. Except as otherwise provided in this section, the Board shall appoint as its hearing officer the person selected by the parties from a list of seven arbitrators obtained from the Federal Mediation and Conciliation Service. The parties shall alternately strike one name from the list until the name of only one person remains. The parties must determine by the toss of a coin which party will strike the first name. Each party shall pay one-half of the fee charged by the hearing officer appointed pursuant to this subsection.

3. The Board shall appoint the Commissioner to act as the hearing officer for a complaint or appeal if both parties request the appointment.

4. The Board may appoint the Commissioner to act as the hearing officer for a complaint or appeal at the request of one party if the party demonstrates to the satisfaction of the Board that the payment of the party's share of a fee charged by a hearing officer appointed by the Board pursuant to subsection 2 is likely to impose an undue financial burden or hardship on the party. In determining whether to appoint the Commissioner to act as a hearing officer, the Board shall consider the complexity of the matters in dispute that are likely to affect the amount of the fee charged by a hearing officer appointed pursuant to subsection 2 and any factor that is relevant to the party's ability to pay the fee, including, without limitation, the size or membership of the party, its financial resources, and any budgetary or other financial constraints.

Sec. 4. ***1.*** ~~*[The Board shall, upon the assignment of a hearing officer:*~~

~~*(a) Notify the parties to the complaint or appeal of his assignment; and*~~

~~*(b) Submit to the hearing officer the original complaint or appeal filed with the Board and any other pleadings, correspondence and other documents concerning the complaint or appeal that are in the Board's possession.*~~

~~*2. The]*~~ ***A hearing officer appointed by the Board shall:***

(a) Conduct the proceedings concerning the complaint or appeal on behalf of the Board in accordance with the procedures established by this chapter, chapter 233B of NRS and any other applicable statutes and regulations;

(b) Commence the hearing on the complaint or appeal within 60 days after his ~~*[assignment; and]*~~ ***appointment;***

(c) Prepare findings of fact and proposed conclusions of law on every material issue, based on the evidence and arguments presented to him and shall prepare a proposed order or decision consistent with his findings and conclusions, the provisions of this chapter and the regulations of the Board and any relevant prior order or decision of the Board; and

(d) Prepare , provide to each party and submit to the Board for its review the record of the proceedings not later than 60 days after the conclusion of the hearing. The record must comply with NRS 233B.121 and include, without limitation, findings of fact, proposed conclusions of law and a proposed decision or order that complies with NRS 233B.125. Each party shall pay one-half of the cost to prepare the record, including, without limitation, the cost to prepare a transcript of any oral proceedings.

~~*[3.]*~~ ***2. A party to any complaint or appeal is entitled to be represented at any hearing conducted pursuant to this section by counsel, by an elected or appointed representative of the party, or both. A nonattorney representative of an employee organization must be a member of the organization.***

Sec. 5. ***1. The Board shall review the record of the proceedings in any complaint or appeal submitted to it by a hearing officer, including, without limitation, the proposed decision or order of the hearing officer. In conducting its review of the proposed decision or order, the Board:***

(a) Shall confine its review to the record submitted by the hearing officer. If the Board determines, on its own motion or on the motion of any party, that additional evidence must be taken on any issue, the Board shall remand the matter to the hearing officer.

(b) May not substitute its judgment for that of the hearing officer as to any finding of fact that is supported by substantial evidence.

2. Upon completion of its review, the Board may:

(a) Approve the proposed decision or order of the hearing officer, with or without modification; or

(b) Reject the proposed decision or order and remand the complaint or appeal to the hearing officer for further proceedings.

3. If the Board modifies or rejects the proposed decision or order of the hearing officer, including, without limitation, any finding of fact or proposed conclusion of law separately stated therein, the Board must fully set forth in its final decision or order the factual and legal basis for its modification [.] or rejection.

4. The Board shall issue its final decision or order in any complaint or appeal not later than 60 days after it receives the completed record from the hearing officer.

Sec. 6. ***Except as otherwise provided in subsection 4 of NRS 288.110 or specifically ordered by the Board, the parties to any proceeding may by stipulation waive any limitation of time set forth in NRS 288.110 and sections [3,] 4 and 5 of this act.***

Sec. 7. ***[The final] Each decision or order of the Board in any complaint or appeal must be consistent with the decisions or orders previously issued by the Board in similar cases unless the Board includes in [a final] the decision or order an analysis of each previous case that has been cited to the Board which establishes that the decision or order issued in that case is erroneous or is inapposite to or distinguishable from the decision or order in the case at issue.***

Sec. 7.5. 1. Except as otherwise provided in this section, the Board shall charge and collect a fee, not to exceed $200, for the filing of a complaint or appeal with the Board or for the filing of any other pleading that constitutes the initial appearance of a party in such a proceeding. The Board shall establish the amount of the fee by regulation.

2. The Board may, at the request of a party, waive the filing fee if payment of the fee would cause a financial hardship to a party or would be otherwise inconsistent with the purposes of this chapter.

3. All fees and other money received by the Board pursuant to the provisions of this chapter must be deposited in banks, credit unions or savings and loan associations in the State of Nevada and expended solely

for the purposes of this chapter. The money so deposited does not revert to the State General Fund.

Sec. 8. ~~[NRS 288.020 is hereby amended to read as follows:~~

~~288.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 288.025 to 288.075, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 9. NRS 288.080 is hereby amended to read as follows:

288.080 1. The Local Government Employee-Management Relations Board is hereby created, consisting of three members, broadly representative of the public and not closely allied with any employee organization or local government employer, not more than two of whom may be members of the same political party. ***Each member of the Board must, at the time of his appointment, have at least 5 years of experience in the field of labor-management relations.***

2. The term of office of each member is 4 years ~~[.~~

~~2.]~~ ***, but a member shall continue to serve after the expiration of his term until his successor is appointed.*** ~~*[A member of the Board may not serve more than 2 terms.]*~~

3. The Governor ***, the Majority Leader of the Senate and the Speaker of the Assembly*** shall ***each*** appoint ~~[the members]~~ ***one member*** of the Board.

Sec. 10. NRS 288.090 is hereby amended to read as follows:

288.090 1. The members of the Board shall annually elect one of their number as Chairman and one as Vice Chairman. Any two members of the Board constitute a quorum.

2. The Board may, within the limits of legislative appropriations :

(a) Appoint a Commissioner and a Secretary, who ~~[shall]~~ ***must*** be in the unclassified service of the State; and

(b) Employ such additional ~~*[, employ such]*~~ clerical personnel as may be necessary, who ~~[shall]~~ ***must*** be in the classified service of the State.

3. The Commissioner must, at the time of his appointment, have at least 3 years of experience in the field of labor-management relations.

Sec. 10.5. **NRS 288.100 is hereby amended to read as follows:**

288.100 1. Each member of the Board is entitled to receive a salary of not more than ~~[$80,]~~ ***$150,*** as fixed by the Board, for each day in which he is engaged in the business of the Board.

2. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 11. NRS 288.110 is hereby amended to read as follows:

288.110 1. The Board may make rules governing:

(a) Proceedings before it;

(b) Procedures for fact-finding;

(c) The recognition of employee organizations; and

(d) The determination of bargaining units.

2. The Board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer, local government employee or employee organization. ~~[The Board shall conduct a hearing within 90 days after it decides to hear a complaint.]~~ The Board, after a hearing ~~, [conducted pursuant to section 4 of this act,]~~ if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by that action. The Board shall issue its decision within ~~[120 days]~~ ***180 days after the filing of the complaint unless the Board appoints a hearing officer pursuant to section 3 of this act to conduct an evidentiary hearing, in which case the Board shall issue its decision within 1 year*** after the ~~[hearing on]~~ ***filing of*** the complaint ***.*** ~~[is completed.]~~

3. Any party aggrieved by the failure of any person to obey an order of the Board issued pursuant to subsection 2, or the Board at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.

4. The Board may not consider any complaint or appeal filed more than ~~[6 months]~~ ***180 days*** after the occurrence which is the subject of the complaint or appeal.

5. The Board may decide without a hearing a contested matter:

(a) In which all of the legal issues have been previously decided by the Board, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

➥ ***The Board shall issue its decision within 180 days after the filing of the complaint or appeal in the contested matter.***

6. The Board may award reasonable costs, which may include attorneys' fees, to the prevailing party.

Sec. 12. NRS 288.120 is hereby amended to read as follows:

288.120 1. For the purpose of hearing and deciding appeals or complaints, the Board ***, and a hearing officer on behalf of the Board,*** may issue subpoenas requiring the attendance of witnesses before ~~[it,]~~ ***the Board or hearing officer,*** together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.

2. The district court in and for the county in which any hearing is being conducted by the Board ***or hearing officer*** may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Board ~~[.]~~ ***or hearing officer.***

3. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the Board ***or hearing officer*** may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Board ***or hearing officer*** in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

➥ and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the Board ~~[.]~~ ***or hearing officer.***

4. The court, upon petition of the Board ~~[,]~~ ***or hearing officer,*** shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the Board ~~[.]~~ ***or hearing officer.*** A certified copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the Board ~~[,]~~ ***or hearing officer,*** the court shall thereupon enter an order that the witness appear before the Board ***or hearing officer*** at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

Sec. 13. ~~[~~NRS 288.190 is hereby amended to read as follows:

288.190 ~~Except in cases to which NRS 288.205 and 288.215 apply:~~

~~1. Anytime before March 1, the dispute may be submitted to a mediator, if both parties agree. Anytime after March 1, either party involved in negotiations may request a mediator. If the parties do not agree upon a mediator, the [~~Commissioner~~] ***Board*** shall submit to the parties a list of seven potential mediators. The parties shall select their mediator from the list by alternately striking one name until the name of only one mediator remains, who will be the mediator to hear the dispute. The employee organization shall strike the first name.~~

~~2. If mediation is agreed to or requested pursuant to subsection 1, the mediator must be selected at the time the parties agree upon a mediator or, if the parties do not agree upon a mediator, within 5 days after the parties receive the list of potential mediators from the [~~Commissioner.~~] ***Board.***~~

~~3. The mediator shall bring the parties together as soon as possible and, unless otherwise agreed upon by the parties, attempt to settle the dispute within 30 days after being notified of his selection as mediator. He may establish the times and dates for meetings and compel the parties to attend but has no power to compel the parties to agree.~~

~~4. The local government employer and employee organization each shall pay one-half of the cost of mediation. Each party shall pay its own costs of preparation and presentation of its case in mediation.~~

~~5. If the dispute is submitted to a mediator and then submitted to a fact finder, the mediator shall, within 15 days after the last meeting between the~~

~~parties, give to the [~~Commissioner of the~~] Board a report of the efforts made to settle the dispute.]~~ **(Deleted by amendment.)**

Sec. 14. ~~[NRS 288.200 is hereby amended to read as follows:~~

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

~~1. If:~~

~~(a) The parties have participated in mediation and by April 1, have not reached agreement; or~~

~~(b) The bargaining unit represented by the employee organization contains fewer than 30 persons,~~

~~→ either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact-finder for his findings and recommendations. His findings and recommendations are not binding on the parties except as provided in subsections 5, 6 and 9. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.~~

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

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

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

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

~~6. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 9 are to be final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the [~~Commissioner of the~~] Board. Each panel shall, when~~

~~making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact finding between these parties, the best interests of the State and all its citizens, the potential fiscal effect both within and outside the political subdivision, and any danger to the safety of the people of the State or a political subdivision.~~

~~7. Except as otherwise provided in subsection 8, any fact finder, whether his recommendations are to be binding or not, shall base his recommendations or award on the following criteria:~~

~~(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.~~

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

~~➥ The fact finder's report must contain the facts upon which he based his determination of financial ability to grant monetary benefits and his recommendations or award.~~

~~8. Any sum of money which is maintained in a fund whose balance is required by law to be:~~

~~(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or~~

~~(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,~~

~~➥ must not be counted in determining the financial ability of a local government employer and must not be used to pay any monetary benefits recommended or awarded by the fact finder.~~

~~9. The issues which may be included in a panel's order pursuant to subsection 6 are:~~

~~(a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that year by an existing collective bargaining agreement between the parties; and~~

~~(b) Those which an existing collective bargaining agreement between the parties makes subject to negotiation in that year.~~

~~➥ This subsection does not preclude the voluntary submission of other issues by the parties pursuant to subsection 5.~~**]** **(Deleted by amendment.)**

Sec. 15. ~~[NRS 288.201 is hereby amended to read as follows:~~

~~288.201 Any request for the formation of a panel to determine whether the findings and recommendations of a fact finder must be final and binding must be filed with the~~ **[**~~Commissioner.~~**]** ***Board.*** ~~The request must include:~~

~~1. A list of the issues which remain unresolved and the position of each party regarding those issues;~~

~~2. The requester's assessment of the fiscal effect on the local government of the requester's positions;~~

~~3. An outline of any previous fact-finding between the parties, which includes any recommendations and awards of a fact finder and the actions of each party in response thereto;~~

~~4. A statement of whether the parties engaged in mediation regarding the current dispute;~~

~~5. A schedule of the dates and times set by the fact finder for the hearing; and~~

~~6. Any other information deemed necessary by the~~ **[**~~Commissioner.~~**]** ***Board.***

~~The person filing such a request shall give written notice of the request to the Nevada State Board of Accountancy and the State Bar of Nevada.~~**]** **(Deleted by amendment.)**

Sec. 16. **[**~~NRS 288.202 is hereby amended to read as follows:~~

~~288.202 1. Within 5 days after receiving notice of such a request, the Nevada State Board of Accountancy and the State Bar of Nevada shall each submit to the~~ **[**~~Commissioner~~**]** ***Board*** ~~and each party to the dispute a list of names of five of their members who would serve on a panel and are not closely allied with any employee association or local government employer.~~

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

~~3. Within 5 days after receiving notice of their selection, the attorney and accountant shall:~~

~~(a) Choose the third member of the panel, who must:~~

~~(1) Be willing to serve on the panel;~~

~~(2) Be a resident of this State; and~~

~~(3) Not be closely allied with any employee organization or local government employer.~~

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

~~4. [The Commissioner shall serve as a nonvoting member and also] *The members of the panel shall elect one of the members to serve* as the chairman of the panel.~~

~~5. If the accountant or attorney selected to serve on the panel is unable to do so, the Nevada State Board of Accountancy or State Bar of Nevada shall designate a person to replace its nominee. If the person selected by the accountant and attorney is unable to serve, they shall designate a person to replace him. [If the Commissioner is unable to serve, the Governor shall designate a person to serve in his capacity.]]~~ **(Deleted by amendment.)**

Sec. 17. ~~[NRS 288.203 is hereby amended to read as follows:~~

~~288.203 1. Each person [, except the Commissioner,] who serves on a panel formed pursuant to NRS 288.201 is entitled to receive as compensation:~~

~~(a) One hundred fifty dollars for each day he is engaged in the business of the panel; and~~

~~(b) The per diem allowance and travel expenses provided for state officers and employees generally.~~

~~2. All claims which arise pursuant to this section must be paid from the reserve for Statutory Contingency Account upon approval by the [Commissioner] *Board* and the State Board of Examiners.]~~ **(Deleted by amendment.)**

Sec. 18. ~~[NRS 288.034 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 19. Notwithstanding the provisions of NRS 288.080, as amended by section 9 of this act:

1. The term of office of a member of the Local Government Employee-Management Relations Board who is serving in that capacity on June 30, 2009, ends on that date.

2. As soon as practicable after the effective date of this act:

(a) The Governor shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2011.

(b) The Majority Leader of the Senate shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2012.

(c) The Speaker of the Assembly shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2013.

~~[3. A person who has served as a member of the Local Government Employee-Management Relations Board on or after February 2, 2009, and on or before June 30, 2009, may not be appointed to the Board.]~~

Sec. 20. The provisions of sections 2 to ~~[7,]~~ **7.5,** inclusive, of this act and the amendatory provisions of section 11 of this act do not apply to any complaint or appeal that was filed with the Board before the effective date of this act except to the extent that the parties, with the consent of the Board, may agree to their application.

Sec. 21. This act becomes effective upon passage and approval.

~~[~~

~~TEXT OF REPEALED SECTION~~

~~288.034 "Commissioner" defined. "Commissioner" means the Commissioner appointed by the Board.]~~

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Bobzien moved that Assembly Bill No. 409, upon return from the printer, be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 442.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 545.

AN ACT relating to lobbying; ~~[prohibiting]~~ **requiring** an entity of the Executive, Legislative or Judicial Department of State Government, and local governments, ~~[from expending money for]~~ **to prepare certain reports concerning** lobbying activities; ~~[prohibiting certain persons from receiving compensation or reimbursement for engaging in lobbying activities; prohibiting a person from expending money from a legislative appropriation or authorization for lobbying activities; providing a penalty;]~~ **establishing certain requirements for contracts for lobbying services; requiring the Board of Regents of the University of Nevada to approve certain contracts for lobbying services;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill ~~[prohibits]~~ **requires** an agency, board, bureau, commission, department, division, institution, officer or employee of the Executive Department, the Legislative Department or the Judicial Department of State Government ~~[from compensating or reimbursing]~~ **that compensates or reimburses** a person to act as a lobbyist **, ~~[or making]~~ makes** an expenditure in connection with lobbying activities that must be reported pursuant to existing law **~~[. (NRS 218.926)]~~ or expends any money in connection with federal lobbying activities to periodically prepare reports concerning all lobbying activities undertaken by or on behalf of the entity. Section 2** of this bill extends the same ~~[prohibitions]~~ **requirements** to local governments.

~~[**Section 5** of this bill prohibits employees of the Legislative Branch and members, officers and employees of the Judicial and Executive Branches of the State Government, and local governments, from receiving compensation or reimbursement for engaging in lobbying activities. **Section 5** also prohibits a person from using money from a legislative appropriation or authorization to compensate or reimburse a person for acting as a lobbyist or to make an expenditure in connection with lobbying activities that must be reported pursuant to existing law. (NRS 218.942)]~~

Section 6 of this bill provides that contracts for lobbying services must: (1) specify whether the lobbying services are for state or federal lobbying activities, or both; (2) require the lobbyist to disclose the identities of his other clients and the existence of any actual or potential conflicts of interest; and (3) provide for the adjudication of disputes concerning actual conflicts of interest.

Section 7 of this bill requires the Board of Regents of the University of Nevada to approve any contract for lobbying services for the Nevada System of Higher Education or any component thereof.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An entity of State Government ~~[shall not,]~~ that directly or indirectly:

(a) ~~[Compensate or reimburse]~~ Compensates or reimburses a person for acting as a lobbyist; ~~[or]~~

(b) ~~[Make]~~ Makes an expenditure in connection with lobbying activities that must be reported pursuant to NRS 218.926 ~~[.]~~ ; or

(c) Expends any money in connection with any federal lobbying activity,
➥ shall, at least quarterly, prepare a report concerning all lobbying activity undertaken by or on behalf of the entity. During a regular session of the Legislature, the entity shall prepare the report at least monthly.

2. The entity of State Government shall:

(a) Present each report to its governing body, if any, at a regular or special meeting of the governing body that is open to the public; and

(b) On or before January 15 of each year, submit a copy of each report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

3. As used in this section:

(a) "Entity of State Government" includes, without limitation, an agency, board, bureau, commission, department, division, institution, officer or employee of the Executive Department, including, without limitation, the Nevada System of Higher Education and the Public Employees' Retirement System, the Legislative Department or the Judicial Department of State Government.

(b) "Expenditure" has the meaning ascribed to it in NRS 218.906.

(c) "Federal lobbying activity" means any activity that is intended to influence or attempts to influence an officer or employee of any agency of the Federal Government, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with an existing or proposed federal action or program.

(d) "Lobbyist" has the meaning ascribed to it in NRS 218.912.

Sec. 2. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An entity of local government [shall not,] that directly or indirectly:

(a) [Compensate or reimburse] Compensates or reimburses a person for acting as a lobbyist; [or]

(b) [Make] Makes an expenditure in connection with lobbying activities that must be reported pursuant to NRS 218.926 [.] ; or

(c) Expends any money in connection with any federal lobbying activity,

➥ shall, at least quarterly, prepare a report concerning all lobbying activity undertaken by or on behalf of the entity. During a regular session of the Legislature, the entity shall prepare the report at least monthly.

2. The entity of local government shall:

(a) Present each report to its governing body, if any, at a regular or special meeting of the governing body that is open to the public; and

(b) On or before January 15 of each year, submit a copy of each report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

3. As used in this section:

(a) "Entity of local government" includes, without limitation, an agency, board, bureau, commission, department, division, institution, officer or employee of a local government.

(b) "Expenditure" has the meaning ascribed to it in NRS 218.906.

(c) "Federal lobbying activity" has the meaning ascribed to it in section 1 of this act.

(d) "Lobbyist" has the meaning ascribed to it in NRS 218.912.

[(d)] (e) "Local government" means any political subdivision of this State, including, without limitation, any county, city, town, board, airport authority, regional transportation commission, fire protection district, irrigation district, school district or other special district that performs a governmental function.

Sec. 3. ~~[~~NRS 354.59803 is hereby amended to read as follows:

~~354.59803 1. In each year in which the Legislature convenes, a local government which expends more than $6,000 on activities designed to influence the passage or defeat of any legislation shall file with the Department of Taxation within 30 days after the close of the legislative session a report supplemental to its final budget which includes separate items for expenses relating to that activity, including, without limitation:~~

~~(a) Transportation.~~

~~(b) The amount of money spent on:~~

~~(1) The lodging and meals of its officers~~ **[**~~, lobbyists~~**]** ~~and employees;~~ ***and***

~~(2) The salary or wages paid to its officers and employees~~ **.[**~~; and~~

~~(3) Compensation paid to any lobbyists, to the extent that such information does not duplicate the information required pursuant to subparagraphs (1) and (2).~~

~~(c) The amount of money spent on entertainment, gifts or other expenses which are required to be reported pursuant to NRS 218.900 to 218.944, inclusive.~~

~~(d)~~**]** ~~***(c)*** The amount of money spent in Carson City on supplies, equipment and facilities and other personnel and services needed to support the activity.~~

[~~(e)~~**]** ~~***(d)*** An identification of the fund, account or other source against which the expenses were charged.~~

~~2. The local government shall make a copy of the supplemental report available for inspection within 30 days after the close of the legislative session.~~**] (Deleted by amendment.)**

Sec. 4. **[**~~NRS 218.912 is hereby amended to read as follows:~~

~~218.912 1. "Lobbyist" means, except as limited by subsection 2, a person who:~~

~~(a) Appears in person in the legislative building or any other building in which the Legislature or any of its standing committees hold meetings; and~~

~~(b) Communicates directly with a member of the Legislative Branch on behalf of someone other than himself to influence legislative action whether or not any compensation is received for the communication.~~

~~2. "Lobbyist" does not include:~~

~~(a) Persons who confine their activities to formal appearances before legislative committees and who clearly identify themselves and the interest or interests for whom they are testifying.~~

~~(b) Employees of a bona fide news medium who meet the definition of "lobbyist" only in the course of their professional duties and who contact members of the Legislature for the sole purpose of carrying out their news gathering function.~~

~~(c) Employees of departments, divisions or agencies of the state~~ ***or a local*** ~~government who appear before legislative committees only to explain the effect of legislation related to their departments, divisions or agencies.~~

~~(d)~~ ***Legislators.***

~~***(e)*** Employees of the Legislature,~~ **[**~~Legislators,~~**]** ~~legislative agencies or legislative commissions~~ **[**~~.~~

~~(e)~~**]** ~~***who appear before legislative committees only to explain the effect of legislation.***

~~***(f)*** Elected~~ ***or appointed*** ~~officers of this State and its political subdivisions who confine their lobbying activities to~~ ***appearing before legislative committees concerning*** ~~issues directly related to the scope of the office to which they were elected~~ **[**~~.~~

~~(f)~~ ~~]~~ ***or appointed.***

~~***(g)*** Persons who contact the members of the Legislature who are elected from the district in which they reside.~~] **(Deleted by amendment.)**

Sec. 5. ~~[~~NRS 218.942 is hereby amended to read as follows:~~**]**~~

~~218.942 1. A lobbyist shall not knowingly or willfully make any false statement or misrepresentation of facts:~~

~~(a) To any member of the Legislative Branch in an effort to persuade or influence him in his official actions.~~

~~(b) In a registration statement or report concerning lobbying activities filed with the Director.~~

~~2. A lobbyist shall not give to a member of the Legislative Branch or a member of his staff or immediate family gifts that exceed $100 in value in the aggregate in any calendar year.~~

~~3. A member of the Legislative Branch or a member of his staff or immediate family shall not solicit anything of value from a registrant or accept any gift that exceeds $100 in aggregate value in any calendar year.~~

~~4. A person who employs or uses a lobbyist shall not make that lobbyist's compensation or reimbursement contingent in any manner upon the outcome of any legislative action.~~

~~5. Except during the period permitted by NRS 218.918, a person shall not knowingly act as a lobbyist without being registered as required by that section.~~

~~6. [~~Except as otherwise provided in subsection 7, a member~~]~~ ~~***An employee*** of the Legislative ***Branch and a member, officer or employee of the Judicial*** or Executive Branch of the State Government and an ~~[~~elected~~]~~ officer or employee of a political subdivision shall not receive compensation or reimbursement ~~[~~other than from the State or the political subdivision~~]~~ for personally engaging in lobbying.~~

~~7. [~~An elected officer or employee of a political subdivision may receive compensation or reimbursement from any organization whose membership consists of elected or appointed public officers.~~

~~8.]~~ ~~A lobbyist shall not instigate the introduction of any legislation for the purpose of obtaining employment to lobby in opposition thereto.~~

~~[~~9.~~]~~ ~~***8.*** A lobbyist shall not make, commit to make or offer to make a monetary contribution to a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-elect, the Governor or the Governor-elect during the period beginning:~~

~~(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;~~

~~(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or~~

~~(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.~~

~~*9. A person shall not, directly or indirectly, use money from a legislative appropriation or authorization to:*~~

~~*(a) Compensate or reimburse a person for acting as a lobbyist; or*~~

~~*(b) Make an expenditure in connection with lobbying activities that must be reported pursuant to NRS 218.926.]*~~ **(Deleted by amendment.)**

Sec. 6. **Chapter 334 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A contract entered into between a governmental entity and a lobbyist for the provision of lobbying services must:

(a) Specify whether the lobbying services will include state lobbying activities, federal lobbying activities, or both state and federal lobbying activities.

(b) Require the lobbyist to disclose to the governmental entity the identity of each client represented by the lobbyist and the existence of any actual or potential conflicts of interest that may arise from his representation of those clients; and

(c) Provide for the adjudication of any dispute between the governmental entity and the lobbyist should an actual conflict of interest arise.

2. As used in this section:

(a) "Federal lobbying activity" has the meaning ascribed to it in section 1 of this act.

(b) "Lobbyist" has the meaning ascribed to it in NRS 218.912 and includes a person who engages in federal lobbying activity.

Sec. 7. **Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A contract for lobbying services for the System, or a facility, branch or institution thereof, must be approved by the Board of Regents at a regular or special meeting.

2. The Board of Regents must, before it approves a contract for lobbying services, consider and disclose during the meeting the total amount of money committed for all contracts for lobbying services entered into by the System, or a facility, branch or institution thereof.

3. As used in this section, "contract for lobbying services" means a contract that is subject to the provisions of section 6 of this act.

~~[Sec. 6.]~~ ***Sec. 8.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 496.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 338.

AN ACT relating to the Commission on Judicial Discipline; revising the statute of limitations for filing certain complaints with the Commission; revising provisions concerning the grounds upon which the Commission may discipline a judge; authorizing the Commission to impose additional forms of discipline upon a judge who is the subject of a complaint; revising certain provisions concerning the confidentiality of the proceedings of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines certain terms used in certain provisions of chapter 1 of NRS which relate to the Commission on Judicial Discipline. (NRS 1.425-1.429) **Sections ~~[2]~~ 1.5-9, 16 and 17** of this bill revise certain definitions and define additional terms that are used in those provisions.

Section 13 of this bill requires the Commission to prepare annual and biennial reports concerning, among other things, the disposition of cases filed with the Commission.

Sections 21, 22, 26 and 27 of this bill authorize the Commission to dismiss a complaint with a letter of caution under certain circumstances. (NRS 1.4655, 1.4657, 1.4667, 1.467)

Section 21 of this bill provides, with exceptions, a 3-year statute of limitations for filing a complaint with the Commission concerning alleged misconduct or incapacity of a judge. **Section 21** also requires the Commission, within 18 months after the receipt of such a complaint, to either resolve the complaint or authorize the filing of a formal statement of charges relating to the complaint. (NRS 1.4655) **Section 27** of this bill requires a judge to file an answer to a formal statement of charges against the judge with the Commission within 20 days after the judge is served with the formal statement of charges. (NRS 1.467) **Section 28** of this bill generally requires a hearing on a formal statement of charges to be held **. Further, section 28 requires, if practicable, the hearing to be held** not later than 60 days after a judge files the answer with the Commission. (NRS 1.4673) **Section 28** also requires the Commission to prepare findings of fact and conclusions of law setting forth the decision of the Commission within 60 days after the conclusion of the hearing on the formal statement of charges. (NRS 1.4673)

Section 29 of this bill requires the Commission to give a judge 7 days' notice and an opportunity to respond and to hold a public hearing before the Commission suspends the judge from office. (NRS 1.4675)

Section 30 of this bill adds public admonishment and public reprimand to the existing forms of discipline the Commission is authorized to use for a judge who is the subject of a complaint. (NRS 1.4677) **Section 32** of this bill authorizes a person who files a complaint against a judge with the Commission, the judge who is the subject of the complaint or a witness to

disclose information concerning the complaint and any investigation or proceedings concerning the complaint. **Section 32** also authorizes the Commission to issue an explanatory statement, under certain circumstances, concerning a complaint filed with the Commission under certain circumstances in which the complaint is made public. (NRS 1.4683)

Section 33 of this bill revises provisions governing the documents and exhibits concerning a complaint which must be made accessible to the public.

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

Section 1. Chapter 1 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2]~~ 1.5 to 14, inclusive, of this act.

Sec. 1.5. ***"Admonish" means to issue a written expression of disapproval of a judge for one or more violations of the Nevada Code of Judicial Conduct by the judge as described in NRS 1.4653. The expression of disapproval may include a warning to the judge to avoid similar conduct in the future.***

Sec. 2. ***"Censure" means to issue a formal, written condemnation of a judge for one or more violations of the Nevada Code of Judicial Conduct by the judge as described in NRS 1.4653 that do not require ~~[suspension]~~ the removal or barring of the judge from office because there are substantial mitigating factors.***

Sec. 3. ***"Complaint" means information in any form and from any source that alleges or implies judicial misconduct or incapacity.***

Sec. 4. ***"Formal statement of charges" means a document ~~[issued by the Commission]~~ setting forth the specific acts of judicial misconduct or incapacity, including any amendment thereto.***

Sec. 5. ***"Letter of caution" means a private, written communication to a judge to:***

1. Remind the judge of ethical responsibilities;

2. Warn the judge to avoid similar conduct in the future; or

3. Disapprove of conduct that may create the appearance of impropriety.

Sec. 6. ***"Removal" ~~[or "remove"]~~ means a decision issued by the Commission to require a judge to permanently leave his judicial office for conduct described in NRS 1.4653.***

Sec. 6.5. ***"Remove" means to require a judge to permanently leave his judicial office for conduct described in NRS 1.4653.***

Sec. 7. ***"Reprimand" means a severe, written reproof for one or more violations of the Nevada Code of Judicial Conduct by a judge as described in NRS 1.4677.***

Sec. 8. ***"Special counsel" means the attorney designated by the Commission to:***

1. ~~[Direct the investigation of a complaint; and]~~ Present evidence at a hearing to suspend a judge held pursuant to NRS 1.4675;

2. File and prosecute a formal statement of charges ~~[.]~~ ; and

3. Perform other tasks, as directed by the Commission, pursuant to a designation authorized by NRS 1.4663.

Sec. 9. ***"Suspend" means a decision issued by the Commission to require a judge to temporarily leave his office for conduct described in NRS 1.4675.***

Sec. 10. ***1. Proceedings before the Commission are civil matters designed to preserve an independent and honorable judiciary.***

2. Except as otherwise provided in NRS 1.425 to 1.4695, inclusive, and sections ~~[2]~~ 1.5 to 14, inclusive, of this act or in the procedural rules adopted by the Commission, after a formal statement of charges has been filed, the Nevada Rules of Civil Procedure apply.

Sec. 11. ***1. Each appointing authority shall appoint for each position for which the authority makes an appointment to the Commission an alternate member . ~~[who is a resident from a different county than the appointed member.]~~ The Governor shall not appoint more than two alternate members of the same political party. An alternate member must not be a member of the Commission on Judicial Selection.***

2. An alternate member shall serve:

(a) When the appointed member is disqualified or unable to serve; or

(b) When a vacancy exists.

Sec. 12. ***The Commission shall adopt rules providing for the disposition of a complaint or formal statement of charges at any stage in a disciplinary proceeding, pursuant to:***

1. The consent of the judge who is the subject of the complaint; and

2. An agreement between the judge and the Commission.

Sec. 13. ***1. ~~[Within 3 months before the end]~~ On or before September 30 of each ~~[fiscal]~~ year, the Commission shall prepare an annual report summarizing the activities of the Commission during ~~[that]~~ the preceding fiscal year. The annual report must include, without limitation, information concerning the disposition of complaints and a statement of the budget and expenses of the Commission. The annual report must be made available to the public.***

2. ~~[Every 2 years,]~~ On or before September 30 of each odd-numbered year, the Commission shall prepare a biennial report summarizing the activities of the Commission during the preceding 2 fiscal years. The biennial report must include, without limitation, information concerning the disposition of complaints and a statement of the budget and expenses of the Commission. The Commission shall file a copy of the biennial report with the Governor, the Majority Leader of the Senate, the Speaker of the Assembly, the Chief Justice of the Supreme Court of Nevada, the Chairman of the Senate Standing Committee on Judiciary, the Chairman

of the Assembly Standing Committee on Judiciary and the State Bar of Nevada. The biennial report must be made available to the public.

3. The information included in the annual and biennial reports prepared pursuant to this section must comply with any applicable confidentiality requirements.

Sec. 14. ***1. The Commission may extend the limitations on time set forth in NRS 1.425 to 1.4695, inclusive, and sections [2] 1.5 to 14, inclusive, of this act for good cause shown.***

2. The limitations on time set forth in NRS 1.425 to 1.4695, inclusive, and sections [2] 1.5 to 14, inclusive, of this act must be computed in the same manner as in the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure and must not include:

(a) Periods of delay at the request of or attributable to a judge other than the judge who is the subject of a complaint;

(b) Short periods of delay that are the result of the period between scheduled meetings of the Commission;

(c) Periods in which the judge who is the subject of a complaint and the Executive Director of the Commission or special counsel are negotiating an agreement; or

(d) Periods when the Commission is holding a complaint in abeyance pending the disposition of a court case relating to the complaint.

3. The Commission shall not dismiss a complaint or a formal statement of charges for failure to comply with the limitations of time set forth in NRS 1.425 to 1.4695, inclusive, and sections [2] 1.5 to 14, inclusive, of this act unless the Commission determines such a delay is unreasonable and the rights of the judge to a fair hearing have been violated. The fact that an investigation has been conducted more than 24 months after the date the complaint was filed with the Commission is prima facie evidence of an unreasonable delay, which may be rebutted.

Sec. 15. NRS 1.425 is hereby amended to read as follows:

1.425 As used in NRS 1.425 to 1.4695, inclusive, ***and sections [2] 1.5 to 14, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 1.426 ~~[to 1.429, inclusive,]~~ ***, 1.427 and 1.428, and sections [2] 1.5 to 9, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 16. NRS 1.427 is hereby amended to read as follows:

1.427 "Incapacitated" means unable to perform the duties of ~~[his]~~ office because of advanced age or mental or physical disability.

Sec. 17. NRS 1.428 is hereby amended to read as follows:

1.428 "Judge" means:

1. ***A justice of the Supreme Court ;*** ~~*[of the State of Nevada;]*~~

2. A judge of the district court;

~~[2.]~~ ***3.*** A judge of the municipal court;

~~[3.]~~ ***4.*** A justice of the peace; and

~~[~~4.~~]~~ ***5.*** Any other officer of the Judicial Branch of this State, whether or not he is an attorney, who presides over judicial proceedings, including, but not limited to, a magistrate, court commissioner, special master or referee.

Sec. 18. NRS 1.440 is hereby amended to read as follows:

1.440 1. The Commission has exclusive jurisdiction over the ***public*** censure, removal, involuntary retirement and other discipline of judges which is coextensive with its jurisdiction over justices of the Supreme Court and must be exercised in the same manner and under the same rules.

2. The Supreme Court shall appoint two justices of the peace or two municipal judges to sit on the Commission for formal, public proceedings against a justice of the peace or a municipal judge, respectively. Justices of the peace and municipal judges so appointed must be designated by an order of the Supreme Court to sit for such proceedings in place of and to serve for the same terms as the regular members of the Commission appointed by the Supreme Court.

Sec. 19. NRS 1.465 is hereby amended to read as follows:

1.465 1. The following persons are absolutely immune from suit for all conduct at any time in the course of their official duties:

(a) Any member who serves on the Commission;

(b) Any person employed by the Commission;

(c) Any independent contractor of the Commission; and

(d) Any person who performs services pursuant to NRS 1.450 or 1.460 for the Commission.

2. ~~[~~The~~]~~ ***Except as otherwise provided in NRS 1.4683, the*** following persons are absolutely immune from suit unless convicted of committing perjury before the Commission pursuant to NRS 199.120 to 199.200, inclusive:

(a) A person who files a complaint with the Commission pursuant to NRS 1.4655; ~~[~~and~~]~~

(b) A person who gives testimony at a ~~[~~public~~]~~ hearing held by the Commission pursuant to NRS ~~[~~1.467.~~]~~ ***1.4673 or 1.4675 [.] ; and***

(c) A person who gives a statement to an investigator of the Commission during an authorized investigation.

Sec. 20. NRS 1.4653 is hereby amended to read as follows:

1.4653 1. The Commission may remove ~~[~~,~~]~~ ***a judge, publicly*** censure ***a judge*** or impose other forms of discipline on a ~~[~~justice or~~]~~ judge if the Commission determines that the ~~[~~justice or~~]~~ judge:

(a) Has committed willful misconduct;

(b) Has willfully or persistently failed to perform the duties of his office; or

(c) Is habitually intemperate.

2. The Commission may ***publicly*** censure ***a judge*** or impose other forms of discipline on a ~~[~~justice or~~]~~ judge if the Commission determines that the ~~[~~justice or~~]~~ judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate.

3. The Commission may retire a ~~[justice or]~~ judge if the Commission determines that:

(a) The advanced age of the ~~[justice or]~~ judge interferes with the proper performance of his judicial duties; or

(b) The ~~[justice or]~~ judge suffers from a mental or physical disability that prevents the proper performance of his judicial duties and is likely to be permanent in nature.

4. As used in this section:

(a) "Habitual intemperance" means the chronic, excessive use of alcohol or another substance that affects mental processes, awareness or judgment.

(b) "Willful misconduct" includes:

(1) Conviction of ~~[a felony or of a misdemeanor]~~ ***any crime*** involving moral turpitude;

(2) A knowing or deliberate violation of one or more of the provisions of the Nevada Code of Judicial Conduct; ***and***

(3) A knowing or deliberate act or omission in the performance of judicial or administrative duties that:

(I) Involves fraud or bad faith or amounts to a public offense; and

(II) Tends to corrupt or impair the administration of justice in a judicial proceeding ~~[; and~~ **.**

~~(4) Knowingly or deliberately swearing falsely in testimony before the Commission or in documents submitted under oath to the Commission.]~~

➥ ***The term does not include claims of error or abuse of discretion in findings of fact, legal decisions or procedural rulings unless supported by evidence of abuse of authority, a disregard for fundamental rights, an intentional disregard of the law, a pattern of legal error or an action taken for a purpose other than the faithful discharge of judicial duty.***

Sec. 21. NRS 1.4655 is hereby amended to read as follows:

1.4655 1. The Commission may begin an inquiry regarding the alleged misconduct or incapacity of a ~~[justice or]~~ judge upon the receipt of ~~[:~~

~~(a) A written, sworn complaint from any person which alleges that the justice or judge has committed misconduct or is incapacitated; or~~

~~(b) Information from any source and in any format, from which the Commission may reasonably infer that the justice or judge may have committed misconduct or be incapacitated.~~

~~2. For the purposes of further inquiry and action by the Commission, information described in paragraph (b) of subsection 1 shall be deemed to be a complaint upon motion of the Commission.]~~ ***a complaint.***

2. The Commission shall not consider complaints arising from acts or omissions that occurred more than 3 years before the date of the complaint or more than 1 year after the complainant knew or in the exercise of reasonable diligence should have known of the conduct, whichever is earlier, except that:

(a) Where there is a continuing course of conduct, the conduct will be deemed to have been committed at the termination of the course of conduct;

(b) Where there is a pattern of recurring judicial misconduct and at least one act occurs within the 3-year or 1-year period, as applicable, the Commission may consider all prior acts or omissions related to that pattern; and

(c) Any period in which the judge has concealed or conspired to conceal evidence of misconduct is not included in the computation of the time limit for the filing of a complaint pursuant to this section.

3. Within 18 months after the receipt of a complaint pursuant to this section, the Commission shall:

(a) Dismiss the complaint with or without a letter of caution;

(b) Attempt to resolve the complaint informally as required pursuant to NRS 1.4665;

(c) Enter into a deferred discipline agreement pursuant to NRS 1.468;

(d) With the consent of the judge, impose discipline on the judge pursuant to an agreement between the judge and the Commission; or

(e) Authorize the filing of a formal statement of the charges based on a finding that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action.

Sec. 22. NRS 1.4657 is hereby amended to read as follows:

1.4657 1. The Commission shall, in accordance with its procedural rules, examine each complaint that it receives ~~[pursuant to NRS 1.4655]~~ to determine whether the complaint ~~[contains allegations which, if true, would establish grounds for discipline pursuant to NRS 1.4653.]~~ ***alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated.***

2. If the Commission determines that a complaint does not contain such allegations, the Commission shall dismiss the complaint ~~[.]~~ ***with or without a letter of caution. A letter of caution is not a form of discipline. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the letter of caution is not relevant to the misconduct alleged in the subsequent complaint.***

3. If the Commission determines that a complaint does contain such allegations, the Commission shall authorize further investigation **.** ~~[to be conducted in accordance with NRS 1.4663.]~~

Sec. 23. NRS 1.466 is hereby amended to read as follows:

1.466 1. During any stage of a disciplinary proceeding, including, but not limited to, an investigation ~~[to determine probable cause]~~ ***pursuant to NRS 1.4663*** and a formal hearing, the Commission may issue a subpoena to compel the attendance or testimony of a witness or the production of any

relevant materials, including, but not limited to, books, papers, documents, records, photographs, recordings, reports and tangible objects.

2. If a witness refuses to attend, testify or produce materials as required by the subpoena, the Commission may, in accordance with its procedural rules, hold the witness in contempt and impose a reasonable penalty to enforce the subpoena.

3. If a witness continues to refuse to attend, testify or produce materials as required by the subpoena, the Commission may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials as required by the subpoena before the Commission, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend, testify or produce materials before the Commission.

4. Upon receipt of such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended, testified or produced materials before the Commission. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

Sec. 24. NRS 1.4663 is hereby amended to read as follows:

1.4663 1. If the Commission determines pursuant to NRS 1.4657 that a complaint ~~[contains allegations which, if true, would establish grounds for discipline pursuant to NRS 1.4653,]~~ ***alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated,*** the Commission shall assign or appoint an investigator to conduct an investigation to determine whether the allegations have merit. ***The Commission may designate special counsel at any time*** ~~*[during an investigation of a complaint.]*~~ ***after a complaint is filed with the Commission pursuant to NRS 1.4655.***

2. Such an investigation must be conducted in accordance with procedural rules adopted by the Commission and may extend to any matter that is, in the determination of the Commission, reasonably related to an allegation of misconduct or incapacity contained in the complaint.

3. An investigator assigned or appointed by the Commission to conduct an investigation pursuant to this section may, for the purpose of

investigation, compel by subpoena on behalf of the Commission the attendance of witnesses and the production of necessary materials as set forth in NRS 1.466.

4. At the conclusion of the investigation, the investigator shall prepare a written report of the investigation for review by the Commission.

Sec. 25. NRS 1.4665 is hereby amended to read as follows:

1.4665 1. ~~[If a]~~ ***Except as otherwise provided in this section or in the procedural rules adopted by the Commission, the Commission shall use the same procedures with respect to allegations of incapacity as it uses with respect to allegations of misconduct.***

2. The Commission shall attempt to resolve the following matters informally:

(a) A complaint received by the Commission ***which*** alleges that a ~~[justice or]~~ judge is incapacitated ~~[, the Commission shall, after examining the complaint and conducting an investigation pursuant to NRS 1.4657 and 1.4663, attempt to resolve the matter informally.]~~ ***;***

(b) A matter in which the preliminary investigation reveals that a judge may have a physical or mental disability; and

(c) A matter in which the judge raises a mental or physical disability as an issue before the filing of the formal statement of charges.

3. An informal resolution by the Commission pursuant to subsection 2 includes, without limitation:

(a) Voluntary retirement by the judge; and

(b) If the disability can be adequately addressed through treatment, a deferred discipline agreement pursuant to NRS 1.468.

4. In attempting to resolve ~~[the]~~ ***a*** matter informally, the Commission may request that the ~~[justice or]~~ judge named in the complaint submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.

~~[2.]~~ ***5.*** If the Commission is unable to resolve the matter informally pursuant to subsection ~~[1,]~~ ***2,*** the Commission shall:

(a) Proceed as set forth in NRS 1.4667, 1.467 and 1.4673. ~~[If the matter proceeds to the point at which the prosecuting attorney files a statement of formal charges pursuant to NRS 1.467 and the justice or judge named in the complaint denies all or part of those charges, the Commission shall deem such a denial to be consent on the part of the justice or judge to submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.]~~

(b) Unless the ~~[justice or]~~ judge has retained counsel at his own expense, appoint an attorney to represent the ~~[justice or]~~ judge at public expense.

6. If a judge raises a mental or physical disability as an affirmative defense or in mitigation, the judge shall be deemed to have consented to medical, psychiatric or psychological testing and to have waived the psychologist-patient privilege, doctor-patient privilege, marriage and family therapist-client privilege and social worker-client privilege set forth in

chapter 49 of NRS, as applicable. The Commission shall require the judge to produce his relevant medical records and to submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the judge. If the judge refuses to produce medical records or submit to an examination, the Commission shall preclude the judge from presenting the medical records or evidence of the results of medical examinations conducted on behalf of the judge and may consider the refusal as evidence that the judge has an incapacity that seriously interferes with the performance of judicial duties of the judge and is likely to become permanent, or as evidence contradicting the claim of a disability by the judge as an affirmative defense or mitigating factor.

7. If a judge raises a mental illness or other disability as a defense or mitigating factor in a proceeding alleging misconduct, the judge has the burden of proving by ~~[clear and convincing]~~ ***a preponderance of the evidence that:***

(a) He has a serious mental illness or other disability;

(b) The mental illness or other disability caused the misconduct;

(c) He has undergone or is undergoing treatment for the mental illness or other disability;

(d) The treatment has abated the cause of the misconduct; and

(e) The misconduct is not likely to recur.

~~[3.]~~ ***8.*** The findings of a physician ~~[appointed]~~ ***selected*** by the Commission pursuant to this section are not privileged communications.

~~[4.]~~ ***9.*** The provisions of this section do not prohibit a ~~[justice or]~~ judge from having legal counsel and a physician of his choice present at a medical, psychiatric or psychological examination conducted pursuant to this section.

~~[5.]~~ ***10.*** The Commission shall adopt procedural rules to carry out the provisions of this section.

Sec. 26. NRS 1.4667 is hereby amended to read as follows:

1.4667 ***1.*** The Commission shall review the report ~~[of an investigation conducted]~~ ***prepared*** pursuant to NRS 1.4663 to determine whether there is ~~[sufficient reason to proceed.]~~ ***a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against a judge.***

2. If the Commission determines that ~~[there is not sufficient reason to proceed,]~~ ***such a reasonable probability does not exist,*** the Commission shall dismiss the complaint ~~[.]~~ ***with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the caution is not relevant to the misconduct alleged in the subsequent complaint.***

3. If the Commission determines that ~~[it could, in all likelihood, make a determination in the affirmative pursuant to NRS 1.467,]~~ ***such a reasonable probability exists,*** the Commission shall require the ~~[justice or]~~ judge ~~[named in the complaint]~~ to respond to the complaint in accordance with procedural

rules adopted by the Commission. ~~[If the] [justice or] [judge fails to respond to the complaint, the Commission shall deem such failure to be an admission that the facts alleged in the complaint:]~~

~~[1.] *[(a) Are true; and]*~~

~~[2.] *[(b) Establish grounds for discipline pursuant to NRS 1.4653.]*~~

Sec. 27. NRS 1.467 is hereby amended to read as follows:

1.467 1. After ~~[the justice or]~~ ***a*** judge ~~[named in the complaint]~~ responds to the complaint ***as required*** pursuant to NRS 1.4667 ***,*** ~~[and after considering that response and other relevant information,]~~ the Commission shall make a finding of whether there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the ~~[justice or]~~ judge ***.*** ~~[named in the complaint pursuant to NRS 1.4653.]~~

2. If the Commission ~~[makes a finding]~~ ***finds*** that such a reasonable probability does not exist, the Commission shall dismiss the complaint ~~[.]~~ ***with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the caution is not relevant to the misconduct alleged in the subsequent complaint.***

3. If the Commission ~~[makes a finding]~~ ***finds*** that such a reasonable probability ~~[does exist,]~~ ***exists, but reasonably believes that the misconduct would be addressed more appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into a deferred discipline agreement with the judge for a definite period as described in NRS 1.468.***

4. The Commission shall not dismiss a complaint with a letter of caution or enter into a deferred discipline agreement with a judge if:

(a) The misconduct of the judge involves the misappropriation of money, dishonesty, deceit, fraud, misrepresentation or a crime that adversely reflects on the honesty, trustworthiness or fitness of the judge;

(b) The misconduct of the judge resulted or will likely result in substantial prejudice to a litigant or other person;

(c) The misconduct of the judge is part of a pattern of similar misconduct; or

(d) The misconduct of the judge is of the same nature as misconduct for which the judge has been publicly disciplined or which was the subject of a deferred discipline agreement entered into by the judge within the immediately preceding 5 years.

5. If the Commission finds that such a reasonable probability exists and that formal proceedings are warranted, the Commission shall, in accordance with its procedural rules ~~[:~~

~~(a) Designate a prosecuting attorney, who must]~~ ***, designate special counsel to*** sign under oath ***and file with the Commission*** a formal statement of charges against the ~~[justice or judge and file the statement with the Commission;~~

~~(b) Require that the justice or judge submit to the Commission an answer to the formal statement of charges; and~~

~~(c) Hold a formal, public hearing on the merits of the charges.~~

~~4.~~**]** ***judge.***

6. Within 20 days after service of the formal statement of charges, the judge shall file an answer with the Commission under oath. If the **[**~~justice or~~**]** judge fails to answer the formal statement of charges **[**~~pursuant to subsection 3,~~**]** ***within that period,*** the Commission shall deem such failure to be an admission that the charges set forth in the formal statement:

(a) Are true; and

(b) Establish grounds for discipline pursuant to NRS 1.4653.

7. The Commission shall adopt rules regarding disclosure and discovery after the filing of a formal statement of charges.

8. By leave of the Commission, a statement of formal charges may be amended at any time, before the close of the hearing, to allege additional matters discovered in a subsequent investigation or to conform to proof presented at the hearing if the judge has adequate time, as determined by the Commission, to prepare a defense.

Sec. 28. NRS 1.4673 is hereby amended to read as follows:

1.4673 **[**~~After holding a formal hearing on the merits of the charges filed pursuant to NRS 1.467, the Commission shall, in accordance with its procedural rules, dismiss the charges or discipline the justice or judge~~**]**

1. Unless a deferred discipline agreement has been entered into with the judge pursuant to NRS 1.468, a hearing on a formal statement of charges must be held ***. If practicable, the hearing must be held*** ***not later than 60 days after:***

(a) The judge files an answer; or

(b) The date on which the time period for filing an answer expires if the judge has not filed an answer and has not filed with the Commission a request for an extension of time before the expiration of the period for filing the answer.

2. If formal charges are filed against a judge:

(a) The standard of proof in any proceedings following the formal statement of charges is clear and convincing evidence.

(b) The burden of proof rests on the special counsel except where otherwise provided by specific statute.

(c) The rules of evidence applicable to civil proceedings apply at a hearing held pursuant to subsection 1.

3. Within 60 days after the conclusion of a hearing on a formal statement of charges, the Commission shall prepare and adopt written findings of fact and conclusions of law that:

(a) Dismiss all or part of the charges, if the Commission determines that the grounds for discipline have not been proven by clear and convincing evidence; or

(b) Impose such disciplinary actions on the judge as deemed appropriate by the Commission ~~[.]~~ ***, if the Commission determines that the grounds for discipline have been proven by clear and convincing evidence.***

Sec. 29. NRS 1.4675 is hereby amended to read as follows:

1.4675 1. The Commission shall suspend a ~~[justice or]~~ judge from the exercise of office with salary:

(a) While there is pending an indictment or information charging the ~~[justice or]~~ judge with a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States; or

(b) When the ~~[justice or]~~ judge has been adjudged mentally incompetent or insane.

2. The Commission may suspend a ~~[justice or]~~ judge from the exercise of office without salary if the ~~[justice or]~~ judge:

(a) Pleads guilty, guilty but mentally ill or no contest to a charge of; or

(b) Is found guilty or guilty but mentally ill of,

➥ a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States. If the conviction is later reversed, the ~~[justice or]~~ judge must be paid his salary for the period of suspension.

3. ***In addition to the grounds set forth in subsection 2, the Commission may suspend a judge from the exercise of office without salary if the Commission determines that the judge:***

(a) Has committed serious and repeated willful misconduct;

(b) Has willfully or persistently failed to perform the duties of his office; or

(c) Is habitually intemperate,

➥ ***and the Commission determines that the circumstances surrounding such conduct, including, without limitation, any mitigating factors, merit disciplinary action more severe than censure but less severe than removal.***

4. ~~[The]~~ ***During any stage of a disciplinary proceeding, the*** Commission may suspend ~~[a justice or]~~ ***the*** judge from the exercise of office with salary ***pending a final disposition of the complaint*** if the Commission determines, ~~[pending a final determination in a judicial disciplinary proceeding,]~~ ***by a preponderance of the evidence,*** that the ~~[justice or]~~ judge poses a substantial threat of serious harm to the public or to the administration of justice.

~~[4.]~~ ***5. The Commission shall give the judge 7 days' notice of its intention to suspend the judge pursuant to this section and shall give the judge an opportunity to respond. The Commission shall hold a public hearing before ordering such a suspension, unless the judge waives his right to the hearing. The decision of the Commission must be made public.***

6. A ~~[justice or]~~ judge suspended pursuant to this section may appeal the suspension to the Supreme Court ***.*** ~~[for reconsideration of the order.~~

~~5.]~~ ***If a judge appeals such a suspension:***

(a) The standard of review for such an appeal is an abuse of discretion standard; and

(b) The proceedings held at the Supreme Court concerning the suspension must be open to the public.

7. Within 60 days after a decision by the Commission to suspend a judge pursuant to this section, the Commission shall:

(a) ~~[File]~~ Have a formal statement of charges filed against the judge;

(b) Rescind the suspension; or

(c) Enter into a deferred discipline agreement with the judge pursuant to NRS 1.468.

8. The Commission may suspend a ~~[~~justice or~~]~~ judge pursuant to this section only in accordance with its procedural rules.

Sec. 30. NRS 1.4677 is hereby amended to read as follows:

1.4677 ~~[~~In addition to or in lieu of removal or censure, the Commission may impose other forms of discipline on a justice or judge whom the Commission determines to have committed an act or engaged in a behavior in violation of subsection 1 or 2 of NRS 1.4653, including, but not limited to, requiring the justice or judge to:~~]~~

1. ***Pursuant to a deferred discipline agreement with the judge entered into pursuant to NRS 1.468 or based on a finding of misconduct following a hearing on a formal statement of charges, the Commission may take one or more of the following actions:***

(a) Publicly admonish, publicly reprimand or publicly censure a judge.

(b) ~~[~~Pay~~]~~ ***Impose*** a fine ~~[~~.

~~2. Serve a term of suspension~~]~~ ***upon the judge.***

(c) Suspend the judge from office ~~[~~.

~~3.~~]~~ ***without pay.***

(d) Require the judge to:

(1) Complete a probationary period pursuant to conditions deemed appropriate by the Commission.

~~[4.]~~ ***(2)*** Attend training or educational courses.

~~[5.]~~ ***(3)*** Follow a remedial course of action.

~~[6.]~~ ***(4)*** Issue a public apology.

~~[7.]~~ ***(5)*** Comply with conditions or limitations on his future conduct.

~~[8.]~~ ***(6)*** Seek medical, psychiatric or psychological care or counseling and direct the provider of health care or counselor to report to the Commission regarding the condition or progress of the ~~[~~justice or~~]~~ judge.

~~[9. Agree not to seek~~]~~

(e) Bar the judge from serving in a judicial office in the future.

~~[10. Perform any combination of the actions set forth in this section.~~]~~

(f) Impose any other reasonable disciplinary action or combination of disciplinary actions that the Commission determines will curtail or remedy the misconduct of the judge.

2. The Commission may publicly admonish a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a

manner that is not knowing or deliberate and for which there are no aggravating factors.

3. The Commission may publicly reprimand a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is:

(a) Not knowing or deliberate but for which there are aggravating factors; or

(b) Knowing or deliberate but for which there are mitigating factors.

Sec. 31. NRS 1.468 is hereby amended to read as follows:

1.468 1. Except as otherwise provided in subsections 2 and 3, if the Commission reasonably believes that a ~~[justice or]~~ judge has committed an act or engaged in a behavior that would be addressed most appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into an agreement with the ~~[justice or]~~ judge to defer formal disciplinary proceedings and require the ~~[justice or]~~ judge to undergo the rehabilitation, treatment, education or minor corrective action.

2. The Commission may not enter into an agreement with a ~~[justice or]~~ judge to defer formal disciplinary proceedings if the Commission has determined, pursuant to NRS 1.467, that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the ~~[justice or]~~ judge pursuant to NRS 1.4653.

3. The Commission may enter into an agreement with a ~~[justice or]~~ judge to defer formal disciplinary proceedings only in response to misconduct that is minor in nature.

4. A deferred discipline agreement entered into pursuant to this section must be in writing and must specify the conduct that resulted in the agreement. A judge who enters into such an agreement must agree:

(a) To the specified rehabilitation, treatment, education or minor corrective action;

(b) To waive his right to a hearing before the Commission; and

(c) That the agreement will not be protected by confidentiality for the purpose of any subsequent disciplinary proceedings against the judge,

➥ and the agreement must indicate that the judge agreed to the terms set forth in paragraphs (a), (b) and (c). Such an agreement must expressly authorize the Commission to revoke the agreement and proceed with any other disposition of the complaint or formal statement of charges authorized by NRS 1.467 if the Commission finds that the judge has failed to comply with a condition of the agreement.

5. The Executive Director of the Commission shall monitor the compliance of the judge with the agreement. The Commission may require the judge to document his compliance with the agreement. The Commission shall give the judge written notice of any alleged failure to

comply with any condition of the agreement and shall allow the judge not less than 15 days to respond.

6. If the judge complies in a satisfactory manner with the conditions imposed in the agreement, the Commission may dismiss the complaint or take any other appropriate action.

Sec. 32. NRS 1.4683 is hereby amended to read as follows:

1.4683 1. Except as otherwise provided in this section and NRS ~~[1.4693]~~ ***1.4675*** and 239.0115, all proceedings of the Commission must remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the ~~[prosecuting attorney]~~ ***special counsel*** files a formal statement of charges.

2. ***Except as otherwise provided in this section, before the filing of a formal statement of charges, a present or former member of the Commission, a present or former member of the staff of the Commission or a present or former independent contractor retained by the Commission shall not disclose information contained in a complaint or any other information relating to the allegations of misconduct or incapacity. Such persons:***

(a) May disclose such information to persons directly involved in the matter to the extent necessary for a proper investigation and disposition of the complaint; and

(b) Shall conduct themselves in a manner that maintains the confidentiality of the disciplinary proceeding.

3. Nothing in this section prohibits a person who files a complaint with the Commission pursuant to NRS 1.4655, a judge against whom such a complaint is made or a witness from disclosing at any time the existence or substance of a complaint, investigation or proceeding. The immunity provided by NRS 1.465 does not apply to such a disclosure.

4. The confidentiality required pursuant to subsection 1 also applies to all information and materials, written or oral, received or developed by the Commission ***,*** ~~[or]~~ its staff ***or any independent contractors retained by the Commission*** in the course of its work and relating to the alleged misconduct or incapacity of a judge.

~~[3.]~~ ***5.*** The Commission shall disclose:

(a) The report of a proceeding before the Commission; and

(b) All testimony given and all materials filed in connection with such a proceeding,

➥ if a witness is prosecuted for perjury committed during the course of that proceeding.

~~[4. If the Commission determines at any stage in a disciplinary proceeding that there is an insufficient factual or legal basis to proceed, the Commission shall dismiss the complaint and may, at the request of the justice or judge named in the complaint, publicly issue an explanatory statement.~~

~~5. The Commission may issue press releases and other public statements to:~~

~~(a) Explain the nature of its jurisdiction;~~

~~(b) Explain the procedure for filing a complaint;~~

~~(c) Explain limitations upon its powers and authority; and~~

~~(d) Report on the conduct of its affairs.~~

~~➥ Such releases and statements must not, without the consent of the justice or judge concerned, disclose by name, position, address or other information the identity of a justice or judge or other person involved in a proceeding then pending before the Commission or that has been resolved without an order of censure, removal or retirement, unless formal charges have been filed after a determination pursuant to NRS 1.467.~~**]**

6. ***Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if the judge, a third person or the person who filed a complaint with the Commission pursuant to NRS 1.4655 has made the name of the judge against whom such a complaint is made public, the Commission may, at the request of the judge or on its own accord, issue an explanatory statement to maintain confidence in the judicial system and the Commission. In such a statement, the Commission may:***

(a) Confirm or deny that a complaint has been filed;

(b) Confirm or deny that the Commission is conducting an investigation;

(c) Confirm that the Commission has dismissed a complaint with or without a letter of caution; and

(d) Confirm that the Commission has entered into a deferred discipline agreement with the judge.

7. In addition to the information authorized pursuant to subsection 6, a statement issued by the Commission pursuant to subsection 6 may correct any public misinformation concerning the disciplinary proceeding, clarify the procedures of the Commission relating to the disciplinary proceeding and explain that the judge has a right to a fair investigation and, if applicable, a fair hearing without prejudgment. The Commission shall submit such a statement to the judge concerned for comments before the Commission releases the statement. The Commission is not required to incorporate any comments made by the judge in the statement and may release the statement as originally drafted.

8. The Commission may, without disclosing the name of or any details that may identify the **[**~~justice or~~**]** judge involved, disclose the existence of a proceeding before it to the State Board of Examiners and the Interim Finance Committee to obtain additional money for its operation from the Contingency Fund established pursuant to NRS 353.266.

[~~7.~~**]** ***9.*** No record of any medical examination, psychiatric evaluation or other comparable professional record made for use in an informal resolution pursuant to subsection **[**~~1~~**]** ***4*** of NRS 1.4665 may be made public at any time without the consent of the **[**~~justice or~~**]** judge concerned.

10. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, the Commission may release confidential information:

(a) To the appropriate law enforcement or prosecuting authorities if the Commission determines that it has reliable information which reveals possible criminal conduct by a judge, former judge or any other person;

(b) Upon request to the Board of Governors of the State Bar of Nevada or other appropriate disciplinary authorities of the State Bar of Nevada if the Commission determines that it has reliable information that reveals a possible violation of the Rules of Professional Conduct by a judge, former judge or any other attorney; or

(c) Pursuant to an order issued by a court of record of competent jurisdiction in this State or a federal court of record of competent jurisdiction.

11. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if a judge or former judge signs a waiver, the Commission may release confidential information concerning any complaints filed with the Commission pursuant to NRS 1.4655 that are pending or are closed and did not result in a dismissal to:

(a) An agency authorized to investigate the qualifications of persons for admission to practice law;

(b) An appointing or nominating authority or a state or federal agency lawfully conducting investigations relating to the selection or appointment of judges; or

(c) An agency conducting investigations relating to employment with a governmental agency or other employment.

12. If the Commission discloses information concerning a pending complaint to an agency or authority pursuant to subsection 11, the Commission shall subsequently disclose the disposition of the complaint to the agency or authority. The Commission shall send a copy of all information disclosed pursuant to subsection 11 to the judge concerned at the same time the Commission sends the information to the agency or authority.

Sec. 33. NRS 1.4687 is hereby amended to read as follows:

1.4687 ~~[~~Upon~~]~~ ***1. Except as otherwise provided in subsection 2:***

(a) Upon the filing of a formal statement of charges with the Commission by the ~~[~~prosecuting attorney,~~]~~ ***special counsel,*** the statement and other documents later formally filed with the Commission must be made accessible to the public, and hearings must be open.

(b) If a formal statement of charges has not been filed with the Commission and the Commission holds a hearing to suspend a judge pursuant to NRS 1.4675, any transcript of the hearing and any documents offered as evidence at the hearing must be made accessible to the public.

2. Regardless of whether any formal statement of charges has been filed with the Commission, medical records and any other documents or

exhibits offered as evidence which are privileged pursuant to chapter 49 of NRS must not be made accessible to the public.

3. The Commission's deliberative sessions must remain private.

4. The filing of ~~[the]~~ ***a*** formal statement of charges does not justify the Commission, its counsel ***,*** ~~[or]~~ staff ***or independent contractors retained by the Commission*** in making public any correspondence, notes, work papers, interview reports or other evidentiary matter, except at the formal hearing or with explicit consent of the ~~[justice or]~~ judge named in the complaint.

Sec. 34. NRS 1.429, 1.4685 and 1.4693 are hereby repealed.

Sec. 35. **1. The amendatory provisions of this act apply only to:**

(a) A complaint filed with the Commission on Judicial Discipline on or after January 1, 2010; and

(b) Any formal statement of charges filed with the Commission on or after January 1, 2010, as a result of a complaint described in paragraph (a).

2. As used in this section:

(a) "Complaint" has the meaning ascribed to it in section 3 of this act.

(b) "Formal statement of charges" has the meaning ascribed to it in section 4 of this act.

Sec. 36. **This act becomes effective on January 1, 2010.**

TEXT OF REPEALED SECTIONS

1.429 "Justice" defined. "Justice" means a justice of the Supreme Court of the State of Nevada.

1.4685 Breach of confidentiality punishable as contempt. Except as otherwise provided in NRS 1.4693, any person who breaches the confidentiality of disciplinary proceedings of the Commission is punishable for contempt.

1.4693 Authorized disclosures by person who files complaint and person who gives testimony. Notwithstanding the provisions of NRS 1.4683 to 1.469, inclusive:

1. A person who files a complaint with the Commission may:

(a) At any time, reveal to a third party the alleged conduct of a justice or judge underlying the complaint that he filed with the Commission or the substance of testimony that he gave before the Commission.

(b) After the Commission makes a determination pursuant to NRS 1.467, regardless of whether the determination results in the filing of formal charges, reveal to a third party the fact that he filed a complaint with the Commission.

2. A person who gives testimony before the Commission may:

(a) At any time, reveal to a third party the substance of testimony that he gave before the Commission.

(b) After the Commission makes a determination pursuant to NRS 1.467, regardless of whether the determination results in the filing of formal

charges, reveal to a third party the fact that he gave testimony before the Commission.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 500.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 339.

AN ACT relating to domestic relations; revising provisions relating to adoptions; revising provisions relating to the termination of parental rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person may consent to the adoption of his child, and the child will be relinquished either to an agency or to the person to whom consent to adopt is given, if the adoption is a specific adoption. (NRS 127.040, 127.053) **Section 2** of this bill provides that, in a specific adoption, the person to whom consent is given assumes legal custody and legal responsibility for the child as soon as consent for the adoption is executed.

~~[Sections 4-10 of this bill amend existing law to provide that if a person or a person's spouse is within the fourth degree of consanguinity of a child and is adopting the child, such a person is not required to comply with certain requirements for adoption, such as home studies of the prospective adoptive parents. (NRS 127.043, 127.045, 127.053, 127.120, 127.127, 127.280, 127.2805)]~~

Section 11 of this bill revises an exemption from criminal or civil liability for certain advertising mediums which accept advertisements concerning services related to adoptions from persons or agencies that are not licensed to provide such services. (NRS 127.310)

~~[Section 12 of this bill provides that a court may, under certain circumstances, terminate a father's parental rights if the father knew the child's mother was pregnant with the child and failed to support the mother during the pregnancy. (NRS 128.105)]~~

Section 13 of this bill provides that a court may find a parent unfit, and therefore, under certain circumstances, terminate his parental rights, if ~~[: (1) the parent is imprisoned and either cannot care for the child or the imprisonment will negatively impact the parent-child relationship; or (2) the father]~~ **the parent** is convicted of sexual ~~[seduction or statutory sexual seduction of the mother]~~ **assault** which resulted in the conception of the child. This section also provides that if a ~~[father's]~~ **parent's** parental rights are terminated because of the sexual assault ~~[or statutory sexual seduction]~~ which resulted in the conception of the child, the ~~[father's parental]~~ **parent's** obligation to provide support is not terminated ~~[.]~~ **and a court may order**

the parent to pay support for the child. (NRS 128.106) **However, an order to pay support for the child does not create any other rights arising from the parent and child relationship, including, without limitation, inheritance rights.**

Section 14 of this bill provides that certain sections of this bill may apply retroactively and prospectively to petitions for adoption and may apply only prospectively to petitions for the termination of parental rights.

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

Section 1. NRS 125B.120 is hereby amended to read as follows:

125B.120 1. The obligation of a parent other than that under the laws providing for the support of poor relatives is discharged by complying with a court order for support or with the terms of a judicially approved settlement.

2. ~~[The]~~ ***Except as otherwise provided in subsection ~~[9]~~ 7 of NRS 128.106, the*** legal adoption of the child into another family discharges the obligation of his natural parents for the period subsequent to the adoption.

Sec. 2. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

A person to whom consent to adopt a child is given for a specific adoption pursuant to NRS 127.053 has, at the time the consent is executed, legal custody over the child and is legally responsible for the child until a court holds a hearing to enter an order or decree of adoption or to deny the petition pursuant to the laws of this State or another state.

Sec. 3. NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.1895, inclusive, ***and section 2 of this act*** govern the adoption of minor children, and the provisions of NRS 127.190, 127.200 and 127.210 and the provisions of NRS 127.010 to 127.1895, inclusive, ***and section 2 of this act,*** where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

Sec. 4. ~~[NRS 127.043 is hereby amended to read as follows:~~

~~127.043 1. Except as otherwise provided in subsection 2, a child must not be placed in an adoptive home until a valid release for or consent to adoption is executed by the mother as provided by NRS 127.070.~~

~~2. The provisions of this section do not apply if one petitioner or the spouse of a petitioner is related to the child within the~~ [third] ***~~fourth~~*** ~~degree of consanguinity.~~] **(Deleted by amendment.)**

Sec. 5. ~~[NRS 127.045 is hereby amended to read as follows:~~

~~127.045 1. Except as otherwise provided in subsection 2, until a valid release for or consent to adoption is executed by the mother as provided by NRS 127.070 and the investigation required by NRS 127.2805 is completed, no person may:~~

~~(a) Petition any court for the appointment of a guardian; or~~

~~(b) Be appointed the temporary guardian,~~

~~.~~ of the person of the child to be adopted.

2. The provisions of subsection 1 do not apply to any person who is related or whose spouse is related to the child within the [third] ***fourth*** degree of consanguinity.] **(Deleted by amendment.)**

Sec. 6. [NRS 127.053 is hereby amended to read as follows:

127.053 No consent to a specific adoption executed in this State, or executed outside this State for use in this State, is valid unless it:

1. Identifies the child to be adopted by name, if any, sex and date of birth.

2. Is in writing and signed by the person consenting to the adoption as required in this chapter.

3. Is acknowledged by the person consenting and signing the consent to adoption in the manner and form required for conveyances of real property.

4. Contains, at the time of execution, the name of the person or persons to whom consent to adopt the child is given.

5. Is attested by at least two competent, disinterested witnesses who subscribe their names to the consent in the presence of the person consenting. If neither the petitioner nor the spouse of a petitioner is related to the child within the [third] ***fourth*** degree of consanguinity, then one of the witnesses must be a social worker employed by:

(a) An agency which provides child welfare services;

(b) An agency licensed in this state to place children for adoption;

(c) A comparable state or county agency of another state; or

(d) An agency authorized under the laws of another state to place children for adoption, if the natural parent resides in that state.] **(Deleted by amendment.)**

Sec. 7. [NRS 127.120 is hereby amended to read as follows:

127.120 1. A petition for adoption of a child must be filed in duplicate with the county clerk. The county clerk shall send one copy of the petition to the agency which provides child welfare services.

2. The agency which provides child welfare services shall make an investigation and report as provided in this section. If one petitioner or the spouse of a petitioner is related to the child within the [third] ***fourth*** degree of consanguinity, the court may, in its discretion, waive the investigation by the agency which provides child welfare services. A copy of the order waiving the investigation must be sent to the nearest office of the agency which provides child welfare services by the petitioners within 7 days after the order is issued.

3. The agency which provides child welfare services or a licensed child-placing agency designated to do so by the court shall:

(a) Verify the allegations of the petition;

(b) Investigate the condition of the child, including, without limitation, whether the child is an Indian child; and

(c) Make proper inquiry to determine whether the proposed adopting parents are suitable for the child.

~~4. The agency which provides child welfare services or the designated child-placing agency shall, before the date on which the child has lived for a period of 6 months in the home of the petitioners or within 30 days after receiving the copy of the petition for adoption, whichever is later, submit to the court a full written report of its findings pursuant to subsection 3, which must contain, without limitation, a specific recommendation for or against approval of the petition and a statement of whether the child is known to be an Indian child, and shall furnish to the court any other information regarding the child or proposed home which the court requires. The court, on good cause shown, may extend the time, designating a time certain, within which to submit the report.~~

~~5. If the court is dissatisfied with the report submitted by the agency which provides child welfare services or the designated child-placing agency, the court may order an independent investigation to be conducted and a report submitted by an agency or person selected by the court. The costs of the investigation and report may be assessed against the petitioner or charged against the county in which the adoption proceeding is pending.~~**] (Deleted by amendment.)**

Sec. 8. **[**~~NRS 127.127 is hereby amended to read as follows:~~

~~127.127 The petitioners shall file with the court, within 15 days after the petition is filed or 5 months after the child begins to live in their home, whichever is later, an affidavit executed by them and their attorney setting forth all fees, donations and expenses paid by them in furtherance of the adoption. A copy of the affidavit must be sent to the agency which provides child welfare services. If one petitioner or the spouse of a petitioner is related to the child within the~~ **[**~~third~~**]** ***fourth*** ~~degree of consanguinity, the court may waive the filing of the affidavit.~~**] (Deleted by amendment.)**

Sec. 9. **[**~~NRS 127.280 is hereby amended to read as follows:~~

~~127.280 1. A child may not be placed in the home of prospective adoptive parents for the 30-day residence in that home which is required before the filing of a petition for adoption, except where a child and one of the prospective adoptive parents are related within the~~ **[**~~third~~**]** ***fourth*** ~~degree of consanguinity, unless:~~

~~(a) The agency which provides child welfare services or a child placing agency first receives written notice of the proposed placement from:~~

~~(1) The prospective adoptive parents of the child;~~

~~(2) The person recommending the placement; or~~

~~(3) A natural parent;~~

~~(b) The investigation required by the provisions of NRS 127.2805 has been completed; and~~

~~(c) In the case of a specific adoption, the natural parent placing the child for adoption has had an opportunity to review the report on the investigation of the home, if possible.~~

~~2. Upon receipt of written notice from any person other than the natural parent, the agency which provides child welfare services or child placing~~

~~agency shall communicate with the natural parent to confirm his intention to place the child for adoption with the prospective adoptive parents identified in the written notice.~~] **(Deleted by amendment.)**

Sec. 10. ~~[~~NRS 127.2805 is hereby amended to read as follows:

~~127.2805 1. The agency which provides child welfare services or a child-placing agency shall, within 60 days after receipt of confirmation of the natural parents' intent to place the child for adoption and a completed application for adoption from the prospective adoptive parents, complete an investigation of the medical, mental, financial and moral backgrounds of the prospective adoptive parents to determine the suitability of the home for placement of the child for adoption. The investigation must also embrace any other relevant factor relating to the qualifications of the prospective adoptive parents and may be a substitute for the investigation required to be conducted by the agency which provides child welfare services on behalf of the court when a petition for adoption is pending, if the petition for adoption is filed within 6 months after the completion of the investigation required by this subsection. If a child-placing agency undertakes the investigation, it shall provide progress reports to the agency which provides child welfare services in such a format and at such times as the agency which provides child welfare services requires to ensure that the investigation will be completed within the 60-day period. If, at any time, the agency which provides child welfare services determines that it is unlikely that the investigation will be completed in a timely manner, the agency which provides child welfare services shall take over the investigation and complete it within the 60-day period or as soon thereafter as practicable.~~

~~2. If the placement is to be made in a home outside of this state, the agency which provides child welfare services or child-placing agency must receive a copy of a report, completed by the appropriate authority, of an investigation of the home and the medical, mental, financial and moral backgrounds of the prospective adoptive parents to determine the suitability of the home for placement of the child for adoption, unless the child and one of the prospective adoptive parents are related within the~~ [third] ~~*fourth* degree of consanguinity.~~] **(Deleted by amendment.)**

Sec. 11. NRS 127.310 is hereby amended to read as follows:

127.310 1. Except as otherwise provided in NRS 127.240, 127.283 and 127.285, any person or organization other than an agency which provides child welfare services who, without holding a valid unrevoked license to place children for adoption issued by the Division:

(a) Places, arranges the placement of, or assists in placing or in arranging the placement of, any child for adoption or permanent free care; or

(b) Advertises in any periodical or newspaper, or by radio or other public medium, that he will place children for adoption, or accept, supply, provide or obtain children for adoption, or causes any advertisement to be published in or by any public medium soliciting, requesting or asking for any child or children for adoption,

➥ is guilty of a misdemeanor.

2. Any person who places, accepts placement of, or aids, abets or counsels the placement of any child in violation of NRS 127.280, 127.2805 and 127.2815 is guilty of a misdemeanor.

3. A periodical, newspaper, radio station or other public medium is not subject to any criminal penalty ~~[or civil liability]~~ for publishing or broadcasting an advertisement that violates the provisions of this section ~~[.]~~ ~~*[if]*~~ ***unless the periodical, newspaper, radio station or other public medium*** ~~*[did not know]*~~ ***knew that the advertisement violated the provisions of this section.***

Sec. 12. ~~[NRS 128.105 is hereby amended to read as follows:~~

~~128.105 The primary consideration in any proceeding to terminate parental rights must be whether the best interests of the child will be served by the termination. An order of the court for the termination of parental rights must be made in light of the considerations set forth in this section and NRS 128.106 to 128.109, inclusive, and based on evidence and include a finding that:~~

~~1. The best interests of the child would be served by the termination of parental rights; and~~

~~2. The conduct of the parent or parents was the basis for a finding made pursuant to subsection 3 of NRS 432B.393 or demonstrated at least one of the following:~~

~~(a) Abandonment of the child;~~

~~(b) Neglect of the child;~~

~~(c) Unfitness of the parent;~~

~~(d) Failure of parental adjustment;~~

~~(e) Risk of serious physical, mental or emotional injury to the child if he were returned to, or remains in, the home of his parent or parents;~~

~~(f) Only token efforts by the parent or parents:~~

~~(1) To support or communicate with the child;~~

~~(2) To prevent neglect of the child;~~

~~(3) To avoid being an unfit parent; or~~

~~(4) To eliminate the risk of serious physical, mental or emotional injury to the child;~~ ~~[or]~~

~~(g) With respect to termination of the parental rights of one parent, the abandonment by that parent~~ ~~[.]~~ ~~; or~~

~~*(h) If a father or putative father knew the child's mother was pregnant with the child, failure by the father or putative father, without reasonable cause, to provide for the support of the child's mother during the pregnancy, resulting in an abandoned mother as defined in NRS 128.011.]*~~

(Deleted by amendment.)

Sec. 13. NRS 128.106 is hereby amended to read as follows:

128.106 In determining neglect by or unfitness of a parent, the court shall consider, without limitation, the following conditions which may diminish suitability as a parent:

1. Emotional illness, mental illness or mental deficiency of the parent which renders the parent consistently unable to care for the immediate and continuing physical or psychological needs of the child for extended periods of time. The provisions contained in NRS 128.109 apply to the case if the child has been placed outside his home pursuant to chapter 432B of NRS.

2. Conduct toward a child of a physically, emotionally or sexually cruel or abusive nature.

3. Conduct that violates any provision of NRS 200.463, 200.464 or 200.465.

4. Excessive use of intoxicating liquors, controlled substances or dangerous drugs which renders the parent consistently unable to care for the child.

5. Repeated or continuous failure by the parent, although physically and financially able, to provide the child with adequate food, clothing, shelter, education or other care and control necessary for his physical, mental and emotional health and development, but a person who, legitimately practicing his religious beliefs, does not provide specified medical treatment for a child is not for that reason alone a negligent parent.

6. ~~*[Imprisonment of the parent for at least 1 year from the date of the child's entry into foster care, which results in the inability of the parent to care for the child, and no appropriate relative can care for the child during this time or the parent has not otherwise provided for the child's care.*~~

~~*7. Imprisonment of the parent which has a demonstrable negative effect on the quality of the relationship between the parent and the child.*~~

~~*8.]*~~ Conviction of the parent for commission of a felony, if the facts of the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care and control to the extent necessary for the child's physical, mental or emotional health and development.

7. ~~*[9.]*~~ ***Conviction of the*** ~~*[father or putative father]*~~ ***parent of sexual assault*** ~~*[or statutory sexual seduction]*~~ ***resulting in the conception of the child. If a court terminates parental rights based on a finding that the*** ~~*[father]*~~ ***parent is unfit pursuant to this subsection, the obligation of the*** ~~*[father or putative father]*~~ ***parent to support the child pursuant to chapter 125B of NRS is not terminated*** ~~*[. A court shall]*~~ ***and the court may issue an order of support for the child, requiring the*** ~~*[father or putative father]*~~ ***parent to comply with the support obligations pursuant to chapter 125B of NRS. If a court issues an order of support pursuant to this subsection, the order does not create:***

(a) A right for the child to inherit property from or through the parent who is subject to the order of support issued pursuant to this subsection;

(b) A right for the parent who is subject to the order of support issued pursuant to this subsection to inherit property from or through the child; or

(c) Any of the other rights, privileges or obligations arising from the parent and child relationship.

~~*[10.]*~~ ***8.*** Unexplained injury or death of a sibling of the child.

~~[8.]~~ ~~*[11.]*~~ ***9.*** Inability of appropriate public or private agencies to reunite the family despite reasonable efforts on the part of the agencies.

Sec. 14. The amendatory provisions of:

1. Sections ~~[2 to 10, inclusive,]~~ **1 and 13** of this act apply to a petition for ~~[adoption that is filed]~~ **the termination of parental rights** pursuant to chapter ~~[127]~~ **128** of NRS ~~[before,]~~ **that is filed** on or after October 1, 2009.

2. Sections ~~[1, 12 and 13]~~ **2 and 3** of this act apply to a petition for ~~[the termination of parental rights]~~ **adoption that is filed** pursuant to chapter ~~[128]~~ **127** of NRS ~~[that is filed]~~ **before,** on or after October 1, 2009.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 223, 236, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 368, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 223, 236, and 368 just reported out committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 309 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 223.

Bill read second time.

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

Amendment No. 229.

AN ACT relating to state governmental procurement; establishing bidders' preferences **for local businesses and local businesses owned by service-disabled veterans** with respect to state purchasing contracts **;** ~~[for service-disabled veterans and bona fide Nevada residents;]~~ establishing bidders' preferences **for local businesses owned by service-disabled veterans** with respect to state public works contracts **;** ~~[for service-disabled veterans;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, with respect only to contracts for public works for which the estimated cost exceeds $250,000, provides a mechanism by which a contractor who has paid certain taxes may earn a 5-percent preference in bidding on public works. (NRS 338.1389, 338.147, 338.1693, 338.1727) **Sections ~~[8-11]~~ 18-25** of this bill establish a limited preference in bidding on public works for **~~[small]~~ local** businesses owned by service-disabled veterans. This new preference in bidding on public works does not overlap with the existing preference in bidding on public works because the new preference is limited to public works for which the estimated cost is $100,000 or less.

Under existing law, the State of Nevada imposes an inverse preference against a person who submits a bid or proposal on a state purchasing contract if that person is a resident of a state that denies a preference to bidders or contractors who are residents of this State. (NRS 333.336) **Section ~~[12]~~ 31** of this bill repeals that inverse preference.

In place of the former inverse preference, **sections ~~[2-7]~~ 5-13** of this bill establish two separate new preferences in bidding on state purchasing contracts: (1) **section ~~[2]~~ 10** adds **~~[one]~~ a** 5-percent preference for **~~[small]~~ local** businesses **; ~~[owned by service-disabled veterans;]~~** and (2) **section ~~[3]~~ 10 also** adds **~~[one]~~ a** 5-percent preference for **local** businesses owned by **~~[bona fide residents of this State.]~~ service-disabled veterans. ~~[Pursuant to section 4 of this bill, the two preceding preferences in bidding on state purchasing contracts may be combined, but may not together convey a total preference exceeding 10 percent.]~~**

Section 30 of this bill directs the Office of Veterans' Services to perform certain duties with respect to gathering information and making recommendations to the Legislative Commission concerning the preferences for local businesses owned by service-disabled veterans.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections **~~[2, 3 and 4]~~ 5 to 13, inclusive,** of this act.

Sec. 2. ~~***[1. For the purpose of awarding a contract pursuant to this chapter, if a small business owned by a service-disabled veteran submits a bid or proposal and, at the time the bid is submitted, has a valid certificate of eligibility to receive a preference in bidding on state purchasing contracts issued by the Commission on Economic Development pursuant to subsection 2, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.***~~

~~***2. The Commission on Economic Development shall issue a certificate of eligibility to receive a preference in bidding on state purchasing contracts to a small business owned by a service-disabled veteran if:***~~

~~*(a) The business submits to the Commission an application on a form prescribed by the Commission;*~~

~~*(b) The business satisfies the definition of a small business owned by a service-disabled veteran set forth in paragraph (c) of subsection 5; and*~~

~~*(c) The business satisfies any other requirements imposed by the Commission by regulation pursuant to subsection 3.*~~

~~*3. The Commission on Economic Development, in consultation with the Purchasing Division, shall adopt such regulations as it deems necessary to carry out the provisions of this section. The regulations adopted pursuant to this subsection must set forth, without limitation:*~~

~~*(a) Procedures by which the preference in bidding described in subsection 2 may be transferred to the spouse of a service-disabled veteran upon the death of that veteran.*~~

~~*(b) A mechanism by which a business that is determined to have made a material misrepresentation or otherwise committed a fraudulent act when applying for the preference in bidding described in subsection 2 is thereafter permanently prohibited from:*~~

~~*(1) Applying for or receiving the preference in bidding described in subsection 2; and*~~

~~*(2) Bidding on a state purchasing contract pursuant to this chapter.*~~

~~*(c) The specific documentation or other proof that a business must submit to the Commission to demonstrate that it satisfies the definition of a small business owned by a service-disabled veteran set forth in paragraph (c) of subsection 5.*~~

~~*(d) The duration of the preference in bidding described in subsection 2, which must not be less than 1 year or more than 3 years.*~~

~~*(e) The method by which a business may reapply for the preference in bidding described in subsection 2.*~~

~~*4. The Office of Veterans' Services shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:*~~

~~*(a) The number of small businesses owned by service-disabled veterans to which the Commission on Economic Development has issued a certificate pursuant to subsection 2;*~~

~~*(b) The number of small businesses owned by service-disabled veterans that have submitted a bid or proposal on a state purchasing contract;*~~

~~*(c) The number of state purchasing contracts that have been awarded to small businesses owned by service-disabled veterans; and*~~

~~*(d) The total number of dollars worth of state purchasing contracts that have been awarded to small businesses owned by service-disabled veterans.*~~

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

~~*(a) "Bona fide resident" means a person who has:*~~

~~*(1) Established a residence in the State of Nevada; and*~~

~~*(2) Actually resided in this State for at least 6 months or has a valid driver's license or identification card issued by the Department of Motor Vehicles of this State.*~~

~~*(b) "Service-disabled veteran" means a veteran of the Armed Forces of the United States who:*~~

~~*(1) Is a bona fide resident; and*~~

~~*(2) Has a service-connected disability of zero percent or greater as determined by the United States Department of Veterans Affairs.*~~

~~*(c) "Small business owned by a service-disabled veteran" means a business:*~~

~~*(1) At least 51 percent of which is owned by one or more service-disabled veterans;*~~

~~*(2) That is managed and operated on a day-to-day basis by one or more service-disabled veterans;*~~

~~*(3) That employs fewer than 100 employees;*~~

~~*(4) That has a net worth of $5,000,000 or less or, if a sole proprietorship, has a net worth of $5,000,000 or less including both business and personal investments;*~~

~~*(5) That is organized to engage in commercial transactions; and*~~

~~*(6) Whose main office or principal place of business is located in this State.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*[1. For the purpose of awarding a contract pursuant to this chapter, if a business owned by a bona fide resident submits a bid or proposal and, at the time it submits its bid, has a valid certificate of eligibility to receive a preference in bidding on state purchasing contracts issued by the Purchasing Division pursuant to subsection 2, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.*~~

~~*2. The Purchasing Division shall issue a certificate of eligibility to receive a preference in bidding on state purchasing contracts to a business owned by a bona fide resident if:*~~

~~*(a) The business submits to the Purchasing Division an application on a form prescribed by the Purchasing Division;*~~

~~*(b) The business satisfies the definition of a business owned by a bona fide resident set forth in paragraph (b) of subsection 5; and*~~

~~*(c) The business satisfies any other requirements imposed by the Division by regulation pursuant to subsection 3.*~~

~~*3. The Purchasing Division shall adopt such regulations as it deems necessary to carry out the provisions of this section. The regulations adopted pursuant to this subsection must set forth, without limitation:*~~

~~*(a) Procedures by which the preference in bidding described in subsection 2, upon the death of a person who wholly or partially owns a business that holds such a preference, may be transferred to the spouse of the decedent.*~~

~~*(b) A mechanism by which a business that is determined to have made a material misrepresentation or otherwise committed a fraudulent act when applying for the preference in bidding described in subsection 2 is thereafter permanently prohibited from:*~~

~~*(1) Applying for or receiving the preference in bidding described in subsection 2; and*~~

~~*(2) Bidding on a state purchasing contract pursuant to this chapter.*~~

~~*(c) The specific documentation or other proof that a business must submit to the Purchasing Division to demonstrate that it satisfies the definition of a business owned by a bona fide resident set forth in paragraph (b) of subsection 5.*~~

~~*(d) The duration of the preference in bidding described in subsection 2, which must not be less than 1 year or more than 3 years.*~~

~~*(e) The method by which a business may reapply for the preference in bidding described in subsection 2.*~~

~~*4. The Chief shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:*~~

~~*(a) The number of businesses owned by bona fide residents to which the Purchasing Division has issued a certificate pursuant to subsection 2;*~~

~~*(b) The number of businesses owned by bona fide residents that have submitted a bid or proposal on a state purchasing contract;*~~

~~*(c) The number of state purchasing contracts that have been awarded to businesses owned by bona fide residents; and*~~

~~*(d) The total number of dollars worth of state purchasing contracts that have been awarded to businesses owned by bona fide residents.*~~

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

~~*(a) "Bona fide resident" means a person who has:*~~

~~*(1) Established a residence in the State of Nevada; and*~~

~~*(2) Actually resided in this State for at least 6 months or has a valid driver's license or identification card issued by the Department of Motor Vehicles of this State.*~~

~~*(b) "Business owned by a bona fide resident" means a business:*~~

~~*(1) At least 51 percent of which is owned by one or more bona fide residents;*~~

~~*(2) That is managed and operated on a day to day basis by one or more bona fide residents;*~~

~~*(3) That is organized to engage in commercial transactions; and*~~

~~*(4) Whose main office or principal place of business is located in this State.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*[A person submitting a bid or proposal may qualify for both of the preferences described in sections 2 and 3 of this act. However, in no event may the bid or proposal be deemed to be more than 10 percent lower than the bid or proposal actually submitted.]*~~ **(Deleted by amendment.)**

Sec. 5. ***As used in sections 5 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 6. ***"Business owned by a service-disabled veteran" means a business:***

1. Of which at least 51 percent of the ownership interest is held by one or more service-disabled veterans;

2. That is organized to engage in commercial transactions; and

3. That is managed and operated on a day-to-day basis by one or more service-disabled veterans.

➥ The term includes a business which meets the above requirements that is transferred to the spouse of a service-disabled veteran upon the death of the service-disabled veteran, as determined by the United States Department of Veterans Affairs.

Sec. 7. ***"Local business" means a business that:***

1. Employs at least one person in this State; and

2. Has employed at least one person in this State for not fewer than 2 years.

Sec. 8. ***"Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of at least zero percent as determined by the United States Department of Veterans Affairs.***

Sec. 9. ***"State purchasing contract" means a contract awarded pursuant to the provisions of this chapter.***

Sec. 10. ***For the purpose of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300:***

1. If a local business submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

2. If a local business owned by a service-disabled veteran submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

Sec. 11. ***1. If the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 10 of this act; and

(b) Bidding on a state purchasing contract.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business may apply to the Chief to review the decision pursuant to chapter 233B of NRS.

Sec. 12. ***The Purchasing Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

2. The total dollar amount of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a state purchasing contract.

4. The number of local businesses not described in subsection 3 that submitted a bid or proposal on a state purchasing contract.

5. The number of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

6. The number of state purchasing contracts that were awarded to local businesses not described in subsection 5.

7. The total number of dollars worth of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

8. The total number of dollars worth of state purchasing contracts that were awarded to local businesses not described in subsection 7.

9. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 13. ***The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 5 to 13, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive a preference described in section 10 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in section 10 of this act; and

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

➥ In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Board so that any regulations adopted pursuant to this section and section 25 of this act are reasonably consistent.

~~[Sec. 5.]~~ ***Sec. 14.*** NRS 333.310 is hereby amended to read as follows:

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

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

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

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

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

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

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

(d) A summary of the provisions of ~~[~~NRS 333.336.~~]~~ ***sections*** ~~*[2, 3 and 4]*~~ ***5 to 13, inclusive, of this act.***

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

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

➥ The Chief or his designated agent shall approve the copy for the advertisement.

2. Each advertisement must be published in at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation.

~~[Sec. 6.]~~ ***Sec. 15.*** NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

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

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

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Chief of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal.

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

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

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

(c) The price of the proposal, including the ~~[imposition]~~ ***granting*** of ~~[an inverse preference]~~ ***any of the preferences*** described in ~~[NRS 333.336,]~~ ~~*[sections 2 and 3]*~~ ***section 10 of this act,*** if applicable; and

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

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

5. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal.

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

~~[Sec. 7.]~~ ***Sec. 16.*** NRS 333.340 is hereby amended to read as follows:

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

(a) Shall consider, if applicable, the ~~[imposition]~~ ***granting*** of ***any of*** the ~~[inverse preference]~~ ***preferences*** described in ~~[NRS 333.336.]~~ ~~*[sections 2 and 3]*~~ ***section 10 of this act.***

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

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

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

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

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

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

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

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

~~[Sec. 8.]~~ ***Sec. 17.*** Chapter 338 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 18 to 25, inclusive, of this act.**

Sec. 18. ***As used in sections 18 to 25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 19, 20 and 21 of this act have the meanings ascribed to them in those sections.***

Sec. 19. ***"Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.***

Sec. 20. ***"Local business" has the meaning ascribed to it in section 7 of this act.***

Sec. 21. ***"Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.***

Sec. 22. 1. For the purpose of awarding a contract for a public work of this State for which the estimated cost is $100,000 or less, as governed by NRS 338.13862, if a ~~[small]~~ local business owned by a service-disabled veteran submits a bid , ~~[and, at the time it submits its bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued by the Commission on Economic Development pursuant to subsection 2,]~~ the bid shall be deemed to be 5 percent lower than the bid actually submitted.

2. The ~~[Commission on Economic Development shall issue a certificate of eligibility to receive a preference in bidding on public works to a small business owned by a service-disabled veteran if:~~

~~(a) The business submits to the Commission an application on a form prescribed by the Commission;~~

~~(b) The business satisfies the definition of a small business owned by a service-disabled veteran set forth in paragraph (c) of subsection 5; and~~

~~(c) The business satisfies any other requirements imposed by the Commission by regulation pursuant to subsection 3.~~

~~3. The Commission on Economic Development, in consultation with the State Public Works Board, shall adopt such regulations as it deems necessary to carry out the provisions of this section. The regulations adopted pursuant to this subsection must set forth, without limitation:~~

~~(a) Procedures by which the preference in bidding described in subsection 2 may be transferred to the spouse of a service-disabled veteran upon the death of that veteran.~~

~~(b) A mechanism by which a business that is determined to have made a material misrepresentation or otherwise committed a fraudulent act when applying for the preference in bidding described in subsection 2 is thereafter permanently prohibited from:~~

~~(1) Applying for or receiving the preference in bidding described in subsection 2; and~~

~~(2) Bidding on a contract for a public work pursuant to this chapter.~~

~~(c) The specific documentation or other proof that a business must submit to the Commission to demonstrate that it satisfies the definition of a small business owned by a service disabled veteran set forth in paragraph (c) of subsection 5.~~

~~(d) The duration of the preference in bidding described in subsection 2, which must not be less than 1 year or more than 3 years.~~

~~(e) The method by which a business may reapply for the preference in bidding described in subsection 2.~~

~~4. The Office of Veterans' Services shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:~~

~~(a) The number of small businesses owned by service-disabled veterans to which the Commission on Economic Development has issued a certificate pursuant to subsection 2;~~

~~(b) The number of small businesses owned by service-disabled veterans that have submitted a bid on a contract for a public work;~~

~~(c) The number of contracts for public works that have been awarded to small businesses owned by service-disabled veterans; and~~

~~(d) The total number of dollars worth of contracts for public works that have been awarded to small businesses owned by service-disabled veterans.~~

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

~~(a) "Bona fide resident" means a person who has:~~

~~(1) Established a residence in the State of Nevada; and~~

~~(2) Actually resided in this State for at least 6 months or has a valid driver's license or identification card issued by the Department of Motor Vehicles of this State.~~

~~(b) "Service-disabled veteran" means a veteran of the Armed Forces of the United States who:~~

~~(1) Is a bona fide resident; and~~

~~(2) Has a service-connected disability of zero percent or greater as determined by the United States Department of Veterans Affairs.~~

~~(c) "Small business owned by a service-disabled veteran" means a business:~~

~~*(1) At least 51 percent of which is owned by one or more service-disabled veterans;*~~

~~*(2) That is managed and operated on a day-to-day basis by one or more service-disabled veterans;*~~

~~*(3) That employs fewer than 100 employees;*~~

~~*(4) That has a net worth of $5,000,000 or less or, if a sole proprietorship, has a net worth of $5,000,000 or less including both business and personal investments;*~~

~~*(5) That is organized to engage in commercial transactions; and*~~

~~*(6) Whose main office or principal place of business is located in this State.]*~~ ***preference described in subsection 1 may not be combined with any other preference.***

Sec. 23. 1. If the State Public Works Board determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business is thereafter permanently prohibited from:

(a) Applying for or receiving the preference described in section 22 of this act; and

(b) Bidding on a contract for a public work of this State.

2. If the State Public Works Board determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business may apply to the Manager to review the decision pursuant to chapter 233B of NRS.

3. As used in this section, "Manager" has the meaning ascribed to it in NRS 341.015.

Sec. 24. The State Public Works Board shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:

1. The number of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

2. The total dollar amount of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a contract for a public work of this State.

4. The number of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

5. The total number of dollars worth of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 25. ***The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 18 to 25, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive the preference described in section 22 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in section 22 of this act; and

3. Such other matters as the State Public Works Board deems relevant.

➥ In carrying out the provisions of this section, the State Public Works Board shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and section 13 of this act are reasonably consistent.

Sec. 26. **NRS 338.1375 is hereby amended to read as follows:**

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895~~.~~ ***or section 23 of this act;***

(5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(6) The truthfulness and completeness of the application.

~~[Sec. 9.]~~ ***Sec. 27.*** NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 **[.]** ***and*** ~~*[section 8]*~~ ***sections 18 to 25, inclusive, of this act.***

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

~~[Sec. 10.]~~ ***Sec. 28.*** NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter

238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~[.]~~ ***and*** ~~*[section 8]*~~ ***sections 18 to 25, inclusive, of this act.***

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

~~[Sec. 11.]~~ ***Sec. 29.*** NRS 338.13862 is hereby amended to read as follows:

338.13862 1. Before this State or a local government awards a contract for the completion of a public work in accordance with subsection 1 of NRS 338.1386, the State or the local government must:

(a) If the estimated cost of the public work is more than $25,000 but not more than $100,000, solicit bids from at least three properly licensed contractors; and

(b) If the estimated cost of the public work is $25,000 or less, solicit a bid from at least one properly licensed contractor.

2. Any bids received in response to a solicitation for bids made pursuant to this section may be rejected if the State or the local government determines that:

(a) The quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications;

(b) The bidder is not responsive or responsible; or

(c) The public interest would be served by such a rejection.

3. At least once each quarter, the State and each local government shall prepare a report detailing, for each public work over $25,000 for which a contract for its completion is awarded pursuant to paragraph (a) of subsection 1, if any:

(a) The name of the contractor to whom the contract was awarded;

(b) The amount of the contract awarded;

(c) A brief description of the public work; and

(d) The names of all contractors from whom bids were solicited.

4. A report prepared pursuant to subsection 3 is a public record and must be maintained on file at the administrative offices of the applicable public body.

5. The provisions of this section do not relieve this State from the duty to award the contract for the public work to a bidder who is:

(a) Qualified pursuant to the applicable provisions of NRS 338.1375 to 338.1382, inclusive; and

(b) The lowest responsive and responsible bidder, if bids are required to be solicited from more than one properly licensed contractor pursuant to subsection 1. ***For the purposes of this paragraph, the lowest responsive and responsible bidder must be determined in consideration of any applicable bidder's preference granted pursuant to section ~~[8]~~ 22 of this act.***

Sec. 30. **Chapter 417 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Each year on or before October 1, the Office of Veterans' Services shall review the reports submitted pursuant to sections 12 and 24 of this act.

2. In carrying out the provisions of subsection 1, the Office of Veterans' Services shall seek input from:

(a) The Purchasing Division of the Department of Administration.

(b) The State Public Works Board.

(c) The Commission on Economic Development.

(d) Groups representing the interests of veterans of the Armed Forces of the United States.

(e) The business community.

(f) Local businesses owned by service-disabled veterans.

3. After performing the duties described in subsections 1 and 2, the Office of Veterans' Services shall make recommendations to the Legislative

Commission regarding the continuation, modification, promotion or expansion of the preferences for local businesses owned by service-disabled veterans which are described in sections 10 and 22 of this act.

4. As used in this section:

(a) "Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.

(b) "Local business" has the meaning ascribed to it in section 7 of this act.

(c) "Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.

~~[Sec. 12.]~~ ***Sec. 31.*** NRS 333.336 is hereby repealed.

~~[Sec. 13.]~~ ***Sec. 32.*** 1. This section , ~~[and]~~ sections 1 to ~~[9,]~~ **26,** inclusive, ~~[11 and 12]~~ **and 29, 30 and 31** of this act become effective on ~~[July]~~ **October** 1, 2009.

2. Section ~~[9]~~ **27** of this act expires by limitation on April 30, 2013.

3. Section ~~[10]~~ **28** of this act becomes effective on May 1, 2013.

TEXT OF REPEALED SECTION

333.336 Inverse preference imposed on certain bidders resident outside State of Nevada.

For the purpose of awarding a contract pursuant to this chapter, if a person who submits a bid or proposal:

1. Is a resident of a state other than the State of Nevada; and

2. That other state, with respect to contracts awarded by that other state or agencies of that other state, applies to bidders or contractors who are residents of that state a preference which is not afforded to bidders or contractors who are residents of the State of Nevada,

➥ the person or entity responsible for awarding the contract pursuant to this chapter shall, insofar as is practicable, increase the person's bid or proposal by an amount that is substantially equivalent to the preference that the other state of which the person is a resident denies to bidders or contractors who are residents of the State of Nevada.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblywomen Kirkpatrick and Smith:

Amendment No. 549.

AN ACT relating to state governmental procurement; establishing bidders' preferences for local businesses and local businesses owned by service-disabled veterans with respect to state purchasing contracts; establishing bidders' preferences for local businesses owned by service-disabled veterans with respect to state public works contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, with respect only to contracts for public works for which the estimated cost exceeds $250,000, provides a mechanism by which a contractor who has paid certain taxes may earn a 5-percent preference in bidding on public works. (NRS 338.1389, 338.147, 338.1693, 338.1727) **Sections 18-25** of this bill establish a limited preference in bidding on public works for local businesses owned by service-disabled veterans. This new preference in bidding on public works does not overlap with the existing preference in bidding on public works because the new preference is limited to public works for which the estimated cost is $100,000 or less.

Under existing law, the State of Nevada imposes an inverse preference against a person who submits a bid or proposal on a state purchasing contract if that person is a resident of a state that denies a preference to bidders or contractors who are residents of this State. (NRS 333.336) **Section 31** of this bill repeals that inverse preference.

In place of the former inverse preference, **sections 5-13** of this bill establish two separate new preferences in bidding on state purchasing contracts: (1) **section 10** adds a 5-percent preference for local businesses; and (2) **section 10** also adds a ~~[5]~~ *7*-percent preference for local businesses owned by service-disabled veterans.

Section 30 of this bill directs the Office of Veterans' Services to perform certain duties with respect to gathering information and making recommendations to the Legislative Commission concerning the preferences for local businesses owned by service-disabled veterans.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 13, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. ***As used in sections 5 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 6. ***"Business owned by a service-disabled veteran" means a business:***

1. Of which at least 51 percent of the ownership interest is held by one or more service-disabled veterans;

2. That is organized to engage in commercial transactions; and

3. That is managed and operated on a day-to-day basis by one or more service-disabled veterans.

➥ The term includes a business which meets the above requirements that is transferred to the spouse of a service-disabled veteran upon the death of the service-disabled veteran, as determined by the United States Department of Veterans Affairs.

Sec. 7. ***"Local business" means a business that:***

1. Employs at least one person in this State; and

2. Has employed at least one person in this State for not fewer than 2 years.

Sec. 8. ***"Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of at least zero percent as determined by the United States Department of Veterans Affairs.***

Sec. 9. ***"State purchasing contract" means a contract awarded pursuant to the provisions of this chapter.***

Sec. 10. ***For the purpose of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300:***

1. If a local business submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

2. If a local business owned by a service-disabled veteran submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be [5] 7 percent lower than the bid or proposal actually submitted.

Sec. 11. ***1. If the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 10 of this act; and

(b) Bidding on a state purchasing contract.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business may apply to the Chief to review the decision pursuant to chapter 233B of NRS.

Sec. 12. ***The Purchasing Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

2. The total dollar amount of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a state purchasing contract.

4. The number of local businesses not described in subsection 3 that submitted a bid or proposal on a state purchasing contract.

5. The number of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

6. The number of state purchasing contracts that were awarded to local businesses not described in subsection 5.

7. The total number of dollars worth of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

8. The total number of dollars worth of state purchasing contracts that were awarded to local businesses not described in subsection 7.

9. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 13. ***The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 5 to 13, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive a preference described in section 10 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in section 10 of this act; and

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

➥ In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Board so that any regulations adopted pursuant to this section and section 25 of this act are reasonably consistent.

Sec. 14. NRS 333.310 is hereby amended to read as follows:

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

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

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

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

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

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

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

(d) A summary of the provisions of ~~[NRS 333.336.]~~ ***sections 5 to 13, inclusive, of this act.***

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

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

➥ The Chief or his designated agent shall approve the copy for the advertisement.

2. Each advertisement must be published in at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation.

Sec. 15. NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

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

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

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Chief of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal.

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

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

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

(c) The price of the proposal, including the ~~[imposition]~~ ***granting*** of ~~[an inverse preference]~~ ***any of the preferences*** described in ~~[NRS 333.336,]~~ ***section 10 of this act,*** if applicable; and

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

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

5. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned

pursuant to subsection 3, and is not required to accept the lowest-priced proposal.

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

Sec. 16. NRS 333.340 is hereby amended to read as follows:

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

(a) Shall consider, if applicable, the ~~[imposition]~~ ***granting*** of ***any of*** the ~~[inverse preference]~~ ***preferences*** described in ~~[NRS 333.336.]~~ ***section 10 of this act.***

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

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

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

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

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

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

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

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 17. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 25, inclusive, of this act.

Sec. 18. ***As used in sections 18 to 25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 19, 20 and 21 of this act have the meanings ascribed to them in those sections.***

Sec. 19. ***"Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.***

Sec. 20. ***"Local business" has the meaning ascribed to it in section 7 of this act.***

Sec. 21. ***"Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.***

Sec. 22. ***1. For the purpose of awarding a contract for a public work of this State for which the estimated cost is $100,000 or less, as governed by NRS 338.13862, if a local business owned by a service-disabled veteran submits a bid, the bid shall be deemed to be*** ~~*[5]*~~ ***7 percent lower than the bid actually submitted.***

2. The preference described in subsection 1 may not be combined with any other preference.

Sec. 23. ***1. If the State Public Works Board determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 22 of this act; and

(b) Bidding on a contract for a public work of this State.

2. If the State Public Works Board determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business may apply to the Manager to review the decision pursuant to chapter 233B of NRS.

3. As used in this section, "Manager" has the meaning ascribed to it in NRS 341.015.

Sec. 24. ***The State Public Works Board shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

2. The total dollar amount of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a contract for a public work of this State.

4. The number of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

5. The total number of dollars worth of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 25. ***The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 18 to 25, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive the preference described in section 22 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in section 22 of this act; and

3. Such other matters as the State Public Works Board deems relevant.

➥ In carrying out the provisions of this section, the State Public Works Board shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and section 13 of this act are reasonably consistent.

Sec. 26. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895 ~~[.]~~ ***or section 23 of this act;***

(5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(6) The truthfulness and completeness of the application.

Sec. 27. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~[.]~~ ***and sections 18 to 25, inclusive, of this act.***

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 28. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be

performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~[.]~~ ***and sections 18 to 25, inclusive, of this act.***

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a

determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 29. NRS 338.13862 is hereby amended to read as follows:

338.13862 1. Before this State or a local government awards a contract for the completion of a public work in accordance with subsection 1 of NRS 338.1386, the State or the local government must:

(a) If the estimated cost of the public work is more than $25,000 but not more than $100,000, solicit bids from at least three properly licensed contractors; and

(b) If the estimated cost of the public work is $25,000 or less, solicit a bid from at least one properly licensed contractor.

2. Any bids received in response to a solicitation for bids made pursuant to this section may be rejected if the State or the local government determines that:

(a) The quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications;

(b) The bidder is not responsive or responsible; or

(c) The public interest would be served by such a rejection.

3. At least once each quarter, the State and each local government shall prepare a report detailing, for each public work over $25,000 for which a contract for its completion is awarded pursuant to paragraph (a) of subsection 1, if any:

(a) The name of the contractor to whom the contract was awarded;

(b) The amount of the contract awarded;

(c) A brief description of the public work; and

(d) The names of all contractors from whom bids were solicited.

4. A report prepared pursuant to subsection 3 is a public record and must be maintained on file at the administrative offices of the applicable public body.

5. The provisions of this section do not relieve this State from the duty to award the contract for the public work to a bidder who is:

(a) Qualified pursuant to the applicable provisions of NRS 338.1375 to 338.1382, inclusive; and

(b) The lowest responsive and responsible bidder, if bids are required to be solicited from more than one properly licensed contractor pursuant to subsection 1. ***For the purposes of this paragraph, the lowest responsive and responsible bidder must be determined in consideration of any applicable bidder's preference granted pursuant to section 22 of this act.***

Sec. 30. Chapter 417 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each year on or before October 1, the Office of Veterans' Services shall review the reports submitted pursuant to sections 12 and 24 of this act.

2. In carrying out the provisions of subsection 1, the Office of Veterans' Services shall seek input from:

(a) The Purchasing Division of the Department of Administration.

(b) The State Public Works Board.

(c) The Commission on Economic Development.

(d) Groups representing the interests of veterans of the Armed Forces of the United States.

(e) The business community.

(f) Local businesses owned by service-disabled veterans.

3. After performing the duties described in subsections 1 and 2, the Office of Veterans' Services shall make recommendations to the Legislative Commission regarding the continuation, modification, promotion or

expansion of the preferences for local businesses owned by service-disabled veterans which are described in sections 10 and 22 of this act.

4. As used in this section:

(a) "Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.

(b) "Local business" has the meaning ascribed to it in section 7 of this act.

(c) "Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.

Sec. 31. NRS 333.336 is hereby repealed.

Sec. 32. 1. This section, sections 1 to 26, inclusive, and 29, 30 and 31 of this act become effective on October 1, 2009.

2. Section 27 of this act expires by limitation on April 30, 2013.

3. Section 28 of this act becomes effective on May 1, 2013.

TEXT OF REPEALED SECTION

333.336 Inverse preference imposed on certain bidders resident outside State of Nevada.

For the purpose of awarding a contract pursuant to this chapter, if a person who submits a bid or proposal:

1. Is a resident of a state other than the State of Nevada; and

2. That other state, with respect to contracts awarded by that other state or agencies of that other state, applies to bidders or contractors who are residents of that state a preference which is not afforded to bidders or contractors who are residents of the State of Nevada,

➥ the person or entity responsible for awarding the contract pursuant to this chapter shall, insofar as is practicable, increase the person's bid or proposal by an amount that is substantially equivalent to the preference that the other state of which the person is a resident denies to bidders or contractors who are residents of the State of Nevada.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 236.

Bill read second time.

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

Amendment No. 537.

AN ACT relating to water conservation; revising the provisions governing grants of money for water conservation and capital improvements to certain water systems to include a nonprofit association or nonprofit cooperative corporation that provides water service only to its members; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law **:** (1) establishes a program to provide grants of money to purveyors of water and eligible recipients to pay for the costs of capital improvements to certain publicly owned water systems made necessary by federal law and to pay for the cost of improvements to conserve water **; [,]** and (2) defines "eligible recipient" for the purposes of the program to mean a political subdivision of **[**~~the~~**]** **this** State. (NRS 349.981) This bill expands the definition of "eligible recipient" to include a nonprofit association or nonprofit cooperative corporation that provides water service only to its members. **This bill also provides that the prevailing wage requirements apply to any construction work which is paid for in whole or in part by a grant from the program to such a nonprofit association or nonprofit cooperative corporation that is an eligible recipient.**

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

Section 1. NRS 349.981 is hereby amended to read as follows:

349.981 1. There is hereby established a program to provide grants of money to:

(a) A purveyor of water to pay for costs of capital improvements to publicly owned community water systems and publicly owned nontransient water systems required or made necessary by the State Environmental Commission pursuant to NRS 445A.800 to 445A.955, inclusive, or made necessary by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and the regulations adopted pursuant thereto.

(b) An eligible recipient to pay for the cost of improvements to conserve water, including, without limitation:

(1) Piping or lining of an irrigation canal;

(2) Recovery or recycling of wastewater or tailwater;

(3) Scheduling of irrigation;

(4) Measurement or metering of the use of water;

(5) Improving the efficiency of irrigation operations; and

(6) Improving the efficiency of the operation of a facility for the storage of water, including, without limitation, efficiency in diverting water to such a facility.

(c) An eligible recipient to pay the following costs associated with connecting a domestic well or well with a temporary permit to a municipal water system, if the well was in existence on or before October 1, 1999, and the well is located in an area designated by the State Engineer pursuant to NRS 534.120 as an area where the groundwater basin is being depleted:

(1) Any local or regional fee for connection to the municipal water system.

(2) The cost of any capital improvement that is required to comply with a decision or regulation of the State Engineer.

(d) An eligible recipient to pay the following costs associated with abandoning an individual sewage disposal system and connecting the

property formerly served by the abandoned individual sewage disposal system to a community sewage disposal system, if the Division of Environmental Protection requires the individual sewage disposal system to be abandoned and the property upon which the individual sewage disposal system was located to be connected to a community sewage disposal system pursuant to the provisions of NRS 445A.300 to 445A.730, inclusive, or any regulations adopted pursuant thereto:

(1) Any local or regional fee for connection to the community sewage disposal system.

(2) The cost of any capital improvement that is required to comply with a statute of this State or a decision, directive, order or regulation of the Division of Environmental Protection.

(e) An eligible recipient to pay the following costs associated with connecting a well to a municipal water system, if the quality of the water of the well fails to comply with the standards of the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and the regulations adopted pursuant thereto:

(1) Any local or regional fee for connection to the municipal water system.

(2) The cost of any capital improvement that is required for the water quality in the area where the well is located to comply with the standards of the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and the regulations adopted pursuant thereto.

2. Except as otherwise provided in NRS 349.983, the determination of who is to receive a grant is solely within the discretion of the Board.

3. ***For any construction work paid for in whole or in part by a grant provided pursuant to this section to a nonprofit association or nonprofit cooperative corporation that is an eligible recipient, the provisions of NRS 338.013 to 338.090, inclusive, apply to:***

(a) Require the nonprofit association or nonprofit cooperative corporation to include in the contract for the construction work the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to those statutory provisions.

(b) Require the nonprofit association or nonprofit cooperative corporation to comply with those statutory provisions in the same manner as if it was a public body that had undertaken the project or had awarded the contract.

(c) Require the contractor who is awarded the contract for the construction work, or a subcontractor on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work.

4. As used in this section, "eligible recipient" means ~~[(a)]~~ ***:***

(a) A political subdivision of this State, including, without limitation, a city, county, unincorporated town, water authority, conservation district, irrigation district, water district or water conservancy district.

(b) A nonprofit association or nonprofit cooperative corporation that provides water service only to its members.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 368 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Conklin moved that upon return from the printer, Assembly Bills Nos. 8 and 82 be rereferred to Ways and Means.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill 360 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 309.

Bill read third time.

Remarks by Assemblywoman Koivisto.

Roll call on Assembly Bill No. 309:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 309 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 360.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 546.

SUMMARY—Authorizes the **temporary** creation of certain special districts. (BDR 25-733)

AN ACT relating to special districts; authorizing the **temporary** creation of certain special districts to manage certain federal funds provided to the State; requiring that certain federal funds be distributed directly to certain special districts; **requiring certain reporting in connection with such special districts;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 308 of NRS provides for the creation of various types of special districts for various purposes. This bill authorizes the creation of special districts to manage money that is: (1) paid to the State by the Federal

Government; and (2) designated for the territory covered by the district. To qualify, the number of county commissioners serving on the governing board of the special district cannot constitute a majority and the special district must be authorized to act independently of the county when managing the district. This bill also requires that, if a special district has been created, federal money be paid directly to the district and not to the county or counties within which the district lies.

Under the provisions of this bill, the governing body of any special district created pursuant thereto must, on or before January 1, 2011, submit a one-time report to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.

The provisions of this bill expire by limitation on June 30, 2013.

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

Section 1. Chapter 308 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A special district may be formed subject to the provisions of this chapter:

(a) To manage any money that is:

(1) Paid to the State of Nevada or to a county by the Federal Government; and

(2) Designated for the territory covered by the special district; and

(b) With a governing body:

(1) Of which not more than half of the members are also members of the governing body or bodies of the county or counties within which lies the territory covered by the special district; and

(2) Which is authorized to act independently of the governing body or bodies of the county or counties within which lies the territory covered by the special district.

2. If a special district is formed pursuant to the provisions of this section to manage money that is:

(a) Paid to the State of Nevada or to a county by the Federal Government pursuant to a specified bill or measure of the Federal Government; and

(b) Designated for the territory covered by the special district,

➥ any such money must be distributed directly to the special district for expenditure.

Sec. 2. NRS 354.140 is hereby amended to read as follows:

354.140 1. ~~[The]~~ ***Except as otherwise provided in subsection 2, the*** money paid to the State of Nevada by the Secretary of the Treasury under the provisions of 16 U.S.C. § 500, providing for the payment to states and territories of a fixed percentage of the money received by the Government of the United States from the forest reserves established therein, must be

distributed respectively to the county or counties in which the forest reserves are situated **.** ~~[, to]~~

2. If a special district has been formed pursuant to the provisions of section 1 of this act to manage money paid to the State of Nevada by the Secretary of the Treasury under the provisions of 16 U.S.C. § 500 from forest reserves established within the territory covered by the special district, any such money must be distributed directly to the special district.

3. Money distributed pursuant to subsections 1 and 2 must be expended for the benefit of the public schools and the public roads of the county or counties in equal proportion for each object. The proportion for schools must be paid into the county school district fund. If there is a county road fund, the proportion for roads must be paid into the county road fund. If there is no county road fund, the proportion for roads must be paid into the county general fund for public road purposes.

~~[2.]~~ ***4.*** When any forest reserve is in more than one state or county, the distributive share to each must be proportional to its area therein, following as near as may be the figures submitted to the State of Nevada respecting net forest area and county acreage therein by the Forest Service, United States Department of Agriculture.

~~[3.]~~ ***5.*** The agency which is responsible for completing any audit required for the continuation of the payments must be reimbursed for the cost of the audit from the funds to which the payments were distributed proportionately according to the percentage of the payment which was distributed to each fund.

Sec. 3. **1. On or before January 1, 2011, the governing body of any special district formed pursuant to the provisions of section 1 of this act shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.**

2. The report required to be submitted in accordance with subsection 1 must include, without limitation:

(a) A description of the boundaries of the special district.

(b) The form and composition of the governance of the special district.

(c) The total number of dollars received by the special district, directly or indirectly, from the Federal Government.

(d) The purposes for which the money described in paragraph (c) was spent and will be spent.

(e) A description of the activities engaged in by the special district.

(f) Any other information that is requested by the Director of the Legislative Counsel Bureau which the Director determines would be helpful to the Legislature in evaluating the efficacy, efficiency and usefulness of the special district.

~~[Sec. 3.]~~ ***Sec. 4.*** This act becomes effective on July 1, 2009 ~~[.]~~ **, and expires by limitation on June 30, 2013.**

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Kyle Auld and Jake Ziolkowski.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Whitehead Elementary School: Kimberly Arnold, Austin Burkhart, Del Daylami, Andrea Delisle, Victoria Dickson, Sarah Ebling, Matthew Feierabend, Dominick Franco, Jordan Fritz, Jennifer Garcia, Celie Harrington, Hunter Henderson-Espinoza, Ashley Hutchinson, Osvaldo Jimenez-Estupinan, Conner Laslo, Hallie Lerma, Hezeny Mariscal, Conner McCaul, Natalie Orsi, Sara Trejo Lopez, Tiana Walker, Dylan Warkentin, Morgan Weatherhead, Cody Wheatley, Arial Wright, Maci Abrott, Yesenia Aguilar Vasquez, Thomas Behney, Madison Claypool, Jasmine Comprix, Danielle Donatelli, Ashlee Durante, Denilson Espana, Blake Fitzmier, Jennifer Gonzalez, Destyny Grooms, Keely Grow, Nicholas Hawkins, Annabel Hernandez, Toni Kane, Stefani Orozco, Anthony Peabody, Logan Pine, Alyssa Pokorski, Omar Rodriguez Hernandez, Mailynn Santacruz-Anderson, Bianca Serrano, Harvey Wood, Matthew Worden, Grace Yancey, Izabella Baumann, Kate Borsz, Matthew Butler, Thomas Dawley, Katherine Delgado, Natalie Gonzalez, Nicholas Gopen, Darby Grow, Carlos Jimenez, Anna King, Braun King, Samantha Linnenbrink, Arianna Matherly, Nicholas Milan, Jake Nance, Jacob Ross, Jordan Senda, Sarah Sepulveda, Bobby Jo Silvertooth, Ashlee Smith, Cory Starks, Michelle Trejo Lopez, Lincoln Turner and Kayla White; teachers Pam Larson and Karen King.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Michael A. Nasiak.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, April 21, 2009, at 10:30 a.m.

Motion carried.

Assembly adjourned at 7:45 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE SEVENTY-NINTH DAY

CARSON CITY (Tuesday), April 21, 2009

Assembly called to order at 10:59 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblywoman Parnell, who was excused.

Prayer by the Chaplain, Pastor Monte Fast.

An hour before the gavel brings this legislative body to action, this room begins to come to life. Armloads of printed material begin the process. Every detail is attended to. Chairs are straightened. Wilted flowers are carried out. Fresh floral displays are carefully positioned at their intended desks. Guests are escorted to their hosts' desks. The balcony fills and empties as school children see for the first time the place that certainly will affect their lives. Yesterday, with the earlier convening, people were literally trotting up and down the aisles, each with assigned tasks that would make the work of the elected Assemblypersons efficient.

Then the Front Desk crew began to do their tasks. Much care is given to the exact order in which the day will unfold. Numbers change and the Speaker's desk is organized several times. Computers are programmed and rehearsed. The Clerk of this Assembly reviews everything four or five times. Then members of the Assembly begin to ask for the final reorganization of the day.

Finally, the time deadline met, the room is alive, waiting for the actions which will occur and the gavel bangs three times.

It is appropriate to be appreciative of this awakening hour of the work by a dedicated and talented staff.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bills Nos. 220, 451, 467, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was rereferred Assembly Bill No. 60, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 60, 220, 451, 467, just reported out of committee, be placed on the appropriate reading file.

Motion carried.

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

NOTICE OF EXEMPTION

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 381.

GARY GHIGGERI
Fiscal Analysis Division

NOTICE OF WAIVER

A Waiver requested by Assemblywoman Buckley.

For: Assembly Joint Resolution No. 1.

To Waive:

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

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

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

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

Has been granted effective: Friday, April 17, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

A Waiver requested by Senator Horsford.

For: Senate Joint Resolution No. 3 of the 74th Session.

To Waive:

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

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

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

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

Has been granted effective: Friday, April 17, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 20, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 6, 8, 47, 72, 89, 103, 127, 151, 195, 227, 243, 245, 251, 265, 268, 293, 295, 319, 332, 335, 350, 351, 355, 376, 379, 396.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 6.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 8.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 47.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 72.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 89.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 103.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 127.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 151.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 195.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 227.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 243.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 245.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 251.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 265.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 268.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 293.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 295.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 319.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 332.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 335.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 350.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 351.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 355.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 376.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 379.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 396.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 162 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Atkinson moved that Assembly Bill No. 297 be taken from the Chief Clerk’s desk and placed on the General File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 471 be taken from the Chief Clerk's desk and placed on the Second Reading File.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 483 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblywoman Koivisto moved that Assembly Bill No. 413 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 162.

Bill read third time.

Remarks by Assemblymen Ohrenschall, Settelmeyer, and Leslie.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN OHRENSCHALL:

Thank you very much, Madam Speaker. Today autism has a voice. It is your voice, right here in this Chamber. Assembly Bill 162 requires health insurance plans to provide coverage for autism. Autism spectrum disorders affect 1 in 150 children. Early detection and treatment allow children the chance to lead normal lives. This bill alleviates the financial ruin that can befall families struggling to raise their children diagnosed with autism. By bringing more applied behavior analysis treatment to our state, this will lower the cost of treatment and encourage early intervention. The state will save the costs of future institutional care if these children receive the treatment that they need.

This bill represents a consensus between dedicated parents fighting for their kids' future and representatives of the insurance industry, who have all worked hard and agreed to the compromise that this bill, in its amended form, represents. Children with autism have substantial medical needs, and families have had to struggle to get the applied behavior analysis treatment that has been proven, time and time again, to make such a difference in their lives. I ask for your support on this bipartisan measure. It is not often that divergent interests can speak with one voice. Today autism speaks and it's our voice, here in this Chamber. Thank you, Madam Speaker.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. In committee there was a lot of compelling testimony, and I agree and do believe we need to do something to help out the people whose children have autism. I disagreed with the amendment, though. I felt that the state should not be treating its employees any differently. Their children with autism count, as well, and I objected. I voted "no" in committee based on that. The state has a responsibility to its employees. We should be taking care of them. We should be helping out their children who have autism. For that reason, I voted "no" but I will be voting "yes" on the bill today.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of this bill. I think the question is whether, if we cannot help all of the kids, we should help some of the kids. The bill that you have before you today helps more than a few children. It's the start. We need to cover autism for the state employees' children, for our residents who are on Medicaid. Every child should have access to this treatment, which is absolutely necessary to ensure the quality of their lives and their families' lives. So even though we can't cover everybody, I urge your support of this bill because it is covering a lot of somebodies today. Thank you.

Roll call on Assembly Bill No. 162:

YEAS—39.

NAYS—Goedhart, Gustavson—2.

EXCUSED—Parnell.

Assembly Bill No. 162 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 22.

Bill read third time.

Roll call on Assembly Bill No. 22:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 22 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 24.

Bill read third time.

Roll call on Assembly Bill No. 24:

YEAS—27.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

EXCUSED—Parnell.

Assembly Bill No. 24 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 54.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 54:

YEAS—38.

NAYS—Cobb, Goedhart, McArthur—3.

EXCUSED—Parnell.

Assembly Bill No. 54 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 119.

Bill read third time.

Remarks by Assemblymen Leslie, Settelmeyer, and Bobzien.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. This bill incorporates into statute the language of Washoe County Question 3 relating to balancing land use plans for the identified sustainable water resources. Question 3 was passed by the voters of Washoe County at the 2008 General Election and requires the amendment of the regional plan adopted by the Truckee Meadows Regional Planning Agency. The bill also clarifies that the authority and duties of the state engineer are not affected.

As the floor statement says, WC3 was approved by the voters at the last election with a vote of 73 percent in favor. A lot of voters approached me saying they really wanted to have the question codified into state law to be sure that in the future as local elected officials come and go, there is absolutely no confusion about the role of the voters to balance water and sustainable development in Washoe County. I urge your support.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. I rise in opposition of Assembly Bill 119. It is my feeling that this should have been done in an open meeting process inside Washoe County and then brought to us to codify. I feel it is wrong not to have an open meeting process because we really don't know the vote of the people, and it may be substantially different than what was voted on. I urge you to vote no.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Speaker. I rise in support of Assembly Bill 119. I think it is important to note with this legislation that a lot of hard work was put in working with the experts in planning and all of the local governments that are involved, and I think through that process this bill is an acceptable articulation of what the voters supported, as my colleague from Reno mentioned earlier. I do think this is a good way to go, thank you.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker, for a second time. I just wanted you to know, for the record, that the City of Reno, City of Sparks, Washoe County, and the Truckee Meadows Regional Planning Agency all support the bill, thank you.

Roll call on Assembly Bill No. 119:

YEAS—27.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

EXCUSED—Parnell.

Assembly Bill No. 119 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Assembly Bill No. 223 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblywoman Koivisto moved that Assembly Bill No. 256 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 236.

Bill read third time.

Remarks by Assemblyman Grady.

Roll call on Assembly Bill No. 236:

YEAS—33.

NAYS—Christensen, Cobb, Gansert, Goedhart, Gustavson, Hambrick, McArthur, Stewart—8.

EXCUSED—Parnell.

Assembly Bill No. 236 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 320.

Bill read third time.

Roll call on Assembly Bill No. 320:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 320 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 333.
Bill read third time.
Remarks by Assemblyman Denis.
Roll call on Assembly Bill No. 333:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 333 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 355 be taken from the General File and rereferred to the Committee on Ways and Means.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 360.
Bill read third time.
Remarks by Assemblyman Goicoechea.
Roll call on Assembly Bill No. 360:
YEAS—40.
NAYS—Carpenter.
EXCUSED—Parnell.
Assembly Bill No. 360 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 370.
Bill read third time.
Remarks by Assemblyman Carpenter.
Roll call on Assembly Bill No. 370:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 370 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 395 be taken from the General File and rereferred to the Committee on Ways and Means.
Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 442 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 496.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 496:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 496 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 500.

Bill read third time.

Remarks by Assemblymen McArthur and Anderson.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Assembly Bill No. 500 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Senate Bills Nos. 65 and 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 87 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblywoman McClain moved that Assembly Bill No. 267 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 283 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 385 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 397 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 297.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Potential conflict of interest by Assemblyman Manendo.

Roll call on Assembly Bill No. 297:

YEAS—31.

NAYS—Carpenter, Christensen, Goedhart, Goicoechea, Grady, Koivisto, Leslie, McClain, Settelmeyer, Woodbury—10.

EXCUSED—Parnell.

Assembly Bill No. 297 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 413.

Bill read third time.

Remarks by Assemblymen Claborn, Cobb, Carpenter, Anderson, Gansert and Pierce.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CLABORN:

Thank you, Madam Speaker. Assembly Bill 413 guarantees that the presidential candidate receiving the most votes in all of the 50 states will be elected. With the adoption of this piece of legislation, Nevada can join a nationwide movement supporting a direct national popular vote for the presidency. Legislation identical to this bill has passed in 26 legislative chambers across the country in 16 states. On Wednesday night, this exact bill was approved by the Washington State House and is headed to the governor. The President is the only office in the United States in which a candidate can receive the most votes and still lose. Making the change to a direct national popular vote is long overdue, and there is overwhelming support by the public. This has been confirmed by many polls. The Gallup organization has been polling about a national popular vote for more than 60 years and found that it is routinely supported by 70 percent or more. A statewide poll in December showed 72 percent support in Nevada alone. Simply put, the public believes that the candidate with the most votes should win the election. This legislation makes that a dream come true, and I urge your support on this very important bill.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition to Assembly Bill 413. The testimony we heard in opposition on this bill was that generally the states that want to be opposed to this type of a measure are small states, swing states, and legislators that do not want to disenfranchise their constituents. In my opinion, Nevada meets all three of those tests. I think that we should not be ceding our right to vote for a particular presidential candidate to other states who decide for us, especially if our constituents go against that will. I think we should continue to allow our constituents to pick who our presidential candidates should be. Therefore, I will be voting against the bill. Thank you.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. I must rise in opposition to Assembly Bill 413. If this measure passes some day—and hopefully it won't—there is no use for states like Nevada to even vote, because New York, Florida, Texas, and California are going to elect the President of the United States. I think the system that we have now that was put in by our Founding Fathers has checks and balances that we should retain. Thank you.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I rise in support of the legislation. I am always troubled by the Electoral College, and while I am not particularly happy by this particular way of solving it, I do believe it brings focus to the issue. The very first Founding Fathers dealt with this very problem in the election of the second President of the United States, John Adams, who ran against Thomas Jefferson. We ended up with the very delicate nature of the President being from one political point of view and a Vice President from a different point of view. Now, there may be others who say that continues on to this very day, in terms of their political points of view, but because of the Jefferson-Adams election, we ended up with an amendment to the *Constitution* so that we would not have that problem again.

The selection of the Electoral College—this select group of people, who were never supposed to meet together because no one would trust them—left us with this very delicate balance. We saw it again at the end of the American Civil War with the Hayes-Tilden election. As a result, we had the removal of military troops from the South and the end of Reconstruction and other problems, because of Oregon, a western state, a small state, whose electoral votes were in the balance. Of course, we saw it most recently in the Gore-Bush election where the Supreme Court of the United States overstepped its bounds in terms of making the determination of how ballots were going to be counted, not the House of Representatives as it was laid out.

This is a flawed system. The Electoral College is not working and has not worked for some time. I think this is an important piece of legislation that must go forward because we must send a clear message to Congress to fix it so the public can be heard. We are no longer riding around on horses. It is time for us to get into the electronic age and allow the people to vote for the President of the United States.

ASSEMBLYWOMAN GANSERT:

I rise in opposition to Assembly Bill 413. Simply put, I want my vote to count. We are in a very small state, here in Nevada, and I believe what the Assemblyman from Elko said is true. California, Texas, Florida, and so forth will be choosing the President for us. I understand the point the Assemblyman from Sparks made, but I think now that we have the President and the Vice President running together, we don't have the conflict as we did way back when. I think it is very important that all our voices be heard, and I think this last election proved that our votes were important because we had so many visits from the different candidates from both parties. I appreciated their coming to Nevada and speaking to us and making us part of this process. Thank you.

ASSEMBLYWOMAN PIERCE:

Thank you, Madam Speaker. I think there is a misunderstanding and I misunderstood this, also. The fact is that everyone that lives in New York, California, and Pennsylvania does not vote for one political party. So the fact is that this system, if we pass Assembly Bill 413, will actually require that candidates campaign in all 50 states, all of the time. We got lucky this time. But the chances of it happening again are not all that good. Like I said, under this, we will always be a part of the campaign trail, so I urge support of Assembly Bill 413.

Assemblymen Oceguera, Conklin, and Leslie moved the previous question.

The question being the passage of Assembly Bill No. 413.

Roll call on Assembly Bill No. 413:

YEAS—27.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

EXCUSED—Parnell.

Assembly Bill No. 413 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 483.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 542.

AN ACT relating to public works; revising the provisions governing the terms of certain contracts between public bodies and certain design professionals; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes mandatory, optional and prohibited provisions in a contract for the provision of services in connection with a public work entered into between a public body and a design professional who is not a member of a design-build team. (NRS 338.155) This bill ~~[relieves]~~ **clarifies the extent of the obligation of** a design professional ~~[of any contractual duty]~~ to defend **, indemnify and hold harmless** a public body against liabilities, damages, losses, claims, actions or proceedings ~~[to the extent they]~~ **that** are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or his employees or agents in the performance of the contract**.** ~~[if the professional liability insurer of the design professional refuses to defend the public body. This bill specifically provides that any provision in such a contract that conflicts with the requirements and prohibitions concerning such contracts is void.]~~

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

Section 1. NRS 338.155 is hereby amended to read as follows:

338.155 If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

1. Must set forth:

(a) The specific period within which the public body must pay the design professional.

(b) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

(c) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to paragraph (a).

(d) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

2. May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to paragraph (a) of subsection 1.

3. May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

4. ~~[Except as otherwise provided in subsection 5, must]~~ ***Must*** not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

5. Except as otherwise provided in this subsection, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, ***to the extent*** that ***such liabilities, damages, losses, claims, actions or proceedings*** are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and ~~*[, the design professional is relieved of any duty to so defend the public body and the employees, officers and agents of the public body. If]*~~ the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

6. ~~*[Any provision of a contract that conflicts with this section is void.*~~

~~*7.]*~~ As used in this ~~[subsection,]~~ ***section,*** "agents" means those persons who are directly involved in and acting on behalf of the public body ***or the design professional, as applicable,*** in furtherance of the contract or the public work to which the contract pertains.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Assembly Bill No. 223 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 442.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 554.

AN ACT relating to lobbying; requiring an entity of the Executive, Legislative or Judicial Department of State Government, and local

governments, to prepare certain reports concerning lobbying activities; establishing certain requirements for contracts for lobbying services; requiring the Board of Regents of the University of Nevada to approve certain contracts for lobbying services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires an agency, board, bureau, commission, department, division, institution, officer or employee of the Executive Department, the Legislative Department or the Judicial Department of State Government that ~~[compensates or reimburses]~~ **enters into a contract with** a person to act as a lobbyist, makes an expenditure in connection with lobbying activities that must be reported pursuant to existing law or expends any money in connection with federal lobbying activities to periodically prepare reports concerning ~~[all]~~ **such** lobbying activities undertaken by or on behalf of the entity. **Section 2** of this bill extends the same requirements to local governments.

Section 6 of this bill provides that contracts for lobbying services must: (1) specify whether the lobbying services are for state or federal lobbying activities, or both; (2) require the lobbyist to disclose the identities of his other clients and the existence of any actual or potential conflicts of interest ~~[.]~~ **as well as whether the lobbyist will also engage in services to promote a campaign during the period of the contract;** and (3) provide for the adjudication of disputes concerning actual conflicts of interest.

Section 7 of this bill requires the Board of Regents of the University of Nevada to approve any contract for lobbying services for the Nevada System of Higher Education or any component thereof.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An entity of State Government that : ~~*[directly or indirectly:]*~~

(a) ~~*[Compensates or reimburses]*~~ ***Enters into a contract with a person*** ~~*[for acting]*~~ ***to act as a lobbyist;***

(b) Makes an expenditure in connection with lobbying activities that must be reported pursuant to NRS 218.926; or

(c) Expends any money in connection with any federal lobbying activity,

➥ shall, at least quarterly, prepare a report concerning ~~*[all]*~~ ***such lobbying activity undertaken by or on behalf of the entity. During a regular session of the Legislature, the entity shall prepare the report at least monthly.***

2. The entity of State Government shall:

(a) Present each report to its governing body, if any, at a regular or special meeting of the governing body that is open to the public; and

(b) On or before January 15 of each year, submit a copy of each report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

3. As used in this section:

(a) "Entity of State Government" includes, without limitation, an agency, board, bureau, commission, department, division, institution, officer or employee of the Executive Department, including, without limitation, the Nevada System of Higher Education and the Public Employees' Retirement System, the Legislative Department or the Judicial Department of State Government.

(b) "Expenditure" has the meaning ascribed to it in NRS 218.906.

(c) "Federal lobbying activity" means any activity that is intended to influence or attempts to influence an officer or employee of any agency of the Federal Government, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with an existing or proposed federal action or program.

(d) "Lobbyist" has the meaning ascribed to it in NRS 218.912.

Sec. 2. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An entity of local government that : ~~[directly or indirectly:]~~

(a) ~~[Compensates or reimburses]~~ Enters into a contract with a person ~~[for acting]~~ to act as a lobbyist;

(b) Makes an expenditure in connection with lobbying activities that must be reported pursuant to NRS 218.926; or

(c) Expends any money in connection with any federal lobbying activity,

➥ shall, at least quarterly, prepare a report concerning ~~[all]~~ such lobbying activity undertaken by or on behalf of the entity. During a regular session of the Legislature, the entity shall prepare the report at least monthly.

2. The entity of local government shall:

(a) Present each report to its governing body, if any, at a regular or special meeting of the governing body that is open to the public; and

(b) On or before January 15 of each year, submit a copy of each report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

3. As used in this section:

(a) "Entity of local government" includes, without limitation, an agency, board, bureau, commission, department, division, institution, officer or employee of a local government.

(b) "Expenditure" has the meaning ascribed to it in NRS 218.906.

(c) "Federal lobbying activity" has the meaning ascribed to it in section 1 of this act.

(d) "Lobbyist" has the meaning ascribed to it in NRS 218.912.

(e) "Local government" means any political subdivision of this State, including, without limitation, any county, city, town, board, airport authority, regional transportation commission, fire protection district,

irrigation district, school district or other special district that performs a governmental function.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. Chapter 334 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A contract entered into between a governmental entity and a lobbyist for the provision of lobbying services must:

(a) Specify whether the lobbying services will include state lobbying activities, federal lobbying activities, or both state and federal lobbying activities.

(b) Require the lobbyist to disclose to the governmental entity the identity of each client represented by the lobbyist and the existence of any actual or potential conflicts of interest that may arise from his representation of those clients; [and]

(c) Require the lobbyist to disclose to the governmental entity whether he will provide any services to promote any campaign for compensation during the period to which the contract applies, including, without limitation, services to promote the campaign of a state or local governmental officer; and

(d) Provide for the adjudication of any dispute between the governmental entity and the lobbyist should an actual conflict of interest arise.

2. Any contract described in subsection 1 must be made available by the governmental entity for public inspection.

3. As used in this section:

(a) "Entity of local government" has the meaning ascribed to it in section 2 of this act.

(b) "Entity of State Government" has the meaning ascribed to it in section 1 of this act.

(c) "Federal lobbying activity" has the meaning ascribed to it in section 1 of this act.

[(b)] (d) "Governmental entity" means an entity of local government and an entity of State Government.

(e) "Lobbyist" has the meaning ascribed to it in NRS 218.912 and includes a person who engages in federal lobbying activity.

Sec. 7. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A contract for lobbying services for the System, or a facility, branch or institution thereof, must be approved by the Board of Regents at a regular or special meeting.

2. The Board of Regents must, before it approves a contract for lobbying services, consider and disclose during the meeting the total

amount of money committed for all contracts for lobbying services entered into by the System, or a facility, branch or institution thereof.

3. As used in this section, "contract for lobbying services" means a contract that is subject to the provisions of section 6 of this act.

Sec. 8. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 87.

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 87 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 267.

Bill read third time.

Roll call on Assembly Bill No. 267:

YEAS—31.

NAYS—Christensen, Cobb, Gansert, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart, Woodbury—10.

EXCUSED—Parnell.

Assembly Bill No. 267 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 397.

Bill read third time.

Roll call on Assembly Bill No. 397:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 397 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

SECOND READING AND AMENDMENT

Assembly Bill No. 471.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 343.

SUMMARY—Revises provisions relating to the ~~[award of deficiency judgments after a]~~ sale of real property. (BDR 3-1138)

AN ACT relating to real property; **providing that a deficiency in payment on a mortgage, deed of trust or other encumbrance may be cured under certain circumstances before foreclosure;** providing that a court shall not award a deficiency judgment on the foreclosure of a mortgage or a deed of trust under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a trustee may exercise a power of sale on the deed of trust for a breach of obligation on the deed of trust, including a deficiency in performance or payment. Existing law also provides that the trustee may pursue a power of sale and declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust. Existing law further provides that a deficiency may be cured by performance or payment, including incidental costs, within 15 days or 35 days after notice of the default, depending on the date the trust agreement came into effect, and acceleration must not occur if the deficiency is so cured. (NRS 107.080)

Section 3 of this bill provides that if the deficiency is for payment, the deficiency may be cured by payment of the sum in default, excluding acceleration but including any incidental costs, at any time before the sale. Section 3 also provides that if a notice of default has been recorded and the deficiency has been cured two or more times under the same deed of trust, the trustee may refuse a payment to cure the deficiency and exercise the power of sale. Section 1 of this bill provides a similar right to cure a deficiency in payment on a mortgage or other encumbrance before a judicial foreclosure sale. (NRS 40.430)

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. (NRS 40.455)

~~[This]~~ **Section 2 of this** bill provides that a court may not award a deficiency judgment to a judgment creditor or a beneficiary of a deed of trust if: (1) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (2) the debtor or grantor used the loan to purchase the property; (3) the debtor or grantor ~~[did not occupy the property before obtaining the loan but]~~ occupied the property continuously after obtaining the loan; and (4) the debtor or grantor did not refinance the loan.

Section 5 of this bill provides that the amendatory provisions of this bill apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this bill.

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

Section 1. **NRS 40.430 is hereby amended to read as follows:**

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. ***Except as otherwise provided in this subsection, at any time before the sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum, other than the entire unpaid balance that would not be due if no deficiency had occurred, and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur. If, under the same mortgage or other lien on real estate, an action to recover the debt has been filed and the deficiency has been made good pursuant to this subsection two or more times, for a subsequent deficiency the secured creditor may elect to refuse a payment to make good the deficiency and proceed with an action to recover the debt pursuant to this section.***

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

~~[4.]~~ ***5.*** As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

~~[Section 1.]~~ ***Sec. 2.*** NRS 40.455 is hereby amended to read as follows:

40.455 1. ~~[Upon]~~ ***Except as otherwise provided in subsection 3, upon*** application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale

or trustee's sale of the last parcel or other interest in the real property securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.

3. The court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) ~~*[The debtor or grantor did not occupy the real property before securing the mortgage or deed of trust;*~~

~~*(d)]*~~ ***The debtor or grantor continuously occupied the real property as his principal residence after securing the mortgage or deed of trust; and***

~~*[(e)]*~~ ***(d) The debtor or grantor did not refinance the mortgage or deed of trust after securing it.***

Sec. 3. **NRS 107.080 is hereby amended to read as follows:**

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance ~~[or]~~ ***other than*** payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance ~~[or]~~ ***other than*** payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of

default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property.

4. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if ~~[the]~~ ***:***

(a) The deficiency in performance ~~[or]~~ ***other than*** payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance ~~[or]~~ ***other than*** payment are paid within the time specified in ***paragraph (a) of*** subsection 2 ~~[.]~~ ***; or***

(b) The deficiency in payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in payment are paid at any time before the sale as specified in the notice provided pursuant to subsection 6, unless the trustee elects to refuse payment pursuant to subsection 5.

5. Except as otherwise provided in this subsection, at any time before the sale, if the deficiency has arisen by failure to make payments required by the deed of trust, the deficiency may be made good by payment of the deficient sum, other than the entire unpaid balance that would not be due if no deficiency had occurred, and by payment of any costs, fees and expenses incident to the preparation or recordation of the notice of default and election to sell and incident to the making good of the deficiency. If a deficiency is made good pursuant to this subsection, the sale may not occur. If, under the same deed of trust, a notice of default and election to sell has been recorded and the deficiency has been made good pursuant to this subsection two or more times, for a subsequent deficiency the trustee may elect to refuse a payment to make good the deficiency and exercise the power of sale.

~~[4.]~~ ***6.*** The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

~~[5.]~~ ***7.*** Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection ~~[6,]~~ ***8,*** an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

~~[6.]~~ ***8.*** If proper notice is not provided pursuant to subsection 3***, 4*** or paragraph (a) of subsection ~~[4]~~ ***6*** to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection ~~[5]~~ ***7*** within 120 days after the date on which the person received actual notice of the sale.

~~[7.]~~ ***9.*** The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

Sec. 4. **NRS 107.084 is hereby amended to read as follows:**

107.084 A person who willfully removes or defaces a notice posted pursuant to subsection ~~[4]~~ ***6*** of NRS 107.080, if done before the sale or, if the default is satisfied before the sale, before the satisfaction of the default, is liable in the amount of $500 to any person aggrieved by the removal or defacing of the notice.

Sec. 5. **The amendatory provisions of this act apply only to an obligation secured by a mortgage, deed of trust or other encumbrance upon real property on or after October 1, 2009.**

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Amendment No. 343 to Assembly Bill No. 471 be withdrawn.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 471.

Bill read second time.

The following amendment was proposed by Assemblyman Conklin:

Amendment No. 548.

SUMMARY—Revises provisions relating to the ~~[award of deficiency judgments after a]~~ sale of real property. (BDR 3-1138)

AN ACT relating to real property; **providing that a deficiency in payment on a mortgage, deed of trust or other encumbrance may be cured under certain circumstances before foreclosure;** providing that a court shall not award a deficiency judgment on the foreclosure of a mortgage or a deed of trust under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides a right to cure a deficiency in payment on a mortgage or other encumbrance before a judicial foreclosure sale at any time not later than 5 days before the date of sale.

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. (NRS 40.455) ~~[This]~~ **Section 2 of this** bill provides that a court may not award a deficiency judgment to a judgment creditor or a beneficiary of a deed of trust if: (1) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (2) the debtor or grantor used the loan to purchase the property; (3) the debtor or grantor ~~[did not occupy the property before obtaining the loan but]~~ occupied the property continuously after obtaining the loan; and (4) the debtor or grantor did not refinance the loan.

Section 3 of this bill provides that the amendatory provisions of this bill apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this bill.

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

Section 1. **NRS 40.430 is hereby amended to read as follows:**

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the

court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. ***At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.***

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

~~[4.]~~ ***5.*** As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

~~[Section 1.]~~ ***Sec. 2.*** NRS 40.455 is hereby amended to read as follows:

40.455 1. ~~[Upon]~~ ***Except as otherwise provided in subsection 3, upon*** application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale or trustee's sale of the last parcel or other interest in the real property securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.

3. The court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) ~~*[The debtor or grantor did not occupy the real property before securing the mortgage or deed of trust;*~~

~~(d)~~ ***The debtor or grantor continuously occupied the real property as his principal residence after securing the mortgage or deed of trust; and***

~~[(e)]~~ **(d)** ***The debtor or grantor did not refinance the mortgage or deed of trust after securing it.***

Sec. 3. **The amendatory provisions of this act apply only to an obligation secured by a mortgage, deed of trust or other encumbrance upon real property on or after October 1, 2009.**

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 60.

Bill read second time.

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

Amendment No. 466.

AN ACT relating to public financial administration; eliminating certain requirements pertaining to the sale and liquidation of certain securities; authorizing the State Treasurer to deposit state money in out-of-state financial institutions under certain circumstances; **authorizing the state and local governments to issue tax credit bonds under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law designates the types of bonds, loans, financial instruments and other securities in which public money may lawfully be invested. Public money may be invested in some securities only if the securities are of a certain investment quality which is established by the investment rating given to the security by a nationally recognized securities rating service. (NRS 355.140, 355.170, 355.171) **Sections 1-3** of this bill eliminate the requirement that certain investment-rated securities which have been purchased with public money must be sold "as soon as possible" if their investment rating is subsequently reduced below the rating that was required for their purchase. **Sections 1 and 2** also provide that if a particular security purchased with public money complies with all applicable terms, conditions, limitations and restrictions at the time of its purchase, it is not required that the security be sold if it subsequently fails to comply with any such term, condition, limitation or restriction. (NRS 355.140, 355.170)

Sections 4 and 5 of this bill eliminate a restriction on the authority of the State Treasurer to deposit state money in out-of-state financial institutions and allow him to use such institutions whenever the State Board of Finance gives its approval.

Sections 7-14 of this bill make various changes relating to the issuance of bonds so that the state and local governments may take advantage of certain provisions of the federal American Recovery and Reinvestment Act, Public Law 111-5, that authorize the issuance of tax credit bonds.

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

Section 1. NRS 355.140 is hereby amended to read as follows:

355.140 1. In addition to other investments provided for by a specific statute, the following bonds and other securities are proper and lawful investments of any of the money of this State, of its various departments, institutions and agencies, and of the State Insurance Fund:

(a) Bonds and certificates of the United States;

(b) Bonds, notes, debentures and loans if they are underwritten by or their payment is guaranteed by the United States;

(c) Obligations or certificates of the United States Postal Service, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Agricultural Mortgage Corporation, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation or the Student Loan Marketing Association, whether or not guaranteed by the United States;

(d) Bonds of this State or other states of the Union;

(e) Bonds of any county of this State or of other states;

(f) Bonds of incorporated cities in this State or in other states of the Union, including special assessment district bonds if those bonds provide that any deficiencies in the proceeds to pay the bonds are to be paid from the general fund of the incorporated city;

(g) General obligation bonds of irrigation districts and drainage districts in this State which are liens upon the property within those districts, if the value of the property is found by the board or commission making the investments to render the bonds financially sound over all other obligations of the districts;

(h) Bonds of school districts within this State;

(i) Bonds of any general improvement district whose population is 200,000 or more and which is situated in two or more counties of this State or of any other state, if:

(1) The bonds are general obligation bonds and constitute a lien upon the property within the district which is subject to taxation; and

(2) That property is of an assessed valuation of not less than five times the amount of the bonded indebtedness of the district;

(j) Medium-term obligations for counties, cities and school districts authorized pursuant to chapter 350 of NRS;

(k) Loans bearing interest at a rate determined by the State Board of Finance when secured by first mortgages on agricultural lands in this State of not less than three times the value of the amount loaned, exclusive of perishable improvements, and of unexceptional title and free from all encumbrances;

(l) Farm loan bonds, consolidated farm loan bonds, debentures, consolidated debentures and other obligations issued by federal land banks

and federal intermediate credit banks under the authority of the Federal Farm Loan Act, formerly 12 U.S.C. §§ 636 to 1012, inclusive, and §§ 1021 to 1129, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive, and bonds, debentures, consolidated debentures and other obligations issued by banks for cooperatives under the authority of the Farm Credit Act of 1933, formerly 12 U.S.C. §§ 1131 to 1138e, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive, excluding such money thereof as has been received or which may be received hereafter from the Federal Government or received pursuant to some federal law which governs the investment thereof;

(m) Negotiable certificates of deposit issued by commercial banks, insured credit unions or savings and loan associations;

(n) Bankers' acceptances of the kind and maturities made eligible by law for rediscount with Federal Reserve banks or trust companies which are members of the Federal Reserve System, except that acceptances may not exceed 180 days' maturity, and may not, in aggregate value, exceed 20 percent of the total par value of the portfolio as determined on the date of purchase;

(o) Commercial paper issued by a corporation organized and operating in the United States or by a depository institution licensed by the United States or any state and operating in the United States that:

(1) At the time of purchase has a remaining term to maturity of not more than 270 days; and

(2) Is rated by a nationally recognized rating service as "A-1," "P-1" or its equivalent, or better,

➥ except that investments pursuant to this paragraph may not, in aggregate value, exceed 20 percent of the total par value of the portfolio as determined on the date of purchase ***;*** **[**~~, and if the rating of an obligation is reduced to a level that does not meet the requirements of this paragraph, it must be sold as soon as possible;~~**]**

(p) Notes, bonds and other unconditional obligations for the payment of money, except certificates of deposit that do not qualify pursuant to paragraph (m), issued by corporations organized and operating in the United States or by depository institutions licensed by the United States or any state and operating in the United States that:

(1) Are purchased from a registered broker-dealer;

(2) At the time of purchase have a remaining term to maturity of not more than 5 years; and

(3) Are rated by a nationally recognized rating service as "A" or its equivalent, or better,

➥ except that investments pursuant to this paragraph may not, in aggregate value, exceed 20 percent of the total par value of the portfolio ***;*** **[**~~, and if the rating of an obligation is reduced to a level that does not meet the requirements of this paragraph, it must be sold as soon as possible;~~**]**

(q) Money market mutual funds which:

(1) Are registered with the Securities and Exchange Commission;

(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and

(3) Invest only in securities issued by the Federal Government or agencies of the Federal Government or in repurchase agreements fully collateralized by such securities;

(r) Collateralized mortgage obligations that are rated by a nationally recognized rating service as "AAA" or its equivalent; and

(s) Asset-backed securities that are rated by a nationally recognized rating service as "AAA" or its equivalent.

2. Repurchase agreements are proper and lawful investments of money of the State and the State Insurance Fund for the purchase or sale of securities which are negotiable and of the types listed in subsection 1 if made in accordance with the following conditions:

(a) The State Treasurer shall designate in advance and thereafter maintain a list of qualified counterparties which:

(1) Regularly provide audited and, if available, unaudited financial statements to the State Treasurer;

(2) The State Treasurer has determined to have adequate capitalization and earnings and appropriate assets to be highly credit worthy; and

(3) Have executed a written master repurchase agreement in a form satisfactory to the State Treasurer and the State Board of Finance pursuant to which all repurchase agreements are entered into. The master repurchase agreement must require the prompt delivery to the State Treasurer and the appointed custodian of written confirmations of all transactions conducted thereunder, and must be developed giving consideration to the federal Bankruptcy Act, 11 U.S.C. §§ 101 et seq.

(b) In all repurchase agreements:

(1) At or before the time money to pay the purchase price is transferred, title to the purchased securities must be recorded in the name of the appointed custodian, or the purchased securities must be delivered with all appropriate, executed transfer instruments by physical delivery to the custodian;

(2) The State must enter into a written contract with the custodian appointed pursuant to subparagraph (1) which requires the custodian to:

(I) Disburse cash for repurchase agreements only upon receipt of the underlying securities;

(II) Notify the State when the securities are marked to the market if the required margin on the agreement is not maintained;

(III) Hold the securities separate from the assets of the custodian; and

(IV) Report periodically to the State concerning the market value of the securities;

(3) The market value of the purchased securities must exceed 102 percent of the repurchase price to be paid by the counterparty and the value of the purchased securities must be marked to the market weekly;

(4) The date on which the securities are to be repurchased must not be more than 90 days after the date of purchase; and

(5) The purchased securities must not have a term to maturity at the time of purchase in excess of 10 years.

3. As used in subsection 2:

(a) "Counterparty" means a bank organized and operating or licensed to operate in the United States pursuant to federal or state law or a securities dealer which is:

(1) A registered broker-dealer;

(2) Designated by the Federal Reserve Bank of New York as a "primary" dealer in United States government securities; and

(3) In full compliance with all applicable capital requirements.

(b) "Repurchase agreement" means a purchase of securities by the State or State Insurance Fund from a counterparty which commits to repurchase those securities or securities of the same issuer, description, issue date and maturity on or before a specified date for a specified price.

4. No money of this State may be invested pursuant to a reverse-repurchase agreement, except money invested pursuant to chapter 286 of NRS.

5. The terms, conditions, limitations and restrictions regarding investments listed in this section apply only at the time an investment is originally acquired and must not be construed to require the liquidation of an investment at any time.

Sec. 2. NRS 355.170 is hereby amended to read as follows:

355.170 1. Except as otherwise provided in this section and NRS 354.750 and 355.171, the governing body of a local government may purchase for investment the following securities and no others:

(a) Bonds and debentures of the United States, the maturity dates of which do not extend more than 10 years after the date of purchase.

(b) Farm loan bonds, consolidated farm loan bonds, debentures, consolidated debentures and other obligations issued by federal land banks and federal intermediate credit banks under the authority of the Federal Farm Loan Act, formerly 12 U.S.C. §§ 636 to 1012, inclusive, and §§ 1021 to 1129, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive, and bonds, debentures, consolidated debentures and other obligations issued by banks for cooperatives under the authority of the Farm Credit Act of 1933, formerly 12 U.S.C. §§ 1131 to 1138e, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive.

(c) Bills and notes of the United States Treasury, the maturity date of which is not more than 10 years after the date of purchase.

(d) Obligations of an agency or instrumentality of the United States of America or a corporation sponsored by the government, the maturity date of which is not more than 10 years after the date of purchase.

(e) Negotiable certificates of deposit issued by commercial banks, insured credit unions or savings and loan associations.

(f) Securities which have been expressly authorized as investments for local governments by any provision of Nevada Revised Statutes or by any special law.

(g) Nonnegotiable certificates of deposit issued by insured commercial banks, insured credit unions or insured savings and loan associations, except certificates that are not within the limits of insurance provided by an instrumentality of the United States, unless those certificates are collateralized in the same manner as is required for uninsured deposits by a county treasurer pursuant to NRS 356.133. For the purposes of this paragraph, any reference in NRS 356.133 to a "county treasurer" or "board of county commissioners" shall be deemed to refer to the appropriate financial officer or governing body of the local government purchasing the certificates.

(h) Subject to the limitations contained in NRS 355.177, negotiable notes medium-term obligations issued by local governments of the State of Nevada pursuant to NRS 350.087 to 350.095, inclusive.

(i) Bankers' acceptances of the kind and maturities made eligible by law for rediscount with Federal Reserve banks, and generally accepted by banks or trust companies which are members of the Federal Reserve System. Eligible bankers' acceptances may not exceed 180 days' maturity. Purchases of bankers' acceptances may not exceed 20 percent of the money available to a local government for investment as determined on the date of purchase.

(j) Obligations of state and local governments if:

(1) The interest on the obligation is exempt from gross income for federal income tax purposes; and

(2) The obligation has been rated "A" or higher by one or more nationally recognized bond credit rating agencies.

(k) Commercial paper issued by a corporation organized and operating in the United States or by a depository institution licensed by the United States or any state and operating in the United States that:

(1) Is purchased from a registered broker-dealer;

(2) At the time of purchase has a remaining term to maturity of no more than 270 days; and

(3) Is rated by a nationally recognized rating service as "A-1," "P-1" or its equivalent, or better,

➥ except that investments pursuant to this paragraph may not, in aggregate value, exceed 20 percent of the total portfolio as determined on the date of purchase **.** ~~[, and if the rating of an obligation is reduced to a level that does not meet the requirements of this paragraph, it must be sold as soon as possible.]~~

(l) Money market mutual funds which:

(1) Are registered with the Securities and Exchange Commission;

(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and

(3) Invest only in:

(I) Securities issued by the Federal Government or agencies of the Federal Government;

(II) Master notes, bank notes or other short-term commercial paper rated by a nationally recognized rating service as "A-1," "P-1" or its equivalent, or better, issued by a corporation organized and operating in the United States or by a depository institution licensed by the United States or any state and operating in the United States; or

(III) Repurchase agreements that are fully collateralized by the obligations described in sub-subparagraphs (I) and (II).

(m) Obligations of the Federal Agricultural Mortgage Corporation.

2. Repurchase agreements are proper and lawful investments of money of a governing body of a local government for the purchase or sale of securities which are negotiable and of the types listed in subsection 1 if made in accordance with the following conditions:

(a) The governing body of the local government shall designate in advance and thereafter maintain a list of qualified counterparties which:

(1) Regularly provide audited and, if available, unaudited financial statements;

(2) The governing body of the local government has determined to have adequate capitalization and earnings and appropriate assets to be highly creditworthy; and

(3) Have executed a written master repurchase agreement in a form satisfactory to the governing body of the local government pursuant to which all repurchase agreements are entered into. The master repurchase agreement must require the prompt delivery to the governing body of the local government and the appointed custodian of written confirmations of all transactions conducted thereunder, and must be developed giving consideration to the federal Bankruptcy Act.

(b) In all repurchase agreements:

(1) At or before the time money to pay the purchase price is transferred, title to the purchased securities must be recorded in the name of the appointed custodian, or the purchased securities must be delivered with all appropriate, executed transfer instruments by physical delivery to the custodian;

(2) The governing body of the local government must enter a written contract with the custodian appointed pursuant to subparagraph (1) which requires the custodian to:

(I) Disburse cash for repurchase agreements only upon receipt of the underlying securities;

(II) Notify the governing body of the local government when the securities are marked to the market if the required margin on the agreement is not maintained;

(III) Hold the securities separate from the assets of the custodian; and

(IV) Report periodically to the governing body of the local government concerning the market value of the securities;

(3) The market value of the purchased securities must exceed 102 percent of the repurchase price to be paid by the counterparty and the value of the purchased securities must be marked to the market weekly;

(4) The date on which the securities are to be repurchased must not be more than 90 days after the date of purchase; and

(5) The purchased securities must not have a term to maturity at the time of purchase in excess of 10 years.

3. The securities described in paragraphs (a), (b) and (c) of subsection 1 and the repurchase agreements described in subsection 2 may be purchased when, in the opinion of the governing body of the local government, there is sufficient money in any fund of the local government to purchase those securities and the purchase will not result in the impairment of the fund for the purposes for which it was created.

4. When the governing body of the local government has determined that there is available money in any fund or funds for the purchase of bonds as set out in subsection 1 or 2, those purchases may be made and the bonds paid for out of any one or more of the funds, but the bonds must be credited to the funds in the amounts purchased, and the money received from the redemption of the bonds, as and when redeemed, must go back into the fund or funds from which the purchase money was taken originally.

5. Any interest earned on money invested pursuant to subsection 3, may, at the discretion of the governing body of the local government, be credited to the fund from which the principal was taken or to the general fund of the local government.

6. The governing body of a local government may invest any money apportioned into funds and not invested pursuant to subsection 3 and any money not apportioned into funds in bills and notes of the United States Treasury, the maturity date of which is not more than 1 year after the date of investment. These investments must be considered as cash for accounting purposes, and all the interest earned on them must be credited to the general fund of the local government.

7. This section does not authorize the investment of money administered pursuant to a contract, debenture agreement or grant in a manner not authorized by the terms of the contract, agreement or grant.

8. ***The terms, conditions, limitations and restrictions regarding investments listed in this section apply only at the time an investment is originally acquired and must not be construed to require the liquidation of an investment at any time.***

9. As used in this section:

(a) "Counterparty" means a bank organized and operating or licensed to operate in the United States pursuant to federal or state law or a securities dealer which is:

(1) A registered broker-dealer;

(2) Designated by the Federal Reserve Bank of New York as a "primary" dealer in United States government securities; and

(3) In full compliance with all applicable capital requirements.

(b) "Local government" has the meaning ascribed to it in NRS 354.474.

(c) "Repurchase agreement" means a purchase of securities by the governing body of a local government from a counterparty which commits to repurchase those securities or securities of the same issuer, description, issue date and maturity on or before a specified date for a specified price.

Sec. 3. NRS 355.171 is hereby amended to read as follows:

355.171 1. Except as otherwise provided in this section, a board of county commissioners, a board of trustees of a county school district or the governing body of an incorporated city may purchase for investment:

(a) Notes, bonds and other unconditional obligations for the payment of money issued by corporations organized and operating in the United States that:

(1) Are purchased from a registered broker-dealer;

(2) At the time of purchase have a remaining term to maturity of no more than 5 years; and

(3) Are rated by a nationally recognized rating service as "A" or its equivalent, or better.

(b) Collateralized mortgage obligations that are rated by a nationally recognized rating service as "AAA" or its equivalent.

(c) Asset-backed securities that are rated by a nationally recognized rating service as "AAA" or its equivalent.

2. With respect to investments purchased pursuant to paragraph (a) of subsection 1:

(a) Such investments must not, in aggregate value, exceed 20 percent of the total portfolio as determined on the date of purchase; ***and***

(b) Not more than 25 percent of such investments may be in notes, bonds and other unconditional obligations issued by any one corporation**.** **[**~~, and~~

~~(c) If the rating of an obligation is reduced to a level that does not meet the requirements of that paragraph, the obligation must be sold as soon as possible.~~**]**

3. Subsections 1 and 2 do not:

(a) Apply to a:

(1) Board of county commissioners of a county whose population is less than 100,000;

(2) Board of trustees of a county school district in a county whose population is less than 100,000; or

(3) Governing body of an incorporated city whose population is less than 100,000,

➥ unless the purchase is effected by the State Treasurer pursuant to his investment of a pool of money from local governments or by an investment adviser who is registered with the Securities and Exchange Commission and approved by the State Board of Finance.

(b) Authorize the investment of money administered pursuant to a contract, debenture agreement or grant in a manner not authorized by the terms of the contract, agreement or grant.

Sec. 4. NRS 356.010 is hereby amended to read as follows:

356.010 All money under the control of the State Treasurer belonging to the State must be deposited in any state or national banks, any insured credit unions or in any insured savings and loan associations in this State ~~[,]~~ or ***, if approved by the State Board of Finance,*** in any banks, insured credit unions or insured savings and loan associations outside of this State **.** ~~[as provided in NRS 356.100.]~~ The depository banks, credit unions or savings and loan associations may, if authorized by a contract negotiated with the State Treasurer, receive compensation for handling, collecting and paying all checks, drafts and other exchange. The compensation may be provided through the use of a compensating balance or a fixed-rate fee, or any combination thereof.

Sec. 5. NRS 356.105 is hereby amended to read as follows:

356.105 The provisions of NRS 356.010 to ~~[356.100,]~~ ***356.090,*** inclusive, do not require any depository to accept state deposits.

Sec. 6. NRS 356.110 is hereby amended to read as follows:

356.110 A state officer or employee who willfully violates:

1. NRS 356.011 is guilty of a misdemeanor.

2. Any of the other provisions of NRS 356.010 to ~~[356.100,]~~ ***356.090,*** inclusive, is guilty of malfeasance in office which is a category D felony and shall be punished as provided in NRS 193.130.

Sec. 7. **Chapter 99 of NRS is hereby amended by adding thereto a new section to read as follows:**

Notwithstanding any provision of law to the contrary, in calculating the rate of interest on any bonds or other securities that are issued by this State or any political subdivision or municipal or public corporation of this State on or before June 30, 2011, for the purposes of any limitations on the rate of interest provided by specific statute, any credit expected to be paid to or for the benefit of the issuer of the bonds or other securities under 26 U.S.C. § 6431, as amended, must be treated as a reduction in the amount of interest paid, as of the date or dates on which the credit is expected to be received. Such amount must be used to pay the interest on the bonds or other securities for which it is received or to reimburse the issuer of the bonds or other securities for that payment.

Sec. 8. **NRS 271.355 is hereby amended to read as follows:**

271.355 1. For the purpose of paying any contractor or otherwise defraying any costs of the project as the costs become due from time to time until money is available therefor from the levy and collection of assessments and any issuance of bonds, the governing body may issue interim warrants.

2. Any interim warrants issued for any construction work may be issued only upon estimates of the engineer.

3. Any interim warrants must:

(a) Bear such date or dates;

(b) Mature in such denomination or denominations at such time or times, or at any time upon call;

(c) ~~[Bear]~~ ***Except as otherwise provided in section 7 of this act, bear*** interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(d) Be payable in such medium of payment at such place or places within and without the State, including but not limited to the county treasurer,

➥ as the governing body may determine.

4. Any interim warrants may be issued with privileges for registration for payment as to principal only, or as to both principal and interest, may be negotiable or nonnegotiable, may be general obligations for the payment of which the governing body pledges the full faith and credit of the municipality, or may be special obligations payable from designated special assessments, any bond proceeds, and any other money designated to be available for the redemption of such interim warrants, and generally must be issued in such manner, in such form, with such recitals, terms, covenants and conditions, and with such other details, as may be provided by the governing body by ordinance.

5. An ordinance for the issuance of interim warrants may be adopted or amended as if an emergency existed.

Sec. 9. **NRS 271.485 is hereby amended to read as follows:**

271.485 1. Any bonds issued pursuant to this chapter may be sold in such a manner as may be approved by the governing body to defray the cost of the project, including all proper incidental expenses. The governing body may issue a single issue of bonds to defray the costs of projects in two or more improvement districts if the principal amount of those bonds does not exceed the total uncollected assessments levied in each improvement district.

2. Bonds must be sold in the manner prescribed in NRS 350.105 to 350.195, inclusive:

(a) For not less than the principal amount thereof and accrued interest thereon; or

(b) At the option of the governing body, below par at a discount not exceeding 9 percent of the principal amount and except as otherwise provided in NRS 271.487 and 271.730, ***and section 7 of this act,*** at a price which will not result in an effective interest rate which exceeds by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted if the maximum or any lesser amount of discount permitted by the governing body has been capitalized as a cost of the project.

3. Except as otherwise provided in subsection 4 and NRS 271.487 and 271.730, the rate of interest of the bonds must not at any time exceed the rate of interest, or lower or lowest rate if more than one, borne by the special assessments, but any rate of interest of the bonds may be the same as or less

than any rate of interest of the assessment, subject to the limitation provided in subsection 2, as the governing body may determine.

4. Except as otherwise provided in NRS 271.730, if a governing body creates a district pursuant to the provisions of NRS 271.710, the governing body or chief financial officer of the municipality shall, in consultation with a financial advisor or the underwriter of the bonds, fix the rate of interest of the bonds at a rate of interest such that the principal and interest due on the bonds in each year, net of any interest capitalized from the proceeds of the bonds, will not exceed the amount of principal and interest to be collected on the special assessments during that year.

5. The governing body may employ legal, fiscal, engineering and other expert services in connection with any project authorized by this chapter and the authorization, issuance and sale of bonds.

6. Any accrued interest must be applied to the payment of the interest on or the principal of the bonds, or both interest and principal.

7. Any unexpended balance of the proceeds of the bond remaining after the completion of the project for which the bonds were issued must be paid immediately into the fund created for the payment of the principal of the bonds and must be used therefor, subject to the provisions as to the times and methods for their payment as stated in the bonds and the proceedings authorizing their issuance.

8. The validity of the bonds must not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement of the project for which the bonds are issued.

9. A purchaser of the bonds is not responsible for the application of the proceeds of the bonds by the municipality or any of its officers, agents and employees.

10. The governing body may enter into a contract to sell special assessment bonds at any time but, if the governing body so contracts before it awards a construction contract or otherwise contracts for acquiring or improving the project, the governing body may terminate the contract to sell the bonds, if:

(a) Before awarding the construction contract or otherwise contracting for the acquisition or improvement of the project, it determines not to acquire or improve the project; and

(b) It has not elected to proceed pursuant to subsection 2 or 3 of NRS 271.330, but has elected to proceed pursuant to subsection 1 of that section.

11. If the governing body ceases to have jurisdiction to proceed, because the requisite proportion of owners of the frontage to be assessed, or of the area, zone or other basis of assessment, file written complaints, protests and objections to the project, as provided in NRS 271.306, or for any other reason, any contract to sell special assessment bonds is terminated and becomes inoperative.

Sec. 10. **NRS 349.076 is hereby amended to read as follows:**

349.076 Except as otherwise provided by a specific statute, ***including, without limitation, section 7 of this act,*** the rate or rates of interest on securities issued by the State must not exceed by more than 3 percent:

1. For general obligations, the Index of Twenty Bonds; and
2. For special obligations, the Index of Revenue Bonds,

➥ which was most recently published before the bids are received or a negotiated offer is accepted.

Sec. 11. **NRS 350.2011 is hereby amended to read as follows:**

350.2011 Except ***as otherwise provided in section 7 of this act, and except*** where the provisions, whenever enacted, of a general or special law or of a special charter otherwise require, the rate or rates of interest on securities issued by a political subdivision of this state must not exceed by more than 3 percent:

1. For general obligations, the Index of Twenty Bonds; and
2. For special obligations, the Index of Revenue Bonds,

➥ which was most recently published before the bids are received or a negotiated offer is accepted.

Sec. 12. **NRS 350A.140 is hereby amended to read as follows:**

350A.140 1. The State Treasurer is the Administrator of the Municipal Bond Bank.

2. In his capacity as Administrator, the State Treasurer may:

(a) Sue and be sued to establish or enforce any right arising out of a lending project or of any state securities issued pursuant to this chapter;

(b) Acquire and hold municipal securities and revenue securities, and exercise all of the rights of holders of those securities;

(c) Sell or otherwise dispose of municipal securities and revenue securities and assets acquired in connection with those securities, unless limited by any agreement which relates to those securities;

(d) Make contracts and execute all necessary or convenient instruments;

(e) Accept grants of money from the Federal Government, the State, any agency or political subdivision, or any other person;

(f) Adopt regulations relating to lending projects and the administration of lending projects;

(g) Employ for himself or for any municipality, any necessary legal, fiscal, engineering and other expert services in connection with lending projects and with the authorization, sale and issuance of state securities, municipal securities and revenue securities;

(h) Enter into agreements and arrangements consistent with the provisions of this chapter with respect to the issuance of state securities and the purchase of municipal and revenue securities;

(i) Make findings concerning the sufficiency of revenues and taxes pledged for the payment of revenue securities to repay state securities which were issued to acquire those revenue securities; ~~[and]~~

(j) ***At the request of a municipality, on or before June 30, 2011, apply for and accept a volume cap allocation for tax credit bonds that authorizes the issuance of bonds which can be sold with a federal income tax credit;***

(k) On or before June 30, 2011, enter into any agreement with the Federal Government that the State Treasurer determines is necessary or advisable:

(1) To issue bonds which can be sold with a federal income tax credit pursuant to the provisions of the Internal Revenue Code, as amended; and

(2) To receive a volume cap allocation for tax credit bonds described in paragraph (j); and

(l) Undertake other matters which he determines to be necessary or desirable in accomplishing the purposes of this chapter.

Sec. 13. **NRS 350A.153 is hereby amended to read as follows:**

350A.153 1. This chapter does not confer upon a municipality authority to pledge revenues for the payment of revenue securities. Any such authority must be derived from other law.

2. No state securities may be issued pursuant to this chapter for the purpose of acquiring revenue securities unless the governing body of the municipality issuing the revenue securities includes within the ordinance, resolution or other instrument authorizing the issuance of the revenue securities a statement authorizing the State Treasurer and any other appropriate state officer to withhold from any allocable local revenues to which the municipality is otherwise entitled an amount necessary and legally available to pay the principal and interest due on the revenue securities if the municipality fails to pay timely such principal and interest. The governing body of the municipality shall provide to the State Treasurer:

(a) A copy of the ordinance, resolution or other instrument authorizing the issuance of the revenue securities;

(b) A schedule of payments for the revenue securities; and

(c) The name and address of the person from whom payments of principal and interest on the revenue securities will be received by the State Treasurer.

3. Payments of principal and interest on revenue securities must be due not later than 1 working day before the payments of principal and interest are due on the state securities issued to acquire the revenue securities. If a payment of the principal or interest on revenue securities is not received by the State Treasurer by the date on which the payment is due, the State Treasurer shall immediately notify the municipality to determine if the payment will be immediately forthcoming. If the payment will not be immediately forthcoming, the State Treasurer shall:

(a) Forward the amount necessary to make the payment from any legally available money in the reserve fund created for that purpose in the bond bank fund; and

(b) Withhold that amount from the next payment to the municipality of allocable local revenues legally available therefor. If the amount so withheld is insufficient to pay the amount due, the State Treasurer may continue to

withhold any amounts necessary from subsequent payments to the municipality until the amount due is paid.

4. If, after being notified pursuant to this section, a municipality fails to make a payment of principal or interest on any revenue securities issued by it, the State Treasurer shall notify the Department of Taxation and request that action be taken pursuant to the provisions of NRS 354.685.

5. The State Controller and the Director of the Department of Administration shall approve requisitions or transfers required pursuant to this section and take such other action as is necessary to carry out the provisions of this section.

6. The provisions of subsections 2 to 5, inclusive, do not:

(a) Apply to municipal bonds issued on or before June 30, 2011, where the bondholder or issuer may claim or receive a tax credit pursuant to the provisions of the Internal Revenue Code.

(b) Authorize state taxes to be pledged to pay special obligations of the State.

Sec. 14. **NRS 396.852 is hereby amended to read as follows:**

396.852 1. ~~[As]~~ ***Except as otherwise provided in this section and section 7 of this act, as*** the Board may determine, any bonds and other securities issued hereunder ~~[(except as herein otherwise provided)]~~ must:

(a) Be of a convenient denomination or denominations;

(b) Be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code—Investment Securities;

(c) Mature at such time or serially at such times in regular numerical order at annual or other designated intervals in amounts designated and fixed by the Board, but not exceeding 50 years from their date;

(d) Bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the bids are received or a negotiated offer is accepted, the interest on each bond to be payable annually, semiannually, or at other designated intervals, but the first interest payment date may be for interest accruing for any other period;

(e) Be made payable in lawful money of the United States, at the office of the Treasurer of the University or any commercial bank or commercial banks within or without or both within and without the State as may be provided by the Board; and

(f) Be printed at such place within or without this state, as the Board may determine.

2. Any bonds issued hereunder must have one or two sets of interest coupons, bearing the number of the bond to which they are respectively attached, numbered consecutively in regular numerical order, and attached in such a manner that they can be removed upon the payment of the installments of interest without injury to the bonds, except as herein otherwise provided.

~~[Sec. 7.]~~ ***Sec. 15.*** NRS 356.100 is hereby repealed.

~~[Sec. 8.]~~ ***Sec. 16.*** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

356.100 Deposit of state money in bank, credit union or savings and loan association outside State. If deposits in depositories within this State are at or near the limit of deposits allowable under the value of bonds or securities pledged by such banks, insured credit unions or insured savings and loan associations, or as otherwise limited by NRS 356.010 to 356.110, inclusive, and an excess of money has accumulated in the State Treasury, the State Treasurer may:

1. Subject to the provisions of NRS 356.010 to 356.110, inclusive, with the written consent and approval of the State Board of Finance, deposit such amounts of money as may be advisable in banks, insured credit unions or insured savings and loan associations situated outside of this State; and

2. By check or order signed by the State Treasurer and countersigned by at least two members of the State Board of Finance, withdraw the deposits as needed.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 220.

Bill read second time.

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

Amendment No. 507.

AN ACT relating to the subdivision of land; revising the requirements for the purchase of property for school construction; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth a multistep process for obtaining approval for the subdivision of land. (NRS 278.320-278.460) One of the preliminary requirements is a determination of the need for a school in the area in which the subdivision is located. (NRS 278.330) If a school is needed, the subdivider is required to make suitable land within the proposed subdivision available for purchase by the school district at a price which does not exceed the fair market value of the land. ~~[(NRS 278.346) This bill specifies that the time for the determination of the fair market value of the land for the purposes of this purchase is the time the tentative map of the subdivision is approved by the governing body or planning commission.~~

~~Existing law provides that if~~] **Under existing law, if** the school district does not construct a school on the land within 10 years from the date of purchase, the land must be offered for resale back to the subdivider or his successor in interest. (NRS 278.346) ~~[This bill removes the time restriction~~

~~and the restriction that the land must be used only for a school site so that the requirement, as changed by this bill, now provides that the land must be offered for resale back to the subdivider or his successor in interest if the board of trustees determines at any time that the land is not required for a school or any other use by the school district.]~~

This bill provides that, in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), the school district and subdivider may negotiate a purchase price which is the lesser of: (1) the fair market value of the land on the date of purchase; or (2) the fair market value of the land at the time the tentative subdivision map was approved plus the costs of certain expenses paid by the subdivider. This bill also provides that, in such a county, if the purchase is not completed within 5 years after the final map that shows the school site is approved, the subdivider need not continue to set aside the land for the school district. This bill further requires a school district in such a county to offer the land back to the subdivider or successor in interest if construction on a school has not begun at the site within 10 years from the date of purchase.

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

Section 1. NRS 278.346 is hereby amended to read as follows:

278.346 1. The planning commission or its designated representative ~~[,]~~ or, if there is no planning commission, the clerk or other designated representative of the governing body shall ***, not more than 10 days after the tentative map is filed pursuant to the provisions of subsection 2 of NRS 278.330,*** forward a copy of the tentative map to the board of trustees of the school district within which the proposed subdivision is located. Within 15 days after receipt of the copy, the board of trustees ***or its designee*** shall, if a school site is needed within the area, notify the commission or governing body that a site is requested.

2. If the board of trustees requests a site ~~[, the]~~ ~~[person proposing the subdivision]~~ ***:***

(a) The subdivider shall ***, except as otherwise provided in subsection 8,*** set aside a site of the size which is determined by the board. ~~[The person proposing the subdivision]~~ ~~*[If the tentative map is approved pursuant to NRS 278.349 or deemed approved pursuant to NRS 278.350, the school district may purchase the site and the]*~~

(b) The subdivider and the board of trustees shall ***, except as otherwise provided in subsections 7 and 8,*** negotiate for the price of the site, which must not exceed the fair market value of the land ~~*[at the time the tentative map is approved,]*~~ as determined by an independent appraisal paid for by the board.

3. If ~~*[a board of trustees determines that]*~~ any land purchased by ~~[a]~~ ***the*** school district pursuant to the provisions of ~~[this subsection]~~ ~~[have]~~

subsection 2 has not been placed in use as ~~*[is not needed for]*~~ a school site at the end of 10 years from the date of purchase, ~~*[for any other use by the school district,]*~~ the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value ~~[. If such person]~~ ***of the land at the time such determination is made, as determined by an independent appraisal paid for by the board.***

4. If the subdivider or his successor in interest does not accept ~~[the offer,]~~ ***an offer made pursuant to the provisions of subsection 3 or 9,*** then the board of trustees may:

(a) Sell or lease such property in the manner provided in NRS 277.050 or 393.220 to 393.320, inclusive;

(b) Exchange such property in the manner provided in NRS 277.050 or 393.326 to 393.3293, inclusive; or

(c) Retain such property, if such retention is determined to be in the best interests of the school district.

~~[3.]~~ ***5.*** Except as ***otherwise*** provided in subsection ~~[4,]~~ ***6,*** when any land dedicated to the use of the public school system or any land purchased and used as a school site becomes unsuitable, undesirable or impractical for any school uses or purposes, the board of trustees of the county school district in which the land is located shall dispose of the land as provided in subsection ~~[2.]~~ ***4.***

~~[4.]~~ ***6.*** Land dedicated under the provisions of former NRS 116.020, as it read before April 6, 1961, which the board of trustees determines is unsuitable, undesirable or impractical for school purposes may be reconveyed without cost to the dedicator or his successor or successors in interest.

7. Except as otherwise provided in subsection 8, in a county whose population is 100,000 or more but less than 400,000, the school district may purchase the site for a price negotiated between the subdivider and the board of trustees, which price must not exceed the lesser of:

(a) The fair market value of the land at the time the tentative map was approved, as determined by an independent appraisal paid for by the board, plus any costs paid by the subdivider with respect to that land between the date the tentative map was approved and the date of purchase; or

(b) The fair market value of the land on the date of purchase, as determined by an independent appraisal paid for by the board.

8. If, 5 years after the date on which the final map that contains the school site was approved, a school district has not purchased the site pursuant to the provisions of subsection 7, the subdivider need not continue to set aside the site pursuant to the provisions of subsection 2.

9. If, 10 years after the date of purchase of a school site pursuant to subsection 7, construction of a school at the school site has not yet begun, the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value of the land at the time such

determination is made, as determined by an independent appraisal paid for by the board.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 451.

Bill read second time.

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

Amendment No. 347.

SUMMARY—Establishes a program for the issuance of state obligations to provide venture capital to certain minority-owned businesses in this State. (BDR ~~[30]~~ **31** -613)

AN ACT relating to state obligations; establishing a program for the ~~[~~issuance of state obligations~~]~~ **investment of state money in certificates of deposit at a reduced rate** to provide ~~[~~venture capital~~]~~ **lending institutions with money for reduced-rate loans** to certain minority-owned **and other small** businesses in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[~~Existing law prohibits the State from donating or loaning money or its credit or subscribing to or being interested in the stock of any company, association or corporation, except corporations formed for educational or charitable purposes. (Nev. Const. Art. 8, § 9) Section 9 of this bill requires the Director of the Department of Business and Industry to form an independent corporation for profit, the purpose of which is to form a limited partnership to provide venture capital to certain minority-owned businesses to enhance their ability to do business in this State. Section 9 also requires the Director to form an independent corporation for public benefit to serve as the sole stockholder of the independent corporation for profit formed by the Director.

Section 10 of this bill requires the State Board of Finance, upon application by the Director, to issue general obligation bonds of the State of Nevada, the aggregate amount of which must not exceed $20,000,000. The Director shall use a portion of the proceeds of the bonds to loan money to the corporation for public benefit formed by the Director to provide, through the limited partnership formed by the corporation for profit formed by the Director, venture capital to certain minority-owned businesses to enhance their ability to do business in this State. Section 10 also requires the Director to create an account for the escrow of a portion of the loan to ensure that the money in the escrow, when invested, will have a value equal to or greater than the principal amount of the loan and requires the Director to provide a rate of interest on the loan that, together with any other interest, penalties and other payments received from the proceeds of the bonds, will be sufficient to

~~pay the interest on the bonds.~~] **Existing law allows the State Treasurer to invest the money of this State in negotiable certificates of deposit issued by commercial banks, insured credit unions or insured savings and loan associations. (NRS 355.140) Section 15 of this bill requires the State Treasurer to establish a Linked Deposit Program whereby the State, in an aggregate amount not to exceed $20,000,000, invests in certificates of deposit with commercial banks, insured credit unions or insured savings and loan associations at a reduced rate of interest on the condition that the lending institution link the value of each certificate of deposit to a reduced-rate loan to certain types of small businesses. Section 15 also provides that the rate of interest paid to the State on the deposit is to be not more than 2 percentage points below the market rate for such a deposit, and the loan rate is to be reduced not more than 2 percentage points below the market rate for such a loan. Further, section 15 requires a lending institution to sign an agreement with the State Treasurer as to the terms of such a deposit and its linked loan.**

Section 17 of this bill requires a lending institution that participates in the Linked Deposit Program to apply all the usual lending standards to determine the creditworthiness of a small business seeking a loan and further requires that a preference be given to certain small businesses that are owned by a member of a racial or ethnic minority, a woman or an honorably discharged veteran of the Armed Forces of the United States. Section 19 of this bill limits such loans to not more than $500,000 and to a term of not longer than 10 years. Section 18 of this bill limits the types of businesses that are eligible to participate in the Linked Deposit Program.

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

Section 1. ~~[The Legislature hereby declares that the purpose of this act is to benefit the general welfare of the people of this State by improving the state economy through the development of business opportunities for employment, and finds that this purpose is a charitable purpose within the meaning of Section 9 of Article 8 of the Nevada Constitution.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[Chapter 349 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 11, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[*As used in sections 3 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*]~~ **(Deleted by amendment.)**

Sec. 4. ~~[*"Corporation for public benefit" means a corporation that is recognized as exempt pursuant to section 501(c)(3) of the Internal Revenue*~~

~~*Code of 1986, future amendments to that section and the corresponding provisions of future internal revenue loans.]*~~ (Deleted by amendment.)

Sec. 5. ~~*[“Department” means the Department of Business and Industry.]*~~ (Deleted by amendment.)

Sec. 6. ~~*[“Director” means the Director of the Department.]*~~ (Deleted by amendment.)

Sec. 7. ~~*[“Minority-owned business” means any business in this State that is established and operating, or will be established to operate, of which at least 51 percent is owned by a person who is a member of a racial or ethnic minority.]*~~ (Deleted by amendment.)

Sec. 8. ~~*[“Venture capital” means an investment in or loan made to a minority-owned business.]*~~ (Deleted by amendment.)

Sec. 9. ~~*[The Director shall cause to be formed in this State:*~~

~~*1. An independent corporation for profit, the general purpose of which is to form and act as the general partner of a limited partnership to provide venture capital to minority-owned businesses to enhance their ability to do business in this State.*~~

~~*2. An independent corporation for public benefit that shall serve as the sole stockholder of the independent corporation formed pursuant to subsection 1.]*~~ (Deleted by amendment.)

Sec. 10. ~~*[1. Upon application by the Director, the State Board of Finance shall issue general obligation bonds of the State of Nevada to carry out the provisions of subsection 2. The aggregate amount of all outstanding bonds issued pursuant to this section must not exceed $20,000,000. The provisions of the State Securities Law apply to the issuance of bonds pursuant to this section.*~~

~~*2. The expenses related to the issuance of bonds pursuant to this section must be paid from the proceeds of the bonds. The Director shall use the remaining proceeds to loan money to the corporation for public benefit created pursuant to subsection 2 of section 9 of this act, pursuant to a loan agreement that:*~~

~~*(a) Requires the corporation for public benefit to use the money to provide, through the limited partnership formed by the corporation created pursuant to subsection 1 of section 9 of this act, venture capital to minority-owned businesses to enhance their ability to do business in this State;*~~

~~*(b) Requires the creation of an escrow for a portion of the loan in an account for the benefit of the Department that, when the money in the escrow is invested for a period of not more than 15 years, will have a value equal to or greater than the principal amount of the loan; and*~~

~~*(c) Provides a rate of interest on the loan in an amount established by the Director. The Director shall establish a rate of interest in an amount that, together with any other interest, penalties and other payments received from the proceeds of the bonds issued pursuant to this section, will be sufficient to pay the interest on the bonds.]*~~ (Deleted by amendment.)

Sec. 11. ~~[*The Director, in consultation with the Commission on Economic Development shall:*~~

~~*1. Adopt such regulations as he deems necessary to carry out the provisions of sections 3 to 11, inclusive, of this act, including, without limitation, the performance of such audits and the submission of such reports as he deems appropriate to ensure compliance with the provisions of sections 3 to 11, inclusive, of this act and the regulations adopted pursuant to this section. The regulations may include criteria for the determining eligibility for and use of money loaned pursuant to subsection 2 of section 10 of this act, but the corporation created pursuant to subsection 1 of section 9 of this act must have sole authority for the approval of applications for and the management of venture capital provided pursuant to sections 3 to 11, inclusive, of this act.*~~

~~*2. Provide the corporation created pursuant to subsection 2 of section 9 of this act with such assistance as is necessary to carry out the provisions of sections 3 to 11, inclusive, of this act and comply with the regulations adopted pursuant to this section.*~~*]* **(Deleted by amendment.)**

Sec. 12. **Chapter 355 of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 20, inclusive, of this act.**

Sec. 13. ***The Legislature hereby declares that the public policy of this State is to benefit the general welfare of the people of this State by improving the state economy through the encouragement of reduced-rate lending to minority-owned and certain other small businesses.***

Sec. 14. ***As used in sections 13 to 20, inclusive, of this act, unless the context otherwise requires:***

1. "Eligible small business" means a business that meets the requirements of section 18 of this act.

2. "Linked deposit" means a certificate of deposit issued pursuant to sections 15 to 20, inclusive, of this act to the State Treasurer by a qualified lending institution at an interest rate not more than 2 percent below the current market rate on the condition that the institution agrees to lend the value of the deposit, according to a deposit agreement made pursuant to section 15 of this act, to an eligible small business at a rate that is at least 2 percent lower than the current market rate for such a loan.

3. "Qualified lending institution" means a commercial bank, a savings and loan association or an insured credit union in this State that meets the eligibility requirements of section 16 of this act.

Sec. 15. ***1. The State Treasurer shall establish a Linked Deposit Program to increase the availability of reduced-rate loans to certain small businesses owned and operated in this State.***

2. The State Treasurer may invest in reduced-rate certificates of deposit with qualified lending institutions upon acceptance of a loan package pursuant to this section and section 17 of this act. Each certificate of deposit issued pursuant to this section by a qualified lending institution to

the State Treasurer must be linked to a reduced-rate loan made by the qualified lending institution to an eligible small business.

3. The total amount invested in linked deposits by the State Treasurer at any one time may not exceed, in the aggregate, $20,000,000.

4. The State Treasurer may accept or reject a linked deposit loan package presented by a qualified lending institution.

5. Upon acceptance of a linked deposit loan package from a qualified lending institution:

(a) The State Treasurer may place a linked deposit with the lending institution at a rate that is not more than 2 percentage points below the market rate for such a deposit at that lending institution. The State Treasurer shall determine and calculate all linked deposit rates.

(b) The qualified lending institution shall enter into a deposit agreement with the State Treasurer, which must include requirements necessary to carry out the purposes of sections 13 to 20, inclusive, of this act. The deposit agreement must specify, without limitation:

(1) The rate of interest to be paid on the deposit;

(2) The rate of interest to be charged for the loan linked to the deposit;

(3) That the qualified lending institution:

(I) Shall loan an amount equal to the amount of the deposit to an eligible small business at a rate that is reduced from the current market rate for such a loan in the same amount as the reduction in rate received from the State Treasurer for the linked deposit;

(II) Shall verify that the small business is eligible for such a loan;

(III) Shall collect and supply the State Treasurer with any information requested as to the loan and the eligible small business; and

(IV) Shall notify the State Treasurer immediately if the eligible small business becomes ineligible for the Linked Deposit Program during the term of the loan; and

(4) That the rate of interest to be paid on the deposit will revert to the current market rate at the time the eligible small business becomes ineligible for the Linked Deposit Program.

6. The State Treasurer shall compile and maintain on his Internet website a list of small businesses that have received loans from the Linked Deposit Program. The list must include, without limitation, for each business listed:

(a) The name of the business;

(b) The type of business;

(c) The location of the business;

(d) The amount and term of the linked deposit loan; and

(e) The name and location of the qualified lending institution that made the loan.

Sec. 16. 1. The State Board of Finance shall qualify a lending institution for participation in the Linked Deposit Program established by the State Treasurer pursuant to section 15 of this act.

2. To qualify for participation in the Linked Deposit Program, a lending institution must:

(a) Be a commercial bank organized under chapter 659 of NRS, an insured savings and loan association organized under chapter 673 of NRS or an insured credit union organized under chapter 678 of NRS;

(b) Agree to actively advertise to and inform small businesses of the availability of reduced-rate loans through the Linked Deposit Program;

(c) Make information about the Linked Deposit Program available on the public Internet website of the institution, if any; and

(d) Apply for qualification on a form provided by the State Board of Finance.

3. The State Board of Finance shall adopt regulations necessary to carry out the provisions of this section.

Sec. 17. 1. A qualified lending institution that desires to receive a linked deposit shall accept and review applications for linked deposit loans from eligible small businesses on a form provided by the State Treasurer. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible small business, including, without limitation, the consideration of:

(a) Character, reputation and credit history of the applicant;

(b) Experience and depth of management;

(c) Strength of the business;

(d) Past earnings, projected cash flow and future prospects;

(e) Ability to repay the loan with earnings from the business;

(f) Sufficient invested equity to operate on a sound financial basis; and

(g) Potential for long-term success.

2. In determining which small business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal:

(a) First, to a business that is at least 51-percent owned by a resident of this State who is:

(1) A member of a racial or ethnic minority;

(2) A woman; or

(3) An honorably discharged veteran of the Armed Forces of the United States.

(b) Second, to a business engaged in the production and sale of fuel or power from an energy source other than a fossil fuel, including, without limitation, geothermal, hydroelectric, solar or wind energy.

3. A qualified lending institution must submit a loan package to the State Treasurer for each Linked Deposit Program loan, on a form provided by the State Treasurer. The loan package must include, without limitation, verification by the qualified lending institution that the eligible small

business meets the requirements of this section and section 18 of this act and that the use of proceeds as specified in the loan meets the requirements of section 19 of this act.

Sec. 18. 1. To be eligible for a loan from a qualified lending institution pursuant to the Linked Deposit Program established pursuant to section 15 of this act, a business must:

(a) Employ not more than 50 employees;

(b) Be headquartered in this State;

(c) Maintain offices or operating facilities in this State;

(d) Transact business in this State;

(e) Be organized for profit;

(f) Have gross annual sales of less than $5,000,000 at the time of application pursuant to this section;

(g) Satisfy the lending criteria of the qualified lending institution;

(h) Submit verification of eligibility for a linked deposit loan with a qualified lending institution on a form provided by the State Treasurer; and

(i) Submit an application for a linked deposit loan with a qualified lending institution on a form provided by the qualified lending institution.

2. The following types of businesses are not eligible for a loan from a qualified lending institution under the Linked Deposit Program established pursuant to section 15 of this act:

(a) Nonprofit businesses;

(b) Financial businesses engaged primarily in the business of lending, including, without limitation, banks, finance companies and pawnbrokers;

(c) Speculative real estate development companies;

(d) Subsidiaries of businesses located in a foreign country;

(e) Businesses which have previously defaulted on a Linked Deposit Program loan or federally assisted financing;

(f) Businesses which engage in any illegal activity; and

(g) Any business which is ineligible under regulations adopted by the State Treasurer pursuant to section 20 of this act.

Sec. 19. 1. A reduced-rate loan made pursuant to the Linked Deposit Program may not:

(a) Exceed $500,000; and

(b) Have a term of more than 10 years.

2. An eligible small business may use loan proceeds from a linked deposit reduced-rate loan for the following purposes:

(a) Working capital;

(b) Real property acquisition;

(c) Establishing a line of credit;

(d) Financing of accounts receivable;

(e) Purchase of equipment, except that such equipment must not be purchased to replace the work or function of employees, resulting in layoffs or downsizing; and

(f) Any other purpose permissible under regulations adopted by the State Treasurer pursuant to section 20 of this act.

Sec. 20. ***The State Treasurer shall adopt regulations necessary to carry out the provisions of sections 13 to 20, inclusive, of this act.***

Sec. 21. **This section and sections 12 to 20, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009 for all other purposes.**

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that upon return from the printer, Assembly Bill No. 451 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 467.

Bill read second time.

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

Amendment No. 349.

AN ACT relating to governmental financial administration; revising provisions relating to the prevailing wage requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, the Nevada Supreme Court has held that even where a statute states specifically that the prevailing wage must be paid pursuant to NRS 338.010-338.090, prevailing wages need not be paid if the project at issue does not fit the definition of a "public work" and does not involve a "public body." (Carson-Tahoe Hospital v. Building and Construction Trades Council of Northern Nevada, 122 Nev. 218 (2006)) This bill clarifies that where a statute provides that the provisions relating to prevailing wage apply, prevailing wages are required to be paid regardless of whether the project for financing or other purposes is publicly or privately owned, and solely for the purposes of those provisions, the project is deemed a public work and the relevant public agency is deemed to be a party to the contract and to be the public body for purposes of performing certain duties relating to the prevailing wage requirements.]~~ **Section 1 of this bill requires that statutes which specifically state that certain statutory provisions relating to the payment of prevailing wages apply to a construction project be construed, if the public body is not a party to the contract or agreement for the construction of the project, to: (1) require the person or entity executing the contract or agreement for the construction of the project to include in the contract or agreement the contractual provisions and**

stipulations that are required to be included in a contract for a public work; (2) require the public body to comply with those statutory provisions in the same manner as if the public body had undertaken the project or awarded the contract; and (3) require the contractor who is awarded the contract or entered into the agreement to perform construction on the project, or a subcontractor on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work. Section 1 of this bill makes a conforming change. (NRS 338.013)

Section 21 of this bill provides that the prevailing wage requirements apply to certain installment-purchase agreements by local governments. **Sections 22 and ~~[23]~~ 24** of this bill clarify that the prevailing wage requirements apply to certain **lease-purchase and** installment-purchase contracts entered into by the State or its political subdivisions.

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

Section 1. **Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:**

Statutes which state that the provisions of NRS 338.010 to 338.090, inclusive, 338.013 to 338.090, inclusive, or 338.020 to 338.090, inclusive, apply to a construction project of any kind must be construed, if the public body is not a party to the contract for the actual construction of the project, to:

1. Require the person or entity that executes one or more contracts or agreements for the actual construction of the project to include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to those statutory provisions.

2. Require the public body to comply with those statutory provisions in the same manner as if the public body had undertaken the project or had awarded the contract.

3. Require the contractor who is awarded the contract or entered into the agreement to perform construction on the project, or a subcontractor on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work.

Sec. 1.3. ~~[~~NRS 338.0115 is hereby amended to read as follows:

338.0115 1. Except as otherwise provided in subsection 2, the provisions of this chapter and chapters 332 and 339 of NRS do not apply to a contract under which a private developer, for the benefit of a private development, constructs a water or sewer line extension and any related appurtenances:

(a) Which qualify as a public work pursuant to NRS 338.010; and

~~(b) For which he will receive a monetary contribution or refund from a public body as reimbursement for a portion of the costs of the project.~~

~~2. If, pursuant to the provisions of such a contract, the developer is not responsible for paying all of the initial construction costs of the project [, the] :~~

~~(a) The~~ ~~provisions of NRS [338.013 to 338.090, inclusive, and] 338.1373 to 338.148, inclusive, apply to the contract [.] ; and~~

~~(b) The requirement for the payment of prevailing wages as set forth in NRS 338.013 to 338.090, inclusive, applies to the project, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the developer shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.]~~ ***(Deleted by amendment.)***

Sec. 1.7. **NRS 338.013 is hereby amended to read as follows:**

338.013 1. A public body that ~~[advertises for bids for]~~ ***undertakes*** a public work shall request from the Labor Commissioner, and include in ~~[the]~~ ***any*** advertisement ~~[,]~~ ***or other type of solicitation,*** an identifying number with his designation of the work. That number must be included in any bid ***or other document*** submitted in response to the advertisement ~~[.]~~ ***or other type of solicitation.***

2. Each public body which awards a contract for any public work shall report its award to the Labor Commissioner within 10 days after the award, giving the name and address of the contractor to whom the public body awarded the contract and the identifying number for the public work.

3. Each contractor engaged on a public work shall report to the Labor Commissioner and the public body that awarded the contract the name and address of each subcontractor whom he engages for work on the project within 10 days after the subcontractor commences work on the contract and the identifying number for the public work.

4. The public body which awarded the contract shall report the completion of all work performed under the contract to the Labor Commissioner before the final payment of money due the contractor by the public body.

Sec. 2. ~~[NRS 338.018 is hereby amended to read as follows:~~

~~338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds $100,000 [even if the construction work does not qualify as a public work, as defined in subsection 15 of NRS 338.010.] , regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the Board of Regents of the University of Nevada shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 338.075 is hereby amended to read as follows:~~

~~338.075 The [provisions of]~~ ***~~[requirement for the payment of prevailing wages as set forth in~~*** ~~NRS 338.020 to 338.090, inclusive, [apply]~~ ***~~[applies~~*** ~~to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds $100,000 [even if the construction work does not qualify as a public work, as defined in subsection 15 of NRS 338.010.]~~ ***~~, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the Board of Regents of the University of Nevada shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.]~~*** **(Deleted by amendment.)**

Sec. 4. ~~[NRS 338.1698 is hereby amended to read as follows:~~

~~338.1698 A contract awarded to a construction manager at risk pursuant to NRS 338.1695 or 338.1696:~~

~~1. Must [comply with the provisions of]~~ ***~~[include a provision stating that the requirement for the payment of prevailing wages as set forth in~~*** ~~NRS [338.020]~~ ***~~338.013~~*** ~~to 338.090, inclusive [.]~~ ***~~, applies to the project, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the public body shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.~~***

~~2. Must specify a date by which performance of the work required by the contract must be completed.~~

~~3. May set forth the terms by which the construction manager at risk agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the construction manager at risk.~~

~~4. Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.~~

~~5. May include such additional provisions as may be agreed upon by the public body and the construction manager at risk.]~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 338.1727 is hereby amended to read as follows:~~

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

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

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

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

~~3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.~~

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

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

~~6. After receiving and evaluating the final proposals for the public work, the public body, at a regularly scheduled meeting, shall:~~

~~(a) Select the final proposal, using the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected; or~~

~~(b) Reject all the final proposals.~~

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

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

~~(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.~~

~~8. A contract awarded pursuant to this section:~~

~~(a) Must~~ **[**~~comply with the provisions of~~**]** ***include a provision stating that the requirement for the payment of prevailing wages as set forth in*** ~~NRS~~ **[**~~338.020~~**]** ***338.013*** ~~to 338.090, inclusive~~ **[**~~.~~**]** ***, applies to the project,***

~~***regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the public body shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.***~~

~~(b) Must specify:~~

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

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

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

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

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

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

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

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

(Deleted by amendment.)

Sec. 6. **[**~~NRS 244.286 is hereby amended to read as follows:~~

~~244.286 1. The board of county commissioners of any county may enter into an agreement with a person whereby the person agrees to construct or remodel a building or facility according to specifications adopted by the board of county commissioners and thereupon enter into a lease or a lease-purchase agreement with the board of county commissioners for that building or facility.~~

~~2. The board of county commissioners may convey property to a person where the purpose of the conveyance is the entering into of an agreement contemplated by subsection 1.~~

~~3. The [~~provisions of~~] *requirement for the payment of prevailing wages as set forth in* NRS [~~338.010~~] *338.013* ~~to 338.090, inclusive, [~~apply~~] *applies* to any agreement for the construction or remodeling of a building or facility entered into pursuant to subsection 1 [.] *, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the county shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and entering into the agreement for the project.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~[NRS 244A.058 is hereby amended to read as follows:~~

~~244A.058 1. A board that has adopted an ordinance imposing a fee pursuant to NRS 244A.810 may, on behalf of the county and in its name:~~

~~(a) Acquire, lease, improve, equip, operate and maintain within the county a minor league baseball stadium project.~~

~~(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, lease, improve or equip, or any combination thereof, within the county a minor league baseball stadium project.~~

~~2. Bonds issued pursuant to this section must be payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally secured by and payable from the gross or net revenues of the minor league baseball stadium project, including, without limitation, amounts received from any minor league baseball team pursuant to a contract with that team, fees, rates and charges for the use of the stadium by a minor league baseball team or any other uses of the stadium, and related uses, including, without limitation, parking and concessions, surcharges on tickets in an amount approved by the board, grants, whether conditional or unconditional, made for the payment of debt service or otherwise for the purposes of the minor league baseball stadium project, and any and all other sources of revenue attributable to the minor league baseball stadium project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.~~

~~3. The provisions of chapters 332, 338 and 339 of NRS do not apply to a contract entered into by a county and a private developer pursuant to which the private developer constructs a minor league baseball stadium project, except that the contract must include a provision stating that the [~~requirements~~] *requirement for the payment* of *prevailing wages as set forth in* NRS [~~338.010~~] *338.013* ~~to 338.090, inclusive, [~~apply~~] *applies* to any construction work to be performed under the contract [.] *, to the same extent as if the contract or other agreement was awarded by the governing body of the municipality and the project constituted a public work, regardless of whether the project for financing or other purposes is publicly or privately owned* [*, and, solely for the purposes of those provisions, the project shall be*~~

~~*deemed to be a public work and the county shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.]]*~~ **(Deleted by amendment.)**

Sec. 8. ~~[~~NRS 244A.763 is hereby amended to read as follows:

~~244A.763 1. NRS 244A.669 to 244A.763, inclusive, without reference to other statutes of this State, constitute full authority for the exercise of powers granted in those sections, including, but not limited to, the authorization and issuance of bonds.~~

~~2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in NRS 244A.669 to 244A.763, inclusive, to be done, applies to any proceedings taken or acts done pursuant to those sections, except for laws to which reference is expressly made in those sections or by necessary implication of those sections.~~

~~3. The provisions of no other law, either general or local, except as provided in NRS 244A.669 to 244A.763, inclusive, apply to the doing of the things authorized in those sections to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except:~~

~~(a) As otherwise provided in those sections.~~

~~(b) That a project for the generation and transmission of electricity is subject to review and approval by the state regulatory agencies which have jurisdiction of the matters involved, including, without limitation, the Public Utilities Commission of Nevada, the State Environmental Commission and the State Department of Conservation and Natural Resources.~~

~~4. No notice, consent or approval by any public body or officer thereof may be required as a prerequisite to the sale or issuance of any bonds, the making of any contract or lease, or the exercise of any other power under NRS 244A.669 to 244A.763, inclusive, except as provided in those sections.~~

~~5. [~~A~~]~~ ***Except as otherwise provided in this subsection, a*** project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this State or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the counties is not applicable to any action taken pursuant to NRS 244A.669 to 244A.763, inclusive. ~~.~~ ~~[~~, except that the provisions of~~]~~ ***The requirement for the payment of prevailing wages as set forth in*** NRS ~~[~~338.010~~]~~ ***338.013*** to 338.090, inclusive, ~~[~~apply~~]~~ ***applies*** to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the county for work to be done in a project ~~[~~.~~]~~ ***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for***

~~***the purposes of those provisions, the project shall be deemed to be a public work and the county shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.***~~

~~6. Any bank or trust company located within or without this State may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 244A.669 to 244A.763, inclusive, without the necessity of associating with any other person or entity as cofiduciary except that such association is not prohibited.~~

~~7. The powers conferred by NRS 244A.669 to 244A.763, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by any other law.~~

~~8. No part of NRS 244A.669 to 244A.763, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.~~**]** **(Deleted by amendment.)**

Sec. 9. **[**~~NRS 268.568 is hereby amended to read as follows:~~

~~268.568 1. NRS 268.512 to 268.568, inclusive, without reference to other statutes of the State, constitute full authority for the exercise of powers granted in those sections, including, but not limited to, the authorization and issuance of bonds.~~

~~2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in NRS 268.512 to 268.568, inclusive, to be done, including, without limitation, the charter of any city, applies to any proceedings taken or acts done pursuant to those sections, except for laws to which reference is expressly made in those sections.~~

~~3. The provisions of no other law, either general or local, except as provided in NRS 268.512 to 268.568, inclusive, apply to the doing of the things authorized in NRS 268.512 to 268.568, inclusive, to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except as otherwise provided in those sections.~~

~~4. No notice, consent or approval by any public body or officer thereof may be required as a prerequisite to the sale or issuance of any bonds, the making of any contract or lease, or the exercise of any other power under NRS 268.512 to 268.568, inclusive, except as provided in those sections.~~

~~5.~~ **[**A**]** ~~***Except as otherwise provided in this subsection, a***~~ project is not ~~subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any~~

~~requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the cities is not applicable to any action taken pursuant to NRS 268.512 to 268.568, inclusive.~~ **[**, except that the provisions of**]** ~~***The requirement for the payment of prevailing wages as set forth in***~~ NRS **[**338.010**]** ~~***338.013***~~ to 338.090, inclusive, **[**apply**]** ~~***applies***~~ to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the city for work to be done in a project **[**.**]** ~~***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the city shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.***~~

~~6. Notwithstanding the provisions of NRS 662.245 or any other specific statute to the contrary, any bank or trust company located within or without this state may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 268.512 to 268.568, inclusive, without meeting the qualifications set forth in NRS 662.245.~~

~~7. The powers conferred by NRS 268.512 to 268.568, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by, any other law.~~

~~8. No part of NRS 268.512 to 268.568, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.~~**]** **(Deleted by amendment.)**

Sec. 10. **[**~~NRS 271.710 is hereby amended to read as follows:~~

~~271.710 1. A governing body may adopt an ordinance pursuant to NRS 271.325 creating a district and ordering a project to be acquired or improved and may contract with a person to construct or improve a project, issue bonds or otherwise finance the cost of the project and levy assessments, without complying with the provisions of NRS 271.305 to 271.320, inclusive, 271.330 to 271.345, inclusive, 271.380 and 271.385 and, except as otherwise provided in this section, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, chapters 332, 338 and 339 of NRS, if the governing body has entered into a written agreement with the owners of all of the assessable property within the district which states that:~~

~~(a) The governing body agrees to enter into a contract for the acquisition, construction or improvement of the project or projects in the district which includes:~~

~~(1) A provision stating that the~~ **[**requirements**]** ***requirement for the payment*** ~~of~~ ***prevailing wages as set forth in*** ~~NRS~~ **[**338.010**]** ***338.013*** ~~to 338.090, inclusive,~~ **[**apply**]** ***applies*** ~~to any construction work to be performed under the contract~~ **[**;**]** ***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the governing body shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project;*** ~~and~~

~~(2) The price, stated as a lump sum or as unit prices, which the governing body agrees to pay for the project if the project meets all requirements and specifications in the contract.~~

~~(b) The owners of the assessable property agree that if the rate of interest on any assessment levied for the district is determined from time to time as provided in NRS 271.487, the owners will provide written notice to the governing body in a timely manner when a parcel of the assessable property in the district is sold to a person who intends to occupy a dwelling unit on the parcel as his residence.~~

~~(c) The owners of the assessable property agree that the governing body may create the district, levy the assessments and for all other purposes relating to the district proceed pursuant to the provisions of this section.~~

~~2. If an ordinance is adopted and the agreement entered into pursuant to subsection 1 so states:~~

~~(a) The governing body may amend the ordinance creating the district, change the assessment roll and redistribute the assessments required by NRS 271.390 in the same manner in which these actions were originally taken to add additional property to the district. The assessments may be redistributed between the assessable property originally in the district and the additional assessable property if:~~

~~(1) The owners of additional assessable property also consent in writing to inclusion of their property in the district and to the amount of the assessment against their property; and~~

~~(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the district.~~

~~(b) The governing body may amend the ordinance creating the district, change the assessment roll and redistribute the assessments required by NRS 271.390 in the same manner in which these actions were originally taken to remove assessable property from the district. The assessments may be redistributed among the assessable property remaining in the district if:~~

~~(1) The owners of the remaining assessable property consent in writing to the amount of the revised assessment on their property; and~~

~~(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the district.~~

~~(c) The governing body may adopt any ordinance pertaining to the district including the ordinance creating the district required by NRS 271.325, the ordinance authorizing interim warrants required by NRS 271.355, the ordinance levying assessments required by NRS 271.390, the ordinance authorizing bonds required by NRS 271.475 or any ordinance amending those ordinances after a single reading and without holding a hearing thereon, as if an emergency exists, upon an affirmative vote of not less than two thirds of all voting members of the governing body, excluding from any computation any vacancy on the governing body and any members thereon who may vote to break a tie vote, and provide that the ordinances become effective at the time an emergency ordinance would have become effective. The provisions of NRS 271.308 do not apply to any such ordinance.~~

~~(d) The governing body may provide for a reserve fund, letter of credit, surety bond or other collateral for payment of any interim warrants or bonds issued for the district and include all or any portion of the costs thereof in the amounts assessed against the property in the district and in the amount of bonds issued for the district. The governing body may provide for the disposition of interest earned on the reserve fund and other bond proceeds, for the disposition of unexpended bond proceeds after completion of the project and for the disposition of the unexpended balance in the reserve fund after payment in full of the bonds for the district.~~

~~3. If the governing body of a municipality forms a district pursuant to the provisions of this section, the governing body:~~

~~(a) Is not required to adopt the resolutions required pursuant to the provisions of NRS 271.280, 271.310, 271.360 and 271.390.~~

~~(b) Shall be deemed to have adopted the resolution required pursuant to the provisions of NRS 271.325 if the plans and specifications are sufficiently specific to allow a competent contractor with the assistance of a competent engineer to estimate the cost of constructing the project and to construct the project.~~**]** **(Deleted by amendment.)**

Sec. 11. **[**~~NRS 271.800 is hereby amended to read as follows:~~

~~271.800 1. A governing body may, pursuant to NRS 271.275 or 271.710, establish a district to finance an underground conversion project. Before the governing body may adopt an ordinance pursuant to NRS 271.325 to establish such a district, each service provider that owns the overhead service facilities to be converted to underground facilities must submit its written approval of the project to the governing body. The governing body shall not establish a district to finance an underground conversion project without receiving the written approval of each such service provider pursuant to this subsection.~~

~~2. Before initiating the establishment of a district pursuant to this section, the governing body must request in writing and receive from each service provider that owns the overhead service facilities to be converted in the proposed improvement district a written estimate of the cost to convert those facilities to underground facilities. The service provider shall provide its~~

~~estimate of the cost of the conversion to the governing body not later than 120 days after the service provider receives the request from the governing body.~~

~~3. If a district already exists for the location for which the underground conversion project is proposed, the governing body may, pursuant to NRS 271.295, combine the underground conversion project with other projects in that district.~~

~~4. An underground conversion project must be constructed by one or more of the service providers that own the overhead service facilities to be converted, pursuant to a written agreement between the governing body and each service provider that will engage in the construction. Such a project must be constructed in accordance with the standard underground practices and procedures approved by the Public Utilities Commission of Nevada.~~

~~5. The provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to a contract entered into by a municipality and a service provider pursuant to this section, except that the contract must include a provision stating that the~~ **[**requirements**]** ***requirement for the payment*** of ***prevailing wages as set forth in*** NRS **[**338.010**]** ***338.013*** ~~to 338.090, inclusive,~~ **[**apply**]** ***applies*** ~~to any construction work to be performed under the contract~~ **[.]** ***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the municipality shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.***

~~6. Construction on an underground conversion project approved pursuant to this chapter may not commence until:~~

~~(a) An ordinance creating a district is adopted pursuant to NRS 271.325;~~

~~(b) The time for filing an appeal pursuant to NRS 271.315 has expired, or if such an appeal has been timely filed, a final, nonappealable judgment upholding the validity of the ordinance has been rendered;~~

~~(c) Arrangements for the financing of the construction have been completed through the issuance of bonds or interim warrants; and~~

~~(d) The service provider has obtained all applicable permits, easements and licenses necessary to convert the facilities.~~**]** **(Deleted by amendment.)**

Sec. 12. ~~**[**NRS 271A.130 is hereby amended to read as follows:~~

~~271A.130 1. Except as otherwise provided in this section, notwithstanding any other law to the contrary, any contract or other agreement relating to or providing for the construction, improvement, repair, demolition, reconstruction, other acquisition, equipment, operation or maintenance of any project financed in whole or in part pursuant to this chapter is exempt from any law requiring competitive bidding or otherwise specifying procedures for the award of contracts for construction or other~~

~~contracts, or specifying procedures for the procurement of goods or services. The governing body of the municipality shall require a quarterly report on the demography of the workers employed by any contractor or subcontractor for each such project.~~

~~2. The provisions of subsection 1 do not apply to any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.~~

~~3. The~~ **[**provisions**]** ***requirement for the payment*** of ***prevailing wages as set forth in*** ~~NRS~~ **[**338.010**]** ***338.013*** ~~to 338.090, inclusive,~~ **[**apply**]** ***applies*** ~~to any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:~~

~~(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or~~

~~(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120,~~

~~*to the same extent as if the contract or other agreement was awarded by the governing body of the municipality and the project constituted a public work,*~~ regardless of whether the project ~~*[for financing or other purposes]*~~ is publicly or privately owned **[**.**]** ~~*[, and, solely for the purposes of NRS 338.013 to 338.090, inclusive, the project shall be deemed to be a public work and the municipality shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.]]*~~ **(Deleted by amendment.)**

Sec. 13. ~~**[**NRS 278~~*C*~~.240 is hereby amended to read as follows:~~

~~278C.240 The~~ **[**provisions**]** ***requirement for the payment*** of ***prevailing wages as set forth in*** ~~NRS~~ **[**338.010**]** ***338.013*** ~~to 338.090, inclusive,~~ **[**apply**]** ***applies*** ~~to any construction work to be performed under any contract or other agreement related to an undertaking ordered by a governing body pursuant to this chapter~~ **[**.**]** ***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the governing body shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.]*** **(Deleted by amendment.)**

Sec. 14. ~~**[**NRS 279.500 is hereby amended to read as follows:~~

~~279.500 1. The~~ **[**provisions**]** ***requirement for the payment*** of ***prevailing wages as set forth in*** ~~NRS~~ **[**338.010**]** ***338.013*** ~~to 338.090, inclusive,~~ **[**apply**]** ***applies*** ~~to any contract for new construction, repair or reconstruction which is awarded on or after October 1, 1991, by an agency for work to be done in a project~~ **[**.**]** ***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the agency shall be deemed to be a party to the contract and to be***

~~*the public body advertising for bids for the project and awarding the contract for the project.*~~

~~2. If an agency provides property for development at less than the fair market value of the property, or provides financial incentives to the developer with a value of more than $100,000, the agency must provide in the agreement with the developer that the development project is subject to the~~ **[**~~provisions~~**]** ~~*requirement for the payment* of *prevailing wages as set forth in* NRS~~ **[**~~338.010~~**]** ~~*338.013* to 338.090, inclusive,~~ **[**~~to the same extent as if the agency had awarded the contract for the project.~~**]** ~~*, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the agency shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.* This subsection applies only to the project covered by the agreement between the agency and the developer. This subsection does not apply to future development of the property unless additional financial incentives with a value of more than $100,000 are provided to the developer.~~**]** **(Deleted by amendment.)**

Sec. 15. ~~**[**NRS 318.140 is hereby amended to read as follows:~~

~~318.140 In the case of a district created wholly or in part for acquiring sanitary sewer improvements:~~

~~1. The board may:~~

~~(a) Construct, reconstruct, improve or extend the sanitary sewer system or any part thereof, including, without limitation, mains, laterals, wyes, tees, meters and collection, treatment and disposal plants.~~

~~(b) Sell any product or by-product thereof and acquire the appropriate outlets within or without the district and extend the sewer lines of the district thereto.~~

~~(c) Enter into and perform, without any election, contracts or agreements for a term not to exceed 50 years with any person or a public agency, to provide the services, equipment or supplies necessary or appropriate to conduct tests of the discharge of pollutants into the state's water and to report the results of those tests as required by chapter 445A of NRS or the regulations adopted thereunder. For the purposes of this paragraph, "public agency" has the meaning ascribed to it in NRS 277.100.~~

~~2. The provisions of chapters 332 and 339 of NRS do not apply to a contract under which a private developer extends a sewer main to his development or installs any appurtenances to that extension. Except as otherwise provided in this subsection, the provisions of chapter 338 of NRS do not apply to such a contract. If the developer does not pay all of the initial construction costs of the extension, the~~ **[**~~provisions~~**]** ~~*requirement for the payment* of *prevailing wages as set forth in* NRS 338.013 to 338.090, inclusive,~~ **[**~~apply~~**]** ~~*applies* to the contract~~ **[**~~.~~**]** ~~*, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to*~~

~~***be a public work and the board shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.]***~~ **(Deleted by amendment.)**

Sec. 16. ~~[NRS 318.144 is hereby amended to read as follows:~~

~~318.144 1. The board may acquire, construct, reconstruct, improve, extend or better a works, system or facilities for the supply, storage and distribution of water for private and public purposes.~~

~~2. The provisions of chapters 332 and 339 of NRS do not apply to a contract under which a private developer constructs water facilities for his development. Except as otherwise provided in this subsection, the provisions of chapter 338 of NRS do not apply to such a contract. If the developer does not pay all of the initial construction costs of the facility, the~~ [provisions] ~~***requirement for the payment*** of ***prevailing wages as set forth in*** NRS 338.013 to 338.090, inclusive,~~ [apply] ~~***applies*** to the contract~~ [.] ~~***, regardless of whether the project is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the board shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.]*** **(Deleted by amendment.)**

Sec. 17. ~~[NRS 332.390 is hereby amended to read as follows:~~

~~332.390 If a performance contract entered into pursuant to NRS 332.300 to 332.440, inclusive, requires the employment of skilled mechanics, skilled workmen, semiskilled mechanics, semiskilled workmen or unskilled labor to perform the performance contract, the performance contract must include a provision~~ [relating to] ~~***requiring*** the ***payment of*** prevailing~~ [wage] ~~***wages*** as~~ [required pursuant to] ~~***set forth in*** NRS~~ [338.020] ~~***338.013*** to 338.090, inclusive~~ [.] ~~***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the local government shall be deemed to be a party to the performance contract and to be the public body advertising for bids for the project and awarding the performance contract for the project.]*** **(Deleted by amendment.)**

Sec. 18. ~~[NRS 333A.120 is hereby amended to read as follows:~~

~~333A.120 If a performance contract entered into pursuant to this chapter requires the employment of skilled mechanics, skilled workmen, semiskilled mechanics, semiskilled workmen or unskilled labor to perform the performance contract, the performance contract must include a provision~~ [relating to] ~~***requiring*** the ***payment of*** prevailing~~ [wage] ~~***wages*** as~~ [required pursuant to] ~~***set forth in*** NRS~~ [338.020] ~~***338.013*** to 338.090, inclusive~~ [.] ~~***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the State shall be deemed to be a party to the performance contract and to be the public body advertising for bids for the project and awarding the performance contract for the project.]*** **(Deleted by amendment.)**

Sec. 19. ~~[NRS 349.670 is hereby amended to read as follows:~~

~~349.670 1. NRS 349.400 to 349.670, inclusive, without reference to other statutes of the State, constitute full authority for the exercise of powers granted in those sections, including but not limited to the authorization and issuance of bonds.~~

~~2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in NRS 349.400 to 349.670, inclusive, to be done, applies to any proceedings taken or acts done pursuant to those sections, except for laws to which reference is expressly made in those sections or by necessary implication of those sections.~~

~~3. The provisions of no other law, either general or local, except as provided in NRS 349.400 to 349.670, inclusive, apply to the doing of the things authorized in those sections to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except as otherwise provided in those sections.~~

~~4.~~ **[**A**]** ***Except as otherwise provided in this subsection, a*** project is not ~~subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property is not applicable to any action taken pursuant to NRS 349.400 to 349.670, inclusive~~ **.** **[**, except that the provisions**]** ***The requirement for the payment*** of ***prevailing wages as set forth in*** NRS **[**338.010**]** ***338.013*** to 338.090, inclusive, **[**apply**]** ***applies*** ~~to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the Director for work to be done in a project~~ **[**.**]** ***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the Director shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.***

~~5. Any bank or trust company located within or without this state may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 349.400 to 349.670, inclusive, without the necessity of associating with any other person or entity as cofiduciary, but such an association is not prohibited.~~

~~6. The powers conferred by NRS 349.400 to 349.670, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by any other law.~~

~~7. No part of NRS 349.400 to 349.670, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.~~

~~8. The Director or a person designated by him may take any actions and execute and deliver any instruments, contracts, certificates and other documents, including the bonds, necessary or appropriate for the sale and issuance of the bonds or accomplishing the purposes of NRS 349.400 to 349.670, inclusive, without the assistance or intervention of any other officer.~~**] (Deleted by amendment.)**

Sec. 20. **[**~~NRS 349.956 is hereby amended to read as follows:~~

~~349.956~~ **—[**A**]** ~~*Except as otherwise provided in this section, a* water project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property is not applicable to any action taken pursuant to NRS 349.935 to 349.961, inclusive . **[**~~, except that the provisions~~**]** ~~*The requirement for the payment* of *prevailing wages as set forth in* NRS~~ **[**~~338.010~~**]** ~~*338.013* to 338.090, inclusive,~~ **[**~~apply~~**]** ~~*applies* to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the Director or a municipality for work to be done in a water project~~ **[**~~.~~**]** ~~*, regardless of whether the water project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the water project shall be deemed to be a public work and the Director or the municipality shall be deemed to be a party to the contract and to be the public body advertising for bids for the water project and awarding the contract for the water project.*~~**] (Deleted by amendment.)**

Sec. 21. NRS 350.091 is hereby amended to read as follows:

350.091 1. Whenever the governing body of any local government is authorized to enter into a medium-term obligation or installment-purchase agreement as provided in NRS 280.266 or 350.089 that is intended to finance a capital project, the governing body shall update its plan for capital improvement in the same manner as is required for general obligation debt pursuant to NRS 350.013.

2. Whenever the governing body of any local government is authorized to enter into a medium-term obligation as provided in NRS 350.089, the governing body may issue, as evidence thereof, negotiable notes or medium-term negotiable bonds that, except as otherwise provided in subsection 5 of NRS 496.155:

(a) Must mature not later than 10 years after the date of issuance;

(b) Must bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(c) May, at the option of the local government, contain a provision which allows redemption of the notes or bonds before maturity, upon such terms as the governing body determines.

3. Whenever the governing body of any local government is authorized to enter into an installment-purchase agreement as provided in NRS 280.266 or 350.089, the governing body may issue, as evidence thereof, an installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800. An installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800 issued pursuant to this subsection:

(a) Must have a term that is 30 years or less;

(b) Must bear interest at a rate or rates that do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the local government enters into the installment-purchase agreement; and

(c) May, at the option of the local government, contain a provision that allows prepayment of the purchase price upon such terms as are provided in the agreement.

4. If the term of the medium-term obligation or installment-purchase agreement is more than 5 years, the weighted average term of the medium-term obligation or installment-purchase agreement may not exceed the estimated weighted average useful life of the assets being financed with the medium-term obligation or installment-purchase agreement.

~~[5.]~~ For the purposes of ***this*** subsection ***,*** ~~[4,]~~ the Committee on Local Government Finance may adopt regulations that provide guidelines for the useful life of various types of assets and for calculation of the weighted average useful life of assets.

5. If an installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement, the ~~*[requirement for the payment of prevailing wages as set forth in]*~~ ***provisions of NRS 338.013 to 338.090, inclusive,*** ~~*[applies]*~~ ***apply to the construction, alteration, repair or remodeling of the improvement. [,***~~*regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the local government shall be deemed to be a party to the installment-purchase agreement and to be the public body advertising for bids for the project and awarding the installment-purchase agreement for the project.]*~~

Sec. 22. NRS 353.545 is hereby amended to read as follows:

353.545 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this State and the political subdivisions of this State to use lease-purchase and

installment-purchase agreements provides an important and valuable option for these governmental entities and, when this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to :

(a) Engage ~~*[engage]*~~ in or allow bid-shopping; or

(b) Avoid or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

5. If ~~*[an]*~~ ***a lease-purchase or installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement, the*** ~~*[requirement for the payment of prevailing wages as set forth in]*~~ ***provisions of NRS 338.013 to 338.090, inclusive,*** ~~*[applies]*~~ ***apply to the construction, alteration, repair or remodeling of the improvement . [, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the State shall be deemed to be a party to the installment-purchase agreement and to be the public body advertising for bids for the project and awarding the installment-purchase agreement for the project.]***

Sec. 23. ~~[NRS 353.590 is hereby amended to read as follows:~~

~~353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, involves the construction, alteration, repair or remodeling of an improvement:~~

~~1. Except as otherwise provided in this section, the construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:~~

~~(a) Any law requiring competitive bidding; or~~

~~(b) Chapter 341 of NRS.~~

~~2. The~~ [provisions] ~~]~~ ***requirement for the payment*** of ***prevailing wages as set forth in*** NRS 338.013 to 338.090, inclusive, [apply] ~~]~~ ***applies*** to the construction, alteration, repair or remodeling of the improvement ~~[.]~~ ***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the Board shall be deemed to be a party to the agreement and to be the public body advertising for bids for the project and awarding the agreement for the project.***

~~3. The provisions of:~~

~~(a) Subsection 9 of NRS 341.100; and~~

~~(b) NRS 341.105,~~

~~→ apply to the construction, alteration, repair or remodeling of the improvement.~~**] (Deleted by amendment.)**

Sec. 24. NRS 354.740 is hereby amended to read as follows:

354.740 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this State and the political subdivisions of this State to use lease-purchase and installment-purchase agreements provides an important and valuable option for these governmental entities and, when this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to :

(a) Engage ~~*[engage]*~~ in or allow bid-shopping; or

(b) Avoid or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

5. If ~~*[an]*~~ ***a lease-purchase or installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement, the*** ~~*[requirement for the payment of prevailing wages as set forth in]*~~ ***provisions of NRS 338.013 to 338.090, inclusive,*** ~~*[applies]*~~ ***apply to the construction, alteration, repair or remodeling of the improvement .*** ~~*[, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the State or political subdivision of the State, as applicable, shall be deemed to be a party to the installment-purchase agreement and to be the public body advertising for bids for the project and awarding the installment-purchase agreement for the project.]*~~

Sec. 25. ~~[NRS 408.3886 is hereby amended to read as follows:~~

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

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

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

~~2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.~~

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

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

~~(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;~~

~~(b) Reject all the final proposals; or~~

~~(c) Request best and final offers from all finalists in accordance with subsection 5.~~

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

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

~~(b) Reject all the best and final offers.~~

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

~~(a) Review and ratify the selection.~~

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

~~(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.~~

~~7. A contract awarded pursuant to this section:~~

~~(a) Must~~ **[**comply with the provisions**]** ~~**contain a provision stating that the requirement for the payment** of **prevailing wages as set forth in** NRS **[**338.020**]** **338.013** to 338.090, inclusive **[**;**]** **, applies to the project, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the Department shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project;** and~~

~~(b) Must specify:~~

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

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

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

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

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

~~(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.~~**]** **(Deleted by amendment.)**

Sec. 26. ~~**[**NRS 543.545 is hereby amended to read as follows:~~

~~543.545 Except as otherwise provided in subsection 3, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to any contract entered into by a flood control district for the construction of~~

~~a flood control facility pursuant to the master plan, if a majority of the construction costs are paid by a private developer and the written agreement:~~

~~1. Complies with the requirements of subsection 1 of NRS 543.360;~~

~~2. Clearly sets forth the computation of the construction costs, and includes the terms and conditions of the contract; and~~

~~3. Contains a provision stating that the [~~requirements~~] *~~requirement for the payment~~* of *~~prevailing wages as set forth in~~* NRS [~~338.010~~] *~~338.013~~* to ~~338.090~~, inclusive, [~~apply~~] *~~applies~~* to any construction work performed pursuant to the contract [~~.~~] *~~, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the project shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.~~]* **(Deleted by amendment.)**

Sec. 27. ~~[Section 2.145 of the charter of the City of Las Vegas, being chapter 244, Statutes of Nevada 2007, at page 836, is hereby amended to read as follows:~~

~~Sec. 2.145 Powers of City Council: Lease or lease-purchase agreement for construction or remodeling of building or facility; conveyance of property; applicability of certain provisions to agreement for construction or remodeling of building or facility.~~

~~1. The City Council may enter into an agreement with a person whereby the person agrees to construct or remodel a building or facility according to specifications adopted by the City Council and thereupon enter into a lease or a lease-purchase agreement with the City Council for that building or facility.~~

~~2. The City Council may convey property to a person where the purpose of the conveyance is the entering into of an agreement contemplated by subsection 1.~~

~~3. The [~~provisions~~] *~~requirement for the payment~~* of *~~prevailing wages as set forth in~~* NRS [~~338.010~~] *~~338.013~~* to ~~338.090~~, inclusive, [~~apply~~] *~~applies~~* to any agreement for the construction or remodeling of a building or facility entered into pursuant to subsection 1 [~~.~~] *~~, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the City Council shall be deemed to be a party to the agreement and to be the public body advertising for bids for the project and entering into the agreement for the project.~~]* **(Deleted by amendment.)**

Sec. 28. ~~[Section 9.5 of the Reno-Tahoe Airport Authority Act, being chapter 369, Statutes of Nevada 2005, at page 1386, is hereby amended to read as follows:~~

~~Sec. 9.5. Exemption from public bidding and other requirements imposed on public contracts, projects, acquisitions, works or improvements; regulations; requirements relative to adoption, amendment or repeal of regulations.~~

~~1. Except as otherwise determined by the Board or provided in subsection 2, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, acquisition, works or improvements, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to any contract entered into by the Board if the Board:~~

~~(a) Complies with the provisions of subsection 3; and~~

~~(b) Finances the contract, project, acquisition, works or improvement by means of:~~

~~(1) Revenue bonds issued by the Authority; or~~

~~(2) An installment obligation of the Authority in a transaction in which:~~

~~(I) The Authority acquires real or personal property and another person acquires or retains a security interest in that or other property; and~~

~~(II) The obligation by its terms is extinguished by failure of the Board to appropriate money for the ensuing fiscal year for payment of the amounts then due.~~

~~2. A contract entered into by the Board pursuant to this section must:~~

~~(a) Contain a provision stating that the~~ [requirements] ~~***requirement for the payment*** of ***prevailing wages as set forth in*** NRS~~ [338.010] ~~***338.013*** to 338.090, inclusive, ~~[~~apply~~]~~ ~~***applies*** to any construction work performed pursuant to the contract~~ [;] ~~***, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the Authority shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and entering into the contract for the project;*** and

~~(b) If the contract is with a design professional who is not a member of a design-build team, comply with the provisions of NRS 338.155. As used in this paragraph, "design professional" has the meaning ascribed to it in subsection 7 of NRS 338.010.~~

~~3. For contracts entered into pursuant to this section that are exempt from the provisions of chapters 332, 338 and 339 of NRS pursuant to subsection 1, the Board shall adopt regulations pursuant to subsection 4 which establish:~~

~~(a) One or more competitive procurement processes for letting such a contract; and~~

~~(b) A method by which a bid on such a contract will be adjusted to give a 5 percent preference to a contractor who would qualify for a preference pursuant to NRS 338.147, if:~~

~~(1) The estimated cost of the contract exceeds $250,000; and~~

~~(2) Price is a factor in determining the successful bid on the contract.~~

~~4. The Board:~~

~~(a) Shall, before adopting, amending or repealing a permanent or temporary regulation pursuant to subsection 3, give at least 30 days' notice of its intended action. The notice must:~~

~~(1) Include:~~

~~(I) A statement of the need for and purpose of the proposed regulation.~~

~~(II) Either the terms or substance of the proposed regulation or a description of the subjects and issues involved.~~

~~(III) The estimated cost to the Board for enforcement of the proposed regulation.~~

~~(IV) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.~~

~~(V) A statement indicating whether the regulation establishes a new fee or increases an existing fee.~~

~~(2) State each address at which the text of the proposed regulation may be inspected and copied.~~

~~(3) Be mailed to all persons who have requested in writing that they be placed upon a mailing list, which must be kept by the Authority for that purpose.~~

~~(b) May adopt, if it has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this subsection, after providing a second notice and the opportunity for a hearing, a permanent regulation.~~

~~(c) Shall, in addition to distributing the notice to each recipient of the Board's regulations, solicit comment generally from the public and from businesses to be affected by the proposed regulation.~~

~~(d) Shall, before conducting a workshop pursuant to paragraph (g), determine whether the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. If the Board determines that such an impact is likely to occur, the Board shall:~~

~~(1) Insofar as practicable, consult with owners and officers of small businesses that are likely to be affected by the proposed regulation.~~

~~(2) Consider methods to reduce the impact of the proposed regulation on small businesses.~~

~~(3) Prepare a small business impact statement and make copies of the statement available to the public at the workshop conducted pursuant to paragraph (g) and the public hearing held pursuant to paragraph (h).~~

~~(e) Shall ensure that a small business impact statement prepared pursuant to subparagraph (3) of paragraph (d) sets forth the following information:~~

~~(1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.~~

~~(2) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:~~

~~(I) Both adverse and beneficial effects; and~~

~~(II) Both direct and indirect effects.~~

~~(3) A description of the methods that the Board considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the Board actually used any of those methods.~~

~~(4) The estimated cost to the Board for enforcement of the proposed regulation.~~

~~(5) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the Board expects to collect and the manner in which the money will be used.~~

~~(f) Shall afford a reasonable opportunity for all interested persons to submit data, views or arguments upon the proposed regulation, orally or in writing.~~

~~(g) Shall, before holding a public hearing pursuant to paragraph (h), conduct at least one workshop to solicit comments from interested persons on the proposed regulation. Not less than 15 days before the workshop, the Board shall provide notice of the time and place set for the workshop:~~

~~(1) In writing to each person who has requested to be placed on a mailing list; and~~

~~(2) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.~~

~~(h) Shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the Board may proceed immediately to act upon any written submissions. The Board shall consider fully all written and oral submissions respecting the proposed regulation.~~

~~(i) Shall keep, retain and make available for public inspection written minutes of each public hearing held pursuant to paragraph (h) in the manner provided in subsections 1 and 2 of NRS 241.035.~~

~~(j) May record each public hearing held pursuant to paragraph (h) and make those recordings available for public inspection in the manner provided in subsection 4 of NRS 241.035.~~

~~(k) Shall ensure that a small business which is aggrieved by a regulation adopted pursuant to this subsection may object to all or a part of the regulation by filing a petition with the Board within 90 days after the date on which the regulation was adopted. Such petition may be based on the following:~~

~~(1) The Board failed to prepare a small business impact statement as required pursuant to subparagraph (3) of paragraph (d); or~~

~~(2) The small business impact statement prepared by the Board did not consider or significantly underestimated the economic effect of the regulation on small businesses.~~

~~**. After receiving a petition pursuant to this paragraph, the Board shall determine whether the petition has merit. If the Board determines that the~~

~~petition has merit, the Board may, pursuant to this subsection, take action to amend the regulation to which the small business objected.~~

~~5. The determinations made by the Board pursuant to this section are conclusive unless it is shown that the Board acted with fraud or a gross abuse of discretion.~~**] (Deleted by amendment.)**

Sec. 29. This act becomes effective on July 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 60, 220, 442, 467, 471, and 483.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bills Nos. 60, 220, 467, and 471 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 220 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Gansert moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 12:22 p.m.

ASSEMBLY IN SESSION

At 2:06 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Assembly Bill No. 500 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 87 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 218 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Horne moved that the action whereby Senate Bill No. 47 was referred to the Committee on Government Affairs be rescinded.

Motion carried.

Assemblyman Horne moved that Senate Bill No. 47 be referred to the Committee on Corrections, Parole, and Probation.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 220 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 220.

Bill read third time.

The following amendment was proposed by Assemblywomen Kirkpatrick and Smith:

Amendment No. 555.

AN ACT relating to the subdivision of land; revising the requirements for the purchase of property for school construction; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth a multistep process for obtaining approval for the subdivision of land. (NRS 278.320-278.460) One of the preliminary requirements is a determination of the need for a school in the area in which the subdivision is located. (NRS 278.330) If a school is needed, the subdivider is required to make suitable land within the proposed subdivision available for purchase by the school district at a price which does not exceed the fair market value of the land. Under existing law, if the school district does not construct a school on the land within 10 years from the date of purchase, the land must be offered for resale back to the subdivider or his successor in interest. (NRS 278.346)

This bill provides that, in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), the school district and subdivider may negotiate a purchase price which is the lesser of: (1) the fair market value of the land on the date of purchase; or (2) the fair market value of the land at the time the tentative subdivision map was approved plus the costs of certain expenses paid by the subdivider. This bill also provides that, in such a county, if the purchase is not completed within 5 years after the final map that shows the school site is approved, the subdivider need not continue to set aside the land for the school district. This bill further requires a school district in such a county to offer the land back to the subdivider or successor in interest if construction on a school has not begun at the site

within ~~[10]~~ **5** years from the date of purchase ~~[.]~~ **unless the school district has requested an exemption from the planning commission to delay construction of the school for up to another 5 years. This bill sets forth the circumstances under which the school district may apply for such an exemption.**

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

Section 1. NRS 278.346 is hereby amended to read as follows:

278.346 1. The planning commission or its designated representative ~~[.]~~ or, if there is no planning commission, the clerk or other designated representative of the governing body shall ***, not more than 10 days after the tentative map is filed pursuant to the provisions of subsection 2 of NRS 278.330,*** forward a copy of the tentative map to the board of trustees of the school district within which the proposed subdivision is located. Within 15 days after receipt of the copy, the board of trustees ***or its designee*** shall, if a school site is needed within the area, notify the commission or governing body that a site is requested.

2. If the board of trustees requests a site ~~[, the person proposing the subdivision]~~ ***:***

(a) The subdivider shall ***, except as otherwise provided in subsection 8,*** set aside a site of the size which is determined by the board. ~~[The person proposing the subdivision]~~

(b) The subdivider and the board of trustees shall ***, except as otherwise provided in subsections 7 and 8,*** negotiate for the price of the site, which must not exceed the fair market value of the land as determined by an independent appraisal paid for by the board.

3. If any land purchased by ~~[a]~~ ***the*** school district pursuant to the provisions of ~~[this subsection have]~~ ***subsection 2 has*** not been placed in use as a school site at the end of 10 years from the date of purchase, the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value ~~[. If such person]~~ ***of the land at the time such determination is made, as determined by an independent appraisal paid for by the board.***

4. If the subdivider or his successor in interest does not accept ~~[the offer,]~~ ***an offer made pursuant to the provisions of subsection 3 or 9,*** then the board of trustees may:

(a) Sell or lease such property in the manner provided in NRS 277.050 or 393.220 to 393.320, inclusive;

(b) Exchange such property in the manner provided in NRS 277.050 or 393.326 to 393.3293, inclusive; or

(c) Retain such property, if such retention is determined to be in the best interests of the school district.

~~[3.]~~ ***5.*** Except as ***otherwise*** provided in subsection ~~[4,]~~ ***6,*** when any land dedicated to the use of the public school system or any land purchased and

used as a school site becomes unsuitable, undesirable or impractical for any school uses or purposes, the board of trustees of the county school district in which the land is located shall dispose of the land as provided in subsection ~~[2.]~~ ***4.***

~~[4.]~~ ***6.*** Land dedicated under the provisions of former NRS 116.020, as it read before April 6, 1961, which the board of trustees determines is unsuitable, undesirable or impractical for school purposes may be reconveyed without cost to the dedicator or his successor or successors in interest.

7. Except as otherwise provided in subsection 8, in a county whose population is 100,000 or more but less than 400,000, the school district may purchase the site for a price negotiated between the subdivider and the board of trustees, which price must not exceed the lesser of:

(a) The fair market value of the land at the time the tentative map was approved, as determined by an independent appraisal paid for by the board, plus any costs paid by the subdivider with respect to that land between the date the tentative map was approved and the date of purchase; or

(b) The fair market value of the land on the date of purchase, as determined by an independent appraisal paid for by the board.

8. If, 5 years after the date on which the final map that contains the school site was approved, a school district has not purchased the site pursuant to the provisions of subsection 7, the subdivider need not continue to set aside the site pursuant to the provisions of subsection 2.

9. ~~*[If, 10]*~~ ***Except as otherwise provided in subsection 10, if, 5 years after the date of purchase of a school site pursuant to subsection 7, construction of a school at the school site has not yet begun, the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value of the land at the time such determination is made, as determined by an independent appraisal paid for by the board.***

10. The school district may apply to the planning commission for an extension of not more than 5 years to the limitation set forth in subsection 9 for the construction of a school at the school site. To apply for an extension pursuant to this subsection, the school district must demonstrate the existence of extenuating circumstances which have caused the delay in beginning the construction of the school. The planning commission must consider an application for an extension requested pursuant to this subsection at a public hearing. As used in this subsection "extenuating circumstances" may include, without limitation:

(a) Changes in the demand for a school site due to changes in relevant demographics.

(b) Delays or other significant changes in the construction of the proposed subdivision.

(c) A temporary lack of funds available to the school district to construct the school.

(d) Any other issue or problem related to the construction of the school that could not have been reasonably anticipated by the school district at the time the school site was purchased, including, without limitation, environmental issues at the school site and the unavailability of building materials.

11. If a school district receives an extension pursuant to subsection 10 and the school district does not begin construction of a school at the school site before the expiration of such extension, the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value of the land at the time that the extension expires, as determined by an independent appraisal paid for by the board.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 500.

Bill read third time.

The following amendment was proposed by Assemblyman Anderson:

Amendment No. 559.

AN ACT relating to domestic relations; revising provisions relating to adoptions; ~~[revising provisions relating to the termination of parental rights;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person may consent to the adoption of his child, and the child will be relinquished either to an agency or to the person to whom consent to adopt is given, if the adoption is a specific adoption. (NRS 127.040, 127.053) **Section 2** of this bill provides that, in a specific adoption, the person to whom consent is given assumes legal custody and legal responsibility for the child as soon as consent for the adoption is executed.

Section 11 of this bill revises an exemption from criminal or civil liability for certain advertising mediums which accept advertisements concerning services related to adoptions from persons or agencies that are not licensed to provide such services. (NRS 127.310)

~~[Section 13 of this bill provides that a court may find a parent unfit, and therefore, under certain circumstances, terminate his parental rights, if the parent is convicted of sexual assault which resulted in the conception of the child. This section also provides that if a parent's parental rights are terminated because of the sexual assault which resulted in the conception of the child, the parent's obligation to provide support is not terminated and a court may order the parent to pay support for the child. (NRS 128.106) However, an order to pay support for the child does not create any other rights arising from the parent and child relationship, including, without limitation, inheritance rights.]~~

Section 14 of this bill provides that certain sections of this bill may apply retroactively and prospectively to petitions for adoption **.** ~~[and may apply only prospectively to petitions for the termination of parental rights.]~~

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

Section 1. ~~[NRS 125B.120 is hereby amended to read as follows:~~

~~125B.120 1. The obligation of a parent other than that under the laws providing for the support of poor relatives is discharged by complying with a court order for support or with the terms of a judicially approved settlement.~~

~~2. [~~The~~] *Except as otherwise provided in subsection 7 of NRS 128.106, the* ~~legal adoption of the child into another family discharges the obligation of his natural parents for the period subsequent to the adoption.]~~ **(Deleted by amendment.)**

Sec. 2. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

A person to whom consent to adopt a child is given for a specific adoption pursuant to NRS 127.053 has, at the time the consent is executed, legal custody over the child and is legally responsible for the child until a court holds a hearing to enter an order or decree of adoption or to deny the petition pursuant to the laws of this State or another state.

Sec. 3. NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.1895, inclusive, ***and section 2 of this act*** govern the adoption of minor children, and the provisions of NRS 127.190, 127.200 and 127.210 and the provisions of NRS 127.010 to 127.1895, inclusive, ***and section 2 of this act,*** where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 127.310 is hereby amended to read as follows:

127.310 1. Except as otherwise provided in NRS 127.240, 127.283 and 127.285, any person or organization other than an agency which provides child welfare services who, without holding a valid unrevoked license to place children for adoption issued by the Division:

(a) Places, arranges the placement of, or assists in placing or in arranging the placement of, any child for adoption or permanent free care; or

(b) Advertises in any periodical or newspaper, or by radio or other public medium, that he will place children for adoption, or accept, supply, provide or obtain children for adoption, or causes any advertisement to be published

in or by any public medium soliciting, requesting or asking for any child or children for adoption,

➥ is guilty of a misdemeanor.

2. Any person who places, accepts placement of, or aids, abets or counsels the placement of any child in violation of NRS 127.280, 127.2805 and 127.2815 is guilty of a misdemeanor.

3. A periodical, newspaper, radio station or other public medium is not subject to any criminal penalty ~~[or civil liability]~~ for publishing or broadcasting an advertisement that violates the provisions of this section ~~[.]~~ ***unless the periodical, newspaper, radio station or other public medium knew that the advertisement violated the provisions of this section.***

Sec. 12. (Deleted by amendment.)

Sec. 13. ~~[~~NRS 128.106 is hereby amended to read as follows:

128.106 In determining neglect by or unfitness of a parent, the court shall consider, without limitation, the following conditions which may diminish suitability as a parent:

1. Emotional illness, mental illness or mental deficiency of the parent which renders the parent consistently unable to care for the immediate and continuing physical or psychological needs of the child for extended periods of time. The provisions contained in NRS 128.109 apply to the case if the child has been placed outside his home pursuant to chapter 432B of NRS.

2. Conduct toward a child of a physically, emotionally or sexually cruel or abusive nature.

3. Conduct that violates any provision of NRS 200.463, 200.464 or 200.465.

4. Excessive use of intoxicating liquors, controlled substances or dangerous drugs which renders the parent consistently unable to care for the child.

5. Repeated or continuous failure by the parent, although physically and financially able, to provide the child with adequate food, clothing, shelter, education or other care and control necessary for his physical, mental and emotional health and development, but a person who, legitimately practicing his religious beliefs, does not provide specified medical treatment for a child is not for that reason alone a negligent parent.

6. Conviction of the parent for commission of a felony, if the facts of the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care and control to the extent necessary for the child's physical, mental or emotional health and development.

7. Conviction of the parent of sexual assault resulting in the conception of the child. If a court terminates parental rights based on a finding that the parent is unfit pursuant to this subsection, the obligation of the parent to support the child pursuant to chapter 125B of NRS is not terminated and the court may issue an order of support for the child, requiring the parent to comply with the support obligations pursuant to

~~*chapter 125B of NRS. If a court issues an order of support pursuant to this subsection, the order does not create:*~~

~~*(a) A right for the child to inherit property from or through the parent who is subject to the order of support issued pursuant to this subsection;*~~

~~*(b) A right for the parent who is subject to the order of support issued pursuant to this subsection to inherit property from or through the child; or*~~

~~*(c) Any of the other rights, privileges or obligations arising from the parent and child relationship.*~~

~~*8.* Unexplained injury or death of a sibling of the child.~~

~~[8.] 9.~~ ~~Inability of appropriate public or private agencies to reunite the family despite reasonable efforts on the part of the agencies.~~**] (Deleted by amendment.)**

Sec. 14. The amendatory provisions of ~~[~~:

~~1. Sections 1 and 13 of this act apply to a petition for the termination of parental rights pursuant to chapter 128 of NRS that is filed on or after October 1, 2009.~~

~~2. Sections~~**] sections** 2 and 3 of this act apply to a petition for adoption that is filed pursuant to chapter 127 of NRS before, on or after October 1, 2009.

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 60.

Bill read third time.

Remarks by Assemblywomen Pierce and Gansert.

Roll call on Assembly Bill No. 60:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

EXCUSED—Parnell.

Assembly Bill No. 60 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 442.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 442:

YEAS—40.

NAYS—Atkinson.

EXCUSED—Parnell.

Assembly Bill No. 442 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 467.

Bill read third time.

Remarks by Assemblywoman Pierce.

Roll call on Assembly Bill No. 467:

YEAS—27.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

EXCUSED—Parnell.

Assembly Bill No. 467 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 471.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 471:

YEAS—37.

NAYS—Cobb, Goedhart, McArthur, Settelmeyer—4.

EXCUSED—Parnell.

Assembly Bill No. 471 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 483.

Bill read third time.

Roll call on Assembly Bill No. 483:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 483 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 87.

Bill read third time.

Remarks by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 87:

YEAS—37.

NAYS—Christensen, Goedhart, Gustavson, Settelmeyer—4.

EXCUSED—Parnell.

Assembly Bill No. 87 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 218.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 218:

YEAS—31.

NAYS—Carpenter, Christensen, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Kirkpatrick, McArthur, Settelmeyer—10.

EXCUSED—Parnell.

Assembly Bill No. 218 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 220.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 220:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 220 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved to dispense with the reprinting of Assembly Bill No. 500.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 239 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 399 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 399.

Bill read third time.

Remarks by Assemblywoman Gansert and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. Assembly Bill 399 requires a party legally responsible for paying claims for health care items or health care services to provide certain information, monthly, to the Division of Health Care, Financing and Policy or its authorized business associate. The information must identify all persons to whom health coverage is provided or administered and must allow the Division or its business associate to determine whether a person is eligible for Medicaid.

I worked on this bill for quite some time, and I appreciate the support of many individuals in this body. This issue was brought to my attention through a Government Accounting Office report which basically stated the federal government wants Medicaid to be the payer of last resort. They actually require Medicaid to be the payer of last resort. A lot of states aren't getting the required information they need for the sorting process. We also heard in Ways and Means from our auditor that we were actually paying before Medicare, in some instances, when

we were supposed to be the payer of last resort. So I believe this may need some more work, but I appreciate the support of the members, here, because this will save us a lot of Medicaid money that can be used for other services or to help others through that program.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I have a little bit of concern that it still may be worded overly broad in terms of what has to be supplied but I think, on balance, it is an idea that is worth preserving and worth pursuing on the other side because of its potential as outlined by the Assembly Minority Leader. Basically, I support the concept and on this late date will support it to see what further refinements can be done on the other side.

Roll call on Assembly Bill No. 399:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 399 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 500.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 500:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 500 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 239.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 239:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 239 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 136, 137, 169, 172, 182, and 250; Senate Bill No. 38.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Vicky Maltman and Larry Green.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Marvin Moss Elementary School: Mason Anderson, Israel Arias, Analica Arriaga, Krista Bosch, Caleb Bottomley, Lindsay Carosella, Shagil Cotto, Brittany Donley, Maurice Garcia, Cheyenne Ghiglia, Devin Gonzalez, Samantha Gonzalez, Gabriela Hernandez, Emma Hillerby, Jose Jose, Jake Marchant, Ivan Martinez, Collin Messinger, Michael Moore, Noah Neely, Hannah Newlin, Diana Recinos, Jordan Reynolds, Elizabeth Schiller, Meghan shannon, Jacob Sorensen, Alexis Still, Cloe' Wacker, Paul Richards, and William Brown.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Toni Richard, Shannon Springer, Joyce Springer, Natasha Salsbery, and Meredith Toddre.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Fremont Elementary School: Amy Ahumada, Jordan Aikins, Taylor Brown, Spencer Carlson, Stella Carroll, Ellen Cherpeski , Elisabeth Crandell, Michael Depew, Chloe Dodge, Adam Flaten, Gabriella Garcia-Salas, Jonathan Gonse, Alysha Goss, Abigail Gould, Lauren Hudak, Samuel Jones, Wyatt Law, Christopher Lawrence, Gyesenia Medina, Bryce Moyle, Angel Olvera, Jennifer Perez Carrillo, Trevin Stevens, Bailey Trethan, Austin Tucker, Konnor Van Worth, Hunter Wheeler, Nathalie Yanez-Montiel, Brandon Annabel, Jonathan Barahona, Odalis Castaneda-Perez, Victor Chavez, Kyle Clardy, Macey Creek, Jacob Cremeans, Haley Davis, Tricia Gainey, Kaylyn Glick, Lauren Huston-Fulghum, Juan Juarez, Dennis Krueger, William Lee, Selin Lizarraga, Gisselle Llamas Aranda, Jesse Lopez, Valerie Meyer, Anthony Miguel IV, Ryan Olesski, Amber Pion, Karina Rodriguez, Maxwell Servi, Tayler Smith, Rachel Soukup, Christopher Verhagen, Cirilo Viramontes, Sarah Weese, Angel Wrinkle and Ezekias Robles.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, April 22, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 2:42 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE EIGHTIETH DAY

CARSON CITY (Wednesday), April 22, 2009

Assembly called to order at 11:44 a.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present except Assemblymen Ohrenschall and Parnell, who were excused, and Assemblymen Buckley, Gansert, Goicoechea, and McClain, who were also excused from the floor session to attend another legislative meeting in the building.

Prayer by the Chaplain, Pastor Monte Fast.

Yesterday, we heard a communication as important as any speech delivered in this Chamber. Four mothers and a nine-year-old child communicated with us. The child's communication was from the autistic prison in which her little mind is trapped. We could not understand words from her, but she was communicating in powerful ways. The message was "help me." The mother's message was, "We love our children. Please help us."

I hurried out to the lobby to congratulate all five of them for the help that was extended. Their eyes were filled with tears. Now, there is some help available. And this legislative body did a good thing. For all of these things, we are grateful.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 15, 90, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 28, 67, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 139, 141, 510, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 107, 213, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 21, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 119, 128, 154, 210, 252, 259, 269, 283, 288, 310, 320, 361, 363, 364, 365, 385, 389, 393.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 267, 292.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 21, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility of exemption of: Senate Bills Nos. 157, 202, and 388.

GARY GHIGGERI
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 119

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 128

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 154

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 210

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 252

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 259

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 267

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 269

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 283

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 288

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 292

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 310

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 320

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 361

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 363

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 364

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 365

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 385

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 389

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 393

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill Nos. 65 and 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

REMARKS FROM THE FLOOR

Assemblywoman Leslie moved that the following proclamation be entered in the Journal:

PROCLAMATION OF THE NEVADA STATE ASSEMBLY

WHEREAS, In November 2008, the Gay & Lesbian Community Center of Southern Nevada created "Stand OUT For Equality," a community coalition working to achieve equality for lesbian, gay, bisexual and transgender (LGBT) Nevadans; and

WHEREAS, Stand OUT For Equality supports and promotes activities directed at furthering the well-being, positive image and human rights of the LGBT community and its allies in Nevada; and

WHEREAS, Stand OUT For Equality has organized the first-ever statewide lobbying trip, called "Equality Days," to the Nevada Legislature specifically for the LGBT community; and

WHEREAS, Nevada residents who are LGBT and straight allies have joined together to share their personal stories in order to educate and engage Nevada Legislators and the public regarding LGBT issues; and

WHEREAS, Equality Days has a large number of sponsors, including the American Civil Liberties Union of Nevada, Desiree Alliance, Human Rights Campaign, Interweave Continental, Lambda Business and Professional Association, League of Women Voters of Las Vegas Valley, League of Women Voters of Nevada, National Association of Social Workers-Nevada Chapter, Nevada Women's Lobby, Parents, Families and Friends of Lesbians and Gays-Carson Region, Progressive Leadership Alliance of Nevada, Sin Sity Sisters, Southern Nevada Association of Pride, Inc., Stonewall Democratic Club of Southern Nevada, Stonewall Democrats of Northern Nevada, UNLV Office of the Vice President for Diversity and Inclusion and Women's Empowerment Network of Las Vegas; and

WHEREAS, The American Association of University Women-Las Vegas Branch, American Association of University Women-Nevada, Clark County Democratic Black Caucus, Golden Rainbow, Las Vegas Convention and Visitors Authority, Laura's List, Log Cabin Republicans, LV Equality, Las Vegas Gay Athletics, Arts and Activities, National Organization for Women-Southern Nevada Chapter, Nevada NOW, Nevada Stonewall Democrats, ProgressNow Nevada, Si Se Puede Latino Democratic Caucus, Spectrum Northern Nevada, SWOP, The Lovett Foundation and Three Degrees are community supporters; and

WHEREAS, Equality Days seeks to ensure that LGBT issues are both recognized and represented by elected officials to create a Nevada where LGBT people are ensured their basic equal rights and can be open, honest and safe at home, at work and in the community; now, therefore, be it

RESOLVED, That April 22, 2009, is hereby designated Equality Day in Nevada; and be it further

RESOLVED, That the members of the Nevada Assembly hereby express their commitment to creating greater public awareness of lesbian, gay, bisexual and transgender issues in Nevada and resolve to continue to work cooperatively toward equality for all Nevadans.

SHEILA LESLIE
Nevada State Assemblywoman

Assemblywoman Leslie requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN LESLIE:

As the Chief Clerk read, there are more than 20 organizations involved today in Equality Day at the Legislature. There are more than 100 people who are here today, and we will have them all stand up in a minute. They came in last night for a reception and were in the building. They had the wonderful opportunity of seeing a very historic vote down the hall last night. I am sure any of them would love to tell you about it if you have the opportunity to visit with them this afternoon. Really, please try to find the opportunity to chat with some of the people who came down today. At this point, if they could all stand, we can see who they all are and recognize that this community exists everywhere. They are equal to everyone. It is my hope that, someday soon, we will not have to have Equality Day because we will all be equal. Please help me welcome them to the Chamber.

Mr. Speaker pro Tempore requested the privilege of the Chair for the purpose of making the following remarks:

I echo the remarks of my colleague from Reno. It is a sad statement that we have to have a special day to recognize the equality of people, which should be so apparent to all of us on a regular basis. Hopefully, that day will come for everyone.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Aizley, the privilege of the floor of the Assembly Chamber for this day was extended to Desiree Duncan.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to David Ziegler.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Karen Vibe and David White.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Taylor Johnson and Bill Jacobs.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Sarah Winnemucca Elementary School: Sara Ali, Juliana Allen, Jesse Allison, Manuel Argueta, Keelan Betts, Leslie Campos, Montrell Chaney, Tommy Craig, Haley Dennies, Grace Desilets, Orlando Easter, Diana Gonzalez, Sasha Harrison, Collin Holt, Tyler Khau, Jaeseo Kim, Dannie Morgan, Karla Pinto, Destiney Polier, JR Punzalan, Chelsea Ramos, Spencer Ray, Adrian Raygoza, Shahme Sarwar, Cole Schlattman, Tristan Sturm, Kerrie Anne Swartz, Brendan Yawn, Arianna Donowho, Jaycob Babcock, Emily Bennett, Angela Blevins, Jose Camerena, Spencer Carlisle, Dawn Clement, Kendall Cox, Nolan Dalpe, Taj Dhanjal, Blakelee Donnelly, Jaylan Franklin, Tatiana Hernandez, Max Hill, Adrianna Jones, Madison Kincaide, Trenton Barrett, Jeremiah Lesniak, Sal Leyva, Cameron Mayfield, Bayley Miller, Matthew Richard, Bryan Richards, Sydney Riddle, Richard Soto, Cali Wanco, Ian Zehner, Harrison Davis, Sienna Miller, Robert Young, Jenny Allen, Josh Bartlett, Sarina Chandra, Kelton Cordell, Kylie Daniels, Reese Donnelly, Emre Eldeleklioglu, Courtney Franke, Staccia Hibbs, Simon Hu, Galina Kamzalova, Cheyenne Lamprich, Kyra Liessmann, Brandon Mansur, Rachel Martensen, Keelan Murphy, Mike Myers, Oscar Ochoa, Libby Schipper, Alex Scott, Jared Smith, Matthew Soliz, Trey Sullens, Katie Trenery, Kevin Wu, Weston Tripp, Britney Holton, Kaylah Smith, Kyler Cline; Carol Olson, Christina Conti, Pam Roberts, and Zac Roberts.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Marlene Adrian and Denise R. Duarte.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Carline Banegas and Jodie Dearborne.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Blayne Osborn, Allie Whalen, and Joanna Perry.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Gretchin Kvall, Reese Kvall, Sai'len Kvall, Jennifer MacMillan, and James MacMillan.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Gwen Migita and Jasmine Imdanat.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to Denise Jay.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Rita Maria Cruz.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Byllie Andrews and Pamela Brooks.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Pam Graber and Rebecca Palmer.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to James Healy and Kyle Jerro.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Brent Lovett, Mark Holland, and Joseph Raba.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Holly Carratelli and Ashley Carratelli.

On request of Assemblyman Mortenson, the privilege of the floor of the Assembly Chamber for this day was extended to Vaness Harden and Charles Vanage.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Chandler Leverich and Melissa Goodwin.

On request of Assemblywoman Pierce, the privilege of the floor of the Assembly Chamber for this day was extended to Justin Gibson and Vincenta Montoya.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Sybrina Bernadei and Paul Erschler.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Patricia McGraw.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Crystal Smith.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Christopher Miller.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Crystal Jackson.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to Candice Nichols.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, April 23, 2009 at 11:30 a.m.

Motion carried.

Assembly adjourned at 12:10 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE EIGHTY-FIRST DAY

CARSON CITY (Thursday), April 23, 2009

Assembly called to order at 11:53 a.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present except Assemblymen Munford and Parnell, who were excused.

Prayer by the Chaplain, Pastor Monte Fast.

From our Creator, Psalm 1 sets high pattern for legislators. "Blessed is the person that walketh not in the council of the ungodly, or standeth in the way of sinners, or sitteth in the seat of the scornful. Their delight is in the law of the Lord and in His law do they meditate day and night."

Our work is but a development of the ten greatest laws given to Moses. May we be found faithful.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 166, 392, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 235, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolutions Nos. 24, 25.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Mr. Speaker pro Tempore announced that pursuant to Assembly Standing Rule No. 1, section 2, subsection (d), Assemblyman Oceguera would act as presiding officer.

Assemblyman Oceguera presiding.

Senate Concurrent Resolution No. 24.

Assemblyman Anderson moved the adoption of the resolution.

Remarks by Assemblyman Anderson.

Resolution adopted.

Assemblyman Anderson moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 12:12 p.m.

ASSEMBLY IN SESSION

At 12:13 p.m.

Madam Speaker presiding.

Quorum present.

By Assemblymen Buckley, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury:

Assembly Resolution No. 9—Expressing appreciation to the Chief Clerk and staff of the Assembly for their dedication and exceptional performance during the 75th Session of the Nevada Legislature.

WHEREAS, Each biennium, the Nevada Legislature convenes to address the challenging issues faced by this State; and

WHEREAS, With a constitutionally mandated 120-day limitation on the length of the legislative session, it is critical that the legislative session proceed in an effective and efficient manner; and

WHEREAS, This daunting task requires a dedicated and talented staff which is capable of performing a multitude of functions and responding promptly to the different challenges that arise during the legislative session; and

WHEREAS, The Chief Clerk of the Assembly, Assembly Front Desk Staff, Sergeant at Arms and his staff, Personal Attaches, Committee Services Staff, Administrative Services Staff, Bill Services Staff and other attaches of the Assembly have worked diligently and efficiently in providing exceptional service to the members of the Assembly; and

WHEREAS, The extraordinary people who have chosen to work with the Assembly during the 75th Session of the Nevada Legislature have carried out their duties on behalf of the residents of the State of Nevada with a professional attitude and tireless resolve; and

WHEREAS, Their herculean efforts earlier this week enabled the Assembly to coast to a smooth finish on a day that is typically one of the more arduous deadlines of the legislative session; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the members of the Assembly of the 75th Session of the Nevada Legislature do hereby express their sincere appreciation and commend the outstanding support staff of the Assembly, which includes Susan Furlong Reil, Diane Keetch, Lucinda Benjamin, Matthew Baker, Jeanne Douglass, Jason P. Hataway, Christie Peters, Terry Sullivan, Robin L. Bates, Rebecca Harris, Mary A. Matheus, Sharon P. Murphy, Jennifer D. Osheroff, Steven J. Sweeney, Marge Griffin, Sylvia Brown, Jasmine Shackley, Barbara L. Houger, Christina Bailey, Wendy Kameda, Erin Smith, Betty J.

Phenix, Laurel Armbrust, Leslie Danihel, Toshiko McIntosh, Alicia C. Taylor, Diane Jackson, Bonnie Borda Hoffecker, Nichole Bailey, Joyce Hess, Mark Sprinkle, Jaclyn Kaiser, Kathryn L. Alden, Lona M. Domenici, Judith Fisher, Harle Glover, Millicent Jorgenson, Jackie Valley, Cynthia Carter, Andrew Diss, Katherine Malzahn-Bass, Daniel Peltier, Patti Adams, Connie Davis, Christine Bashaw, Linda Blevins, Anne Bowen, Linda J. Smith, Carol J. Thomsen, Janice Wright, Victoria Kieffer, Theresa Horgan, Patricia A. Blackburn, Judith Coolbaugh, Karen Fox, Mary Garcia, Robert G. Gonzalez, Christopher Kanowitz, Julie Kellen, Kyle McAfee, Sharon McCallen, Sean McDonald, Earlene M. Miller, Emilie I. Reafs, Darlene A. Rubin, Marlen R. Schultz, Denise M. Sins, Scarlett Smith, Michelle Smothers, Karyn Werner, Cheryl L. Williams, Mary Bean, Jennifer A. Breeden, Christopher Caldwell, Bambi Chase, Stephany J. Corral, Dionny Fonseca, Cecilia Hackman, Donna Hancock, Patricia J. Hutson, Luanne King, Novella W. Kowallek, Denise A. Larsen, Patricia A. Manning, Ashley Massey, Carolyn J. Maynick, Connie Nellos, Diane O'Connor, Valerie Osgood, Sheree L. Rosevear, Christina L. Salerno, Cindy Southerland, Janet F. Stokes, Linda L. Utt, Brittany J. Walker, Olivia M. Lloyd, Cheryl Higgs McClellan, Steve Sisneros, Sally A. Stoner, Jocelyne Helzer, Carl C. Meier, David E. Moore, Evelyn Moser, Kathryn Moser, Larry Peri, Marcia Peterson, Frank Taylor, Ted Zuend, Deanna Keirstead, Sherwood Howard, June Bennett, Norman Budden, Mary Carel, Diane L. Bacus, Jack W. Cooke, John A. Davis, Jr., Mark S. Day, Gail A. Eller, Michael Fettic, Renee Ekleberry, Joyce E. Ghiselli, Don W. Hataway, Lois A. Lahair, Robert V. Maynick, Rick Redican, Paul Saucedo, Frank D. Tetz, Daniel D. Webster, Debra A. Williams and Lucille Zuend; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to each member of the staff of the Assembly.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblymen Oceguera, Gansert, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN OCEGUERA:

Madam Speaker, our staff does make us look so good. They put in so many hours and work so hard. I just cannot say enough. We wouldn't be able to do the job without them.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I rise in support of Assembly Resolution 9. I, too, am so proud of our staff. I counted and I think there are about 130 of them to take care of 42 of us. So we all know we need a lot of help. You are always here for us. I appreciate how well everyone works together and the amount of work that you do in such a short period of time to make sure that we can get what we need done. Thank you so much.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I would also like to thank each and every one of you for everything that you do for us. Whether you are brand new or whether you have returned to us for so many years, we appreciate everything you do. We appreciate the herculean efforts it sometimes takes to do the People's business and to produce good legislation in these very tough economic and troubling times. One of the things that constantly impresses me about the staff that returns is that they put aside their regular job. There is a lot of sacrifice just like we, as legislators, have to make. You do it because you love the institution. You love what the legislative process represents and you pass that on to everyone that comes in. That is what makes this place so great. You so appreciate the legislative role in making our state work. You respect it and you spread that. That is why, I think, this place continues on even though the people change. The people change but the traditions continue. It is because you preserve those traditions. Thank you for all that you do.

Resolution adopted.

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

Assembly in recess at 1:40 p.m.

ASSEMBLY IN SESSION

At 1:45 p.m.
Madam Speaker presiding.
Quorum present.

Senate Concurrent Resolution No. 25.
Assemblywoman Leslie moved the adoption of the resolution.
Remarks by Assemblymen Leslie, Hardy, and Aizley.
Resolution adopted.

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.
Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:
Assembly Bill No. 542—AN ACT relating to education; temporarily delaying the statutory deadline for notifying certain school employees of reemployment status for the 2009-2010 school year; and providing other matters properly relating thereto.
Assemblywoman Smith moved that the bill be referred to the Committee on Ways and Means.
Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 139.
Bill read second time and ordered to third reading.

Assembly Bill No. 510.
Bill read second time and ordered to third reading.

Senate Bill No. 15.
Bill read second time and ordered to third reading.

Senate Bill No. 28.
Bill read second time and ordered to third reading.

Senate Bill No. 67.
Bill read second time and ordered to third reading.

Senate Bill No. 90.
Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 107.

Bill read third time.

Roll call on Assembly Bill No. 107:

YEAS—40.

NAYS—None.

EXCUSED—Munford, Parnell—2.

Assembly Bill No. 107 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 141.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Bill No. 141:

YEAS—39.

NAYS—None.

NOT VOTING—Arberry.

EXCUSED—Munford, Parnell—2.

Assembly Bill No. 141 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 213.

Bill read third time.

Remarks by Assemblymen Anderson and Stewart.

Roll call on Assembly Bill No. 213:

YEAS—40.

NAYS—None.

EXCUSED—Munford, Parnell—2.

Assembly Bill No. 213 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 65 and 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Aizley, the privilege of the floor of the Assembly Chamber for this day was extended to Denise Larsen.

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Laurel Armbrust, Katherine Malzahn-Bass, Steve Sisneros, Karyn Werner, Emilie Reafs, Stephanie

Hartman, Kenya Pierce, Daniel Wong, Senator Valerie Wiener, Ross Miller, and Margaret Branson.

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Anne Bowen, Vickie Kieffer, Larry Peri, Linda Smith, Carol Thomsen, Janice Wright, Ted Zuend, Patti Adams, Connie Davis, William Webb, Violene Webb, Linda Blevins, and Christine Bashaw.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Sharon McCallen, Marlen Schultz, and Lona Domenici.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Ashley Massey.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Barbara Houger, Betty Phenix, Wendy Kameda, Erin Smith, Edith Duarte, Adrian Viesca, Terry Sullivan, Robin Bates, Rebecca Harris, Sharon Murphy, Steven Sweeney, Mary Matheus, Jennifer Osherhoff, Sherwood Howard, Deanna Keirstead, Jocelyne Helzer, Carl Meier, David Moore, Kathyrn Moser, Evelyn Moser, Marcia Peterson, Frank Taylor, Norman Budden, Mary Carel, Diane Bacus, Jack Cooke, John Davis, Mark Day, Gail Eller, Michael Fettic, Renee Ekleberry, Joyce Ghiselli, Don Hataway, Lois Lahair, Robert Maynick, Rick Redican, Paul Saucedo, Frank Tetz, Daniel Webster, Debra Williams, Lucille Zuend, Sylvia Brown, Marge Griffin, and Kathryn Alden

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Donna Hancock.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Mark Sprinkle and Cole Christensen.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Millicent Jorgenson and Judith Coolbaugh.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Diane O'Connor.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Diss, Alicia Taylor, Karen Fox, Earlene Miller, and Patricia Blackburn.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Novella Kowallek.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Luanne King.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Toshiko McIntosh.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Valerie Osgood.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Jaclyn Kaiser.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Mary Bean.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Spanish Springs Elementary School: Nathan Bowser, Benjamin Czerwinsky, Patrick Durgin, Colby Green, Tyler Gunn, Jessica Herrick, Tyler Hobbs, Garrett Hueftle, Katarina Leyva, Kylie Means, Madison Munson, Gray Paholke, Colby Rohr, Logan Rudder, Daniel Sanchez, Tierra Smithson, Mathew Steinberg, Ziggy Terelak, Megan Tiscareno, Samuel Williams, Danny Wilson, Ben Yao, Devin Zinda, Alexander Rousssel, Amar Barboza, Carley Miller, Cody Ford, Emily Pyrah, Jose Garcia, Joshua Patterson, Isaac Marroquin, Maxwell Rodriquez, Michael Slavik, Noah Soto, Rashaun Willis, Rianna Pimentle, Sean Slavik, Sierra Scott, Skyler Nichols, Spencer Flynn, Anthony Moran, Issac Marroquin, Roberto Bibriezea, Natalie Allen, Jacob Bohl, Adara Bryant, Jesse Carpio-Hernandez, Jonathan Colby, Austin Delaure, Jacob Gelinas, Caitlyn Greene, Sarah Greene, Elijah Harding, Amanda Ipsaro, Chase Martin, Lauren McDonald, Brenda Moreno, Kendyl Perkins, Nikki Piazza, Philip Sevesik, Isabelle Sutherland, Adrienne Tamayo-Prieto, Jillian Terry, Justin Vasquez, and Tommy Simkins; Jerry Stacey.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Sheree Rosevear.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Brittany Walker.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to Stephany Corral.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Nichole Bailey, Robert Gonzalez, Julie Kellen, Kyle McAfee, Sean McDonald, and Nathan Ring.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Dionny Fonseca.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Carolyn Maynick, Cynthia Carter, Olivia LLoyd, Denise Sins, Michelle Smothers, and Cheryl Williams.

On request of Assemblywoman Koivisto, the privilege of the floor of the Assembly Chamber for this day was extended to Mattie T. Randall, Jackie Valley, and Terry Horgan.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to June Bennett, Bonnie Borda Hoffecker, and Jasmine Shackley,

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Connie Nellos.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Chris Caldwell.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Cecilia Hackman.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Harle Glover, Mary Garcia, and Sally Stoner.

On request of Assemblyman Mortenson, the privilege of the floor of the Assembly Chamber for this day was extended to Judith Fisher and Cheryl McClellan.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Patricia Manning.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Leslie Danihel and Christina Bailey.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Pat Hutson.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Scarlett Smith, Danny Peltier, and Linda Utt.

On request of Assemblywoman Pierce, the privilege of the floor of the Assembly Chamber for this day was extended to Janet Stokes.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Jennifer Breeden.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Bambi Chase and Mary Jane Harding.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Joyce Hess, Darlene Rubin, and Chris Kanowitz.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Cindy Southerland.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Diane Jackson.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to Christina Salerno.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, April 24, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 2:01 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE EIGHTY-SECOND DAY

CARSON CITY (Friday), April 24, 2009

Assembly called to order at 11:41 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Atkinson, Carpenter, Parnell, and Segerblom, who were excused.

Prayer by the Chaplain, Pastor Monte Fast.

To the Creator, we are reminded of the beauty of creation by the spring that is beginning to decorate this beautiful state. The blossoms that decorate these capital grounds and the streets of this capital city are more welcome this year. The flowers springing up from cold winter beds are framing our homes and yards. The crack of baseball bats echo from our playing fields, especially from Reno and its brand new shrine to baseball.

We thank you for making our state such a beautiful place.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 24, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 536, 541, and 542.

MARK STEVENS
Fiscal Analysis Division

SECOND READING AND AMENDMENT

Senate Bill No. 166.

Bill read second time and ordered to third reading.

Senate Bill No. 235.

Bill read second time and ordered to third reading.

Senate Bill No. 392.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 139.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Bill No. 139:

YEAS—37.

NAYS—Cobb.

EXCUSED—Atkinson, Carpenter, Parnell, Segerblom—4.

Assembly Bill No. 139 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 510.

Bill read third time.

Conflict of interest declared by Assemblyman Denis.

Roll call on Assembly Bill No. 510:

YEAS—37.

NAYS—None.

NOT VOTING—Denis.

EXCUSED—Atkinson, Carpenter, Parnell, Segerblom—4.

Assembly Bill No. 510 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 15.

Bill read third time.

Roll call on Senate Bill No. 15:

YEAS—38.

NAYS—None.

EXCUSED—Atkinson, Carpenter, Parnell, Segerblom—4.

Senate Bill No. 15 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 28.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Senate Bill No. 28:

YEAS—38.

NAYS—None.

EXCUSED—Atkinson, Carpenter, Parnell, Segerblom—4.

Senate Bill No. 28 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 65.

Bill read third time.

Remarks by Assemblyman Hambrick.

Roll call on Senate Bill No. 65:

YEAS—38.

NAYS—None.

EXCUSED—Atkinson, Carpenter, Parnell, Segerblom—4.

Senate Bill No. 65 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 67.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Senate Bill No. 67:

YEAS—38.

NAYS—None.

EXCUSED—Atkinson, Carpenter, Parnell, Segerblom—4.

Senate Bill No. 67 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 90.

Bill read third time.

Roll call on Senate Bill No. 90:

YEAS—38.

NAYS—None.

EXCUSED—Atkinson, Carpenter, Parnell, Segerblom—4.

Senate Bill No. 90 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Steve Canfield.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Word of Life Christian Academy: Garth Reynolds, Imani Mitchell, Lourens F. Eramus, Kaimana Phillips, Grace Shuman, Sandy Garcia, Jared Burnett, Kaela Jonson-Smith, Bara'e Butler, Michael Neubeck, and Hayley Chisolm; chaperones Hope Mitchell, Lourens F. Eramus, Derek Phillips,

Shaunaya Pickens, Maria Ramirez, Linne Burnett, Michael Smith, Bridgette Butler, Nicole Neubeck, and Linda Chisolm.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Nancy Hambrick.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Truckee Meadows Community College High School: Jared Aranda, Skyler Fuzell-Casey, Megan Hickman, Marisa Howard, Robin Martin, Sara Murillo, Bailey Murphy, Austin Perkins, Andrew Sherbondy, Stephanie Smith, Kirstin Stellmaker, Emily Sullivan, Scott Sullivan, Serenity Sweet, Brooke Talancon, Stacey Theiss, April Wool, Susana Arroyo, Nicholas Bailo, Annie Busch, Mathias Cone, Mirte De Boer , Samantha Fazzio, Benjamin Gaetke, Celina Gallegos, Bonnibel Galvez, Madchen Giesler, David Harkins, Krystina Jeter, Hannah Jordan, Ashley Myers, Danielle Pounga, Shelby Rector, Sonah Sharma, Rhianne Shearin, Silva Richard, Renee White, Elise Amundsen, Kirby Bresnahan, Stevie Coburn, Joseph Cormier, Anthony Demchak, Alanna Johnson, Nicholas Lehan, Ossian Macdonald, Chelsea Ontiveros, Oscar Pena-Cortez, Conor Samuels, Chelsea Stanley, Benjamin Thom, Janarra Valderama, Alyssa Adams, Lissa Bradley, Cheyenne Brown, Cody Callahan, Esmeralda Ceballos, Christina Dyette, Emily Eoff, Brian Freeman, Michelle Lemler, Maria Malone, Nicholas Noyes, Stephanie Reinitz, and Vanessa Willmoth.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, April 27, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 12:01 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE EIGHTY-FIFTH DAY

CARSON CITY (Monday), April 27, 2009

Assembly called to order at 11:44 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Father Chuck Durante.

We stand before You, Holy Spirit, conscious of our weaknesses, but aware that we are gathered before You. Come to us, remain with us, and enlighten our hearts. Give to this Assembly light and strength to know Your will, to make it their own and to live it in their lives. Guide them by your wisdom, support them by Your power, for You are the source of all that is good. You desire justice for all. Enable this Legislature always to uphold the rights of others. Do not allow them to be misled by ignorance or corrupted by fear or favor. Unite all of us to Yourself in the bond of love and keep us faithful to all that is true. As this Assembly begins another week, may they temper justice with love, so that all their decisions may be pleasing to You, that they may know all that is promised to good and faithful servants. We make this prayer as Your holy and humble people.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Concurrent Resolution No. 19, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 542, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 543—AN ACT relating to taxation; temporarily redirecting a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 544—AN ACT relating to public welfare; requiring the Director of the Department of Health and Human Services to apply for a Medicaid waiver to amend the State Plan for Medicaid to provide certain family planning services to certain women; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Senate Bill No. 109 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 166.

Bill read third time.

Remarks by Assemblyman Stewart.

Roll call on Senate Bill No. 166:

YEAS—42.

NAYS—None.

Senate Bill No. 166 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 235.

Read third time.

Remarks by Assemblymen Carpenter and Anderson.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Senate Bill No. 235 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 542 considered engrossed, declared an emergency measure under the *Constitution*, and placed on third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 542.

Bill read third time.

Remarks by Assemblywoman Smith.

Conflict of interest declared by Assemblyman Grady.

Roll call on Assembly Bill No. 542:

YEAS—41.

NAYS—None.

NOT VOTING—Grady.

Assembly Bill No. 542 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 392.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Senate Bill No. 392:

YEAS—42.

NAYS—None.

Senate Bill No. 392 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Joint Resolution No. 9 of the 74th Session.

Resolution read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Senate Joint Resolution No. 9 of the 74th Session:

YEAS—42.

NAYS—None.

Senate Joint Resolution No. 9 of the 74th Session having received a constitutional majority, Madam Speaker declared it passed.

Resolution ordered transmitted to the Senate.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Resolution No. 9.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to the following parents and

students from the Nevada Homeschool Network: Kim Hendricks, Jenna Hendricks, Clay Hendricks, Petra Sever, Sarah Sever, Zachary Sever, Karen McRae, Olyvia Grace McRae, Isabelle Hope McRae, Pam Lehan, Caitlin Lehan, Lydia Lehan, Terry Schendel, Maddie Bush, Renee Breen, Ethan Breen, Noah Breen, Alex Breen, Devon Breen, Jennifer Lanee Bain, Angelina Joy Bain, Elisa Schulman, Nathan Schulman, Alexandira Schulman, Amelia Schulman, Shannon Simpkins, Zachary Simpkins, Sierra Simpkins, Erica Iwamura, Brandon Iwamura, Trevor Iwamura, Tricia Wilson, Mike Wilson, Mikey Wilson, Sean Wilson, Amy Lucas, Julianna Elizabeth Lucas, Justin Gregory Lucas, Alison Crook, Levi Crook, Rianna Crook, Marissa Crook, Sherrie Boman, Joshua Boman, Kerry Roberts-Manson, Grant Manson, Ava Manson, Anna Goodwin, Sierra Goodwin, Ashley Goodwin, Raven Bourdain, Jake Burdoin, Mary Ann Coleman, Ryan Coleman, Haley Coleman, Maureen Ford, Tegan Ford, Carson Ford, Kelley Radow, Gabriel Radow, Adam Radow, Petrina French, Courtney French, Elyssa Galvez, James Collins, Claire Collins, Jay Collins, Marissa Collins, Ellie Collins, Trish Gray, Donald Gray, Ericah Cross, Marla Tomchuk, Moriah Tomchuk, Doris Dick, Merlyn Dick, Carri Ellis, James Ellis, Tyler Ellis, Madison Ellis, Rachel Jackson, Holly Tollefson, Matt Tollefson, Gina Pistone-Hawley, Jacab Pistone-Hawley, Alyssa Pistone-Hawley, Danette Gaetke, Timothy Gaetke, and Michelle Gaetke.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Katherine Bain.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, April 28, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 12:06 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE EIGHTY-SIXTH DAY

CARSON CITY (Tuesday), April 28, 2009

Assembly called to order at 11:34 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Father Chuck Durante.

Holy and Gracious Creator, we come before You this crisp, spring day and give You thanks. Thank You for all You have entrusted to us and help us to be good stewards of it for the generations to come. In these difficult economic times for Nevada, our nation and our world, send forth Your wisdom and understanding, knowledge, and right judgment upon all our lawmakers. Grant to them discerning hearts and minds that their decisions may be for the common good, always aware of the weakest and most vulnerable among us.

Fill each of us with the courage to do Your will. Bless our families, our neighborhoods, and our state, that all who live here may have the opportunity to become all that you created us to be.

We make this prayer as your grateful and humble people.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 463, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 342, 344, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which was referred Senate Concurrent Resolution No. 4, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 223, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 108, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 199, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 528, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 123 and 229, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 463, just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assembly Concurrent Resolution No. 19.

Assemblyman Ohrenschall moved the adoption of the resolution.

Remarks by Assemblyman Ohrenschall.

Resolution adopted and ordered transmitted to the Senate.

By Assemblymen Conklin, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury; Senators Horsford, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Assembly Concurrent Resolution No. 28—Designating April 28, 2009, as Homeless Youth Awareness Day in Nevada.

WHEREAS, Thousands of children in this State are reported as runaways each year and often join the homeless population on the streets, eating out of dumpsters, sleeping in alleys and feeling cold, unloved and alone; and

WHEREAS, Many of these runaway children prefer to chance the dangers of life on the street to remaining in their homes, where they often experience abuse, violence and other dysfunction; and

WHEREAS, Although the "Right to Shelter Law," which provided for separate shelters for certain runaway children, was passed by the Nevada Legislature in 2001, there are no long-term residential facilities which allow children to seek assistance on a voluntary basis in this State; and

WHEREAS, There is a lack of available statistics concerning the number of homeless children that reside in this State and their need for such long-term residential facilities and other services; and

WHEREAS, Children who are homeless are unable to support themselves financially, causing them to become desperate, hungry and vulnerable; and

WHEREAS, Homeless children often become sexually active, are at risk of becoming pregnant and engaging in prostitution, suffer from poor nutrition and dehydration, become suicidal and suffer various other harms which affect their overall health, well-being and ability to become productive members of society; and

WHEREAS, To properly address the needs of this often-forgotten population, it is important to raise public awareness of the serious issues concerning homeless children in this State and to encourage public support for programs designed to assist those children; and

WHEREAS, The members of the Nevada Legislature recognize the outstanding efforts of the state and local governmental agencies and nonprofit entities dedicated to fighting the problem of homeless children in the State of Nevada; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That April 28, 2009, is hereby designated as Homeless Youth Awareness Day in Nevada; and be it further

RESOLVED, That the members of the 75th Session of the Nevada Legislature hereby express their commitment to creating a greater public awareness of the problem of homeless children in Nevada and continuing to work cooperatively to solve this problem; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Joshua Hicks, Chief of Staff to Governor Jim Gibbons, and to the Board of Directors of the Nevada Partnership for Homeless Youth.

Assemblyman Conklin moved the adoption of the resolution.

Remarks by Assemblymen Conklin, Manendo, Oceguera, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. I moved to Nevada in 1998. In 1999, I met the founder of the Nevada Partnership for Homeless Youth, Ms. Kathleen Boutin. At the time, there was no organization. We met through some United Way activities and working together to help programs and bring money to certain organizations in the community. After one of our meetings, she pulled me aside and gave me some thoughts about her vision for helping a certain population in the State of Nevada that does not get the attention that it deserved. That was ten years ago. That population was homeless youth.

I had no idea how many children lived on the streets, night after night, with no parents or no family. They were children who were subject to predators, crime, and bad weather. They had no friends and no services at the time. At the time, there was a law on the books that said if you were under the age of 18 and someone provided you with services, they could be held liable. In 1999, the members of this soon-to-be organization worked diligently to craft a measure that, Madam Speaker, you were the sponsor of in the 2001 Session. That bill became known as the Right to Shelter law. It changed, in many respects, the ability of our community to address some of the needs that these kids have. Basically, the measure said that if you reached out to a child, someone who was homeless and under the age of 18, and you provided them services, you did not have to be liable.

Madam Speaker and colleagues, today the Nevada Partnership for Homeless Youth helps thousands of kids. Without liability, without second guessing, we have housing programs that keep kids off the streets and help them to be self-sufficient. We have database programs that count and keep track and allow us to gather more money for the state and for the counties. We do advocacy work through organizations such as yours, Madam Speaker. We provide shelter and we run programs, such as Nevada Safe Place. I cannot tell you how important this organization has been to me because it is the reason I am here. I urge passage.

ASSEMBLYMAN MANENDO:

Thank you, Madam Speaker. I, too, rise in support of Assembly Concurrent Resolution 28. The Assistant Majority Leader is right on target. I want to thank him and I want thank you, Madam Speaker, and I want to thank Kathleen Boutin, who had the vision to work so hard for our young kids. When we go out and do homeless counts and we are out in the gullies and washes and we are doing counts of kids and we come upon them in the middle of the night, people do not realize that we have homeless kids. I have a couple of elementary schools in my district where we have 85 percent homeless kids. The things that the Partnership for Homeless Youth has done for our community speak volumes for the people in the State of Nevada. It really does. Senator Parks and myself and several others were on the honorary board and we went to Tulsa, Oklahoma. We learned how the Safe Place program operated. On January 2, 2002, we brought the Safe Place program to southern Nevada. I am so proud of folks like Terrible Herbst Gaming and CAT bus system and several others, where you have businesses and the community working together to do what is right to make our community better. I just want to say I appreciate everyone who has worked so hard every day, every minute, for our kids. Thank you.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. I, too, rise in support of Assembly Concurrent Resolution 28. The homeless corridor in Las Vegas is in my district. That is where many of these youth are, near the university. The homeless shelter is in my district. I have been there several times. I did not know the plight of some of these youth. And some of them aren't homeless in the sense that you and I might think of a homeless person. Some of them do what they call "couch surfing" where they spend three days at your house, three days at my house, and three days at someone else's house. And no one realizes that they are homeless. They spend time on rooftops and in gullies, like my colleague said. The work that these folks do is just unbelievable. I would like to mention again, also, the Safe Place program. The fire department has been involved in that program, and that is a wonderfully successful program. Like my colleague from District 18 said, we have some schools in my district that have high rates of homeless youth. We, as a fire department, try to help at Christmas for the schools. I was just amazed. I couldn't even fathom that 60 to 70 percent of the students did not have any place to go at night. I rise in support of this resolution and hope to support these folks in all the good work they do in the future.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Sometimes in the day-to-day hustle and bustle up here, as we are drowning in bills and wondering how we are going to solve the state's economic crisis, we need to be reminded about what is good in our state. This resolution certainly brings this to everyone's attention. Some of my work that I am the proudest of in my 16 years have to do with homeless children, whether it was having the privilege of sponsoring this bill or fighting for the funds for children aging out of our foster care system. In the old days, we used to give children nothing except a trash bag as they left our foster care system. Thanks to the work that we did here, now we have a bridge and funds to help kids as they try to reach for college or a job. We added health insurance for children aging out of the foster care system. Before, we didn't have that. It took us four years to fight for that. I think those measures have helped, but there is nothing more important than the board members and the staff of organizations like the Nevada Partnership for Homeless Youth and our other nonprofits that are serving without compensation and are raising funds in a tight economic market. They know we can make a difference in these kids' lives. And to all of those kids who now are giving back and helping out, we thank you and we appreciate you.

Resolution adopted.

Assemblyman Conklin moved that all rules be suspended and that Assembly Concurrent Resolution No. 28 be immediately transmitted to the Senate.

Motion carried.

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

Assembly in recess at 11:59 a.m.

ASSEMBLY IN SESSION

At 12 noon.
Madam Speaker presiding.
Quorum present.

By Assemblymen McClain, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 29—Recognizing Tuesday, April 28, 2009, as Equal Pay Day.

WHEREAS, Equal Pay Day was originated by the National Committee on Pay Equity in 1996 as a public awareness event to illustrate the gap between men's and women's wages; and

WHEREAS, Because women earn less, on average, than men, they must work longer for the same amount of pay, and therefore Equal Pay Day is observed during the last week in April to symbolize how far into the year a woman must work, on average, to earn as much as a man earned during the previous year and on a Tuesday because it is the day of the week on which women's wages catch up to men's wages from the previous week; and

WHEREAS, Pay equity is not just a women's issue because equal pay for women raises family income and the whole family benefits; and

WHEREAS, In 1963, when the Equal Pay Act was signed into law, women earned an average of 59 cents for every dollar earned by a man, and in 2007, women earned an average of 78 cents for every dollar earned by a man; and

WHEREAS, The wage gap is even greater for most women of color, as statistics show that Latina women earn 59 cents, African American women earn 69 cents and Asian American women earn 89 cents for every dollar men earn; and

WHEREAS, Over a working lifetime, this wage disparity costs the average American woman and her family an estimated $700,000 to $2 million, impacting social security benefits and pensions; and

WHEREAS, Nevada ranks eighth for the ratio of women's earnings to men's (wage gap), and it is estimated that women will catch up to men by 2020; and

WHEREAS, Nevada ranks 17th for the percentage of women-owned businesses, 47th for the number of women in professional and managerial positions and 47th for the percentage of women with 4 or more years of college; and

WHEREAS, On January 29, 2009, the Lilly Ledbetter Fair Pay Act, which restores the ability of victims of wage discrimination to hold their employers accountable for injustice and challenge the practice in court, was signed into law; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Nevada Legislature hereby designates Tuesday, April 28, 2009, as Equal Pay Day in Nevada to recognize the contributions of women to the paid labor force and

the ongoing work of both women and men to reach the goal of equal pay for equal work; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Nevada Women's Lobby, League of Women Voters of Nevada, American Association of University Women of Nevada and Nevada NOW for their advocacy work on behalf of all Nevada women.

Assemblywoman McClain moved the adoption of the resolution.

Remarks by Assemblymen McClain, Horne, and Madam Speaker.

Resolution adopted.

Assemblywoman McClain moved that all rules be suspended and that Assembly Concurrent Resolution No. 29 be immediately transmitted to the Senate.

Motion carried.

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

Assembly in recess at 12:11 p.m.

ASSEMBLY IN SESSION

At 12:12 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Senate Bill No. 109 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 235 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 463.

Bill read second time and ordered to third reading.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 28, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 533 and 542.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

GENERAL FILE AND THIRD READING

Senate Bill No. 109.

Bill read third time.

The following amendment was proposed by Assemblywoman Smith:

Amendment No. 576.

AN ACT relating to state grazing boards; deleting the provisions that place such boards within the State Department of Agriculture; **requiring each state grazing board to submit an annual report to the Legislature;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates a state grazing board for each Bureau of Land Management grazing district in Nevada and places each of those boards within the State Department of Agriculture. (NRS 568.040) This bill deletes the provisions that place each of those boards within the Department **[.]** **and requires each state grazing board to submit to the Legislature an annual report of its revenues and expenditures.**

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

Section 1. NRS 568.040 is hereby amended to read as follows:

568.040 ***1.*** To direct and guide the disposition of the range improvement fund of each grazing district concerned, in the manner most beneficial to the stock raising payers of the grazing fees from which the funds are derived and to the counties concerned, there is hereby created **[**~~within the State Department of Agriculture~~**]** a state grazing board for each Bureau of Land Management grazing district established and existing in Nevada under the provisions of the Taylor Grazing Act.

2. Each state grazing board created by subsection 1 shall submit an annual report of its revenues and expenditures to the Director of the Legislative Counsel Bureau not later than February 15 of each year for transmittal to the Legislature.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 235.

Bill read third time.

Remarks by Assemblyman Carpenter.

Roll call on Senate Bill No. 235:

YEAS—42.

NAYS—None.

Senate Bill No. 235 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 533 and 542; Senate Concurrent Resolutions Nos. 24 and 25.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Aaron Kik, Nan Keogh Farrell, and Gerry Farrell.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Donna Hill.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Yasumasa Nagamine, Kathleen Blakely, Gayle Anderson, and Takemichi Nagaoka.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Kim Bacchus.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Kathleen Boutin, Tim Mullin, Jeremy Hynds, Larry Lovelett, Keith Stark, Paula Lawrence, Kelly Woods, David Chavez, Tony Sanchez, Jan Cohen, Ted Olivas, and Jennifer Simich.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Omgema Mabior.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Carol Olson, Gretchin Kvall, Reese Kvall, Sai'len Kvall, Jennifer MacMillan, and James MacMillan.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Bonnie Barber.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Abdulhakim Mohamed.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Donna Clontz.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Byllie Andrews.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Jose Alcaraz.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Fremont Elementary School: Nathaniel Apodaca, Lesly Bracamontes-Canas, Courtney Campbell, Noah Cano, Noemi De La Cruz, Dawson Fettic, Yasmine Gallegos, Manlio Gamez, Brian Garringer, Mayzene Gonsalves, Isaias Gonzalez, Diana Guzman, Cody Hadd, Karina Huizar-Salas, Tyler Huling, Dylan Lafollette, Adrian Lampe, Paola Mariscal, Jailene Mendoza-Macias, Mychaela Mone, Lorena Montes, Hailey Palotas, Jordi Ramirez Lopez, Riley Riedl, Juan Sanchez, Jordan Smith, Kooper Van Worth, Raymond Verde Cabrera, Gregory Wallace III, Jose Aguilar, Logan Bevins, Mia Brozovich, Micah Camp, Megan Cantley, Edith Cervantes-Mejia, Makenna Couste, Tiffany De Rosa, Dustin Floyd, William Furlong, Daniel Gutierrez-Lopez, Edward Hart, Katlyn Hornbeck, Bethany Ignacio, Kristopher Illig, Katelyn Jones, Ryan Kattenhorn, Michelle McQueary, Elena Montes, Alexander Morgan, Hilda Munoz Marquez, Deni Ortiz Fernandez, Gabriel Pope, Marco Quevedo, Jesus Rangel, Ernesto Rojas Jr., Aaron Serrano, Wesley Thompson, Juan Camilo Trujillo, Jason Vargas Avalos and Dinah Jordan; teachers Jacqueline McCune and Carolyn Cook.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Jacks Valley Elementary School: Sterling Atlan, John Bingham, Maureen Brennan, Emily Conover, Ian Dixon, Andrew Elsworth, Sydney Espinoza, Anthony Gayner, Grace Green, April Hall, Caroline Hall, Elyssia Iguado-Jones, Trevor Luttrell, Ashton McKissack, Christian Miranda, Patrick Olvera, Destiny Paetz, Jesse Pimental, Ian Remington, Christopher Rowe, Shawn Ryan, Josiah Velasquez, Noah Velasquez, Angelie Woolfe, Madison Zajac, Conor Agnason, Kristina Benbrooks, Tyler Crisp, Brandon Dacayanan, Savahna Garcia, Collin Gates, Keileigh Gonzales, Dubi Justice, Patrick Larsen, Cody Lopez, Amelia McKay, Kendal Moore, Mairelys Ortega, Noah Primak, Geoffrey Reich, Tess Sando, Devi Schwartz, Cahlie Shattuck, Haiden Sneed, Justin Stevens, Austin Travers, Jordan Wang, and Wolfie Weiss; teachers Heather McCain, Kristin Carrion, and Barb Jacobson.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Reno Christian Academy: Madison Alexander, Na'la Bailey, Lauren Brown, Kayla Freeman, Nicholas Labahn, Natalie Parker, Jessica Pearson, Josie Peck, Brandon Stehlik, Corinne Undercoffer, and Johah Wacker; teacher Echo Callahan.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Curtiss Robinson.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, April 29, 2009, 11:30 a.m.

Motion carried.

Assembly adjourned at 12:21 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE EIGHTY-SEVENTH DAY

CARSON CITY (Wednesday), April 29, 2009

Assembly called to order at 12:16 p.m.
Madam Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, Father Chuck Durante.
(Adapted from the Psalm to Virgin Spring by Edward Hays.)

Drawn upward by some hidden power,
life is cracking the crust of the earth
and bursting forth from limb and stem.

Your aroma, O Life-giver,
is upon the springtime wind, may we
feel its power stirring deep within us.

Green is Your color, O God,
The green of new life that lovingly transfigures
Earth's dreariness, long held prisoner by the
icy web of winter's cold.

Green up our hearts with hope in your perpetual
promise of life.
Send forth from our souls new shoots, fresh buds
Eager to grow in Your divine image.

May this year's visit of fresh Spring
Make our hearts fresh once again,
Filled with love for You whom we discover
In all things good and in everyone.

Grant us peace and centeredness, this day. We make this prayer as Your holy and humble people.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 156, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Concurrent Resolution No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 314, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which was referred Senate Bill No. 83, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Taxation, to which was referred Senate Bill No. 48, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 446, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 28, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolutions Nos. 28, 29.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 60, 78.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 4.

Assemblywoman Mastroluca moved the adoption of the resolution.

Remarks by Assemblywoman Mastroluca.

Resolution adopted.

NOTICE OF EXEMPTION

April 29, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 543 and 544.

MARK STEVENS
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 60.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 78.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 528.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Claborn moved that Senate Bill No. 108 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 199.

Bill read second time and ordered to third reading.

Senate Bill No. 223.

Bill read second time and ordered to third reading.

Senate Bill No. 342.

Bill read second time and ordered to third reading.

Senate Bill No. 344.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 123.

Bill read third time.

Remarks by Assemblymen Leslie, Smith, Carpenter, and Hardy.

Roll call on Assembly Bill No. 123:

YEAS—42.

NAYS—None.

Assembly Bill No. 123 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 229.

Bill read third time.

Remarks by Assemblymen Oceguera, Settelmeyer, Manendo, and Conklin.

Roll call on Assembly Bill No. 229:

YEAS—33.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart, Woodbury—9.

Assembly Bill No. 229 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 463.

Bill read third time.

The following amendment was proposed by Assemblywoman Smith:

Amendment No. 580.

SUMMARY—Restricts a department, division or other agency of this State ~~[or a local government]~~ from employing a person as a consultant. (BDR 23-1057)

AN ACT relating to governmental administration; restricting a department, division or other agency of this State ~~[or a local government]~~ from employing a person as a consultant; requiring ~~[a school district]~~ **certain entities** to submit to the Interim Finance Committee a report concerning each consultant employed by the ~~[school district;]~~ **entity; requiring that contracts with consultants and temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct an audit concerning the use of contracts with consultants by state agencies;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill restricts a department, division or other agency of this State ~~[or a local government]~~ from employing a person as a consultant for the agency. ~~[or local government unless]~~ **Section 1 requires** the Interim Finance Committee ~~[approves]~~ **to approve** the employment ~~[and any of the following]~~ **of a consultant under certain** circumstances ~~[exist, as determined by the Interim Finance Committee: (1) the person provides services that are not provided by any other employee of the agency or local government or for which a critical labor shortage exists; or (2) a short-term need or unusual economic circumstance exists for the agency or local government to employ the person. Section 1 prohibits the Interim Finance Committee from approving]~~ **and limits the approval of** the employment of the person as a consultant if the person is a former employee of a department, division or other agency of this State ~~[or a local government]~~ and at least 1 year has not expired before the person is employed as a consultant. **Section 1** also requires each **board, commission,** school district **and institution of the Nevada System of Higher Education** to submit to the Interim Finance Committee, at least once every 6 months, a report concerning each consultant

employed by the ~~[school district.]~~ **entity. Section 1 also requires that contracts with consultants and temporary employment services be awarded by open competitive bidding. Section 2.5 of this bill requires that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency. Section 2.7 of this bill requires the Legislative Auditor to conduct an audit of the use by agencies of the Executive Branch of State Government of contracts with consultants.**

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

Section 1. Chapter ~~[281]~~ **284** of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~*[Notwithstanding any provision of law to the contrary and except]*~~ ***Except as otherwise provided in subsection*** ~~*[2,]*~~ ***6, a department, division or other agency of this State*** ~~*[or a local government]*~~ ***shall not employ, by contract or otherwise, a person to provide services as a consultant for the agency*** ~~*[or local government unless, before the person is employed by the agency or local government:*~~

~~*(a) The]*~~ ***if:***

(a) The person is a current employee of an agency of this State;

(b) The person is a former employee of an agency of this State and less than 1 year has expired since the termination of his employment with the State; or

(c) The term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years,

➥ unless, before the person is employed by the agency, the Interim Finance Committee approves the employment of the person . ~~*[; and*~~

~~*(b) Any]*~~

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The Interim Finance Committee shall not approve the employment of a consultant pursuant to paragraph (b) of subsection 1 unless the Interim Finance Committee determines that one or more of the following circumstances exist : ~~*[, as determined by the Interim Finance Committee:]*~~

~~*[(1)]*~~ ***(a) The person provides services that are not provided by any other employee of the agency*** ~~*[or local government]*~~ ***or for which a critical labor shortage exists; or***

~~*[(2)]*~~ ***(b) A short-term need or unusual economic circumstance exists for the agency*** ~~*[or local government]*~~ ***to employ the person as a consultant.***

~~*[2. If a person specified in subsection 1 is a former employee of a department, division or other agency of this State or a local government, the Interim Finance Committee shall not approve the employment of the person*~~

~~*as a consultant for an agency or local government specified in that subsection unless at least 1 year has expired after the termination of that former employment.]*~~

3. ~~*[Notwithstanding any provision of law to the contrary, each]*~~ ***Except as otherwise provided in subsection 6, a department, division or other agency of this State shall report to the Interim Finance Committee whenever it employs, by contract or otherwise, a person to provide services as a consultant for the agency who is a former employee of a department, division or other agency of this State.***

4. Except as otherwise provided in subsection 6, a department, division or other agency of this State shall not contract with a consultant or a temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

5. Each board or commission of this State, each school district in this State and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

(a) The number of consultants employed by the board, commission, school district ~~*[,]*~~ ***or institution;***

(b) The purpose for which the board, commission, school district or institution employs each consultant; ~~*[and]*~~

(c) The amount of money or other remuneration received by each consultant from the board, commission, school district ~~*[,]*~~ ***or institution; and***

(d) The length of time each consultant has been employed by the board, commission, school district or institution.

6. The provisions of subsections 1 to 4, inclusive, do not apply to the Nevada System of Higher Education or a board or commission of this State.

7. For the purposes of this section, "consultant" includes any person employed by a business or other entity that is providing consulting services if the person will be performing or producing the work for which the business or entity is employed.

Sec. 2. NRS 218.6827 is hereby amended to read as follows:

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650 ~~[.]~~ ***and section 1 of this act.*** In performing those duties, the Senate Standing

Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 2.5. **NRS 353.210 is hereby amended to read as follows:**

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy; ~~[and]~~

(b) ***Any existing contracts the department, institution or agency has with consultants or temporary employment services, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such consultants or services; and***

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget

estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in his office or which he may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 2.7. **1. The Legislative Auditor shall conduct an audit concerning the use by agencies of the Executive Branch of State Government of contracts with consultants. The State Controller shall provide such information as is requested by the Legislative Auditor to assist with the completion of the audit.**

2. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011.

3. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

Sec. 3. The amendatory provisions of section 1 of this act do not apply to a contract of employment specified in that section that is entered into or renewed before the effective date of this act.

Sec. 4. This act becomes effective upon passage and approval.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 109.

Bill read third time.

Remarks by Assemblyman Carpenter.

Roll call on Senate Bill No. 109:

YEAS—42.

NAYS—None.

Senate Bill No. 109 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 463.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 463.

Bill read third time.

Remarks by Assemblywomen Smith and Gansert.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 463:

YEAS—41.

NAYS—Aizley.

Assembly Bill No. 463 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

REMARKS FROM THE FLOOR

Assemblywoman Spiegel moved that the following proclamation be entered in the Journal:

PROCLAMATION OF THE NEVADA STATE ASSEMBLY

WHEREAS, Political involvement by women in our State can be traced back to the activities that helped Nevada obtain statehood in 1864; and

WHEREAS, Women were allowed to hold positions as school superintendents and trustees prior to receiving the right to vote in 1914; thereafter, women ran for elected offices at local and state levels resulting in the election of the first female county commissioner in 1915 and the first female State legislator in 1919; and

WHEREAS, Political leadership is an important quality for officeholders at all levels of government, one that is recognized by Emerge Nevada, an organization whose mission is to identify, educate and inspire Democratic women who want to pursue a political career; and

WHEREAS, Established in 2006 by Erin Bilbray-Kohn, Emerge Nevada is an affiliate of emergeAmerica, whose goal is to increase the number of Democratic women in public office across the nation by providing training in areas that include campaign strategy, fundraising, media skills, and ethics; and

WHEREAS, Since its establishment, 30 women have graduated from the seven-month long training program of Emerge Nevada, resulting in nearly 25 percent of the graduates becoming candidates for an elected office; and

WHEREAS, In the 2008 General Election, the first Emerge Nevada graduates chosen to serve the public were Assemblywoman Ellen Barre Spiegel, Clark County District No. 21; Kitty Jung, Washoe County Commission District 3; and Julia Ratti, Sparks City Council Ward 1; and

WHEREAS, The women who enroll in the training program offered by Emerge Nevada represent the increasing diversity and leadership ability available through individuals in our State; and

WHEREAS, The importance of programs like Emerge Nevada for helping women achieve their fullest potential is appreciated by Nevada's first woman Speaker of the Assembly, Barbara Buckley; and

WHEREAS, An increasing number of women are pursuing roles in public office, and the diligent efforts of those women promise to someday break through the series of firsts, making the election of a woman a practicable choice for any public position; now, therefore, be it

PROCLAIMED, That the State of Nevada recognizes the efforts of Emerge Nevada to strengthen the leadership ability of women by encouraging them to pursue a career in politics and have a positive effect on the history of our State and the success of its future.

DATED this 29th day of April, 2009.

BARBARA E. BUCKLEY
Speaker of the Assembly

ELLEN B. SPIEGEL
Nevada State Assemblywoman

Assemblywoman Spiegel requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Speaker. First, I would like to present the proclamation to Erin Bilbray-Kohn, who is the founder of Emerge Nevada. She is also the Democratic National Committeewoman for the State of Nevada. Erin, I would like to give you a copy of this proclamation, with our thanks and appreciation. I would like to also recognize all my fellow Emerge sisters who are here. Please rise so that everyone can make you feel welcome.

I have to tell you that I was in the very first class of Emerge Nevada. I was taught many, many wonderful skills. But more importantly, I was also able to develop a network of sisters and forge bonds and really develop relationships that I will carry with me throughout my life. Emerge Nevada has fostered many special things and is achieving results. I do not know if I would be standing here today if not for Emerge Nevada. So please make all my fellow Emerge sisters feel welcome. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

We are so pleased to have all of you with us today. We hope that this will be the start of a tradition of Emerge Day at the Nevada Legislature. We are so pleased at all of the successes shown by the elected officials we have with us already and those who are thinking of running or are helping people who have run. I see one attendee who spoke so highly of working on your campaign, Assemblywoman Spiegel, and so we aren't only training the future leaders, but the future power figures that will make things happen. We are so pleased to have you all here, and we look forward to the events through the rest of the day.

I, too, hope, though, that eventually this will just become obsolete. I hope that there will be a day when it is no longer an odd occasion to have the first woman city council person, the first woman Speaker, the first woman Governor, the first woman President, where it is just not thought of any longer as being anything out of the ordinary. Welcome here. We are thrilled to have you.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Bills Nos. 15, 28, 65, 67, 90, 166, 392; Senate Joint Resolution No. 9 of the 74th Session.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Roger Corbett Elementary School: Sandra Aguilar, Luis Aguirre-Alba, Jonathan Cano, Drandon Carrasco, Jose Castillo, Omar Cruz, Alondra Diaz, Michelle Espinoza, Yadira Garcia, Mayra Gonzalez, Hector Lopez, Neida Lopez, Krystal Manzano, Lexus Montoya, Ruby Mora, Ulises Munoz, Jackie Nunez, Destiny Ochoa, Carlos Paguntalan, Diego Puertos, Arturo Rios, Vanessa Rodriguez, Alex Ruvalcaba, Marisol Torres, Raul Vanegas, Randy Alvarez, Crystal Arellano Rios, Kaleen David, Lucero DeLaRiva, Sergio Diaz Funes, Dana Engen, Alondra Espinoza, Juliet Fakava, Yonathan Gonzalez, Andrew Hernandez Reyes, Jonathan Huerta, Miguel Lacano , Edwin Martinez, Jonathan Negreros, Malinalitzxin Oliva, Liliana Pacheco, Daisy Partida, Maricruz Perez, Julie Ann Ramirez, Barbara Rodriguez, Diana Rodriguez, Abner Ruiz, Brayan Silva and Yessenia Martinez Aguilar; teacher Lori Pomajzl; Julia Ratti.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Monika Wiegers, Kitty Jung, and Olivia Gobert-Hicks.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Paul Workman.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Richard A. Bowen and Mindy Bowen.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Steven Samson and Ronda Kennedy.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Adriana Martinez.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Bethlehem Lutheran School: Henry Bingham, Shayla Clyde, Daxea DeWeese, Kidrick Fore, Erin Henry, Sarah Housel-Koche, Taylor Negrete, Carie Olson, Vishvaas Ravikumar, Karl Ricks, Michaela Roth, Christopher Soderstrom, Nicholas Walker, Rachel Andersen, Richard Brookes, Annhya Clarkson, Stephanie Gansberg, Carson Iverson, Sashank Kandhadai, Caleb Keith, Nathan King, Jacob Medlock, Matthew Premo, Visesh Ravikumar, Andy Shao, Magan Smith McKinze Tynes, Abby Williams; chaperones Clay Soderstrom, Jamie McCormick, and Vanessa Bernhard; Cathy Madsen, Vivian Pickett, Sandy Osheroff, Donna Curtis, Jean Bondiett, Sally Layer, Nora McGinley, Karen Priest, Anita Eftimoff, Jean Estrada, Raynell Heaton,

Joan Wong, Yolanda Garcia Banuelos, Margaret Mello, Janet Riggs, and Abby Madsen.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Gina Greisen and Erika Greisen.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Erin Bilbray-Kohn.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, May 1, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 12:58 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE EIGHTY-NINTH DAY

CARSON CITY (Friday), May 1, 2009

Assembly called to order at 12 noon.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Dr. Ken Haskins.

Our Heavenly Father, You have provided for us abundant life and You have richly blessed our nation. Apart from You, we can do nothing, but with You nothing shall be impossible for us. So we invoke Your presence and ask that You bless our efforts as we consider the challenges and opportunities set before us this day. In Jesus' Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Education, to which were referred Senate Bills Nos. 12, 161, 391, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Education, to which were referred Senate Bills Nos. 19, 164, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Concurrent Committee on Education, to which was referred Senate Bill No. 209, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 535, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 186, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 14, 106, 141, 216 has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which were referred Senate Bills Nos. 240, 312, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which were referred Assembly Bills Nos. 536, 538, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 238, 395 has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 29, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 23, 28, 37, 93, 96, 133, 163, 188, 253, 264, 286, 384, 407, 417, 509, 517, 518.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 114, Amendment No. 561; Assembly Bill No. 187, Amendment No. 563; Assembly Bill No. 412, Amendment No. 515, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 4, 400, 401.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, April 30, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 61, 74, 105, 180, 226, 247, 280, 332, 338, 477; Senate Bill No. 403.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 164, Amendment No. 562; Assembly Bill No. 322, Amendment No. 577, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 17.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 2.

Assemblyman Ohrenschall moved the adoption of the resolution.

Remarks by Assemblymen Ohrenschall and Anderson.

Resolution adopted.

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 395 just reported out of committee, be placed at the top of General File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 545—AN ACT making an appropriation to the City of Las Vegas for allocation to the New Ventures Capital Development Company to encourage the creation of small businesses in the minority community; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 4.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 17.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 400.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 401.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 403.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 446.

Bill read second time.

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

Amendment No. 569.

AN ACT relating to state financial administration; revising certain requirements for the proposed budget of the Executive Department of the State Government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law ~~[requires]~~ **specifies the contents of** the proposed budget of the Executive Department of the State Government **.** ~~[to include a mission statement and measurement indicators for each program.]~~ (NRS 353.205) **Section 1** of this bill ~~[specifies certain information which must be included in the mission statement and measurement indicators]~~ **requires each proposed budget to include certain information regarding long-term performance goals and intermediate objectives of the Executive Department,** and requires the posting of ~~[that]~~ **certain** information on various Internet websites maintained by the State.

Section 2 of this bill clarifies the information that state agencies are required to submit to the Budget Division of the Department of Administration to assist the Budget Division in preparing proposed executive budgets.

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

Section 1. NRS 353.205 is hereby amended to read as follows:

353.205 1. The proposed budget for the Executive Department of the State Government for each fiscal year must be set up in three parts:

(a) Part 1 must consist of a budgetary message by the Governor which ~~[outlines the financial policy of the Executive Department of the State Government for the next 2 fiscal years, describing in connection therewith the important features of the financial plan. It must also embrace a]~~ ***includes:***

(1) A general summary of the long-term performance goals of the Executive Department of the State Government for:

(I) Core governmental functions, including the education of pupils in kindergarten through grade 12, higher education, human services, and public safety and health; and

(II) Other governmental services;

(2) An explanation of the means by which the proposed budget will provide adequate funding for those governmental functions and services such that ratable progress will be made toward achieving those long-term performance goals;

(3) An outline of any other important features of the financial plan of the Executive Department of the State Government for the next 2 fiscal years; and

(4) A general summary of the proposed budget setting forth the aggregate figures of the proposed budget in such a manner as to show the balanced relations between the total proposed expenditures and the total anticipated revenues, together with the other means of financing the proposed

budget for the next 2 fiscal years, contrasted with the corresponding figures for the last completed fiscal year and fiscal year in progress. The general summary of the proposed budget must be supported by explanatory schedules or statements, classifying the expenditures contained therein by organizational units, objects and funds, and the income by organizational units, sources and funds.

(b) Part 2 must embrace the detailed budgetary estimates both of expenditures and revenues as provided in NRS 353.150 to 353.246, inclusive. The information must be presented in a manner which sets forth separately the cost of continuing each program at the same level of service as the current year and the cost, by budgetary issue, of any recommendations to enhance or reduce that level of service. Revenues must be summarized by type, and expenditures must be summarized by category of expense. Part 2 must include ~~[~~a~~]~~ ***:***

(1) The identification of each long-term performance goal of the Executive Department of the State Government for:

(I) Core governmental functions, including the education of pupils in kindergarten through grade 12, higher education, human services, and public safety and health; and

(II) Other governmental services,

➥ and of each intermediate objective for the next 2 fiscal years toward achieving those goals.

(2) An explanation of the means by which the proposed budget will provide adequate funding for those governmental functions and services such that those intermediate objectives will be met and progress will be made toward achieving those long-term performance goals.

(3) A mission statement and measurement indicators for each ~~[~~*program*~~]~~ ~~[~~. It must also include statements~~]~~ ***department, institution and other agency of the Executive Department of the State Government , which*** ~~*[must]*~~ ***articulate the intermediate objectives and long-term performance goals each*** ~~*[program]*~~ ***such department, institution and other agency is tasked with achieving and the particular measurement indicators tracked for each*** ~~*[program]*~~ ***such department, institution and other agency to determine whether the*** ~~*[program]*~~ ***department, institution or other agency is successful in achieving its intermediate objectives and long-term performance goals, provided in sufficient detail to assist the Legislature in performing an analysis of the relative costs and benefits of program budgets and in determining priorities for expenditures. If available, information regarding such measurement indicators must be provided for each of the previous 4 fiscal years. If a new measurement indicator is being added, a rationale for that addition must be provided. If a measurement indicator is being modified, information must be provided regarding both the modified indicator and the indicator as it existed before modification. If a measurement indicator is being deleted, a rationale for that deletion and information regarding the deleted indicator must be provided.***

~~[(2)]~~ ***(4) Statements*** of the bonded indebtedness of the State Government, showing the requirements for redemption of debt, the debt authorized and unissued, and the condition of the sinking funds **. [**~~, and any~~**]**

~~[(3)]~~ ***(5) Any*** statements relative to the financial plan which the Governor may deem desirable, or which may be required by the Legislature.

(c) Part 3 must include a recommendation to the Legislature for the drafting of a general appropriation bill authorizing, by departments, institutions and agencies, and by funds, all expenditures of the Executive Department of the State Government for the next 2 fiscal years, and may include recommendations to the Legislature for the drafting of such other bills as may be required to provide the income necessary to finance the proposed budget and to give legal sanction to the financial plan if adopted by the Legislature.

2. Except as otherwise provided in NRS 353.211, as soon as each part of the proposed budget is prepared, a copy of the part must be transmitted to the Fiscal Analysis Division of the Legislative Counsel Bureau for confidential examination and retention.

3. Except for the information provided to the Fiscal Analysis Division of the Legislative Counsel Bureau pursuant to NRS 353.211, parts 1 and 2 of the proposed budget are confidential until the Governor transmits the proposed budget to the Legislature pursuant to NRS 353.230, regardless of whether those parts are in the possession of the Executive or Legislative Department of the State Government. Part 3 of the proposed budget is confidential until the bills which result from the proposed budget are introduced in the Legislature. ***As soon as practicable after the Governor transmits a proposed budget to the Legislature pursuant to NRS 353.230, the information required to be included in the proposed budget pursuant to*** ~~*[subparagraph]*~~ ***subparagraphs (1) , (2) and (3) of paragraph (b) of subsection 1 must be posted on the Internet websites maintained by the Governor, the Department of Administration and the Budget Division of the Department of Administration.***

Sec. 2. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of ***full-time equivalent*** positions within the department, institution or agency**;**

(b) The number of full-time equivalent positions within the department, institution or agency that have been vacant for at least 12 months, the

number of months each such position has been vacant and the reasons for each such vacancy; and

~~[(b)]~~ ***(c)*** Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators ~~[for each program]~~ ~~[.]~~ ***in adequate detail to comply with the requirements of subparagraph*** ~~*[(1)]*~~ ***(3) of paragraph (b) of subsection 1 of NRS 353.205.*** The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in his office or which he may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 48.

Bill read second time and ordered to third reading.

Senate Bill No. 83.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 572.

AN ACT relating to gaming; revising the provisions concerning the establishment of branch offices of the State Gaming Control Board; revising the provisions relating to the confidentiality of certain information and data provided to or prepared by the Board and the Nevada Gaming Commission; authorizing the Board and Commission to require certain persons to be found suitable or licensed; making changes relating to the registration of gaming employees; making changes concerning disseminators of live broadcasts of racing; making various other changes relating to the regulation of gaming; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill adds a new definition of the term "manufacture," and **sections 3-5** of this bill revise the definitions of the terms "gaming device," "gaming employee" and "manufacturer" for the purposes of the statutory provisions governing the licensing and control of gaming. (NRS 463.0155, 463.0157, 463.0172)

Existing law authorizes the State Gaming Control Board to maintain branch offices in space provided by the Buildings and Grounds Division of the Department of Administration. **Section 6** of this bill removes the requirement regarding the Division and instead authorizes the Chairman of the Board to enter into leases or other agreements necessary to establish branch offices of the Board. (NRS 463.100) **Section 7** of this bill revises the provisions relating to the confidentiality of certain information and data provided to or prepared by the Board and the Nevada Gaming Commission. (NRS 463.120) **Section 8** of this bill deletes certain obsolete language relating to the reporting and keeping of records by casinos concerning transactions involving cash. (NRS 463.125)

Section 9 of this bill authorizes the Board and Commission to require a person to be found suitable or licensed if the person: (1) operates a call center within this State as an agent of a licensed race book or sports pool; or (2) has invented, has developed or owns the intellectual property rights to a game for which approval by the Commission is being sought or has been received. (NRS 463.162) **Section 10** of this bill requires any person granted a license or found suitable by the Commission to continue to meet the applicable standards and qualifications originally needed for the license or finding of suitability. (NRS 463.170) **Section 11** of this bill: (1) provides that a registered gaming employee must file a change of employment notice within 10 calendar days with the Board; and (2) authorizes the Board to charge a fee to process a change of employment notice, limited to the actual investigative and administrative costs related to processing the change of employment notice. (NRS 463.335) **Section 12** of this bill changes the time within which an agent of the Board must mail written notice concerning a dispute between a patron and licensee from 30 days to 45 days after the date the Board first receives notification concerning the dispute. (NRS 463.362)

Sections 13-16 and 20 of this bill: (1) revise the process for notification to disseminators of live broadcasts of racing concerning certain proposals to broadcast racing meets; (2) delete references to the Account for the Operation of Hearing Panels; (3) authorize the Board to establish fees to be paid by a disseminator of a live broadcast, instead of a user; and (4) eliminate the requirement that the Commission is required to fix, regulate and control the rates to be charged by any disseminator of information concerning racing held at a track which uses the pari-mutuel system of wagering. (NRS 463.422, 463.423, 463.426, 463.445)

Section 17 of this bill provides that to the extent practicable, the provisions of the Nevada Gaming Control Act that apply to a limited partnership shall be deemed to apply to a registered limited-liability partnership or a foreign registered limited-liability partnership. (NRS 463.563)

Section 18.5 of this bill authorizes the Commission to provide by regulation for: (1) the filing by manufacturers of reports and information governing independent contractors; (2) the registration of independent contractors; (3) procedures pursuant to which an independent contractor may be required to file an application for a finding of suitability; and (4) such other regulatory oversight of independent contractors as the Commission determines necessary and appropriate. (NRS 463.650) **Section 19** of this bill provides that: (1) no interest subject to the Nevada Gaming Control Act may be transferred to any heir or devisee from probate until the heir or devisee applies for and obtains all approvals necessary to hold or own such an interest from the Commission; and (2) if the heir or devisee fails to obtain all such necessary approvals, the entity in which the interest exists must purchase the interest for cash at fair market value based upon two appraisals.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. "Manufacture" means:

(a) To manufacture, produce, program, design, control the design of, maintain a copyright over or make modifications to a gaming device, cashless wagering system, mobile gaming system or interactive gaming system;

(b) To direct, control or assume responsibility for the methods and processes used to design, develop, program, assemble, produce, fabricate, compose and combine the components and other tangible objects of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system; or

(c) To assemble, or control the assembly of, a gaming device, cashless wagering system, mobile gaming system or interactive gaming system.

2. As used in this section, "assume responsibility" means to acquire complete control over, or ownership of, the applicable gaming device,

cashless wagering system, mobile gaming system or interactive gaming system.

Sec. 2. NRS 463.013 is hereby amended to read as follows:

463.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 463.0133 to 463.01967, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 463.0155 is hereby amended to read as follows:

463.0155 "Gaming device" means any ~~[equipment or mechanical, electromechanical or electronic contrivance, component or machine]~~ ***object*** used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss ~~[.]~~ ***and which does not otherwise constitute associated equipment.*** The term includes ~~[:]~~ ***, without limitation:***

1. A slot machine.

2. A collection of two or more of the following components:

(a) An assembled electronic circuit which cannot be reasonably demonstrated to have any use other than in a slot machine;

(b) A cabinet with electrical wiring and provisions for mounting a coin, token or currency acceptor and provisions for mounting a dispenser of coins, tokens or anything of value;

(c) A storage medium containing ~~[the source language or executable code of a computer program that cannot be reasonably demonstrated to have any use other than in a slot machine;~~

~~(d) An assembled video display unit;~~

~~(e)]~~ ***a control program;***

(d) An assembled mechanical or electromechanical display unit intended for use in gambling; or

~~[(f)]~~ ***(e)*** An assembled mechanical or electromechanical unit which cannot be demonstrated to have any use other than in a slot machine.

3. Any ~~[mechanical, electrical or other device]~~ ***object*** which may be connected to or used with a slot machine to alter the normal criteria of random selection or affect the outcome of a game.

4. A system for the accounting or management of any game in which the result of the wager is determined electronically by using any combination of hardware or software for computers.

5. ***A control program.***

6. Any combination of one of the components set forth in paragraphs (a) to ~~[(f),]~~ ***(e),*** inclusive, of subsection 2 and any other component which the Commission determines by regulation to be a machine used directly or remotely in connection with gaming or any game which affects the results of a wager by determining a win or loss.

7. Any object that has been determined to be a gaming device pursuant to regulations adopted by the Commission.

➥ As used in this section, "control program" means any software, source language or executable code which affects the result of a wager by

determining win or loss as determined pursuant to regulations adopted by the Commission.

Sec. 4. NRS 463.0157 is hereby amended to read as follows:

463.0157 1. "Gaming employee" means any person connected directly with an operator of a slot route, the operator of a pari-mutuel system, the operator of an inter-casino linked system or a manufacturer, distributor or disseminator, or with the operation of a gaming establishment licensed to conduct any game, 16 or more slot machines, a race book, sports pool or pari-mutuel wagering, including:

(a) Accounting or internal auditing personnel who are directly involved in any recordkeeping or the examination of records associated with revenue from gaming;

(b) Boxmen;

(c) Cashiers;

(d) Change personnel;

(e) Counting room personnel;

(f) Dealers;

(g) Employees of a person required by NRS 464.010 to be licensed to operate an off-track pari-mutuel system;

(h) Employees of a person required by NRS 463.430 to be licensed to disseminate information concerning racing ~~[.]~~ ***and employees of an affiliate of such a person involved in assisting the person in carrying out the duties of the person in this State;***

(i) Employees whose duties are directly involved with the manufacture, repair ***, sale*** or distribution of gaming devices, cashless wagering systems, mobile gaming systems, equipment associated with mobile gaming systems, interactive gaming systems or equipment associated with interactive gaming;

(j) Employees of operators of slot routes who have keys for slot machines or who accept and transport revenue from the slot drop;

(k) Employees of operators of inter-casino linked systems, mobile gaming systems or interactive gaming systems whose duties include the operational or supervisory control of the systems or the games that are part of the systems;

(l) ***Employees of operators of call centers who perform, or who supervise the performance of, the function of receiving and transmitting wagering instructions;***

(m) Employees ~~[whose responsibilities include performing the duties relating to the process of registration]~~ ***who have access to the Board's system of records for the purpose of processing the registrations*** of gaming employees that a licensee is required to perform pursuant to the provisions of this chapter and any regulations adopted pursuant thereto;

~~[(m)]~~ ***(n)*** Floormen;

~~[(n)]~~ ***(o)*** Hosts or other persons empowered to extend credit or complimentary services;

~~[(o)]~~ ***(p)*** Keno runners;

~~[(p)]~~ ***(q)*** Keno writers;
~~[(q)]~~ ***(r)*** Machine mechanics;
~~[(r)]~~ ***(s)*** Odds makers and line setters;
~~[(s)]~~ ***(t)*** Security personnel;
~~[(t)]~~ ***(u)*** Shift or pit bosses;
~~[(u)]~~ ***(v)*** Shills;
~~[(v)]~~ ***(w)*** Supervisors or managers;
~~[(w)]~~ ***(x)*** Ticket writers; ~~[and~~
~~(x)]~~ ***(y)*** Employees of a person required by NRS 463.160 to be licensed to operate an information service ~~[.]~~ ***; and***

(z) Temporary or contract employees hired by a licensee to perform a function related to gaming.

2. "Gaming employee" does not include ***barbacks,*** bartenders, cocktail waitresses or other persons engaged exclusively in preparing or serving food or beverages.

Sec. 5. NRS 463.0172 is hereby amended to read as follows:

463.0172 "Manufacturer" means a person who ~~[:~~

~~1. Manufactures, assembles, programs or makes modifications to a gaming device, cashless wagering system, mobile gaming system or interactive gaming system; or~~

~~2. Designs, assumes responsibility for the design of, controls the design or assembly of, or maintains a copyright over the design of, a mechanism, electronic circuit or computer program which cannot be reasonably demonstrated to have any application other than in a gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in this State or for distribution outside of this State.~~] ***operates, carries on, conducts or maintains any form of manufacture.***

Sec. 6. NRS 463.100 is hereby amended to read as follows:

463.100 1. The Board shall keep its main office at Carson City, Nevada, in conjunction with the Commission in rooms provided by the Buildings and Grounds Division of the Department of Administration.

2. The Board may, in its discretion, maintain a branch office in Las Vegas, Nevada, or at any other place in this ~~[state, in space to be provided by the Buildings and Grounds Division.]~~ ***State as the Chairman of the Board deems necessary for the efficient operation of the Board. The Chairman of the Board may enter into such leases or other agreements as may be necessary to establish a branch office.***

Sec. 7. NRS 463.120 is hereby amended to read as follows:

463.120 1. The Board and the Commission shall cause to be made and kept a record of all proceedings at regular and special meetings of the Board and the Commission. These records are open to public inspection.

2. The Board shall maintain a file of all applications for licenses under this chapter and chapter 466 of NRS, together with a record of all action taken with respect to those applications. The file and record are open to public inspection.

3. The Board and the Commission may maintain such other files and records as they may deem desirable.

4. Except as otherwise provided in this ~~[subsection and subsection 5,]~~ ***section,*** all information and data:

(a) Required by the Board or Commission to be furnished to it under ~~[this chapter]~~ ***chapters 462 to 466, inclusive, of NRS or any regulations adopted pursuant thereto*** or which may be otherwise obtained relative to the finances, earnings or revenue of any applicant or licensee;

(b) Pertaining to an applicant's ***or natural person's*** criminal record, antecedents and background which have been furnished to or obtained by the Board or Commission from any source;

(c) Provided to the members, agents or employees of the Board or Commission by a governmental agency or an informer or on the assurance that the information will be held in confidence and treated as confidential;

(d) Obtained by the Board from a manufacturer, distributor or operator, or from an operator of an inter-casino linked system, relating to the manufacturing of gaming devices or the operation of an inter-casino linked system; or

(e) Prepared or obtained by an agent or employee of the Board or Commission ~~[relating to an application for a license, a finding of suitability or any approval that is required]~~ pursuant to ~~[the provisions of this chapter,]~~ ***an audit, investigation, determination or hearing,***

➥ are confidential and may be revealed in whole or in part only in the course of the necessary administration of this chapter or upon the lawful order of a court of competent jurisdiction. The Board and Commission may reveal such information and data to an authorized agent of any agency of the United States Government, any state or any political subdivision of a state or the government of any foreign country. Notwithstanding any other provision of state law, such information may not be otherwise revealed without specific authorization by the Board or Commission.

5. ***Notwithstanding any other provision of state law, any and all information and data prepared or obtained by an agent or employee of the Board or Commission relating to an application for a license, a finding of suitability or any approval that is required pursuant to the provisions of chapters 462 to 466, inclusive, or any regulations adopted pursuant thereto, are confidential and absolutely privileged and may be revealed in whole or in part only in the course of the necessary administration of such provisions and with specific authorization and waiver of the privilege by the Board or Commission. The Board and Commission may reveal such information and data to an authorized agent of any agency of the United States Government, any state or any political subdivision of a state or the government of any foreign country.***

6. Before the beginning of each legislative session, the Board shall submit to the Legislative Commission for its review and for the use of the Legislature a report on the gross revenue, net revenue and average

depreciation of all licensees, categorized by class of licensee and geographical area and the assessed valuation of the property of all licensees, by category, as listed on the assessment rolls.

~~[6.]~~ ***7.*** Notice of the content of any information or data furnished or released pursuant to subsection 4 may be given to any applicant or licensee in a manner prescribed by regulations adopted by the Commission.

~~[7.]~~ ***8.*** The files, records and reports of the Board are open at all times to inspection by the Commission and its authorized agents.

~~[8.]~~ ***9.*** All files, records, reports and other information pertaining to gaming matters in the possession of the Nevada Tax Commission must be made available to the Board and the Nevada Gaming Commission as is necessary to the administration of this chapter.

~~[9.]~~ ***10.*** The Nevada Gaming Commission, by the affirmative vote of a majority of its members, may remove from its records the name of a debtor and the amount of tax, penalty and interest, or any of them, owed by him, if after 5 years it remains impossible or impracticable to collect such amounts. The Commission shall establish a master file containing the information removed from its official records by this section.

Sec. 8. NRS 463.125 is hereby amended to read as follows:

463.125 1. The Commission may ~~[, for the purpose of obtaining an exemption from the requirements of the Department of Treasury on reporting and keeping of records by casinos,]~~ require nonrestricted licensees with an annual gross revenue of $1,000,000 or more to report and keep records of all transactions involving cash.

2. A gaming licensee, or a director, officer, employee, affiliate or agent of the gaming licensee, who makes a disclosure to the Commission, the Board or any other law enforcement agency of a possible violation or circumvention of law or regulation regarding a transaction involving cash has absolute immunity from civil liability for that disclosure or for the failure to notify a person involved in the transaction or any other person of that disclosure.

3. The absolute privilege set forth in NRS 463.3407 also applies to the copy of a report of a suspicious transaction filed with the Board as required by regulations adopted pursuant to subsection 1.

Sec. 9. NRS 463.162 is hereby amended to read as follows:

463.162 1. Except as otherwise provided in subsections 2 and 3, it is unlawful for any person to:

(a) Lend, let, lease or otherwise deliver or furnish any equipment of any gambling game, including any slot machine, for any interest, percentage or share of the money or property played, under guise of any agreement whatever, without having first procured a state gaming license.

(b) Lend, let, lease or otherwise deliver or furnish, except by a bona fide sale or capital lease, any slot machine under guise of any agreement whereby any consideration is paid or is payable for the right to possess or use that slot machine, whether the consideration is measured by a percentage of the

revenue derived from the machine or by a fixed fee or otherwise, without having first procured a state gaming license for the slot machine.

(c) Furnish services or property, real or personal, on the basis of a contract, lease or license, pursuant to which that person receives payments based on earnings or profits from any gambling game, including any slot machine, without having first procured a state gaming license.

2. The provisions of subsection 1 do not apply to any person:

(a) Whose payments are a fixed sum determined in advance on a bona fide basis for the furnishing of services or property other than a slot machine.

(b) Who furnishes services or property under a bona fide rental agreement or security agreement for gaming equipment.

(c) That is a wholly owned subsidiary of:

(1) A corporation, limited partnership or limited-liability company holding a state gaming license; or

(2) A holding company or intermediary company, or publicly traded corporation, that has registered pursuant to NRS 463.585 or 463.635 and which has fully complied with the laws applicable to it.

(d) Who is licensed as a distributor and who rents or leases any equipment of any gambling game **,** including any slot machine, under a bona fide agreement where the payments are a fixed sum determined in advance and not determined as a percentage of the revenue derived from the equipment or slot machine.

(e) Who is found suitable by the Commission to act as an independent agent.

➥ Receipts or rentals or charges for real property, personal property or services do not lose their character as payments of a fixed sum or as bona fide because of provisions in a contract, lease or license for adjustments in charges, rentals or fees on account of changes in taxes or assessments, escalations in the cost-of-living index, expansions or improvement of facilities, or changes in services supplied. Receipts of rentals or charges based on percentage between a corporate licensee or a licensee who is a limited partnership or limited-liability company and the entities enumerated in paragraph (c) are permitted under this subsection.

3. The Commission may, upon the issuance of its approval or a finding of suitability, exempt a holding company from the licensing requirements of subsection 1.

4. The Board may require any person exempted by the provisions of subsection 2 or paragraph (b) of subsection 1 to provide such information as it may require to perform its investigative duties.

5. The Board and the Commission may require a finding of suitability or the licensing of any person who:

(a) Owns any interest in the premises of a licensed establishment or owns any interest in real property used by a licensed establishment whether he leases the property directly to the licensee or through an intermediary.

(b) Repairs, rebuilds or modifies any gaming device.

(c) Manufactures or distributes chips or gaming tokens for use in this State.

(d) Operates a call center within this State as an agent of a licensed race book or sports pool in this State in accordance with the regulations adopted by the Commission.

(e) Has invented, has developed or owns the intellectual property rights to a game for which approval by the Commission is being sought or has been received in accordance with the regulations adopted by the Commission.

6. If the Commission finds a person described in subsection 5 unsuitable, a licensee shall not enter into any contract or agreement with that person without the prior approval of the Commission. Any other agreement between the licensee and that person must be terminated upon receipt of notice of the action by the Commission. Any agreement between a licensee and a person described in subsection 5 shall be deemed to include a provision for its termination without liability on the part of the licensee upon a finding by the Commission that the person is unsuitable. Failure expressly to include that condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement. If the application is not presented to the Board within 30 days after demand, the Commission may pursue any remedy or combination of remedies provided in this chapter.

Sec. 10. NRS 463.170 is hereby amended to read as follows:

463.170 1. Any person who the Commission determines is qualified to receive a license, to be found suitable or to receive any approval required under the provisions of this chapter, or to be found suitable regarding the operation of a charitable lottery under the provisions of chapter 462 of NRS, having due consideration for the proper protection of the health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and the declared policy of this State, may be issued a state gaming license, be found suitable or receive any approval required by this chapter, as appropriate. The burden of proving his qualification to receive any license, be found suitable or receive any approval required by this chapter is on the applicant.

2. An application to receive a license or be found suitable must not be granted unless the Commission is satisfied that the applicant is:

(a) A person of good character, honesty and integrity;

(b) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this State or to the effective regulation and control of gaming or charitable lotteries, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or charitable lotteries or in the carrying on of the business and financial arrangements incidental thereto; and

(c) In all other respects qualified to be licensed or found suitable consistently with the declared policy of the State.

3. A license to operate a gaming establishment or an inter-casino linked system must not be granted unless the applicant has satisfied the Commission that:

(a) The applicant has adequate business probity, competence and experience, in gaming or generally; and

(b) The proposed financing of the entire operation is:

(1) Adequate for the nature of the proposed operation; and

(2) From a suitable source.

➥ Any lender or other source of money or credit which the Commission finds does not meet the standards set forth in subsection 2 may be deemed unsuitable.

4. An application to receive a license or be found suitable constitutes a request for a determination of the applicant's general character, integrity, and ability to participate or engage in, or be associated with gaming or the operation of a charitable lottery, as appropriate. Any written or oral statement made in the course of an official proceeding of the Board or Commission by any member thereof or any witness testifying under oath which is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

5. The Commission may in its discretion grant a license to:

(a) A publicly traded corporation which has complied with the provisions of NRS 463.625 to 463.643, inclusive;

(b) Any other corporation which has complied with the provisions of NRS 463.490 to 463.530, inclusive;

(c) A limited partnership which has complied with the provisions of NRS 463.564 to 463.571, inclusive; and

(d) A limited-liability company which has complied with the provisions of NRS 463.5731 to 463.5737, inclusive.

6. No limited partnership, except one whose sole limited partner is a publicly traded corporation which has registered with the Commission, or a limited-liability company, or business trust or organization or other association of a quasi-corporate character is eligible to receive or hold any license under this chapter unless all persons having any direct or indirect interest therein of any nature whatever, whether financial, administrative, policymaking or supervisory, are individually qualified to be licensed under the provisions of this chapter.

7. The Commission may, by regulation:

(a) Limit the number of persons who may be financially interested and the nature of their interest in any corporation, other than a publicly traded corporation, limited partnership, limited-liability company or other organization or association licensed under this chapter; and

(b) Establish such other qualifications for licenses as it may, in its discretion, deem to be in the public interest and consistent with the declared policy of the State.

8. Any person granted a license or found suitable by the Commission shall continue to meet the applicable standards and qualifications set forth in this section and any other qualifications established by the Commission by regulation. The failure to continue to meet such standards and qualifications constitutes grounds for disciplinary action.

Sec. 11. NRS 463.335 is hereby amended to read as follows:

463.335 1. The Legislature finds that, to protect and promote the health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and to carry out the policy declared in NRS 463.0129, it is necessary that the Board:

(a) Ascertain and keep itself informed of the identity, prior activities and present location of all gaming employees in the State of Nevada; and

(b) Maintain confidential records of such information.

2. A person may not be employed as a gaming employee unless he is temporarily registered or registered as a gaming employee pursuant to this section. An applicant for registration or renewal of registration as a gaming employee must file an application for registration or renewal of registration with the Board. Whenever a registered gaming employee, whose registration has not expired, has not been objected to by the Board, or has not been suspended or revoked becomes employed as a gaming employee at another or additional gaming establishment, he must file a change of employment notice within 10 ***calendar*** days with the Board. The application for registration and change of employment notice must be filed through the licensee for whom the applicant will commence or continue working as a gaming employee, unless otherwise filed with the Board as prescribed by regulation of the Commission.

3. The Board shall prescribe the forms for the application for registration as a gaming employee and the change of employment notice.

4. A complete application for registration or renewal of registration as a gaming employee or a change of employment notice received by a licensee must be mailed or delivered to the Board within 5 business days after receipt unless the date is administratively extended by the Chairman of the Board for good cause. A licensee is not responsible for the accuracy or completeness of any application for registration or renewal of registration as a gaming employee or any change of employment notice.

5. The Board shall immediately conduct an investigation of each person who files an application for registration or renewal of registration as a gaming employee to determine whether he is eligible for registration as a gaming employee. In conducting the investigation, two complete sets of the applicant's fingerprints must be submitted to the Central Repository for Nevada Records of Criminal History for:

(a) A report concerning the criminal history of the applicant; and

(b) Submission to the Federal Bureau of Investigation for a report concerning the criminal history of the applicant.

➥ The investigation need not be limited solely to consideration of the results of the report concerning the criminal history of the applicant. The fee for processing an application for registration or renewal of registration as a gaming employee may be charged only to cover the actual investigative and administrative costs related to processing the application and the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to process the fingerprints of an applicant pursuant to this subsection.

6. Upon receipt of a change of employment notice, the Board may conduct any investigations of the gaming employee that the Board deems appropriate to determine whether the gaming employee may remain registered as a gaming employee. ***The fee charged by the Board to process a change of employment notice may cover only the actual investigative and administrative costs related to processing the change of employment notice.*** The filing of a change of employment notice constitutes an application for registration as a gaming employee, and if the Board, after conducting its investigation, suspends or objects to the continued registration of the gaming employee, the provisions of subsections 10 to 16, inclusive, apply to such suspension by or objection of the Board. ~~[No fee may be charged by the Board to cover the actual investigative and administrative costs related to processing a change of employment notice.]~~

7. Except as otherwise prescribed by regulation of the Commission, an applicant for registration or renewal of registration as a gaming employee is deemed temporarily registered as a gaming employee as of the date a complete application for registration or renewal of registration is submitted to the licensee for which he will commence or continue working as a gaming employee. Unless objected to by the Board or suspended or revoked, the initial registration of an applicant as a gaming employee expires 5 years after the date employment commences with the applicable licensee. Any subsequent renewal of registration as a gaming employee, unless objected to by the Board or suspended or revoked, expires 5 years after the expiration date of the most recent registration or renewal of registration of the gaming employee.

8. If, within 120 days after receipt by the Board of a complete application for registration or renewal of registration as a gaming employee, including classifiable fingerprints, or a change of employment notice, the Board has not notified the applicable licensee of any suspension or objection, the applicant shall be deemed to be registered as a gaming employee. A complete application for registration or renewal of registration as a gaming employee is composed of:

(a) The fully completed form for application for registration as a gaming employee prescribed in subsection 3;

(b) Two complete sets of the fingerprints of the applicant, unless directly forwarded electronically or by another means to the Central Repository for Nevada Records of Criminal History;

(c) The fee for processing the application for registration or renewal of registration as a gaming employee prescribed by the Board pursuant to subsection 5, unless otherwise prescribed by regulation of the Commission; and

(d) A completed statement as prescribed in subsections 1 and 2 of NRS 463.3351.

➥ If the Board determines after receiving an application for registration or renewal of registration as a gaming employee that the application is incomplete, the Board may suspend the temporary registration as a gaming employee of the applicant who filed the incomplete application. An applicant whose temporary registration is suspended shall not be eligible to work as a gaming employee until such time as he files a complete application.

9. A person who is temporarily registered or registered as a gaming employee is eligible for employment in any licensed gaming establishment in this State until such registration is objected to by the Board, expires or is suspended or revoked. The Commission shall adopt regulations to:

(a) Establish uniform procedures for the registration of gaming employees;

(b) Establish uniform criteria for objection by the Board of an application for registration; and

(c) Provide for the creation and maintenance of a system of records that contain information regarding the current place of employment of each person who is registered as a gaming employee and each person whose registration as a gaming employee has expired, was objected to by the Board, or was suspended or revoked. The system of records must be accessible by:

(1) Licensees for the limited purpose of complying with subsection 2; and

(2) The Central Repository for Nevada Records of Criminal History for the limited purpose of complying with NRS 179D.570.

10. If the Board, within the 120-day period prescribed in subsection 8, notifies:

(a) The applicable licensee; and

(b) The applicant,

➥ that the Board suspends or objects to the temporary registration of an applicant as a gaming employee, the licensee shall immediately terminate the applicant from employment or reassign him to a position that does not require registration as a gaming employee. The notice of suspension or objection by the Board which is sent to the applicant must include a statement of the facts upon which the Board relied in making its suspension or objection.

11. Any person whose application for registration or renewal of registration as a gaming employee has been suspended or objected to by the Board may, not later than 60 days after receiving notice of the suspension or objection, apply to the Board for a hearing. A failure of a person whose application has been objected to or suspended to apply for a hearing within

60 days or his failure to appear at a hearing of the Board conducted pursuant to this section shall be deemed to be an admission that the suspension or objection is well-founded, and the failure precludes administrative or judicial review. At the hearing, the Board shall take any testimony deemed necessary. After the hearing, the Board shall review the testimony taken and any other evidence ~~[,]~~ and shall, within 45 days after the date of the hearing, mail to the applicant its decision sustaining or reversing the suspension or the objection to the registration of the applicant as a gaming employee.

12. The Board may suspend or object to the registration of an applicant as a gaming employee for any cause deemed reasonable by the Board. The Board may object to or suspend the registration if the applicant has:

(a) Failed to disclose or misstated information or otherwise attempted to mislead the Board with respect to any material fact contained in the application for registration as a gaming employee;

(b) Knowingly failed to comply with the provisions of this chapter or chapter 463B, 464 or 465 of NRS or the regulations of the Commission at a place of previous employment;

(c) Committed, attempted or conspired to commit any crime of moral turpitude, embezzlement or larceny or any violation of any law pertaining to gaming, or any crime which is inimical to the declared policy of this State concerning gaming;

(d) Committed, attempted or conspired to commit a crime which is a felony or gross misdemeanor in this State or an offense in another state or jurisdiction which would be a felony or gross misdemeanor if committed in this State and which relates to the applicant's suitability or qualifications to work as a gaming employee;

(e) Been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime, or as being of notorious and unsavory reputation;

(f) Been placed and remains in the constructive custody of any federal, state or municipal law enforcement authority; or

(g) Had registration as a gaming employee revoked or committed any act which is a ground for the revocation of registration as a gaming employee or would have been a ground for revoking registration as a gaming employee if the applicant had then been registered as a gaming employee.

➥ If the Board registers or does not suspend or object to the registration of an applicant as a gaming employee, it may specially limit the period for which the registration is valid, limit the job classifications for which the registered gaming employee may be employed and establish such individual conditions for the renewal and effectiveness of the registration as the Board deems appropriate, including required submission to unscheduled tests for the presence of alcohol or controlled substances. If a gaming employee fails to comply with any limitation or condition placed on the effectiveness of his registration as a gaming employee, notwithstanding any other provision of this section, the Board may object to his registration. If the Board objects to

his registration, the provisions regarding the continued effectiveness of the registration and the review of the objection set forth in subsections 10 to 16, inclusive, apply, including, without limitation, the requirement to notify the applicable licensee about the objection.

13. Any applicant aggrieved by the decision of the Board may, within 15 days after the announcement of the decision, apply in writing to the Commission for review of the decision. Review is limited to the record of the proceedings before the Board. The Commission may sustain, modify or reverse the Board's decision. The decision of the Commission is subject to judicial review pursuant to NRS 463.315 to 463.318, inclusive.

14. The Chairman of the Board may designate a member of the Board or the Board may appoint a hearing examiner and authorize that person to perform on behalf of the Board any of the following functions required of the Board by this section concerning the registration or renewal of registration of gaming employees:

(a) Conducting a hearing and taking testimony;

(b) Reviewing the testimony and evidence presented at the hearing;

(c) Making a recommendation to the Board based upon the testimony and evidence or rendering a decision on behalf of the Board to sustain or reverse the suspension of or the objection to the registration of an applicant as a gaming employee; and

(d) Notifying the applicant of the decision.

15. Notice by the Board as provided pursuant to subsections 1 to 14, inclusive, is sufficient if it is mailed to the applicant's last known address as indicated on the application for registration as a gaming employee or the record of the hearing, as the case may be. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the applicant 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

16. Except as otherwise provided in this subsection, all records acquired or compiled by the Board or Commission relating to any application made pursuant to this section, all lists of persons registered as gaming employees, all lists of persons suspended or objected to by the Board and all records of the names or identity of persons engaged in the gaming industry in this State are confidential and must not be disclosed except in the proper administration of this chapter or to an authorized law enforcement agency. Upon receipt of a request from the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.400 for information relating to a specific person who has applied for registration as a gaming employee or is registered as a gaming employee, the Board shall disclose to the Division his social security number, residential address and current employer as that information is listed in the files and records of the Board. Any record of the Board or Commission which shows that the applicant has been convicted of a crime in another state must show whether

the crime was a misdemeanor, gross misdemeanor, felony or other class of crime as classified by the state in which the crime was committed. In a disclosure of the conviction, reference to the classification of the crime must be based on the classification in the state where it was committed.

17. If the Central Repository for Nevada Records of Criminal History, in accordance with the provisions of NRS 179D.570, provides the Board with the name and other identifying information of a registered gaming employee who is not in compliance with the provisions of chapter 179D of NRS, the Board shall notify the person that, unless he provides the Board with verifiable documentation confirming that he is currently in compliance with the provisions of chapter 179D of NRS within 15 days after receipt of such notice, the Board shall, notwithstanding any other provisions of this section, conduct a hearing for the purpose of determining whether the registration of the person as a gaming employee must be suspended for noncompliance with the provisions of chapter 179D of NRS.

18. Notwithstanding any other provisions of this section, if a person notified by the Board pursuant to subsection 17 does not provide the Board, within the 15 days prescribed therein, with verifiable documentation establishing that he is currently in compliance with the provisions of chapter 179D of NRS, the Chairman of the Board shall, within 10 days thereof, appoint a hearing examiner to conduct a hearing to determine whether the person is, in fact, not in compliance with the provisions of chapter 179D of NRS. The hearing examiner shall, within 5 days after the date he is appointed by the Chairman, notify the person of the date of the hearing. The hearing must be held within 20 days after the date on which the hearing examiner is appointed by the Chairman, unless administratively extended by the Chairman for good cause. At the hearing, the hearing examiner may take any testimony deemed necessary and shall render a decision sustaining or reversing the findings of the Central Repository for Nevada Records of Criminal History. The hearing examiner shall notify the person of his decision within 5 days after the date on which the decision is rendered. A failure of a person to appear at a hearing conducted pursuant to this section shall be deemed to be an admission that the findings of the hearing examiner are well-founded.

19. If, after conducting the hearing prescribed in subsection 18, the hearing examiner renders a decision that the person who is the subject of the hearing:

(a) Is not in compliance with the provisions of chapter 179D of NRS, the Board shall, notwithstanding any other provisions of this section:

(1) Suspend the registration of the person as a gaming employee;

(2) Notify the person to contact the Central Repository for Nevada Records of Criminal History to determine the actions that he must take to be in compliance with the provisions of chapter 179D of NRS; and

(3) Notify the licensee for which the person is employed as a gaming employee, in the manner prescribed in subsection 20, that the Board has

suspended the registration of the person as a gaming employee and that the licensee must immediately terminate the person from employment or reassign him to a position that does not require registration as a gaming employee.

(b) Is in compliance with the provisions of chapter 179D of NRS, the Board shall notify the person and the Central Repository for Nevada Records of Criminal History, in the manner prescribed in subsection 20, of the findings of the hearing examiner.

20. Notice as provided pursuant to subsections 17, 18 and 19 is sufficient if it is mailed to the person's last known address as indicated on the most recent application for registration as a gaming employee or the record of the hearing, or to the person at his place of gaming employment. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the applicant 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

21. The Board shall remove a suspension entered in accordance with subsection 19 and reinstate the registration of a person as a gaming employee upon receipt of verifiable documentation confirming that the person is currently in compliance with the provisions of chapter 179D of NRS.

Sec. 12. NRS 463.362 is hereby amended to read as follows:

463.362 1. Whenever a patron and a licensee, or any person acting on behalf of or in conjunction with a licensee, have any dispute which cannot be resolved to the satisfaction of the patron and which involves:

(a) Alleged winnings, alleged losses or the award or distribution of cash, prizes, benefits, tickets or any other item or items in a game, tournament, contest, drawing, promotion or similar activity or event; or

(b) The manner in which a game, tournament, contest, drawing, promotion or similar activity or event is conducted,

➥ the licensee is responsible for notifying the Board or patron in accordance with the provisions of subsection 2, regardless of whether the licensee is directly or indirectly involved in the dispute.

2. Whenever a dispute described in subsection 1 involves:

(a) At least $500, the licensee shall immediately notify the Board; or

(b) Less than $500, the licensee shall notify the patron of his right to request that the Board conduct an investigation.

3. Upon being notified of a dispute, the Board, through an agent, shall conduct whatever investigation it deems necessary and shall determine whether payment should be made. The agent of the Board shall mail written notice to the Board, the licensee and the patron of his decision resolving the dispute within ~~[30]~~ ***45*** days after the date the Board first receives notification from the licensee or a request to conduct an investigation from the patron. The failure of the agent to mail notice of his decision within the time required by this subsection does not divest the Board of its exclusive jurisdiction over the dispute.

4. Failure of the licensee to notify the Board or patron as provided in subsection 2 is grounds for disciplinary action pursuant to NRS 463.310 to 463.3145, inclusive.

5. The decision of the agent of the Board is effective on the date the aggrieved party receives notice of the decision. Notice of the decision shall be deemed sufficient if it is mailed to the last known address of the licensee and patron. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the licensee or the patron 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

Sec. 13. NRS 463.422 is hereby amended to read as follows:

463.422 1. A disseminator who wishes to submit a proposal for the exclusive right to disseminate a live broadcast for a racing meet to users must give written notice to the Board ~~[not earlier than 180 days nor later than 100 days before the racing meet begins. The Board may provide for a shorter period of notice.~~

~~2. Within 20 days after it~~] ***in accordance with the requirements established in the regulations adopted by the Commission.***

2. After the Board receives such a notice, the Board shall ~~[give written notice to~~] ***notify*** the disseminator indicating when a written proposal must be submitted. If the Board reviews the submitted proposals and determines that a hearing is necessary, the Board shall ~~[give written notice to~~] ***notify*** each disseminator and user indicating that the Board intends to conduct a hearing to determine which disseminator will receive the exclusive right to disseminate a live broadcast for a racing meet to users.

3. If the Board reviews the submitted proposals and determines that the selection of a disseminator may be made without a hearing, it shall ~~[give written notice of its determination and selection to~~] ***notify*** each disseminator and ~~[shall post such a notice in a conspicuous place in each of its offices in Las Vegas and Carson City for inspection by members of~~] the public ~~[.~~] ***of its determination.***

4. All ~~[notices given~~] ***notifications provided*** by the Board pursuant to this section must ~~[contain~~] ***:***

(a) Contain all information ***; and***

(b) Conform with all requirements relating to the manner, timing and form for such notifications,

➥ ***that*** the Commission, with the advice and assistance of the Board, may prescribe by regulation.

Sec. 14. NRS 463.423 is hereby amended to read as follows:

463.423 1. Whenever the Board decides to conduct a hearing to determine which disseminator will receive the exclusive right to disseminate a live broadcast for a racing meet to users, the Board shall appoint a hearing panel, consisting of three members, to conduct the hearing. The Commission,

with the advice and assistance of the Board, shall prescribe by regulation the qualifications of those members.

2. The members of the panel are entitled to receive the necessary expenses incurred in carrying out their duties as prescribed by the Board. ~~[The expenses must be paid from the account for the operation of hearing panels.]~~

3. The Board may enter into agreements necessary to provide for the services of the members of the hearing panels appointed pursuant to this section.

4. The Board shall provide from its staff such additional personnel as it deems necessary to carry out the provisions of this section.

Sec. 15. NRS 463.426 is hereby amended to read as follows:

463.426 The Board may:

1. Authorize a disseminator to enter into an agreement with a track to disseminate to users a live broadcast which is received from the track.

2. Establish fees to be paid by a ~~[user]~~ ***disseminator*** of a live broadcast in an amount which is equal to the cost of carrying out the provisions of NRS 463.421 to 463.427, inclusive.

~~[3. The Board shall deposit the fees with the State Treasurer for credit to the Account for the Operation of Hearing Panels. Any interest earned on money in the Account must be credited to that Account.]~~

Sec. 16. NRS 463.445 is hereby amended to read as follows:

463.445 1. Except as otherwise provided in subsection 3, the Commission ~~[shall]~~ ***may*** fix, regulate and control the rates to be charged by any disseminator of information concerning racing held at a track which uses the pari-mutuel system of wagering, but the rates must be just and reasonable.

2. The Commission may require any licensee who subscribes to a disseminator's service to report financial information relating to wagering and amounts won on each track or event, and may publish this information to ensure that the rates are just and reasonable.

3. The provisions of subsection 1 do not apply to the rates to be charged for the dissemination of live broadcasts.

Sec. 17. NRS 463.563 is hereby amended to read as follows:

463.563 1. The policy of the State of Nevada with respect to the issuance of state gaming licenses to limited partnerships is:

(a) To broaden the opportunity for investment in gaming through the pooling of capital in limited partnership form.

(b) To maintain effective control over the conduct of gaming by limited partnership licensees.

(c) To restrain any speculative promotion of limited partnership interests in gaming enterprises.

2. ***To the extent practicable, the provisions of this chapter that apply to a limited partnership shall be deemed to apply to a registered limited-***

liability partnership as defined in NRS 87.020 or 87.4311 or a foreign registered limited-liability partnership.

3. The Commission may waive, either selectively or by general regulation, one or more of the requirements of NRS 463.564 to 463.572, inclusive, if it makes a written finding that a waiver is consistent with the state policy set forth in NRS 463.0129 and this section.

Sec. 18. (Deleted by amendment.)

Sec. 18.5. NRS 463.650 is hereby amended to read as follows:

463.650 1. Except as otherwise provided in subsections 2 to 5, inclusive, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to operate, carry on, conduct or maintain any form of manufacture, selling or distribution of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada or for distribution outside of Nevada without first procuring and maintaining all required federal, state, county and municipal licenses.

2. A lessor who specifically acquires equipment for a capital lease is not required to be licensed under this section or NRS 463.660.

3. The holder of a state gaming license or the holding company of a corporation, partnership, limited partnership, limited-liability company or other business organization holding a license may, within 2 years after cessation of business or upon specific approval by the Board, dispose of by sale in a manner approved by the Board, any or all of its gaming devices, including slot machines, mobile gaming systems and cashless wagering systems, without a distributor's license. In cases of bankruptcy of a state gaming licensee or foreclosure of a lien by a bank or other person holding a security interest for which gaming devices are security in whole or in part for the lien, the Board may authorize the disposition of the gaming devices without requiring a distributor's license.

4. The Commission may, by regulation, authorize a person who owns:

(a) Gaming devices for home use in accordance with NRS 463.160; or

(b) Antique gaming devices,

➥ to sell such devices without procuring a license therefor to residents of jurisdictions wherein ownership of such devices is legal.

5. Upon approval by the Board, a gaming device owned by:

(a) A law enforcement agency;

(b) A court of law; or

(c) A gaming device repair school licensed by the Commission on Postsecondary Education,

➥ may be disposed of by sale, in a manner approved by the Board, without a distributor's license. An application for approval must be submitted to the Board in the manner prescribed by the Chairman.

6. Any person who the Commission determines is a suitable person to receive a license under the provisions of this section and NRS 463.660 may be issued a manufacturer's or distributor's license. The burden of proving his

qualification to receive or hold a license under this section and NRS 463.660 is at all times on the applicant or licensee.

7. Every person who must be licensed pursuant to this section is subject to the provisions of NRS 463.482 to 463.645, inclusive, unless exempted from those provisions by the Commission.

8. The Commission may exempt, for any purpose, a manufacturer, seller or distributor from the provisions of NRS 463.482 to 463.645, inclusive, if the Commission determines that the exemption is consistent with the purposes of this chapter.

9. ***The Commission may provide by regulation for:***

(a) The filing by a manufacturer of reports and information regarding:

(1) Any independent contractor; and

(2) The business arrangements between the manufacturer and an independent contractor.

(b) Registration of independent contractors.

(c) Procedures pursuant to which an independent contractor may be required to file an application for a finding of suitability.

(d) Such other regulatory oversight of independent contractors as the Commission determines is necessary and appropriate.

10. As used in this section:

(a) "Antique gaming device" means a gaming device that was manufactured before 1961.

(b) "Holding company" has the meaning ascribed to it in NRS 463.485.

(c) "Independent contractor" means, with respect to a manufacturer, any person who:

(1) Is not an employee of the manufacturer; and

(2) Pursuant to an agreement with the manufacturer, designs, develops, programs, produces or composes a control program used in the manufacture of a gaming device. As used in this subparagraph, "control program" has the meaning ascribed to it in NRS 463.0155.

Sec. 19. Chapter 148 of NRS is hereby amended by adding thereto a new section to read as follows:

1. No interest subject to the jurisdiction of the Nevada Gaming Control Act may be transferred to any heir or devisee from probate until the heir or devisee has received all approvals necessary to hold or own such an interest from the Nevada Gaming Commission.

2. Such an heir or devisee must seek all such necessary approvals through the filing of all appropriate applications with the State Gaming Control Board within 1 year after the interest becomes subject to probate ~~[.]~~ ***or within such later period as the Chairman of the Board determines in his sole and absolute discretion.***

3. If any such heir or devisee fails to file full and complete applications for all such necessary approvals within 1 year after the interest becomes subject to probate ~~[,]~~ ***or within such later period as the Chairman of the***

Board determines, or if the Commission denies any application for such necessary approvals:

(a) The court shall immediately order that an appraisal of the interest must be conducted by two independent appraisers, one of whom must have experience appraising gaming assets. The costs of both appraisals must be paid by the estate.

(b) Within 30 days after receipt of both appraisals, the court shall offer and the entity in which the interest exists shall purchase the interest for cash at fair market value as determined by the court based upon the appraisals conducted pursuant to paragraph (a). The Commission may deem a failure to purchase the interest as offered to be a voluntary surrender of any gaming license, registration or approval held by the entity in which the interest exists.

Sec. 19.5. NRS 239.0115 is hereby amended to read as follows:

239.0115 1. Except as otherwise provided in this subsection and subsection 3, notwithstanding any provision of law that has declared a public book or record, or a part thereof, to be confidential, if a public book or record has been in the legal custody or control of one or more governmental entities for at least 30 years, a person may apply to the district court of the county in which the governmental entity that currently has legal custody or control of the public book or record is located for an order directing that governmental entity to allow the person to inspect or copy the public book or record, or a part thereof. If the public book or record pertains to a natural person, a person may not apply for an order pursuant to this subsection until the public book or record has been in the legal custody or control of one or more governmental entities for at least 30 years or until the death of the person to whom the public book or record pertains, whichever is later.

2. There is a rebuttable presumption that a person who applies for an order as described in subsection 1 is entitled to inspect or copy the public book or record, or a part thereof, that he seeks to inspect or copy.

3. The provisions of subsection 1 do not apply to any book or record:

(a) Declared confidential pursuant to ~~[subsection 4 of]~~ NRS 463.120.

(b) Containing personal information pertaining to a victim of crime that has been declared by law to be confidential.

Sec. 20. Any balance existing in the Account for the Operation of Hearing Panels on June 30, 2009, must be transferred to the Account for Racing and Pari-Mutuel Wagering created pursuant to NRS 466.080 on July 1, 2009.

Sec. 21. 1. This section and sections 4, 6 to 12, inclusive, and 14 to 20, inclusive, of this act become effective on July 1, 2009.

2. Sections 3 and 13 of this act become effective:

(a) Upon passage and approval, for the purpose of adopting regulations; and

(b) On October 1, 2009, for all other purposes.

3. Sections 1, 2 and 5 of this act become effective on October 1, 2009.

Assemblyman Segerblom moved the adoption of the amendment.
Amendment adopted.
Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 156.
Bill read second time and ordered to third reading.

Senate Bill No. 314.
Bill read second time and ordered to third reading.

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

Assembly in recess at 12:14 p.m.

ASSEMBLY IN SESSION

At 12:15 p.m.
Mr. Speaker pro Tempore presiding.
Quorum present.

Assembly Bill No. 395.
Bill read third time.
Remarks by Assemblymen Aizley, Buckley, Parnell, and Gansert.
Potential conflict of interest declared by Assemblyman Denis.
Roll call on Assembly Bill No. 395:
YEAS—28.
NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.
Assembly Bill No. 395 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

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

Assembly in recess at 12:27 p.m.

ASSEMBLY IN SESSION

At 12:27 p.m.
Madam Speaker presiding.
Quorum present.

Assembly Bill No. 528
Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 528 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

Senate Bill No. 199.

Bill read third time.

Remarks by Assemblyman Carpenter.

Roll call on Senate Bill No. 199:

YEAS—42.

NAYS—None.

Senate Bill No. 199 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 223.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Senate Bill No. 223:

YEAS—42.

NAYS—None.

Senate Bill No. 223 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 342.

Bill read third time.

Remarks by Assemblymen Mastroluca and Hardy.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 342:

YEAS—42.

NAYS—None.

Senate Bill No. 342 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 344.

Bill read third time.

Remarks by Assemblymen Spiegel and Cobb.

Assemblyman Cobb requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Speaker. Senate Bill 344 authorizes the Director of the Department of Health and Human Services to create an interagency committee to review the child welfare system and make recommendations for changes in the system. If an interagency committee is created, it must submit a report to the Legislature each odd-numbered year and may submit one bill draft request directly to the Legislative Counsel by September 1of each even-numbered year. The measure is effective on July 1, 2009.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I will rise in support of S.B. 344. I was hesitant to support this, even though it is discretionary, because I am worried about spending money on new programs.

One thing that I did put on the record in committee and would like to put on the record now, which was accepted by the bill sponsor, is the idea that if at all possible—although I don't believe that these would be the correct parties to do so or the optimum parties to do so—we should be looking at any potential cost savings from removing duplication of services. I will be supporting it with the understanding that hopefully we will be able to create a more efficient system as well.

Roll call on Senate Bill No. 344:

YEAS—42.

NAYS—None.

Senate Bill No. 344 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 216.

The following Senate amendment was read:

Amendment No. 96.

AN ACT relating to health; revising the membership and duties of the Nevada Academy of Health; removing the prospective expiration of the Nevada Academy of Health; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Academy of Health studies issues relating to health care in this State and provides assistance, technical support and advice to the Legislative Committee on Health Care and the Department of Health and Human Services. (NRS 439B.250) **Section 1** of this bill revises the membership of the Nevada Academy of Health and reduces the membership of the Academy from 14 members to 13 members. **Section 1** also revises the duties of the Nevada Academy of Health to require the Academy to study issues relating to the improvement of health and health care in this State and eliminates the requirement to make recommendations relating to a statewide biomedical and health research program.

The Nevada Academy of Health is scheduled to expire on June 30, 2009. (Chapter 452, Statutes of Nevada 2007, p. 2384) **Section 2** of this bill removes the prospective expiration of the Nevada Academy of Health.

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

Section 1. NRS 439B.250 is hereby amended to read as follows:

439B.250 1. There is hereby established the Nevada Academy of Health consisting of ~~[14]~~ ***13*** members as follows:

(a) The Director or his designee;

(b) One member who represents the Nevada System of Higher Education appointed by the Board of Regents of the University of Nevada;

(c) ~~[~~Six~~]~~ ***Four*** members appointed by the Governor;

(d) Two members appointed by the Majority Leader of the Senate;

(e) Two members appointed by the Speaker of the Assembly;

(f) One member appointed by the Minority Leader of the Senate; ~~[~~and~~]~~

(g) One member appointed by the Minority Leader of the Assembly ~~[~~.~~]~~ ***; and***

(h) The ~~*[chief executive officer of the]*~~ ***authorized representative for the State of Nevada of a quality improvement organization of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services which operates in this State or his designee.***

2. The members appointed to the Academy pursuant to subsection 1 must not be Legislators and, to the extent practicable, must:

(a) Represent agencies and organizations that provide education or training for providers of health care;

(b) Be advocates for the rights of patients;

(c) Be recognized academic scholars; or

(d) Be members of the general public who have specialized knowledge and experience that are beneficial to the Academy.

3. The Chairman of the Academy must be elected from among the members of the Academy.

4. Each member of the Academy who is not an officer or employee of the State serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

5. Each member of the Academy who is an officer or employee of the State must be relieved from his duties without loss of his regular compensation so that he may attend meetings of the Committee or the Academy and is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, which must be paid by the state agency that employs him.

6. ***The term of office of a member of the Academy is 2 years.*** A vacancy occurring in the membership of the Academy must be filled in the same manner as the original appointment. A member of the Academy may be reappointed.

7. The Academy shall:

(a) Perform any duties prescribed by, and comply with all requests from, the Committee;

(b) Study issues relating to health care in this State, including, without limitation ~~[~~, medical~~]~~ ***:***

(1) Medical and clinical research ~~[~~and the~~]~~ ***;***

(2) The education and training of providers of health care;

(3) The improvement of accountability within the system of health care in this State;

(4) The improvement of access to and quality of health care in this State; and

(5) The improvement of the health of the residents of this State;

(c) Establish standards and goals concerning the provision of health care which are measurable and regularly evaluated;

(d) Analyze and evaluate data relating to health care that is created, collected or reviewed by the Committee and the Department;

(e) Promote cooperation ***and partnerships*** between the public and private sectors, including the ~~[~~transfer~~]~~ ***development and implementation*** of technology used to provide health care and the establishment of business partnerships that promote economic development in this State;

(f) ~~[~~Provide recommendations to the Governor and the Legislature concerning the establishment of a statewide biomedical and health research program;~~]~~

~~(g)~~**]** Provide to the Committee:

(1) Such assistance and technical expertise on matters relating to health care as the Committee may request; and

(2) Advice and recommendations from consumers of health care; and

[~~(h)~~**]** ***(g)*** Provide to the Department, at the direction of the Committee:

(1) Technical expertise in matters relating to health care; and

(2) Advice and recommendations from consumers of health care.

8. The Academy may appoint advisory committees if necessary or appropriate to assist the Academy in carrying out the provisions of this section.

9. The Academy may accept gifts, grants and donations of money from any source to carry out the provisions of this section.

Sec. 2. Section 4 of chapter 452, Statutes of Nevada 2007, at page 2384, is hereby amended to read as follows:

Sec. 4. This act becomes effective on July 1, 2007 **. [**~~, and expires by limitation on June 30, 2009.~~**]**

Sec. 3. The appointed members of the Nevada Academy of Health must be appointed as follows:

1. One member must be appointed by the Board of Regents of the University of Nevada to a term that commences on July 1, 2009, and ends on June 30, 2011.

2. Four members must be appointed by the Governor to terms that commence on July 1, 2009, and end on June 30, 2011.

3. Two members must be appointed by the Majority Leader of the Senate to terms that commence on July 1, 2009, and end on June 30, 2011.

4. Two members must be appointed by the Speaker of the Assembly to terms that commence on July 1, 2009, and end on June 30, 2011.

5. One member must be appointed by the Minority Leader of the Senate to a term that commences on July 1, 2009, and ends on June 30, 2011.

6. One member must be appointed by the Minority Leader of the Assembly to a term that commences on July 1, 2009, and ends on June 30, 2011.

Sec. 4. 1. This section and sections 2 and 3 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on July 1, 2009.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 216.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 114.

The following Senate amendment was read:

Amendment No. 561.

SUMMARY—Makes ~~[various]~~ changes concerning compensation to victims of crime. (BDR 16-624)

AN ACT relating to victims of crime; extending the time to appeal the denial of a claim for compensation to a victim of crime; ~~[providing for balances to remain within the Fund for the Compensation of Victims of Crime;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this]~~ **This** bill extends the time to appeal a compensation officer's denial of a claim seeking compensation from the Fund for the Compensation of Victims of Crime from 15 to 60 days. ~~[Section 2 of this bill provides that any remaining money in the Fund for the Compensation of Victims of Crime at the end of the fiscal year must remain within the Fund and must not be reverted to the State General Fund.]~~

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

Section 1. NRS 217.110 is hereby amended to read as follows:

217.110 1. Upon receipt of an application for compensation, the compensation officer shall review the application to determine whether the applicant qualifies for compensation. The compensation officer shall deny the claim within 5 days after receipt of the application if the applicant's ineligibility is apparent from the facts stated in the application. The applicant may appeal the denial to a hearing officer within ~~[15]~~ ***60*** days after the decision. If the hearing officer determines that the applicant may be entitled to compensation, the hearing officer shall order the compensation officer to complete an investigation and render a decision pursuant to subsection 2. If the hearing officer denies the appeal, the applicant may appeal to an appeals officer pursuant to NRS 217.117.

2. If the compensation officer does not deny the application pursuant to subsection 1, or if he is ordered to proceed by the hearing officer, he shall conduct an investigation and, except as otherwise provided in subsection 4, render a decision within 60 days after his receipt of the application or order. If in conducting his investigation the compensation officer believes that:

(a) Reports on the previous medical history of the victim;

(b) An examination of the victim and a report of that examination;

(c) A report on the cause of death of the victim by an impartial medical expert; or

(d) Investigative or police reports,

➥ would aid him in making his decision, the compensation officer may order the reports.

3. Upon the request of a compensation officer pursuant to subsection 2 for investigative or police reports which concern a minor who committed a crime against the victim, a juvenile court or a law enforcement agency shall provide the compensation officer with a copy of the requested investigative or police reports. Any reports obtained by a compensation officer pursuant to this subsection are confidential and must not be disclosed except upon the lawful order of a court of competent jurisdiction.

4. When additional reports are requested pursuant to subsection 2, the compensation officer shall render a decision in the case, including an order directing the payment of compensation, if compensation is due, within 15 days after receipt of the reports.

Sec. 2. ~~[NRS 217.260 is hereby amended to read as follows:~~

~~217.260 1. Money for payment of compensation as ordered by the Board and for payment of salaries and other expenses incurred by the Department of Administration pursuant to NRS 217.010 to 217.270, inclusive, must be paid from the Fund for the Compensation of Victims of Crime, which is hereby created. Money in the Fund must be disbursed on the order of the Board in the same manner as other claims against the State are paid. The Board shall estimate quarterly:~~

~~(a) The revenue in the Fund which is available for the payment of compensation; and~~

~~(b) The anticipated expenses for the next quarter.~~

~~➥ If the estimated expenses for the quarter exceed the available revenue, all claims paid in that quarter must be reduced in the same proportion as the expenses exceeded the revenue.~~

~~2. Money deposited in the Fund which is recovered from a forfeiture of assets pursuant to NRS 200.760 and the interest and income earned on that money must be used for the counseling and medical treatment of victims of crimes committed in violation of NRS 200.366, 200.710, 200.720, 200.725, 200.730 or 201.230.~~

~~3. The interest and income earned on the money in the Fund for the Compensation of Victims of Crime, after deducting any applicable charges, must be credited to the Fund.~~

~~***4. Any money remaining in the Fund for the Compensation of Victims of Crime at the end of each fiscal year does not revert to the State General Fund and must be carried over into the next fiscal year.]***~~ **(Deleted by amendment.)**

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 114.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 164.

The following Senate amendment was read:

Amendment No. 562.

AN ACT relating to crimes; providing certain penalties for a battery that is committed by strangulation; increasing the penalty for a battery which constitutes domestic violence if the battery is committed by strangulation; increasing the penalty for a battery under other circumstances if the battery is committed by strangulation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill revises provisions governing the crime of battery to provide the same penalties for a battery which is committed by strangulation as are imposed for a battery which results in substantial bodily harm. (NRS 200.481) **Section 3** also defines the term "strangulation" similarly to the manner in which the term is defined in a similar Minnesota law. (Minn. Stat. § 609.2247(1)(c))

Sections 4 and 5 of this bill revise provisions governing the crime of battery which constitutes domestic violence to impose a category C felony with a maximum fine of $15,000 upon any person who is convicted of a battery which constitutes domestic violence if the battery is committed by strangulation. (NRS 200.485)

Sections 1, 2, 6 and 7 of this bill amend certain provisions regarding additional penalties, battery with the intent to commit sexual assault, the reporting of certain crimes committed against a child and bail so that those provisions will apply in the same manner to a battery which resulted in substantial bodily harm and a battery which was committed by strangulation. (NRS 193.166, 200.400, 202.876, 178.484)

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

Section 1. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 6 of NRS 33.400 or subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

(e) A temporary or extended order issued pursuant to NRS 200.591,

➥ shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a minimum term of not less than 1 year and a maximum term of not more than 20 years. If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. The sentence prescribed by this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

4. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, ~~[or]~~ battery which results in substantial bodily harm ***or battery which is committed by strangulation as described in NRS 200.481 or 200.485*** if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

5. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 2. NRS 200.400 is hereby amended to read as follows:

200.400 1. As used in this section ~~[, "battery"]~~ ***:***

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Strangulation" has the meaning ascribed to it in NRS 200.481.

2. A person who is convicted of battery with the intent to commit mayhem, robbery or grand larceny is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

3. A person who is convicted of battery with the intent to kill is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years.

4. A person who is convicted of battery with the intent to commit sexual assault shall be punished:

(a) If the crime results in substantial bodily harm to the victim ~~[.]~~ ***or is committed by strangulation,*** for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served,

➥ as determined by the verdict of the jury, or the judgment of the court if there is no jury.

(b) If the crime does not result in substantial bodily harm to the victim and the victim is 16 years of age or older, for a category A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of life with the possibility of parole.

(c) If the crime does not result in substantial bodily harm to the victim and the victim is a child under the age of 16, for a category A felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of life with the possibility of parole.

➥ In addition to any other penalty, a person convicted pursuant to this subsection may be punished by a fine of not more than $10,000.

Sec. 3. NRS 200.481 is hereby amended to read as follows:

200.481 1. As used in this section:

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Child" means a person less than 18 years of age.

(c) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail or detention facility;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including, without limitation, a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(d) "Provider of health care" has the meaning ascribed to it in NRS 200.471.

(e) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(f) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(g) "Sports official" has the meaning ascribed to it in NRS 41.630.

(h) ***"Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person*** ~~*[with the intent to cause]*~~ ***in a manner that creates a risk of death or substantial bodily harm.***

(i) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

~~[(i)]~~ ***(j)*** "Taxicab driver" means a person who operates a taxicab.

~~[(j)]~~ ***(k)*** "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. Except as otherwise provided in NRS 200.485, a person convicted of a battery, other than a battery committed by an adult upon a child which constitutes child abuse, shall be punished:

(a) If the battery is not committed with a deadly weapon, and no substantial bodily harm to the victim results, except under circumstances where a greater penalty is provided in ~~[paragraph (d)]~~ ***this section*** or ~~[in]~~ NRS 197.090, for a misdemeanor.

(b) If the battery is not committed with a deadly weapon, and ***either*** substantial bodily harm to the victim results ~~[,]~~ ***or the battery is committed by strangulation,*** for a category C felony as provided in NRS 193.130.

(c) If ~~[the]~~ ***:***

(1) The battery is committed ~~[:~~

~~(1) Upon]~~ ***upon*** an officer, provider of health care, school employee, taxicab driver or transit operator who was performing his duty or upon a sports official based on the performance of his duties at a sporting event;

(2) The officer, provider of health care, school employee, taxicab driver, transit operator or sports official suffers substantial bodily harm ~~[;]~~ ***or the battery is committed by strangulation;*** and

(3) The person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official,

➥ for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than $10,000, or by both fine and imprisonment.

(d) If the battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event and the person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official, for a gross misdemeanor, except under circumstances where a greater penalty is provided in this section.

(e) If the battery is committed with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

(2) Substantial bodily harm to the victim results ~~[,]~~ ***or the battery is committed by strangulation,*** for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $10,000.

(f) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, without the use of a deadly weapon, whether or not substantial bodily harm results ~~[,]~~ ***and whether or not the battery is committed by strangulation,*** for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

(g) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.

(2) Substantial bodily harm to the victim results ~~[,]~~ ***or the battery is committed by strangulation,*** for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years.

Sec. 4. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to ***subsection 2 or*** NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➥ The person shall be further punished by a fine of not less than $500, but not more than $1,000.

(c) For the third and any subsequent offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. ***Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than $15,000.***

3. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) Except as otherwise provided in this subsection, for the first offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

(b) Except as otherwise provided in this subsection, for the second offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

➥ If the person resides more than 70 miles from the nearest location at which counseling services are available, the court may allow the person to participate in counseling sessions in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470 every other week for the number of months required pursuant to paragraph (a) or (b) so long as the number of hours of counseling is not less than 6 hours per month. If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

~~[3.]~~ ***4.*** An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

~~[4.]~~ ***5.*** In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of $35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

~~[5.]~~ ***6.*** In addition to any other penalty, the court may require such a person to participate, at his expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Health Division of the Department of Health and Human Services.

~~[6.]~~ ***7.*** If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

~~[7.]~~ ***8.*** If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.

~~[8.]~~ ***9.*** As used in this section:

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

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 5. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to ***subsection 2 or*** NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➥ The person shall be further punished by a fine of not less than $500, but not more than $1,000.

(c) For the third and any subsequent offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. ***Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than $15,000.***

3. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) For the first offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

(b) For the second offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

➥ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

~~[3.]~~ ***4.*** An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a

felony, must also be shown at the preliminary examination or presented to the grand jury.

~~[4.]~~ ***5.*** In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of $35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

~~[5.]~~ ***6.*** In addition to any other penalty, the court may require such a person to participate, at his expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Health Division of the Department of Health and Human Services.

~~[6.]~~ ***7.*** If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

~~[7.]~~ ***8.*** If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.

~~[8.]~~ ***9.*** As used in this section:

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

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 6. NRS 202.876 is hereby amended to read as follows:

202.876 "Violent or sexual offense" means any act that, if prosecuted in this State, would constitute any of the following offenses:

1. Murder or voluntary manslaughter pursuant to NRS 200.010 to 200.260, inclusive.
2. Mayhem pursuant to NRS 200.280.
3. Kidnapping pursuant to NRS 200.310 to 200.340, inclusive.
4. Sexual assault pursuant to NRS 200.366.
5. Robbery pursuant to NRS 200.380.

6. Administering poison or another noxious or destructive substance or liquid with intent to cause death pursuant to NRS 200.390.

7. Battery with intent to commit a crime pursuant to NRS 200.400.

8. Administering a drug or controlled substance to another person with the intent to enable or assist the commission of a felony or crime of violence pursuant to NRS 200.405 or 200.408.

9. False imprisonment pursuant to NRS 200.460 ~~[,]~~ if the false imprisonment involves the use or threatened use of force or violence against the victim or the use or threatened use of a firearm or a deadly weapon.

10. Assault with a deadly weapon pursuant to NRS 200.471.

11. Battery which is committed with the use of a deadly weapon or which results in substantial bodily harm ~~[pursuant to]~~ ***as described in NRS 200.481 or battery which is committed by strangulation as described in*** NRS 200.481 ~~[.]~~ ***or 200.485.***

12. An offense involving pornography and a minor pursuant to NRS 200.710 or 200.720.

13. Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

14. Intentional transmission of the human immunodeficiency virus pursuant to NRS 201.205.

15. Open or gross lewdness pursuant to NRS 201.210.

16. Lewdness with a child pursuant to NRS 201.230.

17. An offense involving pandering or prostitution in violation of NRS 201.300, 201.320 or 201.340.

18. Coercion pursuant to NRS 207.190, if the coercion involves the use or threatened use of force or violence against the victim or the use or threatened use of a firearm or a deadly weapon.

19. An attempt, conspiracy or solicitation to commit an offense listed in subsections 1 to 18, inclusive.

Sec. 7. NRS 178.484 is hereby amended to read as follows:

178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.

2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail;

(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or

(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.

3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail; or

(b) A department of alternative sentencing directs the detention facility to admit the person to bail.

4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.

5. A person arrested for a violation of NRS 484.379, 484.3795, 484.37955, 484.379778, 488.410, 488.420 or 488.425 who is under the influence of intoxicating liquor must not be admitted to bail or released on his own recognizance unless he has a concentration of alcohol of less than 0.04 in his breath. A test of the person's breath pursuant to this subsection to determine the concentration of alcohol in his breath as a condition of admission to bail or release is not admissible as evidence against the person.

6. A person arrested for a violation of NRS 484.379, 484.3795, 484.37955, 484.379778, 488.410, 488.420 or 488.425 who is under the influence of a controlled substance, is under the combined influence of intoxicating liquor and a controlled substance, or inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle or vessel under power or sail must not be admitted to bail or released on his own recognizance sooner than 12 hours after his arrest.

7. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours after his arrest. If the person is admitted to bail more than 12 hours after his arrest, without appearing personally before a magistrate ~~[,]~~ or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which he has been arrested resulted in substantial bodily harm ~~[,]~~ ***or was committed by strangulation;***

(b) Five thousand dollars, if the person has:

(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which he has been arrested resulted in substantial bodily harm ~~[,]~~ ***or was committed by strangulation;*** or

(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which he has been arrested resulted in substantial bodily harm ~~[,]~~ ***or was committed by strangulation;*** or

(c) Fifteen thousand dollars, if the person has:

(1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 and there is reason to believe that the

battery for which he has been arrested resulted in substantial bodily harm ~~[,]~~ ***or was committed by strangulation;*** or

(2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 33.018.

➥ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

8. A person arrested for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 must not be admitted to bail sooner than 12 hours after his arrest if:

(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;

(b) The person has previously violated a temporary or extended order for protection of the type for which he has been arrested; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath; or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

9. If a person is admitted to bail more than 12 hours after his arrest, pursuant to subsection 8, without appearing personally before a magistrate ~~[,]~~ or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591;

(b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating

a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591; or

(c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591.

➥ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court ~~[.]~~ or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

10. The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses.

11. Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems necessary to protect the health, safety and welfare of the community and to ensure that the person will appear at all times and places ordered by the court, including, without limitation:

(a) Requiring the person to remain in this State or a certain county within this State;

(b) Prohibiting the person from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on his behalf;

(c) Prohibiting the person from entering a certain geographic area; or

(d) Prohibiting the person from engaging in specific conduct that may be harmful to his own health, safety or welfare, or the health, safety or welfare of another person.

➥ In determining whether a condition is reasonable, the court shall consider the factors listed in NRS 178.4853.

12. If a person fails to comply with a condition imposed pursuant to subsection 11, the court may, after providing the person with reasonable notice and an opportunity for a hearing:

(a) Deem such conduct a contempt pursuant to NRS 22.010; or

(b) Increase the amount of bail pursuant to NRS 178.499.

13. An order issued pursuant to this section that imposes a condition on a person admitted to bail must include a provision ordering any law enforcement officer to arrest the person if he has probable cause to believe that the person has violated a condition of his bail.

14. Before a person may be admitted to bail, he must sign a document stating that:

(a) He will appear at all times and places as ordered by the court releasing him and as ordered by any court before which the charge is subsequently heard;

(b) He will comply with the other conditions which have been imposed by the court and are stated in the document; and

(c) If he fails to appear when so ordered and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

➥ The signed document must be filed with the clerk of the court of competent jurisdiction as soon as practicable, but in no event later than the next business day.

15. If a person admitted to bail fails to appear as ordered by a court and the jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial, the person who failed to appear is responsible for paying those costs as restitution.

16. For the purposes of subsections 8 and 9, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

17. As used in this section, "strangulation" has the meaning ascribed to it in NRS 200.481.

Sec. 8. NRS 432B.640 is hereby amended to read as follows:

432B.640 1. Upon receiving a referral from a court pursuant to subsection ~~[6]~~ ***7*** of NRS 200.485, an agency which provides child welfare services may, as appropriate, conduct an assessment to determine whether a psychological evaluation or counseling is needed by a child.

2. If an agency which provides child welfare services conducts an assessment pursuant to subsection 1 and determines that a psychological evaluation or counseling would benefit the child, the agency may, with the approval of the parent or legal guardian of the child:

(a) Conduct the evaluation or counseling; or

(b) Refer the child to a person that has entered into an agreement with the agency to provide those services.

Sec. 9. 1. This section and sections 1 to 4, inclusive, 6, 7 and 8 of this act become effective upon passage and approval.

2. Section 4 of this act expires by limitation on June 30, 2009.

3. Section 5 of this act becomes effective on July 1, 2009.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 164.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 187.

The following Senate amendment was read:

Amendment No. 563.

AN ACT relating to criminal procedure; requiring courts to ask a defendant whether he is a veteran or a member of the military; authorizing the establishment by district courts of a program for the treatment of certain offenders who are veterans or members of the military; authorizing justice courts and municipal courts to transfer original jurisdiction of certain cases to the district court for the purpose of assigning offenders to the program of treatment; enacting various provisions pertaining to the program of treatment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a district court to establish a program for the treatment of offenders with mental illness. (NRS 176A.250-176A.265) **Sections 2-15** of this bill, using that existing law as a model, authorize a district court to establish a program for the treatment of certain eligible defendants who are veterans or members of the military. **Section 8** of this bill authorizes a court to suspend further proceedings, without entering a judgment of conviction and with the consent of an eligible defendant, and to place the defendant on probation with terms conditions that include successful completion of the program of treatment. **Section 8** also generally prohibits a court from assigning a defendant to a program of treatment if the defendant: (1) committed an offense for which the suspension of sentence or the granting of probation is prohibited by existing law; (2) committed an offense that involved the use of force or violence; or (3) was previously convicted of a felony that involved the use or threatened use of force or violence. **Section 9** of this bill requires a court, under certain circumstances, to seal documents relating to a case involving a defendant who was assigned to the program of treatment **[**~~3 years~~**]** after the defendant is discharged from probation. **Sections 17 and 19** of this bill authorize justice courts and municipal courts to transfer original jurisdiction of certain cases involving misdemeanors to the district court for the purpose of assigning offenders to the program of treatment. (NRS 4.370, 5.050) **Sections 1, 16 and 18** of this bill also require a district court, justice court and municipal court to ask a defendant if he is a veteran or a member of the military. (NRS 176.015)

WHEREAS, Historically, the State of Nevada has honored the noble sacrifices that members of the military have made to protect our freedoms by providing veterans and members of the military certain benefits and rehabilitative services; and

WHEREAS, In the State of Nevada, veterans and members of the military constitute 11.9 percent of the population, a percentage which far exceeds the national average of 7.9 percent; and

WHEREAS, Studies have shown that combat service may exact a tremendous psychological toll on members of the military who are faced with the constant threat of death or injury over an extended period of time; and

WHEREAS, Researchers have shown that 30 to 40 percent of the 1.6 million members of the military who have served in Iraq and Afghanistan will suffer grave mental health injuries from their military service, such as post-traumatic stress disorder, traumatic brain injury, depression, anxiety and acute stress; and

WHEREAS, Such combat-related injuries, including the use of drugs and alcohol to cope with such injuries, can lead to encounters with the criminal justice system which would not have otherwise occurred without the combat-related injury; and

WHEREAS, While the vast majority of returning members of the military do not have contact with the criminal justice system, and most veterans and members of the military are well-adjusted, contributing members of society, psychiatrists and law enforcement officials agree that combat-related injuries have led to instances of criminality; and

WHEREAS, As a grateful state, we must honor the military service of our men and women by providing them with an alternative to incarceration and permitting them to access proper treatment for mental health and substance abuse problems resulting from military service; and

WHEREAS, The establishment of specialty treatment courts for veterans and members of the military who are nonviolent offenders will enable the criminal justice system to address the unique challenges veterans and members of the military face as a result of their honorable service and permit such veterans and members of the military to heal and reenter society; now, therefore,

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

Section 1. NRS 176.015 is hereby amended to read as follows:

176.015 1. Sentence must be imposed without unreasonable delay. Pending sentence, the court may commit the defendant or continue or alter the bail.

2. Before imposing sentence, the court shall:

(a) Afford counsel an opportunity to speak on behalf of the defendant; and

(b) Address the defendant personally and ask him if ~~[he]~~ ***:***

(1) He wishes to make a statement in his own behalf and to present any information in mitigation of punishment ~~[.]~~ ***; and***

(2) He is a veteran or a member of the military. If the defendant is a veteran or a member of the military and meets the qualifications of paragraphs (b) and (c) of subsection 2 of section 7 of this act, the court may, if appropriate, assign the defendant to:

(I) A program of treatment established pursuant to section 6 of this act; or

(II) If a program of treatment established pursuant to section 6 of this act is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or 453.580.

3. After hearing any statements presented pursuant to subsection 2 and before imposing sentence, the court shall afford the victim an opportunity to:

(a) Appear personally, by counsel or by personal representative; and

(b) Reasonably express any views concerning the crime, the person responsible, the impact of the crime on the victim and the need for restitution.

4. The prosecutor shall give reasonable notice of the hearing to impose sentence to:

(a) The person against whom the crime was committed;

(b) A person who was injured as a direct result of the commission of the crime;

(c) The surviving spouse, parents or children of a person who was killed as a direct result of the commission of the crime; and

(d) Any other relative or victim who requests in writing to be notified of the hearing.

➥ Any defect in notice or failure of such persons to appear are not grounds for an appeal or the granting of a writ of habeas corpus. All personal information, including, but not limited to, a current or former address, which pertains to a victim or relative and which is received by the prosecutor pursuant to this subsection is confidential.

5. For the purposes of this section:

(a) ***"Member of the military" has the meaning ascribed to it in section 4 of this act.***

(b) "Relative" of a person includes:

(1) A spouse, parent, grandparent or stepparent;

(2) A natural born child, stepchild or adopted child;

(3) A grandchild, brother, sister, half brother or half sister; or

(4) A parent of a spouse.

~~[(b)]~~ ***(c) "Veteran" has the meaning ascribed to it in section 5 of this act.***

(d) "Victim" includes:

(1) A person, including a governmental entity, against whom a crime has been committed;

(2) A person who has been injured or killed as a direct result of the commission of a crime; and

(3) A relative of a person described in subparagraph (1) or (2).

6. This section does not restrict the authority of the court to consider any reliable and relevant evidence at the time of sentencing.

Sec. 2. NRS 176.0613 is hereby amended to read as follows:

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of $7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of specialty court programs to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs; and

(d) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.

9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Supplementing the funds used to pay for judges to oversee a specialty court program; or

(7) Acquiring or using appropriate technology.

10. As used in this section:

(a) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320; and

(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580 ~~[.]~~ ***or section 6 of this act.***

Sec. 3. Chapter 176A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 9, inclusive, of this act.

Sec. 4. ***"Member of the military" means a person who is presently serving in the Armed Forces of the United States, a reserve component thereof or the National Guard.***

Sec. 5. ***"Veteran" means a person who has served in the Armed Forces of the United States, a reserve component thereof or the National Guard and has been discharged or released therefrom.***

Sec. 6. ***A court may establish an appropriate program for the treatment of veterans and members of the military to which it may assign a defendant pursuant to section 8 of this act. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.***

Sec. 7. ***1. A justice court or a municipal court may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving an eligible defendant.***

2. As used in this section, "eligible defendant" means a veteran or a member of the military who:

(a) Has not tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been found guilty or guilty but mentally ill of, an offense that is a misdemeanor;

(b) Appears to suffer from mental illness, alcohol or drug abuse or posttraumatic stress disorder, any of which appear to be related to military service, including, without limitation, any readjustment to civilian life which is necessary after combat service; and

(c) Would benefit from assignment to a program established pursuant to section 6 of this act.

Sec. 8. ***1. Except as otherwise provided in subsection 2, if a defendant who is a veteran or a member of the military and who suffers from mental illness, alcohol or drug abuse or posttraumatic stress disorder as described in section 7 of this act tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to section 6 of this act.***

2. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the

defendant to the program unless the prosecuting attorney stipulates to the assignment.

3. Upon violation of a term or condition:

(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

4. Upon fulfillment of the terms and conditions, the court shall discharge the defendant and dismiss the proceedings against him. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of him for any purpose.

Sec. 9. ***1.*** ~~*[Three years after]*~~ ***After a defendant is discharged from probation pursuant to section 8 of this act, the court shall order sealed all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The court shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.***

2. If the court orders sealed the record of a defendant discharged pursuant to section 8 of this act, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

Sec. 10. NRS 176A.010 is hereby amended to read as follows:

176A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 176A.020 to 176A.080, inclusive, ***and sections 4 and 5 of this act*** have the meanings ascribed to them in those sections.

Sec. 11. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended

or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363 ~~[,]~~ ***or section 8 of this act;*** or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer ~~[,]~~ or the peace officer, after making an arrest **,** shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. An offender who is sentenced to serve a period of probation for a felony who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed for the period of his probation a deduction of 20 days from that period for each month he serves.

Sec. 12. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 179.259 and 453.3365, ***and section 9 of this act,*** a person may petition the court in which he was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 7 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Any gross misdemeanor after 7 years from the date of his release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 484.379 or 484.379778 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after 2 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) The local law enforcement agency of the city or county in which the conviction was entered;

(b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the

State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of Identification and Information, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(11) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(12) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

(16) An attempt to commit an offense listed in subparagraphs (1) to (15), inclusive.

Sec. 13. NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365, ***or section 9 of this act,*** a copy of the order must be sent to:

1. The Central Repository for Nevada Records of Criminal History; and

2. Each public or private company, agency or official named in the order, and that person shall seal the records in his custody which relate to the matters contained in the order, shall advise the court of his compliance ~~[.]~~ and shall then seal the order.

Sec. 14. NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 ~~[.]~~ ***or section 9 of this act:***

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if his civil rights previously have not been restored:

(1) The right to vote;

(2) The right to hold office; and

(3) The right to serve on a jury.

2. Upon the sealing of his records, a person who is restored to his civil rights must be given an official document which demonstrates that he has been restored to the civil rights set forth in paragraph (b) of subsection 1.

3. A person who has had his records sealed in this State or any other state and whose official documentation of the restoration of his civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has had his records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

4. A person who has had his records sealed in this State or any other state may present official documentation that he has been restored to his civil rights or a court order restoring his civil rights as proof that he has been restored to the right to vote, to hold office and to serve as a juror.

Sec. 15. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 ***or section 9 of this act*** may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or ***a*** similar offense and that there is sufficient evidence reasonably to conclude that he will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 ***or section 9 of this act*** in determining whether to grant a petition pursuant to NRS 176A.265, 179.245, 179.255, 179.259 or 453.3365 ***or section 9 of this act*** for a conviction of another offense.

Sec. 16. Chapter 4 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before accepting a plea from a defendant or proceeding to trial, the justice of the peace shall address the defendant personally and ask him if he is a veteran or a member of the military.

2. If the defendant is a veteran or a member of the military and meets the qualifications of section 7 of this act, the justice court may, if appropriate, take any action authorized by law for the purpose of having the defendant assigned to:

(a) A program of treatment established pursuant to section 6 of this act; or

(b) If a program of treatment established pursuant to section 6 of this act is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or 453.580.

3. As used in this section:

(a) "Member of the military" has the meaning ascribed to it in section 4 of this act.

(b) "Veteran" has the meaning ascribed to it in section 5 of this act.

Sec. 17. NRS 4.370 is hereby amended to read as follows:

4.370 1. Except as otherwise provided in subsection 2, justice courts have jurisdiction of the following civil actions and proceedings and no others except as otherwise provided by specific statute:

(a) In actions arising on contract for the recovery of money only, if the sum claimed, exclusive of interest, does not exceed $10,000.

(b) In actions for damages for injury to the person, or for taking, detaining or injuring personal property, or for injury to real property where no issue is raised by the verified answer of the defendant involving the title to or boundaries of the real property, if the damage claimed does not exceed $10,000.

(c) Except as otherwise provided in paragraph (l), in actions for a fine, penalty or forfeiture not exceeding $10,000, given by statute or the ordinance of a county, city or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll or municipal fine.

(d) In actions upon bonds or undertakings conditioned for the payment of money, if the sum claimed does not exceed $10,000, though the penalty may exceed that sum. Bail bonds and other undertakings posted in criminal matters may be forfeited regardless of amount.

(e) In actions to recover the possession of personal property, if the value of the property does not exceed $10,000.

(f) To take and enter judgment on the confession of a defendant, when the amount confessed, exclusive of interest, does not exceed $10,000.

(g) Of actions for the possession of lands and tenements where the relation of landlord and tenant exists, when damages claimed do not exceed $10,000 or when no damages are claimed.

(h) Of actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed do not exceed $10,000 or when no damages are claimed.

(i) Of suits for the collection of taxes, where the amount of the tax sued for does not exceed $10,000.

(j) Of actions for the enforcement of mechanics' liens, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed $10,000.

(k) Of actions for the enforcement of liens of owners of facilities for storage, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed $10,000.

(l) In actions for a fine imposed for a violation of NRS 484.757.

(m) Except as otherwise provided in this paragraph, in any action for the issuance of a temporary or extended order for protection against domestic violence. A justice court does not have jurisdiction in an action for the issuance of a temporary or extended order for protection against domestic violence:

(1) In a county whose population is more than 100,000 and less than 400,000;

(2) In any township whose population is 100,000 or more located within a county whose population is more than 400,000; or

(3) If a district court issues a written order to the justice court requiring that further proceedings relating to the action for the issuance of the order for protection be conducted before the district court.

(n) In an action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive.

(o) In small claims actions under the provisions of chapter 73 of NRS.

(p) In actions to contest the validity of liens on mobile homes or manufactured homes.

(q) In any action pursuant to NRS 200.591 for the issuance of a protective order against a person alleged to be committing the crime of stalking, aggravated stalking or harassment.

(r) In actions transferred from the district court pursuant to NRS 3.221.

(s) In any action for the issuance of a temporary or extended order pursuant to NRS 33.400.

2. The jurisdiction conferred by this section does not extend to civil actions, other than for forcible entry or detainer, in which the title of real property or mining claims or questions affecting the boundaries of land are involved.

3. Justice courts have jurisdiction of all misdemeanors and no other criminal offenses except as otherwise provided by specific statute. Upon approval of the district court, a justice court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 ~~[.]~~ ***or section 6 of this act.***

4. Except as otherwise provided in subsections 5 and 6, in criminal cases the jurisdiction of justices of the peace extends to the limits of their respective counties.

5. In the case of any arrest made by a member of the Nevada Highway Patrol, the jurisdiction of the justices of the peace extends to the limits of their respective counties and to the limits of all counties which have common boundaries with their respective counties.

6. Each justice court has jurisdiction of any violation of a regulation governing vehicular traffic on an airport within the township in which the court is established.

Sec. 18. Chapter 5 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before accepting a plea from a defendant or proceeding to trial, the municipal judge shall address the defendant personally and ask him if he is a veteran or a member of the military.

2. If the defendant is a veteran or a member of the military and meets the qualifications of section 7 of this act, the municipal court may, if appropriate, take any action authorized by law for the purpose of having the defendant assigned to:

(a) A program of treatment established pursuant to section 6 of this act; or

(b) If a program of treatment established pursuant to section 6 of this act is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or 453.580.

3. As used in this section:

(a) "Member of the military" has the meaning ascribed to it in section 4 of this act.

(b) "Veteran" has the meaning ascribed to it in section 5 of this act.

Sec. 19. NRS 5.050 is hereby amended to read as follows:

5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

(a) For the violation of any ordinance of their respective cities.

(b) To prevent or abate a nuisance within the limits of their respective cities.

2. The municipal courts have jurisdiction of all misdemeanors committed in violation of the ordinances of their respective cities. Upon approval of the district court, a municipal court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 ~~[.]~~ ***or section 6 of this act.***

3. The municipal courts have jurisdiction of:

(a) Any action for the collection of taxes or assessments levied for city purposes, when the principal sum thereof does not exceed $2,500.

(b) Actions to foreclose liens in the name of the city for the nonpayment of those taxes or assessments when the principal sum claimed does not exceed $2,500.

(c) Actions for the breach of any bond given by any officer or person to or for the use or benefit of the city, and of any action for damages to which the city is a party, and upon all forfeited recognizances given to or for the use or benefit of the city, and upon all bonds given on appeals from the municipal court in any of the cases named in this section, when the principal sum claimed does not exceed $2,500.

(d) Actions for the recovery of personal property belonging to the city, when the value thereof does not exceed $2,500.

(e) Actions by the city for the collection of any damages, debts or other obligations when the amount claimed, exclusive of costs or attorney's fees, or both if allowed, does not exceed $2,500.

4. Nothing contained in subsection 3 gives the municipal court jurisdiction to determine any such cause when it appears from the pleadings that the validity of any tax, assessment or levy, or title to real property, is necessarily an issue in the cause, in which case the court shall certify the cause to the district court in like manner and with the same effect as provided by law for certification of causes by justice courts.

Sec. 20. The amendatory provisions of this act do not apply to offenses committed before July 1, 2009.

Sec. 21. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 187.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 412.

The following Senate amendment was read:

Amendment No. 515.

AN ACT relating to traffic laws; authorizing an operator of a tow car to tow an occupied vehicle under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes it lawful for an operator of a tow car to tow a vehicle occupied by a person with restricted mobility **or a person who is in a hazardous situation** provided that the person is properly restrained and, if required by law, wearing a seat belt.

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

Section 1. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

When rendering assistance to a person with restricted mobility ~~*[,]*~~ ***or to a person who is in a hazardous situation, an operator of a tow car may tow a vehicle with the person*** ~~*[with restricted mobility]*~~ ***inside the vehicle to the nearest location that is safe if the person is properly restrained and, if applicable, wearing a safety belt as required pursuant to NRS 484.641.***

Sec. 2. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

When rendering assistance to a person with restricted mobility or to a person who is in a hazardous situation, an operator of a tow car may tow a vehicle with the person inside the vehicle to the nearest location that is safe if the person is properly restrained **.** ~~**[**and, if applicable, wearing a safety belt as required pursuant to NRS 484.641.**]**~~

Sec. 3. 1. ~~**[**Section**]**~~ **This section and section** 1 of this act ~~**[**becomes**]**~~ **become** effective upon passage and approval.

2. Section 2 of this act becomes effective on the date on which the Secretary of the United States Department of Transportation, or his authorized representative, rescinds that portion of the Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. § 571.208) which requires the installation of automatic restraints in new private passenger motor vehicles. Section 2 of this act does not become effective on such date, however, if the

Secretary's decision to rescind that standard is not based, in any respect, on the enactment or continued operation of section 1 of this act.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 412.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 322.

The following Senate amendment was read:

Amendment No. 577.

AN ACT relating to crimes; providing that it is unlawful for a person to engage in certain fraudulent acts in the course of an enterprise or occupation; revising provisions relating to the crime of racketeering; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various crimes relating to fraud. (Chapter 205 of NRS) **Section 1** of this bill, which is patterned in part after existing securities laws, provides that a person commits a category B felony if the person knowingly or intentionally engages in at least two similar transactions within 4 years after the completion of the first transaction by engaging in an act, practice or course of business or employing a device, scheme or artifice to defraud another person by making an untrue statement of fact or not stating a material fact necessary in light of the circumstances which: (1) the person knows to be false or omitted; (2) the person intends another to rely on; and (3) which causes a loss to any person who relied on the false statement or omission of material fact. (NRS 90.570)

Section 2 of this bill revises the definition of a crime related to racketeering to include the new crime established by **section 1** of this bill. (NRS 207.360)

Existing law establishes various crimes relating to racketeering activity. (NRS 207.400) **Section 3** of this bill prohibits a person from transporting property, attempting to transport property or providing property to another person knowing that the other person intends to use the property to further racketeering activity. In addition, **section 3** prohibits a person who knows that property represents proceeds of any unlawful activity from conducting or attempting to conduct any transaction involving the property with the intent to further racketeering activity or with the knowledge that the transaction conceals the location, source, ownership or control of the property. (NRS 207.400)

Section 4 of this bill generally provides that a prosecution of the new crime established by **section 1** of this bill must be commenced within 4 years after the crime is committed. (NRS 171.085)

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not, in the course of an enterprise or occupation, knowingly and with the intent to defraud, engage in an act, practice or course of business or employ a device, scheme or artifice which operates or would operate as a fraud or deceit upon a person by means of a false representation or omission of a material fact that:

(a) The person knows to be false or omitted;

(b) The person intends another to rely on; and

(c) Results in a loss to any person who relied on the false representation or omission,

➥ in at least two transactions that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents within 4 years and in which the aggregate loss or intended loss is more than $250.

2. Each act which violates subsection 1 constitutes a separate offense.

3. A person who violates subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $10,000.

4. In addition to any other penalty, the court shall order a person who violates subsection 1 to pay restitution.

5. A violation of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

6. As used in this section, "enterprise" has the meaning ascribed to it in NRS 207.380.

Sec. 2. NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;
2. Manslaughter, except vehicular manslaughter as described in NRS 484.3775;
3. Mayhem;
4. Battery which is punished as a felony;
5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery;

14. Any violation of NRS 199.280 which is punished as a felony;

15. Burglary;

16. Grand larceny;

17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;

18. Battery with intent to commit a crime in violation of NRS 200.400;

19. Assault with a deadly weapon;

20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, or 453.375 to 453.401, inclusive;

21. Receiving or transferring a stolen vehicle;

22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;

23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;

24. Receiving, possessing or withholding stolen goods valued at $250 or more;

25. Embezzlement of money or property valued at $250 or more;

26. Obtaining possession of money or property valued at $250 or more, or obtaining a signature by means of false pretenses;

27. Perjury or subornation of perjury;

28. Offering false evidence;

29. Any violation of NRS 201.300 or 201.360;

30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;

31. Any violation of NRS 205.506, 205.920 or 205.930; ~~[or]~~

32. Any violation of NRS 202.445 or 202.446 ~~[.]~~ ***; or***

33. Any violation of section 1 of this act.

Sec. 3. NRS 207.400 is hereby amended to read as follows:

207.400 1. It is unlawful for a person:

(a) Who has with criminal intent received any proceeds derived, directly or indirectly, from racketeering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of:

(1) Any title to or any right, interest or equity in real property; or

(2) Any interest in or the establishment or operation of any enterprise.

(b) Through racketeering activity to acquire or maintain, directly or indirectly, any interest in or control of any enterprise.

(c) Who is employed by or associated with any enterprise to conduct or participate, directly or indirectly, in:

(1) The affairs of the enterprise through racketeering activity; or

(2) Racketeering activity through the affairs of the enterprise.

(d) Intentionally to organize, manage, direct, supervise or finance a criminal syndicate.

(e) Knowingly to incite or induce others to engage in violence or intimidation to promote or further the criminal objectives of the criminal syndicate.

(f) To furnish advice, assistance or direction in the conduct, financing or management of the affairs of the criminal syndicate with the intent to promote or further the criminal objectives of the syndicate.

(g) Intentionally to promote or further the criminal objectives of a criminal syndicate by inducing the commission of an act or the omission of an act by a public officer or employee which violates his official duty.

(h) ***To transport property, to attempt to transport property or to provide property to another person knowing that the other person intends to use the property to further racketeering activity.***

(i) Who knows that property represents proceeds of, or is directly or indirectly derived from, any unlawful activity to conduct or attempt to conduct any transaction involving the property:

(1) With the intent to further racketeering activity; or

(2) With the knowledge that the transaction conceals the location, source, ownership or control of the property.

(j) To conspire to violate any of the provisions of this section.

2. A person who violates this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $25,000.

3. As used in this section, "unlawful activity" has the meaning ascribed to it in NRS 207.195.

Sec. 4. NRS 171.085 is hereby amended to read as follows:

171.085 Except as otherwise provided in NRS ***171.080,*** 171.083, 171.084 and 171.095, an indictment for:

1. Theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 ~~[or]~~ **,** a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 ***or a violation of section 1 of this act*** must be found, or an information or complaint filed, within 4 years after the commission of the offense.

2. Any felony other than ~~[murder, theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 or a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999]~~ ***the felonies listed in subsection 1*** must be found, or an information or complaint filed, within 3 years after the commission of the offense.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 322.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolutions Nos. 28 and 29; Senate Bill No. 235; Senate Concurrent Resolution No. 4.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Skip Hanson and Sharon Scudder.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Joe Cacioppo and Trent Baldwin.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to the following students, teachers, and chaperones from Paul Culley Empowerment School: Laura Arbutina, Royal Browning, Aurora Carminati-King, Gerardo Castellanos, Alan Ceballos, Andrew Davila, Shaun Duhon, Alexander Espinosa, Savi Garcelon, Brayan Hernandez, Vanesa Hernandez-Martin, Jose Herrera, Xavier Ledesma, Andrea Pitts, Eduardo Regalado, Daniela Richardson, Adrien Smith, Bryanna Sommars, Amber Strand, Jiovanni Sutuj, Christopher Villasenor-Vel, Gustavo Anaya, Charlotte Banks, Lori Beckingham, Brian Cabada, Crista Decarlo, Frederick Douglas, Yiovanny Gonzalez, Alondra Lopez, Stephanie Martinez, Adrianna Muse, Jesus Angel Nunez, Isioma Okwueze, Jennifer Rendon-DelReal, Jordan Soberanis, Kristina Tejeda, Janelle Ymson, Dante Anderson, Katherine Aparicio, Jasmine Barba, Luis Barragan, Oscar Denogean, Michael Lesh, Sa'vanna Macklin, Brandon Magana, Brandy Martin-Cortes, Chelsea Medina, Thanya Mercado-Ramirez, Kamren Ocampo, Ruben Ornelas, Yesenia Ortiz, Reina Romero, Daniela SanPedro, Anjelica Trujillo, Eddie Valadez, Leonardo Aparicio, Heaven Boles, Joseph Briones, Rudy Contreras-Trujillo, Kahley Darragh, Brianna Esposito, Robert Job, Marc Anthony Molina, Debora Munar, McKenna Roundy, Isaiah Rumph, Kytzia Zendejas, Michelle Angulo, Brayan Barrera, Aysha Brouchet, Karla Diaz, Jocob Espinoza, Justin Frost, Abraham Gastelum, Josue Leyva, Jasmine Moreno, Dulce Nungaray, Karla Portan, Brian Ramos-Maganda, Jessi Ramos, Levi Waldron and Isaiah Zavala.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Michael Rashmir.

Assemblyman Oceguera moved that the Assembly adjourn until Saturday, May 2, 2009, at 12 noon.

Motion carried.

Assembly adjourned at 12:48 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE NINETIETH DAY

CARSON CITY (Saturday), May 2, 2009

Assembly called to order at 12:10 p.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present except Assemblymen Aizley, Carpenter, and Christensen, who were excused.

Prayer by the Chaplain, Bishop Moises Denis.

Our Heavenly Father, this day we are indeed grateful that we have a new day. We are thankful for our health and we are thankful for our strength. We thank Thee for the privilege and opportunity to serve as public servants here this day. We are thankful for our family, for our friends, and for our other loved ones that support us as we serve. We thank Thee for our wonderful staff, who works so hard to help us accomplish the tasks that must be done. We thank Thee for all of our state employees and all hardworking Nevadans. We thank Thee, also, at this time for the moisture that has been brought to the earth, and we hope that we continue to receive that.

We ask that we be good public servants, and that we will do our best. We ask that Thy Spirit will continue to guide us as we serve. We ask Thee to bless our staff and workers, that they will have the strength and health they need to accomplish their tasks. We ask Thee to bless all Nevadans in these challenging economic times and that Thou will help us to be able to get through them. We ask Thee to bless our families and loved ones, that they will not be found wanting as we serve here in this capacity. We ask, also, a special blessing on those whose lives have been impacted by the flu epidemic, and we ask that we will be able to find the things necessary to find solutions. We ask Thee to bless those that have lost family members. We thank Thee for this day and ask that, as we finish this day, we will be able to travel to our various destinations in safety. I say these things in the Name of Jesus Christ.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 45, 142, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 149, 337, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 59, 120, 237, 462.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 7, 24, 70, 378.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Assemblyman Oceguera moved that SUN PRODUCTIONS: Sunny Minedew; WINNEMUCCA PUBLISHING/HUMBOLDT TIMES: David M. Gouger be accepted as accredited press representatives, and that they be assigned space at the press table in the Assembly Chamber and that they be allowed the use of appropriate broadcasting facilities.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 546—AN ACT relating to insurance; revising the provisions governing the continuation of health care coverage upon termination of employment with certain smaller employers; allowing an additional election period to continue coverage of health insurance for certain former employees; making an appropriation; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 547—AN ACT relating to state financial administration; revising provisions governing the distribution of proceeds collected from fees that must be paid to reinstate the registration of a motor vehicle that has been suspended for failure to have proper insurance; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 7.

Assemblymen Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 24.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 70.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 378.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 535.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 573.

AN ACT relating to the Legislature; making various changes relating to the Legislature and the Legislative Counsel Bureau; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that reports made to the Legislature or the Legislative Counsel Bureau may be submitted electronically. **Sections 2 and 3** of this bill allow a Legislator to purchase and use letterhead and business cards after leaving office if the letterhead or business card clearly identifies the person as a former Legislator or retired Legislator. **Sections 4, 5, 7, 8, ~~[10,]~~ 12, 13 and 14** of this bill ~~[make uniform the]~~ **revise certain** statutes concerning a Legislator who does not seek reelection or who is defeated for reelection. Such a Legislator continues to serve on legislative committees after the general election until the next regular or special session of the Legislature convenes. **Sections 9.5 and 10 of this bill revise the statutes concerning the membership of the Legislative Commission and the Interim Finance Committee to provide that the membership of a Legislator who does not seek reelection or who is defeated for reelection terminates on the day after the general election. Sections 5 and 6** of this bill expand the membership of the Legislative Committee on Public Lands and authorize the Legislative Commission to appoint alternate members. **Section 11** of this bill revises the description of the Administrative Division of the Legislative Counsel Bureau to reflect its duties more accurately.

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

Section 1. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

If a law or resolution requires or directs that a report be made to the Legislature, the Legislative Counsel Bureau, or any person or entity within the Legislature or the Legislative Counsel Bureau, submitting the report in electronic format satisfies the law or resolution.

Sec. 2. NRS 218.048 is hereby amended to read as follows:

218.048 1. After he leaves office and a successor has been elected or appointed, it is unlawful for any Legislator to:

(a) Use any official stationery or business card acquired pursuant to NRS 218.225 ~~[.]~~ ***unless the stationery or business card clearly identifies the person as a former Legislator or retired Legislator;***

(b) Maintain deliberately a listing in any directory, published after that date, which in any manner indicates that he is presently a Legislator; or

(c) Except as otherwise provided in a special act, use on his vehicle a special legislative license plate furnished pursuant to NRS 482.374.

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

Sec. 3. NRS 218.225 is hereby amended to read as follows:

218.225 1. At each regular session of the Legislature, each Legislator is entitled to receive at the expense of the Legislative Fund:

(a) Not to exceed 2,000 letterheads, 8 1/2 inches x 11 inches, and 2,000 half size, or 4,000 of either variety;

(b) Not to exceed 2,000 No. 10 envelopes and 2,000 No. 6 3/4 envelopes, or 4,000 of either variety; and

(c) Not to exceed 2,000 business cards and 1,000 memorandum sheets, 500 each of the small and large type or 1,000 of either type.

2. Each female member of the Assembly is entitled to have the word "Assemblywoman" precede the inscription of her name on her official stationery and business cards.

3. All orders for the printing specified in subsection 1 must be placed by Legislators with the Director of the Legislative Counsel Bureau, who shall approve those claims which comply with the provisions of this section and shall pay the claims from the Legislative Fund.

4. A Legislator may purchase official stationery, cards and other material appropriate to his official duties in excess of that specified in subsection 1 at his own expense ~~[.]~~ ***and may purchase stationery, cards or other material for use after he leaves office if the stationery, cards or other material clearly identifies the person as a former Legislator or retired Legislator.***

Sec. 4. NRS 218.5352 is hereby amended to read as follows:

218.5352 1. The Legislative Committee on Education, consisting of eight legislative members, is hereby created. The membership of the Committee consists of:

(a) Four members appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party.

(b) Four members appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.

2. After the initial selection, the Legislative Commission shall select the Chairman and Vice Chairman of the Committee from among the members of the Committee. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. The Chairmanship of the Committee must alternate each biennium between the houses of the Legislature. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

3. A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the ~~[convening of the]~~ next regular ***or special*** session of the Legislature ~~[.]~~ ***convenes.***

4. A vacancy on the Committee must be filled in the same manner as the original appointment.

Sec. 5. NRS 218.5363 is hereby amended to read as follows:

218.5363 1. There is hereby established a Legislative Committee on Public Lands consisting of ~~[three]~~ ***four*** members of the Senate, ~~[three]~~ ***four*** members of the Assembly and one elected officer representing the governing body of a local political subdivision, appointed by the Legislative Commission with appropriate regard for their experience with and knowledge of matters relating to public lands. The members who are State Legislators must be appointed to provide representation from the various geographical regions of the State.

2. The members of the Committee shall select a Chairman from one House of the Legislature and a Vice Chairman from the other. After the initial selection of a Chairman and a Vice Chairman, each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the ~~[convening of the]~~ next ***regular or special*** session of the Legislature ~~[.]~~ ***convenes.***

4. ***The Legislative Commission may appoint alternates for members of the Committee.*** Vacancies on the Committee must be filled in the same manner as original appointments. ***The Chairman of the Committee may designate an alternate appointed by the Legislative Commission to serve in place of a regular member who is unable to attend a meeting. The Chairman shall appoint an alternate who is a member of the same House and political party as the regular member to serve in place of the regular member if one is available.***

Sec. 6. NRS 218.5365 is hereby amended to read as follows:

218.5365 1. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee. The Research Director of the Legislative Counsel Bureau or a person he has designated shall act as the nonvoting recording Secretary. The Committee shall prescribe regulations for its own management and government. ~~[Four]~~ ***Five*** members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

2. Except during a regular or special session of the Legislature, the members of the Committee who are State Legislators are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day of attendance at a meeting of the Committee and while engaged in the business of the Committee. Per diem allowances, compensation and travel expenses of the legislative members of the Committee must be paid from the Legislative Fund.

3. The member of the Committee who represents a local political subdivision is entitled to receive the subsistence allowances and travel expenses provided by law for his position for each day of attendance at a meeting of the Committee and while engaged in the business of the Committee, to be paid by his local political subdivision.

Sec. 7. NRS 218.5382 is hereby amended to read as follows:

218.5382 1. If:

(a) The Legislature, by concurrent resolution, during a regular legislative session; or

(b) The Interim Finance Committee, by resolution, while the Legislature is not in regular session,

➥ determines that the performance of a fundamental review of the base budget of a particular agency is necessary, the Interim Finance Committee shall create a legislative committee for the fundamental review of the base budgets of state agencies. The Interim Finance Committee may create more than one such committee if the number of agencies designated for review warrants additional committees. If more than one such committee is created, the Interim Finance Committee shall determine which agencies are to be reviewed by the respective committees.

2. Each such committee must consist of an equal number of members of the Senate and the Assembly. The Interim Finance Committee shall appoint the members of a committee. At least a majority of the members of a committee must be members of the Interim Finance Committee. The Interim Finance Committee shall designate the chairman of a committee.

3. Any member of a committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election***

until the next ***regular or special*** session of the Legislature ~~[is convened.]~~ ***convenes.***

4. Vacancies on a committee must be filled in the same manner as original appointments.

5. A majority of the members appointed to a committee constitutes a quorum.

6. The Director of the Legislative Counsel Bureau shall assign employees of the Legislative Counsel Bureau to provide such technical, clerical and operational assistance to a committee as the functions and operations of the committee may require.

Sec. 8. NRS 218.53871 is hereby amended to read as follows:

218.53871 1. There is hereby created the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System consisting of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission with appropriate regard for their experience with and knowledge of matters relating to the management of natural resources. The members must be appointed to provide representation from the various geographical regions of the State.

2. The members of the Committee shall elect a Chairman from one house of the Legislature and a Vice Chairman from the other house. Each Chairman and Vice Chairman holds office for a term of 2 years commencing on July 1 of each odd-numbered year.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the next ***regular or special*** session of the Legislature convenes.

4. Vacancies on the Committee must be filled in the same manner as original appointments.

5. The Committee shall report annually to the Legislative Commission concerning its activities and any recommendations.

Sec. 9. NRS 218.610 is hereby amended to read as follows:

218.610 As used in NRS 218.610 to 218.735, inclusive, ***and section 1 of this act,*** "agency of the State" includes all offices, departments, boards, commissions and institutions of the State.

Sec. 9.5. **NRS 218.660 is hereby amended to read as follows:**

218.660 1. There is hereby created in the Legislative Counsel Bureau a Legislative Commission consisting of 12 members.

2. At each regular session of the Legislature held in odd-numbered years, the Senate shall, by resolution, designate six Senators as regular members of the Legislative Commission and six Senators as alternates, and the Assembly shall, by resolution, designate six Assemblymen as regular members of the Legislative Commission and six Assemblymen as alternates.

3. The Legislature shall determine by joint rule at each regular session of the Legislature in odd-numbered years:

(a) The method of determining the majority party and the minority party regular and alternate membership on the Legislative Commission.

(b) The method of filling vacancies on the Legislative Commission.

(c) ~~[~~The terms of office of members.

~~(d)]~~ The method of selecting the Chairman.

~~[(e)]~~ ***(d)*** The term of office of the Chairman.

4. The members of the Legislative Commission serve until their successors are appointed by resolution as provided in this section, except that the membership of any member who does not become a candidate for reelection or who is defeated for reelection terminates on the day next after the election and the vacancy must be filled as provided by the joint rule adopted pursuant to subsection 3.

Sec. 10. NRS 218.6825 is hereby amended to read as follows:

218.6825 1. There is hereby created in the Legislative Counsel Bureau an Interim Finance Committee ***. Except as otherwise provided in this section, the Interim Finance Committee is*** composed of the members of the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance during the current or immediately preceding session of the Legislature. ~~[~~The~~]~~

2. Except as otherwise provided in this subsection, the immediate past Chairman of the Senate Standing Committee on Finance is the Chairman of the Interim Finance Committee for the period ending with the convening of each even-numbered regular session of the Legislature. The immediate past Chairman of the Assembly Standing Committee on Ways and Means is the Chairman of the Interim Finance Committee during the next legislative interim, and the chairmanship alternates between the houses of the Legislature according to this pattern.

~~[2.]~~ ***The term of the Chairman of the Interim Finance Committee terminates if a new Chairman of the Assembly Standing Committee on Ways and Means or the Senate Standing Committee on Finance, as the case may be, is designated for the next regular session of the Legislature, in which case that person so designated serves as the Chairman of the Committee until the convening of that regular session.***

3. If any regular member of the ***Interim Finance*** Committee informs the Secretary that he will be unable to attend a particular meeting, the Secretary shall notify the Speaker of the Assembly or the Majority Leader of the Senate, as the case may be, to appoint an alternate for that meeting from the same house and political party as the absent member.

~~[3.]~~ ***4. Except as otherwise provided in subsection 5, the term of a member of the Interim Finance Committee expires upon the convening of the next regular session of the Legislature unless the member is replaced by the appointing authority. If the Speaker designate of the Assembly or the Majority Leader designate of the Senate designates members of the Assembly Standing Committee on Ways and Means or the Senate Standing Committee on Finance, as applicable, for the next ensuing regular session***

of the Legislature, the designated members become members of the Interim Finance Committee. A member may be reappointed.

5. The membership of any member who does not become a candidate for reelection or who is defeated for reelection ~~[continues *after the general election* until the next *regular or special* session of the Legislature]~~ ~~[~~is convened.~~]~~ ~~*[convenes.*~~

~~4.]~~ ***terminates on the day next after the general election. The Speaker designate of the Assembly or the Majority Leader designate of the Senate, as the case may be, shall appoint an alternate to fill the vacancy on the Interim Finance Committee. Except as otherwise provided in this subsection, each alternate serves on the Committee:***

(a) If he is a member of the Assembly, until the Speaker designate of the Assembly designates the members of the Assembly Standing Committee on Ways and Means for the next ensuing regular session of the Legislature or appoints a different alternate.

(b) If he is a member of the Senate, until the Majority Leader designate of the Senate designates the members of the Senate Standing Committee on Finance for the next ensuing regular session of the Legislature or appoints a different alternate.

6. The Director of the Legislative Counsel Bureau shall act as the Secretary of the Interim Finance Committee.

~~[5.]~~ ***7.*** A majority of the members of the Assembly Standing Committee on Ways and Means and a majority of the members of the Senate Standing Committee on Finance, jointly, may call a meeting of the Interim Finance Committee if the Chairman does not do so.

~~[6.]~~ ***8.*** In all matters requiring action by the Interim Finance Committee, the vote of the Assembly and Senate members must be taken separately. No action may be taken unless it receives the affirmative vote of a majority of the Assembly members and a majority of the Senate members.

~~[7.]~~ ***9.*** Except during a regular or special session of the Legislature, each member of the Interim Finance Committee and appointed alternate is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a Committee meeting or is otherwise engaged in Committee work plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207. All such compensation must be paid from the Contingency Fund in the State Treasury.

Sec. 11. NRS 218.6851 is hereby amended to read as follows:

218.6851 1. The Administrative Division consists of the Chief of the Division and such staff as he may require.

2. The Administrative Division is responsible for:

(a) Accounting ~~[;]~~ ***and human resources;***

(b) ***Audio and video services;***

(c) Communication equipment;

~~[(c)]~~ ***(d)*** Control of inventory;
~~[(d)]~~ ***(e) Information technology services;***
(f) Janitorial services;
~~[(e)]~~ ***(g)*** Maintenance of buildings, grounds and vehicles;
~~[(f)]~~ ***(h)*** Purchasing;
~~[(g)]~~ ***(i)*** Security;
~~[(h)]~~ ***(j)*** Shipping and receiving;
~~[(i)]~~ ***(k)*** Utilities;
~~[(j)]~~ ***and***
(l) Warehousing operations**.** ~~[;~~
~~(k) Data processing; and~~
~~(l) Reproduction of documents.]~~

3. The Legislative Commission may assign any other appropriate function to the Administrative Division.

Sec. 12. NRS 417.230 is hereby amended to read as follows:

417.230 1. There are hereby created the Advisory Committee for a Veterans' Cemetery in Northern Nevada and the Advisory Committee for a Veterans' Cemetery in Southern Nevada, each consisting of seven members as follows:

(a) One member of the Senate, appointed by the Majority Leader of the Senate.

(b) One member of the Assembly, appointed by the Speaker of the Assembly.

(c) Five members of veterans' organizations in this State, appointed by the Governor.

2. The members of the Committees shall serve terms of 2 years.

3. Each Committee shall annually elect a Chairman and a Vice Chairman from among its members.

4. Each Committee shall meet at least 4 times a year.

5. Any legislative member of a Committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the ~~[convening of the]~~ next ***regular or special*** session of the Legislature ~~[.]~~ ***convenes.***

6. While engaged in the work of the Committee, each member of each Committee is entitled to receive the per diem allowances and travel expenses provided for state officers and employees generally.

7. The Executive Director shall consult with each Committee regarding the establishment, maintenance and operation of the veterans' cemetery for which the Committee was created.

Sec. 13. NRS 439B.200 is hereby amended to read as follows:

439B.200 1. There is hereby established a Legislative Committee on Health Care consisting of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission. The members must be appointed with appropriate regard for their experience with and knowledge of matters relating to health care.

2. No member of the Committee may:

(a) Have a financial interest in a health facility in this State;

(b) Be a member of a board of directors or trustees of a health facility in this State;

(c) Hold a position with a health facility in this State in which the Legislator exercises control over any policies established for the health facility; or

(d) Receive a salary or other compensation from a health facility in this State.

3. The provisions of subsection 2 do not:

(a) Prohibit a member of the Committee from selling goods which are not unique to the provision of health care to a health facility if the member primarily sells such goods to persons who are not involved in the provision of health care.

(b) Prohibit a member of the Legislature from serving as a member of the Committee if:

(1) The financial interest, membership on the board of directors or trustees, position held with the health facility or salary or other compensation received would not materially affect the independence of judgment of a reasonable person; and

(2) Serving on the Committee would not materially affect any financial interest he has in a health facility in a manner greater than that accruing to any other person who has a similar interest.

4. The Legislative Commission shall select the Chairman and Vice Chairman of the Committee from among the members of the Committee. Each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. The chairmanship of the Committee must alternate each biennium between the houses of the Legislature.

5. Any member of the Committee who does not ~~[return to the Legislature]~~ ***become a candidate for reelection or who is defeated for reelection*** continues to serve ***after the general election*** until the next ***regular or special*** session of the Legislature convenes.

6. Vacancies on the Committee must be filled in the same manner as original appointments.

7. The Committee shall report annually to the Legislative Commission concerning its activities and any recommendations.

Sec. 14. Section 56 of chapter 531, Statutes of Nevada 2007, at page 3302, is hereby amended to read as follows:

Sec. 56. 1. There is hereby created the Legislative Committee to Oversee the Western Regional Water Commission created pursuant to section 23 of this act. The Committee must:

(a) Consist of six Legislators as follows:

(1) One member of the Senate appointed by the Chairman of the Senate Committee on Natural Resources;

(2) One member of the Assembly appointed by the Chairman of the Assembly Committee on Natural Resources, Agriculture, and Mining;

(3) One member of the Senate appointed by the Majority Leader of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) One member of the Assembly appointed by the Speaker of the Assembly; and

(6) One member of the Assembly appointed by the Minority Leader of the Assembly.

(b) Insofar as practicable, represent the various areas within the planning area.

(c) Elect a Chairman and a Vice Chairman from among its members. The Chairman must be elected from one House of the Legislature and the Vice Chairman from the other House. After the initial selection of a Chairman and a Vice Chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

2. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the next ***regular or special*** session of the Legislature convenes.

3. Vacancies on the Committee must be filled in the same manner as original appointments.

4. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

5. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary.

6. The Committee shall prescribe regulations for its own management and government.

7. Except as otherwise provided in subsection 8, four members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee.

8. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

9. Except during a regular or special session of the Legislature, the members of the Committee are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the Committee and while engaged in the business of the Committee. The

salaries and expenses paid pursuant to this subsection and the expenses of the Committee must be paid from the Legislative Fund.

10. The Committee shall review the programs and activities of the Western Regional Water Commission. The review must include an analysis of potential consolidation of the retail distribution systems and facilities of all public purveyors in the planning area, which is described in section 22 of this act.

11. The Committee may:

(a) Conduct investigations and hold hearings in connection with its powers pursuant to this section.

(b) Direct the Legislative Counsel Bureau to assist in the study of issues related to oversight of the Western Regional Water Commission.

12. In conducting the investigations and hearings of the Committee:

(a) The Secretary of the Committee or, in his absence, any member of the Committee may administer oaths.

(b) The Secretary or Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

13. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena issued pursuant to this section, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

14. Upon a petition pursuant to subsection 13, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

15. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

16. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.

17. On or before January 15 of each odd-numbered year, the Committee shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the review conducted pursuant to subsection 10 and any recommendations for legislation.

Sec. 15. 1. This act becomes effective on July 1, 2009.

2. Section 14 of this act expires by limitation on July 1, 2013.

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 536.

Bill read second time and ordered to third reading.

Assembly Bill No. 538.

Bill read second time and ordered to third reading.

Senate Bill No. 12.

Bill read second time and ordered to third reading.

Senate Bill No. 14.

Bill read second time and ordered to third reading.

Senate Bill No. 19.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 585.

AN ACT relating to education; revising provisions governing the award of grants of money from the Account for Programs for Innovation and the Prevention of Remediation by the Commission on Educational Excellence; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Commission on Educational Excellence awards grants of money from the Account for Programs for Innovation and the Prevention of Remediation for programs designed for pupils enrolled in kindergarten through grade 6 and pupils enrolled in grades 7 through 12. (NRS 385.3781-385.379) This bill requires the Commission, when awarding grants for programs designed for pupils enrolled in grades 7 through 12, to give ~~[first]~~ priority to applications for programs designed for pupils enrolled in grades 7 and 8 who have not completed the courses of study or credits required for promotion to the next grade or promotion to high school, as applicable. (NRS 385.3785)

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

Section 1. NRS 385.3785 is hereby amended to read as follows:

385.3785 1. The Commission shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) The plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;

(3) The plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation; and

(4) Any other information that the Commission considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by public schools and consortiums of public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both. The Commission shall not award a grant of money from the Account for a program to provide full-day kindergarten. All public schools and consortiums of public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the schools have made adequate yearly progress or failed to make adequate yearly progress. A public school or a consortium of public schools selected for participation may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from public schools and consortiums of public schools that desire to participate in the program.

(e) Establish guidelines for the review, evaluation and approval of applications for grants of money from the Account, including, without limitation, consideration of the list of priorities of public schools provided by the Department pursuant to subsection 5. To ensure consistency in the review, evaluation and approval of applications, if the guidelines authorize the review and evaluation of applications by less than the entire membership of the Commission, money must not be allocated from the Account for a

grant until the entire membership of the Commission has reviewed and approved the application for the grant.

(f) Prescribe accountability measures to be carried out by a public school that participates in the program if that public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of schools that participate; and

(2) Conditions for schools that do not meet the grant criteria but desire to continue participation in the program and receive money from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

(g) Determine the amount of money that is available from the Account for those public schools and consortiums of public schools that are selected to participate in the program.

(h) Allocate money to public schools and consortiums of public schools from the Account. Allocations must be distributed not later than August 15 of each year.

(i) Establish criteria for public schools and consortiums of public schools that participate in the program and receive an allocation of money from the Account to evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria identified in the plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(2) If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff;

(3) The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the school is meeting the measurable objectives identified in the plan; and

(4) The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the Commission shall make allocations of money to public schools and consortiums of public schools for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for pupils. In making such allocations, the Commission shall ~~[comply]~~ ***:***

(a) Comply with the requirements of subsection 1 ~~[.]~~ ***; and***

(b) Give ~~*[first]*~~ ***priority to applications which propose to establish or maintain a program that is designed for pupils enrolled in grades 7 and 8 who have not completed the courses of study or credits required for promotion to the next grade or promotion to high school, as applicable, and that assists those pupils in making a successful transition to high school. If more applications are submitted for such programs than the***

amount of money available, the Commission shall make its determination based upon the list of priorities of schools provided by the Department pursuant to subsection 5.

3. The Commission shall ensure, to the extent practicable, that grants of money provided pursuant to this section reflect the economic and geographic diversity of this State.

4. If a public school or consortium that receives money pursuant to subsection 1 or 2:

(a) Does not meet the criteria for effectiveness as prescribed in paragraph (i) of subsection 1;

(b) Does not, as a result of the program for which the grant of money was awarded, show improvement in the achievement of pupils, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379; or

(c) Does not implement the program for which the money was received, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379,

➥ over a 2-year period, the Commission may consider not awarding future allocations of money to that public school or consortium of public schools.

5. On or before July 1 of each year, the Department shall provide a list of priorities of public schools that indicates:

(a) The adequate yearly progress status of schools in the immediately preceding year; and

(b) The public schools that are considered Title I eligible by the Department based upon the poverty level of the pupils enrolled in a school in comparison to the poverty level of the pupils in the school district as a whole,

➥ for consideration by the Commission in its development of procedures for the applications.

6. A public school, including, without limitation, a charter school, or a consortium of public schools may request assistance from the school district in which the school is located in preparing an application for a grant of money pursuant to this section. A school district shall assist each public school or consortium of public schools that requests assistance pursuant to this subsection to ensure that the application of the school:

(a) Is based directly upon the plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;

(b) Is developed in accordance with the criteria established by the Commission; and

(c) Is complete and complies with all technical requirements for the submission of an application.

➥ A school district may make recommendations to the individual schools and consortiums of public schools. Such schools and consortiums of public schools are not required to follow the recommendations of a school district.

7. In carrying out the requirements of this section, the Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of

supplemental ***educational*** services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218.5354 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

8. If a consortium of public schools is formed for the purpose of submitting an application pursuant to this section, the public schools within the consortium do not need to be located within the same school district.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 106.

Bill read second time and ordered to third reading.

Senate Bill No. 141.

Bill read second time and ordered to third reading.

Senate Bill No. 161.

Bill read second time and ordered to third reading.

Senate Bill No. 164.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 586.

AN ACT relating to education; revising provisions governing the renewal of a written charter for a charter school; revising provisions regarding the membership of a governing body of a charter school; revising provisions governing reimbursement to sponsors of charter schools for certain administrative costs; revising provisions governing the regional training programs for the professional development of teachers and administrators; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the time by which a charter school must submit an application for the renewal of the written charter from not less than 90 days before the expiration of the charter to not less than 120 days before the expiration of the charter. (NRS 386.530)

Existing law prescribes the membership of a governing body of a charter school. (NRS 386.549) **Section 2** of this bill authorizes the sponsor of the charter school ~~[, upon the request of the governing body, to nominate]~~ **to appoint** one additional member to the governing body.

Existing law authorizes the sponsor of a charter school to request, upon completion of each school year, reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship.

(NRS 386.570) **Section 3** of this bill revises the payments for reimbursement of administrative costs from yearly to quarterly.

Existing law creates four regional training programs for the professional development of teachers and administrators. Each regional training program is required to provide certain services to the school districts within the primary jurisdiction of the program. (NRS 391.512) **Sections 4-7** of this bill require each regional training program to also provide services to each charter school located within the primary jurisdiction of the regional training program, regardless of the sponsor of the charter school, and each university school for profoundly gifted pupils located within the primary jurisdiction of the regional training program.

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

Section 1. NRS 386.530 is hereby amended to read as follows:

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than ~~[90]~~ ***120*** days before the expiration of the charter. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

Sec. 2. NRS 386.549 is hereby amended to read as follows:

386.549 1. The governing body of a charter school ~~[:~~

~~(a) Must]~~ ***must*** consist of:

~~[(1)]~~ ***(a)*** At least three teachers, as defined in subsection ~~[5,]~~ ***10;*** or

~~[(2)]~~ ***(b)*** Two teachers, as defined in subsection ~~[5,]~~ ***10,*** and one person who previously held a license to teach issued pursuant to chapter 391 of NRS as long as his license was held in good standing, including, without limitation, a retired teacher.

~~[(b) May consist of,]~~

2. The governing body of a charter school may include, without limitation, parents and representatives of nonprofit organizations and businesses.

~~[➥]~~

3. ~~[*After the formation of the governing body of a charter school, the governing body may request that the sponsor nominate one person to serve on the governing body.*]~~ ***The sponsor of a charter school may appoint one additional member to serve on the governing body of the charter school.***

4. Not more than two persons who serve on the governing body ***of a charter school*** may represent the same organization or business or otherwise represent the interests of the same organization or business.

5. A majority of the members of the governing body must reside in this State.

6. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

~~[2.]~~ ***7.*** A person may serve on the governing body only if he submits an affidavit to the Department indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to the person by the Department.

~~[3.]~~ ***8.*** The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

~~[4.]~~ ***9.*** The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which the charter school is located.

~~[5.]~~ ***10.*** As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➥ The term does not include a person who is employed as a substitute teacher.

Sec. 3. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of ~~[a]~~ ***each*** school ~~[year,]~~ ***quarter,*** the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school ~~[year]~~ ***quarter*** if the sponsor provided administrative services during that school ~~[year.]~~ ***quarter.*** The request must include an itemized list of those costs. Upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant

to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with

applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 4. NRS 391.512 is hereby amended to read as follows:

391.512 1. There are hereby created the Southern Nevada Regional Training Program, the Western Nevada Regional Training Program, the Northeastern Nevada Regional Training Program and the Northwestern Nevada Regional Training Program. The governing body of each regional training program shall establish and operate a:

(a) Regional training program for the professional development of teachers and administrators.

(b) Nevada Early Literacy Intervention Program through the regional training program established pursuant to paragraph (a).

2. Except as otherwise provided in subsection 6, the Southern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by ***each*** school ~~[districts]~~ ***district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located*** in:

(a) Clark County;

(b) Esmeralda County;

(c) Lincoln County; and

(d) Nye County.

3. Except as otherwise provided in subsection 6, the Western Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by ***each*** school ~~[districts]~~ ***district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located*** in:

(a) Carson City;

(b) Churchill County;

(c) Douglas County;

(d) Lyon County; and

(e) Mineral County.

4. Except as otherwise provided in subsection 6, the Northeastern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by ***each*** school ~~[districts]~~ ***district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located*** in:

(a) Elko County;

(b) Eureka County;
(c) Lander County;
(d) Humboldt County; and
(e) White Pine County.

5. Except as otherwise provided in subsection 6, the Northwestern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by ***each*** school ~~[districts]~~ ***district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located*** in:

(a) Pershing County;
(b) Storey County; and
(c) Washoe County.

6. Each regional training program shall, when practicable, make reasonable accommodations for the attendance of teachers and administrators who are employed by school districts outside the primary jurisdiction of the regional training program.

7. The board of trustees of the:

(a) Clark County School District shall serve as the fiscal agent for the Southern Nevada Regional Training Program.

(b) Douglas County School District shall serve as the fiscal agent for the Western Nevada Regional Training Program.

(c) Elko County School District shall serve as the fiscal agent for the Northeastern Nevada Regional Training Program.

(d) Washoe County School District shall serve as the fiscal agent for the Northwestern Nevada Regional Training Program.

➥ As fiscal agent, each school district is responsible for the payment, collection and holding of all money received from this State for the maintenance and support of the regional training program and Nevada Early Intervention Program established and operated by the applicable governing body.

Sec. 5. NRS 391.520 is hereby amended to read as follows:

391.520 1. The Statewide Council shall meet not less than four times per year.

2. The Statewide Council shall:

(a) Adopt uniform standards for use by the governing body of each regional training program in the review and approval by the governing body of the training to be provided by the regional training program pursuant to NRS 391.540 and 391.544. The standards must ensure that the training provided by the regional training programs includes activities set forth in 20 U.S.C. § 7801(34), as appropriate for the type of training offered, is of high quality and is effective in addressing the training programs specified in subsection 1 of NRS 391.544.

(b) Coordinate the dissemination of information to school districts, ***charter schools, university schools for profoundly gifted pupils,***

administrators and teachers concerning the training, programs and services provided by the regional training programs.

(c) Disseminate information to the regional training programs concerning innovative and effective methods to provide professional development.

(d) Conduct long-range planning concerning the professional development needs of teachers and administrators employed in this State.

(e) Adopt uniform procedures for use by the governing body of each regional training program to report the evaluation conducted pursuant to NRS 391.552.

3. The Statewide Council may:

(a) Accept gifts and grants from any source for use by the Statewide Council in carrying out its duties pursuant to this section and accept gifts and grants from any source on behalf of one or more regional training programs to assist with the training provided pursuant to NRS 391.544; and

(b) Comply with applicable federal laws and regulations governing the provision of federal grants to assist the Statewide Council in carrying out its duties pursuant to this section and comply with applicable federal laws and regulations governing the provision of federal grants to assist with the training provided pursuant to NRS 391.544, including, without limitation, providing money from the budget of the Statewide Council to match the money received from a federal grant.

Sec. 6. NRS 391.540 is hereby amended to read as follows:

391.540 1. The governing body of each regional training program shall:

(a) Adopt a training model, taking into consideration other model programs, including, without limitation, the program used by the Geographic Alliance in Nevada.

(b) Assess the training needs of teachers and administrators who are employed by the school districts ***, charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils*** within the primary jurisdiction of the regional training program and adopt priorities of training for the program based upon the assessment of needs. The board of trustees of each such school district ***, the governing body of each such charter school and the governing body of each such university school for profoundly gifted pupils*** may submit recommendations to the ~~[~~appropriate~~]~~ governing body ***of the appropriate regional training program*** for the types of training that should be offered by the regional training program.

(c) In making the assessment required by paragraph (b), review the plans to improve the achievement of pupils prepared pursuant to NRS 385.348 by the school districts within the primary jurisdiction of the regional training program and, as deemed necessary by the governing body, review the plans to improve the achievement of pupils prepared pursuant to NRS 385.357 for individual schools within the primary jurisdiction of the regional training program.

(d) Prepare a 5-year plan for the regional training program, which includes, without limitation:

(1) An assessment of the training needs of teachers and administrators who are employed by the school districts ***, charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils*** within the primary jurisdiction of the regional training program; and

(2) Specific details of the training that will be offered by the regional training program for the first 2 years covered by the plan.

(e) Review the 5-year plan on an annual basis and make revisions to the plan as are necessary to serve the training needs of teachers and administrators employed by the school districts ***, charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils*** within the primary jurisdiction of the regional training program.

2. The Department, the Nevada System of Higher Education ***,*** ~~[and]~~ the board of trustees of a school district ***, the governing body of a charter school and the governing body of a university school for profoundly gifted pupils*** may request the governing body of the regional training program that serves the school district ***, charter school or university school for profoundly gifted pupils*** to ~~[provide]~~ ***:***

(a) Provide training ~~[, participate]~~ ***;***

(b) Participate in a program ***;*** or ~~[otherwise]~~

(c) Otherwise perform a service ***,***

➥ that is in addition to the duties of the regional training program that are set forth in the plan adopted pursuant to this section or otherwise required by statute.

3. An entity may not represent that a regional training program will perform certain duties or otherwise obligate the regional training program as part of an application by that entity for a grant unless the entity has first obtained the written confirmation of the governing body of the regional training program to perform those duties or obligations.

4. The governing body of a regional training program may, but is not required to, grant a request pursuant to ~~[this subsection.]~~ ***subsection 2.***

Sec. 7. NRS 391.544 is hereby amended to read as follows:

391.544 1. Based upon the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391.540, each regional training program must provide:

(a) Training for teachers in the standards established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

(1) Phonemic awareness;

(2) Phonics;

(3) Vocabulary;

(4) Fluency;

(5) Comprehension; and

(6) Motivation.

(c) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b) of subsection 1, training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are limited English proficient.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

➥ The governing body shall provide a copy of the list on an annual basis to ***the*** school districts ***, charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils*** for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district ***, the governing body of a charter school or the governing body of a university school for profoundly gifted pupils*** that is served by the regional training program as set forth in NRS 391.512 to provide professional development to the teachers and administrators employed by the

school district ***, charter school or university school for profoundly gifted pupils, as applicable,*** that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

Sec. 8. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 186.

Bill read second time and ordered to third reading.

Senate Bill No. 216.

Bill read second time and ordered to third reading.

Senate Bill No. 240.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Assembly Bill No. 312 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 391.

Bill read second time and ordered to third reading.

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

Assembly in recess at 12:33 p.m.

ASSEMBLY IN SESSION

At 12:37 p.m.

Madam Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 238.

Bill read third time.

Remarks by Assemblyman Horne.
Roll call on Assembly Bill No. 238:
YEAS—39.
NAYS—None.
EXCUSED—Aizley, Carpenter, Christensen—3.
Assembly Bill No. 238 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

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

Assembly in recess at 12:40 p.m.

ASSEMBLY IN SESSION

At 12:41 p.m.
Mr. Speaker pro Tempore presiding.
Quorum present.

Assembly Bill No. 446.
Bill read third time.
Remarks by Assemblymen Buckley, Gansert, and Cobb.
Roll call on Assembly Bill No. 446:
YEAS—39.
NAYS—None.
EXCUSED—Aizley, Carpenter, Christensen—3.
Assembly Bill No. 446 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed, as amended.
Bill ordered transmitted to the Senate.

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

Assembly in recess at 12:49 p.m.

ASSEMBLY IN SESSION

At 12:49 p.m.
Madam Speaker presiding.
Quorum present.

Senate Bill No. 48.
Bill read third time.
Remarks by Assemblywoman Pierce.
Roll call on Senate Bill No. 48:
YEAS—39.
NAYS—None.
EXCUSED—Aizley, Carpenter, Christensen—3.

Senate Bill No. 48 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 83.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Senate Bill No. 83:

YEAS—39.

NAYS—None.

EXCUSED—Aizley, Carpenter, Christensen—3.

Senate Bill No. 83 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 156.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Senate Bill No. 156:

YEAS—39.

NAYS—None.

EXCUSED—Aizley, Carpenter, Christensen—3.

Senate Bill No. 156 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 314.

Bill read third time.

Remarks by Assemblyman Mortenson.

Roll call on Senate Bill No. 314:

YEAS—39.

NAYS—None.

EXCUSED—Aizley, Carpenter, Christensen—3.

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

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 528 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 528.

Bill read third time.

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

Amendment No. 591.

SUMMARY—~~[Eliminates]~~ **Temporarily suspends** the requirement that the State Library and Archives be open to the public during certain days and hours. (BDR 33-1198)

AN ACT relating to the Department of Cultural Affairs; ~~[eliminating]~~ **temporarily suspending** the requirement that the State Library and Archives be open to the public during certain days and hours; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~[eliminates]~~ **suspends for 2 years** the requirement in existing law that the State Library and Archives be open for the use of the public for at least 5 days in each week and for at least 8 hours in each day with the exception of legal holidays. (NRS 378.070)

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

Section 1. NRS 378.070 is hereby amended to read as follows:

378.070 The State Library and Archives Administrator may designate the hours that the State Library and Archives must be open for the use of the public **.** ~~[, but they must be open for at least 5 days in each week and for at least 8 hours in each day with the exception of legal holidays.]~~

Sec. 2. This act becomes effective on July 1, 2009 ~~[.]~~ **, and expires by limitation on June 30, 2011.**

Assemblyman Arberry moved the adoption of the amendment.

Remarks by Assemblyman Arberry.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 23, 28, 37, 61, 74, 93, 96, 105, 114, 133, 163, 164, 180, 187, 188, 216, 226, 247, 253, 264, 280, 286, 322, 332, 338, 384, 407, 412, 417, 477, 509, 517 and 518.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Myah Michelle Gustavson.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, May 5, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 1 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE NINETY-THIRD DAY

CARSON CITY (Tuesday), May 5, 2009

Assembly called to order at 11:40 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman Arberry, who was excused.

Prayer by the Chaplain, Reverend Patrick Propster.

Proverbs 22:28 & 29:

"Do not remove the old landmark (the ancient boundary) which your fathers have set. Do you see a man diligent (skilled in his work) in his business? He shall stand before kings; he shall not stand before obscure (unknown) men."

Lord, we know that landmarks are important and that at times change is inevitable. We also know nothing happens in government without a reason or purpose behind it. Therefore, we pray that any and all decisions or changes that would need to be made during these days here and now would all be made on the foundation and for the glory of You.

Oh Gracious Heavenly Father, please, would You grant these here in this room and in this place, the wisdom, the discernment, and the insight to know the heart and the mind of You, for the sake of You and future of us.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 49, 91, 129, 335, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 220, 304, 307, 343, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 348, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which were referred Senate Bills Nos. 280, 300, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 20, 81, 426, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

SHEILA LESLIE, VICE *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that for the balance of the session, the reading of the histories on all bills and resolutions be dispensed with.

Motion carried.

Assemblyman Oceguera moved that for the balance of the session, all bills and resolutions reported out of committee be immediately placed on the appropriate reading file.

Motion carried.

By Assemblywoman Buckley:

Assembly Concurrent Resolution No. 30—Directing the Legislative Commission to conduct an interim study on the development and promotion of logistics and distribution centers in this State.

Assemblywoman Koivisto moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Assemblyman Claborn moved that Senate Bill No. 108 be taken from the Chief Clerk's desk and placed on the Second Reading File.

Motion carried.

Assemblywoman Smith moved that Senate Bill No. 186 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 106 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Parnell moved that Senate Bill No. 19 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Parnell moved that Senate Bill No. 164 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 548—AN ACT relating to state financial administration; revising the manner of calculating the maximum fee per transaction for the use of a credit card, debit card or electronic transfer of money to make a payment to a state agency, local government or court; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 549—AN ACT relating to state financial administration; temporarily suspending the requirement to transfer money from the Abandoned Property Trust Account in the State General Fund to the Millennium Scholarship Trust Fund; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 550—AN ACT relating to state parks; requiring the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to establish a commercial wedding program at the Boulder Dam-Valley of Fire State Park; requiring the Administrator to impose and collect a fee for weddings held at the Park under the program; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 551—AN ACT relating to taxation; imposing a tax on the provision of video service to subscribers in this State; making an appropriation; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 552—AN ACT relating to taxation; increasing the fee charged by the State for collecting local sales and use taxes; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 553—AN ACT making an appropriation for the coordination of student and family services in Nevada schools; and providing other matters properly relating thereto.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 337.

Bill read second time.

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

Amendment No. 592.

SUMMARY—Creates the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure in the Office of the Attorney General **.** ~~[and makes various other changes concerning children who are endangered by drug exposure.]~~ (BDR 38-593)

AN ACT relating to the protection of children; creating the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure ~~[; making various other changes concerning children who are endangered by drug exposure;]~~ **in the Office of the Attorney General;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure in the Office of the Attorney General. The Attorney General appoints the Statewide Coordinator for Children Who Are Endangered by Drug Exposure, who will engage in activities to assist in the establishment of programs for children who are endangered by drug exposure and to educate the public about children who are endangered by drug exposure. ~~[Sections]~~ **Section 2** ~~[and 5]~~ of this bill ~~[define]~~ **defines** "child who is endangered by drug exposure" for the purposes of these provisions **.** ~~[and the chapter concerning the protection of children. Section 6 of this bill includes "child who is endangered by drug exposure" within the provision which describes when negligent treatment or maltreatment of a child occurs. (NRS 432B.140)]~~

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

Section 1. Chapter ~~[432B]~~ **228** of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***"Child who is endangered by drug exposure" means:***

1. A child who is born affected by prenatal illegal substance abuse or who has withdrawal symptoms resulting from such abuse, or has experienced other complications at birth as a result of such abuse as determined by a physician;

2. A child who illegally has a controlled substance is his body as a direct and foreseeable result of the act or omission of the parent, guardian or other person who exercises control or supervision of the child; or

3. A child who is allowed, in violation of NRS 453.3325, to be present in any conveyance or upon any premises wherein a controlled substance is unlawfully possessed, used, sold, exchanged, bartered, supplied, prescribed, dispensed, given away, administered, manufactured or compounded in violation of any of the provisions of NRS 453.011 to 453.552, inclusive.

Sec. 3. ***1. The Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure is hereby created in the Office of the Attorney General.***

2. The Attorney General shall appoint a person to serve as Statewide Coordinator who is knowledgeable about the legal and societal aspects of children who are endangered by drug exposure.

3. The Statewide Coordinator is in the unclassified service of the State.

Sec. 4. ***1. The Statewide Coordinator for Children Who Are Endangered by Drug Exposure shall:***

(a) Provide necessary assistance to communities and local governments in establishing programs for children who are endangered by drug exposure.

(b) Provide education to the public concerning children who are endangered by drug exposure.

(c) Perform such other tasks as are necessary to carry out his duties and the functions of his office.

2. The Attorney General may accept grants, gifts, donations, bequests or devises on behalf of the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure which must be used to carry out the duties of the Statewide Coordinator.

Sec. 5. ~~[NRS 432B.010 is hereby amended to read as follows:~~

~~432B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432B.020 to 432B.110, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[NRS 432B.140 is hereby amended to read as follows:~~

~~432B.140 Negligent treatment or maltreatment of a child occurs if a child has been abandoned, is without proper care, control and supervision *, is a child who is endangered by drug exposure* or lacks the subsistence, education, shelter, medical care or other care necessary for the well-being of the child because of the faults or habits of the person responsible for his~~

~~welfare or his neglect or refusal to provide them when able to do so.~~] **(Deleted by amendment.)**

Sec. 7. This act becomes effective on July 1, 2009.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 45.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 587.

AN ACT relating to crimes; allowing a prospective witness who is an older person or a vulnerable person to have his deposition taken for use at a trial or hearing under certain circumstances; [~~providing for a civil penalty against a person convicted of certain crimes against an older person;~~] and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a prospective witness who may be unable to attend or may be prevented from attending a trial or hearing to have his deposition taken, if his testimony is material, in order to prevent a failure of justice. (NRS 174.175) At a trial or hearing, a part or all of a deposition may be used if it appears that: (1) the witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick; (4) the witness has become of unsound mind; or (5) the party offering the deposition could not procure the attendance of the witness by subpoena. (NRS 174.215) [~~Section 1 of this~~] **This** bill expands the list of prospective witnesses who may have their deposition taken to include older persons and vulnerable persons. (NRS 174.175) [~~Section 1~~] **This bill** also provides that a court may order the deposition of an older person or a vulnerable person only upon good cause shown to the court.

[~~Existing law provides for the imposition of a civil penalty in addition to any criminal penalty against a person who is found guilty of abuse, neglect, exploitation or isolation of an older person. Section 2 of this bill expands the imposition of the civil penalty to any person who is found guilty of committing certain crimes such as murder, assault, battery and robbery against an older person. (NRS 228.280)~~]

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

Section 1. NRS 174.175 is hereby amended to read as follows:

174.175 1. If it appears that a prospective witness ***is an older person or a vulnerable person or*** may be unable to attend or prevented from attending a trial or hearing, that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information or complaint may **,** upon motion of a defendant or of the State and notice to the parties **,** order that his

testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. ***If the motion is for the deposition of an older person or a vulnerable person, the court may enter an order to take the deposition only upon good cause shown to the court.*** If the deposition is taken upon motion of the State, the court shall order that it be taken under such conditions as will afford to each defendant the opportunity to confront the witnesses against him.

2. If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court **,** on written motion of the witness and upon notice to the parties **,** may direct that his deposition be taken. After the deposition has been subscribed **,** the court may discharge the witness.

3. This section does not apply to the prosecutor, or to an accomplice in the commission of the offense charged.

4. As used in this section:

(a) "Older person" means a person who is 70 years of age or older.

(b) "Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 2. ~~[NRS 228.280 is hereby amended to read as follows:~~

~~228.280 1. In addition to any criminal penalty, a person who is found guilty of abuse, neglect, exploitation or isolation of an older person pursuant to NRS 200.5099 or 200.50995 *or found guilty of a crime against an older person pursuant to subsection 1 of NRS 193.167* is liable for a civil penalty to be recovered by the Attorney General in a civil action brought in the name of the State of Nevada:~~

~~(a) For the first offense, in an amount which is not less than $5,000 and not more than $20,000.~~

~~(b) For a second or subsequent offense, in an amount which is not less than $10,000 and not more than $30,000.~~

~~2. The Attorney General shall deposit any money collected for civil penalties pursuant to subsection 1 in equal amounts to:~~

~~(a) A separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to older persons who are abused, neglected, exploited or isolated in violation of NRS 200.5099 and 200.50995 [;] *or to provide compensation to an older person who is a victim of a crime pursuant to subsection 1 of NRS 193.167;* and~~

~~(b) The Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to NRS 228.285.]~~ **(Deleted by amendment.)**

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 142.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 589.

AN ACT relating to crimes; establishing the crime of criminal gang recruitment; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill establishes the crime of criminal gang recruitment, which is committed when an adult uses or threatens to use physical violence against a child or against another person, or causes or threatens to cause damage to the property of the child or the property of another person, with the specific intent to coerce, induce or solicit the child: (1) to become a member of a criminal gang; (2) to remain a member of a criminal gang and not withdraw or disassociate himself from the criminal gang; or (3) to rejoin a criminal gang of which he is no longer a member or from which he has withdrawn or disassociated himself. The provisions of **section 2** are patterned after similar statutory provisions in other states, such as Alaska, Arizona, Illinois, Indiana, Kansas, Kentucky, Maryland, Montana, South Carolina, Texas, Virginia and Washington.

Section 1 of this bill provides that a person who commits the crime of criminal gang recruitment is not subject to the additional penalty under existing law for crimes committed for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang. (NRS 193.168)

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

Section 1. NRS 193.168 is hereby amended to read as follows:

193.168 1. Except as otherwise provided in ***subsection 5 and*** NRS 193.169, any person who is convicted of a felony committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang, shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

3. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

4. The court shall not impose an additional penalty pursuant to this section unless:

(a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

5. ***The court shall not impose an additional penalty pursuant to this section if the primary offense is a violation of section 2 of this act.***

6. Except as otherwise provided in this subsection, the court shall not grant probation to or suspend the sentence of any person convicted of a felony committed for the benefit of, at the direction of, or in affiliation with **,** a criminal gang if an additional term of imprisonment may be imposed for that primary offense pursuant to this section. The court may, upon the receipt of an appropriate motion, reduce or suspend the sentence imposed for the primary offense if it finds that the defendant rendered substantial assistance in the arrest or conviction of any other principals, accomplices, accessories or coconspirators to the crime, or of any other persons involved in the commission of a felony which was committed for the benefit of, at the direction of, or in affiliation with **,** a criminal gang. The agency which arrested the defendant must be given an opportunity to support or oppose such a motion before it is granted or denied. If good cause is shown, the motion may be heard in camera.

~~[6.]~~ ***7.*** In any proceeding to determine whether an additional penalty may be imposed pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

(a) Characteristics of persons who are members of criminal gangs;

(b) Specific rivalries between criminal gangs;

(c) Common practices and operations of criminal gangs and the members of those gangs;

(d) Social customs and behavior of members of criminal gangs;

(e) Terminology used by members of criminal gangs;

(f) Codes of conduct, including criminal conduct, of particular criminal gangs; and

(g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

~~[7.]~~ ***8.*** As used in this section, "criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

(a) Has a common name or identifying symbol;

(b) Has particular conduct, status and customs indicative of it; and

(c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.

Sec. 2. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An adult commits the crime of criminal gang recruitment if the adult uses or threatens to use physical violence against a child or against another person, or causes or threatens to cause damage to the property of the child or the property of another person, with the specific intent to coerce, induce or solicit the child:

(a) To become a member of a criminal gang;

(b) To remain a member of a criminal gang and not withdraw or disassociate himself from the criminal gang; or

(c) To rejoin a criminal gang of which he is no longer a member or from which he has withdrawn or disassociated himself.

2. An adult who commits the crime of criminal gang recruitment is guilty of a category ~~*[D]*~~ ***E felony and shall be punished as provided in NRS 193.130.***

3. As used in this section:

(a) "Adult" means a person who is 18 years of age or older.

(b) "Child" means a person who is less than 18 years of age.

(c) "Criminal gang" has the meaning ascribed to it in NRS 193.168.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 49.

Bill read second time and ordered to third reading.

Senate Bill No. 91.

Bill read second time and ordered to third reading.

Senate Bill No. 129.

Bill read second time and ordered to third reading.

Senate Bill No. 220.
Bill read second time and ordered to third reading.

Senate Bill No. 280.
Bill read second time and ordered to third reading.

Senate Bill No. 300.
Bill read second time and ordered to third reading.

Senate Bill No. 304.
Bill read second time and ordered to third reading.

Senate Bill No. 307.
Bill read second time and ordered to third reading.

Senate Bill No. 335.
Bill read second time and ordered to third reading.

Senate Bill No. 343.
Bill read second time and ordered to third reading.

Senate Bill No. 348.
Bill read second time and ordered to third reading.

Senate Bill No. 108.
Bill read second time and ordered to third reading.

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

Assembly in recess at 11:59 a.m.

ASSEMBLY IN SESSION

At 12 noon.
Mr. Speaker pro Tempore presiding.
Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 149.
Bill read third time.
The following amendment was proposed by the Committee on Ways and Means:
Amendment No. 594.
AN ACT relating to real property; revising provisions governing foreclosures on property; providing for mediation under certain circumstances; **providing for the imposition of a fee for mediation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth procedures governing foreclosures on real property upon default. A trustee under a deed of trust has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085) **Section 1** of this bill establishes additional restrictions on the trustee's power of sale with respect to owner-occupied housing by providing a ~~[homeowner]~~ **grantor of a deed of trust or the person who holds the title of record** with the right to request mediation under which he may receive a loan modification. Once ~~[a homeowner requests mediation,]~~ **mediation is requested,** no further action may be taken to exercise the power of sale until the completion of the mediation. Each mediation must be conducted by a senior justice, judge, hearing master or other designee pursuant to rules adopted by the Nevada Supreme Court or an entity designated by the Nevada Supreme Court. ~~[.]~~ **, and a fee of not more than $85 per hour may be charged and collected for the mediation. Section 2 of this bill also restricts the trustee's power of sale with respect to owner-occupied housing by revising the period in which a deficiency in performance or payment under the trust agreement may be made good before the trustee may exercise that power. Similarly, section 3 of this bill restricts the trustee's power of sale with respect to owner-occupied housing by revising the manner in which service of notice that a person is in danger of losing his home must be made.** In addition, **section 4** of this bill authorizes the Nevada Supreme Court to adopt rules providing for voluntary mediation with respect to a homeowner who is not in default but is at risk of default.

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes in the notice required by subsection 2 of NRS 107.085:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development; and

(3) A form upon which the grantor or the person who holds the title of record may indicate his election to enter into mediation or to waive

mediation and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) Serves a copy of the notice upon the Mediation Administrator; and

(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 which provides that mediation has been completed in the matter.

3. The grantor and the person who holds the title of record shall, not later than 30 days after service of the notice upon him in the manner required by NRS 107.085, complete the form required by subparagraph (3) of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on ~~[the]~~ his respective form his election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record, or both, to enter into mediation and file ~~[a copy of]~~ the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be taken to exercise the power of sale until the completion of the mediation. If both the grantor ~~[indicates on the form his]~~ and the person who holds the title of record indicate on their respective forms their election to waive mediation or ~~[fails]~~ if both fail to return ~~[the form]~~ their respective forms to the trustee as required by this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor and the person who holds the title of record, or proof of service on the grantor and the person who holds the title of record of the notice required by subsection 2 of this section and subsection 2 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator shall provide to the trustee a certificate which provides that no mediation is required in the matter.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. The beneficiary of the deed of trust or his representative ~~[and the grantor or his representative]~~ shall ~~[each]~~ attend the mediation. The grantor or his representative shall attend the mediation if the grantor elected to enter into mediation, and the person

who holds the title of record or his representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

5. If the beneficiary of the deed of trust or his representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the [district court of the county in which the trust property, or some part thereof, is situated] Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or his representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or his representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If both the grantor and the person who holds the title of record elected to enter into mediation and both fail to attend the mediation, or if only one of those persons elected to enter into mediation and that person fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the [district court of the county in which the trust property, or some part thereof, is situated shall issue an order dismissing the matter and the] Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

8. The Supreme Court or an entity designated by the Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the District Court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a fee of not more than $85 per hour that may be charged and collected by the Mediation Administrator for a mediation pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

9. [The] Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence is immune from civil liability for those acts.

12. As used in this section:

(a) "Mediation Administrator" means the entity so designated pursuant to subsection 8.

(b) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(c) "Owner-occupied housing" means housing that is occupied by [the] an owner as his primary residence. The term does not include any time share or other property regulated under chapter 119A of NRS.

Sec. 2. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, ***and section 1 of this act,*** if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) ~~[In]~~ ***Except as otherwise provided in paragraph (b), in*** the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, ~~[or his successor in interest,]~~ ***the person who holds the title of record,*** a beneficiary

under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property ~~[,]~~ has , for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, ~~[or his successor in interest,]~~ ***the person who holds the title of record,*** a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property ~~[,]~~ has , for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) ***In the case of any trust agreement which concerns owner-occupied housing as defined in section 1 of this act, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 business days before the date of sale, failed to make good the deficiency in performance or payment;***

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

~~[(c)]~~ ***(d)*** Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor ~~[,]~~ and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to

sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

Sec. 3. NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003 ~~[~~**,** ~~and~~

~~(b) On~~~~]~~ ***, and, on*** the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by

the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32 ~~[.]~~ ***; or***

(b) The trust agreement concerns owner-occupied housing as defined in section 1 of this act.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor ***and the person who holds the title of record*** a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor ***and the person who holds the title of record:***

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor ~~[.]~~ ***and the person who holds the title of record; or***

(2) If the trust agreement concerns owner-occupied housing as defined in section 1 of this act:

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

Your home loan is being foreclosed. In 60 days your home will be sold and you will be forced to move. For help, call:

Consumer Credit Counseling _____

The Attorney General _____

The Division of Financial Institutions _____

Legal Services _____

Your Lender _____

Nevada Fair Housing Center _____

4. This section does not prohibit a judicial foreclosure.

5. As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Sec. 3.5. **NRS 107.095 is hereby amended to read as follows:**

107.095 1. The notice of default required by NRS 107.080 must also be sent by registered or certified mail, return receipt requested and with postage prepaid, to each guarantor or surety of the debt. If the address of the guarantor or surety is unknown, the notice must be sent to the address of the trust property. Failure to give the notice, except as otherwise provided in subsection 3, releases the guarantor or surety from his obligation to the beneficiary, but does not affect the validity of a sale conducted pursuant to NRS 107.080 ~~[nor]~~ ***or*** the obligation of any guarantor or surety to whom the notice was properly given.

2. Failure to give the notice of default required by NRS 107.090, except as otherwise provided in subsection 3, releases the obligation to the beneficiary of any person who has complied with NRS 107.090 and who is or may otherwise be held liable for the debt or other obligation secured by the deed of trust, but such a failure does not affect the validity of a sale conducted pursuant to NRS 107.080 ~~[nor]~~ ***or*** the obligation of any person to whom the notice was properly given pursuant to this section or to NRS 107.080 or 107.090.

3. A guarantor, surety or other obligor is not released pursuant to this section if:

(a) The required notice is given at least 15 days before the later of:

(1) The expiration of the 15- or 35-day period described in ***paragraph (a) of subsection 2 of*** NRS 107.080; ~~[or]~~

(2) ***In the case of any trust agreement which concerns owner-occupied housing as defined in section 1 of this act, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or***

(3) Any extension of ~~[that]~~ ***the applicable*** period by the beneficiary; or

(b) The notice is rescinded before the sale is advertised.

Sec. 4. Chapter 2 of NRS is hereby amended by adding thereto a new section to read as follows:

The Supreme Court may adopt rules providing for voluntary mediation with respect to a homeowner who is not in default but is at risk of default.

Sec. 5. NRS 459.646 is hereby amended to read as follows:

459.646 1. A person who, without participating in the management of a parcel of real property, holds or is the beneficiary of evidence of title to the property primarily to protect a security interest in the property is not a responsible party with respect to a release of a hazardous substance on the property if:

(a) The owner of the property is relieved from liability under NRS 459.610 to 459.658, inclusive, with respect to the release;

(b) The owner or holder of evidence of title did not cause the release; and

(c) The owner or holder of evidence of title does not participate actively in decisions concerning hazardous substances on the property.

2. A lender to a prospective purchaser who has filed an application to participate in the program pursuant to NRS 459.634 or a lender who forecloses his security interest in property pursuant to NRS 40.430 to 40.450, inclusive, or 107.080 to 107.100, inclusive, ***and section 1 of this act,*** and within a reasonable period after the foreclosure, not to exceed 2 years, sells, transfers or conveys the property to a prospective purchaser who has filed an application to participate in the program pursuant to NRS 459.634 is not a responsible party solely as a result of:

(a) Foreclosing a security interest in the property; or

(b) Making a loan to the prospective purchaser if the loan:

(1) Is to be used for acquiring property or removing or remediating hazardous substances on property; and

(2) Is secured by the property that is to be acquired or on which is located the hazardous substances that are to be removed or remediated.

Sec. 6. This act becomes effective on July 1, 2009.

Assemblywoman Buckley moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Buckley moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 149, and that it be placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 149.

Bill read third time.

Remarks by Assemblywoman Buckley.

Assemblywoman Buckley requested that her remarks be entered in the Journal.

So-called "creative financing" fueled the real estate boom that we enjoyed in Nevada in the early part of this decade.

It started with the exotic loans—0% down, artificially low interest rates for the first two or three years—all meant to entice buyers into the housing market, in some cases to create a trumped-up demand to buy at inflated prices. Unsophisticated borrowers, who wouldn't know a negative amortization schedule if it jumped up and bit them, sometimes overbought. Borrowers who otherwise would have qualified for a regular mortgage were steered into an exotic mortgage when conventional financing would have been a better choice for them. The brokers did not make as many fees on these loans, so borrowers were not even told about them.

This all came crashing down as these loans began to "reset" to their above-market rates. Suddenly, borrowers couldn't afford the new principal and interest payments. When they called their original lender for help, they were told they no longer owned the mortgage. When they called the mortgage servicing company who accepted their payments every month, they had difficultly finding anyone who could direct them to the current owner of their mortgage. If they

did find the owner of their mortgage, typically, they could not find anyone who could actually negotiate a refinancing of that mortgage.

And so it went, one after another—cascading foreclosures, decimated neighborhoods destroyed by property values. Then those with conventional mortgages found themselves hopelessly underwater as their homes were worth far less than the balance owed on their conventional financing.

Nevada is caught in a downward economic spiral, fueled by the effects of these mortgage foreclosures.

Assembly Bill No. 149 has a simple theme—get buyers and lenders together to work out a reasonable repayment agreement that will keep homeowners in their homes, allow lenders to realize gains on mortgage loans, rather than losses on mortgage foreclosures, and bring stability back to Nevada's real estate market. Before a nonjudicial foreclosure can occur, Assembly Bill 149 allows a borrower willing and able to make monthly payments to mediate such an agreement with their lender.

The Nevada Supreme Court will administer the program; already over 300 lawyers and all of the retired senior judges have volunteered to receive training in mediation and accept no more than $340 in total payment for conducting mediations. The cost will be borne equally by borrowers and lenders.

Experts estimate that court-administered mediation will prevent 17,700 foreclosures in Nevada, saving more than $1.6 billion dollars in home values and the property tax base. Contrast this to the average loss of $50,000 to lenders and $19,227 dollars to local governments from foreclosures.

By enacting AB 149, we can help stabilize neighborhood real estate values, keep Nevadans in their homes, and stem the lender losses that are drying up access to credit. I urge your support.

Roll call on Assembly Bill No. 149:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Assembly Bill No. 149 having received a two-thirds majority, Mr. Speaker pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 12:08 p.m.

ASSEMBLY IN SESSION

At 12:09 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 528.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 528:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Assembly Bill No. 528 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 535.

Bill read third time.

Remarks by Assemblywoman Koivisto.

Roll call on Assembly Bill No. 535:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Assembly Bill No. 535 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 536.

Bill read third time.

Roll call on Assembly Bill No. 536:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Assembly Bill No. 536 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 538.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 538:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Assembly Bill No. 538 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 12.

Bill read third time.

Roll call on Senate Bill No. 12:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 12 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 14.

Bill read third time.

Remarks by Assemblywomen Parnell, Gansert, and Smith.

Roll call on Senate Bill No. 14:

YEAS—38.

NAYS—Cobb, Goedhart, McArthur—3.

EXCUSED—Arberry.

Senate Bill No. 14 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 141.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Senate Bill No. 141:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

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

Bill ordered transmitted to the Senate.

Senate Bill No. 161.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Senate Bill No. 161:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 161 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 216.

Bill read third time.

Remarks by Assemblymen Dondero Loop, Oceguera, and Anderson.

Roll call on Senate Bill No. 216:

YEAS—39.

NAYS—Oceguera, Spiegel—2.

EXCUSED—Arberry.

Senate Bill No. 216 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 240.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Senate Bill No. 240:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

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

Bill ordered transmitted to the Senate.

Senate Bill No. 391.

Bill read third time.

Roll call on Senate Bill No. 391:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 391 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 20.

Bill read third time.

Remarks by Assemblyman Cobb.

Roll call on Assembly Bill No. 20:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Assembly Bill No. 20 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 81.

Bill read third time.

Remarks by Assemblyman Cobb.

Roll call on Assembly Bill No. 81:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Assembly Bill No. 81 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 426.

Bill read third time.

Roll call on Assembly Bill No. 426:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Assembly Bill No. 426 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 5, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolutions Nos. 27 and 28.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 27.

Assemblyman Denis moved the adoption of the resolution.

Remarks by Assemblymen Denis, Anderson, and Parnell.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Resolution adopted.

Senate Concurrent Resolution No. 28.

Assemblywoman Mastroluca moved the adoption of the resolution.

Remarks by Assemblywoman Mastroluca.

Resolution adopted.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 5, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 29.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 29.

Assemblywoman Gansert moved the adoption of the resolution.

Remarks by Assemblymen Gansert, Anderson, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I was never privileged to meet Mr. James, but from what I have read and from this resolution, I can tell that he was an outstanding person. He was an educator, he was a climatologist, he was a runner, and he was someone who loved Nevada. I urge support of this resolution.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I rise in support of SCR 29. I had the privilege of taking a class, and the good doctor was one of the lecturers. His sense of humor clearly came through. The topic of discussion in the class was the importance of weather and climate in the historical development of the country and on the continent on which we live. His insight into historical events brought alive those things for teachers and they were able to bring it to their classrooms, which was very important.

I had the opportunity to meet with him and interact with him long before I came to this Chamber. I had the pleasure of meeting his son, and then later, his daughter. I clearly see in both of them—one more so than the other—his sense of humor. I truly appreciate the

importance of the great man that he is and was for all of us and the mark he left upon the state's climatological history, which I think is very important to all of us.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

With the permission of the body, I, too, want to pass my condolences on to the family. What a Nevada treasure your dad was. The state is a better place for him. He must have had some political gene in him, because we certainly see that carried forward, too. Maybe it is the politics of weather—everything has politics. He was truly a Nevada treasure and made such an impact, whether it was on the University System or the state. We thank you for sharing him with us.

Resolution adopted.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 59, 120, 237, 462; Senate Bills Nos. 48, 156, 199, 223, 314, 342, 344; Senate Concurrent Resolution No. 2.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Jim Brunson and Joseph Giampapa.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Gayle Farley and Lawrence LaForge.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Lynne Warne, Ruben Murillo, Ken Burhman, Fran Harris, Gaylea Manning, Steve Fargan, Marion Conrad, Christina Gunn, Jane Anderson, Jefferey Geihs, KayAnn Pilling, Leah Wilds, Robert Morin, Kathy Kulas, and Lisa Primas.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Kathy Lee James, Lee James, Mark James, and Lori James.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Christian Medellin.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Jesse Hall Elementary School: Bryce Byram, Hannah Cano, Amanda Chisholm, Ashley Cihak, Sarah Connor, Mariah Dent, Hayley Fein, Sydney Ham, Elizabeth Hansen, Ancdrea Isaac, Tyrus Johnson, Hannah Jorgensen, Austin Lewis, Leticia Lugo, Darah McGovern, Jane Miller, Davis Mooney, Pedro Mora, Logan O'Day, Elliott Parrish, Keith Perkins, Johathon Rabina, Halle Rodriguez, Adam Santana, Tyler Smith, Kenna Snow, Nathan Stucki,

Zachery Tanner, Terrell Tissychy-Ortero, Benjamin Walsh, Jake Ward, Kaylee Westlake, Savannah Wilbur, Ariel Zamarripa, Fayth Bailor, Kyler Bradley, Melanie Cabanilla, Skyler Caudill, Adrienne Coats, Chance Cottle, Lacey Cottle, Garrett Darby, Megan Donohue, Dylan Dziminiski, Natalija Engelken, Dylan Evans, Jacob Finkelberg, Kathryn Fish, Dominick Fitzmorris, Willie Freemyers, Clay Gillespie, Sean Griffith, Haily Heckendorn, Jeremy Holm, Evette Jackson, Joprdan Kriner, Austin Ladd, Cayden Linares, Eduardo Mora, Blake Naney, Oscar Nila, Matthew O'Leary, Kay Quong, Amber Rhett, Talena Two Hearts, Addam York, Ezra Calvillo, Tyler Chirrick, Samantha Cooper, Jalen Crowl, Daniel Davidson, Ticen Davis, Marlee Fitts, Noah Flint, Hannah Gonzalez, Ashleigh Hodgin, Tyler Hopkins, Collin Jimenez, Alexavier King, Ben Kohlman, Justin Kong, Santiago Lugo, Rogelio Maldonado, Reece Masset, Carson McCuster, Alexadra McVey , Kristin Morrison, Michelle Padilla, Darren Prather, Jayce Robinson, Monica Saylor, Kaylie Seiders, Savannah Smithson, Adam Steele, Brandon Steele, Taylor Stewart, Katie Wadsworth, Jacob Brennan, and Christian Medellin.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Tom McCoy, Michael Brown, Stacy Escalante, and Samatha Guild.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, May 6, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 1:03 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

The

Journal of the Assembly

OF THE

SEVENTY-FIFTH SESSION

OF THE

LEGISLATURE OF THE STATE OF NEVADA

2009

BEGUN ON MONDAY, THE SECOND DAY OF FEBRUARY, AND ENDED ON MONDAY, THE FIRST DAY OF JUNE

VOLUME 3

**THE NINETY-FOURTH DAY—
THE ONE HUNDRED AND EIGHTH DAY**

**SEE VOLUME 1 FOR TABLE OF CONTENTS
SEE VOLUME 5 FOR INDEX**

ARRANGEMENT AND CONTENTS OF VOLUME 3

ASSEMBLY PROCEEDINGS 2705

THE NINETY-FOURTH DAY

CARSON CITY (Wednesday), May 6, 2009

Assembly called to order at 11:42 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Arberry and Mortenson, who were excused.

Prayer by the Chaplain, Reverend Patrick Propster.

Psalm 150:

Praise ye the Lord. Praise God in His sanctuary. Praise Him in the firmament of His power. Praise Him for His mighty acts. Praise Him according to His excellent greatness. Praise Him with the sound of the trumpet. Praise Him with the psaltery and harp. Praise Him with the timbrel and dance. Praise Him with stringed instruments and organs. Praise Him upon the loud cymbals. Praise Him upon the high sounding cymbals. Let everything that hath breath praise the Lord. Praise ye the Lord.

Let us pray:

Gracious Heavenly Father, please let whatever is done, whether in word or in deed, throughout the rest of this session, be done wholeheartedly as unto You and not as unto man. May the words of our mouths and the meditations of our hearts be acceptable in thy sight, O Lord, our strength, and our Redeemer. Lord, we thank You for the opportunity to be used by You to serve the people that entrust themselves to us in this great State of Nevada. May we represent them as pleasing to You. In Jesus' name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

Special musical presentation by the Seeliger Elementary School Singers, singing an Irving Berlin medley, conducted by Ms. Mary Law.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 207, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Education, to which was referred Senate Bill No. 317, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 494, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and rerefer to the Committee on Ways and Means.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 256, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 287, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Ohrenschall, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury; Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Assembly Concurrent Resolution No. 31—Urging the Government of Turkey to grant the Ecumenical Patriarch international recognition and to respect the human rights and property rights of the Ecumenical Patriarchate.

WHEREAS, The Ecumenical Patriarchate, located in Istanbul, Turkey, is the Sacred See that presides in a spirit of brotherhood over a communion of self-governing churches of the Orthodox Christian world; and

WHEREAS, Ecumenical Patriarch Bartholomew, See leader, cosponsored the Conference on Peace and Tolerance in 1994 and 2005, fostering an interfaith dialogue among Christian, Jewish and Muslim religious leaders to help end regional ethnic conflicts; and

WHEREAS, In 1997, the United States Congress awarded Ecumenical Patriarch Bartholomew the Congressional Gold Medal; and

WHEREAS, The Orthodox Christian Church, in existence for nearly 2,000 years, numbers approximately 300,000,000 members worldwide with more than 2,000,000 members in the United States; and

WHEREAS, Since 1453, the presence of the Ecumenical Patriarchate as international head of the Greek Orthodox Church in Turkey testifies to religious coexistence; and

WHEREAS, The Turkish government has limited those able to hold the office of Ecumenical Patriarch to Turkish nationals, threatening the viability of succession; and

WHEREAS, The Turkish government confiscated a large percentage of the Ecumenical Patriarchate's and the Greek community's properties, placed a high tax on one of the Patriarchate's charity hospitals, the Baloukli Hospital and Home for the Aged, and closed the Theological School of Halki in 1971, impeding Orthodox clergy training; and

WHEREAS, The European Council began accession negotiations with Turkey, and the Turkish government's current treatment of the Ecumenical Patriarchate is inconsistent with the defined membership criteria for accession of the European Union; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Session of the Nevada Legislature do hereby urge the Government of Turkey to uphold and safeguard religious and human rights without compromise, to grant the Ecumenical Patriarch appropriate international recognition, including ecclesiastic succession and the right to train clergy of all nationalities, and to respect the human rights and property rights of the Ecumenical Patriarchate, including cessation of discrimination; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of Representatives, the United States Ambassador to the Republic of Turkey, the Ambassador of the Republic of Turkey to the United States and each member of the Nevada Congressional Delegation.

Assemblyman Ohrenschall moved the adoption of the resolution.

Remarks by Assemblyman Ohrenschall.

Resolution adopted.

Assemblyman Ohrenschall moved that all rules be suspended and that Assembly Concurrent Resolution No. 31 be immediately transmitted to the Senate.

Motion carried.

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

Assembly in recess at 12:05 p.m.

ASSEMBLY IN SESSION

At 12:07 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Koivisto moved that Assembly Bill No. 9 just reported out of committee, be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Claborn moved that Senate Bill No. 108 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Parnell moved that Senate Bill No. 164 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 494.

Bill read second time and ordered to third reading.

Senate Bill No. 207.

Bill read second time and ordered to third reading.

Senate Bill No. 256.

Bill read second time.

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

Amendment No. 608.

AN ACT relating to the grounds of Northern Nevada Adult Mental Health Services; designating an area on the grounds of Northern Nevada Adult Mental Health Services as a historic cemetery and providing the boundaries of the cemetery; requiring the reinterment of certain human remains found outside the boundaries of the cemetery; requiring the Office of Historic Preservation of the Department of Cultural Affairs to oversee the maintenance and improvement of the cemetery ~~[.]~~ **by Northern Nevada Adult Mental Health Services;** requiring the State of Nevada to terminate a lease of a portion of the cemetery to the City of Sparks; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The grounds of Northern Nevada Adult Mental Health Services include a cemetery that was formerly a part of the Nevada Hospital for Mental Diseases. In 1949, the Legislature required the board of commissioners of the hospital to abolish the use of the cemetery. (Chapter 184, Statutes of Nevada 1949, p. 408) This bill designates the area of the former cemetery as a historic cemetery. This bill also requires the reinterment of human remains from gravesites found in a certain area outside the designated boundaries of the cemetery to the area inside the historic cemetery. This bill also provides for the Administrator of the Office of Historic Preservation of the Department of Cultural Affairs, in cooperation with persons with an interest in the matter, to oversee the maintenance and improvement of the cemetery ~~[.]~~ **by Northern Nevada Adult Mental Health Services of the Division of Mental Health and Developmental Services of the Department of Health and Human Services.**

In 1959, a portion of the former cemetery was leased to the City of Sparks. This bill directs the State of Nevada to terminate the lease. Upon termination of the lease, the area covered by the lease will become a part of the cemetery.

Section 2 of this bill repeals the statute that abolished the use of the cemetery.

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

Section 1. 1. The following area, used before 1949 as a cemetery for the former Nevada Hospital for Mental Diseases, is hereby established as a historic cemetery, except as otherwise provided in this section:

All that certain real property situate within a portion of the Northeast One-Quarter (NE 1/4) of Section Seven (7), Township Nineteen (19) North, Range Twenty (20) East, Mount Diablo Meridian, City of Sparks, State of Nevada and being portions of the State Department of Agriculture parcel and the Northern Nevada Adult Mental Health System parcel as shown on the Record of Survey for the Northern Nevada Adult Mental Health System, Map No. 4663, File No. 3330918, Official Records of Washoe County, being more particularly described as follows:

Area 1

BEGINNING at the Northeasterly corner of said State Department of Agriculture parcel, also being a point on the Westerly right-of-way line of 21st Street as shown on said Record of Survey Map;

THENCE along the Northerly line of said State Department of Agriculture parcel, North 81°36′00″ West, 119.01 feet;

THENCE along the Westerly line of the Pinion Park lease line as shown on said Record of Survey, South 16°46′00″ West, 33.50 feet;

THENCE continuing along said Westerly line, South 00°15′04″ West, 257.47 feet to the Southwesterly corner thereof;

THENCE North 88°28′00″ East, 125.05 feet;

THENCE North 0°45′00″East, 268.83 feet to the POINT OF BEGINNING;

Said area being 35,159 square feet, 0.807 acres, more or less.

Area 2

COMMENCING at the Northeasterly corner of said State Department of Agriculture parcel, also being a point on the Westerly right-of-way line of 21st Street as shown on said Record of Survey Map; THENCE South 0°45′00″ West, 268.83 feet to the POINT OF BEGINNING;

THENCE continuing along the Westerly right-of-way line of 21st Street South 0°45′00″ West, 361.77 feet;

THENCE South 89°05′10″ West, 114.54 feet;

THENCE North 00°54′50″ West, 360.26 feet;

THENCE North 88°28′00″ East, 125.05 feet to the POINT OF BEGINNING;

Said area being 43,234 square feet, 0.992 acres, more or less.

2. Except as otherwise provided in this section, the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services, in cooperation with the State Public Works Board, the Administrator of the Office of Historic Preservation of the Department of Cultural Affairs and any other persons with an interest in the matter, shall disinter certain human remains found in gravesites on the grounds of Northern Nevada Adult Mental Health Services that are outside of the area described in subsection 1 and reinter the remains within the area described in subsection 1. The remains to be relocated consist of a row of approximately 30 graves in an area east of the Dini-Townsend Hospital and west of the State Department of Agriculture building on the grounds of Northern Nevada Adult Mental Health Services.

3. The Administrator of the Division of Mental Health and Developmental Services:

(a) Shall adopt regulations pursuant to NRS 451.069 to 451.330, inclusive, concerning the disinterment and removal of remains pursuant to subsection 2.

(b) Shall not reinter remains in the area described in subsection 1 as "area 1" until the leasehold interest of the City of Sparks is terminated pursuant to subsection 7.

(c) Shall, except as otherwise provided in subsection 6, comply with all federal and state laws concerning burial sites and disinterment and reinterment of human remains.

4. The cost of disinterment and reinterment of remains pursuant to this section must be paid to the extent of available money from Project No. 07-C20 of the State Public Works Board, as approved in paragraph (b) of subsection 3 of section 1 of chapter 347, Statutes of Nevada 2007, at page 1637. To the extent that money is available for this purpose, the State Public Works Board shall provide, in consultation with the Administrator of the Office of Historic Preservation of the Department of Cultural Affairs and other persons with an interest in the matter, appropriate fencing and a memorial monument for the cemetery.

5. The Administrator of the Office of Historic Preservation of the Department of Cultural Affairs shall, in consultation with persons with an interest in the matter and to the extent of available money, oversee the maintenance and improvement of the historic cemetery established pursuant to this section ~~[.]~~ **by Northern Nevada Adult Mental Health Services of the Division of Mental Health and Developmental Services of the Department of Health and Human Services.**

6. The provisions of NRS 451.045 do not apply to the disinterment of remains required by subsection 2. The provisions of NRS 452.001 to 452.610, inclusive, do not apply to the historic cemetery established by this section.

7. The area designated in subsection 1 as "area 1" is the portion of the historic cemetery leased to the City of Sparks by a lease dated September 10, 1959, and is subject to that lease until it is terminated by the State of Nevada. The State of Nevada shall give an appropriate 180-day written notice of termination as provided in the lease and shall terminate the lease. Upon termination of the lease, that area becomes a part of the historic cemetery established by this section.

Sec. 2. Section 1 of chapter 184, Statutes of Nevada 1949, at page 408, is hereby repealed.

TEXT OF REPEALED SECTION

Section 1 of chapter 184, Statutes of Nevada 1949:

SECTION 1. Notwithstanding any other provision of law, it is hereby made the specific duty of the board of commissioners of the Nevada hospital for mental diseases to abolish the use of any cemeteries now located on the

hospital grounds. It is further made the specific duty of said board to provide a decent burial for any inmate or patient who dies while such an inmate, at any cemetery without the hospital grounds, and in so doing, the said board of commissioners is authorized to enter into a contract with any person or persons, including governmental agencies or instrumentalities, as it deems proper, for such a decent burial, or it may provide for any sort of an arrangement under the operating head of the hospital. The cost of such burial, where there are known relatives, shall be borne by such relatives, and where there are no known relatives, the cost of such burial shall be a charge against the State of Nevada, but the cost thereof shall not exceed the amount charged for the burial of indigents in the county in which the burial takes place. When any person who is an inmate of said hospital dies while such inmate, any known relatives or friends of such person shall be notified immediately of the fact of death, and in the event there is no known relative or friend of such inmate, notice shall be given by publication for one insertion in a newspaper to be chosen by said board of commissioners for such purpose. The board of commissioners is specifically charged with the duty of giving such notification and may delegate such duty to the superintendent.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 287.

Bill read second time and ordered to third reading.

Senate Bill No. 317.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 605.

AN ACT relating to education; requiring ~~[the Department of Education to ensure that]~~ instruction ~~[in]~~ **on** financial literacy ~~[is provided to]~~ **for** pupils enrolled in public high schools and certain charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the academic subjects, standards and courses of study for the public schools in this State. (Chapter 389 of NRS) This bill requires ~~[the Department of Education to ensure that]~~ instruction ~~[in]~~ **on** financial literacy ~~[is provided to]~~ **for** pupils enrolled in the public high schools in each school district and in each charter school that operates as a high school.

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

Section 1. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The ~~[Department shall ensure that instruction in financial literacy is provided to pupils enrolled in the public high schools within each school district and in]~~ board of trustees of each school district and the governing body of each charter school that ~~[includes pupils enrolled at the high school grade levels.]~~ operates as a high school shall ensure that instruction on financial literacy is provided to pupils enrolled in each public high school within the school district or in the charter school, as applicable. The instruction must include, without limitation:

(a) The skills necessary to develop financial responsibility, including, without limitation:

(1) Making reasonable financial decisions by analyzing the alternatives and consequences of those financial decisions;

(2) Locating and evaluating financial information from various sources;

(3) Developing communication strategies to discuss financial issues;

(4) Controlling personal information; and

(5) Reviewing and summarizing federal and state consumer protection laws.

(b) The skills necessary to manage finances, including, without limitation:

(1) Developing a plan for spending and saving;

(2) Developing a system for keeping and using financial records; and

(3) Developing a personal financial plan.

(c) The skills necessary to understand the use of credit and the incurrence of debt, including, without limitation:

(1) Identifying the costs and benefits of various types of credit;

(2) Explaining the purpose of a credit report, including, without limitation, the manner in which a credit report is used by lenders;

(3) Describing the rights of a borrower regarding his credit report;

(4) Identifying methods to avoid and resolve debt problems; and

(5) Reviewing and summarizing federal and state consumer credit protection laws.

(d) The skills necessary to understand the basic principles of saving and investing, including, without limitation:

(1) Understanding how saving and investing contribute to financial well-being;

(2) Understanding the methods of investing and alternatives to investing;

(3) Understanding how to buy and sell investments; and

(4) Understanding how the regulation of financial institutions protects investors.

2. The instruction required by subsection 1 may be included within a course or program of instruction that pupils enrolled in high school are otherwise required to complete for graduation.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 6, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 30.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 30.

Assemblywoman Gansert moved the adoption of the resolution.

Remarks by Assemblymen Gansert, Anderson, Carpenter, and Cobb.

Resolution adopted.

GENERAL FILE AND THIRD READING

Assembly Bill No. 337.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 337:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Assembly Bill No. 337 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 45.

Bill read third time.

Remarks by Assemblyman Gustavson.

Roll call on Senate Bill No. 45:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 45 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 49.

Bill read third time.

Roll call on Senate Bill No. 49:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 49 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 91.

Bill read third time.

Roll call on Senate Bill No. 91:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 91 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 129.

Bill read third time.

Roll call on Senate Bill No. 129:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 129 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 142.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Senate Bill No. 142:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 142 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 220.

Bill read third time.

Remarks by Assemblywoman Spiegel.

Roll call on Senate Bill No. 220:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 220 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 280.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Senate Bill No. 280:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 280 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 300.

Bill read third time.

Remarks by Assemblyman Claborn.

Potential conflict of interest declared by Assemblyman Manendo.

Roll call on Senate Bill No. 300:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 300 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 304.

Bill read third time.

Remarks by Assemblywoman Pierce.

Roll call on Senate Bill No. 304:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 304 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 307.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Senate Bill No. 307:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 307 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 335.

Bill read third time.

Roll call on Senate Bill No. 335:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 335 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 343.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Senate Bill No. 343:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 343 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 348.

Bill read third time.

Remarks by Assemblyman Segerblom.

Conflict of interest declared by Assemblyman Ohrenschall.

Roll call on Senate Bill No. 348:

YEAS—39.

NAYS—None.

NOT VOTING—Ohrenschall.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 348 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 164.

Bill read third time.

Remarks by Assemblyman Kihuen.

Roll call on Senate Bill No. 164:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Mortenson—2.

Senate Bill No. 164 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 12:44 p.m.

ASSEMBLY IN SESSION

At 12:45 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

By Assemblymen Buckley, Aizley, Anderson, Arberry, Atkinson, Bobzien, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart and Woodbury:

Assembly Concurrent Resolution No. 32—Urging Congress to provide financial assistance for the repair of the Truckee Canal.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblymen Buckley, Grady, Goicoechea, and Oceguera.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. The resolution sets out very well the history and the issues that we have with regard to the break that caused the flood in Fernley in January 2008. Earlier this session, we had a bill introduced in regards to financing, which made this issue come up. What is going to be the solution in regards to the repair of the Truckee Canal? This canal serves over 3,000 Nevada customers who rely on it for water delivery, but because the Bureau of Reclamation hasn't settled on a plan to permanently repair the canal, we are stuck in limbo. Water levels have been reduced by court order. Early estimates were that the Truckee Division users would receive only 90 percent of their normal supply and users in the Carson Division would receive only 75 percent of their normal supply. When we have below average snowfall like we have had this year, it is doubtful that even these reduced levels can be reached. And without a permanent repair, Fernley residents remain fearful of another breach.

This resolution urges Congress to provide the State of Nevada with financial assistance to permanently repair the Truckee Canal promptly. Initial estimates are that permanent upgrades to the entire system will cost hundreds of millions of dollars. Our senior senator has obtained a $2.5 million appropriation to fund a study that is estimated to take two to three years. Meanwhile, the Truckee Canal Irrigation District insists that it could construct a concrete barrier along 11 miles of the canal at the breach site, which would allow flows to resume at normal levels more quickly. This is a plan the Bureau of Reclamation does not accept.

Regardless of who is right, the federal government, as owner of the project, is legally and morally obligated to redress this problem sooner, rather than later. The artificial drought caused by reducing water flows through the canal is creating a devastating hardship for western Nevada residents and farmers, one that cannot be sustained. This water supply needs to be restored now, not four or five years from now. Without water, the entire Lahontan Valley will be hurt. Assembly Concurrent Resolution 32 invites Congress to pay attention to this issue and to bring us some needed relief sooner, rather than later. I urge your support.

ASSEMBLYMAN GRADY:

Thank you, Mr. Speaker pro Tempore. I rise in support of ACR 32. From the Truckee River Diversion in Storey County to Lake Lahonton, the Truckee Canal is all in District 38—a district which I represent. The canal breach in January of 2008 was very devastating to Fernley. It brought this relatively new city together. They need our help and I support the resolution and ask my colleagues to support the resolution.

ASSEMBLYMAN GOICOECHEA:

Thank you, Mr. Speaker pro Tempore. I also rise in support of ACR 32. As my colleague from southern Nevada stated Lahonton Valley cannot survive at this diminished rate. Presently the maximum flows in the Truckee Canal can only be 350 CFS. It requires 700 CFS just to deliver the appropriated water from the Truckee River to Lake Lahonton, and that would be 365

days per year. The Lahonton Canal, when running at full capacity, will flow at 1200 CFS. I don't know how many of you drive out towards Fallon, but stop and take a look at Lahonton today—we cannot survive. I appreciate your support. This has to be remedied, and a $2.5 million study over the next three years is not the answer.

ASSEMBLYMAN OCEGUERA:

Thank you, Mr. Speaker pro Tempore. I rise in support of ACR 32. Years ago my grandfather, John R. Hannifin, ran the Truckee-Carson Irrigation District, so I am fairly familiar with the flood irrigation and how the Lahonton Valley and Fallon and other areas survive on that type of water flow. I am also familiar with the devastation in Fernley, and we do not want that to happen again.

Resolution adopted and ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 6, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolutions Nos. 31 and 32.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

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

Assembly in recess at 12:54 p.m.

ASSEMBLY IN SESSION

At 12:54 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 31.
Assemblywoman Gansert moved the adoption of the resolution.
Remarks by Assemblywoman Gansert.
Resolution adopted.

Senate Concurrent Resolution No. 32.
Assemblyman Carpenter moved the adoption of the resolution.
Remarks by Assemblymen Carpenter and Ohrenschall.
Madam Speaker requested the privilege of the Chair for the purpose of making remarks.
Resolution adopted.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following proclamation be entered in the Journal:

PROCLAMATION OF THE NEVADA STATE ASSEMBLY

WHEREAS, During the week of May 11-16, 2009, National Police Week is observed throughout the nation to recognize and honor the courageous active, retired, and departed law enforcement officers who have served in the United States. National Police Week was established by a joint resolution of Congress in 1962; and

WHEREAS, The dedicated men and women who work as law enforcement officers face extraordinary risk and danger while preserving the freedom, safety, and security of others; and

WHEREAS, There are approximately 900,000 law enforcement officers currently serving in communities across the United States, including 17,388 law enforcement officers in Nevada; and

WHEREAS, An average 60,000 assaults against law enforcement officers are reported each year in the United States, resulting in law enforcement officers enduring approximately 16,000 injuries annually; and

WHEREAS, Since the first recorded death in 1792, more than 18,000 law enforcement officers in the United States have been killed in the line of duty; now, therefore, be it

PROCLAIMED, That during National Police Week, all Nevadans are encouraged to remember the thousands of law enforcement officers who have lost their lives while protecting their communities. Nevadans are also encouraged to express their appreciation to Nevada's active and retired law enforcement officers; and be it further

PROCLAIMED, That the Nevada State Assembly, in coordination with National Police Week, hereby proclaims May 7, 2009, as Peace Officers' Memorial Day in the State of Nevada. The Nevada State Assembly is forever grateful to all of the noble Nevada law enforcement officers who made the ultimate sacrifice while promoting the well-being and protection of their fellow citizens.

DATED this 7th day of May, 2009.

BARBARA E. BUCKLEY
Speaker of the Assembly

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Frank Daykin, former Assemblywoman Genie Ohrenschall, Linda Daykin, Philip Daykin, former Assemblyman Bob Price, Nancy Price, and Tyler Daykin.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Elisika Arango, Nathan Arango, Mark Elston, Beverly Elston, Mike Lucke, Alan Kingsley, Gordy Cowan, and Clint Thiesse.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Chris Wallace.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to John P. Copoulos, Chris Eliopulos, Jim Nicholson, Robert Lindsey, and Georgene E. Lindsey.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Kids for a Healthy Heart: Enrique Sanchez, Brianna Alvardo, Aubrey Alotta, Dillon Culver, Abigail Downs, Sydney Mills, Tatum Woods, Alex Honeycutt, Jesus Benitez Ramos, Daisy Nunez, Elizabeth Heinz, Matthew McCarthy, Marcel Brown, Jenna Wong-Fortunato, Morgan Tingle, Jose

Vargas, Jacob sheldon, Zachariah Simms, Andrew Updegrove, Caroline Gabica, Kelly Canfield, Tristan Martel, Ethan Lopes, Connor Pradere, Kaitlyn Vairo, Kyndra Hollooway, Erika Murray, Ron Pacheco, and Rebecca Rund.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Mel Meier, Dennis Meier, and Nick Vander Poel.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from David M. Cox Elementary School: Ainsley Banaga, Giavonna Bethea, Daniel Boeres, Sophia Burnette, Joseph Delgado, Zakary Dravenstatt, Chelsea Gleason, Natalie Hunsaker, Jordan Kowalski, Eesha Kripalani, Sean Odell, Marissa Orlando, Allison Petix, Ashley Redmond, Alexis Rzesnowiecky, Danny Sanchez, Maximillian Schultz, Adelynn Tourondel, Colby Young, Victoria Young, Joseph Adams, Ana Andrade, Anthony Canedo, Noah Ellis, Jacob Fick, Matthew Gregory, James Hawley, Felipe Herrera, Juliana Hollenbeck, Donna Lee, Jenny Liu, Alexus Mata, Feliz Mendoza, Heidi Moser, Jennifer Sawtelle, Michael Sawtelle, Nathan Scott, Ethan Smith, Braeden Traficanti, Kylie Jameson, Robert Turek, David Wasington, Kylie Whalen, Jamie Hannah, David Westendorf, Anita Henson, and Nathan Mollinedo.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from High Desert Montessori School: Kaylee Aceves, Mariah Bear, Mason Berfield, Heath Blake, Johnny Botelho, Garrett Brehler, Kristina Caywood, Benjamin Charley, Lindsey Christianson, Megan Davis, Ashley De Luca, Stephanie Dufoe, Thomas Friberg, Alejandro Keir, Henry Lee, Veronica LuVisi, Lisa Martin, Samantha Martinez, Tyler Miller, Natalie Nerey-Chavez, Selena Newman, Alexandra Orellana, Johanna Reyner, Guadalupe Reyes-Matute, Vince Stuart, Taylor Thorpe, Toni Tallifer, Sarah Vangegrift, and Nicole Young.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Lorraine Alderman.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, May 8, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 1:11 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE NINETY-SIXTH DAY

CARSON CITY (Friday) May 8, 2009

Assembly called to order at 11:47 a.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present except Assemblymen Arberry, Buckley, Claborn, Horne, and Mortenson, who were excused.

Prayer by the Chaplain, Reverend Patrick Propster.

Psalm Chapter 117:

O praise the Lord, all ye nations: praise Him, all ye people. For His merciful kindness is great toward us: and the truth of the Lord endureth forever. Praise ye the Lord.

Let us pray:

Lord God Almighty, as this week comes to a close, we pray that You have been pleased with all that has been done in Your sight. As the priests of old would pray Your blessing and favor upon Your people, we do so now using those very same words, over those here gathered.

The Lord bless thee, and keep thee. The Lord make his face shine upon thee, and be gracious unto thee. The Lord lift up His countenance upon thee, and give thee peace.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Joint Resolution No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Concurrent Resolution No. 16, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 23, 59, 76, 144, 158; Senate Joint Resolution No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Concurrent Resolution No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

Also, your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Concurrent Resolution No. 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Taxation, to which was referred Senate Bill No. 61, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 139, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 3, 283, 482, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 223, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, VICE *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 6, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 31.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 201, 411, 412, 414.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 182.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 576 to Senate Bill No. 109.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 3.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblymen Carpenter and Bobzien.

Resolution adopted.

Senate Concurrent Resolution No. 5.

Resolution read.

The following amendment was proposed by Natural Resources, Agriculture, and Mining:

Amendment No. 570.

WHEREAS, The State of Nevada continues to rank as one of the states most affected by wildfire in this country, and as this cycle continues to be repeated year after year, it becomes clear that relying solely on rapid

response and the ability of firefighters to suppress these fires cannot adequately address the threat, especially in the rural areas of this State; and

WHEREAS, Wildlife habitats, grazing lands, watersheds and scenic resources are vulnerable, and according to a recent assessment, almost a quarter of the communities evaluated in Nevada were ranked as having a high or extreme hazard of wildfire; and

WHEREAS, Local ranchers in Humboldt County proposed the idea of assisting the Winnemucca Field Office of the Bureau of Land Management in response to a particularly destructive fire season in 1999, which had caused sizeable resource damage and exceedingly high losses to the area's ranching industry; and

WHEREAS, The initial concept eventually became the Wildfire Support Group, composed of ranchers in Humboldt County who have been trained in basic wildland fire suppression, in cooperation with the Bureau of Land Management, to provide additional resources for initial attack on wildfires; and

WHEREAS, Members of the Wildfire Support Group are often the first on the scene of a wildfire, providing invaluable assistance in improving the ability of the Bureau of Land Management to locate, reach and subdue wildfires in remote areas and saving valuable time and resources for local land management agencies and fire departments; and

WHEREAS, In addition to assisting local governments in using their personnel and resources more effectively in response to wildfires, the Wildfire Support Group assists in efforts to preemptively reduce the risk of such hazards by reducing the amount of fuels present on public lands by means of fuels management grazing plans; and

WHEREAS, Constructed on a cost-share basis with the Bureau of Land Management, the ~~[Wildlife]~~ **Wildfire** Support Group's grazing projects simultaneously benefit ranchers' livestock operations and reduce hazardous fuel loads in the wildland-urban interface; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That members of the 75th Nevada Legislature hereby commend the actions of the Wildfire Support Group and recognize that the ~~[Wildlife]~~ **Wildfire** Support Group serves as an exemplary model of local residents cooperating with governmental entities and working to improve their community; and be it further

RESOLVED, That the Legislature hereby encourages residents and governmental entities in other areas of this State to adopt similar models; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Wildfire Support Group, the Board of County Commissioners of Humboldt County, the Winnemucca Field Office of the Bureau of Land Management and the State Director of the Bureau of Land Management in Nevada.

Assemblyman Bobzien moved the adoption of the amendment.

Remarks by Assemblymen Hogan and Oceguera.
Amendment adopted.
Resolution ordered reprinted and reengrossed.

Senate Concurrent Resolution No. 16.
Assemblyman Kihuen moved the adoption of the resolution.
Remarks by Assemblyman Kihuen.
Resolution adopted.

INTRODUCTION, FIRST READING AND REFERENCE

By Judiciary:
Assembly Bill No. 554—AN ACT relating to statutes; ratifying certain technical corrections made to sections of NRS; correcting the effective date of certain provisions, correcting and clarifying certain provisions and repealing certain provisions of Statutes of Nevada; and providing other matters properly relating thereto.
Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Senate Bill No. 182.
Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Senate Bill No. 201.
Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.
Motion carried.

Senate Bill No. 411.
Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.
Motion carried.

Senate Bill No. 412.
Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Senate Bill No. 414.
Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

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

Assembly in recess at 12:12 p.m.

ASSEMBLY IN SESSION

At 12:18 p.m.
Mr. Speaker pro Tempore presiding.
Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 23.
Bill read second time and ordered to third reading.

Senate Bill No. 59.
Bill read second time and ordered to third reading.

Senate Bill No. 61.
Bill read second time and ordered to third reading.

Senate Bill No. 76.
Bill read second time and ordered to third reading.

Senate Bill No. 139.
Bill read second time and ordered to third reading.

Senate Bill No. 144.
Bill read second time and ordered to third reading.

Senate Bill No. 158.
Bill read second time and ordered to third reading.

Senate Joint Resolution No. 3.
Bill read second time and ordered to third reading.

Senate Joint Resolution No. 9.
Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 3, 223, 283, 482, 494; Senate Bills Nos. 207, 256, 287, 317 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Hogan moved that the Assembly do not recede from its action on Senate Bill No. 109, that a conference be requested, and that Mr. Speaker pro Tempore Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Hogan.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker pro Tempore appointed Assemblymen Claborn, Smith, and Carpenter as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 109.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 8, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolutions Nos. 33 and 34.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 33.
Assemblywoman Gansert moved the adoption of the resolution.
Remarks by Assemblywoman Gansert.
Resolution adopted.

Senate Concurrent Resolution No. 34.
Assemblyman Goedhart moved the adoption of the resolution.
Remarks by Assemblyman Goedhart.
Resolution adopted.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Bills Nos. 12, 14, 141, 161, 216, 240, 391; Senate Concurrent Resolutions Nos. 27, 28 and 29.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Cyrill Suter.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Michael Haakinson.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Mary Swadell, Joan Frenken, Robert Campbell, Susan Davila, and George Holman.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Nancy Hambrick.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Jill Hardy.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Christy Canantsy, Dallyn Malarchuk, and Caitlyn Settelmeyer.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Elise L. Wolff Elementary School: Amber Bigelow, Nicholas Calderon, Christina Casey, Tucker Dungan, Cydney Fears, Ethan Gilmore, Emily Gorski, Cesario Huerta, Jake Javellana, Antony Leauanae, Coby Mata, Celine Nguyen, Tylyn Openshaw, Sophia Shafiuzzaman, Ryan Smith, Dylan Stansbury, Abigail Therrell, Anthony Cutone, Sydney Dalessi, Nicolas Eclevia, Seth Goolsby, Alyssa Hord, Kaelei MacFarlene, Justin Massaro, Jacob Menard, Taylor Murdy, Hannah Ovens, Daniel Troolines, Gifty Nkansah, Elias Perez, Jessic Darlington, Riley Duncan, Jolyn Garlitos, Stefanie Greer, George Karachepone, Bryson LaBar, Derek LaneSmith, Cayman Nelson, Miles Ohala, Blake Orr, Sariah Powers, and Lisa Tanaka; teachers Silva Bikarian, Myrna Obregon, Roxana Pistalu, Deborah Harbin; chaperones Tamara Dungan, Raven Gilmore, Karie Openshaw, Kareem Shafiuzzaman, Julie Smith, Brian Dalessi, Elias Perez, Holly Duncan, Megan Nelson, and Victoria Briggs-Darlington; Chris Wallis.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, May 12, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 12:42 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDREDTH DAY

CARSON CITY (Tuesday), May 12, 2009

Assembly called to order at 11:40 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman Carpenter, who was excused.

Prayer by the Chaplain, Reverend Ernie Hooper.

Heavenly Father, we look to Thee in Jesus' Name. We look to You because Thou art the author and finisher of our faith and the one who has brought us here on this earth and brought us here for a purpose. We are here today to fulfill that purpose. We are thankful, Father, that we have a great God, a great Savior who can mold and make us after His will, because man was made after God's image. We are glad to be here today in the presence of the people who make this life of ours possible and who do the things that need to be done here in the State of Nevada.

We pray for our government and our heads at the capitol and for our President. We ask You to help him make the right choices and do the right things. We wish this for all the others who are working in the capitol, and here in this Legislative Building. We are thankful, Father, for the people who are going out to do something for our country and for our people, the Indians, as well as other tribes and nationalities that are here in this state and in this great nation of ours. We are thankful for our fighting men and women. We ask You to be with them. They sacrifice their lives for our freedom here. We are thankful for the freedom that You have given us through these people and for the wonderful life that you have given us. We enjoy the scenery around us as well as being here today. We are thankful, Father, for Your goodness and mercy and Your love that You have bestowed upon us. In Jesus' Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Education, to which were referred Senate Bills Nos. 185, 298, 378, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Education, to which were referred Senate Bills Nos. 77, 163, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which was referred Senate Bill No. 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Concurrent Committee on Education, to which was referred Senate Bill No. 62, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 37, 42, 44, 105, 111, 147, 175, 213, 412, 414 has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 4, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which was referred Senate Bill No. 54, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 130, 169, 254, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 35, 68, 101, 125, 194, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 219, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 100, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 458, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, VICE *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 99, 349, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 279, 359, 461, 488, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 8, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 32.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 572 to Senate Bill No. 83.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 5.

Assemblyman Bobzien moved the adoption of the resolution.

Remarks by Assemblyman Bobzien.

Resolution adopted, as amended.

Assemblyman Anderson moved that Senate Bill No. 106 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 458.

Bill read second time.

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

Amendment No. 619.

AN ACT relating to public financial administration; creating the K-12 Public Education Stabilization Account; ~~[repealing the provisions applying certain tax abatements to taxes imposed for public education and authorizing certain tax credits against taxes imposed for public education; exempting certain taxes imposed for public education from the reallocation]~~ **reallocating money reverted from the State Distributive School Account; revising the provisions governing certain tax abatements and credits available for economic development; reallocating a portion** of **the** property taxes levied on property in a redevelopment area; **revising the provisions requiring certain redevelopment agencies to set aside revenue for low-income housing;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the K-12 Public Education Stabilization Account within the Fund to Stabilize the Operation of the State Government ~~[.]~~ **and requires the State Controller to deposit any money reverted from the State Distributive School Account at the close of each odd-numbered fiscal year into that Account and into the Account for Programs for Innovation and the Prevention of Remediation.** (Chapter 353 of NRS) **Section 5** of this bill authorizes the Superintendent of Public Instruction to request from the Legislature, if the Legislature is in session, an allocation

from the **K-12 Public Education Stabilization** Account if a shortfall exists in the State Distributive School Account. If the Legislature is not in session, **section 6** of this bill authorizes the Superintendent to submit such a request to the Interim Finance Committee. Existing law authorizes the Chief of the Budget Division of the Department of Administration, with the approval of the Governor, to set aside reserves to meet emergencies arising during a fiscal year. (NRS 353.225) **Section 7** of this bill limits the amount that may be set aside as proposed reserves for the State Distributive School Account and certain other funds and accounts for education to the average that is reserved for all other departments, institutions and agencies. **Section 7** also requires the Chief to submit a request to the Legislature or, if the Legislature is not in session, to the Interim Finance Committee, to determine whether an allocation should be made from the K-12 Public Education Stabilization Account in lieu of setting aside a reserve in the State Distributive School Account and certain other funds and accounts for education.

Existing law authorizes the Commission on Economic Development to grant to certain businesses partial abatements of property taxes, business taxes and local sales and use taxes. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 363B.120, 374.357, 701A.210) **Sections ~~[8,]~~ 8-10, 13, 16-18 ~~[and 20-26]~~ , 26 and 28, 29, 31-33** of this bill ~~[limit these abatements to taxes that are not imposed for public education.]~~ **exclude local school support taxes from such a partial abatement of local sales and use taxes. Sections 16-18 and 29 also limit the duration and amount of such a partial abatement of property taxes. Section 27 of this bill requires the Commission to adopt regulations for determining the duration and amount of those partial abatements, to establish sanctions for the failure of a business to comply with the eligibility requirements for those partial abatements and to require the annual submission of information to determine compliance with those eligibility requirements, and authorizes the Department of Taxation to impose those sanctions.**

Existing law authorizes certain businesses located within a zone for economic development to obtain, pursuant to an agreement with the governing body of the municipality designating the zone for economic development, a credit against or refund of local sales and use taxes. (NRS 274.270, 374.643) **Sections 9-15 and ~~[26]~~ 33** of this bill ~~[limit]~~ **exclude local school support taxes from** such a credit or refund **. ~~[to taxes that are not imposed for public education.]~~**

Existing law authorizes the reallocation to a redevelopment agency of certain property taxes levied in a redevelopment area. (NRS 279.676) **~~[Section 19]~~ Sections 19-23 and 36** of this bill ~~[exempts from that reallocation any taxes imposed for public education.]~~ **require the deposit of a portion of the amount of those taxes that would otherwise be reallocated to a redevelopment agency for the next 2 fiscal years into the State Distributive School Account and for succeeding fiscal years into the K-12 Public Education Stabilization Account.**

Under existing law, a redevelopment agency of a city whose population is 300,000 or more, as determined by the last decennial census (currently Las Vegas only), is required to set aside for low-income housing at least 18 percent of its tax revenue from a redevelopment area. (NRS 0.050, 279.685) Section 24 of this bill reduces the minimum amount of that set-aside to 15 percent, and requires an agency of a city that attains a population of 300,000 or more in the future, as determined from the populations of cities as certified annually by the Governor, to set aside for low-income housing at least 3 percent of its tax revenue from a redevelopment area for the first fiscal year and to increase that minimum percentage each fiscal year until it reaches a minimum amount of 15 percent.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ~~*[As used in sections 2 to 6, inclusive, of this act, "Account" means the K-12 Public Education Stabilization Account created by section 3 of this act.]*~~ **(Deleted by amendment.)**

Sec. 3. ***1. The K-12 Public Education Stabilization Account is hereby created in the Fund to Stabilize the Operation of the State Government created by NRS 353.288.***

2. ~~*[Except as otherwise provided in subsection 3, the]*~~ ***The State Controller shall, after the close of each odd-numbered fiscal year and before the issuance of the State Controller's annual report, transfer from the State General Fund*** ~~*[to the Account]*~~ ***:***

(a) Fifty percent of any money which was reverted from the State Distributive School Account at the close of the previous fiscal year to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379. Money transferred pursuant to this paragraph to the Account for Programs for Innovation and the Prevention of Remediation is hereby appropriated as a continuing appropriation solely for the purpose of carrying out the provisions of NRS 385.3781 to 385.379, inclusive.

(b) Except as otherwise provided in subsection 3, fifty percent of any money which was reverted from the State Distributive School Account at the close of the previous fiscal year ~~*[.]*~~ ***to the K-12 Public Education Stabilization Account. Money transferred pursuant to this*** ~~*[subsection]*~~ ***paragraph to the Account is hereby appropriated as a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in sections 2 to 6, inclusive, of this act.***

3. The balance in the K-12 Public Education Stabilization Account must not exceed 20 percent of the combined sum of:

(a) The total anticipated apportionments pursuant to NRS 387.124 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made;

(b) The total anticipated local revenue pursuant to NRS 387.1235 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made; and

(c) The amount established by the Legislature for the reduction of pupil-teacher ratios pursuant to NRS 388.700 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made.

4. The money in the K-12 Public Education Stabilization Account may only be allocated by the Legislature or, if the Legislature is not in session, the Interim Finance Committee, pursuant to sections 2 to 6, inclusive, of this act. Not more than 50 percent of the money in the Account may be so allocated in even-numbered fiscal years.

5. Except as otherwise provided in subsection 3, the interest and income earned on the sum of:

(a) The money in the K-12 Public Education Stabilization Account; and

(b) Unexpended appropriations made to the Account from the State General Fund,

➥ must be credited to the Account. If the amount of such credit would cause the Account to exceed the maximum allowed balance in the Account established pursuant to subsection 3, the amount of such excess credit must be deposited for credit to the Fund to Stabilize the Operation of the State Government or, if the amount of such excess credit would cause that Fund to exceed the maximum allowed balance in that Fund established pursuant to subsection 2 of NRS 353.288, the amount of such excess credit must be deposited for credit to the State General Fund.

6. The money in the K-12 Public Education Stabilization Account must not be used to replace or supplant money otherwise available from other sources for the operation of the K-12 public schools in this State.

7. The actual or projected balance of money in the K-12 Public Education Stabilization Account must not be included in the calculation of the basic support guarantee per pupil established for each school year pursuant to NRS 387.122 or the basic support guarantee for special education program units established pursuant to NRS 387.1221.

Sec. 4. ***For purposes of sections 5 and 6 of this act, a shortfall exists in the State Distributive School Account if the projections of local revenue pursuant to NRS 387.1235 are at least 2 percent less than what was anticipated when the Legislature determined the amount of basic support for the biennium.***

Sec. 5. ***1. If there is a shortfall in the State Distributive School Account and the Legislature is in session, the Superintendent of Public Instruction may submit a request for an allocation from the K-12 Public Education Stabilization Account to the Director of the Legislative Counsel Bureau for transmission to the Legislature.***

2. If the Legislature finds that an allocation should be made from the K-12 Public Education Stabilization Account, the Legislature shall by resolution establish the amount and purpose of the allocation and direct the State Controller to transfer that amount to the State Distributive School Account, giving first priority to the shortfall in the State Distributive School Account. The State Controller shall thereupon make the transfer.

Sec. 6. ***1. If there is a shortfall in the State Distributive School Account and the Legislature is not in session, the Superintendent of Public Instruction may submit a request to the State Board of Examiners for an allocation from the K-12 Public Education Stabilization Account by the Interim Finance Committee.***

2. The State Board of Examiners shall consider the request and may require additional information from the Superintendent of Public Instruction as the Board deems appropriate. If the State Board of Examiners finds that an allocation should be made, the Board shall recommend the amount of the allocation to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

3. If the Interim Finance Committee, after independent determination, finds that an allocation should and may lawfully be made from the K-12 Public Education Stabilization Account, the Committee shall by resolution establish the amount and purpose of the allocation, giving first priority to the shortfall in the State Distributive School Account, and direct the State Controller to transfer that amount to the State Distributive School Account.

Sec. 7. NRS 353.225 is hereby amended to read as follows:

353.225 1. ~~[In]~~ ***Subject to the requirements of subsections 2 and 3, in*** order to provide some degree of flexibility to meet emergencies arising during each fiscal year in the expenditures for the State Distributive School Account in the State General Fund and for operation and maintenance of the various departments, institutions and agencies of the Executive Department of the State Government, the Chief, with the approval in writing of the Governor, may require the State Controller or the head of each such department, institution or agency to set aside a reserve in such amount as the Chief may determine, out of the total amount appropriated or out of other funds available from any source whatever to the department, institution or agency.

2. ***If the Chief determines that a reserve pursuant to subsection 1 is required in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational programs for the school districts, charter schools and university schools for profoundly gifted pupils, the amount of any proposed reserves in each of***

those accounts and the Grant Fund, when combined and calculated as a percentage of the general fund appropriations in those accounts and the Grant Fund, must not exceed the average percentage of reserves for all other accounts and funds that include general fund appropriations for the operation of all departments, institutions and agencies of the State Government and authorized expenditures from the State General Fund for the regulation of gaming for that fiscal year.

3. Before setting aside any reserves in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational programs for the school districts, charter schools and university schools for profoundly gifted pupils, the Chief must make a request to the Legislature or, if the Legislature is not in session, to the Interim Finance Committee, to determine whether an allocation should be made from the K-12 Public Education Stabilization Account created by section 3 of this act in lieu of setting aside the reserve. If the Legislature or the Interim Finance Committee finds that an allocation should be made from the K-12 Public Education Stabilization Account in lieu of a reserve, the Legislature or the Interim Finance Committee shall by resolution establish the amount and the purpose of the allocation and direct the State Controller to transfer that amount to the State General Fund. If the Legislature or the Interim Finance Committee adopts such a resolution, only the difference between the proposed amount of reserves determined pursuant to subsection 2 and the allocation made by resolution pursuant to this subsection may be set aside as reserves in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational programs for the school districts, charter schools and university schools for profoundly gifted pupils.

4. At any time during the fiscal year this reserve or any portion of it may be returned to the appropriation or other fund to which it belongs and may be added to any one or more of the allotments, if the Chief so orders in writing.

Sec. 8. NRS 266.267 is hereby amended to read as follows:

266.267 1. A city council shall not enter into a lease of real property owned by the city for a term of 3 years or longer or enter into a contract for the sale of real property until after the property has been appraised pursuant to NRS 268.059. Except as otherwise provided in this section, paragraph (a) of subsection 1 of NRS 268.050 and subsection 3 of NRS 496.080:

(a) The sale or lease of real property must be made in the manner required pursuant to NRS 268.059, 268.061 and 268.062; and

(b) A lease or sale must be made at or above the highest appraised value of the real property as determined pursuant to the appraisal conducted pursuant to NRS 268.059.

2. The city council may sell or lease real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the city which is eligible ***for an abatement from local sales and use taxes*** pursuant to ~~[NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.]~~ ***section ~~[20]~~ 26 of this act.***

Sec. 9. Chapter 274 of NRS is hereby amended by adding thereto the provisions set forth as sections 10, 11 and 12 of this act.

Sec. 10. ***"Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by NRS 374.110 or 374.190 or the Sales and Use Tax Act.***

Sec. 11. ~~***[***"Taxes imposed for public education" means:~~

~~***1. Any ad valorem tax authorized or required by chapter 387 of NRS;***~~

~~***2. Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020;***~~

~~***3. The taxes imposed by NRS 374.110, 374.190 and 374A.010; and***~~

~~***4. Any other ad valorem tax or local sales and use taxes for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.]***~~ **(Deleted by amendment.)**

Sec. 12. ***1. Each person who holds a valid certificate, issued under NRS 274.270, as a qualified business may file for a credit or refund to recover the amount of the local sales and use taxes*** ~~***[, other than taxes imposed for public education,]***~~ ***paid for all tangible personal property purchased in the conduct of its business for the period, not to exceed 5 years, stated in its agreement with the governing body of the municipality made under NRS 274.270, or until the person is no longer certified as a qualified business under that section, whichever occurs first.***

2. Claims for credit or refund may be filed under this section only if:

(a) The designating municipality has adopted an ordinance authorizing such claims; and

(b) This benefit is specified in the agreement made under NRS 274.270.

Sec. 13. NRS 274.010 is hereby amended to read as follows:

274.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 274.020 to 274.080, inclusive, ***and*** ~~***[sections 10 and 11]***~~ ***section 10 of this act*** have the meanings ascribed to them in those sections.

Sec. 14. NRS 274.230 is hereby amended to read as follows:

274.230 When a specially benefited zone is designated and approved under this chapter, the governing body of the designating municipality may:

1. Apply with the United States Department of Commerce to have the specially benefited zone declared to be a free trade zone.

2. When any federal legislation concerning specially benefited zones is enacted or becomes effective, prepare and submit, with the assistance of the Administrator and in a timely fashion, all information and forms necessary to permit the specially benefited zone designated and approved under this chapter to be considered as an eligible area under the federal program.

3. Apply for all available assistance from the federal, state, and in the case of a city, the county government, including the suspension or modification of their regulations within the specially benefited zone that have the characteristics described in subsection 1 of NRS 274.110.

4. Develop and carry out a program to improve police protection within the zone.

5. Give priority to the use in the zone of any federal assistance for urban development or job training.

6. By ordinance adopt regulations for qualifying employers for the benefits authorized specifically for qualified businesses under this chapter **.** ~~[and NRS 374.643.]~~

Sec. 15. NRS 274.270 is hereby amended to read as follows:

274.270 1. The governing body shall investigate the proposal made by a business pursuant to NRS 274.260, and if it finds that the business is qualified by financial responsibility and business experience to create and preserve employment opportunities in the specially benefited zone and improve the economic climate of the municipality and finds further that the business did not relocate from a depressed area in this State or reduce employment elsewhere in Nevada in order to expand in the specially benefited zone, the governing body may, on behalf of the municipality, enter into an agreement with the business, for a period of not more than 20 years, under which the business agrees in return for one or more of the benefits authorized in this chapter ~~[and NRS 374.643]~~ for qualified businesses, as specified in the agreement, to establish, expand, renovate or occupy a place of business within the specially benefited zone and hire new employees at least 35 percent of whom at the time they are employed are at least one of the following:

(a) Unemployed persons who have resided at least 6 months in the municipality.

(b) Persons eligible for employment or job training under any federal program for employment and training who have resided at least 6 months in the municipality.

(c) Recipients of benefits under any state or county program of public assistance, including, without limitation, temporary assistance for needy families, Medicaid and unemployment compensation who have resided at least 6 months in the municipality.

(d) Persons with a physical or mental handicap who have resided at least 6 months in the State.

(e) Residents for at least 1 year of the area comprising the specially benefited zone.

2. To determine whether a business is in compliance with an agreement, the governing body:

(a) Shall each year require the business to file proof satisfactory to the governing body of its compliance with the agreement.

(b) May conduct any necessary investigation into the affairs of the business and may inspect at any reasonable hour its place of business within the specially benefited zone.

➥ If the governing body determines that the business is in compliance with the agreement, it shall issue a certificate to that effect to the business. The certificate expires 1 year after the date of its issuance.

3. The governing body shall file with the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation a copy of each agreement, the information submitted under paragraph (a) of subsection 2 and the current certificate issued to the business under that subsection. The governing body shall immediately notify the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation whenever the business is no longer certified.

Sec. 16. NRS 274.310 is hereby amended to read as follows:

274.310 1. A person who intends to locate a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive ~~[,]~~ ***, and section 19 of this act;***

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597,

➥ may submit a request to the governing body of the county, city or town in which the business would operate for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of one or more of the ***local sales and use taxes or*** taxes imposed pursuant to chapter 361 ~~[or 374]~~ of NRS . The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business would operate. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application. ~~*[, other than any taxes imposed for public education.]*~~

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[4.]~~ ***5:***

(1) Commence operation and continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, ***and section 19 of this act,*** area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

➥ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business will operate.

(d) The applicant invested or commits to invest a minimum of $500,000 in capital.

4. ***If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:***

(a) Be for a duration of not more than 10 years; and

(b) Not exceed 50 percent of the property taxes payable by a business each year.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from ~~[the property tax]~~ ***property taxes*** imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business will be located.

~~[5.]~~ ***6.*** The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

~~[6.]~~ ***7.*** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 17. NRS 274.320 is hereby amended to read as follows:

274.320 1. A person who intends to expand a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive ~~[.]~~ ***, and section 19 of this act;***

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597,

➥ may submit a request to the governing body of the county, city or town in which the business operates for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of the ***local sales and use*** taxes imposed on capital equipment. ~~[pursuant to chapter 374 of NRS.]~~ The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application. ~~*[, other than any taxes imposed for public education.]*~~

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, ***and section 19 of this act,*** area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

➥ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The applicant invested or commits to invest a minimum of $250,000 in capital equipment.

4. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation; and

(b) The Nevada Tax Commission.

5. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

6. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 18. NRS 274.330 is hereby amended to read as follows:

274.330 1. A person who owns a business which is located within an enterprise community established pursuant to 24 C.F.R. Part 597 in this State may submit a request to the governing body of the county, city or town in which the business is located for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of one or more of the ***local sales and use taxes or*** taxes imposed pursuant to chapter 361 ~~[or 374]~~ of NRS . The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application. ~~*[, other than any taxes imposed for public education.]*~~

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[4.]~~ ***5:***

(1) Continue in operation in the enterprise community for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

➥ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The business:

(1) Employs one or more dislocated workers who reside in the enterprise community; and

(2) Pays such employee or employees a wage of not less than 100 percent of the federally designated level signifying poverty for a family of four persons and provides medical benefits to the employee or employees and his or their dependents.

4. ***If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:***

(a) Be for a duration of not more than 10 years; and

(b) Not exceed 50 percent of the property taxes payable by a business each year.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall:

(a) Determine the percentage of employees of the business which meet the requirements of paragraph (d) of subsection 3 and ***, except as otherwise provided in subsection 4,*** grant a partial abatement equal to that percentage; and

(b) Immediately forward a certificate of eligibility for the abatement to:

(1) The Department of Taxation;

(2) The Nevada Tax Commission; and

(3) If the partial abatement is from ~~[the property tax]~~ ***property taxes*** imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business is located.

~~[5.]~~ ***6.*** The Commission on Economic Development:

(a) Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees to qualify for an abatement pursuant to this section.

(b) May adopt such other regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

~~[6.]~~ ***7.*** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

~~[7.]~~ ***8.*** As used in this section, "dislocated worker" means a person who:

(a) Has been terminated, laid off or received notice of termination or layoff from employment;

(b) Is eligible for or receiving or has exhausted his entitlement to unemployment compensation;

(c) Has been dependent on the income of another family member but is no longer supported by that income;

(d) Has been self-employed but is no longer receiving an income from self-employment because of general economic conditions in the community or natural disaster; or

(e) Is currently unemployed and unable to return to a previous industry or occupation.

Sec. 19. **Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Except as otherwise provided in this section, out of any revenue from taxes which is otherwise required to be paid into a special fund of a redevelopment agency in accordance with paragraph (b) of subsection 1 of NRS 279.676, the county treasurer shall set aside:

(a) Three percent of that revenue for the fiscal year beginning on July 1, 2009;

(b) Four percent of that revenue for the fiscal year beginning on July 1, 2010;

(c) Five percent of that revenue for the fiscal year beginning on July 1, 2011;

(d) Six percent of that revenue for the fiscal year beginning on July 1, 2012;

(e) Seven percent of that revenue for the fiscal year beginning on July 1, 2013;

(f) Eight percent of that revenue for the fiscal year beginning on July 1, 2014;

(g) Nine percent of that revenue for the fiscal year beginning on July 1, 2015;

(h) Ten percent of that revenue for the fiscal year beginning on July 1, 2016;

(i) Eleven percent of that revenue for the fiscal year beginning on July 1, 2017;

(j) Twelve percent of that revenue for the fiscal year beginning on July 1, 2018;

(k) Thirteen percent of that revenue for the fiscal year beginning on July 1, 2019;

(l) Fourteen percent of that revenue for the fiscal year beginning on July 1, 2020; and

(m) Fifteen percent of that revenue for each fiscal year beginning on or after July 1, 2021,

➥ and pay the amount set aside to the State Treasurer.

2. The provisions of subsection 1:

(a) Shall not apply to reduce the amounts payable under any existing obligation of the agency or otherwise be applied in such a manner as to impair adversely any existing obligation of the agency, as determined by independent bond counsel, until the existing obligation has been discharged in full; and

(b) Do not apply to any revenue required to be paid into a special fund of the agency which is attributable to the taxes imposed on the property included in a particular redevelopment project within the redevelopment area if:

(1) The legislative body determines that any of the property included in that redevelopment project is characterized by the factor specified in paragraph (j) of subsection 1 of NRS 279.388;

(2) Before July 1, 2009, the agency entered into a memorandum of understanding or other agreement with a private entity regarding that redevelopment project; and

(3) The agency certifies that a private entity has entered into or will be obligated to enter into a memorandum of understanding or other agreement with the board of trustees of the school district in which that redevelopment project is located which obligates the private entity to donate to that school district sites for the construction of schools, in such a number, size and location as that board of trustees determines to be appropriate for that redevelopment project.

3. The State Treasurer shall deposit any money received pursuant to subsection 1:

(a) Except as otherwise provided in paragraph (b), into the K-12 Public Education Stabilization Account created by section 3 of this act; and

(b) To the extent that the amount received would cause the K-12 Public Education Stabilization Account to exceed the maximum allowed balance in the Account established pursuant to subsection 3 of section 3 of this act,

into the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379.

4. For the purposes of this section, "existing obligation" means:

(a) Any bond, note, medium-term financing, certificate, debenture or other financial obligation issued by the agency before July 1, 2009;

(b) Any loan, letter of credit or other advance of money to the agency before July 1, 2009, including, without limitation, a loan from any federal, state or local governmental entity and any loan from or other financial obligation owed to any bank or other private entity;

(c) Any minimum payment required on any note issued or other indebtedness or obligation incurred by the agency pursuant to any agreement for tax increment financing made pursuant to the redevelopment plan before July 1, 2009, including, without limitation, any owner participation agreement;

(d) Any money required to be set aside by the agency pursuant to NRS 279.685 for each fiscal year, but not less than the amount set aside by the agency pursuant to that section for the fiscal year ending on June 30, 2009;

(e) Any money required to administer and operate the agency for each fiscal year, except that for each fiscal year beginning after the first full fiscal year of the administration and operation of the agency, this amount must not exceed 102 percent of the amount expended for the administration and operation of the agency for the immediately preceding fiscal year;

(f) Any contractual obligation incurred by the agency before July 1, 2009, which, if breached by the agency, may subject the agency to damages or other liability, including, without limitation, any obligation, covenant or representation of the agency to issue any bonds, notes or other additional indebtedness in the future, any covenant to maintain reserve funds, any covenant to maintain minimum annual debt service ratios, any obligation to purchase property and any obligation to construct improvements, whether or not such obligation is an obligation or debt of the agency under NRS 279.638 and whether or not such obligation is limited to particular revenues of the agency; and

(g) The provisions of any memorandum of understanding between the agency and any private entity relating to the redevelopment of any site as part of a redevelopment project, if:

(1) Before July 1, 2009, in anticipation of the redevelopment of the site as part of a redevelopment project, the private entity reduced the fair market value of the site by clearing, demolishing or excavating any property at the site; and

(2) Before July 1, 2011, the agency and private entity execute a formal contract for the redevelopment of the site as part of a redevelopment project.

Sec. 20. **NRS 279.636 is hereby amended to read as follows:**

279.636 1. An agency may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable:

(a) Exclusively from the income and revenues of the redevelopment projects financed with the proceeds of the bonds, or with those proceeds together with financial assistance from the State or Federal Government in aid of the projects.

(b) Exclusively from the income and revenues of certain designated redevelopment projects whether or not they were financed in whole or in part with the proceeds of the bonds.

(c) In whole or in part from taxes allocated to, and paid into a special fund of, the agency pursuant to the provisions of NRS 279.674 to 279.685, inclusive **[.]** ***, and section 19 of this act.***

(d) From its revenues generally.

(e) From any contributions or other financial assistance from the State or Federal Government.

(f) By any combination of these methods.

2. Any of the bonds may be additionally secured by a pledge of any revenue or by an encumbrance by mortgage, deed of trust or otherwise of any redevelopment project or other property of the agency or by a pledge of the taxes referred to in subsection 1.

3. Amounts payable in any manner permitted by this section may be additionally secured by a pledge of the full faith and credit of the community whose legislative body has declared the need for the agency to function. Such additional security may only be provided upon the approval of the majority of the voters voting on the question at a primary or general election or a special election called for that purpose. In its proposal to its voters the governing body shall define the area to be redeveloped, the primary source or sources of revenue first to be employed to retire the bonds and the maximum sum for which the city may pledge its full faith and credit in connection with the bonds to be issued for the project.

Sec. 21. **NRS 279.674 is hereby amended to read as follows:**

279.674 As used in NRS 279.674 to 279.685, inclusive, ***and section 19 of this act,*** the word "taxes" **[**~~shall include, but~~**]** ***includes,*** without limitation, all levies on an ad valorem basis upon land or real property.

[~~Sec. 19.~~**]** ***Sec. 22.*** NRS 279.676 is hereby amended to read as follows:

279.676 1. Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in the redevelopment area each year by or for the benefit of the State, any city, county, district or other public corporation, after the effective date of the ordinance approving the redevelopment plan, must be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment area as shown upon the assessment roll used in connection

with the taxation of the property by the taxing agency, last equalized before the effective date of the ordinance, must be allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for such taxing agencies on all other property are paid. To allocate taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment area on the effective date of the ordinance but to which the territory has been annexed or otherwise included after the effective date, the assessment roll of the county last equalized on the effective date of the ordinance must be used in determining the assessed valuation of the taxable property in the redevelopment area on the effective date. If property which was shown on the assessment roll used to determine the amount of taxes allocated to the taxing agencies is transferred to the State and becomes exempt from taxation, the assessed valuation of the exempt property as shown on the assessment roll last equalized before the date on which the property was transferred to the State must be subtracted from the assessed valuation used to determine the amount of revenue allocated to the taxing agencies.

(b) Except as otherwise provided in ~~[paragraphs (c) and (d)]~~ ***this section*** **,** ***section 19 of this act*** and NRS 540A.265, that portion of the levied taxes each year in excess of the amount set forth in paragraph (a) must be allocated to and when collected must be paid into a special fund of the redevelopment agency to pay the costs of redevelopment and to pay the principal of and interest on loans, money advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, incurred by the redevelopment agency to finance or refinance, in whole or in part, redevelopment. Unless the total assessed valuation of the taxable property in a redevelopment area exceeds the total assessed value of the taxable property in the redevelopment area as shown by the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan, less the assessed valuation of any exempt property subtracted pursuant to paragraph (a), all of the taxes levied and collected upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies. When the redevelopment plan is terminated pursuant to the provisions of NRS 279.438 and 279.439 and all loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a tax rate levied by a taxing agency to produce revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness that was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the debt service fund of that taxing agency.

(d) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a new or increased tax rate levied by a taxing agency and was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the appropriate fund of the taxing agency.

~~[(e) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to any taxes imposed for public education levied by a taxing agency must be allocated to and when collected must be paid into the appropriate fund of the taxing agency.]~~

2. Except as otherwise provided in subsection 3, in any fiscal year, the total revenue paid to a redevelopment agency must not exceed:

(a) In a municipality whose population is 100,000 or more, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 10 percent of the total assessed valuation of the municipality.

(b) In a municipality whose population is 25,000 or more but less than 100,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 15 percent of the total assessed valuation of the municipality.

(c) In a municipality whose population is less than 25,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 20 percent of the total assessed valuation of the municipality.

➥ If the revenue paid to a redevelopment agency must be limited pursuant to paragraph (a), (b) or (c) and the redevelopment agency has more than one redevelopment area, the redevelopment agency shall determine the allocation to each area. Any revenue which would be allocated to a redevelopment agency but for the provisions of this section must be paid into the funds of the respective taxing agencies.

3. The taxing agencies shall continue to pay to a redevelopment agency any amount which was being paid before July 1, 1987, and in anticipation of which the agency became obligated before July 1, 1987, to repay any bond, loan, money advanced or any other indebtedness, whether funded, refunded, assumed or otherwise incurred.

4. For the purposes of this section, the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan is the assessment roll in existence on March 15 immediately preceding the effective date of the ordinance.

~~[5. As used in this section, "taxes imposed for public education" means:~~

~~(a) Any ad valorem tax authorized or required by chapter 387 of NRS;~~

~~(b) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and~~

~~(c) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.]~~

Sec. 23. **NRS 279.680 is hereby amended to read as follows:**

279.680 Except as otherwise provided in NRS 279.685, in any redevelopment plan, or in the proceedings for the advance of money, or the making of loans, or the incurring of any indebtedness, whether funded, refunded, assumed or otherwise, by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes mentioned in paragraph (b) of subsection 1 of NRS 279.676 ***which is paid into a special fund of the redevelopment agency*** may be irrevocably pledged for the payment of the principal of and interest on those loans, advances or indebtedness.

Sec. 24. **NRS 279.685 is hereby amended to read as follows:**

279.685 1. Except as otherwise provided in this section, an agency of a city whose population ***for a fiscal year*** is 300,000 or more that receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676 shall set aside not less than 15 percent of that revenue received on or ~~[before October 1, 1999, and 18 percent of that revenue received after October 1, 1999,]~~ ***after July 1, 2009,*** to increase, improve and preserve the number of dwelling units in the community for low-income households.

~~[2.]~~ The obligation of an agency ***pursuant to this subsection*** to set aside ~~[not less than 15 percent of the]~~ ***any*** revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before ~~[July 1, 1993, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after July 1, 1993, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.~~

~~3. The obligation of an agency to set aside an additional 3 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before]~~ October 1, 1999, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after October 1, 1999, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

~~[4.]~~ ***2. Subsection 1 does not apply to an agency of a city whose population for a fiscal year is 300,000 or more if the first fiscal year for which that population is 300,000 or more begins on or after July 1, 2009. Except as otherwise provided in this subsection, an agency of a city whose population for a fiscal year is 300,000 or more to which subsection 1 does***

not apply shall, if the agency receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676, set aside not less than:

(a) Three percent of that revenue for the first fiscal year for which the population of that city is 300,000 or more;

(b) Four percent of that revenue for the second fiscal year for which the population of that city is 300,000 or more;

(c) Five percent of that revenue for the third fiscal year for which the population of that city is 300,000 or more;

(d) Six percent of that revenue for the fourth fiscal year for which the population of that city is 300,000 or more;

(e) Seven percent of that revenue for the fifth fiscal year for which the population of that city is 300,000 or more;

(f) Eight percent of that revenue for the sixth fiscal year for which the population of that city is 300,000 or more;

(g) Nine percent of that revenue for the seventh fiscal year for which the population of that city is 300,000 or more;

(h) Ten percent of that revenue for the eighth fiscal year for which the population of that city is 300,000 or more;

(i) Eleven percent of that revenue for the ninth fiscal year for which the population of that city is 300,000 or more;

(j) Twelve percent of that revenue for the 10th fiscal year for which the population of that city is 300,000 or more;

(k) Thirteen percent of that revenue for the 11th fiscal year for which the population of that city is 300,000 or more;

(l) Fourteen percent of that revenue for the 12th fiscal year for which the population of that city is 300,000 or more; and

(m) Fifteen percent of that revenue for the 13th and each subsequent fiscal year for which the population of that city is 300,000 or more,

➥ to increase, improve and preserve the number of dwelling units in the community for low-income households. The obligation of an agency pursuant to this subsection to set aside any revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 2009, to finance or refinance, in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency on or after July 1, 2009, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

3. The agency may expend or otherwise commit money for the purposes of subsection 1 ***or 2, as applicable,*** outside the boundaries of the redevelopment area.

4. For the purposes of this section, the population of a city for a fiscal year is the population of that city as certified for that fiscal year by the Governor pursuant to NRS 360.285. The Department of Taxation shall, as soon as practicable after the Governor first certifies the population of a city pursuant to NRS 360.285 as being 300,000 or more, notify any agency of that city of that certification.

~~[Sec. 20.]~~ ***Sec. 25.*** Chapter 360 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 26 and 27 of this act.**

Sec. 26. 1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the local sales and use taxes ~~*[, other than any taxes imposed for public education,]*~~ ***imposed on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.***

2. If an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from local sales and use taxes ~~*[, other than any taxes imposed for public education,]*~~ ***for not more than 2 years.***

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. As used in this section, unless the context otherwise requires:

(a) "Eligible machinery or equipment" means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(1) Buildings or the structural components of buildings;

(2) Equipment used by a public utility;

(3) Equipment used for medical treatment;

(4) Machinery or equipment used in mining; or

(5) Machinery or equipment used in gaming.

(b) "Local sales and use taxes" has the meaning ascribed to it in NRS 360.750.

~~*[(c) "Taxes imposed for public education" has the meaning ascribed to it in NRS 360.750.]*~~

Sec. 27. 1. The Commission on Economic Development shall adopt regulations:

(a) Specifying criteria for determining, subject to such limitations as may be prescribed by specific statute, the duration and amount of any abatement of taxes which the Commission is authorized or required to approve. The criteria must provide for progressively greater abatements based upon the extent to which the business exceeds any minimum eligibility requirements for the abatement and meets such additional eligibility requirements as the Commission deems appropriate.

(b) Establishing a schedule of progressively greater sanctions for the failure of a business to comply with any eligibility requirements for any abatement of taxes approved by the Commission. The sanctions:

(1) Must be commensurate with the severity of the failure to comply with such eligibility requirements; and

(2) May include:

(I) A reduction in the duration or amount of the abatement;

(II) The termination of the abatement; and

(III) The repayment of all or any portion of the abatement to the Department or county treasurer, as appropriate.

(c) Requiring each business that accepts any abatement of taxes approved by the Commission to submit annually such information and documentation as may be necessary for the Commission to determine whether the business is in compliance with any eligibility requirements for the abatement.

2. If the Commission on Economic Development determines that any business which accepts any abatement of taxes approved by the Commission may not be in compliance with any eligibility requirements for the abatement, the Commission shall notify the Department of that determination and the Department may, after providing the business with notice of and an opportunity for a hearing on the matter, impose such sanctions as may be appropriate in accordance with the regulations adopted pursuant to subsection 1. If the abatement is from property taxes imposed pursuant to chapter 361 of NRS, the Department shall provide notice of the imposition of any such sanctions to the county treasurer.

3. If a business is required to repay all or any portion of any abatement to a county treasurer as a result of the imposition of any sanctions pursuant to this section, the county treasurer:

(a) Shall deposit the money in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

~~[Sec. 21.]~~ ***Sec. 28.*** NRS 360.225 is hereby amended to read as follows:

360.225 1. During the course of an investigation undertaken pursuant to NRS 360.130 of a person claiming:

(a) A partial abatement of property taxes pursuant to NRS 361.0687;

(b) An exemption from taxes pursuant to NRS 363B.120;

(c) A deferral of the payment of taxes on the sale of capital goods pursuant to NRS 372.397 or 374.402; or

(d) An abatement of taxes on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment pursuant to ~~[~~NRS 374.357,~~]~~ ***section*** ~~*[20]*~~ ***26 of this act,***

➥ the Department shall investigate whether the person meets the eligibility requirements for the abatement, partial abatement, exemption or deferral that the person is claiming.

2. If the Department finds that the person does not meet the eligibility requirements for the abatement, exemption or deferral which the person is claiming, the Department shall report its findings to the Commission on Economic Development and take any other necessary actions.

~~[Sec. 22.]~~ ***Sec. 29.*** NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the ***local sales and use taxes imposed on the new or expanded business or*** taxes imposed on the new or expanded business pursuant to chapter 361 ~~[, 363B or 374]~~ ***or 363B*** of NRS ***.*** ~~*[, other than any taxes imposed for public education.]*~~

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least ~~[5]~~ ***6,*** years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly

wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***10.***

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***10.***

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either

paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***10.***

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county , the board of trustees of the school district and the governing body of the city or town, if any, in which the

person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.

5. ***If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:***

(a) Be for a duration of not more than 10 years; and

(b) Not exceed 50 percent of the property taxes payable by a business each year.

6. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from ~~[the property tax]~~ ***property taxes*** imposed pursuant to chapter 361 of NRS, the county treasurer.

~~[6.]~~ ***7.*** An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

~~[7. If]~~

8. Except as otherwise provided in the regulations adopted by the Commission on Economic Development pursuant to section 27 of this act, if a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from ~~[the property tax]~~ ***property taxes*** imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~[8.]~~ ***9.*** A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection ~~[7]~~ ***8*** in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

~~[9.]~~ ***10.*** The Commission on Economic Development:

(a) Shall adopt regulations relating to:

(1) The minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and

(2) The notice that must be provided pursuant to subsection 4.

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[10.]~~ ***11.*** The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[11.]~~ ***12.*** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

~~*[12.]*~~ ***13.*** ***As used in this section*** ~~*[:*~~

~~*(a) "Local]*~~ ***, "local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by NRS 374.110 or 374.190 or the Sales and Use Tax Act.***

~~*[(b) "Taxes imposed for public education" means:*~~

~~*(1) Any ad valorem tax authorized or required by chapter 387 of NRS;*~~

~~*(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020;*~~

~~*(3) The taxes imposed by NRS 374.110, 374.190 and 374A.010; and*~~

~~*(4) Any other ad valorem tax or local sales and use taxes for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.]*~~

~~[Sec. 23.]~~ ***Sec. 30.*** ~~[NRS 361.0687 is hereby amended to read as follows:~~

~~361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.~~

~~2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:~~

~~(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:~~

~~(1) The business will make a capital investment in the county of at least $50,000,000 if the business is an industrial or manufacturing business or at least $5,000,000 if the business is not an industrial or manufacturing business; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.~~

~~(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:~~

~~(1) The business will make a capital investment in the county of at least $5,000,000 if the business is an industrial or manufacturing business or at least $500,000 if the business is not an industrial or manufacturing business; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.~~

~~3. Except as otherwise provided in NRS 701A.210, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:~~

~~(a) The partial abatement must:~~

~~(1) Be for a duration of at least 1 year but not more than 10 years;~~

~~(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter;~~

~~*(3) Not apply to any taxes imposed for public education;* and~~

~~**[**(3)**]** *(4)* Be administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.~~

~~*4. As used in this section, "taxes imposed for public education" has the meaning ascribed to it in NRS 360.750.]*~~ **(Deleted by amendment.)**

~~[Sec. 24.]~~ ***Sec. 31.*** ~~[NRS 701A.210 is hereby amended to read as follows:~~

~~701A.210 1. Except as otherwise provided in this section, if a:~~

~~(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on site; or~~

~~(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,~~

~~", is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS.~~

~~2. If a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:~~

~~(a) The partial abatement must:~~

~~(1) Be for a duration of at least 1 year but not more than 10 years;~~

~~(2) Not exceed 50 percent of the taxes on real property payable by the business each year;~~

~~***(3) Not apply to any taxes imposed for public education;*** and~~

~~[(3)]~~ ***(4)*** ~~Be administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.~~

~~3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this State that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.~~

~~4. As used in this section [, "facility]~~ ~~.~~

~~***(a) "Facility*** for the generation of electricity from recycled material" means a facility for the generation of electricity that uses recycled material as its primary fuel, including material from:~~

~~**[**(a)**]** ***(1)*** Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;~~

~~**[**(b)**]** ***(2)*** Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and~~

~~**[**(c)**]** ***(3)*** Municipal waste, such as sewage and sludge.~~

~~**"** The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.~~

~~***(b) "Taxes imposed for public education" has the meaning ascribed to it in NRS 360.750.]*** **(Deleted by amendment.)**~~

~~**[**Sec. 25.**]**~~ ***Sec. 32.*** Section 2.320 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 48, Statutes of Nevada 1997, at page 89, is hereby amended to read as follows:

Sec. 2.320 Sale, lease, exchange of real property owned by the City: Procedure; disposition of proceeds.

1. Subject to the provisions of this section, the City may sell, lease or exchange real property in Clark County, Nevada, acquired by the City pursuant to federal law from the United States of America.

2. Except as otherwise provided in subsection 3:

(a) The City may sell, lease or exchange real property only by resolution. Following the adoption of a resolution to sell, lease or exchange, the City Council shall cause a notice of its intention to sell, lease or exchange the real property to be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the City. The notice must be published at least 30 days before the date set by the City Council for the sale, lease or exchange, and must state:

(1) The date, time and place of the proposed sale, lease or exchange.

(2) The place where and the time within which applications and deposits may be made by prospective purchasers or lessees.

(3) Such other information as the City Council desires.

(b) Applications or offers to purchase, lease or exchange pursuant to the notice required in paragraph (a) must be in writing, must not be accepted by the City Council for consideration before the date of publication of the notice and must be accompanied by a deposit of not less than 1 percent of the total offer to purchase. If a lease, sale or exchange is not consummated because:

(1) The City refuses or is unable to consummate the lease, sale or exchange, the deposit must be refunded.

(2) The person who made the application or offer to lease, buy or exchange refuses or is unable to consummate the lease, sale or exchange, the City shall retain an amount of the deposit that does not exceed 5 percent of the total offer to purchase.

3. The City Council may waive the requirements of subsection 2 for any lease of residential property that is for a term of 1 year or less.

4. The City Council shall not make a lease for a term of 3 years or longer or enter into a contract for the sale or exchange of real property until after the property has been appraised by one disinterested appraiser employed by the City Council. Except as otherwise provided in subsections 7 and 8, it must be the policy of the City Council to require that all such sales, leases or exchanges be made at or above the current appraised value as determined by the appraiser unless the City Council, in a public hearing held before the adoption of the resolution to sell, lease or exchange the property, determines by affirmative vote of not fewer than two-thirds of the entire City Council based upon specified findings of fact that a lesser value would be in the best interest of the public. For the purposes of this subsection, an appraisal is not considered current if it is more than 3 years old.

5. It must be the policy of the City Council to sell, lease and exchange real property in a manner that will result in the maximum benefit accruing to the City from the sales, leases and exchanges. The City Council may attach any condition to the sale, lease or exchange as appears to the City Council to be in the best interests of the City.

6. The City Council may sell unimproved real property owned by the City on a time payment basis. The down payment must be in an amount determined by the City Council, and the interest rate must be in an amount determined by the City Council, but must not be less than 6 percent per annum on the declining balance.

7. Notwithstanding the provisions of subsection 4, the City Council may dispose of any real property belonging to the City to the United States of America, the State of Nevada, Clark County, any other political subdivision of the State, or any quasi-public or nonprofit entity for a nominal consideration whenever the public interest requires such a disposition. In any such case, the consideration paid must equal the cost of the acquisition to the City.

8. The City Council may sell, lease or exchange real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the City which is eligible ***for an abatement from local sales and use taxes*** pursuant to ~~[~~NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.~~]~~ ***section ~~[20]~~ 26 of this act.***

9. Proceeds from all sales and exchanges of real property owned by the City, after deduction of the cost of the real property, reasonable costs of publication, title insurance, escrow and normal costs of sale, must be placed in the Land Fund previously created by the City in the City Treasury and hereby continued. Except as otherwise provided in subsection 10, money in the Land Fund may be expended only for:

(a) Acquisition of assets of a long-term character which are intended to continue to be held or used, such as land, buildings, machinery, furniture, computer software and other equipment.

(b) Capital improvements of improvements thereon.

(c) Expenses incurred in the preparation of a long-term comprehensive master planning study and any expenses incurred in the master planning of the City.

(d) All costs, including salaries, for administration of the Land Fund, and the land within the City.

(e) Expenses incurred in making major improvements and repairs to the water, sewer and street systems as differentiated from normal maintenance costs.

➥ Money received from leases of real property owned by the City must be placed in the Land Fund if the term of lease is 20 years or longer, whether the 20 years is for an initial term of lease or for an initial term and an option for renewal. Money received by the City from all other leases and interest on time payment sales of real property owned by the City must be apportioned in the ratio of 20 percent to current operational expenses of the City, 20 percent to the Land Fund, and 60 percent divided between the Land Fund and current operational expenses as determined by the Council.

10. If available, money in the Land Fund may be borrowed by the City pursuant to the provisions of NRS 354.430 to 354.460, inclusive.

~~[Sec. 26.]~~ ***Sec. 33.*** NRS 374.357 and 374.643 are hereby repealed.

~~[Sec. 27.]~~ ***Sec. 34.*** The provisions of sections 8, ~~[20 to 23, inclusive,]~~ **9, 10, 13,** 16, 17, 18 ~~[, 24, 25 and 26]~~ **and 25 to 33, inclusive,** of this act do not apply to or affect the terms of any abatement of taxes approved by the Commission on Economic Development before July 1, 2009.

~~[Sec. 28.]~~ ***Sec. 35.*** The provisions of sections 9 to 15, inclusive, and ~~[26]~~ **33** of this act do not apply to or affect the terms of any agreement made pursuant to NRS 274.270 before July 1, 2009.

~~[Sec. 29.]~~ ***Sec. 36.*** 1. Any redevelopment plan adopted pursuant to chapter 279 of NRS before July 1, 2009, which contains a provision for the division of taxes pursuant to NRS 279.676 shall be deemed to include the ~~[amendatory]~~ provisions of section ~~[19]~~ **22** of this act.

2. Notwithstanding ~~[the provisions of subsection 1 and the amendatory provisions of section 19 of this act, those provisions must not be applied in such a manner as to impair adversely any obligations outstanding on July 1, 2009, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.]~~ **any provision of section 19 of this act to the contrary, the State Treasurer shall deposit any money received pursuant to paragraphs (a) and (b) of subsection 1 of that section into the State Distributive School Account in the State General Fund.**

3. The provisions of section 24 f this act do not apply to any revenue from taxes received by a redevelopment agency before July 1, 2009.

~~[Sec. 30.]~~ ***Sec. 37.*** This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

374.357 Abatement for eligible machinery or equipment used by certain new or expanded businesses. [Effective July 1, 2009.]

1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. If an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. As used in this section, unless the context otherwise requires, "eligible machinery or equipment" means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(a) Buildings or the structural components of buildings;

(b) Equipment used by a public utility;

(c) Equipment used for medical treatment;

(d) Machinery or equipment used in mining; or

(e) Machinery or equipment used in gaming.

374.643 Credit or refund of tax for business within zone for economic development.

1. Each person who holds a valid certificate, issued under NRS 274.270, as a qualified business within a specially benefited zone may file for a credit or refund to recover the amount of tax paid under this chapter for all tangible personal property purchased in the conduct of its business for the period, not to exceed 5 years, stated in its agreement with the city or county, as the case may be, made under NRS 274.270, or until the person is no longer certified as a qualified business under that section, whichever occurs first.

2. Claims for credit or refund may be filed under this section only if:

(a) The city or county which designated the specially benefited zone has adopted an ordinance authorizing such claims; and

(b) This benefit is specified in the agreement made under NRS 274.270.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 488.

Bill read third time.

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

Amendment No. 635.

SUMMARY—Revises provisions governing ~~[educational personnel.]~~ **the employment of retired public employees.** (BDR ~~[34-782)]~~ **23-782)**

AN ACT relating to ~~[education;]~~ **public employees' retirement;** revising provisions governing the allowances that may be paid to a retired public employee who accepts employment or an independent contract with ~~[the board of trustees of a school district or the governing body of a charter school]~~ **a public employer** in a position for which there is a critical labor shortage; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a retired public employee who accepts employment or an independent contract with a public employer under the Public Employees' Retirement System is disqualified from receiving allowances under the System for the duration of that employment or contract under certain circumstances. (NRS 286.520) Existing law also provides an exception to this disqualification from receipt of allowances if the retired public employee fills a position for which there is a critical labor shortage. (NRS 286.523) This exception under existing law is scheduled to expire on June 30, 2009. (Chapter 316, Statutes of Nevada 2005, p. ~~[1076) Section 1 of this bill continues this exception for a retired public employee who accepts employment or an independent contract with the board of trustees of a school district or the governing body of a charter school in a position for which there is a critical labor shortage, as designated by the Department of Education.]~~ **1077) This bill extends the prospective expiration of this exception to June 30, 2015. Section 4 of this bill revises the criteria which must be considered by a designating authority in determining whether to designate a position for which there is a critical labor shortage. Section 4 also requires the designating authority to submit written findings of the determination to the Public Employees' Retirement Board on a form prescribed by the Board. The Board must compile the forms and submit a biennial report of the compilation to the Interim Retirement and Benefits Committee of the Legislature.**

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

Section 1. ~~[Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired public employee who accepts employment or an independent contract with the board of trustees of a school district or the governing body of a charter school if:*~~

~~*(a) He fills a position for which there is a critical labor shortage; and*~~

~~*(b) At the time of his reemployment, he is receiving:*~~

~~*(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or*~~

~~*(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.*~~

~~*2. A retired public employee who is reemployed under the circumstances set forth in subsection 1 may reenroll in the Public Employees' Retirement System as provided in NRS 286.525.*~~

~~*3. The Department shall designate the positions with the various school districts and charter schools for which there are critical labor shortages.*~~

~~*4. In determining whether a position is a position for which there is a critical labor shortage, the Department shall give consideration to:*~~

~~*(a) The history of the rate of turnover for the position;*~~

~~*(b) The number of openings for the position and the number of qualified candidates for those openings;*~~

~~*(c) The length of time the position has been vacant; and*~~

~~*(d) The success of recruiting persons in other states to fill the position.*~~

~~*5. The Department shall not designate a position pursuant to subsection 3 as a position for which there is a critical labor shortage for a period longer than 2 years. When redesignating a position as such, the Department shall consider whether the position continues to meet the criteria set forth in subsection 4.]*~~ **(Deleted by amendment.)**

Sec. 2. ~~[~~NRS 286.520 is hereby amended to read as follows:

~~286.520 1. Except as otherwise provided in this section~~ **,** ~~[~~and~~]~~ NRS 286.525 **[**,**]** ***and section 1 of this act,*** ~~the consequences of the employment of a retired employee are:~~

~~(a) A retired employee who accepts employment or an independent contract with a public employer under this System is disqualified from receiving any allowances under this System for the duration of that employment or contract if:~~

~~(1) He accepted the employment or contract within 90 calendar days after the effective date of his retirement; or~~

~~(2) He is employed in a position which is eligible to participate in this System.~~

~~(b) If a retired employee accepts employment or an independent contract with a public employer under this System more than 90 calendar days after the effective date of his retirement in a position which is not eligible to participate in this System, his allowance under this System terminates upon his earning an amount equal to one-half of the average salary for participating public employees who are not police officers or firefighters in any fiscal year, for the duration of that employment or contract.~~

~~(c) If a retired employee accepts employment with an employer who is not a public employer under this System, the employee is entitled to the same allowances as a retired employee who has no employment.~~

~~2. The retired employee and the public employer shall notify the System:~~

~~(a) Within 10 days after the first day of an employment or contract governed by paragraph (a) of subsection 1.~~

~~(b) Within 30 days after the first day of an employment or contract governed by paragraph (b) of subsection 1.~~

~~(c) Within 10 days after a retired employee earns more than one-half of the average salary for participating public employees who are not police officers or firefighters in any fiscal year from an employment or contract governed by paragraph (b) of subsection 1.~~

~~3. For the purposes of this section, the average salary for participating public employees who are not police officers or firefighters must be computed on the basis of the most recent actuarial valuation of the System.~~

~~4. If a retired employee who accepts employment or an independent contract with a public employer under this System pursuant to this section elects not to reenroll in the System pursuant to subsection 1 of NRS 286.525, the public employer with which the retired employee accepted employment or an independent contract may pay contributions on behalf of the retired employee to a retirement fund which is not a part of the System in an amount not to exceed the amount of the contributions that the public employer would pay to the System on behalf of a participating public employee who is employed in a similar position.~~

~~5. If a retired employee is chosen by election or appointment to fill an elective public office, he is entitled to the same allowances as a retired employee who has no employment, unless he is serving in the same office in which he served and for which he received service credit as a member. A public employer may pay contributions on behalf of such a retired employee to a retirement fund which is not a part of the System in an amount not to exceed the amount of the contributions that the public employer would pay to the System on behalf of a participating public employee who serves in the same office.~~

~~6. The System may waive for one period of 30 days or less a retired employee's disqualification under this section if the public employer certifies in writing, in advance, that the retired employee is recalled to meet an emergency and that no other qualified person is immediately available.~~

~~7. A person who accepts employment or an independent contract with either house of the Legislature or by the Legislative Counsel Bureau is exempt from the provisions of subsections 1 and 2 for the duration of that employment or contract.~~**]** **(Deleted by amendment.)**

Sec. 3. ~~[~~NRS 286.525 is hereby amended to read as follows:

~~286.525 1. A retired employee who accepts employment in a position eligible for membership may enroll in the System as of the effective date of~~

~~that employment.~~ **[**As**]** ~~***Except as otherwise provided in section 1 of this act, as*** of the date of enrollment:~~

~~(a) He forfeits all retirement allowances for the duration of that employment.~~

~~(b) He is entitled to receive, after the termination of the employment and upon written request, a refund of all contributions made by him during the employment. Except as otherwise required as a result of NRS 286.535 or 286.537, if he does not request the refund and the duration of the employment was at least 6 months, he gains additional service credit for that employment and is entitled to have a separate service retirement allowance calculated based on his compensation and service, effective upon the termination of that employment. If the duration of the employment was:~~

~~(1) Less than 5 years, the additional allowance must be added to his original allowance and must be under the same option and designate the same beneficiary as the original allowance.~~

~~(2) Five years or more, the additional allowance may be under any option and designate any beneficiary in accordance with NRS 286.545.~~

~~2. The original service retirement allowance of such a retired employee must not be recalculated based upon the additional service credit, nor is he entitled to any of the rights of membership that were not in effect at the time of his original retirement. The accrual of service credit pursuant to this section is subject to the limits imposed by:~~

~~(a) NRS 286.551; and~~

~~(b) Section 415 of the Internal Revenue Code, 26 U.S.C. § 415, if the member's effective date of membership is on or after January 1, 1990.~~

~~3. Except as otherwise required as a result of NRS 286.470, 286.535 or 286.537, a retired employee who has been receiving a retirement allowance and who is reemployed and is enrolled in the System for at least 5 years may have his additional credit for service added to his previous credit for service. This additional credit for service must not apply to more than one period of employment after the original retirement.~~

~~4. The survivor of a deceased member who had previously retired and was rehired and enrolled in the System, who qualifies for benefits pursuant to NRS 286.671 to 286.6793, inclusive, is eligible for the benefits based on the service accrued through the second period of employment.~~**]** **(Deleted by amendment.)**

Sec. 4. **NRS 286.523 is hereby amended to read as follows:**

286.523 1. ***It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.***

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

~~[2.]~~ ***3.*** A retired employee who is reemployed under the circumstances set forth in subsection ~~[1]~~ ***2*** may reenroll in the System as provided in NRS 286.525.

~~[3.]~~ ***4.*** Positions for which there are critical labor shortages must be determined ***in an open public meeting held by the designating authority*** as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The ~~[Department of Education]~~ ***board of trustees of each school district*** shall designate positions ~~[with the various school districts]~~ ***within the school district*** for which there are critical labor shortages.

(e) ***Each entity which is authorized to sponsor charter schools pursuant to NRS 386.515 shall designate positions for which there are critical labor shortages for the charter schools that it sponsors.***

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

~~[(f)]~~ ***(g)*** The Board shall designate positions within the System for which there are critical labor shortages.

~~[4.]~~ ***5.*** In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall ~~[give consideration to:]~~ ***make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:***

(a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings ~~[.]~~ ***after all other efforts of recruitment have been exhausted;***

(c) The length of time the position has been vacant; ~~[and~~

~~(d) The success of recruiting persons in other states to fill the position.]~~

(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and

(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

~~[5.]~~ ***7.*** A designating authority shall not designate a position pursuant to subsection ~~[3]~~ ***4*** as a position for which there is a critical labor shortage for a period longer than 2 years. To be redesignated as such a position, the designating authority must consider ***and make new findings in an open public meeting as to*** whether the position continues to meet the criteria set forth in subsection ~~[4.]~~ ***5.***

Sec. 5. **Section 9 of chapter 490, Statutes of Nevada 2001, as amended by section 2 of chapter 316, Statutes of Nevada 2005, at page 1077, is hereby amended to read as follows:**

Sec. 9. ~~[1.]~~ This act becomes effective on July 1, 2001.

~~[~~ ~~2. Section 1 of this act expires by limitation on June 30,~~ ~~[~~2005.~~]~~ ~~*[2009.]*~~

Sec. 6. **The Public Employees' Retirement Board shall conduct an experience study on the Public Employees' Retirement System of the employment of retired public employees by public employers that participate in the Public Employees' Retirement System pursuant to NRS 286.523, as amended by section 4 of this act, for the period beginning on July 1, 2009, and ending on June 30, 2014. The Public Employees' Retirement Board shall submit a report of the study to the Interim Retirement and Benefits Committee of the Legislature on or before December 31, 2014.**

Sec. 7. **NRS 286.523 is hereby repealed.**

~~[~~Sec. 4.~~]~~ ***Sec. 8.*** ~~[~~This act becomes effective on July 1, 2009.~~]~~

1. This section and sections 1 to 6, inclusive, of this act become effective upon passage and approval.

2. Section 7 of this act becomes effective on June 30, 2015.

TEXT OF REPEALED SECTION

286.523 Employment of retired employee: Exception for reemployment of certain retired employees to fill positions for which critical labor shortage exists; determination and designation of such positions; limitation on length of designation of position.

1. It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

3. A retired employee who is reemployed under the circumstances set forth in subsection 2 may reenroll in the System as provided in NRS 286.525.

4. Positions for which there are critical labor shortages must be determined in an open public meeting held by the designating authority as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The board of trustees of each school district shall designate positions within the school district for which there are critical labor shortages.

(e) Each entity which is authorized to sponsor charter schools pursuant to NRS 386.515 shall designate positions for which there are critical labor shortages for the charter schools that it sponsors.

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

(g) The Board shall designate positions within the System for which there are critical labor shortages.

5. In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:

(a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings after all other efforts of recruitment have been exhausted;

(c) The length of time the position has been vacant;

(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and

(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

7. A designating authority shall not designate a position pursuant to subsection 4 as a position for which there is a critical labor shortage for a period longer than 2 years. To be redesignated as such a position, the designating authority must consider and make new findings in an open public meeting as to whether the position continues to meet the criteria set forth in subsection 5.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 4.

Bill read second time and ordered to third reading.

Senate Bill No. 35.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 624.

AN ACT relating to criminal procedure; providing that an acquittal of an offense in another jurisdiction is admissible in evidence in the trial in this State for the same offense; ~~[repealing]~~ **eliminating** the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another ~~[state, territory or]~~ country; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill amends existing law to provide that after a person is acquitted of a crime in another jurisdiction and a criminal prosecution is brought in the courts of this State for the same offense, the acquittal in the other jurisdiction is admissible in evidence in the prosecution in this State. (NRS 193.280)

Section ~~[2]~~ 1.5 of this bill ~~[: (1) repeals]~~ **revises** the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another state, territory or country ~~[; and (2) establishes the "dual sovereignty doctrine" in this State.]~~ **by eliminating the prohibition on the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another country.** (NRS 171.070) ~~[Under the dual sovereignty doctrine, successive prosecutions by two states, or by a state and the Federal Government, for the same criminal conduct are not barred by the double jeopardy clause of the Fifth Amendment to the United States Constitution. (Heath v. Alabama, 474 U.S. 82 (1985); United States v. Lanza, 260 U.S. 377 (1922))]~~

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

Section 1. NRS 193.280 is hereby amended to read as follows:

193.280 Whenever, upon the trial of any person for a crime, it appears that the offense was committed in another state or country, under such circumstances that the courts of this state had jurisdiction thereof, and that the defendant has already been acquitted ~~[or convicted]~~ upon the merits, upon a criminal prosecution under the laws of such state or country, founded upon the act or omission with respect to which he is upon trial, such former acquittal ~~[or conviction is a sufficient defense.]~~ ***is admissible in evidence in the trial.***

Sec. 1.5. **NRS 171.070 is hereby amended to read as follows:**

171.070 When an act charged as a public offense is within the jurisdiction of another state ~~[,]~~ ***or*** territory **.** ~~[or country,]~~ as well as of this state, a conviction or acquittal thereof in the former is a bar to the prosecution or indictment therefor in this state.

Sec. 2. ~~[NRS 171.070 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 3. The amendatory provisions of this act do not apply to offenses committed before July 1, 2009.

Sec. 4. This act becomes effective on July 1, 2009.

~~[~~

~~TEXT OF REPEALED SECTION~~

~~171.070 Conviction or acquittal in another state, territory or country is bar where jurisdiction is concurrent. When an act charged as a public offense is within the jurisdiction of another state, territory or country, as well as of this State, a conviction or acquittal thereof in the former is a bar to the prosecution or indictment therefor in this State.]~~

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 37.

Bill read second time and ordered to third reading.

Senate Bill No. 42.

Bill read second time and ordered to third reading.

Senate Bill No. 44.

Bill read second time and ordered to third reading.

Senate Bill No. 54.

Bill read second time.

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

Amendment No. 647.

AN ACT relating to public health; revising provisions governing the State Health Officer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Health Officer to be a citizen of the United States and to be licensed, or eligible for licensure, as a physician or administrative physician in Nevada. (NRS 439.090) **Section 1** of this bill revises those qualifications by requiring the State Health Officer to be a citizen of the United States, to have not less than 5 years' experience in population-based health care and to be either: (1) licensed or eligible for a license as a physician or administrative physician in Nevada; or (2) a **licensed** physician or **licensed** administrative physician ~~[who has]~~ **in another state with** a master's or doctoral degree in public health or a related field. **Section 2** of this bill provides that if the State Health Officer is not licensed to practice medicine in this State, he shall not, while carrying out his duties, engage in the practice of medicine. (NRS 439.130)

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

Section 1. NRS 439.090 is hereby amended to read as follows:

439.090 1. The State Health Officer must:

(a) Be a citizen of the United States ~~[.]~~ ***;***

(b) ***Have not less than 5 years' experience in population-based health care; and***

(c) Be ~~[licensed,]~~ ***:***

(1) Licensed in good standing or eligible for ~~[licensure,]~~ ***a license*** as a physician or administrative physician in Nevada ~~[.]~~ ***; or***

(2) ~~*[A]*~~ ***Licensed in good standing as a physician or administrative physician*** ~~*[who has]*~~ ***by the District of Columbia or any state or territory of the United States and have a master's degree or doctoral degree in public health or a related field.***

2. The Administrator must have 2 years' experience, or the equivalent, in a responsible administrative position in:

(a) A full-time county or city health facility or department; or

(b) A major health program at a state or national level.

3. As used in this section, "population-based health care" means the use of various approaches to medical care for specific groups or populations based upon common demographic characteristics, risk factors or diseases.

Sec. 2. NRS 439.130 is hereby amended to read as follows:

439.130 1. The State Health Officer shall:

(a) Enforce all laws and regulations pertaining to the public health.

(b) Investigate causes of disease, epidemics, source of mortality, nuisances affecting the public health, and all other matters related to the health and life of the people, and to this end he may enter upon and inspect any public or private property in the State.

(c) Direct the work of subordinates and may authorize them to act in his place and stead.

(d) Perform such other duties as the Director may, from time to time, prescribe.

➥ If the State Health Officer is not licensed to practice medicine in this State, he shall not, in carrying out his duties as the State Health Officer, engage in the practice of medicine.

2. The Administrator shall direct the work of the Health Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

Sec. 3. Notwithstanding the amendatory provisions of section 1 of this act, any person who, on the effective date of this act, is serving as the State Health Officer and who is otherwise qualified to serve as the State Health Officer on that date may continue to serve in that capacity until his successor is appointed by the Director of the Department of Health and Human Services pursuant to chapter 439 of NRS.

Sec. 4. This act becomes effective upon passage and approval.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 68.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 626.

AN ACT relating to real property; establishing the responsibility for the maintenance of certain security walls within certain common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the responsibilities of unit-owners' associations of certain common-interest communities to provide that each such association is responsible for the maintenance, repair, restoration and

replacement of any security wall which is located within the common-interest community. **Section 2** of this bill similarly revises the law with respect to such security walls located in such common-interest communities which are governed by certain limited-purpose associations. (NRS 116.1201)

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in NRS 116.31135, the association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community.

2. ~~*[The provisions of this section apply only to common-interest communities created on or after October 1, 2009.*~~

~~*3.]*~~ ***As used in this section, "security wall" means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.***

Sec. 2. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; ~~[and]~~

(II) ***Section 1 of this act, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and***

(III) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-

purpose association is created for a rural agricultural residential common-interest community.

Sec. 3. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, ***and section 1 of this act,*** and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 77.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 614.

AN ACT relating to education; authorizing the board of trustees of each school district to adopt a policy for a program of teen mentoring for public high schools within the school district; authorizing the principal of each public high school to establish a program of teen mentoring in accordance with the policy or a plan approved by the board of trustees of the school district; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the establishment of programs for teen mentoring in public high schools in this State. Specifically, this bill: (1) authorizes the board of trustees of each school district to establish a policy for a program of teen mentoring in the public high schools within the school district; (2) sets forth certain provisions that the policy for teen mentoring must include; (3) authorizes the principal of each public high school to establish such a program of teen mentoring in accordance with the policy or a plan approved by the board of trustees; (4) authorizes each board of trustees and public high school to accept gifts, grants and donations to carry out a program of teen mentoring; and (5) specifies that the provisions of this bill do not prevent a public high school from continuing to provide any similar program of teen mentoring that exists on the effective date of this bill.

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district may adopt a policy for the public high schools in the district to provide a program of teen mentoring , which may include a component of adult mentoring, designed to ~~[increase]~~ :

(a) Increase pupil participation in school activities, community activities and all levels of government ~~[.]~~ ; or

(b) Increase the ability of ninth grade pupils enrolled in high school to successfully make the transition from middle school or junior high school to high school,

➥ or both.

2. Any such policy must include, without limitation:

(a) Guidelines for establishing:

(1) Eligibility requirements for pupils who participate in the program as mentors or mentees, including, without limitation, any minimum grade level for pupils who serve as mentors and any minimum grade point average that must be maintained by pupils who serve as mentors. The guidelines may not require a pupil who participates in the program to maintain a grade point average that is higher than the grade point average required for a pupil to participate in sports at the high school the pupil attends.

(2) Training requirements for pupils who serve as mentors.

(3) Incentives for pupils who serve as mentors.

(b) A requirement that each public high school which establishes a program for teen mentoring must also establish a committee to select each pupil mentor who participates in the program. The policy must provide that the committee may select a pupil who does not meet the general eligibility requirements for mentors if the members of the committee determine that the pupil is otherwise qualified to serve as a mentor.

(c) Any other provisions that the board of trustees deems appropriate.

~~[2.]~~ 3. If the board of trustees of a school district has adopted a policy pursuant to subsection 1, the principal of each public high school in the district may:

(a) Carry out a program of teen mentoring in accordance with the policy prescribed by the board of trustees pursuant to subsection 1;

(b) Adopt other policies for the program of teen mentoring that are consistent with this section and the policy prescribed by the board of trustees pursuant to subsection 1; and

(c) On a date prescribed by the board of trustees, submit an annual report to the board of trustees and the Legislature that sets forth a summary of:

(1) The specific activities of the program of teen mentoring; and

(2) The effectiveness of the program in increasing pupil

participation in school activities, community activities and all levels of government [.] or in increasing the ability of ninth grade pupils to successfully make the transition from middle school or junior high school to high school, as applicable to the type of program in effect at the school.

[3] 4. If the board of trustees of a school district has not adopted a policy pursuant to subsection 1, the principal of a public high school in the district may carry out a program of teen mentoring and take any action described in paragraph (b) or (c) of subsection [2] 3 if:

(a) The principal submits to the board of trustees for its approval a plan for such a program of teen mentoring that is consistent with the provisions of this section; and

(b) The board of trustees approves the plan.

[4] 5. A plan submitted to a board of trustees of a school district pursuant to subsection [3] 4 shall be deemed approved if the board of trustees does not act upon the plan within 60 days after the date on which the board of trustees receives the plan.

[5] 6. The board of trustees of each school district and each public high school may apply for and accept gifts, grants and donations from any source for the support of the board of trustees or a public high school in carrying out a program of teen mentoring pursuant to the provisions of this section. Any money received pursuant to this subsection may be used only for purposes of carrying out a program of teen mentoring pursuant to the provisions of this section.

[6] 7. This section does not preclude a board of trustees of a school district or a public high school from continuing any other similar program of teen mentoring that exists on the effective date of this act.

Sec. 2. This act becomes effective upon passage and approval.

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 100.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 633.

AN ACT relating to driving under the influence; revising the provisions governing the period of revocation of a driver's license upon conviction of certain offenses involving driving under the influence; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the driver's license of a person convicted of driving under the influence is revoked for a certain period depending upon whether the violation is punishable as a first, second or third or subsequent violation that occurs within a period of 7 years. (NRS 483.460) This bill provides that

the period of revocation of the driver's license of such a person must be based upon the total number of previous violations within a period of 7 years, regardless of how the violation is treated for sentencing purposes.

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

Section 1. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection 5 of NRS 484.377.

(2) A ***third or subsequent*** violation ***within 7 years*** of NRS 484.379 or 484.379778 **.** ~~[that is punishable as]~~

(3) A violation of NRS 484.379 or 484.379778 resulting in a felony ***conviction*** pursuant to NRS 484.3792.

~~[(3)]~~ ***(4)*** A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955.

➥ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume when the Department is notified pursuant to NRS 209.517 or 213.12185 that the person has completed the period of imprisonment or that the person has been placed on residential confinement or parole.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484.3775, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A ***second*** violation ***within 7 years*** of NRS 484.379 or 484.379778 ~~[that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792]~~ and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a ***first*** violation ***within 7 years*** of NRS 484.379 or 484.379778 **.** **[**~~that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.~~**]**

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 or 484.379778 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a ***first*** violation ***within 7 years*** of NRS 484.379 **[**~~that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792~~**]** has been permitted to enter a program of treatment pursuant to NRS 484.37937, the Department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his first such offense during the period of required use of the device.

(b) For 5 years, if it is his second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

Sec. 2. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a ***second*** violation ***within 7 years*** of NRS 484.379 **,** **[**~~that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792,~~**]** and one-half of the period during which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself or a member of his immediate family.

➥ Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the Department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if he is issued a restricted license.

2. A person who has been ordered to install a device in a motor vehicle pursuant to NRS 484.3943:

(a) Shall install the device not later than 21 days after the date on which the order was issued; and

(b) May not receive a restricted license pursuant to this section until:

(1) After at least 1 year of the period during which he is not eligible for a license, if he was convicted of:

(I) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(II) A violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792;

(2) After at least 180 days of the period during which he is not eligible for a license, if he was convicted of a violation of subsection 5 of NRS 484.377; or

(3) After at least 45 days of the period during which he is not eligible for a license, if he was convicted of a ***first*** violation ***within 7 years*** of NRS 484.379 **.** ~~[that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.]~~

3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484.3943, the Department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.

4. After a driver's license has been revoked or suspended pursuant to title 5 of NRS, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his work, or both; or

(b) If applicable, to and from school.

5. After a driver's license has been suspended pursuant to NRS 483.443, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his work, or both;

(b) To receive regularly scheduled medical care for himself or a member of his immediate family; or

(c) If applicable, as necessary to exercise a court-ordered right to visit a child.

6. A driver who violates a condition of a restricted license issued pursuant to subsection 1 or by another jurisdiction is guilty of a misdemeanor and, if the license of the driver was suspended or revoked for:

(a) A violation of NRS 484.379, 484.3795 or 484.384;

(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),

➥ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

7. The periods of suspensions and revocations required pursuant to this chapter and NRS 484.384 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

8. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 3. In determining the number of violations committed by a person for the purposes of NRS 483.460 and 483.490, as amended by this act, the amendatory provisions of this act apply to offenses committed before, on or after ~~[July 1, 2009.]~~ **the effective date of this act.**

Sec. 4. This act becomes effective ~~[on July 1, 2009.]~~ **upon passage and approval.**

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 101.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 625.

AN ACT relating to securities; revising the provisions governing the examination of certain records by the Administrator of the Securities Division of the Office of the Secretary of State; increasing the amount of certain civil penalties for certain violations relating to securities; revising the provisions governing recovery of the costs of investigation and prosecution of certain violations; authorizing the Department of Motor Vehicles to issue a driver's license to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation; making various other changes relating to securities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) changes the name of the entity that administers examinations for a sales representative from the National Association of Securities Dealers to the Financial Industry Regulatory Authority; and (2) requires a sales representative to pass either the Uniform Investment Adviser Law Examination or the Uniform Combined State Law Examination and the General Securities Registered Representative Examination. (NRS 90.340)

Sections 3 and 4 of this bill make technical changes to include references to the Investment Adviser Registration Depository and the Financial Industry Regulatory Authority. (NRS 90.350)

Section 5 of this bill removes the requirement in existing law that the Administrator of the Securities Division of the Office of the Secretary of State must obtain authorization from the Attorney General or his designee to examine the records of a person issuing securities who is not licensed but is required to be licensed. (NRS 90.410)

Section 7 of this bill increases the civil penalty that the Administrator may impose for a willful violation of chapter 90 of NRS from $2,500 for a single violation and $100,000 for multiple violations to $25,000 for each violation. (NRS 90.630) **Section 7** also authorizes the Administrator to order reimbursement for the costs of a proceeding to impose sanctions, including investigative costs and attorney's fees, rather than applying to a court for an order for reimbursement of such costs.

Section 7.5 of this bill increases the civil penalty that a district court may impose for a violation of chapter 90 of NRS from $2,500 for a single violation and $100,000 for multiple violations to $25,000 for each violation. (NRS 90.640)

Section 8 of this bill provides that a court may order a person who is convicted of a willful violation of a statute, a regulation or an order of the Administrator to pay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. (NRS 90.650)

Section 9 of this bill provides that chapter 239A of NRS, which contains provisions regarding disclosure of financial records to governmental agencies, does not ~~[apply to a subpoena issued pursuant to chapter 90 of NRS.]~~ **prohibit the Administrator from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.** (NRS 239A.070)

Section 9.5 of this bill increases: (1) the period that the court may delay the notification of a customer that a subpoena for the financial records of the customer has been issued from 60 days to 120 days; and (2) the period for any additional extension of such a delayed notification from 30 days to 60 days. (NRS 239A.100)

Sections 10 and 11 of this bill authorize the Department of Motor Vehicles to issue a driver's license for purposes of identification only to a

criminal investigator employed by the Secretary of State who is engaged in an undercover investigation. (NRS 483.340)

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 90.340 is hereby amended to read as follows:

90.340 1. The following persons are exempt from licensing under NRS 90.330:

(a) An investment adviser who is registered or is not required to be registered as an investment adviser under the Investment Advisers Act of 1940 if:

(1) Its only clients in this State are other investment advisers, broker-dealers or financial or institutional investors;

(2) The investment adviser has no place of business in this State and directs business communications in this State to a person who is an existing client of the investment adviser and whose principal place of residence is not in this State; or

(3) The investment adviser has no place of business in this State and during any 12 consecutive months it does not direct business communications in this State to more than five present or prospective clients other than those specified in subparagraph (1), whether or not the person or client to whom the communication is directed is present in this State;

(b) A representative of an investment adviser who is employed by an investment adviser who is exempt from licensing pursuant to paragraph (a);

(c) A sales representative licensed pursuant to NRS 90.310 who:

(1) Has passed ~~[one of]~~ the following examinations administered by the ~~[National Association of Securities Dealers, Inc.:]~~ ***Financial Industry Regulatory Authority:***

(I) The Uniform Investment Adviser Law Examination, designated as the Series 65 examination; or

(II) The ~~[examination]~~ ***Uniform Combined State Law Examination*** designated as the Series 66 examination ~~[.]~~ ***and the General Securities Registered Representative Examination, designated as the Series 7 examination;*** or

(2) On January 1, 1996, has been continuously licensed in this State as a sales representative for 5 years or more; and

(d) Other investment advisers and representatives of investment advisers the Administrator by regulation or order exempts.

2. The Administrator may, by order or rule, waive the ~~[examination]~~ ***examinations*** required by subparagraph (1) of paragraph (c) of subsection 1 for an applicant or a class of applicants if the Administrator determines that the examination is not necessary for the protection of investors because of the training and experience of the applicant or class of applicants.

Sec. 3. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the social security number of the applicant and any other information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the ***Investment Adviser Registration Depository, the*** Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

4. As used in this section ~~[,]~~ ***:***

(a) "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.,]~~ ***Financial Industry Regulatory Authority,*** or its successor, and the North American Securities Administrators Association or its successor.

(b) "Investment Adviser Registration Depository" means the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.

Sec. 4. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the

Administrator through the ***Investment Adviser Registration Depository, the*** Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

4. As used in this section ~~[,]~~ ***:***

(a) "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.,]~~ ***Financial Industry Regulatory Authority,*** or its successor, and the North American Securities Administrators Association or its successor.

(b) "Investment Adviser Registration Depository" means the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.

Sec. 5. NRS 90.410 is hereby amended to read as follows:

90.410 1. The Administrator, without previous notice, may examine in a manner reasonable under the circumstances the records, within or without this State, of a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser ~~[or any person issuing securities who would otherwise be required to be licensed pursuant to NRS 90.310 upon authorization by the Attorney General or his designee, in order]~~ to determine compliance with this chapter. ~~[Broker-dealers,]~~ ***Licensed broker-dealers,*** sales representatives, investment advisers and representatives of investment advisers shall make their records available to the Administrator in legible form.

2. ***The Administrator, without previous notice, may examine, in a manner reasonable under the circumstances and as the Administrator considers necessary or appropriate in the public interest and for the protection of investors, the records, within or without this State, of any person who would otherwise be required to be licensed pursuant to NRS 90.310 or 90.330. Such persons shall make their records available to the Administrator in legible form.***

3. Except as otherwise provided in subsection ~~[3,]~~ ***4,*** the Administrator may copy records or require a licensed person to copy records and provide the copies to the Administrator to the extent and in a manner reasonable under the circumstances.

~~[3.]~~ ***4.*** The Administrator may inspect and copy records or require a transfer agent to copy records and provide the copies to the Administrator to the extent such records relate to information concerning principals, corporate officers or stockholders of any publicly traded company based in this State.

~~[4.]~~ ***5.*** The Administrator by regulation may impose a reasonable fee for the expense of conducting an examination under this section.

Sec. 6. NRS 90.520 is hereby amended to read as follows:

90.520 1. As used in this section:

(a) "Guaranteed" means guaranteed as to payment of all or substantially all of principal and interest or dividends.

(b) "Insured" means insured as to payment of all or substantially all of principal and interest or dividends.

2. Except as otherwise provided in subsections 4 and 5, the following securities are exempt from NRS 90.460 and 90.560:

(a) A security, including a revenue obligation, issued, insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or a certificate of deposit ~~[.]~~ for any of the foregoing, but this exemption does not include a security payable solely from revenues to be received from an enterprise unless the:

(1) Payments are insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or by a person whose securities are exempt from registration pursuant to paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments are to be made are a direct obligation of such a person;

(2) Security is issued by this State or an agency, instrumentality or political subdivision of this State; or

(3) Payments are insured or guaranteed by a person who, within the 12 months next preceding the date on which the securities are issued, has received a rating within one of the top four rating categories of either Moody's Investors Service, Inc., or Standard and Poor's Ratings Services.

(b) A security issued, insured or guaranteed by Canada, a Canadian province or territory, a political subdivision of Canada or of a Canadian province or territory, an agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer or guarantor.

(c) A security issued by and representing an interest in or a direct obligation of a depository institution if the deposit or share accounts of the depository institution are insured by the Federal Deposit Insurance

Corporation, the National Credit Union Share Insurance Fund or a successor to an applicable agency authorized by federal law.

(d) A security issued by and representing an interest in or a direct obligation of, or insured or guaranteed by, an insurance company organized under the laws of any state and authorized to do business in this State.

(e) A security issued or guaranteed by a railroad, other common carrier, public utility or holding company that is:

(1) Subject to the jurisdiction of the Surface Transportation Board;

(2) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of a registered holding company within the meaning of that act;

(3) Regulated in respect to its rates and charges by a governmental authority of the United States or a state; or

(4) Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province or territory.

(f) Equipment trust certificates in respect to equipment leased or conditionally sold to a person, if securities issued by the person would be exempt pursuant to this section.

(g) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Chicago Stock Exchange, the Pacific Stock Exchange or other exchange designated by the Administrator, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(h) A security designated or approved for designation upon issuance or notice of issuance for inclusion in the national market system by the ~~[~~National Association of Securities Dealers, Inc.,~~]~~ ***Financial Industry Regulatory Authority,*** any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so designated, or a warrant or a right to purchase or subscribe to any of the foregoing.

(i) An option issued by a clearing agency registered under the Securities Exchange Act of 1934, other than an off-exchange futures contract or substantially similar arrangement, if the security, currency, commodity or other interest underlying the option is:

(1) Registered under NRS 90.470, 90.480 or 90.490;

(2) Exempt pursuant to this section; or

(3) Not otherwise required to be registered under this chapter.

(j) A security issued by a person organized and operated not for private profit but exclusively for a religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purpose, or as a chamber of commerce, or trade or professional association if at least 10 days before the sale of the security the issuer has filed with the Administrator a notice setting

forth the material terms of the proposed sale and copies of any sales and advertising literature to be used and the Administrator by order does not disallow the exemption within the next 5 full business days.

(k) A promissory note, draft, bill of exchange or banker's acceptance that evidences an obligation to pay cash within 9 months after the date of issuance, exclusive of days of grace, is issued in denominations of at least $50,000 and receives a rating in one of the three highest rating categories from a nationally recognized statistical rating organization, or a renewal of such an obligation that is likewise limited, or a guarantee of such an obligation or of a renewal.

(l) A security issued in connection with an employees' stock purchase, savings, option, profit-sharing, pension or similar employees' benefit plan.

(m) A membership or equity interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a cooperative organized and operated as a nonprofit membership cooperative under the cooperative laws of any state if not traded to the general public.

(n) A security issued by an issuer registered as an open-end management investment company or unit investment trust under section 8 of the Investment Company Act of 1940 if:

(1) The issuer is advised by an investment adviser that is a depository institution exempt from registration under the Investment Advisers Act of 1940 or that is currently registered as an investment adviser, and has been registered, or is affiliated with an adviser that has been registered, as an investment adviser under the Investment Advisers Act of 1940 for at least 3 years next preceding an offer or sale of a security claimed to be exempt pursuant to this paragraph, and the issuer has acted, or is affiliated with an investment adviser that has acted, as investment adviser to one or more registered investment companies or unit investment trusts for at least 3 years next preceding an offer or sale of a security claimed to be exempt under this paragraph; or

(2) The issuer has a sponsor that has at all times throughout the 3 years before an offer or sale of a security claimed to be exempt pursuant to this paragraph sponsored one or more registered investment companies or unit investment trusts the aggregate total assets of which have exceeded $100,000,000.

3. For the purpose of paragraph (n) of subsection 2, an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.

4. The exemption provided by paragraph (n) of subsection 2 is available only if the person claiming the exemption files with the Administrator a notice of intention to sell which sets forth the name and address of the issuer and the securities to be offered in this State and pays a fee:

(a) Of $500 for the initial claim of exemption and the same amount at the beginning of each fiscal year thereafter in which securities are to be offered in this State, in the case of an open-end management company; or

(b) Of $300 for the initial claim of exemption in the case of a unit investment trust.

5. An exemption provided by paragraph (c), (e), (f), (i) or (k) of subsection 2 is available only if, within the 12 months immediately preceding the use of the exemption, a notice of claim of exemption has been filed with the Administrator and a nonrefundable fee of $300 has been paid.

Sec. 7. NRS 90.630 is hereby amended to read as follows:

90.630 1. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that:

(a) The sale of a security is subject to registration under this chapter and the security is being offered or has been offered or sold by the issuer or another person in violation of NRS 90.460; or

(b) A person is acting as a broker-dealer or investment adviser in violation of NRS 90.310 or 90.330,

➥ the Administrator, in addition to any specific power granted under this chapter and subject to compliance with the requirements of NRS 90.820, may issue, without a prior hearing, a summary order against the person engaged in the prohibited activities, directing him to desist and refrain from further activity until the security is registered or he is licensed under this chapter. The summary order to cease and desist must state the section of this chapter or regulation or order of the Administrator under this chapter which the Administrator reasonably believes has been or is being violated.

2. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that a person has violated this chapter or a regulation or order of the Administrator under this chapter, the Administrator, in addition to any specific power granted under this chapter, after giving notice by registered or certified mail and conducting a hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

(a) Issue an order against him to cease and desist;

(b) Censure him if he is a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser;

(c) Bar or suspend him from association with a licensed broker-dealer or investment adviser in this State;

(d) Issue an order against an applicant, licensed person or other person who willfully violates this chapter, imposing a civil penalty of not more than ~~[~~$2,500~~]~~ ***$25,000*** for ~~[~~a single~~]~~ ***each*** violation ***;*** or ~~[~~$100,000 for multiple violations in a single proceeding or a series of related proceedings; or~~]~~

(e) Initiate one or more of the actions specified in NRS 90.640.

3. If the person to whom the notice is addressed pursuant to subsection 2 does not request a hearing within 45 days after receipt of the notice, he waives his right to a hearing and the Administrator shall issue a permanent order. If a hearing is requested, the Administrator shall set the matter for hearing not less than 15 days nor more than 60 days after he receives the

request for a hearing. The Administrator shall promptly notify the parties by registered or certified mail of the time and place set for the hearing.

4. Imposition of the sanctions under this section is limited as follows:

(a) If the Administrator revokes the license of a broker-dealer, sales representative, investment adviser or representative of an investment adviser or bars a person from association with a licensed broker-dealer or investment adviser under this section or NRS 90.420, the imposition of that sanction precludes imposition of a civil penalty under subsection 2; and

(b) The imposition by the Administrator of one or more sanctions under subsection 2 with respect to a specific violation precludes him from later imposing any other sanctions under paragraphs (a) to (d), inclusive, of subsection 2 with respect to the violation.

5. For the purposes of determining any sanction to be imposed pursuant to paragraphs (a) to (d), inclusive, of subsection 2, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of this chapter, or a regulation or order of the Administrator under this chapter, the number of persons adversely affected by the conduct and the resources of the person committing the violation.

6. If a sanction is imposed pursuant to this section, ***reimbursement for*** the costs of the proceeding, including investigative costs and attorney's fees ~~[,]~~ ***incurred,*** may be ***ordered and*** recovered by the Administrator. ***Money recovered for reimbursement of the investigative costs and attorney's fees must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.***

Sec. 7.5. NRS 90.640 is hereby amended to read as follows:

90.640 1. Upon a showing by the Administrator that a person has violated or is about to violate this chapter, or a regulation or order of the Administrator under this chapter, the appropriate district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(a) Upon a showing that a person has violated this chapter, or a regulation or order of the Administrator under this chapter, the court may singly or in combination:

(1) Issue a temporary restraining order, permanent or temporary prohibitory or mandatory injunction or a writ of prohibition or mandamus;

(2) Impose a civil penalty of not more than ~~[$2,500]~~ ***$25,000*** for ~~[a single]~~ ***each*** violation ***;*** ~~[or $100,000 for multiple violations in a single proceeding or a series of related proceedings;]~~

(3) Issue a declaratory judgment;

(4) Order restitution to investors;

(5) Provide for the appointment of a receiver or conservator for the defendant or the defendant's assets;

(6) Order payment of the Division's investigative costs; or

(7) Order such other relief as the court deems just.

(b) Upon a showing that a person is about to violate this chapter, or a regulation or order of the Administrator under this chapter, a court may issue:

(1) A temporary restraining order;

(2) A temporary or permanent injunction; or

(3) A writ of prohibition or mandamus.

2. In determining the appropriate relief to grant, the court shall consider enforcement actions taken and sanctions imposed by the Administrator under NRS 90.630 in connection with the transactions constituting violations of this chapter or a regulation or order of the Administrator under this chapter. If a remedial action is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Administrator.

3. The court shall not require the Administrator to post a bond in an action under this section.

4. Upon a showing by the administrator or securities agency of another state that a person has violated the securities act of that state or a regulation or order of the administrator or securities agency of that state, the appropriate district court may grant, in addition to any other legal or equitable remedies, one or more of the following remedies:

(a) Appointment of a receiver, conservator or ancillary receiver or conservator for the defendant or the defendant's assets located in this State; or

(b) Other relief as the court deems just.

Sec. 8. NRS 90.650 is hereby amended to read as follows:

90.650 1. A person who willfully violates:

(a) A provision of this chapter, except NRS 90.600, or who violates NRS 90.600 knowing that the statement made is false or misleading in any material respect;

(b) A regulation adopted pursuant to this chapter; or

(c) An order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator pursuant to this chapter,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, or by a fine of not more than $500,000, or by both fine and imprisonment, for each violation. In addition to any other penalty, the court shall order the person to pay restitution ~~[.]~~ ***and may order the person to repay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. Money recovered for reimbursement of the costs of investigation and prosecution must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.***

2. A person convicted of violating a regulation or order under this chapter may be fined, but must not be imprisoned, if the person proves lack of knowledge of the regulation or order.

3. This chapter does not limit the power of the State to punish a person for conduct which constitutes a crime under other law.

Sec. 9. NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters ~~[90 or]~~ 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, district attorney, Department of Taxation, Director of the Department of Health and Human Services, ***Administrator of the Securities Division of the Office of the Secretary of State,*** public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain his financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460.

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

Sec. 9.5. **NRS 239A.100 is hereby amended to read as follows:**

239A.100 1. Except as provided in subsection 2, a subpoena authorizing a governmental agency to obtain financial records may be served upon a financial institution only if:

(a) A copy of the subpoena is served upon the customer in the manner provided by law for the service of subpoenas, except that the copy may be served by an employee of the governmental agency;

(b) The subpoena includes the name of the agency in whose name it is issued and the statutory purpose for which the information is to be obtained; and

(c) The customer has not moved to quash the subpoena within 10 days after service of the copy of the subpoena upon the customer.

2. A governmental agency issuing or seeking a subpoena to obtain financial records may petition a court of competent jurisdiction to order that service upon the customer or the 10-day period provided in subsection 1 be waived or shortened. The court may issue the order upon a showing that the agency can reasonably infer from facts relevant to its investigation of the customer that a law subject to the agency's jurisdiction has been or is about to be violated. In granting a petition to waive service upon the customer, the court shall also order the agency to notify the customer in writing within a period determined by the court, but not to exceed ~~[60]~~ ***120*** days. The notice shall specify the name of the agency in whose name the subpoena was issued, the financial records which were examined under the subpoena and the statutory purpose for which the information was obtained. The time of notification may be extended for additional ~~[30-day]~~ ***60-day*** periods upon petition and good cause shown.

3. A court may order a financial institution to withhold notification to a customer of the receipt of the subpoena when the court issues an order under subsection 2 and if it finds that the notification would impede the investigation.

4. If a customer files a motion to quash the subpoena, the proceedings on the motion shall be afforded priority on the court calendar and the matter shall be heard within 10 days after the filing of the motion.

Sec. 10. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in

undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations ***, criminal investigators employed by the Secretary of State while engaged in undercover investigations*** and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General ***, the Secretary of State or his designee*** or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

3. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.

4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

5. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

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

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

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

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

7. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those

persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 11. NRS 483.340 is hereby amended to read as follows:

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

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

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

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

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

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

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

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

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

paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

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

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

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

Sec. 12. 1. This section and sections 1, 2, 3 and 5 to 10, inclusive, of this act become effective on July 1, 2009.

2. Section 4 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

3. Section 11 of this act becomes effective upon the later of:

(a) The effective date of the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005; or

(b) The expiration of any extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 105.

Bill read second time and ordered to third reading.

Senate Bill No. 111.

Bill read second time and ordered to third reading.

Senate Bill No. 125.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 645.

AN ACT relating to crimes; prohibiting certain acts relating to radio frequency identification documents; revising the provisions relating to certain offenses involving the possession or use of personal identifying information; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits a person from knowingly, intentionally and for the purpose of committing fraud, identity theft or any other unlawful act: (1) capturing, storing or reading information from the radio frequency identification document of another person without the knowledge and consent of the other person; or (2) retaining, using or disclosing information that the person knows to have been obtained from the radio frequency identification document of another person without the knowledge and consent of the other person. This new crime is punishable as a category C felony.

Existing law establishes an exception to the statutory prohibitions relating to the possession or use of the personal identifying information of another person by providing that those prohibitions do not apply to a person who, without the intent to defraud or commit an unlawful act, possesses or uses the personal identifying information of another person pursuant to a financial transaction entered into with an authorized user of a payment card who has given permission for the financial transaction. (NRS 205.4655) **Section 5** of this bill deletes from this exception the requirement that such an authorized user of a payment card must have given permission for the financial transaction.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~*[Except as otherwise provided in this section, a]*~~ ***A person shall not knowingly, intentionally and for the purpose of committing fraud, identity theft or any other unlawful act:***

(a) Capture, store or read information from the radio frequency identification document of another person without the other person's knowledge and prior consent; or

(b) Retain, use or disclose information that the person knows to have been obtained from the radio frequency identification document of another person without the other person's knowledge and prior consent.

2. A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. ~~*[The provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to*~~

~~*have been obtained from the radio frequency identification document of another person by officers of local police, sheriff and metropolitan police departments and by agents of the Investigation Division of the Department of Public Safety pursuant to a court order.*~~

~~*4. The provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to have been obtained from the radio frequency identification document of another person by a health care professional or law enforcement personnel for the purpose of:*~~

~~*(a) Locating a person or providing triage or medical care during a disaster; or*~~

~~*(b) Providing emergency medical treatment to a person who is unable to give consent because of incapacitation or acute medical distress.*~~

~~*5. Except as otherwise provided in this subsection, the provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to have been obtained from the radio frequency identification document of another person, or information derived therefrom, in the course of an act of security research, security experimentation or scientific inquiry regarding security that is pursued in good faith to increase the security and privacy of information stored on radio frequency identification documents, including, without limitation, an act that is useful in identifying and analyzing security flaws and vulnerabilities. The provisions of this subsection do not authorize:*~~

~~*(a) The disclosure of information from the radio frequency identification document of another person without his consent to any other person; or*~~

~~*(b) The sale or use of information from the radio frequency identification document of another person for any purpose that is not related to bona fide research, experimentation or scientific inquiry designed to increase security.*~~

~~*6.*~~ ***As used in this section:***

(a) "Identity theft" means a violation of the provisions of NRS 205.463, 205.464 or 205.465.

(b) "Radio frequency identification" means the use of electromagnetic radiating waves or reactive field coupling in the radio frequency portion of the spectrum to read or communicate personal identifying information to or from a radio frequency identification document through a variety of modulation and encoding schemes.

(c) "Radio frequency identification document" means any document containing data which is issued to an individual and which that individual, and only that individual, uses alone or in conjunction with any other information for the primary purpose of establishing his identity.

Sec. 2. NRS 205.461 is hereby amended to read as follows:

205.461 As used in NRS 205.461 to 205.4657, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms

defined in NRS 205.4611 to 205.4629, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 205.46517 is hereby amended to read as follows:

205.46517 In any case in which a person is convicted of violating any provision of NRS 205.461 to 205.4657, inclusive, ***and section 1 of this act,*** the court records must clearly reflect that the violation was committed by the person convicted of the violation and not by the person whose personal identifying information forms a part of the violation.

Sec. 4. NRS 205.4653 is hereby amended to read as follows:

205.4653 A person who violates any provision of NRS 205.461 to 205.4657, inclusive, ***and section 1 of this act*** may be prosecuted for the violation whether or not the person whose personal identifying information forms a part of the violation:

1. Is living or deceased during the course of the violation or the prosecution.
2. Is an artificial person.
3. Suffers financial loss or injury as the result of the violation.

Sec. 5. NRS 205.4655 is hereby amended to read as follows:

205.4655 The provisions of NRS 205.461 to 205.4657, inclusive, ***and section 1 of this act*** do not apply to any person who, without the intent to defraud or commit an unlawful act, possesses or uses any personal identifying information of another person:

1. In the ordinary course of his business or employment; or
2. Pursuant to a financial transaction entered into with an authorized user of a payment card **.** **[**~~who has given permission for the financial transaction.~~**]**

Sec. 6. NRS 205.4657 is hereby amended to read as follows:

205.4657 1. In any prosecution for a violation of any provision of NRS 205.461 to 205.4657, inclusive, ***and section 1 of this act,*** the State is not required to establish and it is no defense that:

(a) An accessory has not been convicted, apprehended or identified; or

(b) Some of the acts constituting elements of the crime did not occur in this State or that where such acts did occur they were not a crime or elements of a crime.

2. In any prosecution for a violation of any provision of NRS 205.461 to 205.4657, inclusive, ***and section 1 of this act,*** the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which:

(a) The person whose personal identifying information forms a part of the violation currently resides or is found; or

(b) Any act constituting an element of the crime occurred, regardless of whether the defendant was ever physically present in that jurisdiction.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 130.

Bill read second time and ordered to third reading.

Senate Bill No. 147.

Bill read second time and ordered to third reading.

Senate Bill No. 163.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 613.

SUMMARY—Revises provisions governing safe and respectful learning environments in public schools to prohibit **bullying and** cyber-bullying. (BDR 34-28)

AN ACT relating to education; revising provisions governing safe and respectful learning environments in public schools to include a prohibition on **bullying and** cyber-bullying; requiring the standards of content and performance for courses of study in computer education and technology established by the Council to Establish Academic Standards for Public Schools to include a policy for the ethical, safe and secure use of computers and other electronic devices; revising certain prohibited acts to specifically include cyber-bullying; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Department of Education is required to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of harassment and intimidation, including the provision of training to school personnel and requirements for reporting violations of the policy. (NRS 388.121-388.139) **Sections 1-9** of this bill revise the provisions governing safe and respectful learning environments to include a prohibition on **bullying and** cyber-bullying. (NRS 388.132, 388.133, 388.134, 388.135, 388.139)

Existing law requires the Council to Establish Academic Standards for Public Schools to establish the standards of content and performance for courses of study, including courses of study in computer education and technology. (NRS 389.520) **Section 10** of this bill requires the standards of content and performance for courses in computer education and technology to include a policy for the ethical, safe and secure use of computers and other electronic devices. **Section 7** of this bill requires each school district to adopt the policy for inclusion in its policy on the provision of a safe and respectful learning environment.

Existing law prohibits a person from using any means of oral, written or electronic communication to knowingly threaten to cause bodily harm or death to a pupil or school employee with the intent to: (1) intimidate, frighten, alarm or distress the pupil or school employee; (2) cause panic or civil unrest; or (3) interfere with the operation of a public school. **Section 11** of this bill specifically includes the use of cyber-bullying in these prohibited acts. (NRS 392.915)

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections **1.5,** 2 and 3 of this act.

Sec. 1.5. "Bullying" means a willful act or course of conduct on the part of one or more pupils which is not authorized by law and which exposes a pupil repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person and is intended to cause and actually causes the pupil to suffer harm or serious emotional distress.

Sec. 2. ***"Cyber-bullying" means*** ~~*[harassment or intimidation]*~~ ***bullying through the use of electronic communication.***

Sec. 3. ***"Electronic communication" means the communication of any written, verbal or pictorial information through the use of an electronic device, including, without limitation, a telephone, a cellular phone, a computer or any similar means of communication.***

Sec. 4. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.139, inclusive, ***and sections 1.5, 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 388.125 and 388.129 ***and sections 1.5, 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. NRS 388.132 is hereby amended to read as follows:

388.132 The Legislature declares that:

1. A learning environment that is safe and respectful is essential for the pupils enrolled in the public schools in this State to achieve academic success and meet this State's high academic standards;

2. Any form of ***bullying, cyber-bullying,*** harassment or intimidation in public schools seriously interferes with the ability of teachers to teach in the classroom and the ability of pupils to learn;

3. ***The use of the Internet by pupils in a manner that is ethical, safe and secure is essential to a safe and respectful learning environment and is essential for the successful use of technology;***

4. The intended goal of the Legislature is to ensure that:

(a) The public schools in this State provide a safe and respectful learning environment in which persons of differing beliefs, characteristics and backgrounds can realize their full academic and personal potential;

(b) All administrators, principals, teachers and other personnel of the school districts and public schools in this State demonstrate appropriate behavior on the premises of any public school by treating other persons, including, without limitation, pupils, with civility and respect and by refusing to tolerate ***bullying, cyber-bullying,*** harassment or intimidation; and

(c) All persons in public schools are entitled to maintain their own beliefs and to respectfully disagree without resorting to ***bullying, cyber-bullying,*** violence, harassment or intimidation; and

~~[4.]~~ ***5.*** By declaring its goal that the public schools in this State provide a safe and respectful learning environment, the Legislature is not advocating or

requiring the acceptance of differing beliefs in a manner that would inhibit the freedom of expression, but is requiring that pupils with differing beliefs be free from abuse and harassment.

Sec. 6. NRS 388.133 is hereby amended to read as follows:

388.133 1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of ***bullying, cyber-bullying,*** harassment and intimidation.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135; and

(b) A policy for use by school districts to train administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils without the use of ***bullying, cyber-bullying,*** harassment and intimidation so that pupils may realize their full academic and personal potential;

(2) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

(3) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

Sec. 7. NRS 388.134 is hereby amended to read as follows:

388.134 The board of trustees of each school district shall:

1. Adopt the policy prescribed ~~[by the Department]~~ pursuant to NRS 388.133 ~~[.]~~ ***and the policy prescribed pursuant to subsection 2 of NRS 389.520.*** The board of trustees may adopt an expanded policy ***for one or both of the policies*** if ~~[the]~~ ***each*** expanded policy complies with the policy prescribed ~~[by the Department.]~~ ***pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.***

2. Provide for the appropriate training of all administrators, principals, teachers and all other personnel employed by the board of trustees in accordance with the ~~[policy]~~ ***policies*** prescribed ~~[by the Department]~~ pursuant to NRS 388.133 ~~[.]~~ ***and pursuant to subsection 2 of NRS 389.520.***

3. On or before September 1 of each year, submit a report to the Superintendent of Public Instruction that includes a description of each violation of NRS 388.135 occurring in the immediately preceding school year that resulted in personnel action against an employee or suspension or expulsion of a pupil, if any.

Sec. 8. NRS 388.135 is hereby amended to read as follows:

388.135 A member of the board of trustees of a school district, any employee of the board of trustees, including, without limitation, an administrator, principal, teacher or other staff member, or any pupil shall not engage in ***bullying, cyber-bullying,*** harassment or intimidation on the premises of any public school, at an activity sponsored by a public school or on any school bus.

Sec. 9. NRS 388.139 is hereby amended to read as follows:

388.139 Each school district shall include the text of the provisions of NRS 388.125 to 388.135, inclusive, and the ~~[~~policy~~]~~ ***policies*** adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading ~~[~~"Harassment~~]~~ ***"Bullying, Cyber-Bullying, Harassment*** and Intimidation Is Prohibited in Public Schools," within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Sec. 10. NRS 389.520 is hereby amended to read as follows:

389.520 1. The Council shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection ~~[~~2,~~]~~ ***3,*** based upon the content of each course, that is expected of pupils for the following courses of study:

(1) English, including reading, composition and writing;

(2) Mathematics;

(3) Science;

(4) Social studies, which includes only the subjects of history, geography, economics and government;

(5) The arts;

(6) Computer education and technology;

(7) Health; and

(8) Physical education.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 389.570 of the results of pupils on the examinations administered pursuant to NRS 389.550.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. ***The standards for computer education and technology must include a policy for the ethical, safe and secure use of computers and other electronic devices. The policy must include, without limitation:***

(a) The ethical use of computers and other electronic devices, including, without limitation:

(1) Rules of conduct for the acceptable use of the Internet and other electronic devices; and

(2) Methods to ensure the prevention of:

(I) Cyber-bullying;

(II) Plagiarism; and

(III) The theft of information or data in an electronic form;

(b) The safe use of computers and other electronic devices, including, without limitation, methods to:

(1) Avoid harassment, cyber-bullying and other unwanted electronic communication, including, without limitation, communication with on-line predators;

(2) Recognize when an on-line electronic communication is dangerous or potentially dangerous; and

(3) Report a dangerous or potentially dangerous on-line electronic communication to the appropriate school personnel;

(c) The secure use of computers and other electronic devices, including, without limitation:

(1) Methods to maintain the security of personal identifying information and financial information, including, without limitation, identifying unsolicited electronic communication which is sent for the purpose of obtaining such personal and financial information for an unlawful purpose;

(2) The necessity for secure passwords or other unique identifiers;

(3) The effects of a computer contaminant;

(4) Methods to identify unsolicited commercial material; and

(5) The dangers associated with social networking Internet sites; and

(d) A designation of the level of detail of instruction as appropriate for the grade level of pupils who receive the instruction.

3. The Council shall establish standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English and mathematics. The Council shall establish standards of content and performance for the grade levels selected by the Council for the other courses of study prescribed in subsection 1.

~~[3.]~~ ***4.*** The Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:

(a) Adopt the standards for each course of study, as submitted by the Council; or

(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.

~~[4.]~~ ***5.*** If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:

(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and

(b) Return the standards or the revised standards, as applicable, to the State Board.

➥ The State Board shall adopt the standards of content and performance or the revised standards, as applicable.

~~[5.]~~ ***6.*** The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 389.550.

7. As used in this section:

(a) "Computer contaminant" has the meaning ascribed to it in NRS 205.4737.

(b) "Cyber-bullying" has the meaning ascribed to it in section 2 of this act.

(c) "Electronic communication" has the meaning ascribed to it in section 3 of this act.

Sec. 11. NRS 392.915 is hereby amended to read as follows:

392.915 1. A person shall not, through the use of any means of oral, written or electronic communication, ***including, without limitation, through the use of cyber-bullying,*** knowingly threaten to cause bodily harm or death to a pupil or employee of a school district or charter school with the intent to:

(a) Intimidate, ***harass,*** frighten, alarm or distress a pupil or employee of a school district or charter school;

(b) Cause panic or civil unrest; or

(c) Interfere with the operation of a public school, including, without limitation, a charter school.

2. Unless a greater penalty is provided by specific statute, a person who violates the provisions of subsection 1 is guilty of:

(a) A misdemeanor, unless the provisions of paragraph (b) apply to the circumstances.

(b) A gross misdemeanor, if the threat causes:

(1) Any pupil or employee of a school district or charter school who is the subject of the threat to be intimidated, ***harassed,*** frightened, alarmed or distressed;

(2) Panic or civil unrest; or

(3) Interference with the operation of a public school, including, without limitation, a charter school.

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

(a) "Cyber-bullying" has the meaning ascribed to it in section 2 of this act.

(b) "Oral, written or electronic communication" includes, without limitation, any of the following:

~~[(a)]~~ ***(1)*** A letter, note or any other type of written correspondence.

~~[(b)]~~ ***(2)*** An item of mail or a package delivered by any person or postal or delivery service.

~~[(c)]~~ ***(3)*** A telegraph or wire service, or any other similar means of communication.

~~[(d)]~~ ***(4)*** A telephone, cellular phone, satellite phone, page or facsimile machine, or any other similar means of communication.

~~[(e)]~~ ***(5)*** A radio, television, cable, closed-circuit, wire, wireless, satellite or other audio or video broadcast or transmission, or any other similar means of communication.

~~[(f)]~~ ***(6)*** An audio or video recording or reproduction, or any other similar means of communication.

~~[(g)]~~ ***(7)*** An item of electronic mail, a modem or computer network, or the Internet, or any other similar means of communication.

Sec. 12. 1. On or before January 1, 2010, the Council to Establish Academic Standards for Public Schools shall establish the policy required by subsection 2 of NRS 389.520, as amended by section 10 of this act. In establishing the policy, the Council shall consider policies currently in use by school districts in this State.

2. On or before July 1, 2010, the board of trustees of each school district shall adopt the policy regarding the ethical, safe and secure use of computers and other electronic devices pursuant to NRS 388.134, as amended by section 7 of this act.

Sec. 13. ~~[This act becomes]~~

1. This section and sections 6, 10 and 12 of this act become effective on July 1, 2009 ~~[.]~~ **, for the purpose of adopting policies and on July 1, 2010, for all other purposes.**

2. Sections 1 to 5, inclusive, 7, 8, 9 and 11 of this act become effective on July 1, 2010.

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 169.

Bill read second time and ordered to third reading.

Senate Bill No. 175.

Bill read second time and ordered to third reading.

Senate Bill No. 185.

Bill read second time and ordered to third reading.

Senate Bill No. 194.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 590.

AN ACT relating to certain public officials; making the district attorney of Humboldt County the ex officio public administrator of Humboldt County; revising certain provisions regarding the administration of certain estates; revising certain provisions regarding the appointment of public guardians; repealing certain provisions relating to public administrators; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill amends a number of provisions governing public administrators who are public officials that administer the estates of decedents having no qualified person willing and able to do so. **Sections 2 and 9** of this bill

provide for the district attorney of Humboldt County to serve, ex officio, as the public administrator of the county, as the district attorneys for Lander, Lincoln and White Pine counties do currently. (NRS 253.010, 253.050) **Section 2** also authorizes the board of county commissioners in any county with an elected public administrator to appoint the public administrator if the office becomes vacant.

Under existing law, a public administrator may secure the property of a decedent if the public administrator finds that the decedent has no relatives able to protect the property and that failure to do so could endanger the property. (NRS 253.0405) **Section 3** of this bill authorizes a public administrator to secure the property of a decedent if either, not both, of those conditions exist. **Section 4** of this bill revises the notice requirements before a public administrator may donate or destroy certain property. (NRS 253.0407) **Sections 5 and 6** of this bill require and authorize a public administrator to conduct certain investigations. (NRS 253.0415, 253.042) **Section 7** of this bill increases the maximum value of an estate that may be set aside without administration. (NRS 253.0425)

Under existing law, certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 253.041, 253.0415-253.0435) **Section 14** of this bill repeals NRS 253.041 so that the powers and duties set forth in NRS 253.0415 to 253.0435, inclusive, apply to public administrators in all counties. Conversely, existing law also sets forth that certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties). (NRS 253.044, 253.0445, 253.045) **Section 14** repeals those provisions.

This bill also amends provisions governing public guardians. **Section 10** of this bill requires a public guardian to retain records relating to guardianships for at least 7 years. (NRS 253.190) **Section 11** of this bill ~~[adds to]~~ **revises** the requirements for a resident of Nevada to be eligible to have a county public guardian appointed as his permanent or general individual guardian. **Further, section 11 provides that a county is not liable on any written or oral contract entered into by a public guardian of the county for or on behalf of the ward.** (NRS 253.200)

Currently, a public guardian may demand certain information from a proposed ward—a person for whom proceedings for the appointment of a guardian have begun—or from the spouse, parent, child or other kindred of a proposed ward, but not from a person for whom a guardian has been appointed. (NRS 253.220) **Section 12** of this bill revises that provision so that the information can be demanded from or about a ward but not a proposed ward.

Finally, section 12.5 of this bill authorizes a court to terminate the appointment of a public guardian as an individual guardian of a person

or estate if the public guardian, after exercising due diligence, is unable to identify a source to pay for the care of the ward.

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

Section 1. NRS 250.160 is hereby amended to read as follows:

250.160 1. A county assessor may provide confidential information for use:

(a) By any governmental entity, including, without limitation, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, without limitation, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders or pursuant to an order of a federal or state court.

(c) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use authorized pursuant to this section.

(d) In connection with an investigation conducted pursuant to NRS 253.0415 **[**~~, 253.044~~**]** or 253.220.

(e) In activities relating to research and the production of statistical reports, if the address or information will not be published or otherwise disclosed or used to contact any person.

(f) In the bulk distribution of surveys, marketing material or solicitations, if the assessor has adopted policies and procedures to ensure that the information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

(g) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station.

2. Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a person who obtains information pursuant to this section and sells or discloses that information shall keep and maintain for at least 5 years a record of:

(a) Each person to whom the information is sold or disclosed; and

(b) The purpose for which that person will use the information.

Sec. 2. NRS 253.010 is hereby amended to read as follows:

253.010 1. Except as otherwise provided in **[**~~subsection 4,~~**]** ***subsections 4 and 5,*** public administrators must be elected by the qualified electors of their respective counties.

2. Public administrators must be chosen by the electors of their respective counties at the general election in 1922 and at the general election

every 4 years thereafter, and shall enter upon the duties of their office on the first Monday of January after their election.

3. The public administrator of a county must:

(a) Be a qualified elector of the county;

(b) Be at least 21 years of age on the date he will take office;

(c) Not have been convicted of a felony for which his civil rights have not been restored by a court of competent jurisdiction; and

(d) Not have been found liable in a civil action involving a finding of fraud, misrepresentation, material omission, misappropriation, theft or conversion.

4. The district attorneys of ***Humboldt,*** Lander, Lincoln and White Pine Counties are ex officio public administrators of ***Humboldt County,*** Lander County, Lincoln County and White Pine County, respectively. The Clerk of Carson City shall serve as Public Administrator of Carson City.

5. In a county other than Carson City and Humboldt, Lander, Lincoln and White Pine Counties, if, for any reason, the office of public administrator becomes vacant, the board of county commissioners may appoint a public administrator for the remainder of the unexpired term.

Sec. 3. NRS 253.0405 is hereby amended to read as follows:

253.0405 Before the issuance of the letters of administration for an estate, before filing an affidavit to administer an estate pursuant to NRS 253.0403 or before petitioning to have an estate set aside pursuant to NRS 253.0425, the public administrator may secure the property of a deceased person if he finds that:

1. There are no relatives of the deceased who are able to protect the property; ~~[and]~~ ***or***

2. Failure to do so could endanger the property.

Sec. 4. NRS 253.0407 is hereby amended to read as follows:

253.0407 1. Except as otherwise provided in subsection 2, a public administrator, with regard to the personal property of the estate of ~~[a ward or]~~ a decedent, may donate property that has a value of less than $250 to a nonprofit organization, or destroy property that has a value of less than $100, if ~~[~~:

~~(a) The property, if that of a ward, is not necessary for the care or comfort of the ward; and~~

~~(b) A]~~ ***a*** notice of intent to donate or destroy the property is ~~[~~:

~~(1) Mailed]~~ ***mailed*** by certified mail ***or delivered personally*** to the ~~[ward's or]~~ decedent's next of kin ~~[at his last known home address; or~~

~~(2) Personally delivered to him,~~

~~➥ and that person fails to claim]~~ ***and*** the property ***is not claimed*** within 15 days.

2. A public administrator may authorize the immediate destruction of the property of a ~~[ward or]~~ decedent, without giving notice to the next of kin, if:

(a) The administrator determines that the property has been contaminated by vermin or biological or chemical agents;

(b) The expenses related to the decontamination of the property cause salvage to be impractical;

(c) The property constitutes an immediate threat to public health or safety;

(d) The handling, transfer or storage of the property may endanger public health or safety or exacerbate contamination; and

(e) The value of the property is less than $100 or, if the value of the property is $100 or more, a state or local health officer has endorsed the destruction of the property.

Sec. 5. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of ~~[a person dying]~~ ***an*** intestate ***decedent*** if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of ~~[a person dying intestate,]~~ ***an intestate decedent,*** regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. ~~[The public administrator is not eligible to serve as a guardian of the person and estate of a ward unless the board of county commissioners has designated the public administrator as ex officio public guardian.]~~ ***The public administrator shall not administer any estate:***

(a) Held in joint tenancy unless all joint tenants are deceased;

(b) For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or

(c) For which a deed upon death has been executed pursuant to NRS 111.109.

3. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 6. NRS 253.042 is hereby amended to read as follows:

253.042 In connection with an investigation conducted pursuant to subsection 1 of NRS 253.0415, a public administrator may:

1. Require any spouse, parent, child or other kindred of the decedent to give any information and to execute any written requests or authorizations necessary to provide the public administrator with access to records,

otherwise confidential, needed to evaluate the public administrator's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

3. Investigate the assets and personal and family history of any decedent for whom he has been requested to serve as administrator, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS.

Sec. 7. NRS 253.0425 is hereby amended to read as follows:

253.0425 1. If the public administrator finds that there is no qualified person willing and able to administer the estate of a particular decedent, he shall investigate further to estimate its gross value.

2. If the estate appears to have a gross value of ~~[$50,000]~~ ***$100,000*** or less, he shall:

(a) Assist a proper person to petition to have it set aside without administration or directly receive the assets from a custodian, as the facts may warrant;

(b) Himself petition to have the estate set aside without administration and properly distributed; or

(c) Administer the estate pursuant to NRS 253.0403.

3. If the estate appears to have a gross value of more than ~~[$50,000:]~~ ***$100,000:***

(a) He shall proceed with summary or full administration as the value of the estate requires.

(b) He may retain an attorney to assist him, rotating this employment in successive estates among the attorneys practicing in the county who are qualified by experience and willing to serve. The attorney's fee is a charge upon the estate.

Sec. 8. NRS 253.0447 is hereby amended to read as follows:

253.0447 A public administrator ~~[, or other suitable person designated by the board of county commissioners, who is authorized to perform the duties set forth in NRS 253.044,]~~ may file with the board ***of county commissioners*** a request for payment for expenses incurred in the performance of such duties. The amount to be paid as expenses must be determined by the board ***.*** ~~[of county commissioners.]~~ Payment must be made from the general fund of the county if the board ~~[of county commissioners]~~ approves the request and determines that there is sufficient money in the fund to pay the public administrator or other suitable person designated by the board to perform those duties. This section does not require the board ~~[of county commissioners]~~ to authorize payment of any expense that can be paid from the assets of a person or an estate ***.*** ~~[subject to NRS 253.044.]~~

Sec. 9. NRS 253.050 is hereby amended to read as follows:

253.050 1. For the administration of the estates of deceased persons, public administrators are entitled to be paid as other administrators or executors are paid, subject to the provisions of NRS 245.043.

2. The district attorneys of ***Humboldt,*** Lander, Lincoln and White Pine counties as ex officio public administrators and the clerk of Carson City serving as public administrator of Carson City may retain all fees provided by law received by them as public administrators.

3. The public administrator is entitled to compensation from the estate or from beneficiaries for the reasonable value of his services performed in preserving the property of an estate of a deceased person before the appointment of an administrator. Compensation must be set by the board of county commissioners.

Sec. 10. NRS 253.190 is hereby amended to read as follows:

253.190 A public guardian shall ~~[keep]~~ ***:***

1. Keep financial and other appropriate records concerning all cases in which he is appointed as an individual guardian ~~[.]~~ ***; and***

2. Retain:

(a) All such financial records for each case for at least 7 years after the date of the transaction that is recorded in the record; and

(b) All other records for each case for at least 7 years after the termination of the guardianship pursuant to chapter 159 of NRS.

Sec. 11. NRS 253.200 is hereby amended to read as follows:

253.200 1. A resident of Nevada is eligible to have the public guardian of the county in which he resides appointed as his temporary individual guardian pursuant to NRS 159.0523 or 159.0525.

2. A resident of Nevada is eligible to have the public guardian of a county appointed as his permanent or general individual guardian if ~~[he:~~

~~(a) Has~~] ~~[:]~~ ***the proposed ward is a resident of that county and:***

(a) The proposed ward has no relative or friend ~~[able]~~ ***suitable*** and willing to serve as his guardian; ~~[and~~

~~(b) Is~~]

~~[(b) The proposed ward is a resident of that county]~~ ~~[.]~~ ~~[;~~

~~(c) The public guardian is able to identify a source to pay for the care of the proposed ward; and~~

~~(d) The public guardian is able to establish a case plan for the guardianship.]~~ ***or***

(b) The proposed ward has a guardian who the court determines must be removed pursuant to NRS 159.185.

3. A person qualified pursuant to subsection 1 or 2, or anyone on his behalf, may petition the district court of the county in which he resides to make the appointment.

4. Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.

5. Any petition for the appointment of the public guardian as a guardian filed pursuant to subsection 3 must include a statement signed by the public guardian or deputy public guardian and in substantially the following form:

The undersigned is the Public Guardian or a Deputy Public Guardian of ..... County. The undersigned certifies that he has received a copy of this petition and all accompanying documents to be filed with the court.

6. A petition for the appointment of the public guardian as permanent or general guardian must be filed separately from a petition for the appointment of a temporary guardian.

7. If a person other than the public guardian served as temporary guardian ~~[prior to]~~ ***before*** the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. ***In addition to NRS 159.099, a county is not liable on any written or oral contract entered into by the public guardian of the county for or on behalf of a ward.***

9. For the purposes of this section:

(a) Except as otherwise provided in paragraph (b), the county of residence of a person is the county to which the person moved with the intent to reside for an indefinite period.

(b) The county of residence of a person placed in institutional care is the county that was the county of residence of the person before the person was placed in institutional care by a guardian or agency or under power of attorney.

Sec. 12. NRS 253.220 is hereby amended to read as follows:

253.220 A public guardian may investigate the financial status, assets and personal and family history of any person for whom the public guardian has been appointed as guardian, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS. In connection with the investigation, the public guardian may require any ~~[proposed]~~ ward or any spouse, parent, child or other kindred of the ~~[proposed]~~ ward to give any information and to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, which are needed by the public guardian. The public guardian may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.

Sec. 12.5. **NRS 253.250 is hereby amended to read as follows:**

253.250 The court may, at any time, terminate the appointment of a public guardian as an individual guardian ***of a person or of an estate*** upon petition by the ward ~~[or]~~ ***, the public guardian,*** any interested person or upon the court's own motion if ~~[it]~~ ***:***

1. It appears that the services of the public guardian are no longer necessary ~~[.]~~ ***; or***

2. After exercising due diligence, the public guardian is unable to identify a source to pay for the care of the ward.

Sec. 13. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

➥ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information

requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

(1) The safety of drivers of motor vehicles;

(2) Safety and thefts of motor vehicles;

(3) Emissions from motor vehicles;

(4) Alterations of products related to motor vehicles;

(5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;

(6) Monitoring the performance of motor vehicles;

(7) Parts or accessories of motor vehicles;

(8) Dealers of motor vehicles; or

(9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the

information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➥ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the database created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that database.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 14. NRS 253.030, 253.041, 253.044, 253.0445 and 253.045 are hereby repealed.

Sec. 15. Notwithstanding any other provision of this act, the term of office of the person who holds the office of Public Administrator of Humboldt County on July 1, 2009, does not expire until that term would ordinarily expire pursuant to subsection 2 of NRS 253.010.

Sec. 16. 1. This section and sections 2, 9 and 15 of this act become effective on July 1, 2009.

2. Sections 1, 3 to 8, inclusive, and 10 to 14, inclusive, of this act become effective on October 1, 2009.

LEADLINES OF REPEALED SECTIONS

253.030 Vacancy: Applicable law governing appointment; qualification of appointee.

253.041 County whose population is 100,000 or more: Applicability of NRS 253.041 to 253.0435, inclusive.

253.044 County whose population is less than 100,000: Service as administrator of estate of intestate decedent.

253.0445 County whose population is less than 100,000: Access to information.

253.045 Additional duties in county whose population is less than 100,000.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 213.

Bill read second time and ordered to third reading.

Senate Bill No. 219.
Bill read second time and ordered to third reading.

Senate Bill No. 254.
Bill read second time and ordered to third reading.

Senate Bill No. 298.
Bill read second time and ordered to third reading.

Senate Bill No. 378.
Bill read second time and ordered to third reading.

Senate Bill No. 412.
Bill read second time and ordered to third reading.

Senate Bill No. 414.
Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 458 and 488.
Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bills Nos. 458 and 488 be declared emergency measures under the *Constitution* and placed on General File for third reading and final passage.
Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 385 be rereferred to the Committee on Ways and Means.
Motion carried.

Assemblywoman Smith moved that Assembly Bill No. 223 be taken from its position on General File and placed at the top of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 223.
Bill read third time.
The following amendment was proposed by the Committee on Ways and Means:
Amendment No. 593.
AN ACT relating to state governmental procurement; establishing bidders' preferences for local businesses and local businesses owned by service-disabled veterans with respect to state purchasing contracts; establishing bidders' preferences for local businesses owned by service-disabled veterans with respect to state public works contracts; and providing other matters properly relating thereto.
Legislative Counsel's Digest:

Existing law, with respect only to contracts for public works for which the estimated cost exceeds $250,000, provides a mechanism by which a contractor who has paid certain taxes may earn a 5-percent preference in bidding on public works. (NRS 338.1389, 338.147, 338.1693, 338.1727) **Sections 18-25** of this bill establish a limited preference in bidding on public works for local businesses owned by service-disabled veterans. This new preference in bidding on public works does not overlap with the existing preference in bidding on public works because the new preference is limited to public works for which the estimated cost is $100,000 or less.

Under existing law, the State of Nevada imposes an inverse preference against a person who submits a bid or proposal on a state purchasing contract if that person is a resident of a state that denies a preference to bidders or contractors who are residents of this State. (NRS 333.336) **Section 31** of this bill repeals that inverse preference.

In place of the former inverse preference, **sections 5-13** of this bill establish two separate new preferences in bidding on state purchasing contracts: (1) **section 10** adds a 5-percent preference for local businesses; and (2) **section 10** also adds a 7-percent preference for local businesses owned by service-disabled veterans. **Section 14 of this bill requires advertisements for bids or proposals to include notices of these new preferences.**

Section 30 of this bill directs the Office of Veterans' Services to perform certain duties with respect to gathering information and making recommendations to the Legislative Commission concerning the preferences for local businesses owned by service-disabled veterans.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 13, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. ***As used in sections 5 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 6. ***"Business owned by a service-disabled veteran" means a business:***

1. Of which at least 51 percent of the ownership interest is held by one or more service-disabled veterans;

2. That is organized to engage in commercial transactions; and

3. That is managed and operated on a day-to-day basis by one or more service-disabled veterans.

➥ The term includes a business which meets the above requirements that is transferred to the spouse of a service-disabled veteran upon the death of

the service-disabled veteran, as determined by the United States Department of Veterans Affairs.

Sec. 7. ***"Local business" means a business that:***

1. Employs at least one person in this State; and

2. Has employed at least one person in this State for not fewer than 2 years.

Sec. 8. ***"Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of at least zero percent as determined by the United States Department of Veterans Affairs.***

Sec. 9. ***"State purchasing contract" means a contract awarded pursuant to the provisions of this chapter.***

Sec. 10. ***For the purpose of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300:***

1. If a local business submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

2. If a local business owned by a service-disabled veteran submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 7 percent lower than the bid or proposal actually submitted.

Sec. 11. ***1. If the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 10 of this act; and

(b) Bidding on a state purchasing contract.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business may apply to the Chief to review the decision pursuant to chapter 233B of NRS.

Sec. 12. ***The Purchasing Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

2. The total dollar amount of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a state purchasing contract.

4. The number of local businesses not described in subsection 3 that submitted a bid or proposal on a state purchasing contract.

5. The number of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

6. The number of state purchasing contracts that were awarded to local businesses not described in subsection 5.

7. The total number of dollars worth of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

8. The total number of dollars worth of state purchasing contracts that were awarded to local businesses not described in subsection 7.

9. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 13. ***The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 5 to 13, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive a preference described in section 10 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in section 10 of this act; and

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

➥ In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Board so that any regulations adopted pursuant to this section and section 25 of this act are reasonably consistent.

Sec. 14. NRS 333.310 is hereby amended to read as follows:

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

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

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

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

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

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

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

(d) ~~[~~A summary~~]~~ ***Notice*** of the ~~[~~provisions of~~]~~ ~~[~~NRS 333.336.~~]~~ ~~*[sections 5 to 13, inclusive,]*~~ ***preferences set forth in section 10 of this act.***

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

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

➥ The Chief or his designated agent shall approve the copy for the advertisement.

2. Each advertisement must be published in at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation.

Sec. 15. NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

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

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

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Chief of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal.

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

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

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

(c) The price of the proposal**;** ~~**[**, including the**]** **[**imposition**]** *[granting of]* **[**an inverse preference**]** *[any of the preferences* described in**]** **[**NRS 333.336,**]** *[section 10 of this act,* if applicable;**]** and

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

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

5. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal.

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

Sec. 16. NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Chief:

(a) Shall consider, if applicable, the ~~[imposition]~~ ***granting*** of ***any of*** the ~~[inverse preference]~~ ***preferences*** described in ~~[NRS 333.336.]~~ ***section 10 of this act.***

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Chief shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 17. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 25, inclusive, of this act.

Sec. 18. ***As used in sections 18 to 25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 19, 20 and 21 of this act have the meanings ascribed to them in those sections.***

Sec. 19. ***"Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.***

Sec. 20. ***"Local business" has the meaning ascribed to it in section 7 of this act.***

Sec. 21. ***"Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.***

Sec. 22. ***1. For the purpose of awarding a contract for a public work of this State for which the estimated cost is $100,000 or less, as governed by NRS 338.13862, if a local business owned by a service-disabled veteran submits a bid, the bid shall be deemed to be 7 percent lower than the bid actually submitted.***

2. The preference described in subsection 1 may not be combined with any other preference.

Sec. 23. ***1. If the State Public Works Board determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 22 of this act; and

(b) Bidding on a contract for a public work of this State.

2. If the State Public Works Board determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business may apply to the Manager to review the decision pursuant to chapter 233B of NRS.

3. As used in this section, "Manager" has the meaning ascribed to it in NRS 341.015.

Sec. 24. ***The State Public Works Board shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

2. The total dollar amount of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a contract for a public work of this State.

4. The number of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

5. The total number of dollars worth of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 25. ***The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 18 to 25, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive the preference described in section 22 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in section 22 of this act; and

3. Such other matters as the State Public Works Board deems relevant.

➥ In carrying out the provisions of this section, the State Public Works Board shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and section 13 of this act are reasonably consistent.

Sec. 26. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895 ~~[.]~~ ***or section 23 of this act;***

(5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(6) The truthfulness and completeness of the application.

Sec. 27. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~[.]~~ ***and sections 18 to 25, inclusive, of this act.***

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 28. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a

public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~[.]~~ ***and sections 18 to 25, inclusive, of this act.***

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 29. NRS 338.13862 is hereby amended to read as follows:

338.13862 1. Before this State or a local government awards a contract for the completion of a public work in accordance with subsection 1 of NRS 338.1386, the State or the local government must:

(a) If the estimated cost of the public work is more than $25,000 but not more than $100,000, solicit bids from at least three properly licensed contractors; and

(b) If the estimated cost of the public work is $25,000 or less, solicit a bid from at least one properly licensed contractor.

2. Any bids received in response to a solicitation for bids made pursuant to this section may be rejected if the State or the local government determines that:

(a) The quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications;

(b) The bidder is not responsive or responsible; or

(c) The public interest would be served by such a rejection.

3. At least once each quarter, the State and each local government shall prepare a report detailing, for each public work over $25,000 for which a contract for its completion is awarded pursuant to paragraph (a) of subsection 1, if any:

(a) The name of the contractor to whom the contract was awarded;

(b) The amount of the contract awarded;

(c) A brief description of the public work; and

(d) The names of all contractors from whom bids were solicited.

4. A report prepared pursuant to subsection 3 is a public record and must be maintained on file at the administrative offices of the applicable public body.

5. The provisions of this section do not relieve this State from the duty to award the contract for the public work to a bidder who is:

(a) Qualified pursuant to the applicable provisions of NRS 338.1375 to 338.1382, inclusive; and

(b) The lowest responsive and responsible bidder, if bids are required to be solicited from more than one properly licensed contractor pursuant to subsection 1. ***For the purposes of this paragraph, the lowest responsive and responsible bidder must be determined in consideration of any applicable bidder's preference granted pursuant to section 22 of this act.***

Sec. 30. Chapter 417 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each year on or before October 1, the Office of Veterans' Services shall review the reports submitted pursuant to sections 12 and 24 of this act.

2. In carrying out the provisions of subsection 1, the Office of Veterans' Services shall seek input from:

(a) The Purchasing Division of the Department of Administration.

(b) The State Public Works Board.

(c) The Commission on Economic Development.

(d) Groups representing the interests of veterans of the Armed Forces of the United States.

(e) The business community.

(f) Local businesses owned by service-disabled veterans.

3. After performing the duties described in subsections 1 and 2, the Office of Veterans' Services shall make recommendations to the Legislative Commission regarding the continuation, modification, promotion or expansion of the preferences for local businesses owned by service-disabled veterans which are described in sections 10 and 22 of this act.

4. As used in this section:

(a) "Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.

(b) "Local business" has the meaning ascribed to it in section 7 of this act.

(c) "Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.

Sec. 31. NRS 333.336 is hereby repealed.

Sec. 32. 1. This section ~~[,]~~ **and** sections 1 to 26, inclusive, ~~[and]~~ 29, 30 and 31 of this act become effective on October 1, 2009.

2. Section 27 of this act expires by limitation on April 30, 2013.

3. Section 28 of this act becomes effective on May 1, 2013.

TEXT OF REPEALED SECTION

333.336 Inverse preference imposed on certain bidders resident outside State of Nevada.

For the purpose of awarding a contract pursuant to this chapter, if a person who submits a bid or proposal:

1. Is a resident of a state other than the State of Nevada; and

2. That other state, with respect to contracts awarded by that other state or agencies of that other state, applies to bidders or contractors who are residents of that state a preference which is not afforded to bidders or contractors who are residents of the State of Nevada,

➥ the person or entity responsible for awarding the contract pursuant to this chapter shall, insofar as is practicable, increase the person's bid or proposal by an amount that is substantially equivalent to the preference that the other state of which the person is a resident denies to bidders or contractors who are residents of the State of Nevada.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 3.

Bill read third time.

Remarks by Assemblyman Manendo.

Potential conflict of interest declared by Assemblyman Manendo.

Roll call on Assembly Bill No. 3:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 3 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 283.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Assembly Bill No. 283:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 283 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 482.

Bill read third time.

Roll call on Assembly Bill No. 482:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 482 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 494.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 494:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 494 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 23.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Senate Bill No. 23:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Senate Bill No. 23 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 59.

Bill read third time.

Remarks by Assemblyman Settelmeyer.

Roll call on Senate Bill No. 59:

YEAS—40.

NAYS—Cobb.

EXCUSED—Carpenter.

Senate Bill No. 59 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 61.

Bill read third time.

Remarks by Assemblymen Goedhart and Smith.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 61:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Senate Bill No. 61 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 76.

Bill read third time.

Remarks by Assemblywoman Woodbury.

Roll call on Senate Bill No. 76:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Senate Bill No. 76 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 139.

Bill read third time.

Remarks by Assemblyman Manendo.

Potential conflict of interest declared by Assemblyman Manendo.

Roll call on Senate Bill No. 139:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Senate Bill No. 139 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 144.

Bill read third time.

Remarks by Assemblymen Christensen and Kirkpatrick.

Roll call on Senate Bill No. 144:

YEAS—41.
NAYS—None.
EXCUSED—Carpenter.

Senate Bill No. 144 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 158 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 207 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that the Assembly dispense with the reprinting of Assembly Bill No. 223 and that it be placed on third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 256.

Bill read third time.

Remarks by Assemblymen Smith and Anderson.

Roll call on Senate Bill No. 256:

YEAS—38.
NAYS—Cobb, Gustavson, McArthur—3.
EXCUSED—Carpenter.

Senate Bill No. 256 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 106, 207, 287, 317; Senate Joint Resolutions Nos. 3 and 9 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 99.

Bill read third time.

Roll call on Assembly Bill No. 99:

YEAS—41.
NAYS—None.
EXCUSED—Carpenter.

Assembly Bill No. 99 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 279.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 637.

SUMMARY— ~~[Makes various changes relating to certain convicted persons.]~~ **Requires the preservation of certain biological evidence under certain circumstances.** (BDR 14-518)

AN ACT relating to offenders; requiring the preservation of certain biological evidence under certain circumstances; ~~[authorizing certain persons to be committed to the Department of Corrections for evaluation;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides that upon the conviction of a defendant for a category A or B felony, an agency of criminal justice that possesses any biological evidence secured in connection with the investigation or prosecution of the defendant is required to preserve such evidence until the expiration of any sentence imposed on the defendant.

~~[Sections 4, 6, 7, 9 and 10 of this bill authorize a court to commit before sentencing or as a condition of probation, offenders who have never been sentenced to imprisonment for more than 6 months as adults to the Department of Corrections or a local detention center for certain periods of evaluation. Such evaluations may be completed in conjunction with the Department of Health and Human Services. Upon conclusion of the evaluation period of such an offender, the Department of Corrections is required to report its results and the recommendations of the Department of Health and Human Services to the court to assist the court in determining whether to grant probation or impose a sentence of imprisonment.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***1. Except as otherwise provided in this section, upon the conviction of a defendant for a category A or B felony, an agency of criminal justice that has in its possession or custody any biological evidence secured in connection with the investigation or prosecution of the defendant shall preserve such evidence until the expiration of any sentence imposed on the defendant.***

2. Biological evidence subject to the requirements of this section may be consumed for testing upon notice to the defendant.

3. An agency of criminal justice may establish procedures for:

(a) Retaining probative samples of biological evidence subject to the requirements of this section; and

(b) Disposing of bulk evidence that does not affect the suitability of such probative samples for testing.

4. The provisions of this section must not be construed to restrict or limit an agency of criminal justice from establishing procedures for the retention, preservation and disposal of biological evidence secured in connection with other criminal cases.

5. As used in this section:

(a) "Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.

(b) "Biological evidence" means any semen, blood, saliva, hair, skin tissue or other identified biological material removed from physical evidence.

(c) "Sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 3. (Deleted by amendment.)

Sec. 4. [~~*1. If a defendant has been convicted of a felony for which he may be sentenced to imprisonment and has never been sentenced to imprisonment as an adult for more than 6 months, the court may, before sentencing the defendant or as a condition of probation:*~~

~~*(a) Commit him to the custody of the Director of the Department of Corrections for a period of evaluation not to exceed 30 days;*~~

~~*(b) Provide for short term incarceration in the custody of the local detention center or in the custody of the Director of the Department of Corrections for a period not to exceed 30 days; or*~~

~~*(c) Commit the defendant to the custody of the Director of the Department of Corrections for a period not to exceed 180 days as an intermediate sanction where intensive treatment will be provided under the supervision of the Director of the Department of Health and Human Services.*~~

~~*2. The Department of Corrections shall return the defendant to the court not later than the end of the period ordered under subsection 1, together with any evaluation of the defendant by the Department of Corrections and any recommendations of the Department of Health and Human Services.*~~

~~*3. During any period prescribed under subsection 1, the defendant may undergo:*~~

~~*(a) An intake evaluation, including an evaluation of his dental, medical and mental health, provided by the Department of Corrections or the Department of Health and Human Services;*~~

~~*(b) Substance abuse treatment provided by the Department of Health and Human Services;*~~

~~*(c) Mental health treatment provided by the Department of Health and Human Services; and*~~

~~*(d) Job training and placement provided by the Department of Employment, Training and Rehabilitation.*~~

~~*4. Upon receiving the evaluation and recommendations, the court shall sentence the defendant to:*~~

~~*(a) An appropriate term of imprisonment, the duration of which must be computed from the date of commitment under subsection 1; or*~~

~~*(b) Probation, a condition of which must be that the defendant serve a number of days in the state prison equal to or greater than the number of days spent in confinement under subsection 1, including the day of commitment.]*~~ **(Deleted by amendment.)**

Sec. 5. NRS 176.0911 is hereby amended to read as follows:

176.0911 As used in NRS 176.0911 to 176.0917, inclusive, ***and section 2 of this act,*** unless the context otherwise requires, "CODIS" means the Combined DNA Indexing System operated by the Federal Bureau of Investigation.

Sec. 6. ~~[NRS 176.105 is hereby amended to read as follows:~~

~~176.105 1. If a defendant is found guilty and is~~ **[**sentenced~~]~~ ***:***

~~*(a) To be committed to the custody of the Director of the Department of Corrections pursuant to section 4 of this act, the judgment of conviction must set forth the plea, the verdict or finding and the adjudication.*~~

~~*(b) Sentenced* as provided by law, the judgment of conviction must set forth:~~

[~~(a)~~**]** ~~*(1)* The plea;~~

[~~(b)~~**]** ~~*(2)* The verdict or finding;~~

[~~(c)~~**]** ~~*(3)* The adjudication and sentence, including the date of the sentence, any term of imprisonment, the amount and terms of any fine, restitution or administrative assessment, a reference to the statute under which the defendant is sentenced and, if necessary to determine eligibility for parole, the applicable provision of the statute; and~~

[~~(d)~~**]** ~~*(4)* The exact amount of credit granted for time spent in confinement before conviction, if any.~~

~~2. If the defendant is found not guilty, or for any other reason is entitled to be discharged, judgment must be entered accordingly.~~

~~3. The judgment must be signed by the judge and entered by the clerk.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[NRS 176.133 is hereby amended to read as follows:~~

~~176.133 As used in NRS 176.133 to 176.159, inclusive, *and section 4 of this act,* unless the context otherwise requires:~~

~~1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:~~

~~(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;~~

~~(b) A psychologist licensed to practice in this State;~~

~~(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;~~

~~(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;~~

~~(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS; or~~

~~(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.~~

~~2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.~~

~~3. "Sexual offense" means:~~

~~(a) Sexual assault pursuant to NRS 200.366;~~

~~(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;~~

~~(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;~~

~~(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;~~

~~(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;~~

~~(f) Incest pursuant to NRS 201.180;~~

~~(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;~~

~~(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;~~

~~(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;~~

~~(j) Lewdness with a child pursuant to NRS 201.230;~~

~~(k) Sexual penetration of a dead human body pursuant to NRS 201.450;~~

~~(l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;~~

~~(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or~~

~~(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.]~~ **(Deleted by amendment.)**

Sec. 8. (Deleted by amendment.)

Sec. 9. ~~[NRS 209.341 is hereby amended to read as follows:~~

~~209.341 The Director shall:~~

~~1. Establish, with the approval of the Board, a system of initial classification and evaluation for offenders who are~~ ***committed to him for evaluation by the Department or*** ~~sentenced to imprisonment in the state prison; and~~

~~2. Assign every person who is~~ ***committed to him for evaluation by the Department or*** ~~sentenced to imprisonment in the state prison to an appropriate institution or facility of the Department. The assignment must be~~

~~based on an evaluation of the offender's records, particular needs and requirements for custody.]~~ **(Deleted by amendment.)**

Sec. 10. ~~[NRS 209.385 is hereby amended to read as follows:~~

~~209.385 1. Each offender committed to the custody of the department for~~ ***evaluation or*** ~~imprisonment shall submit to such initial tests as the Director determines appropriate to detect exposure to the human immunodeficiency virus. Each such test must be approved by regulation of the State Board of Health. At the time the offender is committed to custody and after an incident involving the offender:~~

~~(a) The appropriate approved tests must be administered; and~~

~~(b) The offender must receive counseling regarding the virus.~~

~~2. If the results of an initial test are positive, the offender shall submit to such supplemental tests as the Director determines appropriate. Each such test must be approved for the purpose by regulation of the State Board of Health.~~

~~3. If the results of a supplemental test are positive, the name of the offender must be disclosed to:~~

~~(a) The Director;~~

~~(b) The administrative officers of the Department who are responsible for the classification and medical treatment of offenders;~~

~~(c) The manager or warden of the facility or institution at which the offender is confined; and~~

~~(d) Each other employee of the Department whose normal duties involve him with the offender or require him to come into contact with the blood or bodily fluids of the offender.~~

~~4. The offender must be segregated from every other offender whose test results are negative if:~~

~~(a) The results of a supplemental test are positive; and~~

~~(b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, the infamous crime against nature, sexual intercourse in its ordinary meaning or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.~~

~~5. The Director, with the approval of the Board:~~

~~(a) Shall establish for inmates and employees of the Department an educational program regarding the virus whose curriculum is provided by the Health Division of the Department of Health and Human Services. A person who provides instruction for this program must be certified to do so by the Health Division.~~

~~(b) May adopt such regulations as are necessary to carry out the provisions of this section.~~

~~6. As used in this section:~~

~~(a) "Incident" means an occurrence, of a kind specified by regulation of the State Board of Health, that entails a significant risk of exposure to the human immunodeficiency virus.~~

~~(b) "Infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex.]~~ **(Deleted by amendment.)**

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 349.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Bill No. 349:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 349 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 359.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 634.

AN ACT relating to education; creating the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism; requiring that the boards of trustees of school districts and the governing bodies of charter schools, to the extent money is available, ensure that certain personnel possess the skills and qualifications necessary to work with pupils with autism; requiring the Health Division of the Department of Health and Human Services to ensure that certain personnel possess the skills and qualifications necessary to provide services to children with autism and their families; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism to provide grants of money to school districts and charter schools for programs of training of certain personnel.

Section 4 of this bill requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that the personnel employed by the school district or charter school who work with pupils with autism receive the appropriate preparation and training necessary to serve those pupils. **Section 5** of this bill requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a

parent or legal guardian of a pupil with autism in making decisions about the services and programs available for the pupil receive the appropriate preparation and training necessary to assist those persons. **Section 7** of this bill requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that a paraprofessional who is employed by the school district or charter school who is assigned to work with a pupil with autism receives the appropriate preparation and training necessary to serve those pupils.

Section 8 of this bill requires the personnel of the Health Division of the Department of Health and Human Services who provide early intervention services and the persons with whom the Health Division contracts to provide those services to possess the knowledge and skills necessary to provide services to children with autism and their families.

~~[Section 9 of this bill requires that any money received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to assist school districts with the training of personnel to assist pupils with autism be deposited in the Grant Fund.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, "Grant Fund" means the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism.***

Sec. 3. ***1. There is hereby created the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism to be administered by the Department. The Department may accept gifts, grants and donations from any source for deposit in the Grant Fund.***

2. The money in the Grant Fund must be used only for the distribution of money to school districts and charter schools for programs of training as set forth in sections 4, 5 and 7 of this act and to provide assistance to licensed educational personnel who work with pupils with autism in obtaining an appropriate endorsement to teach those pupils.

3. The board of trustees of a school district or the governing body of a charter school may apply to the Department on a form prescribed by the Department for a grant of money from the Grant Fund. The application must include a description of the program of training for which the grant of money will be used.

Sec. 4. ***1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who work with pupils with***

autism receive the appropriate preparation and training necessary to serve those pupils. The training may include, without limitation:

(a) The characteristics of autism, including, without limitation, behavioral and communication characteristics;

(b) Methods for determining, on a regular and consistent basis, the specific needs of a pupil with autism to ensure the pupil is meeting the objectives and goals described in the individualized education program of the pupil or other educational plan prepared for the pupil;

(c) The procedure for evaluating pupils who demonstrate behaviors which are consistent with autism;

(d) Approaches for use in the classroom to assist a pupil with autism with communication and social development; and

(e) Methods of providing support to pupils with autism and their families.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for licensed educational personnel employed by the school district or charter school who work with pupils with autism in accordance with this section.

Sec. 5. ***To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a parent or legal guardian of a pupil with autism in making decisions about the services and programs available for the pupil receive the appropriate preparation and training:***

1. On using the 2008 Report of the Nevada Autism Task Force and any subsequent report issued by the Nevada Autism Task Force created pursuant to chapter 348, Statutes of Nevada 2007, to determine best practices in the development of programs for pupils with autism; and

2. To provide the parent or legal guardian with information on all options for treatment and intervention that may assist the pupil in his development and advancement.

Sec. 6. (Deleted by amendment.)

Sec. 7. ***1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that a paraprofessional who is employed by the school district or charter school to provide assistance to pupils with autism receives the appropriate preparation and training to acquire:***

(a) Knowledge of autism, including, without limitation:

(1) The characteristics of autism and the range of spectrum disorders within a diagnosis of autism;

(2) An understanding of the importance of building relationships between pupils with autism, other pupils and teachers or adults to encourage the independence of a pupil with autism; and

(3) The ability to determine the patterns of behavior of pupils with autism;

(b) The ability to provide structure and predictability through the consistent use of methods that support prior learning and continued development;

(c) The ability to adapt, modify or structure the environment based upon an understanding of the auditory, visual or other sensory stimuli which may be reinforcing, calming or distracting to the pupil;

(d) The ability to use positive behavioral supports, including, without limitation, the use of discrete trial, structured teaching methods, reinforcement and generalized approaches to enhance the pupil's education and prevent behavioral problems, as directed by the pupil's teacher or other appropriate personnel;

(e) The ability to accurately collect and record data on the progress of a pupil with autism and report to the pupil's teacher in a timely manner if a particular strategy or program is not producing the planned outcome for the pupil; and

(f) The ability to communicate effectively and consistently with pupils with autism using communication techniques designed for those pupils.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for a paraprofessional who provides assistance to pupils with autism in accordance with this section.

Sec. 8. Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention services to children with autism and the persons with whom the Health Division contracts to provide early intervention services to children with autism possess the knowledge and skills necessary to serve children with autism, including, without limitation:

(a) The screening of a child for autism at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization;

(b) The procedure for evaluating children who demonstrate behaviors which are consistent with autism;

(c) The procedure for enrolling a child in early intervention services upon determining that the child has autism;

(d) Methods of providing support to children with autism and their families; and

(e) The procedure for developing an individualized family service plan in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431 et seq., or other appropriate plan for the child.

2. The Health Division shall ensure that the personnel employed by the Health Division to provide early intervention services to children with autism and the persons with whom the Health Division contracts to provide early intervention services to children with autism:

(a) Possess the knowledge and understanding of the scientific research and support for the methods and approaches for serving children with autism and the ability to recognize the difference between an approach or method that is scientifically validated and one that is not;

(b) Possess the knowledge to accurately describe to parents and guardians the research supporting the methods and approaches, including, without limitation, the knowledge necessary to provide an explanation that a method or approach is experimental if it is not supported by scientific evidence;

(c) Immediately notify a parent or legal guardian if a child is identified as being at risk for a diagnosis of autism and refer the parent or legal guardian to the appropriate professionals for further evaluation and simultaneously refer the parent or legal guardian to any appropriate early intervention services and strategies; and

(d) Provide the parent or legal guardian with information on evidence-based treatments and interventions that may assist the child in his development and advancement.

3. The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention screenings to children and the persons with whom the Health Division contracts to provide early intervention screenings to children perform screenings of children for autism at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization.

Sec. 9. ~~[Notwithstanding any other provision of law to the contrary, if any money is received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, which is designated for expenditure from the State Distributive Account in the State General Fund by the Legislature for Fiscal Years 2009-2010 and 2010-2011 to assist school districts with the training of personnel to assist pupils with autism, the money must be deposited in the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism created by section 3 of this act.]~~ **(Deleted by amendment.)**

Sec. 10. ~~[1. This section and section 9 of this act become effective upon passage and approval.~~

~~2. Sections 1 to 8, inclusive, of this act become]~~ **This act becomes** effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 461.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 632.

AN ACT relating to older persons; revising the provisions pertaining to the ~~[persons who are required to report the]~~ **reporting of** abuse, neglect, exploitation or isolation of an older person; providing for the establishment of a multidisciplinary team; ~~[increasing certain filing fees;]~~ making various other changes relating to older persons; ~~[making an appropriation;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, certain persons, including, without limitation, medical professionals, therapists and social workers, are required to make a report if the person knows or reasonably believes an older person has been abused, neglected, exploited or isolated. (NRS 200.5093) Section 1 of this bill adds to the list of persons required to make such a report: (1) religious leaders, unless the religious leader acquired knowledge of the abuse, neglect, exploitation or isolation during a confession; and (2) attorneys, unless the attorney acquired knowledge of the abuse, neglect, exploitation or isolation from a client who is or may be accused of the crime.]~~

Existing law requires certain governmental entities to forward to the Aging Services Division of the Department of Health and Human Services and to the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General a copy of the final report of the investigation of a report of abuse, neglect, exploitation or isolation of an older person. (NRS 200.5093) **Section 1** of this bill: (1) adds the Repository for Information Concerning Crimes Against Older Persons to the list of entities that must be forwarded a copy of such a report; and (2) changes the period within which the report must be forwarded from 90 days after the completion of the report to 30 days after the completion of the report.

~~[Section 3 of this bill imposes a filing fee of $10 for deposit in the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons. (Chapter 19 of NRS)]~~

Existing law allows a prospective witness who may be unable to attend or may be prevented from attending a trial or hearing to have his deposition taken, if his testimony is material, in order to prevent a failure of justice. (NRS 174.175) At a trial or hearing, a part or all of a deposition may be used if it appears that: (1) the witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick; (4) the witness has become of unsound mind; or (5) the party offering the deposition could not procure the attendance of

the witness by subpoena. (NRS 174.215) **Section 4** of this bill expands the list of prospective witnesses who may have their deposition taken to include ~~[older persons.]~~ **persons who are 70 years of age or older.** (NRS 174.175)

Section 5 of this bill allows the Repository for Information Concerning Crimes Against Older Persons to include records of every incident of elder abuse reported to any entity and certain additional information related to each incident. (NRS 179A.450)

Section 6 of this bill allows the Unit for the Investigation and Prosecution of Crimes Against Older Persons to establish a multidisciplinary team to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation and prescribes its membership. (NRS 228.270) The establishment of such a team does not grant the Unit supervisory authority over any state or local agency that investigates or prosecutes allegations of abuse, neglect, exploitation

or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation.

Section 7 of this bill requires the Peace Officers' Standards and Training Commission to adopt regulations that require all peace officers to receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons. (NRS 289.510)

~~[Section 10 of this bill makes an appropriation to the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation

or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

~~[(m) A clergyman, practitioner of Christian Science or a religious healer, unless he acquired knowledge of the abuse, neglect, exploitation or isolation from the offender during a confession.~~

~~(n) An attorney, unless he has acquired knowledge of the abuse, neglect, exploitation or isolation from a client who is or may be accused of the abuse, neglect, exploitation or isolation.]~~

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded ***within 30 days after the completion of the report*** to the ***:***

(a) Aging Services Division ~~[within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the]~~ ***;***

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes ***.*** ~~[within 90 days after completion of the report.]~~

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 2. (Deleted by amendment.)

Sec. 3. ~~[Chapter 19 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided by specific statute, on the commencement of any civil action or proceeding in the district court, other than the commencement of a proceeding for an adoption, the county clerk of a county, in addition to any other fees provided by law, shall charge and collect $10 from the party commencing the action or proceeding.*~~

~~*2. On or before the first Monday of each month, the county clerk shall pay over to the county treasurer the amount of all fees collected by him pursuant to subsection 1 and the county treasurer shall place that amount to the credit of the State General Fund. Quarterly, the county treasurer shall remit all money so collected to the State Controller, who shall place the money in the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to NRS 228.285.]*~~ **(Deleted by amendment.)**

Sec. 4. NRS 174.175 is hereby amended to read as follows:

174.175 1. If it appears that a prospective witness ***is an older person or*** may be unable to attend or prevented from attending a trial or hearing, that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information or complaint may upon motion of a defendant or of the State and notice to the parties order that his testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. If the deposition is taken upon motion of the State, the court shall order that it be taken under such conditions as will afford to each defendant the opportunity to confront the witnesses against him.

2. If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may direct that his deposition be taken. After the deposition has been subscribed the court may discharge the witness.

3. This section does not apply to the prosecutor, or to an accomplice in the commission of the offense charged.

4. As used in this section, "older person" means a person who is ~~*[60]*~~ ***70 years of age or older.***

Sec. 5. NRS 179A.450 is hereby amended to read as follows:

179A.450 1. The Repository for Information Concerning Crimes Against Older Persons is hereby created within the Central Repository.

2. The Repository for Information Concerning Crimes Against Older Persons must contain a complete and systematic record of all reports of crimes against older persons committed in this State **.** ~~**[**that**]**~~ ***The record*** must be prepared in a manner approved by the Director of the Department ~~**[.]**~~ ***and may include, without limitation, the following information:***

(a) All incidents that are reported to any entity.

(b) All cases that are currently under investigation and the type of such cases.

(c) All cases that are referred for prosecution and the type of such cases.

(d) All cases in which prosecution is declined or dismissed and any reason for such action.

(e) All cases that are prosecuted and the final disposition of such cases.

(f) All cases that are resolved by agencies which provide protective services and the type of such cases.

3. The Director of the Department shall compile and analyze the data collected pursuant to this section to assess the incidence of crimes against older persons.

4. On or before July 1 of each year, the Director of the Department shall prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature that sets forth statistical data on crimes against older persons.

5. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of an individual victim of a crime.

6. As used in this section, "older person" means a person who is 60 years of age or older.

Sec. 6. NRS 228.270 is hereby amended to read as follows:

228.270 ***1.*** The Unit may investigate and prosecute any alleged abuse, neglect, exploitation or isolation of an older person in violation of NRS 200.5099 or 200.50995 and any failure to report such a violation pursuant to NRS 200.5093:

~~[1.]~~ ***(a)*** At the request of the district attorney of the county in which the violation occurred;

~~[2.]~~ ***(b)*** If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or

~~[3.]~~ ***(c)*** Jointly with the district attorney of the county in which the violation occurred.

2. The Unit may organize or sponsor one or more multidisciplinary teams to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be from abuse, neglect or isolation. A multidisciplinary team may include, without limitation, the following members:

(a) A representative of the Unit;

(b) Any law enforcement agency that is involved with the case under review;

(c) The district attorney's office in the county where the case is under review;

(d) The Aging Services Division of the Department of Health and Human Services or the county's office of protective services, if one exists in the county where the case is under review;

(e) A representative of the coroner's office; and

(f) Any other medical professional or financial professional that the Attorney General deems appropriate for the review.

3. Each organization represented on a multidisciplinary team may share with other members of the team information in its possession concerning the older person who is the subject of the review or any person who was in contact with the older person and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential.

4. The organizing or sponsoring of a multidisciplinary team pursuant to subsection 2 does not grant the Unit supervisory authority over, or restrict or impair the statutory authority of, any state or local agency responsible for the investigation or prosecution of allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be the result of abuse, neglect or isolation.

Sec. 7. NRS 289.510 is hereby amended to read as follows:

289.510 1. The Commission:

(a) Shall meet at the call of the Chairman, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance;

(3) Qualifications for instructors of peace officers; and

(4) Requirements for the certification of a course of training.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.600, inclusive.

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children; ~~[and]~~

(c) ***Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons; and***

(d) May require that training be carried on at institutions which it approves in those regulations.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. ~~[There is hereby appropriated from the State General Fund to the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons to be used for the purposes set forth in NRS 228.285 the sum of:~~

~~For the Fiscal Year 2009-2010 $250,000~~

~~For the Fiscal Year 2010-2011 $250,000]~~

(Deleted by amendment.)

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:49 p.m.

ASSEMBLY IN SESSION

At 12:50 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

Assembly Bill No. 458.

Bill read third time.

Remarks by Assemblywomen Buckley, Smith, and Gansert.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Assembly Bill 458 stabilizes funding for K-12 education in Nevada. Assembly Bill 458 will return dollars to the K-12 education budget by doing two things: first, creating a rainy day fund to cushion the budget from the harshest effects of economic downturns, and second, stopping the diversion of tax dollars from education.

I certainly don't have to tell anybody in this body the effects of our economic downturn. Our state is facing a loss of 44 percent when we compare to what is needed to fund current services. Because education comprises such a large percentage of our budget, it is hard to shield education from a severe downturn. That is why Assembly Bill 458 is needed—to create an education rainy day fund, so when times are tough, we have an avenue available to us so as to not have to cut our progress.

It seems a short time ago when we were arguing in this legislative body about how much to fund career and technical education, how much to fund full day kindergarten, how much to fund empowerment schools, how much to fund pay for performance in education, and how much to fund the innovative fund for schools. Now look at where we are. It makes no sense to fund education in good times and to take away money in bad times. The children are going to school whether the economy is good or whether the economy is bad. It makes no sense to divert tax dollars for education in order to attract businesses to come here when businesses don't want to come to Nevada because of our educational system. We need a balanced approach and that is what Assembly Bill 458 does. It looks at what is being diverted from education and says it doesn't make sense to divert money from education at a time when education funding needs more. It also looks at the money that comes back to the state when enrollments or projections are lower and says that money will be set aside for the future of education. Assembly Bill 458 will help our state in the long run. It is a long-term reform that can make sure that we are not in the same situation again. I urge your support.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Speaker pro Tempore. I rise in support of Assembly Bill 458 and appreciate the Speaker bringing this bill forward. She is absolutely right that we have seen the bust and boom with education funding. We saw the end results over the last year when we cut so much from our education budget. We worked hard to provide some funding for pay for performance in the last session—it's gone; empowerment schools, it's gone; the Remediation Trust Fund. This is something my colleagues and I worked on for the better part of the last year and will really put that education money back where it belongs—in education. I will tell you that our constituents and the taxpayers appreciate knowing that when they approve a tax increase, which they have done many times over the years in the name of education funding, they want it to stay there. This is a solid way of making that happen, and I urge your support.

ASSEMBLYWOMAN GANSERT:

Thank you, Mr. Speaker pro Tempore. I have a question. There is some concern about impairing the repayment of current debt, and so I have been looking through the bill trying to make sure that anything that is currently on the books will not be affected by this. There was some discussion about whether it was the net or the gross incremental financing.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. To you and through you to the Minority Leader, if a redevelopment agency has a preexisting obligation and compliance with the terms of the obligation is threatened by the setoff, the redevelopment agency shall be held harmless if an opinion of bond counsel—independent of the redevelopment agency, the municipality and the assessor—explains how and for what period such compliance is threatened by the setoff. Preexisting obligations include MOUs where the MOU is executed before April 1, 2009, and where the developers expended funds to excavate, demolish, or otherwise reduce the value of the acquired property. Affecting anything that is already obligated by bond would not be permissible, as it would impair the integrity of that bond.

ASSEMBLYWOMAN GANSERT:

If you have started to work on a project—so the April 1—and put some money into your project, then that potentially would be grandfathered in also?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Where the MOU was executed before April 1, 2009, and where there has been an expenditure of funds with regard to the project a preexisting obligation exists. It is always tricky when you grandfather people in. On one hand, you want to allow someone who relied in good faith on the existing law to proceed where there is money out of pocket. On the other hand, we have seen examples of legislation where we passed legislation as of July 1 and everybody and his brother rushes in, when they don't even have a project. They have a dream and they try to obligate. This is a balance that we struck in discussion with many people who potentially would be affected, and this is, I believe, a fair balance to make sure that

there is an existing MOU and there is an expenditure of funds. We put specific showings that need to be made to make sure it is not just a pipe dream.

Roll call on Assembly Bill No. 458:
YEAS—41.
NAYS—None.
EXCUSED—Carpenter.

Assembly Bill No. 458 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Senate.

Mr. Speaker pro Tempore announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:58 p.m.

ASSEMBLY IN SESSION

At 12:58 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 488.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Bill No. 488:
YEAS—41.
NAYS—None.
EXCUSED—Carpenter.

Assembly Bill No. 488 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 223.

Bill read third time.

Remarks by Assemblymen Smith, Settelmeyer, Spiegel, Gansert, and Claborn.

Roll call on Assembly Bill No. 223:
YEAS—31.
NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, McArthur, Settelmeyer, Woodbury—10.
EXCUSED—Carpenter.

Assembly Bill No. 223 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 106, 207, 287, 317; Senate Joint Resolutions Nos. 3 and 9 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 312 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Bruce Dacon.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Gregg Ankenman.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Roger Gehring Elementary School: Colton Carter, Isabella Elrod, Dakota Kevish-Martin, Devan Moilanen, Veronica Rodriguez, Ameenah Zapata, Kristiana Redding, Hailey Whalen, Breanna Bliss, Mikayla Jackson, Dylan O'Keefe, Sauvignon Baker, Anastasia Rogers, Matthew Hoffman, Grace O'Malley-Perez, Angelina Contreras, Chase Jenkins, Sydney Mohler, Wellington Coello, Zamaria Clemente, Blair Rush, Jennifer Le, Samantha Barnard, Paige Kidd, Savannah Costella, Jordan Koressel, Ryan Djino, Bailey Kamai, Samantha Gianantonio, Jonathan Webb, Elijah DiMaggio, Raymond Tabio, Allison Staggs, Conner Murphy, Sydney Jenkins, Megan Gilbert, Leah Galier, Bailey Doctolero, Vanessa Marroquin, Madisyn Reis, Calvin Doan, Ryan Tran, Kourtney Allen, Jordanne Santos, Nathaniel Sison, Raymond Abaganyan, Kristine Bartolome, Joel Weathers, Tyler Suey, Rylee Santillian, Manny Chavez, Talia Sapp, Kelsy Neill, Sydney Taylor, Kaylo Po, Zoe Kenney, Alec Goree, Bianca Reveles, Dawson O'Keefe, Christian Palma, and Taylor Gunterman; chaperones Babs Mercer, Julie Elrod, Korri Martin-Ditillo, Maria Moilanen, Leticia Rodriquez, Jasmine Gonzales, Yasmine Redding, Beth Whalen, Lori Bliss, Rhonda Baker, Frenchie Amie, Adrian Hoffman, Sheila Perez, Diana Contreras, Christine Jenkins, Erin Mohler, Laura Taylor, and Sandra Palma.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Fritsch Elementary School: Charlie Adams, Katie Anstedt, Jayson Artz, Kelsey Bradley, Nathaniel Braun, Alexis Dye, Devon Frazier, Skylar Glock, Alexis Grove, Mark Huckabay, Shelby Kuhlman, Tylor LaGier, Kacey Lopes, Allison Lopez, Jessica Mathiesen, Elizabeth McGill, Jayden Meyer, Christian Okamoto, Keelin Pilgrim, Jake Roman, Nia Romero, Branden

Schenkhuizen, Devin Skelley, Soralla Vargas, Kathleen Villegas, Robert White, Brenson Whorley, Jessyca Apodaca, Nicholas Bowler, Anthony Burgess, Jacob Cartwright, Taylor Dixon, Megan Dunkel, Roxette Fourie, Jade Fulmer, Spencer Lang, Eddie Leon, Aneet Mand, Connor McRae, Angela Miller, Armando Olivia, Dylan Outlaw, Noah Poole, Jaycie Roberts, Allan Rodriguez, John Rowe, Aubreana Ruiz, Corree Smith, Henry Sturm, Viviana Suarez, Rachel Tran, Darleth Vazquez, Bailey Wolf; chaperones Carrie Schenkhuizen, Bryan McGill, Emily Howarth, Tobiah Pilgrim, Branden Mathiesen, and Linda Mathiesen; teachers Shelly Monroe and Heidi Lerud.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to R.G. Smith and Jim Helsel.

Assemblyman Conklin moved that the Assembly adjourn until Wednesday, May 13, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 1:12 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND FIRST DAY

CARSON CITY (Wednesday), May 13, 2009

Assembly called to order at 11:50 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Carpenter and Dondero Loop, who were excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

Our Father in Heaven, we know that You can see the hidden things in every heart. If our intentions are good, help us to make them live in good deeds. If what we intend or desire makes us uncomfortable in Your presence, take it from us, and give us the spirit we ought to have that we may do what we ought to do. In Your Name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 294, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Concurrent Resolution No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Senate Joint Resolutions Nos. 2, 4, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Concurrent Resolution No. 6, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and rerefer to the Committee on Ways and Means.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Joint Resolution No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Joint Resolution No. 2 of the 74th Session, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

HARRY MORTENSON, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 41, 53, 63, 66, 174, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 79, 131, 229, 319, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Senate Bills Nos. 283, 333, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which were referred Senate Bills Nos. 134, 201, 377 has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 505, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 12, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 6, 14, 29, 47, 48, 49, 71, 73, 85, 112, 122, 168, 174, 176, 194, 196, 209, 213, 219, 231, 232, 242, 257, 289, 301, 305, 306, 311, 352, 353, 362, 364, 372, 377, 428, 429, 441, 455, 459, 472, 475, 480, 481, 499, 512, 516; Assembly Joint Resolution No. 10.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 24, Amendment No. 599; Assembly Bill No. 41, Amendment No. 607; Assembly Bill No. 97, Amendment No. 584; Assembly Bill No. 107, Amendment No. 597; Assembly Bill No. 177, Amendment No. 568; Assembly Bill No. 248, Amendment No. 574; Assembly Bill No. 259, Amendment No. 578; Assembly Bill No. 389, Amendment No. 603; Assembly Bill No. 410, Amendment No. 575; Assembly Bill No. 415, Amendment No. 583; Assembly Bill No. 425, Amendment No. 616; Assembly Bill No. 432, Amendment No. 602, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 408.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 589 to Senate Bill No. 142.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 587 to Senate Bill No. 45.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that REVERED MOMENTS: Robert Jones be accepted as an accredited press representative, that he be assigned space at the press table in the Assembly Chamber and that he be allowed use of appropriate broadcasting facilities.

Motion carried.

Assemblyman Oceguera moved that Senate Bills Nos. 125, 169, and 287 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bills Nos. 42, 213, and 412 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Parnell moved that Senate Bill No. 378 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Arberry moved that Senate Bill No. 185 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 555—AN ACT relating to state financial administration; removing the nonreversion clause from the provisions governing the Senior Citizens' Property Tax Assistance Account; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 556—AN ACT relating to the State Department of Agriculture; eliminating the position of Weed Control Analyst within the Department; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 557—AN ACT making a supplemental appropriation to the Department of Corrections for unanticipated shortfalls in Fiscal Year 2008-2009 for increased costs at various facilities; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 558—AN ACT making an appropriation to the Department of Administration for allocation to Nevada Volunteers for continuation of its programs dedicated to promoting citizen volunteerism; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 559—AN ACT relating to discrimination; revising various provisions relating to discrimination in housing to conform to federal law; providing civil penalties and other remedies for certain violations; authorizing the Nevada Equal Rights Commission to enter into certain agreements with the United States Department of Housing and Urban Development for the Commission to investigate and enforce laws relating to fair housing as a certified agency under federal law; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 560—AN ACT relating to education; reorganizing the composition of the Regional Training Programs for the Professional Development of Teachers and Administrators; revising provisions governing the membership of the Statewide Council for the Coordination of the Regional Training Programs; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 408.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Koivisto moved that Senate Concurrent Resolution No. 6, just reported out of committee, be rereferred to the Committee on Ways and Means.

Motion carried.

Assembly Concurrent Resolution No. 2.
Assemblywoman Koivisto moved the adoption of the resolution.
Remarks by Assemblywoman Koivisto.
Resolution adopted and ordered transmitted to the Senate.

SECOND READING AND AMENDMENT

Assembly Bill No. 294.
Bill read second time and ordered to third reading.

Senate Bill No. 41.
Bill read second time and ordered to third reading.

Senate Bill No. 53.
Bill read second time and ordered to third reading.

Senate Bill No. 63.
Bill read second time and ordered to third reading.

Senate Bill No. 66.
Bill read second time and ordered to third reading.

Senate Bill No. 79.
Bill read second time and ordered to third reading.

Senate Bill No. 131.
Bill read second time and ordered to third reading.

Senate Bill No. 134.
Bill read second time and ordered to third reading.

Senate Bill No. 174.
Bill read second time and ordered to third reading.

Senate Bill No. 201.
Bill read second time and ordered to third reading.

Senate Bill No. 229.
Bill read second time and ordered to third reading.

Senate Bill No. 283.
Bill read second time.
The following amendment was proposed by the Committee on Judiciary:
Amendment No. 674.

AN ACT relating to domestic relations; providing for the registration and dissolution of domestic partnerships in the State of Nevada; setting forth the rights and responsibilities attendant to such partnerships; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill establishes a domestic partnership as a new type of civil contract recognized in the State of Nevada. Under the provisions of this bill, with

certain exceptions, domestic partners have the same rights, protections, benefits, responsibilities, obligations and duties as do parties to any other civil contract created pursuant to title 11 of NRS. This bill also clarifies that a domestic partnership is not a marriage for the purposes of Section 21 of Article 1 of the Nevada Constitution.

Section 8 of this bill sets forth that no public **or private** employer in this State is required to provide health care benefits to or for the domestic partner of an officer or employee. **Section 8** also clarifies that any public or private employer in this State may voluntarily provide health care benefits to or for the domestic partner of an officer or employee upon such terms and conditions as the affected parties may deem appropriate.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 11 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~[12,]~~ **13,** inclusive, of this act.

Sec. 2. ***This chapter may be cited as the Nevada Domestic Partnership Act.***

Sec. 3. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 and 5 of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Domestic partners" means persons who:***

1. Have registered a valid domestic partnership pursuant to section 6 of this act; and

2. Have not terminated that domestic partnership pursuant to section 9 of this act.

Sec. 5. ***"Domestic partnership" means the social contract between two persons that is described in section 6 of this act.***

Sec. 6. ***1. A valid domestic partnership is registered in the State of Nevada when two persons who satisfy the requirements of subsection 2:***

(a) File with the Office of the Secretary of State, on a form prescribed by the Secretary of State, a signed and notarized statement declaring that both persons:

(1) Have chosen to share one another's lives in an intimate and committed relationship of mutual caring; and

(2) Desire of their own free will to enter into a domestic partnership; and

(b) Pay to the Office of the Secretary of State a reasonable filing fee established by the Secretary of State, which filing fee must not exceed the total of an amount set by the Secretary of State to estimate:

(1) The cost incurred by the Secretary of State to issue the Certificate described in subsection 3; and

(2) Any other associated administrative costs incurred by the Secretary of State.

➥ ***The Office of the Secretary of State shall account for the fees received pursuant to paragraph (b) separately, and use those fees, and any interest and income earned on those fees, solely to pay for expenses related to administering the registration of domestic partnerships pursuant to this chapter, including, without limitation, the cost of materials and technology necessary to process and record the filing.***

2. To be eligible to register pursuant to subsection 1, two persons desiring to enter into a domestic partnership must furnish proof satisfactory to the Office of the Secretary of State that:

(a) Both persons have a common residence;

(b) ~~[Neither]~~ Except as otherwise provided in section 10 of this act, neither person is married or a member of another domestic partnership;

(c) The two persons are not related by blood in a way that would prevent them from being married to each other in this State;

(d) Both persons are at least 18 years of age; and

(e) Both persons are competent to consent to the domestic partnership.

3. The Office of the Secretary of State shall issue a Certificate of Registered Domestic Partnership to persons who satisfy the requirements of this section.

4. As used in this section:

(a) "Common residence" means a residence shared by both domestic partners on at least a part-time basis, irrespective of whether:

(1) Ownership of the residence or the right to occupy the residence is in the name of only one of the domestic partners; and

(2) One or both of the domestic partners owns or occupies an additional residence.

(b) "Residence" means any house, room, apartment, tenement or other building, vehicle, vehicle trailer, semitrailer, house trailer or boat designed or intended for occupancy as a residence.

Sec. 7. ***1. Except as otherwise provided in section 8 of this act:***

(a) Domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon spouses.

(b) Former domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies, common law or any other provisions or sources of law, as are granted to and imposed upon former spouses.

(c) A surviving domestic partner, following the death of the other partner, has the same rights, protections and benefits, and is subject to the same responsibilities, obligations and duties under law, whether derived from statutes, administrative regulations, court rules, government policies,

common law or any other provisions or sources of law, as are granted to and imposed upon a widow or a widower.

(d) The rights and obligations of domestic partners with respect to a child of either of them are the same as those of spouses. The rights and obligations of former or surviving domestic partners with respect to a child of either of them are the same as those of former or surviving spouses.

(e) To the extent that provisions of Nevada law adopt, refer to or rely upon provisions of federal law in a way that otherwise would cause domestic partners to be treated differently from spouses, domestic partners must be treated by Nevada law as if federal law recognized a domestic partnership in the same manner as Nevada law.

(f) Domestic partners have the same right to nondiscriminatory treatment as that provided to spouses.

(g) A public agency in this State shall not discriminate against any person or couple on the basis or ground that the person is a domestic partner rather than a spouse or that the couple are domestic partners rather than spouses.

(h) The provisions of this chapter do not preclude a public agency from exercising its regulatory authority to carry out laws providing rights to, or imposing responsibilities upon, domestic partners.

(i) Where necessary to protect the rights of domestic partners pursuant to this chapter, gender-specific terms referring to spouses must be construed to include domestic partners.

(j) For the purposes of the statutes, administrative regulations, court rules, government policies, common law and any other provision or source of law governing the rights, protections and benefits, and the responsibilities, obligations and duties of domestic partners in this State, as effectuated by the provisions of this chapter, with respect to:

(1) Community property;

(2) Mutual responsibility for debts to third parties;

(3) The right in particular circumstances of either partner to seek financial support from the other following the dissolution of the partnership; and

(4) Other rights and duties as between the partners concerning ownership of property,

➥ any reference to the date of a marriage shall be deemed to refer to the date of registration of the domestic partnership.

2. As used in this section, "public agency" means an agency, bureau, board, commission, department or division of the State of Nevada or a political subdivision of the State of Nevada.

Sec. 8. ***1. The provisions of this chapter do not require a public <u>or private</u> employer in this State to provide health care benefits to or for the domestic partner of an officer or employee.***

2. Subsection 1 does not prohibit any public or private employer from voluntarily providing health care benefits to or for the domestic partner of

an officer or employee upon such terms and conditions as the affected parties may deem appropriate.

Sec. 9. ***1. Except as otherwise provided in subsection 2, domestic partners who wish to terminate a domestic partnership registered pursuant to section 6 of this act must follow the procedures set forth in chapter 125 of NRS.***

2. If a domestic partnership meets the criteria specified in subsection 3, domestic partners in a domestic partnership registered pursuant to section 6 of this act may terminate the domestic partnership by:

(a) Filing with the Office of the Secretary of State, on a form prescribed by the Secretary of State, a signed and notarized statement declaring that both persons have chosen of their own free will to terminate the domestic partnership; and

(b) Paying to the Office of the Secretary of State a reasonable filing fee established by the Secretary of State, which filing fee must not exceed the total of any administrative costs incurred by the Secretary of State.

3. For a domestic partnership to qualify for the simplified termination proceedings set forth in subsection 2, all of the following conditions must exist at the time of the filing pursuant to that subsection:

(a) The domestic partnership has been registered for 5 years or less.

(b) There are no minor children of the relationship of the parties born before or during the domestic partnership or adopted by the parties during the domestic partnership and no female member of the domestic partnership, to her knowledge, is pregnant, or the parties have executed an agreement as to the custody of any children and setting forth the amount and manner of their support.

(c) There is no community or joint property or the parties have executed an agreement setting forth the division of community property and the assumption of liabilities of the community, if any, and have executed any deeds, certificates of title, bills of sale or other evidence of transfer necessary to effectuate the agreement.

(d) The parties waive any rights to support or the parties have executed an agreement setting forth the amount and manner of support.

(e) The parties waive any right to the conduct of more comprehensive proceedings pursuant to chapter 125 of NRS.

Sec. 10. ***A legal union of two persons, other than a marriage as recognized by the Nevada Constitution, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership as defined in this chapter, must be recognized as a valid domestic partnership in this State regardless of whether the union bears the name of a domestic partnership. For a legal union that was validly formed in another jurisdiction to be recognized as a valid domestic partnership in this State, the parties desiring such recognition must comply with the provisions of section 6 of this act.***

Sec. 11. ***A domestic partnership is not a marriage for the purposes of Section 21 of Article 1 of the Nevada Constitution.***

Sec. 12. ***The provisions of this chapter do not require the performance of any solemnization ceremony to enter into a binding domestic partnership contract. It is left to the dictates and conscience of partners entering into a domestic partnership to determine whether to seek a ceremony or blessing over the domestic partnership and to the dictates of each religious faith to determine whether to offer or allow a ceremony or blessing of domestic partnerships. Providing recognition to partnerships through a domestic partnership system in no way interferes with the right of each religious faith to choose freely to whom to grant the religious status, sacrament or blessing of marriage under the rules or practices of that faith.***

~~[Sec. 12.]~~ ***Sec. 13. The provisions of this chapter must be construed liberally to the effect of resolving any doubt or question in favor of finding that a domestic partnership is a valid civil contract entitled to be treated in all respects under the laws of this State as any other civil contract created pursuant to title 11 of NRS would be treated.***

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 319.

Bill read second time and ordered to third reading.

Senate Bill No. 333.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 644.

AN ACT relating to real property; revising certain provisions governing encumbrances that secure future advances of principal; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a borrower to terminate the operation of a mortgage, deed of trust or other instrument encumbering real property as security for future advances of principal by sending written notice to the lender. (NRS 106.380) This bill revises the procedure for a lender to record a statement regarding such a termination and sets forth the procedure for a lender to provide an address for the purpose of receiving such termination notices that is different from any address that is listed for the lender in the mortgage, deed of trust or other instrument.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 106.380 is hereby amended to read as follows:

106.380 1. ~~[The]~~ ***A*** borrower may at any time personally deliver or send by certified mail, return receipt requested, ~~[a]~~ written notice to the lender stating that the borrower elects to terminate the operation of ~~[the]~~ ***an*** instrument as security for future advances of principal made after the ~~[date of receipt of the notice by the lender.]~~ ***lender receives the notice. The notice:***

(a) Must be delivered or sent to the lender at each address provided for the lender in the instrument or, if applicable, at each address provided for the lender in a document which is effective pursuant to subsection 5; and

(b) Does not become effective until it is received by the lender.

2. Within 4 ~~[working]~~ ***business*** days after ~~[receipt of]~~ ***receiving*** the notice, the lender must record in the office of the county recorder ~~[of the county where the original]~~ ***in which the*** instrument was recorded a statement ~~[which:]~~ ***that:***

(a) ~~[Refers]~~ ***Expressly refers*** to the ~~[original]~~ instrument ~~[,]~~ ***by:***

(1) The date on which the instrument was recorded in the office of the county recorder; and

(2) The book, page and document number, as applicable, of the instrument as recorded;

(b) Contains the legal description of the encumbered real property;

(c) ~~[States]~~ ***Affirms*** that the notice given pursuant to subsection 1 was received by the lender, ~~[with]~~ ***and identifies*** the date of that receipt; ***and***

(d) ~~[States the total]~~ ***Separately sets forth:***

(1) The amount of principal owed ~~[on the date of receipt of the notice on account of all outstanding debts and obligations]~~ ***that is*** secured by the instrument; and

~~[(e) States the total amount of]~~

(2) The outstanding interest accrued on ~~[the outstanding debts and obligations]~~ ***the principal described in subparagraph (1)*** as of the date the statement ***of the lender*** is recorded.

3. If the lender does not record the statement ~~[pursuant to]~~ ***required by*** subsection 2 within ~~[4 working days,]~~ ***the period set forth in subsection 2,*** the borrower may record a similar statement ***.*** ~~[and that]~~ ***The borrower's*** statement has the same effect ~~[.]~~ ***as the lender's statement would have had if the lender had recorded the statement required by subsection 2.***

4. If a lender wishes to receive notices pursuant to this section at an address other than the address for the lender provided in the instrument, if any, the lender must:

(a) Record, in the office of the county recorder in which the instrument was recorded, a document entitled "Change of Notice Address" that includes, without limitation, the address at which the lender wishes to receive notices pursuant to this section; and

(b) Personally deliver or send by certified mail, return receipt requested, a copy of the document to the borrower at each address provided for the borrower in the instrument, if any.

5. A document recorded pursuant to subsection 4 does not become effective until it is received by the borrower.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 377.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 1.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 2.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 4.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 2 of the 74th Session.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 63 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 97.

The following Senate amendment was read:

Amendment No. 584.

AN ACT relating to governmental financial administration; requiring the establishment by regulation of procedures for transferring governmental functions between and among local governments; requiring the establishment by regulation of procedures for transferring governmental functions between and among local governments and state agencies; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

This bill requires the Committee on Local Government Finance to adopt regulations to establish procedures for transferring a function from one local government to another local government.

This bill also requires the Committee on Local Government Finance, in consultation with the Director of the Department of Administration, to adopt regulations to establish procedures for transferring a function from a local government to a state agency or from a state agency to a local government.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Committee on Local Government Finance created pursuant to NRS 354.105 shall, in consultation with the Director of the Department of Administration, adopt regulations to establish procedures for transferring a function from a state agency to a local government or from a local government to a state agency.

2. The regulations adopted by the Committee on Local Government Finance pursuant to subsection 1 must:

(a) Be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

(b) Include provisions requiring:

(1) That, except as otherwise provided in subsection 3, notice to the affected state agency and local government of the intent to transfer a function from a state agency to a local government or from a local government to a state agency be given not less than 30 days before September 1 of an even-numbered year, unless a different period of notification is required by a statute or by contractual agreement.

(2) That, except as otherwise provided in subsection 3, the effective date of the transfer of a function from a state agency to a local government or from a local government to a state agency not be any earlier than July 1 of the year after the year in which notice is given, as described in subparagraph (1).

(3) The exchange of such information between the affected state agency and local government as is necessary to complete the transfer, including, without limitation, such matters as a complete description of the function to be transferred and the mechanism to be used to pay for the performance of that function.

3. An affected state agency and local government may, by mutual agreement, waive the requirements set forth in subparagraphs (1) and (2) of paragraph (b) of subsection 2.

4. As used in this section, "local government" has the meaning ascribed to it in NRS 354.474.

Sec. 2. NRS 353.150 is hereby amended to read as follows:

353.150 NRS 353.150 to 353.246, inclusive, ***and section 1 of this act*** may be cited as the State Budget Act.

Sec. 3. NRS 353.246 is hereby amended to read as follows:

353.246 1. Except as otherwise provided in subsection 2 of this section and subsection 6 of NRS 353.210, the provisions of NRS 353.150 to 353.245, inclusive, ***and section 1 of this act*** do not apply to agencies, bureaus, commissions and officers of the Legislative Department, the Public

Employees' Retirement System and the Judicial Department of the State Government.

2. The Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit their budgets to the Legislature in the same format as the proposed executive budget unless otherwise provided by the Legislative Commission. All projections of revenue and any other information concerning future state revenue contained in those budgets must be based upon the projections and estimates prepared by the Economic Forum pursuant to NRS 353.228.

Sec. 4. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Committee on Local Government Finance shall adopt regulations to establish procedures for transferring a function from one local government to another local government.

2. The regulations adopted by the Committee on Local Government Finance pursuant to subsection 1 must:

(a) Be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

(b) Include provisions requiring:

(1) ~~*[At]*~~ ***Except as otherwise provided in subsection 3, at least 180 days' notice to the affected local governments of the intent to transfer a function from one local government to another local government, unless a different period of notification is required by a statute or by contractual agreement.***

(2) The exchange of such information between the affected local governments as is necessary to complete the transfer, including, without limitation, such matters as a complete description of the function to be transferred and the mechanism to be used to pay for the performance of that function.

3. Affected local governments may, by mutual agreement, waive the requirements set forth in subparagraph (1) of paragraph (b) of subsection 2.

Sec. 5. NRS 354.476 is hereby amended to read as follows:

354.476 As used in NRS 354.470 to 354.626, inclusive, ***and section 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 354.479 to 354.578, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 354.594 is hereby amended to read as follows:

354.594 The Committee on Local Government Finance shall determine and advise local government officers of regulations, procedures and report forms for compliance with NRS 354.470 to 354.626, inclusive ~~[.]~~ ***, and section 4 of this act.***

Sec. 7. NRS 354.626 is hereby amended to read as follows:

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or contract to

expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, ***and section 4 of this act*** is guilty of a misdemeanor ~~[.]~~ and upon conviction thereof ceases to hold his office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Purchase of coverage and professional services directly related to a program of insurance which require an audit at the end of the term thereof.

(b) Long-term cooperative agreements as authorized by chapter 277 of NRS.

(c) Long-term contracts in connection with planning and zoning as authorized by NRS 278.010 to 278.630, inclusive.

(d) Long-term contracts for the purchase of utility service such as, but not limited to, heat, light, sewerage, power, water and telephone service.

(e) Contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract or contracts entered into between local government employers and employee organizations.

(f) Contracts between a local government and any person for the construction or completion of public works, money for which has been or will be provided by the proceeds of a sale of bonds, medium-term obligations or an installment-purchase agreement and that are entered into by the local government after:

(1) Any election required for the approval of the bonds or installment-purchase agreement has been held;

(2) Any approvals by any other governmental entity required to be obtained before the bonds, medium-term obligations or installment-purchase agreement can be issued have been obtained; and

(3) The ordinance or resolution that specifies each of the terms of the bonds, medium-term obligations or installment-purchase agreement, except those terms that are set forth in subsection 2 of NRS 350.165, has been adopted.

➥ Neither the fund balance of a governmental fund nor the equity balance in any proprietary fund may be used unless appropriated in a manner provided by law.

(g) Contracts which are entered into by a local government and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing fiscal year and which, under the method of accounting adopted by the local

government, will be charged against an appropriation of a subsequent fiscal year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

(h) Long-term contracts for the furnishing of television or FM radio broadcast translator signals as authorized by NRS 269.127.

(i) The receipt and proper expenditure of money received pursuant to a grant awarded by an agency of the Federal Government.

(j) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

(k) The receipt by a local government of increased revenue that:

(1) Was not anticipated in the preparation of the final budget of the local government; and

(2) Is required by statute to be remitted to another governmental entity.

Sec. 8. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 97.

Remarks by Assemblywoman Kirkpatrick.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 432.

The following Senate amendment was read:

Amendment No. 602.

AN ACT relating to intoxicating liquors; revising provisions relating to alcoholic beverage awareness programs; providing for enforcement of certain provisions by peace officers; revising the distribution of civil fines paid for certain violations; requiring certain reports to be made to the Legislature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain employees of certain establishments that sell alcohol must have successfully completed an alcoholic beverage awareness program. The owner of an establishment that is not in compliance must pay an administrative fine, to be imposed by the Department of Taxation. Money from the administrative fines must be divided equally into the Fund for the Compensation of Victims of Crime and the Alcoholic Beverage Awareness Program Account in the State General Fund. (NRS 369.630) **Section 1** of this bill provides that peace officers may enforce the requirements of the provision relating to employees having successfully completed the program by issuing a notice of a civil infraction for violations. **Section 1** also revises the provision for distribution of the money received by the Department for

fines from establishments found in violation, providing that instead of depositing 50 percent of the money in the **Fund for the Compensation of Victims of Crime and 50 percent of the money in the** Alcoholic Beverage Awareness Program Account, 50 percent of the money must be deposited in the **Account for Aid for Victims of Domestic Violence and 50 percent of the money must be deposited in the** account created in the State General Fund for the support of community juvenile justice programs and must be used only to enforce laws that prohibit the purchase, consumption or possession of alcoholic beverages by persons under the age of 21 years.

Section 2 of this bill requires each recipient of money from the collection of fines for civil infractions to submit a report to the Legislature concerning the amount of money received and how the money was used. In addition, certain law enforcement agencies and the Department of Taxation are required to submit a report to the Legislature concerning the enforcement of the provisions requiring employees to participate in an alcoholic beverage awareness program.

Section 4 of this bill requires the Legislative Auditor to conduct an audit of any fines imposed pursuant to NRS 369.630 after July 1, 2007.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 369.630 is hereby amended to read as follows:

369.630 1. Except as otherwise provided in subsection ~~[5,]~~ ***7,*** on and after July 1, 2007, a person who owns or operates an establishment shall not:

(a) Hire a person to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment unless:

(1) The person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or

(2) The person who owns or operates the establishment ensures that the person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, within 30 days after the date on which he is hired, successfully completes a certified program and obtains a valid alcohol education card; or

(b) Continue to employ a person who was hired before that date to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment unless:

(1) The person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or

(2) The person who owns or operates the establishment ensures that the person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, not later than July

31, 2007, successfully completes a certified program and obtains a valid alcohol education card.

2. ~~[~~The Department shall impose upon an owner or operator of an establishment who violates any of the provisions of this section an administrative fine of not more than:~~]~~ ***A violation of this section is a civil infraction, and when an owner or operator of an establishment is found in violation pursuant to subsection 3, a notice of infraction must be issued on a form prescribed by the Department, and must contain, without limitation, the following information:***

(a) The location at which the violation occurred;

(b) The date and time of the violation;

(c) The name of the establishment and the owner;

(d) The signature of the person who issued the notice of infraction;

(e) A copy of this section which allegedly is being violated;

(f) Information which advises of the manner in which, and the time within which, the notice of infraction must be answered; and

(g) Any other reasonable information which is prescribed by the Department.

3. The notice of infraction may be issued by any peace officer or by any person who is authorized by the Department to issue such a notice. A duplicate of the notice of infraction must be served on the person to whom it is issued either in person, by providing the notice to the person in charge of the establishment at the time the notice of infraction is issued, or by affixing the notice to the establishment in a conspicuous place.

4. The notice of infraction or a facsimile thereof must be filed with the Department and retained by the Department and is deemed to be a public record of matters which are observed pursuant to a duty imposed by law and is prima facie evidence of the facts which are alleged therein.

5. A person who responds to the notice of infraction must:

(a) ***Admit the commission of the infraction by paying to the Department the appropriate civil fine:***

(1) For the first violation within a 24-month period, $500.

~~[~~(b)~~]~~ ***(2)*** For the second violation within a 24-month period, $1,000.

~~[~~(c)~~]~~ ***(3)*** For the third and any subsequent violation within a 24-month period, $5,000.

~~[~~3.~~]~~ ***(b) Deny liability for the infraction by notifying the Department and requesting a hearing in the manner indicated on the notice of infraction. Upon receipt of such a request, the Department shall afford to the person making the request an opportunity for a hearing pursuant to the provisions of NRS 233B.121.***

6. Of the money collected by the Department from ~~[~~fines~~]~~ ***a civil fine*** pursuant to subsection ~~[~~2.~~]~~ ***5:***

(a) Fifty percent must be deposited with the State Treasurer for credit to the ~~[~~Fund~~]~~ ***Account*** for ~~[~~the Compensation of~~]~~ ***Aid for*** Victims of ~~[~~Crime~~]~~ ***Domestic Violence*** created by NRS ~~[~~217.260.~~]~~ ***217.440.***

(b) Fifty percent must be deposited in the ~~[Alcoholic Beverage Awareness Program Account, which is hereby created in the State General Fund. The Account must be administered by the Commission. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. The money in the Account must be used solely to reduce the costs for employees to complete programs certified by the Commission pursuant to subsection 3 of NRS 369.625.~~

~~4. Any law enforcement agency whose officer discovers a violation of this section shall report the violation to the Department.~~

~~5.~~] ***account created in the State General Fund for the support of community juvenile justice programs and must be used only to enforce laws that prohibit the purchase, consumption or possession of alcoholic beverages by persons under the age of 21 years.***

7. The provisions of this section apply only in a jurisdiction that:

(a) Is located in a county whose population is 100,000 or more; or

(b) Is located in a county whose population is less than 100,000, if the governing body of the jurisdiction has, by the affirmative vote of a majority of its members, agreed to be bound by the provisions of this section.

~~[6.]~~ ***8.*** As used in this section:

(a) "Certified program" means an alcoholic beverage awareness program certified by the Commission pursuant to NRS 369.625.

(b) "Valid alcohol education card" means a card issued by a certified program which has been obtained or renewed within the immediately preceding 4 years.

Sec. 2. 1. Each recipient of money pursuant to subsection 6 of section 1 of this act shall submit a report to the Director of the Legislative Counsel Bureau on or before February 1, 2011, for distribution to the Legislature setting forth the amount of money received during the biennium, the manner in which the money was used and the amount of money that remains in the account of the recipient.

2. Each law enforcement agency in a county subject to the provisions of NRS 369.630 and the Department of Taxation shall prepare and submit a report to the Director of the Legislative Counsel Bureau on or before February 1, 2011, for distribution to the Legislature which sets forth the actions taken by the agency or the Department, as applicable, to enforce the provisions of NRS 369.600 to 369.635, inclusive, and the number of violations of those provisions that were discovered by them. The Department shall also include in the report the amount of money collected from fines imposed for such violations.

Sec. 3. ~~[This act becomes effective on July 1, 2009.]~~ **(Deleted by amendment.)**

Sec. 4. **1. The Legislative Auditor shall conduct an audit concerning any fines imposed by the Department of Taxation pursuant to NRS 369.630 after July 1, 2007.**

2. The audit must include, without limitation, an analysis of:

(a) Whether any fines were imposed pursuant to NRS 369.630; and

(b) If any fines were imposed pursuant to NRS 369.630, the disposition of all such fines that were imposed.

3. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011. A copy of the final written report must be provided to the Department of Taxation not later than February 7, 2011.

4. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

5. The Department of Taxation shall use the results of the audit to improve the efficiency and effectiveness of imposing and collecting fines pursuant to NRS 369.630.

Assemblywoman McClain moved that the Assembly concur in the Senate amendment to Assembly Bill No. 432.

Remarks by Assemblywoman McClain.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 41.

The following Senate amendment was read:

Amendment No. 607.

AN ACT relating to elections; making various changes concerning voter registration and voting procedures for certain members of the Armed Forces of the United States and their spouses and dependents, and certain other voters who reside outside the United States; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill authorizes the Secretary of State to adopt regulations concerning standards for the approved electronic transmission of certain applications, forms and ballots. (NRS 293.247)

Section 8 of this bill expands the acceptable use of the form provided by the Federal Government from a special absent ballot to be used only in general elections and only for federal offices to allow its use in primary and special elections, in addition to general elections, and for state and local offices in addition to federal offices. (NRS 293.3155)

Section 15 of this bill provides that an elector of this State who resides outside the United States may use the special absent ballot as a simultaneous application for registration and ballot to vote. (NRS 293.501)

Sections 8, 9, 11, 12, 15, 16, 18 and 20-22 of this bill allow certain members of the Armed Forces and their spouses and dependents, and certain other electors of this State who reside outside the United States: (1) to request forms for registration, absent ballots, special absent ballots and the form provided by the Federal Government for simultaneous registration and request of an absent ballot; and (2) to return voted ballots by approved

electronic transmission. (NRS 293.3155, 293.3157, 293.320, 293.323, 293.501, 293.502, 293.553, 293C.315, 293C.320, 293C.322)

~~[Sections 14 and 17 of this bill allow certain citizens of the United States who have never resided in the United States to use the address of a parent who resides in this State for purposes of establishing residency for voter registration. (NRS 293.486, 293.507)]~~

Section 16 of this bill expands the eligibility for late registration by those who have recently returned to residency in the United States to include: (1) the spouses and dependents of members of the Armed Forces stationed outside the United States who have been recently discharged; and (2) persons recently separated from employment outside of the United States and the spouses and dependents of such persons. (NRS 293.502)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 4 of this act.

Sec. 2. ***"Approved electronic transmission" means the sending of information by facsimile machine or by use of the Internet pursuant to the acceptable standards set forth by regulations of the Secretary of State adopted pursuant to NRS 293.247.***

Sec. 3. (Deleted by amendment.)

Sec. 4. ***"Special absent ballot" means the absent ballot provided by the Federal Government pursuant to 42 U.S.C. § 1973ff et seq. to*** ~~*[any elector or registered voter of this State who is in the]*~~ ***Armed Forces*** ***personnel*** ***or*** ~~*[resides outside the continental United States.]*~~ ***overseas citizens.***

Sec. 5. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, ***and sections 2 and 4 of this act*** have the meanings ascribed to them in those sections.

Sec. 6. NRS 293.247 is hereby amended to read as follows:

293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. Permanent regulations of the Secretary of State that regulate the conduct of a primary, general, special or district election that are effective on or before December 31 of the year immediately preceding a primary, general, special or district election govern the conduct of that election.

2. The Secretary of State shall prescribe the forms for a declaration of candidacy, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.

3. The regulations must prescribe:

(a) The duties of election boards;

(b) The type and amount of election supplies;

(c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;

(d) The method to be used in distributing ballots to precincts and districts;

(e) The method of inspection and the disposition of ballot boxes;

(f) The form and placement of instructions to voters;

(g) The recess periods for election boards;

(h) The size, lighting and placement of voting booths;

(i) The amount and placement of guardrails and other furniture and equipment at voting places;

(j) The disposition of election returns;

(k) The procedures to be used for canvasses, ties, recounts and contests, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;

(l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;

(m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;

(n) The procedures to be used for the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system;

(o) The procedures to be used for the disposition of absent ballots in case of an emergency;

(p) ***The acceptable standards for the sending and receiving of applications, forms and ballots, by approved electronic transmission, by the county clerks and the electors or registered voters who are authorized to use approved electronic transmission pursuant to the provisions of this title;***

(q) The forms for applications to register to vote and any other forms necessary for the administration of this title; and

~~[(q)]~~ ***(r)*** Such other matters as determined necessary by the Secretary of State.

4. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the statutes and regulations governing the conduct of primary, general, special and district elections in this State.

5. The Secretary of State shall prepare and distribute to each county and city clerk copies of:

(a) Laws and regulations concerning elections in this State;

(b) Interpretations issued by the Secretary of State's Office; and

(c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.

Sec. 7. NRS 293.270 is hereby amended to read as follows:

293.270 1. Voting at any election regulated by this title must be on printed ballots or by any other system approved by the Secretary of State or specifically authorized by law.

2. ~~[~~Voting~~]~~ ***Except as otherwise provided in NRS 293.3155, voting*** must be only upon candidates whose names appear upon the ballot prepared by the election officers, and no person may write in the name of an additional candidate for any office.

Sec. 8. NRS 293.3155 is hereby amended to read as follows:

293.3155 Notwithstanding any other provisions of this title:

1. Any registered voter of this State who ~~[~~resides outside the continental United States~~]~~ ***is Armed Forces personnel or an overseas citizen*** may use ~~[~~the form provided by the Federal Government as~~]~~ a special absent ballot for a ***primary,*** general ***or special*** election ***.*** ~~[~~if the voter:

~~(a) Requests an absent ballot and the request is received by the county clerk not later than 30 days before the general election; and~~

~~(b) Does not receive the absent ballot.~~]

2. The special absent ballot ~~[~~must~~]~~ ***may*** be used ~~[~~only~~]~~ for the offices of President and Vice President of the United States, United States Senator and Representative in Congress ~~[~~.~~]~~ ***, and for any state or local offices and ballot questions for which the registered voter is entitled to cast his ballot.*** The ballot must allow the registered voter to vote by writing in his choice of a political party for each office or the name of a candidate whose name appears on the ballot for each office.

3. The ***special absent ballot may be voted by completing the ballot according to the instructions and returning it to the county clerk by:***

(a) Mail, if it can be returned in a timely manner; or

(b) Approved electronic transmission.

4. The special absent ballot must not be counted if:

(a) It is submitted from any location within the continental United States ~~[~~,~~]~~ ***by an overseas citizen; or***

(b) ~~[~~The county clerk receives the request for an absent ballot less than 30 days before the general election; or

~~(c)~~~~]~~ The county clerk receives the ***regular*** absent ballot ***from the voter*** on or before the date of the ***primary,*** general ***or special*** election.

5. As used in this section, "regular absent ballot" means the absent ballot prepared by the county clerk pursuant to NRS 293.309.

Sec. 9. NRS 293.3157 is hereby amended to read as follows:

293.3157 1. Any registered voter of this State who resides outside the continental United States may use ~~[~~a facsimile machine~~]~~ ***approved electronic transmission*** to request an absent ballot. ***Such a request must be received by the county clerk not later than 5 p.m. on the seventh day before the primary, general or special election.*** The registered voter shall state on the request whether ~~[~~he~~]~~ ***:***

(a) He requests the county clerk to send the absent ballot by mail or ~~[~~facsimile machine~~]~~ ***approved electronic transmission;*** and ~~[~~whether he~~]~~

(b) He will return the absent ballot to the county clerk by mail or ~~[~~facsimile machine.~~]~~ ***approved electronic transmission.***

2. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by mail, he shall include with his completed absent ballot the identification envelope provided by the county clerk. The identification envelope must be in the form prescribed by the Secretary of State and include, without limitation:

(a) A declaration, under penalty of perjury, stating that the registered voter resides within the precinct in which he is voting and is the person whose name appears on the envelope;

(b) The signature of the registered voter;

(c) The address that the registered voter provided on his application for voter registration; and

(d) A statement that the voter has not applied and will not apply to any other county clerk for an absent ballot.

3. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by ~~[~~facsimile machine,~~]~~ ***approved electronic transmission,*** he shall include with his completed absent ballot the following:

OATH OF VOTER

I, _____, acknowledge that by returning my voted ballot by ~~[~~facsimile transmission,~~]~~ ***approved electronic transmission,*** I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absent voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residential address is

_____ .
(Street Address) (City) (ZIP Code)

My current mailing address is

_____ .

My e-mail address is _____ .
My facsimile transmission number is ***(if applicable)*** _____.

I am a resident of _____ County, State of Nevada, and I have not applied, nor do I intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this _____ day of _____, 20___.

(Signed)

_____

Voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT, ALL OF WHICH ARE RETURNED BY ~~[FACSIMILE TRANSMISSION.]~~ ***APPROVED ELECTRONIC TRANSMISSION.***

4. The county clerk, if so requested pursuant to subsection 1, shall use ~~[a facsimile machine]~~ ***approved electronic transmission*** to send an absent ballot and the oath, as required pursuant to subsection 3, to the registered voter.

5. Each county clerk shall ***, insofar as is practicable,*** ensure the secrecy of absent ballots that are submitted by ~~[facsimile machine.]~~ ***approved electronic transmission.***

6. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 10. NRS 293.317 is hereby amended to read as follows:

293.317 Absent ballots, including special absent ballots ***,*** ~~[described in NRS 293.3155,]~~ received by the county or city clerk after the polls are closed on the day of election are invalid.

Sec. 11. NRS 293.320 is hereby amended to read as follows:

293.320 1. The county clerk shall determine before issuing an absent ballot that the person making application is a registered voter in the proper county.

2. Armed Forces personnel ***and overseas citizens*** who are not registered to vote and are applying for absent ballots must complete:

(a) The application to register to vote required by NRS 293.517 for registration; ~~[or]~~

(b) The form provided by the Federal Government for registration and request of an absent ballot, ***pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.; or***

(c) A special absent ballot used only for purposes of registering the person to vote,

➥ before receiving an absent ballot.

3. If the county clerk rejects an application submitted pursuant to subsection 2 ***,*** ~~[or submitted by an overseas voter,]~~ the county clerk shall inform the applicant of the reason for the rejection.

Sec. 12. **N**RS 293.323 is hereby amended to read as follows:

293.323 1. Except as otherwise provided in subsection 2 ~~[,]~~ ***and NRS 293.3157,*** if the request for an absent ballot is made by mail or facsimile machine, the county clerk shall, as soon as the official absent ballot for the

precinct or district in which the applicant resides has been printed, send to the voter by first-class mail **,** or by any class of mail if the Official Election Mail logo or an equivalent logo or mark created by the United States Postal Service is properly placed on the official absent ballot ***:*** ~~**[**, unless otherwise requested pursuant to NRS 293.3157, if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail, unless otherwise requested pursuant to NRS 293.3157, if the absent voter is in a foreign country but not on a military base:**]**~~

(a) An absent ballot;

(b) A return envelope;

(c) An envelope or similar device into which the ballot is inserted to ensure its secrecy;

(d) An identification envelope, if applicable pursuant to NRS 293.3157; and

(e) Instructions.

2. If the county clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the county clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter may mail his absent ballot to the county clerk or submit his absent ballot by facsimile machine.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2 and NRS 293.3157.

5. Before depositing a ballot in the mail or sending a ballot by facsimile machine, the county clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, his political affiliation, if any, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

Sec. 13. NRS 293.325 is hereby amended to read as follows:

293.325 1. Except as otherwise provided in subsection 2, when an absent ballot is returned by a registered voter to the county clerk through the mail, by facsimile machine ***or other approved electronic transmission*** or in person, and record thereof is made in the absent ballot record book, the county clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If an absent ballot central counting board has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the mail, by facsimile machine ***or other approved electronic transmission*** or in person, the county clerk shall check the signature on the return envelope ~~**[**or**]**~~ **,** facsimile ***or other approved electronic transmission*** against the original

signature of the voter on the county clerk's register. If the county clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the county clerk at all times. At the end of each day before election day, the county clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Not earlier than 4 working days before the election, the county clerk shall deliver the ballots to the absent ballot central counting board to be processed and prepared for counting pursuant to the procedures established by the Secretary of State to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293.273 or 293.305.

Sec. 14. ~~[NRS 293.486 is hereby amended to read as follows:~~

~~293.486 1. Except as otherwise provided in [subsection 2,]~~ ***subsections 2 and 3,*** ~~for the purposes of registering to vote, the address at which the voter actually resides is the street address assigned to the location at which the voter actually resides.~~

~~2. For the purposes of registering to vote, if the voter does not reside at a location that has been assigned a street address, the address at which the voter actually resides is a description of the location at which the voter actually resides. The description must identify the location with sufficient specificity to allow the county clerk to assign the location to a precinct.~~

~~3. A person who:~~

~~*(a) Is a citizen of the United States;*~~

~~*(b) Has never been a resident of any state but is lawfully entitled to reside in the United States;*~~

~~*(c) Would otherwise be an elector of this State; and*~~

~~*(d) Has a parent who has an actual residence in this State pursuant to subsection 1 or 2,*~~

~~*may use the street address or description of the location at which his parent resides in this State as his address for the purposes of registering to vote in this State.*~~

~~*4.* The provisions of this section do not authorize a person to register to vote if he is not otherwise eligible to register to vote.~~**] (Deleted by amendment.)**

Sec. 15. NRS 293.501 is hereby amended to read as follows:

293.501 Notwithstanding any other provisions of this title:

1. ~~[Any elector of this State who resides outside this State]~~ ***Armed Forces personnel and overseas citizens*** may use the form provided by the Federal Government ***for registration and request of an absent ballot*** pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act ~~[of 1986,]~~ 42 U.S.C. ~~[§ 1973,]~~ ***§§ 1973ff et seq.,*** to register to vote in this State.

2. ~~[The county clerk shall not register a voter who submits the form from any location within this State.~~

~~3. If an elector registers to vote pursuant to the provisions of subsection 1, he shall be deemed to be registered as of the date that the form or the envelope containing the form is postmarked.]~~ ***An elector referred to in subsection 1 may complete the form and return it by:***

(a) Mail, if it can be returned in a timely manner; or

(b) Approved electronic transmission.

3. If an elector registers to vote pursuant to the provisions of this section and returns the form provided by the Federal Government for registration and request of an absent ballot by:

(a) Mail, he shall be deemed to be registered as of the date that the form or the envelope containing the form is postmarked.

(b) Approved electronic transmission, he shall be deemed to be registered as of the date on which he initiates the approved electronic transmission.

Sec. 16. NRS 293.502 is hereby amended to read as follows:

293.502 1. An elector ~~[who:~~

~~(a) Complies]~~ ***:***

(a) Who complies with the requirements for registration set forth in the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. ~~[§ 1973;~~

~~(b) Is]~~ ***§§ 1973ff et seq.;***

(b) Who, not more than 60 days before an election:

(1) Is discharged from the Armed Forces of the United States ***or is the spouse or dependent of an elector who is discharged from the Armed Forces; or***

(2) Is separated from employment outside the territorial limits of the United States ~~[not more than 60 days before an election;]~~ ***or is the spouse or dependent of an elector who is separated from employment outside the territorial limits of the United States;***

(c) ~~[Presents]~~ ***Who presents*** evidence of ~~[his]~~ ***the*** discharge ***or separation from employment described in paragraph (b)*** to the county clerk; and

(d) Is not registered to vote at the close of registration for that election,

➥ must be allowed to register to vote in the election.

2. Such an elector must:

(a) Register in person; and

(b) Vote in the office of the county clerk unless he is otherwise entitled to vote an absent ballot pursuant to federal law.

3. The Secretary of State shall adopt regulations to carry out a program of registration for such electors.

Sec. 17. ~~[NRS 293.507 is hereby amended to read as follows:~~

~~293.507 1. The Secretary of State shall prescribe:~~

~~(a) A standard form for applications to register to vote;~~

~~(b) A special form for registration to be used in a county where registrations are performed and records of registration are kept by computer; and~~

~~(c) A standard form for the affidavit described in subsection 5.~~

~~2. The county clerks shall provide forms for applications to register to vote to field registrars in the form and number prescribed by the Secretary of State.~~

~~3. Each form for an application to register to vote must include a:~~

~~(a) Unique control number assigned by the Secretary of State; and~~

~~(b) Receipt which:~~

~~(1) Includes a space for a person assisting an applicant in completing the form to enter his name; and~~

~~(2) May be retained by the applicant upon completion of the form.~~

~~4. The form for an application to register to vote must include:~~

~~(a) A line for use by the applicant to enter:~~

~~(1) The number indicated on the applicant's current and valid driver's license issued by the Department of Motor Vehicles, if the applicant has such a driver's license;~~

~~(2) The last four digits of the applicant's social security number, if the applicant does not have a driver's license issued by the Department of Motor Vehicles and does have a social security number; or~~

~~(3) The number issued to the applicant pursuant to subsection 5, if the applicant does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number.~~

~~(b) A line on which to enter the address at which the applicant *or his parent* actually resides, as set forth in NRS 293.486.~~

~~(c) A notice that the applicant may not list a business as the address required pursuant to paragraph (b) unless he actually resides there.~~

~~(d) A line on which to enter an address at which the applicant may receive mail, including, without limitation, a post office box or general delivery.~~

~~5. If an applicant does not have the identification set forth in subparagraph (1) or (2) of paragraph (a) of subsection 4, the applicant shall sign an affidavit stating that he does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number. Upon receipt of the affidavit, the county clerk shall issue an identification number to the applicant which must be the same number as the unique identifier assigned to the applicant for purposes of the statewide voter registration list.~~

~~6. The Secretary of State shall adopt regulations to carry out the provisions of subsections 3, 4 and 5.~~**] (Deleted by amendment.)**

Sec. 18. NRS 293.553 is hereby amended to read as follows:

293.553 Any elector of this State who is in the service of the United States or attending an institution of learning, and by reason thereof is beyond the boundaries of this State, and who has not registered before or whose registration has been cancelled may, at any time, request from the county clerk of the county of the elector's residence **[**~~by mail, telephone or telegram~~**]** an application to register to vote. The county clerk, if satisfied that the elector is eligible for registration, shall forward the application immediately. The

county clerk shall, upon receipt of the completed application, file it in the manner provided by law.

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 293C.315 is hereby amended to read as follows:

293C.315 1. Any registered voter of this State who resides outside the continental United States may use ~~[a facsimile machine]~~ ***approved electronic transmission*** to request an absent ballot. ***Such a request must be received by the city clerk not later than 5 p.m. on the seventh day before the primary, general or special election.*** The registered voter shall state on the request whether ~~[he]~~ ***:***

(a) He requests the city clerk to send the absent ballot by mail or ~~[facsimile machine]~~ ***approved electronic transmission;*** and ~~[whether he]~~

(b) He will return the absent ballot to the city clerk by mail or ~~[facsimile machine.]~~ ***approved electronic transmission.***

2. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by mail, he shall include with his completed absent ballot the identification envelope provided by the city clerk. The identification envelope must be in the form prescribed by the Secretary of State and include, without limitation:

(a) A declaration, under penalty of perjury, stating that the registered voter resides within the precinct or district in which he is voting and is the person whose name appears on the envelope;

(b) The signature of the registered voter;

(c) The address that the registered voter provided on his application for voter registration; and

(d) A statement that the voter has not applied and will not apply to any other city clerk for an absent ballot.

3. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by ~~[facsimile machine,]~~ ***approved electronic transmission,*** he shall include with his completed absent ballot the following:

OATH OF VOTER

I, _____, acknowledge that by returning my voted ballot by ~~[facsimile transmission,]~~ ***approved electronic transmission,*** I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absent voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residential address is

_____ .

(Street Address) (City) (ZIP Code)

My current mailing address is

_____ .

My e-mail address is _____ .
My facsimile transmission number is ***(if applicable)*** _____.

I am a resident of _____ County, State of Nevada, and I have not applied, nor do I intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this _____ day of _____, 20___.

(Signed)

_____

Voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT, ALL OF WHICH ARE RETURNED BY ~~[FACSIMILE TRANSMISSION.]~~ ***APPROVED ELECTRONIC TRANSMISSION.***

4. The city clerk, if so requested pursuant to subsection 1, shall use ~~[a facsimile machine]~~ ***approved electronic transmission*** to send an absent ballot and the oath, as required pursuant to subsection 3, to the registered voter.

5. Each city clerk shall ***, insofar as is practicable,*** ensure the secrecy of absent ballots that are submitted by ~~[facsimile machine.]~~ ***approved electronic transmission.***

6. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 21. NRS 293C.320 is hereby amended to read as follows:

293C.320 1. The city clerk shall determine before issuing an absent ballot that the person making application is a registered voter in the proper city.

2. Armed Forces personnel ***and overseas citizens*** who are not registered to vote and are applying for absent ballots must complete:

(a) The application to register to vote required by NRS 293.517 for registration; ~~[or]~~

(b) The form provided by the Federal Government for registration and request of an absent ballot, ***pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.; or***

(c) A special absent ballot used only for purposes of registering the person to vote,

➥ before receiving an absent ballot.

Sec. 22. NRS 293C.322 is hereby amended to read as follows:

293C.322 1. Except as otherwise provided in subsection 2 ~~[,]~~ ***and NRS 293C.315,*** if the request for an absent ballot is made by mail or facsimile machine, the city clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail **,** or by any class of mail if the Official Election Mail logo or an equivalent logo or mark created by the United States Postal Service is properly placed on the official absent ballot ***:*** ~~[, unless otherwise requested pursuant to NRS 293C.315, if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail, unless otherwise requested pursuant to NRS 293C.315, if the absent voter is in a foreign country but not on a military base:]~~

(a) An absent ballot;

(b) A return envelope;

(c) An envelope or similar device into which the ballot is inserted to ensure its secrecy;

(d) An identification envelope, if applicable pursuant to NRS 293C.315; and

(e) Instructions.

2. If the city clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the city clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter may mail his absent ballot to the city clerk or submit his absent ballot by facsimile machine.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2 and NRS 293C.315.

5. Before depositing a ballot with the United States Postal Service or sending a ballot by facsimile machine, the city clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

Sec. 23. NRS 293C.325 is hereby amended to read as follows:

293C.325 1. Except as otherwise provided in subsection 2, when an absent ballot is returned by a registered voter to the city clerk through the mail, by facsimile machine ***or other approved electronic transmission*** or in person, and record thereof is made in the absent ballot record book, the city clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If an absent ballot central counting board has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the

mail, by facsimile machine ***or other approved electronic transmission*** or in person, the county clerk shall check the signature on the return envelope **,** ~~[or]~~ facsimile ***or other approved electronic transmission*** against the original signature of the voter on the county clerk's register. If the city clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the city clerk at all times. At the end of each day before election day, the city clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Not earlier than 4 working days before the election, the county clerk shall deliver the ballots to the absent ballot central counting board to be processed and prepared for counting pursuant to the procedures established by the Secretary of State to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293C.267 or 293C.297.

Sec. 24. This act becomes effective on July 1, 2009.

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Bill No. 41.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 107.

The following Senate amendment was read:

Amendment No. 597.

AN ACT relating to public health; creating the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease within the Health Division of the Department of Health and Human Services; prescribing the duties of the Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 8 and 9 of this bill create the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease within the Health Division of the Department of Health and Human Services and prescribe the duties of the Committee. **Section 10** of this bill authorizes the Health Division to enter into contracts and to apply for and accept gifts, grants, donations and bequests to carry out the provisions of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Committee" means the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease created by section 8 of this act.***

Sec. 4. ***"Hospital" has the meaning ascribed to it in NRS 449.012.***

Sec. 5. ***"Primary prevention" means the treatment of risk factors for stroke, heart disease and other vascular disease in the general population before the onset of any symptoms.***

Sec. 6. ***"Provider of health care" has the meaning ascribed to it in NRS 629.031.***

Sec. 7. ***"Secondary prevention" means the treatment of patients who have developed symptoms of stroke, heart disease or other vascular disease that is designed to prevent the onset of additional symptoms and attacks of the condition.***

Sec. 8. ***1. The Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease is hereby created within the Health Division.***

2. The Committee consists of the following members:

(a) A board-certified neurologist who is licensed to practice in this State and who is experienced in treating victims of stroke, appointed by the Administrator;

(b) A board-certified cardiologist who is licensed to practice in this State and who is experienced in treating victims of heart disease and heart attacks, appointed by the Administrator;

(c) A provider of emergency medical services, appointed by the Administrator;

(d) A representative of the Health Division whose primary responsibilities relate to the licensure and certification of persons who provide emergency medical services, appointed by the Administrator;

(e) A representative of the American Heart Association or its successor, appointed by the Administrator;

(f) A person with knowledge or expertise in the prevention of chronic diseases, appointed by the Administrator;

(g) A representative from rural Nevada, appointed by the Administrator;

(h) A representative of hospitals in this State, appointed by the Administrator;

(i) A representative of collectively bargained plans, self-funded plans or other entities that pay claims under a contract for health insurance in this State, appointed by the Administrator;

(j) A registered nurse who is licensed to practice professional nursing in this State, appointed by the Administrator;

(k) A person who is a representative of a population disproportionally affected by heart disease or stroke, appointed by the Governor;

(l) A person who is a survivor of stroke, appointed by the Majority Leader of the Senate; ~~*[and]*~~

(m) A person who is a survivor of heart disease, appointed by the Speaker of the Assembly ~~*[.]*~~ ***; and***

(n) A representative of the Nevada System of Higher Education who has knowledge of matters relating to public health, appointed by the Board of Regents of the University of Nevada.

3. The Committee shall elect a Chairman and a Vice Chairman from among its members to initial terms expiring on June 30, 2011. After the initial election, each of those officers holds office for a term of 1 year beginning on July 1 of each year and may be reelected to one or more successive terms. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall elect a replacement for the remainder of the unexpired term.

4. After the initial terms, each member of the Committee serves a term of 2 years beginning on July 1. Except for a member appointed pursuant to paragraph (f) of subsection 2, a member may be reappointed to one or more successive terms.

5. A vacancy on the Committee must be filled for the remainder of the unexpired term in the same manner as the original appointment.

6. The members of the Committee serve without compensation. If sufficient money is available, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while attending meetings of the Committee or otherwise engaged in the business of the Committee.

Sec. 9. ***1. The Committee shall, to the extent money is available from any source:***

(a) Adopt rules for its own governance.

(b) Meet at least once each calendar quarter and at other times upon the call of the Chairman.

(c) Make recommendations to the Health Division for the establishment of a comprehensive plan for the prevention of stroke, heart disease and other vascular disease in this State which must:

(1) Emphasize the development of a policy for the primary prevention and secondary prevention of stroke;

(2) Include recommendations to eliminate disparities in vascular health among populations that are disproportionally affected by stroke, heart disease and other vascular disease;

(3) Include recommendations concerning methods of increasing public knowledge and awareness relating to vascular health, including, without limitation, the prevention and treatment of stroke, heart disease and other vascular disease;

(4) Include recommendations concerning acute stroke treatment, including treatment during the hyperacute and emergency phases of stroke;

(5) Include recommendations concerning the rehabilitation of patients and continuous quality improvement activities for medical facilities and providers of health care; and

(6) Include recommendations concerning the notification and response of emergency medical services.

(d) On or before May 1 of each year, submit a written report to the Health Division summarizing the activities of the Committee and any recommendations it has made.

(e) In carrying out its duties, solicit suggestions and information from:

(1) Providers of emergency medical services;

(2) Associations of medical professionals;

(3) Hospitals;

(4) The Health Division;

(5) The Board of Medical Examiners and other boards responsible for issuing a license to a provider of health care; and

(6) Other persons with interests relating to vascular health as deemed necessary by the Committee.

2. In making the recommendations required by paragraph (c) of subsection 1, the Committee shall not consider or address any issue concerning the transfer of a patient.

3. A majority of the members of the Committee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Committee.

Sec. 10. ***1. The Health Division may:***

(a) Enter into contracts for any service necessary to carry out the provisions of sections 2 to 10, inclusive, of this act; and

(b) Apply for and accept gifts, grants, donations and bequests from any source to carry out the provisions of sections 2 to 10, inclusive, of this act.

2. Any money collected pursuant to subsection 1 and any money appropriated to carry out the provisions of sections 2 to 10, inclusive, of this act:

(a) Must be deposited in the State Treasury and accounted for separately in the State General Fund; and

(b) Except as otherwise provided by the terms of a specific gift, grant, donation or bequest, must only be expended to carry out the provisions of sections 2 to 10, inclusive, of this act.

3. The Administrator shall administer the account. Any interest or income earned on the money in the account must be credited to the account.

4. Any claims against the account must be paid as other claims against the State are paid.

Sec. 11. On or before July 1, 2010:

1. The Administrator of the Health Division of the Department of Health and Human Services shall appoint the following members to the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease created by section 8 of this act:

(a) One member each pursuant to paragraphs (a) to (f), inclusive, of subsection 2 of section 8 of this act to initial terms commencing on July 1, 2010, and expiring on June 30, 2011.

(b) One member each pursuant to paragraphs (g) to (j), inclusive, of subsection 2 of section 8 of this act to initial terms commencing on July 1, 2010, and expiring on June 30, 2012.

2. The Governor shall appoint to the Committee one member pursuant to paragraph (k) of subsection 2 of section 8 of this act to an initial term commencing on July 1, 2010, and expiring on June 30, 2012.

3. The Majority Leader of the Senate shall appoint to the Committee one member pursuant to paragraph (l) of subsection 2 of section 8 of this act to an initial term commencing on July 1, 2010, and expiring on June 30, 2012.

4. The Speaker of the Assembly shall appoint one member to the Committee pursuant to paragraph (m) of subsection 2 of section 8 of this act to an initial term commencing on July 1, 2010, and expiring on June 30, 2012.

5. The Board of Regents of the University of Nevada shall appoint one member to the Committee pursuant to paragraph (n) of subsection 2 of section 8 of this act to an initial term commencing on July 1, 2010, and expiring on June 30, 2012.

Sec. 12. 1. This section and section 11 of this act become effective on October 1, 2009.

2. Sections 1 to 10, inclusive, of this act become effective on July 1, 2010.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 107.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Assembly Bill No. 279.

Bill read third time.

Remarks by Assemblywoman Koivisto.

Roll call on Assembly Bill No. 279:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Assembly Bill No. 279 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 359.

Bill read third time.

Remarks by Assemblywoman Woodbury.

Roll call on Assembly Bill No. 359:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Assembly Bill No. 359 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 461.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 461:

YEAS—39.

NAYS—Hambrick.

EXCUSED—Carpenter, Dondero Loop—2.

Assembly Bill No. 461 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 4.

Bill read third time.

Remarks by Assemblywomen Parnell, Gansert, and Leslie.

Roll call on Senate Bill No. 4:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 4 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 35.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Senate Bill No. 35:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 35 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 37.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Senate Bill No. 37:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 37 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 44.

Bill read third time.

Remarks by Assemblyman Munford.

Roll call on Senate Bill No. 44:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 44 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 54.

Bill read third time.

Remarks by Assemblyman Hambrick.

Roll call on Senate Bill No. 54:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 54 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 68.

Bill read third time.

Remarks by Assemblymen Horne, Hambrick, Gansert, Goicoechea, and Anderson.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Senate Bill No. 68 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 77.

Bill read third time.

Remarks by Assemblymen Mastroluca and Stewart.

Roll call on Senate Bill No. 77:

YEAS—37.

NAYS—Goedhart, Gustavson, McArthur—3.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 77 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 100.

Bill read third time.

Roll call on Senate Bill No. 100:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 100 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 101.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Senate Bill No. 101:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 101 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 105.

Bill read third time.

Remarks by Assemblyman Settelmeyer.

Roll call on Senate Bill No. 105:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 105 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 106.

Bill read third time.

Remarks by Assemblyman McArthur.

Roll call on Senate Bill No. 106:

YEAS—38.

NAYS—Bobzien, Leslie—2.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 106 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 111.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Senate Bill No. 111:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 111 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 505 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 505.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 669.

AN ACT relating to education; requiring the Department of Education to work in consultation with the Nevada System of Higher Education to establish a plan to ensure that high school pupils are ready for postsecondary education and the workplace; revising provisions governing the academic plans for ninth grade pupils; requiring instruction on financial responsibility in high school; authorizing the issuance of an adjusted adult diploma for certain persons; requiring peer mentoring for ninth grade pupils; requiring school districts to adopt a policy for the remediation of deficient credits **~~[,]~~ to the extent money is available;** requiring school districts to adopt a policy for pupils to report unlawful activities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Department of Education to work in consultation with the Nevada System of Higher Education to establish clearly defined goals and benchmarks for pupils enrolled in high schools to be adequately prepared for the educational requirements of postsecondary education and for success in the workplace.

Existing law requires the board of trustees of a school district to adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. (NRS 388.205) **Section 5** of this bill requires the policy to ensure that each ninth grade pupil and his parent or legal guardian are adequately notified of certain courses and programs available to the pupil which will assist in the advancement of the education of the pupil as well as the

requirements for graduation, for admission to the Nevada System of Higher Education and for receipt of a Governor Guinn Millennium Scholarship.

Section 6 of this bill requires the board of trustees of each school district and the governing body of each charter school that operates as a high school to ensure that instruction on financial responsibility is provided to pupils enrolled in the public high schools in each school district and in each charter school that operates as a high school.

Existing law provides that a pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive an adjusted diploma if he satisfies the requirements set forth in his individualized education program. (NRS 389.805) **Section 7** of this bill requires the State Board of Education to create an adjusted adult diploma and provides that a pupil who was identified as a pupil with a disability and who did not graduate before the age of 22 years may receive an adjusted adult diploma under certain circumstances.

Section 9 of this bill requires the board of trustees of each school district to adopt a policy for a program of peer mentoring, which may include a component of adult mentoring, designed to assist the ninth grade pupils in the transition from middle school or junior high school to high school.

Section 10 of this bill requires the board of trustees of each school district**, to the extent money is available for this purpose,** to adopt a policy which ensures that a pupil who is deficient in the number of credits required for promotion to the next grade or graduation from high school has sufficient opportunities to remediate his deficient credits.

Section 11 of this bill requires the board of trustees of each school district to adopt a policy that allows pupils enrolled in a school within the school district to report, anonymously if the pupils choose, any unlawful activities that are being conducted on school property, at an activity sponsored by a public school or on a school bus, commonly referred to as a "secret witness program."

Section 16 of this bill repeals NRS 392.090, 392.100 and 392.110, relating to the exemption of certain children from compulsory school attendance.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 385 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall work in consultation with the Nevada System of Higher Education to establish a plan which sets forth clearly defined goals and benchmarks for pupils enrolled in the public high schools to ensure that those pupils are adequately prepared for the educational requirements of postsecondary education and for success in the workplace, including, without limitation, methods to ensure that the high school standards, graduation requirements and assessments are aligned with college and workforce readiness expectations.

2. The Superintendent of Public Instruction shall:

(a) On or before February 1 of each odd-numbered year, submit a report on the progress of the plan to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature; and

(b) On or before February 1 of each even-numbered year, submit a report on the progress of the plan to the Legislative Committee on Education.

Sec. 2. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) ***An adult diploma.***

(3) An adjusted diploma.

~~[(3)]~~ ***(4) An adjusted adult diploma.***

(5) A certificate of attendance.

(6) A certificate of educational equivalence for passage of the tests of general educational development for those pupils who are eligible pursuant to NRS 385.448.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

(gg) For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

2. A separate reporting for a group of pupils must not be made pursuant to this section if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) ”Highly qualified” has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) ”Paraprofessional” has the meaning ascribed to it in NRS 391.008.

Sec. 3. NRS 385.34692 is hereby amended to read as follows:

385.34692 1. The State Board shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.3469 that includes, without limitation, a summary of the following information for each school district, each charter school and the State as a whole:

(a) Demographic information of pupils, including, without limitation, the number and percentage of pupils:

(1) Who are economically disadvantaged, as defined by the State Board;

(2) Who are from major racial or ethnic groups, as defined by the State Board;

(3) With disabilities;

(4) Who are limited English proficient; and

(5) Who are migratory children, as defined by the State Board;

(b) The average daily attendance of pupils, reported separately for the groups identified in paragraph (a);

(c) The transiency rate of pupils;

(d) The percentage of pupils who are habitual truants;

(e) The percentage of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655;

(f) The number of incidents resulting in suspension or expulsion for:

(1) Violence to other pupils or to school personnel;

(2) Possession of a weapon;

(3) Distribution of a controlled substance;

(4) Possession or use of a controlled substance; and

(5) Possession or use of alcohol;

(g) For kindergarten through grade 8, the number and percentage of pupils who are retained in the same grade;

(h) For grades 9 to 12, inclusive, the number and percentage of pupils who are deficient in the number of credits required for promotion to the next grade or graduation from high school;

(i) The pupil-teacher ratio for kindergarten and grades 1 to 8, inclusive;

(j) The average class size for the subject area of mathematics, English, science and social studies in schools where pupils rotate to different teachers for different subjects;

(k) The number and percentage of pupils who graduated from high school;

(l) The number and percentage of pupils who received a:

(1) Standard diploma;

(2) Adult diploma;

(3) Adjusted diploma; ~~[and]~~

(4) ***Adjusted adult diploma;***

(5) Certificate of attendance; ***and***

(6) Certificate of educational equivalence for passage of the tests of general educational development for those pupils who are eligible pursuant to NRS 385.448.

(m) The number and percentage of pupils who graduated from high school and enrolled in remedial courses at the Nevada System of Higher Education;

(n) Per pupil expenditures;

(o) Information on the professional qualifications of teachers;

(p) The average daily attendance of teachers and licensure information;

(q) Information on the adequate yearly progress of the schools and school districts;

(r) Pupil achievement based upon the examinations administered pursuant to NRS 389.550 and the high school proficiency examination;

(s) To the extent practicable, pupil achievement based upon the examinations administered pursuant to NRS 389.015 for grades 4, 7 and 10; and

(t) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. On or before September 7 of each year, the State Board shall:

(a) Provide for public dissemination of the summary prepared pursuant to subsection 1 by posting the summary on the Internet website maintained by the Department; and

(b) Submit a copy of the summary in an electronic format to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

4. The board of trustees of each school district and the governing body of each charter school shall ensure that the parents and guardians of pupils enrolled in the school district or charter school, as applicable, have sufficient information concerning the availability of the summary prepared by the State Board pursuant to subsection 1, including, without limitation, information that describes how to access the summary on the Internet website maintained by the Department. Upon the request of a parent or guardian of a pupil, the Department shall provide the parent or guardian with a written copy of the summary.

5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.

Sec. 4. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board

of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➥ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total

number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) ***An adult diploma.***

(3) An adjusted diploma.

~~[(3)]~~ ***(4) An adjusted adult diploma.***

(5) A certificate of attendance.

(6) A certificate of educational equivalence for passage of the tests of general educational development for those pupils who are eligible pursuant to NRS 385.448.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ee) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

➥ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any,

or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee; and

(5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 5. NRS 388.205 is hereby amended to read as follows:

388.205 1. The board of trustees of each school district shall adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. The academic plan must set forth the specific educational goals that the pupil intends to achieve before graduation from high school. The plan may include, without limitation, the designation of a career pathway and enrollment in dual credit courses, career and technical education courses, advanced placement courses and honors courses.

2. ***The policy must ensure that each pupil enrolled in ninth grade and the pupil's parent or legal guardian are adequately notified and informed of the following information:***

(a) The advanced placement courses, honors courses, international baccalaureate courses, dual credit courses, career and technical education courses, including, without limitation, career and technical skills-building programs, and any other educational programs, pathways or courses available to the pupil which will assist in the advancement of the education of the pupil;

(b) The requirements for graduation from high school with a diploma and the types of diplomas available;

(c) The requirements for admission to the Nevada System of Higher Education and the eligibility requirements for a Governor Guinn Millennium Scholarship; and

(d) To the extent available, programs offered by charter schools within the school district.

3. The policy must require each pupil enrolled in ninth grade and the pupil's parent or legal guardian to:

(a) ~~[Work in]~~ ***Be notified of opportunities to work in*** consultation with a school counselor to develop ***and review*** an academic plan for the pupil; ***and***

(b) ~~[Sign the academic plan; and~~

~~(c)]~~ Review the academic plan at least once each school year in consultation with a school counselor and revise the plan if necessary.

~~[3.]~~ ***4.*** If a pupil enrolls in a high school after ninth grade, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

~~[4.]~~ ***5.*** An academic plan for a pupil must be used as a guide for the pupil and the parent or legal guardian of the pupil to plan, monitor and manage the pupil's educational and occupational development and make determinations of the appropriate courses of study for the pupil. If a pupil does not satisfy all the goals set forth in the academic plan, the pupil is eligible to graduate and receive a high school diploma if he otherwise satisfies the requirements for a diploma.

Sec. 6. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district and the governing body of each charter school that operates as a high school shall ensure that instruction on financial responsibility is provided to pupils in each public high school within the school district or in the charter school, as applicable. The instruction must include:

(a) The skills necessary to develop financial responsibility, including, without limitation:

(1) Making reasonable financial decisions by analyzing the alternatives and consequences to those financial decisions;

(2) Locating and evaluating financial information from various sources;

(3) Developing communication strategies to discuss financial issues;

(4) Controlling personal information; and

(5) Reviewing and summarizing federal and state consumer protection laws.

(b) The skills necessary to manage finances, including, without limitation:

(1) Developing a plan for spending and saving;

(2) Developing a system for keeping and using financial records; and

(3) Developing a personal financial plan.

(c) The skills necessary to understand the use of credit and the incurrence of debt, including, without limitation:

(1) Identifying the costs and benefits of various types of credit;

(2) Explaining the purpose of a credit report, including, without limitation, the manner in which a credit report is used by lenders;

(3) Describing the rights of a borrower regarding his credit report;

(4) Identifying methods to avoid and resolve debt problems; and

(5) Reviewing and summarizing federal and state consumer credit protection laws.

(d) The skills necessary to understand the basic principles of saving and investing, including, without limitation:

(1) Understanding how saving and investing contribute to financial well-being;

(2) Understanding the methods of investing and alternatives to investing;

(3) Understanding how to buy and sell investments; and

(4) Understanding how the regulation of financial institutions protects investors.

2. The instruction required by subsection 1 may be included within a course that pupils enrolled in high school are otherwise required to complete.

Sec. 7. NRS 389.805 is hereby amended to read as follows:

389.805 1. A pupil must receive a standard high school diploma if he:

(a) Passes all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school; or

(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety not less than three times before beginning grade 12 and the pupil:

(1) Passes the subject areas of mathematics and reading on the proficiency examination;

(2) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;

(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection ~~[3,]~~ ***4;*** and

(4) Otherwise satisfies the requirements for graduation from high school.

2. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if he satisfies the requirements set forth in his individualized education program. ~~[As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).]~~

3. ***The State Board shall prescribe an adjusted adult diploma. A person who did not satisfy the requirements for receipt of a standard high school***

diploma or an adjusted diploma may receive an adjusted adult diploma if he:

(a) Was identified as a pupil with a disability and received instruction pursuant to an individualized education program;

(b) Did not graduate before attaining the age of 22 years;

(c) Except as otherwise provided in paragraph (d), meets all of the current requirements for graduation; and

(d) Has taken the high school proficiency examination administered pursuant to NRS 389.015 at least one time but failed to pass the examination in its entirety.

4. The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:

(a) An essay;

(b) A senior project; or

(c) A portfolio of work,

➥ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.

5. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 8. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 9, 10 and 11 of this act.

Sec. 9. ***1. The board of trustees of each school district shall adopt a policy for the high schools within the school district to provide a program of peer mentoring, which may include a component of adult mentoring, designed to increase the ability of ninth grade pupils enrolled in high school to successfully make the transition from middle school or junior high school to high school.***

2. The principal of each high school shall:

(a) Carry out a program of mentoring for the ninth grade pupils enrolled in the high school in accordance with the policy adopted by the board of trustees pursuant to subsection 1;

(b) Submit an annual report to the board of trustees on:

(1) The specific activities of the program of mentoring; and

(2) The effectiveness of the program of mentoring in increasing the ability of ninth grade pupils to successfully make the transition from middle school or junior high school to high school.

3. This section does not prohibit the principal of a high school from continuing any other similar program of mentoring that the high school currently provides in a manner that is consistent with the policy prescribed by the board of trustees.

Sec. 10. ~~*[The]*~~ ***To the extent money is available for this purpose, the board of trustees of each school district shall adopt a policy of credit remediation which ensures that pupils who are deficient in the number of***

credits required for promotion to the next grade or for graduation from high school are provided sufficient opportunities, including, without limitation, opportunities during the school day, to complete appropriate remediation of deficient credits.

Sec. 11. ***1. The board of trustees of each school district shall adopt a policy that allows a pupil enrolled in a public school within the school district to report, anonymously if the pupil chooses, any unlawful activity which is being conducted on school property, at an activity sponsored by a public school or on a school bus. The policy must include, without limitation:***

(a) The types of unlawful activities which a pupil may report; and

(b) The manner in which a pupil may report the unlawful activities.

2. The board of trustees of a school district may work in consultation with a local law enforcement agency or other governmental entity, corporation, business, organization or other entity to assist in the implementation of the policy adopted pursuant to subsection 1.

3. Each public school within the school district shall post prominently in various locations at the school the policy adopted pursuant to subsection 1, which must clearly denote the phone number and any other methods to make a report. If a public school maintains an Internet website for the school, the policy must also be posted on the school's website.

4. The board of trustees of each school district shall post the policy on the Internet website maintained by the school district.

Sec. 12. NRS 392.019 is hereby amended to read as follows:

392.019 1. Except as otherwise provided in this subsection, if a child is exempt from compulsory attendance pursuant to ***this section or*** NRS 392.070 ~~[, 392.100 or 392.110,]~~ and the child is employed to work in the entertainment industry pursuant to a written contract for a period of more than 91 school days, or its equivalent if the child resides in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, including, without limitation, employment with a motion picture company or employment with a production company hired by a casino or resort hotel, the entity that employs the child shall, upon the request of the parent or legal guardian of the child, pay the costs for the child to receive at least 3 hours of tutoring per day for at least 5 days per week. In lieu of tutoring, the parent or legal guardian of such a child may agree with the entity that employs the child that the entity will pay the costs for the child to receive other educational or instructional services which are equivalent to tutoring. The provisions of this subsection apply during the period of a child's employment with an entity, regardless of whether the child has obtained the appropriate exemption from compulsory attendance at the time his contract with the entity is under negotiation.

2. ***The board of trustees of a school district may excuse a child who is employed pursuant to subsection 1 from full-time attendance.*** If such a child is exempt from ~~[compulsory]~~ attendance pursuant to ~~[NRS 392.100 or~~

~~392.110,~~] ***this subsection,*** the tutoring or other educational or instructional services received by the child pursuant to subsection 1 must be approved by the board of trustees of the school district in which the child resides.

Sec. 13. NRS 392.170 is hereby amended to read as follows:

392.170 Upon the written complaint of any person, the board of trustees of a school district or the governing body of a charter school shall:

1. Make a full and impartial investigation of all charges against parents, guardians or other persons having control or charge of any child who is under 18 years of age and required to attend school pursuant to NRS 392.040 for violation of any of the provisions of NRS 392.040 to [~~392.110,~~] ***392.080,*** inclusive, or 392.130 to 392.160, inclusive.

2. Make and file a written report of the investigation and the findings thereof in the records of the board.

Sec. 14. NRS 392.180 is hereby amended to read as follows:

392.180 If it appears upon investigation that any parent, guardian or other person having control or charge of any child who is under 18 years of age and required to attend school pursuant to NRS 392.040 has violated any of the provisions of NRS 392.040 to [~~392.110,~~] ***392.080,*** inclusive, or 392.130 to 392.160, inclusive, the clerk of the board of trustees or the governing body of a charter school in which the child is enrolled, except as otherwise provided in NRS 392.190, shall make and file in the proper court a criminal complaint against the parent, guardian or other person, charging the violation, and shall see that the charge is prosecuted by the proper authority.

Sec. 15. NRS 392.215 is hereby amended to read as follows:

392.215 Any parent, guardian or other person who, with intent to deceive under NRS 392.040 to [~~392.110,~~] ***392.080,*** inclusive, or 392.130 to 392.165, inclusive:

1. Makes a false statement concerning the age or attendance at school;

2. Presents a false birth certificate or record of attendance at school; or

3. Refuses to furnish a suitable identifying document, record of attendance at school or proof of change of name, upon request by a local law enforcement agency conducting an investigation in response to notification pursuant to subsection 4 of NRS 392.165,

➥ of a child under 18 years of age who is under his control or charge, is guilty of a misdemeanor.

Sec. 16. NRS 392.090, 392.100 and 392.110 are hereby repealed.

Sec. 17. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

392.090 Juvenile court may permit child who has completed eighth grade to leave school. After review of the case, the juvenile court may issue a permit authorizing any child who has completed the eighth grade to leave school.

392.100 Attendance excused if child 14 years of age or older must support himself or his parent. Attendance required by the provisions of

NRS 392.040 shall be excused when satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child, 14 years of age or over, must work for his own or his parent's support.

392.110 Attendance excused for child between 14 and 18 years of age who has completed eighth grade to enter employment or apprenticeship; written permit required.

1. Any child between the ages of 14 and 18 years who has completed the work of the first eight grades may be excused from full-time school attendance and may be permitted to enter proper employment or apprenticeship, by the written authority of the board of trustees excusing the child from such attendance. The board's written authority must state the reason or reasons for such excuse.

2. In all such cases, no employer or other person shall employ or contract for the services or time of such child until the child presents a written permit therefor from the attendance officer or board of trustees. The permit must be kept on file by the employer and, upon the termination of employment, must be returned by the employer to the board of trustees or other authority issuing it.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 130.

Bill read third time.

Remarks by Assemblyman Gustavson.

Roll call on Senate Bill No. 130:

YEAS—39.

NAYS—Hardy.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 130 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 147.

Bill read third time.

Remarks by Assemblywoman Spiegel.

Roll call on Senate Bill No. 147:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 147 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 163.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Senate Bill No. 163:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Dondero Loop—2.

Senate Bill No. 163 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 125, 169, 175, 194, 207, 219, 254, 287, 298, 317, 414; Senate Joint Resolutions Nos. 3 and 9 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolution No. 31; Senate Bills Nos. 49, 83, 91, 129, 220, 280, 300, 304, 307, 335, 343, 348; Senate Concurrent Resolutions Nos. 3, 16, 30, 31, 32, 33, and 34.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Marcus Liem, Amy Nelson, Alyssa Barnes, and Megan LoPresti.

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Rebecca Gasca, Jessica Wilson, Jackie Seylor, and Lindsay Anderson.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Lucy Higgs.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Ryan Judson, Carl Zamila, and Megan Walsh.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Eric Sheetz, Ryan Gilbrech, and Kimberly Carsten.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Sarah Johns and David White.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to Lisa Stirgus and Brad Stewart.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Martha P. King Elementary School: Caleb Alger, Julie Alger, Grant Armantrout, Kenadee Bailey, Kim Bailey, Kyler Bredsguard, Rachel Brooks, Erika Brooks, Daniel Davis, James Davis, Elise Echeverria, Tracy Echeverria, Dean Good, Abligail Harling, Kellie Kostick, John Krumm, John Krumm, Sr., Jorden Nelson, Kelli Nelson, Makinzy Onken, Samantha Ortiz, Caleb Shamo, Eric Shamo, Aubree Weyandt, Jack-Thomas Wold, Melissa Wold, Katherine Elles, Catherine Dunagan, MaryAnne Dunagan, Bridgette Ewell, Julie Ewell, Matisse Johnson, Karen Johnson, James Jordan, Samantha Lilly, Audrey Palumbo, Juan Perez, Jillian Perez, Holly Piper, David Schaller, Elaina Vick, Aaron Walker, Carol Page, Truax Rena, Debra Cattoir, Matthew Esplin, and Lee Esplin.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Jonathan Olivas and Shirley Love.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Larmaya Kilgore and Mashara Munns.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Zephyr Cove Elementary School: Hayden Armstrong, Luke Borchers, JD Buchholz, Drue Chapman, Marijane Rodriguez, Gigi Stetler, Elijah Wothe, Samuel Berry, Cameron Ceglia, George Chakmakis, Alison Copsy, Marcos Flores Rojas, Cal Feller, Samantha Forvilly, Alayna Guyser, Scott Harrison, Isaac Hernandez, Anna Jidko, Fabiola Juarez, Aspen Kidd, Caroline Krolicki, Jakob La Rossa, Tahpainga Landavazo, Kristian Landing, Trevyn Larson, Pierce Manchester, Zamora Martinez, Chandler Nash-Elliott, Jackson Oleson, Kaven Peck, Michelle Rodriguez, Jalen Sigel, and Cole Snyder.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Vince LoPresti, Paul Klein, Brian Wilk, and Seema Donohue.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from David M. Cox Elementary School: Adam Kathrein, Alex Milewski, Alex Hernandez, Anna White, Anthony Baumgartner, Anthony Rock, Baylee Blackburn, Brittany Whitt, Byron Mitchell, Carly Trost, Chan Lim, Chasyn Royce, Erica Hardy, Jacob Griffiths, Joia White, Kainoa Gonzales, Kayvon

Heravi, Lucas Wagner-DeMann, Madison Farbod, Marren Abernathy, Michael Janosik, Nate Cromwell, Phoenix Frey, Ryan Baldwin, Sophia Leventis, Troi Pryor, Ashley Abad, Kiara Ackerman, Tristan Beavers, Darius Brown, Cooper Burgess, Taylor Cronic, Michael DiAsio, Ryan Garlick, Jacob Horowitz, Mychaela Jordan-Hill, William Kemp, Mary Kramp, Samuel Makowski, Chad McCracken, Lynnette Michels, Roy Morley, Alexis Mosley, Amanda Pemberton, Jeanea Perez, Emma Shepard, Gage Walker; chaperones Anissa Cole, James Orth, and Tanya Steele.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Michelle Bertocchi.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, May 15, 2009, at 12 noon.

Motion carried.

Assembly adjourned at 1:19 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND THIRD DAY

CARSON CITY (Friday), May 15, 2009

Assembly called to order at 1:13 p.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Carpenter and Claborn, who were excused.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. We ask that You bless us, our families, our homes, our friends, and all these folks who made this long journey from McGill today. And as long as we are asking, You might also consider a blessing for our horses, dogs, cats, and other such animals. We ask that You guide us through this day and the days ahead. Finally, we ask that You keep us and all who we cherish, safe and healthy, as we journey forward through this session of the Legislature. We ask these things in Whose Name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Senate Bill No. 238, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 263, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 74, 103, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 302, 325, 340, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which were referred Senate Bills Nos. 231, 278, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 554; Senate Bill No. 34, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 132, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 170, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which were referred Senate Bills Nos. 9, 27, 217, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Transportation, to which were referred Senate Bills Nos. 251, 360, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 548; Senate Bill No. 215, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were referred Assembly Bills Nos. 530, 550 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 227, 246, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

Madam Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 401; Senate Bill No. 209, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

May 14, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, and 560.

MARK STEVENS
Fiscal Analysis Division

SECOND READING AND AMENDMENT

Assembly Bill No. 401.

Bill read second time and ordered to third reading.

Assembly Bill No. 530.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 721.

SUMMARY—~~[Revises provisions governing]~~ **Provides for the reversion of certain money in** the Account for Programs for Innovation and the Prevention of Remediation ~~[.]~~ **to the State General Fund.** (BDR ~~[34]~~ **S**-1218)

AN ACT relating to education; providing for the reversion of **certain** money in the Account for Programs for Innovation and the Prevention of Remediation to the State General Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Account for Programs for Innovation and the Prevention of Remediation to provide grants of money to public schools and consortiums of public schools for programs designed for the achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both. (NRS 385.3785) Under existing law, any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year. (NRS 385.379) This bill provides that any money remaining in the Account that has not been committed for expenditure on or before June 30 **,** ~~[of a fiscal year]~~ **2009,** reverts to the State General Fund ~~[.]~~ **on or before September 18, 2009.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 385.379 is hereby amended to read as follows:~~

~~385.379 1. The Account for Programs for Innovation and the Prevention of Remediation is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants of money from any source for deposit in the Account. Any money from gifts and grants may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 2 or 3. The interest and income earned on the sum of:~~

~~(a) The money in the Account; and~~

~~(b) Unexpended appropriations made to the Account from the State General Fund,~~

~~.~~ must be credited to the Account. Any money remaining in the Account **[**at the end of a fiscal year does not revert**]** ***which has not been committed for expenditure on or before June 30 of a fiscal year reverts*** to the State General Fund **.** **[**, and the balance in the Account must be carried forward to the next fiscal year.**]**

~~2. Except as otherwise provided in NRS 385.3784 and subsection 3, the money in the Account may only be used for the allocation of money to public schools and consortiums of public schools whose applications are approved by the Commission pursuant to NRS 385.3785.~~

~~3. Upon the request of the Commission:~~

~~(a) Not more than $50,000 in the Account may be used each biennium to pay:~~

~~(1) The expenses incurred by members of the Commission to travel to the public schools and consortiums of public schools that received allocations of money from the Account; and~~

~~(2) The costs incurred by the Commission to hold meetings or conferences for representatives of public schools and consortiums of *public* schools that received allocations of money from the Account to discuss or display, or both, programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.~~

~~(b) Not more than $450,000 in the Account may be used each biennium to pay for an evaluation of the programs for which money was allocated from the Account. If the Commission uses money in the Account for such an evaluation, the Commission shall ensure that:~~

~~(1) A request for proposals is issued and a qualified, independent consultant is selected to conduct the evaluation;~~

~~(2) Upon selection of the consultant, the Commission receives approval of the consultant and the plan for the evaluation from the Committee;~~

~~(3) The evaluation is designed to determine the effectiveness of the programs for which money was allocated from the Account in improving the achievement of pupils;~~

~~(4) The evaluation includes an identification of the programs for which money was allocated from the Account that did not improve the achievement of pupils as described in the approved application for the grant;~~

~~(5) The evaluation includes an identification of the public schools and consortiums of public schools that did not implement the programs for which money was allocated from the Account as described in the approved application for the grant; and~~

~~(6) The evaluation includes a compilation and review of each evaluation required to be submitted by public schools and consortiums of public schools pursuant to NRS 385.3787.~~**]** **(Deleted by amendment.)**

Sec. 2. **Notwithstanding the provisions of NRS 385.379 to the contrary, any money remaining in the Account for Programs for Innovation and the Prevention of Remediation created by that section which has not been committed for expenditure on or before June 30,**

2009, including any money which is received after June 30, 2009, and which is applicable to Fiscal Year 2009 must not be expended for any purpose after September 18, 2009, and must be reverted to the State General Fund on or before September 18, 2009.

~~[Sec. 2.]~~ ***Sec. 3.*** This act becomes effective upon passage and approval.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 548.

Bill read second time and ordered to third reading.

Assembly Bill No. 550.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 685.

AN ACT relating to state parks; requiring the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to establish a commercial wedding program at the Boulder Dam-Valley of Fire State Park; requiring the Administrator to impose and collect a fee for weddings held at the Park under the program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to conduct and operate special services at state parks and impose and collect reasonable fees for the special services. (NRS 407.065) **Section 1** of this bill requires the Administrator to establish a commercial wedding program at the Boulder Dam-Valley of Fire State Park and to impose and collect a fee of $150 for weddings that are held at the Park under the program. **Section 2 of this bill requires that fees collected in excess of amounts authorized for expenditure must be deposited in the Account for Maintenance of State Parks.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 407.065 is hereby amended to read as follows:

407.065 1. The Administrator, subject to the approval of the Director:

(a) Except as otherwise provided in this paragraph, may establish, name, plan, operate, control, protect, develop and maintain state parks, monuments and recreational areas for the use of the general public. The name of an existing state park, monument or recreational area may not be changed unless the Legislature approves the change by statute.

(b) Shall protect state parks and property controlled or administered by the Division from misuse or damage and preserve the peace within those areas. The Administrator may appoint or designate certain employees of the Division to have the general authority of peace officers.

(c) May allow multiple use of state parks and real property controlled or administered by the Division for any lawful purpose, including, but not limited to, grazing, mining, development of natural resources, hunting and fishing, in accordance with such regulations as may be adopted in furtherance of the purposes of the Division.

(d) Shall impose and collect reasonable fees for entering, camping and boating in state parks and recreational areas. The Division shall issue, upon application therefor and proof of residency and age, an annual permit for entering, camping and boating in all state parks and recreational areas in this State to any person who is 65 years of age or older and has resided in this State for at least 5 years immediately preceding the date on which the application is submitted. The permit must be issued without charge, except that the Division shall charge and collect an administrative fee for the issuance of the permit in an amount sufficient to cover the costs of issuing the permit.

(e) May conduct and operate such special services as may be necessary for the comfort and convenience of the general public, and impose and collect reasonable fees for such special services.

(f) May rent or lease concessions located within the boundaries of state parks or of real property controlled or administered by the Division to public or private corporations, to groups of natural persons, or to natural persons for a valuable consideration upon such terms and conditions as the Division deems fit and proper, but no concessionaire may dominate any state park operation.

(g) ***Shall establish a commercial wedding program at the Boulder Dam-Valley of Fire State Park and impose and collect a fee of $150 for weddings held at the Park under the program. Fees collected pursuant to this paragraph must be deposited in the State General Fund to the credit of the Division.***

(h) May establish such capital projects construction funds as are necessary to account for the parks improvements program approved by the Legislature. The money in these funds must be used for the construction and improvement of those parks which are under the supervision of the Administrator.

2. The Administrator:

(a) Shall issue an annual permit to a person who pays a reasonable fee as prescribed by regulation which authorizes the holder of the permit to enter each state park and each recreational area in this State and, except as otherwise provided in subsection 3, use the facilities of the state park or recreational area without paying the entrance fee; and

(b) May issue an annual permit to a person who pays a reasonable fee as prescribed by regulation which authorizes the holder of the permit to enter a specific state park or specific recreational area in this State and, except as otherwise provided in subsection 3, use the facilities of the state park or recreational area without paying the entrance fee.

3. An annual permit issued pursuant to subsection 2 does not authorize the holder of the permit to engage in camping or boating, or to attend special events. The holder of such a permit who wishes to engage in camping or boating, or to attend special events, must pay any fee established for the respective activity.

4. Except as otherwise provided in subsection 1 of NRS 407.0762 and subsection 1 of NRS 407.0765, the fees collected pursuant to paragraphs (d), (e)**,** ~~[and]~~ (f) ***and (g)*** of subsection 1 or subsection 2 must be deposited in the State General Fund.

Sec. 2. **NRS 407.0762 is hereby amended to read as follows:**

407.0762 1. The Account for Maintenance of State Parks within the Division of State Parks is hereby created in the State General Fund. Except as otherwise provided in NRS 407.0765, any amount of fees collected pursuant to paragraphs (d), (e)**,** ~~[and]~~ (f) ***and (g)*** of subsection 1 or subsection 2 of NRS 407.065 in a calendar year, which is in excess of the amounts authorized for expenditure from that revenue source in the Division's budget for the fiscal year beginning in that calendar year, must be deposited in the Account. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

2. The money in the Account does not lapse to the State General Fund at the end of any fiscal year.

3. The money deposited in the Account pursuant to subsection 1 must only be used to repair and maintain state parks, monuments and recreational areas.

4. Before the Administrator may expend money pursuant to subsection 3:

(a) For emergency repairs and projects with a cost of less than $25,000, he must first receive the approval of the Director.

(b) For projects with a cost of $25,000 or more, other than emergency repairs, he must first receive the approval of the Director and of the Interim Finance Committee.

~~[Sec. 2.]~~ ***Sec. 3.*** This act becomes effective on July 1, 2009.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 554.

Bill read second time and ordered to third reading.

Senate Bill No. 9.

Bill read second time and ordered to third reading.

Senate Bill No. 27.
Bill read second time and ordered to third reading.

Senate Bill No. 34.
Bill read second time and ordered to third reading.

Senate Bill No. 74.
Bill read second time and ordered to third reading.

Senate Bill No. 103.
Bill read second time and ordered to third reading.

Senate Bill No. 132.
Bill read second time and ordered to third reading.

Senate Bill No. 170.
Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 657.

AN ACT relating to conduits; authorizing an entity that owns, operates or maintains a ditch to recover from certain persons the reasonable expense of any work performed by the entity that is necessary for the operation and maintenance of the ditch; providing for the imposition of a lien against any property to which water is delivered through the ditch; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes an entity that owns, operates or maintains a ditch to perform any work necessary for the maintenance and operation of the ditch and to recover the reasonable expense of that work from each person who **, in accordance with a contract or a decreed, certified or permitted right to appropriate water,** receives water through the ditch. **If the work consists of a capital improvement that alters the fundamental character of the ditch, section 1 requires the entity to provide notice of the work at least 30 days before incurring any expenses for the work. Section 1 also** specifies that any ~~[such]~~ work **performed for the maintenance and operation of the ditch** includes, without limitation, labor and any accounting, legal or other administrative service performed for ~~[the]~~ **that** maintenance and operation **.** ~~[of the ditch.]~~ **Section 2** of this bill provides for the imposition of a lien against any property to which water is delivered through the ditch if a person who receives water through the ditch fails to pay his proportionate share of the expense of maintenance or operation. **Section 3** of this bill provides that each person or entity constructing, operating or maintaining a ditch or flume has a right to the full flow of water through the ditch or flume, regardless of whether the water is for use by the person or entity or for delivery to others.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 536.040 is hereby amended to read as follows:

536.040 ***1.*** In all cases where ~~[ditches are]~~ ***a ditch is*** owned by two or more persons, and one or more of ~~[such]~~ ***those*** persons ~~[shall fail]~~ ***fails*** or ~~[neglect]~~ ***neglects*** to do a proportionate share of the work necessary for the ~~[proper]~~ maintenance and operation of ~~[such]~~ ***the*** ditch ***,*** ~~[or ditches,]~~ or to construct suitable headgates or other devices at the point where water is diverted from the main ditch, ~~[such]~~ ***the*** owner or owners desiring the performance of ~~[such]~~ ***the*** work may, after giving 10 days' written notice to ~~[such]~~ ***the*** other owner or owners who have failed to perform ~~[such]~~ ***the*** proportionate share of the work necessary for the operation and maintenance of ~~[such]~~ ***the*** ditch ***,*** ~~[or ditches,]~~ perform ~~[such]~~ ***the*** share of the work, and recover therefor from ~~[such]~~ ***each*** person ~~[or persons]~~ in default the reasonable expense of ~~[such]~~ ***the*** work. ***In all cases where a ditch is owned, operated or maintained by an entity, the entity may perform any work necessary for the maintenance and operation of the ditch and recover*** ~~*[therefor]*~~ ***from each person*** ~~*[receiving]*~~ ***who, in accordance with a contract or a decreed, certified or permitted right to appropriate water, receives water through the ditch his proportionate share of the reasonable expense of the work. Except during an emergency, the entity shall notify each of those persons at least 30 days before incurring any expenses to perform a capital improvement that alters the fundamental character of the ditch. If the entity is a supplier of water, any expenses incurred by the supplier of water for any work performed on an irrigation ditch pursuant to this section must be billed as part of the customer rates of the supplier of water for the delivery of water service through the ditch.***

2. As used in this section ~~*[, "work"]*~~ ***:***

(a) "Supplier of water" has the meaning ascribed to it in NRS 445A.845.

(b) "Work" includes, without limitation, labor and any accounting, legal or other administrative service performed for the maintenance and operation of a ditch specified in subsection 1.

Sec. 2. NRS 536.050 is hereby amended to read as follows:

536.050 Upon the failure of any co-owner ***or person*** ~~*[receiving]*~~ ***who receives water through a ditch from an entity specified in NRS 536.040*** to pay his proportionate share of such expense, as ~~[mentioned]~~ ***specified*** in ~~[NRS 536.040,]~~ ***that section,*** within 30 days after receiving a statement of the same as performed by his co-owner or co-owners ~~[, such]~~ ***or by the entity owning, operating or maintaining the ditch, each*** person or ~~[persons]~~ ***entity*** so performing ~~[such]~~ ***the*** labor ***or other work*** may secure payment of ~~[such]~~ ***the*** claim by filing an itemized and sworn statement thereof, setting forth the date of the performance and the nature of the labor ***or other work*** so performed, with the county clerk of the county wherein the ditch is situated, and when so filed it ~~[shall constitute]~~ ***constitutes*** a valid lien against the

interest of ~~[such]~~ ***each*** person ~~[or persons]~~ in default ~~[, which]~~ ***and against any property to which water is delivered through the ditch. The*** lien may be established and enforced in the same manner as provided by law for the enforcement of mechanics' liens.

Sec. 3. NRS 536.080 is hereby amended to read as follows:

536.080 ~~[The]~~ ***Each*** person or ~~[persons]~~ ***entity*** constructing ***, operating*** or maintaining a ditch or flume under the provisions of NRS 536.060 to 536.090, inclusive, ~~[shall have]~~ ***has*** the undisturbed right and privilege of flowing water through the same, to the full extent of its capacity, for mining, milling, manufacturing, agricultural and other domestic purposes, ***whether for use by the person or entity or for delivery to others,*** and to use the same at any necessary and convenient point or points along the line thereof ***,*** ~~[;]~~ but nothing contained in NRS 536.060 to 536.090, inclusive, shall be so construed as to interfere with any prior or existing claim or right.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 209.

Bill read second time and ordered to third reading.

Senate Bill No. 215.

Bill read second time and ordered to third reading.

Senate Bill No. 217.

Bill read second time and ordered to third reading.

Senate Bill No. 231.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 676.

AN ACT relating to food establishments; exempting a licensed child care facility from certain regulations applicable to a food establishment, regardless of whether the child care facility includes a kindergarten; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law exempts licensed child care facilities from certain regulations adopted by the State Board of Health or a local board of health governing standards for the construction of a food establishment and the equipment required in a food establishment. (NRS 446.941) This bill provides that a licensed child care facility is exempt from such regulations, regardless of whether the child care facility includes a kindergarten.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 446.941 is hereby amended to read as follows:

446.941 1. Any regulation adopted by the State Board of Health or a local board of health pursuant to NRS 446.940 that establishes a standard for the construction of a food establishment or the equipment required to be present in a food establishment ~~[shall]~~ ***does*** not apply to any child care facility that limits its menu to:

(a) Food that does not constitute a potential or actual hazard to the public health; and

(b) Potentially hazardous food that has been:

(1) Commercially prepared and precooked; or

(2) Pasteurized ~~[.]~~ **,**

➥ ***regardless of whether the child care facility includes a kindergarten.***

2. As used in this section ~~[, "child]~~ **:**

(a) "Child care facility" includes:

~~[(a)]~~ ***(1)*** A child care facility licensed pursuant to chapter 432A of NRS; or

~~[(b)]~~ ***(2)*** A child care facility licensed by a city or county.

(b) "Kindergarten" means a program of education for children who are 5 and 6 years of age which is:

(1) Licensed to operate as such pursuant to chapter 394 of NRS or which is exempt from licensure pursuant to NRS 394.211; and

(2) Located on the premises of a child care facility.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 238.

Bill read second time and ordered to third reading.

Senate Bill No. 251.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 744.

AN ACT relating to vehicles; specifying certain circumstances under which a tow car can display flashing amber warning lights; requiring the driver of a vehicle to take certain actions when he approaches a tow car which is stopped and making use of flashing amber warning lights; specifying the circumstances under which a vehicle operated by a licensed private patrolman or his employee may display flashing amber warning lights; providing fees for certain permits; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the operator of a tow car to equip the tow car with flashing amber warning lights pursuant to a permit issued by the Nevada

Highway Patrol. (NRS 484.579) **Section 1.5** of this bill authorizes the use of flashing amber warning lights on a tow car when the tow car is ~~[stopped upon or adjacent to the highway]~~ at the scene of a traffic hazard.

Section 3 of this bill requires a driver, upon approaching a tow car which is stopped and is making use of flashing amber warning lights to: (1) decrease the speed of his vehicle; (2) proceed with caution; (3) be prepared to stop; and (4) if possible, drive in a lane that is not adjacent to the lane in which the tow car is stopped. (NRS 484.364)

Section 4 of this bill authorizes a tow car operator who during daylight attends to a motor vehicle disabled on the highway to place a red flare, red lantern, warning light or reflector in close proximity to each warning sign which the operator is required to place upon the highway in the vicinity of the disabled motor vehicle. (NRS 484.499)

Sections 2.5 and 5 of this bill authorize the Nevada Highway Patrol to issue a permit authorizing the display of flashing amber warning lights on a vehicle operated by a licensed private patrolman or his employee when the private patrolman or his employee who operates the vehicle is engaged in the business for which the private patrolman is licensed and the vehicle is: (1) on private property which the private patrolman is authorized to protect; (2) on a public road and stopped adjacent to private property which the private patrolman is authorized to protect; or (3) on a public road and moving at a speed slower than the normal flow of traffic. **Section 5** requires the Nevada Highway Patrol to charge and collect certain fees for the issuance of permits to display flashing amber warning lights on a vehicle, including a vehicle operated by a licensed private patrolman or his employee. (NRS 484.579)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 484 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 and 2.5 of this act.

Sec. 1.5. ***1. A tow car which is equipped with flashing amber warning lights pursuant to NRS 484.579 may display flashing amber warning lights to the front, sides or rear of the tow car when*** ~~*[stopped upon or adjacent to the highway]*~~ ***at the scene of a traffic hazard.***

2. Any flashing amber warning light used pursuant to this section must comply with the standards approved by the Department.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. ***A vehicle which is operated by a private patrolman licensed pursuant to chapter 648 of NRS or his employee and which is equipped with flashing amber warning lights pursuant to NRS 484.579 may display flashing amber warning lights to the front, sides or rear of the vehicle when:***

1. The private patrolman or his employee who operates the vehicle is engaged in the business for which the private patrolman is licensed; and

2. The vehicle is:

(a) On private property which the private patrolman is authorized to protect;

(b) On a public road and stopped adjacent to private property which the private patrolman is authorized to protect; or

(c) On a public road and moving at a speed slower than the normal flow of traffic.

Sec. 3. NRS 484.364 is hereby amended to read as follows:

484.364 1. Upon approaching an authorized emergency vehicle which is stopped and is making use of flashing lights meeting the requirements of subsection 3 of NRS 484.787 ~~[.]~~ ***or a tow car which is stopped and is making use of flashing amber warning lights meeting the requirements of section 1.5 of this act,*** the driver of the approaching vehicle shall, in the absence of other direction given by a peace officer:

(a) Decrease the speed of his vehicle to a speed that is:

(1) Reasonable and proper, pursuant to the criteria set forth in subsection 1 of NRS 484.361; and

(2) Less than the posted speed limit, if a speed limit has been posted;

(b) Proceed with caution;

(c) Be prepared to stop; and

(d) If possible, drive in a lane that is not adjacent to the lane in which the emergency vehicle ***or tow car*** is stopped, unless roadway, traffic, weather or other conditions make doing so unsafe or impossible.

2. A person who violates subsection 1 is guilty of a misdemeanor.

Sec. 4. NRS 484.499 is hereby amended to read as follows:

484.499 Where a motor vehicle is disabled on the highway ***,*** ~~[during darkness,]~~ the tow car operator shall immediately upon arrival place warning signs upon the highway as prescribed in NRS 484.497 and ***:***

1. During darkness, shall ***, if it is safe to do so,*** place not less than one red flare, red lantern, warning light or reflector in close proximity to each warning sign.

2. During daylight, may place a red flare, red lantern, warning light or reflector in close proximity to each warning sign.

Sec. 5. NRS 484.579 is hereby amended to read as follows:

484.579 1. It is unlawful to operate or display a flashing amber warning light on a vehicle except when an unusual traffic hazard exists or as authorized in NRS 484.582 ~~[.]~~ ***or section 1.5 or 2.5 of this act.*** This subsection does not prohibit the use of amber lights in electric signals for making turns.

2. It is unlawful for any person to mount flashing amber warning lights permanently on a vehicle without a permit from the Nevada Highway Patrol.

3. The Nevada Highway Patrol, upon written application, shall issue a permit to mount a flashing amber light on:

(a) Vehicles of public utilities.

(b) ~~[Trucks for towing vehicles.]~~ ***Tow cars.***

(c) Vehicles engaged in activities which create a public hazard upon the streets or highways.

(d) Vehicles of coroners and their deputies.

(e) Vehicles of Civil Air Patrol rescue units.

(f) Vehicles of authorized sheriffs' jeep squadrons.

(g) Vehicles which escort funeral processions.

(h) Vehicles operated by vendors of food or beverages, as provided in NRS 484.582.

(i) Vehicles operated by private patrolmen licensed pursuant to chapter 648 of NRS or their employees.

4. Those permits expire on June 30 of each calendar year.

5. The Nevada Highway Patrol shall charge and collect the following fees for the issuance of a permit for the mounting of a flashing amber light:

(a) Permit for a single vehicle $2

(b) Blanket permit for more than 5 but less than 15 vehicles 12

(c) Blanket permit for 15 vehicles or more 24

6. Subsections 1 and 2 do not apply to an agency of any state or political subdivision thereof, or to an agency of the Federal Government.

7. All fees collected by the Nevada Highway Patrol pursuant to this section must be deposited with the State Treasurer for credit to the State Highway Fund.

Sec. 6. This act becomes effective on July 1, 2009.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 263.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 684.

AN ACT relating to city elections; amending the Charters of the Cities of Carlin and Wells to specify the dates for filing a declaration of candidacy to become a candidate in the general city election; amending the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The existing Charters of the Cities of Carlin and Wells provide that a Mayor and the Councilmen of the respective cities are elected at a general city election which occurs on the same day as the statewide general election. **Sections 1 and 3** of this bill amend the Charters of the Cities of Carlin and Wells to specify that a person seeking to appear on the ballot at the general city election in one of those cities must file a declaration of candidacy with the City Clerk not ~~[earlier than the first Monday in May of the year in which the election is to be held or later than 5 p.m. on the second Friday after the~~

~~first Monday in May. (NRS 293.177)~~**] less than 90 days or more than 100 days before the day of the general city election.**

Sections 2 and 4 of this bill also amend the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot, including details on how the names of candidates with similar surnames are to appear.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk ~~*[during the period set forth in subsection 1 of NRS 293.177.]*~~ ***not less than 90 days or more than 100 days before the day of the general election. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.***

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 2. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.040, immediately following section 5.030, to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible before the close of filing and any applicable period for withdrawal of candidacy, must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 3. The Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 457, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk ~~*[during the period set forth in subsection 1 of NRS 293.177.]*~~ ***not less than 90 days or more than 100 days before the day of the general election. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.***

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 4. Section 5.040 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible ~~[,]~~ ***before the close of filing and any applicable period for withdrawal of candidacy,*** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 5. This act becomes effective upon passage and approval.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 278.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 677.

SUMMARY—Requiring the Legislative Committee on Health Care to study certain issues concerning the provision of ~~[public]~~ health ~~[.]~~ **care.** (BDR S-1061)

AN ACT relating to ~~[health districts;]~~ **health care;** requiring the Legislative Committee on Health Care to study the establishment of a health district in a county whose population is less than 100,000; requiring the ~~[Legislative]~~ Committee ~~[on Health Care]~~ to study issues concerning the consolidation and integration of ~~[public]~~ health and social services in ~~[a county whose population is 400,000 or more;]~~ **certain larger counties; requiring the Committee to study the establishment of regional centers**

for certain substance abuse treatment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Legislative Committee on Health Care to study: (1) the feasibility of establishing a health district in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties); ~~[and]~~ (2) the feasibility of consolidating or integrating certain ~~[public]~~ health and social services provided in a county whose population is 400,000 or more (currently Clark County) ~~[.]~~ **; and (3) the feasibility of establishing regional centers for the provision of services for the prevention and treatment of alcohol and substance abuse.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. 1. The Legislative Committee on Health Care shall, during the 2009-2011 interim, study:

(a) The feasibility of establishing a health district in counties whose populations are less than 100,000, including, without limitation:

(1) The establishment of a health district by a single county or by two or more adjacent counties;

(2) The impact on each county whose county board of health is abolished upon establishing such a health district;

(3) The composition and authority of such a health district; and

(4) The manner in which such a health district may be financed; ~~[and]~~

(b) The feasibility of consolidating or integrating certain ~~[public]~~ health and social services in counties whose populations are 400,000 or more, including, without limitation, the consolidation or integration of:

(1) Adoption services;

(2) ~~[Alcohol and drug abuse prevention services;~~

~~(3)]~~ Child abuse prevention services;

~~[(4)]~~ **(3)** Child welfare services;

~~[(5)]~~ **(4)** Delinquency prevention services;

~~[(6)]~~ **(5)** Determination of eligibility for public assistance;

~~[(7)]~~ **(6)** Employment and training services;

~~[(8)]~~ **(7)** Foster care services;

~~[(9)]~~ **(8)** Health services;

~~[(10)]~~ **(9)** Services and programs for medically indigent persons;

~~[(11)]~~ **(10)** Mental health services;

~~[(12)]~~ **(11)** Services provided to senior citizens; and

~~[(13)]~~ **(12)** Services provided to veterans ~~[.]~~ **; and**

(c) The feasibility of establishing regional centers for the provision of services for the prevention and treatment of alcohol and substance abuse.

2. The Legislative Committee on Health Care shall submit a report of the results of the study conducted pursuant to subsection 1 and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.

Sec. 32. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 302.

Bill read second time and ordered to third reading.

Senate Bill No. 325.

Bill read second time and ordered to third reading.

Senate Bill No. 340.

Bill read second time and ordered to third reading.

Senate Bill No. 360.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 663.

AN ACT relating to vehicles; authorizing a person other than an automobile wrecker, dealer of new or used motor vehicles or rebuilder to obtain an identifying card and bid to purchase a vehicle other than a nonrepairable vehicle from the operator of a salvage pool; imposing a fee for the issuance of such a card; prohibiting a person who obtains such a card from purchasing from ~~[the operator of a salvage pool]~~ **operators of salvage pools in this State** more than three vehicles in any calendar year; increasing the period within which an insurance company or its authorized agent must submit an application for a salvage title or nonrepairable vehicle certificate for a salvage vehicle; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that only a licensed automobile wrecker, dealer of new or used motor vehicles or rebuilder may bid to purchase a vehicle from the operator of a salvage pool. (NRS 487.470) **Section 5** of this bill authorizes a person other than an automobile wrecker, dealer of new or used motor vehicles or rebuilder to bid to purchase a vehicle other than a nonrepairable vehicle from the operator of a salvage pool, but prohibits the person from **: (1)** purchasing more than three such vehicles in any calendar year **[.] from operators of salvage pools in this State; (2) purchasing such vehicles for resale; (3) bidding to purchase a nonrepairable vehicle; or (4) assisting, soliciting or conspiring with another person to engage in any of those acts.** **Section 2.3** of this bill requires such a person, before he bids to purchase a salvage vehicle, to obtain an identifying card which must contain the person's name and signature, personal address, business name and address, if applicable, and picture. **Section 2.3** requires the Department of Motor Vehicles to charge a fee of $50 for the issuance of each card. A card expires on December 31 of the year in which it is issued but may be renewed upon application and payment of a renewal fee of $25. The fees collected by the Department from the issuance of the cards must be deposited with the State Treasurer for credit to the Motor Vehicle Fund. **Section 2.5 of this bill prohibits a person who is licensed or who is required to be licensed as an automobile wrecker, dealer of new or used motor vehicles or rebuilder from applying for or obtaining an identifying card described in section 2.3.** **Section 10** of this bill provides that any person who violates the provisions of **section 2.3 or 2.5** is guilty of a misdemeanor. (NRS 487.510)

Section 11 of this bill increases from 60 to 180 days the period within which an insurance company or its authorized agent is required to submit an

application for a salvage title or nonrepairable vehicle certificate for a salvage vehicle to the Department of Motor Vehicles. (NRS 487.800)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 482.31776 is hereby amended to read as follows:

482.31776 1. A consignee of a vehicle shall, upon entering into a consignment contract or other form of agreement to sell a vehicle owned by another person:

(a) Open and maintain a separate trust account in a federally insured bank or savings and loan association that is located in this State, into which the consignee shall deposit all money received from a prospective buyer as a deposit, or as partial or full payment of the purchase price agreed upon, toward the purchase or transfer of interest in the vehicle. A consignee of a vehicle shall not:

(1) Commingle the money in the trust account with any other money that is not on deposit or otherwise maintained toward the purchase of the vehicle subject to the consignment contract or agreement; or

(2) Use any money in the trust account to pay his operational expenses for any purpose that is not related to the consignment contract or agreement.

(b) Obtain from the consignor, before receiving delivery of the vehicle, a signed and dated disclosure statement that is included in the consignment contract and provides in at least 10-point bold type or font:

IMPORTANT NOTICE TO VEHICLE OWNERS

State law (NRS 482.31776) requires that the operator of this business file a Uniform Commercial Code 1 (UCC1) form with the Office of the Secretary of State on your behalf to protect your interest in your vehicle. The form is required to protect your vehicle from forfeiture in the event that the operator of this business fails to meet his financial obligations to a third party holding a security interest in his inventory. The form must be filed by the operator of this business before he may take possession of your vehicle. If the form is not filed as required, YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN. For a copy of the UCC1 form filed on your behalf or for more information, please contact:

The Office of the Secretary of State of Nevada
Uniform Commercial Code Division
(775) 684-5708

I understand and acknowledge the above disclosure.

....

Consignee Signature Date

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the vehicle, a ~~[financial]~~ ***financing*** statement of the type described in subsection 5 of NRS 104.9317 and shall file the ~~[financial]~~ ***financing*** statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending an authenticated notification, as described in paragraph (b) of subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the vehicle until the consignee has:

(1) Filed the financing statement with the Secretary of State; and

(2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the vehicle, the consignee shall forthwith:

(a) Satisfy or cause to be satisfied all outstanding security interests in the vehicle; and

(b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in a vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the vehicle has occurred. Notification by the consignee to the consignor must be given in person or, in the absence of the consignor, by registered or certified mail addressed to the last address or residence of the consignor known to the consignee. The notification must be made within 3 business days after the date on which the money is received or the transfer of interest in the vehicle is made.

4. The provisions of this section do not apply to:

(a) An executor;

(b) An administrator;

(c) A sheriff;

(d) A salvage pool subject to the provisions of NRS 487.400 to 487.510, inclusive ~~[;]~~ ***, and sections 2.3, 2.5 and 2.7 of this act;*** or

(e) Any other person who sells a vehicle pursuant to the powers or duties granted to or imposed on him by specific statute.

5. Notwithstanding any provision of NRS 482.423 to 482.4247, inclusive, to the contrary, a vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer in accordance with NRS 482.423 to 482.4247, inclusive, by displaying a temporary placard to operate the vehicle unless the operation of the vehicle is authorized by the express written consent of the consignor.

6. A vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer in accordance with NRS 482.320 by displaying a special plate unless the

operation of the vehicle is authorized by the express written consent of the consignor.

7. A consignee shall maintain a written log for each vehicle for which he has entered into a consignment contract. The written log must include:

(a) The name and address, or place of residence, of the consignor;

(b) A description of the vehicle consigned, including the year, make, model and serial or identification number of the vehicle;

(c) The date on which the consignment contract is entered into;

(d) The period that the vehicle is to be consigned;

(e) The minimum agreed upon sales price for the vehicle;

(f) The approximate amount of money due any lienholder or other person known to have an interest in the vehicle;

(g) If the vehicle is sold, the date on which the vehicle is sold;

(h) The date that the money due the consignor and the lienholder was paid;

(i) The name and address of the federally insured bank or savings and loan association in which the consignee opened the trust account required pursuant to subsection 1; and

(j) The signature of the consignor acknowledging that the terms of the consignment contract were fulfilled or terminated, as appropriate.

8. A person who:

(a) Appropriates, diverts or otherwise converts to his own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.

(b) Violates paragraphs (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.

(c) Violates any other provision of this section is guilty of a misdemeanor.

Sec. 2. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 2.3 **, 2.5** and 2.7 of this act.

Sec. 2.3. ***1. An identifying card authorizing a person other than a licensed automobile wrecker, dealer of new or used motor vehicles or rebuilder to bid to purchase a vehicle other than a nonrepairable vehicle from an operator of a salvage pool must contain the person's:***

(a) Name and signature;

(b) Personal address;

(c) Business name, if applicable;

(d) Business address, if applicable; and

(e) Picture.

2. The Department shall charge a fee of $50 for each identifying card issued in accordance with this section.

3. An identifying card issued in accordance with this section expires on December 31 of the year in which it is issued. The person must submit to

the Department an application for renewal accompanied by a renewal fee of $25. The application must be made on a form provided by the Department and contain such information as the Department requires.

4. Fees collected by the Department pursuant to this section must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 2.5. A person who is licensed as or who is required to be licensed as an automobile wrecker, dealer of new or used motor vehicles or rebuilder shall not apply for or obtain an identifying card described in section 2.3 of this act.

Sec. 2.7. ***The Department shall adopt regulations to carry out the provisions of this section, NRS 487.400 to 487.510, inclusive, and*** ~~*[section]*~~ ***sections 2.3 and 2.5 of this act.***

Sec. 3. NRS 487.400 is hereby amended to read as follows:

487.400 As used in NRS 487.400 to 487.510, inclusive ~~[:]~~ ***, and sections 2.3 , 2.5 and 2.7 of this act:***

1. "Identifying card" means a card:

(a) Authorizing the holder to bid for the purchase of vehicles from the operator of a salvage pool; and

(b) Containing the information required by NRS 487.070 or 487.475 ~~[.]~~ ***or section 2.3 of this act.***

2. "Salvage pool" means a business which obtains motor vehicles from:

(a) Insurers and self-insurers for sale on consignment or as an agent for the insurer or self-insurer if the vehicles are acquired by the insurer or self-insurer as the result of a settlement for insurance; or

(b) Licensed vehicle dealers, rebuilders, lessors or wreckers for sale on consignment.

Sec. 4. NRS 487.420 is hereby amended to read as follows:

487.420 1. No applicant may be granted a license to operate a salvage pool until he has procured and filed with the Department a good and sufficient bond in the amount of $50,000, with a corporate surety thereon licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant conducts his business as an operator of a salvage pool without fraud or fraudulent representation, and without violation of the provisions of NRS 487.400 to 487.510, inclusive ~~[.]~~ ***, and sections 2.3 , 2.5 and 2.7 of this act.*** The Department may, by agreement with any operator of a salvage pool who has been licensed by the Department for 5 years or more, allow a reduction in the amount of his bond, if his business has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than $5,000.

2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the operator of the salvage pool in violation of any of the provisions of NRS 487.400 to 487.510, inclusive, ***and sections 2.3 , 2.5 and 2.7 of this act*** may apply to the Director for compensation from the bond. The Director, for good

cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. In lieu of a bond an operator of a salvage pool may deposit with the Department, under the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) A court order requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. When a deposit is made pursuant to subsection 4, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which he is liable under the deposit.

7. A deposit made pursuant to subsection 4 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

8. Any money received by the Department pursuant to subsection 4 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 5. NRS 487.470 is hereby amended to read as follows:

487.470 1. ~~[Only]~~ ***Except as otherwise provided in subsection 4, only*** a licensed automobile wrecker, dealer of new or used motor vehicles or rebuilder ***or a person who has been issued an identifying card described in section 2.3 of this act*** may bid to purchase a vehicle from an operator of a salvage pool, and the operator may only sell a vehicle to such a person. An operator shall not accept a bid from:

(a) An automobile wrecker until:

(1) He presents the card issued by the Department pursuant to NRS 487.070 or other identifying card; or

(2) If he is licensed or otherwise authorized to operate as an automobile wrecker in another state or foreign country, he presents evidence of that licensure or authorization and has registered with the operator pursuant to subsection 2; ~~[or]~~

(b) A dealer of new or used motor vehicles or a rebuilder until:

(1) He presents the card issued by the Department pursuant to NRS 487.475 or other identifying card; or

(2) If he is licensed or otherwise authorized to operate as a dealer of new or used motor vehicles or as a rebuilder in another state or foreign country, he presents evidence of that licensure or authorization and has registered with the operator pursuant to subsection 2 ~~[.]~~ ***; or***

(c) A person who has been issued an identifying card described in section 2.3 of this act:

(1) For a nonrepairable vehicle; or

(2) For any other vehicle, until he presents the identifying card.

2. Any automobile wrecker, dealer of new or used motor vehicles or rebuilder who is licensed or otherwise authorized to operate in another state or foreign country shall register with each operator of a salvage pool with whom he bids to purchase vehicles, by filing with the operator copies of his license or other form of authorization from the other state or country, and his driver's license, business license, certificate evidencing the filing of a bond, resale certificate and proof of social security or tax identification number, if such documentation is required for licensure in the other state or country. Each operator of a salvage pool shall keep such copies at his place of business and in a manner so that they are easily accessible and open to inspection by employees of the Department ~~[of Motor Vehicles]~~ and to officers of law enforcement agencies in this State.

3. Each person who has been issued an identifying card described in section 2.3 of this act shall register with each operator of a salvage pool with whom he bids to purchase vehicles by filing with the operator copies of his driver's license, business license, if applicable, and proof of social security or tax identification number. Each operator of a salvage pool shall keep such copies at his place of business and in a manner so that they are easily accessible and open to inspection by employees of the Department and to officers of law enforcement agencies in this State.

4. A person who has been issued an identifying card described in section 2.3 of this act shall not:

(a) Purchase more than three vehicles in any calendar year from ~~*[an operator of a salvage pool; or]*~~ ***operators of salvage pools in this State;***

(b) Purchase any such vehicle for resale;

(c) Bid on a nonrepairable vehicle ~~*[.]*~~ ***; or***

(d) Assist, solicit or conspire with another person to commit any act prohibited by paragraph (a), (b) or (c).

Sec. 6. NRS 487.480 is hereby amended to read as follows:

487.480 1. Before an operator of a salvage pool sells any vehicle subject to registration pursuant to the laws of this State, he must have in his possession the certificate of title for a vehicle obtained pursuant to subsection 3 of NRS 487.800 or the salvage title for that vehicle. The Department shall not issue a certificate of registration or certificate of title for a vehicle with the same identification number if the vehicle was manufactured in the 5 years preceding the date on which the salvage title was issued, unless the Department authorizes the restoration of the vehicle pursuant to subsection 2 of NRS 482.553.

2. Upon sale of the vehicle, the operator of the salvage pool shall provide a salvage title to the licensed automobile wrecker, dealer of new or used motor vehicles or rebuilder ***or other person*** who purchased the vehicle.

Sec. 7. NRS 487.490 is hereby amended to read as follows:

487.490 1. The Department may refuse to issue a license or may suspend, revoke or refuse to renew a license of an operator of a salvage pool upon determining that the operator:

(a) Is not lawfully entitled to the license;

(b) Has made, or knowingly or negligently permitted, any illegal use of that license;

(c) Made a material misstatement in any application;

(d) Willfully fails to comply with any provision of NRS 487.400 to 487.510, inclusive ~~[.]~~ ***, and sections 2.3 , 2.5 and 2.7 of this act;***

(e) Fails to discharge any final judgment entered against him when the judgment arises out of any misrepresentation regarding a vehicle;

(f) Fails to maintain any license or bond required by a political subdivision of this State;

(g) Has been convicted of a felony;

(h) Has been convicted of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter;

(i) Fails or refuses to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 6; or

(j) Displays evidence of unfitness for a license pursuant to NRS 487.165.

2. The applicant or licensee may, within 30 days after receipt of the notice of refusal to grant or renew or the suspension or revocation of a license, petition the Department in writing for a hearing.

3. Hearings under this section and appeals therefrom must be conducted in the manner prescribed in NRS 482.353 and 482.354.

4. If an application for a license as an operator of a salvage pool is denied, the applicant may not submit another application for at least 6 months after the date of the denial.

5. The Department may refuse to review a subsequent application for licensing submitted by any person who violates any provision of NRS 487.400 to 487.510, inclusive ~~[.]~~ ***, and sections 2.3 , 2.5 and 2.7 of this act.***

6. Upon the receipt of any report or complaint that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a salvage pool, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.400 to 487.510, inclusive, ***and sections 2.3 , 2.5 and 2.7 of this act*** or to determine the suitability of an applicant or a licensee for such licensure.

7. For the purposes of this section, the failure to adhere to the directives of the Department advising the licensee of his noncompliance with any provision of NRS 487.400 to 487.510, inclusive, ***and sections 2.3 , 2.5 and 2.7 of this act*** or regulations of the Department, within 10 days after the receipt of those directives, is prima facie evidence of willful failure to comply.

Sec. 8. NRS 487.497 is hereby amended to read as follows:

487.497 1. A person licensed to issue identifying cards shall maintain a record of all fees collected and identifying cards issued.

2. The record must contain:

(a) The name and signature of the licensed automobile wrecker, vehicle dealer or rebuilder ***or other person*** from whom fees were collected, the amount of fees collected and the number of identifying cards issued or renewed.

(b) ~~[The]~~ ***For each identifying card issued to an automobile wrecker, vehicle dealer or rebuilder, the*** business name, address and license number under which the automobile wrecker, vehicle dealer or rebuilder is licensed by the Department.

(c) A photograph of the natural person to whom the identifying card was issued.

3. The record must be open to inspection during regular business hours by any peace officer or investigator of the Department.

4. Upon request of the Department, a person licensed to issue identifying cards shall allow the Department, or a person designated by the Department, to conduct an audit of his records.

5. The records of the licensee must be maintained at the licensed location.

Sec. 9. NRS 487.500 is hereby amended to read as follows:

487.500 Every licensed operator of a salvage pool shall maintain a record of all vehicles he sells. The record must contain the name and address of the person from whom the vehicle was purchased or acquired and the date of the acquisition or purchase, the name and address of the automobile wrecker, dealer of new or used motor vehicles ***,*** ~~[or]~~ rebuilder ***or other person*** to whom the vehicle was sold and the date of the sale, the registration number last assigned to the vehicle and a brief description of the vehicle, including, insofar as the information exists with respect to a given vehicle, the make, type, serial number and motor number, or any other number of the vehicle. The record must be open to inspection during regular business hours by any peace officer or investigator of the Department.

Sec. 10. NRS 487.510 is hereby amended to read as follows:

487.510 Any person who violates any of the provisions of NRS 487.400 to 487.500, inclusive, ***and sections 2.3 , 2.5 and 2.7 of this act*** is guilty of a misdemeanor.

Sec. 11. NRS 487.800 is hereby amended to read as follows:

487.800 1. When an insurance company acquires a motor vehicle as a result of a settlement in which the motor vehicle is determined to be a salvage vehicle, the owner of the motor vehicle who is relinquishing ownership of the motor vehicle shall endorse the certificate of title of the motor vehicle and forward the endorsed certificate of title to the insurance company within 30 days after accepting the settlement from the insurance company. The insurance company or its authorized agent shall forward the endorsed certificate of title, together with an application for a salvage title or nonrepairable vehicle certificate, to the state agency within ~~[60]~~ ***180*** days after receipt of the endorsed certificate of title.

2. If the owner of the motor vehicle who is relinquishing ownership does not provide the endorsed certificate of title to the insurance company within 30 days after accepting the settlement pursuant to subsection 1, the insurance company shall, within ~~[60]~~ ***180*** days after the expiration of that 30-day period, forward an application for a salvage title or nonrepairable vehicle certificate to the state agency. The state agency shall issue a salvage title or nonrepairable vehicle certificate to the insurance company for the vehicle upon receipt of:

(a) The application;

(b) A motor vehicle inspection certificate signed by a representative of the Department or, as one of the authorized agents of the Department, by a peace officer, dealer, rebuilder, automobile wrecker, operator of a salvage pool or garageman;

(c) Documentation that the insurance company has made at least two written attempts by certified mail, return receipt requested, or by use of a

delivery service with a tracking system, to obtain the endorsed certificate of title; and

(d) Proof satisfactory to the state agency that the certificate of title was required to be surrendered to the insurance company as part of the settlement.

3. Except as otherwise provided in subsections 1 and 2, before any ownership interest in a salvage vehicle, except a nonrepairable vehicle, may be transferred, the owner or other person to whom the motor vehicle is titled:

(a) If the person has possession of the certificate of title to the vehicle, shall forward the endorsed certificate of title, together with an application for salvage title to the state agency within 30 days after the vehicle becomes a salvage vehicle.

(b) If the person does not have possession of the certificate of title to the vehicle and the certificate of title is held by a lienholder, shall notify the lienholder within 10 days after the vehicle becomes a salvage vehicle that the vehicle has become a salvage vehicle. The lienholder shall, within 30 days after receiving such notice, forward the certificate of title, together with an application for salvage title, to the state agency.

4. An insurance company or its authorized agent may sell a vehicle for which a total loss settlement has been made with the properly endorsed certificate of title if the total loss settlement resulted from the theft of the vehicle and the vehicle, when recovered, was not a salvage vehicle.

5. An owner who has determined that a vehicle is a total loss salvage vehicle may sell the vehicle with the properly endorsed certificate of title obtained pursuant to this section, without making any repairs to the vehicle, to a salvage pool, automobile auction, rebuilder, automobile wrecker or a new or used motor vehicle dealer.

6. Except with respect to a nonrepairable vehicle, if a salvage vehicle is rebuilt and restored to operation, the vehicle may not be licensed for operation, displayed or offered for sale, or the ownership thereof transferred, until there is submitted to the state agency with the prescribed salvage title, an appropriate application, other documents, including, without limitation, an affidavit from the state agency attesting to the inspection and verification of the vehicle identification number and the identification numbers, if any, for parts used to repair the motor vehicle and fees required, together with a certificate of inspection completed pursuant to NRS 487.860.

7. Except with respect to a nonrepairable vehicle, if a total loss insurance settlement between an insurance company and any person results in the retention of the salvage vehicle by that person, before the execution of the total loss settlement, the insurance company or its authorized agent shall:

(a) Obtain, upon an application for salvage title, the signature of the person who is retaining the salvage vehicle;

(b) Append to the application for salvage title the certificate of title to the motor vehicle or an affidavit stating that the original certificate of title has been lost; and

(c) Apply to the state agency for a salvage title on behalf of the person who is retaining the salvage vehicle.

8. If the state agency determines that a salvage vehicle retained pursuant to subsection 6 is titled in another state or territory of the United States, the state agency shall notify the appropriate authority of that state or territory that the owner has retained the salvage vehicle.

9. A person who retains a salvage vehicle pursuant to subsection 7 may not transfer any ownership interest in the vehicle unless he has received a salvage title.

Sec. 12. **1. This section and section 11 of this act become effective upon passage and approval.**

2. Sections 1 to 10, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2010, for all other purposes.

Assemblyman Manendo moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 1:35 p.m.

ASSEMBLY IN SESSION

At 2:03 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 227 and 246 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bills Nos. 201, 207, and 283 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 194 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 201.

Bill read third time.

Remarks by Assemblymen Atkinson, Gustavson, Goicoechea, Anderson, and Kirkpatrick.

Assemblyman Gustavson requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ATKINSON:

Thank you, Madam Speaker. Senate Bill 201 authorizes the Washoe County Board of County Commissioners to impose additional county taxes on motor vehicle fees and various special fuels used in motor vehicles. The taxes will cause an annual increase in the current amount of taxes imposed on such fuels based upon increases in the Product Price Index for highway and street construction, which is published by the United States Department of Labor and measures inflation in the cost of such construction. The bill is effective upon passage and approval. I urge your support.

ASSEMBLYMAN GUSTAVSON:

Thank you, Madam Speaker. I rise in opposition to S.B 201. The language in the bill itself—the ballot question was very vague and misleading. There was nowhere in that language on the ballot question itself that mentioned the word "taxes." For many reasons, I do oppose this bill. Number one: Why are taxpayers being asked to pay more now? During 2007 portions of property taxes paid by the citizens of Washoe County were shifted to the Highway Fund to pay for more construction projects. Washoe County fuel taxes were increased due to indexing during 2003 to build and maintain roads. The RTC Board approved a 50 percent increase in the fees paid by new development during 2007. The RTC Board approved a 130 percent increase in developer fees in 2008. Nevadans already pay some of the highest fuel taxes in the nation. These taxes, fees, and spending are going up faster than the roads. This is in addition to the millions of dollars in federal stimulus money that is currently being printed up in Washington D.C. to build roads in Washoe County. If S.B. 201 passes, current revenues will disappear when truckers pass right through Washoe County and buy their fuel elsewhere. I know, as being a truck driver for many years, I would buy fuel where I could pay less money. When you fill up a truck full of diesel fuel, you are talking about up to 500 gallons, and this adds up very quickly. For these reasons I oppose S.B. 201.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Speaker. I rise in support of this bill. It is enabling legislation only. It allows the board of county commissioners to impose the tax increase if they want to, and the voters in my portion of Washoe County did approve the measure.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I think my colleague from eastern Nevada clearly articulated the primary point that the voters of Washoe County did, after much debate and public disclosure, vote in support of this issue. I appreciate the fact that we do pay an inordinately high tax on fuels in the State of Nevada. However, the reality is that there is a great need because of dedicated dollars in a very dramatically growing county. This is an important measure and approved by the voters. I believe that this bill should be strongly supported, in support of the voters in Washoe County.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Speaker. I rise in support of S.B. 201. I think as a Clark County person, I have to look and count on my colleagues from Washoe County. These are their constituents and their businesses, and I think, being from Clark County, that we should absolutely support our folks from Washoe County. I urge your support.

Conflict of interest declared by Assemblyman Cobb.

Roll call on Senate Bill No. 201:

YEAS—34.

NAYS—Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—5.

NOT VOTING—Cobb.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 201 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 207.

Bill read third time.

Remarks by Assemblyman Cobb.

Assemblyman Cobb requested that his remarks be entered in the Journal.

Thank you, Madam Speaker. I want to put some remarks on the record concerning S.B. 207.

In my opinion, Nevada is a state that has always honored personal freedom, and this bill affirms that Nevada not only has this reputation but now has the laws to confirm this. The kind of discrimination prohibited by S.B. 207 hurts tourism and hurts our economy. Senate Bill 207 ensures that the visitors and citizens of Nevada experience an open and welcome environment where everyone is able to enjoy the personal freedoms that this state has always valued. Nevada markets itself as a tourist destination and invites everyone to come and enjoy what Nevada has to offer. Through passage of S.B. 207, we affirm that everyone can expect to take advantage of our state without fear of discrimination. I urge its passage.

Roll call on Senate Bill No. 207:

YEAS—37.

NAYS—Christensen, Gustavson, Hardy—3.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 207 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 283.

Bill read third time.

Remarks by Assemblymen Segerblom, Cobb, Spiegel, Settelmeyer, and Leslie.

Assemblyman Conklin requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Speaker. Senate Bill 283 provides for the registration and dissolution of domestic partnerships. The bill states that a domestic partnership is not a marriage for purposes of the *Nevada Constitution.* It also provides that public and private employers are not required to provide health care benefits to a domestic partner of an officer or employee, but those employers are not precluded from offering such benefits. Each of you has on your desks a legal opinion from LCB which states this is not a marriage. I know you see a lot of emails to that effect, but this is not a marriage. This does not impact marriage. You also need to know that both major newspapers in the State of Nevada have endorsed this bill, both the *Las Vegas Review Journal* and the *Reno Gazette- Journal.* It is very timely and needed legislation. Finally, I want to point out that this is not just a gay rights issue; this is a human rights issue. This deals with any relationship in the State of Nevada. Our problem in this country is not the fact that we have too many marriages or too many committed relationships, it's that we do not have enough. Anything that this body can do to encourage relationships, to foster them, and to strengthen

them, I believe, is very important. So for that I urge you all to support Senate Bill 283. Thank you.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition to Senate Bill 283. I agree with my colleague from the south in that the language of this bill does not directly conflict with the constitutional provision that was put in place in 2002 by the voters. But I do believe it directly conflicts with the intent and the will of the people from that 2002 passage. The reason I feel this is that this bill assigns the same privileges, rights, and responsibilities that our society has given to marriages—as defined by the will of the voters as that being between a man and a woman—to other relationships. These don't just include some of the issues that we all can agree upon, like end-of-life decisions, rights of inheritance, which you can contract for right now privately, but also certain privileges such as the spousal privilege exemption from the evidentiary rules, exemption from the real estate transfer tax, and things like that. Again, as a society, we have said these things will only be reserved for those who are in a solemnized marriage. I think this goes beyond just the concept of allowing people to privately contract, which I believe is already in the law and can already be handled. I do not think that we should go against the will of the voters—especially the intent of the will of the voters in 2002—and enact this legislation.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Speaker. I would like to rise in support of Senate Bill 283 and just let everyone know that this bill is not something that is limited to the gay community. I have two very personal stories that I would like to share with you. Some of you have heard these stories already.

A number of years ago before my husband Bill was my husband, there was another man in my life named Elliott, and Elliot passed away the day before his fortieth birthday. I came home from work that night and I found him. When I called the police, they came over to the house. It was obvious that I lived there, with my clothes all over the place. I had the key to the house. I had the alarm code. You know, it was quite obvious that I lived there. The police said to me that because we weren't married, I didn't have any rights and that I should get my toothbrush and leave out food and water for the cats, because they were going to have to padlock the house. I was thrown out of the house the very night he passed away. My nearest family was 40 miles away. His nearest family was 60 miles away. And it was just because I had no rights in the relationship.

Years later, when I met Bill and we were engaged and we were planning our wedding, I got a notice from my landlord that said that my rent was going to go up by $1,000 a month. You would think that the logical thing would have been to have moved in with Bill. Of course, I was a little hesitant because of my prior experience, but aside from that, there was also in a clause in Bill's lease that said that he couldn't have a nonmarried partner move into his apartment without the express written permission of the landlord. We knew that the landlord wouldn't give permission and that by my moving in—just moving in with a person who I loved, who I was planning on spending the rest of my life with—that we could get evicted for no other reason than for just moving in together. But that apartment was in Santa Monica and Santa Monica, California, had a domestic partnership ordinance. So we went down and filed paperwork—an affidavit of domestic partnership. That allowed me the right to move in, knowing that we couldn't get evicted for my moving in and that, God forbid, if something should happen to Bill, I wouldn't have been thrown out into the street once again.

This bill is for the rights of every Nevadan, whether you are a senior who is looking to live with someone, whether you are a young single person, or whether you are same sex or different sex—it doesn't matter. This is for all Nevadans. I urge your support.

ASSEMBLYMAN SETTELMEYER:

I appreciate the comments of my colleague from Assembly District 9 about the legal opinion. In my opinion, though, this is so substantially similar to what our voters voted on in 2000 and 2002 that I think this bill should have been sent back to the people to allow them to vote on something that is so similar. I urge you to vote no on this bill. Thank you.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of Senate Bill 283. I represent an older section of Reno, which is in old southwest Reno, for those of you from the north and from the south. It is affectionately known in the gay community as the "gayborhood," because it is full of gay and lesbian couples, and straight couples, too, and every other kind of family you might imagine. It is a neighborhood of wide streets, and houses with porches, where people know their neighbors' dogs and they know their neighbors' children. People talk all the time. And I think of the street that I live on and the gay couples that live on that street and the topic of conversation that we've had in the past few months over this bill, in the dog park and in the bars and restaurants in our neighborhood. I know that a yes vote is right for my constituents. It is also a very personal bill, for me.

Two of my very best friends are a gay couple who live in my district. They own a home, but they have no rights. They could hire a lawyer, but why should they have to hire a lawyer? Why should they? Why can't they have the rights that the rest of us have—to have somebody there at the end of their life making decisions, visiting them in the hospital, inheriting assets, planning a funeral? One of them is the father of my daughter. So this is a very important bill for my family, and I know a yes vote is the right vote for them.

Finally, I see this bill a little differently. I see it as a bill in the great tradition of Nevada libertarianism. I am not a libertarian in most ways, but I do share the Nevada libertarian spirit of live and let live. I have always thought that should be our state's motto. Instead of "Battle Born," it should be "Live and Let Live." Nevadans do not want government interfering in their personal lives. Since when do we want government deciding where we live, who we live with, and who we should love? Have we ever wanted that? So why would we stand in the way of others' rights to do that? These are intensely personal decisions. This is personal freedom. These are our decisions, and government should stay out of it. No one is asking you to change your personal beliefs today. No one. All we are asking is that you think very clearly and carefully about standing in the way of the personal freedom of any other Nevadan, to let them live their life as they want to. I urge your support. Thank you.

Roll call on Senate Bill No. 283:

YEAS—26.

NAYS—Christensen, Cobb, Denis, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Kirkpatrick, McArthur, Settelmeyer, Stewart, Woodbury—14.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 283 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 227.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 671.

AN ACT relating to public welfare; ~~[requiring]~~ **providing for the** licensure of certain foster care agencies that provide services relating to the placement of children in foster care; requiring licensure of specialized foster homes; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 4-7 of this bill ~~[require persons who wish to]~~ **provide for licensing of persons who** operate a foster care agency that assists an agency which provides child welfare services in placing or arranging for the

placement of children in foster care. ~~[to obtain a license from the Division of Child and Family Services of the Department of Health and Human Services.]~~ **Section 4 requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations regarding the placement of children in foster care, including, without limitation, regulations establishing the minimum standards for foster care agencies and regarding the issuance and renewal of a license to operate a foster care agency. Section 5 authorizes a licensing authority, which is an agency which provides child welfare services, to license foster care agencies within its jurisdiction in accordance with the regulations adopted by the Division. If a licensing authority licenses foster care agencies, then all foster care agencies within the jurisdiction of the licensing authority will be required to obtain a license. Section 5 further authorizes a licensing authority to impose a fee for the licensing and renewal of a license to operate a foster care agency up to a specific amount that must not exceed the actual cost incurred by the authority for providing or renewing the license. Section 6 provides that a license to operate a foster care agency is valid for 2 years. Section 7.5 of this bill authorizes an agency which provides child welfare services to determine the services that a foster care agency may provide on behalf of the agency which provides child welfare services. Section 18 of this bill requires the Division to adopt the necessary regulations on or before July 1, 2010.**

Existing law requires persons who operate a family foster home or group foster home to obtain a license from the appropriate licensing authority. (Chapter 424 of NRS) The Division of Child and Family Services has adopted regulations for family and group foster homes pursuant to this chapter and has also adopted similar standards for treatment homes, which are a specialized type of foster home. (NAC 424.075, 424.650-424.705) **Section 3** of this bill defines what constitutes a "specialized foster home" and **sections 8-14** of this bill set forth in statute the requirement that persons who operate a specialized foster home obtain a license from the appropriate licensing authority. (NRS 424.010, 424.014, 424.020, 424.030, 424.0365, 424.040, 424.085) **Section 19 of this bill makes the licensing provisions included in this bill effective on January 1, 2011, so that a license to operate a foster care agency and a license to operate a specialized foster home may not be required before that date.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[7,]~~ **7.5,** inclusive, of this act.

Sec. 2. ***"Foster care agency" means a nonprofit corporation, for-profit corporation or sole proprietorship*** ~~*[, which is licensed by the Division,]*~~ ***that***

assists an agency which provides child welfare services in the placement of children in foster care ***.*** ~~*[, including, without limitation, providing:*~~

~~*1. Screening, recruiting and training of persons to provide family foster care, specialized foster care and group foster care;*~~

~~*2. Case management services;*~~

~~*3. Referral services;*~~

~~*4. Supportive services for persons providing foster care to meet the needs of children in foster care;*~~

~~*5. Coordination of case plans and treatment plans; and*~~

~~*6. Services, or facilitating the provision of such services, to children placed in foster care.]*~~

Sec. 3. ***"Specialized foster home" means a family home which provides full-time care and services for one to six children who:***

1. Require special care for physical, mental or emotional issues;

2. Are under 21 years of age;

3. Are not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home;

4. Are received, cared for and maintained for compensation; and

5. Are in the custody of and placed in the home by an agency which provides child welfare services.

Sec. 4. ***The Division shall:***

1. Establish reasonable minimum standards for foster care agencies.

2. In consultation with foster care agencies and each agency which provides child welfare services, adopt:

(a) Regulations concerning the operation of a foster care agency, including, without limitation, a foster care agency which provides family foster care, specialized foster care or group foster care for children placed by an agency which provides child welfare services.

(b) Regulations regarding the issuance of nonrenewable provisional licenses to operate a foster care agency. The regulations must provide that a provisional license is valid for not more than 1 year.

(c) Regulations regarding the issuance and renewal of a license to operate a foster care agency.

(d) Any other regulations necessary to carry out its powers and duties regarding the placement of children for foster care, including, without limitation, such regulations necessary to ensure compliance with the provisions of this chapter and any regulations adopted pursuant thereto.

~~*[3. Prescribe a reasonable fee for the issuance of a provisional license and for the issuance and renewal of a license to operate a foster care agency.]*~~

Sec. 5. ***1. A licensing authority may license foster care agencies within its jurisdiction in accordance with the regulations adopted by the Division pursuant to section 4 of this act.***

2. Except as otherwise provided in this section, if a licensing authority licenses foster care agencies, a person shall not operate a foster care

agency within the jurisdiction of the licensing authority or otherwise assist an agency which provides child welfare services in placing or in arranging the placement of any child in foster care [without obtaining] until the foster care agency has obtained a license pursuant to section 6 of this act. [This subsection applies to agents, servants, physicians and attorneys of the parents or guardians of a child.

2.] 3. This section does not prohibit a parent or guardian from placing or arranging the placement of, or assisting in placing or arranging the placement of, his child in foster care.

4. A licensing authority that licenses foster care agencies pursuant to this section may charge a fee of not more than $150 for the issuance of a provisional license, not more than $300 for the issuance of a license and not more than $150 for the renewal of a license. Any fee so charged must not exceed the actual cost incurred by the authority for providing or renewing the license.

Sec. 6. *1. An application for a license to operate a foster care agency must be in a form prescribed by the Division [,] and submitted to the appropriate licensing authority. Such a license is effective for 2 years after the date of its issuance and may be renewed upon expiration.*

2. An applicant must provide reasonable and satisfactory assurance to the [Division] licensing authority that the applicant will conform to the standards established and the regulations adopted by the Division pursuant to section 4 of this act.

3. Upon application for renewal, the [Division] licensing authority may renew a license if the [Division] licensing authority determines that the licensee conforms to the standards established and the regulations adopted by the Division pursuant to section 4 of this act.

4. [The Division] A licensing authority may issue a nonrenewable provisional license in accordance with the regulations adopted by the Division pursuant to section 4 of this act.

Sec. 7. *1. After notice and hearing, [the Division] a licensing authority may:*

(a) Deny an application for a license to operate a foster care agency if the [Division] licensing authority determines that the applicant does not meet the standards established and comply with the regulations adopted by the Division pursuant to section 4 of this act.

(b) Upon a finding of deficiency, require a foster care agency to prepare a plan of corrective action and, within 90 days or a shorter period prescribed by the [Division,] licensing authority require the foster care agency to complete the plan of corrective action.

(c) Refuse to renew a license or may revoke a license or provisional license if the [Division] licensing authority finds that the foster care agency has refused or failed to meet any of the established standards or has violated any of the regulations adopted by the Division pursuant to section 4 of this act.

2. A notice of the time and place of the hearing must be mailed to the last known address of the applicant or licensee at least 15 days before the date fixed for the hearing.

3. When an order of ~~[the Division]~~ a licensing authority is appealed to the district court, the trial may be de novo.

Sec. 7.5. A licensed foster care agency may provide such assistance to an agency which provides child welfare services as authorized by the agency which provides child welfare services. Such services may include, without limitation:

1. Screening, recruiting, licensing and training of persons to provide family foster care, specialized foster care and group foster care;

2. Case management services;

3. Referral services;

4. Supportive services for persons providing foster care to meet the needs of children in foster care;

5. Coordination of case plans and treatment plans; and

6. Services, or facilitating the provision of such services, to children placed in foster care.

Sec. 8. NRS 424.010 is hereby amended to read as follows:

424.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 424.012 to 424.017, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 424.014 is hereby amended to read as follows:

424.014 "Foster home" includes a family foster home ***, specialized foster home*** and group foster home.

Sec. 10. NRS 424.020 is hereby amended to read as follows:

424.020 1. The Division, in consultation with each licensing authority in a county whose population is 100,000 or more, shall adopt regulations to:

(a) Establish procedures and requirements for the licensure of family foster homes ***, specialized foster homes*** and group foster homes; and

(b) Monitor such licensure.

2. The Division, in cooperation with the State Board of Health and the State Fire Marshal, shall:

(a) Establish reasonable minimum standards for family foster homes ***, specialized foster homes*** and group foster homes.

(b) Prescribe rules for the regulation of family foster homes ***, specialized foster homes*** and group foster homes.

3. All family foster homes ***, specialized foster homes*** and group foster homes licensed pursuant to this chapter must conform to the standards established and the rules prescribed in subsection 2.

Sec. 11. NRS 424.030 is hereby amended to read as follows:

424.030 1. No person may conduct a family foster home ***, a specialized foster home*** or a group foster home without receiving a license to do so from the licensing authority.

2. No license may be issued to a family foster home ***, a specialized foster home*** or a group foster home until a fair and impartial investigation of the home and its standards of care has been made by the licensing authority or its designee.

3. Any family foster home ***, specialized foster home*** or group foster home that conforms to the established standards of care and prescribed rules must receive a regular license from the licensing authority, which ~~[must]~~ ***may*** be in force for ~~[1 year]~~ ***2 years*** after the date of issuance. On reconsideration of the standards maintained, the license may be renewed ~~[annually.]~~ ***upon expiration.***

4. If a family foster home ***, a specialized foster home*** or ***a*** group foster home does not meet minimum licensing standards but offers values and advantages to a particular child or children and will not jeopardize the health and safety of the child or children placed therein, the family foster home ***, specialized foster home*** or group foster home may be issued a special license, which must be in force for 1 year after the date of issuance and may be renewed annually. No foster children other than those specified on the license may be cared for in the home.

5. The license must show:

(a) The name of the persons licensed to conduct the family foster home ***, specialized foster home*** or group foster home.

(b) The exact location of the family foster home ***, specialized foster home*** or group foster home.

(c) The number of children that may be received and cared for at one time.

(d) If the license is a special license issued pursuant to subsection 4, the name of the child or children for whom the family foster home ***, specialized foster home*** or group foster home is licensed to provide care.

6. No family foster home ***, specialized foster home*** or group foster home may receive for care more children than are specified in the license.

7. In consultation with each licensing authority in a county whose population is 100,000 or more, the Division may adopt regulations regarding the issuance of provisional and special licenses.

Sec. 12. NRS 424.0365 is hereby amended to read as follows:

424.0365 1. A licensee that operates a ***specialized foster home or a*** group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the home;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the home;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; and

(h) Such other matters as required by the licensing authority or pursuant to regulations of the Division.

2. The Division shall adopt regulations necessary to carry out the provisions of this section.

Sec. 13. NRS 424.040 is hereby amended to read as follows:

424.040 A licensing authority or its designee shall visit every licensed family foster home ***, specialized foster home*** and group foster home as often as necessary to ensure that proper care is given to the children.

Sec. 14. NRS 424.085 is hereby amended to read as follows:

424.085 1. Except as otherwise provided by specific statute, a person who is licensed by the licensing authority pursuant to NRS 424.030 to conduct a family foster home ***, a specialized foster home*** or ***a*** group foster home is not liable for any act of a child in his foster care unless the person licensed by the licensing authority took an affirmative action that contributed to the act of the child.

2. The immunity from liability provided pursuant to this section includes, without limitation, immunity from any fine, penalty, debt or other liability incurred as a result of the act of the child.

Sec. 15. NRS 432B.180 is hereby amended to read as follows:

432B.180 The Division of Child and Family Services shall:

1. Administer any money granted to the State by the Federal Government.

2. Plan, coordinate and monitor the delivery of child welfare services provided throughout the State.

3. Provide child welfare services directly or arrange for the provision of those services in a county whose population is less than 100,000.

4. Coordinate its activities with and assist the efforts of any law enforcement agency, a court of competent jurisdiction, an agency which provides child welfare services and any public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children and for permanent placement of children.

5. Involve communities in the improvement of child welfare services.

6. Evaluate all child welfare services provided throughout the State and, if an agency which provides child welfare services is not complying with any federal or state law relating to the provision of child welfare services, regulations adopted pursuant to those laws or statewide plans or policies relating to the provision of child welfare services, require corrective action of the agency which provides child welfare services.

7. If an agency which provides child welfare services fails to take corrective action required pursuant to subsection 6 within a reasonable

period, take one or more of the following actions against the agency which provides child welfare services:

(a) Withhold money from the agency which provides child welfare services;

(b) Impose an administrative fine against the agency which provides child welfare services;

(c) Provide the agency which provides child welfare services with direct supervision and recover the cost and expenses incurred by the Division in providing such supervision; and

(d) Require the agency which provides child welfare services to determine whether it is necessary to impose disciplinary action that is consistent with the personnel rules of the agency which provides child welfare services against an employee who substantially contributes to the noncompliance of the agency which provides child welfare services with the federal or state laws, regulations adopted pursuant to such laws or statewide plans or policies, including, without limitation, suspension of the employee without pay, if appropriate.

➥ The Division shall adopt regulations to carry out the provisions of this subsection, including, without limitation, regulations which prescribe the circumstances under which action must be taken against an agency which provides child welfare services for failure to take corrective action and which specify that any such action by the Division must not impede the provision of child welfare services.

8. In consultation with each agency which provides child welfare services, request sufficient money for the provision of child welfare services throughout this State.

9. Deposit any money received from the administrative fines imposed pursuant to this section with the State Treasurer for credit to the State General Fund. The State Treasurer shall account separately for the money deposited pursuant to this subsection. The money in the account may only be used by the Division to improve the provision of child welfare services in this State, including, without limitation:

(a) To pay the costs associated with providing training and technical assistance and conducting quality improvement activities for an agency which provides child welfare services to assist the agency in any area in which the agency has failed to take corrective action; and

(b) Hiring a qualified consultant to conduct such training, technical assistance and quality improvement activities.

10. Coordinate with and assist:

(a) Each agency which provides child welfare services in recruiting, training and licensing providers of family foster care as defined in NRS 424.017; ~~[~~and~~]~~

(b) ***Each foster care agency licensed pursuant to sections 4 to ~~[7,]~~ 7.5, inclusive, of this act in screening, recruiting , licensing and training providers of family foster care as defined in NRS 424.017; and***

(c) A nonprofit or community-based organization in recruiting and training providers of family foster care as defined in NRS 424.017 if the Division determines that the organization provides a level of training that is equivalent to the level of training provided by an agency which provides child welfare services.

Sec. 16. NRS 392.210 is hereby amended to read as follows:

392.210 1. Except as otherwise provided in subsection 2, a parent, guardian or other person who has control or charge of any child and to whom notice has been given of the child's truancy as provided in NRS 392.130 and 392.140, and who fails to prevent the child's subsequent truancy within that school year, is guilty of a misdemeanor.

2. A person who is licensed pursuant to NRS 424.030 to conduct a family foster home ***, a specialized foster home*** or ***a*** group foster home is liable pursuant to subsection 1 for a child in his foster care only if the person has received notice of the truancy of the child as provided in NRS 392.130 and 392.140, and negligently fails to prevent the subsequent truancy of the child within that school year.

Sec. 17. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

➥ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

➥ Except as otherwise provided in subsection 12, the regulations of the State Fire Marshal apply throughout the State, but except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a school district except as

otherwise provided in NRS 393.110, or a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes ***, specialized foster homes*** and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) Except as otherwise provided in subsection 12 and NRS 393.110, assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

➥ on request or as he deems necessary.

10. Except as otherwise provided in this subsection, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

12. Except as otherwise provided in this subsection, any regulations of the State Fire Marshal concerning matters relating to building codes, including, without limitation, matters relating to the construction, maintenance or safety of buildings, structures and property in this State:

(a) Do not apply in a county whose population is 400,000 or more which has adopted a code at least as stringent as the International Fire Code and the International Building Code, published by the International Code Council. To maintain the exemption from the applicability of the regulations of the State Fire Marshal pursuant to this subsection, the code of the county must be at least as stringent as the most recently published edition of the International Fire Code and the International Building Code within 1 year after publication of such an edition.

(b) Apply in a county described in paragraph (a) with respect to state-owned or state-occupied buildings or public schools in the county and in those local jurisdictions in the county in which the State Fire Marshal is requested to exercise that authority by the chief executive officer of that jurisdiction. As used in this paragraph, "public school" has the meaning ascribed to it in NRS 385.007.

Sec. 18. The Division of Child and Family Services of the Department of Health and Human Services shall, on or before July 1, 2010, adopt the regulations required pursuant to section 4 of this act**, prescribe the form for an application for a license to operate a foster care agency pursuant to section 6 of this act** and **adopt regulations required pursuant to** NRS 424.020, as amended by section 10 of this act.

Sec. 19. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2011, for all other purposes.

Assemblywoman Mastroluca moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 246.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 670.

SUMMARY— **[**Provides for the issuance of an apprentice hunting license.**]** **Makes various changes relating to hunting.** (BDR 45-512)

AN ACT relating to wildlife; providing for the issuance of an apprentice hunting license; prohibiting an apprentice hunter from hunting in this State unless he is accompanied and directly supervised by a mentor hunter; providing an exception from requirements concerning the completion of a course in the responsibilities of hunters; **requiring the Board of Wildlife Commissioners to establish a program for the issuance of additional big game tags to be known as "Dream Tags"; authorizing the Board to establish an additional kind of drawing for the existing allotment of big game tags and wild turkey tags;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Wildlife to issue licenses to hunt and fish in Nevada. (Chapter 502 of NRS) **Section [1] 3** of this bill provides for the issuance of an apprentice hunting license to a person who: (1) is 12 years of age or older; (2) has not previously been issued a hunting license in this State, another state or a Canadian province; and (3) except for the requirement of completing a course of instruction in the responsibilities of hunters, is otherwise qualified to obtain a hunting license. **Section [1] 3** prohibits the Department from imposing a fee for the issuance of an

apprentice hunting license but requires the applicant or mentor hunter to pay any service fees required by a license agent pursuant to NRS 502.040, the habitat conservation fee required by NRS 502.242 and any transaction fee if he conducts an online transaction with the Department. **Section ~~[1]~~ 3** also provides that it is unlawful for an apprentice hunter to hunt in this State unless he is accompanied and directly supervised by a mentor hunter who is 18 years of age or older and licensed to hunt in this State. A violation of this provision is a misdemeanor. (NRS 501.385) In addition, **section ~~[1]~~ 3** provides that the mentor hunter must: (1) ensure that the apprentice hunter safely handles and operates his firearm or weapon and complies with all applicable laws and regulations regarding hunting and the use of firearms; and (2) maintain close visual and verbal contact with, provide adequate direction to and maintain the ability readily to assume control of any firearm or weapon from the apprentice hunter.

Existing law requires a person to complete a course of instruction in the responsibilities of hunters before obtaining a hunting license in this State. (NRS 502.330) ~~[Section]~~ **Sections 3 and 11** of this bill ~~[provides]~~ **provide** an exception from this requirement for a person who applies for an apprentice hunting license.

Under existing law, the Board of Wildlife Commissioners is authorized to provide for the issuance of big game tags for the hunting of big game mammals in this State. (Chapter 502 of NRS) Section 4 of this bill requires the Commission to establish a program for the issuance of additional big game tags each year to be known as "Dream Tags." A tax-exempt nonprofit organization established through the Community Foundation of Western Nevada which has as its principal purpose the preservation, protection, management or restoration of wildlife and its habitat may purchase such Dream Tags from the Department as are authorized by the Commission at prices established by the Commission. The nonprofit organization must agree to award the tags by raffle through a private entity acting as its agent that is approved by the Department. All money received by the Department for Dream Tags must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund. All money received by the nonprofit organization from the proceeds of the Dream Tag raffle, less certain costs, must be used for the preservation, protection, management or restoration of wildlife and its habitat, as determined by the Advisory Board on Dream Tags which is created by section 6 of this bill. Section 5 of this bill requires that a person must purchase a resource enhancement stamp to be eligible to participate in the Dream Tag raffle.

Section 7 of this bill provides that the provisions of chapter 462 of NRS, which provides for the administration of charitable lotteries by the State Gaming Control Board and the Nevada Gaming Commission, do not apply to the distribution of any tags issued pursuant to chapter 502

of NRS, regardless of the manner in which the tags are distributed or the entity that distributes the tags.

Existing law authorizes the Board of Wildlife Commissioners to accept sealed bids for or auction not more than 15 big game tags and not more than 5 wild turkey tags each year. (NRS 502.250) Section 10 of this bill authorizes the Commission to award all or a portion of those tags through a Silver State Tag Drawing. Section 10 provides that the amount of the fee for processing an application for a Silver State Tag must not be less than $15 or more than $50, as determined by regulations adopted by the Commission. Section 10 also provides that any money received from the application fee for the drawing, except for a certain amount of money for the costs of administering the drawing and the return of fees, must be deposited into the Wildlife Heritage Trust Account in the State General Fund.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **NRS 501.3575 is hereby amended to read as follows:**

501.3575 1. The Wildlife Heritage Trust Account is hereby created in the State General Fund. The money in the Account must be used by the Department as provided in this section for:

(a) The protection, propagation, restoration, transplantation, introduction and management of any game fish, game mammal, game bird or fur-bearing mammal in this State; and

(b) The management and control of predatory wildlife in this State.

2. Except as otherwise provided in NRS 502.250, money received by the Department from:

(a) A bid, auction ***, Silver State Tag Drawing*** or partnership in wildlife drawing conducted pursuant to NRS 502.250; and

(b) A gift of money made by any person to the Wildlife Heritage Trust Account,

➥ must be deposited with the State Treasurer for credit to the Account.

3. The interest and income earned on the money in the Wildlife Heritage Trust Account, after deducting any applicable charges, must be credited to the Account.

4. The Department may annually expend from the Wildlife Heritage Trust Account an amount of money not greater than 75 percent of the money deposited in the Account pursuant to subsection 2 during the previous year and the total amount of interest earned on the money in the Account during the previous year. The Commission shall review and approve expenditures from the Account. No money may be expended from the Account without the prior approval of the Commission.

5. The Commission shall administer the provisions of this section and may adopt any regulations necessary for that purpose.

~~[Section 1.]~~ ***Sec. 2.*** Chapter 502 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 3 to 7, inclusive, of this act.**

Sec. 3. 1. The Department shall issue an apprentice hunting license to a person who:

(a) Is 12 years of age or older;

(b) Has not previously been issued a hunting license by the Department, another state or an agency of a Canadian province, including, without limitation, an apprentice hunting license; and

(c) Except as otherwise provided in subsection 5, is otherwise qualified to obtain a hunting license in this State.

2. Except as otherwise provided in this subsection, the Department shall not impose a fee for the issuance of an apprentice hunting license. For each apprentice hunting license issued, the applicant or the mentor hunter for the applicant shall pay:

(a) Any service fee required by a license agent pursuant to NRS 502.040;

(b) The habitat conservation fee required by NRS 502.242; and

(c) Any transaction fee that is set forth in a contract of this State with a third-party electronic services provider for each online transaction that is conducted with the Department.

3. An apprentice hunting license authorizes the apprentice hunter to hunt in this State as provided in this section.

4. It is unlawful for an apprentice hunter to hunt in this State unless a mentor hunter accompanies and directly supervises the apprentice hunter at all times during a hunt. During the hunt, the mentor hunter shall ensure that:

(a) The apprentice hunter safely handles and operates the firearm or weapon used by the apprentice hunter; and

(b) The apprentice hunter complies with all applicable laws and regulations concerning hunting and the use of firearms.

5. A person is not required to complete a course of instruction in the responsibilities of hunters as provided in NRS 502.340 to obtain an apprentice hunting license.

6. The issuance of an apprentice hunting license does not:

(a) Authorize the apprentice hunter to obtain any other hunting license;

(b) Authorize the apprentice hunter to hunt any animal for which a tag is required pursuant to NRS 502.130; or

(c) Exempt the apprentice hunter from any requirement of this title.

7. The Commission may adopt regulations to carry out the provisions of this section.

8. As used in this section:

(a) "Accompanies and directly supervises" means maintains close visual and verbal contact with, provides adequate direction to and maintains the

ability readily to assume control of any firearm or weapon from an apprentice hunter.

(b) "Apprentice hunter" means a person who obtains an apprentice hunting license pursuant to this section.

(c) "Mentor hunter" means a person 18 years of age or older who holds a hunting license issued in this State and who accompanies and directly supervises an apprentice hunter. The term does not include a person who holds an apprentice hunting license pursuant to this section.

Sec. 4. 1. The Commission shall establish a program for the issuance of additional big game tags each year to be known as "Dream Tags." The program must provide:

(a) For the issuance of a Dream Tag to either a resident or nonresident of this State;

(b) For the issuance of one Dream Tag for each species of big game for which 50 or more tags were available under the quota established for the species by the Commission during the previous year;

(c) For the sale of Dream Tags to a nonprofit organization pursuant to this section; and

(d) Such other provisions concerning a Dream Tag as the Commission determines reasonable or necessary in carrying out the program.

2. A nonprofit organization established through the Community Foundation of Western Nevada which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and which has as its principal purpose the preservation, protection, management or restoration of wildlife and its habitat may purchase such Dream Tags from the Department as are authorized by the Commission, at prices established by the Commission, subject to the following conditions:

(a) The nonprofit organization must agree to award the Dream Tags by raffle, with unlimited chances to be sold for $5 each to persons who purchase a resource enhancement stamp pursuant to section 5 of this act.

(b) The nonprofit organization must agree to enter into a contract with a private entity that is approved by the Department which requires that the private entity agree to act as the agent of the nonprofit organization to sell chances to win a Dream Tag, conduct any required drawing for a Dream Tag and issue a Dream Tag. For the purposes of this paragraph, a private entity that has entered into a contract with the Department pursuant to NRS 502.175 to conduct a drawing and to award and issue tags or permits as established by the Commission shall be deemed to be approved by the Department.

(c) All money received by the nonprofit organization from the proceeds of the Dream Tag raffle, less the cost of the Dream Tags purchased by the nonprofit organization and any administrative costs charged by the Community Foundation of Western Nevada, must be used for the preservation, protection, management or restoration of wildlife and its

habitat, as determined by the Advisory Board on Dream Tags created by section 6 of this act.

3. All money received by the Department for Dream Tags pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

4. The Department shall, on or before February 1 of each year, report to the Interim Finance Committee concerning the Dream Tag program, including, without limitation:

(a) The number of Dream Tags issued during the immediately preceding calendar year;

(b) The total amount of money paid to the Department for Dream Tags during the immediately preceding calendar year;

(c) The total amount of money received by the nonprofit organization from the proceeds of the Dream Tag raffle, the amount of such money expended by the nonprofit organization and a description of each project for which the money was spent; and

(d) Any recommendations of the Department concerning the continuation of the program or necessary legislation.

5. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 5. 1. To be eligible to participate in the Dream Tag raffle, a person must purchase a resource enhancement stamp.

2. Resource enhancement stamps must be sold for a fee of $10 each by the Department and by persons authorized by the Department to sell the stamps.

3. The Department shall determine the form of the stamps.

Sec. 6. 1. There is hereby created the Advisory Board on Dream Tags, consisting of the following five members:

(a) One member appointed by the Governor;

(b) One member appointed by the Majority Leader of the Senate;

(c) One member appointed by the Speaker of the Assembly;

(d) One member appointed by the Advisory Board on Natural Resources; and

(e) The Vice Chairman of the Commission, who serves as an ex officio member of the Board.

2. Each appointed member of the Board must be a resident of this State and, following the initial terms, serves a term of 2 years.

3. At its first meeting each year, the members of the Board shall elect a Chairman, who shall serve until the next Chairman is elected. The Board shall meet as necessary at the call of the Chairman.

4. A majority of the members of the Board constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Board.

5. While engaged in the business of the Board, to the extent of legislative appropriation, each member of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. To the extent of legislative appropriation, the Department shall provide the Board with such staff as is necessary to carry out the duties of the Board.

7. The Board shall, in accordance with the requirements of paragraph (c) of subsection 2 of section 4 of this act, determine the appropriate use of money received by a nonprofit organization from the proceeds of a Dream Tag raffle.

Sec. 7. ***The provisions of chapter 462 of NRS do not apply to the distribution of any tags pursuant to this chapter, regardless of the manner in which the tags are distributed or the entity that distributes the tags.***

~~[Sec. 2.]~~ ***Sec. 8.*** NRS 502.010 is hereby amended to read as follows:

502.010 1. A person who hunts or fishes any wildlife without having first procured a license or permit to do so, as provided in this title, is guilty of a misdemeanor, except that:

(a) A license to hunt or fish is not required of a resident of this State who is under 12 years of age, unless required for the issuance of tags as prescribed in this title or by the regulations of the Commission.

(b) A license to fish is not required of a nonresident of this State who is under 12 years of age, but the number of fish taken by the nonresident must not exceed 50 percent of the daily creel and possession limits as provided by law.

(c) Except as otherwise provided in ***section*** ~~*[1]*~~ ***3 of this act and*** subsection 5 or 6 of NRS 202.300, it is unlawful for any child who is under 18 years of age to hunt any wildlife with any firearm, unless the child is accompanied at all times by his parent or guardian or is accompanied at all times by an adult person authorized by his parent or guardian to have control or custody of the child to hunt if the authorized person is also licensed to hunt.

(d) A child under 12 years of age, whether accompanied by a qualified person or not, shall not hunt big game in the State of Nevada. This section does not prohibit any child from accompanying an adult licensed to hunt.

(e) The Commission may adopt regulations setting forth:

(1) The species of wildlife which may be hunted or trapped without a license or permit; or

(2) The circumstances under which a person may fish without a license, permit or stamp in a lake or pond that is located entirely on private property and is stocked with lawfully acquired fish.

(f) The Commission may declare one day per year as a day upon which persons may fish without a license to do so.

2. This section does not apply to the protection of persons or property from unprotected wildlife on or in the immediate vicinity of home or ranch premises.

~~[Sec. 3.]~~ ***Sec. 9.*** NRS 502.040 is hereby amended to read as follows:

502.040 1. The Commission shall adopt regulations establishing:

(a) The procedures for applying to become a license agent.

(b) The standards to be met by license agents in the performance of their duties.

(c) The requirements for the furnishing of surety bonds by license agents.

(d) The manner of remitting money to the Department.

(e) The manner of accounting for licenses, tags, stamps, permits and other documents received, issued, sold or returned.

➥ A license agent's authority may be revoked by the Department for his failure to abide by the regulations of the Commission. The agent may appeal to the Commission for reinstatement.

2. An application to become a license agent must be accompanied by a fee of $100 for processing the application.

3. A license agent designated by the Department is responsible for the correct issuance of all licenses, tags, stamps, permits and other documents entrusted to him and, so far as he is able, for ensuring that no licenses are issued upon the false statement of an applicant. Before issuing any license, the license agent shall satisfy himself of the identity of the applicant and the place of his residence, and may require any applicant to present proof of his identity and residence.

4. A license agent is responsible to the Department for the collection of the correct and required fee, for the safeguarding of the money collected by him and for the prompt remission to the Department for deposit in accordance with NRS 501.356 of all money collected. The Department shall furnish to the license agent receipts for all money which he remits to it. A license agent shall furnish a receipt to the Department of all licenses, tags, stamps, permits and other documents which he receives from it.

5. For each license, tag, stamp, permit or other document he sells, ***and each apprentice hunting license he issues pursuant to section*** ~~*[1]*~~ ***3 of this act,*** a license agent is entitled to receive a service fee of:

(a) One dollar for each license, tag, permit or other document, in addition to the fee for the license, tag, permit or other document; and

(b) Ten cents for each stamp.

6. Any person authorized to enforce this chapter may inspect, during the license agent's normal business hours, any record or document of the agent relating to the issuance of any such license, stamp, tag, permit or other document.

7. All money collected by a license agent, except service fees collected pursuant to subsection 5, is public money of the State of Nevada, and the State has a prior claim for the amount of money due it upon all assets of the agent over all creditors, assignees or other claimants. The use of this money

for private or business transactions is a misuse of public money and punishable under the laws provided.

Sec. 10. **NRS 502.250 is hereby amended to read as follows:**

502.250 1. The amount of the fee that must be charged for the following tags is:

Resident deer tag	$30
Resident antelope tag	60
Resident elk tag	120
Resident bighorn sheep tag	120
Resident mountain goat tag	120
Resident mountain lion tag	25
Nonresident deer tag	240
Nonresident antelope tag	300
Nonresident antlered elk tag	1,200
Nonresident antlerless elk tag	500
Nonresident bighorn sheep tag	1,200
Nonresident mountain goat tag	1,200
Nonresident mountain lion tag	100

2. The amount of the fee for other resident or nonresident big game tags must not exceed the highest fee for a resident or nonresident big game tag established pursuant to this section.

3. The amount of the fee for a tag determined to be necessary by the Commission for other species pursuant to NRS 502.130 must not exceed the highest fee for a resident or nonresident tag established pursuant to this section.

4. A fee not to exceed $10 may be charged for processing an application for a game species or permit other than an application for an elk. A fee of not less than $5 but not more than $15 must be charged for processing an application for an elk, $5 of which must be deposited with the State Treasurer for credit to the Wildlife Obligated Reserve Account in the State General Fund and used for the prevention and mitigation of damage caused by elk or game mammals not native to this State. ***A fee of not less than $15 and not more than $50 must be charged for processing an application for a Silver State Tag.***

5. The Commission may accept sealed bids for **,** or ~~[may]~~ ***award through an*** auction ***or a Silver State Tag Drawing, or any combination thereof,*** not more than 15 big game tags and not more than 5 wild turkey tags each year. To reimburse the Department for the cost of managing wildlife and administering and conducting the bid **,** ~~[or]~~ auction ~~[,]~~ ***or Silver State Tag Drawing,*** not more than 18 percent of the total amount of money received from the bid **,** ~~[or]~~ auction ***or Silver State Tag Drawing*** may be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund. Any amount of money received from the bid **,** ~~[or]~~ auction ***or Silver State Tag Drawing*** that is not so deposited must be deposited with the

State Treasurer for credit to the Wildlife Heritage Trust Account in the State General Fund in accordance with the provisions of NRS 501.3575.

6. The Commission may by regulation establish an additional drawing for big game tags, which may be entitled the Partnership in Wildlife Drawing. To reimburse the Department for the cost of managing wildlife and administering and conducting the drawing, not more than 18 percent of the total amount of money received from the drawing may be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund. Except as otherwise provided by regulations adopted by the Commission pursuant to subsection 7, the money received by the Department from applicants in the drawing who are not awarded big game tags must be deposited with the State Treasurer for credit to the Wildlife Heritage Trust Account in accordance with the provisions of NRS 501.3575.

7. The Commission may adopt regulations which authorize the return of all or a portion of any fee collected from a person pursuant to the provisions of this section.

~~[Sec. 4.]~~ ***Sec. 11.*** NRS 502.330 is hereby amended to read as follows:

502.330 1. ~~[No]~~ ***Except as otherwise provided in section ~~[1]~~ 3 of this act, no*** hunting license may be obtained by any person born after January 1, 1960, unless he presents to the Department, or one of its authorized licensing agents:

(a) A certificate of successful completion of a course of instruction in the responsibilities of hunters as provided by NRS 502.340;

(b) An equivalent certificate of completion of a course in the responsibilities of hunters provided by ~~[a]~~ ***:***

(1) Another state ~~[or an]~~ ***;***

(2) An agency of a Canadian province for the management of wildlife; or

(3) An agency of a foreign country whose course of instruction meets or exceeds the standards established by the International Hunter Education Association, or its successor organization; or

(c) A hunting license issued to him in a previous year by the Department, ~~[a]~~ ***another*** state or an agency of a Canadian province, which bears a number or other unique mark evidencing successful completion of a course of instruction in the responsibilities of hunters.

2. Any person who has been convicted of violating NRS 503.165 or 503.175 may not obtain a hunting license until he has successfully completed a course in the responsibilities of hunters conducted pursuant to NRS 502.340.

Sec. 12. **As soon as practicable after the effective date of this section, the Governor, Majority Leader of the Senate, Speaker of the Assembly and Advisory Board on Natural Resources shall, in accordance with the requirements of section 6 of this act, appoint the respective members of the Advisory Board on Dream Tags to initial terms that expire on June 30, 2011.**

Sec. 13. **1. This section and sections 2, 4 to 7, inclusive, and 12 of this act become effective upon passage and approval.**

2. Sections 1 and 10 of this act become effective on July 1, 2009.

3. Sections 3, 8, 9 and 11 of this act become effective on October 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 294.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 294:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Assembly Bill No. 294 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 505.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Bill No. 505:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Assembly Bill No. 505 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 227 and 246.

Motion carried.

Assemblyman Oceguera moved that Assembly Bills Nos. 227 and 246 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 227.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 227:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Assembly Bill No. 227 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 246.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 246:

YEAS—38.

NAYS—Hogan, Koivisto—2.

EXCUSED—Carpenter, Claborn—2.

Assembly Bill No. 246 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 2:37 p.m.

ASSEMBLY IN SESSION

At 2:39 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Oceguera moved that Senate Bills Nos. 41, 53, 66, 79, 125, 131, 134, 169, 174, 175, 219, 229, 254, 287, 298, 317, 319, 333, 377, 414; Senate Joint Resolutions Nos. 1, 2, 3, 4, 9; Senate Joint Resolution No. 2 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 259.

The following Senate amendment was read:

Amendment No. 578.

AN ACT relating to criminal offenders; revising provisions relating to the residential confinement of certain offenders; authorizing a court to provide for the forfeiture of credits for good behavior of a probationer under certain circumstances; revising provisions concerning certain credits to be applied to

a period of probation or parole; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that an offender who has been convicted of a category B felony is not eligible for residential confinement. **Section 1** of this bill requires the standards adopted by the Director of the Department of Corrections concerning eligibility for residential confinement to provide that an offender who has been convicted of a category B felony is eligible for residential confinement if: (1) the offender is not otherwise ineligible for residential confinement; and (2) the Director makes a written finding that assigning the offender to residential confinement is not likely to pose a threat to the safety of the public. (NRS 209.392)

Existing law authorizes the State Board of Parole Commissioners to provide for the forfeiture of credits for good behavior of a parolee who violates a condition of his parole and, as appropriate, for the restoration of such credits. **Section 4** of this bill authorizes a court to provide for the forfeiture of credits for good behavior of a probationer who violates a condition of his probation and, as appropriate, for the restoration of such credits.

Existing law provides that an offender who is sentenced to serve a period of probation for a felony and who demonstrates certain good behavior must be allowed certain deductions from his period of probation. **Section 5** of this bill amends existing law to provide generally that a person who is sentenced to a period of probation for a felony or a gross misdemeanor must be allowed a deduction from his period of probation of: (1) ten days for each month he serves and is current on any fee to defray the cost of his supervision and on any fines, fees and restitution ordered by the court; and (2) an additional 10 days for each month he serves and is actively involved in employment or enrolled in certain programs. (NRS 176A.500)

Existing law authorizes a court to order a probationer who violates a condition of his probation to a term of residential confinement and to direct the person to be confined, for not more than 6 months, to a community correctional center, conservation camp, facility of minimum security or other place of confinement operated by the Department of Corrections for the custody, care or training of offenders, other than a prison designed to house 125 or more offenders within a secure perimeter. **Section 6** of this bill authorizes a court to direct such a person who was placed on probation for a felony conviction to be confined to any of those facilities and institutions, including a prison designed to house 125 or more offenders within a secure perimeter. Further, **section 6** of this bill authorizes the Department of Corrections to select the facility or institution in which to place the person. (NRS 176A.660)

Section 3 of this bill amends chapter 213 of NRS, which governs parolees in a manner similar to **section 6** of this bill. **Section 3** provides that a parolee who is returned to confinement in a facility or institution of the Department

of Corrections is authorized to earn credits to reduce his sentence pursuant to chapter 209 of NRS, with the exception of certain credits which are earned by an offender who is released on parole. (NRS 213.152)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) Demonstrated a willingness and ability to establish a position of employment in the community;

(b) Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has been convicted of:

(1) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim within the immediately preceding 3 years;

(2) A sexual offense that is punishable as a felony; or

(3) ~~[~~A~~]~~ ***Except as otherwise provided in subsection 4, a*** category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778; or

(e) Has escaped or attempted to escape from any jail or correctional institution for adults,

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. ***The standards adopted by the Director pursuant to subsection 3 must provide that an offender who has been convicted of a category B felony is eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section if:***

(a) The offender is not otherwise ineligible pursuant to subsection 3 for an assignment to serve a term of residential confinement; and

(b) The Director makes a written finding that such an assignment of the offender is not likely to pose a threat to the safety of the public.

5. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

~~[~~5.~~]~~ ***6.*** The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

~~[~~6.~~]~~ ***7.*** An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in

that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection ~~[6,]~~ ***7,*** if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require:

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement; or

(b) Require the parolee to be confined to a facility ***or institution*** of the Department of Corrections ~~[approved by the Board]~~ for a period not to exceed 6 months. ***The Department may select the facility or institution in which to place the parolee.***

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,

➥ must not be used.

4. ***A parolee who is confined to a facility or institution of the Department of Corrections pursuant to paragraph (b) of subsection 2:***

(a) May earn credits to reduce his sentence pursuant to chapter 209 of NRS; and

(b) Shall not be deemed to be released on parole for purposes of NRS 209.447 or 209.4475 during the period of that confinement.

5. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

~~[5.]~~ ***6.*** A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

~~[6.]~~ ***7.*** The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

~~[7.]~~ ***8.*** As used in this section ~~[, "facility"]~~ ***:***

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

Sec. 4. Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a court before which a probationer is brought pursuant to NRS 176A.630 determines that the probationer has violated a condition of his probation, the probationer forfeits all or part of the credits for good behavior earned by him pursuant to NRS 176A.500 during his probation, in the discretion of the court.

2. A forfeiture may be made only by the court after proof of the violation and notice to the probationer.

3. The court may restore credits forfeited for such reasons as it considers proper.

4. If the court provides for the forfeiture or restoration of credits for good behavior of a probationer pursuant to this section, the clerk of the court shall notify the Chief Parole and Probation Officer of the forfeiture or restoration of credits.

Sec. 5. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation

officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. ~~[An offender]~~ ***A person*** who is sentenced to serve a period of probation for a felony ~~[who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him,]~~ ***or a gross misdemeanor*** must be allowed for the period of his probation a deduction ~~[of 20]~~ ***as set forth in subsection 6 if the offender is:***

(a) Current with any fee to defray the cost of his supervision charged pursuant to NRS 213.1076 and with any fines, fees and restitution ordered by the court, including, without limitation, any payment of restitution required pursuant to NRS 176A.430; and

(b) Actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.

6. ~~*[A]*~~ ***Except as otherwise provided in subsection 7, a person described in subsection 5 must be allowed for the period of his probation a deduction of:***

(a) Ten days from that period for each month he serves ~~[.]~~ ***and is current on any fees to defray the cost of his supervision owed and on any fines, fees and restitution ordered by the court; and***

(b) ~~*[Except as otherwise provided in subsection 7, an]*~~ ***An additional 10 days from that period for each month he serves and is actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.***

7. A person who is sentenced to serve a period of probation for a felony or a gross misdemeanor and who ~~*[is]*~~ ***:***

(a) Is a participant in a specialty court program must be allowed a deduction from the period of probation for being actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division only if the person successfully completes the specialty court program ~~*[.]*~~ ***; or***

(b) Owes any restitution ordered by the court, including, without limitation, any payment of restitution required pursuant to NRS 176A.430,

must be allowed a deduction from the period of probation for making payments of restitution only if the person pays the full amount of restitution imposed.

➥ Such a deduction must not exceed the length of time remaining on the person's period of probation.

8. As used in this section, "specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from mental illnesses or abuse alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 6. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division and require:

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement; or

(b) ~~[Direct]~~ ***If the person was placed on probation for a felony conviction, direct*** that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility ***or institution*** of the Department ~~[approved by the Division and the court]~~ for a period not to exceed 6 months. ***The Department may select the facility or institution in which to place the person.***

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,

➥ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section ~~[, "facility"]~~ ***:***

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

Sec. 7. 1. The amendatory provisions of this act apply to offenses committed before, on or after July 1, 2009.

2. For the purpose of calculating credits earned by a person pursuant to NRS 213.152, the amendatory provisions of section 3 of this act must be applied to credits earned by the person before, on or after July 1, 2009.

3. For the purpose of calculating credits earned by a person pursuant to NRS 176A.500, the amendatory provisions of section 5 of this act must be applied only to credits earned by the person on or after July 1, 2009.

Sec. 8. This act becomes effective on July 1, 2009.

Assemblyman Horne moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 259.

Remarks by Assemblyman Horne.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 177.

The following Senate amendment was read:

Amendment No. 568.

AN ACT relating to motor vehicles; **revising provisions governing the liability of a short-term lessee of a passenger car for physical damage or loss of use of the car under certain circumstances;** authorizing a short-term lessor to exclude from a waiver of damages losses resulting from the theft of a leased car if the theft is committed by an authorized driver or by a person aided or abetted by an authorized driver; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a short-term lessor and a short-term lessee of a passenger car may agree that the lessee will be responsible for certain damage to or loss of use of the car. (NRS 482.31535) Section 4.5 of this bill increases from $500 to $2,500 the amount for which the lessee may be responsible for physical damage or loss of use of the car which occurs as a result of vandalism not related to the theft of the car and not caused by the lessee.

Under existing law governing the business of short-term leases of passenger cars, a short-term lessor may offer the lessee of a passenger car the opportunity to purchase a "waiver of damages" that relieves the lessee from financial responsibility for certain kinds of damage to the car. (NRS 482.3153, 482.3155-482.31565) **Section 5** of this bill authorizes a lessor to

exclude from such a waiver any damages or loss attributable to the theft of the leased car if the theft is committed by the lessee or other authorized driver or by a person aided or abetted by such a driver.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 4.5. **NRS 482.31535 is hereby amended to read as follows:**

482.31535 1. Except as otherwise provided in NRS 482.3154, a short-term lessor and a short-term lessee of a passenger car may agree that the lessee will be responsible for:

(a) Physical damage to the car, up to and including its fair market value, regardless of the cause of the damage.

(b) Mechanical damage to the car, up to and including its fair market value, resulting from:

(1) A collision;

(2) An impact; or

(3) Any other type of incident,

➥ that is caused by a deliberate or negligent act or omission on the part of the lessee.

(c) Loss resulting from theft of the car, up to and including its fair market value, except that the lessee is presumed to have no liability for any loss resulting from theft if an authorized driver:

(1) Has possession of the ignition key furnished by the lessor or establishes that the ignition key furnished by the lessor was not in the car at the time of the theft; and

(2) Files an official report of the theft with an appropriate law enforcement agency within 24 hours after learning of the theft and cooperates with the lessor and the law enforcement agency in providing information concerning the theft.

➥ The lessor may rebut the presumption set forth in this paragraph by establishing that an authorized driver committed or aided and abetted the commission of the theft.

(d) Physical damage to the car, up to and including its fair market value, resulting from vandalism occurring after or in connection with the theft of the car, except that the lessee has no liability for any damage resulting from vandalism if the lessee has no liability for theft pursuant to paragraph (c).

(e) Physical damage to the car and loss of use of the car, up to ~~[$500,]~~ ***$2,500,*** resulting from vandalism not related to the theft of the car and not caused by the lessee.

(f) Loss of use of the car if the lessee is liable for damage or loss.

(g) Actual charges for towing and storage and impound fees paid by the lessor if the lessee is liable for damage or loss.

(h) An administrative charge that includes the cost of appraisal and other costs incident to the damage, loss, loss of use, repair or replacement of the car.

2. For the purposes of this section, the fair market value must be determined in the customary market for the sale of the leased passenger car.

Sec. 5. NRS 482.31555 is hereby amended to read as follows:

482.31555 A short-term lessor may provide in a lease of a passenger car that a waiver of damages does not apply in the following circumstances:

1. Damage or loss resulting from an authorized driver's:

(a) Intentional, willful, wanton or reckless conduct.

(b) Operation of the car in violation of NRS 484.379.

(c) Towing or pushing with the car.

(d) Operation of the car on an unpaved road if the damage or loss is a direct result of the road or driving conditions.

2. Damage or loss occurring when the passenger car is:

(a) Used for hire.

(b) Used in connection with conduct that constitutes a felony.

(c) Involved in a speed test or contest or in driver training activity.

(d) Operated by a person other than an authorized driver.

(e) Operated in a foreign country or outside of the States of Nevada, Arizona, California, Idaho, Oregon and Utah, unless the lease expressly provides that the passenger car may be operated in other locations.

3. An authorized driver providing:

(a) Fraudulent information to the short-term lessor.

(b) False information to the lessor and the lessor would not have leased the passenger car if he had received true information.

4. Damage or loss resulting from the theft of the passenger car if committed by an authorized driver or a person aided or abetted by an authorized driver. A theft is presumed to have been committed by a person other than an authorized driver or a person aided or abetted by an authorized driver if the short-term lessee of the car:

(a) Has possession of the ignition key furnished by the lessor or establishes that the ignition key furnished by the lessor was not in the car at the time of the theft; and

(b) Files an official report of the theft with an appropriate law enforcement agency within 24 hours after learning of the theft and cooperates with the lessor and the law enforcement agency in providing information concerning the theft.

➥ The lessor may rebut the presumption set forth in this subsection by establishing that an authorized driver committed or aided and abetted another person in the commission of the theft.

Sec. 6. **This act becomes effective on July 1, 2009.**

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 177.

Remarks by Assemblyman Atkinson.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 45, that a conference be requested, and that Mr. Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Kihuen, Segerblom, and Gustavson as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 45.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 425.

The following Senate amendment was read:

Amendment No. 616.

AN ACT relating to education; authorizing the Superintendent of Public Instruction to issue an additional license to teach elementary education, middle school or junior high school education or secondary education to certain licensed teachers; revising provisions governing the reciprocal licensure of teachers and other educational personnel; requiring the Commission on Professional Standards in Education to conduct a review of the regulations of the Commission governing the licensure and endorsement of special education teachers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Superintendent of Public Instruction to issue a license to teach elementary education, middle school or junior high school education or secondary education to an applicant pursuant to regulations adopted by the Commission on Professional Standards in Education. (NRS 391.031, 391.033) Existing regulations of the Commission require a teacher licensed in this State to apply for and meet the requirements for an initial license to teach elementary education, middle school or junior high school education or secondary education, including participation in a program of student teaching or supervised teaching in the designated grade level, if he is applying for a license outside the grade level he is licensed to teach. (NAC 391.025, 391.095, 391.111, 391.120) **Section 1** of this bill authorizes the

Superintendent to issue to a licensed teacher an additional license to teach elementary education, middle school or junior high school education or secondary education, other than for the teaching pupils with disabilities, which is outside his grade level of experience if he meets the course work requirements and qualifications for the license. A licensed teacher must not be required to participate in a program of student teaching or supervised teaching as a condition for the issuance of the additional license if he has 3 years of verified teaching experience.

Existing law authorizes the Commission to adopt regulations that exempt an applicant from the examinations required for initial licensure of teachers and other educational personnel if the applicant has previous teaching experience or has performed other educational functions in another state. (NRS 391.021, 391.032) **Sections 4 and 5** of this bill remove the requirement that an applicant have previous experience and authorizes the exemption if the Commission determines that the examinations required for initial licensure in the other state are comparable to the examinations required for initial licensure in this State.

Section 6 of this bill requires the Commission to conduct a review of the regulations of the Commission governing the licensure and endorsement of special education teachers to improve and enhance the reciprocal licensure in this State of special education teachers from other states.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed to teach elementary education, middle school or junior high school education or secondary education in this State may apply for and the Superintendent of Public Instruction may issue to that person an additional license to teach elementary education, middle school or junior high school education or secondary education, other than for the teaching pupils with disabilities, which is outside his grade level of experience if he meets the course work requirements and qualifications for the license.

2. A licensed teacher who applies for an additional license pursuant to this section must not be required to participate in a program of student teaching as a condition for the issuance of the additional license if he has 3 years of verified teaching experience.

Sec. 2. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission:

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the

procedures for the issuance and renewal of those licenses. ***The regulations must not prescribe qualifications which are more stringent than the qualifications set forth in section 1 of this act for a licensed teacher who applies for an additional license in accordance with that section.***

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

➥ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(11) If the Commission approves the Passport to Teaching certification from the American Board for Certification of Teacher Excellence as an alternative route to licensure, providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a Passport to Teaching certification from the American Board for Certification of Teacher Excellence;

(II) Passes each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; and

(III) Agrees to participate in a program of mentoring prescribed by the Commission for the first year of his employment as a teacher with a school district or charter school.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7), (10) or (11) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 3. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission:

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. ***The regulations must not prescribe qualifications which are more stringent than the qualifications set forth in section 1 of this act for a licensed teacher who applies for an additional license in accordance with that section.***

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

➥ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 4. NRS 391.021 is hereby amended to read as follows:

391.021 Except as otherwise provided in subparagraph (10) of paragraph (a) of subsection 1 of NRS 391.019 and NRS 391.027, the Commission shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the

applicant to teach and his knowledge of each specific subject he proposes to teach. Each examination must include the following subjects:

1. The laws of Nevada relating to schools;
2. The Constitution of the State of Nevada; and
3. The Constitution of the United States.

➥ The provisions of this section do not prohibit the Commission from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide an exemption from the examinations for teachers and other educational personnel ~~[who have previous experience in teaching or performing other educational functions in]~~ ***from*** another state ~~[.]~~ ***if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.***

Sec. 5. NRS 391.032 is hereby amended to read as follows:

391.032 1. Except as otherwise provided in NRS 391.027, the Commission shall:

(a) Consider and may adopt regulations which provide for the issuance of conditional licenses to teachers and other educational personnel before completion of all courses of study or other requirements for a license in this State.

(b) Adopt regulations which provide for the reciprocal licensure of educational personnel from other states.

2. The regulations adopted pursuant to paragraph (b) of subsection 1 may provide an exemption from the examinations required for initial licensure for teachers and other educational personnel ~~[who have previous experience in teaching or performing other educational functions in]~~ ***from*** another state ~~[. If the Commission adopts regulations providing such an exemption, the Commission shall identify the examinations to which the exemption applies.]~~ ***if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.***

3. A person who is issued a conditional license must complete all courses of study and other requirements for a license in this State which is not conditional within 3 years after the date on which a conditional license is issued.

Sec. 6. 1. The Commission on Professional Standards in Education shall conduct a review of the regulations of the Commission governing the licensure and endorsement of special education teachers to improve and enhance the reciprocal licensure in this State of special education teachers from other states. The review must include an analysis of:

(a) The possible consolidation of the categorical special education endorsements into broader, noncategorical endorsements; and

(b) The possible issuance of a waiver of the requirement of specific course work for the categorical endorsements for teaching pupils with disabilities required by regulation of the Commission if a teacher has 3 years of verified

teaching experience in a classroom providing instruction to pupils with the area of disability in which he seeks the categorical endorsement.

2. On or before January 1, 2010, the Commission shall submit to the Legislative Committee on Education a report of:

(a) The results of the review conducted pursuant to subsection 1; and

(b) Any regulations relating to the endorsements proposed by the Commission as a result of its review or, if the Commission is not proposing any regulations, a detailed explanation of why it is not.

3. On or before July 1, 2010, the Commission shall submit to the Legislative Committee on Education:

(a) A report of the regulations adopted by the Commission as a result of its review or, if no regulations are adopted, a detailed explanation of why the Commission did not adopt regulations; and

(b) Any recommendations for legislation relating to the licensure and endorsement of special education teachers.

Sec. 7. 1. This section and sections 1, 2, 4, 5 and 6 of this act become effective ~~[on July 1, 2009.]~~ **upon passage and approval.**

2. Section 3 of this act becomes effective on July 1, 2011.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 425.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 6, 14, 29, 41, 47, 48, 49, 71, 73, 85, 97, 107, 112, 122, 168, 174, 176, 194, 196, 209, 213, 219, 231, 232, 242, 257, 289, 301, 305, 306, 311, 352, 353, 362, 364, 372, 377, 428, 429, 432, 441, 455, 459, 472, 475, 480, 481, 499, 512, 516; Assembly Joint Resolution No. 10; Assembly Concurrent Resolution No. 32; Senate Bill No. 142.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Joe Burgess and Hugh Hempel.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to the following students, parents, and teachers from McGill Elementary School: Alyssa Augare, Zachary Bellander, Taverick Birmingham, Dakoda Campbell, Christopher Carpenter, Travis Crawford, Samantha Gambert, Jeni Goff, Jason Nelson, MacKaya Magdaleno, Shaina Ore, Tabatha Hamilton, Xianna Thompson, Suzanna Parish, Kayleen Lamb, Kaylen Lamb, Montu Moore, Macrae

Windous, Santiago Morena, Katie Nicholes, Justin Finch, Coban Parker, Scott Rogan, Taylor Adams, Kayla Jensen, Skye Campbell, Chris Hill, Nathan Laity, Alyssa Hopkins, Ashia Muniz, Meagan Shepard, Chelsie Clark, Brianna Hedges, Coby Marshall, Steve Campbell, Janine Gamberg, Debra Ore, Mike Thompson, Rick Goff, Daniel Parish, Dusty Lamb, Vince Windous, Angela Bellander, Teresa Roberts, Merlyn Parker, Jason Adams, Michelle Hill, Kenneth Hopkins, Steve Hodge, Alan Hedges, Mike Barvansky, Tami Birmingham, and Lance Marshall.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Susan Holecheck, David Bennett, and Tim Hacker.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Bill Spiegel.

Assemblyman Oceguera moved that the Assembly adjourn until Saturday, May 16, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 2:52 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND FOURTH DAY

CARSON CITY (Saturday), May 16, 2009

Assembly called to order at 11:51 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Carpenter and Claborn, who were excused.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. Dear Lord, we thank You for all the good things that You have provided us during this session and ask for Your continued blessings for these last few weeks that we are here. We might ask, too, that You help us make these final days as short and pleasant as possible. We ask You for a special blessing for the safety of those folks who have to travel today to be with their loved ones. And finally, we ask You to bring us all back safely to finish the jobs we are here to complete. We ask these things in Whose Name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 6, 72, 127, 151, 193, 288, 339, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Education, to which was referred Senate Bill No. 389, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 244, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which was referred Senate Bill No. 7, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and rerefer to the Committee on Ways and Means.

Also, your Committee on Health and Human Services, to which was referred Senate Bill No. 137, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 247, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Transportation, to which were referred Senate Bills Nos. 218, 246 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 92, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was referred Senate Bill No. 222, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 111, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Senate Bill No. 185, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was rereferred Senate Concurrent Resolution No. 6, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

MORSE ARBERRY JR., *Chair*

Madam Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Senate Bill No. 62, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 15, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 586 to Senate Bill No. 164.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Parks, Copening and Rhoads as a Conference Committee concerning Senate Bill No. 109.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

May 15, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 271.

GARY GHIGGERI
Fiscal Analysis Division

May 16, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 207 and 503.

GARY GHIGGERI
Fiscal Analysis Division

Senate Concurrent Resolution No. 6.

Assemblywoman Koivisto moved the adoption of the resolution.

Remarks by Assemblymen Koivisto and Anderson.

Resolution adopted.

SECOND READING AND AMENDMENT

Assembly Bill No. 92.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 688.

AN ACT relating to the judiciary; revising the provisions governing the benefits of a retired justice or judge; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 1, 3 and 10 of this bill permit a retired justice or judge who has not reached the maximum service time allowable under the Judicial Retirement System or the Public Employees' Retirement System and who is reemployed and commissioned as a senior justice, senior judge, senior justice of the peace or senior municipal court judge to reenroll in any retirement plan in which he was previously enrolled. (NRS 1A.260, 1A.370, 286.525)]~~ **Section 2 of this bill allows a retired justice or judge who accepts employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System to qualify to receive allowances under the Judicial Retirement Plan for the duration of his active service if he is at least 60 years of age at the time of his reemployment and he accepts the employment at least 6 months after the effective date of his retirement. Section 3 of this bill prohibits a retired justice or judge who accepts employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System from enrolling in the Judicial Retirement Plan. Sections** ~~[2, 3 and 5-10]~~ **5-8** of this bill provide that a retired justice or judge who is reemployed and commissioned as a senior justice, senior judge, senior justice of the peace or senior municipal court judge is entitled to receive a retirement allowance in addition to compensation for his service. ~~[.]~~ **and is entitled to receive additional service credit for actual time served if he reenrolled in a retirement plan.** ~~[(NRS 1A.360, 1A.370, 2.060, 3.090, 286.520, 286.525) Sections 3, 5-8 and 10 provide that a retired justice or judge who is reemployed and commissioned as a senior justice, senior judge, senior justice of the peace or senior municipal court judge and who~~

~~reenrolled in a retirement plan is entitled to receive additional service credit for actual time served. (NRS 1A.370, 2.060, 3.090, 286.525)~~

~~Finally, section 4 of this bill clarifies that a member of the Judicial Retirement Plan who is receiving a pension is entitled to receive postretirement increases equal to those provided for members retired under the Public Employees' Retirement System. (NRS 1A.440)~~**]**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **[**~~NRS 1A.260 is hereby amended to read as follows:~~

~~1A.260 [1.] No person may become a member of the System unless he is [a]:~~

~~***1. A*** justice of the Supreme Court **[**or a**]**~~***;***~~

~~***2. A*** district judge **[**, or a**]**~~***;***~~

~~***3. A*** justice of the peace or municipal judge who is allowed and elects to participate in the Judicial Retirement Plan pursuant to NRS 1A.285~~ **[**~~.~~

~~2. Except as otherwise provided in NRS 1A.370, persons retired under the provisions of this chapter who are employed as a justice of the Supreme Court, district judge, justice of the peace or municipal judge in any judicial capacity, including, without limitation, employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System, are not eligible to become members of the System.~~**]**~~***; or***~~

~~***4. A retired justice or judge who is recalled to active service as a senior justice, senior judge, senior justice of the peace or senior municipal judge in the Nevada Court System and who was previously enrolled in the Judicial Retirement Plan.]***~~ **(Deleted by amendment.)**

Sec. 2. NRS 1A.360 is hereby amended to read as follows:

1A.360 1. Except as otherwise provided in subsection 4 and NRS 1A.370, if a retired justice or judge accepts employment as a justice of the Supreme Court, district judge, justice of the peace or municipal judge in any judicial capacity, including, without limitation, employment ~~*[A retired justice or judge may, pursuant to rules adopted by the Supreme Court, be recalled to active service, reemployed and issued a commission]*~~ as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System , he is disqualified from receiving any allowances under the Judicial Retirement Plan for the duration of his active service. ~~*[and be compensated for serving as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System.]*~~

2. If a ~~*[A]*~~ retired justice or judge ~~*[who]*~~ accepts any employment other than that described in subsection 1, the justice or judge ~~*[as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System]*~~ is entitled to the same ~~*[retirement]*~~ allowances ~~*[under the Judicial Retirement Plan]*~~ as a retired justice or judge who has no employment.

3. If a retired justice or judge who accepts employment as a justice of the Supreme Court, district judge, justice of the peace or municipal judge in a judicial capacity pursuant to this section elects not to reenroll in the Judicial Retirement Plan pursuant to subsection 1 of NRS 1A.370, the Court Administrator if the retired justice or judge is a justice of the Supreme Court or a district judge, the county if the retired justice or judge is a justice of the peace or the city if the retired justice or judge is a municipal judge, may pay contributions on behalf of the retired justice or judge to a retirement fund which is not a part of the Judicial Retirement Plan in an amount not to exceed the amount of the contributions that the Court Administrator, county or city would pay to the System on behalf of a participating justice or judge who is employed in a similar position.

4. ~~[The System may waive, for one period of 30 days or less, a retired justice of the Supreme Court's or district judge's disqualification under this section if the Chief Justice of the Supreme Court certifies in writing, in advance, that the retired justice of the Supreme Court or district judge is recalled to meet an emergency and that no other qualified person is immediately available. The System may waive, for one period of 30 days or less, a retired justice of the peace's disqualification under this section if the board of county commissioners of the jurisdiction in which the justice of the peace is to be assigned certifies in writing, in advance, that the retired justice of the peace is recalled to meet an emergency and that no other qualified person is immediately available. The System may waive, for one period of 30 days or less, a retired municipal judge's disqualification under this section if the city council of the jurisdiction in which the municipal judge is to be assigned certifies in writing, in advance, that the retired municipal judge is recalled to meet an emergency and that no other qualified person is immediately available.]~~ ***The provisions of subsection 1 do not apply to a retired justice or judge who accepts employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System if he is at least 60 years of age at the time of his reemployment and he accepts the employment at least 6 months after the effective date of his retirement pursuant to subsection 2 of NRS 1A.130.***

Sec. 3. NRS 1A.370 is hereby amended to read as follows:

1A.370 1. A retired justice or judge who accepts employment as a justice of the Supreme Court, district judge, justice of the peace or municipal judge in any judicial capacity, including, without limitation, employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System, may enroll in the Judicial Retirement Plan as of the effective date of that employment ~~[.]~~ ***unless he is reemployed pursuant to subsection 4 of NRS 1A.360.*** As of the date of enrollment:

(a) He ~~*[Except as otherwise provided in subsection 5, he]*~~ forfeits all retirement allowances for the duration of that employment; and

(b) Except as otherwise required as a result of NRS 1A.400 or 1A.410, if the duration of the employment is at least 6 months, he gains additional

service credit for that employment and is entitled to have a separate service retirement allowance calculated based on his compensation and service, effective upon the termination of that employment. If the duration of the employment is:

(1) Less than 5 years, the additional allowance must be added to his original allowance and must be under the same option and designate the same beneficiary as the original allowance; or

(2) Five years or more, the additional allowance may be under any option and designate any beneficiary in accordance with NRS 1A.430.

2. The original service retirement allowance of such a retired justice or judge must not be recalculated based upon the additional service credit, nor is he entitled to any of the rights of membership that were not in effect at the time of his original retirement. The accrual of service credit pursuant to this section is subject to the limits imposed by:

(a) NRS 1A.440; and

(b) Section 415 of the Internal Revenue Code, 26 U.S.C. § 415.

3. Except as otherwise required as a result of NRS 1A.400 or 1A.410, a retired justice or judge who has been receiving a retirement allowance pursuant to the Judicial Retirement Plan and who is reemployed and is enrolled in the Plan for at least 5 years may have his additional credit for service added to his previous credit for service. This additional credit for service must not apply to more than one period of employment after the original retirement.

4. The survivor of a deceased member of the Judicial Retirement Plan who had previously retired and was reemployed and enrolled in the Plan, who qualifies for benefits pursuant to NRS 1A.340 and 1A.530 to 1A.670, inclusive, is eligible for the benefits based on the service accrued through the second period of employment.

~~*[5. The provisions of subsections 1 to 4, inclusive, apply to a retired justice or judge who is reemployed and receives a commission as a senior justice, senior judge, senior justice of the peace or senior municipal court judge, except that such a person does not forfeit retirement allowances for the duration of that employment.]*~~

Sec. 4. ~~[~~NRS 1A.440 is hereby amended to read as follows:

~~1A.440 Except as otherwise required as a result of NRS 1A.400 or 1A.410:~~

~~1. Except as otherwise provided in this subsection, a monthly service retirement allowance must be determined by multiplying a member of the Judicial Retirement Plan's average compensation by 3.4091 percent for each year of service, except that a member of the Plan is entitled to a benefit of not more than 75 percent of his average compensation.~~

~~2. *A member of the Plan who is receiving a pension pursuant to the provisions of this section is entitled to receive postretirement increases equal to those provided for members retired under the Public Employees' Retirement System.*~~

~~*3.* For the purposes of this section, "average compensation" means the average of a member of the Plan's 36 consecutive months of highest compensation as certified by the Court Administrator if the member is a justice of the Supreme Court or a district judge, by the county if the member is a justice of the peace or by the city if the member is a municipal judge.~~] **(Deleted by amendment.)**

Sec. 5. NRS 2.060 is hereby amended to read as follows:

2.060 1. Any justice of the Supreme Court who has served as a justice or judge of a district court in any one or more of those courts for a period or periods aggregating 22 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to three-fourths the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

2. Any justice of the Supreme Court who has served as a justice or judge of a district court in any one or more of those courts for a period or periods aggregating 5 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

3. Any justice of the Supreme Court who qualifies for a pension under the provisions of subsection 2 is entitled to receive, for each year served beyond 5 years up to a maximum of 22 years, an additional 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable as provided in subsection 2.

4. Any justice who has retired pursuant to subsection 3 and is thereafter recalled to additional active service in the court system is entitled to receive credit toward accumulating 22 years' service for the maximum pension based upon the time he actually spends in the additional active service.

5. Any justice who has the years of service necessary to retire but has not attained the required age may retire at any age with a benefit actuarially reduced to the required retirement age. A benefit under this subsection must be reduced in the same manner as benefits are reduced for persons retired under the Public Employees' Retirement System.

6. Any person receiving a pension pursuant to the provisions of this section is entitled to receive postretirement increases equal to those provided for persons retired under the Public Employees' Retirement System.

7. Any justice who desires to receive the benefits of this section must file with the Executive Officer of the Public Employees' Retirement Board an affidavit setting forth the fact that he is ending his service, the date and place of his birth, and the years he has served in any district court or the Supreme Court.

8. ***Any justice who has retired and is thereafter recalled to additional active service in the court system as a senior justice is entitled to receive a retirement allowance during the period of reemployment in addition to compensation for services.***

9. The faith of the State of Nevada is hereby pledged that this section shall not be repealed or amended so as to affect any justice who may have ended his service pursuant to it.

~~[9.]~~ ***10.*** As used in this section, "salary" includes a salary received for service on a Supreme Court commission created by statute.

Sec. 6. NRS 2.060 is hereby amended to read as follows:

2.060 1. Any justice of the Supreme Court who has served as a justice or judge of a district court in any one or more of those courts for a period or periods aggregating 22 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to three-fourths the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

2. Any justice of the Supreme Court who has served as a justice or judge of a district court in any one or more of those courts for a period or periods aggregating 5 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

3. Any justice of the Supreme Court who qualifies for a pension under the provisions of subsection 2 is entitled to receive, for each year served beyond 5 years up to a maximum of 22 years, an additional 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable as provided in subsection 2.

4. Any justice who has retired pursuant to subsection 3 and is thereafter recalled to additional active service in the court system is entitled to receive credit toward accumulating 22 years' service for the maximum pension based upon the time he actually spends in the additional active service.

5. Any justice who has the years of service necessary to retire but has not attained the required age may retire at any age with a benefit actuarially reduced to the required retirement age. A benefit under this subsection must be reduced in the same manner as benefits are reduced for persons retired under the Public Employees' Retirement System.

6. Any person receiving a pension pursuant to the provisions of this section is entitled to receive postretirement increases equal to those provided for persons retired under the Public Employees' Retirement System.

7. Any justice who desires to receive the benefits of this section must file with the Executive Officer of the Public Employees' Retirement Board an

affidavit setting forth the fact that he is ending his service, the date and place of his birth, and the years he has served in any district court or the Supreme Court.

8. ***Any justice who has retired and is thereafter recalled to additional active service in the court system as a senior justice is entitled to receive a retirement allowance during the period of reemployment in addition to compensation for services.***

9. The faith of the State of Nevada is hereby pledged that this section shall not be repealed or amended so as to affect any justice who may have ended his service pursuant to it.

Sec. 7. NRS 3.090 is hereby amended to read as follows:

3.090 1. Any judge of the district court who has served as a justice of the Supreme Court or judge of a district court in any one or more of those courts for a period or periods aggregating 22 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to three-fourths the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

2. Any judge of the district court who has served as a justice of the Supreme Court or judge of a district court in any one or more of those courts for a period or periods aggregating 5 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

3. Any judge of the district court who qualifies for a pension under the provisions of subsection 2 is entitled to receive, for each year served beyond 5 years up to a maximum of 22 years, an additional 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable as provided in subsection 2.

4. Any judge who has retired pursuant to subsection 3 and is thereafter recalled to additional active service in the court system is entitled to receive credit toward accumulating 22 years' service for the maximum pension based upon the time he actually spends in the additional active service.

5. Any district judge who has the years of service necessary to retire but has not attained the required age may retire at any age with a benefit actuarially reduced to the required retirement age. A retirement benefit under this subsection must be reduced in the same manner as benefits are reduced for persons retired under the Public Employees' Retirement System.

6. Any person receiving a pension pursuant to the provisions of this section is entitled to receive postretirement increases equal to those provided for persons retired in the Public Employees' Retirement System.

7. Any judge of the district court who desires to receive the benefits of this section must file with the Executive Officer of the Public Employees' Retirement Board an affidavit setting forth the fact that he is ending his service, the date and place of his birth, and the years he has served in any district court or the Supreme Court.

8. ***Any judge who has retired and is thereafter recalled to additional active service in the court system as a senior judge, senior justice of the peace or senior municipal court judge is entitled to receive a retirement allowance during the period of reemployment in addition to compensation for services.***

9. The faith of the State of Nevada is hereby pledged that this section shall not be repealed or amended so as to affect any judge of the district court who may have ended his service pursuant to it.

~~[9.]~~ ***10.*** As used in this section, "salary" includes a salary received for service on a District Court Commission created by statute.

Sec. 8. NRS 3.090 is hereby amended to read as follows:

3.090 1. Any judge of the district court who has served as a justice of the Supreme Court or judge of a district court in any one or more of those courts for a period or periods aggregating 22 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to three-fourths the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

2. Any judge of the district court who has served as a justice of the Supreme Court or judge of a district court in any one or more of those courts for a period or periods aggregating 5 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his life, a sum of money equal in amount to 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

3. Any judge of the district court who qualifies for a pension under the provisions of subsection 2 is entitled to receive, for each year served beyond 5 years up to a maximum of 22 years, an additional 4.1666 percent of the sum received as a salary for his judicial services during the last year thereof, payable as provided in subsection 2.

4. Any judge who has retired pursuant to subsection 3 and is thereafter recalled to additional active service in the court system is entitled to receive credit toward accumulating 22 years' service for the maximum pension based upon the time he actually spends in the additional active service.

5. Any district judge who has the years of service necessary to retire but has not attained the required age may retire at any age with a benefit actuarially reduced to the required retirement age. A retirement benefit under

this subsection must be reduced in the same manner as benefits are reduced for persons retired under the Public Employees' Retirement System.

6. Any person receiving a pension pursuant to the provisions of this section is entitled to receive postretirement increases equal to those provided for persons retired in the Public Employees' Retirement System.

7. Any judge of the district court who desires to receive the benefits of this section must file with the Executive Officer of the Public Employees' Retirement Board an affidavit setting forth the fact that he is ending his service, the date and place of his birth, and the years he has served in any district court or the Supreme Court.

8. ***Any judge who has retired and is thereafter recalled to additional active service in the court system as a senior judge, senior justice of the peace or senior municipal court judge is entitled to receive a retirement allowance during the period of reemployment in addition to compensation for services.***

9. The faith of the State of Nevada is hereby pledged that this section shall not be repealed or amended so as to affect any judge of the district court who may have ended his service pursuant to it.

Sec. 9. ~~[NRS 286.520 is hereby amended to read as follows:~~

~~286.520 1. Except as otherwise provided in this section and NRS 286.525, the consequences of the employment of a retired employee are:~~

~~(a) A retired employee who accepts employment or an independent contract with a public employer under this System is disqualified from receiving any allowances under this System for the duration of that employment or contract if:~~

~~(1) He accepted the employment or contract within 90 calendar days after the effective date of his retirement; or~~

~~(2) He is employed in a position which is eligible to participate in this System.~~

~~(b) If a retired employee accepts employment or an independent contract with a public employer under this System more than 90 calendar days after the effective date of his retirement in a position which is not eligible to participate in this System, his allowance under this System terminates upon his earning an amount equal to one half of the average salary for participating public employees who are not police officers or firefighters in any fiscal year, for the duration of that employment or contract.~~

~~(c) If a retired employee accepts employment with an employer who is not a public employer under this System, the employee is entitled to the same allowances as a retired employee who has no employment.~~

~~2. The retired employee and the public employer shall notify the System:~~

~~(a) Within 10 days after the first day of an employment or contract governed by paragraph (a) of subsection 1.~~

~~(b) Within 30 days after the first day of an employment or contract governed by paragraph (b) of subsection 1.~~

~~(c) Within 10 days after a retired employee earns more than one-half of the average salary for participating public employees who are not police officers or firefighters in any fiscal year from an employment or contract governed by paragraph (b) of subsection 1.~~

~~3. For the purposes of this section, the average salary for participating public employees who are not police officers or firefighters must be computed on the basis of the most recent actuarial valuation of the System.~~

~~4. If a retired employee who accepts employment or an independent contract with a public employer under this System pursuant to this section elects not to reenroll in the System pursuant to subsection 1 of NRS 286.525, the public employer with which the retired employee accepted employment or an independent contract may pay contributions on behalf of the retired employee to a retirement fund which is not a part of the System in an amount not to exceed the amount of the contributions that the public employer would pay to the System on behalf of a participating public employee who is employed in a similar position.~~

~~5. If a retired employee is chosen by election or appointment to fill an elective public office, he is entitled to the same allowances as a retired employee who has no employment, unless he is serving in the same office in which he served and for which he received service credit as a member. A public employer may pay contributions on behalf of such a retired employee to a retirement fund which is not a part of the System in an amount not to exceed the amount of the contributions that the public employer would pay to the System on behalf of a participating public employee who serves in the same office.~~

~~6. The System may waive for one period of 30 days or less a retired employee's disqualification under this section if the public employer certifies in writing, in advance, that the retired employee is recalled to meet an emergency and that no other qualified person is immediately available.~~

~~7. A person who accepts employment or an independent contract with either house of the Legislature or by the Legislative Counsel Bureau~~ ***or who is recalled to active service in the court system as a senior justice, senior judge, senior justice of the peace or senior municipal court judge*** ~~is exempt from the provisions of subsections 1 and 2 for the duration of that employment or contract.~~**] (Deleted by amendment.)**

Sec. 10. ~~[~~NRS 286.525 is hereby amended to read as follows:

~~286.525 1. A retired employee who accepts employment in a position eligible for membership may enroll in the System as of the effective date of that employment. As of the date of enrollment:~~

~~(a)~~ **[**~~He~~**]** ***Except as otherwise provided in subsection 7 of NRS 286.520, he*** ~~forfeits all retirement allowances for the duration of that employment.~~

~~(b) He is entitled to receive, after the termination of the employment and upon written request, a refund of all contributions made by him during the employment. Except as otherwise required as a result of NRS 286.535 or 286.537, if he does not request the refund and the duration of the~~

~~employment was at least 6 months, he gains additional service credit for that employment and is entitled to have a separate service retirement allowance calculated based on his compensation and service, effective upon the termination of that employment. If the duration of the employment was:~~

~~(1) Less than 5 years, the additional allowance must be added to his original allowance and must be under the same option and designate the same beneficiary as the original allowance.~~

~~(2) Five years or more, the additional allowance may be under any option and designate any beneficiary in accordance with NRS 286.545.~~

~~2. The original service retirement allowance of such a retired employee must not be recalculated based upon the additional service credit, nor is he entitled to any of the rights of membership that were not in effect at the time of his original retirement. The accrual of service credit pursuant to this section is subject to the limits imposed by:~~

~~(a) NRS 286.551; and~~

~~(b) Section 415 of the Internal Revenue Code, 26 U.S.C. § 415, if the member's effective date of membership is on or after January 1, 1990.~~

~~3. Except as otherwise required as a result of NRS 286.470, 286.535 or 286.537, a retired employee who has been receiving a retirement allowance and who is reemployed and is enrolled in the System for at least 5 years may have his additional credit for service added to his previous credit for service. This additional credit for service must not apply to more than one period of employment after the original retirement.~~

~~4. The survivor of a deceased member who had previously retired and was rehired and enrolled in the System, who qualifies for benefits pursuant to NRS 286.671 to 286.6793, inclusive, is eligible for the benefits based on the service accrued through the second period of employment.~~] **(Deleted by amendment.)**

Sec. 10.5. **The Public Employees' Retirement Board shall conduct an experience study of the Judicial Retirement System of the reemployment of retired justices or judges by the Nevada Court System pursuant to section 2 of this act for the period between July 1, 2009, and June 30, 2014. The Public Employees' Retirement Board shall submit a report of the study to the Interim Retirement and Benefits Committee of the Legislature on or before December 31, 2014.**

Sec. 11. This act becomes effective on July 1, 2009 ~~[.]~~ **, and expires by limitation on June 30, 2015.**

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 6.

Bill read second time and ordered to third reading.

Senate Bill No. 7.

Bill read second time and ordered to third reading.

Senate Bill No. 62.

Bill read second time and ordered to third reading.

Senate Bill No. 72.

Bill read second time and ordered to third reading.

Senate Bill No. 127.

Bill read second time and ordered to third reading.

Senate Bill No. 137.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 706.

AN ACT relating to recycling; providing for the placement of recycling containers on the premises of certain apartment complexes, condominiums and the Nevada System of Higher Education and its branches and facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the ~~[State Environmental Commission is required to adopt regulations establishing minimum standards relating to the recycling of recyclable material. (NRS 444A.020) Existing law also provides for the establishment of recycling programs that do not conflict with those standards in counties and municipalities in this State. (NRS 444A.040) Section 5 of this bill requires the Commission to adopt regulations establishing minimum standards for the placement of recycling containers on the premises of apartment complexes and condominiums where services for the collection of solid waste are provided.]~~ **board of county commissioners in a county whose population is 100,000 or more (currently Clark and Washoe Counties) is required to make available for use in that county a program for separating recyclable material from other solid waste originating from certain residential premises and public buildings. Existing law authorizes certain other counties and municipalities to provide such a program. (NRS 444A.040) Section 7** of this bill provides for the inclusion of provisions concerning ~~[such]~~ **the placement of** recycling containers **on the premises of apartment complexes and condominiums** in the recycling programs of **those** counties and municipalities.

Existing law authorizes each board of county commissioners in this State to regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county. (NRS 244.3675) Existing law confers similar authority upon the governing body of an incorporated city in this State. (NRS 268.413) **Section 11** of this bill prohibits a board of county commissioners of a county or a governing body of a city from approving, on or after October 1, 2009, any plan or revised plan for **the construction or major renovation of** an apartment complex or condominium unless the plan or revised plan includes provisions for the

placement of recycling containers on the premises of the apartment complex or condominium.

Existing law requires the Board of Regents of the University of Nevada to prescribe procedures for the recycling of paper and paper products used by the Nevada System of Higher Education and requires the Board of Regents to pay any money received by the System for recycling those products to the State Treasurer for credit to the State General Fund. (NRS 396.437) **Section 14** of this bill requires the Board to prescribe procedures for the recycling of other waste materials, including, without limitation, the placement of recycling containers on the premises of the System or any of its branches or facilities where services for the collection of solid waste are provided. **Section 14** also requires the money received by the System for recycling those materials to be accounted for separately and used to carry out the provisions of that section.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 444A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***"Apartment complex" means a building or group of buildings, each building of which is arranged in several units of connecting rooms, with each unit designed for independent housekeeping.***

Sec. 3. ***"Condominium" has the meaning ascribed to it in NRS 117.010.***

Sec. 4. NRS 444A.010 is hereby amended to read as follows:

444A.010 As used in NRS 444A.010 to 444A.080, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms described in NRS 444A.011 to 444A.017, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. ~~[~~NRS 444A.020 is hereby amended to read as follows:

444A.020 1. The State Environmental Commission shall adopt regulations establishing minimum standards for:

(a) Separating at the source recyclable material from other solid waste originating from residential premises and public buildings where services for the collection of solid waste are provided **[**.**]** ***, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

(b) Establishing recycling centers for the collection and disposal of recyclable material.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested.

2. The regulations adopted pursuant to subsection 1 must be adopted with the goal of recycling at least 25 percent of the total solid waste generated within a municipality after the second full year following the adoption of **[**such**]** ***those*** standards.

~~3. The State Environmental Commission shall, by regulation, establish acceptable methods for disposing of used or waste tires.~~**] (Deleted by amendment.)**

Sec. 6. ~~[NRS 444A.030 is hereby amended to read as follows:~~

~~444A.030 1. The Division of Environmental Protection of the~~ **[**State**]** ~~Department~~ **[**of Conservation and Natural Resources**]** ~~shall, by regulation, adopt a model plan for:~~

~~(a) Separating at the source recyclable material from other solid waste originating from residential premises and public buildings where services for the collection of solid waste are provided~~ **[**.**]** ***, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

~~(b) Establishing recycling centers for the collection and disposal of recyclable material in areas where there are no centers.~~

~~(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested.~~

~~(d) The disposal of infectious waste, hazardous waste which is not regulated pursuant to NRS 459.485 and liquid waste which is not regulated pursuant to NRS 445A.300 to 445A.730, inclusive.~~

~~2. The model plans adopted pursuant to subsection 1 must not conflict with the standards adopted by the State Environmental Commission pursuant to NRS 444A.020.~~**] (Deleted by amendment.)**

Sec. 7. NRS 444A.040 is hereby amended to read as follows:

444A.040 1. The board of county commissioners in a county whose population is 100,000 or more, or its designee, shall make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from **[**~~the~~**]** residential premises and public buildings where services for the collection of solid waste are provided **[**~~.~~**]** ***, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

(d) The encouragement of businesses to reduce solid waste and to separate at the source recyclable material from other solid waste. This program must, without limitation, make information regarding solid waste reduction and recycling opportunities available to a business at the time the business applies for or renews a business license.

2. The board of county commissioners of a county whose population is 40,000 or more but less than 100,000, or its designee:

(a) May make available for use in that county a program for the separation at the source of recyclable material from other solid waste originating from ~~[the]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[.]~~ ***, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

(b) Shall make available for use in that county a program for:

(1) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program established pursuant to paragraph (a).

(2) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

3. The board of county commissioners of a county whose population is less than 40,000, or its designee, may make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~[the]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[.]~~ ***, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

4. Any program made available pursuant to this section:

(a) Must not:

(1) Conflict with the standards adopted by the State Environmental Commission pursuant to NRS 444A.020; and

(2) Become effective until approved by the Department.

(b) May be based on the model plans adopted pursuant to NRS 444A.030.

5. The governing body of a municipality may adopt and carry out within the municipality such programs made available pursuant to this section as are deemed necessary and appropriate for that municipality.

6. Any municipality may, with the approval of the governing body of an adjoining municipality, participate in any program adopted by the adjoining municipality pursuant to subsection 5.

7. Persons residing on an Indian reservation or Indian colony may participate in any program adopted pursuant to subsection 5 by a municipality in which the reservation or colony is located if the governing body of the reservation or colony adopts an ordinance requesting such participation. Upon receipt of such a request, the governing body of the municipality shall make available to the residents of the reservation or colony those programs requested.

Sec. 8. ~~[NRS 444A.080 is hereby amended to read as follows:~~

~~444A.080 1. The State Environmental Commission shall adopt regulations necessary to enforce the provisions of NRS 444A.010 to 444A.070, inclusive~~ **[.]** ~~*, and sections 2 and 3 of this act.*~~

~~2. The State Environmental Commission may adopt any other regulations necessary to carry out the provisions of NRS 444A.010 to 444A.070, inclusive~~ **[.]** ~~*, and sections 2 and 3 of this act.]*~~ **(Deleted by amendment.)**

Sec. 9. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, ***and section 11 of this act,*** the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 10. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, ***and section 11 of this act,*** the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, ~~[~~these~~]~~ ***those*** fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 11. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On and after October 1, 2009, a governing body or its designee shall not approve any plan or revised plan for the construction or major renovation of an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

2. As used in this section:

(a) "Apartment complex" has the meaning ascribed to it in section 2 of this act.

(b) "Condominium" has the meaning ascribed to it in NRS 117.010.

(c) "Major renovation" means the destruction or reconstruction of an apartment complex or condominium to an extent which exceeds 50 percent of the replacement value of the apartment complex or condominium.

Sec. 12. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, ***and section 11 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 13. NRS 278.460 is hereby amended to read as follows:

278.460 1. A county recorder shall not record any final map unless the map:

(a) Contains or is accompanied by the report of a title company and all the certificates of approval, conveyance and consent required by the provisions of NRS 278.374 to 278.378, inclusive, and by the provisions of any local ordinance; and

(b) Is accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid and that the full amount of any deferred property taxes for the conversion of the property from agricultural use has been paid pursuant to NRS 361A.265.

2. The provisions of NRS 278.010 to 278.630, inclusive, ***and section 11 of this act*** do not prevent the recording, pursuant to the provisions of NRS 278.010 to 278.630, inclusive, and ***section 11 of this act, and*** any applicable local ordinances, of a map of any land which is not a subdivision, nor do NRS 278.010 to 278.630, inclusive, ***and section 11 of this act*** prohibit the recording of a map in accordance with the provisions of any statute requiring the recording of professional land surveyor's records of surveys.

3. A county recorder shall accept or refuse a final map for recordation within 10 days after its delivery to him.

4. A county recorder who records a final map pursuant to this section shall, within 7 working days after he records the final map, provide to the county assessor at no charge:

(a) A duplicate copy of the final map and any supporting documents; or

(b) Access to the digital final map and any digital supporting documents. The map and supporting documents must be in a form that is acceptable to the county recorder and the county assessor.

Sec. 14. NRS 396.437 is hereby amended to read as follows:

396.437 1. Except as otherwise provided in this section, the System shall recycle or cause to be recycled the paper and paper products it uses. This subsection does not apply to confidential documents if there is an additional cost for recycling those documents.

2. The System is not required to comply with the requirements of subsection 1 if the Board of Regents determines that the cost to recycle or cause to be recycled the paper and paper products used by the System or one of its branches or facilities is unreasonable and would place an undue burden on the operations of the System, branch or facility.

3. The Board of Regents shall adopt regulations which prescribe the procedure for the disposition of the paper and paper products to be recycled. The Board of Regents ~~[~~may~~]~~ ***shall*** prescribe ~~[~~a procedure~~]~~ ***procedures*** for the recycling of other waste material produced on the premises of the System, a branch or a facility ~~[.]~~ ***, including, without limitation, the placement of recycling containers on the premises of the System, a branch or a facility where services for the collection of solid waste are provided.***

4. Any money received by the System for recycling or causing to be recycled the paper and paper products it uses ***and other waste material it produces*** must be ~~[~~paid by the Board of Regents to the State Treasurer for credit to the State General Fund.~~]~~ ***accounted for separately and used to carry out the provisions of this section.***

5. As used in this section:

(a) "Paper" includes newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, mimeo paper, duplicator paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(b) "Paper product" means any paper article or commodity, including, but not limited to, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(c) "Solid waste" has the meaning ascribed to it in NRS 444.490.

Sec. 15. ~~[~~The State Environmental Commission shall, not later than October 1, 2009, in accordance with the provisions of NRS 444A.020, as amended by section 5 of this act, adopt regulations establishing minimum standards for the placement of recycling containers on the premises of apartment complexes and condominiums where services for the collection of solid waste are provided.~~]~~ **(Deleted by amendment.)**

Sec. 16. ~~[~~This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.~~]~~ **(Deleted by amendment.)**

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 151.

Bill read second time and ordered to third reading.

Senate Bill No. 193.

Bill read second time and ordered to third reading.

Senate Bill No. 218.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 742.

SUMMARY—Revises **certain** provisions governing ~~[certain]~~ fees charged ~~[by]~~ and ~~[certain]~~ duties performed by constables. ~~[.]~~ **and revises certain provisions relating to motor vehicle registration.** (BDR 20-846)

AN ACT relating to ~~[constables;]~~ **motor vehicles;** specifically authorizing constables to issue citations for failure to register vehicles that are required to be registered in this State; increasing the fee to which constables are entitled for removing or causing the removal of abandoned vehicles from public property; **revising the penalties for failure to register certain motor vehicles;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill specifically authorizes constables to issue citations for the failure to register a vehicle that is required by existing law to be registered in this State and requires constables to charge and collect a fee from the person to whom the citation is issued. The citation is to be issued to the owner of the vehicle or the driver if the driver is not the owner but is the party responsible for registering the vehicle pursuant to existing law. (NRS 258.070) **Sections 3 and 4** of this bill clarify that constables are entitled to demand and to view the certificate of registration and to request information to determine whether the vehicle is required to be registered in this State. (NRS 482.255, 482.385)

Section 2 of this bill increases the fee to which constables are entitled for their services of removing or causing the removal of an abandoned vehicle from public property from $50 to $100. **Section 2** also increases the amount the constable may collect when collecting all sums on execution or writ charged against a defendant from 2 percent of the first $3,500 to 2 percent of the first $10,000. (NRS 258.125)

Existing law requires a person, within 60 days of becoming a resident of this State or at the time he obtains his driver's license, to apply for registration for each vehicle he owns which is operated in this State. (NRS 482.385) Section 4 of this bill increases the fine for failing to comply with that requirement from a minimum of $250 and a maximum of $500 to a $1,000 fine, and provides that the fine may be reduced to not less than $200 if the person provides proof of registration of the vehicle in Nevada at the time of his hearing.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 258.070 is hereby amended to read as follows:

258.070 1. Each constable shall:

(a) Be a peace officer in his township.

(b) Serve all mesne and final process issued by a court of competent jurisdiction.

(c) Execute the process, writs or warrants that he is authorized to receive pursuant to NRS 248.100.

(d) Discharge such other duties as are or may be prescribed by law.

2. ***Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484 of NRS, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle that is required to be registered in this State if the constable determines that the vehicle is not properly registered. The constable shall, upon the issuance of such citation, charge and collect a fee of $100 from the person to whom the citation is issued, which may be retained by the constable as compensation.***

3. If a sheriff or his deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or his deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice of the peace has jurisdiction, or whether the proceeding is a preliminary examination or hearing. The sheriff or his deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.

Sec. 2. NRS 258.125 is hereby amended to read as follows:

258.125 1. Constables are entitled to the following fees for their services:

For serving a summons or other process by which a suit is commenced in civil cases.....$17
For summoning a jury before a justice of the peace 7
For taking a bond or undertaking.....5
For serving an attachment against the property of a defendant.....9
For serving subpoenas, for each witness.....15
For a copy of any writ, process or order or other paper, when demanded or required by law, per folio.....3
For drawing and executing every constable's deed, to be paid by the grantee, who must also pay for the acknowledgment thereof.....20
For each certificate of sale of real property under execution.....5
For levying any writ of execution or writ of garnishment, or executing an order of arrest in civil cases, or order for delivery of personal property, with traveling fees as for summons 9
For serving one notice required by law before the commencement of a proceeding for any type of eviction 26

For serving not fewer than 2 nor more than 10 such notices to the same location, each notice $20
For serving not fewer than 11 nor more than 24 such notices to the same location, each notice 17
For serving 25 or more such notices to the same location, each notice 15
For mileage in serving such a notice, for each mile necessarily and actually traveled in going only 2
But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.
For each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution 21
For making and posting notices, and advertising property for sale on execution, not to include the cost of publication in a newspaper..... 9
For each warrant lawfully executed..... 48
For mileage in serving summons, attachment, execution, order, venire, subpoena, notice, summary eviction, writ of restitution or other process in civil suits, for each mile necessarily and actually traveled, in going only 2
But when two or more persons are served in the same suit, mileage may only be charged for the most distant, if they live in the same direction.
For mileage in making a diligent but unsuccessful effort to serve a summons, attachment, execution, order, venire, subpoena or other process in civil suits, for each mile necessarily and actually traveled, in going only 2
But mileage may not exceed $20 for any unsuccessful effort to serve such process.

2. A constable is also entitled to receive:

(a) For receiving and taking care of property on execution, attachment or order, his actual necessary expenses, to be allowed by the court which issued the writ or order, upon the affidavit of the constable that the charges are correct and the expenses necessarily incurred.

(b) For collecting all sums on execution or writ, to be charged against the defendant, on the first ~~[~~$3,500,~~]~~ ***$10,000,*** 2 percent thereof, and on all amounts over that sum, one-half of 1 percent.

(c) For service in criminal cases, except for execution of warrants, the same fees as are allowed sheriffs for like services, to be allowed, audited and paid as are other claims against the county.

(d) For removing or causing the removal of, pursuant to NRS 487.230, a vehicle that has been abandoned on public property, ~~[~~$50.~~]~~ ***$100.***

3. Deputy sheriffs acting as constables are not entitled to retain for their own use any fees collected by them, but the fees must be paid into the county treasury on or before the fifth working day of the month next succeeding the month in which the fees were collected.

4. Constables shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees collected during the preceding month, except fees which may be retained as compensation.

Sec. 3. NRS 482.255 is hereby amended to read as follows:

482.255 1. Upon receipt of a certificate of registration, the owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, trailer or semitrailer, he shall carry the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. The owner or operator of a motor vehicle shall, upon demand, surrender the certificate of registration or the copy for examination to any peace officer, ***including a constable, or a*** justice of the peace or deputy of the Department.

3. No person charged with violating this section may be convicted if he produces in court a certificate of registration which was previously issued to him and was valid at the time of the demand.

Sec. 4. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in subsection ~~[4]~~ **5** and NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State.

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. When a person, formerly a nonresident, becomes a resident of this State, he shall:

(a) Within 60 days after becoming a resident; or

(b) At the time he obtains his driver's license,

➥ whichever occurs earlier, apply for the registration of each vehicle he owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection. A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. ~~[A person who violates the provisions of~~

~~this subsection is guilty of a misdemeanor and shall be punished by a fine of not less than $250 nor more than $500 and such fine is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested. In addition, the~~] ***The*** Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of this subsection and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

4. ***A person who violates the provisions of subsection 3 is guilty of a misdemeanor and, except as otherwise provided in this subsection, shall be punished by a fine of $1,000. The fine imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection 3. The fine imposed pursuant to this subsection may be reduced to not less than $200 if the person presents evidence at the time of his hearing that he has registered the vehicle pursuant to this chapter.***

5. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his continuous use within this State, shall cause that vehicle to be registered within 60 days after beginning its operation within this State.

[5.] ***6.*** A person registering a vehicle pursuant to the provisions of subsection 3, [4] ***5*** or [6] ***7*** or pursuant to NRS 482.390:

(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and

(b) Must not be allowed credit on those taxes and fees for the unused months of his previous registration.

[6.] ***7.*** If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

[7.] ***8.*** An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

[8.] ***9.*** A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

(a) The owner of the vehicle is a resident of this State; or

(b) The vehicle is used in this State for a gainful purpose.

➥ ***As used in this subsection, "peace officer" includes a constable.***

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 222.

Bill read second time and ordered to third reading.

Senate Bill No. 244.

Bill read second time and ordered to third reading.

Senate Bill No. 246.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 743.

AN ACT relating to vehicles; prohibiting a manufacturer from requiring a dealer to alter substantially an existing facility of the dealer or construct a new facility except under certain circumstances; prohibiting a manufacturer from taking adverse action against a dealer relating to the exportation of a vehicle outside the United States except under certain circumstances; providing for the licensure of an agent of a broker; revising provisions governing the modification or replacement of a franchise; establishing fees; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill prohibits a manufacturer from requiring a dealer to alter substantially an existing facility or to construct a new facility for any new vehicles that are handled by the dealer under certain circumstances. **Section 2** also provides that such a requirement constitutes a modification of the franchise of the dealer.

Section 3 of this bill prohibits a manufacturer from taking adverse action against a dealer who sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Sections 5 and 14 of this bill provide for the licensure of an agent for a broker of vehicles in this State. A person who violates the provisions governing the licensure of such agents is guilty of a misdemeanor.

Section 8 of this bill provides that if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles. **Section 8** defines such vehicles as those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles. (NRS 482.36354)

~~**[** Section 13 of this bill provides that the forms for the application for credit and contracts to be used in the sale of vehicles prescribed by the Commissioner of Financial Institutions must contain a provision that provides if the seller elects to rescind the contract, he must provide written notice to the buyer not more than 20 days after the date of the contract. (NRS 97.299)**]**~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***1. A manufacturer shall not require a dealer:***

(a) To alter substantially an existing facility of the dealer; or

(b) To construct a new facility,

➥ for any new vehicles that are handled by the dealer, unless the alteration or new construction constitutes a reasonable facility requirement in accordance with the franchise agreement.

2. If a manufacturer requires a substantial alteration of an existing facility of the dealer or requires the dealer to construct a new facility, that requirement constitutes a modification of the franchise of the dealer for the purposes of this section, NRS 482.36311 to 482.36425, inclusive, and sections 3 and 4 of this act.

Sec. 3. ***A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.***

Sec. 4. (Deleted by amendment.)

Sec. 5. ***1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:***

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name, residence address and social security number of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 6. NRS 482.319 is hereby amended to read as follows:

482.319 1. Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.

Sec. 7. NRS 482.3195 is hereby amended to read as follows:

482.3195 1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license issued pursuant to NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act,*** the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate a license issued pursuant to NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 7.5. NRS 482.36311 is hereby amended to read as follows:

482.36311 As used in NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 482.36318 to 482.36348, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 482.36354 is hereby amended to read as follows:

482.36354 1. A manufacturer or distributor shall not modify the franchise of a dealer or replace the franchise with another franchise if the modification or replacement would have a substantially adverse effect upon the dealer's investment or his obligations to provide sales and service, unless:

(a) The manufacturer or distributor has given written notice of its intention to the Director and the dealer affected by the intended modification or replacement; and

(b) Either of the following conditions occurs:

(1) The dealer does not file a protest with the Director within 30 days after receiving the notice; or

(2) After a protest has been filed with the Director and the Director has conducted a hearing, the Director issues an order authorizing the manufacturer or distributor to modify or replace the franchise.

2. The notice required by subsection 1 must be given to the dealer and to the Director at least 60 days before the date on which the intended action is to take place.

3. If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive ~~[.]~~ ***, and sections 2, 3 and 4 of this act.*** As used in this subsection, "area of primary responsibility" means the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.

4. Notwithstanding the provisions of this section, if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles.

5. As used in this section, "line-make vehicles" means those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles.

Sec. 8.2. NRS 482.36366 is hereby amended to read as follows:

482.36366 1. Each witness, other than an officer or employee of the State or of a political subdivision of the State or an expert witness, who appears by order of the Director in a hearing pursuant to NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** is entitled to receive for his attendance the same fees allowed by law to witnesses in civil cases. Except as otherwise provided in subsection 2, the amount must be paid by the party at whose request the witness is ordered to appear.

2. The Director may assess other costs against the parties as he deems appropriate. After any hearing on a protest filed pursuant to NRS 482.36352, 482.36354 or 482.36357, if the Director determines that the manufacturer or distributor has failed to establish that there is good cause to terminate, refuse to continue, modify or replace a franchise, or to establish an additional dealership or relocate an existing dealership, the Director shall award to the dealer his attorney's fees and costs.

3. For the purposes of this section, "costs" includes:

(a) Except as otherwise provided in paragraph (b), any applicable cost set forth in NRS 18.005; and

(b) The actual amount of any fees paid by a dealer to an expert witness in connection with the hearing.

Sec. 8.4. NRS 482.3638 is hereby amended to read as follows:

482.3638 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Require a dealer to agree to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by this chapter, or require any controversy between a dealer and a manufacturer, distributor or representative to be referred to any person or agency except as set forth in this chapter if that referral would be binding on the dealer, except

that this section does not prevent the parties from mutually agreeing to arbitration pursuant to law.

2. Require a dealer to agree to the jurisdiction, venue or tribunal in which a controversy arising under the provisions of the franchise agreement may or may not be submitted for resolution, or prohibit a dealer from bringing an action in any forum allowed by Nevada law.

3. Require a dealer to agree to a term or condition of a franchise agreement which violates any provision of NRS 482.36311 to 482.36425, inclusive ~~[.]~~ ***, and sections 2, 3 and 4 of this act.***

4. Require a dealer to waive a trial by jury in actions involving the manufacturer, distributor or factory branch.

5. Increase prices of new vehicles which the dealer had ordered for private retail consumers before his receipt of the written official notification of a price increase. A sales contract signed by a retail consumer constitutes evidence of each order. Price changes applicable to new models or series of vehicles at the time of the introduction of the new models or series shall not be deemed a price increase. Price changes caused by:

(a) The addition to a vehicle of equipment formerly optional as standard or required equipment pursuant to state or federal law;

(b) Revaluation of the United States dollar in the case of foreign-made vehicles; or

(c) Transportation cost increases,

➥ are not subject to this subsection.

6. Deny the principal owner the opportunity to designate his spouse, a member of his family, a qualified manager, or a trust or other artificial person controlled by any of them as entitled to participate in the ownership of:

(a) The franchised dealership;

(b) A successor franchised dealership for 2 years or a longer reasonable time after the incapacity of the principal owner; or

(c) A successor franchised dealership after the death of the principal in accordance with NRS 482.36396 to 482.36414, inclusive.

7. Modify unilaterally, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of law.

8. Terminate or refuse to approve a transfer of a franchise for a dealership, or honor the right of succession set forth in a franchise agreement or refuse to approve the transfer of a controlling interest in a dealership because the dealer has, before October 1, 1997, established an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership.

9. Prevent a dealer from establishing, on or after October 1, 1997, an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership if the dealer:

(a) Submits a written request for approval of the additional franchise to the manufacturer, distributor or factory branch of the existing dealership;

(b) Complies with the reasonable requirements for approval set forth in the franchise of the existing dealership; and

(c) Obtains the approval of the manufacturer, distributor or factory branch of the existing dealership.

➥ The manufacturer, distributor or factory branch shall notify the dealer in writing of its decision to approve or deny the request within 90 days after receipt of the request. The manufacturer, distributor or factory branch shall not unreasonably withhold its approval. If the request is denied, the material reasons for the denial must be stated. Failure to approve or deny the request, in writing, within 90 days has the effect of approval.

Sec. 8.6. NRS 482.36423 is hereby amended to read as follows:

482.36423 1. Whenever it appears that a person has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** any person aggrieved thereby may apply to the district court in the county where the defendant resides, or in the county where the violation or threat of violation occurs, for injunctive relief to restrain the person from continuing the violation or threat of violation.

2. In addition to any other judicial relief, any dealer or person who assumes the operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, who is injured in his business or property by reason of a violation of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** may bring an action in the district court in which the dealership is located, and may recover three times the pecuniary loss sustained by him, and the cost of suit, including a reasonable attorney's fee. The amount of pecuniary loss sustained by a dealer, pursuant to subsection 7 of NRS 482.3638, is the fair market value of the franchised dealership at the time of notification of termination, refusal to continue or unilateral modification of a franchise.

3. Any artificial person created and existing under the laws of any other state, territory, foreign government or the government of the United States, or any person residing outside the State, who grants a franchise to any dealer in this State may be served with any legal process in any action for injunctive relief or civil damages in the following manner:

(a) By delivering a copy of the process to the Director; and

(b) By mailing to the last known address of the manufacturer or distributor, by certified mail, return receipt requested, a copy of the summons and a copy of the complaint, together with copies of any petition or order for injunctive relief.

4. The defendant has 30 days, exclusive of the day of service, within which to answer or plead.

5. The method of service provided in this section is cumulative and may be utilized with, after or independently of all other methods of service.

Sec. 8.8. NRS 482.36425 is hereby amended to read as follows:

482.36425 1. Any manufacturer or distributor who willfully violates any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** is subject to a civil penalty of not less than $50 nor more than $1,000 for each day of violation and for each act of violation. All civil penalties recovered must be paid to the State of Nevada.

2. Whenever it appears that a manufacturer or distributor has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** the Attorney General may institute a civil suit in any district court of this State for injunctive relief to restrain the violation or threat of violation or, if the violation or threat is willful, for the assessment and recovery of the civil penalty, or both.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. ~~[~~NRS 97.299 is hereby amended to read as follows:

97.299 ~~1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:~~

~~(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;~~

~~(b) The application for credit is made to or through the seller of the vehicle;~~

~~(c) The seller is a dealer; and~~

~~(d) The sale is not a commercial transaction.~~

~~2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:~~

~~(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.~~

~~(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.~~

~~(c) Contain a description of any property given in trade as part of the down payment.~~

~~(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.~~

~~(e) ***Contain a provision which provides that if the seller elects to rescind the contract as a result of being unable to assign the contract to a financial institution with whom the seller regularly does business, the seller must***~~

~~***provide written notice to the buyer not more than 20 days after the date of the contract.***~~

~~***(f)*** Include the following notice in at least 10-point bold type:~~

~~**NOTICE TO BUYER**~~

~~Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.~~

~~3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.~~

~~4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.~~

~~5. As used in this section:~~

~~(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.~~

~~(b) "Dealer" has the meaning ascribed to it in NRS 482.020.~~**] (Deleted by amendment.)**

Sec. 14. Section 5 of this act is hereby amended to read as follows:

Sec. 5. 1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name ~~[,]~~ ***and*** residence address ~~[and social security number]~~ of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 15. 1. This section and sections 1 to 4, inclusive, and 7.5 to 13, inclusive, of this act become effective upon passage and approval.

2. Sections 5, 6 and 7 of this act become effective on July 1, 2010.

3. Section 5 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Section 14 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 247.

Bill read second time and ordered to third reading.

Senate Bill No. 288.

Bill read second time and ordered to third reading.

Senate Bill No. 339.

Bill read second time and ordered to third reading.

Senate Bill No. 389.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 760.

AN ACT relating to education; revising provisions governing public schools that are designated as demonstrating need for improvement; revising other provisions related to the accountability of public schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a "Title I school" is a public school that receives money pursuant to the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and is obligated to comply with the provisions of that federal law. (NRS 385.3746) Existing law requires each public school to be designated annually as demonstrating exemplary achievement, high achievement, adequate achievement or need for improvement. (NRS 385.3263, 385.3266) Under existing law, if a school is designated as demonstrating need for improvement for 2 or more consecutive years, increasingly progressive actions must be taken to improve the achievement of pupils enrolled at the school. (NRS 385.3455-385.391)

Under existing law, if a school is designated as demonstrating need for improvement for 3 or more consecutive years, a support team must be established for the school. (NRS 385.3721, 385.3745) This bill eliminates the requirement for the Department of Education to establish a support team for a school, and **section 6** of this bill authorizes the Department, if deemed necessary, to establish a support team for such a school. (NRS 385.361)

Section 10 of this bill requires the board of trustees of a school district or the governing body of a charter school to conduct a comprehensive audit for a school that is designated as demonstrating need for improvement for 3 consecutive years, including an audit of the curriculum implemented at the school. (NRS 385.3721)

Section 16 of this bill eliminates the requirement that the Department develop and carry out a new curriculum for certain schools that have demonstrated need for improvement for 3 consecutive years. (NRS 385.3744)

Section 18 of this bill requires the development of a turnaround plan for each school that is not a Title I school that has demonstrated need for improvement for 4 consecutive years. (NRS 385.3745)

Section 19 of this bill maintains the requirement that a restructuring plan must be developed if a Title 1 school has demonstrated need for improvement for 4 consecutive years and prescribes the requirements for such plans. (NRS 385.3746)

Sections 2 and 3 of this bill require the implementation of the turnaround plan for each school that is not a Title I school if the school demonstrates need for improvement 5 or more consecutive years and requires the Department to monitor the implementation of that plan.

Section 3.5 of this bill requires the implementation of a restructuring plan for each Title I school if the school demonstrates need for improvement for 5 or more consecutive years.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 3.5 of this act.

Sec. 2. ***1. If a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:***

(a) The board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 3 of section 3 of this act, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and , not later than September 30, implement the turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745;

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(3) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the school.

2. If a charter school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:

(a) The governing body of the charter school shall:

(1) Except as otherwise provided in subsection 3 of section 3 of this act, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and , not later than September 30, implement the turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745.

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on a form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department

shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(d) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the charter school.

Sec. 3. ***1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:***

(a) The Department may, for a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

(b) The board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

2. The Department shall monitor the implementation of the turnaround plan for the school developed pursuant to NRS 385.3745.

3. The Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action, consequences or sanctions pursuant to this section for a school, including, without limitation, the development and implementation of a turnaround plan, for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the Department or the board of trustees, as applicable, may proceed with corrective action or with consequences or sanctions, or both, for the school, as appropriate, as if the delay never occurred.

4. Before the board of trustees or the Department proceeds with consequences or sanctions, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 3.5. ***1. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years:***

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 2, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and , not later than September 30, implement the plan for restructuring the school developed pursuant to NRS 385.3746 if required by 20 U.S.C § 6316(b)(8) and the regulations adopted pursuant thereto;

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382;

(3) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto;

(4) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(5) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Except as otherwise provided in subsection 3, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and , not later than September 30, implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382;

(III) Ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto; and

(IV) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall:

(I) Except as otherwise provided in subsection 3, repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and, not later than September 30, implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if

required by 20 U.S.C § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382;

(III) Ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto; and

(IV) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(3) Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(c) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the school or charter school.

2. The board of trustees of a school district shall grant a delay from the imposition of a plan for restructuring for a school, including, without limitation, the development and implementation of a plan for restructuring, for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of delay, the board of trustees shall proceed with a plan for restructuring the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of a plan for restructuring for a school, including, without limitation, the development and implementation of a plan for restructuring, for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

4. Before the board of trustees of a school district or the Department proceeds with a plan for restructuring, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will develop a plan for restructuring the school;

(b) An opportunity to comment before the plan to restructure is developed; and

(c) An opportunity to participate in the development of the plan to restructure.

Sec. 4. NRS 385.3455 is hereby amended to read as follows:

385.3455 As used in NRS 385.3455 to 385.391, inclusive, ***and sections 2, 3 and 3.5 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 385.346 to 385.34675, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 385.3468 is hereby amended to read as follows:

385.3468 The provisions of NRS 385.3455 to 385.391, inclusive, ***and sections 2, 3 and 3.5 of this act*** do not supersede, negate or otherwise limit the effect or application of the provisions of chapters 288 and 391 of NRS or the rights, remedies and procedures afforded to employees of a school district under the terms of collective bargaining agreements, memoranda of understanding or other such agreements between employees and their employers.

Sec. 5.5. NRS 385.357 is hereby amended to read as follows:

385.357 1. ~~[The]~~ ***Except as otherwise provided in sections 2 and 3.5 of this act, the*** principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school, prepare a plan to improve the achievement of the pupils enrolled in the school.

2. The plan developed pursuant to subsection 1 must include:

(a) A review and analysis of the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at the school that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as defined in NRS 389.018.

(d) Policies and practices concerning the core academic subjects which have the greatest likelihood of ensuring that each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school will make adequate yearly progress and meet the minimum level of proficiency prescribed by the State Board.

(e) Annual measurable objectives, consistent with the annual measurable objectives established by the State Board pursuant to NRS 385.361, for the continuous and substantial progress by each group of pupils identified in paragraph (b) of subsection 1 of that section who are enrolled in the school to ensure that each group will make adequate yearly progress and meet the level of proficiency prescribed by the State Board.

(f) Strategies, consistent with the policy adopted pursuant to NRS 392.457 by the board of trustees of the school district in which the school is located,

to promote effective involvement by parents and families of pupils enrolled in the school in the education of their children.

(g) As appropriate, programs of remedial education or tutoring to be offered before and after school, during the summer, or between sessions if the school operates on a year-round calendar for pupils enrolled in the school who need additional instructional time to pass or to reach a level considered proficient.

(h) Strategies to improve the academic achievement of pupils enrolled in the school, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at the school to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of pupils enrolled in the school, as deemed appropriate by the principal.

(i) An identification, by category, of the employees of the school who are responsible for ensuring that the plan is carried out effectively.

(j) In consultation with the school district or governing body, as applicable, an identification, by category, of the employees of the school district or governing body, if any, who are responsible for ensuring that the plan is carried out effectively or for overseeing and monitoring whether the plan is carried out effectively.

(k) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(l) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(m) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by the school district in which the school is located in complying with this paragraph.

(o) A summary of the effectiveness of appropriations made by the Legislature that are available to the school to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(p) A budget of the overall cost for carrying out the plan.

3. In addition to the requirements of subsection 2, if a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623, the plan must comply with 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto.

4. Except as otherwise provided in subsection 5, the principal of each school shall, in consultation with the employees of the school:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school.

5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 and a support team has been established for the school, the support team shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS 385.3741. If the school is a Title I school that has been designated as demonstrating need for improvement, the support team established for the school shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the support team, outside experts.

6. On or before November 1 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the plan or the revised plan, as applicable, to:

(a) If the school is a public school of the school district, the superintendent of schools of the school district.

(b) If the school is a charter school, the governing body of the charter school.

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto.

Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

8. If a school is designated as demonstrating exemplary achievement, high achievement or adequate achievement, or if a school that is not a Title I school is designated as demonstrating need for improvement, not later than 45 days after receipt of the plan or the revised plan, as applicable, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan if it meets the requirements of this section.

9. On or before December 15 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the final plan or the final revised plan, as applicable, to the:

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee;

(f) Bureau; and

(g) Board of trustees of the school district in which the school is located.

10. A plan for the improvement of a school must be carried out expeditiously, but not later than January 1 after approval of the plan pursuant to subsection 7 or 8, as applicable.

Sec. 5.7. NRS 385.359 is hereby amended to read as follows:

385.359 1. The Bureau shall contract with a person or entity to:

(a) Review and analyze, in accordance with the standards prescribed by the Committee pursuant to subsection 2 of NRS 218.5354, the:

(1) Annual report of accountability prepared by:

(I) The State Board pursuant to NRS 385.3469; and

(II) The board of trustees of each school district pursuant to NRS 385.347.

(2) Plan to improve the achievement of pupils prepared by:

(I) The State Board pursuant to NRS 385.34691;

(II) The board of trustees of each school district pursuant to NRS 385.348; and

(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any ~~[.]~~ ***, or if such a plan has not been prepared, the***

turnaround plan for the schools identified by the Bureau, if any, implemented pursuant to section 2 of this act or the plan for restructuring the school implemented pursuant to section 3.5 of this act, as applicable.

(b) Submit a written report to and consult with the State Board and the Department regarding any methods by which the State Board may improve the accuracy of the report of accountability required pursuant to NRS 385.3469 and the plan to improve the achievement of pupils required pursuant to NRS 385.34691, and the purposes for which the report and plan to improve are used.

(c) Submit a written report to and consult with each school district regarding any methods by which the district may improve the accuracy of the report required pursuant to subsection 2 of NRS 385.347 and the plan to improve the achievement of pupils required pursuant to NRS 385.348, and the purposes for which the report and plan to improve are used.

(d) If requested by the Bureau, submit a written report to and consult with individual schools identified by the Bureau regarding any methods by which the school may improve the accuracy of the information required to be reported for the school pursuant to subsection 2 of NRS 385.347 and the ~~[~~plan~~]~~ ***:***

(1) Plan to improve the achievement of pupils required pursuant to NRS 385.357 ~~[~~.~~]~~ ***;***

(2) Turnaround plan for the school implemented pursuant to section 2 of this act; or

(3) Plan for restructuring the school implemented pursuant to section 3.5 of this act,

➥ whichever is applicable for the school.

(e) Submit written reports and any recommendations to the Committee and the Bureau concerning:

(1) The effectiveness of the provisions of NRS 385.3455 to 385.391, inclusive, in improving the accountability of the schools of this State;

(2) The status of each school district that is designated as demonstrating need for improvement pursuant to NRS 385.377 and each school that is designated as demonstrating need for improvement pursuant to NRS 385.3623; and

(3) Any other matter related to the accountability of the public schools of this State, as deemed necessary by the Bureau.

2. The consultant with whom the Bureau contracts to perform the duties required pursuant to subsection 1 must possess the experience and knowledge necessary to perform those duties, as determined by the Committee.

Sec. 6. NRS 385.361 is hereby amended to read as follows:

385.361 1. The State Board shall define the measurement for determining whether each public school, each school district and this State are making adequate yearly progress. The definition of adequate yearly progress must:

(a) Comply with 20 U.S.C. § 6311(b)(2) and the regulations adopted pursuant thereto;

(b) Be designed to ensure that all pupils will meet or exceed the minimum level of proficiency set by the State Board, including, without limitation:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities; and

(4) Pupils who are limited English proficient;

(c) Be based primarily upon the measurement of progress of pupils on the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(d) Include annual measurable objectives established pursuant to 20 U.S.C. § 6311(b)(2)(G) and the regulations adopted pursuant thereto;

(e) For high schools, include the rate of graduation; and

(f) For elementary schools, junior high schools and middle schools, include the rate of attendance.

2. The examination in science must not be included in the definition of adequate yearly progress.

3. The State Board shall prescribe, by regulation, the ***differentiated corrective actions, the*** consequences or ***the*** sanctions, or ~~[both,]~~ ***any combination thereof, based upon the identified needs of the public school, including, without limitation,*** ~~*[a disproportionate number]*~~ ***the educational needs of English language learners , [or] pupils*** ~~*[receiving special education services or other educational needs of the public school,]*~~ ***with disabilities or other groups of pupils identified in paragraph (b) of subsection 1,*** that apply to a public school ~~[that is not a Title I school and]~~ that has been designated as demonstrating need for improvement for 4 consecutive years or more ~~[.]~~ ***, including, without limitation, the establishment of a support team for a school if deemed necessary by the Department in accordance with the regulations of the State Board.*** In no event may the consequences or sanctions be more strict than the restructuring that applies to Title I schools.

Sec. 7. NRS 385.3661 is hereby amended to read as follows:

385.3661 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 ***,*** ~~[or]~~ 385.3745 ***or 385.3746 or section 2 or 3.5 of this act*** do not apply, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 **,** ~~[or]~~ 385.3745 ***or*** ~~*[385.3745]*~~ ***385.3746 or*** ~~*[and]*~~ ***section 2 or 3.5 of this act*** do not apply:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

3. In addition to the requirements of subsection 1 or 2, as applicable, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 **,** ~~[or]~~ 385.3745 ***or 385.3746 or section 2 or 3.5 of this act*** do not apply:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall provide school choice to the parents and guardians of pupils enrolled in the school, including, without limitation, a charter school sponsored by the school district, in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(b) For a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 385.3721 is hereby amended to read as follows:

385.3721 1. ~~[If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years, the support team established for the school pursuant to this section shall carry out the requirements of NRS 385.3741 and 385.3742.~~

~~2.]~~ Except as otherwise provided in subsection ~~[3,]~~ ***2,*** if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall ~~[establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.~~

~~3.]~~ ***require the board of trustees of the school district to conduct a comprehensive audit of the school which must include an audit of the curriculum, including, without limitation, methods of instruction and assessments, implemented by the school.***

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(d) The Department shall ~~[establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.]~~ ***require the governing body of the charter school to conduct a comprehensive audit of the charter school which must include an audit of the curriculum, including, without limitation, methods of instruction and assessments, implemented by the charter school.***

Sec. 11. NRS 385.374 is hereby amended to read as follows:

385.374 1. The membership of each support team established pursuant to NRS ~~[385.3721]~~ ***385.3745*** must consist of, without limitation:

(a) Teachers and principals who are considered highly qualified and who are not employees of the public school for which the support team is established;

(b) One member appointed in accordance with subsection 3, who must serve as the team leader of the support team;

(c) Except for a charter school, at least one administrator at the district level who is employed by the board of trustees of the school district;

(d) At least one parent or guardian of a pupil who is enrolled in the public school for which the support team is established; and

(e) In addition to the requirements of paragraphs (a) to (d), inclusive, for a charter school:

(1) At least one member of the governing body of the charter school, regardless of the sponsor of the charter school; and

(2) If the charter school is sponsored by the board of trustees of a school district, at least one employee of the school district, which may include an administrator.

2. The membership of each support team established pursuant to NRS ~~[~~385.3721~~]~~ ***385.3745*** may consist of, without limitation:

(a) Except for a charter school, one or more members of the board of trustees of the school district in which the school is located;

(b) Representatives of institutions of higher education;

(c) Representatives of regional educational laboratories;

(d) Representatives of outside consultant groups;

(e) Representatives of the regional training program for the professional development of teachers and administrators created by NRS 391.512 that provides services to the school district in which the school is located;

(f) The Bureau; and

(g) Other persons who the Department determines are appropriate.

3. The member appointed pursuant to paragraph (b) of subsection 1 must:

(a) Be employed by the Department; or

(b) If he is not employed by the Department, have the training and experience required by the Department.

Sec. 12. NRS 385.374 is hereby amended to read as follows:

385.374 1. ~~[~~The~~]~~ ***If a school support team is established in accordance with the regulations adopted by the State Board pursuant to NRS 385.361, the*** membership of ~~[~~each~~]~~ ***the*** support team ~~[~~established pursuant to NRS 385.3745~~]~~ must consist of, without limitation:

(a) Teachers and principals who are considered highly qualified and who are not employees of the public school for which the support team is established;

(b) One member appointed in accordance with subsection 3, who must serve as the team leader of the support team;

(c) Except for a charter school, at least one administrator at the district level who is employed by the board of trustees of the school district;

(d) At least one parent or guardian of a pupil who is enrolled in the public school for which the support team is established; and

(e) In addition to the requirements of paragraphs (a) to (d), inclusive, for a charter school:

(1) At least one member of the governing body of the charter school, regardless of the sponsor of the charter school; and

(2) If the charter school is sponsored by the board of trustees of a school district, at least one employee of the school district, which may include an administrator.

2. ~~[The]~~ ***If a school support team is established in accordance with the regulations adopted by the State Board pursuant to NRS 385.361, the*** membership of ~~[each]~~ ***the*** support team ~~[established pursuant to NRS 385.3745]~~ may consist of, without limitation:

(a) Except for a charter school, one or more members of the board of trustees of the school district in which the school is located;

(b) Representatives of institutions of higher education;

(c) Representatives of regional educational laboratories;

(d) Representatives of outside consultant groups;

(e) Representatives of the regional training program for the professional development of teachers and administrators created by NRS 391.512 that provides services to the school district in which the school is located;

(f) The Bureau; and

(g) Other persons who the Department determines are appropriate.

3. The member appointed pursuant to paragraph (b) of subsection 1 must:

(a) Be employed by the Department; or

(b) If he is not employed by the Department, have the training and experience required by the Department.

Sec. 13. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. Each support team established for a public school pursuant to NRS ~~[385.3721]~~ ***385.3745*** shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to NRS 392.456.

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(f) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(g) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the State Board, the support team shall make the

recommendations to the State Board and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor, the State Board and the Department.

(h) In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Comply with NRS 385.357;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the name and duties of each person who is responsible for carrying out the revisions.

(i) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State Board, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, that institution shall assist the school with carrying out and monitoring the plan for improvement of the school.

(j) Prepare a quarterly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

(k) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in

the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise quarterly progress report for use by each support team in accordance with paragraph (j) of subsection 1.

Sec. 14. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. ~~[Each]~~ ***If a school support team is established pursuant to the regulations adopted by the State Board pursuant to NRS 385.361, the*** support team ~~[established for a public school pursuant to NRS 385.3745]~~ shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to NRS 392.456.

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(f) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(g) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school ~~[.]~~ ***, the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school.*** For a charter school sponsored by the State Board, the support team shall make the recommendations to the State Board and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor, the State Board and the Department.

(h) In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357 ~~[.]~~ ***, or submit, on or before May 1, written recommendations for revisions to the turnaround plan for the school implemented pursuant to section 2 of this act or the plan for restructuring the school implemented pursuant to section 3.5 of this act, whichever is***

applicable for the school. The written revisions ***or recommendations, as applicable,*** must:

(1) Comply with NRS 385.357 ~~[,]~~ ***if the school has demonstrated need for improvement for less than 5 years or with section 2 or 3.5 of this act, as applicable, if the school has demonstrated need for improvement for 5 or more consecutive years;***

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the name and duties of each person who is responsible for carrying out the revisions.

(i) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State Board, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, that institution shall assist the school with carrying out and monitoring the plan for improvement of the school.

(j) Prepare a quarterly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

(k) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise quarterly progress report for use by each support team in accordance with paragraph (j) of subsection 1.

Sec. 14.5. **NRS 385.3742 is hereby amended to read as follows:**

385.3742 1. In addition to the duties prescribed in NRS 385.3741, a support team established for a school shall prepare an annual written report that includes:

(a) Information concerning the most recent plan to improve the achievement of the school's pupils, ***the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school,*** including, without limitation, an evaluation of:

(1) The appropriateness of the plan for the school; and

(2) Whether the school has achieved the goals and objectives set forth in the plan;

(b) The written revisions to the plan to improve the achievement of the school's pupils ***or written recommendations for revisions to the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school,*** submitted by the support team pursuant to NRS 385.3741;

(c) A summary of each program for remediation, if any, purchased for the school with money that is available from the Federal Government, this state and the school district in which the school is located, including, without limitation:

(1) The name of the program;

(2) The date on which the program was purchased and the date on which the program was carried out by the school;

(3) The percentage of personnel at the school who were trained regarding the use of the program;

(4) The satisfaction of the personnel at the school with the program; and

(5) An evaluation of whether the program has improved the academic achievement of the pupils enrolled in the school who participated in the program;

(d) An analysis of the problems and factors at the school which contributed to the designation of the school as demonstrating need for improvement, including, without limitation, issues relating to:

(1) The financial resources of the school;

(2) The administrative and educational personnel of the school;

(3) The curriculum of the school;

(4) The facilities available at the school, including the availability and accessibility of educational technology; and

(5) Any other factors that the support team believes contributed to the designation of the school as demonstrating need for improvement; and

(e) Other information concerning the school, including, without limitation:

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(2) Records of the attendance and truancy of pupils who are enrolled in the school;

(3) The transiency rate of pupils who are enrolled in the school;

(4) A description of the number of years that each teacher has provided instruction at the school and the rate of turnover of teachers and other educational personnel employed at the school;

(5) A description of the participation of parents and legal guardians in the educational process and other activities relating to the school;

(6) A description of each source of money for the remediation of pupils who are enrolled in the school; and

(7) A description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs (k) to (n), inclusive, of subsection 2 of NRS 385.347.

2. On or before November 1, the support team shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Board of trustees of the school district in which the school is located;

(c) Superintendent of schools of the school district in which the school is located;

(d) Department; and

(e) Bureau.

➥ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the school.

Sec. 15. (Deleted by amendment.)

Sec. 16. NRS 385.3744 is hereby amended to read as follows:

385.3744 1. Except as otherwise provided in subsection ~~[3,]~~ ***2,*** if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years for failing to make adequate yearly progress, ~~[the support team established for the school shall consider whether corrective action is appropriate for the school. If the support team determines that corrective action is appropriate, the support team shall make a recommendation for corrective action for the school, including, without limitation, the type of corrective action that is recommended from the list of corrective actions authorized pursuant to subsection 2. The recommendation must be submitted to:~~

~~(a) For a school of the school district or a charter school sponsored by the board of trustees of the school district, the board of trustees.~~

~~(b) For a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department.~~

~~2. Regardless of whether a support team recommends corrective action for a school, the]~~ ***the*** Department may, for a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take one or more of the following corrective actions for the school:

(a) ~~[~~Develop and carry out a new curriculum at the school, including the provision of appropriate professional development relating to the new curriculum.

~~(b)]~~ Significantly decrease the managerial authority of the employees at the school.

~~[~~(c)~~]~~ ***(b)*** Extend the school year or the school day.

~~[~~3.~~]~~ ***2.*** The Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the Department or the board of trustees, as applicable, may proceed with corrective action as if the delay never occurred.

Sec. 17. NRS 385.3745 is hereby amended to read as follows:

385.3745 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years, the support team established for the school pursuant to ~~[~~NRS 385.3721~~]~~ ***this section*** shall carry out the requirements of NRS 385.3741 ~~[~~,~~]~~ ***and*** 385.3742 **.** ~~[~~and 385.3744, as applicable.~~]~~

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall ~~[~~continue~~]~~ ***establish*** a support team for the school ~~[~~.~~]~~ ***, with the membership prescribed pursuant to NRS 385.374.***

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure

that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(d) The Department shall ~~[continue]~~ ***establish*** a support team for the charter school ~~[.]~~ ***, with the membership prescribed pursuant to NRS 385.374.***

Sec. 18. NRS 385.3745 is hereby amended to read as follows:

385.3745 1. ~~[If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years, the support team established for the school pursuant to this section shall carry out the requirements of NRS 385.3741 and 385.3742.~~

~~2.]~~ Except as otherwise provided in subsection ~~[3,]~~ ***2,*** if a public school ***that is not a Title I school*** is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 ~~[or more]~~ consecutive years:

(a) The board of trustees of the school district shall:

(1) ***Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph (b).***

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

~~[(2)]~~ ***(3)*** Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The ~~[Department]~~ ***State Board*** shall ~~[establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.~~

~~3.]~~ ***prescribe by regulation:***

(1) The requirements for a turnaround plan which must include, without limitation:

(I) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721;

(II) Measurable goals and objectives for obtaining adequate yearly progress;

(III) Specified steps or actions for obtaining adequate yearly progress; and

(IV) A timeline for the completion of the turnaround plan ~~[.]~~ ***, which must provide for implementation of the plan in accordance with section 2 of this act if the school is designated as needing improvement for 5 years; and***

(2) The actions the Department may take to monitor the development of the turnaround plan developed pursuant to this section and the implementation of any corrective action at the school.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 ~~[or more]~~ consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school ~~[, ensure]~~ ***:***

(1) Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph (d).

(2) Ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) For a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school ~~[, ensure]~~ ***:***

(1) Except as otherwise provided in subsection 3, develop a turnaround plan to improve the academic achievement of pupils enrolled in the school which meets the requirements prescribed by the State Board pursuant to paragraph (d).

(2) Ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(d) The ~~[Department shall establish a support team for the charter school, with the membership prescribed pursuant to NRS 385.374.]~~ ***State Board shall prescribe by regulation:***

(1) The requirements for a turnaround plan which must include, without limitation:

(I) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721;

(II) Measurable goals and objectives for obtaining adequate yearly progress;

(III) Specified steps or actions for obtaining adequate yearly progress; and

(IV) A timeline for the completion of the turnaround plan ~~[.]~~ ***, which must provide for implementation of the plan in accordance with section 2 of this act if the school is designated as needing improvement for 5 years; and***

(2) The actions the Department may take to monitor the implementation of the turnaround plan developed pursuant to this section and the implementation of any corrective action at the charter school.

3. If a public school is granted a delay from the development of a turnaround plan pursuant to subsection 2 of NRS 385.376 and the school fails to make adequate yearly progress during the period of the delay, a

turnaround plan must be immediately developed and implemented for the school in accordance with this section as if the delay never occurred.

4. ~~[A]~~ On or before June 30, a turnaround plan developed for a school must be submitted to the:

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau; ~~[and]~~

(d) Board of trustees of the school district in which the school is located ~~[.]~~ ; and

(e) Principal of the school.

Sec. 19. NRS 385.3746 is hereby amended to read as follows:

385.3746 1. ~~[In addition to the requirements of NRS 385.3745, if]~~ ***If*** a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 ~~[or more]~~ consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) ***Provide notice of the designation to the parents and guardians of the pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382;***

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto;

(3) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

~~[(2)]~~ ***(4)*** Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

~~[(3)]~~ ***(5)*** Except as otherwise provided in subsection ~~[2, proceed with]~~ ***3, develop*** a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(b) ***The governing body of the charter school shall provide notice of the designation to the parents and guardians of the pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.*** If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) ***In conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto;***

(II) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

~~[~~(II)~~]~~ ***(III)*** Except as otherwise provided in subsection ~~[~~3, proceed with~~]~~ ***4, develop*** a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(2) Sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall:

(I) ***In conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto;***

(II) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

~~[~~(II)~~]~~ ***(III)*** Except as otherwise provided in subsection ~~[~~3, proceed with~~]~~ ***4, develop*** a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(3) Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. ***A plan for restructuring the school developed pursuant to this section must include, without limitation:***

(a) A requirement that the plan is based on the results of the comprehensive audit conducted pursuant to NRS 385.3721;

(b) Measurable goals and objectives for obtaining adequate yearly progress;

(c) Specified steps or actions for obtaining adequate yearly progress; and

(d) A timeline for the completion of the plan for restructuring the school ~~[.]~~ ***, which must provide for implementation of the plan in accordance with section 3.5 of this act if the school is designated as needing improvement for 5 years.***

3. The board of trustees of a school district shall grant a delay from the ~~[~~imposition~~]~~ ***development*** of a plan for restructuring for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the board of trustees shall ***immediately develop and*** proceed with ~~[~~a~~]~~ ***the implementation of the*** plan for restructuring the school as if the delay never occurred.

~~[~~3.~~]~~ ***4.*** The sponsor of a charter school shall grant a delay from the ~~[~~imposition~~]~~ ***development*** of a plan for restructuring for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, ***a plan for***

restructuring must be immediately developed for the school in accordance with this section and the Department shall proceed with ~~[a]~~ ***the implementation of the*** plan for restructuring the charter school as if the delay never occurred.

~~[4. Before the board of trustees of a school district or the Department proceeds with a plan for restructuring, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:~~

~~(a) Notice that the board of trustees or the Department, as applicable, will develop a plan for restructuring the school;~~

~~(b) An opportunity to comment before the plan to restructure is developed; and~~

~~(c) An opportunity to participate in the development of the plan to restructure.]~~

5. ~~[A]~~ On or before June 30, a plan for restructuring developed pursuant to this section must be submitted to the:

(a) Superintendent of Public Instruction;

(b) Department;

(c) Bureau; ~~[and]~~

(d) Board of trustees of the school district in which the school is located ~~[.]~~ ; and

(e) Principal of the school.

Sec. 20. NRS 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection ~~[3,]~~ ***2,*** if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years for failure to make adequate yearly progress, ~~[the support team for the school shall:~~

~~(a) If corrective action was not taken against the school pursuant to NRS 385.3744, consider whether corrective action is appropriate for the school.~~

~~(b) If corrective action was taken against the school pursuant to NRS 385.3744, consider whether further corrective action is appropriate or whether consequences or sanctions, or both, are appropriate for the school.~~

~~2. Regardless of whether a support team recommends corrective action or consequences or sanctions for a school,]~~ the Department may, for a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with ***differentiated corrective actions,*** consequences or sanctions, or ~~[both,]~~ ***any combination thereof,*** as prescribed by the State Board pursuant to NRS 385.361.

~~[3.]~~ ***2.*** The Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action ,

consequences or ~~[restructuring]~~ ***sanctions, or any combination thereof,*** pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the Department or the board of trustees, as applicable, may proceed with corrective action ***,*** ~~[or with]~~ consequences or sanctions, or ~~[both,]~~ ***any combination thereof,*** for the school, as appropriate, as if the delay never occurred.

~~[4.]~~ ***3.*** Before the board of trustees or the Department proceeds with consequences or sanctions, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 21. NRS 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection 2, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 ~~[or more]~~ consecutive years for failure to make adequate yearly progress, the Department may, for a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with differentiated correction actions, consequences or sanctions, or any combination thereof, as prescribed by the State Board pursuant to NRS 385.361.

2. The Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action, consequences or sanctions, or any combination thereof, pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the Department or the board of trustees, as applicable, may proceed with corrective action, consequences or sanctions, or any combination thereof, for the school, as appropriate, ***pursuant to the provisions of section 2 of this act*** as if the delay never occurred.

3. Before the board of trustees or the Department proceeds with consequences or sanctions, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational

personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 21.3. NRS 385.3785 is hereby amended to read as follows:

385.3785 1. The Commission shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) The plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;

(3) The plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation ~~[.]~~ ***, the turnaround plan for the school implemented pursuant to section 2 of this act or the plan for restructuring the school implemented pursuant to section 3.5 of this act, whichever is applicable for the school;*** and

(4) Any other information that the Commission considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by public schools and consortiums of public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both ~~[.]~~ ***, or that are linked to the turnaround plan for the school or the plan for restructuring the school, if applicable, or for innovative programs, or both.*** The Commission shall not award a grant of money from the Account for a program to provide full-day kindergarten. All public schools and consortiums of public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the schools have made adequate yearly progress or failed to make adequate yearly progress. A public school or a consortium of public schools selected for participation may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from public schools and consortiums of public schools that desire to participate in the program.

(e) Establish guidelines for the review, evaluation and approval of applications for grants of money from the Account, including, without limitation, consideration of the list of priorities of public schools provided by the Department pursuant to subsection 5. To ensure consistency in the review, evaluation and approval of applications, if the guidelines authorize the review and evaluation of applications by less than the entire membership of the Commission, money must not be allocated from the Account for a grant until the entire membership of the Commission has reviewed and approved the application for the grant.

(f) Prescribe accountability measures to be carried out by a public school that participates in the program if that public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of schools that participate; and

(2) Conditions for schools that do not meet the grant criteria but desire to continue participation in the program and receive money from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

(g) Determine the amount of money that is available from the Account for those public schools and consortiums of public schools that are selected to participate in the program.

(h) Allocate money to public schools and consortiums of public schools from the Account. Allocations must be distributed not later than August 15 of each year.

(i) Establish criteria for public schools and consortiums of public schools that participate in the program and receive an allocation of money from the Account to evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria identified in ***, as applicable,*** the ~~[plan]~~ ***:***

(I) Plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(II) Turnaround plan for the school implemented pursuant to section 2 of this act; or

(III) Plan for restructuring the school implemented pursuant to section 3.5 of this act;

(2) If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff;

(3) The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the school is meeting the measurable objectives identified in the plan; and

(4) The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the Commission shall make allocations of money to public schools and consortiums of public schools for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for pupils. In making such allocations, the Commission shall comply with the requirements of subsection 1.

3. The Commission shall ensure, to the extent practicable, that grants of money provided pursuant to this section reflect the economic and geographic diversity of this State.

4. If a public school or consortium that receives money pursuant to subsection 1 or 2:

(a) Does not meet the criteria for effectiveness as prescribed in paragraph (i) of subsection 1;

(b) Does not, as a result of the program for which the grant of money was awarded, show improvement in the achievement of pupils, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379; or

(c) Does not implement the program for which the money was received, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379,

➥ over a 2-year period, the Commission may consider not awarding future allocations of money to that public school or consortium of public schools.

5. On or before July 1 of each year, the Department shall provide a list of priorities of public schools that indicates:

(a) The adequate yearly progress status of schools in the immediately preceding year; and

(b) The public schools that are considered Title I eligible by the Department based upon the poverty level of the pupils enrolled in a school in comparison to the poverty level of the pupils in the school district as a whole,

➥ for consideration by the Commission in its development of procedures for the applications.

6. A public school, including, without limitation, a charter school, or a consortium of public schools may request assistance from the school district in which the school is located in preparing an application for a grant of money pursuant to this section. A school district shall assist each public school or consortium of public schools that requests assistance pursuant to this subsection to ensure that the application of the school:

(a) Is based directly upon ***, as applicable,*** the ~~[plan]~~ ***:***

(1) Plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;

(2) Turnaround plan for the school implemented pursuant to section 2 of this act; or

(3) Plan for restructuring the school implemented pursuant to section 3.5 of this act;

(b) Is developed in accordance with the criteria established by the Commission; and

(c) Is complete and complies with all technical requirements for the submission of an application.

➥ A school district may make recommendations to the individual schools and consortiums of public schools. Such schools and consortiums of public schools are not required to follow the recommendations of a school district.

7. In carrying out the requirements of this section, the Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218.5354 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

8. If a consortium of public schools is formed for the purpose of submitting an application pursuant to this section, the public schools within the consortium do not need to be located within the same school district.

Sec. 21.7. NRS 386.605 is hereby amended to read as follows:

386.605 1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is required pursuant to subsection 2 of NRS 385.347 to the board of trustees of the school district in which the charter school is located for inclusion in the report of the school district pursuant to that section. The information must be submitted by the charter school in a format prescribed by the board of trustees.

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218.5356 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted by charter schools pursuant to this section and ***pursuant to*** NRS 385.357 ~~[,]~~ ***or section 2 or 3.5 of this act, whichever is applicable for the school,*** consult with the governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 22. NRS 386.730 is hereby amended to read as follows:

386.730 1. Except as otherwise provided in subsection 2, the principal of a public school within a school district that participates in the Program of Empowerment Schools who wishes to convert to an empowerment school shall:

(a) Establish an empowerment team for the school; and

(b) Develop an empowerment plan for the school in consultation with:

(1) The empowerment team; and

(2) The school support team, if a school support team has been established for the school pursuant to NRS ~~[385.3721.]~~ ***385.3745.***

2. The principal of a public school located in a county whose population is less than 100,000 may develop an empowerment plan for the school without establishing or consulting with an empowerment team. If a school support team has been established for the school, the principal shall develop the empowerment plan in consultation with the school support team. If an empowerment team has not been established pursuant to the exception provided in this subsection, the principal of the school shall carry out the responsibilities and duties otherwise assigned to an empowerment team pursuant to NRS 386.700 to 386.780, inclusive.

3. An empowerment team for a school must consist of the following persons:

(a) The principal of the school;

(b) At least two but not more than four teachers and other licensed educational personnel who are employed at the school, selected by a recognized employee organization that represents licensed educational personnel within the school district;

(c) At least two but not more than four employees, other than teachers and other licensed educational personnel, who are employed at the school, selected by an organization that represents those employees;

(d) At least two but not more than four parents and legal guardians of pupils enrolled in the school, selected by an association of parents established for the school;

(e) At least two but not more than four representatives of the community or businesses within the community;

(f) The facilitator of the school support team, if a school support team has been established for the school pursuant to NRS ~~[385.3721;]~~ ***385.3745;*** and

(g) Such other persons as may be necessary to meet the requirements set forth in subsection 4.

4. Of the total number of members on an empowerment team for a school:

(a) At least one member must have 5 years or more of experience in school finance;

(b) At least one member must have 5 years or more of experience in school administration or human resources;

(c) At least one member must have 5 years or more of experience in overseeing the academic programs and curriculum for a public school; and

(d) At least one member must have 5 years or more of experience in the collection and analysis of data.

➥ The provisions of this subsection do not require the appointment of four persons if one, two or three such persons satisfy the qualifications.

5. A charter school that wishes to participate in the Program of Empowerment Schools shall comply with the provisions of NRS 386.700 to

386.780, inclusive. If a charter school is approved as an empowerment school, the charter school does not forfeit its status as a charter school.

Sec. 23. NRS 386.730 is hereby amended to read as follows:

386.730 1. Except as otherwise provided in subsection 2, the principal of a public school within a school district that participates in the Program of Empowerment Schools who wishes to convert to an empowerment school shall:

(a) Establish an empowerment team for the school; and

(b) Develop an empowerment plan for the school in consultation with:

(1) The empowerment team; and

(2) The school support team, if a school support team has been established for the school ***in accordance with the regulations of the State Board adopted*** pursuant to NRS ~~[~~385.3745.~~]~~ ***385.361.***

2. The principal of a public school located in a county whose population is less than 100,000 may develop an empowerment plan for the school without establishing or consulting with an empowerment team. If a school support team has been established for the school, the principal shall develop the empowerment plan in consultation with the school support team. If an empowerment team has not been established pursuant to the exception provided in this subsection, the principal of the school shall carry out the responsibilities and duties otherwise assigned to an empowerment team pursuant to NRS 386.700 to 386.780, inclusive.

3. An empowerment team for a school must consist of the following persons:

(a) The principal of the school;

(b) At least two but not more than four teachers and other licensed educational personnel who are employed at the school, selected by a recognized employee organization that represents licensed educational personnel within the school district;

(c) At least two but not more than four employees, other than teachers and other licensed educational personnel, who are employed at the school, selected by an organization that represents those employees;

(d) At least two but not more than four parents and legal guardians of pupils enrolled in the school, selected by an association of parents established for the school;

(e) At least two but not more than four representatives of the community or businesses within the community;

(f) The facilitator of the school support team, if a school support team has been established for the school pursuant to ***regulations adopted by the State Board pursuant to*** NRS ~~[~~385.3745;~~]~~ ***385.361;*** and

(g) Such other persons as may be necessary to meet the requirements set forth in subsection 4.

4. Of the total number of members on an empowerment team for a school:

(a) At least one member must have 5 years or more of experience in school finance;

(b) At least one member must have 5 years or more of experience in school administration or human resources;

(c) At least one member must have 5 years or more of experience in overseeing the academic programs and curriculum for a public school; and

(d) At least one member must have 5 years or more of experience in the collection and analysis of data.

➥ The provisions of this subsection do not require the appointment of four persons if one, two or three such persons satisfy the qualifications.

5. A charter school that wishes to participate in the Program of Empowerment Schools shall comply with the provisions of NRS 386.700 to 386.780, inclusive. If a charter school is approved as an empowerment school, the charter school does not forfeit its status as a charter school.

Sec. 24. NRS 386.740 is hereby amended to read as follows:

386.740 1. Each empowerment plan for a school must:

(a) Set forth the manner by which the school will be governed;

(b) Set forth the proposed budget for the school, including, without limitation, the cost of carrying out the empowerment plan, and the manner by which the money apportioned to the school will be administered;

(c) If a school support team has been established for the school pursuant to NRS **[**~~385.3721,~~**]** ***385.3745,*** require the principal and the empowerment team for the school to work in consultation with the school support team;

(d) Prescribe the academic plan for the school, including, without limitation, the manner by which courses of study will be provided to the pupils enrolled in the school and any special programs that will be offered for pupils;

(e) Prescribe the manner by which the achievement of pupils will be measured and reported for the school, including, without limitation, the results of the pupils on the examinations administered pursuant to NRS 389.015 and 389.550;

(f) Prescribe the manner by which teachers and other licensed educational personnel will be selected and hired for the school, which must be determined and negotiated pursuant to chapter 288 of NRS;

(g) Prescribe the manner by which all other staff for the school will be selected and hired, which must be determined and negotiated pursuant to chapter 288 of NRS;

(h) Indicate whether the empowerment plan will offer an incentive pay structure for staff and a description of that pay structure, if applicable;

(i) Indicate the intended ratio of pupils to teachers at the school, designated by grade level, which must comply with NRS 388.700 or 388.720, as applicable;

(j) Provide a description of the professional development that will be offered to the teachers and other licensed educational personnel employed at the school;

(k) Prescribe the manner by which the empowerment plan will increase the involvement of parents and legal guardians of pupils enrolled in the school;

(l) Comply with the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385.357;

(m) Address the specific educational needs and concerns of the pupils who are enrolled in the school; and

(n) Set forth the calendar and schedule for the school.

2. If the empowerment plan includes an incentive pay structure, that pay structure must:

(a) Provide an incentive for all staff employed at the school;

(b) Set forth the standards that must be achieved by the pupils enrolled in the school and any other measurable objectives that must be met to be eligible for incentive pay; and

(c) Be in addition to the salary or hourly rate of pay negotiated pursuant to chapter 288 of NRS that is otherwise payable to the employee.

3. An empowerment plan may:

(a) Request a waiver from a statute contained in this title or a regulation of the State Board or the Department.

(b) Identify the services of the school district which the school wishes to receive, including, without limitation, professional development, transportation, food services and discretionary services. Upon approval of the empowerment plan, the school district may deduct from the total apportionment to the empowerment school the costs of such services.

4. For purposes of determining the budget pursuant to paragraph (b) of subsection 1, if a public school which converts to an empowerment school is a:

(a) Charter school, the amount of the budget is the amount equal to the apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, and its proportionate share of any other money available from federal, state or local sources that the school or the pupils enrolled in the school are eligible to receive.

(b) Public school, other than a charter school, the empowerment team for the school shall have discretion of 90 percent of the amount of money from the state financial aid and local funds that the school district apportions for the school, without regard to any line-item specifications or specific uses determined advisable by the school district, unless the empowerment team determines that a lesser amount is necessary to carry out the empowerment plan.

Sec. 25. NRS 386.740 is hereby amended to read as follows:

386.740 1. Each empowerment plan for a school must:

(a) Set forth the manner by which the school will be governed;

(b) Set forth the proposed budget for the school, including, without limitation, the cost of carrying out the empowerment plan, and the manner by which the money apportioned to the school will be administered;

(c) If a school support team has been established for the school ***in accordance with the regulations of the State Board adopted*** pursuant to NRS ~~[~~385.3745,~~]~~ ***385.361,*** require the principal and the empowerment team for the school to work in consultation with the school support team;

(d) Prescribe the academic plan for the school, including, without limitation, the manner by which courses of study will be provided to the pupils enrolled in the school and any special programs that will be offered for pupils;

(e) Prescribe the manner by which the achievement of pupils will be measured and reported for the school, including, without limitation, the results of the pupils on the examinations administered pursuant to NRS 389.015 and 389.550;

(f) Prescribe the manner by which teachers and other licensed educational personnel will be selected and hired for the school, which must be determined and negotiated pursuant to chapter 288 of NRS;

(g) Prescribe the manner by which all other staff for the school will be selected and hired, which must be determined and negotiated pursuant to chapter 288 of NRS;

(h) Indicate whether the empowerment plan will offer an incentive pay structure for staff and a description of that pay structure, if applicable;

(i) Indicate the intended ratio of pupils to teachers at the school, designated by grade level, which must comply with NRS 388.700 or 388.720, as applicable;

(j) Provide a description of the professional development that will be offered to the teachers and other licensed educational personnel employed at the school;

(k) Prescribe the manner by which the empowerment plan will increase the involvement of parents and legal guardians of pupils enrolled in the school;

(l) Comply with the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385.357 ~~[.]~~ ***, the turnaround plan for the school implemented pursuant to section 2 of this act or the plan for restructuring the school implemented pursuant to section 3.5 of this act, whichever is applicable for the school;***

(m) Address the specific educational needs and concerns of the pupils who are enrolled in the school; and

(n) Set forth the calendar and schedule for the school.

2. If the empowerment plan includes an incentive pay structure, that pay structure must:

(a) Provide an incentive for all staff employed at the school;

(b) Set forth the standards that must be achieved by the pupils enrolled in the school and any other measurable objectives that must be met to be eligible for incentive pay; and

(c) Be in addition to the salary or hourly rate of pay negotiated pursuant to chapter 288 of NRS that is otherwise payable to the employee.

3. An empowerment plan may:

(a) Request a waiver from a statute contained in this title or a regulation of the State Board or the Department.

(b) Identify the services of the school district which the school wishes to receive, including, without limitation, professional development, transportation, food services and discretionary services. Upon approval of the empowerment plan, the school district may deduct from the total apportionment to the empowerment school the costs of such services.

4. For purposes of determining the budget pursuant to paragraph (b) of subsection 1, if a public school which converts to an empowerment school is a:

(a) Charter school, the amount of the budget is the amount equal to the apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, and its proportionate share of any other money available from federal, state or local sources that the school or the pupils enrolled in the school are eligible to receive.

(b) Public school, other than a charter school, the empowerment team for the school shall have discretion of 90 percent of the amount of money from the state financial aid and local funds that the school district apportions for the school, without regard to any line-item specifications or specific uses determined advisable by the school district, unless the empowerment team determines that a lesser amount is necessary to carry out the empowerment plan.

Sec. 25.3. NRS 391.298 is hereby amended to read as follows:

391.298 If the board of trustees of a school district or the superintendent of schools of a school district schedules a day or days for the professional development of teachers or administrators employed by the school district:

1. The primary focus of that scheduled professional development must be to improve the achievement of the pupils enrolled in the school district, as set forth in the ~~[~~plan~~]~~ ***:***

(a) Plan to improve the achievement of pupils ***enrolled in the school district*** prepared pursuant to NRS 385.348 ~~[~~or~~]~~ ***;***

(b) Plan to improve the achievement of pupils prepared pursuant to NRS 385.357 ~~[~~,~~]~~ ***;***

(c) Turnaround plan for the school implemented pursuant to section 2 of this act; or

(d) Plan for restructuring the school implemented pursuant to section 3.5 of this act,

➥ as applicable.

2. The scheduled professional development must be structured so that teachers attend professional development that is designed for the specific subject areas or grades taught by those teachers.

Sec. 25.7. NRS 391.540 is hereby amended to read as follows:

391.540 1. The governing body of each regional training program shall:

(a) Adopt a training model, taking into consideration other model programs, including, without limitation, the program used by the Geographic Alliance in Nevada.

(b) Assess the training needs of teachers and administrators who are employed by the school districts within the primary jurisdiction of the regional training program and adopt priorities of training for the program based upon the assessment of needs. The board of trustees of each such school district may submit recommendations to the appropriate governing body for the types of training that should be offered by the regional training program.

(c) In making the assessment required by paragraph (b), review the plans to improve the achievement of pupils prepared pursuant to NRS 385.348 by the school districts within the primary jurisdiction of the regional training program and, as deemed necessary by the governing body, review the ~~[plans]~~ ***:***

(1) Plans to improve the achievement of pupils prepared pursuant to NRS 385.357 ***;***

(2) Turnaround plans for schools implemented pursuant to section 2 of this act; and

(3) Plans for restructuring schools implemented pursuant to section 3.5 of this act,

➥ for individual schools within the primary jurisdiction of the regional training program.

(d) Prepare a 5-year plan for the regional training program, which includes, without limitation:

(1) An assessment of the training needs of teachers and administrators who are employed by the school districts within the primary jurisdiction of the regional training program; and

(2) Specific details of the training that will be offered by the regional training program for the first 2 years covered by the plan.

(e) Review the 5-year plan on an annual basis and make revisions to the plan as are necessary to serve the training needs of teachers and administrators employed by the school districts within the primary jurisdiction of the regional training program.

2. The Department, the Nevada System of Higher Education and the board of trustees of a school district may request the governing body of the regional training program that serves the school district to provide training, participate in a program or otherwise perform a service that is in addition to the duties of the regional training program that are set forth in the plan adopted pursuant to this section or otherwise required by statute. An entity may not represent that a regional training program will perform certain duties or otherwise obligate the regional training program as part of an application by that entity for a grant unless the entity has first obtained the written confirmation of the governing body of the regional training program to perform those duties or obligations. The governing body of a regional

training program may, but is not required to, grant a request pursuant to this subsection.

Sec. 26. NRS 392.456 is hereby amended to read as follows:

392.456 1. The Department shall:

(a) Prescribe a form for use by teachers in elementary schools to provide reports to parents and legal guardians of pupils pursuant to this section;

(b) Work in consultation with the Legislative Bureau of Educational Accountability and Program Evaluation, the Nevada Association of School Boards, the Nevada Association of School Administrators, the Nevada State Education Association and the Nevada Parent Teacher Association in the development of the form; and

(c) Make the form available in electronic format for use by school districts and charter schools and, upon request, in any other manner deemed reasonable by the Department.

2. The form must include, without limitation:

(a) A notice to parents and legal guardians that parental involvement is important in ensuring the success of the academic achievement of pupils;

(b) A checklist indicating whether:

(1) The pupil completes his homework assignments in a timely manner;

(2) The pupil is present in the classroom when school begins each day and is present for the entire school day unless his absence is approved in accordance with NRS 392.130;

(3) The parent or legal guardian and the pupil abide by any applicable rules and policies of the school and the school district; and

(4) The pupil complies with the dress code for the school, if applicable; and

(c) A list of the resources and services available within the community to assist parents and legal guardians in addressing any issues identified on the checklist.

3. In addition to the requirements of subsection 2, the Department may prescribe additional information for inclusion on the form, including, without limitation:

(a) A report of the participation of the parent or legal guardian, including, without limitation, whether the parent or legal guardian:

(1) Completes forms and other documents that are required by the school or school district in a timely manner;

(2) Assists in carrying out a plan to improve the pupil's academic achievement, if applicable;

(3) Attends conferences between the teacher and the parent or legal guardian, if applicable; and

(4) Attends school activities.

(b) A report of whether the parent or legal guardian ensures the health and safety of the pupil, including, without limitation, whether:

(1) Current information is on file with the school that designates each person whom the school should contact if an emergency involving the pupil occurs; and

(2) Current information is on file with the school regarding the health and safety of the pupil, such as immunization records, if applicable, and any special medical needs of the pupil.

4. A teacher at an elementary school may provide the form prescribed by the Department, including the additional information prescribed pursuant to subsection 3 if the Department has prescribed such information on the form, to a parent or legal guardian of a pupil if the teacher determines that the provision of such a report would assist in improving the academic achievement of the pupil.

5. A report provided to a parent or legal guardian pursuant to this section must not be used in a manner that:

(a) Interferes unreasonably with the personal privacy of the parent or legal guardian or the pupil;

(b) Reprimands the parent or legal guardian; or

(c) Affects the grade or report of progress given to a pupil based upon the information contained in the report.

6. The principal of each elementary school at which a teacher provides reports pursuant to this section shall provide to the support team established for the school pursuant to NRS ~~[385.3721,]~~ ***385.3745,*** if applicable, the information contained in the completed reports for consideration by the support team. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

Sec. 27. NRS 392.456 is hereby amended to read as follows:

392.456 1. The Department shall:

(a) Prescribe a form for use by teachers in elementary schools to provide reports to parents and legal guardians of pupils pursuant to this section;

(b) Work in consultation with the Legislative Bureau of Educational Accountability and Program Evaluation, the Nevada Association of School Boards, the Nevada Association of School Administrators, the Nevada State Education Association and the Nevada Parent Teacher Association in the development of the form; and

(c) Make the form available in electronic format for use by school districts and charter schools and, upon request, in any other manner deemed reasonable by the Department.

2. The form must include, without limitation:

(a) A notice to parents and legal guardians that parental involvement is important in ensuring the success of the academic achievement of pupils;

(b) A checklist indicating whether:

(1) The pupil completes his homework assignments in a timely manner;

(2) The pupil is present in the classroom when school begins each day and is present for the entire school day unless his absence is approved in accordance with NRS 392.130;

(3) The parent or legal guardian and the pupil abide by any applicable rules and policies of the school and the school district; and

(4) The pupil complies with the dress code for the school, if applicable; and

(c) A list of the resources and services available within the community to assist parents and legal guardians in addressing any issues identified on the checklist.

3. In addition to the requirements of subsection 2, the Department may prescribe additional information for inclusion on the form, including, without limitation:

(a) A report of the participation of the parent or legal guardian, including, without limitation, whether the parent or legal guardian:

(1) Completes forms and other documents that are required by the school or school district in a timely manner;

(2) Assists in carrying out a plan to improve the pupil's academic achievement, if applicable;

(3) Attends conferences between the teacher and the parent or legal guardian, if applicable; and

(4) Attends school activities.

(b) A report of whether the parent or legal guardian ensures the health and safety of the pupil, including, without limitation, whether:

(1) Current information is on file with the school that designates each person whom the school should contact if an emergency involving the pupil occurs; and

(2) Current information is on file with the school regarding the health and safety of the pupil, such as immunization records, if applicable, and any special medical needs of the pupil.

4. A teacher at an elementary school may provide the form prescribed by the Department, including the additional information prescribed pursuant to subsection 3 if the Department has prescribed such information on the form, to a parent or legal guardian of a pupil if the teacher determines that the provision of such a report would assist in improving the academic achievement of the pupil.

5. A report provided to a parent or legal guardian pursuant to this section must not be used in a manner that:

(a) Interferes unreasonably with the personal privacy of the parent or legal guardian or the pupil;

(b) Reprimands the parent or legal guardian; or

(c) Affects the grade or report of progress given to a pupil based upon the information contained in the report.

6. The principal of each elementary school at which a teacher provides reports pursuant to this section shall provide to the support team established for the school ***in accordance with the regulations of the State Board adopted*** pursuant to NRS ~~[~~385.3745,~~]~~ ***385.361,*** if applicable, the information contained in the completed reports for consideration by the support team. The

information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

Sec. 28. NRS 392.4575 is hereby amended to read as follows:

392.4575 1. The Department shall prescribe a form for educational involvement accords to be used by all public schools in this State. The educational involvement accord must comply with the parental involvement policy:

(a) Required by the federal No Child Left Behind Act of 2001, as set forth in 20 U.S.C. § 6318.

(b) Adopted by the State Board pursuant to NRS 392.457.

2. Each educational involvement accord must include, without limitation:

(a) A description of how the parent or legal guardian will be involved in the education of the pupil, including, without limitation:

(1) Reading to the pupil, as applicable for the grade or reading level of the pupil;

(2) Reviewing and checking the pupil's homework; and

(3) Contributing 5 hours of time each school year, including, without limitation, by attending school-related activities, parent-teacher association meetings, parent-teacher conferences, volunteering at the school and chaperoning school-sponsored activities.

(b) The responsibilities of a pupil in a public school, including, without limitation:

(1) Reading each day before or after school, as applicable for the grade or reading level of the pupil;

(2) Using all school equipment and property appropriately and safely;

(3) Following the directions of any adult member of the staff of the school;

(4) Completing and submitting homework in a timely manner; and

(5) Respecting himself, others and all property.

(c) The responsibilities of a public school and the administrators, teachers and other personnel employed at a school, including, without limitation:

(1) Ensuring that each pupil is provided proper instruction, supervision and interaction;

(2) Maximizing the educational and social experience of each pupil;

(3) Carrying out the professional responsibility of educators to seek the best interest of each pupil; and

(4) Making staff available to the parents and legal guardians of pupils to discuss the concerns of parents and legal guardians regarding the pupils.

3. Each educational involvement accord must be accompanied by, without limitation:

(a) Information describing how the parent or legal guardian may contact the pupil's teacher and the principal of the school in which the pupil is enrolled;

(b) The curriculum of the course or standards for the grade in which the pupil is enrolled, as applicable, including, without limitation, a calendar that

indicates the dates of major examinations and the due dates of significant projects, if those dates are known by the teacher at the time that the information is distributed;

(c) The homework and grading policies of the pupil's teacher or school;

(d) Directions for finding resource materials for the course or grade in which the pupil is enrolled, as applicable;

(e) Suggestions for parents and legal guardians to assist pupils in their schoolwork at home;

(f) The dates of scheduled conferences between teachers or administrators and the parents or legal guardians of the pupil;

(g) The manner in which reports of the pupil's progress will be delivered to the parent or legal guardian and how a parent or legal guardian may request a report of progress;

(h) The classroom rules and policies;

(i) The dress code of the school, if any;

(j) The availability of assistance to parents who have limited proficiency in the English language;

(k) Information describing the availability of free and reduced-price meals, including, without limitation, information regarding school breakfast, school lunch and summer meal programs;

(l) Opportunities for parents and legal guardians to become involved in the education of their children and to volunteer for the school or class; and

(m) The code of honor relating to cheating prescribed pursuant to NRS 392.461.

4. The board of trustees of each school district shall adopt a policy providing for the development and distribution of the educational involvement accord. The policy adopted by a board of trustees must require each classroom teacher to:

(a) Distribute the educational involvement accord to the parent or legal guardian of each pupil in his class at the beginning of each school year or upon a pupil's enrollment in the class, as applicable; and

(b) Provide the parent or legal guardian with a reasonable opportunity to sign the educational involvement accord.

5. Except as otherwise provided in this subsection, the board of trustees of each school district shall ensure that the form prescribed by the Department is used for the educational involvement accord of each public school in the school district. The board of trustees of a school district may authorize the use of an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

6. The Department and the board of trustees of each school district shall, at least once each year, review and amend their respective educational involvement accords.

7. If ***a school support team is established for*** an elementary school ***,*** ~~[is designated as demonstrating need for improvement pursuant to NRS~~

~~385.3623 for 3 consecutive years or more,~~**]** the principal of the school shall provide to the support team established for the school pursuant to NRS **[**~~385.3721~~**]** ***385.3745*** information concerning the distribution of the educational involvement accord and the number of accords which were signed and returned by parents and legal guardians. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

Sec. 29. NRS 392.4575 is hereby amended to read as follows:

392.4575 1. The Department shall prescribe a form for educational involvement accords to be used by all public schools in this State. The educational involvement accord must comply with the parental involvement policy:

(a) Required by the federal No Child Left Behind Act of 2001, as set forth in 20 U.S.C. § 6318.

(b) Adopted by the State Board pursuant to NRS 392.457.

2. Each educational involvement accord must include, without limitation:

(a) A description of how the parent or legal guardian will be involved in the education of the pupil, including, without limitation:

(1) Reading to the pupil, as applicable for the grade or reading level of the pupil;

(2) Reviewing and checking the pupil's homework; and

(3) Contributing 5 hours of time each school year, including, without limitation, by attending school-related activities, parent-teacher association meetings, parent-teacher conferences, volunteering at the school and chaperoning school-sponsored activities.

(b) The responsibilities of a pupil in a public school, including, without limitation:

(1) Reading each day before or after school, as applicable for the grade or reading level of the pupil;

(2) Using all school equipment and property appropriately and safely;

(3) Following the directions of any adult member of the staff of the school;

(4) Completing and submitting homework in a timely manner; and

(5) Respecting himself, others and all property.

(c) The responsibilities of a public school and the administrators, teachers and other personnel employed at a school, including, without limitation:

(1) Ensuring that each pupil is provided proper instruction, supervision and interaction;

(2) Maximizing the educational and social experience of each pupil;

(3) Carrying out the professional responsibility of educators to seek the best interest of each pupil; and

(4) Making staff available to the parents and legal guardians of pupils to discuss the concerns of parents and legal guardians regarding the pupils.

3. Each educational involvement accord must be accompanied by, without limitation:

(a) Information describing how the parent or legal guardian may contact the pupil's teacher and the principal of the school in which the pupil is enrolled;

(b) The curriculum of the course or standards for the grade in which the pupil is enrolled, as applicable, including, without limitation, a calendar that indicates the dates of major examinations and the due dates of significant projects, if those dates are known by the teacher at the time that the information is distributed;

(c) The homework and grading policies of the pupil's teacher or school;

(d) Directions for finding resource materials for the course or grade in which the pupil is enrolled, as applicable;

(e) Suggestions for parents and legal guardians to assist pupils in their schoolwork at home;

(f) The dates of scheduled conferences between teachers or administrators and the parents or legal guardians of the pupil;

(g) The manner in which reports of the pupil's progress will be delivered to the parent or legal guardian and how a parent or legal guardian may request a report of progress;

(h) The classroom rules and policies;

(i) The dress code of the school, if any;

(j) The availability of assistance to parents who have limited proficiency in the English language;

(k) Information describing the availability of free and reduced-price meals, including, without limitation, information regarding school breakfast, school lunch and summer meal programs;

(l) Opportunities for parents and legal guardians to become involved in the education of their children and to volunteer for the school or class; and

(m) The code of honor relating to cheating prescribed pursuant to NRS 392.461.

4. The board of trustees of each school district shall adopt a policy providing for the development and distribution of the educational involvement accord. The policy adopted by a board of trustees must require each classroom teacher to:

(a) Distribute the educational involvement accord to the parent or legal guardian of each pupil in his class at the beginning of each school year or upon a pupil's enrollment in the class, as applicable; and

(b) Provide the parent or legal guardian with a reasonable opportunity to sign the educational involvement accord.

5. Except as otherwise provided in this subsection, the board of trustees of each school district shall ensure that the form prescribed by the Department is used for the educational involvement accord of each public school in the school district. The board of trustees of a school district may authorize the use of an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

6. The Department and the board of trustees of each school district shall, at least once each year, review and amend their respective educational involvement accords.

7. If a school support team is established ***in accordance with the regulations of the State Board adopted pursuant to NRS 385.361*** for an elementary school, the principal of the school shall provide to the support team ~~[established for the school pursuant to NRS 385.3745]~~ information concerning the distribution of the educational involvement accord and the number of accords which were signed and returned by parents and legal guardians. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

Sec. 30. On or before January 1, 2010, the State Board of Education shall adopt the regulations required pursuant to sections 2 and 3.5 of this act, NRS 385.361, as amended by section 6 of this act, and NRS 385.3475, as amended by section 18 of this act.

Sec. 31. 1. This section and sections 6, 9, 10, 11, 13, 15, 16, 17, 20, 22, 24, 26, 28 and 30 of this act become effective on July 1, 2009.

2. Sections 1, 2, 3.5 and 18 of this act become effective on July 1, 2009, for the purpose of adopting regulations and on July 1, 2010, for all other purposes.

3. Sections 3, 4 to 5.7, inclusive, 7, 8, 12, 14, **14.5,** 19, 21, 21.3, 21.7, 23, 25, 25.3, 25.7, 27 and 29 of this act become effective on July 1, 2010.

4. Sections 23 and 25 of this act expire by limitation on June 30, 2011.

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Senate Bill No. 194 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Smith moved that Senate Bill No. 7 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bills Nos. 41 and 53 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 111 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 175 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 246, upon return from the printer, be placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 111.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 687.

SUMMARY—Revises provisions governing certain **residential** facilities for ~~[~~the dependent, medical facilities~~]~~ **groups** and homes for individual residential care. (BDR 40-99)

AN ACT relating to public health; ~~[~~requiring a licensed facility for the dependent, medical facility or home for individual residential care to obtain an endorsement on the license if the facility or home offers housing for independent living;~~]~~ prohibiting certain residential facilities for groups and homes for individual residential care from providing accommodations to certain persons; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain **residential** facilities for ~~[~~the dependent, medical facilities~~]~~ **groups** and homes for individual residential care to obtain a license to operate such facilities and homes. (NRS 449.030) ~~[~~Existing law requires such a licensed facility or home that offers housing for independent living to post a notice indicating that the portion of the facility or home designated for independent living does not include the provision of personal care, supportive services or health related services. (NRS 449.2487) Sections 4 and 20 of this bill require such a facility or home to obtain an endorsement on its license on or before October 1, 2010, if the facility or home offers housing for independent living. Section 7 of this bill requires the State Board of Health to adopt regulations governing the issuance and renewal of an endorsement, including fees. The regulations are subject to review by the Legislative Committee on Health Care. (NRS 439B.225) Existing law prescribes grounds for the denial, suspension or revocation of a license to operate a facility or home under chapter 449 of NRS and the disciplinary action and penalties that apply to a licensee for certain violations. (NRS 449.160, 449.163, 449.170, 449.210) Sections 9-13 of this bill include the endorsement to offer housing for independent living within these provisions

~~setting forth the grounds for issuance and denial of an endorsement and the disciplinary action and penalties which apply.~~**]**

Section 5 of this bill prohibits a residential facility for groups which is authorized to have 10 or fewer beds or a home for individual residential care from providing accommodations to a person who does not meet the requirements for admission unless that person is related to a resident of the facility or home within the third degree of consanguinity.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~**[**NRS 439B.225 is hereby amended to read as follows:~~

~~439B.225 1. As used in this section, "licensing board" means any division or board empowered to adopt standards for **[**licensing or registration or for the renewal of licenses or certificates**]** ***the issuance or renewal of a license, an endorsement on a license or a certificate*** of registration pursuant to NRS 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641, 641A, 641B, 641C, 652 or 654 of NRS.~~

~~2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for **[**licensing or registration or to**]** the ***issuance or*** renewal of a license ***, an endorsement on a license*** or ***a*** certificate of registration issued to a person or facility regulated by the board, giving consideration to:~~

~~(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;~~

~~(b) The effect of the regulation on the cost of health care in this State;~~

~~(c) The effect of the regulation on the number of licensed or registered persons and facilities available to provide services in this State; and~~

~~(d) Any other related factor the Committee deems appropriate.~~

~~3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.~~

~~4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.~~**]** **(Deleted by amendment.)**

Sec. 2. ~~**[**Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.~~**]** **(Deleted by amendment.)**

Sec. 3. ~~**[**~~***"Housing for independent living" means single dwelling units, including, without limitation, single dwelling units located in a multidwelling or a multipurpose building, which provide residential housing intended for independent living and which do not directly provide or coordinate the oversight of services to meet the scheduled and unscheduled needs of its residents, including, without limitation, the***

~~*provision of personal care, supportive services and health-related services.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*[A facility for the dependent, a medical facility or a home for individual residential care that offers housing for independent living shall obtain an endorsement on its license authorizing the facility or home to offer housing for independent living.]*~~ **(Deleted by amendment.)**

Sec. 5. **Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Except as otherwise provided in subsection 2, a residential facility for groups which is authorized to have 10 or fewer beds or a home for individual residential care shall not provide accommodations for a person who does not meet the requirements for admission to the facility or home.

2. A residential facility for groups which is authorized to have 10 or fewer beds or a home for individual residential care may provide accommodations for a person who is related within the third degree of consanguinity to a resident of the facility or home regardless of whether the person meets the requirements for admission to the facility or home.

Sec. 6. ~~[NRS 449.001 is hereby amended to read as follows:~~

~~449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, *and section 3 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 7. NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, ***and*** ~~*[sections 3, 4 and]*~~ ***section 5 of this act*** and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive ~~.]~~ ***, and*** ~~*[sections 3, 4 and]*~~ ***section 5 of this act.***

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

➥ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of

personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility ***which is*** licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling ~~[,]~~ if the Health Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➥ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. ~~*[The Board shall adopt regulations for the issuance and renewal of an endorsement to offer housing for independent living pursuant to section 4 of this act. The regulations must:*~~

~~*(a) Prescribe the grounds for the approval, denial, suspension or revocation of an endorsement;*~~

~~*(b) Prescribe the fees for the issuance and renewal of an endorsement; and*~~

~~*(c) Require compliance with all applicable laws and regulations, including, without limitation:*~~

~~*(1) The provisions of NRS 449.2487;*~~

~~*(2) Any law, ordinance or governmental regulation concerning health, safety, sanitation or fitness for habitation of the facility or home;*~~

~~*(3) Any law, ordinance or governmental regulation concerning the construction, maintenance, operation, occupancy, use or appearance of the facility or home; and*~~

~~*(4) The provisions of chapter 446 of NRS and any other laws or regulations governing the preparation of meals.*~~

~~*12.]*~~ As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

Sec. 8. NRS 449.140 is hereby amended to read as follows:

449.140 1. Money received from licensing medical facilities and facilities for the dependent ~~*[, including, without limitation, an endorsement on a license,]*~~ must be forwarded to the State Treasurer for deposit in the State General Fund.

2. The Health Division shall enforce the provisions of NRS 449.001 to 449.245, inclusive, ***and*** ~~*[sections 3, 4 and]*~~ ***section 5 of this act*** and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.

Sec. 9. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license ~~*[or an endorsement on a license]*~~ or may suspend or revoke any license ~~*[or endorsement]*~~ issued under the provisions of NRS 449.001 to 449.240, inclusive, ***and*** ~~*[sections 3, 4 and]*~~ ***section 5 of this act*** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, ***and*** ~~*[sections 3, 4 and]*~~ ***section 5 of this act*** or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license ~~*[or endorsement]*~~ is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent ~~*[and an endorsement on such a license]*~~ if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The

Health Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➥ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 10. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure , ~~[or endorsement,]~~ including any provision of NRS 439B.410 ~~[,]~~ ***or*** 449.001 to 449.240, inclusive, ***and*** ~~[sections 3, 4 and]~~ ***section 5 of this act,*** or any condition, standard or regulation adopted by the Board, the Health Division **,** in accordance with the regulations adopted pursuant to NRS 449.165 **,** may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than $1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license ~~[or endorsement, or both,]~~ of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

3. The Health Division may require any facility that violates any provision of NRS 439B.410 ~~[,]~~ ***or*** 449.001 to 449.240, inclusive, ***and*** ~~*[sections 3, 4 and]*~~ ***section 5 of this act*** or any condition, standard or regulation adopted by the Board ~~[,]~~ to make any improvements necessary to correct the violation.

4. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 11. ~~[~~NRS 449.170 is hereby amended to read as follows:

449.170 1. When the Health Division intends to deny, suspend or revoke a license ~~[,]~~ ***or an endorsement on a license,*** or impose any sanction prescribed by NRS 449.163, it shall give reasonable notice to all parties by certified mail. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. Notice is not required if the Health Division finds that the public health requires immediate action. In that case, it may order a summary suspension of a license ***or endorsement*** or impose any sanction prescribed by NRS 449.163, pending proceedings for revocation or other action.

2. If a person wants to contest the action of the Health Division, he must file an appeal pursuant to regulations adopted by the Board.

3. Upon receiving notice of an appeal, the Health Division shall hold a hearing pursuant to regulations adopted by the Board.

4. The Board shall adopt such regulations as are necessary to carry out the provisions of this section.~~]~~ **(Deleted by amendment.)**

Sec. 12. ~~[~~NRS 449.210 is hereby amended to read as follows:

449.210 1. Except as otherwise provided in subsections 2 and 3, a person who operates a medical facility or facility for the dependent without a license ***or an endorsement on a license, if applicable,*** issued by the Health Division is guilty of a misdemeanor.

2. A person who operates a residential facility for groups without a license ***or an endorsement on a license, if applicable,*** issued by the Health Division:

(a) Is liable for a civil penalty **,** to be recovered by the Attorney General in the name of the Health Division **,** for the first offense of not more than $10,000 and for a second or subsequent offense of not less than $10,000 nor more than $20,000;

(b) Shall be required to move all of the persons who are receiving services in the residential facility for groups to a residential facility for groups that is licensed at his own expense; and

(c) May not apply for a license to operate a residential facility for groups ***or an endorsement to offer housing for independent living, if applicable,*** for a period of 6 months after he is punished pursuant to this section.

3. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to this section into a separate

~~account in the State General Fund to be used for the protection of the health, safety and well-being of patients, including residents of residential facilities for groups.~~] **(Deleted by amendment.)**

Sec. 13. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~[.]~~ ***, and*** ~~*[sections 3, 4 and]*~~ ***section 5 of this act:***

(a) Without first obtaining a license therefor ; ~~*[or an endorsement on a license, if applicable;]*~~ or

(b) After his license ~~*[or endorsement]*~~ has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place , operate ~~[:~~ ~~*(a) Operate]*~~ and maintain such ***a*** facility without a license.

~~[~~ ~~*(b) Offer housing for independent living without an endorsement on the license.]*~~

Sec. 14. NRS 449.230 is hereby amended to read as follows:

449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive ~~[.]~~ ***, and*** ~~*[sections 3, 4 and]*~~ ***section 5 of this act.***

2. The State Fire Marshal or his designee shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.037:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.037,

➥ to ensure the safety of the residents of the facility in an emergency.

3. The State Health Officer or his designee shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Health Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Health Division is notified that a residential facility for groups is operating without a license.

Sec. 15. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.001 to 449.245, inclusive ~~[.]~~ ***, and*** ~~*[sections 3, 4 and]*~~ ***section 5 of this act.***

Sec. 16. ~~[NRS 233B.063 is hereby amended to read as follows:~~

~~233B.063 1. At least 30 days before the time of giving notice of its intention to adopt, amend or repeal a permanent regulation, an agency shall deliver to the Legislative Counsel a copy of the proposed regulation. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.~~

~~2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for [licensing or registration or for] the *issuance or* renewal of a license *, an endorsement on a license* or a certificate of registration issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.~~

~~3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.~~

~~4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.]~~ **(Deleted by amendment.)**

Sec. 17. ~~[NRS 233B.070 is hereby amended to read as follows:~~

~~233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except as otherwise provided in NRS 293.247 or where a later date is specified in the regulation.~~

~~2. Except as otherwise provided in NRS 233B.0633, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational~~

~~statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.~~

~~3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.~~

~~4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.~~

~~5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.~~

~~6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Library and Archives Administrator, to the State Library and Archives Administrator for use by the public. If the agency is a licensing board as defined in NRS 439B.225 and it has adopted a permanent regulation relating to standards for~~ **[**~~licensing or registration or for~~**]** ~~the~~ ***issuance or*** ~~renewal of a license~~ ***, an endorsement on a license*** ~~or a certificate of registration issued to a person or facility regulated by the agency, the agency shall also deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the Legislative Committee on Health Care within 10 days after the regulation is filed with the Secretary of State.~~

~~7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.~~

~~8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the leadlines and numbers of the sections. Any other material which an agency includes in a publication with its regulations must be presented in a form which clearly distinguishes that material from the regulations.~~**] (Deleted by amendment.)**

Sec. 18. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than $5,000 on, recover reasonable investigative fees and costs incurred from, suspend, revoke or place conditions on the license of, and place on probation any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, ***and*** ~~***[sections 3, 4 and]***~~ ***section 5 of this act*** as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing not less than 10 days before the date of the hearing.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 19. ~~[On or before January 1, 2010, the State Board of Health shall adopt regulations governing the issuance and renewal of an endorsement to offer housing for independent living required by NRS 449.037, as amended by section 7 of this act.]~~ **(Deleted by amendment.)**

Sec. 20. ~~[Each licensed facility for the dependent, medical facility and home for individual residential care which offers housing for independent living shall, on or before October 1, 2010, obtain the endorsement required by section 4 of this act.]~~ **(Deleted by amendment.)**

Sec. 21. ~~[1. This section and sections 1, 2, 3, 6, 7, 16, 17 and 19 of this act become effective upon passage and approval.~~

~~2. Sections 5, 14, 15 and 18 of this act become effective on October 1, 2009.~~

~~3. Sections 4, 8 to 13, inclusive, and 20 of this act become effective on January 1, 2010.]~~ **(Deleted by amendment.)**

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 194.

Bill read third time.

The following amendment was proposed by Assemblyman Anderson:

Amendment No. 747.

AN ACT relating to certain public officials; making the district attorney of Humboldt County the ex officio public administrator of Humboldt County; revising certain provisions regarding the administration of certain estates; revising certain provisions regarding the appointment of public guardians; repealing certain provisions relating to public administrators; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill amends a number of provisions governing public administrators who are public officials that administer the estates of decedents having no qualified person willing and able to do so. **Sections 2 and 9** of this bill provide for the district attorney of Humboldt County to serve, ex officio, as the public administrator of the county, as the district attorneys for Lander, Lincoln and White Pine counties do currently. (NRS 253.010, 253.050) **Section 2** also authorizes the board of county commissioners in any county with an elected public administrator to appoint the public administrator if the office becomes vacant.

Under existing law, a public administrator may secure the property of a decedent if the public administrator finds that the decedent has no relatives able to protect the property and that failure to do so could endanger the property. (NRS 253.0405) **Section 3** of this bill authorizes a public administrator to secure the property of a decedent if either, not both, of those conditions exist. **Section 4** of this bill revises the notice requirements before a public administrator may donate or destroy certain property. (NRS 253.0407) **Sections 5 and 6** of this bill require and authorize a public administrator to conduct certain investigations. (NRS 253.0415, 253.042) **Section 7** of this bill increases the maximum value of an estate that may be set aside without administration. (NRS 253.0425)

Under existing law, certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 253.041, 253.0415-253.0435) **Section 14** of this bill repeals NRS 253.041 so that the powers and duties set forth in NRS 253.0415 to 253.0435, inclusive, apply to public administrators in all counties. Conversely, existing law also sets forth that certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties). (NRS 253.044, 253.0445, 253.045) **Section 14** repeals those provisions.

This bill also amends provisions governing public guardians. **Section 10** of this bill requires a public guardian to retain records relating to guardianships for at least 7 years. (NRS 253.190) **Section 11** of this bill revises the

requirements for a resident of Nevada to be eligible to have a county public guardian appointed as his permanent or general individual guardian. Further, **section 11** provides that a county is not liable on any written or oral contract entered into by a public guardian of the county for or on behalf of the ward. (NRS 253.200)

Currently, a public guardian may demand certain information from a proposed ward—a person for whom proceedings for the appointment of a guardian have begun—or from the spouse, parent, child or other kindred of a proposed ward, but not from a person for whom a guardian has been appointed. (NRS 253.220) **Section 12** of this bill revises that provision so that the information can be demanded from or about a ward but not a proposed ward.

Finally, **section 12.5** of this bill authorizes a court to terminate the appointment of a public guardian as an individual guardian of a person or estate if the public guardian, after exercising due diligence, is unable to identify a source to pay for the care of the ward **[.]** **and, as a consequence, continuation of the guardianship would confer no benefit upon the ward.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 250.160 is hereby amended to read as follows:

250.160 1. A county assessor may provide confidential information for use:

(a) By any governmental entity, including, without limitation, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, without limitation, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders or pursuant to an order of a federal or state court.

(c) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use authorized pursuant to this section.

(d) In connection with an investigation conducted pursuant to NRS 253.0415 **[**~~, 253.044~~**]** or 253.220.

(e) In activities relating to research and the production of statistical reports, if the address or information will not be published or otherwise disclosed or used to contact any person.

(f) In the bulk distribution of surveys, marketing material or solicitations, if the assessor has adopted policies and procedures to ensure that the information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

(g) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station.

2. Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a person who obtains information pursuant to this section and sells or discloses that information shall keep and maintain for at least 5 years a record of:

(a) Each person to whom the information is sold or disclosed; and

(b) The purpose for which that person will use the information.

Sec. 2. NRS 253.010 is hereby amended to read as follows:

253.010 1. Except as otherwise provided in ~~[subsection 4,]~~ ***subsections 4 and 5,*** public administrators must be elected by the qualified electors of their respective counties.

2. Public administrators must be chosen by the electors of their respective counties at the general election in 1922 and at the general election every 4 years thereafter, and shall enter upon the duties of their office on the first Monday of January after their election.

3. The public administrator of a county must:

(a) Be a qualified elector of the county;

(b) Be at least 21 years of age on the date he will take office;

(c) Not have been convicted of a felony for which his civil rights have not been restored by a court of competent jurisdiction; and

(d) Not have been found liable in a civil action involving a finding of fraud, misrepresentation, material omission, misappropriation, theft or conversion.

4. The district attorneys of ***Humboldt,*** Lander, Lincoln and White Pine Counties are ex officio public administrators of ***Humboldt County,*** Lander County, Lincoln County and White Pine County, respectively. The Clerk of Carson City shall serve as Public Administrator of Carson City.

5. In a county other than Carson City and Humboldt, Lander, Lincoln and White Pine Counties, if, for any reason, the office of public administrator becomes vacant, the board of county commissioners may appoint a public administrator for the remainder of the unexpired term.

Sec. 3. NRS 253.0405 is hereby amended to read as follows:

253.0405 Before the issuance of the letters of administration for an estate, before filing an affidavit to administer an estate pursuant to NRS 253.0403 or before petitioning to have an estate set aside pursuant to NRS 253.0425, the public administrator may secure the property of a deceased person if he finds that:

1. There are no relatives of the deceased who are able to protect the property; ~~[and]~~ ***or***

2. Failure to do so could endanger the property.

Sec. 4. NRS 253.0407 is hereby amended to read as follows:

253.0407 1. Except as otherwise provided in subsection 2, a public administrator, with regard to the personal property of the estate of ~~[a ward or]~~

a decedent, may donate property that has a value of less than $250 to a nonprofit organization, or destroy property that has a value of less than $100, if ~~[~~:

~~(a) The property, if that of a ward, is not necessary for the care or comfort of the ward; and~~

~~(b) A~~] ***a*** notice of intent to donate or destroy the property is ~~[~~:

~~(1) Mailed~~] ***mailed*** by certified mail ***or delivered personally*** to the ~~[~~ward's or~~]~~ decedent's next of kin ~~[at his last known home address; or~~

~~(2) Personally delivered to him,~~

~~➥ and that person fails to claim~~] ***and*** the property ***is not claimed*** within 15 days.

2. A public administrator may authorize the immediate destruction of the property of a ~~[ward or]~~ decedent, without giving notice to the next of kin, if:

(a) The administrator determines that the property has been contaminated by vermin or biological or chemical agents;

(b) The expenses related to the decontamination of the property cause salvage to be impractical;

(c) The property constitutes an immediate threat to public health or safety;

(d) The handling, transfer or storage of the property may endanger public health or safety or exacerbate contamination; and

(e) The value of the property is less than $100 or, if the value of the property is $100 or more, a state or local health officer has endorsed the destruction of the property.

Sec. 5. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of ~~[a person dying]~~ ***an*** intestate ***decedent*** if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of ~~[a person dying intestate,]~~ ***an intestate decedent,*** regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. ~~[The public administrator is not eligible to serve as a guardian of the person and estate of a ward unless the board of county commissioners has~~

~~designated the public administrator as ex officio public guardian.]~~ ***The public administrator shall not administer any estate:***

(a) Held in joint tenancy unless all joint tenants are deceased;

(b) For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or

(c) For which a deed upon death has been executed pursuant to NRS 111.109.

3. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 6. NRS 253.042 is hereby amended to read as follows:

253.042 In connection with an investigation conducted pursuant to subsection 1 of NRS 253.0415, a public administrator may:

1. Require any spouse, parent, child or other kindred of the decedent to give any information and to execute any written requests or authorizations necessary to provide the public administrator with access to records, otherwise confidential, needed to evaluate the public administrator's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

3. Investigate the assets and personal and family history of any decedent for whom he has been requested to serve as administrator, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS.

Sec. 7. NRS 253.0425 is hereby amended to read as follows:

253.0425 1. If the public administrator finds that there is no qualified person willing and able to administer the estate of a particular decedent, he shall investigate further to estimate its gross value.

2. If the estate appears to have a gross value of ~~[$50,000]~~ ***$100,000*** or less, he shall:

(a) Assist a proper person to petition to have it set aside without administration or directly receive the assets from a custodian, as the facts may warrant;

(b) Himself petition to have the estate set aside without administration and properly distributed; or

(c) Administer the estate pursuant to NRS 253.0403.

3. If the estate appears to have a gross value of more than ~~[$50,000:]~~ ***$100,000:***

(a) He shall proceed with summary or full administration as the value of the estate requires.

(b) He may retain an attorney to assist him, rotating this employment in successive estates among the attorneys practicing in the county who are qualified by experience and willing to serve. The attorney's fee is a charge upon the estate.

Sec. 8. NRS 253.0447 is hereby amended to read as follows:

253.0447 A public administrator ~~[, or other suitable person designated by the board of county commissioners, who is authorized to perform the duties set forth in NRS 253.044,]~~ may file with the board ***of county commissioners*** a request for payment for expenses incurred in the performance of such duties. The amount to be paid as expenses must be determined by the board **.** ~~[of county commissioners.]~~ Payment must be made from the general fund of the county if the board ~~[of county commissioners]~~ approves the request and determines that there is sufficient money in the fund to pay the public administrator or other suitable person designated by the board to perform those duties. This section does not require the board ~~[of county commissioners]~~ to authorize payment of any expense that can be paid from the assets of a person or an estate **.** ~~[subject to NRS 253.044.]~~

Sec. 9. NRS 253.050 is hereby amended to read as follows:

253.050 1. For the administration of the estates of deceased persons, public administrators are entitled to be paid as other administrators or executors are paid, subject to the provisions of NRS 245.043.

2. The district attorneys of ***Humboldt,*** Lander, Lincoln and White Pine counties as ex officio public administrators and the clerk of Carson City serving as public administrator of Carson City may retain all fees provided by law received by them as public administrators.

3. The public administrator is entitled to compensation from the estate or from beneficiaries for the reasonable value of his services performed in preserving the property of an estate of a deceased person before the appointment of an administrator. Compensation must be set by the board of county commissioners.

Sec. 10. NRS 253.190 is hereby amended to read as follows:

253.190 A public guardian shall ~~[keep]~~ ***:***

1. Keep financial and other appropriate records concerning all cases in which he is appointed as an individual guardian ~~[.]~~ ***; and***

2. Retain:

(a) All such financial records for each case for at least 7 years after the date of the transaction that is recorded in the record; and

(b) All other records for each case for at least 7 years after the termination of the guardianship pursuant to chapter 159 of NRS.

Sec. 11. NRS 253.200 is hereby amended to read as follows:

253.200 1. A resident of Nevada is eligible to have the public guardian of the county in which he resides appointed as his temporary individual guardian pursuant to NRS 159.0523 or 159.0525.

2. A resident of Nevada is eligible to have the public guardian of a county appointed as his permanent or general individual guardian if ~~[he:~~

~~(a) Has]~~ ***the proposed ward is a resident of that county and:***

(a) The proposed ward has no relative or friend ~~[able]~~ ***suitable*** and willing to serve as his guardian; ~~[and~~

~~(b) Is a resident of that county.]~~ ***or***

(b) The proposed ward has a guardian who the court determines must be removed pursuant to NRS 159.185.

3. A person qualified pursuant to subsection 1 or 2, or anyone on his behalf, may petition the district court of the county in which he resides to make the appointment.

4. Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.

5. Any petition for the appointment of the public guardian as a guardian filed pursuant to subsection 3 must include a statement signed by the public guardian or deputy public guardian and in substantially the following form:

The undersigned is the Public Guardian or a Deputy Public Guardian of ..... County. The undersigned certifies that he has received a copy of this petition and all accompanying documents to be filed with the court.

6. A petition for the appointment of the public guardian as permanent or general guardian must be filed separately from a petition for the appointment of a temporary guardian.

7. If a person other than the public guardian served as temporary guardian ~~[prior to]~~ ***before*** the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. ***In addition to NRS 159.099, a county is not liable on any written or oral contract entered into by the public guardian of the county for or on behalf of a ward.***

9. For the purposes of this section:

(a) Except as otherwise provided in paragraph (b), the county of residence of a person is the county to which the person moved with the intent to reside for an indefinite period.

(b) The county of residence of a person placed in institutional care is the county that was the county of residence of the person before the person was placed in institutional care by a guardian or agency or under power of attorney.

Sec. 12. NRS 253.220 is hereby amended to read as follows:

253.220 A public guardian may investigate the financial status, assets and personal and family history of any person for whom the public guardian has been appointed as guardian, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS. In connection with the investigation, the public guardian may require any ~~[proposed]~~ ward or any spouse, parent, child or other kindred of the ~~[proposed]~~ ward to give any information and to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, which are needed by the public guardian. The public guardian

may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.

Sec. 12.5. NRS 253.250 is hereby amended to read as follows:

253.250 The court may, at any time, terminate the appointment of a public guardian as an individual guardian ***of a person or of an estate*** upon petition by the ward ~~[or]~~ ***, the public guardian,*** any interested person or upon the court's own motion if ~~[it]~~ ***:***

1. It appears that the services of the public guardian are no longer necessary ~~[.]~~ ***; or***

2. After exercising due diligence, the public guardian is unable to identify a source to pay for the care of the ward ~~[.]~~ ***and, as a consequence, continuation of the guardianship would confer no benefit upon the ward.***

Sec. 13. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

➥ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law

enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

(1) The safety of drivers of motor vehicles;

(2) Safety and thefts of motor vehicles;

(3) Emissions from motor vehicles;

(4) Alterations of products related to motor vehicles;

(5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;

(6) Monitoring the performance of motor vehicles;

(7) Parts or accessories of motor vehicles;

(8) Dealers of motor vehicles; or

(9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[, 253.044]~~ or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➥ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the database created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that database.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting

personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 14. NRS 253.030, 253.041, 253.044, 253.0445 and 253.045 are hereby repealed.

Sec. 15. Notwithstanding any other provision of this act, the term of office of the person who holds the office of Public Administrator of Humboldt County on July 1, 2009, does not expire until that term would ordinarily expire pursuant to subsection 2 of NRS 253.010.

Sec. 16. 1. This section and sections 2, 9 and 15 of this act become effective on July 1, 2009.

2. Sections 1, 3 to 8, inclusive, and 10 to 14, inclusive, of this act become effective on October 1, 2009.

LEADLINES OF REPEALED SECTIONS

253.030 Vacancy: Applicable law governing appointment; qualification of appointee.

253.041 County whose population is 100,000 or more: Applicability of NRS 253.041 to 253.0435, inclusive.

253.044 County whose population is less than 100,000: Service as administrator of estate of intestate decedent.

253.0445 County whose population is less than 100,000: Access to information.

253.045 Additional duties in county whose population is less than 100,000.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 401.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 401:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Assembly Bill No. 401 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 111.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 111 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 111.

Bill read third time.

Remarks by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 111:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Assembly Bill No. 111 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 548.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Assembly Bill No. 548:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Assembly Bill No. 548 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 550.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 550:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Assembly Bill No. 550 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 554.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 554:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Assembly Bill No. 554 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 9 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 530.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 530:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Assembly Bill No. 530 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 27.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 27:

YEAS—39.

NAYS—Gustavson.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 27 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 34.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 34:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 34 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 66.

Bill read third time.

Remarks by Assemblyman Christensen.

Roll call on Senate Bill No. 66:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 66 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 74.

Bill read third time.

Remarks by Assemblyman Munford.

Roll call on Senate Bill No. 74:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 74 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 79.

Bill read third time.

Remarks by Assemblyman Hambrick.

Roll call on Senate Bill No. 79:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 79 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 103 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 125.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Senate Bill No. 125:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 125 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 131.

Bill read third time.

Remarks by Assemblywoman Pierce.

Roll call on Senate Bill No. 131:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 131 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 132.

Bill read third time.

Remarks by Assemblymen Ohrenschall, Goicoechea, Grady, Gustavson, Leslie, and Goedhart.

Roll call on Senate Bill No. 132:

YEAS—32.

NAYS—Cobb, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer—8.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 132 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 134.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 134:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 134 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 169.

Bill read third time.

Remarks by Assemblyman Kihuen.

Roll call on Senate Bill No. 169:

YEAS—36.

NAYS—Kirkpatrick, Mastroluca, Pierce, Spiegel—4.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 169 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 170.

Bill read third time.

Remarks by Assemblymen Bobzien and Goicoechea.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 170:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 170 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 174.

Bill read third time.

Roll call on Senate Bill No. 174:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 174 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 209.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Senate Bill No. 209:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 209 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 215.

Bill read third time.

Roll call on Senate Bill No. 215:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 215 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 217.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Senate Bill No. 217:

YEAS—40.

NAYS—None.

EXCUSED—Carpenter, Claborn—2.

Senate Bill No. 217 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:08 p.m.

ASSEMBLY IN SESSION

At 1:13 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 16, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 409.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 146, 294, 394.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 146.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 294.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 394.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 409.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 410.

The following Senate amendment was read:

Amendment No. 575.

AN ACT relating to industrial insurance; allowing the provisions of certain collective bargaining agreements to supersede various statutory provisions relating to industrial insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill allows the provisions of collective bargaining agreements between **certain** employers ~~[in certain construction-related businesses]~~ and the labor organizations that represent their employees to supersede various statutory provisions relating to industrial insurance. Such collective bargaining agreements may include provisions which establish processes for alternative dispute resolution, lists of medical evaluators and providers of medical treatment, joint safety committees, programs for light-duty or modified job responsibilities and programs for vocational rehabilitation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 616A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, notwithstanding any provisions of chapters 616A to 617, inclusive, of NRS to the contrary, the Division and the courts of this State shall recognize as valid and binding , ~~[any provision]~~ in a collective bargaining agreement between a private employer or a group of private employers ~~[engaged in construction, construction maintenance or activities limited to rock, sand, gravel, cement and asphalt operations, heavy duty mechanics, surveying and construction inspection,]~~ and a labor organization that represents the employees of such employers , any provision which establishes:

(a) A process for alternative dispute resolution, including, without limitation, mediation and arbitration, which governs disputes between employees and employers or their insurers and which supplements or replaces all or part of the dispute resolution processes contained in chapters 616A to 617, inclusive, of NRS. Any such process for alternative dispute resolution must provide that a finding of fact, award, order or decision of an arbitrator or board of arbitration:

(1) Has the same force and effect as a finding of fact, award, order or decision of a hearing officer or the Administrator, as applicable; and

(2) Is subject to review by an appeals officer in the same manner, and using the same procedures, as provided for review of a finding of fact, award, order or decision made by a hearing officer or the Administrator, as applicable ; ~~[.]~~

(b) The use of a specified list of providers of medical treatment who may be the exclusive source of all medical treatment provided under chapters 616A to 617, inclusive, of NRS ; ~~[.]~~

(c) The use of a specified list of medical evaluators who may be the exclusive source of all medical evaluations under chapters 616A to 617, inclusive, of NRS ; ~~[.]~~

(d) A joint committee for safety involving both the employer and the labor organization ; ~~[.]~~

(e) A program for light-duty employment or employment that is modified according to limitations or restrictions imposed by a physician or chiropractor ~~[.]~~ ; or

(f) A program for vocational rehabilitation utilizing a specified list of providers of vocational rehabilitation services who may be the exclusive source

of all vocational rehabilitation services under chapters 616A to 617, inclusive, of NRS.

2. Nothing in this section:

(a) Authorizes any provision of a collective bargaining agreement to reduce the entitlement of an employee to compensation for temporary total disability, temporary partial disability, permanent total disability, permanent partial disability, vocational rehabilitation services or medical treatment fully paid for by the employer, as otherwise provided in chapters 616A to 617, inclusive, of NRS. Any provision of a collective bargaining

agreement which purports to so reduce the entitlement of an employee to any such compensation is void.

(b) Prohibits an employer and a labor organization from negotiating any aspect of the delivery of medical benefits or the delivery of compensation for disability to employees of the employer or group of employers who are eligible for group health benefits and disability benefits through their employer other than those provided in chapters 616A to 617, inclusive, of NRS.

3. As used in this section, "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 410.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 389.

The following Senate amendment was read:

Amendment No. 603.

AN ACT relating to personal identifying information; prohibiting a ~~[~~person~]~~ **business** from printing certain information concerning a credit card or debit card on any copy of a receipt retained by the ~~[~~person;~]~~ **business;** prohibiting a person from providing machines that do not allow a ~~[~~person~]~~ **business** to comply with the prohibition against printing certain information; providing civil and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing state and federal laws prohibit a person who accepts credit cards or debit cards for the transaction of business from printing the expiration date of the card or more than the last five digits of the account number of the card on any receipt provided to the cardholder. (NRS 597.945; 15 U.S.C. § 1681c(g)) **Section 2** of this bill prohibits ~~[~~such~]~~ a ~~[~~person~]~~ **business** from printing more than the last five digits of the account number of the card on any copy of the receipt that is retained by the ~~[~~person who~]~~ **business that** accepted the card. Additionally, **section 2** prescribes a civil penalty of $500 for a ~~[~~person who~]~~ **business that** violates these provisions and an additional penalty of $1,000 per week for a ~~[~~person who~]~~ **business that** does not correct the violation. The aggregate amount of civil penalties imposed on a ~~[~~person~]~~ **business** for violations of these provisions which occur on the same premises must not exceed $4,500. Finally, **section 2** authorizes the Attorney General

or a district attorney to: (1) recover the civil penalties in a civil action; and (2) bring an action to enjoin any violation of the provisions of **section 2**. A ~~[person who]~~ **business that** violates any order or injunction issued to enjoin a violation of the provisions of **section 2** is guilty of a gross misdemeanor.

Section 3 of this bill exempts from the applicability of **section 2**, from July 1, 2009, to December 31, 2009, a ~~[person who]~~ **business that** does not have the ability to control or adjust the manner in which a receipt is electronically printed.

Section 1 of this bill prohibits a manufacturer or a supplier from providing, selling or leasing a cash register or other machine or device that does not allow a ~~[person]~~ **business** to comply with the provisions of **section 2**. **Section 1** also authorizes the Attorney General or a district attorney to bring an action to enjoin any violation of the provisions of **section 1**. A person who violates any order or injunction issued to enjoin a violation of the provisions of **section 1** is guilty of a gross misdemeanor.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A manufacturer or supplier of a cash register or other machine or device that prints receipts for transactions in which a credit card or debit card is used shall not provide, lease or sell for the transaction of business any equipment that does not allow a ~~[person]~~ business to comply with the provisions of subsection 1 of NRS 597.945.

2. The Attorney General or the district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada against any person to restrain and prevent any violation of this section. The court may issue an injunction for those purposes without proof of actual damage sustained by any person.

3. A person who violates any order or injunction issued pursuant to this section is guilty of a gross misdemeanor.

4. As used in this section:

(a) "Credit card" has the meaning ascribed to it in NRS 597.945.

(b) "Debit card" has the meaning ascribed to it in NRS 597.945.

(c) "Supplier" means a person engaged in the business of providing, leasing or selling cash registers or other machines or devices that are used to print receipts in the transaction of business.

Sec. 2. NRS 597.945 is hereby amended to read as follows:

597.945 1. Except as otherwise provided in this section, if a ~~[person]~~ ***business*** accepts credit cards or debit cards for the transaction of business, the ~~[person]~~ ***business*** shall not ***:*** ~~[do any of the following:]~~

(a) Print the expiration date of the credit card or debit card on any receipt provided to the cardholder ***;*** ~~[.]~~

(b) Print more than the last five digits of the account number of the credit card or debit card on any receipt provided to the cardholder ~~[.]~~ ***; or***

(c) Print more than the last five digits of the account number of the credit card or debit card on any copy of a receipt retained by the ~~[person.]~~ business.

2. This section:

(a) Applies only to receipts that are electronically printed.

(b) Does not apply to transactions in which the only means of recording the credit card or debit card number is:

(1) By handwriting the credit card or debit card number; or

(2) By imprinting or copying the credit card or debit card.

3. ~~[~~If any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions was first put into use before October 1, 2003, the provisions of this section do not apply to any transaction that occurs with regard to that cash register or other machine or device before January 1, 2008.~~]~~ ***A ~~[person who]~~ business that violates any provision of this section is liable for a civil penalty in the amount of $500. The ~~[person]~~ business must be given notice of the violation and 2 weeks to correct the violation. A ~~[person who]~~ business that does not correct the violation within 2 weeks after receiving notice of the violation is liable for an additional civil penalty in the amount of $1,000 per week until the ~~[person]~~ business corrects the violation, except that the aggregate amount of civil penalties imposed on a ~~[person]~~ business for violations which occur on the same premises must not exceed $4,500.***

4. A civil penalty imposed pursuant to subsection 3 must be recovered in a civil action brought in the name of the State of Nevada by the Attorney General or by any district attorney in a court of competent jurisdiction. Any penalty collected pursuant to this section must be paid to the State Treasurer for credit to the State General Fund.

5. The Attorney General or the district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada against any ~~[person]~~ business to restrain and prevent any violation of this section. The court may issue an injunction for those purposes without proof of actual damage sustained by any person.

6. A ~~[person who]~~ business that violates any order or injunction issued pursuant to this section is guilty of a gross misdemeanor.

7. As used in this section:

(a) "Credit card" means any instrument or device, whether known as a credit card, credit plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value on credit.

(b) "Debit card" means any instrument or device, whether known as a debit card or by any other name, that is issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods,

services or anything else of value, subject to the issuer removing money from the checking account or savings account of the cardholder.

Sec. 3. 1. From July 1, 2009, to December 31, 2009, inclusive, the prohibitions set forth in subsection 1 of NRS 597.945 are applicable only to a ~~[person who]~~ **business that** has the control or ability to adjust the manner in which a receipt is electronically printed for transactions in which a credit card or debit card is used.

2. As used in this section:

(a) "Credit card" has the meaning ascribed to it in NRS 597.945.

(b) "Debit card" has the meaning ascribed to it in NRS 597.945.

Sec. 4. 1. This section and sections 2 and 3 of this act become effective on July 1, 2009.

2. Section 1 of this act becomes effective on October 1, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 389.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 415.

The following Senate amendment was read:

Amendment No. 583.

AN ACT relating to counties; authorizing certain smaller counties to combine or separate certain county offices after approval by a vote of the residents of the county; ~~[making the County Clerk the ex officio County Treasurer in White Pine County except in certain circumstances;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law grants to the Nevada Legislature the power to increase, diminish, consolidate or abolish the offices of county clerk, county recorder, auditor, sheriff, district attorney and public administrator. (Nev. Const., Art. 4, § 32) As interpreted by the Nevada Supreme Court, Nev. Const., Art. 4, § 32, does not set forth an exhaustive list of all the county offices that the Legislature may increase, diminish, consolidate or abolish but, instead, clarifies that although the offices of county clerk, county recorder, auditor, sheriff, district attorney and public administrator are constitutional offices, the Legislature may nonetheless increase, diminish, consolidate or abolish those offices. (*Harvey v. Second Judicial Dist. Court*, 117 Nev. 754, 764-66 (2001)) The Court has further determined that the Legislature may either exercise or delegate the authority set forth in Nev. Const., Art. 4, § 32. (*Cawley v. Pershing County*, 50 Nev. 237, 247 (1927))

This bill, in counties whose population is less than 40,000 (currently counties other than Clark, Douglas, Elko and Washoe Counties and Carson City), authorizes the governing body of the county, after making certain findings and after approval of the residents of the county pursuant to an

advisory ballot question (NRS 293.482), to combine or separate any county offices, except for constitutional county offices that are not listed in Nev. Const., Art. 4, § 32. Thus, this bill does not authorize the governing body of a county to combine or separate such offices as county commissioner or district judge. (Nev. Const., Art. 4, § 26, Art. 6, § 5)

~~[Existing law makes the county clerk of certain counties the ex officio county treasurer for their respective counties. (NRS 249.010) Section 4 of this bill adds White Pine County to the list of such counties making the County Clerk the ex officio County Treasurer of that County, unless the governing body alters this using the new mechanism for combining or separating county offices.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the board of county commissioners of a county whose population is less than 40,000 may by ordinance direct that:

(a) The powers and duties of two or more county offices be combined into one county office.

(b) The powers and duties of one county office be allocated between two or more county offices.

2. A board of county commissioners shall not take the action described in subsection 1 unless:

(a) The board determines that the combining or separating of the applicable county offices will benefit the public;

(b) The board determines that the combining or separating of the applicable county offices will not create:

(1) An ethical, legal or practical conflict of interest; or

(2) A situation in which the powers and duties assigned to a county office are incompatible with the proper performance of that office in the public interest;

(c) The board submits to the residents of the county, in the form of an advisory ballot question pursuant to NRS 293.482, a proposal to combine or separate the applicable county offices; and

(d) A majority of the voters voting on the advisory ballot question approves the proposal.

3. If the combining or separating of county offices pursuant to this section will result in the elimination of one or more county offices, the combining or separating of offices must not become effective until the earlier of the date on which:

(a) The normal term of office of the person whose office will be eliminated expires; or

(b) The person whose office will be eliminated resigns.

4. If the combining or separating of county offices pursuant to this section results in the powers and duties of one county office being transferred to another county office, the county office to which the powers and duties are transferred shall be deemed to be the county office from which the powers and duties were transferred for the purposes of any applicable provision of law authorizing or requiring the performance or exercise of those powers and duties, as appropriate.

Sec. 2. NRS 247.010 is hereby amended to read as follows:

247.010 1. Except as otherwise provided in subsection 3 ~~[.]~~ ***or as altered pursuant to the mechanism set forth in section 1 of this act,*** county recorders must be elected by the qualified electors of their respective counties.

2. County recorders must be chosen by the electors of their respective counties at the general election in 1922, and at the general election every 4 years thereafter, and shall enter upon the duties of their respective offices on the first Monday of January subsequent to their election.

3. The Clerk of Carson City is ex officio the Recorder of Carson City.

Sec. 3. NRS 248.010 is hereby amended to read as follows:

248.010 ***Unless the arrangement is altered pursuant to the mechanism set forth in section 1 of this act:***

1. Sheriffs must be elected by the qualified electors of their respective counties.

2. Sheriffs must be chosen by the electors of their respective counties at the general election in 1922, and at the general election every 4 years thereafter, and shall enter upon the duties of their respective offices on the first Monday of January subsequent to their election.

Sec. 4. NRS 249.010 is hereby amended to read as follows:

249.010 1. Except as ***otherwise*** provided in subsection 3 ~~[.]~~ ***or as altered pursuant to the mechanism set forth in section 1 of this act,*** county treasurers must be elected by the qualified electors of their respective counties.

2. County treasurers must be chosen by the electors of their respective counties at the general election in 1922, and at the general election every 4 years thereafter, and shall enter upon the duties of their respective offices on the first Monday of January subsequent to their election.

3. The county clerks of Churchill, Douglas, Esmeralda, Eureka, Lyon, Mineral, Pershing and Storey ~~*[and White Pine]*~~ Counties are ex officio county treasurers of their respective counties ~~[.]~~ ***, unless such an arrangement is altered pursuant to the mechanism set forth in section 1 of this act.***

Sec. 5. NRS 251.010 is hereby amended to read as follows:

251.010 1. The county recorder is ex officio county auditor in counties in which a county comptroller has not been appointed ~~[.]~~ ***, unless such an arrangement is altered pursuant to the mechanism set forth in section 1 of this act.***

2. County auditors shall keep an office at the county seat of their county, which must be kept open in accordance with the provisions of NRS 245.040.

Sec. 6. NRS 253.010 is hereby amended to read as follows:

253.010 1. Except as otherwise provided in subsection 4 ~~[.]~~ ***or as altered pursuant to the mechanism set forth in section 1 of this act,*** public administrators must be elected by the qualified electors of their respective counties.

2. Public administrators must be chosen by the electors of their respective counties at the general election in 1922 and at the general election every 4 years thereafter, and shall enter upon the duties of their office on the first Monday of January after their election.

3. The public administrator of a county must:

(a) Be a qualified elector of the county;

(b) Be at least 21 years of age on the date he will take office;

(c) Not have been convicted of a felony for which his civil rights have not been restored by a court of competent jurisdiction; and

(d) Not have been found liable in a civil action involving a finding of fraud, misrepresentation, material omission, misappropriation, theft or conversion.

4. The district attorneys of Lander, Lincoln and White Pine Counties are ex officio public administrators of Lander County, Lincoln County and White Pine County, respectively ~~[.]~~ ***, unless such an arrangement is altered pursuant to the mechanism set forth in section 1 of this act.***

5. The Clerk of Carson City shall serve as Public Administrator of Carson City.

Sec. 7. NRS 253.150 is hereby amended to read as follows:

253.150 1. The board of county commissioners of each county shall establish the office of public guardian.

2. The board of county commissioners shall:

(a) Appoint a public guardian, who serves at the pleasure of the board, for a term of 4 years from the day of appointment;

(b) Designate an elected or appointed county officer as ex officio public guardian;

(c) ***Pursuant to the mechanism set forth in section 1 of this act, designate another county officer to execute the powers and duties of the public guardian;***

(d) Except in a county whose population is 100,000 or more, contract with a private professional guardian to act as public guardian; or

~~[(d)]~~ ***(e)*** Contract with the board of county commissioners of a neighboring county in the same judicial district to designate as public guardian the public guardian of the neighboring county.

3. The compensation of a public guardian appointed or designated pursuant to subsection 2 must be fixed by the board of county commissioners and paid out of the county general fund.

4. As used in this section, "private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the person by blood or marriage. The term does not include:

(a) A governmental agency.

(b) A banking corporation, as defined in NRS 657.016, or an organization permitted to act as fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.

(c) A trust company, as defined in NRS 669.070.

(d) A court-appointed attorney licensed to practice law in this State.

Sec. 8. NRS 253.160 is hereby amended to read as follows:

253.160 1. Upon taking office, a public guardian shall file with the county clerk a general bond in an amount fixed by the board of county commissioners payable to the State of Nevada with sureties approved by the board of county commissioners. The premium for the bond shall be paid from the general funds of the county and be conditioned upon the public guardian's faithful performance of his duties.

2. The general bond and oath of office of a public guardian are in lieu of the bonds and oaths required of private guardians.

3. The oath and bond of an elected or appointed public officer designated ~~[ex officio]~~ public guardian ***or designated to execute the powers and duties of the public guardian*** pursuant to ***paragraph (b) or (c) of*** subsection 2 of NRS 253.150 are in lieu of the bonds and oaths required of private guardians. The court may require ~~[the ex officio public guardian]~~ ***such a designee*** to execute a separate bond for any guardianship in the manner prescribed in NRS 159.065.

Sec. 9. NRS 259.020 is hereby amended to read as follows:

259.020 Except in any county where a coroner is appointed pursuant to NRS 244.163, all sheriffs in this state are ex officio coroners ~~[.]~~ ***, unless such an arrangement is altered pursuant to the mechanism set forth in section 1 of this act.***

Sec. 10. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 415.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 9, 175, 185, 219, 229, 231, 238, 251, 254, 263, 278, 287, 298, 302, 317, 319, 325, 333, 340, 360, 377, 414; Senate Joint Resolutions Nos. 1, 2, 3, 4, 9; Senate Joint Resolution No. 2 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 177, 425; Senate Bills Nos. 4, 23, 37, 44, 59, 61, 76, 105, 106, 111, 130, 139, 144 and 147.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Lisa Kornze, Luca Carson Kornze Bobzien, and Finnegan Walker Kornze Bobzien.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Guy Gansert and Mackenzie Gansert.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, May 18, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 1:23 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND SIXTH DAY

CARSON CITY (Monday), May 18, 2009

Assembly called to order at 11:55 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Rabbi Jonathan Freirich.

Thank you for the honor of providing some opening words today. The Jewish calendar and that of the Legislature correspond in an interesting way right now. Just as each day of the legislative session is counted, so do Jewish people count the days between Passover, in early April this year, and the Feast of Weeks, or Shavuout, at the end of May. These days are called Omer, and according to the Five Books of Moses, the ancient Israelites counted the seven weeks following Passover in order to arrive at the day of the following holiday—so Shavuot, the Feast of Weeks, was a holiday without an official date on the calendar.

The habit of counting days transforms our notion of the passage of time. Whether we count the days of a legislative session that may carry on longer than we planned, or count the days until our winter grain harvest ripens on the stalk without being damaged by difficult spring weather (which may be one of the agricultural sources of the counting on the Jewish calendar), we find out consciousness of the time increases. The focus on knowing the date and number of each day, as opposed to going through the motions and losing track of which day of the week it may be, creates a greater mindfulness of the special nature of each day, and perhaps each moment.

As we all continue our different methods of counting time, may we allow ourselves to take away a greater sense of the importance of all moments, even when we may not count them so diligently.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which were referred Senate Bills Nos. 47, 84, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 17, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 128, 253, 261, 277, 313, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Taxation, to which was referred Senate Bill No. 276, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 243, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which were referred Assembly Bills Nos. 534, 549, 555, 556, 560, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were referred Assembly Bills Nos. 531, 546, 547, 557, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 65, 148, 254, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Senate Bill No. 312, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

Madam Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 64, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 16, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 76, 79, 121, 139, 236, 486, 510.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 19.

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 16, Amendment No. 631; Assembly Bill No. 52, Amendment No. 615; Assembly Bill No. 109, Amendment No. 620; Assembly Bill No. 191, Amendment No. 629; Assembly Bill No. 192, Amendment No. 652; Assembly Bill No. 274, Amendment No. 596, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 608 to Senate Bill No. 256.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

By Assemblymen Anderson, Aizley, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Denis, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McArthur, McClain, Mortenson, Munford, Oceguera, Ohrenschall, Parnell, Pierce, Segerblom, Settelmeyer, Smith, Spiegel, Stewart, and Woodbury; Senators Raggio, Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Rhoads, Schneider, Townsend, Washington, Wiener, and Woodhouse:

Assembly Concurrent Resolution No. 33—Memorializing the former Director of the Legislative Counsel Bureau, Arthur J. Palmer.

WHEREAS, The members of the Nevada Legislature were deeply saddened to learn of the recent passing of Arthur "Art" Judson Palmer, Jr., former Director of the Legislative Counsel Bureau, on February 14, 2009; and

WHEREAS, Born in New Jersey on December 10, 1919, Art Palmer drove to Reno in 1939, in his air-cooled Franklin, to attend the University of Nevada where he received his bachelor of science degree from the College of Agriculture in 1943 and later, his master of arts degree in political geography from Columbia University in New York in 1950; and

WHEREAS, Art Palmer worked for the Legislative Counsel Bureau under contract as early as 1948 and began full-time work with the Bureau on December 30, 1960, serving as Research Assistant, then Research Director and eventually as Director of the Legislative Counsel Bureau from March 1, 1972, until his retirement on October 30, 1984; and

WHEREAS, Under the leadership of Arthur J. Palmer, the Legislative Counsel Bureau was modernized into five independent divisions, which continue to the present as the Administrative, Audit, Fiscal Analysis, Legal and Research Divisions, and through the hiring of top-quality attorneys, auditors, fiscal and research analysts, and support staff, the Legislative Counsel Bureau became known as the consummate professional and independent agency for the Legislative Branch of Nevada State Government; and

WHEREAS, Art Palmer understood the benefits of affiliating with other state legislatures through the Council of State Governments and the National Conference of State Legislatures, serving with distinction on NCSL's Staff Committee, Executive Committee and Nominating Committee and as Staff Vice President, and he received the 1994 John Everhardt "Trooper" Award and the 1998 Legislative Staff Achievement Award; and

WHEREAS, Arthur Judson Palmer was married in 1940 to Alison Mae Cady, an exceptional elementary school teacher who taught in a number of Nevada communities, and together they traveled throughout the United States and abroad and were happily married for 68 years until Alison's passing on June 22, 2008; and

WHEREAS, The many years of love, dedication and devotion that Art Palmer demonstrated to his wife, family and friends, as well as the many years dedicated to public service, the State of Nevada and the Nevada Legislature, are hereby commended, honored and shall forever be remembered; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 75th Nevada Legislature hereby recognize Arthur J. Palmer for his many years of contributions and service to this State and offer their deepest condolences to his family; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Art and Alison's beloved daughter Cherie Garrison, her husband Bob and granddaughter Kristin Lieby.

Assemblyman Anderson moved the adoption of the resolution.

Remarks by Assemblyman Anderson and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. Assembly Concurrent Resolution 33 clearly states, on paper, of a gentleman who made the State of Nevada and the body for which we all work the institution it is today. He truly is the father of the modern day Legislative Counsel Bureau, which serves us so very well. When Art was appointed Director in 1972, the Bureau had but three divisions, a Legal Division, a Research Division, and a combined Fiscal and Auditing Division. Most administrative functions were handled at that time by the agencies of the Executive Branch. Art worked with key legislators in 1973 to make Audit into a separate division and combine Research with Fiscal. In 1977, those two functions were again divided into separate divisions. In 1979, Art again worked with the Legislature to add a fifth LCB Division, which would become known as the Administrative Division. That Division assumed the responsibility for the functions and services that had been provided by the Executive Branch for many years, including accounting and payroll, buildings and grounds, security, mailing, and communications. By the time of Art's retirement in 1984, the Bureau had evolved into an independent structure almost identical to the one we have today.

We are forever indebted to Arthur J. Palmer. Those words were not prepared by me but by Bob Erickson of the Research Division. I want to make sure I attribute these remarks to Mr. Erickson, because he was trying to make sure that we recognize what Mr. Palmer was about on the surface. In reality his contribution is far, far greater. To know and understand the man was to realize the great personal pride he took in this institution. I had the pleasure of meeting him a couple of times. Prior to being hired in December 1960, he put time in as a school teacher. In Elko he worked on the cattle trains. He also taught geography at the University of Nevada and worked with the Nevada Department of Highways and the Employment Security Department. In fact, the political history of Nevada from the Secretary's of State office, which we often rely upon, was largely his hard work. Through his diligent efforts to modernize important state records and documents, he discovered that the description of Nevada's boundaries in Nevada did not include 12,000 square miles of territory including Clark, Esmeralda, Lincoln, and Nye Counties. Thus, in the 1982 election, the *Nevada Constitution* finally brought our southern part of the state into the State of Nevada. Indeed, part of Art's love of geography lead him to every single county seat of government in the entire United States, including the boroughs of Alaska. Art Palmer had a great love for the people of this state and for the institutions of this state. It is fitting that we would rise to honor him and his contributions to our building and to where we are today. He is the guy who had to make it work when we moved from the old building into the new building. So everything about us is a result of this gentleman, and we mourn his passing.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I, too, want to extend my condolences to the family. His legacy is felt every day in these halls. He really laid the foundation for what we are today. We are so grateful to you for sharing him with us for so many years. Thank you.

Resolution adopted.

Assemblyman Anderson moved that all rules be suspended and that Assembly Concurrent Resolution No. 33 be immediately transmitted to the Senate.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 195, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 146, 497, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 64.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 672.

AN ACT relating to courts; increasing the number of district judges in the Second and Eighth Judicial Districts; increasing the number of district judges in the Eighth Judicial District who must be judges of the family court; ~~[making an appropriation;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill increase the number of district judges in the Second Judicial District, which includes Washoe County, by one district judge, who is not a member of the family court. (NRS 3.010, 3.012)

Sections 3-5 of this bill increase the number of district judges in the Eighth Judicial District, which includes Clark County, by nine district judges, two of whom must be judges of the family court. (NRS 3.010, 3.018, 3.0185)

~~[Section 8 of this bill makes an appropriation to pay for the salaries of the additional district judges.]~~

Section 10 of this bill provides that this bill will become effective if, and only if, Assembly Bill No. 65 of this session, which provides for the collection and disposition of additional court fees, is enacted by the Legislature and becomes effective.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 3.012 is hereby amended to read as follows:

3.012 For the Second Judicial District there must be ~~[14]~~ ***15*** district judges, 6 of whom must be judges of the family court.

Sec. 2. NRS 3.012 is hereby amended to read as follows:

3.012 For the Second Judicial District there must be ~~[eight]~~ ***nine*** district judges who are not judges of the family court.

Sec. 3. NRS 3.018 is hereby amended to read as follows:

3.018 For the Eighth Judicial District there must be ~~[43]~~ ***52*** district judges, ~~[18]~~ ***20*** of whom must be judges of the family court.

Sec. 4. NRS 3.018 is hereby amended to read as follows:

3.018 For the Eighth Judicial District there must be ~~[25]~~ ***32*** district judges who are not judges of the family court.

Sec. 5. NRS 3.0185 is hereby amended to read as follows:

3.0185 For the Eighth Judicial District, in addition to the district judges established pursuant to NRS 3.018, there must be ~~[18]~~ ***20*** district judges who are judges of the family court.

Sec. 6. The additional district judge required for the Second Judicial District pursuant to section 1 of this act must be selected at the general election held on November 2, 2010, and take office on January 3, 2011. The term of this judge expires on January 5, 2015.

Sec. 7. The additional district judges required for the Eighth Judicial District pursuant to section 3 of this act must be selected at the general election held on November 2, 2010, and take office on January 3, 2011. The terms of these judges expire on January 5, 2015.

Sec. 8. ~~[1. There is hereby appropriated from the State General Fund to the District Judges' Salary Account the sum of $1,061,038 for the salaries of the additional district judges required pursuant to sections 1 and 3 of this act.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.]~~ **(Deleted by amendment.)**

Sec. 9. The provisions of NRS 354.599 do not apply to any additional expense of a local government that are related to the provisions of this act.

Sec. 10. 1. This section ~~[and sections]~~ **becomes effective upon passage and approval.**

2. If, and only if, Assembly Bill No. 65 of this session is enacted by the Legislature and becomes effective:

(a) Sections 1, 3, 6, 7 and 9 of this act become effective on October 1, 2009.

~~[2.]~~ **(b)** Section 8 of this act becomes effective on July 1, 2010.

~~[3.]~~ **(c)** Sections 1 and 3 of this act expire by limitation on January 2, 2011.

~~[4.]~~ **(d)** Sections 2, 4 and 5 of this act become effective on January 3, 2011.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 254.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 806.

SUMMARY—Makes the Ombudsman of Consumer Affairs for Minorities a permanent position ~~[.]~~ **within the Office of the Director of the Department of Business and Industry.** (BDR 18-830)

AN ACT relating to the Department of Business and Industry; making the Ombudsman of Consumer Affairs for Minorities a permanent position ~~[.]~~ **within the Office of the Director of the Department;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The 2007 Legislature created the Office of Ombudsman of Consumer Affairs for Minorities within the Consumer Affairs Division of the Department of Business and Industry as a temporary position for the 2007-2009 biennium. (Chapter 348, Statutes of Nevada 2007, pp. 1662, 1676) This bill makes the Ombudsman of Consumer Affairs for Minorities a permanent position ~~[.]~~ **within the Office of the Director of the Department.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Office of Ombudsman of Consumer Affairs for Minorities is hereby created within the ~~*[Consumer Affairs Division]*~~ ***Office of the*** ~~*[Department.]*~~ ***Director. The Ombudsman shall:***

(a) Provide for continued educational, outreach and service programs for minority groups pertaining to consumer fraud; and

(b) Assist the Nevada Commission on Minority Affairs created by NRS 232.852.

2. The Director ~~*[of the Department]*~~ ***shall appoint the Ombudsman of Consumer Affairs for Minorities.***

3. The Ombudsman of Consumer Affairs for Minorities is:

(a) In the unclassified service of the State.

(b) Directly responsible to the ~~*[Commissioner of Consumer Affairs.]*~~ ***Director.***

Sec. 2. NRS 232.505 is hereby amended to read as follows:

232.505 As used in NRS 232.505 to 232.840, inclusive, ***and section 1 of this act,*** unless the context requires otherwise:

1. "Department" means the Department of Business and Industry.

2. "Director" means the Director of the Department.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 531.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 636.

AN ACT relating to administrative assessments; revising provisions governing the distribution of the proceeds of certain administrative assessments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who pleads or is found guilty of a misdemeanor is required to pay an administrative assessment in addition to any other penalty imposed by the judge. A portion of the proceeds of those assessments must be deposited in the State General Fund and distributed for certain prescribed uses. (NRS 176.059) This bill revises the provisions governing the distribution of those proceeds by: (1) authorizing the Court Administrator to allocate a certain percentage of the proceeds among several prescribed uses; (2) authorizing the use of such proceeds pursuant to legislative authorization for the support of programs within the Office of the Attorney General related to victims of domestic violence; and (3) providing that any proceeds deposited in the State General Fund that are not distributed must be transferred to the uncommitted balance of the State General Fund.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 176.059 is hereby amended to read as follows:

176.059 1. Except as otherwise provided in subsection 2, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum prescribed by the following schedule as an administrative assessment and render a judgment against the defendant for the assessment:

Fine	Assessment
$5 to $49	$25
50 to 59	40
60 to 69	$45
70 to 79	50
80 to 89	55
90 to 99	60
100 to 199	70

200 to 299 80
300 to 399 90
400 to 499 100
500 to 1,000 115

If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment that corresponds with the fine for which the defendant would have been responsible as prescribed by the schedule in this subsection.

2. The provisions of subsection 1 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

3. The money collected for an administrative assessment must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 5 or 6. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

4. If the justice or judge permits the fine and administrative assessment to be paid in installments, the payments must be first applied to the unpaid balance of the administrative assessment. The city treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 5. The county treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 6.

5. The money collected for administrative assessments in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars to the county treasurer for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon

request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the municipal courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the municipal general fund if it has not been committed for expenditure. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

6. The money collected for administrative assessments in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the justice courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

7. The money apportioned to a juvenile court, a justice court or a municipal court pursuant to this section must be used, in addition to providing services to juvenile offenders in the juvenile court, to improve the operations of the court, or to acquire appropriate advanced technology or the use of such technology, or both. Money used to improve the operations of the court may include expenditures for:

(a) Training and education of personnel;

(b) Acquisition of capital goods;

(c) Management and operational studies; or

(d) Audits.

8. Of the total amount deposited in the State General Fund pursuant to subsections 5 and 6, the State Controller shall distribute the money received to the following public agencies in the following manner:

(a) Not less than 51 percent to the Office of Court Administrator for allocation as follows:

(1) ~~[~~Eighteen~~]~~ ***Thirty-six*** and one-half percent of the amount distributed to the Office of Court Administrator for ~~[~~the~~]~~ ***:***

(I) The administration of the courts ~~[~~.

~~(2) Nine percent of the amount distributed to the Office of Court Administrator for the~~ ~~]~~ ***;***

(II) The development of a uniform system for judicial records ~~[~~.

~~(3) Nine percent of the amount distributed to the Office of Court Administrator for continuing~~ ~~]~~ ***; and***

(III) Continuing judicial education.

~~[~~(4)~~]~~ ***(2)*** Forty-eight percent of the amount distributed to the Office of Court Administrator for the Supreme Court.

~~[~~(5)~~]~~ ***(3)*** Three and one-half percent of the amount distributed to the Office of Court Administrator for the payment for the services of retired justices and retired district judges.

~~[~~(6)~~]~~ ***(4)*** Twelve percent of the amount distributed to the Office of Court Administrator for the provision of specialty court programs.

(b) Not more than 49 percent must be used to the extent of legislative authorization for the support of:

(1) The Central Repository for Nevada Records of Criminal History;

(2) The Peace Officers' Standards and Training Commission;

(3) The operation by the Department of Public Safety of a computerized interoperative system for information related to law enforcement;

(4) The Fund for the Compensation of Victims of Crime; ~~[~~and~~]~~

(5) The Advisory Council for Prosecuting Attorneys ~~[~~.~~]~~ ***; and***

(6) Programs within the Office of the Attorney General related to victims of domestic violence.

9. ***Any money deposited in the State General Fund pursuant to subsections 5 and 6 that is not distributed*** ~~*[by the State Controller]*~~ ***or used pursuant to paragraph (b) of subsection 8 must be transferred to the uncommitted balance of the State General Fund.***

10. As used in this section:

(a) "Juvenile court" has the meaning ascribed to it in NRS 62A.180.

(b) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 534.

Bill read second time and ordered to third reading.

Assembly Bill No. 546.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 813.

AN ACT relating to insurance; revising the provisions governing the continuation of health care coverage upon termination of employment with certain smaller employers; allowing an additional election period to continue coverage of health insurance for certain former employees; ~~[making an appropriation;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Title III of the American Recovery and Reinvestment Act of 2009 provides premium assistance to certain persons to continue coverage of health insurance after termination of employment. (Public Law No. 111-5) The Act provides, in part, for a 65 percent reduction in premium payments for certain persons and an additional election period for certain persons who did not previously elect to continue coverage.

Sections 1 and 2 of this bill revise the premium payment amount and payment frequency for certain persons to continue coverage of health insurance. (NRS 689B.247, 689C.344)

Sections 3 and 4 of this bill allow an additional election period for certain persons who previously qualified to continue coverage under NRS 689B.245 and 689C.340.

~~[Section 5 of this bill provides an appropriation for enforcement of the provisions of this bill.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 689B.247 is hereby amended to read as follows:

689B.247 1. Any person who elects to continue coverage pursuant to NRS 689B.245 shall pay the premium for that coverage in an amount not to exceed ~~[125]~~ ***110*** percent of the premium charged to the employer by the insurer on the date on which that person became eligible for continued coverage.

2. If there is a change in the rate charged or benefits provided under the policy during the time of continued coverage, the premium may not exceed ~~[125]~~ ***110*** percent of the new rate charged to the employer.

3. The premiums must be paid to the insurer on a ~~[quarterly]~~ ***monthly*** basis.

4. If the payment of a premium is not received by the insurer within 30 days after the date on which it is due, continued coverage must be terminated.

Sec. 2. NRS 689C.344 is hereby amended to read as follows:

689C.344 1. Any person who elects to continue coverage pursuant to NRS 689C.340 shall pay a premium for that coverage in an amount not to exceed ~~[125]~~ ***110*** percent of the premium charged to the employer by the insurer for coverage of that person on the date on which that person became eligible for continued coverage.

2. If there is a change in the rate charged or benefits provided under the policy during the time of continued coverage, the premium may not exceed ~~[~~125~~]~~ ***110*** percent of the new rate charged to the employer.

3. The premiums must be paid to the insurer on a ~~[~~quarterly~~]~~ ***monthly*** basis.

4. If the payment of a premium is not received by the insurer within 30 days after the date on which it is due, continued coverage must be terminated.

Sec. 3. Notwithstanding any other provision of state law and in accordance with federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5:

1. ~~[A]~~ **Except as otherwise provided in this section, a** former employee is eligible to continue coverage under a policy of insurance in the same manner as an employee pursuant to NRS 689B.245 if the former employee:

(a) Was terminated from employment on or after September 1, 2008, and on or before February 16, 2009;

(b) Was eligible to elect to continue coverage as provided in NRS 689B.245 at the time the former employee was terminated; and

(c) Did not have coverage on February 17, 2009.

2. ~~[A]~~ **Except as otherwise provided in this section, a** spouse or dependent child of a former employee is eligible to continue coverage under a policy of insurance in the same manner as a spouse or dependent child of an employee pursuant to NRS 689B.245 if:

(a) The former employee was terminated from employment on or after September 1, 2008, and on or before February 16, 2009;

(b) The spouse or dependent child of the former employee, as applicable, was eligible to elect to continue coverage as provided in NRS 689B.245 at the time the former employee was terminated; and

(c) The spouse or dependent child of the former employee did not have coverage on February 17, 2009.

3. If an insurer insures a policy of group health insurance for the employees of an employer with less than 20 employees, the insurer shall, within 14 days after the effective date of this act and by certified mail, return receipt requested:

(a) Notify the employer of the duties of the employer pursuant to this act and Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5; ~~[and]~~

(b) **Notify the employer of the duties of the insurer pursuant to this act and Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, including, without limitation, the duty of the insurer:**

(1) To accept a reduced premium payment from a former employee or spouse or dependent child of the former employee who qualifies for coverage pursuant to this section; and

(2) To obtain reimbursement from the Federal Government for the portion of the premium not paid by the former employee or spouse or dependent child of the former employee; and

(c) Mail to the employer a copy of the forms necessary for a former employee or a spouse or dependent child of a former employee to continue coverage pursuant to this section.

4. An employer who is notified pursuant to subsection 3 shall, within 14 days after receiving notice and by certified mail, return receipt requested, to a last known address, provide to any former employee or spouse or dependent child of a former employee who is eligible to continue coverage pursuant to this section:

(a) Notice of his eligibility, with the notification containing information corresponding to the information provided by notification pursuant to section 3001(a)(7)(B) of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5; and

(b) A copy of the forms sent by the insurer pursuant to subsection 3.

5. A former employee or spouse or dependent child of a former employee **to whom an employer is required to send notification and forms pursuant to subsection 4** may continue coverage under a policy of insurance pursuant to this section ~~[in the same manner as an employee or spouse or dependent child of an employee provided for in NRS 689B.245, except as otherwise provided for by Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5.]~~ **by sending to the insurer described in subsection 3, on or before August 31, 2009:**

(a) All necessary forms for coverage; and

(b) The premium payment necessary to begin coverage, as provided by federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5.

6. **Coverage provided pursuant to this section:**

(a) Shall, in accordance with federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, not include any period of time from September 1, 2008, to August 31, 2009, inclusive, for any purpose related to denial, exclusion or limitation of a benefit for a pre-existing condition; and

(b) Begins retroactively on May 1, 2009, regardless of the specific date that the former employee or spouse or dependent child of a former employee complies with the provisions of subsection 5.

7. A violation of this section by an insurer shall be deemed to be an unfair method of competition or unfair or deceptive act or practice under NRS 686A.010 to 686A.310, inclusive.

Sec. 4. Notwithstanding any other provision of state law and in accordance with federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5:

1. ~~[A]~~ **Except as otherwise provided in this section, a** former employee is eligible to continue coverage under a health benefit plan in the same manner as an employee pursuant to NRS 689C.340 if the former employee:

(a) Was terminated from employment on or after September 1, 2008, and on or before February 16, 2009;

(b) Was eligible to elect to continue coverage as provided in NRS 689C.340 at the time the former employee was terminated; and

(c) Did not have coverage on February 17, 2009.

2. ~~[A]~~ **Except as otherwise provided in this section, a** spouse or dependent child of a former employee is eligible to continue coverage under a health benefit plan in the same manner as a spouse or dependent child of an employee pursuant to NRS 689C.340 if:

(a) The former employee was terminated from employment on or after September 1, 2008, and on or before February 16, 2009;

(b) The spouse or dependent child of the former employee, as applicable, was eligible to elect to continue coverage as provided in NRS 689C.340 at the time the former employee was terminated; and

(c) The spouse or dependent child of the former employee did not have coverage on February 17, 2009.

3. If an insurer insures a health benefit plan for the employees of an employer with less than 20 employees, the insurer shall, within 14 days after the effective date of this act and by certified mail, return receipt requested:

(a) Notify the employer of the duties of the employer pursuant to this act and Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5; ~~[and]~~

(b) **Notify the employer of the duties of the insurer pursuant to this act and Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, including, without limitation, the duty of the insurer:**

(1) To accept a reduced premium payment from a former employee or spouse or dependent child of the former employee who qualifies for coverage pursuant to this section; and

(2) To obtain reimbursement from the Federal Government for the portion of the premium not paid by the former employee or spouse or dependent child of the former employee; and

(c) Mail to the employer a copy of the forms necessary for a former employee or a spouse or dependent child of a former employee to continue coverage pursuant to this section.

4. An employer who is notified pursuant to subsection 3 shall, within 14 days after receiving notice and by certified mail, return receipt requested, to a last known address, provide to any former employee or spouse or dependent child of a former employee who is eligible to continue coverage pursuant to this section:

(a) Notice of his eligibility, with the notification containing information corresponding to the information provided by notification pursuant to section

3001(a)(7)(B) of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5; and

(b) A copy of the forms sent by the insurer pursuant to subsection 3.

5. A former employee or spouse or dependent child of a former employee **to whom an employer is required to send notification and forms pursuant to subsection 4** may continue coverage under a health benefit plan pursuant to this section ~~[in the same manner as an employee or spouse or dependent child of an employee provided for in NRS 689C.340, except as otherwise provided for by Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5.]~~ **by sending to the insurer described in subsection 3, on or before August 31, 2009:**

(a) All necessary forms for coverage; and

(b) The premium payment necessary to begin coverage, as provided by federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5.

6. **Coverage provided pursuant to this section:**

(a) Shall, in accordance with federal law, including, without limitation, Title III of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, not include any period of time from September 1, 2008, to August 31, 2009, inclusive, for any purpose related to denial, exclusion or limitation of a benefit for a pre-existing condition; and

(b) Begins retroactively on May 1, 2009, regardless of the specific date that the former employee or spouse or dependent child of a former employee complies with the provisions of subsection 5.

7. A violation of this section by an insurer shall be deemed to be an unfair method of competition or unfair or deceptive act or practice under NRS 686A.010 to 686A.310, inclusive.

Sec. 5. ~~[1. There is hereby appropriated from the State General Fund to the Division of Insurance of the Department of Business and Industry the sum of $25,000 for enforcement of the provisions of this act.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.]~~ **(Deleted by amendment.)**

Sec. 6. This act becomes effective upon passage and approval.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 547.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 809.

AN ACT relating to state financial administration; revising provisions governing the distribution of proceeds collected from fees that must be paid to reinstate the registration of a motor vehicle that has been suspended for failure to have proper insurance; **revising provisions governing the renewal of the registration of a motor vehicle;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a fee of $250 to reinstate the registration of a motor vehicle that was suspended because the registered owner failed to have insurance on the date specified in the form for verification that was mailed to the owner, and for a fee of $50 for a registered owner of a dormant vehicle who cancelled or allowed the insurance coverage to expire before cancelling the registration of the vehicle. (NRS 482.480) The proceeds collected from the fees are deposited in the Account for Verification of Insurance and used to carry out the provisions of law relating to proof of insurance for motor vehicles. ~~[This]~~ **Section 1.5 of this** bill revises the manner in which the money in the Account may be used so that it may be used, within the limits of legislative appropriation, only to pay for expenses related to the operation of the Department of Motor Vehicles. **Section 2 of this bill repeals a provision which requires the State Controller to transfer annually any amount in the Account which exceeds $500,000 to the State Highway Fund. Section 1 of this bill reenacts the repealed provision effective July 1, 2011.**

Sections 1.3 and 1.7 of this bill revise provisions governing the renewal of registration of motor vehicles.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:**

On June 30 of each year, the State Controller shall transfer from the Account for Verification of Insurance created pursuant to NRS 482.480 to the State Highway Fund any amount in the account which exceeds $500,000.

Sec. 1.3. **NRS 482.280 is hereby amended to read as follows:**

482.280 1. The registration of every vehicle expires at midnight on the day specified on the receipt of registration, unless the day specified falls on a Saturday, Sunday or legal holiday. If the day specified on the receipt of registration is a Saturday, Sunday or legal holiday, the registration of the vehicle expires at midnight on the next judicial day. The Department shall

mail to each holder of a certificate of registration ~~[an application]~~ ***a notification*** for renewal of registration for the following period of registration. The ~~[applications]~~ ***notifications*** must be mailed by the Department in sufficient time to allow all applicants to mail the ~~[applications]~~ ***notifications*** to the Department ***or to renew the certificate of registration at a kiosk or authorized inspection station or via the Internet or an interactive response system*** and to receive new certificates of registration and license plates, stickers, tabs or other suitable devices by mail before the expiration of their registrations. An applicant may present or submit the ~~[application]~~ ***notification*** to any agent or office of the Department.

2. ~~[An application:]~~ ***A notification:***

(a) Mailed or presented to the Department or to a county assessor pursuant to the provisions of this section;

(b) Submitted to the Department pursuant to NRS 482.294; or

(c) Presented to an authorized inspection station or authorized station pursuant to the provisions of NRS 482.281,

➥ must include, if required, evidence of compliance with standards for control of emissions.

3. The Department shall ~~[insert in each application]~~ ***include with each notification*** mailed pursuant to subsection 1:

(a) The amount of the governmental services tax to be collected for the county pursuant to the provisions of NRS 482.260.

(b) The amount set forth in a notice of nonpayment filed with the Department by a local authority pursuant to NRS 484.444.

(c) A statement which informs the applicant that, pursuant to NRS 485.185, he is legally required to maintain insurance during the period in which the motor vehicle is registered ~~[.]~~ ***which must be provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State.***

4. An owner who has made proper application for renewal of registration before the expiration of the current registration but who has not received the license plate or plates or card of registration for the ensuing period of registration is entitled to operate or permit the operation of that vehicle upon the highways upon displaying thereon the license plate or plates issued for the preceding period of registration for such a time as may be prescribed by the Department as it may find necessary for the issuance of the new plate or plates or card of registration.

~~[Section 1.]~~ ***Sec. 1.5.*** NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of $33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of $16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of $12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of $8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all of the cars registered to him.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of $33 and for each motorcycle other than a trimobile, an additional fee of $6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of $6 in addition to any other fees.

6. Except as otherwise provided in subsection 9 of NRS 485.317, to reinstate the registration of a motor vehicle suspended pursuant to that section:

(a) A fee of $250 for a registered owner who failed to have insurance on the date specified in the form for verification that was mailed by the Department pursuant to subsection 3 of NRS 485.317; or

(b) A fee of $50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

➥ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account ~~[must]~~ ***may only*** be used ~~[to carry out the provisions of NRS 485.313 to 485.318, inclusive.]~~ ***by the Department of Motor Vehicles, within the limits of legislative appropriation, to pay for expenses related to the operation of the Department.***

7. For every travel trailer, a fee for registration of $27.

8. For every permit for the operation of a golf cart, an annual fee of $10.

9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of $33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of $33.

Sec. 1.7. **NRS 485.137 is hereby amended to read as follows:**

485.137 1. The department shall publish a leaflet which summarizes and explains the requirements and provisions of this chapter.

2. The department shall:

(a) Make copies of the leaflet available without charge to all licensed drivers in this State, to all public school pupils who are of driving age, and to the public.

(b) Cause a copy of the leaflet to be delivered to each applicant for a new registration of a vehicle.

(c) Enclose a copy of the leaflet with each ~~[application for a]~~ ***notification for*** renewal of registration of a vehicle which is mailed to the applicant pursuant to law.

Sec. 2. NRS 482.4805 is hereby repealed.

Sec. 3. **1.** This **section and sections 1.3 to 2, inclusive, of this** act ~~[becomes]~~ **become** effective on July 1, 2009.

2. Section 1 of this act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

482.4805 Transfer of money from Account for Verification of Insurance to State Highway Fund. On June 30 of each year, the State Controller shall transfer from the Account for Verification of Insurance created pursuant to NRS 482.480 to the State Highway Fund any amount in the account which exceeds $500,000.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 549.

Bill read second time and ordered to third reading.

Assembly Bill No. 555.

Bill read second time and ordered to third reading.

Assembly Bill No. 556.

Bill read second time and ordered to third reading.

Assembly Bill No. 557.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 810.

AN ACT making a supplemental appropriation to the Department of Corrections for unanticipated shortfalls in Fiscal Year 2008-2009 for increased costs at various facilities; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. There is hereby appropriated from the State General Fund to the Department of Corrections the sum of ~~[$6,234,090]~~ **$2,872,874** for increased costs at various facilities to be allocated as follows:

1. ~~[For the terminal leave and Public Employees' Retirement System credit (NRS 286.3007) payments as a result of facility closures for Fiscal Year 2008-2009, the sum of $3,860,870 allocated as follows:~~

~~(a) Prison Medical Care $64,967~~

~~(b) Nevada State Prison $3,563,809~~

~~(c) Tonopah Conservation Camp $232,094~~

~~2.]~~ For projected shortfalls in the utility budget for the Fiscal Year 2008-2009, the sum of ~~[$2,373,220]~~ **$875,878** allocated as follows:

(a) Prison Medical Care ..... ~~[$24,673]~~ **$19,809**

(b) Warm Springs Correctional Center ..... ~~[$11,490]~~ **$48,537**

(c) Northern Nevada Correctional Center ..... ~~[$379,938]~~ **$322,167**

(d) ~~[Nevada State Prison $6,499~~

~~(e)]~~ Stewart Conservation Camp ..... ~~[$30,753]~~ **$28,872**

~~[(f)]~~ **(e)** Pioche Conservation Camp ..... ~~[$96,653]~~ **$40,873**

~~[(g) Northern Nevada Restitution Center $4,193~~

~~(h) Three Lakes Valley Conservation Camp $19,545~~

~~(i)]~~ **(f)** Southern Desert Correctional Center ..... ~~[$519,323]~~ **$165,831**

~~[(j) Wells Conservation Camp $30,239~~

~~(k) Humboldt Conservation Camp $36,605~~

~~(l) Ely Conservation Camp $25,962~~

~~(m) Jean Conservation Camp $57,862~~

~~(n)]~~ **(g)** Ely State Prison ..... ~~[$302,963]~~ **$65,852**

~~[(o) Carlin Conservation Camp $12,478~~

~~(p) Tonopah Conservation Camp $34,846~~

~~(q)]~~ **(h)** Lovelock Correctional Center ..... ~~[$258,297]~~ **$183,937**

~~[(r) Casa Grande Transitional Housing $15,959~~

~~(s) Florence McClure Women's Correctional Center $40,128~~

~~(t) High Desert State Prison $464,814]~~

2. For projected shortfalls in the revenue budget for the Fiscal Year 2008-2009, the sum of $600,320 allocated as follows:

(a) Warm Springs Correctional Center $47,394

(b) Stewart Conservation Camp $7,788

(c) Pioche Conservation Camp $709

(d) Southern Desert Correctional Center $11,007

(e) Ely State Prison $16,268

(f) Lovelock Correctional Center $40,552

(g) Casa Grande Transitional Housing $476,602

3. For projected shortfalls in the personnel budget for the Fiscal Year 2008-2009, the sum of $708,564 allocated as follows:

(a) Prison Medical Care $138,333

(b) Warm Springs Correctional Center $64,142

(c) Northern Nevada Correctional Center $202,258

(d) Ely State Prison **$303,831**

4. For projected shortfalls in the operating budget for the Fiscal Year 2008-2009, the sum of $6,414 for Ely State Prison.

5. For projected shortfalls in the maintenance budget for the Fiscal Year 2008-2009, the sum of $8,815 for Ely State Prison.

6. For projected shortfalls in the inmate-driven budget for the Fiscal Year 2008-2009, the sum of $672,883 allocated as follows:

(a) Prison Medical Care **$170,371**

(b) Warm Springs Correctional Center **$9,886**

(c) Southern Desert Correctional Center **$492,626**

Sec. 2. The appropriation made in section 1 of this act is supplemental to that made by section 23 of chapter 350, Statutes of Nevada 2007, at page 1698.

Sec. 3. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 560.

Bill read second time and ordered to third reading.

Senate Bill No. 17.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 746.

AN ACT relating to health care; revising provisions governing the retention and destruction of health care records; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires that certain boards post a statement on their Internet websites that the health care records of patients who are less than ~~[25]~~ **23** years of age may not be destroyed and that the health care records of other patients may be destroyed after ~~[7]~~ **5** years.

Section 2 of this bill **:** ~~[increases from 5 years to 7 years the period of time that a provider of health care must retain the health care records of patients who are 25 years of age or older and requires the provider to notify a patient~~

~~before destroying his health care records upon expiration of the period. (NRS 629.051) Section 2 also:~~] (1) requires that certain disclosures regarding destruction of records be provided to patients; (2) prohibits the destruction of health care records for a person who is less than ~~[25]~~ **23** years of age ~~[,]~~ **until the person attains the age of 23 years;** and (3) requires the State Board of Health to adopt regulations relating to the required disclosures.

~~[Section 3 of this bill requires that individuals licensed by the Board of Medical Examiners who close an office in this State keep the Board apprised in writing of the location of medical records kept by that office for at least 7 years thereafter. (NRS 630.254)]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Health and each board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, [639,] 640, 640A, 640B, 640C, 641, 641A, 641B or 641C of NRS shall post on its website on the Internet, if any, a statement which discloses that:

(a) Pursuant to the provisions of subsection 7 of NRS 629.051 [, the] :

(1) The health care records of a person who is less than [25] 23 years of age may not be destroyed; and

(2) The health care records of a person who has attained the age of 23 years may be destroyed for those records which have been retained for at least 5 years or for any longer period provided by federal law; and

(b) Except as otherwise provided in subsection 7 of NRS 629.051 and unless a longer period is provided by federal law, the health care records of a patient who is 23 years of age or older may be destroyed after [7] 5 years pursuant to subsection 1 of NRS 629.051.

2. The State Board of Health shall adopt regulations prescribing the contents of the statements required pursuant to this section.

Sec. 2. NRS 629.051 is hereby amended to read as follows:

629.051 ***1.*** Except as otherwise provided in ***subsection 7 and in*** regulations adopted by the State Board of Health pursuant to NRS 652.135 with regard to the records of a medical laboratory ~~[,]~~ ***and unless a longer period is provided by federal law,*** each provider of health care shall retain the health care records of his patients as part of his regularly maintained records for 5 ~~[7]~~ years after their receipt or production. Health care records may be retained in written form, or by microfilm or any other recognized form of size reduction, including, without limitation, microfiche, computer disc, magnetic tape and optical disc, which does not adversely affect their use for the purposes of NRS 629.061. Health care records may be created, authenticated and stored in a computer system which limits access to those records.

2. A provider of health care shall post, in a conspicuous place in each location at which the provider performs health care services, a sign which discloses to patients that their health care records may be destroyed after the period set forth in subsection 1.

3. When a provider of health care performs health care services for a patient for the first time, the provider of health care shall deliver to the patient a written statement which discloses to the patient that the health care records of the patient may be destroyed after the period set forth in subsection 1.

4. If a provider fails to deliver the written statement to the patient pursuant to subsection 3, the provider of health care shall deliver to the patient the written statement described in subsection 3 when the provider next performs health care services for the patient.

5. In addition to delivering a written statement pursuant to subsection 3 or 4, a provider of health care may deliver such a written statement to a patient at any other time.

6. A written statement delivered to a patient pursuant to this section may be included with other written information delivered to the patient by a provider of health care.

7. A provider of health care shall not destroy the health care records of a person who is less than ~~[25]~~ 23 years of age on the date of the proposed destruction of the records. The health care records of a person who has attained the age of 23 years may be destroyed in accordance with this section for those records which have been retained for at least 5 years or for any longer period provided by federal law.

8. The State Board of Health shall adopt:

(a) Regulations prescribing the form, size, contents and placement of the signs and written statements required pursuant to this section; and

(b) Any other regulations necessary to carry out the provisions of this section.

Sec. 3. NRS 630.254 is hereby amended to read as follows:

630.254 1. Each licensee shall maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent. A licensee who changes his permanent mailing address shall notify the Board in writing of his new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board in writing of a change in his permanent mailing address within 30 days after the change, the Board:

(a) Shall impose upon the licensee a fine not to exceed $250; and

(b) May initiate disciplinary action against the licensee as provided pursuant to subsection 9 of NRS 630.306.

2. Any licensee who changes the location of his office in this State shall notify the Board in writing of the change before practicing at the new location.

3. Any licensee who closes his office in this State shall:

(a) Notify the Board in writing of this occurrence within 14 days after the closure; and

(b) For a period of 5 ~~[7]~~ years thereafter ***, unless a longer period of retention is provided by federal law,*** keep the Board apprised in writing of the location of the medical records of his patients.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 47.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 724.

AN ACT relating to state personnel; authorizing the Director of the Department of Corrections to request that certain employees of the Department submit to random drug and alcohol screening tests; authorizing a state law enforcement agency to establish a substantially similar program of testing; providing that an employee's refusal to submit to such a screening test may result in his dismissal or in other disciplinary action being taken against him; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, appointing authorities at the state level are prohibited from hiring an applicant for a position of employment that affects the public safety unless the appointing authority first requires the applicant to submit to a screening test to detect the presence of a controlled substance. (NRS 284.4066) Existing law also authorizes such an appointing authority to request that an employee submit to a screening test to detect the presence of alcohol or drugs if: (1) the appointing authority reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing his ability to perform his duties safely and efficiently; or (2) the employee has performed certain acts relating to the discharge of a firearm or the operation of a motor vehicle. (NRS 284.4065) The provisions of existing law do not currently authorize an appointing authority at the state level to conduct random screening tests of its employees to detect the presence of alcohol or drugs.

Section 5 of this bill authorizes the Director of the Department of Corrections to request that an employee of the Department who is in a position that may affect public safety or security in the workplace submit to a screening test to detect the presence of alcohol or drugs and allows the Director to select the employee at random for the purpose of such testing. An employee of the Department may refuse to submit to such a screening test, but the refusal may result in his dismissal or in other disciplinary action being taken against him. **An employee of the Department who submits to such a screening test and who tests positive for alcohol or drugs for the**

first time is not subject to dismissal or other disciplinary action if he accepts a referral to an employee assistance program and successfully completes a treatment plan. The Department is required to pay the cost of such testing except for independent testing that an employee may elect to undergo at his own expense. **Section 4** of this bill authorizes any state law enforcement agency to establish a program of testing that is substantially similar to the program of the Department of Corrections described in **section 5**.

The United States Supreme Court has held that a program which compels governmental employees to submit to drug screening tests is a "search" within the meaning of the Fourth Amendment of the United States Constitution (see also Nev. Const. Art. 1, § 18) because drug screening invades an employee's reasonable expectation of privacy. (*National Treasury Employees Union v. Von Raab*, 489 U.S. 656, 665, 109 S. Ct. 1384, 1390 (1989); *Skinner v. Railway Labor Executives' Association*, 489 U.S. 602, 617-18, 109 S. Ct. 1402, 1413 (1989)) However, so long as drug screening serves a special governmental interest beyond the need for law enforcement, the intrusion on an employee's right to privacy is justified without a warrant, probable cause or individualized suspicion. (*Von Raab*, 489 U.S. at 665-66, 109 S. Ct. at 1390-91; *Skinner*, 489 U.S. at 620-21, 109 S. Ct. at 1415) Various courts have upheld the random drug testing of employees which served the government's interest in preserving public and workplace safety in contexts such as the testing of employees who: (1) are correctional officers (*Taylor v. O'Grady*, 888 F.2d 1189 (7th Cir. 1989)); (2) work in a nuclear facility (*International Brotherhood of Electrical Workers, Local 1245 v. United States Nuclear Regulatory Commission*, 966 F.2d 521 (9th Cir. 1992)); or (3) are civilian workers of the Navy who had access to classified information (*AFGE Local 1533 v. Cheney*, 944 F.2d 503 (9th Cir. 1993)).

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 284.4063 is hereby amended to read as follows:

284.4063 Except as otherwise provided in ***subsections 3 and 6 of section 4 of this act, subsections 3 and 6 of section 5 of this act and*** subsection 5 of NRS 284.4065, an employee who:

1. Fails to notify his supervisor as soon as possible after consuming any drug which could interfere with the safe and efficient performance of his duties;

2. Fails or refuses to submit to a screening test as requested by ~~[a]~~ ***:***

(a) A state agency pursuant to subsection 1 or 2 of NRS 284.4065; ~~[or]~~

(b) The chief administrator of a state law enforcement agency pursuant to section 4 of this act; or

(c) The Director of the Department of Corrections pursuant to section 5 of this act; or

3. After taking a screening test which indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested by his appointing authority, that he had taken the controlled substance as directed pursuant to a current and lawful prescription issued in his name,

➥ is subject to disciplinary action.

Sec. 2. NRS 284.4065 is hereby amended to read as follows:

284.4065 1. Except as otherwise provided in subsection 2 ~~[,]~~ ***and sections 4 and 5 of this act,*** an appointing authority may request ***that*** an employee ~~[to]~~ submit to a screening test only if the appointing authority:

(a) Reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs which are impairing his ability to perform his duties safely and efficiently;

(b) Informs the employee of the specific facts supporting its belief pursuant to paragraph (a), and prepares a written record of those facts; and

(c) Informs the employee in writing:

(1) Of whether the test will be for alcohol or drugs, or both;

(2) That the results of the test are not admissible in any criminal proceeding against him; and

(3) That he may refuse the test, but that his refusal may result in his dismissal or in other disciplinary action being taken against him.

2. An appointing authority may request ***that*** an employee ~~[to]~~ submit to a screening test if the employee:

(a) Is a law enforcement officer and, during the performance of his duties, he discharges a firearm, other than by accident; or

(b) During the performance of his duties, drives a motor vehicle in such a manner as to cause bodily injury to himself or another person or substantial damage to property.

➥ For the purposes of this subsection, the Commission shall, by regulation, define the term "substantial damage to property."

3. An appointing authority may place an employee who submits to a screening test ***pursuant to subsection 1 or 2*** on administrative leave with pay until the appointing authority receives the results of the test.

4. An appointing authority shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at his expense an independent test of his urine or blood from a laboratory of his choice which is certified by the United States Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at his expense an independent test of his blood from a laboratory of his choice.

(c) Provide the employee with the written results of his screening test within 3 working days after it receives those results.

5. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the appointing authority fails to comply with the provisions of this section.

6. An appointing authority shall not use a screening test to harass an employee.

Sec. 3. NRS 284.4068 is hereby amended to read as follows:

284.4068 Except as otherwise provided in NRS 239.0115, the results of a screening test taken pursuant to ***section 4 or 5 of this act or*** NRS 284.4061 to 284.407, inclusive, are confidential and:

1. Are not admissible in a criminal proceeding against the person tested;

2. Must be securely maintained by the appointing authority or his designated representative separately from other files concerning personnel; and

3. Must not be disclosed to any person, except:

(a) Upon the written consent of the person tested;

(b) As required by medical personnel for the diagnosis or treatment of the person tested ~~[,]~~ if he is physically unable to give his consent to the disclosure;

(c) As required pursuant to a properly issued subpoena;

(d) When relevant in a formal dispute between the appointing authority and the person tested; or

(e) As required for the administration of a plan of benefits for employees.

Sec. 4. Chapter 289 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a state law enforcement agency elects to establish a program as described in this section, the chief administrator of the agency may:

(a) Request that an employee of the agency submit to a screening test if the employee is in a position that, as determined in accordance with regulations adopted by the chief administrator, may affect public safety or safety in the workplace; and

(b) Use a method of random selection to determine which such employees of the agency will be subject to a request to submit to a screening test. Any method of random selection so used must be developed ~~*[or supervised, or both, by the Department of Information Technology]*~~ ***and conducted by a reputable business to ensure the integrity of the selection process.***

2. If a chief administrator requests that an employee submit to a screening test pursuant to this section, the chief administrator shall inform the employee in writing:

(a) Of whether the test will be for alcohol or drugs, or both;

(b) That the results of the test are not admissible in any criminal proceeding against him; and

(c) That he may refuse to submit to the test, but that, except as otherwise provided in subsections 3 and 6, his refusal may result in his dismissal or in other disciplinary action being taken against him.

3. An employee of a state law enforcement agency who is asked to submit to a screening test pursuant to this section may, without cause, refuse to submit to the test. However, the refusal of an employee to submit to a screening test as described in this subsection:

(a) May be exercised by the employee only one time during the period in which he is employed by the agency; and

(b) May result in disciplinary action being taken against him unless he accepts a referral to ~~[and successfully completes]~~ an employee assistance program ~~[.]~~ and successfully completes any recommended treatment plan. The employee must provide proof of completion of the treatment plan to his employing agency.

4. A chief administrator may place an employee who submits to a screening test pursuant to this section on administrative leave with pay until the applicable state law enforcement agency receives the results of the test.

5. A chief administrator shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at his expense an independent test of his urine or blood from a laboratory of his choice which is certified by the United States Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at his expense an independent test of his blood from a laboratory of his choice.

(c) Provide the employee with the written results of his screening test within 3 working days after the chief administrator receives those results.

6. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the applicable chief administrator fails to comply with the provisions of this section.

7. An employee testing positive in a screening test for the first time shall not be subject to dismissal or other disciplinary action being taken against him if the employee accepts a referral to an employee assistance program and successfully completes any recommended treatment plan. The employee must provide proof of completion of the treatment plan to his employing agency.

8. A chief administrator shall not use a screening test to harass an employee.

~~[8.]~~ 9. The provisions of NRS 284.4067 apply to a screening test requested by a chief administrator pursuant to this section. In addition to the requirements set forth in NRS 284.4067, the chief administrator shall ensure that the handling and laboratory work related to any screening test requested pursuant to this section are carried out by a reputable business that specializes in the analysis of blood and urine.

~~[9.]~~ ***10.*** ***Except as otherwise provided in paragraphs (a) and (b) of subsection 5 and subsection 3 of NRS 284.4067, a state law enforcement agency shall pay for all screening tests conducted pursuant to this section.***

~~[10.]~~ ***11.*** ***The provisions of this section do not alter, limit or otherwise affect the duty or authority of a chief administrator or a state law enforcement agency to cause screening tests to be conducted pursuant to NRS 284.406 to 284.407, inclusive.***

~~[11.]~~ ***12.*** ***The chief administrator of a state law enforcement agency that elects to establish a program as described in this section:***

(a) Shall adopt regulations setting forth the classifications of employees who may be subject to screening tests requested by the chief administrator pursuant to subsection 1.

(b) May adopt any other regulations that he deems necessary or convenient to carry out the provisions of this section.

~~[12.]~~ ***13.*** ***As used in this section:***

(a) "Chief administrator" means the executive and administrative head of a state law enforcement agency.

(b) "Screening test" has the meaning ascribed to it in NRS 284.4061.

(c) "State law enforcement agency" means an agency, office or bureau of this State, the primary duty of which is to enforce the law. The term includes, without limitation, the Department of Public Safety.

Sec. 5. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director may:

(a) Request that an employee of the Department submit to a screening test if the employee is in a position that, as determined in accordance with regulations adopted by the Director, may affect public safety or safety in the workplace; and

(b) Use a method of random selection to determine which such employees of the Department of Corrections will be subject to a request to submit to a screening test. Any method of random selection so used must be developed ~~*[or supervised, or both, by the Department of Information Technology]*~~ ***and conducted by a reputable business to ensure the integrity of the selection process.***

2. If the Director requests that an employee submit to a screening test pursuant to this section, the Director shall inform the employee in writing:

(a) Of whether the test will be for alcohol or drugs, or both;

(b) That the results of the test are not admissible in any criminal proceeding against him; and

(c) That he may refuse to submit to the test, but that, except as otherwise provided in subsections 3 and 6, his refusal may result in his dismissal or in other disciplinary action being taken against him.

3. An employee of the Department who is asked to submit to a screening test pursuant to this section may, without cause, refuse to submit

to the test. However, the refusal of an employee to submit to a screening test as described in this subsection:

(a) May be exercised by the employee only one time during the period in which he is employed by the Department; and

(b) May result in disciplinary action being taken against him unless he accepts a referral to ~~[and successfully completes]~~ an employee assistance program ~~[.]~~ and successfully completes any recommended treatment plan. The employee must provide proof of completion of the treatment plan to the Department.

4. The Director may place an employee who submits to a screening test pursuant to this section on administrative leave with pay until the Department receives the results of the test.

5. The Director shall:

(a) Within a reasonable time after an employee submits to a screening test to detect the general presence of a controlled substance or any other drug, allow the employee to obtain at his expense an independent test of his urine or blood from a laboratory of his choice which is certified by the United States Department of Health and Human Services.

(b) Within a reasonable time after an employee submits to a screening test to detect the general presence of alcohol, allow the employee to obtain at his expense an independent test of his blood from a laboratory of his choice.

(c) Provide the employee with the written results of his screening test within 3 working days after the Director receives those results.

6. An employee is not subject to disciplinary action for testing positive in a screening test or refusing to submit to a screening test if the Director fails to comply with the provisions of this section.

7. An employee testing positive in a screening test for the first time shall not be subject to dismissal or other disciplinary action being taken against him if the employee accepts a referral to an employee assistance program and successfully completes any recommended treatment plan. The employee must provide proof of completion of the treatment plan to the Department.

8. The Director shall not use a screening test to harass an employee.

~~[8.]~~ 9. The provisions of NRS 284.4067 apply to a screening test requested by the Director pursuant to this section. In addition to the requirements set forth in NRS 284.4067, the Director shall ensure that the handling and laboratory work related to any screening test requested pursuant to this section are carried out by a reputable business that specializes in the analysis of blood and urine.

~~[9.]~~ 10. Except as otherwise provided in paragraphs (a) and (b) of subsection 5 and subsection 3 of NRS 284.4067, the Department shall pay for all screening tests conducted pursuant to this section.

~~[10.]~~ 11. The provisions of this section do not alter, limit or otherwise affect the duty or authority of the Director or the Department to cause

screening tests to be conducted pursuant to NRS 284.406 to 284.407, inclusive.

~~[11.]~~ 12. The Director:

(a) Shall adopt regulations setting forth the classifications of employees who may be subject to screening tests requested by the Director pursuant to subsection 1.

(b) May adopt any other regulations that he deems necessary or convenient to carry out the provisions of this section.

~~[12.]~~ 13. As used in this section, "screening test" has the meaning ascribed to it in NRS 284.4061.

Sec. 6. This act becomes effective on July 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 84.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 723.

AN ACT relating to sentencing; authorizing a city to create a department of alternative sentencing; revising provisions relating to the administration of certain programs of supervision for persons with suspended sentences or persons sentenced to residential confinement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of a county to create a department of alternative sentencing. (Chapter 211A of NRS) **Sections 1-6** of this bill authorize the governing body of a county or a city to create a department of alternative sentencing.

Existing law provides for the administration of programs of supervision for certain persons with suspended sentences and persons sentenced to residential confinement by a justice court or municipal court. (NRS 4.372, 5.052) ~~[Section 7 of this bill authorizes the chief of the department of alternative sentencing of a city located within the county in which a justice court is located to administer the program of supervision for persons with sentences suspended by the justice court and persons sentenced to residential confinement by the justice court if the county does not have a department of alternative sentencing and such a department exists within any city located within that county.]~~ **Section 8** of this bill requires the chief of the department of alternative sentencing of the city in which a municipal court is located to administer the program of supervision for persons with sentences suspended by the municipal court and persons sentenced to residential confinement by the municipal court if the city has a department of alternative sentencing. Further, **section 8** ~~[requires the chief of the department of alternative~~

~~sentencing of the county in which a~~] **authorizes the** municipal court ~~[is located]~~ **to contract with a qualified person** to administer the program of supervision for persons with sentences suspended by the municipal court and persons sentenced to residential confinement by the municipal court if the city in which the municipal court is located does not have a department of alternative sentencing **.** ~~[and such a department exists within the county.]~~ **Section 7 of this bill makes technical changes to provide consistency with the amendments made to the statutory provisions of section 8 of this bill.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 211A of NRS is hereby amended by adding thereto a new section to read as follows:

"Governing body" means the governing body of a county or a city.

Sec. 2. NRS 211A.010 is hereby amended to read as follows:

211A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 211A.020 to 211A.070, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 211A.080 is hereby amended to read as follows:

211A.080 The ~~[board]~~ ***governing body*** of each county ***or city*** may create a department of alternative sentencing to provide a program of supervision for probationers.

Sec. 4. NRS 211A.100 is hereby amended to read as follows:

211A.100 The chief:

1. Must be appointed by the action of a majority of the ~~[board.]~~ ***governing body.***

2. Must have at least 5 years of experience, with an increasing level of responsibility, in the field of law enforcement, corrections or supervision of persons on probation or parole.

3. Is in the unclassified service of the county.

Sec. 5. NRS 211A.110 is hereby amended to read as follows:

211A.110 The chief shall:

1. Hire assistant alternative sentencing officers and other employees as necessary to carry out the responsibilities of the department within the limitations of appropriations to the department by the ~~[board.]~~ ***governing body.***

2. Direct the work of all assistants and employees.

3. Be responsible for the fiscal affairs of the department.

4. Be responsible for the completion of any report regarding an investigation or the supervision of a probationer and any report requested by the court or the ~~[board.]~~ ***governing body.***

5. After reviewing and considering recognized correctional programs and courses for training correctional staff, develop and provide to assistants and other employees training in methods and policies regarding the investigation

and supervision of probationers, the recordkeeping of the department and the reporting on matters relating to probationers.

6. Submit a written report, on or before January 31 of each year, to the ~~[~~board~~]~~ ***governing body*** and to each court having jurisdiction over a probationer under his supervision, setting forth in detail the activities of the department during the previous calendar year. The report must include statistical data concerning the department's activities and operations and the probationers who were under the supervision of the department during that period.

7. Advise the court of any probationer who has violated the terms or conditions of his suspended sentence or residential confinement.

Sec. 6. NRS 211A.130 is hereby amended to read as follows:

211A.130 1. The ~~[~~board~~]~~ ***governing body*** shall adopt a schedule of fees to be imposed on probationers to defray the cost of the supervision of a probationer. The schedule adopted must provide for a monthly fee of not less than $20 for the supervision of a probationer.

2. Except as otherwise provided in subsection 3:

(a) The department shall charge each probationer the fee set forth in the schedule adopted pursuant to subsection 1.

(b) Payment of the required fee by the probationer is a condition of his suspended sentence or residential confinement.

3. If the chief determines that payment of the fee would result in economic hardship to a probationer, the chief may waive the imposition of, or reduce the amount of, the fee. If the chief waives the imposition of the fee, payment of the fee by the probationer does not constitute a condition of his suspended sentence or residential confinement.

Sec. 7. NRS 4.372 is hereby amended to read as follows:

4.372 ***1.*** If the county in which a justice court is situated ~~[~~does not have~~]~~ ***has*** a department of alternative sentencing, the ~~[~~justice court may contract with a qualified person to~~]~~ ***chief of that department shall*** administer a program of supervision for persons whose sentences have been suspended pursuant to NRS 4.373 or who are sentenced to a term of residential confinement pursuant to NRS 4.3762.

2. If the county in which the justice court is situated ~~[~~has~~]~~ ***does not have*** a department of alternative sentencing , ~~*[and:*~~

~~*(a) Any city located within the county in which the justice court is situated has a department of alternative sentencing]*~~ the ~~*[:*~~

~~*(1) The*~~ ~~chief of~~~~]~~ ~~[~~that~~]~~ ~~*[the*~~ ~~department~~~~]~~ ~~[~~shall~~]~~ ~~*[of alternative sentencing of such a city]*~~ ***justice court may contract with a qualified person to*** administer the program of supervision , ~~*[; or*~~

~~*(2) If the chief of the department of alternative sentencing of such a city does not wish to administer the program of supervision, the justice court may contract with a qualified person to administer the program of supervision.*~~

~~*(b) No city located within the county in which the justice court is situated has a department of alternative sentencing, the justice court may contract with a qualified person to administer the program of supervision.]*~~

Sec. 8. NRS 5.052 is hereby amended to read as follows:

5.052 ***1.*** If the ~~[county]~~ ***city*** in which a municipal court is situated ~~[does not have]~~ ***has*** a department of alternative sentencing, the ~~[municipal court may contract with a qualified person to]~~ ***chief of that department shall*** administer a program of supervision for persons whose sentences have been suspended pursuant to NRS 5.055 or who are sentenced to a term of residential confinement pursuant to NRS 5.076.

2. If the ~~[county]~~ ***city*** in which the municipal court is situated ~~[has]~~ ***does not have*** a department of alternative sentencing , ~~*[and:*~~

~~*(a) The county in which the municipal court is situated has a department of alternative sentencing,]*~~ the ~~[chief of]~~ ~~[that]~~ ~~*[the department of alternative sentencing of the county*~~ shall~~]~~ ***municipal court may contract with a qualified person to*** administer the program of supervision.

~~*[(b) The county in which the municipal court is situated does not have a department of alternative sentencing, the municipal court may contract with a qualified person to administer the program of supervision.]*~~

Sec. 9. NRS 211A.030 is hereby repealed.

TEXT OF REPEALED SECTION

211A.030 "Board" defined. "Board" means a board of county commissioners.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 128.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 732.

AN ACT relating to property; requiring certain persons to record foreclosure sales and sales of real property under a deed of trust within a certain period of time after the sale; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a trustee to execute a power of sale on real property after a breach of an obligation or payment of debt due to the trustee. **Section 1** of this bill amends existing law to: (1) require the ~~[beneficiary of the deed of trust]~~ **trustee** to ~~[cause the recordation of]~~ **record** the sale of the property with the appropriate office of the county recorder within 30 days after the date of the sale **or deliver, within 20 days after the date of the sale, the deed to the successful bidder, who must then record the deed with the appropriate office of the county recorder within 10 days after**

the date of delivery; and (2) make the ~~[beneficiary]~~ **successful bidder** liable for certain damages for failure to cause such recordation. (NRS 107.080)

Existing law provides for a person to proceed on an action for the recovery of any debt or for the enforcement of any right secured by a mortgage or other lien upon real estate. **Section 2** of this bill amends existing law to require the sheriff who conducted a foreclosure sale pursuant to such an action to record the sale with the appropriate office of the county recorder within 30 days after the date of the sale. (NRS 40.430)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to

declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. ~~[Within 30 days after]~~ After a sale of property is conducted pursuant to this section, the ~~[beneficiary]~~ trustee shall ~~[cause the]~~ :

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale ~~[to be recorded]~~ in the office of the county recorder of the county in which the property is located ~~[.]~~ ; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

9. If the ~~[beneficiary]~~ successful bidder fails to ~~[cause the recordation of]~~ record the trustee's deed upon sale pursuant to ~~[this subsection,]~~ paragraph (b) of subsection 8, the ~~[beneficiary:]~~ successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in ~~[the]~~ a sum of up to $500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by his failure to comply with the provisions of ~~[this]~~ subsection 8 and for reasonable attorney's fees and the costs of bringing the action.

Sec. 2. NRS 40.430 is hereby amended to read as follows:

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

4. ***Within 30 days after a sale of property is conducted pursuant to this section, the sheriff who conducted the sale shall record the sale of the property in the office of the county recorder of the county in which the property is located.***

5. As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 195.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 717.

AN ACT relating to industrial insurance; revising provisions relating to **the denial or acceptance of a claim for compensation; revising provisions relating to** examinations and permanent partial disabilities; **increasing certain death benefits; revising provisions relating to the imposition of administrative fines and benefit penalties for certain violations; establishing continuous care coverage as a line of insurance for which a producer may be licensed; revising provisions for the issuance of a certificate of registration as an administrator;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the duty of an insurer to accept or deny a claim for compensation. (NRS 616C.065) Section 2 of this bill provides that the failure of an insurer to indicate the acceptance or denial of a claim for a part of the body or condition does not constitute a denial or acceptance thereof.

~~[This]~~ **Section 3 of this** bill requires that the Fifth Edition, rather than the most recent edition, of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* must be applied in all examinations for a permanent partial disability.

Section 4 of this bill revises provisions governing the denial of compensation due to discharge from employment for misconduct.

Existing law authorizes a hearing officer and appeals officer to order a medical examination of an injured employee to determine the injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied. (NRS 616C.330, 616C.360) Sections 5 and 6 of this bill authorize a hearing officer or appeals officer to consider the opinion of an examining physician or chiropractor, in addition to the opinion of an authorized treating physician or chiropractor, in determining the compensation payable to the injured employee.

Section 7 of this bill revises existing law to allow factors other than the degree of physical impairment of the whole man to be considered in calculating the entitlement to compensation for a permanent partial disability involving injury or disease caused by stress.

Section 9 of this bill increases the maximum amount of burial expenses that may be paid as a death benefit from $5,000 to $10,000, plus the cost of transporting the remains of the deceased employee.

Section 10 of this bill revises provisions governing the imposition of administrative fines for certain violations by an insurer, organization for

managed care, health care provider, third-party administrator or employer.

Sections 11 and 16 of this bill define and establish continuous care coverage as a line of insurance for which a producer may be licensed. Such coverage includes health insurance and may include insurance for workers' compensation only when issued jointly with and supplemental to the policy of health insurance. Section 14 of this bill specifically provides for the imposition of an administrative fine for a violation of this limitation on the issuance of a policy of workers' compensation insurance sold by a producer of continuous care coverage.

Section 15 of this bill requires the Commissioner of Insurance to obtain final approval from the Department of Business and Industry before issuing a certificate of registration as an administrator. Section 1.5 of this bill requires the Administrator of the Division of Industrial Relations of the Department of Business and Industry to adopt regulations setting forth the qualifications needed to obtain such final approval.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **NRS 616A.070 is hereby amended to read as follows:**

616A.070 "Benefit penalty" means an additional amount of money that is payable to a claimant if the Administrator has determined that a violation of any of the provisions of paragraphs (a) to (e), inclusive, ~~[or]~~ (h) ***or (i)*** of subsection 1 of NRS 616D.120 has occurred.

Sec. 1.5. **NRS 616A.400 is hereby amended to read as follows:**

616A.400 The Administrator shall:

1. Prescribe by regulation the time within which adjudications and awards must be made.

2. Regulate forms of notices, claims and other blank forms deemed proper and advisable.

3. Prescribe by regulation the methods by which an insurer may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith.

4. Prescribe by regulation the method for reimbursing an injured employee for expenses necessarily incurred for travel more than 20 miles one way from his residence or place of employment to his destination as a result of an industrial injury.

5. Determine whether an insurer has provided adequate facilities in this State to administer claims and for the retention of a file on each claim.

6. Evaluate the services of private carriers provided to employers in:

(a) Controlling losses; and

(b) Providing information on the prevention of industrial accidents or occupational diseases.

7. Conduct such investigations and examinations of insurers as he deems reasonable to determine whether any person has violated the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or to obtain information useful to enforce or administer these chapters.

8. ***Prescribe by regulation the qualifications for final approval by the Division of an applicant for a certificate of registration as an administrator pursuant to subsection 3 of NRS 683A.08524. The regulations must set forth qualifications which provide for the final approval of those applicants whose approval is in the best interests of the people of this State.***

9. Except with respect to any matter committed by specific statute to the regulatory authority of another person or agency, adopt such other regulations as he deems necessary to carry out the provisions of chapters 616A to 617, inclusive, of NRS.

Sec. 2. **NRS 616C.065 is hereby amended to read as follows:**

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.

2. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

3. Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

4. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

5. The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection 4 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

6. ***The failure of the insurer to indicate the acceptance or denial of a claim for a part of the body or condition does not constitute a denial or acceptance thereof.***

7. Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.

~~[7.]~~ ***8.*** For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

~~[8.]~~ ***9.*** As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

~~[Section 1.]~~ ***Sec. 3.*** NRS 616C.110 is hereby amended to read as follows:

616C.110 1. For the purposes of NRS 616B.557, 616B.578, 616B.587, 616C.490 and 617.459 ~~[~~**:**

~~(a) Not~~~~]~~ **, *not*** later than August 1, 2003, the Division shall adopt regulations incorporating the American Medical Association's Guides to the Evaluation of Permanent Impairment, 5th edition, by reference. The regulations:

~~[(1)]~~ ***(a)*** Must ~~[become effective on October 1, 2003; and~~

~~(2) Must be applied to all examinations for a permanent partial disability that are conducted on or after October 1, 2003, regardless of the date of the injury, until regulations incorporating the 6th edition by reference have become effective pursuant to paragraph (b).~~

~~(b) Beginning with the 6th edition and continuing for each edition thereafter, the Division shall adopt regulations incorporating the most recent edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment by reference. The regulations:~~

~~(1) Must become effective not later than 18 months after the most recent edition is published by the American Medical Association; and~~

~~(2)~~~~]~~ ***provide that the American Medical Association's Guides to the Evaluation of Permanent Impairment, Fifth Edition, must be applied to all examinations; and***

(b) Must be applied to all examinations for a permanent partial disability that are conducted on or after the effective date of the regulations, regardless of the date of injury **.** ~~[~~, until regulations incorporating the next edition by reference have become effective pursuant to this paragraph.~~]~~

2. After adopting the regulations required pursuant to subsection 1, the Division may amend those regulations as it deems necessary, except that the amendments to those regulations:

(a) Must be consistent with the ~~[edition]~~ ***Fifth Edition*** of the American Medical Association's Guides to the Evaluation of Permanent Impairment ***;*** ~~[most recently adopted by the Division;]~~

(b) Must not incorporate any contradictory matter from any other edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment; and

(c) Must not consider any factors other than the degree of physical impairment of the whole man in calculating the entitlement to compensation.

3. If the ~~[edition]~~ ***Fifth Edition*** of the American Medical Association's Guides to the Evaluation of Permanent Impairment ~~[most recently adopted by the Division]~~ contains more than one method of determining the rating of an impairment, the Administrator shall designate by regulation the method from that edition which must be used to rate an impairment pursuant to NRS 616C.490.

Sec. 4. **NRS 616C.232 is hereby amended to read as follows:**

616C.232 1. If an injured employee is discharged from his employment as a result of misconduct, an insurer may deny compensation to the injured employee because of that discharge for misconduct only if the insurer proves by a preponderance of the evidence that:

(a) The injured employee was discharged from his employment solely for his misconduct and not for any reason relating to his claim for compensation; and

(b) It is the injured employee's discharge from his employment for misconduct, and not his injury, that is the sole cause for the injured employee's inability to return to work with the preinjury employer.

2. An insurer waives its rights under subsection 1 if the insurer does not make a determination to deny or suspend compensation to the injured employee within 70 days after the date on which the insurer learns that the injured employee has been discharged for misconduct.

3. Discharge from employment for reasons other than gross misconduct does not limit an injured employee's entitlement to receive benefits for temporary total disability.

Sec. 5. **NRS 616C.330 is hereby amended to read as follows:**

616C.330 1. The hearing officer shall:

(a) Except as otherwise provided in subsection 2 of NRS 616C.315, within 5 days after receiving a request for a hearing, set the hearing for a date and time within 30 days after his receipt of the request at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the hearing officer;

(b) Give notice by mail or by personal service to all interested parties to the hearing at least 15 days before the date and time scheduled; and

(c) Conduct hearings expeditiously and informally.

2. The notice must include a statement that the injured employee may be represented by a private attorney or seek assistance and advice from the Nevada Attorney for Injured Workers.

3. If necessary to resolve a medical question concerning an injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied, the hearing officer may order an independent medical examination, which must not involve treatment, and refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the hearing officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians and chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any medical examination requested by the hearing officer.

4. ***The hearing officer may consider the opinion of an examining physician or chiropractor, in addition to the opinion of an authorized treating physician or chiropractor, in determining the compensation payable to the injured employee.***

5. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the hearing officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

~~[5.]~~ ***6.*** The hearing officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

~~[6.]~~ ***7.*** The hearing officer may allow or forbid the presence of a court reporter and the use of a tape recorder in a hearing.

~~[7.]~~ ***8.*** The hearing officer shall render his decision within 15 days after:

(a) The hearing; or

(b) He receives a copy of the report from the medical examination he requested.

~~[8.]~~ ***9.*** The hearing officer shall render his decision in the most efficient format developed by the Chief of the Hearings Division of the Department of Administration.

~~[9.]~~ ***10.*** The hearing officer shall give notice of his decision to each party by mail. He shall include with the notice of his decision the necessary forms for appealing from the decision.

~~[10.]~~ ***11.*** Except as otherwise provided in NRS 616C.380, the decision of the hearing officer is not stayed if an appeal from that decision is taken unless an application for a stay is submitted by a party. If such an application is submitted, the decision is automatically stayed until a determination is made on the application. A determination on the application must be made within 30 days after the filing of the application. If, after reviewing the application, a stay is not granted by the hearing officer or an appeals officer, the decision must be complied with within 10 days after the refusal to grant a stay.

Sec. 6. **NRS 616C.360 is hereby amended to read as follows:**

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Order an independent medical examination and refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an external review organization, submit the matter to an external review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. ***The appeals officer may consider the opinion of an examining physician or chiropractor, in addition to the opinion of an authorized treating physician or chiropractor, in determining the compensation payable to the injured employee.***

5. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of

the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

~~[5.]~~ ***6.*** The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

~~[6.]~~ ***7.*** Any party to the appeal or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

~~[7.]~~ ***8.*** The appeals officer shall render his decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

~~[8.]~~ ***9.*** The appeals officer may affirm, modify or reverse any decision made by the hearing officer and issue any necessary and proper order to give effect to his decision.

Sec. 7. **NRS 616C.490 is hereby amended to read as follows:**

616C.490 1. Except as otherwise provided in NRS 616C.175, every employee, in the employ of an employer within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided for permanent partial disability. As used in this section, "disability" and "impairment of the whole man" are equivalent terms.

2. Within 30 days after receiving from a physician or chiropractor a report indicating that the injured employee may have suffered a permanent disability and is stable and ratable, the insurer shall schedule an appointment with the rating physician or chiropractor selected pursuant to this subsection to determine the extent of the employee's disability. Unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor:

(a) The insurer shall select the rating physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the Administrator, to determine the percentage of disability in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.

(b) Rating physicians and chiropractors must be selected in rotation from the list of qualified physicians and chiropractors designated by the Administrator, according to their area of specialization and the order in which their names appear on the list unless the next physician or chiropractor

is currently an employee of the insurer making the selection, in which case the insurer must select the physician or chiropractor who is next on the list and who is not currently an employee of the insurer.

3. If an insurer contacts the treating physician or chiropractor to determine whether an injured employee has suffered a permanent disability, the insurer shall deliver to the treating physician or chiropractor that portion or a summary of that portion of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that is relevant to the type of injury incurred by the employee.

4. At the request of the insurer, the injured employee shall, before an evaluation by a rating physician or chiropractor is performed, notify the insurer of:

(a) Any previous evaluations performed to determine the extent of any of the employee's disabilities; and

(b) Any previous injury, disease or condition sustained by the employee which is relevant to the evaluation performed pursuant to this section.

➥ The notice must be on a form approved by the Administrator and provided to the injured employee by the insurer at the time of the insurer's request.

5. Unless the regulations adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured employee if the injury is of a type that might have caused such a loss. ~~[No]~~ ***Except in the case of claims accepted pursuant to NRS 616C.180, no*** factors other than the degree of physical impairment of the whole man may be considered in calculating the entitlement to compensation for a permanent partial disability.

6. The rating physician or chiropractor shall provide the insurer with his evaluation of the injured employee. After receiving the evaluation, the insurer shall, within 14 days, provide the employee with a copy of the evaluation and notify the employee:

(a) Of the compensation to which he is entitled pursuant to this section; or

(b) That he is not entitled to benefits for permanent partial disability.

7. Each 1 percent of impairment of the whole man must be compensated by a monthly payment:

(a) Of 0.5 percent of the claimant's average monthly wage for injuries sustained before July 1, 1981;

(b) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after July 1, 1981, and before June 18, 1993;

(c) Of 0.54 percent of the claimant's average monthly wage for injuries sustained on or after June 18, 1993, and before January 1, 2000; and

(d) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after January 1, 2000.

➥ Compensation must commence on the date of the injury or the day following the termination of temporary disability compensation, if any,

whichever is later, and must continue on a monthly basis for 5 years or until the claimant is 70 years of age, whichever is later.

8. Compensation benefits may be paid annually to claimants who will be receiving less than $100 a month.

9. Where there is a previous disability, as the loss of one eye, one hand, one foot, or any other previous permanent disability, the percentage of disability for a subsequent injury must be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.

10. The Division may adopt schedules for rating permanent disabilities resulting from injuries sustained before July 1, 1973, and reasonable regulations to carry out the provisions of this section.

11. The increase in compensation and benefits effected by the amendment of this section is not retroactive for accidents which occurred before July 1, 1973.

12. This section does not entitle any person to double payments for the death of an employee and a continuation of payments for a permanent partial disability, or to a greater sum in the aggregate than if the injury had been fatal.

~~[Sec. 2.]~~ ***Sec. 8.*** (Deleted by amendment.)

Sec. 9. **NRS 616C.505 is hereby amended to read as follows:**

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed ~~[$5,000.]~~ ***$10,000, plus the cost of transporting the remains of the deceased employee.*** When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. Except as otherwise provided in subsection 3 and NRS 616C.507, to the surviving spouse of the deceased employee, 66 2/3 percent of the average monthly wage is payable until his death or remarriage, with 2 years' compensation payable in one lump sum upon remarriage.

3. If there is a surviving spouse and any surviving children of the deceased employee who are not the children of the surviving spouse, the compensation otherwise payable pursuant to subsection 2 must be paid as follows until the entitlement of all children of the deceased employee to receive compensation pursuant to this subsection ceases:

(a) To the surviving spouse, 50 percent of the death benefit is payable until his death or remarriage, with 2 years' compensation payable in one lump sum upon remarriage; and

(b) To each child of the deceased employee, regardless of whether the child is the child of the surviving spouse, his proportionate share of 50

percent of the death benefit and, except as otherwise provided in subsection 12, if the child has a guardian, the compensation he is entitled to receive may be paid to the guardian.

4. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee, in addition to any amount the child may be entitled to pursuant to subsection 3, must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection 12, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

5. Upon the remarriage of a surviving spouse with children:

(a) The surviving spouse must be paid 2 years' compensation in one lump sum and further benefits must cease; and

(b) Each child must be paid 15 percent of the average monthly wage, up to a maximum family benefit of 66 2/3 percent of the average monthly wage.

➥ The provisions of this subsection do not apply to the remarriage of a surviving spouse of a deceased police officer or firefighter if the provisions of NRS 616C.507 apply to the surviving spouse.

6. If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to his proportionate share of 66 2/3 percent of the average monthly wage for his support.

7. Except as otherwise provided in subsection 8, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, 33 1/3 percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, 66 2/3 percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, his proportionate share of 66 2/3 percent of the average monthly wage.

8. The aggregate compensation payable pursuant to subsection 7 must not exceed 66 2/3 percent of the average monthly wage.

9. In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon his earnings for support at the time of the injury causing his death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount

contributed by the deceased employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

10. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

11. In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to him, funeral expenses are payable in an amount not to exceed ~~[$5,000.]~~ ***$10,000.***

12. If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or incompetent, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044. An insurer shall not pay any compensation in excess of $3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection 13 is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS, except that after the first annual review required pursuant to NRS 159.176, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this subsection, "incompetent" has the meaning ascribed to it in NRS 159.019.

13. Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his proportionate share of compensation pursuant to this section ceases when he dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if he is:

(a) Over 18 years of age and incapable of supporting himself, until such time as he becomes capable of supporting himself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until he reaches the age of 22 years.

14. As used in this section, "surviving spouse" means a surviving husband or wife who was married to the employee at the time of the employee's death.

Sec. 10. **NRS 616D.120 is hereby amended to read as follows:**

616D.120 1. Except as otherwise provided in this section, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator or employer has:

(a) Induced a claimant to fail to report an accidental injury or occupational disease;

(b) Without justification, persuaded a claimant to:

(1) Settle for an amount which is less than reasonable;

(2) Settle for an amount which is less than reasonable while a hearing or an appeal is pending; or

(3) Accept less than the compensation found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 617, inclusive, of NRS;

(c) Refused to pay or unreasonably delayed payment to a claimant of compensation or other relief found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the refusal or delay occurs:

(1) Later than 10 days after the date of the settlement agreement or stipulation;

(2) Later than 30 days after the date of the decision of a court, hearing officer, appeals officer or the Division, unless a stay has been granted; or

(3) Later than 10 days after a stay of the decision of a court, hearing officer, appeals officer or the Division has been lifted;

(d) Refused to process a claim for compensation pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(e) Made it necessary for a claimant to initiate proceedings pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS for compensation or other relief found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(f) Failed to comply with the Division's regulations covering the payment of an assessment relating to the funding of costs of administration of chapters 616A to 617, inclusive, of NRS;

(g) Failed to provide or unreasonably delayed payment to an injured employee or reimbursement to an insurer pursuant to NRS 616C.165; ~~[or]~~

(h) ***Engaged in a pattern of untimely payments to injured employees; or***

(i) Intentionally failed to comply with any provision of, or regulation adopted pursuant to, this chapter or chapter 616A, 616B, 616C or 617 of NRS,

➥ the Administrator shall impose an administrative fine of $1,500 for each initial violation, or a fine of $15,000 for a second or subsequent violation.

2. Except as otherwise provided in chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator or employer has failed to comply with any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, the Administrator may take any of the following actions:

(a) Issue a notice of correction for:

(1) A minor violation, as defined by regulations adopted by the Division; or

(2) A violation involving the payment of compensation in an amount which is greater than that required by any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto.

➥ The notice of correction must set forth with particularity the violation committed and the manner in which the violation may be corrected. The provisions of this section do not authorize the Administrator to modify or negate in any manner a determination or any portion of a determination made by a hearing officer, appeals officer or court of competent jurisdiction or a provision contained in a written settlement agreement or written stipulation.

(b) Impose an administrative fine for:

(1) A second or subsequent violation for which a notice of correction has been issued pursuant to paragraph (a); or

(2) Any other violation of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, for which a notice of correction may not be issued pursuant to paragraph (a).

➥ The fine imposed must not be greater than $375 for an initial violation, or more than ~~[$1,500]~~ ***$3,000*** for any second or subsequent violation.

(c) Order a plan of corrective action to be submitted to the Administrator within 30 days after the date of the order.

3. If the Administrator determines that a violation of any of the provisions of paragraphs (a) to (e), inclusive, ~~[or]~~ (h) ***or (i)*** of subsection 1 has occurred, the Administrator shall order the insurer, organization for managed care, health care provider, third-party administrator or employer to pay to the claimant a benefit penalty:

(a) Except as otherwise provided in paragraph (b), in an amount that is not less than $5,000 and not greater than ~~[$37,500;]~~ ***$50,000;*** or

(b) Of $3,000 if the violation involves a late payment of compensation or other relief to a claimant in an amount which is less than $500 or which is not more than 14 days late.

4. To determine the amount of the benefit penalty, the Administrator shall consider the degree of physical harm suffered by the injured employee or his dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) ***,*** ~~[or]~~ (h) ***or (i)*** of subsection 1, the amount of compensation found to be due the claimant and the number of fines and benefit penalties, other than a benefit penalty described in paragraph (b) of subsection 3, previously

imposed against the insurer, organization for managed care, health care provider, third-party administrator or employer pursuant to this section. ~~[If this is the third violation within 5 years for which a benefit penalty, other than a benefit penalty described in paragraph (b) of subsection 3, has been imposed against the insurer, organization for managed care, health care provider, third-party administrator or employer, the]~~ ***The*** Administrator shall also consider the degree of economic harm suffered by the injured employee or his dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) ~~, [or]~~ (h) ***or (i)*** of subsection 1. Except as otherwise provided in this section, the benefit penalty is for the benefit of the claimant and must be paid directly to him within 10 days after the date of the Administrator's determination. If the claimant is the injured employee and he dies before the benefit penalty is paid to him, the benefit penalty must be paid to his estate. Proof of the payment of the benefit penalty must be submitted to the Administrator within 10 days after the date of his determination unless an appeal is filed pursuant to NRS 616D.140. Any compensation to which the claimant may otherwise be entitled pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS must not be reduced by the amount of any benefit penalty received pursuant to this subsection. ***To determine the amount of the benefit penalty in cases of multiple violations occurring within a certain period of time, the Administrator shall adopt regulations which take into consideration:***

(a) The number of violations within a certain number of years for which a benefit penalty was imposed; and

(b) The number of claims handled by the insurer, organization for managed care, health care provider, third-party administrator or employer in relation to the number of benefit penalties previously imposed within the period of time prescribed pursuant to paragraph (a).

5. In addition to any fine or benefit penalty imposed pursuant to this section, the Administrator may assess against an insurer who violates any regulation concerning the reporting of claims expenditures or premiums received that are used to calculate an assessment ~~[,]~~ an administrative penalty of up to twice the amount of any underpaid assessment.

6. If:

(a) The Administrator determines that a person has violated any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310 or 616D.350 to 616D.440, inclusive; and

(b) The Fraud Control Unit for Industrial Insurance of the Office of the Attorney General established pursuant to NRS 228.420 notifies the Administrator that the Unit will not prosecute the person for that violation,

➥ the Administrator shall impose an administrative fine of not more than $15,000.

7. Two or more fines of $1,000 or more imposed in 1 year for acts enumerated in subsection 1 must be considered by the Commissioner as evidence for the withdrawal of:

(a) A certificate to act as a self-insured employer.

(b) A certificate to act as an association of self-insured public or private employers.

(c) A certificate of registration as a third-party administrator.

8. The Commissioner may, without complying with the provisions of NRS 616B.327 or 616B.431, withdraw the certification of a self-insured employer, association of self-insured public or private employers or third-party administrator if, after a hearing, it is shown that the self-insured employer, association of self-insured public or private employers or third-party administrator violated any provision of subsection 1.

9. If the Administrator determines that a vocational rehabilitation counselor has violated the provisions of NRS 616C.543, the Administrator may impose an administrative fine on the vocational rehabilitation counselor of not more than $250 for a first violation, $500 for a second violation and $1,000 for a third or subsequent violation.

10. The Administrator may make a claim against the bond required pursuant to NRS 683A.0857 for the payment of any administrative fine or benefit penalty imposed for a violation of the provisions of this section.

Sec. 11. **Chapter 681A of NRS is hereby amended by adding thereto a new section to read as follows:**

"Continuous care coverage" is the issuance of a policy of insurance for workers' compensation, as described in paragraph (c) of subsection 1 of NRS 681A.020, issued jointly with and supplemental to a policy for health insurance, as defined in NRS 681A.030, by one or more insurers covering the same individual for the same policy period.

Sec. 12. **NRS 681A.010 is hereby amended to read as follows:**

681A.010 1. As used in this Code, unless the context otherwise requires, the words and terms defined in NRS 681A.020 to 681A.080, inclusive, ~~[shall]~~ ***and section 11 of this act*** have the meanings ascribed to them in ~~[NRS 681A.020 to 681A.080, inclusive.]~~ ***those sections.***

2. It is intended that certain insurance coverages may come within the definitions of two or more kinds of insurance as defined in this chapter, and the inclusion of such coverage within one definition shall not exclude it as to any other kind of insurance within the definition of which such coverage is likewise reasonably includable.

Sec. 13. **NRS 681A.020 is hereby amended to read as follows:**

681A.020 1. "Casualty insurance" includes:

(a) Vehicle insurance. Insurance against loss of or damage to any land vehicle or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incidental to ownership, maintenance or use of any such vehicle, aircraft or animal, together with insurance against accidental injury to natural persons, irrespective of legal liability of the insured, including the named insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft or draft or riding animal, if such insurance

is issued as an incidental part of insurance on the vehicle, aircraft or draft or riding animal.

(b) Liability insurance. Insurance against legal liability for the death, injury or disability of any human being, or for damage to property, including liability resulting from negligence in rendering expert, fiduciary or professional services**_** ~~,~~ ~~[~~**,**~~]~~ and provisions of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance.

(c) Workmen's ***or workers'*** compensation and employer's liability. Insurance of the obligations accepted by, imposed upon or assumed by employers under law for death, disablement or injury of employees.

(d) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal or concealment, or from any attempt at any of the foregoing, including supplemental coverage for medical, hospital, surgical and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery or theft by another, and **,** also, insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances or any other valuable papers and documents, resulting from any cause.

(e) Personal property floater. Insurance upon personal effects against loss or damage from any cause.

(f) Glass. Insurance against loss or damage to glass, including its lettering, ornamentation and fittings.

(g) Boiler and machinery. Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery or apparatus, and to make inspection of and issue certificates of inspection upon boilers, machinery and apparatus of any kind, whether or not insured.

(h) Leakage and fire extinguishing equipment. Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps and other fire-extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps and other fire-extinguishing equipment or apparatus.

(i) Credit and mortgage guaranty. Insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured, and insurance of real property mortgage lenders against loss by reason of nonpayment of the mortgage indebtedness.

(j) Elevator. Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators,

except loss or damage by fire, and to make inspection of and issue certificates of inspection upon, elevators.

(k) Congenital defects. Insurance against congenital defects in human beings.

(l) Livestock. Insurance against loss or damage to livestock, and services of a veterinary for such animals.

(m) Entertainments. Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event or exhibition against loss from interruption, postponement or cancellation thereof due to death, accidental injury or sickness of performers, participants, directors or other principals.

(n) Miscellaneous. Insurance against any other kind of loss, damage or liability properly a subject of insurance and not within any other kind of insurance as defined in this chapter, if such insurance is not disapproved by the Commissioner as being contrary to law or public policy, including insurance for home protection issued pursuant to NRS 690B.100 to 690B.180, inclusive.

2. Provision of medical, hospital, surgical and funeral benefits, and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under paragraphs (a) (vehicle), (b) (liability), (d) (burglary), (g) (boiler and machinery) ~~[,]~~ and (j) (elevator) of subsection 1 shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and is not subject to provisions of this Code applicable to life and health insurances.

Sec. 14. **Chapter 683A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A person licensed as a producer of continuous care coverage shall not sell, solicit or negotiate insurance for workers' compensation unless:

(a) The person is licensed as a producer of casualty insurance; or

(b) The policy of insurance for workers' compensation is sold jointly with and supplemental to a policy of health insurance covering the same individual for the same policy period.

2. A person who violates the provisions of subsection 1 is subject to an administrative fine pursuant to subsection 3 of NRS 683A.201.

Sec. 15. **NRS 683A.08524 is hereby amended to read as follows:**

683A.08524 1. Except as otherwise provided in subsection 2 ~~[,]~~ ***or 3,*** the Commissioner shall issue a certificate of registration as an administrator to an applicant who:

(a) Submits an application on a form prescribed by the Commissioner;

(b) Has complied with the provisions of NRS 683A.08522; and

(c) Pays the fee for the issuance of a certificate of registration prescribed in NRS 680B.010.

2. The Commissioner may refuse to issue a certificate of registration as an administrator to an applicant if the Commissioner determines that the

applicant or any person who has completed an affidavit pursuant to subsection 6 of NRS 683A.08522:

(a) Is not competent to act as an administrator;

(b) Is not trustworthy or financially responsible;

(c) Does not have a good personal or business reputation;

(d) Has had a license or certificate to transact insurance denied for cause, suspended or revoked in this state or any other state;

(e) Has failed to comply with any provision of this chapter; or

(f) Is financially unsound.

3. The Commissioner shall submit the information supplied by an applicant pursuant to subsection 1 to the Division of Industrial Relations of the Department of Business and Industry for final approval in accordance with the regulations adopted pursuant to subsection 8 of NRS 616A.400. Unless the Division provides final approval for the applicant to the Commissioner, the Commissioner shall not issue a certificate of registration as an administrator to the applicant.

Sec. 16. **NRS 683A.261 is hereby amended to read as follows:**

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, he shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

(l) Continuous care coverage, which includes health insurance, as set forth in paragraph (b), and may include insurance for workers' compensation.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice the renewal fee is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where he principally conducts transactions under his license. The place of business may be in his residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to

the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

~~[Sec. 3.]~~ ***Sec. 17.*** **1.** This **section and section 3 of this** act ~~[becomes]~~ **become** effective upon passage and approval.

2. Sections 11 to 14, inclusive, and 16 of this act become effective on July 1, 2009.

3. Sections 1, 1.5, 2, 4 to 10, inclusive, and 15 of this act become effective on October 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 243.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 799.

AN ACT relating to traffic laws; expanding to certain category I peace officers and certain inspectors in this State the authority for the enforcement of certain traffic laws relating to the weight of certain motor vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the Nevada Highway Patrol has authority for the enforcement of certain requirements relating to the size and weight of certain vehicles being operated on the highways of this State. (NRS 484.755) This bill expands that authority to include ~~[all]~~ law enforcement agencies **in counties with a population of 100,000 or more (currently Washoe and Clark Counties)** in the State and authorizes certain category I peace officers and certain inspectors of the Department of Motor Vehicles and the Department of Public Safety to require the driver of certain vehicles to stop and submit to a weighing of the vehicle.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 484.755 is hereby amended to read as follows:

484.755 1. Authority for the enforcement of the provisions of NRS 484.744 to 484.757, inclusive, is vested in ~~[the]~~ ~~[Nevada Highway Patrol.]~~ ***certain law enforcement agencies in this State.***

2. Any ***category I peace officer,*** officer of the Nevada Highway Patrol ***or inspector*** having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle either by means of portable or stationary scales and may require that the vehicle be driven to the nearest public scales, if they are within 5 miles.

3. Whenever an ***officer of the Nevada Highway Patrol, a category I peace*** officer ***or an inspector*** upon weighing a vehicle and load as provided in subsection 2 determines that the weight is unlawful, he may require the driver to stop in a suitable place and remove such portion of the load as may be necessary to reduce the gross weight of the vehicle to those limits permitted under NRS 484.744 to 484.757, inclusive. All materials so unloaded must be cared for by the carrier of the material and at his expense. The ***officer of the Nevada Highway Patrol, category I peace*** officer ***or inspector*** may allow the driver of the inspected vehicle to continue on his journey if any overload does not exceed by more than 5 percent the limitations prescribed by NRS 484.744 to 484.757, inclusive, but the penalties provided in NRS 484.757 must be imposed for the overload violation.

4. Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer of the Nevada Highway Patrol , ***a category I peace officer or an inspector*** upon a weighing of the vehicle to stop and otherwise comply with the provisions of NRS 484.744 to 484.757, inclusive, is guilty of a misdemeanor.

5. As used in this section:

(a) "Category I peace officer" means a peace officer , as defined in NRS 289.460 , in a county whose population is 100,000 or more who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.

(b) "Inspector" means an inspector of the Department of Motor Vehicles or the Department of Public Safety who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.

(c) "Law enforcement agency" has the meaning ascribed to it in NRS 202.873.

Sec. 2. **1. On or before December 31, 2010, the chief administrative officer of any law enforcement or other agency authorized to enforce the provisions of NRS 484.755, as amended by section 1 of this act, shall submit to the Director of the Department of Public Safety a report compiling:**

(a) The number of officers or inspectors trained by the Nevada Highway Patrol in vehicle weight enforcement;

(b) The number of hours of training given each officer or inspector trained as described in paragraph (a); and

(c) The number of citations issued by those officers or inspectors pursuant to NRS 484.755, as amended by section 1 of this act, after October 1, 2009.

2. On or before January 15, 2011, the Director of the Department of Public Safety shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all the information received pursuant to subsection 1.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 253.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 731.

AN ACT relating to common-interest communities; requiring a member of an executive board of a unit-owners' association who stands to profit personally from a matter before the **executive** board to disclose and abstain from voting on the matter; **requiring a member of an executive board who has a member of his household or relative who stands to profit from a matter before the executive board to disclose before voting on the matter;** requiring that bids for an association project be considered and opened at a meeting of the executive board; revising provisions relating to the renting or leasing of units; making provisions authorizing the transient commercial use of units in a planned community in certain circumstances applicable in all counties; revising the provisions relating to the resale package furnished to the purchaser of a unit; increasing the amount of the administrative fine for engaging in certain activity without holding the required certificate or permit; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides additional ethical requirements for members of an executive board of a unit-owners' association by requiring **: (1)** a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. **[.]** **; and (2) a member who has a member of his household or relative who stands to profit from a matter before the executive board to disclose before voting on the matter.** (NRS 116.31185, 116.31187)

With some exceptions, existing law requires an executive board to hold open meetings, including meetings to consider a contract. (NRS 116.31085) **Sections 3 and 5** of this bill require an association that solicits bids for association projects, including, without limitation, projects that involve maintenance, repair, replacement or restoration of any part of the common

elements or which involve services provided to the association, to consider and open the bids during a meeting of the executive board of the association.

Existing law provides for remedial and disciplinary action for any violation of the provisions of chapter 116 of NRS governing common-interest communities which will apply to a violation of **section 2 or 3** of this bill. (NRS 116.745-116.795)

Existing law provides that except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. (NRS 116.335) **Section 6** of this bill provides that unless, at the time a unit's owner purchased his unit, the declaration prohibited the unit's owner from renting or leasing his unit or required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, the association may not: (1) prohibit the unit's owner from renting or leasing his unit; or (2) require the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. **Section 6** also provides that if **[**, before October 1, 2009,**]** a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased **[**,**]** **: (1)** that provision of the declaration may not be amended on or after October 1, 2009, to decrease that maximum number or percentage of units which may be rented or leased **[**.**]** **; (2) a unit's owner may request a waiver of such provision upon a showing of economic hardship under certain circumstances; and (3) any units owned by the declarant must not be counted or considered in determining the maximum number of units in the common-interest community that may be rented or leased.**

Section 7 of this bill makes the provisions allowing the transient commercial use of units within a planned community that is restricted to residential use in certain circumstances applicable in all counties rather than just in larger counties. (NRS 116.340)

Existing law requires a unit's owner or his authorized agent to furnish to a purchaser a resale package which includes certain documents relating to the association. (NRS 116.4109) **Section 8** of this bill: (1) requires the unit's owner to furnish the resale package at his own expense; and (2) requires the disclosure of any transfer fees, transaction fees or other fees associated with the resale of the unit.

Section 9 of this bill increases the amount of the administrative fine that may be imposed against a person who engages in certain activity without holding the required certificate or permit from $5,000 to $10,000. (NRS 116A.900)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:***

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. A member of an executive board who has a member of his household or any person related to him by blood, adoption or marriage within the third degree of consanguinity or affinity who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall disclose the matter to the executive board before voting on any such matter.

3. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 3. ***1. If an association solicits bids for an association project, the bids must be opened during a meeting of the executive board.***

2. As used in this section, "association project" includes, without limitation, a project that involves the maintenance, repair, replacement or restoration of any part of the common elements or which involves the provision of services to the association.

Sec. 4. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, ***and sections 2 and 3 of this act,*** and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 5. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to ***open or consider bids for an association project as defined in section 3 of this act, or to*** enter into, renew, modify, terminate or take any other action regarding a contract, unless it is a contract between the association and an attorney.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115,

inclusive, or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; and

(b) Is not entitled to attend the deliberations of the executive board.

5. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to his designated representative.

6. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 6. NRS 116.335 is hereby amended to read as follows:

116.335 1. ~~[Except as otherwise provided in]~~ ***Unless, at the time a unit's owner purchased his unit,*** the declaration ~~[,]~~ ***prohibited the unit's owner from renting or leasing his unit, the association may not prohibit the unit's owner from renting or leasing his unit.***

2. Unless, at the time a unit's owner purchased his unit, the declaration required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, an association may not require ~~[a]~~ ***the*** unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.

~~[2.]~~ ***3. If*** ~~*[, before October 1, 2009, the]*~~ ***a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, that provision of the declaration may not be amended*** ~~*[on or after October 1, 2009,]*~~ ***to***

decrease that maximum number or percentage of units in the common-interest community which may be rented or leased.

4. The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.

5. Notwithstanding any other provision of law or the declaration to the contrary:

(a) If a unit's owner is prohibited from renting or leasing a unit because the maximum number or percentage of units which may be rented or leased in the common-interest community have already been rented or leased, the unit's owner may seek a waiver of the prohibition from the executive board based upon a showing of economic hardship, and the executive board may grant such a waiver and approve the renting or leasing of the unit.

(b) If the declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, in determining the maximum number or percentage of units in the common-interest community which may be rented or leased, the number of units owned by the declarant must not be counted or considered.

Sec. 7. NRS 116.340 is hereby amended to read as follows:

116.340 1. Except as otherwise provided in subsection 2, ~~[in a county whose population is 400,000 or more,]~~ a person who owns, or directly or indirectly has an interest in, one or more units within a planned community that are restricted to residential use by the declaration ~~[,]~~ may use that unit or one of those units for a transient commercial use only if:

(a) The governing documents of the association and any master association do not prohibit such use;

(b) The executive board of the association and any master association approve the transient commercial use of the unit, except that such approval is not required if the planned community and one or more hotels are subject to the governing documents of a master association and those governing documents do not prohibit such use; and

(c) The unit is properly zoned for the transient commercial use and any license required by the local government for the transient commercial use is obtained.

2. ~~[In a county whose population is 400,000 or more, a]~~ ***A*** declarant who owns, or directly or indirectly has an interest in, one or more units within a planned community under the governing documents of the association that are restricted to residential use by the declaration ~~[,]~~ may use that unit or those units for a transient commercial use during the period that the declarant is offering units for sale within the planned community if such use complies with the requirements set forth in paragraphs (a) and (c) of subsection 1.

3. The association and any master association may establish requirements for the transient commercial use of a unit pursuant to the provisions of this section, including, without limitation, the payment of additional fees that are related to any increase in services or other costs associated with the transient commercial use of the unit.

4. As used in this section:

(a) "Remuneration" means any compensation, money, rent or other valuable consideration given in return for the occupancy, possession or use of a unit.

(b) "Transient commercial use" means the use of a unit, for remuneration, as a hostel, hotel, inn, motel, resort, vacation rental or other form of transient lodging if the term of the occupancy, possession or use of the unit is for less than 30 consecutive calendar days.

Sec. 8. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall ***, at the expense of the unit's owner,*** furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; ~~[~~and~~]~~

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge ~~[.]~~ ***; and***

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser

before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) **,** ~~[and]~~ (d) ***and (e)*** of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is

situated or, if it is situated in more than one county, within one of those counties.

Sec. 9. NRS 116A.900 is hereby amended to read as follows:

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate or permit is required pursuant to this chapter or chapter 116 or 116B of NRS, or any regulation adopted pursuant thereto, if the person does not hold the required certificate or permit or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or ~~[$5,000,]~~ ***$10,000,*** whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter or chapter 116 or 116B of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 or 116B of NRS with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 261.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 748.

AN ACT relating to common-interest ownership; revising the provisions governing the applicability of the Uniform Common-Interest Ownership Act; ~~[enacting certain provisions governing master-planned communities;]~~ making various other changes relating to common-interest ownership; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes relating to common-interest ownership to: (1) incorporate certain revisions to the Uniform Common-Interest Ownership Act promulgated by the Uniform Law Commission; and (2) eliminate references to the preparation of certain plans regarding certain common-interest communities and condominium hotels.

Sections 2, 3, 6 and 9 of this bill provide that the provisions of the Uniform Act only apply to a nonresidential condominium if the declaration so provides.

Sections 4 and 7 of this bill clarify the applicability of the Uniform Act by revising the definition of "common-interest community" to: (1) reflect the revisions promulgated by the Uniform Law Commission; and (2) clarify that certain agreements to share expenses do not create a common-interest community. (NRS 116.021)

~~[Section 5 of this bill allows a declaration for a common-interest community to state that the common-interest community is a master-planned community under certain circumstances.]~~

Sections 8 and 10-26 of this bill eliminate references to the preparation of certain plans for certain common-interest communities and condominium hotels. (NRS 116.089, 116.1206, 116.2105, 116.2109, 116.211, 116.2112, 116.2113, 116.2114, 116.2117, 116.345, 116.4103, 116.4109, 116B.225, 116B.295, 116B.350, 116B.365, 116B.760)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***"Nonresidential condominium" means a condominium in which all units are restricted exclusively to nonresidential use.***

Sec. 3. ***1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:***

(a) This entire chapter applies to the condominium;

(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and NRS 116.3116 to 116.31168, inclusive, apply to the condominium; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the condominium.

2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:

(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and

(b) Notwithstanding NRS 116.1104 and subsection 2 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 4. ***1. An agreement between the associations for two or more common-interest communities to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate or other activities specified in the agreement or declarations does not create a separate common-interest community. If the declarants of the common-interest communities are affiliates, the agreement may not unreasonably allocate the costs among those common-interest communities.***

2. An agreement between an association and the owner of real estate that is not part of a common-interest community to share the costs of real estate taxes, insurance premiums, services, maintenance or improvements of real estate, or other activities specified in the agreement, does not create a separate common-interest community. However, the assessments against the units in the common-interest community required by the agreement must be included in the periodic budget for the common-interest community, and the agreement must be disclosed in all public offering statements and resale certificates required by this chapter.

3. An agreement between the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, road, driveway or well or other similar use does not create a common-interest community unless the owners otherwise agree.

4. As used in this section, "party wall" means any wall or fence constructed along the common boundary line between parcels. The term does not include any shared building structure systems, including, without limitation, foundations, walls and roof structures.

Sec. 5. ~~***[1. The declaration for a common-interest community may state that it is a master-planned community if the declarant has reserved the development right to create at least 1,000 units that may be used for residential purposes and, at the time of the reservation, that the declarant owns or controls more than 500 acres on which the units may be built.***~~

~~***2. If the requirements of subsection 1 are satisfied, the declaration for the master-planned community need not state a maximum number of units and need not contain any of the information required pursuant to paragraphs (c) to (m), inclusive, of subsection 1 of NRS 116.2105, until the declaration is amended pursuant to subsection 3.***~~

~~*3. When each unit in a master-planned community is conveyed to a purchaser, the declaration must contain:*~~

~~*(a) A sufficient legal description of the unit and all portions of the master-planned community in which any other units have been conveyed to a purchaser; and*~~

~~*(b) All the information required by paragraphs (c) to (m), inclusive, of subsection 1 of NRS 116.2105 with respect to that real estate.*~~

~~*4. The only real estate in a master planned community which is subject to this chapter is units that have been declared or which are being offered for sale and any other real estate described pursuant to subsection 3. Other real estate that is or may become part of the master planned community is only subject to other law and to any other restrictions and limitations that appear of record.*~~

~~*5. If the public offering statement conspicuously identifies the fact that the community is a master planned community, the disclosure requirements contained in NRS 116.4101 to 116.412, inclusive, apply only with respect to units that have been declared or are being offered for sale in connection with the public offering statement and to the real estate described pursuant to subsection 3.*~~

~~*6. Limitations in this chapter on the addition of unspecified real estate do not apply to a master planned community.*~~

~~*7. The period of declarant control of the association for a master-planned community terminates in accordance with any conditions specified in the declaration or otherwise at the time the declarant, in a recorded instrument and after giving written notice in a record to all the units' owners, voluntarily surrenders all rights to control the activities of the association.]*~~ **(Deleted by amendment.)**

Sec. 6. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter and in the declaration and bylaws of an association, unless the context otherwise requires, the words and terms defined in NRS 116.005 to 116.095, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 7. NRS 116.021 is hereby amended to read as follows:

116.021 ***1.*** "Common-interest community" means real estate ***described in a declaration*** with respect to which a person, by virtue of ~~[this]~~ ***the person's*** ownership of a unit, is obligated to pay for ***a share of*** real estate ***taxes, insurance premiums, maintenance or improvement of, or services or other expenses related to, common elements, other units or*** other ~~[than that unit. "Ownership]~~ ***real estate described in that declaration.***

2. The term does not include an agreement described in section 4 of this act.

3. For purposes of this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

Sec. 8. NRS 116.089 is hereby amended to read as follows:

116.089 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats ~~[and plans]~~ or in the declaration (NRS 116.2109) or, in a cooperative, to complete improvements described in the public offering statement pursuant to subsection 2 of NRS 116.4103;

2. Exercise any developmental right (NRS 116.211);

3. Maintain sales offices, management offices, signs advertising the common-interest community and models (NRS 116.2115);

4. Use easements through the common elements for the purpose of making improvements within the common-interest community or within real estate which may be added to the common-interest community (NRS 116.2116);

5. Make the common-interest community subject to a master association (NRS 116.212);

6. Merge or consolidate a common-interest community with another common-interest community of the same form of ownership (NRS 116.2121); or

7. Appoint or remove any officer of the association or any master association or any member of an executive board during any period of declarant's control (NRS 116.31032).

Sec. 9. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter ***or a part of this chapter*** does apply to that planned community ~~[.]~~ ***pursuant to section 3 of this act.*** This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that

are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 10. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

2. In the case of amendments to the declaration, bylaws or plats ~~[and plans]~~ of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats ~~[and plans]~~ authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

Sec. 11. NRS 116.2105 is hereby amended to read as follows:

116.2105 1. The declaration must contain:

(a) The names of the common-interest community and the association and a statement that the common-interest community is either a condominium, cooperative or planned community;

(b) The name of every county in which any part of the common-interest community is situated;

(c) A sufficient description of the real estate included in the common-interest community;

(d) A statement of the maximum number of units that the declarant reserves the right to create;

(e) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by plats ~~, [or plans,]~~ of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

(f) A description of any limited common elements, other than those specified in subsections 2 and 4 of NRS 116.2102, as provided in paragraph (g) of subsection 2 of NRS 116.2109 and, in a planned community, any real estate that is or must become common elements;

(g) A description of any real estate, except real estate subject to developmental rights, that may be allocated subsequently as limited common

elements, other than limited common elements specified in subsections 2 and 4 of NRS 116.2102, together with a statement that they may be so allocated;

(h) A description of any developmental rights and other special declarant's rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time within which each of those rights must be exercised;

(i) If any developmental right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:

(1) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each developmental right or a statement that no assurances are made in those regards; and

(2) A statement whether, if any developmental right is exercised in any portion of the real estate subject to that developmental right, that developmental right must be exercised in all or in any other portion of the remainder of that real estate;

(j) Any other conditions or limitations under which the rights described in paragraph (h) may be exercised or will lapse;

(k) An allocation to each unit of the allocated interests in the manner described in NRS 116.2107;

(l) Any restrictions:

(1) On use, occupancy and alienation of the units; and

(2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on sale, condemnation or casualty to the unit or to the common-interest community, or on termination of the common-interest community;

(m) The file number and book or other information to show where easements and licenses are recorded appurtenant to or included in the common-interest community or to which any portion of the common-interest community is or may become subject by virtue of a reservation in the declaration; and

(n) All matters required by NRS 116.2106 to 116.2109, inclusive, 116.2115 and 116.2116 and 116.31032.

2. The declaration may contain any other matters the declarant considers appropriate.

Sec. 12. NRS 116.2109 is hereby amended to read as follows:

116.2109 1. Plats ~~[and plans]~~ are a part of the declaration, and are required for all common-interest communities except cooperatives. Each plat ~~[and plan]~~ must be clear and legible and contain a certification that the plat ~~[or plan]~~ contains all information required by this section.

2. Each plat must comply with the provisions of chapter 278 of NRS and show:

(a) The name and a survey of the area which is the subject of the plat;

(b) A sufficient description of the real estate;

(c) The extent of any encroachments by or upon any portion of the property which is the subject of the plat;

(d) The location and dimensions of all easements having a specific location and dimension which serve or burden any portion of the common-interest community;

(e) The location and dimensions ***, with reference to an established datum,*** of any vertical unit boundaries and that unit's identifying number;

(f) The location with reference to an established datum of any horizontal unit boundaries not shown or projected on ~~[~~plans~~]~~ ***plats*** recorded pursuant to subsection ~~[~~4~~]~~ ***3*** and that unit's identifying number; and

(g) The location and dimensions of limited common elements, including porches, balconies and patios, other than parking spaces and the other limited common elements described in subsections 2 and 4 of NRS 116.2102.

3. ~~[~~To the extent not shown or projected on the~~]~~ ***The*** plats ~~[~~, plans of the units~~]~~ must show or project any units in which the declarant has reserved the right to create additional units or common elements (paragraph (h) of subsection 1 of NRS 116.2105), identified appropriately.

4. Unless the declaration provides otherwise, ***when*** the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part ~~[~~and~~]~~ ***, the elevations*** need not be depicted on the plats ***.*** ~~[~~and plans of the units.~~]~~

5. ~~[~~A declarant shall also provide a plan of development for the common-interest community with its initial phase of development. The declarant shall revise the plan of development with each subsequent phase. The plan of development may show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the common-interest community. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT." The plan of development must also show or project:

(a) The location and dimensions of all real estate not subject to developmental rights, or subject only to the developmental right to withdraw, and the location and dimensions of all existing improvements within that real estate;

(b) A sufficient description of any real estate subject to developmental rights, labeled to identify the rights applicable to each parcel; and

(c) A sufficient description of any real estate in which the units' owners will own only an estate for years, labeled as "leasehold real estate."

6.~~]~~ Upon exercising any developmental right, the declarant shall record new or amended plats necessary to conform to the requirements of subsection 2 ***.*** ~~[~~and provide new or amended plans of the units and a new or amended plan of development or new certifications of those plans if the plans otherwise conform to the requirements of subsections 3 and 5.

7.~~]~~ ***6.*** Each plat must be certified by ~~[~~an independent~~]~~ ***a*** professional land surveyor. ~~[~~The plans of the units must be certified by an independent professional engineer or architect. If the plan of development is not certified

~~by an independent professional land surveyor or an independent professional engineer or architect, it must be acknowledged by the declarant.~~]

Sec. 13. NRS 116.211 is hereby amended to read as follows:

116.211 1. To exercise any developmental right reserved under paragraph (h) of subsection 1 of NRS 116.2105, the declarant shall prepare, execute and record an amendment to the declaration (NRS 116.2117) and in a condominium or planned community comply with NRS 116.2109. The declarant is the owner of any units thereby created. The amendment to the declaration must assign an identifying number to each new unit created, and, except in the case of subdivision or conversion of units described in subsection 2, reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by NRS 116.2108.

2. Developmental rights may be reserved within any real estate added to the common-interest community if the amendment adding that real estate includes all matters required by NRS 116.2105 or 116.2106, as the case may be, and, in a condominium or planned community, the plats ~~[and plans]~~ include all matters required by NRS 116.2109. This provision does not extend the time limit on the exercise of developmental rights imposed by the declaration pursuant to paragraph (h) of subsection 1 of NRS 116.2105.

3. Whenever a declarant exercises a developmental right to subdivide or convert a unit previously created into additional units, common elements, or both:

(a) If the declarant converts the unit entirely to common elements, the amendment to the declaration must convey it to the association or reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain (NRS 116.1107); and

(b) If the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

4. If the declaration provides, pursuant to paragraph (h) of subsection 1 of NRS 116.2105, that all or a portion of the real estate is subject to a right of withdrawal:

(a) If all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser; and

(b) If any portion is subject to withdrawal, it may not be withdrawn after a unit in that portion has been conveyed to a purchaser.

Sec. 14. NRS 116.2112 is hereby amended to read as follows:

116.2112 1. Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application must state the proposed reallocations. Unless the executive board determines, within 30 days, that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved and states the reallocations. The amendment must be executed by those units' owners, contain words of conveyance between them, and, on recordation, be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the association.

2. The association:

(a) In a condominium or planned community shall prepare and record plats ~~[or plans]~~ necessary to show the altered boundaries between adjoining units, and their dimensions and identifying numbers; and

(b) In a cooperative shall prepare and record amendments to the declaration ~~[, including any plans,]~~ necessary to show or describe the altered boundaries between adjoining units, and their dimensions and identifying numbers.

Sec. 15. NRS 116.2113 is hereby amended to read as follows:

116.2113 1. If the declaration expressly so permits, a unit may be subdivided into 2 or more units. Subject to the provisions of the declaration and other provisions of law, upon application of the unit's owner to subdivide a unit, the association shall prepare, execute and record an amendment to the declaration, including in a condominium or planned community the plats **,** ~~[and plans,]~~ subdividing that unit.

2. The amendment to the declaration must be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created, and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit.

Sec. 16. NRS 116.2114 is hereby amended to read as follows:

116.2114 The existing physical boundaries of a unit or the physical boundaries of a unit reconstructed in substantial accordance with the description contained in the original declaration are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit's owner of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats ~~[and plans]~~ or, in a cooperative, to any representation in the public offering statement.

Sec. 17. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection ~~[6]~~ ***5*** of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, subsection 4 of NRS 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats **,** ~~[and plans,]~~ may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit, the allocated interests of a unit or the uses to which any unit is restricted, in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units.

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Sec. 18. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the

planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat ~~[or plan]~~ of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 19. NRS 116.4103 is hereby amended to read as follows:

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat ~~[or plan]~~ is not required.

(e) A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.

(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) The information statement set forth in NRS 116.41095.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 20. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats **, [**~~and plans,~~**]** the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; and

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 21. (Deleted by amendment.)

Sec. 22. NRS 116B.225 is hereby amended to read as follows:

116B.225 "Special declarant's rights" means rights reserved for the benefit of a declarant to:

1. Complete improvements indicated on plats ~~[and plans]~~ or in the declaration;

2. Exercise any developmental right;

3. Maintain sales offices, management offices and signs advertising the condominium hotel and models, provided, however, that the declarant is not required to reserve the right to maintain such offices or signs within the hotel unit or shared components or within any unit owned by the declarant;

4. Use easements through the common elements, shared components or hotel unit for the purpose of making improvements within the condominium hotel;

5. Merge or consolidate a condominium hotel with another condominium hotel; or

6. Appoint or remove any officer of the association or any member of an executive board during any period of declarant's control.

Sec. 23. NRS 116B.295 is hereby amended to read as follows:

116B.295 1. Any provision contained in a declaration, bylaw or other governing document of a condominium hotel that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

2. In the case of amendments to a declaration, bylaws or plats ~~[and plans]~~ of any condominium hotel created before January 1, 2008:

(a) If the result accomplished by the amendment was permitted before January 1, 2008, the amendment may be made in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter and was not permitted by law before January 1, 2008, the amendment may be made under this chapter.

Sec. 24. NRS 116B.350 is hereby amended to read as follows:

116B.350 1. Plats ~~[and plans]~~ are a part of the declaration and are required for all condominium hotels. Each plat ~~[and plan]~~ must be clear and legible and contain a certification that the plat ~~[or plan]~~ contains all information required by this section.

2. Each plat must comply with the provisions of chapter 278 of NRS and show:

(a) The name and a survey of the area which is the subject of the plat;

(b) A sufficient description of the real estate;

(c) The extent of any encroachments by or upon any portion of the property which is the subject of the plat;

(d) The location and dimensions of all easements having a specific location and dimension which serve or burden any portion of the condominium hotel;

(e) The location and dimensions with reference to an established datum of any vertical residential unit boundaries and that unit's identifying number;

(f) The location with reference to an established datum of any horizontal unit boundaries not shown or projected on ~~[plans]~~ ***plats*** recorded pursuant to subsection 4 and that unit's identifying number;

(g) The location and dimensions of the units, shared components and common elements; and

(h) The location and dimensions of limited common elements, if any, including porches, balconies and patios.

3. Each plat must be certified by ~~[an independent]~~ ***a*** professional land surveyor. ~~[The plans of the units must be certified by an independent professional engineer or architect.~~

~~4. Plats and plans need not show the location and dimensions of the units' boundaries and their limited common elements if:~~

~~(a) The plat shows the location and dimensions of all buildings containing or comprising the units; and~~

~~(b) The declaration includes other information that shows or contains a narrative description of the general layout of the units in those buildings and the limited common elements, if any, allocated to those units.~~

~~5. To the extent not shown or projected on the]~~

4. The plats ~~[, plans of the units]~~ must show or project any units in which the declarant has reserved the right to create additional units or common elements, or portions of the shared components or hotel unit, identified appropriately.

~~[6.]~~ ***5.*** Unless the declaration provides otherwise, ***when*** the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part ~~[and]~~ ***, the elevations*** need not be depicted on the plats ***.*** ~~[and plans of the units.]~~

~~[7.]~~ ***6.*** Upon exercising any developmental right, the declarant shall prepare, execute and record new or amended plats necessary to conform to the requirements of this section.

Sec. 25. NRS 116B.365 is hereby amended to read as follows:

116B.365 The existing physical boundaries of a residential unit or a hotel unit are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit's owner of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any plats **.** ~~[and plans.]~~

Sec. 26. NRS 116B.760 is hereby amended to read as follows:

116B.760 1. Except in the case of a sale in which delivery of a public offering statement is required, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of this chapter, the declaration, other than any plats **,** ~~[and plans,]~~ the bylaws, the rules or regulations of the association and the hotel unit owner and the information statement required by NRS 116B.765;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by this chapter;

(d) A current year-to-date statement of the shared expenses charged to the units and the projected budget for the shared expenses, either within or as an exhibit to the public offering statement. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to this chapter;

(2) The projected monthly shared expenses for each type of unit, including the amount established as reserves pursuant to this chapter;

(e) A description of any other payments, fees and charges that may be charged by the hotel unit owner, including those that may be charged in order to offset the increased burden placed on the shared components as a result of use of residential units as transient rentals; and

(f) A statement of any unsatisfied judgments or pending legal actions against the association or the hotel unit owner which affect the shared components and the status of any pending legal actions relating to the condominium hotel of which the unit's owner has actual knowledge.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the residential unit owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the residential unit owner or his authorized agent. Cancellation is without penalty, and all payments made by

the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the residential unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the residential unit owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a residential unit owner or his authorized agent, the hotel unit owner shall furnish all of the following to the residential unit owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the residential unit owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the hotel unit owner furnishes the documents and certificate pursuant to subsection 3:

(a) The residential unit owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the residential unit owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the hotel unit owner and included in the documents and certificate.

(b) The hotel unit owner may charge the residential unit owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that the hotel unit owner may charge for preparing the certificate.

(c) The hotel unit owner may charge the residential unit owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the hotel unit owner may not charge the residential unit owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a residential unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the hotel unit owner. If the hotel unit owner fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a residential unit owner or his authorized agent, or upon the request of a purchaser to whom the hotel unit owner has provided a resale package pursuant to this section or his authorized agent, the hotel unit owner shall make the entire study of the reserves of the association or the

shared components reasonably available for the residential unit owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or the hotel unit owner or some other suitable location within the county where the condominium hotel is situated or, if it is situated in more than one county, within one of those counties.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 276.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 623.

AN ACT relating to taxation; clarifying the requirements for imposition and collection of the real property transfer tax on certain land sale installment contracts; requiring that such instruments be recorded; imposing conditions on the approval and recording of certain documents relating to the division of land; establishing certain actions relating to land sale contracts; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes a tax on each deed by which lands, tenements or other realty are assigned, transferred or otherwise conveyed. (NRS 375.020) Under the existing law, payment of the transfer tax can be avoided if the instrument memorializing the transfer is not recorded pursuant to NRS 111.315.

Sections 2-9 of this bill require payment of the real property transfer tax on transfers of property evidenced by land sale installment contracts. Additionally, **section 8** prohibits a county recorder from accepting for recordation ~~[certain documents relating to the division of land without proof of payment of the tax.]~~ **any deed, conveyance or land sale installment contract if certain taxes have not been paid.**

Sections 10-13 of this bill require submission of an affidavit regarding payment of the tax and compliance with certain requirements for land sale installment contracts as a condition to local governmental approval of certain documents relating to the division of land.

Section 14 of this bill makes the failure to make certain disclosures, record a land sale installment contract or pay the tax on such a contract a deceptive trade practice.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 375.010 is hereby amended to read as follows:

375.010 1. The following terms, wherever used or referred to in this chapter, have the following meaning unless a different meaning clearly appears in the context:

(a) "Buyer" means a person or other legal entity acquiring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantee or other transferee of real property.

(b) "Deed" means every instrument in writing, whatever its form and by whatever name it is known in law, by which title to any estate or present interest in real property, including a water right, permit, certificate or application, is conveyed or transferred to, and vested in, another person, except that the term does not include:

(1) A lease for any term of years;

(2) An easement;

(3) A deed of trust or common-law mortgage instrument that encumbers real property;

(4) A last will and testament;

(5) A distribution of the separate property of a decedent pursuant to chapter 134 of NRS;

(6) An affidavit of a surviving tenant;

(7) A conveyance of a right-of-way; or

(8) A conveyance of an interest in gas, oil or minerals.

(c) "Escrow" means the delivery of a deed by the seller into the hands of a third person, including an attorney, title company, real estate broker or other person engaged in the business of administering escrows for compensation, to be held by the third person until the happening of a contingency or performance of a condition, and then to be delivered by the third person to the buyer.

(d) ***"Land sale installment contract" means any agreement between a seller and a buyer of real property located in this State pursuant to which the buyer gives and the seller receives the consideration paid in multiple payments during a specified period and the seller retains title to the real property that is the subject of the agreement until the full contract price is paid, at which time title to the real property is transferred by an instrument in writing from the seller to the buyer. The term does not include a deed of trust or common-law mortgage instrument that encumbers real property or an option to purchase real property.***

(e) "Seller" means a person or other legal entity transferring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantor or other transferor of real property.

~~[(e)]~~ ***(f)*** "Value" means:

(1) In the case of any deed which is not a gift, ***or a land sale installment contract,*** the amount of the full purchase price paid or to be paid for the real property.

(2) In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated fair market value of the property.

2. As used in paragraph (e) of subsection 1, "estimated fair market value" means the estimated price the real property would bring on the open market in a sale between a willing buyer and a willing seller. Such price may be derived from the assessor's taxable value or the prior purchase price, if the prior purchase was within the 5 years immediately preceding the date of valuation, whichever is higher.

Sec. 2. NRS 375.020 is hereby amended to read as follows:

375.020 1. A tax, at the rate of:

(a) In a county whose population is 400,000 or more, $1.25; and

(b) In a county whose population is less than 400,000, 65 cents,

➥ for each $500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, ***or land sale installment contract,*** if the consideration or value of the interest or property conveyed exceeds $100.

2. The amount of tax must be computed on the basis of the value of the transferred real property as declared pursuant to NRS 375.060.

Sec. 3. NRS 375.023 is hereby amended to read as follows:

375.023 1. In addition to all other taxes imposed on transfers of real property, a tax, at the rate of $1.30 on each $500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, ***or land sale installment contract,*** if the consideration or value of the interest or property conveyed exceeds $100.

2. The amount of the tax must be computed on the basis of the value of the transferred property as declared pursuant to NRS 375.060.

3. The county recorder of each county shall collect the tax in the manner provided in NRS 375.030, except that the amount collected must be transmitted to the State Controller for deposit in the State General Fund within 30 days after the end of the calendar quarter during which the tax was collected.

4. The county recorder of each county may deduct and withhold from the taxes collected 1 percent of those taxes to reimburse the county for the cost of collecting the tax.

Sec. 4. NRS 375.026 is hereby amended to read as follows:

375.026 1. In addition to all other taxes imposed on transfers of real property, the board of county commissioners of a county whose population is less than 400,000 may impose a tax at the rate of up to 5 cents for each $500 of value, or fraction thereof, on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, ***or land sale installment contract,*** if the consideration or value of the interest or property conveyed exceeds $100.

2. The amount of the tax must be computed on the basis of the value of the ~~[~~transferred~~]~~ real property ***that is the subject of the transfer or land sale installment contract*** as declared pursuant to NRS 375.060.

3. The county recorder shall collect the tax in the manner provided in NRS 375.030, except that he shall transmit all the proceeds from the tax imposed pursuant to this section to the State Treasurer for use in the Plant Industry Program as required by NRS 561.355.

Sec. 5. NRS 375.030 is hereby amended to read as follows:

375.030 1. If any deed evidencing a transfer of title ***or land sale installment contract*** subject to the tax imposed by NRS 375.020 and 375.023 and, if applicable, NRS 375.026 is offered for recordation, the county recorder shall compute the amount of the tax due and shall collect that amount before acceptance of the deed for recordation.

2. The buyer and seller are jointly and severally liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 and any penalties and interest imposed pursuant to subsection 3. The escrow holder is not liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 or any penalties or interest imposed pursuant to subsection 3.

3. If ***,*** after recordation of the deed ~~[,]~~ ***or land sale installment contract,*** the county recorder disallows an exemption that was claimed at the time the deed was recorded or through audit or otherwise determines that an additional amount of tax is due, the county recorder shall promptly notify the person who requested the recording of the deed ***or land sale installment contract*** and the buyer and seller of the additional amount of tax due. If the additional amount of tax is not paid within 30 days after the date the buyer and seller are notified, the county recorder shall impose a penalty of 10 percent of the additional amount due in addition to interest at the rate of 1 percent per month, or portion thereof, of the additional amount due calculated from the date of the original recordation of the deed ***or land sale installment contract*** on which the additional amount is due through the date on which the additional amount due, penalty and interest are paid to the county recorder.

4. This section does not prohibit a buyer and seller from agreeing by contract or otherwise that one party or the other will be responsible for the payment of the tax due pursuant to this chapter, but such an agreement does not affect the ability of the county recorder to collect the tax and any penalties and interest from either the buyer or the seller.

Sec. 6. NRS 375.060 is hereby amended to read as follows:

375.060 1. Each deed evidencing a transfer of title of real property ***or land sale installment contract*** that is presented for recordation to the county recorder must be accompanied by a declaration of value made on a form prescribed by the Nevada Tax Commission.

2. A county recorder shall not charge or collect any fees for recording the declaration of value required pursuant to this section.

Sec. 7. NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a business entity and its parent, its subsidiary or an affiliated business entity if the affiliated business entity has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property ~~[.]~~ ***, including, without limitation, a transfer by an instrument in writing pursuant to the terms of a land sale installment contract previously recorded and upon which the taxes imposed by this chapter have been paid.***

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.109.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

➥ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and

(c) The transfer or conveyance is made in obedience to the order.

13. A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

14. A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

Sec. 8. NRS 375.100 is hereby amended to read as follows:

375.100 ~~[1.]~~ The county recorder shall refuse to record any deed ***,*** ~~[or]~~ conveyance ***or land sale installment contract*** upon which a tax is imposed by this chapter if the tax has not been paid and is not subject to liability for refusing to record a deed ***,*** ~~[or]~~ conveyance ***or land sale installment contract*** for which a tax imposed pursuant to this chapter has not been paid.

~~*[2. The county recorder shall not accept for recording any parcel map, map of division into large parcels, subdivision plat, map of reversion of any division of land to acreage or document adjusting a boundary line of any property unless the county recorder has proof of the payment of any applicable tax due pursuant to this chapter.]*~~

Sec. 9. NRS 375.110 is hereby amended to read as follows:

375.110 Any person who willfully falsely declares the value of transferred real property ***or land sale installment contract*** pursuant to NRS 375.060 is guilty of a misdemeanor and shall pay the amount of any additional tax required on account of the falsification.

Sec. 10. NRS 278.349 is hereby amended to read as follows:

278.349 1. Except as otherwise provided in subsection 2, the governing body, if it has not authorized the planning commission to take final action, shall, by an affirmative vote of a majority of all the members, approve, conditionally approve or disapprove a tentative map filed pursuant to NRS 278.330:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after receipt of the planning commission's recommendations.

2. If there is no planning commission, the governing body shall approve, conditionally approve or disapprove a tentative map:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after the map is filed with the clerk of the governing body.

3. The governing body, or planning commission if it is authorized to take final action on a tentative map, shall consider:

(a) Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

(b) The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

(c) The availability and accessibility of utilities;

(d) The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

(e) Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;

(f) General conformity with the governing body's master plan of streets and highways;

(g) The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

(h) Physical characteristics of the land such as floodplain, slope and soil;

(i) The recommendations and comments of those entities and persons reviewing the tentative map pursuant to NRS 278.330 to 278.3485, inclusive; ~~[and]~~

(j) The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands ~~[.]~~ ***; and***

(k) The submission by the subdivider of an affidavit stating that the subdivider ~~*[has made]*~~ ***will make provision for payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable*** ~~*[.]*~~ ***, by the subdivider or any successor in interest.***

4. The governing body or planning commission shall, by an affirmative vote of a majority of all the members, make a final disposition of the tentative map. ***The governing body or planning commission shall not approve the tentative map unless the subdivider has submitted an affidavit stating that the subdivider*** ~~*[has made]*~~ ***will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable*** ~~*[.]*~~ ***, by the subdivider or any successor in interest.*** Any disapproval or conditional approval must include a statement of the reason for that action.

Sec. 11. NRS 278.461 is hereby amended to read as follows:

278.461 1. Except as otherwise provided in this section, a person who proposes to divide any land for transfer or development into four lots or less shall:

(a) Prepare a parcel map and file the number of copies, as required by local ordinance, of the parcel map with the planning commission or its designated representative or, if there is no planning commission, with the clerk of the governing body; and

(b) Pay a filing fee in an amount determined by the governing body,

➥ unless those requirements are waived or the provisions of NRS 278.471 to 278.4725, inclusive, apply. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid ~~[.]~~ ***, and by the affidavit of the person who proposes to divide the land stating that the person*** ~~*[has made]*~~ ***will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable*** ~~*[.]*~~ ***, by the person who proposes to divide the land or any successor in interest.***

2. In addition to any other requirement set forth in this section, a person who is required to prepare a parcel map pursuant to subsection 1 shall provide a copy of the parcel map to the Division of Water Resources of the State Department of Conservation and Natural Resources and obtain a certificate from the Division indicating that the parcel map is approved as to the quantity of water available for use if:

(a) Any parcel included in the parcel map:

(1) Is within or partially within a basin designated by the State Engineer pursuant to NRS 534.120 for which the State Engineer has issued an order requiring approval by him of the parcel map; and

(2) Will be served by a domestic well; and

(b) The dedication of a right to appropriate water to ensure a sufficient supply of water is not required by an applicable local ordinance.

3. If the parcel map is submitted to the clerk of the governing body, he shall submit the parcel map to the governing body at its next regular meeting.

4. A common-interest community consisting of four units or less shall be deemed to be a division of land within the meaning of this section, but need only comply with this section and NRS 278.371, 278.373 to 278.378, inclusive, 278.462, 278.464 and 278.466.

5. A parcel map is not required when the division is for the express purpose of:

(a) The creation or realignment of a public right-of-way by a public agency.

(b) The creation or realignment of an easement.

(c) An adjustment of the boundary line between two abutting parcels or the transfer of land between two owners of abutting parcels, which does not result in the creation of any additional parcels, if such an adjustment is approved pursuant to NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693.

(d) The purchase, transfer or development of space within an apartment building or an industrial or commercial building.

(e) Carrying out an order of any court or dividing land as a result of an operation of law.

6. A parcel map is not required for any of the following transactions involving land:

(a) The creation of a lien, mortgage, deed of trust or any other security instrument.

(b) The creation of a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity.

(c) Conveying an interest in oil, gas, minerals or building materials, which is severed from the surface ownership of real property.

(d) Conveying an interest in land acquired by the Department of Transportation pursuant to chapter 408 of NRS.

(e) Filing a certificate of amendment pursuant to NRS 278.473.

7. When two or more separate lots, parcels, sites, units or plots of land are purchased, they remain separate for the purposes of this section and NRS 278.468, 278.590 and 278.630. When the lots, parcels, sites, units or plots are resold or conveyed they are exempt from the provisions of NRS 278.010 to 278.630, inclusive, until further divided.

8. Unless a method of dividing land is adopted for the purpose or would have the effect of evading this chapter, the provisions for the division of land by a parcel map do not apply to a transaction exempted by paragraph (c) of subsection 1 of NRS 278.320.

9. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 12. NRS 278.464 is hereby amended to read as follows:

278.464 1. Except as otherwise provided in subsection 2, if there is a planning commission, it shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after accepting as a complete application a parcel map, recommend approval, conditional approval or disapproval of the map in a written report. The planning commission shall submit the parcel map and the written report to the governing body.

2. If the governing body has authorized the planning commission to take final action on a parcel map, the planning commission shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after accepting as a complete application the parcel map, approve, conditionally approve or disapprove the map. The planning commission shall file its written decision with the governing body. Unless the time is extended by mutual agreement, if the planning commission is authorized to take final action and it fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

3. If there is no planning commission or if the governing body has not authorized the planning commission to take final action, the governing body or, by authorization of the governing body, the director of planning or other authorized person or agency shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after acceptance of the parcel map as a complete application by the governing body pursuant to subsection 1 or pursuant to subsection 3 of NRS 278.461, review and approve, conditionally approve or disapprove the parcel map. Unless the time is extended by mutual agreement, if the governing body, the director of planning or other authorized person or agency fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

4. ***The planning commission and the governing body or director of planning or other authorized person or agency shall not approve the parcel map unless the person proposing to divide the land has submitted an affidavit stating that the person*** ~~*[has made]*~~ ***will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable*** ~~*[.]*~~ ***, by the person proposing to divide the land or any successor in interest.***

5. Except as otherwise provided in NRS 278.463, if unusual circumstances exist, a governing body or, if authorized by the governing body, the planning commission may waive the requirement for a parcel map. Before waiving the requirement for a parcel map, a determination must be made by the county surveyor, city surveyor or professional land surveyor appointed by the governing body that a survey is not required. Unless the time is extended by mutual agreement, a request for a waiver must be acted upon:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

➥ after the date of the request for the waiver or, in the absence of action, the waiver shall be deemed approved.

~~[5.]~~ ***6.*** A governing body may consider or may, by ordinance, authorize the consideration of the criteria set forth in subsection 3 of NRS 278.349 in determining whether to approve, conditionally approve or disapprove a second or subsequent parcel map for land that has been divided by a parcel map which was recorded within the 5 years immediately preceding the acceptance of the second or subsequent parcel map as a complete application.

~~[6.]~~ ***7.*** An applicant or other person aggrieved by a decision of the governing body's authorized representative or by a final act of the planning commission may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

~~[7.]~~ ***8.*** If a parcel map and the associated division of land are approved or deemed approved pursuant to this section, the approval must be noted on the map in the form of a certificate attached thereto and executed by the clerk of the governing body, the governing body's designated representative or the chairman of the planning commission. A certificate attached to a parcel map pursuant to this subsection must indicate, if applicable, that the governing body or planning commission determined that a public street, easement or

utility easement which will not remain in effect after a merger and resubdivision of parcels conducted pursuant to NRS 278.4925 has been vacated or abandoned in accordance with NRS 278.480.

Sec. 13. NRS 278.4713 is hereby amended to read as follows:

278.4713 1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

(a) File a tentative map for the area in which the land is located with the planning commission or its designated representative or with the clerk of the governing body if there is no planning commission; ~~[and]~~

(b) ***Submit an affidavit stating that the person*** ~~*[has made]*~~ ***will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable*** ~~*[,]*~~ ***, by the person who proposes to make a division of land or any successor in interest; and***

(c) Pay a filing fee of no more than $750 set by the governing body.

2. This map must be:

(a) Entitled "Tentative Map of Division into Large Parcels"; and

(b) Prepared and certified by a professional land surveyor.

3. This map must show:

(a) The approximate, calculated or actual acreage of each lot and the total acreage of the land to be divided.

(b) Any roads or easements of access which exist, are proposed in the applicable master plan or are proposed by the person who intends to divide the land.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

(f) An indication of any existing road or easement which the owner does not intend to dedicate.

(g) The name and address of the owner of the land.

4. The planning commission and the governing body or its authorized representative shall not approve the tentative map unless the person proposing to divide the land has submitted an affidavit stating that the person ~~*[has made]*~~ ***will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable*** ~~*[,]*~~ ***, by the person proposing to divide the land or any successor in interest.***

Sec. 14. NRS 598.0923 is hereby amended to read as follows:

598.0923 A person engages in a "deceptive trade practice" when in the course of his business or occupation he knowingly:

1. Conducts the business or occupation without all required state, county or city licenses.

2. Fails to disclose a material fact in connection with the sale or lease of goods or services.

3. Violates a state or federal statute or regulation relating to the sale or lease of goods or services.

4. Uses coercion, duress or intimidation in a transaction.

5. As the seller in a land sale installment contract, fails to:

(a) Disclose in writing to the buyer:

(1) Any encumbrance or other legal interest in the real property subject to such contract; or

(2) Any condition known to the seller that would affect the buyer's use of such property.

(b) Disclose the nature and extent of legal access to the real property subject to such agreement.

(c) Record the land sale installment contract pursuant to NRS 111.315 within 30 calendar days after the date upon which the seller accepts the first payment from the buyer under such a contract.

(d) Pay the tax imposed on the land sale installment contract pursuant to chapter 375 of NRS.

(e) Include terms in the land sale installment contract providing rights and protections to the buyer that are substantially the same as those under a foreclosure pursuant to chapter 40 of NRS.

➥ As used in this subsection, "land sale installment contract" has the meaning ascribed to it in paragraph (d) of subsection 1 of NRS 375.010.

Sec. 15. This act becomes effective on July 1, 2009.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 277.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 730.

AN ACT relating to estates; revising provisions relating to the succession of property under certain circumstances; modifying the compensation structure authorized for attorneys for personal representatives; making various other changes relating to the administration of estates of deceased persons; revising provisions governing declaratory relief for certain probate matters; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill provides that, unless a will expressly provides otherwise, the adoption of an adult person by someone other than the testator~~

~~of the will must be disregarded for purposes of identifying the devisees, who are the persons designated in the will to receive a disposition of real or personal property. Section 4 of this bill sets forth a similar provision with regard to the heirs of a person who died without a will. Section 34 of this bill sets forth a similar provision with regard to the beneficiaries of a trust that is established in a will or in a trust instrument.~~**]**

Existing law provides, with certain exceptions, that a will is revoked as to a person's spouse if the person married the spouse after making a will and the spouse survives him. **Section 2** of this bill additionally provides that the will is not revoked if the spouse is provided for by a transfer of property outside of the will under certain circumstances. (NRS 133.110) Further, **section 2** provides that if a will is revoked as to a spouse, the spouse is entitled to the same share of the property as if the person who made the will had died intestate, meaning without a will. **Section 3** of this bill amends the law in a similar manner as **section 2** with regard to a child who is born after his parent made a will that does not provide for the child. (NRS 133.160)

Existing law provides that if a person dies without a will and he leaves no issue, meaning children, grandchildren or more remote lineal descendents, surviving spouse, father or mother, the person's estate must be distributed in equal shares to his brothers and sisters and to the children of his deceased brother or sister in equal shares per person. **Section 5** of this bill provides that under such circumstances, the person's brothers and sisters each receive a share and the lawful issue of any deceased brother or sister receive shares by right of representation, which means the lawful issue receive the same share their parents would have received. (NRS 134.060)

Section 8 of this bill generally provides for the enforcement of a no-contest clause in a will with certain exceptions, including that a devisee's share will not be reduced or eliminated if the devisee institutes legal action to invalidate a will in good faith and based on probable cause. **Section 35** of this bill amends the law in a similar manner as **section 8** with regard to a no-contest clause in a trust.

Existing law sets forth the qualifications for an executor of an estate, which include that a person must not have been convicted of a felony relating to the position of an executor. **Section 9** of this bill gives the court discretion to determine whether a conviction for a felony should disqualify the person from serving in the position of an executor. (NRS 138.020) Existing law sets forth the qualifications for appointment as an administrator of an estate, which include that a person must not have been convicted of a felony relating to the position of an administrator. **Section 10** of this bill: (1) amends the law in a similar manner as **section 9** with regard to the qualifications for an administrator; and (2) revises the circumstances in which a person who is not a resident of Nevada may be qualified to serve as an administrator and in which a banking corporation not authorized to do business in Nevada may be qualified to serve as an administrator. (NRS 139.010) Existing law provides for the appointment by the court of a special administrator to collect and take

charge of the estate of a decedent. **Section 13** of this bill amends existing law to require a court to appoint as special administrators of an estate only those persons who satisfy the qualifications for appointment as an administrator of an estate. (NRS 140.020)

~~[Section]~~ **Sections 15-18** of this bill revise certain provisions regarding the support of a decedent's family to authorize the court to make certain decisions if it is deemed advisable considering the family's needs and resources. (NRS 146.010, 146.020, 146.030, 146.050)

Existing law provides for compensation of an attorney for a personal representative. (NRS 150.060) **Sections 21-24 and 27** of this bill provide for compensation of such an attorney based upon, among other things, an hourly basis, the value of the estate and a contingency fee basis. **Section 21** also provides for compensation of such an attorney for extraordinary services and defines the term "extraordinary services" for that purpose.

Sections 30 and 31 of this bill provide that certain persons may seek declaratory relief under chapter 30 of NRS regarding a will, trust or certain other probate matters, but such proceedings for declaratory relief must only be commenced pursuant to titles 12 and 13 of NRS, as appropriate. (NRS 30.040, 30.060) **Section 32** of this bill revises the definition of "community property" as used in various provisions throughout NRS. (NRS 41B.050, 123.220, 132.075)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Chapter 133 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***Except as otherwise expressly provided by a testator in his will, the adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the testator, must be disregarded for purposes of identifying the devisees of the will.]*** **(Deleted by amendment.)**

Sec. 2. NRS 133.110 is hereby amended to read as follows:

133.110 ***1.*** If a person marries after making a will and the spouse survives the maker, the will is revoked as to the spouse, unless ~~[~~provision~~]~~ ***:***

(a) Provision has been made for the spouse by marriage contract ~~[, or unless the]~~ ***;***

(b) The spouse is provided for in the will, or in such a way mentioned therein as to show an intention not to make such provision; ~~[and no other evidence to rebut the presumption of revocation shall be received.]~~ ***or***

(c) The spouse is provided for by a transfer of property outside of the will and it appears that the maker intended the transfer to be in lieu of a testamentary provision.

2. When a will is revoked as to the spouse pursuant to subsection 1:

(a) The spouse is entitled to the same share in the estate of the deceased spouse as if the deceased spouse had died intestate; and

(b) The remaining provisions of the will remain intact to the extent those provisions are not inconsistent with paragraph (a), including, without limitation, any provision concerning the appointment of a personal representative.

Sec. 3. NRS 133.160 is hereby amended to read as follows:

133.160 ***1.*** When a child is born after the making of a will by a parent of that child and no provision is made for the child in the will, the child is entitled to the same share in the estate of the testator as if the testator had died intestate, unless ~~[it]~~ ***:***

(a) It is apparent from the will that it was the intention of the testator that no provision should be made for that child ~~[.]~~ ***; or***

(b) The testator provided for the omitted child by a transfer of property outside of the will and it appears that the testator intended the transfer to be in lieu of a testamentary provision.

2. If, pursuant to subsection 1, a child is entitled to take the same share in the estate of the testator as if the testator had died intestate, the remaining provisions of the will remain intact to the extent those provisions are not inconsistent with this subsection, including, without limitation, any provision concerning the appointment of a personal representative.

Sec. 4. ~~[Chapter 134 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***The adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the decedent, must be disregarded for purposes of identifying the heirs of the decedent pursuant to this chapter.]***~~ **(Deleted by amendment.)**

Sec. 5. NRS 134.060 is hereby amended to read as follows:

134.060 If there is no issue, surviving spouse, or father or mother, then the estate goes in equal shares to the brothers and sisters of the decedent and to the ~~[children]~~ ***lawful issue*** of any deceased brother or sister ~~[in equal shares, per capita.]~~ ***by right of representation as follows:***

1. To the brothers and sisters, each a share; and

2. To the lawful issue of each deceased brother and sister, by right of representation, the same share that the parent would have received if the parent had been living at the time of the death of the decedent.

Sec. 6. NRS 136.090 is hereby amended to read as follows:

136.090 1. A petition for the probate of a will and issuance of letters must state:

(a) The jurisdictional facts;

(b) Whether the person named as personal representative consents to act or renounces the right to letters;

(c) The names and residences of the heirs, next of kin and devisees of the decedent, the age of any heir, next of kin or devisee who is a minor, and the relationship of the heirs and next of kin to the decedent, so far as known to the petitioner;

(d) The character and estimated value of the property of the estate;

(e) The name of the person for whom letters are requested, and ~~[~~that~~]~~ ***whether*** the person has ~~[~~never~~]~~ been convicted of a felony; and

(f) The name of any devisee who is deceased.

2. No defect of form or in the statement of jurisdictional facts actually existing voids the probate of a will.

Sec. 7. NRS 136.240 is hereby amended to read as follows:

136.240 1. The petition for the probate of a lost or destroyed will must include a copy of the will, or if no copy is available state, or be accompanied by a written statement of, the testamentary words, or the substance thereof.

2. If offered for probate, a lost or destroyed will must be proved in the same manner as other wills are proved under this chapter.

3. In addition, no will may be proved as a lost or destroyed will unless it is proved to have been in existence at the death of the person whose will it is claimed to be, or is shown to have been fraudulently destroyed in the lifetime of that person, nor unless its provisions are clearly and distinctly proved by at least two credible witnesses.

4. The testimony of each witness must be reduced to writing, signed by the witness and filed, and is admissible in evidence in any contest of the will if the witness has died or permanently moved from the State.

5. ***Notwithstanding any provision of this section to the contrary:***

(a) The production of a person's lost or destroyed will, whose primary beneficiary is a nontestamentary trust established by the person and in existence at his death, creates a rebuttable presumption that the will had not been revoked.

(b) If the proponent of a lost or destroyed will makes a prima facie showing that it was more likely than not left unrevoked by the person whose will it is claimed to be before his death, then the will must be admitted to probate in absence of an objection. If such prima facie showing has been made, the court shall accept a copy of such a will as sufficient proof of the terms thereof without requiring further evidence in the absence of any objection.

6. If the will is established, its provisions must be set forth specifically in the order admitting it to probate, or a copy of the will must be attached to the order.

Sec. 8. Chapter 137 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a will must be enforced by the court.

2. A no-contest clause must be construed to carry out the testator's intent. Except to the extent the will is vague or ambiguous, extrinsic evidence is not admissible to establish the testator's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law.

3. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated if the devisee seeks only to:

(a) Enforce the terms of the will;

(b) Enforce the devisee's legal rights in the probate proceeding; or

(c) Obtain a court ruling with respect to the construction or legal effect of the will.

4. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated under a no-contest clause because the devisee institutes legal action seeking to invalidate a will if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that there was a substantial likelihood that the will was invalid.

5. As used in this section, "no-contest clause" means one or more provisions in a will that express a directive to reduce or eliminate the share allocated to a devisee or to reduce or eliminate the distributions to be made to a devisee if the devisee takes action to frustrate or defeat the testator's intent as expressed in the will.

Sec. 9. NRS 138.020 is hereby amended to read as follows:

138.020 1. No person is qualified to serve as an executor who, at the time the will is probated:

(a) Is under the age of majority;

(b) Has been convicted of a felony ~~[relating to]~~ ***, unless the court determines that such a conviction should not disqualify the person from serving in*** the position of an executor;

(c) Upon proof, is adjudged by the court disqualified to execute the duties of executor by reason of conflict of interest, drunkenness, improvidence or lack of integrity or understanding; or

(d) Is a bank not authorized to do business in the State of Nevada, unless it associates as coexecutor a bank authorized to do business in this State. An out-of-state bank is qualified to appoint a substitute executor, pursuant to NRS 138.045, without forming such an association, but any natural person so appointed must be a resident of this State.

2. If a disqualified person is named as the sole executor in a will, or if all persons so named are disqualified or renounce their right to act, or fail to appear and qualify, letters of administration with the will annexed must issue.

Sec. 10. NRS 139.010 is hereby amended to read as follows:

139.010 No person is entitled to letters of administration ~~[who:]~~ ***if the person:***

1. Is under the age of majority;

2. Has been convicted of a felony ~~[relating to]~~ ***, unless the court determines that such a conviction should not disqualify the person from serving in*** the position of an administrator;

3. Upon proof, is adjudged by the court disqualified by reason of conflict of interest, drunkenness, improvidence, or lack of integrity or understanding; ~~[or]~~

4. Is not a resident of the State of Nevada ~~[and who does not associate]~~ ***, unless the person:***

(a) Associates as coadministrator a resident of the State of Nevada ~~[or which, in the case of a banking corporation, is not authorized to do business in this State and does not associate as coadministrator a resident of the State of Nevada]~~ or a banking corporation authorized to do business in this State ~~[.]~~ ***; or***

(b) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment; or

5. Is a banking corporation that is not authorized to do business in this State, unless the banking corporation:

(a) Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State; or

(b) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment.

Sec. 11. NRS 139.040 is hereby amended to read as follows:

139.040 1. Administration of the intestate estate of a decedent must be granted to one or more of the persons mentioned in this section, and they are respectively entitled to priority for appointment in the following order:

(a) The surviving spouse.

(b) The children.

(c) The father or the mother.

(d) The brother or the sister.

(e) The grandchildren.

(f) Any other of the kindred entitled to share in the distribution of the estate.

(g) The public administrator.

(h) Creditors who have become such during the lifetime of the decedent.

(i) Any of the kindred not above enumerated, within the fourth degree of consanguinity.

(j) Any person or persons legally qualified.

2. A person in each of the foregoing classes is entitled:

(a) To appointment, if the person is:

(1) A resident of the State of Nevada or ~~[associates]~~ ***the person:***

(I) Associates as coadministrator a resident of the State of Nevada ~~[,]~~ ***or a banking corporation authorized to do business in this State;*** or

(II) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment; or

(2) A banking corporation which is authorized to do business in this State or which ~~[associates]~~ ***:***

(I) Associates as coadministrator a resident of the State of Nevada or a banking corporation authorized to do business in this State ~~[.]~~ ***; or***

(II) Is named as personal representative in the will if the will is the subject of a pending petition for probate, and the court in its discretion believes it would be appropriate to make such an appointment.

(b) To nominate a resident of the State of Nevada or a qualified banking corporation for appointment, whether or not the nominator is a resident of the State of Nevada or a qualified banking corporation. The nominee has the same priority as the nominator. That priority is independent of the residence or corporate qualification of the nominator.

3. If any heir who is otherwise entitled to appointment is a minor or an incompetent person for whom a guardian has been appointed, the court may appoint the guardian of the minor or incompetent person as administrator.

Sec. 12. NRS 139.090 is hereby amended to read as follows:

139.090 1. A petition for letters of administration must be in writing, signed by the petitioner or the attorney for the petitioner and filed with the clerk of the court, and must state:

(a) The jurisdictional facts;

(b) The names and addresses of the heirs of the decedent and their relationship to the decedent, so far as known to the petitioner, and the age of any who is a minor;

(c) The character and estimated value of the property of the estate; and

(d) ~~[That]~~ ***Whether*** the person to be appointed as administrator has ~~[never]~~ been convicted of a felony.

2. No defect of form or in the statement of jurisdictional facts actually existing voids an order appointing an administrator or any of the subsequent proceedings.

Sec. 13. NRS 140.020 is hereby amended to read as follows:

140.020 1. The appointment of a special administrator may be made at chambers or in open court, and without notice or upon such notice to such interested persons as the court deems reasonable, and must be made by entry upon the minutes of the court or by written order signed and filed, which must specify the powers to be exercised by the special administrator.

2. Upon the filing of the order, and after the person appointed has given bond if fixed by the court, the clerk shall issue special letters of administration, with a copy of the order attached.

3. In making the appointment of a special administrator, the court ~~[may]~~ ***:***

(a) Must appoint a person who satisfies the qualifications set forth in NRS 139.010; and

(b) May give preference to the person or persons entitled to letters testamentary or letters of administration, but no appeal may be taken from the appointment.

Sec. 14. NRS 145.020 is hereby amended to read as follows:

145.020 All proceedings taken under this chapter, whether or not the decedent left a will, must be originated by a petition for letters testamentary or letters of administration containing:

1. Jurisdictional information;

2. A description of the property of the decedent, including the character and estimated value of the property;

3. The names and residences of the heirs and devisees of the decedent and the age of any who is a minor and the relationship of each heir and devisee to the decedent, so far as known to the petitioner; and

4. A statement ~~[that]~~ ***indicating whether*** the person to be appointed as personal representative has ~~[never]~~ been convicted of a felony.

Sec. 15. NRS 146.010 is hereby amended to read as follows:

146.010 Except as ***otherwise*** provided in ***this chapter or in*** NRS 125.510, if a person dies leaving a surviving spouse or a minor child or minor children, the surviving spouse, minor child or minor children are entitled to remain in possession of the homestead and of all the wearing apparel and provisions in the possession of the family, and all the household furniture, and are also entitled to a reasonable provision for their support, to be allowed by the court.

Sec. 16. NRS 146.020 is hereby amended to read as follows:

146.020 Upon the filing of the inventory or at any time thereafter during the administration of the estate, the court, on its own motion or upon petition by an interested person, ~~[shall]~~ ***may, if deemed advisable considering the needs and resources of the surviving spouse, minor child or minor children,*** set apart for the use of the ~~[family]~~ ***surviving spouse, minor child or minor children*** of the decedent all of the personal property which is exempt by law from execution, and shall ***, in accordance with NRS 146.050,*** set apart the homestead, as designated by the general homestead law then in force, whether the homestead has theretofore previously been selected as required by law or not, and the property thus set apart is not subject to administration.

Sec. 17. NRS 146.030 is hereby amended to read as follows:

146.030 1. If the whole property exempt by law is set apart and is not sufficient for the support of the surviving spouse, minor child or minor children, the court ~~[shall]~~ ***may, if deemed advisable considering the needs and resources of the surviving spouse, minor child or minor children,*** make such reasonable allowance out of the estate as is necessary for the maintenance of the family according to their circumstances during the progress of the administration of the estate, which, in case of an insolvent estate, may not be longer than 1 year after granting letters of administration.

2. If the surviving spouse or any minor child has a reasonable maintenance derived from other property, and there are other persons entitled to a family allowance, the allowance must be granted only to those who do not have such maintenance, or the allowance may be apportioned in such manner as may be just.

Sec. 18. NRS 146.050 is hereby amended to read as follows:

146.050 1. If the homestead was selected by the spouses, or either of them, during their marriage, and recorded while both were living, as provided

in chapter 115 of NRS, it vests, on the death of either spouse, absolutely in the survivor, unless vesting is otherwise required pursuant to subsection 2 of NRS 115.060.

2. If no homestead was so selected, a homestead may be set apart by the court to the ~~[family]~~ ***surviving spouse, minor child or minor children*** of the decedent for a limited period if deemed advisable considering the needs and resources of the family and the nature, character and obligations of the estate. The duration of the homestead must be designated in the order setting it apart and may not extend beyond the lifetime of the surviving spouse or the minority of any child of the decedent, whichever is longer. A homestead so set apart then vests, subject to the setting apart:

(a) If set apart from the separate property of the decedent, in the heirs or devisees of the decedent.

(b) If set apart from community property, one-half in the surviving spouse and one-half in the devisees of the decedent, or if no disposition is made, then entirely in the surviving spouse.

3. In either case referred to in subsection 1 or 2, the homestead is not subject to the payment of any debt or liability existing against the spouses, or either of them, at the time of death of either, unless the debt or liability is secured by a mortgage or lien.

Sec. 19. NRS 148.120 is hereby amended to read as follows:

148.120 When an offer is presented for confirmation by the court, other offerors may submit higher bids and the court may confirm the highest bid. ~~[Upon]~~ ***Except as otherwise provided in this section, upon*** confirmation, the real estate commission must be divided between the listing agent and the agent, if any, who procured the purchaser to whom the sale was confirmed, in accordance with the listing agreement. ***If the agent who procured the offer presented for confirmation by the court is not the agent who procured the purchaser to whom the sale was confirmed, then the real estate commission payable to the agent who procured the purchaser must be divided equally between the agent who procured the offer and the agent who procured the purchaser unless otherwise directed by the court.***

Sec. 20. Chapter 150 of NRS is hereby amended by adding thereto the provisions set forth as sections 21 to 25, inclusive, of this act.

Sec. 21. ***1. If an attorney for a personal representative receives compensation pursuant to NRS 150.060 based on the value of the estate accounted for by the personal representative, the court may allow additional compensation for extraordinary services by the attorney for the personal representative in an amount the court determines is just and reasonable after petition, notice and hearing in the manner provided in NRS 150.060.***

2. Extraordinary services by the attorney for a personal representative for which the court may allow compensation include extraordinary services performed by a paralegal under the direction and supervision of the attorney.

3. The petition requesting approval for compensation for extraordinary services must include the following information:

(a) Reference to time and hours;

(b) The nature and extent of services rendered;

(c) The complexity of the work required;

(d) The hours spent and services performed by a paralegal if the compensation includes extraordinary services performed by a paralegal as described in subsection 2; and

(e) Other information considered to be relevant to a determination of entitlement.

4. An attorney for a personal representative may agree to perform extraordinary services on a contingency fee basis if:

(a) There is a written agreement between the personal representative and the attorney that sets forth the manner in which the compensation is to be calculated and that is approved by the court after a hearing; and

(b) The court determines that the compensation provided in the agreement is just and reasonable and that the agreement will be to the advantage of the estate and is in the best interests of the persons interested in the estate.

5. Notice of a hearing required by subsection 4 must be given for the period and in the manner provided in NRS 155.010.

6. As used in this section, "extraordinary services" include, without limitation:

(a) Sales or mortgages of real or personal property;

(b) Operating a decedent's business;

(c) Participating in litigation relating to the estate;

(d) Securing a loan to pay debts relating to the estate; and

(e) Preparing and filing income tax returns for the estate.

Sec. 22. ***If there are two or more attorneys for a personal representative, the compensation must be apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.***

Sec. 23. ***1. At any time after the expiration of the period for creditors of the estate to file their claims in a summary or full administration pursuant to NRS 145.060 or 147.040, as applicable, the personal representative or the attorney for the personal representative may file a petition with the court for an allowance upon the compensation of the attorney for the personal representative.***

2. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition to the personal representative if he is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of

the compensation which the court will be requested to approve or allow and the manner in which the compensation was determined.

3. On the hearing, the court may enter an order allowing the portion of the compensation of the attorney for the personal representative for such services rendered up to that time as the court deems proper. The order must authorize the personal representative to charge against the estate the amount of compensation allowed by the court pursuant to this subsection.

Sec. 24. ***1. At the time of the filing of the final account and of a petition for an order for final distribution of the estate, the personal representative or the attorney for the personal representative may file a petition with the court for an order fixing and allowing the compensation of the attorney for the personal representative for all services rendered in the estate proceeding.***

2. The request for compensation described in subsection 1 may be included in the final account or in the petition for an order for final distribution of the estate or may be made in a separate petition.

3. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition to the personal representative if he is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the compensation which the court will be requested to approve or allow and the manner in which the compensation was determined.

4. On the hearing, the court shall make an order fixing and allowing the compensation for all services rendered in the estate proceeding. The order must authorize the personal representative to pay the attorney out of the estate the amount of compensation allowed by the court pursuant to this subsection less any amount paid to the attorney out of the estate pursuant to section 23 of this act.

Sec. 25. ***Except as otherwise provided by the donor or decedent in writing:***

1. Except as otherwise provided in subsection 3, for gifts that were made subject to the federal gift tax and in cases where the decedent's estate is insufficient to pay all federal gift taxes due at the time of the decedent's death, the unpaid federal gift tax must be borne on a pro rata basis by those receiving the transfers that triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal gift tax.

2. The federal generation-skipping transfer tax must be borne on a pro rata basis by those persons receiving the transfers that triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal generation-skipping transfer tax.

3. The application of exclusions, exemptions, deferrals or other provisions of the law available at the time of each transfer must be applied in chronological order to the transfers to which they relate.

4. To the extent issues remain unresolved after applying the principles set forth in subsections 1, 2 and 3, the provisions of NRS 150.290 to 150.380, inclusive:

(a) Must be applied to determine the allocation, apportionment and collection of federal transfer taxes other than the federal estate tax, including, without limitation, the federal gift tax and the federal generation-skipping transfer tax; and

(b) Must be applied to determine the procedures for the judicial determination of the apportionment of federal transfer taxes other than the federal estate tax, including, without limitation, the federal gift tax and the federal generation-skipping transfer tax.

Sec. 26. NRS 150.020 is hereby amended to read as follows:

150.020 1. If no compensation is provided by the will, or the personal representative renounces all claims thereto, fees must be allowed upon the whole amount of the estate which has been accounted for, less liens and encumbrances, as follows:

(a) For the first $15,000, at the rate of 4 percent.

(b) For the next $85,000, at the rate of 3 percent.

(c) For all above $100,000, at the rate of 2 percent.

2. The same fees must be allowed to the personal representative if there is no will.

3. If there are two or more personal representatives, the compensation must be apportioned among them by the court according to the services actually rendered by each.

4. In addition to the fees described in subsection 1, the court may allow such fees as it deems just and reasonable if the fees authorized pursuant to subsection 1 are not sufficient to reasonably compensate the personal representative.

Sec. 27. NRS 150.060 is hereby amended to read as follows:

150.060 1. Attorneys for personal representatives are entitled to reasonable compensation for their services, to be paid out of the decedent's estate.

2. An attorney for a personal representative may be compensated based on:

(a) The applicable hourly rate of the attorney;

(b) The value of the estate accounted for by the personal representative;

(c) An agreement as set forth in subsection 4 of section 21 of this act; or

(d) Any other method preapproved by the court pursuant to a request in the initial petition for the appointment of the personal representative.

3. If the attorney is requesting compensation based on the hourly rate of the attorney, he may include, as part of that compensation for ordinary

services, a charge for legal services or paralegal services performed by a person under his direction and supervision.

4. If the attorney is requesting compensation based on the value of the estate accounted for by the personal representative, the allowable compensation of the attorney for ordinary services must be determined as follows:

(a) For the first $100,000, at the rate of 4 percent;

(b) For the next $100,000, at the rate of 3 percent;

(c) For the next $800,000, at the rate of 2 percent;

(d) For the next $9,000,000, at the rate of 1 percent;

(e) For the next $15,000,000, at the rate of .05 percent; and

(f) For all amounts above $25,000,000, a reasonable amount to be determined by the court.

5. Before an attorney may receive compensation based on the value of the estate accounted for by the personal representative, the personal representative must sign a written agreement as required by subsection 8. The agreement must be prepared by the attorney and must include detailed information, concerning, without limitation:

(a) The schedule of fees to be charged by the attorney;

(b) The manner in which compensation for extraordinary services may be charged by the attorney; and

(c) The fact that the court is required to approve the compensation of the attorney pursuant to subsection 8 before the personal representative pays any such compensation to the attorney.

6. For the purposes of determining the compensation of an attorney pursuant to subsection 4, the value of the estate accounted for by the personal representative:

(a) Is the total amount of the appraisal of property in the inventory, plus:

(1) The gains over the appraisal value on sales; and

(2) The receipts, less losses from the appraisal value on sales; and

(b) Does not include encumbrances or other obligations on the property of the estate.

7. In addition to the compensation for ordinary services of an attorney set forth in this section, an attorney may also be entitled to receive compensation for extraordinary services as set forth in section 21 of this act.

8. The ~~[amount]~~ ***compensation of the attorney*** must be fixed by ***written*** agreement between the personal representative and the attorney, ***and is*** subject to approval by the court, after petition, notice and hearing as provided in ~~[subsection 2.]~~ ***this section.*** If the personal representative and the attorney fail to reach agreement, or if the attorney is also the personal representative, the amount must be determined and allowed by the court. The petition ***requesting approval of the compensation of the attorney*** must contain

specific and detailed information supporting the entitlement to compensation, including:

(a) ***If the attorney is requesting compensation based upon the value of the estate accounted for by the personal representative, the attorney must provide the manner of calculating the compensation in the petition; and***

(b) If the attorney is requesting compensation based on an hourly basis, or is requesting compensation for extraordinary services, the attorney must provide the following information to the court:

(1) Reference to time and hours;

~~[(b)]~~ ***(2)*** The nature and extent of services rendered;

~~[(c)]~~ ***(3)*** Claimed ordinary and extraordinary services;

~~[(d)]~~ ***(4)*** The complexity of the work required; and

~~[(e)]~~ ***(5)*** Other information considered to be relevant to a determination of entitlement.

~~[2.]~~ ***9.*** The clerk shall set the petition for hearing, and the petitioner shall give notice of the petition to the personal representative if he is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the fee which the court will be requested to approve or allow.

~~[3.]~~ ***10.*** On similar petition, notice and hearing, the court may make an allowance to an attorney for services rendered up to a certain time during the proceedings.

~~[4.]~~ ***If the attorney is requesting compensation based upon the value of the estate as accounted for by the personal representative, the court may apportion the compensation as it deems appropriate given the amount of work remaining to close the estate.***

11. An heir or devisee may file objections to a petition filed pursuant to this section, and the objections must be considered at the hearing.

~~[5.]~~ ***12.*** Except as otherwise provided in this subsection, an attorney for minor, absent, unborn, incapacitated or nonresident heirs is entitled to compensation primarily out of the estate of the distributee so represented by him in those cases and to such extent as may be determined by the court. If the court finds that all or any part of the services performed by the attorney for the minor, absent, unborn, incapacitated or nonresident heirs was of value to the decedent's entire estate as such and not of value only to those heirs, the court shall order that all or part of the attorney's fee be paid to the attorney out of the money of the decedent's entire estate as a general administrative expense of the estate. The amount of these fees must be determined in the same manner as the other attorney's fees provided for in this section.

Sec. 28. NRS 153.031 is hereby amended to read as follows:

153.031 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

(a) Determining the existence of the trust;

(b) Determining the construction of the trust instrument;

(c) Determining the existence of an immunity, power, privilege, right or duty;

(d) Determining the validity of a provision of the trust;

(e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;

(f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;

(g) Instructing the trustee;

(h) Compelling the trustee to report information about the trust or account, to the beneficiary;

(i) Granting powers to the trustee;

(j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of his compensation;

(k) Appointing or removing a trustee;

(l) Accepting the resignation of a trustee;

(m) Compelling redress of a breach of the trust;

(n) Approving or directing the modification or termination of the trust;

(o) Approving or directing the combination or division of trusts;

(p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust; ~~[and]~~

(q) Compelling compliance with the terms of the trust or other applicable law ~~[.]~~ ***; and***

(r) Permitting the division or allocation of the aggregate value of community property assets in a manner other than on a pro rata basis.

2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.

3. If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court determines that such additional relief is appropriate to redress or avoid an injustice:

(a) Order a reduction in the trustee's compensation.

(b) Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. The trustee may not be held personally liable for the payment of such

costs unless the court determines that the trustee was negligent in the performance of or breached his fiduciary duties.

Sec. 29. NRS 155.190 is hereby amended to read as follows:

155.190 ~~[In]~~

1. Except as otherwise provided in subsection 2, in addition to any order from which an appeal is expressly permitted by this title, an appeal may be taken to the Supreme Court within 30 days after the notice of entry of an order:

~~[1.]~~ ***(a)*** Granting or revoking letters testamentary or letters of administration.

~~[2.]~~ ***(b)*** Admitting a will to probate or revoking the probate thereof.

~~[3.]~~ ***(c)*** Setting aside an estate claimed not to exceed ~~[$50,000]~~ ***$100,000*** in value.

~~[4.]~~ ***(d)*** Setting apart property as a homestead, or claimed to be exempt from execution.

~~[5.]~~ ***(e)*** Granting or modifying a family allowance.

~~[6.]~~ ***(f)*** Directing or authorizing the sale or conveyance or confirming the sale of property.

~~[7.]~~ ***(g)*** Settling an account of a personal representative or trustee.

~~[8.]~~ ***(h)*** Instructing or appointing a trustee.

~~[9.]~~ ***(i)*** Instructing or directing a personal representative.

~~[10.]~~ ***(j)*** Directing or allowing the payment of a debt, claim, devise or attorney's fee.

~~[11.]~~ ***(k)*** Determining heirship or the persons to whom distribution must be made or trust property must pass.

~~[12.]~~ ***(l)*** Distributing property.

~~[13.]~~ ***(m)*** Refusing to make any order mentioned in this section ***.*** ~~[or]~~

(n) Making any decision wherein the amount in controversy equals or exceeds, exclusive of costs, ~~[$5,000.]~~ ***$10,000.***

~~[14.]~~ ***(o)*** Granting or denying a motion to enforce the liability of a surety filed pursuant to NRS 142.035.

~~[15.]~~ ***(p)*** Granting an order for conveyance or transfer pursuant to NRS 148.410.

2. If a party timely files in the district court any of the following motions under the Nevada Rules of Civil Procedure, the time to file a notice of appeal pursuant to this section runs for all parties from entry of an order disposing of the last such remaining motion, and the notice of appeal must be filed not later than 30 days after the date of service of written notice of entry of that order:

(a) A motion for judgment under Rule 50(b);

(b) A motion under Rule 52(b) to amend or make additional findings of fact;

(c) A motion under Rule 59 to alter or amend the judgment; or

(d) A motion for a new trial under Rule 59.

Sec. 30. NRS 30.040 is hereby amended to read as follows:

30.040 ***1.*** Any person interested under a deed, ~~[will,]~~ written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

2. A maker or legal representative of a maker of a will, trust or other writings constituting a testamentary instrument may have determined any question of construction or validity arising under the instrument and obtain a declaration of rights, status or other legal relations thereunder. Any action for declaratory relief under this subsection may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

Sec. 31. NRS 30.060 is hereby amended to read as follows:

30.060 ***1.*** Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic or insolvent, may have a declaration of rights or legal relations in respect thereto:

~~[1.]~~ ***(a)*** To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; ~~[or~~

~~2.]~~ ***(b)*** To direct the executors, administrators or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

~~[3.]~~ ***(c)*** To determine any question arising in the administration of the estate or trust, including questions of construction of wills ***, trusts*** and other writings.

2. Any action for declaratory relief under this section may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

Sec. 32. NRS 123.220 is hereby amended to read as follows:

123.220 All property, other than that stated in NRS 123.130, acquired after marriage by either husband or wife, or both, is community property unless otherwise provided by:

1. An agreement in writing between the spouses ***.*** ~~[, which is effective only as between them.]~~

2. A decree of separate maintenance issued by a court of competent jurisdiction.

3. NRS 123.190.

4. A decree issued or agreement in writing entered pursuant to NRS 123.259.

Sec. 33. Chapter 163 of NRS is hereby amended by adding thereto the provisions set forth as sections 34 and 35 of this act.

Sec. 34. ~~***[1. Except as otherwise expressly provided by a testator in his will, the adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the testator, must be disregarded***~~

~~*for purposes of identifying the beneficiaries of a testamentary trust established pursuant to the terms of the will.*~~

~~*2. Except as otherwise expressly provided by a settlor in his trust instrument, the adoption of a person who is 18 years of age or older at the time of the adoption, by someone other than the settlor, must be disregarded for purposes of identifying the beneficiaries of the trust.]*~~ **(Deleted by amendment.)**

Sec. 35. ***1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a trust must be enforced by the court.***

2. A no-contest clause must be construed to carry out the settlor's intent. Except to the extent the no-contest clause in the trust is vague or ambiguous, extrinsic evidence is not admissible to establish the settlor's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law.

3. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated if the beneficiary seeks only to:

(a) Enforce the terms of the trust or any other trust-related instrument;

(b) Enforce the beneficiary's legal rights related to the trust or any trust-related instrument; or

(c) Obtain a court ruling with respect to the construction or legal effect of the trust or any other trust-related instrument.

4. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action seeking to invalidate a trust or any other trust-related instrument if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that there was a substantial likelihood that the trust or other trust-related instrument was invalid.

5. As used in this section:

(a) "No-contest clause" means one or more provisions in a trust that express a directive to reduce or eliminate the share allocated to a beneficiary or to reduce or eliminate the distributions to be made to a beneficiary if the beneficiary takes action to frustrate or defeat the settlor's intent as expressed in the trust or in a trust-related instrument.

(b) "Trust" means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) "Trust-related instrument" means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 312.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 800.

AN ACT relating to motor vehicles; revising provisions governing the verification of motor vehicle liability insurance policies by the Department of Motor Vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires every owner of a motor vehicle which is registered or required to be registered in this State to continuously provide insurance for the payment of tort liabilities arising from the maintenance or use of the motor vehicle. (NRS 485.185) Existing law also requires the Department **of Motor Vehicles** to create a system to verify that owners of motor vehicles, other than golf carts and larger motortrucks, truck tractors and buses, maintain the required liability insurance. (NRS 485.130, 485.313) **Section 4** of this bill adds provisions: (1) requiring the Department to work in cooperation with insurers to develop the system; (2) requiring that the verification be conducted through the secure transmission and receipt of information necessary to verify that owners of motor vehicles maintain the required liability insurance; (3) authorizing the Department to contract with any person to provide services relating to the system; ~~[and]~~ (4) **requiring the Director of the Department to adopt certain regulations; and (5)** making the system applicable to **certain vehicles that are part of a fleet and** all motortrucks, truck tractors and buses.

If the Department determines that a motor vehicle is not covered by a policy of liability insurance, existing law requires the Department to send a form for verification of liability insurance to the owner of the vehicle. **Section 7** of this bill amends the provisions relating to the Department's process for verifying whether the owner of the vehicle maintains liability insurance. (NRS 485.317)

Existing law provides that an owner of certain motor vehicles who provides proof of liability insurance provided by an insurance company that is not approved to do business in this State may register the motor vehicle and have 7 calendar days to provide proof of liability by an insurance company that is licensed and approved to do business in this State. (NRS 482.215) **Section 2** of this bill removes the provision allowing an owner 7 calendar days to provide proof of liability insurance by an insurance company that is licensed and approved to do business in this State. Existing law further provides that the owner of a fleet of motor vehicles and certain other motor vehicles must provide evidence of liability insurance on a form that is satisfactory to the Department. (NRS 482.215) **Section 2** specifies that

such liability insurance must be provided by an insurance company licensed and approved to do business in this State. **Section 5** of this bill deletes provisions of existing law that prescribe the specific form and content of the records of motor vehicle liability policies which insurers must provide to the Department. (NRS 485.314)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415, 253.044 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

➥ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester

officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

(1) The safety of drivers of motor vehicles;

(2) Safety and thefts of motor vehicles;

(3) Emissions from motor vehicles;

(4) Alterations of products related to motor vehicles;

(5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;

(6) Monitoring the performance of motor vehicles;

(7) Parts or accessories of motor vehicles;

(8) Dealers of motor vehicles; or

(9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415, 253.044 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➥ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the ~~[~~database~~]~~ ***system*** created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that ~~[~~database.~~]~~ ***system.***

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request

if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 2. NRS 482.215 is hereby amended to read as follows:

482.215 1. All applications for registration, except applications for renewal of registration, must be made as provided in this section.

2. Except as otherwise provided in NRS 482.294, applications for all registrations, except renewals of registration, must be made in person, if practicable, to any office or agent of the Department or to a registered dealer.

3. Each application must be made upon the appropriate form furnished by the Department and contain:

(a) The signature of the owner, except as otherwise provided in subsection 2 of NRS 482.294, if applicable.

(b) His residential address.

(c) His declaration of the county where he intends the vehicle to be based, unless the vehicle is deemed to have no base. The Department shall use this declaration to determine the county to which the governmental services tax is to be paid.

(d) A brief description of the vehicle to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and the last license number, if known, and the state in which it was issued, and upon the registration of a new vehicle, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the vehicle.

(e) Except as otherwise provided in this paragraph, if the applicant is not an owner of a fleet of vehicles or a person described in subsection 5:

(1) Proof satisfactory to the Department or registered dealer that the applicant carries insurance on the vehicle ~~[, and if the insurance is not]~~ provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185 ***;*** ~~[, the applicant must meet the requirements of NRS 485.185 within 7 calendar days;]~~ and

(2) A declaration signed by the applicant that he will maintain the insurance required by NRS 485.185 during the period of registration. If the application is submitted by electronic means pursuant to NRS 482.294, the applicant is not required to sign the declaration required by this paragraph.

(f) If the applicant is an owner of a fleet of vehicles or a person described in subsection 5, evidence of insurance ~~[.]~~ ***provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185:***

(1) In the form of a certificate of insurance on a form approved by the Commissioner of Insurance;

(2) In the form of a card issued pursuant to NRS 690B.023 which identifies the vehicle ***;*** ~~[and indicates, at the time of application for registration, coverage which meets the requirements of NRS 485.185;]~~ or

(3) In another form satisfactory to the Department.

➥ The Department may file that evidence, return it to the applicant or otherwise dispose of it.

(g) If required, evidence of the applicant's compliance with controls over emission.

4. The application must contain such other information as is required by the Department or registered dealer and must be accompanied by proof of ownership satisfactory to the Department.

5. For purposes of the evidence required by paragraph (f) of subsection 3:

(a) Vehicles which are subject to the fee for a license and the requirements of registration of the Interstate Highway User Fee Apportionment Act, and which are based in this State, may be declared as a fleet by the registered owner thereof on his original application for or application for renewal of a proportional registration. The owner may file a single certificate of insurance covering that fleet.

(b) Other fleets composed of 10 or more vehicles based in this State or vehicles insured under a blanket policy which does not identify individual vehicles may each be declared annually as a fleet by the registered owner thereof for the purposes of an application for his original or any renewed registration. The owner may file a single certificate of insurance covering that fleet.

(c) A person who qualifies as a self-insurer pursuant to the provisions of NRS 485.380 may file a copy of his certificate of self-insurance.

(d) A person who qualifies for an operator's policy of liability insurance pursuant to the provisions of NRS 485.186 and 485.3091 may file evidence of that insurance.

Sec. 3. NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of $33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of $16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of $12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of $8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all ~~[of]~~ the cars registered to him.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of $33 and for each motorcycle other than a trimobile, an additional fee of $6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of $6 in addition to any other fees.

6. Except as otherwise provided in subsection ~~[9]~~ ***7*** of NRS 485.317, to reinstate the registration of a motor vehicle ***that is*** suspended pursuant to that section:

(a) A fee of $250 for a registered owner who failed to have insurance on the date specified ~~[in the form for verification that was mailed]~~ by the Department ***;*** ~~[pursuant to subsection 3 of NRS 485.317;]~~ or

(b) A fee of $50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

➥ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

7. For every travel trailer, a fee for registration of $27.

8. For every permit for the operation of a golf cart, an annual fee of $10.

9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of $33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of $33.

Sec. 4. NRS 485.313 is hereby amended to read as follows:

485.313 1. The Department ~~[shall]~~ ***:***

(a) Shall, in cooperation with insurers, create a system for verifying ***through the secure transmission and receipt of information*** that the owners of motor vehicles maintain the insurance required by NRS 485.185 ~~[.]~~ ***; and***

(b) May enter into a contract with any person to provide services relating to the system.

2. ***The Director shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations for verifying that registered owners described in paragraph (b) of subsection 5 of NRS 482.215 maintain the insurance required by NRS 485.185.***

3. As used in this section, "motor vehicle" ~~[does]~~ ***:***

(a) Does not include ~~[~~:

~~(a) A]~~ ***a*** golf cart as that term is defined in NRS 482.044.

(b) ***Includes, without limitation:***

(1) A motortruck, truck tractor, bus or other vehicle that is registered pursuant to paragraph (c) of subsection 1 of NRS 482.482 or NRS 706.801 to 706.861, inclusive.

(2) A vehicle that is registered as part of a fleet of vehicles and described in paragraph (b) of subsection 5 of NRS 482.215.

Sec. 5. NRS 485.314 is hereby amended to read as follows:

485.314 1. ~~[On or before the 15th calendar day of each month, each]~~ ***Each*** insurer that has executed a contract of insurance for a motor vehicle liability policy which may be used to meet the requirements of NRS 485.185 shall ~~[provide the Department with]~~ ***maintain*** a record of each such policy ~~[issued, amended or terminated in the previous month on the date the record is provided. The record must include:~~

~~(a) The name or identification number of each insured named in the policy of insurance;~~

~~(b) The make, year and vehicle identification number of each motor vehicle included in the policy of insurance;~~

~~(c) The number, effective date and expiration date of the policy of insurance; and~~

~~(d) Any other information required by the Department.~~

~~2. The record provided pursuant to subsection 1 must be submitted]~~ in a ~~[form]~~ ***format*** approved by the Department and ~~[may include, without limitation, magnetic tape or any other electronic medium deemed acceptable by the Department.~~

~~3.]~~ ***provide the Department with access to the record.***

2. The Department shall notify the Commissioner of Insurance if an insurer:

(a) Fails to comply with subsection 1 ***;*** ~~[or 2;]~~ or

(b) In complying with subsection 1 ***,*** ~~[or 2,]~~ provides to the Department information that is false, incomplete or misleading.

Sec. 6. NRS 485.316 is hereby amended to read as follows:

485.316 1. Except as otherwise provided in ~~[subsections]~~ ***subsection*** 2 ~~[and 3]~~ and NRS 239.0115, information which is maintained in the ~~[database]~~ ***system*** created pursuant to NRS 485.313 is confidential.

2. The Department may only disclose information which is maintained in the ~~[database, upon request, to a]~~ ***system to:***

(a) A state or local governmental agency for the purpose of enforcing NRS 485.185, including investigating or litigating a violation or alleged violation ~~[.~~

~~3. The Department may only disclose information retrieved from the database to:~~

~~(a)]~~ ***;***

(b) An authorized insurer;

(c) A person:

(1) With whom the Department has contracted to provide services relating to the system created pursuant to NRS 485.313; and

(2) To whom the information is disclosed only pursuant to a nondisclosure or confidentiality agreement which relates to the information;

(d) A person who requests information regarding his own status;

~~[(b)]~~ ***(e)*** The parent or legal guardian of the person about whom the information is requested if the person is an unemancipated minor or legally incapacitated;

~~[(c)]~~ ***(f)*** A person who has a power of attorney from the person about whom the information is requested;

~~[(d)]~~ ***(g)*** A person who submits a notarized release from the person about whom the information is requested which is dated no more than 90 days before the date of the request; or

~~[(e)]~~ ***(h)*** A person who has suffered a loss or injury in an accident involving a motor vehicle, or his authorized insurer or a representative of his authorized insurer, who requests:

(1) Information for use in the accident report; and

(2) For each motor vehicle involved in the accident:

(I) The name and address of each registered owner;

(II) The name of the insurer; and

(III) The number of the policy of liability insurance.

~~[4.]~~ ***3.*** A person who knowingly violates the provisions of this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~[5.]~~ ***4.*** As used in this section, "authorized insurer" has the meaning ascribed to it in NRS 679A.030.

Sec. 7. NRS 485.317 is hereby amended to read as follows:

485.317 1. ~~[Subject to the limitations set forth in this subsection and subsection 2, the]~~ ***The*** Department shall ~~[, at least monthly, compare the current registrations of motor vehicles to the information in the database created pursuant to NRS 485.313 to]~~ verify that each motor vehicle ~~[:~~

~~(a) Which is newly]~~ ***which is*** registered in this State ~~[; or~~

~~(b) For which a policy of liability insurance has been issued, amended or terminated,~~

~~➥]~~ is covered by a policy of liability insurance as required by NRS 485.185. ~~[In identifying a motor vehicle for verification pursuant to this subsection, the Department may, if the motor vehicle was manufactured during or after 1981, use only the last eight digits of the vehicle identification number. In comparing the vehicle identification number of a motor vehicle to the vehicle identification number in a policy of liability insurance, to determine if the two vehicle identification numbers match, the Department may find that the two vehicle identification numbers match if no fewer than seven of the last eight digits of the two vehicle identification numbers match.]~~

2. Except as otherwise provided in this subsection, the Department may use any information to verify ~~[, pursuant to subsection 1,]~~ whether ~~[the]~~ ***a*** motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If ~~[, pursuant to subsection 1,]~~ the Department ~~[determines]~~ ***is unable to verify*** that a motor vehicle is ~~[not]~~ covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a ~~[form for verification]~~ ***request for information*** by first-class mail to ~~[each]~~ ***the*** registered owner ~~[that it determines has not maintained the insurance required by NRS 485.185.]~~ ***of the motor vehicle.*** The owner shall ~~[complete the form with]~~ ***submit*** all the information which is requested ~~[by]~~ ***to*** the Department ~~[, including whether he carries an owner's or operator's policy of liability insurance or a certificate of self-insurance, and return the completed form]~~ within ~~[20]~~ ***15*** days after the date on which the ~~[form]~~ ***request for information*** was mailed by the Department. If the Department does not receive the ~~[completed form]~~ ***requested information*** within ~~[20]~~ ***15*** days after it mailed the ~~[form]~~ ***request*** to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless ~~[he submits a completed form to]~~ the Department ***is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185*** within ~~[15]~~ ***10*** days after the date on which the notice was sent by the Department ***,*** his registration will be suspended pursuant to subsection ~~[5. This subsection does not prohibit an authorized agent of the owner from providing to the Department:~~

~~(a) The information requested by the Department pursuant to this subsection.~~

~~(b) Additional information to amend or correct information already submitted to the Department pursuant to this subsection.~~

~~4. When the Department receives a completed form for verification, it shall verify the information on the form.~~

~~5.~~ ***4.*** The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the ~~[form for verification set forth in subsection 3 is:~~

~~(a) Not returned to the Department by the registered owner or his authorized agent within the period specified in that subsection;~~

~~(b) Returned to the Department by the registered owner or his authorized agent and the Department is not able to verify the information on the form; or~~

~~(c) Returned by the registered owner or his authorized agent with an admission of having no insurance or without indicating an insurer or the number of a motor vehicle liability policy or a certificate of self-insurance.~~

~~6. If the Department suspends a registration pursuant to subsection 5 because:~~

~~(a) Neither the owner nor his authorized agent returned a form for verification within the specified period or the owner or his authorized agent returned a form for verification that was not completed sufficiently, and the owner or his authorized agent, thereafter:~~

~~(1) Proves to the satisfaction of the Department that there was a justifiable cause for his failure to do so;~~

~~(2) Submits a completed form regarding his insurance on the date stated in the form mailed by the Department pursuant to subsection 3; and~~

~~(3) Presents evidence of current insurance; or~~

~~(b) The owner or his authorized agent submitted to the Department a form for verification containing information that the Department was unable to verify and, thereafter, the owner or his authorized agent presents to the Department:~~

~~(1) A corrected form or otherwise verifiable evidence setting forth that the owner possessed insurance on the date stated in the form; and~~

~~(2) Evidence of current insurance,~~

~~➥ the Department shall rescind its suspension of the registration if it is able to verify the information on the form or the other evidence presented. The Department shall not charge a fee to reinstate a registration, the suspension of which was rescinded pursuant to this subsection. For the purposes of this subsection, "justifiable cause" may include, but is not limited to, the fact that the owner did not receive the form mailed by the Department pursuant to subsection 3.~~

~~7. Except as otherwise provided in subsections 8 and 9, if a registered owner whose registration is suspended pursuant to subsection 5, failed to have insurance on the date specified in the form for verification,~~]

Department cannot verify the coverage of liability insurance required by NRS 485.185.

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon ~~[~~filing by the registered owner of evidence~~]~~ ***verification*** of current insurance and payment of the fee for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.

~~[8.]~~ ***6.*** If a registered owner proves to the satisfaction of the Department that his vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate his registration and, if applicable, reissue his license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate his registration or reissue his license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.

~~[9.]~~ ***7.*** If the Department suspends the registration of a motor vehicle pursuant to subsection ~~[5]~~ ***4*** because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that he was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of $50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

➥ The Department shall adopt regulations to carry out the provisions of this subsection.

~~[10. For the purposes of verification of insurance by the Department pursuant to this section, a motor vehicle shall be deemed to be covered by liability insurance unless the motor vehicle is without coverage for a period of more than 7 days.]~~

~~[Sec. 2.]~~ Sec. 8. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On February 1, 2010, for all other purposes.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 313.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 729.

AN ACT relating to guardianship; providing that a court may sanction certain persons who are vexatious litigants; requiring a guardian to maintain certain records for certain periods of time; adopting in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; revising certain notice requirements for guardianship proceedings; revising certain procedural requirements for the appointment of a guardian; revising the authority of certain guardians in certain circumstances; making various other changes relating to guardianships; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the procedures for the appointment of a guardian for a ward, the powers and duties of a guardian and the termination of a guardianship. (Chapter 159 of NRS) This bill: (1) amends various provisions relating to a guardianship; and (2) adopts, in part, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act promulgated by the Uniform Law Commission.

Section 4 of this bill provides that a court may determine that a petitioner is a vexatious litigant if the petitioner files a petition that is without merit more than once, and may impose sanctions against the petitioner.

Section 5 of this bill requires a guardian to keep records related to the guardianship, including financial records, for a period of 7 years.

Section 6 of this bill provides that if a ward resides with a care provider which is an institution or facility, the care provider shall furnish itemized accountings of all financial activity pertaining to the ward on a quarterly basis and as requested by the guardian.

Sections 7-20 of this bill adopt in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, which was promulgated by the Uniform Law Commission in 2007. According to the Uniform Law Commission, because of increasing population mobility, cases involving simultaneous and conflicting jurisdiction over guardianship are increasing, and even when all parties agree, steps such as transferring a guardianship to another state can require that the parties start over anew in the second state. Obtaining recognition of a guardian's authority in another state in order to sell property or to arrange for a residential placement is often impossible. The Uniform Act is intended to address those problems concerning jurisdictional issues. The Uniform Act contains five articles, which are incorporated into **sections 7-20** and which address the following topics: (1) Article 1 contains definitions and provisions designed to facilitate cooperation between courts in different states; (2) Article 2 specifies which court has jurisdiction to appoint a guardian, with the objective being to locate jurisdiction in one, and only one, state except in cases of emergency or in

situations where an individual owns property located in multiple states; (3) Article 3 specifies a procedure for transferring proceedings from one state to another; (4) Article 4 addresses enforcement of orders in other states; and (5) Article 5 contains boilerplate provisions common to all uniform acts. However, **sections 7-20** do not contain, or revise, certain provisions of the Uniform Act.

Sections 25 and 42 of this bill revise the provisions relating to the persons who must receive notice of a guardianship petition. (NRS 159.034, 159.115) **Section 29** of this bill revises the information contained in a notice for petition for guardianship to include certain findings about the ward's competence. (NRS 159.044) **Sections 26-28 and 30** of this bill amend certain provisions concerning venue and jurisdiction for guardianship proceedings. (NRS 159.037, 159.039, 159.041, 159.0487) **Sections 32-34** of this bill revise the requirements concerning the supporting documentation necessary for certain petitions. (NRS 159.052, 159.0523, 159.0525) **Sections 37-41 and 43** of this bill revise the authority of a guardian to manage the estate and affairs of a ward. (NRS 159.0755, 159.076, 159.079, 159.0895, 159.113, 159.117) **Sections 44-52** of this bill revise certain provisions concerning the sale of property of a ward. (NRS 159.123, 159.134, 159.1425, 159.1435, 159.144, 159.1455, ~~[~~159.1515,~~]~~ 159.1535, 159.154)

~~[~~ ~~Sections 53 and 54 of this bill exempt certain guardians from service as a juror. (NRS 6.020)~~]

Section 55 of this bill exempts certain guardianship property from a presumption of abandonment for the purposes of the statutory provisions relating to unclaimed property. (NRS 120A.500)

Section 57 of this bill revises the provisions relating to possession of the assets held by a guardian of a decedent. (NRS 143.030)

Section 58 of this bill revises the provisions governing responsibility for the repayment of certain expenses of a ward paid for by a county. (NRS 428.070)

Sections 61-64 of this bill revise provisions concerning the release of a ward who was involuntarily committed to provide that: (1) the facility must notify the guardian before the ward is released; (2) the guardian has discretion to determine where to release the ward; and (3) if the guardian does not determine where to release the ward within a certain period, the facility will release the ward according to its own plan. (NRS 433A.220, 433A.380-433A.400)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this act.

Sec. 2. ***"Home state" means the state in which the proposed ward was physically present for at least 6 consecutive months, including any***

temporary absence from the state, immediately before the filing of a petition for the appointment of a guardian.

Sec. 3. ***"State" means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.***

Sec. 4. ***1. A court may find that a petitioner is a vexatious litigant if a person, other than the ward:***

(a) Files a petition which is without merit or intended to harass or annoy the guardian; and

(b) Has previously filed pleadings in a guardianship proceeding that were without merit or intended to harass or annoy the guardian.

2. If a court finds a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the petitioner in an amount sufficient to reimburse the estate of the ward for all or part of the expenses incurred by the estate of the ward to defend the petition, to respond to the petition and for any other pecuniary losses which are associated with the petition.

Sec. 5. ***A guardian shall maintain all records and documents for each ward whom the guardian has authority over for a period of not less than 7 years after the court terminates the guardianship and shall maintain all financial records related to the guardianship for a period of not less than 7 years after the date of the last financial transaction.***

Sec. 6. ***If a ward resides with a care provider that is an institution or facility, the care provider shall furnish to the guardian an itemized accounting of all financial activity pertaining to the ward:***

1. On a quarterly basis; and

2. At any other time, upon the request of the guardian.

Sec. 7. ***Sections 7 to 20, inclusive, of this act may be cited as the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.***

Sec. 8. ***A court of this State may treat a foreign country as if it were a state for the purpose of applying sections 7 to 20, inclusive, of this act.***

Sec. 9. ***1. A court of this State may communicate with a court of another state concerning a proceeding arising under sections 7 to 20, inclusive, of this act. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.***

2. Courts may communicate concerning schedules, calendars, court records and other administrative matters without making a record.

Sec. 10. ***1. In a guardianship proceeding in this State, a court of this State may request the appropriate court of another state to do any of the following:***

(a) Hold an evidentiary hearing;

(b) Order a person in that state to produce evidence or give testimony pursuant to the procedures of that state;

(c) Order that an evaluation or assessment be made of the ward;

(d) Order any appropriate investigation of a person involved in a proceeding;

(e) Forward to the court of this State a certified copy of the transcript or other record of a hearing under paragraph (a) or any other proceeding, any evidence otherwise produced under paragraph (b), and any evaluation or assessment prepared in compliance with an order under paragraph (c) or (d);

(f) Issue any order necessary to ensure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the proposed ward, the ward or the incompetent; and

(g) Issue an order authorizing the release of medical, financial, criminal or other relevant information in that state relating to the ward or proposed ward, including protected health information as defined in 45 C.F.R. § 160.103.

2. If a court of another state in which a guardianship or conservatorship proceeding is pending requests assistance of the kind provided in subsection 1, a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Sec. 11. ***1. In a guardianship proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.***

2. In a guardianship proceeding, a court of this State may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this State shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from a court of another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on NRS 52.235.

Sec. 12. ***1. A court of this State has jurisdiction to appoint a guardian if:***

(a) This State is the proposed ward's home state;

(b) The proposed ward holds property within this State and a court of the proposed ward's home state has declined to exercise jurisdiction because this State is a more appropriate forum;

(c) The proposed ward has a significant connection with this State and a court of the proposed ward's home state has declined to exercise jurisdiction because this State is a more appropriate forum; or

(d) The proposed ward does not have a home state.

2. A court of this State lacking jurisdiction under subsection 1 has special jurisdiction to appoint a temporary guardian for a ward:

(a) To facilitate transfer of the guardianship proceedings from another state pursuant to sections 7 to 20, inclusive, of this act.

(b) In an emergency if the ward is physically present in this State, and such temporary guardianship will be terminated at the request of a court of the ward's home state before or after the emergency appointment.

3. Except as otherwise provided in this section, a court that has appointed a guardian consistent with sections 7 to 20, inclusive, of this act has exclusive and continuing jurisdiction over the proceedings until it is terminated by the court pursuant to NRS 159.1905 or 159.191.

Sec. 13. ***1. A court of this State having jurisdiction to appoint a guardian may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.***

2. If a court of this State declines to exercise its jurisdiction under subsection 1, it shall either dismiss or stay the proceedings. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian be filed promptly in another state.

3. In determining whether it is an appropriate forum, the court shall consider all relevant factors, including, without limitation:

(a) Any expressed preference of the ward;

(b) Whether abuse, neglect or exploitation of the ward has occurred or is likely to occur and which state could best protect the ward from the abuse, neglect or exploitation;

(c) The length of time the ward was physically present in or was a legal resident of this State or another state;

(d) The distance of the ward from the court in each state;

(e) The financial circumstances of the ward's estate;

(f) The nature and location of the evidence;

(g) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;

(h) The familiarity of the court of each state with the facts and issues in the proceeding; and

(i) If an appointment were made, the court's ability to monitor the conduct of the guardian.

Sec. 14. ***1. If at any time a court of this State determines that it acquired jurisdiction to appoint a guardian because of unjustifiable conduct by the guardian or the petitioner, the court may:***

(a) Decline to exercise jurisdiction;

(b) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety and welfare of the ward or the protection of the ward's property or to prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian is filed in a court of another state having jurisdiction; or

(c) Continue to exercise jurisdiction after considering:

(1) The extent to which the ward and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(2) Whether it is a more appropriate forum than the court of any other state; and

(3) Whether the court of any other state would have jurisdiction under factual circumstance in substantial conformity with the jurisdictional standard.

2. If a court of this State determines that it acquired jurisdiction to appoint a guardian because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, the court may assess against that party necessary and reasonable expenses, including, without limitation, attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses.

Sec. 15. ***Except for a petition for the appointment of a guardian in an emergency, if a petition for the appointment of a guardian is filed in this State and in another state and neither petition has been dismissed or withdrawn, the following rules apply:***

1. If the court of this State has jurisdiction under sections 7 to 20, inclusive, of this act, it may proceed with the case unless a court of another state acquires jurisdiction under provisions similar to sections 7 to 20, inclusive, of this act before the appointment.

2. If the court of this State does not have jurisdiction under sections 7 to 20, inclusive, of this act, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court of the other state. If the court of the other state has jurisdiction, the court of this State shall dismiss the petition unless the court of the other state determines that the court of this State is a more appropriate forum.

Sec. 16. ***1. A guardian appointed in this State may petition the court to transfer the jurisdiction of the guardianship to another state. Notice of the petition must be given to the persons that would be entitled to notice of a petition in this State for the appointment of a guardian.***

2. The court shall issue an order provisionally granting the petition to transfer a guardianship and shall direct the guardian or other interested party to petition for guardianship in the other state if the court finds that:

(a) The ward is physically present in, or is reasonably expected to move permanently to, the other state;

(b) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the ward; and

(c) The plans for care and services for the ward in the other state are reasonable and sufficient.

3. The court shall issue a final order confirming the transfer and terminating the guardianship upon a petition for termination pursuant to NRS 159.1905 or 159.191 and filing of a provisional order accepting the proceeding from the court to which the proceeding is to be transferred.

Sec. 17. ***1. To transfer jurisdiction of a guardianship or conservatorship to this State, the guardian, conservator or other interested party must petition the court of this State for guardianship pursuant to sections 7 to 20, inclusive, of this act to accept guardianship in this State. The petition must include a certified copy of the other state's provisional order of transfer and proof that the ward is physically present in, or is reasonably expected to move permanently to, this State.***

2. The court shall issue a provisional order granting a petition filed under subsection 1, unless:

(a) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the ward; or

(b) The guardian or petitioner is not qualified for appointment as a guardian in this State pursuant to NRS 159.059.

3. The court shall issue a final order granting guardianship upon filing of a final order issued by the other state terminating proceedings in that state and transferring the proceedings to this State.

4. Not later than 90 days after the issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of this State.

5. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the ward's incapacity and the appointment of the guardian or conservator.

Sec. 18. ***If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this State, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register and the reason for registration, may register the guardianship order in this State by filing as a foreign judgment in a court, in any appropriate county of this State:***

1. Certified copies of the order and letters of office; and

2. A copy of the guardian's driver's license, passport or other valid photo identification card in a sealed envelope.

Sec. 19. ***1. Upon registration of a guardianship, the guardian may exercise in this State all powers authorized in the order of appointment except as prohibited under the laws of this State, including maintaining***

actions and proceedings in this State and, if the guardian is not a resident of this State, subject to any conditions imposed upon nonresident parties.

2. A court of this State may grant any relief available under sections 7 to 20, inclusive, of this act and other law of this State to enforce a registered order.

Sec. 20. ***The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act must be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.***

Sec. 21. NRS 159.013 is hereby amended to read as follows:

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 22. NRS 159.017 is hereby amended to read as follows:

159.017 "Guardian" means any person appointed under this chapter as guardian of the person, of the estate, or of the person and estate for any other person, and includes an organization under NRS 662.245 and joint appointees. The term includes ***, without limitation,*** a special guardian ~~[.]~~ ***or, if the context so requires, a person appointed in another state who serves in the same capacity as a guardian in this State.***

Sec. 23. NRS 159.024 is hereby amended to read as follows:

159.024 "Private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the ~~[person]~~ ***guardian*** by blood or marriage. The term does not include:

1. A governmental agency.

2. A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.

~~[3. A banking corporation, as defined in NRS 657.016, or an organization permitted to act as fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.~~

~~4. A trust company, as defined in NRS 669.070.~~

~~5. A court-appointed attorney licensed to practice law in this State.]~~

Sec. 24. NRS 159.025 is hereby amended to read as follows:

159.025 "Proposed ward" means any person for whom proceedings for the appointment of a guardian have been initiated ~~[.]~~ ***in this State or, if the context so requires, for whom similar proceedings have been initiated in another state.***

Sec. 25. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on the petition to:

(a) Each interested person or the attorney of the interested person;

(b) Any person entitled to notice pursuant to this chapter or his attorney; ~~[and]~~

(c) Any other person who has filed a request for notice in the guardianship proceedings ~~[.]~~ ***;***

(d) The proposed guardian, if the petitioner is not the proposed guardian; and

(e) Those persons entitled to notice if a proceeding were brought in the proposed ward's home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. If the address or identity of a person required to be notified of a hearing on a petition pursuant to this section is not known and cannot be ascertained with reasonable diligence, notice must be given:

(a) By publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held at least once every 7 days for 21 consecutive days, the last publication of which must occur not later than 10 days before the date set for the hearing; or

(b) In any other manner ordered by the court, upon a showing of good cause.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 26. NRS 159.037 is hereby amended to read as follows:

159.037 1. The venue for the appointment of a guardian ***when the ward's home state is this State*** must be ~~[~~:

~~(a) The~~~~]~~ ***the*** county where the proposed ward resides **.** ~~[~~~~; or~~

~~(b) If the proposed ward does not reside in this state, any county in which any property of the proposed ward is located, or any county in which the proposed ward is physically present.~~~~]~~

2. If the proper venue may be in two or more counties, the county in which the proceeding is first commenced is the proper county in which to continue the proceedings.

3. Upon the filing of a petition showing that the proper venue is inconvenient, a venue other than that provided in subsection 1 may accept the proceeding.

Sec. 27. NRS 159.039 is hereby amended to read as follows:

159.039 1. If proceedings for the appointment of a guardian for the same proposed ward are commenced in more than one county ~~[,]~~ ***in this State, and the ward's home state is this State,*** they shall be stayed, except in the county where first commenced, until final determination of venue in that county. If the proper venue is finally determined to be in another county, the court shall cause a transcript of the proceedings and all original papers filed therein, all certified by the clerk of the court, to be sent to the clerk of the court of the proper county.

2. A proceeding is considered commenced by the filing of a petition.

3. The proceedings first legally commenced for the appointment of a guardian of the estate or of the person and estate extends to all the property of the proposed ward which is in this state.

Sec. 28. NRS 159.041 is hereby amended to read as follows:

159.041 A court having before it any guardianship matter ***for a ward whose home state is this State*** may transfer the matter to another county in the interest of the ward or, if not contrary to the interest of the ward, for the convenience of the guardian. A petition for the transfer, setting forth the reasons therefor, may be filed in the guardianship proceeding. If the court is satisfied that the transfer is in the interest of the ward or, if not contrary to the interest of the ward, for the convenience of the guardian, the court shall make an order of transfer and cause a transcript of the proceedings in the matter, all original papers filed in such proceedings and the original bond filed by the guardian, to be certified by the clerk of the court originally hearing the matter and sent to the clerk of the court of the other county. Upon receipt of the transcript, papers and bond, and the filing of them for record, the court of the other county has complete jurisdiction of the matter, and thereafter all proceedings shall be as though they were commenced in that court.

Sec. 29. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation ~~[may]~~ ***must*** include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State ***or who is employed by the Department of Veterans Affairs*** stating ~~[the]~~ ***:***

(I) The need for a guardian;

(II) Whether the proposed ward presents a danger to himself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance;

(2) A letter signed by any governmental agency in this State which conducts investigations stating ~~[the]~~ ***:***

(I) The need for a guardian;

(II) Whether the proposed ward presents a danger to himself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating ~~[the]~~ ***:***

(I) The need for a guardian ~~[.]~~ ***;***

(II) Whether the proposed ward presents a danger to himself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) ~~[The]~~ ***If the petitioner is not the spouse or natural child of the proposed ward, a declaration explaining the*** relationship ~~[, if any,]~~ of the petitioner to the proposed ward ***or to the proposed ward's family or friends, if any,*** and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) ~~[Whether]~~ ***If*** the guardianship is sought as the result of an investigation of a report of abuse ***,*** ~~[or]~~ neglect ~~[that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services.~~

~~As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.~~] ***or exploitation of the proposed ward, whether the referral was from a law enforcement agency or a state or county agency.***

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

Sec. 30. NRS 159.0487 is hereby amended to read as follows:

159.0487 Any court of competent jurisdiction may appoint:

1. Guardians of the person, of the estate, or of the person and estate for [~~resident~~] incompetents or [~~resident~~] minors [~~.~~] ***whose home state is this State.***

2. Guardians of the person or of the person and estate for incompetents or minors who, although not residents of this State, are physically present in this State and whose welfare requires such an appointment.

3. Guardians of the estate for nonresident incompetents or nonresident minors who have property within this State.

4. [~~Guardians of the person, of the estate, or of the person and estate for incompetents or minors who previously have been appointed by the court of another state and who provide proof of the filing of an exemplified copy of the order from the court of the other state that appointed the guardian and a bond issued in this State as ordered by the court of the other state. As used in this subsection, "guardian" includes, without limitation, a conservator.~~

~~5.~~] Special guardians.

[~~6.~~] ***5.*** Guardians ad litem.

Sec. 31. NRS 159.049 is hereby amended to read as follows:

159.049 The court may, without issuing a citation, appoint a guardian for the proposed ward if the [~~:~~

~~1. Petitioner~~] ***petitioner*** is a parent who has sole legal and physical custody of the proposed ward as evidenced by a valid court order or birth certificate and who is seeking the appointment of a guardian for the minor child of the parent. If the proposed ward is a minor who is 14 years of age or older:

[~~(a)~~] ***1.*** The petition must be accompanied by the written consent of the minor to the appointment of the guardian; or

[~~(b)~~] ***2.*** The minor must consent to the appointment of the guardian in open court.

[~~2. Petitioner is a foreign guardian of a nonresident proposed ward, and the petition is accompanied by:~~

~~(a) An exemplified copy of the record of the appointment of the foreign guardian; and~~

~~(b) Evidence of the existing authority of the foreign guardian.~~**]**

Sec. 32. NRS 159.052 is hereby amended to read as follows:

159.052 1. A petitioner may request the court to appoint a temporary guardian for a ward who is a minor and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) **[**~~Facts which show that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention;~~**]** ***Documentation which shows that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:***

(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Whether the proposed ward presents a danger to himself or others; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such

notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in ~~[subsections]~~ ***subsection*** 7 ***,*** ~~[and 8,]~~ if the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention, the court may extend the temporary guardianship until a general or special guardian is appointed ~~[, but not for more than 30 days.]~~ ***pursuant to subsection 8.***

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~[In addition to any other extension granted pursuant to this section, the]~~ ***The*** court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 33. NRS 159.0523 is hereby amended to read as follows:

159.0523 1. A petitioner may request the court to appoint a temporary guardian for a ward who is an adult and who is unable to respond to a

substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) ~~[~~Facts which show that the proposed ward:

~~(1) Faces a substantial and immediate risk of physical harm or needs immediate medical attention; and~~

~~(2) Lacks capacity to respond to the risk of harm or to obtain the necessary medical attention;~~] ***Documentation which shows the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:***

(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Whether the proposed ward presents a danger to himself or others; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; ***and***

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1 **.** ~~[~~; and

~~(c) Finds that the petition required pursuant to subsection 1 is accompanied by:~~

~~(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; or~~

~~(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.~~**]**

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in **[**~~subsections~~**]** ***subsection*** 7 ***,*** **[**~~and 8,~~**]** the court may extend the temporary guardianship until a general or special guardian is appointed **[**~~, but not for more than 30 days,~~**]** ***pursuant to subsection 8*** if:

(a) The **[**~~certificate required by subsection 2 has been filed and the~~**]** court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; **[**~~or~~**]** ***and***

(b) **[**~~The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:~~

~~(1) The proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;~~

~~(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and~~

~~(3)~~**]** The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~[In addition to any other extension granted pursuant to this section, the]~~ ***The*** court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 34. NRS 159.0525 is hereby amended to read as follows:

159.0525 1. A petitioner may request the court to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) ~~[Facts which show that the proposed ward:~~

~~(1) Is unable to respond to a substantial and immediate risk of financial loss; and~~

~~(2) Lacks capacity to respond to the risk of loss; and~~

~~(b)]~~ ***Documentation which shows that the proposed ward faces a substantial and immediate risk of financial loss and lacks capacity to respond to the risk of loss. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:***

(1) That the proposed ward is unable to respond to a substantial and immediate risk of financial loss;

(2) Whether the proposed ward can live independently with or without assistance or services; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation;

(b) A detailed explanation of what risks the proposed ward faces, including, without limitation, termination of utilities or other services because of nonpayment, initiation of eviction or foreclosure proceedings, exploitation or loss of assets as the result of fraud, coercion or undue influence; and

(c) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of financial loss if the petitioner were to provide notice to the persons entitled to

notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; ***and***

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph **[**~~(b)~~**]** ***(c)*** of subsection 1 **.** **[**~~; and~~

~~(c) For a proposed ward who is an adult, finds that the petition required pursuant to subsection 1 is accompanied by:~~

~~(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; or~~

~~(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.~~**]**

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph **[**~~(b)~~**]** ***(c)*** of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in **[**~~subsections~~**]** ***subsection*** 7 **,** **[**~~and 8, if the proposed ward is a minor and the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss,~~**]** the court may extend the temporary guardianship until a general or special guardian is appointed **[**~~, but not for more than 30 days. Except as otherwise provided in subsection 7, if the proposed ward is an adult, the court may~~

~~extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days,~~ ***pursuant to subsection 8*** if:

(a) The ~~[~~certificate required by subsection 2 has been filed and the~~]~~ court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; ~~[or]~~ ***and***

(b) ~~[~~The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:

~~(1) The proposed ward is unable to respond to a substantial and immediate risk of financial loss;~~

~~(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and~~

~~(3)~~] The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of financial loss ~~[.]~~ ***, specifically limiting the temporary guardian's authority to take possession of, close or have access to any accounts of the ward or to sell or dispose of tangible personal property of the ward to only that authority as needed to provide for the ward's basic living expenses until a general or special guardian can be appointed. The court may freeze any or all of the ward's accounts to protect such accounts from loss.***

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~[~~In addition to any other extension granted pursuant to this section, the~~]~~ ***The*** court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 35. NRS 159.059 is hereby amended to read as follows:

159.059 Except as otherwise provided in NRS 159.0595, any qualified person or entity that the court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.

2. Is a minor.

3. Has been convicted of a felony relating to the position of a guardian, unless the court finds that it is in the best interests of the ward to appoint the convicted felon as the guardian of the ward.

4. Has been suspended for misconduct or disbarred from:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession which:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state,

➥ during the period of the suspension or disbarment.

5. Is a nonresident of this State and:

(a) ~~[Is not a foreign guardian of a nonresident proposed ward pursuant to subsection 2 of NRS 159.049;~~

~~(b)]~~ Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and

~~[(c)]~~ ***(b)*** Is not a petitioner in the guardianship proceeding.

6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.

Sec. 36. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to NRS 159.059 and must be a ~~[registered guardian or master guardian unless a hearing is held and the court finds that good cause exists to waive the requirement that the private professional guardian be a registered guardian or master]~~ ***certified*** guardian.

2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to NRS 159.059 and must have a ~~[registered guardian or master]~~ ***certified*** guardian involved in the day-to-day operation or management of the entity**.** ~~[unless a hearing is held and the court finds that good cause exists to waive the requirement that the private professional guardian have a registered guardian or master guardian involved in the day-to-day operation or management of the entity.]~~

3. As used in this section:

(a) ***"Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization.***

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

~~[(b) "Master guardian" means a person who is certified by the National Guardianship Foundation or any successor organization as a master guardian.]~~

(c) "Person" means a natural person.

~~[(d) "Registered guardian" means a person who is certified by the National Guardianship Foundation or any successor organization as a registered guardian.]~~

Sec. 37. NRS 159.0755 is hereby amended to read as follows:

159.0755 If, at the time of the appointment of the guardian or thereafter, the estate of a ward consists of personal property having a value not exceeding by more than ~~[$5,000]~~ ***$10,000*** the aggregate amount of unpaid

expenses of administration of the guardianship estate and claims against the estate, the guardian of the estate, with prior approval of the court by order, may pay those expenses and claims from the estate and deliver all the remaining personal property to such person as the court may designate in the order, to be held, invested or used as ordered by the court. The recipient of the property so delivered shall give a receipt therefor to the guardian. The receipt is a release and acquittance to the guardian as to the property so delivered. The guardian shall file in the proceeding proper receipts or other evidence satisfactory to the court showing the delivery, and the guardian is released from his trust and his bond exonerated.

Sec. 38. NRS 159.076 is hereby amended to read as follows:

159.076 1. The court may grant a summary administration if, at any time, it appears to the court that after payment of all claims and expenses of the guardianship the value of the ward's property does not exceed ~~[$5,000.]~~ ***$10,000.***

2. If the court grants a summary administration, the court may:

(a) Authorize the guardian of the estate or special guardian who is authorized to manage the ward's property to convert the property to cash and sell any of the property, with or without notice, as the court may direct. After the payment of all claims and the expenses of the guardianship, the guardian shall deposit the money in savings accounts or invest the money as provided in NRS 159.117, and hold the investment and all interest, issues, dividends and profits for the benefit of the ward. The court may dispense with annual accountings and all other proceedings required by this chapter.

(b) If the ward is a minor, terminate the guardianship of the estate and direct the guardian to deliver the ward's property to the custodial parent or parents, guardian or custodian of the minor to hold, invest or use as the court may order.

3. Whether the court grants a summary administration at the time the guardianship is established or at any other time, the guardian shall file an inventory and record of value with the court.

4. If, at any time, the net value of the estate of the ward exceeds ~~[$5,000:]~~ ***$10,000:***

(a) The guardian shall file an amended inventory and accounting with the court;

(b) The guardian shall file annual accountings; and

(c) The court may require the guardian to post a bond.

Sec. 39. NRS 159.079 is hereby amended to read as follows:

159.079 1. Except as otherwise ordered by the court, a guardian of the person has the care, custody and control of the person of the ward, and has the authority and, subject to subsection 2, shall perform the duties necessary for the proper care, maintenance, education and support of the ward, including ***, without limitation,*** the following:

(a) Supplying the ward with food, clothing, shelter and all incidental necessaries ~~[.]~~ ***, including locating an appropriate residence for the ward.***

(b) Authorizing medical, surgical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward.

(c) Seeing that the ward is properly trained and educated and that the ward has the opportunity to learn a trade, occupation or profession.

2. In the performance of the duties enumerated in subsection 1 by a guardian of the person, due regard must be given to the extent of the estate of the ward. A guardian of the person is not required to incur expenses on behalf of the ward except to the extent that the estate of the ward is sufficient to reimburse the guardian.

3. ***A guardian of the person is the ward's personal representative for purposes of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations. The guardian of the person has authority to obtain information from any government agency, medical provider, business, creditor or third party who may have information pertaining to the ward's health care or health insurance.***

4. A guardian of the person may establish and change the residence of the ward at any place within this State without the permission of the court. The guardian shall select the least restrictive appropriate residence which is available and necessary to meet the needs of the ward and which is financially feasible.

5. A guardian of the person shall petition the court for an order authorizing the guardian to change the residence of the ward to a location outside of this State. The guardian must show that the placement outside of this State is in the best interest of the ward or that there is no appropriate residence available for the ward in this State. The court shall retain jurisdiction over the guardianship unless the guardian files for termination of the guardianship pursuant to NRS 159.1905 or 159.191 or the jurisdiction of the guardianship is transferred to the other state.

6. This section does not relieve a parent or other person of any duty required by law to provide for the care, support and maintenance of any dependent.

Sec. 40. NRS 159.0895 is hereby amended to read as follows:

159.0895 1. The guardian may retain assets for the anticipated expense of the ward's funeral and the disposal of his remains. Of the amount so retained, ~~[$1,500]~~ ***$3,000*** is exempt from all claims, including those of this state.

2. The guardian may place assets so retained in a pooled account or trust. If the assets are invested in a savings account or other financial account, they are not subject to disposition as unclaimed property during the lifetime of the ward.

3. Assets so retained may be disbursed for the ward's funeral or the disposal of his remains without prior authorization of the court. An amount not so disbursed becomes part of the ward's estate.

Sec. 41. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian ***of the estate*** shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) ~~[~~Change the state of residence or domicile of the ward.

~~(k)]~~ Exercise the right of the ward to take under or against a will.

~~[(l)]~~ ***(k)*** Transfer to a trust created by the ward any property unintentionally omitted from the trust.

~~[(m)]~~ ***(l)*** Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

~~[(n)]~~ ***(m)*** Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(n) Transfer money in a minor ward's blocked account to the Nevada Higher Education Prepaid Tuition Trust Fund created pursuant to NRS 353B.140.

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

Sec. 42. NRS 159.115 is hereby amended to read as follows:

159.115 1. Upon the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given:

(a) At least 10 days before the date set for the hearing, by mailing a copy of the notice by regular mail to the residence, office or post office address of each person required to be notified pursuant to subsection 3;

(b) At least 10 days before the date set for the hearing, by personal service;

(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held, the last publication of which must be published at least 10 days before the date set for the hearing; or

(d) In any other manner ordered by the court, for good cause shown.

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

3. At least 10 days before the date set for the hearing, the petitioner shall cause a copy of the notice to be mailed to the following:

(a) Any minor ward who is 14 years of age or older or the parent or legal guardian of any minor ward who is less than 14 years of age.

(b) The spouse of the ward and other heirs of the ward who are related within the second degree of consanguinity so far as known to the petitioner.

(c) The guardian of the person of the ward, if the guardian is not the petitioner.

(d) Any person or care provider ~~[having the care, custody or control of]~~ ***who is providing care for*** the ward ~~[.]~~ ***, except that if the person or care provider is not related to the ward, such person or provider must not be given copies of any inventory or accounting.***

(e) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(f) The Director of the Department of Health and Human Services if the ward has received or is receiving any benefits from Medicaid.

(g) Any other interested person or his attorney who has filed a request for notice in the guardianship proceeding and served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request, and his name and address, or that of his attorney. If the notice so requests, copies of all petitions and accounts must be mailed to the interested person or his attorney.

4. An interested person who is entitled to notice pursuant to subsection 3 may, in writing, waive notice of the hearing of a petition.

5. Proof of giving notice must be:

(a) Made on or before the date set for the hearing; and

(b) Filed in the guardianship proceeding.

Sec. 43. NRS 159.117 is hereby amended to read as follows:

159.117 1. Upon approval of the court by order, a guardian of the estate may:

(a) Invest the property of the ward, make loans and accept security therefor, in the manner and to the extent authorized by the court.

(b) Exercise options of the ward to purchase or exchange securities or other property.

2. A guardian of the estate may, without securing the prior approval of the court, invest the property of the ward in the following:

(a) Savings accounts in any bank, credit union or savings and loan association in this State, to the extent that the deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(b) Interest-bearing obligations of or fully guaranteed by the United States.

(c) Interest-bearing obligations of the United States Postal Service.

(d) Interest-bearing obligations of the Federal National Mortgage Association.

(e) Interest-bearing general obligations of this State.

(f) Interest-bearing general obligations of any county, city or school district of this State.

(g) Money market mutual funds which are invested only in those instruments listed in paragraphs (a) to (f), inclusive.

3. A guardian of the estate for two or more wards may invest the property of two or more of the wards in property in which each ward whose property is so invested has an undivided interest. The guardian shall keep a separate record showing the interest of each ward in the investment and in the income, profits or proceeds therefrom.

4. Upon approval of the court, for a period authorized by the court, a guardian of the estate may maintain the assets of the ward in the manner in which the ward had invested the assets before the ward's incapacity.

5. A guardian of the estate may access or manage a guardianship account via the Internet on a secured website established by the bank, credit union or broker holding the account.

Sec. 44. NRS 159.123 is hereby amended to read as follows:

159.123 If a ward for whom a guardian of the estate is appointed was, at the time of the appointment, a party to a contract which has not been fully performed, and which was made by the ward while not under any legal disability, the guardian of the estate, with prior approval of the court by order, may complete the performance of such contract. If such contract requires the conveyance of any real or personal property, or any interest in such property, the court may authorize the guardian to convey the interest and estate of the ward in the property, and the effect of such conveyance shall be the same as though made by the ward while not under legal disability. ***If the contract requires a sale, no notice of sale is required under this section unless otherwise ordered by the court.***

Sec. 45. NRS 159.134 is hereby amended to read as follows:

159.134 1. All sales of real property of a ward must be:

(a) Reported to the court; and

(b) Confirmed by the court before the title to the real property passes to the purchaser.

2. The report and a petition for confirmation of the sale must be filed with the court not later than 30 days after the date of each sale.

3. The court shall set the date of the hearing and give notice of the hearing in the manner required pursuant to NRS 159.115 or as the court may order.

4. An interested person may file written objections to the confirmation of the sale. If such objections are filed, the court shall conduct a hearing regarding those objections during which the interested person may offer witnesses in support of the objections.

5. Before the court confirms a sale, the court must find that notice of the sale was given in the manner required pursuant to NRS 159.1425, 159.1435 and 159.144 ~~[.]~~ ***, unless the sale was exempt from notice pursuant to NRS 159.123.***

Sec. 46. NRS 159.1425 is hereby amended to read as follows:

159.1425 1. Except as otherwise provided in this section and except for a sale pursuant to NRS ***159.123 or*** 159.142, a guardian may sell the real property of a ward only after notice of the sale is published in:

(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

(b) If a newspaper is not published in that county:

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section and except for a sale of real property pursuant to NRS ***159.123 or*** 159.142:

(a) The notice of a public auction for the sale of real property must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The court may waive the requirement of publication pursuant to this section if:

(a) The guardian is the sole devisee or heir of the estate; or

(b) All devisees or heirs of the estate consent to the waiver in writing.

5. Publication for the sale of real property is not required pursuant to this section if the property to be sold is reasonably believed to have a value of ~~[$5,000]~~ ***$10,000*** or less. In lieu of publication, the guardian shall post notice of the sale in three of the most public places in the county in which the property, or some portion of the property, is located for at least 14 days before:

(a) The date of the sale at public auction; or

(b) The date on which offers will be accepted for a private sale.

6. Any notice published or posted pursuant to this section must include, without limitation:

(a) For a public auction:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location of the auction.

(b) For a private sale:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location that offers will be accepted.

Sec. 47. NRS 159.1435 is hereby amended to read as follows:

159.1435 1. Except for a sale pursuant to NRS ***159.123 or*** 159.142, a public auction for the sale of real property must be held:

(a) In the county in which the property is located or, if the real property is located in two or more counties, in either county;

(b) Between the hours of 9 a.m. and 5 p.m.; and

(c) On the date specified in the notice, unless the sale is postponed.

2. If, on or before the date and time set for the public auction, the guardian determines that the auction should be postponed:

(a) The auction may be postponed for not more than 3 months after the date first set for the auction; and

(b) Notice of the postponement must be given by a public declaration at the place first set for the sale on the date and time that was set for the sale.

Sec. 48. NRS 159.144 is hereby amended to read as follows:

159.144 1. Except for the sale of real property pursuant to NRS ***159.123 or*** 159.142, a sale of real property of a guardianship estate at a private sale:

(a) Must not occur before the date stated in the notice.

(b) Except as otherwise provided in this paragraph, must not occur sooner than 14 days after the date of the first publication or posting of the notice. For good cause shown, the court may shorten the time in which the sale may occur to not sooner than 8 days after the date of the first publication or posting of the notice. If the court so orders, the notice of the sale and the sale may be made to correspond with the court order.

(c) Must occur not later than 1 year after the date stated in the notice.

2. The offers made in a private sale:

(a) Must be in writing; and

(b) May be delivered to the place designated in the notice or to the guardian at any time:

(1) After the date of the first publication or posting of the notice; and

(2) Before the date on which the sale is to occur.

Sec. 49. NRS 159.1455 is hereby amended to read as follows:

159.1455 1. Except as otherwise provided in subsection 2, the court shall not confirm a sale of real property of a guardianship estate at a private sale unless:

(a) The court is satisfied that the amount offered represents the fair market value of the property to be sold; and

(b) ~~[~~The~~]~~ ***Except for a sale of real property pursuant to NRS 159.123, the*** real property has been appraised within 1 year before the date of the sale. If the real property has not been appraised within this period, a new appraisal must be conducted pursuant to NRS 159.086 and 159.0865 at any time before the sale or confirmation by the court of the sale.

2. The court may waive the requirement of an appraisal and allow the guardian to rely on the assessed value of the real property for purposes of taxation in obtaining confirmation by the court of the sale.

Sec. 50. ~~[NRS 159.1515 is hereby amended to read as follows:~~

~~159.1515 1. A guardian may sell perishable property and other personal property of the ward without notice, and title to the property passes without confirmation by the court if the property:~~

~~(a) Will depreciate in value if not disposed of promptly;~~ ~~[~~or~~]~~

~~(b) Will incur loss or expense by being kept~~ ~~[~~.~~]~~ ***; or***

(c) Is less than $10,000 net value after deduction of all liens against the property.

~~2. The guardian is responsible for the actual value of the personal property unless the guardian obtains confirmation by the court of the sale.~~~~]~~ **(Deleted by amendment.)**

Sec. 51. NRS 159.1535 is hereby amended to read as follows:

159.1535 1. Except as otherwise provided in NRS 159.1515 and 159.152, a guardian may sell the personal property of the ward only after notice of the sale is published in:

(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

(b) If a newspaper is not published in that county:

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section:

(a) The notice of a public sale ~~*[of a mobile home, manufactured home, vehicle, airplane, boat or personal property item which does not require transfer of title or registration and which is greater than $10,000 in net value]*~~ must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale ~~*[of a mobile home, manufactured home, vehicle, airplane, boat or personal property item which does not require transfer of title or registration and which is greater than $10,000 in net value]*~~ must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. ~~*[The notice of a public or private sale of household furnishings, clothing, artwork, jewelry, collectibles and other personal property which does not require transfer of title or registration and which is greater than $10,000 in net value must be published not less than one time, the publication being not less than 8 days before the sale.*~~

~~*4.]*~~ For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. ~~*[5.]*~~ The notice must include, without limitation:

(a) For a public sale:

(1) A description of the personal property to be sold; and

(2) The date, time and location of the sale.

(b) For a private sale:

(1) A description of the personal property to be sold; and

(2) The date, time and location that offers will be accepted.

(c) For a sale on an appropriate auction website on the Internet:

(1) A description of the personal property to be sold;

(2) The date the personal property will be listed; and

(3) The Internet address of the website on which the sale will be posted.

Sec. 52. NRS 159.154 is hereby amended to read as follows:

159.154 1. The guardian may sell the personal property of a ward by public sale at:

(a) The residence of the ward; ***or***

(b) ~~*[*~~The courthouse door; or

~~(c)~~**]** Any other location designated by the guardian.

2. The guardian may sell the personal property by public sale only if the property is made available for inspection at the time of the sale **[**~~, unless the court orders otherwise.~~**]** ***or photographs of the personal property are posted on an appropriate auction website on the Internet.***

3. Personal property may be sold at a public or private sale for cash or upon credit.

Sec. 53. **[**~~NRS 6.020 is hereby amended to read as follows:~~

~~6.020 1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the following-named persons, and no others, are exempt from service as grand or trial jurors:~~

~~(a) While the Legislature is in session, any member of the Legislature or any employee of the Legislature or the Legislative Counsel Bureau;~~

~~(b) Any person who has a fictitious address pursuant to NRS 217.462 to 217.471, inclusive;~~ **[**~~and~~**]**

~~(c) Any police officer as defined in NRS 617.135~~ **[**~~.~~**]** ***; and***

(d) Any person serving as a guardian for three or more persons.

~~2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.~~

~~3. A person who is the age of 65 years or over who lives 65 miles or more from the court is exempt from serving as a grand or trial juror. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is the age of 65 years or over and lives 65 miles or more from the court, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.~~**]** **(Deleted by amendment.)**

Sec. 54. **[**~~NRS 6.020 is hereby amended to read as follows:~~

~~6.020 1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the following-named persons, and no others, are exempt from service as grand or trial jurors:~~

~~(a) While the Legislature is in session, any member of the Legislature or any employee of the Legislature or the Legislative Counsel Bureau;~~ **[**~~and~~**]**

~~(b) Any person who has a fictitious address pursuant to NRS 217.462 to 217.471, inclusive;~~ ***and***

(c) Any person serving as a guardian for three or more persons.

~~2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.~~

~~3. A person who is the age of 65 years or over who lives 65 miles or more from the court is exempt from serving as a grand or trial juror. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is the age of 65 years or over and lives 65 miles or more from the court, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.~~ **(Deleted by amendment.)**

Sec. 55. NRS 120A.500 is hereby amended to read as follows:

120A.500 1. ~~[Property]~~ ***Except as otherwise provided in subsection 6, property*** is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) A traveler's check, 15 years after issuance;

(b) A money order, 7 years after issuance;

(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) Except as otherwise provided in NRS 120A.520, any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;

(i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the

proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

6. The following property clearly designated as such must not be presumed abandoned because of inactivity or failure to make a demand:

(a) An account or asset managed through a guardianship;

(b) An account blocked at the direction of a court;

(c) A trust account established to address a special need;

(d) A qualified income trust account;

(e) A trust account established for tuition purposes;

(f) A trust account established on behalf of a client; and

(g) An account or fund established to meet the costs of burial.

Sec. 56. NRS 143.020 is hereby amended to read as follows:

143.020 Except as otherwise provided in NRS ***143.030 and*** 146.010, a personal representative has a right to the possession of all the real, as well as personal, property of the decedent and may receive the rents and profits of the property until the estate is settled, or until delivered over by order of the court to the heirs or devisees, and shall make a reasonable effort to keep in good tenantable repair all houses, buildings and appurtenances thereon which are under the control of the personal representative.

Sec. 57. NRS 143.030 is hereby amended to read as follows:

143.030 1. A personal representative shall take into possession all the estate of the decedent, real and personal, except that exempted as provided in this title, and shall collect all receivables due the decedent or the estate.

2. For the purpose of bringing actions to quiet title or for partition of the estate, the possession of the personal representative shall be deemed the possession of the heirs or devisees. The possession of heirs or devisees is subject, however, to the possession of the personal representative for all other purposes.

3. A personal representative shall not take into possession any assets held by a guardian of the decedent pursuant to chapter 159 of NRS until the guardianship is terminated according to the provisions of NRS 159.1905 or 159.191 and the guardian is ordered to distribute the assets to the personal representative.

Sec. 58. NRS 428.070 is hereby amended to read as follows:

428.070 1. The father ~~[,]~~ ***or*** mother ~~[, children, brothers or sisters,]~~ of sufficient financial ability so to do ~~[,]~~ shall pay to the county which has extended county hospitalization to any ~~[person]~~ ***natural child*** under the provisions of NRS 428.030 ~~[,]~~ the amount granted to such ~~[person.]~~ ***natural child.***

2. ***The child of a natural parent receiving county hospitalization pursuant to NRS 428.030 is not liable for the amount paid by the county for that parent, except where the natural child promised to support his***

natural parent in writing, has access to and control of his natural parent's assets or income and has sufficient financial ability to support his natural parent.

3. A recipient of aid under the provisions of NRS 428.030 who later acquires sufficient financial ability so to do shall reimburse the county which extended county hospitalization to him for any unpaid portion of the aid granted. Action against the relatives of such person is not a condition precedent to action against him.

~~[3.]~~ ***4. The father, mother or child of sufficient financial ability, as appropriate, shall pay to the county the amount the county paid for the burial, entombment or cremation of a natural child or a natural parent.***

5. The board of county commissioners shall advise the Attorney General of the failure of a responsible person to pay such amount and the Attorney General shall cause appropriate legal action to be taken to enforce the collection of all or part of such amount. If suit is filed to enforce the collection, the court shall determine the question of the sufficiency of the financial ability of the person against whom such action is filed, but the board of county commissioners shall determine the responsible person to be sued, and failure of an action against one such person shall not preclude subsequent or concurrent actions against others.

6. In determining the amount to be ordered for support pursuant to subsections 2 and 4, the court shall consider the circumstances of each party, including:

(a) The earning capacity and needs of each party;

(b) The obligations and assets of each party;

(c) The age and health of each party;

(d) The relationship between the parties; and

(e) Any other factor which the court deems just and equitable.

Sec. 59. NRS 433.504 is hereby amended to read as follows:

433.504 1. A client ***or his legal guardian*** must be:

(a) Permitted to inspect ~~[his]~~ ***the client's*** records; and

(b) Informed of ~~[his]~~ ***the client's*** clinical status and progress at reasonable intervals of no longer than 3 months in a manner appropriate to his clinical condition.

2. Unless a psychiatrist has made a specific entry to the contrary in a client's records, a client ***or his legal guardian*** is entitled to obtain a copy of his records at any time upon notice to the administrative officer of the facility and payment of the cost of reproducing the records.

Sec. 60. NRS 433A.190 is hereby amended to read as follows:

433A.190 Within 24 hours of a person's admission under emergency admission, the administrative officer of a public or private mental health facility shall give notice of such admission ***in person, by telephone or facsimile and*** by certified mail to the spouse or legal guardian of that person.

Sec. 61. NRS 433A.220 is hereby amended to read as follows:

433A.220 1. Immediately after he receives any petition filed pursuant to NRS 433A.200 or 433A.210, the clerk of the district court shall transmit the petition to the appropriate district judge, who shall set a time, date and place for its hearing. The date must be within 5 judicial days after the date on which the petition is received by the clerk.

2. The court shall give notice of the petition and of the time, date and place of any proceedings thereon to the subject of the petition, his attorney, if known, ***the person's legal guardian,*** the petitioner, the district attorney of the county in which the court has its principal office, the local office of an agency or organization that receives money from the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and advocate the rights of persons with mental illness and the administrative office of any public or private mental health facility in which the subject of the petition is detained.

3. The provisions of this section do not preclude a facility from discharging a person before the time set pursuant to this section for the hearing concerning the person, if appropriate. ***If the person has a legal guardian, the facility shall notify the guardian prior to discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.***

Sec. 62. NRS 433A.380 is hereby amended to read as follows:

433A.380 1. Except as otherwise provided in subsection 4, any person involuntarily admitted by a court may be conditionally released from a public or private mental health facility when, in the judgment of the medical director of the facility, the conditional release is in the best interest of the person and will not be detrimental to the public welfare. The medical director or his designee of the facility shall prescribe the period for which the conditional release is effective. The period must not extend beyond the last day of the court-ordered period of treatment pursuant to NRS 433A.310. ***If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.***

2. When a person is conditionally released pursuant to subsection 1, the State or any of its agents or employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person.

3. When a person who has been adjudicated by a court to be incompetent is conditionally released from a mental health facility, the administrative

officer of the mental health facility shall petition the court for restoration of full civil and legal rights as deemed necessary to facilitate the incompetent person's rehabilitation. ***If the person has a legal guardian, the petition must be filed with the court having jurisdiction over the guardianship.***

4. A person who was involuntarily admitted by a court because he was likely to harm others if allowed to remain at liberty may be conditionally released only if, at the time of the release, written notice is given to the court which admitted him ***, to the person's legal guardian*** and to the district attorney of the county in which the proceedings for admission were held.

5. Except as otherwise provided in subsection 7, the administrative officer of a public or private mental health facility or his designee shall order a person who is conditionally released from that facility pursuant to this section to return to the facility if a psychiatrist and a member of that person's treatment team who is professionally qualified in the field of psychiatric mental health determine, pursuant to NRS 433A.115, that the conditional release is no longer appropriate because that person presents a clear and present danger of harm to himself or others. Except as otherwise provided in this subsection, the administrative officer or his designee shall, at least 3 days before the issuance of the order to return, give written notice of the order to the court that admitted the person to the facility ~~[.]~~ ***and to the person's legal guardian.*** If an emergency exists in which the person presents an imminent threat of danger of harm to himself or others, the order must be submitted to the court ***and the legal guardian*** not later than 1 business day after the order is issued.

6. The court shall review an order submitted pursuant to subsection 5 and the current condition of the person who was ordered to return to the facility at its next regularly scheduled hearing for the review of petitions for involuntary court-ordered admissions, but in no event later than 5 judicial days after the person is returned to the facility. The administrative officer or his designee shall give written notice to the person who was ordered to return to the facility ***, to the person's legal guardian*** and to his attorney, if known, of the time, date and place of the hearing and of the facts necessitating that person's return to the facility.

7. The provisions of subsection 5 do not apply if the period of conditional release has expired.

Sec. 63. NRS 433A.390 is hereby amended to read as follows:

433A.390 1. When a client, involuntarily admitted to a mental health facility by court order, is released at the end of the time specified pursuant to NRS 433A.310, written notice must be given to the admitting court ***and to the client's legal guardian*** at least 10 days before the release of the client. The client may then be released without requiring further orders of the court. ***If the client has a legal guardian, the facility shall notify the guardian before discharging the client from the facility. The guardian has discretion to determine where the client will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the***

guardian does not inform the facility as to where the client will be released within 3 days after the date of notification, the facility shall discharge the client according to its proposed discharge plan.

2. An involuntarily court-admitted client may be unconditionally released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the client has recovered from his mental illness or has improved to such an extent that he is no longer considered to present a clear and present danger of harm to himself or others; and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the mental health facility authorizes the release and gives written notice to the admitting court ***and to the client's legal guardian*** at least 10 days before the release of the client. ***If the client has a legal guardian, the facility shall notify the guardian before discharging the client from the facility. The guardian has discretion to determine where the client will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the client will be released within 3 days after the date of notification, the facility shall discharge the client according to its proposed discharge plan.***

Sec. 64. NRS 433A.400 is hereby amended to read as follows:

433A.400 1. An indigent resident of this state discharged as having recovered from his mental illness, but having a residual medical or surgical disability which prevents him from obtaining or holding remunerative employment, ~~[shall]~~ ***must*** be returned to the county of his last residence ~~[.]~~ ***, except as otherwise provided pursuant to subsection 2.*** A nonresident indigent with such disabilities ~~[shall]~~ ***must*** be returned to the county from which he was involuntarily court-admitted ~~[.]~~ ***, except as otherwise provided in subsection 2.*** The administrative officer of the mental health facility shall first give notice in writing, not less than 10 days ~~[prior to]~~ ***before*** discharge, to the board of county commissioners of the county to which the person will be returned ~~[.]~~ ***and to the person's legal guardian.***

2. Delivery of the indigent ~~[resident defined in subsection 1 shall]~~ ***person must*** be made to an individual or agency authorized to provide further care. ***If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.***

3. This section does not authorize the release of any person held upon an order of a court or judge having criminal jurisdiction arising out of a criminal offense.

Sec. 65. NRS 159.0365 is hereby repealed.

Sec. 66. ~~[1. This section and sections 1 to 53, inclusive, and 55 to 65, inclusive, of this act become effective on October 1, 2009.~~

~~2. Section 53 of this act expires by limitation on June 30, 2011.~~

~~3. Section 54 of this act becomes effective on July 1, 2011.]~~ **(Deleted by amendment.)**

TEXT OF REPEALED SECTION

159.0365 Proceedings pending in another state.

1. If the court has reason to believe that guardianship proceedings may be pending in another state concerning a ward or proposed ward, the court may order communication with the court in the other state:

(a) To determine the involvement or interest of each jurisdiction;

(b) To promote cooperation, expand the exchange of information and provide any other form of assistance; and

(c) To determine the appropriate jurisdiction for the proceedings.

2. As used in this section, "guardianship" includes, without limitation, a conservatorship.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 65, 146, 148, and 497 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

Assemblywoman Parnell moved that Senate Bill No. 378 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Smith moved that Senate Bill No. 186 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 497.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 836.

AN ACT relating to the criminal justice system; providing for the collection and sharing of certain statistical data and information relating to the criminal justice system; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Corrections and the Division of Parole and Probation of the Department of Public Safety to provide certain information to the Advisory Commission on the Administration of Justice and to assist the Commission in carrying out its statutory duties. (NRS 176.0127) **Section 1** of this bill requires the Central Repository for Nevada Records of Criminal History to ~~[: (1) compile and maintain records, reports and compilations of statistical data and information submitted by agencies of criminal justice within this State; (2) facilitate the efficient and timely exchange of necessary data, information, records, reports and compilations among the various agencies of criminal justice within this State; and (3)]~~ **facilitate the collection of statistical data, coordinate the exchange of such data with certain other entities involved in criminal justice and** provide the Commission with ~~[any]~~ available statistical data, information and research requested by the Commission.

Section 3 of this bill requires the Department of Corrections to provide information and research to the Commission concerning rates of recidivism and the effectiveness of educational and vocational programs. ~~[Section 4 of this bill requires each agency of criminal justice within this State that has such data or information in its possession to: (1) maintain records, reports and compilations of statistical data and information regarding domestic violence, specialty court programs, rates of recidivism, and the effectiveness and operation of educational and vocational programs for criminal offenders; and (2) submit such data and information to the Central Repository, which will provide the data and information to the Commission pursuant to section 1 of this bill.]~~

Section 5 of this bill ~~[: (1)]~~ requires the Court Administrator to ~~[assist the State Court System in collecting statistical data and other information and making reports relating to the operation of the criminal justice system in this State; and (2)]~~ **compile statistical information concerning criminal cases and include certain statistics regarding specialty court programs in the report that the Court Administrator is required to provide to the Legislature before each legislative session concerning specialty court programs. Section 5 also** deletes obsolete statutory language referring to a report that was required to be made to the Legislature in 2007.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

The Central Repository for Nevada Records of Criminal History shall:

1. ~~*[Compile and maintain records, reports and compilations of statistical data and information submitted pursuant to NRS 179A.075.*~~

~~*2. To facilitate the efficient and timely exchange of necessary data, information, records, reports and compilations, coordinate]*~~ ***Facilitate the collection of statistical data in the manner approved by the Director of the Department of Public Safety and coordinate the exchange of such data with agencies of criminal justice within this State, including:***

(a) State and local law enforcement agencies;

(b) ~~*[Prosecutors;*~~

~~*(c)]*~~ ***The Office of the Attorney General;***

~~*[(d)]*~~ ***(c) The*** ~~*[Judicial Branch of State Government;]*~~ ***Court Administrator;***

~~*[(e)]*~~ ***(d) The Department of Corrections; and***

~~*[(f)]*~~ ***(e) The Division.***

~~*[3.]*~~ ***2. Provide the Commission with*** ~~*[any]*~~ ***available statistical data*** ~~*[,]*~~ ***and information*** ~~*[and research]*~~ ***requested by the Commission.***

Sec. 2. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, ***and section 1 of this act,*** "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 3. NRS 176.0127 is hereby amended to read as follows:

176.0127 1. The ~~*[In addition to providing the statistical data and information required to be submitted pursuant to NRS 179A.075, the]*~~ Department of Corrections shall:

(a) Provide the Commission with any available statistical information or research requested by the Commission and assist the Commission in the compilation and development of information requested by the Commission, including, but not limited to, information or research concerning the facilities and institutions of the Department of Corrections, the offenders who are or were within those facilities or institutions ***, rates of recidivism, the effectiveness of educational and vocational programs*** and the sentences which are being served or were served by those offenders;

(b) If requested by the Commission, make available to the Commission the use of the computers and programs which are owned by the Department of Corrections; and

(c) Provide the independent contractor retained by the Department of Administration pursuant to NRS 176.0129 with any available statistical information requested by the independent contractor for the purpose of performing the projections required by NRS 176.0129.

2. The ~~*[In addition to providing the statistical data and information required to be submitted pursuant to NRS 179A.075, the]*~~ Division shall:

(a) Provide the Commission with any available statistical information or research requested by the Commission and assist the Commission in the compilation and development of information concerning sentencing,

probation, parole and any offenders who are or were subject to supervision by the Division;

(b) If requested by the Commission, make available to the Commission the use of the computers and programs which are owned by the Division; and

(c) Provide the independent contractor retained by the Department of Administration pursuant to NRS 176.0129 with any available statistical information requested by the independent contractor for the purpose of performing the projections required by NRS 176.0129.

Sec. 4. ~~[~~NRS 179A.075 is hereby amended to read as follows:

179A.075 ~~1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.~~

~~2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:~~

~~(a) Collect and maintain records, reports and compilations of statistical data required by the Department .~~ ~~[~~; and~~]~~

~~(b)~~ ***To the extent that the agency has such statistical data and information in its possession, maintain records, reports and compilations of statistical data and information concerning the following:***

(1) Domestic violence as described in NRS 33.018;

(2) Specialty court programs as defined in NRS 176.0613;

(3) Rates of recidivism of criminal offenders; and

(4) The effectiveness and operation of educational and vocational programs for criminal offenders, including any such programs for probationers, inmates in state and local correctional facilities, and parolees.

(c) ~~Submit the~~ ***statistical data and*** information collected ***pursuant to paragraphs (a) and (b)*** to the ~~Central Repository in the manner approved by the Director of the Department.~~

~~3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:~~

~~(a) Through an electronic network;~~

~~(b) On a medium of magnetic storage; or~~

~~(c) In the manner prescribed by the Director of the Department,~~

~~→ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.~~

~~4. The Division shall, in the manner prescribed by the Director of the Department:~~

~~(a) Collect, maintain and arrange all information submitted to it relating to:~~

~~(1) Records of criminal history; and~~

~~(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.~~

~~(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him.~~

~~(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.~~

~~5. The Division may:~~

~~(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;~~

~~(b) Enter into cooperative agreements with federal and state repositories to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and~~

~~(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:~~

~~(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;~~

~~(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;~~

~~(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;~~

~~(4) For whom such information is required to be obtained pursuant to NRS 426.335 and 449.179; or~~

~~(5) About whom any agency of the State of Nevada or any political subdivision thereof has a legitimate need to have accurate personal information for the protection of the agency or the persons within its jurisdiction.~~

~~➡ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.~~

~~6. The Central Repository shall:~~

~~(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.~~

~~(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.~~

~~(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.~~

~~(d) Investigate the criminal history of any person who:~~

~~(1) Has applied to the Superintendent of Public Instruction for a license;~~

~~(2) Has applied to a county school district, charter school or private school for employment; or~~

~~(3) Is employed by a county school district, charter school or private school,~~

~~" and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.~~

~~(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:~~

~~(1) Investigated pursuant to paragraph (d); or~~

~~(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,~~

~~" who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.~~

~~(f) Investigate the criminal history of each person who submits fingerprints or has his fingerprints submitted pursuant to NRS 426.335, 449.176 or 449.179.~~

~~(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.~~

~~(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.~~

~~(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2, and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.~~

~~7. The Central Repository may:~~

~~(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.~~

~~(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.~~

~~(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.~~

~~8. As used in this section:~~

~~(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:~~

~~(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and~~

~~(2) The fingerprints, voiceprint, retina image and iris image of a person.~~

~~(b) "Private school" has the meaning ascribed to it in NRS 394.103.~~**] (Deleted by amendment.)**

Sec. 5. NRS 1.360 is hereby amended to read as follows:

1.360 Under the direction of the Supreme Court, the Court Administrator shall:

1. Examine the administrative procedures employed in the offices of the judges, clerks, court reporters and employees of all courts of this State and make recommendations, through the Chief Justice, for the improvement of those procedures;

2. Examine the condition of the dockets of the courts and determine the need for assistance by any court;

3. Make recommendations to and carry out the directions of the Chief Justice relating to the assignment of district judges where district courts are in need of assistance;

4. Develop a uniform system for collecting and compiling statistics and other data regarding the operation of the State Court System and transmit that

information to the Supreme Court so that proper action may be taken in respect thereto;

5. Prepare and submit a budget of state appropriations necessary for the maintenance and operation of the State Court System and make recommendations in respect thereto;

6. Develop procedures for accounting, internal auditing, procurement and disbursement for the State Court System;

7. Collect statistical and other data and make reports relating to the expenditure of all public money for the maintenance and operation of the State Court System and the offices connected therewith;

8. Compile statistics from the information required to be maintained by the clerks of the district courts pursuant to NRS 3.275 ***regarding criminal and civil cases*** and make reports as to the cases filed in the district courts;

9. Formulate and submit to the Supreme Court recommendations of policies or proposed legislation for the improvement of the State Court System;

10. ~~*[Assist the State Court System in collecting statistical data and other information and making reports relating to the operation of the criminal justice system in this State;*~~

~~*11.]*~~ On or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau a written report compiling the information submitted to the Court Administrator pursuant to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year;

11. ~~*[12.]*~~ On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau a written report concerning:

(a) The distribution of money deposited in the special account created pursuant to NRS 176.0613 to assist with funding and establishing specialty court programs;

(b) The current status of any specialty court programs to which money from the account was allocated since the last report; and

(c) ***Statistics compiled from information required to be maintained by clerks of the district courts pursuant to NRS 3.275 concerning specialty courts, including, without limitation, the number of participants in such programs, the nature of the criminal charges that were filed against participants, the number of participants who have completed the programs and the disposition of the cases.***

(d) Such other related information as the Court Administrator deems appropriate;

12. ~~*[13.]*~~ On or before February 15 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling the information submitted by clerks of courts to the Court Administrator pursuant to NRS 630.307 and 633.533 which includes only aggregate information for statistical purposes and excludes any identifying information related to a particular person;

~~[13. On or before February 15, 2007, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of participation in counseling sessions in a program for the treatment of persons who commit domestic violence ordered by a court pursuant to NRS 200.485 and the effect of such counseling sessions on recidivism of the offenders who commit battery which constitutes domestic violence pursuant to NRS 33.018;]~~ and

~~[14.]~~ ***13.*** Attend to such other matters as may be assigned by the Supreme Court or prescribed by law.

Sec. 5.5. **NRS 3.275 is hereby amended to read as follows:**

3.275 1. The clerk of each district court shall obtain and file information regarding the nature of each ***criminal and*** civil case filed with the district court. ***If the criminal case is referred to a specialty court program, the clerk must obtain and file information regarding the nature of the case and the program to which the defendant was referred.***

2. The clerk shall provide a form approved by the Court Administrator for obtaining the information required by subsection 1. No ***criminal or*** civil case may be filed in the district court unless the initial pleading is accompanied by the form, signed by the initiating party or his representative. ***In addition to the information on the form, the clerk shall maintain information concerning the disposition of each criminal case and, if applicable, whether the defendant successfully completed a specialty court program.***

3. The clerk shall maintain the information contained in the form ***and collected pursuant to subsection 2*** in a separate system of filing to allow the retrieval of statistics relating to ~~[the number, nature and date of]~~ each ***criminal and*** civil action filed in the district courts.

Sec. 6. This act becomes effective on July 1, 2010.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 148.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 811.

AN ACT relating to occupational safety; requiring employees on a construction site to receive certain health and safety training; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 10 of this bill requires: (1) supervisory employees working on a construction site to complete a specified 30-hour health and safety course not later than 15 days after being hired; and (2) all other construction workers

working on the construction site to complete a specified 10-hour course not later than 15 days after being hired.

Section 8 of this bill ~~[allows]~~ **requires** the Division of Industrial Relations of the Department of Business and Industry to adopt regulations approving courses which may be used to fulfill the requirements of **section 10**. **Section 8.5 of this bill requires providers of approved courses to display the card evidencing their authorization by the Occupational Safety and Health Administration of the United States Department of Labor to provide such a course at the location at which the course is being provided.**

Section 11 of this bill requires employers to terminate the employment of an employee on a construction site who fails to provide proof of obtaining the required training not later than 15 days after being hired. **Section 12** of this bill provides for administrative fines for employers who continue to employ certain employees on a construction site after the 15-day period if those employees have not obtained the required training.

Section 15 of this bill: (1) allows employees to satisfy the requirements of section 10 of this bill by completing an alternative course offered by their employer; (2) requires an employee that satisfies the requirements of section 10 by completing an alternative course to take an approved course before January 1, 2011; and (3) requires an employer to maintain and make available to the Division of Industrial Relations a record of all employees that have completed an alternative course until a date to be established by the Division by regulation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 12 , inclusive, of this act, ~~[inclusive,]~~ unless the context otherwise requires, the words and terms defined in sections 3 to 6 , inclusive, of this act ~~[, inclusive,]~~ have the meanings ascribed to them in those sections.***

Sec. 3. ***"Construction site" means any location at which construction work is being commenced or is in progress.***

Sec. 3.5. ***1. "Construction worker" means a person who actually performs physical work at a construction site:***

~~[~~ ~~1. To accomplish]~~

(a) That results in the construction , alteration or destruction involved in the construction project ~~[,]~~ , including, without limitation, painting and decorating; or

~~[2.]~~ (b) Who supervises any person engaged in work described in ~~[subsection 1.]~~ paragraph (a).

2. The term does not include a person to the extent that the person performs or supervises another person who performs work which is conducted:

(a) For the upkeep of an existing property for which a certificate of occupancy has been issued by the appropriate building inspector or other authority; and

(b) To prevent the property from degrading, to maintain the property in its original condition or to maintain the operational soundness of the property, including, without limitation, by repairing components of the property or by replacing components of the property with the same or similar components.

Sec. 4. ***"OSHA-10 ~~[",]~~ course" means a 10-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.***

Sec. 5. ***"OSHA-30 ~~[",]~~ course" means a 30-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.***

Sec. 6. ***"Supervisory employee" means any person having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday.***

Sec. 6.5. The provisions of sections 2 to 12, inclusive, of this act do not apply to:

1. The Department of Transportation; or

2. An employee of the Department of Transportation while performing his duties as an employee of the Department.

Sec. 7. ***The Division may adopt such regulations as are necessary to carry out the provisions of sections 2 to 12, inclusive, of this act.***

Sec. 8. ***1. The Division ~~[may,]~~ shall, by regulation, approve OSHA-10 ~~[or]~~ courses and OSHA-30 courses for the purposes of fulfilling the requirements of section 10 of this act.***

2. The Division shall establish a registry to track the providers of courses approved pursuant to subsection 1.

3. The Division shall adopt regulations that set forth guidelines for job-specific training to qualify as continuing education for the purposes of section 10 of this act.

Sec. 8.5. 1. Each trainer shall display his trainer card in a conspicuous manner at each location where he provides an OSHA-10 course or OSHA-30 course.

2. No person other than a trainer may provide an OSHA-10 course or OSHA-30 course.

3. As used in this section:

(a) "Trainer" means a person who is currently authorized by the Occupational Safety and Health Administration of the United States Department of Labor as a trainer, including, without limitation, a person who has completed OSHA 500, the Trainer Course for the Construction Industry.

(b) "Trainer card" means the card issued upon completion of OSHA 500, the Trainer Course for the Construction Industry, which reflects the authorization of the holder by the Occupational Safety and Health Administration of the United States Department of Labor to provide OSHA-10 courses and OSHA-30 courses.

Sec. 9. (Deleted by amendment.)

Sec. 10. ***1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must*** ~~*[obtain an OSHA-10]*~~ ***:***

(a) Obtain a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act ~~*[.]*~~ ***; or***

(b) Complete an OSHA-10 alternative course which is offered by his employer.

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must ~~*[obtain an OSHA-30]*~~ ***:***

(a) Obtain a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act ~~*[.]*~~ ***; or***

(b) Complete an OSHA-30 alternative course which is offered by his employer.

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued ~~*[.]*~~ ***and may be renewed by:***

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

4. As used in this section:

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

Sec. 11. ***1. If a construction worker other than a supervisory employee fails to ~~[present]~~ :***

(a) Present his employer with a current and valid ~~[OSHA-10]~~ completion card for an OSHA-10 course; or

(b) Complete an OSHA-10 alternative course offered by his employer, ***not later than 15 days after being hired, his employer shall terminate his employment.***

2. If a supervisory employee on a construction site fails to ~~[present]~~ :

(a) Present his employer with a current and valid ~~[OSHA-30]~~ completion card for an OSHA-30 course; or

(b) Complete an OSHA-30 alternative course offered by his employer, ***not later than 15 days after being hired, his employer shall terminate his employment.***

3. As used in this section:

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for

an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

Sec. 12. ***1. If the Division finds that an employer has failed to terminate an employee as required by section 11 of this act, it shall:***

(a) Upon the first violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than $500.

(b) Upon the second violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than $1,000.

(c) Upon the third and each subsequent violation, impose upon the employer the penalty provided in NRS 618.635 as if the employer had committed a willful violation.

2. For the purposes of this section, any number of violations discovered in a single day constitute a single violation.

3. Before a fine or any other penalty is imposed upon an employer pursuant to this section, the Division must follow the procedures set forth in this chapter for the issuance of a citation, including, without limitation, the procedures set forth in NRS 618.475 for notice to the employer and an opportunity for the employer to contest the violation.

Sec. 13. **Section 10 of this act is hereby amended to read as follows:**

Sec. 10. 1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must ~~[:~~

~~(a) Obtain]~~ ***obtain*** a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act. ~~[; or~~

~~(b) Complete an OSHA-10 alternative course which is offered by his employer.]~~

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must ~~[:~~

~~(a) Obtain]~~ ***obtain*** a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act. ~~[; or~~

~~(b) Complete an OSHA-30 alternative course which is offered by his employer.]~~

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

~~*[4. As used in this section:*~~

~~*(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:*~~

~~*(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and*~~

~~*(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.*~~

~~*(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:*~~

~~*(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and*~~

~~*(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.]*~~

Sec. 14. **Section 11 of this act is hereby amended to read as follows:**

Sec. 11. 1. If a construction worker other than a supervisory employee fails to ~~[:~~

~~(a) Present~~] ***present*** his employer with a current and valid completion card for an OSHA-10 course ~~[; or~~

~~(b) Complete an OSHA-10 alternative course offered by his employer,~~ ~~"~~] not later than 15 days after being hired, his employer shall terminate his employment.

2. If a supervisory employee on a construction site fails to ~~[:~~

~~(a) Present~~] ***present*** his employer with a current and valid completion card for an OSHA-30 course ~~[; or~~

~~(b) Complete an OSHA-30 alternative course offered by his employer,~~ ~~"~~] not later than 15 days after being hired, his employer shall terminate his employment.

~~[3. As used in this section:~~

~~(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health~~

~~regulatory requirements specific to the industry in which the employer participates.~~

~~(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~]

Sec. 15. **1. Not later than January 1, 2011, an employee that satisfies the requirements of subsection 1 or 2 of section 10 of this act by completing an OSHA-10 alternative course or OSHA-30 alternative course, as defined in section 10 of this act, must complete an OSHA-10 course or OSHA-30 course, as defined in sections 4 and 5 of this act, as applicable, in order to continue to satisfy the requirements of subsection 1 or 2 of section 10 of this act.**

2. An employer shall maintain a record of all employees that have completed an OSHA-10 alternative course or OSHA-30 alternative course offered by the employer and the date upon which the employee completed the course. The employer shall make the record available at all times for inspection by the Division of Industrial Relations of the Department of Business and Industry and its authorized agents.

3. The Division of Industrial Relations shall, by regulation, establish the length of time that an employer must maintain the record described in subsection 2.

Sec. 16. **1. This section and sections 1 to 12, inclusive, and 15 of this act become effective on January 1, 2010.**

2. Sections 13 and 14 of this act become effective on January 1, 2011.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 146.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 829.

AN ACT relating to business; providing for the establishment of a state business portal by the Secretary of State; revising the provisions relating to the issuance of state business licenses and transferring certain responsibilities concerning state business licenses from the Department of Taxation to the Secretary of State; **making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides for the establishment of a state business portal by the Secretary of State to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal. The Secretary of State is required to: (1) establish, through cooperative efforts, the standards and requirements necessary to design, build and implement the state business portal; (2) establish the standards and requirements necessary for a state or local agency to participate in the state business portal; (3) authorize a state or local agency to participate in the state business portal if the Secretary of State determines that the agency meets the standards and requirements necessary for such participation; (4) determine the appropriate requirements to be used by businesses and governmental agencies conducting transactions through use of the state business portal; and (5) adopt regulations and take any appropriate action as necessary to provide for the establishment, operation and maintenance of the state business portal.

Section 3 of this bill authorizes the Secretary of State, within the limit of money authorized to him and subject to the approval of the State Board of Examiners, to enter into contracts and other lawful agreements with private or public entities to assist the Secretary of State in establishing, operating or maintaining the state business portal.

Section 4 of this bill provides that the Secretary of State may apply for and accept any gift, donation, bequest, grant or other source of money to provide for the establishment, operation and maintenance of the state business portal.

Sections 6-18 of this bill transfer certain duties and responsibilities concerning the issuance of state business licenses from the Department of Taxation to the Secretary of State. (NRS 360.760-360.798)

Section 45.5 of this bill makes an appropriation for the design and implementation of the state business portal.

WHEREAS, Historically, various state and local governmental agencies have often required businesses to submit various applications for necessary licenses, permits and approvals, through the use of numerous forms and formats and multiple web sites, as determined by those separate agencies; and

WHEREAS, Advances in information technology enable governmental agencies to make the exchange of information from business to government, from government to business, and across governmental agencies more efficient and effective for all parties; and

WHEREAS, States that make required transactions among businesses and governmental agencies faster, easier and cheaper than other states provide a competitive advantage for businesses under their jurisdiction and thereby encourage economic development within their jurisdiction; and

WHEREAS, The State of Nevada should strive to become the national leader for online interaction between business and government; and

WHEREAS, The establishment of a state business portal by the Secretary of State would provide a single, secure portal for the transaction of business and would improve efficiency, eliminate redundancy, streamline the establishment of businesses, improve accountability and enhance economic development in this State; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***1. The Secretary of State shall provide for the establishment of a state business portal to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal.***

2. The Secretary of State shall:

(a) Establish, through cooperative efforts, the standards and requirements necessary to design, build and implement the state business portal;

(b) Establish the standards and requirements necessary for a state or local agency to participate in the state business portal;

(c) Authorize a state or local agency to participate in the state business portal if the Secretary of State determines that the agency meets the standards and requirements necessary for such participation;

(d) Determine the appropriate requirements to be used by businesses and governmental agencies conducting transactions through use of the state business portal; and

(e) Adopt such regulations and take any appropriate action as necessary to carry out the provisions of this chapter.

Sec. 3. ***Within the limit of money authorized to him and subject to the approval of the State Board of Examiners, the Secretary of State may enter into contracts and other lawful agreements with private or public entities to assist the Secretary of State in establishing, operating or maintaining the state business portal and carrying out the provisions of this chapter.***

Sec. 4. ***The Secretary of State may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this chapter.***

Sec. 5. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 6 to 18, inclusive, of this act.

Sec. 6. ***As used in sections 6 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 10, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 7. ***1. Except as otherwise provided in subsection 2, "business" means:***

(a) Any person, except a natural person, that performs a service or engages in a trade for profit;

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity; or

(c) Any entity organized pursuant to this title, including, without limitation, those entities required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A business organized pursuant to chapter 82 or 84 of NRS.

Sec. 7.5. ***"Place of business" means a facility maintained by a business at a fixed location where the owner or an agent of the business conducts any of the principal business activities of the business.***

Sec. 8. (Deleted by amendment.)

Sec. 9. ***"State business license" means the business license required pursuant to this chapter.***

Sec. 10. ***"Wages" means any remuneration paid for personal services, including commissions, and bonuses and remuneration payable in any medium other than cash.***

Sec. 11. ***1. A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:***

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license before conducting a business in this State.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Secretary of State;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the entity number as assigned by the Secretary of State, if known, and the location in this State of his place or places of business;

(c) Be accompanied by a fee ~~[of $100;]~~ in the amount of $200 plus an additional $200 for each additional location in this State of his places of business; and

(d) Include any other information that the Secretary of State deems necessary.

➥ If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed pursuant to NRS 239.330 by:

(a) The owner of a business that is owned by a natural person.

(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

6. For the purposes of this chapter, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to this title, other than a business organized pursuant to chapter 82 or 84 of NRS;

(b) Has an office or other base of operations in this State;

(c) Has a registered agent in this State; or

(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.

7. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 12. ***If a person fails to obtain a state business license and pay the fee required pursuant to section 11 of this act before conducting a business in this State and the person is:***

1. An entity required to file an annual list with the Secretary of State pursuant to this title, the person:

(a) Shall pay a penalty of $100 in addition to the annual state business license fee;

(b) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and

(c) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in paragraph (a).

2. Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty in the amount of $100 in addition to the annual state business license fee.

Sec. 13. ***1. A natural person is not required to obtain more than one state business license for any combination of activities conducted by that person which are reported to the Internal Revenue Service for any federal tax year on two or more of the forms described in paragraph (b) of subsection 1 of section 7 of this act.***

2. As used in this section, "federal tax year" means any period of 12 months for which a person is required to report income, tax deductions and tax credits pursuant to the provisions of the Internal Revenue Code and any regulations adopted pursuant thereto.

Sec. 14. ***1. A person who applies for renewal of a state business license shall submit a fee*** ~~*[of $100]*~~ ***in the amount of $200 plus an additional $200 for each additional location in this State of his places of business to the Secretary of State:***

(a) If the person is an entity required to file an annual list with the Secretary of State pursuant to this title, at the time the person submits the annual list to the Secretary of State, unless the person submits a certificate or other form evidencing the dissolution of the entity; or

(b) If the person is not an entity required to file an annual list with the Secretary of State pursuant to this title, on the last day of the month in which the anniversary date of issuance of the state business license occurs in each year, unless the person submits a written statement to the Secretary of State, at least 10 days before that date, indicating that the person will not be conducting a business in this State after that date.

2. The Secretary of State shall, 90 days before the last day for filing an application for renewal of the state business license of a person who holds a state business license, provide to the person a notice of the state business license fee due pursuant to this section and a reminder to file the application for renewal required pursuant to this section. Failure of any

person to receive a notice does not excuse the person from the penalty imposed by law.

3. If a person fails to submit the annual state business license fee required pursuant to this section in a timely manner and the person is:

(a) An entity required to file an annual list with the Secretary of State pursuant to this title, the person:

(1) Shall pay a penalty of $100 in addition to the annual state business license fee;

(2) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and

(3) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in subparagraph (1).

(b) Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty in the amount of $100 in addition to the annual state business license fee. The Secretary of State shall provide to the person a written notice that:

(1) Must include a statement indicating the amount of the fees and penalties required pursuant to this section and the costs remaining unpaid.

(2) May be provided electronically, if the person has requested to receive communications by electronic transmission, by electronic mail or other electronic communication.

Sec. 15. (Deleted by amendment.)

Sec. 15.5. ***The Secretary of State may adopt such regulations as are necessary to carry out the provisions of this chapter.***

Sec. 16. ~~*[1.]*~~ ***The Secretary of State shall deposit all money received pursuant to this chapter with the State Treasurer for credit to*** ~~*[the Account for Operation of the State Business Portal.*~~

~~*2. The money in the Account may be used, to the extent of legislative authorization, only for the costs of:*~~

~~*(a) Establishing, operating and maintaining the state business portal established pursuant to sections 2, 3 and 4 of this act, including, without limitation, the payment of any fixed sum or any percentage of revenue that is required to be paid under the terms of any contract or agreement entered into by the Secretary of State and a private or public entity pursuant to section 3 of this act; and*~~

~~*(b) Administering the provisions of this chapter.*~~

~~*3. Any money remaining in the Account at the end of a fiscal year in excess of the amount authorized for expenditure during that fiscal year must be transferred to]*~~ ***the State General Fund.***

Sec. 17. ***1. Except as otherwise provided in this chapter and NRS 239.0115, the records and files of the Secretary of State concerning the administration of this chapter are confidential and privileged. The***

Secretary of State, and any employee of the Secretary of State engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Secretary of State nor any employee of the Secretary of State may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Secretary of State concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Secretary of State and production of records, files and information on behalf of the Secretary of State or a person in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his authorized representative of a copy of any document filed by the person pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to any person authorized to audit the accounts of the Secretary of State in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. The Secretary of State may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

4. The Secretary of State shall periodically, as he deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which he has a record. The list must include the mailing address of the business as reported to the Secretary of State.

Sec. 18. ***1. If a person who holds a state business license fails to comply with a provision of this chapter or a regulation of the Secretary of State adopted pursuant thereto, the Secretary of State may revoke or suspend the state business license of the person.***

2. If the license is suspended or revoked, the Secretary of State shall provide written notice of the action to the person who holds the state business license.

3. The Secretary of State shall not issue a new license to the former holder of a revoked state business license unless the Secretary of State is satisfied that the person will comply with the provisions of this chapter and the regulations of the Secretary of State adopted pursuant thereto.

Sec. 19. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, on or before the last day of the first month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

(a) The name of the corporation;

(b) The file number of the corporation, if known;

(c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;

(d) The address, either residence or business, of each officer and director listed, following the name of the officer or director;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

(a) A declaration under penalty of perjury that the corporation:

(1) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

(a) Subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

5. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 2, cause to be mailed to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

Sec. 20. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of its certificate of corporate existence with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors;

(b) The information required pursuant to NRS 77.310; and

(c) The signature of an officer of the corporation.

2. Each list filed pursuant to subsection 1 must be accompanied by:

(a) A declaration under penalty of perjury that the foreign corporation has complied with the provisions of ~~[NRS 360.780]~~ ***sections 6 to 18, inclusive, of this act*** and which acknowledges that pursuant to NRS 239.330, it is a

category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the foreign corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

3. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

4. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any corporation to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

6. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 21. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this

State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign nonprofit corporation;

(b) The file number of the foreign nonprofit corporation, if known;

(c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;

(d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the foreign nonprofit corporation certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign nonprofit corporation:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of $25.

4. The Secretary of State shall, 60 days before the last day for filing each annual list, cause to be mailed to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.5239, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign nonprofit corporation to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.5239, inclusive.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 22. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited-liability company;

(b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of $125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, cause to be mailed to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file a list required by subsection 2. Failure of any company to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 23. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, on or before the last day of the first month after the filing of

its application for registration as a foreign limited-liability company with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list on a form furnished by him that contains:

(a) The name of the foreign limited-liability company;

(b) The file number of the foreign limited-liability company, if known;

(c) The names and titles of all its managers or, if there is no manager, all its managing members;

(d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the foreign limited-liability company certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited-liability company:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

4. If a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, cause to be mailed to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited-liability company to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due

date shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

Sec. 24. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, on or before the last day of the first month after the filing of its certificate of registration with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the registered limited-liability partnership;

(b) The file number of the registered limited-liability partnership, if known;

(c) The names of all of its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the registered limited-liability partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the registered limited-liability partnership has complied with the provisions of ~~[NRS 360.780, an acknowledgment]~~ ***sections 6 to 18, inclusive, of this act and acknowledges*** that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

3. If a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to the registered limited-liability partnership a notice of the fee due pursuant to subsection 2 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice or form does not excuse it from complying with the provisions of this section.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection 2 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 25. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign registered limited-liability partnership;

(b) The file number of the foreign registered limited-liability partnership, if known;

(c) The names of all its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the foreign registered limited-liability partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign registered limited-liability partnership:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

4. If a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.544, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign registered limited-liability partnership to receive the forms does

not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.544, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 26. NRS 87A.290 is hereby amended to read as follows:

87A.290 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of ~~[NRS 360.780]~~ ***sections 6 to 18, inclusive, of this act*** and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list. Failure of any limited partnership to receive a notice or form does not excuse it from the penalty imposed by NRS 87A.300.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 87A.240 and may not be substituted for filings submitted pursuant to NRS 87A.240.

Sec. 27. NRS 87A.560 is hereby amended to read as follows:

87A.560 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign limited partnership, which is required to comply with the provisions of NRS 87A.560 to 87A.600, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 87A.560 to 87A.600, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 28. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of ~~[~~NRS 360.780~~]~~ ***sections 6 to 18, inclusive, of this act*** and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $175.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list. Failure of any limited partnership to receive a notice or form does not excuse it from the penalty imposed by NRS 88.400.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

Sec. 29. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 30. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, on or before the last day of the first month after the filing of its certificate of trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list signed by at least one trustee that contains the name and street address of at least one trustee and the information required pursuant to NRS 77.310. Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the business trust:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

3. If a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.660, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of a business trust to receive the forms does not excuse it from the penalty imposed by law.

5. An annual list for a business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 31. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign business trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign business trust;

(b) The file number of the foreign business trust, if known;

(c) The name of at least one of its trustees;

(d) The address, either residence or business, of the trustee listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a trustee of the foreign business trust certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign business trust:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

4. If a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign business trust to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 32. NRS 89.250 is hereby amended to read as follows:

89.250 1. Except as otherwise provided in subsection 2, a professional association shall, on or before the last day of the first month after the filing of its articles of association with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its organization occurs in each year, file with the Secretary of State a list showing the names and addresses, either residence or business, of all members and employees in the professional association and certifying that all members and employees are licensed to render professional service in this State.

2. A professional association organized and practicing pursuant to the provisions of this chapter and NRS 623.349 shall, on or before the last day of the first month after the filing of its articles of association with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its organization occurs in each year, file with the Secretary of State a list:

(a) Showing the names and addresses, either residence or business, of all members and employees of the professional association who are licensed or otherwise authorized by law to render professional service in this State;

(b) Certifying that all members and employees who render professional service are licensed or otherwise authorized by law to render professional service in this State; and

(c) Certifying that all members who are not licensed to render professional service in this State do not render professional service on behalf of the professional association except as authorized by law.

3. Each list filed pursuant to this section must be:

(a) Made on a form furnished by the Secretary of State and must not contain any fiscal or other information except that expressly called for by this section.

(b) Signed by the chief executive officer of the professional association.

(c) Accompanied by a declaration under penalty of perjury that the professional association:

(1) Has complied with the provisions of ~~[NRS 360.780;]~~ ***sections 6 to 18, inclusive, of this act;*** and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by this section, the professional association shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the professional association shall pay to the Secretary of State a fee of $125.

Sec. 33. NRS 244.335 is hereby amended to read as follows:

244.335 1. Except as otherwise provided in subsections 2, 3 and 4, a board of county commissioners may:

(a) Except as otherwise provided in NRS 244.331 to 244.3345, inclusive, 598D.150 and 640C.100, regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns.

(b) Except as otherwise provided in NRS 244.3359 and 576.128, fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.

2. The county license boards have the exclusive power in their respective counties to regulate entertainers employed by an entertainment by referral service and the business of conducting a dancing hall, escort service, entertainment by referral service or gambling game or device permitted by law, outside of an incorporated city. The county license boards may fix, impose and collect license taxes for revenue or for regulation, or for both revenue and regulation, on such employment and businesses.

3. A board of county commissioners shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

4. The board of county commissioners or county license board shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of

~~[NRS 360.780.]~~ ***sections 6 to 18, inclusive, of this act.*** The county license board shall provide upon request an application for a business license pursuant to ~~[NRS 360.780.]~~ ***sections 6 to 18, inclusive, of this act.*** As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied for the purposes of NRS 244.3358 or 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months after the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against the property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 244.3357, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any

member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation ***or Secretary of State*** for the exchange of information concerning taxpayers.

Sec. 34. NRS 268.095 is hereby amended to read as follows:

268.095 1. Except as otherwise provided in subsection 4, the city council or other governing body of each incorporated city in this State, whether organized under general law or special charter, may:

(a) Except as otherwise provided in subsection 2 and NRS 268.0968 and 576.128, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

(b) Assign the proceeds of any one or more of such license taxes to the county within which the city is situated for the purpose or purposes of making the proceeds available to the county:

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655, inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities.

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general or special obligations issued by the city for a purpose authorized by the laws of this State.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the laws of this State;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. The city council or other governing body of an incorporated city shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

3. The proceeds of any tax imposed pursuant to this section that are pledged for the repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

4. The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of ~~[~~NRS 360.780.~~]~~ ***sections 6 to 18, inclusive, of this act.*** The city licensing agency shall provide upon request an application for a business license pursuant to ~~[~~NRS 360.780.~~]~~ ***sections 6 to 18, inclusive, of this act.*** As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months following the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after

the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation ***or the Secretary of State*** for the exchange of information concerning taxpayers.

8. The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, any other law. No part of this section repeals or affects any other law or any part thereof, it being intended that this section provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 35. NRS 360.760 is hereby amended to read as follows:

360.760 As used in NRS 360.760 to **[**~~360.798,~~**]** ***360.796,*** inclusive, unless the context otherwise requires, the words and terms defined in NRS **[**~~360.765 to 360.775, inclusive,~~**]** ***360.767, 360.773 and 360.774*** have the meanings ascribed to them in those sections.

Sec. 36. NRS 360.773 is hereby amended to read as follows:

360.773 "State business license" means the business license required pursuant to **[**~~NRS 360.780.~~**]** ***sections 6 to 18, inclusive, of this act.***

Sec. 37. NRS 360.780 is hereby amended to read as follows:

360.780 **[**~~1. Except as otherwise provided in subsection 7, a person shall not conduct a business in this State unless he has a state business license issued by the Department.~~

~~2. An application for a state business license must:~~

~~(a) Be made upon a form prescribed by the Department;~~

~~(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business;~~

~~(c) Be accompanied by a fee of $100; and~~

~~(d) Include any other information that the Department deems necessary.~~

~~3. The application must be signed by:~~

~~(a) The owner, if the business is owned by a natural person;~~

~~(b) A member or partner, if the business is owned by an association or partnership; or~~

~~(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.~~

~~4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.~~

~~5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.~~

~~6. For the purposes of NRS 360.760 to 360.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:~~

~~(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;~~

~~(b) Has an office or other base of operations in this State; or~~

~~(c) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.~~

~~7.~~**]** A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 360.787.

Sec. 38. NRS 360.790 is hereby amended to read as follows:

360.790 The Department shall deposit all money it receives pursuant to NRS 360.760 to **[**~~360.798,~~**]** ***360.796,*** inclusive, in the State Treasury for credit to the State General Fund.

Sec. 39. NRS 360.795 is hereby amended to read as follows:

360.795 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration of NRS 360.760 to **[**~~360.798,~~**]** ***360.796,*** inclusive, are confidential and privileged. The Department, and any employee of the Department engaged in the administration of NRS 360.760 to **[**~~360.798,~~**]** ***360.796,*** inclusive, or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of NRS 360.760 to **[**~~360.798,~~**]** ***360.796,*** inclusive, are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding pursuant to the provisions of this chapter

if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his authorized representative of a copy of any document filed by the person pursuant to NRS 360.760 to ~~[360.798,]~~ ***360.796,*** inclusive.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

4. The Executive Director shall periodically, as he deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which he has a record. The list must include the mailing address of the business as reported to the Department.

Sec. 40. NRS 372.220 is hereby amended to read as follows:

372.220 1. Every retailer who sells tangible personal property for storage, use or other consumption in this State shall register with the Department and give:

(a) The name and address of all agents operating in this State.

(b) The location of all distribution or sales houses or offices or other places of business in this State.

(c) Such other information as the Department may require.

2. Every business that purchases tangible personal property for storage, use or other consumption in this State shall, at the time the business obtains a business license pursuant to ~~[NRS 360.780,]~~ ***sections 6 to 18, inclusive, of this act,*** register with the Department on a form prescribed by the Department. As used in this section, "business" has the meaning ascribed to it in ~~[NRS 360.765.]~~ ***section 7 of this act.***

Sec. 41. NRS 459.3824 is hereby amended to read as follows:

459.3824 1. The owner or operator of a facility shall pay to the Division an annual fee based on the fiscal year. The annual fee for each

facility is the sum of a base fee set by the State Environmental Commission and any additional fee imposed by the Commission pursuant to subsection 2. The annual fee must be prorated and may not be refunded.

2. The State Environmental Commission may impose an additional fee upon the owner or operator of a facility in an amount determined by the Commission to be necessary to enable the Division to carry out its duties pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto. The additional fee must be based on a graduated schedule adopted by the Commission which takes into consideration the quantity of hazardous substances located at each facility.

3. After the payment of the initial annual fee, the Division shall send the owner or operator of a facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

4. The State Environmental Commission may modify the amount of the annual fee required pursuant to this section and the timing for payment of the annual fee:

(a) To include consideration of any fee paid to the Division for a permit to construct a new process or commence operation of a new process pursuant to NRS 459.3829; and

(b) If any regulations adopted pursuant to NRS 459.380 to 459.3874, inclusive, require such a modification.

5. The owner or operator of a facility shall submit, with any payment required by this section, the business license number assigned by the ~~[~~Department of Taxation~~]~~ ***Secretary of State*** upon compliance by the owner with ~~[~~NRS 360.780.~~]~~ ***the provisions of sections 6 to 18, inclusive, of this act.***

6. All fees fines, penalties and other money collected pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto, other than a fine collected pursuant to subsection 3 of NRS 459.3834, must be deposited with the State Treasurer for credit to the Fund for Precaution Against Chemical Accidents, which is hereby created as a special revenue fund. All interest earned on the money in the Fund must be credited to the Fund.

Sec. 42. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of ~~[~~NRS 360.780.~~]~~ ***sections 6 to 18, inclusive, of this act.***

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

Sec. 43. Chapter 719 of NRS is hereby amended by adding thereto a new section to read as follows:

The Secretary of State may require a governmental agency of this State or a governmental agency of a political subdivision of this State, as a condition of participation in the state business portal established pursuant to sections 2, 3 and 4 of this act, to send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

Sec. 44. NRS 719.350 is hereby amended to read as follows:

719.350 1. Except as otherwise provided in subsection 6 of NRS 719.290 ~~[,]~~ ***and section 43 of this act,*** each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

2. ~~[To]~~ ***Except as otherwise provided in section 43 of this act, to*** the extent that a governmental agency uses electronic records and electronic signatures under subsection 1, the governmental agency, giving due consideration to security, may specify:

(a) The manner and format in which the electronic records must be created, generated, sent, communicated, received and stored and the systems established for those purposes;

(b) If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(c) Processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality and auditability of electronic records; and

(d) Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

3. Except as otherwise provided in subsection 6 of NRS 719.290 ~~[.]~~ ***and section 43 of this act,*** the provisions of this chapter do not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

Sec. 45. NRS 360.765, 360.775, 360.782, 360.784 and 360.798 are hereby repealed.

Sec. 45.5. **1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of $6,520,349 for allocation to the Secretary of State to design and implement the state business portal established pursuant to sections 2, 3 and 4 of this act. Money appropriated pursuant to this section may only be allocated by the Interim Finance Committee upon submittal of a detailed plan and budget developed by the Secretary of State.**

2. Any remaining balance of the appropriation made by subsection 1 to the Interim Finance Committee must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 46. 1. Except as otherwise provided in subsection 2, a person who holds a state business license which was issued pursuant to NRS 360.760 to 360.798, inclusive, before ~~[January 1, 2010,]~~ **October 1, 2009,** and which is not expired or revoked is not required to obtain a state business license

pursuant to sections 6 to 18, inclusive, of this act until the expiration of his state business license issued pursuant to NRS 360.760 to 360.798. inclusive.

2. If a person who holds a state business license which was issued pursuant to NRS 360.760 to 360.798, inclusive, before ~~[January 1, 2010,]~~ **October 1, 2009,** and which is not expired or revoked is an entity that is required to file an annual list with the Secretary of State pursuant to title 7 of NRS, the person is not required to obtain a state business license pursuant to sections 6 to 18, inclusive, of this act until the expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive, unless the entity is required to file the annual list pursuant to title 7 of NRS before the expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive, in which case the person is required to obtain a state business license pursuant to sections 6 to 18, inclusive, of this act at the time of filing the annual list. The amount of the fee for obtaining the state business license pursuant to sections 6 to 18, inclusive, of this act must be prorated to reflect credit for the period remaining before expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive.

Sec. 46.5. **Notwithstanding the provisions of this act, no penalty, late fee or interest charge may be imposed against any person for any failure to comply with the provisions of this act which occurs before January 1, 2010.**

Sec. 47. **1.** This **section and section 45.5 of this** act ~~[becomes]~~ **become effective upon passage and approval.**

2. Sections 1 to 45, inclusive, 46 and 46.5 of this act become effective:

~~[1.]~~ **(a)** Upon passage and approval for the purposes of adopting regulations and performing any other preparatory actions that are necessary to carry out the provisions of this act; and

~~[2.]~~ **(b)** On ~~[January 1, 2010,]~~ **October 1, 2009,** for all other purposes.

LEADLINES OF REPEALED SECTIONS

360.765 "Business" defined.

360.775 "Wages" defined.

360.782 Limitation on number of licenses natural person is required to obtain.

360.784 Annual fee for license: Amount; submission; penalty for late payment.

360.798 Enforcement of provisions: Revocation or suspension of license; denial of new license.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 65.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 673.

AN ACT relating to courts; providing for the collection and disposition of additional court fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) authorizes a district court to charge and collect certain additional filing fees; (2) requires the fees to be deposited into a special county account maintained for the benefit of the court; and (3) provides that the fees may be used only for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment**,** ~~[and]~~ technology ~~[.]~~ **, and in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs.**

Section 3 of this bill authorizes a board of county commissioners to impose by ordinance a filing fee of not more than $20 to be paid on the commencement of any civil action or proceeding in the district court and provides that the fee may be used only for programs for court security or for reimbursement of capital costs for maintaining new judicial departments and must not supplant existing budgets for ~~[court security.]~~ **bailiffs or deputy marshals assigned to work in a courtroom. Section 5** of this bill requires a county ~~[clerk]~~ **recorder** to collect a fee of $50 upon the filing of any notice of default and election to sell and provides that such fees must be deposited in a special account to support a program of foreclosure mediation established by Supreme Court Rule. **However, section 5 also provides that 1.5 percent of the fees collected may be placed in a special account for use by the office of the county recorder.** (NRS 107.080)

Section 6 of this bill provides that notwithstanding the uses provided for the fees in section 2 of this bill, the fees collected pursuant to section 2 must also be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011.

Section 7 of this bill requires the county treasurer of a county in which a district judge is added by Assembly Bill No. 64 of this session to remit, from the special account administered and maintained pursuant to section 2 of this bill, an amount equal to $104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

Section 8 of this bill provides that sections 6 and 7 of this bill become effective if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 19 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:***

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer $99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by him or them $99

(c) On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is $200,000 or more $352

(2) Where the stated value of the estate is more than $20,000 but less than $200,000 ..... $99

(3) Where the stated value of the estate is $20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto $200

(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto $1,359

(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as "complex" pursuant to the local rules of practice,

↪ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding $349

(g) On the filing of a third-party complaint, to be paid by the filing party $135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party $349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court $10

2. Except as otherwise provided in subsection 4, fees collected pursuant to this section must be deposited into a special account <u>administered by the</u>

county and maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff; [and]

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in [paragraph] paragraphs (a) [,] and (b), to:

(1) [Reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;

(2)] Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

[(3)] (2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

[(4)] (3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

[(5)] (4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

[(6)] (5) Acquire advanced technology;

[(7)] (6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court; [or]

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district; or

(8) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer:

(a) An amount equal to $20 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating a program for legal services as set forth in NRS 19.031 all the money received from the clerk of the court or county clerk pursuant to this subsection.

(b) All remaining fees collected pursuant to this section during the preceding month.

Sec. 3. ***1. In any county, the board of county commissioners may, in addition to any other fee required by law, impose by ordinance a filing fee of not more than $20 to be paid on the commencement of any civil action or proceeding in the district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, except as otherwise required pursuant to NRS 19.034.***

2. On or before the fifth day of each month, in a county where a fee has been imposed pursuant to subsection 1, the clerk of the court shall account for and pay over to the county treasurer any such fees collected by him during the preceding month for credit to an account for programs for court security in the county general fund. The money in that account ~~[.]~~ ***must be administered by the county and:***

(a) May be used only for programs for court security or to reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;

(b) Must not be used to supplant existing budgets for ~~[court security;]~~ ***bailiffs or deputy marshals who are assigned to work in a courtroom; and***

(c) If any balance remains, may be carried forward to the next fiscal year.

3. As used in this section, "programs for court security" includes, without limitation:

(a) Funding for additional positions for bailiffs, marshals, security guards or similar personnel;

(b) Supplementing existing funding used to pay bailiffs, marshals, security guards and similar personnel;

(c) Acquiring necessary capital goods for court security;

(d) Providing security training and education to personnel;

(e) Conducting security audits; and

(f) Acquiring or using appropriate technology relating to court security.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made

pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. The county ~~[clerk]~~ recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect the sum of $50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The fees collected must be paid over to the county treasurer by the county ~~[clerk]~~ recorder on or before the fifth day of each month for the preceding calendar month, and , except as otherwise provided in this subsection, must be placed to the credit of the Account. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county ~~[clerk]~~ recorder for the Account for Foreclosure Mediation to the State Controller for credit to the Account. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

Sec. 6. **Notwithstanding any provision of section 2 of this act to the contrary, the fees collected pursuant to section 2 of this act and deposited in the special account administered by the county and maintained for the benefit of the court must be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011, and this money is hereby authorized for expenditure.**

Sec. 7. **In a county in which a district judge is added by Assembly Bill No. 64 of this session, the county treasurer is hereby required to, on**

or before the first Monday in January 2011, remit, from the special account administered and maintained pursuant to section 2 of this act, an amount equal to $104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

~~[Sec. 6.]~~ ***Sec. 8.*** **1.** This ~~[act becomes]~~ **section and sections 1 to 5, inclusive, of this act become** effective on July 1, 2009.

2. Sections 6 and 7 of this act become effective on July 1, 2009, if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

Assemblyman Arberry moved the adoption of the amendment.

Conflict of interest declared by Assemblywoman Buckley.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 92.

Bill read third time.

Roll call on Assembly Bill No. 92:

YEAS—40.

NAYS—Cobb.

NOT VOTING—Leslie.

Assembly Bill No. 92 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that for the balance of the session all rules be suspended and that all Assembly bills and resolutions passed or adopted be immediately transmitted to the Senate.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess until 3 p.m.

Motion carried.

Assembly in recess at 12:53 p.m.

ASSEMBLY IN SESSION

At 4:10 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 8, 73, 114, 121, 165, 172, 266, 268, 361, 362, 363, 365, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 26, 228, 265, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 162, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 293, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 543, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 523, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 543.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 832.

SUMMARY—Temporarily redirects a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund **~~[.]~~ and authorizes the imposition of a supplemental governmental services tax in certain counties.** (BDR **~~[S]~~** ***31***-1187)

AN ACT relating to taxation; temporarily redirecting a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund; **authorizing the imposition of a supplemental governmental services tax in certain counties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[~~~~This~~**~~]~~** **Existing law authorizes a county to impose an ad valorem tax for capital projects in the amount of 5 cents per $100 of the assessed valuation of the county. (NRS 354.59815) Section 1 of this bill requires the deposit into the State General Fund of a portion of the proceeds of any such tax imposed during the next 2 fiscal years in a county whose population is 100,000 or more (currently Clark and Washoe Counties).**

Existing law authorizes a board of county commissioners, after receiving the approval of the voters, to impose a supplemental governmental services tax of 1 cent on each $1 valuation of a vehicle. (NRS 371.045) Section 4 of this bill authorizes the board of a county

whose population is 100,000 or more but less than 400,000 (currently Washoe County) to impose such a tax without voter approval.

Section 8 of this bill requires the deposit into the State General Fund of the portion of the property taxes levied for the next 2 fiscal years for operating purposes by Clark and Washoe Counties at the rate of 4 cents per $100 of assessed valuation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 354.59815 is hereby amended to read as follows:

354.59815 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, the board of county commissioners may levy a tax ad valorem on all taxable property in the county at a rate not to exceed 5 cents per $100 of the assessed valuation of the county.

2. If a tax is levied pursuant to subsection 1 in:

(a) A county whose population is less than 100,000, the board of county commissioners shall direct the county treasurer to distribute quarterly the proceeds of the tax among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year.

(b) A county whose population is 100,000 or more, the board of county commissioners shall direct the county treasurer to distribute quarterly, from the proceeds of the tax for:

(1) The fiscal year beginning on July 1, 2008:

(I) Eighty-eight percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Twelve percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(2) The fiscal year beginning on July 1, 2009:

(I) Seventy-six percent of those proceeds ~~[among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year;]~~ ***to the State Treasurer for deposit in the State General Fund;*** and

(II) Twenty-four percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(3) The fiscal year beginning on July 1, 2010:

(I) Sixty-four percent of those proceeds ~~[among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year;]~~ ***to the State Treasurer for deposit in the State General Fund;*** and

(II) Thirty-six percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(4) The fiscal year beginning on July 1, 2011:

(I) Fifty-two percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Forty-eight percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(5) Each fiscal year beginning on or after July 1, 2012:

(I) Forty percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Sixty percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

3. The board of county commissioners shall not reduce the rate of any tax levied pursuant to the provisions of subsection 1 without the approval of the State Board of Finance and each of the local governments that receives a portion of the tax, except that, if a local government declines to receive its portion of the tax in a particular year the levy may be reduced by the amount that local government would have received.

Sec. 2. **NRS 244.33516 is hereby amended to read as follows:**

244.33516 A board of county commissioners which, after ~~[March 25, 1991,]~~ ***July 1, 2009,*** imposes a tax pursuant to NRS 244.3351, 278.710, 365.203, 371.045, 373.030 or 377A.020 ~~[,]~~ ***or section 4 of this act,*** shall, by January 1, ~~[2001,]~~ ***2011,*** and every 10 years thereafter:

1. Prepare a comprehensive report which includes:

(a) A statement of the proposed uses during the following 10 years of the revenues to be collected from each tax imposed; and

(b) A projection of the principal amount of any general or special obligation bonds or other securities proposed to be issued during the following 10 years to fund projects described in paragraph (a) of subsection 2 of NRS 244.33512;

2. Hold a public hearing to consider and solicit comments on the report; and

3. Provide a copy of the report to the next regular session of the Legislature.

Sec. 3. **NRS 244A.256 is hereby amended to read as follows:**

244A.256 1. A county may pledge any money received from the proceeds of taxes imposed pursuant to paragraph (a) of subsection 1 of NRS 244.3351 or paragraph (a) of subsection 1 of NRS 278.710 or pursuant to NRS 371.045 ***or section 4 of this act*** or, with the consent of the regional transportation commission, received from the proceeds of the tax imposed pursuant to NRS 377A.020, or any combination of money from those sources with revenue derived from the project financed with the proceeds of the obligations for whose payment those taxes are pledged, including any existing or future extensions or enlargements thereof, for the payment of general or special obligations issued for projects described in paragraph (a) of subsection 2 of NRS 244.33512, if the project for which the securities are issued could be directly funded with the taxes whose proceeds are pledged for the payment of the securities.

2. A county may pledge any money received from the proceeds of taxes imposed pursuant to paragraph (b) of subsection 1 of NRS 244.3351 or paragraph (b) of subsection 1 of NRS 278.710, or any combination of money from those taxes with revenue derived from the project financed with the proceeds of the obligations for whose payment those taxes are pledged, including any existing or future extensions or enlargements thereof, for the payment of general or special obligations issued for projects described in subsection 1 of NRS 244.33514, if the project for which the securities are issued could be directly funded with the taxes whose proceeds are pledged for the payment of the securities.

3. Any money pledged by the county pursuant to subsection 1 or 2 may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 4. **Chapter 371 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may by ordinance, but not as in a case of emergency, impose a supplemental governmental services tax of not more than 1 cent on each $1 of valuation of the vehicle for the privilege of

operating upon the public streets, roads and highways of the county on each vehicle based in the county except:

(a) A vehicle exempt from the governmental services tax pursuant to this chapter; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

2. Collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after adoption of the ordinance imposing the tax.

3. Except as otherwise provided in subsection 4 and NRS 371.047, the county shall use the proceeds of the tax to pay the cost of:

(a) Projects related to the construction and maintenance of sidewalks, streets, avenues, boulevards, highways and other public rights-of-way used primarily for vehicular traffic, including, without limitation, overpass projects, street projects or underpass projects, as defined in NRS 244A.037, 244A.053 and 244A.055, respectively:

(1) Within the boundaries of the county;

(2) Within 1 mile outside the boundaries of the county if the board of county commissioners finds that such projects outside the boundaries of the county will facilitate transportation within the county; or

(3) Within 30 miles outside the boundaries of the county and the boundaries of this State, where those boundaries are coterminous, if:

(I) The projects consist of improvements to a highway which is located wholly or partially outside the boundaries of this State and which connects this State to an interstate highway; and

(II) The board of county commissioners finds that such projects will provide a significant economic benefit to the county;

(b) Payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in paragraph (a); or

(c) Any combination of those uses.

4. The county may expend the proceeds of the supplemental governmental services tax authorized by this section, or any borrowing in anticipation of that tax, pursuant to an interlocal agreement between the county and the regional transportation commission of the county with respect to the projects to be financed with the proceeds of the tax.

5. As used in this section, "based" has the meaning ascribed to it in NRS 482.011.

Sec. 5. **NRS 371.045 is hereby amended to read as follows:**

371.045 1. A board of county commissioners ***of a county whose population is less than 100,000 or is 400,000 or more*** may by ordinance, but not as in a case of emergency, after receiving the approval of a majority of the registered voters voting on the question at a primary, general or special election, impose a supplemental governmental services tax of not more than 1 cent on each $1 of valuation of the vehicle for the privilege of operating

upon the public streets, roads and highways of the county on each vehicle based in the county except:

(a) A vehicle exempt from the governmental services tax pursuant to this chapter; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

2. A county may combine this question with questions submitted pursuant to NRS 244.3351, 278.710 or 377A.020, or any combination thereof.

3. A special election may be held only if the board of county commissioners determines, by a unanimous vote, that an emergency exists. The determination made by the board is conclusive unless it is shown that the board acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the board must be commenced within 15 days after the board's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the board of county commissioners to prevent or mitigate a substantial financial loss to the county or to enable the board to provide an essential service to the residents of the county.

4. Collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after adoption of the ordinance imposing the tax.

5. Except as otherwise provided in subsection 6 and NRS 371.047, the county shall use the proceeds of the tax to pay the cost of:

(a) Projects related to the construction and maintenance of sidewalks, streets, avenues, boulevards, highways and other public rights-of-way used primarily for vehicular traffic, including, without limitation, overpass projects, street projects or underpass projects, as defined in NRS 244A.037, 244A.053 and 244A.055, respectively:

(1) Within the boundaries of the county;

(2) Within 1 mile outside the boundaries of the county if the board of county commissioners finds that such projects outside the boundaries of the county will facilitate transportation within the county; or

(3) Within 30 miles outside the boundaries of the county and the boundaries of this State, where those boundaries are coterminous, if:

(I) The projects consist of improvements to a highway which is located wholly or partially outside the boundaries of this State and which connects this State to an interstate highway; and

(II) The board of county commissioners finds that such projects will provide a significant economic benefit to the county;

(b) Payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in paragraph (a); or

(c) Any combination of those uses.

6. The county may expend the proceeds of the supplemental governmental services tax authorized by this section**,** ~~[~~and NRS 371.047,~~]~~ or any borrowing in anticipation of that tax, pursuant to an interlocal agreement between the county and the regional transportation commission of the county with respect to the projects to be financed with the proceeds of the tax.

7. As used in this section, "based" has the meaning ascribed to it in NRS 482.011.

Sec. 6. **NRS 371.047 is hereby amended to read as follows:**

371.047 1. A county may use the proceeds of the tax imposed pursuant to NRS 371.045 **~~[,]~~** ***or section 4 of this act,*** or of bonds, notes or other obligations incurred to which the proceeds of those taxes are pledged to finance a project related to the construction of a highway with limited access, to:

(a) Purchase residential real property which shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access, and which is adversely affected by the highway. Not more than 1 percent of the proceeds of the tax or of any bonds to which the proceeds of the tax are pledged may be used for this purpose.

(b) Pay for the cost of moving persons whose primary residences are condemned for a right-of-way for a highway with limited access and who qualify for such payments. The board of county commissioners shall, by ordinance, establish the qualifications for receiving payments for the cost of moving pursuant to this paragraph.

2. A county may, in accordance with NRS 244.265 to 244.296, inclusive, dispose of any residential real property purchased pursuant to this section, and may reserve and except easements, rights or interests related thereto, including, but not limited to:

(a) Abutter's rights of light, view or air.

(b) Easements of access to and from abutting land.

(c) Covenants prohibiting the use of signs, structures or devices advertising activities not conducted, services not rendered or goods not produced or available on the real property.

3. Proceeds from the sale or lease of residential real property acquired pursuant to this section must be used for the purposes set forth in this section and in NRS 371.045 **~~[,]~~** ***or section 4 of this act, as applicable.***

4. For the purposes of this section, residential real property is adversely affected by a highway with limited access if the construction or proposed use of the highway:

(a) Constitutes a taking of all or any part of the property, or interest therein;

(b) Lowers the value of the property; or

(c) Constitutes a nuisance.

5. As used in this section:

(a) "Highway with limited access" means a divided highway for through traffic with full control of access and with grade separations at intersections.

(b) "Primary residence" means a dwelling, whether owned or rented by the occupant, which is the sole principal place of residence of that occupant.

(c) "Residential real property" means a lot or parcel of not more than 1.5 acres upon which a single-family or multifamily dwelling is located.

Sec. 7. **NRS 482.181 is hereby amended to read as follows:**

482.181 1. Except as otherwise provided in subsection 5, after deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180, the Department shall certify monthly to the State Board of Examiners the amount of the basic and supplemental governmental services taxes collected for each county by the Department and its agents during the preceding month, and that money must be distributed monthly as provided in this section.

2. Any supplemental governmental services tax collected for a county must be distributed only to the county, to be used as provided in NRS 371.045 and 371.047 ~~.~~ ***and section 4 of this act.***

3. The distribution of the basic governmental services tax received or collected for each county must be made to the county school district within each county before any distribution is made to a local government, special district or enterprise district. For the purpose of calculating the amount of the basic governmental services tax to be distributed to the county school district, the taxes levied by each local government, special district and enterprise district are the product of its certified valuation, determined pursuant to subsection 2 of NRS 361.405, and its tax rate, established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1980, except that the tax rate for school districts, including the rate attributable to a district's debt service, is the rate established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1978, but if the rate attributable to a district's debt service in any fiscal year is greater than its rate for the fiscal year beginning on July 1, 1978, the higher rate must be used to determine the amount attributable to debt service.

4. After making the distributions set forth in subsection 3, the remaining money received or collected for each county must be deposited in the Local Government Tax Distribution Account created by NRS 360.660 for distribution to local governments, special districts and enterprise districts within each county pursuant to the provisions of NRS 360.680 and 360.690.

5. An amount equal to any basic governmental services tax distributed to a redevelopment agency in the Fiscal Year 1987-1988 must continue to be distributed to that agency as long as it exists but must not be increased.

6. The Department shall make distributions of the basic governmental services tax directly to county school districts.

7. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in NRS 360.620.

(b) "Local government" has the meaning ascribed to it in NRS 360.640.

(c) "Received or collected for each county" means:

(1) For the basic governmental services tax collected on vehicles subject to the provisions of chapter 706 of NRS, the amount determined for each county based on the following percentages:

Carson City	1.07 percent
Churchill	5.21 percent
Clark	22.54 percent
Douglas	2.52 percent
Elko	13.31 percent
Esmeralda	2.52 percent
Eureka	3.10 percent
Humboldt	8.25 percent
Lander	3.88 percent
Lincoln	3.12 percent
Lyon	2.90 percent
Mineral	2.40 percent
Nye	4.09 percent
Pershing	7.00 percent
Storey	.19 percent
Washoe	12.24 percent
White Pine	5.66 percent

(2) For all other basic and supplemental governmental services tax received or collected by the Department, the amount attributable to each county based on the county of registration of the vehicle for which the tax was paid.

(d) "Special district" has the meaning ascribed to it in NRS 360.650.

Sec. 8. 1. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Clark County shall distribute quarterly to the State Treasurer for deposit in the State General Fund, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2009, and July 1, 2010, the amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per $100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds distributed to the State Treasurer pursuant to this subsection shall be deemed to constitute revenue received by Clark County from taxes ad valorem.

2. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Washoe County shall distribute quarterly to the State Treasurer for deposit in the State General Fund, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2009, and July 1, 2010, the amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per $100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds distributed to the State Treasurer pursuant to this subsection shall be deemed to constitute revenue received by Washoe County from taxes ad valorem.

Sec. 9. **The amendatory provisions of section 1 of this act must not be applied to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of any county, city or town, including, without limitation, bonds, medium-term financing, letters of credit and any other financial**

obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.

~~[Sec. 2.]~~ ***Sec. 10.*** This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 8.

Bill read second time and ordered to third reading.

Senate Bill No. 26.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 776.

AN ACT relating to chiropractic physicians; including certain activities within the scope of unprofessional conduct; allowing the Chiropractic Physicians' Board of Nevada to impose a fine for each act which constitutes a ground for disciplinary action under chapter 634 of NRS; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill includes within the definition of "unprofessional conduct" the violation of any lawful order of or agreement with the Chiropractic Physicians' Board of Nevada and of any statute or regulation governing chiropractic physicians. (NRS 634.018)

Section 2 of this bill authorizes the imposition of a fine of up to ~~[$10,000]~~ **$5,000** for each act that constitutes a ground for disciplinary action under chapter 634 of NRS. (NRS 634.190)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 634.018 is hereby amended to read as follows:

634.018 "Unprofessional conduct" means:

1. Obtaining a certificate upon fraudulent credentials or gross misrepresentation.

2. Procuring, or aiding or abetting in procuring, criminal abortion.

3. Assuring that a manifestly incurable disease can be permanently cured.

4. Advertising chiropractic business in which grossly improbable statements are made, advertising in any manner that will tend to deceive, defraud or mislead the public or preparing, causing to be prepared, using or participating in the use of any form of public communication that contains professionally self-laudatory statements calculated to attract lay patients. As used in this subsection, "public communication" includes, but is not limited

to, communications by means of television, radio, newspapers, books and periodicals, motion picture, handbills or other printed matter.

5. Willful disobedience of the law, or of the regulations of the State Board of Health or of the Chiropractic Physicians' Board of Nevada.

6. Conviction of any offense involving moral turpitude, or the conviction of a felony. The record of the conviction is conclusive evidence of unprofessional conduct.

7. Administering, dispensing or prescribing any controlled substance.

8. Conviction or violation of any federal or state law regulating the possession, distribution or use of any controlled substance. The record of conviction is conclusive evidence of unprofessional conduct.

9. Habitual intemperance or excessive use of alcohol or alcoholic beverages or any controlled substance.

10. Conduct unbecoming a person licensed to practice chiropractic or detrimental to the best interests of the public.

11. Violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or the regulations adopted by the Board, or any other statute or regulation pertaining to the practice of chiropractic.

12. Employing, directly or indirectly, any suspended or unlicensed practitioner in the practice of any system or mode of treating the sick or afflicted, or the aiding or abetting of any unlicensed person to practice chiropractic under this chapter.

13. Repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner.

14. Solicitation by the licensee or his designated agent of any person who, at the time of the solicitation, is vulnerable to undue influence, including, without limitation, any person known by the licensee to have recently been involved in a motor vehicle accident, involved in a work-related accident, or injured by, or as the result of the actions of, another person. As used in this subsection:

(a) "Designated agent" means a person who renders service to a licensee on a contract basis and is not an employee of the licensee.

(b) "Solicitation" means the attempt to acquire a new patient through information obtained from a law enforcement agency, medical facility or the report of any other party, which information indicates that the potential new patient may be vulnerable to undue influence, as described in this subsection.

15. Employing, directly or indirectly, any person as a chiropractor's assistant unless the person has been issued a certificate by the Board pursuant to NRS 634.123, or has applied for such a certificate and is awaiting the determination of the Board concerning the application.

16. Aiding, abetting, commanding, counseling, encouraging, inducing or soliciting an insurer or other third-party payor to reduce or deny payment or reimbursement for the care or treatment of a patient, unless such action is supported by:

(a) The medical records of the patient; or

(b) An examination of the patient by the chiropractic physician taking such action.

17. Violating a lawful order of the Board, a lawful agreement with the Board, or any of the provisions of this chapter or any regulation adopted pursuant thereto.

Sec. 2. NRS 634.190 is hereby amended to read as follows:

634.190 1. The person charged is entitled to a hearing before the Board, but the failure of the person charged to attend his hearing or his failure to defend himself does not delay or void the proceedings. The Board may, for good cause shown, continue any hearing from time to time.

2. If the Board finds the person guilty as charged in the complaint, it may by order:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of chiropractic.

(d) Suspend the license of the person to practice chiropractic for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice chiropractic.

(f) Impose a fine of not more than ~~[$10,000]~~ ~~[.]~~ ***$5,000 for each act which constitutes a ground for disciplinary action,*** which must be deposited with the State Treasurer for credit to the State General Fund.

➥ The order of the Board may contain such other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

3. If the Board finds that a licensee has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

4. The Board shall not administer a private reprimand.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 73.

Bill read second time and ordered to third reading.

Senate Bill No. 114.

Bill read second time and ordered to third reading.

Senate Bill No. 121.

Bill read second time and ordered to third reading.

Senate Bill No. 162.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 825.

AN ACT relating to elections; revising the date of the primary election to the second Tuesday in June of each even-numbered year; revising the provisions governing the registration of voters by mail; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill changes the date of the primary election from the twelfth Tuesday before the general election of each even-numbered year to the second Tuesday in June of each even-numbered year. (NRS 293.175) To provide an example, if the provisions of this bill had been in effect in 2008, the primary election would have been held on June 10, 2008, instead of August 12, 2008.

As a result of changing the date of the primary election, **sections 1-5, 7-12 and 14-17** of this bill amend various other dates relating to elections such as the date for filing declarations of candidacy.

~~[Section 13 of this bill provides that no primary election will be held for a particular office if: (1) only one major political party has candidates for that office; and (2) that major political party has not more than twice the number of candidates to be elected to that office. This restriction on holding a primary election for a particular office applies regardless of whether there is a minor political candidate or an independent candidate for that particular office. (NRS 293.260)]~~

Section 16 of this bill changes the date on which a voter's registration or correction of registration information is deemed to be effective to the earlier of the date on which the application is postmarked or received by the county clerk. (NRS 293.5235)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 293.128 is hereby amended to read as follows:

293.128 1. To qualify as a major political party, any organization must, under a common name:

(a) On January 1 preceding any primary election, have been designated as a political party on the applications to register to vote of at least 10 percent of the total number of registered voters in this State; or

(b) File a petition with the Secretary of State not later than the last Friday in ~~[April]~~ ***February*** before any primary election signed by a number of registered voters equal to or more than 10 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

2. If a petition is filed pursuant to paragraph (b) of subsection 1, the names of the voters need not all be on one document, but each document of the petition must be verified by the circulator thereof to the effect that the signers are registered voters of this State according to his best information and belief and that the signatures are genuine and were signed in his presence. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document. The documents which are circulated for signature must then be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last Friday in ~~[April]~~ ***February*** preceding a primary election.

3. In addition to the requirements set forth in subsection 1, each organization which wishes to qualify as a political party must file with the Secretary of State a certificate of existence which includes the:

(a) Name of the political party;

(b) Names and addresses of its officers;

(c) Names of the members of its executive committee; and

(d) Name of the person who is authorized by the party to act as registered agent in this State.

4. A political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.

Sec. 2. NRS 293.165 is hereby amended to read as follows:

293.165 1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 4 and 5.

2. A vacancy occurring in a nonpartisan nomination after the close of filing and on or before 5 p.m. of the second Tuesday in ~~[June]~~ ***April*** must be filled by filing a nominating petition that is signed by registered voters of the State, county, district or municipality who may vote for the office in question. The number of registered voters who sign the petition must not be less than 1 percent of the number of persons who voted for the office in question in the State, county, district or municipality at the last preceding general election. The petition must be filed not earlier than the first Tuesday in ~~[May]~~ ***March*** and not later than the fourth Tuesday in ~~[June.]~~ ***April.*** The petition may consist of more than one document. Each document must bear the name of one county and must be signed only by a person who is a registered voter of that county and who may vote for the office in question. Each document of the petition must be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, to the county clerk of the county named on the document. A candidate nominated pursuant to the provisions of this subsection:

(a) Must file a declaration of candidacy or acceptance of candidacy and pay the statutory filing fee on or before the date the petition is filed; and

(b) May be elected only at a general election, and his name must not appear on the ballot for a primary election.

3. A vacancy occurring in a nonpartisan nomination after 5 p.m. of the second Tuesday in ~~[June]~~ ***April*** and on or before 5 p.m. on the first Tuesday after the primary election must be filled by the person who receives the next highest vote for the nomination in the primary.

4. No change may be made on the ballot for the general election after 5 p.m. on the first Tuesday after the primary election **.** ~~[of the year in which the general election is held.]~~ If a nominee dies after that time and date, his name must remain on the ballot for the general election and, if elected, a vacancy exists.

5. All designations provided for in this section must be filed on or before 5 p.m. on the first Tuesday after the primary election. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.

Sec. 3. NRS 293.1715 is hereby amended to read as follows:

293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.

2. The names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the party has filed a certificate of existence and a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:

(a) At the last preceding general election, the minor political party polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party has been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or

(c) Not later than the second Friday in ~~[August]~~ ***June*** preceding the general election, files a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

3. The name of a candidate for partisan office for a minor political party other than a candidate for the office of President or Vice President of the United States must be placed on the ballot for the general election if the party has filed:

(a) A certificate of existence;

(b) A list of candidates for partisan office containing the name of the candidate pursuant to the provisions of NRS 293.1725 with the Secretary of State; and

(c) Not earlier than the first Monday in ~~[~~May~~]~~ ~~*[April]*~~ ***March*** preceding the general election and not later than 5 p.m. on the second ~~*[first]*~~ Friday after the first Monday in ~~[~~May,~~]~~ ~~*[April,]*~~ ***March,*** a petition on behalf of the candidate with the Secretary of State containing not less than:

(1) Two hundred fifty signatures of registered voters if the candidate is to be nominated for a statewide office; or

(2) One hundred signatures of registered voters if the candidate is to be nominated for any office except a statewide office.

➥ A minor political party that places names of one or more candidates for partisan office on the ballot pursuant to this subsection may also place the names of one or more candidates for partisan office on the ballot pursuant to subsection 2.

4. The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.

5. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 or paragraph (c) of subsection 3 with the Secretary of State before the petition may be circulated for signatures.

Sec. 4. NRS 293.1725 is hereby amended to read as follows:

293.1725 1. Except as otherwise provided in subsection 4, ~~*[6,]*~~ a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:

(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715;

(b) Files ***or will file*** a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715; or

(c) Whose candidates are entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715,

➥ must file with the Secretary of State a list of its candidates for partisan office ~~*[.*~~

~~*2. The list of candidates for partisan office required pursuant to subsection 1 must be filed with the Secretary of State:*~~

~~*(a) If the minor political party is described in paragraph (a) or (b) of subsection 1, not earlier than the first Monday in March preceding the election nor later than 5 p.m. on the first Friday after the first Monday in March. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in March.*~~

~~*(b) If the minor political party is described in paragraph (c) of subsection 1,]*~~ not earlier than the first Monday in ~~[~~May~~]~~ ~~*[April]*~~ ***March*** preceding the election nor later than 5 p.m. on the second ~~*[first]*~~ Friday after the first Monday in ~~[~~May.~~]~~ ~~*[April. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in April.*~~

~~*3.]*~~ ***March.*** The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. The Secretary of State shall strike from the list each candidate who is not entitled to appear on the

ballot pursuant to subsection 3 of NRS 293.1715 if the minor political party is not entitled to place candidates on the ballot pursuant to subsection 2 of NRS 293.1715. The list may be amended not later than 5 p.m. on the second Friday after the first Monday in ~~[~~May.~~]~~ ***March.***

2. ~~*[4.]*~~ The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the filing officer with whom each candidate must file his declaration of candidacy.

3. ~~*[5.]*~~ Each candidate on the list must file his declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of his minor political party is filed with the Secretary of State nor later than 5 p.m. on the second ~~*[first]*~~ Friday after the first Monday in ~~[~~May.~~]~~ ~~*[:*~~

~~*(a) If the list is filed pursuant to paragraph (a) of subsection 2, March.*~~

~~*(b) If the list is filed pursuant to paragraph (b) of subsection 2, April.]*~~ ***March.***

4. ~~*[6.]*~~ A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has qualified to place the names of its candidates for partisan office on the ballot for the general election pursuant to subsection 2 of NRS 293.1715 must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in September.

Sec. 5. NRS 293.174 is hereby amended to read as follows:

293.174 1. If the qualification of a minor political party is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the third Friday in ~~[~~August.~~]~~ ***June.*** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the third Friday in ~~[~~August.~~]~~ ***June.*** A challenge pursuant to this subsection must be filed with the First Judicial District Court if the petition was filed with the Secretary of State.

2. If the qualification of a candidate of a minor political party other than a candidate for the office of President or Vice President of the United States is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[~~May.~~]~~ ~~*[April.]*~~ ***March.*** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[~~May.~~]~~ ~~*[April]*~~ ***March.*** A challenge pursuant to this subsection must be filed with:

(a) The First Judicial District Court; or

(b) If a candidate who filed a declaration of candidacy with a county clerk is challenged, the district court for the county where the declaration of candidacy was filed.

Sec. 6. NRS 293.175 is hereby amended to read as follows:

293.175 1. The primary election must be held on the ~~[~~12th Tuesday before the general election~~]~~ ***second Tuesday*** in ***June of*** each even-numbered year.

2. Candidates for partisan office of a major political party and candidates for nonpartisan office must be nominated at the primary election.

3. Candidates for partisan office of a minor political party must be nominated in the manner prescribed pursuant to NRS 293.171 to 293.174, inclusive.

4. Independent candidates for partisan office must be nominated in the manner provided in NRS 293.200.

5. The provisions of NRS 293.175 to 293.203, inclusive, do not apply to:

(a) Special elections to fill vacancies.

(b) The nomination of the officers of incorporated cities.

(c) The nomination of district officers whose nomination is otherwise provided for by statute.

Sec. 7. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in ~~[May]~~ ***March*** of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in ~~[May.]~~ ***March.***

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ……, I, the undersigned ……., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada;

that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……, in the City or Town of ……., County of ……, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my

telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 8. NRS 293.180 is hereby amended to read as follows:

293.180 1. Ten or more registered voters may file a certificate of candidacy designating any registered voter as a candidate for:

(a) Their major political party's nomination for any partisan elective office, or as a candidate for nomination for any nonpartisan office other than a judicial office, not earlier than the first Monday in ~~[~~April~~]~~ ***February*** of the year in which the election is to be held nor later than 5 p.m. on the first Friday in ~~[~~May;~~]~~ ***March;*** or

(b) Nomination for a judicial office, not earlier than the first Monday in December of the year immediately preceding the year in which the election is

to be held nor later than 5 p.m. on the first Friday in January of the year in which the election is to be held.

2. When the certificate has been filed, the officer in whose office it is filed shall notify the person named in the certificate. If the person named in the certificate files an acceptance of candidacy and pays the required fee, as provided by law, he is a candidate in the primary election in like manner as if he had filed a declaration of candidacy.

3. If a certificate of candidacy relates to a partisan office, all of the signers must be of the same major political party as the candidate designated.

Sec. 9. NRS 293.200 is hereby amended to read as follows:

293.200 1. An independent candidate for partisan office must file with the appropriate filing officer:

(a) A copy of the petition of candidacy that he intends to subsequently circulate for signatures. The copy must be filed not earlier than the January 2 preceding the date of the election and not later than 25 working days before the last day to file the petition pursuant to subsection 4.

(b) Either of the following:

(1) A petition of candidacy signed by a number of registered voters equal to at least 1 percent of the total number of ballots cast in:

(I) This State for that office at the last preceding general election in which a person was elected to that office, if the office is a statewide office;

(II) The county for that office at the last preceding general election in which a person was elected to that office, if the office is a county office; or

(III) The district for that office at the last preceding general election in which a person was elected to that office, if the office is a district office.

(2) A petition of candidacy signed by 250 registered voters if the candidate is a candidate for statewide office, or signed by 100 registered voters if the candidate is a candidate for any office other than a statewide office.

2. The petition may consist of more than one document. Each document must bear the name of the county in which it was circulated, and only registered voters of that county may sign the document. If the office is not a statewide office, only the registered voters of the county, district or municipality in question may sign the document. The documents that are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition pursuant to subsection 4. Each person who signs the petition shall add to his signature the address of the place at which he actually resides, the date that he signs the petition and the name of the county where he is registered to vote. The person who circulates each document of the petition shall sign an affidavit attesting that the signatures on the document are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.

3. The petition of candidacy may state the principle, if any, which the person qualified represents.

4. Petitions of candidacy must be filed not earlier than the first Monday in ~~[~~May~~]~~ ~~*[April]*~~ ***March*** preceding the general election and not later than 5 p.m. on the second ~~*[first]*~~ Friday after the first Monday in ~~[~~May.~~]~~ ~~*[April.]*~~ ***March.***

5. No petition of candidacy may contain the name of more than one candidate for each office to be filled.

6. A person may not file as an independent candidate if he is proposing to run as the candidate of a political party.

7. The names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.

8. If the candidacy of any person seeking to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[~~May.~~]~~ ~~*[April.]*~~ ***March.*** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[~~May.~~]~~ ~~*[April.]*~~ ***March.***

9. Any challenge pursuant to subsection 8 must be filed with:

(a) The First Judicial District Court if the petition of candidacy was filed with the Secretary of State.

(b) The district court for the county where the petition of candidacy was filed if the petition was filed with a county clerk.

10. An independent candidate for partisan office must file a declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the first Monday in ~~[~~May~~]~~ ~~*[April]*~~ ***March*** of the year in which the election is held nor later than 5 p.m. on the second ~~*[first]*~~ Friday after the first Monday in ~~[~~May.~~]~~ ~~*[April.]*~~ ***March.***

Sec. 10. NRS 293.205 is hereby amended to read as follows:

293.205 1. Except as otherwise provided in NRS 293.208, on or before the third Wednesday in ~~[~~May~~]~~ ***March*** of every even-numbered year, the county clerk shall establish election precincts, define the boundaries thereof, abolish, alter, consolidate and designate precincts as public convenience, necessity and economy may require.

2. The boundaries of each election precinct must follow visible ground features or extensions of visible ground features, except where the boundary coincides with the official boundary of the State or a county or city.

3. Election precincts must be composed only of contiguous territory.

4. As used in this section, "visible ground feature" includes a street, road, highway, river, stream, shoreline, drainage ditch, railroad right-of-way or any other physical feature which is clearly visible from the ground.

Sec. 11. NRS 293.206 is hereby amended to read as follows:

293.206 1. On or before the last day in ~~[~~May~~]~~ ***March*** of every even-numbered year, the county clerk shall provide the Secretary of State and the

Director of the Legislative Counsel Bureau with a copy or electronic file of a map showing the boundaries of all election precincts in the county.

2. If the Secretary of State determines that the boundaries of an election precinct do not comply with the provisions of NRS 293.205, he must provide the county clerk with a written statement of noncompliance setting forth the reasons the precinct is not in compliance. Within 15 days after receiving the notice of noncompliance, the county clerk shall make any adjustments to the boundaries of the precinct which are required to bring the precinct into compliance with the provisions of NRS 293.205 and he shall submit a corrected copy or electronic file of the precinct map to the Secretary of State and the Director of the Legislative Counsel Bureau.

3. If the initial or corrected election precinct map is not filed as required pursuant to this section or the county clerk fails to make the necessary changes to the boundaries of an election precinct pursuant to subsection 2, the Secretary of State may establish appropriate precinct boundaries in compliance with the provisions of NRS 293.205 to 293.213, inclusive. If the Secretary of State revises the map pursuant to this subsection, he shall submit a copy or electronic file of the revised map to the Director of the Legislative Counsel Bureau and the appropriate county clerk.

4. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 12. NRS 293.208 is hereby amended to read as follows:

293.208 1. Except as otherwise provided in subsections 2, 3 and 5 and in NRS 293.206, no election precinct may be created, divided, abolished or consolidated, or the boundaries thereof changed, during the period between the third Wednesday in ~~[May]~~ ***March*** of any year whose last digit is 6 and the time when the Legislature has been redistricted in a year whose last digit is 1, unless the creation, division, abolishment or consolidation of the precinct, or the change in boundaries thereof, is:

(a) Ordered by a court of competent jurisdiction;

(b) Required to meet objections to a precinct by the Attorney General of the United States pursuant to the Voting Rights Act of 1965, 42 U.S.C. §§ 1971 and 1973 et seq., and any amendments thereto;

(c) Required to comply with subsection 2 of NRS 293.205;

(d) Required by the incorporation of a new city; or

(e) Required by the creation of or change in the boundaries of a special district.

➥ As used in this subsection, "special district" means any general improvement district or any other quasi-municipal corporation organized under the local improvement and service district laws of this State as enumerated in title 25 of NRS which is required by law to hold elections or any fire protection district which is required by law to hold elections.

2. If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

3. A new election precinct may be established at any time if it lies entirely within the boundaries of any existing precinct.

4. If a change in the boundaries of an election precinct is made pursuant to this section during the time specified in subsection 1, the county clerk must:

(a) Within 15 days after the change to the boundary of a precinct is established by the county clerk or ordered by a court, send to the Director of the Legislative Counsel Bureau and the Secretary of State a copy or electronic file of a map showing the new boundaries of the precinct; and

(b) Maintain in his office an index providing the name of the precinct and describing all changes which were made, including any change in the name of the precinct and the name of any new precinct created within the boundaries of an existing precinct.

5. Cities of population categories two and three are exempt from the provisions of subsection 1.

6. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 13. ~~[NRS 293.260 is hereby amended to read as follows:~~

~~293.260 1. Where there is no contest of election for nomination to a particular office, neither the title of the office nor the name of the candidate may appear on the ballot.~~

~~2. If more than one major political party has candidates for a particular office, the persons who receive the highest number of votes at the primary elections must be declared the nominees of those parties for the office.~~

~~3. [If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office or an independent candidate has filed for the office, the candidate who receives the highest number of votes in the primary election of the major political party must be declared the nominee of that party and his name must be placed on the general election ballot with the name of the nominee of the minor political party for the office and the name of the independent candidate who has filed for the office.~~

~~4.] If only one major political party has candidates for a particular office : [and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office:]~~

~~(a) If there are more candidates than twice the number to be elected to the office, the names of the candidates must appear on the ballot for a primary election. Except as otherwise provided in this paragraph, the candidates of that party who receive the highest number of votes in the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the nominee for that office and his name must be placed on the ballot for the general election.~~

~~(b) If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.~~

~~[~~5.~~]~~ ~~*4.* Where no more than the number of candidates to be elected have filed for nomination for:~~

~~(a) Any partisan office or the office of justice of the Supreme Court, the names of those candidates must be omitted from all ballots for a primary election and placed on all ballots for a general election;~~

~~(b) Any nonpartisan office, other than the office of justice of the Supreme Court or the office of member of a town advisory board, the names of those candidates must appear on the ballot for a primary election unless the candidates were nominated pursuant to subsection 2 of NRS 293.165. If a candidate receives one or more votes at the primary election, he must be declared elected to the office and his name must not be placed on the ballot for the general election. If a candidate does not receive one or more votes at the primary election, his name must be placed on the ballot for the general election; and~~

~~(c) The office of member of a town advisory board, the candidate must be declared elected to the office and no election must be held for that office.~~

~~[~~6.~~]~~ ~~*5.* If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election. Those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.~~]~~ **(Deleted by amendment.)**

Sec. 14. NRS 293.368 is hereby amended to read as follows:

293.368 1. Whenever a candidate whose name appears upon the ballot at a primary election dies after 5 p.m. of the second Tuesday in ~~[June,]~~ ***April,*** his name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, he shall be deemed nominated and ~~[there shall be a]~~ ***the*** vacancy in the nomination ~~[that]~~ must be filled as provided in NRS 293.165 or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.

3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on the first Tuesday after the primary election, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, he shall be deemed elected and the office to which he was elected shall be deemed vacant at the beginning of

the term for which he was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 15. NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection 2, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Except as otherwise provided in NRS 295.121 or 295.217, arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in ~~[~~May~~]~~ ***March*** preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a

bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

2. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

3. A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county or city clerks within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.

4. A county or city clerk:

(a) Shall assign a unique identification number to a question submitted pursuant to this section; and

(b) May charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and description of the anticipated financial effect on the ballot.

Sec. 16. NRS 293.5235 is hereby amended to read as follows:

293.5235 1. Except as otherwise provided in NRS 293.502, a person may register to vote by mailing an application to register to vote to the county clerk of the county in which he resides. The county clerk shall, upon request, mail an application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to register to vote may be used to correct information in the registrar of voters' register.

2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is personally delivered to the county clerk shall be deemed to have been returned by mail.

3. The applicant must complete the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 10 and signing the application.

4. The county clerk shall, upon receipt of an application, determine whether the application is complete.

5. If he determines that the application is complete, he shall, within 10 days after he receives the application, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

6. Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, he shall, as soon as possible, mail a notice to the applicant informing him that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after he receives the information, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

➥ If the applicant does not provide the additional information within the prescribed period, the application is void.

7. The applicant shall be deemed to be registered or to have corrected the information in the register ~~[.~~

~~(a) If the application is received by the county clerk or postmarked not more than 3 working days after the applicant completed the application, on the date the applicant completed the application; or~~

~~(b) If the application is received by the county clerk or postmarked more than 3 working days after the applicant completed the application, on the date the application is received by the county clerk.]~~ ***on the date the application is postmarked or received by the county clerk, whichever is earlier.***

8. If the applicant fails to check the box described in paragraph (b) of subsection 10, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at his assigned polling place.

9. The Secretary of State shall prescribe the form for an application to register to vote by mail which must be used to register to vote by mail in this State.

10. The application to register to vote by mail must include:

(a) A notice in at least 10-point type which states:

NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.

(b) The question, "Are you a citizen of the United States?" and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.

(c) The question, "Will you be at least 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.

(d) A statement instructing the applicant not to complete the application if the applicant checked "no" in response to the question set forth in paragraph (b) or (c).

(e) A statement informing the applicant that if the application is submitted by mail and the applicant is registering to vote for the first time, the applicant must submit the information set forth in paragraph (a) of subsection 2 of NRS 293.2725 to avoid the requirements of subsection 1 of NRS 293.2725 upon voting for the first time.

11. Except as otherwise provided in subsection 5 of NRS 293.518, the county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.

12. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person's current residence is other than that indicated on his application to register to vote in the manner set forth in NRS 293.530.

13. A person who, by mail, registers to vote pursuant to this section may be assisted in completing the application to register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to provide the information required by this subsection will not result in the application being deemed incomplete.

14. An application to register to vote must be made available to all persons, regardless of political party affiliation.

15. An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.

16. A person who willfully violates any of the provisions of subsection 13, 14 or 15 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

17. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 17. NRS 293B.354 is hereby amended to read as follows:

293B.354 1. The county clerk shall, not later than ~~[June]~~ ***April*** 15 of each year in which a general election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

2. The city clerk shall, not later than January 1 of each year in which a general city election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.

3. Each plan must include:

(a) The location of the central counting place and of each polling place and receiving center;

(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;

(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and

(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 165.

Bill read second time and ordered to third reading.

Senate Bill No. 172.

Bill read second time and ordered to third reading.

Senate Bill No. 228.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 781.

AN ACT relating to dentistry; authorizing the ownership or operation of a dental office or clinic by certain nonprofit corporations and other organizations under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the acts which constitute the practice of dentistry and a list of related acts which may be performed by persons not licensed by the Board of Dental Examiners of Nevada. (NRS 631.215) **Section 4** of this bill revises that list to provide that certain nonprofit corporations and health centers may own and operate dental offices or clinics under certain circumstances.

Section 2 of this bill provides that certain nonprofit corporations and health centers owning and operating dental offices or clinics must employ a licensed dentist as dental director and maintain certain records.

Section 3 of this bill provides that the ownership or operation of a dental office or clinic under certain circumstances does not constitute a violation of law or a cause for disciplinary action under chapter 631 of NRS.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 631 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***An entity that owns or operates a dental office or clinic as described in paragraph (f) of subsection 2 of NRS 631.215 must:***

1. Designate an actively licensed dentist as the dental director of the dental office or clinic. The dental director shall have responsibility for the clinical practice of dentistry at the dental office or clinic, including, without limitation:

(a) Diagnosing or treating any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof.

(b) Administering or prescribing such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases.

(c) Determining:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable.

(d) The overall quality of patient care that is rendered or performed in the clinical practice of dentistry.

(e) Supervising dental hygienists, dental assistants and other personnel involved in direct patient care and authorizing procedures performed by the dental hygienists, dental assistants and other personnel in accordance with the standards of supervision established by law or regulations adopted pursuant thereto.

(f) Providing any other specific services that are within the scope of clinical dental practice.

(g) Retaining patient dental records as required by law and regulations adopted by the Board.

(h) Ensuring that each patient receiving services from the dental office or clinic has a dentist of record.

2. Maintain current records of the names of licensed dentists who supervise the clinical activities of dental hygienists, dental assistants or other personnel involved in direct patient care. The records must be available to the Board upon written request.

Sec. 3. ***1. It is not a violation of NRS 631.395 or an act of dishonorable or unprofessional conduct under NRS 631.346 to 631.349, inclusive, for an entity to own or operate a dental office or clinic as described in and operating in compliance with the provisions of paragraph (f) of subsection 2 of NRS 631.215 and section 2 of this act.***

2. It is not a violation of NRS ~~*[631.346]*~~ ***631.3465 for a dentist or a professional entity organized by a dentist pursuant to the provisions of chapter 89 of NRS to contract with an entity described in and operating in compliance with the provisions of paragraph (f) of subsection 2 of NRS 631.215 and section 2 of this act.***

Sec. 4. NRS 631.215 is hereby amended to read as follows:

631.215 1. Any person shall be deemed to be practicing dentistry who:

(a) Uses words or any letters or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;

(b) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;

(c) Diagnoses, professes to diagnose or treats or professes to treat any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof;

(d) Extracts teeth;

(e) Corrects malpositions of the teeth or jaws;

(f) Takes impressions of the teeth, mouth or gums, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(g) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;

(h) Places in the mouth and adjusts or alters artificial teeth;

(i) Does any practice included in the clinical dental curricula of accredited dental colleges or a residency program for those colleges;

(j) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases;

(k) Uses X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(l) Determines:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable; or

(m) Dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(1) Dispensing or using a product that may be purchased over the counter for a person's own use; or

(2) Authorized by the regulations of the Board to engage in such activities without being a licensed dentist.

2. Nothing in this section:

(a) Prevents a dental assistant, dental hygienist or qualified technician from making radiograms or X-ray exposures or using X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes upon the direction of a licensed dentist.

(b) Prohibits the performance of mechanical work, on inanimate objects only, by any person employed in or operating a dental laboratory upon the written work authorization of a licensed dentist.

(c) Prevents students from performing dental procedures that are part of the curricula of an accredited dental school or college or an accredited school of dental hygiene or an accredited school of dental assisting.

(d) Prevents a licensed dentist or dental hygienist from another state or country from appearing as a clinician for demonstrating certain methods of

technical procedures before a dental society or organization, convention or dental college or an accredited school of dental hygiene or an accredited school of dental assisting.

(e) Prohibits the manufacturing of artificial teeth upon receipt of a written authorization from a licensed dentist if the manufacturing does not require direct contact with the patient.

(f) Prohibits the following entities from owning or operating a dental office or clinic if the entity complies with the provisions of section 2 of this act:

(1) A nonprofit corporation organized pursuant to the provisions of chapter 82 of NRS to provide dental services to rural areas and medically underserved populations of migrant or homeless persons or persons in rural communities pursuant to the provisions of 42 U.S.C. § 254b or 254c.

(2) A federally-qualified health center as defined in 42 U.S.C. § 1396d(l)(2)(B) operating in compliance with other applicable state and federal law.

(3) A nonprofit charitable corporation as described in section 501(c)(3) of the Internal Revenue Code and determined by the Board to be providing dental services by volunteer licensed dentists at no charge or at a substantially reduced charge to populations with limited access to dental care.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 265.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 782.

AN ACT relating to the Private Investigator's Licensing Board; revising provisions relating to licenses and registrations issued by the Board; revising provisions governing local regulation of such licensees and registrants; removing certain requirements for security guards and certain exemptions for counties whose population is less than 100,000; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a person who holds a license issued by the Private Investigator's Licensing Board to hire unlicensed employees if they hold a work card issued by the local sheriff. (NRS 648.060) **Sections 4-6, 8 and 9** of this bill remove the requirement of obtaining a work card from the local sheriff and instead require an unlicensed employee to be registered with the Board. (NRS 648.060, 648.085, 648.140, 648.158, 648.203) **Section 3** of this bill establishes the process and requirements for an application for registration. **Section 2** of this bill requires the Board to issue a provisional

registration while the application process is pending. **Section 10** of this bill deems any person with an active work card issued before January 1, 2010, to be registered until the work card expires or until January 1, 2015, whichever is earlier.

Section 6 of this bill also removes the authority of certain local governments to regulate certain matters relating to licensees and registrants under chapter 648 of NRS.

Section 9 of this bill also removes: (1) the requirement that a security guard obtain a work card from the applicable sheriff; and (2) the exemption from certain requirements of chapter 648 of NRS for counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties).

Sections 2 and 9 of this bill allow the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to issue a provisional registration or to receive a set of fingerprints from an applicant as a part of the registration process.

Section 3.5 of this bill exempts certified public accountants and commercial registered agents from the requirements of chapter 648 of NRS in the performance of certain duties relating to their professions.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 648 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. The Board or the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to perform such services shall, upon completion and review by the Board or sheriff of a record of criminal history for the applicant pursuant to NRS 179A.070, issue a provisional registration to an applicant who:***

(a) Submits a completed application for registration in compliance with section 3 of this act; and

(b) Meets the requirements for registration as adopted by the Board by regulation.

2. A provisional registration issued to an applicant by the Board or sheriff expires automatically:

(a) If the Board denies the applicant's application;

(b) Upon the issuance of a registration to the applicant; or

(c) If the applicant's check for the fee for the application for registration is returned for insufficient funds.

3. Except as otherwise provided in this section, a provisional registration expires 90 days after its date of issuance unless an extension is granted by the Executive Director of the Board for good cause.

Sec. 3. ***1. To obtain a registration, a person must:***

(a) Be a natural person;

(b) File a written application for registration with the Board;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Board of not more than $135.

2. An application for registration must include:

(a) A fully completed application for registration as an employee;

(b) A passport size photo;

(c) A completed set of fingerprint cards or a receipt for electronically submitted fingerprints of the applicant submitted as required by the Board; and

(d) Any other information or supporting materials required pursuant to the regulations adopted by the Board or by an order of the Board. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Board shall issue a registration to an applicant if:

(a) The application is verified by the Board and complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Is of good moral character and temperate habits;

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon;

(3) Has not made a false statement of material fact on his application; and

(4) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Board.

4. Upon the issuance of a registration, a pocket card of such size, design and content as may be determined by the Board will be issued without charge to each registered person, and will be evidence that the person is duly registered pursuant to this chapter.

5. A registration issued pursuant to this section and the cards issued pursuant to subsection 4 expire 5 years after the date the registration is issued, unless it is renewed. To renew a registration, the holder of the registration must submit to the Board on or before the date the registration expires:

(a) A fully completed application for renewal of registration as an employee;

(b) A passport size photo;

(c) A completed set of fingerprint cards or a receipt for electronically submitted fingerprints of the applicant submitted as required by the Board;

(d) A renewal fee set by the Board of not more than $135; and

(e) Any other information or supporting materials required pursuant to the regulations adopted by the Board or by an order of the Board. Such information or supporting materials may include, without limitation, other forms of identification of the person.

6. A denial of registration may be appealed to the Board. The Board shall adopt regulations providing for the consideration of such appeals.

Sec. 3.5. **NRS 648.018 is hereby amended to read as follows:**

648.018 Except as to polygraphic examiners and interns, this chapter does not apply:

1. To any detective or officer belonging to the law enforcement agencies of the State of Nevada or the United States, or of any county or city of the State of Nevada, while the detective or officer is engaged in the performance of his official duties.

2. To special police officers appointed by the police department of any city, county, or city and county within the State of Nevada while the officer is engaged in the performance of his official duties.

3. To insurance adjusters and their associate adjusters licensed pursuant to the Nevada Insurance Adjusters Law who are not otherwise engaged in the business of private investigators.

4. To any private investigator, private patrolman, process server, dog handler or security consultant employed by an employer regularly in connection with the affairs of that employer if a bona fide employer-employee relationship exists, except as otherwise provided in NRS 648.060, 648.140 and 648.203.

5. To a repossessor employed exclusively by one employer regularly in connection with the affairs of that employer if a bona fide employer-employee relationship exists, except as otherwise provided in NRS 648.060, 648.140 and 648.203.

6. To a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

7. To a charitable philanthropic society or association incorporated under the laws of this State which is organized and maintained for the public good and not for private profit.

8. To an attorney at law in performing his duties as such.

9. To a collection agency unless engaged in business as a repossessor, licensed by the Commissioner of Financial Institutions, or an employee thereof while acting within the scope of his employment while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his assets and of property which the client has an interest in or lien upon.

10. To admitted insurers and agents and insurance brokers licensed by the State, performing duties in connection with insurance transacted by them.

11. To any bank organized pursuant to the laws of this State or to any national bank engaged in banking in this State.

12. To any person employed to administer a program of supervision for persons who are serving terms of residential confinement.

13. To any commercial registered agent, as defined in NRS 77.040, who obtains copies of, examines or extracts information from public records maintained by any foreign, federal, state or local government, or

any agency or political subdivision of any foreign, federal, state or local government.

14. To any holder of a certificate of certified public accountant issued by the Nevada State Board of Accountancy pursuant to chapter 628 of NRS while performing his duties pursuant to the certificate.

Sec. 4. NRS 648.060 is hereby amended to read as follows:

648.060 1. Except as otherwise provided in NRS 253.220, no person may:

(a) Engage in the business of private investigator, private patrolman, process server, repossessor, dog handler, security consultant, or polygraphic examiner or intern; or

(b) Advertise his business as such, irrespective of the name or title actually used,

➥ unless he is licensed pursuant to this chapter.

2. No person may be employed by a licensee unless the person ~~[holds a work card issued by the sheriff of the county in which the work is to be performed.]~~ ***is registered pursuant to this chapter.*** The provisions of this subsection do not apply to a person licensed pursuant to this chapter.

3. A person licensed pursuant to this chapter may employ only another licensee, or a nonlicensed person who:

(a) Is at least 18 years of age.

(b) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(c) Is of good moral character and temperate habits.

(d) Has not been convicted of a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon.

(e) Is registered pursuant to this chapter.

Sec. 5. NRS 648.085 is hereby amended to read as follows:

648.085 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of a license or ~~[work card]~~ ***registration*** issued pursuant to this chapter shall include the social security number of the applicant in the application submitted to the Board.

(b) A natural person who applies for the issuance or renewal of a license or ~~[work card]~~ ***registration*** issued pursuant to this chapter shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license or ~~[work card;]~~ ***registration;*** or

(b) A separate form prescribed by the Board.

3. A license or ~~[work card]~~ ***registration*** may not be issued or renewed by the Board pursuant to this chapter if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 6. NRS 648.140 is hereby amended to read as follows:

648.140 1. Any license obtained pursuant to the provisions of this chapter gives the licensee or any bona fide employee of the licensee authority to engage in the type of business for which he is licensed in any county or city in the State of Nevada. A county or city shall not enact ordinances regulating persons licensed pursuant to this chapter, except ~~[~~:

~~(a) Ordinances regulating the employer-employee relationship of licensees and their unlicensed employees; and~~

~~(b) General~~] ***general*** business regulations designed to raise revenue or assure compliance with building codes and ordinances or regulations concerning zoning and safety from fire.

2. Except for polygraphic examiners and interns, a licensee may employ, in connection with his business, as many ~~[unlicensed]~~ persons ***registered pursuant to this chapter*** as may be necessary, but at all times every licensee is accountable for the good conduct of every person employed by him in connection with his business. Each licensee shall furnish the Board with the information requested by it concerning all ~~[unlicensed]~~ employees ~~[,]~~ ***registered pursuant to this chapter,*** except clerical personnel, and shall notify the Board within ~~[10]~~ ***3*** days after such employees begin ~~[or terminate]~~ their employment.

~~[3. The Board may by regulation require that a licensee pay registration fees for each of his unlicensed employees, except clerical employees, and impose such terms and conditions in connection with those fees as it deems appropriate. The registration fee must not exceed $10 for each unlicensed employee.~~

~~4. Each licensee shall report quarterly on forms provided by the Board the name of each unlicensed employee employed by him at the time of the report and the name of each unlicensed employee who has left his employ since the date of the last quarterly report. The report required by this subsection is in addition to the reports required by subsection 2.~~]

Sec. 7. NRS 648.144 is hereby amended to read as follows:

648.144 A license issued under the provisions of this chapter and the cards issued pursuant to NRS 648.142 expire on June 30 of each year ~~[.]~~ ***unless they are renewed.*** A licensee desiring a renewal of his license must file an application for renewal on or before June 30 on a form prescribed by the Board which is accompanied by the fee prescribed pursuant to NRS 648.120 and all information required to complete the application for renewal. A renewal license for the next ensuing year must then be issued together with renewal cards for the persons described in subsection 3 of NRS 648.142.

Sec. 8. NRS 648.158 is hereby amended to read as follows:

648.158 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license or ~~[work card]~~ ***registration*** issued pursuant to this chapter, the Board shall deem the license or ~~[work card]~~ ***registration*** issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license or ~~[work card]~~ ***registration*** by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license or ~~[work card]~~ ***registration*** has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license or ~~[work card]~~ ***registration*** issued pursuant to this chapter that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license or ~~[work card]~~ ***registration*** was suspended stating that the person whose license or ~~[work card]~~ ***registration*** was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 9. NRS 648.203 is hereby amended to read as follows:

648.203 1. Except as otherwise provided in ~~[subsection 2 or]~~ NRS 253.220, it is unlawful for a person to ~~[:~~

~~(a) Allow]~~ ***allow*** an employee ~~[, including an independent contractor,]~~ to perform any work regulated pursuant to the provisions of this chapter unless the employee ~~[holds a work card authorizing his work which is issued by the sheriff of the county in which the work is performed.]~~ ***is registered pursuant to this chapter.*** The provisions of this ~~[paragraph]~~ ***subsection*** do not apply to a person licensed pursuant to this chapter.

~~[(b) Work as a security guard unless he holds a work card authorizing his work as a security guard issued in accordance with applicable ordinances by the sheriff of the county in which the work is performed.]~~

2. ~~[The provisions of subsection 1 do not apply in any county whose population is less than 100,000, but this subsection does not prohibit a board of county commissioners from adopting similar restrictions by ordinance.~~

~~3.]~~ The ~~[sheriff of any county in which such restrictions apply]~~ ***Board*** shall require any person applying for ~~[such a work card]~~ ***registration pursuant to this chapter*** to submit a complete set of his fingerprints ***or a***

receipt for electronically submitted fingerprints to the ~~[sheriff]~~ ***Board or to the sheriff of a county whose population is 100,000 or more who has entered into a contract with the Board to perform such services,*** who ~~[may]~~ ***shall*** forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the applicant's criminal history.

Sec. 10. Any person who holds an active work card issued before January 1, 2010, will be deemed to be registered pursuant to chapter 648 of NRS. Notwithstanding the amendatory provisions of this act to the contrary, any such registration pursuant to this section expires on the date that the work card expires or January 1, 2015, whichever is earlier.

Sec. 11. 1. This **section and section 3.5 of this act become effective upon passage and approval.**

2. Sections 1, 2, 3 and 4 to 10, inclusive, of this act ~~[becomes]~~ **become** effective on January 1, 2010.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 266.

Bill read second time and ordered to third reading.

Senate Bill No. 268.

Bill read second time and ordered to third reading.

Senate Bill No. 293.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 712.

JOINT SPONSORS: ASSEMBLYWOMAN MASTROLUCA

SUMMARY— ~~[Establishes procedures for authorizing the administration of certain medication for children in the custody of certain agencies.]~~ **Makes various changes concerning the protection of children.** (BDR 38-701)

AN ACT relating to children; ~~[prescribing procedures for authorizing the administration of]~~ **making various changes to provisions governing the court-ordered admission of a child to a locked facility; requiring a court to provide a hearing to determine whether to include rights to visitation of siblings in a decree of adoption; requiring the development of policies concerning** certain psychotropic medications **given** to children who are in the custody of agencies which provide child welfare services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law sets forth the circumstances under which a child may be removed from the physical custody of his parent or legal guardian and requires agencies which provide child welfare services to carry out certain~~

~~duties relating to the protection of those children. (Chapter 432B of NRS) Section 1 of this bill prescribes procedures for an agency which provides child welfare services to obtain the consent of a parent or guardian of a child in the custody of an agency which provides child welfare services before authorizing the administration of a psychotropic medication to that child. Section 1 also provides that an agency which provides child welfare services may, under certain circumstances, obtain approval of a court of competent jurisdiction if the agency believes that a psychotropic medication must be administered to the child and the parent or legal guardian denies a request for consent.~~

~~Section 2 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to review the policies and procedures relating to the prescription and administration of psychotropic medication to children in the custody of agencies which provide child welfare services in this State and to report its findings to the Legislative Committee on Health Care and the mental health consortiums.~~]

Existing law sets forth the procedure for petitioning a court to order the admission of certain children with emotional disturbances to a locked facility for treatment. (NRS 432B.607-432B.6085) Section 2.5 of this bill clarifies that as used in those provisions, "court-ordered admission of a child" includes a child for whom a petition is filed to continue placement after an emergency admission. Section 2.7 of this bill requires each agency which provides child welfare services to establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. Section 11 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt consistent policies with respect to access to such medication by children in division facilities.

Section 4 of this bill requires a petition for the court-ordered admission of a child with an emotional disturbance into a locked facility to be filed within 5 days after an emergency admission or the child must be released. (NRS 432B.6075) Section 5 of this bill clarifies that the court proceeding for the court-ordered admission of a child who is alleged to be a child with an emotional disturbance must include an evidentiary hearing. (NRS 432B.6076) Section 6 of this bill expands the manner in which a person is allowed to oppose a petition for the court-ordered admission of a child into a locked facility to include an opposition stated verbally in court. (NRS 432B.6077) Section 7 of this bill provides that if a court authorizes a second evaluation team to examine a child who is subject to a court-ordered admission to a locked facility, the second examination must be conducted within 5 business days by a team that is not affiliated with, employed by or otherwise connected to the facility where the child has been admitted. (NRS 432B.6078) Section 8 of this bill requires a court to apply the same standards in considering a petition to

renew a court-ordered admission of a child as were applied to the original petition. (NRS 432B.608) Section 9 of this bill extends the time for developing a plan for the care, treatment and training of a child subject to a court-ordered admission to a locked facility from 5 to 10 days after the child is admitted to the facility, and removes the requirement that the plan include certain criteria which the child must satisfy before discharge. (NRS 432B.6081)

Section 10 of this bill requires a court to conduct a hearing to determine whether to grant visitation rights to a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. Section 11 further requires the agency which provides child welfare services to provide the court that is conducting the adoption proceedings with a copy of any existing order for visitation with a sibling of the child and allows certain interested parties to petition to participate in the determination as to whether to include visitation rights in the adoption decree.

Section 12 of this bill requires the Legislative Committee on Health Care to study issues relating to the use of psychotropic medications by children in the custody of agencies which provide child welfare services.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***1. Except as otherwise provided in this section and NRS 432B.607 to 432B.6085, inclusive, or by order of a court pursuant to chapter 433B of NRS, an agency which provides child welfare services may authorize the administration of a psychotropic medication to a child who is in the custody of the agency if the parent or legal guardian of the child who has the authority to make medical decisions for the child has given consent to the prescription and administration of the psychotropic medication. An agency which provides child welfare services shall provide to the parent or legal guardian of a child before obtaining consent for the administration of a psychotropic medication the following information:***~~

~~***(a) A description of the diagnosis and symptoms for which the psychotropic medication is sought to be prescribed;***~~

~~***(b) An estimate or a range of the dosage and frequency for the administration of the psychotropic medication;***~~

~~***(c) The expected results of the psychotropic medication;***~~

~~***(d) The anticipated consequences of not administering the psychotropic medication to the child; and***~~

~~***(e) A statement of all other medications currently administered to the child, the dosage of each medication and the justification for the continued use of each medication.***~~

~~*2. If the parent or legal guardian of a child does not respond to a request for consent pursuant to subsection 1 to administer a psychotropic medication to a child who is in the custody of an agency which provides child welfare services within 5 days after the request was made, the agency may authorize the administration of a psychotropic medication to the child.*~~

~~*3. If the parent or legal guardian of a child who has the authority to make medical decisions for the child denies a request for consent pursuant to subsection 1, an agency which provides child welfare services may authorize the administration of a psychotropic medication to that child unless:*~~

~~*(a) The child is under 6 years of age; or*~~

~~*(b) The child is being prescribed for more than five psychotropic medications.*~~

~~*4. Notwithstanding the provisions of subsections 1, 2 and 3, if an agency which provides child welfare services believes that a psychotropic medication must be administered to a child, the agency may, on behalf of the child, file a petition with a court of competent jurisdiction for an order authorizing the administration of the psychotropic medication to the child. The petition must include:*~~

~~*(a) The name and age of the child;*~~

~~*(b) A description of the diagnosis and symptoms for which the psychotropic medication is sought to be prescribed;*~~

~~*(c) An estimate or a range of the dosage and frequency for the administration of the psychotropic medication;*~~

~~*(d) The expected results of the psychotropic medication;*~~

~~*(e) A statement of all other medications currently administered to the child, the dosage of each medication and the justification for the continued use of each medication; and*~~

~~*(f) The anticipated consequences of not administering the psychotropic medication to the child.*~~

~~*5. If a petition is filed pursuant to subsection 4, the court shall, within 7 judicial days after receiving the petition:*~~

~~*(a) Approve the petition;*~~

~~*(b) Deny the petition;*~~

~~*(c) Upon request of the parent, legal guardian or attorney of the child, set a time and date for a hearing on the petition; or*~~

~~*(d) If the court determines appropriate, authorize the parent or legal guardian of the child to make a decision concerning the prescription of the psychotropic medications.*~~

~~*6. A foster parent, or other person responsible for the care of a child who is in the custody of an agency which provides child welfare services, other than the parent or legal guardian who has the authority to make medical decisions for the child, who obtains a prescription for a psychotropic medication for the child shall obtain authorization from the agency before administering the medication to the child if the child is:*~~

~~*(a) Under 6 years of age; or*~~

~~*(b) Being prescribed for more than five psychotropic medications.*~~

~~*7. A person who administers a psychotropic medication to a child who is in the custody of an agency which provides child welfare services shall comply with the protocol concerning the use of the medication as indicated by the prescribing physician and, if applicable, the order of a court issued pursuant to subsection 5.*~~

~~*8. A child who is in the custody of an agency which provides child welfare services who is admitted to a public or private mental health facility under conditions of an emergency may be prescribed and administered a psychotropic medication, and such medication is not subject to review pursuant to the provisions of this section for 21 days after the child is admitted. Within 21 days after a child is admitted to a mental health facility under conditions of an emergency, the agency which provides child welfare shall:*~~

~~*(a) Authorize the continued administration of the medication in accordance with the provisions of subsections 1, 2 and 3; or*~~

~~*(b) If appropriate, file a petition on behalf of the child pursuant to subsection 4 to continue the administration of a psychotropic medication.*~~

~~*9. A child who is prescribed a psychotropic medication before the child enters the custody of an agency which provides child welfare services shall continue to take such medication and such medication is not subject to review pursuant to the provisions of this section. The provisions of this subsection do not apply to any changes in the prescription or additional prescriptions given to the child after he enters the custody of the agency which provides child welfare services.*~~

~~*10. The Division, in consultation with an agency which provides child welfare services located in a county whose population is 100,000 or more, shall adopt regulations to carry out the provisions of this section.*~~

~~*11. As used in this section, "psychotropic medication" means any medication which affects the central nervous system to treat psychiatric disorders or illness, including, without limitation, antipsychotic medications, mood stabilizers, antidepressants, antipanic agents, antiobsessive agents, antianxiety agents and psychostimulants.]*~~ **(Deleted by amendment.)**

Sec. 2. ~~[1. The Division of Child and Family Services of the Department of Health and Human Services, in consultation with agencies which provide child welfare services, officers and employees of the district courts in this State and mental health professionals who provide services to children shall review the policies and procedures relating to the prescription and administration of psychotropic medications to children in the custody of agencies which provide child welfare services in this State.~~

~~2. On or before July 1, 2010, the Division of Child and Family Services shall submit a report relating to the review conducted pursuant to subsection~~

~~1, the regulations adopted pursuant to section 1 of this act and any recommendations for legislation to:~~

~~(a) The Legislative Committee on Health Care; and~~

~~(b) Each mental health consortium established pursuant to NRS 433B.333.]~~ **(Deleted by amendment.)**

Sec. 2.3. **Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5 and 2.7 of this act.**

Sec. 2.5. ***"Court-ordered admission of a child" includes, without limitation:***

1. A child who is in the custody of an agency which provides child welfare services and who is not in a facility whom the court orders to be admitted to a facility; and

2. A child who has been placed in a facility under an emergency admission and whom the court orders to be admitted for the purpose of continuing the placement.

Sec. 2.7. ***Each agency which provides child welfare services shall establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. The policies must include, without limitation, policies concerning:***

1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

3. The concurrent use by a child of three or more classes of psychotropic medication; and

4. The concurrent use by a child of two psychotropic medications of the same class.

Sec. 3. **NRS 432B.607 is hereby amended to read as follows:**

432B.607 As used in NRS 432B.607 to 432B.6085, inclusive, ***and section 2.5 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 432B.6071 to 432B.6074, inclusive, ***and section 2.5 of this act*** have the meanings ascribed to them in those sections.

Sec. 4. **NRS 432B.6075 is hereby amended to read as follows:**

432B.6075 ***1.*** A proceeding for a court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility may be commenced by the filing of a petition with the clerk of the court which has jurisdiction in proceedings concerning the child. The petition may be filed by the agency which provides child welfare services without the consent of a parent of the child. The petition must be accompanied:

~~[1.]~~ ***(a)*** By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the child alleged to be a child with an emotional disturbance and has concluded that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; or

~~[2.]~~ ***(b)*** By a sworn written statement by the petitioner that:

~~[(a)]~~ ***(1)*** The petitioner has, based upon his personal observation of the child alleged to be a child with an emotional disturbance, probable cause to believe that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; and

~~[(b)]~~ ***(2)*** The child alleged to be a child with an emotional disturbance has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. If a petition filed pursuant to this section is to continue the placement of the child after an emergency admission, the petition must be filed not later than 5 days after the emergency admission or the child must be released.

Sec. 5. **NRS 432B.6076 is hereby amended to read as follows:**

432B.6076 1. Except as otherwise provided in NRS 432B.6077, if the court finds, after proceedings for the court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility ~~[.]~~ ***, including, without limitation, an evidentiary hearing:***

(a) That there is not clear and convincing evidence that the child with respect to whom the hearing was held exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the child must not be admitted to a facility.

(b) That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the admission, the child is unconditionally released from the facility pursuant to NRS 432B.6084.

2. Before issuing an order for admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the child, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the child.

Sec. 6. **NRS 432B.6077 is hereby amended to read as follows:**

432B.6077 1. An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has petitioned the court for

the court-ordered admission of the child to a facility pursuant to NRS 432B.6075.

2. If a petition for the court-ordered admission of a child filed pursuant to NRS 432B.6075 is accompanied by the information described in ***paragraph (b) of*** subsection ~~[2]~~ ***1*** of NRS 432B.6075, the court shall order a psychological evaluation of the child.

3. If a court which receives a petition filed pursuant to NRS 432B.6075 for the court-ordered admission to a facility of a child who is in the custody of an agency which provides child welfare services determines pursuant to subsection 2 of NRS 432B.6076 that the child could be treated effectively in a less restrictive appropriate environment than a facility, the court must order the placement of the child in a less restrictive appropriate environment. In making such a determination, the court may consider any information provided to the court, including, without limitation:

(a) Any information provided pursuant to subsection 4;

(b) Any suggestions of psychologists, psychiatrists or other physicians who have evaluated the child concerning the appropriate environment for the child; and

(c) Any suggestions of licensed clinical social workers or other professionals or any adult caretakers who have interacted with the child and have information concerning the appropriate environment for the child.

4. If a petition for the court-ordered admission of a child who is in the custody of an agency which provides child welfare services is filed pursuant to NRS 432B.6075:

(a) Any person, including, without limitation, the child, may oppose the petition for the court-ordered admission of the child by filing a written opposition with the court ~~[.]~~ ***or stating the opposition in court;*** and

(b) The agency which provides child welfare services must present information to the court concerning whether:

(1) A facility is the appropriate environment to provide treatment to the child; or

(2) A less restrictive appropriate environment would serve the needs of the child.

Sec. 7. **NRS 432B.6078 is hereby amended to read as follows:**

432B.6078 1. Not later than 5 days after a child who is in the custody of an agency which provides child welfare services has been admitted to a facility pursuant to NRS 432B.6076, the agency which provides child welfare services shall inform the child of his legal rights and the provisions of NRS 432B.607 to 432B.6085, inclusive, ***and section 2.5 of this act,*** 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and, if the child or the child's attorney desires, assist the child in requesting the court to authorize a second examination by an evaluation team that includes a physician, psychiatrist or licensed psychologist ***who are not employed by, connected to or otherwise affiliated with the facility*** other than a physician, psychiatrist or licensed psychologist

who performed an original examination which authorized the court to order the admission of the child to the facility. ***A second examination must be conducted not later than 5 business days after the court authorizes the examination.***

2. If the court authorizes a second examination of the child, the examination must:

(a) Include, without limitation, an evaluation concerning whether the child should remain in the facility and a recommendation concerning the appropriate placement of the child which must be provided to the facility; and

(b) Be paid for by the governmental entity that is responsible for the agency which provides child welfare services, if such payment is not otherwise provided by the State Plan for Medicaid.

Sec. 8. **NRS 432B.608 is hereby amended to read as follows:**

432B.608 1. If the court issues an order for the admission to a facility of a child who is in the custody of an agency which provides child welfare services pursuant to NRS 432B.6076, the admission automatically expires at the end of 90 days if not terminated previously by the facility as provided for in subsection 2 of NRS 432B.6084.

2. At the end of the court-ordered period of treatment, the agency which provides child welfare services, the Division of Child and Family Services or any facility may petition to renew the admission of the child for additional periods not to exceed 60 days each.

3. For each renewal, the petition must set forth the specific reasons why further treatment in the facility would be in the best interests of the child ~~[.]~~ ***and the court shall apply the same standards when considering a petition to renew the admission of the child as were applied for the original petition for the court-ordered admission of the child.***

Sec. 9. **NRS 432B.6081 is hereby amended to read as follows:**

432B.6081 A facility which provides care, treatment or training to a child who is in the custody of an agency which provides child welfare services and who is admitted to the facility pursuant to NRS 432B.6076 shall develop a plan, in consultation with the child, for the continued care, treatment and training of the child upon discharge from the facility. The plan must:

1. Be developed not later than ~~[5]~~ ***10*** days after the child is admitted to the facility;

2. Be submitted to the court after each period of admission ordered by the court pursuant to NRS 432B.6076 in the manner set forth in NRS 432B.608; and

3. Include, without limitation:

(a) The anticipated date of discharge of the child from the facility;

(b) ~~[The criteria which must be satisfied before the child is discharged from the facility, as determined by the medical professional responsible for the care, treatment and training of the child in the facility;~~

~~(c)~~ The name of any psychiatrist or psychologist who will provide care, treatment or training to the child after the child is discharged from the facility, if appropriate;

~~[(d)]~~ ***(c)*** A plan for any appropriate care, treatment or training for the child for at least 30 days after the child is discharged from the facility; and

~~[(e)]~~ ***(d)*** The suggested placement of the child after the child is discharged from the facility.

Sec. 10. **Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.

2. Any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency may petition the court to participate in the determination of whether to include an order of visitation with a sibling in the decree of adoption.

3. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child.

Sec. 11. **NRS 433B.130 is hereby amended to read as follows:**

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children. The Commission must approve the credentials, training and experience of deputy administrators and administrative officers appointed for this purpose.

(c) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

(d) Establish appropriate policies to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the policies established pursuant to section 2.7 of this act.

2. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Governor.

3. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

4. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

Sec. 12. **During the 2009-2011 interim, the Legislative Committee on Health Care shall study the policies adopted pursuant to section 2.7 of this act and NRS 433B.130, as amended by section 11 of this act, and the use of psychotropic medication by children in the custody of agencies which provide child welfare services, including, without limitation, children in the custody of a facility operated by the Division of Child and Family Services of the Department of Health and Human Services. The study must include, without limitation, issues concerning:**

1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

3. The concurrent use by a child of three or more classes of psychotropic medication;

4. Whether children in the custody of agencies which provide child welfare services have timely access to clinically appropriate psychotropic medication; and

5. The concurrent use by a child of two psychotropic medications of the same class.

Sec. 13. **This act becomes effective on July 1, 2009.**

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 361.

Bill read second time and ordered to third reading.

Senate Bill No. 362.

Bill read second time and ordered to third reading.

Senate Bill No. 363.

Bill read second time and ordered to third reading.

Senate Bill No. 365.

Bill read second time and ordered to third reading.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 552, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 552.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 831.

SUMMARY— ~~[Increases fee charged by State for collecting local sales and use taxes.]~~ **Makes various changes regarding certain tax collection allowances and the payment of certain taxes to the State.** (BDR 32-1188)

AN ACT relating to taxation; increasing the fee charged by the State for collecting **certain** local sales and use taxes; **establishing the required time for payment to the State of certain proceeds from taxes on revenue from the rental of transient lodging; making permanent a temporary reduction in various allowances for the collection of sales and use taxes and taxes on intoxicating liquor, cigarettes and other tobacco products;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Controller to transfer ~~[.75]~~ **0.75** percent of ~~[all]~~ **certain** local sales and use taxes collected during the preceding month in each county and from out-of-state businesses to the appropriate account in the State General Fund as compensation to the State for the costs of collecting these taxes. (NRS 374.785) This bill increases the compensation rate **for local sales and use taxes, other than the Local School Support Tax,** to 1.75 percent.

Existing law provides that the collection allowance applicable to taxes on intoxicating liquor, cigarettes and other products made from tobacco, and sales and use taxes will increase from 0.25 percent to 0.5 percent on July 1, 2009. (Chapter 4, Statutes of Nevada 2008, 25th Special Session, pp. 18-20 and 23) Section 18 of this bill repeals the provision effecting this change, thereby maintaining the collection allowance at the rate of 0.25 percent.

Existing law requires the imposition of certain taxes on revenue from the rental of transient lodging in each county and incorporated city in this State, and the payment of all or part of the proceeds of those taxes to the State. (§§ 3, 4 and 6 of I.P. 1; NRS 244.3352, 244.3354, 268.096, 268.0962) Sections 4 and 17 of this bill require the payment of those proceeds to the State on or before the last day of the month immediately following the month for which those proceeds are collected.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 374.785 is hereby amended to read as follows:~~

~~374.785 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to counties under this chapter must be paid to the Department in the form of remittances payable to the Department.~~

~~2. The Department shall deposit the payments in the State Treasury to the credit of the Sales and Use Tax Account in the State General Fund.~~

~~3. The State Controller, acting upon the collection data furnished by the Department, shall, each month, from the Sales and Use Tax Account in the State General Fund:~~

~~(a) Transfer [.75] *1.75* percent of all fees, taxes, interest and penalties collected in each county during the preceding month to the appropriate account in the State General Fund as compensation to the State for the costs of collecting the tax.~~

~~(b) Transfer [.75] *1.75* percent of all fees, taxes, interest and penalties collected during the preceding month from out-of-state businesses not maintaining a fixed place of business within this State to the appropriate account in the State General Fund as compensation to the State for the costs of collecting the tax.~~

~~(c) Determine for each county the amount of money equal to the fees, taxes, interest and penalties collected in the county pursuant to this chapter during the preceding month less the amount transferred pursuant to paragraph (a).~~

~~(d) Transfer the total amount of taxes collected pursuant to this chapter during the preceding month from out-of-state businesses not maintaining a fixed place of business within this State, less the amount transferred pursuant to paragraph (b) and excluding any amounts required to be remitted pursuant to NRS 360.850 and 360.855, to the State Distributive School Account in the State General Fund.~~

~~(e) Except as otherwise provided in NRS 387.528 or as required to carry out NRS 360.850 and 360.855, transfer the amount owed to each county to the Intergovernmental Fund and remit the money to the credit of the county school district fund.]~~ **(Deleted by amendment.)**

Sec. 2. **NRS 360.850 is hereby amended to read as follows:**

360.850 1. The State Controller, acting upon the collection data furnished by the Department, shall remit to the governing body of a municipality that adopts an assessment ordinance in accordance with NRS 271.650 in the manner provided pursuant to an agreement made pursuant to NRS 271.660:

(a) From the State General Fund, the amount of money pledged pursuant to the ordinance in accordance with paragraph (a) of subsection 1 of NRS 271.650 which amount is hereby appropriated for that purpose; and

(b) From the Sales and Use Tax Account in the State General Fund, the amount of the proceeds pledged pursuant to the ordinance in accordance with ~~[~~paragraph (b)~~]~~ ***paragraphs (b) and (c)*** of subsection 1 of NRS 271.650.

2. The governing body of a municipality that adopts an assessment ordinance in accordance with NRS 271.650 shall promptly remit to the State Controller any amount received pursuant to this section in excess of the amount required to carry out the provisions of NRS 271.4315 with regard to the project for which the assessment ordinance was adopted. The State Controller shall deposit any money received from a governing body of a municipality pursuant to this subsection in the appropriate account in the State General Fund for distribution and use as if the money had not been pledged pursuant to an assessment ordinance adopted in accordance with NRS 271.650 in the following order of priority:

(a) First, to the credit of the county school district fund for the county in which the improvement district is located to the extent that the money would have been transferred to that fund, if not for the pledge of the money pursuant to the assessment ordinance, pursuant to paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in which the State Controller receives the money;

(b) Second, to the State General Fund to the extent that the money would not have been appropriated, if not for the pledge of the money pursuant to the assessment ordinance, pursuant to paragraph (a) of subsection 1 for the fiscal year in which the State Controller receives the money; and

(c) Third, to the credit of any other funds and accounts to which the money would have been distributed, if not for the pledge of the money pursuant to the assessment ordinance, for the fiscal year in which the State Controller receives the money.

3. The Nevada Tax Commission may adopt such regulations as it deems appropriate to ensure the proper collection and distribution of any money pledged pursuant to an assessment ordinance adopted in accordance with NRS 271.650.

Sec. 3. **NRS 360.855 is hereby amended to read as follows:**

360.855 1. The State Controller, acting upon the collection data furnished by the Department, shall remit to the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070, in the manner provided pursuant to an agreement made pursuant to NRS 271A.100:

(a) From the State General Fund the amount of money pledged pursuant to the ordinance in accordance with subparagraph (1) of paragraph (c) of subsection 1 of NRS 271A.070, which amount is hereby appropriated for that purpose; and

(b) From the Sales and Use Tax Account in the State General Fund the amount of the proceeds pledged pursuant to the ordinance in accordance with ~~[~~subparagraph (2)~~]~~ ***subparagraphs (2) and (3)*** of paragraph (c) of subsection 1 of NRS 271A.070.

2. Except as otherwise provided in subsection 3, the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070 shall at the end of each fiscal year remit to the State Controller any amount received pursuant to this section in excess of the amount required to make payments due during that fiscal year of the principal of, interest on, and other payments or security-related costs with respect to, any bonds or notes issued pursuant to NRS 271A.120 and payments due during that fiscal year under any agreements made pursuant to NRS 271A.120. The State Controller shall deposit any money received from a governing body of a municipality pursuant to this subsection in the appropriate account in the State General Fund for distribution and use as if the money had not been pledged by an ordinance adopted pursuant to NRS 271A.070, in the following order of priority:

(a) First, to the credit of the county school district fund for the county in which the improvement district is located to the extent that the money would have been transferred to that fund, if not for the pledge of the money pursuant to that ordinance, pursuant to paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in which the State Controller receives the money;

(b) Second, to the State General Fund to the extent that the money would not have been appropriated, if not for the pledge of the money pursuant to that ordinance, pursuant to paragraph (a) of subsection 1 for the fiscal year in which the State Controller receives the money; and

(c) Third, to the credit of any other funds and accounts to which the money would have been distributed, if not for the pledge of the money pursuant to that ordinance, for the fiscal year in which the State Controller receives the money.

3. The provisions of subsection 2 do not require a governing body to remit to the State Controller any money received pursuant to this section and expended for the purpose of prepaying, defeasing or otherwise retiring all or a portion of any bonds or notes issued pursuant to NRS 271A.120 or of prepaying amounts due under any agreements entered into pursuant to NRS 271A.120, or any combination thereof, with respect to a tourism improvement district if that use of the money has been:

(a) Authorized by the governing body in the ordinance creating the district pursuant to NRS 271A.070, or in an amendment thereto; and

(b) Approved by the governing body, Commission on Tourism and Governor in the manner required to satisfy the requirements of subsections 6, 7 and 8 of NRS 271A.080,

➥ and after the provision of notice to and an opportunity to make comments by the board of trustees of the school district in which the tourism improvement district is located in accordance with subsection 4 of NRS 271A.080 and, if applicable, by the board of county commissioners of the county in which the tourism improvement district is located in accordance with subsection 5 of NRS 271A.080.

4. The Nevada Tax Commission may adopt such regulations as it deems appropriate to ensure the proper collection and distribution of any money pledged by an ordinance adopted pursuant to NRS 271A.070.

Sec. 4. **Chapter 364 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A board of county commissioners that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of NRS 244.3352 shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to paragraph (a) of subsection 1 of NRS 244.3354 or paragraph (a) of subsection 2 of NRS 244.3354 to the Department of Taxation on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

2. A board of county commissioners that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of section 3 of Initiative Petition No. 1 of this session shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to section 4 of Initiative Petition No. 1 of this session to the State Treasurer on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

3. The city council or other governing body of an incorporated city that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of NRS 268.096 shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to paragraph (a) of subsection 1 of NRS 268.0962 or paragraph (a) of subsection 2 of NRS 268.0962 to the Department of Taxation on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

Sec. 5. **Chapter 374A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected pursuant to this chapter during the preceding month to the appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this chapter during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county school district fund.

Sec. 6. **NRS 374A.020 is hereby amended to read as follows:**

374A.020 1. The collection of the tax imposed by NRS 374A.010 must be commenced on the first day of the first calendar quarter that begins at least 120 days after the last condition in subsection 1 of NRS 374A.010 is met.

2. ~~[The]~~ ***Except as otherwise provided in section 5 of this act, the*** tax must be administered, collected and distributed in the manner set forth in chapter 374 of NRS.

3. The board of trustees of the school district shall transfer the proceeds of the tax imposed by NRS 374A.010 from the county school district fund to the fund described in NRS 354.6105 which must be established by the board of trustees. The money deposited in the fund described in NRS 354.6105 pursuant to this subsection must be accounted for separately in that fund and must only be expended by the board of trustees for the cost of the extraordinary maintenance, extraordinary repair and extraordinary improvement of school facilities within the county.

Sec. 7. **NRS 376A.040 is hereby amended to read as follows:**

376A.040 1. In addition to all other taxes imposed on the revenues from retail sales, a board of county commissioners of a county whose population is less than 400,000 may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county, after receiving the approval of a majority of the registered voters of the county voting on the question at a primary, general or special election. The question may be combined with questions submitted pursuant to NRS 376A.050 or 376A.070, or both.

2. If a county imposes a sales tax pursuant to this section and NRS 376A.050, the combined additional sales tax must not exceed one-quarter of 1 percent. A tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. Before the election may occur, an open-space plan must be adopted by the board of county commissioners pursuant to NRS 376A.020 and the adopted open-space plan must be endorsed by resolution by the city council of each incorporated city within the county.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

5. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall ~~[transfer]~~ monthly ***:***

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month to the ***appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.***

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

~~[5.]~~ ***6.*** The money received from the tax imposed pursuant to subsection ~~[4]~~ ***5*** must be retained by the county, or remitted to a city or general improvement district in the county. The money received by a county, city or general improvement district pursuant to this section must only be used to pay the cost of:

(a) The acquisition of land in fee simple for development and use as open-space land;

(b) The acquisition of the development rights of land identified as open-space land;

(c) The creation of a trust fund for the acquisition of land or development rights of land pursuant to paragraphs (a) and (b);

(d) The principal and interest on notes, bonds or other obligations issued by the county, city or general improvement district for the acquisition of land or development rights of land pursuant to paragraphs (a) and (b); or

(e) Any combination of the uses set forth in paragraphs (a) to (d), inclusive.

~~[6.]~~ ***7.*** The money received from the tax imposed pursuant to this section and any applicable penalty or interest must not be used for any neighborhood or community park or facility.

~~[7.]~~ ***8.*** Any money used for the purposes described in this section must be used in a manner:

(a) That is consistent with the provisions of the open-space plan adopted pursuant to NRS 376A.020; and

(b) That provides an equitable allocation of the money among the county and the incorporated cities within the county.

Sec. 8. **NRS 376A.040 is hereby amended to read as follows:**

376A.040 1. In addition to all other taxes imposed on the revenues from retail sales, a board of county commissioners of a county whose population is 100,000 or more but less than 400,000, may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county, after receiving the approval of a majority of the registered voters of the county voting on the question at a primary, general or special election. The question may be combined with questions submitted pursuant to NRS 376A.050 or 376A.070, or both.

2. If a county imposes a sales tax pursuant to this section and NRS 376A.050, the combined additional sales tax must not exceed one-quarter of 1 percent. A tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. Before the election may occur, an open-space plan must be adopted by the board of county commissioners pursuant to NRS 376A.020 and the adopted open-space plan must be endorsed by resolution by the city council of each incorporated city within the county.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

5. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall ~~[transfer]~~ monthly ***:***

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month to the ***appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.***

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

~~[5.]~~ ***6.*** The money received from the tax imposed pursuant to subsection ~~[4]~~ ***5*** must be retained by the county, or remitted to a city or general improvement district in the county. The money received by a county, city or general improvement district pursuant to this section must only be used to pay the cost of:

(a) The acquisition of land in fee simple for development and use as open-space land;

(b) The acquisition of the development rights of land identified as open-space land;

(c) The creation of a trust fund for the acquisition of land or development rights of land pursuant to paragraphs (a) and (b);

(d) The principal and interest on notes, bonds or other obligations issued by the county, city or general improvement district for the acquisition of land or development rights of land pursuant to paragraphs (a) and (b); or

(e) Any combination of the uses set forth in paragraphs (a) to (d), inclusive.

~~[6.]~~ ***7.*** The money received from the tax imposed pursuant to this section and any applicable penalty or interest must not be used for any neighborhood or community park or facility.

~~[7.]~~ ***8.*** Any money used for the purposes described in this section must be used in a manner:

(a) That is consistent with the provisions of the open-space plan adopted pursuant to NRS 376A.020; and

(b) That provides an equitable allocation of the money among the county and the incorporated cities within the county.

Sec. 9. **NRS 376A.050 is hereby amended to read as follows:**

376A.050 1. Except as otherwise provided in subsection 2, in addition to all other taxes imposed on the revenues from retail sales, a board of county commissioners in each county whose population is less than 400,000 may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county, after receiving the approval of a majority of the registered voters of the county voting on the question at a primary, general or special election. The question may be combined with questions submitted pursuant to NRS 376A.040 or 376A.070, or both.

2. If a county imposes a sales tax pursuant to this section and NRS 376A.040, the combined additional sales tax must not exceed one-quarter of 1 percent. A tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. Before the election occurs, an open-space plan must be adopted by the board of county commissioners pursuant to NRS 376A.020 and the adopted open-space plan must be endorsed by resolution by the city council of each incorporated city in the county.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

5. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall ~~[transfer]~~ monthly ***:***

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month to the ***appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.***

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

Sec. 10. **NRS 376A.050 is hereby amended to read as follows:**

376A.050 1. Except as otherwise provided in subsection 2, in addition to all other taxes imposed on the revenues from retail sales, a board of county commissioners in each county whose population is 100,000 or more but less than 400,000, may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county, after receiving the approval of a majority of the registered voters of the county voting on the question at a primary, general or special election. The question may be combined with questions submitted pursuant to NRS 376A.040 or 376A.070, or both.

2. If a county imposes a sales tax pursuant to this section and NRS 376A.040, the combined additional sales tax must not exceed one-quarter of 1 percent. A tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. Before the election occurs, an open-space plan must be adopted by the board of county commissioners pursuant to NRS 376A.020 and the adopted open-space plan must be endorsed by resolution by the city council of each incorporated city in the county.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall ~~[transfer]~~ monthly ***:***

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month to the ***appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.***

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this

section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

Sec. 11. **NRS 377.050 is hereby amended to read as follows:**

377.050 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to counties under this chapter must be paid to the Department in the form of remittances made payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall, before making the distributions required by NRS 360.850, 360.855, 377.055 and 377.057, monthly transfer from the Sales and Use Tax Account ~~[.75]~~ ***1.75*** percent of all fees, taxes, interests and penalties collected pursuant to this chapter during the preceding month to the appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.

Sec. 12. **NRS 377A.050 is hereby amended to read as follows:**

377A.050 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the counties under this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account ~~[.75]~~ ***1.75*** percent of all fees, taxes, interest and penalties collected pursuant to this chapter during the preceding month to the appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this chapter during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

Sec. 13. **NRS 377B.130 is hereby amended to read as follows:**

377B.130 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the counties pursuant to this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund a ~~[percentage]~~ ***1.75 percent*** of all fees, taxes, interest and penalties collected pursuant to this chapter during the preceding month as compensation to the State for the cost of collecting the taxes. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this chapter only.]~~

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this chapter during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money:

(1) In each county whose population is 400,000 or more and in which a water authority exists, to the treasurer for the water authority.

(2) In each county whose population is less than 400,000 or each county whose population is 400,000 or more and in which no water authority exists, to the county treasurer.

Sec. 14. **NRS 271.650 is hereby amended to read as follows:**

271.650 1. Except as otherwise provided in this section, the governing body of a municipality in a county whose population is less than 400,000 may include in an assessment ordinance for a project the pledge of a single percentage specified in the ordinance, which must not exceed 75 percent, of:

(a) An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of a sum equal to ~~[0.75]~~ ***1.75*** percent of the amount of those proceeds; ~~[and]~~

(b) The amount of the proceeds of the taxes imposed pursuant to NRS 374.110 ~~[, 374.190 and 377.030]~~ ***and 374.190*** with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds ~~[.]~~ ***; and***

(c) The amount of the proceeds of the tax imposed pursuant to NRS 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 1.75 percent of the amount of those proceeds.

2. If any property within the boundaries of an improvement district for which any money is pledged pursuant to this section is also included within the boundaries of any other improvement district for which any money is pledged pursuant to this section or any tourism improvement district for which any money is pledged pursuant to NRS 271A.070, the total amount of money pledged pursuant to this section and NRS 271A.070 with respect to

such property by all such districts must not exceed the amount authorized pursuant to this section.

3. The governing body of a municipality shall not include a pledge authorized by subsection 1 in an assessment ordinance for a project unless:

(a) The governing body determines that no retailers have maintained a fixed place of business in the improvement district at any time from the first day of the fiscal year in which the assessment ordinance is adopted until the date of the adoption of the ordinance.

(b) The governing body determines, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(1) As a result of the project:

(I) Retailers will locate their businesses as such in the improvement district; and

(II) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district; and

(2) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

(c) The Commission on Tourism determines, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to paragraph (b) will be attributable to transactions with tourists who are not residents of this State.

(d) The Governor determines that the project and the pledge of money authorized by subsection 1 will contribute significantly to economic development and tourism in this State. Before making that determination, the Governor:

(1) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to NRS 271.670 by the school district in which the improvement district is located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide him with an appropriate fiscal report; and

(2) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the improvement district is located during the term of the pledge of money. The payments may be provided pursuant to agreements authorized by NRS 271.670 or from sources other than the owners of property within the improvement district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the pledge of money authorized by subsection 1.

(e) If any property within the boundaries of the improvement district is also included within the boundaries of any other improvement district for which any money has been pledged pursuant to this section or any tourism improvement district for which any money has been pledged pursuant to NRS 271A.070, all the governing bodies which created those districts have entered into an interlocal agreement providing for:

(1) The apportionment of any money pledged pursuant to this section and NRS 271A.070 with respect to such property; and

(2) The priority of the application of that money between:

(I) Bonds issued pursuant to this chapter; and

(II) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

➥ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to this chapter to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

4. Any determination or approval made pursuant to subsection 3 is conclusive in the absence of fraud or gross abuse of discretion.

5. As used in this section, "retailer" has the meaning ascribed to it in NRS 374.060.

Sec. 15. **NRS 271A.070 is hereby amended to read as follows:**

271A.070 1. Except as otherwise provided in this section and NRS 271A.080, the governing body of a municipality may:

(a) Create a tourism improvement district for the purposes of carrying out this chapter and revise the boundaries of the district by adopting an ordinance describing the boundaries of the district and generally describing the types of projects which may be financed within the district pursuant to this chapter.

(b) Without any election, acquire, improve, equip, operate and maintain a project within a district created pursuant to paragraph (a). The project may be owned by the municipality, another governmental entity, any other person, or any combination thereof.

(c) For the purposes of carrying out paragraph (b), include in an ordinance adopted pursuant to paragraph (a) the pledge of a single percentage specified in the ordinance, which must not exceed 75 percent, of:

(1) An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of a sum equal to ~~[0.75]~~ ***1.75*** percent of the amount of those proceeds; ~~[and]~~

(2) The amount of the proceeds of the taxes imposed pursuant to NRS 374.110 ~~[, 374.190 and 377.030]~~ ***and 374.190*** with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds ~~[.]~~ ***; and***

(3) The amount of the proceeds of the tax imposed pursuant to NRS 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 1.75 percent of the amount of those proceeds.

2. A district created pursuant to this section by:

(a) A city must be located entirely within the boundaries of that city.

(b) A county must be located entirely within the boundaries of that county and, when the district is created, entirely outside of the boundaries of any city.

3. If any property within the boundaries of a district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, the total amount of money pledged pursuant to this section and NRS 271.650 with respect to such property by all such districts must not exceed the amount authorized pursuant to this section.

4. The governing body of a municipality shall not, after October 1, 2009, create a tourism improvement district that includes within its boundaries any property included within the boundaries of a redevelopment area established pursuant to chapter 279 of NRS.

Sec. 16. **NRS 354.705 is hereby amended to read as follows:**

354.705 1. As soon as practicable after the Department takes over the management of a local government, the Executive Director shall:

(a) Determine the total amount of expenditures necessary to allow the local government to perform the basic functions for which it was created;

(b) Determine the amount of revenue reasonably expected to be available to the local government; and

(c) Consider any alternative sources of revenue available to the local government.

2. If the Executive Director determines that the available revenue is not sufficient to provide for the payment of required debt service and operating expenses, he may submit his findings to the Committee who shall review the determinations made by the Executive Director. If the Committee determines that additional revenue is needed, it shall prepare a recommendation to the Nevada Tax Commission as to which one or more of the following additional taxes or charges should be imposed by the local government:

(a) The levy of a property tax up to a rate which when combined with all other overlapping rates levied in the State does not exceed $4.50 on each $100 of assessed valuation.

(b) An additional tax on transient lodging at a rate not to exceed 1 percent of the gross receipts from the rental of transient lodging within the boundaries of the local government upon all persons in the business of providing lodging. Any such tax must be collected and administered in the same manner as all other taxes on transient lodging are collected by or for the local government.

(c) Additional service charges appropriate to the local government.

(d) If the local government is a county or has boundaries that are conterminous with the boundaries of the county:

(1) An additional tax on the gross receipts from the sale or use of tangible personal property not to exceed one-quarter of 1 percent throughout the county. The ordinance imposing any such tax must:

(I) Include provisions in substance which comply with the requirements of subsections 2 to 5, inclusive, of NRS 377A.030. ***The ordinance shall be deemed to require the remittance of the tax to the Department and the distribution of the tax to the local government in the same manner as that provided in NRS 377A.050.***

(II) Specify the date on which the tax must first be imposed or on which a change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

(2) An additional governmental services tax of not more than 1 cent on each $1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county on each vehicle based in the county except those vehicles exempt from the governmental services tax imposed pursuant to chapter 371 of NRS or a vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations. As used in this subparagraph, "based" has the meaning ascribed to it in NRS 482.011.

3. Upon receipt of the plan from the Committee, a panel consisting of three members of the Nevada Tax Commission appointed by the Nevada Tax Commission and three members of the Committee appointed by the Committee shall hold a public hearing at a location within the boundaries of the local government in which the severe financial emergency exists after giving public notice of the hearing at least 10 days before the date on which the hearing will be held. In addition to the public notice, the panel shall give notice to the governing body of each local government whose jurisdiction overlaps with the jurisdiction of the local government in which the severe financial emergency exists.

4. After the public hearing conducted pursuant to subsection 3, the Nevada Tax Commission may adopt the plan as submitted or adopt a revised plan. Any plan adopted pursuant to this section must include the duration for which any new or increased taxes or charges may be collected which must not exceed 5 years.

5. Upon adoption of the plan by the Nevada Tax Commission, the local government in which the severe financial emergency exists shall impose or cause to be imposed the additional taxes and charges included in the plan for the duration stated in the plan or until the severe financial emergency has been determined by the Nevada Tax Commission to have ceased to exist.

6. The allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811 does not apply to any additional property tax levied pursuant to this section.

7. If a plan fails to satisfy the expenses of the local government to the extent expected, the Committee shall report such failure to:

(a) The county for consideration of absorption of services; or

(b) If the local government is a county, to the next regular session of the Legislature.

Sec. 17. **Section 4 of this act is hereby amended to read as follows:**

Sec. 4. Chapter 364 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A board of county commissioners that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of NRS 244.3352 shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to paragraph (a) of subsection 1 of NRS 244.3354 or paragraph (a) of subsection 2 of NRS 244.3354 to the Department of Taxation on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

2. A board of county commissioners that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of section 3 of Initiative Petition No. 1 of this session shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to ***subsection 1 of*** section ~~[4]~~ ***6*** of Initiative Petition No. 1 of this session to the State Treasurer on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

3. The city council or other governing body of an incorporated city that imposes a tax on the gross receipts from the rental of transient lodging pursuant to subsection 1 of NRS 268.096 shall require by ordinance and take such additional action as may be necessary to require:

(a) The payment of the proceeds of the tax which are required to be distributed pursuant to paragraph (a) of subsection 1 of NRS 268.0962 or paragraph (a) of subsection 2 of NRS 268.0962 to the Department of Taxation on or before the last day of the month immediately following the month for which the tax is collected; and

(b) The schedule for the payment of the tax by persons in the business of providing lodging to provide for the payment of the tax in a sufficiently timely manner to carry out the provisions of paragraph (a).

Sec. 18. **Section 16 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 23, is hereby amended to read as follows:**

Sec. 16. 1. This section and sections 2, 4, 14 and 15 of this act become effective upon passage and approval.

2. Sections 6 to 12, inclusive, of this act become effective on January 1, 2009.

3. Sections 4 and ~~[6 to 12, inclusive,]~~ ***12*** of this act expire by limitation on June 30, 2009.

4. Sections 1, 3, 5 and 13 of this act become effective on July 1, 2009.

5. Sections 1, 2, 3 and 5 of this act expire by limitation on June 30, 2011.

Sec. 19. **Section 8A.100 of the Charter of Carson City, being chapter 16, Statutes of Nevada 1997, at page 44, is hereby amended to read as follows:**

Sec. 8A.100 Payment of proceeds of tax to Department; distribution of proceeds.

1. All fees, taxes, interest and penalties imposed and all amounts of a tax required to be paid to Carson City pursuant to this article must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ ***1.75 percent*** of all fees, taxes, interest and penalties collected pursuant to this article during the preceding month as compensation to the State for the cost of collecting the tax. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785 but the percentage must be applied to the proceeds collected pursuant to this article only.]~~

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for Carson City pursuant to this article during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the Treasurer for Carson City.

Sec. 20. **Section 14 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 916, is hereby amended to read as follows:**

Sec. 14. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ ***1.75 percent*** of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.]~~

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 21. **Section 20 of the Douglas County Sales and Use Tax Act of 1999, being chapter 37, Statutes of Nevada 1999, at page 84, is hereby amended to read as follows:**

Sec. 20. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the county pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ ***1.75 percent*** of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the state for the cost of collecting the tax. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.]~~

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 22. **Section 6 of the Elko County Hospital Tax Act, being chapter 14, Statutes of Nevada 1997, at page 30, is hereby amended to read as follows:**

Sec. 6. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to Elko County pursuant to the taxing ordinance and this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ ***1.75 percent*** of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.]~~

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for Elko County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer of Elko County.

Sec. 23. **Section 29 of the Local Government Tax Act of 1991, being chapter 491, Statutes of Nevada 1991, at page 1447, as amended by chapter 426, Statute of Nevada 1993, at page 1370, chapter 400, Statutes of Nevada 2003, at page 2388 and chapter 421, Statutes of Nevada 2005, at page 1778, is hereby amended to read as follows:**

Sec. 29. 1. Except as otherwise provided in this section and in section 34 of this act and in addition to all other sales and use taxes, the Board of County Commissioners of Churchill, Elko, Humboldt, Washoe and Lander counties and the Board of Supervisors of Carson City may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to 1/4 of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed in the county.

2. The tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. The ordinance enacted pursuant to this section must include provisions in substance as follows:

(a) Provisions substantially identical to those of the Local School Support Tax Law, insofar as applicable.

(b) A provision that all amendments to the provisions of the Local School Support Tax Law subsequent to the date of enactment of the ordinance, not inconsistent with this section, automatically become a part of the ordinance enacted pursuant to subsection 1.

(c) A provision that the county shall contract before the effective date of the ordinance enacted pursuant to subsection 1 with the Department to

perform all functions incident to the administration or operation of the tax imposed pursuant to subsection 1.

(d) A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property which was executed before July 30, 1991, or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the additional tax pursuant to this section.

(e) A provision that specifies the date on which the tax is first imposed or on which any change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the county under this section must be paid to the Department of Taxation in the form of remittances made payable to the Department of Taxation.

5. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the ~~[Tax Distribution Fund for the county in which it was collected.]~~ ***Sales and Use Tax Account in the State General Fund.***

6. ***The State Controller, acting upon the collection data furnished by the Department, shall monthly:***

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund 1.75 percent of all fees, taxes, interest and penalties collected pursuant to this section during the preceding month as compensation to the State for the cost of collecting the tax.

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in each county during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Credit the amount determined pursuant to paragraph (b) to the Tax Distribution Fund for the county in which the tax was collected.

7. Any ordinance enacted pursuant to this section is deemed to include the provisions set forth in paragraph (d) of subsection 3.

Sec. 24. **Section 9 of the Nevada Commission for the Reconstruction of the V & T Railway Act of 1993, being chapter 566, Statutes of Nevada 1993, at page 2329, as amended by chapter 400, Statutes of Nevada 2003, at page 2389 and chapter 421, Statutes of Nevada 2005, at page 1778, is hereby amended to read as follows:**

Sec. 9. 1. The Commission shall adopt a budget for its operation and for each project it proposes for presentation to the governing bodies. Each budget must be accompanied by a proposed allocation of the net cost of the budget among the governing bodies which must be based upon the benefit of

the Commission or project to the jurisdiction of the governing body or another equally appropriate indicator.

2. Upon final determination and allocation of the costs by agreement of the governing bodies, each governing body shall include its portion of the costs in its budget for the purposes of chapter 354 of NRS and shall fund its share of the cost by:

(a) Issuing bonds pursuant to chapter 350 of NRS;

(b) Imposing an additional tax on the rental of transient lodging;

(c) Upon approval by the voters, imposing an additional tax upon retailers at a rate not exceeding one-half of 1 percent of the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed in the county;

(d) Upon approval of the voters, levying a property tax not exceeding 2 cents per $100 of assessed valuation on all taxable property in the county; or

(e) Any combination of the options provided in paragraphs (a) to (d), inclusive, including the issuance of bonds which will be repaid from the revenue of one or more of the taxes authorized in this section which may be treated as pledged revenues for the purposes of NRS 350.020.

3. If the county imposes a tax pursuant to paragraph (c) of subsection 2 it shall include in the ordinance imposing the tax:

(a) Provisions substantially identical to those contained in chapter 374 of NRS;

(b) A provision stating that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with the provisions of the ordinance, automatically become a part of the ordinance;

(c) A provision that the county shall contract before the effective date of the ordinance with the Department to perform all functions incident to the administration or operation of the tax in the county; and

(d) The date on which the tax must first be imposed, which must be the first day of the first calendar quarter that begins at least 120 days after the adoption of the ordinance by the governing body.

4. ***If the county imposes a tax pursuant to paragraph (c) of subsection 2:***

(a) All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the county under that paragraph must be paid to the Department in the form of remittances payable to the Department.

(b) The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

(c) The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(1) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected pursuant to that paragraph during the preceding month to the appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.

(2) Determine for the county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to that paragraph during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(3) Transfer the amount determined for the county to the Intergovernmental Fund and remit the money to the Treasurer of the Commission.

5. The Commission is not entitled to a distribution of revenue from the supplemental city-county relief tax.

Sec. 25. **Section 18 of the Nye County Sales and Use Tax Act of 2007, being chapter 545, Statutes of Nevada 2007, at page 3427, is hereby amended to read as follows:**

Sec. 18. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ ***1.75 percent*** of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.]~~

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 26. **Section 24 of the Railroad Grade Separation Projects Act, being chapter 506, Statutes of Nevada 1997, at page 2406, as amended by chapter 439, Statutes of Nevada 1997, at page 1554, chapter 28, Statutes of Nevada 1999, at page 64, chapter 400, Statutes of Nevada 2003, at page 2392 and chapter 421, Statutes of Nevada 2005, at page 1778, is hereby amended to read as follows:**

Sec. 24. 1. The Board of County Commissioners of Washoe County may by ordinance, but not as in a case of emergency, impose a tax upon the retailers at the rate of not more than one-eighth of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed in the county if:

(a) The City of Reno imposes a tax on the rental of transient lodging pursuant to NRS 268.7845 in the maximum amount allowed by that section; and

(b) The Board receives a written commitment from one or more sources for the expenditure of not less than one-half of the total cost of a project for the acquisition, establishment, construction or expansion of railroad grade separation projects in Washoe County, including the estimated proceeds of the tax described in paragraph (a).

2. An ordinance enacted pursuant to subsection 1 may not become effective before a question concerning the imposition of the tax is approved by a two-thirds majority of the members of the Board of County Commissioners.

3. An ordinance enacted pursuant to subsection 1 must specify the date on which the tax must first be imposed which must occur on the first day of the first month of the next calendar quarter that is at least 120 days after the date on which a two-thirds majority of the Board of County Commissioners approved the question.

4. An ordinance enacted pursuant to subsection 1 must include provisions in substance as follows:

(a) Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

(b) A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this section, automatically become a part of an ordinance enacted pursuant to subsection 1.

(c) A provision stating the specific purpose for which the proceeds of the tax must be expended.

(d) A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract:

(1) Entered into on or before the effective date of the tax; or

(2) For the construction of an improvement to real property for which a binding bid was submitted before the effective date of the tax if the bid was afterward accepted,

➥ if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the tax.

5. No ordinance imposing a tax which is enacted pursuant to subsection 1 may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds or other obligations which are payable from or secured by a pledge of a tax enacted pursuant to subsection 1 until those bonds or other obligations have been discharged in full.

6. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation.

7. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

8. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund ~~[a percentage]~~ ***1.75 percent*** of all fees, taxes, interest and penalties collected pursuant to this section during the preceding month as compensation to the state for the cost of collecting the taxes. ~~[The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785 but the percentage must be applied to the proceeds collected pursuant to this section only.]~~

(b) Determine for the County an amount of money equal to any fees, taxes, interest and penalties collected in or for the county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for the County to the Intergovernmental Fund and remit the money to the County Treasurer.

9. The County Treasurer shall deposit the money received pursuant to subsection 8 in the County Treasury for credit to a fund to be known as the Railroad Grade Separation Projects Fund. The Railroad Grade Separation Projects Fund must be accounted for as a separate fund and not as a part of any other fund.

10. The money in the Railroad Grade Separation Projects Fund, including interest and any other income from the Fund must be used by the Board of County Commissioners for the cost of the acquisition, establishment, construction or expansion of one or more railroad grade separation projects, including the payment and prepayment of principal and interest on notes, bonds or other obligations issued to fund such projects.

Sec. 27. **Notwithstanding any provision of sections 2, 3, 5 to 16, inclusive, and 19 to 26, inclusive, of this act to the contrary, the provisions of those sections must not be applied to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of any political subdivision of this State or other public entity, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.**

~~*[Sec. 27.]*~~ *Sec. 28.* **1. This section and sections 4, 18 and 27 of this act become effective upon passage and approval.**

2. Sections 2, 3, 5, 6, 7, 9, 11 to 16, inclusive, and 19 to 26, inclusive, of this act become effective on July 1, 2009.

3. Section 17 of this act becomes effective on July 1, 2011.

4. Section 20 of this act expires by limitation on September 30, 2025.

5. Section 25 of this act expires by limitation on September 30, 2027.

6. Sections 7 and 9 of this act expire by limitation on September 30, 2029.

7. Sections 8 and 10 of this act become effective on October 1, 2029.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that upon return from the printer, Senate Bill No. 293 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 523 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 146 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 64, 254, 543, 546, 547, 552, and 557.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bills Nos. 64, 254, 541, 543, 546, 547, 552, 557 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

Assemblyman Oceguera moved that Senate Bills Nos. 137, 175, 218, and 222 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 229 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 114 be taken from the General File and placed on the Chief Clerk’s desk.

Motion carried.

Assemblywoman Parnell moved that Senate Bill No. 389 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 229.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Senate Bill No. 229:

YEAS—42.

NAYS—None.

Senate Bill No. 229 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 146.

Bill read third time.

Remarks by Assemblymen Oceguera and Settelmeyer.

Roll call on Assembly Bill No. 146:

YEAS—33.

NAYS—Carpenter, Christensen, Cobb, Goedhart, Grady, Gustavson, Hambrick, McArthur, Settelmeyer—9.

Assembly Bill No. 146 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 523.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 808.

AN ACT relating to mortgage lending; establishing provisions for the implementation of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; increasing certain administrative fines; ~~[establishing a recovery fund for persons defrauded by mortgage brokers, mortgage agents, residential mortgage loan originators or mortgage bankers;]~~ providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. **Sections** ~~[2-18 and 76-80]~~ **1.5-18, 21, 23, 24, 50.1-50.7 and 55-85** of this bill establish provisions for the licensing and registration with the nationwide mortgage licensing system and registry of residential mortgage loan originators, in compliance with federal law.

Section ~~[58]~~ **55** of this bill **also** increases the administrative fine the Commissioner of Mortgage Lending may impose upon an applicant for or a holder of a license as a mortgage broker, mortgage agent or residential

mortgage loan originator for certain violations from $10,000 to $25,000 for each violation. (NRS 645B.670)

Section 85.5 of this bill repeals provisions for the licensing of certain persons on behalf of a corporation or limited-liability company as mortgage agents. (NRS 645B.455)

~~[Sections 65-75 of this bill establish the Mortgage Education, Research and Recovery Fund for persons defrauded by mortgage brokers, mortgage agents, residential mortgage loan originators or mortgage bankers. The provisions of this bill are patterned closely after the provisions in chapter 645 of NRS which establish a recovery fund for persons defrauded by real estate brokers. (NRS 645.841-645.8494) Section 66 creates the Fund. Section 67 provides for funding for the Fund. Sections 68-70 and 72-74 provide for administration of the Fund and payment of claims against the Fund. Section 71 requires the license of a licensee to be automatically suspended until he repays to the Fund any amount paid from the Fund to settle a claim against that licensee. Section 75 provides that this bill does not limit the authority of the Division of Mortgage Lending of the Department of Business and Industry to take disciplinary action against a licensee.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[18,]~~ **8,** inclusive, of this act.

Sec. 1.5. ***"Clerical or ministerial tasks" means communication with a person to obtain, and the receipt, collection and distribution of, information necessary for the processing or underwriting of a mortgage loan.***

Sec. 2. ***"Nationwide Mortgage Licensing System and Registry" or "Registry" means the mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for licensing and registration of residential mortgage loan originators.***

Sec. 3. ~~***["Nontraditional mortgage loan product" means any mortgage product other than a 30 year fixed rate mortgage.]***~~ **(Deleted by amendment.)**

Sec. 4. ~~***["Registered loan originator" means a natural person who, except for subsection 3 of section 6 of this act, meets the definition of a residential mortgage loan originator and:***~~

~~***1. Is an employee of a depository institution, a subsidiary that is owned and controlled by a depository financial institution and regulation by a federal banking agency, or an institution regulated by the Farm Credit Administration; and***~~

~~***2. Is registered with and maintains a unique identifier through the Registry.]***~~ **(Deleted by amendment.)**

Sec. 5. ***"Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this section, "dwelling" has the meaning ascribed to it section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).***

Sec. 6. ***"Residential mortgage loan originator" means a natural person who takes a residential mortgage loan application*** ~~*[and]*~~ ***or offers or negotiates terms of a residential mortgage loan for compensation or other pecuniary gain. The term does not include:***

1. A person who performs clerical or ministerial tasks as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under this chapter, unless the person who performs such clerical or ministerial tasks is an independent contractor; ***or***

2. A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53D). ~~*[; or*~~

~~*3. A registered loan originator.]*~~

Sec. 7. ~~*[*~~***"Unique identifier" means a number of other identifier assigned by protocols established by the Registry.***~~*]*~~ **(Deleted by amendment.)**

Sec. 8. ***A mortgage broker or qualified employee who wishes to engage in activities as a residential mortgage loan originator or to supervise a mortgage agent who engages in activities as a residential mortgage loan originator must obtain and maintain a license as a mortgage agent pursuant to the provisions of*** ~~*[sections 12 to 19,]*~~ ***NRS 645B.400 to 645B.460, inclusive.*** ~~*[, of this act.]*~~

Sec. 9. ~~*[The Commissioner may refuse to issue a license as a residential mortgage loan originator to an applicant if the Commissioner has reason to believe that the applicant or any general partner of the applicant has, after October 1, 2009, employed or proposed to employ a person as a residential mortgage loan originator or authorized or proposed to authorize a person to be associated with a residential mortgage loan originator as a residential mortgage loan originator at a time when the applicant or the general partner knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:*~~

~~*1. Had been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering; or*~~

~~*2. Had a license or registration as a residential mortgage loan originator revoked in this State or any other jurisdiction.]*~~ **(Deleted by amendment.)**

Sec. 10. ~~[A person shall not act as or provide any of the services of a residential mortgage loan originator or otherwise engage in, carry on or hold himself out as engaging in or carrying on the activities of a residential mortgage loan originator unless the person is licensed pursuant to the provisions of this chapter.]~~ (Deleted by amendment.)

Sec. 11. ~~[The unique identifier of a residential mortgage loan originator must be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including, without limitation, business cards or Internet websites, and any other documents as required by regulation or order of the Commissioner.]~~ (Deleted by amendment.)

Sec. 12. ~~[1. To obtain a license as a residential mortgage loan originator, a person must:~~

~~(a) File a written application for a license as a residential mortgage loan originator with the Office of the Commissioner on a form prescribed by the Commissioner;~~

~~(b) Comply with the applicable requirements of this chapter;~~

~~(c) Pay an application fee set by the Commissioner of not more than $185;~~

~~(d) Furnish to the Registry information concerning the applicant's identity, including, without limitation:~~

~~(1) The applicant's fingerprints for submission to the Central Depository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(2) The applicant's personal history and experience, including, without limitation, authorization for the Registry to obtain an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(p), and information relating to any administrative, civil or criminal findings by any governmental jurisdiction; and~~

~~(e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information of supporting materials may include, without limitation, other forms of identification of the applicant.~~

~~2. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a residential mortgage loan originator to an applicant if:~~

~~(a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter; and~~

~~(b) The applicant:~~

~~(1) Has never had a license or registration as a residential mortgage loan originator revoked in this State or any other jurisdiction;~~

~~(2) Has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such~~

~~*felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;*~~

~~*(3) Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter;*~~

~~*(4) Has completed in any state the prelicensing education requirements described in section 15 of this act;*~~

~~*(5) Has passed a written examination that meets the testing requirements described in section 16 of this act; and*~~

~~*(6) Has paid into a recovery fund or met the net worth and surety bond requirements as required pursuant to section 17 of this act.*~~

~~*3. Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.]*~~ **(Deleted by amendment.)**

Sec. 13. ~~*[1. In addition to any other requirements set forth in this chapter:*~~

~~*(a) An applicant for the issuance of a license as a residential mortgage loan originator pursuant to this chapter must include the social security number of the applicant in the application submitted to the Commissioner.*~~

~~*(b) An applicant for the issuance or renewal of a license as a residential mortgage loan originator pursuant to this chapter must submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*~~

~~*2. The Commissioner shall include the statement required pursuant to subsection 1 in:*~~

~~*(a) The application or any other forms that must be submitted for the issuance or renewal of a license as a residential mortgage loan originator; or*~~

~~*(b) A separate form prescribed by the Commissioner.*~~

~~*3. The license as a residential mortgage loan originator may not be issued or renewed by the Commissioner if the applicant:*~~

~~*(a) Fails to submit the statement required pursuant to subsection 1; or*~~

~~*(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*~~

~~*4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the*~~

~~*applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.]*~~ **(Deleted by amendment.)**

Sec. 14. ~~*[1. A license as a residential mortgage loan originator issued pursuant to section 12 of this act expires 1 year after the date the license is issued, unless it is renewed. Except as otherwise provided in NRS 645B.490, to renew a license as a residential mortgage loan originator, the holder of the license must submit to the Commissioner each year, on or before the date the registration expires:*~~

~~*(a) An application for renewal;*~~

~~*(b) Satisfactory proof that the holder of the license as a residential mortgage loan originator completed, in any state, at least 8 hours of instruction in continuing education that was reviewed and approved by the Registry within the 12 months immediately preceding the date of the application for renewal, including at least the following:*~~

~~*(1) Three hours of federal law and regulation;*~~

~~*(2) Two hours of ethics, including instruction on fraud, consumer protection and fair lending issues; and*~~

~~*(3) Two hours of training relating to lending standards for the nontraditional mortgage loan product workplace; and*~~

~~*(c) A renewal fee set by the Commissioner of not more than $170.*~~

~~*2. To satisfy the requirements of subsection 1, a residential mortgage loan originator:*~~

~~*(a) Shall not take the same approved course in the same or successive years to satisfy the annual requirements for continuing education; and*~~

~~*(b) If approved by the Registry as an instructor of a course of continuing education, may receive credit for continuing education at the rate of 2 hours of credit for every 1 hour of instruction he teaches.*~~

~~*3. If the holder of a license as a residential mortgage loan originator fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:*~~

~~*(a) An application for renewal;*~~

~~*(b) The fee required to renew the license pursuant to this section; and*~~

~~*(c) A reinstatement fee of $75.*~~

~~*4. To be issued a duplicate copy of a license as a residential mortgage loan originator, a person must make a satisfactory showing of its loss and pay a fee of $10.*~~

~~*5. In addition to the requirements of this section, if a person's license as a residential mortgage loan originator has expired or has been cancelled for 5 years or more, the person must meet the examination requirements described in section 16 of this act.*~~

~~*6. Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.]*~~ **(Deleted by amendment.)**

Sec. 15. ~~*[To meet the prelicensing requirements pursuant to section 12 of this act, an applicant for a license as a residential mortgage loan originator must complete, on or before the date of the application for an original license as a residential mortgage loan originator, 20 hours of instruction in courses reviewed and approved by the Registry, including at least the following:*~~

~~*1. Three hours of federal law and regulations;*~~

~~*2. Three hours of ethics, including instruction on fraud, consumer protection and fair lending issues; and*~~

~~*3. Two hours of training relating to lending standards for the nontraditional mortgage loan product marketplace.]*~~ **(Deleted by amendment.)**

Sec. 16. ~~*[1. To meet the written test requirement in section 12 of this act, an applicant for a license as a residential mortgage loan originator must successfully pass a written examination developed by the Registry and administered by a provider approved by the Registry. Except as otherwise provided by NRS 622.090, to successfully pass the examination, the applicant must obtain a score of at least 75 percent.*~~

~~*2. An applicant may retake the written examination up to three consecutive times, except that each consecutive examination must occur not earlier than at least 30 days before the previous examination was taken.*~~

~~*3. An applicant who fails three consecutive examinations must not be allowed to retake the examination for at least 6 months after the date of the last examination.]*~~ **(Deleted by amendment.)**

Sec. 17. ~~*[1. To meet the requirements set forth in section 12 of this act, a person must:*~~

~~*(a) Have paid into the Mortgage Education, Research and Recovery Fund created by section 66 of this act all amounts required by law and any amount required by the Commissioner;*~~

~~*(b) Satisfy minimum net worth as prescribed by NRS 645B.115; or*~~

~~*(c) Satisfy surety bond requirements pursuant to subsection 2.*~~

~~*2. The Commissioner shall adopt regulations establishing surety bond requirements, which must be in proportion to the monetary amount of loans originated by a residential mortgage loan originator.]*~~ **(Deleted by amendment.)**

Sec. 18. ~~*[A mortgage broker who is a licensed residential mortgage loan originator or who employs or contracts with a licensed residential mortgage loan originator shall submit to the Registry annual reports of condition, which must be in such form and contain such information as the Registry may require.]*~~ **(Deleted by amendment.)**

Sec. 19. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0105 to 645B.0135, inclusive, ***and sections*** ~~*[2 to 7,]*~~ ***1.5 to 6, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 20. ~~[NRS 645B.0123 is hereby amended to read as follows:~~

~~645B.0123 "Licensee" means a person who is licensed as a mortgage broker pursuant to this chapter. The term does not include a person issued a license as a mortgage agent pursuant to NRS 645B.410~~ **[**.**]** ~~*or a person issued a license as a residential mortgage loan originator pursuant to section 12 of this act]*~~ **(Deleted by amendment.)**

Sec. 21. NRS 645B.0125 is hereby amended to read as follows:

645B.0125 1. "Mortgage agent" means ~~[a]~~ ***:***

(a) A natural person who:

~~[(a)]~~ ***(1)*** Is an employee ~~[or independent contractor]~~ of a mortgage broker ***or mortgage banker*** who is required to be licensed pursuant to this chapter ~~[,]~~ ***or chapter 645E of NRS;*** and

~~[(b)]~~ ***(2)*** Is authorized by the mortgage broker ***or mortgage banker*** to engage in, on behalf of the mortgage broker ~~[,]~~ ***or mortgage banker,*** any activity that would require the person, if he were not an employee ~~[or independent contractor]~~ of the mortgage broker ~~[,]~~ ***or mortgage banker,*** to be licensed as a mortgage broker ***or mortgage banker*** pursuant to this chapter ~~[,]~~ ***or chapter 645E of NRS; or***

(b) A mortgage banker, qualified employee or mortgage banker who is required by section 8 or 59 of this act to be licensed as a mortgage agent.

2. The term ***includes a residential mortgage loan originator.***

3. The term does not include a person who:

(a) ~~[Is]~~ ***Except as otherwise provided in paragraph (b) of subsection 1, is*** licensed as a mortgage broker ~~[,]~~ ***or mortgage banker;***

(b) ~~*[Is licensed as a residential mortgage loan originator;*~~

~~*(c)* Is a~~ ***Is an owner,*** general partner, officer or director of a mortgage broker ~~[,]~~ or ***mortgage banker;***

(c) ~~*[(d)]*~~ Performs only clerical or ministerial tasks for a mortgage broker ~~[.]~~ ***; or***

(d) Collects payments and performs related services in connection with a loan secured by a lien on real property and who does not undertake any other activity that would otherwise require a license pursuant to this chapter or chapter 645E of NRS.

Sec. 22. ~~[NRS 645B.0127 is hereby amended to read as follows:~~

~~645B.0127 1. "Mortgage broker" means a person who, directly or indirectly:~~

~~(a) Holds himself out for hire to serve as an agent for any person in an attempt to obtain a loan which will be secured by a lien on *commercial* real property;~~

~~(b) Holds himself out for hire to serve as an agent for any person who has money to lend, if the loan is or will be secured by a lien on *commercial* real property;~~

~~(c) Holds himself out as being able to make loans secured by liens on *commercial* real property;~~

~~(d) Holds himself out as being able to buy or sell notes secured by liens on *commercial* real property; or~~

~~(e) Offers for sale in this State any security which is exempt from registration under state or federal law and purports to make investments in promissory notes secured by liens on *commercial* real property.~~

~~2. The term does not include [a] :~~

~~*(a) A* person who is licensed as a mortgage banker, as defined in NRS 645E.100, unless the person is also licensed as a mortgage broker pursuant to this chapter [.] ; or~~

~~*(b) A person who is licensed as a residential mortgage loan originator and whose activities are limited to those involving residential mortgage loans, unless the person is also licensed as a mortgage broker pursuant to this chapter.]~~ **(Deleted by amendment.)**

Sec. 23. NRS 645B.0137 is hereby amended to read as follows:

645B.0137 1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker ~~*[,]*~~ or mortgage agent ~~*[or residential mortgage loan originator]*~~ must:

(a) Complete education on mortgage lending as required by this chapter ~~[, or]~~ ***and any regulations adopted thereto; and***

(b) Successfully pass a written examination as ~~[determined]~~ ***provided for*** by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division ~~[:~~

~~(a) May]~~ ***may*** hire a testing organization to create, administer and score a written examination ~~. [; and~~

~~(b) May create waivers for a written examination.]~~

4. The Commissioner ~~[may]~~ ***shall*** adopt regulations to carry out the provisions of this section, including, without limitation ~~[, regulations]~~ ***:***

(a) Regulations relating to the content of a written examination ~~[,]~~ ***and*** the scoring of a written examination ~~[or any possible waivers of a written examination]~~ ~~[.]~~ ***; and***

(b) Regulations for ~~*[the granting of full or partial credit toward the requirements of this section for the completion of educational and testing requirements for residential mortgage loan originators as described in sections 15 and 16 of this act.]*~~ ***compliance with the requirements for registration with the Registry and any other applicable federal law.***

Sec. 24. NRS 645B.0138 is hereby amended to read as follows:

645B.0138 1. A ~~[*Except as otherwise provided in section 14 of this act, a*]~~ course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

(c) Ensuring compliance with the requirements for registration with the Registry and any other applicable federal law.

Sec. 25. ~~[NRS 645B.0145 is hereby amended to read as follows:~~

~~645B.0145 The provisions of this chapter do not:~~

~~1. Limit any statutory or common-law right of a person to bring a civil action against a mortgage broker , [or] mortgage agent *or residential mortgage loan originator* for any act or omission involved in the transaction of business by or on behalf of the mortgage broker , [or] mortgage agent [;] *or residential mortgage loan originator;*~~

~~2. Limit the right of the State to punish a person for the violation of any law, ordinance or regulation; or~~

~~3. Establish a basis for a person to bring a civil action against the State or its officers or employees for any act or omission in carrying out the provisions of this chapter, including, without limitation, any act or omission relating to the disclosure of information or the failure to disclose information pursuant to the provisions of this chapter.]~~ **(Deleted by amendment.)**

Sec. 26. ~~[NRS 645B.016 is hereby amended to read as follows:~~

~~645B.016 Except as otherwise provided in subsection 2 and NRS 645B.690:~~

~~1. A person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645B.015 must:~~

~~(a) File a written application for a certificate of exemption with the Office of the Commissioner;~~

~~(b) Pay the fee required pursuant to NRS 645B.050;~~

~~(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645B.015; and~~

~~(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business and such license is in good standing pursuant to the laws of this State, any other state or the United States.~~

~~2. The provisions of subsection 1 do not apply to the extent preempted by federal law.~~

~~3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645B.015 to:~~

~~(a) File a written application for a certificate of exemption with the Office of the Commissioner;~~

~~(b) Pay the fee required pursuant to NRS 645B.050; and~~

~~(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.~~

~~4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645B.015.~~

~~5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage broker~~ **,** ~~[~~or~~]~~ mortgage agent ***or residential mortgage loan originator*** or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker **,** ~~[~~or~~]~~ mortgage agent ***or residential mortgage loan originator*** ~~unless the person applies for and is issued:~~

~~(a) A license as a mortgage broker~~ **,** ~~[~~or~~]~~ mortgage agent ~~[~~**,**~~]~~ ***or residential mortgage loan originator*** ~~as applicable, pursuant to this chapter; or~~

~~(b) Another certificate of exemption.~~

~~6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he commits, if the person:~~

~~(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;~~

~~(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or~~

~~(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.~~**]** **(Deleted by amendment.)**

Sec. 27. **[**~~NRS 645B.051 is hereby amended to read as follows:~~

~~645B.051 1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:~~

~~(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.~~

~~(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of~~

~~continuing education during the 12 months immediately preceding the date on which the license expires.~~

~~2. The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12-month period, the extra hours may be used to satisfy the requirement for the immediately following 12-month period and for that immediately following 12-month period only.~~

~~3. *The Commissioner may adopt regulations for the granting of full or partial credit toward the requirements of this section for the completion of educational and testing requirements for residential mortgage loan originators as described in sections 15 and 16 of this act.*~~

~~*4.* As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.~~ **] (Deleted by amendment.)**

Sec. 28. ~~[~~NRS 645B.060 is hereby amended to read as follows:

~~645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers~~ **, [**~~and~~**]** ~~mortgage agents *and residential mortgage loan originators* doing business in this State.~~

~~2. In addition to the other duties imposed upon him by law, the Commissioner shall:~~

~~(a) Adopt regulations:~~

~~(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.~~

~~(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.~~

~~(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.~~

~~(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.~~

~~(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:~~

~~(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and~~

~~(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual~~

~~examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the mortgage broker have been decided by the Commissioner.~~

~~(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers~~ **~~, [~~**~~and~~**~~]~~** ~~mortgage agents~~ **~~[.]~~** ***~~and residential mortgage loan originators.~~*** ~~The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.~~

~~(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:~~

~~(1) The Legislative Auditor; or~~

~~(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.~~

~~(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers~~ **~~, [~~**~~and~~**~~]~~** ~~mortgage agents~~ ***~~and residential mortgage loan originators~~*** ~~meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.~~

~~3. For each special audit, investigation or examination, a mortgage broker~~ **~~, [~~**~~or~~**~~]~~** ~~mortgage agent~~ ***~~or residential mortgage loan originator~~*** ~~shall pay a fee based on the rate established pursuant to NRS 645F.280.~~

~~4. The Commissioner may conduct biennial examinations of a mortgage broker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage broker:~~

~~(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;~~

~~(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;~~

~~(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and~~

~~(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.~~**~~]~~** **(Deleted by amendment.)**

Sec. 29. ~~**[**~~~~NRS 645B.075 is hereby amended to read as follows:~~

~~645B.075 Each mortgage broker shall pay the assessment levied pursuant to NRS 645F.180. Each mortgage broker~~ **~~, [~~**~~and~~**~~]~~** ~~mortgage agent~~ ***~~and residential mortgage loan originator~~*** ~~shall cooperate fully with the audits and examinations performed pursuant thereto.~~**~~]~~** **(Deleted by amendment.)**

Sec. 30. ~~**[**~~~~NRS 645B.080 is hereby amended to read as follows:~~

~~645B.080 1. Each mortgage broker *or residential mortgage loan originator* shall keep and maintain at all times at each location where the mortgage broker *or residential mortgage loan originators* conducts business in this state complete and suitable records of all mortgage transactions made by the mortgage broker *or residential mortgage loan originator* at that location. Each mortgage broker *or residential mortgage loan originator* shall also keep and maintain at all times at each such location all original books, papers and data, or copies thereof, clearly reflecting the financial condition of the business of the mortgage broker [.] *or residential mortgage loan originator.*~~

~~2. Each mortgage broker *or residential mortgage loan originator* shall submit to the Commissioner each month a report of the mortgage broker's *or residential mortgage loan originator's* activity for the previous month. The report must:~~

~~(a) Specify the volume of loans arranged by the mortgage broker *or residential mortgage loan originator* for the month or state that no loans were arranged in that month;~~

~~(b) Include any information required pursuant to NRS 645B.260 or pursuant to the regulations adopted by the Commissioner; and~~

~~(c) Be submitted to the Commissioner by the 15th day of the month following the month for which the report is made.~~

~~3. The Commissioner may adopt regulations prescribing accounting procedures for mortgage brokers *and residential mortgage loan originator* handling trust accounts and the requirements for keeping records relating to such accounts.]~~ **(Deleted by amendment.)**

Sec. 31. ~~[NRS 645B.085 is hereby amended to read as follows:~~

~~645B.085 1. Except as otherwise provided in this section, not later than 120 days after the last day of each fiscal year for a mortgage broker [,] *or residential mortgage loan originator,* the mortgage broker *or residential mortgage loan originator* shall submit to the Commissioner a financial statement that:~~

~~(a) Is dated not earlier than the last day of the fiscal year; and~~

~~(b) Has been prepared from the books and records of the mortgage broker *or residential mortgage loan originator* by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.~~

~~2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker *or residential mortgage loan originator* requests such an extension before the date on which the financial statement is due.~~

~~3. If a mortgage broker *or residential mortgage loan originator* maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker *or residential mortgage loan originator* maintains any accounts described in subsection 4 of NRS 645B.175, those accounts must be~~

~~audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage broker~~ **[**.**]** ~~*or residential mortgage loan originator.*~~

~~4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.~~**]** **(Deleted by amendment.)**

Sec. 32. ~~**[**NRS 645B.090 is hereby amended to read as follows:~~

~~645B.090 1. Except as otherwise provided in this section or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to this chapter are open to public inspection.~~

~~2. Except as otherwise provided in subsection 3, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in his judgment, would:~~

~~(a) Impede or otherwise interfere with an investigation that is currently pending against a mortgage broker;~~

~~(b) Have an undesirable effect on the welfare of the public or the welfare of any mortgage broker~~ ~~*,*~~ ~~**[**~~or~~**]**~~ mortgage agent ~~**[**~~;~~**]**~~ ~~*or residential mortgage loan originator;*~~ ~~or~~

~~(c) Give any mortgage broker *or residential mortgage loan originator* a competitive advantage over any other mortgage broker~~ **[**.**]** ~~*or residential mortgage loan originator.*~~

~~3. Except as otherwise provided in NRS 645B.092, the Commissioner shall disclose the following information concerning a mortgage broker *or residential mortgage loan originator* to any person who requests it:~~

~~(a) The findings and results of any investigation which has been completed during the immediately preceding 5 years against the mortgage broker *or residential mortgage loan originator* pursuant to the provisions of this chapter and which has resulted in a finding by the Commissioner that the mortgage broker *or residential mortgage loan originator* committed a violation of a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner; and~~

~~(b) The nature of any disciplinary action that has been taken during the immediately preceding 5 years against the mortgage broker *or residential mortgage loan originator* pursuant to the provisions of this chapter.~~**]** **(Deleted by amendment.)**

Sec. 33. ~~**[**NRS 645B.115 is hereby amended to read as follows:~~

~~645B.115 1. If a mortgage broker *or residential mortgage loan originator* maintains any accounts described in NRS 645B.175, the mortgage broker and his mortgage agents *or the residential mortgage loan originator* shall not engage in any activity that is authorized pursuant to this chapter, unless the mortgage broker *or residential mortgage loan originator* maintains continuously a minimum net worth in the following amount based upon the average monthly balance of the accounts maintained by the~~

~~mortgage broker *or residential mortgage loan originator* pursuant to NRS 645B.175:~~

~~AVERAGE MONTHLY BALANCE MINIMUM NET WORTH REQUIRED~~

~~$100,000 or less $25,000~~

~~More than $100,000 but not more than $250,000 50,000~~

~~More than $250,000 but not more than $500,000 100,000~~

~~More than $500,000 but not more than $1,000,000 200,000~~

~~More than $1,000,000 250,000~~

~~The Commissioner shall determine the appropriate initial minimum net worth that must be maintained by the mortgage broker *or residential mortgage loan originator* pursuant to this section based upon the expected average monthly balance of the accounts maintained by the mortgage broker *or residential mortgage loan originator* pursuant to NRS 645B.175. After determining the initial minimum net worth that must be maintained by the mortgage broker [,] *or residential mortgage loan originator,* the Commissioner shall, on an annual basis, determine the appropriate minimum net worth that must be maintained by the mortgage broker *or residential mortgage loan originator* pursuant to this section based upon the average monthly balance of the accounts maintained by the mortgage broker *or residential mortgage loan originator* pursuant to NRS 645B.175.~~

~~2. If requested by the Commissioner, a mortgage broker *or residential mortgage loan originator* who is subject to the provisions of this section and [this] *any* mortgage agents *of a mortgage broker* shall submit to the Commissioner or allow the Commissioner to examine any documentation or other evidence that is related to determining the net worth of the mortgage broker [.] *or residential mortgage loan originator.*~~

~~3. The Commissioner:~~

~~(a) Shall adopt regulations prescribing standards for determining the net worth of a mortgage broker [;] *or residential mortgage loan originator;* and~~

~~(b) May adopt any other regulations that are necessary to carry out the provisions of this section.]~~ **(Deleted by amendment.)**

Sec. 34. ~~[NRS 645B.165 is hereby amended to read as follows:~~

~~645B.165 1. Except as otherwise provided in subsection 3, the amount of any advance fee, salary, deposit or money paid to a mortgage broker and his mortgage agents *, a residential mortgage loan originator* or any other person to obtain a loan which will be secured by a lien on real property must be placed in escrow pending completion of the loan or a commitment for the loan.~~

~~2. The amount held in escrow pursuant to subsection 1 must be released:~~

~~(a) Upon completion of the loan or commitment for the loan, to the mortgage broker~~ ***, residential mortgage loan originator*** ~~or other person to whom the advance fee, salary, deposit or money was paid.~~

~~(b) If the loan or commitment for the loan fails, to the person who made the payment.~~

~~3. Advance payments to cover reasonably estimated costs paid to third persons are excluded from the provisions of subsections 1 and 2 if the person making them first signs a written agreement which specifies the estimated costs by item and the estimated aggregate cost, and which recites that money advanced for costs will not be refunded. If an itemized service is not performed and the estimated cost thereof is not refunded, the recipient of the advance payment is subject to the penalties provided in NRS 645B.960.~~**]**

(Deleted by amendment.)

Sec. 35. ~~[NRS 645B.170 is hereby amended to read as follows:~~

~~645B.170 1. All money paid to a mortgage broker and his mortgage agents~~ ***or to a residential mortgage loan originator*** ~~for payment of taxes or insurance premiums on real property which secures any loan arranged by the mortgage broker~~ ***or residential mortgage loan originator*** ~~must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the mortgage broker~~ **[.]** ~~***or residential mortgage loan originator.*** Such money, when deposited, is to be designated as an "impound trust account" or under some other appropriate name indicating that the accounts are not the money of the mortgage broker~~ **[.]** ~~***or residential mortgage loan originator.***~~

~~2. The mortgage broker~~ ***or residential mortgage loan originator*** ~~has a fiduciary duty to each debtor with respect to the money in an impound trust account.~~

~~3. The mortgage broker~~ ***or residential mortgage loan originator*** ~~shall, upon reasonable notice, account to any debtor whose real property secures a loan arranged by the mortgage broker~~ ***or residential mortgage loan originator*** ~~for any money which that person has paid to the mortgage broker~~ ***or residential mortgage loan originator*** ~~for the payment of taxes or insurance premiums on the real property.~~

~~4. The mortgage broker~~ ***or residential mortgage loan originator*** ~~shall, upon reasonable notice, account to the Commissioner for all money in an impound trust account.~~

~~5. A mortgage broker~~ ***or residential mortgage loan originator*** ~~shall:~~

~~(a) Require contributions to an impound trust account in an amount reasonably necessary to pay the obligations as they become due.~~

~~(b) Within 30 days after the completion of the annual review of an impound trust account, notify the debtor:~~

~~(1) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual obligations due from the account; and~~

~~(2) That the debtor may specify the disposition of the excess money within 20 days after receipt of the notice. If the debtor fails to specify such a~~

~~disposition within that time, the mortgage broker shall maintain the excess money in the account.~~

~~→~~ ~~This subsection does not prohibit a mortgage broker ***or residential mortgage loan originator*** from requiring additional amounts to be paid into an impound trust account to recover a deficiency that exists in the account.~~

~~6. A mortgage broker ***or residential mortgage loan originator*** shall not make payments from an impound trust account in a manner that causes a policy of insurance to be cancelled or causes property taxes or similar payments to become delinquent.~~**]** **(Deleted by amendment.)**

Sec. 36. ~~**[**NRS 645B.175 is hereby amended to read as follows:~~

~~645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his mortgage agents ***or a residential mortgage loan originator*** from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:~~

~~(a) Be deposited in:~~

~~(1) An insured depository financial institution; or~~

~~(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.~~

~~(b) Be kept separate from money:~~

~~(1) Belonging to the mortgage broker ***or residential mortgage loan originator*** in an account appropriately named to indicate that the money does not belong to the mortgage broker~~ **[.]** ~~***or residential mortgage loan originator.***~~

~~(2) Received pursuant to subsection 4.~~

~~2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:~~

~~(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or his designee less the amount due the mortgage broker ***or residential mortgage loan originator*** for the payment of any fee or service charge;~~

~~(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or~~

~~(c) Pursuant to any instructions regarding the escrow account.~~

~~3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or his designee unless:~~

~~(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker ***or residential mortgage loan originator*** for the payment of any fee or service charge; and~~

~~(b) The mortgage broker ***or residential mortgage loan originator*** has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which~~

~~names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.~~

~~4. Except as otherwise provided in this section, all money paid to a mortgage broker and his mortgage agents~~ ***or to a residential mortgage loan originator*** ~~by a person in full or in partial payment of a loan secured by a lien on real property, must:~~

~~(a) Be deposited in:~~

~~(1) An insured depository financial institution; or~~

~~(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.~~

~~(b) Be kept separate from money:~~

~~(1) Belonging to the mortgage broker~~ ***or residential mortgage loan originator*** ~~in an account appropriately named to indicate that it does not belong to the mortgage broker~~ **[**.**]** ***or residential mortgage loan originator.***

~~(2) Received pursuant to subsection 1.~~

~~5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:~~

~~(a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker~~ **[**,**]** ***or residential mortgage loan originator,*** ~~to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that he owns in the loan; and~~

~~(b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan.~~

~~6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 5. A mortgage broker~~ **,** **[**or**]** ~~mortgage agent~~ ***or residential mortgage loan originator*** ~~shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:~~

~~(a) Receive the waived payment or payments, or portions thereof, at a later date; or~~

~~(b) Receive all other payments in full and in accordance with the provisions of subsection 5.~~

~~7. Upon reasonable notice, any mortgage broker~~ ***or residential mortgage loan originator*** ~~described in this section shall:~~

~~(a) Account to any investor or debtor who has paid to the mortgage broker or his mortgage agents~~ ***or to a residential mortgage loan originator*** ~~money that is required to be deposited in a trust account pursuant to this section; and~~

~~(b) Account to the Commissioner for all money which the mortgage broker and his mortgage agents~~ **[**have**]** ***or the residential mortgage loan originator has*** ~~received from each investor or debtor and which the mortgage~~

~~broker *or residential mortgage loan originator* is required to deposit in a trust account pursuant to this section.~~

~~8. Money received by a mortgage broker and his mortgage agents *or a residential mortgage loan originator* pursuant to this section from a person who is not associated with the mortgage broker *or residential mortgage loan originator* may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this 45 day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker *or residential mortgage loan originator* for at least 15 days.~~

~~9. If a mortgage broker ,~~ **[**or**]** ~~a mortgage agent *or a residential mortgage loan originator* receives any money pursuant to this section, the mortgage broker ,~~ **[**or**]** ~~mortgage agent~~ **[**,**]** ~~*or residential mortgage loan originator,* after the deduction and payment of any fee or service charge due the mortgage broker~~ **[**,**]** ~~*or residential mortgage loan originator,* shall not release the money to:~~

~~(a) Any person who does not have a contractual or legal right to receive the money; or~~

~~(b) Any person who has a contractual right to receive the money if the mortgage broker ,~~ **[**or**]** ~~mortgage agent *or residential mortgage loan originator* knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.~~

~~10. If a mortgage broker *or residential mortgage loan originator* maintains any accounts described in subsection 1 or subsection 4, the mortgage broker *or residential mortgage loan originator* shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.~~

~~11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.~~**] (Deleted by amendment.)**

Sec. 37. ~~**[**NRS 645B.180 is hereby amended to read as follows:~~

~~645B.180 1. Money in an impound trust account is not subject to execution or attachment on any claim against the mortgage broker or his mortgage agents~~ **[**.**]** ~~*or the residential mortgage loan originator.*~~

~~2. It is unlawful for a mortgage broker or his mortgage agents *or a residential mortgage loan originator* knowingly to keep or cause to be kept any money in a depository financial institution under the heading of "impound trust account" or any other name designating such money as belonging to the investors or debtors of the mortgage broker~~ **[**,**]** ~~*or residential mortgage loan originator* unless the money has been paid to the mortgage broker or his mortgage agents *or the residential mortgage loan originator* by~~

~~an investor or debtor and is being held in trust by the mortgage broker *or residential mortgage loan originator* pursuant to NRS 645B.170 or 645B.175.]~~ **(Deleted by amendment.)**

Sec. 38. ~~[NRS 645B.185 is hereby amended to read as follows:~~

~~645B.185 1. A mortgage broker , [or] mortgage agent *or residential mortgage loan originator* shall not accept money from a private investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property unless:~~

~~(a) The private investor and the mortgage broker , [or] mortgage agent *or residential mortgage loan originator* sign and date a disclosure form that complies with the provisions of this section; and~~

~~(b) The mortgage broker , [or] mortgage agent *or residential mortgage loan originator* gives the private investor the original disclosure form that has been signed and dated.~~

~~2. A private investor and a mortgage broker , [or] mortgage agent *or residential mortgage loan originator* must sign and date a separate disclosure form pursuant to subsection 1 for each loan in which the private investor invests his money. A mortgage broker , [or] mortgage agent *or residential mortgage loan originator* shall not act as the attorney in fact or the agent of a private investor with respect to the signing or dating of any disclosure form.~~

~~3. In addition to the requirements of subsections 1 and 2, a mortgage broker , [or] mortgage agent *or residential mortgage loan originator* shall not accept money from a private investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker , [or] mortgage agent *or residential mortgage loan originator* gives the private investor a written form by which the private investor may request that the mortgage broker *or residential mortgage loan originator* authorize the Commissioner to release the mortgage broker's *or residential mortgage loan originator's* financial statement to the private investor. Such a form must be given to the private investor for each loan. If the private investor, before giving money to the mortgage broker *or residential mortgage loan originator* for the loan, requests that the mortgage broker *or residential mortgage loan originator* authorize the release of a financial statement pursuant to this subsection, the mortgage broker and his mortgage agents *or the residential mortgage loan originator* shall not accept money from the private investor for that loan until the mortgage broker *or residential mortgage loan originator* receives notice from the Commissioner that the financial statement has been released to the private investor.~~

~~4. A private investor and a mortgage broker , [or] mortgage agent *or residential mortgage loan originator* may not agree to alter or waive the provisions of this section by contract or other agreement. Any such contract or agreement is void and must not be given effect to the extent that it violates the provisions of this section.~~

~~5. A mortgage broker ***or residential mortgage loan originator*** shall retain a copy of each disclosure form that is signed and dated pursuant to subsection 1 for the period that is prescribed in the regulations adopted by the Commissioner.~~

~~6. The standard provisions for each such disclosure form must include, without limitation, statements:~~

~~(a) Explaining the risks of investing through the mortgage broker **[**,**]*** ***or residential mortgage loan originator,*** including, without limitation:~~

~~(1) The possibility that the debtor may default on the loan;~~

~~(2) The nature of the losses that may result through foreclosure;~~

~~(3) The fact that payments of principal and interest are not guaranteed and that the private investor may lose the entire amount of principal that he has invested;~~

~~(4) The fact that the mortgage broker ***or residential mortgage loan originator*** is not a depository financial institution and that the investment is not insured by any depository insurance and is not otherwise insured or guaranteed by the Federal or State Government; and~~

~~(5) Any other information required pursuant to the regulations adopted by the Commissioner; and~~

~~(b) Disclosing to the private investor the following information if the information is known or, in light of all the surrounding facts and circumstances, reasonably should be known to the mortgage broker **[**:**]*** ***or residential mortgage loan originator:***~~

~~(1) Whether the real property that will secure the loan is encumbered by any other liens and, if so, the priority of each such lien, the amount of debt secured by each such lien and the current status of that debt, including, without limitation, whether the debt is being paid or is in default;~~

~~(2) Whether the ***residential mortgage loan originator or the*** mortgage broker or any general partner, officer, director or mortgage agent of the mortgage broker has any direct or indirect interest in the debtor;~~

~~(3) Whether any disciplinary action has been taken by the Commissioner against the ***residential mortgage loan originator or the*** mortgage broker or any general partner, officer or director of the mortgage broker within the immediately preceding 12 months, and the nature of any such disciplinary action;~~

~~(4) Whether the ***residential mortgage loan originator or the*** mortgage broker or any general partner, officer or director of the mortgage broker has been convicted within the immediately preceding 12 months for violating any law, ordinance or regulation that involves fraud, misrepresentation or a deceitful, fraudulent or dishonest business practice; and~~

~~(5) Any other information required pursuant to the regulations adopted by the Commissioner.~~

~~7. Whether or not a mortgage broker ***or residential mortgage loan originator*** is required to disclose any information to private investors through a disclosure form that complies with the provisions of this section,~~

~~the Commissioner may order the mortgage broker *or residential mortgage loan originator* to disclose to private investors and other investors or to the general public any information concerning the *residential mortgage loan originator or the* mortgage broker, any general partner, officer, director or mortgage agent of the mortgage broker or any loan in which the mortgage broker *or residential mortgage loan originator* is or has been involved, if the Commissioner, in his judgment, believes that the information:~~

~~(a) Would be of material interest to a reasonable investor who is deciding whether to invest money with the mortgage broker [;] *or residential mortgage loan originator;* or~~

~~(b) Is necessary to protect the welfare of the public.~~

~~8. In carrying out the provisions of subsection 7, the Commissioner may, without limitation, order a mortgage broker *or residential mortgage loan originator* to include statements of disclosure prescribed by the Commissioner:~~

~~(a) In the disclosure form that must be given to private investors pursuant to subsection 1;~~

~~(b) In additional disclosure forms that must be given to private investors and other investors before or after they have invested money through the mortgage broker [;] *or residential mortgage loan originator;* or~~

~~(c) In any advertisement that the mortgage broker *or residential mortgage loan originator* uses in carrying on his business.~~

~~9. The Commissioner:~~

~~(a) Shall adopt regulations prescribing the period for which a mortgage broker *or residential mortgage loan originator* must retain a copy of each disclosure form that is given to private investors; and~~

~~(b) May adopt any other regulations that are necessary to carry out the provisions of this section, including, without limitation, regulations specifying the size of print and any required formatting or typesetting that a mortgage broker *or residential mortgage loan originator* must use in any form that is given to private investors.]~~ **(Deleted by amendment.)**

Sec. 39. ~~[~~NRS 645B.186 is hereby amended to read as follows:

~~645B.186 1. If a licensee or a relative of the licensee is licensed as, conducts business as or holds a controlling interest or position in:~~

~~(a) A construction control;~~

~~(b) An escrow agency or escrow agent; or~~

~~(c) A title agent, a title insurer or an escrow officer of a title agent or title insurer,~~

~~→ the licensee shall fully disclose his status as, connection to or relationship with the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer to each investor, and the licensee shall not require, as a condition to an investor acquiring ownership of or a beneficial interest in a loan secured by a lien on real property, that the investor transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer or that the investor authorize~~

~~the licensee to transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer on behalf of the investor.~~

~~2. For the purposes of this section, a person shall be deemed to hold a controlling interest or position if the person:~~

~~(a) Owns or controls a majority of the voting stock or holds any other controlling interest, directly or indirectly, that gives him the power to direct management or determine policy; or~~

~~(b) Is a partner, officer, director or trustee.~~

~~3. As used in this section, "licensee" means:~~

~~(a) A person who is licensed as a mortgage broker *or residential mortgage loan originator* pursuant to this chapter; and~~

~~(b) Any general partner, officer or director of such a person.~~**] (Deleted by amendment.)**

Sec. 40. ~~[~~NRS 645B.187 is hereby amended to read as follows:

~~645B.187 1. If a mortgage broker~~ **,** ~~[~~or~~]~~ mortgage agent ~~*or residential mortgage loan originator*~~ solicits or receives money from an investor, the mortgage broker ~~,~~ ~~[~~or~~]~~ mortgage agent ~~*or residential mortgage loan originator*~~ shall not:

~~(a) In any advertisement; or~~

~~(b) Before, during or after solicitation or receipt of money from the investor,~~

~~→ make, or cause or encourage to be made, any explicit or implicit statement, representation or promise, oral or written, which a reasonable person would construe as a guarantee that the investor will be repaid the principal amount of money he invests or will earn a specific rate of return or a specific rate of interest on the principal amount of money he invests.~~

~~2. If a mortgage broker *or residential mortgage loan originator* offers to pay or pays premium interest on money that the mortgage broker *or residential mortgage loan originator* receives from a person to acquire ownership of or a beneficial interest in a loan secured by a lien on real property or in full or partial payment of such a loan:~~

~~(a) The premium interest must be paid from the assets or income of the mortgage broker~~ **[**~~;~~**]** ~~*or residential mortgage loan originator;*~~ and

~~(b) The mortgage broker~~ **,** ~~[~~or a~~]~~ mortgage agent ~~*or residential mortgage loan originator*~~ shall not:

~~(1) In any advertisement; or~~

~~(2) Before, during or after receipt of money from such a person,~~

~~→ make, or cause or encourage to be made, any explicit or implicit statement, representation or promise, oral or written, which a reasonable person would construe as a guarantee that the mortgage broker will pay the premium interest.~~

~~3. A person who violates any provision of this section is guilty of a misdemeanor and shall be punished as provided in NRS 645B.950.~~

~~4. As used in this section, "premium interest" means that amount of interest a mortgage broker *or residential mortgage loan originator* pays to a person which exceeds the amount which is being obtained from the insured depository financial institution.]~~ **(Deleted by amendment.)**

Sec. 41. ~~[NRS 645B.189 is hereby amended to read as follows:~~

~~645B.189 1. If, in carrying on his business, a mortgage broker *or residential mortgage loan originator* uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker *or residential mortgage loan originator* shall include in each such advertisement a statement of disclosure in substantially the following form:~~

~~Money invested through a mortgage broker *or residential mortgage loan originator* is not guaranteed to earn any interest or return and is not insured.~~

~~2. A mortgage broker *or residential mortgage loan originator* shall include in each advertisement that the mortgage broker *or residential mortgage loan originator* uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.~~

~~3. Each mortgage broker *or residential mortgage loan originator* who has received his initial license within the past 12 months shall submit any proposed advertisement that the mortgage broker *or residential mortgage loan originator* intends to use in carrying on his business to the Commissioner for approval.~~

~~4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker *or residential mortgage loan originator* uses in carrying on his business must comply with the requirements of:~~

~~(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and~~

~~(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.~~

~~5. If a mortgage broker *or residential mortgage loan originator* violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker *or residential mortgage loan originator* for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker [.] *or residential mortgage loan originator.*~~

~~6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.]~~ **(Deleted by amendment.)**

Sec. 42. ~~[NRS 645B.196 is hereby amended to read as follows:~~

~~645B.196 1. An advertising spokesperson for a mortgage broker *or residential mortgage loan originator* is jointly and severally liable with the~~

~~mortgage broker *or residential mortgage loan originator* for damages caused by the mortgage broker *or residential mortgage loan originator* by fraud, embezzlement, misappropriation of property, a violation of the provisions of this chapter or the regulations adopted pursuant thereto, or an action of the mortgage broker *or residential mortgage loan originator* that is grounds for disciplinary action, if:~~

~~(a) The advertising spokesperson knew or should have known of the fraud, embezzlement, misappropriation of property, violation of the provisions of this chapter or the regulations adopted pursuant thereto, or action of the mortgage broker *or residential mortgage loan originator* that is grounds for disciplinary action; or~~

~~(b) In advertising for the mortgage broker~~ **[**~~,~~**]** ~~*or residential mortgage loan originator,* the advertising spokesperson knew or should have known that:~~

~~(1) The conduct of the advertising spokesperson was likely to deceive, defraud or harm the public or any person who engaged in business with the mortgage broker~~ **[**~~;~~**]** ~~*or residential mortgage loan originator;* or~~

~~(2) The advertising spokesperson was disseminating material information concerning the mortgage broker *or residential mortgage loan originator* or the business, products or services of the mortgage broker *or residential mortgage loan originator* which was false or misleading.~~

~~2. As used in this section:~~

~~(a) "Advertising for a mortgage broker~~ **[**~~"~~**]** ~~*or residential mortgage loan originator"* means advertising or otherwise promoting a mortgage broker *or residential mortgage loan originator* or the business, products or services of the mortgage broker *or residential mortgage loan originator* using any medium of communication.~~

~~(b) "Advertising spokesperson for a mortgage broker~~ **[**~~"~~**]** ~~*or residential mortgage loan originator"* or "advertising spokesperson" means a person who consents to and receives compensation for using his name or likeness in advertising for a mortgage broker~~ **[**~~.~~**]** ~~*or residential mortgage loan originator.]*~~ **(Deleted by amendment.)**

Sec. 43. ~~[~~NRS 645B.240 is hereby amended to read as follows:

~~645B.240 1. If a person is required to make a payment to a mortgage broker *or residential mortgage loan originator* pursuant to the terms of a loan secured by a lien on real property, the mortgage broker *or residential mortgage loan originator* may not charge the person a late fee, an additional amount of interest or any other penalty in connection with that payment if the payment is delivered to the mortgage broker *or residential mortgage loan originator* before 5 p.m. on:~~

~~(a) The day that the payment is due pursuant to the terms of the loan, if an office of the mortgage broker *or residential mortgage loan originator* is open to customers until 5 p.m. on that day; or~~

~~(b) The next day that an office of the mortgage broker *or residential mortgage loan originator* is open to customers until 5 p.m., if the provisions of paragraph (a) do not otherwise apply.~~

~~2. A person and a mortgage broker , [or] mortgage agent *or residential mortgage loan originator* may not agree to alter or waive the provisions of this section by contract or other agreement, and any such contract or agreement is void and must not be given effect to the extent that it violates the provisions of this section.]~~ **(Deleted by amendment.)**

Sec. 44. ~~[NRS 645B.250 is hereby amended to read as follows:~~

~~645B.250 Except pursuant to a contract for the collection or servicing of a loan which is governed by the requirements established by the Government National Mortgage Association, Federal Home Loan Mortgage Corporation or Federal National Mortgage Association, a mortgage broker , [or] mortgage agent *or residential mortgage loan originator* shall not advance payments to an investor on behalf of a person who has obtained a loan secured by a lien on real property and who has defaulted in his payments.]~~ **(Deleted by amendment.)**

Sec. 45. ~~[NRS 645B.260 is hereby amended to read as follows:~~

~~645B.260 1. If a mortgage broker *or residential mortgage loan originator* maintains any accounts described in subsection 4 of NRS 645B.175 in which the mortgage broker *or residential mortgage loan originator* deposits payments from a debtor on a loan secured by a lien on real property and, on the last day of any month, the debtor has failed to make two or more consecutive payments in accordance with the terms of the loan, the mortgage broker *or residential mortgage loan originator* shall:~~

~~(a) Include in the report that the mortgage broker *or residential mortgage loan originator* submits to the Commissioner pursuant to subsection 2 of NRS 645B.080 the information relating to delinquencies in payments and defaults that is required by the regulations adopted pursuant to subsection 2;~~

~~(b) Not later than 15 days after the last day of each such month, mail to the last known address of each investor who owns a beneficial interest in the loan a notice containing the information relating to delinquencies in payments and defaults that is required by the regulations adopted pursuant to subsection 2; and~~

~~(c) Comply with the provisions of this section each month on a continuing basis until:~~

~~(1) The debtor or his designee remedies the delinquency in payments and any default; or~~

~~(2) The lien securing the loan is extinguished.~~

~~2. The Commissioner:~~

~~(a) Shall adopt regulations prescribing the information relating to delinquencies in payments and defaults that a mortgage broker *or residential mortgage loan originator* must include in his report to the commissioner and in the notice mailed to investors pursuant to subsection 1. Such regulations may provide for variations between the information that a mortgage broker *or residential mortgage loan originator* must include in his report to the Commissioner and the information that a mortgage broker *or residential mortgage loan originator* must include in the notice mailed to investors.~~

~~(b) May adopt any other regulations that are necessary to carry out the provisions of this section.]~~ **(Deleted by amendment.)**

Sec. 46. ~~[~~NRS 645B.300 is hereby amended to read as follows:

~~645B.300 1. Except as otherwise provided in subsection 4, a mortgage broker~~ **,** ~~[~~or~~]~~ mortgage agent ***or residential mortgage loan originator*** ~~shall not accept money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker ***or residential mortgage loan originator*** has obtained a written appraisal of the real property securing the loan.~~

~~2. The written appraisal of the real property:~~

~~(a) Must be performed by an appraiser who is authorized to perform appraisals in this State; and~~

~~(b) Must not be performed by the mortgage broker~~ **,** ~~[~~or~~]~~ a mortgage agent ~~[,]~~ ***or a residential mortgage loan originator*** ~~unless the mortgage broker~~ **,** ~~[~~or~~]~~ mortgage agent ***or residential mortgage loan originator*** ~~is certified or licensed to perform such an appraisal pursuant to chapter 645C of NRS.~~

~~3. A copy of the written appraisal of the real property must be:~~

~~(a) Maintained at each office of the mortgage broker ***or residential mortgage loan originator*** where money is accepted from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on the real property; and~~

~~(b) Made available during normal business hours for inspection by each such investor and the Commissioner.~~

~~4. A mortgage broker ***or residential mortgage loan originator*** is not required to obtain a written appraisal of the real property pursuant to this section if the mortgage broker ***or residential mortgage loan originator*** obtains a written waiver of the appraisal from each investor who acquires ownership of or a beneficial interest in a loan secured by a lien on the real property. A mortgage broker~~ **,** ~~[~~or~~]~~ mortgage agent ***or residential mortgage loan originator*** ~~shall not act as the attorney in fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection.~~

~~5. As used in this section, "appraisal" has the meaning ascribed to it in NRS 645C.030.]~~ **(Deleted by amendment.)**

Sec. 47. ~~[~~NRS 645B.305 is hereby amended to read as follows:

~~645B.305 A mortgage broker ***or residential mortgage loan originator*** shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker ***or residential mortgage loan originator*** includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.]~~ **(Deleted by amendment.)**

Sec. 48. ~~[~~NRS 645B.310 is hereby amended to read as follows:

~~645B.310 A mortgage broker ***or residential mortgage loan originator*** shall not assign all or a part of his interest in a loan secured by a lien on real property, unless the mortgage broker~~ **[**~~:~~**]** ~~***or residential mortgage loan originator:***~~

~~1. Obtains a policy of title insurance for the real property;~~

~~2. Obtains the approval of the assignment from each investor who has acquired ownership of or a beneficial interest in the loan if, at the time of the assignment, the debtor on the loan has defaulted in making a payment required for the loan or any portion of the loan; and~~

~~3. Records the assignment in the office of the county recorder of the county in which the real property is located.~~**]** **(Deleted by amendment.)**

Sec. 49. **[**~~NRS 645B.320 is hereby amended to read as follows:~~

~~645B.320 If money from an investor is released to a debtor or his designee pursuant to subsection 2 of NRS 645B.175 upon completion of a loan secured by a lien on real property, the mortgage broker~~ ***or residential mortgage loan originator*** ~~that arranged the loan shall, not later than 3 business days after the date on which the mortgage broker~~ ***or residential mortgage loan originator*** ~~receives a copy of the recorded deed of trust, mail to the last known address of each investor who owns a beneficial interest in the loan a copy of the recorded deed of trust.~~**]** **(Deleted by amendment.)**

Sec. 50. **[**~~NRS 645B.330 is hereby amended to read as follows:~~

~~645B.330 1. A mortgage broker~~ **, [**~~or~~**]** ~~mortgage agent~~ ***or residential mortgage loan originator*** ~~shall not engage in any act or transaction on behalf of a private investor pursuant to a power of attorney unless:~~

~~(a) The power of attorney is executed for the sole purpose of providing services for not more than one specific loan in which the private investor owns a beneficial interest; and~~

~~(b) The provisions of the power of attorney:~~

~~(1) Have been approved by the Commissioner;~~

~~(2) Expressly prohibit the mortgage broker and his mortgage agents~~ ***or the residential mortgage loan originator*** ~~from engaging in any act or transaction that subordinates the priority of a recorded deed of trust unless, before such an act or transaction, the mortgage broker~~ ***or residential mortgage loan originator*** ~~obtains written approval for the subordination from the private investor;~~

~~(3) Expressly prohibit the mortgage broker and his mortgage agents~~ ***or the residential mortgage loan originator*** ~~from using or releasing any money in which the private investor owns a beneficial interest with regard to the specific loan for a purpose that is not directly related to providing services for the loan unless, before any such money is used or released for another purpose, the mortgage broker~~ ***or residential mortgage loan originator*** ~~obtains written approval from the private investor to use or release the money for the other purpose; and~~

~~(4) Expressly provide that the power of attorney is effective only for the term of the specific loan unless the mortgage broker~~ ***or residential mortgage loan originator*** ~~obtains written approval from the private investor to extend the term of the power of attorney to provide services for not more than one other loan and the written approval:~~

~~(I) Identifies the loan for which the power of attorney was executed; and~~

~~(II) Identifies the loan for which the written approval is being given.~~

~~2. A mortgage broker~~ **,** ~~[~~or~~]~~ ~~mortgage agent~~ ***or residential mortgage loan originator*** ~~shall not act as the attorney-in-fact or the agent of a private investor with respect to the giving of written approval pursuant to paragraph (b) of subsection 1. A private investor and a mortgage broker~~ **,** ~~[~~or~~]~~ ~~mortgage agent~~ ***or residential mortgage loan originator*** ~~may not agree to alter or waive the provisions of this section by contract or other agreement. Any such contract or agreement is void and must not be given effect to the extent that it violates the provisions of this section.~~

~~3. Except as otherwise provided in subsection 4, a power of attorney which designates a mortgage broker~~ **,** ~~[~~or~~]~~ ~~mortgage agent~~ ***or residential mortgage loan originator*** ~~as the attorney-in-fact or the agent of a private investor and which violates the provisions of this section is void and must not be given effect with regard to any act or transaction that occurs on or after October 1, 1999, whether or not the power of attorney is or has been executed by the private investor before, on or after October 1, 1999.~~

~~4. The provisions of subsection 3 do not apply to a power of attorney that designates a mortgage broker~~ **,** ~~[~~or~~]~~ ~~mortgage agent~~ ***or residential mortgage loan originator*** ~~as the attorney-in-fact or the agent of a private investor if the power of attorney:~~

~~(a) Was executed before July 1, 2001; and~~

~~(b) Complied with the provisions of this section that were in effect on October 1, 1999.~~

~~5. The provisions of this section do not limit the right of a private investor to include provisions in a power of attorney that are more restrictive than the provisions set forth in subsection 1.~~**]** **(Deleted by amendment.)**

Sec. 50.1. **NRS 645B.018 is hereby amended to read as follows:**

645B.018 1. A person may apply to the Commissioner for an exemption from the provisions of this chapter governing the making of a loan of money ~~[.]~~ ***, except that an exemption may not be issued for the making of a residential mortgage loan.***

2. The Commissioner may grant the exemption if he finds that:

(a) The making of the loan would not be detrimental to the financial condition of the lender, the debtor or the person who is providing the money for the loan;

(b) The lender, the debtor or the person who is providing the money for the loan has established a record of sound performance, efficient management, financial responsibility and integrity;

(c) The making of the loan is likely to increase the availability of capital for a sector of the state economy; and

(d) The making of the loan is not detrimental to the public interest.

3. The Commissioner:

(a) May revoke an exemption unless the loan for which the exemption was granted has been made; and

(b) Shall issue a written statement setting forth the reasons for his decision to grant, deny or revoke an exemption.

Sec. 50.2. **NRS 645B.020 is hereby amended to read as follows:**

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. An application for a license as a mortgage broker must:

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State.

(b) State the name under which the applicant will conduct business as a mortgage broker.

(c) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage broker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage broker as a mortgage agent.

(d) Include a general business plan and a description of the policies and procedures that the mortgage broker and his mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

(e) State the length of time the applicant has been engaged in the business of a broker.

(f) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(g) Include all information required to complete the application.

(h) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage broker will conduct business at one or more branch offices within this State, the mortgage broker must apply for a license for each such branch office.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license to an applicant as a mortgage broker if:

(a) The application is verified by the Commissioner and complies with the requirements of this chapter; and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage broker in a manner which safeguards the interests of the general public. The applicant~~

~~must submit satisfactory proof of these qualifications to the Commissioner.]~~ ***demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.***

(2) Has not been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude.]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(3) Has not made a false statement of material fact on his application.

(4) Has ~~[not had a license that was issued pursuant to the provisions of this chapter or chapter 645E of NRS suspended or revoked within the 10 years immediately preceding the date of his application.]~~ ***never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license suspended or revoked within the immediately preceding 10 years.***

(5) ~~[Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.~~

~~(6)]~~ Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

Sec. 50.3. **NRS 645B.0243 is hereby amended to read as follows:**

645B.0243 The Commissioner may refuse to issue a license to an applicant if the Commissioner has reasonable cause to believe that the applicant or any general partner, officer or director of the applicant has, after October 1, 1999, employed or proposed to employ a person as a mortgage agent or authorized or proposed to authorize a person to be associated with a mortgage broker as a mortgage agent at a time when the applicant or the general partner, officer or director knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person ~~[:~~

~~1. Had been convicted of, or entered a plea of nolo contendere to:~~

~~(a) A felony relating to the practice of mortgage agents; or~~

~~(b) Any crime involving fraud, misrepresentation or moral turpitude; or~~

~~2. Had a financial services license or registration suspended or revoked within the immediately preceding 10 years.]~~ ***has committed any act or omission that would be cause for refusing to issue a license to a mortgage agent.***

Sec. 50.4. **NRS 645B.050 is hereby amended to read as follows:**

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051; and

(d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051;

(d) Except as otherwise provided in this section, a reinstatement fee of not more than $200; and

(e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of not more than $100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, not more than $1,500 for the principal office and not more than $40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than $1,000 for the principal office and not more than $60 for each branch office.

(c) To renew a license, not more than $500 for the principal office and not more than $100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than $200.

(b) To renew a certificate of exemption, not more than $100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than $10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter ***are in addition to any fee required to be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee ***or date*** set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 50.5. **NRS 645B.410 is hereby amended to read as follows:**

645B.410 1. To obtain a license as a mortgage agent, a person must:

(a) Be a natural person;

(b) File a written application for a license as a mortgage agent with the Office of the Commissioner;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Commissioner of not more than $185.

2. An application for a license as a mortgage agent must:

(a) State the name and residence address of the applicant;

(b) Include a provision by which the applicant gives his written consent to an investigation of his credit history, criminal history and background;

(c) Include a complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(d) ~~[Include]~~ ***If he is not licensed as a mortgage broker or mortgage banker pursuant to chapter 645B or 645E of NRS, include*** a verified statement from the mortgage broker ***or mortgage banker*** with whom the applicant will be associated that expresses the intent of that mortgage broker ***or mortgage agent*** to associate the applicant with the mortgage broker ***or mortgage agent*** and to be responsible for the activities of the applicant as a mortgage agent; and

(e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Has not been convicted of, or entered a plea of nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;***

(2) Has ~~[not]~~ ***never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction, or*** had a financial services license suspended or revoked within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his application;

(4) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ ***demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.***

4. Money received by the Commissioner pursuant to this section ***is in addition to any fee required to be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 50.6. **NRS 645B.430 is hereby amended to read as follows:**

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than $170.

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The

Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of $75.

3. To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of $10.

4. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of $10.

5. Money received by the Commissioner pursuant to this section ***is in addition to any fee that must be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.

7. As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.

Sec. 50.7. **NRS 645B.460 is hereby amended to read as follows:**

645B.460 1. A mortgage broker shall exercise reasonable supervision over the activities of his mortgage agents **[.]** ***and must also be licensed as a mortgage agent if required pursuant to section 8 of this act.*** Such reasonable supervision must include, as appropriate:

(a) The establishment of written or oral policies and procedures for his mortgage agents; **[and]**

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage broker or his mortgage agents or held in trust by the mortgage broker or his mortgage agents pursuant to this chapter **[.]** ***; and***

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

2. The Commissioner shall allow a mortgage broker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and

the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 51. ~~[NRS 645B.490 is hereby amended to read as follows:~~

~~645B.490 1. Any mortgage broker~~ **,** ~~[or]~~ ~~mortgage agent~~ ~~***or residential mortgage loan originator***~~ ~~licensed under the provisions of this chapter who is called into the military service of the United States shall, at his request, be relieved from compliance with the provisions of this chapter and placed on inactive status for the period of such military service and for a period of 6 months after discharge therefrom.~~

~~2. At any time within 6 months after termination of such service, if the mortgage broker~~ ~~,~~ ~~[or]~~ ~~mortgage agent~~ ~~***or residential mortgage loan originator***~~ ~~complies with the provisions of subsection 1, the mortgage broker~~ ~~,~~ ~~[or]~~ ~~mortgage agent~~ ~~***or residential mortgage loan originator***~~ ~~may be reinstated, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645B.050 or 645B.430~~ ~~[,]~~ ~~***or section 14 of this act,***~~ ~~and the mortgage broker~~ ~~,~~ ~~[or]~~ ~~mortgage agent~~ ~~***or residential mortgage loan originator***~~ ~~is not required to make payment of the renewal fee for the current year.~~

~~3. Any mortgage broker~~ ~~,~~ ~~[or]~~ ~~mortgage agent~~ ~~***or residential mortgage loan originator***~~ ~~seeking to qualify for reinstatement, as provided in subsections 1 and 2, must present a certified copy of his honorable discharge or certificate of satisfactory service to the Commissioner.~~**]** **(Deleted by amendment.)**

Sec. 52. ~~[NRS 645B.620 is hereby amended to read as follows:~~

~~645B.620 1. Whether or not a complaint has been filed, the Commissioner shall investigate a mortgage broker, mortgage agent~~ ~~,~~ ~~***residential mortgage loan originator***~~ ~~or other person if, for any reason, it appears that:~~

~~(a) The mortgage broker~~ ~~,~~ ~~[or]~~ ~~mortgage agent~~ ~~***or residential mortgage loan originator***~~ ~~is conducting business in an unsafe and injurious manner or in violation of any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;~~

~~(b) The person is offering or providing any of the services of a mortgage broker~~ ~~,~~ ~~[or]~~ ~~mortgage agent~~ ~~***or residential mortgage loan originator***~~ ~~or otherwise engaging in, carrying on or holding himself out as engaging in or carrying on the business of a mortgage broker~~ ~~,~~ ~~[or]~~ ~~mortgage agent~~ ~~***or residential mortgage loan originator***~~ ~~without being appropriately licensed or exempt from licensing pursuant to the provisions of this chapter; or~~

~~(c) The person is violating any other provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.~~

~~2. If, upon investigation, the Commissioner has reasonable cause to believe that the mortgage broker, mortgage agent~~ ~~,~~ ~~***residential mortgage loan***~~

~~***originator*** or other person has engaged in any conduct or committed any violation described in subsection 1:~~

~~(a) The Commissioner shall notify the Attorney General of the conduct or violation and, if applicable, the Commissioner shall immediately take possession of the property of the mortgage broker pursuant to NRS 645B.630; and~~

~~(b) The Attorney General shall, if appropriate:~~

~~(1) Investigate and prosecute the mortgage broker, mortgage agent , ***residential mortgage loan originator*** or other person pursuant to NRS 645B.800; and~~

~~(2) Bring a civil action to:~~

~~(I) Enjoin the mortgage broker, mortgage agent , ***residential mortgage loan originator*** or other person from engaging in the conduct, operating the business or committing the violation; and~~

~~(II) Enjoin any other person who has encouraged, facilitated, aided or participated in the conduct, the operation of the business or the commission of the violation, or who is likely to engage in such acts, from engaging in or continuing to engage in such acts.~~

~~3. If the Attorney General brings a civil action pursuant to subsection 2, the district court of any county of this State is hereby vested with the jurisdiction in equity to enjoin the conduct, the operation of the business or the commission of the violation and may grant any injunctions that are necessary to prevent and restrain the conduct, the operation of the business or the commission of the violation. During the pendency of the proceedings before the district court:~~

~~(a) The court may issue any temporary restraining orders as may appear to be just and proper;~~

~~(b) The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the ex parte issuance of a temporary restraining order; and~~

~~(c) The Attorney General may apply for and on due showing is entitled to have issued the court's subpoena requiring forthwith the appearance of any person to:~~

~~(1) Produce any documents, books and records as may appear necessary for the hearing of the petition; and~~

~~(2) Testify and give evidence concerning the conduct complained of in the petition.~~**]** **(Deleted by amendment.)**

Sec. 53. ~~[~~NRS 645B.630 is hereby amended to read as follows:

~~645B.630 1. In addition to any other action that is required or permitted pursuant to this chapter, if the Commissioner has reasonable cause to believe that:~~

~~(a) The assets or capital of a mortgage broker ***or residential mortgage loan originator*** are impaired; or~~

~~(b) A mortgage broker *or residential mortgage loan originator* is conducting business in an unsafe and injurious manner that may result in danger to the public,~~

~~→ the Commissioner shall immediately take possession of all the property, business and assets of the mortgage broker *or residential mortgage loan originator* that are located in this State and shall retain possession of them pending further proceedings provided for in this chapter.~~

~~2. If the licensee, the board of directors or any officer or person in charge of the offices of the mortgage broker refuses to permit the Commissioner to take possession of the property of the mortgage broker pursuant to subsection 1:~~

~~(a) The Commissioner shall notify the Attorney General; and~~

~~(b) The Attorney General shall immediately bring such proceedings as may be necessary to place the Commissioner in immediate possession of the property of the mortgage broker.~~

~~3. If the Commissioner takes possession of the property of the mortgage broker~~ **[**~~,~~**]** ~~*or residential mortgage loan originator,* the Commissioner shall:~~

~~(a) Make or have made an inventory of the assets and known liabilities of the mortgage broker~~ **[**~~;~~**]** ~~*or residential mortgage loan originator;*~~

~~(b) File one copy of the inventory in his office and one copy in the office of the clerk of the district court of the county in which the principal office of the mortgage broker *or residential mortgage loan originator* is located and shall mail one copy to each stockholder, partner, officer, director or associate of the mortgage broker at his last known address; and~~

~~(c) If the mortgage broker *or residential mortgage loan originator* maintains any accounts described in NRS 645B.175, not later than 5 business days after the date on which the Commissioner takes possession of the property of the mortgage broker~~ **[**~~,~~**]** ~~*or residential mortgage loan originator,* mail notice of his possession to the last known address of each person whose money is deposited in such an account or whose money was or should have been deposited in such an account during the preceding 12 months.~~

~~4. The clerk of the court with which the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number.~~**]** **(Deleted by amendment.)**

Sec. 54. ~~**[**NRS 645B.640 is hereby amended to read as follows:~~

~~645B.640 1. If the Commissioner takes possession of the property of a mortgage broker *or residential mortgage loan originator* pursuant to NRS 645B.630, the *residential mortgage loan originator or the* licensee, officers, directors, partners, associates or stockholders of the mortgage broker may, within 60 days after the date on which the Commissioner takes possession of the property, make good any deficit in the assets or capital of the mortgage broker *or residential mortgage loan originator* or remedy any unsafe and injurious conditions or practices of the mortgage broker~~ **[**~~.~~**]** ~~*or residential mortgage loan originator.*~~

~~2. At the expiration of the 60-day period, if the deficiency in assets or capital has not been made good or the unsafe and injurious conditions or practices remedied, the Commissioner may apply to the court to be appointed receiver and proceed to liquidate the assets of the mortgage broker *or residential mortgage loan originator* which are located in this State in the same manner as now provided by law for liquidation of a private corporation in receivership.~~

~~3. No other person may be appointed receiver by any court without first giving the Commissioner ample notice of his application.~~

~~4. The inventory made by the Commissioner and all claims filed by creditors are open at all reasonable times for inspection, and any action taken by the receiver upon any of the claims is subject to the approval of the court before which the cause is pending.~~

~~5. The expenses of the receiver and compensation of counsel, as well as all expenditures required in the liquidation proceedings, must be fixed by the Commissioner subject to the approval of the court and, upon certification of the Commissioner, must be paid out of the money in his hands as the receiver.~~**]** **(Deleted by amendment.)**

Sec. 55. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than **[**~~$10,000,~~**]** ***$25,000,*** if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker , ~~*[or residential mortgage loan originator,]*~~ the Commissioner may impose upon the mortgage broker ~~*[or residential mortgage loan originator, as applicable,]*~~ an administrative fine of not more than **[**~~$10,000,~~**]** ***$25,000,*** may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker , ~~*[or residential mortgage loan originator,]*~~ whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker ~~*[or residential mortgage loan originator]*~~ knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker ~~*[or residential mortgage loan originator]*~~ possesses and which, if submitted by him, would have rendered the mortgage broker ~~*[or residential mortgage loan originator]*~~ ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~**[**relating to the practice of mortgage brokers *or residential mortgage loan originators* or any crime involving fraud, misrepresentation or moral turpitude;**]**~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker ~~*[or residential mortgage loan originator;]*~~ ***:***

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;*** or

(2) Had a ~~[financial services]~~ license or registration ***as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license or registration*** suspended or revoked within the immediately preceding 10 years;

(t) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

(u) Has not conducted verifiable business as a mortgage broker ***or residential mortgage loan originator*** for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker ***or residential mortgage loan originator*** is conducting business by examining the monthly reports of activity submitted by the mortgage broker ***or residential mortgage loan originator*** or by conducting an examination of the mortgage broker ~~[.]~~ ***or residential mortgage loan originator.***

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than ~~[$10,000,]~~ ***$25,000*** may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and

which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 56. ~~[NRS 645B.680 is hereby amended to read as follows:~~

~~645B.680 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a mortgage broker , [or] mortgage agent [,] *or residential mortgage loan originator*, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.~~

~~2. The Commissioner shall reinstate a license as a mortgage broker , [or] mortgage agent *or residential mortgage loan originator* that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.]~~ **(Deleted by amendment.)**

Sec. 57. ~~[NRS 645B.690 is hereby amended to read as follows:~~

~~645B.690 1. If a person offers or provides any of the services of a mortgage broker , [or] mortgage agent *or residential mortgage loan originator* or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage broker , [or] mortgage agent *or residential mortgage loan originator* and, at the time:~~

~~(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or~~

~~(b) The person's license was suspended or revoked pursuant to this chapter,~~

~~➡ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.~~

~~2. If a mortgage broker~~ ***or residential mortgage loan originator*** ~~violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker~~ ***or residential mortgage loan originator*** fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker ***or residential mortgage loan originator*** to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker ***or residential mortgage loan originator*** fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

~~(a) Impose upon the mortgage broker~~ ***or residential mortgage loan originator*** ~~an administrative fine of not more than $10,000 for each violation;~~

~~(b) Suspend or revoke the license of the mortgage broker~~ **[**~~;~~**]** ***or residential mortgage loan originator;*** ~~and~~

~~(c) Conduct a hearing to determine whether the mortgage broker~~ ***or residential mortgage loan originator*** ~~is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker~~ ***or residential mortgage loan originator*** ~~pursuant to NRS 645B.630.~~**]** **(Deleted by amendment.)**

Sec. 58. ~~**[**NRS 645B.900 is hereby amended to read as follows:~~

~~645B.900 It is unlawful for any person to offer or provide any of the services of a mortgage broker~~ **,** **[**~~or~~**]** ~~mortgage agent~~ ***or residential mortgage loan originator*** ~~or otherwise to engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker~~ **,** **[**~~or~~**]** ~~mortgage agent~~ ***or residential mortgage loan originator*** ~~without first obtaining the applicable license issued pursuant to this chapter, unless the person:~~

~~1. Is exempt from the provisions of this chapter; and~~

~~2. Complies with the requirements for that exemption.~~**]** **(Deleted by amendment.)**

Sec. 59. Chapter 645E of NRS is hereby amended by adding thereto ~~**[**a new section to read as follows:~~**]** **the provisions set forth as sections 59.1 to 59.7, inclusive, of this act.**

Sec. 59.1. 1. Any person licensed as a mortgage banker under this chapter and who engages in activities as a residential mortgage loan originator or who supervises a mortgage agent who engages in activities as a residential mortgage loan originator, and any employee or independent

contractor of a mortgage banker who engages in activities as a residential mortgage loan originator, must be licensed as a ~~[residential mortgage loan originator]~~ mortgage agent pursuant to the provisions of ~~[chapter 645B of NRS.]~~ NRS 645B.400 to 645B.460, inclusive.

2. As used in this section, "residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 59.3. 1. A mortgage banker shall exercise reasonable supervision over the activities of his mortgage agents and must also be licensed as a mortgage agent if required pursuant to section 8 of this act. Such reasonable supervision must include, as appropriate:

(a) The establishment of written or oral policies and procedures for his mortgage agents;

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage banker or his mortgage agents or held in trust by the mortgage banker or his mortgage agents pursuant to this chapter; and

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

2. The Commissioner shall allow a mortgage banker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 59.5. If a mortgage agent terminates his association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:

1. Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises him that his termination is being reported to the Division; and

2. Deliver or send by certified mail to the Division:

(a) The license or license number of the mortgage agent;

(b) A written statement of the circumstances surrounding the termination; and

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

Sec. 59.7. 1. If a person offers or provides any of the services of a mortgage banker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage banker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.

2. If a mortgage banker violates subsection 1 of NRS 645E.350 and the mortgage banker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage banker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage banker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage banker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage banker; and

(c) Conduct a hearing to determine whether the mortgage banker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage banker pursuant to NRS 645E.630.

Sec. 60. ~~[NRS 645E.100 is hereby amended to read as follows:~~

~~645E.100 1. "Mortgage banker" means any of the following:~~

~~(a) A person who, directly or indirectly:~~

~~(1) Holds himself out as being able to:~~

~~(I) Buy or sell notes secured by liens on real property; or~~

~~(II) Make loans secured by liens on real property using his own money; and~~

~~(2) Does not engage in any other act or transaction described in the definition of "mortgage broker" [,"] as set forth in NRS 645B.0127 [,] or "residential mortgage loan originator" as set forth in section 6 of this act,~~ unless the person is also licensed as a mortgage broker ~~or residential mortgage loan originator~~ pursuant to chapter 645B of NRS.

~~(b) A person who, directly or indirectly:~~

~~(1) Negotiates, originates or makes or offers to negotiate, originate or make commercial mortgage loans as an agent for or on behalf of an institutional investor; and~~

~~(2) Does not engage in any other act or transaction described in the definition of "mortgage broker," as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.~~

~~2. For the purposes of this section, a person does not make a loan secured by a lien on real property using his own money if any portion of the money that is used to make the loan is provided by another person who acquires ownership of or a beneficial interest in the loan.~~**]** **(Deleted by amendment.)**

Sec. 61. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 62 to **[**~~77,~~**]** **77.5,** inclusive, of this act.

Sec. 62. ***[As used in sections 62 to 77, inclusive, of this act, unless the context otherwise requires, "Fund" means the Mortgage Education, Research and Recovery Fund created by section 63 of this act.]*** **(Deleted by amendment.)**

Sec. 63. ***[1. The Mortgage Education, Research and Recovery Fund is hereby created as a special revenue fund.***

2. A balance of not less than $300,000 must be maintained in the Fund, to be used for satisfying claims against persons licensed under chapters 645B and 645E of NRS as provided in sections 62 to 72, inclusive, of this act. Any balance over $300,000 remaining in the Fund at the end of any fiscal year must be set aside and used by the Commissioner for education and research relating to mortgages.

3. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.] **(Deleted by amendment.)**

Sec. 64. ***[The Commissioner shall adopt regulations prescribing a percentage of the fees collected for the issuance or renewal of a license pursuant to chapters 645B and 645E of NRS to be used for mortgage education, research and recovery. The amount must be deposited in the State Treasury for credit to the Fund, and must be used solely for the purposes provided in sections 62 to 72, inclusive, of this act.]*** **(Deleted by amendment.)**

Sec. 65. ***[1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any licensee or licensees pursuant to chapter 645B or 645E of NRS, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to chapter 645B or 645E of NRS, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the judgment, but not more than $25,000 per judgment. The liability of the***

~~*Fund does not exceed $100,000 for any person licensed pursuant to chapter 645B or 645E of NRS, whether he is licensed as a limited liability company, partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.*~~

~~*2. A person who is licensed pursuant to chapter 645B or 645E of NRS may not recover from the Fund for damages which are related to a transaction in which he acted in his capacity as a licensee.*~~

~~*3. A copy of the:*~~

~~*(a) Petition;*~~

~~*(b) Judgment;*~~

~~*(c) Complaint upon which the judgment was entered; and*~~

~~*(d) Writ of execution which was returned unsatisfied,*~~

~~*→ must be served upon the Commissioner and the judgment debtor and affidavits of service must be filed with the court.*~~

~~*4. Upon the hearing on the petition, the petitioner must show that:*~~

~~*(a) He is not the spouse of the debtor, or the personal representative of that spouse.*~~

~~*(b) He has complied with all the requirements of sections 62 to 72, inclusive, of this act.*~~

~~*(c) He has obtained a judgment of the kind described in subsection 1, stating the amount thereof, the amount owing thereon at the date of the petition, and that the action in which the judgment was obtained was based on fraud, misrepresentation or deceit of the licensee in a transaction for which a license is required pursuant to chapter 645B or 645E of NRS.*~~

~~*(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of assets was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.*~~

~~*(e) He has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, and after reasonable efforts that no property or assets could be found or levied upon in satisfaction of the judgment.*~~

~~*(f) He has made reasonable efforts to recover damages from each and every judgment debtor.*~~

~~*(g) The petition has been filed not more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.]*~~ **(Deleted by amendment.)**

Sec. 66. ~~*[1. Whenever the court proceeds upon a petition as provided in section 65 of this act, the Commissioner may answer and defend any such action against the Fund on behalf of the Fund and may use any appropriate method of review on behalf of the Fund. The judgment debtor may answer and defend any such action on his own behalf.*~~

~~*2. Unless the judgment was entered by default, consent or stipulation or the case was uncontested, the judgment set forth in the petition is prima facie evidence but the findings of fact therein are not conclusive for the purposes of sections 62 to 72, inclusive, of this act.*~~

~~*3. The Commissioner may, subject to court approval, compromise a claim based upon the application of a petitioner. He shall not be bound by any prior compromise of the judgment debtor.]*~~ **(Deleted by amendment.)**

Sec. 67. ~~*[1. If the court finds after the hearing that the claim should be levied against the portion of the Fund allocated for the purpose of carrying out the provisions of sections 62 to 72, inclusive, of this act, the court shall enter an order directed to the Commissioner requiring payment from the Fund of whatever sum it finds to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in sections 62 to 72, inclusive, of this act.*~~

~~*2. If a petitioner has recovered a portion of his claim from sources other than the Fund, the Commissioner shall deduct the amount recovered from the other sources from the amount payable upon the claim.]*~~ **(Deleted by amendment.)**

Sec. 68. ~~*[If the Commissioner pays from the Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, his license issued pursuant to chapter 645B or 645E of NRS must be automatically suspended upon the effective date of an order by the court authorizing payment from the Fund. The license may not be reinstated, and no other license may be granted to him pursuant to chapter 645B or 645E of NRS until he has repaid in full, plus interest at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent, the amount paid from the Fund on his account. Interest is computed from the date payment from the Fund was made by the Commissioner, and the rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.]*~~ **(Deleted by amendment.)**

Sec. 69. ~~*[1. Whenever claims are filed against the Fund which total more than the maximum liability for the acts of one licensee, the maximum liability of the Fund for each licensee must be distributed among the claimants in a ratio that their respective claims bear to the total of all claims, or in any other manner that the court may find equitable.*~~

~~*2. The distribution must be made without regard to the order of priority in which claims were filed or judgments entered.*~~

~~*3. Upon petition of the Commissioner, the court may require all claimants and prospective claimants to be joined in one action so that the respective rights of all claimants may be equitably determined.*~~

~~*4. If, at any time, the money deposited in the Fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the Commissioner shall, when sufficient money*~~

~~*has been deposited in the Fund, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed, plus accumulated interest at the rate of 6 percent per annum. Any sums received by the Division pursuant to sections 68 and 70 of this act must be deposited in the State Treasury for credit to the account for education and research in the Fund.]*~~ **(Deleted by amendment.)**

Sec. 70. ~~*[When the Commissioner has paid from the Fund any money to the judgment creditor, the Commissioner is subrogated to all other rights of the judgment creditor to the extent of the amount paid and any amount and interest so recovered by the Commissioner on the judgment must be deposited in the State Treasury for credit to the Fund.]*~~ **(Deleted by amendment.)**

Sec. 71. ~~*[The failure of a person to comply with any of the provisions of sections 62 to 72, inclusive, of this act shall constitute a waiver of any rights hereunder.]*~~ **(Deleted by amendment.)**

Sec. 72. ~~*[Nothing contained in sections 62 to 72, inclusive, of this act limits the authority of the Division to take disciplinary action against a licensee for a violation of any of the provisions of chapter 645B or 645E of NRS, or of the rules and regulations of the Division, nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of chapter 645B or 645E or the rules and regulations promulgated thereunder.]*~~ **(Deleted by amendment.)**

Sec. 73. ***"Nationwide Mortgage Licensing System and Registry" or "Registry" have the meanings ascribed to them in section 2 of this act.***

Sec. 74. ~~*["Residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.]*~~ **(Deleted by amendment.)**

Sec. 75. ~~*[To carry out the requirements for the licensing of residential mortgage loan originators in chapter 645B of NRS, the Commissioner shall participate in the Nationwide Mortgage Licensing System and Registry.]*~~ **(Deleted by amendment.)**

Sec. 75.3. The Commissioner shall adopt such regulations as necessary to comply with the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Sec. 75.7. The Commissioner shall adopt regulations:

1. Establishing minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, as defined in section 6 of this act; or

2. Requiring a percentage of the fees collected for the issuance or renewal of a license pursuant to chapter 645B or 645E of NRS to be deposited in a mortgage recovery fund, and setting forth the methods by which a person may make a claim against and be paid from the fund.

Sec. 76. ***1. The Commissioner shall*** ~~*[:*~~

~~*1. Report regularly]*~~ ***adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.***

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of ~~[sections 8 to 18, inclusive, of this act,]~~ the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

~~[2. Establish by regulation a]~~

(b) A process whereby ~~[residential mortgage loan originators]~~ a person may challenge information reported to the Registry by the Commissioner.

Sec. 77. ***1. Except as otherwise provided in section 1512 of Public Law 110-289, the requirements under any federal law or NRS 645B.060 and 645B.092 regarding the confidentiality of any information or material provided to the Registry, and any privilege arising under federal laws of this State with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with mortgage industry oversight without the loss of privilege or the loss of confidentiality protections provided by federal law or the provisions of NRS 645B.060 and 645B.092.***

2. ~~[For the purpose of carrying out the provisions of subsection 1, the Commissioner may by regulation or order enter into agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies.~~

~~3.]~~ Information or material that is subject to a privilege or confidentiality under subsection 1 is not subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the Federal Government or the State of Nevada; and

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Registry with respect to such information or material, the person to whom such information or material waives, in whole or in part, that privilege.

~~[4.]~~ 3. This section does not apply to information or material relating to:

(a) The employment history of; and

(b) Publicly adjudicated disciplinary and enforcement actions against,

➥ residential mortgage loan originators included in the Registry for access by the public.

Sec. 77.5. For the purpose of carrying out the provisions of section 77 of this act, the Commissioner may by regulation or order enter into agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies.

Sec. 78. NRS 645F.010 is hereby amended to read as follows:

645F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645F.020 to 645F.060, inclusive, ***and*** ~~*[sections 73 and 74]*~~ ***section 73 of this act*** have the meanings ascribed to them in those sections.

Sec. 79. ~~[~~NRS 645F.160 is hereby amended to read as follows:

645F.160 ~~—~~ The Commissioner shall not, either directly or indirectly, be interested in any escrow agency, mortgage broker ~~[~~or~~]~~ ~~*, residential mortgage loan originator or*~~ mortgage banker to which chapters 645A, 645B and 645E of NRS apply, nor engage in business as a personal loan broker.~~]~~ **(Deleted by amendment.)**

Sec. 80. ~~[~~NRS 645F.180 is hereby amended to read as follows:

645F.180 ~~—~~ 1. ~~—~~ The Commissioner may appoint deputy commissioners of mortgage lending, examiners, assistants, clerks, stenographers and other employees necessary to assist him in the performance of his duties pursuant to this chapter, chapters 645A, 645B and 645E of NRS or any other law. These employees shall perform such duties as are assigned to them by the Commissioner.

2. ~~—~~ The Commissioner may employ or contract with a certified public accountant to review and conduct independent audits and examinations of escrow agencies, mortgage brokers ~~*, residential mortgage loan originators*~~ and mortgage bankers. The Commissioner shall levy an assessment upon each licensed escrow agency, mortgage broker ~~*, residential mortgage loan originator*~~ and mortgage banker to cover all the costs related to the employment of or the contract with the certified public accountant and the performance of the audits and examinations.

3. ~~—~~ Assessments collected by the Commissioner pursuant to subsection 2 must be deposited in the State Treasury for deposit to the Fund for Mortgage Lending created by NRS 645F.270 and accounted for separately. The Commissioner shall use the money for the purposes specified in subsection 2.~~]~~ **(Deleted by amendment.)**

Sec. 81. ~~[~~NRS 645F.280 is hereby amended to read as follows:

645F.280 ~~—~~ 1. ~~—~~ The Commissioner shall establish by regulation rates to be paid by escrow agencies, mortgage agents, mortgage brokers ~~*, residential mortgage loan originators*~~ and mortgage bankers for supervision and examinations by the Commissioner or the Division.

2. ~~—~~ In establishing a rate pursuant to subsection 1, the Commissioner shall consider:

(a) The complexity of the various examinations to which the rate applies;

(b) The skill required to conduct the examinations;

(c) The expenses associated with conducting the examination and preparing a report; and

(d) Any other factors the Commissioner deems relevant.~~]~~ **(Deleted by amendment.)**

Sec. 82. NRS 645F.290 is hereby amended to read as follows:

645F.290 1. The Commissioner shall collect an assessment pursuant to this section from each:

(a) Escrow agency that is supervised pursuant to chapter 645A of NRS;

(b) Mortgage broker that is supervised pursuant to chapter 645B of NRS; ~~[and]~~

(c) ~~*[Residential mortgage loan originator that is supervised pursuant to chapter 645B of NRS;]*~~ ***Mortgage agent that is supervised pursuant to chapter 645B or 645E of NRS; and***

(d) Mortgage banker that is supervised pursuant to chapter 645E of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) An equal basis; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 83. ~~[NRS 645F.380 is hereby amended to read as follows:~~

~~645F.380 The provisions of NRS 645F.300 to 645F.450, inclusive, do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:~~

~~1. An attorney at law rendering services in the performance of his duties as an attorney at law;~~

~~2. A person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;~~

~~3. A person licensed as a real estate broker, broker-salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;~~

~~4. A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;~~

~~5. A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in~~

~~connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;~~

~~6. Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;~~

~~7. A person licensed as an escrow agent, title agent, mortgage agent, mortgage broker , *residential mortgage loan originator* or mortgage banker pursuant to chapter 645A, 692A, 645B or 645E of NRS, respectively, while acting under the authority of his license;~~

~~8. A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or~~

~~9. A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.~~ **] (Deleted by amendment.)**

Sec. 84. ~~[NRS 645F.450 is hereby amended to read as follows:~~

~~645F.450 The rights, remedies and penalties provided pursuant to the provisions of NRS 645F.300 to 645F.450, inclusive, *and sections 62 to 77, inclusive, of this act* are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 645F.430.~~ **] (Deleted by amendment.)**

Sec. 84.5. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person authorized to engage in activities as a residential mortgage loan originator on behalf of a privately insured institution or organization licensed under title 55 or 56 of NRS shall obtain and maintain a license as a mortgage agent.

2. As used in subsection 1:

(a) "Mortgage agent" has the meaning ascribed to in NRS 645B.0125; and

(b) "Residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 85. Notwithstanding the amendatory provisions of this act:

1. A person who holds a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a **[**~~residential mortgage loan originator,~~**]** **mortgage agent,** may continue his activities without obtaining a license as a **[**~~residential mortgage~~

~~loan originator~~] **mortgage agent** until July 1, 2011 **. [**~~, and shall comply with the provisions of sections 2 to 18, inclusive, of this act not later than July 1, 2011.~~]**

2. A person who does not hold a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a **[**~~residential mortgage loan originator,~~] **mortgage agent,** may continue his activities without obtaining a license as a **[**~~residential mortgage loan originator~~] **mortgage agent** until July 1, 2010 **. [**~~, and shall comply with the provisions of sections 2 to 18, inclusive, of this act not later than July 1, 2010.~~]

Sec. 85.5. **NRS 645B.455 of NRS is hereby repealed.**

Sec. 86. **[**~~1.~~] This **[**~~section and sections 1 to 61, inclusive, and 73 to 85, inclusive, of this~~] act **[**~~become~~] **becomes** effective upon passage and approval for the purpose of adopting regulations and for licensure pursuant to section 85 of this act **[**~~,~~] and on October 1, 2009, for all other purposes.

[~~2. Sections 62 to 72, inclusive, of this act become effective on October 1, 2009.~~

~~3. Section 13 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

~~(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or~~

~~(b) Are in arrears in the payment for the support of one or more children,~~

" ~~are repealed by the Congress of the United States.~~

~~4. Section 56 of this act expires by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

~~(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or~~

~~(b) Are in arrears in the payment for the support of one or more children,~~

" ~~are repealed by the Congress of the United States.~~**]**

TEXT OF REPEALED SECTION

645B.455 License issued on behalf of professional corporation or limited-liability company; limitations on license; automatic expiration of license.

1. Any natural person who meets the qualifications of a mortgage agent and:

(a) Except as otherwise provided in subsection 2, is the sole shareholder of a corporation organized pursuant to the provisions of chapter 89 of NRS; or

(b) Is the manager of a limited-liability company organized pursuant to the provisions of chapter 86 of NRS,

↳ may be licensed on behalf of the corporation or limited-liability company for the purpose of associating with a licensed mortgage broker in the capacity of a mortgage agent.

2. The spouse of the owner of the corporation who has a community interest in any shares of the corporation shall not be deemed a second shareholder of the corporation for the purposes of paragraph (a) of subsection 1, if the spouse does not vote any of those shares.

3. A license issued pursuant to this section entitles only the sole shareholder of the corporation or the manager of the limited-liability company to act as a mortgage agent, and only as an officer or agent of the corporation or limited-liability company and not on his own behalf. The licensee shall not do or deal in any act, acts or transactions included within the definition of a mortgage broker in NRS 645B.0127, except as that activity is permitted pursuant to this chapter to licensed mortgage agents.

4. The corporation or limited-liability company shall, within 30 days after a license is issued on its behalf pursuant to this section and within 30 days after any change in its ownership, file an affidavit with the Division stating:

(a) For a corporation, the number of issued and outstanding shares of the corporation and the names of all persons to whom the shares have been issued.

(b) For a limited-liability company, the names of members who have an interest in the company.

5. A license issued pursuant to this section automatically expires upon:

(a) The death of the licensed shareholder in the corporation or the manager of the limited-liability company; or

(b) The issuance of shares in the corporation to more than one person other than the spouse.

6. This section does not alter any of the rights, duties or liabilities which otherwise arise in the legal relationship between a mortgage broker or mortgage agent and a person who deals with him.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 378.

Bill read third time.

The following amendment was proposed by Assemblywoman Parnell:

Amendment No. 618.

AN ACT relating to education; requiring the Department of Education to develop a plan for early childhood education; ~~[requiring]~~ **authorizing** the Department to apply for money for certain prekindergarten programs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Department of Education to adopt a plan for early childhood education for programs of prekindergarten education which are provided by a school district or charter school, or which are supported by public money.

Section 3 of this bill ~~[further requires]~~ **authorizes** the Department to apply for any available grants of money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for the Department to use to grant money to certain programs of prekindergarten education.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall establish a plan for early childhood education in this State which sets forth the standards and guidelines for programs of prekindergarten education. The plan must be designed to promote the development and school readiness of children in prekindergarten education in this State and must include, without limitation, guidelines for:

(a) The physical well-being and motor development of children;

(b) The successful adjustment of children to a school environment;

(c) Suggested approaches to learning and methods for teaching children;

(d) The development of speech and language of children; and

(e) Providing general knowledge to children.

2. Each program of prekindergarten education in this State which is provided by a school district or charter school, or which operates, in whole or in part, using money from a public source must comply with the provisions of the plan developed by the Department pursuant to subsection 1.

3. The Department may:

(a) Adopt, implement and provide training to educational personnel and other personnel who provide prekindergarten education to children in this State.

(b) Provide assistance to programs of prekindergarten education in this State to ensure the school readiness of children who attend prekindergarten.

4. The Department shall, within the limits of money available for that purpose, grant money to programs of prekindergarten education which comply with the provisions of this section.

5. The Superintendent of Public Instruction shall prepare an annual report concerning the plan developed pursuant to subsection 1 and the programs of prekindergarten education conducted in this State, including, without limitation:

(a) Demographic information for children enrolled in such programs; and

(b) An analysis of the school readiness of children who complete a program of prekindergarten education.

6. The Superintendent of Public Instruction shall submit the report prepared pursuant to subsection 5 on or before February 1 of each:

(a) Odd-numbered year to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) Even-numbered year to the Legislative Committee on Education.

7. Nothing in this section requires:

(a) A school district, charter school or the Department to provide a program of prekindergarten education; or

(b) A parent or legal guardian of a child to enroll the child in a program of prekindergarten education.

8. As used in this section, "school readiness" means the ability of a child to enter kindergarten with an appropriate level of skills, knowledge and maturity to successfully participate in kindergarten.

Sec. 2. NRS 392.375 is hereby amended to read as follows:

392.375 1. At least twice each school year, a school district shall require all the pupils in the school district who ride a school bus to practice the evacuation of a school bus for a purpose other than a crisis governed by NRS 392.600 to 392.656, inclusive, and to receive instruction in the responsibility of a passenger of a school bus to use the emergency exit doors on the bus during such an evacuation.

2. Each school district shall adopt a safety program which does not concern a crisis governed by NRS 392.600 to 392.656, inclusive, and which includes, without limitation:

(a) The procedure for pupils to safely enter and exit a school bus, including entering and exiting with a driver of a school bus as an escort;

(b) Proper behavior and conduct of pupils while in areas around a school bus where a high risk of danger to pupils exists, including the area that is used to load and unload school buses;

(c) Behavior and conduct of pupils while on a school bus that will enhance the safety of the pupils;

(d) Evacuation of pupils from a school bus; and

(e) The location of emergency equipment on a school bus.

➥ At least annually, a school district shall require all pupils who are enrolled in preschool, ***prekindergarten,*** kindergarten and in grades 1 to 4, inclusive, in the school district who ride a school bus to participate in the safety program created pursuant to this section.

3. If a parent or legal guardian enrolls his child in preschool, ***prekindergarten,*** kindergarten or grades 1 to 6, inclusive, and the child will be riding a school bus for the first time, the school shall provide the parent or legal guardian, upon enrollment, with written information concerning the safety of pupils on a school bus. The information must include, without limitation:

(a) A description of each location that is designated to load and unload a school bus which is in geographical proximity to the pupil's residence;

(b) Rules of conduct for pupils on a school bus and at an area that is designated for pupils to enter and exit a school bus;

(c) Instructions for the operation of a motor vehicle:

(1) At school crossing zones and in areas that are designated to load and unload a school bus; and

(2) When a driver of a school bus operates a system of flashing red lights;

(d) A description of the area around a school bus that poses a high risk of danger to pupils and other pedestrians; and

(e) Behavior and conduct for pupils who walk to and from an area that is designated for pupils to enter and exit a school bus that will enhance the safety of the pupils.

4. The board of trustees of each school district shall adopt regulations regarding practices conducted pursuant to subsection 1 and participation in safety programs required by subsection 2, including the requirement of such practices and participation in such programs at the beginning of any field trip by school bus.

Sec. 3. 1. The Department ~~[shall]~~ **of Education may** apply for any available grants of money from the American Recovery and Reinvestment Act of 2009, Public Law 111-5, for the Department to use to grant money to programs of prekindergarten education which comply with the provisions of section 1 of this act.

2. Notwithstanding any other provision of law to the contrary, if any money is received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, which is designated for expenditure from the State Distributive School Account in the State General Fund by the Legislature for Fiscal Years 2009-2010 and 2010-2011 for the Department to use to grant money to programs of prekindergarten education which comply with the provisions of section 1 of this act, the money must be deposited in the State Distributive School Account and accounted for separately.

Sec. 4. 1. This section and section 3 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on July 1, 2009, for purposes of developing a plan for early childhood education and on July 1, 2010, for all other purposes.

3. Section 2 of this act becomes effective on July 1, 2010.

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 64.

Bill read third time.

Remarks by Assemblyman Hardy.

Conflict of interest declared by Assemblywomen Dondero Loop and Leslie.

Roll call on Assembly Bill No. 64:

YEAS—36.

NAYS—Cobb, Goedhart, Gustavson, Settelmeyer—4.

NOT VOTING—Dondero Loop, Leslie—2.

Assembly Bill No. 64 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 254.

Bill read third time.

Remarks by Assemblymen Denis, Gansert, and Cobb.

Roll call on Assembly Bill No. 254:

YEAS—36.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur—6.

Assembly Bill No. 254 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 543.

Bill read third time.

Roll call on Assembly Bill No. 543:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, McArthur, Settelmeyer—5.

Assembly Bill No. 543 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 546.

Bill read third time.

Remarks by Assemblymen Conklin and Gansert.

Roll call on Assembly Bill No. 546:

YEAS—42.

NAYS—None.

Assembly Bill No. 546 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 547.

Bill read third time.

Roll call on Assembly Bill No. 547:

YEAS—42.
NAYS—None.
Assembly Bill No. 547 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 552.
Bill read third time.
Roll call on Assembly Bill No. 552:
YEAS—34.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.
NOT VOTING—Carpenter.
Assembly Bill No. 552 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 557.
Bill read third time.
Remarks by Assemblyman Grady.
Roll call on Assembly Bill No. 557:
YEAS—42.
NAYS—None.
Assembly Bill No. 557 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 531 just returned from the printer, be declared an emergency measure under the *Constitituion* and placed at the top of General File for third reading and final passage.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 531.
Bill read third time.
Roll call on Assembly Bill No. 531:
YEAS—42.
NAYS—None.
Assembly Bill No. 531 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 6.
Bill read third time.
Roll call on Senate Bill No. 6:
YEAS—42.
NAYS—None.

Senate Bill No. 6 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 9.

Bill read third time.

Remarks by Assemblyman Kihuen.

Roll call on Senate Bill No. 9:

YEAS—42.

NAYS—None.

Senate Bill No. 9 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 62.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Senate Bill No. 62:

YEAS—42.

NAYS—None.

Senate Bill No. 62 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 72.

Bill read third time.

Roll call on Senate Bill No. 72:

YEAS—42.

NAYS—None.

Senate Bill No. 72 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 127.

Bill read third time.

Roll call on Senate Bill No. 127:

YEAS—42.

NAYS—None.

Senate Bill No. 127 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 151.

Bill read third time.

Roll call on Senate Bill No. 151:

YEAS—42.

NAYS—None.

Senate Bill No. 151 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 185.

Bill read third time.

Roll call on Senate Bill No. 185:

YEAS—29.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart—13.

Senate Bill No. 185 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 193.

Bill read third time.

Roll call on Senate Bill No. 193:

YEAS—42.

NAYS—None.

Senate Bill No. 193 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 194.

Bill read third time.

Remarks by Assemblymen Hambrick, Anderson, and Segerblom.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 194:

YEAS—42.

NAYS—None.

Senate Bill No. 194 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 219.

Bill read third time.

Remarks by Assemblyman Hogan.

Roll call on Senate Bill No. 219:

YEAS—42.

NAYS—None.

Senate Bill No. 219 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 231.

Bill read third time.

Remarks by Assemblymen Spiegel, Horne, and Smith.

Roll call on Senate Bill No. 231:

YEAS—42.
NAYS—None.

Senate Bill No. 231 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 65, 148, 497, and 523.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 65.

Bill read third time.

Conflict of interest declared by Assemblywomen Buckley and Dondero Loop.

Roll call on Assembly Bill No. 65:
YEAS—33.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.
NOT VOTING—Buckley, Dondero Loop—2.

Assembly Bill No. 65 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 148.

Bill read third time.

Remarks by Assemblymen Oceguera, Goicoechea, Claborn, Goedhart, Smith, and Grady.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 148:
YEAS—39.
NAYS—Cobb, Goedhart, Gustavson—3.

Assembly Bill No. 148 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 497.

Bill read third time.

Roll call on Assembly Bill No. 497:
YEAS—42.
NAYS—None.

Assembly Bill No. 497 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 523.
Bill read third time.
Roll call on Assembly Bill No. 523:
YEAS—41.
NAYS—None.
NOT VOTING—Arberry.
Assembly Bill No. 523 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 238.
Bill read third time.
Remarks by Assemblywoman Parnell.
Roll call on Senate Bill No. 238:
YEAS—42.
NAYS—None.
Senate Bill No. 238 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 244.
Bill read third time.
Remarks by Assemblyman Cobb.
Roll call on Senate Bill No. 244:
YEAS—42.
NAYS—None.
Senate Bill No. 244 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 247.
Bill read third time.
Remarks by Assemblymen Christensen and Gansert.
Madam Speaker requested the privilege of the Chair for the purpose of making remarks.
Roll call on Senate Bill No. 247:
YEAS—42.
NAYS—None.
Senate Bill No. 247 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 251.
Bill read third time.
Remarks by Assemblyman Goicoechea.
Roll call on Senate Bill No. 251:
YEAS—42.
NAYS—None.

Senate Bill No. 251 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 254.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 254:

YEAS—42.

NAYS—None.

Senate Bill No. 254 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 263 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 278.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Senate Bill No. 278:

YEAS—42.

NAYS—None.

Senate Bill No. 278 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 287.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 287:

YEAS—42.

NAYS—None.

Senate Bill No. 287 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 288.

Bill read third time.

Roll call on Senate Bill No. 288:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart—8.

Senate Bill No. 288 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 298.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 298:

YEAS—42.

NAYS—None.

Senate Bill No. 298 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 302.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Senate Bill No. 302:

YEAS—42.

NAYS—None.

Senate Bill No. 302 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 317.

Bill read third time.

Remarks by Assemblyman Bobzien.

Conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 317:

YEAS—40.

NAYS—Smith.

NOT VOTING—Dondero Loop.

Senate Bill No. 317 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 319.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 319:

YEAS—29.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

Senate Bill No. 319 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 325.

Bill read third time.

Roll call on Senate Bill No. 325:

YEAS—42.

NAYS—None.

Senate Bill No. 325 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 137, 175, 186, 218, 222, 263, 333, 339, 340, 360, 377, 414; Senate Joint Resolutions Nos. 1, 2, 3, 4, 9; Senate Joint Resolution No. 2 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 6:01 p.m.

ASSEMBLY IN SESSION

At 9:39 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 305, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 18, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 371, 423, 424, 425.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 234, 318, 382, 415, 416.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 234.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 318.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 371.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 382.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 415.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 416.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 423.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 424.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 425.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

REMARKS FROM THE FLOOR

Assemblywoman Buckley requested that the following proclamation be entered in the Journal.

PROCLAMATION OF THE NEVADA STATE ASSEMBLY

WHEREAS, In Nevada, some individuals experience personal struggles that involve issues of substance abuse that lead to encounters with the judicial system requiring the expertise of specialty court programs, such as drug courts, to provide the guidance necessary for participants to succeed in reorganizing their lives; and

WHEREAS, Since the first drug court was created in Miami, Florida, in 1989, over 2,300 drug courts have been established across the United States with a mission to restore lives, reunite families, and make communities safer by reducing drug usage and crime; and

WHEREAS, In 1992, Nevada's judicial system and Judge Jack Lehman established the State's first drug court program in Clark County, the fifth drug court in the nation, to provide eligible nonviolent substance abusing offenders an alternative to incarceration, and Judge Peter I. Breen soon thereafter established a drug court in Washoe County in 1995; and

WHEREAS, With the success of the initial programs, drug courts now serve all regions of Nevada, helping participants become productive members of society by providing judicial supervision, case management, supervised drug treatment, and mandatory drug testing while holding participants accountable for their behavior; and

WHEREAS, Success of the treatment program is measured by completing the program and by reducing prison populations, decreasing recidivism rates, giving individuals confidence in making positive decisions to change their lives, and giving babies a chance to be born drug-free; and

WHEREAS, Over the last three biennia, Nevada's specialty court programs, including drug courts, graduated 4,499 participants who could have otherwise been sentenced to prison, and witnessed the birth of 388 drug-free babies which substantially reduced the unanticipated health care costs associated with drug-exposed babies; and

WHEREAS, Life is precious to us all, and during May 2009, Nevada's drug courts recognize the individual struggles that each participant overcomes by celebrating the birth of the 500th drug-free baby in Clark County whose first name, Blessed, represents a personal resolve to begin anew; and

WHEREAS, The successful operation of specialty courts, including drug courts, requires the participation of many professionals, including counselors, program coordinators, correctional officers, and the supervising judges representing the judicial, municipal, and justice courts: Judge Archie E. Blake, Judge John Tatro, Judge Jackie Glass, Judge Andrew J. Puccinelli, Judge David I. Nielsen, Judge Jennifer Elliott, Judge Barbara S. McCarthy, Judge Douglas E. Smith, Judge John S. McGroarty (Retired), Judge Ann E. Zimmerman, Judge Robert W. Lane, Judge William O. Voy, Judge Larry G. Sage (Retired), Judge Cynthia Diane Steele, Judge James Van Winkle, Judge Frank P. Sullivan, Judge Hal Albright, Judge Richard Wagner, Judge Mike Memeo, Judge John M. Iroz (Retired), Judge Kathy A. Hardcastle, Judge Max W. Bunch, Judge Ken Howard, Judge Steven Dobrescu, Judge Cedric A. Kerns, Judge George Assad, Judge Douglas Hedger, Judge Charles McGee (Retired), Judge Tony Abbatangelo, Judge Nancy C. Oesterle, Judge Cynthia S. Leung, and Judge Michael Montero; and

WHEREAS, The State of Nevada especially recognizes Assemblyman Bernie Anderson, whose tireless efforts over the years in the Assembly Committee on Judiciary helped create and fund the specialty court programs that have given a second chance to so many; now, therefore, be it

PROCLAIMED, That the State of Nevada acknowledges the 20-year anniversary of establishing drug courts in the nation and recognizes the positive effects of our state's drug courts in helping individuals overcome difficult challenges to living drug-free lives in Nevada during National Drug Court Recognition Month.

DATED this 18th day of May, 2009.

BARBARA E. BUCKLEY
Speaker of the Assembly

Assemblywoman Buckley requested that her remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you very much, Majority Leader Oceguera. I am pleased to stand today in support of this proclamation. What an incredible milestone and what a Nevada achievement, to recognize that there is a better way of dealing with drug addiction and a better way to create an opportunity for people to face their addictions and remove themselves from the criminal courts in a positive manner. Drug courts save the state money, but more importantly, they save people's lives. It is such an incredible milestone to reach 20 years in Nevada's drug court experience and to have

our drug courts be a model for the rest of the nation. They serve as a way to show that you can do things better if you take the time to reinvent them and to study them.

I am so pleased to have with me today some of the architects of our Nevada effort. With me is Judge Breen, who I will ask to stand and be recognized. Also here are our justices of the Nevada Supreme Court: Chief Justice Jim Hardesty, Justice Mark Gibbons, Justice Mike Cherry, and Justice Nancy Saitta. I also am very pleased to have with me Deanna Ford and her baby, Blessed, who is the 500th drug-free baby born in Clark County. I am also very pleased to have here Darlene Dufault, with the Choices program, one of our many partners in the drug court program. And, of course, we have our own chairman of the Judiciary Committee, who will please rise.

Please join me in thanking these individuals for all the efforts they have made, along with their colleagues, to change the face of Nevada when it comes to the drug courts and dealing with drugs. We thank you. We appreciate you. You are a tribute to Nevada.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 76, 79, 121, 139, 236, 389, 410, 415, 486, 510; Assembly Concurrent Resolution No. 19; Senate Bills Nos. 201, 207, 256.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Keith Lockard and Jan Lockard .

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Ryan Hardy, Cara Hardy and Lynn Kerr.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Daniel Sussman.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Nate Mack Elementary School: Donoven Cardinelli, Victoria Fontanelli-Burgos, Desire Gallegos, Madison Gorton, Peyton Halbakken-Wohlman, Lillian Lederer, William Daniel Ledesma, Gabriella Martinez, Brianna Miller, John Miller, Madison Nelson, Michael Parlak, Alexander Rosa, Samantha Schiers, David Trotta, Vanessa Villalobos, Eunice Yi, Emma Letourneau, Gabriella Costa, Sophia Costa, Joey Kneale, Daniel Kneale, Kavantae Simons Kyla Creps, Ria Galang, Tiah Bailey, Emily Flowers, Shannon Stratman, Maya Garcia, Brooke Haney, Autumn Beltran, Ann Gilbert, Evan Bell, Trent McCord, Perseea Ghafouria, Olivia Denue, Erika Spiker, Farrah Hayden, Tyler Brunty, Chris Gjersing, Jordan Walker, Jordan Burns, Carlee Snell, Skyler Willis, Patrica Keene, Taylor Scruggs, Matthew Candelaria, Joseph Cupp, Thai Laury, Irie Douville, Sofia Aldaco, Travis Crawford, Nicholas Glazier, Roman Soto, and Mya Lofton; chaperones Maisabel Burgos Fontanelli, Michele Gorton, Brenda Halbakken-Wohlman, Edgar Martinez, Allison Bredlau, Barbara Kneale, Barbara Creps, Olga

Guerrero, Maryellen Stratman, Yolanda Garcia, Lora Haney, Betty Beltran, Vicky Smith, Virginia Ghafouria, Laura Denue, Timothy Brunty, Melissa Snell, John Candelaria, Rosemary Douville, Laurie Keene, Rakisha Langaricia, Steven Crawford, Janette Rozgay-Miller, Nancy Hutchins, and Nancy Heavey.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, May 19, 2009, at 10 a.m.

Motion carried.

Assembly adjourned at 9:46 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND SEVENTH DAY

CARSON CITY (Tuesday), May 19, 2009

Assembly called to order at 11:34 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblywoman Kirkpatrick, who was excused.

Prayer by the Chaplain, Rabbi Jonathan Freirich.

Thank you again for the honor of providing some opening words today. I hope my words will continue to be interesting and brief—since all of you are standing. Yesterday, I mentioned the two major Jewish holidays of this season—Passover in April and Shavuot, the Feast of Weeks, soon to come at the end of May. Many of you know all about Passover already, the Jewish celebration of freedom through the commemoration of the story of the Exodus from Egypt. In the Hebrews scriptures, Shavuot, the Feast of Weeks, celebrates the successful winter harvest—as Judaism evolved through the centuries, the ancient rabbis connected the celebration of Shavuot with the Israelites receiving the Five Books of Moses at Mount Sinai.

Jewish people have traditionally connected the freedom from slavery with the acceptance of responsibility at Mount Sinai. In other words, freedom does not grant us freedom to do whatever we want, but instead the freedom to enter into responsible relationships with individuals, communities, and our concept of the mystery of the universe.

Let us all remember that freedom and responsibility always depend upon each other. Our freedom to do what we want depends on us acting responsibly to each other and to our local and national communities.

We can now say,

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 160, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 92, 124, 248, 267, 376, 396, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID P. BOBZIEN, VICE *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 60, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 82, 183, 351, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which was referred Senate Bills Nos. 245, 394, 409, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which were referred Senate Bills Nos. 234, 415, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 18, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 20, 40, 63, 75, 116, 117, 119, 123, 173, 206, 230, 239, 327, 329, 369, 380, 393, 403, 416, 473, 508, 528, 538.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 46, Amendment No. 621; Assembly Bill No. 100, Amendment No. 617; Assembly Bill No. 154, Amendment No. 630; Assembly Bill No. 193, Amendment No. 680; Assembly Bill No. 204, Amendment No. 643; Assembly Bill No. 233, Amendment No. 642; Assembly Bill No. 251, Amendment No. 622; Assembly Bill No. 307, Amendment No. 682; Assembly Bill No. 333, Amendment No. 665; Assembly Bill No. 348, Amendment No. 627; Assembly Bill No. 471, Amendment No. 728; Assembly Bill No. 496, Amendment No. 695, and respectfully requests your honorable body to concur in said amendments.

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 33.

Also, I have the honor to inform your honorable body that the Senate on this day adopted, as amended, Senate Concurrent Resolution No. 35.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 614 to Senate Bill No. 77; Assembly Amendment No. 613 to Senate Bill No. 163; Assembly Amendment No. 657 to Senate Bill No. 170; Assembly Amendment No. 570 to Senate Concurrent Resolution No. 5.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 647 to Senate Bill No. 54.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 35.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 305.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 804.

AN ACT relating to communicable diseases; making various changes concerning dispensing a medication and providing a prescription for the sexual partner of a person diagnosed with a sexually transmitted disease; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill authorizes ~~[a provider of health care or, under the direction of a local health officer,]~~ an employee of a board of health **, under the direction of the local health officer,** to **: (1) if the board of health has on its premises a pharmacy,** dispense a medication **for the treatment of the sexual partner of a person who has been diagnosed with a sexually transmitted disease without examining the partner;** or **(2) if the board of health does not have on its premises a pharmacy,** issue a prescription for the treatment of the sexual partner of a person who has been diagnosed with a sexually transmitted disease without examining the partner. This bill further allows the ~~[provider of health care or]~~ employee of a board of health to exclude from the prescription the name or other identifying information of the partner if the prescription specifies the purpose for the prescription. **This bill also authorizes an employee of a board of health, under the direction of the local health officer, or a practitioner in a federally qualified health center to dispense such a medication or issue such a prescription if the sexual partner of a patient provides the employee or practitioner with a written diagnosis from a provider of health care indicating that the patient has been diagnosed with a sexually transmitted disease.** This bill ~~[also]~~ **further** requires the State Board of Health to adopt regulations relating to dispensing a medication or providing a prescription pursuant to the provisions of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 441A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section or a regulation adopted pursuant thereto and notwithstanding any other provision of law, ~~[a provider of health care or, under the direction of the local health officer,]~~ an employee of a board of health , under the direction of the local health officer, who diagnoses a patient with a sexually transmitted disease may ~~[dispense]~~ :

(a) If the board of health has on its premises a pharmacy, dispense a medication for treatment of the sexually transmitted disease for the sexual partner of the patient without examining the partner; or ~~[provide]~~

(b) If the board of health does not have on its premises a pharmacy, provide a prescription for treatment of the sexually transmitted disease for the sexual partner of the patient without examining the partner, and may exclude from the prescription the name or other identifying information about the sexual partner if the prescription specifies the purpose for the prescription.

2. A provider of health care who diagnoses a patient with a sexually transmitted disease may provide the patient with a written description of the diagnosis. Except as otherwise provided in this section or a regulation adopted pursuant thereto and notwithstanding any other provision of law, if the sexual partner of a patient provides an employee of a board of health or a practitioner in a federally qualified health center with the written diagnosis provided to the patient pursuant to this subsection, the employee of the board of health, under the direction of the local health officer, or the practitioner may:

(a) If the board of health or health center has on its premises a pharmacy, dispense a medication for treatment of the sexually transmitted disease for the sexual partner of the patient without examining the partner; or

(b) If the board of health or health center does not have on its premises a pharmacy, provide a prescription for treatment of the sexually transmitted disease for the sexual partner of the patient without examining the partner, and may exclude from the prescription the name or other identifying information about the sexual partner if the prescription specifies the purpose for the prescription.

~~[2.]~~ 3. The Board shall adopt regulations for dispensing a medication and providing a prescription for treatment of a sexually transmitted disease for the sexual partner of a patient pursuant to this section, including, without limitation, regulations:

(a) For the reporting of such diseases pursuant to NRS 441A.150 and any regulation adopted pursuant to the provisions of chapter 441A of NRS relating to the reporting of communicable diseases;

(b) Prescribing the types of sexually transmitted diseases for which a medication may be dispensed or a prescription may be provided for treatment of a sexually transmitted disease for the sexual partner of a patient without examining the partner; and

(c) Prescribing the protocols for dispensing a medication and providing a prescription for treatment of the sexually transmitted disease for the sexual partner of a patient without examining the partner.

~~*[3.]*~~ ***4.*** ***A person may not dispense a medication or provide a prescription for treatment of a sexually transmitted disease for the sexual partner of a patient without examining the partner if dispensing the medication or providing the prescription is in violation of an ethical requirement or standard of practice which applies to the professional practice of the person.***

~~*[4.]*~~ ***5.*** ***As used in this section:***

(a) "Board of health" means a city, county or district board of health.

(b) "Local health officer" means a city health officer appointed pursuant to NRS 439.430, a county health officer appointed pursuant to 439.290 or a district health officer appointed pursuant to NRS 439.368 or 439.400.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 60.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 704.

AN ACT relating to public health; requiring the district board of health in certain counties and the State Board of Health in all other counties to evaluate the removal and remediation of methamphetamine and certain other substances; requiring the adoption of certain regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog which has not been deemed safe for habitation by a governmental entity or from which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so is a public nuisance. (NRS 40.140, 202.450) ~~[Existing law authorizes cities and counties of this State to adopt ordinances pursuant to which the district attorney may file an action seeking: (1) the abatement of a nuisance; (2) the closure of the property where the nuisance is located or occurring; and (3) penalties against the owner of the property. (NRS 244.3603, 268.4124)]~~ **Sections 2 and 4 ~~[6]~~** of this bill provide that the district board of health in a county whose population is 400,000 or more (currently Clark County) or the State Board of Health in all other counties is the governmental entity responsible for determining that the building or place

is safe for habitation. ~~[Section 5 authorizes the board of county commissioners, in consultation with the district board of health or State Board of Health, as applicable, to adopt ordinances to protect the public health, safety and welfare for the incorporated areas of the county.]~~

Existing law provides that in any sale, lease or rental of real property, the fact that the property is or has been the site of a crime that involves any quantity of methamphetamine must be disclosed to the buyer, lessee or tenant unless: (1) all materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or (2) the property has been deemed safe for habitation by a governmental entity. (NRS 40.770) Existing law requires similar disclosures to a transferee of a manufactured home, mobile home or commercial coach that is or has been the site of a crime that involves any quantity of methamphetamine. (NRS 489.776) **Sections 3 and 9** of this bill provide that the district board of health in a county whose population is 400,000 or more or the State Board of Health in all other counties is the governmental entity responsible for determining that the property is safe for habitation.

Section 1 of this bill requires a district board of health and the State Board of Health to evaluate the removal or remediation of substances involving a controlled substance, immediate precursor or controlled substance analog and any material, compound, mixture or preparation that contains any quantity of methamphetamine. **Section 1** further requires the State Environmental Commission to adopt regulations: (1) concerning the monitoring of the removal or remediation of such substances; and (2) establishing standards pursuant to which a property, building or place may be deemed safe for habitation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of health or its agent shall, for the purposes of NRS 40.140, 40.770, 202.450 ~~*[, 244.3603, 268.4124]*~~ ***and 489.776, evaluate the removal or remediation by any entity certified or licensed to do so of:***

(a) Substances involving a controlled substance, immediate precursor or controlled substance analog; and

(b) Any material, compound, mixture or preparation that contains any quantity of methamphetamine.

2. The State Environmental Commission shall adopt regulations:

(a) To carry out the provisions of subsection 1;

(b) Establishing standards pursuant to which a building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog may be

deemed safe for habitation for the purposes of NRS 40.140 ~~[,]~~ and 202.450 ; ~~[, 244.3603 and 268.4124;]~~ and

(c) Establishing standards pursuant to which any property that is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation that contains any quantity of methamphetamine may be deemed safe for habitation for the purposes of NRS 40.770 and 489.776.

3. As used in this section:

(a) "Board of health" means:

(1) In a county whose population is 400,000 or more, the district board of health; or

(2) In a county whose population is less than 400,000, the State Board of Health.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

Sec. 2. NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section:

(a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog; or

(c) A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(1) Which has not been deemed safe for habitation by ~~[a governmental entity;]~~ ***the board of health;*** or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog,

➥ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

➥ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section:

(a) ***"Board of health" has the meaning ascribed to it in section 1 of this act.***

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~[(b)]~~ ***(c)*** "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(c)]~~ ***(d)*** "Shooting range" means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

Sec. 3. NRS 40.770 is hereby amended to read as follows:

40.770 1. Except as otherwise provided in subsection 6, in any sale, lease or rental of real property, the fact that the property is or has been:

(a) The site of a homicide, suicide or death by any other cause, except a death that results from a condition of the property;

(b) The site of any crime punishable as a felony other than a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Occupied by a person exposed to the human immunodeficiency virus or suffering from acquired immune deficiency syndrome or any other disease that is not known to be transmitted through occupancy of the property,

➥ is not material to the transaction.

2. In any sale, lease or rental of real property, the fact that a sex offender, as defined in NRS 179D.095, resides or is expected to reside in the community is not material to the transaction, and the seller, lessor or landlord or any agent of the seller, lessor or landlord does not have a duty to disclose such a fact to a buyer, lessee or tenant or any agent of a buyer, lessee or tenant.

3. In any sale, lease or rental of real property, the fact that a facility for transitional living for released offenders that is licensed pursuant to chapter

449 of NRS is located near the property being sold, leased or rented is not material to the transaction.

4. A seller, lessor or landlord or any agent of the seller, lessor or landlord is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the seller, lessor or landlord or agent of the seller, lessor or landlord had no actual knowledge.

5. Except as otherwise provided in an agreement between a buyer, lessee or tenant and his agent, an agent of the buyer, lessee or tenant is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the agent of the buyer, lessee or tenant had no actual knowledge.

6. For purposes of this section, the fact that the property is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine is not material to the transaction if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or

(b) The property has been deemed safe for habitation by ~~[a governmental entity.]~~ ***the board of health.***

7. As used in this section ~~[, "facility]~~ ***:***

(a) "Board of health" has the meaning ascribed to it in section 1 of this act.

(b) "Facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.

Sec. 4. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor or controlled substance analog is unlawfully sold, served, stored, kept, manufactured, used or given away; or

(f) Where vagrants resort,

➥ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

➥ is a public nuisance.

4. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by ~~[a governmental entity]~~ ***the board of health*** and:

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

➥ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in

paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

7. As used in this section:

(a) ***"Board of health" has the meaning ascribed to it in section 1 of this act.***

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~[(b)]~~ ***(c)*** "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(c)]~~ ***(d)*** "Shooting range" has the meaning ascribed to it in NRS 40.140.

Sec. 5. ~~[~~NRS 244.3603 is hereby amended to read as follows:

~~244.3603 1. Each board of county commissioners~~ ***, in consultation with the board of health,*** may, by ordinance, to protect the public health, ~~safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney~~ ***or an attorney appointed by the board of county commissioners*** may ~~file an action in a court of competent jurisdiction to:~~

~~(a) Seek the abatement of a chronic nuisance that is located or occurring within the~~ ***incorporated or*** ~~unincorporated area of the county;~~

~~(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and~~

~~(c) If applicable, seek penalties against the owner of the property within the~~ ***incorporated or*** ~~unincorporated area of the county and any other appropriate relief~~ **[**.**]** ***, including, without limitation, placing a lien on the property.***

~~2. An ordinance adopted pursuant to subsection 1 must:~~

~~(a) Contain procedures pursuant to which the owner of the property is:~~

~~(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on his property of nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the district attorney for legal action; and~~

~~(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.~~

~~(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.~~

~~(c) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.~~

~~3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:~~

~~(a) Impose a civil penalty of not more than $500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;~~

~~(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and~~

~~(c) Order any other appropriate relief.~~

~~4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance, the board may make the expense a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.~~

~~5. As used in this section:~~

~~(a) "***Board of health" has the meaning ascribed to it in section 1 of this act.***~~

~~***(b)*** A "chronic nuisance" exists:~~

~~(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property.~~

~~(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property.~~

~~(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.~~

~~(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.~~

~~(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:~~

~~(I) The building or place has not been deemed safe for habitation by~~ **[**a governmental entity;**]** ~~***the board of health;*** or~~

~~(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.~~

[(b)**]** ~~***(c)*** "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.~~

[(c)**]** ~~***(d)*** "Immediate precursor" has the meaning ascribed to it in NRS 453.086.~~

[(d)**]** ~~***(e)*** "Nuisance activity" means:~~

~~(1) Criminal activity;~~

~~(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;~~

~~(3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;~~

~~(4) Excessive noise and violations of curfew; or~~

~~(5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.~~

~~[~~(c)~~]~~ ~~*(f)*~~ ~~"Person associated with the property" means:~~

~~(1) The owner of the property;~~

~~(2) The manager or assistant manager of the property;~~

~~(3) The tenant of the property; or~~

~~(4) A person who, on the occasion of a nuisance activity, has:~~

~~(I) Entered, patronized or visited;~~

~~(II) Attempted to enter, patronize or visit; or~~

~~(III) Waited to enter, patronize or visit,~~

~~the property or a person present on the property.~~ **(Deleted by amendment.)**

Sec. 6. ~~[~~NRS 268.4124 is hereby amended to read as follows:

~~268.4124 1. [~~The~~]~~ ~~*To the extent consistent with an ordinance adopted pursuant to NRS 244.3603, the*~~ governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

~~(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;~~

~~(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and~~

~~(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.~~

~~2. An ordinance adopted pursuant to subsection 1 must:~~

~~(a) Contain procedures pursuant to which the owner of the property is:~~

~~(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on his property of two or more nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the city attorney for legal action; and~~

~~(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.~~

~~(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.~~

~~(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.~~

~~3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not~~

~~to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:~~

~~(a) Impose a civil penalty of not more than $500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;~~

~~(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;~~

~~(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and~~

~~(d) Order any other appropriate relief.~~

~~4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance, the governing body may make the expense a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.~~

~~5. As used in this section:~~

~~(a)~~ ***"Board of health" has the meaning ascribed to it in section 1 of this act.***

(b) ~~A~~ "chronic nuisance" exists:

~~(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property.~~

~~(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property.~~

~~(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.~~

~~(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.~~

~~(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:~~

~~(I) The building or place has not been deemed safe for habitation by~~ **[**~~a governmental entity;~~**]** ***the board of health;*** ~~or~~

~~(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.~~

~~[(b)] *(c)* "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.~~

~~[(c)] *(d)* "Immediate precursor" has the meaning ascribed to it in NRS 453.086.~~

~~[(d)] *(e)* "Nuisance activity" means:~~

~~(1) Criminal activity;~~

~~(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;~~

~~(3) Excessive noise and violations of curfew; or~~

~~(4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.~~

~~[(e)] *(f)* "Person associated with the property" means a person who, on the occasion of a nuisance activity, has:~~

~~(1) Entered, patronized or visited;~~

~~(2) Attempted to enter, patronize or visit; or~~

~~(3) Waited to enter, patronize or visit,~~

~~a property or a person present on the property.]~~ **(Deleted by amendment.)**

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 489.776 is hereby amended to read as follows:

489.776 1. Except as otherwise provided in this section and unless required to make a disclosure pursuant to NRS 40.770, if a manufactured home, mobile home or commercial coach is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine, a transferor or his agent who has actual knowledge of such information shall disclose the information to a transferee or his agent.

2. The disclosure described in subsection 1 is not required if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the manufactured home, mobile home or commercial coach by an entity certified or licensed to do so; or

(b) The manufactured home, mobile home or commercial coach has been deemed safe for habitation by ~~[a governmental entity.]~~ ***the board of health.***

3. The disclosure described in subsection 1 is not required for any sale or other transfer or intended sale or other transfer of a manufactured home, mobile home or commercial coach by a transferor:

(a) To any co-owner of the manufactured home, mobile home or commercial coach, the spouse of the transferor or a person related within the third degree of consanguinity ***or affinity*** to the transferor; or

(b) If the transferor is a dealer and this is the first sale or transfer of a new manufactured home, mobile home or commercial coach.

4. The Division may adopt regulations to carry out the provisions of this section.

5. As used in this section, "board of health" has the meaning ascribed to it in section 1 of this act.

Sec. 10. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on July 1, 2009, for all other purposes.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 82.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 733.

SUMMARY—Makes various changes relating to ~~[technological crime and the seizure of certain funds associated with]~~ prepaid or stored value cards. (BDR 14-266)

AN ACT relating to crimes; ~~[revising the provisions relating to the disclosure of certain electronic information by certain providers of certain technological services during investigations involving technological crimes; revising the provisions relating to the forfeiture of property and proceeds attributable to technological crimes;]~~ establishing procedures for ~~[the freezing and seizing of]~~ **identifying** certain funds associated with prepaid or stored value cards; ~~[making various other changes relating to technological crimes;]~~ **authorizing certain contracts to carry out the provisions relating to the identification of such funds;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 2 and 14 of this bill repeal the existing provisions of Nevada law pertaining to the disclosure of certain information by a provider of Internet service and replace those existing provisions with new provisions authorizing the disclosure of certain information under certain circumstances by a provider of electronic communication service or a remote computing service which conform with, and which are closely patterned after, the requirements of applicable federal law. (NRS 193.340, 18 U.S.C. § 2703)~~

~~Sections 3-10 of this]~~ **This** bill ~~[establish]~~ **establishes** procedures to allow law enforcement to ~~[freeze and seize]~~ **identify** funds associated with prepaid or stored value cards.

~~[~~ ~~Section 6 of this]~~ **This** bill allows a peace officer to ~~[freeze for 10 business days the]~~ **determine the name, personal information and amount of** funds associated with a prepaid or stored value card in certain circumstances **where there is probable cause to believe that the prepaid or stored value card is an instrumentality of a crime.** ~~[and requires the peace officer to provide notice of the freeze to the financial institution identified as the issuer of the card.~~

~~Section 7 of this bill allows a peace officer to seize the funds associated with a prepaid or stored value card if the financial institution identified as the~~

~~issuer of the card is not located in this country and the peace officer has probable cause to believe a freeze will not be honored by the financial institution.~~

~~Section 8 of this bill provides procedures for the issuance of warrants to seize funds associated with prepaid or stored value cards.~~

~~Section 9 of this bill provides a procedure for a person aggrieved by the seizure of the funds associated with a prepaid or stored value card pursuant to a warrant to file a motion for the return of the funds and the suppression of the evidence obtained pursuant to the warrant.~~

~~Section 10 of~~**]** **Finally,** this bill allows the Attorney General or a state or local law enforcement agency to enter into a contract to carry out the provisions of this bill concerning the ~~[freezing and seizing]~~ **identification** of funds.

~~[~~ ~~Section 11 of this bill revises the provisions relating to the forfeiture of property and proceeds attributable to any felony crime to include, specifically, reference to a "prepaid or stored value card" and funds associated with a prepaid or stored value card as property that is subject to forfeiture. (NRS 179.1162)~~

~~Section 12 of this bill revises the provisions relating to the forfeiture of property and proceeds attributable to technological crimes to include, specifically, reference to a "prepaid or stored value card" and funds associated with a prepaid or stored value card as property that is subject to forfeiture. (NRS 179.1215)~~

~~Section 13 of this bill makes a technical correction to include a necessary reference to the provisions relating to forfeiture of property and proceeds attributable to technological crimes. (NRS 179.1211-179.1235)~~**]**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 179 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 1 to 10, inclusive, of this act.]~~ **a new section to read as follows:**

1. If a peace officer:

(a) Has detained a person pursuant to NRS 171.123, has arrested a person pursuant to any statutory provision authorizing or requiring the arrest of a person or is investigating a crime for which a suspect:

(1) Has not been identified; or

(2) Has been identified but was not reasonably believed by the peace officer to possess or control a prepaid or stored value card before the peace officer lawfully obtained possession of a prepaid or stored value card;

(b) Has lawfully obtained possession of a prepaid or stored value card; and

(c) Has probable cause to believe that the prepaid or stored value card represents the proceeds of a crime or has been used, is being used or is intended for use in the commission of a crime,

➥ the peace officer may use an electronic device, a necessary electronic communications network or any other reasonable means to determine the name, personal information and amount of funds associated with the prepaid or stored value card.

2. The Attorney General, his designee or any state or local law enforcement agency in this State may enter into a contract with any person to assist in carrying out the provisions of this section.

3. Before entering into a contract pursuant to subsection 2, the Attorney General, his designee or a state or local law enforcement agency shall consider the following factors:

(a) The functional benefits to all law enforcement agencies in this State of maintaining either a single database or a series of interlinked databases relating to possible criminal use of prepaid or stored value cards.

(b) The overall costs of establishing and maintaining such a database or databases.

(c) Any other factors that the Attorney General, his designee or the state or local law enforcement agency believe to be relevant.

4. Any contract entered into pursuant to this section:

(a) May be a sole source contract, not subject to the rules and requirements of open competitive bidding, if the period of the contract does not exceed 5 years; and

(b) Must indemnify and hold harmless any person who enters into a contract pursuant to this section, and any officers, employees or agents of that person, for claims for actions taken at the direction of a law enforcement agency in this State and within the scope of the contract .

5. As used in this section:

(a) "Prepaid or stored value card" means any instrument or device used to access funds or monetary value represented in digital electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically.

(b) "Proceeds" has the meaning ascribed to it in NRS 179.1161.

Sec. 2. ~~*[1. In investigating criminal activity that involves or may involve a technological crime, a governmental entity may require the disclosure by a provider of electronic communication service of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system:*~~

~~*(a) For 180 days or less, only by a search warrant issued pursuant to NRS 179.015 to 179.115, inclusive.*~~

~~*(b) For more than 180 days, by any means available pursuant to subsection 2.*~~

~~*2. A governmental entity may require a provider of remote computing service to disclose the contents of any wire or electronic communication to which this subsection applies:*~~

~~*(a) Without prior notice to the subscriber or customer from the governmental entity by obtaining a search warrant pursuant to NRS 179.015 to 179.115, inclusive; or*~~

~~*(b) With prior notice to the subscriber or customer from the governmental entity:*~~

~~*(1) By serving a subpoena; or*~~

~~*(2) By obtaining a court order for such disclosure pursuant to subsection 7, except that delayed notice may be given pursuant to subsection 11.*~~

~~*3. Subsection 2 applies with respect to any wire or electronic communication that is held or maintained on that remote computing service:*~~

~~*(a) On behalf of, and received by means of electronic transmission from, or created by means of computer processing of communications received by means of electronic transmission from, a subscriber or customer of such remote computing service; and*~~

~~*(b) Solely for the purpose of providing storage or computer processing services to such subscriber or customer, if such remote computing service is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.*~~

~~*4. A governmental entity may require a provider of electronic communication service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such service, not including the contents of communications, only when the governmental entity:*~~

~~*(a) Obtains a search warrant pursuant to NRS 179.015 to 179.115, inclusive;*~~

~~*(b) Obtains a court order for such disclosure pursuant to subsection 7;*~~

~~*(c) Has the consent of the subscriber or customer to such disclosure; or*~~

~~*(d) Seeks information pursuant to subsection 5.*~~

~~*5. A provider of electronic communication service or remote computing service shall disclose to a governmental entity the:*~~

~~*(a) Name;*~~

~~*(b) Address;*~~

~~*(c) Local and long distance telephone connection records, or records of session times and durations;*~~

~~*(d) Length of service, including start date, and types of service utilized;*~~

~~*(e) Telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and*~~

~~*(f) Means and source of payment for such service, including any credit card or bank account number,*~~

~~*of a subscriber to or customer of such service when the governmental entity obtains a subpoena or uses any means available pursuant to subsection 4.*~~

~~*6. A governmental entity receiving records or information pursuant to subsection 4 or 5 is not required to provide notice to a subscriber or customer.*~~

~~*7. A court order for disclosure pursuant to subsection 2, 4 or 5 may be issued by any court of competent jurisdiction only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation that involves or may involve a technological crime. A court issuing an order pursuant to this subsection, on a motion made promptly by the provider of wire or electronic communication service or remote computing service, may quash or modify such order if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on the provider of wire or electronic communication service or remote computing service.*~~

~~*8. If a person who has been issued a subpoena pursuant to this section:*~~

~~*(a) Charges a fee for providing the information, the fee must not exceed the actual costs for providing the information.*~~

~~*(b) Refuses to produce any information that the subpoena requires, the person who issued the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.*~~

~~*9. A provider of wire or electronic communication service or remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process. Such records and other evidence must be retained for a period of 90 days, which may be extended for an additional 90 day period upon request by the governmental entity.*~~

~~*10. Notwithstanding the provisions of NRS 179.015 to 179.115, inclusive, the presence of a peace officer is not required for service or execution of a search warrant requiring disclosure by a provider of electronic communication service or remote computing service of the contents of communications or records or other information pertaining to a subscriber to or customer of such service.*~~

~~*11. The notice to a subscriber or customer required by this section may be delayed for a period not to exceed 90 days under any of the following circumstances:*~~

~~*(a) If the applicant for a search warrant or court order requests a delay of notification and the court finds that delay is necessary to protect the safety of any person or to prevent flight from prosecution, tampering with evidence, intimidation of witnesses or jeopardizing an investigation.*~~

~~*(b) If the investigator or prosecuting attorney proceeding by subpoena executes a written certification that there is reason to believe that notice to the subscriber or party may result in danger to the safety of any person, flight from prosecution, tampering with evidence, intimidation of witnesses or jeopardizing an investigation. A true copy of the certification must be retained with the subpoena.*~~

~~*→ If further delay of notification is necessary, an extension not to exceed 90 days may be obtained by application to the court.*~~

~~*12. No cause of action may lie in any court against any provider of wire or electronic communication service or remote computing service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order, search warrant, subpoena or other process pursuant to this section.*~~

~~*13. As used in this section:*~~

~~*(a) The terms "contents," "electronic communication," "electronic communication service," "electronic communications system," "electronic storage," "oral communication" and "wire communication" have the meanings ascribed to them in 18 U.S.C. § 2510.*~~

~~*(b) "Governmental entity" includes the following law enforcement officials, and any authorized representative thereof:*~~

~~*(1) The Attorney General;*~~

~~*(2) A district attorney;*~~

~~*(3) A sheriff in this State;*~~

~~*(4) Any organized police department of any municipality in this State;*~~

~~*(5) Any school police unit of any school district in this State; and*~~

~~*(6) Any department of this State engaged in the enforcement of any criminal law of this State.*~~

~~*(c) "Remote computing service" has the meaning ascribed to it in 18 U.S.C. § 2711.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*[As used in sections 3 to 10, inclusive of this act, unless the context otherwise requires, the words and terms defined in sections 4 and 5 of this act have the meanings ascribed to them in those sections.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*["Prepaid or stored value card" means any instrument or device used to access funds or monetary value represented in digital electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~*["Proceeds" has the meaning ascribed to it in NRS 179.1161.]*~~ **(Deleted by amendment.)**

Sec. 6. ~~*[1. If a peace officer:*~~

~~*(a) Has detained a person pursuant to NRS 171.123, has arrested a person pursuant to any statutory provision authorizing or requiring the arrest of a person or is investigating a crime for which a suspect:*~~

~~*(1) Has not been identified; or*~~

~~*(2) Has been identified but was not reasonably believed by the peace officer to possess or control a prepaid or stored value card before the peace officer lawfully obtained possession of a prepaid or stored value card;*~~

~~*(b) Has lawfully obtained possession of a prepaid or stored value card; and*~~

~~*(c) Has probable cause to believe that the prepaid or stored value card represents the proceeds of a crime or has been used, is being used or is intended for use in the commission of a crime,*~~

~~*→ the peace officer may use an electronic device, a necessary electronic communications network or any other reasonable means to determine the name, personal information and the amount of funds associated with the prepaid or stored value card .*~~ *[and freeze the funds associated with the prepaid or stored value card, or any portion thereof, for a period of not more than 10 business days.*

~~*2. Upon freezing any funds pursuant to this section, the peace officer shall give notice, or cause notice to be given, to any financial institution identified as the issuer of the prepaid or stored value card. Except as otherwise provided in this subsection, such notice must be in electronic form and must include, without limitation, the amount of funds frozen, the duration of the freeze and sufficient contact information to allow the holder of the funds to request the lifting of the freeze. If notice in electronic form cannot be reasonably effectuated, the peace officer shall make a reasonable effort under the circumstances to give the notice required by this subsection or cause such notice to be given.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~*[1. If a peace officer has probable cause to believe the financial institution identified as the issuer of the prepaid or stored value card is located outside the United States and will not honor a freeze imposed pursuant to section 6 of this act, the peace officer may use an electronic device, a necessary communications network or any other reasonable means to seize the funds associated with the prepaid or stored value card, or any portion thereof.*~~

~~*2. Upon seizing any funds pursuant to this section, the peace officer shall give notice, or cause notice to be given, to the financial institution identified as the issuer of the prepaid or stored value card. Except as otherwise provided in this subsection, such notice must be in electronic form and must include, without limitation, the amount of funds seized, sufficient information to allow the financial institution to contact the peace officer or his law enforcement agency and a statement that the seizure is subject to the provisions of NRS 179.1156 to 179.121, inclusive, or 179.1211 to 179.1235, inclusive. If notice in electronic form cannot be reasonably effectuated, the peace officer shall make a reasonable effort under the circumstances to give the notice required by this subsection or cause such notice to be given.*~~

~~*3. A person aggrieved by the seizure of any funds pursuant to this section may move the court having jurisdiction where the peace officer who*~~

~~*seized the funds is headquartered for the return of the seized funds and to suppress the use as evidence of the seized funds and any identifying information obtained in connection with the seizure on the ground that there was not probable cause for believing that the funds represent the proceeds of a crime or had been used, are being used or were intended for use in the commission of a crime.*~~

~~*4. If the court hearing a motion filed pursuant to subsection 3 finds that there was not probable cause for believing that the funds represent the proceeds of a crime or had been used, are being used or were intended for use in the commission of a crime, the court shall restore the funds, unless the funds are otherwise subject to lawful detention, and the funds and any identifying information obtained in connection with the seizure are not admissible evidence at any trial or hearing.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[1. A magistrate of the State of Nevada may issue a warrant to seize the funds associated with a prepaid or stored value card, or any portion thereof, if the magistrate finds that there is probable cause to believe that the funds to be seized:*~~

~~*(a) Were stolen or embezzled in violation of the laws of the State of Nevada, or of any other state or the United States;*~~

~~*(b) Were designed or intended for use, or are being or had been used, as the means of committing a criminal offense; or*~~

~~*(c) Constitute evidence which tends to show that a criminal offense has been committed or that a particular person committed a criminal offense.*~~

~~*2. Except as otherwise provided in subsection 3, the warrant described in this section may issue only on affidavit or affidavits sworn to before the magistrate and establishing the grounds for issuing the warrant.*~~

~~*3. In lieu of the affidavit required by subsection 2, the magistrate may take an oral statement given under oath, which must be recorded in the presence of the magistrate or in his immediate vicinity by a certified court reporter or by electronic means, transcribed, certified by the reporter if he recorded it and certified by the magistrate. The statement must be filed with the clerk of the court.*~~

~~*4. Upon a showing of good cause, the magistrate may order an affidavit or a recording of an oral statement given pursuant to this section to be sealed. Upon a showing of good cause, a court may cause the affidavit or recording to be unsealed.*~~

~~*5. A warrant issued pursuant to this section must be directed to a peace officer who is able to execute the warrant through the electronic seizure of the funds. The warrant must command the peace officer to seize the funds associated with the prepaid or stored value card, or any portion thereof, and:*~~

~~*(a) State the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof; or*~~

~~*(b) Incorporate by reference the affidavit or oral statement upon which it is based.*~~

~~*6. A warrant issued pursuant to this section must designate the magistrate to whom it is to be returned.*~~

~~*7. A warrant issued pursuant to this section may be executed and returned only within 10 days of its date.*~~

~~*8. The peace officer executing a warrant issued pursuant to this section shall give notice, or cause notice to be given, to any financial institution identified as the issuer of the prepaid or stored value card. Except as otherwise provided in this subsection, such notice must be in electronic form and must include, without limitation, the alleged crime associated with the seizure, the amount of funds seized, the manner in which the financial institution may obtain a copy of the warrant and the phone number and address of the clerk of the court having jurisdiction where the warrant was issued. If notice in electronic form cannot be reasonably effectuated, the peace officer shall make a reasonable effort under the circumstances to give the notice required by this subsection or cause such notice to be given.*~~

~~*9. The return must be made promptly and be accompanied by any physical evidence of the seizure.*~~

~~*10. The magistrate who has issued a warrant pursuant to this section shall attach to the warrant a copy of the return, any physical evidence of the seizure and any other papers in connection therewith and shall file them with the clerk of the court having jurisdiction where the warrant was issued.*~~

~~*11. Any funds seized to this section must be maintained in an escrow account, or other similar account, in a national bank that is chartered and regulated by the Office of the Comptroller of the Currency of the United States Department of the Treasury. The funds must be maintained pursuant to procedures that ensure appropriate accounting and auditing.]*~~ **(Deleted by amendment.)**

Sec. 9. ~~*[1. A person aggrieved by the seizure of funds pursuant to section 8 of this act may move the court having jurisdiction where the warrant was issued for the return of the seized funds and to suppress the use as evidence of the seized funds and any identifying information obtained in connection with the seizure on the grounds that:*~~

~~*(a) The funds were illegally seized without a warrant;*~~

~~*(b) The warrant is insufficient on its face;*~~

~~*(c) There was not probable cause for believing the existence of the grounds on which the warrant was issued; or*~~

~~*(d) The warrant was illegally executed.*~~

~~*2. The judge shall receive evidence on any issue of fact necessary to the decision of the motion.*~~

~~*2. If a motion filed pursuant to this section is granted, the funds must be restored, unless otherwise subject to lawful detention, and the funds and any identifying information obtained in connection with the seizure is not admissible evidence at any hearing or trial.*~~

~~*3. Any motion to suppress evidence may also be made in the court where the trial is to take place. The motion must be made before trial or hearing, unless opportunity to file the motion did not exist or the defendant was not aware of the grounds for the motion, but the court in its discretion may entertain the motion at the trial or hearing.]*~~ **(Deleted by amendment.)**

Sec. 10. ~~*[1. The Attorney General, his designee or any state or local law enforcement agency in this State may enter into a contract with any person to assist in carrying out the provisions of sections 3 to 10, inclusive, of this act.*~~

~~*2. Before entering into a contract pursuant to subsection 1, the Attorney General, his designee or a state or local law enforcement agency shall consider the following factors:*~~

~~*(a) The functional benefits to all law enforcement agencies in this State of maintaining either a single database or a series of interlinked databases relating to possible criminal use of prepaid or stored value cards.*~~

~~*(b) The overall costs of establishing and maintaining such a database or databases.*~~

~~*(c) Any other factors that the Attorney General, his designee or the state or local law enforcement agency believe to be relevant.*~~

~~*3. Any contract entered into pursuant to this section:*~~

~~*(a) May be a sole source contract, not subject to the rules and requirements of open competitive bidding, if the period of the contract does not exceed 5 years;*~~

~~*(b) Must ensure that the freeze or seizure of funds pursuant to sections 3 to 10, inclusive, of this act does not deprive the financial institution subject to the freeze or seizure of interchange income; and*~~

~~*(c) Must indemnify and hold harmless any person who enters into a contract pursuant to this section, and any officers, employees or agents of that person, for claims for actions taken*~~**:**

~~*(1) At*~~ **the direction of a law enforcement agency in this State and within the scope of the contract** ~~*and sections 3 to 10, inclusive, of this act; and*~~

~~*(2) Pursuant to any warrant issued pursuant to section 8 of this act.]*~~ **(Deleted by amendment.)**

Sec. 11. ~~**[NRS 179.1162 is hereby amended to read as follows:**~~

~~**179.1162 "Property" includes any:**~~

~~**1. Real property or interest in real property.**~~

~~**2. Fixture or improvement to real property.**~~

~~**3. Personal property, whether tangible or intangible, or interest in personal property.**~~

~~**4. Conveyance, including any aircraft, vehicle or vessel.**~~

~~**5. Money, security or negotiable instrument.**~~

~~**6. Proceeds.**~~

~~**7. Prepaid or stored value card and funds associated with a prepaid or stored value card. As used in this subsection, "prepaid or stored value**~~

~~*card" has the meaning ascribed to it in section 4 of this act.]*~~ **(Deleted by amendment.)**

Sec. 12. ~~**[NRS 179.1215 is hereby amended to read as follows:**~~

~~**179.1215 "Property" includes, without limitation, any:**~~

~~**1. Real property or interest in real property.**~~

~~**2. Fixture or improvement to real property.**~~

~~**3. Personal property, whether tangible or intangible, or interest in personal property.**~~

~~**4. Conveyance, including, without limitation, any aircraft, vehicle or vessel.**~~

~~**5. Money, security or negotiable instrument.**~~

~~**6. Proceeds.**~~

~~*7. Prepaid or stored value card and funds associated with a prepaid or stored value card. As used in this subsection, "prepaid or stored value card" has the meaning ascribed to it in section 4 of this act.]*~~ **(Deleted by amendment.)**

Sec. 13. ~~**[NRS 200.760 is hereby amended to read as follows:**~~

~~**200.760 All assets derived from or relating to any violation of NRS 200.366, 200.710 to 200.730, inclusive, or 201.230 are subject to forfeiture. A proceeding for their forfeiture may be brought pursuant to NRS 179.1156 to 179.119, inclusive , *or 179.1211 to 179.1235, inclusive.]***~~ **(Deleted by amendment.)**

Sec. 14. ~~*[*NRS 193.340 is hereby repealed.*]*~~ **(Deleted by amendment.)**

Sec. 15. This act becomes effective on July 1, 2009.

~~**]**~~

~~**TEXT OF REPEALED SECTION**~~

~~193.340 Required disclosure of certain information by provider of Internet service; penalty; issuance and enforcement of administrative subpoena; fee for information.~~

~~1. A provider of Internet service who violates the provisions of 18 U.S.C. § 2703 is guilty of a misdemeanor and shall be punished by a fine of not less than $50 or more than $500 for each violation.~~

~~2. In investigating criminal activity that involves or may involve the use of a computer, the Attorney General, a district attorney, the sheriff of any county in this State, the head of any organized police department of any municipality in this State, the head of any department of this State engaged in the enforcement of any criminal law of this State and any sheriff or chief of police of a municipality may, if there is reasonable cause to believe that an individual subscriber or customer of a provider of Internet service has committed an offense through the use of the services of the provider of Internet service, issue a subpoena to carry out the procedure set forth in 18 U.S.C. § 2703 to compel the provider of Internet service to provide information concerning the individual subscriber or customer that the provider of Internet service is required to disclose pursuant to 18 U.S.C. § 2703.~~

~~3. If a person who has been issued a subpoena pursuant to subsection 2 charges a fee for providing the information, the fee must not exceed the actual cost for providing the information.~~

~~4. If a person who has been issued a subpoena pursuant to subsection 2 refuses to produce any information that the subpoena requires, the person who issued the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.~~

~~5. As used in this section, "provider of Internet service" has the meaning ascribed to it in NRS 205.4758, but does not include a public library when it is engaged in providing access to the Internet.~~]

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 92.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 735.

AN ACT relating to notaries public; providing for electronic notarization; authorizing the Secretary of State to appoint electronic notaries public; revising provisions for the appointment of resident and nonresident notaries public; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Secretary of State is authorized to appoint notaries public in this State. (NRS 240.010) **Sections 3-26** of this bill enact the Electronic Notary Public Authorization Act, which authorizes the Secretary of State to appoint electronic notaries public who will be authorized to notarize electronic documents.

Sections 2 and 5-10 of this bill set forth various definitions relating to electronic notarization. **Section 12** of this bill requires that a person seeking appointment as an electronic notary public already be a notary public in Nevada and successfully complete a course of study on electronic notarization, enter into a bond, pay an application fee and take an oath as a public officer. **Section 14** of this bill provides that the initial term of appointment for an electronic notary public is 2 years and any subsequent term of appointment is 4 years. **Section 16** of this bill states that an electronic notary public may perform the same notarial acts as a notary public except for certifying copies and noting protests of a negotiable instrument, and **section 17** of this bill sets forth the fees he may charge. **Section 18** of this bill prohibits the electronic notarization of a will, codicil, testamentary trust or any document related to transactions governed by certain sections of the

Uniform Commercial Code, as prohibited by the Uniform Electronic Transactions Act, codified as chapter 719 of NRS. (NRS 719.200) **Section 19** of this bill sets forth the specific requirements that distinguish the notarization of an electronic document from a nonelectronic notarization, including the use of an electronic signature and an electronic seal. **Sections 21 and 22** of this bill provide that an electronic notary public must safeguard his electronic signature and any software or device used in producing that signature. **Section 23** of this bill makes it a gross misdemeanor to: (1) wrongfully make or distribute software or hardware for the purpose of allowing a person to act as an electronic notary public without being appointed; or (2) wrongfully obtain, conceal, damage or destroy the software or hardware used by an electronic notary public. **Section 25** of this bill authorizes the Secretary of State to promulgate regulations to carry out the provisions of the Electronic Notary Public Authorization Act. **Section 26** of this bill provides that all the laws which apply to regular notaries public apply to electronic notaries public unless a provision of the Electronic Notary Public Authorization Act conflicts, in which case the latter controls.

Existing law prohibits a person who has been convicted of a crime of moral turpitude or a person who does not possess his civil rights from being appointed as a notary public. (NRS 240.010, 240.015) **Section 29** of this bill authorizes the Secretary of State to appoint as a notary public a person who was convicted of ~~[a crime of moral turpitude]~~ **certain crimes** if: (1) more than 10 years have passed since the end of his sentence, parole or probation; (2) he has made restitution, if applicable; ~~[and]~~ (3) he has had his civil rights restored ~~[.]~~ **; and (4) the crime for which he was convicted was not one of an enumerated list of crimes involving dishonesty or identity theft.**

Existing law allows a resident of an adjoining state to be appointed as a notary public in Nevada if he maintains or works for a business in Nevada. (NRS 240.015) **Sections 30-32** of this bill amend the requirements for a nonresident notary public to further require a copy of a state business license and any other business license required by a local government where the business is located as proof of employment or self-employment in Nevada when applying for an appointment or the renewal of an appointment as a nonresident notary public.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 240 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 26, inclusive, of this act.

Sec. 2. ***"Notarial record" means:***

1. The journal that a notary public is required to keep pursuant to NRS 240.120;

2. The journal that an electronic notary public is required to keep pursuant to section 20 of this act; and

3. A document or other evidence retained by a notary public or an electronic notary public to record the performance of a notarial act or an electronic notarial act.

Sec. 3. ***Sections 3 to 26, inclusive, of this act may be cited as the Electronic Notary Public Authorization Act.***

Sec. 4. ***As used in sections 3 to 26, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 10, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 5. ***"Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.***

Sec. 6. ***"Electronic document" means a document that is created, generated, sent, communicated, received or stored by electronic means.***

Sec. 7. ***"Electronic notarial act" means an act that an electronic notary public of this State is authorized to perform. The term includes:***

1. Taking an acknowledgment;

2. Administering an oath or affirmation;

3. Executing a jurat; and

4. Performing such other duties as may be prescribed by a specific statute.

Sec. 8. ***"Electronic notary public" means a person appointed by the Secretary of State pursuant to sections 3 to 26, inclusive, of this act to perform electronic notarial acts.***

Sec. 9. ***"Electronic seal" means information within a notarized electronic document that includes the name, jurisdiction and expiration date of the appointment of an electronic notary public and generally includes the information required to be set forth in a mechanical stamp pursuant to NRS 240.040.***

Sec. 10. ***"Electronic signature" means an electronic symbol or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document.***

Sec. 11. ***1. The Secretary of State may appoint electronic notaries public in this State.***

2. The Secretary of State shall not appoint as an electronic notary public a person who submits an application containing a substantial and material misstatement or omission of fact.

3. An electronic notary public may cancel his appointment by submitting a written notice to the Secretary of State.

4. It is unlawful for a person to:

(a) Represent himself as an electronic notary public appointed pursuant to this section if he has not received a certificate of appointment from the Secretary of State pursuant to section 12 of this act.

(b) Submit an application for appointment as an electronic notary public that contains a substantial and material misstatement or omission of fact.

5. The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 4.

Sec. 12. ***1. Each person applying for appointment as an electronic notary public must:***

(a) At the time of application, be a notarial officer in this State and have been a notarial officer in this State for not less than 4 years;

(b) Submit to the Secretary of State an electronic application pursuant to subsection 2;

(c) Pay to the Secretary of State an application fee of $50;

(d) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if he were a public officer;

(e) Submit to the Secretary of State proof satisfactory to the Secretary of State that he has successfully completed a course of study provided pursuant to section 15 of this act; and

(f) Enter into a bond to the State of Nevada in the sum of $10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant must submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.

2. The application for an appointment as an electronic notary public must be submitted as an electronic document and must contain, without limitation, the following information:

(a) The applicant's full legal name, and the name to be used for appointment, if different.

(b) The county in which the applicant resides.

(c) The electronic mail address of the applicant.

(d) A description of the technology or device, approved by the Secretary of State, that the applicant intends to use to create his electronic signature in performing electronic notarial acts.

(e) The electronic signature of the applicant.

(f) Any other information requested by the Secretary of State.

3. An applicant for appointment as an electronic notary public who resides in an adjoining state, in addition to the requirements set forth in subsections 1 and 2, must submit to the Secretary of State with his application:

(a) An affidavit setting forth the adjoining state in which he resides, his mailing address and the address of his place of business or employment that is located within the State of Nevada;

(b) A copy of his state business license issued pursuant to NRS 360.780 and any business license required by the local government where his business is located, if he is self-employed; and

(c) Unless the applicant is self-employed, a copy of the state business license of his employer issued pursuant to NRS 360.780, a copy of any

business license of his employer that is required by the local government where the business is located and an affidavit from his employer setting forth the facts which show that the employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.

4. In completing an application, bond, oath or other document necessary to apply for appointment as an electronic notary public, an applicant must not be required to disclose his residential address or telephone number on any such document which will become available to the public.

5. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when he applies for his appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as an electronic notary public to the applicant.

6. The term of an electronic notary public commences on the effective date of the bond required pursuant to paragraph (f) of subsection 1. An electronic notary public shall not perform an electronic notarial act after the effective date of the bond unless he has been issued a certificate of appointment pursuant to subsection 5.

7. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of $10 for each duplicate or amended certificate of appointment which is issued to an electronic notary public. If the electronic notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the electronic notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.

Sec. 13. ***1. The bond required to be filed pursuant to section 12 of this act must be executed by the person applying to become an electronic notary public as principal and by a surety company qualified and authorized to do business in this State. The bond must be made payable to the State of Nevada and be conditioned to provide indemnification to a person determined to have suffered damage as a result of an act by the electronic notary public which violates a provision of NRS 240.001 to 240.169, inclusive, or sections 3 to 26, inclusive, of this act. The surety company shall pay a final, nonappealable judgment of a court of this State that has jurisdiction, upon receipt of written notice of final judgment. The bond may be continuous, but regardless of the duration of the bond, the aggregate liability of the surety does not exceed the penal sum of the bond.***

2. If the penal sum of the bond is exhausted, the surety company shall notify the Secretary of State in writing within 30 days after its exhaustion.

3. The surety bond must cover the period of the appointment of the electronic notary public, except when a surety is released.

4. A surety on a bond filed pursuant to section 12 of this act may be released after the surety gives 30 days' written notice to the Secretary of State and the electronic notary public, but the release does not discharge or otherwise affect a claim filed by a person for damage resulting from an act of the electronic notary public which is alleged to have occurred while the bond was in effect.

5. The appointment of an electronic notary public is suspended by operation of law when the electronic notary public is no longer covered by a surety bond as required by this section and section 12 of this act or the penal sum of the bond is exhausted. If the Secretary of State receives notice pursuant to subsection 4 that the bond will be released or pursuant to subsection 2 that the penal sum of the bond is exhausted, the Secretary of State shall immediately notify the electronic notary public in writing that his appointment will be suspended by operation of law until another surety bond is filed in the same manner and amount as the bond being terminated.

6. The Secretary of State may reinstate the appointment of an electronic notary public whose appointment has been suspended pursuant to subsection 5 if the electronic notary public, before his current term of appointment expires:

(a) Submits to the Secretary of State:

(1) An application for an amended certificate of appointment as an electronic notary public; and

(2) A certificate issued by the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, the county in this State in which the applicant maintains a place of business or is employed, which indicates that the applicant filed a new surety bond with the clerk; and

(b) Pays to the Secretary of State a fee of $10.

Sec. 14. ***1. The initial term of appointment as an electronic notary public is 2 years. Each term of appointment as an electronic notary public subsequent to the initial term is 4 years.***

2. The appointment of an electronic notary public is suspended by operation of law when the electronic notary public is no longer appointed as a notary public in this State. If the appointment of an electronic notary public has expired or been revoked or suspended, the Secretary of State shall immediately notify the electronic notary public in writing that his appointment as an electronic notary public will be suspended by operation of law until he is appointed as a notary public in this State.

3. If, at any time during his appointment, an electronic notary public changes his electronic mail address, county of residence, name, electronic

signature or the technology or device used to create his electronic signature, the electronic notary public shall, within 10 days after making the change, submit to the Secretary of State:

(a) An electronic document, signed with the electronic signature submitted by the electronic notary public pursuant to subsection 2 of section 12 of this act, that includes the change of information; and

(b) A fee of $10.

Sec. 15. ***1. Except as otherwise provided in subsection 2, an applicant for appointment as an electronic notary public must successfully:***

(a) Complete a course of study that is in accordance with the requirements of subsection 5; and

(b) Pass an examination at the completion of the course.

2. The following persons must successfully complete a course of study as required pursuant to subsection 1:

(a) A person applying for his first appointment as an electronic notary public;

(b) A person renewing his appointment as an electronic notary public if his appointment as an electronic notary public has been expired for a period of more than 1 year; and

(c) A person renewing his appointment as an electronic notary public if, during the 4 years immediately preceding his application for renewal, the Secretary of State took action against the person pursuant to NRS 240.150 for failing to comply with any provision of this chapter or any regulations adopted pursuant thereto.

➥ A person renewing his appointment as an electronic notary public need not successfully complete a course of study as required pursuant to subsection 1 if his appointment as an electronic notary public has been expired for a period of 1 year or less.

3. A course of study required to be completed pursuant to subsection 1 must:

(a) Include at least 3 hours of instruction;

(b) Provide instruction in electronic notarization, including, without limitation, notarial law and ethics, technology and procedures;

(c) Include an examination of the course content;

(d) Comply with the regulations adopted pursuant to section 25 of this act; and

(e) Be approved by the Secretary of State.

4. The Secretary of State may, with respect to a course of study required to be completed pursuant to subsection 1:

(a) Provide such a course of study; and

(b) Charge a reasonable fee to each person who enrolls in such a course of study.

5. A course of study provided pursuant to this section must satisfy the criteria set forth in subsection 3 and comply with the requirements set forth in the regulations adopted pursuant to section 25 of this act.

6. The Secretary of State shall deposit the fees collected pursuant to paragraph (b) of subsection 4 in the Notary Public Training Fund created pursuant to NRS 240.018.

Sec. 16. ***A person appointed as an electronic notary public pursuant to sections 3 to 26, inclusive, of this act may, during normal business hours, perform the following electronic notarial acts for a person who requests the electronic notarial act and tenders the appropriate fee:***

1. Taking an acknowledgment;

2. Executing a jurat; and

3. Administering an oath or affirmation.

Sec. 17. ***1. An electronic notary public may charge the following fees and no more:***

(a) For taking an acknowledgment, for each signature..... $10

(b) For executing a jurat, for each signature..... $10

(c) For administering an oath or affirmation without a signature $10

2. An electronic notary public shall not charge a fee to perform a service unless he is authorized to charge a fee for such a service pursuant to this section.

3. All fees prescribed in this section are payable in advance, if demanded.

4. An electronic notary public may charge an additional fee for traveling to perform an electronic notarial act if:

(a) The person requesting the electronic notarial act asks the electronic notary public to travel;

(b) The electronic notary public explains to the person requesting the electronic notarial act that the fee for travel is in addition to the fee authorized in subsection 1 and is not required by law;

(c) The person requesting the electronic notarial act agrees in advance upon the hourly rate that the electronic notary public will charge for the additional fee for travel; and

(d) The additional fee for travel does not exceed:

(1) If the person requesting the electronic notarial act asks the electronic notary public to travel between the hours of 6 a.m. and 7 p.m., $10 per hour.

(2) If the person requesting the electronic notarial act asks the electronic notary public to travel between the hours of 7 p.m. and 6 a.m., $25 per hour.

➥ The electronic notary public may charge a minimum of 2 hours for such travel and shall charge on a pro rata basis after the first 2 hours.

5. An electronic notary public is entitled to charge the amount of the additional fee for travel agreed to in advance by the person requesting the electronic notarial act pursuant to subsection 4 if:

(a) The person requesting the electronic notarial act cancels his request after the electronic notary public begins his travel to perform the requested electronic notarial act.

(b) The electronic notary public is unable to perform the requested electronic notarial act as a result of the actions of the person who requested the electronic notarial act or any other person who is necessary for the performance of the electronic notarial act.

6. For each additional fee for travel that an electronic notary public charges pursuant to subsection 4, the electronic notary public shall enter in the journal that he keeps pursuant to section 20 of this act:

(a) The amount of the fee; and

(b) The date and time that the electronic notary public began and ended such travel.

7. A person who employs an electronic notary public may prohibit the electronic notary public from charging a fee for an electronic notarial act that the electronic notary public performs within the scope of his employment. Such a person shall not require the electronic notary public whom he employs to surrender to him all or part of a fee charged by the electronic notary public for an electronic notarial act performed outside the scope of his employment.

Sec. 18. ***1. An electronic notary public shall not willfully electronically notarize the signature or electronic signature of a person unless the person is in the presence of the electronic notary public at the time of notarization and:***

(a) Is known to the electronic notary public; or

(b) If unknown to the electronic notary public, provides a credible witness or documentary evidence of identification to the electronic notary public.

2. A person who:

(a) Violates the provisions of subsection 1; or

(b) Aids and abets an electronic notary public to commit a violation of subsection 1,

➥ is guilty of a gross misdemeanor.

3. An electronic notary public shall not electronically notarize any electronic document related to the following:

(a) A will, codicil or testamentary trust; and

(b) Any transaction governed by the Uniform Commercial Code other than NRS 104.1306, 104.2101 to 104.2725, inclusive, and 104A.2101 to 104A.2532, inclusive.

4. An appointment as an electronic notary public pursuant to sections 3 to 26, inclusive, of this act does not authorize the electronic notary public to perform notarial acts in another state.

Sec. 19. ***An electronic notarial act must be evidenced by the following, which must be attached to or logically associated with the electronic document that is the subject of the electronic notarial act and which must be immediately perceptible and reproducible:***

1. The electronic signature of the electronic notary public;

2. The electronic seal of the electronic notary public; and

3. The wording of a notarial certificate pursuant to NRS 240.1655, 240.166 to 240.167, inclusive, 240.1685 or 240.169.

Sec. 20. ***1. An electronic notary public shall keep a journal of each electronic notarial act which includes, without limitation, the requirements of subsections 1 and 2 of NRS 240.120.***

2. The Secretary of State may suspend the appointment of an electronic notary public who fails to produce any journal entry within 10 days after receipt of a request from the Secretary of State.

3. Upon resignation, revocation or expiration of an appointment as an electronic notary public, all notarial records required pursuant to this chapter must be delivered to the Secretary of State.

Sec. 21. ***1. The electronic signature and electronic seal of an electronic notary public must be used only for the purposes of performing electronic notarial acts.***

2. An electronic notary public shall safeguard his electronic signature, the electronic seal and all notarial records maintained by the electronic notary public as follows:

(a) When not in use, the electronic notary public shall keep the electronic signature, electronic seal and all notarial records secure, under the exclusive control of the electronic notary public and protected by a password where applicable.

(b) An electronic notary public shall not permit his electronic signature or electronic seal to be used by any other person.

(c) An electronic notary public shall not surrender or destroy his notarial records except as otherwise required by the order of a court or as allowed pursuant to this chapter or any regulations adopted pursuant thereto.

(d) Except as otherwise provided in subsection 3, an electronic notary public, within 10 days after discovering that his electronic signature or electronic seal has been stolen, lost, damaged or otherwise rendered incapable of affixing a legible image, shall:

(1) Inform the appropriate law enforcement agency in the case of theft or vandalism; and

(2) Notify the Secretary of State in writing, including, without limitation, a signature using the name on the certificate of appointment issued pursuant to subsection 5 of section 12 of this act.

3. An electronic notary public shall take reasonable steps to maintain the technology or device used to create his electronic signature, and to ensure that the technology or device has not been recalled, revoked, terminated or otherwise rendered ineffective or unsecure by the entity that created the technology or device. Upon learning that the technology or device used to create his electronic signature has been rendered ineffective or unsecure, an electronic notary public shall cease performing electronic notarial acts until:

(a) A new technology or device is acquired; and

(b) The electronic notary public sends an electronic notice to the Secretary of State that includes, without limitation, the information required pursuant to paragraphs (d) and (e) of subsection 2 of section 12 of this act relating to the new technology or device.

Sec. 22. ***1. Except as otherwise provided in subsection 3, if an electronic notary public dies or resigns during his appointment, or if the appointment of the electronic notary public is revoked or expires, the electronic notary public, the executor of his estate or his authorized representative, as appropriate, shall:***

(a) Notify the Secretary of State of the resignation or death; and

(b) Erase, delete, destroy or otherwise render ineffective the technology or device used to create his electronic signature.

2. Upon receipt of the notice required by subsection 1, the Secretary of State shall cancel the appointment of the electronic notary public, effective on the date on which the notice was received.

3. A former electronic notary public whose previous appointment as an electronic notary public was not revoked and whose previous application for appointment as an electronic notary public was not denied is not required to erase, delete, destroy or otherwise render ineffective the technology or device used to create his electronic signature if he renews his appointment, using the same electronic signature, within 3 months after the expiration of his previous appointment as an electronic notary public.

Sec. 23. ***1. A person who knowingly creates, manufactures or distributes software or hardware for the purpose of allowing a person to act as an electronic notary public without being appointed in accordance with sections 3 to 26, inclusive, of this act is guilty of a gross misdemeanor.***

2. A person who wrongfully obtains, conceals, damages or destroys the technology or device used to create the electronic signature of an electronic notary public is guilty of a gross misdemeanor.

Sec. 24. ***1. Except as otherwise provided in subsection 2, the Secretary of State shall, upon request, issue an authentication to verify that the electronic signature of the electronic notary public on an electronic document is genuine and that the electronic notary public holds the office indicated on the electronic document. The authentication must be:***

(a) Signed by the Secretary of State; and

(b) In conformance with any relevant international treaties, agreements and conventions subscribed to by the Government of the United States, including, without limitation, the Hague Convention of October 5, 1961.

2. The Secretary of State shall not issue an authentication pursuant to subsection 1 if:

(a) The electronic document has not been electronically notarized in accordance with the provisions of this chapter and sections 3 to 26, inclusive, of this act; or

(b) The Secretary of State has reasonable cause to believe that the electronic document may be used to accomplish any fraudulent, criminal or unlawful purpose.

Sec. 25. ***The Secretary of State may adopt regulations to carry out the provisions of sections 3 to 26, inclusive, of this act.***

Sec. 26. ***An electronic notary public shall comply with those provisions of NRS 240.001 to 240.169, inclusive, which are not inconsistent with sections 3 to 26, inclusive, of this act. To the extent that the provisions of NRS 240.001 to 240.169, inclusive, conflict with the provisions of sections 3 to 26, inclusive, of this act, the provisions of sections 3 to 26, inclusive, of this act control.***

Sec. 27. NRS 240.001 is hereby amended to read as follows:

240.001 As used in NRS 240.001 to 240.169, inclusive, ***and sections 3 to 26, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 240.002 to 240.005, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 28. NRS 240.007 is hereby amended to read as follows:

240.007 1. Except as otherwise provided in ~~[~~subsection 2,~~]~~ ***subsections 2 and 3,*** information and documents filed with or obtained by the Secretary of State pursuant to NRS 240.001 to 240.169, inclusive, ***and sections 2 to 26, inclusive, of this act*** are public information and are available for public examination.

2. ***Information and documents filed with or obtained by the Secretary of State pursuant to or in accordance with subsection 6 of NRS 240.010 are not public information and are confidential.***

3. Except as otherwise provided in subsections ~~[~~3~~]~~ ***4*** and ~~[~~4~~]~~ ***5*** and in NRS 239.0115, information and documents obtained by or filed with the Secretary of State in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, ***and sections 2 to 26, inclusive, of this act*** are not public information and are confidential.

~~[~~3.~~]~~ ***4.*** The Secretary of State may submit any information or evidence obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, ***and sections 2 to 26, inclusive, of this act*** to the appropriate district attorney for the purpose of prosecuting a criminal action.

~~[~~4.~~]~~ ***5.*** The Secretary of State may disclose any information or documents obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, ***and sections 2 to 26, inclusive, of this act*** to an agency of this State or a political subdivision of this State.

Sec. 29. NRS 240.010 is hereby amended to read as follows:

240.010 1. The Secretary of State may appoint notaries public in this State.

2. The Secretary of State shall not appoint as a notary public a person:

(a) Who submits an application containing a substantial and material misstatement or omission of fact.

(b) Whose previous appointment as a notary public in this State has been revoked.

(c) Who ~~[Except]~~ ***, except as otherwise provided in subsection 6,*** ~~[who]~~ has been convicted of ~~[a]~~ ***:***

(1) A crime involving moral turpitude ~~[,]~~ ***; or***

(2) Burglary, conversion, embezzlement, extortion, forgery, fraud, identity theft, larceny, obtaining money under false pretenses, robbery or any other crime involving misappropriation of the identity or property of another person or entity,

➥ if the Secretary of State is aware of such a conviction before he makes the appointment.

(d) Against whom a complaint that alleges a violation of a provision of this chapter is pending.

(e) Who has not submitted to the Secretary of State proof satisfactory to the Secretary of State that he has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

3. A notary public may cancel his appointment by submitting a written notice to the Secretary of State.

4. It is unlawful for a person to:

(a) Represent himself as a notary public appointed pursuant to this section if he has not received a certificate of appointment from the Secretary of State pursuant to this chapter.

(b) Submit an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact.

5. The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 4.

6. A person who has been convicted of a crime involving moral turpitude may apply for appointment as a notary public if he provides proof satisfactory to the Secretary of State that:

(a) More than 10 years have elapsed since the date of his release from confinement or the expiration of the period of his parole, probation or sentence, whichever is later;

(b) He has made complete restitution for his crime involving moral turpitude, if applicable; ~~[and]~~

(c) He possesses his civil rights ~~[.]~~ ***; and***

(d) The crime for which he was convicted is not one of the crimes enumerated in subparagraph (2) of paragraph (c) of subsection 2.

Sec. 30. NRS 240.015 is hereby amended to read as follows:

240.015 1. Except as otherwise provided in this section, a person appointed as a notary public must:

(a) During the period of his appointment, be a citizen of the United States or lawfully admitted for permanent residency in the United States as verified by the United States Citizenship and Immigration Services.

(b) Be a resident of this State.

(c) Be at least 18 years of age.

(d) Possess his civil rights.

2. If a person appointed as a notary public ceases to be lawfully admitted for permanent residency in the United States during his appointment, he shall, within 90 days after his lawful admission has expired or is otherwise terminated, submit to the Secretary of State evidence that he is lawfully readmitted for permanent residency as verified by the United States Citizenship and Immigration Services. If the person fails to submit such evidence within the prescribed time, his appointment expires by operation of law.

3. The Secretary of State may appoint a person who resides in an adjoining state as a notary public if the person:

(a) Maintains a place of business in the State of Nevada ~~[,]~~ ***that is licensed pursuant to NRS 360.780 and any applicable business licensing requirements of the local government where the business is located;*** or

(b) Is regularly employed at an office, business or facility located within the State of Nevada by an employer licensed to do business in this State.

➥ If such a person ceases to maintain a place of business in this State or regular employment at an office, business or facility located within this State, the Secretary of State may suspend his appointment. The Secretary of State may reinstate an appointment suspended pursuant to this subsection if the notary public submits to the Secretary of State, before his term of appointment as a notary public expires, ~~[an affidavit which contains]~~ the information required pursuant to subsection 2 of NRS 240.030.

Sec. 31. NRS 240.030 is hereby amended to read as follows:

240.030 1. Each person applying for appointment as a notary public must:

(a) At the time he submits his application, pay to the Secretary of State $35.

(b) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if he were a public officer.

(c) Submit to the Secretary of State proof satisfactory to the Secretary of State that he has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

(d) Enter into a bond to the State of Nevada in the sum of $10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant ~~[shall]~~ ***must*** submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.

2. In addition to the requirements set forth in subsection 1, an applicant for appointment as a notary public who resides in an adjoining state must submit to the Secretary of State with his application:

(a) An affidavit setting forth the adjoining state in which he resides, his mailing address and the address of his place of business or employment that is located within the State of Nevada; ~~[and]~~

(b) ***A copy of his state business license issued pursuant to NRS 360.780 and any business license required by the local government where the business is located, if he is self-employed; and***

(c) Unless the applicant is self-employed, ***a copy of the state business license of his employer, a copy of any business license of his employer that is required by the local government where the business is located and*** an affidavit from his employer setting forth the facts ~~[that]~~ ***which*** show ~~[:~~

~~(1) The employer is licensed to do business in the State of Nevada; and~~

~~(2) The]~~ ***that the*** employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.

3. In completing an application, bond, oath or other document necessary to apply for appointment as a notary public, an applicant must not be required to disclose his residential address or telephone number on any such document which will become available to the public.

4. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when he applies for his appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as a notary public to the applicant.

5. The term of a notary public commences on the effective date of the bond required pursuant to paragraph (d) of subsection 1. A notary public shall not perform a notarial act after the effective date of the bond unless he has been issued a certificate of appointment.

6. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of $10 for each duplicate or amended certificate of appointment which is issued to a notary. If the notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.

Sec. 32. NRS 240.031 is hereby amended to read as follows:

240.031 A notary public who is a resident of an adjoining state shall submit to the Secretary of State annually, within 30 days before the anniversary date of his appointment as a notary public, ~~[an affidavit containing]~~ ***a copy of the state business license of his place of employment in the State of Nevada issued pursuant to NRS 360.780, a copy of any***

license required by the local government where the business is located and the information required pursuant to subsection 2 of NRS 240.030.

Sec. 33. NRS 240.147 is hereby amended to read as follows:

240.147 ~~[1.]~~ It is unlawful for a person to knowingly destroy, deface or conceal a notarial record.

~~[2. As used in this section, "notarial record" means:~~

~~(a) The journal that a notary public is required to keep pursuant to NRS 240.120; and~~

~~(b) A document or other evidence retained by a notary public to record the performance of a notarial act.]~~

Sec. 34. This act becomes effective on July 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 124.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 654.

AN ACT relating to general improvement districts; expanding the membership of the boards of trustees of certain general improvement districts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 318 of NRS governs the creation and administration of general improvement districts in Nevada. Existing law requires that the board of trustees of a general improvement district consist of five members. (NRS 318.080) **Section 1** of this bill expands the membership of the board of trustees of a general improvement district **: (1)** which exists on or before July 1, 2009 ~~[, and]~~ **; (2) which** is authorized **only** to furnish electric light and power in a county whose population is 400,000 or more ~~[(currently the Overton Power District in Clark County)]~~ **; and (3) for which the board of county commissioners of the county is not ex officio the board of trustees,** from five to seven members. **Section 1** also provides the election procedure for the new members, the continuing election process to keep the staggered terms for all board members and the new quorum requirements for the expanded board. **Currently, the Overton Power District in Clark County is the only general improvement district that is impacted by this bill.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 318 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any provision of law to the contrary, the board of trustees of a district organized or reorganized pursuant to this chapter that exists on July 1, 2009, [~~and~~] that is authorized only to exercise the basic power of furnishing electric light and power pursuant to NRS 318.117 in a county whose population is 400,000 or more , and for which the board of county commissioners of the county is not ex officio the board of trustees, shall consist of seven trustees.

2. The members of the board of trustees described in subsection 1 must be selected as follows:

(a) One member who is elected by the qualified electors of the largest incorporated city in the district at the first biennial election following July 1, 2009. The term of office of a trustee who is elected pursuant to this paragraph is 4 years.

(b) One member who is elected by the qualified electors of the district at the first biennial election following July 1, 2009. The initial term of office of a trustee who is elected pursuant to this paragraph is 2 years. After the initial term, the term of office of a trustee who is elected pursuant to this paragraph is 4 years.

(c) Five members who are elected from the election areas in the district created pursuant to NRS 318.0952 that existed on July 1, 2009, each of whom serves for a term of 4 years.

3. Each member of the board of trustees must be a resident of the area which he seeks to represent.

4. A majority of the members of the board constitutes a quorum at any meeting.

Sec. ***2***. NRS 318.090 is hereby amended to read as follows:

318.090 Except as otherwise provided in NRS 318.0953 and 318.09533:

1. The board shall, by resolution, designate the place where the office or principal place of the district is to be located, which must be within the corporate limits of the district [~~.~~] and which may be changed by resolution of the board. Copies of all those resolutions must be filed with the county clerk or clerks of the county or counties wherein the district is located within 5 days after their adoption. The official records and files of the district must be kept at that office and must be open to public inspection as provided in NRS 239.010.

2. The board of trustees shall meet regularly at least once each year, and at such other times at the office or principal place of the district as provided in the bylaws.

3. Special meetings may be held on notice to each member of the board as often as, and at such places within the district as, the needs of the district require.

4. [~~Three~~] ***Except as otherwise provided in section 1 of this act, three*** members of the board constitute a quorum at any meeting.

5. A vacancy on the board must be filled by a qualified elector of the district chosen by the remaining members of the board, the appointee to act

until a successor in office qualifies as provided in NRS 318.080 on or after the first Monday in January next following the next biennial election, held in accordance with NRS 318.095 ~~[,]~~ ***or section 1 of this act,*** at which election the vacancy must be filled by election if the term of office extends beyond that first Monday in January. Nominations of qualified electors of the district as candidates to fill unexpired terms of 2 years may be made the same as nominations for regular terms of 4 years, as provided in NRS 318.095 ~~[,]~~ ***and section 1 of this act.*** If the board fails, neglects or refuses to fill any vacancy within 30 days after the vacancy occurs, the board of county commissioners shall fill that vacancy.

6. Each term of office of 4 years terminates on the first Monday in January next following the general election at which a successor in office is elected, as provided in NRS 318.095 ~~[,]~~ ***or section 1 of this act.*** The successor's term of office commences then or as soon thereafter as the successor qualifies as provided in NRS 318.080, subject to the provisions in this chapter for initial appointments to a board, for appointments to fill vacancies of unexpired terms ~~[,]~~ and for the reorganizations of districts under this chapter which were organized under other chapters of NRS.

Sec. 3. NRS 318.095 is hereby amended to read as follows:

318.095 Except as otherwise provided in NRS 318.0953:

1. There must be held simultaneously with the first general election in the county after the creation of the district and simultaneously with every general election thereafter an election to be known as the biennial election of the district. The election must be conducted under the supervision of the county clerk or registrar of voters. A district shall reimburse the county clerk or registrar of voters for the costs he incurred in conducting the election for the district.

2. The office of trustee is a nonpartisan office. The general election laws of this State govern the candidacy, nominations and election of a member of the board. The names of the candidates for trustee of a district may be placed on the ballot for the primary or general election.

3. ~~[At]~~ ***Except as otherwise provided in section 1 of this act, at*** the first biennial election in any district organized or reorganized and operating under this chapter ~~[,]~~ and each fourth year thereafter, there must be elected by the qualified electors of the district two qualified electors as members of the board to serve for terms of 4 years. At the second biennial election and each fourth year thereafter, there must be so elected three qualified electors as members of the board to serve for terms of 4 years.

4. The secretary of the district shall give notice of election by publication ~~[,]~~ and shall arrange such other details in connection therewith as the county clerk or registrar of voters may direct.

5. Any new member of the board must qualify in the same manner as members of the first board qualify.

Sec. 4. NRS 318.0951 is hereby amended to read as follows:

318.0951 Except as otherwise provided in NRS 318.0952 or 318.0953:

1. Each trustee elected at any biennial election must be chosen by a plurality of the qualified electors of the district voting on the candidates for the vacancies to be filled.

2. ~~[If]~~ ***Except as otherwise provided in section 1 of this act, if*** there are two regular terms which end on the first Monday in January next following the biennial election, the two qualified electors receiving the highest and next highest number of votes must be elected. If there are three regular terms so ending, the three qualified electors receiving the highest, next highest and third highest number of votes must be elected.

3. If there is a vacancy in an unexpired regular term to be filled at the biennial election, as provided in subsection 5 of NRS 318.090, the candidate who receives the highest number of votes, after there are chosen the successful candidates to fill the vacancies in expired regular terms as provided in subsection 2, must be elected.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 318.09533 is hereby amended to read as follows:

318.09533 1. When the board of trustees of any district is constituted pursuant to NRS 318.0953, the following special provisions apply and supersede the corresponding provisions of NRS 318.080 to 318.09525, inclusive, ***and section 1 of this act,*** 318.0954 and 318.0955:

(a) The members need not file the oath of office or bond required by NRS 318.080.

(b) The members of the board of county commissioners may receive no additional compensation as trustees of the district.

(c) The chairman of the board of county commissioners may be chairman of the board of trustees and president of the district, or the board of county commissioners may, at its first meeting in January of each year, designate another of its members to serve as chairman of the board of trustees and president of the district for a term of 1 year.

(d) The vice chairman of the board of county commissioners may be vice chairman of the board of trustees and vice president of the district, or the board of county commissioners may, at its first meeting in January of each year, designate another of its members to serve as vice chairman of the board of trustees and vice president of the district for a term of 1 year.

(e) The secretary and treasurer of the district ~~[shall]~~ ***must*** not be members of the board of county commissioners. The board may designate the county clerk and county treasurer, respectively, to act ex officio as secretary and treasurer, or it may designate some other person to fill either or both of those offices. No additional bond may be required of the county treasurer as ex officio district treasurer ~~[nor]~~ ***or*** of any other county officer appropriately bonded as ex officio a district officer.

(f) The secretary and treasurer shall perform the duties prescribed in subsections 3 and 4 of NRS 318.085.

(g) No member of the board of county commissioners may be removed from the office of trustee under NRS 318.080, but any member is

automatically removed from that office upon his removal from the office of county commissioner in the manner provided by law.

(h) The regular place of meeting of the board need not be within the corporate limits of the district but must be within the corporate limits of the county and be the regular meeting place of the board of county commissioners unless the board otherwise provides by resolution.

(i) The times of regular meetings of the board must be the same as the times of the regular meetings of the board of county commissioners unless the board otherwise provides by resolution.

(j) Special meetings may be held on notice to each member of the board as often as, and at such place or places within the county as, the board may determine, unless it otherwise provides by resolution.

(k) The office or principal place of the district need not be located within the corporate limits of the district and must be the office of the county clerk unless the board otherwise provides by resolution.

2. Each board of county commissioners may, by resolution, designate the district's name which may be used for all purposes **,** including **,** ***without limitation,*** contracts, lawsuits or in the performance of its duties or exercises of its functions.

3. The board may enter into contracts extending beyond the terms of each member then serving on the board if the contract is entered into in the manner provided for a board of county commissioners in NRS 244.320.

Sec. 7. Nothing in this act affects the term of office or election area of a member of a board of trustees of a district organized or reorganized pursuant to this chapter**_ ,** ~~[and]~~ authorized **only** to exercise the basic power of furnishing electric light and power pursuant to NRS 318.117 in a county whose population is 400,000 or more**_ , and for which the board of county commissioners of the county is not ex officio the board of trustees,** and who is in office on July 1, 2009.

Sec. 8. This act becomes effective on July 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 160.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 675.

SUMMARY—Makes various changes **relating** to ~~[comport with the constitutional doctrines of separation of powers and legislative privilege and immunity.]~~ **public officers and employees.** (BDR 3-1164)

AN ACT relating to ~~[the Legislative Department of State Government;]~~ **government;** implementing the constitutional doctrines of separation of powers and legislative privilege and immunity by codifying in statutory form

the constitutional right of State Legislators to be protected from having to defend themselves, from being held liable and from being questioned or sanctioned in administrative or judicial proceedings for speech, debate, deliberation and other actions performed within the sphere of legitimate legislative activity; confirming that the constitutional doctrine of legislative privilege and immunity provides a testimonial privilege and an evidentiary privilege; revising provisions of the Nevada Ethics in Government Law **and other provisions relating to ethics in government; making various statutory changes** to comport with the constitutional doctrines of separation of powers and legislative privilege and immunity **[,] and with the constitutional provisions governing impeachment, expulsion and removal from office;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that for any speech or debate in either House of the Legislature, a member of the Senate or Assembly shall not be questioned in any other place. The purpose and effect of **section 1** is to implement the constitutional doctrines of separation of powers and legislative privilege and immunity by codifying in statutory form the constitutional right of State Legislators to be protected from having to defend themselves, from being held liable and from being questioned or sanctioned in administrative or judicial proceedings for speech, debate, deliberation and other actions performed within the sphere of legitimate legislative activity.

Under case law, the constitutional doctrine of legislative privilege and immunity provides a testimonial privilege and an evidentiary privilege which protect a Legislator from having to testify or disclose documents in administrative or judicial proceedings when such acts would intrude upon, interfere with or pry into the legislative process. (*Gravel v. United States*, 408 U.S. 606, 92 S.Ct. 2614 (1972); *United States v. Rayburn House Office Bldg.*, 497 F.3d 654 (D.C. Cir. 2007)). **Section 2** of this bill amends the Nevada statute governing testimonial and evidentiary privileges to confirm that the constitutional doctrine of legislative privilege and immunity provides a testimonial privilege and an evidentiary privilege. (NRS 49.015)

Sections [3-9] 6, 7.4 and 9 of this bill amend provisions of the Nevada Ethics in Government Law **(Ethics Law)** to make those provisions comport with the constitutional doctrines of separation of powers and legislative privilege and immunity. (Chapter 281A of NRS) In particular, **section 9** amends NRS 281A.420 to clarify that the responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government. However, other provisions of the **[**Nevada Ethics in Government**]** **Ethics** Law remain applicable to State Legislators so that, for example, State Legislators will continue to be required to file the same financial disclosure forms as other public officers and the provisions prohibiting misuse of office that are applicable to other

public officers will continue to apply to State Legislators~~.~~ **,** **with regard to conduct that falls outside the scope of legitimate legislative activity.** **Section 9** also clarifies that the provisions of NRS 281A.420 concerning disclosure, voting and abstention do not apply to State Legislators or allow the Commission on Ethics to exercise jurisdiction or authority over State Legislators with regard to disclosure, voting and abstention.

On December 22, 2008, the First Judicial District Court in and for Carson City held that the Commission on Ethics could not apply the provisions of NRS 281A.420 concerning disclosure, voting and abstention to State Legislators because under the constitutional doctrines of separation of powers and legislative privilege and immunity, the Legislator's own House is the only governmental entity that may sanction the Legislator for performing legislative actions, like voting, that fall within the sphere of legitimate legislative activity and are an essential part of the legislative function. (*Warren B. Hardy II v. Commission on Ethics*, Nev. First Jud. Dist. Ct. Case No. 08 OC 00381 1B (Dec. 22, 2008))

The decision of the district court was based on the Nevada Supreme Court's pronouncement that "[u]nder the separation of powers doctrine, individual legislators cannot, nor should they, be subject to fines or other penalties for voting in a particular way." (*Guinn v. Legislature*, 119 Nev. 460, at 472 (2003)) The decision of the district court was also based on a long line of cases from the United States Supreme Court which hold that under the constitutional doctrines of separation of powers and legislative privilege and immunity, Federal and State Legislators must be free to represent the interests of their constituents with assurance that they will not later be called to task for that representation by the other branches of government. (*Tenney v. Brandhove*, 341 U.S. 367, 71 S.Ct. 783 (1951); *Powell v. McCormack*, 395 U.S. 486, 89 S.Ct. 1944 (1969); *Gravel v. United States*, 408 U.S. 606, 92 S.Ct. 2614 (1972); *Supreme Court of Virginia v. Consumers Union*, 446 U.S. 719, 100 S.Ct. 1967 (1980)) Given this well-established and long-standing precedent, the district court found that the constitutional doctrines of separation of powers and legislative privilege and immunity are intended to protect the independence of individual Legislators by giving them broad freedom of speech, debate, deliberation and action during the legislative process and by shielding them from executive and judicial oversight that realistically threatens to control their conduct as Legislators.

Thus, because of the constitutional doctrines of separation of powers and legislative privilege and immunity, the district court determined that any inquiry into the ethical propriety of legislative actions concerning disclosure, voting and abstention must be conducted by the Legislative Department and cannot be conducted by an administrative agency of the Executive Department, such as the Commission on Ethics. The district court also determined that because each House is given the exclusive constitutional power to determine the rules of its legislative proceedings and to punish its

members for improper conduct related to those legislative proceedings, the Standing Rules adopted by each House concerning disclosure, voting and abstention take precedence over NRS 281A.420. Therefore, out of respect for the separation of powers under Section 1 of Article 3 of the Nevada Constitution and out of respect for the exclusive constitutional power of each House to determine its rules and punish its members under Section 6 of Article 4 of the Nevada Constitution, the district court held that the determination of whether a State Legislator has properly followed the Standing Rules concerning disclosure, voting and abstention is a matter reserved exclusively to the Legislator's own House.

Finally, the district court emphasized that its decision applied only to the provisions of NRS 281A.420 concerning disclosure, voting and abstention and that the constitutional doctrines of separation of powers and legislative privilege and immunity do not provide State Legislators with blanket protection from the Nevada Ethics in Government Law. Rather, State Legislators remain subject to the Ethics Law for conduct that falls outside the scope of legitimate legislative activity.

Sections 3.4-5.4 and 7.2-8.23 of this bill clarify the meaning of terms used in the Ethics Law and codify long-standing interpretations of those terms. Additionally, the definitions in sections 4 and 5 ensure that the Ethics Law accurately reflects the constitutional and legal differences between a "State Legislator" and a "member of a local legislative body." The definition of "investigatory panel" in section 8.1 recognizes that when the two-member panel is deciding whether there is just and sufficient cause to refer an ethics complaint to the Commission for a hearing, the panel is performing an investigatory function, not an adjudicatory function. Section 8.2 revises and clarifies the definition of "public officer" in the Ethics Law by employing terminology used in the definition of "public officer" in NRS 281.005 and by including members of boards of trustees of general improvement districts within the meaning of the term "public officer."

Sections 3.4, 3.6, 8.23 and 17.5 of this bill define the terms "intentionally," "knowingly," "willful violation" and "willfully" in the Ethics Law to conform with the legal meanings generally ascribed to those terms. A "willful" act is an act done intentionally and knowingly. (*In re Fine*, 116 Nev. 1001 (2000); *Black's Law Dictionary* 1593 (7th ed. 1999) (defining "willful")) A person acts "intentionally" when he acts voluntarily or deliberately, rather than accidentally or inadvertently. (*Batt v. State*, 111 Nev. 1127 (1995); *In re Fine*, 116 Nev. 1001 (2000); *Nevada Service Employees Union v. Orr*, 121 Nev. 675 (2005)) A person acts "knowingly" when he has knowledge of the facts which constitute the act or omission. (NRS 193.017, 624.024; *State v. Rhodig*, 101 Nev. 608 (1985); *Garcia v. Sixth Jud. Dist. Ct.*, 117 Nev. 697 (2001))

Section 5.6 of this bill clarifies that public officers and employees cannot assert common-law privileges and immunities in proceedings

under the Ethics Law but may assert constitutional or statutory privileges and immunities in such proceedings.

Section 5.8 of this bill moves the existing provisions of NRS 281.236 into the Ethics Law so that those provisions may be enforced by the Commission on Ethics. Under the existing provisions of NRS 281.236, certain regulated businesses and industries must observe a 1-year "cooling off" period before they may hire a former public officer or employee who had significant involvement in regulating the business or industry. Section 5.8 contains the same substantive provisions as NRS 281.236, except that the requirement to observe the 1-year "cooling off" period is imposed on the former public officer or employee instead of on the regulated business or industry.

Sections 8.25, 8.35 and 8.45 of this bill clarify existing provisions of the Ethics Law which prohibit members of the Commission on Ethics and the Commission's Executive Director and Counsel from performing certain lobbying activities on behalf of private parties. (NRS 281A.200, 281A.230, 281A.250) Section 8.35 also provides that the Executive Director must have experience in administration, investigations and law.

The Ethics Law imposes civil penalties for certain violations (NRS 281A.480), but it does not contain an express statute of limitations. When a law imposes civil penalties but does not contain an express statute of limitations, it is presumed that the Legislature intended for a generally applicable statute of limitations to apply to proceedings brought under the law. (*DelCostello v. Int'l Bhd. of Teamsters*, 462 U.S. 151, 103 S.Ct. 2281 (1983); *3M Co. v. Browner*, 17 F.3d 1453 (D.C. Cir. 1994); 51 Am. Jur. 2d *Limitation of Actions* § 129 (2000)) Because NRS 11.190 contains a generally applicable 2-year statute of limitations for actions brought upon a statute for a penalty or forfeiture, the 2-year period in NRS 11.190 is presumptively applicable to proceedings brought under the Ethics Law. (*Community Cause v. Boatwright*, 177 Cal. Rptr. 657 (Cal. Ct. App. 1981)) For purposes of clarity and certainty of application, sections 8.55 and 26 of this bill codify the existing 2-year statute of limitations expressly into the Ethics Law. (NRS 281A.280)

The Ethics Law places restrictions on certain public officers and employees with regard to representing or counseling a private person for compensation before various agencies. (NRS 281A.410) Section 8.7 of this bill clarifies those restrictions by replacing the terms "member of the executive branch" and "member of the legislative branch" with more specific, descriptive and accurate terms. Section 8.7 also clarifies the methods for filing the disclosure form certain public officers must file if they have represented or counseled a private person for compensation before certain agencies.

The Ethics Law requires public officers to disclose conflicts of interest and to abstain from voting because of certain types of conflicts. (NRS

281A.420) Because public officers must disclose conflicts before determining whether to abstain, section 9.5 of this bill rearranges the order of the existing disclosure and abstention provisions in the statute so that the disclosure provisions come before the abstention provisions. Section 9.5 also changes the abstention requirements which apply to members of certain county and city planning commissions so that those members are subject to the same abstention requirements which apply to other public officers under the statute.

Section 9.5 additionally requires the Commission to give appropriate weight and proper deference to the public policy of this State which favors the right of public officers to vote, provided they have properly disclosed all conflicts. Under this public policy, abstention is required only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the conflicts. This public policy demands proper disclosures of conflicts but prefers fewer instances of abstention because abstention disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs.

The Ethics Law allows public officers and employees to bid on or enter into contracts with governmental agencies when certain requirements are met, including that the contracting process is controlled by the rules of competitive bidding. (NRS 281A.430) Section 11 of this bill allows public officers and employees to enter into such contracts in situations where existing law exempts the contracts from the rules of competitive bidding because the contract is an emergency contract or because no responsible bids were received in response to a previous request for bids on the contract. (NRS 332.112, 332.148)

The Ethics Law contains procedures for investigating and adjudicating alleged ethical violations. (NRS 281A.440) Section 12 of this bill: (1) authorizes a public officer or employee who requested an advisory opinion regarding his own conduct to waive certain time limits; (2) provides a public officer or employee with 30 days to file an informational response to an ethics complaint and also provides that no objection or defense is waived by the failure to assert it in the informational response or during the investigatory stage of the proceedings; (3) grants the Executive Director an additional 10 days to complete his investigation of an ethics complaint and to present a recommendation regarding just and sufficient cause to the investigatory panel; and (4) grants the Commission a total of 60 days to hold a hearing and render an opinion if the investigatory panel finds just and sufficient cause, unless the public officer or employee waives the time limit.

The Ethics Law requires public officers to file a form acknowledging that they have received, read and understand the statutory ethical standards. (NRS 281A.500) Section 14 of this bill requires public officers to file the form at certain times while holding office and to acknowledge

in the form that they have a responsibility to inform themselves of any amendments to the statutory ethical standards. Section 14 provides methods for public officers to obtain hard copies of the statutory ethical standards and also provides for Internet access to the statutory ethical standards. Section 14 additionally clarifies the methods for filing the form and provides that the willful refusal to execute and file the form constitutes a willful violation of the Ethics Law.

Finally, when the Nevada Constitution specifies a particular method for removing a public officer from office for misconduct, that constitutional method is exclusive, and the public officer may not be removed from office through statutory removal proceedings. Because certain elected and appointed state officers may be removed from office only through impeachment pursuant to Article 7 of the Nevada Constitution, they may not be removed from office through statutory removal proceedings. (*Robison v. First Jud. Dist. Ct.*, 73 Nev. 169 (1957)) Similarly, because State Legislators may be removed from office only through expulsion by their own House pursuant to Section 6 of Article 4 of the Nevada Constitution, they may not be removed from office through impeachment or statutory removal proceedings. (*Hiss v. Bartlett*, 69 Mass. 468 (1855); *State ex rel. Martin v. Gilmore*, 20 Kan. 551 (1878); *In re Speakership*, 25 P. 707 (Colo. 1891); *State ex rel. Haviland v. Beadle*, 111 P. 720 (Mont. 1910); *State ex rel. Ezzell v. Shumate*, 113 S.W.2d 381 (Tenn. 1938); *State ex rel. Danforth v. Hickey*, 475 S.W.2d 617 (Mo. 1972)) Sections 13 and 18-24 of this bill conform existing statutory law with the constitutional provisions governing impeachment, expulsion and removal from office.

WHEREAS, The doctrine of separation of powers is fundamental to our system of State Government; and

WHEREAS, The constitutional source of the doctrine of separation of powers is Section 1 of Article 3 of the Nevada Constitution, which establishes a tripartite system of State Government and which firmly fixes the principle of separation of powers in the organic law of this State; and

WHEREAS, Under the doctrine of separation of powers, when the Nevada Constitution expressly grants the Legislative Department an exclusive power, the other Departments of State Government may not usurp, exercise, infringe upon or interfere with that exclusive power out of respect for an equal and coordinate branch of government; and

WHEREAS, Under Section 6 of Article 4 of the Nevada Constitution, each House of the Legislature has the exclusive constitutional power to determine the rules of its legislative proceedings and to punish its members for improper conduct related to those legislative proceedings; and

WHEREAS, Because Section 6 of Article 4 of the Nevada Constitution creates an exclusive constitutional power in each House, neither the Legislature nor one of the Houses may delegate that exclusive constitutional power to another branch of government; and

WHEREAS, For centuries, freedom of speech, debate, deliberation and action in National and State Legislatures has been recognized as essential to protect the integrity of the legislative process by ensuring that individual Legislators may perform their core **or essential** legislative functions without harassment, intimidation or interference by the other branches of government; and

WHEREAS, Legislative privilege and immunity has its origins in the Parliamentary struggles of the 16th and 17th centuries when the English monarchs used civil and criminal proceedings to harass, intimidate and suppress members of Parliament who were critical of the Crown; and

WHEREAS, Legislative privilege and immunity was first codified in the English Bill of Rights of 1689, which provided "That the Freedom of Speech, and Debates or Proceedings in Parliament, ought not to be impeached or questioned in any Court or Place out of Parliament"; and

WHEREAS, Legislative privilege and immunity was extended to Legislators in the American Colonies where freedom of speech, debate, deliberation and action in the legislative process was taken as a matter of course by those who severed the American Colonies from the Crown and who became the Founders of our Nation; and

WHEREAS, The Founders of our Nation viewed legislative privilege and immunity as fundamental to the system of checks and balances and indispensable to the constitutional structure of separate, coequal and independent branches of government; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Legislature hereby finds and declares that:

(a) The Framers of the Nevada Constitution created a system of checks and balances so that the constitutional powers separately vested in the Legislative, Executive and Judicial Departments of State Government may be exercised without intrusion from the other Departments.

(b) As part of the system of checks and balances, the constitutional doctrines of separation of powers and legislative privilege and immunity facilitate the autonomy of the Legislative Department by curtailing intrusions by the Executive or Judicial Department into the sphere of legitimate legislative activities.

(c) The constitutional doctrines of separation of powers and legislative privilege and immunity protect State Legislators from having to defend themselves, from being held liable and from being questioned or sanctioned in administrative or judicial proceedings for speech, debate, deliberation and other actions performed within the sphere of legitimate legislative activity.

(d) Under the constitutional doctrines of separation of powers and legislative privilege and immunity, State Legislators must not be hindered or obstructed by executive or judicial oversight that realistically threatens to control their conduct as Legislators.

(e) Under the constitutional doctrines of separation of powers and legislative privilege and immunity, State Legislators must be free to represent the interests of their constituents with assurance that they will not later be called to task for that representation by the other branches of government.

(f) Under the constitutional doctrines of separation of powers and legislative privilege and immunity, State Legislators must not be questioned or sanctioned by the other branches of government for their actions in carrying out their core or essential legislative functions.

(g) Under the constitutional doctrines of separation of powers and legislative privilege and immunity, the only governmental entity that may question or sanction a State Legislator for any actions taken within the sphere of legitimate legislative activity is the Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution.

(h) Therefore, the purpose and effect of this section is to implement the constitutional doctrines of separation of powers and legislative privilege and immunity by codifying in statutory form the constitutional right of State Legislators to be protected from having to defend themselves, from being held liable and from being questioned or sanctioned in administrative or judicial proceedings for speech, debate, deliberation and other actions performed within the sphere of legitimate legislative activity.

2. For any speech or debate in either House, a State Legislator shall not be questioned in any other place.

3. In interpreting and applying the provisions of this section, the interpretation and application given to the constitutional doctrines of separation of powers and legislative privilege and immunity under the Speech or Debate Clause of Section 6 of Article I of the Constitution of the United States must be considered to be persuasive authority.

4. The rights, privileges and immunities recognized by this section are in addition to any other rights, privileges and immunities recognized by law.

5. As used in this section, "State Legislator" or "Legislator" means a member of the Senate or Assembly of the State of Nevada.

Sec. 2. NRS 49.015 is hereby amended to read as follows:

49.015 1. Except as otherwise required by the Constitution of the United States or of the State of Nevada, and except as ***otherwise*** provided in this title or title 14 of NRS, ***or section 1 of this act,*** no person has a privilege to:

(a) Refuse to be a witness;

(b) Refuse to disclose any matter;

(c) Refuse to produce any object or writing; or

(d) Prevent another from being a witness or disclosing any matter or producing any object or writing.

2. This section does not:

(a) Impair any privilege created by title 14 of NRS or by the Nevada Rules of Civil Procedure which is limited to a particular stage of the proceeding; or

(b) Extend any such privilege to any other stage of a proceeding.

Sec. 3. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[4 and 5]~~ **3.4 to 5.8, inclusive,** of this act.

Sec. 3.4. "Intentionally" means voluntarily or deliberately, rather than accidentally or inadvertently. The term does not require proof of bad faith, ill will, evil intent or malice.

Sec. 3.6. "Knowingly" imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry.

Sec. 4. ***"Member of a local legislative body" means a member of a board of county commissioners, a governing body of a city or a governing body of any other political subdivision who performs*** ~~*[a legislative function.]*~~ ***any function that involves introducing, voting upon or otherwise acting upon any matter of a permanent or general character which may reflect public policy and which is not typically restricted to identifiable persons or groups.***

Sec. 4.4. "Opinion" includes, without limitation, the disposition of a request for an opinion by stipulation, agreed settlement, consent order or default as authorized by NRS 233B.121.

Sec. 4.6. "Political subdivision" means any county, city or other local government as defined in NRS 354.474.

Sec. 5. ***"State Legislator" or "Legislator" means a member of the Senate or Assembly of the State of Nevada.***

Sec. 5.4. In applying the provisions of this chapter to an alleged violation by a former public officer or employee, the use of the term "public officer" or "public employee" in this chapter must be interpreted to include the former public officer or employee, unless the commencement of proceedings against the former public officer or employee concerning the alleged violation is time-barred by the statute of limitations pursuant to NRS 281A.280.

Sec. 5.6. 1. In any proceeding commenced against a public officer or employee pursuant to the authority of this chapter, including any judicial review thereof, the public officer or employee who is the subject of the proceeding may not assert, claim or raise any common-law privilege or immunity as an affirmative defense, for testimonial or evidentiary purposes or for any other purpose.

2. The provisions of this chapter are intended to abrogate common-law privileges and immunities only in a proceeding commenced pursuant to the

authority of this chapter and only for the public officer or employee who is the subject of the proceeding. This abrogation of common-law privileges and immunities does not apply to or affect:

(a) Any privilege or immunity granted by the Constitution of the United States or of the State of Nevada or by section 1 of this act, chapter 49 of NRS or any other statute;

(b) Any person who is not the subject of the proceeding; or

(c) Any other proceeding that is not commenced pursuant to the authority of this chapter.

Sec. 5.8. 1. A former member of the Public Utilities Commission of Nevada shall not:

(a) Be employed by a public utility or parent organization or subsidiary of a public utility; or

(b) Appear before the Public Utilities Commission of Nevada to testify on behalf of a public utility or parent organization or subsidiary of a public utility,

➥ for 1 year after the termination of his service on the Public Utilities Commission of Nevada.

2. A former member of the State Gaming Control Board or the Nevada Gaming Commission shall not:

(a) Appear before the State Gaming Control Board or the Nevada Gaming Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS; or

(b) Be employed by such a person,

➥ for 1 year after the termination of his service on the State Gaming Control Board or the Nevada Gaming Commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, and except as otherwise provided in subsections 4 and 6, a former public officer or employee of a board, commission, department, division or other agency of the Executive Department of State Government, except a clerical employee, shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted by the board, commission, department, division or other agency for 1 year after the termination of his service or period of employment if:

(a) His principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year, he directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ him; or

(c) As a result of his governmental service or employment, he possesses knowledge of the trade secrets of a direct business competitor.

4. The provisions of subsection 3 do not apply to a former public officer who was a member of a board, commission or similar body of the State if:

(a) The former public officer is engaged in the profession, occupation or business regulated by the board, commission or similar body;

(b) The former public officer holds a license issued by the board, commission or similar body; and

(c) Holding a license issued by the board, commission or similar body is a requirement for membership on the board, commission or similar body.

5. Except as otherwise provided in subsection 6, a former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:

(a) The amount of the contract exceeded $25,000;

(b) The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and

(c) The position held by the former public officer or employee at the time the contract was awarded allowed him to affect or influence the awarding of the contract.

6. A current or former public officer or employee may request that the Commission apply the relevant facts in his case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:

(a) The best interests of the public;

(b) The continued ethical integrity of the State Government or political subdivision, as applicable; and

(c) The provisions of this chapter,

➥ it may issue an opinion to that effect and grant such relief. The opinion of the Commission in such a case is final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the current or former public officer or employee.

7. Each request for an opinion that a current or former public officer or employee submits to the Commission pursuant to subsection 6, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the current or former public officer or employee who requested the opinion:

(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;

(b) Discloses the request for the opinion, the contents of the opinion or any motion, evidence or record of a hearing related thereto; or

(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.

8. A meeting or hearing that the Commission or an investigatory panel holds to receive information or evidence concerning the propriety of the conduct of a current or former public officer or employee pursuant to this section and the deliberations of the Commission and the investigatory panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.

9. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038 and also includes regulations adopted by a board, commission, department, division or other agency of the Executive Department of State Government that is exempted from the requirements of chapter 233B of NRS.

Sec. 6. NRS 281A.020 is hereby amended to read as follows:

281A.020 1. It is hereby declared to be the public policy of this State that:

(a) A public office is a public trust and shall be held for the sole benefit of the people.

(b) A public officer or employee must commit himself to avoid conflicts between his private interests and those of the general public whom he serves.

2. The Legislature finds ***and declares*** that:

(a) The increasing complexity of state and local government, more and more closely related to private life and enterprise, enlarges the potentiality for conflict of interests.

(b) To enhance the people's faith in the integrity and impartiality of public officers and employees, adequate guidelines are required to show the appropriate separation between the roles of persons who are both public servants and private citizens.

(c) ~~[~~Members of the Legislature~~]~~ ***In interpreting and applying the provisions of this chapter that are applicable to State Legislators, the Commission must give appropriate weight and proper deference to the public policy of this State under which State Legislators*** serve as "citizen Legislators" who have other occupations and business interests ~~[~~. Each Legislator has~~]~~ ***, who are expected to have*** particular philosophies and perspectives that are necessarily influenced by the life experiences of ~~[~~that~~]~~ ***the*** Legislator, including, without limitation, professional, family and business experiences ~~[~~. Our system assumes that Legislators will~~]~~ ***, and who are expected to*** contribute those philosophies and perspectives to the debate over issues with which the Legislature is confronted. ~~[~~The law concerning

~~ethics in government is not intended to require a member of the Legislature to abstain on issues which might affect his interests, provided those interests are properly disclosed and that the benefit or detriment accruing to him is not greater than that accruing to any other member of the general business, profession, occupation or group.]~~

(d) The provisions of this chapter do not, under any circumstances, allow the Commission to exercise jurisdiction or authority over or inquire into, intrude upon or interfere with the functions of a State Legislator that are protected by legislative privilege and immunity pursuant to the Constitution of the State of Nevada or section 1 of this act.

Sec. 7. NRS 281A.030 is hereby amended to read as follows:

281A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 281A.040 to 281A.170, inclusive, ***and sections*** ~~*[4 and]*~~ ***3.4 to 5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 7.2. **NRS 281A.040 is hereby amended to read as follows:**

281A.040 "Business entity" means ~~[any]~~ ***an organization or enterprise operated for economic gain, including, without limitation, a*** proprietorship, partnership, ***firm, business, company, trust, joint venture, syndicate,*** corporation or ~~[other enterprise doing business in the State of Nevada.]~~ ***association.***

Sec. 7.4. **NRS 281A.080 is hereby amended to read as follows:**

281A.080 ***1.*** The making of a "decision" is the exercise of governmental power to adopt laws, regulations or standards, render quasi-judicial decisions, establish executive policy or determine questions involving substantial discretion.

2. The term does not include ~~[the]~~ **:**

(a) The functions of the judiciary.

(b) The functions of a State Legislator that are protected by legislative privilege and immunity pursuant to the Constitution of the State of Nevada or section 1 of this act.

Sec. 8. **[**NRS 281A.130 is hereby amended to read as follows:

281A.130 "Member of the legislative branch" means ~~[any]~~ ~~*a State Legislator or a*~~ member of ~~[the Legislature or any member of a board of county commissioners or governing body of a city or other political subdivision who performs a legislative function.]~~ ~~*a local legislative body.]*~~ **(Deleted by amendment.)**

Sec. 8.1. **NRS 281A.140 is hereby amended to read as follows:**

281A.140 ~~[~~"Panel" means the~~]~~ ***"Investigatory panel" or "panel" means an investigatory*** panel appointed by the Commission pursuant to NRS 281A.220.

Sec. 8.15. **NRS 281A.150 is hereby amended to read as follows:**

281A.150 "Public employee" means any person who performs public duties under the direction and control of a public officer for compensation

paid by the State ~~[, a county or an incorporated city.]~~ ***or any county, city or other political subdivision.***

Sec. 8.2. **NRS 281A.160 is hereby amended to read as follows:**

281A.160 1. "Public officer" means a person elected or appointed to a position which ~~[is]~~ **:**

(a) Is established by the Constitution of the State of Nevada, a statute of this State or ~~[an]~~ ***a charter or*** ordinance of any ~~[of its counties or incorporated cities and which involves]~~ ***county, city or other political subdivision; and***

(b) Involves the exercise of a public power, trust or duty. As used in this section, "the exercise of a public power, trust or duty" means:

~~[(a)]~~ ***(1)*** Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;

~~[(b)]~~ ***(2)*** The expenditure of public money; and

~~[(c)]~~ ***(3)*** The administration of laws and rules of the State ~~[, a county or a city.]~~ ***or any county, city or other political subdivision.***

2. "Public officer" does not include:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a ~~[board of trustees for a general improvement district or]~~ special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

3. "Public office" does not include an office held by:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a ~~[board of trustees for a general improvement district or]~~ special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

Sec. 8.23. **NRS 281A.170 is hereby amended to read as follows:**

281A.170 "Willful violation" means ***a violation where*** the public officer or employee ~~[knew or reasonably should have known that his conduct violated]~~ **:**

1. Acted intentionally and knowingly; or

2. Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter.

Sec. 8.25. **NRS 281A.200 is hereby amended to read as follows:**

281A.200 1. The Commission on Ethics, consisting of eight members, is hereby created.

2. The Legislative Commission shall appoint to the Commission four residents of the State, at least two of whom are former public officers, and at least one of whom must be an attorney licensed to practice law in this State.

3. The Governor shall appoint to the Commission four residents of the State, at least two of whom must be former public officers or public employees, and at least one of whom must be an attorney licensed to practice law in this State.

4. Not more than four members of the Commission may be members of the same political party. Not more than four members may be residents of the same county.

5. None of the members of the Commission may ~~[:]~~ ***, while he is serving on the Commission:***

(a) Hold another public office;

(b) Be actively involved in the work of any political party or political campaign; or

(c) Communicate directly with ***a State Legislator or*** a member of ~~[the legislative branch]~~ ***a local legislative body*** on behalf of someone other than himself or the Commission, for compensation, to influence ~~[legislative action,~~

~~* while he is serving on the Commission.]~~ ***:***

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

(I) The appropriation of public money;

(II) The issuance of a license or permit; or

(III) Any proposed subdivision of land or special exception or variance from zoning regulations.

6. After the initial terms, the terms of the members are 4 years. Any vacancy in the membership must be filled by the appropriate appointing authority for the unexpired term. Each member may serve no more than two consecutive full terms.

Sec. 8.3. **NRS 281A.220 is hereby amended to read as follows:**

281A.220 1. The Chairman shall appoint one or more ***investigatory*** panels of two members of the Commission on a rotating basis to review the determinations of just and sufficient cause made by the Executive Director pursuant to NRS 281A.440 and make a final determination regarding whether ***there is*** just and sufficient cause ~~[exists]~~ for the Commission to render an opinion ~~[.]~~ ***in a matter.***

2. The Chairman and Vice Chairman of the Commission may not serve together on ~~[a]~~ ***an investigatory*** panel.

3. The members of ~~[a]~~ ***an investigatory*** panel may not be members of the same political party.

4. If ~~[a]~~ ***an investigatory*** panel ~~[finds]~~ ***determines that there is*** just and sufficient cause for the Commission to render an opinion in a matter, the members of the ***investigatory*** panel shall not participate in any further proceedings of the Commission relating to that matter.

Sec. 8.35. **NRS 281A.230 is hereby amended to read as follows:**

281A.230 1. The Commission shall appoint, within the limits of legislative appropriation, an Executive Director who shall perform the duties set forth in this chapter and such other duties as may be prescribed by the Commission.

2. The Executive Director must have experience in administration, ~~[law enforcement, investigations or]~~ ***investigations and*** law.

3. The Executive Director is in the unclassified service of the State.

4. The Executive Director shall devote his entire time and attention to the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit that detracts from the full and timely performance of his duties.

5. The Executive Director may not:

(a) Be actively involved in the work of any political party or political campaign; or

(b) ~~[Communicate]~~ ***Except in pursuit of the business of the Commission, communicate*** directly or indirectly with ***a State Legislator or*** a member of ~~[the legislative branch]~~ ***a local legislative body*** on behalf of someone other than himself to influence ~~[legislative action, except in pursuit of the business of the Commission.]~~ ***:***

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

(I) The appropriation of public money;

(II) The issuance of a license or permit; or

(III) Any proposed subdivision of land or special exception or variance from zoning regulations.

Sec. 8.4. **NRS 281A.240 is hereby amended to read as follows:**

281A.240 1. In addition to any other duties imposed upon him, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive requests for opinions pursuant to NRS 281A.440.

(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the ***investigatory*** panel appointed pursuant to NRS 281A.220 regarding whether

there is just and sufficient cause to render an opinion in response to a particular request.

(d) Recommend to the Commission any regulations or legislation that he considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that he is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

(f) Perform such other duties, not inconsistent with law, as may be required by the Commission.

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of his duties relating to:

(a) The administration of the affairs of the Commission;

(b) The review of statements of financial disclosure; and

(c) The investigation of matters under the jurisdiction of the Commission.

Sec. 8.45. **NRS 281A.250 is hereby amended to read as follows:**

281A.250 1. The Commission shall appoint, within the limits of legislative appropriation, a Commission Counsel who shall perform the duties set forth in this chapter and such other duties as may be prescribed by the Commission.

2. The Commission Counsel must be an attorney who is licensed to practice law in this State.

3. The Commission Counsel is in the unclassified service of the State.

4. The Commission Counsel shall devote his entire time and attention to the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit that detracts from the full and timely performance of his duties.

5. The Commission Counsel may not:

(a) Be actively involved in the work of any political party or political campaign; or

(b) ~~[Communicate]~~ ***Except in pursuit of the business of the Commission, communicate*** directly or indirectly with ***a State Legislator or*** a member of ~~[the legislative branch]~~ ***a local legislative body*** on behalf of someone other than himself to influence ~~[legislative action, except in pursuit of the business of the Commission.]~~ ***:***

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

(I) The appropriation of public money;

(II) The issuance of a license or permit; or

(III) Any proposed subdivision of land or special exception or variance from zoning regulations.

Sec. 8.5. **NRS 281A.260 is hereby amended to read as follows:**

281A.260 1. The Commission Counsel is the legal adviser to the Commission. For each opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission, the appropriate findings of fact and conclusions as to relevant standards and the propriety of particular conduct within the time set forth in subsection ~~[4]~~ ***6*** of NRS 281A.440. The Commission Counsel shall not issue written opinions concerning the applicability of the statutory ethical standards to a given set of facts and circumstances except as directed by the Commission.

2. The Commission may rely upon the legal advice of the Commission Counsel in conducting its daily operations.

3. If the Commission Counsel is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Commission may:

(a) Request that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or

(b) Employ outside legal counsel.

Sec. 8.55. **NRS 281A.280 is hereby amended to read as follows:**

281A.280 1. The Commission has jurisdiction to investigate and take appropriate action regarding an alleged violation of this chapter by a public officer or employee or former public officer or employee in any proceeding commenced by:

(a) The filing of a request for an opinion with the Commission; or

(b) The Commission on its own motion ~~[.~~

~~2. The provisions of subsection 1 apply to a public officer or employee who:~~

~~(a) Currently holds public office or is publicly employed at the commencement of proceedings against him.~~

~~(b) Resigns or otherwise leaves his public office or employment:~~

~~(1) After the commencement of proceedings against him; or~~

~~(2) Within 1 year~~**]** ***,***

➥ within 2 years after the alleged violation or reasonable discovery of the alleged violation.

2. For the purposes of this section, a proceeding is commenced:

(a) On the date on which a request for an opinion is filed in the proper form with the Commission in accordance with the regulations of the Commission; or

(b) If the proceeding is commenced by the Commission on its own motion, on the date on which the Commission serves the public officer or employee or former public officer or employee with notice of the proceeding in accordance with the regulations of the Commission.

Sec. 8.6. **NRS 281A.300 is hereby amended to read as follows:**

281A.300 1. The Chairman and Vice Chairman of the Commission may administer oaths.

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of books and papers. Upon the request of the Executive Director or the public officer or public employee who is the subject of a request for an opinion, the Chairman or, in his absence, the Vice Chairman, may issue a subpoena to compel the attendance of a witness and the production of books and papers.

3. Before issuing a subpoena to a public officer or public employee who is the subject of a request for an opinion, the Executive Director shall submit a written request to the public officer or public employee requesting:

(a) His appearance as a witness; or

(b) His production of any books and papers relating to the request for an opinion.

4. Each written request submitted by the Executive Director pursuant to subsection 3 must specify the time and place for the attendance of the public officer or public employee or the production of any books and papers, and designate with certainty the books and papers requested, if any. If the public officer or public employee fails or refuses to attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the request, the Chairman may issue the subpoena. Failure of the public officer or public employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or public employee of the time set forth in subsections ~~[3 and]~~ 4 ***, 5 and 6*** of NRS 281A.440.

5. If any witness refuses to attend, testify or produce any books and papers as required by the subpoena, the Chairman of the Commission may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission, or has refused to answer questions propounded to him, and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Commission.

6. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order,

and then and there show cause why he has not attended, testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

7. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission, at the time and place fixed in the order, and testify or produce the required books and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

Sec. 8.65. **NRS 281A.400 is hereby amended to read as follows:**

281A.400 A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281A.420.

(b) "Unwarranted" means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any ~~[private]~~ business ***entity*** in which he has a significant pecuniary interest.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.

5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.

7. ~~[A]~~ ***Except for State Legislators who are subject to the restrictions set forth in subsection 8, a*** public officer or employee ~~[, other than a member of the Legislature,]~~ shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of his public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

➥ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A ~~[member of the Legislature]~~ ***State Legislator*** shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of his public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the Legislator or legislative employee to perform his official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts through the use of his official position.

Sec. 8.7. **NRS 281A.410 is hereby amended to read as follows:**

281A.410 In addition to the requirements of the code of ethical standards:

1. ~~[A member of the executive branch or]~~ ***If a*** public ***officer or*** employee ~~[of the executive branch shall]~~ ***serves in a state agency of the Executive Department or an agency of any county, city or other political subdivision, the public officer or employee:***

(a) Shall not accept compensation from any private person to represent or counsel him on any issue pending before the agency in which that officer or employee serves, if the agency makes decisions ~~[. Any such]~~ ***; and***

(b) If the public officer or employee ~~[who]~~ leaves the service of the agency ***,*** shall not, for 1 year after leaving the service of the agency, represent or counsel for compensation a private person upon any issue which was under consideration by the agency during his service. As used in this ~~[subsection,]~~ ***paragraph,*** "issue" includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

2. A ***State Legislator or a*** member of ~~[the legislative branch,]~~ ***a local legislative body,*** or a ~~[member of the executive branch or]~~ public ***officer or*** employee whose public service requires less than half of his time, may represent or counsel a private person before an agency in which he does not serve. Any other ~~[member of the executive branch or]~~ public ***officer or*** employee shall not represent ***or counsel*** a ~~[client]~~ ***private person*** for compensation before any state agency of the Executive or Legislative ~~[Branch of Government.]~~ ***Department.***

3. Not later than January 15 of each year, any ***State*** Legislator or other public officer who has, within the preceding year, represented or counseled a private person for compensation before a state agency of the Executive ~~[Branch]~~ ***Department*** shall disclose for each such representation or counseling during the previous calendar year:

(a) The name of the client;

(b) The nature of the representation; and

(c) The name of the state agency.

~~[4.]~~

4. The disclosure ***required by subsection 3*** must be made in writing and filed with the Commission ~~[.]~~ on a form prescribed by the Commission. ***For the purposes of this subsection, the disclosure is timely filed if, on or before the last day for filing, the disclosure is filed in one of the following ways:***

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the disclosure with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the disclosure with the third-party commercial carrier.

5. The Commission shall retain a disclosure filed pursuant to ~~[this subsection]~~ ***subsections 3 and 4*** for 6 years after the date on which the disclosure was filed.

Sec. 9. NRS 281A.420 is hereby amended to read as follows:

281A.420 1. Except as otherwise provided in ~~[subsection 2, 3 or 4,]~~ ***this section,*** a public officer may vote upon a matter if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.

2. Except as otherwise provided in ~~[subsection 3,]~~ ***this section,*** in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

(a) His acceptance of a gift or loan;

(b) His pecuniary interest; or

(c) His commitment in a private capacity to the interests of others.

➥ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

3. In a county whose population is 400,000 or more, a member of a county or city planning commission shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

(a) His acceptance of a gift or loan;

(b) His direct pecuniary interest; or

(c) His commitment to a member of his household or a person who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity.

➥ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his direct pecuniary interest or his commitment described in paragraph (c) where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed is not greater than that accruing to any other member of the general business, profession, occupation or group. The

presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the direct pecuniary interest or commitment.

4. ~~[A]~~ ***Except as otherwise provided in this section, a*** public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

(a) Regarding which he has accepted a gift or loan;

(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or

(c) In which he has a pecuniary interest,

➥ without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. ~~[Except as otherwise provided in subsection 6, such]~~ ***Such*** a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 or any contributions to a legal defense fund that the public officer reported pursuant to NRS 294A.286 in a timely manner.

5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that he will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

6. ~~[After a member of the Legislature makes a disclosure pursuant to subsection 4, he may file with the Director of the Legislative Counsel Bureau a written statement of his disclosure. The written statement must designate the matter to which the disclosure applies. After a Legislator files a written statement pursuant to this subsection, he is not required to disclose orally his interest when the matter is further considered by the Legislature or any committee thereof. A written statement of disclosure is a public record and must be made available for inspection by the public during the regular office hours of the Legislative Counsel Bureau.~~

~~7.]~~ The provisions of this section do not, under any circumstances:

(a) Prohibit a member of ~~[the legislative branch]~~ ***a local legislative body*** from requesting or introducing a legislative measure; or

(b) Require a member of ~~[~~the legislative branch~~]~~ ***a local legislative body*** to take any particular action before or while requesting or introducing a legislative measure.

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of State Government ~~[.]~~ ***pursuant to Section 6 of Article 4 of the Nevada Constitution.***

8. As used in this section ~~[~~, "commitment~~]~~ ***:***

(a) "Commitment in a private capacity to the interests of others" means a commitment to a person:

~~[~~(a)~~]~~ ***(1)*** Who is a member of his household;

~~[~~(b)~~]~~ ***(2)*** Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;

~~[~~(c)~~]~~ ***(3)*** Who employs him or a member of his household;

~~[~~(d)~~]~~ ***(4)*** With whom he has a substantial and continuing business relationship; or

~~[~~(e)~~]~~ ***(5)*** Any other commitment or relationship that is substantially similar to a commitment or relationship described in ***subparagraphs (1) to (4), inclusive, of*** this ~~[~~subsection.~~]~~ ***paragraph.***

(b) "Public officer" and "public employee" do not include a State Legislator.

Sec. 9.5. **NRS 281A.420 is hereby amended to read as follows:**

281A.420 1. Except as otherwise provided in this section, a public officer ~~[~~may~~]~~ ***or employee shall not approve, disapprove,*** vote ***, abstain from voting or otherwise act*** upon a matter ~~[~~if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.

~~2.~~~~]~~ ***:***

(a) Regarding which he has accepted a gift or loan;

(b) In which he has a pecuniary interest; or

(c) Which would reasonably be affected by his commitment in a private capacity to the interest of others,

➥ without disclosing sufficient information concerning the gift, loan, interest or commitment to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's pecuniary interest, or upon the persons to whom the public officer or employee has a commitment in a private

capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected.

2. The provisions of subsection 1 do not require a public officer to disclose:

(a) Any campaign contributions that the public officer reported in a timely manner pursuant to NRS 294A.120 or 294A.125; or

(b) Any contributions to a legal defense fund that the public officer reported in a timely manner pursuant to NRS 294A.286.

3. Except as otherwise provided in this section, in addition to the requirements of ~~[the code of ethical standards,]~~ ***subsection 1,*** a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in ~~[his]~~ ***the public officer's*** situation would be materially affected by:

(a) His acceptance of a gift or loan;

(b) His pecuniary interest; or

(c) His commitment in a private capacity to the interests of others.

~~[.]~~

4. In interpreting and applying the provisions of subsection 3:

(a) It must be presumed that the independence of judgment of a reasonable person ***in the public officer's situation*** would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him ***,*** or ***if he has a commitment in a private capacity to the interests of others, accruing*** to the other persons ***,*** ~~[whose interests to which the member is committed in a private capacity]~~ is not greater than that accruing to any other member of the general business, profession, occupation or group ***~~[.]~~ that is affected by the matter.*** The presumption set forth in this ~~[subsection]~~ ***paragraph*** does not affect the applicability of the requirements set forth in subsection ~~[4]~~ ***1*** relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which he was elected or appointed and to vote or otherwise act upon a matter, provided he has properly disclosed his acceptance of a gift or loan, his pecuniary interest or his commitment in a private capacity to the interests of others in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of

this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by his acceptance of a gift or loan, his pecuniary interest or his commitment in a private capacity to the interests of others.

~~[3. In a county whose population is 400,000 or more, a member of a county or city planning commission shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:~~

~~(a) His acceptance of a gift or loan;~~

~~(b) His direct pecuniary interest; or~~

~~(c) His commitment to a member of his household or a person who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity.~~

~~➥ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his direct pecuniary interest or his commitment described in paragraph (c) where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the direct pecuniary interest or commitment.~~

~~4. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:~~

~~(a) Regarding which he has accepted a gift or loan;~~

~~(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or~~

~~(c) In which he has a pecuniary interest,~~

~~➥ without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. Such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 or any contributions to a legal defense fund that the public officer reported pursuant to NRS 294A.286 in a timely manner.]~~

5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that he will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

6. The provisions of this section do not, under any circumstances:

(a) Prohibit a member of a local legislative body from requesting or introducing a legislative measure; or

(b) Require a member of a local legislative body to take any particular action before or while requesting or introducing a legislative measure.

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of State Government pursuant to Section 6 of Article 4 of the Nevada Constitution.

8. As used in this section:

(a) "Commitment in a private capacity to the interests of others" means a commitment to a person:

(1) Who is a member of his household;

(2) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;

(3) Who employs him or a member of his household;

(4) With whom he has a substantial and continuing business relationship; or

(5) Any other commitment or relationship that is substantially similar to a commitment or relationship described in subparagraphs (1) to (4), inclusive, of this paragraph.

(b) "Public officer" and "public employee" do not include a State Legislator.

Sec. 10. **[**This act becomes effective on January 1, 2009.**]** **(Deleted by amendment.)**

Sec. 11. **NRS 281A.430 is hereby amended to read as follows:**

281A.430 1. Except as otherwise provided in this section and NRS 281A.530 and 332.800, a public officer or employee shall not bid on or enter into a contract between a governmental agency and any ~~[private]~~ business ***entity*** in which he has a significant pecuniary interest.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board ~~[or commission,]~~ **, *commission or body*** may, in the ordinary course of his

business, bid on or enter into a contract with any governmental agency, except the board, commission or body of which he is a member, if he has not taken part in developing the contract plans or specifications and he will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. A public officer or employee, other than ~~[an]~~ ***a public*** officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if ~~[the]~~ **:**

(a) The contracting process is controlled by ***the*** rules of open competitive bidding ~~[, the]~~ ***or the rules of open competitive bidding are not employed as a result of the applicability of NRS 332.112 or 332.148;***

(b) The sources of supply are limited ~~[, he]~~ **;**

(c) He has not taken part in developing the contract plans or specifications **;** and ~~[he]~~

(d) He will not be personally involved in opening, considering or accepting offers.

➥ If a public officer who is authorized to bid on or enter into a contract with a governmental agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose his interest in the contract and shall not vote on or advocate the approval of the contract.

Sec. 12. **NRS 281A.440 is hereby amended to read as follows:**

281A.440 1. The Commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances ~~[as soon as practicable or]~~ within 45 days after receiving a request, ~~[whichever is sooner,]~~ on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of his own past, present or future conduct as an officer or employee ~~[. He]~~ ***, unless the public officer or employee waives the time limit. The public officer or employee*** may also request the Commission to hold a public hearing regarding the requested opinion. If a requested opinion relates to the propriety of his own present or future conduct, the opinion of the Commission is:

(a) Binding upon the requester as to his future conduct; and

(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.

2. The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:

(a) Upon request from a specialized or local ethics committee.

(b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:

(1) The request on a form prescribed by the Commission; and

(2) All related evidence deemed necessary by the Executive Director and the ***investigatory*** panel to make a determination of whether there is just and sufficient cause to render an opinion in the matter.

(c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.

➥ The Commission shall not render an opinion interpreting the statutory ethical standards or apply those standards to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State.

3. Upon receipt of a request for an opinion by the Commission or upon the motion of the Commission pursuant to subsection 2, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The ***Executive Director shall notify the*** public officer or employee ~~[that]~~ ***who*** is the subject of the request ~~[may]~~ ***and provide the public officer or employee an opportunity to*** submit to the Executive Director ***a response to the allegations against him within 30 days after the date on which the public officer or employee received the notice of the request. The purpose of the response is to provide the Executive Director with*** any information relevant to the request ~~[.]~~ ***which the public officer or employee believes may assist the Executive Director and the investigatory panel in conducting the investigation. The public officer or employee is not required in the response or in any proceeding before the investigatory panel to assert, claim or raise any objection or defense, in law or fact, to the allegations against him, and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim or raise it in the response or in any proceeding before the investigatory panel.***

4. The Executive Director shall complete ~~[an]~~ ***the*** investigation and present his recommendation relating to just and sufficient cause to the ***investigatory*** panel within ~~[60]~~ ***70*** days after the receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit. If ***, after the investigation,*** the Executive Director determines ~~[after an investigation]~~ that ***there is*** just and sufficient cause ~~[exists]~~ for the Commission to render an opinion in the matter, he shall state such a recommendation in writing, including, without limitation, the specific evidence that supports his recommendation. If, after ~~[an]~~ ***the*** investigation,

the Executive Director ~~[does not determine]~~ ***determines*** that ***there is not*** just and sufficient cause ~~[exists]~~ for the Commission to render an opinion in the matter, he shall state such a recommendation in writing, including, without limitation, the specific reasons for his recommendation.

5. Within 15 days after the Executive Director has provided his recommendation in the matter to the ***investigatory*** panel, the ***investigatory*** panel shall make a final determination regarding whether ***there is*** just and sufficient cause ~~[exists]~~ for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. The ***investigatory*** panel shall not determine that there is just and sufficient cause for the Commission to render an opinion ***in the matter*** unless the ~~[panel]~~ ***Executive Director*** has provided the public officer or employee an opportunity to respond to the allegations against him ~~[.]~~ ***as required by subsection 3.*** The ***investigatory*** panel shall cause a record of its proceedings in each matter to be kept, and such a record must remain confidential until the ***investigatory*** panel determines whether there is just and sufficient cause for the Commission to render an opinion in the matter.

~~[4.]~~ ***6.*** If the ***investigatory*** panel determines that ***there is*** just and sufficient cause ~~[exists]~~ for the Commission to render an opinion ~~[requested pursuant to this section,]~~ ***in the matter,*** the Commission shall hold a hearing and render an opinion in the matter within ~~[30]~~ ***60*** days after the determination of just and sufficient cause by the ***investigatory*** panel, unless the public officer or employee waives this time limit.

~~[5.]~~ ***7.*** Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the public officer or employee who requested the opinion:

(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;

(b) Discloses the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto; or

(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.

~~[6.]~~ ***8.*** Except as otherwise provided in this subsection, each document in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, the Commission's copy of the request and all materials and information gathered in an investigation of the request, is confidential until the ***investigatory*** panel determines whether there is just and sufficient cause to render an opinion in the matter. The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 may in writing

authorize the Commission to make its files, material and information which are related to the request publicly available.

~~[7.]~~ ***9.*** Except as otherwise provided in paragraphs (a) and (b), the proceedings of ~~[a]~~ ***the investigatory*** panel are confidential until the ***investigatory*** panel determines whether there is just and sufficient cause to render an opinion ~~[.]~~ ***in the matter.*** A person who:

(a) Requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 may:

(1) At any time, reveal to a third party the alleged conduct of a public officer or employee underlying the request that he filed with the Commission or the substance of testimony, if any, that he gave before the Commission.

(2) After the ***investigatory*** panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that he requested an opinion from the Commission.

(b) Gives testimony before the Commission may:

(1) At any time, reveal to a third party the substance of testimony that he gave before the Commission.

(2) After the ***investigatory*** panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that he gave testimony before the Commission.

~~[8.]~~ ***10.*** Whenever the Commission holds a hearing pursuant to this section, the Commission shall:

(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;

(b) Allow the person to be represented by counsel; and

(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on his own behalf.

➥ The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.

~~[9.]~~ ***11.*** If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if he deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.

~~[10.]~~ ***12.*** If a person who requests an opinion pursuant to subsection 1 or 2 does not:

(a) Submit all necessary information to the Commission; and

(b) Declare by oath or affirmation that he will testify truthfully,

➥ the Commission may decline to render an opinion.

~~[11.]~~ ***13.*** For good cause shown, the Commission may take testimony from a person by telephone or video conference.

~~[12.]~~ ***14.*** For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.

~~[13.]~~ ***15.*** A meeting or hearing that the Commission or the ***investigatory*** panel holds to receive information or evidence concerning the propriety of the conduct of a public officer or employee pursuant to this section and the deliberations of the Commission and the ***investigatory*** panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.

Sec. 13. **NRS 281A.480 is hereby amended to read as follows:**

281A.480 1. In addition to any other ~~[penalty]~~ ***penalties*** provided by law, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

(a) Not to exceed $5,000 for a first willful violation of this chapter;

(b) Not to exceed $10,000 for a separate act or event that constitutes a second willful violation of this chapter; and

(c) Not to exceed $25,000 for a separate act or event that constitutes a third willful violation of this chapter.

2. In addition to ***any*** other penalties provided by law, the Commission may impose a civil penalty not to exceed $5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281A.440 against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

3. If the Commission finds that a violation of a provision of this chapter ~~[.]~~ by a public officer or employee or former public officer or employee has resulted in the realization of a financial benefit by the current or former public officer or employee or another person, the Commission may, in addition to ***any*** other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. ~~[If the Commission finds]~~ ***In addition to any other penalties provided by law, if a proceeding results in an opinion*** that:

(a) ~~[A willful violation]~~ ***One or more willful violations*** of this chapter ~~[has]~~ ***have*** been committed by a ~~[public officer]~~ ***State Legislator*** removable from office ~~[by impeachment only, the Commission shall file a report with the appropriate person responsible for commencing impeachment proceedings as to its finding. The report must contain a statement of the facts alleged to constitute the violation.~~

~~(b) A willful violation of this chapter has been committed by a public officer removable from office pursuant to NRS 283.440, the Commission may file a proceeding in the appropriate court for removal of the officer.~~

~~(c) Three or more willful violations have been committed by a public officer removable from office pursuant to NRS 283.440, the Commission shall file a proceeding in the appropriate court for removal of the officer.]~~ ***only through expulsion by his own House pursuant to Section 6 of Article 4 of the Nevada Constitution, the Commission shall:***

(1) If the State Legislator is a member of the Senate, submit the opinion to the Majority Leader of the Senate or, if the Majority Leader of the Senate is the subject of the opinion or the person who the requested the opinion, to the President Pro Tempore of the Senate; or

(2) If the State Legislator is a member of the Assembly, submit the opinion to the Speaker of the Assembly or, if the Speaker of the Assembly is the subject of the opinion or the person who the requested the opinion, to the Speaker Pro Tempore of the Assembly.

(b) One or more willful violations of this chapter have been committed by a state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution, the Commission shall submit the opinion to the Speaker of the Assembly and the Majority Leader of the Senate or, if the Speaker of the Assembly or the Majority Leader of the Senate is the person who the requested the opinion, to the Speaker Pro Tempore of the Assembly or the President Pro Tempore of the Senate, as appropriate.

(c) One or more willful violations of this chapter have been committed by a public officer other than a public officer described in paragraphs (a) and (b), the willful violations shall be deemed to be malfeasance in office for the purposes of NRS 283.440 and the Commission:

(1) May file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed fewer than three willful violations of this chapter.

(2) Shall file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed three or more willful violations of this chapter.

➥ This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation found in the opinion.

5. An action taken by a public officer or employee or former public officer or employee relating to this chapter is not a willful violation of a provision of those sections if the public officer or employee establishes by sufficient evidence that he satisfied all of the following requirements:

(a) He relied in good faith upon the advice of the legal counsel retained by the public body which the public officer represents or by the employer of the public employee or upon the manual published by the Commission pursuant to NRS 281A.290;

(b) He was unable, through no fault of his own, to obtain an opinion from the Commission before the action was taken; and

(c) He took action that was not contrary to a prior published opinion issued by the Commission.

6. In addition to ***any*** other penalties provided by law, a public employee who ~~[willfully violates a provision]~~ ***commits a willful violation*** of this chapter is subject to disciplinary proceedings by his employer and must be referred for action in accordance to the applicable provisions governing his employment.

7. The provisions of this chapter do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review ~~[.]~~ ***pursuant to NRS 233B.130.***

9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

Sec. 14. **NRS 281A.500 is hereby amended to read as follows:**

281A.500 1. ~~[Every]~~ ***Each*** public officer shall acknowledge that he ~~[has]~~ **:**

(a) Has received, read and understands the statutory ethical standards ~~[.]~~ **;** ***and***

(b) Has a responsibility to inform himself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature.

2. The acknowledgment must be ***executed*** on a form prescribed by the Commission and must ~~[accompany the first statement of financial disclosure that the public officer is required to file]~~ ***be filed*** with the Commission ~~[pursuant to NRS 281A.600 or the Secretary of State pursuant to NRS 281A.610.~~

~~2.]~~ **:**

(a) If the public officer is elected to office at the general election, on or before January 15 of the year following his election.

(b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which he takes office.

3. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does

not have a definite term of office, the public officer, in addition to executing and filing the acknowledgment after he takes office in accordance with subsection 2, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while he holds that office.

4. For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is filed in one of the following ways:

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the acknowledgment with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the acknowledgment with the third-party commercial carrier.

5. The form for making the acknowledgment must contain:

(a) The address of the Internet website of the Commission where a public officer may view the statutory ethical standards and print a hard copy; and

(b) The telephone number and mailing address of the Commission where a public officer may make a request to obtain a hard copy of the statutory ethical standards from the Commission.

6. Whenever the Commission, or any public officer or employee as part of his official duties, provides a public officer with a hard copy of the form for making the acknowledgment, a hard copy of the statutory ethical standards must be included with the form.

7. The Commission ~~[and the Secretary of State]~~ shall retain ~~[an]~~ ***each*** acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

~~[3.]~~ ***8.*** Willful refusal to execute and file the acknowledgment required by this section ~~[constitutes nonfeasance]~~ ***shall be deemed to be:***

(a) A willful violation of this chapter for the purposes of NRS 281A.480; and

(b) Nonfeasance in office ~~[and is a ground for removal]~~ ***for the purposes of NRS 283.440 and, if the public officer is removable from office*** pursuant to NRS 283.440 ~~[.]~~ ***, the Commission may file a complaint in the appropriate court for removal of the public officer pursuant to that section. This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation of this section.***

9. As used in this section, "general election" has the meaning ascribed to it in NRS 293.060.

Sec. 15. **NRS 281A.520 is hereby amended to read as follows:**

281A.520 1. Except as otherwise provided in subsections 4 and 5, a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose:

(a) A ballot question.

(b) A candidate.

2. For the purposes of paragraph (b) of subsection 1, an expense incurred or an expenditure made by a governmental entity shall be considered an expense incurred or an expenditure made in support of a candidate if:

(a) The expense is incurred or the expenditure is made for the creation or dissemination of a pamphlet, brochure, publication, advertisement or television programming that prominently features the activities of a current public officer of the governmental entity who is a candidate for a state, local or federal elective office; and

(b) The pamphlet, brochure, publication, advertisement or television programming described in paragraph (a) is created or disseminated during the period specified in subsection 3.

3. The period during which the provisions of subsection 2 apply to a particular governmental entity begins when a current public officer of that governmental entity files a declaration of candidacy or acceptance of candidacy and ends on the date of the general election, general city election or special election for the office for which the current public officer of the governmental entity is a candidate.

4. The provisions of this section do not prohibit the creation or dissemination of, or the appearance of a candidate in or on, as applicable, a pamphlet, brochure, publication, advertisement or television programming that:

(a) Is made available to the public on a regular basis and merely describes the functions of:

(1) The public office held by the public officer who is the candidate; or

(2) The governmental entity by which the public officer who is the candidate is employed; or

(b) Is created or disseminated in the course of carrying out a duty of:

(1) The public officer who is the candidate; or

(2) The governmental entity by which the public officer who is the candidate is employed.

5. The provisions of this section do not prohibit an expense or an expenditure incurred to create or disseminate a television program that provides a forum for discussion or debate regarding a ballot question, if persons both in support of and in opposition to the ballot question participate in the television program.

6. As used in this section:

(a) ”Governmental entity” means:

(1) The government of this State;

(2) An agency of the government of this State;

(3) A political subdivision of this State; and

(4) An agency of a political subdivision of this State.

(b) "Pamphlet, brochure, publication, advertisement or television programming" includes, without limitation, a publication, a public service announcement and any programming on a television station created to provide community access to cable television. The term does not include:

(1) A press release issued to the media by a governmental entity; or

(2) The official website of a governmental entity.

~~[(c) "Political subdivision" means a county, city or any other local government as defined in NRS 354.474.]~~

Sec. 16. **NRS 281A.540 is hereby amended to read as follows:**

281A.540 1. In addition to any other ~~[penalty]~~ ***penalties*** provided by law, a governmental grant, contract or lease entered into in violation of this chapter is voidable by the State, county, city or ~~[town.]~~ ***political subdivision.*** In a determination under this section of whether to void a grant, contract or lease, the interests of innocent third parties who could be damaged must be taken into account. The Attorney General, district attorney or city attorney must give notice of his intent to void a grant, contract or lease under this section no later than 30 days after the Commission has determined that there has been a related violation of this chapter.

2. In addition to any other ~~[penalty]~~ ***penalties*** provided by law, a contract prohibited by NRS 281.230 which is knowingly entered into by a person designated in subsection 1 of NRS 281.230 is void.

3. Any action taken by the State in violation of this chapter is voidable, except that the interests of innocent third parties in the nature of the violation must be taken into account. The Attorney General may also pursue any other available legal or equitable remedies.

4. In addition to any other ~~[penalty]~~ ***penalties*** provided by law, the Attorney General may recover any fee, compensation, gift or benefit received by a person as a result of a violation of this chapter by a public officer. An action to recover pursuant to this section must be brought within 2 years after the ***violation or reasonable*** discovery of the violation.

Sec. 17. **NRS 281A.620 is hereby amended to read as follows:**

281A.620 1. Statements of financial disclosure, as approved pursuant to NRS 281A.470 or in such form as the Commission otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) His length of residence in the State of Nevada and the district in which he is registered to vote.

(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which he or a member of his household has a legal or beneficial interest;

(2) Whose fair market value is $2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom he or a member of his household owes $5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of $200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.

2. The Commission shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The Commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281A.470.

3. As used in this section ~~[:~~

~~(a) "Business entity" means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.~~

~~(b) "Household"]~~ ***, "member of his household"*** includes:

~~[(1)]~~ ***(a)*** The spouse of a candidate for public office or public officer;

~~[(2)]~~ ***(b)*** A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and

~~[(3)]~~ *(c)* A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.

Sec. 17.5. **NRS 281A.660 is hereby amended to read as follows:**

281A.660 1. If the Secretary of State receives information that a candidate for public office or public officer willfully fails to file his statement of financial disclosure or willfully fails to file his statement of financial disclosure in a timely manner pursuant to NRS 281A.600 or 281A.610, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a candidate for public office or public officer who willfully fails to file his statement of financial disclosure or willfully fails to file his statement of financial disclosure in a timely manner pursuant to NRS 281A.600 or 281A.610 is subject to a civil penalty and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. The amount of the civil penalty is:

(a) If the statement is filed not more than 10 days after the applicable deadline set forth in subsection 1 of NRS 281A.600 or subsection 1 of NRS 281A.610, $25.

(b) If the statement is filed more than 10 days but not more than 20 days after the applicable deadline set forth in subsection 1 of NRS 281A.600 or subsection 1 of NRS 281A.610, $50.

(c) If the statement is filed more than 20 days but not more than 30 days after the applicable deadline set forth in subsection 1 of NRS 281A.600 or subsection 1 of NRS 281A.610, $100.

(d) If the statement is filed more than 30 days but not more than 45 days after the applicable deadline set forth in subsection 1 of NRS 281A.600 or subsection 1 of NRS 281A.610, $250.

(e) If the statement is not filed or is filed more than 45 days after the applicable deadline set forth in subsection 1 of NRS 281A.600 or subsection 1 of NRS 281A.610, $2,000.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

5. As used in this section, "willfully" means ~~[deliberately,]~~ intentionally and knowingly.

Sec. 18. **NRS 283.040 is hereby amended to read as follows:**

283.040 1. Every office becomes vacant upon the occurring of any of the following events before the expiration of the term:

(a) The death or resignation of the incumbent.

(b) The removal of the incumbent from office.

(c) The confirmed insanity of the incumbent, found by a court of competent jurisdiction.

(d) A conviction of the incumbent of any felony or offense involving a violation of his official oath or bond or a violation of NRS 241.040, 293.1755 or 293C.200.

(e) A refusal or neglect of the person elected or appointed to take the oath of office, as prescribed in NRS 282.010, or, when a bond is required by law, his refusal or neglect to give the bond within the time prescribed by law.

(f) Except as otherwise provided in NRS 266.400, the ceasing of the incumbent to be an actual, as opposed to constructive, resident of the State, district, county, city, ward or other unit prescribed by law in which the duties of his office are to be exercised, or from which he was elected or appointed, or in which he was required to reside to be a candidate for office or appointed to office.

(g) The neglect or refusal of the incumbent to discharge the duties of his office for a period of 30 days, except when prevented by sickness or absence from the State or county, as provided by law. In a county whose population is less than 15,000, after an incumbent, other than a state officer, has been prevented by sickness from discharging the duties of his office for at least 6 months, the district attorney, either on his own volition or at the request of another person, may petition the district court to declare the office vacant. If the incumbent holds the office of district attorney, the Attorney General, either on his own volition or at the request of another person, may petition the district court to declare the office vacant. The district court shall hold a hearing to determine whether to declare the office vacant and, in making its determination, shall consider evidence relating to:

(1) The medical condition of the incumbent;

(2) The extent to which illness, disease or physical weakness has rendered the incumbent unable to manage independently and perform the duties of his office; and

(3) The extent to which the absence of the incumbent has had a detrimental effect on the applicable governmental entity.

(h) The decision of a competent tribunal declaring the election or appointment void or the office vacant.

(i) A determination pursuant to NRS 293.182 or 293C.186 that the incumbent fails to meet any qualification required for the office.

2. Upon the happening of any of the events described in subsection 1, if the incumbent fails or refuses to relinquish his office, the Attorney General

shall, if the office is a state office or concerns more than one county, or the district attorney shall, if the office is a county office or concerns territory within one county, commence and prosecute, in a court of competent jurisdiction, any proceedings for judgment and decree declaring that office vacant.

3. The provisions of this section do not apply to the extent that they conflict or are otherwise inconsistent with any provision of the Constitution of the State of Nevada regarding the power to judge of the qualifications, elections and returns of or to punish, impeach, expel or remove from office the Governor, other state and judicial officers or State Legislators.

Sec. 19. **NRS 283.140 is hereby amended to read as follows:**

283.140 ***1.*** Any state officer ~~[, created by state law,]~~ shall be liable ~~[for]~~ ***to*** impeachment for ~~[any]~~ misdemeanor ***or malfeasance*** in office ~~[.]~~ ***pursuant to Article 7 of the Nevada Constitution.***

2. As used in NRS 283.140 to 283.290, inclusive, "state officer" means the Governor and other state and judicial officers, except:

(a) Justices of the peace; and

(b) State Legislators removable from office only through expulsion by their own House pursuant to Section 6 of Article 4 of the Nevada Constitution.

Sec. 20. **NRS 283.160 is hereby amended to read as follows:**

283.160 When ~~[an officer of the State]~~ ***a state officer*** is impeached by the Assembly for ~~[a]~~ misdemeanor ***or malfeasance*** in office, the articles of impeachment shall be delivered to the President of the Senate.

Sec. 21. **NRS 283.300 is hereby amended to read as follows:**

283.300 ***1.*** An accusation in writing against any district, county, township or municipal officer ~~[, except a justice or judge of the court system,]~~ for willful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer accused is elected or appointed.

2. As used in this section, "district, county, township or municipal officer" does not include:

(a) A justice or judge of the court system;

(b) A state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution; or

(c) A State Legislator removable from office only through expulsion by his own House pursuant to Section 6 of Article 4 of the Nevada Constitution.

Sec. 22. **NRS 283.440 is hereby amended to read as follows:**

283.440 1. Any person ***who is*** now holding or who shall hereafter hold any office in this State ~~[, except a justice or judge of the court system,]~~ ***and*** who refuses or neglects to perform any official act in the manner and form prescribed by law, or who is guilty of any malpractice or malfeasance in office, may be removed therefrom as hereinafter prescribed in this section ~~[.]~~ ***, except that this section does not apply to:***

(a) A justice or judge of the court system;

(b) A state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution; or

(c) A State Legislator removable from office only through expulsion by his own House pursuant to Section 6 of Article 4 of the Nevada Constitution.

2. Whenever a complaint in writing, duly verified by the oath of any complainant, is presented to the district court alleging that any officer within the jurisdiction of the court:

(a) Has been guilty of charging and collecting any illegal fees for services rendered or to be rendered in his office;

(b) Has refused or neglected to perform the official duties pertaining to his office as prescribed by law; or

(c) Has been guilty of any malpractice or malfeasance in office,

➥ the court shall cite the party charged to appear before it on a certain day, not more than 10 days or less than 5 days from the day when the complaint was presented. On that day, or some subsequent day not more than 20 days from that on which the complaint was presented, the court, in a summary manner, shall proceed to hear the complaint and evidence offered by the party complained of. If, on the hearing, it appears that the charge or charges of the complaint are sustained, the court shall enter a decree that the party complained of shall be deprived of his office.

3. The clerk of the court in which the proceedings are had, shall, within 3 days thereafter, transmit to the Governor or the board of county commissioners of the proper county, as the case may be, a copy of any decree or judgment declaring any officer deprived of any office under this section. The Governor or the board of county commissioners, as the case may be, shall appoint some person to fill the office until a successor shall be elected or appointed and qualified. The person so appointed shall give such bond as security as is prescribed by law and pertaining to the office.

4. If the judgment of the district court is against the officer complained of and an appeal is taken from the judgment so rendered, the officer so appealing shall not hold the office during the pendency of the appeal, but the office shall be filled as in case of a vacancy.

Sec. 23. **NRS 283.450 is hereby amended to read as follows:**

283.450 1. Any civil officer in this state who, during his term of office, becomes intoxicated or is under the influence of alcoholic, malt or vinous liquors, or becomes or is addicted to the use of controlled substances, so that he is not at all times in proper condition for the discharge of the duties of his office, is guilty of a gross misdemeanor ~~[, and,]~~ ***and*** if he is ~~[a]~~ ***:***

(a) A state officer, ***he*** is subject to removal from office ~~[by impeachment, or if he is a]~~ ***through impeachment pursuant to Article 7 of the Nevada Constitution;***

(b) A State Legislator, he is subject to removal from office through expulsion by his own House pursuant to Section 6 of Article 4 of the Nevada Constitution; or

(c) A county, city or township officer **,** he shall be removed from office by the judgment of the court in which the conviction is had, as a part of the penalty in such a conviction.

2. Upon receiving information from any person that the provisions of this section have been violated, sheriffs and their deputies, constables and their deputies, district attorneys, and all other peace officers in this state shall immediately institute proceedings in the proper court against the person complained of, and shall prosecute the same with reasonable diligence to final judgment.

3. If any person makes and files a complaint under oath charging the district attorney with a violation of this section, the Attorney General shall prosecute the district attorney pursuant to the terms of this section.

4. If any state officer is convicted pursuant to this section, the prosecuting officer obtaining the conviction shall file a certified copy of the judgment roll with the Secretary of State. The Secretary of State shall lay the certified copy of the judgment roll before the ***appropriate House of the*** Legislature at its next session.

5. The provisions of this section must be specially charged to the grand juries of the several counties by district judges.

Sec. 24. **NRS 193.105 is hereby amended to read as follows:**

193.105 1. If, during the course of his employment, an employee of the State or of any political subdivision of the State is convicted on or after October 1, 1989, of violating any federal or state law prohibiting the sale of any controlled substance, the employer upon discovery of the conviction shall terminate the employment of the employee.

2. If, during the course of his tenure in office, an officer of any county, city or township of the State is convicted on or after October 1, 1989, of violating any federal or state law prohibiting the sale of any controlled substance, the court as part of the penalty for such a conviction shall remove the officer from his office.

3. If, during the course of his tenure in office, an elected or appointed officer of the State is convicted on or after October 1, 1989, of violating any federal or state law prohibiting the sale of any controlled substance, the prosecuting officer who obtained the conviction shall file a certified copy of the judgment roll with the Secretary of State. The Secretary of State shall lay the certified copy of the judgment roll before the ~~[Assembly]~~ ***appropriate House of the Legislature*** at its next session**.** ~~[for the preparation of articles of impeachment.]~~

4. This section does not apply to a justice or judge of the court system.

Sec. 25. **NRS 281.236, 281A.110, 281A.120 and 281A.130 are hereby repealed.**

Sec. 26. **The Legislature hereby finds and declares that:**

1. NRS 11.190 contains a generally applicable 2-year statute of limitations for any action upon a statute for a penalty or forfeiture, where the action is given to a person or the State.

2. Because NRS 281A.480 authorizes the Commission on Ethics to impose civil penalties on a current or former public officer or employee for a violation of chapter 281A of NRS, the existing 2-year statute of limitations in NRS 11.190 is applicable to proceedings commenced against a current or former public officer or employee pursuant to chapter 281A of NRS.

3. By enacting the 2-year statute of limitations in NRS 281A.280, as amended by section 8.55 of this act, the Legislature is substituting in a continuing way the 2-year statute of limitations in NRS 281A.280 for the existing 2-year statute of limitations in NRS 11.190 with regard to violations of chapter 281A of NRS.

4. Therefore, the 2-year statute of limitations in NRS 281A.280, as amended by section 8.55 of this act, is applicable to any proceeding against a current or former public officer or employee for a violation of chapter 281A of NRS if the proceeding is commenced on or after the effective date of section 8.55 of this act, whether or not the violation occurred before that effective date.

Sec. 27. **1. This section and sections 1, 2, 3, 4, 5, 6, 7, 7.4 and 9 of this act become effective on January 1, 2009.**

2. Sections 3.4, 3.6, 4.4, 4.6, 5.4, 5.6, 5.8, 7.2, 8 to 8.7, inclusive, and 9.5 to 26, inclusive, of this act become effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

281.236 Employment of certain former public officers and employees by regulated businesses prohibited; certain former public officers and employees prohibited from soliciting or accepting employment from certain persons contracting with State or local government; determination by Commission on Ethics.

281A.110 "Legislative function" defined.

281A.120 "Member of the executive branch" defined.

281A.130 "Member of the legislative branch" defined.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 183.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 751.

AN ACT relating to common-interest communities; ~~[revising provisions relating to systems for obtaining solar or wind energy; revising the provisions~~

~~governing the regulation of certain streets in common-interest communities;~~] revising provisions concerning voting rights exercised by delegates or representatives; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; clarifying various provisions governing common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

[~~Existing law provides that a covenant, restriction or condition in a deed, contract or other legal instrument cannot unreasonably restrict the use of a system for obtaining solar or wind energy. (NRS 111.239, 278.0208) Sections 1 and 45 of this bill specify the circumstances under which a specification regarding the color of such a system is enforceable.~~]

Section 3 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

[~~Section 4 of this bill: (1) states that the provisions of chapter 116 of NRS do not modify the tariffs, rules and standards of a public utility; and (2) provides that the governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility.~~

~~Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 5 of this bill prohibits a common-interest community from restricting the operation of motorcycles. Section 6 of this bill prohibits a common-interest community from using information from radar guns or other devices unless the radar gun or device meets certain specifications and the person operating the radar gun or device meets certain qualifications.~~]

Section 5.5 of this bill authorizes the Commission for Common-Interest Communities and Condominium Hotels, or the Administrator of the Real Estate Division of the Department of Business and Industry with the Commission's approval, to adopt regulations to require any additional disclosures in the sale of a unit as the Commission deems necessary.

Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units' owners in the association for that common-interest community be exercised by delegates or representatives. (NRS 116.1201, 116.31105) **Sections 8, 14, 15, 18, 20 and 21** of this bill prohibit the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board. Also, **sections 9 and 22** of this bill provide that this form of voting may occur only during the period that the declarant is

in control of the association and during the 2-year period after the declarant's control of the association is terminated. A master association which governs a time-share plan created pursuant to chapter 119A of NRS is excluded from these new provisions and is allowed to continue using delegates or representatives to exercise the voting rights of owners of time shares. A master association which governs a planned community that is exempt from the provisions of chapter 116 of NRS is also excluded from these new provisions.

Section 11 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. **Section 46** of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2009.

Section 12 of this bill provides that: (1) a unit's owner must receive notice of a violation and possible fine; (2) an association may not impose a fine against a unit's owner or tenant of a unit's owner for a vehicular violation of the governing documents committed by a person delivering goods to, or performing services for, a unit's owner or tenant of a unit's owner; (3) a member of the executive board cannot participate in hearings on fines if he has not paid his assessments; and (4) the association must provide written confirmation when a fine is paid. (NRS 116.31031)

Section 13 of this bill requires an association to establish an account for a unit owner's payments for fines, which must be kept separate from any account established for assessments. (NRS 116.310315)

Section 14 of this bill increases the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034) **Section 14** also provides that an association is not obligated to distribute any disclosure made by a candidate for the executive board if the disclosure contains information that is believed to be defamatory, libelous or profane.

Section 16 of this bill requires that a declarant deliver to an association an ancillary audit of the association's money and audited financial statements from the date of the last audit until the date the declarant's control ends. (NRS 116.31038) **Section 14** also requires the declarant to pay for the costs of the ancillary audit.

Sections 35-37 and 39-44 of this bill eliminate the issuance of permits to reserve study specialists and instead provide for their registration. (NRS 116.750, 116A.120, 116A.260, 116A.420-116A.900)

Section 19 of this bill lengthens the period between which meetings of the executive board must be held from every 90 days to every quarter, but not less than every 100 days. (NRS 116.31083)

~~[~~ ~~Section 23 of this bill revises provisions relating to financial statements for certain associations. (NRS 116.31144)~~

~~Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any~~

~~special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151, 116.31152) Section 24 of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments to establish adequate reserves.~~**]**

Existing law requires certain signatures before money in the reserve account of an association may be withdrawn. (NRS 116.31153) **Section 26** of this bill also requires certain signatures before money in the operating account of an association may be withdrawn, unless the withdrawal is to transfer money to the reserve account or to make automatic payments for utilities.

Section 28 of this bill excludes the books, records and other papers of the association which are in the process of being developed and have not yet been placed on an agenda for final approval by the executive board from the material which the board must make available upon the written request of a unit's owner. (NRS 116.31175) **Section 28** also provides that if an official publication contains any mention of a candidate or ballot question or contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, **section 28** provides immunity from criminal or civil liability for an association and its officers, employees and agents who publish or disclose information pursuant to the duties imposed by this section.

Section 29 of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187)

[~~Existing law provides that except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. (NRS 116.335) Section 30 of this bill provides that unless at the time a unit's owner purchases his unit the declaration prohibited the unit's owner from renting or leasing his unit or required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, the association may not: (1) prohibit the unit's owner from renting or leasing his unit; or (2) require the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.~~**]**

Section 31 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

[~~Existing law provides that certain common interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 32 of this~~

~~bill prohibits a common interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.~~

~~Existing law provides that an association may charge certain fees for furnishing certain documents and certificates in connection with the resale of a unit. (NRS 116.4109) Section 33 of this bill provides that if the association enters into a contract or agreement with any person or entity to furnish such documents or certificates, the contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association itself may charge. Additionally, section 33 provides that an association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee, except it may charge a fee to transfer the unit to a new owner in the association books and records based on the actual cost incurred.~~**]**

Section 34 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a registered agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)

[~~Section 38 of this bill provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances. In addition, section 38 requires the posting of bonds by community managers in an amount established by regulation, based on a sliding scale. (NRS 116A.410)~~**]**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~**[**NRS 111.239 is hereby amended to read as follows:~~

~~111.239 1.~~ **[**Any**]** ***Except as otherwise provided in subsection 2, any*** ~~covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.~~

~~2.~~ ***A covenant, restriction or condition contained in the governing documents of a common interest community or a policy established by a common interest community specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:***

(a) In existence on July 1, 2007; or

(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common interest community.

~~*3. For the purposes of this section [, "unreasonably] :*~~

~~*(a) "Common interest community" has the meaning ascribed to it in NRS 116.021.*~~

~~*(b) "Governing documents" has the meaning ascribed to it in NRS 116.049.*~~

~~*(c) "Unit" has the meaning ascribed to it in NRS 116.093.*~~

~~*(d) "Unreasonably* restricts the use of a system for obtaining solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.~~ **(Deleted by amendment.)**

Sec. 2. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. ***1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:***

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. For the purposes of this section:

(a) An employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

(b) A member of an executive board shall not be deemed to gain any personal profit or compensation solely because the member of the executive board is the owner of a unit in the common-interest community.

Sec. 4. ~~*[1. The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.*~~

~~*2. The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules and standards of a public utility is void and may not be enforced against a purchaser.*~~

~~*3. As used in this section, "public utility" has the meaning ascribed to it in NRS 704.020.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~*[1. The executive board of a common interest community shall not, and the governing documents of a common interest community must not, restrict, prohibit or otherwise impede the operation of a motorcycle if the motorcycle is operated on any road, street, alley or other surface intended for use by a motor vehicle.*~~

~~*2. The provisions of this section do not preclude the governing documents of a common interest community from reasonably restricting the parking or storage of a motorcycle to the extent authorized by law.*~~

~~*3. As used in this section, "motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground which is required to be registered pursuant to chapter 482 of NRS.]*~~ **(Deleted by amendment.)**

Sec. 5.5. ***The Commission, or the Administrator with the approval of the Commission, may adopt regulations to require any additional disclosures in the case of a sale of a unit as it deems necessary.***

Sec. 6. ~~*[A member of the executive board of a common-interest community, a community manager for the common-interest community and any other representative of the association shall not use a radar gun or other device designed to gauge the speed of a vehicle for the purpose of imposing any fine or other penalty upon or taking any other action against a unit's owner or other person unless:*~~

~~*1. The radar gun or other device:*~~

~~*(a) Is, or was at the time of purchase, on the Conforming Product List of the International Association of Chiefs of Police; and*~~

~~*(b) Is inspected at least every 3 years to determine whether its level of power and structural integrity comply with the minimum performance specifications for that model established by the United States Department of Transportation; and*~~

~~*2. The person operating the radar gun or other device has successfully completed a course of training in the proper use of the radar gun or other device.]*~~ **(Deleted by amendment.)**

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply

to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; ~~[or]~~

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government ~~[.]~~ ***, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives;***

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan; or

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 9. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; and

(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has

less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) ~~[~~Prohibit~~]~~ ***Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit*** a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; ~~[or]~~

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan ~~[.]~~ ***; or***

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to paragraph (b) of subsection 2 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 12. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or ~~[guest]~~ ***invitee*** of a unit's owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or ~~[guest]~~ ***invitee*** of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or ~~[~~guest~~]~~ ***invitee*** of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or ~~[~~guest~~]~~ ***invitee*** of the unit's owner for each violation, except that ~~[~~a~~]~~ ***:***

(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305 ~~[~~.~~]~~ ***; and***

(2) A fine may not be imposed against a unit's owner or a tenant or invitee of a unit's owner for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or invitee of the unit's owner.

➥ If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the ***unit's owner and, if different, the*** person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the ***unit's owner and, if different, the*** person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

➥ ***For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is mailed to the address of the unit and, if different, to a mailing address specified by the unit's owner.***

3. The executive board must schedule the date, time and location for the hearing on the violation so that the ***unit's owner and, if different, the*** person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless ***the fine is paid before the hearing or unless*** the ***unit's owner and, if different, the*** person against whom the fine will be imposed:

(a) ~~[~~Pays the fine;

~~(b)]~~ Executes a written waiver of the right to the hearing; or

~~[(c)]~~ ***(b)*** Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. ***A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:***

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

8. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~[8.]~~ ***9.*** Any past due fine:

(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.

(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the ***units' owners or*** residents of the common-interest community, the rate established by the association for the costs of collecting the past due fine:

(1) May not exceed $20, if the outstanding balance is less than $200.

(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.

(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.

(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.

(5) May not exceed $500, if the outstanding balance is $5,000 or more.

(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~[9.]~~ ***10. If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.***

11. As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.

(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.

Sec. 13. NRS 116.310315 is hereby amended to read as follows:

116.310315 If an association has imposed a fine against a unit's owner or a tenant or ~~[~~guest~~]~~ ***invitee*** of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association ~~[~~:

~~1. Shall, in the books and records of the association, account for the fine separately from any assessment, fee or other charge; and~~

~~2. Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.~~] ***shall establish a compliance account to account for the fine, which must be separate from any account established for assessments.***

Sec. 14. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ ***3*** years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. ~~[The]~~ ***Except as otherwise provided in this subsection, the*** association shall distribute the disclosures ***, on behalf of the candidate,*** to each member of the association with the ballot in the manner established in the bylaws of the association. ***The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.***

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or

his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. ~~[The]~~ ***Except as otherwise provided in NRS 116.31105, the*** election of any member of the executive board must be conducted by secret written ballot ~~[unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:]~~ ***in the following manner:***

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 15. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. ~~[The]~~ ***Except as otherwise provided in NRS 116.31105, the*** removal of any member of the executive board must be conducted by secret written ballot ~~[unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:]~~ ***in the following manner:***

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton

misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 16. NRS 116.31038 is hereby amended to read as follows:

116.31038 In addition to any applicable requirement set forth in NRS 116.310395, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by him, including:

1. The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of ~~[inception]~~ ***the last audit*** of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial position. ***The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.***

3. A complete study of the reserves of the association, conducted by a person who ~~[holds a permit to conduct such a study issued]~~ ***is registered as a reserve study specialist*** pursuant to chapter 116A of NRS. At the time the control of the declarant ends, he shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, he has failed to pay his share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, the amount by which he has subsidized the association's dues on a per unit or per lot basis.

4. The association's money or control thereof.

5. All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the

declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

Sec. 17. NRS 116.310395 is hereby amended to read as follows:

116.310395 1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the association the amount of the converted building reserve deficit allocated to that unit.

2. The allocation to a unit of the amount of any converted building reserve deficit must be made in the same manner as assessments are allocated to that unit.

3. As used in this section, "converted building reserve deficit" means the amount necessary to replace the major components of the common elements needing replacement within 10 years after the date of the first ~~[sale]~~ ***close of escrow*** of a unit.

Sec. 18. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the ~~[units']~~ owners ***of time shares*** will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before

recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 19. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every ~~[90]~~ ***quarter, and not less than once every 100*** days.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the

executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every ~~[90]~~ ***quarter, and not less than once every 100*** days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 20. NRS 116.311 is hereby amended to read as follows:

116.311 1. If only one of several owners of a unit is present at a meeting of the association, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to that unit without protest made promptly to the person presiding over the meeting by any of the other owners of the unit.

2. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

3. Before a vote may be cast pursuant to a proxy:

(a) The proxy must be dated.

(b) The proxy must not purport to be revocable without notice.

(c) The proxy must designate the meeting for which it is executed.

(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the

unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.

(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed the number of proxies pursuant to which the holder will be casting votes.

4. A proxy terminates immediately after the conclusion of the meeting for which it is executed.

5. ~~[~~A~~]~~ ***Except as otherwise provided in this subsection, a*** vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association ***.*** ~~[~~unless~~]~~ ***A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if*** the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.

6. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.

7. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 1 to 6, inclusive.

8. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:

(a) The provisions of subsections 1 to 7, inclusive, apply to the lessees as if they were the units' owners;

(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;

(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and

(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.

9. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.

Sec. 21. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. If the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~[.]~~ ***except that, in the election or***

removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives ~~[.]~~ ***except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.***

3. ***In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.***

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

~~[4.]~~ ***5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.***

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

~~[5.]~~ ***7.*** When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot

before those secret written ballots have been opened and counted at a meeting called for that purpose.

Sec. 22. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. ~~[If]~~ ***Except as otherwise provided in subsection 8, if*** the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

2. ~~[In]~~ ***Except as otherwise provided in subsection 8, in*** addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.

3. In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS which is governed by a master association may be exercised by delegates or representatives.

4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common-interest community.

5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time-share plan.

6. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

7. When an election of a delegate or representative is conducted by secret written ballot:

(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.

(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.

8. Except as otherwise provided in subsection 9, the voting rights of the units' owners in the association for a common-interest community may be exercised by delegates or representatives only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated pursuant to NRS 116.31032.

9. The provisions of subsection 8 do not apply to:

(a) A time-share plan created pursuant to chapter 119A of NRS which is governed by a master association; or

(b) A condominium or cooperative containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted.

Sec. 23. ~~**[**NRS 116.31144 is hereby amended to read as follows:~~

~~116.31144 1. Except as otherwise provided in **[**subsection 2,**]** ***this section,*** the executive board shall:~~

~~(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be **[**audited**]** ***reviewed*** by an independent certified public accountant at least once every 4 fiscal years.~~

~~(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be **[**:~~

~~(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and~~

~~(2) Reviewed**]** ***reviewed*** by an independent certified public accountant every fiscal year **.[**for which an audit is not conducted.**]**~~

~~(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.~~

~~2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.~~

~~3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of *the* financial statements of an association pursuant to this section. Such regulations must include, without limitation:~~

~~(a) The qualifications necessary for a person to audit or review financial statements of an association;~~ **[**~~and~~**]**

~~(b) The standards and format to be followed in auditing or reviewing financial statements of an association~~ **[**~~.~~**]** ~~*; and*~~

~~*(c) The requirement that an audit or review of the financial statements of an association be completed within 210 days after the end of the fiscal year.]*~~ **(Deleted by amendment.)**

Sec. 24. **[**~~NRS 116.3115 is hereby amended to read as follows:~~

~~116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.~~

~~2. Except for assessments under subsections 4 to 7, inclusive:~~

~~(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.~~

~~(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary.~~ ~~*Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community.*~~

~~3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.~~

~~4. To the extent required by the declaration:~~

~~(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;~~

~~(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and~~

~~(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.~~

~~5. Assessments to pay a judgment against the association may be made only against the units in the common interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.~~

~~6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.~~

~~7. The association of a common interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.~~

~~8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.~~

~~9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.~~] **(Deleted by amendment.)**

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 116.31153 is hereby amended to read as follows:

116.31153 ***1.*** Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.

2. Except as otherwise provided in subsection 3, money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.

3. Money in the operating account of an association may be withdrawn without the signatures required pursuant to subsection 2 to:

(a) Transfer money to the reserve account of the association at regular intervals; or

(b) Make automatic payments for utilities.

Sec. 27. (Deleted by amendment.)

Sec. 28. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association

for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; ~~[and]~~

(c) A contract between the association and an attorney ~~[.]~~ ***; and***

(d) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. If an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. The association and its officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 6 or 7.

9. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 29. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide ***financing,*** goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing ***financing,*** goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any ***financing,*** goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 30. ~~[NRS 116.335 is hereby amended to read as follows:~~

~~116.335 1.~~ **[**~~[Except as otherwise provided in~~**]** ~~*Unless, at the time a unit's owner purchased his unit,* the declaration~~ **[**~~,~~**]** ~~*prohibited the unit's owner from renting or leasing his unit, the association may not prohibit the unit's owner from renting or leasing his unit.*~~

~~*2. Unless, at the time a unit's owner purchased his unit, the declaration required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit,* an association may not require~~ **[**~~a~~**]** ~~*the* unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.~~

[~~2.~~**]** ~~*3.* The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.~~**]** **(Deleted by amendment.)**

Sec. 31. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners

and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. ***An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.***

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 32. ~~[~~NRS 116.350 is hereby amended to read as follows:

~~116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.~~

~~2. [~~The~~]~~ ***Except as otherwise provided in subsection 3, the*** provisions of ~~subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the parking or storage of~~ ***inoperable vehicles,*** ~~recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.~~

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle and which requires the person to

park the vehicle overnight at his residence for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle and which requires the person to park the vehicle overnight at his residence for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.] **(Deleted by amendment.)**

Sec. 33. ~~[NRS 116.4109 is hereby amended to read as follows:~~

~~116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall~~ ***, at the expense of the unit's owner,*** ~~furnish to a purchaser a resale package~~ **[**~~containing~~**]** ***which is purchased directly from the association and which contains*** ~~all of the following:~~

~~(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;~~

~~(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;~~

~~(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in [paragraphs (a) to (e), inclusive, of] subsection 3 of NRS 116.31152; and~~

~~(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.~~

~~2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:~~

~~(a) Cancel the contract pursuant to this subsection; or~~

~~(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.~~

~~3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:~~

~~(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and~~

~~(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.~~

~~4. If the association furnishes the documents and certificate pursuant to subsection 3:~~

~~(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.~~

~~(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission~~

~~shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.~~

~~(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.~~

~~(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.~~

~~5. *If the association enters into a contract or agreement with any person or entity to furnish the documents and certificate pursuant to subsection 3:*~~

~~*(a) The contract or agreement must not allow a unit's owner to be charged any fee that exceeds the amount of the fee that the association may charge pursuant to subsection 4; and*~~

~~*(b) The person or entity shall not charge or attempt to charge any such fee.*~~

~~*6.* Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.~~

~~[~~6.~~]~~ ~~*7.*~~ Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.~~

~~*8. The association may not charge a unit's owner, and may not require a unit's owner to pay, any fee related to the resale of a unit that is not specifically authorized pursuant to this section, including, without limitation, any transaction fee, transfer fee, asset enhancement fee or other similar fee, except the association may charge the unit's owner a reasonable fee to cover the cost of recording in the books and records of the association the transfer of the ownership of the unit. Such a fee must be based on the actual cost the association incurs to record the transfer of the ownership of the unit. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for transferring the ownership of a unit.]~~ **(Deleted by amendment.)**

Sec. 34. NRS 116.411 is hereby amended to read as follows:

116.411 1. Except as otherwise provided in subsections 2 ~~[and 3,]~~ ***, 3 and 4,*** a deposit made in connection with the purchase or reservation of a

unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 must be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

(1) Must not exceed the lesser of the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for the purpose; and

(2) Must be credited upon the purchase price; or

(d) Refunded to the purchaser.

2. A deposit or advance payment made for an additional item, improvement, optional item or alteration may be deposited in escrow or delivered directly to the declarant, as the parties may contract.

3. In lieu of placing a deposit in escrow pursuant to subsection 1, the declarant may furnish a bond executed by him as principal and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the performance of the declarant's duties concerning the purchase or reservation of a unit. Each bond must be in a principal sum equal to the amount of the deposit. The bond must be held until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.

4. Pursuant to subsection 1, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 is deemed to be placed in escrow and held in this State when the escrow holder has:

(a) The legal right to conduct business in this State;

(b) A registered agent in this State pursuant to subsection 1 of NRS 14.020; and

(c) Consented to the jurisdiction of the courts of this State by:

(1) Maintaining a physical presence in this State; or

(2) Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or

purchaser, relating to or arising in connection with such sale or the escrow agreement related thereto.

Sec. 35. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any community manager who holds a certificate and any other community manager.

(d) Any person who ~~[holds a permit to conduct a study of the reserves of an association issued]~~ ***is registered as a reserve study specialist, or who conducts a study of reserves,*** pursuant to chapter 116A of NRS.

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.

(b) Resigns his office, employment, agency or position:

(1) After the commencement of proceedings against him; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 36. NRS 116A.120 is hereby amended to read as follows:

116A.120 ~~[~~"Permit"~~]~~ ***"Registration"*** means ~~[~~a permit~~]~~ ***a registration*** to conduct a study of the reserves of an association pursuant to NRS 116.31152 or 116B.605 ~~[~~issued by~~]~~ ***with*** the Division pursuant to this chapter.

Sec. 37. NRS 116A.260 is hereby amended to read as follows:

116A.260 The Division shall maintain in each district office a public docket or other record in which it shall record, from time to time as made:

1. The rulings or decisions upon all complaints filed with that district office.

2. All investigations instituted by that district office in the first instance, upon or in connection with which any hearing has been held, or in which the person charged has made no defense.

3. Denials of applications made to that district office for examination ***,*** ***registration*** or issuance of a certificate ***.*** ~~[~~or permit.~~]~~

Sec. 38. ~~[NRS 116A.410 is hereby amended to read as follows:~~

~~116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:~~

~~(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate.~~ ***The regulations must include, without limitation, provisions that:***

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association or its agent; and

(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-subparagraph (I). The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association or its agent which offered him employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter, chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

~~*(II) Must not be treated as a limited, restricted or provisional form of a certificate.*~~

~~(b) *Must require an applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.*~~

~~*(c)* May require applicants to pass an examination in order to obtain a certificate~~ **[**~~.~~**]** ~~*other than a temporary certificate described in paragraph (a).* If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.~~

~~**[**(c)**]** *(d)* May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.~~

~~**[**(d)**]** *(e)* Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.~~

~~**[**(e)**]** *(f)* Must establish rules of practice and procedure for conducting disciplinary hearings.~~

~~2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.~~

~~*3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:*~~

~~*(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and*~~

~~*(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.]*~~ **(Deleted by amendment.)**

Sec. 39. NRS 116A.420 is hereby amended to read as follows:

116A.420 1. Except as otherwise provided in this section, a person shall not act as a reserve study specialist unless the person ~~**[**holds a permit.**]**~~ ***registers with the Division on a form provided by the Division.***

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists **.** ~~**[**who hold permits.**]**~~

3. The Division may investigate any reserve study specialist ~~**[**who holds a permit**]**~~ to ensure that the reserve study specialist is complying with the

provisions of this chapter and chapters 116 and 116B of NRS and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist ~~[who holds a permit]~~ has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to ~~[issue a permit to]~~ ***accept the registration of*** a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the ~~[permit]~~ ***registration*** of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

7. A person who assists a registered reserve study specialist in preparing a reserve study, signed by a registered reserve study specialist, is not required to register as a reserve study specialist.

Sec. 40. NRS 116A.430 is hereby amended to read as follows:

116A.430 1. The Commission shall by regulation provide for the ~~[issuance]~~ ***registration*** by the Division of ~~[permits to]~~ reserve study specialists. The regulations:

(a) Must establish the qualifications for ~~[the issuance of such a permit,]~~ ***registration,*** including, without limitation, the education and experience required ~~[to obtain such a permit.]~~ ***for registration.***

(b) May require applicants to pass an examination ~~[in order to obtain a permit.]~~ ***for registration.*** If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

(d) Must establish the grounds for initiating disciplinary action against a person ~~[to whom a permit has been issued,]~~ ***who has registered,*** including, without limitation, the grounds for placing conditions, limitations or restrictions on ~~[a permit]~~ ***registration*** and for the suspension or revocation of ~~[a permit.]~~ ***registration.***

(e) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for ~~[the issuance of a permit]~~ ***registration*** in an amount not to exceed the administrative costs of ~~[issuing the permit.]~~ ***registration.***

Sec. 41. NRS 116A.440 is hereby amended to read as follows:

116A.440 1. An applicant for a certificate or ~~[permit]~~ ***registration*** shall submit to the Division:

(a) The social security number of the applicant; and

(b) The statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for ***registration or*** the issuance of the certificate ***;*** ~~[or permit;]~~ or

(b) A separate form prescribed by the Division.

3. A certificate ~~[or permit]~~ may not be issued ***and an application for registration may not be accepted*** if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 42. NRS 116A.450 is hereby amended to read as follows:

116A.450 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to ***a person who is registered or*** the holder of a certificate ***,*** ~~[or permit,]~~ the Division shall deem the ***registration or*** certificate ~~[or permit]~~ to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a ***registration or*** certificate ~~[or permit]~~ that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public

agency pursuant to NRS 425.550 to the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 43. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a ***registration or*** certificate ~~[or permit]~~ by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a ***registration or*** certificate ~~[or permit]~~ by the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ does not:

1. Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ as authorized pursuant to the provisions of this chapter or chapter 116 or 116B of NRS or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or chapter 116 or 116B of NRS or the regulations adopted pursuant thereto against the ***person who is registered or the*** holder of the certificate ***.*** ~~[or permit.]~~

Sec. 44. NRS 116A.900 is hereby amended to read as follows:

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a ***registration or*** certificate ~~[or permit]~~ is required pursuant to this chapter or chapter 116 or 116B of NRS, or any regulation adopted pursuant thereto, if the person ***has not registered or*** does not hold the required certificate ~~[or permit]~~ or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter or chapter 116 or 116B of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 or 116B of NRS with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 45. ~~[NRS 278.0208 is hereby amended to read as follows:~~

~~278.0208 1. A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining solar or wind energy on his property.~~

~~2.~~ [Any] ~~Except as otherwise provided in subsection 3, any~~ covenant, ~~restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.~~

~~3. A covenant, restriction or condition contained in the governing documents of a common-interest community or a policy established by a common-interest community specifying the color of such a system is enforceable so long as such a system is manufactured in such color and the specification was:~~

~~(a) In existence on July 1, 2009; or~~

~~(b) Contained in the governing documents in effect on the close of escrow of the first sale of a unit in the common-interest community.~~

~~4.~~ For the purposes of this section [, "unreasonably] ~~:~~

~~(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.~~

~~(b) "Governing documents" has the meaning ascribed to it in NRS 116.049.~~

~~(c) "Unit" has the meaning ascribed to it in NRS 116.093.~~

~~(d) "Unreasonably~~ restricting the use of a system for obtaining solar or ~~wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.~~] **(Deleted by amendment.)**

Sec. 46. The amendatory provisions of section 11 of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2009.

Sec. 47. 1. This section becomes effective upon passage and approval.

2. Section 38 of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2010, for all other purposes.

3. Section 34 of this act becomes effective on July 1, 2009.

4. Sections 1 to 8, inclusive, 10, 11, 12, 14 to 21, inclusive, 23 to 33, inclusive, 35, 36, 37 and 39 to 46, inclusive, of this act become effective on October 1, 2009.

5. Sections 9, 13 and 22 of this act become effective on October 1, 2011.

6. Sections 41 and 42 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that upon return from the printer, Senate Bill No. 183 be placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 234.

Bill read second time and ordered to third reading.

Senate Bill No. 245.

Bill read second time and ordered to third reading.

Senate Bill No. 248.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 736.

AN ACT relating to local governmental planning; authorizing the extension of the validity of certain building permits and development agreements for a maximum of 15 years beyond the original expiration date if the land is leased for renewable energy generation projects; providing that

certain changes to regulations or laws which are made after the issuance of the permit or the time the agreement is entered into, and which apply environmental, life or safety restrictions to the land, apply to the permit ~~[.]~~ **or agreement;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits construction without a building permit issued by the building official with authority over the land where any proposed construction would take place. (NRS 278.610) Existing law also authorizes the governing body of a city or county to enter into an agreement with a person concerning the development of land. (NRS 278.0201) This bill authorizes the extension of the validity of any such permit or agreement beyond its original expiration date if: (1) the permit holder or landowner cannot finance the proposed project; and (2) the land is leased for certain renewable energy projects. The extension is available for permits and agreements for residential and commercial development for a maximum of 15 years after the original expiration date of the permit or agreement. This bill also provides that if a building permit or development agreement is extended, no condition may be placed on the permit or agreement that was not imposed on the original permit or agreement. Additionally, this bill provides that new regulations or laws that apply environmental, life or safety protections to the land in question would also apply, but other zoning changes enacted after the issuance of the permit would not. **Extensions for building permits and agreements pursuant to the provisions of this bill will not be issued after June 30, 2013.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 278 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***1. "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:***

(a) Biomass;

(b) Fuel cells;

(c) Geothermal energy;

(d) Solar energy;

(e) Waterpower; and

(f) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 3. ***"Renewable energy generation project" means a project involving an electric generating facility or system that uses renewable energy as its primary source of energy to generate electricity. The term does not include a project involving an electric generating facility or system that uses nuclear energy, in whole or in part, to generate electricity.***

Sec. 4. ***1. A*** ~~***[building official who issued a building permit for a residential or commercial project]***~~ ***director of planning or a governing body may extend the period for which*** ~~***[the]***~~ ***a building permit for a residential or commercial project is valid if the person to whom the permit has been issued:***

(a) Applies for an extension ~~***[,]***~~ ***before July 1, 2013, subject to any applicable ordinances or regulations adopted by the governing body ;*** ~~***[or building official; and]***~~

(b) Demonstrates to the satisfaction of the ~~***[building official]***~~ ***director of planning or governing body that:***

(1) Financing for the residential or commercial project is not available; and

(2) The land will be leased for a renewable energy generation project ~~***[.]***~~ ***; and***

(c) Submits with his application for an extension an affidavit showing that due diligence has been used to obtain financing for the residential or commercial project. The affidavit must include, without limitation, evidence that:

(1) The project was denied financing by at least two lenders; or

(2) The person was unable to issue bonds or other securities to finance the project.

2. A building permit that is extended pursuant to subsection 1 must not be effective:

(a) For more than 15 years after the original expiration date of the building permit; or

(b) If the land ceases to be leased for a renewable energy generation project, after the period established by the ~~***[building official]***~~ ***director of planning or governing body pursuant to subsection 3.***

3. If a ~~***[building official]***~~ ***director of planning or governing body extends the period for which a building permit is valid pursuant to subsection 1, the*** ~~***[building official]***~~ ***director of planning or governing body shall establish the maximum duration of the period for which the permit will remain valid if the land is no longer leased for a renewable energy generation project.***

4. If a ~~***[building official]***~~ ***director of planning or governing body extends the period for which a building permit is valid pursuant to subsection 1:***

(a) No condition may be placed on the permit that was not imposed on the original permit; and

(b) Except as otherwise provided in subsection 5, the ordinances, resolutions or regulations applicable to the land and governing the permitted uses of the land, density and standards for design, improvements and construction are those in effect at the time the building permit is issued.

5. Changes to ordinances, resolutions or regulations that enforce environmental, life or safety standards against parcels of land that the ~~[building official]~~ director of planning or governing body determines are similar to the land for which the building permit was issued will apply to the parcel of land for which the permit was issued.

6. As used in this section, "environmental, life or safety standards" include, without limitation:

(a) Standards and codes relating to the usage of water; and

(b) Any specialized or uniform code related to environmental, life or safety standards.

Sec. 5. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, ***and sections 2, 3 and 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 6. NRS 278.0201 is hereby amended to read as follows:

278.0201 1. In the manner prescribed by ordinance, a governing body may, upon application of any person having a legal or equitable interest in land, enter into an agreement with that person concerning the development of that land. This agreement must describe the land which is the subject of the agreement and specify the duration of the agreement, the permitted uses of the land, the density or intensity of its use, the maximum height and size of the proposed buildings and any provisions for the dedication of any portion of the land for public use. The agreement may fix the period within which construction must commence and provide for an extension of that deadline.

2. ***For an agreement entered into for the residential or commercial development of land, the governing body may extend, beyond the original deadline and beyond any extension of that deadline pursuant to subsection 1, the period within which construction must commence if the person:***

(a) Applies for an extension ~~[,]~~ before July 1, 2013, subject to any applicable ordinances adopted by the governing body; ~~[and]~~

(b) Demonstrates to the satisfaction of the governing body that:

(1) Financing for the residential or commercial project is not available; and

(2) The land will be leased for a renewable energy generation project ~~[.]~~ ; and

(c) Submits with his application for an extension an affidavit showing that due diligence has been used to obtain financing for the residential or commercial project. The affidavit must include, without limitation, evidence that:

(1) The project was denied financing by at least two lenders; or

(2) The person was unable to issue bonds or other securities to finance the project.

3. An agreement must not be extended pursuant to subsection 2:

(a) For more than 15 years after the original deadline or, if the deadline is extended pursuant to subsection 1, after that extension; or

(b) If the land ceases to be leased for a renewable energy generation project, after the period established pursuant to subsection 4.

4. If a governing body extends a deadline pursuant to subsection 2, the governing body shall establish the maximum duration of the period for which the agreement will remain valid if the land is no longer leased for a renewable energy generation project.

5. Unless the agreement otherwise provides ~~[,]~~ ***and except as otherwise provided in subsection 7,*** the ordinances, resolutions or regulations applicable to that land and governing the permitted uses of that land, density and standards for design, improvements and construction are those in effect at the time the agreement is made.

~~[3.]~~ ***6.*** This section does not prohibit the governing body from adopting new ordinances, resolutions or regulations applicable to that land which do not conflict with those ordinances, resolutions and regulations in effect at the time the agreement is made, except that any subsequent action by the governing body must not prevent the development of the land as set forth in the agreement. The governing body is not prohibited from denying or conditionally approving any other plan for development pursuant to any ordinance, resolution or regulation in effect at the time of that denial or approval.

~~[4.]~~ ***7. Notwithstanding the provisions of subsection 6, if the governing body extends a deadline pursuant to subsection 2, changes to ordinances, resolutions or regulations that:***

(a) Are made after the extension is granted; and

(b) Enforce environmental, life or safety standards against land that the governing body determines are similar to the land for which an agreement was made pursuant to this section,

➥ apply to the land for which the agreement was made.

8. The provisions of subsection 2 of NRS 278.315 and NRS 278.350 and 278.360 do not apply if an agreement entered into pursuant to this section contains provisions which are contrary to the respective sections.

9. As used in this section, "environmental, life or safety standards" include, without limitation:

(a) Standards and codes relating to the usage of water; and

(b) Any specialized or uniform code related to environmental, life or safety standards.

Sec. 7. This act becomes effective on July 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 267.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 656.

SUMMARY—Makes various changes concerning ~~[the procedures for adopting administrative regulations and the requirements of the Open Meeting Law.]~~ **governmental administration.** (BDR 18-62)

AN ACT relating to governmental administration; revising the provisions governing the notice of intention to act on a proposed regulation by a state agency subject to the Nevada Administrative Procedure Act; providing that workshops and hearings regarding a proposed regulation of such a state agency are subject to the Open Meeting Law; revising the procedure for the review of permanent regulations and certain temporary regulations by the Legislative Commission or the Subcommittee to Review Regulations; requiring a public body to make available certain documents to the public at a public meeting; **eliminating certain nonprofit entities affiliated with a university or college from the definition of "university foundation" for purposes of the Open Meeting Law, the requirements relating to public records, the exemption from the tax on the transfer of real property and other requirements pertaining to university foundations;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Administrative Procedure Act requires each state agency that is not exempt from the Act to provide 30 days' notice of its intended action on any proposed regulation. The agency is required to wait to give such notice until at least 30 days after delivering the proposed regulation to the Legislative Counsel or until the agency has received the approved or revised text of the proposed regulation from the Legislative Counsel, whichever occurs first. (NRS 233B.060) **Section 1** of this bill makes receipt of the approved or revised text of the proposed regulation from the Legislative Counsel the only required condition before provision of the 30 days' notice. **Section 3** of this bill makes a conforming change.

Existing law prescribes a procedure for the review of certain temporary regulations and of adopted permanent regulations by the Legislative Commission or the Subcommittee to Review Regulations for conformity with statutory authority and legislative intent. Under existing law, unless the Commission or Subcommittee objects to such a temporary or permanent regulation, the regulation becomes effective. (NRS 233B.0633, 233B.067, 233B.0675) **Sections 4-6** of this bill require the Commission or Subcommittee to either affirmatively approve or object to a regulation.

The Open Meeting Law requires all meetings of public bodies to be open and public unless otherwise provided by a specific statute. (NRS 241.020) **Section 2** of this bill provides that each workshop and hearing required to be conducted concerning administrative regulations is subject to the Open Meeting Law. (NRS 233B.061)

Under the Open Meeting Law, a public body is required, upon request and at no charge, to provide a copy of an agenda for the meeting, any proposed ordinance or regulation to be discussed at the meeting, and other supporting documents to members of the public body for an item on the agenda. (NRS 241.020) **Section 7** of this bill requires that a public body make at least one copy of those documents available to the public at the public meeting to which the documents pertain.

Section 8 of this bill amends the definition of "university foundation" to exclude certain nonprofit organizations affiliated with a university or college for the purposes of provisions applicable to university foundations, including the Open Meeting Law, the requirements relating to public records and the exemption from the tax on the transfer of real property. (NRS 239.005, 241.015, 375.090, 396.405, 396.535)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 233B.060 is hereby amended to read as follows:

233B.060 1. Except as otherwise provided in subsection 2 and NRS 233B.061, before adopting, amending or repealing:

(a) A permanent regulation, the agency must, ~~[30 days or more after delivering a copy of the proposed regulation to the Legislative Counsel, or]~~ after receiving the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063, give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

(b) A temporary regulation, the agency must give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

2. Except as otherwise provided in subsection 3, if an agency has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt, after providing a second notice and the opportunity for a hearing, a permanent regulation, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation ~~[is subject to review]~~ ***must be approved*** by the Legislative Commission or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.

3. If the Public Utilities Commission of Nevada has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt a substantively equivalent permanent regulation without further notice or hearing, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation ~~[is subject to review]~~ ***must be approved*** by the Legislative Commission or the Subcommittee to Review Regulations.

Sec. 2. NRS 233B.061 is hereby amended to read as follows:

233B.061 1. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments upon a proposed regulation, orally or in writing.

2. Before holding the public hearing required pursuant to subsection 3, an agency shall conduct at least one workshop to solicit comments from interested persons on one or more general topics to be addressed in a proposed regulation. Not less than 15 days before the workshop, the agency shall provide notice of the time and place set for the workshop:

(a) In writing to each person who has requested to be placed on a mailing list; and

(b) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

3. With respect to substantive regulations, the agency shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the agency may proceed immediately to act upon any written submissions. The agency shall consider fully all written and oral submissions respecting the proposed regulation.

4. An agency shall not hold the public hearing required pursuant to subsection 3 on the same day that the agency holds the workshop required pursuant to subsection 2.

5. ~~[The agency shall keep, retain and make available for public inspection written minutes and an audio recording or transcript of each public hearing held pursuant to subsection 3 in the manner provided in NRS 241.035.]~~ ***Each workshop and public hearing required pursuant to subsections 2 and 3 must be conducted in accordance with the provisions of chapter 241 of NRS.***

Sec. 3. NRS 233B.063 is hereby amended to read as follows:

233B.063 1. ~~[At least 30 days before the time of giving notice of its intention]~~ ***An agency that intends*** to adopt, amend or repeal a permanent regulation ~~[an agency shall]~~ ***must*** deliver to the Legislative Counsel a copy of the proposed regulation. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the

succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for licensing or registration or for the renewal of a license or a certificate of registration issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

Sec. 4. NRS 233B.0633 is hereby amended to read as follows:

233B.0633 1. Upon the request of a Legislator, the Legislative Commission may examine a temporary regulation adopted by an agency that is not yet effective pursuant to subsection 2 of NRS 233B.070 to determine whether the temporary regulation conforms to the statutory authority pursuant to which it was adopted and whether the temporary regulation carries out the intent of the Legislature in granting that authority.

2. If a temporary regulation that the Legislative Commission is requested to examine pursuant to subsection 1 was required to be adopted by the agency pursuant to a federal statute or regulation and the temporary regulation exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State, the agency shall submit a statement to the Legislative Commission that adoption of the temporary regulation was required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. Except as otherwise provided in subsection 4, the Legislative Commission shall:

(a) Review the temporary regulation at its next regularly scheduled meeting if the request for examination of the temporary regulation is received more than 10 working days before the meeting; or

(b) Refer the temporary regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.

4. If an agency determines that an emergency exists which requires a temporary regulation of the agency for which a Legislator requested an examination pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt

of such a notice, the Legislative Counsel shall refer the temporary regulation for review by the Subcommittee to Review Regulations as soon as practicable.

5. If the Legislative Commission, or the Subcommittee to Review Regulations if the temporary regulation was referred, ~~[does not object to]~~ ***approves*** the temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the temporary regulation with the Secretary of State. If the Commission or the Subcommittee objects to the temporary regulation after determining that:

(a) If subsection 2 is applicable, the temporary regulation is not required pursuant to a federal statute or regulation;

(b) The temporary regulation does not conform to statutory authority; or

(c) The temporary regulation does not carry out legislative intent,

➥ the Legislative Counsel shall attach to the temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the temporary regulation to the agency.

6. If the Legislative Commission or the Subcommittee to Review Regulations has objected to a temporary regulation, the agency that adopted the temporary regulation shall revise the temporary regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the temporary regulation pursuant to subsection 5. Upon receipt of the revised temporary regulation, the Legislative Counsel shall resubmit the temporary regulation to the Legislative Commission or the Subcommittee for review. If ~~[there is no objection to]~~ ***the Legislative Commission or the Subcommittee approves*** the revised temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the revised temporary regulation with the Secretary of State.

7. If the Legislative Commission or the Subcommittee to Review Regulations objects to the revised temporary regulation, the Legislative Counsel shall attach to the revised temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised temporary regulation to the agency. The agency shall continue to revise it and resubmit it to the Legislative Commission or the Subcommittee within 30 days after the agency received the written notice of the objection to the revised temporary regulation.

Sec. 5. NRS 233B.067 is hereby amended to read as follows:

233B.067 1. After adopting a permanent regulation, the agency shall submit the informational statement prepared pursuant to NRS 233B.066 and one copy of each regulation adopted to the Legislative Counsel for review by the Legislative Commission to determine whether the regulation conforms to the statutory authority pursuant to which it was adopted and whether the

regulation carries out the intent of the Legislature in granting that authority. The Legislative Counsel shall endorse on the original and the copy of each adopted regulation the date of their receipt. The Legislative Counsel shall maintain the copy of the regulation in a file and make the copy available for public inspection for 2 years.

2. If an agency submits an adopted regulation to the Legislative Counsel pursuant to subsection 1 that:

(a) The agency is required to adopt pursuant to a federal statute or regulation; and

(b) Exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State,

➥ it shall include a statement that adoption of the regulation is required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. Except as otherwise provided in subsection 4, the Legislative Commission shall:

(a) Review the regulation at its next regularly scheduled meeting if the regulation is received more than 10 working days before the meeting; or

(b) Refer the regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6.

4. If an agency determines that an emergency exists which requires a regulation of the agency submitted pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the regulation for review by the Subcommittee to Review Regulations. The Subcommittee shall meet to review the regulation as soon as practicable.

5. If the Legislative Commission, or the Subcommittee to Review Regulations if the regulation was referred, ~~[does not object to]~~ ***approves*** the regulation, the Legislative Counsel shall promptly file the regulation with the Secretary of State and notify the agency of the filing. If the Commission or Subcommittee objects to the regulation after determining that:

(a) If subsection 2 is applicable, the regulation is not required pursuant to a federal statute or regulation;

(b) The regulation does not conform to statutory authority; or

(c) The regulation does not carry out legislative intent,

➥ the Legislative Counsel shall attach to the regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the regulation to the agency.

6. As soon as practicable after each regular legislative session, the Legislative Commission shall appoint a Subcommittee to Review Regulations consisting of at least three members of the Legislative Commission.

Sec. 6. NRS 233B.0675 is hereby amended to read as follows:

233B.0675 1. If the Legislative Commission, or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067, has objected to a regulation, the agency shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the regulation pursuant to NRS 233B.067. Upon receipt of the revised regulation, the Legislative Counsel shall resubmit the regulation to the Commission or Subcommittee for review. If ~~[there is no objection to]~~ ***the Commission or Subcommittee approves*** the revised regulation, the Legislative Counsel shall promptly file the revised regulation with the Secretary of State and notify the agency of the filing.

2. If the Legislative Commission or Subcommittee objects to the revised regulation, the Legislative Counsel shall attach to the revised regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised regulation to the agency. The agency shall continue to revise it and resubmit it to the Commission or Subcommittee within 30 days after the agency received the written notice of the objection to the revised regulation.

Sec. 7. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

(a) The time, place and location of the meeting.

(b) A list of the locations where the notice has been posted.

(c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items.

(3) A period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

➥ ***The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain.*** As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.

6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

➥ If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

8. As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

(a) Disasters caused by fire, flood, earthquake or other natural causes; or

(b) Any impairment of the health and safety of the public.

Sec. 8. **NRS 396.405 is hereby amended to read as follows:**

396.405 1. A university foundation:

(a) Shall comply with the provisions of chapter 241 of NRS;

(b) Except as otherwise provided in subsection 2, shall make its records public and open to inspection pursuant to NRS 239.010;

(c) Is exempt from the taxes imposed by NRS 375.020, 375.023 and 375.026 pursuant to subsection 14 of NRS 375.090; and

(d) May allow a president or an administrator of the university, state college or community college which it supports to serve as a member of its governing body.

2. A university foundation is not required to disclose the name of any contributor or potential contributor to the university foundation, the amount of his contribution or any information which may reveal or lead to the discovery of his identity. The university foundation shall, upon request, allow a contributor to examine, during regular business hours, any record, document or other information of the foundation relating to that contributor.

3. As used in this section, "university foundation" means a nonprofit corporation, association or institution or a charitable organization that is:

(a) Organized and operated ~~[exclusively]~~ ***primarily*** for the purpose of ~~[supporting]~~ ***fundraising in support of*** a university, state college or a community college;

(b) Formed pursuant to the laws of this State; and

(c) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

~~[Sec. 8.]~~ ***Sec. 9.*** This act becomes effective on July 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 351.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 750.

AN ACT relating to common-interest communities; providing that money collected by a unit-owners' association must be deposited or invested in certain institutions or securities; ~~[revising the provisions relating to amendment of the governing documents to conform with the laws of this State;]~~ providing that an executive board of an association may not fill a vacancy on the executive board if the governing documents require a vote of the membership of the association; ~~[providing that an executive board may conduct a workshop without complying with certain requirements;]~~ making various other changes relating to common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill provides that a unit-owners' association must deposit all funds of the association into certain financial institutions. **Section 3** also provides that an association shall invest all funds of the association in certain investments.

~~[Section 6 of this bill amends existing law to authorize the executive board of an association to amend the declaration or governing documents of the association to conform with the laws of this State without complying with the procedural requirements or obtaining the approval of the members of the association. (NRS 116.1206)]~~

Section 7 of this bill clarifies existing law to provide that a change in the use of a unit which requires unanimous approval of the units' owners

includes only changes to the boundary of a unit or the allocated interests of a unit. (NRS 116.2117)

~~[Existing law provides that an association may take certain actions, subject to the provisions of the declaration. (NRS 116.3102) Section 8 of this bill provides that an association may take certain actions, unless the governing documents expressly prohibit the association from doing so.]~~

Section 9 of this bill provides that the executive board of an association may not fill a vacancy on the board without a vote of the units' owners if the governing documents provide that the vacancy must be filled by a vote of the membership of the association. (NRS 116.3103)

~~[Section 10 of this bill clarifies existing law to provide that a special meeting of the units' owners includes a special meeting at which the units' owners will vote to remove a member of the executive board. (NRS 116.3108)~~

~~Section 11 of this bill provides that the executive board of an association may conduct a workshop, which is not considered a meeting of the executive board as long as no action is taken, without complying with the requirements imposed on the executive board for holding a meeting. (NRS 116.31083)]~~

Existing law requires an association to: (1) establish reserves for the repair, replacement and restoration of the major components of the common elements; (2) include in the annual budget certain information pertaining to the repair, replacement and restoration of the major components of the common elements; and (3) conduct a study every 5 years of the reserves required to repair, replace and restore the major components of the common elements. (NRS 116.3115 116.31151, 116.31152) **Sections 12, 12.3 and 12.7** of this bill require an association to perform such functions with respect to any other portion of the common-interest community which the association has a duty to maintain, repair, replace or restore in addition to the major components of the common elements.

Section 13 of this bill amends existing law to exempt architectural records submitted by a unit's owner from the records which must be made available by an association. (NRS 116.31175)

Section 14 of this bill amends existing law to add to the information statement provided as part of a purchase of a unit in a common-interest community a statement that the provisions of the Declaration of Covenants, Conditions and Restrictions or other governing documents may be superseded by provisions of chapter 116 of NRS. (NRS 116.41095)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. ***1. Except as otherwise provided in subsection 2, an association, a member of the executive board, or a community manager***

shall deposit or invest all funds of the association at a financial institution which:

(a) Is located in this State;

(b) Is qualified to conduct business in this State; or

(c) Has consented to be subject to the jurisdiction, including the power to subpoena, of the courts of this State and the Division.

2. Except as otherwise provided by the governing documents, in addition to the requirements of subsection 1, an association shall deposit, maintain and invest all funds of the association:

(a) In a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the Securities Investor Protection Corporation;

(b) With a private insurer approved pursuant to NRS 678.755; or

(c) In a government security backed by the full faith and credit of the Government of the United States.

3. The Commission shall adopt regulations prescribing the contents of the declaration to be executed and signed by a financial institution located outside of this State to submit to consent to the jurisdiction of the courts of this State and the Division.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. **[**~~NRS 116.1206 is hereby amended to read as follows:~~

~~116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter shall be deemed to conform with those provisions by operation of law .~~ **[**~~, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.~~

~~2. In~~**]**

~~***2. A declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter may be changed to conform to those provisions. A declaration, bylaw or other governing document of a common interest community that is changed for the sole purpose of conforming with the provisions of this chapter may be changed by the executive board without the approval of the members of the association and without complying with the procedural requirements of NRS 116.2117 or any other provision generally applicable to the adoption of an amendment to such declaration, bylaw or other governing document.***~~

~~***3. Except as otherwise provided in subsection 2, in***~~ ~~the case of amendments to the declaration, bylaws or plats and plans of any common-interest community created before January 1, 1992:~~

~~(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and~~

~~(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.~~

~~[3. An]~~

~~*4. Except as otherwise provided in subsection 2, an* amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.]~~ **(Deleted by amendment.)**

Sec. 7. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in NRS 116.21175, and except in cases of amendments that may be executed by a declarant under subsection 6 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, ~~[subsection 4 of NRS]~~ 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats and plans, may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit ~~[,]~~ ***or*** the allocated interests of a unit ~~[or the uses to which any unit is restricted,]~~ in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units.

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Sec. 8. ~~[NRS 116.3102 is hereby amended to read as follows:~~

~~116.3102 1. Except as otherwise provided in subsection 2, and~~ **[**~~subject to the provisions of the declaration,~~**]** ***unless the governing documents expressly prohibit the association from doing so,*** ~~the association may do any or all of the following:~~

~~(a) Adopt and amend bylaws, rules and regulations.~~

~~(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.~~

~~(c) Hire and discharge managing agents and other employees, agents and independent contractors.~~

~~(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common interest community.~~

~~(e) Make contracts and incur liabilities.~~

~~(f) Regulate the use, maintenance, repair, replacement and modification of common elements.~~

~~(g) Cause additional improvements to be made as a part of the common elements.~~

~~(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:~~

~~(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and~~

~~(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.~~

~~(i) Grant easements, leases, licenses and concessions through or over the common elements.~~

~~(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.~~

~~(k) Impose charges for late payment of assessments.~~

~~(l) Impose construction penalties when authorized pursuant to NRS 116.310305.~~

~~(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.~~

~~(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.~~

~~(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.~~

~~(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.~~

~~(q) Exercise any other powers conferred by the declaration or bylaws.~~

~~(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.~~

~~(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:~~

~~(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or~~

~~(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.~~

~~(t) Exercise any other powers necessary and proper for the governance and operation of the association.~~

~~2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.~~**]** **(Deleted by amendment.)**

Sec. 9. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries. The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.

2. The ~~*[Except as otherwise provided in NRS 116.1206, the]*~~ executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term ~~[.]~~ ***unless the governing documents provide that a vacancy on the executive board must be filled by a vote of the membership of the association.***

Sec. 10. ~~[NRS 116.3108 is hereby amended to read as follows:~~

~~116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.~~

~~2. Special meetings of the units' owners~~ ***, including a special meeting at which the units' owners will vote on the removal of a member of the executive board,*** ~~may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:~~

~~(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or~~

~~(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.~~

~~3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~4. The agenda for a meeting of the units' owners must consist of:~~

~~(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.~~

~~(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).~~

~~5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.~~

~~6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:~~

~~(a) The date, time and place of the meeting;~~

~~(b) The substance of all matters proposed, discussed or decided at the meeting; and~~

~~(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.~~

~~9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.~~

~~10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.~~

~~11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.~~**] (Deleted by amendment.)**

Sec. 11. ~~[~~NRS 116.31083 is hereby amended to read as follows:

~~116.31083 1. A meeting of the executive board must be held at least once every 90 days.~~

~~2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:~~

~~(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;~~

~~(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or~~

~~(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.~~

~~3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.~~

~~4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:~~

~~(a) A current year-to-date financial statement of the association;~~

~~(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;~~

~~(c) A current reconciliation of the operating account of the association;~~

~~(d) A current reconciliation of the reserve account of the association;~~

~~(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and~~

~~(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.~~

~~7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:~~

~~(a) The date, time and place of the meeting;~~

~~(b) Those members of the executive board who were present and those members who were absent at the meeting;~~

~~(c) The substance of all matters proposed, discussed or decided at the meeting;~~

~~(d) A record of each member's vote on any matter decided by vote at the meeting; and~~

~~(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.~~

~~10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.~~

~~11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.~~

~~12.~~ ***Notwithstanding any other provision of this chapter, the executive board may conduct a workshop to prepare for a meeting of the executive board. A workshop shall not be deemed to be a meeting of the executive board as long as the executive board does not take any action on any matter discussed during the workshop. If the executive board conducts a workshop, the executive board is not required to:***

(a) Provide to the units' owners notice of the workshop pursuant to subsection 2 or 3;

(b) Permit a unit's owner to attend or speak at a workshop pursuant to subsections 4 and 5;

(c) Comply with the requirements of this section for creating or distributing an agenda for a workshop; or

(d) Comply with the requirements of this section for recording or distributing minutes for a workshop.

~~13.~~ As used in this section, "emergency" means any occurrence or combination of occurrences that:

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.~~**] (Deleted by amendment.)**

Sec. 12. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least

annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements ~~[.]~~ ***and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore.*** The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements ***and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore*** over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements ***or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore*** are necessary.

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. ~~[To the extent required by the declaration:]~~ ***Except as otherwise provided in the governing documents:***

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 12.3. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards,

the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements ~~[:]~~ ***and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;***

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements ~~[:]~~ ***and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;***

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements ***or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore*** or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

Sec. 12.7. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements ~~[.]~~ ***and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;***

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to chapter 116A of NRS.

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements ***and any other portion of the common-interest community*** that the association is obligated to ***maintain,*** repair, replace or restore;

(b) An identification of the major components of the common elements ***and any other portion of the common-interest community*** that the association is obligated to ***maintain,*** repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements ***and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore*** identified pursuant to paragraph (b);

(d) An estimate of the cost of ***maintenance,*** repair, replacement or restoration of each major component of the common elements ***and any other portion of the common-interest community*** identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of ***maintaining,*** repairing, replacement or restoration of the major components of the common elements ***and any other portion of the common-interest community*** identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 13. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, ***including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents,*** except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation

involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

Sec. 14. NRS 116.41095 is hereby amended to read as follows:

116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY
DID YOU KNOW . . .

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law

generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you. ***Certain provisions in the CC&Rs and other governing documents may be superseded by contrary provisions of chapter 116 of the Nevada Revised Statutes. The Nevada Revised Statutes are available at the Internet address http://www.leg.state.nv.us/nrs/.***

3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowners' association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowners' association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the common elements of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to provide

adequate funding for reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.

4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

Many common-interest communities have a homeowners' association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional community managers to carry out these responsibilities.

Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the CC&Rs and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If you have a dispute with the association,

its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, the Nevada Real Estate Division and the Commission for Common-Interest Communities and Condominium Hotels. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.

6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?

The law requires you to provide a prospective purchaser of your property with a copy of the community's governing documents, including the CC&Rs, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see Nevada Revised Statutes 116.4109.

7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?

Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Nevada Real Estate Division, at (telephone number).
Buyer or prospective buyer's initials:_____
Date:_____.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 376.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 689.

AN ACT relating to labor; making various changes relating to the establishment of the prevailing rates of wages in each county; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Labor Commissioner to establish the prevailing rate of wages for public works performed in each county. In determining the prevailing rate of wages for a county for a particular year, the Labor Commissioner is required to survey contractors who have performed work in the county during the preceding year. (NRS 338.030) **Section 1** of this bill: (1) clarifies that the survey encompasses private and public nonresidential construction work; (2) specifies the classes of workmen for which the Labor Commissioner is required to survey; (3) if the prevailing rate of wages for a craft or type of work is a wage that has been collectively bargained, requires the Labor Commissioner to recognize the rate for the classes and subclasses of workmen and certain premium pay established in the collective bargaining agreement and adjust to the rate of wages in the agreement that are in effect ~~[on the effective date of the determination;]~~ **and on file with the Labor Commissioner by a specified deadline;** and (4) clarifies the circumstances in which the Labor Commissioner is required to hold a hearing in a locality concerning an objection to or information received on a rate of prevailing wage that has been determined. These requirements apply initially to the process of determining and issuing the prevailing rate of wages that will become effective on October 1, 2010.

Under existing law, agencies of the Executive Branch of the State Government, unless specifically exempted, are required to comply with the Nevada Administrative Procedure Act when adopting administrative

regulations or adjudicating contested cases. (NRS 233B.039) **Section 2** of this bill exempts the Labor Commissioner from compliance with the Act only in the process of determining and issuing the prevailing rate of wages **and subclassifications** in each county.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 338.030 is hereby amended to read as follows:

338.030 1. The public body awarding any contract for public work, or otherwise undertaking any public work, ***and any person who wishes to bid on a public work*** shall ascertain from the Labor Commissioner the prevailing wage in the county in which the public work is to be performed for each craft or type of work.

2. To establish a prevailing wage in each county, including Carson City, the Labor Commissioner shall, annually, survey contractors who have performed ***private or public nonresidential construction*** work in the county. ***As used in this subsection, "nonresidential construction work" means any type of construction other than the construction of multifamily residences which are less than four stories in height and the construction of single-family residences.***

3. For the purpose of a survey conducted pursuant to subsection 2, the Labor Commissioner shall recognize and survey only for the following classes of workmen:

(a) Alarm Installer;
(b) Boilermaker;
(c) Bricklayer, including, without limitation, Stone Mason;
(d) Carpenter;
(e) Cement Mason;
(f) Electrician-Communication Technician;
(g) Electrician-Lineman/Groundman/Operator;
(h) Electrician-Neon Sign;
(i) Electrician-Wireman;
(j) Elevator Constructor;
(k) Fence Erector;
(l) Floor Coverer;
(m) Glazier;
(n) Highway Striper;
(o) Hod Carrier-Brick Mason Tender;
(p) Hod Carrier-Plasterer Tender;
(q) Ironworker;
(r) Laborer;
(s) Mechanical Insulator;
(t) Millwright;
(u) Operating Engineer, including, without limitation, Survey Technician, Equipment Greaser, and Soils and Materials Tester;

(v) Painter;

(w) Piledriver (nonequipment);

(x) Plasterer;

(y) Plumber-Pipefitter;

(z) Refrigeration Technician;

(aa) Roofer (excluding metal roofs);

(bb) Sheet Metal Worker, including, without limitation, Air Balance Technician;

(cc) Sprinkler Fitter;

(dd) Taper;

(ee) Tile Setter-Terrazzo Worker-Marble Mason, including, without limitation, Tile Setter-Terrazzo Worker-Marble Mason Finisher;

(ff) Truck Driver; and

(gg) Well Driller.

4. Within 30 days after the determination ***of the prevailing wages in a county*** is issued:

(a) A public body or person entitled under subsection ~~[5.]~~ ***7*** to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

~~[3. The]~~

5. Except as otherwise provided in this subsection, the Labor Commissioner shall hold a hearing in the locality in which the work is to be executed if he:

(a) Is in doubt as to the prevailing wage; or

(b) Receives an objection or information pursuant to ***paragraph (a) or (b) of*** subsection ~~[2.]~~ ***4, unless the prevailing wage to which the objection or information pertains can be corrected*** ~~*[to the rate of wages requested in the objection or information]*~~ ***by the Labor Commissioner through administrative action, including, without limitation, the correction of a clerical error.***

➥ The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any county.

~~[4.]~~ ***6.*** Notice of the hearing must be advertised in a newspaper nearest to the locality of the work once a week for 2 weeks before the time of the hearing.

~~[5.]~~ ***7.*** At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.

~~[6.]~~ ***8. If the Labor Commissioner determines that the prevailing rate of wages for a craft or type of work is a wage which has been collectively bargained, the Labor Commissioner shall:***

(a) Recognize:

(1) The rate for the classes and subclasses of workmen established in the collective bargaining agreement; and

(2) Any premium pay established in the collective bargaining agreement for subsistence, traveling to another zone or area or similar purposes.

(b) Adjust the prevailing rate of wages for the classes and subclasses of workmen to the rate of wages established in the collective bargaining agreement that are in effect ~~*[on the effective date of the determination.]*~~ ***and on file with the Labor Commissioner on or before September 1 of the year in which the determination of the prevailing rate of wages is made.***

9. The wages so determined ***pursuant to this section*** must be filed by the Labor Commissioner and must be available to any public body which awards a contract for any public work.

~~[7.]~~ ***10.*** Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any public body.

Sec. 2. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) The Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) Except as otherwise provided in NRS 368A.140, the Nevada Gaming Commission.

(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) The Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

(n) The Labor Commissioner only in the process of determining and issuing the prevailing rate of wages and subclasses of workmen in each county pursuant to NRS 338.030, including, without limitation, the conduct of annual surveys.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 703 of NRS for the judicial review of decisions of the Public Utilities Commission of Nevada;

(d) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(e) NRS 90.800 for the use of summary orders in contested cases,

➥ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184; or

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 2.5. The provisions of NRS 338.030, as amended by section 1 of this act, apply initially to the process of determining and issuing the prevailing rate of wages that will become effective on October 1, 2010.

Sec. 3. 1. This section and section 2 of this act become effective on July 1, 2009.

2. Sections 1 and 2.5 of this act become effective on January 1, 2010.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 394.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Senate Bill No. 394 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 396.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 658.

AN ACT relating to peace officers; revising provisions governing the review by a peace officer of administrative or investigative files maintained by a law enforcement agency; revising provisions governing investigations of or hearings concerning peace officers that are conducted by a law enforcement agency; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a law enforcement agency that investigates an allegation of misconduct by a peace officer or takes any punitive action against the peace officer must comply with certain requirements for providing notice and a hearing, using polygraphic examinations, maintaining confidentiality and taking other actions relating to the rights of the peace officer. (NRS 289.010-289.120)

Section 2 of this bill authorizes a peace officer who is the subject of an investigation by a law enforcement agency to review and copy any administrative or investigative file maintained by the law enforcement agency concerning the investigation if, after the conclusion of the investigation, the charges against the peace officer are sustained and the law enforcement agency imposes or considers the imposition of punitive action against the peace officer. (NRS 289.057)

Section 3 of this bill requires a law enforcement agency that intends to conduct an interrogation or to hold a hearing concerning an investigation of a peace officer to provide a written notice of that fact to both the peace officer who is the subject of the investigation and to any peace officer believed by the law enforcement agency to have knowledge of any fact concerning the complaint or allegation made against the peace officer who is the subject of

the investigation. **Section 3** also ~~[requires the law enforcement agency to allow the peace officer to review certain compiled evidence prepared by the law enforcement agency before conducting the interrogation or hearing and prohibits the law enforcement agency from taking various other actions concerning the peace officer. (NRS 289.060) Finally, section 3]~~ provides that, if a peace officer provides a statement or answers a question relating to the alleged misconduct of the peace officer who is the subject of an investigation after he is informed that failure to provide the statement or answer may result in punitive action against him, the peace officer's answer or statement cannot be used against him in any criminal investigation of him.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 289.057 is hereby amended to read as follows:

289.057 1. An investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action.

2. A law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

3. After the conclusion of the investigation:

(a) If the ~~[investigation causes a]~~ ***charges brought against the peace officer are sustained and, based on those charges, the*** law enforcement agency ~~[to impose]~~ ***:***

(1) Imposes or considers the imposition of punitive action against the peace officer ~~[who was the subject of the investigation and the]~~ ***; and***

(2) The peace officer has received ***a*** notice of the imposition ***or proposed imposition*** of the punitive action, ***including a notice of the right of the peace officer to attend any hearing conducted before the imposition or proposed imposition of the punitive action,***

➥ the peace officer or a representative authorized by the peace officer may, except as otherwise prohibited by federal or state law, review ***and copy*** any administrative or investigative file maintained by the law enforcement agency relating to the investigation, including any recordings, notes, transcripts of interviews and documents.

(b) If, pursuant to a policy of a law enforcement agency or a labor agreement, the record of the investigation or the imposition of punitive action is subject to being removed from any administrative file relating to the peace officer maintained by the law enforcement agency, the law enforcement agency shall not, except as otherwise required by federal or state law, keep or make a record of the investigation or the imposition of punitive action after the record is required to be removed from the administrative file.

Sec. 3. NRS 289.060 is hereby amended to read as follows:

289.060 1. Except as otherwise provided in this subsection, a law enforcement agency shall, not later than 48 hours before any interrogation or hearing is held relating to an investigation conducted pursuant to NRS 289.057, provide ***a*** written notice to the peace officer ~~[. A]~~ ***who is the subject of the investigation and to any*** peace officer ***believed by the law enforcement agency to have knowledge of any fact relating to the complaint or allegation against the peace officer who is the subject of the investigation. Each of those peace officers*** may waive the notice required pursuant to this section.

2. The notice must include:

(a) A description of the nature of the investigation;

(b) A summary of ***the*** alleged misconduct of the peace officer ~~[;]~~ ***who is the subject of the investigation;***

(c) The date, time and place of the interrogation or hearing;

(d) The name and rank of the officer in charge of the investigation and the officers who will conduct any interrogation;

(e) The name of any other person who will be present at any interrogation or hearing; and

(f) A statement setting forth the provisions of subsection 1 of NRS 289.080.

3. The law enforcement agency shall:

(a) Interrogate the peace officer during his regular working hours, if reasonably practicable, or compensate him for that time based on his regular wages if no charges ***against the peace officer*** arise from the interrogation.

(b) Immediately before the interrogation or hearing begins, inform the peace officer orally on the record that:

(1) He is required to provide a statement and answer questions related to ~~[his]~~ ***the*** alleged misconduct ~~[; and]~~ ***of the peace officer who is the subject of the investigation; and***

(2) If he fails to provide such a statement or to answer any such questions, the agency may charge him with insubordination ***.*** ~~*[; and*~~

~~*(3) He is entitled to review any evidence pursuant to subsection 4.]*~~

(c) Limit the scope of the questions during the interrogation or hearing to the alleged misconduct of the peace officer ~~[.]~~ ***who is the subject of the investigation.***

(d) Allow the peace officer to explain an answer or refute a negative implication which results from questioning during an interrogation or hearing.

4. ~~*[If the law enforcement agency has any audio, video or written evidence prepared by the peace officer, and the evidence is compiled during the investigation, the law enforcement agency shall allow the peace officer a reasonable period to review the evidence off the record before the interrogation or hearing begins.*~~

~~*5. If a law enforcement agency has any knowledge of or a belief that a peace officer may be subject to punitive action, the law enforcement agency*~~

~~*shall not, without complying with the provisions of NRS 289.010 to 289.120, inclusive, order or otherwise require the peace officer to provide a written statement or memorandum concerning any involvement or activities of the peace officer in the alleged misconduct of the peace officer who is the subject of the investigation.*~~

~~*6.*~~ ***If a peace officer provides a statement or answers a question relating to the alleged misconduct of the peace officer who is the subject of the investigation pursuant to this section after the peace officer is informed that failing to provide the statement or answer may result in punitive action against him, the statement or answer must not be used against the peace officer who provided the statement or answer in any criminal investigation of that peace officer.***

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. This act becomes effective on July 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 409.

Bill read second time and ordered to third reading.

Senate Bill No. 415.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 534.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 534:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Assembly Bill No. 534 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 549.

Bill read third time.

Roll call on Assembly Bill No. 549:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Assembly Bill No. 549 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 555.
Bill read third time.
Remarks by Assemblyman Hogan.
Roll call on Assembly Bill No. 555:
YEAS—41.
NAYS—None.
EXCUSED—Kirkpatrick.
Assembly Bill No. 555 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 556.
Bill read third time.
Remarks by Assemblyman Goicoechea.
Roll call on Assembly Bill No. 556:
YEAS—41.
NAYS—None.
EXCUSED—Kirkpatrick.
Assembly Bill No. 556 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 560.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Assembly Bill No. 560:
YEAS—40.
NAYS—Parnell.
EXCUSED—Kirkpatrick.
Assembly Bill No. 560 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 137, 175, 263, and 363 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

Assemblyman Horne moved that Senate Bill No. 47 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 243 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

Assemblyman Bobzien moved that Senate Bills Nos. 73 and 218 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 8.

Bill read third time.

Roll call on Senate Bill No. 8:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 8 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 17.

Bill read third time.

Remarks by Assemblymen Spiegel, Cobb, and Smith.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 17:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 17 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 26.

Bill read third time.

Roll call on Senate Bill No. 26:

YEAS—32.

NAYS—Anderson, Christensen, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart, Woodbury—9.

EXCUSED—Kirkpatrick.

Senate Bill No. 26 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 84.

Bill read third time.

Remarks by Assemblyman Kihuen.

Roll call on Senate Bill No. 84:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 84 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 121.

Bill read third time.

Roll call on Senate Bill No. 121:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 121 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 128.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Senate Bill No. 128:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 128 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 162.

Bill read third time.

Roll call on Senate Bill No. 162:

YEAS—23.

NAYS—Atkinson, Bobzien, Carpenter, Christensen, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Manendo, McArthur, Ohrenschall, Parnell, Settelmeyer, Spiegel, Woodbury—18.

EXCUSED—Kirkpatrick.

Senate Bill No. 162 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 165.

Bill read third time.

Remarks by Assemblywoman Gansert.

Roll call on Senate Bill No. 165:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

EXCUSED—Kirkpatrick.

Senate Bill No. 165 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 172.

Bill read third time.

Roll call on Senate Bill No. 172:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 172 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 186.

Bill read third time.

Remarks by Assemblymen Pierce, Hardy, and Smith.

Roll call on Senate Bill No. 186:

YEAS—29.

NAYS—Carpenter, Christensen, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—12.

EXCUSED—Kirkpatrick.

Senate Bill No. 186 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 195.

Bill read third time.

Remarks by Assemblymen Settelmeyer and Conklin.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 195:

YEAS—27.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

EXCUSED—Kirkpatrick.

Senate Bill No. 195 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 222 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 228.

Bill read third time.

Roll call on Senate Bill No. 228:

YEAS—37.

NAYS—Christensen, Grady, Gustavson, McArthur—4.

EXCUSED—Kirkpatrick.

Senate Bill No. 228 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 253.

Bill read third time.

Remarks by Assemblymen Parnell, Christensen, and Manendo.

Roll call on Senate Bill No. 253:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 253 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 265 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 261.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Senate Bill No. 261:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 261 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 266.

Bill read third time.

Roll call on Senate Bill No. 266:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 266 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 268.

Bill read third time.

Roll call on Senate Bill No. 268:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 268 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 276.

Bill read third time.

Roll call on Senate Bill No. 276:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 276 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Senate Bill No. 277 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 312.

Bill read third time.

Roll call on Senate Bill No. 312:

YEAS—40.

NAYS—Pierce.

EXCUSED—Kirkpatrick.

Senate Bill No. 312 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 313.

Bill read third time.

Remarks by Assemblyman Anderson.

Assemblyman Anderson requested that his remarks be entered in the Journal.

Thank you, Madam Speaker. Senate Bill 313 adopts, in part, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act and amends various provisions concerning guardianships.

The bill adopts portions of the Uniform Act regarding jurisdictional issues in order to: (a) facilitate cooperation between courts in different states; (b) clarify which court has jurisdiction in certain circumstances; (c) specify a procedure for transferring proceedings from one state to another; and (d) address the enforcement of orders from other states.

Additionally, Senate Bill 313 provides that a court may find that a petitioner for guardianship is a "vexatious litigant" and issue sanctions if he files repeated petitions that are without merit or to harass or annoy the guardian. The bill revises the persons who must be notified of a guardianship petition and revises requirements concerning supporting documents necessary in certain petitions.

The measure also establishes certain record keeping and accounting requirements for the guardian, revises the guardian's authority to manage the state and affairs of a ward, and

addresses responsibility for repayment of certain expenses of a ward that were paid by the county.

Finally, the bill addresses the release of a ward who was involuntarily committed by a court and gives the guardian discretion to determine where the person will be released.

The measure is effective on October 1, 2009.

This rather extensive Act created from the Uniform Code is to a large extent supported by the guardians here in the state to bring in those parts of the Uniform Code that have been left out in our documents in the past and thus the extensive nature of the document.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Senate Bill No. 313 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 333.

Bill read third time.

Remarks by Assemblyman Cobb.

Roll call on Senate Bill No. 333:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 333 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 339.

Bill read third time.

Roll call on Senate Bill No. 339:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 339 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 340.

Bill read third time.

Remarks by Assemblyman Hardy.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 340:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 340 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 360.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 360:

YEAS—38.

NAYS—Christensen, Goedhart, Settelmeyer—3.

EXCUSED—Kirkpatrick.

Senate Bill No. 360 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 361.

Bill read third time.

Roll call on Senate Bill No. 361:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 361 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 362.

Bill read third time.

Roll call on Senate Bill No. 362:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 362 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 365.

Bill read third time.

Roll call on Senate Bill No. 365:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 365 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 377.

Bill read third time.

Roll call on Senate Bill No. 377:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 377 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 378.

Bill read third time.

Remarks by Assemblymen Kihuen, Stewart, Mastroluca, and Denis.

Roll call on Senate Bill No. 378:

YEAS—27.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

EXCUSED—Kirkpatrick.

Senate Bill No. 378 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 414.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Senate Bill No. 414:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Bill No. 414 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Joint Resolution No. 1.

Resolution read third time.

Remarks by Assemblyman Mortenson.

Roll call on Senate Joint Resolution No. 1:

YEAS—41.

NAYS—None.

EXCUSED—Kirkpatrick.

Senate Joint Resolution No. 1 having received a constitutional majority, Madam Speaker declared it passed.

Resolution ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess until 3:30 p.m.

Motion carried.

Assembly in recess at 1:13 p.m.

ASSEMBLY IN SESSION

At 6:04 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 20, 40, 63, 75, 116, 117, 119, 123, 173, 206, 230, 239, 327, 329, 369, 380, 393, 403, 416, 473, 508, 528, 538; Senate Bills Nos. 27, 34, 66, 74, 77, 79, 131, 132, 134, 163, 169, 170, 174, 209, 215, 217; Senate Concurrent Resolutions Nos. 5 and 6.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Gail Ruff.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Chris Fream.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from E.C. Best Elementary School: Brenda Boone, Benjamin Alexander, EmmaLeigh Bake, Brenda Cervantes, Kelsee Chasing Crow, Robert Dunlap, Shanice Durr, Jacob Evans, Dontae Groves, Addyson Harmon, Michael Harnack, Jolynn Lehman, Bryan Lynn, Ashley Marran, Cameron Matzen, Colton Moretto, Tyler Moye, Rebekah Orozco, Russell Peterson, Cesar Rosales, Dominic Rushing, Orianah Street, Evette Togafau, Gabriel Young, Todd Moretto, Brandy Moretto, Cathi Tuni, Shelby Brown, Summer Thomson, Tammy Harmon, Trudy Mills, Ethan Bohrn, Ian Cayro, Kody Chrislock, Blake Davis, Megan Dixon, Jaqueline Enriquez-Sanchez, Marissa Foley, Anthony Gatica, Nocona Gonzales, Madissun Hodes, Amber Kieszkowski, Austin McInnis, Michael Meadows, Kuera Mendiola, Jessica Navarrete, Sydney Pauley, Brandon Perry, Aarron Rogers, Eduardo Rojas, Ricardo Rojas, Maritza Ruiz, Katelynn White, Logan Whitney, Anthony Wright, Mayra Alvarado, Cameron Archer, Bradley Bennett, Aaron Bitter, Evan Bitter, Whisper Brown, Ryan Brune, Kenrick Crutcher, Rachael Duran, Corrina Gerard, Jaime Gonzalez, Daniel Holden, Dustin Hopkins, Davis Koenig, Christopher Laingen, Rebecca Mills, Samantha Nihoa, James Pendergrass, Shane Rasmussen, Savannah Simms, Makayla Smith, Michelle Therianos, Isabella Thomas, Tristen Thomson, Daniela Valtierra, Oden Wayman, Dani Whooley, Bryson Abe, Kevin Aguilera, Christopher Beech, Diane Brainerd, Courtney Cross, Jason Disney, Monica Dixon, Lilia Garcia-Rojas, Cady Godfrey, Cortny Harrison, Kaylee Heaton, Robert Hurlburt, Jose Ibarra, JayLeanna Johnson, Courtney Judd, Loren Lammel, Cade Monardo, Dana Nevin, Orlando Pardini, Lizet Ruiz, Edmond Sadekoski, Makenzie Sanders, Gabriel Schaefer, Makayla Webb, Paula Worsham, Dave Gertson, Lori Kaiser, Paula Parrish, Tristin Thomas, Logan Whitney, Tami Harmon and Addy Harmon.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Angelina Liguori.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, May 20, 2009, at 10 a.m.

Motion carried.

Assembly adjourned at 6:05 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND EIGHTH DAY

CARSON CITY (Wednesday), May 20, 2009

Assembly called to order at 10:50 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Patrick Propster.

Philipians 4:4–7:

Rejoice in the Lord always. Again, I will say, rejoice! Let Your gentleness be known to all men. The Lord is at hand. Be anxious for nothing, but in everything by prayer and supplication, with thanksgiving, let your requests be made known to God; and the peace of God, which surpasses all understanding, will guard your hearts and minds through Christ Jesus.

Let us pray:

Lord, we know that there are days of stress and times of anxiousness, when futures are uncertain. It is in times such as these that we call upon Your mighty certainty and Your faithful constancy, in that we will trust. Lord God Almighty, we seek this day Your hand of divine guidance and Your wisdom beyond compare. This we ask in Thy Holy Name, the One and Only Jehovah Jireh, the Lord our Provider.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 89, 152, 176, 184, 197, 227, 230, 269, 310, 338, 355, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 408, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 190, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID P. BOBZIEN, VICE *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 55, 350, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 411, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 332, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 355, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 19, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 179, 199, 208, 267, 326, 402, 414, 493.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 188, 299, 370, 395.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 26, Amendment No. 703; Assembly Bill No. 56, Amendment No. 702; Assembly Bill No. 87, Amendment No. 661; Assembly Bill No. 89, Amendment No. 659; Assembly Bill No. 129, Amendment No. 604; Assembly Bill No. 220, Amendment No. 653; Assembly Bill No. 263, Amendment No. 662; Assembly Bill No. 325, Amendment No. 692; Assembly Bill No. 350, Amendment No. 737; Assembly Bill No. 360, Amendment No. 708; Assembly Bill No. 463, Amendment No. 758; Assembly Bill No. 487, Amendment No. 738; Assembly Bill No. 491, Amendment No. 727; Assembly Bill No. 500, Amendment No. 752, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 645 to Senate Bill No. 125; Assembly Amendment No. 674 to Senate Bill No. 283.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:58 a.m.

ASSEMBLY IN SESSION

At 11:01 a.m.
Madam Speaker presiding.
Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 561—AN ACT relating to reorganization of State Government; eliminating the Consumer Affairs Division of the Department of Business and Industry; eliminating the position of Commissioner of Consumer Affairs; transferring certain duties and powers of the Division and the Commissioner; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 562—AN ACT relating to state financial administration; making appropriations from the State General Fund and the State Highway Fund for the support of the civil government of the State of Nevada for the fiscal years beginning July 1, 2009, and ending June 30, 2010, and beginning July 1, 2010, and ending June 30, 2011; providing for the use of the money so appropriated; revising the provisions governing the line of credit from the Local Government Pooled Investment Fund; making various other changes relating to the financial administration of the State; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 188.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 299.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 370.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 395.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF WAIVER

A Waiver requested by Senator Horsford and Assemblywoman Buckley.

For: BDR 32-1319 (Senate Bill No. 429)

To Waive:

Subsection 1 of Joint Standing Rule No. 14 (2 BDRs from Assemblymen and 4 BDRs from Senators requested by 8th day).

Subsection 1 of Joint Standing Rule No. 14.2 (dates for introduction of BDRs requested by individual legislators and committees).

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: Tuesday, May 19, 2009.

STEVEN A. HORSFORD	BARBARA BUCKLEY
Senate Majority Leader	*Speaker of the Assembly*

Assemblyman Oceguera announced that pursuant to Assembly Standing Rule 91, he hereby gave notice that on the next legislative day he would move to amend Rule 68 of the Assembly Standing Rules.

SECOND READING AND AMENDMENT

Senate Bill No. 55.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 588.

AN ACT relating to business entities; providing that business entities may cancel filings made with the Secretary of State under certain circumstances; revising the provisions relating to the resignation of a registered agent; revising the provisions relating to the filing of certain lists by business entities; clarifying the provisions relating to the applicability of certain provisions concerning taxation of a business; **revising provisions relating to the payment of dividends or distributions of stock to a judgment creditor; revising provisions relating to domestication of an undomesticated organization;** making various other changes pertaining to business entities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1, 3, 7, 8, 11, 14, 16, 22, 29, 31, 39, 50 and 53 of this bill authorize certain business entities that have made a filing with the Secretary of State to cancel the filing if: (1) the Secretary of State has not processed the filing and placed the filing into the public record; and (2) the business entity

pays the required fee. (NRS 78.0295, 80.007, 81.006, 82.534, 84.009, 86.568, 87.547, 87A.275, 88.339, 88A.930)

Section 2.5 of this bill amends existing law, which requires a registered agent who wishes to resign with respect to a represented entity to file with the Secretary of State a statement of resignation which includes the name and address of the person to which the agent will send the notice of resignation, to require such registered agent to file with the Secretary of State an affidavit stating that written notice was provided to each represented entity and to keep a copy of such notice on file for 1 year from the date of filing the statement of resignation and to make any such copy available to the Secretary of State upon request. (NRS 77.370)

Sections 4, 9, 13, 18, 20, 24, 26, 32, 34, 40, 42, 47 and 48 of this bill amend existing law, which requires the Secretary of State to mail certain notices and blank forms to certain business entities, to authorize the Secretary of State to provide instead, by any means, notice to those business entities of the applicable statutory obligations to file certain lists. (NRS 78.150, 80.110, 82.523, 86.263, 86.5461, 87.510, 87.541, 87A.290, 87A.560, 88.395, 88.591, 88A.600, 88A.732)

Sections 5, 10, 12, 17, 21, 25, 27, 30, 35, 37, 38, 43, 45, 46, 49, 51 and 52 of this bill provide that a business entity is required to provide the Secretary of State certain information concerning its owners of record only upon the request of the Secretary of State. (NRS 78.152, 80.113, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251)

Sections 23 and 28 of this bill make technical corrections: (1) to an incorrect reference concerning a registered limited-liability partnership; and (2) to include a reference to the requirement to provide information concerning a registered agent when a foreign registered limited-liability partnership is seeking reinstatement. (NRS 87.480, 87.5435)

Section 6.5 of this bill amends existing law to: (1) define the rights of a judgment creditor who, by court order, receives the distribution or dividend of shares of stock from a stockholder who is the judgment debtor; (2) expand the applicability of the court order to corporations with more than 1 but fewer than 100 shareholders; and (3) provide that the court order does not supercede a private agreement between the stockholder and the creditor if the agreement does not conflict with the corporation's articles of incorporation, bylaws or a shareholder agreement to which the stockholder is a party. (NRS 78.746)

Sections 36 and 44 of this bill authorize a partnership to register as a limited-liability limited partnership by filing a combined certificate with the Secretary of State and paying the appropriate fee. (NRS 87A.630, 88.606)

Section 53.5 of this bill amends existing law to provide that an undomesticated organization seeking domestication in this State must provide a certified copy of the charter document and a certificate of good standing, or the equivalent, from the jurisdiction where the

organization was chartered immediately preceding the application for domestication. Additionally, section 53.5 addresses the liability of a shareholder or other type of owner of the organization before and after domestication of the organization in this State. Finally, section 53.5 expands the availability of domestication in this State from only organizations governed by the laws of a foreign country or jurisdiction outside the United States to include organizations governed by the laws of any state other than this State, including those of other states within the United States. (NRS 92A.270)

Section 54 of this bill amends the existing definition of "business" to include any entity organized pursuant to title 7 of NRS, including an entity required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit, other than a nonprofit corporation or a corporation sole, which clarifies that such a business is required to: (1) obtain a state business license; and (2) register with the Department of Taxation if the business purchases tangible personal property for storage, use or other consumption in this State. (NRS 360.765, 372.220)

Section 55 of this bill provides that if an applicant for a state business license is a business organized pursuant to title 7 of NRS and on file with the Secretary of State, the applicant must include in its application the exact name on file with the Secretary of State. (NRS 360.780) **Section 55** also clarifies that for the purposes of the statutory provisions requiring a person to obtain a state business license, a person is deemed to be conducting a business in this State if a business for which the person is responsible has a registered agent in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 77 of NRS is hereby amended by adding thereto a new section to read as follows:

If an entity has made a filing with the Secretary of State pursuant to this chapter and the Secretary of State has not processed the filing and placed the filing into the public record, the entity may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying a fee of $50.

Sec. 1.5. NRS 77.300 is hereby amended to read as follows:

77.300 Whenever a provision of this chapter ~~[other than paragraph (d) of subsection 1 of NRS 77.370]~~ requires that a filing state an address, the filing must state:

1. An actual street address or rural route box number in this State; and

2. A mailing address in this State, if different from the address under subsection 1.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 77.370 is hereby amended to read as follows:

77.370 1. A registered agent may resign at any time with respect to a represented entity by filing with the Secretary of State a statement of resignation signed by or on behalf of the agent which states:

(a) The name of the entity;

(b) The name of the agent; ***and***

(c) That the agent resigns from serving as agent for service of process for the entity **.** ~~[~~~~, and~~

~~(d) The name and address of the person to which the agent will send the notice required by subsection 3.~~**]**

2. A statement of resignation takes effect on the earlier of the 31st day after the day on which it is filed or the appointment of a new registered agent for the represented entity.

3. The registered agent shall promptly furnish the represented entity with notice in a record of the date on which a statement of resignation was filed ~~[.]~~ ***and shall file with the Secretary of State an affidavit stating that written notice of the resignation has been provided to each represented entity. The affidavit must include the name of each represented entity that was provided notice, but is not required to include the contact information of the represented entity or the names of the interest holders of the represented entity. The registered agent shall keep a copy of each notice provided to a represented entity on file for 1 year after the date of filing the statement of resignation and shall make any such copy available to the Secretary of State upon request.***

4. When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity may have against the agent or that the agent may have against the entity.

5. A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

Sec. 3. NRS 78.0295 is hereby amended to read as follows:

78.0295 1. A corporation may correct a record filed in the Office of the Secretary of State with respect to the corporation if the record contains an inaccurate description of a corporate action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if no stock has been issued by the corporation, by the incorporator or a director of the corporation.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 4. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, on or before the last day of the first month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

(a) The name of the corporation;

(b) The file number of the corporation, if known;

(c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;

(d) The address, either residence or business, of each officer and director listed, following the name of the officer or director;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

(a) A declaration under penalty of perjury that the corporation:

(1) Has complied with the provisions of NRS 360.780; and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

(a) Subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

5. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 2, ~~[cause to be mailed]~~ ***provide*** to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

Sec. 5. NRS 78.152 is hereby amended to read as follows:

78.152 1. In addition to any records required to be kept at the registered office pursuant to NRS 78.105, a corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. **NRS 78.746 is hereby amended to read as follows:**

78.746 1. On application to a court of competent jurisdiction by a judgment creditor of a stockholder, the court may charge the stockholder's stock with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the stockholder's stock.

2. This section:

(a) Applies only to a corporation that:

(1) Has more than 1 but fewer than ~~[75]~~ ***100*** stockholders of record at any time.

(2) Is not a subsidiary of a publicly traded corporation, either in whole or in part.

(3) Is not a professional corporation as defined in NRS 89.020.

(b) Does not apply to any liability of a stockholder that exists as the result of an action filed before July 1, 2007.

(c) Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stockholder's stock of the corporation.

(d) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.

(e) Does not supersede any private agreement between a stockholder and a creditor ~~[.]~~ ***if the private agreement does not conflict with the corporation's articles of incorporation, bylaws or any shareholder agreement to which the stockholder is a party.***

3. As used in this section, "rights of an assignee" means the rights to receive the share of the distributions or dividends paid by the corporation

to which the judgment debtor would otherwise be entitled. The term does not include the rights to participate in the management of the business or affairs of the corporation or to become a director of the corporation.

Sec. 7. Chapter 78A of NRS is hereby amended by adding thereto a new section to read as follows:

If a close corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the close corporation may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 8. NRS 80.007 is hereby amended to read as follows:

80.007 1. A foreign corporation may correct a record filed in the Office of the Secretary of State if the record contains an incorrect statement or was defectively signed, attested, sealed or verified.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if no stock has been issued by the corporation, by the incorporator or a director of the corporation.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a foreign corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the foreign corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 9. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of its certificate of corporate existence with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors;

(b) The information required pursuant to NRS 77.310; and

(c) The signature of an officer of the corporation.

2. Each list filed pursuant to subsection 1 must be accompanied by:

(a) A declaration under penalty of perjury that the foreign corporation has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the foreign corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

3. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

4. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list pursuant to subsection 1.*** Failure of any corporation to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

6. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 10. NRS 80.113 is hereby amended to read as follows:

80.113 1. A foreign corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign corporation to transact business that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 11. NRS 81.006 is hereby amended to read as follows:

81.006 1. A nonprofit cooperative corporation, a cooperative association, a charitable organization or any other entity formed under the provisions of this chapter may correct a record filed with the Secretary of State with respect to the entity if the record contains an inaccurate description of an action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the entity must:

(a) Prepare a certificate of correction which:

(1) States the name of the entity;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the entity or, if the certificate is filed before the first meeting of the board of directors, by an incorporator or director.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a nonprofit cooperative corporation, a cooperative association, a charitable organization or any other entity formed under the provisions of this chapter has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the nonprofit cooperative corporation, cooperative association, charitable organization or other entity may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 12. NRS 82.183 is hereby amended to read as follows:

82.183 1. A corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 13. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign nonprofit corporation;

(b) The file number of the foreign nonprofit corporation, if known;

(c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;

(d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the foreign nonprofit corporation certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign nonprofit corporation:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of $25.

4. The Secretary of State shall, 60 days before the last day for filing each annual list, ~~[cause to be mailed]~~ ***provide*** to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.5239, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign nonprofit corporation to receive ~~[the forms]~~ ***a notice***

does not excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.5239, inclusive.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 14. NRS 82.534 is hereby amended to read as follows:

82.534 1. A corporation may correct a record filed in the Office of the Secretary of State with respect to the corporation if the record contains an inaccurate description of a corporate action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if the certificate is filed before the first meeting of the board of directors, by an incorporator or director.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 15. (Deleted by amendment.)

Sec. 16. NRS 84.009 is hereby amended to read as follows:

84.009 1. A corporation sole may correct a record filed with the Office of the Secretary of State with respect to the corporation sole if the record contains an inaccurate description of an action of the corporation sole or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation sole must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation sole;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent or other presiding officer or clergyman of a church, religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church, religious society or denomination, and in whom is vested the legal title to the property held for the purpose, use or benefit of the church or religious society or denomination.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation sole has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation sole may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 17. NRS 86.246 is hereby amended to read as follows:

86.246 1. In addition to any records required to be kept pursuant to NRS 86.241, a limited-liability company shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. ~~[~~A~~]~~ ***Upon the request of the Secretary of State, the*** limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action

necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 18. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited-liability company;

(b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of $125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, ~~[cause to be mailed]~~ ***provide*** to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file ~~[a]~~ ***the*** list required by subsection 2. Failure of any company to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited-liability company with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list on a form furnished by him that contains:

(a) The name of the foreign limited-liability company;

(b) The file number of the foreign limited-liability company, if known;

(c) The names and titles of all its managers or, if there is no manager, all its managing members;

(d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the foreign limited-liability company certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited-liability company:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

4. If a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, ~~[cause to be mailed]~~ ***provide*** to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign limited-liability company to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

Sec. 21. NRS 86.54615 is hereby amended to read as follows:

86.54615 1. A foreign limited-liability company shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any

action necessary, including, without limitation, the suspension or revocation of the registration of the foreign limited-liability company.

5. The Secretary of State shall not reinstate or revive a registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 22. NRS 86.568 is hereby amended to read as follows:

86.568 1. A limited-liability company may correct a record filed in the Office of the Secretary of State with respect to the limited-liability company if the record contains an inaccurate description of a company action or was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited-liability company must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited-liability company;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a manager of the company or, if management is not vested in a manager, by a member of the company.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a limited-liability company has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited-liability company may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 23. NRS 87.480 is hereby amended to read as follows:

87.480 A registered limited-liability partnership must have a registered agent who resides or is located in this State. A registered agent must have a street address for the service of process that is the principal office of the registered limited-liability ~~[company]~~ ***partnership*** in this State, and may have a separate mailing address that is different from his street address.

Sec. 24. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, on or before the last day of the first month after the filing of its certificate of registration

with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the registered limited-liability partnership;

(b) The file number of the registered limited-liability partnership, if known;

(c) The names of all of its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the registered limited-liability partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the registered limited-liability partnership has complied with the provisions of NRS 360.780, an acknowledgment that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

3. If a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to the registered limited-liability partnership a notice of the fee due pursuant to subsection 2 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice ~~[or form]~~ does not excuse it from complying with the provisions of this section.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection 2 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 25. NRS 87.515 is hereby amended to read as follows:

87.515 1. A registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 26. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign registered limited-liability partnership;

(b) The file number of the foreign registered limited-liability partnership, if known;

(c) The names of all its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the foreign registered limited-liability partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign registered limited-liability partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

4. If a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.544, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign registered limited-liability partnership to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.544, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 27. NRS 87.5413 is hereby amended to read as follows:

87.5413 1. A foreign registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign registered limited-liability partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign registered limited-liability partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign registered limited-liability partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. NRS 87.5435 is hereby amended to read as follows:

87.5435 1. Except as otherwise provided in subsections 3 and 4 and NRS 87.5413, the Secretary of State shall reinstate a foreign registered limited-liability partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign registered limited-liability partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State ~~[the]~~ ***:***

(1) The list required by NRS 87.541; and

(2) The information required pursuant to NRS 77.310; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87.541 and 87.5425 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign registered limited-liability partnership, he shall issue to the foreign registered limited-liability partnership a certificate of reinstatement if the foreign registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign registered limited-liability partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

5. Except as otherwise provided in NRS 87.544, a reinstatement pursuant to this section relates back to the date on which the foreign registered limited-liability partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign registered limited-liability partnership's right to transact business as if such right had at all times remained in full force and effect.

Sec. 29. NRS 87.547 is hereby amended to read as follows:

87.547 1. A registered limited-liability partnership may correct a record filed in the Office of the Secretary of State with respect to the registered limited-liability partnership if the record contains an inaccurate description of a partnership action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the registered limited-liability partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the registered limited-liability partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a managing partner of the registered limited-liability partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a registered limited-liability partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the registered limited-liability partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 30. NRS 87A.200 is hereby amended to read as follows:

87A.200 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 31. NRS 87A.275 is hereby amended to read as follows:

87A.275 1. A limited partnership or foreign limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership or foreign limited partnership if the record contains false or erroneous information or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited partnership or foreign limited partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited partnership or foreign limited partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the false or erroneous information or the defect;

(4) Sets forth the false or erroneous information or the defective portion of the record in an accurate or corrected form; and

(5) Is signed by a general partner of the limited partnership or foreign limited partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction must not state a delayed effective date and is effective on the effective date of the record it corrects, except that the certificate is effective when filed:

(a) For the purposes of subsections 3 and 4 of NRS 87A.150; and

(b) As to persons relying on the uncorrected record and adversely affected by the correction.

4. If a limited partnership or foreign limited partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited partnership or foreign limited partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 32. NRS 87A.290 is hereby amended to read as follows:

87A.290 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list ~~[.]~~ ***required pursuant to subsection 1.*** Failure of any limited partnership to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by NRS 87A.300.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 87A.240 and may not be substituted for filings submitted pursuant to NRS 87A.240.

Sec. 33. (Deleted by amendment.)

Sec. 34. NRS 87A.560 is hereby amended to read as follows:

87A.560 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign limited partnership, which is required to comply with the provisions of NRS 87A.560 to 87A.600, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign limited partnership to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 87A.560 to 87A.600, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 35. NRS 87A.580 is hereby amended to read as follows:

87A.580 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36. NRS 87A.630 is hereby amended to read as follows:

87A.630 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The information required pursuant to NRS 77.310.

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. ***A partnership may register as a registered limited-liability limited partnership at the time it files a certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees prescribed in subsections 1 and 2 of NRS 87A.315.***

5. The registration of a registered limited-liability limited partnership is effective on the later of the filing of the certificate of registration or a date specified in the certificate of registration.

Sec. 37. NRS 87A.640 is hereby amended to read as follows:

87A.640 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 38. NRS 88.3355 is hereby amended to read as follows:

88.3355 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information

required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39. NRS 88.339 is hereby amended to read as follows:

88.339 1. A limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership if the record contains an inaccurate description of a partnership action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a general partner of the limited partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a limited partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 40. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $175.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[~~~~cause to be mailed~~~~]~~ ***provide*** to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list ~~[.]~~ ***required pursuant to subsection 1.*** Failure

of any limited partnership to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by NRS 88.400.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

Sec. 41. (Deleted by amendment.)

Sec. 42. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign limited partnership to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 43. NRS 88.5927 is hereby amended to read as follows:

88.5927 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 44. NRS 88.606 is hereby amended to read as follows:

88.606 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The information required pursuant to NRS 77.310.

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. ***A partnership may register as a registered limited-liability limited partnership at the time of filing its certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees required pursuant to subsections 1 and 2 of NRS 88.415.***

5. The registration of a registered limited-liability limited partnership is effective at the time of the filing of the certificate of registration.

Sec. 45. NRS 88.6067 is hereby amended to read as follows:

88.6067 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 46. NRS 88A.345 is hereby amended to read as follows:

88A.345 1. ~~[A]~~ ***Upon the request of the Secretary of State, a*** business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340.

2. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the ledger, duplicate ledger or statement required to be maintained pursuant to subsection 1 of NRS 88A.340; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

3. If a business trust fails to comply with any requirement pursuant to subsection 2, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of trust.

4. The Secretary of State shall not reinstate or revive a certificate of trust that was revoked or suspended pursuant to subsection 3 unless:

(a) The business trust complies with the requirements of subsection 2; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the business trust.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 47. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, on or before the last day of the first month after the filing of its certificate of trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list signed by at least one trustee that contains the name and street address of at least one trustee and the information required pursuant to NRS 77.310. Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the business trust:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

3. If a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.660, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 2 and a reminder to file the list required pursuant to subsection 1.*** Failure of a business trust to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by law.

5. An annual list for a business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 48. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign business trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in

each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign business trust;

(b) The file number of the foreign business trust, if known;

(c) The name of at least one of its trustees;

(d) The address, either residence or business, of the trustee listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a trustee of the foreign business trust certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign business trust:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 ***,*** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

4. If a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign business trust to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 49. NRS 88A.7345 is hereby amended to read as follows:

88A.7345 1. A foreign business trust shall maintain at its registered office:

(a) A current list of its beneficial owners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign business trust fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign business trust to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign business trust to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign business trust complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign business trust to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 50. NRS 88A.930 is hereby amended to read as follows:

88A.930 1. A business trust may correct a record filed in the Office of the Secretary of State with respect to the business trust if the record contains an inaccurate description of a trust action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the business trust must:

(a) Prepare a certificate of correction that:

(1) States the name of the business trust;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a trustee of the business trust.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a business trust has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the business trust may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 51. NRS 89.045 is hereby amended to read as follows:

89.045 1. A professional entity shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** professional entity shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional entity to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional entity fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The professional entity complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 52. NRS 89.251 is hereby amended to read as follows:

89.251 1. A professional association shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** professional association shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional association to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional association fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the articles of association.

5. The Secretary of State shall not reinstate or revive articles of association that were revoked or suspended pursuant to subsection 4 unless:

(a) The professional association complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the articles of association.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 53. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

If an entity has made a filing with the Secretary of State pursuant to this chapter and the Secretary of State has not processed the filing and placed the filing into the public record, the entity may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying a fee of $50.

Sec. 53.5. **NRS 92A.270 is hereby amended to read as follows:**

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and

(b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;

(2) The appropriate charter document for the type of domestic entity; ~~[and]~~

(3) The information required pursuant to NRS 77.310 ~~[.]~~ ***;***

(4) A certified copy of the charter document of the undomesticated organization; and

(5) A certificate of good standing, or the equivalent, from the jurisdiction where the undomesticated organization was chartered immediately before filing the articles of domestication pursuant to subparagraph (1).

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created ~~[.]~~ ***and, if applicable, any date when and jurisdiction where the undomesticated organization was chartered after its formation;***

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law ~~[,~~
~~→~~ ~~]~~ immediately before filing the articles of domestication.

3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.

9. ***The owner liability of an undomesticated organization that is domesticated in this State:***

(a) Is not discharged, pursuant to the laws of the previous jurisdiction of the organization, to the extent the owner liability arose before the effective date of the articles of domestication;

(b) Does not attach, pursuant to the laws of the previous jurisdiction of the organization, to any debt, obligation or liability of the organization that arises after the effective date of the articles of domestication;

(c) Is governed by the law of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a);

(d) Is subject to the right of contribution from any other shareholder, member, trustee, partner, limited partner or other owner of the

undomesticated organization pursuant to the laws of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a); and

(e) Applies only to the debts, obligations or liabilities of the organization that arise after the effective date of the articles of domestication if the owner becomes subject to owner liability or some or all of the debts, obligations or liabilities of the undomesticated entity as a result of its domestication in this State.

10. As used in this section ~~[, "undomesticated]~~ ***:***

(a) "Owner liability" means the liability of a shareholder, member, trustee, partner, limited partner or other owner of an organization for debts of the organization, including the responsibility to make additional capital contributions to cover such debts.

(b) "Undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than ~~[the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States.]~~ ***this State.***

Sec. 54. NRS 360.765 is hereby amended to read as follows:

360.765 1. Except as otherwise provided in subsection 2, "business" means:

(a) Any person, except a natural person, that performs a service or engages in a trade for profit; ~~[or]~~

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity ~~[.]~~ ***; or***

(c) Any entity organized pursuant to title 7 of NRS, including, without limitation, those entities required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A business organized pursuant to chapters 82 or 84 of NRS.

Sec. 55. NRS 360.780 is hereby amended to read as follows:

360.780 1. Except as otherwise provided in subsection 7, a person shall not conduct a business in this State unless he has a state business license issued by the Department.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Department;

(b) Set forth the name under which the applicant transacts or intends to transact business ***, or if the applicant is a business organized pursuant to title 7 of NRS and on file with the Secretary of State, the exact name on file with the Secretary of State,*** and the location ***in this State*** of his place or places of business;

(c) Be accompanied by a fee of $100; and

(d) Include any other information that the Department deems necessary.

➥ If the applicant is a business organized pursuant to title 7 of NRS and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed by:

(a) The owner, if the business is owned by a natural person;

(b) A member or partner, if the business is owned by an association or partnership; or

(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.

4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

6. For the purposes of NRS 360.760 to 360.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;

(b) Has an office or other base of operations in this State; ~~[or]~~

(c) ***Has a registered agent in this State; or***

(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.

7. A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 360.787.

8. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 56. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 89.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 719.

AN ACT relating to manufactured housing; providing for the licensure of distributors of manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing for resale; providing for the regulation of dealers, manufacturers, salesmen, general servicemen and specialty servicemen with respect to manufactured buildings and factory-built housing; authorizing the auditing of the financial accounts of dealers and distributors; requiring the adoption of regulations concerning continuing education requirements for dealers and distributors; revising the procedure for determining the fair market value of manufactured homes under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2, 29-32 and 37-40 of this bill provide for the licensure of distributors of manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing by the Manufactured Housing Division of the Department of Business and Industry.

Section 12 of this bill authorizes the Division to audit the financial accounts of a dealer or distributor of manufactured housing to investigate insolvency or to administer or enforce any law.

Sections 16-23, 35, 36 and 55-57 of this bill provide for the regulation of dealers, manufacturers, salesmen, general servicemen and specialty servicemen with respect to manufactured buildings and factory-built housing.

Section 28 of this bill requires the Division to adopt regulations concerning continuing education requirements for dealers and distributors.

Sections 41-43 of this bill expand the grounds for disciplinary actions against persons licensed by the Division.

Section 46 of this bill requires the Division to adopt regulations establishing a fee for the issuance of a license as a distributor. **Section 47** of this bill requires a distributor to pay an additional fee upon the issuance or renewal of his license. This additional fee is currently imposed on dealers and manufacturers and is required to be deposited in the Account for Education and Recovery Relating to Manufactured Housing in the Fund for Manufactured Housing and to be used to satisfy the claims of purchasers of manufactured housing against licensees for fraud, misrepresentation or deceit.

Sections 59-62 of this bill revise provisions governing the financial and fiduciary duties of dealers.

Sections 63, 75 and 82 of this bill provide limitations on actions against the Division and its officers and employees.

Section 70 of this bill provides that a dealer is guilty of a gross misdemeanor if: (1) he fails to cooperate or comply with or knowingly impedes or interferes with an investigation or audit conducted by the Division; or (2) he acts as a dealer while insolvent or engages in any financial practice which creates a substantial risk of insolvency.

Sections 72-74.5 and 78-81 of this bill revise the procedure for determining the fair market value of manufactured homes under certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 489 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. ***"Distributor" means any person who engages in the sale and distribution of manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing for resale.***

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. ***"Factory-built housing" has the meaning ascribed to it in NRS 461.080.***

Sec. 7. ***"Franchise" means a written agreement between a franchisor and franchisee which establishes that the franchisee will sell or distribute new or used manufactured homes, mobile homes, manufactured buildings, commercial coaches, factory-built housing or related goods or services under, or operate using, the systems, trademark, service mark, trade name, logo or other commercial symbol of the franchisor.***

Sec. 8. ***"Franchisee" means any natural person or entity that, pursuant to a franchise, sells or distributes new or used manufactured homes, mobile homes, manufactured buildings, commercial coaches, factory-built housing or related goods or services under, or operates using,***

the systems, trademark, service mark, trade name, logo or other commercial symbol of the franchisor.

Sec. 9. ***"Franchisor" means any natural person or entity that owns the overall rights to the systems, trademark, service mark, trade name, logo or other commercial symbol of the franchisor and grants a franchise for their use by a franchisee.***

Sec. 10. ***"Manufactured building" has the meaning ascribed to it in NRS 461.132.***

Sec. 10.5. ***"Modular component" has the meaning ascribed to it in NRS 461.145.***

Sec. 11. (Deleted by amendment.)

Sec. 12. ***1. The Division may investigate and audit any financial account, including, without limitation, any trust account, related to the business of a dealer or distributor if:***

(a) The Division has reasonable cause to believe that the dealer or distributor is using or has used the account to carry on the business of the dealer or distributor; and

(b) The Division:

(1) Has reasonable cause to believe or has received a credible complaint that the dealer or distributor is insolvent or is in a financial condition, or has engaged in a financial practice, which creates a substantial risk of insolvency; or

(2) Determines that the investigation and audit are reasonably necessary to assist the Division in administering or enforcing any provision of law.

2. The Administrator shall adopt regulations prescribing the scope of an audit conducted pursuant to this section.

3. As used in this section, "insolvency" or "insolvent" means a condition under which a dealer or distributor is unable to meet the liabilities of his business as they become due in the regular course of business and which creates a substantial risk of harm to the public or a consumer.

Sec. 13. ***As used in this section and NRS 489.4971 to 489.4989, inclusive, "Account" means the Account for Education and Recovery Relating to Manufactured Housing created by NRS 489.4971.***

Sec. 14. NRS 489.021 is hereby amended to read as follows:

489.021 1. The Legislature finds that the construction, assembly and use of manufactured homes, mobile homes, travel trailers **[**and**]** ***, manufactured buildings,*** commercial coaches ***and factory-built housing*** and their systems, components and appliances, and the alteration, transportation and installation of manufactured homes, mobile homes ~~[and]~~ ***, manufactured buildings,*** commercial coaches ~~[,]~~ ***and factory-built housing,*** like other products having concealed vital parts, may present hazards to the health, life and safety of persons and the safety of property unless they are properly manufactured, altered, transported and installed.

2. In the sale of manufactured homes, mobile homes, travel trailers ~~[and]~~ ***, manufactured buildings,*** commercial coaches ~~[,]~~ ***and factory-built housing,*** there is also the possibility of unascertained defects in them even though they are inspected by purchasers.

3. It is the policy and purpose of this State to protect the public against these hazards and to prohibit the manufacture, sale, ***distribution,*** alteration, transportation and installation in this State of manufactured homes, mobile homes, travel trailers ~~[and]~~ ***, manufactured buildings,*** commercial coaches ***and factory-built housing*** which are not constructed in a manner which provides reasonable safety and protection to owners and users.

4. The Legislature further intends to provide a procedure to ~~[assure]~~ ***ensure*** that this State assumes the fullest responsibility for the administration and enforcement of federal safety and construction standards for manufactured homes in Nevada in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 ***,*** ~~[(]~~ 42 U.S.C. 5401 et seq. ~~[).]~~

Sec. 15. NRS 489.031 is hereby amended to read as follows:

489.031 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 489.036 to 489.155, inclusive, ***and sections 2 to 10.5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 16. NRS 489.043 is hereby amended to read as follows:

489.043 "Brokerage agreement" means a contract between a dealer and a client in which the dealer agrees to accept compensation to:

1. Assist, solicit or negotiate the sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing;*** or

2. Induce any person to buy or exchange an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing.***

Sec. 17. NRS 489.076 is hereby amended to read as follows:

489.076 1. "Dealer" means any person who:

(a) For compensation, money or any other thing of value, sells, exchanges, buys or offers for sale, negotiates or attempts to negotiate a sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** subject to the requirements of this chapter, or induces or attempts to induce any person to buy or exchange an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing;***

(b) For compensation, money or any other thing of value, leases or rents, offers for lease or rental, negotiates or attempts to negotiate the lease or rental of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** subject to the requirements of this chapter, or induces or attempts to induce any person to

lease or rent an interest in a manufactured home, mobile home **,** ***manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing;***

(c) Receives or expects to receive a commission, money, brokerage fees, profit or any other thing of value from either the seller or purchaser of any manufactured home, mobile home ~~[or]~~ **,** ***manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing;***

(d) Is engaged wholly or in part in the business of:

(1) Selling, renting or leasing manufactured homes, mobile homes ~~[or]~~ **,** ***manufactured buildings,*** commercial coaches ~~[,]~~ ***or factory-built housing;***

(2) Buying or taking manufactured homes, mobile homes ~~[or]~~ **,** ***manufactured buildings,*** commercial coaches ***or factory-built housing*** in trade for the purpose of resale, selling ~~[,]~~ or offering them for sale or consignment to be sold;

(3) Buying or taking manufactured homes, mobile homes ~~[or]~~ **,** ***manufactured buildings,*** commercial coaches ***or factory-built housing*** in trade to rent, lease or offer them for rent or lease; or

(4) Otherwise dealing in manufactured homes, mobile homes ~~[or]~~ **,** ***manufactured buildings,*** commercial coaches ~~[,]~~ ***or factory-built housing;*** or

(e) Acts as a repossessor or liquidator concerning manufactured homes, mobile homes ~~[or]~~ **,** ***manufactured buildings,*** commercial coaches ~~[,]~~ ***or factory-built housing,***

➥ whether or not they are owned by such persons.

2. The term does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the order of any court;

(b) Public officers while performing their official duties;

(c) Banks, savings and loan associations, credit unions, thrift companies or other financial institutions proceeding as repossessors or liquidators of their own security;

(d) A person who rents or leases his manufactured home, mobile home ~~[or]~~ **,** ***manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing;***

(e) An owner selling his private residence; or

(f) A real estate broker, real estate broker-salesman or real estate salesman who is licensed pursuant to chapter 645 of NRS and who, for another and for compensation or with the intention or expectation of receiving compensation, sells, exchanges, options, purchases, rents or leases, or negotiates or offers, attempts or agrees to negotiate the sale, exchange, option, purchase, rental or lease of, or lists or solicits prospective purchasers, lessees or renters of, used manufactured homes or used mobile homes in connection with the sale of a fee simple interest in real property and the used manufactured home or used mobile home is situated on the real property sold.

Sec. 18. NRS 489.102 is hereby amended to read as follows:

489.102 1. "General serviceman" means a person who owns or is the responsible managing employee of a business which:

(a) Installs or repairs the awnings, roofing, skirting, plumbing, heating or electrical systems of a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing;***

(b) Installs ~~, [or]~~ removes or ~~[tears down]~~ ***prepares for transport*** a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** at the site where it will be or has been used for occupancy; or

(c) Reconstructs a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** by the alteration, addition or substitution of substantial or essential parts.

2. The term does not include:

(a) A licensed manufacturer engaged in the ***installation,*** repair or service of a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** that was manufactured by the licensed manufacturer;

(b) The owner or purchaser of a manufactured home ***,*** ~~[or]~~ mobile home ***or manufactured building or factory-built housing*** who uses the manufactured home ***,*** ~~[or]~~ mobile home ***or manufactured building or factory-built housing*** as his private residence; or

(c) The owner or purchaser of a commercial coach who uses the commercial coach for his own industrial, professional or commercial purposes.

Sec. 19. NRS 489.115 is hereby amended to read as follows:

489.115 "Manufacturer" means every person ***, including, without limitation, a partnership, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company, or a corporation,*** engaged in the business of manufacturing manufactured homes, mobile homes, travel trailers ~~[or]~~ ***, manufactured buildings,*** commercial coaches ~~[.]~~ ***or factory-built housing.***

Sec. 20. NRS 489.125 is hereby amended to read as follows:

489.125 "New manufactured home," "new mobile home," "new travel trailer" ~~[or]~~ ***, "new manufactured building,"*** "new commercial coach" ***or "new factory-built housing"*** means a manufactured home, mobile home, travel trailer ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing,*** respectively, which has never been sold at retail or occupied either ~~[prior to]~~ ***before*** or after sale for the purpose intended by the manufacturer and has never been registered with or been the subject of a certificate of title issued by the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or ***any*** foreign state, province or country.

Sec. 21. NRS 489.137 is hereby amended to read as follows:

489.137 "Salesman" means any person employed by a dealer ***or distributor*** under any form of contract or arrangement to sell, ***distribute,*** rent,

lease, exchange or buy, or offer for sale, ***distribution,*** rental, lease or exchange, an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** to any person, and who receives or expects to receive a commission, fee or any other consideration from his employer.

Sec. 22. NRS 489.147 is hereby amended to read as follows:

489.147 1. "Specialty serviceman" means a person who owns or is the ***designated*** responsible managing employee of a business which is limited in the scope of the work it may perform on or in a manufactured home, mobile home ***, manufactured building, modular component*** or commercial coach ***or factory-built housing*** in accordance with NRS 489.325.

2. The term does not include:

(a) A licensed manufacturer engaged in the repair or service of a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** that was manufactured by the licensed manufacturer;

(b) The owner or purchaser of a manufactured home ***,*** ~~[or]~~ mobile home ***or manufactured building or factory-built housing*** who uses the manufactured home ***,*** ~~[or]~~ mobile home ***or manufactured building or factory-built housing*** as his private residence; or

(c) The owner or purchaser of a commercial coach who uses the commercial coach for his own industrial, professional or commercial purposes.

Sec. 23. NRS 489.155 is hereby amended to read as follows:

489.155 "Used manufactured home," "used mobile home," "used travel trailer" ~~[or]~~ ***, "used manufactured building,"*** "used commercial coach" ***or "used factory-built housing"*** means a manufactured home, mobile home, travel trailer ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing,*** respectively, which has been:

1. Sold, rented or leased and occupied ~~[prior to]~~ ***before*** or after the sale, rental or lease; or

2. Registered with or been the subject of a certificate of title issued by the appropriate agency of authority of any other state, the District of Columbia, or any territory or possession of the United States or ***any*** foreign state, province or country.

Sec. 24. NRS 489.211 is hereby amended to read as follows:

489.211 The Administrator ***:*** ~~[shall:]~~

1. ~~[Possess]~~ ***Must possess*** a broad knowledge of generally accepted management practices and be reasonably well informed on laws governing manufactured homes, mobile homes, travel trailers ***, manufactured buildings, factory-built housing*** and commercial coaches.

2. ~~[Hold no]~~ ***Shall not hold an*** interest in any firm which sells, ***distributes,*** manufactures, rebuilds or services any manufactured home, mobile home, travel trailer ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** or ***which*** installs any manufactured home, mobile

home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[, nor may he]~~ ***or factory-built housing, or*** act as agent for any of them.

Sec. 25. NRS 489.221 is hereby amended to read as follows:

489.221 ~~[No]~~ ***An*** employee of the Division ~~[may]~~ ***shall not*** hold an interest in any firm which sells, ***distributes,*** manufactures, rebuilds or services any manufactured home, mobile home, travel trailer ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** or ***which*** installs any manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[, nor]~~ ***or factory-built housing, or*** act as an agent for any of them.

Sec. 26. NRS 489.231 is hereby amended to read as follows:

489.231 1. ~~[In order to]~~ ***To*** carry out the provisions of this chapter, the Administrator may:

(a) Issue subpoenas for the attendance of witnesses or the production of books, papers and documents; and

(b) Conduct hearings.

2. The Administrator may apply for and receive grants from the Secretary of Housing and Urban Development for developing and carrying out a plan for enforcement and administration of federal standards of safety and construction respecting manufactured homes offered for sale or lease in this State.

3. The Administrator may adopt regulations to ensure acceptance by the Secretary of Housing and Urban Development of the state plan for administration and enforcement of federal standards of safety and construction respecting manufactured homes in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 ***,*** ~~[(]~~ 42 U.S.C. 5401 et seq. ~~[).]~~

4. The Administrator may:

(a) Make inspections;

(b) Approve plans and specifications;

(c) Provide technical services;

(d) Issue licenses, ***permits,*** certificates of ownership and certificates and labels of compliance and installation;

(e) Enter into reciprocal agreements with other states or private organizations that adopt and maintain standards reasonably consistent with this chapter;

(f) Collect the fees provided for in this chapter; and

(g) Adopt regulations necessary to carry out his duties under this chapter.

5. The Administrator or his representative may enter, at reasonable times and without notice, any mobile home park or place of business or any factory, warehouse or establishment in which manufactured homes, mobile homes ***,*** ~~[or]~~ travel trailers ***, manufactured buildings or factory-built housing*** are manufactured, stored or held for sale ***or distribution*** and inspect at reasonable times in a reasonable manner the premises and books, papers, records and documents which are relevant to the manufacture ***, distribution***

and sale of manufactured homes, mobile homes **,** ~~[or]~~ travel trailers **,** ***manufactured buildings or factory-built housing*** and compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974 **,** ~~[(]~~ 42 U.S.C. 5401 et seq. ~~[)]~~ ***, this chapter and chapter 461 of NRS, and any regulations adopted pursuant thereto,*** and to compliance by landlords of mobile home parks with the prohibition in NRS 118B.140 against charging or receiving any entrance or exit fee. A magistrate shall issue a warrant to permit an inspection if the Administrator has shown:

(a) Evidence that a violation of a provision of this chapter or of the prohibition in NRS 118B.140 against charging or receiving any entrance or exit fee has been committed or is being committed; or

(b) That the business has been chosen for an inspection on the basis of a general administrative plan for the enforcement of the provisions of this chapter.

Sec. 27. NRS 489.263 is hereby amended to read as follows:

489.263 1. The Administrator may adopt regulations establishing a system for the issuance ~~[and renewal]~~ of permits for the installation, design, approval ***, repair*** or modification of manufactured homes, mobile homes ~~[or]~~ ***, manufactured buildings,*** commercial coaches ~~[.]~~ ***or factory-built housing.***

2. The regulations may include, without limitation:

(a) The requirements and procedures for applying for ~~[and renewing]~~ a permit;

(b) The criteria for determining whether to issue ~~[or renew]~~ a permit;

(c) The grounds for revocation and the requirements for reinstatement of a permit; and

(d) The procedures for the enforcement of a system for issuing ~~[and renewing]~~ permits.

Sec. 28. NRS 489.285 is hereby amended to read as follows:

489.285 1. The Division shall adopt regulations concerning continuing education requirements for ***dealers, distributors,*** general servicemen **,** ~~[and]~~ specialty servicemen **,** ~~[of manufactured homes, mobile homes or commercial coaches, and]~~ responsible managing employees and salesmen. The regulations must include the:

(a) Criteria for determining what qualifies as continuing education;

(b) Criteria for approving educational and training programs;

(c) Requirements for submitting evidence of completion; and

(d) Grounds and procedures for granting an extension of time within which to comply with continuing education requirements.

2. In adopting regulations pursuant to subsection 1, the Division shall:

(a) Allow for alternative subjects, instructors, schools and sources of programs, with consideration for specialized areas of practice, availability and proximity of resources to the licensees and applicants, and the time and expense required to participate in the programs.

(b) Approve courses offered by generally accredited educational institutions and private vocational schools if those courses otherwise qualify as continuing education.

(c) Approve training and educational programs and seminars offered by:

(1) Individual sponsors;

(2) Manufactured housing firms and businesses such as dealers, ***distributors,*** general servicemen, specialty servicemen, manufacturers ~~[of manufactured homes, mobile homes or commercial coaches,]~~ and suppliers of the various components for constructing such homes or coaches, including heating and air-conditioning systems, material for roofing and siding, skirting, awnings and other components;

(3) Professional and industry-related organizations; and

(4) Other organized educational programs concerning technical or specialized subjects, including in-house training programs offered by an employer for his employees and participation in meetings and conferences of industry-related organizations.

(d) Solicit advice and assistance from persons and organizations that are knowledgeable in the construction, sale, ***distribution,*** installation, rebuilding and servicing of manufactured homes, mobile homes ~~[or]~~ ***, manufactured buildings,*** commercial coaches ***or factory-built housing*** and the method of educating licensees.

3. The Division is not responsible for the costs of any continuing education program, but may participate in the funding of those programs subject to legislative appropriations.

4. As used in this section, "industry-related organizations" includes, without limitation, the:

(a) Manufactured Housing Institute;

(b) Manufactured Home Community Owners ***;*** ~~[Association;]~~

(c) Nevada Association of Manufactured Home Owners, Inc.;

(d) Nevada Association of Realtors; ~~[and]~~

(e) ***Nevada Housing Alliance;***

(f) Modular Building Institute; and

(g) Any other organization approved by the Division.

Sec. 29. NRS 489.305 is hereby amended to read as follows:

489.305 To open a branch office, a dealer, ***distributor,*** general serviceman or specialty serviceman ~~[, as the case may be,]~~ must:

1. Obtain a license from the Division to operate the branch office; and

2. Provide for direct supervision of the branch office, either by himself or by employing a responsible managing employee.

Sec. 30. NRS 489.311 is hereby amended to read as follows:

489.311 1. Except as otherwise provided by NRS 489.331, no person may engage or offer to engage in the business of a dealer, ***distributor,*** manufacturer, general serviceman or specialty serviceman in this State, or be entitled to any other license or permit required by this chapter, until he has applied for and has been issued a license by the Division.

2. For the purposes of this section, a person engages in the business of a dealer, ***distributor,*** manufacturer, general serviceman or specialty serviceman in this State if he, without limitation, submits a bid to perform any activity requiring a license pursuant to this section.

Sec. 31. NRS 489.321 is hereby amended to read as follows:

489.321 1. An application for a manufacturer's, dealer's, ***distributor's,*** general serviceman's or specialty serviceman's license must be filed upon forms supplied by the Division and include the social security number of the applicant. The applicant must furnish:

(a) Any proof the Division may deem necessary that the applicant is a manufacturer, dealer, ***distributor,*** general serviceman or specialty serviceman.

(b) Any proof the Division may require that the applicant has an established place of business.

(c) Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information relating to the fingerprints of an applicant under this section.

(e) In the case of a dealer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make or makes concerned.

(f) A reasonable fee fixed by regulation.

(g) In the case of a dealer ***, distributor*** or general serviceman, proof of passing the examination required under subsection 1 of NRS 489.351.

(h) In the case of a specialty serviceman, proof of passing the examination required under subsection 1 of NRS 489.351 or proof that the examination has been waived pursuant to subsection 2 of NRS 489.351.

(i) Any additional requirements the Division may from time to time prescribe by regulation.

2. Within 60 days after the receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Division shall issue to the applicant a dealer's, manufacturer's, ***distributor's,*** general serviceman's or specialty serviceman's license containing the applicant's name and the address of his fixed place of business.

4. Each license is valid for a period of 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

Sec. 32. NRS 489.321 is hereby amended to read as follows:

489.321 1. Applications for a manufacturer's, dealer's, ***distributor's,*** general serviceman's or specialty serviceman's license must be filed upon forms supplied by the Division, and the applicant shall furnish:

(a) Any proof the Division may deem necessary that the applicant is a manufacturer, dealer, ***distributor,*** general serviceman or specialty serviceman.

(b) Any proof the Division may require that the applicant has an established place of business.

(c) Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information respecting the fingerprints of an applicant under this section.

(e) In the case of a dealer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make or makes concerned.

(f) A reasonable fee fixed by regulation.

(g) In the case of a dealer ***, distributor*** or general serviceman, proof of passing the examination required under subsection 1 of NRS 489.351.

(h) In the case of a specialty serviceman, proof of passing the examination required under subsection 1 of NRS 489.351 or proof that the examination has been waived pursuant to subsection 2 of NRS 489.351.

(i) Any additional requirements the Division may from time to time prescribe by regulation.

2. Within 60 days after receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Division shall issue to the applicant a dealer's, manufacturer's, ***distributor's,*** general serviceman's or specialty serviceman's license certificate containing the applicant's name and the address of his fixed place of business.

4. Each license is valid for a period of 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

Sec. 33. NRS 489.323 is hereby amended to read as follows:

489.323 If a licensee is a ***dealer, distributor,*** general serviceman ***,*** ~~[or]~~ specialty serviceman ***,*** ~~[of manufactured homes, mobile homes or commercial coaches, or a]~~ responsible managing employee or salesman, the Division shall not renew a license issued to that licensee until the licensee has submitted proof satisfactory to the Division that he has, during the 2-year period immediately preceding the renewal of the license, completed at least 8 hours of continuing education approved by the Division pursuant to NRS 489.285.

Sec. 34. NRS 489.336 is hereby amended to read as follows:

489.336 1. The Division shall adopt regulations for the issuance of limited ***lien*** resale licenses ***and permits*** authorizing a landlord or manager to sell a used mobile home ~~[. Regulations adopted pursuant to this section]~~ ***if:***

(a) The mobile home is located in a mobile home park that the landlord or manager owns, leases or manages; and

(b) The landlord or manager purchased the mobile home at a sale to enforce a lien pursuant to NRS 108.270 to 108.367, inclusive.

2. The regulations must specify the requirements for ~~[licensure,]~~ ***the issuance of a license or permit,*** including, without limitation, any educational requirements.

~~[2.]~~ ***3.*** A person who is ~~[licensed]~~ ***issued a license or permit*** pursuant to the regulations ~~[described in subsection 1]~~ may sell a used mobile home ~~[if:~~

~~(a) The mobile home is located in a mobile home park that the landlord or manager owns, leases or manages; and~~

~~(b) The landlord or manager purchased the mobile home at a sale to enforce a lien pursuant to NRS 108.270 to 108.367, inclusive.~~

~~3.]~~ ***in accordance with the license or permit.***

4. As used in this section:

(a) "Landlord" has the meaning ascribed to it in NRS 118B.014.

(b) "Manager" has the meaning ascribed to it in NRS 118B.0145.

(c) "Mobile home park" has the meaning ascribed to "manufactured home park" in NRS 118B.017.

Sec. 35. NRS 489.341 is hereby amended to read as follows:

489.341 1. A person shall not act as a salesman in this State or as a responsible managing employee for a person who sells, leases, ***distributes,*** reconstructs, improves, repairs or installs any manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** subject to the provisions of this chapter without first having received a license from the Division. Before issuing such a license, the Division shall require:

(a) An application, signed and verified by the applicant, stating that he desires to act as a salesman or responsible managing employee and providing his residential address, his social security number and the name and address of his employer.

(b) Proof of the employment of the applicant at the time the application is filed. An applicant for a license as a responsible managing employee shall submit proof of 2 years' experience within the previous 4 years in the business in which the applicant is seeking to be licensed as a responsible managing employee.

(c) Proof of the applicant's good character and reputation and of his fitness to act as a salesman or responsible managing employee.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information relating to the fingerprints of an applicant.

(e) A statement as to whether any previous application of the applicant has been denied or license revoked.

(f) Payment of a reasonable license fee established by regulation.

(g) The applicant to have passed the examination required by NRS 489.351.

(h) Any other information the Division deems necessary.

2. Within 60 days after the receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Administrator shall issue to the applicant a license as a salesman or a responsible managing employee. The license must contain the licensee's name and the address of his employer's place of business.

4. Each license is valid for 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

5. A person licensed pursuant to this section shall not engage in sales activity other than for the account of, or for and in behalf of, a single employer who is a licensed dealer ~~[.]~~ ***or distributor.***

6. A license issued pursuant to this section may be transferred to another licensed employer upon application and the payment of a transfer fee of $10. When a salesman or responsible managing employee holding a current license leaves the employment of one dealer, ***distributor,*** general serviceman or specialty serviceman for that of another, the new employer may employ the salesman or responsible managing employee pending the transfer of the license if the transfer is completed within 10 days.

7. A license issued pursuant to this section must be posted in a conspicuous place on the premises of the employer for whom the holder of the license is licensed.

8. If a salesman or responsible managing employee ceases to be employed by a licensed dealer, ***distributor,*** general serviceman or specialty

serviceman, his license to act as a salesman or responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases, and he shall not engage in such an activity until reemployed by a licensed dealer, ***distributor,*** general serviceman or specialty serviceman. Every licensed salesman and responsible managing employee shall report in writing to the Division every change in his place of employment or termination of employment within 5 days after the date of making the change.

Sec. 36. NRS 489.341 is hereby amended to read as follows:

489.341 1. A person shall not act as a salesman in this State or as a responsible managing employee for a person who sells, leases, ***distributes,*** reconstructs, improves, repairs or installs any manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** subject to the provisions of this chapter without first having received a license from the Division. Before issuing such a license, the Division shall require:

(a) An application, signed and verified by the applicant, stating that he desires to act as a salesman or responsible managing employee and providing his residential address and the name and address of his employer.

(b) Proof of the employment of the applicant at the time the application is filed. An applicant for a license as a responsible managing employee shall submit proof of 2 years' experience within the previous 4 years in the business in which the applicant is seeking to be licensed as a responsible managing employee.

(c) Proof of the applicant's good character and reputation and of his fitness to act as a salesman or responsible managing employee.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information respecting the fingerprints of an applicant.

(e) A statement as to whether any previous application of the applicant has been denied or license revoked.

(f) Payment of a reasonable license fee established by regulation.

(g) The applicant to have passed the examination required by NRS 489.351.

(h) Any other information the Division deems necessary.

2. Within 60 days after receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Administrator shall issue to the applicant a license as a

salesman or a responsible managing employee. The license must contain the licensee's name and the address of his employer's place of business.

4. Each license is valid for 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

5. A person licensed pursuant to this section shall not engage in sales activity other than for the account of or for and in behalf of a single employer who is a licensed dealer ~~[.]~~ ***or distributor.***

6. A license issued pursuant to this section may be transferred to another licensed employer upon application and the payment of a transfer fee of $10. When a salesman or responsible managing employee holding a current license leaves the employment of one dealer, ***distributor,*** general serviceman or specialty serviceman for that of another, the new employer may employ the salesman or responsible managing employee pending the transfer of the license if the transfer is completed within 10 days.

7. A license issued pursuant to this section must be posted in a conspicuous place on the premises of the employer for whom the holder of the license is licensed.

8. If a salesman or responsible managing employee ceases to be employed by a licensed dealer, ***distributor,*** general serviceman or specialty serviceman, his license to act as a salesman or responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases, and he shall not engage in such an activity until reemployed by a licensed dealer, ***distributor,*** general serviceman or specialty serviceman. Every licensed salesman and responsible managing employee shall report in writing to the Division every change in his place of employment or termination of employment within 5 days after the date of making the change.

Sec. 37. NRS 489.342 is hereby amended to read as follows:

489.342 1. A natural person who applies for the issuance or renewal of a manufacturer's, dealer's, ***distributor's,*** general serviceman's, specialty serviceman's, salesman's or ***responsible*** managing employee's license shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Division.

3. A manufacturer's, dealer's, ***distributor's,*** general serviceman's, specialty serviceman's, salesman's or ***responsible*** managing employee's license may not be issued or renewed by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 38. NRS 489.343 is hereby amended to read as follows:

489.343 1. Every partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company*** doing business as a manufacturer, dealer, ***distributor,*** general serviceman or specialty serviceman in this State shall designate one of its members, and every corporation doing business as a manufacturer, dealer, ***distributor,*** general serviceman or specialty serviceman in this State shall designate one of its officers, to submit an application for a manufacturer's, dealer's, ***distributor's,*** general serviceman's or specialty serviceman's license.

2. The Division shall issue a manufacturer's, dealer's, ***distributor's,*** general serviceman's or specialty serviceman's license to the member or officer on behalf of the corporation ***, company*** or partnership upon:

(a) The designated member or officer, in the case of a dealer, ***distributor,*** general serviceman or specialty serviceman, successfully passing the examination required pursuant to subsection 1 of NRS 489.351 unless, in the case of a specialty serviceman, the examination is waived pursuant to subsection 2 of NRS 489.351; and

(b) Compliance with all other requirements of law or any other additional requirements the Division may from time to time prescribe by regulation by the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company,*** or corporation, as well as by the designated member or officer.

3. Upon receipt of the license, the designated member or officer is entitled to perform all the acts authorized by a license issued by the Division, except:

(a) That the license issued entitles the designated member or officer to act pursuant to the terms and conditions of the license issued by the Division only as officer or agent of the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company,*** or corporation, and not on his own behalf; and

(b) That if the person designated by the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company,*** or corporation:

(1) Is refused a license by the Division; or

(2) Ceases to be connected with the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company*** or corporation,

➥ the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company,*** or corporation may designate another person who shall make application and qualify as in the first instance.

Sec. 39. NRS 489.344 is hereby amended to read as follows:

489.344 Each member or officer of a partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company,*** or ***a*** corporation who will perform or engage in any of the acts specified in NRS 489.076, 489.102, 489.115 or 489.147, ***or section 2 of this act,*** other than the member or officer designated for that purpose by the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company,*** or ***the*** corporation ***,*** in the manner provided in NRS 489.343, must apply for and take out a separate manufacturer's, dealer's, ***distributor's,*** general serviceman's or specialty serviceman's license in his own name. The license issued to any such member or officer of a partnership ***, company*** or corporation entitles the member or officer to act as a manufacturer, dealer, ***distributor,*** general serviceman or specialty serviceman only as an officer or agent of the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company,*** or corporation and not on his own behalf.

Sec. 40. NRS 489.351 is hereby amended to read as follows:

489.351 1. Except as otherwise provided in subsection 2, the Administrator shall require an oral or written examination of each applicant for a license as a dealer, ***distributor,*** responsible managing employee, salesman, general serviceman or specialty serviceman.

2. The Administrator may waive the examination required pursuant to subsection 1 for an applicant for a license as a specialty serviceman if:

(a) The applicant holds another valid license issued by this State; and

(b) The services performed by the applicant pursuant to that license are substantially similar to the services to be performed by the applicant as a specialty serviceman.

Sec. 41. NRS 489.401 is hereby amended to read as follows:

489.401 The following grounds, among others, constitute grounds for disciplinary action pursuant to NRS 489.381:

1. The intentional publication, circulation or display of any advertising which constitutes a deceptive trade practice as that term is defined in NRS 598.0915 to 598.0925, inclusive.

2. Failure to include in any advertising the name of the licensed dealer, ***distributor,*** general serviceman or specialty serviceman, or the name under which he is doing business.

3. Making any substantial misrepresentation or false promise which is likely to influence, persuade or induce, or continually failing to fulfill promises to sell, breaching agreements or contracts or making false promises by any means.

4. Failure to disclose all terms and conditions of a sale, purchase or lease or offer to sell, purchase or lease a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.***

5. Failure to disclose to a person with whom the licensed dealer ***or distributor*** is dealing with regard to the sale, ***distribution,*** purchase or lease of a manufactured home any material facts, structural defects or other material information which the licensed dealer ***or distributor*** knew, or which by the exercise of reasonable care and diligence should have known, concerning the manufactured home or concerning the sale, ***distribution,*** purchase or lease of the manufactured home.

6. Failure to comply with the provisions of NRS 489.595.

7. Representing to any lender, guaranteeing agency or other interested party, orally or through the preparation of false documents:

(a) An amount in excess of the actual sales price;

(b) A false amount as the down payment, earnest money deposit or other valuable consideration;

(c) Terms differing from those actually agreed upon; or

(d) False information on a credit application.

8. Inducing an applicant to falsify his credit application.

9. Failure to obtain from the holder of any lien or security interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing*** within 10 days before the closure of a sale ~~[of the manufactured home, mobile home or commercial coach,]~~ a written acknowledgment that the holder of the lien or security interest has received written notification of the sale.

Sec. 42. NRS 489.411 is hereby amended to read as follows:

489.411 The following grounds, among others, constitute grounds for disciplinary action under NRS 489.381:

1. Claiming, demanding or receiving a fee, compensation or commission under any exclusive agreement, authorizing or employing a licensee to sell, ***distribute,*** buy or exchange a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** for compensation or commission, where the agreement does not contain a definite specified date of final and complete termination, does not set forth the terms and conditions of the exclusive agreement or is not signed by both the licensee and the owner.

2. While the employee, agent or fiduciary of a licensee, soliciting, accepting or agreeing to accept any benefit, fee, commission or compensation

for the performance of any of the acts specified in this chapter from any person except the licensee with whom he is associated or employed.

3. Paying a commission or other compensation to any person or employing any person for performing the services of a person required to be licensed under this chapter who has not first secured his license pursuant to this chapter.

4. Commingling the money or other property of his principals with his own or converting the money of others to his own use.

5. Knowingly permitting a person whose license has been revoked or suspended or who does not hold a valid license to engage on behalf of the licensed dealer ***or distributor*** in acts that require a license.

6. In the case of a salesman, failing to give to the licensed dealer ***or distributor*** by whom the salesman is employed, as soon as practicable after receipt, a deposit or other money or consideration entrusted to him by a person dealing with the salesman as a representative of the licensed dealer ~~[.]~~ ***or distributor.***

7. Failing within a reasonable time to account for or to remit any money coming into his possession which belongs to others.

8. Failure or refusal by a licensee to pay or otherwise discharge any final judgment rendered and entered against him which arises out of the conduct of his business licensed under this chapter.

9. Acting in the dual capacity of agent and undisclosed principal in a transaction.

Sec. 43. NRS 489.416 is hereby amended to read as follows:

489.416 The following grounds, among others, constitute grounds for disciplinary action under NRS 489.381:

1. Workmanship which:

(a) Is not commensurate with standards of the trade in general;

(b) Is below standards adopted by the Division or the ***codes and*** standards ~~[determined by the edition of the Uniform Building Code, Uniform Plumbing Code or the National Electrical Code, respectively, in effect on July 1, 1983;]~~ ***adopted pursuant to this chapter and chapter 461 or NRS, and any regulations adopted pursuant thereto;*** or

(c) Endangers the life and safety of an occupant of a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.***

2. Failure to honor any warranty or other guarantee given by a licensee for workmanship or material as a condition of securing a contract, or of selling, ***distributing,*** leasing, reconstructing, improving, repairing or installing any manufactured home, mobile home, ***manufactured building,*** commercial coach ***, factory-built housing*** or accessory structure.

3. Gross negligence or incompetence in performing an act for which a license is required pursuant to this chapter.

Sec. 44. NRS 489.423 is hereby amended to read as follows:

489.423 1. Upon a finding that a licensed dealer ***or distributor*** knew, or by the exercise of reasonable care and diligence should have known, of any unlawful act or violation of a provision of this chapter by a salesman, general serviceman ***,*** ~~[or]~~ specialty serviceman ***or any other person*** who is employed by or associated with the licensed dealer ~~[,]~~ ***or distributor,*** the Administrator may suspend or revoke the license of the licensed dealer ***or distributor*** and impose an administrative fine upon him of not more than $1,000.

2. Upon a finding that a licensed dealer ***or distributor*** failed to maintain adequate supervision of a salesman, general serviceman or specialty serviceman who, while employed by or associated with the licensed dealer ~~[,]~~ ***or distributor,*** committed any unlawful act or violated a provision of this chapter, the Administrator may suspend or revoke the license of a licensed dealer ***or distributor*** and impose an administrative fine upon him of not more than $1,000.

3. Upon a finding that a licensed general serviceman or specialty serviceman knew, or by the exercise of reasonable care and diligence should have known, of any unlawful act or violation of a provision of this chapter by any person who is employed by or associated with the licensed general serviceman or specialty serviceman, the Administrator may suspend or revoke the license of the licensed general serviceman or specialty serviceman and impose an administrative fine upon him of not more than $1,000.

Sec. 45. NRS 489.425 is hereby amended to read as follows:

489.425 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a manufacturer's, dealer's, ***distributor's,*** general serviceman's, specialty serviceman's, salesman's or ***responsible*** managing employee's license, the Division shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a manufacturer's, dealer's, ***distributor's,*** general serviceman's, specialty serviceman's, salesman's or ***responsible*** managing employee's license that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 46. NRS 489.481 is hereby amended to read as follows:

489.481 The Division shall adopt regulations providing fees for:

1. Certificates of installation;
2. Labels of installation;
3. Certificates of compliance;
4. Labels of compliance;
5. Certificates of ownership;
6. Licenses of manufacturers, dealers, ***distributors,*** salesmen, responsible managing employees, general servicemen and specialty servicemen;
7. Licenses for branch offices; and
8. Any other services provided by the Division.

Sec. 47. NRS 489.4971 is hereby amended to read as follows:

489.4971 1. The Account for Education and Recovery Relating to Manufactured Housing is hereby created within the Fund for Manufactured Housing to satisfy the claims of purchasers of manufactured homes, mobile homes ~~[or]~~ ***, manufactured buildings,*** commercial coaches ***or factory-built housing*** against persons licensed pursuant to the provisions of this chapter. Any balance in the Account over $500,000 at the end of any fiscal year must be set aside and used by the Administrator for education relating to manufactured homes, mobile homes, travel trailers ~~[or]~~ ***, manufactured buildings,*** commercial coaches ~~[,]~~ ***or factory-built housing.***

2. Upon the issuance or renewal of the following licenses by the Division, the licensee must pay, in addition to the original or renewal license fee, a fee:

(a) For a dealer's ***, distributor's*** or manufacturer's original license, or for any original limited dealer's license ~~[,]~~ ***which authorizes a limited dealer to act as a repossessor or liquidator,*** of $1,000.

(b) For a dealer's ***, distributor's*** or manufacturer's renewal license, or a renewal of any limited dealer's license ~~[,]~~ ***which authorizes a limited dealer to act as a repossessor or liquidator,*** of $600.

(c) For an original or renewal license for:

(1) A general serviceman or specialty serviceman, of $150.
(2) A salesman, of $75.
(3) A responsible managing employee, of $100.

➥ Except as otherwise provided in NRS 489.265, fees collected pursuant to this section must be deposited in the State Treasury for credit to the Account.

3. A payment from the Account to satisfy the claim of a purchaser specified in subsection 1 against a person who is licensed pursuant to this chapter must be made only upon an appropriate court order that is issued in an action for fraud, misrepresentation or deceit relating to an act for which a license is required pursuant to this chapter.

4. If a purchaser specified in subsection 1 commences an action specified in subsection 3 against a person who is licensed pursuant to this chapter, the purchaser must serve a copy of the complaint upon the Administrator within 30 days after the action is commenced.

Sec. 48. NRS 489.4975 is hereby amended to read as follows:

489.4975 1. If a purchaser of a manufactured home, mobile home ***,*** ***manufactured building*** or commercial coach ***or factory-built housing*** obtains a final judgment in any court of competent jurisdiction against any licensee under this chapter in an action specified in subsection 3 of NRS 489.4971, the judgment creditor may, upon the termination of all proceedings, including appeals in connection with any judgment, file a verified petition in the court in which the judgment was entered for an order directing payment from the Account in the amount of actual damages included in the judgment and unpaid, but not more than $25,000 per judgment and the liability of the Account may not exceed $100,000 for any licensee.

2. A copy of the petition must be served upon the Administrator and an affidavit of service filed with the court. The petition and each copy of the petition served pursuant to this subsection must set forth the grounds which entitle the judgment creditor to recover from the Account and must include a copy of:

(a) The final judgment specified in subsection 1;

(b) The complaint upon which the final judgment was entered; and

(c) If assets are known to exist, the writ of execution that was returned unsatisfied.

3. The court shall act upon the petition within 30 days after service and, upon the hearing of the petition, the judgment creditor must show that:

(a) He is not the spouse of the judgment debtor, or the personal representative of that spouse.

(b) He has complied with all the requirements of NRS 489.4971 to 489.4989, inclusive.

(c) He has obtained a judgment of the kind described in subsection 1, stating the amount of the judgment and the amount owing on it at the date of the petition.

(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of any of them that were found under the execution was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.

(e) He and the Division have made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.

(f) The petition has been filed not more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.

4. A person licensed pursuant to this chapter shall not recover from the Account for damages related to a transaction in which he acted in his capacity as a licensee.

Sec. 49. NRS 489.501 is hereby amended to read as follows:

489.501 1. When a new manufactured home, ***new*** mobile home ***, new manufactured building*** or ***new*** commercial coach ***or new factory-built housing*** is sold in this State by a dealer, he shall complete a ~~[~~dealer's~~]~~ report of sale. The ~~[~~dealer's~~]~~ report of sale must be in a form prescribed by the Division and include a description of the manufactured home, mobile home ~~[~~or~~]~~ ***, manufactured building,*** commercial coach ~~[~~,~~]~~ ***or factory-built housing,*** the name and address of the seller and the name and address of the buyer. If in connection with the sale a security interest is taken or retained by the seller or dealer to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the manufactured home, mobile home ~~[~~or~~]~~ ***, manufactured building,*** commercial coach ~~[~~,~~]~~ ***or factory-built housing,*** the name and address of the secured party or his assignee must be entered on the ~~[~~dealer's~~]~~ report of sale.

2. The dealer shall require the buyer to sign an acknowledgment of taxes, on a form prescribed by the Division, which includes a statement that a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** is taxable in the county in which it is located. A dealer who sells a new manufactured home, ***new*** mobile home ***, new manufactured building*** or ***new*** commercial coach ***or new factory-built housing*** shall deliver the buyer's copy of the acknowledgment of taxes to him at the time of sale and submit another copy within 30 days after the date of the sale to the county assessor of the county in which the manufactured home, mobile home ~~[~~or~~]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** will be located.

3. The dealer shall submit the original of the ~~[~~dealer's~~]~~ report of sale and the manufacturer's certificate or statement of origin to the Division within 30 days after the execution of all instruments which the contract of sale required to be executed at the time of sale or within 30 days after the date of sale, whichever is later, unless an extension of time is granted by the Division.

4. A dealer who sells a new manufactured home, ***new*** mobile home ***, new manufactured building*** or ***new*** commercial coach ***or new factory-built housing*** shall deliver the buyer's copy of the report of sale to him at the time of sale and submit another copy within 30 days after the date of the sale to the county assessor of the county in which the manufactured home, mobile home ~~[~~or~~]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** will be located.

Sec. 50. NRS 489.511 is hereby amended to read as follows:

489.511 1. If a used or rebuilt manufactured home, mobile home ***, manufactured building*** or commercial coach ***or used or rebuilt factory-built housing*** is sold in this State by a dealer, the dealer shall complete a dealer's report of sale. The report must be in a form prescribed by the Division and include a description of the manufactured home, mobile home ~~[~~or~~]~~ ***, manufactured building,*** commercial coach ~~[~~,~~]~~ ***or factory-built housing,*** the name and address of the seller and the name and address of the buyer. If a security interest exists at the time of the sale, or if in connection with the sale

a security interest is taken or retained by the seller or dealer to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,*** the name and address of the secured party must be entered on the dealer's report of sale.

2. The dealer shall submit the original of the dealer's report of sale to the Division within 45 days after the execution of all instruments which the contract of sale requires to be executed at the time of the sale, unless an extension of time is granted by the Division, together with the endorsed certificate of title or certificate of ownership previously issued. The dealer shall furnish one copy of the report of sale to the buyer at the time of the sale. Within 45 days after the sale, the dealer shall furnish one copy of the report of sale to the assessor of the county in which the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** will be located.

3. The dealer shall require the buyer to sign an acknowledgment of taxes, on a form prescribed by the Division, which includes a statement that the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is taxable in the county in which it is located. The dealer shall deliver the buyer's copy of the acknowledgment to him at the time of sale and submit another copy to the county assessor of the county in which the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is to be located.

4. If a used or rebuilt manufactured home, mobile home ***, manufactured building*** or commercial coach ***or used or rebuilt factory-built housing*** is sold by a dealer pursuant to an installment contract or other agreement by which the certificate of title or certificate of ownership does not pass immediately from the seller to the buyer upon the sale, the dealer shall submit to the Division any information required by the regulations adopted by the Administrator pursuant to NRS 489.272.

Sec. 51. NRS 489.521 is hereby amended to read as follows:

489.521 1. If a used or rebuilt manufactured home, mobile home ***, manufactured building*** or commercial coach ***or used or rebuilt factory-built housing*** is sold in this State by a person who is not a dealer, the seller or buyer, or both, shall submit to the Division, and a copy to the county assessor of the county in which the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is located, within 45 days after the sale:

(a) If a certificate of ownership has been issued in this State, that certificate properly endorsed.

(b) If a certificate of title or other document of title has been issued by a public authority of another state, territory or country:

(1) The certificate or document properly endorsed; and

(2) A statement showing, if not included on the endorsed certificate or document, the description of the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,*** the names and addresses of the buyer and seller, and the name and address of any person who takes or retains a purchase money security interest. The statement must be signed and acknowledged by the seller and buyer.

(c) If a document of title has not been issued by any public authority, a statement showing all the information and signed and acknowledged in the manner required by subparagraph (2) of paragraph (b) of subsection 1.

2. If a used or rebuilt manufactured home, mobile home ***, manufactured building*** or commercial coach ***or used or rebuilt factory-built housing*** is sold by a person who is not a dealer pursuant to an installment contract or other agreement by which the certificate of title or certificate of ownership does not pass immediately from the seller to the buyer upon the sale, the seller or buyer, or both, shall submit to the Division any information required by the regulations adopted by the Administrator pursuant to NRS 489.272.

Sec. 52. NRS 489.541 is hereby amended to read as follows:

489.541 1. Except as otherwise provided in ~~[subsection 4,]~~ ***subsections 4 and 5,*** upon receipt of the documents required by the Division, the Division shall issue a certificate of ownership.

2. If no security interest is created or exists in connection with the sale, the certificate of ownership must be issued to the buyer.

3. If a security interest is created by the sale, the certificate of ownership must be issued to the secured party or his assignee, and must show the name of the registered owner.

4. The Division shall not issue a certificate of ownership for a mobile home that has been determined to be substandard until the conditions that rendered the mobile home substandard are abated.

5. The Division shall not issue a certificate of title or certificate of ownership for factory-built housing that constitutes real property pursuant to subsection 4 of NRS 361.244.

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. NRS 489.7154 is hereby amended to read as follows:

489.7154 1. Except as otherwise provided in subsection 2, a dealer shall not obtain or attempt to obtain the signature of a buyer on a contract for the sale or exchange of an interest in a mobile home, manufactured home ***, manufactured building*** or commercial coach ***or factory-built housing*** if any of the essential provisions of the contract are not set forth in the contract.

2. The dealer may insert:

(a) The identification number or identifying marks of a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing;*** and

(b) The date the first installment payment for the sale or exchange is due from the buyer,

➥ into the blank spaces of a contract after the contract has been signed by a buyer if the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** was not delivered to the buyer on the date the contract was executed.

3. The Administrator shall prescribe, by regulation, the essential provisions of a contract.

Sec. 56. NRS 489.7156 is hereby amended to read as follows:

489.7156 A brokerage agreement that includes a provision that grants a dealer the exclusive right to assist, solicit or negotiate the sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** on behalf of a client is enforceable if the agreement:

1. Is in writing;

2. Sets forth the date the brokerage agreement expires;

3. Does not require the client to perform any act concerning the brokerage agreement after the agreement expires; and

4. Is signed by the client or his representative and the dealer or his representative.

Sec. 57. NRS 489.7158 is hereby amended to read as follows:

489.7158 1. A dealer who has entered into a brokerage agreement with a client for the sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** shall:

(a) Seek the price and terms for the sale or exchange that are set forth in the brokerage agreement or are approved by the client;

(b) Present all offers made to or by the client as soon as practicable;

(c) Disclose to the client all the material facts known by him concerning the sale or exchange;

(d) Advise the client to obtain advice from an expert concerning any matters that are beyond the knowledge or expertise of the dealer;

(e) As soon as practicable, account for all money and property he receives in which the client may have a financial interest; and

(f) As soon as practicable, deliver to each party a copy of the executed contract for the sale or exchange.

2. A dealer shall not enter into a brokerage agreement with a client for the sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** unless the dealer has determined that the client will be able to deliver good title upon the execution of the sale or exchange of the interest in the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[.]~~ ***or factory-built housing.***

Sec. 58. (Deleted by amendment.)

Sec. 59. NRS 489.717 is hereby amended to read as follows:

489.717 1. A dealer shall not require a person to obtain a loan or financing from him or any other person as a condition to the purchase, sale or

exchange of a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.***

2. A dealer shall disclose the substance of subsection 1 to each person with whom it agrees to purchase, sell or exchange a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.*** The Division may adopt regulations concerning the form and manner of the disclosure.

Sec. 60. NRS 489.723 is hereby amended to read as follows:

489.723 1. Any money that a dealer receives from a client or other person concerning the sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** must be accounted for by the dealer when:

(a) The sale or exchange of the interest in the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is executed; or

(b) The contract for the sale or exchange of the interest in the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is rescinded by the dealer, client or any other person,

➥ whichever occurs earlier.

2. The dealer shall:

(a) Prepare or cause to be prepared a written itemized statement concerning each expenditure or deduction of money made by the dealer;

(b) Deliver or cause to be delivered to each person from whom the dealer received money a copy of the written itemized statement; and

(c) Maintain a copy of the written itemized statement at his place of business.

3. Except as otherwise provided in a brokerage agreement or an escrow agreement signed by the parties to a sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** and the escrow agent or escrow officer licensed pursuant to the provisions of chapter 645A or 692A of NRS, no money concerning that sale or exchange held by a dealer may be distributed until:

(a) An application for:

(1) A certificate of ownership for the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing;*** or

(2) A certificate of title or certificate of ownership that does not pass immediately upon the sale or transfer of the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,***

➥ has been submitted to the Division;

(b) Each person who has a financial interest in the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-***

built housing has executed a document that releases or waives his interest; and

(c) Each party to the sale or exchange has complied with the requirements for the sale or exchange that are set forth in the regulations adopted pursuant to the provisions of this chapter.

Sec. 61. NRS 489.724 is hereby amended to read as follows:

489.724 1. All down payments, deposits of earnest money, proceeds of loans or other money which a dealer receives ~~[,]~~ on behalf of his principal or any other person ~~[,]~~ must be deposited in ***:*** ~~[a]~~

(a) An escrow account maintained by an escrow agent or escrow officer licensed pursuant to chapter 645A or 692A of NRS; or

(b) A separate checking account, which must be designated a trust account, in a financial institution in this State whose deposits are insured by an agency of the Federal Government or by a private insurer approved pursuant to NRS 678.755.

2. Every dealer required to maintain a separate or trust account shall keep records of all money deposited therein. The records must clearly indicate the date and from whom he received money, the date deposited, the dates of withdrawals ~~[,]~~ and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. All such records and money are subject to inspection and audit by the Division and its authorized representatives ~~[.]~~ ***pursuant to section 12 of this act.*** All such separate trust accounts must designate the dealer as trustee and provide for the withdrawal of money without previous notice. ***The dealer shall balance each separate trust account at least monthly. The dealer shall provide to the Division, on a form provided by the Division, an annual accounting which shows an annual reconciliation of each separate trust account.***

3. All money deposited in a separate trust account from down payments, deposits of earnest money, proceeds of loans or other money received by a dealer from a person pursuant to a written contract signed by the dealer and that person must not be withdrawn from the account except to pay specific expenses as authorized by the written contract. ***The dealer is personally responsible and liable for such money at all times. A dealer shall not permit any advance payment of money belonging to another person to be deposited in the dealer's business or personal account or to be commingled with any money he has on deposit.***

4. Each dealer shall notify the Division of the names of the financial institutions in which he maintains trust accounts and specify the names of the accounts on forms provided by the Division.

Sec. 62. NRS 489.729 is hereby amended to read as follows:

489.729 If a licensed dealer takes a mobile home, manufactured home ***, manufactured building*** or commercial coach ***or factory-built housing*** in trade on the purchase of another such home ***, building*** or coach and there is an outstanding security interest, the licensed dealer shall satisfy the

outstanding security interest within 30 days after the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is taken in trade on the purchase of the other home ***, building*** or coach.

Sec. 63. NRS 489.741 is hereby amended to read as follows:

489.741 No right of action exists in favor of any person by reason of any action or failure to act on the part of the Division or any of its officers or employees in carrying out the provisions of this chapter, or in giving or failing to give any information concerning the legal ownership of a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** or the existence of a security interest in it.

Sec. 64. NRS 489.751 is hereby amended to read as follows:

489.751 1. Unless otherwise specifically waived in writing by the buyer, for each sale ~~[of a manufactured home, mobile home or commercial coach]~~ in which the dealer is the seller or an agent of the seller, there is an implied warranty by the dealer that all the essential systems are in working order upon the execution of the sale. For the purposes of this subsection, the words "as is" or any similar words do not constitute a waiver of the implied warranty unless the words specifically refer to a specific component of an essential system.

2. As used in this section, "essential system" means the heating, air-conditioning, electrical, plumbing and drainage systems of a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.***

Sec. 65. NRS 489.772 is hereby amended to read as follows:

489.772 "Transferee" means any person who purchases, leases or ***otherwise*** takes possession ~~[in any other manner]~~ or attempts to purchase, lease or ***otherwise*** take possession ~~[in any other manner]~~ of a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** or any interest therein from a transferor.

Sec. 66. NRS 489.774 is hereby amended to read as follows:

489.774 "Transferor" means any person who:

1. Sells or leases or attempts to sell or lease a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** or any interest therein to a transferee; or

2. Transfers or attempts to transfer a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** or any interest therein to a transferee in any other manner.

Sec. 67. NRS 489.776 is hereby amended to read as follows:

489.776 1. Except as otherwise provided in this section and unless required to make a disclosure pursuant to NRS 40.770, if a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine, a transferor or his agent who has

actual knowledge of such information shall disclose the information to a transferee or his agent.

2. The disclosure described in subsection 1 is not required if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** by an entity certified or licensed to do so; or

(b) The manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** has been deemed safe for habitation by a governmental entity.

3. The disclosure described in subsection 1 is not required for any sale or other transfer or intended sale or other transfer of a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** by a transferor:

(a) To any co-owner of the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,*** the spouse of the transferor or a person related within the third degree of consanguinity to the transferor; or

(b) If the transferor is a dealer and this is the first sale or transfer of a new manufactured home, ***new*** mobile home ***, new manufactured building*** or ***new*** commercial coach ~~[.]~~ ***or new factory-built housing.***

4. The Division may adopt regulations to carry out the provisions of this section.

Sec. 68. NRS 489.778 is hereby amended to read as follows:

489.778 1. A transferor or his agent, or both, who violates any provision of NRS 489.776 may be held liable to the transferee in any action at law or in equity.

2. An agent of a transferee who has actual knowledge of any information required to be disclosed pursuant to NRS 489.776 may be held liable to the transferee in any action at law or in equity if he fails to disclose that information to the transferee.

3. If a transferor makes a disclosure pursuant to NRS 489.776, the transferee may:

(a) Rescind the agreement to purchase, lease or take possession of the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing;***

(b) Make the agreement to purchase, lease or take possession of the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** contingent upon the repair of any damage to the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** that has been caused by the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Accept the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** with the damage as disclosed by the transferor without further recourse.

4. The rights and remedies provided by this section are in addition to any other rights or remedies that may exist at law or in equity.

Sec. 69. NRS 489.811 is hereby amended to read as follows:

489.811 1. Except as otherwise provided in subsection 5, any person who violates any of the provisions of this chapter is liable to the State for a civil penalty of not more than $1,000 for each violation. Each violation of this chapter or any regulation or order issued under it constitutes a separate violation with respect to each manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** and with respect to each failure or refusal to allow or perform an act required by this chapter or regulation or order, except that the maximum civil penalty is $1,000,000 for any related series of violations occurring within 1 year after the first violation.

2. Before the adoption of any regulation for whose violation a civil penalty may be imposed, the Administrator shall give at least 30 days' written notice to every licensed manufacturer, dealer, ***distributor,*** general serviceman and specialty serviceman, and every other interested party who has requested the notice.

3. An action to enforce a civil penalty must be brought in a court of competent jurisdiction in the county in which the defendant has his principal place of business.

4. All money collected as civil penalties pursuant to the provisions of this chapter must be deposited in the State General Fund.

5. This section does not apply to a manufacturer ***, distributor*** or dealer of travel trailers.

Sec. 70. NRS 489.821 is hereby amended to read as follows:

489.821 1. A person is guilty of a gross misdemeanor who knowingly:

(a) Makes any false entry on any certificate of origin or certificate of ownership.

(b) Furnishes false information to the Division concerning any security interest.

(c) Files with the Administrator any notice, statement or other document required under the provisions of this chapter which is false or contains any material misstatement of fact.

(d) Whether acting individually or as a director, officer or agent of a corporation, violates a provision of the National Manufactured Housing Construction and Safety Standards Act of 1974 ***,*** ~~[(]~~ 42 U.S.C. 5401 et seq. ~~[),]~~ ***, this chapter and chapter 461 of NRS, and any regulations adopted pursuant thereto,*** causing a condition which endangers the health or safety of a purchaser of a manufactured home.

2. A dealer is guilty of a gross misdemeanor who knowingly:

(a) Fails to maintain a trust account as required by NRS 489.724.

(b) Commingles the money or other property of a seller or purchaser of a manufactured home ***, manufactured building*** or ~~[a]~~ mobile home ***or factory-built housing*** with his own.

(c) Fails to cooperate or comply with or knowingly impedes or interferes with any investigation or audit conducted by the Division pursuant to section 12 of this act.

(d) Acts as a dealer while insolvent or engages in any financial practice which creates a substantial risk of insolvency.

3. Except as ***otherwise*** provided in ~~[~~subsections 1, 2 and 4 of~~]~~ this section, any person who knowingly or willfully violates any ~~[~~of the provisions~~]~~ ***provision*** of this chapter is guilty of a misdemeanor.

4. Subsection 3 does not apply to a manufacturer of travel trailers.

Sec. 71. NRS 108.355 is hereby amended to read as follows:

108.355 1. A person contesting the validity of a lien on a mobile home or manufactured home may file a notice of opposition to the lien in the justice court in whose jurisdiction the mobile home or manufactured home is located. The notice of opposition must be filed within 5 days after the person filing the notice receives the notice of sale by auction, must be made on a form provided by the clerk of the justice court and must include the facts supporting the notice. The person filing the notice shall serve certified copies of it upon the lien claimant and the Manufactured Housing Division of the Department of Business and Industry.

2. Upon the filing of the notice of opposition to the lien, the justice of the peace shall schedule a hearing on the notice, which must be held as soon as practicable but not sooner than 5 days after service of the notice. The justice of the peace shall affix the date of the hearing to the notice and order that a copy be served upon the lien claimant within 5 days after the date of the order.

3. The justice of the peace shall either dismiss the objections to the lien claim, declare the lien invalid or declare the amount of the lien if it is different from that described by the lien claimant.

4. After receipt of a notice of opposition to a lien or other notice pursuant to any proceeding to contest the validity of a lien, the Manufactured Housing Division of the Department of Business and Industry shall not transfer the title to the mobile home or manufactured home that is the subject of the lien until the matter has been adjudicated.

5. This section does not affect the rights of a secured party pursuant to chapter 104 of NRS.

Sec. 72. Chapter 118B of NRS is hereby amended by adding thereto the provisions set forth as sections 73 ~~[, 74 and]~~ **to** 75**, inclusive,** of this act.

Sec. 73. ***"Certified appraiser" means an appraiser who possesses the necessary qualifications pursuant to the provisions of this chapter.***

Sec. 74. ***To qualify as a certified appraiser, a person must*** ~~*[be a dealer licensed pursuant to chapter 489 of NRS and]*~~ ***possess a professional certification as an appraiser issued by:***

1. The National Society of Appraiser Specialists, including, without limitation, a Board Certified Manufactured Housing Valuation designation; or

2. Any other organization approved by the Division.

Sec. 74.5. A person who makes a determination of the fair market value of a manufactured home pursuant to the provisions of NRS 118B.130, 118B.177, 118B.180 or 118B.183 shall make such determination in compliance with the guidelines of:

1. The most current edition of the Manufactured Housing Cost Guide of the National Automobile Dealers Association; or

2. The Manufactured Housing National Appraisal System of the National Automobile Dealers Association.

Sec. 75. ***No right of action exists in favor of any person by reason of any action or failure to act on the part of the Division or any of its officers or employees in carrying out the provisions of this chapter.***

Sec. 76. NRS 118B.010 is hereby amended to read as follows:

118B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 118B.011 to 118B.0195, inclusive, ***and section 73 of this act*** have the meanings ascribed to them in those sections.

Sec. 77. NRS 118B.120 is hereby amended to read as follows:

118B.120 1. The landlord or his agent or employee may:

(a) Require that the tenant landscape and maintain the tenant's lot if the landlord advises the tenant in writing of reasonable requirements for the landscaping.

(b) If the tenant does not comply with the provisions of paragraph (a), maintain the tenant's lot and charge the tenant a service fee for the actual cost of that maintenance.

(c) Require that the manufactured home be removed from the park if it is unoccupied for more than 90 consecutive days and the tenant or dealer is not making good faith and diligent efforts to sell it.

2. The landlord shall maintain, in the manner required for the other tenants, any lot on which is located a manufactured home within the park which has been repossessed, abandoned or held for rent or taxes. The landlord is entitled to reimbursement for the cost of that maintenance from the repossessor or lienholder or from the proceeds of any sale for taxes, as the case may be.

3. ***Before dismantling a manufactured home that was abandoned, the landlord or manager must:***

(a) Conduct a title search with the Division to determine the owner of record of the manufactured home. If the owner of record is not found, the landlord or manager may use the records of the county assessor for the county in which the manufactured home is located to determine the owner of the manufactured home.

(b) Send a certified letter notifying the owner and any lienholder of the intent of the landlord or manager to dismantle the manufactured home.

(c) If the owner does not respond within 30 days after the date of mailing the certified letter, submit to the Division an affidavit of dismantling.

4. The landlord shall trim all the trees located within the park and dispose of the trimmings from those trees absent a written voluntary assumption of that duty by the tenant for trees on the tenant's lot.

~~[4.]~~ ***5.*** For the purposes of this section, a manufactured home shall be deemed to be abandoned if:

(a) It is located on a lot in a manufactured home park, other than a cooperative park, for which no rent has been paid for at least 60 days;

(b) It is unoccupied; and

(c) The manager of the manufactured home park reasonably believes it to be abandoned.

Sec. 78. NRS 118B.130 is hereby amended to read as follows:

118B.130 1. A landlord may not change:

(a) An existing park to a park for older persons pursuant to federal law unless the tenants who do not meet those restrictions and may lawfully be evicted are moved to other parks at the expense of the landlord; or

(b) The restriction of a park for older persons pursuant to federal law unless the tenants are given the option of remaining in their spaces or moving to other parks at the expense of the landlord.

2. A tenant who elects to move pursuant to a provision of subsection 1 shall give the landlord notice in writing of his election to move within 75 days after receiving notice of the change in restrictions in the park.

3. At the time of providing notice of the change in restrictions in the park, the landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If a landlord is required to move a tenant to another park pursuant to subsection 1, he shall pay:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or

(b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles, ➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement

for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.

6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

7. A landlord of a park in which restrictions have been or are being changed shall give written notice of the change to each:

(a) Tenant of the park who does not meet the new restrictions; and

(b) Prospective tenant before the commencement of the tenancy.

8. For the purposes of this section, the fair market value of a manufactured home ~~[and the reasonable cost of removing and disposing of a manufactured home]~~ must be determined ~~[by:]~~ ***as follows:***

(a) A dealer licensed pursuant to chapter 489 of NRS who is ~~[agreed upon]~~ ***a certified appraiser and who is selected jointly*** by the landlord ***or his agent*** and ***the*** tenant ~~[; or]~~ ***shall make the determination.***

(b) ~~[If the landlord and tenant cannot agree pursuant to]~~ ***If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers available for the purposes of*** paragraph (a), ***a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his agent and the tenant shall make the determination.***

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS ***or a certified appraiser*** who ~~[is selected for this purpose by the Division]~~ ~~[.]~~ ***shall make the determination.***

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~[reasonable]~~ cost of removing and disposing of a manufactured home pursuant to subsection 6.

Sec. 79. NRS 118B.177 is hereby amended to read as follows:

118B.177 1. If a landlord closes a manufactured home park, or if a landlord is forced to close a manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park permanently for health or safety reasons, the landlord shall pay the amounts required by subsections 3, 4 and 5.

2. At the time of providing notice of the closure of the park, a landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

3. If the tenant chooses to move the manufactured home **[**~~, the~~**]** ***:***

(a) The tenant shall, within 75 days after receiving notice of the closure, notify the landlord in writing of the tenant's election to move the manufactured home; and

(b) The landlord shall pay to the tenant:

[~~(a)~~**]** ***(1)*** The cost of moving each tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or

[~~(b)~~**]** ***(2)*** If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles,

➥ including fees for inspection, any deposits for connecting utilities **[**~~,~~**]** and the cost of taking down, moving, setting up and leveling the manufactured home and its appurtenances in the new lot or park.

4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.

5. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

6. Written notice of any closure must be served timely on each:

(a) Tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

(b) Prospective tenant by:

(1) Handing each prospective tenant or his agent a copy of the written notice; and

(2) Maintaining a copy of the written notice at the entrance of the manufactured home park.

7. For the purposes of this section, the fair market value of a manufactured home **[**~~and the reasonable cost of removing and disposing of a manufactured home~~**]** must be determined **[**~~by:~~**]** ***as follows:***

(a) A dealer licensed pursuant to chapter 489 of NRS who is ~~[agreed upon]~~ ***a certified appraiser and who is selected jointly*** by the landlord ***or his agent*** and ***the*** tenant ~~[; or]~~ ***shall make the determination.***

(b) ~~[If the landlord and tenant cannot agree pursuant to]~~ ***If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers for the purposes of*** paragraph (a), ***a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his agent and the tenant shall make the determination.***

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS ***or a certified appraiser*** who ~~[is selected for this purpose by the Division]~~ ~~[.]~~ ***shall make the determination.***

8. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~[reasonable]~~ cost of removing and disposing of a manufactured home pursuant to subsection 5.

9. A landlord shall not increase the rent of a tenant after notice is served on the tenant as required by subsection 6.

10. If a landlord begins the process of closing a manufactured home park, he shall comply with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

11. As used in this section, "timely" means not later than 3 days after the landlord learns of a closure.

Sec. 80. NRS 118B.180 is hereby amended to read as follows:

118B.180 1. A landlord may convert an existing manufactured home park into individual manufactured home lots for sale to manufactured home owners if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to the Division and each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord offers, in writing, to sell the lot to the tenant at the same price the lot will be offered to the public and holds that offer open for at least 90 days or until the landlord receives a written rejection of the offer from the tenant, whichever occurs earlier;

(c) The landlord does not sell the lot to a person other than the tenant for 90 days after the termination of the offer required pursuant to paragraph (b) at a price or on terms that are more favorable than the price or terms offered to the tenant;

(d) If a tenant does not exercise his option to purchase the lot pursuant to paragraph (b), the landlord pays:

(1) The cost of moving the tenant's manufactured home and its appurtenances to a comparable location in this State or another state within 100 miles from the manufactured home park; or

(2) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles, ➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park;

(e) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, notice in writing is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot; and

(f) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.

5. If a tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

6. Notice sent pursuant to paragraph (a) of subsection 2 or an offer to sell a manufactured home lot to a tenant required pursuant to paragraph (b) of subsection 2 does not constitute notice of termination of the tenancy.

7. Upon the sale of a manufactured home lot and a manufactured home which is situated on that lot, the landlord shall indicate what portion of the purchase price is for the manufactured home lot and what portion is for the manufactured home.

8. For the purposes of this section, the fair market value of a manufactured home ~~[and the reasonable cost of removing and disposing of a manufactured home]~~ must be determined ~~[by:]~~ ***as follows:***

(a) A dealer licensed pursuant to chapter 489 of NRS who is ~~[agreed upon]~~ ***a certified appraiser and who is selected jointly*** by the landlord ***or his agent*** and ***the*** tenant ~~[; or]~~ ***shall make the determination.***

(b) ~~[If the landlord and tenant cannot agree pursuant to]~~ ***If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers available for the purposes of*** paragraph (a), ***a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his agent and the tenant shall make the determination.***

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS ***or a certified appraiser*** who ~~[is selected for this purpose by the Division]~~ ~~[.]~~ ***shall make the determination.***

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~[reasonable]~~ cost of removing and disposing of a manufactured home pursuant to subsection 5.

10. The provisions of this section do not apply to a corporate cooperative park.

Sec. 81. NRS 118B.183 is hereby amended to read as follows:

118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to the Division and each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord pays the amounts required by subsections 4, 5 and 6;

(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot; and

(d) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If the tenant chooses to move the manufactured home ~~[, the]~~ ***:***

(a) The tenant shall, within 75 days after receiving notice of the conversion, notify the landlord in writing of the tenant's election to move the manufactured home; and

(b) The landlord shall pay to the tenant:

~~[(a)]~~ ***(1)*** The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or

~~[(b)]~~ ***(2)*** If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles,

➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.

6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

7. A landlord shall not increase the rent of any tenant:

(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or

(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:

(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and

(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.

8. For the purposes of this section, the fair market value of a manufactured home ~~[and the reasonable cost of removing and disposing of a manufactured home]~~ must be determined ~~[by:]~~ ***as follows:***

(a) A dealer licensed pursuant to chapter 489 of NRS who is ~~[agreed upon]~~ ***a certified appraiser and who is selected jointly*** by the landlord ***or his agent*** and ***the*** tenant ~~[; or]~~ ***shall make the determination.***

(b) ~~[If the landlord and tenant cannot agree pursuant to]~~ ***If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers available for the purposes of*** paragraph (a), ***a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his agent and the tenant shall make the determination.***

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS ***or a certified appraiser*** who ~~[is selected for this purpose by the Division]~~ ~~[.]~~ ***shall make the determination.***

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~[reasonable]~~ cost of removing and disposing of a manufactured home pursuant to subsection 6.

10. The provisions of this section do not apply to a corporate cooperative park.

Sec. 82. Chapter 461 of NRS is hereby amended by adding thereto a new section to read as follows:

No right of action exists in favor of any person by reason of any action or failure to act on the part of the Division or any of its officers or employees in carrying out the provisions of this chapter.

Sec. 82.5. NRS 461.132 is hereby amended to read as follows:

461.132 "Manufactured building" ~~[includes]~~ ***means*** any modular building or any building ***which is*** constructed ***in whole or in substantial part***

using ~~[one or more]~~ modular components, but does not include a recreational park trailer.

Sec. 83. NRS 624.3015 is hereby amended to read as follows:

624.3015 The following acts, among others, constitute cause for disciplinary action under NRS 624.300:

1. Acting in the capacity of a contractor beyond the scope of the license.

2. Bidding to contract or contracting for a sum for one construction contract or project in excess of the limit placed on the license by the Board.

3. Knowingly bidding to contract or entering into a contract with a contractor for work in excess of his limit or beyond the scope of his license.

4. Knowingly entering into a contract with a contractor while that contractor is not licensed.

5. Constructing or repairing a mobile home, manufactured home ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing*** unless the contractor:

(a) Is licensed pursuant to NRS 489.311; or

(b) Owns, leases or rents the mobile home, manufactured home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[.]~~ ***or factory-built housing.***

6. Engaging in any work or activities that require a contractor's license while the license is placed on inactive status pursuant to NRS 624.282.

Sec. 84. NRS 489.601 is hereby repealed.

Sec. 85. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

489.601 Special plates for movement of manufactured home, mobile home or commercial coach: Issuance; regulations; fees.

1. Except as otherwise provided in NRS 489.611, any manufacturer or dealer having an established place of business in this State, and owning or controlling any new or used manufactured home, mobile home or commercial coach, may move the manufactured home, mobile home or commercial coach for the purposes of display, maintenance, sale or exchange if there is displayed on it a special plate issued to the manufacturer or dealer as provided by this section.

2. Upon issuance of a manufacturer's or dealer's license pursuant to this chapter, the Division shall furnish to the licensee one or more special plates for use on manufactured homes, mobile homes and commercial coaches pursuant to subsection 1. Each plate must have displayed upon it the identification number which is assigned to the manufacturer or dealer and may, at the discretion of the Division, have a different letter or symbol on each plate. The plates may be used interchangeably on the manufactured homes, mobile homes or commercial coaches.

3. The Division shall, by regulation, determine the number of plates to which each manufacturer or dealer is entitled.

4. The Department shall supply the Division with the special plates.

5. There must be paid to the Division a fee of $12 at the time application for a special plate is made, and by the Division to the Department, a fee of $5.50 for each special plate.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 152.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 778.

AN ACT relating to energy; providing for the training of persons to perform jobs which promote energy efficiency; requiring governmental entities to perform certain functions to promote energy efficiency; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the use of the incentives contained in the recently signed federal American Recovery and Reinvestment Act of 2009 to provide job training, the promotion of energy efficiency and the promotion of the use of renewable energy in Nevada. **Sections 9 and 10** of this bill seek to take advantage of those incentives by providing specific training to persons in this State, establishing projects that will require the skills for which those persons are trained and providing for the employment of those persons. **Section 9** requires the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry to establish contractual relationships with nonprofit collaboratives to provide training in the fields of energy efficiency and renewable energy, including training in the areas of weatherization, energy retrofit applications and performing energy audits. Within the limits of available money, the collaboratives will carry out programs for job training and provide apprenticeship programs in specific energy-related fields. Within the limits of money available, the Housing Division is required to contract with the nonprofit collaboratives, governmental entities, community action agencies and other nonprofit corporations to identify neighborhoods that will qualify for funding for residential weatherization projects and award contracts for projects to promote energy efficiency through residential weatherization. Such contracts awarded must provide for employing the persons trained by the nonprofit collaborative for this purpose, paying those employees prevailing wages and offering the employees and their dependents health care insurance.

Section 10 of this bill requires the State Public Works Board, the board of trustees of each school district and the Board of Regents of the University of Nevada, within 90 days after the effective date of this bill, to each establish projects to weatherize and retrofit public buildings, facilities and structures in this State, including without limitation, traffic-control systems, and to

otherwise use sources of renewable energy to serve those buildings, facilities and structures. **Section 10** further sets forth criteria for prioritizing those projects. Those entities are further required to enter into contracts for the projects as soon as practicable. Such contracts are required to provide that employees of the contractors and subcontractors on the project be paid prevailing wages, that the contractor or subcontractor employ a certain number of employees trained by a nonprofit cooperative and pay them prevailing wages and that the contractor offer employees on the project and their dependents health care insurance.

Section 11 of this bill provides that within the limits of money available, the State Public Works Board and the Division of State Parks of the State Department of Conservation and Natural Resources shall conduct studies to determine the feasibility of carrying out certain projects for providing alternative sources of energy in this State.

Section 12 of this bill requires the Labor Commissioner to adopt the job classifications and wage rates established by the Federal Government for certain jobs relating to residential weatherization and to enforce those job classifications and wage rates in the same manner that he enforces the labor laws and regulations of this State generally.

Section 13 of this bill requires the Office of Energy within the Office of the Governor, the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry to report to the Interim Finance Committee concerning the application for and acceptance and expenditure of any money available to the State to carry out the purposes of this bill pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

WHEREAS, The unemployment rate in the State of Nevada is currently 9.1 percent and is expected to reach 11.4 percent sometime during 2009; and

WHEREAS, Many of Nevada's 128,000 unemployed residents have lost jobs in the construction and service sectors as the construction industry has faltered as a result of the mortgage foreclosure crisis and as the service industry, including gaming and tourism, has faltered as a result of the curtailment of discretionary spending on a national level; and

WHEREAS, One of the most effective methods of returning unemployed Nevadans to work is to create "green jobs" by developing new industries in this State in a manner that takes advantage of incentives offered by the Federal Government for job training, the promotion of energy efficiency and the promotion of the use of renewable energy; and

WHEREAS, An immediate step which may be taken to put Nevadans back to work is to coordinate job training with programs for weatherization and energy efficiency that are part of the recently enacted federal economic stimulus package; and

WHEREAS, In such a manner, unemployed Nevadans may learn new skills in fields such as energy auditing and the installation of energy efficient equipment and improvements, and then go to work performing such tasks as

weatherizing homes, retrofitting public buildings, helping lower-income Nevadans to save on their utility bills, and reducing energy costs for schools, government buildings and other public facilities; and

WHEREAS, The Green Jobs Initiative can be accomplished through a public-private partnership that combines the resources of state agencies, local housing authorities, institutions of higher education, joint labor-management partnerships, apprenticeship programs and private contractors under the "umbrella" of a nonprofit collaborative; and

WHEREAS, The Green Jobs Initiative would function to establish programs to provide job training and outreach for the weatherization and retrofitting of buildings and facilities in northern Nevada, southern Nevada and rural Nevada; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. ***Sections 2 to 10, inclusive, of this act may be cited as the Green Jobs Initiative.***

Sec. 3. ***As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Department" means the Department of Employment, Training and Rehabilitation.***

Sec. 5. ***"Division" means the Housing Division of the Department of Business and Industry.***

Sec. 6. ***1. "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:***

(a) Biomass;

(b) Fuel cells;

(c) Geothermal energy;

(d) Solar energy;

(e) Waste heat;

(f) Waterpower; and

(g) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 7. ***"Retrofitting" means the alteration, improvement, modification, remodeling or renovation of a building, facility, residence or structure to make that building, facility, residence or structure more energy efficient.***

Sec. 8. ***"Weatherization" means materials or measures, and their installation, that are used to improve the thermal efficiency of a building, facility, residence or structure.***

Sec. 9. ***1. The Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry shall establish contractual relationships with one or more nonprofit collaboratives to carry out the State's mission of creating new jobs in the fields of energy efficiency and renewable energy by combining job training with weatherization, energy retrofit applications or the development of renewable energy plants.***

2. To qualify as a nonprofit collaborative for the purposes of this section ~~[:~~

~~(a) A]~~ ***, a nonprofit entity*** ~~[must]~~ ***:***

(a) Must enter into a written agreement relating to job training and career development activities with : ~~[one or more of the following:]~~

(1) A labor management agency or other affiliated agency which has established an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS; and

(2) A community college or another institution of higher education; ~~[or~~

~~(3) A trade association which has an accredited job skills training program; and~~

~~(b) The nonprofit entity must]~~ ***and***

(b) Must conduct or have the ability to conduct training programs in at least one of the three geographic regions of this State, including southern Nevada, northern Nevada and rural Nevada.

➥ Such a nonprofit entity may also enter into a written agreement relating to job training and career development activities with a trade association which has an accredited job skills training program.

3. Within the limits of money available to the Department for this purpose, the Department shall contract with one or more qualified nonprofit collaboratives to:

(a) Carry out programs for job training in fields relating to energy efficiency and the use of renewable energy.

(b) In concert with a labor management agency or other affiliated agency which has established an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS, develop apprenticeship programs to train laborers in skills related to:

(1) The implementation of energy efficiency measures.

(2) The use of renewable energy.

(3) Performing audits of the energy efficiency of buildings, facilities, residences and structures.

(4) The weatherization of buildings, facilities, residences and structures.

(5) The retrofitting of buildings, facilities, residences and structures.

(6) The construction and operation of centralized renewable energy plants.

(7) The manufacturing of components relating to work performed pursuant to subparagraphs (1) to (6), inclusive.

4. The job training described in subsection 3 must be sufficiently detailed to allow workers, as applicable, to perform:

(a) The services set forth in NRS 702.270.

(b) The services set forth in NRS 618.910 to 618.936, inclusive.

(c) Such other vocational or professional services, or both, as the Department deems appropriate.

5. Funding provided for the job training described in subsection 3:

(a) Must, to the extent money is available for the purpose, include the cost of tuition and supplies.

(b) May include a cost-of-living stipend which may or may not be in addition to any available unemployment compensation.

6. Within the limits of money available to the Division for the purpose, the Division shall contract with one or more governmental entities, community action agencies or nonprofit organizations, including, without limitation, qualified nonprofit collaboratives, to:

(a) Identify, in different regions of the State, neighborhoods that will qualify for funding for residential weatherization projects pursuant to federal programs focusing on residential weatherization; and

(b) Issue requests for proposals for contractors and award contracts for projects to promote energy efficiency through weatherization. Any such requests for proposals and contracts must include, without limitation:

(1) Provisions stipulating that all employees of the outside contractors who work on the project must be paid prevailing wages;

(2) Provisions requiring that each outside contractor ~~*[employ]*~~ ***:***

(I) Employ *on each such project a number of persons trained as described in paragraph (b) of subsection 3 that is equal to or greater than 50 percent of the total workforce the contractor employs on the project;* ***or***

(II) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor, that the contractor cannot reasonably comply with the provisions of sub-subparagraph (I) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor employs on the project;

(3) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(4) A component that requires each contractor to offer to employees working on the project, and to their dependents, health care in the same

manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

7. The Department and the Division:

(a) Shall apply for and accept any grant, appropriation, allocation or other money available pursuant to:

(1) The Green Jobs Act of 2007, 29 U.S.C. 2916(e); and

(2) The American Recovery and Reinvestment Act of 2009, Public Law 111-5; and

(b) May apply for and accept any other available gift, grant, appropriation or donation from any public or private source,

➥ to assist the Department and the Division in carrying out the provisions of this section.

8. The Department and the Division shall each report to the Interim Finance Committee at each meeting held by the Interim Finance Committee with respect to the activities in which they have engaged pursuant to this section.

9. As used in this section, "community action agencies" means private corporations or public agencies established pursuant to the Economic Opportunity Act of 1964, Public Law 88-452, which are authorized to administer money received from federal, state, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

Sec. 10. ***1. The State Public Works Board shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:***

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;

(b) Provisions requiring that each contractor and subcontractor employed on each such project ~~*[employ]*~~ **:**

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of section 9 of this act that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of section 9 of this act or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of section 9 of this act must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care

in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 11. Within limits of money available for the purpose:

1. The State Public Works Board shall conduct a study to determine the feasibility of using geothermal resources to provide heating to all or a portion of the Lovelock Correctional Center.

2. The Division of State Parks of the State Department of Conservation and Natural Resources shall conduct a study to determine the feasibility of:

(a) Constructing a hydroelectric generation unit at the existing dam on the South Fork Reservoir near Elko, Nevada.

(b) Constructing wind turbines in the vicinity of the South Fork Reservoir near Elko, Nevada.

Sec. 12. For the purposes of the State in carrying out the provisions of section 9 of this act governing residential weatherization in compliance with section 1606 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and notwithstanding any other provision of state law **: ~~[~~**, ~~the Labor Commissioner shall:]~~

1. ~~[On]~~ **The Labor Commissioner shall, on** the effective date of this act, for each locality in this State for which the Labor Commissioner has not already established job classifications and wage rates pursuant to state law, adopt the job classifications and wage rates relating to residential weatherization established for that locality pursuant to the most current provisions of federal law or, if such job classifications and wage rates have not been established for that locality, the job classifications and wage rates for the closest locality, whether or not in Nevada, for which such job classifications and wage rates have been established, which are necessary to carry out the provisions of section 9 of this act; ~~[and]~~

2. ~~[Enforce]~~ **The Labor Commissioner shall enforce** the job classifications and wage rates adopted pursuant to subsection 1 in the same manner as the Labor Commissioner is authorized to enforce the labor laws and regulations of this State generally **~~[.]~~ ; and**

3. The provisions of NRS 233B.040 to 233B.120, inclusive, do not apply to the adoption by the Labor Commissioner of the job classifications and wage rates required pursuant to subsection 1.

Sec. 13. The Office of Energy within the Office of the Governor, the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry shall report to the Interim Finance Committee as required by the Committee concerning the application for and acceptance and expenditure of any money available to the

State to carry out the purposes of this act pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

Sec. 14. This act becomes effective upon passage and approval.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 176.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 779.

AN ACT relating to time shares; providing for the relocation of a time share under certain circumstances; authorizing the withdrawal of time share units from a time-share plan under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that certain types of time shares may be relocated to another unit or parcel ~~[: (1) if the replacement unit or parcel is within the same project and governed by the same time share instrument as the original unit or parcel; (2) if the replacement unit or parcel has a value which is greater than or equal to the value of the original unit or parcel; (3) if the replacement unit or parcel contains similar sleeping accommodations for at least the same number of persons as the original unit or unit type within the parcel; (4) if the time share is not a fixed-unit time share; and (5) if the time share is a fixed-week time share or the rights of use are within a particular season, use in the same fixed week or season is available.]~~ **if certain conditions are satisfied.** **Section 1** only authorizes such relocation of a time share if: (1) the time share is owned by the developer; or (2) the relocation is approved by a majority of the association and agreed to by the developer.

Existing law provides that if a time-share instrument authorizes the developer to withdraw units from the time-share plan, any unit that is subject to withdrawal may not be withdrawn if a time share attributable to that unit is owned by a purchaser. (NRS 119A.495) **Section 2** of this bill allows units or parcels to be withdrawn from a time-share plan by the developer if all the requirements for such a withdrawal are met, including consent by any remaining owners, amendment of the time-share instrument to reflect the withdrawal, and the establishment or amendment of agreements between the developer and the association to share certain costs equitably.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 119A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any time share that is an undivided fee simple interest or leasehold interest in a unit or parcel on which units are located, and any time share that is a license, may be relocated to another unit or parcel on which units are located:

(a) If the replacement unit or parcel:

(1) Is within the same project and governed by the same time-share instrument as the original unit or parcel;

(2) ~~[Has a value which is greater than or equal to the value of]~~ Provides the owner of the time share the opportunity to enjoy a substantially similar vacation experience as available with the original unit or parcel; and

(3) Contains similar sleeping accommodations for at least the same number of persons as the original unit or original unit type within the parcel;

(b) If there is to be no increase in the amount of the maintenance fees allocable to the time share to be relocated solely as the result of the relocation;

(c) If a one-to-one use night to use right ratio is to be maintained after the relocation;

(d) If the location and historical use of the time share to be relocated are considered in furthering the best interests of the owner with respect to the owner's opportunity to use and enjoy the time-share plan;

(e) If the time share is not a fixed-unit time share; and

~~[(e)]~~ (f) If the time share is a fixed-week time share or the rights of use for the time share are within a particular season of the year, if use of the time share in the same fixed week or season is available to the owner of the time share after the relocation.

2. Relocation of a time share pursuant to this section only applies to a time share that is owned by the developer, unless the relocation is:

(a) Approved by the vote or the written consent of members of the association, excluding the developer, constituting the minimum percentage of the voting power of the association which constitutes a quorum pursuant to NRS 82.291; and

(b) Agreed to in writing by the developer.

3. The relocation of each time share pursuant to this section must be made by the recordation of an instrument signed by the developer that identifies:

(a) The names of the record owners of each time share to be relocated;

(b) The permanent identifying number , if any, of each time share;

(c) A legal description of the unit or parcel and a description of the unit type ~~[to which each permanent identifying number was originally assigned;]~~ of each time share to be relocated; and

(d) A legal description of the unit or parcel and a description of the unit type to which each ~~[permanent identifying number]~~ time share will be reassigned.

4. Upon recordation of the instrument described in subsection 3 and the mailing of the recorded instrument to the owner by certified mail, return receipt requested, to the last known address of the owner as shown in the records of the association, the owner of the time share identified in the recorded instrument shall be deemed to have no further right, title or interest in the unit or parcel originally conveyed or assigned to the owner.

5. For the purposes of this section, in determining whether the replacement unit or parcel "provides the owner of the time share the opportunity to enjoy a substantially similar vacation experience as available with the original unit or parcel," the following factors must be considered with respect to the similarity of the replacement unit or parcel and the original unit or parcel:

(a) Size;

(b) Furnishings;

(c) Reservation rights;

(d) Standards of maintenance; and

(e) Location, including scenery, topography and geographic location.

6. As used in this section:

(a) "Fixed-unit time share" means a time share in which the owner's rights of use are in a single designated unit.

(b) "Fixed-week time share" means a time share in which the owner's rights of use are within a certain week or weeks on a recurrent, periodic basis, and the weeks of use may rotate based on a fixed-week calendar.

(c) "One-to-one use night to use right ratio" means that the sum of the number of nights that owners are entitled to use in a 12-month period does not exceed the number of nights available for use by those owners during that 12-month period. For the purposes of this paragraph:

(1) No individual time-share unit may be counted as providing more than 365 nights of use per 12-month period or more than 366 nights of use per 12-month period that includes February 29; and

(2) The rights of use of each owner must be counted without regard to whether that owner's rights of use have been suspended as the result of the failure to pay assessments or for any other reason.

Sec. 2. NRS 119A.495 is hereby amended to read as follows:

119A.495 ~~[If]~~

1. Except as otherwise provided in subsection 2, if a time-share instrument authorizes the developer to withdraw units from the time-share plan, any unit that is subject to withdrawal may not be withdrawn if a time share attributable to that unit is owned by a purchaser.

2. Any legally created units or parcels within a project may be withdrawn from the time-share plan by the developer if:

(a) All remaining owners having an interest in the unit or parcel, if there are any such remaining owners, give written consent to the withdrawal;

(b) The developer amends the time-share instrument which established the time-share plan to reduce the number of units or parcels included in the time-share plan by the number of units or parcels withdrawn pursuant to this subsection;

(c) Any existing cost-sharing agreement between the developer and the association covering shared common areas or amenities is amended to reflect the reduction in the number of units or parcels included in the time-share plan as the result of the withdrawal of units or parcels pursuant to this subsection; and

(d) A new cost-sharing agreement which covers any common areas or amenities that are shared by the remaining units or parcels within the time-share plan and the units or parcels withdrawn pursuant to this subsection and which allocates the shared costs proportionately between the developer and the association according to the number and size of the units withdrawn pursuant to this subsection is entered into between the developer and the association.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 184.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 718.

JOINT SPONSOR: ASSEMBLYMAN CHRISTENSEN

AN ACT relating to real estate; establishing provisions relating to broker's price opinions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill defines and specifies the minimum required contents of a broker's price opinion. This bill also sets forth the limitations on the use of a broker's price opinion and the circumstances under which a licensee may provide a broker's price opinion and collect a fee for preparing and providing that broker's price opinion. **This bill further establishes requirements governing a broker's price opinion which is submitted electronically or on a form supplied by the requesting party.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed pursuant to this chapter may prepare and provide a broker's price opinion and charge and collect a fee therefor if:

(a) The license of that licensee is active and in good standing; and

(b) The broker's price opinion meets the requirements of subsection ~~[2.]~~ 3.

2. A person licensed pursuant to this chapter may prepare a broker's price opinion for:

(a) An existing or potential seller for the purposes of listing and selling a parcel of real property;

(b) An existing or potential buyer of a parcel of real property;

(c) A third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease or acquisition price of a parcel of real property; or

(d) An existing or potential lienholder, except that a broker's price opinion prepared for an existing or potential lienholder may not be used in lieu of an appraisal for the purpose of determining whether to approve a mortgage loan.

3. A broker's price opinion must include, without limitation:

(a) A statement of the intended purpose of the broker's price opinion;

(b) A brief description of the real property and the interest in the real property for which the broker's price opinion is being prepared;

(c) The basis used to determine the broker's price opinion, including, without limitation, any applicable market data and the computation of capitalization;

(d) Any assumptions or limiting conditions used to determine the broker's price opinion;

(e) The date of issuance of the broker's price opinion;

(f) A disclosure of any existing or contemplated interest of every licensee who prepares or provides the broker's price opinion, including, without limitation, the possibility of a licensee representing the seller or purchaser;

~~[(f)]~~ (g) The license number, name and signature of every licensee who prepares or provides the broker's price opinion;

~~[(g)]~~ (h) If a licensee who prepares or provides the broker's price opinion is a real estate salesman or a real estate broker-salesman, the name of the real estate broker with whom the licensee is associated; and

~~[(h)]~~ (i) In at least 14-point bold type, the following disclaimer: Notwithstanding any preprinted ~~[verbiage]~~ language to the contrary, this opinion is not an appraisal of the market value of the property. ~~[It is intended only for the benefit of the requesting party for the purpose of assisting the requesting party in deciding the listing, offering, sale, exchange, option, lease or acquisition price of the real property and not for any other purpose, including, without limitation, obtaining financing.]~~ If an appraisal is desired, the services of a licensed or certified appraiser must be obtained.

~~[3. A broker's price opinion may not be used as a written appraisal for the purposes of obtaining a loan or any other financing, including, without limitation, for the purpose of fulfilling the requirements of subsection 1 of NRS 645B.300.]~~

4. If a broker's price opinion is submitted electronically or on a form supplied by the requesting party:

(a) A signature required by paragraph (g) of subsection 3 may be an electronic signature, as defined by NRS 719.100.

(b) A signature required by paragraph (g) of subsection 3 and the disclaimer required by paragraph (i) of subsection 3 may be transmitted in a separate attachment if the electronic format or form supplied by the requesting party does not allow additional comments to be written by the licensee. The electronic format or the form supplied by the requesting party must:

(1) Reference the existence of a separate attachment; and

(2) Include a statement that the broker's price opinion is not complete without the attachment.

5. A broker's price opinion that is submitted electronically is subject to any regulations relating to recordkeeping as adopted pursuant to this chapter.

6. A broker is responsible for all activities of a licensee who is associated with the broker and with the preparation of a broker's price opinion.

7. The Commission may adopt regulations prescribing the manner in which a broker's price opinion must be prepared in accordance with the provisions of this section.

8. As used in this section, "broker's price opinion" means a written analysis, opinion or conclusion that a person licensed pursuant to this chapter prepares for a ~~*[seller, purchaser or third party making decisions related to the disposition of real property, including, without limitation, the listing, offering, sale, exchange, option or lease of the real property or the determination of an acquisition price for the]*~~ ***person described in subsection 2 relating to the estimated price for a specified parcel of real property.***

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 190.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 668.

AN ACT relating to counties; ~~[repealing]~~ **removing** the requirement that a county fair and recreation board in certain larger counties obtain the approval of the board of county commissioners before engaging in certain transactions relating to real property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a county fair and recreation board in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) from engaging in any transaction relating to real property without the prior approval of the board of county commissioners. (NRS 244A.627) This bill ~~[repeals]~~ **removes** the requirement of obtaining prior approval of the board of county commissioners before the county fair and recreation board engages in ~~[a transaction]~~ **certain transactions** relating to real property. **The county fair and recreation board still must obtain prior approval of the board of county commissioners before selling or leasing to a person or governmental entity any real property in the county which is located in a city whose population is less than 150,000.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.5. **NRS 244A.627 is hereby amended to read as follows:**

244A.627 Notwithstanding any other provision of law, no county fair and recreation board in a county whose population is 100,000 or more and less than 400,000 may ~~[acquire, purchase, lease, sell, or dispose of]~~ ***sell or lease to a person or governmental entity*** any real property ~~[or engage in any other transaction relating to real property]~~ ***within the county which is located in a city whose population is less than 150,000*** without prior approval of the board of county commissioners.

Sec. 2. ~~[NRS 244A.627 is hereby repealed.]~~ **(Deleted by amendment.)**

~~[~~

~~TEXT OF REPEALED SECTION~~

~~244A.627 Limitations on powers of board concerning real property in certain counties. Notwithstanding any other provision of law, no county fair and recreation board in a county whose population is 100,000 or more and less than 400,000 may acquire, purchase, lease, sell, or dispose of any real property or engage in any other transaction relating to real property without prior approval of the board of county commissioners.]~~

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 197.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 780.

AN ACT relating to drugs; authorizing certain facilities to return certain prescription drugs for reissuance by nonprofit pharmacies; establishing procedures and requirements for the reissuance of certain prescription drugs

transferred to nonprofit pharmacies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows public and private mental health facilities, facilities for skilled nursing, facilities for intermediate care and correctional facilities to return to the dispensing pharmacy certain prescription drugs that are dispensed to a patient of the facility but not used by that patient and to reissue those drugs to other patients of the facility. (NRS 433.801, 449.2485, 639.2675) **Sections 1, 2 and 6** of this bill authorize those facilities to return to the dispensing pharmacy such drugs for reissuance by a nonprofit pharmacy designated by the State Board of Pharmacy to reissue the drugs. **Section 3** of this bill authorizes nonprofit pharmacies to reissue those drugs for other prescriptions in the pharmacy free of charge. **Section 3** also provides that a person, pharmacy, facility or ~~[pharmaceutical]~~ manufacturer ~~[is immune from certain civil liability for damages sustained as a result of any act or omission in carrying out the provisions relating to the transfer and reissuance of those drugs.]~~ **of a drug who exercises reasonable care in the transfer, acceptance, distribution or dispensation of a drug is not subject to certain civil or criminal liability.** The Board is required to adopt regulations to carry out the provisions of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 433.801 is hereby amended to read as follows:

433.801 1. A public or private mental health facility may return a prescription drug that is dispensed to a patient of the facility, but will not be used by that patient, to the dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for patients in that facility ***or for the purpose of transferring the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act*** if:

(a) The drug is not a ~~[schedule II drug specified in or pursuant to chapter 453 of NRS;]~~ ***controlled substance;***

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;

(c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A dispensing pharmacy to which a drug is returned pursuant to this section may ~~[reissue]~~ ***:***

(a) Reissue the drug to fill other prescriptions for patients in the same facility if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the State Board of Pharmacy pursuant to subsection 5 ~~[.]~~ ***; or***

(b) Transfer the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act.

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. A mental health facility shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.

(b) Require the maintenance and retention of such records relating to the return of such drugs as are required by the State Board of Pharmacy.

(c) Be approved by the State Board of Pharmacy.

5. The State Board of Pharmacy shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) ***Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.***

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

Sec. 2. NRS 449.2485 is hereby amended to read as follows:

449.2485 1. A facility for skilled nursing or a facility for intermediate care may return a prescription drug that is dispensed to a patient of the facility, but will not be used by that patient, to the dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for patients in that facility ***or for the purpose of transferring the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act*** if:

(a) The drug is not a ~~[schedule II drug specified in or pursuant to chapter 453 of NRS;]~~ ***controlled substance;***

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle sealed by the manufacturer of the drug;

(c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A dispensing pharmacy to which a drug is returned pursuant to this section may ~~[reissue]~~ ***:***

(a) Reissue the drug to fill other prescriptions for patients in the same facility if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the State Board of Pharmacy pursuant to subsection 5 ~~[.]~~ ***; or***

(b) Transfer the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act.

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. A facility for skilled nursing or facility for intermediate care shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.

(b) Require the maintenance and retention of such records relating to the return of drugs to dispensing pharmacies as are required by the State Board of Pharmacy.

(c) Be approved by the State Board of Pharmacy.

5. The State Board of Pharmacy shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) ***Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.***

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

Sec. 3. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A nonprofit pharmacy designated by the Board in accordance with the regulations adopted pursuant to subsection ~~[5]~~ 6 to which a drug is transferred pursuant to NRS 433.801, 449.2485 or 639.2675 may reissue the drug to fill other prescriptions in the same pharmacy free of charge if the registered pharmacist of the nonprofit pharmacy determines that the drug is suitable for that purpose in accordance with the requirements adopted by the Board pursuant to subsection ~~[5]~~ 6 and if:

(a) The drug is not a controlled substance;

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;

(c) The drug is unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the reissuance of the drug.

2. A person, pharmacy [,] or facility [or pharmaceutical manufacturer is immune from civil liability for damages sustained as a result of any act or omission in carrying out the provisions of this section if:

(a) That person, pharmacy, facility or pharmaceutical manufacturer complied with the procedures adopted pursuant to subsection 4 and the regulations adopted pursuant to subsection 5; and

(b) The act or omission does not amount to gross negligence or willful misconduct.

[*. Before receiving a drug pursuant to this section, a person or his guardian, if applicable, must sign a form acknowledging that he understands the provisions of this subsection.

3.] who exercises reasonable care in the transfer, acceptance, distribution or dispensation of a drug in accordance with the provisions of this section and NRS 433.801, 449.2485 and 639.2675 and the regulations adopted pursuant thereto is not subject to any civil or criminal liability or disciplinary action by a professional licensing board for any loss, injury or death that results from the transfer, acceptance, distribution or dispensation of the drug.

3. A manufacturer of a drug is not subject to civil or criminal liability for any claim or injury arising from the transfer, acceptance, distribution or dispensation of the drug pursuant to this section and NRS 433.801, 449.2485 and 639.2675 and the regulations adopted pursuant thereto.

4. No drug that is transferred to a nonprofit pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

[4.] 5. A nonprofit pharmacy shall adopt written procedures for accepting and reissuing drugs pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted before being reissued.

(b) Require the maintenance and retention of records relating to the acceptance and use of the drugs and any other records as are required by the Board.

(c) Be approved by the Board.

[5.] 6. The Board shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation:

(a) Requirements for reissuing drugs pursuant to this section.

(b) Requirements for accepting drugs transferred to a nonprofit pharmacy pursuant to the provisions of this section and NRS 433.801, 449.2485 and 639.2675.

(c) Requirements for maintaining records relating to the acceptance and use of drugs to fill other prescriptions pursuant to this section.

(d) The criteria and procedure for obtaining a designation as a nonprofit pharmacy for the purposes of this section, including, without limitation, provisions for a pharmacy, registered pharmacist or practitioner who is registered with the Board to be designated as a nonprofit pharmacy.

Sec. 4. NRS 639.063 is hereby amended to read as follows:

639.063 1. The Board shall prepare an annual report concerning drugs that are returned or transferred to pharmacies pursuant to NRS 433.801, 449.2485 and 639.2675 ***and section 3 of this act*** and are reissued to fill other prescriptions. The report must include, without limitation:

(a) The number of drugs that are returned to dispensing pharmacies.

(b) ***The number of drugs that are transferred to nonprofit pharmacies designated by the Board pursuant to section 3 of this act.***

(c) The number of drugs that are reissued to fill other prescriptions.

~~[(c)]~~ ***(d)*** An estimate of the amount of money saved by reissuing such drugs to fill other prescriptions.

~~[(d)]~~ ***(e)*** Any other information that the Board deems necessary.

2. The report must be:

(a) Available for public inspection during regular business hours at the office of the Board; and

(b) Posted on a website or other Internet site that is operated or administered by or on behalf of the Board.

Sec. 5. NRS 639.267 is hereby amended to read as follows:

639.267 1. As used in this section, "unit dose" means that quantity of a drug which is packaged as a single dose.

2. A pharmacist who provides a regimen of drugs in unit doses to a patient in a facility for skilled nursing or facility for intermediate care as defined in chapter 449 of NRS may credit the person or agency which paid for the drug for any unused doses. The pharmacist may return the drugs to the dispensing pharmacy, which may reissue the drugs to fill other prescriptions ***or transfer the drugs*** in accordance with the provisions of NRS 449.2485.

3. Except schedule II drugs specified in or pursuant to chapter 453 of NRS and except as otherwise provided in NRS 433.801, 449.2485 and 639.2675 ~~[,]~~ ***and section 3 of this act,*** unit doses packaged in ampules or vials which do not require refrigeration may be returned to the pharmacy which dispensed them. The Board shall, by regulation, authorize the return of any other type or brand of drug which is packaged in unit doses if the Food and Drug Administration has approved the packaging for that purpose.

Sec. 6. NRS 639.2675 is hereby amended to read as follows:

639.2675 1. A prescription drug that is dispensed by a pharmacy to an offender incarcerated in a correctional institution, but will not be used by that offender, may be returned to that dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for offenders incarcerated in that correctional institution ***or for the purposes of transferring the drug to a***

nonprofit pharmacy designated by the Board pursuant to section 3 of this act if:

(a) The drug is not a ~~[~~schedule II drug specified in or pursuant to chapter 453 of NRS;~~]~~ ***controlled substance;***

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;

(c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A pharmacy to which a drug is returned pursuant to this section may ~~[~~reissue~~]~~ ***:***

(a) Reissue the drug to fill other prescriptions for offenders incarcerated in the same correctional institution if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the Board pursuant to subsection 5 ~~[.]~~ ***; or***

(b) Transfer the drug to a nonprofit pharmacy designated by the Board pursuant to section 3 of this act.

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. The director of a correctional institution shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.

(b) Require the maintenance and retention of such records relating to the return of such drugs as are required by the Board.

(c) Be approved by the Board.

5. The Board shall adopt such regulations as are necessary to carry out the provisions of this section including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) ***Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.***

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

6. As used in this section, "correctional institution" means an institution or facility operated by the Department of Corrections.

Sec. 7. NRS 639.282 is hereby amended to read as follows:

639.282 1. Except as otherwise provided in NRS 433.801, 449.2485, 639.267 and 639.2675 ~~[,]~~ ***and section 3 of this act,*** it is unlawful for any

person to have in his possession, or under his control, for the purpose of resale, or to sell or offer to sell or dispense or give away, any pharmaceutical preparation, drug or chemical which:

(a) Has been dispensed pursuant to a prescription or chart order and has left the control of a registered pharmacist or practitioner;

(b) Has been damaged or subjected to damage by heat, smoke, fire or water, or other cause which might reasonably render it unfit for human or animal use;

(c) Has been obtained through bankruptcy or foreclosure proceedings, or other court action, auction or other legal or administrative proceedings, except when the pharmaceutical preparation, drug or chemical is in the original sealed container;

(d) Is no longer safe or effective for use, as indicated by the expiration date appearing on its label; or

(e) Has not been properly stored or refrigerated as required by its label.

2. The provisions of subsection 1 do not apply if the person in whose possession the pharmaceutical preparation, drug or chemical is found also has in his possession a valid and acceptable certification of analysis attesting to the purity and strength of the pharmaceutical preparation, drug or chemical and attesting to the fact that it can be safely and effectively used by humans or animals. The preparation, drug or chemical must not be sold or otherwise disposed of until the certification required by this subsection has been presented to and approved by the Board.

3. In the absence of conclusive proof that the preparation, drug or chemical can be used safely and effectively by humans or animals, it must be destroyed under the direct supervision of a member or an inspector of the Board, or two persons designated as agents by the Board who include an inspector of a health care board, a licensed practitioner of a health care board or a peace officer of an agency that enforces the provisions of chapters 453 and 454 of NRS.

4. As used in this section, "health care board" includes the State Board of Pharmacy, the State Board of Nursing, the Board of Medical Examiners and the Nevada State Board of Veterinary Medical Examiners.

Sec. 8. 1. This section and sections 1, 2, 3 and 6 of this act become effective upon passage and approval for the purposes of adopting regulations and on October 1, 2009, for all other purposes.

2. Sections 4, 5 and 7 of this act become effective on October 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 227.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 716.

AN ACT relating to security of personal information; requiring the compliance with certain standards or the use of encryption by data collectors when transferring personal information; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires that a data collector comply with certain standards or use encryption to protect information that is either transmitted electronically or contained on a data storage device that is moved beyond the controls of the data collector. **Section 1** also renders a data collector not liable for a breach of the security of the system data in certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 603A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a data collector doing business in this State accepts a payment card in connection with a sale of goods or services, the data collector shall comply with the current version of the Payment Card Industry (PCI) Data Security Standard, as adopted by the PCI Security Standards Council or its successor organization, with respect to those transactions, not later than the date for compliance set forth in the Payment Card Industry (PCI) Data Security Standard or by the PCI Security Standards Council or its successor organization.

2. A data collector doing business in this State to whom subsection 1 does not apply shall not:

(a) Transfer any personal information through an electronic, nonvoice transmission other than a facsimile to a person outside of the secure system of the data collector unless the data collector uses encryption to ensure the security of electronic transmission; or

(b) Move any data storage device containing personal information beyond the logical or physical controls of the data collector or its data storage contractor unless the data collector uses encryption to ensure the security of the information.

3. A data collector shall not be liable for damages for a breach of the security of the system data if:

(a) The data collector is in compliance with this section; and

(b) The breach is not caused by the gross negligence or intentional misconduct of the data collector, its officers, employees or agents.

4. The requirements of this section do not apply to:

(a) A telecommunication provider acting solely in the role of conveying the communications of other persons, regardless of the mode of conveyance used, including, without limitation:

(1) Optical, wire line and wireless facilities;

(2) Analog transmission; and

(3) Digital subscriber line transmission, voice over Internet protocol and other digital transmission technology.

(b) Data transmission over a secure, private communication channel for:

(1) Approval or processing of negotiable instruments, electronic fund transfers or similar payment methods; or

(2) Issuance of reports regarding account closures due to fraud, substantial overdrafts, abuse of automatic teller machines or related information regarding a customer.

5. As used in this section:

(a) "Data storage device" means any device that stores information or data from any electronic or optical medium, including, but not limited to, computers, cellular telephones, magnetic tape, electronic computer drives and optical computer drives, and the medium itself.

(b) "Encryption" means the protection of data in electronic or optical form, in storage or in transit, using:

(1) An encryption technology that has been adopted by an established standards setting body, including, but not limited to, the Federal Information Processing Standards issued by the National Institute of Standards and Technology, which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(2) Appropriate management and safeguards of cryptographic keys to protect the integrity of the encryption using guidelines promulgated by an established standards setting body, including, but not limited to, the National Institute of Standards and Technology.

(c) "Facsimile" means an electronic transmission between two dedicated fax machines using Group 3 or Group 4 digital formats that conform to the International Telecommunications Union T.4 or T.38 standards or computer modems that conform to the International Telecommunications Union T.31 or T.32 standards. The term does not include onward transmission to a third device after protocol conversion, including, but not limited to, any data storage device.

(d) "Payment card" has the meaning ascribed to it in NRS 205.602.

(e) "Telecommunication provider" has the meaning ascribed to it in NRS 704.027.

Sec. 2. NRS 597.970 is hereby repealed.

Sec. 3. This act becomes effective on January 1, 2010.

TEXT OF REPEALED SECTION

597.970 Restrictions on transfer of personal information through electronic transmission.

1. A business in this State shall not transfer any personal information of a customer through an electronic transmission other than a facsimile to a

person outside of the secure system of the business unless the business uses encryption to ensure the security of electronic transmission.

2. As used in this section:

(a) "Encryption" has the meaning ascribed to it in NRS 205.4742.

(b) "Personal information" has the meaning ascribed to it in NRS 603A.040.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 230.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 715.

AN ACT relating to real estate; revising provisions governing certain licenses issued by the Real Estate Division of the Department of Business and Industry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that: (1) the initial period of licensure for an original license as a real estate broker, broker-salesman or salesman is 12 consecutive months beginning on the first day of the first calendar month after the original license is issued by the Real Estate Division of the Department of Business and Industry; and (2) each subsequent period of licensure is 24 consecutive months. Existing law additionally provides that other licenses issued pursuant to chapter 645 of NRS are issued for a period of 24 consecutive months. (NRS 645.780) **Sections 1 and 2** of this bill increase the period of initial licensure for a license as a real estate broker, broker-salesman or salesman from 12 to 24 consecutive months and each subsequent period of licensure from 24 to 48 consecutive months. **Sections 1 and 2** also increase the period of licensure for other licenses issued by the Division from 24 to 48 consecutive months. (NRS 645.490)

Section 3 of this bill increases the fee for each original license of a real estate broker, broker-salesman, corporate broker, real estate salesman and branch office, and each renewal of such a license, to correspond with the increase in the period of licensure of each license pursuant to **sections 1 and 2** of this bill. **Section 3** also increases the penalty for the late filing of a renewal for such licenses. (NRS 645.830)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 645.490 is hereby amended to read as follows:

645.490 1. Upon satisfactorily passing the written examination and upon complying with all other provisions of law and conditions of this chapter, a license shall thereupon be granted by the Division to the successful

applicant therefor as a real estate broker, broker-salesman or salesman, and the applicant, upon receiving the license, may conduct the business of a real estate broker, broker-salesman or salesman in this State.

2. The Division shall issue licenses as a real estate broker, broker-salesman or salesman to all applicants who qualify and comply with all provisions of law and all requirements of this chapter.

3. Except as otherwise provided in NRS 645.785:

(a) An original license as a real estate broker, broker-salesman or salesman must be renewed with the Division before the expiration of the initial license period of ~~[12]~~ ***24*** consecutive months as prescribed in NRS 645.780; and

(b) Thereafter, the license must be renewed with the Division before the expiration of each subsequent license period of ~~[24]~~ ***48*** consecutive months as prescribed in NRS 645.780.

Sec. 2. NRS 645.780 is hereby amended to read as follows:

645.780 1. Each license issued under the provisions of this chapter expires at midnight on the last day of the last month of the applicable license period for the license.

2. The initial license period for an original license as a real estate broker, broker-salesman or salesman is a period of ~~[12]~~ ***24*** consecutive months beginning on the first day of the first calendar month after the original license is issued by the Division. Thereafter, each subsequent license period is a period of ~~[24]~~ ***48*** consecutive months beginning on the first day of the first calendar month after a renewal of the license is issued by the Division for the subsequent license period.

3. For all other licenses, the license period is a period of ~~[24]~~ ***48*** consecutive months beginning on the first day of the first calendar month after the license or any renewal of the license is issued by the Division, unless a specific statute:

(a) Provides for a different license period; or

(b) Expressly authorizes a different license period to be provided for by regulation.

4. The Division may:

(a) Create and maintain a secure website on the Internet through which each license, permit, certificate or registration issued pursuant to the provisions of this chapter may be renewed; and

(b) For each license, permit, certificate or registration renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 3. NRS 645.830 is hereby amended to read as follows:

645.830 1. The following fees must be charged by and paid to the Division:

For each original real estate broker's, broker-salesman's or corporate broker's license..... ~~[$105]~~ ***$210***

For each original real estate salesman's license.....~~[85]~~ ***170***
For each original branch office license.....~~[120]~~ ***240***
For real estate education, research and recovery to be paid at the time an application for an original license is filed..... 40
For real estate education, research and recovery to be paid at the time an application for renewal of a license is filed .....~~[40]~~ ***80***
For each renewal of a real estate broker's, broker-salesman's or corporate broker's license.....~~[180]~~ ***360***
For each renewal of a real estate salesman's license .....~~[140]~~ ***280***
For each renewal of a real estate branch office license.....~~[110]~~ ***220***
For each penalty for late filing of a renewal for a broker's, broker-salesman's or corporate broker's license.....~~[95]~~ ~~*[190]*~~ ***180***
For each penalty for late filing of a renewal for a salesman's license .....~~[75]~~ ~~*[150]*~~ ***140***
For each change of name or address $20
For each transfer of a real estate salesman's or broker-salesman's license and change of association or employment..... 20
For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof 20
For each change of broker status from broker to broker-salesman 20
For each change of broker status from broker-salesman to broker 40
For each reinstatement to active status of an inactive real estate broker's, broker-salesman's or salesman's license 20
For each reinstatement of a real estate broker's license when the licensee fails to give immediate written notice to the Division of a change of name or business location..... 30
For each reinstatement of a real estate salesman's or broker-salesman's license when he fails to notify the Division of a change of broker within 30 days of termination by previous broker 30
For each original registration of an owner-developer..... 125
For each annual renewal of a registration of an owner-developer 125
For each enlargement of the area of an owner-developer's registration 50
For each cooperative certificate issued to an out-of-state broker licensee for 1 year or fraction thereof 150
For each original accreditation of a course of continuing education 100
For each renewal of accreditation of a course of continuing education..... 50
For each annual approval of a course of instruction offered in preparation for an original license or permit 100

2. The fees prescribed by this section for courses of instruction offered in preparation for an original license or permit or for courses of continuing education do not apply to:

(a) Any university, state college or community college of the Nevada System of Higher Education.

(b) Any agency of the State.

(c) Any regulatory agency of the Federal Government.

3. The Commission shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of any investigation of a person's background.

Sec. 4. The amendatory provisions of this act apply to licenses issued or renewed by the Real Estate Division of the Department of Business and Industry pursuant to chapter 645 of NRS on or after July 1, 2011.

Sec. 5. This act becomes effective on July 1, 2011.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 269.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 783.

AN ACT relating to professions; requiring a provider of health care to disclose the results of certain tests to a designated investigator or member of the State Board of Osteopathic Medicine; providing for the licensure of perfusionists; prohibiting a person from engaging in the practice of perfusion without a license issued by the Board of Medical Examiners; providing for the immediate suspension of a license to practice medicine upon the conviction of the holder of the license of certain violations; expanding the definition of "practice of medicine" to include the performance of an autopsy; revising other provisions governing the issuance of a license to practice medicine by the Board of Medical Examiners; authorizing any person to file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care under certain circumstances; revising provisions governing osteopathic medicine; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes extensive changes to existing law governing the practice of medicine and osteopathic medicine. This bill also provides for the licensing and regulation of perfusionists by the Board of Medical Examiners. A perfusionist is a medical professional who, under the order and supervision of a physician, performs various medical functions to ensure the safe management of a patient's cardiovascular, circulatory or respiratory system or other organs during surgical and other medical procedures. **Sections 1, 3-13, 15, 16, 19-21, 24, 29, 33, 34, 39, 45, 46, 50-52, 55, 59-65, 70 and 79-85** of this bill amend various provisions of NRS to ensure that perfusionists are licensed and regulated by the Board of Medical Examiners in approximately the same manner as physicians, physician assistants and practitioners of respiratory care. (NRS 629.031, 630.003, 630.005, 630.045, 630.047, 630.120, 630.137, 630.167, 630.197, 630.268, 630.307, 630.309, 630.326, 630.329, 630.336, 630.346, 630.358, 630.366, 630.388, 630.390, 630.400,

630A.090, 632.472, 633.171, 652.210, 200.471, 200.5093, 200.50935, 372.7285, 374.731, 432B.220)

This bill also makes various changes relating to the Board of Medical Examiners and the practice of medicine. **Section 14** of this bill adds a new section to chapter 630 of NRS that provides for the immediate suspension of a license issued by the Board upon the conviction of the licensee of a felony for a violation of a federal or state law or regulation relating to his practice. **Section 17** of this bill expands the definition of "practice of medicine" to include the performance of an autopsy. (NRS 630.020) **Section 18** of this bill deletes existing provisions of law that authorize the Board to revoke a license only in accordance with certain provisions. (NRS 630.045) **Section 22** of this bill changes the fiscal year for the Board to commence on January 1 and end on December 31. (NRS 630.123) **Section 25** of this bill authorizes the Executive Director of the Board to issue subpoenas when conducting investigations for the Board. (NRS 630.140) **Sections 26-28, 30-32 and 35** of this bill make various changes concerning the requirements for the issuance of licenses by the Board, including the information required to be submitted for a license, the submission of the fingerprints of the applicant and the appeal of a denial of an application. (NRS 630.160, 630.1605, 630.167, 630.170, 630.173, 630.195, 630.200) **Sections 36-38** of this bill revise certain categories of licenses issued by the Board, including the issuance of a special volunteer medical license to a physician who participates in disaster relief operations and the issuance of an authorized facility license. (NRS 630.258, 630.261, 630.262) **Section 40** of this bill requires a person who wishes to practice respiratory care to complete an educational program for respiratory care approved by the Commission on Accreditation of Allied Health Education Programs or the Committee on Accreditation for Respiratory Care. (NRS 630.277) **Sections 41-45, 47-49, 53, 54, 57 and 58** of this bill make numerous changes concerning the investigation of complaints against licensees, the grounds for the imposition of disciplinary action and the procedures to be followed in disciplinary proceedings. (NRS 630.299, 630.306, 630.3062, 630.307, 630.311, 630.318, 630.326, 630.339, 630.342, 630.352, 630.356)

Sections 66-78 of this bill make similar changes relating to the State Board of Osteopathic Medicine and the practice of osteopathy. **Section 67** adds a new section to chapter 633 of NRS which authorizes the Board or an investigative committee of the Board to issue to a person who violates or is ~~[about to violate]~~ **violating** the provisions of that chapter a letter of warning, a letter of concern or a nonpunitive admonishment. **Section 68** also adds a new section to that chapter which establishes the standard of proof in disciplinary proceedings that are conducted pursuant to that chapter. **Sections 69-78** make various changes concerning unprofessional conduct, the requirements for licensure to practice osteopathic medicine, examinations, the grounds for disciplinary action and the imposition of penalties after a

disciplinary proceeding. (NRS 633.131, 633.171, 633.322, 633.331, 633.411, 633.511, 633.561, 633.625, 633.651, 633.691)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by ***a*** specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, ***perfusionist,*** doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. NRS 629.069 is hereby amended to read as follows:

629.069 1. A provider of health care shall disclose the results of all tests performed pursuant to NRS 441A.195 to:

(a) The person who was tested and, upon request, a member of the family of a decedent who was tested;

(b) The law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee, other person who is employed by an agency of criminal justice or other public employee whose duties may require him to come into contact with human blood or bodily fluids who filed the petition or on whose behalf the petition was filed pursuant to NRS 441A.195;

(c) The designated health care officer for the employer of the person described in paragraph (b) or, if there is no designated health care officer, the person designated by the employer to document and verify possible exposure to contagious diseases; **[**and**]**

(d) If the person who was tested is incarcerated or detained, the person in charge of the facility in which the person is incarcerated or detained and the chief medical officer of the facility in which the person is incarcerated or detained, if any **[**.**]** ***; and***

(e) A designated investigator or member of the State Board of Osteopathic Medicine during any period in which the Board is investigating the holder of a license pursuant to chapter 633 of NRS.

2. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

Sec. 3. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 14, inclusive, of this act.

Sec. 4. ***1. "Perfusion" means the performance of functions which are necessary to provide for the support, treatment, measurement or***

supplementation of a patient's cardiovascular, circulatory or respiratory system or other organs, or any combination of those activities, and to ensure the safe management of the patient's physiological functions by monitoring and analyzing the parameters of the patient's systems or organs under the order and supervision of a physician.

2. The term includes, without limitation:

(a) The use of extracorporeal circulation and any associated therapeutic and diagnostic technologies; and

(b) The use of long-term cardiopulmonary support techniques.

3. As used in this section, "extracorporeal circulation" means the diversion of a patient's blood through a heart-lung bypass machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

Sec. 5. ***"Perfusionist" means a person who is licensed to practice perfusion by the Board.***

Sec. 6. ***"Temporarily licensed perfusionist" means a person temporarily licensed to practice perfusion by the Board pursuant to section 13 of this act.***

Sec. 7. ***The Board shall adopt regulations regarding the licensure of perfusionists, including, without limitation:***

1. The criteria for licensure as a perfusionist and the standards of professional conduct for holders of such a license;

2. The qualifications and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;

3. The requirements for any practical, oral or written examination for a license that the Board may require pursuant to section 9 of this act, including, without limitation, the passing grade for such an examination;

4. The fees for examination and for reinstatement of expired licenses;

5. The requirements for continuing education for the renewal of a license;

6. A code of ethics for perfusionists; and

7. The procedures for the revocation, suspension or denial of a license for a violation of this chapter or the regulations of the Board.

Sec. 8. ***To be eligible for licensing by the Board as a perfusionist, an applicant must:***

1. Be a natural person of good moral character;

2. Submit a completed application as required by the Board by the date established by the Board;

3. Submit any required fees by the date established by the Board;

4. Have successfully completed a perfusion education program approved by the Board, which must:

(a) Have been approved by the Committee on Allied Health Education and Accreditation of the American Medical Association before June 1, 1994; or

(b) Be a program that has educational standards that are at least as stringent as those established by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association, or its successor;

5. Pass an examination required pursuant to section 9 of this act; and

6. Comply with any other requirements set by the Board.

Sec. 9. ***1. The Board shall use the certification examinations given by the American Board of Cardiovascular Perfusion or its successor in determining the qualifications for granting a license to practice perfusion.***

2. The Board shall notify each applicant of the results of the examination.

3. If a person who fails the examination makes a written request, the Board shall furnish the person with an analysis of his performance on the examination.

Sec. 10. ***The Board shall waive the examination required pursuant to section 9 of this act for an applicant who at the time of application:***

1. Is licensed as a perfusionist in another state, territory or possession of the United States, if the requirements for licensure are substantially similar to those required by the Board; or

2. Holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion or its successor before October 1, 2009.

Sec. 11. ***1. The Board shall issue a license as a perfusionist to each applicant who proves to the satisfaction of the Board that the applicant is qualified for licensure. The license authorizes the applicant to represent himself as a licensed perfusionist and to practice perfusion in this State subject to the conditions and limitations of this chapter.***

2. Each licensed perfusionist shall:

(a) Display his current license in a location which is accessible to the public;

(b) Keep a copy of his current license on file at any health care facility where he provides services; and

(c) Notify the Board of any change of address in accordance with NRS 630.254.

3. As used in this section, "health care facility" means a medical facility or facility for the dependent licensed pursuant to chapter 449 of NRS.

Sec. 12. ***1. Each license issued pursuant to section 11 of this act expires on July 1 of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:***

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of his completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to section 8 of this act.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made is automatically suspended and may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to section 9 of this act.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 13. ***1. The Board may issue a temporary license to practice perfusion in this State to a person who has not yet completed the examination required pursuant to section 9 of this act but who:***

(a) Has completed an approved perfusion education program;

(b) Files an application; and

(c) Pays the required fee.

2. A perfusionist shall supervise and direct a temporarily licensed perfusionist at all times during which the temporarily licensed perfusionist performs perfusion.

3. A temporary license is valid for 1 year after the date it is issued and may be extended subject to regulation by the Board. The application for renewal must be signed by a supervising licensed perfusionist.

4. If a temporarily licensed perfusionist fails any portion of the examination required pursuant to section 9 of this act, he shall immediately surrender the temporary license to the Board.

Sec. 14. ***If the holder of a license that is issued or renewed pursuant to this chapter is convicted of a felony for a violation of any federal or state law or regulation relating to the holder's practice, the conviction operates as an immediate suspension of the license.***

Sec. 15. NRS 630.003 is hereby amended to read as follows:

630.003 1. The Legislature finds and declares that:

(a) It is among the responsibilities of State Government to ensure, as far as possible, that only competent persons practice medicine ***, perfusion*** and respiratory care within this State;

(b) For the protection and benefit of the public, the Legislature delegates to the Board of Medical Examiners the power and duty to determine the initial and continuing competence of physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care who are subject to the provisions of this chapter;

(c) The Board must exercise its regulatory power to ensure that the interests of the medical profession do not outweigh the interests of the public;

(d) The Board must ensure that unfit physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care are removed from the medical profession so that they will not cause harm to the public; and

(e) The Board must encourage and allow for public input into its regulatory activities to further improve the quality of medical practice within this State.

2. The powers conferred upon the Board by this chapter must be liberally construed to carry out these purposes for the protection and benefit of the public.

Sec. 16. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.025, inclusive, ***and sections 4, 5 and 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 17. NRS 630.020 is hereby amended to read as follows:

630.020 "Practice of medicine" means:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality ~~[.]~~ ***, including, but not limited to, the performance of an autopsy.***

2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

Sec. 18. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege **.** ~~[, but the Board may revoke such a license only in accordance with the provisions of NRS 630.348.]~~

Sec. 19. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege.

Sec. 20. NRS 630.047 is hereby amended to read as follows:

630.047 1. This chapter does not apply to:

(a) A medical officer or ***perfusionist or*** practitioner of respiratory care of the Armed Services or a medical officer or ***perfusionist or*** practitioner of respiratory care of any division or department of the United States in the discharge of his official duties;

(b) Physicians who are called into this State, other than on a regular basis, for consultation with or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside;

(c) Physicians who are legally qualified to practice in the state where they reside and come into this State on an irregular basis to:

(1) Obtain medical training approved by the Board from a physician who is licensed in this State; or

(2) Provide medical instruction or training approved by the Board to physicians licensed in this State;

(d) Any person permitted to practice any other healing art under this title who does so within the scope of that authority, or healing by faith or Christian Science;

(e) The practice of respiratory care by a student as part of a program of study in respiratory care that is approved by the Board, or is recognized by a national organization which is approved by the Board to review such programs, if the student is enrolled in the program and provides respiratory care only under the supervision of a practitioner of respiratory care;

(f) The practice of respiratory care by a student who:

(1) Is enrolled in a clinical program of study in respiratory care which has been approved by the Board;

(2) Is employed by a medical facility, as defined in NRS 449.0151; and

(3) Provides respiratory care to patients who are not in a critical medical condition or, in an emergency, to patients who are in a critical medical condition and a practitioner of respiratory care is not immediately available to provide that care and the student is directed by a physician to provide respiratory care under his supervision until a practitioner of respiratory care is available;

(g) The practice of respiratory care by a person on himself or gratuitous respiratory care provided to a friend or a member of a person's family if the provider of the care does not represent himself as a practitioner of respiratory care;

(h) A ~~[cardiopulmonary perfusionist who is under the supervision of a surgeon or an anesthesiologist;~~

~~(i) A~~] person who is employed by a physician and provides respiratory care ***or services as a perfusionist*** under the supervision of that physician;

~~[(j)]~~ ***(i)*** The maintenance of medical equipment for ***perfusion or*** respiratory care that is not attached to a patient; and

~~[(k)]~~ ***(j)*** A person who installs medical equipment for respiratory care that is used in the home and gives instructions regarding the use of that equipment if the person is trained to provide such services and is supervised by a provider of health care who is acting within the authorized scope of his practice.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services outside of a medical school or medical facility by a person who is not a physician, physician assistant or practitioner of respiratory care in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 21. NRS 630.120 is hereby amended to read as follows:

630.120 1. The Board shall procure a seal.

2. All licenses issued to physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care must bear the seal of the Board and the signatures of its President and Secretary-Treasurer.

Sec. 22. NRS 630.123 is hereby amended to read as follows:

630.123 The Board shall operate on the basis of a fiscal year commencing on ~~[July]~~ ***January*** 1 and terminating on ~~[June 30.]~~ ***December 31.***

Sec. 23. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections ~~[2]~~ ***3*** and ~~[3]~~ ***4*** of NRS 630.307 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and

types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 24. NRS 630.137 is hereby amended to read as follows:

630.137 1. Notwithstanding any other provision of law and except as otherwise provided in this section, the Board shall not adopt any regulations that prohibit or have the effect of prohibiting a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care from collaborating or consulting with another provider of health care.

2. The provisions of this section do not prevent the Board from adopting regulations that prohibit a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care from aiding or abetting another person in the unlicensed practice of medicine or the unlicensed practice of ***perfusion or*** respiratory care.

3. As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 25. NRS 630.140 is hereby amended to read as follows:

630.140 1. The Board may hold hearings and conduct investigations pertaining to its duties imposed under this chapter and take evidence on any such matter under inquiry before the Board. For the purposes of this chapter:

(a) Any member of the Board or other person authorized by law may administer oaths; and

(b) The Secretary-Treasurer ***, Executive Director*** or President of the Board or a hearing officer or the presiding member of a committee investigating a complaint may issue subpoenas to compel the attendance of witnesses and the production of books, X rays ***,*** ~~[~~and~~]~~ medical records and other papers ~~[.]~~ ***and tangible items.*** The Secretary-Treasurer, President or other officer of the Board acting on its behalf ***or the Executive Director*** must sign the subpoena.

2. If any person fails to comply with the subpoena ***,*** ~~[~~within 10 days after its issuance,~~]~~ the Secretary-Treasurer ***, Executive Director*** or President of the Board may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the

subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 26. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after

receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if after issuing a license to practice medicine the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

(a) Temporarily suspend the license;

(b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;

(c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;

(d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or

(e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:

(1) Placing the licensee on probation for a specified period with specified conditions;

(2) Administering a public reprimand;

(3) Limiting the practice of the licensee;

(4) Suspending the license for a specified period or until further order of the Board;

(5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;

(6) Requiring supervision of the practice of the licensee;

(7) Imposing an administrative fine not to exceed $5,000;

(8) Requiring the licensee to perform community service without compensation;

(9) Requiring the licensee to take a physical or mental examination or an examination testing his competence to practice medicine;

(10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 27. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect;

~~[2.]~~ ***(b)*** The applicant:

~~[(a)]~~ ***(1)*** Submits to the Board proof of passage of an examination approved by the Board;

~~[(b)]~~ ***(2)*** Submits to the Board any documentation and other proof of qualifications required by the Board;

~~[(c)]~~ ***(3)*** Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and

~~[(d)]~~ ***(4)*** Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and

~~[3.]~~ ***(c)*** Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 28. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine ***, to practice as a physician assistant or to practice respiratory care*** shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. ***Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.***

Sec. 29. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice respiratory care shall submit

to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.

Sec. 30. NRS 630.170 is hereby amended to read as follows:

630.170 In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a medical school located in the United States or Canada shall submit to the Board proof that he has received the degree of doctor of medicine from a medical school which, at the time of graduation, was accredited by the Liaison Committee on Medical Education or the Committee for the Accreditation of Canadian Medical Schools. ***The proof of the degree of doctor of medicine must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school, the Board may accept proof from any other source specified by the Board.***

Sec. 31. NRS 630.173 is hereby amended to read as follows:

630.173 1. In addition to the other requirements for licensure, an applicant for a license to practice medicine shall submit to the Board information describing:

(a) Any claims made against the applicant for malpractice ~~[within the 10 years immediately preceding the date of the application for the license,]~~ whether or not a civil action was filed concerning the claim;

(b) Any complaints filed against the applicant with a licensing board of another state ~~[within the 10 years immediately preceding the date of the application for the license]~~ and any disciplinary action taken against the applicant by a licensing board of another state; and

(c) Any complaints filed against the applicant with a hospital, clinic or medical facility ~~[within the 10 years immediately preceding the date of the application for the license]~~ or any disciplinary action taken against the applicant by a hospital, clinic or medical facility.

2. The Board ***may consider any information specified in subsection 1 that is more than 10 years old if the Board receives the information from the applicant or any other source from which the Board is verifying the information provided by the applicant.***

3. The Board may refuse to consider any information specified in subsection 1 that is more than 10 years old if the Board determines that the claim or complaint is remote or isolated and that obtaining or attempting to obtain a record relating to the information will unreasonably delay the consideration of the application.

4. The Board shall not issue a license to the applicant until it has received all the information required by this section.

Sec. 32. NRS 630.195 is hereby amended to read as follows:

630.195 ***1.*** In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a foreign medical school shall submit to the Board proof that he has received:

~~[1.]~~ ***(a)*** The degree of doctor of medicine or its equivalent, as determined by the Board; and

~~[2.]~~ ***(b)*** The standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by ~~[it.]~~ ***the Commission.***

2. The proof of the degree of doctor of medicine or its equivalent must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school that granted the degree, the Board may accept proof from any other source specified by the Board.

Sec. 33. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the

district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 34. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 35. NRS 630.200 is hereby amended to read as follows:

630.200 1. The Board may deny an application for a license to practice medicine for any violation of the provisions of this chapter or regulations of the Board.

2. The Board shall notify an applicant of any deficiency which prevents any further action on the application or results in the denial of the application. The applicant may respond in writing to the Board concerning any deficiency and, if he does so, the Board shall respond in writing to the contentions of the applicant.

3. Any unsuccessful applicant may appeal to the ~~[district court to review the action of the]~~ Board ~~[,]~~ if he files his appeal within 90 days ~~[from]~~ ***after*** the date of the rejection of his application by the Board. Upon appeal **,** the applicant has the burden to show that the action of the Board is erroneous **.** ~~[or unlawful.]~~

Sec. 36. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who ~~[wishes]~~ ***:***

(a) Wishes to donate his expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care ***; or***

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,

➥ may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care ~~[to]~~ ***:***

(1) To persons in this State who are indigent, uninsured or unable to afford health care; ***or***

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or

(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 37. NRS 630.261 is hereby amended to read as follows:

630.261 1. Except as otherwise provided in NRS 630.161, the Board may issue:

(a) A locum tenens license, to be effective not more than 3 months after issuance, to any physician who is licensed and in good standing in another state, who meets the requirements for licensure in this State and who is of good moral character and reputation. The purpose of this license is to enable an eligible physician to serve as a substitute for another physician who is licensed to practice medicine in this State and who is absent from his practice for reasons deemed sufficient by the Board. A license issued pursuant to the provisions of this paragraph is not renewable.

(b) A special license to a licensed physician of another state to come into this State to care for or assist in the treatment of his own patient in association with a physician licensed in this State. A special license issued pursuant to the provisions of this paragraph is limited to the care of a specific patient. The physician licensed in this State has the primary responsibility for the care of that patient.

(c) A restricted license for a specified period if the Board determines the applicant needs supervision or restriction.

(d) A temporary license for a specified period if the physician is licensed and in good standing in another state and meets the requirements for licensure in this State, and if the Board determines that it is necessary in order to provide medical services for a community without adequate medical care. A temporary license issued pursuant to the provisions of this paragraph is not renewable.

(e) A special purpose license to a physician who is licensed in another state to permit the use of equipment that transfers information concerning the medical condition of a patient in this State across state lines electronically, telephonically or by fiber optics **.** ~~[~~if the physician:

~~(1) Holds a full and unrestricted license to practice medicine in that state;~~

~~(2) Has not had any disciplinary or other action taken against him by any state or other jurisdiction; and~~

~~(3) Meets the requirements set forth in paragraph (d) of subsection 2 of NRS 630.160.~~**]**

2. ***For the purpose of paragraph (e) of subsection 1, the physician must:***

(a) Hold a full and unrestricted license to practice medicine in another state;

(b) Not have had any disciplinary or other action taken against him by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties or its successor.

3. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 38. NRS 630.262 is hereby amended to read as follows:

630.262 1. Except as otherwise provided in NRS 630.161, the Board may issue ~~[~~a restricted~~]~~ ***an authorized facility*** license to a person who intends to practice medicine in this State as a psychiatrist in a mental health center of the Division under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

2. A person who applies for ~~[~~a restricted~~]~~ ***an authorized facility*** license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice medicine pursuant to paragraph (e) of subsection 2 of NRS 630.160, but the person must meet all other conditions and requirements for an unrestricted license to practice medicine pursuant to this chapter.

3. If the Board issues ~~[~~a restricted~~]~~ ***an authorized facility*** license pursuant to this section, the person who holds the ~~[~~restricted~~]~~ license may practice medicine in this State only as a psychiatrist in a mental health center of the Division and only under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

4. If a person who holds ~~[~~a restricted~~]~~ ***an authorized facility*** license issued pursuant to this section ceases to practice medicine in this State as a psychiatrist in a mental health center of the Division:

(a) The Division shall notify the Board; and

(b) Upon receipt of ~~[~~such~~]~~ ***the*** notification, the ~~[~~restricted~~]~~ ***authorized facility*** license expires automatically.

5. The Board may renew or modify ~~[~~a restricted~~]~~ ***an authorized facility*** license issued pursuant to this section, unless the ~~[~~restricted~~]~~ license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a ~~[~~restricted~~]~~ license to an applicant in accordance with any other provision of this chapter.

7. As used in this section:

(a) "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.

Sec. 39. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement $600
For application for and issuance of a temporary, locum tenens, limited, ~~[restricted,]~~ special or special purpose license 400
For renewal of a limited ~~[, restricted]~~ or special license 400
For application for and issuance of a license as a physician assistant 400
For biennial registration of a physician assistant 800
For biennial registration of a physician 800
For application for and issuance of a license as a ***perfusionist or*** practitioner of respiratory care 400
For biennial renewal of a license as a perfusionist 600
For biennial registration of a practitioner of respiratory care 600
For biennial registration for a physician who is on inactive status $400
For written verification of licensure 50
For a duplicate identification card 25
For a duplicate license 50
For computer printouts or labels 500
For verification of a listing of physicians, per hour 20
For furnishing a list of new physicians 100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 40. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the ~~[National Board]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~[National Board]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization;

(d) Be certified by the ~~[National Board]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the***

Committee on Accreditation for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself out as qualified to practice respiratory care,

➥ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 41. NRS 630.299 is hereby amended to read as follows:

630.299 1. If the Board has reason to believe that a person has violated ~~[,]~~ ***or*** is violating ~~[or is about to violate]~~ any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated ~~[,]~~ ***or is violating*** ~~[or is about to violate]~~ ***any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:***

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement, if approved by an investigative committee of the Board, must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is

removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 42. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform ~~[.]~~ ***or which are beyond the scope of his training.***

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

13. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

14. Engaging in any act that is unsafe ~~*[, unsound,]*~~ ***or unprofessional*** ~~*[or contrary to the public interest.]*~~ ***conduct in accordance with regulations adopted by the Board.***

15. Violating a provision of a remediation agreement approved by the Board pursuant to NRS 630.299.

Sec. 43. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board ~~[.]~~ ***within 30 days after the date the licensee knows or has reason to know of the violation.***

Sec. 44. NRS 630.307 is hereby amended to read as follows:

630.307 1. ***Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the***

complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any ~~[person,]~~ ***licensee,*** medical school or medical facility that becomes aware that a person practicing medicine or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

~~[2.]~~ ***3.*** Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~[a physician's]~~ ***the*** privileges ***of a physician, physician assistant or practitioner of respiratory care*** to practice ~~[medicine]~~ while the physician ***, physician assistant or practitioner of respiratory care*** is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician ***, physician assistant or practitioner of respiratory care*** concerning the care of a patient or the competency of the physician ***, physician assistant or practitioner of respiratory care*** within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[3.]~~ ***4.*** The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[4.]~~ ***5.*** On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~[3.]~~ ***4.***

Sec. 45. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care on a form provided by

the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine ***, perfusion*** or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to practice while the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

4. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

5. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection 4.

Sec. 46. NRS 630.309 is hereby amended to read as follows:

630.309 To institute a disciplinary action against a ***perfusionist,*** physician assistant or practitioner of respiratory care, a written complaint, specifying the charges, must be filed with the Board by:

1. The Board or a committee designated by the Board to investigate a complaint;

2. Any member of the Board; or

3. Any other person who is aware of any act or circumstance constituting a ground for disciplinary action set forth in the regulations adopted by the Board.

Sec. 47. NRS 630.311 is hereby amended to read as follows:

630.311 1. A committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is ~~[qualified pursuant to subsection 2 of NRS 630.060.]~~ ***not a physician.*** The committee may issue orders to aid its investigation including, but not limited to, compelling a physician to appear before the committee.

2. If, after conducting an investigation, the committee determines that there is a reasonable basis for the complaint and that a violation of any provision of this chapter has occurred, the committee may file a formal complaint with the Board.

3. The proceedings of the committee are confidential and are not subject to the requirements of NRS 241.020. Within 20 days after the conclusion of each meeting of the committee, the Board shall publish a summary setting forth the proceedings and determinations of the committee. The summary must not identify any person involved in the complaint that is the subject of the proceedings.

Sec. 48. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, it may order that the physician undergo a mental or physical examination or an examination testing his competence to practice medicine by physicians or other examinations designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given his consent to submit to a mental or physical examination or an examination testing his competence to practice medicine when ordered to do so in writing by the Board ~~[.]~~ ***or an investigative committee of the Board.***

(b) The testimony or reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against him.

Sec. 49. NRS 630.326 is hereby amended to read as follows:

630.326 ***1. If an investigation by the Board regarding a physician, physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.***

2. If the Board issues an order summarily suspending the license of a physician, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician ***, physician assistant or practitioner of respiratory care*** pending proceedings for disciplinary action and requires the physician ***, physician assistant or practitioner of respiratory care*** to submit to a mental or physical examination or an examination testing his competence to practice ***,*** ~~[medicine,]~~ the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 50. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pending proceedings for disciplinary action and requires the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to submit to a mental or physical examination or an examination testing his competence to practice, the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 51. NRS 630.329 is hereby amended to read as follows:

630.329 If the Board issues an order suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pending proceedings for disciplinary action, the court shall not stay that order.

Sec. 52. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine ***, perfusion*** or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine ***, perfusion*** or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 53. NRS 630.339 is hereby amended to read as follows:

630.339 1. If a committee designated by the Board to conduct an investigation of a complaint decides to proceed with disciplinary action, it shall bring charges against the licensee ~~[. If charges are brought, the Board shall fix a time and place for a formal hearing.]~~ ***by filing a formal complaint. The formal complaint must include a written statement setting forth the charges alleged and setting forth in concise and plain language each act or omission of the respondent upon which the charges are based. The formal complaint must be prepared with sufficient clarity to ensure that the respondent is able to prepare his defense. The formal complaint must specify any applicable law or regulation that the respondent is alleged to have violated. The formal complaint may be signed by the chairman of the investigative committee or the Executive Director of the Board acting in his official capacity.***

2. The respondent shall file an answer to the formal complaint within 20 days after service of the complaint upon the respondent. The answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. If a party fails to file an answer within the time prescribed, he shall be deemed to have denied generally the allegations of the formal complaint.

3. Within 20 days after the filing of the answer, the parties shall hold an early case conference at which the parties and the hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

(b) Set dates:

(1) By which all documents must be exchanged;

(2) By which all prehearing motions and responses thereto must be filed;

(3) On which to hold the prehearing conference; and

(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held within 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

~~[2.]~~ ***5. A formal hearing must be held at the time and date set at the early case conference by:***

(a) The Board ~~[, a]~~ ***;***

(b) A hearing officer ~~[or a]~~ ***;***

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of ~~[its]~~ members ***of the Board*** designated by ~~[the Board shall hold the formal hearing on the charges at the time and place designated in the notification.]~~ ***an investigative committee of the Board or the Board;***

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the ~~[Board who is]~~ ***panel must*** not ***be*** a physician ***.*** ~~[must participate in this hearing.]~~

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

(a) Conduct the hearing;

(b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;

(c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and

(d) Within 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of law in accordance with the determinations made by each member of the Board.

Sec. 54. NRS 630.342 is hereby amended to read as follows:

630.342 1. Any ~~[physician]~~ ***licensee*** against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[physician's]~~ ***licensee's*** receipt of notification of the initiation of the

disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of a ~~[~~physician~~]~~ ***licensee*** to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[~~physician.~~]~~ ***licensee.***

3. The Board has additional grounds for initiating disciplinary action against a ~~[~~physician~~]~~ ***licensee*** if the report from the Federal Bureau of Investigation indicates that the ~~[~~physician~~]~~ ***licensee*** has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 630.301 to 630.3066, inclusive; or

(b) A violation of NRS 630.400.

Sec. 54.5. **NRS 630.346 is hereby amended to read as follows:**

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. ***Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.***

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine or respiratory care is conclusive evidence of its occurrence.

Sec. 55. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine ***, perfusion*** or respiratory care is conclusive evidence of its occurrence.

Sec. 56. (Deleted by amendment.)

Sec. 57. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, ~~[~~except for an advisory~~]~~ ***other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any*** member serving on a panel of the Board ***at the*** hearing ~~[~~charges,~~]~~ ***of the matter,*** may participate in ***an adjudication to obtain*** the final order of the Board. ~~[~~If the Board, after a formal hearing, determines from a

~~preponderance of the evidence that a violation of the provisions of this chapter or of the regulations of the Board has occurred, it shall issue and serve on the physician charged an order, in writing, containing its findings and any sanctions.~~

~~2.~~**]** ***At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:***

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation;

(b) The respondent or his counsel to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

➥ The Board may limit the time within which the parties and the complainant may make their arguments and statements.

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If ***, in the findings of fact and conclusions of law, the Board, hearing officer or panel of*** the Board determines that no violation has occurred, **~~[it]~~** ***the Board*** shall dismiss the charges, in writing, and notify the **~~[physician]~~** ***respondent*** that the charges have been dismissed. ~~**[**If the disciplinary proceedings were instituted against the physician as a result of a complaint filed against him, the Board may provide the physician with a copy of the complaint.~~

~~3.~~**]** ***4.*** Except as otherwise provided in subsection **~~[4,]~~** ***5,*** if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer to him a ***written*** public reprimand;

(c) Limit his practice or exclude one or more specified branches of medicine from his practice;

(d) Suspend his license for a specified period or until further order of the Board;

(e) Revoke his license ***;*** **~~[~~**~~to practice medicine, but only in accordance with the provisions of NRS 630.348;~~**~~]~~**

(f) Require him to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of his practice;

(h) Impose a fine not to exceed $5,000 **~~[;]~~** ***for each violation;***

(i) Require him to perform community service without compensation;

(j) Require him to take a physical or mental examination or an examination testing his competence; and

(k) Require him to fulfill certain training or educational requirements.

~~[4.]~~ ***5.*** If the Board finds that the ~~[physician]~~ ***respondent*** has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

~~[5.]~~ ***6.*** The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

~~[6.]~~ ***7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing.*** An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 58. NRS 630.356 is hereby amended to read as follows:

630.356 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order.

2. Every order that imposes a sanction against a licensee pursuant to subsection ~~[3]~~ ***4*** or ~~[4]~~ ***5*** of NRS 630.352 or any regulation of the Board is effective from the date the Secretary-Treasurer certifies the order until the date the order is modified or reversed by a final judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 59. NRS 630.358 is hereby amended to read as follows:

630.358 1. Any person:

(a) Whose practice of medicine ***, perfusion*** or respiratory care has been limited; or

(b) Whose license to practice medicine ***, perfusion*** or respiratory care has been:

(1) Suspended until further order; or

(2) Revoked,

➥ by an order of the Board, may apply to the Board for removal of the limitation or restoration of his license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination or an examination testing his competence to practice medicine ***, perfusion*** or respiratory care by physicians ***, perfusionists*** or practitioners of respiratory care, as appropriate, or other examinations it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

3. The licensee has the burden of proving by clear and convincing evidence that the requirements for restoration of the license or removal of the limitation have been met.

4. The Board shall not restore a license unless it is satisfied that the person has complied with all of the terms and conditions set forth in the final order of the Board and that the person is capable of practicing medicine or respiratory care in a safe manner.

5. To restore a license that has been revoked by the Board, the applicant must apply for a license and take an examination as though he had never been licensed under this chapter.

Sec. 60. NRS 630.366 is hereby amended to read as follows:

630.366 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 61. NRS 630.388 is hereby amended to read as follows:

630.388 1. In addition to any other remedy provided by law, the Board, through its President or Secretary-Treasurer or the Attorney General, may apply to any court of competent jurisdiction:

(a) To enjoin any prohibited act or other conduct of a licensee which is harmful to the public;

(b) To enjoin any person who is not licensed under this chapter from practicing medicine ***, perfusion*** or respiratory care;

(c) To limit the practice of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care, or suspend his license to practice; ~~[or]~~

(d) To enjoin the use of the title "P.A.," "P.A.-C," "R.C.P." or any other word, combination of letters or other designation intended to imply or designate a person as a physician assistant or practitioner of respiratory care,

when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute ~~[.]~~ ***; or***

(e) To enjoin the use of the title "L.P.," "T.L.P.," "licensed perfusionist," "temporarily licensed perfusionist" or any other word, combination of letters or other designation intended to imply or designate a person as a perfusionist, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for the purposes set forth in subsection 1:

(a) Without proof of actual damage sustained by any person;

(b) Without relieving any person from criminal prosecution for engaging in the practice of medicine ***, perfusion or respiratory care*** without a license; and

(c) Pending proceedings for disciplinary action by the Board.

Sec. 62. NRS 630.390 is hereby amended to read as follows:

630.390 In seeking injunctive relief against any person for an alleged violation of this chapter by practicing medicine ***, perfusion*** or respiratory care without a license, it is sufficient to allege that he did, upon a certain day, and in a certain county of this State, engage in the practice of medicine ***, perfusion*** or respiratory care without having a license to do so, without alleging any further or more particular facts concerning the same.

Sec. 63. NRS 630.400 is hereby amended to read as follows:

630.400 A person who:

1. Presents to the Board as his own the diploma, license or credentials of another;

2. Gives either false or forged evidence of any kind to the Board;

3. Practices medicine ***, perfusion*** or respiratory care under a false or assumed name or falsely personates another licensee;

4. Except as otherwise provided by ***a*** specific statute, practices medicine ***, perfusion*** or respiratory care without being licensed under this chapter;

5. Holds himself out as a physician assistant or uses any other term indicating or implying that he is a physician assistant without being licensed by the Board; or

6. Holds himself out as a practitioner of respiratory care or uses any other term indicating or implying that he is a practitioner of respiratory care without being licensed by the Board,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 64. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. This chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, ***perfusion,*** respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 65. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, ***perfusionist,*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 66. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 67 and 68 of this act.

Sec. 67. ***1. If the Board has reason to believe that a person has violated*** ~~***[,]***~~ ***or is violating*** ~~***[or is about to violate]***~~ ***any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board initiates any disciplinary proceedings against the person.***

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement that is negotiated by an investigative committee of the Board must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 68. ***In any disciplinary proceedings conducted pursuant to this chapter, the standard of proof is a preponderance of the evidence.***

Sec. 69. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or in applying for renewal of a license to practice osteopathic medicine.

(b) Failure of a licensee of the practice of osteopathic medicine to designate his school of practice in the professional use of his name by the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine, or the aiding or abetting of any unlicensed person to practice osteopathic medicine.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body ~~[.]~~ ***, other than the use of silicone oil to repair a retinal detachment.***

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 70. NRS 633.171 is hereby amended to read as follows:

633.171 1. This chapter does not apply to:

(a) The practice of medicine ***or perfusion*** pursuant to chapter 630 of NRS, dentistry, chiropractic, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Osteopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside.

2. This chapter does not repeal or affect any law of this State regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 71. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure to practice osteopathic medicine, an applicant shall cause to be submitted to the Board ~~[a]~~ ***:***

1. A certificate of completion of progressive postgraduate training from the residency program where the applicant received training ~~[.]~~ ***; and***

2. If applicable, proof of satisfactory completion of a postgraduate training program specified in paragraph (c) of subsection 4 of NRS 633.311 within 120 days after the scheduled completion of the program.

Sec. 72. NRS 633.331 is hereby amended to read as follows:

633.331 1. Examinations ~~[must]~~ ***may*** be held ~~[at least]~~ once a year at the time and place fixed by the Board. The Board shall notify each applicant in writing of the examinations.

2. The examination must be fair and impartial, practical in character, and the questions must be designed to discover the applicant's fitness.

3. The Board may employ specialists and other professional consultants or examining services in conducting the examination.

4. Each member who is not licensed in any state to practice any healing art shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 73. NRS 633.411 is hereby amended to read as follows:

633.411 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine to a person qualified under this section to authorize him to serve:

(a) As a resident medical officer in any hospital in Nevada. A person issued such a license shall practice osteopathic medicine only within the confines of the hospital specified in the license and under the supervision of the regular medical staff of that hospital.

(b) As a professional employee of the State of Nevada or of the United States. A person issued such a license shall practice osteopathic medicine only within the scope of his employment and under the supervision of the appropriate state or federal medical agency.

2. An applicant for a special license under this section must:

(a) Be a graduate of a school of osteopathic medicine **.** ~~[and have completed a hospital internship.]~~

(b) Pay the special license fee specified in this chapter.

3. The Board shall not issue a license under subsection 1 unless it has received a letter from a hospital in Nevada or from the appropriate state or federal medical agency requesting issuance of the special license to the applicant.

4. A special license issued under this section:

(a) Must be issued at a meeting of the Board or between its meetings by its President and Secretary subject to approval at the next meeting of the Board.

(b) Is valid for a period not exceeding 1 year, as determined by the Board.

(c) May be renewed by the Board upon application and payment by the licensee of the special license renewal fee specified in this chapter.

(d) Does not entitle the licensee to engage in the private practice of osteopathic medicine.

5. The issuance of a special license under this section does not obligate the Board to grant any regular license to practice osteopathic medicine.

Sec. 74. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. ~~[Gross or repeated]~~ ***Malpractice or gross*** malpractice, which may be evidenced by ~~[claims]~~ ***a claim*** of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of subsection 2 of NRS 633.322.

9. Signing a blank prescription form.

10. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

11. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

12. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

Sec. 75. NRS 633.561 is hereby amended to read as follows:

633.561 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or a member of the Board designated to review a complaint pursuant to NRS 633.541 has reason to believe that the conduct of an osteopathic physician has raised a reasonable question as to his competence to practice osteopathic medicine with reasonable skill and safety to patients, the Board or the member designated by the Board may require the osteopathic physician to submit to a mental or physical examination by physicians designated by the Board. ***If the osteopathic physician participates in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the osteopathic physician in the diversion program. As used in this subsection, "diversion program" means a program approved by the Board to correct an osteopathic physician's alcohol or drug dependence or any other impairment.***

2. For the purposes of this section:

(a) Every physician who is licensed under this chapter who accepts the privilege of practicing osteopathic medicine in this State shall be deemed to have given his consent to submit to a mental or physical examination if directed to do so in writing by the Board.

(b) The testimony or examination reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician who is licensed under this chapter to submit to an examination if directed as provided in this section constitutes an admission of the charges against him.

Sec. 76. NRS 633.625 is hereby amended to read as follows:

633.625 1. Any ~~[osteopathic physician]~~ ***licensee*** against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[osteopathic physician's]~~ ***licensee's*** receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of ~~[an osteopathic physician]~~ ***a licensee*** to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[osteopathic physician.]~~ ***licensee.***

3. The Board has additional grounds for initiating disciplinary action against ~~[an osteopathic physician]~~ ***a licensee*** if the report from the Federal Bureau of Investigation indicates that the ~~[osteopathic physician]~~ ***licensee*** has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 633.511; or

(b) A felony set forth in NRS 633.741.

Sec. 77. NRS 633.651 is hereby amended to read as follows:

633.651 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of osteopathic medicine.

(d) Suspend the license of the person to practice osteopathic medicine for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice osteopathic medicine.

(f) Impose a fine not to exceed $5,000 for each violation.

(g) Require supervision of the practice of the person.

(h) Require the person to perform community service without compensation.

(i) Require the person to complete any training or educational requirements specified by the Board.

(j) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment.

➥ The order of the Board may contain ~~[such]~~ ***any*** other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 78. NRS 633.691 is hereby amended to read as follows:

633.691 In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, ***an employee or volunteer of a diversion program specified in NRS 633.561,*** or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, ~~[repeated]~~ malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 79. NRS 652.210 is hereby amended to read as follows:

652.210 1. Except as otherwise provided in subsection 2 and NRS 126.121, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a ***perfusionist, a*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens.

2. The technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Sec. 80. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a ***perfusionist or a*** physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of

respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged

knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 81. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, ***perfusionist,*** psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends

or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the Unit for

the Investigation and Prosecution of Crimes within 90 days after completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 82. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, ***perfusionist,*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 83. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***perfusionist,*** dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 84. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***perfusionist,*** dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 85. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, ***perfusionist,*** psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 86. Section 121 of chapter 413, Statutes of Nevada 2007, at page 1869, is hereby amended to read as follows:

Sec. 121. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2008, for all other purposes.

2. ~~[The amendatory provisions of section 7 of this act expire by limitation on January 1, 2012.~~

~~3.]~~ Sections 11 and 25 of this act expire by limitation on January 1, 2012.

Sec. 87. NRS 630.175 and 630.348 are hereby repealed.

Sec. 88. Section 7 of chapter 413, Statutes of Nevada 2007, at page 1825, is hereby repealed.

Sec. 89. Notwithstanding the amendatory provisions of this act:

1. A person may be licensed as a perfusionist without complying with the provisions of section 8 of this act if the person:

(a) Is employed or otherwise working as a perfusionist on July 1, 2009;

(b) Has been operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as his primary function for at least 6 of the 8 years immediately preceding the date of application; and

(c) Before July 1, 2010, submits to the Board of Medical Examiners:

(1) An application for a license to practice perfusion on a form provided by the Board;

(2) The required fee established by the Board for the license; and

(3) The information required pursuant to NRS 630.197, unless that section has expired by limitation and is no longer in effect.

2. If a person is employed or otherwise working as a perfusionist on July 1, 2009, but the person does not meet the qualifications to be licensed as a perfusionist pursuant to subsection 1 or, if so qualified, fails to obtain a license as a perfusionist pursuant to subsection 1, the person:

(a) May continue to practice perfusion in this State until June 30, 2010, without holding a license to practice perfusion issued by the Board of Medical Examiners; and

(b) Must, if the person wishes to continue to practice perfusion in this State on or after July 1, 2010, hold a license to practice perfusion issued by the Board.

Sec. 90. A person who, on October 1, 2009:

1. Is the holder of a valid restricted license issued pursuant to NRS 630.262 and who is otherwise qualified to hold such a license on that date shall be deemed to hold an authorized facility license issued pursuant to that section, as amended by section 38 of this act.

2. Is the holder of a valid license as a practitioner of respiratory care pursuant to NRS 630.277 and who is otherwise qualified to practice respiratory care on that date shall be deemed to hold such a license issued pursuant to that section, as amended by section 40 of this act.

Sec. 91. 1. This section and sections 27, 86, 88 and 89 of this act become effective upon passage and approval.

2. Sections 1, 3 to 13, inclusive, 15, 16, 19, 20, 21, 24, 29, 33, 39, 45, 46, 50, 51, 52, 55, 59 to 65, inclusive, 70 and 79 to 85, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2010, for all other purposes.

3. Sections 2, 14, 17, 18, 22, 23, 25, 26, 28, 30, 31, 32, 35 to 38, inclusive, 40 to 44, inclusive, 47, 48, 49, 53, 54, **54.5,** 57, 58, 66 to 69, inclusive, 71 to 78, inclusive, 87 and 90 of this act become effective on October 1, 2009.

4. Section 33 of this act expires by limitation on the date which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section 34 of this act becomes effective on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

6. Sections 34 and 60 of this act expire by limitation on the date 2 years after the date on which the provision of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

630.175 Reporting of certain additional information concerning application.

630.348 Standards for revocation of license.

Section 7 of chapter 413, Statutes of Nevada 2007:

Sec. 7. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board ~~[~~may~~]~~ ***shall, except for good cause,*** issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[~~1.~~]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect ~~[~~;~~]~~

~~2. The applicant:~~

~~(a) Submits to the Board proof of passage of an examination approved by the Board;~~

~~(b) Submits to the Board any documentation and other proof of qualifications required by the Board;~~

~~(c) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and~~

~~(d) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and~~

~~3. Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.~~~~]~~ ***and unrestricted; and***

(b) The applicant:

(1) Is currently certified by a specialty board of the American Board of Medical Specialties and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years;

(3) Has been continuously and actively engaged in the practice of medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 630.160.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such an action shall be deemed to be an action of the Board.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 310.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 784.

AN ACT relating to trust companies; establishing various requirements for licensing as a retail trust company; establishing certain minimum capital requirements for trust companies; authorizing the Commissioner of Financial Institutions to take various actions relating to the regulation of trust companies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 3, 4, 6-8, 12-14, 16, 18, 25-27 and 30-36 of this bill revise various provisions governing the licensing and conduct of retail trust companies.

Sections 15-21, 31 and 35 of this bill authorize the Commissioner of Financial Institutions to take various actions concerning the activities of retail trust companies and the enforcement of chapter 669 of NRS.

Section 26 of this bill revises the minimum requirements for the amount of capital that must be held by trust companies.

Section 30 of this bill revises various fees relating to the licensing of retail trust companies.

Section 11 of this bill makes certain information provided to the Division of Financial Institutions of the Department of Business and Industry confidential in certain circumstances.

Section 9 of this bill authorizes the Commissioner to be a signatory to the Nationwide Cooperative Agreement for Supervision and Examination of Multi-State Trust Institutions as adopted by the Conference of State Bank Supervisors.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 669 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this act.

Sec. 2. ***1. "Family trust company" means a*** ~~*[nondepository trust company which is organized and licensed under this chapter by a designated relative to engage in trust company business with one or more family members and which does not transact business with the general public.]*~~ ***corporation or limited-liability company that:***

(a) Acts or proposes to act as a fiduciary;

(b) Is organized or qualified to do business in this State to serve family members; and

(c) Does not:

(1) Transact trust company business with;

(2) Propose to act as a fiduciary for; or

(3) Solicit trust company business from,

➥ a person who is not a family member.

2. As used in this section:

(a) "Designated relative" means the [person who is so designated in the application for a license under NRS 669.150.] common ancestor of the family, who may be either a living or deceased person. With regard to:

(1) A licensed family trust company or a family trust company applying to be licensed pursuant to this chapter, the designated relative is the person who is designated in the application for a license under this chapter or in the annual renewal of a license.

(2) A family trust company other than a family trust company described in subsection 1, the designated relative is any person designated by the family trust company in a letter to the Commissioner sent by certified mail, return receipt requested.

(b) "Family member" [means] includes, without limitation, the designated relative and:

(1) Any person within the [fifth] tenth degree of lineal kinship to the designated relative;

(2) Any person within the ninth degree of collateral kinship to the designated relative;

(3) Any nonfamily member who is an individual beneficiary under a will or trust created by a family member specified in subparagraph (1) or (2), including the spouse and issue of that person;

(4) The spouse and any former spouse of the designated relative [;

(4) A spouse] or of any person qualifying as a family member under subparagraph (1) or (2);

(5) Any person within the fifth degree of lineal kinship of [the] a spouse or former spouse identified in subparagraph (3) [;] or (4);

(6) A [company controlled by one or more family members, who possess, directly or indirectly, the power to direct or cause the direction of the management and policies of the company, whether through the ownership of voting securities, by contract or otherwise;

(7) A] family affiliate and the officers, managers and directors of that family affiliate and their immediate families;

(7) An inter vivos or testamentary trust established by a family member either individually or jointly with a spouse or third party and any trustee, advisor or other person assisting with administration of that trust;

(8) An inter vivos or testamentary trust established by a [family member or by a] person who is not a family member if noncharitable beneficiaries [who are] of that trust include family members ; [represent a majority interest in the trust;]

[(8)] (9) The estate of a family member; [or

(9)] (10) The estate of a nonfamily member if the noncharitable beneficiaries of that estate include family members; and

(11) A charitable foundation , charitable trust or charitable entity [created by] of which a family member [,] is an organizer, incorporator,

officer, member of the governing board, trustee, major donor or noncharitable beneficiary and the officers, directors, individual trustees and managers of that foundation, trust or entity and their immediate families.

3. For the purposes of this section:

(a) A family member is not a member of the public.

(b) A legally adopted person must be treated as a natural child of the adoptive parents.

(c) A stepchild must be treated as a natural child of the family member who is or was the stepparent of that child.

(d) Children of a spouse of a family member must be treated as natural children of that family member.

(e) Degrees are calculated by adding the number of steps from the designated relative through each person to the family member either directly, in the case of lineal kinship, or through the common ancestor, in the case of collateral kinship. As used in this paragraph:

(1) "Collateral kinship" means a relationship that is not lineal but stems from a common ancestor.

(2) "Lineal kinship" means a family member who is in the direct line of ascent or descent from the designated relative.

Sec. 2.3. ***"Grandfathered trust company" means a trust company that:***

1. Held a license pursuant to this chapter on March 16, 2009; or

2. Filed an application for a license pursuant to this chapter with the Commissioner on or before March 16, 2009, and held such license on October 1, 2009.

Sec. 2.7. ***1. "Noncustodial trust company" means a grandfathered trust company that:***

(a) Does not manage, or advise regarding, in the aggregate, more than $100,000,000 worth of a client's assets;

(b) Does not have custody or control of ~~[a client's]~~ clients' assets that exceed 20 percent of the total assets that the trust company manages for ~~[that client;]~~ all clients; and

(c) To the extent that the trust company has custody or control of a client's assets, invests such assets pursuant to:

(1) Direction by the client; or

(2) The prudent investor standards of NRS 164.700 to 164.775, inclusive.

2. For the purposes of this section:

(a) "Advise" means to provide investment advice.

(b) "Control" means the ability to invest or transfer cash or any other asset in a fiduciary or client account to any person other than:

(1) In the case of an account for which the trust company acts as fiduciary, the settlor or beneficiary; and

(2) In the case of any other account of a client, the owner of the account.

(c) "Manage" means the exercise of discretion regarding investments, whether or not that discretion is delegated to another person.

Sec. 3. ***"Retail trust company" means an entity which is licensed under this chapter*** . ~~*[and engaged in a trust company business in this State.]*~~

Sec. 4. ***1. A retail trust company licensed in this State shall maintain its principal office in this State.***

2. The conditions for a retail trust company to fulfill the requirements of subsection 1 include, but are not limited to:

(a) A verifiable physical office in this State that conducts such business operations in this State as are necessary to administer trusts in this State;

(b) The presence of an employee that is a resident of Nevada in the principal office who has experience that is satisfactory to the Commissioner in accepting and administering trusts;

(c) Maintenance of originals or true copies of all material business records and accounts of the retail trust company which may be accessed and are readily available for examination by the Division of Financial Institutions;

(d) Maintenance of the required cash portion of the stockholders' equity pursuant to NRS 669.100 in accounts with one or more banks or other financial institutions located in this State;

(e) The provision of services to residents of this State consistent with the business plan provided by the trust company with its license application; and

(f) Such other conditions that the Commissioner may require to protect the public interest.

Sec. 5. (Deleted by amendment.)

Sec. 6. ***1. The Commissioner may conduct a pre-opening examination of a retail trust company and, in rendering a decision on an application for a license as a retail trust company, consider:***

(a) The proposed market or markets to be served and, if they extend outside of this State, any exceptional risk, examination or supervision concerns associated with such markets;

(b) Whether the proposed organizational and capital structure and the amount of initial capital appear adequate in relation to the proposed business and market or markets, including, without limitation, the average level of assets under management and administration projected for each of the first 3 years of operation;

(c) Whether the anticipated volume and nature of business indicate a reasonable probability of success and profitability based on the market or markets proposed to be served;

(d) Whether the proposed officers and directors or managers of the proposed retail trust company, as a group, have sufficient experience, ability, standing and competence and whether each individually has sufficient trustworthiness and integrity to justify a belief that the proposed retail trust company will be free from improper or unlawful influence and

otherwise will operate in compliance with the law and applicable fiduciary duties and that success of the proposed retail trust company is reasonably probable;

(e) Whether any investment services to trusts, estates, charities, employee benefit plans and other fiduciary accounts or to natural persons, partnerships, limited-liability companies and other entities, including, without limitation, providing investment advice with or without discretion or selling investments in or investment products of affiliated or nonaffiliated persons, will be conducted in compliance with all applicable fiduciary standards, including, without limitation, NRS 164.700 to 164.775, inclusive, the duty of loyalty and disclosure of material information;

(f) Whether the proposed retail trust company will be exempt from registration under the Investment Advisers Act of 1940, 15 U.S.C. 80a-1 et seq., and any similar state laws in each state where it would otherwise be required to register and, if not, whether it will comply with such registration requirements before commencing business and thereafter will comply with all federal and state laws and regulations applicable to it, its employees and representatives as a registrant under such laws;

(g) Whether the proposed retail trust company will obtain suitable annual audits by qualified outside auditors of its books and records and its fiduciary activities under applicable account rules and standards as well as suitable internal audits; and

(h) Any other factors that the Commissioner may require.

2. The Commissioner may require a retail trust company to maintain capital in excess of the minimum required either initially or at any subsequent time based on his assessment of the risks associated with the retail trust company's business plan or any other circumstances revealed in the application, his investigation of the application or any examination of or filing by the retail trust company thereafter, including any examination before the opening of the retail trust company for business. In making such a determination, the Commissioner may consider:

(a) The nature and type of business proposed to be conducted by the retail trust company;

(b) The nature and liquidity of assets proposed to be held in its own account;

(c) The amount of fiduciary assets projected to be under management or under administration of the retail trust company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of fiduciary duties and degree of discretion proposed to be undertaken by the retail trust company;

(f) The competence and experience of proposed management of the retail trust company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence or absence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The existence and adequacy of insurance proposed to be obtained by the retail trust company for the purpose of protecting its fiduciary assets;

(k) The success of the retail trust company in achieving the financial projections submitted with its licensing application;

(l) The fulfillment by the retail trust company of its representations and its descriptions of its business structures and methods and management set forth in its licensing application; and

(m) Any other factor that the Commissioner may require.

Sec. 7. ***1. A license issued pursuant to this chapter is not transferable or assignable. Upon approval of the Commissioner, a licensee may merge or consolidate with, or transfer its assets and control to, another entity that has been issued a license under this chapter. In making a determination regarding whether to grant such approval, the Commissioner may consider the factors set forth in paragraphs (a) to (m), inclusive, of subsection 2 of section 6 of this act.***

2. If there is a change in control of any retail trust company, the chief executive officer or managing member of the retail trust company shall report the fact and the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A retail trust company shall, within 5 business days after there is a change in the chief executive officer, managing member or a majority of the directors or managing directors of the retail trust company, report the change to the Commissioner. The retail trust company shall include in its report a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.

4. A person who acquires control as a result of a change of control of a retail trust company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business of a trust company in a manner which protects the interests of the general public.

5. The retail trust company with which the applicant described in subsection 4 is affiliated shall pay the nonrefundable cost of the investigation as the Commissioner requires. If the Commissioner denies

the application, he may forbid or limit the applicant's participation in the business of the trust company.

6. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of a retail trust company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, a retail trust company.

Sec. 8. ***1. It is unlawful for any retail trust company licensed in this State to engage in trust company business at any office outside this State without the prior approval of the Commissioner.***

2. Before the Commissioner will approve a branch to be located in another state, the retail trust company must:

(a) Obtain from that state a license as a trust company; or

(b) Meet all the requirements to ~~[operate]~~ do business as a trust company at an office in that state.

Sec. 9. ***The Commissioner is authorized to be, on his own behalf and that of the Division of Financial Institutions, a signatory to the Nationwide Cooperative Agreement for Supervision and Examination of Multi-State Trust Institutions as adopted by the Conference of State Bank Supervisors and exercise his discretion in the supervision of multi-state trust institutions consistently with that agreement.***

Sec. 10. ***1. The Commissioner may require a licensee to provide an audited financial statement prepared by an independent certified public accountant licensed to do business in this State.***

2. On the fourth Monday in January of each year, each licensee shall submit to the Commissioner a list of stockholders required to be maintained pursuant to paragraph (c) of subsection 1 of NRS 78.105 or the list of members required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241, verified by the president or a manager, as appropriate.

3. The list of members required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241 must include the percentage of each member's interest in the company, in addition to the requirements set forth in that section.

4. Except as otherwise provided in NRS 239.0115, any document submitted pursuant to this section is confidential.

Sec. 11. ***Except as otherwise provided in NRS 239.0115, any application and personal or financial records submitted by a person pursuant to the provisions of this chapter and any personal or financial records or other documents obtained by the Division of Financial Institutions pursuant to an examination or audit conducted by the Division are confidential and may be disclosed only to:***

1. The Division, any authorized employee of the Division and any state or federal agency investigating the activities covered under the provisions of this chapter; and

2. Any person when the Commissioner, in his discretion, determines that the interests of the public that would be protected by disclosure outweigh the interest of any person in the confidential information not being disclosed.

Sec. 12. ***The Commissioner may direct that the board of directors or managers of a retail trust company meet at least quarterly in regular meetings to review the books, records, funds and securities held by the retail trust company in its individual and fiduciary capacities and maintain a written record of those meetings for review by the Division.***

Sec. 13. ***1. Except as otherwise provided in subsection 3, the affairs and business of a retail trust company organized as a corporation under the laws of this State must be managed or controlled by a board of directors of not less than five in number who must be selected by the stockholders at the annual meeting of stockholders in such manner as may be provided by the bylaws of the corporation.***

2. Except as otherwise provided in subsection 3, the affairs and business of a retail trust company organized as a limited-liability company under the laws of this State must be managed or controlled by no fewer than five managers selected from the members as provided in the operating agreement.

3. The Commissioner may authorize a retail trust company to be managed or controlled by no fewer than three directors or managers, as appropriate.

4. The board of directors or managers of a noncustodial trust company must be not less than three in number unless a smaller number is authorized by the Commissioner.

Sec. 14. ***1. No person is eligible to serve as a director or manager of any retail trust company unless he:***

(a) Displays the competence and integrity to transact the business of the retail trust company in a manner which safeguards the interests of the general public; and

(b) Has a financial status consistent with his responsibilities to the public.

2. The Commissioner may require any or all new directors or managing directors of a retail trust company to provide such financial and biographical information and verification thereof as he deems appropriate, including the completion of any forms required to be completed in connection with the licensing of a retail trust company.

Sec. 15. ***1. For the purpose of discovering violations of this title or of securing information required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:***

(a) Any licensee;

(b) Any other person engaged in an activity for which a license is required pursuant to the provisions of this chapter; and

(c) Any person that the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives must have and be given free access to the offices and places of business, files, safes and vaults of such persons.

3. The Commissioner may require the attendance of any person and examine him under oath regarding:

(a) Any transaction or business regulated pursuant to the provisions of this chapter; or

(b) The subject matter of any audit, examination, investigation or hearing.

Sec. 16. ***The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any retail trust company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the retail trust company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.***

Sec. 17. (Deleted by amendment.)

Sec. 18. ***1. The Commissioner may institute disciplinary action or forthwith initiate proceedings to take possession of the business and property of any retail trust company when it appears that the retail trust company:***

(a) Has violated its charter or any state or federal laws applicable to the business of a trust company.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' equity.

(e) Has refused to pay or transfer account assets to its account holders as required by the terms of the accounts' governing instruments.

(f) Has become insolvent.

(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.

(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.

(i) Has made a voluntary assignment of its assets to receivers, conservators, trustees or creditors without complying with NRS 669.230.

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS.

(k) Has materially and willfully breached its fiduciary duties to its customers.

(l) Has failed to properly disclose all fees, interest and other charges to its customers.

(m) Has willfully engaged in material conflicts of interest regarding a customer's account.

(n) Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the retail trust company.

2. The Commissioner also may forthwith initiate proceedings to take possession of the business and property of any trust company when it appears that the officers of the trust company have refused to be examined upon oath regarding its affairs.

Sec. 19. ***If the Commissioner finds that probable cause for revocation of any license exists and that enforcement of the provisions of this chapter requires immediate suspension of a license pending investigation, he may, upon 5 days' written notice and a hearing, enter an order suspending a license for a period not exceeding 20 days, pending a hearing upon the revocation.***

Sec. 20. ***1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, he may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.***

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto, or so much thereof as a court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business, whether such books, papers, documents and records are in the possession of the defendant, a registered agent acting on behalf of the defendant or any other person. A receiver, when appointed and qualified, has such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as may from time to time be conferred upon him by the court.

4. If a receiver is appointed pursuant to subsection 3, such receiver shall remit to the owners, members or shareholders of the retail trust company any amount of equity and capital of the retail trust company remaining after discharge of the liabilities and payment of the normal, prudent and reasonable expenses of the receivership.

Sec. 21. ***1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, he shall give at least 20***

days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

2. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than $10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including his investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Division of Financial Institutions;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter; or

(e) The licensee:

(1) Failed to open an office for the conduct of the business authorized by his license within 180 days after the date his license was issued; or

(2) Has failed to remain open for the conduct of the business for a period of 30 days without good cause therefor.

4. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

Sec. 22. NRS 669.020 is hereby amended to read as follows:

669.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 669.029 to 669.070, inclusive, ***and sections 2 to 3, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 23. NRS 669.045 is hereby amended to read as follows:

669.045 ***1.*** "Fiduciary" means a trustee, executor, administrator, guardian of an estate, ***personal representative,*** conservator, assignee for the benefit of creditors, receiver, depositary or person that receives on deposit money or property from a public administrator under any provision of this chapter or from another fiduciary.

2. As used in this section, "administrator" includes servicers or administrators of individual retirement accounts within the meaning of section 408(a) of the Internal Revenue Code of 1986, 26 U.S.C. 408(a),

where the servicer or administrator holds itself out to the public for performance of such services and holds or maintains an ownership interest in the servicing rights of such accounts, or possesses or controls any of the assets of such accounts, including cash.

Sec. 24. NRS 669.080 is hereby amended to read as follows:

669.080 1. This chapter does not apply to a person who:

(a) Does business under the laws of this State, the United States or another state relating to banks, savings banks, savings and loan associations or thrift companies, but if the ***trust company*** business conducted in this State is not subject to supervision by a regulatory authority of another jurisdiction, the person must be licensed pursuant to this chapter ~~[.]~~ ***before engaging in such business in this State;***

(b) Is appointed as a fiduciary pursuant to NRS 662.245;

(c) Is acting in the performance of his duties as an attorney at law;

(d) Acts as a trustee under a deed of trust;

(e) Acts as a registered agent for a domestic or foreign corporation, limited-liability company, limited partnership or limited-liability partnership;

(f) Acts as a trustee of a trust holding real property for the primary purpose of facilitating any transaction with respect to real estate if he is not regularly engaged in the business of acting as a trustee for such trusts;

(g) Engages in the business of a collection agency pursuant to chapter 649 of NRS;

(h) Engages in the business of an escrow agency, escrow agent or escrow officer pursuant to the provisions of chapter 645A or 692A of NRS;

(i) Acts as a trustee of a trust created for charitable or nonprofit purposes if he is not regularly engaged in the business of acting as trustee for such trusts;

(j) Receives money or other property as a real estate broker licensed under chapter 645 of NRS on behalf of a principal;

(k) Engages in transactions as a broker-dealer or sales representative pursuant to chapter 90 of NRS;

(l) Acts as a fiduciary under a court trust;

(m) Does business as an insurer authorized to issue policies of life insurance and annuities or endowment contracts in this State and is subject to regulation and control of the Commissioner of Insurance; ~~[or]~~

(n) Acts as a fiduciary ~~[if:~~

~~(1) The fiduciary relationship is not one of his principal occupations; or~~

~~(2) He serves as a fiduciary for a relative by blood or marriage.]~~ ***as an individual; or***

(o) Acts as a family trust company, unless the family trust company is licensed under this chapter. A family trust company which is not licensed under the provisions of this chapter shall be deemed not to be engaged in trust company business for the purposes of this chapter.

2. A bank, savings bank, savings and loan association or thrift company claiming an exemption from this chapter pursuant to paragraph (a) of

subsection 1 must notify the Commissioner of Financial Institutions of its intention to engage in the business of a trust company in this State and present proof satisfactory to the Commissioner of Financial Institutions that its fiduciary activities in this State will be subject to regulation by another jurisdiction.

Sec. 25. NRS 669.090 is hereby amended to read as follows:

669.090 It is unlawful for any ~~[person]~~ ***retail trust company*** to engage in the business of a trust company without complying with the provisions of this chapter and having a license issued by the Commissioner.

Sec. 26. NRS 669.100 is hereby amended to read as follows:

669.100 ***1.*** No ***retail*** trust company may be organized or operated with a stockholders' equity of less than ~~[$300,000,]~~ ***$1,000,000,*** or in such greater amount as may be required by the Commissioner. The full amount of the initial stockholders' equity must be paid in cash, exclusive of all organization expenses, before the trust company is authorized to commence business.

2. A retail trust company shall maintain at least 50 percent of its required stockholders' equity in cash unless the Commissioner approves a smaller amount. The remaining 50 percent of its required stockholders' equity may be a different form of readily marketable securities or with prior approval by the Commissioner other liquid, secure asset, bond, surety or insurance, or some combination of the foregoing.

3. Any grandfathered trust company other than a noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

(1) By October 1, 2010, $500,000;

(2) By October 1, 2011, $750,000; and

(3) By October 1, 2012, $1,000,000; and

(b) Maintain $500,000 of such minimum capital in cash on and after October 1, 2010.

4. Any noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

(1) By October 1, 2010, $350,000;

(2) By October 1, 2011, $400,000; and

(3) By October 1, 2012, $500,000; and

(b) Maintain 50 percent of such minimum capital in cash on and after October 1, 2010.

5. As used in this section, "in cash" means in depository accounts with one or more banks in this State.

Sec. 27. NRS 669.130 is hereby amended to read as follows:

669.130 A ***retail*** trust company shall not transact business, except business that is incidental to its organization, until it is authorized by the

Commissioner to commence the business of a trust company as provided in this chapter.

Sec. 28. NRS 669.150 is hereby amended to read as follows:

669.150 1. An applicant must file an application for a license to transact trust company business with the Commissioner on forms prescribed by the Commissioner, which must contain or be accompanied by such information as the Commissioner requires.

2. A nonrefundable fee of not more than $2,000 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary. In addition, a fee of not less than $200 or more than $500, prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the application.

3. ~~[A]~~ ***Except as otherwise provided in section 8 of this act, a*** trust company may maintain offices in this and other states. For every branch location of a trust company organized under the laws of this State, and every branch location in this State of a foreign trust company authorized to do business in this State, a request for approval and licensing must be filed with the Commissioner on such forms as he prescribes. A nonrefundable fee of not more than $500 must accompany each request. In addition, a fee of not more than $200, prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the request.

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account ***for Financial Institutions*** created by NRS 232.545.

5. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 12 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays any required fees.

Sec. 29. NRS 669.160 is hereby amended to read as follows:

669.160 1. Within ~~[60]~~ ***90*** days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That the persons who will serve as directors or officers of the corporation, or the managers or members acting in a managerial capacity of the limited-liability company, as applicable:

(1) Have a good reputation for honesty, trustworthiness and integrity and display competence to transact the business of a trust company in a

manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Have not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(3) Have not made a false statement of material fact on the application.

(4) Have not ***been an officer or member of the board of directors for an entity which*** had a license ~~[that was]~~ issued pursuant to the provisions of this chapter ***that was*** suspended or revoked within the 10 years immediately preceding the date of the application ~~[.]~~ ***, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.***

(5) Have not ***been an officer or member of the board of directors for a company which*** had a license as a trust company which was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of the application ~~[.]~~ ***, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.***

(6) Have not violated any of the provisions of this chapter or any regulation adopted pursuant to the provisions of this chapter.

(b) That the financial status of the directors and officers of the corporation or the managers or members acting in a managerial capacity of the limited-liability company is consistent with their responsibilities and duties.

(c) That the name of the proposed company complies with the provisions of NRS 657.200.

(d) That the initial stockholders' equity is not less than the required minimum.

(e) That the applicant has retained the employee required by paragraph (b) of subsection 2 of section 4 of this act.

2. Notice of the entry of an order refusing a license to a trust company must be given in writing, served personally or sent by certified mail ~~[or by telegram]~~ to the company affected. The company, upon application, is entitled to a hearing before ~~[a hearing officer appointed by the Director of the Department of Business and Industry,]~~ ***the Commissioner,*** but if no such application is made within 30 days after the entry of an order refusing a license to any company, the Commissioner shall enter a final order.

3. ~~[If the hearing officer affirms the]~~ ***The*** order of the Commissioner ~~[refusing the license, the applicant may file a petition for]~~ ***is final for the purposes of*** judicial review ***.*** ~~[pursuant to NRS 233B.130.]~~

Sec. 30. NRS 669.190 is hereby amended to read as follows:

669.190 1. The initial fee to be paid for a ***retail*** trust company license ~~[must be in proportion to the initial stockholders' equity of the trust company as follows:~~

~~(a) A trust company with an initial stockholders' equity of not less than $300,000 but not more than $500,000 must pay a license fee of not more than $1,000.~~

~~(b) A trust company with an initial stockholders' equity of more than $500,000 but not more than $1,000,000 must pay a license fee of not more than not more than $1,500.~~

~~(c) A trust company with an initial stockholders' equity of more than $1,000,000 must pay a license fee of not more than $2,000.~~**]** ***must not be more than $3,000.***

2. In addition, every ***retail*** trust company must pay an initial license fee of not more than **[**~~$200~~**]** ***$500*** for each branch office that is authorized by the Commissioner.

3. Thereafter, every ***retail*** trust company must pay annually on or before April 1 of each year a license fee **[**~~which must be in proportion to its existing stockholders' equity as follows:~~

~~(a) A trust company with an existing stockholders' equity of not less than $300,000 but not more than $500,000 must pay a license fee of not more than $1,000.~~

~~(b) A trust company with an existing stockholders' equity of more than $500,000 but not more than $1,000,000 must pay a license fee of not more than $1,500.~~

~~(c) A trust company with an existing stockholders' equity of more than $1,000,000 must pay a license fee of not more than $2,000.~~**]** ***of not more than $3,000.***

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section. All money collected under the provisions of this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 31. NRS 669.200 is hereby amended to read as follows:

669.200 ***The Commissioner shall issue an order cancelling a retail trust company's license:***

1. If **[**~~a~~**]** ***the*** proposed ***retail*** trust company fails to open for business within 6 months after the date the license was issued, or within an additional 6-month extension granted by the Commissioner upon written application and for good cause shown **[**~~, the Commissioner shall issue an order cancelling the trust company's license.~~**]** ***; or***

2. If the retail trust company fails to maintain regular business hours or otherwise conduct the business of a trust company for more than 30 days.

Sec. 32. NRS 669.210 is hereby amended to read as follows:

669.210 1. Each **[**~~licensed~~**]** ***retail*** trust company may **[**~~:~~**]** ***, in the conduct of its trust business, within and outside this State, subject to section 8 of this act, as applicable:***

(a) Act as ***indenture trustee or as*** trustee under any mortgage or bond of any person or of any municipality or body politic.

(b) Accept and execute any municipal or corporate or individual trust not inconsistent with the laws of this State.

(c) Act under the order or appointment of any court as guardian, administrator, receiver or trustee.

(d) Act as executor or trustee under any will.

(e) Act as fiscal or transfer agent of any state, municipality, body politic or corporation, and in such capacity receive and disburse money and register, transfer and countersign certificates of stock, bonds and other evidences of indebtedness.

(f) Act as ~~[local or]~~ ***a*** registered agent of foreign corporations.

(g) Accept and execute any trust business permitted by any law.

(h) Acquire the fiduciary rights, powers, duties and liabilities of a bank, savings and loan association, thrift company, trust company or credit union licensed pursuant to titles 55 and 56 of NRS, and upon the effective date of such an acquisition, the fiduciary rights, powers, duties and liabilities of the bank, savings and loan association, thrift company, trust company or credit union vest in and must be performed by the acquiring trust company.

(i) ***Act as an agent, advisory agent, assignee, attorney-in-fact, authenticating agent, bailee, bond or indenture trustee, conversion agent, curator, custodian, escrow agent, exchange agent, fiscal or paying agent, financial adviser, investment adviser, investment manager, managing agent, purchase agent, registrar, safekeeping agent, subscription agent, warrant agent or in similar capacities generally performed by corporate trustees, and in so acting, may possess, purchase, sell, invest, reinvest, safekeep or otherwise manage or administer real or personal property of other persons.***

(j) Exercise the powers of a business corporation or limited-liability company organized or qualified as a foreign corporation or limited-liability company under Nevada law and any incidental powers that are reasonably necessary to enable it to fully exercise, in accordance with commonly accepted customs and usages, a power conferred in this chapter.

(k) Do and perform all acts necessary to exercise the powers enumerated in this subsection and authorized by this chapter and any other applicable laws of this State.

2. A ***retail*** trust company may not engage in any banking business by accepting deposits or making loans.

Sec. 33. NRS 669.220 is hereby amended to read as follows:

669.220 1. A ***retail*** trust company:

(a) Shall keep all trust funds and investments separate from the assets of the ***retail*** trust company, and all investments made by the ***retail*** trust company as a fiduciary must be designated so that the trust or estate to which the investments belong may be clearly identified.

(b) When it holds trust funds awaiting investment or distribution, may deposit or leave those funds on deposit with a state or national bank or credit union. The funds must not be deposited or left with the same corporation

depositing them or leaving them on deposit, or with a corporation or association holding or owning a majority of the stock of the ***retail*** trust company making or leaving the deposit, unless that corporation or association first pledges, as security for the deposit, securities eligible for investment by state banks or credit unions which have a market value equal to that of the deposited funds. No security is required with respect to any portion of the deposits that is insured under the provisions of NRS 678.755 or a law of the United States.

(c) When it acts in any capacity under a court trust or private trust, unless the instrument creating the trust provides otherwise, may cause any securities ***or other assets*** held by it in its representative capacity to be registered ***or titled*** in the name of a nominee or nominees of the ***retail*** trust company.

(d) When acting as depositary or custodian for the personal representative of a court trust or private trust, unless the instrument creating the trust provides otherwise, may with the consent of the personal representative of the trust, cause any securities ***or other assets*** held by it to be registered ***or titled*** in the name of a nominee or nominees of the ***retail*** trust company.

2. A trust company is liable for any loss occasioned by the acts of its nominees with respect to securities registered under this section.

3. No corporation or the registrar or transfer agent of the corporation is liable for registering or causing to be registered on the books of the corporation any securities in the name of any nominee of a trust company or for transferring or causing to be transferred on the books of the corporation any securities registered by the corporation in the name of any nominee of a trust company when the transfer is made on the authorization of the nominee.

4. ~~[~~Except as otherwise provided in subsection 5, the~~]~~ ***The*** assets forming the capital of a ***retail*** trust company must:

(a) Be ***cash,*** governmental obligations or insured deposits that mature within 3 years after acquisition ~~[.]~~ ***, readily marketable securities or other liquid, secure assets, bonds, sureties or insurance, or some combination of the foregoing in accordance with NRS 669.100.***

(b) Have an aggregate market value that equals or exceeds ~~[60]~~ ***100*** percent of the company's ~~[current]~~ ***required*** stockholders' equity ***.*** ~~[or 60 percent of the company's initial stockholders' equity, whichever is greater.]~~

5. A ***retail*** trust company may purchase or rent ~~[land and equipment for use in the daily]~~ ***real or personal property useful for the conduct of the business and other*** activities of the ***retail*** trust company.

6. A retail trust company may invest its money for its own account, other than those required or permitted to be maintained by subsection 4 or 5 or NRS 669.100, in any type or character of equity securities, debt securities or other asset, provided the investment complies with the prudent investor standards of NRS 164.700 to 164.775, inclusive.

Sec. 34. NRS 669.225 is hereby amended to read as follows:

669.225 1. In addition to the powers of investment granted to the trust company by the instrument creating the relationship of fiduciary or agent, a

trust company which is acting as a fiduciary or agent may, in its discretion or at the direction of another person who is authorized to direct the investment of money held by the trust company as a fiduciary or agent, invest in the securities of an investment trust or investment company if:

(a) The investment trust or investment company is ~~[registered pursuant to]~~ ***an investment company for the purposes of*** the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-1 et seq.; ~~[and]~~

(b) The portfolio of the investment trust or investment company consists substantially of investments which are not prohibited by the instrument creating the fiduciary or agency relationship ~~[.]~~ ***; and***

(c) The relationship of the investment company to the trust company is disclosed to any person who is currently receiving statements for the account, by a prospectus, a statement of account or otherwise.

2. A ***retail*** trust company or an affiliate of the ***retail*** trust company ~~[may provide]~~ ***that provides*** services to the investment trust or investment company, including, without limitation, acting as an ~~[investment adviser,]~~ ***adviser,*** custodian, transfer agent, registrar, sponsor, distributor or ***shareholder serving agent*** manager ***,*** ~~[and]~~ may receive reasonable compensation for the services. The manner in which the compensation is calculated must be disclosed to ~~[the]~~ ***any*** person who is currently receiving ~~[the benefits of the relationship of a fiduciary or agent with the trust company. The disclosure may be made]~~ ***statements for the account*** by a prospectus, a statement of account or otherwise.

3. A ***retail*** trust company may deposit money held by the ***retail*** trust company as a fiduciary or agent ~~[with an affiliate before investing or making other disposition of the money.]~~ ***that is awaiting investment or distribution as provided in the governing instrument for the account in an affiliated bank. To the extent that the money invested in an affiliated bank is not insured by the Federal Deposit Insurance Corporation, the retail trust company shall set aside collateral as security, under the control of appropriate fiduciary officers and employees, with a market value that at all times equals or exceeds the amount of the uninsured fiduciary money.***

4. Notwithstanding subsections 1, 2 and 3, a retail trust company authorized to exercise trust powers in this State which is acting as a fiduciary shall not purchase for the fiduciary estate any fixed income or equity security issued by the retail trust company or an affiliate thereof other than an investment company, unless:

(a) The retail trust company is expressly authorized to do so by the terms of the instrument creating the trust, a court order, the written consent of the grantor of the trust or the written consent of every adult beneficiary of the trust who, at the time the notice is provided, receives, or is entitled to receive, income under the trust or who would be entitled to receive a distribution of principal if the trust were terminated; or

(b) The security is fairly priced and otherwise complies with the prudent investor standards of NRS 164.700 to 164.775, inclusive, and the terms of

the instrument, judgment, decree, or other document establishing the fiduciary relationship.

Sec. 35. NRS 669.295 is hereby amended to read as follows:

669.295 ***1.*** In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $10,000 ***per violation*** upon a person who:

~~[1.]~~ ***(a)*** Without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter; or

~~[2.]~~ ***(b)*** Violates any provision of this chapter or any regulation adopted pursuant thereto.

2. The maximum total fine that the Commissioner may impose on any person pursuant to this section with respect to the same or similar actions or series of actions which constitute the violations must not exceed the greater of $100,000 or 125 percent of all losses incurred by the retail trust company and its clients as the direct or indirect result of such violations.

Sec. 36. NRS 669.282 and 669.284 are hereby repealed.

Sec. 37. (Deleted by amendment.)

TEXT OF REPEALED SECTIONS

669.282 Authority of Commissioner to seize property, business and assets; duties of Commissioner upon seizure.

1. If the Commissioner ascertains by examination or otherwise that the capital or assets of a trust company are impaired or that the affairs of a trust company are in an unsafe condition which may result in danger to the public, he may immediately take possession of all the property, business and assets of the company which are located in this state and retain possession of them pending further proceedings as provided in this chapter.

2. If the directors or officers of a corporation or the managers or members acting in a managerial capacity of a limited-liability company refuse to allow the Commissioner to take possession of the property of the company, the Commissioner shall communicate that fact to the Attorney General. Upon notification from the Commissioner, the Attorney General shall immediately institute such proceedings as may be necessary to place the Commissioner in immediate possession of the property of the company. Upon possession of the property, the Commissioner shall make or have made an inventory of the assets and known liabilities of the company.

3. The Commissioner shall file one copy of the inventory in his office and one copy in the office of the clerk of the district court of the county in which the principal office of the trust company is located and shall mail one copy to each director or officer of the corporation, or the manager or member acting in a managerial capacity of the limited-liability company, at his last known address.

4. The clerk of the court with which the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number.

669.284 Persons entitled to remedy conditions leading to seizure; effect of failure to remedy; receivership and liquidation of assets.

1. The directors or officers of a corporation or the managers or members acting in a managerial capacity of a limited-liability company licensed as a trust company may, within 60 days after the date the Commissioner takes possession of the property, business and assets of the corporation or limited-liability company licensed as a trust company, make good any deficit that exists or remedy the unsafe condition of the affairs of the corporation or limited-liability company licensed as a trust company.

2. At the expiration of the 60-day period set forth in subsection 1, if the deficiency in assets or capital has not been made good or the unsafe condition remedied, the Commissioner may apply to the court to be appointed receiver and proceed to liquidate the assets of the company that are located in this state in the same manner as now provided by law for liquidation of a private corporation in receivership.

3. Another person may not be appointed receiver by any court unless he first gives the Commissioner ample notice of his application.

4. The inventory made by the Commissioner pursuant to NRS 669.282 and all claims filed by creditors are open at all reasonable times for inspection, and any action taken by the receiver upon any of the claims is subject to the approval of the court before which the cause is pending.

5. The expenses of the receiver and compensation of counsel, as well as all expenditures required in the liquidation proceedings, must be fixed by the Commissioner subject to the approval of the court and, upon certification of the Commissioner, must be paid out of the money in his hands as the receiver.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 332.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 745.

AN ACT relating to vehicles; revising provisions governing the use of alternative fuels and clean vehicles by fleets owned, operated or leased by certain state agencies and local governing bodies; authorizing a program to provide incentives to acquire clean vehicles and motor vehicles that use alternative fuels; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-11 of this bill revise provisions governing the use of alternative fuels by certain fleet vehicles. (NRS 486A.010-486A.180) **Section 4** revises the definition of "alternative fuel" to authorize the State Environmental Commission to define the term by regulation. (NRS 486A.030) **Section 5**

revises the definition of "fleet" to limit the applicability of **sections 1-11** to a fleet of 50 or more motor vehicles ~~[that]~~ **which are registered in the same county and which** are under the common control of and owned, leased or operated by a state agency or a local governing body. (NRS 486A.080) **Section 6** excludes certain vehicles that have a manufacturer's gross vehicle weight rating of more than 26,000 pounds from the requirements of **sections 1-11**. (NRS 486A.110)

Section 12 of this bill revises provisions encouraging the voluntary use of clean vehicles and motor vehicles that use alternative fuels by persons who are not subject to the requirements of **sections 1-11** of this bill. (NRS 486A.200)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 486A of NRS is hereby amended by adding thereto a new section to read as follows:

"Clean vehicle" means any motor vehicle which complies with the ~~*[standards and requirements]*~~ ***specifications for clean vehicles established by the Commission.***

Sec. 2. NRS 486A.010 is hereby amended to read as follows:

486A.010 The Legislature finds that:

1. ~~[Protection of the]~~ ***The*** State's environment, particularly the quality of its air, ~~[requires a reduction,]~~ ***can be improved,*** especially in metropolitan areas, ~~[of the contaminants resulting from the combustion of conventional fuels in motor]~~ ***through the use of alternative fuels and clean*** vehicles.

2. A very large proportion of ~~[these]~~ ***air*** contaminants ~~[results]~~ ***result*** from the burning of liquid and gaseous fuels to operate trucks and buses, many of which are operated in fleets. Each fuel can be evaluated as to the air pollution it causes when burned in motor vehicles ~~[.~~

~~3. Conversion of these fleets to use cleaner burning alternative fuels can reduce contaminants sufficiently to permit the continued use of conventional fuels in individually owned motor]~~ ***, and particular models of motor vehicles can be evaluated to assess the amount of contaminants those motor vehicles emit.***

3. Fleets operated by state agencies and local governing bodies can reduce air contaminants through the use of cleaner-burning alternative fuels and the acquisition of clean vehicles.

Sec. 3. NRS 486A.020 is hereby amended to read as follows:

486A.020 As used in NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 486A.030 to 486A.130, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 4. NRS 486A.030 is hereby amended to read as follows:

486A.030 "Alternative fuel" means any fuel which complies with the standards and requirements ***for alternative fuel*** established by the Commission. ~~[The term includes:~~

~~1. Reformulated gasoline; and~~

~~2. Finished diesel fuel that:~~

~~(a) Meets ASTM International specification D975; and~~

~~(b) Includes at least 5 percent biodiesel fuel blend stock for distillate fuels meeting ASTM International specification D6751,~~

~~➥ which comply with any applicable regulations adopted by the United States Environmental Protection Agency pursuant to the standards for the control of emissions from motor vehicles established in the Clean Air Act Amendments of 1990, Public Law 101-549, November 15, 1990.]~~ ***The term does not include a fuel that is required for use in this State pursuant to a state implementation plan adopted by this State pursuant to 42 U.S.C. 7410.***

Sec. 5. NRS 486A.080 is hereby amended to read as follows:

486A.080 "Fleet" means ~~[10]~~ ***50*** or more motor vehicles ~~[that]~~ ***which are registered in the same county and which*** are ***under the common control of and*** owned, leased or operated by ~~[the State or a local governing body. The term includes fleets that are used by the State,]~~ a state agency or a local governing body. The term does not include long haul trucks for use in interstate transportation or motor vehicles held for lease or rental to the general public.

Sec. 6. NRS 486A.110 is hereby amended to read as follows:

486A.110 "Motor vehicle" means every vehicle which is self-propelled, but not operated on rails, used upon a highway for the purpose of transporting persons or property. The term does not include a:

1. Farm tractor as defined in NRS 482.035;
2. Moped as defined in NRS 482.069; ~~[and]~~
3. Motorcycle as defined in NRS 482.070 ~~[.]~~ ***; and***
4. ***Vehicle having a manufacturer's gross vehicle weight rating of more than 26,000 pounds, unless the vehicle is designed for carrying more than 15 passengers.***

Sec. 7. NRS 486A.140 is hereby amended to read as follows:

486A.140 The provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** do not apply to:

1. The owner of a fleet of motor vehicles that operates only in a county whose population is less than 100,000.
2. Any governmental agency exempted by federal statute or regulation.
3. Any person exempted by the Commission.

Sec. 8. NRS 486A.150 is hereby amended to read as follows:

486A.150 The Commission shall adopt regulations necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act,*** including, ~~[but not limited to,]~~ ***without limitation,*** regulations concerning:

1. Standards and requirements for alternative fuel. ~~[The Commission shall]~~ ***In establishing standards and requirements for alternative fuel, the Commission:***

(a) Must consider fuels that are recognized by the Environmental Protection Agency, the Department of Energy and the California Air Resources Board to improve air quality or reduce harmful air emissions.

(b) Shall not discriminate against any product that is petroleum based.

2. ~~*[Standards and requirements]*~~ ***Specifications for clean vehicles and motor vehicles that use alternative fuels. To the extent practicable and appropriate, the specifications established by the Commission must be consistent with the specifications established by the Environmental Protection Agency, the Department of Energy and the California Air Resources Board for the vehicle category and year of manufacture.***

3. The ~~[conversion of fleets to use alternative fuels if the]~~ ***acquisition of clean vehicles and motor vehicles that use alternative fuels by a*** fleet ***that*** is operated in a county whose population is 100,000 or more ~~[.~~

~~3. Standards for alternative fuel injection systems for diesel motor vehicles.]~~ ***, including, without limitation, recordkeeping and reporting requirements concerning such vehicles.***

4. Standards for levels of emissions from motor vehicles that are converted to use alternative fuels.

5. The establishment of a procedure for approving ***variances or*** exemptions to the requirements of NRS 486A.010 to 486A.180, inclusive ~~[.~~

~~6. Standards related to the use of dedicated alternative fuel motor vehicles.]~~ ***, and section 1 of this act. The Commission may approve a variance or exemption based upon:***

(a) A determination by the Commission that compliance with the requirements of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act:

(1) Would void or reduce the coverage under a manufacturer's warranty for any vehicle or vehicle component;

(2) Would result in financial hardship to the owner or operator of a fleet; or

(3) Is impractical because of the lack of availability of clean vehicles, alternative fuel or motor vehicles that use alternative fuel; or

(b) Any other reason which the Commission determines is appropriate.

Sec. 9. NRS 486A.160 is hereby amended to read as follows:

486A.160 1. The Department shall:

(a) Make such determinations and issue such orders as may be necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~[,]~~ ***, and section 1 of this act;***

(b) Enforce the regulations adopted by the Commission pursuant to the provisions of NRS 486A.010 to 486A.180, inclusive ~~[,]~~ ***, and section 1 of this act;*** and

(c) Conduct any investigation, research or study necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~[.]~~ ***, and section 1 of this act.***

2. Upon request, the Department of Motor Vehicles shall provide to the Department information contained in records of registration of motor vehicles.

Sec. 10. NRS 486A.170 is hereby amended to read as follows:

486A.170 1. An authorized representative of the Department may enter and inspect any fleet of ~~[10 or more]~~ motor vehicles that is subject to the requirements of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** to ascertain compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** and ***any*** regulations adopted pursuant thereto.

2. A person who owns or leases a fleet of ~~[10 or more]~~ ***motor*** vehicles shall not:

(a) Refuse entry or access to the motor vehicles to any authorized representative of the Department who requests entry for the purpose of inspection as provided in subsection 1.

(b) Obstruct, hamper or interfere with any such inspection.

3. If requested by the owner or lessor of a fleet of motor vehicles, the Department shall prepare a report of an inspection made pursuant to subsection 1 setting forth all facts determined which relate to the owner's or lessor's compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** and any regulations adopted pursuant thereto.

Sec. 11. NRS 486A.180 is hereby amended to read as follows:

486A.180 1. Except as otherwise provided in subsection 4, any person who violates any provision of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** or any regulation adopted pursuant thereto, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than $5,000. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines of not more than $1,000 for lesser violations of any provision of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** or any regulation ~~[in force]~~ ***adopted*** pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** and ***any*** regulations ~~[in force]~~ ***adopted*** pursuant thereto, by injunction or other appropriate remedy. The Commission or the Director of the Department may institute and maintain in the name of the State of Nevada any such enforcement proceeding.

4. A person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to a person found by the court to be indigent.

5. The Commission and the Department shall deposit all money collected pursuant to this section in the State General Fund. Money deposited in the State General Fund pursuant to this subsection must be accounted for separately and may only be expended upon legislative appropriation.

Sec. 12. NRS 486A.200 is hereby amended to read as follows:

486A.200 1. After consulting with the Department of Business and Industry, the Department may, within limits of legislative appropriations or authorizations or grants available for this purpose, develop and carry out a program to provide incentives to encourage those persons who are not otherwise required to do so pursuant to NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** to ~~[use clean-burning fuel in motor vehicles.]~~ ***acquire clean vehicles and motor vehicles that use alternative fuels.*** The program may include, without limitation, a method of educating the members of the general public concerning:

(a) The program administered by the Department; and

(b) The benefits of using ~~[clean-burning fuel in]~~ ***clean vehicles and*** motor vehicles ~~[.]~~ ***that use alternative fuels.***

2. The Department may adopt regulations to carry out the provisions of this section.

3. As used in this section:

(a) ~~["Clean-burning fuel" has the meaning ascribed to alternative fuel in 10 C.F.R. 490.2.]~~ ***"Clean vehicle" has the meaning ascribed to it in section 1 of this act.***

(b) "Department" means the State Department of Conservation and Natural Resources.

(c) "Motor vehicle" has the meaning ascribed to it in NRS 365.050.

Sec. 13. (Deleted by amendment.)

Sec. 14. NRS 486A.040, 486A.060 and 486A.090 are hereby repealed.

Sec. 15. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

486A.040 "Bi-fueled motor vehicle" defined. "Bi-fueled motor vehicle" means a motor vehicle that is capable of operating on either a clean-burning alternative fuel or a traditional fuel, including, but not limited to, gasoline or diesel fuel.

486A.060 "Dedicated alternative fuel motor vehicle" defined. "Dedicated alternative fuel motor vehicle" means a motor vehicle that:

1. Operates only on an alternative fuel; or

2. Regardless of the type of fuel on which it operates, has been certified by the United States Environmental Protection Agency as being in compliance with the standards for the control of emissions from an ultra low-emission vehicle, or more stringent standards, as set forth in 40 C.F.R. 88.104-94 or 88.105-94.

486A.090 "Flexible fueled vehicle" defined. "Flexible fueled vehicle" means a motor vehicle that is capable of operating on any mixture of an

alternative fuel and a traditional fuel, including, but not limited to, gasoline or diesel fuel.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 338.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 785.

AN ACT relating to property; authorizing a landlord who leases or subleases any commercial premises to dispose of any abandoned personal property left on the commercial premises without incurring any civil or criminal liability under certain circumstances; authorizing the landlord to charge and collect certain reasonable and actual costs before releasing the abandoned personal property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason to dispose of any abandoned personal property left on the commercial premises without incurring any civil or criminal liability if the landlord takes ~~[reasonable]~~ **certain** steps to notify any holder of a **perfected** lien or security interest of the existence of the abandoned property and notifies **, by certified mail,** the tenant who left the property on the premises of his intention to dispose of the property. **If the landlord and any holder of a perfected lien or security interest have a written agreement concerning the removal and disposal of abandoned property, that agreement determines the rights and obligations of those parties with respect to the removal and disposal of abandoned property.**

Section 2 of this bill defines "abandoned personal property" as any personal property which is left unattended on the commercial premises after the termination of the tenancy **[**~~, unless the owner of the personal property expresses his intent in writing to return for the personal property.~~**]** **and which is not removed within a certain period after the landlord has provided certain notices to the tenant and any holder of a perfected lien or security interest in the property.** If the abandoned personal property is a vehicle, **section 1** requires the vehicle to be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

Section 1 of this bill also authorizes the landlord to charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, of the abandoned personal property before releasing the abandoned personal property to the tenant or his authorized representative. If the tenant disputes the costs claimed by the landlord, **section 1** authorizes the

dispute to be resolved using the procedure specified in NRS 40.253, as amended by **section 3** of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 118 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~*[A]*~~ ***Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:***

(a) The landlord may dispose of the abandoned personal property and recover his reasonable costs out of the abandoned personal property or the value thereof if the conditions set forth in subparagraphs (1) and (2) are satisfied:

(1) ~~*[The landlord has taken reasonable steps to:*~~

~~*(I) Determine whether the abandoned personal property is subject to a lien or security interest; and*~~

~~*(II) If the abandoned personal property is subject to a lien or security interest, notify the holder of the lien or the security interest that the abandoned personal property has been left on the premises.*~~

~~*(2)]*~~ ***The landlord has notified the tenant in writing of his intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was*** ~~*[given]*~~ ***mailed to the tenant. The notice must be mailed , by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.***

(2) The landlord has taken reasonable steps to:

(I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and

(II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the premises.

➥ The landlord shall be deemed to have taken the reasonable steps required by subparagraph (2) if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed, to any secured party named on the financing statement at the address indicated on the financing statement, by certified

mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. If a written agreement between a landlord and a secured party who has a perfected lien on, or a perfected security interest in, any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the secured party with respect to the removal and disposal of the abandoned personal property.

3. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Sec. 2. NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to 118.205, inclusive, ***and section 1 of this act,*** unless the context otherwise requires:

1. ***"Abandoned personal property" means any personal property which is left unattended on any commercial premises after the termination of the tenancy*** ~~[, unless the owner of the personal property has expressed an intent in writing to return for the personal property.]~~ ***and which is not removed by the tenant or a person who has a perfected lien on, or perfected security interest in, the personal property within 14 days after the later of the date on which the landlord:***

(a) Mailed, by certified mail, return receipt requested, notice of his intention to dispose of the personal property, as required by subparagraph (1) of paragraph (a) of subsection 1 of section 1 of this act; or

(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of section 1 of this act.

2. "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.

~~[2.]~~ ***3.*** "Rental agreement" means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.

~~[3.]~~ ***4.*** "Tenant" means a person who has the right to possess real property pursuant to a rental agreement.

Sec. 3. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ As used in this subsection, "day of service" means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the

affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the Justice Court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the Justice Court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the

refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 ***or section 1 of this act*** for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

➥ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 ~~[,]~~ ***or section 1 of this act*** and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 350.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 749.

AN ACT relating to business associations; clarifying that an attorney who is a registered agent is not required to report certain privileged information under certain circumstances; increasing the fine imposed on certain foreign business entities that transact business in this State without qualifying to do business in this State; imposing a fine on persons purporting to do business in this State as a business entity without legally forming that entity; making various technical corrections to various provisions relating to business associations; revising the provisions relating to dissenters' rights; revising the provisions relating to the maintenance of certain lists by certain business associations; revising the provisions relating to the proper venue for the posting of certain notices and the filing of certain actions and for certain other purposes; establishing provisions relating to restricted limited-liability companies and restricted limited partnerships; making various other changes to the provisions relating to business associations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a registered agent to notify the Commissioner of Financial Institutions if the registered agent determines that a represented entity is not properly licensed. (NRS 77.410, 604A.710, 675.380) **Sections 1, 81 and 82** of this bill clarify that a registered agent who is an attorney is not required to make such a notification if doing so would violate the attorney-client privilege.

Sections 16, 36.1, 48.5, 55.5 and 56.4 of this bill: (1) increase from $500 to ~~[$5,000]~~ **a minimum of $1,000 and a maximum of $10,000** the fine imposed on certain foreign business entities that transact business in this State without registering with the Secretary of State or otherwise qualifying to do business in this State; and (2) allow the district attorney or Attorney General to recover the cost of a proceeding to recover the fine if the district attorney or Attorney General prevails in the proceeding. (NRS 80.055, 86.548, 87A.610, 88.600, 88A.750) **Sections 17.6, 36.6, 39.7 and 49.8** of this bill impose the same fine on foreign nonprofit corporations, foreign registered limited-liability partnerships and foreign limited-liability limited partnerships that do business in this State without registering with the Secretary of State.

Sections 1.5, ~~[17.4,]~~ 27.5, 36.4, 39.3, 39.5, 49.4, 49.6, 56.2 and 56.6 of this bill provide that: (1) a person is subject to a fine of ~~[$5,000]~~ **not more than $1,000 but not less than $10,000** if the person is purporting to do business in this State as a business entity ~~[but does not form that entity in accordance with the provisions of existing law;]~~ **and willfully fails or neglects to register with the Secretary of State or file with the Secretary of State certain documents;** and (2) the district attorney or Attorney General may recover the cost of a proceeding to recover the fine if the district attorney or Attorney General prevails in the proceeding.

Sections 2-14 of this bill make technical corrections to various provisions relating to corporations. (Chapter 78 of NRS)

Existing law provides that certain notices for certain purposes must be posted and certain actions must be filed in certain counties where the principal office of the entity is located or, if the principal office is not located in this State, in the district court in Carson City. (NRS 78.275, 78.345, 78.630, 82.306, 82.471, 82.486) **Sections 7, 8, 15, 19, 21 and 22** of this bill provide that instead of the proper venue being the district court in Carson City, the proper venue will lie in the county in which the entity's registered office is located.

Sections 26 and 27 of this bill provide for the formation of a restricted limited-liability company and prescribe the requirements pertaining to such entities. (Chapter 86 of NRS)

Sections 28 and 33 of this bill provide for certain rights of members relating to recordkeeping and the inspection of certain records.

Sections 38, 39 and 49.2 of this bill provide for the formation of a restricted limited partnership and prescribe the requirements pertaining to such entities. (Chapters 87A and 88 of NRS)

Sections 57 and 58 of this bill revise the provisions relating to professional organizations to permit ownership of such entities if at least one stockholder or member is admitted to the State Bar of Nevada. (NRS 89.040, 89.070)

Sections 59-78 of this bill make various changes relating to dissenters' rights, in accordance with recent changes that were made to the Model Business Corporation Act. (Chapter 92A of NRS)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 77.410 is hereby amended to read as follows:

77.410 1. If a registered agent knows or reasonably should know that the entity for which he is the registered agent engages in any business activity that is regulated pursuant to chapter 604A or 675 of NRS and the registered agent or a subsidiary or affiliate of the registered agent performs any service for the represented entity other than:

(a) Delivering documents for filing to state or local governmental entities;

(b) Forwarding unopened mail;

(c) Any service described in NRS 77.400;

(d) Accounting services incidental to the formation of the entity for which he serves as registered agent provided in accordance with chapter 628 of NRS; or

(e) Legal services incidental to the formation of the entity for which he serves as registered agent if he is an attorney who is licensed to practice law in this State or performs such services under the supervision of an attorney who is licensed to practice law in this State,

➥ the registered agent shall verify with the Division of Financial Institutions of the Department of Business and Industry that the represented entity is licensed pursuant to chapter 604A or 675 of NRS, as applicable.

2. **[**If**]** ***Except as otherwise provided in this subsection, if*** a registered agent determines pursuant to subsection 1 that the represented entity is not licensed as required pursuant to chapter 604A or 675 of NRS, the registered agent shall notify the Commissioner of Financial Institutions. ***This subsection does not require a registered agent who is an attorney to notify the Commissioner if doing so would violate any privilege pursuant to NRS 49.035 to 49.115, inclusive, or the Nevada Rules of Professional Conduct.***

3. A registered agent who accepts an appointment to act as the registered agent for a represented entity whom the registered agent knows or reasonably should know engages in business activities which are regulated pursuant to chapter 604A or 675 of NRS shall not perform any financial transactions on behalf of the represented entity in his capacity as registered agent.

Sec. 1.5. Chapter 78 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every person, other than a corporation organized and existing pursuant to the laws of another state, territory, the District of Columbia, a possession of the United States or a foreign country, who is purporting to do business in this State as a corporation and who willfully fails or neglects to ~~[comply]~~ ***file with the*** ~~[provisions of NRS 78.030 to 78.045, inclusive, 78A.020, 81.060, 84.015 to 84.040, inclusive, or 89.040, whichever is applicable,]~~ ***Secretary of State articles of incorporation is subject to a fine of not less than*** ~~[$5,000,]~~ ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 2. NRS 78.130 is hereby amended to read as follows:

78.130 1. Every corporation must have a president, a secretary and a treasurer ~~[.]~~ ***, or the equivalent thereof.***

2. Every corporation may also have one or more vice presidents, assistant secretaries and assistant treasurers, and such other officers and agents as may be deemed necessary.

3. All officers must be natural persons and must be chosen in such manner, hold their offices for such terms and have such powers and duties as may be prescribed by the bylaws or determined by the board of directors. Any natural person may hold two or more offices.

4. An officer holds office after the expiration of his term until a successor is chosen or until his resignation or removal before the expiration of his term. A failure to elect officers does not require the corporation to be dissolved. Any vacancy occurring in an office of the corporation by death, resignation, removal or otherwise, must be filled as the bylaws provide, or in the absence of such a provision, by the board of directors.

Sec. 3. NRS 78.139 is hereby amended to read as follows:

78.139 1. Except as otherwise provided in subsection 2 or the articles of incorporation, directors and officers confronted with a change or potential change in control of the corporation have:

(a) The duties imposed upon them by subsection 1 of NRS 78.138; and

(b) The benefit of the presumptions established by subsection 3 of that section.

2. If directors and officers take action to resist a change or potential change in control of a corporation which impedes the exercise of the right of stockholders to vote for or remove directors:

(a) The directors must have reasonable grounds to believe that a threat to corporate policy and effectiveness exists; and

(b) The action taken which impedes the exercise of the stockholders' rights must be reasonable in relation to that threat.

➥ If those facts are found, the directors and officers have the benefit of the presumption established by subsection 3 of NRS 78.138.

3. The provisions of subsection 2 do not apply to:

(a) Actions that only affect the time of the exercise of stockholders' voting rights; or

(b) The adoption or ~~[execution]~~ ***signing*** of plans, arrangements or instruments that deny rights, privileges, power or authority to a holder of a specified number or fraction of shares or fraction of voting power.

4. The provisions of subsections 2 and 3 do not permit directors or officers to abrogate any right conferred by statute or the articles of incorporation.

5. Directors may resist a change or potential change in control of the corporation if the directors by a majority vote of a quorum determine that the change or potential change is opposed to or not in the best interest of the corporation:

(a) Upon consideration of the interests of the corporation's stockholders and any of the matters set forth in subsection 4 of NRS 78.138; or

(b) Because the amount or nature of the indebtedness and other obligations to which the corporation or any successor to the property of either may become subject, in connection with the change or potential change in control, provides reasonable grounds to believe that, within a reasonable time:

(1) The assets of the corporation or any successor would be or become less than its liabilities;

(2) The corporation or any successor would be or become insolvent; or

(3) Any voluntary or involuntary proceeding pursuant to the federal bankruptcy laws concerning the corporation or any successor would be commenced by any person.

Sec. 4. NRS 78.195 is hereby amended to read as follows:

78.195 1. If a corporation desires to have more than one class or series of stock, the articles of incorporation must prescribe, or vest authority in the board of directors to prescribe, the classes, series and the number of each class or series of stock and the voting powers, designations, preferences, limitations, restrictions and relative rights of each class or series of stock. If more than one class or series of stock is authorized, the articles of incorporation or the resolution of the board of directors passed pursuant to a provision of the articles must prescribe a distinguishing designation for each class and series. The voting powers, designations, preferences, limitations, restrictions, relative rights and distinguishing designation of each class or series of stock must be described in the articles of incorporation or the resolution of the board of directors before the issuance of shares of that class or series.

2. All shares of a series must have voting powers, designations, preferences, limitations, restrictions and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

3. Unless otherwise provided in the articles of incorporation, no stock issued as fully paid up may ever be assessed and the articles of incorporation must not be amended in this particular.

4. Any rate, condition or time for payment of distributions on any class or series of stock may be made dependent upon any fact or event which may be ascertained outside the articles of incorporation or the resolution providing for the distributions adopted by the board of directors if the manner in which a fact or event may operate upon the rate, condition or time of payment for the distributions is stated in the articles of incorporation or the resolution. As used in this subsection, "fact or event" includes, without limitation, the existence of a fact or occurrence of an event, including, without limitation, a determination or action by a person, the corporation itself or any government, governmental agency or political subdivision of a government.

5. The provisions of this section do not restrict the directors of a corporation from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that grant ~~[rights to stockholders]~~ or ~~[that]~~ deny rights, privileges, power or authority to a holder ***or holders*** of a specified number of shares or percentage of share ownership or voting power.

Sec. 5. NRS 78.205 is hereby amended to read as follows:

78.205 1. A corporation is not obligated to but may sign and deliver a certificate for or including a fraction of a share.

2. In lieu of signing and delivering a certificate for a fraction of a share, a corporation may:

(a) Pay to any person otherwise entitled to become a holder of a fraction of a share an amount in cash based on a per share value, and that value or the method of determining that value must be specified in the articles, plan of reorganization, plan of merger or exchange, resolution of the board of directors, or other instrument pursuant to which the fractional share would otherwise be issued;

(b) Issue such additional fraction of a share as is necessary to increase the fractional share to a full share; or

(c) Sign and deliver registered or bearer scrip over the manual or facsimile signature of an officer of the corporation or of its agent for that purpose, exchangeable as provided on the scrip for full share certificates, but the scrip does not entitle the holder to any rights as a stockholder except as provided on the scrip. The scrip may provide that it becomes void unless the rights of the holders are exercised within a specified period and may contain any other provisions or conditions that the corporation deems advisable. Whenever any scrip ceases to be exchangeable for full share certificates, the shares that would otherwise have been issuable as provided on the scrip are deemed to be treasury shares unless the scrip contains other provisions for their disposition.

3. Any proposed corporate action that would result in ***only*** money ***being paid*** or scrip being ~~[delivered instead of fractional shares]~~ ***issued*** to stockholders who:

(a) Before the proposed corporate action becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~[fractions of shares]~~ ***a fraction of a share*** in exchange for the cancellation of all their outstanding shares,

➥ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposed corporate action is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with ~~[the]~~ ***those*** provisions ~~[of NRS 92A.300 to 92A.500, inclusive,]~~ and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 6. NRS 78.2055 is hereby amended to read as follows:

78.2055 1. Unless otherwise provided in the articles of incorporation, a corporation that desires to decrease the number of issued and outstanding shares of a class or series held by each stockholder of record at the effective date and time of the change without correspondingly decreasing the number of authorized shares of the same class or series may do so if:

(a) The board of directors adopts a resolution setting forth the proposal to decrease the number of issued and outstanding shares of a class or series; and

(b) The proposal is approved by the vote of stockholders holding a majority of the voting power of the affected class or series, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power of the affected class or series.

2. If the proposal required by subsection 1 is approved by the stockholders entitled to vote, the corporation may reissue its stock in accordance with the proposal after the effective date and time of the change.

3. Except as otherwise provided in this subsection, if a proposed decrease in the number of issued and outstanding shares of any class or series would adversely alter or change any preference, or any relative or other right given to any other class or series of outstanding shares, then the decrease must be approved by the vote, in addition to any vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the decrease, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power of the adversely affected class or series. The decrease does not have to be approved by the vote of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the decrease if the articles of incorporation specifically deny the right to vote on such a decrease.

4. Any proposal to decrease the number of issued and outstanding shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the decrease in the number of shares becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~[fractions of shares]~~ ***a fraction of a share*** in exchange for the cancellation of all their outstanding shares,

➥ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposal is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with ~~[the]~~ ***those*** provisions ~~[of NRS 92A.300 to 92A.500, inclusive,]~~ and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 6.5. NRS 78.207 is hereby amended to read as follows:

78.207 1. Unless otherwise provided in the articles of incorporation, a corporation that desires to change the number of shares of a class or series, if any, of its authorized stock by increasing or decreasing the number of authorized shares of the class or series and correspondingly increasing or decreasing the number of issued and outstanding shares of the same class or series held by each stockholder of record at the effective date and time of the change, may, except as otherwise provided in subsections 2 and 3, do so by a resolution adopted by the board of directors, without obtaining the approval of the stockholders. The resolution may also provide for a change of the par value, if any, of the same class or series of the shares increased or decreased. After the effective date and time of the change, the corporation may issue its stock in accordance therewith.

2. A proposal to increase or decrease the number of authorized shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the increase or decrease in the number of shares becomes effective, in the aggregate hold 10 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~[fractions of shares]~~ ***a fraction of a share*** in exchange for the cancellation of all ~~[of]~~ their outstanding shares,

➥ must be approved by the vote of stockholders holding a majority of the voting power of the affected class or series, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power thereof.

3. Except as otherwise provided in this subsection, if a proposed increase or decrease in the number of authorized shares of any class or series would adversely alter or change any preference or any relative or other right given to any other class or series of outstanding shares, then the increase or decrease must be approved by the vote, in addition to any vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the increase or decrease, regardless of limitations or restrictions on the voting power thereof. The increase or decrease does not have to be approved by the vote of the holders of shares representing a majority of the voting power in each class or series whose preference or rights are adversely affected by the increase or decrease if the articles of incorporation specifically deny the right to vote on such an increase or decrease.

4. Any proposal to increase or decrease the number of authorized shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the increase or decrease in the number of shares becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive a fraction of a share in exchange for the cancellation of all of their outstanding shares,

➥ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposal is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with those provisions and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 7. NRS 78.275 is hereby amended to read as follows:

78.275 1. The directors may at such times and in such amount, as they may from time to time deem the interest of the corporation to require, levy and collect assessments upon the assessable stock of the corporation in the manner provided in this section.

2. Notice of each assessment must be given to the stockholders personally, or by publication once a week for at least 4 weeks, in some newspaper published in the county in which the principal office of the corporation is located or, if the principal office of the corporation is not located in this State, in ~~[Carson City,]~~ ***the county in which the corporation's registered office is located,*** and in a newspaper published in the county wherein the property of the corporation is situated if in this State.

3. If, after the notice has been given, any stockholder defaults in the payment of the assessment upon the shares held by him, so many of those shares may be sold as will be necessary for the payment of the assessment upon all the shares held by him, together with all costs of advertising and expenses of sale. The sale of the shares must be made at the office of the corporation at public auction to the highest bidder, after a notice thereof published for 4 weeks as directed in this section, and a copy of the notice mailed to each delinquent stockholder if his address is known 4 weeks before the sale. At the sale the person who offers to pay the assessment so due, together with the expenses of advertising and sale, for the smallest number of shares, or portion of a share, as the case may be, shall be deemed the highest bidder.

Sec. 8. NRS 78.345 is hereby amended to read as follows:

78.345 1. If any corporation fails to elect directors within 18 months after the last election of directors required by NRS 78.330, the district court has jurisdiction in equity, upon application of any one or more stockholders holding stock entitling them to exercise at least 15 percent of the voting power, to order the election of directors in the manner required by NRS 78.330.

2. The application must be made by petition filed in the county where the principal office of the corporation is located or, if the principal office is not located in this State, in ~~[Carson City,]~~ ***the county in which the corporation's registered office is located,*** and must be brought on behalf of all stockholders desiring to be joined therein. Such notice must be given to the corporation and the stockholders as the court may direct.

3. The directors elected pursuant to this section have the same rights, powers and duties and the same tenure of office as directors elected by the stockholders at the annual meeting held at the time prescribed therefor, next before the date of the election pursuant to this section, would have had.

Sec. 9. NRS 78.350 is hereby amended to read as follows:

78.350 1. Unless otherwise provided in the articles of incorporation, or in the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation, every stockholder of record of a corporation is entitled at each meeting of stockholders thereof to one vote for each share of stock standing in his name on the records of the corporation. If the articles of incorporation, or the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it

by the articles of incorporation, provides for more or less than one vote per share for any class or series of shares on any matter, every reference in this chapter to a majority or other proportion of stock shall be deemed to refer to a majority or other proportion of the voting power of all of the shares or those classes or series of shares, as may be required by the articles of incorporation, or in the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation, or the provisions of this chapter.

2. Unless a period of more than 60 days or a period of less than 10 days is prescribed or fixed in the articles of incorporation, the directors may prescribe a period not exceeding 60 days before any meeting of the stockholders during which no transfer of stock on the books of the corporation may be made, or may fix, in advance, a record date not more than 60 or less than 10 days before the date of any such meeting as the date as of which stockholders entitled to notice of and to vote at such meetings must be determined. Only stockholders of record on that date are entitled to notice or to vote at such a meeting. If a record date is not fixed, the record date is at the close of business on the day before the day on which the first notice is given or, if notice is waived, at the close of business on the day before the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders applies to an adjournment of the meeting unless the board of directors fixes a new record date for the adjourned meeting. The board of directors must fix a new record date if the meeting is adjourned to a date more than 60 days later than the date set for the original meeting.

3. The board of directors may adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined. The date prescribed by the board of directors may not precede or be more than 10 days after the date the resolution is adopted by the board of directors. If the board of directors does not adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined and:

(a) No prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is the first date on which a valid, written consent is delivered in accordance with the provisions of NRS 78.320.

(b) Prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is at the close of business on the day the board of directors adopts the resolution.

4. The provisions of this section do not restrict the directors from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or

instruments that ***grant or*** deny rights, privileges, power or authority to a holder or holders of a specified number of shares or percentage of share ownership or voting power.

Sec. 10. NRS 78.378 is hereby amended to read as follows:

78.378 1. The provisions of NRS 78.378 to 78.3793, inclusive, apply to any acquisition of a controlling interest in an issuing corporation unless the articles of incorporation or bylaws of the corporation in effect on the 10th day following the acquisition of a controlling interest by an acquiring person provide that the provisions of those sections do not apply to the corporation or to an acquisition of a controlling interest specifically by types of existing or future stockholders, whether or not identified.

2. The articles of incorporation, the bylaws or a resolution adopted by the directors of the issuing corporation may impose stricter requirements on the acquisition of a controlling interest in the corporation than the provisions of NRS 78.378 to 78.3793, inclusive.

3. The provisions of NRS 78.378 to 78.3793, inclusive, do not restrict the directors of an issuing corporation from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that ***grant or*** deny rights, privileges, power or authority to a holder ***or holders*** of a specified number of shares or percentage of share ownership or voting power.

Sec. 11. NRS 78.416 is hereby amended to read as follows:

78.416 "Combination," when used in reference to any resident domestic corporation and any interested stockholder of the resident domestic corporation, means any of the following:

1. Any merger or consolidation of the resident domestic corporation or any subsidiary of the resident domestic corporation with:

(a) The interested stockholder; or

(b) Any other corporation, whether or not itself an interested stockholder of the resident domestic corporation, which is, or after the merger or consolidation would be, an affiliate or associate of the interested stockholder.

2. Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, to or with the interested stockholder or any affiliate or associate of the interested stockholder of assets of the resident domestic corporation or any subsidiary of the resident domestic corporation:

(a) Having an aggregate market value equal to 5 percent or more of the aggregate market value of all the assets, determined on a consolidated basis, of the resident domestic corporation;

(b) Having an aggregate market value equal to 5 percent or more of the aggregate market value of all the outstanding shares of the resident domestic corporation; or

(c) Representing 10 percent or more of the earning power or net income, determined on a consolidated basis, of the resident domestic corporation.

3. The issuance or transfer by the resident domestic corporation or any subsidiary of the resident domestic corporation, in one transaction or a series of transactions, of any shares of the resident domestic corporation or any subsidiary of the resident domestic corporation that have an aggregate market value equal to 5 percent or more of the aggregate market value of all the outstanding shares of the resident domestic corporation to the interested stockholder or any affiliate or associate of the interested stockholder except under the exercise of warrants or rights to purchase shares offered, or a dividend or distribution paid or made, pro rata to all stockholders of the resident domestic corporation.

4. The adoption of any plan or proposal for the liquidation or dissolution of the resident domestic corporation proposed by, or under any agreement, arrangement or understanding, whether or not in writing, with, the interested stockholder or any affiliate or associate of the interested stockholder.

5. Any:

(a) Reclassification of securities, including, without limitation, any splitting of shares, dividend distributed in shares, or other distribution of shares with respect to other shares, or any issuance of new shares in exchange for a proportionately greater number of old shares;

(b) Recapitalization of the resident domestic corporation;

(c) Merger or consolidation of the resident domestic corporation with any subsidiary of the resident domestic corporation; or

(d) Other transaction, whether or not with or into or otherwise involving the interested stockholder,

➥ proposed by, or under any agreement, arrangement or understanding, whether or not in writing, with, the interested stockholder or any affiliate or associate of the interested stockholder, which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class or series of voting shares or securities convertible into voting shares of the resident domestic corporation or any subsidiary of the resident domestic corporation which is directly or indirectly owned by the interested stockholder or any affiliate or associate of the interested stockholder, except as a result of immaterial changes because of adjustments of fractional shares.

6. Any receipt by the interested stockholder or any affiliate or associate of the interested stockholder of the benefit, directly or indirectly, except proportionately as a stockholder of the resident domestic corporation, of any loan, advance, guarantee, pledge or other financial assistance or any tax credit or other tax advantage provided by or through the resident domestic corporation.

Sec. 12. NRS 78.424 is hereby amended to read as follows:

78.424 ”Market value,” when used in reference to the shares or property of any resident domestic corporation, means:

1. In the case of shares, the highest closing sale price of a share during the 30 days immediately preceding the date in question on the composite tape for shares listed on the New York Stock Exchange, or, if the shares are not

quoted on the composite tape or not listed on the New York Stock Exchange, on the principal United States securities exchange registered under the Securities Exchange Act on which the shares are listed, or, if the shares are not listed on any such exchange, ~~[the highest closing bid quoted with respect to a share during the 30 days preceding the date in question on the National Association of Securities Dealers, Inc.'s, Automated Quotations System or any system then in use, or if no such quotation is available,]~~ the fair market value on the date in question of a share as determined by the board of directors of the resident domestic corporation in good faith.

2. In the case of property other than cash or shares, the fair market value of the property on the date in question as determined by the board of directors of the resident domestic corporation in good faith.

Sec. 13. NRS 78.437 is hereby amended to read as follows:

78.437 NRS 78.411 to 78.444, inclusive, do not apply to any combination with an interested stockholder who:

1. Was an interested stockholder on January 1, 1991; or

2. ~~[Who first]~~ ***First*** became an interested stockholder on the date that the resident domestic corporation first became a resident domestic corporation solely as a result of the corporation becoming a resident domestic corporation.

Sec. 14. NRS 78.438 is hereby amended to read as follows:

78.438 1. Except as otherwise provided in NRS 78.433 to 78.437, inclusive, a resident domestic corporation may not engage in any combination with any interested stockholder of the resident domestic corporation for 3 years after the date that the person first became an interested stockholder unless the combination or the transaction by which the person first became an interested stockholder is approved by the board of directors of the resident domestic corporation before the person first became an interested stockholder.

2. If a proposal in good faith regarding a combination is made in writing to the board of directors of the resident domestic corporation, the board of directors shall respond, in writing, within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, setting forth its reasons for its decision regarding the proposal.

3. If a proposal in good faith to ~~[purchase shares]~~ ***enter into a transaction by which the person will become an interested stockholder*** is made in writing to the board of directors of the resident domestic corporation, the board of directors, unless it responds affirmatively in writing within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, is considered to have disapproved the ~~[purchase.]~~ ***transaction.***

Sec. 15. NRS 78.630 is hereby amended to read as follows:

78.630 1. Whenever any corporation becomes insolvent or suspends its ordinary business for want of money to carry on the business, or if its business has been and is being conducted at a great loss and greatly

prejudicial to the interest of its creditors or stockholders, any creditors holding 10 percent of the outstanding indebtedness, or stockholders owning 10 percent of the outstanding stock entitled to vote, may, by petition setting forth the facts and circumstances of the case, apply to the district court of the county in which the principal office of the corporation is located or, if the principal office is not located in this State, to the district court in ~~[Carson City]~~ ***the county in which the corporation's registered office is located*** for a writ of injunction and the appointment of a receiver or receivers or trustee or trustees.

2. The court, being satisfied by affidavit or otherwise of the sufficiency of the application and of the truth of the allegations contained in the petition and upon hearing after such notice as the court by order may direct, shall proceed in a summary way to hear the affidavits, proofs and allegations which may be offered in behalf of the parties.

3. If upon such inquiry it appears to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter, or that its business has been and is being conducted at a great loss and greatly prejudicial to the interests of its creditors or stockholders, so that its business cannot be conducted with safety to the public, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts or paying out, selling, assigning or transferring any of its estate, money, lands, tenements or effects, except to a receiver appointed by the court, until the court otherwise orders.

Sec. 15.3. NRS 78.650 is hereby amended to read as follows:

78.650 1. Any holder or holders of one-tenth of the issued and outstanding stock may apply to the district court ~~[, held in the district where the]~~ ***in the county in which the*** corporation has its principal place of business ~~[,]~~ ***or, if the principal place of business is not located in this State, to the district court in the county in which the corporation's registered office is located,*** for an order dissolving the corporation and appointing a receiver to wind up its affairs, and by injunction restrain the corporation from exercising any of its powers or doing business whatsoever, except by and through a receiver appointed by the court, whenever:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) Its trustees or directors have been guilty of misfeasance, malfeasance or nonfeasance;

(d) The corporation is unable to conduct the business or conserve its assets by reason of the act, neglect or refusal to function of any of the directors or trustees;

(e) The assets of the corporation are in danger of waste, sacrifice or loss through attachment, foreclosure, litigation or otherwise;

(f) The corporation has abandoned its business;

(g) The corporation has not proceeded diligently to wind up its affairs, or to distribute its assets in a reasonable time;

(h) The corporation has become insolvent;

(i) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature; or

(j) The corporation is not about to resume its business with safety to the public.

2. The application may be for the appointment of a receiver, without at the same time applying for the dissolution of the corporation, and notwithstanding the absence, if any there be, of any action or other proceeding in the premises pending in such court.

3. In any such application for a receivership, it is sufficient for a temporary appointment if notice of the same is given to the corporation alone, by process as in the case of an application for a temporary restraining order or injunction, and the hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.

4. The court may, if good cause exists therefor, appoint one or more receivers for such purpose, but in all cases directors or trustees who have been guilty of no negligence nor active breach of duty must be preferred in making the appointment. The court may at any time for sufficient cause make a decree terminating the receivership, or dissolving the corporation and terminating its existence, or both, as may be proper.

5. Receivers so appointed have, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether the corporation is insolvent or not.

Sec. 15.7. NRS 78A.020 is hereby amended to read as follows:

78A.020 1. A close corporation must be formed in accordance with NRS 78.030 to 78.055, inclusive, ***and section 1.5 of this act,*** subject to the following requirements:

(a) All of the issued stock of the corporation of all classes, exclusive of treasury shares, must be represented by certificates and must be held of record by a specified number of persons, not to exceed 30.

(b) All of the issued stock of all classes must be subject to one or more of the restrictions on transfer pursuant to NRS 78A.050.

(c) The corporation shall not offer any of its stock of any class that would constitute a public offering within the meaning of the Securities Act of 1933, 15 U.S.C. 77a et seq.

2. The articles of incorporation of a close corporation must:

(a) Set forth the matters required by NRS 78.035 except that the articles must state that there will be no board of directors if so agreed pursuant to NRS 78A.070.

(b) Contain a heading stating the name of the corporation and that it is a close corporation.

3. The articles of incorporation of a close corporation may set forth the qualifications of stockholders by specifying the classes of persons who are entitled to be holders of record of stock of any class, the classes of persons who are not entitled to be holders of record of stock of any class, or both.

4. To determine the number of holders of record of the stock of a close corporation, stock that is held in joint or common tenancy or by community property must be treated as held by one stockholder.

Sec. 16. NRS 80.055 is hereby amended to read as follows:

80.055 1. Every corporation which ***willfully*** fails or neglects to comply with the provisions of NRS 80.010 to 80.040, inclusive ~~[~~:

~~(a) Is~~**]** ***, is*** subject to a fine of not less than ~~[~~$500,~~]~~ ~~[$5,000,]~~ ***$1,000 but not more than $10,000,*** to be recovered in a court of competent jurisdiction ***.*** ~~[; and~~

~~(b)~~**]** ***2.*** Except as otherwise provided in subsection ~~[2,]~~ ***3, every corporation which fails or neglects to comply with the provisions of NRS 80.010 to 80.040, inclusive,*** may not commence or maintain any action or proceeding in any court of this State until it has fully complied with the provisions of NRS 80.010 to 80.040, inclusive.

~~[2.]~~ ***3.*** An action or proceeding may be commenced by such a corporation if an extraordinary remedy available pursuant to chapter 31 of NRS is all or part of the relief sought. Such an action or proceeding must be dismissed without prejudice if the corporation does not comply with the provisions of NRS 80.010 to 80.040, inclusive, within 45 days after the action or proceeding is commenced.

~~[3.]~~ ***4.*** When the Secretary of State is advised that a corporation is doing business in contravention of NRS 80.010 to 80.040, inclusive, he ~~[~~shall report that fact to the Governor. The Governor shall,~~]~~ ***may,*** as soon as practicable, instruct the district attorney of the county where the corporation has its principal place of business or the Attorney General, or both, to institute proceedings to recover any applicable fine provided for in this section. ***If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~[4.]~~ ***5. The failure of a corporation to comply with the provisions of NRS 80.010 to 80.040, inclusive, does not impair the validity of any contract or act of the corporation, or prevent the corporation from defending any action, suit or proceeding in any court of this State.***

~~[5.]~~ ***6. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 17. NRS 80.190 is hereby amended to read as follows:

80.190 1. Except as otherwise provided in subsection 2, each foreign corporation doing business in this State shall, not later than the month of March in each year, publish a statement of its last calendar year's business in

two numbers or issues of a newspaper published in this State that has a total weekly circulation of at least 1,000. The statement must include:

(a) The name of the corporation.

(b) The name and title of the corporate officer submitting the statement.

(c) The mailing or street address of the corporation's principal office.

(d) The mailing or street address of the corporation's office in this State, if one exists.

~~[(e) The total assets and liabilities of the corporation at the end of the year.]~~

2. If the corporation keeps its records on the basis of a fiscal year other than the calendar, the statement required by subsection 1 must be published not later than the end of the third month following the close of each fiscal year.

3. A corporation which neglects or refuses to publish a statement as required by this section is liable to a penalty of $100 for each month that the statement remains unpublished.

4. Any district attorney in the State or the Attorney General may sue to recover the penalty. The first county suing through its district attorney shall recover the penalty, and if no suit is brought for the penalty by any district attorney, the State may recover through the Attorney General.

Sec. 17.2. Chapter 82 of NRS is hereby amended by adding thereto the provisions of sections 17.4 and 17.6 of this act.

Sec. 17.4. ~~*[1. Every person, other than a foreign nonprofit corporation, who is purporting to do business in this State as a corporation and who fails or neglects to establish a corporation in accordance with the provisions of this section and NRS 81.200, 81.450 or 82.081 to 82.116, inclusive, whichever is applicable, is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.*~~

~~*2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*~~

~~*3. The Secretary of State may adopt regulations to administer the provisions of this section.]*~~ **(Deleted by amendment.)**

Sec. 17.6. ***1. Every foreign nonprofit corporation which is doing business in this State and which willfully fails or neglects to qualify to do business in this State in accordance with the laws of this State*** ~~*[:*~~

~~*(a) Is]*~~ ***is subject to a fine of not less than*** ~~*[$5,000,]*~~ ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction .*** ~~*[; and*~~

~~(b)~~ ***2. Except as otherwise provided in subsection*** ~~2,~~ ***3, every foreign nonprofit corporation which is doing business in this State and which fails or neglects to qualify to do business in this State in accordance with the laws of this State may not commence or maintain any action or proceeding in any court of this State until it has qualified to do business in this State.***

~~2.~~ ***3. An action or proceeding may be commenced by such a corporation if an extraordinary remedy available pursuant to chapter 31 of NRS is all or part of the relief sought. Such an action or proceeding must be dismissed without prejudice if the corporation does not qualify to do business in this State within 45 days after the action or proceeding is commenced.***

~~3.~~ ***4. When the Secretary of State is advised that a foreign nonprofit corporation is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign nonprofit corporation has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~4.~~ ***5. The failure of a foreign nonprofit corporation to qualify to do business in this State in accordance with the laws of this State does not impair the validity of any contract or act of the corporation, or prevent the corporation from defending any action, suit or proceeding in any court of this State.***

~~5.~~ ***6. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 17.8. NRS 82.183 is hereby amended to read as follows:

82.183 1. A corporation shall ~~[~~maintain at its registered office or principal place of business in this State:

~~(a) A current list of its owners of record; or~~

~~(b) A statement indicating where such a list is maintained.~~

~~2. The corporation shall:~~

~~(a) Provide~~] ***provide*** the Secretary of State with the name and contact information of the custodian of the ~~[~~list described in~~]~~ ***members' ledger or duplicate members' ledger kept by the corporation at its registered office pursuant to paragraph (c) of*** subsection 1 ~~[.]~~ ***of NRS 82.181.*** The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

~~[(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.~~

~~3.~~] ***2.*** Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to ~~[~~:

~~(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or~~

~~(b) Answer~~] ***answer*** any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

~~[4.~~] ***3.*** If a corporation fails to comply with any requirement pursuant to subsection ~~[3,~~] ***2,*** the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

~~[5.~~] ***4.*** The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection ~~[4]~~ ***3*** unless:

(a) The corporation complies with the requirements of subsection ~~[3;]~~ ***2;*** or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

~~[6.~~] ***5.*** The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 18. NRS 82.206 is hereby amended to read as follows:

82.206 1. Unless otherwise provided in the articles or bylaws, the board of directors may designate one or more committees which, to the extent provided in the ***bylaws or in the*** resolution or resolutions ~~[or in the bylaws,~~] ***designating such committee or committees,*** have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation, and may have power to authorize the seal of the corporation to be affixed to all papers on which the corporation desires to place a seal.

2. The committee or committees may have such name or names as may be stated in the bylaws or as may be determined from time to time by resolution adopted by the board of directors.

3. Each committee must have at least one director. Unless it is otherwise provided in the articles or bylaws, the board of directors may appoint natural persons who are not directors to serve on the committees.

4. No such committee may:

(a) Amend, alter or repeal the bylaws;

(b) Elect, appoint or remove any member of any such committee or any director ~~[or officer]~~ of the corporation;

(c) Amend or repeal the articles, adopt a plan of merger or a plan of consolidation with another corporation;

(d) Authorize the sale, lease or exchange of all of the property and assets of the corporation;

(e) Authorize the voluntary dissolution of the corporation or revoke proceedings therefor;

(f) Adopt a plan for the distribution of the assets of the corporation; or

(g) Amend, alter or repeal any resolution of the board of directors unless it provides by its terms that it may be amended, altered or repealed by a committee.

Sec. 19. NRS 82.306 is hereby amended to read as follows:

82.306 1. If any corporation fails to elect directors within 18 months after the last election of directors required by NRS 82.286, the district court has jurisdiction in equity, upon application of any one or more of the members of the corporation representing 10 percent of the voting power of the members entitled to vote for the election of directors or for the election of delegates who are entitled to elect directors, or 50 members, whichever is less, to order the election of directors as required by NRS 82.286.

2. The application must be made by petition filed in the county where the principal office of the corporation is located or, if the principal office is not located in this State, in ~~[Carson City,]~~ ***the county in which the corporation's registered office is located,*** and must be brought on behalf of all members desiring to be joined therein. Such notice must be given to the corporation and the members as the court may direct.

Sec. 20. NRS 82.336 is hereby amended to read as follows:

82.336 1. A corporation having members entitled to vote on the matter involved must hold a special meeting of delegates or members if:

(a) The board of directors or persons authorized to do so by the articles or bylaws demand such a meeting; or

(b) At least 5 percent of the members demand such a meeting.

➥ The demand must state the purpose for the meeting. Those making the demand on the corporation must sign, date and deliver their demand to the president, chairman of the board or the treasurer of the corporation. The corporation must then immediately give notice of a special meeting of delegates or members as set forth in subsections 2 to 7, inclusive ~~[.]~~ ***, or subsection 9.***

2. Whenever under the provisions of this chapter delegates or members are required or authorized to take any action at a meeting, the notice of the meeting must be in writing and signed by the president or the chairman of the board or a vice president, or the secretary, or an assistant secretary, or by such other person or persons as the bylaws may prescribe or permit or the directors designate.

3. The notice must state the purpose or purposes for which the meeting is called and the time when, and the place, which may be within or without this State, where it is to be held.

4. A copy of the notice must be delivered personally, ~~[or must be]~~ mailed postage prepaid ~~[,]~~ ***or given as provided in subsection 9*** to each delegate or member, as the case may be, entitled to vote at the meeting not less than 10 nor more than 60 days before such meeting. If mailed, it must be directed to the person at his address as it appears upon the records of the corporation. Upon the mailing of any notice the service thereof is complete, and the time of the notice begins to run from the date upon which the notice is deposited in the mail for transmission to the person. Personal delivery of the notice to any officer of a corporation or association, or to any member of a

partnership, constitutes delivery of the notice to the corporation, association or partnership.

5. The articles or bylaws may require that the notice be also published in one or more newspapers.

6. Notice duly delivered or mailed to a delegate or member in accordance with the provisions of this section and the provisions, if any, of the articles or bylaws is sufficient, and in the event of the transfer of a membership after the delivery or mailing and before the holding of the meeting it is not necessary to deliver or mail notice of the meeting to the transferee.

7. Any delegate or member may waive notice of any meeting by a writing signed by him, or his duly authorized attorney, either before or after the meeting.

8. Unless otherwise provided in the articles or bylaws, whenever notice is required to be given, under any provision of this chapter or the articles or bylaws of any corporation, to any member to whom notice of two consecutive annual meetings, and all notices of meetings or of the taking of action by written consent without a meeting to him during the period between those two consecutive annual meetings, have been mailed addressed to him at his address as shown on the records of the corporation and have been returned undeliverable, the giving of further notices to him is not required. Any action or meeting taken or held without notice to that person has the same force and effect as if the notice had been given. If any such person delivers to the corporation a written notice setting forth his current address, the requirement that notice be given to him is reinstated. If the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this title, the certificate need not state that notice was not given to persons to whom notice was not required to be given pursuant to this subsection.

9. Any notice to members or delegates given by the corporation pursuant to any provision of this chapter, chapter 92A of NRS, the articles of incorporation or the bylaws is effective if given in the same manner that a corporation is required to give notice to its stockholders pursuant to NRS 78.370.

Sec. 21. NRS 82.471 is hereby amended to read as follows:

82.471 1. Whenever any corporation becomes insolvent or suspends its ordinary business for want of funds to carry on the business, or if its business has been and is being conducted at a great loss and greatly prejudicial to the interest of its creditors or members, creditors holding 10 percent of the outstanding indebtedness, or members, if any, having 10 percent of the voting power to elect directors, may, by petition or bill of complaint setting forth the facts and circumstances of the case, apply to the district court of the county in which the principal office of the corporation is located or to the district court in ~~[Carson City]~~ ***the county in which the corporation's registered office is located*** for a writ of injunction and the appointment of a receiver or receivers or trustee or trustees.

2. The court, being satisfied by affidavit or otherwise of the sufficiency of the application and of the truth of the allegations contained in the petition or bill, and upon hearing after such notice as the court by order may direct, shall proceed in a summary way to hear the affidavits, proofs and allegations which may be offered in behalf of the parties.

3. If upon the inquiry it appears to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter, or that its business has been and is being conducted at a great loss and greatly prejudicial to the interests of its creditors or members, so that its business cannot be conducted with safety to the public, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts or paying out, selling, assigning or transferring any of its estate, money, funds, lands, tenements or effects, except to a receiver appointed by the court, until the court otherwise orders.

Sec. 22. NRS 82.486 is hereby amended to read as follows:

82.486 1. The persons described in subsections 2 and 3 may apply to the district court in the district where the corporation has its principal office or, if the principal office is not located in this State, to the district court in ~~[Carson City:]~~ ***the county in which the corporation's registered office is located:***

(a) For an order dissolving the corporation and appointing a receiver to wind up its affairs, and by injunction restrain the corporation from exercising any of its powers or doing business whatsoever, except by or through a receiver appointed by the court; or

(b) For such other equitable relief that is just and proper in the circumstances.

2. A member or members, if any, holding at least one-third of the voting power for the election of directors or a majority of the directors in office, may apply for the relief described in subsection 1 whenever it is established that:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) Its trustees or directors have been guilty of misfeasance, malfeasance or nonfeasance;

(d) The corporation is unable to conduct its activities or conserve its assets by reason of the act, neglect or refusal to function of any of the directors or trustees;

(e) The assets of the corporation are in danger of waste, misapplication, sacrifice or loss;

(f) The corporation has abandoned its business;

(g) The corporation has not proceeded diligently to wind up its affairs or to distribute its assets in a reasonable time;

(h) The corporation has become insolvent;

(i) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature;

(j) The corporation is not about to resume its business with safety to the public;

(k) The period of corporate existence has expired and has not been lawfully extended;

(l) The corporation has solicited property and has failed to use it for the purpose solicited;

(m) The corporation has fraudulently used or solicited property; or

(n) The corporation has exceeded its powers.

3. The Attorney General may apply for the relief described in subsection 1 whenever the corporation is a corporation for public benefit and whenever it is established that:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) The corporation has abandoned its business;

(d) The corporation has become insolvent;

(e) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature;

(f) The corporation has solicited property and has failed to use it for the purpose solicited;

(g) The corporation has fraudulently used or solicited property; or

(h) The period of corporate existence has expired and has not been lawfully extended.

4. Any person or superior organization under which the corporation was formed, if expressly authorized to act by the articles, may apply for the relief described in subsection 1 pursuant to the grounds, if any, set forth in the articles.

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. Chapter 86 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 to 29, inclusive, of this act.

Sec. 26. ***"Restricted limited-liability company" means a limited-liability company organized and existing under this chapter that elects to include the optional provisions permitted by NRS 86.161.***

Sec. 27. ***1. If a limited-liability company has elected in its articles of organization to be a restricted limited-liability company pursuant to NRS 86.161, subject to the provisions of NRS 86.343, and unless otherwise provided in the articles of organization, the company shall not make any distributions to its members with respect to their member's interests until 10 years after:***

(a) The date of formation of the restricted limited-liability company as long as the original articles of organization elected to be treated as a restricted limited-liability company and as long as the company has

remained a restricted limited-liability company since the date of formation; or

(b) The effective date of the amendment to the articles of organization in which the company elected to be treated as a restricted limited-liability company and as long as the company has remained a restricted limited-liability company since the effective date of the amendment.

2. The provisions of this section apply as the default provisions of a restricted limited-liability company to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the extent not otherwise modified in the articles of organization of the restricted limited-liability company.

Sec. 27.5. ***1. Every person, other than a foreign limited-liability company, who is purporting to do business in this State as a limited-liability company and who willfully fails or neglects to [form the limited-liability company in accordance with the provisions of NRS 86.151 or 89.040, whichever is applicable,] file with the Secretary of State articles of organization is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. ***1. The rights authorized by NRS 86.241 may be denied to a member or manager, as the case may be, or to such person's attorney or other agent, upon the refusal of the member or manager to furnish to the limited-liability company an affidavit that the provision or examination of records is not desired for a purpose which is in the interest of a business or object other than the business of the company and that such person has not at any time sold or offered for sale any list of members of any domestic or foreign limited-liability company or any list of stockholders of any domestic or foreign corporation or aided or abetted any person in procuring any such record for any such purpose.***

2. Any action to enforce any rights arising under NRS 86.241 must be brought in the district court for the county in which the limited-liability company has its principal place of business or if such principal office is not located in this State, the county in which the company's registered office is located. If the company refuses to permit a member to obtain or a manager to examine the records described in NRS 86.241 or does not reply to a

demand within 10 business days after the demand has been made, the demanding member or manager may apply to the district court for an order to compel such action.

3. The district court has exclusive jurisdiction to determine whether or not the person seeking such records is entitled to the records sought. The district court may:

(a) Order the limited-liability company to permit the demanding member to obtain or manager to examine the records described in NRS 86.241 and to make copies or abstracts therefrom;

(b) Order the company to furnish to the demanding member or manager the records described in NRS 86.241 on the condition that the demanding member or manager first pay to the company the reasonable cost of obtaining and furnishing such records and on such other conditions as the district court deems appropriate;

(c) In its discretion, prescribe any limitations or conditions with reference to the obtaining or examining of records, or award such other or further relief including an award of attorney's fees and costs to the prevailing party in the dispute as the district court may deem just and proper; or

(d) Order records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within this State and kept in this State upon such terms and conditions as the order may prescribe.

4. It is a defense to any action for penalties or damages under this section that the person bringing such action has at any time sold or offered for sale any list of members of any domestic or foreign limited-liability company or any list of stockholders of any domestic or foreign corporation, or has aided or abetted any person in procuring any such record for any such purpose, or that the person bringing such action desired inspection for a purpose which is in the interest of a business or object other than the business of the company.

5. This section does not impair the power or jurisdiction of any court to compel the production for examination of the records of a limited-liability company in any proper case.

Sec. 29. ***1. A person is admitted as an initial member of a limited-liability company:***

(a) If the company is a limited-liability company managed by its members, upon the filing of the articles of organization with the Secretary of State or upon a later date specified in the articles of organization; or

(b) If the company is a limited-liability company managed by a manager or managers, as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, as of the time of such person's admission as reflected in the records of the company.

2. Unless otherwise provided in the articles of organization, after the admission of the initial member or members of a limited-liability company in accordance with subsection 1, a person is admitted as a member:

(a) In the case of a person who is not a transferee of a member's interest, including a person being admitted as a noneconomic member and a person acquiring a member's interest directly from the company, as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, upon the consent of all the members and as of the time of such person's admission as reflected in the records of the company;

(b) In the case of a transferee of a member's interest who is a substituted member pursuant to NRS 86.351, as provided in NRS 86.351 or 86.491 and as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, as of the time of such person's admission as reflected in the records of the company;

(c) In the case of a person being admitted as a member of a surviving or resulting limited-liability company pursuant to a merger, conversion or exchange approved in accordance with NRS 92A.150, as of the time set forth in and upon compliance with the operating agreement of the surviving or resulting limited-liability company or in the plan of merger, conversion or exchange, and in the event of any inconsistency, the terms of the plan of merger, conversion or exchange control; and

(d) In the case of a person being admitted as a member of a limited-liability company pursuant to a merger, conversion or exchange in which such limited-liability company is not the surviving or resulting entity, as of the time set forth in and upon compliance with the operating agreement of such limited-liability company.

3. In connection with the domestication of an undomesticated organization as a limited-liability company in this State in accordance with NRS 92A.270, a person is admitted as a member of the company as of the time set forth in and upon compliance with the articles of domestication or in the operating agreement of the resulting domestic limited-liability company or, if the articles of domestication and the operating agreement do not so provide or if the articles of domestication do not so provide and the company has no operating agreement, as of the time of such person's admission as reflected in the records of the resulting domestic limited-liability company.

4. Unless otherwise provided in the articles of organization, the operating agreement or another agreement approved or adopted by all of the members, no member has a preemptive right to acquire any unissued member's interests or other interests in a limited liability company.

Sec. 30. NRS 86.011 is hereby amended to read as follows:

86.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 86.022 to 86.128, inclusive, ***and section 26 of this act*** have the meanings ascribed to them in those sections.

Sec. 31. NRS 86.061 is hereby amended to read as follows:

86.061 "Limited-liability company" or "company" means a limited-liability company organized and existing under this chapter ~~[.]~~ ***, including a restricted limited-liability company.***

Sec. 32. NRS 86.161 is hereby amended to read as follows:

86.161 1. The articles of organization must set forth:

(a) The name of the limited-liability company;

(b) The information required pursuant to NRS 77.310;

(c) The name and address, either residence or business, of each of the organizers signing the articles;

(d) If the company is to be managed by:

(1) One or more managers, the name and address, either residence or business, of each initial manager; or

(2) The members, the name and address, either residence or business, of each initial member; ~~[and]~~

(e) If the company is to have one or more series of members and the debts or liabilities of any series are to be enforceable against the assets of that series only and not against the assets of another series or the company generally, a statement to that effect and a statement:

(1) Setting forth the relative rights, powers and duties of the series; or

(2) Indicating that the relative rights, powers and duties of the series will be set forth in the operating agreement or established as provided in the operating agreement ~~[.]~~ ***; and***

(f) If the company is to be a restricted limited-liability company, a statement to that effect.

2. The articles may set forth any other provision, not inconsistent with law, which the members elect to set out in the articles of organization for the regulation of the internal affairs of the company, including any provisions which under this chapter are required or permitted to be set out in the operating agreement of the company.

3. It is not necessary to set out in the articles of organization:

(a) The rights of the members to contract debts on behalf of the limited-liability company if the limited-liability company is managed by its members;

(b) The rights of the manager or managers to contract debts on behalf of the limited-liability company if the limited-liability company is managed by a manager or managers; or

(c) Any of the powers enumerated in this chapter.

Sec. 33. NRS 86.241 is hereby amended to read as follows:

86.241 1. Each limited-liability company shall continuously maintain in this State an office, which may but need not be a place of its business in

this State, at which it shall keep, unless otherwise provided by an operating agreement:

(a) A current list of the full name and last known business address of each member and manager, separately identifying the members in alphabetical order and the managers, if any, in alphabetical order;

(b) A copy of the filed articles of organization and all amendments thereto, together with signed copies of any powers of attorney pursuant to which any record has been signed; and

(c) Copies of any then effective operating agreement of the company.

2. ~~[Records kept pursuant to this section are subject to inspection and copying at the reasonable request, and at the expense, of any member during ordinary business hours, unless otherwise provided in an operating agreement.]~~ ***In lieu of keeping at an office in this State the information required in paragraphs (a) and (b) of subsection 1, the limited-liability company may keep a statement with the registered agent setting out the name of the custodian of the information required in paragraphs (a) and (b) of subsection 1, and the present and complete address, including street and number, if any, where the information required in paragraphs (a) and (b) of subsection 1 is kept.***

3. Each member of a limited-liability company is entitled to obtain from the company, from time to time upon reasonable demand, for any purpose reasonably related to the interest of the member as a member of the company:

(a) The records required to be maintained pursuant to subsection 1;

(b) True and, in light of the member's stated purpose, complete records regarding the activities and the status of the business and financial condition of the company;

(c) Promptly after becoming available, a copy of the company's federal, state and local income tax returns for each year;

(d) True and complete records regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and

(e) Other records regarding the affairs of the company as is just and reasonable under the circumstances and in light of the member's stated purpose for demanding such records.

➥ The right to obtain records under this subsection includes, if reasonable, the right to make copies or abstracts by photographic, xerographic, electronic or other means.

4. Each manager of a limited-liability company managed by a manager or managers is entitled to examine from time to time upon reasonable demand, for a purpose reasonably related to the manager's rights, powers and duties as such, the records described in subsection 3.

5. Any demand by a member or manager under subsection 3 or 4 is subject to such reasonable standards regarding at what time and location and at whose expense records are to be furnished as may be set forth in the articles of organization or in an operating agreement adopted or amended as provided in subsection 8 or, if no such standards are set forth in the articles of organization or operating agreement, the records must be provided or made available for examination, as the case may be, during ordinary business hours, at the company's office required to be maintained pursuant to subsection 1 and at the expense of the demanding member or manager.

6. Any demand by a member or manager under this section must be in writing and must state the purpose of such demand. When a demanding member seeks to obtain or a manager seeks to examine the records described in subsection 3, the demanding member or manager must first establish that:

(a) The demanding member or manager has complied with the provisions of this section respecting the form and manner of making a demand for obtaining or examining such records; and

(b) The records sought by the demanding member or manager are reasonably related to the member's interest as a member or the manager's rights, powers and duties as a manager, as the case may be.

7. In every instance where an attorney or other agent of a member or manager seeks to exercise any right arising under this section on behalf of such member or manager, the demand must be accompanied by a power of attorney signed by the member or manager authorizing the attorney or other agent to exercise such rights on his behalf.

8. The rights of a member to obtain or a manager to examine records as provided in this section may be restricted or denied entirely in the articles of organization or in an operating agreement adopted by all of the members or by the sole member or in any subsequent amendment adopted by all of the members at the time of amendment.

Sec. 34. NRS 86.246 is hereby amended to read as follows:

86.246 1. ~~[In addition to any records required to be kept pursuant to NRS 86.241, a]~~ ***A*** limited-liability company shall maintain at its registered office or principal place of business in this State ~~[:~~

~~(a) A current list of each member and manager; or~~

~~(b) A]~~ ***a*** statement indicating where ~~[such a list]~~ ***the list required pursuant to paragraph (a) of subsection 1 of NRS 86.241*** is maintained.

2. A limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~[.]~~ ***, if different than the registered agent for such company.*** The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[information contained in]~~ ***custodian of*** the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to ***paragraph (a) of*** subsection 1 ~~[,]~~ ***of NRS 86.241;*** or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 35. NRS 86.286 is hereby amended to read as follows:

86.286 1. A limited-liability company may, but is not required to, adopt an operating agreement. An operating agreement may be adopted only by the unanimous vote or unanimous written consent of the members, or by the sole member, and the operating agreement must be in writing. ***If any operating agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the operating agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law and any attempt to otherwise amend the operating agreement shall be deemed void and of no legal force or effect unless otherwise provided in the operating agreement.*** Unless otherwise provided in the operating agreement, amendments to the agreement may be adopted only by the unanimous vote or unanimous written consent of the persons who are members at the time of amendment.

2. An operating agreement may be adopted before, after or at the time of the filing of the articles of organization and, whether entered into before, after or at the time of the filing, may become effective at the formation of the limited-liability company or at a later date specified in the operating agreement. If an operating agreement is adopted:

(a) Before the filing of the articles of organization or before the effective date of formation specified in the articles of organization, the operating

agreement is not effective until the effective date of formation of the limited-liability company.

(b) After the filing of the articles of organization or after the effective date of formation specified in the articles of organization, the operating agreement binds the limited-liability company and may be enforced whether or not the limited-liability company assents to the operating agreement.

3. An operating agreement may provide that a certificate of limited-liability company interest issued by the limited-liability company may evidence a member's interest in a limited-liability company.

4. An operating agreement:

(a) May provide rights to any person, including a person who is not a party to the operating agreement, to the extent set forth therein.

(b) Must be interpreted and construed to give the maximum effect to the principle of freedom of contract and enforceability.

5. To the extent that a member or manager or other person has duties to a limited-liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement, the member, manager or other person's duties may be expanded, restricted or eliminated by provisions in the operating agreement, except that an operating agreement may not eliminate the implied contractual covenant of good faith and fair dealing.

6. Unless otherwise provided in an operating agreement, a member or manager or other person is not liable to a limited-liability company, another member or manager, or to another person that is a party to or otherwise bound by an operating agreement for breach of fiduciary duty for the member, manager or other person's good faith reliance on the provisions of the operating agreement.

7. An operating agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties of a member, manager or other person to a limited-liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement. An operating agreement may not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

Sec. 36. NRS 86.291 is hereby amended to read as follows:

86.291 1. Except as otherwise provided in this section or ***in*** the articles of organization ~~[,]~~ ***or operating agreement,*** management of a limited-liability company is vested in its members in proportion to their contribution to its capital, as adjusted from time to time to reflect properly any additional contributions or withdrawals by the members.

2. Unless otherwise provided in the articles of organization or operating agreement, the management of a series is vested in the members associated with the series in proportion to their contribution to the capital of the series, as adjusted from time to time to reflect properly any additional contributions

or withdrawals from the assets or income of the series by the members associated with the series.

3. If provision is made in the articles of organization, management of the company may be vested in a manager or managers, who may but need not be members **.** ~~[~~, in the manner prescribed by the operating agreement of the company.~~]~~ The manager or managers ~~[~~also~~]~~ ***shall*** hold the offices **,** ~~[~~and~~]~~ have the responsibilities ~~[~~accorded to them by the members and set out in the operating agreement.~~]~~ ***and otherwise manage the company as set forth in the operating agreement of the company or, if the company has not adopted an operating agreement, then as prescribed by the members.***

Sec. 36.1. NRS 86.548 is hereby amended to read as follows:

86.548 1. ~~[~~A~~]~~ ***Every*** foreign limited-liability company transacting business in this State ~~[~~may~~]~~ ***which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 86.544*** ~~[~~:

~~*(a) Is]*~~ ***is subject to a fine of not less than*** ~~*[$5,000,]*~~ ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction .*** ~~*[; and*~~

~~*(b) May]*~~

2. Every foreign limited-liability company transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 86.544 may not ***commence or*** maintain any action, suit or proceeding in any court of this State until it has registered ~~[~~in this State.~~]~~ ***with the Secretary of State.***

~~[~~2.~~]~~ ***3.*** The failure of a foreign limited-liability company to register ~~[~~in this State~~]~~ ***with the Secretary of State*** does not impair the validity of any contract or act of the foreign limited-liability company, or prevent the foreign limited-liability company from defending any action, suit or proceeding in any court of this State.

~~[~~3.~~]~~ ***4. When the Secretary of State is advised that a foreign limited-liability company is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited-liability company has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~*[4.]*~~ ***5.*** A foreign limited-liability company, by transacting business in this State without ~~[~~registration,~~]~~ ***registering with the Secretary of State,*** appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State by the foreign limited-liability company.

~~*[5.]*~~ ***6. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 36.3. Chapter 87 of NRS is hereby amended by adding thereto the provisions set forth as section 36.4 and 36.6 of this act.

Sec. 36.4. ***1. Every person, other than a foreign registered limited-liability partnership, who is purporting to do business in this State as a registered limited-liability partnership and who willfully fails or neglects to [comply] file with the [provisions of NRS 87.440] Secretary of State a certificate of registration is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in [this] subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36.6. ***1. Every foreign registered limited-liability partnership which is doing business in this State and which willfully fails or neglects to register with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive [:***

(a) Is] , is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction . [; and

(b) May]

2. Every foreign registered limited-liability partnership which is doing business in this State and which fails or neglects to register with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive, may not commence or maintain any action, suit or proceeding in any court of this State until it has registered with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive.

[2.] 3. The failure of a foreign registered limited-liability partnership to register in this State does not impair the validity of any contract or act of the foreign registered limited-liability partnership, or prevent the foreign registered limited-liability partnership from defending any action, suit or proceeding in any court of this State.

[3.] 4. When the Secretary of State is advised that a foreign registered limited-liability partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the foreign registered limited-liability partnership's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney

General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

~~[4.]~~ 5. A foreign registered limited-liability partnership, by transacting business in this State without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State by the foreign registered limited-liability partnership.

~~[5.]~~ 6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36.7. NRS 87.550 is hereby amended to read as follows:

87.550 In addition to any other fees required by NRS 87.440 to 87.540, inclusive, ***and section 36.4 of this act,*** and 87.560, the Secretary of State shall charge and collect the following fees for services rendered pursuant to those sections:

1. For certifying records required by NRS 87.440 to 87.540, inclusive, ***and section 36.4 of this act,*** and 87.560, $30 per certification.

2. For signing a certificate verifying the existence of a registered limited-liability partnership, if the registered limited-liability partnership has not filed a certificate of amendment, $50.

3. For signing a certificate verifying the existence of a registered limited-liability partnership, if the registered limited-liability partnership has filed a certificate of amendment, $50.

4. For signing, certifying or filing any certificate or record not required by NRS 87.440 to 87.540, inclusive, ***and section 36.4 of this act,*** and 87.560, $50.

5. For any copies provided by the Office of the Secretary of State, $2 per page.

6. For examining and provisionally approving any record before the record is presented for filing, $125.

Sec. 36.9. NRS 87.560 is hereby amended to read as follows:

87.560 1. To the extent permitted by the law of that jurisdiction:

(a) A partnership, including a registered limited-liability partnership, formed and existing under this chapter, may conduct its business, carry on its operations, and exercise the powers granted by this chapter in any state, territory, district or possession of the United States or in any foreign country.

(b) The internal affairs of a partnership, including a registered limited-liability partnership, formed and existing under this chapter, including the liability of partners for debts, obligations and liabilities of or chargeable to the partnership, are governed by the law of this State.

2. Subject to any statutes for the regulation and control of specific types of business, a registered limited-liability partnership, formed and existing under the law of another jurisdiction, may do business in this State if it first registers with the Secretary of State pursuant to the provisions of

NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive ~~.]~~ ***, and section 36.6 of this act.***

3. The name of a partnership that is registered as a limited-liability partnership in another jurisdiction and doing business in this State must contain the words "Limited-Liability Partnership" or "Registered Limited-Liability Partnership" or the abbreviations "L.L.P." or "LLP," or such other words or abbreviations as may be required or authorized by the law of the other jurisdiction, as the last words or letters of the name.

Sec. 37. Chapter 87A of NRS is hereby amended by adding thereto the provisions set forth as sections 38 to 39.7, inclusive, of this act.

Sec. 38. ***"Restricted limited partnership" means a limited partnership organized and existing under this chapter that elects to include the optional provisions permitted by NRS 87A.235.***

Sec. 39. ***1. If the limited partnership has elected in its certificate of limited partnership to be a restricted limited partnership pursuant to NRS 87A.235, subject to the provisions of NRS 87A.425, and unless otherwise provided in the certificate of limited partnership, the limited partnership shall not make any distributions to its partners until 10 years after:***

(a) The date of formation of the restricted limited partnership as long as the original certificate of limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the date of formation; or

(b) The effective date of the amendment to the certificate of limited partnership in which the limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the effective date of the amendment.

2. The provisions of this section apply as the default provisions of a restricted limited partnership to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the extent not otherwise modified in the certificate of limited partnership of the restricted limited partnership.

Sec. 39.3. ***1. Every person, other than a foreign limited partnership, who is purporting to do business in this State as a limited partnership and who willfully fails or neglects to*** ~~*[form a limited partnership in accordance with the provisions of NRS 87A.235 or 88.350]*~~ ***file with the Secretary of State a certificate of limited partnership is subject to a fine of not less than*** ~~*[$5,000,]*~~ ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person, other than a foreign limited partnership, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district

attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39.5. ***1. Every person, other than a limited-liability limited partnership formed pursuant to an agreement governed by the laws of another state, who is purporting to do business in this State as a registered limited-liability limited partnership and who willfully fails or neglects to ~~[comply]~~ file with the ~~[provisions of NRS 87A.630 or 88.606, whichever is applicable,]~~ Secretary of State a certificate of registration is subject to a fine of not less than ~~[$5,000,]~~ $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39.7. ***1. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 ~~[:~~***

~~(a) Is]~~ is subject to a fine of not less than ~~[$5,000,]~~ $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction . ~~[; and

(b) May]~~

2. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

~~[2.]~~ 3. The failure of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state and purporting to do business in this State as a foreign registered limited-liability limited partnership, to register with the Secretary of State in

accordance with the provisions of NRS 87A.540 or 88.575 does not impair the validity of any contract or act of the limited-liability limited partnership or prevent the limited-liability limited partnership from defending any action, suit or proceeding in any court of this State.

~~[3.]~~ ***4. When the Secretary of State is advised that a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the limited-liability limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~[4.]~~ ***5. A limited partner of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is not liable as a general partner of the limited-liability limited partnership solely by reason of having transacted business in this State without registration.***

~~[5.]~~ ***6. A limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, by transacting business in this State without registering with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.***

~~[6.]~~ ***7. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 40. NRS 87A.010 is hereby amended to read as follows:

87A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 87A.015 to 87A.140, inclusive, ***and section 38 of this act*** have the meanings ascribed to them in those sections.

Sec. 41. NRS 87A.060 is hereby amended to read as follows:

87A.060 "Limited partnership," except in the phrases "foreign limited partnership," "foreign limited-liability limited partnership" and "foreign registered limited-liability limited partnership," means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by two or more persons. The term includes a registered limited-liability limited partnership ~~[.]~~ ***and a restricted limited partnership.***

Sec. 41.5. NRS 87A.100 is hereby amended to read as follows:

87A.100 "Registered limited-liability limited partnership" means a limited partnership:

1. Formed pursuant to an agreement governed by this chapter; and

2. Registered pursuant to and complying with NRS 87A.630 to 87A.655, inclusive ~~[.]~~ ***, and sections 39.5 and 39.7 of this act.***

Sec. 42. NRS 87A.195 is hereby amended to read as follows:

87A.195 A limited partnership shall maintain at its designated office the following information:

1. A current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order.

2. A copy of the certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment or restatement has been signed.

3. A copy of any filed articles of conversion or merger.

4. A copy of the limited partnership's federal, state and local income tax returns and reports, if any, for the 3 most recent years.

5. A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement.

6. A copy of any financial statement of the limited partnership for the 3 most recent years.

7. A copy of the three most recent annual lists filed with the Secretary of State pursuant to NRS 87A.290.

8. A copy of any record made by the limited partnership during the past 3 years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement.

9. Unless contained in a partnership agreement made in a record, a record stating:

(a) The amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;

(b) The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;

(c) For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

(d) Any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

➥ ***In lieu of keeping at the designated office the information required in subsections 1, 4 and 6 to 9, inclusive, the limited partnership may keep a statement with the registered agent setting out the name of the custodian of the information required in subsections 1, 4 and 6 to 9, inclusive, and the present and complete post office address, including street and number, if any, where the information required in subsections 1, 4 and 6 to 9, inclusive, is kept.***

Sec. 43. NRS 87A.200 is hereby amended to read as follows:

87A.200 1. A limited partnership shall maintain at its registered office or principal place of business in this State ~~[~~:

~~(a) A current list of each general partner; or~~

~~(b) A~~ ***a*** statement indicating where ~~[such a list]~~ ***the list required pursuant to subsection 1 of NRS 87A.195*** is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~[.]~~ ***, if different than the registered agent for such limited partnership.*** The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[information contained in]~~ ***custodian of*** the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1 ~~[,]~~ ***of NRS 87A.195;*** or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 44. NRS 87A.235 is hereby amended to read as follows:

87A.235 1. In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the Secretary of State for filing. The certificate must state:

(a) The name of the limited partnership;

(b) The information required pursuant to NRS 77.310;

(c) The name and the street and mailing address of each general partner; ~~[and]~~

(d) Any additional information required by chapter 92A of NRS ~~[.]~~ ***; and***

(e) If the limited partnership is to be a restricted limited partnership, a statement to that effect.

2. A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in subsection 2 of NRS 87A.190 in a manner inconsistent with that section.

3. If there has been substantial compliance with subsection 1, a limited partnership is formed on the later of the filing of the certificate of limited partnership or a date specified in the certificate of limited partnership.

4. Subject to subsection 2, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed certificate of withdrawal, certificate of cancellation or statement of change or filed articles of conversion or merger:

(a) The partnership agreement prevails as to partners and transferees; and

(b) The filed certificate of limited partnership, certificate of withdrawal, certificate of cancellation or statement of change or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

Sec. 45. NRS 87A.535 is hereby amended to read as follows:

87A.535 Subject to the Constitution of this State:

1. The laws of the state or jurisdiction under which a foreign limited partnership is organized govern ~~[:~~

~~(a) Relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership; and~~

~~(b) The liability of partners as partners for an obligation of the foreign limited partnership; and~~] ***its organization, internal affairs and the liability of its limited partners.***

2. A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State.

Sec. 46. NRS 87A.550 is hereby amended to read as follows:

87A.550 Except as otherwise provided in NRS 87A.655, a foreign limited partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state of organization, that ~~[includes without abbreviation]~~ ***contains*** the words "limited partnership" ***or the abbreviations "L.P." or "LP"*** and that could be registered by a domestic limited partnership.

Sec. 47. NRS 87A.575 is hereby amended to read as follows:

87A.575 1. Each list required to be filed under the provisions of NRS 87A.560 to 87A.600, inclusive, must, after the name of each ~~[managing]~~ ***general*** partner listed thereon, set forth the address, either residence or business, of each ~~[managing]~~ ***general*** partner.

2. If the addresses are not stated for each person on any list offered for filing, the Secretary of State may refuse to file the list, and the foreign limited partnership for which the list has been offered for filing is subject to all the provisions of NRS 87A.560 to 87A.600, inclusive, relating to failure to file the list within or at the times therein specified, unless a list is subsequently submitted for filing which conforms to the provisions of this section.

Sec. 48. NRS 87A.595 is hereby amended to read as follows:

87A.595 1. Except as otherwise provided in subsections 3 and 4 and NRS 87A.580, the Secretary of State shall reinstate a foreign limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 87A.560;

(2) The statement required by NRS 87A.565, if applicable; and

(3) The information required pursuant to NRS 77.310; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87A.560 and 87A.585 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 87A.565, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited partnership, he shall issue to the foreign limited partnership a certificate of reinstatement if the foreign limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87A.315.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

5. ~~[If the right of a foreign limited partnership to transact business in this State is reinstated pursuant to this section, the reinstatement relates back to and takes effect on the effective date of the revocation, and the foreign limited partnership's status as a foreign limited partnership continues as if the revocation had never occurred.]~~ ***Except as otherwise provided in NRS 87A.600, a reinstatement pursuant to this section relates back to the date on which the foreign limited partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign limited partnership's right to transact business as if such right had at all times remained in full force and effect.***

Sec. 48.5. NRS 87A.610 is hereby amended to read as follows:

87A.610 1. ~~[A]~~ ***Every*** foreign limited partnership transacting business in this State ~~[may]~~ ***which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575*** ~~.~~ ***:***

~~(a) Is]~~ ***is subject to a fine of not less than ~~[$5,000,]~~ $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction . ~~[; and~~***

~~(b) May]~~

2. Every foreign limited partnership transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not ***commence or*** maintain any action, suit or proceeding in any court of this State until it has registered ~~[in this State.]~~ ***with the Secretary of State.***

~~[2.]~~ ***3.*** The failure of a foreign limited partnership to register ~~[in this State]~~ ***with the Secretary of State*** does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

~~[3.]~~ ***4. When the Secretary of State is advised that a foreign limited partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover any applicable fine provided for in this section. If the district attorney or the Attorney General prevails in a proceeding to recover a fine pursuant to this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~[4.]~~ ***5.*** A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

~~[4.]~~ *~~[5.]~~* ***6.*** A foreign limited partnership, by transacting business in this State without ~~[registration,]~~ ***registering with the Secretary of State,*** appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~[6.]~~ ***7. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 49. Chapter 88 of NRS is hereby amended by adding thereto the provisions set forth as sections 49.2 to 49.8, inclusive, of this act.

Sec. 49.2. ***1. If the limited partnership has elected in its certificate of limited partnership to be a restricted limited partnership pursuant to NRS 88.350, subject to the provisions of NRS 88.520, and unless otherwise provided in the certificate of limited partnership, the limited partnership shall not make any distributions to its partners with respect to their partnership interests until 10 years after:***

(a) The date of formation of the restricted limited partnership as long as the original certificate of limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the date of formation; or

(b) The effective date of the amendment to the certificate of limited partnership in which the limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the effective date of the amendment.

2. The provisions of this section apply as the default provisions of a restricted limited partnership to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the extent not otherwise modified in the certificate of limited partnership of the restricted limited partnership.

Sec. 49.4. ***1. Every person, other than a foreign limited partnership, who is purporting to do business in this State as a limited partnership and who willfully fails or neglects to [form a] file with the Secretary of State a certificate of limited partnership [in accordance with the provisions of NRS 87A.235 or 88.350] is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person, other than a foreign limited partnership, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 49.6. ***1. Every person, other than a limited-liability limited partnership formed pursuant to an agreement governed by the laws of another state, who is purporting to do business in this State as a registered limited-liability limited partnership and who willfully fails or neglects to [comply] file with the [provisions of NRS 87A.630 or 88.606, whichever is applicable,] Secretary of State a certificate of registration is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 49.8. ***1. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 [:***

[(a) Is] is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction . [; and

[(b) May]

2. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

[2.] 3. The failure of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state and purporting to do business in this State as a foreign registered limited-liability limited partnership, to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 does not impair the validity of any contract or act of the limited-liability limited partnership or prevent the limited-liability limited partnership from defending any action, suit or proceeding in any court of this State.

[3.] 4. When the Secretary of State is advised that a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the limited-liability limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

[4.] 5. A limited partner of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is not liable as a general partner of the limited-liability limited partnership solely by reason of having transacted business in this State without registration.

[5.] 6. A limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, by transacting business in this State without registering with the Secretary of State in accordance with

the provisions of NRS 87A.540 or 88.575, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~*[6.]*~~ ***7. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 50. NRS 88.315 is hereby amended to read as follows:

88.315 As used in this chapter, unless the context otherwise requires:

1. "Certificate of limited partnership" means the certificate referred to in NRS 88.350, and the certificate as amended or restated.

2. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

3. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in NRS 88.450.

4. "Foreign limited partnership" means a partnership formed under the laws of any state other than this State and having as partners one or more general partners and one or more limited partners.

5. "Foreign registered limited-liability limited partnership" means a foreign limited-liability limited partnership:

(a) Formed pursuant to an agreement governed by the laws of another state; and

(b) Registered pursuant to and complying with NRS 88.570 to 88.605, inclusive, and 88.609.

6. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

7. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

8. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners ~~[.]~~ ***, including a restricted limited partnership.***

9. "Partner" means a limited or general partner.

10. "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

11. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

12. "Record" means information that is inscribed on tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

13. "Registered limited-liability limited partnership" means a limited partnership:

(a) Formed pursuant to an agreement governed by this chapter; and

(b) Registered pursuant to and complying with NRS 88.350 to 88.415, inclusive, ***and section 49.4 of this act,*** 88.606, 88.6065 and 88.607.

14. "Registered agent" has the meaning ascribed to it in NRS 77.230.

15. "Registered office" means the office maintained at the street address of the registered agent.

16. ***"Restricted limited partnership" means a limited partnership organized and existing under this chapter that elects to include the optional provisions permitted by NRS 88.350.***

17. "Sign" means to affix a signature to a record.

~~[17.]~~ ***18.*** "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

~~[18.]~~ ***19.*** "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

~~[19.]~~ ***20.*** "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process.

Sec. 51. NRS 88.3355 is hereby amended to read as follows:

88.3355 1. A limited partnership shall maintain at its registered office or principal place of business in this State ~~[:~~

~~(a) A current list of each general partner; or~~

~~(b) A]~~ ***a*** statement indicating where ~~[such a list]~~ ***the list required pursuant to paragraph (a) of subsection 1 of NRS 88.335*** is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~[.]~~ ***, if different than the registered agent for such limited partnership.*** The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[information contained in]~~ ***custodian of*** the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to ***paragraph (a) of*** subsection 1 ~~[,]~~ ***of NRS 88.335;*** or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 52. NRS 88.350 is hereby amended to read as follows:

88.350 1. In order to form a limited partnership, a certificate of limited partnership must be signed and filed in the Office of the Secretary of State. The certificate must set forth:

(a) The name of the limited partnership;

(b) The information required pursuant to NRS 77.310;

(c) The name and business address of each organizer executing the certificate;

(d) The name and business address of each initial general partner;

(e) The latest date upon which the limited partnership is to dissolve; ~~[and]~~

(f) ***If the limited partnership is to be a restricted limited partnership, a statement to that effect; and***

(g) Any other matters the organizers determine to include therein.

2. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the Office of the Secretary of State or at any later time specified in the certificate of limited partnership if there has been substantial compliance with the requirements of this section.

Sec. 52.5. NRS 88.375 is hereby amended to read as follows:

88.375 1. Each certificate required by NRS 88.350 to 88.390, inclusive, ***and section 49.4 of this act,*** to be filed in the Office of the Secretary of State must be signed in the following manner:

(a) An original certificate of limited partnership must be signed by all organizers;

(b) A certificate of amendment must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner; and

(c) A certificate of cancellation must be signed by all general partners.

2. Any person may sign a certificate by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission of a general partner must specifically describe the admission.

3. The signing of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

Sec. 53. NRS 88.570 is hereby amended to read as follows:

88.570 Subject to the constitution of this State:

1. The laws of the state ***or jurisdiction*** under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners; and

2. A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State.

Sec. 54. NRS 88.575 is hereby amended to read as follows:

88.575 Before transacting business in this State, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State an application for registration as a foreign limited partnership, signed by a general partner. The application for registration must set forth:

1. The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;

2. The state ~~[and date of its formation;]~~ ***or jurisdiction under whose law the foreign limited partnership is organized and the date of its organization.***

3. The information required pursuant to NRS 77.310;

4. A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the registered agent's authority has been revoked or if the registered agent cannot be found or served with the exercise of reasonable diligence;

5. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

6. The name and business address of each general partner; and

7. The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this State is cancelled or withdrawn.

Sec. 55. NRS 88.5925 is hereby amended to read as follows:

88.5925 1. Each list required to be filed under the provisions of NRS 88.591 to 88.5945, inclusive, must, after the name of each ~~[managing]~~ ***general*** partner listed thereon, set forth the address, either residence or business, of each ~~[managing]~~ ***general*** partner.

2. If the addresses are not stated for each person on any list offered for filing, the Secretary of State may refuse to file the list, and the foreign limited partnership for which the list has been offered for filing is subject to all the provisions of NRS 88.591 to 88.5945, inclusive, relating to failure to file the list within or at the times therein specified, unless a list is subsequently submitted for filing which conforms to the provisions of this section.

Sec. 55.5. NRS 88.600 is hereby amended to read as follows:

88.600 1. ~~[A]~~ ***Every*** foreign limited partnership transacting business in this State ~~[may]~~ ***which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575*** ~~[:~~

~~*(a) Is]*~~ ***is subject to a fine of not less than*** ~~*[$5,000,]*~~ ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction*** . ~~[; and~~

~~*(b) May]*~~

2. Every foreign limited partnership transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not ***commence or*** maintain any action, suit or proceeding in any court of this State until it has registered in this State.

~~[2.]~~ ***3.*** The failure of a foreign limited partnership to register ~~[in this State]~~ ***with the Secretary of State*** does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

~~[3.]~~ ***4. When the Secretary of State is advised that a foreign limited partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~*[4.]*~~ ***5.*** A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

~~[4.]~~ ~~*[5.]*~~ ***6.*** A foreign limited partnership, by transacting business in this State without ~~[registration,]~~ ***registering with the Secretary of State,*** appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~*[6.]*~~ ***7. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 56. NRS 88.608 is hereby amended to read as follows:

88.608 1. Unless otherwise provided by the ~~[articles of organization]~~ ***certificate of limited partnership*** or partnership agreement, a partner of a registered limited-liability limited partnership is not personally liable for a debt or liability of the registered limited-liability limited partnership unless the trier of fact determines that adherence to the fiction of a separate entity would sanction fraud or promote a manifest injustice.

2. For purposes of this section, the failure of a registered limited-liability limited partnership to observe the formalities or requirements relating to the

management of the registered limited-liability limited partnership, in and of itself, is not sufficient to establish grounds for imposing personal liability on a partner for a debt or liability of the registered limited-liability limited partnership.

Sec. 56.2. Chapter 88A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every person, other than a foreign business trust, who is purporting to do business in this State as a business trust and who willfully fails or neglects to [comply] file with the [provisions of NRS 88A.210] Secretary of State a certificate of trust is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person, other than a foreign business trust, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 56.4. NRS 88A.750 is hereby amended to read as follows:

88A.750 1. [A] ***Every*** foreign business trust transacting business in this State [may] ***which willfully fails or neglects to [comply] register with the Secretary of State pursuant to the provisions of NRS 88A.710 [:***

(a) Is] is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction . [; and

(b) May]

2. Every foreign business trust transacting business in this State which fails or neglects to register with the Secretary of State pursuant to the provisions of NRS 88A.710 may not ***commence or*** maintain any action, suit or proceeding in any court of this State until it has registered [in this State.

2.] ***with the Secretary of State.***

3. The failure of a foreign business trust to register [in this State] ***with the Secretary of State*** does not impair the validity of any contract or act of the foreign business trust or prevent the foreign business trust from defending any action, suit or proceeding in any court of this State.

[3.] ***4. When the Secretary of State is advised that a foreign business trust is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign business trust has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine***

described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

~~*[4.]*~~ ***5.*** A foreign business trust, by transacting business in this State without ~~[registration,]~~ ***registering with the Secretary of State,*** appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~*[5.]*~~ ***6. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 56.6. Chapter 89 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every person who is purporting to do business in this State as a professional association and who willfully fails or neglects to ~~[comply]~~ file with the ~~[provisions of NRS 89.210]~~ Secretary of State articles of association is subject to a fine of not less than ~~[$5,000.]~~ $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 56.8. NRS 89.025 is hereby amended to read as follows:

89.025 Except as otherwise provided in NRS 89.200 to 89.270, inclusive, ***and section 56.6 of this act,*** the fees set forth in NRS 78.755 to 78.785, inclusive, apply to professional corporations and the fees set forth in NRS 86.561 apply to professional limited-liability companies.

Sec. 57. NRS 89.040 is hereby amended to read as follows:

89.040 1. One or more persons may organize a professional entity in the manner provided for organizing a corporation pursuant to chapter 78 of NRS or a limited-liability company pursuant to chapter 86 of NRS. Each person organizing the professional entity must, except as otherwise provided in subsection 2 of NRS 89.050, be authorized to perform the professional service for which the professional entity is organized. The articles must contain the following additional information:

(a) The profession to be practiced by means of the professional entity.

(b) The names and addresses, either residence or business, of the original stockholders and directors of the professional corporation or the original members and managers of the professional limited-liability company.

(c) Except as otherwise provided in ~~[paragraph (d) of this subsection,]~~ ***paragraphs (d) and (e),*** a certificate from the regulating board of the profession to be practiced showing that each of the directors, stockholders, managers or members who is a natural person, is licensed to practice the profession.

(d) For a professional entity organized pursuant to this chapter and practicing pursuant to the provisions of NRS 623.349, a certificate from the regulating board or boards of the profession or professions to be practiced showing that control and two-thirds ownership of the professional entity is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this paragraph, "control" has the meaning ascribed to it in NRS 623.349.

(e) For a professional entity formed pursuant to subsection 5 of NRS 89.070, a certificate from the State Bar of Nevada showing at least one stockholder or member who is a natural person is admitted by the Supreme Court of the State of Nevada to practice law as a member of the State Bar of Nevada.

2. The corporate name of a professional corporation must contain the words "Professional Corporation" or the abbreviation "Prof. Corp.," "P.C." or "PC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The corporate name must contain the last name of one or more of its current or former stockholders.

3. The name of a professional limited-liability company must contain the words "Professional Limited-Liability Company" or the abbreviations "Prof. L.L.C.," "Prof. LLC," "P.L.L.C.," "PLLC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The name of a professional limited-liability company must contain the last name of one or more of its current or former members.

4. The professional entity may render professional services and exercise its authorized powers under a fictitious name if the professional entity has first registered the name in the manner required by chapter 602 of NRS.

Sec. 58. NRS 89.070 is hereby amended to read as follows:

89.070 1. Except as otherwise provided in this section and NRS 623.349:

(a) No professional entity may issue any of its owner's interest to anyone other than a natural person who is licensed to render the same specific professional services as those for which the professional entity was formed.

(b) No owner may enter into a voting trust agreement or any other type of agreement vesting another person with the authority to exercise the voting power of any or all of his owner's interest, unless the other person is licensed to render the same specific professional services as those for which the professional entity was formed.

(c) No owner's interest may be sold or transferred except to a natural person who is eligible to be an owner or to the personal representative or estate of a deceased or legally incompetent stockholder. The personal

representative or estate of the owner may continue to own the owner's interest for a reasonable period, but may not participate in any decisions concerning the rendering of professional services.

➥ The articles, bylaws or operating agreement of the professional entity may provide specifically for additional restrictions on the transfer of an owner's interest and may provide for the redemption or purchase of the owner's interest by the professional entity, its owners or an eligible individual account plan complying with the requirements of subsection 2 at prices and in a manner specifically set forth. An owner may transfer his owner's interest in the professional entity or any other interest in the assets of the professional entity to a revocable trust if he acts as trustee of the revocable trust and any person who acts as cotrustee and is not licensed to perform the services for which the professional entity was formed does not participate in any decisions concerning the rendering of those services.

2. Except as otherwise provided in NRS 623.349, a person not licensed to render the professional services for which the professional entity was formed may own a beneficial interest in any of the assets, including an owner's interest, held for his account by an eligible individual account plan sponsored by the professional entity for the benefit of its employees, which is intended to qualify under section 401 of the Internal Revenue Code, 26 U.S.C. 401, if the terms of the trust are such that the total number of shares which may be distributed for the benefit of persons not licensed to render the professional services for which the professional entity was formed is less than a controlling interest and:

(a) The trustee of the trust is licensed to render the same specific professional services as those for which the professional entity was formed; or

(b) The trustee is not permitted to participate in any decisions concerning the rendering of professional services in his capacity as trustee.

➥ A trustee who is individually an owner may participate in his individual capacity as an owner, manager, director or officer in any decision.

3. Except as otherwise provided in subsection 4, a professional entity in which all the owners who are natural persons are licensed to render the same specific professional service may acquire and hold an owner's interest in another professional entity or in a similar entity organized pursuant to the corresponding law of another state, only if all the owners who are natural persons of the professional entity whose stock is acquired are licensed in that professional entity's state of formation to render the same specific professional service as the owners who are natural persons of the professional entity that acquires the owner's interest.

4. A professional entity practicing pursuant to NRS 623.349 in which all the owners are natural persons, regardless of whether or not the natural persons are licensed to render the same specific professional service, may acquire and hold an owner's interest in another professional entity or in a similar entity organized pursuant to the corresponding law of another state if

control and two-thirds ownership of the business organization or association that is acquired is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this subsection, "control" has the meaning ascribed to it in NRS 623.349.

5. ***An attorney may form a legal services professional entity that is organized or incorporated in the State of Nevada with one or more natural persons, each of whom is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States, and such legal services entity may issue an owner's interest to a natural person who is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States provided that at least one attorney admitted by the Supreme Court of the State of Nevada to practice law as a member of the State Bar of Nevada owns an owner's interest in the professional entity.***

6. Any act in violation of this section is void and does not pass any rights or privileges or vest any powers, except to an innocent person who is not an owner and who has relied on the effectiveness of the action.

Sec. 59. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

"Senior executive" means the chief executive officer, chief operating officer, chief financial officer or anyone in charge of a principal business unit or function of a domestic corporation.

Sec. 60. NRS 92A.005 is hereby amended to read as follows:

92A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 92A.007 to 92A.097, inclusive, ***and section 59 of this act*** have the meanings ascribed to them in those sections.

Sec. 61. NRS 92A.180 is hereby amended to read as follows:

92A.180 1. A parent domestic corporation, whether or not for profit, parent domestic limited-liability company, unless otherwise provided in the articles of organization or operating agreement, or parent domestic limited partnership owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation entitled to vote on a merger, 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited-liability company then owned by each class of members entitled to vote on a merger or 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited partnership then owned by both the general partners and each class of limited partners entitled to vote on a merger may merge the subsidiary into itself without approval of the owners of the owner's interests of the parent domestic corporation, ***parent*** domestic limited-liability company or ***parent*** domestic limited partnership or the owners of the owner's interests of ~~[a]~~ ***the*** subsidiary domestic corporation, subsidiary domestic limited-liability company or subsidiary domestic limited partnership.

2. A parent domestic corporation, whether or not for profit, parent domestic limited-liability company, unless otherwise provided in the articles

of organization or operating agreement, or parent domestic limited partnership owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation entitled to vote on a merger, 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited-liability company then owned by each class of members entitled to vote on a merger, or 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited partnership then owned by both the general partners and each class of limited partners entitled to vote on a merger may merge with and into the subsidiary without approval of the owners of the owner's interests of the subsidiary domestic corporation, subsidiary domestic limited-liability company or subsidiary domestic limited partnership.

3. The board of directors of a parent corporation, the managers of a parent limited-liability company with managers unless otherwise provided in the operating agreement, all members of a parent limited-liability company without managers unless otherwise provided in the operating agreement, or all general partners of a parent limited partnership shall adopt a plan of merger that sets forth:

(a) The names of the parent and subsidiary; and

(b) The manner and basis of converting the owner's interests of the disappearing entity into the owner's interests, obligations or other securities of the surviving or any other entity or into cash or other property in whole or in part.

4. The parent shall mail a copy or summary of the plan of merger to each owner of the subsidiary who does not waive the mailing requirement in writing.

5. Articles of merger under this section may not contain amendments to the constituent documents of the surviving entity except that the name of the surviving entity may be changed.

6. The articles of incorporation of a domestic corporation, the articles of organization of a domestic limited-liability company, the certificate of limited partnership of a domestic limited partnership or the certificate of trust of a domestic business trust may forbid that entity from entering into a merger pursuant to this section.

Sec. 62. (Deleted by amendment.)

Sec. 62.5. **NRS 92A.205 is hereby amended to read as follows:**

92A.205 1. After a plan of conversion is approved as required by this chapter, if the resulting entity is a domestic entity, the constituent entity shall deliver to the Secretary of State for filing:

(a) Articles of conversion setting forth:

(1) The name and jurisdiction of organization of the constituent entity and the resulting entity; and

(2) That a plan of conversion has been adopted by the constituent entity in compliance with the law of the jurisdiction governing the constituent entity.

(b) The charter document of the domestic resulting entity required by the applicable provisions of chapter 78, 78A, ***82,*** 86, 87A, 88, 88A or 89 of NRS.

(c) The information required pursuant to NRS 77.310.

2. After a plan of conversion is approved as required by this chapter, if the resulting entity is a foreign entity, the constituent entity shall deliver to the Secretary of State for filing articles of conversion setting forth:

(a) The name and jurisdiction of organization of the constituent entity and the resulting entity;

(b) That a plan of conversion has been adopted by the constituent entity in compliance with the laws of this State; and

(c) The address of the resulting entity where copies of process may be sent by the Secretary of State.

3. If the entire plan of conversion is not set forth in the articles of conversion, the filing party must include in the articles of conversion a statement that the complete signed plan of conversion is on file at the registered office or principal place of business of the resulting entity or, if the resulting entity is a domestic limited partnership, the office described in paragraph (a) of subsection 1 of NRS 87A.215 or paragraph (a) of subsection 1 of NRS 88.330.

4. If the conversion takes effect on a later date specified in the articles of conversion pursuant to NRS 92A.240, the charter document to be filed with the Secretary of State pursuant to paragraph (b) of subsection 1 must state the name and the jurisdiction of the constituent entity and that the existence of the resulting entity does not begin until the later date.

5. Any records filed with the Secretary of State pursuant to this section must be accompanied by the fees required pursuant to this title for filing the charter document.

Sec. 63. NRS 92A.270 is hereby amended to read as follows:

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and

(b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;

(2) The appropriate charter document for the type of domestic entity; and

(3) The information required pursuant to NRS 77.310.

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created;

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law,

➥ immediately before filing the articles of domestication.

3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.

9. As used in this section, "undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, ***limited-liability company,*** general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States.

Sec. 64. NRS 92A.320 is hereby amended to read as follows:

92A.320 "Fair value," with respect to a dissenter's shares, means the value of the shares ~~[~~immediately~~]~~ ***determined:***

1. Immediately before the effectuation of the corporate action to which he objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable ~~[.]~~ ***;***

2. Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

3. Without discounting for lack of marketability or minority status.

Sec. 65. NRS 92A.340 is hereby amended to read as follows:

92A.340 Interest payable pursuant to NRS 92A.300 to 92A.500, inclusive, must be computed from the effective date of the action until the date of payment, at the ~~[~~average rate currently paid by the entity on its principal bank loans or, if it has no bank loans, at a rate that is fair and equitable under all of the circumstances.~~]~~ ***rate of interest most recently established pursuant to NRS 99.040.***

Sec. 66. NRS 92A.380 is hereby amended to read as follows:

92A.380 1. Except as otherwise provided in NRS 92A.370 and 92A.390, any stockholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of any of the following corporate actions:

(a) Consummation of a ~~[conversion or]~~ plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the stockholders is required for the ~~[conversion or]~~ merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the stockholder is entitled to vote on the ~~[conversion or]~~ plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) ***Consummation of a plan of conversion to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be converted.***

(c) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if his shares are to be acquired in the plan of exchange.

~~[(c)]~~ ***(d)*** Any corporate action taken pursuant to a vote of the stockholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting stockholders are entitled to dissent and obtain payment for their shares.

~~[(d)]~~ ***(e) Accordance of full voting rights to control shares, as defined in NRS 78.3784, only to the extent provided for pursuant to NRS 78.3793.***

(f) Any corporate action not described in ~~[paragraph (a), (b) or (c)]~~ ***this subsection*** that will result in the stockholder receiving money or scrip instead of fractional shares except where the stockholder would not be entitled to receive such payment pursuant to NRS 78.205, 78.2055 or 78.207.

2. A stockholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to him or the domestic corporation.

3. From and after the effective date of any corporate action described in subsection 1, no stockholder who has exercised his right to dissent pursuant to NRS 92A.300 to 92A.500, inclusive, is entitled to vote his shares for any purpose or to receive payment of dividends or any other distributions on shares. This subsection does not apply to dividends or other distributions payable to stockholders on a date before the effective date of any corporate action from which the stockholder has dissented.

Sec. 67. NRS 92A.390 is hereby amended to read as follows:

92A.390 1. There is no right of dissent with respect to a plan of merger***, conversion*** or exchange in favor of stockholders of any class or series which ~~[, at the]~~ ***is:***

(a) A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. 77r(b)(1)(A) or (B), as amended;

(b) Traded in an organized market and has at least 2,000 stockholders and a market value of at least $20,000,000, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors and beneficial stockholders owning more than 10 percent of such shares; or

(c) Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and which may be redeemed at the option of the holder at net asset value,

➥ unless the articles of incorporation of the corporation issuing the class or series provide otherwise.

2. The applicability of subsection 1 must be determined as of:

(a) The record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting ~~[at which the plan of merger or exchange is to be acted on, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held by at least 2,000 stockholders of record, unless:~~

~~(a) The articles of incorporation of the corporation issuing the shares provide otherwise;]~~ ***of stockholders to act upon the corporate action requiring dissenter's rights;*** or

(b) ~~[The holders of the class or series are required under the plan of merger or exchange to accept for the shares anything except:~~

~~(1) Cash, owner's interests or owner's interests and cash in lieu of fractional owner's interests of:~~

~~(I) The surviving or acquiring entity; or~~

~~(II) Any other entity which, at the effective date of the plan of merger or exchange, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held of record by a least 2,000 holders of owner's interests of record; or~~

~~(2) A combination of cash and owner's interests of the kind described in sub-subparagraphs (I) and (II) of subparagraph (1) of paragraph (b).~~

~~2.]~~ ***The day before the effective date of such corporate action if there is no meeting of stockholders.***

3. Subsection 1 is not applicable and dissenter's rights are available pursuant to NRS 92A.380 for the holders of any class or series of shares who are required by the terms of the corporate action requiring dissenter's rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in subsection 1 at the time the corporate action becomes effective.

4. There is no right of dissent for any holders of stock of the surviving domestic corporation if the plan of merger does not require action of the stockholders of the surviving domestic corporation under NRS 92A.130.

5. There is no right of dissent for any holders of stock of the parent domestic corporation if the plan of merger does not require action of the stockholders of the parent domestic corporation under NRS 92A.180.

Sec. 68. NRS 92A.400 is hereby amended to read as follows:

92A.400 1. A stockholder of record may assert dissenter's rights as to fewer than all of the shares registered in his name only if he dissents with respect to all shares ***of the class or series*** beneficially owned by any one person and notifies the subject corporation in writing of the name and address of each person on whose behalf he asserts dissenter's rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which he dissents and his other shares were registered in the names of different stockholders.

2. A beneficial stockholder may assert dissenter's rights as to shares held on his behalf only if:

(a) He submits to the subject corporation the written consent of the stockholder of record to the dissent not later than the time the beneficial stockholder asserts dissenter's rights; and

(b) He does so with respect to all shares of which he is the beneficial stockholder or over which he has power to direct the vote.

Sec. 69. NRS 92A.410 is hereby amended to read as follows:

92A.410 1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, the notice of the meeting must state that stockholders are ***, are not*** or may be entitled to assert dissenters' rights under NRS 92A.300 to 92A.500, inclusive ***.*** ~~[, and be accompanied by a copy of those sections.]~~ ***If the domestic corporation concludes that dissenter's rights are or may be available, a copy of NRS 92A.300 to 92A.500, inclusive, must accompany the meeting notice sent to those record stockholders entitled to exercise dissenter's rights.***

2. If the corporate action creating dissenters' rights is taken by written consent of the stockholders or without a vote of the stockholders, the domestic corporation shall notify in writing all stockholders entitled to assert dissenters' rights that the action was taken and send them the dissenter's notice described in NRS 92A.430.

Sec. 70. NRS 92A.420 is hereby amended to read as follows:

92A.420 1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, a stockholder who wishes to assert dissenter's rights ~~[:]~~ ***with respect to any class or series of shares:***

(a) Must deliver to the subject corporation, before the vote is taken, written notice of his intent to demand payment for his shares if the proposed action is effectuated; and

(b) Must not vote ~~[his shares]~~ ***, or cause or permit to be voted, any of his shares of such class or series*** in favor of the proposed action.

2. If a proposed corporate action creating dissenters' rights is taken by written consent of the stockholders, a stockholder who wishes to assert dissenters' rights ***with respect to any class or series of shares*** must not consent to or approve the proposed corporate action ~~[.]~~ ***with respect to such class or series.***

3. A stockholder who does not satisfy the requirements of subsection 1 or 2 and NRS 92A.400 is not entitled to payment for his shares under this chapter.

Sec. 71. NRS 92A.430 is hereby amended to read as follows:

92A.430 1. The subject corporation shall deliver a written dissenter's notice to all stockholders entitled to assert dissenters' rights.

2. The dissenter's notice must be sent no later than 10 days after the ~~[effectuation]~~ ***effective date*** of the corporate action ~~[,]~~ ***specified in NRS 92A.380,*** and must:

(a) State where the demand for payment must be sent and where and when certificates, if any, for shares must be deposited;

(b) Inform the holders of shares not represented by certificates to what extent the transfer of the shares will be restricted after the demand for payment is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to the news media or to the stockholders of the terms of the proposed action and requires that the person asserting dissenter's rights certify whether or not he acquired beneficial ownership of the shares before that date;

(d) Set a date by which the subject corporation must receive the demand for payment, which may not be less than 30 nor more than 60 days after the date the notice is delivered ~~[;]~~ and ***state that the stockholder shall be deemed to have waived the right to demand payment with respect to the shares unless the form is received by the subject corporation by such specified date; and***

(e) Be accompanied by a copy of NRS 92A.300 to 92A.500, inclusive.

Sec. 72. NRS 92A.440 is hereby amended to read as follows:

92A.440 1. A stockholder ~~[to whom]~~ ***who receives*** a dissenter's notice ~~[is sent]~~ ***pursuant to NRS 92A.430 and who wishes to exercise dissenter's rights*** must:

(a) Demand payment;

(b) Certify whether he or the beneficial owner on whose behalf he is dissenting, as the case may be, acquired beneficial ownership of the shares before the date required to be set forth in the dissenter's notice for this certification; and

(c) Deposit his certificates, if any, in accordance with the terms of the notice.

2. ~~[The stockholder who demands payment and deposits his certificates, if any, before the proposed corporate action is taken retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the~~

~~proposed corporate action.]~~ ***If a stockholder fails to make the certification required by paragraph (b) of subsection 1, the subject corporation may elect to treat the stockholder's shares as after-acquired shares under NRS 92A.470.***

3. ***Once a stockholder deposits that stockholder's certificates or, in the case of uncertified shares makes demand for payment, that stockholder loses all rights as a stockholder, unless the stockholder withdraws pursuant to subsection 4.***

4. A stockholder who has complied with subsection 1 may nevertheless decline to exercise dissenter's rights and withdraw from the appraisal process by so notifying the subject corporation in writing by the date set forth in the dissenter's notice pursuant to NRS 92A.430. A stockholder who fails to so withdraw from the appraisal process may not thereafter withdraw without the subject corporation's written consent.

5. The stockholder who does not demand payment or deposit his certificates where required, each by the date set forth in the dissenter's notice, is not entitled to payment for his shares under this chapter.

Sec. 73. NRS 92A.450 is hereby amended to read as follows:

92A.450 ~~[1.]~~ The subject corporation may restrict the transfer of shares not represented by a certificate from the date the demand for their payment is received.

~~[2. The person for whom dissenter's rights are asserted as to shares not represented by a certificate retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the proposed corporate action.]~~

Sec. 74. NRS 92A.460 is hereby amended to read as follows:

92A.460 1. Except as otherwise provided in NRS 92A.470, within 30 days after receipt of a demand for payment, the subject corporation shall pay ***in cash to*** each dissenter who complied with NRS 92A.440 the amount the subject corporation estimates to be the fair value of his shares, plus accrued interest. The obligation of the subject corporation under this subsection may be enforced by the district court:

(a) Of the county where the ***subject*** corporation's principal office is located;

(b) If the ***subject*** corporation's principal office is not located in this State, in ~~[Carson City; or]~~ ***the county in which the corporation's registered office is located; or***

(c) At the election of any dissenter residing or having its principal ***or registered*** office in this State, of the county where the dissenter resides or has its principal ***or registered*** office.

➥ The court shall dispose of the complaint promptly.

2. The payment must be accompanied by:

(a) The subject corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for

that year ***or, where such financial statements are not reasonably available, then such reasonably equivalent financial information*** and the latest available ~~[interim]~~ ***quarterly*** financial statements, if any;

(b) A statement of the subject corporation's estimate of the fair value of the shares; ***and***

(c) ~~[An explanation of how the interest was calculated;~~

~~(d)]~~ A statement of the dissenter's rights to demand payment under NRS 92A.480 ~~[;]~~ and ***that if any such stockholder does not do so within the period specified, such stockholder shall be deemed to have accepted such payment in full satisfaction of the corporation's obligations under this chapter.***

~~[(e) A copy of NRS 92A.300 to 92A.500, inclusive.]~~

Sec. 75. NRS 92A.470 is hereby amended to read as follows:

92A.470 1. A subject corporation may elect to withhold payment from a dissenter unless he was the beneficial owner of the shares before the date set forth in the dissenter's notice as the ***first*** date of ~~[the first]~~ ***any*** announcement to the news media or to the stockholders of the terms of the proposed action.

2. To the extent the subject corporation elects to withhold payment, ***within 30 days*** after ~~[taking the proposed action, it shall estimate the fair value of the shares, plus accrued interest, and shall offer to pay this amount to each dissenter who agrees to accept it in full satisfaction of his demand. The]~~ ***receipt of a demand for payment, the*** subject corporation shall ~~[send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenters' right to demand payment pursuant to NRS 92A.480.]~~ ***notify the dissenters described in subsection 1:***

(a) Of the information required by paragraph (a) of subsection 2 of NRS 92A.460;

(b) Of the subject corporation's estimate of fair value pursuant to paragraph (b) of subsection 2 of NRS 92A.460;

(c) That they may accept the subject corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under NRS 92A.480;

(d) That those stockholders who wish to accept such an offer must so notify the subject corporation of their acceptance of the offer within 30 days after receipt of such offer; and

(e) That those stockholders who do not satisfy the requirements for demanding appraisal under NRS 92A.480 shall be deemed to have accepted the subject corporation's offer.

3. Within 10 days after receiving the stockholder's acceptance pursuant to subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each stockholder who agreed to accept the subject corporation's offer in full satisfaction of the stockholder's demand.

4. Within 40 days after sending the notice described in subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each stockholder described in paragraph (e) of subsection 2.

Sec. 76. NRS 92A.480 is hereby amended to read as follows:

92A.480 1. A dissenter ***paid pursuant to NRS 92A.460 who is dissatisfied with the amount of the payment*** may notify the subject corporation in writing of his own estimate of the fair value of his shares and the amount of interest due, and demand payment of his estimate, less any payment pursuant to NRS 92A.460 **.** ~~[, or]~~ ***A dissenter offered payment pursuant to NRS 92A.470 who is dissatisfied with the offer may*** reject the offer pursuant to NRS 92A.470 and demand payment of the fair value of his shares and interest due **.** ~~[, if he believes that the amount paid pursuant to NRS 92A.460 or offered pursuant to NRS 92A.470 is less than the fair value of his shares or that the interest due is incorrectly calculated.]~~

2. A dissenter waives his right to demand payment pursuant to this section unless he notifies the subject corporation of his demand ***to be paid the dissenter's stated estimate of fair value plus interest under subsection 1*** in writing within 30 days after ***receiving*** the subject ~~[corporation]~~ ***corporation's payment or offer of payment under NRS 92A.460 or 92A.470 and is entitled only to the payment*** made or offered **.** ~~[payment for his shares.]~~

Sec. 77. NRS 92A.490 is hereby amended to read as follows:

92A.490 1. If a demand for payment remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded ~~[.]~~ ***by each dissenter pursuant to NRS 92A.480 plus interest.***

2. A subject corporation shall commence the proceeding in the district court of the county where its principal office is located ~~[.]~~ ***in this State.*** If the principal office of the subject corporation is not located in the State, it shall commence the proceeding in the county where the principal office of the domestic corporation merged with or whose shares were acquired by the foreign entity was located. If the principal office of the subject corporation and the domestic corporation merged with or whose shares were acquired is not located in this State, the subject corporation shall commence the proceeding in the district court in ~~[Carson City.]~~ ***the county in which the corporation's registered office is located.***

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of his shares, plus interest, exceeds the amount paid by the subject corporation; or

(b) For the fair value, plus accrued interest, of his after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

Sec. 78. NRS 92A.500 is hereby amended to read as follows:

92A.500 1. The court in a proceeding to determine fair value shall determine all of the costs of the proceeding, including the reasonable compensation and expenses of any appraisers appointed by the court. The court shall assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously or not in good faith in demanding payment.

2. The court may also assess the fees and expenses of the counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the subject corporation and in favor of all dissenters if the court finds the subject corporation did not substantially comply with the requirements of NRS 92A.300 to 92A.500, inclusive; or

(b) Against either the subject corporation or a dissenter in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously or not in good faith with respect to the rights provided by NRS 92A.300 to 92A.500, inclusive.

3. If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the subject corporation, the court may award to those counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited.

4. In a proceeding commenced pursuant to NRS 92A.460, the court may assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters who are parties to the proceeding, in amounts the court finds equitable, to the extent the court finds that such parties did not act in good faith in instituting the proceeding.

5. ***To the extent the subject corporation fails to make a required payment pursuant to NRS 92A.460, 92A.470 or 92A.480, the dissenter may bring a cause of action directly for the amount owed and, to the extent the dissenter prevails, is entitled to recover all expenses of the suit.***

6. This section does not preclude any party in a proceeding commenced pursuant to NRS 92A.460 or 92A.490 from applying the provisions of N.R.C.P. 68 or NRS 17.115.

Sec. 79. NRS 104.9620 is hereby amended to read as follows:

104.9620 1. Except as otherwise provided in subsection 7, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection 3;

(b) The secured party does not receive, within the time set forth in subsection ~~[5,]~~ ***4,*** a notification of objection to the proposal authenticated by:

(1) A person to which the secured party was required to send a proposal under NRS 104.9621; or

(2) Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection 5 does not require the secured party to dispose of the collateral.

2. A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(b) The conditions of subsection 1 are met.

3. For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if he agrees to the terms of the acceptance in a record authenticated after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if he agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(1) Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(2) In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(3) Does not receive a notification of objection authenticated by the debtor within 20 days after the proposal is sent.

4. To be effective under paragraph (b) of subsection 1, a notification of objection must be received by the secured party:

(a) In the case of a person to which the proposal was sent pursuant to NRS 104.9621, within 20 days after notification was sent to him; and

(b) In other cases:

(1) Within 20 days after the last notification was sent pursuant to NRS 104.9621; or

(2) If a notification was not sent, before the debtor consents to the acceptance under subsection 3.

5. A secured party that has taken possession of collateral shall dispose of the collateral pursuant to NRS 104.9610 within the time specified in subsection 6 if:

(a) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

6. To comply with subsection 5, the secured party shall dispose of the collateral:

(a) Within 90 days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

7. In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Sec. 80. NRS 602.020 is hereby amended to read as follows:

602.020 1. A certificate filed pursuant to NRS 602.010 or a renewal certificate filed pursuant to NRS 602.035 must state the assumed or fictitious name under which the business is being conducted or is intended to be conducted, and if conducted by:

(a) A natural person:

(1) His full name;

(2) The street address of his residence or business; and

(3) If the mailing address is different from the street address, the mailing address of his residence or business;

(b) An artificial person ***:*** ***[***~~required to make annual filings with the Secretary of State to retain its good standing:~~***]***

(1) Its name ***;*** ***[***~~as it appears in the records of the Secretary of State;~~***]*** and

(2) Its mailing address;

(c) A general partnership:

(1) The full name of each partner who is a natural person;

(2) The street address of the residence or business of each partner who is a natural person;

(3) If the mailing address is different from the street address, the mailing address of the residence or business of each partner who is a natural person; and

(4) If one or more of the partners is an artificial person described in paragraph (b), the information required by paragraph (b) for each such partner; or

(d) A trust:

(1) The full name of each trustee of the trust;

(2) The street address of the residence or business of each trustee of the trust; and

(3) If the mailing address is different from the street address, the mailing address of the residence or business of each trustee of the trust.

2. The certificate must be:

(a) Signed:

(1) In the case of a natural person, by him;

(2) In the case of an artificial person ~~[required to make annual filings with the Secretary of State to retain its good standing, by a person required to sign the annual filing;]~~ ***, by an officer, director, manager, general partner, trustee or other natural person having the authority to bind the artificial person to a contract;***

(3) In the case of a general partnership, by each of the partners who is a natural person ~~[,]~~ and **,** if one or more of the partners is an artificial person described in subparagraph (2), by ~~[an officer of the corporation or a person required to sign the annual filing;]~~ ***the person described in subparagraph (2);*** or

(4) In the case of a trust, by each of the trustees; and

(b) Notarized, unless the board of county commissioners of the county adopts an ordinance providing that the certificate may be filed without being notarized.

3. No county clerk may refuse to accept for filing a certificate filed by a foreign artificial person or foreign artificial persons because the foreign artificial person or foreign artificial persons have not qualified to do business in this State under title 7 of NRS.

4. As used in this section:

(a) "Artificial person" means any organization organized under the law of the United States, any foreign country, or a state, province, territory, possession, commonwealth or dependency of the United States or any foreign country, and as to which the government, state, province, territory, possession, commonwealth or dependency must maintain a record showing the organization to have been organized.

(b) "Foreign artificial person" means an artificial person that is not organized under the laws of this State.

(c) "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 81. NRS 604A.710 is hereby amended to read as follows:

604A.710 1. For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business of making loans or participating in such business as principal, agent, broker or otherwise;

(c) Any registered agent who represents a licensee or any other person engaged in the business of making loans; and

(d) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, and the files, safes and vaults of such persons.

3. The investigation of a registered agent pursuant to subsection 1, including, without limitation, any books, accounts, papers and records used therein, must be kept confidential except to the extent necessary to enforce any provision of this chapter.

4. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make any deferred deposit loan, high-interest loan or title loan is presumed to be engaged in the business of making loans.

5. This section does not entitle the Commissioner or his authorized representatives to investigate the business or examine the books, accounts, papers and records of any attorney who is not a person described in paragraph (a), (b) or (d) of subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 82. NRS 675.380 is hereby amended to read as follows:

675.380 1. For the purpose of discovering violations of this chapter or of securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business described in NRS 675.060 or participating in such business as principal, agent, broker or otherwise;

(c) Any registered agent who represents a licensee or any other person engaged in the business described in NRS 675.060; and

(d) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, files, safes and vaults of such persons.

3. The investigation of a registered agent pursuant to subsection 1, including, without limitation, any book, accounts, papers and records used therein must be kept confidential except to the extent necessary to enforce any provision of this chapter.

4. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make loan transactions is presumed to be engaged in the business described in NRS 675.060.

5. This section does not entitle the Commissioner or his authorized representatives to investigate the business or examine the books, accounts, papers and records of any attorney who is not a person described in paragraph (a), (b) or (d) of subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 83. (Deleted by amendment.)

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 355.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 786.

SUMMARY—Enacts the Uniform Debt-Management Services Act. (BDR ~~[52]~~ **56**-1279)

AN ACT relating to trade practices; enacting the Uniform Debt-Management Services Act; repealing the existing provisions governing the regulation of debt adjusters; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation of debt adjusters by the Commissioner of Financial Institutions. (Chapter 676 of NRS) This bill repeals those provisions and enacts the Uniform Debt-Management Services Act, which provides for the regulation of providers of debt-management services by the Commissioner of ~~[Consumer Affairs.]~~ **Financial Institutions.**

Sections 26-38 of this bill provide for the registration of providers of debt-management services ~~[.]~~ **, which includes providers of credit counseling, providers that develop and implement debt-management plans and providers of debt settlement services.** No provider may enter into an agreement with any debtor in this State without registering as a consumer debt-management service in this State. Registration requires submission of

detailed information concerning the service, including, without limitation, its financial condition, the identity of principals, locations at which service will be offered, the form for agreements with debtors and business history in other jurisdictions. To register, a service must have an effective insurance policy against fraud, dishonesty, theft and the like in an amount not less than $250,000. It must also provide a security bond of a minimum of $50,000 which has the Commissioner as a beneficiary. If a registration substantially duplicates one in another state, the service may offer proof of registration in that other state to satisfy the registration requirements in this State. A satisfactory application will result in a certificate to do business from the Commissioner. A yearly renewal is required.

Sections 39-49 of this bill govern agreements between debtors and providers of debt-management services. To enter into agreements with debtors, there is a disclosure requirement respecting fees and services to be offered, and the risks and benefits of entering into such a contract. The service must offer counseling services from a certified counselor or certified debt specialist, and a plan must be created by the counselor or debt specialist for debt-management service to commence. The contents of the agreements and fees that may be charged are set forth in **sections 39-49**. There is a penalty-free 3-day right of rescission on the part of the debtor. In addition, the debtor may cancel the agreement after 30 days, but may be subject to fees if that occurs. The service may terminate the agreement if required payments are delinquent for at least 60 days. Any payments for creditors received from a debtor must be kept in a trust account that may not be used to hold any other funds of the service. There are strict accounting requirements and periodic reporting requirements respecting funds held.

Section 50 of this bill prohibits specific acts on the part of a service, including, without limitation, misappropriation of funds in trust, settlement for more than 50 percent of a debt with a creditor without a debtor's consent, gifts or premiums to enter into an agreement and representation that settlement has occurred without certification from a creditor. **Sections 51-59** of this bill provide that the enforcement of the provisions of this bill occurs at two levels, the Commissioner and the individual level. The Commissioner has investigative power, power to order an individual to cease and desist, power to assess a civil penalty up to $10,000 and power to bring a civil action. An individual may bring a civil action for compensatory damages, including, without limitation, triple damages, if a provider of debt-management services obtains payments not authorized by the provisions of this bill, and may seek punitive damages and attorney's fees. A service has a good faith mistake defense against liability. The statute of limitations pertaining to an action by the Commissioner is 4 years, and 2 years for a private right of action. **Section 58 of this bill provides that a violation of a provision of this bill constitutes a deceptive trade practice and that, for such a violation, an individual may recover pursuant to the provisions of**

this bill or the provisions of existing law relating to deceptive trade practices.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title ~~[52]~~ **56** of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 61, inclusive, of this act.

Sec. 2. ***This chapter may be cited as the Uniform Debt-Management Services Act.***

Sec. 3. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 24, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Affiliate" means:***

1. With respect to an individual:

(a) The spouse of the individual;

(b) A sibling of the individual or the spouse of a sibling;

(c) An individual or the spouse of an individual who is a lineal ancestor or lineal descendant of the individual or the individual's spouse;

(d) An aunt, uncle, great aunt, great uncle, first cousin, niece, nephew, grandniece or grandnephew, whether related by the whole or the half blood or adoption, or the spouse of any of them; or

(e) Any other individual occupying the residence of the individual; and

2. With respect to an entity:

(a) A person that directly or indirectly controls, is controlled by or is under common control with the entity;

(b) An officer of, or an individual performing similar functions with respect to, the entity;

(c) A director of, or an individual performing similar functions with respect to, the entity;

(d) Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, a person that receives or received more than $25,000 from the entity in either the current year or the preceding year or a person that owns more than 10 percent of, or an individual who is employed by or is a director of, a person that receives or received more than $25,000 from the entity in either the current year or the preceding year;

(e) An officer or director of, or an individual performing similar functions with respect to, a person described in paragraph (a);

(f) The spouse of, or an individual occupying the residence of, an individual described in paragraphs (a) to (e), inclusive; or

(g) An individual who has the relationship specified in paragraph (d) of subsection 1 to an individual or the spouse of an individual described in paragraphs (a) to (e), inclusive.

Sec. 5. ***"Agreement" means an agreement between a provider and an individual for the performance of debt-management services.***

Sec. 6. ***"Bank" means a financial institution, including, without limitation, a commercial bank, savings bank, savings and loan association, credit union and trust company, engaged in the business of banking, chartered under federal or state law and regulated by a federal or state banking regulatory authority.***

Sec. 7. ***"Business address" means the physical location of a business, including, without limitation, the name and number of a street.***

Sec. 8. ***"Certified counselor" means an individual certified by a training program or certifying organization, approved by the Commissioner, that authenticates the competence of individuals providing education and assistance to other individuals in connection with debt-management services in which an agreement contemplates that creditors will reduce finance charges or fees for late payment, default or delinquency.***

Sec. 9. ***"Certified debt specialist" means an individual certified by a training program or certifying organization, approved by the Commissioner, that authenticates the competence of individuals providing education and assistance to other individuals in connection with*** ~~*[debt-management services in which an agreement contemplates that creditors will settle debts for less than the full principal amount of the debt owed.]*~~ ***debt settlement services.***

Sec. 10. ***"Commissioner" means the Commissioner of*** ~~*[Consumer Affairs.]*~~ ***Financial Institutions.***

Sec. 11. ***"Concessions" means assent to repayment of a debt on terms more favorable to an individual than the terms of the contract between the individual and a creditor.***

Sec. 11.5. "Credit counseling" means providing education and assistance to an individual concerning debts owed by the individual which may include, without limitation, the development and implementation of a debt-management plan.

Sec. 12. ***"Day" means calendar day.***

Sec. 12.5. "Debt-management plan" means a plan which contemplates that:

1. Regular, periodic payments will be made to a provider by or on behalf of an individual to whom debt-management services are being provided; and

2. The individual's creditors will reduce financing charges or fees for late payment, default or delinquency.

➥ The term does not include a plan which contemplates that creditors of the individual will settle debts for less than the principal amount of the debt.

Sec. 13. ***"Debt-management services" means services as an intermediary between an individual and one or more creditors of the***

individual for the purpose of obtaining concessions ~~[, but]~~ and includes credit counseling, the development and implementation of debt-management plans and debt settlement services. The term does not include:

1. Legal services provided in an attorney-client relationship by an attorney licensed or otherwise authorized to practice law in this State;

2. Accounting services provided in an accountant-client relationship by a certified public accountant licensed to provide accounting services in this State; or

3. Financial-planning services provided in a financial planner-client relationship by a member of a financial-planning profession whose members the Commissioner, by regulation, determines are:

(a) Licensed by this State;

(b) Subject to a disciplinary mechanism;

(c) Subject to a code of professional responsibility; and

(d) Subject to a continuing education requirement.

Sec. 13.5. "Debt settlement services" means debt-management services which contemplate that:

1. Regular, periodic payments will be made by or on behalf of the individual to whom the services are being provided;

2. The individual will accumulate such payments in a bank account which is insured by the Federal Deposit Insurance Corporation, owned by the individual and not controlled by the provider; and

3. The individual will use the accumulated amount of the payments made pursuant to subsection 1 to make payments to:

(a) The provider for any fees charged by the provider pursuant to section 45 of this act; and

(b) Creditors in order to settle the debts of the individual for less than the principal amount of the debt.

Sec. 14. ***"Entity" means a person other than an individual.***

Sec. 15. ***"Good faith" means honesty in fact and the observance of reasonable standards of fair dealing.***

Sec. 16. ***"Person" means an individual, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture or any other legal or commercial entity. The term does not include a public corporation, government or governmental subdivision, agency or instrumentality.***

Sec. 17. ***"Plan" means a program or strategy in which a provider furnishes debt-management services to an individual and which includes a schedule of payments to be made by or on behalf of the individual and used to pay debts owed by the individual.***

Sec. 18. ***"Principal amount of the debt" means the amount of a debt at the time of an agreement.***

Sec. 19. ***"Provider" means a person that provides, offers to provide or agrees to provide debt-management services directly or through others.***

Sec. 20. ***"Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.***

Sec. 21. ***"Settlement fee" means a charge imposed on or paid by an individual in connection with a creditor's assent to accept in full satisfaction of a debt an amount less than the principal amount of the debt.***

Sec. 22. ***"Sign" means, with present intent to authenticate or adopt a record:***

1. To execute or adopt a tangible symbol; or

2. To attach to or logically associate with the record an electronic sound, symbol or process.

Sec. 23. ***"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.***

Sec. 24. ***"Trust account" means an account held by a provider that is:***

1. Established in an insured bank;

2. Separate from other accounts of the provider or its designee;

3. Designated as a trust account or other account designated to indicate that the money in the account is not the money of the provider or its designee; and

4. Used to hold money of one or more individuals for disbursement to creditors of the individuals.

Sec. 25. ***1. This chapter does not apply to an agreement with an individual who the provider has no reason to know resides in this State at the time of the agreement.***

2. This chapter does not apply to a provider to the extent that the provider:

(a) Provides or agrees to provide debt-management, educational or counseling services to an individual who the provider has no reason to know resides in this State at the time the provider agrees to provide the services; or

(b) Receives no compensation for debt-management services from or on behalf of the individuals to whom it provides the services or from their creditors.

3. This chapter does not apply to the following persons or their employees when the person or the employee is engaged in the regular course of the person's business or profession:

(a) A judicial officer, a person acting under an order of a court or an administrative agency or an assignee for the benefit of creditors;

(b) A bank;

(c) An affiliate, as defined in paragraph (a) of subsection 2 of section 4 of this act, of a bank if the affiliate is regulated by a federal or state banking regulatory authority; or

(d) A title insurer, escrow company or other person that provides bill-paying services if the provision of debt-management services is incidental to the bill-paying services.

Sec. 26. ***1. Except as otherwise provided in subsection 2, a provider may not provide debt-management services to an individual who it reasonably should know resides in this State at the time it agrees to provide the services, unless the provider is registered under this chapter.***

2. If a provider is registered under this chapter, subsection 1 does not apply to an employee or agent of the provider.

3. The Commissioner shall maintain and publicize a list of the names of all registered providers.

Sec. 27. ***1. An application for registration as a provider must be in a form prescribed by the Commissioner.***

2. Subject to adjustment of dollar amounts pursuant to subsection 6 of section 54 of this act, an application for registration as a provider must be accompanied by:

(a) The fee established by the Commissioner;

(b) The bond required by section 35 of this act;

(c) ~~[Identification]~~ If the debt-management services to be provided by the provider will include the development and implementation of debt-management plans, identification of all trust accounts required by section 44 of this act and an irrevocable consent authorizing the Commissioner to review and examine the trust accounts;

(d) Evidence of insurance in the amount of $250,000:

(1) Against the risks of dishonesty, fraud, theft and other misconduct on the part of the applicant or a director, employee or agent of the applicant;

(2) Issued by an insurance company authorized to do business in this State and rated at least A or equivalent by a nationally recognized rating organization approved by the Commissioner;

(3) With a deductible not exceeding $5,000;

(4) Payable for the benefit of the applicant, this State and individuals who are residents of this State, as their interests may appear; and

(5) Not subject to cancellation by the applicant or the insurer until 60 days after written notice has been given to the Commissioner;

(e) Proof of compliance with NRS 360.760 to 360.798, inclusive; and

(f) If the applicant is exempt from taxation, evidence of nonprofit and tax-exempt status applicable to the applicant under the Internal Revenue Code, 26 U.S.C. 501.

Sec. 28. ***An application for registration must be signed under oath and include:***

1. The applicant's name, principal business address and telephone number and all other business addresses in this State, electronic mail addresses and Internet website addresses;

2. All names under which the applicant conducts business;

3. The address of each location in this State at which the applicant will provide debt-management services or a statement that the applicant will have no such location;

4. The name and home address of each officer and director of the applicant and each person that owns at least 10 percent of the applicant;

5. Identification of every jurisdiction in which, during the 5 years immediately preceding the application:

(a) The applicant or any of its officers or directors have been licensed or registered to provide debt-management services; or

(b) Individuals have resided when they received debt-management services from the applicant;

6. A statement describing, to the extent it is known or should be known by the applicant, any material civil or criminal judgment or litigation and any material administrative or enforcement action by a governmental agency in any jurisdiction against the applicant, any of its officers, directors, owners or agents or any person who is authorized to have access to the trust account required by section 44 of this act;

7. The applicant's financial statements ~~*[, audited by an accountant licensed to conduct audits,]*~~ ***for each of the 2 years immediately preceding the application or, if it has not been in operation for the 2 years preceding the application, for the period of its existence*** ~~*[;]*~~ ***, which must be audited by an accountant licensed to conduct audits if the applicant is claiming nonprofit or tax-exempt status or if the applicant's business practices involve holding, accessing or directing the funds of an individual;***

8. Evidence of accreditation by an independent accrediting organization approved by the Commissioner;

9. Evidence that, within 12 months after initial employment, each of the applicant's counselors becomes certified as a certified counselor or certified debt specialist;

10. A description of the three most commonly used educational programs that the applicant provides or intends to provide to individuals who reside in this State and a copy of any materials used or to be used in those programs;

11. A description of the applicant's financial analysis and initial budget plan, including, without limitation, any form or electronic model used to evaluate the financial condition of individuals;

12. A copy of each form of agreement that the applicant will use with individuals who reside in this State;

13. The schedule of fees and charges that the applicant will use with individuals who reside in this State;

14. A complete set of the fingerprints of every officer of the applicant and every employee or agent of the applicant who is authorized to have access to the trust account required by section 44 of this act and written permission from each individual submitting a complete set of fingerprints authorizing the Commissioner to forward the fingerprints to the Central

Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

15. The names and addresses of all employers of each director during the 10 years immediately preceding the application;

16. A description of any ownership interest of at least 10 percent by a director, owner or employee of the applicant in:

(a) Any affiliate of the applicant; or

(b) Any entity that provides products or services to the applicant or any individual relating to the applicant's debt-management services;

17. ~~[A]~~ If the applicant is exempt from taxation, a statement of the amount of compensation of the applicant's five most highly compensated employees for each of the 3 years immediately preceding the application or, if it has not been in operation for the 3 years preceding the application, for the period of its existence;

18. The identity of each director who is an affiliate, as defined in subsection 1 of section 4 of this act or paragraph (a), (b), (d), (e), (f) or (g) of subsection 2 of section 4 of this act, of the applicant; and

19. Any other information that the Commissioner reasonably requires to perform the Commissioner's duties under section 31 of this act.

Sec. 29. ***An applicant or registered provider shall notify the Commissioner within 10 days after a change in the information specified in paragraph (d) or (f) of subsection 2 of section 27 of this act or subsection 1, 3, 6, 12 or 13 of section 28 of this act.***

Sec. 30. ***1. Except as otherwise provided in subsection 2, the Commissioner shall make the information in an application for registration as a provider available to the public.***

2. Except as otherwise provided in NRS 239.0115, the information required by subsections 7, 14 and 17 of section 28 of this act and the addresses required by subsection 4 of section 28 of this act are confidential ~~[, not subject to subpoena or discovery,]~~ and not subject to inspection by the general public.

Sec. 31. ***1. Except as otherwise provided in subsections 3 and 4, the Commissioner shall issue a certificate of registration as a provider to a person that complies with sections 27 and 28 of this act.***

2. If an applicant has otherwise complied with sections 27 and 28 of this act, including a timely effort to obtain the information required by subsection 14 of section 28 of this act, but the information has not been received, the Commissioner may issue a temporary certificate of registration. The temporary certificate expires not later than 180 days after issuance.

3. The Commissioner may deny registration if:

(a) The application contains information that is materially erroneous or incomplete;

(b) An officer, director or owner of the applicant has been convicted of a crime, or suffered a civil judgment, involving dishonesty or the violation of state or federal securities laws;

(c) The applicant or any of its officers, directors or owners have defaulted in the payment of money collected for others; or

(d) The Commissioner finds that the financial responsibility, experience, character or general fitness of the applicant or its owners, directors, employees or agents does not warrant belief that the business will be operated in compliance with this chapter.

4. The Commissioner shall deny registration if, with respect to an applicant that is organized as a nonprofit entity or has obtained tax-exempt status under the Internal Revenue Code, 26 U.S.C. 501, the applicant's board of directors is not independent of the applicant's employees and agents.

5. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, a board of directors is not independent for purposes of subsection 4 if more than one-fourth of its members:

(a) Are affiliates of the applicant, as defined in subsection 1 of section 4 of this act or paragraph (a), (b), (d), (e), (f) or (g) of subsection 2 of section 4 of this act; or

(b) After the date 10 years before first becoming a director of the applicant, were employed by or directors of a person that received from the applicant more than $25,000 in either the current year or the preceding year.

Sec. 32. ***1. The Commissioner shall approve or deny an initial registration as a provider within 120 days after an application is filed. In connection with a request pursuant to subsection 19 of section 28 of this act for additional information, the Commissioner may extend the 120-day period for not more than 60 days. Within 7 days after denying an application, the Commissioner, in a record, shall inform the applicant of the reasons for the denial.***

2. If the Commissioner denies an application for registration as a provider or does not act on an application within the time prescribed in subsection 1, the applicant may appeal and request a hearing pursuant to NRS 233B.121 to 233B.150, inclusive.

3. Subject to subsection 4 of section 33 of this act and section 56 of this act, a registration as a provider is valid for 1 year.

Sec. 33. ***1. A provider must obtain a renewal of its registration annually.***

2. An application for renewal of registration as a provider must be in a form prescribed by the Commissioner, signed under oath, and:

(a) Be filed not fewer than 30 days and not more than 60 days before the registration expires;

(b) Be accompanied by the fee established by the Commissioner and the bond required by section 35 of this act;

(c) Contain the matter required for initial registration as a provider by subsections 8 and 9 of section 28 of this act and a financial statement, audited by an accountant licensed to conduct audits, for the applicant's fiscal year immediately preceding the application;

(d) Disclose any changes in the information contained in the applicant's application for registration or its immediately previous application for renewal, as applicable, and if an application is otherwise complete and the applicant has made a timely effort to obtain the information required by subsection 14 of section 28 of this act but the information has not been received, the Commissioner may issue a temporary renewal of registration which expires not later than 180 days after issuance;

(e) Supply evidence of insurance in an amount equal to the larger of $250,000 or the highest daily balance in the trust account required by section 44 of this act during the 6-month period immediately preceding the application:

(1) Against risks of dishonesty, fraud, theft and other misconduct on the part of the applicant or a director, employee or agent of the applicant;

(2) Issued by an insurance company authorized to do business in this State and rated at least A or equivalent by a nationally recognized rating organization approved by the Commissioner;

(3) With a deductible not exceeding $5,000;

(4) Payable for the benefit of the applicant, this State and the individuals who are residents of this State, as their interests may appear; and

(5) Not subject to cancellation by the applicant or the insurer until 60 days after written notice has been given to the Commissioner;

(f) ~~*[Disclose the]*~~ ***If the applicant has developed and implemented debt-management plans, disclose:***

(1) The total amount of money received by the applicant pursuant to plans during the preceding 12 months from or on behalf of individuals who reside in this State and the total amount of money distributed to creditors of those individuals during that period;

~~*[(g) Disclose, to]*~~ ***and***

(2) To the best of the applicant's knowledge, the gross amount of money accumulated during the preceding 12 months pursuant to plans by or on behalf of individuals who reside in this State and with whom the applicant has agreements; and

~~*[(h)]*~~ ***(g) Provide any other information that the Commissioner reasonably requires to perform the Commissioner's duties under this section.***

3. Except as otherwise provided in this subsection, the Commissioner shall make the information in an application for renewal of registration as a provider available to the public. Except as otherwise provided in NRS 239.0115, the information required by subsections 7, 14 and 17 of section 28 of this act and the addresses required by subsection 4 of section

28 of this act are confidential [, not subject to subpoena or discovery,] and not subject to inspection by the general public.

4. If a registered provider files a timely and complete application for renewal of registration, the registration remains effective until the Commissioner, in a record, notifies the applicant of a denial and states the reasons for the denial.

5. If the Commissioner denies an application for renewal of registration as a provider, the applicant, within 30 days after receiving notice of the denial, may appeal and request a hearing pursuant to NRS 233B.121 to 233B.150, inclusive. Subject to section 56 of this act, while the appeal is pending, the applicant must continue to provide debt-management services to individuals with whom it has agreements. If the denial is affirmed, subject to the Commissioner's order and section 56 of this act, the applicant must continue to provide debt-management services to individuals with whom it has agreements until, with the approval of the Commissioner, it transfers the agreements to another registered provider or returns to the individuals all unexpended money that is under the applicant's control.

Sec. 34. ***If a provider holds a license or certificate of registration in another state authorizing it to provide debt-management services, the provider may submit a copy of that license or certificate and the application for it instead of an application in the form prescribed by subsection 1 of section 27 of this act, section 28 of this act or subsection 2 of section 33 of this act. The Commissioner shall accept the application and the license or certificate from the other state as an application for registration as a provider or for renewal of registration as a provider, as appropriate, in this State if:***

1. The application in the other state contains information substantially similar to or more comprehensive than that required in an application submitted in this State;

2. The applicant provides the information required by subsections 1, 3, 10, 12 and 13 of section 28 of this act; and

3. The applicant, under oath, certifies that the information contained in the application is current or, to the extent it is not current, supplements the application to make the information current.

Sec. 35. ***1. Except as otherwise provided in section 36 of this act, a provider that is required to be registered under this chapter shall file a surety bond with the Commissioner, which must:***

(a) Be continuously in effect during the period of registration and for 2 years after the provider ceases providing debt-management services to individuals in this State; and

(b) Run to this State for the benefit of this State and of individuals who reside in this State when they agree to receive debt-management services from the provider, as their interests may appear.

2. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, a surety bond filed pursuant to subsection 1 must:

(a) Be in the amount of $50,000 or other larger ~~[or smaller]~~ amount that the Commissioner determines is warranted by the financial condition and business experience of the provider, the history of the provider in performing debt-management services, the risk to individuals and any other factor the Commissioner considers appropriate;

(b) Be issued by a bonding, surety or insurance company authorized to do business in this State and rated at least A by a nationally recognized rating organization; and

(c) Have payment conditioned upon noncompliance of the provider or its agent with this chapter.

3. If the principal amount of a surety bond is reduced by payment of a claim or a judgment, the provider shall immediately notify the Commissioner and, within 30 days after notice by the Commissioner, file a new or additional surety bond in an amount set by the Commissioner. The amount of the new or additional bond must be at least the amount of the bond immediately before payment of the claim or judgment. If for any reason a surety terminates a bond, the provider shall immediately file a new surety bond in the amount of $50,000 or other larger amount determined pursuant to subsection 2.

4. The Commissioner or an individual may obtain satisfaction out of the surety bond procured pursuant to this section if:

(a) The Commissioner assesses expenses under paragraph (a) of subsection 2 of section 54 of this act, issues a final order under paragraph (b) of subsection 1 of section 55 of this act or recovers a final judgment under paragraph (d) or (e) of subsection 1 of section 55 of this act or subsection 4 of section 55 of this act; or

(b) An individual recovers a final judgment pursuant to subsection 1 or 2 of section 57 of this act or paragraph (a), (b) or (d) of subsection 3 of section 57 of this act.

5. If claims against a surety bond exceed or are reasonably expected to exceed the amount of the bond, the Commissioner, on the initiative of the Commissioner or on petition of the surety, shall, unless the proceeds are adequate to pay all costs, judgments and claims, distribute the proceeds in the following order:

(a) To satisfaction of a final order or judgment under paragraph (b), (d) or (e) of subsection 1 of section 55 of this act or subsection 4 of section 55 of this act;

(b) To final judgments recovered by individuals pursuant to subsection 1 or 2 of section 57 of this act or paragraph (a), (b) or (d) of subsection 3 of section 57 of this act, pro rata;

(c) To claims of individuals established to the satisfaction of the Commissioner, pro rata; and

(d) If a final order or judgment is issued under subsection 1 of section 55 of this act, to the expenses charged pursuant to paragraph (a) of subsection 2 of section 54 of this act.

Sec. 36. ***1. Instead of the surety bond required by section 35 of this act, a provider may deliver to the Commissioner, in the amount required by subsection 2 of section 35 of this act, and, except as otherwise provided in subparagraph (1) of paragraph (b), payable or available to this State and to individuals who reside in this State when they agree to receive debt-management services from the provider, as their interests may appear, if the provider or its agent does not comply with this chapter:***

(a) A certificate of insurance issued by an insurance company authorized to do business in this State and rated at least A or equivalent by a nationally recognized rating organization, approved by the Commissioner and with no deductible, or, if the provider supplies a bond in the amount of $5,000, a deductible not exceeding $5,000; or

(b) With the approval of the Commissioner:

(1) An irrevocable letter of credit, issued or confirmed by a bank approved by the Commissioner, payable upon presentation of a certificate by the Commissioner stating that the provider or its agent has not complied with this chapter; or

(2) Bonds or other obligations of the United States or guaranteed by the United States or bonds or other obligations of this State or a political subdivision of this State, to be deposited and maintained with a bank approved by the Commissioner for this purpose.

2. If a provider furnishes a substitute pursuant to subsection 1, the provisions of subsections 1, 3, 4 and 5 of section 35 of this act apply to the substitute.

Sec. 37. ***1. A provider shall act in good faith in all matters under this chapter.***

2. A provider who holds funds on behalf of an individual to whom it provides debt-management services shall act as a fiduciary with respect to those funds.

Sec. 38. ***A provider that is required to be registered under this chapter shall maintain a toll-free communication system, staffed at a level that reasonably permits an individual to speak to a certified counselor, certified debt specialist or customer service representative, as appropriate, during ordinary business hours.***

Sec. 39. ***1. Before providing debt-management services, a registered provider shall give the individual an itemized list of goods and services and the charges for each. The list must be clear and conspicuous, be in a record the individual may keep whether or not the individual assents to an agreement and describe the goods and services the provider offers:***

(a) Free of additional charge if the individual enters into an agreement;

(b) For a charge if the individual does not enter into an agreement; and

(c) For a charge if the individual enters into an agreement, using the following terminology, as applicable, and format:

Set-up fee _____
dollar amount of fee

Monthly service fee _____
dollar amount of fee or method of determining amount

Settlement fee _____
dollar amount of fee or method of determining amount

Goods and services in addition to those provided in connection with a plan:

_____ _____
(item) ***dollar amount or method of determining amount***

_____ _____
(item) ***dollar amount or method of determining amount***

2. A provider may not furnish debt-management services unless the provider, through the services of a certified counselor or certified debt specialist:

(a) Provides the individual with reasonable education about the management of personal finance;

(b) Has prepared a financial analysis; and

(c) If the provider will develop and implement a debt-management plan and the individual is to make regular, periodic payments:

(1) Has prepared a plan for the individual;

(2) Has made a determination, based on the provider's analysis of the information provided by the individual and otherwise available to the provider, that the plan is suitable for the individual and the individual will be able to meet the payment obligations under the plan; and

(3) Believes that each creditor of the individual listed as a participating creditor in the plan will accept payment of the individual's debts as provided in the plan.

3. Before an individual assents to an agreement, a provider shall:

(a) Provide the individual with a copy of the analysis and plan required by subsection 2 in a record which identifies the provider and which the individual may keep whether or not the individual assents to the agreement;

(b) Inform the individual of the availability, at the individual's option, of assistance by a toll-free communication system or in person to discuss the financial analysis and plan required by subsection 2; and

(c) ~~[With]~~ If the agreement contemplates that the provider will develop and implement a debt-management plan and with respect to all creditors identified by the individual or otherwise known by the provider to be creditors of the individual, provide the individual with a list of:

(1) Creditors that the provider expects to participate in the plan and grant concessions;

(2) Creditors that the provider expects to participate in the plan but not grant concessions;

(3) Creditors that the provider expects not to participate in the plan; and

(4) All other creditors.

4. Before an individual assents to an agreement, the provider shall inform the individual in a separate record which the individual may keep:

(a) Of the name and business address of the provider;

(b) That plans are not suitable for all individuals and the individual may ask the provider about other ways, including, without limitation, bankruptcy, to deal with indebtedness;

(c) That establishment of a plan may adversely affect the individual's credit rating or credit scores;

(d) That nonpayment of debt may lead creditors to increase finance and other charges or undertake collection activity, including, without limitation, litigation;

(e) Unless it is not true, that the provider may receive compensation from the creditors of the individual; and

(f) That, unless the individual is insolvent, if a creditor settles for less than the full amount of the debt, the plan may result in the creation of taxable income to the individual, even though the individual does not receive any money.

*5. If a provider may receive payments from an individual's creditors and the plan contemplates that the ~~[individual's creditors will reduce finance charges or fees for late payment, default or delinquency,]~~ **provider will develop and implement a debt-management plan,** the provider may comply with subsection 4 by providing the following disclosure, surrounded by black lines:*

IMPORTANT INFORMATION FOR YOU TO CONSIDER

(1) Debt-management plans are not right for all individuals, and you may ask us to provide information about other ways, including bankruptcy, to deal with your debts.

(2) Using a debt-management plan may make it harder for you to obtain credit.

(3) We may receive compensation for our services from your creditors.

_____

Name and business address of provider

*6. If a provider will not receive payments from an individual's creditors and the plan contemplates that the ~~[individual's creditors will reduce finance charges or fees for late payment, default or delinquency,]~~ **provider will develop and implement a debt-management plan,** a provider may*

comply with subsection 4 by providing the following disclosure, surrounded by black lines:

IMPORTANT INFORMATION FOR YOU TO CONSIDER

(1) Debt-management plans are not right for all individuals, and you may ask us to provide information about other ways, including bankruptcy, to deal with your debts.

(2) Using a debt-management plan may make it harder for you to obtain credit.

_____

Name and business address of provider

7. If an agreement contemplates that ~~[creditors will settle debts for less than the full principal amount of the debt owed,]~~ a provider will provide debt settlement services, the provider may comply with subsection 4 by providing the following disclosure, surrounded by black lines:

IMPORTANT INFORMATION FOR YOU TO CONSIDER

(1) Our program is not right for all individuals, and you may ask us to provide information about bankruptcy and other ways to deal with your debts.

(2) Nonpayment of your debts under our program may:

Hurt your credit rating or credit scores;

Lead your creditors to increase finance and other charges; and

Lead your creditors to undertake activity, including lawsuits, to collect the debts.

(3) Reduction of debt under our program may result in taxable income to you, even though you will not actually receive any money.

_____

Name and business address of provider

Sec. 40. ***1. A provider may satisfy the requirements of section 39, 41 or 49 of this act by means of the Internet or other electronic means if the provider obtains a consumer's consent in the manner provided by section 101(c)(1) of the federal act.***

2. The disclosures and materials required by section 39, 41 or 49 of this act must be presented in a form that is capable of being accurately reproduced for later reference.

3. With respect to disclosure by means of an Internet website, the disclosure of the information required by subsection 4 of section 39 of this act must appear on one or more screens that:

(a) Contain no other information; and

(b) The individual must see before proceeding to assent to formation of an agreement.

4. At the time of providing the materials and agreement required by subsections 3 and 4 of section 39 of this act and sections 41 and 49 of this act, a provider shall inform the individual that upon electronic, telephonic

or written request, it will send the individual a written copy of the materials, and shall comply with a request as provided in subsection 5.

5. If a provider is requested, before the expiration of 90 days after an agreement is completed or terminated, to send a written copy of the materials required by subsections 3 and 4 of section 39 of this act or section 41 or 49 of this act, the provider shall send them at no charge within 3 business days after the request, but the provider need not comply with a request more than once per calendar month or if it reasonably believes the request is made for purposes of harassment. If a request is made more than 90 days after an agreement is completed or terminated, the provider shall send within a reasonable time a written copy of the materials requested.

6. A provider that maintains an Internet website shall disclose on the home page of its website or on a page that is clearly and conspicuously connected to the home page by a link that clearly reveals its contents:

(a) Its name and all names under which it does business;

(b) Its principal business address, telephone number and electronic mail address, if any; and

(c) The names of its principal officers.

7. Subject to subsection 8, if a consumer who has consented to electronic communication in the manner provided by section 101 of the federal act withdraws consent as provided in the federal act, a provider may terminate its agreement with the consumer.

8. If a provider wishes to terminate an agreement with a consumer pursuant to subsection 7, it shall notify the consumer that it will terminate the agreement unless the consumer, within 30 days after receiving the notification, consents to electronic communication in the manner provided in section 101(c) of the federal act. If the consumer consents, the provider may terminate the agreement only as permitted by subparagraph (6) of paragraph (f) of subsection 1 of section 41 of this act.

9. As used in this section:

(a) "Consumer" means an individual who seeks or obtains goods or services that are used primarily for personal, family or household purposes.

(b) "Federal act" means the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq.

Sec. 41. ***1. An agreement must:***

(a) Be in a record;

(b) Be dated and signed by the provider and the individual;

(c) Include the name of the individual and the address where the individual resides;

(d) Include the name, business address and telephone number of the provider;

(e) Be ~~[delivered]~~ provided to the individual ~~[immediately upon formation of]~~ before the individual assents to the agreement; and

(f) Disclose:

(1) The services to be provided ~~[,]~~ , including, without limitation, whether the provider will provide credit counseling, develop and implement a debt-management plan, provide debt settlement services or provide any combination of these services;

(2) The amount, or method of determining the amount, of all fees, individually itemized, to be paid by the individual;

(3) ~~[The]~~ If the agreement contemplates that the provider will develop and implement a debt-management plan or provide debt settlement services, the schedule of payments to be made by or on behalf of the individual, including the amount of each payment, the date on which each payment is due and an estimate of the date of the final payment;

(4) If the agreement contemplates that the provider will develop and implement a debt-management plan and a plan provides for regular periodic payments to creditors:

(I) Each creditor of the individual to which payment will be made, the amount owed to each creditor and any concessions the provider reasonably believes each creditor will offer;

(II) The schedule of expected payments to each creditor, including the amount of each payment and the date on which it will be made; and

(III) Each creditor that the provider believes will not participate in the plan and to which the provider will not direct payment;

(5) ~~[How]~~ If the agreement contemplates that the provider will develop and implement a debt-management plan or provide debt settlement services, how the provider will comply with its obligations under subsection 1 of section 49 of this act;

(6) That the provider may terminate the agreement for good cause, upon return of unexpended money of the individual;

(7) That the individual may cancel the agreement as provided in section 42 of this act;

(8) That the individual may terminate a plan at any time without incurring any liability as provided in subparagraph (4) of paragraph (a) of subsection 4;

(9) That the individual may contact the Commissioner with any questions or complaints regarding the provider; and

~~[(9)]~~ (10) The address, telephone number and Internet address of the website of the Commissioner.

2. For purposes of paragraph (e) of subsection 1, delivery of an electronic record occurs when it is made available in a format in which the individual may retrieve, save and print it and the individual is notified that it is available.

3. If the Commissioner supplies the provider with any information required under subparagraph ~~[9]~~ 10 of paragraph (f) of subsection 1, the provider may comply with that requirement only by disclosing the information supplied by the Commissioner.

4. An agreement must provide that:

(a) The individual has a right to terminate the agreement at any time, without penalty or obligation ~~[,]~~ or the payment of any termination fee, by giving the provider written or electronic notice, in which event:

(1) The provider will refund all unexpended money that the provider or its agent has received from or on behalf of the individual for the reduction or satisfaction of the individual's debt;

(2) With respect to an agreement which contemplates that creditors will settle debts for less than the principal amount of the debt, the provider will refund 65 percent of any portion of the set-up fee that has not been credited against the settlement fee; ~~[and]~~

(3) All powers of attorney granted by the individual to the provider are revoked and ineffective; and

(4) The provider will cease charging a monthly service fee, other than a monthly service fee which became due before the termination of the agreement.

(b) The individual authorizes any bank in which the provider or its agent has established a trust account to disclose to the Commissioner any financial records relating to the trust account; ~~[and]~~

(c) The provider will notify the individual within 5 days after learning of a creditor's final decision to reject or withdraw from a plan and that this notice will include:

(1) The identity of the creditor; and

(2) The right of the individual to modify or terminate the agreement ~~[.]~~ ; and

(d) The individual may terminate a plan at any time without incurring any liability.

5. ~~[An]~~ If an agreement contemplates that the provider will provide debt settlement services, the agreement may confer on a provider a power of attorney to settle the individual's debt for not more than 50 percent of the outstanding amount of the debt. ~~[An]~~ The agreement may not confer a power of attorney to settle a debt for more than 50 percent of that amount, but may confer a power of attorney to negotiate with creditors of the individual on behalf of the individual. ~~[An]~~ The agreement must provide that the provider will obtain the assent of the individual after a creditor has assented to a settlement for more than 50 percent of the outstanding amount of the debt.

6. An agreement may not:

(a) Provide for application of the law of any jurisdiction other than the United States and this State;

(b) Except as permitted by section 2 of the Federal Arbitration Act, 9 U.S.C. 2, or NRS 38.206 to 38.248, inclusive, contain a provision that modifies or limits otherwise available forums or procedural rights, including, without limitation, the right to trial by jury, that are generally available to the individual under law other than this chapter;

(c) Contain a provision that restricts the individual's remedies under this chapter or law other than this chapter; or

(d) Contain a provision that:

(1) Limits or releases the liability of any person for not performing the agreement or for violating this chapter; or

(2) Indemnifies any person for liability arising under the agreement or this chapter.

7. All rights and obligations specified in subsection 4 and section 42 of this act exist even if not provided in the agreement. A provision in an agreement which violates subsection 4, 5 or 6 is void.

Sec. 42. ***1. An individual may cancel an agreement before midnight of the third business day after the individual assents to it, unless the agreement does not comply with subsection 2 or section 41 or 50 of this act, in which event the individual may cancel the agreement within 30 days after the individual assents to it. To exercise the right to cancel, the individual must give notice in a record to the provider. Notice by mail is given when mailed.***

2. An agreement must be accompanied by a form that contains in boldface type, surrounded by bold black lines:

NOTICE OF RIGHT TO CANCEL

You may cancel this agreement, without any penalty or obligation, at any time before midnight of the third business day that begins the day after you agree to it by electronic communication or by signing it.

To cancel this agreement during this period, send an e-mail to _____ (e-mail address of provider) or mail or deliver a signed, dated copy of this notice, or any other written notice to _____ (name of provider) at _____ (address of provider) before midnight on _____ (date).

If you cancel this agreement within the 3-day period, we will refund all money you already have paid us.

You also may terminate this agreement at any later time, but we may not be required to refund fees you have paid us.

I cancel this agreement,

_____

Print your name

_____

Signature

_____

Date

3. If a personal financial emergency necessitates the disbursement of an individual's money to one or more of the individual's creditors before the expiration of 3 days after an agreement is signed, an individual may

waive the right to cancel. To waive the right, the individual must send or deliver a signed, dated statement in the individual's own words describing the circumstances that necessitate a waiver. The waiver must explicitly waive the right to cancel. A waiver by means of a standard form record is void.

Sec. 43. ***Unless the Commissioner, by regulation, provides otherwise, the disclosures and documents required by this chapter must be in English. If a provider communicates with an individual primarily in a language other than English, the provider must furnish a translation into the other language of the disclosures and documents required by this chapter.***

Sec. 44. ***1. All money paid to a provider by or on behalf of an individual for distribution to creditors pursuant to a plan is held in trust. Within 2 business days after receipt, the provider shall deposit the money in a trust account established for the benefit of individuals to whom the provider is furnishing debt-management services.***

2. Money held in trust by a provider is not property of the provider or its designee. The money is not available to creditors of the provider or its designee, except an individual from whom or on whose behalf the provider received money, to the extent that the money has not been disbursed to creditors of the individual.

3. A provider shall:

(a) Maintain separate records of account for each individual to whom the provider is furnishing debt-management services;

(b) Disburse money paid by or on behalf of the individual to creditors of the individual as disclosed in the agreement, except that the provider may delay payment to the extent that a payment by the individual is not final; and

(c) Promptly correct any payments which are not made or which are misdirected as a result of an error by the provider or other person in control of the trust account and reimburse the individual for any costs or fees imposed by a creditor as a result of the failure to pay or misdirection.

4. A provider may not commingle money in a trust account established for the benefit of individuals to whom the provider is furnishing debt-management services with money of other persons.

5. A trust account must at all times have a cash balance equal to the sum of the balances of each individual's account.

6. If a provider has established a trust account pursuant to subsection 1, the provider shall reconcile the trust account at least once a month. The reconciliation must compare the cash balance in the trust account with the sum of the balances in each individual's account. If the provider or its designee has more than one trust account, each trust account must be individually reconciled.

7. If a provider discovers, or has a reasonable suspicion of, embezzlement or other unlawful appropriation of money held in trust, the provider immediately shall notify the Commissioner by a method approved

by the Commissioner. Unless the Commissioner, by regulation, provides otherwise, within 5 days thereafter, the provider shall give notice to the Commissioner describing the remedial action taken or to be taken.

8. If an individual terminates an agreement or it becomes reasonably apparent to a provider that a plan has failed, the provider shall promptly refund to the individual all money paid by or on behalf of the individual which has not been paid to creditors, less fees that are payable to the provider under section 45 of this act.

9. Before relocating a trust account from one bank to another, a provider shall inform the Commissioner of the name, business address and telephone number of the new bank. As soon as practicable, the provider shall inform the Commissioner of the account number of the trust account at the new bank.

Sec. 45. *1. A provider may not impose directly or indirectly a fee or other charge on an individual or receive money from or on behalf of an individual for debt-management services except as permitted by this section.*

2. A provider may not impose charges or receive payment for debt-management services until the provider and the individual have signed an agreement that complies with sections 41 and 50 of this act.

3. If an individual assents to an agreement, a provider may not impose a fee or other charge for educational or counseling services or the like, except as otherwise provided in this subsection and subsection ~~[4]~~ 5 of section 50 of this act. The Commissioner may authorize a provider to charge a fee based on the nature and extent of the educational or counseling services furnished by the provider.

4. Subject to adjustment of dollar amounts pursuant to subsection 6 of section 54 of this act, the following rules apply:

(a) If an individual assents to a plan which contemplates that creditors will reduce finance charges or fees for late payment, default or delinquency, the provider may charge, not including money provided by creditors to support educational or counseling services concerning personal finance provided by nonprofit entities:

(1) A fee not to exceed $50 for consultation, obtaining a credit report, setting up an account and the like; and

(2) A monthly service fee, not to exceed $10 times the number of accounts remaining in a plan at the time the fee is assessed, but not more than $50 in any month.

(b) If an individual assents to an agreement which contemplates that creditors will settle debts for less than the principal amount of the debt, a provider may charge:

(1) Subject to subsection 4 of section 41 of this act, a fee for consultation, obtaining a credit report, setting up an account and the like, in an amount not to exceed the lesser of $400 and 4 percent of the debt in the plan at the inception of the plan; and

(2) A monthly service fee, not to exceed $10 times the number of accounts remaining in a plan at the time the fee is assessed, but not more than $50 in any month.

(c) A provider may not impose or receive fees under both paragraphs (a) and (b).

(d) Except as otherwise provided in subsection ~~[4]~~ 5 of section 50 of this act, if an individual does not assent to an agreement, a provider may receive for educational or counseling services it provides to the individual a fee not to exceed $100 or, with the approval of the Commissioner, a larger fee. The Commissioner may approve a fee larger than $100 if the nature and extent of the educational or counseling services warrant the larger fee.

5. If, before the expiration of 90 days after the completion or termination of educational or counseling services, an individual assents to an agreement, the provider shall refund to the individual any fee paid pursuant to paragraph (d) of subsection 4.

6. Except as otherwise provided in subsections 3 and 4, if an agreement contemplates that creditors will settle an individual's debts for less than the principal amount of the debt, compensation for services in connection with settling debt may not exceed one of the following applicable settlement fee limits, the terms of which must be clearly disclosed in the agreement:

(a) With respect to agreements in which a flat settlement fee is charged based on the overall amount of included debt, the total aggregate amount of fees charged to an individual under this chapter, including fees charged under subparagraphs (1) and (2) of paragraph (b) of subsection 4, may not exceed 17 percent of the principal amount of debt included in the agreement at the agreement's inception. The flat settlement fee authorized under this paragraph must be assessed in equal monthly payments over not less than half of the length of the plan, as estimated at the plan's inception, unless:

(1) Voluntarily accelerated by the individual in a separate record; and

(2) Offers of settlement by creditors have been obtained on at least half of the outstanding debt included in the agreement.

(b) With respect to agreements in which fees are calculated as a percentage of the amount saved by an individual, a settlement fee may not exceed 30 percent of the excess of the outstanding amount of each debt over the amount actually paid to the creditor, as calculated at the time of settlement. Settlement fees authorized under this paragraph must become billable only as debts are settled, and the total aggregate amount of fees charged to an individual under this paragraph, including fees charged under subparagraphs (1) and (2) of paragraph (b) of subsection 4, may not exceed 20 percent of the principal amount of debt included in the agreement at the agreement's inception.

➥ A provider may not impose or receive fees under both paragraphs (a) and (b).

7. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, if a payment to a provider by an individual under this chapter is dishonored, a provider may impose a reasonable charge on the individual, not to exceed the lesser of $25 and the amount permitted by law other than this chapter.

Sec. 46. ***A provider may not solicit a voluntary contribution from an individual or an affiliate of the individual for any service provided to the individual. A provider may accept voluntary contributions from an individual but, until 30 days after completion or termination of a plan, the aggregate amount of money received from or on behalf of the individual may not exceed the total amount the provider may charge the individual under section 45 of this act.***

Sec. 47. ***1. If a provider imposes a fee or other charge or receives money or other payments not authorized by section 45 or 46 of this act, the individual may void the agreement and recover as provided in section 57 of this act.***

2. If a provider is not registered as required by this chapter when an individual assents to an agreement, the agreement is voidable by the individual.

3. If an individual voids an agreement under subsection 2, the provider does not have a claim against the individual for breach of contract or for restitution.

Sec. 48. ***1. If an individual who has entered into an agreement fails for 60 days to make payments required by the agreement, a provider may terminate the agreement.***

2. If a provider or an individual terminates an agreement, the provider shall immediately return to the individual:

(a) Any money of the individual held in trust for the benefit of the individual; and

(b) ~~[Sixty-five]~~ If the agreement contemplated that the provider would provide debt settlement services, sixty-five percent of any portion of the set-up fee received pursuant to paragraph (b) of subsection 4 of section 45 of this act which has not been credited against settlement fees.

Sec. 49. ***1. ~~[A]~~ If an agreement contemplates that a provider will develop and implement a debt-management plan or provide debt settlement services, the provider shall provide the accounting required by subsection 2:***

(a) Upon cancellation or termination of ~~[an]~~ the agreement; and

(b) Before cancellation or termination of ~~[any]~~ the agreement:

(1) At least once each month; and

(2) Within 5 business days after a request by an individual, but the provider need not comply with more than one request in any calendar month.

2. A provider, in a record, shall provide each individual for whom it has established a plan an accounting of the following information:

(a) The amount of money received from the individual since the last report;

(b) The amounts and dates of disbursement made on the individual's behalf, or by the individual upon the direction of the provider, since the last report to each creditor listed in the plan;

(c) The amounts deducted from the amount received from the individual;

(d) The amount held in reserve; and

(e) If, since the last report, a creditor has agreed to accept as payment in full an amount less than the principal amount of the debt owed by the individual:

(1) The total amount and terms of the settlement;

(2) The amount of the debt when the individual assented to the plan;

(3) The amount of the debt when the creditor agreed to the settlement; and

(4) The calculation of a settlement fee.

3. A provider shall maintain records for each individual for whom it provides debt-management services for 5 years after the final payment made by the individual and produce a copy of them to the individual within a reasonable time after a request for them. The provider may use electronic or other means of storage of the records.

Sec. 50. ***1. A provider may not, directly or indirectly:***

(a) Misappropriate or misapply money held in trust;

(b) Settle a debt on behalf of an individual for more than 50 percent of the outstanding amount of the debt owed a creditor, unless the individual assents to the settlement after the creditor has assented;

(c) Take a power of attorney that authorizes it to settle a debt, unless the power of attorney expressly limits the provider's authority to settle debts for not more than 50 percent of the outstanding amount of the debt owed a creditor;

(d) Exercise or attempt to exercise a power of attorney after an individual has terminated an agreement;

(e) Initiate a transfer from an individual's account at a bank or with another person unless the transfer is:

(1) A return of money to the individual; or

(2) Before termination of an agreement, properly authorized by the agreement and this chapter and for:

(I) Payment to one or more creditors pursuant to an agreement; or

(II) Payment of a fee;

(f) Offer a gift or bonus, premium, reward or other compensation to an individual for executing an agreement;

(g) Offer, pay or give a gift or bonus, premium, reward or other compensation to a person for referring a prospective customer, if the person making the referral has a financial interest in the outcome of debt-management services provided to the customer, unless neither the provider

nor the person making the referral communicates to the prospective customer the identity of the source of the referral;

(h) Receive a bonus, commission or other benefit for referring an individual to a person;

(i) Structure a plan in a manner that would result in a negative amortization of any of an individual's debts, unless a creditor that is owed a negatively amortizing debt agrees to refund or waive the finance charge upon payment of the principal amount of the debt;

(j) Compensate its employees on the basis of a formula that incorporates the number of individuals the employee induces to enter into agreements;

(k) Settle a debt or lead an individual to believe that a payment to a creditor is in settlement of a debt to the creditor unless, at the time of settlement, the individual receives a certification by the creditor that the payment is in full settlement of the debt or is part of a payment plan, the terms of which are included in the certification, that on completion will lead to full settlement of the debt;

(l) Make a representation that:

(1) The provider will furnish money to pay bills or prevent attachments;

(2) Payment of a certain amount will permit satisfaction of a certain amount or range of indebtedness; or

(3) Participation in a plan will or may prevent litigation, garnishment, attachment, repossession, foreclosure, eviction or loss of employment;

(m) Misrepresent that it is authorized or competent to furnish legal advice or perform legal services;

(n) Represent in its agreements, disclosures required by this chapter, advertisements or Internet website that it is a not-for-profit entity unless it is organized and properly operating as a not-for-profit entity under the law of the state in which it was formed or a tax-exempt entity unless it has received certification of tax-exempt status from the Internal Revenue Service and is properly operating as a not-for-profit entity under the law of the state in which it was formed;

(o) Take a confession of judgment or power of attorney to confess judgment against an individual; ~~***[or]***~~

(p) Employ an unfair, unconscionable or deceptive act or practice, including, without limitation, the knowing omission of any material information ~~***[.]***~~ ***;***

(q) Receive any compensation from the creditors of an individual, unless the compensation is a donation for the operating costs of the provider; or

(r) If the provider furnishes debt settlement services, represent that the provider is able to prevent telephone calls from creditors.

2. If a provider furnishes debt-management services to an individual, the provider may not, directly or indirectly:

(a) Purchase a debt or obligation of the individual;

(b) Receive from or on behalf of the individual:

(1) A promissory note or other negotiable instrument other than a check or a demand draft; or

(2) A postdated check or demand draft;

(c) Lend money or provide credit to the individual, except as a deferral of a settlement fee at no additional expense to the individual;

(d) Obtain a mortgage or other security interest from any person in connection with the services provided to the individual;

(e) Except as permitted by federal law, disclose the identity or identifying information of the individual or the identity of the individual's creditors, except to:

(1) The Commissioner, upon proper demand;

(2) A creditor of the individual, to the extent necessary to secure the cooperation of the creditor in a plan; or

(3) The extent necessary to administer the plan;

(f) Except as otherwise provided in subsection 6 of section 45 of this act, provide the individual less than the full benefit of a compromise of a debt arranged by the provider;

(g) Charge the individual for or provide credit or other insurance, coupons for goods or services, membership in a club, access to computers or the Internet or any other matter not directly related to debt-management services or educational or counseling services concerning personal finance, except to the extent such services are expressly authorized by the Commissioner; ~~*[or]*~~

(h) Furnish legal advice or perform legal services, unless the person furnishing that advice to or performing those services for the individual is licensed to practice law ~~*[.]*~~ ***; or***

(i) With respect to debt settlement services:

(1) Have an ownership interest in, or any control of, the settlement account of an individual to whom the provider is providing debt settlement services; or

(2) Provide debt settlement services with respect to a secured debt, a debt which was at any time a secured debt or a loan to which chapter 604A of NRS applies or include a secured debt, debt which was at any time a secured debt or a loan to which chapter 604A of NRS applies in the calculation of the provider's fee.

3. A provider, or an employee, officer or agent of a provider, may not provide legal services or advice or represent that the provider, or an employee, officer or agent of the provider, is authorized or competent to provide legal services or advice, unless the person providing legal services or advice, or about whom the representations concerning the provision of legal services or advice were made, is authorized to practice law in this State. As used in this subsection, "legal services or advice" include, without limitation, an analysis of the rights of a creditor or debtor with respect to a debt, advice concerning a response to legal filings or actions and

predictions of the likely outcome of litigation or arbitration concerning a debt.

4. This chapter does not authorize any person to engage in the practice of law.

~~*[4.]*~~ ***5. A provider may not receive a gift or bonus, premium, reward or other compensation, directly or indirectly, for advising, arranging or assisting an individual in connection with obtaining an extension of credit or other service from a lender or service provider, except for educational or counseling services required in connection with a government-sponsored program.***

~~*[5.]*~~ ***6. Unless a person supplies goods, services or facilities generally and supplies them to the provider at a cost no greater than the cost the person generally charges to others, a provider may not purchase goods, services or facilities from the person if an employee or a person that the provider should reasonably know is an affiliate of the provider:***

(a) Owns more than 10 percent of the person; or

(b) Is an employee or affiliate of the person.

Sec. 51. ***Not later than 30 days after a provider has been served with notice of a civil action for violation of this chapter by or on behalf of an individual who resides in this State at either the time of an agreement or the time the notice is served, the provider shall notify the Commissioner in a record that it has been sued.***

Sec. 52. ***1. If the agreements of a provider contemplate that*** ~~*[creditors will reduce finance charges or fees for late payment, default or delinquency and]*~~ ***the provider will develop and implement a debt-management plan and the provider advertises debt-management services, it shall disclose, in an easily comprehensible manner, that using a debt-management plan may make it harder for the individual to obtain credit.***

2. If the agreements of a provider contemplate that ~~*[creditors will settle for less than the full principal amount of the debt]*~~ ***the provider will provide debt settlement services and the provider advertises*** ~~*[debt management]*~~ ***debt settlement services, it shall disclose, in an easily comprehensible manner, the information specified in paragraphs (c) and (d) of subsection 4 of section 39 of this act.***

Sec. 53. ***If a provider delegates any of its duties or obligations under an agreement or this chapter to another person, including, without limitation, an independent contractor, the provider is liable for conduct of the person which, if done by the provider, would violate the agreement or this chapter.***

Sec. 54. ***1. The Commissioner may act on his own initiative or in response to complaints and may receive complaints, take action to obtain voluntary compliance with this chapter, refer cases to the Attorney General and seek or provide remedies as provided in this chapter.***

2. The Commissioner may investigate and examine, in this State or elsewhere, by subpoena or otherwise, the activities, books, accounts and

records of a person that provides or offers to provide debt-management services, or a person to which a provider has delegated its obligations under an agreement or this chapter, to determine compliance with this chapter. Information that identifies individuals who have agreements with the provider must not be disclosed to the public. In connection with the investigation, the Commissioner may:

(a) Charge the person the reasonable expenses necessarily incurred to conduct the examination;

(b) Require or permit a person to file a statement under oath as to all the facts and circumstances of a matter to be investigated; and

(c) Seek a court order authorizing seizure from a bank at which the person maintains a trust account required by section 44 of this act, any or all money, books, records, accounts and other property of the provider that is in the control of the bank and relates to individuals who reside in this State.

3. The Commissioner may adopt regulations to implement the provisions of this chapter.

4. The Commissioner may enter into cooperative arrangements with any other federal or state agency having authority over providers and may exchange with any of those agencies information about a provider, including, without limitation, information obtained during an examination of the provider.

5. The Commissioner, by regulation, shall establish reasonable fees to be paid by providers for the expense of administering this chapter. The Commissioner may, in his discretion, establish a reduced fee schedule for providers that are qualified nonprofit entities.

6. The Commissioner, by regulation, shall adopt dollar amounts instead of those specified in sections 4, 27, 31, 35, 45, 55 and 57 of this act to reflect inflation, as measured by the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, or, if that Index is not available, another index adopted by regulation by the Commissioner. The Commissioner shall adopt a base year and adjust the dollar amounts, effective on July 1 of each year, if the change in the index from the base year, as of December 31 of the preceding year, is at least 10 percent. The dollar amount must be rounded to the nearest $100, except that the amounts in section 45 of this act must be rounded to the nearest dollar.

7. The Commissioner shall notify registered providers of any change in dollar amounts made pursuant to subsection 6 and make that information available to the public.

8. The Commissioner, by regulation, may:

(a) Require a provider to make additional disclosures before an individual assents to an agreement, including, without limitation, disclosures that:

(1) Nothing in the agreement requires the individual's creditors to accept payments pursuant to a plan.

(2) Nothing in the agreement prevents creditors of the individual from pursuing collection efforts, including, without limitation, telephone calls for the purpose of collecting a debt, and that creditors may sue the individual for any debt that remains unpaid.

(3) The provider cannot provide legal services or advice and, if the individual is sued, the individual should seek legal services or advice.

(4) The provider is not a credit repair organization and does not claim that the plan will have a positive impact on the credit score of the individual.

(5) If an agreement contemplates that a provider will develop and implement a debt-management plan, a creditor may be included in the debt-management plan even if the creditor does not make a contribution.

(b) Establish any requirements and prohibitions with respect to advertising by providers which do not violate the Nevada Constitution or the Constitution of the United States. Such regulations may include, without limitation, a requirement that a provider submit all advertising used by the provider to the Commissioner within 30 days after the first publication of the advertisement.

Sec. 55. ***1. The Commissioner may enforce this chapter and regulations adopted under this chapter by taking one or more of the following actions:***

(a) Ordering a provider or a director, employee or other agent of a provider to cease and desist from any violations;

(b) Ordering a provider or a person that has caused a violation to correct the violation, including, without limitation, making restitution of money or property to a person aggrieved by a violation;

(c) Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, imposing on a provider or a person that has caused a violation a civil penalty not to exceed $10,000 for each violation;

(d) Prosecuting a civil action to:

(1) Enforce an order; or

(2) Obtain restitution or an injunction or other equitable relief, or both; or

(e) Intervening in an action brought under section 57 of this act.

2. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, if a person violates or knowingly authorizes, directs or aids in the violation of a final order issued under paragraph (a) or (b) of subsection 1, the Commissioner may impose a civil penalty not to exceed $20,000 for each violation.

3. The Commissioner may maintain an action to enforce this chapter in any county.

4. The Commissioner may recover the reasonable costs of enforcing this chapter under subsections 1, 2 and 3, including, without limitation,

attorney's fees based on the hours reasonably expended and the hourly rates for attorneys of comparable experience in the community.

5. In determining the amount of a civil penalty to impose under subsection 1 or 2, the Commissioner shall consider the seriousness of the violation, the good faith of the violator, any previous violations by the violator, the deleterious effect of the violation on the public, the net worth of the violator and any other factor the Commissioner considers relevant to the determination of the civil penalty.

Sec. 56. ***1. The Commissioner may suspend, revoke or deny renewal of a provider's registration if:***

(a) A fact or condition exists that, if it had existed when the registrant applied for registration as a provider, would have been a reason for denying registration;

(b) The provider has committed a material violation of this chapter or a rule or order of the Commissioner under this chapter;

(c) The provider is insolvent;

(d) The provider or an employee or affiliate of the provider has refused to permit the Commissioner to make an examination authorized by this chapter, failed to comply with paragraph (b) of subsection 2 of section 54 of this act within 15 days after request, or made a material misrepresentation or omission in complying with paragraph (b) of subsection 2 of section 54 of this act; or

(e) The provider has not responded within a reasonable time and in an appropriate manner to communications from the Commissioner.

2. If a provider does not comply with subsection 6 of section 44 of this act or if the Commissioner otherwise finds that the public health or safety or general welfare requires emergency action, the Commissioner may order a summary suspension of the provider's registration, effective on the date specified in the order.

3. If the Commissioner suspends, revokes or denies renewal of the registration of a provider, the Commissioner may seek a court order authorizing seizure of any or all of the money in a trust account required by section 44 of this act, books, records, accounts and other property of the provider which are located in this State.

4. If the Commissioner suspends or revokes a provider's registration, the provider may appeal and request a hearing pursuant to NRS 233B.121 to 233B.150, inclusive.

5. As used in this section, "insolvent" means:

(a) Having generally ceased to pay debts in the ordinary course of business other than as a result of good faith dispute;

(b) Being unable to pay debts as they become due; or

(c) Being insolvent within the meaning of the federal bankruptcy law, 11 U.S.C. 101 et seq.

Sec. 57. ***1. If an individual voids an agreement pursuant to subsection 2 of section 47 of this act, the individual may recover in a civil***

action all money paid or deposited by or on behalf of the individual pursuant to the agreement, except amounts paid to creditors, in addition to the recovery under paragraph (c) and (d) of subsection 3.

2. If an individual voids an agreement pursuant to subsection 1 of section 47 of this act, the individual may recover in a civil action three times the total amount of the fees, charges, money and payments made by the individual to the provider, in addition to the recovery under paragraph (d) of subsection 3.

3. Subject to subsection 4, an individual with respect to whom a provider violates this chapter may recover in a civil action from the provider and any person that caused the violation:

(a) Compensatory damages for injury, including, without limitation, noneconomic injury, caused by the violation;

(b) Except as otherwise provided in subsection 4 and subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, with respect to a violation of section 39, 41 to 46, inclusive, or 49 of this act or subsection 1, 2 or [4] 5 of section 50 of this act, the greater of the amount recoverable under paragraph (a) or $5,000;

(c) Punitive damages; and

(d) Reasonable attorney's fees and costs.

4. In a class action, except for a violation of paragraph (e) of subsection 1 of section 50 of this act, the minimum damages provided in paragraph (b) of subsection 3 do not apply.

5. In addition to the remedy available under subsection 3, if a provider violates an individual's rights under section 42 of this act, the individual may recover in a civil action all money paid or deposited by or on behalf of the individual pursuant to the agreement, except for amounts paid to creditors.

6. A provider is not liable under this section for a violation of this chapter if the provider proves that the violation was not intentional and resulted from a good faith error notwithstanding the maintenance of procedures reasonably adapted to avoid the error. An error of legal judgment with respect to a provider's obligations under this chapter is not a good faith error. If, in connection with a violation, the provider has received more money than authorized by an agreement or this chapter, the defense provided by this subsection is not available unless the provider refunds the excess within 2 business days after learning of the violation.

7. The Commissioner shall assist an individual in enforcing a judgment against the surety bond or other security provided under section 35 or 36 of this act.

Sec. 58. ***1. A violation of a provision of this chapter constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.***

2. If an act or practice of a provider violates both a provision of this chapter and a provision of chapter 598 of NRS, an individual may not recover under both for the same act or practice.

Sec. 59. ***1. An action or proceeding brought pursuant to subsection 1, 2 or 3 of section 55 of this act must be commenced within 4 years after the conduct that is the basis of the Commissioner's complaint.***

2. An action brought pursuant to section 57 of this act must be commenced within 2 years after the latest of:

(a) The individual's last transmission of money to a provider;

(b) The individual's last transmission of money to a creditor at the direction of the provider;

(c) The provider's last disbursement to a creditor of the individual;

(d) The provider's last accounting to the individual pursuant to subsection 1 of section 49 of this act;

(e) The date on which the individual discovered or reasonably should have discovered the facts giving rise to the individual's claim; or

(f) Termination of actions or proceedings by the Commissioner with respect to a violation of the chapter.

3. The period prescribed in paragraph (e) of subsection 2 is tolled during any period during which the provider or, if different, the defendant has materially and willfully misrepresented information required by this chapter to be disclosed to the individual, if the information so misrepresented is material to the establishment of the liability of the defendant under this chapter.

Sec. 60. ***In applying and construing the Uniform Debt-Management Services Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.***

Sec. 61. ***This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but does not modify, limit or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).***

Sec. 62. NRS 598.741 is hereby amended to read as follows:

598.741 As used in NRS 598.741 to 598.787, inclusive, unless the context otherwise requires:

1. "Buyer" means a natural person who is solicited to purchase or who purchases the services of an organization which provides credit services.

2. "Commissioner" means the Commissioner of Consumer Affairs.

3. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

4. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family or household purposes.

5. "Organization":

(a) Means a person who, with respect to the extension of credit by others, sells, provides or performs, or represents that he can or will sell, provide or perform, any of the following services, in return for the payment of money or other valuable consideration:

(1) Improving a buyer's credit record, history or rating.

(2) Obtaining an extension of credit for a buyer.

(3) Providing counseling or assistance to a person in establishing or effecting a plan for the payment of his indebtedness, unless that counseling or assistance is provided by and is within the scope of the authorized practice of a ~~[~~debt adjuster licensed~~]~~ ***provider of debt-management services registered*** pursuant to ~~[~~chapter 676 of NRS.~~]~~ ***sections 2 to 61, inclusive, of this act.***

(4) Providing advice or assistance to a buyer with regard to subparagraph (1) or (2).

(b) Does not include:

(1) A person organized, chartered or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an officer or agency of this state or the United States.

(2) A bank, credit union or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(3) A person licensed as a real estate broker by this state where the person is acting within the course and scope of that license, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(4) A person licensed to practice law in this state where the person renders services within the course and scope of his practice as an attorney at law, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(5) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of such regulation.

(6) A person ~~[~~licensed~~]~~ ***registered*** as a ~~[~~debt adjuster~~]~~ ***provider of debt-management services*** pursuant to ~~[~~chapter 676 of NRS.~~]~~ ***sections 2 to 61, inclusive, of this act.***

(7) A reporting agency.

6. "Reporting agency" means a person who, for fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating information regarding the credit of or other information regarding consumers to furnish consumer reports to third parties, regardless of the means or facility of commerce used to prepare or furnish the consumer reports. The term does not include:

(a) A person solely for the reason that he conveys a decision regarding whether to guarantee a check in response to a request by a third party;

(b) A person who obtains or creates a consumer report and provides the report or information contained in it to a subsidiary or affiliate; or

(c) A person licensed pursuant to chapter 463 of NRS.

Sec. 63. NRS 645F.380 is hereby amended to read as follows:

645F.380 The provisions of NRS 645F.300 to 645F.450, inclusive, do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. An attorney at law rendering services in the performance of his duties as an attorney at law;

2. A ~~[person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;]~~ ***provider of debt-management services registered pursuant to sections 2 to 61, inclusive, of this act while providing debt-management services pursuant to sections 2 to 61, inclusive, of this act;***

3. A person licensed as a real estate broker, broker-salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;

4. A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;

5. A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

6. Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

7. A person licensed as an escrow agent, title agent, mortgage agent, mortgage broker or mortgage banker pursuant to chapter 645A, 692A, 645B or 645E of NRS, respectively, while acting under the authority of his license;

8. A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

9. A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

Sec. 64. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

(a) Check-cashing service or deferred deposit loan service that is supervised pursuant to chapter 604A of NRS;

(b) Collection agency that is supervised pursuant to chapter 649 of NRS;

(c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

(d) Trust company that is supervised pursuant to chapter 669 of NRS;

(e) Development corporation that is supervised pursuant to chapter 670 of NRS;

(f) Corporation for economic revitalization and diversification that is supervised pursuant to chapter 670A of NRS;

(g) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;

(h) Savings and loan association that is supervised pursuant to chapter 673 of NRS;

(i) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;

(j) ~~[~~Person engaged in the business of debt adjusting that is supervised pursuant to chapter 676 of NRS;

~~(k)]~~ Thrift company that is supervised pursuant to chapter 677 of NRS; and

~~[(l)]~~ ***(k)*** Credit union that is supervised pursuant to chapter 678 of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 65. NRS 676.010, 676.015, 676.020, 676.030, 676.040, 676.050, 676.060, 676.070, 676.080, 676.100, 676.110, 676.120, 676.125, 676.130, 676.135, 676.140, 676.150, 676.160, 676.170, 676.180, 676.190, 676.200, 676.205, 676.207, 676.210, 676.220, 676.230, 676.235, 676.240, 676.250, 676.260, 676.270, 676.280, 676.290, 676.295, 676.300, 676.310, 676.320, 676.330, 676.335 and 676.340 are hereby repealed.

Sec. 66. Transactions entered into before July 1, 2010, and the rights, duties and interests resulting from them may be completed, terminated or enforced as required or permitted by a law amended, repealed or modified by this act as though the amendment, repeal or modification had not occurred.

Sec. 67. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2010, for all other purposes.

LEADLINES OF REPEALED SECTIONS

676.010 Definitions.
676.015 "Commissioner" defined.
676.020 "Contract" defined.
676.030 "Creditor" defined.
676.040 "Debt adjustment" defined.
676.050 "Debtor" defined.
676.060 "License" defined.
676.070 "Licensee" defined.
676.080 "Office" defined.
676.100 Applicability.
676.110 Engaging in business of debt adjusting without license or in violation of chapter prohibited.
676.120 Application; withdrawal of application.
676.125 Application for license: Additional requirements; fingerprints; grounds for refusal of license.
676.130 Submission of fees, bond and copy of contract with application; regulations; periodic determination of amount of bond.
676.135 Deposit as substitute for surety bond.
676.140 Investigation of applicants.
676.150 Issuance of license subsequent to findings by Commissioner.
676.160 Expiration, renewal and reinstatement of license; fees; regulations.
676.170 Disposition of fees and charges.
676.180 Display of license required.
676.190 Transfer of license prohibited.

676.200 Additional licenses for other offices.

676.205 Notification of change in ownership of stock; application for license after certain acquisitions; investigation; costs; waiver.

676.207 Use or change of business name; prohibitions.

676.210 Surrender.

676.220 Maintenance of separate trust accounts; maintenance and preservation of records.

676.230 Reports required.

676.235 Independent audit and examination: Payment of assessment; cooperation.

676.240 Contracts: Form; contents.

676.250 Fees.

676.260 Remittances to creditors; written statements of account and information on account to debtor.

676.270 Authorization of Commissioner to investigate business; free access required; compelling attendance of witnesses; fee.

676.280 Authority of Commissioner to require attendance of witnesses and production of documents.

676.290 Grounds for denial, suspension or revocation of license; administrative fine for violation.

676.295 Suspension or revocation of license: Additional grounds.

676.300 Temporary suspension of license: Conditions; notice; hearing; term of suspension.

676.310 Order denying or revoking license; contracts unaffected by disciplinary action or expiration of license.

676.320 Engaging in business without license.

676.330 Prohibited practices.

676.335 Administrative fines.

676.340 Violation of chapter.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 408.

Bill read second time and ordered to third reading.

Senate Bill No. 411.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 840.

SUMMARY—Revises provisions governing ~~[~~the issuance of~~]~~ hunting, fishing and trapping**.** ~~[~~licenses.~~]~~ (BDR 45-1177)

AN ACT relating to wildlife; providing for the permanent revocation of a license, permit or privilege to hunt, fish or trap in certain circumstances; requiring a person to maintain a principal and permanent residence in this

State to be eligible for a resident license, tag or permit to hunt, fish or trap; providing for the forfeiture of a bonus point or other increased opportunity to be awarded a tag for making a false statement or furnishing false information in certain circumstances; requiring a person seeking to obtain a license, tag or permit on behalf of another for a fee or other compensation to have a power of attorney to do so; **making it unlawful intentionally to remove, disturb or interfere with the trap of a holder of a trapping license under certain circumstances; providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a license, permit or privilege of a person to hunt, fish or trap may be suspended or revoked for wildlife convictions, but not for more than 3 years except in certain circumstances. The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of: (1) a gross misdemeanor may not be suspended or revoked for more than 5 years; and (2) a felony may not be suspended or revoked for more than 10 years. (NRS 501.1816) **Section 2** of this bill expands the suspension and revocation penalties to require that the license, permit or privilege of a person who has been convicted of two or more felonies pursuant to NRS 501.376 be permanently revoked.

Existing law requires that a person meet certain requirements before he can be issued a resident license, tag or permit pursuant to chapter 502 of NRS. (NRS 502.015) **Section 3** of this bill clarifies the language regarding domicile to mean maintaining a principal and permanent residence in this State beyond just owning a home in Nevada.

Existing law prohibits giving a false statement or furnishing false information to obtain any license, tag or permit, making such an action a misdemeanor, or to obtain a big game tag, making such an action a gross misdemeanor. (NRS 502.060) **Section 4** of this bill adds a provision that any person who is convicted of giving a false statement or furnishing false information to obtain a license, tag, permit or big game tag forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing.

Existing law requires a person attempting to obtain a license, tag or permit on behalf of another person to have a power of attorney giving him the authority to do so. (NRS 502.061) **Section 5** of this bill restricts the requirement to have a power of attorney to only those persons attempting to acquire a license, tag or permit on behalf of another for a fee or other compensation.

Existing law makes it unlawful for a person to remove or disturb the trap of a holder of a trapping license while the trap is being used by the trapper on public land or on land where he has permission to trap. (NRS 503.454) If a person commits such a violation, he is guilty of a misdemeanor punishable by a fine of not less than $50 or more than $500, or by imprisonment in the county jail for not more than 6 months,

or by both fine and imprisonment. (NRS 501.385) Section 6 of this bill revises existing law by making it unlawful for a person intentionally to remove, disturb or interfere with the trap of the holder of the trapping license. Section 6 defines the phrase "interfere with" to mean any act that physically impedes, hinders or obstructs the trap.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 501.1814 is hereby amended to read as follows:

501.1814 1. The Commission shall establish and the Department shall administer and enforce a system of assessing demerit points for wildlife convictions. The system must be uniform in its operation.

2. Pursuant to the schedule of demerit points established by regulation of the Commission for each wildlife conviction occurring within this State affecting any holder of a license, permit or privilege issued pursuant to this title, the Department shall assess demerit points for the 60-month period preceding a person's most recent wildlife conviction. Sixty months after the date of the conviction, the demerit points for that conviction must be deleted from the total demerit points accumulated by that person. The date of the ~~[violation]~~ ***conviction*** shall be deemed the date on which accumulated demerit points must be assessed. If a conviction of two or more wildlife violations committed at a single event is obtained, demerit points must be assessed for the offense having the greater number of demerit points.

Sec. 2. NRS 501.1816 is hereby amended to read as follows:

501.1816 1. If a person accumulates 9 or more demerit points, but less than 12, the Department shall notify him of that fact by certified mail. If, after the Department mails the notice, the person presents proof to the Department that he has, after his most recent wildlife conviction, successfully completed a course of instruction in the responsibilities of hunters approved by the Department, the Department shall deduct 4 demerit points from his record. A person may attend a course of instruction in the responsibilities of hunters only once in 60 months for the purpose of reducing his demerit points.

2. If a person accumulates 12 or more demerit points before completing a course of instruction pursuant to subsection 1, the Department shall suspend or revoke any license, permit or privilege issued to him pursuant to this title.

3. Not later than 60 days after the Department determines that a person has accumulated 12 demerit points, the Department shall notify the person by certified mail that his privileges will be suspended or revoked. Except as otherwise provided in subsection 4, the Department shall suspend or revoke those privileges 30 days after it mails the notice.

4. Any person who receives the notice required by subsection 3 may submit to the Department a written request for a hearing before the Commission not later than 30 days after the receipt of the notice. If a written request for a hearing is received by the Department:

(a) The suspension or revocation of the license, permit or privilege is stayed until a determination is made by the Commission after the hearing.

(b) The hearing must be held within 60 days after the request is received.

5. The periods of suspension or revocation imposed pursuant to this section must run concurrently. Except as otherwise provided in this subsection, no license, permit or privilege may be suspended or revoked pursuant to this section for more than 3 years. The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of:

(a) A gross misdemeanor may not be suspended or revoked for more than 5 years; ~~[or]~~

(b) ~~[A]~~ ***Except as otherwise provided in paragraph (c), a*** felony may not be suspended or revoked for more than 10 years ~~[.]~~ ***; or***

(c) Two or more felonies, arising from separate events, must be permanently revoked.

6. If the Department suspends or revokes a license, permit or privilege pursuant to this section, the period of suspension or revocation begins 30 days after notification pursuant to subsection 3 or a determination is made by the Commission pursuant to subsection 4. After a person's license, permit or privilege is suspended or revoked pursuant to this section, all demerit points accumulated by that person must be cancelled.

Sec. 3. NRS 502.015 is hereby amended to read as follows:

502.015 1. For the purpose of issuing and using resident licenses, tags or permits pursuant to this chapter, a person is considered to be a resident of the State of Nevada if:

(a) He is a citizen of, or is lawfully entitled to remain in, the United States; and

(b) During the 6 months next preceding his application to the Department for a license, tag or permit, he:

(1) ~~[Was domiciled]~~ ***Maintained his principal and permanent residence*** in this State;

(2) Was physically present in this State, except for temporary absences; and

(3) Did not purchase or apply for any resident license, tag or permit to hunt, fish or trap in another state, country or province.

2. A person who ~~[is not domiciled]~~ ***does not maintain his principal and permanent residence*** in Nevada but who is attending an institution of higher learning in this State as a full-time student is eligible for a resident license, tag or permit if, during the 6 months next preceding his application to the Department for a license, tag or permit, he:

(a) Was physically present in Nevada, except for temporary trips outside of the State; and

(b) Did not purchase or apply for any resident license, tag or permit to hunt, fish or trap in another state, country or province.

3. A resident license, tag or permit issued by this State is void if the person to whom it was issued establishes ***or maintains*** his ~~[domicile]~~

principal and permanent residence in and obtains any ***hunting, fishing or trapping*** privilege or entitlement conditional on residency from another state, country or province.

4. As used in this section, "principal and permanent residence" means a place where a person is legally domiciled and maintains a permanent habitation in which he lives and to which he intends to return when he leaves the state in which the permanent habitation is located. The term does not include merely owning a residence in a state.

Sec. 4. NRS 502.060 is hereby amended to read as follows:

502.060 1. A person applying for and procuring a license, ***tag or permit,*** as provided in this chapter, shall give to the license agent his name and residence address, which must be entered by the license agent ~~[on the license and stub,]~~ ***, manually or electronically in a record specified by the Department,*** together with the date of issuance and a description of the person. If a child under the age of 18 years is applying for a license to hunt, the child's parent or legal guardian must sign the application and an attached statement acknowledging that the parent or legal guardian has been advised of the provisions of NRS 41.472.

2. Except as otherwise provided in subsection 3, any person who makes any false statement or furnishes false information to obtain any license, tag or permit issued pursuant to the provisions of this title is guilty of a misdemeanor.

3. Any person who makes any false statement or furnishes false information to obtain any big game tag issued pursuant to the provisions of this title is guilty of a gross misdemeanor.

4. It is unlawful for any person to hunt, fish or trap using any hunting, fishing or trapping license which is invalid by reason of expiration or a false statement made to obtain the license.

5. ***Any person convicted of violating the provisions of subsection 2 or 3 forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing conducted for that tag if the bonus point or other increased opportunity was acquired by the false statement or false information.***

6. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 5. NRS 502.061 is hereby amended to read as follows:

502.061 1. A person ***, for a fee or other form of compensation,*** may obtain or attempt to obtain on behalf of an applicant any license, tag or permit issued pursuant to this chapter ***only*** if the person acts pursuant to a power of attorney or other written instrument that:

(a) Provides that the power of attorney or other written instrument is executed for the sole purpose of authorizing the person to apply in the State of Nevada on behalf of the applicant for a license, tag or permit for a specific season;

(b) Provides that the power of attorney or other written instrument expires on February 28 of the year following the year in which the power of attorney or other written instrument is executed; and

(c) Is acknowledged and includes a jurat as defined in NRS 240.0035, or is otherwise certified.

2. Any license, tag or permit which is obtained by the use of a power of attorney or other written instrument that does not comply with the provisions of subsection 1 is void.

Sec. 6. **NRS 503.454 is hereby amended to read as follows:**

503.454 1. Every person who takes fur-bearing mammals by any legal method or unprotected mammals by trapping or sells raw furs for profit shall procure a trapping license.

2. It is unlawful ***intentionally*** to remove **,** ~~[or]~~ disturb ***or interfere with*** the trap of any holder of a trapping license while the trap is being legally used by him on public land or on land where he has permission to trap. ***As used in this subsection, "interfere with" means any act that physically impedes, hinders or obstructs the trap.***

~~[Sec. 6.]~~ ***Sec. 7.*** This act becomes effective on January 1, 2010.

Assemblyman Claborn moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that upon return from the printer Senate Bills Nos. 152, 230, 269 be placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera gave notice pursuant to Assembly Standing Rule No. 91 that on the next legislative day, he would move to amend Assembly Standing Rule No. 115.

Assemblyman Oceguera moved that Senate Bills Nos. 47, 73, 82, 160, 265, and 277 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bills Nos. 218 and 376 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 355 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bills Nos. 53 and 63 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 396 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Horne moved that Senate Bill No. 47 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Claborn moved that Senate Bill No. 108 be taken from the Chief Clerk's desk and placed on the top of the General File.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:31 a.m.

ASSEMBLY IN SESSION

At 12:18 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 562, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 100.

The following Senate amendment was read:

Amendment No. 617.

AN ACT relating to education; revising the duties of the Deputy Superintendent for Administrative and Fiscal Services in the Department of Education relating to charter schools; revising provisions governing charter schools and university schools for profoundly gifted pupils; revising provisions governing the annual reports of school districts and charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Deputy Superintendent for Administrative and Fiscal Services in the Department of Education investigates, inspects and reports on the funds and accounts of school districts. (NRS 385.315) **Section 1** of this bill requires the Deputy Superintendent to perform similar duties for the funds and accounts of charter schools and university schools for profoundly gifted pupils.

The governing body of a charter school is required to appoint a trustee upon closure of the school. (NRS 386.536) **Section 2** of this bill provides that the trustee appointed by the governing body is subject to the approval of the sponsor and requires the sponsor to make the appointment if the governing body is not able to do so. **Section 2** also provides that if the sponsor of a charter school provides financial compensation to the administrator or person appointed by the governing body, the sponsor may receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation for a period not to exceed 6 months.

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from an annual performance audit and must instead undergo a performance audit every 3 years. (NRS 386.5515) **Section 3** of this bill provides that if such a charter school no longer satisfies the requirements for an exemption or if reasonable evidence of noncompliance ~~[concerning the educational progress]~~ **in achieving the educational goals and objectives of the charter school** exists, the charter school shall submit to an annual performance audit.

Existing law provides that upon the request of a parent or legal guardian of a pupil enrolled in a charter school, the board of trustees of the school district in which the charter school is located shall authorize the pupil to participate in a class, extracurricular activity and sports within the school district under certain circumstances. **Section 4** of this bill amends existing law to provide for such participation in the school district in which the pupil resides rather than the school district in which the charter school is located. (NRS 386.560)

The sponsor of a charter school may request, upon completion of each school year, reimbursement from the governing body of the school for the administrative costs associated with sponsorship. The total amount of such administrative costs must not exceed a specified percentage of the total amount of money apportioned to the charter school during the year. (NRS 386.570) **Section 5** of this bill revises the schedule of payments for reimbursement of administrative costs from yearly to quarterly ~~[.]~~ **and authorizes a charter school to apply for a delay in the payment of a quarterly reimbursement if a financial hardship exists.** **Section 5** also provides that to determine the maximum amount of administrative costs, the total amount apportioned to the charter school during the year must be adjusted by the final computation of apportionment for the school.

Sections 6 and 9 of this bill revise provisions governing the annual reports of charter schools and school districts. (NRS 386.600, 387.303)

The Department of Education is required to develop a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) **Section 8** of this bill requires the development of such a formula and minimum expenditures for charter schools.

Existing law requires the board of trustees of a school district and a college or university within the Nevada System of Higher Education which sponsors a charter school to submit an annual report to the State Board of Education on the evaluation of the progress made by the charter school in achieving its educational goals and objectives. (NRS 386.610) **Section 7** of this bill requires an annual report to be made by the Department for each charter school sponsored by the State Board.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 385.315 is hereby amended to read as follows:

385.315 In addition to his other duties, the Deputy Superintendent for Administrative and Fiscal Services, under the direction of the Superintendent of Public Instruction, shall:

1. Investigate any claim against any school fund or ~~[~~separate~~]~~ ***an*** account established under NRS 354.603 ***, 386.570 or 392A.083, as applicable,*** whenever a written protest against the drawing of a warrant, check or order in payment of the claim is filed with the county auditor ~~[.]~~ ***, the sponsor of the charter school or the Department.*** If, upon investigation, the Deputy Superintendent finds that any such claim is unearned, illegal or unreasonably excessive, he shall notify the county auditor and the clerk of the board of trustees ***, the governing body of the charter school or the governing body of the university school for profoundly gifted pupils*** who drew ***or authorized*** the order for the claim, stating the reasons in writing why the order is unearned, illegal or excessive. If so notified, the county auditor shall not draw his warrant in payment of the claim nor shall the board of trustees ***, governing body of the charter school or governing body of the university school for profoundly gifted pupils*** draw a check or order in payment of the claim from ~~[~~a separate~~]~~ ***an*** account established under NRS 354.603 ~~[.]~~ ***, 386.570 or 392A.083, as applicable.*** If the Deputy Superintendent finds that any protested claim is legal and actually due the claimant, he shall authorize the county auditor ***,*** ~~[or]~~ the board of trustees ***, the governing body of the charter school or the governing body of the university school for profoundly gifted pupils, as applicable,*** to draw his warrant or its check or order on an account established under NRS 354.603 ***, 386.570 or 392A.083, as applicable,*** for the claim, and the county auditor ***,*** ~~[or]~~ the board of trustees ***or the appropriate governing body*** shall immediately draw his warrant or its check or order in payment of the claim.

2. Inspect the record books and accounts of boards of trustees, ***governing bodies of charter schools and governing bodies of university schools for profoundly gifted pupils*** and enforce the uniform method of keeping the financial records and accounts of school districts ~~[.]~~ ***, charter schools and university schools for profoundly gifted pupils.***

3. Inspect the school fund accounts of the county auditors of the several counties ~~[,]~~ and report the condition of the funds of any school district to the board of trustees thereof.

4. Inspect the ~~[separate]~~ accounts established by ***:***

(a) The boards of trustees under NRS 354.603 ~~[,]~~ and report the condition of the accounts to the respective boards of county commissioners and county treasurers.

(b) The governing bodies of charter schools under NRS 386.570 and report the condition of the accounts to the respective sponsors of the charter schools and governing bodies of the charter schools.

(c) The governing bodies of university schools for profoundly gifted pupils under NRS 392A.083 and report the condition of the accounts to the Board of Regents of the University of Nevada and the respective governing bodies of the university schools.

Sec. 2. NRS 386.536 is hereby amended to read as follows:

386.536 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 3,*** if a charter school ceases to operate voluntarily or upon revocation of its written charter, the governing body of the charter school shall appoint an administrator of the charter school ***, subject to the approval of the sponsor of the charter school,*** to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure. The administrator shall assume the responsibility for the records of the:

(a) Charter school;

(b) Employees of the charter school; and

(c) Pupils enrolled in the charter school.

2. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 1, the governing body of the charter school shall appoint a qualified person to assume those duties.

3. ***If the governing body of the charter school ceases to exist or is otherwise unable to appoint an administrator pursuant to subsection 1 or a qualified person pursuant to subsection 2, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 1.***

4. The governing body of the charter school ***or the sponsor of the charter school*** may, to the extent practicable, provide financial compensation to the administrator or person appointed ~~[pursuant to subsection 2]~~ to carry out the provisions of this section. ***If the sponsor of the charter school provides such financial compensation, the sponsor is entitled to receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation. Such reimbursement must not exceed costs incurred for a period longer than 6 months.***

Sec. 3. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without ~~[showing good cause for such a request.]~~ ***reasonable evidence of noncompliance*** ~~*[concerning the educational progress]*~~ ***in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance*** ~~*[concerning the educational progress]*~~ ***in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Such a charter school:***

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 4. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation,

transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers.

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** shall authorize the pupil to participate in sports at the public school that he would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➥ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes,

or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 5. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in ***an account with*** a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of ~~[a]~~ ***each*** school ~~[year,]~~ ***quarter,*** the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school ~~[year]~~ ***quarter*** if the sponsor provided administrative services during that school ~~[year.]~~ ***quarter.*** The request must include an itemized list of those costs. ~~[Upon]~~ ***Unless a delay is granted pursuant to subsection 9, upon*** receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement ~~[,]~~ ***pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection 9,*** the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that

operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

9. The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation, documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.

Sec. 6. NRS 386.600 is hereby amended to read as follows:

386.600 1. On or before November 15 of each year, the governing body of each charter school shall submit to the sponsor of the charter school, the Superintendent of Public Instruction and the Director of the Legislative Counsel Bureau for transmission to the Majority Leader of the Senate and the Speaker of the Assembly a report that includes:

(a) A written description of the progress of the charter school in achieving the mission and goals of the charter school set forth in its application.

(b) ~~[~~For each licensed employee and nonlicensed teacher employed by the charter school on October 1 of that year:

~~(1) The amount of salary of the employee; and~~

~~(2) The designated assignment, as that term is defined by the Department, of the employee.~~

~~(c)~~] For each fund maintained by the charter school, including, without limitation, the general fund of the charter school and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the governing body in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the final budget of the charter school, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

~~[~~(d) The count of pupils who are enrolled in a charter school in:

~~(1) Kindergarten;~~

~~(2) Grades 1 to 12, inclusive; and~~

~~(3) Special education pursuant to NRS 388.440 to 388.520, inclusive.~~

~~(e)~~ ***(c)*** The actual expenditures of the charter school in the fiscal year immediately preceding the report.

~~(f)~~ ***(d)*** The proposed expenditures of the charter school for the current fiscal year.

~~(g)~~ ***(e)*** The salary schedule for licensed employees and nonlicensed teachers in the current school year and a statement of whether salary negotiations for the current school year have been completed. If salary negotiations have not been completed at the time the salary schedule is submitted, the governing body shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations.

~~(h)~~ ***(f)*** The number of employees eligible for health insurance within the charter school for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

~~(i)~~ ***(g)*** The rates for fringe benefits, excluding health insurance, paid by the charter school for its licensed employees in the preceding and current fiscal years.

~~(j)~~ ***(h)*** The amount paid for extra duties, supervision of extracurricular activities and supplemental pay ~~,~~ and the number of employees receiving that pay in the preceding and current fiscal years.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each governing body pursuant to subsection 1.

3. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues and expenditures of the charter schools with the apportionment received by those schools from the State Distributive School Account for the preceding year.

Sec. 7. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, if the ***State Board,*** board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the ***Department, the*** board of trustees or the institution, as applicable, shall submit a written report to the State Board. The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the ***State Board, the*** board of trustees or ***the*** institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the ***Department, the*** school district or ***the*** institution, as applicable, to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in

accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 8. NRS 387.206 is hereby amended to read as follows:

387.206 1. On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula ***for each school district and a formula for each charter school*** for determining the minimum amount of money that each school district ***and each charter school*** is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. The formula must be used only to develop expenditure requirements and must not be used to alter the distribution of money for basic support to school districts ~~[.]~~ ***and charter schools.***

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district ***and each charter school*** within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district ***or charter school*** must expend for textbooks, instructional supplies and instructional hardware for that fiscal year.

3. On or before January 1 of each year, the Department shall determine whether each school district ***and each charter school*** has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice provided pursuant to subsection 2. In making this determination, the Department shall use the report submitted by the school district pursuant to NRS 387.303 ~~[.]~~ ***and the charter school pursuant to NRS 386.600.***

4. Except as otherwise provided in subsection 5, if the Department determines that a school district ***or charter school*** has not expended the required minimum amount of money set forth in the notice provided pursuant to subsection 2, a reduction must be made from the basic support allocation otherwise payable to that school district ***or charter school*** in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies and instructional hardware and the minimum required combined expenditure set forth in the notice provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:

(a) Does not reduce the amount that the school district ***or charter school*** is required to expend on textbooks, instructional supplies and instructional hardware in the current fiscal year; and

(b) Must not exceed the amount of basic support that was provided to the school district ***or charter school*** for the fiscal year in which the minimum expenditure amount was not satisfied.

5. If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial budget submitted pursuant to NRS 387.303, the required expenditure for

textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

6. If the actual enrollment of pupils in a charter school is less than the enrollment included in the projections used in the charter school's final budget required pursuant to NRS 386.550, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

Sec. 9. NRS 387.303 is hereby amended to read as follows:

387.303 1. Not later than November 10 of each year, the board of trustees of each school district shall submit to the Superintendent of Public Instruction and the Department of Taxation a report which includes the following information:

(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the school district in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

(b) ~~[~~The count of pupils computed pursuant to paragraph (a) of subsection 1 of NRS 387.1233.

~~(c)~~**]** The school district's actual expenditures in the fiscal year immediately preceding the report.

~~[(d)]~~ ***(c)*** The school district's proposed expenditures for the current fiscal year.

~~[(e)]~~ ***(d)*** The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.

~~[(f)]~~ ***(e)*** The number of employees who received an increase in salary pursuant to subsection 2, 3 or 4 of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary retroactively pursuant to subsection 2 of NRS 391.160, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.

~~[(g)]~~ ***(f)*** The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

~~[(h)]~~ ***(g)*** The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.

~~[(i)]~~ ***(h)*** The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

~~[(j)]~~ ***(i)*** The expenditures from the account created pursuant to subsection ~~[3]~~ ***4*** of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year ~~[,]~~ and the specific amount spent on books and computer hardware and software for each grade level in the district.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.

3. In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the Superintendent of Public Instruction:

(a) Shall compile the information from the most recent compilation of reports submitted pursuant to subsection 2;

(b) May increase the line items of expenditures or revenues based on merit salary increases and cost of living adjustments or inflation, as deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;

(c) May adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;

(d) May consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether those enhancements or new programs are included in the per pupil basic support guarantee for inclusion in the biennial budget request to the Department of Administration; and

(e) Shall obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.

4. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.

5. The request prepared pursuant to subsection 3 must:

(a) Be presented by the Superintendent of Public Instruction to such standing committees of the Legislature as requested by the standing committees for the purposes of developing educational programs and providing appropriations for those programs; and

(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 353.230.

Sec. 10. NRS 392A.083 is hereby amended to read as follows:

392A.083 1. Each pupil who is enrolled in a university school for profoundly gifted pupils, including, without limitation, a pupil who is enrolled in a program of special education in a university school for profoundly gifted pupils, must be included in the count of pupils in the school district in which the school is located for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory school attendance pursuant to NRS 392.070.

2. A university school for profoundly gifted pupils is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive.

3. If a university school for profoundly gifted pupils receives money for special education program units directly from this State, the amount of money
for special education that the school district pays to the university school for profoundly gifted pupils may be reduced proportionately by the amount of money the university school received from this State for that purpose.

4. All money received by a university school for profoundly gifted pupils from this State or from the board of trustees of a school district must be deposited in ***an account with*** a bank, credit union or other financial institution in this State.

5. The governing body of a university school for profoundly gifted pupils may negotiate with the board of trustees of the school district in which the school is located or the State Board for additional money to pay for services that the governing body wishes to offer.

6. To determine the amount of money for distribution to a university school for profoundly gifted pupils in its first year of operation in which state funding is provided, the count of pupils who are enrolled in the university school must initially be determined 30 days before the beginning of the school year of the school district in which the university school is located, based upon the number of pupils whose applications for enrollment have been approved by the university school. The count of pupils who are enrolled in a university school for profoundly gifted pupils must be revised on the last day of the first school month of the school district in which the university school is located for the school year, based upon the actual number of pupils who are enrolled in the university school.

7. Pursuant to subsection 6 of NRS 387.124, the governing body of a university school for profoundly gifted pupils may request that the apportionments made to the university school in its first year of operation be paid to the university school 30 days before the apportionments are otherwise required to be made.

8. If a university school for profoundly gifted pupils ceases to operate pursuant to this chapter during a school year, the remaining apportionments that would have been made to the university school pursuant to NRS 387.124 for that school year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the university school reside.

9. If the governing body of a university school for profoundly gifted pupils uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the university school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 11. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 100.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 154.

The following Senate amendment was read:

Amendment No. 630.

AN ACT relating to education; revising provisions governing the establishment by the board of trustees of a school district of a policy prohibiting criminal gang activity on school property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the boards of trustees of school districts to establish policies prohibiting the activities of criminal gangs on school property. (NRS 392.4635) This bill makes the establishment of that policy mandatory. ~~. [and requires the policy to include the provision of training for the prevention of criminal gang activity.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 392.4635 is hereby amended to read as follows:

392.4635 1. The board of trustees of each school district ~~[may]~~ ***shall*** establish a policy that prohibits the activities of criminal gangs on school property.

2. The policy established pursuant to subsection 1 ~~*[must]*~~ ***may include*** ~~*[:]*~~ ***, without limitation:***

(a) The provision of training for the prevention of the activities of criminal gangs on school property.

(b) If the policy includes training:

(1) A designation of the grade levels of the pupils who must receive the training.

~~*[(c)]*~~ ***(2) A designation of the personnel who must receive the training, including, without limitation, personnel who are employed in schools at the grade levels designated pursuant to*** ~~*[paragraph (b).]*~~ ***subparagraph (1).***

➥ ***The board of trustees of each school district shall ensure that the training is provided to the pupils and personnel designated in the policy.***

~~*[3. The policy established pursuant to subsection 1 may]*~~

(c) Provisions which prohibit: ~~*[include, without limitation, provisions which:*~~

~~*(a) Prohibit:]*~~

(1) A pupil from wearing any clothing or carrying any symbol on school property that denotes membership in or an affiliation with a criminal gang; and

~~[(b)]~~ ***(2)*** Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang.

~~[2. Each policy that prohibits the activities of criminal gangs on school property may]~~

(d) Provisions which provide

~~*[(b) Provide]*~~ for the suspension or expulsion of pupils who violate the policy.

3. ***The board of trustees of each school district may develop the policy required pursuant to subsection 1 in consultation with:***

(a) Local law enforcement agencies;

(b) School police officers, if any;

(c) Persons who have experience regarding the actions and activities of criminal gangs;

(d) Organizations which are dedicated to alleviating criminal gangs or assisting members of criminal gangs who wish to disassociate from the gang; and

(e) Any other person deemed necessary by the board of trustees.

4. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 213.1263.

Sec. 2. **1. On or before June 30, 2010, the board of trustees of each school district shall submit to the Legislative Committee on Education a report concerning the policy that prohibits the activities of criminal gangs on school property established pursuant to NRS 392.4635, as amended by section 1 of this act.**

2. The report must include, without limitation:

(a) A copy of the policy adopted by the board of trustees of the school district; and

(b) A summary of the activities of the board of trustees to ensure that the policy is carried out.

~~[Sec. 2.]~~ ***Sec. 3.*** This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 154.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 191.

The following Senate amendment was read:

Amendment No. 629.

AN ACT relating to education; revising provisions governing examinations of the height and weight of pupils enrolled in public schools; ~~[removing]~~ **extending** the prospective expiration of the requirement that those examinations be conducted; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each school to conduct physical examinations of pupils in certain grades to determine if a child has scoliosis, a visual or auditory problem or a gross physical defect, and to conduct examinations of the height and weight of a representative sample of pupils in certain grades. (NRS 392.420) The requirement for examinations of the height and weight of a representative sample of pupils in certain grades is scheduled to expire on June 30, 2010. (Chapter 414, Statutes of Nevada 2007, p. 1873) **Section 2** of this bill ~~[removes]~~ **extends** the prospective expiration of the requirement that each school conduct examinations of the height and weight of a representative sample of pupils ~~[.]~~ **to June 30, 2015.** **Section 1** of this bill revises the grades in which the examinations of the height and weight of a representative sample of pupils are conducted to require each school district to conduct and report on the examinations for grades 4, 7 and 10 and authorizes a school district to conduct the examinations in other grade levels. (NRS 392.420)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 392.420 is hereby amended to read as follows:

392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:

(a) For visual and auditory problems:

(1) Before the completion of the first year of initial enrollment in elementary school;

(2) In at least one additional grade of the elementary schools; and

(3) In one grade of the middle or junior high schools and one grade of the high schools; and

(b) For scoliosis, in at least one grade of schools below the high schools.

➥ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this subsection must be trained by a school nurse to conduct the observation or examination.

2. In addition to the requirements of subsection 1, each school district shall conduct examinations of ***the*** height and weight of a representative sample of pupils ***enrolled*** in ~~[at least one grade of the:~~

~~(a) Elementary schools within the school district;~~

~~(b) Middle schools or junior high schools within the school district; and~~

~~(c) High schools~~] ***grades 4, 7 and 10 in the schools*** within the school district. ***In addition to those grade levels, a school district may conduct examinations of the height and weight of a representative sample of pupils enrolled in other grade levels within the school district.***

➥ The Health Division of the Department of Health and Human Services shall define "representative sample" in collaboration with the school districts for purposes of this subsection.

3. If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.

4. A special examination for a possible visual or auditory problem must be provided for any child who:

(a) Is enrolled in a special program;

(b) Is repeating a grade;

(c) Has failed an examination for a visual or auditory problem during the previous school year; or

(d) Shows in any other way that he may have such a problem.

5. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.

6. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to

perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.

7. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:

(a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and

(b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.

8. The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.

9. ~~[Each]~~ ***Except as otherwise provided in this subsection, each*** school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. ***If a school district conducts examinations of the height and weight of a representative sample of pupils enrolled in grade levels other than the grade levels required by subsection 2, the results of those examinations must not be included in the report submitted to the State Health Officer.*** Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.

Sec. 2. Section 5 of chapter 414, Statutes of Nevada 2007, at page 1873, is hereby amended to read as follows:

Sec. 5. 1. This section and sections 1 and 4 of this act become effective on July 1, 2007.

2. Section 1 of this act expires by limitation on June 30, ~~[2010.]~~ **2015.**

3. Section 2 of this act becomes effective on July 1, ~~[2010.]~~ **2015.**

Sec. 3. ~~[Section 2 of chapter 414, Statutes of Nevada 2007, at page 1872, is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 4. The Legislative Committee on Health Care shall, during the 2009-2010 interim, examine issues related to the weight and health of children, including, without limitation, any information reported to the State Health Officer pursuant to NRS 392.420, as amended by section 1 of this act. The Committee may identify programs, practices and studies to address the needs of children in this State related to maintaining a healthy weight.

Sec. 5. 1. This act becomes effective ~~[upon passage and approval.]~~ **on July 1, 2009.**

2. Section 1 of this act expires by limitation on June 30, 2015.

~~[~~

~~TEXT OF REPEALED SECTION~~

~~Section 2 of chapter 414, Statutes of Nevada 2007, at page 1872:~~

~~Sec. 2. NRS 392.420 is hereby amended to read as follows:~~

~~392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:~~

~~(a) For visual and auditory problems:~~

~~(1) Before the completion of the first year of initial enrollment in elementary school;~~

~~(2) In at least one additional grade of the elementary schools; and~~

~~(3) In one grade of the middle or junior high schools and one grade of the high schools; and~~

~~(b) For scoliosis, in at least one grade of schools below the high schools.~~

~~→ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this subsection must be trained by a school nurse to conduct the observation or examination.~~

~~2. [In addition to the requirements of subsection 1, each school district shall conduct examinations of height and weight of a representative sample of pupils in at least one grade of the:~~

~~(a) Elementary schools within the school district;~~

~~(b) Middle schools or junior high schools within the school district; and~~

~~(c) High schools within the school district,~~

~~→ The Health Division of the Department of Health and Human Services shall define "representative sample" in collaboration with the school districts for purposes of this subsection.~~

~~3.] If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.~~

~~[4.] 3. A special examination for a possible visual or auditory problem must be provided for any child who:~~

~~(a) Is enrolled in a special program;~~

~~(b) Is repeating a grade;~~

~~(c) Has failed an examination for a visual or auditory problem during the previous school year; or~~

~~(d) Shows in any other way that he may have such a problem.~~

~~[5.] 4. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.~~

~~[6.] 5. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.~~

~~[7.] 6. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:~~

~~(a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and~~

~~(b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.~~

~~[8.] 7. The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.~~

~~[9.] 8. Each school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.]~~

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 191.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 348.

The following Senate amendment was read:

Amendment No. 627.

SUMMARY—Requires public schools to post a notice of certain information concerning educational programs and services available within the **public schools and the** school district. (BDR 34-621)

AN ACT relating to education; requiring each public school to post a notice of information concerning certain courses, services and programs available to pupils enrolled in the **public school and the** school district; requiring that the notice be made available to the parents and legal guardians of those pupils; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the board of trustees of each school district to prepare a notice of information identifying all the advanced placement courses, honors courses, international baccalaureate courses, special education services, **gifted and talented programs,** charter school programs and any other educational programs available to pupils enrolled in the school district, including where those courses, services and programs are offered. Each public school within the school district is required to post a notice in a conspicuous place at the school indicating the **availability of courses, services and programs in the public school and indicating the** availability and location of a complete list of the courses, services and programs identified by the school district and make ~~[that notice]~~ **such notices** available to the parents and legal guardians of pupils enrolled in the school.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall prepare a written notice which identifies all the advanced placement courses, honors courses, international baccalaureate courses, special education services , gifted and talented programs and any other educational programs available to pupils enrolled in the school district , including, without limitation, to the extent information is available, programs offered by charter schools within the school district, which will assist in the advancement of the education of those pupils. The notice must:

(a) Specify where those courses, services and programs are available within the school district;

(b) Identify the grade level of pupils for which those courses, services and programs are available; and

(c) Be posted on the Internet website maintained by the school district.

2. Each public school shall:

(a) Prepare a written notice which identifies the courses, services and programs identified pursuant to subsection 1 that are available at that public school;

(b) Post in one or more conspicuous places at the school a notice indicating the availability and location of a complete list of the courses, services and programs :

(1) Available within the school district, as identified pursuant to subsection 1; and

(2) Available at that public school, as identified pursuant to paragraph (a); and

[(b)] (c) Ensure that the [notice] notices prepared pursuant to [subsection 1 is] this section are made available to the parents and legal guardians of pupils enrolled in the school [at] :

(1) At the beginning of each school year or upon a pupil's enrollment in public school, as applicable [.] , including, without limitation, at meetings of parent organizations at the school and by distribution with other information that is sent home with pupils.

(2) At parent-teacher conferences.

3. The notices prepared pursuant to subsection 1 and paragraph (a) of subsection 2 must be made available in such languages as the board of trustees of the school district deems necessary.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 348.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 204.

The following Senate amendment was read:

Amendment No. 643.

AN ACT relating to common-interest communities; requiring the executive board of a unit owners' association of a common-interest community to make available to each unit's owner certain information concerning the association's collection policy; extending the period of time certain liens have priority over **[**other**]** certain **other** security interests; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, not less than 30 days or more than 60 days before the beginning of the fiscal year of a unit owners' association of a common-interest community, the executive board of the association must provide each unit's owner with certain information pertaining to the budget of the association. (NRS 116.31151) **Section 1** of this bill requires the

executive board to also make available to each unit's owner information pertaining to a policy established by the association for the collection of any fees, fines, assessments or costs imposed against a unit's owner, including the unit's owner's responsibility to pay such fees, fines, assessments or costs and the rights of the association to recover the fees, fines, assessments or costs if the unit's owner does not pay them.

Under existing law, a unit-owners' association of a common-interest community has priority over certain other creditors with respect to a lien on a unit for any construction penalty imposed against the unit's owner, any assessment levied against the unit or certain fines imposed against the unit's owner. Such a lien is also prior to a first security interest on the unit recorded before the assessments became delinquent to the extent of the assessments for common expenses based on the periodic budget adopted by the association which would have become due in the absence of acceleration during the 6 months preceding an action to enforce the lien. **(NRS 116.3116) Section 2** of this bill changes the 6-month threshold for super priority of a lien for an association to ~~[2 years, if the unit is a single-family detached dwelling. (NRS 116.3116)]~~ **9 months, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If such federal regulations require a shorter period, the period must be determined in accordance with the federal regulations, except that the period must not be less than the 6 months preceding an action to enforce the lien, as currently provided in existing law.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the

current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The policy must include, without limitation:

(a) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; and

(b) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner.

Sec. 2. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty,

assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➥ The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the ~~*[2 years immediately preceding institution of an action to enforce the lien if the unit is a single-family detached dwelling or during the 6]*~~ ***9*** months immediately preceding institution of an action to enforce the lien ~~**[.]** *[if the unit is any other type of dwelling.]*~~ ***, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien.*** This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 204.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 233.

The following Senate amendment was read:

Amendment No. 642.

AN ACT relating to scrap metal; enacting various requirements for transactions involving scrap metal and for persons involved in such transactions; providing that a person who removes, damages or destroys certain property to obtain scrap metal is guilty of a crime; increasing the penalty for stealing scrap metal under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2 and 3 of this bill define the terms "scrap metal" and "scrap metal processor."

Section 4 of this bill requires purchasers of scrap metal to hold current business licenses from both the State and the appropriate city or county and to have authorization to operate from the appropriate solid waste management authority.

Section 5 of this bill requires scrap metal processors to maintain certain records of all purchases of scrap metal by the scrap metal processors.

Section 6 of this bill allows peace officers or investigators to place a hold on certain property in the possession of a scrap metal processor alleged to be related to criminal activity for a specified period during the investigation or prosecution.

Section 7 of this bill requires that payments for purchases of scrap metal with a value of $150 or more by a scrap metal processor must be made by certain means and that a receipt containing certain specified information must be provided to the seller of the scrap metal. **Section 7** also allows only a single cash transaction of less than $150 each day between a scrap metal processor and a seller.

Section 7.5 of this bill provides that a person who ~~[knowingly and willfully fails to comply with the provisions of sections 5, 6 and 7 is: (1) for a first or second offense within a period of 5 years,]~~ **violates any provision of section 5, 6 or 7 of this bill is** guilty of a misdemeanor **.** ~~[with varying terms of imprisonment and fines; and (2) for a third or subsequent offense within a period of 5 years, guilty of a category E felony.]~~

Section 9 of this bill excludes scrap metal from the definition of "junk" under chapter 647 of NRS. (NRS 647.015) **Section 11** of this bill expands the crime of receiving property stolen from certain utilities and political subdivisions of the State, a category D felony, to include transactions involving scrap metal. (NRS 647.145)

Section 10 of this bill provides that chapter 647 of NRS does not prevent counties from licensing, taxing and regulating dealers in junk or scrap metal. (NRS 647.080)

Section 12 of this bill provides that a person who willfully or maliciously removes, damages or destroys utility property, agricultural infrastructure, construction sites or certain other property to obtain scrap metal is guilty of a misdemeanor if the value of the removal or damage of property is less than $500 or a felony if the removal or damage is greater than $500 or interrupts a service provided by utility property.

Existing law generally provides that a person commits petit larceny and is guilty of a misdemeanor if he steals property with a value of less than $250. (NRS 205.240) Existing law also generally provides that a person commits grand larceny if he steals property with a value of $250 or more. (NRS 205.220) A person who commits grand larceny is guilty of a category C felony if the value of the property is less than $2,500 and is guilty of a category B felony if the value of the property is $2,500 or more. (NRS 205.222)

Section 13 of this bill: (1) provides that, if the value of the scrap metal stolen within a period of 90 days is less than $250, the person is guilty of a misdemeanor; (2) provides that, if the value of the scrap metal stolen within a period of 90 days is $250 or more, the person is guilty of a category C or B felony with varying terms of imprisonment and fines, depending upon the value of the scrap metal stolen within the 90-day period; (3) requires the court to order a person who steals scrap metal to pay restitution; and (4) provides that the cost of repairing or replacing property damaged by the theft of scrap metal must be included in the value of the property that was stolen.

Sections 17 and 19 of this bill amend existing law to apply certain provisions governing larceny to the new crime of larceny described in **section 13** of this bill involving scrap metal. (NRS 205.251, 205.980)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 647 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7.5, inclusive, of this act.

Sec. 2. ***1. "Scrap metal" means:***

(a) Nonferrous metals, scrap iron, stainless steel or other material or equipment which consists in whole or in part of metal and which is used in construction, agricultural operations, electrical power generation, transmission or distribution, cable, broadband or telecommunications transmission, railroad equipment, oil well rigs or any lights maintained by the State or a local government, including, without limitation, street lights, traffic-control devices, park lights or ballpark lights; and

(b) Catalytic converters.

2. The term does not include waste generated by a household, aluminum beverage containers, used construction scrap iron or materials consisting of a metal product in its original manufactured form which contains not more than 20 percent by weight nonferrous metal.

Sec. 3. ***"Scrap metal processor" means any person who:***

1. Engages in the business of purchasing, trading, bartering or otherwise receiving scrap metal; or

2. Uses machinery and equipment for processing and manufacturing iron, steel or nonferrous scrap into prepared grades, and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

Sec. 4. ***A person shall not purchase scrap metal unless that person:***

1. Possesses both a valid business license issued by the State pursuant to NRS 360.780 and a valid business license from the city or county, as applicable, in which the person purchases scrap metal; and

2. Has obtained all required authorizations to operate from, or is otherwise registered with, the solid waste management authority for the area in which the person purchases scrap metal.

Sec. 5. ***1. Every scrap metal processor shall maintain in his place of business a book or other permanent record in which must be made, at the time of each purchase of scrap metal, a record of the purchase that contains:***

(a) The date of the purchase.

(b) The name or other identification of the person or employee conducting the transaction on behalf of the scrap metal processor.

(c) A copy of the seller's valid personal identification card or valid driver's license issued by a state or a copy of the seller's valid United States military identification card.

(d) The name, street, house number and date of birth listed on the identification provided pursuant to paragraph (c) and a physical description of the seller, including his gender, height, eye color and hair color.

(e) A photograph, video record or digital record of the seller.

(f) The fingerprint of the right index finger of the seller. If the seller's right index finger is not available, the scrap metal processor must obtain the fingerprint of one of the seller's remaining fingers and thumbs.

(g) The license number and general description of the vehicle delivering the scrap metal that is being purchased.

(h) A description of the scrap metal that is being purchased which is consistent with the standards published and commonly applied in the scrap metal industry.

(i) The price paid by the scrap metal processor for the scrap metal.

2. All records kept pursuant to subsection 1 must be legibly written in the English language, if applicable.

3. A scrap metal processor shall document each purchase of scrap metal with a photograph or video recording which must be retained on-site for not less than 60 days after the date of the purchase.

4. All scrap metal purchased by the scrap metal processor and the records created in accordance with subsection 1, including, but not limited to, any photographs or video recordings, must at all times during ordinary hours of business be open to the inspection of a prosecuting attorney or any peace officer.

Sec. 6. ***1. A peace officer or investigator who is involved in the investigation or prosecution of criminal activity may place a written hold for not more than 7 business days on any property in the possession of a scrap metal processor that is related or allegedly related to the criminal activity. A hold pursuant to this section may be extended for an additional period of not more than 7 business days by a peace officer or investigator by providing written notice to the scrap metal processor.***

2. While a hold is placed on property pursuant to this section, the scrap metal processor shall not remove or dispose of the property to any person other than the peace officer or investigator who placed the hold on the property. A peace officer or investigator who placed a hold on property may

obtain custody of the property from the scrap metal processor if the peace officer or investigator:

(a) Has obtained written authorization from the prosecuting attorney which includes, without limitation, a description of the property and an acknowledgment of the scrap metal processor's interest in the property; and

(b) Provides a copy of the written authorization to the scrap metal processor.

3. Property received by a peace officer or investigator pursuant to this section may be disposed of only in the manner set forth in NRS 52.385 or 179.125 to 179.165, inclusive.

4. A peace officer or investigator who places a hold on property pursuant to this section shall notify the scrap metal processor in writing when the investigation or prosecution has concluded or when the hold is no longer necessary, whichever occurs sooner.

Sec. 7. ***1. For each purchase of scrap metal with a value of $150 or more by a scrap metal processor, the scrap metal processor must pay the seller only by check or electronic transfer of money. For payments made by check to a seller who represents a business, the check must be made payable to the business using the name of the business. A scrap metal processor shall not conduct more than one cash transaction of less than $150 with the same seller on the same day.***

2. A scrap metal processor shall provide a receipt to the seller on-site at the time of the purchase of scrap metal by the scrap metal processor. The receipt must include, without limitation, the following information:

(a) The date, time and place of the purchase;

(b) An identifying description and weight of the scrap metal that is being purchased;

(c) The price paid by the scrap metal processor for the scrap metal;

(d) A copy of the personal identification provided pursuant to paragraph (c) of subsection 1 of section 5 of this act; and

(e) The license number of the vehicle delivering the scrap metal that is being purchased.

Sec. 7.5. ***Unless a greater penalty is provided pursuant to specific statute, a person who*** ~~*[knowingly and willfully]*~~ ***violates any provision of section 5, 6 or 7 of this act*** ~~*[:*~~

~~*1. For a first offense within a period of 5 years,]*~~ ***is guilty of a misdemeanor .*** ~~*[and shall be punished by a fine of not more than $500.*~~

~~*2. For a second offense within a period of 5 years, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 6 months and by a fine of not more than $1,000.*~~

~~*3. For a third or subsequent offense within a period of 5 years, is guilty of a category E felony and shall be punished as provided in NRS 193.130.]*~~

Sec. 8. NRS 647.010 is hereby amended to read as follows:

647.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 647.011 to 647.018, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 647.015 is hereby amended to read as follows:

647.015 "Junk" includes old iron, copper, brass, lead, zinc, tin, steel and other metals, metallic cables, wires, ropes, cordage, bottles, bagging, rags, rubber, paper, and all other secondhand, used or castoff articles or material of any kind ~~[.]~~ ***, but does not include scrap metal.***

Sec. 10. NRS 647.080 is hereby amended to read as follows:

647.080 The provisions of this chapter do not impair the power of cities ***and counties*** in this State to license, tax and regulate any person, firm or corporation now engaged in or hereafter engaged in the buying and selling of junk ~~[.]~~ ***or scrap metal.***

Sec. 11. NRS 647.145 is hereby amended to read as follows:

647.145 1. Any ***person, including, but not limited to, any*** junk dealer ***, scrap metal processor*** or secondhand dealer, or any agent, employee or representative of a junk dealer ***, scrap metal processor*** or secondhand dealer, who buys or receives any junk ***or scrap metal*** which he knows or should reasonably know is ordinarily used by and belongs to a ***cable, broadband, telecommunications,*** telephone, telegraph, gas, water, electric or transportation company or county, city or other political subdivision of this State engaged in furnishing utility service, and who fails to use ordinary care in determining whether the person selling or delivering such junk ***or scrap metal*** has a legal right to do so, is guilty of criminally receiving such property.

2. A person convicted of criminally receiving junk ***or scrap metal*** is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 12. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who willfully and maliciously removes, damages or destroys any utility property, agricultural infrastructure or other agricultural property, lights maintained by the State or a local government, construction site or existing structure to obtain scrap metal shall be punished pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the value of the property removed, damaged or destroyed as described in subsection 1 is:

(a) Less than $500, a person who violates the provisions of subsection 1 is guilty of a misdemeanor.

(b) Five hundred dollars or more, a person who violates the provisions of subsection 1 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. If the removal, damage or destruction described in subsection 1 causes an interruption in the service provided by any utility property, a

person who violates the provisions of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. In addition to any other penalty, the court may order a person who violates the provisions of subsection 1 to pay restitution.

5. In determining the value of the property removed, damaged or destroyed as described in subsection 1, the cost of replacing or repairing the property or repairing the utility property, agricultural infrastructure, agricultural property, lights, construction site or existing structure, if necessary, must be added to the value of the property.

6. As used in this section:

(a) "Scrap metal" has the meaning ascribed to it in section 2 of this act.

(b) "Utility property" means any facility, equipment or other property owned, maintained or used by a company or a city, county or other political subdivision of this State to furnish cable television or other video service, broadband service, telecommunication service, telephone service, telegraph service, natural gas service, water service or electric service, regardless of whether the facility, property or equipment is currently used to furnish such service.

Sec. 13. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who intentionally steals, takes and carries away scrap metal with a value of less than $250 within a period of 90 days is guilty of a misdemeanor.

2. A person who intentionally steals, takes and carries away scrap metal with a value of $250 or more within a period of 90 days is guilty of:

(a) If the value of the property taken is less than $2,500, a category C felony and shall be punished as provided in NRS 193.130; or

(b) If the value of the property taken is $2,500 or more, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.

3. In addition to any other penalty, the court shall order a person who violates the provisions of subsection 1 or 2 to pay restitution.

4. In determining the value of the property taken, the cost of repairing and, if necessary, replacing any property damaged by the theft of the scrap metal must be added to the value of the property.

5. As used in this section, "scrap metal" has the meaning ascribed to it in section 2 of this act.

Sec. 14. NRS 205.2175 is hereby amended to read as follows:

205.2175 As used in NRS 205.2175 to 205.2707, inclusive, ***and section 13 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 205.218 to 205.2195, inclusive, have the meanings ascribed to them in those sections.

Sec. 15. NRS 205.2195 is hereby amended to read as follows:

205.2195 "Property" means:

1. Personal goods, personal property and motor vehicles;

2. Money, negotiable instruments and other items listed in NRS 205.260;

3. Livestock, domesticated animals and domesticated birds; and

4. Any other item of value, whether or not the item is listed in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, or section 13 of this act.***

Sec. 16. NRS 205.240 is hereby amended to read as follows:

205.240 1. Except as otherwise provided in NRS 205.220, 205.226, 205.228 and 475.105, a person commits petit larceny if the person:

(a) Intentionally steals, takes and carries away, leads away or drives away:

(1) Personal goods or property, with a value of less than $250, owned by another person;

(2) Bedding, furniture or other property, with a value of less than $250, which the person, as a lodger, is to use in or with his lodging and which is owned by another person; or

(3) Real property, with a value of less than $250, that the person has converted into personal property by severing it from real property owned by another person.

(b) Intentionally steals, takes and carries away, leads away, drives away or entices away one or more domesticated animals or domesticated birds, with an aggregate value of less than $250, owned by another person.

2. ~~[A]~~ ***Unless a greater penalty is provided pursuant to section 13 of this act, a*** person who commits petit larceny is guilty of a misdemeanor. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 17. NRS 205.251 is hereby amended to read as follows:

205.251 For the purposes of NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, and section 13 of this act:***

1. The value of property involved in a larceny offense shall be deemed to be the highest value attributable to the property by any reasonable standard.

2. The value of property involved in larceny offenses committed by one or more persons pursuant to a scheme or continuing course of conduct may be aggregated in determining the grade of the larceny offenses.

Sec. 18. NRS 205.940 is hereby amended to read as follows:

205.940 1. Any person who in renting or leasing any personal property obtains or retains possession of such personal property by means of any false or fraudulent representation, fraudulent concealment, false pretense or personation, trick, artifice or device, including, but not limited to, a false representation as to his name, residence, employment or operator's license, is guilty of larceny and shall be punished as provided in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, and section 13 of this act.*** It is a complete defense to any civil action arising out of or involving the arrest or detention of any person renting or leasing personal property that any representation made by him in obtaining or retaining possession of the personal property is contrary to the fact.

2. Any person who, after renting or leasing any personal property under an agreement in writing which provides for the return of the personal property to a particular place at a particular time fails to return the personal property to such place within the time specified, and who, with the intent to defraud the lessor or to retain possession of such property without the lessor's permission, thereafter fails to return such property to any place of business of the lessor within 72 hours after a written demand for the return of such property is made upon him by registered mail addressed to his address as shown in the written agreement, or in the absence of such address, to his last known place of residence, is guilty of larceny and shall be punished as provided in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, and section 13 of this act.*** The failure to return the personal property to the place specified in the agreement is prima facie evidence of an intent to defraud the lessor or to retain possession of such property without the lessor's permission. It is a complete defense to any civil action arising out of or involving the arrest or detention of any person upon whom such demand was made that he failed to return the personal property to any place of business of the lessor within 20 days after such demand.

Sec. 19. NRS 205.980 is hereby amended to read as follows:

205.980 1. A person who is convicted of violating any provision of NRS 205.060 or 205.2175 to 205.2707, inclusive, ***or section 13 of this act*** is civilly liable for the value of any property stolen and not recovered in its original condition. The value of the property must be determined by its retail value or fair market value at the time the crime was committed, whichever is greater.

2. A person who is convicted of any other crime involving damage to property is civilly liable for the amount of damage done to the property.

3. The prosecutor shall notify the victim concerning the disposition of the criminal charges against the defendant within 30 days after the disposition. The notice must be sent to the last known address of the victim.

4. An order of restitution signed by the judge in whose court the conviction was entered shall be deemed a judgment against the defendant for the purpose of collecting damages.

5. Nothing in this section prohibits a victim from recovering additional damages from the defendant.

Sec. 20. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 233.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 251.

The following Senate amendment was read:

Amendment No. 622.

AN ACT relating to common-interest communities; revising the procedures for voting for a member of the executive board of an association under certain circumstances; requiring that the regulations governing the issuance of certificates for community managers must contain certain provisions relating to persons who formerly engaged in community management; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the executive board of a unit-owners' association may nominate a person to serve on the executive board and that qualified members of the association may also have their names placed on the ballot along with the nominees for election to the executive board. Existing law also provides that the election of any member of the executive board of a unit-owners' association must be conducted by secret written ballot, unless the declaration of the association provides that voting rights may be exercised by delegates or representatives. (NRS 116.31034) **Section 1** of this bill provides that, before notice is provided to each unit's owner of his eligibility to serve on the executive board, the executive board may determine that if the number of candidates nominated for membership on the executive board is less than or equal to the number of open positions on the executive board, the appropriate officer of the association will send a notice to each unit's owner informing each unit's owner that a unit's owner who is qualified to be a member of the executive board may nominate himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice. If the executive board decides to send such a notice and, at the closing of the period for nominations, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association must conduct an election for membership on the executive board. If, after any additional nominations, the number of candidates nominated for membership on the executive board continues to be less than or equal to the number of open positions on the executive board, then such nominees shall be deemed to be duly elected members of the executive board.

Existing law requires the Commission on Common-Interest Communities and Condominium Hotels to adopt regulations governing the issuance of certificates for community managers. (NRS 116A.410) **Section 2** of this bill provides that those regulations must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision by another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. ***Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to subsection 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:***

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section and the nominated candidates shall be deemed to be duly elected to the executive board unless:

(1) A unit's owner who is qualified to serve on the executive board nominates himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and

(2) The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board to be greater than the number of members to be elected to the executive board.

(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.

6. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board, then:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and

(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.

7. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.

8. Each person ~~[whose name is placed on the ballot]~~ ***who is nominated*** as a candidate for a member of the executive board ***pursuant to subsection 4 or 5*** must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot ***or, in the event ballots are not prepared and mailed pursuant***

to subsection 6, in the ~~[manner established *for distribution of ballots* in the bylaws]~~ ***next regular mailing*** of the association.

~~[6.]~~ ***9.*** Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

~~[7.]~~ ***10.*** An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

~~[8.]~~ ***11.*** ~~[The]~~ ***Except as otherwise provided in subsection 6, the*** election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

~~[9.]~~ ***12.*** Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 2. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate.

(b) May require applicants to pass an examination in order to obtain a certificate. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) ***Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.***

(d) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~[(d)]~~ ***(e)*** Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~[(e)]~~ ***(f)*** Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 251.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 129.

The following Senate amendment was read:

Amendment No. 604.

AN ACT relating to common-interest communities; providing that the provisions governing common-interest communities do not modify the tariffs, rules and standards of a public utility; requiring the governing documents of an association to be consistent with the tariffs, rules and standards of a public utility; prohibiting an association from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill: (1) states that the provisions of chapter 116 of NRS do not modify the tariffs, rules and standards of a public utility; and (2) provides that the governing documents of associations of common-interest communities must be consistent and not conflict with the tariffs, rules and standards of a public utility.

Section 2 of this bill prohibits an association of any common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles **[.] under certain circumstances. (NRS 116.350)**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.

2. The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules and standards of a public utility is void and may not be enforced against a purchaser.

3. As used in this section, "public utility" has the meaning ascribed to it in NRS 704.020.

Sec. 2. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not

provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the parking or storage of recreational vehicles, watercraft, trailers or commercial ~~*[motor]*~~ vehicles in the common-interest community to the extent authorized by law.

3. In any common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~*[or in front of]*~~ ***the unit of a subscriber or consumer, while the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or***

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~*[or in front of]*~~ ***his unit, if the person is:***

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to emergency requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~*[or in front of]*~~ ***the unit of a person to whom law enforcement or emergency services are being provided, while the person is engaged in his official duties; or***

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~*[or in front of]*~~ ***his unit, if the person is:***

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. An association may require that a person parking a utility service vehicle, law enforcement vehicle or emergency services vehicle as set forth in subsection 3 provide written confirmation from his employer that the person is qualified to park his vehicle in the manner set forth in subsection 3.

5. As used in this section:

(a) ~~*[*~~*"Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. 350.105.*~~

~~*(b)]*~~ ***"Emergency services vehicle" means a vehicle:***

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

~~*[(c)]*~~ ***(b) "Law enforcement vehicle" means a vehicle:***

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

~~*[(d)]*~~ ***(c) "Utility service vehicle" means any*** ~~*[commercial]*~~ ***motor vehicle:***

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service; and

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the ~~*[commercial]*~~ ***motor vehicle is owned, leased or rented by the utility.***

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 129.

Remarks by Assemblyman Anderson.

Potential conflict of interest declared by Assemblyman Oceguera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 46.

The following Senate amendment was read:

Amendment No. 621.

AN ACT relating to firearms; requiring a court to transmit certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; establishing procedures for those persons to petition a court to regain certain rights relating to the purchase or possession of a firearm; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law requires states to transmit to the National Instant Criminal Background Check System records of adjudication of mental illness or incompetence, involuntary admission to mental health facilities and other records which indicate a person is prohibited from purchasing a firearm. Federal law also requires states to implement a program by which a person who was previously adjudicated mentally ill or involuntarily committed can apply to have his right to possess a firearm restored and ties this requirement to certain federal funding for states under the NICS Improvement

Amendments Act of 2007. (Public Law 110-180) Nevada law prohibits a person from owning or possessing a firearm if he has been adjudicated as mentally ill or has been committed to any mental health facility. (NRS 202.360)

Sections 1-4 and 13 of this bill require a court to transmit to the Central Repository for Nevada Records of Criminal History a record of any court order, judgment, plea or verdict concerning the involuntary admission of a person to a mental health facility, the appointment of a guardian for a person who has a mental defect, a finding that a person is incompetent to stand trial, a verdict acquitting a person by reason of insanity or a plea of guilty but mentally ill, along with a statement that the record is being transmitted for inclusion in all appropriate databases of the National Instant Criminal Background Check System. (NRS 159.055, 174.035, 175.533, 175.539, 178.425, 433A.310)

Section 7 of this bill requires the Central Repository to take reasonable steps to ensure that the records transmitted to it by the court are included in each appropriate database of the National Instant Criminal Background Check System. In accordance with federal law, this section also provides a procedure for a person who is the subject of such a record to petition a court to have the record removed from the National Instant Criminal Background Check System and to have his right to possess or purchase a firearm restored.

Section 8 of this bill provides that the records transmitted by the court to the Central Repository are confidential, may not be used for any purpose other than for inclusion in each appropriate database of the National Instant Criminal Background Check System, and no cause of action for damages may be brought for transmission, failure to transmit, delay in transmitting or inaccuracies within such records.

Section 8.5 of this bill authorizes a person who is or believes he is the subject of a record of mental health held by the Central Repository to inspect and correct such records. This section, which is modeled after NRS 179A.150, also requires the Central Repository and the Director of the Department of Public Safety to adopt certain regulations relating to the inspection and correction of such records.

Section 11.5 of this bill requires a court, when appointing a general guardian, to determine whether a proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to federal law.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill.

2. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be in substantially the form prescribed in

NRS 174.063. If a plea of guilty or guilty but mentally ill is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty, guilty but mentally ill or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing his mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish by a preponderance of the evidence that:

(a) Due to a disease or defect of the mind, he was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, he either did not:

(1) Know or understand the nature and capacity of his act; or

(2) Appreciate that his conduct was wrong, meaning not authorized by law.

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty or guilty but mentally ill or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

7. A defendant may not enter a plea of guilty or guilty but mentally ill pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

➥ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. ***If the court accepts a plea of guilty but mentally ill pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that plea to be transmitted to the Central Repository for Nevada Records of Criminal History along with a statement indicating that the record is being transmitted for inclusion in each***

appropriate database of the National Instant Criminal Background Check System.

9. As used in this section ~~[, a "disease]~~ ***:***

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 2. NRS 175.533 is hereby amended to read as follows:

175.533 1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, he was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. ***If the trier of fact finds a defendant guilty but mentally ill pursuant to subsection 1, the court shall cause, on a form prescribed by the Department of Public Safety, a record of the finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

4. As used in this section ~~[, a "disease]~~ ***:***

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 3. NRS 175.539 is hereby amended to read as follows:

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and he is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if he were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport him to a forensic facility for detention pending a hearing to determine his mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a person with mental illness, the court must order his discharge; or

(b) That there is clear and convincing evidence that the person is a person with mental illness, the court must order that he be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until he is discharged or conditionally released therefrom in accordance with NRS 178.467 to 178.471, inclusive.

➥ The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the reports and the court shall proceed in the manner provided in NRS 178.467 to 178.471, inclusive.

4. ***If the court accepts a verdict acquitting a defendant by reason of insanity pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that verdict to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

5. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for offenders and defendants with mental disorders. The term includes, without limitation, Lakes Crossing Center.

(c) ***"National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.***

(d) "Person with mental illness" has the meaning ascribed to it in NRS 178.3986.

Sec. 4. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and that he is dangerous to himself or to society and that commitment is required for a determination of his ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or his designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or his designee as an outpatient for treatment, if it might be beneficial, and for a determination of his ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for his periodic appearances before the Administrator or his designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or his designee or, if the defendant is charged with a misdemeanor, the judge finds him capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

6. If a defendant is found incompetent pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

7. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 5. Chapter 179A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 8.5, inclusive, of this act.

Sec. 6. ***"National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.***

Sec. 7. ***1. Upon receiving a record transmitted pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act, the Central Repository shall take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Instant Criminal Background Check System.***

2. Except as otherwise provided in subsection 3, if the Central Repository receives a record described in subsection 1, the person who is the subject of the record may petition the court for an order declaring that:

(a) The basis for the adjudication reported in the record no longer exists;

(b) The adjudication reported in the record is deemed not to have occurred for purposes of 18 U.S.C. 922(d)(4) and (g)(4) and NRS 202.360; and

(c) The information reported in the record must be removed from the National Instant Criminal Background Check System.

3. To the extent authorized by federal law, if the record concerning the petitioner was transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310, the petitioner may not file a petition pursuant to subsection 2 until ~~[5]~~ 3 years after the date of the order transmitting the record to the Central Repository.

4. A petition filed pursuant to subsection 2 must be:

(a) Filed in the court which made the adjudication or finding pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; and

(b) Served upon the district attorney for the county in which the court described in paragraph (a) is located.

5. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the petitioner has established that:

(a) The basis for the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act concerning the petitioner no longer exists;

(b) The petitioner's record and reputation indicate that the petitioner is not likely to act in a manner dangerous to public safety; and

(c) Granting the relief requested by the petitioner pursuant to subsection 2 is not contrary to the public interest.

6. Except as otherwise provided in this subsection, the petitioner must establish the provisions of subsection 5 by a preponderance of the evidence. If the adjudication or finding concerning the petitioner was made pursuant to NRS 433A.310 or section 11.5 of this act, the petitioner must establish the provisions of subsection 5 by clear and convincing evidence.

7. The court, upon entering an order pursuant to this section, shall cause, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository.

8. Within 5 business days after receiving a record of an order transmitted pursuant to subsection 7, the Central Repository shall take reasonable steps to ensure that information concerning the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act is removed from the National Instant Criminal Background Check System.

9. If the Central Repository fails to remove a record as provided in subsection 8, the petitioner may bring an action to compel the removal of the record. If the petitioner prevails in the action, the court may award the petitioner reasonable attorney's fees and costs incurred in bringing the action.

10. If a petition brought pursuant to subsection 2 is denied, the person who is the subject of the record may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.

Sec. 8. ***1. Any record described in section 7 of this act is confidential and is not a public book or record within the meaning of NRS 239.010. A person may not use the record for any purpose other than for inclusion in the appropriate database of the National Instant Criminal Background Check System.***

2. If a person or governmental entity is required to transmit, report or take any other action concerning a record pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 7 or 11.5 of this act, no action for damages may be brought against the person or governmental entity for:

(a) Transmitting or reporting the record or taking any other required action concerning the record;

(b) Failing to transmit or report the record or failing to take any other required action concerning the record;

(c) Delaying the transmission or reporting of the record or delaying in taking any other required action concerning the record; or

(d) Transmitting or reporting an inaccurate or incomplete version of the record or taking any other required action concerning an inaccurate or incomplete version of the record.

Sec. 8.5. ***1. The Central Repository shall permit a person who is or believes he may be the subject of information relating to records of mental health held by the Central Repository to inspect and correct any information contained in such records.***

2. The Central Repository shall adopt regulations and make available necessary forms to permit inspection, review and correction of information relating to records of mental health by those persons who are the subjects thereof. The regulations must specify:

(a) The requirements for proper identification of the persons seeking access to the records; and

(b) The reasonable charges or fees, if any, for inspecting records.

3. The Director of the Department shall adopt regulations governing:

(a) All challenges to the accuracy or sufficiency of information or records of mental health by the person who is the subject of the allegedly inaccurate or insufficient record;

(b) The correction of any information relating to records of mental health found by the Director to be inaccurate, insufficient or incomplete in any material respect;

(c) The dissemination of corrected information to those persons or agencies which have previously received inaccurate or incomplete information; and

(d) A reasonable time limit within which inaccurate or insufficient information relating to records of mental health must be corrected and the corrected information disseminated.

4. As used in this section, "information relating to records of mental health" means information contained in a record:

(a) Transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; or

(b) Transmitted to the National Instant Criminal Background Check System pursuant to section 7 of this act.

Sec. 9. NRS 179A.010 is hereby amended to read as follows:

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, ***and section 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 11.5. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

2. As used in this section:

(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

(b) "Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, incompetence, condition or disease, is:

(1) A danger to himself or others; or

(2) Lacks the capacity to contract or manage his own affairs.

Sec. 12. NRS 202.362 is hereby amended to read as follows:

202.362 1. Except as otherwise provided in subsection 3, a person within this State shall not sell or otherwise dispose of any firearm or ammunition to another person if he has actual knowledge that the other person:

(a) Is under indictment for, or has been convicted of, a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless he has received a pardon and the pardon does not restrict his right to bear arms;

(b) Is a fugitive from justice;

(c) Has been adjudicated as mentally ill or has been committed to any mental health facility; or

(d) Is illegally or unlawfully in the United States.

2. A person who violates the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

3. This section does not apply to a person who sells or disposes of any firearm or ammunition to:

(a) A licensed importer, licensed manufacturer, licensed dealer or licensed collector who, pursuant to 18 U.S.C. 925(b), is not precluded from dealing in firearms or ammunition; or

(b) A person who has been granted relief from the disabilities imposed by federal laws pursuant to 18 U.S.C. 925(c) ~~[.]~~ ***or section 7 of this act.***

Sec. 13. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person to a public or private mental health facility:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or others if allowed his liberty, the court may order the involuntary admission of the person for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division or any mental health facility that is not operated by the Division may petition to renew the detention of the person for additional periods not to exceed 6 months each.

For each renewal, the petition must set forth to the court specific reasons why further treatment would be in the person's own best interests.

3. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

4. If the court issues an order involuntarily admitting a person to a public or private mental health facility pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, on a form prescribed by the Department of Public Safety, a record of such order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

5. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 15. This act becomes effective on January 1, 2010.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 46.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered to the Senate.

Assembly Bill No. 350.

The following Senate amendment was read:

Amendment No. 737.

AN ACT relating to common-interest communities; revising provisions relating to ~~[costs of collection and the payment of fines and assessments, the rights of a unit's owner with respect to meetings and the budgets for the daily operation of a common-interest community; establishing certain standards for management agreements; establishing the duties, responsibilities and standards of practice for community managers; making various other changes relating to common-interest communities;]~~ **interest on certain past due assessments; providing that punitive damages may not be awarded against the members of the executive board or the officers of an association under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1.5 of this bill authorizes an association to charge a reasonable fee for costs associated with collecting any past due obligation. Section 3 of this bill provides that in addition to complying with the business judgment rule,~~

~~officers and members of the executive board of an association are required to act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. (NRS 116.3103)~~**]**

Existing law provides that: (1) punitive damages may not be recovered against an association, but may be recovered against persons whose activity gave rise to the damages; and (2) punitive damages may be awarded for a willful and material failure to comply with any provision of chapter 116 of NRS. (NRS 116.31036, 116.4117) Sections 5.5 and 16.5 of this bill provide that punitive damages may not be recovered against the members of the executive board or the officers of an association for acts or omissions that occur in their capacity as members or officers.

Existing law ~~[authorizes an executive board to impose fines for certain violations of the governing documents and to assess interest on any unpaid fines at a rate established by the association, not to exceed the legal rate per annum. (NRS 116.31031) Section 4 of this bill eliminates the authority to charge interest on any past due fines.]~~ **provides that any past due assessment for common expenses or installment thereof bears interest at the rate established by the association, which must not exceed 18 percent per year. Section 9** of this bill provides that the association may charge the prime rate plus 2 percent on **such** a past due assessment, beginning when the assessment is 60 days past due.

~~[Sections 6-8 of this bill provide that: (1) a unit's owner may receive, free of charge, a copy or summary of the minutes of a meeting of the units' owners or executive board in electronic format at no cost to the unit's owner or, if the association is unable to provide a copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page; (2) at each meeting of the units' owners or executive board, a unit's owner must be allowed to speak for a minimum of 2 minutes at the beginning of the meeting and for a minimum of 2 minutes on each agenda item at the time the agenda item is being addressed; and (3) a meeting of the executive board must be held at a time other than during normal business hours at least twice per year. (NRS 116.3108, 116.31083, 116.31085)~~

~~Section 10 of this bill requires an executive board to: (1) provide in the budget for the daily operation of the association an itemized list of expenses in excess of $100 expected to be incurred in each month; and (2) include in the budget a requirement that any money budgeted for nonrecurring expenses in excess of $100, other than expenses necessary for emergency repairs or emergency services, may not be expended without first obtaining the signatures of at least two members of the executive board. (NRS 116.31151) Section 10 also requires the budget to be available for review at a location not to exceed 60 miles from the common-interest community.~~

~~Section 12 of this bill requires the books, records and other papers of an association to be available for review at the business office of the association or a location not to exceed 60 miles from the common-interest community. Section 12 also requires that a copy of such documents must be provided to a~~

~~unit's owner in electronic format at no cost to the unit's owner or, if the association is unable to provide a copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page. (NRS 116.31175)~~

~~Section 12.3 of this bill provides that if a unit's owner is the subject of retaliatory action based on certain complaints or requests, he may bring an action to recover compensatory damages and attorney's fees and costs. (NRS 116.31183)~~

~~Sections 13.5 and 15 of this bill require a public offering or a resale package to include a statement listing all current and expected fees for each unit.~~

~~Section 18.3 of this bill establishes the requirements concerning the disclosures that a community manager must make before entering into a management agreement and incorporates into statute the existing requirements contained in the Nevada Administrative Code. (NAC 116.310)~~

~~Section 18.4 of this bill sets forth the requirements of a management agreement and incorporates into statute the existing requirements contained in the Nevada Administrative Code. (NAC 116.305)~~

~~Section 18.5 of this bill sets forth the responsibilities and duties of a community manager, incorporates into statute many of the existing provisions of the Nevada Administrative Code and adds certain new responsibilities and duties. (NAC 116.300) Section 18.5 also provides that a community manager acts as a fiduciary at all times and must exercise ordinary and reasonable care in performing his duties.~~

~~Section 18.6 of this bill incorporates into statute many of the existing provisions of the Nevada Administrative Code pertaining to standards of practice for community managers and conduct warranting disciplinary action and establishes certain new requirements, such as provisions governing the acceptance of any compensation, gift or any other item of material value by the community manager. (NAC 116.341)~~**]**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.5. **[**~~Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:~~

1. If the governing documents authorize an association to charge a unit's owner the costs of collecting any past due obligation, the association may charge the unit's owner a reasonable fee to cover such costs. The Commission shall adopt regulations establishing the amount of the fee that an association may charge pursuant to this section.

2. The provisions of this section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, an officer or employee of the association, a community manager or a collection agency.

~~*3. As used in this section:*~~

~~*(a) "Costs of collecting" includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit's owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if a lawsuit is filed to enforce any past due obligation or any costs awarded by a court.*~~

~~*(b) "Obligation" means any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit's owner pursuant to any provision of this chapter or the governing documents.]*~~ **(Deleted by amendment.)**

Sec. 2. ~~[~~NRS 116.3102 is hereby amended to read as follows:

~~116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:~~

~~(a) Adopt and amend bylaws, rules and regulations.~~

~~(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.~~

~~(c) Hire and discharge managing agents and other employees, agents and independent contractors.~~

~~(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common interest community.~~

~~(e) Make contracts and incur liabilities.~~

~~(f) Regulate the use, maintenance, repair, replacement and modification of common elements.~~

~~(g) Cause additional improvements to be made as a part of the common elements.~~

~~(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:~~

~~(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and~~

~~(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.~~

~~(i) Grant easements, leases, licenses and concessions through or over the common elements.~~

~~(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.~~

~~(k) Impose charges for late payment of assessments~~ **[.]** ***~~pursuant to NRS 116.3115.~~***

~~(l) Impose construction penalties when authorized pursuant to NRS 116.310305.~~

~~(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.~~

~~(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.~~

~~(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.~~

~~(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.~~

~~(q) Exercise any other powers conferred by the declaration or bylaws.~~

~~(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.~~

~~(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:~~

~~(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or~~

~~(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.~~

~~(t) Exercise any other powers necessary and proper for the governance and operation of the association.~~

~~2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.~~**]** **(Deleted by amendment.)**

Sec. 3. ~~**[**NRS 116.3103 is hereby amended to read as follows:~~

~~116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of~~

~~their duties, the officers and members of the executive board are fiduciaries~~ **[**~~.~~**]** ***and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association.*** ~~The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business judgment rule.~~

~~2. The executive board may not act on behalf of the association to amend the declaration, to terminate the common interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term.~~**] (Deleted by amendment.)**

Sec. 4. ~~**[**NRS 116.31031 is hereby amended to read as follows:~~

~~116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or guest of a unit's owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:~~

~~(a) Prohibit, for a reasonable time, the unit's owner or the tenant or guest of the unit's owner from:~~

~~(1) Voting on matters related to the common interest community.~~

~~(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or guest of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.~~

~~(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any [interest,] charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.~~

~~2. The executive board may not impose a fine pursuant to subsection 1 unless:~~

~~(a) Not less than 30 days before the violation, the person against whom the fine will be imposed had been provided with written notice of the~~

~~applicable provisions of the governing documents that form the basis of the violation; and~~

~~(b) Within a reasonable time after the discovery of the violation, the person against whom the fine will be imposed has been provided with:~~

~~(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and~~

~~(2) A reasonable opportunity to contest the violation at the hearing.~~

~~3. The executive board must schedule the date, time and location for the hearing on the violation so that the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.~~

~~4. The executive board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed:~~

~~(a) Pays the fine;~~

~~(b) Executes a written waiver of the right to the hearing; or~~

~~(c) Fails to appear at the hearing after being provided with proper notice of the hearing.~~

~~5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7 day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.~~

~~6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.~~

~~7. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.~~

~~8. Any past due fine [:~~

~~(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.~~

~~(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the residents of the common-interest community, the rate established by the association for the costs of collecting the past due fine:~~

~~(1) May not exceed $20, if the outstanding balance is less than $200.~~

~~(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.~~

~~(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.~~

~~(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.~~

~~(5) May not exceed $500, if the outstanding balance is $5,000 or more.~~

~~(c) May~~**~~] must not bear interest, but may~~** ~~include any costs incurred by the association during a civil action to enforce the payment of the past due fine.~~

~~[~~~~9. As used in this section:~~

~~(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.~~

~~(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.~~**~~]~~ (Deleted by amendment.)**

Sec. 5. (Deleted by amendment.)

Sec. 5.5. **NRS 116.31036 is hereby amended to read as follows:**

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. The removal of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against ~~[the]~~ ***:***

(a) The association ~~[, but may be recovered from persons whose activity gave rise to the damages.]~~ ***;***

(b) The members of the executive board for acts or omissions that occur in their capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 6. ~~[NRS 116.3108 is hereby amended to read as follows:~~

~~116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.~~

~~2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or~~

~~more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:~~

~~(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or~~

~~(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.~~

~~3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request~~ [and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.] ***, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page.***

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~4. The agenda for a meeting of the units' owners must consist of:~~

~~(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.~~

~~(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~(c) A period~~ ***at the beginning of each meeting and a period at the time each agenda item is addressed*** ~~devoted to comments by units' owners and discussion of those comments.~~ ***A unit's owner must be granted a minimum of 2 minutes to speak at the beginning of the meeting and a minimum of 2 minutes to speak on each agenda item at the time the agenda item is being addressed.*** ~~Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).~~

~~5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.~~

~~6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners.~~ **[**~~A~~**]** ***Except as otherwise provided in this subsection, a*** ~~copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request~~ **[**~~and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~**]** ***, in electronic format at no charge to the unit's owner. If the unit's owner requests a copy of the minutes or a summary of the minutes of the meeting and the association is unable to provide the copy or summary in electronic format, the association shall provide a paper copy or summary to the unit's owner at a cost not to exceed 10 cents per page.***

~~7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:~~

~~(a) The date, time and place of the meeting;~~

~~(b) The substance of all matters proposed, discussed or decided at the meeting; and~~

~~(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.~~

~~9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.~~

~~10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before~~

~~recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.~~

~~11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.~~**] (Deleted by amendment.)**

Sec. 7. **[**~~NRS 116.31083 is hereby amended to read as follows:~~

~~116.31083 1. A meeting of the executive board must be held at least once every 90 days~~ **[**.**]** ***and must be held at a time other than during standard business hours at least twice annually.***

~~2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:~~

~~(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;~~

~~(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or~~

~~(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.~~

~~3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.~~

~~4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request~~ **[**~~and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~**]** ***, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page.***

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108.~~ **[**~~The period required to be~~**]** ***A period at the beginning of each meeting and a period at the time each agenda item is addressed must be*** ~~devoted to comments by the units' owners and discussion of those comments.~~ **[**~~must be scheduled for the beginning of each meeting.~~**]** ~~*A unit's owner must be granted a minimum of 2 minutes to speak at the beginning of each meeting and a minimum of 2 minutes to speak on each agenda item at the time the agenda item is being addressed.*~~ ~~In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:~~

~~(a) A current year-to-date financial statement of the association;~~

~~(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;~~

~~(c) A current reconciliation of the operating account of the association;~~

~~(d) A current reconciliation of the reserve account of the association;~~

~~(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and~~

~~(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.~~

~~7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners.~~ **[**~~A~~**]** ***Except as otherwise provided in this subsection, a*** ~~copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request~~ **[**~~and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~**]** ***, in electronic format at no charge to the unit's owner. If the unit's owner requests a copy of the minutes or a summary of the minutes of the meeting and the association is unable to provide the copy or summary in electronic format, the***

~~***association shall provide a written copy or summary to the unit's owner at a cost not to exceed 10 cents per page.***~~

~~8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:~~

~~(a) The date, time and place of the meeting;~~

~~(b) Those members of the executive board who were present and those members who were absent at the meeting;~~

~~(c) The substance of all matters proposed, discussed or decided at the meeting;~~

~~(d) A record of each member's vote on any matter decided by vote at the meeting; and~~

~~(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.~~

~~10. The association shall maintain the minutes of each meeting of the executive board until the common interest community is terminated.~~

~~11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.~~**]** **(Deleted by amendment.)**

Sec. 8. ~~[~~NRS 116.31085 is hereby amended to read as follows:

~~116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting~~ **[**.**]** ~~***, but must allow a unit's owner a minimum of 2 minutes to speak at the beginning of the meeting and a minimum of 2 minutes to speak on each agenda item at the time the agenda item is being addressed.***~~

~~2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract, unless it is a contract between the association and an attorney.~~

~~3. An executive board may meet in executive session only to:~~

~~(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive, or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.~~

~~(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.~~

~~(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.~~

~~(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.~~

~~4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:~~

~~(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; and~~

~~(b) Is not entitled to attend the deliberations of the executive board.~~

~~5. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to his designated representative.~~

~~6. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.~~] **(Deleted by amendment.)**

Sec. 9. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary.

3. Any ~~[past due]~~ assessment for common expenses or installment thereof ***that is 60 days or more past due*** bears interest at ~~[the rate established by the association not exceeding 18 percent per year.]~~ ***a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.***

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered

or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 10. ~~[NRS 116.31151 is hereby amended to read as follows:~~

~~116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards,~~

~~the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:~~

~~(a) The budget for the daily operation of the association. The budget must include, without limitation, the~~ ***following:***

(1) The ~~estimated annual revenue and expenditures of the association ,~~ ~~[and any]~~

(2) Any ~~contributions to be made to the reserve account of the association.~~

(3) For each month in which expenses in excess of $100 are estimated to be incurred, an itemized list of the expenses expected to be incurred during that month.

(4) A requirement that any money budgeted for nonrecurring expenses in excess of $100, other than expenses necessary for emergency repairs or emergency services, must not be expended without first obtaining the signatures of at least two members of the executive board.

~~(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:~~

~~(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;~~

~~(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements;~~

~~(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or to provide adequate funding for the reserves designated for that purpose; and~~

~~(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.~~

~~2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:~~

~~(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one~~

~~county, within one of those counties [;] *but not to exceed 60 miles from the physical location of the common-interest community;* and~~

~~(b) Copies of the budgets will be provided upon request.~~

~~3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. *The executive board must provide full disclosure concerning the proposed budget and allow comments by units' owners and discussion of those comments.* Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.~~ **(Deleted by amendment.)**

Sec. 11. ~~[~~NRS 116.3116 is hereby amended to read as follows:

~~116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. [Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section.] If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.~~

~~2. A lien under this section is prior to all other liens and encumbrances on a unit except:~~

~~(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;~~

~~(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and~~

~~(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.~~

~~The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This~~

~~subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.~~

~~3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.~~

~~4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.~~

~~5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.~~

~~6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.~~

~~7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.~~

~~8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.~~

~~9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:~~

~~(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.~~

~~(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:~~

~~(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or~~

~~(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.~~**]** **(Deleted by amendment.)**

Sec. 12. ~~[~~NRS 116.31175 is hereby amended to read as follows:

~~116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review~~ ***at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and*** during the regular working hours of the association, ~~including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to~~

~~which the association is a party. The provisions of this subsection do not apply to:~~

~~(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;~~

~~(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and~~

~~(c) A contract between the association and an attorney.~~

~~2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:~~

~~(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.~~

~~(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.~~

~~(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.~~

~~3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:~~

~~(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and~~

~~(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.~~

~~4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:~~

~~(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or~~

~~(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.~~

~~5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.~~ ***Upon written request of a unit's owner, copies must be provided to the unit's owner, in electronic format at no charge or, if the association is unable to***

~~*provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page.]*~~ **(Deleted by amendment.)**

Sec. 12.3. ~~[~~NRS 116.31183 is hereby amended to read as follows:

~~116.31183 — *1.* — An executive board, a member of an executive board or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:~~

~~[1.] *(a)* Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association; or~~

~~[2.] *(b)* Requested in good faith to review the books, records or other papers of the association.~~

~~*2. — In addition to any other remedy provided by law, upon a violation of this section, a unit's owner may bring a separate action to recover:*~~

~~*(a) Compensatory damages; and*~~

~~*(b) Attorney's fees and costs of bringing the separate action.]*~~ **(Deleted by amendment.)**

Sec. 12.7. ~~[~~NRS 116.31185 is hereby amended to read as follows:

~~116.31185 — 1. — Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:~~

~~(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or~~

~~(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.~~

~~2. — Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association, a community manager or any person working for a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:~~

~~(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or~~

~~(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable community or association which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.~~

~~3. — An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by~~

~~regulation, not to exceed $100 per year per such member, officer, community manager or person.~~

~~4. A declarant, an affiliate of a declarant or any person responsible for the construction of a community or association, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.~~

~~5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:~~

~~(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to NRS 116.31031 for violations of the governing documents of the association; or~~

~~(b) Any percentage or proportion of those fines.~~

~~6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:~~

~~(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers *set forth in sections 18.5 and 18.6 of this act and any additional standards of practice* adopted by the Commission *by regulation* pursuant to NRS 116A.400;~~

~~(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the common-interest community; and~~

~~(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.~~**]** **(Deleted by amendment.)**

Sec. 13. (Deleted by amendment.)

Sec. 13.5. ~~[~~NRS 116.4103 is hereby amended to read as follows:

~~116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:~~

~~(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.~~

~~(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.~~

~~(c) The estimated number of units in the common-interest community.~~

~~(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat or plan is not required.~~

~~(e) A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:~~

~~(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and~~

~~(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.~~

~~(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.~~

~~(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.~~

~~(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.~~

~~(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.~~

~~(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.~~

~~(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.~~

~~(l) *In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.*~~

~~*(m)* The information statement set forth in NRS 116.41095.~~

~~2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."~~ **(Deleted by amendment.)**

Sec. 14. (Deleted by amendment.)

Sec. 15. ~~[~~NRS 116.4109 is hereby amended to read as follows:

~~116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:~~

~~(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;~~

~~(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;~~

~~(c) A copy of the current operating budget of the association and current year to date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; and~~

~~(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common interest community of which the unit's owner has actual knowledge.~~

~~*(e) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.*~~

~~2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:~~

~~(a) Cancel the contract pursuant to this subsection; or~~

~~(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.~~

~~3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:~~

~~(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and~~

~~(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.~~

~~4. If the association furnishes the documents and certificate pursuant to subsection 3:~~

~~(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.~~

~~(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.~~

~~(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.~~

~~(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.~~

~~5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.~~

~~6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common interest community is situated or, if it is situated in more than one county, within one of those counties.~~**] (Deleted by amendment.)**

Sec. 16. (Deleted by amendment.)

Sec. 16.5. **NRS 116.4117 is hereby amended to read as follows:**

116.4117 1. If a declarant or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply has a claim for appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages caused by a

failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

(1) A declarant; or

(2) A unit's owner.

(b) By a unit's owner against:

(1) The association;

(2) A declarant; or

(3) Another unit's owner of the association.

3. ~~[~~Punitive~~]~~ ***Except as otherwise provided in NRS 116.31036, punitive*** damages may be awarded for a willful and material failure to comply with this chapter if the failure is established by clear and convincing evidence.

4. The court may award reasonable attorney's fees to the prevailing party.

5. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

Sec. 17. ~~[NRS 116.745 is hereby amended to read as follows:~~

~~116.745 As used in NRS 116.745 to 116.795, inclusive, unless the context otherwise requires, "violation" means a violation of [any]~~ ***[any]***~~:~~

~~***1. Any*** provision of this chapter ***[***, any***]*** ~~;~~

~~***2. Any*** regulation adopted pursuant ***[***thereto or any***]*** ~~to this chapter;~~

~~***3. Any*** order of the Commission or a hearing panel ***[.]*** ~~; or~~

~~***4. Any provision of the governing documents of an association.]***~~ **(Deleted by amendment.)**

Sec. 18. (Deleted by amendment.)

Sec. 18.05. ~~[Chapter 116A of NRS is hereby amended by adding thereto the provisions set forth as sections 18.1 to 18.6, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 18.1. ~~***["Client" means an executive board that has entered into a management agreement with a community manager.]***~~ **(Deleted by amendment.)**

Sec. 18.2. ~~***["Management agreement" means an agreement for the management of a common interest community.]***~~ **(Deleted by amendment.)**

Sec. 18.3. ~~***[Before entering into a management agreement, a community manager shall disclose in writing to the prospective client any material and relevant information which he knows, or by the exercise of reasonable care and diligence should know, relate to the performance of the management agreement, including any matters which may affect his ability to comply with the provisions of this chapter or chapter 116 or 116B of NRS. Such written disclosure must include, without limitation:***~~

~~***1. Whether he, or any member of his organization, expects to receive any direct or indirect compensation, gifts or profits from any person who will perform services for the client and, if so, the identity of the person and the nature of the services rendered.***~~

~~*2. Any affiliation with or financial interest in any person or business who furnishes any goods or services to the association.*~~

~~*3. Any pecuniary relationships with any unit's owner, member of the executive board or officer of the association.]*~~ **(Deleted by amendment.)**

Sec. 18.4. ~~*[1. Any management agreement must:*~~

~~*(a) Be in writing and signed by all parties;*~~

~~*(b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited liability partnership, limited liability company or other entity;*~~

~~*(c) State the term of the management agreement;*~~

~~*(d) State the basic consideration for the services to be provided and the payment schedule;*~~

~~*(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:*~~

~~*(1) The costs for any new association or start up costs;*~~

~~*(2) The fees for special or nonroutine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;*~~

~~*(3) Reimbursable expenses;*~~

~~*(4) The fees for the sale or resale of a unit or for setting up the account of a new member; and*~~

~~*(5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;*~~

~~*(f) State the identity and the legal status of the contracting parties;*~~

~~*(g) State any limitations on the liability of each contracting party;*~~

~~*(h) Include a statement of the scope of work of the community manager;*~~

~~*(i) State the spending limits of the community manager;*~~

~~*(j) Include provisions relating to the grounds and procedures for termination of the community manager;*~~

~~*(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:*~~

~~*(1) A requirement that the community manager or his employer shall maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of $1,000,000 or more;*~~

~~*(2) An indication of which contracting party will maintain fidelity bond coverage; and*~~

~~*(3) A statement as to whether the association will maintain directors and officers liability coverage for the executive board;*~~

~~*(l) Include provisions for dispute resolution;*~~

~~*(m) Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;*~~

~~*(n) State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;*~~

~~*(o) State the frequency and extent of regular inspections of the common-interest community; and*~~

~~*(p) State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.*~~

~~*2. In addition to any other requirements under this section, a management agreement may:*~~

~~*(a) Provide for mandatory binding arbitration; or*~~

~~*(b) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal provision.*~~

~~*3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:*~~

~~*(a) The names and addresses of all insurance companies;*~~

~~*(b) The total amount of coverage; and*~~

~~*(c) The amount of any deductible.*~~

~~*4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.*~~

~~*5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.*~~

~~*6. Except as otherwise provided in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company.*~~

~~*7. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS.]*~~ **(Deleted by amendment.)**

Sec. 18.5. ~~*[In addition to any additional standards of practice for community managers adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall:*~~

~~*1. Except as otherwise provided by specific statute, at all times:*~~

~~*(a) Act as a fiduciary in any client relationship; and*~~

~~*(b) Exercise ordinary and reasonable care in the performance of his duties.*~~

~~*2. Comply with all applicable:*~~

~~*(a) Federal, state and local laws, regulations and ordinances; and*~~

~~*(b) Lawful provisions of the governing documents of each client.*~~

~~*3. Keep informed of new developments in the management of a common interest community through continuing education, including, without limitation, new developments in law, insurance coverage and accounting principles.*~~

~~*4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager.*~~

~~*5. Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.*~~

~~*6. At all times ensure that:*~~

~~*(a) The financial transactions of a client are current, accurate and properly documented; and*~~

~~*(b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:*~~

~~*(1) Proper maintenance of accounting records;*~~

~~*(2) Documentation of the authorization for any purchase orders, expenditures or disbursements;*~~

~~*(3) Verification of the integrity of the data used in business decisions;*~~

~~*(4) Facilitation of fraud detection and prevention; and*~~

~~*(5) Compliance with all applicable laws and regulations governing financial records.*~~

~~*7. Prepare or cause to be prepared interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of an association is fairly presented in accordance with all applicable laws and regulations.*~~

~~*8. Cause to be prepared annually a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common interest community, which must be made available to the Division.*~~

~~*9. Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.*~~

~~*10. Cooperate with the Division in resolving complaints filed with the Division.*~~

~~*11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest*~~

~~*community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.*~~

~~*12. Maintain and invest association funds in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, Securities Investor Protection Corporation, or a private insurer approved pursuant to NRS 678.755, or in government securities that are backed by the full faith and credit of the United States Government.*~~

~~*13. Except as required under collection agreements, maintain the various funds of the association in separate financial accounts in the name of the association and ensure that the association is authorized to have direct access to those accounts.*~~

~~*14. Provide notice to each unit's owner that the executive board is aware of all legal requirements pursuant to the applicable laws and regulations.*~~

~~*15. Maintain internal accounting controls, including, without limitation, segregation of incompatible accounting functions.*~~

~~*16. Ensure that the executive board develops and approves written investment policies and procedures.*~~

~~*17. Recommend in writing to each client that the association register with the Division, maintain its registration and file all papers with the Division and the Secretary of State as required by law.*~~

~~*18. Comply with the directions of a client, unless the directions conflict with the governing documents of the association or the applicable laws or regulations of this State.*~~

~~*19. Recommend in writing to each client that the association be in compliance with all applicable federal, state and local laws, regulations and ordinances and the governing documents of the association.*~~

~~*20. Obtain, when practicable, at least three qualified bids for any capital improvement project for the association.*~~

~~*21. Develop written collection policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:*~~

~~*(a) That the executive board approve all write-offs of debt; and*~~

~~*(b) That the community manager provide timely updates and reports as necessary.]*~~ **(Deleted by amendment.)**

Sec. 18.6. ~~*[In addition to the standards of practice for community managers set forth in section 18.5 of this act and any additional standards of practice adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall not:*~~

~~*1. Except as otherwise required by law or court order, disclose confidential information relating to a client, which includes, without*~~

~~*limitation, the business affairs and financial records of the client, unless the client agrees to the disclosure in writing.*~~

~~*2. Impede or otherwise interfere with an investigation of the Division by:*~~

~~*(a) Failing to comply with a request of the Division to provide documents;*~~

~~*(b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or*~~

~~*(c) Concealing any facts or documents relating to the business of a client.*~~

~~*3. Commingle money or other property of a client with the money or other property of another client, another association, the community manager or the employer of the community manager.*~~

~~*4. Use money or other property of a client for his own personal use.*~~

~~*5. Be a signer on a withdrawal from a reserve account of a client.*~~

~~*6. Except as otherwise permitted by the provisions of the court rules governing the legal profession, establish an attorney client relationship with an attorney or law firm which represents a client that employs the community manager or with whom the community manager has a management agreement.*~~

~~*7. Provide or attempt to provide to a client a service concerning a type of property or service:*~~

~~*(a) That is outside his field of experience or competence without the assistance of a qualified authority unless the fact of his inexperience or incompetence is disclosed fully to the client and is not otherwise prohibited by law; or*~~

~~*(b) For which he is not properly licensed.*~~

~~*8. Intentionally apply a payment of an assessment from a unit's owner towards any fine, fee or other charge that is due.*~~

~~*9. Refuse to accept from a unit's owner payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.*~~

~~*10. Collect any fees or other charges from a client not specified in the management agreement.*~~

~~*11. Accept any compensation, gift or any other item of material value as payment or consideration for a referral or in the furtherance or performance of his normal duties unless:*~~

~~*(a) Acceptance of the compensation, gift or other item of material value complies with the provisions of NRS 116.31185 or 116B.695 and all other applicable federal, state and local laws, regulations and ordinances; and*~~

~~*(b) Before acceptance of the compensation, gift or other item of material value, the community manager provides full disclosure to the client and the client consents, in writing, to the acceptance of the compensation, gift or other item of material value by the community manager.]*~~ **(Deleted by amendment.)**

Sec. 18.7. ~~[NRS 116A.010 is hereby amended to read as follows:~~

~~116A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 116A.020 to 116A.130, inclusive, *and sections 18.1 and 18.2 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 18.8. ~~[NRS 116A.400 is hereby amended to read as follows:~~

~~116A.400 1. Except as otherwise provided in this section, a person shall not act as a community manager unless the person holds a certificate.~~

~~2. [The] *In addition to the standards of practice for community managers set forth in sections 18.5 and 18.6 of this act, the* Commission shall by regulation [provide for the] *adopt any additional* standards of practice for community managers who hold certificates [.] *that the Commission deems appropriate and necessary.*~~

~~3. The Division may investigate any community manager who holds a certificate to ensure that the community manager is complying with the provisions of this chapter and chapters 116 and 116B of NRS and [the] *any additional* standards of practice adopted by the Commission.~~

~~4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a community manager who holds a certificate has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the *additional* standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the community manager.~~

~~5. In addition to any other remedy or penalty, the Commission may:~~

~~(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the Commission or the Division.~~

~~(b) Suspend, revoke or refuse to renew the certificate of a person who has failed to pay money which the person owes to the Commission or the Division.~~

~~6. The provisions of this section do not apply to:~~

~~(a) A financial institution that is engaging in an activity permitted by law.~~

~~(b) An attorney who is licensed to practice in this State and who is acting in that capacity.~~

~~(c) A trustee with respect to the property of the trust.~~

~~(d) A receiver with respect to property subject to the receivership.~~

~~(e) A member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.]~~ **(Deleted by amendment.)**

Sec. 18.9. ~~[NRS 116B.695 is hereby amended to read as follows:~~

~~116B.695 1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:~~

~~(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or~~

~~(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.~~

~~2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association or a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:~~

~~(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or~~

~~(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable condominium hotel or association which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.~~

~~3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.~~

~~4. A declarant, an affiliate of a declarant or any person responsible for the construction of a condominium hotel or association~~ **[**~~,~~**]** ~~shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.~~

~~5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:~~

~~(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to this chapter for violations of the governing documents of the association; or~~

~~(b) Any percentage or proportion of those fines.~~

~~6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:~~

~~(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers~~ ***set forth in sections 18.5 and 18.6 of this act and any additional standards of practice*** ~~adopted by the Commission~~ ***by regulation*** ~~pursuant to NRS 116A.400;~~

~~(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the association of the condominium hotel; and~~

~~(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.~~**] (Deleted by amendment.)**

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 350.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered to the Senate.

Assembly Bill No. 192.

The following Senate amendment was read:

Amendment No. 652.

AN ACT relating to local government purchasing; making various changes to the provisions governing performance contracts entered into by local governments for operating cost-savings measures; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes and sets forth the requirements for local governments to enter into performance contracts for the purchase and installation of operating cost-savings measures to reduce costs related to such matters as energy, water and the disposal of waste, and related labor costs. (NRS 332.300-332.440) Existing law sets forth the procedures by which a local government will compile a list of the qualified service companies that it determines have a record of established projects or have demonstrated technical, operational, financial and managerial capabilities to design and carry out operating cost-savings measures. Under existing law, the local government must solicit proposals for a performance contract from such companies. (NRS 332.350, 332.360) **Sections 2-5, 11 and 12** of this bill provide that a company must apply to the local government, meet certain qualifications and be preapproved by a local government before it may submit a proposal for a performance contract.

Section 6 of this bill requires that performance contracts for operating cost-savings measures identify the specific dollar amount and units or percentages of consumption that will be eliminated or avoided as a result of the operating cost-savings measures.

Section 6.5 of this bill requires a local government that enters into a performance contract for operating cost-savings measures to submit a report

annually to the Legislature or, when the Legislature is not in session, the Interim Finance Committee.

Section 8 of this bill amends the definition of "building" to provide that performance contracts apply only to existing buildings. (NRS 332.310)

Section 9 of this bill adds ground source systems of heating and cooling to the list of operating cost-savings measures that may be included in a performance contract. (NRS 332.330)

Section 13 of this bill eliminates the option for a performance contract to be structured as a shared-savings contract. (NRS 332.370)

Section 14 of this bill provides that the bonding requirements set forth in the provisions of chapter 339 of NRS apply to performance contracts that exceed $100,000. (NRS 332.390)

Existing law authorizes a local government to reinvest any savings realized under a performance contract into operating cost-savings measures. (NRS 332.410) **Section 15** of this bill requires that such reinvestment comply with the provisions of NRS 332.300-332.440 and **sections 2-6.5** of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 332 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6.5, inclusive, of this act.

Sec. 2. ***1. Except as otherwise provided in section 5 of this act, a person who wishes to qualify as a qualified service company and submit a proposal for a performance contract with a local government must file an application with the local government.***

2. Upon receipt of an application pursuant to subsection 1, the local government shall:

(a) Investigate the applicant to determine whether he is qualified to bid on a performance contract; and

(b) After conducting the investigation, determine whether the applicant is qualified to bid on a performance contract.

3. The local government shall notify each applicant in writing of its determination.

4. The local government may determine an applicant is qualified to bid:

(a) On a specific project; or

(b) On more than one project over a period of time to be determined by the local government.

5. Except as otherwise provided in section 5 of this act, the local government shall use only the criteria described in section 3 of this act in determining whether to approve or deny an application.

6. Except as otherwise provided in NRS 239.0115, financial information and other data pertaining to the net worth of an applicant which is gathered by or provided to a local government to determine the

financial ability of an applicant to perform a contract is confidential and not open to public inspection.

Sec. 3. ***1. Except as otherwise provided in section 5 of this act, a local government shall use the following criteria for determining whether a person satisfies the requirements to be a qualified service company pursuant to NRS 332.360:***

(a) The financial ability of the applicant to perform the work required by the local government;

(b) Whether the applicant possesses a business license issued pursuant to NRS 360.780;

~~[(b)]~~ (c) Whether the applicant possesses a valid contractor's license issued pursuant to chapter 624 of NRS of a class corresponding to the work required by the local government and, if engineering work is required, whether the applicant possesses a valid license as a professional engineer issued pursuant to chapter 625 of NRS;

~~[(c)]~~ (d) Whether the applicant has the ability to obtain the necessary bonding for the work required by the local government;

~~[(d)]~~ (e) Whether the applicant has successfully completed an appropriate number of projects as determined by the local government, but not to exceed five projects, during the 5 years immediately preceding the date of application of similar size, scope or type as the work required by the local government;

~~[(e)]~~ (f) Whether the principal personnel employed by the applicant have the necessary professional qualifications and experience for the work required by the local government;

~~[(f)]~~ (g) Whether the applicant has breached any contracts with a public agency or person in this State or any other state during the 5 years immediately preceding the date of application;

~~[(g)]~~ (h) Whether the applicant has been disqualified from being awarded a contract by any governing body in the State of Nevada;

~~[(h)]~~ (i) Whether the applicant has been convicted of a violation for discrimination in employment during the 2 years immediately preceding the date of application;

~~[(i)]~~ (j) Whether the applicant has the ability to obtain and maintain insurance coverage for public liability and property damage within limits sufficient to protect the applicant and all the subcontractors of the applicant from claims for personal injury, accidental death and damage to property that may arise in connection with the work required by the local government;

~~[(j)]~~ (k) Whether the applicant has established a safety program that complies with the requirements of chapter 618 of NRS;

~~[(k)]~~ (l) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the work required by the local government;

~~[(l)]~~ ***(m) Whether, during the 5 years immediately preceding the date of application, the applicant has filed as a debtor under the provisions of the United States Bankruptcy Code;***

~~[(m)]~~ ***(n) Whether the application is truthful and complete; and***

~~[(n)]~~ ***(o) Whether, during the 5 years immediately preceding the date of the application, the applicant has, as a result of causes within the control of the applicant or a subcontractor or supplier of the applicant, failed to perform any contract:***

(1) In the manner specified by the contract and any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative;

(2) Within the time specified by the contract unless extended by the person or governmental entity that awarded the contract or its authorized representative; or

(3) For the amount of money specified in the contract or as modified by any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative.

➥ Evidence of the failures described in this subsection may include, without limitation, the assessment of liquidated damages against the applicant, the forfeiture of any bonds posted by the applicant, an arbitration award granted against the applicant or a decision by a court of law against the applicant.

2. Except as otherwise provided in section 5 of this act, in addition to the criteria described in subsection 1, the local government may use any other relevant criteria that are necessary to determine whether a person satisfies the requirements to be a qualified service company pursuant to NRS 332.360.

Sec. 4. (Deleted by amendment.)

Sec. 5. ***Notwithstanding the provisions of section 3 of this act, a governing body may deem a person a qualified service company if the person has been determined by:***

1. The State Public Works Board or a local government pursuant to NRS 338.1379 to be qualified to bid on a public work; or

2. Another local government pursuant to section 2 of this act to be qualified as a qualified service company.

Sec. 6. ***A performance contract that guarantees operating cost savings must identify the specific dollar amount and units or percentages of consumption that the qualified service company anticipates will be eliminated or avoided on a long-term basis as a result of the operating cost-savings measures that the local government is implementing.***

Sec. 6.5. ***1. Each local government that enters into a performance contract pursuant to NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act, shall, on or before February 1 of each year, prepare and submit a report to the Director of the Legislative Counsel***

Bureau for transmittal to the Legislature if the Legislature is in session, or to the Interim Finance Committee if the Legislature is not in session.

2. The report required pursuant to subsection 1 must include, without limitation:

(a) The status of the construction and financing of the operating cost-savings measures described in the performance contract.

(b) The cumulative amount of operating cost-savings that have resulted from the operating cost-savings measures.

(c) The amount of operating cost-savings that are projected for the future.

(d) Any other information required by the Legislature or Interim Finance Committee.

Sec. 7. NRS 332.300 is hereby amended to read as follows:

332.300 As used in NRS 332.300 to 332.440, inclusive, ***and sections 2 to 6.5, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 332.310 to 332.350, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 332.310 is hereby amended to read as follows:

332.310 "Building" means any ***existing*** structure, building or facility, including any equipment, furnishings or appliances within the ***existing*** structure, building or facility, that is owned or operated by a local government. The term includes, without limitation, occupied and unoccupied ***existing*** structures, buildings and facilities, and any other ***existing*** improvements owned or operated by a local government that incur operating costs.

Sec. 9. NRS 332.330 is hereby amended to read as follows:

332.330 "Operating cost-savings measure" ~~[~~means~~]~~ ***:***

1. Means any improvement, repair or alteration to a building, or any equipment, fixture or furnishing to be added or used in a building that is designed to reduce operating costs, including ***, without limitation,*** those costs related to electrical energy and demand, thermal energy, water consumption, waste disposal and contract-labor costs, and increase the operating efficiency of the building for the appointed functions that are cost-effective. ~~[~~The term includes,~~]~~

2. Includes, without limitation:

~~[~~1. Procurement of low-cost energy supplies, including electricity and natural gas.

2. Procurement of cost savings as a result of outsourcing energy needs for electrical power, heating and cooling.

3.~~]~~ ***(a)*** Operational or maintenance labor savings resulting from reduced costs for maintenance contracts as provided through reduction of required maintenance or operating tasks, including, without limitation, replacement of filters and lighting products, and equipment failures.

~~[~~4.~~]~~ ***(b)*** Investment in equipment, products and materials, and strategies for building operation, or any combination thereof, designed to reduce energy and other utility expenses, including, without limitation:

~~[~~(a)~~]~~ ***(1)*** Costs for materials and labor required to replace old equipment with new, more efficient equipment.

~~[~~(b)~~]~~ ***(2)*** Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated windows or doors, reductions in glass area, and other modifications to windows and doors that will reduce energy consumption.

~~[~~(c)~~]~~ ***(3)*** Automated or computerized energy control systems.

~~[~~(d)~~]~~ ***(4)*** Replacement of, or modifications to, heating, ventilation or air-conditioning systems.

~~[~~(e)~~]~~ ***(5)*** Replacement of, or modifications to, lighting fixtures.

~~[~~(f)~~]~~ ***(6)*** Improvements to the indoor air quality of a building that conform to all requirements of an applicable building code.

~~[~~(g)~~]~~ ***(7)*** Energy recovery systems.

~~[~~(h)~~]~~ ***(8)*** Systems for combined cooling, heating and power that produce steam or other forms of energy, for use primarily within the building or a complex of buildings.

~~[~~(i)~~]~~ ***(9)*** Installation of, or modifications to, existing systems for daylighting, including lighting control systems.

~~[~~(j)~~]~~ ***(10)*** Installation of, or modification to, technologies that use renewable or alternative energy sources.

~~[~~(k)~~]~~ ***(11)*** Programs relating to building operation that reduce operating costs, including, without limitation, computerized programs, training and other similar activities.

~~[~~(l)~~]~~ ***(12)*** Programs for improvement of steam traps to reduce operating costs.

~~[~~(m)~~]~~ ***(13)*** Devices that reduce water consumption in buildings, for lawns and for other irrigation applications.

~~[~~(n)~~]~~ ***(14)*** Any additional improvements to building infrastructures that produce energy and operating cost savings, significantly reduce energy consumption or increase the operating efficiency of the buildings for their appointed functions, provided that such improvements comply with applicable building codes.

~~[~~(o)~~]~~ ***(15)*** Trash compaction and waste minimization.

~~[~~5.~~]~~ ***(16) Ground source systems for heating and cooling.***

(c) Investment in educational programs relating to ~~[occupational behavior that are designed to reduce the consumption of energy or water, or both, and the generation of waste.]~~ ***the operation and maintenance of any equipment installed to reduce operating costs.***

3. Does not include the construction of a new building or any addition to a building that increases the square footage of the building.

Sec. 10. NRS 332.340 is hereby amended to read as follows:

332.340 "Performance contract" means a ***written*** contract between a local government and a qualified service company for the evaluation, recommendation and implementation of one or more operating cost-savings measures.

Sec. 11. NRS 332.350 is hereby amended to read as follows:

332.350 "Qualified service company" means a person ~~[with a record of established projects or a person with demonstrated technical, operational, financial and managerial capabilities to design and carry out operating cost-savings measures and other similar building improvements, and who has the ability to secure necessary financial measures to ensure related guarantees for operating cost savings.]~~ ***who is qualified to bid on a performance contract pursuant to section 2 or 5 of this act.***

Sec. 12. NRS 332.360 is hereby amended to read as follows:

332.360 1. Notwithstanding any provision of this chapter and chapter 338 of NRS to the contrary, a local government may enter into a performance contract with a qualified service company for the purchase and installation of an operating cost-savings measure to reduce costs related to energy, water and the disposal of waste, and related labor costs. Such a performance contract may be in the form of an installment payment contract or a lease-purchase contract. Any operating cost-savings measures put into place as a result of a performance contract must comply with all applicable building codes.

2. ~~[The local government shall determine those companies that satisfy the requirements of qualified service companies for the purposes of NRS 332.300 to 332.440, inclusive. The local government shall prepare and issue a request for qualifications to not less than three potential qualified service companies.~~

~~3. In sending out a request for qualifications, the local government:~~

~~(a) Shall attempt to identify at least one potential qualified service company located within this state; and~~

~~(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.~~

~~4. The local government shall use objective criteria to determine those companies that satisfy the requirements of qualified service companies. The objective criteria for evaluation must include the following areas as substantive factors to assess the capability of such companies:~~

~~(a) Design;~~

~~(b) Engineering;~~

~~(c) Installation;~~

~~(d) Maintenance and repairs associated with performance contracts;~~

~~(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost-savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost savings retrofit;~~

~~(f) Monitoring projects after the projects are installed;~~

~~(g) Data collection and reporting of savings;~~

~~(h) Overall project experience and qualifications;~~

~~(i) Management capability;~~

~~(j) Ability to access long-term financing;~~

~~(k) Experience with projects of similar size and scope; and~~

~~(l) Such other factors determined by the local government to be relevant and appropriate to the ability of a company to perform the project.~~

~~➥ In determining whether a company satisfies the requirements of a qualified service company, the local government shall also consider the financial health of the company as evidenced by its financial statements and ratings and whether the company holds the appropriate licenses required for the design, engineering and construction to be completed.~~

~~5. The local government shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.~~**]** If **[**~~the~~**]** ***a*** local government is interested in entering into a performance contract, the local government shall notify each appropriate qualified service company and coordinate an opportunity for each such qualified service company to:

(a) Perform a preliminary and comprehensive audit and assessment of all potential operating cost-savings measures that might be implemented within the buildings of the local government, including any operating cost-savings measures specifically requested by the local government; and

(b) Submit a proposal and make a related presentation to the local government for all such operating cost-savings measures that the qualified service company determines would be practicable to implement.

[~~6.~~**]** ***3.*** The local government shall:

(a) Evaluate the proposals and presentations made pursuant to subsection **[**~~5;~~**]** ***2;*** and

(b) Select a qualified service company,

➥ pursuant to the provisions of **[**~~this chapter for evaluating and awarding contracts.~~**]** **[**~~7.~~**]** ***NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act.***

4. The local government may retain the professional services of a third-party consultant with the requisite technical expertise to assist the local government in evaluating the proposals and presentations pursuant to subsection 3. Such a third-party consultant must possess a business license issued pursuant to NRS 360.780 and any other applicable licenses issued by a licensing board in this State in the same discipline in which the consultant will be advising the local government.

5. The qualified service company selected by the local government pursuant to subsection **[**~~6~~**]** ***3*** shall prepare a financial-grade operational audit. Except as otherwise provided in this subsection, the audit prepared by the qualified service company becomes, upon acceptance, a part of the final performance contract and the costs incurred by the qualified service company in preparing the audit shall be deemed to be part of the performance contract.

If, after the audit is prepared, the local government decides not to execute the performance contract, the local government shall pay the qualified service company that prepared the audit the costs incurred by the qualified service company in preparing the audit if the local government has specifically appropriated money for that purpose.

~~[8.]~~ ***6.*** The local government shall retain the professional services of a third-party consultant with the requisite technical expertise to assist the local government in reviewing the operating cost-savings measures proposed by the qualified service company and may procure sufficient funding from the qualified service company, through negotiation, to pay for the third-party consultant. Such a third-party consultant must be ***licensed pursuant to chapter 625 of NRS and*** certified by the Association of Energy Engineers as a "Certified Energy Manager" or hold similar credentials from a comparable nationally recognized organization. A third-party consultant retained pursuant to this subsection shall work on behalf ***and for the benefit*** of the local government in coordination with the qualified service company.

Sec. 13. NRS 332.370 is hereby amended to read as follows:

332.370 1. A performance contract may be financed through a person other than the qualified service company.

2. A performance contract ~~[may]~~ ***must*** be structured ~~[as:~~

~~(a) A performance contract that guarantees]~~ ***to guarantee*** operating cost savings, which includes, without limitation, the design and installation of equipment, the operation and maintenance, if applicable, of any of the operating cost-savings measures and the guaranteed annual savings which must meet or exceed the total annual contract payments to be made by the local government, including any financing charges to be incurred by the local government over the life of the performance contract. The local government may require that these savings be verified annually or over a sufficient period that demonstrates savings.

~~[(b) A shared-savings contract which includes provisions mutually agreed upon by the local government and qualified service company as to the negotiated rate of payments based upon operating cost savings and a stipulated maximum consumption level of energy or water, or both energy and water, over the life of the contract.]~~

Sec. 14. NRS 332.390 is hereby amended to read as follows:

332.390 ***1.*** If a performance contract entered into pursuant to NRS 332.300 to 332.440, inclusive, ***and sections 2 to 6.5, inclusive, of this act*** requires the employment of skilled mechanics, skilled workmen, semiskilled mechanics, semiskilled workmen or unskilled labor to perform the performance contract, the performance contract must include a provision relating to the prevailing wage as required pursuant to NRS 338.020 to 338.090, inclusive.

2. Before a qualified service company enters into a performance contract pursuant to NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act, that exceeds $100,000, the qualified service

company must furnish to the contracting body any bonds required pursuant to NRS 339.025. The provisions of chapter 339 of NRS apply to any performance contract described in this subsection.

Sec. 15. NRS 332.410 is hereby amended to read as follows:

332.410 A local government may reinvest any savings realized under a performance contract whenever practical into ***other*** operating cost-savings measures provided the local government ~~[is]~~ ***:***

1. Is satisfying all its other obligations under the performance contract ~~[.]~~ ***; and***

2. Complies with the requirements of NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act, when reinvesting the savings into other operating cost-savings measures.

Sec. 16. (Deleted by amendment.)

Sec. 17. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 192.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 220.

The following Senate amendment was read:

Amendment No. 653.

AN ACT relating to the subdivision of land; revising the requirements for the purchase of property for school construction; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth a multistep process for obtaining approval for the subdivision of land. (NRS 278.320-278.460) One of the preliminary requirements is a determination of the need for a school in the area in which the subdivision is located. (NRS 278.330) If a school is needed, the subdivider is required to make suitable land within the proposed subdivision available for purchase by the school district at a price which does not exceed the fair market value of the land. Under existing law, if the school district does not construct a school on the land within 10 years from the date of purchase, the land must be offered for resale back to the subdivider or his successor in interest. (NRS 278.346)

This bill provides that, in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), the school district and subdivider may negotiate a purchase price which is the lesser of: (1) the fair market value of the land on the date of purchase; or (2) the fair market value of the land at the time the tentative subdivision map was approved plus the costs of certain expenses paid by the subdivider. This bill also provides that, in such a county, if the purchase is not completed within 5 years after the final map that shows the school site is approved, the subdivider need not

continue to set aside the land for the school district. This bill further requires a school district in such a county **that purchased land for a school site** to offer the land back to the subdivider or successor in interest if construction on a school has not begun at the site within ~~[5]~~ **10** years from the date ~~[of purchase unless the school district has requested an exemption from the planning commission to delay construction of the school for up to another 5 years. This bill sets forth the circumstances under which the school district may apply for such an exemption.]~~ **on which the final map that shows the school site was approved.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 278.346 is hereby amended to read as follows:

278.346 1. The planning commission or its designated representative ~~[,]~~ or, if there is no planning commission, the clerk or other designated representative of the governing body shall ***, not more than 10 days after the tentative map is filed pursuant to the provisions of subsection 2 of NRS 278.330,*** forward a copy of the tentative map to the board of trustees of the school district within which the proposed subdivision is located. Within 15 days after receipt of the copy, the board of trustees ***or its designee*** shall, if a school site is needed within the area, notify the commission or governing body that a site is requested.

2. If the board of trustees requests a site ~~[, the person proposing the subdivision]~~ ***:***

(a) The subdivider shall ***, except as otherwise provided in subsection 8,*** set aside a site of the size which is determined by the board. ~~[The person proposing the subdivision]~~

(b) The subdivider and the board of trustees shall ***, except as otherwise provided in subsections 7 and 8,*** negotiate for the price of the site, which must not exceed the fair market value of the land as determined by an independent appraisal paid for by the board.

3. If any land purchased by ~~[a]~~ ***the*** school district pursuant to the provisions of ~~[this subsection have]~~ ***subsection 2 has*** not been placed in use as a school site at the end of 10 years from the date of purchase, the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value ~~[. If such person]~~ ***of the land at the time*** ~~*[such determination is made,]*~~ ***of the offer, as determined by an independent appraisal paid for by the board.***

4. If the subdivider or his successor in interest does not accept ~~[the offer,]~~ ***an offer made pursuant to the provisions of subsection 3 or 9,*** then the board of trustees may:

(a) Sell or lease such property in the manner provided in NRS 277.050 or 393.220 to 393.320, inclusive;

(b) Exchange such property in the manner provided in NRS 277.050 or 393.326 to 393.3293, inclusive; or

(c) Retain such property, if such retention is determined to be in the best interests of the school district.

~~[3.]~~ ***5.*** Except as ***otherwise*** provided in subsection ~~[4,]~~ ***6,*** when any land dedicated to the use of the public school system or any land purchased and used as a school site becomes unsuitable, undesirable or impractical for any school uses or purposes, the board of trustees of the county school district in which the land is located shall dispose of the land as provided in subsection ~~[2.]~~ ***4.***

~~[4.]~~ ***6.*** Land dedicated under the provisions of former NRS 116.020, as it read before April 6, 1961, which the board of trustees determines is unsuitable, undesirable or impractical for school purposes may be reconveyed without cost to the dedicator or his successor or successors in interest.

7. Except as otherwise provided in subsection 8, in a county whose population is 100,000 or more but less than 400,000, the school district may purchase the site for a price negotiated between the subdivider and the board of trustees, which price must not exceed the lesser of:

(a) The fair market value of the land at the time the tentative map was approved, as determined by an independent appraisal paid for by the board, plus any costs paid by the subdivider with respect to that land between the date the tentative map was approved and the date of purchase; or

(b) The fair market value of the land on the date of purchase, as determined by an independent appraisal paid for by the board.

8. If, 5 years after the date on which the final map that contains the school site was approved, a school district has not purchased the site pursuant to the provisions of subsection 7, the subdivider need not continue to set aside the site pursuant to the provisions of subsection 2.

9. ~~*[Except as otherwise provided in subsection 10, if, 5]*~~ ***If, 10 years after the date*** ~~*[of purchase of a school site pursuant to subsection 7,]*~~ ***on which the final map that contains the school site was approved, construction of a school at the school site has not yet begun, the land purchased by the school district pursuant to subsection 7 must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value of the land at the time*** ~~*[such determination is made,]*~~ ***of the offer, as determined by an independent appraisal paid for by the board.***

~~*[10. The school district may apply to the planning commission for an extension of not more than 5 years to the limitation set forth in subsection 9 for the construction of a school at the school site. To apply for an extension pursuant to this subsection, the school district must demonstrate the existence of extenuating circumstances which have caused the delay in beginning the construction of the school. The planning commission must consider an application for an extension requested pursuant to this subsection at a public hearing. As used in this subsection "extenuating circumstances" may include, without limitation:*~~

~~*(a) Changes in the demand for a school site due to changes in relevant demographics.*~~

~~*(b) Delays or other significant changes in the construction of the proposed subdivision.*~~

~~*(c) A temporary lack of funds available to the school district to construct the school.*~~

~~*(d) Any other issue or problem related to the construction of the school that could not have been reasonably anticipated by the school district at the time the school site was purchased, including, without limitation, environmental issues at the school site and the unavailability of building materials.*~~

~~*11. If a school district receives an extension pursuant to subsection 10 and the school district does not begin construction of a school at the school site before the expiration of such extension, the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value of the land at the time that the extension expires, as determined by an independent appraisal paid for by the board.]*~~

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 220.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 16.

The following Senate amendment was read:

Amendment No. 631.

AN ACT relating to emergency medical services; providing for the disclosure of certain information to an emergency response employee concerning possible exposure to an infectious disease; requiring certain notifications concerning such an exposure; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill requires each employer of emergency response employees in this State to designate at least one employee to serve as a designated officer to act on behalf of its emergency response employees with regard to their possible exposure to infectious diseases.

Section 7 of this bill requires a medical facility **or, in certain circumstances, the county coroner or medical examiner, as applicable,** to notify a designated officer of an emergency response employee who transported a victim of an emergency who the medical facility **, county coroner or medical examiner** determines has an ~~[airborne]~~ infectious disease. **Section 8** of this bill authorizes an emergency response employee to request that his designated officer make an initial determination of the employee's possible exposure to an infectious disease. **Section 9** of this bill requires a medical facility **, county coroner or medical examiner** to respond

to a request from a designated officer of an emergency response employee regarding whether the employee may have been exposed to an infectious disease once the medical facility **, county coroner or medical examiner** makes such a determination. **Section 10** of this bill provides that if information was insufficient for a medical facility **, county coroner or medical examiner** to determine whether an emergency response employee was exposed to an infectious disease, the health officer in whose jurisdiction the medical facility **, county coroner or medical examiner** is located shall evaluate the request and the response of the medical facility **[.]** **, county coroner or medical examiner.** **Section 11** of this bill requires a designated officer to notify each emergency response employee who responded to an emergency and may have been exposed to an infectious disease of the determination of the medical facility **[.]** **, county coroner or medical examiner.** **Section 12** of this bill provides limitations on the liability of a medical facility **, county coroner, medical examiner** or designated officer and clarifies that the provisions of this bill do not authorize an emergency response employee to fail to respond or deny services to a victim of an emergency. **Section 12** further provides that this bill does not authorize or require a medical facility **, county coroner or medical examiner** to test any victim of an emergency for the presence of an infectious disease and does not authorize or require certain persons to disclose the identity of such a victim or an emergency response employee.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 450B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ***"Designated officer" means a person designated by an employer to serve as a designated officer for its emergency response employees pursuant to section 6 of this act.***

Sec. 3. ***"Emergency response employee" means a firefighter, attendant, volunteer attendant, emergency medical technician, intermediate emergency medical technician, advanced emergency medical technician , law enforcement officer, correctional officer, other peace officer or person who is employed by an agency of criminal justice, county coroner or medical examiner or any of their employees, any other public employee whose duties may require him to come into contact with human blood or bodily fluids or any other person who, in the course of his professional duties, responds to emergencies in this State.***

Sec. 4. ***"Exposed" or "exposure" means any circumstances which create a significant risk of a person becoming infected with an infectious disease.***

Sec. 5. ***"Infectious disease" means a disease caused by a living organism or other pathogen, including, without limitation, a fungus, bacillus, parasite, protozoan or virus.***

Sec. 6. ***Each employer of emergency response employees in this State shall designate at least one employee to serve as a designated officer to receive notifications and responses and make requests on behalf of its emergency response employees pursuant to sections ~~[2]~~ 6 to 12, inclusive, of this act.***

Sec. 7. ***1. Except as otherwise provided in NRS 441A.195, if a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility determines that the victim has an ~~[airborne]~~ infectious disease, the medical facility shall notify a designated officer of the emergency response employees of that determination.***

2. If a victim of an emergency is transported by emergency response employees to a medical facility, the victim dies at or before reaching the medical facility and the ~~[medical facility]~~ county coroner or medical examiner of the county in which the victim dies, as applicable, determines the cause of death of the victim, the ~~[medical facility]~~ county coroner or medical examiner shall notify a designated officer of the emergency response employees of any determination by the ~~[medical facility]~~ county coroner or medical examiner that the victim had an ~~[airborne]~~ infectious disease.

3. The medical facility to which the victim is transported or the county coroner or medical examiner of the county in which the victim dies, as applicable, shall cause the notification required by subsection 1 or 2 , as appropriate, to be made as soon as practicable, but not later than 48 hours after the determination is made.

4. The notification must include, without limitation:

(a) The name of the ~~[airborne]~~ infectious disease to which the emergency response employees may have been exposed; and

(b) The date on which the victim of the emergency was transported by the emergency response employees to the medical facility.

~~*[5. As used in this section, "airborne infectious disease" means an infectious disease transmitted from person to person by an aerosol, including, without limitation, tuberculosis.]*~~

Sec. 8. ***1. Except as otherwise provided in NRS 441A.195, if an emergency response employee believes that he may have been exposed to an infectious disease by a victim of an emergency who was transported, attended, treated or assisted by the emergency response employee, a designated officer of the employee shall, upon the request of the employee, make an initial determination of the possible exposure of the employee to an infectious disease by:***

(a) Collecting the facts relating to the circumstances under which the employee may have been exposed to an infectious disease; and

(b) Evaluating the facts to determine whether the victim had an infectious disease and whether the employee may have been exposed to the disease.

2. If a designated officer determines that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim was transported or the county coroner or medical examiner of the county in which the victim died, as applicable, a written request for a response.

Sec. 9. ***1. If a medical facility , county coroner or medical examiner, as applicable, receives a written request for a response pursuant to subsection 2 of section 8 of this act, the medical facility , county coroner or medical examiner shall, as soon as practicable but not later than 48 hours after receiving the request, evaluate the facts submitted in the request and determine whether the emergency response employee was exposed to an infectious disease.***

2. If the medical facility , county coroner or medical examiner, as applicable, determines that the emergency response employee may have been exposed or was not exposed to an infectious disease or that insufficient information exists for ~~[it to make]~~ a determination ~~[,]~~ to be made, the medical facility , county coroner or medical examiner shall notify, in writing, the designated officer who submitted the request.

~~*[3. If a victim dies at or before reaching the medical facility and the medical facility receives a written request for a response pursuant to subsection 2 of section 8 of this act, the medical facility shall provide a copy of the request to any other medical facility that is ascertaining the cause of death of the victim.]*~~

Sec. 10. ***1. If a designated officer receives a notice from a medical facility , county coroner or medical examiner, as applicable, pursuant to subsection 2 of section 9 of this act that insufficient information exists for the medical facility , county coroner or medical examiner to make a determination of whether an emergency response employee was exposed to an infectious disease, the designated officer may submit a request for further evaluation to the health officer in whose jurisdiction the medical facility , county coroner or medical examiner is located. A request submitted pursuant to this subsection must include the original request for a written response submitted by the designated officer pursuant to subsection 2 of section 8 of this act.***

2. If a health officer receives a request for further evaluation pursuant to subsection 1, the health officer shall evaluate the request and the request for a written response submitted by the designated officer pursuant to subsection 2 of section 8 of this act. An evaluation conducted pursuant to this subsection must be completed as soon as practicable but not later than 48 hours after the request for further evaluation is received.

3. If an evaluation conducted pursuant to subsection 2 indicates that the facts provided to the medical facility , county coroner or medical examiner, as applicable, were:

(a) Sufficient to determine that an emergency response employee was exposed to an infectious disease, the health officer shall, on behalf of the

designated officer, resubmit the request to the medical facility ~~[.]~~ , county coroner or medical examiner; or

(b) Insufficient to determine that an emergency response employee was exposed to an infectious disease, the health officer shall advise the designated officer in writing regarding the collection and description of additional facts for further evaluation by the medical facility , county coroner or medical examiner pursuant to section 9 of this act.

Sec. 11. ***1. If a designated officer receives a notice from a medical facility , county coroner or medical examiner, as applicable, pursuant to section 9 of this act that an emergency response employee may have been exposed to an infectious disease, the designated officer shall, as soon as is practicable after receiving the notice, notify each emergency response employee who responded to the emergency and may have been exposed to an infectious disease.***

2. The notification must include, without limitation:

(a) A statement indicating that the emergency response employee may have been exposed to an infectious disease;

(b) The name of the infectious disease;

(c) The date on which the victim of the emergency was transported by the emergency response employee to the medical facility; and

(d) Any action that is medically appropriate for the emergency response employee to take.

Sec. 12. ***The provisions of sections ~~[2]~~ 6 to 12, inclusive, of this act must not be construed to:***

1. Authorize any cause of action for damages or any civil penalty against a medical facility , county coroner, medical examiner or designated officer that fails to comply with any requirement of those provisions.

2. Require or authorize a medical facility , county coroner or medical examiner to test a victim of an emergency for the presence of an infectious disease.

3. Require or authorize a medical facility, county coroner, medical examiner, designated officer or emergency response employee to disclose the identity of or identifying information about a victim of an emergency or an emergency response employee.

4. Authorize an emergency response employee to fail to respond or deny services to a victim of an emergency.

Sec. 13. NRS 450B.020 is hereby amended to read as follows:

450B.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 450B.025 to 450B.110, inclusive, ***and sections 2 to 5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 14. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 16.

Remarks by Assemblymen Smith, Oceguera, and Hardy.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 307.

The following Senate amendment was read:

Amendment No. 682.

AN ACT relating to property taxes; revising provisions governing the publication of certain information relating to property taxes for counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a board of county commissioners to publish the annual list of all taxpayers on the secured roll and the property values only on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor, thereby removing the requirement to publish this information in a newspaper of general circulation in the county or to mail the list to each taxpayer. **Section 1 also requires that the notices of completion of the secured property tax roll include a statement indicating that the secured roll is available on the Internet and providing the Internet address.**

Section 2 of this bill amends the requirements for publishing notices of delinquencies for counties by providing for publication of such notices on the website or other Internet site.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the secured tax roll is completed and open for inspection by interested persons of the county. ***The transmitted, posted and published notices must each contain a statement indicating that the secured roll is available on the Internet and state the Internet address where the secured roll is available. The statement published in the newspaper must be prominently displayed in the format used for advertisements in at least 10-point bold type or font.***

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow him a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. ~~[Except as otherwise provided in subsection 4, each]~~ ***Each*** board of county commissioners shall by resolution, before December 1 of any fiscal year in which an assessment is made, require the county assessor to prepare a

list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor ~~[:]~~ ***to cause such list and valuations to be posted on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.***

~~[(a) To cause such list and valuations to be printed and delivered by the county assessor or mailed by him on or before January 1 of the fiscal year in which assessment is made to each taxpayer in the county; or~~

~~(b) To cause such list and valuations to be published once on or before January 1 of the fiscal year in which assessment is made in a newspaper of general circulation in the county.~~

~~➥ In addition to complying with paragraph (a) or (b), the]~~

4. ***The*** list and valuations may also be posted in a public area of the public libraries and branch libraries located in the county, ~~[in a public area of]~~ the county courthouse ~~[and]~~ ***or*** the county office building in which the county assessor's office is located ***.*** ~~[, and on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.~~

~~4. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as provided in paragraph (a) of subsection 3, to taxpayers whose property is assessed at $1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.]~~

5. The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this section on a claim to be allowed and paid as are other claims against the county.

6. Whenever property is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal. ***The written notice must include a statement in at least 10-point bold type or font indicating that the secured roll is available on the Internet and state the Internet address where the secured roll is available.***

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site ~~[, if any,]~~ that is operated or administered by or on behalf of the county or the county assessor.

Sec. 2. NRS 361.565 is hereby amended to read as follows:

361.565 1. ~~[Except as otherwise provided in subsection 3, if]~~ ***If*** the tax remains delinquent 30 days after the first Monday in April of each year, the tax receiver of the county shall cause notice of the delinquency to be published at least once ***on the website or other Internet site that is operated or administered by or on behalf of the county or county assessor*** ~~[in the newspaper which publishes the list of taxpayers]~~ pursuant to NRS 361.300. ~~[If there is no newspaper in the county, the notice must be posted in at least five conspicuous places within the county.]~~

2. The cost of publication in each case must be charged to the delinquent taxpayer, and is not a charge against the State or county. The publication must be made at not more than legal rates.

3. ~~[If the delinquent property consists of unimproved real estate assessed at a sum not exceeding $25, the notice must be given by posting a copy of the notice in three conspicuous places within the county without publishing the notice in a newspaper.~~

~~4.]~~ The notice must contain the information required for a notice mailed pursuant to NRS 361.5648.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblywoman McClain moved that the Assembly concur in the Senate amendment to Assembly Bill No. 307.

Remarks by Assemblywoman McClain.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 89.

The following Senate amendment was read:

Amendment No. 659.

AN ACT relating to the protection of children; making various changes concerning the investigation of applicants for a license to operate a child care facility, licensees and others over whom applicants or licensees exercise some control; requiring applicants and licensees to terminate certain employees and remove certain residents and participants in outdoor youth programs who have been convicted of certain crimes or who have had a substantiated report of child abuse or neglect made against them; expanding the grounds for denying a license and for taking other disciplinary action against a licensee; authorizing the imposition of administrative fines for

violations of certain laws and regulations concerning licensure of child care facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure of certain child care facilities. (NRS 432A.131-432A.220) As part of the process for obtaining a license, the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services conducts a background check of each applicant for a license, licensee, employee of an applicant or licensee and every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older. (NRS 432A.170, 432A.175) **Section 5** of this bill expands the list of crimes that the Bureau must inquire about as part of such an investigation and requires the Bureau to request information concerning every applicant, licensee, employee, resident or participant from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child to determine whether there has been a substantiated report of child abuse or neglect made against any of those persons. (NRS 432A.170) **Section 6** of this bill requires the Bureau to obtain permission from each such applicant, licensee, employee, resident or participant to obtain such information from the Statewide Central Registry. (NRS 432A.175) If an employee of an applicant or licensee, or a resident or participant, has been convicted of one of the crimes inquired about as part of the investigation, the Bureau is required to notify the applicant or licensee. Upon receiving such notice, **section 2** of this bill requires the applicant or licensee to terminate the employment of the employee, remove the resident from the child care facility or remove the participant from the outdoor youth program, as applicable, after affording the person an opportunity to correct the information. **Section 6** further requires an applicant or licensee to notify the Bureau when the applicant, licensee, employee, resident or participant is involved in certain legal proceedings or disciplinary hearings or charged with certain crimes. (NRS 432A.175)

Section 4 of this bill prohibits the Bureau from issuing a provisional license to operate a child care facility unless the Bureau has completed an investigation into the qualifications and background of the applicant and his employees to ensure that they have not been convicted of certain crimes or had a substantiated report of child abuse or neglect made against them. (NRS 432A.160)

Section 7 of this bill expands the grounds for denial of an application for a license to operate a child care facility and for taking disciplinary action against a licensee and authorizes the Bureau to impose administrative fines for a violation of the statutes governing licensure of child care facilities or the regulations adopted pursuant thereto. (NRS 432A.190)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Upon receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or evidence from any other source that an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him, the applicant or licensee shall terminate the employment of the employee or remove the resident from the facility or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to subsection 2.***

2. If an employee, resident or participant believes that the information provided to the applicant or licensee pursuant to subsection 1 is incorrect, he must inform the applicant or licensee immediately. The applicant or licensee shall give any such employee, resident or participant 30 days to correct the information.

3. During any period in which an employee, resident or participant seeks to correct information pursuant to subsection 2, it is within the discretion of the applicant or licensee whether to allow the employee, resident or participant to continue to work for or reside at the child care facility or participate in the outdoor youth program, as applicable.

Sec. 3. ***1. Each applicant for a license to operate a child care facility and licensee shall maintain records of the information concerning its employees and any residents of the child care facility or participants in any outdoor youth program who are 18 years of age or older that is collected pursuant to NRS 432A.170 and 432A.175, including, without limitation:***

(a) ~~*[A copy of the fingerprints submitted to the Central Repository for Nevada Records of Criminal History;*~~

~~*(b)]*~~ ***Proof that the applicant or licensee submitted fingerprints to the Central Repository for its report; and***

~~*[(c)]*~~ ***(b) The written authorization to obtain information from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 .*** ~~*[; and*~~

~~*(d) Proof that the applicant or licensee requested information from the Statewide Central Registry.]*~~

2. The records maintained pursuant to subsection 1 must be made available for inspection by the Bureau at any reasonable time, and copies thereof must be furnished to the Bureau upon request.

Sec. 4. NRS 432A.160 is hereby amended to read as follows:

432A.160 1. ~~[The]~~ ***Except as otherwise provided in this section, the*** Bureau may issue a provisional license, effective for a period not exceeding 1 year, to a child care facility which:

(a) Is in operation at the time of adoption of standards and other regulations pursuant to the provisions of this chapter, if the Bureau determines that the facility requires a reasonable time under the particular circumstances, not to exceed 1 year from the date of the adoption, within which to comply with the standards and other regulations;

(b) Has failed to comply with the standards and other regulations, if the Bureau determines that the facility is in the process of making the necessary changes or has agreed to effect the changes within a reasonable time; or

(c) Is in the process of applying for a license, if the Bureau determines that the facility requires a reasonable time within which to comply with the standards and other regulations.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Bureau from refusing to renew or from revoking or suspending any license in any instance where the Bureau considers that action necessary for the health and safety of the occupants of any facility or the clients of any outdoor youth program.

3. A provisional license must not be issued pursuant to this section unless the Bureau has completed an investigation into the qualifications and background of the applicant and his employees pursuant to NRS 432A.170 to ensure that the applicant and each employee of the applicant, or every resident of the child care facility or participant in any outdoor youth program who is 18 years of age or older, has not been convicted of a crime listed in subsection 2 of NRS 432A.170 and has not had a substantiated report of child abuse or neglect made against him.

Sec. 5. NRS 432A.170 is hereby amended to read as follows:

432A.170 1. The Bureau may, upon receipt of an application for a license to operate a child care facility, conduct an investigation into the:

(a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or his employees;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. The Bureau shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, to determine whether he has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency; ~~[or]~~

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS ~~[.]~~ ***;***

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. ***The Bureau shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.***

4. The Bureau may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning an:

(a) Employee of an applicant or licensee, resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program, and then at least once every 6 years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every 6 years after the license is issued.

Sec. 6. NRS 432A.175 is hereby amended to read as follows:

432A.175 1. Every applicant ~~[,]~~ ***for a license to operate a child care facility,*** licensee and employee of ***such*** an applicant or licensee, and every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, shall submit to the Bureau, or to the person or agency designated by the Bureau, ***to enable the Bureau to conduct an investigation pursuant to NRS 432A.170,*** a:

(a) Complete set of fingerprints and a written authorization for the Bureau or its designee to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; ~~[and]~~

(b) Written statement detailing any prior criminal convictions ~~[,~~ ~~to enable the Bureau to conduct an investigation pursuant to NRS 432A.170.]~~ ***; and***

(c) Written authorization for the Bureau to obtain any information that may be available from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. If an employee of an applicant ***for a license to operate a child care facility*** or licensee, or ~~[such]~~ a resident ***of a child care facility*** or participant ~~[.]~~ ***in an outdoor youth program who is 18 years of age or older,*** has been convicted of any crime listed in subsection 2 of NRS 432A.170 ~~[.]~~ ***or has had a substantiated report of child abuse or neglect filed against him,*** the Bureau shall immediately notify the applicant or licensee ~~[.]~~ ***, who shall then comply with the provisions of section 2 of this act.***

3. An applicant for a license to operate a child care facility or licensee shall notify the Bureau within 2 days after receiving notice that:

(a) The applicant, licensee or an employee of the applicant or licensee, or a resident of the child care facility or participant in an outdoor youth program who is 18 years of age or older, or a facility or program operated by the applicant or licensee, is the subject of a lawsuit or any disciplinary proceeding; or

(b) The applicant or licensee, an employee, a resident or participant has been charged with a crime listed in subsection 2 of NRS 432A.170 or is being investigated for child abuse or neglect.

Sec. 7. NRS 432A.190 is hereby amended to read as follows:

432A.190 1. The Bureau may deny an application for a license ***to operate a child care facility*** or may suspend or revoke ~~[any license issued under the provisions of this chapter]~~ ***such a license*** upon any of the following grounds:

(a) Violation by the applicant or licensee or an employee of the applicant or licensee of any of the provisions of this chapter or of any other law of this State or of the standards and other regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the child care facility for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the child care facility, or the clients of the outdoor youth program.

(e) Conviction of any crime listed in subsection 2 of NRS 432A.170 committed by the applicant or licensee or an employee of the applicant or licensee, or by a resident of the child care facility or participant in the outdoor youth program who is 18 years of age or older.

(f) Failure to comply with the provisions of NRS 432A.178.

(g) Substantiation of a report of child abuse or neglect made against the applicant or licensee.

(h) Conduct which is found to pose a threat to the health or welfare of a child or which demonstrates that the applicant or licensee is otherwise unfit to work with children.

(i) Violation by the applicant or licensee of the provisions of section 2 of this act by continuing to employ a person, allowing a resident to continue to reside in the child care facility or allowing a participant in an outdoor youth program to continue to participate in the program if the employee, or the resident or participant who is 18 years of age or older, has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him.

2. In addition to the provisions of subsection 1, the Bureau may revoke a license to operate a child care facility if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Bureau shall maintain a log of any complaints that it receives relating to activities for which the Bureau may revoke the license to operate a child care facility pursuant to subsection 2. The Bureau shall provide to a child care facility:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Bureau either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➥ The facility shall make the information available to the public pursuant to NRS 432A.178.

4. ***In addition to any other disciplinary action, the Bureau may impose an administrative fine for a violation of any provision of this chapter or any regulation adopted pursuant thereto. The Bureau shall afford to any person so fined an opportunity for a hearing. Any money collected for the imposition of such a fine must be credited to the State General Fund.***

5. On or before February 1 of each odd-numbered year, the Bureau shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Bureau pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Bureau pursuant to subsection 2.

Sec. 8. NRS 432A.220 is hereby amended to read as follows:

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, ***and sections 2 and 3 of this act*** is guilty of a misdemeanor.

Sec. 9. The Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services is not required to obtain the information required pursuant to subsections 2 and 3 of section 5 of this act concerning a person who, on October 1, 2009, is a licensee, employee of a licensee, or resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older until 6 years after the license was issued or renewed, or from the date of employment of an employee, residency of a resident or participation of a participant.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 89.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 24.

The following Senate amendment was read:

Amendment No. 599.

AN ACT relating to industrial insurance; revising provisions relating to the duty of an insurer to accept or deny a claim for compensation; revising provisions relating to the selection of a physician or chiropractor by an injured employee; revising provisions relating to the denial of compensation due to discharge from employment for misconduct; revising provisions relating to the closure of a claim; repealing provisions requiring the reduction of compensation by the amount of federal disability insurance benefits received by an injured employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an insurer is required to accept or deny a claim for compensation within 30 days after the insurer has been notified of an industrial accident. (NRS 616C.065) **Section 2** of this bill provides that if an insurer is ordered by the Administrator of the Division of Industrial Relations of the Department of Business and Industry, a hearing or appeals officer, a district court or the Supreme Court of Nevada to make a new determination relating to a claim for compensation, such a determination must be made within 30 days after the order.

Existing law provides that an injured employee may choose an alternative treating physician or chiropractor after making his initial choice if the alternative choice is made within 90 days after the injury. (NRS 616C.090) **Section 3** of this bill clarifies existing law by providing that an injured employee may make the alternative choice without the insurer's approval if the alternative choice is made within 90 days after the injury. **Section 3** also

provides that an injured employee may make a change in the treating physician or chiropractor at any time, subject to the insurer's approval. **Section 3** further requires an insurer to provide to an injured employee whose request for a change in the treating physician or chiropractor has been denied the specific reason for the denial.

Section 4 of this bill provides that the affidavit or declaration of a qualified laboratory director, chemist or any other person meeting certain qualifications may be used to prove the existence of alcohol or controlled substances in an employee's system in denying, reducing or suspending the payment of compensation for an injury. (NRS 616C.230)

Section 5 of this bill revises existing provisions governing the denial of compensation to injured employees who have been discharged for misconduct by providing that only compensation for temporary total disability may be denied. (NRS 616C.232)

Section 5.5 of this bill revises existing law by requiring an insurer to notify an injured employee whose claim will be closed whether an evaluation for a permanent partial disability has been scheduled or, if such an evaluation has not been scheduled, that the reason is because the insurer determined there is no possibility of a permanent impairment of any kind. (NRS 616C.235)

Section 9 of this bill repeals the provisions requiring a reduction in the compensation received by an employee for temporary disability, permanent partial disability or permanent total disability by the amount of federal disability insurance benefits received by the employee. (NRS 616C.430)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 616C.050 is hereby amended to read as follows:

616C.050 1. An insurer shall provide to each claimant:

(a) Upon written request, one copy of any medical information concerning his injury or illness.

(b) A statement which contains information concerning the claimant's right to:

(1) Receive the information and forms necessary to file a claim;

(2) Select a treating physician or chiropractor and an alternative treating physician or chiropractor in accordance with the provisions of NRS 616C.090;

(3) Request the appointment of the Nevada Attorney for Injured Workers to represent him before the appeals officer;

(4) File a complaint with the Administrator;

(5) When applicable, receive compensation for:

(I) Permanent total disability;

(II) Temporary total disability;

(III) Permanent partial disability;

(IV) Temporary partial disability;

(V) All medical costs related to his injury or disease; or

(VI) The hours he is absent from the place of employment to receive medical treatment pursuant to NRS 616C.477;

(6) Receive services for rehabilitation if his injury prevents him from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection ~~[7]~~ ***8*** of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

Sec. 2. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.

2. ***If an insurer is ordered by the Administrator, a hearing officer, an appeals officer, a district court or the Supreme Court of Nevada to make a new determination, including, without limitation, a new determination regarding the acceptance or denial of a claim for compensation, the insurer shall make the new determination within 30 days after the date on which the insurer has been ordered to do so.***

3. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

~~[3.]~~ ***4.*** Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

~~[4.]~~ ***5.*** The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 ***or 2*** by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

~~[5.]~~ ***6.*** The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection ~~[4]~~ ***5*** shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

~~[6.]~~ ***7.*** Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.

~~[7.]~~ ***8.*** For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

~~[8.]~~ ***9.*** As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 3. NRS 616C.090 is hereby amended to read as follows:

616C.090 1. The Administrator shall establish a panel of physicians and chiropractors who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractors on the panel who are reasonably accessible to his employees.

2. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 may choose his treating physician or chiropractor from the panel of physicians and chiropractors. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor from the panel if the choice is made within 90 days after his injury. The insurer shall notify the first physician or chiropractor in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractor must be reimbursed only for the services he rendered to the injured employee up to and including the date of notification. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or

chiropractor chosen by the injured employee. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is on the panel. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list.

3. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 must choose his treating physician or chiropractor pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor pursuant to the terms of the contract ***without the approval of the insurer*** if the choice is made within 90 days after his injury. If the injured employee, after choosing his treating physician or chiropractor, moves to a county which is not served by the organization for managed care or providers of health care services named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractor, the injured employee must choose a treating physician or chiropractor who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractor. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care services pursuant to NRS 616B.527, as appropriate. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list. If the employee fails to select a physician or chiropractor, the insurer may select a physician or chiropractor with that specialization. If a physician or chiropractor with that specialization is not available pursuant to the terms of the contract, the organization for managed care or the provider of health care services may select a physician or chiropractor with that specialization.

4. ***If the injured employee is not satisfied with the physician or chiropractor selected by himself or by the insurer, the organization for managed care or the provider of health care services pursuant to subsection 3, the injured employee may make an alternative choice of physician or chiropractor pursuant to the terms of the contract. A change in the treating physician or chiropractor may be made at any time but is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician***

or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the insurer denies a request for a change in the treating physician or chiropractor under this subsection, the insurer must include in a written notice of denial to the injured employee the specific reason for the denial of the request.

5. Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any charges for medical treatment or other accident benefits furnished or ordered by any physician, chiropractor or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such physician, chiropractor or other person.

~~[5.]~~ ***6.*** The Administrator may order necessary changes in a panel of physicians and chiropractors and shall suspend or remove any physician or chiropractor from a panel for good cause shown.

~~[6.]~~ ***7.*** An injured employee may receive treatment by more than one physician or chiropractor if the insurer provides written authorization for such treatment.

~~[7.]~~ ***8.*** The Administrator shall design a form that notifies injured employees of their right pursuant to subsections 2 ***,*** ~~[and]~~ 3 ***and 4*** to select an alternative treating physician or chiropractor and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

Sec. 4. NRS 616C.230 is hereby amended to read as follows:

616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

(a) Caused by the employee's willful intention to injure himself.

(b) Caused by the employee's willful intention to injure another.

(c) Proximately caused by the employee's intoxication. If the employee was intoxicated at the time of his injury, intoxication must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

(d) Proximately caused by the employee's use of a controlled substance. If the employee had any amount of a controlled substance in his system at the time of his injury for which the employee did not have a current and lawful prescription issued in his name or that he was not using in accordance with the provisions of chapter 453A of NRS, the controlled substance must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS ***50.310,*** 50.315 ***or 50.320*** is admissible to prove the existence of any alcohol or the existence, quantity or identity of a controlled substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.

(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

3. No compensation is payable for the death, disability or treatment of an employee if his death is caused by, or insofar as his disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his recovery, his compensation may be reduced or suspended.

5. An injured employee's compensation, other than accident benefits, must be suspended if:

(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of his employment; and

(b) It is within the ability of the employee to correct the nonindustrial condition or injury.

➥ The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer may elect to pay for the treatment of the nonindustrial condition or injury.

Sec. 5. NRS 616C.232 is hereby amended to read as follows:

616C.232 1. If an injured employee is discharged from his employment as a result of misconduct, an insurer may deny compensation ***for temporary total disability*** to the injured employee because of that discharge for misconduct only if the insurer proves by a preponderance of the evidence that:

(a) The injured employee was discharged from his employment solely for his misconduct and not for any reason relating to his claim for compensation; and

(b) It is the injured employee's discharge from his employment for misconduct, and not his injury, that is the sole cause for the injured employee's inability to return to work with the preinjury employer.

2. An insurer waives its rights under subsection 1 if the insurer does not make a determination to deny or suspend compensation to the injured employee within 70 days after the date on which the insurer learns that the injured employee has been discharged for misconduct.

3. An insurer may not deny any compensation pursuant to this section except for compensation for temporary total disability pursuant to subsection 1.

Sec. 5.5. NRS 616C.235 is hereby amended to read as follows:

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer

shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must include, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement that if the claimant does not agree with the determination, he has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A suitable form for requesting a resolution of the dispute must be enclosed with the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.

(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.

(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.

2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than $300, the insurer may close the claim at any time after he sends, by first-class mail addressed to the last known address of the claimant, written notice that includes a statement which prominently displays that:

(a) The claim is being closed pursuant to this subsection;

(b) The injured employee may appeal the closure of the claim pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive; and

(c) If the injured employee does not appeal the closure of the claim or appeals the closure of the claim but is not successful, the claim cannot be reopened.

3. In addition to the notice described in subsection 2, an insurer shall send to each claimant who receives less than $300 in medical benefits within 6 months after the claim is opened a written notice that explains the circumstances under which a claim may be closed pursuant to subsection 2. The written notice provided pursuant to this subsection does not create any right to appeal the contents of that notice. The written notice must be:

(a) Sent by first-class mail addressed to the last known address of the claimant; and

(b) A document that is separate from any other document or form that is used by the insurer.

4. The closure of a claim pursuant to subsection 2 is not effective unless notice is given as required by subsections 2 and 3.

5. In addition to the requirements of this section, an insurer shall include in the written notice described in subsection 2:

(a) If an evaluation for a permanent partial disability has been scheduled pursuant to NRS 616C.490, a statement to that effect; or

(b) If an evaluation for a permanent partial disability will not be scheduled pursuant to NRS 616C.490, a statement explaining that the reason is because the insurer has determined there is no possibility of a permanent impairment of any kind.

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 616C.475 is hereby amended to read as follows:

616C.475 1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or his dependents, is entitled to receive for the period of temporary total disability, 66 2/3 percent of the average monthly wage.

2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his dependents are entitled to receive such benefits when the injured employee is released from incarceration if he is certified as temporarily totally disabled by a physician or chiropractor.

3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within 14 working days after receipt of the initial certification of disability and regularly thereafter.

4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.

5. Payments for a temporary total disability must cease when:

(a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;

(b) The employer offers the employee light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or

(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.

6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the Division for the injured employee to request continued compensation for the temporary total disability.

7. A certification of disability issued by a physician or chiropractor must:

(a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;

(b) Specify whether the limitations or restrictions are permanent or temporary; and

(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection 3 ***or 4*** of NRS 616C.090.

8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of his accident may offer temporary, light-duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light-duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light-duty employment made by the employer must specify a position that:

(a) Is substantially similar to the employee's position at the time of his injury in relation to the location of the employment and the hours he is required to work;

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his injury; and

(c) Has the same employment benefits as the position of the employee at the time of his injury.

Sec. 9. NRS 616C.430 is hereby repealed.

Sec. 10. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

616C.430 Reduction of compensation by amount of federal disability insurance benefits received by employee.

1. If an employee who is entitled to compensation under chapters 616A to 616D, inclusive, of NRS for temporary total disability, permanent partial disability or permanent total disability becomes entitled to federal disability insurance benefits under section 202 or 223 of the Social Security Act, as amended, 42 U.S.C. 402 and 423, respectively, the employee's compensation under chapters 616A to 616D, inclusive, of NRS must be reduced by the amount of the federal benefits being received by him.

2. This section must not be applied to reduce the employee's compensation under chapters 616A to 616D, inclusive, of NRS to any greater extent than his federal benefits would have otherwise been reduced by the Social Security Administration under section 224 of the Social Security Act,

as amended, 42 U.S.C. 424a. After any reduction pursuant to this section, the combination of his state compensation and federal benefits must be at least as much as the greater of:

(a) The benefits payable pursuant to chapters 616A to 616D, inclusive, of NRS, without the reduction; or

(b) The benefits payable under the Social Security Act, without any reduction.

3. After a reduced amount of compensation for an employee has been established pursuant to this section, no further reduction in his compensation may be made because he receives an increase in his benefits under the Social Security Act as the result of an adjustment based on an increase in the cost of living.

4. No compensation may be reduced pursuant to this section until the Social Security Administration has determined the amount of benefits payable to the employee under section 202 or 223 of the Social Security Act and he has begun to receive those benefits.

5. If an employee:

(a) Fails to report the amount of benefits which he is receiving under section 202 or 223 of the Social Security Act, within 30 days after he is requested in writing by the insurer to make that report; or

(b) Fails to provide the insurer with a written authorization for the Social Security Administration to release information on the employee's average current earnings and the amount of benefits to which he is entitled, within 30 days after he is requested to provide that authorization,

➥ the insurer may reduce by 50 percent the compensation which the employee would otherwise receive pursuant to chapters 616A to 616D, inclusive, of NRS. Any compensation which is withheld pursuant to this subsection must be paid to the employee when he has furnished the report or authorization as requested.

6. If the provisions of section 224 of the Social Security Act are amended:

(a) To allow an employee to receive more compensation under chapters 616A to 616D, inclusive, of NRS without any reduction in benefits payable under section 202 or 223 of the Social Security Act; or

(b) To lower the maximum sum of compensation payable under chapters 616A to 616D, inclusive, of NRS and benefits payable under section 202 or 223 of the Social Security Act,

➥ the reduction imposed by this section must be increased or decreased correspondingly.

7. No reduction in compensation may be made under this section for any period of entitlement which:

(a) Occurs before January 1, 1982;

(b) Occurs before the employee has been given a written notice by mail of the intended reduction; or

(c) Includes any week after the week in which the employee becomes 62 years of age.

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 24.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 274.

The following Senate amendment was read:

Amendment No. 596.

AN ACT relating to retail installment sales; defining certain terms and revising certain definitions relating to retail installment sales; requiring that certain disclosures be made to a retail buyer; requiring that certain provisions relating to default be included in credit applications or contracts for the sale of vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law contains various provisions governing retail installment sales, including sales of motor vehicles. (Chapter 97 of NRS) This bill incorporates into Nevada law certain provisions of the federal Truth in Lending Act of 1968. (15 U.S.C. 1601, et seq.)

Sections 1, 3 and 4 of this bill: (1) add a new definition of the term "credit"; (2) revise the existing definition of the term "retail installment transaction" to include an installment sale which does not provide for a finance charge; and (3) revise the definition of the terms "retail seller" or "seller" to include a person **, other than a financial institution,** who engages in a transaction which may be payable in more than four installments. (NRS 97.115, 97.125)

Existing law requires a retail installment contract to be delivered or mailed to the buyer before the date of the first installment. (NRS 97.175) **Section 5** of this bill requires the seller to make certain disclosures in accordance with the federal Act before any credit is extended. **Section 6** of this bill requires forms for the application of credit and contracts to be used in the sale of vehicles to contain a provision, patterned after 5.109 of the Uniform Consumer Credit Code, relating to default on the part of the buyer. (NRS 97.299)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 97 of NRS is hereby amended by adding thereto a new section to read as follows:

"Credit" means the right granted by a seller to a buyer to defer payment of debt or to incur debt and defer its payment.

Sec. 2. NRS 97.015 is hereby amended to read as follows:

97.015 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 97.017 to 97.145, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 97.115 is hereby amended to read as follows:

97.115 "Retail installment transaction" means a transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract or a retail charge agreement which ~~[provides]~~ ***may provide*** for a finance charge and under which the buyer agrees to pay the total of payments in one or more installments.

Sec. 4. NRS 97.125 is hereby amended to read as follows:

97.125 ***1.*** "Retail seller" or "seller" means:

~~[1.]~~ ***(a)*** A person engaged in the business of selling or leasing goods or services to retail buyers or a licensee, franchisee, assignee or corporate affiliate or subsidiary of such a person; ~~[or]~~

~~[2.]~~ ***(b)*** A person, other than a financial institution, who enters into agreements prescribing the terms for the extension of credit pursuant to which the person may, with the buyer's consent, purchase or acquire one or more obligations of the buyer to a retail seller if the purchase, lease, loan or other obligation to be paid in accordance with the agreement is evidenced by a sales slip or memorandum ~~[.]~~ ***; or***

~~[3.]~~ ***(c) A person , other than a financial institution, who regularly extends, whether in connection with sales or leases of goods or services, credit which is payable by agreement in more than four installments or for which the payment of a finance charge may be required.***

2. As used in this section, "financial institution" means:

(a) A bank, credit union, savings institution or trust company organized under, or supervised pursuant to, the laws of the United States or of any state, or any affiliate or subsidiary thereof; or

(b) A person licensed pursuant to chapter 675 of NRS.

Sec. 5. NRS 97.175 is hereby amended to read as follows:

97.175 ~~[The retail seller shall deliver to the retail buyer, or mail to him at his address shown on the retail installment contract, a copy of the contract as accepted by the seller, prior to the due date of the first installment.]~~

1. Before any credit is extended, the retail seller shall provide to the retail buyer any disclosures required to be made by a creditor pursuant to 15 U.S.C. 1638.

2. Until the seller ~~[does so]~~ ***provides the required disclosures pursuant to subsection 1,*** the buyer ~~[shall be]~~ ***is*** obligated to pay only the cash sales price.

3. Any acknowledgment by the buyer of delivery of a copy of the contract ~~[shall]~~ ***must*** be in a size equal to at least 10-point bold type and, if contained in the contract, ~~[shall]~~ ***must*** appear directly above the buyer's signature.

Sec. 6. NRS 97.299 is hereby amended to read as follows:

97.299 1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:

(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;

(b) The application for credit is made to or through the seller of the vehicle;

(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) ***Contain a provision that default on the part of the buyer is only enforceable to the extent that:***

(1) The buyer fails to make a payment as required by the agreement; or

(2) The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the seller.

(f) Include the following notice in at least 10-point bold type:

NOTICE TO BUYER

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.

3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.

4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.

5. As used in this section:

(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.

(b) "Dealer" has the meaning ascribed to it in NRS 482.020.

Sec. 7. 1. This section and sections 1 to 5, inclusive, of this act become effective upon passage and approval.

2. Section 6 of this act becomes effective on October 1, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 274.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 193.

The following Senate amendment was read:

Amendment No. 680.

SUMMARY—Provides for reporting by certain governmental entities concerning ~~[the collection of fees and taxes.]~~ **certain financial information.** (BDR S-243)

AN ACT relating to state financial administration; requiring certain governmental entities to report periodically to the Interim Finance Committee concerning ~~[the collection and abatement of fees and taxes;]~~ **certain financial information;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires certain governmental entities of this State, beginning with the fourth quarter of Fiscal Year 2008-2009 and concluding with the third quarter of Fiscal Year 2010-2011, to report to the Interim Finance Committee within 60 days after the end of the immediately preceding fiscal quarter ~~[regarding]~~ **certain financial information, including** the taxes and fees that: (1) were legally due to be paid to the entity; (2) the entity was able to collect; and (3) the entity did not collect or was otherwise unable to collect, to the extent that such information is available to the entity. This bill also requires the Commission on Economic Development to report to the Interim Finance Committee on the same time schedule regarding each tax or fee that the Commission abated, exempted or otherwise waived and the duration of the applicable abatement, exemption or waiver. All reports required to be filed pursuant to this bill are required to be submitted on a form provided by the Director of the Legislative Counsel Bureau.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 1. Beginning on July 1, 2009, and extending through April 15, 2011, the following governmental entities shall, within 60 days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2:

(a) The Department of Taxation.

(b) The State Gaming Control Board.

(c) The Department of Motor Vehicles.

(d) The Department of Employment, Training and Rehabilitation.

(e) The Department of Business and Industry.

(f) The Office of the State Controller.

(g) The Office of the Secretary of State.

2. Each report required to be filed pursuant to subsection 1 must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include the following components:

(a) A statement of all taxes and fees that were legally due to be paid to the particular governmental entity in the immediately preceding fiscal quarter;

(b) A statement of the total of all taxes and fees that the particular governmental entity actually collected in the immediately preceding fiscal quarter;

(c) A statement of all taxes and fees that the particular governmental entity, in the immediately preceding fiscal quarter, failed to collect or otherwise did not collect as the result of an abatement, exemption or another reason, to the extent that such information is available to the governmental entity;

(d) A statement of ~~[the]~~ **:**

(1) The total amount of all taxes and fees that remain legally due to be paid to the particular governmental entity for any past fiscal years up to and including the immediately preceding fiscal quarter of the current fiscal year; **and**

(2) Except if the entity is the Office of the State Controller, the portion of the total amount described in subparagraph (1) that the entity assigned to the State Controller for collection; and

(e) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

3. In addition to the components set forth in subsection 2, the Department of Taxation shall include in its report filed pursuant to subsection 1 a list of the special districts to which an exemption from the requirements of the Local Government Budget and Finance Act for the filing of certain budget documents and audit reports was granted pursuant to NRS 354.475.

Sec. 2. 1. Beginning on July 1, 2009, and extending through April 15, 2011, the Commission on Economic Development shall, within 60 days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2.

2. Each report required to be filed pursuant to subsection 1 must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include a description of every abatement, exemption or other type of waiver that the Commission on Economic Development granted with respect to a tax or fee during the immediately preceding fiscal quarter. The description must include, without limitation:

(a) An estimate of the total amount of money the payment of which was abated, exempted or otherwise waived;

(b) The duration of the abatement, exemption or other type of waiver; and

(c) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 193.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 263.

The following Senate amendment was read:

Amendment No. 662.

SUMMARY—Authorizes the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly. ~~[in certain counties.]~~ (BDR 38-509)

AN ACT relating to public health; authorizing the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly; ~~[in certain counties;]~~ authorizing the Division to adopt regulations to carry out the program; authorizing the Division to establish a schedule of fees for services provided under the program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Aging Services Division of the Department of Health and Human Services to establish and administer a program to provide the community-based services necessary to enable a frail elderly person to remain in his home and avoid placement in a facility for long-term care. (NRS 427A.250) **Section 1** of this bill authorizes the Division to establish a community-based and in-home program of all-inclusive care for the elderly, commonly referred to as a PACE program, in accordance with the provisions of federal law authorizing such programs. (42 U.S.C. 1396u-4; 42 C.F.R. Part 460) If the Division establishes a PACE program, the program ~~[must]~~ **may** be established in any county in this State. ~~[whose population is 100,000 or more but less than 400,000 (currently Washoe County).]~~ **Section 1** authorizes the Division to adopt regulations necessary to establish and administer the program. **Section 1** also requires the Director of the Department, if the Division wishes to establish a PACE program, to submit

to the Secretary of Health and Human Services any amendment to the State Plan for Medicaid necessary to enable the Division to establish the PACE program and to revise the program from time to time.

Section 2 of this bill authorizes the Division to contract with public or private entities to carry out the PACE program. (NRS 427A.260) **Section 3** of this bill authorizes the Division to apply for and accept any money available to establish and administer the program. **Section 3** further authorizes the Division to establish a schedule of fees to be charged for the provision of services under the program. (NRS 427A.270)

Section 4 of this bill clarifies that the PACE program established pursuant to **section 1** of this bill is in addition to any test program or demonstration program established by the Division concerning the various ways in which community-based services and all-inclusive care can be provided to frail elderly persons. (NRS 427A.280)

Section 7 of this bill requires the Division to submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or the Legislative Committee on Health Care semiannual reports on the progress of the Division in establishing a PACE program.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 427A of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any program established pursuant to NRS 427A.250, the Division may establish and administer a program of all-inclusive care for the elderly, commonly known as a PACE program. The program may be carried out solely by the Division or in cooperation with another state agency, the Federal Government or any local government.

2. A program established pursuant to subsection 1 ~~[must:~~

~~(a) Comply]~~ :

(a) Must comply with the provisions of 42 U.S.C. 1396u-4, 42 C.F.R. Part 460 and any other federal regulations governing programs of all-inclusive care for the elderly; and

(b) ~~[Be]~~ May be established in any county in this State . ~~[whose population is 100,000 or more but less than 400,000.]~~

3. The Division may adopt regulations necessary to establish and administer the program.

4. If the Division wishes to establish a program pursuant to subsection 1, the Director shall submit to the Secretary of Health and Human Services any amendment to the State Plan for Medicaid necessary to enable the Division to establish the program and to revise the program from time to time.

Sec. 2. NRS 427A.260 is hereby amended to read as follows:

427A.260 1. The Division may use personnel of the Division or it may contract with any appropriate public or private agency, organization or

institution to provide ***a program of all-inclusive care for the elderly and to provide*** the community-based services necessary to enable a frail elderly person to remain in his home.

2. Any such contract must:

(a) Include a description of the type of service to be provided;

(b) ~~[~~Specify~~]~~ ***For:***

(1) A program of all-inclusive care for the elderly, specify the capitation rate to be paid for all-inclusive care for the elderly and the method of payment; and

(2) Any other community-based services, specify the price to be paid for each service and the method of payment; and

(c) Specify the criteria to be used to evaluate the provision of the service.

Sec. 3. NRS 427A.270 is hereby amended to read as follows:

427A.270 1. The Division may apply for, accept and expend any federal or private grant of money or other type of assistance that becomes available to carry out the provisions of NRS 427A.250 to 427A.280, inclusive ~~[.]~~ ***, and section 1 of this act.*** Any money received pursuant to this section must be deposited with the State Treasurer and accounted for separately in the State General Fund.

2. The Division shall, with the approval of the Commission and Director, establish a schedule of fees to be charged and collected for any service provided pursuant to NRS 427A.250 to 427A.280, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 4. NRS 427A.280 is hereby amended to read as follows:

427A.280 ~~[~~The~~]~~ ***In addition to the program established pursuant to section 1 of this act, the*** Division may initiate projects to test and demonstrate various ways of providing the community-based services ***and all-inclusive care*** necessary to enable a frail elderly person to remain in his home.

Sec. 5. NRS 427A.310 is hereby amended to read as follows:

427A.310 1. Except as otherwise provided in subsection 2, the Ombudsman for Aging Persons shall provide assistance to persons who are 60 years of age or older and do not reside in facilities for long-term care. The assistance must include at least the:

(a) Coordination of resources and services available to aging persons within their respective communities, including the services provided through ~~[~~the~~]~~ ***a*** program established pursuant to NRS 427A.250 ~~[.]~~ ***or section 1 of this act;***

(b) Dissemination of information to aging persons on issues of national and local interest, including information regarding the services of the Ombudsman and the existence of groups of aging persons with similar interests and concerns;

(c) Publication of a guide for use in each county of this State regarding the resources and services available for aging persons in the respective county; and

(d) Advocation of issues relating to aging persons.

2. Upon request by the Administrator, the Ombudsman for Aging Persons shall temporarily perform the duties of advocates for residents of facilities for long-term care specified in NRS 427A.125 to 427A.165, inclusive.

Sec. 6. NRS 123.259 is hereby amended to read as follows:

123.259 1. Except as otherwise provided in subsection 2, a court of competent jurisdiction may, upon a proper petition filed by a spouse or the guardian of a spouse, enter a decree dividing the income and resources of a husband and wife pursuant to this section if one spouse is an institutionalized spouse and the other spouse is a community spouse.

2. The court shall not enter such a decree if the division is contrary to a premarital agreement between the spouses which is enforceable pursuant to chapter 123A of NRS.

3. Unless modified pursuant to subsection 4 or 5, the court may divide the income and resources:

(a) Equally between the spouses; or

(b) By protecting income for the community spouse through application of the maximum federal minimum monthly maintenance needs allowance set forth in 42 U.S.C. 1396r-5(d)(3)(C) and by permitting a transfer of resources to the community spouse an amount which does not exceed the amount set forth in 42 U.S.C. 1396r-5(f)(2)(A)(ii).

4. If either spouse establishes that the community spouse needs income greater than that otherwise provided under paragraph (b) of subsection 3, upon finding exceptional circumstances resulting in significant financial duress and setting forth in writing the reasons for that finding, the court may enter an order for support against the institutionalized spouse for the support of the community spouse in an amount adequate to provide such additional income as is necessary.

5. If either spouse establishes that a transfer of resources to the community spouse pursuant to paragraph (b) of subsection 3, in relation to the amount of income generated by such a transfer, is inadequate to raise the income of the community spouse to the amount allowed under paragraph (b) of subsection 3 or an order for support issued pursuant to subsection 4, the court may substitute an amount of resources adequate to provide income to fund the amount so allowed or to fund the order for support.

6. A copy of a petition for relief under subsection 4 or 5 and any court order issued pursuant to such a petition must be served on the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services when any application for medical assistance is made by or on behalf of an institutionalized spouse. ~~[He]~~ ***The Administrator*** may intervene no later than 45 days after receipt by the Division of Welfare and Supportive Services of the Department of Health and Human Services of an application for medical assistance and a copy of the petition and any order entered pursuant to subsection 4 or 5, and may move to modify the order.

7. A person may enter into a written agreement with his spouse dividing their community income, assets and obligations into equal shares of separate income, assets and obligations of the spouses. Such an agreement is effective only if one spouse is an institutionalized spouse and the other spouse is a community spouse or a division of the income or resources would allow one spouse to qualify for services under NRS 427A.250 to 427A.280, inclusive ~~[.]~~ ***, and section 1 of this act.***

8. An agreement entered into or decree entered pursuant to this section may not be binding on the Division of Welfare and Supportive Services of the Department of Health and Human Services in making determinations under the State Plan for Medicaid.

9. As used in this section, "community spouse" and "institutionalized spouse" have the meanings respectively ascribed to them in 42 U.S.C. 1396r-5(h).

Sec. 7. The Aging Services Division of the Department of Health and Human Services shall, on or before March 1 and October 1 of each year, submit a report on the progress of the Division in establishing a PACE program pursuant to section 1 of this act to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, the Legislative Committee on Health Care.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 263.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 109.

The following Senate amendment was read:

Amendment No. 620.

AN ACT relating to motor vehicles; requiring that license plates without distinguishing marks be furnished for two vehicles used by the office of the county coroner; ~~[authorizing]~~ **deleting provisions which prohibit** the Department of Motor Vehicles ~~[to issue certain]~~ **from issuing** special license plates **for the support and enhancement of parks, recreation facilities and programs in the City of Reno unless the Department receives at least 1,000 applications for the issuance of those plates before May 29, 2009; authorizing the Department to issue certain special license plates** for use on motorcycles; prescribing the fees for special license plates for use on vehicles other than passenger cars and light commercial vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that license plates furnished for certain exempt vehicles maintained for and used by certain governmental entities must be free of distinguishing marks which would otherwise identify the vehicle as a governmental vehicle. (NRS 482.368) **Section ~~[1]~~ 1.3** of this bill adds two

vehicles used by the office of a county coroner to the list of vehicles for which license plates without a distinguishing mark must be furnished.

Existing law authorizes the Department of Motor Vehicles to issue special license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno if the Department receives at least 1,000 applications for the issuance of the special license plates before May 29, 2009. (NRS 482.379375) Sections 1 and 1.7 of this bill delete the provisions which authorize the Department to issue such special plates only if the Department receives at least 1,000 applications before May 29, 2009.

Under existing law, if the Department ~~[of Motor Vehicles]~~ issues special license plates for use on a passenger car or light commercial vehicle and if those special license plates generate financial support for a charitable organization, the Department is authorized to issue the special license plates for use on a trailer or other type of vehicle that is not a passenger car or light commercial vehicle, but is prohibited from issuing the special license plates for use on a motorcycle or heavy commercial vehicle. (NRS 482.3824) Effective July 1, 2010, **section 2** of this bill removes the prohibition against the Department issuing such special license plates for use on motorcycles and provides further that the fees for special license plates issued for use on vehicles other than passenger cars or light commercial vehicles must be the same as if the special license plates were issued for use on a passenger car or light commercial vehicle.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **NRS 482.36705 is hereby amended to read as follows:**

482.36705 1. If a new special license plate is authorized by an act of the Legislature after January 1, 2003, ***other than a special license plate that is authorized pursuant to NRS 482.379375,*** the Legislature will direct that the license plate not be designed, prepared or issued by the Department unless the Department receives at least 1,000 applications for the issuance of that plate within 2 years after the effective date of the act of the Legislature that authorized the plate.

2. In addition to the requirements set forth in subsection 1, if a new special license plate is authorized by an act of the Legislature after July 1, 2005, the Legislature will direct that the license plate not be issued by the Department unless its issuance complies with subsection 2 of NRS 482.367008.

3. In addition to the requirements set forth in subsections 1 and 2, if a new special license plate is authorized by an act of the Legislature after January 1, 2007, the Legislature will direct that the license plate not be designed, prepared or issued by the Department unless the Commission on Special License Plates approves the application for the authorized plate pursuant to NRS 482.367004.

~~[Section 1.]~~ ***Sec. 1.3.*** NRS 482.368 is hereby amended to read as follows:

482.368 1. Except as otherwise provided in subsection 2, the Department shall provide suitable distinguishing license plates for exempt vehicles. These plates must be displayed on the vehicles in the same manner as provided for privately owned vehicles. The fee for the issuance of the plates is $5. Any license plates authorized by this section must be immediately returned to the Department when the vehicle for which they were issued ceases to be used exclusively for the purpose for which it was exempted from the governmental services tax.

2. License plates furnished for:

(a) Those vehicles which are maintained for and used by the Governor or under the authority and direction of the Chief Parole and Probation Officer, the State Contractors' Board and auditors, the State Fire Marshal, the Investigation Division of the Department of Public Safety and any authorized federal law enforcement agency or law enforcement agency from another state;

(b) One vehicle used by the Department of Corrections, three vehicles used by the Department of Wildlife, two vehicles used by the Caliente Youth Center and four vehicles used by the Nevada Youth Training Center;

(c) Vehicles of a city, county or the State, if authorized by the Department for the purposes of law enforcement or work related thereto or such other purposes as are approved upon proper application and justification; ~~[and]~~

(d) ***Two vehicles used by the office of the county coroner of any county which has created that office pursuant to NRS 244.163; and***

(e) Vehicles maintained for and used by investigators of the following:

(1) The State Gaming Control Board;
(2) The State Department of Agriculture;
(3) The Attorney General;
(4) City or county juvenile officers;
(5) District attorneys' offices;
(6) Public administrators' offices;
(7) Public guardians' offices;
(8) Sheriffs' offices;
(9) Police departments in the State; and
(10) The Securities Division of the Office of the Secretary of State,

➥ must not bear any distinguishing mark which would serve to identify the vehicles as owned by the State, county or city. These license plates must be issued annually for $12 per plate or, if issued in sets, per set.

3. The Director may enter into agreements with departments of motor vehicles of other states providing for exchanges of license plates of regular series for vehicles maintained for and used by investigators of the law enforcement agencies enumerated in paragraph ~~[(d)]~~ ***(e)*** of subsection 2, subject to all of the requirements imposed by that paragraph, except that the fee required by that paragraph must not be charged.

4. Applications for the licenses must be made through the head of the department, board, bureau, commission, school district or irrigation district, or through the chairman of the board of county commissioners of the county or town or through the mayor of the city, owning or controlling the vehicles, and no plate or plates may be issued until a certificate has been filed with the Department showing that the name of the department, board, bureau, commission, county, city, town, school district or irrigation district, as the case may be, and the words "For Official Use Only" have been permanently and legibly affixed to each side of the vehicle, except those vehicles enumerated in subsection 2.

5. As used in this section, "exempt vehicle" means a vehicle exempt from the governmental services tax, except a vehicle owned by the United States.

6. The Department shall adopt regulations governing the use of all license plates provided for in this section. Upon a finding by the Department of any violation of its regulations, it may revoke the violator's privilege of registering vehicles pursuant to this section.

Sec. 1.7. **NRS 482.379375 is hereby amended to read as follows:**

482.379375 1. Except as otherwise provided in this subsection, the Department, in cooperation with the Reno Recreation and Parks Commission or its successor, shall design, prepare and issue license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno, using any colors and designs that the Department deems appropriate. The Department shall not design, prepare or issue the license plates unless:

(a) The Commission on Special License Plates approves the design, preparation and issuance of those plates as described in NRS 482.367004; and

(b) The Department receives at least 1,000 applications for the issuance of those plates**.** ~~[within 2 years after the effective date of this act.]~~

2. If the Commission on Special License Plates approves the design, preparation and issuance of license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno pursuant to subsection 1, and the Department receives at least 1,000 applications for the issuance of the license plates, the Department shall issue those plates for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno if that person pays the fees for the personalized prestige license plates in addition to the fees for the license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno pursuant to subsections 3 and 4.

3. The fee for license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno is $35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of $10.

4. In addition to all other applicable registration and license fees and governmental services taxes and the fee prescribed in subsection 3, a person who requests a set of license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno must pay for the initial issuance of the plates an additional fee of $25 and for each renewal of the plates an additional fee of $20 to be distributed pursuant to subsection 5.

5. The Department shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees deposited pursuant to this section to the City Treasurer of the City of Reno to be used to pay for the support and enhancement of parks, recreation facilities and programs in the City of Reno.

6. If, during a registration year, the holder of license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle that meets the requirements of this section if the holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

Sec. 2. NRS 482.3824 is hereby amended to read as follows:

482.3824 1. Except as otherwise provided in NRS 482.38279, with respect to any special license plate that is issued pursuant to NRS 482.3667 to 482.3825, inclusive, and for which ~~[an additional fee is]~~ ***additional fees are*** imposed for the issuance of the special license plate to generate financial support for a charitable organization:

(a) The Director shall, at the request of the charitable organization that is benefited by the particular special license plate:

(1) Order the design and preparation of souvenir license plates, the design of which must be substantially similar to the particular special license plate; and

(2) Issue such souvenir license plates, for a fee established pursuant to NRS 482.3825, only to the charitable organization that is benefited by the particular special license plate. The charitable organization may resell such souvenir license plates at a price determined by the charitable organization.

(b) The Department may, except as otherwise provided in this paragraph and after the particular special license plate is approved for issuance, issue the special license plate for a trailer ***, motorcycle*** or other type of vehicle that is not a passenger car or light commercial vehicle, excluding ~~[motorcycles and]~~ vehicles required to be registered with the Department pursuant to NRS

706.801 to 706.861, inclusive, upon application by a person who is entitled to license plates pursuant to NRS 482.265 ***or 482.272*** and who otherwise complies with the requirements for registration and licensing pursuant to this chapter ~~[.]~~ ***or chapter 486 of NRS.*** The Department may not issue a special license plate for such other types of vehicles if the Department determines that the design or manufacture of the plate for those other types of vehicles would not be feasible. In addition, if the Department incurs additional costs to manufacture a special license plate for such other types of vehicles, including, without limitation, costs associated with the purchase, manufacture or modification of dies or other equipment necessary to manufacture the special license plate for such other types of vehicles, those additional costs must be paid from private sources without any expense to the State of Nevada.

2. ***If, as authorized pursuant to paragraph (b) of subsection 1, the Department issues a special license plate for a trailer, motorcycle or other type of vehicle that is not a passenger car or light commercial vehicle, the Department shall charge and collect for the issuance and renewal of such a plate the same fees that the Department would charge and collect if the other type of vehicle was a passenger car or light commercial vehicle. As used in this subsection, "fees" does not include any applicable registration or license fees or governmental services taxes.***

3. As used in this section ~~[, "charitable]~~ ***:***

(a) "Additional fees" has the meaning ascribed to it in NRS 482.38273.

(b) "Charitable organization" means a particular cause, charity or other entity that receives money from the imposition of ~~[an additional fee]~~ ***additional fees*** in connection with the issuance of a special license plate pursuant to NRS 482.3667 to 482.3825, inclusive. The term includes the successor, if any, of a charitable organization.

Sec. 3. NRS 482.38274 is hereby amended to read as follows:

482.38274 "Charitable organization" has the meaning ascribed to it in ~~[subsection 2 of]~~ NRS 482.3824.

Sec. 4. 1. This section and ~~[section]~~ **sections** 1 **and 1.7 of this act become effective upon passage and approval.**

2. Section 1.3 of this act ~~[become]~~ **becomes** effective on July 1, 2009.

~~[2.]~~ **3.** Sections 2 and 3 of this act become effective on July 1, 2010.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 109.

Remarks by Assemblymen Atkinson and Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 333.

The following Senate amendment was read:

Amendment No. 665.

AN ACT relating to motor vehicles; revising certain provisions relating to the towing of vehicles; authorizing an electronic notification to the Department of Motor Vehicles of the transfer of ownership of a motor vehicle; authorizing the Department to provide certain information about the transfer of ownership of a motor vehicle to tow car operators and other interested parties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Nevada Transportation Authority to reduce any charge for preparing or satisfying a lien which is filed by the operator of a tow car if the Authority determines that all or part of the charge is attributable to the operator's failure to prepare or satisfy the lien in a timely manner. (NRS 706.4468)

Existing law presumes that an abandoned motor vehicle was abandoned by its registered owner. The registered owner is thus responsible for the costs of removing and disposing of the vehicle. Existing law also provides for the rebuttal of this presumption. (NRS 487.220) **Section 2** of this bill provides a similar presumption, and opportunity for rebuttal, for the registered owner of a vehicle that is towed at the request of the owner of real property from which the vehicle is towed. (NRS 706.4477)

Existing law provides that if an operator of a tow car tows a motor vehicle at the request of someone other than the owner, the operator is required to notify the owner of certain information within a particular period of time. (NRS 706.4479) **Section 3** of this bill ~~**[**: (1) requires such information to be provided earlier than the existing law; and (2)**]**~~ adds to the list of the information that must be provided notice to the registered and legal owner of the vehicle as to the actions the owner may take to reduce his liability for any potentially applicable assessments, fees, penalties or other charges, and as to the opportunity to rebut presumptions about the ownership of a vehicle.

Section 4 of this bill authorizes a person who transfers ownership of a motor vehicle to notify the Department of Motor Vehicles of the transfer electronically. **Section 4** also authorizes the Department to provide information regarding vehicle ownership transfers to tow car operators and other interested parties. (NRS 482.400)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 706.4468 is hereby amended to read as follows:

706.4468 1. Each operator of a tow car shall file its charges for preparing or satisfying a lien to which the operator is entitled against a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle. The Authority ~~**[**may**]**~~ ***:***

(a) May investigate any charge filed pursuant to this subsection and revise the charge as necessary to ensure that the charge is reasonable.

(b) Shall reduce any charge filed pursuant to this subsection if the Authority determines that the charge is unreasonable because the charge is attributable, in whole or in part, to failure on the part of the operator of the tow car to prepare or satisfy his lien in a timely manner.

2. An operator of a tow car may not impose a charge or any part of a charge filed pursuant to subsection 1 unless the operator:

(a) Has initiated the procedure by which a person may satisfy a lien; and

(b) Stores the vehicle for at least 96 hours.

3. If an operator of a tow car stores a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle for at least 96 hours but not more than 336 hours, the operator may charge an amount not to exceed 50 percent of the charge approved by the Authority pursuant to subsection 1 for preparing or satisfying a lien.

4. If an operator of a tow car stores a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle for more than 336 hours, the operator may charge an amount not to exceed 50 percent of the charge approved by the Authority pursuant to subsection 1 for preparing or satisfying a lien in addition to the amount charged pursuant to subsection 3.

Sec. 2. NRS 706.4477 is hereby amended to read as follows:

706.4477 ***1.*** If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer:

~~[1.]~~ ***(a)*** The person requesting the towing must be the owner of the real property from which the vehicle is towed or his authorized agent and must sign a specific request for the towing. For the purposes of this section, the operator is not an authorized agent of the owner of the real property.

~~[2.]~~ ***(b)*** The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.

~~[3.]~~ ***(c)*** Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

~~[4.]~~ ***(d)*** The operator may be directed to terminate the towing by a law enforcement officer.

2. The registered owner of a motor vehicle towed pursuant to the provisions of subsection 1:

(a) Is presumed to have left the motor vehicle on the real property from which the vehicle is towed; and

(b) Is responsible for the cost of removal and storage of the motor vehicle.

3. The registered owner may rebut the presumption in subsection 2 by showing that:

(a) He transferred his interest in the motor vehicle:

(1) Pursuant to the provisions set forth in NRS 482.399 to 482.420, inclusive; or

(2) As indicated by a bill of sale for the vehicle that is signed by the registered owner; or

(b) The vehicle is stolen, if he submits evidence that, before the discovery of the vehicle, he filed an affidavit with the Department or a written report with an appropriate law enforcement agency alleging the theft of the vehicle.

Sec. 3. NRS 706.4479 is hereby amended to read as follows:

706.4479 1. If a motor vehicle is towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the operator shall, in addition to the requirements set forth in the provisions of chapter 108 of NRS:

(a) Notify the registered and legal owner of the motor vehicle by certified mail not later than 21 ~~[14]~~ days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle or not later than 15 ~~[7 business]~~ days after placing any other vehicle in storage:

(1) Of the location where the motor vehicle is being stored;

(2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;

(3) Of the charge for towing and storage; ~~[and]~~

(4) Of the date and time the vehicle was placed in storage ~~[.]~~ ***;***

(5) Of the actions that the registered and legal owner of the vehicle may take to recover his vehicle while incurring the lowest possible liability in accrued assessments, fees, penalties or other charges; and

(6) Of the opportunity to rebut the presumptions set forth in NRS 487.220 and 706.4477.

(b) If the identity of the registered and legal owner is not known or readily available, make every reasonable attempt and use all resources reasonably necessary, as evidenced by written documentation, to obtain the identity of the owner and any other necessary information from the agency charged with the registration of the motor vehicle in this State or any other state within:

(1) Twenty-one days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(2) Fifteen days after placing any other motor vehicle in storage.

➥ The operator shall attempt to notify the owner of the vehicle by certified mail as soon as possible, but in no case later than 15 days after identification of the owner is obtained for any motor vehicle.

2. If an operator includes in his tariff a fee to be charged to the registered and legal owner of a vehicle for the towing and storage of the vehicle, the fee may not be charged:

(a) For more than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(b) For more than 15 days after placing any other vehicle in storage,

➥ unless the operator complies with the requirements set forth in subsection 1.

Sec. 4. NRS 482.400 is hereby amended to read as follows:

482.400 1. Except as otherwise provided in this subsection and subsections ~~[2, 5 and 6,]~~ ***3, 6 and 7,*** and NRS 482.247, upon a transfer of the title to, or the interest of an owner in, a vehicle registered or issued a certificate of title under the provisions of this chapter, the person or persons whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of title issued for the vehicle, together with the residence address of the transferee, in the appropriate spaces provided upon the reverse side of the certificate. The Department may, by regulation, prescribe alternative methods by which a signature may be affixed upon a manufacturer's certificate of origin or a manufacturer's statement of origin issued for a vehicle. The alternative methods must ensure the authenticity of the signatures.

2. ***Within 5 days after the transfer of the title to, or the interest of an owner in, a vehicle registered or issued a certificate of title under the provisions of this chapter, the person or person whose title or interest is to be transferred may submit electronically to the Department a notice of the transfer. The Department may provide, by request and at the discretion of the Department, information submitted to the Department pursuant to this section to a tow car operator or other interested party. The Department shall adopt regulations establishing:***

(a) Procedures for electronic submissions pursuant to this section; and

(b) Standards for determining who may receive information from the Department pursuant to this section.

3. The Department shall provide a form for use by a dealer for the transfer of ownership of a vehicle. The form must be produced in a manner which ensures that the form may not be easily counterfeited. Upon the attachment of the form to a certificate of title issued for a vehicle, the form becomes a part of that certificate of title. The Department may charge a fee not to exceed the cost to provide the form.

~~[3.]~~ ***4.*** Except as otherwise provided in subsections ~~[4, 5 and 6,]~~ ***5, 6 and 7,*** the transferee shall immediately apply for registration as provided in NRS 482.215 and shall pay the governmental services taxes due.

~~[4.]~~ ***5.*** If the transferee is a dealer who intends to resell the vehicle, he is not required to register, pay a transfer or registration fee for, or pay a governmental services tax on the vehicle. When the vehicle is resold, the purchaser shall apply for registration as provided in NRS 482.215 and shall pay the governmental services taxes due.

~~[5.]~~ ***6.*** If the transferee consigns the vehicle to a wholesale vehicle auctioneer:

(a) The transferee shall, within 30 days after that consignment, provide the wholesale vehicle auctioneer with the certificate of title for the vehicle,

executed as required by subsection 1, and any other documents necessary to obtain another certificate of title for the vehicle.

(b) The wholesale vehicle auctioneer shall be deemed a transferee of the vehicle for the purposes of subsection ~~[4.]~~ ***5.*** The wholesale vehicle auctioneer is not required to comply with subsection 1 if he:

(1) Does not take an ownership interest in the vehicle;

(2) Auctions the vehicle to a vehicle dealer or automobile wrecker who is licensed as such in this or any other state; and

(3) Stamps his name, his identification number as a vehicle dealer and the date of the auction on the certificate of title and the bill of sale and any other documents of transfer for the vehicle.

~~[6.]~~ ***7.*** A charitable organization which intends to sell a vehicle which has been donated to the organization must deliver immediately to the Department or its agent the certificate of registration and the license plate or plates for the vehicle, if the license plate or plates have not been removed from the vehicle. The charitable organization must not be required to register, pay a transfer or registration fee for, or pay a governmental services tax on the vehicle. When the vehicle is sold by the charitable organization, the purchaser shall apply for registration as provided in NRS 482.215 and pay the governmental services taxes due.

~~[7.]~~ ***8.*** As used in this section, "wholesale vehicle auctioneer" means a dealer who:

(a) Is engaged in the business of auctioning consigned motor vehicles to vehicle dealers or automobile wreckers, or both, who are licensed as such in this or any other state; and

(b) Does not in the ordinary course of his business buy, sell or own the vehicles he auctions.

Sec. 5. 1. This section and sections 1, 2 and 3 of this act become effective on July 1, 2009.

2. Section 4 of this act becomes effective on October 1, 2010.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 333.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Assembly Bill No. 355.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Assembly Bill No. 355:

YEAS—42.

NAYS—None.

Assembly Bill No. 355 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 108.

Bill read third time.

The following amendment was proposed by Assemblymen Carpenter and Claborn:

Amendment No. 862.

AN ACT relating to mining claims; providing that a hollow metal post which is used as a valid legal monument to mark the boundaries of a lode mining claim must meet certain requirements; requiring the replacement of durable plastic pipe on lode mining claims; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the use of hollow metal posts and durable plastic pipe to define the boundaries of a lode mining claim if the post or pipe is securely capped with no open perforations. (NRS 517.030) This bill provides that a hollow metal post which is used to mark the boundaries of a lode mining claim must be securely capped or crimped in a manner that securely closes the top of the post and have no open perforations. This bill also provides that any durable plastic pipe used to mark a claim must be replaced on or before November 1, 2011. **If replaced on or before that date, the durable plastic pipe must be taken from the lode mining claim and disposed of in a lawful manner.** After that date, any such durable plastic pipe may be removed and placed adjacent to the location from which it is removed.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 517.030 is hereby amended to read as follows:

517.030 1. Within 60 days after posting the notice of location, the locator of a lode mining claim shall distinctly define the boundaries of the claim by placing a valid legal monument at each corner of the claim. A valid legal monument may be created by:

(a) ~~[Removing the top of]~~ ***Blazing and marking*** a tree, which has a diameter of not less than 4 inches, not less than 3 feet above the ground ***;*** ~~[,~~ ~~and blazing and marking it;]~~

(b) Capping a rock in place with smaller stones so that the rock and stones have a height of not less than 3 feet; or

(c) Setting a wooden or metal post or a stone.

2. If a wooden post is used, the dimensions of the post must be at least 1 1/2 inches by 1 1/2 inches by 4 feet, and the post must be set 1 foot in the ground.

3. If a metal post is used, the post must be at least 2 inches in diameter by 4 feet in length ~~[,]~~ and ~~[it must]~~ be set 1 foot in the ground. If the metal post is hollow, it must ~~[be]~~ ***:***

(a) Be securely capped ~~[.]~~ ***or crimped in a manner that securely closes the top of the post; and***

(b) Have no open perforations.

4. If it is practically impossible, because of bedrock or precipitous ground, to sink a post, it may be placed in a mound of earth or stones. If the proper placing of a monument is impracticable or dangerous to life or limb, the monument may be placed at the nearest point properly marked to designate its right place.

5. If a stone is used which is not a rock in place, the stone must be not less than 6 inches in diameter and 18 inches in length ~~[,]~~ and ~~[it must]~~ be set with two-thirds of its length in the top of a mound of earth or stone 3 feet in diameter and 2 1/2 feet in height.

6. ~~[Durable]~~ ***Except as otherwise provided in subsection 7, a durable*** plastic pipe that was set before March 16, 1993, for the purpose of defining the boundaries of a lode mining claim shall be deemed to constitute a valid legal monument if:

(a) The pipe is at least 3 inches in diameter by 4 feet in length ~~[,]~~ and ~~[the pipe]~~ is set 1 foot in the ground; and

(b) The pipe is securely capped with no open perforations.

7. The locator of a lode mining claim located before March 16, 1993, ***the boundaries of which are defined by a durable plastic pipe described in subsection 6,*** or his successor in interest, ~~[may]~~ ***shall, on or before November 1, 2011,*** remove the durable plastic pipe ~~[described in subsection 6]~~ and replace the monument of location and the corner monuments with valid legal monuments in the manner prescribed pursuant to subsection 1. ~~[The]~~ ***If the*** locator or his successor in interest ~~[is not required to replace a monument located at the center of a side line. Within]~~ ***replaces the durable plastic pipe on or before that date, the locator or his successor in interest shall, within*** 60 days after the replacement, ~~[the locator of the lode mining claim, or his successor in interest, shall]~~ record a notice of remonumentation with the county recorder of the county in which the claim is located and pay the fee required by NRS 247.305. The notice must contain:

(a) The name of the claim;

(b) The book and page number or the document number of the certificate of location or the most recent amendment to the certificate of location;

(c) The book and page number or the document number of the map filed pursuant to NRS 517.040; and

(d) A description of the monument used to replace each monument that is removed.

➥ The notice may include more than one claim. ***Any durable plastic pipe that is removed pursuant to this subsection must be taken from the lode mining claim and disposed of in a lawful manner.***

8. ***After November 1, 2011, any durable plastic pipe that is not removed pursuant to subsection 7 may be removed and placed on the ground immediately adjacent to the location from which it is removed to preserve evidence of its use as a monument for the lode mining claim.***

9. The replacement of ***a*** durable plastic pipe or the recording of a notice pursuant to subsection 7 does not:

(a) Amend or otherwise affect the legal validity of the claim for which the monuments were created;

(b) Modify the date of location of the claim; or

(c) Require the filing of an additional or amended map pursuant to NRS 517.040.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Claborn moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 60.

Bill read third time.

Remarks by Assemblyman Hambrick.

Roll call on Senate Bill No. 60:

YEAS—42.

NAYS—None.

Senate Bill No. 60 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:09 p.m.

ASSEMBLY IN SESSION

At 1:15 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 415 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 234 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:17 p.m.

ASSEMBLY IN SESSION

At 1:20 p.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Oceguera moved that Senate Bill No. 415 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 234.
Bill read third time.
Remarks by Assemblyman Hardy.
Roll call on Senate Bill No. 234:
YEAS—34.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Woodbury—8.
Senate Bill No. 234 having received a two-thirds majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Senate Bill No. 245 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 246 be taken from the Chief Clerk's desk and placed at the top of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 246.
Bill read third time.
The following amendment was proposed by Assemblyman Atkinson:
Amendment No. 802.
AN ACT relating to vehicles; **revising provisions governing the applicability of the implied warranty of merchantability to the sale of a used vehicle by a used vehicle dealer; providing remedies for a purchaser if a used vehicle does not conform with the implied warranty of merchantability; requiring a contract for the sale of a used vehicle by a used vehicle dealer to contain certain statements;** prohibiting a manufacturer from requiring a dealer to alter substantially an existing facility of the dealer or construct a new facility except under certain circumstances; prohibiting a manufacturer from taking adverse action against a dealer relating to the exportation of a vehicle outside the United States except under

certain circumstances; providing for the licensure of an agent of a broker; revising provisions governing the modification or replacement of a franchise; establishing fees; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 of this bill provides that in a contract for the sale of a used vehicle by a used vehicle dealer, the implied warranty of merchantability codified in NRS 104.2314 expires at midnight on the 15th day after delivery of the used vehicle or upon the used vehicle being driven 500 miles, whichever occurs first. Section 1.3 also prohibits a used vehicle dealer from excluding, modifying, negating or limiting the implied warranty of merchantability or limiting any right or remedy of the purchaser for failure of the used vehicle to conform with the implied warranty of merchantability. Section 1.4 of this bill provides that a used vehicle conforms with the implied warranty of merchantability if the used vehicle functions substantially free of certain defects. Section 1.4 further provides certain remedies to the purchaser if the used vehicle does not conform with the implied warranty of merchantability, including returning the used vehicle to the used vehicle dealer and receiving a refund of the full amount paid by the purchaser toward the purchase price of the used vehicle. These remedies are in addition to any other remedies provided by existing law.

Section 1.5 of this bill provides that a contract for the sale of a used vehicle by a used vehicle dealer must contain a statement providing that the used vehicle is fit for ordinary use for 15 days or 500 miles after delivery of the used vehicle to the purchaser, whichever occurs first. Section 1.6 of this bill provides that a purchaser may waive the implied warranty of merchantability for a particular defect under certain circumstances. Section 1.8 of this bill provides that if a used vehicle dealer violates certain provisions of this bill, the contract for the sale of a used vehicle is voidable by the purchaser. Section 1.7 of this bill provides that the provisions of sections 1.1-1.8 of this bill do not apply to the sale of a used vehicle which is covered by an express warranty of a manufacturer.

Section 2 of this bill prohibits a manufacturer from requiring a dealer to alter substantially an existing facility or to construct a new facility for any new vehicles that are handled by the dealer under certain circumstances. **Section 2** also provides that such a requirement constitutes a modification of the franchise of the dealer.

Section 3 of this bill prohibits a manufacturer from taking adverse action against a dealer who sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Sections 5 and 14 of this bill provide for the licensure of an agent for a broker of vehicles in this State. A person who violates the provisions governing the licensure of such agents is guilty of a misdemeanor.

Section 8 of this bill provides that if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles. **Section 8** defines such vehicles as those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles. (NRS 482.36354)

Section 13.7 of this bill provides that the forms for the application for credit and contract to be used in the sale of a used vehicle prescribed by the Commissioner of Financial Institutions must contain statements substantially similar to the statements described in sections 1.5 and 1.6 of this bill.

Existing law provides various protections for a person who purchases a used vehicle which has been driven 75,000 miles or more. (NRS 482.36661-482.36667) Sections 13.2-13.5 of this bill make those provisions applicable to any used vehicle sold by a used vehicle dealer, regardless of the mileage of the used vehicle.

Section 14.5 of this bill repeals certain provisions governing express written warranties provided by a used vehicle dealer and the imposition of administrative fines.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2]~~ **1.1** to 5, inclusive, of this act.

Sec. 1.1. "Implied warranty of merchantability" means the implied warranty described in NRS 104.2314.

Sec. 1.2. To the extent of any conflict with the provisions of chapter 104 of NRS, the provisions of NRS 482.36655 to 482.36667, inclusive, and sections 1.1 to 1.8, inclusive, of this act control with respect to the sale in this State of a used vehicle by a used vehicle dealer.

Sec. 1.3. 1. The implied warranty of merchantability in a contract for the sale of a used vehicle by a used vehicle dealer expires:

(a) At midnight on the 15th calendar day after the date of delivery of the used vehicle to the purchaser; or

(b) Upon the used vehicle being driven 500 miles after its delivery to the purchaser,

↳ whichever occurs earlier.

2. A used vehicle dealer shall not exclude, modify, negate or limit the implied warranty of merchantability with respect to the sale of a used vehicle or limit any right or remedy of the purchaser for failure of the used vehicle to conform with the implied warranty of merchantability.

3. For the purposes of this section, the computation of:

(a) Days following the date of delivery of the used vehicle to the purchaser must not include any day on which the used vehicle fails to conform with the implied warranty of merchantability.

(b) Miles driven must not include miles driven to obtain or in connection with the repair, service or diagnostic testing of a used vehicle which fails to conform with the implied warranty of merchantability.

Sec. 1.4. 1. A used vehicle that is sold by a used vehicle dealer conforms with the implied warranty of merchantability if the used vehicle functions substantially free of any defect which:

(a) Significantly limits the use of the used vehicle on any public highway; and

(b) Is not the result of any damage that occurs after the sale of the used vehicle, including, without limitation, damage resulting from off-road use, racing, towing, abuse, misuse, neglect, failure to perform ordinary maintenance or failure to maintain adequate levels of oil, engine coolant or other required fluids or lubricants.

2. If, during the effective period of the warranty of merchantability, the purchaser of a used vehicle discovers a defect that constitutes the failure of the used vehicle to conform with the implied warranty of merchantability, the purchaser shall notify the used vehicle dealer as soon as practicable, but not later than 30 days after the purchaser discovers the defect.

3. Before a purchaser may pursue the remedy prescribed in subsection 4:

(a) The purchaser must give the notice required by subsection 2;

(b) The used vehicle dealer must have a reasonable opportunity to repair the used vehicle; and

(c) The purchaser must pay one-half of the cost of the first two repairs that are necessary to bring the used vehicle into conformity with the implied warranty of merchantability, but not more than $25 for each repair.

4. If, after a reasonable opportunity, the used vehicle dealer is unable to repair the used vehicle to conform with the implied warranty of merchantability, the purchaser may elect to return the used vehicle to the used vehicle dealer who shall:

(a) Accept the return of the used vehicle; and

(b) Not later than 5 business days after the return of the vehicle:

(1) Refund to the purchaser the full amount paid by the purchaser toward the purchase price of the used vehicle; and

(2) Satisfy any security interest taken in the used vehicle.

5. A used vehicle dealer is not liable under this section to the purchaser for any amount other than the amount described in subsection 4, unless the used vehicle dealer had actual knowledge of or should have known of a defect in the used vehicle as a result of the circumstances in which the used

vehicle was acquired or sold and did not disclose the defect to the purchaser.

6. The remedy provided in this section is not exclusive and is intended to supplement existing law.

Sec. 1.5. 1. A contract for the sale of a used vehicle by a used vehicle dealer must contain the following conspicuous statement printed in boldface type and not less than 10-point font:

Nevada law requires that this used vehicle be fit for the ordinary purposes for which the used vehicle is used for 15 days or 500 miles after delivery of the used vehicle to you (the purchaser), whichever occurs earlier, except with regard to particular defects disclosed on the first page of this contract. You (the purchaser) will not have to pay more than $25 for each of the first two repairs if this warranty is violated.

2. The statement required by subsection 1 does not create an express warranty in a contract for the sale of a used vehicle by a used vehicle dealer.

Sec. 1.6. A purchaser may waive the implied warranty of merchantability in a contract for the sale of a used vehicle only:

1. For a particular defect in the used vehicle; and

2. If the following conditions are satisfied:

(a) The used vehicle dealer fully and accurately discloses the particular defect to the purchaser;

(b) The purchaser agrees to purchase the used vehicle after the disclosure of the particular defect is made; and

(c) The purchaser, before taking delivery of the used vehicle, signs and dates the following conspicuous statement which must be printed on the first page of the contract in boldface type and not less than 10-point font:

Attention purchaser: Sign here only if the used vehicle dealer has disclosed to you that this used vehicle has the following particular defects and you agree to purchase the used vehicle after this disclosure:

1. _____

2. _____

3. _____.

Sec. 1.7. The provisions of sections 1.1 to 1.8, inclusive, of this act do not apply to the sale by a used vehicle dealer of a used vehicle which is covered by an express warranty of a manufacturer.

Sec. 1.8. If a used vehicle dealer violates any provision of sections 1.1 to 1.8, inclusive, of this act, the contract for the sale of a used vehicle is voidable by the purchaser.

Sec. 2. ***1. A manufacturer shall not require a dealer:***

(a) To alter substantially an existing facility of the dealer; or

(b) To construct a new facility,

➥ for any new vehicles that are handled by the dealer, unless the alteration or new construction constitutes a reasonable facility requirement in accordance with the franchise agreement.

2. If a manufacturer requires a substantial alteration of an existing facility of the dealer or requires the dealer to construct a new facility, that requirement constitutes a modification of the franchise of the dealer for the purposes of this section, NRS 482.36311 to 482.36425, inclusive, and sections 3 and 4 of this act.

Sec. 3. ***A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.***

Sec. 4. (Deleted by amendment.)

Sec. 5. ***1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:***

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name, residence address and social security number of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been

registered or for which an ownership interest has not been taken by the broker.

Sec. 6. NRS 482.319 is hereby amended to read as follows:

482.319 1. Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.

Sec. 7. NRS 482.3195 is hereby amended to read as follows:

482.3195 1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license issued pursuant to NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act,*** the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or

other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate a license issued pursuant to NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 7.5. NRS 482.36311 is hereby amended to read as follows:

482.36311 As used in NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 482.36318 to 482.36348, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 482.36354 is hereby amended to read as follows:

482.36354 1. A manufacturer or distributor shall not modify the franchise of a dealer or replace the franchise with another franchise if the modification or replacement would have a substantially adverse effect upon the dealer's investment or his obligations to provide sales and service, unless:

(a) The manufacturer or distributor has given written notice of its intention to the Director and the dealer affected by the intended modification or replacement; and

(b) Either of the following conditions occurs:

(1) The dealer does not file a protest with the Director within 30 days after receiving the notice; or

(2) After a protest has been filed with the Director and the Director has conducted a hearing, the Director issues an order authorizing the manufacturer or distributor to modify or replace the franchise.

2. The notice required by subsection 1 must be given to the dealer and to the Director at least 60 days before the date on which the intended action is to take place.

3. If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive ~~[.]~~ ***, and sections 2, 3 and 4 of this act.*** As used in this subsection, "area of primary responsibility" means the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.

4. Notwithstanding the provisions of this section, if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles.

5. As used in this section, "line-make vehicles" means those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles.

Sec. 8.2. NRS 482.36366 is hereby amended to read as follows:

482.36366 1. Each witness, other than an officer or employee of the State or of a political subdivision of the State or an expert witness, who appears by order of the Director in a hearing pursuant to NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** is entitled to receive for his attendance the same fees allowed by law to witnesses in civil cases. Except as otherwise provided in subsection 2, the amount must be paid by the party at whose request the witness is ordered to appear.

2. The Director may assess other costs against the parties as he deems appropriate. After any hearing on a protest filed pursuant to NRS 482.36352, 482.36354 or 482.36357, if the Director determines that the manufacturer or distributor has failed to establish that there is good cause to terminate, refuse to continue, modify or replace a franchise, or to establish an additional dealership or relocate an existing dealership, the Director shall award to the dealer his attorney's fees and costs.

3. For the purposes of this section, "costs" includes:

(a) Except as otherwise provided in paragraph (b), any applicable cost set forth in NRS 18.005; and

(b) The actual amount of any fees paid by a dealer to an expert witness in connection with the hearing.

Sec. 8.4. NRS 482.3638 is hereby amended to read as follows:

482.3638 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Require a dealer to agree to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by this chapter, or require any controversy between a dealer and a manufacturer, distributor or representative to be referred to any person or agency except as set forth in this chapter if that referral would be binding on the dealer, except that this section does not prevent the parties from mutually agreeing to arbitration pursuant to law.

2. Require a dealer to agree to the jurisdiction, venue or tribunal in which a controversy arising under the provisions of the franchise agreement may or may not be submitted for resolution, or prohibit a dealer from bringing an action in any forum allowed by Nevada law.

3. Require a dealer to agree to a term or condition of a franchise agreement which violates any provision of NRS 482.36311 to 482.36425, inclusive ~~[.]~~ ***, and sections 2, 3 and 4 of this act.***

4. Require a dealer to waive a trial by jury in actions involving the manufacturer, distributor or factory branch.

5. Increase prices of new vehicles which the dealer had ordered for private retail consumers before his receipt of the written official notification of a price increase. A sales contract signed by a retail consumer constitutes

evidence of each order. Price changes applicable to new models or series of vehicles at the time of the introduction of the new models or series shall not be deemed a price increase. Price changes caused by:

(a) The addition to a vehicle of equipment formerly optional as standard or required equipment pursuant to state or federal law;

(b) Revaluation of the United States dollar in the case of foreign-made vehicles; or

(c) Transportation cost increases,

➥ are not subject to this subsection.

6. Deny the principal owner the opportunity to designate his spouse, a member of his family, a qualified manager, or a trust or other artificial person controlled by any of them as entitled to participate in the ownership of:

(a) The franchised dealership;

(b) A successor franchised dealership for 2 years or a longer reasonable time after the incapacity of the principal owner; or

(c) A successor franchised dealership after the death of the principal in accordance with NRS 482.36396 to 482.36414, inclusive.

7. Modify unilaterally, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of law.

8. Terminate or refuse to approve a transfer of a franchise for a dealership, or honor the right of succession set forth in a franchise agreement or refuse to approve the transfer of a controlling interest in a dealership because the dealer has, before October 1, 1997, established an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership.

9. Prevent a dealer from establishing, on or after October 1, 1997, an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership if the dealer:

(a) Submits a written request for approval of the additional franchise to the manufacturer, distributor or factory branch of the existing dealership;

(b) Complies with the reasonable requirements for approval set forth in the franchise of the existing dealership; and

(c) Obtains the approval of the manufacturer, distributor or factory branch of the existing dealership.

➥ The manufacturer, distributor or factory branch shall notify the dealer in writing of its decision to approve or deny the request within 90 days after receipt of the request. The manufacturer, distributor or factory branch shall not unreasonably withhold its approval. If the request is denied, the material reasons for the denial must be stated. Failure to approve or deny the request, in writing, within 90 days has the effect of approval.

Sec. 8.6. NRS 482.36423 is hereby amended to read as follows:

482.36423 1. Whenever it appears that a person has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** any person aggrieved thereby may apply to the district court in the county where the

defendant resides, or in the county where the violation or threat of violation occurs, for injunctive relief to restrain the person from continuing the violation or threat of violation.

2. In addition to any other judicial relief, any dealer or person who assumes the operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, who is injured in his business or property by reason of a violation of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** may bring an action in the district court in which the dealership is located, and may recover three times the pecuniary loss sustained by him, and the cost of suit, including a reasonable attorney's fee. The amount of pecuniary loss sustained by a dealer, pursuant to subsection 7 of NRS 482.3638, is the fair market value of the franchised dealership at the time of notification of termination, refusal to continue or unilateral modification of a franchise.

3. Any artificial person created and existing under the laws of any other state, territory, foreign government or the government of the United States, or any person residing outside the State, who grants a franchise to any dealer in this State may be served with any legal process in any action for injunctive relief or civil damages in the following manner:

(a) By delivering a copy of the process to the Director; and

(b) By mailing to the last known address of the manufacturer or distributor, by certified mail, return receipt requested, a copy of the summons and a copy of the complaint, together with copies of any petition or order for injunctive relief.

4. The defendant has 30 days, exclusive of the day of service, within which to answer or plead.

5. The method of service provided in this section is cumulative and may be utilized with, after or independently of all other methods of service.

Sec. 8.8. NRS 482.36425 is hereby amended to read as follows:

482.36425 1. Any manufacturer or distributor who willfully violates any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** is subject to a civil penalty of not less than $50 nor more than $1,000 for each day of violation and for each act of violation. All civil penalties recovered must be paid to the State of Nevada.

2. Whenever it appears that a manufacturer or distributor has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** the Attorney General may institute a civil suit in any district court of this State for injunctive relief to restrain the violation or threat of violation or, if the violation or threat is willful, for the assessment and recovery of the civil penalty, or both.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 13.1. **NRS 482.36655 is hereby amended to read as follows:**

482.36655 As used in NRS 482.36655 to 482.36667, inclusive, ***and sections 1.1 to 1.8, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 482.3666 and 482.366605 ***and section 1.1 of this act*** have the meanings ascribed to them in those sections.

Sec. 13.2. **NRS 482.36661 is hereby amended to read as follows:**

482.36661 Before a used vehicle dealer may sell to a retail customer a used vehicle **,** ~~[the odometer of which registers 75,000 miles or more,]~~ the used vehicle dealer must conduct a reasonably thorough inspection of the soundness and safety of the vehicle's engine and drivetrain and disclose in writing any defects in the engine or drivetrain known to him or which he reasonably should have known after he conducts the inspection.

Sec. 13.3. **NRS 482.36664 is hereby amended to read as follows:**

482.36664 1. A retail customer who purchases a used vehicle ~~[the odometer of which registers 75,000 miles or more]~~ may submit to the Department a written complaint regarding the used vehicle dealer **,** ~~[.]~~ ***only after making a good faith attempt to resolve the complaint with the used vehicle dealer.*** The Department shall, within 10 days after it receives a complaint pursuant to this section, provide a copy of the complaint to the used vehicle dealer who is the subject of the complaint.

2. A complaint submitted ***by the retail customer*** pursuant to subsection 1 must include:

(a) A clear and concise statement of the complaint and the facts relating to the complaint;

(b) Copies of any documents relating to the complaint; and

(c) A statement of the manner in which the retail customer wishes to have the complaint resolved.

3. Upon receipt of a complaint pursuant to this section, the Department shall investigate the complaint and determine whether the used vehicle dealer who is the subject of the complaint has violated the provisions of NRS 482.36655 to 482.36667, inclusive, ***and sections 1.1 to 1.8, inclusive, of this act*** or the regulations adopted by the Department pursuant thereto.

4. If the Department determines that a used vehicle dealer has violated the provisions of NRS 482.36655 to 482.36667, inclusive, ***and sections 1.1 to 1.8, inclusive, of this act*** or the regulations adopted by the Department pursuant thereto, the Department shall notify the used vehicle dealer of that determination and recommend to the dealer the actions that he may take to resolve the complaint.

5. A retail customer or used vehicle dealer who is aggrieved by the decision of the Department may appeal the decision to the Director.

Sec. 13.4. **NRS 482.36665 is hereby amended to read as follows:**

482.36665 The Department shall maintain a record of the complaints submitted to the Department pursuant to NRS 482.36664. The record must include a statement of whether the dealer was found to have violated the

provisions of NRS 482.36655 to 482.36667, inclusive, ***and sections 1.1 to 1.8, inclusive, of this act*** or the regulations adopted pursuant thereto, and if so, whether the used vehicle dealer resolved the complaint in the manner recommended by the Department or in any other manner acceptable to the Department and the retail customer who filed the complaint.

Sec. 13.5. **NRS 482.36667 is hereby amended to read as follows:**

482.36667 The Department may adopt regulations to carry out the provisions of NRS 482.36655 to 482.36667, inclusive ~~[.]~~ ***, and sections 1.1 to 1.8, inclusive, of this act.***

Sec. 13.6. **NRS 41.600 is hereby amended to read as follows:**

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive ~~[.]~~ ***, and sections 1.1 to 1.8, inclusive, of this act;***

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive.

3. If the claimant is the prevailing party, the court shall award him:

(a) Any damages that he has sustained; and

(b) His costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

Sec. 13.7. **NRS 97.299 is hereby amended to read as follows:**

97.299 1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:

(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;

(b) The application for credit is made to or through the seller of the vehicle;

(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) Include the following notice in at least 10-point bold type:

NOTICE TO BUYER

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.

3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.

4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.

5. ***The form for the application for credit and the contract to be used in the sale of a used vehicle prescribed by the Commissioner pursuant to subsection 1 must contain statements that are substantially similar to the statements described in subsection 1 of section 1.5 of this act and paragraph (c) of subsection 2 of section 1.6 of this act.***

6. As used in this section:

(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.

(b) "Dealer" has the meaning ascribed to it in NRS 482.020.

(c) "Used vehicle" has the meaning ascribed to it in NRS 482.132.

Sec. 14. Section 5 of this act is hereby amended to read as follows:

Sec. 5. 1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name ~~[,]~~ ***and*** residence address ~~[and social security number]~~ of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 14.5. **NRS 482.36662, 482.36663 and 482.36666 are hereby repealed.**

Sec. 15. 1. This section and sections 1 ~~[to 4, inclusive,]~~ **, 2, 3** and 7.5 to 13, inclusive, of this act become effective upon passage and approval.

2. Sections **1.1 to 1.8, inclusive, 13.1 to 13.7, inclusive, and 14.5 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.**

3. Sections 5, 6 and 7 of this act become effective on July 1, 2010.

~~[3.]~~ **4.** Section 5 of this act expires by limitation on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

~~[4.]~~ **5.** Section 14 of this act becomes effective on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures

under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTIONS

482.36662 Written warranty required under certain circumstances; contents of warranty.

1. A used vehicle dealer who sells to a retail customer a used vehicle the odometer of which registers 75,000 miles or more shall provide to that retail customer an express written warranty which complies with the requirements set forth in subsection 2 and is valid for the period set forth in the schedule of warranties created pursuant to NRS 482.36663, if the used vehicle dealer is the subject of more than three substantiated complaints filed against him with the Department of Motor Vehicles during a 12-month period.

2. An express written warranty required pursuant to subsection 1 must contain a statement that, in the event the operation of the used vehicle becomes impaired as a result of a defect in a component or system of the vehicle's engine or drivetrain, the used vehicle dealer shall, with reasonable promptness, correct the defect or cause the defect to be corrected.

482.36663 Duration of warranty. If an express written warranty is provided to a retail customer for a used vehicle pursuant to NRS 482.36662, the duration of the warranty must be determined pursuant to this section. If, on the date the vehicle was purchased from the used vehicle dealer, the odometer in the used vehicle registered:

1. At least 75,000 but less than 80,001 miles, the warranty is valid for a period of 30 days therefrom or until the odometer in the vehicle registers 1,000 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

2. At least 80,001 but less than 85,001 miles, the warranty is valid for a period of 20 days therefrom or until the odometer in the vehicle registers 600 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

3. At least 85,001 but less than 90,001 miles, the warranty is valid for a period of 10 days therefrom or until the odometer in the vehicle registers 300 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

4. At least 90,001 but less than 100,001 miles, the warranty is valid for a period of 5 days therefrom or until the odometer in the vehicle

registers 150 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

5. At least 100,001 miles, the warranty is valid for a period of 2 days therefrom or until the odometer in the vehicle registers 100 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

➥ The period for which a warranty is valid pursuant to this section must be tolled during any period in which the dealer has possession of the vehicle or the operation of the vehicle is impaired and the vehicle is inoperable due to a defect in the vehicle's engine or drivetrain.

482.36666 Administrative fines; opportunity for hearing; deposit of fines; injunctions and other remedies.

1. If the Department determines from the record maintained pursuant to NRS 482.36665 that on more than three occasions a used vehicle dealer has:

(a) Been found to have violated the provisions of NRS 482.36655 to 482.36667, inclusive, or the regulations adopted pursuant thereto; and

(b) Failed to resolve those complaints in the manner recommended by the Department pursuant to NRS 482.36664 or in any other manner acceptable to the Department and the retail customer who filed the complaint,

➥ the Department may impose an administrative fine, not to exceed $2,500, for each additional violation of the provisions of NRS 482.36655 to 482.36667, inclusive. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Account for Regulation of Used Vehicle Dealers, which is hereby created in the State Highway Fund. Money in the Account may be used only for the administration of NRS 481.048 and NRS 482.36655 to 482.36667, inclusive.

3. In addition to any other remedy provided by law, the Department may compel compliance with NRS 482.36655 to 482.36667, inclusive, and any regulation adopted pursuant thereto, by injunction or other appropriate remedy, and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblywoman Spiegel:

Amendment No. 843.

AN ACT relating to vehicles; prohibiting a manufacturer from requiring a dealer to alter substantially an existing facility of the dealer or construct a new facility except under certain circumstances; prohibiting a manufacturer from taking adverse action against a dealer relating to the exportation of a

vehicle outside the United States except under certain circumstances; providing for the licensure of an agent of a broker; revising provisions governing the modification or replacement of a franchise; **revising provisions governing the termination of a franchise agreement with a manufacturer or distributer of motor vehicles;** establishing fees; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill prohibits a manufacturer from requiring a dealer to alter substantially an existing facility or to construct a new facility for any new vehicles that are handled by the dealer under certain circumstances. **Section 2** also provides that such a requirement constitutes a modification of the franchise of the dealer.

Section 3 of this bill prohibits a manufacturer from taking adverse action against a dealer who sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Sections 5 and 14 of this bill provide for the licensure of an agent for a broker of vehicles in this State. A person who violates the provisions governing the licensure of such agents is guilty of a misdemeanor.

Under existing law, when a franchise agreement is terminated by a manufacturer or distributor of motor vehicles, the manufacturer or distributor is required to compensate the new vehicle dealer for the dealer's inventory of new vehicles and certain inventory of parts and accessories of the dealer. (NRS 482.363521) Sections 7.1-7.7 of this bill provide that, if the franchise agreement is terminated due to the bankruptcy of the manufacturer or distributor, the dealer may elect instead to retain the inventory of new vehicles and certain parts and accessories, and is authorized for a specified period to sell the vehicles at retail and thereafter to sell the vehicles as used vehicles. The dealer is further authorized to sell the inventory of the retained parts and accessories.

Section 8 of this bill provides that if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles. **Section 8** defines such vehicles as those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles. (NRS 482.36354)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***1. A manufacturer shall not require a dealer:***

(a) To alter substantially an existing facility of the dealer; or

(b) To construct a new facility,

↪ for any new vehicles that are handled by the dealer, unless the alteration or new construction constitutes a reasonable facility requirement in accordance with the franchise agreement.

2. If a manufacturer requires a substantial alteration of an existing facility of the dealer or requires the dealer to construct a new facility, that requirement constitutes a modification of the franchise of the dealer for the purposes of this section, NRS 482.36311 to 482.36425, inclusive, and sections 3 and 4 of this act.

Sec. 3. ***A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.***

Sec. 4. (Deleted by amendment.)

Sec. 5. ***1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:***

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name, residence address and social security number of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 6. NRS 482.319 is hereby amended to read as follows:

482.319 1. Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.

Sec. 7. NRS 482.3195 is hereby amended to read as follows:

482.3195 1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license issued pursuant to NRS 482.318 to

482.363105, inclusive, ***and section 5 of this act,*** the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate a license issued pursuant to NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 7.1. **NRS 482.322 is hereby amended to read as follows:**

482.322 1. Except as otherwise provided in subsection 2 and NRS 482.3225, a person shall not engage in the activities of a new vehicle dealer, used vehicle dealer, manufacturer, distributor or rebuilder in this State until he has been issued:

(a) A new vehicle dealer's, used vehicle dealer's, manufacturer's, distributor's, rebuilder's or lessor's license certificate or similar license or permit by every city within whose corporate limits he maintains an established place of business and by every county in which he maintains an established place of business outside the corporate limits of a city; and

(b) A license by the Department. The Department shall not issue a license to the person until he has been issued all certificates, licenses and permits required by paragraph (a).

2. ~~[A]~~ ***Except as otherwise provided in NRS 482.363521, a*** person licensed as a dealer pursuant to this chapter shall not engage in the activities of a new vehicle dealer until he has provided the Department with satisfactory proof that he is authorized by a manufacturer to display and offer for sale vehicles produced or distributed by that manufacturer.

3. A vehicle dealer's, manufacturer's or rebuilder's license issued pursuant to this chapter does not permit a person to engage in the business of a new or used mobile home dealer, manufacturer or rebuilder.

4. The Department shall investigate any applicant for a dealer's, manufacturer's, distributor's, rebuilder's or lessor's license certificate or license and complete an investigation report on a form provided by the Department.

5. A person who violates subsection 1 or 2 is guilty of:

(a) For a first offense, a misdemeanor.

(b) For a second offense, a gross misdemeanor.

(c) For a third and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

Sec. 7.3. **NRS 482.350 is hereby amended to read as follows:**

482.350 1. A new vehicle dealer's license shall not be furnished to any dealer in new vehicles, trailers or semitrailers unless the dealer first furnishes the Department an instrument executed by or on behalf of the manufacturer certifying that he is an authorized franchised dealer for the make or makes of vehicle concerned. ~~[New]~~ ***Except as otherwise provided in NRS 482.363521, new*** vehicle dealers are authorized to sell at retail only those new vehicles for which they are certified as franchised dealers by the manufacturer.

2. In addition to selling used vehicles, a used vehicle dealer may:

(a) Sell at wholesale a new vehicle taken in trade or acquired as a result of a sales contract to a new vehicle dealer who is licensed and authorized to sell that make of vehicle;

(b) Sell at wholesale a new vehicle through a wholesale vehicle auction provided that the wholesale vehicle auctioneer:

(1) Does not take an ownership interest in the vehicle; and

(2) Auctions the vehicle to a vehicle dealer who is licensed and authorized to sell that make of vehicle or to an automobile wrecker who is licensed in this State or any other state; or

(c) Sell a new vehicle on consignment from a person not licensed as a vehicle dealer, rebuilder or a long-term or short-term lessor.

Sec. 7.5. NRS 482.36311 is hereby amended to read as follows:

482.36311 As used in NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 482.36318 to 482.36348, inclusive, have the meanings ascribed to them in those sections.

Sec. 7.7. **NRS 482.363521 is hereby amended to read as follows:**

482.363521 1. ~~[Upon]~~ ***Except as otherwise provided in subsection 6, upon*** the termination or refusal to continue a franchise, the manufacturer or distributor shall compensate the dealer for:

(a) The dealer's inventory of new vehicles, including new vehicles not of the current model year if delivered to the dealer during the 18-month period immediately preceding the effective date of the termination or refusal to continue the franchise. ~~[As used in this paragraph, a "new vehicle" is one which has not been damaged, materially altered or registered with the Department or with the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or any foreign state, province or country.]~~

(b) The dealer's inventory of parts and accessories which:

(1) Have been purchased by the dealer from the manufacturer or distributor; and

(2) Are listed in a current parts catalog of the manufacturer or distributor.

(c) Any special tools purchased by the dealer from the manufacturer or distributor, less a reasonable allowance for depreciation.

(d) Any equipment, furnishings or signs purchased by the dealer from the manufacturer or distributor, less a reasonable allowance for depreciation.

(e) Except as otherwise provided in subsection 4, the fair rental value for 90 days, and any additional period allowed by the Director after considering the difficulty of finding a new tenant for the dealer's premises affected, after the effective date of the termination or refusal to continue of the portion of the dealer's place of business that was used by the dealer to sell or service vehicles or other products of the manufacturer or distributor.

2. Compensation paid pursuant to paragraphs (a) to (d), inclusive, of subsection 1 must be paid in an amount at least equal to the greater of:

(a) The amount actually paid by the dealer for the vehicles, parts, tools and equipment; or

(b) The amount currently paid by other dealers in this State for the vehicles, parts, tools and equipment.

3. If compensation is paid pursuant to paragraph (e) of subsection 1, the dealer shall allow the manufacturer or distributor paying the compensation the use and possession of the premises affected.

4. The manufacturer or distributor is not required to pay compensation pursuant to paragraph (e) of subsection 1 if the dealer has been convicted of a crime involving fraud in connection with his application for or operation of the franchise.

5. This section does not relieve a dealer of his obligation to mitigate damages resulting from the termination or refusal to continue the franchise.

6. If a franchise agreement is terminated by or on behalf of the manufacturer or distributor as a result of a reorganization of the business of the manufacturer or distributor pursuant to an order of a federal bankruptcy court, the dealer may elect to retain the inventory of new vehicles, parts and accessories, special tools and equipment, furnishing or signs which meet the requirements of paragraphs (a) to (d), inclusive, of subsection 1. A dealer that makes such an election must inform the manufacturer or distributor and the Director in writing not later than 30 days after the effective date of the termination of the franchise agreement of that election.

7. A dealer that elects to retain the inventory pursuant to subsection 6:

(a) Forfeits any right to seek compensation pursuant to subsection 1; and

(b) Does not forfeit the right to protest the termination of the franchise agreement pursuant to NRS 482.36352.

8. A dealer that elects to retain an inventory of new vehicles pursuant to subsection 6 may sell those vehicles at retail for 6 months after the date on which the manufacturer or distributor and the Director are notified of the dealer's election pursuant to subsection 6, provided that the dealer retains a license as a new vehicle dealer. Any such sale:

(a) Is subject to all applicable provisions of this chapter; and

(b) Must include a written disclosure by the dealer to the customer that clearly states:

(1) The terms of the manufacturer's warranty, if any;

(2) The terms of any express warranty made by the dealer; or

(3) That the vehicle is being sold without any express or implied warranty.

9. After the period set forth in subsection 8, if the dealer is licensed as a used vehicle dealer, the dealer may sell any remaining vehicles as used vehicles, subject to all applicable provisions of this chapter.

10. A dealer who elects to retain his inventory of parts and accessories, special tools and equipment, furnishing or signs pursuant to subsection 6 may retain, sell or otherwise dispose of the parts and accessories, special tools and equipment, furnishing or signs.

11. As used in this section, "new vehicle" means a vehicle which has not been damaged, materially altered or registered with the Department or with the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or any foreign state, province or country.

Sec. 8. NRS 482.36354 is hereby amended to read as follows:

482.36354 1. A manufacturer or distributor shall not modify the franchise of a dealer or replace the franchise with another franchise if the modification or replacement would have a substantially adverse effect upon the dealer's investment or his obligations to provide sales and service, unless:

(a) The manufacturer or distributor has given written notice of its intention to the Director and the dealer affected by the intended modification or replacement; and

(b) Either of the following conditions occurs:

(1) The dealer does not file a protest with the Director within 30 days after receiving the notice; or

(2) After a protest has been filed with the Director and the Director has conducted a hearing, the Director issues an order authorizing the manufacturer or distributor to modify or replace the franchise.

2. The notice required by subsection 1 must be given to the dealer and to the Director at least 60 days before the date on which the intended action is to take place.

3. If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive ~~[.]~~ ***, and sections 2, 3 and 4 of this act.*** As used in this subsection, "area of primary responsibility" means the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.

4. Notwithstanding the provisions of this section, if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles.

5. As used in this section, "line-make vehicles" means those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles.

Sec. 8.2. NRS 482.36366 is hereby amended to read as follows:

482.36366 1. Each witness, other than an officer or employee of the State or of a political subdivision of the State or an expert witness, who appears by order of the Director in a hearing pursuant to NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** is entitled to receive for his attendance the same fees allowed by law to witnesses in civil cases. Except as otherwise provided in subsection 2, the amount must be paid by the party at whose request the witness is ordered to appear.

2. The Director may assess other costs against the parties as he deems appropriate. After any hearing on a protest filed pursuant to NRS 482.36352, 482.36354 or 482.36357, if the Director determines that the manufacturer or distributor has failed to establish that there is good cause to terminate, refuse to continue, modify or replace a franchise, or to establish an additional dealership or relocate an existing dealership, the Director shall award to the dealer his attorney's fees and costs.

3. For the purposes of this section, "costs" includes:

(a) Except as otherwise provided in paragraph (b), any applicable cost set forth in NRS 18.005; and

(b) The actual amount of any fees paid by a dealer to an expert witness in connection with the hearing.

Sec. 8.4. NRS 482.3638 is hereby amended to read as follows:

482.3638 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Require a dealer to agree to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by this chapter, or require any controversy between a dealer and a manufacturer, distributor or representative to be referred to any person or agency except as set forth in this chapter if that referral would be binding on the dealer, except that this section does not prevent the parties from mutually agreeing to arbitration pursuant to law.

2. Require a dealer to agree to the jurisdiction, venue or tribunal in which a controversy arising under the provisions of the franchise agreement may or may not be submitted for resolution, or prohibit a dealer from bringing an action in any forum allowed by Nevada law.

3. Require a dealer to agree to a term or condition of a franchise agreement which violates any provision of NRS 482.36311 to 482.36425, inclusive ~~[.]~~ ***, and sections 2, 3 and 4 of this act.***

4. Require a dealer to waive a trial by jury in actions involving the manufacturer, distributor or factory branch.

5. Increase prices of new vehicles which the dealer had ordered for private retail consumers before his receipt of the written official notification of a price increase. A sales contract signed by a retail consumer constitutes

evidence of each order. Price changes applicable to new models or series of vehicles at the time of the introduction of the new models or series shall not be deemed a price increase. Price changes caused by:

(a) The addition to a vehicle of equipment formerly optional as standard or required equipment pursuant to state or federal law;

(b) Revaluation of the United States dollar in the case of foreign-made vehicles; or

(c) Transportation cost increases,

➥ are not subject to this subsection.

6. Deny the principal owner the opportunity to designate his spouse, a member of his family, a qualified manager, or a trust or other artificial person controlled by any of them as entitled to participate in the ownership of:

(a) The franchised dealership;

(b) A successor franchised dealership for 2 years or a longer reasonable time after the incapacity of the principal owner; or

(c) A successor franchised dealership after the death of the principal in accordance with NRS 482.36396 to 482.36414, inclusive.

7. Modify unilaterally, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of law.

8. Terminate or refuse to approve a transfer of a franchise for a dealership, or honor the right of succession set forth in a franchise agreement or refuse to approve the transfer of a controlling interest in a dealership because the dealer has, before October 1, 1997, established an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership.

9. Prevent a dealer from establishing, on or after October 1, 1997, an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership if the dealer:

(a) Submits a written request for approval of the additional franchise to the manufacturer, distributor or factory branch of the existing dealership;

(b) Complies with the reasonable requirements for approval set forth in the franchise of the existing dealership; and

(c) Obtains the approval of the manufacturer, distributor or factory branch of the existing dealership.

➥ The manufacturer, distributor or factory branch shall notify the dealer in writing of its decision to approve or deny the request within 90 days after receipt of the request. The manufacturer, distributor or factory branch shall not unreasonably withhold its approval. If the request is denied, the material reasons for the denial must be stated. Failure to approve or deny the request, in writing, within 90 days has the effect of approval.

Sec. 8.6. NRS 482.36423 is hereby amended to read as follows:

482.36423 1. Whenever it appears that a person has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** any person aggrieved thereby may apply to the district court in the county where the

defendant resides, or in the county where the violation or threat of violation occurs, for injunctive relief to restrain the person from continuing the violation or threat of violation.

2. In addition to any other judicial relief, any dealer or person who assumes the operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, who is injured in his business or property by reason of a violation of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** may bring an action in the district court in which the dealership is located, and may recover three times the pecuniary loss sustained by him, and the cost of suit, including a reasonable attorney's fee. The amount of pecuniary loss sustained by a dealer, pursuant to subsection 7 of NRS 482.3638, is the fair market value of the franchised dealership at the time of notification of termination, refusal to continue or unilateral modification of a franchise.

3. Any artificial person created and existing under the laws of any other state, territory, foreign government or the government of the United States, or any person residing outside the State, who grants a franchise to any dealer in this State may be served with any legal process in any action for injunctive relief or civil damages in the following manner:

(a) By delivering a copy of the process to the Director; and

(b) By mailing to the last known address of the manufacturer or distributor, by certified mail, return receipt requested, a copy of the summons and a copy of the complaint, together with copies of any petition or order for injunctive relief.

4. The defendant has 30 days, exclusive of the day of service, within which to answer or plead.

5. The method of service provided in this section is cumulative and may be utilized with, after or independently of all other methods of service.

Sec. 8.8. NRS 482.36425 is hereby amended to read as follows:

482.36425 1. Any manufacturer or distributor who willfully violates any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** is subject to a civil penalty of not less than $50 nor more than $1,000 for each day of violation and for each act of violation. All civil penalties recovered must be paid to the State of Nevada.

2. Whenever it appears that a manufacturer or distributor has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** the Attorney General may institute a civil suit in any district court of this State for injunctive relief to restrain the violation or threat of violation or, if the violation or threat is willful, for the assessment and recovery of the civil penalty, or both.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. Section 5 of this act is hereby amended to read as follows:

Sec. 5. 1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name ~~[,]~~ ***and*** residence address ~~[and social security number]~~ of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 15. 1. This section and sections 1 to 4, inclusive, and ~~[7.5]~~ **7.1** to 13, inclusive, of this act become effective upon passage and approval.

2. Sections 5, 6 and 7 of this act become effective on July 1, 2010.

3. Section 5 of this act expires by limitation on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Section 14 of this act becomes effective on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 415 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 415.

Bill read third time.

Potential conflict of interest declared by Assemblymen Gustavson, Carpenter, Atkinson, Aizley, Anderson, Bobzien, Stewart, Munford, Oceguera, Grady, Goicoechea, Woodbury, Kihuen, Denis, Settelmeyer, Dondero Loop, Ohrenschall, Parnell, Segerblom, and Koivisto.

Roll call on Senate Bill No. 415:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, Hambrick, McArthur—5.

Senate Bill No. 415 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 92.

Bill read third time.

Roll call on Senate Bill No. 92:

YEAS—40.

NAYS—Claborn, Smith—2.

Senate Bill No. 92 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 124.

Bill read third time.

Remarks by Assemblyman Stewart.

Roll call on Senate Bill No. 124:

YEAS—42.

NAYS—None.

Senate Bill No. 124 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess until 4 p.m.

Motion carried.

Assembly in recess at 1:37 p.m.

ASSEMBLY IN SESSION

At 4:35 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 94, 173, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

May 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 397.

GARY GHIGGERI
Fiscal Analysis Division

NOTICE OF WAIVER

A Waiver requested by Senator Horsford.

For: BDR S-1321 (Senate Bill No. 432).

To Waive:

Subsection 1 of Joint Standing Rule No. 14 (2 BDRs from Assemblymen and 4 BDRs from Senators requested by 8th day).

Subsection 1 of Joint Standing Rule No. 14.2 (dates for introduction of BDRs requested by individual legislators and committees).

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).
Has been granted effective: May 20, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 563—AN ACT relating to education; ensuring sufficient funding for K-12 public education for the 2009-2011 biennium; apportioning the State Distributive School Account in the State General Fund for the 2009-2011 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other educational purposes; authorizing temporarily the board of trustees of a school district to use money raised through its general obligations for the purchase of equipment for the transportation of pupils; revising provisions governing local funds available for certain school districts for the 2009-2011 biennium; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 430, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Senate Bill No. 68 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 313 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 94.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 828.

AN ACT relating to fire protection; imposing various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State; requiring the State Forester

Firewarden and State Fire Marshal to cooperate in the enforcement of certain laws and regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law charges the State Forester Firewarden with overseeing various fire protection activities for the State. (Chapter 472 of NRS) Existing law also provides for the creation of various types of fire protection districts. (Chapters 318, 473 and 474 of NRS) Existing law sets forth the duties of the State Forester Firewarden. (NRS 472.040) **Section 2** of this bill expands those duties to include cooperating with the State Fire Marshal in enforcing laws and adopting regulations, assessing codes, rules and regulations of certain agencies to ensure they are consistent with other fire codes, rules and regulations and ensuring that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS. Existing law requires the State Fire Marshal to cooperate with the State Forester Firewarden to prepare certain regulations. (NRS 477.030) **Section 4** of this bill expands that requirement to include regulations relating to the mitigation of the fire hazard risk posed by vegetation in the Lake Tahoe Basin and the Lake Mead Basin. **Section 5** of this bill requires the State Forester Firewarden to review and evaluate the laws and regulations of this State to: (1) ensure that such fire protection districts have adequate statutory and regulatory authority to carry out the regulations adopted pursuant to this bill and to carry out necessary fire safety and fire prevention activities; and (2) ensure that there are adequate mechanisms to increase the funding of the fire prevention districts, if necessary, to enforce the regulations and that adequate funding exists to carry out their responsibilities. The State Forester Firewarden is required to submit a report of its review and evaluation and any recommendations for legislation to **the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System, and to** the Director of the Legislative Counsel Bureau by January 1, 2011, for ~~[submission]~~ **transmittal** to the 2011 Legislature.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

(a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrolmen, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 3. NRS 472.041 is hereby amended to read as follows:

472.041 1. The State Forester Firewarden may:

(a) In a district formed pursuant to NRS 473.034; and

(b) In an area designated pursuant to paragraph (d) of subsection 1 of NRS 472.040, including ***, without limitation,*** any land within the 1/2-mile radius surrounding such an area,

➥ enforce **[**~~the provisions of Appendix II-A of the Uniform Fire Code of the International Conference of Building Officials in the form most recently adopted by that conference before July 1, 1985, regarding the clearance~~**]** ***all regulations relating to the reduction*** of brush, dense undergrowth and other vegetation around and adjacent to a structure to reduce the exposure of the structure to fire and radiant heat and increase the ability of firefighters to protect the structure.

2. The enforcement of these provisions must permit the planting of grass, trees, ornamental shrubbery or other plants used to stabilize the soil and prevent erosion so long as the plants do not form a means of rapidly transmitting fire from native growth to any structure.

Sec. 4. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

➥ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

➥ Except as otherwise provided in subsection 12, the regulations of the State Fire Marshal apply throughout the State, but except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a school district except as otherwise provided in NRS 393.110, or a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040 ~~[.]~~ ***and the mitigation of the risk of a fire hazard from vegetation in counties within or partially within the Lake Tahoe Basin and the Lake Mead Basin.***

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and

directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) Except as otherwise provided in subsection 12 and NRS 393.110, assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

➥ on request or as he deems necessary.

10. Except as otherwise provided in this subsection, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this

subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

12. Except as otherwise provided in this subsection, any regulations of the State Fire Marshal concerning matters relating to building codes, including, without limitation, matters relating to the construction, maintenance or safety of buildings, structures and property in this State:

(a) Do not apply in a county whose population is 400,000 or more which has adopted a code at least as stringent as the International Fire Code and the International Building Code, published by the International Code Council. To maintain the exemption from the applicability of the regulations of the State Fire Marshal pursuant to this subsection, the code of the county must be at least as stringent as the most recently published edition of the International Fire Code and the International Building Code within 1 year after publication of such an edition.

(b) Apply in a county described in paragraph (a) with respect to state-owned or state-occupied buildings or public schools in the county and in those local jurisdictions in the county in which the State Fire Marshal is requested to exercise that authority by the chief executive officer of that jurisdiction. As used in this paragraph, "public school" has the meaning ascribed to it in NRS 385.007.

Sec. 5. 1. The State Forester Firewarden shall review and evaluate the laws and regulations of this State to ensure that adequate statutory and regulatory authority exists for each fire protection district, located in whole or in part in the areas of the Lake Tahoe Basin and the Lake Mead Basin in this State, that is created pursuant to chapter 318, 473 or 474 of NRS to carry out the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and to carry out any necessary fire safety and fire prevention activities. The review and evaluation must also include a determination of whether such fire protection districts have adequate funding to carry out their responsibilities and whether one or more statutory mechanisms exist to increase the funding, if necessary, to ensure the enforcement of the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040.

2. On or before January 1, 2011, the State Forester Firewarden shall submit a report which includes a summary of the review and evaluation conducted pursuant to subsection 1 and any recommendations for legislation

to the **Committee and to the** Director of the Legislative Counsel Bureau for transmittal to the Legislature. The Director shall cause the report to be made available to each Senator and Assemblyman of the 2011 Legislature.

3. As used in this section, "Committee" means the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System created by NRS 218.53871.

Sec. 6. The State Forester Firewarden shall adopt the regulations required pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and complete the review and evaluation of the laws and regulations of this State required pursuant to section 5 of this act not later than July 1, 2010.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblyman Oceguera:

Amendment No. 839.

SUMMARY— ~~[Imposes various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State.]~~ **Makes various changes relating to fire protection.** (BDR 42-444)

AN ACT relating to fire protection; imposing various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State; requiring the State Forester Firewarden and State Fire Marshal to cooperate in the enforcement of certain laws and regulations; **authorizing the transfer of certain property by the State of Nevada to the Sierra Fire Protection District;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law charges the State Forester Firewarden with overseeing various fire protection activities for the State. (Chapter 472 of NRS) Existing law also provides for the creation of various types of fire protection districts. (Chapters 318, 473 and 474 of NRS) Existing law sets forth the duties of the State Forester Firewarden. (NRS 472.040) **Section 2** of this bill expands those duties to include cooperating with the State Fire Marshal in enforcing laws and adopting regulations, assessing codes, rules and regulations of certain agencies to ensure they are consistent with other fire codes, rules and regulations and ensuring that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS. Existing law requires the State Fire Marshal to cooperate with the State Forester Firewarden to prepare certain regulations. (NRS 477.030) **Section 4** of this bill expands that requirement to include regulations relating to the mitigation of the fire hazard risk posed by vegetation in the Lake Tahoe Basin and the Lake Mead Basin. **Section 5** of this bill requires the State Forester Firewarden to review and evaluate the laws and regulations of this State to: (1) ensure that such fire protection districts have adequate

statutory and regulatory authority to carry out the regulations adopted pursuant to this bill and to carry out necessary fire safety and fire prevention activities; and (2) ensure that there are adequate mechanisms to increase the funding of the fire prevention districts, if necessary, to enforce the regulations and that adequate funding exists to carry out their responsibilities. The State Forester Firewarden is required to submit a report of its review and evaluation and any recommendations for legislation to the Director of the Legislative Counsel Bureau by January 1, 2011, for submission to the 2011 Legislature.

Section 7 of this bill authorizes the transfer of certain property owned by the State of Nevada to the Sierra Fire Protection District.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

(a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrolmen, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 3. NRS 472.041 is hereby amended to read as follows:

472.041 1. The State Forester Firewarden may:

(a) In a district formed pursuant to NRS 473.034; and

(b) In an area designated pursuant to paragraph (d) of subsection 1 of NRS 472.040, including ***, without limitation,*** any land within the 1/2-mile radius surrounding such an area,

➥ enforce ~~[the provisions of Appendix II-A of the Uniform Fire Code of the International Conference of Building Officials in the form most recently adopted by that conference before July 1, 1985, regarding the clearance]~~ ***all regulations relating to the reduction*** of brush, dense undergrowth and other vegetation around and adjacent to a structure to reduce the exposure of the structure to fire and radiant heat and increase the ability of firefighters to protect the structure.

2. The enforcement of these provisions must permit the planting of grass, trees, ornamental shrubbery or other plants used to stabilize the soil and prevent erosion so long as the plants do not form a means of rapidly transmitting fire from native growth to any structure.

Sec. 4. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

➥ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

➥ Except as otherwise provided in subsection 12, the regulations of the State Fire Marshal apply throughout the State, but except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a school district except as otherwise provided in NRS 393.110, or a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040 ~~[.]~~ ***and the mitigation of the risk of a fire hazard from vegetation in counties within or partially within the Lake Tahoe Basin and the Lake Mead Basin.***

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any

investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) Except as otherwise provided in subsection 12 and NRS 393.110, assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

➥ on request or as he deems necessary.

10. Except as otherwise provided in this subsection, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

12. Except as otherwise provided in this subsection, any regulations of the State Fire Marshal concerning matters relating to building codes, including, without limitation, matters relating to the construction, maintenance or safety of buildings, structures and property in this State:

(a) Do not apply in a county whose population is 400,000 or more which has adopted a code at least as stringent as the International Fire Code and the International Building Code, published by the International Code Council. To

maintain the exemption from the applicability of the regulations of the State Fire Marshal pursuant to this subsection, the code of the county must be at least as stringent as the most recently published edition of the International Fire Code and the International Building Code within 1 year after publication of such an edition.

(b) Apply in a county described in paragraph (a) with respect to state-owned or state-occupied buildings or public schools in the county and in those local jurisdictions in the county in which the State Fire Marshal is requested to exercise that authority by the chief executive officer of that jurisdiction. As used in this paragraph, "public school" has the meaning ascribed to it in NRS 385.007.

Sec. 5. 1. The State Forester Firewarden shall review and evaluate the laws and regulations of this State to ensure that adequate statutory and regulatory authority exists for each fire protection district, located in whole or in part in the areas of the Lake Tahoe Basin and the Lake Mead Basin in this State, that is created pursuant to chapter 318, 473 or 474 of NRS to carry out the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and to carry out any necessary fire safety and fire prevention activities. The review and evaluation must also include a determination of whether such fire protection districts have adequate funding to carry out their responsibilities and whether one or more statutory mechanisms exist to increase the funding, if necessary, to ensure the enforcement of the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040.

2. On or before January 1, 2011, the State Forester Firewarden shall submit a report which includes a summary of the review and evaluation conducted pursuant to subsection 1 and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. The Director shall cause the report to be made available to each Senator and Assemblyman of the 2011 Legislature.

Sec. 6. The State Forester Firewarden shall adopt the regulations required pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and complete the review and evaluation of the laws and regulations of this State required pursuant to section 5 of this act not later than July 1, 2010.

Sec. 7. **1. The State Land Registrar may transfer to the Sierra Fire Protection District, without consideration, all the interest of the State of Nevada in the real property which is commonly known as the Peavine Fire Station, situated in the County of Washoe, State of Nevada, and is described as follows:**

Beginning at a point on the South line of Section 2, Twp. 20 N., Rge 18 E., M.D.B. & M., said point being 50' West from the Southeast Corner of said Section 2; Thence West along said South line of Section 2 a distance of 210.00 feet; Thence Northerly and parallel to the East line of said Section 2, 208.00 feet; Thence East and parallel to said South line of

Section 2, 210.00 feet; Thence South and parallel to said East line of Section 2, 208.00 feet to the point of beginning being an area of one acre, more or less, and situate in the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of said Section 2.

2. If the real property is transferred to the Sierra Fire Protection District pursuant to subsection 1, the Sierra Fire Protection District shall pay the costs relating to the transfer of the real property.

3. If the real property is transferred to the Sierra Fire Protection District pursuant to subsection 1, the deed from the State of Nevada to the Sierra Fire Protection District must:

(a) Include restrictions that:

(1) Require the use of the property for the provision of services for fire protection and related public safety services; and

(2) Prohibit the Sierra Fire Protection District or any successor in title from transferring the property without the consent of the State of Nevada.

(b) Provide for the reversion of title to the property to the State of Nevada upon the breach of any restriction specified in this subsection.

Sec. 8. **1. This section and section 7 of this act become effective upon passage and approval.**

2. Sections 1 to 6, inclusive, of this act become effective on October 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 173.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 734.

AN ACT relating to local governmental planning; providing for the construction of bus turnouts at certain locations in certain counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the regional transportation commission in a county whose population is 400,000 or more (currently Clark County) has the authority to provide for the construction and maintenance of benches and shelters for passengers of public mass transportation. (NRS 373.1183) Additionally, the regional transportation commission is required to work with the regional planning coalition concerning plans for capital improvements. (NRS 278.02584)

Section 1 of this bill requires that the regional transportation commission in a county whose population is 400,000 or more designate, on or before December 31, 2009, 10 bus stops at which a bus turnout—an area for loading

and unloading passengers outside of the lanes of traffic—must be constructed by December 31, 2012. Such a bus turnout must be constructed on land owned by the State or a local government. The commission must fund the construction of the bus turnout. ~~[On and after January 1, 2013, section 4 of this bill provides that the commission may designate annually up to four locations at which a bus turnout must be constructed within 1 year. Pursuant to section 4, the county and the three largest incorporated cities within the county would each fund the construction of one of the four bus turnouts.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Not later than December 31, 2009:

(a) Except as otherwise provided in subsection 5, the commission shall designate 10 locations in the county that are owned by the State or by local governments and at which a bus turnout must be constructed pursuant to this section; and

(b) For each location designated pursuant to paragraph (a), the commission and the State or the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.

2. For each location designated pursuant to subsection 1, the commission and the State or the local government that owns the location shall ensure that a bus turnout is constructed not later than December 31, 2012.

3. The commission shall fund the construction of a bus turnout built pursuant to this section.

4. When determining the locations to be designated pursuant to subsection 1, the commission shall consider, without limitation:

(a) The amount of traffic congestion at the location during hours of peak traffic;

(b) The extent of improvements to the location that would need to be completed before the bus turnout could be constructed;

(c) The proximity of the location to an intersection;

(d) The frequency with which buses receive and discharge passengers at the location;

(e) The number of bus passengers regularly using the bus stop at the location;

(f) The general need for a bus turnout at the location; and

(g) Any obstacle that may prevent the completion of the construction of a bus turnout by the date set forth in subsection 2.

5. The commission shall not designate more than three locations pursuant to subsection 1 that are owned by the State or by the same local government.

6. As used in this section:

(a) "Bus" has the meaning ascribed to it in NRS 484.021.

(b) "Bus turnout" means a fixed area that is:

(1) Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and

(2) To be occupied exclusively by buses in receiving or discharging passengers.

(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 373 of NRS in a county whose population is 400,000 or more.

(d) "Local government" means any political subdivision of the State, including, without limitation, any county, city, town, board, airport authority, fire protection district, irrigation district, school district, hospital district or other special district which performs a governmental function and which is located within the jurisdiction of the commission.

(e) "Location" means a parcel of real property which:

(1) Is owned by the State or by a local government;

(2) Is adjacent to a public highway; and

(3) Contains a bench, shelter or transit stop for passengers of public transportation.

(f) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.

Sec. 2. NRS 278.02507 is hereby amended to read as follows:

278.02507 The provisions of NRS 278.02507 to 278.02598, inclusive, ***and section 1 of this act*** apply only to counties whose population is 400,000 or more and cities located within those counties.

Sec. 3. (Deleted by amendment.)

Sec. 4. ~~[~~Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[~~Not later than December 31, 2009:

(a)~~]~~ Except as otherwise provided in subsection ~~[~~5,~~]~~ ***7,*** the commission ~~[~~shall designate 10 locations in~~]~~ ***may require*** the county ~~[~~that are owned by the State or by local governments and at which a~~]~~ ***and the three largest incorporated cities in the county to each construct annually one*** bus turnout ~~[~~must be constructed pursuant to this section; and

(b) For each location designated pursuant to paragraph (a),~~]~~ ***at the locations designated by*** the commission . ~~[~~and the State or the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.~~]~~

2. ~~[~~For each~~]~~ ***If a*** location designated pursuant to subsection 1 ~~[~~, the commission~~]~~ ***is not owned by the county or city, the county or city*** and the State or the local government that owns the location ***shall execute an***

interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.

3. The county or city shall ensure that a bus turnout is constructed not later than **[**December 31, 2012.

3. The commission**]** ***1 year after the date on which the commission designates the location pursuant to subsection 1.***

4. The county or city, as the case may be, shall fund the construction of a bus turnout **[**built**]** ***required*** pursuant to this section.

[4. When determining**]**

5. The commission shall:

(a) Compile a list of locations, in order of priority, that the commission may designate pursuant to subsection 1;

(b) Post the list on the Internet website maintained by the commission, if any; and

(c) Annually update the list.

6. When compiling the ***list of*** locations **[**to be designated**]** pursuant to subsection **[**1,**]** ***5,*** the commission shall consider, without limitation:

(a) The amount of traffic congestion at the location during hours of peak traffic;

(b) The extent of improvements to the location that would need to be completed before the bus turnout could be constructed;

(c) The proximity of the location to an intersection;

(d) The frequency with which buses receive and discharge passengers at the location;

(e) The number of bus passengers regularly using the bus stop at the location;

(f) The general need for a bus turnout at the location; and

(g) Any obstacle that may prevent the completion of the construction of a bus turnout **.[**by the date set forth in subsection 2.

5.**]** ***7.*** The commission shall not designate more than **[**three locations**]** ***one location*** pursuant to subsection 1 that **[**are**]** ***is*** owned by the State or by the same local government.

[6.**]** ***8.*** As used in this section:

(a) "Bus" has the meaning ascribed to it in NRS 484.021.

(b) "Bus turnout" means a fixed area that is:

(1) Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and

(2) To be occupied exclusively by buses in receiving or discharging passengers.

(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 373 of NRS in a county whose population is 400,000 or more.

(d) "Local government" means any political subdivision of the State, including, without limitation, any county, city, town, board, airport authority, fire protection district, irrigation district, school district, hospital district or

~~other special district which performs a governmental function and which is located within the jurisdiction of the commission.~~

~~(e) "Location" means a parcel of real property which:~~

~~(1) Is owned by the State or by a local government;~~

~~(2) Is adjacent to a public highway; and~~

~~(3) Contains a bench, shelter or transit stop for passengers of public transportation.~~

~~(f) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.~~**] (Deleted by amendment.)**

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. ~~[1. This section and sections 1, 2 and 5 of this act become~~**] This act becomes** effective on July 1, 2009.

~~[2. Section 4 of this act becomes effective on January 1, 2013, and expires by limitation on December 31, 2023.]~~

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 430.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 807.

AN ACT relating to children's products; prohibiting the advertisement, sale, lease, sublet or distribution of children's products under certain circumstances; prohibiting certain commercial activity regarding unsafe cribs; providing that a violation of provisions relating to unsafe cribs or to children's products is a deceptive trade practice; ~~[authorizing the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to ban or designate as a health or safety hazard any children's product;]~~ providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill provides that a retailer of a new or used product intended for children under 12 years of age may not advertise, sell or offer for sale, lease, sublet or otherwise distribute the product if the product is subject to a recall notice, is subject to a warning indicating that the use of the product constitutes a health or safety hazard or has been banned or designated as a health or safety hazard by the United States Consumer Product Safety Commission ~~[, the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General]~~ or the

manufacturer of the product. **Section 7** also requires a retailer to subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission and manufacturers from whom the retailer receives children's products. **Section 7** further requires a retailer to comply with all instructions issued for the disposal, return, repair, retrofitting, labeling or remediation of children's products which are the subject of a recall notice or other warning. **Section 18** of this bill makes it a deceptive trade practice for a person to knowingly and willfully violate any provision relating to unsafe cribs or to children's products that are subject to a recall notice or a warning, which therefore puts such violations within the purview of the provisions in chapter 598 of NRS that impose civil and criminal penalties. (NRS 598.092) ~~[Section 19 of this bill authorizes the Consumer's Advocate to ban or designate as a health or safety hazard any children's product. (NRS 228.380)]~~

Sections 9-17 of this bill establish the Infant Crib Safety Act. **Section 14** prohibits persons from remanufacturing, retrofitting, selling, contracting to sell or resell, subletting or otherwise placing in the stream of commerce a crib that is unsafe for use by an infant. **Section 14** also describes the types of cribs that are presumed unsafe. **Section 15** establishes civil penalties for persons who violate any provision relating to unsafe cribs. **Section 16** exempts antique or vintage cribs from the provisions relating to unsafe cribs if such a crib is accompanied with a written notice provided by a commercial user stating that it is not intended for use by an infant. **Section 16** further releases from liability any commercial user who complies with the notice requirement. **Section 17** authorizes any person to maintain an action against a commercial user who violates any provision relating to unsafe cribs.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Children's product" means a consumer product that is designed or intended:***

1. For the care of or use by a child under 12 years of age; or

2. To come into physical contact with a child under 12 years of age at the time the product is used.

➥ For the purposes of this subsection, "children's product" does not include any medication, drug, food or other product that is intended to be ingested.

Sec. 4. ~~***[***"Consumer's Advocate" means the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General.***]***~~ **(Deleted by amendment.)**

Sec. 5. ***"Retailer" means a person who, in the ordinary course of his business, advertises, sells or offers for sale, leases, sublets or otherwise distributes a new or used children's product to consumers in this State, including, without limitation, thrift stores, second-hand stores and consignment stores.***

Sec. 6. ***"Warning" means a communication which is about a health or safety hazard that a children's product poses to consumers and which is:***

1. Directed to a retailer; and

2. Intended to inform the retailer about the health or safety hazard, instruct the retailer to remove the children's product from the retailer's inventory or provide the retailer with a method to eliminate the health or safety hazard from the children's product.

➥ For the purposes of this section, "warning" does not include a communication which is directed to consumers and affixed to the children's product or any packaging material for the children's product or provided by the retailer to the consumer as part of a transaction relating to the children's product.

Sec. 7. ***1. A retailer shall not advertise, sell or offer for sale, lease, sublet or otherwise distribute a children's product to consumers in this State if the children's product is:***

(a) Subject to a recall notice issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency; or

(b) The subject of a warning issued by the manufacturer of the children's product or the United States Consumer Product Safety Commission or its successor agency indicating that the intended use of the children's product constitutes a health or safety hazard, unless the retailer has eliminated the hazard in strict compliance with any standards and instructions that are provided in or related to the warning . [; or

(c) Banned or designated as a health or safety hazard by the Consumer's Advocate pursuant to NRS 228.380.]

2. A retailer shall:

(a) Subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission or its successor agency and manufacturers from whom the retailer receives children's products;

(b) Dispose of any children's product identified in a recall notice or a warning issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency [, the Consumer's Advocate] or the manufacturer of the children's product in strict compliance with disposal instructions included with or related to the recall notice or the warning; and

(c) Comply strictly with instructions issued with or related to a recall notice or a warning issued by the United States Consumer Product Safety Commission or its successor agency [, the Consumer's Advocate] or the

manufacturer of the children's product for the return, repair, retrofitting, labeling or remediation of any children's product.

Sec. 8. (Deleted by amendment.)

Sec. 9. ***Sections 9 to 17, inclusive, of this act may be referred to as the Infant Crib Safety Act.***

Sec. 10. ***As used in sections 9 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 11, 12 and 13 of this act have the meanings ascribed to them in those sections.***

Sec. 11. ***"Commercial user" means any person, firm, corporation, association or nonprofit corporation, or any agent or employee thereof, including, without limitation, a child care facility licensed and in good standing pursuant to chapter 432A of NRS, who:***

1. Deals in cribs of the kind governed by sections 9 to 17, inclusive, of this act;

2. By virtue of the person's occupation, purports to have knowledge or skill peculiar to cribs of the kind governed by sections 9 to 17, inclusive, of this act; or

3. Is in the business of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing cribs in the stream of commerce.

Sec. 12. ***"Crib" means:***

1. Any full-size baby crib as described in 16 C.F.R. 1508.3; or

2. Any non-full-size baby crib as that term is defined in 16 C.F.R. 1509.2(b).

Sec. 13. ***"Infant" means a child who is under 3 years of age.***

Sec. 14. ***1. A person, including, without limitation, a commercial user, shall not remanufacture, retrofit, sell, contract to sell or resell, lease, sublet or otherwise place in the stream of commerce a crib that is unsafe for use by an infant.***

2. A crib is presumed to be unsafe if it does not conform to the standards set forth in:

(a) 16 C.F.R. Part 1303;

(b) 16 C.F.R. Part 1508;

(c) 16 C.F.R. Part 1509; and

(d) The American Society for Testing and Materials voluntary standards F966-90, F1169.88 and F406.

3. Cribs that are presumed to be unsafe pursuant to subsection 2 also include, without limitation, cribs with one or more of the following features or characteristics:

(a) Corner posts that extend more than 1/16 of an inch;

(b) Spaces between side slats more than 2 3/8 inches;

(c) Mattress supports that can be easily dislodged from any point of the crib;

(d) Cutout designs on the end panels;

(e) Rail height dimensions that do not conform to the following:

(1) The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is at least 9 inches; or

(2) The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is at least 26 inches;

(f) Any screw, bolt or hardware that is loose or not secured;

(g) Sharp edges, points, rough surfaces or any wood surfaces that are not smooth and free from splinters, splits or cracks; or

(h) Tears in mesh or fabric sides.

4. For the purposes of paragraph (c) of subsection 3, a mattress support is deemed to be easily dislodged if it cannot withstand a 25-pound upward force from beneath the crib.

Sec. 15. ***1. A commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $1,000.***

2. A person other than a commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $200.

Sec. 16. ***1. The provisions of sections 9 to 15, inclusive, of this act do not apply to any antique or vintage crib if the antique or vintage crib is:***

(a) Not intended for use by an infant; and

(b) At the time of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing in the stream of commerce, is accompanied with a written notice provided by the commercial user stating that the crib is not intended for use by an infant and that the crib is dangerous for use by an infant.

2. A commercial user who complies with the notice requirement in subsection 1 shall not be held liable for any death or injury as a result of the use of an antique or vintage crib in a manner inconsistent with the warning provided in the written notice.

3. As used in this section, "antique or vintage crib" means a crib that is:

(a) Fifty years or older, as measured from the current year;

(b) Maintained as a collector's item; and

(c) Not intended for use by an infant.

Sec. 17. ***In addition to any other remedy provided by law, any person may maintain an action against a commercial user who violates the provisions of section 14 of this act, seek to enjoin the remanufacture, retrofitting, sale, contract to sell or resell, lease or subletting of a crib that is unsafe for an infant and seek reasonable attorney's fees and costs.***

Sec. 18. NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a "deceptive trade practice" when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments ~~[,]~~ or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property ~~[,]~~ or

fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

➥ specifying that no refunds or exchanges are allowed.

11. Knowingly and willfully violates section 7 or 14 of this act.

Sec. 19. ~~[NRS 228.380 is hereby amended to read as follows:~~

~~228.380 1. Except as otherwise provided in this section, the Consumer's Advocate may exercise the power of the Attorney General in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C, 599B and 711 of NRS.~~

~~2. The Consumer's Advocate may not exercise any powers to enforce any criminal statute set forth in:~~

~~(a) Chapter 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any transaction or activity that involves a proceeding before the Public Utilities Commission of Nevada if the Consumer's Advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities; or~~

~~(b) Chapter 711 of NRS.~~

~~3. The Consumer's Advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.~~

~~4. The powers of the Consumer's Advocate do not extend to proceedings before the Public Utilities Commission of Nevada directly relating to discretionary or competitive telecommunication services.~~

~~***5. For the purposes of sections 2 to 8, inclusive, of this act, the Consumer's Advocate may ban or designate as a health or safety hazard any children's product. The Consumer's Advocate may adopt any regulations necessary to carry out the provisions of this subsection. As used in this subsection, "children's product" has the meaning ascribed to it in section 3 of this act.]***~~ **(Deleted by amendment.)**

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 430 just returned from the printer, be placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 430.

Bill read third time.

Roll call on Assembly Bill No. 430:

YEAS—42.

NAYS—None.

Assembly Bill No. 430 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 68.

Bill read third time.

The following amendment was proposed by Assemblyman Anderson:

Amendment No. 877.

AN ACT relating to real property; establishing the responsibility for the maintenance of certain security walls within certain common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the responsibilities of unit-owners' associations of certain common-interest communities to provide that each such association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community. **Section 2** of this bill similarly revises the law with respect to such security walls located in such common-interest communities which are governed by certain limited-purpose associations. (NRS 116.1201) **Section 6 of this bill provides that if a common-interest community was created before October 1, 2009, the requirements of the bill do not apply to the common-interest community until January 1, 2013.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in NRS 116.31135, the association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community.

2. As used in this section, "security wall" means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing

material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.

Sec. 2. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; ~~[and]~~

(II) ***Section 1 of this act, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and***

(III) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 3. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, ***and section 1 of this act,*** and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. **Notwithstanding the amendatory provisions of this act, if a common-interest community was created before October 1, 2009, the**

amendatory provisions of this act do not apply to the common-interest community until January 1, 2013.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 248.

Bill read third time.

Remarks by Assemblyman Bobzien.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 248:

YEAS—42.

NAYS—None.

Senate Bill No. 248 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 267.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Senate Bill No. 267:

YEAS—42.

NAYS—None.

Senate Bill No. 267 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 305.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Senate Bill No. 305:

YEAS—39.

NAYS—Carpenter, Christensen, Gansert—3.

Senate Bill No. 305 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 351.

Bill read third time.

Remarks by Assemblyman Segerblom.

Roll call on Senate Bill No. 351:

YEAS—42.

NAYS—None.

Senate Bill No. 351 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 409.
Bill read third time.
Roll call on Senate Bill No. 409:
YEAS—42.
NAYS—None.
Senate Bill No. 409 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Joint Resolution No. 2.
Resolution read third time.
Remarks by Assemblyman Settelmeyer.
Roll call on Senate Joint Resolution No. 2:
YEAS—42.
NAYS—None.
Senate Joint Resolution No. 2 having received a constitutional majority, Madam Speaker declared it passed.
Resolution ordered transmitted to the Senate.

Senate Joint Resolution No. 3.
Resolution read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Senate Joint Resolution No. 3:
YEAS—42.
NAYS—None.
Senate Joint Resolution No. 3 having received a constitutional majority, Madam Speaker declared it passed.
Resolution ordered transmitted to the Senate.

Senate Joint Resolution No. 4.
Resolution read third time.
Remarks by Assemblywoman Smith.
Roll call on Senate Joint Resolution No. 4:
YEAS—42.
NAYS—None.
Senate Joint Resolution No. 4 having received a constitutional majority, Madam Speaker declared it passed.
Resolution ordered transmitted to the Senate.

Senate Joint Resolution No. 9.
Resolution read third time.
Remarks by Assemblyman Ohrenschall.
Roll call on Senate Joint Resolution No. 9:
YEAS—42.
NAYS—None.
Senate Joint Resolution No. 9 having received a constitutional majority, Madam Speaker declared it passed.
Resolution ordered transmitted to the Senate.

Senate Joint Resolution No. 2 of the 74th Session.

Resolution read third time.

Remarks by Assemblymen Carpenter, Anderson, Koivisto, Segerblom, Mortenson, and Horne.

Potential conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Senate Joint Resolution No. 2 of the 74th Session:

YEAS—29.

NAYS—Anderson, Carpenter, Christensen, Goedhart, Goicoechea, Grady, Gustavson, Manendo, McArthur, Ohrenschall, Parnell, Smith, Stewart—13.

Senate Joint Resolution No. 2 of the 74th Session having received a constitutional majority, Madam Speaker declared it passed.

Resolution ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 5:13 p.m.

ASSEMBLY IN SESSION

At 5:56 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 563, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Parnell moved that Senate Bill No. 389 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 230 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 563 considered engrossed, declared an emergency measure under the *Constitution*, and placed on third reading and final passage.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 73 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 218 be taken from the Chief Clerk's desk and placed at the top of the General File.
Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 563 be taken from its position on the General File and placed at the top of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 563.
Bill read third time.
Remarks by Assemblywoman Smith.

Assemblyman Oceguera moved that the Assembly recess until 7 p.m.
Motion carried.

Assembly in recess at 6:13 p.m.

ASSEMBLY IN SESSION

At 7:14 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Assembly Bill No. 563 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bills Nos. 55, 68, 89, 108, 176, 184, 190, 197, 218, 227, 230, 246, 310, 332, 338, 350, and 355.
Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Senate Bills Nos. 55, 89, 176, 184, 190, 197, 227, 230, 310, 332, 338, 350, 355, and 408 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.
Motion carried.

Assemblyman Conklin moved that Senate Bill No. 363 be taken from the Chief Clerk's desk and placed on the General File.
Motion carried.

Assemblywoman Kirkpatrick moved that upon return from the printer, Senate Bill No. 173 be placed on the Chief Clerk's desk.
Motion carried.

Senate Bill No. 218.

Bill read third time.

The following amendment was proposed by Assemblyman Atkinson:

Amendment No. 881.

AN ACT relating to motor vehicles; specifically authorizing constables to issue citations for failure to register vehicles that are required to be registered in this State; increasing the fee to which constables are entitled for removing or causing the removal of abandoned vehicles from public property; revising the penalties for failure to register certain motor vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill specifically authorizes constables to issue citations for the failure to register a vehicle that is required by existing law to be registered in this State and requires constables to charge and collect a fee from the person to whom the citation is issued. The citation is to be issued to the owner of the vehicle or the driver if the driver is not the owner but is the party responsible for registering the vehicle pursuant to existing law. (NRS 258.070) **Sections 3 and 4** of this bill clarify that constables are entitled to demand and to view the certificate of registration and to request information to determine whether the vehicle is required to be registered in this State. (NRS 482.255, 482.385)

Section 2 of this bill increases the fee to which constables are entitled for their services of removing or causing the removal of an abandoned vehicle from public property from $50 to $100. ~~[Section 2 also increases the amount the constable may collect when collecting all sums on execution or writ charged against a defendant from 2 percent of the first $3,500 to 2 percent of the first $10,000.]~~ (NRS 258.125)

Existing law requires a person, within 60 days of becoming a resident of this State or at the time he obtains his driver's license, to apply for registration for each vehicle he owns which is operated in this State. (NRS 482.385) **Section 4** of this bill increases the fine for failing to comply with that requirement from a minimum of $250 and a maximum of $500 to a $1,000 fine, and provides that the fine may be reduced to not less than $200 if the person provides proof of registration of the vehicle in Nevada at the time of his hearing.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 258.070 is hereby amended to read as follows:

258.070 1. Each constable shall:

(a) Be a peace officer in his township.

(b) Serve all mesne and final process issued by a court of competent jurisdiction.

(c) Execute the process, writs or warrants that he is authorized to receive pursuant to NRS 248.100.

(d) Discharge such other duties as are or may be prescribed by law.

2. ***Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484 of NRS, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle that is required to be registered in this State if the constable determines that the vehicle is not properly registered. The constable shall, upon the issuance of such citation, charge and collect a fee of $100 from the person to whom the citation is issued, which may be retained by the constable as compensation.***

3. If a sheriff or his deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or his deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice of the peace has jurisdiction, or whether the proceeding is a preliminary examination or hearing. The sheriff or his deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.

Sec. 2. NRS 258.125 is hereby amended to read as follows:

258.125 1. Constables are entitled to the following fees for their services:

For serving a summons or other process by which a suit is commenced in civil cases..... $17
For summoning a jury before a justice of the peace 7
For taking a bond or undertaking..... 5
For serving an attachment against the property of a defendant..... 9
For serving subpoenas, for each witness..... 15
For a copy of any writ, process or order or other paper, when demanded or required by law, per folio..... 3
For drawing and executing every constable's deed, to be paid by the grantee, who must also pay for the acknowledgment thereof..... 20
For each certificate of sale of real property under execution..... 5
For levying any writ of execution or writ of garnishment, or executing an order of arrest in civil cases, or order for delivery of personal property, with traveling fees as for summons 9
For serving one notice required by law before the commencement of a proceeding for any type of eviction 26
For serving not fewer than 2 nor more than 10 such notices to the same location, each notice 20
For serving not fewer than 11 nor more than 24 such notices to the same location, each notice $17
For serving 25 or more such notices to the same location, each notice 15

For mileage in serving such a notice, for each mile necessarily and actually traveled in going only 2
But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.
For each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution 21
For making and posting notices, and advertising property for sale on execution, not to include the cost of publication in a newspaper..... 9
For each warrant lawfully executed..... 48
For mileage in serving summons, attachment, execution, order, venire, subpoena, notice, summary eviction, writ of restitution or other process in civil suits, for each mile necessarily and actually traveled, in going only 2
But when two or more persons are served in the same suit, mileage may only be charged for the most distant, if they live in the same direction.
For mileage in making a diligent but unsuccessful effort to serve a summons, attachment, execution, order, venire, subpoena or other process in civil suits, for each mile necessarily and actually traveled, in going only 2
But mileage may not exceed $20 for any unsuccessful effort to serve such process.

2. A constable is also entitled to receive:

(a) For receiving and taking care of property on execution, attachment or order, his actual necessary expenses, to be allowed by the court which issued the writ or order, upon the affidavit of the constable that the charges are correct and the expenses necessarily incurred.

(b) For collecting all sums on execution or writ, to be charged against the defendant, on the first $3,500, ~~*[$10,000,]*~~ 2 percent thereof, and on all amounts over that sum, one-half of 1 percent.

(c) For service in criminal cases, except for execution of warrants, the same fees as are allowed sheriffs for like services, to be allowed, audited and paid as are other claims against the county.

(d) For removing or causing the removal of, pursuant to NRS 487.230, a vehicle that has been abandoned on public property, ~~[$50.]~~ ***$100.***

3. Deputy sheriffs acting as constables are not entitled to retain for their own use any fees collected by them, but the fees must be paid into the county treasury on or before the fifth working day of the month next succeeding the month in which the fees were collected.

4. Constables shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees collected during the preceding month, except fees which may be retained as compensation.

Sec. 3. NRS 482.255 is hereby amended to read as follows:

482.255 1. Upon receipt of a certificate of registration, the owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, trailer or semitrailer, he shall carry

the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. The owner or operator of a motor vehicle shall, upon demand, surrender the certificate of registration or the copy for examination to any peace officer, ***including a constable, or a*** justice of the peace or deputy of the Department.

3. No person charged with violating this section may be convicted if he produces in court a certificate of registration which was previously issued to him and was valid at the time of the demand.

Sec. 4. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in subsection ~~[4]~~ ***5*** and NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State.

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. When a person, formerly a nonresident, becomes a resident of this State, he shall:

(a) Within 60 days after becoming a resident; or

(b) At the time he obtains his driver's license,

➥ whichever occurs earlier, apply for the registration of each vehicle he owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection. A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. ~~[A person who violates the provisions of this subsection is guilty of a misdemeanor and shall be punished by a fine of not less than $250 nor more than $500 and such fine is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested. In addition, the]~~ ***The*** Department

shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of this subsection and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

4. ***A person who violates the provisions of subsection 3 is guilty of a misdemeanor and, except as otherwise provided in this subsection, shall be punished by a fine of $1,000. The fine imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection 3. The fine imposed pursuant to this subsection may be reduced to not less than $200 if the person presents evidence at the time of his hearing that he has registered the vehicle pursuant to this chapter.***

5. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his continuous use within this State, shall cause that vehicle to be registered within 60 days after beginning its operation within this State.

~~[5.]~~ ***6.*** A person registering a vehicle pursuant to the provisions of subsection 3, ~~[4]~~ ***5*** or ~~[6]~~ ***7*** or pursuant to NRS 482.390:

(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and

(b) Must not be allowed credit on those taxes and fees for the unused months of his previous registration.

~~[6.]~~ ***7.*** If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

~~[7.]~~ ***8.*** An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

~~[8.]~~ ***9.*** A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

(a) The owner of the vehicle is a resident of this State; or

(b) The vehicle is used in this State for a gainful purpose.

➥ ***As used in this subsection, "peace officer" includes a constable.***

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 55.

Bill read third time.

Roll call on Senate Bill No. 55:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Senate Bill No. 55 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 68.

Bill read third time.

Roll call on Senate Bill No. 68:

YEAS—36.

NAYS—Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Settelmeyer—6.

Senate Bill No. 68 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 89.

Bill read third time.

Roll call on Senate Bill No. 89:

YEAS—41.

NAYS—None.

NOT VOTING—Carpenter.

Senate Bill No. 89 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 108.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Senate Bill No. 108:

YEAS—42.

NAYS—None.

Senate Bill No. 108 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 176.

Bill read third time.

Roll call on Senate Bill No. 176:

YEAS—42.

NAYS—None.

Senate Bill No. 176 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 184.

Bill read third time.

Roll call on Senate Bill No. 184:
YEAS—42.
NAYS—None.
Senate Bill No. 184 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 190.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Senate Bill No. 190:
YEAS—42.
NAYS—None.
Senate Bill No. 190 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 197.
Bill read third time.
Roll call on Senate Bill No. 197:
YEAS—42.
NAYS—None.
Senate Bill No. 197 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 227.
Bill read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Senate Bill No. 227:
YEAS—42.
NAYS—None.
Senate Bill No. 227 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 246.
Bill read third time.
Remarks by Assemblymen Gansert and Atkinson.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:35 p.m.

ASSEMBLY IN SESSION

At 7:37 p.m.
Madam Speaker presiding.
Quorum present.

Remarks by Assemblywoman Spiegel.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 246:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Senate Bill No. 246 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 310.

Bill read third time.

Roll call on Senate Bill No. 310:

YEAS—36.

NAYS—Cobb, Goedhart, Gustavson, McArthur, Settelmeyer, Woodbury—6.

Senate Bill No. 310 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 332.

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Senate Bill No. 332 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 338.

Bill read third time.

Roll call on Senate Bill No. 338:

YEAS—42.

NAYS—None.

Senate Bill No. 338 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 350.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 350:

YEAS—42.

NAYS—None.

Senate Bill No. 350 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 355.

Bill read third time.

Remarks by Assemblymen Settelmeyer and Conklin.

Roll call on Senate Bill No. 355:

YEAS—26.

NAYS—Carpenter, Christensen, Cobb, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Kirkpatrick, McArthur, Settelmeyer, Stewart, Woodbury—16.

Senate Bill No. 355 having failed to receive a two-thirds majority, Madam Speaker declared it lost.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 563 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:52 p.m.

ASSEMBLY IN SESSION

At 8 p.m.

Madam Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 563.

Bill read third time.

Remarks by Assemblyman Cobb.

Potential conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 563:

YEAS—42.

NAYS—None.

Assembly Bill No. 563 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Gansert gave notice that on the next legislative day, she would move to reconsider the vote whereby Senate Bill No. 190 was this day passed.

Assemblywoman Dondero Loop gave notice that on the next legislative day, she would move to reconsider the vote whereby Senate Bill No. 355 was this day refused passage.

Assemblyman Atkinson moved that Senate Bill No. 332 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 332.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 332:

YEAS—42.

NAYS—None.

Senate Bill No. 332 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 408.

Bill read third time.

Remarks by Assemblyman Stewart.

Roll call on Senate Bill No. 408:

YEAS—42.

NAYS—None.

Senate Bill No. 408 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 26.

The following Senate amendment was read:

Amendment No. 703.

AN ACT relating to charter schools; revising the deadline for submission of an application for renewal of a written charter; revising provisions governing the exemption from annual performance audits for certain charter schools; revising certain annual reports concerning the progress made by charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill changes the deadline by which a charter school must submit an application for renewal of the written charter from 90 days to 120 days before the expiration of the charter. (NRS 386.530)

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from the requirement of an annual performance audit and must instead undergo a

performance audit every 3 years. (NRS 386.5515) **Section 2** of this bill provides that if such a charter school no longer satisfies the requirements for an exemption or if reasonable evidence of noncompliance ~~[concerning the educational progress]~~ **in achieving the educational goals and objectives of the charter school** exists, the charter school will be required to submit to an annual performance audit. After undergoing the annual performance audit, the charter school may reapply for the exemption.

Existing law requires the board of trustees of a school district and a college or university within the Nevada System of Higher Education which sponsors a charter school to submit an annual report to the State Board of Education on the evaluation of the progress made by the charter school in achieving its educational goals and objectives. (NRS 386.610) **Section 3** of this bill requires an annual report to be made by the Department of Education for each charter school sponsored by the State Board.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 386.530 is hereby amended to read as follows:

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than ~~[90]~~ ***120*** days before the expiration of the charter. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

Sec. 2. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without ~~[showing good cause for such a request.]~~ ***reasonable evidence of noncompliance*** ~~*[concerning the educational progress]*~~ ***in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance*** ~~*[concerning the educational progress]*~~ ***in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit.*** ~~*[Such]*~~ ***Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:***

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of paragraphs (a), (c), (d) and (e) of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 3. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, if the ***State Board, the*** board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the ***Department, the*** board of trustees or the institution, as applicable, shall submit a written report to the State Board. The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the ***State Board, the*** board of trustees or ***the*** institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the ***Department, the*** school district or ***the*** institution, as applicable, to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 26.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 56.

The following Senate amendment was read:

Amendment No. 702.

AN ACT relating to education; revising provisions governing the use of physical restraint and mechanical restraint on pupils with disabilities; revising provisions relating to reports of the use of restraints and reports of violations; providing for the reporting of the use of corporal punishment on a pupil in public school; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes the requirements for the use of physical restraint or mechanical restraint on a pupil with a disability who is enrolled in a public school or a private school. (NRS 388.521-388.5315, 394.353-394.378) **Sections 1 and 7** of this bill require each school district and each private

school which provides services to pupils with disabilities to submit annual reports to the Department of Education on the use of physical restraint and mechanical restraint on pupils with disabilities during the previous school year.

Sections 3, 4, 9 and 10 of this bill provide that if physical restraint or mechanical restraint is used on a pupil with a disability three times during 1 school year, the circumstances of the restraint must be reviewed and reported. If such restraint is used five times during 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, developed pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., must be reviewed. If the restraint continues after such a review, the school district or private school, as applicable, and the pupil's parent or legal guardian ~~[must explore]~~ **shall include** additional positive behavioral approaches **in the pupil's services plan or program, as applicable,** so that the restraint does not continue. (NRS 388.5275, 388.528, 394.368, 394.369)

Existing law prescribes the requirements for the use of mechanical restraint on a pupil with a disability enrolled in a public school or private school, including a requirement that the pupil's physician issue a medical order authorizing the use of mechanical restraint before the application of the restraint or not later than 15 minutes after the application of the restraint. (NRS 388.528, 394.369) **Sections 4 and 10** of this bill eliminate the requirement of a medical order for each application of the mechanical restraint and instead require that a medical order authorizing the use of mechanical restraint be included in the pupil's individualized education program or the pupil's services plan, as applicable.

Existing law provides that corporal punishment may not be used on a pupil in any public school. (NRS 392.4633) **Section 6** of this bill provides that a person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency finds that the report is substantiated, the agency shall forward the report to the Department, local law enforcement agency and the county district attorney for further investigation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall, on or before August 1 of each year, prepare a report in the form prescribed by the Department that includes, without limitation, for each school within the school district:

(a) The number of instances in which physical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil

enrolled at the school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 388.521 to 388.5315, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil.

2. The board of trustees of each school district shall prescribe a form for each school within the school district to report the information set forth in subsection 1 to the school district and the time by which those reports must be submitted to the school district.

3. On or before August 15 of each year, the board of trustees of each school district shall submit to the Department the written report prepared by the board of trustees pursuant to subsection 1.

4. The Department shall compile the data received by each school district pursuant to subsection 3 and prepare a written report of the compilation, disaggregated by school district. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

5. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

Sec. 2. NRS 388.521 is hereby amended to read as follows:

388.521 As used in NRS 388.521 to 388.5315, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 388.5215 to 388.526, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 388.5275 is hereby amended to read as follows:

388.5275 1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if his resistance is minimal in intensity and duration;

(b) Escort or carry ~~[a]~~ ***the*** pupil to safety if the pupil is in danger in his present location; or

(c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district ~~[,]~~ ***or its designee,*** the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees ***or its designee*** determines that a denial of the pupil's rights has occurred, the board of trustees ~~[may]~~ ***or its designee shall*** submit a report to the Department in accordance with NRS 388.5315.

4. If a pupil with a disability has three reports of the use of physical restraint in his record pursuant subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report to the school district on its findings.

5. If a pupil with a disability has five reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall ~~*[consider]*~~ ***include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.***

Sec. 4. NRS 388.528 is hereby amended to read as follows:

388.528 1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint ~~[is obtained]~~ from the pupil's treating physician ***is included in the pupil's individualized education program*** before the application of the mechanical restraint ***;*** ~~[or not later than 15 minutes after the application of the mechanical restraint;]~~

(c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the pupil as soon as practicable ~~[,]~~ ***after the application of the mechanical restraint;***

(d) The mechanical restraint is applied by a member of the staff of the school who is trained and qualified to apply mechanical restraint;

(e) The pupil is given the opportunity to move and exercise the parts of his body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician who signed the order;

(f) A member of the staff of the school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop ~~[or control his inappropriate behavior]~~ ***injury to himself*** without the use of the restraint;

(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the school who applied the mechanical restraint;

(h) A member of the staff of the school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself . ~~[or others or causing severe property damage.]~~

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself because he lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's individualized education program.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district ~~[,]~~ ***or its designee,*** the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees ***or its designee*** determines that a denial of the pupil's rights has occurred, the board of trustees ~~[may]~~ ***or its designee shall*** submit a report to the Department in accordance with NRS 388.5315.

4. If a pupil with a disability has three reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report of its findings to the school district.

5. If a pupil with a disability has five reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's

individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall ~~*[consider]*~~ ***include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.***

Sec. 5. NRS 388.5315 is hereby amended to read as follows:

388.5315 1. A denial of rights of a pupil with a disability pursuant to NRS 388.521 to 388.5315, inclusive, ***and section 1 of this act*** must be entered in the pupil's cumulative record and a confidential file maintained for that pupil. Notice of the denial must be provided to the board of trustees of the school district ~~[.]~~ ***or its designee.***

2. If the board of trustees of a school district ***or its designee*** receives notice of a denial of rights pursuant to subsection 1, ~~[it]~~ ***the board of trustees or its designee*** shall cause a full report to be prepared which must set forth in detail the factual circumstances surrounding the denial. A copy of the report must be provided to the Department.

3. The Department:

(a) Shall receive reports made pursuant to subsection 2;

(b) May investigate apparent violations of the rights of pupils with disabilities; and

(c) May act to resolve disputes relating to apparent violations.

Sec. 6. NRS 392.4633 is hereby amended to read as follows:

392.4633 1. Corporal punishment ~~[may]~~ ***must*** not be administered upon a pupil in any public school.

2. Subsection 1 does not prohibit any teacher, principal or other licensed person from defending himself if attacked by a pupil.

3. ***A person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency determines that the complaint is substantiated, the agency shall forward the complaint to the Department, the appropriate local law enforcement agency within the county and the district attorney's office within the county for further investigation.***

4. As used in this section ~~[, "corporal punishment"]~~ ***:***

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(b) "Corporal punishment" means the intentional infliction of physical pain upon or the physical restraint of a pupil for disciplinary purposes. The term does not include the use of reasonable and necessary force:

~~[(a)]~~ ***(1)*** To quell a disturbance that threatens physical injury to any person or the destruction of property;

~~[(b)]~~ ***(2)*** To obtain possession of a weapon or other dangerous object within a pupil's control;

~~[(c)]~~ ***(3)*** For the purpose of self-defense or the defense of another person; or

~~[(d)]~~ ***(4)*** To escort a disruptive pupil who refuses to go voluntarily with the proper authorities.

Sec. 7. Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The administrative head of each private school that provides instruction to pupils with disabilities shall, on or before August 15 of each year, prepare a report that includes, without limitation:

(a) The number of instances in which physical restraint was used at the private school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the private school and per pupil enrolled at the private school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the private school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the private school and per pupil enrolled at the private school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 394.353 to 394.378, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the private school and per pupil enrolled at the private school.

2. On or before August 15 of each year, the administrative head of each private school that provides instruction to pupils with disabilities shall submit to the Department the report prepared pursuant to subsection 1. The report must be in the form prescribed by the Department.

3. The Department shall compile the data submitted by each private school pursuant to subsection 2 and prepare a written report of the compilation, disaggregated by each private school. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

4. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

Sec. 8. NRS 394.353 is hereby amended to read as follows:

394.353 As used in NRS 394.353 to 394.378, inclusive, ***and section 7 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 394.354 to 394.365, inclusive, have the meanings ascribed to them in those sections.

Sec. 9. NRS 394.368 is hereby amended to read as follows:

394.368 1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if his resistance is minimal in intensity and duration;

(b) Escort or carry ~~[a]~~ ***the*** pupil to safety if the pupil is in danger in his present location; or

(c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record not later than 1 working day after the procedure is used. A copy of the report must be provided to the Superintendent, the administrator of the private school, the pupil's individualized education program team, if applicable, and the parent or guardian of the pupil. If the administrator of the private school determines that a denial of the pupil's rights has occurred, the administrator shall submit a report to the Superintendent in accordance with NRS 394.378.

4. If a pupil with a disability has three reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the private school in which the pupil is enrolled shall review the circumstances of the restraint on the pupil and report its findings to the Superintendent.

5. If a pupil with a disability has five reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program or services plan has been reviewed, the private school and the parent or legal guardian of the pupil shall ~~*[consider]*~~ ***include in the pupil's individualized education program or services plan, as applicable, additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.***

Sec. 10. NRS 394.369 is hereby amended to read as follows:

394.369 1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint ~~[is obtained]~~ from the pupil's treating physician ***is included in the pupil's services plan developed pursuant to 34 C.F.R. 300.138 or the pupil's individualized education program, whichever is appropriate,*** before the application of the mechanical restraint ***;*** ~~[or not later than 15 minutes after the application of the mechanical restraint;]~~

(c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the pupil as soon as practicable after the application of the mechanical restraint;

(d) The mechanical restraint is applied by a member of the staff of the private school who is trained and qualified to apply mechanical restraint;

(e) The pupil is given the opportunity to move and exercise the parts of his body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician who signed the order;

(f) A member of the staff of the private school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop ~~[or control his inappropriate behavior]~~ ***injury to himself*** without the use of the restraint;

(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the private school who applied the mechanical restraint;

(h) A member of the staff of the private school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself ***.*** ~~[or others or causing severe property damage.]~~

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself because he lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's service plan developed pursuant to 34 C.F.R. ~~[300.455]~~ ***300.138*** or the pupil's individualized education program, whichever is appropriate.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record not later than 1 working day after the procedure is used. A copy of the report must be provided to the Superintendent, the administrator

of the private school, the pupil's individualized education program team, if applicable, and the parent or guardian of the pupil. If the administrator of the private school determines that a denial of the pupil's rights has occurred, the administrator shall submit a report to the Superintendent in accordance with NRS 394.378.

4. ***If a pupil with a disability has three reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the private school in which the pupil is enrolled shall review the circumstances of the use of the restraint on the pupil and provide a report to the Superintendent on its findings.***

5. If a pupil with a disability has five reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program or services plan has been reviewed, the private school and the parent or legal guardian of the pupil shall ~~*[consider]*~~ ***include in the pupil's individualized education program or services plan, as applicable, additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.***

6. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. 1414(d)(1)(A).

Sec. 11. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 56.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 487.

The following Senate amendment was read:

Amendment No. 738.

AN ACT relating to education; requiring the development of an academic plan for pupils enrolling in their initial year at a middle school or junior high school; requiring small learning communities in certain larger middle schools and junior high schools; requiring a program of peer mentoring for pupils initially enrolling in middle school or junior high school; requiring the board of trustees of each school district to adopt a policy for pupils enrolled in middle school or junior high school to conduct a pupil-led conference on educational progress; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district to adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. (NRS 388.205) **Section 2** of this bill requires the board of trustees of each school district to adopt a policy for each middle school and junior high school in the school district to develop an academic plan for each incoming middle school or junior high school pupil.

Existing law requires the board of trustees of each school district that includes at least one high school in which 1,200 pupils or more are enrolled and that includes ninth grade pupils to adopt a policy for each of those high schools to provide a program of small learning communities for the ninth grade pupils. (NRS 388.215) **Section 3** of this bill requires the board of trustees of each school district that includes at least one middle school or junior high school in which 500 pupils or more are enrolled to adopt a policy for each of those middle schools and junior high schools to provide a program of small learning communities for the incoming middle school or junior high school pupils.

Section 5 of this bill requires the board of trustees of each school district to adopt a policy for peer mentoring, which may include a component of adult mentoring, for incoming middle school and junior high school pupils designed to increase the ability of those pupils to successfully make the transition from elementary school to middle school or junior high school.

Section 6 of this bill requires the board of trustees of each school district to adopt a policy for pupils enrolled in a middle school or junior high school to conduct, if required by the board of trustees, a pupil-led conference between the pupil, his parent or legal guardian and his teacher to review the educational development of the pupil.

Section 7 of this bill provides that the policies required by sections 2, 3, 5 and 6 of this bill must be adopted by each school district on or before January 1, 2011, for implementation beginning with the 2011-2012 School Year.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. The board of trustees of each school district shall adopt a policy for each middle school and junior high school in the school district to develop an academic plan for each pupil enrolled in the grade level at which the middle school or junior high school initially enrolls pupils. The academic plan must set forth:***

(a) The specific educational goals that the pupil intends to achieve before promotion to high school;

(b) An identification of the courses required for promotion to high school;

(c) An identification of all honors courses, career and technical education courses and other educational programs, courses and pathways available to the pupil which will assist in the advancement of the education of the pupil; and

(d) A description of the expectations of the teachers of pupils who are enrolled in middle school or junior high school.

2. The policy must require each pupil enrolled in his initial year at the middle school or junior high school and the pupil's parent or legal guardian to:

(a) Have sufficient opportunities to work in consultation with a school counselor to develop an academic plan for the pupil;

(b) Review the academic plan; and

(c) Review the academic plan at least once each school year until the pupil is promoted to high school in consultation with the school counselor and revise the plan as necessary.

3. If a pupil enrolls in a middle school or junior high school after the initial year of enrollment for that middle school or junior high school, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

4. An academic plan for a pupil must be used as a guide for the pupil and the pupil's parent or legal guardian to plan, monitor and manage the pupil's educational development and make determinations of the appropriate courses of study for the pupil. If the pupil does not satisfy all the educational goals set forth in the academic plan, the pupil is eligible for promotion to high school if he otherwise satisfies the requirements for promotion to high school.

Sec. 3. ***1. The board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more shall adopt a policy for each of those middle schools and junior high schools to provide a program of small learning communities for pupils enrolled in the grade level at which those middle schools or junior high schools initially enroll pupils. The policy must require:***

(a) Where practicable, the designation of a separate area geographically within the middle school or junior high school where the pupils enrolled in their initial year at the middle school or junior high school attend classes;

(b) The collection and maintenance of information relating to pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of middle school or junior high school;

(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in his initial year at the middle school or junior high school, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;

(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in their initial year in a middle school or junior high school in the education of their children; and

(e) The assignment of:

(1) Guidance counselors;

(2) At least one licensed school administrator or his designee; and

(3) Appropriate adult mentors,

➥ specifically for the pupils enrolled in their initial year at the middle school or junior high school.

2. The principal of each middle school or junior high school in which 500 pupils or more are enrolled shall:

(a) Carry out a program of small learning communities in accordance with the policy prescribed by the board of trustees pursuant to subsection 1; and

(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods which are used to focus on the pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, the program of mentoring provided pursuant to section 5 of this act.

Sec. 4. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this act.

Sec. 5. ***1. The board of trustees of each school district shall adopt a policy for each middle school and junior high school in the school district to provide a program of peer mentoring, which may include a component of adult mentoring, for pupils enrolled in the grade level at which the middle school or junior high school initially enrolls pupils. The policy must be designed to increase the ability of those pupils to successfully make the transition from elementary school to middle school or junior high school.***

2. The principal of each middle school or junior high school shall:

(a) Carry out a program of mentoring in accordance with the policy adopted by the board of trustees pursuant to subsection 1; and

(b) Submit an annual report to the board of trustees on:

(1) The specific activities of the program of mentoring; and

(2) The effectiveness of the program of mentoring in increasing the ability of pupils to successfully make the transition to middle school or junior high school.

3. This section does not prohibit a middle school or junior high school from continuing any other similar program of mentoring that the middle school or junior high school currently provides in a manner that is consistent with the policy prescribed by the board of trustees.

Sec. 6. ***1. The board of trustees of each school district shall adopt a policy which allows the board of trustees to require a pupil enrolled in a middle school or junior high school in the school district to conduct a pupil-led conference between the pupil, his parent or legal guardian and his teacher to review the educational development of the pupil at least once***

during the enrollment of the pupil in the middle school or junior high school. The policy must include, without limitation:

(a) Guidelines for preparing the pupil to conduct the conference, including, without limitation, the appropriate structure of a conference and topics of discussion for the conference; and

(b) A method for the pupil, his parent or legal guardian and the teacher to provide an evaluation of the conference.

2. If a pupil is required to conduct a pupil-led conference, the conference must be used as a guide for the pupil and the parent or legal guardian of the pupil to monitor the pupil's educational development. If the pupil does not conduct a pupil-led conference or if the parent or legal guardian of the pupil does not attend a pupil-led conference, the pupil is eligible for promotion to high school if he otherwise satisfies the requirements for promotion to high school.

Sec. 7. **1. The board of trustees of each school district shall adopt the policies required by sections 2, 3, 5 and 6 of this act not later than January 1, 2011, for implementation beginning with the 2011-2012 School Year.**

2. On or before June 1, 2010, the board of trustees of each school district shall provide a report to the Superintendent of Public Instruction on the status of the adoption of the policies required by sections 2, 3, 5 and 6 of this act, including, without limitation, a plan for implementation of those policies beginning with the 2011-2012 School Year. On or before July 1, 2010, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.

~~[Sec. 7.]~~ ***Sec. 8.*** **1.** This ~~[act becomes]~~ **section and section 7 of this act become** effective on July 1, 2009.

2. Sections 2 to 6, inclusive, of this act become effective on July 1, 2009, for the purpose of adopting the policies required by sections 2, 3, 5 and 6 of this act and on July 1, 2011, for all other purposes.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 487.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assemblyman Oceguera moved that the Assembly recess until 9:15 p.m.

Motion carried.

Assembly in recess at 8:15 p.m.

ASSEMBLY IN SESSION

At 10:19 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 160 and 218 be taken from their position on the General File and placed at the top of the General File.
Motion carried.

Assemblyman Oceguera moved that Senate Bills Nos. 245 and 411 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 160.
Bill read third time.
Remarks by Assemblywoman Koivisto.
Roll call on Senate Bill No. 160:
YEAS—42.
NAYS—None.
Senate Bill No. 160 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 218.
Bill read third time.
Remarks by Assemblywoman Spiegel.
Roll call on Senate Bill No. 218:
YEAS—39.
NAYS—Cobb, Gustavson, McArthur—3.
Senate Bill No. 218 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 82.
Bill read third time.
Roll call on Senate Bill No. 82:
YEAS—42.
NAYS—None.
Senate Bill No. 82 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 265.
Bill read third time.
Roll call on Senate Bill No. 265:
YEAS—42.
NAYS—None.
Senate Bill No. 265 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 277.
Bill read third time.
Roll call on Senate Bill No. 277:
YEAS—42.
NAYS—None.
Senate Bill No. 277 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 53.
Bill read third time.
Remarks by Assemblymen Settelmeyer and Bobzien.
Roll call on Senate Bill No. 53:
YEAS—28.
NAYS—Carpenter, Christensen, Claborn, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Woodbury—14.
Senate Bill No. 53 having received a two-thirds majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 63.
Bill read third time.
Remarks by Assemblyman Christensen.
Roll call on Senate Bill No. 63:
YEAS—42.
NAYS—None.
Senate Bill No. 63 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 313.
Bill read third time.
Roll call on Senate Bill No. 313:
YEAS—42.
NAYS—None.
Senate Bill No. 313 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 389.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Senate Bill No. 389:

YEAS—42.

NAYS—None.

Senate Bill No. 389 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 230.

Bill read third time.

Roll call on Senate Bill No. 230:

YEAS—40.

NAYS—Arberry.

NOT VOTING—Carpenter.

Senate Bill No. 230 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 73, 245, 363, and 411 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Resolution No. 10—Expressing and explaining the public policy governing Rule No. 23 of the Standing Rules of the Assembly for the 75th Session of the Legislature.

WHEREAS, It is a well-established principle of parliamentary practice that every member of the Legislature has a duty to vote unless prohibited or excused by the rules of the House (*Mason's Manual of Legislative Procedure* §§ 521 & 522 (2000) (*Mason's Manual*); Luther S. Cushing, *Elements of the Law & Practice of Legislative Assemblies* §§ 1789-91 (1856) (*Cushing's Legislative Assemblies*)); and

WHEREAS, Rule No. 23 of the Standing Rules of the Assembly for the 75th Session of the Legislature provides that in determining whether a Legislator has a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his position upon the matter in question would be materially affected by his acceptance of a gift or loan, his private economic interest or his commitment to a member of his household or his immediate family; and

WHEREAS, Rule No. 23 provides that if a Legislator knows he has a conflict of interest, the Legislator shall make a general disclosure of the conflict of interest on the record in a meeting of a committee or on the floor of the Assembly, as applicable; and

WHEREAS, Rule No. 23 provides that in determining whether to abstain from voting upon or advocating or opposing a matter concerning which a Legislator has a conflict of interest, the Legislator should consider whether the conflict impedes his independence of judgment and whether his interest is greater than the interests of an entire class of persons similarly situated; and

WHEREAS, Rule No. 23 must be interpreted and applied in light of well-established principles of parliamentary practice that have been shaped, developed and followed by national and state legislatures for hundreds of years; and

WHEREAS, Rule No. 100 of the Standing Rules of the Assembly for the 75th Session of the Legislature provides that sources of parliamentary authority in the Assembly include *Mason's Manual of Legislative Procedure*; and

WHEREAS, Section 522 of *Mason's Manual* provides that "[t]he right of members to represent their constituencies is of such major importance that members should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal"; and

WHEREAS, Section 1791 of *Cushing's Legislative Assemblies* provides that "[i]nterest in a question pending in the house, is good cause for disallowing a vote; but such an interest must be a direct pecuniary interest, belonging to a separate description of individuals, and not such as also belongs to all the citizens, arising out of any measure of state policy"; and

WHEREAS, Section 1791 of *Cushing's Legislative Assemblies* further provides that disqualification to vote generally "applies only to private bills, or bills relating to individuals, such as estate bills, inclosure bills, canals, joint-stock companies, etc., wherein only the individual profit or loss is concerned . . . but does not apply to questions of interest arising out of public measures, such as tax bills, colonial regulations, domestic trades, and the like"; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the fundamental purpose of representative government in this State is to elect citizen Legislators who will advocate and vote on behalf of their constituents so that those constituents are fully represented in the people's branch of government and their voices are effectively heard regarding the most critical legislative measures that affect both the general welfare of this State and their everyday lives; and be it further

RESOLVED, That there are legislative measures of immense statewide importance, such as bills raising revenue and bills approving the budget of the State Government, which globally impact all citizens of this State because such measures set the fiscal, economic and social priorities of this State and thereby influence and affect every aspect of our society; and be it further

RESOLVED, That the public policy of this State favors the right of citizen Legislators to perform the duties for which they were elected and to vote or otherwise act upon a matter, provided they have properly disclosed any conflicts of interest; and be it further

RESOLVED, That because abstention by a Legislator disrupts the normal course of representative government and deprives the public and the Legislator's constituents of a voice in the most important governmental affairs, Rule No. 23 is intended to require abstention only in clear cases and when the matter is particularly personal; and be it further

RESOLVED, That Rule No. 23 does not require any member of the Assembly to abstain from voting upon or advocating or opposing legislative measures of immense statewide importance which globally impact all citizens of this State because, in such cases, the very nature of such legislative measures presumptively makes the interests of every member of the Assembly no greater than the interests of every other citizen of this State, and therefore, the independence of judgment of members is not impeded by those interests and they are not required to abstain; and be it further

RESOLVED, That during the 75th Session of the Legislature, the legislative measures of immense statewide importance which globally impact all citizens of this State include the General Appropriations Act, the Authorized Expenditures Act, the Unclassified Pay Act, the State Distributive School Account Act and any legislative measures that increase various taxes and revenue sources necessary to fund the State Budget, such as Senate Bill No. 429; and be it further

RESOLVED, That this resolution shall be entered upon the Journal of the Assembly.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblymen Oceguera, Goedhart, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. Nevada has a citizen's Legislature. It is a long and proud tradition in our state. That means that those of us who serve in the Legislature have jobs and other interests in our everyday lives. I guess taken to their extremes, any of these aspects of our private lives could be construed as a conflict. Certainly, any time a legislator's commitment materially affects independent judgment, he or she should abstain. And we have all had instances where we felt we needed to abstain. But we also have a constitutional obligation to vote and represent our constituents, because abstention has the effect of depriving the public of its voice on important governmental matters. There is no more important matter than the one we are considering now and in the next several days. This resolution makes it clear that the policy of Rule No. 23 is to require abstention only in clear and specific cases, not when the matter is of immense statewide importance and impacts all Nevada citizens. I urge your support, Madam Speaker.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I have a question in regards to this resolution. For those who say this resolution does not materially change Rule No. 23, why do we need to pass it now, after having this bill dropped on us less than half an hour ago? I see this bill as advocating in favor of an individual being allowed to violate current ethical standards which prohibit voting on an issue if they are materially affected by a piece of legislation. That being the case, I cannot support this attempt to weaken our ethics laws and violate the confidence of the people of Nevada. I believe we should have a roll call vote so that Nevada's citizens know how their representatives voted on this issue of public trust. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Whenever you are considering bills and situations of this unprecedented magnitude, it is very stressful. The halls today have been filled with accusations about peoples' good character—people who many times I do not agree with, but I defend their right to be who they are and say what they believe.

I have heard a lot of things, everything from, "Hey, if you are a public servant, you cannot vote on this because this might affect you," to "Hey, this person served on your board, you cannot vote on this," to "Hey, you work in a drug court. The amount of medications in the budget may affect how many people you see."

I see the reverse happening. I see people trying to knock people out from voting, without cause. Serving in the Legislature at times can be difficult. We are away from our homes and we are away from our families. But when you start calling peoples' character and integrity into question, as has been done today, that is where I draw the line, even when I do not agree with people. And that is what I think has been done all day today.

Legal was besieged with questions from legislators. It became like a telephone tree as these rumors started. "Hey, what about this person? They may have a conflict." "I heard this person might have a conflict." I think it was beginning to be designed to break this process down. In the end, I think I have a pretty good accurate guess of where this session is going to end ideologically. And that is fine. Everyone has a right to vote how they want. But to deprive people of their right to vote because of the creation of more and more conflicts? Our Legal Division finally said that they thought we would be down to a handful of folks if everyone was so afraid of an ethics complaint that they were then afraid to vote for their constituents and to represent them on the most important matter facing the state. I appreciate the concern with the lateness, but that is why I am supporting it. And I appreciate your comments.

Resolution adopted.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolution No. 33; Senate Bills Nos. 6, 9, 62, 72, 125, 127, 151, 185, 193, 219, 229, 238, 244, 247, 254, 283, 287, 288, 298, 302, 319, 325.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Patrick McBurnett and Gary MacDonald.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Roy Gomm Elementary School: Christopher Cooke, Rafael Devia, Dominic Driscoll, Morgan Eisele, Gasrelle Etem, Michael Heydon, Jonathan Hickox-Young, Leanne Kent, Madeline Kreutzian, Sheridan Manfredi, Matthew McKean, Lukas McKenzie, Jacquelyn Nader, Max O'Connor, Brian Peck, Haley Ries, Sarah Scheiber, Logan Smith, Matthew Smith, Emly Sutton, Courtney Van Havel, Tasnia Alam, Brianna Beesley, Emerson Casey, Rebecca Coleman, Ashlee Dreher, Rose Fabian, Darius Fiore, Gillian Geis, Maria Ingersoll, Hunter Lockwood, Emily Sutton, Courtney Van havel, Tasnia Alam, Brianna Beesley, Emerson Casey, Rebecca Coleman, Ashlee Dreher, Rose Fabian, Darius Fiore, Gillian Geis, Maria Ingersoll, Hunter Lockwood, Emily Low, Ryan Mellison, Tyler Nordman, Sung Park, Victoria Patriana, Christopher Ristine, lauren Robbers, Sonya Savoy, Gino Zamboni, Paul Astles, Madison Berry, Ryan Boucher, Harley Brackney, Nicole Flangas, Max Hall, Jacob Hoberg, Kaelynn Jensen, Emma Keenan, Roger Koci, Frank Lee, Trevor Livingston, Mallory McGwire, Jack Pfau, Ashley Pikero, Ian Rinehart, Mary Ristine, Elsa Ross, Jessica Rosser, Alexandra Scott, Sarah Sutton, and Jacklyn Wolfe.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to John Boland and Pat Boland.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Martha P. King Elementary School: Alexander Brenner, Richard Brenner, James Brown, Matthew Brown, Julia Davidson, Karson Farrell, Korie Farrell, Bryan Foster, Keane Foster, Mandy Gebhart, Mariano Granados, Jacob Hubel, Ronald Hubel, Aaron Kehoe, Riley Marlow, Edward Rassuchine, Kym Rassuchine, Abigail Sauerbrei, Preston VanDiest, Taylor Weaver, Terry Willis, Ronald Anderson, Autumn Clayton, Tom Clayton, Cambria Dillon, Devin Fox, Gretchen Fox, Jonathan Kinney, Cindy Kinney, Timothy Leir, Braiden Lutrick, Paige Malkow, Michael Martinelli, Anastasia Matuska, Paul Matuska, Jesse Miller, Victoria Mulheron, Edward Mulheron,

Joseph Niesl, Donna Penuel, Charles Singer, Kyra Yamamoto, Robin Coppola, Lee Esplin, and Mike Pacini.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, May 21, 2009, at 10 a.m.

Motion carried.

Assembly adjourned at 10:46 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

The

Journal of the Assembly

OF THE

SEVENTY-FIFTH SESSION

OF THE

LEGISLATURE OF THE STATE OF NEVADA

2009

BEGUN ON MONDAY, THE SECOND DAY OF FEBRUARY, AND ENDED ON MONDAY, THE FIRST DAY OF JUNE

VOLUME 4

**THE ONE HUNDRED AND NINTH DAY—
THE ONE HUNDRED AND SEVENTEENTH DAY**

**SEE VOLUME 1 FOR TABLE OF CONTENTS
SEE VOLUME 7 FOR INDEX**

ARRANGEMENT AND CONTENTS OF VOLUME 4

ASSEMBLY PROCEEDINGS 4249

THE ONE HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 21, 2009

Assembly called to order at 11:37 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Patrick Propster.

Proverbs 3:5-8:

Trust in the Lord with all your heart, and lean not on your own understanding. In all your ways, acknowledge Him, and He shall direct your paths. Do not be wise in your own eyes. Fear the Lord and depart from evil. It will be health to your flesh and strength to your bones.

Let us pray:

Lord God, You are above all things. You are the fountain of all goodness for mankind. Therefore, we pray this day for the days remaining in this Session that You would be an overflow of strength and wisdom through us, to complete the tasks before us. May our endeavor always be not to live independent of Thee, but to lean on Thee. Lord Jesus, by Your Spirit, please be our moorings that we would not drift unawares from Thy ways.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 119, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 416, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 451, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Senate Bill No. 394, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 20, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 124, 165, 446, 530, 531.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 13, Amendment No. 803; Assembly Bill No. 15, Amendment No. 774; Assembly Bill No. 84, Amendment No. 773; Assembly Bill No. 88, Amendment No. 690; Assembly Bill No. 101, Amendments Nos. 701, 847; Assembly Bill No. 186, Amendment No. 640; Assembly Bill No. 205, Amendment No. 821; Assembly Bill No. 296, Amendment No. 759; Assembly Bill No. 335, Amendment No. 845; Assembly Bill No. 361, Amendment No. 655; Assembly Bill No. 370, Amendment No. 598; Assembly Bill No. 492, Amendment No. 822, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 421.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 633 to Senate Bill No. 100.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 624 to Senate Bill No. 35; Assembly Amendment No. 625 to Senate Bill No. 101.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 109.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, May 21, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 243, Amendment No. 628; Assembly Bill No. 458, Amendment No. 883, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 825 to Senate Bill No. 162; Assembly Amendment No. 623 to Senate Bill No. 276.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 776 to Senate Bill No. 26; Assembly Amendment No. 732 to Senate Bill No. 128; Assembly Amendment No. 717 to Senate Bill No. 195; Assembly Amendment No. 781 to Senate Bill No. 228; Assembly Amendment No. 676 to Senate Bill No. 231; Assembly Amendment No. 677 to Senate Bill No. 278; Assembly Amendment No. 605 to Senate Bill No. 317; Assembly Amendment No. 618 to Senate Bill No. 378.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 746 to Senate Bill No. 17.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Copening and Wiener as a Conference Committee concerning Senate Bill No. 45.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Resolution No. 11—Amending Assembly Standing Rule Nos. 68 and 115 for the 75th Session of the Legislature to allow the Assembly to

vote on a motion to reconsider the vote on a bill or resolution on the same day the motion is made.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That Rule Nos. 68 and 115 of the Standing Rules of the Assembly as adopted by the 75th Session of the Legislature are hereby amended to read as follows:

Rule No. 68. To Reconsider—Precedence of.

1. A motion to reconsider shall have precedence over every other motion, ***including a motion to adjourn if the motion is to reconsider a final vote on a bill or resolution. A motion to reconsider a final vote on a bill or resolution shall be in order only on the day on which the final vote is taken and the vote on such a motion to reconsider must be taken on the same day.***

2. If the motion to reconsider is for any other action, the motion has precedence over every other motion, except a motion to adjourn, or to fix the time to which to adjourn; and when the Assembly adjourns, while a motion to reconsider is pending, or before passing the order of business of Motions, Resolutions and Notices, the right to move a reconsideration shall continue to the next day of sitting. ~~[No notice of reconsideration of any final vote shall be in order on the:~~

~~1. Last day on which final action is allowed; or~~

~~2. Day preceding the last day of the session.]~~

Rule No. 115. Reconsideration of Vote on Bill.

~~[On the first legislative day that the Assembly is in session succeeding that on which a final vote on any bill or resolution has been taken, a]~~ ***A*** vote may be reconsidered on the motion of any member. ~~[Notice of intention to move such reconsideration must be given on the day on which the final vote was taken by a member voting with the prevailing party. It is not in order for any member to move a reconsideration on the day on which the final vote was taken, except by a majority of the members elected. There may be no reconsideration of a vote on a motion to indefinitely postpone.]~~ Motions to reconsider a vote upon amendments to any pending question ***and upon a final vote on a bill or resolution*** may be made at once.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblyman Oceguera.

Resolution adopted.

NOTICE OF EXEMPTION

May 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 433.

GARY GHIGGERI
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 421.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 562.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bill No. 562 be declared an emergency measure under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 562.

Bill read third time.

Remarks by Assemblymen Arberry, Cobb, Smith, Gansert, McClain, Hardy, Goedhart, Denis, Leslie, Christensen, and Madam Speaker.

ASSEMBLYMAN ARBERRY:

Thank you, Madam Speaker. Assembly Bill 562 is the General Appropriation Act. The General Appropriation Act is the salary bill, the school funding bill, and the capital improvement bill—all are the final results of a long deliberation between the Assembly Committee on Ways and Means and the Senate Committee on Finance. The General Appropriation Act and other appropriation bills considered throughout the session deliberated the amount of the General Fund support approved by the money committees for the operation of Nevada State Government for the 2007 and 2009 biennium. The General Fund appropriation includes the General Appropriation Act, totaling about $3.88 billion over the next two years for the 2009-2011 biennium. There is a reduction of approximately $425 million when compared to the general fund appropriation approved by the 2007 legislature for the 2007–2009 biennium. That also includes the highway funds appropriation totaling $118 million dollars in Fiscal Year 2010 and $115 million in Fiscal Year 2011.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition to Assembly Bill 562. I appreciate the hard work of the committee—no disrespect to you. I just believe that we had a balanced budget that we had to consider and I would prefer not spending as much money as we are looking to spend in this appropriations bill. I think a lot of people are cutting back at home, losing jobs, plus we have double digit unemployment. We have businesses that are having a tough time affording to keep people on the payroll. If you are going to vote in favor of this, you have to be responsible enough to vote in favor of taxes that gets you to that number. I think now is not the time to be expanding government. I think that maintenance is fine and covering the essential services is fine, but expanding government is too much for our private citizens and taxpayers to have to afford during this down economy. I respectfully disagree with the committee and will not be voting for this bill.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of Assembly Bill 562. We heard the discussion yesterday about the education budget, so we know the details of that. I would like to commend my colleagues who sat on the joint budget committees. It has been a long arduous task going through the budgets and hearing the realities of what we were faced with. We made some great strides in the education budget but we also did a lot of cutting. When you look at the major areas that we funded, between salaries and services, which go directly to the classroom, we still cut over 50 percent of that budget. It is devastating. And yet this budget does restore some essential services and helps keep the school districts whole and able to do what they need to do in the classroom.

Our colleagues, the people we work with every day and entrust to sit on these committees, just as we look to our colleagues in the morning policy committees, have listened to testimony for hour upon hour and made very tough decisions to try to trim these budgets, and in many ways, slash these budgets to come to a conclusion about how we could do justice to serve our

constituents and make sure that we are providing the essential services to take care of the citizens of this state. In the education arena we had to deal with possibly closing a campus. How do you think about that in the realm of what we are faced with in this state? You can't move forward when you don't have a strong education system. You can't have strong economic development when you don't have a good education system. Our colleagues did, in my mind, yeoman's work listening to these budgets day after day and making sure that we seriously evaluated every decision we made. We listened to more constituents than we have ever listened to in person during my time here. We all know that we had a packed house many times over, with people coming to tell us how they felt about the budgets we were considering and the cuts we were faced with. These budgets are cut and I think we can rest assured that we have restored essential services and we have done what we needed to do in this state to try and preserve our education system for both K-12 and higher education.

ASSEMBLYMAN ARBERRY:

Thank you, Madam Speaker. I rise not to defend or make excuses for all the hard work that the two committees did who worked on this particular measure. The session started as a high-speed session. You might want to use the example of a high-speed car. The government says you need to drive 55 mph. These two committees worked at a speed of 190 mph. They had to make decisions on the run and none of these decisions were based on any fluff. I looked at this situation, when this Legislature and this body came together, and thought it was going to be Armageddon. When you were elected to this body this was going to be the hardest and toughest decisions that you will ever have to make dealing with the State of Nevada. The State of Nevada will fall if this body does not make the right decisions. We will fail. We will go back to the 1800s and we no longer live in the 1800s. We are now facing an economy that has failed throughout the country. You have to step up to the plate sometimes, and sometimes when your heart is pumping blood, sometime it's pumping Kool-Aid, and at this time you have to standup to be the man and the woman, to say that your heart is pumping blood.

We need your support for this because if this fails you don't fail, everyone fails. Our constituency is looking at us and wondering what have we been doing for 120 days? It comes down to this final mark and the final crossing. You have to step up and make a decision to support this, because if you do not, when you go home and face your constituency, you could say, "We cut it—we cut it." You cut every session and as a Democrat I have cut many budgets over the years to make sure that we do the right thing. Now you have to really do the right thing. If you can't face the music in here, you shouldn't be here. This is a tough decision. Every session it has always been easy. We have always had money and we can flow, but the decisions we make today are very critical. Understand that when you look at the hard work the money committee has done, it is still down to your final vote.

We bring you a package that has no fluff and there is no extra nothing in this budget. We took the bare bones and we crawled and we crawled and we did what we could do to keep everyone taken care of and feed the families, feed the businesses so the people can provide something to the businesses to get us all on our feet for the next two years. We do not like everything we put in here. It was across the line. So Body, I beg of you, you have to make a decision today and that is to vote in a positive way because if you don't and this fails, you will fail and you will have to face your constituency.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I rise in support of Assembly Bill 562. I have been on the money committee now for a third session and I know how we have the different divisions come in and we asked them about their cuts and whatever they had we asked them to cut more and more. It was a very difficult and long process. I also know that we did add back about 1 percent to make sure that we provided services for children with autism and to make sure that we could keep the rural mental health clinics open, and to make sure there was a little more funding for education. A part of the budget that I could not defend or support was the 36 percent cut to higher education. I am a Nevadan, my family and children are from Nevada and I cannot imagine not having a University of Nevada or University of Nevada Las Vegas. We would really have had to shut down an institution at that amount or a portion of institutions or the medical school.

If you think about what we need in the state, we need healthcare providers. We need a well educated workforce. I have always told my children that education is opportunity and if we take away education we are taking away opportunity. In this budget we did add back quite a bit of money for PEBS. There was a SAGE Commission recommendation that we should really change how that works for some of the retirees and employees. I did not agree with the entire add-back. I am on the record continually opposing that because I think we could have probably saved a little bit of money there. In the scheme of things, everything else that we did I don't know that we could have done it any differently. So I do support that.

We go through these budgets and we try to decide what to spend. What are the essential services? Do we need to fund education? Then we have to come up with how we are going to pay for it. The problem my caucus had, at least some of us, was agreeing how to appropriate more funds. How are we going to pay for this? I know we are not in agreement on that. We have looked at a bump in sales tax and we have people who would be okay with bumping the sales tax, which would cover pretty much all of this. I know being on record supporting this appropriation makes us responsible for funding it, but I don't know we agree with the funding mechanism, and again, because of the way this process moves, I just want everyone to know how hard we did work on this and how important a lot of these add-ons are. However, I can not participate in a 36 percent cut to higher education. We did leave a 12.5 percent cut, so it is not as if there hasn't been a huge cut. There have been a lot of major, major cuts, even in cultural affairs, those people are down to working 32 hours. I think this is bare bones. I do support it, but because of this process I am not sure whether we will be supporting the revenue side of it. Again, it is kind of the nature of the beast.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Madam Speaker. I rise in support of Assembly Bill 562. I just would like to explain how this budget came to us. It did not come as a balanced budget. It may have looked like one on paper but the draconian cuts that were included in it were beyond belief. For the first time in my history here we had to basically rebuild this budget. I chaired the subcommittee on public safety. I'll give you an example. The budget came over and it included $208 million for a new prison to be built, but yet it wanted to cut out NSP in Carson City here and layoff 200 Carson City residents. It wanted to close a rural conservation camp it Tonopah, the only fire safety people we have in the rural parts of central Nevada. It would have changed it and opened a new prison camp in Indian Springs, which is three hours from the fire danger areas. So we restored the camps, we restored the NSP, we said no to the new prison. Fortunately, when the numbers for inmate population came in they were a little bit lower this time so that helped save some money. The public safety budgets are bare bones as well. One of the other things was the budget recommended merging the narcotics unit with investigations. This would have basically diluted all the narcotics units' efforts in rural Nevada. We did not look at rural versus southern or urban, but it was for the safety for all the residents in our state. The merger proposal for POST training and investigations—every sheriff and law enforcement officer in the state agreed that it was a very bad idea. We just split them a few sessions ago for efficiency. Whatever we did we had the thought of safety for our residents in mind. We still cut public safety as much as we could without cutting the safety to our public. I urge you to support this bill.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker, I rise in support of AB 562. I have personally appreciated the bipartisan support and the bipartisan scrutiny of a virtually zero-based budgeting that went into this process. I think if we look at this body and recognize that when talk about "across the aisle support," there isn't any "across the aisle support" in this body because we are next to each other and we work together. We don't have a split house. We have a committee that literally works together. The Committee on Finance, if I may allude to them, and the Committee on Ways and Means have jointly worked together in a very bipartisan way. My constituents have told me that they want people to work together and they are tired of people fighting. This is a time where we have had to come together to build a budget with zero-based budgeting.

Furthermore, I have appreciated the SAGE commission, and, if I so risk, I have appreciated the Governor and the Governor's staff. Without a foundation, without something to build from, we would not be able to build upon. The Governor, bless his heart, has chosen to build a budget

and to balance that budget however he and his administration have been able to. That gave us a framework to build upon, or to take away from, because we haven't agreed all the time. But as I have sat in those budget meetings and heard testimony and listened to what we would be doing or what we wouldn't be doing, I suspect that it was well over 90 percent of the time that we had this common phrase of "I move, gov rec". What that meant was that we agreed with the Governor and his recommendation, and that's what the motion was. When we started looking at all the different scenarios and all the different choices, we said that we were going to go with what the Governor recommended. However low that may have been or however high it may have been for others, it was the foundation on which we built.

I stand in support of AB 562 because it was built in a literal bipartisan way with people who were considerate of the needs of the state, such as education, health, public safety and transportation, so that we could keep this state moving forward and keep the hope that little children have and that their parents want them to have. That's why I'm standing in support of this.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I also rise to give a lot of credit to the bipartisan efforts between all of the members of this body. However, I noticed that going into this session we all knew that we were going to be faced with a budget shortfall. What we have so often heard has been the expression, "either we have to raise taxes or cut services". Because of that, we came to this session with quite a few bill drafts that may not have been perfect, but we were hoping that they would get a hearing. There were ideas about different kinds of education reforms, about benefit eligibility, and about emergency suspension of prevailing wages. We had quite a few bills that we figured could have saved literally hundreds of millions of dollars. Unfortunately, many of those bills were not even allowed a hearing. I feel that we may have shortchanged our taxpayers, our citizens, by not allowing those bills for hearing and by not working on two different paths of working collaboratively and cooperatively, but also by looking for ways to get more done with the same amount of money.

Because of that, I feel that we have given our members here an impossible choice of either cutting services or raising taxes. I don't think that we did all of our taxpayers and all of our citizens quite the proper measure.

ASSEMBLYMAN DENIS:

Thank you, Madam Speaker. I'm going to try not to repeat what others have said. I chaired the Subcommittee on General Government and this particular committee considered some of the things that are most important to me in my life, and I wanted to share just a few examples. We talked about museums. Some of the recommendations were to close down the Nevada Historical Society in Reno, the East Ely Railroad in Ely, and the Comstock History Center. In the testimony that we received, the East Ely Railroad provides 3 million dollars in economic support to Ely. There was a recommendation to cut that. For me the important part is that we provide opportunities. I know many people say that museums aren't that important and so we can cut those because they don't provide much, but I think that one of the reasons that I am here is because of those opportunities that I had when I was growing up. I couldn't fathom making that cut, and in our committee it was very heart wrenching to hear the stories of what would happen if we cut all of those museums.

Cuts that we did make were cutting back the work week for the directors to 32 hours a week and the curators to 32 hours a week. We've already lost two of our curators who had a knowledge that we can't get back. We've got another one who is interviewing somewhere else. We have the possibility of losing all of our institutional knowledge in our museums because of all our cutting.

We had a recommendation to eliminate the Consumer Affairs Department, which unfortunately we had to go with. We put back two people so at least we can take phone calls. We're in hard economic times right now. People are going to be calling. We know that people are out there right now ripping other people off, because they are hard up for money, and yet we're not even going to have a Consumer Affairs Department other than someone at the end of a phone line ready to transfer you to somewhere else.

We were asked to take Tourism and Economic Development and to merge them into one entity. As we looked at that option we saw that they have two different missions. While we might save a little bit of money, in the end we really lose money because we are not providing that economic development which is going to bring the jobs. Nor would we bring in the tourists who pay a lot of our taxes.

Another example that I want to share is that we had a recommendation from the Department of Agriculture to eliminate the crop inspector position in Winnemucca. We would have potato crops sitting there and waiting for several days for inspection and in the meantime they could rot. Our agriculture is an important part of the Nevada economy. We still had to make cuts but we were able to put that position back. We were going to have brand inspectors doing plant inspections. I don't know if we could get any more bare bones than we are and continue to function as a state, and so I urge your support.

We started this process two weeks before the session started, as was mentioned, and we met with the Senate together in these subcommittees and in the full committees. We've done everything that we could. We've heard a lot of testimony. We've had to cut what we could and still keep things going. Even though the museums are going to be open a few days a week, at least they are still going to be open. Hopefully we can come back next time and get them up and running again. I urge your support.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of the Appropriations Act, Assembly Bill 562. We have heard a lot of discussion today about the budget. We even heard from a colleague in Reno who said we are expanding government. And yet you have heard a lot of testimony from those of us who serve on the money committee and our chairs from different subcommittees, and I hope it has convinced you that we are hardly expanding government. As the chair of the Health and Human Services Subcommittee, I would like to give you a few examples of how I think the subcommittee, as the good doctor from southern Nevada pointed out, worked, not only in a bipartisan fashion but in a bicameral fashion, to come up with a better plan.

For juvenile justice, for example, the Governor's budget came over cutting 88 beds in our state institutions and cutting the community corrections block grant, which is where we provide programs and prevention at the local level, so the kids do not come to the state institutions. And no additional money for youth parole officers. Think about that for a minute, as the subcommittee did. Where do these kids go? We are not providing them help in the community. We are cutting 88 beds. And there is no one to watch over them with youth parole. The subcommittee quickly figured out that was not going to work. We came up with a better plan. We did cut the beds. We added money to the community corrections block grants, working with the local communities, to keep the kids at home with their families but in a program to stay out of trouble. We added four youth parole officers to supervise the kids who are leaving institutions, to maintain public safety.

Nevada Check Up is another example. The Governor wanted to cap enrollment in this program, which is our state's SCHIP program that provides health insurance to children of working poor families. The federal government pays over half the cost of the program. The number one reason children go to emergency rooms, which is the place that costs the most to get your health care, is ear infections, something that is easily treatable in a general medical practice. Why would we want to cut poor children off of health insurance? The subcommittee voted to uncap Nevada Check Up.

During the special sessions, in the midst of our budget crisis, we had to implement a 5 percent rate reduction in our hospitals. The Governor's budget for the next biennium had an additional five percent cut in provider rates. The subcommittee heard a lot of testimony from hospitals, on top of other places where they are getting hurt in the budget, and we had testimony that several hospitals might close in our state. Together, we came up with the recommendation to not accept the Governor's budget and to not implement the additional five percent reduction.

Too many of our Nevadans have to go into nursing homes when they would much rather remain in their own home, but need certain essential services in order to stay in their home. The subcommittee restored 394 Medicaid slots for those elderly Nevadans who want to remain in

their homes. This makes good fiscal sense because then we are not paying the nursing home costs. We came up with a better plan.

The Governor cut 225 positions in our mental health hospitals. The subcommittee looked at that very carefully and we restored 31 positions in southern Nevada. There have been two rapes in our southern Nevada mental health hospital. It is a matter of patient safety and staff safety, to have adequate staffing. We worked hard as a subcommittee to go through that budget and determine what the 31 critical positions are, to make sure our patients and our state staff are safe.

The Governor cut over half of the rural mental health clinics in this state—eleven of them. The subcommittee worked with our rural Assembly members to come up with a reorganization plan and a better plan to restore nine of those eleven rural mental health clinics. So, someone who lives in Hawthorne does not have to drive to Yerington to get emergency mental health care.

The Consumer Health Assistance Office was cut by the Governor. This is the office that helps consumers go over their hospital bills and make sure they are being appropriately charged and paid for. That saves millions of dollars for the state. We put it back.

2-1-1 is the phone line where people call in when they need help finding an available service. When times are tough, people need those services more than ever. We put some money back for that.

There was also funding for victims of domestic violence. I could go on and on, Madam Speaker, but I want to talk just a little bit about things we did end up cutting so no one can walk out of here and with a straight face say we are expanding state government.

We cut medication for mental health patients in Reno. We had testimony that said we were going to ration mental health medications. Can you imagine that? For the severely mentally ill that live in downtown Reno, we are going to say, "You can have your medication today. You cannot have it tomorrow." Where are those folks going to go? They are going to go to jail. They are going to go to the emergency rooms. And they are going to be in the downtown, hurting business. We had to cut it. There is no money. We told the mental health agency they can come back during the interim, if they really start rationing medications and ask for some help. Maybe our contingency fund will help us with that.

I think all of us can remember the day that we had the autism mothers and fathers come in and show videos of the treatment that has helped those kids in the last two years. The Governor's budget eliminated $3.2 million and would have cut these kids off of treatment. If you could have seen that video of what the kids were like before they got the treatment and what they are like now, in the middle of their treatment, and the progress that they have made, I don't think anyone in this body would have voted to cut off that funding.

Now there are those who are saying today, like our minority leader, that they can vote for the budget because they know how hard we worked. And we did work hard and we came up with an essential services budget. But she is not sure she can vote for the revenue to fund it, because she does not like the things that are in there. I don't like the things that are in there. I don't like what it's in the revenue package much. If it was up to me, it would look entirely different. If it was up to our majority leader, it would look entirely different. Every single one of the 63 of us would have a different revenue package if it was up to us. That is not how it works. We work together. We compromise. We come up with our best plan, together. You can't vote for a spending plan and not vote for a revenue plan. So, if you are not going to fund it, I don't know why you would vote for it. Thank you.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Speaker. I am sure all of us feel the weight here in the room today. This is where it is all coming together. Going through the campaign cycle, knowing that the state has been experiencing more pain than most any of us have seen in our lifetimes, and then coming into the session and hearing about cuts and what would happen and sitting through hearings and reading the press on where we are as a state, I decided this session I would save my comments for times when I was really, really passionate about something. And the thoughts I have to share hopefully will reflect the passion that I have for the people that I represent, the constitutional responsibility that I accepted when I came here.

I came here, Madam Speaker, with the fundamental belief that if families have to live within their means, and families should only spend the money that they have, that we as government should only spend the money that we have. To the previous speaker, who said in her final comments—and I agree—if someone is not going to fund the revenue side, then don't support the spending side.

I am standing before you today to share what I consider is an interesting observation, especially because a year ago I didn't even expect that I was going to be back here. Maybe that would have been a nice bullet to dodge because I feel like this decision today is very much a challenge. I read a Forbes' article that highlighted the three fastest growing states—Arizona, Florida, and Nevada and their growth from 2000 to 2008. It highlighted that Nevada's state budget growth has been greater than those other two states and that our budget growth has outpaced population and inflation by 40 percent. I just ask myself, being here now four times, how long will we continue this? I don't know. One of my colleagues from Armargosa Valley referred to the bills that were introduced to bring certain reforms.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Mr. Christensen, I am going to have to cut you off there. I gave Mr. Goedhart some latitude, but under the rules of the floor, you can't refer to other bills and measures. You have to speak to this bill.

ASSEMBLYMAN CHRISTENSEN:

I will close with this comment. I know that there are a lot of issues to be addressed, a lot of things that need to be taken care of. I am confident in the ability of this body to take care of those. I wholeheartedly expect that this measure will pass. I wanted my comments to go on the record. I do not know if I will be back here again to share these comments. I do have great concerns as I see the budget growing and this bill, should it pass, will have expenditures that go beyond what we have, which goes against a belief I have. We have to rein this in. We have to be smart with our dollars, especially with what all of us see happening to our neighbor to the west, California. I am here. I am speaking. I am doing everything I can to make sure that Nevada does not ever become or put itself in a position to experience the pain that California is going to experience. Madam Speaker, I appreciate the opportunity to speak. I will be voting no on this bill.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

When we entered this session, we were given staggering news that we would have a deficit of 44 percent in order to fund services at the current level. So, what did we do? We started in our money committees a process of looking at our priorities. We had three missions: What could we cut? What could we reform? What did we have to preserve?

Republicans and Democrats sat side-by-side and went through every budget account. It is easy to cut. It is easy to say, "Oh, just cut it within your revenue availability." But we are constitutionally mandated to provide adequate funding for schools. When times are tough and a family doesn't have revenue, they also don't have the constitutional responsibility of accepting every new student who walks in that door, to constitutionally fund prisons, and health and human services. We looked at our responsibility and we looked at every budget account and we cut. There is no expansion of government in this bill. We cut. But as members previously said, we did it in a smart manner.

We looked, for example, as my colleague that chaired the health and human services subcommittee said, at the mental health hospitals. We end up cutting three-fourth's of the positions. But how do you not have adequate staff in order to ensure that mentally ill patients are being cared for in a safe manner? We morally cannot do that. We legally cannot do that.

We had the Gaming Control Board come to us and testify, saying that if some of the Governor's cuts were not restored, they could not adequately regulate the gaming industry. That is our largest industry. How can we not provide the tools to the Gaming Control Board, to do their jobs?

In K-12 education, we are already funded forty-sixth in the nation. You look at population growth and say, "Look at how much Nevada has expanded." But what you truly have to look at is your responsibilities as a state. For example, what if you suddenly receive so many students you have to build one new elementary school every month? That is what we had in Las Vegas. When you look at our education budget and what the Governor suggested—which were cuts of over $600 million to an education system that is funded already forty-sixth in the nation—what is our priority? Our constituents tell us all the time. It is a quality education system. They want that system for their children and for their grandchildren. And that is what we hear the most from businesses because they know if they do not have a qualified workforce, they cannot succeed and then we cannot grow as a state. We looked at the education budget from top to bottom. We asked, "Does it make sense to close the teacher training centers that we just built, in order to produce highly qualified teachers?" Does it? We decided that our results were not where we needed them to be because we didn't have a teacher training center. So what did we do? Did we just restore every dollar? No. My colleague from Sparks spent the time, along with my colleague from Yerington, looking at all the regional professional development centers, funding them at 60 percent, eliminating one but saying it makes no sense to spend more money in the next biennium recreating this, by closing it now. We did the same thing with the rural mental health clinics. Did we put every dollar back? No. But we decided it made no sense to close every rural mental health clinic when the mentally ill are still in that community. And in fact, they are receiving more requests for services because the economy is in trouble.

All session I was proud of the work that was done in our Assembly Ways and Means Committee, by Republicans and Democrats. What separates us from Washington, D.C. and California is that we may disagree sometimes but we strive for agreement. We strive for bipartisanship. That's what makes Nevada different. And that's what we should not lose. And we didn't lose that in the money committee. Not every person got everything they wanted on every issue. That is not how legislative sessions work. But we produced a budget that makes sense. We produced a budget that restored money to K-12 education so that we would not have larger class sizes. We restored the regional professional development centers. We restored incentives to make sure we are keeping teachers of at-risk schools and teachers who are highly qualified to teach math and science. We restored money to higher education because it makes no sense to close UNLV or UNR and to have a 36 percent cut to every community college in the state. We restored $40 million to the health and human services budget. Our criteria was if we could live with ourselves if we cut autistic children off their treatment or had inadequate staffing at our mental health facilities, or cut pregnant women off of health insurance. That's what we did. With public safety, as was outlined by our chair of the public safety subcommittee, we actually saved money by not building a new prison for $200 million and restoring $30 million to keep another prison open during these tough economic times.

I want to say, especially to the chairs of the subcommittees, that you did a tremendous job producing a budget that makes sense and I appreciate your work. To our staff, you did an amazing job. With regard to reforms, perhaps you missed those days. We passed a measure just yesterday and a budget closing last week where we reformed the Public Employee Benefit program. We changed eligibility from 5 years to 15 years. We now have indexed the cost of the program. We eliminated benefits and have now saved that program by the reforms we implemented. There is a reform bill pending for PERS, too. Just because you don't get every bill you want doesn't mean reform doesn't happen. Sometimes it can happen without you.

Roll call on Assembly Bill No. 562:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

EXCUSED—Grady.

Assembly Bill No. 562 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 451.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 886.

AN ACT relating to state obligations; establishing a program for the investment of state money in certificates of deposit at a reduced rate to provide lending institutions with money for reduced-rate loans to certain minority-owned and other small businesses in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows the State Treasurer to invest the money of this State in negotiable certificates of deposit issued by commercial banks, insured credit unions or insured savings and loan associations. (NRS 355.140) **Section 15** of this bill requires the State Treasurer to establish a Linked Deposit Program whereby the State, in an aggregate amount not to exceed $20,000,000, invests in certificates of deposit with commercial banks, insured credit unions or insured savings and loan associations at a reduced rate of interest on the condition that the lending institution link the value of each certificate of deposit to a reduced-rate loan to certain types of small businesses. **Section 15** also provides that the rate of interest paid to the State on the deposit is to be not more than 2 percentage points below the market rate for such a deposit, and the loan rate is to be reduced not more than 2 percentage points below the market rate for such a loan. Further, **section 15** requires a lending institution to sign an agreement with the State Treasurer as to the terms of such a deposit and its linked loan.

Section 17 of this bill requires a lending institution that participates in the Linked Deposit Program to apply all the usual lending standards to determine the creditworthiness of a small business seeking a loan and further requires that a preference be given to certain small businesses that are owned by a member of a racial or ethnic minority, a woman or an honorably discharged veteran of the Armed Forces of the United States. **Section 19** of this bill limits such loans to not more than $500,000 and to a term of not longer than 10 years. **Section 18** of this bill limits the types of businesses that are eligible to participate in the Linked Deposit Program.

Section 21 of this bill prohibits the State Treasurer from making any new investments through the Linked Deposit Program after June 30, 2011.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. Chapter 355 of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 20, inclusive, of this act.

Sec. 13. ***The Legislature hereby declares that the public policy of this State is to benefit the general welfare of the people of this State by improving the state economy through the encouragement of reduced-rate lending to minority-owned and certain other small businesses.***

Sec. 14. ***As used in sections 13 to 20, inclusive, of this act, unless the context otherwise requires:***

1. "Eligible small business" means a business that meets the requirements of section 18 of this act.

2. "Linked deposit" means a certificate of deposit issued pursuant to sections 15 to 20, inclusive, of this act to the State Treasurer by a qualified lending institution at an interest rate not more than 2 percent below the current market rate on the condition that the institution agrees to lend the value of the deposit, according to a deposit agreement made pursuant to section 15 of this act, to an eligible small business at a rate that is at least 2 percent lower than the current market rate for such a loan.

3. "Qualified lending institution" means a commercial bank, a savings and loan association or an insured credit union in this State that meets the eligibility requirements of section 16 of this act.

Sec. 15. ***1. The State Treasurer shall establish a Linked Deposit Program to increase the availability of reduced-rate loans to certain small businesses owned and operated in this State.***

2. The State Treasurer may invest in reduced-rate certificates of deposit with qualified lending institutions upon acceptance of a loan package pursuant to this section and section 17 of this act. Each certificate of deposit issued pursuant to this section by a qualified lending institution to the State Treasurer must be linked to a reduced-rate loan made by the qualified lending institution to an eligible small business.

3. The total amount invested in linked deposits by the State Treasurer at any one time may not exceed, in the aggregate, $20,000,000.

4. The State Treasurer may accept or reject a linked deposit loan package presented by a qualified lending institution.

5. Upon acceptance of a linked deposit loan package from a qualified lending institution:

(a) The State Treasurer may place a linked deposit with the lending institution at a rate that is not more than 2 percentage points below the

market rate for such a deposit at that lending institution. The State Treasurer shall determine and calculate all linked deposit rates.

(b) The qualified lending institution shall enter into a deposit agreement with the State Treasurer, which must include requirements necessary to carry out the purposes of sections 13 to 20, inclusive, of this act. The deposit agreement must specify, without limitation:

(1) The rate of interest to be paid on the deposit;

(2) The rate of interest to be charged for the loan linked to the deposit;

(3) That the qualified lending institution:

(I) Shall loan an amount equal to the amount of the deposit to an eligible small business at a rate that is reduced from the current market rate for such a loan in the same amount as the reduction in rate received from the State Treasurer for the linked deposit;

(II) Shall verify that the small business is eligible for such a loan;

(III) Shall collect and supply the State Treasurer with any information requested as to the loan and the eligible small business; and

(IV) Shall notify the State Treasurer immediately if the eligible small business becomes ineligible for the Linked Deposit Program during the term of the loan; and

(4) That the rate of interest to be paid on the deposit will revert to the current market rate at the time the eligible small business becomes ineligible for the Linked Deposit Program.

6. The State Treasurer shall compile and maintain on his Internet website a list of small businesses that have received loans from the Linked Deposit Program. The list must include, without limitation, for each business listed:

(a) The name of the business;

(b) The type of business;

(c) The location of the business;

(d) The amount and term of the linked deposit loan; and

(e) The name and location of the qualified lending institution that made the loan.

Sec. 16. ***1. The State Board of Finance shall qualify a lending institution for participation in the Linked Deposit Program established by the State Treasurer pursuant to section 15 of this act.***

2. To qualify for participation in the Linked Deposit Program, a lending institution must:

(a) Be a commercial bank organized under chapter 659 of NRS, an insured savings and loan association organized under chapter 673 of NRS or an insured credit union organized under chapter 678 of NRS;

(b) Agree to actively advertise to and inform small businesses of the availability of reduced-rate loans through the Linked Deposit Program;

(c) Make information about the Linked Deposit Program available on the public Internet website of the institution, if any; and

(d) Apply for qualification on a form provided by the State Board of Finance.

3. The State Board of Finance shall adopt regulations necessary to carry out the provisions of this section.

Sec. 17. ***1. A qualified lending institution that desires to receive a linked deposit shall accept and review applications for linked deposit loans from eligible small businesses on a form provided by the State Treasurer. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible small business, including, without limitation, the consideration of:***

(a) Character, reputation and credit history of the applicant;

(b) Experience and depth of management;

(c) Strength of the business;

(d) Past earnings, projected cash flow and future prospects;

(e) Ability to repay the loan with earnings from the business;

(f) Sufficient invested equity to operate on a sound financial basis; and

(g) Potential for long-term success.

2. In determining which small business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal:

(a) First, to a business that is at least 51-percent owned by a resident of this State who is:

(1) A member of a racial or ethnic minority;

(2) A woman; or

(3) An honorably discharged veteran of the Armed Forces of the United States.

(b) Second, to a business engaged in the production and sale of fuel or power from an energy source other than a fossil fuel, including, without limitation, geothermal, hydroelectric, solar or wind energy.

3. A qualified lending institution must submit a loan package to the State Treasurer for each Linked Deposit Program loan, on a form provided by the State Treasurer. The loan package must include, without limitation, verification by the qualified lending institution that the eligible small business meets the requirements of this section and section 18 of this act and that the use of proceeds as specified in the loan meets the requirements of section 19 of this act.

Sec. 18. ***1. To be eligible for a loan from a qualified lending institution pursuant to the Linked Deposit Program established pursuant to section 15 of this act, a business must:***

(a) Employ not more than 50 employees;

(b) Be headquartered in this State;

(c) Maintain offices or operating facilities in this State;

(d) Transact business in this State;

(e) Be organized for profit;

(f) Have gross annual sales of less than $5,000,000 at the time of application pursuant to this section;

(g) Satisfy the lending criteria of the qualified lending institution;

(h) Submit verification of eligibility for a linked deposit loan with a qualified lending institution on a form provided by the State Treasurer; and

(i) Submit an application for a linked deposit loan with a qualified lending institution on a form provided by the qualified lending institution.

2. The following types of businesses are not eligible for a loan from a qualified lending institution under the Linked Deposit Program established pursuant to section 15 of this act:

(a) Nonprofit businesses;

(b) Financial businesses engaged primarily in the business of lending, including, without limitation, banks, finance companies and pawnbrokers;

(c) Speculative real estate development companies;

(d) Subsidiaries of businesses located in a foreign country;

(e) Businesses which have previously defaulted on a Linked Deposit Program loan or federally assisted financing;

(f) Businesses which engage in any illegal activity; and

(g) Any business which is ineligible under regulations adopted by the State Treasurer pursuant to section 20 of this act.

Sec. 19. ***1. A reduced-rate loan made pursuant to the Linked Deposit Program may not:***

(a) Exceed $500,000; and

(b) Have a term of more than 10 years.

2. An eligible small business may use loan proceeds from a linked deposit reduced-rate loan for the following purposes:

(a) Working capital;

(b) Real property acquisition;

(c) Establishing a line of credit;

(d) Financing of accounts receivable;

(e) Purchase of equipment, except that such equipment must not be purchased to replace the work or function of employees, resulting in layoffs or downsizing; and

(f) Any other purpose permissible under regulations adopted by the State Treasurer pursuant to section 20 of this act.

Sec. 20. ***The State Treasurer shall adopt regulations necessary to carry out the provisions of sections 13 to 20, inclusive, of this act.***

Sec. 21. **Notwithstanding the provisions of section 15 of this act, the State Treasurer shall not accept a linked deposit loan package or invest in a reduced-rate certificate of deposit after June 30, 2011.**

~~[Sec. 21.]~~ ***Sec. 22.*** This section and sections 12 to ~~[20,]~~ **21,** inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009 **,** for all other purposes.

Assemblyman Arberry moved the adoption of the amendment.

Remarks by Assemblyman Arberry.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 394.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 879.

AN ACT relating to off-highway vehicles; requiring certain owners of off-highway vehicles to obtain certificates of title and registration for those vehicles; requiring the Department of Motor Vehicles to charge and collect certain fees; creating the Fund for Off-Highway Vehicles; creating the Commission on Off-Highway Vehicles; creating the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration as a special account in the Motor Vehicle Fund; eliminating the requirement that certain persons obtain certificates of operation before operating off-highway vehicles; providing for the licensing of dealers, manufacturers and lessors of off-highway vehicles and for the consignment of off-highway vehicles; making various other changes relating to off-highway vehicles; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from operating an off-highway vehicle on a highway in this State unless the person has obtained a certificate of operation for the off-highway vehicle and has attached the certificate of operation to the off-highway vehicle in the manner specified by the Department of Taxation. (NRS 490.080) The term "off-highway vehicle" means any motor vehicle that is designed primarily for off-highway and all-terrain use, including, without limitation, an all-terrain vehicle, an all-terrain motorcycle, a dune buggy, a snowmobile or any motor vehicle used for recreational purposes on public lands. (NRS 490.060)

Existing law requires an authorized dealer of off-highway vehicles to issue a certificate of operation for the off-highway vehicle upon the sale of the vehicle or upon request by a person who purchased the vehicle outside this State under certain circumstances. (NRS 490.070)

With limited exceptions, **section 12** of this bill requires a person who acquires ownership of an off-highway vehicle on or after ~~[July 1, 2010,]~~ **the effective date of that section as provided in paragraph (b) of subsection 2 of section 63 of this act** to apply to the Department of Motor Vehicles for the titling and annual registration of the vehicle within 30 days after acquiring ownership of the vehicle. A person who acquired ownership of an off-highway vehicle before ~~[July 1, 2010,]~~ **the effective date of section 12 as provided in paragraph (b) of subsection 2 of section 63 of this act** may apply to the Department for the titling of the vehicle, but is required to apply

to the Department for annual registration of the vehicle ~~[on or before June 30, 2011.]~~ **within 1 year after that date.**

Section 15 of this bill creates the Fund for Off-Highway Vehicles in the State Treasury. A portion of the money received from the fees collected pursuant to **section 12** of this bill must be deposited into the Fund. All money deposited into the Fund must be used only for projects relating to off-highway vehicles as set forth in **section 15**.

Section 16 of this bill creates the Commission on Off-Highway Vehicles. The Commission consists of 11 members who are appointed by the Governor. Each member of the Commission serves for a term of 3 years and, if money is available from the Fund for Off-Highway Vehicles, is entitled to receive the per diem allowance and travel expenses provided to state officers and employees.

Section 17 of this bill imposes various duties upon the Commission, including, without limitation, the duty to select nonvoting advisers to the Commission and to adopt regulations for awarding grants from the Fund for Off-Highway Vehicles.

Section 59 of this bill, in part, repeals the provisions of NRS 490.030, which define the term "Department" for purposes of chapter 490 of NRS to mean the Department of Taxation. Because NRS 481.015 defines the term "Department" for purposes of title 43 of NRS to mean the Department of Motor Vehicles, the effect of the repeal of NRS 490.030 and the amendment of NRS 481.015 set forth in **section 1** of this bill is to place the authority to administer the provisions of chapter 490 of NRS under the Department of Motor Vehicles.

Sections 20-52 of this bill provide for the licensing of manufacturers, dealers and lessors of off-highway vehicles and for the consignment of off-highway vehicles.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 481.015 is hereby amended to read as follows:

481.015 1. Except as otherwise provided in this subsection, as used in this title, unless the context otherwise requires, "certificate of title" means the document issued by the Department that identifies the legal owner of a vehicle and contains the information required pursuant to subsection 2 of NRS 482.245. The definition set forth in this subsection does not apply to chapters 488 and 489 of NRS.

2. Except as otherwise provided in chapter 480 of NRS, NRS 484.388 to 484.3888, inclusive, 486.363 to 486.377, inclusive, and chapters 486A ~~[, 488 and 490]~~ ***and 488*** of NRS, as used in this title, unless the context otherwise requires:

(a) "Department" means the Department of Motor Vehicles.

(b) "Director" means the Director of the Department **.** ~~[of Motor Vehicles.]~~

Sec. 2. NRS 481.048 is hereby amended to read as follows:

481.048 1. The Director shall appoint, within the limits of legislative appropriations, investigators for the Division of Compliance Enforcement.

2. The duties of the investigators are to travel the State and:

(a) Act as investigators in the enforcement of the provisions of chapters 482 ***,*** ~~[and]~~ 487 ***and 490*** of NRS, NRS 108.265 to 108.367, inclusive, and 108.440 to 108.500, inclusive, as those sections pertain to motor vehicles, trailers, motorcycles, recreational vehicles and semitrailers, as defined in chapter 482 of NRS ~~[.]~~ ***, and off-highway vehicles, as defined in NRS 490.060.***

(b) Act as advisers to any business licensed by the Department in connection with any problems arising under the provisions of chapters 108, 482, 483 ***,*** ~~[and]~~ 487 ***and 490*** of NRS.

(c) Advise and assist personnel of the Nevada Highway Patrol in the enforcement of traffic laws and motor vehicle registration laws as they pertain to any business licensed by the Department.

(d) Act as investigators in the enforcement of the provisions of NRS 483.700 to 483.780, inclusive, relating to the licensing of schools and instructors for training drivers.

(e) Exercise their police powers in the enforcement of the laws of this State to prevent acts of fraud or other abuses in connection with the provision of services offered to the public by the Department.

(f) Perform such other duties as may be imposed by the Director.

Sec. 3. Chapter 490 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 52, inclusive, of this act.

Sec. 4. ***"Commission" means the Commission on Off-Highway Vehicles created by section 16 of this act.***

Sec. 5. ***"Consignee" means any person licensed pursuant to this chapter to sell or lease off-highway vehicles or any person who holds himself out as being in the business of selling, leasing or consigning off-highway vehicles.***

Sec. 6. ***"Consignment" means any transaction whereby the registered owner or lienholder of an off-highway vehicle subject to registration pursuant to this chapter agrees, entrusts or in any other manner authorizes a consignee to act as his agent to sell, exchange, negotiate or attempt to negotiate a sale or an exchange of the interest of the registered owner or lienholder in the off-highway vehicle, whether or not for compensation.***

Sec. 7. ***"Consignment contract" means a written agreement between a registered owner or lienholder of an off-highway vehicle and a consignee to whom the off-highway vehicle has been entrusted by consignment for the purpose of sale that specifies the terms and conditions of the consignment and sale.***

Sec. 8. ***"Fund" means the Fund for Off-Highway Vehicles created by section 15 of this act.***

Sec. 9. ***For the purposes of regulation under this chapter and of imposing tort liability under NRS 41.440, and for no other purpose:***

1. "Lease" means a contract by which the lienholder or owner of an off-highway vehicle transfers to another person, for compensation, the right to use such off-highway vehicle.

2. "Long-term lessee" means a person who has leased an off-highway vehicle from another person for a fixed period of more than 31 days.

3. "Long-term lessor" means a person who has leased an off-highway vehicle to another person for a fixed period of more than 31 days.

4. "Short-term lessee" means a person who has leased an off-highway vehicle from another person for a period of 31 days or less, or by the day, or by the trip.

5. "Short-term lessor" means a person who has leased an off-highway vehicle to another person for a period of 31 days or less, or by the day, or by the trip.

Sec. 9.5. ***"Manufacturer" means every person engaged in the business of manufacturing off-highway vehicles.***

Sec. 10. ***1. "Off-highway vehicle dealer" means any person who:***

(a) For compensation, money or other thing of value sells, exchanges, buys, offers or displays for sale, negotiates or attempts to negotiate a sale or exchange of an interest in an off-highway vehicle;

(b) Represents himself as having the ability to sell, exchange, buy or negotiate the sale or exchange of an interest in an off-highway vehicle under this chapter or in any other state or territory of the United States;

(c) Receives or expects to receive a commission, money, brokerage fee, profit or any other thing of value from the seller or purchaser of an off-highway vehicle; or

(d) Is engaged wholly or in part in the business of selling off-highway vehicles or buying or taking in trade off-highway vehicles for the purpose of resale, selling or offering for sale or consignment to be sold or otherwise dealing in off-highway vehicles, whether or not he owns the off-highway vehicles.

2. "Off-highway vehicle dealer" does not include:

(a) An insurance company, bank, finance company, governmental agency or any other person coming into possession of an off-highway vehicle, acquiring a contractual right to an off-highway vehicle or incurring an obligation with respect to an off-highway vehicle in the performance of official duties or under the authority of any court of law, if the sale of the off-highway vehicle is to save the seller from loss or pursuant to the authority of a court of competent jurisdiction;

(b) A person, other than a long-term or short-term lessor, who is not engaged in the purchase or sale of off-highway vehicles as a business but is disposing of off-highway vehicles acquired by the owner for his use and not to avoid the provisions of this chapter, or a person who sells not more than three personally owned off-highway vehicles in any 12-month period;

(c) Persons regularly employed as salesmen by off-highway vehicle dealers, licensed under this chapter, while those persons are acting within the scope of their employment; or

(d) Persons who are incidentally engaged in the business of soliciting orders for the sale and delivery of off-highway vehicles outside the territorial limits of the United States if their sales of such vehicles produce less than 5 percent of their total gross revenue.

Sec. 11. ***"Off-highway vehicle salesman" means:***

1. A person employed by an off-highway vehicle dealer, under any form of contract or arrangement to sell, exchange, buy, or offer for sale, or exchange an interest in an off-highway vehicle to any person, who receives or expects to receive a commission, fee or any other consideration from the seller or purchaser of the off-highway vehicle; or

2. A person who exercises managerial control within the business of an off-highway vehicle dealer or a long-term or short-term lessor, or who supervises salesmen employed by an off-highway vehicle dealer or a long-term or short-term lessor, whether compensated by salary or by commission, or who negotiates with or induces a customer to enter into a security agreement on behalf of an off-highway vehicle dealer or a long-term or short-term lessor of off-highway vehicles.

Sec. 12. ***1. An owner of an off-highway vehicle that is acquired:***

(a) Before ~~[July 1, 2010:]~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act:

(1) May apply for, to the Department by mail or to an authorized dealer and obtain ~~[,]~~ from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, shall, ~~[on or before June 30, 2011,]~~ within 1 year after the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, apply for, to the Department by mail or to an authorized dealer, and obtain ~~[,]~~ from the Department, the registration of the off-highway vehicle.

(b) On or after ~~[July 1, 2010,]~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, shall within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain ~~[,]~~ from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, apply for, to the Department by mail or to an authorized dealer, and obtain ~~[,]~~ from the Department, the registration of the off-highway vehicle.

2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for:

(a) A certificate of title for the off-highway vehicle, he shall submit to the Department or to the authorized dealer proof prescribed by the Department that he is the owner of the off-highway vehicle.

(b) The registration of the off-highway vehicle, he shall submit:

(1) If he obtained ownership of the off-highway vehicle before ~~[July 1, 2010,]~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, proof prescribed by the Department:

(I) That he is the owner of the off-highway vehicle; and

(II) Of the unique vehicle identification or serial number for the off-highway vehicle; or

(2) If he obtained ownership of the off-highway vehicle on or after ~~[July 1, 2010.]~~ the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act:

(I) Evidence satisfactory to the Department that the owner has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle or submit an affidavit indicating that he purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and

(II) Proof prescribed by the Department that he is the owner of the off-highway vehicle and of the unique vehicle identification or serial number for the off-highway vehicle.

3. Registration of an off-highway vehicle is not required if the off-highway vehicle:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles;

(c) Is registered or certified in another state and is located in this State for not more than 60 days;

(d) Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;

(e) Is used for work conducted by or at the direction of a public or private utility; or

(f) Was manufactured before January 1, 1976.

4. The registration of an off-highway vehicle expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee and a late fee of $25. Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

5. If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a

certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

(a) Set forth by the Department by regulation; and

(b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

6. The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who ~~*[has registered the off-highway vehicle in a state that has similar requirements for the registration of off-highway vehicles.]*~~ ***is not a resident of this State.***

Sec. 13. ***Each registration of an off-highway vehicle must:***

1. Be in the form of a sticker or decal, as prescribed by the Department . ~~*[and approved by the Commission.]*~~

2. Be approximately the size of a license plate for a motorcycle, as set forth by the Department.

3. Include a unique vehicle identification or serial number for the off-highway vehicle.

4. Be displayed on the off-highway vehicle in the manner set forth by the Commission.

Sec. 14. ***1. The Department shall determine the fee for issuing a certificate of title for an off-highway vehicle, but such fee must not exceed the fee imposed for issuing a certificate of title pursuant to NRS 482.429. Money received from the payment of the fees described in this subsection must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.***

2. The Commission shall determine the fee for the annual registration of an off-highway vehicle, but such fee must not be less than $20 or more than $30. Money received from the payment of the fees described in this subsection must be distributed as follows:

(a) During the period ~~*[from July 1, 2010, through June 30, 2011:]*~~ ***beginning on the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act and ending 1 year after that date:***

(1) Eighty-five percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 15 percent must be deposited into the Fund.

(b) On or after ~~*[July 1, 2011:]*~~ ***the expiration of the period specified in paragraph (a):***

(1) Fifteen percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 85 percent must be deposited into the Fund.

Sec. 15. ***1. The Fund for Off-Highway Vehicles is hereby created in the State Treasury as a revolving fund. The Commission shall administer the Fund. Any money remaining in the Fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.***

2. During the period ~~[from July 1, 2010, through June 30, 2011,]~~ beginning on the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act and ending 1 year after that date, money in the Fund may only be used by the Commission for the reasonable administrative costs of the Commission and to inform the public of the requirements of this chapter.

3. On or after ~~[June 30, 2011,]~~ the expiration of the period specified in subsection 2, money in the Fund may only be used by the Commission as follows:

(a) Not more than 5 percent of the money that is in the Fund as of January 1 of each year may be used for the reasonable administrative costs of the Fund.

(b) Except as otherwise provided in subsection 4, 20 percent of any money in the Fund as of January 1 of each year that is not used pursuant to paragraph (a) must be used for law enforcement, as recommended by the Office of Criminal Justice Assistance of the Department of Public Safety, or its successor, and any remaining portion of that money may be used as follows:

(1) Sixty percent of the money may be used for projects relating to:

(I) Studies or planning for trails and facilities for use by owners and operators of off-highway vehicles. Money received pursuant to this sub-subparagraph may be used to prepare environmental assessments and environmental impact studies that are required pursuant to 42 U.S.C. §§ 4321 et seq.

(II) The mapping and signing of those trails and facilities.

(III) The acquisition of land for those trails and facilities.

(IV) The enhancement and maintenance of those trails and facilities.

(V) The construction of those trails and facilities.

(VI) The restoration of areas that have been damaged by the use of off-highway vehicles.

(2) ~~[Twenty percent of the money may be used for law enforcement, as recommended by the Office of Criminal Justice Assistance of the Department of Public Safety, or its successor.~~

~~(3)]~~ Fifteen percent of the money may be used for safety training and education relating to off-highway vehicles.

4. If money is used for the projects described in paragraph (b) of subsection 3, not more than 30 percent of such money may be allocated to any one category of projects described in subparagraph (1) of that paragraph.

Sec. 16. ***1. The Commission on Off-Highway Vehicles is hereby created.***

2. The Commission consists of 11 members as follows:

(a) One member who is an authorized dealer, appointed by the Governor;

(b) One member who is a sportsman, appointed by the Governor from a list of persons submitted to him by the Director of the Department of Wildlife;

(c) One member who is a rancher, appointed by the Governor from a list of persons submitted to him by the Director of the State Department of Agriculture;

(d) One member who is a representative of the Nevada Association of Counties, appointed by the Governor from a list of persons submitted to him by the Executive Director of the Association;

(e) One member who is a representative of law enforcement, appointed by the Governor from a list of persons submitted to him by the Nevada Sheriffs' and Chiefs' Association;

(f) One member, appointed by the Governor from a list of persons submitted to him by the Director of the State Department of Conservation and Natural Resources, who:

(1) Possesses a degree in soil science, rangeland ecosystems science or a related field;

(2) Has at least 5 years of experience working in one of the fields described in subparagraph (1); and

(3) Is knowledgeable about the ecosystems of the Great Basin Region of central Nevada or the Mojave Desert; and

(g) One member, appointed by the Governor, who is a representative of an organization that represents persons who use off-highway vehicles to access areas to participate in recreational activities that do not primarily involve off-highway vehicles;

(h) Four members, appointed by the Governor, who reside in the State of Nevada and have participated in recreational activities for off-highway vehicles for at least 5 years using the type of off-highway vehicle owned or operated by the persons they will represent, as follows:

(1) One member who represents persons who own or operate all-terrain vehicles;

(2) One member who represents persons who own or operate all-terrain motorcycles;

(3) One member who represents persons who own or operate snowmobiles; and

(4) One member who represents persons who own or operate, and participate in the racing of, off-highway ~~[vehicles.]~~ motorcycles.

3. The Governor shall not appoint to the Commission any member described in paragraph (h) of subsection 2 unless the member has been recommended to the Governor by an off-highway vehicle organization. As used in this subsection, "off-highway vehicle organization" means a profit or nonprofit corporation, association or organization formed pursuant to the laws of this State and which promotes off-highway vehicle recreation or racing.

4. After the initial terms, each member of the Commission serves for a term of 3 years. A vacancy on the Commission must be filled in the same manner as the original appointment.

5. Except as otherwise provided in this subsection, a member of the Commission may not serve more than two consecutive terms on the Commission. A member who has served two consecutive terms on the Commission may be reappointed if the Governor does not receive any applications for that member's seat or if the Governor determines that no qualified applicants are available to fill that member's seat.

6. The Governor shall ensure that, insofar as practicable, the members whom he appoints reflect the geographical diversity of this State.

7. Each member of the Commission:

(a) Is entitled to receive, if money is available for that purpose from the fees collected pursuant to section 14 of this act, the per diem allowance and travel expenses provided for state officers and employees generally.

(b) Shall swear or affirm that he will work to create and promote responsible off-highway vehicle recreation in the State. The Governor may remove a member from the Commission if the member violates the oath described in this paragraph.

8. The Commission may employ an Executive Secretary, who must not be a member of the Commission, to assist in its daily operations and in administering the Fund.

9. The Commission may adopt regulations for the operation of the Commission. Upon request by the Commission, the nonvoting advisers solicited by the Commission pursuant to section 17 of this act may provide assistance to the Commission in adopting those regulations.

Sec. 17. ***1. The Commission shall:***

(a) Elect a Chairman, Vice Chairman, Secretary and Treasurer from among its members.

(b) Meet at the call of the Chairman.

(c) Meet at least four times each year.

(d) Solicit nine nonvoting advisers to the Commission to serve for terms of 2 years as follows:

(1) One adviser from the Bureau of Land Management.

(2) One adviser from the United States Forest Service.

(3) One adviser who is:

(I) From the Natural Resources Conservation Service of the United States Department of Agriculture; or

(II) A teacher, instructor or professor at an institution of the Nevada System of Higher Education and who provides instruction in environmental science or a related field.

(4) One adviser from the State Department of Conservation and Natural Resources.

(5) One adviser from the Department of Wildlife.

(6) One adviser from the Department of Motor Vehicles.

(7) One adviser from the Commission on Tourism.

(8) One adviser from the Nevada Indian Commission.

(9) One adviser from the United States Fish and Wildlife Service.

2. The Commission may award a grant of money from the Fund. Any such grant must comply with the requirements set forth in section 15 of this act. The Commission shall:

(a) Adopt regulations setting forth who may apply for a grant of money from the Fund and the manner in which such a person may submit the application to the Commission. The regulations adopted pursuant to this paragraph must include, without limitation, requirements that:

(1) Any person requesting a grant provide proof satisfactory to the Commission that the appropriate federal, state or local governmental agency has been consulted regarding the nature of the project to be funded by the grant and regarding the area affected by the project;

(2) The application for the grant address all applicable laws and regulations, including, without limitation, those concerning:

(I) Threatened and endangered species in the area affected by the project;

(II) Ecological, cultural and archaeological sites in the area affected by the project; and

(III) Existing land use authorizations and prohibitions, land use plans, special designations and local ordinances for the area affected by the project; and

(3) Any compliance information provided by an appropriate federal, state or local governmental agency, and any information or advice provided by any agency, group or individual be submitted with the application for the grant.

(b) Adopt regulations for awarding grants from the Fund.

(c) Adopt regulations for determining the acceptable performance of work on a project for which a grant is awarded.

(d) Approve the completion of, and payment of money for, work performed on a project for which a grant is awarded, if the Commission determines the work is acceptable.

(e) Monitor the accounting activities of the Fund.

3. The nonvoting advisers solicited by the Commission pursuant to paragraph (d) of subsection 1 shall assist the Commission in carrying out

the duties set forth in this section and shall review for completeness and for compliance with the requirements of paragraph (a) of subsection 2 all applications for grants.

4. For each regular session of the Legislature, the Commission shall prepare a comprehensive report, including, without limitation, a summary of any grants that the Commission awarded and of the accounting activities of the Fund, and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

Sec. 18. (Deleted by amendment.)

Sec. 19. ***1. The Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration is hereby created as a special account in the Motor Vehicle Fund.***

2. The Department shall use the money in the Account to pay the expenses of administering the provisions of ~~*[sections 12 and 14 of this act.]*~~ ***this chapter relating to the titling and registration of off-highway vehicles.***

3. Money in the Account must be used only for the purposes specified in subsection 2.

4. Any money remaining in the Account at the end of the fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

Sec. 19.5. 1. The Revolving Account for the Assistance of the Department is hereby created as a special account in the Motor Vehicle Fund.

2. All money received by the Department from the Federal Government or any other source to assist the Department in carrying out the provisions of this chapter relating to the titling and registration of off-highway vehicles must be deposited into the Account.

3. Money in the Account must be used only for the purposes specified in subsection 2.

4. Any money remaining in the Account at the end of the fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

Sec. 20. ***The Department, all officers thereof and all peace officers in this State shall enforce the provisions of this chapter.***

Sec. 21. ***The Director may adopt and enforce such administrative regulations as are necessary to carry out the provisions of this chapter.***

Sec. 22. ***1. Before taking an off-highway vehicle on consignment, an off-highway vehicle dealer or lessor shall prepare a written consignment contract.***

2. A consignment contract must include, without limitation:

(a) The names of the consignor and consignee;

(b) The date on which the consignment contract was entered into;

(c) A complete description of the off-highway vehicle subject to the consignment contract, including the unique vehicle identification or serial number, and the year, make and model of the off-highway vehicle;

(d) The term of the consignment contract;

(e) The name of each person or business entity holding any security interest in the off-highway vehicle to be consigned;

(f) The minimum sales price for the off-highway vehicle and the disposition of the proceeds therefrom, as agreed upon by the consignor and consignee; and

(g) The signatures of the consignor and consignee acknowledging all the terms and conditions set forth in the consignment contract.

Sec. 23. *1. A consignee of an off-highway vehicle shall, upon entering into a consignment contract or other form of agreement to sell an off-highway vehicle owned by another person:*

(a) Open and maintain a separate trust account in a federally insured bank or savings and loan association that is located in this State, into which the consignee shall deposit all money received from a prospective buyer as a deposit, or as partial or full payment of the purchase price agreed upon, toward the purchase or transfer of interest in the off-highway vehicle. A consignee of an off-highway vehicle shall not:

(1) Commingle the money in the trust account with any other money that is not on deposit or otherwise maintained toward the purchase of the off-highway vehicle subject to the consignment contract or agreement; or

(2) Use any money in the trust account to pay his operational expenses for any purpose that is not related to the consignment contract or agreement.

(b) Obtain from the consignor, before receiving delivery of the off-highway vehicle, a signed and dated disclosure statement that is included in the consignment contract and provides in at least 10-point bold type or font:

IMPORTANT NOTICE TO OFF-HIGHWAY VEHICLE OWNERS

State law (section 23 of this act) requires that the operator of this business file a Uniform Commercial Code 1 (UCC1) form with the Office of the Secretary of State on your behalf to protect your interest in your off-highway vehicle. The form is required to protect your off-highway vehicle from forfeiture in the event that the operator of this business fails to meet his financial obligations to a third party holding a security interest in his inventory. The form must be filed by the operator of this business before he may take possession of your off-highway vehicle. If the form is not filed as required, YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN. For a copy of the UCC1 form filed on your behalf or for more information, please contact:

The Office of the Secretary of State of Nevada
Uniform Commercial Code Division

(775) 684-5708

I understand and acknowledge the above disclosure.

_____

Consignee Signature Date

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the off-highway vehicle, a financial statement of the type described in subsection 5 of NRS 104.9317 and shall file the financial statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending an authenticated notification, as described in paragraph (b) of subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the off-highway vehicle until the consignee has:

(1) Filed the financing statement with the Secretary of State; and

(2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the off-highway vehicle, the consignee shall forthwith:

(a) Satisfy or cause to be satisfied all outstanding security interests in the off-highway vehicle; and

(b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in an off-highway vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the off-highway vehicle has occurred. Notification by the consignee to the consignor must be given in person or, in the absence of the consignor, by registered or certified mail addressed to the last address or residence of the consignor known to the consignee. The notification must be made within 3 business days after the date on which the money is received or the transfer of interest in the off-highway vehicle is made.

4. The provisions of this section do not apply to:

(a) An executor;

(b) An administrator;

(c) A sheriff; or

(d) Any other person who sells off-highway vehicles pursuant to the powers or duties granted to or imposed on him by specific statute.

5. Notwithstanding any provision of the Nevada Revised Statutes to the contrary, an off-highway vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a

prospective buyer unless the operation of the off-highway vehicle is authorized by the express written consent of the consignor.

6. A consignee shall maintain a written log for each off-highway vehicle for which he has entered into a consignment contract. The written log must include:

(a) The name and address, or place of residence, of the consignor;

(b) A description of the off-highway vehicle consigned, including the year, make, model and unique vehicle identification or serial number of the off-highway vehicle;

(c) The date on which the consignment contract is entered into;

(d) The period that the off-highway vehicle is to be consigned;

(e) The minimum agreed upon sales price for the off-highway vehicle;

(f) The approximate amount of money due any lienholder or other person known to have an interest in the off-highway vehicle;

(g) If the off-highway vehicle is sold, the date on which the off-highway vehicle is sold;

(h) The date that the money due the consignor and the lienholder was paid;

(i) The name and address of the federally insured bank or savings and loan association in which the consignee opened the trust account required pursuant to subsection 1; and

(j) The signature of the consignor acknowledging that the terms of the consignment contract were fulfilled or terminated, as appropriate.

7. A person who:

(a) Appropriates, diverts or otherwise converts to his own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.

(b) Violates paragraph (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.

(c) Violates any other provision of this section is guilty of a misdemeanor.

Sec. 24. ***1. Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of sections 24 to 47, inclusive, of this act shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.***

2. The Department shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of sections 24 to 47, inclusive, of this act if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.

Sec. 25. ***1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license issued pursuant to sections 24 to 47, inclusive, of this act, the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.***

2. The Department shall reinstate an occupational license issued pursuant to the provisions of this chapter that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 26. ***1. Except as otherwise provided in subsection 2, a person shall not engage in the activities of a new off-highway vehicle dealer, used off-highway vehicle dealer, long-term or short-term lessor or manufacturer in this State until he has been issued:***

(a) A license or permit to act as a new off-highway vehicle dealer, used off-highway vehicle dealer, long-term or short-term lessor or manufacturer, or a similar license or permit, by every city within whose corporate limits he maintains an established place of business and by every county in which he maintains an established place of business outside the corporate limits of a city; and

(b) A license by the Department. The Department shall not issue a license to the person until he has been issued all licenses and permits required by paragraph (a).

2. A person licensed as an off-highway vehicle dealer pursuant to this chapter shall not engage in the activities of a new off-highway vehicle dealer until he has provided the Department with satisfactory proof that he is authorized by a manufacturer to display and offer for sale the off-highway vehicles produced or distributed by that manufacturer.

3. A license for an off-highway vehicle dealer or manufacturer issued pursuant to this chapter does not permit a person to engage in the business of buying, selling or leasing or manufacturing motor vehicles or trailers governed pursuant to the laws and regulations established in chapter 482 of NRS.

4. The Department shall investigate any applicant for a license as an off-highway vehicle dealer, long-term or short-term lessor or manufacturer and shall complete an investigation report on a form provided by the Department.

5. A person who violates subsection 1 or 2 is guilty of:

(a) For a first offense, a misdemeanor.

(b) For a second offense, a gross misdemeanor.

(c) For a third and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

Sec. 27. ***1. Except as otherwise provided in subsections 2 and 3, every off-highway vehicle dealer, long-term or short-term lessor and manufacturer who is licensed by the Department to do business in this State shall maintain an established place of business in this State which:***

(a) Includes a permanent enclosed building, owned in fee or leased, with sufficient space to display one or more off-highway vehicles which the off-highway vehicle dealer, lessor or manufacturer is licensed to sell, lease or manufacture; and

(b) Is principally used by the licensee to conduct his business.

2. Every new and used off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall maintain an established place of business in this State which has:

(a) In addition to sufficient customer and employee parking, adequate usable space to display one or more off-highway vehicles offered for sale or lease from his established place of business;

(b) Except for businesses licensed pursuant to this chapter or chapter 482 of NRS and owned by a single principal or group of principals, physical boundaries which are clearly marked that physically separate the licensee's established place of business from any other adjacent place of business; and

(c) A permanent enclosed building large enough to accommodate an office but not less than 100 square feet of usable floor space to accommodate his business office and provide a safe place to keep and store the books and other records of his business.

3. A short-term off-highway vehicle lessor shall:

(a) Designate his principal place of business as his established place of business and each other location where he conducts business as a branch that is operated pursuant to the license for the principal place of business.

(b) Notify the Department of each branch at which he conducts business by filing, on forms provided by the Department, such information pertaining to each branch as required by the Department.

Sec. 28. ***1. An application for a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer must be filed upon forms supplied by the Department and include the social security number of the applicant. The forms must designate the persons whose names are required to appear thereon. The applicant must furnish:***

(a) Such proof as the Department may deem necessary that the applicant is an off-highway vehicle dealer, long-term or short-term lessor or manufacturer.

(b) A fee of $125.

(c) A fee for the processing of fingerprints. The Department shall establish by regulation the fee for processing fingerprints. The fee must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

(d) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(e) If the applicant is a natural person, the statement required pursuant to section 24 of this act.

(f) A certificate of insurance for liability.

2. Upon receipt of the application and when satisfied that the applicant is entitled thereto, the Department shall issue to the applicant a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer containing the name of the licensee and the address of his

established place of business or the address of the main office of a manufacturer without an established place of business in this State.

3. Licenses issued pursuant to this section expire on December 31 of each year. Before December 31 of each year, a licensee must furnish the Department with an application for renewal of his license accompanied by an annual fee of $50. If the applicant is a natural person, the application for renewal also must be accompanied by the statement required pursuant to section 24 of this act. The additional fee for the processing of fingerprints, established by regulation pursuant to paragraph (c) of subsection 1, must be submitted for each applicant whose name does not appear on the original application for the license. The renewal application must be provided by the Department and contain information required by the Department.

Sec. 29. ***The Director shall, before renewing any occupational license issued pursuant to this chapter, consider:***

1. The number and types of complaints received against an off-highway vehicle dealer, long-term or short-term lessor or manufacturer by the Department; and

2. Any administrative fines imposed upon the off-highway vehicle dealer, lessor or manufacturer by the Department pursuant to this chapter, ➥ ***and may require the dealer, lessor or manufacturer to provide a good and sufficient bond in the amount set forth in subsection 1 of section 40 of this act for each category of off-highway vehicle sold at each place of business and in each county in which the dealer, lessor or manufacturer is licensed to do business.***

Sec. 30. ***Evidence of unfitness of an applicant for or a licensee of an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for the purposes of denial or revocation of a license may consist of, but is not limited to:***

1. Failure to discharge a lienholder on an off-highway vehicle within 30 days after it is traded to his dealership.

2. Being the former holder of or being a partner, officer, director, owner or manager involved in management decisions of an off-highway vehicle dealership which held a license issued pursuant to section 28 of this act or of an occupational license issued pursuant to chapter 482 of NRS which was revoked for cause and never reissued or was suspended upon terms which were never fulfilled.

3. Defrauding or attempting to defraud the State or a political subdivision of any taxes or fees in connection with the sale or transfer of an off-highway vehicle.

4. Forging the signature of the registered or legal owner of an off-highway vehicle on a certificate of title.

5. Purchasing, selling, otherwise disposing of or having in his possession any off-highway vehicle which he knows, or a reasonable person should know, is stolen or otherwise illegally appropriated.

6. Willfully failing to deliver to a purchaser or his lienholder a certificate of title to an off-highway vehicle he has sold.

7. Refusing to allow an agent of the Department to inspect, during normal business hours, all books, records and files which are required to be maintained within the State.

8. Any fraud which includes, but is not limited to:

(a) Misrepresentation in any manner, whether intentional or grossly negligent, of a material fact.

(b) An intentional failure to disclose a material fact.

9. Willful failure to comply with any regulation adopted by the Department.

10. Knowingly submitting or causing to be submitted any false, forged or otherwise fraudulent document to the Department to obtain a lien, title or certificate of ownership or any duplicate thereof for an off-highway vehicle.

11. Knowingly causing or allowing a false, forged or otherwise fraudulent document to be maintained as a record of his business.

12. Violating any provisions of this chapter which involve the sale or transfer of an interest in an off-highway vehicle.

Sec. 31. ***An off-highway vehicle dealer, long-term or short-term lessor or manufacturer licensed under the provisions of this chapter shall post his license, and all licenses issued to persons in his employ who are licensed as off-highway vehicle salesmen pursuant to the provisions of this chapter, in a conspicuous place clearly visible to the general public at the location described in the license.***

Sec. 32. ***Except as otherwise provided in subsection 2 of section 10 of this act, the following activities are prima facie evidence that a person is engaged in the activities of an off-highway vehicle dealer:***

1. A person displays for sale, sells or offers for sale any off-highway vehicle which he does not personally own;

2. A person demonstrates, or allows the demonstration or operation of, any off-highway vehicle for the purpose of sale or future sale or as an inducement to purchase the vehicle; or

3. A person engages in an activity specified by subsection 1 of section 10 of this act or any other act regarding an off-highway vehicle which would lead a reasonable person to believe that he may purchase that off-highway vehicle or a similar off-highway vehicle from the person.

Sec. 33. ***1. An off-highway vehicle dealer shall inform the Department of the location of each place at which he conducts any business and the name under which he does business at each location.***

2. If an off-highway vehicle dealer does business at more than one location, he shall designate one location in each county in which he does business as his principal place of business for that county and one name as the principal name of his business. He shall designate all of his other

business locations not otherwise designated as a principal place of business pursuant to this subsection as branches.

3. An off-highway vehicle dealer who maintains a principal place of business and one or more businesses designated as branches may operate those branches under the authority of the license issued by the Department to the principal place of business under the following conditions:

(a) The principal and branch locations are owned and operated by the same principal or group of principals listed on the records of the Department for the principal place of business;

(b) The sales activities conducted at a branch location are the same as those authorized by the Department at the principal place of business;

(c) The principal place of business and each branch location are located within the same county;

(d) The principal place of business and each branch location maintain the appropriate city or county license;

(e) The closest boundary of a branch location is not more than 500 feet from the principal place of business;

(f) The business sign displayed at each branch location meets the requirements of section 39 of this act and is essentially the same in name, style and design as that of the principal place of business;

(g) Sales transactions originating at a branch location are culminated, and the records of the transaction maintained, at the principal place of business; and

(h) The off-highway vehicle dealer provides all documentation which the Department deems necessary to ensure that each business location is operated in accordance with the provisions of this chapter and all other applicable laws and regulations established for the operation of an off-highway vehicle sales business in this State.

4. If an off-highway vehicle dealer changes the name or location of any of his established places of business, he shall not conduct business as an off-highway vehicle dealer under the new name or at the new location until he has been issued a license for the new name or location from the Department.

Sec. 34. ***1. An off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall keep his books and records for all locations at which he does business within a county at his principal place of business in that county.***

2. Each off-highway vehicle dealer, lessor and manufacturer shall:

(a) Permit any authorized agent of the Director or the State of Nevada to inspect and copy the books and records during usual business hours; or

(b) Not later than 3 business days after receiving a request from such a person for the production of the books and records or any other information, provide the requested books, records and other information to the person at the location specified in the request.

3. An off-highway vehicle dealer, lessor and manufacturer shall retain his books and records for 3 years after he ceases to be licensed as an off-highway vehicle dealer, lessor or manufacturer.

Sec. 35. ***1. If an off-highway vehicle dealer or long-term lessor has one or more branches, he shall procure from the Department a license for each branch, in addition to the license issued for his principal place of business.***

2. The Department shall specify on each license it issues:

(a) The name of the licensee;

(b) The location for which the license is issued; and

(c) The name under which the licensee does business at that location.

3. Each off-highway vehicle dealer and lessor shall post each license issued to him by the Department in a conspicuous place clearly visible to the general public at the location described in the license.

4. The Department shall, by regulation, provide for the issuance of a temporary license for a licensed off-highway vehicle dealer to conduct business at a temporary location. Any such regulations must include the imposition of a reasonable fee for the issuance of the temporary license.

Sec. 36. ***Except as otherwise provided in section 41 of this act, the Department or any other agency of this State shall not require that an off-highway vehicle dealer have his signature acknowledged before a notary public or any other person authorized to take acknowledgments in this State on any document the off-highway vehicle dealer is required to file with the Department or agency.***

Sec. 37. ***Each off-highway vehicle dealer who advertises that the Spanish language is spoken at his place of business or who conducts business by communicating in Spanish with a purchaser or prospective purchaser regarding the potential purchase of an off-highway vehicle shall, upon the request of a purchaser or prospective purchaser of an off-highway vehicle with whom the off-highway vehicle dealer or his agent is communicating or has communicated in Spanish as a part of the preliminary discussions and negotiations regarding the purchase or potential purchase of the off-highway vehicle, allow the purchaser or prospective purchaser to view the version of the forms for the application for credit and contracts to be used in the sale of off-highway vehicles which have been translated into Spanish pursuant to subsection 3 of NRS 97.299.***

Sec. 38. ***If a licensed off-highway vehicle dealer takes an off-highway vehicle in trade on the purchase of another off-highway vehicle and there is an outstanding security interest, the licensed off-highway vehicle dealer shall satisfy the outstanding security interest within 30 days after the off-highway vehicle is taken in trade on the purchase of the other off-highway vehicle.***

Sec. 39. ***1. Except as otherwise provided in subsection 2, at each of his established places of business, each off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall permanently affix a sign***

containing the name of his business in lettering of sufficient size to be clearly legible from the center of the nearest street or roadway, except that the lettering must be at least 8 inches high and formed by lines that are at least 1 inch wide.

2. Upon approval of the Director, and in accordance with all other city and county ordinances, an off-highway vehicle dealer or a long-term or short-term lessor may be exempted from the requirements of subsection 1 if:

(a) His established place of business or branch location is located within the confines of another business;

(b) The other place of business is the primary business at that location; and

(c) The primary business is not licensed pursuant to any provision of this chapter.

Sec. 40. ***1. Before any off-highway vehicle dealer, long-term or short-term lessor or manufacturer is issued a license pursuant to this chapter, the Department shall require that the applicant procure and file with the Department a good and sufficient bond with a corporate surety thereon, duly licensed to do business within the State of Nevada, approved as to form by the Attorney General and conditioned that the applicant or any employee who acts on his behalf within the scope of his employment shall conduct his business as an off-highway vehicle dealer, lessor or manufacturer without breaching a consumer contract or engaging in a deceptive trade practice, fraud or fraudulent representation and without violation of the provisions of this chapter. The bond must be in the amount of $50,000.***

2. The Department may, pursuant to a written agreement with any off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has been licensed to do business in this State for at least 5 years, allow a reduction in the amount of the bond of the off-highway vehicle dealer, lessor or manufacturer if his business has been conducted in a manner satisfactory to the Department for the preceding 5 years. No bond may be reduced to less than 50 percent of the bond required pursuant to subsection 1.

3. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

4. The undertaking on the bond includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation or violation of any of the provisions of this chapter by the representative of any licensed representative or salesman of any licensed off-highway vehicle dealer, long-term or short-term lessor or manufacturer who acts for the off-highway vehicle dealer, lessor or manufacturer on his behalf and within the scope of the employment of the representative or the salesman.

5. The bond must provide that any person injured by the action of the off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesman in violation of any provision of this chapter may apply to the Director, for good cause shown, for compensation from the bond. The surety issuing the bond shall appoint the Secretary of State as its agent to accept service of notice or process for the surety in any action upon the bond brought in a court of competent jurisdiction or brought before the Director.

6. If a person is injured by the actions of an off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesman, the person may:

(a) Bring and maintain an action in any court of competent jurisdiction. If the court enters:

(1) A judgment on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or salesman, the judgment is binding on the surety.

(2) A judgment other than on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or salesman, including, without limitation, a default judgment, the judgment is binding on the surety only if the surety was given notice and an opportunity to defend at least 20 days before the date on which the judgment was entered against the off-highway vehicle dealer, lessor, manufacturer, representative or salesman.

(b) Apply to the Director, for good cause shown, for compensation from the bond. The Director may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

(c) Settle the matter with the off-highway vehicle dealer, lessor, manufacturer, representative or salesman. If such a settlement is made, the settlement must be reduced to writing, signed by both parties and acknowledged before any person authorized to take acknowledgments in this State and submitted to the Director with a request for compensation from the bond. If the Director determines that the settlement was reached in good faith and there is no evidence of collusion or fraud between the parties in reaching the settlement, the surety shall make the payment to the injured person in the amount agreed upon in the settlement.

7. Any judgment entered by a court against an off-highway vehicle dealer, long-term or short term lessor, manufacturer, representative or off-highway vehicle salesman may be executed through a writ of attachment, garnishment, execution or other legal process, or the person in whose favor the judgment was entered may apply to the Director for compensation from the bond of the off-highway vehicle dealer, lessor, manufacturer, representative or salesman.

8. The Department shall not issue a license pursuant to subsection 1 to an off-highway vehicle dealer, long-term or short term lessor or

manufacturer who does not have and maintain an established place of business in this State.

Sec. 41. ***1. In lieu of a bond, an applicant may deposit with the Department, under terms prescribed by the Department:***

(a) A like amount of lawful money of the United States or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by NRS 482.345 and indicate that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the amount accrues to the account of the applicant.

2. A deposit made pursuant to subsection 1 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) A court order requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person or persons under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

3. When a deposit is made pursuant to subsection 1, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding court judgment for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1 of section 40 of this act;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which he is liable under the deposit.

4. A deposit made pursuant to subsection 1 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

5. Any money received by the Department pursuant to subsection 1 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 42. ***1. The bond required by section 40 of this act must cover the licensee's principal place of business and all branches operated by him, including, without limitation, any place of business operated in this State by the licensee that is located outside the county of the licensee's principal office or any place of business operated by the licensee under a different name.***

2. In addition to the coverage provided by the licensee's bond pursuant to subsection 1, the licensee shall procure a separate bond for:

(a) Each place of business operated in this State by the licensee that is located outside the county of the licensee's principal office; and

(b) Each place of business operated by the licensee under a different name.

Sec. 43. ***1. A new off-highway vehicle dealer's license must not be furnished to any off-highway vehicle dealer in new off-highway vehicles unless the off-highway vehicle dealer first furnishes the Department an instrument executed by or on behalf of the manufacturer certifying that he is an authorized franchised off-highway vehicle dealer for the make or makes of off-highway vehicles concerned. New off-highway vehicle dealers are authorized to sell at retail only those new off-highway vehicles for which they are certified as franchised off-highway vehicle dealers by the manufacturer.***

2. In addition to selling used off-highway vehicles, a used off-highway vehicle dealer may:

(a) Sell at wholesale a new off-highway vehicle taken in trade or acquired as a result of a sales contract to a new off-highway vehicle dealer who is licensed and authorized to sell that make of vehicle;

(b) Sell at wholesale a new off-highway vehicle through a wholesale vehicle auction if the wholesale vehicle auctioneer:

(1) Does not take an ownership interest in the off-highway vehicle; and

(2) Auctions the off-highway vehicle to an off-highway vehicle dealer who is licensed and authorized to sell that make of off-highway vehicle; or

(c) Sell a new off-highway vehicle on consignment from a person not licensed as an off-highway vehicle dealer or long-term or short-term lessor.

Sec. 44. ***1. No off-highway vehicle dealer, long-term or short-term lessor or manufacturer may employ "bait and switch" advertising or otherwise intentionally publish, display or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold, leased, manufactured, handled or furnished to the public.***

2. The Director shall adopt such regulations as may be necessary for making the administration of this section effective.

3. As used in this section, "bait and switch" advertising consists of an offer to sell or lease goods or services which the seller or lessor in truth may not intend or desire to sell or lease, accompanied by one or more of the following practices:

(a) Refusal to show the goods advertised.

(b) Disparagement in any material respect of the advertised goods or services or the terms of sale or lease.

(c) Requiring other sales or leases or other undisclosed conditions to be met before selling or leasing the advertised goods or services.

(d) Refusal to take orders for the goods or services advertised for delivery within a reasonable time.

(e) Showing or demonstrating defective goods which are unusable or impractical for the purposes set forth in the advertisement.

(f) Accepting a deposit for the goods or services and subsequently switching the purchase order to higher-priced goods or services.

Sec. 45. ***1. The Department may deny the issuance of, suspend or revoke a license to engage in the activities of an off-highway vehicle dealer, long-term or short-term lessor or manufacturer in new or used off-highway vehicles in this State upon any of the following grounds:***

(a) Failure of the applicant to have an established place of business in this State.

(b) Conviction of a felony in the State of Nevada or any other state, territory or nation.

(c) Material misstatement in the application.

(d) Evidence of unfitness of the applicant or licensee.

(e) Willful failure to comply with any of the provisions of the laws of the State of Nevada or the directives of the Director. For the purpose of this paragraph, failure to comply with the directives of the Director advising the licensee of his noncompliance with any provision of the laws of this State or regulations of the Department, within 10 days after receipt of the directive, is prima facie evidence of willful failure to comply with the directive.

(f) Failure or refusal to furnish and keep in force any bond.

(g) Failure on the part of the licensee to maintain a fixed place of business in this State.

(h) Failure or refusal by a licensee to pay or otherwise discharge any final judgment against the licensee rendered and entered against him, arising out of the misrepresentation of any off-highway vehicle or out of any fraud committed in connection with the sale of any off-highway vehicle.

(i) Failure of the licensee to maintain any other license or bond required by any political subdivision of this State.

(j) Allowing an unlicensed off-highway vehicle salesman to sell or lease any off-highway vehicle or to act in the capacity of an off-highway vehicle salesman as defined in this chapter.

(k) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 3.

(l) Engaging in a deceptive trade practice relating to the purchase and sale or lease of an off-highway vehicle.

2. The Director may deny the issuance of a license to an applicant or revoke a license already issued if the Department is satisfied that the applicant or licensee is not entitled thereto.

3. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the activities of an off-highway vehicle dealer, long-term or short term lessor or manufacturer, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to the authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to the authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to sections 24 to 47, inclusive, of this act or to determine the suitability of an applicant or a licensee for such licensure.

4. The Department may adopt regulations establishing additional criteria that may be used to deny, suspend, revoke or refuse to renew a license issued pursuant to this chapter.

Sec. 46. ***1. Except as otherwise provided in subsection 5, an applicant or licensee may, within 30 days after receipt of the notice of denial, suspension or revocation, petition the Director in writing for a hearing.***

2. Subject to the further requirements of subsection 3, the Director shall make written findings of fact and conclusions and grant or finally deny the application or revoke the license within 15 days after the hearing unless by interim order he extends the time to 30 days after the hearing. If the license has been temporarily suspended, the suspension expires not later than 15 days after the hearing.

3. If the Director finds that the action is necessary in the public interest, upon notice to the licensee, he may temporarily suspend or refuse to renew the license issued to an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for a period not to exceed 30 days. A hearing must be held, and a final decision rendered, within 30 days after notice of the temporary suspension.

4. The Director may issue subpoenas for the attendance of witnesses and the production of evidence.

5. The provisions of this section do not apply to an applicant for a temporary permit to engage in the activity of an off-highway vehicle salesman.

Sec. 47. ***1. A person shall not engage in the activity of a salesman of off-highway vehicles or act in the capacity of an off-highway vehicle salesman as defined in this chapter in the State of Nevada without first having received a license or temporary permit from the Department.***

2. A license to act as an off-highway vehicle salesman must be issued in accordance with the provisions for the licensing of vehicle salesmen as defined in chapter 482 of NRS.

3. A person who has received a license issued pursuant to the provisions of chapter 482 of NRS must be licensed to act as a salesman of vehicles defined in chapter 482 of NRS and as an off-highway vehicle salesman as defined in this chapter.

4. All requirements, restrictions and penalties applicable to a vehicle salesman licensed pursuant to the provisions of chapter 482 of NRS apply without exception to off-highway vehicle salesmen.

Sec. 48. ***1. It is a gross misdemeanor for any person knowingly to falsify:***

(a) An off-highway vehicle dealer's report of sale, as described in section 50 of this act; or

(b) An application or document to obtain any license, permit, certificate of title or registration issued under the provisions of this chapter.

2. ~~[It]~~ Except as otherwise provided in subsection 3, it is a misdemeanor for any person to violate any of the provisions of this chapter unless ~~[such]~~ the violation is by this section or other provision of this chapter or other law of this State declared to be a gross misdemeanor or a felony.

3. Any person who violates a provision of this chapter relating to the registration or operation of an off-highway vehicle is guilty of a misdemeanor and shall be punished by a fine not to exceed $100.

Sec. 49. ***1. The Department may impose an administrative fine, not to exceed $2,500, for a violation of any provision of sections 22 to 52, inclusive, of this ~~[chapter]~~ act or any rule, regulation or order adopted or issued pursuant thereto. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.***

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

3. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any rule, regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy, and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 50. ***1. When a new or used off-highway vehicle is sold or leased in this State for the first time, the seller or lessor of the off-highway vehicle shall, unless a new off-highway vehicle is sold to an off-highway vehicle dealer who is licensed to sell the make of off-highway vehicle being sold, complete and execute an off-highway vehicle dealer's report of sale.***

2. The form, content and disposition of the off-highway vehicle dealer's report of sale must be prescribed by regulation adopted by the Department.

Sec. 51. ***When a used off-highway vehicle is sold in this State by a person who is not an off-highway vehicle dealer, the seller or buyer or both of them shall, within 10 days after the sale:***

1. Submit to the Department:

(a) If a certificate of title has been issued in this State, the certificate properly endorsed.

(b) If a certificate of title or other document of title has been issued by a public authority of another state, territory or country:

(1) The certificate or document properly endorsed; and

(2) A statement containing, if not included in the endorsed certificate or document, the description of the off-highway vehicle, including the names and addresses of the buyer and seller and the name and address of any person who takes or retains a purchase money security interest. Any such statement must be signed and acknowledged by the seller and the buyer.

(c) If no document of title has been issued by any public authority, a statement containing all the information and signed and acknowledged in the manner required by subparagraph (2) of paragraph (b).

2. Remit to the Department any fee for the processing of an endorsed certificate of title or statement submitted to the Department pursuant to this section.

Sec. 52. ***Any person is guilty of a gross misdemeanor who knowingly:***

1. Makes or causes to be made any false entry on any certificate of origin or certificate of title for an off-highway vehicle;

2. Furnishes or causes to be furnished false information to the Department concerning any security interest; or

3. Fails to submit or causes to not be submitted the original of the off-highway vehicle dealer's or long-term lessor's report of sale or lease, together with the certificate of title or certificate of ownership issued for a new or used off-highway vehicle to the Department within the time prescribed by regulation adopted by the Department.

Sec. 53. NRS 490.010 is hereby amended to read as follows:

490.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 490.020 to 490.060, inclusive, ***and sections 4 to 11, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 54. NRS 490.020 is hereby amended to read as follows:

490.020 "Authorized dealer" means a dealer authorized by the Department to ~~[issue]~~ ***receive and submit to the Department applications for the issuance of*** certificates of ~~[operation]~~ ***title*** for ***, and registrations of,*** off-highway vehicles pursuant to NRS 490.070.

Sec. 55. NRS 490.060 is hereby amended to read as follows:

490.060 1. "Off-highway vehicle" means a motor vehicle that is designed primarily for off-highway and all-terrain use. The term includes, but is not limited to:

(a) An all-terrain vehicle;

(b) An all-terrain motorcycle;

(c) A dune buggy;

(d) A snowmobile; and

(e) Any motor vehicle used on public lands for the purpose of recreation.

2. The term does not include:

(a) A motor vehicle designed primarily for use in water;

(b) A motor vehicle that is registered by the Department ***;*** ~~[of Motor Vehicles; or]~~

(c) A low-speed vehicle as defined in NRS 484.527 ~~[.]~~ ***; or***

(d) Special mobile equipment, as defined in NRS 482.123.

Sec. 56. NRS 490.070 is hereby amended to read as follows:

490.070 1. Upon the request of ~~[a dealer of]~~ ***an*** off-highway ~~[vehicles,]~~ ***vehicle dealer,*** the Department may authorize the ***off-highway vehicle*** dealer to ~~[issue]~~ ***receive and submit to the Department applications for the:***

(a) Issuance of certificates of ~~[operation]~~ ***title and registration*** for off-highway vehicles ~~[pursuant to subsection 3.~~

~~2. Each certificate of operation for an off-highway vehicle issued by an authorized dealer must be in the form of a sticker approved by the Department.~~

~~3.]~~ ***; and***

(b) Renewal of registration for off-highway vehicles.

2. An authorized dealer shall:

(a) ~~[Upon the sale of an off-highway vehicle, issue to the purchaser of the off-highway vehicle a certificate of operation for the off-highway vehicle;~~

~~(b) Upon request, issue a certificate of operation to a person who purchased the off-highway vehicle before January 1, 2006;~~

~~(c) Issue a certificate of operation to the owner of an off-highway vehicle that was purchased outside this State on or after January 1, 2006, if the owner:~~

~~(1) Requests the certificate of operation; and~~

~~(2) Pays or submits evidence satisfactory to the authorized dealer that he has paid all taxes applicable in this State to the purchase of the off-highway vehicle or submits an affidavit indicating that he purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle;]~~ ***Except as otherwise provided in paragraph (b) and subsection 4, submit to the State Treasurer for allocation to the***

Department or to the Fund all fees collected by the authorized dealer from each applicant and properly account for those fees each month;

(b) Submit to the State Treasurer for deposit into the Fund all fees charged and collected and required to be deposited in the Fund pursuant to section 14 of this act;

~~[(d)]~~ ***(c)*** Comply with the regulations adopted pursuant to subsection ~~[6;]~~ ***5;*** and

~~[(e)]~~ ***(d)*** Bear any cost of equipment which is required to ~~[issue certificates of operation,]~~ ***receive and submit to the Department the applications described in subsection 1,*** including any computer software or hardware.

~~[4. An]~~

3. Except as otherwise provided in subsection 4, an authorized dealer is not entitled to receive compensation ~~[from the Department]~~ for the performance of ~~[those services.]~~ ***any services pursuant to this section.***

~~[5.]~~ ***4.*** An authorized dealer ~~[shall not charge or]~~ ***may charge and*** collect a fee ***of not more than $2*** for ~~[issuing]~~ ***each application for*** a certificate of ~~[operation.~~

~~6.]~~ ***title or registration received by the authorized dealer pursuant to this section. An authorized dealer may retain any fee collected by the authorized dealer pursuant to this subsection.***

5. The Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, provisions for:

(a) The expedient and secure issuance of ***:***

(1) Forms for applying for the issuance of certificates of ~~[operation]~~ ***title for, or registration of, off-highway vehicles;***

(2) Certificates of title and registration by the Department to ~~[authorized dealers; and]~~ ***each applicant whose application is approved by the Department; and***

(3) Renewal notices for registrations before the date of expiration of the registrations;

(b) ***The renewal of registrations by mail or Internet;***

(c) The collection of a fee of not less than $20 or more than $30 for the renewal of a registration of an off-highway vehicle;

(d) The submission by mail or electronic transmission to the Department of an application for:

(1) The issuance of a certificate of title for, or registration of, an off-highway vehicle; or

(2) The renewal of registration of an off-highway vehicle;

(e) The replacement of a lost, damaged or destroyed certificate of title or registration certificate, sticker or decal; and

(f) The revocation of the authorization granted to a dealer pursuant to subsection 1 if the authorized dealer fails to comply with the regulations.

Sec. 57. NRS 490.100 is hereby amended to read as follows:

490.100 1. Except as otherwise provided in subsection 2, a city or county may designate any portion of a highway within the city or county as permissible for the operation of off-highway vehicles for the purpose of allowing off-highway vehicles to reach a private or public area that is open for use by off-highway vehicles. If a city or county designates any portion a state highway as permissible for the operation of off-highway vehicles pursuant to this subsection, the city or county must obtain approval for the designation from the Department **.** ~~[of Transportation.]~~ The Department ~~[of Transportation]~~ shall issue a timely decision concerning the request for approval and must not unreasonably deny the request.

2. The highway designated for operation of off-highway vehicles pursuant to subsection 1 may not consist of any portion of an interstate highway.

3. If a city or county designates a highway for the operation of off-highway vehicles, the city or county may adopt an ordinance requiring a person who is less than 16 years of age and who is operating the off-highway vehicle on a designated highway to be under the direct visual supervision of a person who is at least 18 years of age.

4. A person operating an off-highway vehicle on a highway designated for operation of off-highway vehicles pursuant to subsection 1 may not operate the off-highway vehicle on the highway for any purpose other than to travel to or from the private or public area as described in subsection 1.

Sec. 58. NRS 490.130 is hereby amended to read as follows:

490.130 The operator of an off-highway vehicle that is being driven on a highway in this State in accordance with NRS 490.090 to 490.130, inclusive, shall:

1. Comply with all traffic laws of this State;

2. Ensure that the ~~[certificate of operation for]~~ ***registration of*** the off-highway vehicle is attached to the vehicle in accordance with ~~[NRS 490.080;]~~ ***section 13 of this act;*** and

3. Wear a helmet.

Sec. 58.3. NRS 41.440 is hereby amended to read as follows:

41.440 Any liability imposed upon a wife, husband, son, daughter, father, mother, brother, sister or other immediate member of a family arising out of his or her driving and operating a motor vehicle ~~[upon a highway]~~ with the permission, express or implied, of such owner is hereby imposed upon the owner of the motor vehicle, and such owner shall be jointly and severally liable with his or her wife, husband, son, daughter, father, mother, brother, sister or other immediate member of a family for any damages proximately resulting from such negligence or willful misconduct, and such negligent or willful misconduct shall be imputed to the owner of the motor vehicle for all purposes of civil damages.

Sec. 58.7. NRS 104A.2104 is hereby amended to read as follows:

104A.2104 1. A lease, although subject to this Article, is also subject to any applicable:

(a) Certificate of title statute of this State, including any applicable provision of chapters 482, 488 ~~[and]~~ 489 ***and 490*** of NRS;

(b) Certificate of title statute of another jurisdiction (NRS 104A.2105); or

(c) Consumer protection statute of this State, including any applicable provision of NRS 97.297, 97.299, 97.301 and 100.095 to 100.175, inclusive, and a final decision of a court of this State concerning the protection of consumers rendered before January 1, 1990.

2. In case of conflict between this Article, other than NRS 104A.2105, subsection 3 of NRS 104A.2304 and subsection 3 of NRS 104A.2305, and a statute or decision referred to in subsection 1, the statute or decision controls.

3. Failure to comply with an applicable law has only the effect specified therein.

Sec. 59. NRS 490.030 and 490.080 are hereby repealed.

Sec. 60. An owner of an off-highway vehicle who obtained a certificate of operation for an off-highway vehicle before ~~[July 1, 2010,]~~ **the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act** shall ~~[on or before June 30, 2011,]~~ **, within 1 year after that date,** register the off-highway vehicle pursuant to the provisions of section 12 of this act.

Sec. 61. 1. Any off-highway vehicle dealer who is an authorized dealer pursuant to NRS 490.070 before ~~[July 1, 2010,]~~ **the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act** shall be deemed to be an authorized dealer by the Department of Motor Vehicles pursuant to ~~[that section,]~~ **NRS 490.070,** as amended by section 56 of this act.

2. The regulations adopted by the Department of Taxation pursuant to NRS 490.070 become the regulations of the Department of Motor Vehicles on ~~[July 1, 2010,]~~ **the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act** and, to the extent that the regulations are consistent with the amendatory provisions of this act, remain in effect until amended or repealed by the Department of Motor Vehicles.

Sec. 62. 1. As soon as practicable after ~~[the effective date of this section,]~~ **passage and approval of this act,** the Governor shall solicit applications for the appointment of the members of the Commission on Off-Highway Vehicles created by section 16 of this act.

2. As soon as practicable after July 1, ~~[2009,]~~ **2010,** the Governor shall, after considering each application received pursuant to subsection 1, appoint the members of the Commission on Off-Highway Vehicles who are qualified pursuant to section 16 of this act to initial terms as follows:

(a) Four members to terms that expire on January 1, ~~[2011.]~~ **2012.**

(b) Four members to terms that expire on January 1, ~~[2012.]~~ **2013.**

(c) Three members to terms that expire on January 1, ~~[2013.]~~ **2014.**

Sec. 62.5. **As soon as practicable after determining that at least $500,000 is available in the Revolving Account for the Assistance of the**

Department created by section 19.5 of this act to enable the Department of Motor Vehicles to administer the provisions of chapter 490 of NRS, as amended by this act, relating to the registration of off-highway vehicles, the Interim Finance Committee shall notify the Department of that fact. Upon receipt of the notice, the Department shall ensure that notice of the determination of the Interim Finance Committee is made available to the members of the public.

Sec. 63. 1. This ~~[act becomes]~~ **section and sections 19.5 and 62.5 of this act become effective upon passage and approval.**

2. Sections 1 to 19, inclusive, and 20 to 62, inclusive, of this act become effective:

(a) Upon passage and approval for purposes of:

(1) The appointment by the Governor of the members of the Commission on Off-Highway Vehicles created by section 16 of this act; and

(2) The adoption of regulations to carry out the provisions of this act.

(b) On July 1, ~~[2010,]~~ **2011, or 1 year after the date the Interim Finance Committee issues a notice to the Department of Motor Vehicles pursuant to section 62.5 of this act, whichever occurs first,** for all other purposes.

~~[~~ ~~2. Sections]~~

3. This section and sections 1 to 62.5, inclusive, of this act expire by limitation on July 1, 2011, if the Interim Finance Committee has not issued a notice to the Department of Motor Vehicles pursuant to section 62.5 of this act before that date.

4. Except as otherwise provided in subsection 3, sections 24 and 25 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTIONS

490.030 "Department" defined. "Department" means the Department of Taxation.

490.080 Prerequisite to operation of vehicle on highway; attachment to vehicle; replacement; transferability; exceptions.

1. Except as otherwise provided in subsection 4, a person shall not operate an off-highway vehicle on a highway pursuant to NRS 490.090 to 490.130, inclusive, unless he has:

(a) Obtained a certificate of operation for the off-highway vehicle; and

(b) Attached the certificate to the off-highway vehicle in the manner specified by the Department.

2. If a certificate of operation for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may request a new certificate of operation from an authorized dealer.

3. If the owner of an off-highway vehicle sells or otherwise transfers ownership of the off-highway vehicle, the certificate of operation remains valid.

4. A certificate of operation is not required for an off-highway vehicle which:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles;

(c) Is registered or certified in another state and is located in this State for not more than 90 days;

(d) Is used solely for husbandry on private land or on public land that is leased to the owner or operator of the off-highway vehicle; or

(e) Is used for work conducted by or at the direction of a public or private utility.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 73 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 94.

Bill read third time.

Remarks by Assemblywoman Pierce.

Roll call on Senate Bill No. 94:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 94 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Senate Bill No. 245 be taken from the General File and placed on the Chief Clerk’s desk.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 183 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblywoman Smith moved that Senate Bill No. 137 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 137.

Bill read third time.

The following amendment was proposed by Assemblymen Bobzien and Smith:

Amendment No. 846.

AN ACT relating to recycling; providing for the placement of recycling containers on the premises of certain apartment complexes, condominiums and the Nevada System of Higher Education and its branches and facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the board of county commissioners in a county whose population is 100,000 or more (currently Clark and Washoe Counties) is required to make available for use in that county a program for separating recyclable material from other solid waste originating from certain residential premises and public buildings. Existing law authorizes certain other counties and municipalities to provide such a program. (NRS 444A.040) **Section 7** of this bill provides for the inclusion of provisions concerning the placement of recycling containers on the premises of apartment complexes and condominiums in the recycling programs of those counties and municipalities.

Existing law authorizes each board of county commissioners in this State to regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county. (NRS 244.3675) Existing law confers similar authority upon the governing body of an incorporated city in this State. (NRS 268.413) **Section 11** of this bill prohibits a board of county commissioners of a county or a governing body of a city from approving, on or after October 1, 2009, any plan or revised plan for the construction or major renovation of an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

Existing law requires the Board of Regents of the University of Nevada to prescribe procedures for the recycling of paper and paper products used by the Nevada System of Higher Education and requires the Board of Regents to pay any money received by the System for recycling those products to the State Treasurer for credit to the State General Fund. (NRS 396.437) **Section 14** of this bill requires the Board to prescribe procedures for the recycling of

other waste materials, including, without limitation, the placement of recycling containers on the premises of the System or any of its branches or facilities where services for the collection of solid waste are provided. **Section 14** also requires the money received by the System for recycling those materials to be accounted for separately and used to carry out the provisions of that section.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 444A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***"Apartment complex" means a building or group of buildings, each building of which ~~[is arranged in several]~~ consists of at least five units of connecting rooms, with each unit designed for independent housekeeping.***

Sec. 3. ***"Condominium" has the meaning ascribed to it in NRS 117.010.***

Sec. 4. NRS 444A.010 is hereby amended to read as follows:

444A.010 As used in NRS 444A.010 to 444A.080, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms described in NRS 444A.011 to 444A.017, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 444A.040 is hereby amended to read as follows:

444A.040 1. The board of county commissioners in a county whose population is 100,000 or more, or its designee, shall make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~[~~the~~]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[.]~~ ***, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

(d) The encouragement of businesses to reduce solid waste and to separate at the source recyclable material from other solid waste. This program must, without limitation, make information regarding solid waste reduction and

recycling opportunities available to a business at the time the business applies for or renews a business license.

2. The board of county commissioners of a county whose population is 40,000 or more but less than 100,000, or its designee:

(a) May make available for use in that county a program for the separation at the source of recyclable material from other solid waste originating from ~~[~~the~~]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[~~.~~]~~ ***, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

(b) Shall make available for use in that county a program for:

(1) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program established pursuant to paragraph (a).

(2) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

3. The board of county commissioners of a county whose population is less than 40,000, or its designee, may make available for use in that county a program for:

(a) The separation at the source of recyclable material from other solid waste originating from ~~[~~the~~]~~ residential premises and public buildings where services for the collection of solid waste are provided ~~[~~.~~]~~ ***, including, without limitation, the placement of recycling containers on the premises of apartment complexes and condominiums where those services are provided.***

(b) The establishment of recycling centers for the collection and disposal of recyclable material where existing recycling centers do not carry out the purposes of the program.

(c) The disposal of hazardous household products which are capable of causing harmful physical effects if inhaled, absorbed or ingested. This program may be included as a part of any other program made available pursuant to this subsection.

4. Any program made available pursuant to this section:

(a) Must not:

(1) Conflict with the standards adopted by the State Environmental Commission pursuant to NRS 444A.020; and

(2) Become effective until approved by the Department.

(b) May be based on the model plans adopted pursuant to NRS 444A.030.

5. The governing body of a municipality may adopt and carry out within the municipality such programs made available pursuant to this section as are deemed necessary and appropriate for that municipality.

6. Any municipality may, with the approval of the governing body of an adjoining municipality, participate in any program adopted by the adjoining municipality pursuant to subsection 5.

7. Persons residing on an Indian reservation or Indian colony may participate in any program adopted pursuant to subsection 5 by a municipality in which the reservation or colony is located if the governing body of the reservation or colony adopts an ordinance requesting such participation. Upon receipt of such a request, the governing body of the municipality shall make available to the residents of the reservation or colony those programs requested.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, ***and section 11 of this act,*** the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 10. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, ***and section 11 of this act,*** the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, ~~[~~these~~]~~ ***those*** fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 11. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On and after October 1, 2009, a governing body or its designee shall not approve any plan or revised plan for the construction or major renovation of an apartment complex or condominium unless the plan or revised plan includes provisions for the placement of recycling containers on the premises of the apartment complex or condominium.

2. As used in this section:

(a) "Apartment complex" has the meaning ascribed to it in section 2 of this act.

(b) "Condominium" has the meaning ascribed to it in NRS 117.010.

(c) "Major renovation" means the destruction or reconstruction of an apartment complex or condominium to an extent which exceeds 50 percent of the replacement value of the apartment complex or condominium.

Sec. 12. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, ***and section 11 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 13. NRS 278.460 is hereby amended to read as follows:

278.460 1. A county recorder shall not record any final map unless the map:

(a) Contains or is accompanied by the report of a title company and all the certificates of approval, conveyance and consent required by the provisions of NRS 278.374 to 278.378, inclusive, and by the provisions of any local ordinance; and

(b) Is accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid and that the full amount of any deferred property taxes for the conversion of the property from agricultural use has been paid pursuant to NRS 361A.265.

2. The provisions of NRS 278.010 to 278.630, inclusive, ***and section 11 of this act*** do not prevent the recording, pursuant to the provisions of NRS 278.010 to 278.630, inclusive, and ***section 11 of this act, and*** any applicable local ordinances, of a map of any land which is not a subdivision, nor do NRS 278.010 to 278.630, inclusive, ***and section 11 of this act*** prohibit the recording of a map in accordance with the provisions of any statute requiring the recording of professional land surveyor's records of surveys.

3. A county recorder shall accept or refuse a final map for recordation within 10 days after its delivery to him.

4. A county recorder who records a final map pursuant to this section shall, within 7 working days after he records the final map, provide to the county assessor at no charge:

(a) A duplicate copy of the final map and any supporting documents; or

(b) Access to the digital final map and any digital supporting documents. The map and supporting documents must be in a form that is acceptable to the county recorder and the county assessor.

Sec. 14. NRS 396.437 is hereby amended to read as follows:

396.437 1. Except as otherwise provided in this section, the System shall recycle or cause to be recycled the paper and paper products it uses. This subsection does not apply to confidential documents if there is an additional cost for recycling those documents.

2. The System is not required to comply with the requirements of subsection 1 if the Board of Regents determines that the cost to recycle or cause to be recycled the paper and paper products used by the System or one

of its branches or facilities is unreasonable and would place an undue burden on the operations of the System, branch or facility.

3. The Board of Regents shall adopt regulations which prescribe the procedure for the disposition of the paper and paper products to be recycled. The Board of Regents ~~[may]~~ ***shall*** prescribe ~~[a procedure]~~ ***procedures*** for the recycling of other waste material produced on the premises of the System, a branch or a facility ~~[.]~~ ***, including, without limitation, the placement of recycling containers on the premises of the System, a branch or a facility where services for the collection of solid waste are provided.***

4. Any money received by the System for recycling or causing to be recycled the paper and paper products it uses ***and other waste material it produces*** must be ~~[paid by the Board of Regents to the State Treasurer for credit to the State General Fund.]~~ ***accounted for separately and used to carry out the provisions of this section.***

5. As used in this section:

(a) "Paper" includes newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, mimeo paper, duplicator paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(b) "Paper product" means any paper article or commodity, including, but not limited to, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.

(c) "Solid waste" has the meaning ascribed to it in NRS 444.490.

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 363.

Bill read third time.

Remarks by Assemblymen Settelmeyer, Conklin, Hambrick, and Smith.

Roll call on Senate Bill No. 363:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

EXCUSED—Grady.

Senate Bill No. 363 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

In compliance with a notice given on a previous day, Assemblywoman Dondero Loop moved that the vote whereby Senate Bill No. 355 was refused passage be reconsidered.

Remarks by Assemblywoman Dondero Loop.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 119.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 777.

AN ACT relating to professions; revising provisions governing the regulation of massage therapists by the Board of Massage Therapists; prohibiting certain misleading and deceptive practices relating to massage therapy; revising provisions governing the discipline of massage therapists; authorizing the Board to issue administrative citations and to impose administrative fines for certain violations; revising provisions governing the temporary suspension of licenses of massage therapists; requiring law enforcement agencies to provide certain records to the Board or its Executive Director upon request; authorizing law enforcement agencies to redact certain confidential information from records provided to the Board or its Executive Director; providing remedies and penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, massage therapists must be licensed by the Board of Massage Therapists. (Chapter 640C of NRS) **Sections 2, 3 and 11** of this bill require a massage therapist to display his original license, not a copy or replica, at each location where he practices massage therapy. (NRS 640C.450) **Section 3** prohibits a person from: (1) forging or counterfeiting a license; (2) altering, copying or replicating a license for the purpose of aiding or abetting an unlawful act; or (3) using or displaying a license that has been forged or counterfeited or has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act.

Sections 4 and 16 of this bill prohibit an unlicensed person from advertising as a massage therapist and prohibit a licensed person from using any false or misleading statements in advertising. (NRS 640C.910) **Sections 4 and 16** also prohibit an unlicensed person from having his name listed in a telephone directory under a heading such as "massage" which indicates or implies that he is licensed or qualified to practice massage therapy. **Sections 4 and 16** also authorize the Board to issue an order to cease and desist from engaging in unlawful advertising. **Sections 4, 18 and 19** of this bill contain provisions whereby the Board can have telephone numbers for any type of

telephone, messaging or paging service disconnected because they are included in unlawful advertising. (NRS 703.175, 707.355)

Existing law authorizes the Board to take disciplinary action by imposing administrative fines. (NRS 640C.710) **Section 14** of this bill provides that the Board may impose an administrative fine of not more than $5,000 for each violation, unless a greater fine is required pursuant to **section 5** of this bill. **Section 5** requires the Board to impose, based on the number of violations, increasing administrative fines of not more than ~~[$50,000]~~ **$10,000** against a licensee who has engaged in or solicited sexual activity during a massage therapy session or has been convicted of a crime involving violence, prostitution or any other sexual offense that occurred during a massage therapy session.

Section 7 of this bill authorizes the Board to issue administrative citations for any statutory or regulatory violations relating to massage therapy and provides that an unlicensed person who fails to comply with a citation is guilty of a misdemeanor. A citation may include an order to: (1) pay an administrative fine; (2) correct a condition resulting from a violation; and (3) reimburse the Board for expenses incurred to investigate the violation. **Section 8** of this bill allows a person to request a hearing before the Board to contest an administrative citation.

Existing law provides for the temporary suspension of a massage therapy license without a prior hearing for a period of 15 or 30 days under certain exigent circumstances. (NRS 640C.720) Generally, procedural due process entitles a licensee to a hearing before his license is suspended. (*Barry v. Barchi*, 443 U.S. 55, 99 S. Ct. 2642 (1979); U.S. Const. Amend. XIV, § 1; Nev. Const. Art. 1, § 8) However, when exigent circumstances justify immediate action, a statute may provide for the temporary suspension of a license without a prior hearing if the statute requires a post-suspension administrative review where a hearing is held and a final decision is rendered as promptly as is practicable. (*Federal Deposit Insurance Corporation v. Mallen*, 486 U.S. 230, 108 S. Ct. 1780 (1988); *Sierra Life Insurance Company v. Rottman*, 95 Nev. 654 (1979)) **Section 15** of this bill: (1) provides for the temporary suspension of a massage therapy license without a prior hearing for a period not to exceed ~~[60]~~ **30** days under certain exigent circumstances; (2) authorizes the licensee to request a post-suspension administrative review; and (3) requires the Board to hold a hearing and render a final decision as promptly as is practicable but not later than ~~[60]~~ **30** days after the date of the initial suspension. (NRS 640C.720)

Section 15 of this bill also authorizes the Board and its Executive Director to request from state and local law enforcement agencies records relating to any charge or citation against a massage therapist for a crime involving violence, prostitution or any other sexual offense and authorizes those law enforcement agencies to redact from those records certain information which the agencies deem confidential. (NRS 640C.720) **Sections 15 and 17** of this bill require a law enforcement agency to provide the requested records as

soon as reasonably practicable. (NRS 179A.100) **Section 15** also provides that the Board and its Executive Director: (1) must maintain the confidentiality of the records; and (2) may use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 640C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. ***1. "Original license" means the actual license which is issued to the licensee by the Board and which is current and valid.***

2. The term does not include any photocopy print, photostat or other replica of such a license.

Sec. 3. ***1. A person shall not:***

(a) Counterfeit or forge or attempt to counterfeit or forge a license to practice massage therapy; or

(b) For the purpose of aiding or abetting an unlawful act:

(1) Alter or attempt to alter a license to practice massage therapy; or

(2) Make or attempt to make any photocopy print, photostat or other replica of a license to practice massage therapy.

2. A person shall not use or display a license to practice massage therapy that:

(a) Is not the original license issued to the person;

(b) Has been counterfeited or forged;

(c) Has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act; or

(d) Has been issued to another person.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 4. ***1. A person shall not advertise as a massage therapist in this State unless the person is licensed to practice massage therapy pursuant to this chapter.***

2. A person licensed to practice massage therapy pursuant to this chapter shall not disseminate, as part of any advertising by the massage therapist, any false or misleading statement or representation of material fact that is intended, directly or indirectly, to induce another person to use the services of the massage therapist.

3. All advertising by a licensed massage therapist must include his name ~~*[,]*~~ ***and the name of his company, if applicable*** ***.*** ~~*[, and the number of his license.]*~~ ***All advertising in a telephone directory or a newspaper must also include the number of his license.***

4. A person who violates any provision of subsection 1 ~~*[,]*~~ ***or 2*** ~~*[or 3]*~~ ***is guilty of a misdemeanor.***

5. If, after notice and a hearing as required by law, the Board determines that a person has willfully engaged in advertising in a manner that violates the provisions of this section or NRS 640C.910, the Board may, in addition to any penalty, punishment or disciplinary action authorized by the provisions of this chapter, order the person to cease and desist the unlawful advertising. ~~[and order the person to cause any telephone number included in the advertising to be disconnected from service.]~~ The provisions of this subsection do not apply to any person whose license has been expired for less than 90 days or is temporarily suspended.

6. The Board may order any person convicted of a crime involving violence, prostitution or any other sexual offense to cause any telephone number included in the advertising to be disconnected from service. If the Board orders the person to cause any telephone number to be disconnected from service and the person fails to comply within 5 days after the date on which he is served with the order, the Board may:

(a) If the provider is regulated by the Public Utilities Commission of Nevada, request the Commission to order the provider to disconnect the telephone number from service pursuant to NRS 703.175 and 707.355; or

(b) If the provider is not regulated by the Public Utilities Commission of Nevada, request the provider to disconnect the telephone number from service and inform the provider that the request is made pursuant to this section. Upon receiving such a request, the provider shall take such action as is necessary to disconnect the telephone number from service.

7. A provider shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to this section; or

(b) Provide or offer to provide a message that includes a new telephone number for the person whose telephone number was disconnected from service pursuant to this section.

8. If a provider complies in good faith with a request to disconnect a telephone number from service pursuant to this section, such good-faith compliance shall constitute a complete defense to any civil or criminal action brought against the provider arising from the disconnection or termination of service.

9. As used in this section:

(a) "Advertising" ~~[includes, without limitation,]~~ means the intentional placement or issuance of any sign, card or device, or the permitting or allowing of any sign or marking on a motor vehicle, in any building, structure, newspaper, magazine or airway transmission, on the Internet or in any directory under the listing of "massage therapist" or "massage." ~~[" with or without any limiting qualifications.]~~

(b) "Provider" means a provider of any type of telephone, messaging or paging service.

(c) "Provider of messaging or paging service" means an entity that provides any type of messaging or paging service to any type of communication device.

(d) "Provider of telephone service" has the meaning ascribed to it in NRS 707.355.

(e) "Telephone number" means any sequence of numbers or characters, or both, used by a provider to provide any type of telephone, messaging or paging service.

Sec. 5. ***1. In addition to any other actions authorized by NRS 640C.710, if , after notice and a hearing as required by law, the Board ~~[finds]~~ determines that a licensee has engaged in or solicited sexual activity during the course of practicing massage on a person or has been convicted of a crime involving violence, prostitution or any other sexual offense that occurred during the course of practicing massage on a person, the Board shall:***

(a) For a first violation, impose an administrative fine of not less than ~~[$1,000]~~ $100 and not more than ~~[$50,000;]~~ $1,000;

(b) For a second violation, impose an administrative fine of not less than ~~[$5,000]~~ $250 and not more than ~~[$50,000;]~~ $5,000; and

(c) For a third violation and for each additional violation, impose an administrative fine of not less than ~~[$10,000]~~ $500 and not more than ~~[$50,000.]~~ $10,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

Sec. 6. ***The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license by a licensee, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.***

Sec. 7. ***1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has committed an act which constitutes a violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person. A citation issued pursuant to this section may include, without limitation:***

(a) An order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, at the person's cost;

(b) An order to pay an administrative fine for each violation; and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate each violation.

2. If the citation includes an order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, the citation must:

(a) State the time permitted for compliance, which must not be less than 15 business days after the date on which the citation is ~~[issued to]~~ received by the person; and

(b) Describe, in specific detail, the action required to be taken.

3. If the citation is issued to a licensee and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine must not exceed the maximum amount authorized by NRS 640C.710 or section 5 of this act, as appropriate for each violation.

4. If the citation is issued to an unlicensed person and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine:

(a) For a first violation, must not be less than $100 and must not be more than $1,000;

(b) For a second violation, must not be less than $250 and must not be more than $5,000; and

(c) For a third violation and for each additional violation, must not be less than $500 and must not be more than $10,000.

5. The sanctions authorized by this section are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

6. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section or make satisfactory payment arrangements, as approved by the Board, within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 8. ***1. If a person is issued a written administrative citation pursuant to section 7 of this act, the person may request a hearing before the Board to contest the citation by filing a written request with the Board:***

(a) Not later than 15 business days after the date on which the citation is ~~[issued to]~~ received by the person; or

(b) If the Board, for good cause shown, extends the time allowed to file a written request for a hearing to contest the citation, on or before the later date specified by the Board.

2. If the person files a written request for a hearing to contest the citation within the time allowed pursuant to this section:

(a) The Board shall provide notice of and conduct the hearing in the same manner as other disciplinary proceedings; and

(b) At the hearing, the person may contest, without limitation:

(1) The facts forming the basis for the determination that the person has committed an act which constitutes a violation of this chapter or the regulations of the Board;

(2) The time allowed to take any corrective action ordered;

(3) The amount of any administrative fine ordered;

(4) The amount of any order to reimburse the Board for the expenses incurred to investigate the violation; and

(5) Whether any corrective action described in the citation is reasonable.

3. If the person does not file a written request for a hearing to contest the citation within the time allowed pursuant to this section, the citation shall be deemed a final order of the Board . ~~*[and not subject to review by any court or agency.]*~~

4. For the purposes of this section, a citation shall be deemed to have been ~~*[issued to]*~~ ***received by a person :*** ~~*[on:]*~~

(a) ~~*[The]*~~ ***On the date on which the citation is personally delivered to the person; or***

(b) If the citation is mailed, 3 days after the date on which the citation is mailed by certified mail to the last known business or residential address of the person.

Sec. 9. NRS 640C.020 is hereby amended to read as follows:

640C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 640C.030 to 640C.060, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. NRS 640C.320 is hereby amended to read as follows:

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;

2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;

3. Establish the requirements for the approval of an instructor of a course of continuing education;

4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;

5. Except as otherwise provided in NRS 622.090, prescribe the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; ~~[~~and~~]~~

6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant ~~[.]~~ ***; and***

7. Prescribe the form of a written administrative citation pursuant to section 7 of this act.

Sec. 11. NRS 640C.450 is hereby amended to read as follows:

640C.450 ***1.*** Each licensee shall display his ***original*** license in a conspicuous manner at each location where he practices massage therapy. ***If a licensee practices massage therapy in more than one place, he must carry his original license with him and display it wherever he is actually working.***

2. A licensee shall obtain a replacement of his original license from the Board if his:

(a) Original license is destroyed, misplaced or mutilated; or

(b) Name or address as printed on the original license has changed.

3. To obtain a replacement license, the licensee must:

(a) File an affidavit with the Board, on the form prescribed by the Board, which states that his original license was destroyed, misplaced or mutilated or that his name or address as printed on the original license has changed; and

(b) Pay the fee prescribed by the Board pursuant to NRS 640C.520.

Sec. 12. NRS 640C.520 is hereby amended to read as follows:

640C.520 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:

An examination established by the Board pursuant to this chapter	$600
An application for a license	300
An application for a license without an examination	300
A background check of an applicant	600
The issuance of a license	400
The renewal of a license	200
The restoration of an expired license	500
The reinstatement of a suspended or revoked license	500
The issuance of a ~~[~~duplicate~~]~~ ***replacement*** license	75
The restoration of an inactive license	300

2. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

Sec. 13. NRS 640C.700 is hereby amended to read as follows:

640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a

crime involving moral turpitude within the immediately preceding 10 years ***;*** ~~[.]~~

4. Has engaged in or solicited sexual activity during the course of practicing massage on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license:

(a) Made sexual advances toward the person;

(b) Requested sexual favors from the person; or

(c) Massaged, touched or applied any instrument to the breasts of the person, unless the person has signed a written consent form provided by the Board;

5. Has habitually abused alcohol or is addicted to a controlled substance;

6. Is, in the judgment of the Board, guilty of gross negligence in his practice of massage therapy;

7. Is determined by the Board to be professionally incompetent to engage in the practice of massage therapy;

8. Has failed to provide information requested by the Board within 60 days after he received the request;

9. Has, in the judgment of the Board, engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy;

10. Has been disciplined in another state, a territory or possession of the United States or the District of Columbia for conduct that would be a violation of the provisions of this chapter or any regulations adopted pursuant thereto if the conduct were committed in this State;

11. Has solicited or received compensation for services relating to the practice of massage therapy that he did not provide;

12. If the holder of the license is on probation, has violated the terms of his probation; ~~[or]~~

13. Has engaged in false, deceptive or misleading advertising, including, without limitation, falsely, deceptively or misleadingly advertising that he has received training in a specialty technique of massage for which he has not received training, practicing massage therapy under an assumed name and impersonating a licensed massage therapist ~~[.]~~ ***;***

14. Has failed to comply with a written administrative citation issued pursuant to section 7 of this act within the time permitted for compliance set forth in the citation or, if a hearing is held pursuant to section 8 of this act, within 15 business days after the hearing; or

15. Except as otherwise provided in subsection 14, has failed to pay or make arrangements to pay, as approved by the Board, an administrative fine imposed pursuant to this chapter within ~~*[30]*~~ ***60 days after:***

(a) Receiving notice of the imposition of the fine; or

(b) The final administrative or judicial decision affirming the imposition of the fine,

➥ whichever occurs later.

Sec. 14. NRS 640C.710 is hereby amended to read as follows:

640C.710 1. If, after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:

(a) Place the applicant or holder of the license on probation for a specified period or until further order of the Board;

(b) Administer to the applicant or holder of the license a public reprimand;

(c) Refuse to issue, renew, reinstate or restore the license;

(d) Suspend or revoke the license;

(e) ~~[~~Impose~~]~~ ***Except as otherwise provided in section 5 of this act, impose*** an administrative fine of not more than ~~[~~$1,000 per day for each day for which the Board determines that a violation occurred;~~]~~ ***$5,000 for each violation;***

(f) Require the applicant or holder of the license to pay the costs incurred by the Board to conduct the investigation and hearing; or

(g) Impose any combination of actions set forth in paragraphs (a) to (f), inclusive.

2. The order of the Board may contain such other terms, provisions or conditions as the Board deems appropriate.

3. The order of the Board and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not issue a private reprimand.

Sec. 15. NRS 640C.720 is hereby amended to read as follows:

640C.720 Notwithstanding any other statute to the contrary:

1. If the Board finds ***, based upon evidence in its possession,*** that immediate action is necessary to protect the health, safety or welfare of the public, the Board may, upon providing notice ~~*[by certified mail]*~~ to the massage therapist, temporarily suspend his license ***without a prior hearing*** for a period not to exceed ~~[~~30 days. For good cause,~~]~~ ~~*[60]*~~ ***30 days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 20 business days after the date on which the*** ~~*[Board mails]*~~ ***massage therapist receives notice of the temporary suspension. If the massage therapist:***

(a) Files a timely written request for a hearing, the Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than ~~*[60]*~~ ***30 days after the date on which the Board*** ~~*[mails]*~~ ***provides notice of the temporary suspension. After holding such a hearing,*** the Board may extend the period of the temporary suspension if the Board ~~[~~deems~~]~~ ***finds, for good cause shown, that*** such action ~~[~~to be~~]~~ ***is*** necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[~~In any such case, a~~]~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must

be held and a final decision rendered regarding whether to extend the period of the temporary suspension ***as promptly as is practicable but*** not later than 30 ~~*[60]*~~ days after the date on which the Board ~~[notifies the massage therapist]~~ ~~*[mails]*~~ ***provides notice*** of the ***initial*** temporary suspension. ***After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.***

2. If a massage therapist is charged with or cited for a crime involving violence, prostitution or any other sexual offense, the appropriate law enforcement agency shall report the charge or citation to the Executive Director ~~[.]~~ ***of the Board.*** Upon receiving such a report, the Executive Director shall immediately issue ***by certified mail to the massage therapist*** a cease and desist order temporarily suspending the license of the massage therapist ~~[.]~~ ***without a prior hearing.*** The temporary suspension of the license is effective immediately ~~[upon issuance]~~ ***after the massage therapist receives notice*** of the cease and desist order and must not exceed ~~[15 days. For good cause,]~~ ***60 days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 20 days after the date on which the Executive Director mails the cease and desist order. If the massage therapist:***

(a) Files a timely written request for a hearing, the Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 60 days after the date on which the Executive Director mails the cease and desist order. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ ***finds, for good cause shown, that*** such action ~~[to be]~~ ***is*** necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension ***as promptly as is practicable but*** not later than ~~[15]~~ ***60*** days after the date on which the Executive Director ~~[issues]~~ ***mails*** the cease and desist order. ***After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.***

3. If the Board or the Executive Director issues an order temporarily suspending the license of a massage therapist pending proceedings for disciplinary action, a court shall not stay that order.

4. When conducting an investigation of a massage therapist pursuant to this chapter, the Board or the Executive Director may request from state and local law enforcement agencies records relating to any charge or citation against the massage therapist for a crime involving violence, prostitution or any other sexual offense. Such records include, without limitation, a record of criminal history as defined in NRS 179A.070.

5. Upon receiving a request from the Board or the Executive Director pursuant to subsection 4, the law enforcement agency shall provide the requested records to the Board or the Executive Director as soon as reasonably practicable. The law enforcement agency may redact from the records produced pursuant to this subsection any descriptions of techniques and strategies and other information relating to law enforcement that are deemed confidential by the agency. Upon receiving the records from the law enforcement agency, the Board and the Executive Director:

(a) Shall maintain the confidentiality of the records if such confidentiality is required by federal or state law; and

(b) May use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist pursuant to this chapter.

6. For purposes of this section, a person is deemed to have notice of a temporary suspension of his license:

(a) On the date on which the notice is personally delivered to the person; or

(b) If the notice is mailed, 3 days after the date on which the notice is mailed by certified mail to the last known business or residential address of the person.

Sec. 16. NRS 640C.910 is hereby amended to read as follows:

640C.910 1. If a person is not licensed to practice massage therapy pursuant to this chapter, the person shall not:

(a) Engage in the practice of massage therapy; ~~[or]~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~[.]~~ ***; or***

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

2. If a person's license to practice massage therapy pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not:

(a) Engage in the practice of massage therapy; ~~[or]~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~[.]~~ ***; or***

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 17. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee,

volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives his written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the notice on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who requests information and to whom information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative.

(q) The Aging Services Division of the Department of Health and Human Services or its designated representative.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage Therapists and its Executive Director.

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 18. NRS 703.175 is hereby amended to read as follows:

703.175 1. Upon receiving a request ***to disconnect a telephone number*** from the State Contractors' Board ~~[to disconnect a telephone number]~~ pursuant to NRS 624.720, ***the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758,*** the Commission shall issue an order to the appropriate provider of telephone service to disconnect the telephone number.

2. Compliance in good faith by a provider of telephone service with an order of the Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the provider of telephone service arising from the termination of service.

3. As used in this section, "provider of telephone service" has the meaning ascribed to it in NRS 707.355.

Sec. 19. NRS 707.355 is hereby amended to read as follows:

707.355 1. Each provider of telephone service in this State shall, when notified that:

(a) A court has ordered the disconnection of a telephone number pursuant to NRS 706.2855; or

(b) The Public Utilities Commission of Nevada has ordered the disconnection of a telephone number pursuant to NRS ~~[624.720 and]~~ 703.175, ***after receiving a request to disconnect the telephone number from the State Contractors' Board pursuant to NRS 624.720, the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758,***

➥ take such action as is necessary to carry out the order of the court or the Public Utilities Commission of Nevada.

2. A provider of telephone service shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to the provisions of this section; or

(b) Provide or offer to provide a recorded message that includes the new telephone number for a business whose telephone number was disconnected from service pursuant to the provisions of this section.

3. As used in this section, "provider of telephone service" includes, but is not limited to:

(a) A public utility furnishing telephone service.

(b) A provider of cellular or other service to a telephone that is installed in a vehicle or is otherwise portable.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 416.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 878.

SUMMARY— ~~[Suspending temporarily]~~ **Revises provisions governing** the administration of ~~[norm-referenced]~~ **certain tests,** examinations **and assessments** in public schools. (BDR ~~[S-]~~ **34-** 1216)

AN ACT relating to education; **revising provisions governing the administration of certain tests, examinations and assessments by the boards of trustees of school districts;** suspending temporarily the administration of norm-referenced examinations in public schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district to administer certain examinations to pupils enrolled in public schools in this State. In addition to the examinations required by state and federal law, the boards of trustees of school districts require pupils to take certain district-wide tests, examinations and assessments. Section 7 of this bill limits the administration of certain district-wide tests, examinations and assessments during the 2009-2010 School Year and the 2010-2011 School Year.

Existing law requires the board of trustees of each school district and the governing body of each charter school to administer norm-referenced examinations in grades 4, 7 and 10 which compare the results of pupils to a national reference group of pupils. ~~[This]~~ **Section 9 of this** bill suspends temporarily the administration of norm-referenced examinations for the 2009-2010 School Year and the 2010-2011 School Year.

WHEREAS, The public schools in this State are required by the Federal Government and the Nevada Legislature to administer an increasing number of standardized tests to pupils, including criterion-referenced examinations, proficiency tests and tests of the National Assessment of Educational Progress; and

WHEREAS, The school districts in this State administer numerous district-wide tests in addition to those required by state and federal law; and

WHEREAS, In the aggregate, the task of preparing for and administering all these tests in schools throughout the State consumes hundreds of employee hours and requires the school districts to incur costs associated with the administration; and

WHEREAS, Although there is an undeniable need for test data to evaluate the progress of Nevada's public schools and pupils in meeting the standards of academic performance, the Legislature must carefully weigh the demands for statistical information against the time for teachers and pupils to accomplish the work required to meet those standards; and

WHEREAS, The Nevada Legislature finds that, during these difficult financial times, it is in the best interest of the pupils enrolled in public

schools in this State to temporarily limit the administration of certain tests; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. **Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Except as otherwise provided in subsection 2, the board of trustees of a school district shall not administer a district-wide test, examination or assessment unless that test, examination or assessment:

(a) Is required by state or federal law; or

(b) Was adopted by the school district before July 1, 2007.

2. The provisions of this section do not apply to a test, examination or assessment that a pupil voluntarily takes without a district-wide requirement, including, without limitation, an advanced placement examination.

Sec. 8. **NRS 389.006 is hereby repealed.**

~~[Sec. 7.]~~ ***Sec. 9.*** Notwithstanding the provisions of NRS 389.015 to the contrary, the norm-referenced examinations required to be administered to pupils enrolled in grades 4, 7 and 10 pursuant to that section must not be administered in the public schools of this State during the 2009-2010 School Year and the 2010-2011 School Year. Any requirements relating to the reporting of test scores of pupils on those examinations that would otherwise be administered during those School Years are also suspended.

~~[Sec. 8.]~~ ***Sec. 10.*** **1.** This **section and sections 7 and 8 of this act become effective upon passage and approval.**

2. Section 9 of this act becomes effective on July 1, 2009.

3. Sections 7 and 8 of this act expire by limitation on June 30, 2011.

TEXT OF REPEALED SECTION

389.006 Limitation on administration; periodic review. [Effective January 1, 2009.]

1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments that the board of trustees determines are vital to measure the achievement and progress of pupils. In making this determination,

the board of trustees shall consider any applicable findings and recommendations of the Legislative Committee on Education.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 451; Senate Bills Nos. 137, 394, and 416.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Senate Bills No. 416 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 243 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

In compliance with a notice given on the previous day, Assemblywoman Gansert moved that the vote whereby Senate Bill No. 190 was passed be reconsidered.

Remarks by Assemblywoman Gansert.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 243.

Bill read third time.

The following amendment was proposed by Assemblyman Atkinson:

Amendment No. 889.

AN ACT relating to traffic laws; expanding to certain category I peace officers and certain inspectors in this State the authority for the enforcement of certain traffic laws relating to the weight of certain motor vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the Nevada Highway Patrol has authority for the enforcement of certain requirements relating to the size and weight of certain vehicles being operated on the highways of this State. (NRS 484.755) This bill expands that authority to include law enforcement agencies in counties with a population of 100,000 or more (currently Washoe and Clark Counties) in the State and authorizes certain category I peace officers and certain inspectors of the Department of Motor Vehicles and the Department of Public Safety to require the driver of certain vehicles to stop and submit to a weighing of the vehicle.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 484.755 is hereby amended to read as follows:

484.755 1. Authority for the enforcement of the provisions of NRS 484.744 to 484.757, inclusive, is vested in ~~[the Nevada Highway Patrol.]~~ ***certain law enforcement agencies in this State.***

2. Any ***category I peace officer,*** officer of the Nevada Highway Patrol ***or inspector*** having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle either by means of portable or stationary scales and may require that the vehicle be driven to the nearest public scales, if they are within 5 miles.

3. Whenever an ***officer of the Nevada Highway Patrol, a category I peace*** officer ***or an inspector*** upon weighing a vehicle and load as provided in subsection 2 determines that the weight is unlawful, he may require the driver to stop in a suitable place and remove such portion of the load as may be necessary to reduce the gross weight of the vehicle to those limits permitted under NRS 484.744 to 484.757, inclusive. All materials so unloaded must be cared for by the carrier of the material and at his expense. The ***officer of the Nevada Highway Patrol, category I peace*** officer ***or inspector*** may allow the driver of the inspected vehicle to continue on his journey if any overload does not exceed by more than 5 percent the limitations prescribed by NRS 484.744 to 484.757, inclusive, but the penalties provided in NRS 484.757 must be imposed for the overload violation.

4. Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer of the Nevada Highway Patrol ***, a category I peace officer or an inspector*** upon a weighing of the vehicle to stop and otherwise comply with the provisions of NRS 484.744 to 484.757, inclusive, is guilty of a misdemeanor.

5. As used in this section:

(a) "Category I peace officer" means a peace officer, as defined in NRS 289.460, in a county whose population is 100,000 or more who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.

(b) "Inspector" means an inspector of the Department of Motor Vehicles or the Department of Public Safety who has completed a vehicle weight enforcement training program that is specific to this State and conducted by the Nevada Highway Patrol.

(c) "Law enforcement agency" has the meaning ascribed to it in NRS 202.873.

Sec. 2. 1. On or before December 31, 2010, the chief administrative officer of any law enforcement or other agency authorized to enforce the provisions of NRS 484.755, as amended by section 1 of this act, shall submit to the Director of the Department of Public Safety a report compiling:

(a) The number of officers or inspectors trained by the Nevada Highway Patrol in vehicle weight enforcement;

(b) The number of hours of training given each officer or inspector trained as described in paragraph (a); ~~[and]~~

(c) **The number of traffic stops to enforce the provisions of NRS 484.744 to 484.757, inclusive, made by officers or inspectors trained as described in paragraph (a), regardless of whether a citation was issued; and**

(d) The number of citations issued by those officers or inspectors pursuant to NRS 484.755, as amended by section 1 of this act, after October 1, 2009.

2. On or before January 15, 2011, the Director of the Department of Public Safety shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all the information received pursuant to subsection 1.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 451.

Bill read third time.

Remarks by Assemblymen Kirkpatrick and Cobb.

Roll call on Assembly Bill No. 451:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson—3.

EXCUSED—Arberry, Grady—2.

Assembly Bill No. 451 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 119 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 137.

Bill read third time.

Remarks by Assemblymen Pierce and Manendo.

Roll call on Senate Bill No. 137:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Grady—2.

Senate Bill No. 137 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 394.

Bill read third time.

Remarks by Assemblymen Smith, Carpenter, Christensen, Bobzien, and Kirkpatrick.

Roll call on Senate Bill No. 394:

YEAS—34.

NAYS—Christensen, Cobb, Gustavson, McArthur, Settelmeyer, Woodbury—6.

EXCUSED—Arberry, Grady—2.

Senate Bill No. 394 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 416.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 416:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Grady—2.

Senate Bill No. 416 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 190 and 355 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:15 p.m.

ASSEMBLY IN SESSION

At 1:40 p.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 186.

The following Senate amendment was read:

Amendment No. 640.

AN ACT relating to public utilities; revising the definition of "public utility" and "utility"; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises the definition of "public utility" and "utility" to exempt certain persons who own and operate renewable energy systems. (NRS 704.021)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 704.021 is hereby amended to read as follows:

704.021 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to $25,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

9. Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one customer of a public utility per system if each individual system is:

(a) Located on the premises of another person;

(b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and

(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

➥ As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 186.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that all rules be suspended and that Senate Bill No. 394 be immediately transmitted to the Senate.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 87.

The following Senate amendment was read:

Amendment No. 661.

AN ACT relating to state administration; revising the provisions governing the collection of certain debts owed to state agencies; ~~[revising certain provisions relating to the applicability of certain statutes of limitation to actions brought by or on behalf of the State;]~~ establishing certain presumptions applicable to certain civil actions against employers who fail to

provide mandatory industrial insurance or coverage for occupational disease; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, unless a specific statute provides for the collection of a debt owed to an agency of the Executive Branch of State Government, the collection of the debt is governed by the provisions of chapter 353C of NRS. (NRS 353C.090) Under existing law, an agency may engage in its own collection efforts using the procedures and remedies established by chapter 353C of NRS or the agency may request the State Controller to act as its collection agent for that purpose. (NRS 353C.195) **Section 17** of this bill requires the State Controller to act as the collection agent for all agencies which do not have specific statutes concerning their debt collection or which have not obtained a waiver from the State Controller authorizing the agency to engage in its own collection efforts. Accordingly, **section 17** also requires all such agencies to assign their debts to the State Controller for collection within 60 days after the debt becomes past due or such other time agreed upon by the agency and the State Controller, unless the debtor has administratively contested the existence or amount of the debt. Finally, **section 17** authorizes an agency that has specific statutory authority to engage in its own collection efforts to assign a debt to the State Controller for collection or to exercise in its own debt collection efforts the additional rights and remedies conferred on the State Controller to collect debts. (NRS 353C.195) **Section 11** of this bill increases the **threshold** amount of ~~[reimbursement allowed]~~ **debt** for **which** the costs and fees actually incurred to collect the debt **may be collected from $200 to $300, requires the payment of a fee to the State Controller and increases the limitation on the total amount of such costs and fees** to an amount not to exceed 35 percent of the debt or $50,000, whichever is less. **Sections 10, 12-16 and 18-20** of this bill make technical changes to substitute the State Controller as the person authorized to undertake the collection of debts owed to an agency using the procedures and remedies provided under existing law. (NRS 353C.130, 353C.140, 353C.150, 353C.160, 353C.180, 353C.190, 353C.200, 353C.210, 353C.220)

Sections 2-6 of this bill establish new procedures, rights and remedies in connection with the collection of debts owed to agencies. **Section 2** authorizes, with certain exceptions, an agency to refuse to conduct business with a person who has an unpaid debt to the State and also authorizes the State Controller to refuse to make a payment to such a debtor. **Section 4** authorizes the State Controller to appoint a private debt collector or other person as his agent to obtain a summary judgment against a debtor and to record that judgment or to file a certificate of liability with a county recorder. **Section 5** authorizes the State Controller, with the approval of the agency to which the debt is owed, to accept the payment of a portion of a debt as satisfaction of the full amount of the debt if the State Controller believes that doing so is likely to generate more net revenue for the State than continuing

his efforts to collect the full amount of the debt. **Section 6** authorizes the State Controller to sell a debt that is no longer collectible in a suit by the Attorney General because of the expiration of the statute of limitations applicable to such a suit.

Section 7 of this bill ~~[requires the State Controller to transfer to an agency]~~ **specifies the disposition of** any money collected by the State Controller on behalf of ~~[the]~~ **an** agency minus any **fees owed to and** costs incurred or fees paid by the State Controller to collect any debt that has been assigned to him for collection by the agency and any interest paid by a debtor under an agreement with the State Controller for the payment of the debt on an installment basis. **Section 7.3 of this bill creates the Debt Recovery Account in the State General Fund and limits the use of the money in the Account to support of the debt collection efforts of the State Controller. Sections 8, 9 and 22** of this bill revise certain rulemaking authority relating to the collection of debts. (NRS 353C.110, 353C.120)

~~[Existing law includes chapter 11 of NRS which contains most of the statutes that limit the amount of time following the accrual of a cause of action during which a civil action may be filed. These statutes are commonly referred to as statutes of limitation. Existing law also provides that the same statutes of limitation that apply to actions brought by private individuals also apply to actions brought on behalf of the State, other than actions for the recovery of real property. Section 21 of this bill reverses the provisions governing the statutes of limitation for causes of actions brought in the name of the State or for the benefit of the State to provide that none of the provisions of chapter 11 of NRS concerning statutes of limitation apply to actions brought by or on behalf of the State, other than actions for the recovery of real property. (NRS 11.255)]~~

Under existing law, an employer who fails to maintain mandatory industrial insurance coverage and mandatory coverage for occupational disease for an employee is liable to the Division of Industrial Relations of the Department of Business and Industry for any costs incurred by the Division to compensate the employee if he is injured or contracts an occupational disease that arises out of and in the course of his employment. (NRS 616C.220, 617.401) **Sections 21.3 and 21.7** of this bill create a presumption that in any suit brought against such an employer to recover those costs, the Division's payments were: (1) justified by the circumstances of the claim; (2) reasonable and necessary; and (3) made in accordance with applicable law. **Sections 21.3 and 21.7** also authorize the State Controller to bring suit in his own name to collect debts arising under those sections if the Division assigns the debts to him for collection.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 353C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[7,]~~ **7.3,** inclusive, of this act.

Sec. 2. ***1. Except as otherwise provided in this section, an agency may refuse to conduct a transaction with, and the State Controller may refuse to draw his warrant in favor of, a person who owes a debt to an agency until the debt is paid or the debtor enters into an agreement, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.***

2. An agency may not refuse to conduct a transaction with, and the State Controller may not refuse to draw his warrant in favor of, a debtor if:

(a) The refusal violates or is prohibited by a state or federal law or court order;

(b) The refusal violates a term or condition of a grant, contract or other agreement that the agency administers or to which the agency is a party; or

(c) The State Controller determines that the refusal is inequitable.

Sec. 3. (Deleted by amendment.)

Sec. 4. ***1. Notwithstanding any specific statute to the contrary, if an agency has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller may:***

(a) Appoint a private debt collector or any other person as his agent to:

(1) File an application for the entry of summary judgment against the debtor pursuant to NRS 353C.150; or

(2) Record a certificate of liability against the debtor in the office of a county recorder pursuant to NRS 353C.180; and

(b) Authorize his agent to incur any reasonable costs, including, without limitation, attorney's fees, that are necessary to carry out his duties pursuant to the appointment.

2. The State Controller must, before he appoints an agent pursuant to this section, determine that making the appointment is likely to generate more net revenue for the State than other methods available to the State Controller to collect the debt.

Sec. 5. ***Notwithstanding any specific statute to the contrary, the State Controller may enter into an agreement with a debtor to accept the payment of a portion of the debt in full satisfaction of the debt, including any penalty and interest, if:***

1. The State Controller determines that accepting the agreed upon amount is likely to generate more net revenue for the State than continuing efforts to collect the full amount of the debt; and

2. The agency to which the debt is owed approves.

Sec. 6. ***If the period of limitation for the collection of a debt set forth in NRS 353C.140 has expired, the State Controller may, in lieu of requesting the State Board of Examiners to designate the debt as a bad debt pursuant to NRS 353C.220, sell the debt to any person.***

Sec. 7. ***1. If the State Controller collects any money owed to an agency from a debtor or receives any money from a private debt collector or other person to whom the State Controller has assigned the collection of a debt [,] owed to an agency, the State Controller shall, unless prohibited***

by federal law, transfer the net amount of money owed to the agency ~~[to which the debt is owed minus the amount of:~~

~~1.]~~ :

(a) Except as otherwise provided in paragraph (c), to the Debt Recovery Account created by section 7.3 of this act if the debt is owed to an agency whose budget is supported exclusively or in part from the State General Fund.

(b) Except as otherwise provided in paragraph (c), to an account specified by the agency if the debt is owed to an agency whose budget is supported exclusively from sources other than the State General Fund.

(c) If a specific statute requires the money to be deposited in a specific account or used for a specific purpose, to the specific account required by statute or to the account from which money is expended for the purpose specified.

2. As used in this section, "net amount of money owed to the agency" means the money owed to an agency by a debtor that is collected or received by the State Controller minus:

(a) Any fees owed pursuant to a specific statute to the State Controller for collection of the debt;

(b) Any costs incurred or fees paid by the State Controller to collect any debt assigned to him for collection by the agency ~~[.~~

~~2.]~~ ; and

(c) Any interest on the debt collected by the State Controller under the terms of an agreement with the debtor, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

Sec. 7.3. 1. The Debt Recovery Account is hereby created in the State General Fund.

2. Money in the Account may only be used for support of the debt collection efforts of the State Controller pursuant to this chapter.

3. Money transferred to the Account is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purpose set forth in subsection 2.

4. Upon the approval of the Interim Finance Committee, the State Controller may expend money in the Account.

Sec. 7.5. NRS 353C.090 is hereby amended to read as follows:

353C.090 ***~~[~~The~~]~~ Except as otherwise provided in NRS 353C.195, the*** provisions of this chapter apply to an agency only to the extent that no other specific statute exists which provides for the collection of debts due the agency . To ***~~[or, if such a specific statute exists, the agency has assigned a debt to the State Controller pursuant to NRS 353C.195. Except in the case of such an assignment, to]~~*** the extent that the provisions of this chapter conflict with such a specific statute, the provisions of the specific statute control ***~~[.]~~ until a debt is assigned to the State Controller for collection.***

Sec. 8. NRS 353C.110 is hereby amended to read as follows:

353C.110 The ~~[Director of the Department of Administration and the Attorney General may jointly]~~ ***State Controller may*** adopt such regulations as are necessary to carry out the provisions of this chapter.

Sec. 9. NRS 353C.120 is hereby amended to read as follows:

353C.120 1. Each agency shall submit to the State Controller periodic reports of the debts owed to the agency. The State Controller shall maintain the reports **.** ~~[to the extent that resources are available. The Director of the Department of Administration and]~~ ***The State Controller and*** the Attorney General shall jointly prescribe the time, form and manner of the reports.

2. Except to the extent that the information on the reports is declared to be confidential by a specific statute of this State or federal law, the State Controller shall make the reports available for public inspection and may, without charge, make available for access on the Internet or its successor, if any, the information contained in the reports.

Sec. 10. NRS 353C.130 is hereby amended to read as follows:

353C.130 ~~[An agency]~~ ***The State Controller*** may enter into an agreement with a debtor which provides for the payment of a debt owed by the debtor to ~~[the]~~ ***an*** agency on an installment basis over a 12-month or lesser period. Upon good cause shown by the debtor, the ~~[agency]~~ ***State Controller*** may extend the period during which installment payments will be made for more than a 12-month period.

Sec. 11. NRS 353C.135 is hereby amended to read as follows:

353C.135 ***1.*** Except as otherwise provided ***in subsection 2 or*** by ***a*** specific statute, a person who owes a debt of more than ~~[$200]~~ ***$300*** pursuant to this chapter shall, in addition to the debt, pay ~~[as reimbursement for the]~~ ***:***

(a) The costs and fees actually incurred to collect the debt ~~[an amount]~~ ***; and***

(b) A fee payable to the State Controller in the amount of 2 percent of the amount of the debt assigned to the State Controller for collection pursuant to NRS 353C.195.

2. The total amount of costs and fees required pursuant to subsection 1 must not ~~[to]~~ exceed ~~[25]~~ ***35*** percent of the amount of the debt or ~~[$25,000,]~~ ***$50,000,*** whichever is less. Any prejudgment or postjudgment interest on the debt authorized by law must not be included in the calculation of the costs and fees actually incurred to collect the debt.

Sec. 12. NRS 353C.140 is hereby amended to read as follows:

353C.140 If a person has not paid a debt that the person owes to an agency, the Attorney General, upon the request of the ~~[agency:]~~ ***State Controller:***

1. Except as otherwise provided in this section, shall bring an action in a court of competent jurisdiction; or

2. If the action is a small claim subject to chapter 73 of NRS, may bring an action in a court of competent jurisdiction,

➥ on behalf of this State ~~[and the agency]~~ to collect the debt, plus any applicable penalties and interest. The action must be brought not later than 4

years after the date on which the debt became due or within 5 years after the date on which a certificate of liability was last recorded pursuant to NRS 353C.180, as appropriate.

Sec. 13. NRS 353C.150 is hereby amended to read as follows:

353C.150 1. In addition to any other remedy provided for in this chapter, if a person who owes a debt to an agency:

(a) Fails to pay the debt when it is due, or fails to pay an agreed upon amount in satisfaction of the debt; or

(b) Defaults on a written or other agreement ~~[with an agency]~~ relating to the payment of the debt,

➥ the ~~[agency]~~ ***State Controller*** may, within 4 years after the date on which the debt became due or the date on which the debtor defaulted, as appropriate, file with the office of the clerk of a court of competent jurisdiction an application for the entry of summary judgment against the debtor for the amount due.

2. ~~[An agency that intends to file an application for the entry of summary judgment pursuant to this section]~~ ***The State Controller*** shall, not less than 15 days before the date on which ~~[the agency]~~ ***he*** intends to file the application, notify the debtor of ~~[its]~~ ***his*** intention to file the application. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~[,]~~ ***to which the debt is owed,*** the amount sought to be recovered and the date on which the application will be filed with the court.

3. An application for the entry of summary judgment must:

(a) Be accompanied by a certificate that specifies:

(1) The amount of the debt, including any interest and penalties due;

(2) The name and address of the debtor, as the name and address of the debtor appear on the records of the ~~[agency;]~~ ***State Controller;***

(3) The basis for the determination ~~[by the agency]~~ of the amount due; and

(4) That the ~~[agency]~~ ***State Controller*** has complied with the applicable provisions of law relating to the determination of the amount required to be paid; and

(b) Include:

(1) A request that judgment be entered against the debtor for the amount specified in the certificate; and

(2) Evidence that the debtor was notified of the application for the entry of summary judgment in accordance with subsection 2.

Sec. 14. NRS 353C.160 is hereby amended to read as follows:

353C.160 The court clerk, upon the filing of an application for the entry of summary judgment which complies with the requirements set forth in NRS 353C.150, shall forthwith enter a judgment ~~[for the agency]~~ against the debtor in the amount of the debt, plus any penalties and interest, as set forth in the certificate. The ~~[agency]~~ ***State Controller*** shall serve a copy of the judgment, together with a copy of the application and the certificate, upon the

debtor against whom the judgment is entered, either by personal service or by mailing a copy to the last known address of the debtor **.** ~~[as it appears in the records of the agency.]~~

Sec. 15. NRS 353C.180 is hereby amended to read as follows:

353C.180 1. In addition to any other remedy provided for in this chapter, ~~[an agency]~~ ***the State Controller*** may, within 4 years after the date that a debt becomes due, record a certificate of liability in the office of a county recorder which states:

(a) The amount of the debt, together with any interest or penalties due thereon;

(b) The name and address of the debtor **,** as the name and address of the debtor appear on the records of the ~~[agency;]~~ ***State Controller;***

(c) That the ~~[agency]~~ ***State Controller*** has complied with all procedures required by law for determining the amount of the debt; and

(d) That the ~~[agency]~~ ***State Controller*** has notified the debtor in accordance with subsection 2.

2. ~~[An agency that intends to file a certificate of liability pursuant to this section]~~ ***The State Controller*** shall, not less than 15 days before the date on which ~~[the agency]~~ ***he*** intends to file the certificate, notify the debtor of ~~[its]~~ ***his*** intention to file the certificate. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~[.]~~ ***to which the debt is owed,*** the amount sought to be recovered and the date on which the certificate will be filed with the county recorder.

3. From the time of the recording of the certificate, the amount of the debt, including interest which accrues on the debt after the recording of the certificate, constitutes a lien upon all real and personal property situated in the county in which the certificate was recorded that is owned by the debtor or acquired by the debtor afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien on all real and personal property situated in the county in which the certificate was recorded and continues for 5 years after the date of recording unless sooner released or otherwise discharged.

4. Within 5 years after the date of the recording of the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the date of recording, the lien is extended for 5 years to all real and personal property situated in the county that is owned by the debtor or acquired by the debtor afterwards, unless the lien is sooner released or otherwise discharged.

Sec. 16. NRS 353C.190 is hereby amended to read as follows:

353C.190 1. The State Controller may ~~[, to the extent that resources are available,]~~ offset any amount due an agency from a debtor against any amount owing to that debtor by any agency, regardless of whether the agency which owes the amount is the same agency to which the debtor owes the debt. Whenever the combined amount owing to a debtor by all agencies is

insufficient to offset all the amounts due the agencies from the debtor, the State Controller shall allocate the amount available from the debtor among the agencies in such a manner as the State Controller determines is appropriate.

2. If a debtor who owes a debt to an agency has a claim against that agency or another agency and refuses or neglects to file his claim with the agency within a reasonable time, the ~~[head of the agency to which the debtor owes the debt]~~ ***State Controller*** may file the claim on behalf of the debtor. If the State Controller ~~[approves]~~ ***files*** the claim, it has the same force and effect as though filed by the debtor. The amount due the debtor from the agency is the net amount otherwise owing to the debtor after any offset as provided in this section.

3. The State Controller shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, the manner in which offsets will be allocated among agencies.

Sec. 17. NRS 353C.195 is hereby amended to read as follows:

353C.195 ***Except as otherwise provided in this section or by a specific statute or federal law:***

1. The State Controller ~~[may, if requested by any state agency,]~~ ***shall*** act as the collection agent for ~~[that]~~ ***each*** agency.

2. ~~[If the State Controller acts as the collection agent for an agency, the agency may]~~ ***An agency shall*** coordinate all its debt collection efforts through the State Controller.

3. Unless an agency and the State Controller agree on a different time, an agency shall assign a debt to the State Controller for collection not later than 60 days after the debt becomes past due.

4. An agency shall not assign a debt to the State Controller for collection if the debt is administratively contested by the debtor. For the purposes of this subsection, a debt is not administratively contested if:

(a) The debtor and the agency have agreed on the existence and amount of the debt;

(b) The debtor has failed to contest timely the existence or amount of the debt in accordance with the administrative procedures prescribed by the agency; or

(c) The debtor has timely contested the debt in accordance with the administrative procedures prescribed by the agency and the agency has issued a final decision concerning the existence and amount of the debt.

5. Upon the request of an agency, the State Controller shall waive a requirement of this section:

(a) If the State Controller determines that the agency has the resources to engage in its own debt collection efforts; or

(b) For good cause shown.

6. If the State Controller waives the requirements of subsection 1 or 2 for an agency, the agency may exercise any right or remedy conferred on

the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect a debt.

7. An agency that is authorized by specific statute to collect a debt on behalf of or in trust for a particular person or entity may assign the debt to the State Controller for collection pursuant to this section. If such an agency does not assign a debt to the State Controller pursuant to this section, the agency may, in addition to any right or remedy conferred on the agency by specific statute to collect a debt, exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect the debt.

Sec. 18. NRS 353C.200 is hereby amended to read as follows:

353C.200 1. Except as otherwise provided in subsection 2, ***if*** an agency ***has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller*** may enter into a contract with a private debt collector or any other person for the assignment of the collection of ~~[~~a~~]~~ ***the*** debt if the ~~[~~agency:~~]~~ ***State Controller:***

(a) Determines the assignment is likely to generate more net revenue than equivalent efforts by the ~~[~~agency~~]~~ ***State Controller*** to collect the debt, including collection efforts pursuant to this chapter;

(b) Determines the assignment will not compromise future collections of state revenue; and

(c) Notifies the debtor in writing at his address of record that the debt will be turned over for private collection unless the ~~[~~debt is paid.~~]~~ ***debtor:***

(1) Pays the debt in full; or

(2) Enters into an agreement, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

2. ~~[An agency shall not enter into a contract with a private debt collector or any other person for the assignment of the collection of a debt if the debt has been contested by the debtor.~~

~~3.~~~~]~~ A contract for the assignment of the collection of a debt may provide for:

(a) Payment by the ~~[~~agency~~]~~ ***State Controller*** to the private debt collector or other person of the costs of collection and fees for collecting the debt; or

(b) Collection by the private debt collector or other person from the debtor of the costs of collection and fees for collecting the debt.

~~[4. Any contract entered into pursuant to this section is subject to approval by the Director of the Department of Administration and the State Controller.]~~

Sec. 19. NRS 353C.210 is hereby amended to read as follows:

353C.210 1. Notwithstanding any specific statute to the contrary, ~~[~~an agency to which a debt is owed~~]~~ ***the State Controller*** may, in addition to any other remedy provided for in this chapter, give notice of the amount of ~~[~~the~~]~~ ***a*** debt ***owed to this State*** and a demand to transmit to any person, including, without limitation, any officer, agency or political subdivision of this State,

who has in his possession or under his control any credits or other personal property belonging to the debtor ~~[,]~~ or who owes any debts to the debtor that remain unpaid. The notice and demand to transmit must be delivered personally or by certified or registered mail:

(a) Not later than 4 years after the debt became due; or

(b) Not later than 6 years after the last recording of an abstract of judgment pursuant to NRS 353C.170 or a certificate of liability pursuant to NRS 353C.180.

2. If such notice is given to an officer or agency of this State, the notice must be delivered before the ~~[agency which sent the notice]~~ ***State Controller*** may file a claim ~~[with the State Controller]~~ pursuant to NRS 353C.190 on behalf of the debtor.

3. An agency that receives a notice and demand to transmit pursuant to this section may satisfy any debt owed to it by the debtor before it honors the notice and demand to transmit. If the agency is holding a bond or other property of the debtor as security for debts owed or that may become due and owing by the debtor, the agency is not required to transmit the amount of the bond or other property unless the agency determines that holding the bond or other property of the debtor as security is no longer required.

4. Except as otherwise provided by specific statute, a person who receives a demand to transmit pursuant to this section shall not thereafter transfer or otherwise dispose of the credits or other personal property of, or debts owed to, the person who is the subject of the demand to transmit without the consent of the ~~[agency which sent the demand to transmit.]~~ ***State Controller.***

5. Except as otherwise provided by specific statute, a person who receives ~~[from an agency]~~ a demand to transmit pursuant to this section shall, within 10 days thereafter, inform the ~~[agency]~~ ***State Controller*** of, and transmit to the ~~[agency]~~ ***State Controller*** within the time and in the manner requested by the ~~[agency,]~~ ***State Controller,*** all credits or other personal property in his possession or control that belong to, and all debts that he owes to, the person who is the subject of the demand to transmit. Except as otherwise provided in subsection 6, no further notice is required to be served on such persons.

6. Except as otherwise provided by specific statute, if the property of the debtor consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the ~~[agency which sent the demand to transmit]~~ ***State Controller*** until otherwise notified by the ~~[agency.]~~ ***State Controller.*** If the debt of the debtor is not paid within 1 year after the date on which the ~~[agency]~~ ***State Controller*** issued the original demand to transmit, the ~~[agency]~~ ***State Controller*** shall:

(a) Issue another demand to transmit to the person responsible for making the payments that informs him to continue transmitting payments to the ~~[agency;]~~ ***State Controller;*** or

(b) Notify the person that his duty to transmit the payments to the ~~[~~agency~~]~~ ***State Controller*** has ceased.

7. If the notice and demand to transmit is intended to prevent the transfer or other disposition of a deposit in a bank or other depository institution, or of any other credit or personal property in the possession or under the control of the bank or depository institution, the notice must be delivered or mailed to any branch or office of the bank or depository institution at which the deposit is carried or the credit or personal property is held.

8. If any person to whom ~~[~~an agency~~]~~ ***the State Controller*** delivers a notice and demand to transmit transfers or otherwise disposes of any property or debts required by this chapter to be transmitted to the ~~[~~agency,~~]~~ ***State Controller,*** the person is, to the extent of the value of the property or the amount of the debts so transferred or disposed of, liable to the ~~[~~agency~~]~~ ***State Controller*** for any portion of the debt that the ~~[~~agency~~]~~ ***State Controller*** is unable to collect from the debtor solely by reason of the transfer or other disposition of the property or debt.

9. A debtor who owes a debt to an agency ***for*** which ***the State Controller*** delivers a notice and demand to transmit concerning the debtor pursuant to this section is entitled to an administrative hearing before that agency to challenge the collection of the debt pursuant to the demand to transmit. Each agency may adopt such regulations as are necessary to provide an administrative hearing for the purposes of this subsection.

Sec. 20. NRS 353C.220 is hereby amended to read as follows:

353C.220 1. If ~~[~~an agency~~]~~ ***the State Controller*** determines that it is impossible or impractical to collect a debt, ~~[~~the agency~~]~~ ***he*** may request the State Board of Examiners to designate the debt as a bad debt. The State Board of Examiners, by an affirmative vote of the majority of the members of the Board, may designate the debt as a bad debt if the Board is satisfied that the collection of the debt is impossible or impractical. If the debt is not more than $50, the State Board of Examiners may delegate to its Clerk the authority to designate the debt as a bad debt. ~~[~~An agency that is aggrieved by~~]~~ ***The State Controller may appeal*** a denial of a request to designate the debt as a bad debt by the Clerk ~~[~~may appeal that denial~~]~~ to the State Board of Examiners.

2. Upon the designation of a debt as a bad debt pursuant to this section, the State Board of Examiners or its Clerk shall immediately notify the State Controller thereof. Upon receiving the notification, the State Controller shall direct the removal of the debt from the books of account of the State of Nevada. A bad debt that is removed pursuant to this section remains a legal and binding obligation owed by the debtor to the State of Nevada.

3. ~~[~~If resources are available, the~~]~~ ***The*** State Controller shall keep a master file of all debts that are designated as bad debts pursuant to this section. ~~[~~If such a file is established and maintained, for~~]~~ ***For*** each such debt, the State Controller shall record the name of the debtor, the amount of the debt, the date on which the debt was incurred and the date on which it was

removed from the records and books of account of ~~[the agency or]~~ the State of Nevada, and any other information concerning the debt that the State Controller determines is necessary.

Sec. 21. ~~[NRS 11.255 is hereby amended to read as follows:~~

~~11.255 1. [The] *Except as otherwise provided in subsection 2, the* provisions of this chapter [concerning actions other than for the recovery of real property shall] *do not* apply to actions *which accrue on or after the effective date of this act that are* brought in the name of the State [,] or for the benefit of the State . [, in the same manner as to actions by private individuals.]~~

~~2. [Except as provided in] *The provisions of* NRS 11.030 and 11.040 [, there shall be no limitation of] *apply to* actions brought in the name of the State, or for the benefit of the State, for the recovery of real property.]~~ **(Deleted by amendment.)**

Sec. 21.1. **NRS 218.6827 is hereby amended to read as follows:**

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, ***and section 7.3 of this act,*** paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 21.3. NRS 616C.220 is hereby amended to read as follows:

616C.220 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

➥ to administer claims against the uninsured employers' claim account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the uninsured employers' claim account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He suffers an accident or injury which arises out of and in the course of his employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the injured employee pursuant to NRS 616C.215.

➥ An employee who suffers an accident or injury while on temporary assignment outside the State is not eligible to receive compensation from the uninsured employers' claim account unless he has been denied workers' compensation in the state in which the accident or injury occurred.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory industrial insurance coverage for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS is liable for all payments made on his behalf, including any benefits, administrative costs or attorney's fees paid from the uninsured employers' claim account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. ***For the purposes of this paragraph, the payments made by the Division that are described in subsection 5 are presumed to be:***

(1) Justified by the circumstances of the claim;

(2) Made in accordance with applicable law; and

(3) Reasonable and necessary.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the employee's injury.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving notice of the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

➥ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

➥ the Division shall authorize payment from the uninsured employers' claim account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to chapters 616A to 616D, inclusive, of NRS, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

➥ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than $10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS.

15. If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.

Sec. 21.7. NRS 617.401 is hereby amended to read as follows:

617.401 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

➥ to administer claims against the Uninsured Employers' Claim Account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the Uninsured Employers' Claim Account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He contracts an occupational disease that arose out of and in the course of employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the employee pursuant to NRS 616C.215.

➥ An employee who contracts an occupational disease that arose out of and in the course of employment while on temporary assignment outside the State is not entitled to receive compensation from the Uninsured Employers' Claim Account unless he has been denied workers' compensation in the state in which the disease was contracted.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory coverage for occupational diseases for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of this chapter is liable for all payments made on his behalf, including, but not limited to, any benefits, administrative costs or attorney's fees paid from the Uninsured Employers' Claim Account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. ***For the purposes of this paragraph, the payments made by the Division that are described in subsection 5 are presumed to be:***

(1) Justified by the circumstances of the claim;

(2) Made in accordance with applicable law; and

(3) Reasonable and necessary.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the occupational disease.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

➥ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

➥ the Division shall authorize payment from the Uninsured Employers' Claim Account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of NRS

616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to this chapter, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the Account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

➥ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than $10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of this chapter.

15. If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.

Sec. 22. A regulation jointly adopted by the Director of the Department of Administration and the Attorney General pursuant to NRS 353C.110 remains in effect until it is amended or repealed by the State Controller pursuant to the amendatory provisions of this act.

Sec. 23. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2009, for all other purposes.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 87.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 360.

The following Senate amendment was read:

Amendment No. 708.

AN ACT relating to special districts; authorizing the temporary creation of certain special districts to manage certain federal funds provided to the State; requiring that certain federal funds be distributed directly to certain special districts; requiring certain reporting in connection with such special districts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 308 of NRS provides for the creation of various types of special districts for various purposes. This bill authorizes the creation of special districts to manage money that is: (1) paid to the State by the Federal Government; and (2) designated for the territory covered by the district. To qualify, the number of county commissioners serving on the governing board of the special district cannot constitute a majority and the special district must be authorized to act independently of the county when managing the district. This bill also requires that, if a special district has been created, federal money be paid directly to the district and not to the county or counties within which the district lies.

Under the provisions of this bill, the governing body of any special district created pursuant thereto must, on or before January 1, 2011, submit a one-time report to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.

The provisions of this bill expire by limitation on June 30, 2013.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 308 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A special district may be formed subject to the provisions of this chapter:

(a) To manage any money that is:

(1) Paid to the State of Nevada or to a county by the Federal Government; and

(2) Designated for the territory covered by the special district; and

(b) With a governing body:

(1) Of which not more than half of the members are also members of the ~~[governing body or bodies]~~ board of county commissioners of the

county ~~[or counties]~~ within which lies the territory covered by the special district; and

(2) Which is authorized to act independently of the ~~[governing body or bodies]~~ board of county commissioners of the county ~~[or counties]~~ within which lies the territory covered by the special district.

2. If a special district is formed pursuant to the provisions of this section to manage money that is:

(a) Paid to the State of Nevada or to a county by the Federal Government pursuant to a specified bill or measure of the Federal Government; and

(b) Designated for the territory covered by the special district,

➥ any such money must be distributed directly to the special district for expenditure.

Sec. 2. NRS 354.140 is hereby amended to read as follows:

354.140 1. ~~[The]~~ ***Except as otherwise provided in subsection 2, the*** money paid to the State of Nevada by the Secretary of the Treasury under the provisions of 16 U.S.C. § 500, providing for the payment to states and territories of a fixed percentage of the money received by the Government of the United States from the forest reserves established therein, must be distributed respectively to the county or counties in which the forest reserves are situated ***.*** ~~[, to]~~

2. If a special district has been formed pursuant to the provisions of section 1 of this act to manage money paid to the State of Nevada by the Secretary of the Treasury under the provisions of 16 U.S.C. § 500 from forest reserves established within the territory covered by the special district, any such money must be distributed directly to the special district.

3. Money distributed pursuant to subsections 1 and 2 must be expended for the benefit of the public schools and the public roads of the county or counties in equal proportion for each object. The proportion for schools must be paid into the county school district fund. If there is a county road fund, the proportion for roads must be paid into the county road fund. If there is no county road fund, the proportion for roads must be paid into the county general fund for public road purposes.

~~[2.]~~ ***4.*** When any forest reserve is in more than one state or county, the distributive share to each must be proportional to its area therein, following as near as may be the figures submitted to the State of Nevada respecting net forest area and county acreage therein by the Forest Service, United States Department of Agriculture.

~~[3.]~~ ***5.*** The agency which is responsible for completing any audit required for the continuation of the payments must be reimbursed for the cost of the audit from the funds to which the payments were distributed proportionately according to the percentage of the payment which was distributed to each fund.

Sec. 3. 1. On or before January 1, 2011, the governing body of any special district formed pursuant to the provisions of section 1 of this act shall

submit a report to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.

2. The report required to be submitted in accordance with subsection 1 must include, without limitation:

(a) A description of the boundaries of the special district.

(b) The form and composition of the governance of the special district.

(c) The total number of dollars received by the special district, directly or indirectly, from the Federal Government.

(d) The purposes for which the money described in paragraph (c) was spent and will be spent.

(e) A description of the activities engaged in by the special district.

(f) Any other information that is requested by the Director of the Legislative Counsel Bureau which the Director determines would be helpful to the Legislature in evaluating the efficacy, efficiency and usefulness of the special district.

Sec. 4. This act becomes effective on July 1, 2009, and expires by limitation on June 30, 2013.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 360.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 463.

The following Senate amendment was read:

Amendment No. 758.

AN ACT relating to governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; **providing certain exceptions;** requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with ~~[consultants and]~~ temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill restricts a department, division or other agency of this State from employing a person as a consultant for the agency. **Section 1** requires the Interim Finance Committee to approve the employment of a consultant under certain circumstances and limits the approval of the employment of the person as a consultant if the person is a former employee of a department, division or other agency of this State and at least 1 year has not expired before the person is employed as a consultant. **Section 1** also

requires each board, commission, school district and institution of the Nevada System of Higher Education to submit to the Interim Finance Committee, at least once every 6 months, a report concerning each consultant employed by the entity. **Section 1** also requires that contracts with ~~[consultants and]~~ temporary employment services be awarded by open competitive bidding. **Section 1 further provides that certain exceptions apply for the employment of persons for a period of less than 4 months under certain conditions and for the employment of certain persons by the Department of Transportation for transportation projects that are solely federally funded.** **Section 2.5** of this bill requires that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency. **Section 2.7** of this bill requires the Legislative Auditor to conduct an audit of the use by agencies of the Executive Branch of State Government of contracts with consultants.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in ~~[subsection 6,]~~ this section, a department, division or other agency of this State shall not employ, by contract or otherwise, a person to provide services as a consultant for the agency if:

(a) The person is a current employee of an agency of this State;

(b) The person is a former employee of an agency of this State and less than 1 year has expired since the termination of his employment with the State; ~~[or]~~

(c) ~~[The]~~ Except as otherwise provided in paragraph (d), the term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years ~~[.]~~ ; or

(d) The person is employed by the Department of Transportation for a transportation project that is solely federally funded and the term of the contract is for more than 4 years, or is amended or otherwise extended beyond 4 years,

➥ unless, before the person is employed by the agency, the Interim Finance Committee approves the employment of the person.

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The Interim Finance Committee shall not approve the employment of a consultant pursuant to paragraph (b) of subsection 1 unless the Interim Finance Committee determines that one or more of the following circumstances exist:

(a) The person provides services that are not provided by any other employee of the agency or for which a critical labor shortage exists; or

(b) A short-term need or unusual economic circumstance exists for the agency to employ the person as a consultant.

3. A department, division or other agency of this State may employ a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the Interim Finance Committee if the term of employment is for less than 4 months and the executive head of the department, division or agency determines that an emergency exists which necessitates the employment. If a department, division or agency employs a person pursuant to this subsection, the department, division or agency shall include in the report to the Interim Finance Committee pursuant to subsection 4 a description of the emergency.

4. Except as otherwise provided in subsection ~~[6,]~~ 7, a department, division or other agency of this State shall report to the Interim Finance Committee whenever it employs, by contract or otherwise, a person to provide services as a consultant for the agency who is a former employee of a department, division or other agency of this State.

~~[4.]~~ 5. Except as otherwise provided in subsection ~~[6,]~~ 7, a department, division or other agency of this State shall not contract with a ~~[consultant or a]~~ temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

~~[5.]~~ 6. Each board or commission of this State, each school district in this State and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

(a) The number of consultants employed by the board, commission, school district or institution;

(b) The purpose for which the board, commission, school district or institution employs each consultant;

(c) The amount of money or other remuneration received by each consultant from the board, commission, school district or institution; and

(d) The length of time each consultant has been employed by the board, commission, school district or institution.

~~[6.]~~ 7. The provisions of subsections 1 to ~~[4,]~~ 5, inclusive, do not apply to the :

(a) Nevada System of Higher Education or a board or commission of this State.

(b) Employment of professional engineers by the Department of Transportation if those engineers are employed for a transportation project that is solely federally funded.

~~[7.]~~ 8. For the purposes of this section, "consultant" includes any person employed by a business or other entity that is providing consulting services if the person will be performing or producing the work for which the business or entity is employed.

Sec. 2. NRS 218.6827 is hereby amended to read as follows:

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650 ~~[.]~~ ***and section 1 of this act.*** In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 2.5. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy; ~~[and]~~

(b) ***Any existing contracts the department, institution or agency has with consultants or temporary employment services, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such consultants or services; and***

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in his office or which he may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 2.7. 1. The Legislative Auditor shall conduct an audit concerning the use by agencies of the Executive Branch of State Government of contracts with consultants. The State Controller shall provide such information as is requested by the Legislative Auditor to assist with the completion of the audit.

2. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011.

3. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

Sec. 3. The amendatory provisions of section 1 of this act do not apply to a contract of employment specified in that section that is entered into or renewed before the effective date of this act.

Sec. 4. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 463.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

Bill ordered transmitted to the Senate.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Smith moved that the Assembly do not recede from its action on Senate Bill No. 54, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Smith.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Leslie, Smith, and Hardy as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 54.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Smith moved that the Assembly do not recede from its action on Senate Bill No. 17, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Smith.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Denis, Spiegel, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 17.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 335.

The following Senate amendment was read:

Amendment No. 845.

SUMMARY—Makes various changes relating to **nuisances and** criminal gangs. (BDR ~~[15]~~ **3** -85)

AN ACT relating to criminal gangs; ~~[enhancing penalties and providing for the suspension of drivers' licenses for certain crimes committed to promote criminal gang activity;]~~ making various changes relating to

nuisances and criminal gangs; ~~[providing penalties;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, a person who commits a felony to promote the activities of a criminal gang is subject to an additional penalty under certain circumstances. (NRS 193.168) Section 1 of this bill provides that if a person commits a crime normally punishable as a misdemeanor or gross misdemeanor to promote the activities of a criminal gang and if the person has previously been convicted of at least three similar violations, then: (1) the person may be found guilty of a category E felony; and (2) the driver's license of the person may be suspended for a certain period. Section 2 of this bill clarifies that if a person is subject to the increased penalty provided in section 1, the person is not subject to certain other additional penalties. (NRS 193.169)]~~

Existing law provides that certain places used for certain illegal activities constitute a private nuisance, which creates civil liability and allows any person whose property is affected to bring a civil action to abate the nuisance and recover damages. (NRS 40.140) **Section 3** of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a private nuisance. Existing law also provides that certain places used for certain illegal activities constitute a public nuisance, and any person responsible for such a public nuisance who does not abate the public nuisance is guilty of a misdemeanor. (NRS 202.450, 202.470) **Section 5** of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a public nuisance.

Sections 6 and 7 of this bill authorize the board of county commissioners of a county and the governing body of a city to adopt an ordinance authorizing the filing of a civil action, under certain circumstances, to: (1) enjoin the activities of a specific member of a criminal gang; and (2) recover money damages, attorney's fees and costs against a member of a criminal gang and the owner of a business or place that constitutes a nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang. **Sections 6 and 7** also provide that a member of a criminal gang who is subject to an injunction and who knowingly and intentionally commits a material violation of that injunction is guilty of a misdemeanor.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Chapter 193 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in NRS 193.169, if:*~~

~~*(a) A person commits a violation of a statute that is punishable as a misdemeanor or gross misdemeanor pursuant to that statute;*~~

~~*(b) The person commits that violation knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and*~~

~~*(c) The person has previously been convicted of at least three similar violations,*~~

~~*→ the person may be deemed to be guilty of a category E felony and may be punished as provided in NRS 193.130.*~~

~~*2. If a person is punished pursuant to this section, the court may, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years and requiring the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court may issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. If the court issues an order pursuant to this subsection, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses, together with a copy of the order.*~~

~~*3. The court shall not punish a person pursuant to this section unless:*~~

~~*(a) The indictment, information or complaint charging the person with the violation specifically indicates that the State is seeking to punish the person pursuant to this section and specifically alleges that the violation was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and*~~

~~*(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.*~~

~~*4. In any proceeding to punish a person pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:*~~

~~*(a) Characteristics of persons who are members of criminal gangs;*~~

~~*(b) Specific rivalries between criminal gangs;*~~

~~*(c) Common practices and operations of criminal gangs and the members of those gangs;*~~

~~*(d) Social customs and behavior of members of criminal gangs;*~~

~~*(e) Terminology used by members of criminal gangs;*~~

~~*(f) Codes of conduct, including criminal conduct, of particular criminal gangs; and*~~

~~*(g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.*~~

~~*5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.]*~~ **(Deleted by amendment.)**

Sec. 2. ~~[~~NRS 193.169 is hereby amended to read as follows:~~

~~193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection 3 of NRS 193.161, subsection 3 of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~3.~~ ***A person who is punished pursuant to section 1 of this act must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.***

~~4. This section does not:~~

~~(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1~~ ***, 2*** ~~or~~ **[**~~2.~~**]** ***3.***

~~(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1~~ ***, 2*** ~~or~~ **[**~~2~~**]** ***3*** ~~and introducing evidence to prove the alternative allegations.~~**]** **(Deleted by amendment.)**

Sec. 3. NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section:

(a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog; **[**~~or~~**]**

(c) A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(1) Which has not been deemed safe for habitation by a governmental entity; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180

days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog ~~[.]~~ ***; or***

(d) A building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang,

➥ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

➥ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section:

(a) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(b) ***"Criminal gang" has the meaning ascribed to it in NRS 193.168.***

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(c)]~~ ***(d)*** "Shooting range" means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or

device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor or controlled substance analog is unlawfully sold, served, stored, kept, manufactured, used or given away; ~~[or]~~

(f) ***That is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang; or***

(g) Where vagrants resort,

➥ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

➥ is a public nuisance.

4. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by a governmental entity and:

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on

the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

➥ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

7. As used in this section:

(a) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(b) ***"Criminal gang" has the meaning ascribed to it in NRS 193.168.***

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(c)]~~ ***(d)*** "Shooting range" has the meaning ascribed to it in NRS 40.140.

Sec. 6. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of any other law or ordinance, each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file a civil action in a court of competent jurisdiction to seek any or all of the following relief:

(a) A temporary or permanent injunction against any specific member of a criminal gang to enjoin his activity which is associated with the criminal gang and which is occurring within the county.

(b) The recovery of money damages, attorney's fees and costs from:

(1) Any member of a criminal gang that is engaging in criminal activities within the county; and

(2) The owner of a building or place located within the county that has been found to be a public nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, but only if the owner has actual notice that the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang.

2. Any money damages awarded in an action brought pursuant to this section must be:

(a) Paid by, or collected from:

(1) Any assets of the criminal gang or its members that were derived from the criminal activities of the criminal gang or its members;

(2) Any assets of the owner of a building or place that has been found to constitute a public nuisance; or

(3) Any combination of the assets described in subparagraphs (1) and (2).

(b) Deposited into a separate, segregated fund in the county treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activities of the criminal gang or the existence of the building or place that constitutes a public nuisance.

3. A member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section or the other provision of law, or both.

4. An action may not be brought pursuant to this section against:

(a) Any governmental entity; or

(b) Any charitable or nonprofit organization that is conducting, with ordinary care and skill, activities relating to prevention or education concerning criminal gangs.

5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.

Sec. 7. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of any other law or ordinance, each governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file a civil action in a court of competent jurisdiction to seek any or all of the following relief:

(a) A temporary or permanent injunction against any specific member of a criminal gang to enjoin his activity which is associated with the criminal gang and which is occurring within the city.

(b) The recovery of money damages, attorney's fees and costs from:

(1) Any member of a criminal gang that is engaging in criminal activities within the city; and

(2) The owner of a building or place located within the city that has been found to be a public nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, but only if the owner has actual notice that the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang.

2. Any money damages awarded in an action brought pursuant to this section must be:

(a) Paid by, or collected from:

(1) Any assets of the criminal gang or its members that were derived from the criminal activities of the criminal gang or its members;

(2) Any assets of the owner of a building or place that has been found to constitute a public nuisance; or

(3) Any combination of the assets described in subparagraphs (1) and (2).

(b) Deposited into a separate, segregated fund in the city treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activities of the criminal gang or the existence of the building or place that constitutes a public nuisance.

3. A member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section or the other provision of law, or both.

4. An action may not be brought pursuant to this section against:

(a) Any governmental entity; or

(b) Any charitable or nonprofit organization that is conducting, with ordinary care and skill, activities relating to prevention or education concerning criminal gangs.

5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 335.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 361.

The following Senate amendment was read:

Amendment No. 655.

AN ACT relating to common-interest communities; providing that, under certain circumstances, a unit-owners' association may, without liability for trespass, enter the grounds of a vacant unit or a unit in foreclosure to abate a public nuisance or maintain the exterior of the unit; providing that a unit-owners' association may request a copy of certain deeds of trust under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law assigns the responsibility for maintenance of a unit in a common-interest community to the owner of the unit, and maintenance of a common element in the community to the unit-owners' association. (NRS 116.3107) Existing law provides procedures for the executive board of

the association to fine a unit's owner who fails to maintain his residence according to the governing documents. (NRS 116.31031)

Section 1 of this bill provides that the association may, without liability for trespass, enter on the grounds of a unit that is vacant or that is in the foreclosure process, whether vacant or not, to maintain the exterior of the unit or abate a public nuisance on the exterior of the unit if, after notice and a hearing, the unit's owner refuses or fails to do so. **Section 1** also provides that **[**~~: (1)~~**]** any amount of the costs for such maintenance or abatement which are not paid by the unit's owner will be a lien against the unit**.** **[**~~; and (2)~~**]** **Further, this section provides that** the lien has priority over certain other liens, claims, encumbrances and titles, **[**~~depending on whether the unit is a single-family detached dwelling,~~**]** except certain liens recorded before the declaration for the association was recorded and certain liens of assessments and taxes. **Finally, this section provides that the period of priority of the lien shall be indefinite, unless regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association provide for a shorter period of priority for the lien, but even if such organization's regulations provide for a shorter period of priority for the lien, the period of priority shall not be less than 6 months.**

Section 2 of this bill specifically authorizes a unit-owners' association to charge a unit's owner for the maintenance and abatement services provided pursuant to **section 1** of the bill. (NRS 116.3102) **Section 3** of this bill further provides that a lien for such maintenance and abatement services has priority over a first security interest on the unit**.** **[**~~under certain circumstances if the unit is a single-family detached dwelling.~~**]** (NRS 116.3116)

Section 4 of this bill provides that a unit-owners' association may record in the office of the county recorder a request for a trustee or other authorized person to provide the association with a copy of the deed after the sale of a unit upon a deed of trust for any unit within the association. (NRS 107.090)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who holds a security interest in a unit must provide the association with his contact information as soon as reasonably practicable, but not later than 30 days after the person:

(a) Files an action for recovery of a debt or enforcement of any right secured by the unit pursuant to NRS 40.430; or

(b) Records or has recorded on his behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080.

2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided

in NRS 116.31031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing [landscaping,] maintenance, standing water or snow removal.

(b) Remove or abate a public nuisance on the exterior of the unit which:

(1) Is visible from any common area of the community or public streets;

(2) Threatens the health or safety of the residents of the common-interest community;

(3) Results in blighting or deterioration of the unit or surrounding area; and

(4) Adversely affects the use and enjoyment of nearby units.

3. If a unit is vacant and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance as described in subsection 2 if the unit's owner refuses or fails to do so.

4. The association may order that the costs of any maintenance or abatement conducted pursuant to subsection 2 or 3, including, without limitation, [any] reasonable inspection fees, notification and collection costs and [interests,] interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

5. A lien described in subsection 4 [on any unit] bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges [and] , including all interest due [is] , are paid.

6. [A] Except as otherwise provided in this subsection, a lien described in subsection 4 [on a unit which is a single family detached dwelling] is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6

months immediately preceding the institution of an action to enforce the lien.

7. A person who purchases or acquires [the] a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. [Units] Such a unit may only be removed from [an association] a common-interest community in accordance with the governing documents [of the association] pursuant to this chapter.

8. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds of a unit pursuant to this section are not liable for trespass.

9. As used in this section [, "vacant"] :

(a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit and the exterior of all property exclusively owned by the unit owner.

(b) "Vacant" means a unit:

[(a)] (1) Which reasonably appears to be unoccupied;

[(b)] (2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and

[(c)] (3) On which the owner has failed to pay assessments for more than [30] 60 days.

Sec. 2. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners ~~[.]~~ ***, including, without limitation, any services provided pursuant to section 1 of this act.***

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 3. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➥ The lien is also prior to all security interests described in paragraph (b) to the extent of ***any charges incurred by the association on a unit*** ~~***[which is a single-family detached dwelling]***~~ ***pursuant to section 1 of this act and to the extent of*** the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

Sec. 4. NRS 107.090 is hereby amended to read as follows:

107.090 1. As used in this section, "person with an interest" means any person who has or claims any right, title or interest in, or lien or charge upon, the real property described in the deed of trust, as evidenced by any document or instrument recorded in the office of the county recorder of the county in which any part of the real property is situated.

2. A person with an interest or any other person who is or may be held liable for any debt secured by a lien on the property desiring a copy of a notice of default or notice of sale under a deed of trust with power of sale upon real property may at any time after recordation of the deed of trust record in the office of the county recorder of the county in which any part of the real property is situated an acknowledged request for a copy of the notice of default or of sale. The request must state the name and address of the person requesting copies of the notices and identify the deed of trust by stating the names of the parties thereto, the date of recordation, and the book and page where it is recorded.

3. The trustee or person authorized to record the notice of default shall, within 10 days after the notice of default is recorded and mailed pursuant to

NRS 107.080, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice, addressed to:

(a) Each person who has recorded a request for a copy of the notice; and

(b) Each other person with an interest whose interest or claimed interest is subordinate to the deed of trust.

4. The trustee or person authorized to make the sale shall, at least 20 days before the date of sale, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice of time and place of sale, addressed to each person described in subsection 3.

5. ***An association may record in the office of the county recorder of the county in which a unit governed by the association is situated an acknowledged request for a copy of the deed upon sale of the unit pursuant to a deed of trust. A request recorded by an association must include, without limitation:***

(a) A legal description of the unit or the assessor's parcel number of the unit;

(b) The name and address of the association; and

(c) A statement that the request is made by an association.

6. A request recorded by an association pursuant to subsection 5 regarding a unit supersedes all previous requests recorded by the association pursuant to subsection 5 regarding the unit.

7. If a trustee or person authorized to record a notice of default records the notice default for a unit regarding which an association has recorded a request pursuant to subsection 5, the trustee or authorized person shall mail to the association a copy of the deed upon the sale of the unit pursuant to a deed of trust within 15 days after the trustee records the deed upon the sale of the unit.

8. No request recorded pursuant to the provisions of subsection 2 ***or 5*** affects the title to real property ~~[.]~~ ***, and failure to mail a copy of the deed upon the sale of the unit after a request is made by an association pursuant to subsection 5 does not affect the title to real property.***

9. As used in this section:

(a) "Association" has the meaning ascribed to it in NRS 116.011.

(b) "Unit" has the meaning ascribed to it in NRS 116.093.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 361.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 491.

The following Senate amendment was read:

Amendment No. 727.

AN ACT relating to civil actions; providing that a certain amount of money held in a bank that is likely to be exempt from execution is not subject to a writ of execution or garnishment; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a judgment creditor to obtain a writ of execution, attachment or garnishment to levy on the property of a judgment debtor or defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property, however, is exempt from execution and therefore cannot be the subject of such a writ. (NRS 21.090) **Section 2** of this bill provides that a certain amount of money held in the **personal** bank account of a judgment debtor which is likely to be exempt from execution is not subject to a writ of execution or garnishment and must remain accessible to the judgment debtor. **Section 2 further provides immunity from liability to a financial institution which makes an incorrect determination concerning whether money is subject to execution. Section 2.5 of this bill provides that notwithstanding the provisions of section 2, if a judgment debtor has personal accounts in more than one financial institution, the writ may attach to all money in those account. The judgment debtor the must claim any exemption that may apply.**

Section 3 of this bill provides that a separate writ must be issued to levy on a safe-deposit box and provides a procedure for executing on such a writ. **Section 5** of this bill revises the exemptions from execution so that the exemption for certain plans and accounts for deferred payments applies not only to the money that is held in the account, but also to the proceeds paid from those accounts. **Section 5** also ~~[adds a new exemption for proceeds from a private disability insurance plan.]~~ **lists additional exemptions which are provided by Nevada law.**

Section 6 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. **Sections 4 and 7** of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor so that the procedures listed in the notice reflect the changes made in **section 6**. **Sections 4 and 7** further revise the notice to provide additional information concerning the claiming of exemptions. **Sections 1.5 and 6.5 of this bill clarify that a constable has authority to perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff with respect to a writ of execution, garnishment or attachment.**

~~[Section 9 of this bill prohibits a judgment creditor from submitting more than two applications for a writ of garnishment with respect to the same~~

~~judgment for the same type of property if the property is held in a financial institution.]~~

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in **section 2** of this bill. **Section 12** of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment. **Section 14** of this bill provides that the fee for receiving and taking property on execution, attachment or court order collected by a constable is not payable in advance. **Section 15** of this bill provides that certain benefits are exempt from execution regardless of whether they are mingled with other money. **Section 16** of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in **section 6** of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections **1.5** ~~[2 and]~~ **to** 3**, inclusive,** of this act.

Sec. 1.5. ***A constable may perform any of the duties of a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.***

Sec. 2. ***1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account,*** ~~*[$2,500]*~~ ***$2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor.*** ~~*[Money which]*~~ ***For the purposes of this section, money is reasonably identifiable as exempt from execution*** ~~*[includes,]*~~ ***if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation*** ~~*[:]*~~ ***, money deposited as:***

(a) Benefits provided pursuant to the Social Security Act ~~*[,]*~~ ***which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits*** ~~*[and]*~~ ***disability insurance benefits*** ~~*[,*~~

~~*(b)]*~~ ***and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;***

(b) Veterans' benefits ~~*[; and]*~~ *which are exempt from execution pursuant to 38 U.S.C. § 5301;*

(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;

(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;

(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;

(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;

(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;

(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;

(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;

(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;

(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;

(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;

(m) Black lung benefits paid to a miner or his surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and

(n) Benefits provided pursuant to any other federal law.

2. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and the provisions of subsection 1 do not apply, $1,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor.

3. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable.

4. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2.

5. If money in ~~*[an]*~~ *the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money,* ~~*[to]*~~ *the judgment debtor*

may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether ~~[the]~~ such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide ~~[an accounting of]~~ statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

6. ~~[If a writ of execution or garnishment that is levied on the bank account of a judgment debtor is determined to be unenforceable because all of the money in the account is exempt from execution pursuant to subsection 1 or invalid or in violation of the provisions of this chapter or chapter 31 of NRS, the bank must not charge a fee to the judgment debtor regardless of any agreement with or policy of the bank to the contrary.]~~ A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money. If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

7. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Sec. 2.5. 1. Notwithstanding the provisions of section 2 of this act, if a judgment debtor has a personal bank account in more than one financial institution, the judgment creditor is entitled to an order from the court to be issued with the writ of execution or garnishment which states that all money held in all such accounts of the judgment debtor that are identified in the application for the order are subject to the writ.

2. A judgment creditor may apply to the court for an order pursuant to subsection 1 by submitting a signed affidavit which identifies each financial institution in which the judgment debtor has a personal account.

3. A judgment debtor may claim an exemption for any exempt money in the account to which the writ attaches in the manner set forth in NRS 21.112.

Sec. 3. ***1. If a writ of execution or garnishment is levied on property in a safe-deposit box maintained at a financial institution, a separate writ must be issued from any writ that is issued to levy on an account of the***

judgment debtor with the financial institution. Notice of the writ must be served personally on the financial institution and promptly thereafter on any third person who is named on the safe-deposit box.

2. During the period in which the writ of execution or garnishment is in effect, the financial institution must not allow the contents of the safe-deposit box to be removed other than as directed by the sheriff or by court order.

3. The sheriff may allow the person in whose name the safe-deposit box is held to open the safe-deposit box so that the contents may be removed pursuant to the levy. The financial institution may refuse to allow the forcible opening of the safe-deposit box to allow the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.

Sec. 4. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in ~~[:]~~ ***and any proceeds paid from:***

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse,

including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

18. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

21. Payments received as restitution for a criminal act.

22. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

23. A tax refund received from the earned income credit provided by federal law or a similar state law.

24. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~[a notarized affidavit claiming the]~~ ***an executed claim of*** exemption. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff ~~[and]~~ ***, the garnishee and*** the judgment creditor within ~~[8]~~ ***20 calendar*** days after the notice of

execution ***or garnishment*** is ~~[mailed.]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~[returned to you]~~ ***released by the garnishee or the sheriff*** within ~~[5]~~ ***9 judicial*** days after you ~~[file]~~ ***serve*** the ~~[affidavit]~~ ***claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless ~~[you or the judgment creditor files a motion]~~ ***the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~[motion]~~ ***objection to the claim of exemption and notice*** for the hearing to determine the issue of exemption must be filed within ~~[10]~~ ***8 judicial*** days after the ~~[affidavit claiming]~~ ***claim of*** exemption is ~~[filed.]~~ ***served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The hearing to determine whether the property or money is exempt must be held within ~~[10]~~ ***7 judicial*** days after the ~~[motion]~~ ***objection to the claim of exemption and notice*** for the hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.***

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ ***EXECUTED CLAIM OF EXEMPTION*** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 5. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the

judgment debtor for the support of himself and his family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed $15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the $15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed $550,000 in value and the dwelling is situated upon lands not owned by him.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $500,000 in present value, held in ~~[:]~~ ***and any proceeds paid from:***

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Proceeds received from a private disability insurance plan.

(dd) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(ee) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(ff) Unemployment compensation benefits received pursuant to NRS 612.710.

(gg) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(hh) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(ii) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(jj) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 6. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on ~~[,]~~ ***pursuant to this section,*** the judgment debtor must, within ~~[8]~~ ***20 calendar*** days after the notice ~~[prescribed in NRS 21.075 is mailed,]~~ ***of a writ of execution or garnishment is served on him by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on,*** serve on the sheriff ***, the garnishee*** and ***the*** judgment creditor and file with the clerk of the court issuing the writ of execution ~~[an affidavit setting out]~~ his claim of exemption ~~[.]~~ ***which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 20 calendar days after the date of each withholding of his earnings.***

2. The clerk of the court shall provide the form for the ~~[affidavit.~~

~~2.]~~ ***claim of exemption and must further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions , instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.***

3. ~~[When the] [affidavit]~~ ~~*[claim of exemption is served, the sheriff or garnishee shall release the property and make the property available to the judgment debtor by not later than the end of business on the ninth day following such service* if the] [judgment creditor,]~~ ~~*[sheriff or garnishee has not received* within]~~ ~~[5]~~ ~~*[8* days]~~ ~~[after written demand by the sheriff:~~

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

~~(1) Is in a sum equal to double the value of the property levied on; and~~

~~(2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~(b) Fails to file a motion~~] ~~*[a copy of the objection to the claim of exemption and notice* for a hearing *from the judgment creditor* to determine whether the property or money is exempt.~~]

[~~•~~] ~~[The clerk of the court shall provide the form for the~~] [~~motion.~~

~~3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.~~] ~~*[objection to the claim of exemption and notice for a hearing to determine whether the property or money is exempt.*~~

~~4.~~] ***An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.***

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property [~~.~~] where [~~:~~

~~(a) No affidavit claiming~~] ***a claim of*** exemption is ***not*** served on him ***.*** [~~;~~ ~~or~~

~~(b) An affidavit claiming exemption is served on him, but the sheriff fails to release the property in accordance with this section.~~

~~5.~~] ***6.*** Unless the court continues the hearing for good cause shown, the hearing ***on an objection to a claim of exemption*** to determine whether the property or money is exempt must be held within [~~10~~] ***7 judicial*** days after the [~~motion~~] ***claim of objection and notice*** for [~~the~~] ***a*** hearing is filed.

[~~6. The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.~~] ***The judgment*** ~~*[creditor]*~~ ***debtor has the burden to prove that*** ~~*[the judgment debtor is not]*~~ ***he is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.***

7. If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee shall release the property to the sheriff or, if the property is held by the sheriff, the sheriff shall release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. ~~*[If a court determines after a hearing that an objection to a claim of exemption was claimed in bad faith or if the judgment creditor had reason to know that the property was exempt from execution or submitted more than two applications for a writ of execution for the same judgment on the same property or account of the judgment debtor in violation of subsection 2 of NRS 31.249, the court shall award to the judgment debtor reasonable costs, attorney fees, actual damages and an amount not to exceed $1,000.*~~

~~*10.]*~~ ***The provisions of this section do not limit or prohibit any other remedy provided by law.***

~~*[11.]*~~ ***10.*** ***In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.***

~~*[12. Regardless of whether the judgment debtor claims an exemption, any exemption to which the debtor is entitled may not be waived.]*~~

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

Sec. 6.5. **Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:**

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 7. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➥ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR

YOUR WAGES ARE BEING GARNISHED

Plaintiff, ... (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in ~~[:]~~ ***and any proceeds from:***

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

18. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

21. Payments received as restitution for a criminal act.

22. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

23. A tax refund received from the earned income credit provided by federal law or a similar state law.

24. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to the indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~[a notarized affidavit claiming the]~~ ***an executed claim of*** exemption. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff ~~[and]~~ ***, the garnishee and*** the judgment creditor within ~~[8]~~ ***20 calendar*** days after the notice of execution ***or garnishment*** is ~~[mailed.]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~[returned to you]~~ ***released by the garnishee or the sheriff*** within ~~[5]~~ ***9 judicial*** days after you ~~[file]~~ ***serve*** the ~~[affidavit]~~ ***claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless the ~~[judgment creditor files a motion]~~ ***sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. ***The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The hearing must be held within ~~[10]~~ ***7 judicial*** days after the ~~[motion]~~ ***objection to the claim of exemption and notice*** for a hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from***

financial institutions or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE ~~[~~AFFIDAVIT~~]~~ ***EXECUTED CLAIM OF EXEMPTION*** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 8. (Deleted by amendment.)

Sec. 9. ~~[~~NRS 31.249 is hereby amended to read as follows:

~~31.249 1. No writ of garnishment in aid of attachment may issue except on order of the court. The court may order the writ of garnishment to be issued:~~

~~(a) In the order directing the clerk to issue a writ of attachment; or~~

~~(b) If the writ of attachment has previously issued without notice to the defendant and the defendant has not appeared in the action, by a separate order without notice to the defendant.~~

~~2. The plaintiff's application to the court for an order directing the issuance of a writ of garnishment must be by affidavit made by or on behalf of the plaintiff to the effect that the affiant is informed and believes that the named garnishee:~~

~~(a) Is the employer of the defendant; or~~

~~(b) Is indebted to or has property in his possession or under his control belonging to the defendant,~~

~~,~~ ~~and that to the best of the knowledge and belief of the affiant, the defendant's future wages, the garnishee's indebtedness or the property possessed is not by law exempt from execution. If the named garnishee is the State of Nevada, the writ of garnishment must be served upon the State Controller.~~ ***A judgment creditor shall not submit more than two applications for a writ of garnishment with respect to the same judgment for the same type of property in any calendar year upon the same account of a judgment debtor if the property is held in a financial institution. A***

~~*judgment creditor who submits more than two applications may be subject to the penalties set forth in subsection 9 of NRS 21.112.*~~

~~3. The affidavit by or on behalf of the plaintiff may be contained in the application for the order directing the writ of attachment to issue or may be filed and submitted to the court separately thereafter.~~

~~4. Except as otherwise provided in this section, the grounds and procedure for a writ of garnishment are identical to those for a writ of attachment.~~

~~5. If the named garnishee is the subject of more than one writ of garnishment regarding the defendant, the court shall determine the priority and method of satisfying the claims, except that any writ of garnishment to satisfy a judgment for the collection of child support must be given first priority.~~**] (Deleted by amendment.)**

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to ***be submitted with any writ of execution, attachment or garnishment to*** the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants

_____

,

or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:

_____

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount ***of disposable earnings, as defined in NRS 31.295, that*** each defendant presently earns during a pay period. ***State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld. The minimum amount of disposable earnings may be determined, if the pay period is:***

Weekly: By multiplying 50 times the federal minimum hourly wage;

Biweekly: By multiplying 50 times the federal minimum hourly wage, times 2;

Semimonthly: By multiplying 50 times the federal minimum hourly wage, times 52, divided by 24; or

Monthly: By multiplying 50 times the federal minimum hourly wage, times 52, divided by 12.

State the amount that is subject to garnishment, which must not exceed 25 percent of the disposable earnings.
Answer: _____
_____

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in which .....is interested? If so, state its value, and state fully all particulars.
Answer: _____
_____

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to ..... or in which .....is interested, and now in the possession or under the control of others? If so, state particulars.
Answer: _____
_____

Are you a financial institution with ~~[an]~~ a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section ~~[1]~~ 2 of this act, ~~[$2,500]~~ $2,000 or the amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section ~~[1]~~ 2 of this act or, if no such deposit has been made, $1,000 or the amount in the account, whichever is less, is not subject to garnishment. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.
Answer: _____
_____

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.
Answer: _____
_____

Garnishee
I (insert the name of the garnishee), ~~[do solemnly swear (or affirm)]~~ ***declare under penalty of perjury*** that the answers to the foregoing interrogatories by me subscribed are true ~~[.]~~ ***and correct.***
_____
(Signature of garnishee)

~~[SUBSCRIBED and SWORN to before me this .... day of the month of .... of the year ....]~~

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit his answers to the sheriff within the time required by the writ. ***The garnishee shall submit his answers to the judgment debtor within the same time.*** If the garnishee fails to do so, he shall be deemed in default.

Sec. 12. NRS 31.296 is hereby amended to read as follows:

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in his answer to garnishee interrogatories that he is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of $3 per pay period, not to exceed $12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of his right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.

Sec. 13. (Deleted by amendment.)

Sec. 14. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~[fee]~~ ***fees*** described in ~~[paragraph]~~ ***paragraphs (a) and*** (d) of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his fees, which may be due him for services rendered by him in any suit or proceedings, he may have execution therefor in his own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 15. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~[, if they are not mingled with other money of the recipient,]~~ are exempt from any remedy for the collection of all debts, except debts incurred for necessaries furnished to the person or his spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

Sec. 16. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 491.

Remarks by Assemblymen Anderson and Hardy.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 496.

The following Senate amendment was read:

Amendment No. 695.

AN ACT relating to the Commission on Judicial Discipline; revising the statute of limitations for filing certain complaints with the Commission; revising provisions concerning the grounds upon which the Commission may discipline a judge; authorizing the Commission to impose additional forms of discipline upon a judge who is the subject of a complaint; revising certain provisions concerning the confidentiality of the proceedings of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines certain terms used in certain provisions of chapter 1 of NRS which relate to the Commission on Judicial Discipline. (NRS 1.425-1.429) **Sections 1.5-9, 16 and 17** of this bill revise certain definitions and define additional terms that are used in those provisions.

Section 13 of this bill requires the Commission to prepare annual and biennial reports concerning, among other things, the **period for** disposition of ~~[cases]~~ **complaints** filed with the Commission.

Sections 21, 22, 26 and 27 of this bill authorize the Commission to dismiss a complaint with a letter of caution under certain circumstances. (NRS 1.4655, 1.4657, 1.4667, 1.467)

Section 21 of this bill provides, with exceptions, a 3-year statute of limitations for filing a complaint with the Commission concerning alleged misconduct or incapacity of a judge. **Section 21** also requires the Commission, within 18 months after the receipt of such a complaint, to either resolve the complaint or authorize the filing of a formal statement of charges relating to the complaint. (NRS 1.4655) **Section 27** of this bill requires a judge to file an answer to a formal statement of charges against the judge with the Commission within 20 days after the judge is served with the formal statement of charges. (NRS 1.467) **Section 28** of this bill generally requires a hearing on a formal statement of charges to be held. Further, **section 28** requires, if practicable, the hearing to be held not later than 60 days after a judge files the answer with the Commission. (NRS 1.4673) **Section 28** also requires the Commission to prepare findings of fact and conclusions of law setting forth the decision of the Commission within 60 days after the conclusion of the hearing on the formal statement of charges. (NRS 1.4673)

Section 29 of this bill requires the Commission to give a judge 7 days' notice and an opportunity to respond and to hold a public hearing before the Commission suspends the judge from office. (NRS 1.4675)

Section 30 of this bill adds public admonishment and public reprimand to the existing forms of discipline the Commission is authorized to use for a judge who is the subject of a complaint. (NRS 1.4677) **Section 32** of this bill authorizes a person who files a complaint against a judge with the Commission, the judge who is the subject of the complaint or a witness to disclose information concerning the complaint and any investigation or proceedings concerning the complaint. **Section 32** also authorizes the Commission to issue an explanatory statement, under certain circumstances,

concerning a complaint filed with the Commission under certain circumstances in which the complaint is made public. (NRS 1.4683)

Section 33 of this bill revises provisions governing the documents and exhibits concerning a complaint which must be made accessible to the public.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 1 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 14, inclusive, of this act.

Sec. 1.5. ***"Admonish" means to issue a written expression of disapproval of a judge for one or more violations of the Nevada Code of Judicial Conduct by the judge as described in NRS 1.4653. The expression of disapproval may include a warning to the judge to avoid similar conduct in the future.***

Sec. 2. ***"Censure" means to issue a formal, written condemnation of a judge for one or more violations of the Nevada Code of Judicial Conduct by the judge as described in NRS 1.4653 that do not require the removal or barring of the judge from office because there are substantial mitigating factors.***

Sec. 3. ***"Complaint" means information in any form and from any source that alleges or implies judicial misconduct or incapacity.***

Sec. 4. ***"Formal statement of charges" means a document setting forth the specific acts of judicial misconduct or incapacity, including any amendment thereto.***

Sec. 5. ***"Letter of caution" means a private, written communication to a judge to:***

1. Remind the judge of ethical responsibilities;

2. Warn the judge to avoid similar conduct in the future; or

3. Disapprove of conduct that may create the appearance of impropriety.

Sec. 6. ***"Removal" means a decision issued by the Commission to require a judge to permanently leave his judicial office for conduct described in NRS 1.4653.***

Sec. 6.5. ***"Remove" means to require a judge to permanently leave his judicial office for conduct described in NRS 1.4653.***

Sec. 7. ***"Reprimand" means a severe, written reproof for one or more violations of the Nevada Code of Judicial Conduct by a judge as described in NRS 1.4677.***

Sec. 8. ***"Special counsel" means the attorney designated by the Commission to:***

1. Present evidence at a hearing to suspend a judge held pursuant to NRS 1.4675;

2. File and prosecute a formal statement of charges; and

3. Perform other tasks, as directed by the Commission, pursuant to a designation authorized by NRS 1.4663.

Sec. 9. ***"Suspend" means a decision issued by the Commission to require a judge to temporarily leave his office for conduct described in NRS 1.4675.***

Sec. 10. ***1. Proceedings before the Commission are civil matters designed to preserve an independent and honorable judiciary.***

2. Except as otherwise provided in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act or in the procedural rules adopted by the Commission, after a formal statement of charges has been filed, the Nevada Rules of Civil Procedure apply.

Sec. 11. ***1. Each appointing authority shall appoint for each position for which the authority makes an appointment to the Commission an alternate member. The Governor shall not appoint more than two alternate members of the same political party. An alternate member must not be a member of the Commission on Judicial Selection.***

2. An alternate member shall serve:

(a) When the appointed member is disqualified or unable to serve; or

(b) When a vacancy exists.

Sec. 12. ***The Commission shall adopt rules providing for the disposition of a complaint or formal statement of charges at any stage in a disciplinary proceeding, pursuant to:***

1. The consent of the judge who is the subject of the complaint; and

2. An agreement between the judge and the Commission.

Sec. 13. ***1. On or before September 30 of each year, the Commission shall prepare an annual report summarizing the activities of the Commission during the preceding fiscal year. The annual report must include, without limitation, statistical information concerning the period for disposition of complaints and the length of time that proceedings have been pending before the Commission, and a statement of the budget and expenses of the Commission. The annual report must be made available to the public.***

2. On or before September 30 of each odd-numbered year, the Commission shall prepare a biennial report summarizing the activities of the Commission during the preceding 2 fiscal years. The biennial report must include, without limitation, statistical information concerning the period for disposition of complaints and the length of time that proceedings have been pending before the Commission, and a statement of the budget and expenses of the Commission. The Commission shall file a copy of the biennial report with the Governor, the Majority Leader of the Senate, the Speaker of the Assembly, the Chief Justice of the Supreme Court of Nevada, the Chairman of the Senate Standing Committee on Judiciary, the Chairman of the Assembly Standing Committee on Judiciary and the State Bar of Nevada. The biennial report must be made available to the public.

3. The information included in the annual and biennial reports prepared pursuant to this section must comply with any ~~[applicable]~~ and

all confidentiality requirements [.] of applicable law and the rules of the Commission adopted pursuant to NRS 1.4695.

Sec. 14. ***1. The Commission may extend the limitations on time set forth in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act for good cause shown.***

2. The limitations on time set forth in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act must be computed in the same manner as in the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure and must not include:

(a) Periods of delay at the request of or attributable to a judge other than the judge who is the subject of a complaint;

(b) Short periods of delay that are the result of the period between scheduled meetings of the Commission;

(c) Periods in which the judge who is the subject of a complaint and the Executive Director of the Commission or special counsel are negotiating an agreement; or

(d) Periods when the Commission is holding a complaint in abeyance pending the disposition of a court case relating to the complaint.

3. The Commission shall not dismiss a complaint or a formal statement of charges for failure to comply with the limitations of time set forth in NRS 1.425 to 1.4695, inclusive, and sections 1.5 to 14, inclusive, of this act unless the Commission determines such a delay is unreasonable and the rights of the judge to a fair hearing have been violated. The fact that an investigation has been conducted more than 24 months after the date the complaint was filed with the Commission is prima facie evidence of an unreasonable delay, which may be rebutted.

Sec. 15. NRS 1.425 is hereby amended to read as follows:

1.425 As used in NRS 1.425 to 1.4695, inclusive, ***and sections 1.5 to 14, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 1.426 ~~[to 1.429, inclusive,]~~ ***, 1.427 and 1.428, and sections 1.5 to 9, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 16. NRS 1.427 is hereby amended to read as follows:

1.427 "Incapacitated" means unable to perform the duties of ~~[his]~~ office because of advanced age or mental or physical disability.

Sec. 17. NRS 1.428 is hereby amended to read as follows:

1.428 "Judge" means:

1. ***A justice of the Supreme Court;***

2. A judge of the district court;

~~[2.]~~ ***3.*** A judge of the municipal court;

~~[3.]~~ ***4.*** A justice of the peace; and

~~[4.]~~ ***5.*** Any other officer of the Judicial Branch of this State, whether or not he is an attorney, who presides over judicial proceedings, including, but not limited to, a magistrate, court commissioner, special master or referee.

Sec. 18. NRS 1.440 is hereby amended to read as follows:

1.440 1. The Commission has exclusive jurisdiction over the ***public*** censure, removal, involuntary retirement and other discipline of judges which is coextensive with its jurisdiction over justices of the Supreme Court and must be exercised in the same manner and under the same rules.

2. The Supreme Court shall appoint two justices of the peace or two municipal judges to sit on the Commission for formal, public proceedings against a justice of the peace or a municipal judge, respectively. Justices of the peace and municipal judges so appointed must be designated by an order of the Supreme Court to sit for such proceedings in place of and to serve for the same terms as the regular members of the Commission appointed by the Supreme Court.

Sec. 19. NRS 1.465 is hereby amended to read as follows:

1.465 1. The following persons are absolutely immune from suit for all conduct at any time in the course of their official duties:

(a) Any member who serves on the Commission;

(b) Any person employed by the Commission;

(c) Any independent contractor of the Commission; and

(d) Any person who performs services pursuant to NRS 1.450 or 1.460 for the Commission.

2. ~~[The]~~ ***Except as otherwise provided in NRS 1.4683, the*** following persons are absolutely immune from suit unless convicted of committing perjury before the Commission pursuant to NRS 199.120 to 199.200, inclusive:

(a) A person who files a complaint with the Commission pursuant to NRS 1.4655; ~~[and]~~

(b) A person who gives testimony at a ~~[public]~~ hearing held by the Commission pursuant to NRS ~~[1.467.]~~ ***1.4673 or 1.4675; and***

(c) A person who gives a statement to an investigator of the Commission during an authorized investigation.

Sec. 20. NRS 1.4653 is hereby amended to read as follows:

1.4653 1. The Commission may remove ~~[,]~~ ***a judge, publicly*** censure ***a judge*** or impose other forms of discipline on a ~~[justice or]~~ judge if the Commission determines that the ~~[justice or]~~ judge:

(a) Has committed willful misconduct;

(b) Has willfully or persistently failed to perform the duties of his office; or

(c) Is habitually intemperate.

2. The Commission may ***publicly*** censure ***a judge*** or impose other forms of discipline on a ~~[justice or]~~ judge if the Commission determines that the ~~[justice or]~~ judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate.

3. The Commission may retire a ~~[justice or]~~ judge if the Commission determines that:

(a) The advanced age of the ~~[justice or]~~ judge interferes with the proper performance of his judicial duties; or

(b) The ~~[justice or]~~ judge suffers from a mental or physical disability that prevents the proper performance of his judicial duties and is likely to be permanent in nature.

4. As used in this section:

(a) "Habitual intemperance" means the chronic, excessive use of alcohol or another substance that affects mental processes, awareness or judgment.

(b) "Willful misconduct" includes:

(1) Conviction of ~~[a felony or of a misdemeanor]~~ ***any crime*** involving moral turpitude;

(2) A knowing or deliberate violation of one or more of the provisions of the Nevada Code of Judicial Conduct; ***and***

(3) A knowing or deliberate act or omission in the performance of judicial or administrative duties that:

(I) Involves fraud or bad faith or amounts to a public offense; and

(II) Tends to corrupt or impair the administration of justice in a judicial proceeding ~~[~~**.** ~~; and~~

~~(4) Knowingly or deliberately swearing falsely in testimony before the Commission or in documents submitted under oath to the Commission.]~~

➥ The term does not include claims of error or abuse of discretion in findings of fact, legal decisions or procedural rulings unless supported by evidence of abuse of authority, a disregard for fundamental rights, an intentional disregard of the law, a pattern of legal error or an action taken for a purpose other than the faithful discharge of judicial duty.

Sec. 21. NRS 1.4655 is hereby amended to read as follows:

1.4655 1. The Commission may begin an inquiry regarding the alleged misconduct or incapacity of a ~~[justice or]~~ judge upon the receipt of ~~[~~**:**

~~(a) A written, sworn complaint from any person which alleges that the justice or judge has committed misconduct or is incapacitated; or~~

~~(b) Information from any source and in any format, from which the Commission may reasonably infer that the justice or judge may have committed misconduct or be incapacitated.~~

~~2. For the purposes of further inquiry and action by the Commission, information described in paragraph (b) of subsection 1 shall be deemed to be a complaint upon motion of the Commission.]~~ ***a complaint.***

2. The Commission shall not consider complaints arising from acts or omissions that occurred more than 3 years before the date of the complaint or more than 1 year after the complainant knew or in the exercise of reasonable diligence should have known of the conduct, whichever is earlier, except that:

(a) Where there is a continuing course of conduct, the conduct will be deemed to have been committed at the termination of the course of conduct;

(b) Where there is a pattern of recurring judicial misconduct and at least one act occurs within the 3-year or 1-year period, as applicable, the

Commission may consider all prior acts or omissions related to that pattern; and

(c) Any period in which the judge has concealed or conspired to conceal evidence of misconduct is not included in the computation of the time limit for the filing of a complaint pursuant to this section.

3. Within 18 months after the receipt of a complaint pursuant to this section, the Commission shall:

(a) Dismiss the complaint with or without a letter of caution;

(b) Attempt to resolve the complaint informally as required pursuant to NRS 1.4665;

(c) Enter into a deferred discipline agreement pursuant to NRS 1.468;

(d) With the consent of the judge, impose discipline on the judge pursuant to an agreement between the judge and the Commission; or

(e) Authorize the filing of a formal statement of the charges based on a finding that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action.

Sec. 22. NRS 1.4657 is hereby amended to read as follows:

1.4657 1. The Commission shall, in accordance with its procedural rules, examine each complaint that it receives ~~[pursuant to NRS 1.4655]~~ to determine whether the complaint ~~[contains allegations which, if true, would establish grounds for discipline pursuant to NRS 1.4653.]~~ ***alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated.***

2. If the Commission determines that a complaint does not contain such allegations, the Commission shall dismiss the complaint ~~[.]~~ ***with or without a letter of caution. A letter of caution is not a form of discipline. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the letter of caution is not relevant to the misconduct alleged in the subsequent complaint.***

3. If the Commission determines that a complaint does contain such allegations, the Commission shall authorize further investigation ***.*** ~~[to be conducted in accordance with NRS 1.4663.]~~

Sec. 23. NRS 1.466 is hereby amended to read as follows:

1.466 1. During any stage of a disciplinary proceeding, including, but not limited to, an investigation ~~[to determine probable cause]~~ ***pursuant to NRS 1.4663*** and a formal hearing, the Commission may issue a subpoena to compel the attendance or testimony of a witness or the production of any relevant materials, including, but not limited to, books, papers, documents, records, photographs, recordings, reports and tangible objects.

2. If a witness refuses to attend, testify or produce materials as required by the subpoena, the Commission may, in accordance with its procedural rules, hold the witness in contempt and impose a reasonable penalty to enforce the subpoena.

3. If a witness continues to refuse to attend, testify or produce materials as required by the subpoena, the Commission may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials as required by the subpoena before the Commission, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend, testify or produce materials before the Commission.

4. Upon receipt of such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended, testified or produced materials before the Commission. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

Sec. 24. NRS 1.4663 is hereby amended to read as follows:

1.4663 1. If the Commission determines pursuant to NRS 1.4657 that a complaint ~~[contains allegations which, if true, would establish grounds for discipline pursuant to NRS 1.4653,]~~ ***alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated,*** the Commission shall assign or appoint an investigator to conduct an investigation to determine whether the allegations have merit. ***The Commission may designate special counsel at any time after a complaint is filed with the Commission pursuant to NRS 1.4655.***

2. Such an investigation must be conducted in accordance with procedural rules adopted by the Commission and may extend to any matter that is, in the determination of the Commission, reasonably related to an allegation of misconduct or incapacity contained in the complaint.

3. An investigator assigned or appointed by the Commission to conduct an investigation pursuant to this section may, for the purpose of investigation, compel by subpoena on behalf of the Commission the attendance of witnesses and the production of necessary materials as set forth in NRS 1.466.

4. At the conclusion of the investigation, the investigator shall prepare a written report of the investigation for review by the Commission.

Sec. 25. NRS 1.4665 is hereby amended to read as follows:

1.4665 1. ~~[If a]~~ ***Except as otherwise provided in this section or in the procedural rules adopted by the Commission, the Commission shall use the same procedures with respect to allegations of incapacity as it uses with respect to allegations of misconduct.***

2. The Commission shall attempt to resolve the following matters informally:

(a) A complaint received by the Commission ***which*** alleges that a ~~[justice or]~~ judge is incapacitated ~~[, the Commission shall, after examining the complaint and conducting an investigation pursuant to NRS 1.4657 and 1.4663, attempt to resolve the matter informally.]~~ ***;***

(b) A matter in which the preliminary investigation reveals that a judge may have a physical or mental disability; and

(c) A matter in which the judge raises a mental or physical disability as an issue before the filing of the formal statement of charges.

3. An informal resolution by the Commission pursuant to subsection 2 includes, without limitation:

(a) Voluntary retirement by the judge; and

(b) If the disability can be adequately addressed through treatment, a deferred discipline agreement pursuant to NRS 1.468.

4. In attempting to resolve ~~[the]~~ ***a*** matter informally, the Commission may request that the ~~[justice or]~~ judge named in the complaint submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.

~~[2.]~~ ***5.*** If the Commission is unable to resolve the matter informally pursuant to subsection ~~[1,]~~ ***2,*** the Commission shall:

(a) Proceed as set forth in NRS 1.4667, 1.467 and 1.4673. ~~[If the matter proceeds to the point at which the prosecuting attorney files a statement of formal charges pursuant to NRS 1.467 and the justice or judge named in the complaint denies all or part of those charges, the Commission shall deem such a denial to be consent on the part of the justice or judge to submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.]~~

(b) Unless the ~~[justice or]~~ judge has retained counsel at his own expense, appoint an attorney to represent the ~~[justice or]~~ judge at public expense.

6. If a judge raises a mental or physical disability as an affirmative defense or in mitigation, the judge shall be deemed to have consented to medical, psychiatric or psychological testing and to have waived the psychologist-patient privilege, doctor-patient privilege, marriage and family therapist-client privilege and social worker-client privilege set forth in chapter 49 of NRS, as applicable. The Commission shall require the judge to produce his relevant medical records and to submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the judge. If the judge refuses to produce medical records or submit to an examination, the Commission shall preclude the judge from presenting the medical records or evidence of

the results of medical examinations conducted on behalf of the judge and may consider the refusal as evidence that the judge has an incapacity that seriously interferes with the performance of judicial duties of the judge and is likely to become permanent, or as evidence contradicting the claim of a disability by the judge as an affirmative defense or mitigating factor.

7. If a judge raises a mental illness or other disability as a defense or mitigating factor in a proceeding alleging misconduct, the judge has the burden of proving by a preponderance of the evidence that:

(a) He has a serious mental illness or other disability;

(b) The mental illness or other disability caused the misconduct;

(c) He has undergone or is undergoing treatment for the mental illness or other disability;

(d) The treatment has abated the cause of the misconduct; and

(e) The misconduct is not likely to recur.

~~[3.]~~ ***8.*** The findings of a physician ~~[appointed]~~ ***selected*** by the Commission pursuant to this section are not privileged communications.

~~[4.]~~ ***9.*** The provisions of this section do not prohibit a ~~[justice or]~~ judge from having legal counsel and a physician of his choice present at a medical, psychiatric or psychological examination conducted pursuant to this section.

~~[5.]~~ ***10.*** The Commission shall adopt procedural rules to carry out the provisions of this section.

Sec. 26. NRS 1.4667 is hereby amended to read as follows:

1.4667 ***1.*** The Commission shall review the report ~~[of an investigation conducted]~~ ***prepared*** pursuant to NRS 1.4663 to determine whether there is ~~[sufficient reason to proceed.]~~ ***a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against a judge.***

2. If the Commission determines that ~~[there is not sufficient reason to proceed,]~~ ***such a reasonable probability does not exist,*** the Commission shall dismiss the complaint ~~[.]~~ ***with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the caution is not relevant to the misconduct alleged in the subsequent complaint.***

3. If the Commission determines that ~~[it could, in all likelihood, make a determination in the affirmative pursuant to NRS 1.467,]~~ ***such a reasonable probability exists,*** the Commission shall require the ~~[justice or]~~ judge ~~[named in the complaint]~~ to respond to the complaint in accordance with procedural rules adopted by the Commission. ~~[If the justice or judge fails to respond to the complaint, the Commission shall deem such failure to be an admission that the facts alleged in the complaint:~~

~~1. Are true; and~~

~~2. Establish grounds for discipline pursuant to NRS 1.4653.]~~

Sec. 27. NRS 1.467 is hereby amended to read as follows:

1.467 1. After ~~[the justice or]~~ ***a*** judge ~~[named in the complaint]~~ responds to the complaint ***as required*** pursuant to NRS 1.4667 ***,*** ~~[and after considering that response and other relevant information,]~~ the Commission shall make a finding of whether there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the ~~[justice or]~~ judge ***.*** ~~[named in the complaint pursuant to NRS 1.4653.]~~

2. If the Commission ~~[makes a finding]~~ ***finds*** that such a reasonable probability does not exist, the Commission shall dismiss the complaint ~~[.]~~ ***with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the caution is not relevant to the misconduct alleged in the subsequent complaint.***

3. If the Commission ~~[makes a finding]~~ ***finds*** that such a reasonable probability ~~[does exist,]~~ ***exists, but reasonably believes that the misconduct would be addressed more appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into a deferred discipline agreement with the judge for a definite period as described in NRS 1.468.***

4. The Commission shall not dismiss a complaint with a letter of caution or enter into a deferred discipline agreement with a judge if:

(a) The misconduct of the judge involves the misappropriation of money, dishonesty, deceit, fraud, misrepresentation or a crime that adversely reflects on the honesty, trustworthiness or fitness of the judge;

(b) The misconduct of the judge resulted or will likely result in substantial prejudice to a litigant or other person;

(c) The misconduct of the judge is part of a pattern of similar misconduct; or

(d) The misconduct of the judge is of the same nature as misconduct for which the judge has been publicly disciplined or which was the subject of a deferred discipline agreement entered into by the judge within the immediately preceding 5 years.

5. If the Commission finds that such a reasonable probability exists and that formal proceedings are warranted, the Commission shall, in accordance with its procedural rules ~~[:~~

~~(a) Designate a prosecuting attorney, who must]~~ ***, designate special counsel to*** sign under oath ***and file with the Commission*** a formal statement of charges against the ~~[justice or judge and file the statement with the Commission;~~

~~(b) Require that the justice or judge submit to the Commission an answer to the formal statement of charges; and~~

~~(c) Hold a formal, public hearing on the merits of the charges.~~

~~4.]~~ ***judge.***

6. Within 20 days after service of the formal statement of charges, the judge shall file an answer with the Commission under oath. If the ~~[justice~~

~~or]~~ judge fails to answer the formal statement of charges ~~[pursuant to subsection 3,]~~ ***within that period,*** the Commission shall deem such failure to be an admission that the charges set forth in the formal statement:

(a) Are true; and

(b) Establish grounds for discipline pursuant to NRS 1.4653.

7. The Commission shall adopt rules regarding disclosure and discovery after the filing of a formal statement of charges.

8. By leave of the Commission, a statement of formal charges may be amended at any time, before the close of the hearing, to allege additional matters discovered in a subsequent investigation or to conform to proof presented at the hearing if the judge has adequate time, as determined by the Commission, to prepare a defense.

Sec. 28. NRS 1.4673 is hereby amended to read as follows:

1.4673 ~~[After holding a formal hearing on the merits of the charges filed pursuant to NRS 1.467, the Commission shall, in accordance with its procedural rules, dismiss the charges or discipline the justice or judge]~~

1. Unless a deferred discipline agreement has been entered into with the judge pursuant to NRS 1.468, a hearing on a formal statement of charges must be held. If practicable, the hearing must be held not later than 60 days after:

(a) The judge files an answer; or

(b) The date on which the time period for filing an answer expires if the judge has not filed an answer and has not filed with the Commission a request for an extension of time before the expiration of the period for filing the answer.

2. If formal charges are filed against a judge:

(a) The standard of proof in any proceedings following the formal statement of charges is clear and convincing evidence.

(b) The burden of proof rests on the special counsel except where otherwise provided by specific statute.

(c) The rules of evidence applicable to civil proceedings apply at a hearing held pursuant to subsection 1.

3. Within 60 days after the conclusion of a hearing on a formal statement of charges, the Commission shall prepare and adopt written findings of fact and conclusions of law that:

(a) Dismiss all or part of the charges, if the Commission determines that the grounds for discipline have not been proven by clear and convincing evidence; or

(b) Impose such disciplinary actions on the judge as deemed appropriate by the Commission ~~[.]~~***, if the Commission determines that the grounds for discipline have been proven by clear and convincing evidence.***

Sec. 29. NRS 1.4675 is hereby amended to read as follows:

1.4675 1. The Commission shall suspend a ~~[justice or]~~ judge from the exercise of office with salary:

(a) While there is pending an indictment or information charging the ~~[~~justice or~~]~~ judge with a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States; or

(b) When the ~~[~~justice or~~]~~ judge has been adjudged mentally incompetent or insane.

2. The Commission may suspend a ~~[~~justice or~~]~~ judge from the exercise of office without salary if the ~~[~~justice or~~]~~ judge:

(a) Pleads guilty, guilty but mentally ill or no contest to a charge of; or

(b) Is found guilty or guilty but mentally ill of,

➥ a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States. If the conviction is later reversed, the ~~[~~justice or~~]~~ judge must be paid his salary for the period of suspension.

3. ***In addition to the grounds set forth in subsection 2, the Commission may suspend a judge from the exercise of office without salary if the Commission determines that the judge:***

(a) Has committed serious and repeated willful misconduct;

(b) Has willfully or persistently failed to perform the duties of his office; or

(c) Is habitually intemperate,

➥ and the Commission determines that the circumstances surrounding such conduct, including, without limitation, any mitigating factors, merit disciplinary action more severe than censure but less severe than removal.

4. ~~[~~The~~]~~ ***During any stage of a disciplinary proceeding, the*** Commission may suspend ~~[~~a justice or~~]~~ ***the*** judge from the exercise of office with salary ***pending a final disposition of the complaint*** if the Commission determines, ~~[~~pending a final determination in a judicial disciplinary proceeding,~~]~~ ***by a preponderance of the evidence,*** that the ~~[~~justice or~~]~~ judge poses a substantial threat of serious harm to the public or to the administration of justice.

~~[~~4.~~]~~ ***5. The Commission shall give the judge 7 days' notice of its intention to suspend the judge pursuant to this section and shall give the judge an opportunity to respond. The Commission shall hold a public hearing before ordering such a suspension, unless the judge waives his right to the hearing. The decision of the Commission must be made public.***

6. A ~~[~~justice or~~]~~ judge suspended pursuant to this section may appeal the suspension to the Supreme Court ***.*** ~~[~~for reconsideration of the order.

~~5.~~] ***If a judge appeals such a suspension:***

(a) The standard of review for such an appeal is an abuse of discretion standard; and

(b) The proceedings held at the Supreme Court concerning the suspension must be open to the public.

7. Within 60 days after a decision by the Commission to suspend a judge pursuant to this section, the Commission shall:

(a) Have a formal statement of charges filed against the judge;

(b) Rescind the suspension; or

(c) Enter into a deferred discipline agreement with the judge pursuant to NRS 1.468.

8. The Commission may suspend a ~~[justice or]~~ judge pursuant to this section only in accordance with its procedural rules.

Sec. 30. NRS 1.4677 is hereby amended to read as follows:

1.4677 ~~[In addition to or in lieu of removal or censure, the Commission may impose other forms of discipline on a justice or judge whom the Commission determines to have committed an act or engaged in a behavior in violation of subsection 1 or 2 of NRS 1.4653, including, but not limited to, requiring the justice or judge to:]~~

1. ***Pursuant to a deferred discipline agreement with the judge entered into pursuant to NRS 1.468 or based on a finding of misconduct following a hearing on a formal statement of charges, the Commission may take one or more of the following actions:***

(a) Publicly admonish, publicly reprimand or publicly censure a judge.

(b) ~~[Pay]~~ ***Impose*** a fine ~~[.~~

~~2. Serve a term of suspension]~~ ***upon the judge.***

(c) Suspend the judge from office ~~[.~~

~~3.]~~ ***without pay.***

(d) Require the judge to:

(1) Complete a probationary period pursuant to conditions deemed appropriate by the Commission.

~~[4.]~~ ***(2)*** Attend training or educational courses.

~~[5.]~~ ***(3)*** Follow a remedial course of action.

~~[6.]~~ ***(4)*** Issue a public apology.

~~[7.]~~ ***(5)*** Comply with conditions or limitations on his future conduct.

~~[8.]~~ ***(6)*** Seek medical, psychiatric or psychological care or counseling and direct the provider of health care or counselor to report to the Commission regarding the condition or progress of the ~~[justice or]~~ judge.

~~[9. Agree not to seek]~~

(e) Bar the judge from serving in a judicial office in the future.

~~[10. Perform any combination of the actions set forth in this section.]~~

(f) Impose any other reasonable disciplinary action or combination of disciplinary actions that the Commission determines will curtail or remedy the misconduct of the judge.

2. The Commission may publicly admonish a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate and for which there are no aggravating factors.

3. The Commission may publicly reprimand a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is:

(a) Not knowing or deliberate but for which there are aggravating factors; or

(b) Knowing or deliberate but for which there are mitigating factors.

Sec. 31. NRS 1.468 is hereby amended to read as follows:

1.468 1. Except as otherwise provided in subsections 2 and 3, if the Commission reasonably believes that a ~~[justice or]~~ judge has committed an act or engaged in a behavior that would be addressed most appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into an agreement with the ~~[justice or]~~ judge to defer formal disciplinary proceedings and require the ~~[justice or]~~ judge to undergo the rehabilitation, treatment, education or minor corrective action.

2. The Commission may not enter into an agreement with a ~~[justice or]~~ judge to defer formal disciplinary proceedings if the Commission has determined, pursuant to NRS 1.467, that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the ~~[justice or]~~ judge pursuant to NRS 1.4653.

3. The Commission may enter into an agreement with a ~~[justice or]~~ judge to defer formal disciplinary proceedings only in response to misconduct that is minor in nature.

4. A deferred discipline agreement entered into pursuant to this section must be in writing and must specify the conduct that resulted in the agreement. A judge who enters into such an agreement must agree:

(a) To the specified rehabilitation, treatment, education or minor corrective action;

(b) To waive his right to a hearing before the Commission; and

(c) That the agreement will not be protected by confidentiality for the purpose of any subsequent disciplinary proceedings against the judge,

➥ and the agreement must indicate that the judge agreed to the terms set forth in paragraphs (a), (b) and (c). Such an agreement must expressly authorize the Commission to revoke the agreement and proceed with any other disposition of the complaint or formal statement of charges authorized by NRS 1.467 if the Commission finds that the judge has failed to comply with a condition of the agreement.

5. The Executive Director of the Commission shall monitor the compliance of the judge with the agreement. The Commission may require the judge to document his compliance with the agreement. The Commission shall give the judge written notice of any alleged failure to comply with any condition of the agreement and shall allow the judge not less than 15 days to respond.

6. If the judge complies in a satisfactory manner with the conditions imposed in the agreement, the Commission may dismiss the complaint or take any other appropriate action.

Sec. 32. NRS 1.4683 is hereby amended to read as follows:

1.4683 1. Except as otherwise provided in this section and NRS ~~[1.4693]~~ ***1.4675*** and 239.0115, all proceedings of the Commission must remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the ~~[prosecuting attorney]~~ ***special counsel*** files a formal statement of charges.

2. ***Except as otherwise provided in this section, before the filing of a formal statement of charges, a present or former member of the Commission, a present or former member of the staff of the Commission or a present or former independent contractor retained by the Commission shall not disclose information contained in a complaint or any other information relating to the allegations of misconduct or incapacity. Such persons:***

(a) May disclose such information to persons directly involved in the matter to the extent necessary for a proper investigation and disposition of the complaint; and

(b) Shall conduct themselves in a manner that maintains the confidentiality of the disciplinary proceeding.

3. Nothing in this section prohibits a person who files a complaint with the Commission pursuant to NRS 1.4655, a judge against whom such a complaint is made or a witness from disclosing at any time the existence or substance of a complaint, investigation or proceeding. The immunity provided by NRS 1.465 does not apply to such a disclosure.

4. The confidentiality required pursuant to subsection 1 also applies to all information and materials, written or oral, received or developed by the Commission ***,*** ~~[or]~~ its staff ***or any independent contractors retained by the Commission*** in the course of its work and relating to the alleged misconduct or incapacity of a judge.

~~[3.]~~ ***5.*** The Commission shall disclose:

(a) The report of a proceeding before the Commission; and

(b) All testimony given and all materials filed in connection with such a proceeding,

➥ if a witness is prosecuted for perjury committed during the course of that proceeding.

~~[4. If the Commission determines at any stage in a disciplinary proceeding that there is an insufficient factual or legal basis to proceed, the Commission shall dismiss the complaint and may, at the request of the justice or judge named in the complaint, publicly issue an explanatory statement.~~

~~5. The Commission may issue press releases and other public statements to:~~

~~(a) Explain the nature of its jurisdiction;~~

~~(b) Explain the procedure for filing a complaint;~~

~~(c) Explain limitations upon its powers and authority; and~~

~~(d) Report on the conduct of its affairs.~~

~~➥ Such releases and statements must not, without the consent of the justice or judge concerned, disclose by name, position, address or other information~~

~~the identity of a justice or judge or other person involved in a proceeding then pending before the Commission or that has been resolved without an order of censure, removal or retirement, unless formal charges have been filed after a determination pursuant to NRS 1.467.~~]

6. ***Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if the judge, a third person or the person who filed a complaint with the Commission pursuant to NRS 1.4655 has made the name of the judge against whom such a complaint is made public, the Commission may, at the request of the judge or on its own accord, issue an explanatory statement to maintain confidence in the judicial system and the Commission. In such a statement, the Commission may:***

(a) Confirm or deny that a complaint has been filed;

(b) Confirm or deny that the Commission is conducting an investigation;

(c) Confirm that the Commission has dismissed a complaint with or without a letter of caution; and

(d) Confirm that the Commission has entered into a deferred discipline agreement with the judge.

7. In addition to the information authorized pursuant to subsection 6, a statement issued by the Commission pursuant to subsection 6 may correct any public misinformation concerning the disciplinary proceeding, clarify the procedures of the Commission relating to the disciplinary proceeding and explain that the judge has a right to a fair investigation and, if applicable, a fair hearing without prejudgment. The Commission shall submit such a statement to the judge concerned for comments before the Commission releases the statement. The Commission is not required to incorporate any comments made by the judge in the statement and may release the statement as originally drafted.

8. The Commission may, without disclosing the name of or any details that may identify the ~~[~~justice or~~]~~ judge involved, disclose the existence of a proceeding before it to the State Board of Examiners and the Interim Finance Committee to obtain additional money for its operation from the Contingency Fund established pursuant to NRS 353.266.

~~[~~7.~~]~~ ***9.*** No record of any medical examination, psychiatric evaluation or other comparable professional record made for use in an informal resolution pursuant to subsection ~~[~~1~~]~~ ***4*** of NRS 1.4665 may be made public at any time without the consent of the ~~[~~justice or~~]~~ judge concerned.

10. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, the Commission may release confidential information:

(a) To the appropriate law enforcement or prosecuting authorities if the Commission determines that it has reliable information which reveals possible criminal conduct by a judge, former judge or any other person;

(b) Upon request to the Board of Governors of the State Bar of Nevada or other appropriate disciplinary authorities of the State Bar of Nevada if the Commission determines that it has reliable information that reveals a possible violation of the Rules of Professional Conduct by a judge, former judge or any other attorney; or

(c) Pursuant to an order issued by a court of record of competent jurisdiction in this State or a federal court of record of competent jurisdiction.

11. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if a judge or former judge signs a waiver, the Commission may release confidential information concerning any complaints filed with the Commission pursuant to NRS 1.4655 that are pending or are closed and did not result in a dismissal to:

(a) An agency authorized to investigate the qualifications of persons for admission to practice law;

(b) An appointing or nominating authority or a state or federal agency lawfully conducting investigations relating to the selection or appointment of judges; or

(c) An agency conducting investigations relating to employment with a governmental agency or other employment.

12. If the Commission discloses information concerning a pending complaint to an agency or authority pursuant to subsection 11, the Commission shall subsequently disclose the disposition of the complaint to the agency or authority. The Commission shall send a copy of all information disclosed pursuant to subsection 11 to the judge concerned at the same time the Commission sends the information to the agency or authority.

Sec. 33. NRS 1.4687 is hereby amended to read as follows:

1.4687 ~~[Upon]~~

1. Except as otherwise provided in subsection 2:

(a) Upon the filing of a formal statement of charges with the Commission by the ~~[prosecuting attorney,]~~ ***special counsel,*** the statement and other documents later formally filed with the Commission must be made accessible to the public, and hearings must be open.

(b) If a formal statement of charges has not been filed with the Commission and the Commission holds a hearing to suspend a judge pursuant to NRS 1.4675, any transcript of the hearing and any documents offered as evidence at the hearing must be made accessible to the public.

2. Regardless of whether any formal statement of charges has been filed with the Commission, medical records and any other documents or exhibits offered as evidence which are privileged pursuant to chapter 49 of NRS must not be made accessible to the public.

3. The Commission's deliberative sessions must remain private.

4. The filing of ~~[the]~~ ***a*** formal statement of charges does not justify the Commission, its counsel ***,*** ~~[or]~~ staff ***or independent contractors retained by***

the Commission in making public any correspondence, notes, work papers, interview reports or other evidentiary matter, except at the formal hearing or with explicit consent of the ~~[justice or]~~ judge named in the complaint.

Sec. 34. NRS 1.429, 1.4685 and 1.4693 are hereby repealed.

Sec. 35. 1. The amendatory provisions of this act apply only to:

(a) A complaint filed with the Commission on Judicial Discipline on or after January 1, 2010; and

(b) Any formal statement of charges filed with the Commission on or after January 1, 2010, as a result of a complaint described in paragraph (a).

2. As used in this section:

(a) "Complaint" has the meaning ascribed to it in section 3 of this act.

(b) "Formal statement of charges" has the meaning ascribed to it in section 4 of this act.

Sec. 36. This act becomes effective on January 1, 2010.

TEXT OF REPEALED SECTIONS

1.429 "Justice" defined. "Justice" means a justice of the Supreme Court of the State of Nevada.

1.4685 Breach of confidentiality punishable as contempt. Except as otherwise provided in NRS 1.4693, any person who breaches the confidentiality of disciplinary proceedings of the Commission is punishable for contempt.

1.4693 Authorized disclosures by person who files complaint and person who gives testimony. Notwithstanding the provisions of NRS 1.4683 to 1.469, inclusive:

1. A person who files a complaint with the Commission may:

(a) At any time, reveal to a third party the alleged conduct of a justice or judge underlying the complaint that he filed with the Commission or the substance of testimony that he gave before the Commission.

(b) After the Commission makes a determination pursuant to NRS 1.467, regardless of whether the determination results in the filing of formal charges, reveal to a third party the fact that he filed a complaint with the Commission.

2. A person who gives testimony before the Commission may:

(a) At any time, reveal to a third party the substance of testimony that he gave before the Commission.

(b) After the Commission makes a determination pursuant to NRS 1.467, regardless of whether the determination results in the filing of formal charges, reveal to a third party the fact that he gave testimony before the Commission.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 496.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 500.

The following Senate amendment was read:

Amendment No. 752.

AN ACT relating to domestic relations; revising provisions relating to adoptions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person may consent to the adoption of his child, and the child will be relinquished either to an agency or to the person to whom consent to adopt is given, if the adoption is a specific adoption. (NRS 127.040, 127.053) **Section 2** of this bill provides that, in a specific adoption, the person to whom consent is given assumes legal custody and legal responsibility for the child as soon as consent for the adoption is executed.

Section 11 of this bill ~~[revises an exemption from criminal or civil liability for certain advertising mediums which accept advertisements]~~ **requires a child-placing agency licensed by the Division of Child and Family Services of the Department of Health and Human Services to include certain information confirming its licensure in any advertisement** concerning **its** ~~[services related to adoptions from persons or agencies that are not licensed to provide such]~~ services. (NRS 127.310)

Section 14 of this bill provides that certain sections of this bill may apply retroactively and prospectively to petitions for adoption.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

A person to whom consent to adopt a child is given for a specific adoption pursuant to NRS 127.053 has, at the time the consent is executed, legal custody over the child and is legally responsible for the child until a court holds a hearing to enter an order or decree of adoption or to deny the petition pursuant to the laws of this State or another state.

Sec. 3. NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.1895, inclusive, ***and section 2 of this act*** govern the adoption of minor children, and the provisions of NRS 127.190, 127.200 and 127.210 and the provisions of NRS 127.010 to 127.1895, inclusive, ***and section 2 of this act,*** where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 127.310 is hereby amended to read as follows:

127.310 1. Except as otherwise provided in NRS 127.240, 127.283 and 127.285, any person or organization other than an agency which provides child welfare services who, without holding a valid **,** unrevoked license to place children for adoption issued by the Division:

(a) Places, arranges the placement of, or assists in placing or in arranging the placement of, any child for adoption or permanent free care; or

(b) Advertises in any periodical or newspaper, or by radio or other public medium, that he will place children for adoption, or accept, supply, provide or obtain children for adoption, or causes any advertisement to be published in or by any public medium soliciting, requesting or asking for any child or children for adoption,

➥ is guilty of a misdemeanor.

2. Any person who places, accepts placement of, or aids, abets or counsels the placement of any child in violation of NRS 127.280, 127.2805 and 127.2815 is guilty of a misdemeanor.

3. A periodical, newspaper, radio station or other public medium is not subject to any criminal penalty or civil liability for publishing or broadcasting an advertisement that violates the provisions of this section **.** ~~*[unless the periodical, newspaper, radio station or other public medium knew that the advertisement violated the provisions of this section.]*~~

4. A child-placing agency shall include in any advertisement concerning its services published in any periodical or newspaper or by radio or other public medium a statement which:

(a) Confirms that the child-placing agency holds a valid, unrevoked license issued by the Division; and

(b) Indicates any license number issued to the child-placing agency by the Division.

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. The amendatory provisions of sections 2 and 3 of this act apply to a petition for adoption that is filed pursuant to chapter 127 of NRS before, on or after October 1, 2009.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 500.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 471.

The following Senate amendment was read:

Amendment No. 728.

AN ACT relating to real property; providing that a deficiency in payment on a mortgage, deed of trust or other encumbrance may be cured under certain circumstances before foreclosure; providing that a court shall not award a deficiency judgment on the foreclosure of a mortgage or a deed of trust under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides a right to cure a deficiency in payment on a mortgage or other encumbrance before a judicial foreclosure sale at any time not later than 5 days before the date of sale.

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. (NRS 40.455) **Section 2** of this bill provides that **if the judgment creditor or the beneficiary of the deed of trust is a financial institution,** a court may not award a deficiency judgment to ~~[a]~~ **the** judgment creditor or ~~[a]~~ **the** beneficiary of ~~[a]~~ **the** deed of trust if: (1) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (2) the debtor or grantor used the loan to purchase the property; (3) the debtor or grantor occupied the property continuously after obtaining the loan; and (4) the debtor or grantor did not refinance the loan.

Section 3 of this bill provides that the amendatory provisions of this bill apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 40.430 is hereby amended to read as follows:

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. ***At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the***

recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

~~[4.]~~ ***5.*** As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

Sec. 2. NRS 40.455 is hereby amended to read as follows:

40.455 1. ~~[~~Upon~~]~~ ***Except as otherwise provided in subsection 3, upon*** application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale or trustee's sale of the last parcel or other interest in the real property securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.

3. ~~[The]~~ If the judgment creditor or the beneficiary of the deed of trust is a financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as his principal residence after securing the mortgage or deed of trust; and

(d) The debtor or grantor did not refinance the mortgage or deed of trust after securing it.

4. As used in this section, "financial institution" has the meaning ascribed to it in NRS 363A.050.

Sec. 3. The amendatory provisions of this act apply only to an obligation secured by a mortgage, deed of trust or other encumbrance upon real property on or after October 1, 2009.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 471.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 325.

The following Senate amendment was read:

Amendment No. 692.

AN ACT relating to sex offenders; prohibiting persons who are convicted of certain sexual offenses from having contact with a victim or witness; **revising provisions relating to the confidentiality of records and reports that reveal identity in cases involving certain offenses;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a person is convicted of certain sexual offenses and the court grants probation or suspends the sentence of the defendant, or if such a person is released on parole, that person must not have any contact with the victim or a witness who testified against him unless approved by a parole and probation officer. (NRS 176A.410, 213.1245) **Sections 1 and 2.5** of this bill provide that such a person may not have any such contact unless approved in writing by the Chief Parole and Probation Officer or his designee. **Section 2** of this bill similarly prohibits a sex offender under lifetime supervision from having any contact with a victim or a witness who testified against him unless approved in writing by the Chief. (NRS 213.1243)

Sections 1.1-1.5 of this bill expand the prohibition on the public disclosure of the identity of a victim of a sexual assault to include a victim of statutory sexual seduction or sexual conduct involving a pupil or student.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 6, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime.

(b) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the defendant.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The defendant keeps the parole and probation officer assigned to the defendant informed of his current address.

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant.

(e) Participate in and complete a program of professional counseling approved by the Division.

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance.

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant.

(h) Abstain from consuming, possessing or having under his control any alcohol.

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the ~~[parole and probation officer assigned to the defendant,]~~ ***Chief Parole and Probation Officer or his designee*** and a written agreement is entered into and signed in the manner set forth in subsection 5.

(j) Not use aliases or fictitious names.

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant.

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact.

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a defendant who is a Tier III offender.

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant.

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant.

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant.

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. Except as otherwise provided in subsection 6, if a defendant is convicted of an offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the defendant is a Tier III offender and the court grants probation or suspends the sentence of the defendant, the court shall, in addition to any other condition ordered pursuant to subsection 1, order as a condition of probation or suspension of sentence that the defendant:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

3. A defendant placed under the system of active electronic monitoring pursuant to subsection 2 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

4. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a defendant pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

5. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The defendant;

(c) The parole and probation officer assigned to the defendant;

(d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; ~~[and]~~

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child ~~[.]~~ ***; and***

(f) The Chief Parole and Probation Officer or his designee.

6. The court is not required to impose a condition of probation or suspension of sentence listed in subsections 1 and 2 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

7. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 1.1. **NRS 200.364 is hereby amended to read as follows:**

200.364 As used in NRS 200.364 to 200.3774, inclusive, unless the context otherwise requires:

1. ***"Offense involving a pupil" means any of the following offenses:***

(a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

2. "Perpetrator" means a person who commits a sexual ~~[assault.]~~ ***offense or an offense involving a pupil.***

~~[2.]~~ ***3. "Sexual offense" means any of the following offenses:***

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

4. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or

inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning.

~~[3.]~~ ***5.*** "Statutory sexual seduction" means:

(a) Ordinary sexual intercourse, anal intercourse, cunnilingus or fellatio committed by a person 18 years of age or older with a person under the age of 16 years; or

(b) Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.

~~[4.]~~ ***6.*** "Victim" means a person who is ~~[subjected to]~~ a ***victim of a*** sexual ~~[assault.]~~ ***offense or an offense involving a pupil.***

Sec. 1.2. **NRS 200.377 is hereby amended to read as follows:**

200.377 The Legislature finds and declares that:

1. This State has a compelling interest in assuring that the victim of a sexual ~~[assault:]~~ ***offense or an offense involving a pupil:***

(a) Reports the ~~[assault]~~ ***sexual offense or offense involving a pupil*** to the appropriate authorities;

(b) Cooperates in the investigation and prosecution of the ~~[assault;]~~ ***sexual offense or offense involving a pupil;*** and

(c) Testifies at the criminal trial of the person charged with committing the ~~[assault.]~~ ***sexual offense or offense involving a pupil.***

2. The fear of public identification and invasion of privacy are fundamental concerns for the victims of sexual ~~[assault.]~~ ***offenses or offenses involving a pupil.*** If these concerns are not addressed and the victims are left unprotected, the victims may refrain from reporting and prosecuting sexual ~~[assaults.]~~ ***offenses or offenses involving a pupil.***

3. A victim of a sexual ~~[assault]~~ ***offense or an offense involving a pupil*** may be harassed, intimidated and psychologically harmed by a public report that identifies the victim. A sexual ~~[assault]~~ ***offense or an offense involving a pupil*** is, in many ways, a unique, distinctive and intrusive personal trauma. The consequences of identification are often additional psychological trauma and the public disclosure of private personal experiences.

4. Recent public criminal trials have focused attention on these issues and have dramatized the need for basic protections for the victims of sexual ~~[assault.]~~ ***offenses or offenses involving a pupil.***

5. The public has no overriding need to know the individual identity of the victim of a sexual ~~[assault.]~~ ***offense or an offense involving a pupil.***

6. The purpose of NRS 200.3771 to 200.3774, inclusive, is to protect the victims of sexual ~~[assault]~~ ***offenses and offenses involving a pupil*** from harassment, intimidation, psychological trauma and the unwarranted invasion of their privacy by prohibiting the disclosure of their identities to the public.

Sec. 1.3. **NRS 200.3771 is hereby amended to read as follows:**

200.3771 1. Except as otherwise provided in this section, any information which is contained in:

(a) Court records, including testimony from witnesses;

(b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;

(c) Records of criminal history, as that term is defined in NRS 179A.070; and

(d) Records in the Central Repository for Nevada Records of Criminal History,

➥ that reveals the identity of a victim of ***a*** sexual ~~[assault]~~ ***offense or an offense involving a pupil*** is confidential, including but not limited to the victim's photograph, likeness, name, address or telephone number.

2. A defendant charged with a sexual ~~[assault]~~ ***offense or an offense involving a pupil*** and his attorney are entitled to all identifying information concerning the victim in order to prepare the defense of the defendant. The defendant and his attorney shall not disclose this information except, as necessary, to those persons directly involved in the preparation of the defense.

3. A court of competent jurisdiction may authorize the release of the identifying information, upon application, if the court determines that:

(a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the disclosure;

(b) The disclosure will not place the victim at risk of personal harm; and

(c) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

4. Nothing in this section prohibits:

(a) Any publication or broadcast by the media concerning a sexual ~~[assault.]~~ ***offense or an offense involving a pupil.***

(b) The disclosure of identifying information to any nonprofit organization or public agency whose purpose is to provide counseling, services for the management of crises or other assistance to the victims of crimes if:

(1) The organization or agency needs identifying information of victims to offer such services; and

(2) The court or a law enforcement agency approves the organization or agency for the receipt of the identifying information.

5. The willful violation of any provision of this section or the willful neglect or refusal to obey any court order made pursuant thereto is punishable as criminal contempt.

Sec. 1.4. **NRS 200.3772 is hereby amended to read as follows:**

200.3772 1. A victim of a sexual ~~[assault]~~ ***offense or an offense involving a pupil*** may choose a pseudonym to be used instead of the victim's name on all files, records and documents pertaining to the sexual ~~[assault,]~~ ***offense or offense involving a pupil,*** including, without limitation, criminal intelligence and investigative reports, court records and media releases.

2. A victim who chooses to use a pseudonym shall file a form to choose a pseudonym with the law enforcement agency investigating the ***sexual***

offense ~~[.]~~ ***or offense involving a pupil.*** The form must be provided by the law enforcement agency.

3. If the victim files a form to use a pseudonym, as soon as practicable the law enforcement agency shall make a good faith effort to:

(a) Substitute the pseudonym for the name of the victim on all reports, files and records in the agency's possession; and

(b) Notify the prosecuting attorney of the pseudonym.

➥ The law enforcement agency shall maintain the form in a manner that protects the confidentiality of the information contained therein.

4. Upon notification that a victim has elected to be designated by a pseudonym, the court shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the sexual ~~[assault.]~~ ***offense or offense involving a pupil.***

5. The information contained on the form to choose a pseudonym concerning the actual identity of the victim is confidential and must not be disclosed to any person other than the defendant or his attorney unless a court of competent jurisdiction orders the disclosure of the information. The disclosure of information to a defendant or his attorney is subject to the conditions and restrictions specified in subsection 2 of NRS 200.3771. A person who violates this subsection is guilty of a misdemeanor.

6. A court of competent jurisdiction may order the disclosure of the information contained on the form only if it finds that the information is essential in the trial of the defendant accused of the sexual ~~[assault]~~ ***offense or offense involving a pupil*** or the identity of the victim is at issue.

7. A law enforcement agency that complies with the requirements of this section is immune from civil liability for unknowingly or unintentionally:

(a) Disclosing any information contained on the form filed by a victim ~~[of sexual assault]~~ pursuant to this section that reveals the identity of the victim; or

(b) Failing to substitute the pseudonym of the victim for the name of the victim on all reports, files and records in the agency's possession.

Sec. 1.5. **NRS 200.3773 is hereby amended to read as follows:**

200.3773 1. A public officer or employee who has access to any records, files or other documents which include the photograph, likeness, name, address, telephone number or other fact or information that reveals the identity of a victim of a sexual ~~[assault]~~ ***offense or an offense involving a pupil*** shall not intentionally or knowingly disclose the identifying information to any person other than:

(a) The defendant or his attorney;

(b) A person who is directly involved in the investigation, prosecution or defense of the case;

(c) A person specifically named in a court order issued pursuant to NRS 200.3771; or

(d) A nonprofit organization or public agency approved to receive the information pursuant to NRS 200.3771.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 1.6. **NRS 200.3774 is hereby amended to read as follows:**

200.3774 The provisions of NRS 200.3771, 200.3772 and 200.3773 do not apply if the victim of the sexual ~~[assault]~~ ***offense or offense involving a pupil*** voluntarily waives, in writing, the confidentiality of the information concerning the victim's identity.

Sec. 2. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:

(a) The residence has been approved by the parole and probation officer assigned to the person.

(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(c) The person keeps the parole and probation officer informed of his current address.

4. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this subsection apply only to a sex offender who is a Tier 3 offender.

5. Except as otherwise provided in subsection 9, if a sex offender is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the sex offender is a Tier 3 offender and the

sex offender is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the sex offender:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

6. A sex offender placed under the system of active electronic monitoring pursuant to subsection 4 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

7. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a sex offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

8. Except as otherwise provided in subsection 7, a sex offender who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

9. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsections 3, 4 and 5 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

10. ***The Board shall require as a condition of lifetime supervision that the sex offender not have contact or communicate with a victim of the sexual offense or a witness who testified against the sex offender or solicit another person to engage in such contact or communication on behalf of***

the sex offender, unless approved by the Chief or his designee and a written agreement is entered into and signed.

11. If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.

~~[11.]~~ ***12.*** For the purposes of prosecution of a violation by a sex offender of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

Sec. 2.5. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.097, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the parolee.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The parolee keeps the parole and probation officer informed of his current address.

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee.

(d) Participate in and complete a program of professional counseling approved by the Division.

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance.

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee.

(g) Abstain from consuming, possessing or having under his control any alcohol.

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved

by the ~~[parole and probation officer assigned to the parolee,]~~ ***Chief or his designee*** and a written agreement is entered into and signed in the manner set forth in subsection 2.

(i) Not use aliases or fictitious names.

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee.

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.097 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact.

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a parolee who is a Tier 3 offender.

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee.

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee.

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee.

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The parolee;

(c) The parole and probation officer assigned to the parolee;

(d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; ~~[and]~~

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child ~~[.]~~ ***; and***

(f) The Chief or his designee.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 3. (Deleted by amendment.)

Sec. 4. The amendatory provisions of this act apply to a person who is convicted on or after October 1, 2009.

Assemblyman Horne moved that the Assembly concur in the Senate amendment to Assembly Bill No. 325.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 15.

The following Senate amendment was read:

Amendment No. 774.

AN ACT relating to animals; requiring notice of any sterilization requirements for dogs and cats required by local ordinance to be posted in a public park and the office of each licensed veterinarian; requiring a retailer or dealer who sells a dog or cat to disclose to the purchaser any sterilization requirements for the animal required by local ordinance; ~~[providing that any local ordinance that requires the sterilization of dogs may not be enforced with respect to certain dogs;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the sterilization of pets that are released by various releasing agencies, including societies to prevent cruelty to animals, animal shelters, nonprofit entities that provide temporary shelter for pets and organizations that take into custody pets which have been abandoned, abused or neglected. (NRS 574.600-574.660) **Section 1** of this bill requires each licensed veterinarian to post in his office written notice of any sterilization requirements for dogs or cats required by local ordinance. **Section 1** further requires a governmental entity with jurisdiction over a public park to post written notice in the park of any sterilization requirements for the animals required by local ordinance. **Sections 2 and 3** of this bill require a retailer or dealer who sells a dog or cat to disclose to the purchaser **the name and address of the breeder of the dog or cat and** any sterilization requirements for the animal required by local ordinance. (NRS 574.460, 574.470) A retailer or dealer who fails to comply with the disclosure requirements is subject to an administrative fine imposed by the Director of the State

Department of Agriculture in an amount not to exceed $250 for the first violation, $500 for the second violation and $1,000 for each subsequent violation. (NRS 574.485) ~~[Section 3 also provides that any local ordinance which requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily for hunting, purposes relating to farming or agriculture, breeding or drawing heavy loads, or as a service animal or service animal in training.]~~

Section 4 of this bill provides that a retailer, dealer or operator must not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensed veterinarian shall post written notice in a conspicuous place in his office of any sterilization requirements for dogs or cats required by local ordinance.

2. A governmental entity with jurisdiction over a public park in which dogs or cats are allowed shall post written notice in a conspicuous place in the park of any sterilization requirements for dogs or cats required by local ordinance.

3. As used in this section, "licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

Sec. 2. NRS 574.460 is hereby amended to read as follows:

574.460 1. A retailer or dealer shall, before selling a cat, provide the purchaser of the cat with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the cat was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the cat and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the cat ~~[, if any,]~~ and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the cat's sire and dam with the appropriate breed registry or any health certifications from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the cat before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the cat required by local ordinance.***

(h) The medical history of the cat, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and determined that the cat did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the cat is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) ***The date on which the veterinarian sterilized the cat, if applicable.***

(4) The name and address of the veterinarian who performed the examinations ***,*** ~~[or]~~ reexaminations ***or sterilization*** or administered any treatments or medications.

~~[(h)]~~ ***(i)*** That a copy of the veterinarian's evaluation of the health of the cat made pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as an attestation that he has read and understands the disclosures contained in the statement.

Sec. 3. NRS 574.470 is hereby amended to read as follows:

574.470 1. A retailer or dealer shall, before selling a dog, provide the purchaser of the dog with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the dog was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the dog and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the dog ~~[, if any,]~~ and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the dog's sire and dam with the appropriate breed registry or any health certificates from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the dog before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the dog required by local ordinance.***

(h) The medical history of the dog, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and determined that the dog did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the dog is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and, if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) ***The date on which the veterinarian sterilized the dog, if applicable.***

(4) The name and address of the veterinarian who performed the examinations ***,*** ~~[or]~~ reexaminations ***or sterilization*** or administered any treatments or medications.

~~[(h)]~~ ***(i)*** That a copy of the veterinarian's evaluation of the health of the dog performed pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as an attestation that he has read and understands the disclosures contained in the statement.

~~*[3. Any local ordinance that requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily:*~~

~~*(a) For hunting;*~~

~~*(b) For purposes relating to farming or agriculture;*~~

~~*(c) For breeding;*~~

~~*(d) For drawing heavy loads; or*~~

~~*(e) As a service animal or a service animal in training, as those terms are defined in NRS 426.097 and 426.099, respectively.]*~~

Sec. 4. NRS 574.500 is hereby amended to read as follows:

574.500 A retailer, dealer or operator shall not separate a dog or cat from its mother until it is ***8 weeks of age or*** accustomed to taking food or nourishment other than by nursing ~~[.]~~ ***, whichever is later.***

Assemblyman Claborn moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 15.

Remarks by Assemblyman Claborn.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:13 p.m.

ASSEMBLY IN SESSION

At 2:21 p.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Claborn withdrew the motion that the Assembly do not concur with Senate Amendment No. 774 to Assembly Bill No. 15.

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

May 21, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 47.

MARK STEVENS
Fiscal Analysis Division

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 458.

The following Senate amendment was read:

Amendment No. 883.

AN ACT relating to public financial administration; creating the K-12 Public Education Stabilization Account; reallocating money reverted from the State Distributive School Account; revising the provisions governing certain tax abatements and credits available for economic development; reallocating a portion of the property taxes levied on property in a redevelopment area; revising the provisions requiring certain redevelopment agencies to set aside revenue for low-income housing; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the K-12 Public Education Stabilization Account within the Fund to Stabilize the Operation of the State Government and requires the State Controller to deposit any money reverted from the State Distributive School Account at the close of each odd-numbered fiscal year into that Account and into the Account for Programs for Innovation and the Prevention of Remediation. (Chapter 353 of NRS) **Section 5** of this bill authorizes the Superintendent of Public Instruction to request from the Legislature, if the Legislature is in session, an allocation from the K-12 Public Education Stabilization Account if a shortfall exists in the State Distributive School Account. If the Legislature is not in session, **section 6** of this bill authorizes the Superintendent to submit such a request to the Interim Finance Committee. **Section 4 of this bill provides that all available allocations must be made from the K-12 Public Education Stabilization Account to cover a shortfall in the State Distributive School Account before any allocation to cover the shortfall is made from the Fund to**

Stabilize the Operation of the State Government. Existing law authorizes the Chief of the Budget Division of the Department of Administration, with the approval of the Governor, to set aside reserves to meet emergencies arising during a fiscal year. (NRS 353.225) **Section 7** of this bill limits the amount that may be set aside as proposed reserves for the State Distributive School Account and certain other funds and accounts for education to the average that is reserved for all other departments, institutions and agencies. **Section 7** also requires the Chief to submit a request to the Legislature or, if the Legislature is not in session, to the Interim Finance Committee, to determine whether an allocation should be made from the K-12 Public Education Stabilization Account in lieu of setting aside a reserve in the State Distributive School Account and certain other funds and accounts for education.

Existing law authorizes the Commission on Economic Development to grant to certain businesses partial abatements of property taxes, business taxes and local sales and use taxes. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 363B.120, 374.357, 701A.210) **Sections 8-10, 13, 16-18, 26, 28, 29 and 31-33** of this bill exclude local school support taxes from such a partial abatement of local sales and use taxes. **Sections 16-18 and 29** also limit the duration and amount of such a partial abatement of property taxes. **Section 27** of this bill requires the Commission to adopt regulations for determining the duration and amount of those partial abatements, to establish sanctions for the failure of a business to comply with the eligibility requirements for those partial abatements and to require the annual submission of information to determine compliance with those eligibility requirements, and authorizes the Department of Taxation to impose those sanctions.

Existing law authorizes certain businesses located within a zone for economic development to obtain, pursuant to an agreement with the governing body of the municipality designating the zone for economic development, a credit against or refund of local sales and use taxes. (NRS 274.270, 374.643) **Sections 9-15 and 33** of this bill exclude local school support taxes from such a credit or refund.

Existing law authorizes the reallocation to a redevelopment agency of certain property taxes levied in a redevelopment area. (NRS 279.676) **Sections 19-23 and 36** of this bill require the deposit of a portion of the amount of those taxes that would otherwise be reallocated to a redevelopment agency for the next 2 fiscal years into the State Distributive School Account and for succeeding fiscal years into the K-12 Public Education Stabilization Account.

Under existing law, a redevelopment agency of a city whose population is 300,000 or more, as determined by the last decennial census (currently Las Vegas only), is required to set aside for low-income housing at least 18 percent of its tax revenue from a redevelopment area. (NRS 0.050, 279.685) **Section 24** of this bill reduces the minimum amount of that set-aside to 15

percent, and requires an agency of a city that attains a population of 300,000 or more in the future, as determined from the populations of cities as certified annually by the Governor, to set aside for low-income housing at least 3 percent of its tax revenue from a redevelopment area for the first fiscal year and to increase that minimum percentage each fiscal year until it reaches a minimum amount of 15 percent.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. ***1. The K-12 Public Education Stabilization Account is hereby created in the Fund to Stabilize the Operation of the State Government created by NRS 353.288.***

2. The State Controller shall, after the close of each odd-numbered fiscal year and before the issuance of the State Controller's annual report, transfer from the State General Fund:

(a) Fifty percent of any money which was reverted from the State Distributive School Account at the close of the previous fiscal year to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379. Money transferred pursuant to this paragraph to the Account for Programs for Innovation and the Prevention of Remediation is hereby appropriated as a continuing appropriation solely for the purpose of carrying out the provisions of NRS 385.3781 to 385.379, inclusive.

(b) Except as otherwise provided in subsection 3, fifty percent of any money which was reverted from the State Distributive School Account at the close of the previous fiscal year to the K-12 Public Education Stabilization Account. Money transferred pursuant to this paragraph to the Account is hereby appropriated as a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in sections 2 to 6, inclusive, of this act.

3. The balance in the K-12 Public Education Stabilization Account must not exceed 20 percent of the combined sum of:

(a) The total anticipated apportionments pursuant to NRS 387.124 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made;

(b) The total anticipated local revenue pursuant to NRS 387.1235 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made; and

(c) The amount established by the Legislature for the reduction of pupil-teacher ratios pursuant to NRS 388.700 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made.

4. The money in the K-12 Public Education Stabilization Account may only be allocated by the Legislature or, if the Legislature is not in session, the Interim Finance Committee, pursuant to sections 2 to 6, inclusive, of this act. Not more than 50 percent of the money in the Account may be so allocated in even-numbered fiscal years.

5. Except as otherwise provided in subsection 3, the interest and income earned on the sum of:

(a) The money in the K-12 Public Education Stabilization Account; and

(b) Unexpended appropriations made to the Account from the State General Fund,

➥ must be credited to the Account. If the amount of such credit would cause the Account to exceed the maximum allowed balance in the Account established pursuant to subsection 3, the amount of such excess credit must be deposited for credit to the Fund to Stabilize the Operation of the State Government or, if the amount of such excess credit would cause that Fund to exceed the maximum allowed balance in that Fund established pursuant to subsection 2 of NRS 353.288, the amount of such excess credit must be deposited for credit to the State General Fund.

6. The money in the K-12 Public Education Stabilization Account must not be used to replace or supplant money otherwise available from other sources for the operation of the K-12 public schools in this State.

7. The actual or projected balance of money in the K-12 Public Education Stabilization Account must not be included in the calculation of the basic support guarantee per pupil established for each school year pursuant to NRS 387.122 or the basic support guarantee for special education program units established pursuant to NRS 387.1221.

Sec. 4. 1. For purposes of sections 5 and 6 of this act, a shortfall exists in the State Distributive School Account if the projections of local revenue pursuant to NRS 387.1235 are at least 2 percent less than what was anticipated when the Legislature determined the amount of basic support for the biennium.

2. If a shortfall exists in the State Distributive School Account:

(a) An allocation to cover the shortfall must be made from the K-12 Public Education Stabilization Account in accordance with the provisions of section 5 or 6 of this act before any allocation to cover the shortfall is made from the Fund to Stabilize the Operation of the State Government; and

(b) No allocation to cover the shortfall may be made from the Fund to Stabilize the Operation of the State Government until all money which is available in the K-12 Public Education Stabilization Account for allocation to cover the shortfall has been so allocated.

Sec. 5. ***1. If there is a shortfall in the State Distributive School Account and the Legislature is in session, the Superintendent of Public Instruction may submit a request for an allocation from the K-12 Public***

Education Stabilization Account to the Director of the Legislative Counsel Bureau for transmission to the Legislature.

2. If the Legislature finds that an allocation should be made from the K-12 Public Education Stabilization Account, the Legislature shall by resolution establish the amount and purpose of the allocation and direct the State Controller to transfer that amount to the State Distributive School Account, giving first priority to the shortfall in the State Distributive School Account. The State Controller shall thereupon make the transfer.

Sec. 6. ***1. If there is a shortfall in the State Distributive School Account and the Legislature is not in session, the Superintendent of Public Instruction may submit a request to the State Board of Examiners for an allocation from the K-12 Public Education Stabilization Account by the Interim Finance Committee.***

2. The State Board of Examiners shall consider the request and may require additional information from the Superintendent of Public Instruction as the Board deems appropriate. If the State Board of Examiners finds that an allocation should be made, the Board shall recommend the amount of the allocation to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

3. If the Interim Finance Committee, after independent determination, finds that an allocation should and may lawfully be made from the K-12 Public Education Stabilization Account, the Committee shall by resolution establish the amount and purpose of the allocation, giving first priority to the shortfall in the State Distributive School Account, and direct the State Controller to transfer that amount to the State Distributive School Account.

Sec. 7. NRS 353.225 is hereby amended to read as follows:

353.225 1. ~~[In]~~ ***Subject to the requirements of subsections 2 and 3, in*** order to provide some degree of flexibility to meet emergencies arising during each fiscal year in the expenditures for the State Distributive School Account in the State General Fund and for operation and maintenance of the various departments, institutions and agencies of the Executive Department of the State Government, the Chief, with the approval in writing of the Governor, may require the State Controller or the head of each such department, institution or agency to set aside a reserve in such amount as the Chief may determine, out of the total amount appropriated or out of other funds available from any source whatever to the department, institution or agency.

2. ***If the Chief determines that a reserve pursuant to subsection 1 is required in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational***

programs for the school districts, charter schools and university schools for profoundly gifted pupils, the amount of any proposed reserves in each of those accounts and the Grant Fund, when combined and calculated as a percentage of the general fund appropriations in those accounts and the Grant Fund, must not exceed the average percentage of reserves for all other accounts and funds that include general fund appropriations for the operation of all departments, institutions and agencies of the State Government and authorized expenditures from the State General Fund for the regulation of gaming for that fiscal year.

3. Before setting aside any reserves in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational programs for the school districts, charter schools and university schools for profoundly gifted pupils, the Chief must make a request to the Legislature or, if the Legislature is not in session, to the Interim Finance Committee, to determine whether an allocation should be made from the K-12 Public Education Stabilization Account created by section 3 of this act in lieu of setting aside the reserve. If the Legislature or the Interim Finance Committee finds that an allocation should be made from the K-12 Public Education Stabilization Account in lieu of a reserve, the Legislature or the Interim Finance Committee shall by resolution establish the amount and the purpose of the allocation and direct the State Controller to transfer that amount to the State General Fund. If the Legislature or the Interim Finance Committee adopts such a resolution, only the difference between the proposed amount of reserves determined pursuant to subsection 2 and the allocation made by resolution pursuant to this subsection may be set aside as reserves in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational programs for the school districts, charter schools and university schools for profoundly gifted pupils.

4. At any time during the fiscal year this reserve or any portion of it may be returned to the appropriation or other fund to which it belongs and may be added to any one or more of the allotments, if the Chief so orders in writing.

Sec. 8. NRS 266.267 is hereby amended to read as follows:

266.267 1. A city council shall not enter into a lease of real property owned by the city for a term of 3 years or longer or enter into a contract for the sale of real property until after the property has been appraised pursuant to NRS 268.059. Except as otherwise provided in this section, paragraph (a) of subsection 1 of NRS 268.050 and subsection 3 of NRS 496.080:

(a) The sale or lease of real property must be made in the manner required pursuant to NRS 268.059, 268.061 and 268.062; and

(b) A lease or sale must be made at or above the highest appraised value of the real property as determined pursuant to the appraisal conducted pursuant to NRS 268.059.

2. The city council may sell or lease real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the city which is eligible ***for an abatement from local sales and use taxes*** pursuant to ~~[NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.]~~ ***section 26 of this act.***

Sec. 9. Chapter 274 of NRS is hereby amended by adding thereto the provisions set forth as sections 10, 11 and 12 of this act.

Sec. 10. ***"Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by NRS 374.110 or 374.190 or the Sales and Use Tax Act.***

Sec. 11. (Deleted by amendment.)

Sec. 12. ***1. Each person who holds a valid certificate, issued under NRS 274.270, as a qualified business may file for a credit or refund to recover the amount of the local sales and use taxes paid for all tangible personal property purchased in the conduct of its business for the period, not to exceed 5 years, stated in its agreement with the governing body of the municipality made under NRS 274.270, or until the person is no longer certified as a qualified business under that section, whichever occurs first.***

2. Claims for credit or refund may be filed under this section only if:

(a) The designating municipality has adopted an ordinance authorizing such claims; and

(b) This benefit is specified in the agreement made under NRS 274.270.

Sec. 13. NRS 274.010 is hereby amended to read as follows:

274.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 274.020 to 274.080, inclusive, ***and section 10 of this act*** have the meanings ascribed to them in those sections.

Sec. 14. NRS 274.230 is hereby amended to read as follows:

274.230 When a specially benefited zone is designated and approved under this chapter, the governing body of the designating municipality may:

1. Apply with the United States Department of Commerce to have the specially benefited zone declared to be a free trade zone.

2. When any federal legislation concerning specially benefited zones is enacted or becomes effective, prepare and submit, with the assistance of the Administrator and in a timely fashion, all information and forms necessary to permit the specially benefited zone designated and approved under this chapter to be considered as an eligible area under the federal program.

3. Apply for all available assistance from the federal, state, and in the case of a city, the county government, including the suspension or modification of their regulations within the specially benefited zone that have the characteristics described in subsection 1 of NRS 274.110.

4. Develop and carry out a program to improve police protection within the zone.

5. Give priority to the use in the zone of any federal assistance for urban development or job training.

6. By ordinance adopt regulations for qualifying employers for the benefits authorized specifically for qualified businesses under this chapter **.** ~~[and NRS 374.643.]~~

Sec. 15. NRS 274.270 is hereby amended to read as follows:

274.270 1. The governing body shall investigate the proposal made by a business pursuant to NRS 274.260, and if it finds that the business is qualified by financial responsibility and business experience to create and preserve employment opportunities in the specially benefited zone and improve the economic climate of the municipality and finds further that the business did not relocate from a depressed area in this State or reduce employment elsewhere in Nevada in order to expand in the specially benefited zone, the governing body may, on behalf of the municipality, enter into an agreement with the business, for a period of not more than 20 years, under which the business agrees in return for one or more of the benefits authorized in this chapter ~~[and NRS 374.643]~~ for qualified businesses, as specified in the agreement, to establish, expand, renovate or occupy a place of business within the specially benefited zone and hire new employees at least 35 percent of whom at the time they are employed are at least one of the following:

(a) Unemployed persons who have resided at least 6 months in the municipality.

(b) Persons eligible for employment or job training under any federal program for employment and training who have resided at least 6 months in the municipality.

(c) Recipients of benefits under any state or county program of public assistance, including, without limitation, temporary assistance for needy families, Medicaid and unemployment compensation who have resided at least 6 months in the municipality.

(d) Persons with a physical or mental handicap who have resided at least 6 months in the State.

(e) Residents for at least 1 year of the area comprising the specially benefited zone.

2. To determine whether a business is in compliance with an agreement, the governing body:

(a) Shall each year require the business to file proof satisfactory to the governing body of its compliance with the agreement.

(b) May conduct any necessary investigation into the affairs of the business and may inspect at any reasonable hour its place of business within the specially benefited zone.

➥ If the governing body determines that the business is in compliance with the agreement, it shall issue a certificate to that effect to the business. The certificate expires 1 year after the date of its issuance.

3. The governing body shall file with the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation a copy of each agreement, the information submitted under paragraph (a) of subsection 2 and the current certificate issued to the business under that subsection. The governing body shall immediately notify the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation whenever the business is no longer certified.

Sec. 16. NRS 274.310 is hereby amended to read as follows:

274.310 1. A person who intends to locate a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive ~~[,]~~ ***, and section 19 of this act;***

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597,

➥ may submit a request to the governing body of the county, city or town in which the business would operate for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of one or more of the ***local sales and use taxes or*** taxes imposed pursuant to chapter 361 ~~[or 374]~~ of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business would operate. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[4.]~~ ***5:***

(1) Commence operation and continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, ***and section 19 of this act,*** area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

➥ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business will operate.

(d) The applicant invested or commits to invest a minimum of $500,000 in capital.

4. ***If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:***

(a) Be for a duration of not more than 10 years; and

(b) Not exceed 50 percent of the property taxes payable by a business each year.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from ~~[the property tax]~~ ***property taxes*** imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business will be located.

~~[5.]~~ ***6.*** The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

~~[6.]~~ ***7.*** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 17. NRS 274.320 is hereby amended to read as follows:

274.320 1. A person who intends to expand a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive ~~[,]~~ ***, and section 19 of this act;***

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597,

➥ may submit a request to the governing body of the county, city or town in which the business operates for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of the ***local sales and use*** taxes imposed on capital equipment ***.*** ~~[pursuant to chapter 374 of NRS.]~~ The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, ***and section 19 of this act,*** area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

➥ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The applicant invested or commits to invest a minimum of $250,000 in capital equipment.

4. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation; and

(b) The Nevada Tax Commission.

5. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

6. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 18. NRS 274.330 is hereby amended to read as follows:

274.330 1. A person who owns a business which is located within an enterprise community established pursuant to 24 C.F.R. Part 597 in this State may submit a request to the governing body of the county, city or town in which the business is located for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of one or more of the ***local sales and use taxes or*** taxes imposed pursuant to chapter 361 ~~[or 374]~~ of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[4.]~~ ***5:***

(1) Continue in operation in the enterprise community for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

➥ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The business:

(1) Employs one or more dislocated workers who reside in the enterprise community; and

(2) Pays such employee or employees a wage of not less than 100 percent of the federally designated level signifying poverty for a family of four persons and provides medical benefits to the employee or employees and his or their dependents.

4. ***If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:***

(a) Be for a duration of not more than 10 years; and

(b) Not exceed 50 percent of the property taxes payable by a business each year.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall:

(a) Determine the percentage of employees of the business which meet the requirements of paragraph (d) of subsection 3 and ***, except as otherwise provided in subsection 4,*** grant a partial abatement equal to that percentage; and

(b) Immediately forward a certificate of eligibility for the abatement to:

(1) The Department of Taxation;

(2) The Nevada Tax Commission; and

(3) If the partial abatement is from ~~[the property tax]~~ ***property taxes*** imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business is located.

~~[5.]~~ ***6.*** The Commission on Economic Development:

(a) Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees to qualify for an abatement pursuant to this section.

(b) May adopt such other regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

~~[6.]~~ ***7.*** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

~~[7.]~~ ***8.*** As used in this section, "dislocated worker" means a person who:

(a) Has been terminated, laid off or received notice of termination or layoff from employment;

(b) Is eligible for or receiving or has exhausted his entitlement to unemployment compensation;

(c) Has been dependent on the income of another family member but is no longer supported by that income;

(d) Has been self-employed but is no longer receiving an income from self-employment because of general economic conditions in the community or natural disaster; or

(e) Is currently unemployed and unable to return to a previous industry or occupation.

Sec. 19. Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, out of any revenue from taxes which is otherwise required to be paid into a special fund of a redevelopment agency in accordance with paragraph (b) of subsection 1 of NRS 279.676, the county treasurer shall set aside:

(a) Three percent of that revenue for the fiscal year beginning on July 1, 2009;

(b) Four percent of that revenue for the fiscal year beginning on July 1, 2010;

(c) Five percent of that revenue for the fiscal year beginning on July 1, 2011;

(d) Six percent of that revenue for the fiscal year beginning on July 1, 2012;

(e) Seven percent of that revenue for the fiscal year beginning on July 1, 2013;

(f) Eight percent of that revenue for the fiscal year beginning on July 1, 2014;

(g) Nine percent of that revenue for the fiscal year beginning on July 1, 2015;

(h) Ten percent of that revenue for the fiscal year beginning on July 1, 2016;

(i) Eleven percent of that revenue for the fiscal year beginning on July 1, 2017;

(j) Twelve percent of that revenue for the fiscal year beginning on July 1, 2018;

(k) Thirteen percent of that revenue for the fiscal year beginning on July 1, 2019;

(l) Fourteen percent of that revenue for the fiscal year beginning on July 1, 2020; and

(m) Fifteen percent of that revenue for each fiscal year beginning on or after July 1, 2021,

➥ and pay the amount set aside to the State Treasurer.

2. The provisions of subsection 1:

(a) Shall not apply to reduce the amounts payable under any existing obligation of the agency or otherwise be applied in such a manner as to impair adversely any existing obligation of the agency, as determined by ~~[independent bond counsel,]~~ the agency as provided in subsection 4, until the existing obligation has been discharged in full; and

(b) Do not apply to any revenue required to be paid into a special fund of the agency which is attributable to the taxes imposed on the property included in a particular redevelopment project within the redevelopment area if:

(1) The legislative body determines that any of the property included in that redevelopment project is characterized by the factor specified in paragraph (j) of subsection 1 of NRS 279.388;

(2) Before July 1, 2009, the agency entered into a memorandum of understanding or other agreement with a private entity regarding that redevelopment project; and

(3) The agency certifies that a private entity has entered into or will be obligated to enter into a memorandum of understanding or other agreement with the board of trustees of the school district in which that redevelopment project is located which obligates the private entity to donate to that school district sites for the construction of schools, in such a number, size and location as that board of trustees determines to be appropriate for that redevelopment project.

3. The State Treasurer shall deposit any money received pursuant to subsection 1:

(a) Except as otherwise provided in paragraph (b), into the K-12 Public Education Stabilization Account created by section 3 of this act; and

(b) To the extent that the amount received would cause the K-12 Public Education Stabilization Account to exceed the maximum allowed balance in the Account established pursuant to subsection 3 of section 3 of this act, into the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379.

4. The agency shall, not later than July 15 of each year, certify to the county treasurer, the Committee on Local Government Finance and the Department of Taxation the amount of revenue from taxes that is not subject to the provisions of subsection 1 because of the provisions of subsection 2 or 6. The county treasurer shall use the certification of the agency in determining the amount to be set aside pursuant to subsection 1. The Committee on Local Government Finance, in cooperation with the Department of Taxation, may review the certification of the agency and, if the Committee on Local Government Finance determines that the

certification is incorrect or otherwise erroneous, it may direct a different amount to be set aside pursuant to subsection 1.

5. The Committee on Local Government Finance may adopt regulations for the administration and interpretation of this section.

6. For the purposes of this section, "existing obligation" [means:] includes, without limitation:

(a) Any bond, note, medium-term financing, certificate, debenture or other financial obligation issued by the agency before July 1, 2009 [;] , and any obligation issued thereafter to refund any bond, note, medium-term financing, certificate, debenture or other financial obligation issued by the agency before July 1, 2009, if:

(1) The total payments to be made on the refunding obligation are less than the total payments to be made on the obligation being refunded; and

(2) The final maturity date of the refunding obligation is not later than the final maturity date of the obligation being refunded;

(b) Any loan, letter of credit or other advance of money to the agency before July 1, 2009, including, without limitation, a loan from any federal, state or local governmental entity and any loan from or other financial obligation owed to any bank or other private entity;

(c) Any minimum payment required on any note issued or other indebtedness or obligation incurred by the agency pursuant to any agreement for tax increment financing made pursuant to the redevelopment plan before July 1, 2009, including, without limitation, any owner participation agreement;

(d) Any money required to be set aside by the agency pursuant to NRS 279.685 for each fiscal year, but not less than the amount set aside by the agency pursuant to that section for the fiscal year ending on June 30, 2009;

(e) Any money required to administer and operate the agency for each fiscal year, except that for each fiscal year beginning after the first full fiscal year of the administration and operation of the agency, this amount must not exceed 102 percent of the amount expended for the administration and operation of the agency for the immediately preceding fiscal year;

(f) Any contractual obligation incurred by the agency before July 1, 2009, which, if breached by the agency, may subject the agency to damages or other liability, including, without limitation, any obligation, covenant or representation of the agency to issue any bonds, notes or other additional indebtedness in the future, any covenant to maintain reserve funds, any covenant to maintain minimum annual debt service ratios, any obligation to purchase property and any obligation to construct improvements, whether or not such obligation is an obligation or debt of the agency under NRS 279.638 and whether or not such obligation is limited to particular revenues of the agency; and

(g) The provisions of any memorandum of understanding between the agency and any private entity relating to the redevelopment of any site as part of a redevelopment project, if:

(1) Before July 1, 2009, in anticipation of the redevelopment of the site as part of a redevelopment project, the private entity reduced the fair market value of the site by clearing, demolishing or excavating any property at the site; and

(2) Before July 1, 2011, the agency and private entity execute a formal contract for the redevelopment of the site as part of a redevelopment project.

Sec. 20. NRS 279.636 is hereby amended to read as follows:

279.636 1. An agency may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable:

(a) Exclusively from the income and revenues of the redevelopment projects financed with the proceeds of the bonds, or with those proceeds together with financial assistance from the State or Federal Government in aid of the projects.

(b) Exclusively from the income and revenues of certain designated redevelopment projects whether or not they were financed in whole or in part with the proceeds of the bonds.

(c) In whole or in part from taxes allocated to, and paid into a special fund of, the agency pursuant to the provisions of NRS 279.674 to 279.685, inclusive ~~[.]~~ ***, and section 19 of this act.***

(d) From its revenues generally.

(e) From any contributions or other financial assistance from the State or Federal Government.

(f) By any combination of these methods.

2. Any of the bonds may be additionally secured by a pledge of any revenue or by an encumbrance by mortgage, deed of trust or otherwise of any redevelopment project or other property of the agency or by a pledge of the taxes referred to in subsection 1.

3. Amounts payable in any manner permitted by this section may be additionally secured by a pledge of the full faith and credit of the community whose legislative body has declared the need for the agency to function. Such additional security may only be provided upon the approval of the majority of the voters voting on the question at a primary or general election or a special election called for that purpose. In its proposal to its voters the governing body shall define the area to be redeveloped, the primary source or sources of revenue first to be employed to retire the bonds and the maximum sum for which the city may pledge its full faith and credit in connection with the bonds to be issued for the project.

Sec. 21. NRS 279.674 is hereby amended to read as follows:

279.674 As used in NRS 279.674 to 279.685, inclusive, ***and section 19 of this act,*** the word "taxes" ~~[shall include, but]~~ ***includes,*** without limitation, all levies on an ad valorem basis upon land or real property.

Sec. 22. NRS 279.676 is hereby amended to read as follows:

279.676 1. Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in the redevelopment area each year by or for the benefit of the State, any city, county, district or other public corporation, after the effective date of the ordinance approving the redevelopment plan, must be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment area as shown upon the assessment roll used in connection with the taxation of the property by the taxing agency, last equalized before the effective date of the ordinance, must be allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for such taxing agencies on all other property are paid. To allocate taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment area on the effective date of the ordinance but to which the territory has been annexed or otherwise included after the effective date, the assessment roll of the county last equalized on the effective date of the ordinance must be used in determining the assessed valuation of the taxable property in the redevelopment area on the effective date. If property which was shown on the assessment roll used to determine the amount of taxes allocated to the taxing agencies is transferred to the State and becomes exempt from taxation, the assessed valuation of the exempt property as shown on the assessment roll last equalized before the date on which the property was transferred to the State must be subtracted from the assessed valuation used to determine the amount of revenue allocated to the taxing agencies.

(b) Except as otherwise provided in ~~[paragraphs (c) and (d)]~~ ***this section, section 19 of this act*** and NRS 540A.265, that portion of the levied taxes each year in excess of the amount set forth in paragraph (a) must be allocated to and when collected must be paid into a special fund of the redevelopment agency to pay the costs of redevelopment and to pay the principal of and interest on loans, money advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, incurred by the redevelopment agency to finance or refinance, in whole or in part, redevelopment. Unless the total assessed valuation of the taxable property in a redevelopment area exceeds the total assessed value of the taxable property in the redevelopment area as shown by the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan, less the assessed valuation of any exempt property subtracted pursuant to paragraph (a), all of the taxes levied and collected upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies. When the redevelopment plan is terminated pursuant to the provisions of NRS 279.438 and 279.439 and all loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the

taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a tax rate levied by a taxing agency to produce revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness that was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the debt service fund of that taxing agency.

(d) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a new or increased tax rate levied by a taxing agency and was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the appropriate fund of the taxing agency.

2. Except as otherwise provided in subsection 3, in any fiscal year, the total revenue paid to a redevelopment agency must not exceed:

(a) In a municipality whose population is 100,000 or more, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 10 percent of the total assessed valuation of the municipality.

(b) In a municipality whose population is 25,000 or more but less than 100,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 15 percent of the total assessed valuation of the municipality.

(c) In a municipality whose population is less than 25,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 20 percent of the total assessed valuation of the municipality.

➥ If the revenue paid to a redevelopment agency must be limited pursuant to paragraph (a), (b) or (c) and the redevelopment agency has more than one redevelopment area, the redevelopment agency shall determine the allocation to each area. Any revenue which would be allocated to a redevelopment agency but for the provisions of this section must be paid into the funds of the respective taxing agencies.

3. The taxing agencies shall continue to pay to a redevelopment agency any amount which was being paid before July 1, 1987, and in anticipation of which the agency became obligated before July 1, 1987, to repay any bond, loan, money advanced or any other indebtedness, whether funded, refunded, assumed or otherwise incurred.

4. For the purposes of this section, the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan is the assessment roll in existence on March 15 immediately preceding the effective date of the ordinance.

Sec. 23. NRS 279.680 is hereby amended to read as follows:

279.680 Except as otherwise provided in NRS 279.685, in any redevelopment plan, or in the proceedings for the advance of money, or the making of loans, or the incurring of any indebtedness, whether funded,

refunded, assumed or otherwise, by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes mentioned in paragraph (b) of subsection 1 of NRS 279.676 ***which is paid into a special fund of the redevelopment agency*** may be irrevocably pledged for the payment of the principal of and interest on those loans, advances or indebtedness.

Sec. 24. NRS 279.685 is hereby amended to read as follows:

279.685 1. Except as otherwise provided in this section, an agency of a city whose population ***for a fiscal year*** is 300,000 or more that receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676 shall set aside not less than 15 percent of that revenue received on or ~~[before October 1, 1999, and 18 percent of that revenue received after October 1, 1999,]~~ ***after July 1, 2009,*** to increase, improve and preserve the number of dwelling units in the community for low-income households.

~~[2.]~~ The obligation of an agency ***pursuant to this subsection*** to set aside ~~[not less than 15 percent of the]~~ ***any*** revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before ~~[July 1, 1993, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after July 1, 1993, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.~~

~~3. The obligation of an agency to set aside an additional 3 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before]~~ October 1, 1999, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after October 1, 1999, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

~~[4.]~~ ***2. Subsection 1 does not apply to an agency of a city whose population for a fiscal year is 300,000 or more if the first fiscal year for which that population is 300,000 or more begins on or after July 1, 2009. Except as otherwise provided in this subsection, an agency of a city whose population for a fiscal year is 300,000 or more to which subsection 1 does not apply shall, if the agency receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676, set aside not less than:***

(a) Three percent of that revenue for the first fiscal year for which the population of that city is 300,000 or more;

(b) Four percent of that revenue for the second fiscal year for which the population of that city is 300,000 or more;

(c) Five percent of that revenue for the third fiscal year for which the population of that city is 300,000 or more;

(d) Six percent of that revenue for the fourth fiscal year for which the population of that city is 300,000 or more;

(e) Seven percent of that revenue for the fifth fiscal year for which the population of that city is 300,000 or more;

(f) Eight percent of that revenue for the sixth fiscal year for which the population of that city is 300,000 or more;

(g) Nine percent of that revenue for the seventh fiscal year for which the population of that city is 300,000 or more;

(h) Ten percent of that revenue for the eighth fiscal year for which the population of that city is 300,000 or more;

(i) Eleven percent of that revenue for the ninth fiscal year for which the population of that city is 300,000 or more;

(j) Twelve percent of that revenue for the 10th fiscal year for which the population of that city is 300,000 or more;

(k) Thirteen percent of that revenue for the 11th fiscal year for which the population of that city is 300,000 or more;

(l) Fourteen percent of that revenue for the 12th fiscal year for which the population of that city is 300,000 or more; and

(m) Fifteen percent of that revenue for the 13th and each subsequent fiscal year for which the population of that city is 300,000 or more,

➥ to increase, improve and preserve the number of dwelling units in the community for low-income households. The obligation of an agency pursuant to this subsection to set aside any revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 2009, to finance or refinance, in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency on or after July 1, 2009, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

3. The agency may expend or otherwise commit money for the purposes of subsection 1 ***or 2, as applicable,*** outside the boundaries of the redevelopment area.

4. For the purposes of this section, the population of a city for a fiscal year is the population of that city as certified for that fiscal year by the Governor pursuant to NRS 360.285. The Department of Taxation shall, as soon as practicable after the Governor first certifies the population of a city

pursuant to NRS 360.285 as being 300,000 or more, notify any agency of that city of that certification.

Sec. 25. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 and 27 of this act.

Sec. 26. ***1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the local sales and use taxes imposed on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.***

2. If an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from local sales and use taxes for not more than 2 years.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. As used in this section, unless the context otherwise requires:

(a) "Eligible machinery or equipment" means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(1) Buildings or the structural components of buildings;

(2) Equipment used by a public utility;

(3) Equipment used for medical treatment;

(4) Machinery or equipment used in mining; or

(5) Machinery or equipment used in gaming.

(b) "Local sales and use taxes" has the meaning ascribed to it in NRS 360.750.

Sec. 27. ***1. The Commission on Economic Development shall adopt regulations:***

(a) Specifying criteria for determining, subject to such limitations as may be prescribed by specific statute, the duration and amount of any abatement of taxes which the Commission is authorized or required to approve. The criteria must provide for progressively greater abatements based upon the extent to which the business exceeds any minimum eligibility requirements for the abatement and meets such additional eligibility requirements as the Commission deems appropriate.

(b) Establishing a schedule of progressively greater sanctions for the failure of a business to comply with any eligibility requirements for any abatement of taxes approved by the Commission. The sanctions:

(1) Must be commensurate with the severity of the failure to comply with such eligibility requirements; and

(2) May include:

(I) A reduction in the duration or amount of the abatement;

(II) The termination of the abatement; and

(III) The repayment of all or any portion of the abatement to the Department or county treasurer, as appropriate.

(c) Requiring each business that accepts any abatement of taxes approved by the Commission to submit annually such information and documentation as may be necessary for the Commission to determine whether the business is in compliance with any eligibility requirements for the abatement.

2. If the Commission on Economic Development determines that any business which accepts any abatement of taxes approved by the Commission may not be in compliance with any eligibility requirements for the abatement, the Commission shall notify the Department of that determination and the Department may, after providing the business with notice of and an opportunity for a hearing on the matter, impose such sanctions as may be appropriate in accordance with the regulations adopted pursuant to subsection 1. If the abatement is from property taxes imposed pursuant to chapter 361 of NRS, the Department shall provide notice of the imposition of any such sanctions to the county treasurer.

3. If a business is required to repay all or any portion of any abatement to a county treasurer as a result of the imposition of any sanctions pursuant to this section, the county treasurer:

(a) Shall deposit the money in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

Sec. 28. NRS 360.225 is hereby amended to read as follows:

360.225 1. During the course of an investigation undertaken pursuant to NRS 360.130 of a person claiming:

(a) A partial abatement of property taxes pursuant to NRS 361.0687;

(b) An exemption from taxes pursuant to NRS 363B.120;

(c) A deferral of the payment of taxes on the sale of capital goods pursuant to NRS 372.397 or 374.402; or

(d) An abatement of taxes on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment pursuant to ~~[~~NRS 374.357,~~]~~ ***section 26 of this act,***

➥ the Department shall investigate whether the person meets the eligibility requirements for the abatement, partial abatement, exemption or deferral that the person is claiming.

2. If the Department finds that the person does not meet the eligibility requirements for the abatement, exemption or deferral which the person is claiming, the Department shall report its findings to the Commission on Economic Development and take any other necessary actions.

Sec. 29. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial

abatement of one or more of the ***local sales and use taxes imposed on the new or expanded business or*** taxes imposed on the new or expanded business pursuant to chapter 361 ~~[, 363B or 374]~~ ***or 363B*** of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least ~~[5]~~ ***6,*** years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***10.***

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city

whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***10.***

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***10.***

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a

patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.

5. ***If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:***

(a) Be for a duration of not more than 10 years; and

(b) Not exceed 50 percent of the property taxes payable by a business each year.

6. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from ~~[the property tax]~~ ***property taxes*** imposed pursuant to chapter 361 of NRS, the county treasurer.

~~[6.]~~ ***7.*** An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

~~[7. If]~~

8. Except as otherwise provided in the regulations adopted by the Commission on Economic Development pursuant to section 27 of this act, if a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from ~~[the property tax]~~ ***property taxes*** imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~[8.]~~ ***9.*** A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection ~~[7]~~ ***8*** in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

~~[9.]~~ ***10.*** The Commission on Economic Development:

(a) Shall adopt regulations relating to:

(1) The minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and

(2) The notice that must be provided pursuant to subsection 4.

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[10.]~~ ***11.*** The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[11.]~~ ***12.*** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

13. As used in this section, "local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by NRS 374.110 or 374.190 or the Sales and Use Tax Act.

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. Section 2.320 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 48, Statutes of Nevada 1997, at page 89, is hereby amended to read as follows:

Sec. 2.320 Sale, lease, exchange of real property owned by the City: Procedure; disposition of proceeds.

1. Subject to the provisions of this section, the City may sell, lease or exchange real property in Clark County, Nevada, acquired by the City pursuant to federal law from the United States of America.

2. Except as otherwise provided in subsection 3:

(a) The City may sell, lease or exchange real property only by resolution. Following the adoption of a resolution to sell, lease or exchange, the City Council shall cause a notice of its intention to sell, lease or exchange the real property to be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the City. The notice must be published at least 30 days before the date set by the City Council for the sale, lease or exchange, and must state:

(1) The date, time and place of the proposed sale, lease or exchange.

(2) The place where and the time within which applications and deposits may be made by prospective purchasers or lessees.

(3) Such other information as the City Council desires.

(b) Applications or offers to purchase, lease or exchange pursuant to the notice required in paragraph (a) must be in writing, must not be accepted by the City Council for consideration before the date of publication of the notice

and must be accompanied by a deposit of not less than 1 percent of the total offer to purchase. If a lease, sale or exchange is not consummated because:

(1) The City refuses or is unable to consummate the lease, sale or exchange, the deposit must be refunded.

(2) The person who made the application or offer to lease, buy or exchange refuses or is unable to consummate the lease, sale or exchange, the City shall retain an amount of the deposit that does not exceed 5 percent of the total offer to purchase.

3. The City Council may waive the requirements of subsection 2 for any lease of residential property that is for a term of 1 year or less.

4. The City Council shall not make a lease for a term of 3 years or longer or enter into a contract for the sale or exchange of real property until after the property has been appraised by one disinterested appraiser employed by the City Council. Except as otherwise provided in subsections 7 and 8, it must be the policy of the City Council to require that all such sales, leases or exchanges be made at or above the current appraised value as determined by the appraiser unless the City Council, in a public hearing held before the adoption of the resolution to sell, lease or exchange the property, determines by affirmative vote of not fewer than two-thirds of the entire City Council based upon specified findings of fact that a lesser value would be in the best interest of the public. For the purposes of this subsection, an appraisal is not considered current if it is more than 3 years old.

5. It must be the policy of the City Council to sell, lease and exchange real property in a manner that will result in the maximum benefit accruing to the City from the sales, leases and exchanges. The City Council may attach any condition to the sale, lease or exchange as appears to the City Council to be in the best interests of the City.

6. The City Council may sell unimproved real property owned by the City on a time payment basis. The down payment must be in an amount determined by the City Council, and the interest rate must be in an amount determined by the City Council, but must not be less than 6 percent per annum on the declining balance.

7. Notwithstanding the provisions of subsection 4, the City Council may dispose of any real property belonging to the City to the United States of America, the State of Nevada, Clark County, any other political subdivision of the State, or any quasi-public or nonprofit entity for a nominal consideration whenever the public interest requires such a disposition. In any such case, the consideration paid must equal the cost of the acquisition to the City.

8. The City Council may sell, lease or exchange real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the City which is eligible ***for an abatement from local sales and use taxes*** pursuant to ~~[NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.]~~ ***section 26 of this act.***

9. Proceeds from all sales and exchanges of real property owned by the City, after deduction of the cost of the real property, reasonable costs of publication, title insurance, escrow and normal costs of sale, must be placed in the Land Fund previously created by the City in the City Treasury and hereby continued. Except as otherwise provided in subsection 10, money in the Land Fund may be expended only for:

(a) Acquisition of assets of a long-term character which are intended to continue to be held or used, such as land, buildings, machinery, furniture, computer software and other equipment.

(b) Capital improvements of improvements thereon.

(c) Expenses incurred in the preparation of a long-term comprehensive master planning study and any expenses incurred in the master planning of the City.

(d) All costs, including salaries, for administration of the Land Fund, and the land within the City.

(e) Expenses incurred in making major improvements and repairs to the water, sewer and street systems as differentiated from normal maintenance costs.

➥ Money received from leases of real property owned by the City must be placed in the Land Fund if the term of lease is 20 years or longer, whether the 20 years is for an initial term of lease or for an initial term and an option for renewal. Money received by the City from all other leases and interest on time payment sales of real property owned by the City must be apportioned in the ratio of 20 percent to current operational expenses of the City, 20 percent to the Land Fund, and 60 percent divided between the Land Fund and current operational expenses as determined by the Council.

10. If available, money in the Land Fund may be borrowed by the City pursuant to the provisions of NRS 354.430 to 354.460, inclusive.

Sec. 33. NRS 374.357 and 374.643 are hereby repealed.

Sec. 34. The provisions of sections 8, 9, 10, 13, 16, 17, 18 and 25 to 33, inclusive, of this act do not apply to or affect the terms of any abatement of taxes approved by the Commission on Economic Development before July 1, 2009.

Sec. 35. The provisions of sections 9 to 15, inclusive, and 33 of this act do not apply to or affect the terms of any agreement made pursuant to NRS 274.270 before July 1, 2009.

Sec. 36. 1. Any redevelopment plan adopted pursuant to chapter 279 of NRS before July 1, 2009, which contains a provision for the division of taxes pursuant to NRS 279.676 shall be deemed to include the provisions of section 22 of this act.

2. Notwithstanding any provision of section 19 of this act to the contrary, the State Treasurer shall deposit any money received pursuant to paragraphs (a) and (b) of subsection 1 of that section into the State Distributive School Account in the State General Fund.

3. The provisions of section 24 of this act do not apply to any revenue from taxes received by a redevelopment agency before July 1, 2009.

Sec. 37. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

374.357 Abatement for eligible machinery or equipment used by certain new or expanded businesses. [Effective July 1, 2009.]

1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. If an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. As used in this section, unless the context otherwise requires, "eligible machinery or equipment" means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(a) Buildings or the structural components of buildings;

(b) Equipment used by a public utility;

(c) Equipment used for medical treatment;

(d) Machinery or equipment used in mining; or

(e) Machinery or equipment used in gaming.

374.643 Credit or refund of tax for business within zone for economic development.

1. Each person who holds a valid certificate, issued under NRS 274.270, as a qualified business within a specially benefited zone may file for a credit or refund to recover the amount of tax paid under this chapter for all tangible personal property purchased in the conduct of its business for the period, not to exceed 5 years, stated in its agreement with the city or county, as the case may be, made under NRS 274.270, or until the person is no longer certified as a qualified business under that section, whichever occurs first.

2. Claims for credit or refund may be filed under this section only if:

(a) The city or county which designated the specially benefited zone has adopted an ordinance authorizing such claims; and

(b) This benefit is specified in the agreement made under NRS 274.270.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 458.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 13.

The following Senate amendment was read:

Amendment No. 803.

AN ACT relating to education; authorizing the board of trustees of a school district to request a waiver from the required minimum expenditure for textbooks, instructional supplies and instructional hardware during an economic hardship; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Education to develop a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) **Section 1** of this bill authorizes a school district to request a waiver from all or a portion of the minimum expenditure requirements when a school district experiences an economic hardship. A request for a waiver must be reviewed by the Department of Education and the State Board of Examiners. The Interim Finance Committee makes the final determination regarding whether to grant a waiver. A school district that is granted a waiver is prohibited from using the money for collective bargaining with its licensed employees or for an adjustment of salaries and benefits of district employees.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of a school district that experiences an economic hardship may submit a written request to the Department on a form prescribed by the Department for a waiver of all or a portion of the amount of money the school district is required to expend for textbooks, instructional supplies and instructional hardware pursuant to NRS 387.206 for the fiscal year.

2. Upon receipt of a written request pursuant to subsection 1, the Department shall consider the request and determine whether an economic hardship exists for the school district. The Department may request additional information from the school district in making the determination. If the Department determines that an economic hardship exists for the school district, the Department shall forward the request to the Interim Finance Committee and the State Board of Examiners, including the basis for its determination and any recommendations of the Department for the amount of a waiver.

3. Upon receipt of a written request from the Department pursuant to subsection 2, the State Board of Examiners shall consider the request and determine whether an economic hardship exists for the school district. If the State Board of Examiners determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of all or a portion of the expenditure requirements established for that school district for the fiscal year pursuant to NRS 387.206. The State Board of Examiners may request additional information from the school district in making the determination. If the State Board of Examiners determines that an economic hardship exists for the school district and that a waiver from all or a portion of the expenditure requirements is justified, the State Board of Examiners shall forward the request to the Interim Finance Committee, including the basis for its determination and its recommendation for the amount of the waiver. The Interim Finance Committee is not bound to follow the recommendations of the State Board of Examiners.

4. Upon receipt of a written request from the State Board of Examiners pursuant to subsection 3, the Interim Finance Committee shall consider the request and determine whether an economic hardship exists for the school district. If the Interim Finance Committee determines that an economic hardship exists, it shall determine whether the hardship justifies a waiver of all or a portion of the expenditure requirements established for that school district for the fiscal year pursuant to NRS 387.206. The Interim Finance Committee may request additional information from the school district in making the determination. If the Interim Finance Committee grants a waiver, the Committee shall by resolution set forth the:

(a) Grounds for its determination;

(b) Amount of the waiver; and

(c) Period for which the waiver is effective.

5. The board of trustees of a school district that is granted a waiver by the Interim Finance Committee pursuant to this section shall, upon expiration of the period for which the waiver is granted, provide a written accounting to the Interim Finance Committee and the Department that includes a:

(a) Reconciliation of the revenue and expenditures with the projections of revenue and expenditures that were used to determine whether an economic hardship existed for the school district; and

(b) Description of how the money from the waiver was used.

6. If the Interim Finance Committee grants a waiver pursuant to this section and subsequently the economic hardship to the school district is mitigated because the actual revenue attributable to the school district exceeds projections or the actual expenses incurred by the school district are less than anticipated:

(a) The amount of the waiver must be reduced accordingly by the school district; and

(b) The amount of money the school district is required to expend for textbooks, instructional supplies and instructional hardware in the next fiscal year, as determined pursuant to subsection 1 of NRS 387.206, must be adjusted accordingly.

7. ~~[A]~~ If a school district ~~[that]~~ is granted a waiver pursuant to this section , ~~[shall not use]~~ the money that would have otherwise been expended by the school district to meet the requirements of NRS 387.206 for the fiscal year : ~~[to:]~~

(a) ~~[Settle]~~ May not be considered as financial ability to pay for the purposes of negotiation or arbitration regarding salaries and benefits.

(b) Must not be used to settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district and the school district.

~~[(b) Adjust]~~

(c) Must not be used to adjust the schedules of salaries and benefits of the employees of the school district.

8. For purposes of this section, an economic hardship exists for a school district if:

(a) Projections of revenue do not meet or exceed the revenue anticipated at the time the basic support guarantees are established for the fiscal year pursuant to NRS 387.122; or

(b) The school district incurs unforeseen expenses, including, without limitation, expenses related to a natural disaster.

Sec. 2. NRS 387.206 is hereby amended to read as follows:

387.206 1. On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. The formula must be used only to develop expenditure requirements and must not be used to alter the distribution of money for basic support to school districts.

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for that fiscal year. ***If a school district is granted a waiver pursuant to section 1 of this act, the Department shall provide written notice to the school district within 30 days after the Interim Finance Committee grants the waiver setting forth the revised amount of money that the school district must expend for textbooks, instructional supplies and instructional hardware for the fiscal year.***

3. On or before January 1 of each year, the Department shall determine whether each school district has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice ***or***

the revised notice, as applicable, provided pursuant to subsection 2. In making this determination, the Department shall use the report submitted by the school district pursuant to NRS 387.303.

4. Except as otherwise provided in subsection 5, if the Department determines that a school district has not expended the required minimum amount of money set forth in the notice ***or the revised notice, as applicable,*** provided pursuant to subsection 2, a reduction must be made from the basic support allocation otherwise payable to that school district in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies and instructional hardware and the minimum required combined expenditure set forth in the notice ***or the revised notice, as applicable,*** provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:

(a) Does not reduce the amount that the school district is required to expend on textbooks, instructional supplies and instructional hardware in the current fiscal year; and

(b) Must not exceed the amount of basic support that was provided to the school district for the fiscal year in which the minimum expenditure amount was not satisfied.

5. If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial budget submitted pursuant to NRS 387.303, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 13.

Remarks by Assemblywoman Leslie.

Conflict of interest declared by Assemblywoman Dondero Loop.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 243.

The following Senate amendment was read:

Amendment No. 628.

AN ACT relating to education; requiring certain employers to grant leave to a parent, guardian or custodian of a child enrolled in public school or private school to participate in certain school conferences, activities and events; prohibiting employers from taking certain retaliatory actions against an employee who takes the authorized leave; authorizing a parent, guardian or custodian who is retaliated against to ~~[request a hearing before]~~ **file a claim or complaint with** the Labor Commissioner; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires employers who employ 50 or more employees to grant to a parent, guardian or custodian of a child enrolled in a public school 4 hours of leave from his place of employment, which must be taken in increments of 1 hour, per school year per child to attend school-related activities or events or to volunteer at the school in which his child is enrolled. **Section 1** also requires the leave to be taken at a mutually agreed upon time and the employer is not required to pay the employee for the leave. **The provisions of section 1 do not apply if the employee is afforded the same leave under the same conditions pursuant to a collective bargaining agreement.**

Existing law makes it unlawful for any employer or his agent to terminate the employment of a person who is a parent, guardian or custodian of a child enrolled in public school because the person attended a conference requested by a school administrator or was notified of an emergency involving the child at school. (NRS 392.920) **Section 2** of this bill revises the prohibited acts by an employer or his agent to include demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child. **Section 2** also prohibits the termination, demotion, suspension or other discrimination of a parent, guardian or custodian of a child who takes leave authorized by **section 1** of this bill and authorizes a parent, guardian or custodian of a child who is terminated, demoted, suspended or otherwise discriminated against to ~~[request a hearing before]~~ **file a claim or complaint with** the Labor Commissioner. ~~[If the dispute is not resolved, the parent, guardian or custodian may bring a civil action against his employer, as authorized in existing law.]~~

Section 4 of this bill imposes the same requirements on employers for the parents, guardians and custodians of children enrolled in a private school. **The provisions of section 4 do not apply if an employee is afforded the same leave under the same conditions pursuant to a collective bargaining agreement. Section 5** of this bill prohibits an employer or his agent from terminating, demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child enrolled in a private school for attending a conference requested by a school administrator, being notified of an emergency involving the child at school or taking leave authorized by **section 4**. **Section 5** also authorizes ~~[a hearing before the Labor Commissioner. If the dispute is not resolved, the]~~ **a** parent, guardian or custodian ~~[may bring a civil action against his employer.]~~ **to file a claim or complaint with the Labor Commissioner.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[An]~~ Except as otherwise provided in subsection 5, an employer shall grant a parent, guardian or custodian of a child who is enrolled in a public

school leave from his place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:

(a) Attend parent-teacher conferences;

(b) Attend school-related activities during regular school hours;

(c) Volunteer or otherwise be involved at the school in which his child is enrolled during regular school hours; and

(d) Attend school-sponsored events.

➥ The leave must be at a time mutually agreed upon by the employer and the employee.

2. An employer may require:

(a) An employee to provide a written request for the leave at least 5 school days before the leave is taken; and

(b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the school or school-related activity for one of the purposes set forth in subsection 1.

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in public school.

5. The provisions of this section do not apply if an employee is afforded pursuant to the provisions of a collective bargaining agreement:

(a) At least 4 hours of leave or more per school year for the purposes set forth in subsection 1 and subject to the same provisions as subsections 2, 3 and 4; and

(b) Substantially similar protections and remedies for violations by the employer as those that are set forth in NRS 392.920.

6. As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.

Sec. 2. NRS 392.920 is hereby amended to read as follows:

392.920 1. It is unlawful for an employer or his agent to:

(a) Terminate the employment of ***, or to demote, suspend or otherwise discriminate against,*** a person who, as the parent, guardian or custodian of a child:

(1) Appears at a conference requested by an administrator of the school attended by the child; ~~[or]~~

(2) Is notified during his work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to section 1 of this act if the employer is subject to the requirements of that section; or

(b) Assert to the person that his appearance or prospective appearance at such a conference ***,*** ~~[or]~~ the receipt of such a notification during his work ***or leave taken pursuant to section 1 of this act*** will result in the termination of

his employment ~~[.]~~ ***or a demotion, suspension or other discrimination in the terms and conditions of his employment.***

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. A person ***who is*** discharged from employment ***or who is demoted, suspended or otherwise discriminated against*** in violation of subsection 1 may ~~*[request a hearing before]*~~ ***file a claim or complaint with the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such*** ~~*[a hearing. The]*~~ ***a claim or complaint. If the Labor Commissioner determines that the claim or complaint is valid and enforceable, the Labor Commissioner shall provide notice and opportunity for a hearing*** ~~*[must be conducted in the manner prescribed in]*~~ ***pursuant to NRS 607.205 to 607.215, inclusive.***

4. If the Labor Commissioner ~~*[is unsuccessful in resolving the dispute, the person who requested the hearing pursuant to subsection 3 may commence a civil action against his employer and obtain:]*~~ ***issues a written decision in favor of the employee, the Labor Commissioner may award in addition to any remedies and penalties provided in chapters 607 and 608 of NRS:***

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits; ***and***

(c) Damages equal to the amount of the lost wages and benefits. ~~[; and~~

~~(d) Reasonable attorney's fees fixed by the court.]~~

Sec. 3. Chapter 394 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. ***1.*** ~~*[An]*~~ ***Except as otherwise provided in subsection 5, an employer shall grant a parent, guardian or custodian of a child who is enrolled in a private school leave from his place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:***

(a) Attend parent-teacher conferences;

(b) Attend school-related activities during regular school hours;

(c) Volunteer or otherwise be involved at the school in which his child is enrolled during regular school hours; and

(d) Attend school-sponsored events.

➥ The leave must be at a time mutually agreed upon by the employer and the employee.

2. An employer may require:

(a) An employee to provide a written request for the leave at least 5 school days before leave is taken; and

(b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the private school or school-related activity for one of the purposes set forth in subsection 1.

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in private school.

5. The provisions of this section do not apply if an employee is afforded pursuant to the provisions of a collective bargaining agreement:

(a) At least 4 hours of leave or more per school year for the purposes set forth in subsection 1 and subject to the same provisions as subsections 2, 3 and 4; and

(b) Substantially similar protections and remedies for violations by the employer as those that are set forth in section 5 of this act.

6. As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.

Sec. 5. ***1. It is unlawful for an employer or his agent to:***

(a) Terminate the employment of, or to demote, suspend or otherwise discriminate against, a person who, as the parent, guardian or custodian of a child:

(1) Appears at a conference requested by an administrator of the private school attended by the child;

(2) Is notified during his work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to section 4 of this act if the employer is subject to the requirements of that section; or

(b) Assert to the person that his appearance or prospective appearance at such a conference, the receipt of such a notification during his work or leave taken pursuant to section 4 of this act will result in the termination of his employment or a demotion, suspension or other discrimination in the terms and conditions of his employment.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. A person who is discharged from employment or who is demoted, suspended or otherwise discriminated against in violation of subsection 1 may ~~*[request a hearing before]*~~ ***file a claim or complaint with the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a*** ~~*[hearing. The]*~~ ***claim or complaint. If the Labor Commissioner determines that the claim or complaint is valid and enforceable, the Labor Commissioner shall provide notice and an opportunity for a hearing*** ~~*[must be conducted in the manner prescribed in]*~~ ***pursuant to NRS 607.205 to 607.215, inclusive.***

4. If the Labor Commissioner ~~*[is unsuccessful in resolving the dispute, the person who requested the hearing pursuant to subsection 3 may commence a civil action against his employer and obtain:]*~~ ***issues a written***

decision in favor of the employee, the Labor Commissioner may award in addition to any remedies and penalties set forth in chapters 607 and 608 of NRS:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits; and

(c) Damages equal to the amount of the lost wages and benefits . ~~*[; and*~~

~~*(d) Reasonable attorney's fees fixed by the court.]*~~

Sec. 6. NRS 394.201 is hereby amended to read as follows:

394.201 NRS 394.201 to 394.351, inclusive, ***and sections 4 and 5 of this act*** may be cited as the Private Elementary and Secondary Education Authorization Act.

Sec. 7. This act becomes effective on August 15, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 243.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 296.

The following Senate amendment was read:

Amendment No. 759.

AN ACT relating to motor carriers; revising the conditions for nonprofit carriers of elderly persons or persons with disabilities in certain larger counties (currently Clark County) to qualify for an exemption from the requirement to obtain a certificate of public convenience and necessity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the exemption from the requirement to obtain a certificate of public convenience and necessity for nonprofit carriers of elderly persons or persons with disabilities based upon the size of the county in which the carrier operates. (NRS 706.745)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 706.745 is hereby amended to read as follows:

706.745 1. The provisions of NRS 706.386 and 706.421 do not apply to:

(a) Ambulances;

(b) Hearses; or

(c) Common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705.

2. A common motor carrier that enters into an agreement for the purchase of its service by an incorporated city, county or regional

transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transit consisting of:

(a) Regular routes and fixed schedules;

(b) Nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170, if the transportation is available upon request and without regard to regular routes or fixed schedules;

(c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or

(d) In a county whose population is less than 100,000 or an incorporated city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

3. Under any agreement for a system of public transit that provides for the transportation of passengers that is described in subsection 2:

(a) The public entity shall provide for any required safety inspections; or

(b) If the public entity is unable to do so, the Authority shall provide for any required safety inspections.

4. In addition to the requirements of subsection 3, under an agreement for a system of public transit that provides for the transportation of passengers that is described in:

(a) Paragraph (a) of subsection 2, the public entity shall establish the routes and fares.

(b) Paragraph (c) or (d) of subsection 2, the common motor carrier:

(1) May provide transportation to any passenger who can board a vehicle with minimal assistance from the operator of the vehicle.

(2) Shall not offer medical assistance as part of its transportation service.

5. ~~[A]~~ ***In a county whose population:***

(a) Is less than 400,000, a nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

(b) Is 400,000 or more, a nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but:

(1) Only if the nonprofit carrier:

(I) Does not charge for transportation services;

(II) Provides transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705; or

(III) Enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission; and

(2) Such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

6. An incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transportation.

7. Before an incorporated city or a county enters into an agreement with a common motor carrier for a system of public transit that provides for the transportation of passengers that is described in paragraph (c) or (d) of subsection 2 in an area of the incorporated city or an area of the county, it must determine that:

(a) There are no other common motor carriers of passengers who are authorized to provide such services in that area; or

(b) Although there are other common motor carriers of passengers who are authorized to provide such services in the area, the common motor carriers of passengers do not wish to provide, or are not capable of providing, such services.

Sec. 2. This act becomes effective on ~~[July 1, 2009.]~~ **January 1, 2010.**

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 296.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 101, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Anderson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Horne, Segerblom, and McArthur as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 101.

Assemblyman Oceguera moved that the Assembly recess until 6 p.m.

Motion carried.

Assembly in recess at 2:33 p.m.

ASSEMBLY IN SESSION

At 6:58 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Concurrent Resolution No. 30, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Senate Bills Nos. 370, 371, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Concurrent Resolution No. 35, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 31, 43, 354, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 30.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 683.

ASSEMBLYMEN Buckley **AND ATKINSON**

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study on the development and promotion of logistics and distribution centers in this State.

Whereas, The creation of new jobs and promoting diversification of the Nevada economy is a critical need and an overriding goal of the Legislature; and

Whereas, Nevada is uniquely positioned by virtue of its location and favorable business climate to serve as a logistics and distribution center for the receipt, shipment and assembly of goods on the West Coast to points north and east; and

Whereas, The Nevada System of Higher Education, including the state universities in Reno and Las Vegas, has expertise in supply chain management and can provide consulting support, managerial development through degree programs and job training opportunities; and

Whereas, Foreign trade zones exist in both southern and northern Nevada for the purpose, among other things, of facilitating the growth of logistics and distribution centers; and

Whereas, The proposed Ivanpah Valley Airport in Clark County, the Tahoe-Reno Industrial Center in Storey County and the Reno-Tahoe International Airport are poised for future development as logistics and

distribution centers and for the creation of a wide range of jobs in supply chain management; and

Whereas, The Elko County Rail Port provides additional opportunities for east-west distribution of goods and development of a logistics cluster; ~~[now,]~~ **and**

WHEREAS, Mass transportation systems play an integral role in supporting the diversification and expansion of the workforce and economy; and

WHEREAS, Efficient mass transportation systems reduce environmental degradation and decrease congestion on major roadways, now**,** therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate Concurring, That the Legislative Commission is hereby directed to appoint a subcommittee to study the development and promotion of Nevada as a logistics and distribution center; and be it further

Resolved, That the subcommittee shall formulate a strategy and develop an implementation plan detailing the steps that need to be taken to create and promote the further development of Nevada as a logistics and distribution center which must include, without limitation:

1. Identification of barriers to the development of logistics and distribution centers**;**

2. The costs and benefits associated with expanding mass transportation systems; ~~[~~

~~2.]~~ **3.** Delineation of future foreign trade zones;

~~[3.]~~ **4.** Prioritization of infrastructure needs, including energy and water ~~[.]~~ **and mass transportation systems;**

~~[4.]~~ **5.** Formation of public-private partnerships for financing and incubation of new businesses;

~~[5.]~~ **6. Funding options for the expansion of mass transit systems;**

7. Attraction of businesses associated with supply chain management activities, including assembly, manufacturing, warehousing and transportation; and

~~[6.]~~ **8.** Identification of strategic public policy actions to expedite the investment of private development companies in major logistics centers in Nevada; and be it further

Resolved, That the Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 76th Session of the Nevada Legislature.

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the Resolution File.

Senate Concurrent Resolution No. 35.

Assemblyman Settelmeyer moved the adoption of the resolution.

Remarks by Assemblyman Settelmeyer.

Resolution adopted.

SECOND READING AND AMENDMENT

Senate Bill No. 31.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 725.

AN ACT relating to state governmental administration; revising provisions governing independent contractors with the State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, elective officers and the heads of departments, boards, commissions and institutions of the Executive Department of State Government are authorized to contract for the services of independent contractors, including the provision of security services for state agencies. (NRS 284.173, 284.174) With limited exceptions, existing law requires contracts with independent contractors to be approved by the State Board of Examiners, but the Clerk of the Board may approve contracts that are for less than a certain specified amount. (NRS 284.173) This bill repeals NRS 284.173 and 284.174 but replaces those sections with **sections 2 and 3** of this bill which are added to chapter 333 of NRS, which relates to state purchasing. The new sections contain the same provisions as existing law except that the new sections **[:** ~~(1)~~**]** require that if the contract is for services for which a license, certificate or other authorization is required by law, the independent contractor hold the appropriate current authorization required by law for the services**_.** **[**~~; (2) authorize the State Board of Examiners to determine the relevant amount rather than the relevant amount being specified in statute; and (3) require the State Board of Examiners to prescribe a minimum amount of money under which such a contract is not required to be written or filed with the Legislative Counsel Bureau and the Clerk of the State Board of Examiners rather than the amount of $2,000 being specified in statute.~~**]**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. A using agency may contract for the services of a person as an independent contractor. Except as otherwise provided by specific statute, each such contract must be awarded pursuant to this chapter.***

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. If the contract is for services for which a license, certificate, registration, permit or other type of authorization is required by law, an independent contractor must hold the appropriate, current authorization that is required by law for the services.

6. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 8, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. ~~*[The requirements of this subsection do not apply to contracts which are for less than the amount prescribed by the State Board of Examiners.]*~~ ***The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than $2,000.***

7. Except as otherwise provided in subsection 8, and except for contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its Clerk or his designee to approve contracts which are:

(a) For amounts less than ~~[the amount prescribed by the State Board of Examiners;]~~ $10,000 or, in contracts necessary to preserve life and property, for amounts less than $25,000; or

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

8. Copies of the following types of contracts need not be filed or approved as provided in subsections 6 and 7:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings, if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

9. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 7 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

➥ If the contract submitted for approval continues an existing contractual relationship, the State Board of Examiners shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

10. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require that the independent contractor identify in all pleadings the specific state agency which he is representing.

11. The State Board of Examiners may adopt regulations to carry out of the provisions of this section.

Sec. 3. ***1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a using agency, the using agency may, pursuant to section 2 of this act, contract with one or more independent contractors to provide such services.***

2. An independent contractor with whom a using agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Sec. 4. NRS 41.0307 is hereby amended to read as follows:

41.0307 As used in NRS 41.0305 to 41.039, inclusive:

1. "Employee" includes an employee of a:

(a) Part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) Charter school.

(c) University school for profoundly gifted pupils described in chapter 392A of NRS.

2. "Employment" includes any services performed by an immune contractor.

3. "Immune contractor" means any natural person, professional corporation or professional association which:

(a) Is an independent contractor with the State pursuant to ~~[~~NRS 284.173;~~]~~ ***section 2 of this act;*** and

(b) Contracts to provide medical services for the Department of Corrections.

➥ As used in this subsection, "professional corporation" and "professional association" have the meanings ascribed to them in NRS 89.020.

4. "Public officer" or "officer" includes:

(a) A member of a part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) A public defender and any deputy or assistant attorney of a public defender or an attorney appointed to defend a person for a limited duration with limited jurisdiction.

(c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.

Sec. 5. NRS 176.0129 is hereby amended to read as follows:

176.0129 The Department of Administration shall, on an annual basis, contract for the services of an independent contractor, in accordance with the provisions of ~~[~~NRS 284.173,~~]~~ ***section 2 of this act,*** to:

1. Review sentences imposed in this State and the practices of the State Board of Parole Commissioners and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

(b) On probation;

(c) On parole; and

(d) Serving a term of residential confinement,

➥ during the 10 years immediately following the date of the projection; and

2. Review preliminary proposals and information provided by the Commission and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

(b) On probation;

(c) On parole; and

(d) Serving a term of residential confinement,

➥ during the 10 years immediately following the date of the projection, assuming the preliminary proposals were recommended by the Commission and enacted by the Legislature.

Sec. 6. NRS 232.548 is hereby amended to read as follows:

232.548 1. Except if a particular procedure for resolving a dispute is required by a specific statute, and except as otherwise provided in subsection 2, the Director may authorize any entity within the Department or any natural person who is subject to the authority of the Director to use alternative means of dispute resolution in any proceeding if the alternative means can be:

(a) Carried out by the available personnel of the Department or persons under contract with the Department; and

(b) Paid for with money that is available in the existing budget of the affected entity of the Department.

2. Before authorizing an entity of the Department to use alternative means of dispute resolution, the Director must notify the Attorney General. The Attorney General, within 30 days after his receipt of the notification from the Director, shall respond to the Director concerning the advisability of using alternative means of dispute resolution to resolve the dispute at issue. The Director shall consider the advice of the Attorney General but may authorize an entity of the Department to use alternative means of dispute resolution unless the Attorney General indicates in his response that he officially opposes the use of such means. If the Attorney General fails to respond within 30 days after his receipt of the notification, the Director may authorize the use of alternative means of dispute resolution.

3. The alternative means of dispute resolution may include, without limitation, evaluation of the facts and issues in a dispute by a neutral person, fact-finding, mediation, arbitration or other collaborative problem-solving processes designed to encourage persons to work together to develop agreeable solutions to disputes in lieu of litigation or adjudication of contested cases in administrative hearings.

4. Any entity which, or natural person who, has received authorization from the Director to use alternative means of dispute resolution may enter into a contract to facilitate the use of such means, subject to the approval of the Attorney General, the limitations set forth in subsection 1 and the provisions of ~~[NRS 284.173.]~~ ***section 2 of this act.***

Sec. 7. NRS 590.505 is hereby amended to read as follows:

590.505 1. The Board may adopt a seal for its own use which must have imprinted thereon the words "Board for the Regulation of Liquefied Petroleum Gas." The care and custody of the seal is the responsibility of the Secretary-Treasurer of the Board.

2. The Board may appoint an Executive Secretary and may employ or, pursuant to ~~[NRS 284.173,]~~ ***section 2 of this act,*** contract with such other technical, clerical or investigative personnel as it deems necessary. The Board shall fix the compensation of the Executive Secretary and all other employees and independent contractors. Such compensation must be paid out

of the money of the Board. The Board may require the Executive Secretary and any other employees and independent contractors to give a bond to the Board for the faithful performance of their duties, the premiums on the bond being paid out of the money of the Board.

3. In carrying out the provisions of NRS 590.465 to 590.645, inclusive, and holding its regular or special meetings, the Board:

(a) Shall adopt written policies setting forth procedures and methods of operation for the Board.

(b) May adopt such regulations as it deems necessary.

4. The Board shall submit to the Legislature and the Governor a biennial report before September 1 of each even-numbered year, covering the biennium ending June 30 of that year, of its transactions during the preceding biennium, including a complete statement of the receipts and expenditures of the Board during the period and any complaints received by the Board.

5. The Board shall keep accurate records, minutes and audio recordings or transcripts of all meetings and, except as otherwise provided in NRS 241.035, the records, minutes, audio recordings and transcripts so kept must be open to public inspection at all reasonable times. The Board shall also keep a record of all applications for licenses and licenses issued by it. The record of applications and licenses is a public record.

Sec. 8. NRS 284.173 and 284.174 are hereby repealed.

Sec. 9. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

284.173 Definition; contracts for services.

1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors. Except as otherwise provided by specific statute, each contract for services must be awarded pursuant to the provisions of chapter 333 of NRS.

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State, and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 7, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than $2,000.

6. Except as otherwise provided in subsection 7, and except contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its clerk or his designee to approve contracts which are:

(a) For amounts less than $10,000 or, in contracts necessary to preserve life and property, for amounts less than $25,000.

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

➥ The State Board of Examiners shall adopt regulations to carry out the provisions of this section.

7. Copies of the following types of contracts need not be filed or approved as provided in subsections 5 and 6:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

8. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 6 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

➥ If the contract submitted for approval continues an existing contractual relationship, the Board shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

9. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require the independent contractor to identify in all pleadings the specific state agency which he is representing.

284.174 Contracts for security services when personnel of Capitol Police Division not available.

1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a state agency, the state agency may, pursuant to NRS 284.173, contract with one or more independent contractors to provide such services.

2. An independent contractor with whom a state agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblywoman Smith:

Amendment No. 900.

AN ACT relating to state governmental administration; revising provisions governing independent contractors with the State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, elective officers and the heads of departments, boards, commissions and institutions of the Executive Department of State Government are authorized to contract for the services of independent contractors, including the provision of security services for state agencies. (NRS 284.173, 284.174) With limited exceptions, existing law requires contracts with independent contractors to be approved by the State Board of Examiners, but the Clerk of the Board may approve contracts that are for less than a certain specified amount. (NRS 284.173) This bill repeals NRS 284.173 and 284.174 but replaces those sections with **sections 2 and 3** of this bill which are added to chapter 333 of NRS, which relates to state purchasing. The new sections contain the same provisions as existing law except that the new sections: (1) require that if the contract is for services for which a license, certificate or other authorization is required by law, the independent contractor hold the appropriate current authorization required by

law for the services; (2) authorize the State Board of Examiners to determine the relevant amount rather than the relevant amount being specified in statute; and (3) require the State Board of Examiners to prescribe a minimum amount of money under which such a contract is not required to be written or filed with the Legislative Counsel Bureau and the Clerk of the State Board of Examiners rather than the amount of $2,000 being specified in statute.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1.*** ~~***[A]***~~ ***Except as otherwise provided in section 1 of Assembly Bill No. 463 of this session, a using agency may contract for the services of a person as an independent contractor. Except as otherwise provided by specific statute, each such contract must be awarded pursuant to this chapter.***

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. If the contract is for services for which a license, certificate, registration, permit or other type of authorization is required by law, an independent contractor must hold the appropriate, current authorization that is required by law for the services.

6. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of

the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 8, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The requirements of this subsection do not apply to contracts which are for less than the amount prescribed by the State Board of Examiners.

7. Except as otherwise provided in subsection 8, and except for contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its Clerk or his designee to approve contracts which are:

(a) For amounts less than the amount prescribed by the State Board of Examiners; or

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

8. Copies of the following types of contracts need not be filed or approved as provided in subsections 6 and 7:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings, if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

9. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 7 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

➥ If the contract submitted for approval continues an existing contractual relationship, the State Board of Examiners shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

10. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require that the independent contractor identify in all pleadings the specific state agency which he is representing.

11. The State Board of Examiners may adopt regulations to carry out of the provisions of this section.

Sec. 3. ***1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a using agency, the using agency may, pursuant to section 2 of this act, contract with one or more independent contractors to provide such services.***

2. An independent contractor with whom a using agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Sec. 4. NRS 41.0307 is hereby amended to read as follows:

41.0307 As used in NRS 41.0305 to 41.039, inclusive:

1. "Employee" includes an employee of a:

(a) Part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) Charter school.

(c) University school for profoundly gifted pupils described in chapter 392A of NRS.

2. "Employment" includes any services performed by an immune contractor.

3. "Immune contractor" means any natural person, professional corporation or professional association which:

(a) Is an independent contractor with the State pursuant to ~~[~~NRS 284.173;~~]~~ ***section 2 of this act;*** and

(b) Contracts to provide medical services for the Department of Corrections.

➥ As used in this subsection, "professional corporation" and "professional association" have the meanings ascribed to them in NRS 89.020.

4. "Public officer" or "officer" includes:

(a) A member of a part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) A public defender and any deputy or assistant attorney of a public defender or an attorney appointed to defend a person for a limited duration with limited jurisdiction.

(c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.

Sec. 5. NRS 176.0129 is hereby amended to read as follows:

176.0129 The Department of Administration shall, on an annual basis, contract for the services of an independent contractor, in accordance with the provisions of ~~[~~NRS 284.173,~~]~~ ***section 2 of this act,*** to:

1. Review sentences imposed in this State and the practices of the State Board of Parole Commissioners and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

(b) On probation;

(c) On parole; and

(d) Serving a term of residential confinement,

➥ during the 10 years immediately following the date of the projection; and

2. Review preliminary proposals and information provided by the Commission and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

(b) On probation;

(c) On parole; and

(d) Serving a term of residential confinement,

➥ during the 10 years immediately following the date of the projection, assuming the preliminary proposals were recommended by the Commission and enacted by the Legislature.

Sec. 6. NRS 232.548 is hereby amended to read as follows:

232.548 1. Except if a particular procedure for resolving a dispute is required by a specific statute, and except as otherwise provided in subsection 2, the Director may authorize any entity within the Department or any natural person who is subject to the authority of the Director to use alternative means of dispute resolution in any proceeding if the alternative means can be:

(a) Carried out by the available personnel of the Department or persons under contract with the Department; and

(b) Paid for with money that is available in the existing budget of the affected entity of the Department.

2. Before authorizing an entity of the Department to use alternative means of dispute resolution, the Director must notify the Attorney General. The Attorney General, within 30 days after his receipt of the notification from the Director, shall respond to the Director concerning the advisability of using alternative means of dispute resolution to resolve the dispute at issue. The Director shall consider the advice of the Attorney General but may authorize an entity of the Department to use alternative means of dispute resolution unless the Attorney General indicates in his response that he officially opposes the use of such means. If the Attorney General fails to respond within 30 days after his receipt of the notification, the Director may authorize the use of alternative means of dispute resolution.

3. The alternative means of dispute resolution may include, without limitation, evaluation of the facts and issues in a dispute by a neutral person, fact-finding, mediation, arbitration or other collaborative problem-solving processes designed to encourage persons to work together to develop agreeable solutions to disputes in lieu of litigation or adjudication of contested cases in administrative hearings.

4. Any entity which, or natural person who, has received authorization from the Director to use alternative means of dispute resolution may enter into a contract to facilitate the use of such means, subject to the approval of the Attorney General, the limitations set forth in subsection 1 and the provisions of ~~[NRS 284.173.]~~ ***section 2 of this act.***

Sec. 7. NRS 590.505 is hereby amended to read as follows:

590.505 1. The Board may adopt a seal for its own use which must have imprinted thereon the words "Board for the Regulation of Liquefied Petroleum Gas." The care and custody of the seal is the responsibility of the Secretary-Treasurer of the Board.

2. The Board may appoint an Executive Secretary and may employ or, pursuant to ~~[NRS 284.173,]~~ ***section 2 of this act,*** contract with such other technical, clerical or investigative personnel as it deems necessary. The Board shall fix the compensation of the Executive Secretary and all other employees and independent contractors. Such compensation must be paid out of the money of the Board. The Board may require the Executive Secretary and any other employees and independent contractors to give a bond to the Board for the faithful performance of their duties, the premiums on the bond being paid out of the money of the Board.

3. In carrying out the provisions of NRS 590.465 to 590.645, inclusive, and holding its regular or special meetings, the Board:

(a) Shall adopt written policies setting forth procedures and methods of operation for the Board.

(b) May adopt such regulations as it deems necessary.

4. The Board shall submit to the Legislature and the Governor a biennial report before September 1 of each even-numbered year, covering the biennium ending June 30 of that year, of its transactions during the preceding biennium, including a complete statement of the receipts and expenditures of the Board during the period and any complaints received by the Board.

5. The Board shall keep accurate records, minutes and audio recordings or transcripts of all meetings and, except as otherwise provided in NRS 241.035, the records, minutes, audio recordings and transcripts so kept must be open to public inspection at all reasonable times. The Board shall also keep a record of all applications for licenses and licenses issued by it. The record of applications and licenses is a public record.

Sec. 8. NRS 284.173 and 284.174 are hereby repealed.

Sec. 9. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

284.173 Definition; contracts for services.

1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors. Except as otherwise provided by specific statute, each contract for services must be awarded pursuant to the provisions of chapter 333 of NRS.

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State, and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 7, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than $2,000.

6. Except as otherwise provided in subsection 7, and except contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its clerk or his designee to approve contracts which are:

(a) For amounts less than $10,000 or, in contracts necessary to preserve life and property, for amounts less than $25,000.

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

➥ The State Board of Examiners shall adopt regulations to carry out the provisions of this section.

7. Copies of the following types of contracts need not be filed or approved as provided in subsections 5 and 6:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

8. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 6 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

➥ If the contract submitted for approval continues an existing contractual relationship, the Board shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

9. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require the independent contractor to identify in all pleadings the specific state agency which he is representing.

284.174 Contracts for security services when personnel of Capitol Police Division not available.

1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a state agency, the state agency may, pursuant to NRS 284.173, contract with one or more independent contractors to provide such services.

2. An independent contractor with whom a state agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 43.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 827.

AN ACT relating to public works; revising the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises the criteria that the State Public Works Board is required to adopt to determine the qualification of bidders on contracts for public works to include whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for **improper** conduct **of a serious nature** that relates to the ability of the applicant to perform the public work. (NRS 338.1375)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895;

(5) ***Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for improper conduct of a serious nature that relates to the ability of the applicant to perform the public work;***

(6) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

~~[(6)]~~ ***(7)*** The truthfulness and completeness of the application.

Sec. 2. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 354.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 857.

AN ACT relating to land use planning; revising provisions relating to the appeal of land use decisions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the governing body of each city and county is required to adopt an ordinance providing that an aggrieved person may appeal the decision of a planning commission, board of adjustment, hearing examiner or other similar official ~~[,]~~ **to the governing body. (NRS 278.3195) A person who is aggrieved by a decision of the governing body concerning that appeal may then appeal the decision of the governing body to the district court by filing a petition for judicial review.** This bill ~~[: (1) revises the terminology used in existing law concerning the rights of a person who has appeared before a planning commission, board of adjustment, hearing examiner or other similar official; and (2)]~~ authorizes an aggrieved person to appeal the decision of a governing body that considered a recommendation of a planning commission, board of adjustment, hearing examiner or other similar official or a decision of a governing body which was made without the necessity of a decision or recommendation by a planning commission, board of adjustment, hearing examiner or other similar official. Solely within the confines of a county whose population is 400,000 or more (currently Clark County), this bill ~~[defines]~~ **also provides that, for the purpose of determining whether a person who is seeking judicial review of a decision of a governing body is** an "aggrieved person" ~~[as a person]~~ who ~~[: (1)]~~ **may seek such judicial review of the decision: (1) the person shall be deemed not to be aggrieved unless the person** appeared before the governing body, planning commission, board of adjustment, hearing examiner or other similar official on the matter which is the subject of the decision **and fully set forth his position and the grounds in support of his position**; and (2) ~~[suffered an injury as a result of the decision that has a substantial adverse effect on the person's property or other legal rights. (NRS 278.3195)]~~ **the person shall not be deemed to be aggrieved on the basis that the decision he is appealing may increase or create competition which he claims may be detrimental to his property rights or other legal interests.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 278.3195 is hereby amended to read as follows:

278.3195 1. Except as otherwise provided in NRS 278.310, each governing body shall adopt an ordinance providing that any person who is aggrieved by a decision of: ~~[appeared before:]~~

(a) The planning commission, if the governing body has created a planning commission pursuant to NRS 278.030;

(b) The board of adjustment, if the governing body has created a board of adjustment pursuant to NRS 278.270;

(c) A hearing examiner, if the governing body has appointed a hearing examiner pursuant to NRS 278.262; or

(d) Any other person appointed or employed by the governing body who is authorized to make administrative decisions regarding the use of land,

➥ may appeal the decision ~~[on the matter for which the person appeared]~~ to the governing body. In a county whose population is 400,000 or more, a person shall be deemed to be aggrieved ~~[have appeared]~~ under an ordinance adopted pursuant to this subsection if the person appeared, either in person, through an authorized representative or in writing, before a person or entity described in paragraphs (a) to (d), inclusive, on the matter which is the subject of the decision.

2. Except as otherwise provided in NRS 278.310, an ordinance adopted pursuant to subsection 1 must set forth, without limitation:

(a) The period within which an appeal must be filed with the governing body.

(b) The procedures pursuant to which the governing body will hear the appeal.

(c) That the governing body may affirm, modify or reverse a decision.

(d) The period within which the governing body must render its decision except that:

(1) In a county whose population is 400,000 or more, that period must not exceed 45 days.

(2) In a county whose population is less than 400,000, that period must not exceed 60 days.

(e) That the decision of the governing body is a final decision for the purpose of judicial review.

(f) That, in reviewing a decision, the governing body will be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020.

(g) That the governing body may charge the appellant a fee for the filing of an appeal.

3. In addition to the requirements set forth in subsection 2, in a county whose population is 400,000 or more, an ordinance adopted pursuant to subsection 1 must:

(a) Set forth procedures for the consolidation of appeals; and

(b) Prohibit the governing body from granting to an aggrieved person ~~[appellant]~~ more than two continuances on the same matter, unless the governing body determines, upon good cause shown, that the granting of additional continuances is warranted.

4. Any person who:

(a) Has appealed a decision to the governing body in accordance with an ordinance adopted pursuant to subsection 1 ~~[,]~~ and ***is aggrieved by the decision of the governing body;***

(b) Is aggrieved by ~~[the]~~ ***a*** decision of ~~[the]~~ ***a*** governing body ~~[,]~~ ***regarding the use of land in which the governing body considered a recommendation of a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1; or***

(c) Is aggrieved by a decision of the governing body which, pursuant to the procedures contained in the applicable local ordinance, was made without the necessity of a decision or recommendation by a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1,

➥ may appeal that decision to the district court of the proper county by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk or secretary of the governing body, as set forth in NRS 278.0235. ~~[The appeal to the district court must be confined to the issues considered by the governing body. The remedy provided in this subsection is the exclusive remedy for a person described in paragraphs (a), (b) and (c).]~~

5. ~~[For the purposes of judicial review, in]~~ ***In a county whose population is 400,000 or more, for the purpose of determining whether a person*** ~~[shall]~~ ***who is appealing a decision by filing a petition for judicial review is aggrieved by the decision:***

(a) The person shall be deemed not to be aggrieved by ~~[a]~~ ***the decision*** ~~[if, on the matter which is the subject of the decision:~~

~~(a) The~~ ***unless the person appeared in person, through an authorized representative or in writing and fully set forth his position and the grounds in support of his position:***

(1) Before a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1 that considered the matter, if applicable; and

(2) Before the applicable governing body. ~~[; and]~~

(b) The ~~[injury that the person claims he will suffer as a result of the decision will have a substantial adverse effect on his property rights or other legal interests, except that a]~~ ***person shall not be deemed to be aggrieved*** ~~[pursuant to this paragraph]~~ ***on the basis that the decision he is appealing may increase or create competition that he claims may be detrimental to his property rights or other legal interests.***

6. The provisions of this section ~~[must not be construed to impair or prohibit a person from exercising the right to:~~

~~*(a) Seek appropriate redress for any violation of state or federal law by a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1 if the person has exhausted all available administrative remedies; or*~~

~~*(b) Appear before a governing body to express his opinion concerning any matter before the governing body, notwithstanding the fact that the person has previously failed to appear before a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1 and that the person is not entitled to appeal a decision to the governing body in accordance with an ordinance adopted pursuant to subsection 1.]*** ***do not apply to a petition to designate the location of a proposed establishment as a gaming enterprise district pursuant to NRS 463.3084 or 463.3086.***

7. As used in this section, "person" includes ~~[the]~~ ***:***

(a) The Armed Forces of the United States or an official component or representative thereof ~~[.]~~ ***; and***

(b) Any governmental entity.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 370.

Bill read second time and ordered to third reading.

Senate Bill No. 371.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 354 and 119 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 114 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Concurrent Resolution No. 30; Senate Bill No. 43.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Senate Bills Nos. 43, 370, and 371 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

Senate Bill No. 43.

Bill read third time.

Roll call on Senate Bill No. 43:

YEAS—32.

NAYS—Christensen, Cobb, Gansert, Goedhart, Grady, Gustavson, Hambrick, McArthur, Settelmeyer—9.

EXCUSED—Arberry.

Senate Bill No. 43 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 370.

Bill read third time.

Roll call on Senate Bill No. 370:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 370 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 371.

Bill read third time.

Roll call on Senate Bill No. 371:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 371 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 114.

Bill read third time.

The following amendment was proposed by Assemblyman Conklin:

Amendment No. 844.

AN ACT relating to energy; requiring the Director of the Office of Energy to make certain determinations relating to systems for obtaining solar energy; prohibiting certain restrictions on the use of systems for obtaining solar **energy or wind** energy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth a prohibition against covenants, restrictions or conditions contained in deeds, contracts or other legal documents which prohibit or unreasonably restrict an owner of property from using a system for obtaining solar ~~[or wind]~~ energy on his property. (NRS 111.239, 278.0208) **Sections 2 and 3** of this bill include within the prohibition any such covenant, restriction or condition which has the effect of prohibiting or

unreasonably restricting the property owner from using ~~[such]~~ a **solar energy** system. **Sections 2 and 3** also describe an unreasonable restriction on the use of a system for obtaining solar energy as including: (1) the placing of a restriction or requirement that decreases the efficiency or performance of a system for obtaining solar energy by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy; and (2) the prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.

Section 1 of this bill requires the Director, if requested to make a determination concerning the efficiency or performance of a system for obtaining solar energy pursuant to **section 2 or 3**, to make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, **section 1** authorizes the Director to request that information from the person requesting the determination and requires the Director to make the determination within 15 days after receiving the additional information.

Sections 1.5 and 2.5 of this bill set forth a prohibition against covenants, restrictions or conditions contained in deeds, contracts or other legal documents, and against local ordinances, regulations or plans, which prohibit or unreasonably restrict an owner of property from using a system for obtaining wind energy on his property. Sections 1.5 and 2.5 describe an unreasonable restriction on the use of a system for obtaining wind energy as the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance. Sections 1.5 and 2.5 do not prohibit reasonable restrictions: (1) imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or (2) relating to the height, noise or safety of a system for obtaining wind energy.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources.

2. Utilize all available public and private means to provide information to the public about problems relating to energy and to explain how conservation of energy and its sources may be accomplished.

3. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

4. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

5. Encourage the development of:

(a) Any sources of renewable energy and any other energy projects which will benefit the State; and

(b) Any measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. In conjunction with the Desert Research Institute, review policies relating to the research and development of the State's geothermal resources and make recommendations to the appropriate state and federal agencies for establishing methods of developing the geothermal resources within the State.

7. Solicit and serve as the point of contact for grants and other money from the Federal Government and other sources to promote:

(a) Energy projects that enhance the economic development of the State;

(b) The use of renewable energy; and

(c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

8. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Task Force, the Consumer's Advocate and the Public Utilities Commission of Nevada and other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

9. ***If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, he may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.***

10. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 1.5. **Chapter 111 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Except as otherwise provided in subsection 2, any covenant, restriction or condition contained in a deed, contract or other legal

instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his property is void and unenforceable.

2. The provisions of subsection 1 do not prohibit a reasonable restriction or requirement:

(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or

(b) Relating to the height, noise or safety of a system for obtaining wind energy.

3. For the purposes of this section, "unreasonably restricts the owner of the property from using a system for obtaining wind energy" includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.

Sec. 2. NRS 111.239 is hereby amended to read as follows:

111.239 1. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer ~~[,]~~ ***or*** sale ***of,*** or any other interest in ~~,~~ real property ~~[that]~~ ***and which*** prohibits or unreasonably restricts ***or has the effect of prohibiting or unreasonably restricting*** the owner of the property from using a system for obtaining solar ~~[or wind]~~ energy on his property is void and unenforceable.

2. For the purposes of this section, ~~["unreasonably restricts the use of a system for obtaining solar or wind energy" means]~~ ***the following shall be deemed to be unreasonable restrictions:***

(a) ~~*[The placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.*~~

~~*(b)]*~~ ***The*** placing ***of*** a restriction or requirement on the use of ~~[such]~~ a system ***for obtaining solar energy*** which ~~[significantly]~~ decreases the efficiency or performance of the system ***by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy,*** and ***which*** does not allow for the use of an alternative system at a ***substantially*** comparable cost and with ***substantially*** comparable efficiency and performance.

~~*[(c)]*~~ ***(b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.***

Sec. 2.5. **Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Except as otherwise provided in subsection 2:

(a) A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining wind energy on his property.

(b) Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his property is void and unenforceable.

2. The provisions of subsection 1 do not prohibit a reasonable restriction or requirement:

(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or

(b) Relating to the height, noise or safety of a system for obtaining wind energy.

3. For the purposes of this section, "unreasonably restricts the owner of the property from using a system for obtaining wind energy" includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.

Sec. 3. NRS 278.0208 is hereby amended to read as follows:

278.0208 1. A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts ***or has the effect of prohibiting or unreasonably restricting*** the owner of real property from using a system for obtaining solar ~~[or wind]~~ energy on his property.

2. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer ~~[,]~~ ***or*** sale ***of,*** or any other interest in ***,*** real property ~~[that]~~ ***and which*** prohibits or unreasonably restricts ***or has the effect of prohibiting or unreasonably restricting*** the owner of the property from using a system for obtaining solar ~~[or wind]~~ energy on his property is void and unenforceable.

3. For the purposes of this section, ~~["unreasonably restricting the use of a system for obtaining solar or wind energy" means]~~ ***the following shall be deemed to be unreasonable restrictions:***

(a) ~~*[The placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.*~~

~~*(b)]*~~ ***The*** placing ***of*** a restriction or requirement on the use of ~~[such]~~ a system ***for obtaining solar energy*** which ~~[significantly]~~ decreases the

efficiency or performance of the system ***by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy,*** and ***which*** does not allow for the use of an alternative system at a ***substantially*** comparable cost and with ***substantially*** comparable efficiency and performance.

~~[(c)]~~ ***(b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.***

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 243.

Bill read third time.

Remarks by Assemblymen Manendo, Goedhart, Atkinson, Goicoechea, Gustavson, Oceguera, Settelmeyer, and Horne.

Roll call on Senate Bill No. 243:

YEAS—34.

NAYS—Carpenter, Cobb, Goedhart, Grady, Gustavson, Manendo, Settelmeyer—7.

EXCUSED—Arberry.

Senate Bill No. 243 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Assembly Bill No. 122 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 21, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 122 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval Assembly Bill 122 which is entitled:

> AN ACT relating to the Office for Consumer Health Assistance; expanding the definition of "consumer" to include more situations in which assistance may be rendered; expanding the authority of the Director of the Office for Consumer Health Assistance to adopt necessary regulations; making various other changes relating to the Office for Consumer Health Assistance; and providing other matters properly relating thereto.

This bill would expand the authority of the Office for Consumer Health Assistance. In my executive budget I proposed to eliminate this office for two reasons. First this office, in some instances, provides duplicative services to the public. Second, this office. while important. is not an essential governmental service that the State of Nevada can afford to fund in these tough economic times. Consequently, there is no reason to expand the scope of the Office for

Consumer Health Assistance when this office was recommended for closure in the Executive Budget.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 122.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Smith, Hardy, Gansert, Leslie, and Hogan.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 122:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

EXCUSED—Arberry.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 257 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 21, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 257 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval Assembly Bill 257, which is entitled:

> AN ACT relating to crimes; prohibiting the taking of an excessive number of certain free publications under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

This bill would make it a crime for a person to take more than ten copies of a free or complimentary periodical. Our law enforcement professionals should be focusing their limited time and resources on the prevention of major crimes and the protection of the public, particularly in these times when funding for law enforcement has been negatively impacted due to decreased government revenues. I do not see any benefit to the public by requiring our law enforcement professionals to investigate and prosecute the type of activity described in Assembly Bill 257.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 257.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Kihuen, Anderson, and Carpenter.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 257:

YEAS—34.

NAYS—Christensen, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Settelmeyer—7.

EXCUSED—Arberry.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 480 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 21, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 480 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval Assembly Bill 480, which is entitled:

AN ACT relating to water; revising the fees collected by the State Engineer: and providing other matters properly relating thereto.

This bill would enact several new and increased fees collected by the State Engineer with respect to water and water appropriation. 1 am not aware of any significant support by industry for any of the increased and additional fees contained in Assembly Bill 480. Moreover, a comparative study of western states places Nevada in the average range for these types of fees. Simply put, adding and increasing these fees during tough economic times just does not make economic sense.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 480.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Kirkpatrick, Goicoechea, and Bobzien.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 480:

YEAS—37.

NAYS—Cobb, Gustavson, Hambrick, McArthur—4.

EXCUSED—Arberry.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 82, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, VICE *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 21, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 563.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 433.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 242, 422.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 30.

Assemblywoman Koivisto moved the adoption of the resolution.

Remarks by Assemblywoman Koivisto.

Resolution adopted, as amended and ordered transmitted to the Senate.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 422.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 433.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 82.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 885.

AN ACT relating to elections; making various changes relating to the administration and conduct of elections; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.5 of this bill sets forth requirements for and responsibilities of an organizer of a voter registration drive, including registering with the

Secretary of State and attending training offered by the Secretary of State, and provides for penalties and the imposition of fines for violations.

Section 5 of this bill increases the deadline for filing written challenges of candidacy from 5 days to 10 days after the last day a person may withdraw his candidacy. (NRS 293.182)

Section 7 of this bill increases the maximum number of active and registered voters that election precincts may contain from 1,500 to 3,000 active and registered voters. (NRS 293.207)

Sections 8 and 15 of this bill provide that the creation of mailing precincts or absent ballot mailing precincts must be approved by the Secretary of State under certain circumstances. (NRS 293.213, 293.343)

Sections 1.9, 9, 11, 12, 14, 20 and 22 of this bill authorize the Secretary of State to establish a system for electors in the State to register to vote electronically. (NRS 293.1277, 293.250, 293.272, 293.2725, 293.506 and 293.517)

Section 10 of this bill provides that if two or more candidates in an election have the same given name and surname and one candidate is an incumbent, the word "Incumbent" must be written on the ballot next to name of the candidate who is the incumbent. (NRS 293.2565) **Section 13** of this bill requires the posting at polling places on election day of information concerning the eligibility of a candidate, question or other matter to appear on the ballot as a result of judicial determination or by operation of law. (NRS 293.3025)

Section 16 of this bill authorizes the Secretary of State to assess a charge, not to exceed the cost of printing the applications, against a political party or other entity that requests more than 50 applications to register to vote by mail in any 12-month period. (NRS 293.443)

Existing law requires county clerks to report to the Secretary of State certain information regarding primary and general elections. The Secretary of State is required to report this information to the Legislature not later than 30 days before the start of a regular legislative session. **Section 17.2** of this bill changes the deadline for that report to within 10 days before or after the first day of each regular legislative session. (NRS 293.4695)

Section 17.4 of this bill requires that recruitment offices of the United States Armed Forces serve as voter registration agencies. (NRS 293.504)

Section 18 of this bill prohibits a voter registration agency from knowingly employing a person whose duties will include the registration of voters if the person has been convicted of a felony involving theft, fraud or dishonesty. (NRS 293.5045)

Section 19 of this bill prohibits a county clerk from knowingly appointing to be a field registrar any person who has been convicted of a felony involving theft, fraud or dishonesty. (NRS 293.505)

Section 22.2 of this bill changes the date on which a person who registers to vote by mail is deemed to be registered to the earlier of the date on which

the application is postmarked or received by the county clerk. (NRS 293.5235)

Section 23 of this bill amends the deadlines for the county clerk to transmit the number of registered voters in the county to the Secretary of State for the primary and general elections. (NRS 293.567)

Section 24 of this bill increases the penalty for intimidating voters from a gross misdemeanor to a category E felony. (NRS 293.710)

Section 25 of this bill increases the penalty for interfering with the conduct of an election from a gross misdemeanor to a category C felony. (NRS 293.730)

Section 25.2 of this bill provides that polling information from a voter regarding whether the voter intends to vote for or against a particular political party, candidate or ballot question is not "electioneering." (NRS 293.740)

Section 26 of this bill increases the penalty for the removal or destruction of certain voting supplies and equipment from a gross misdemeanor to a category ~~[B]~~ **D** felony. (NRS 293.750)

Section 27 of this bill provides that if a person tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots, such an act is punishable as: (1) a category ~~[B]~~ **C** felony ~~[, punishable by imprisonment in the state prison for a minimum term of not less than 2 years or more than 10 years,]~~ if the act was committed with the intent to prevent the proper operation of that system, device or program; and (2) a category ~~[A]~~ **B** felony, punishable by imprisonment in the state prison for a ~~[fixed]~~ **minimum** term of ~~[40]~~ **2** years ~~[, with eligibility for parole beginning when a minimum of 15 years has been served,]~~ **and a maximum term of 20 years,** if the act was committed with the intent to influence the outcome of an election. (NRS 293.755)

Section 28 of this bill makes certain unlawful acts relating to the registration of voters a category C felony rather than a category E felony. (NRS 293.800)

Section 29.3 of this bill requires certain persons to register with the Secretary of State before making an expenditure on behalf of a candidate or group of candidates which is not solicited or approved by the candidate or group.

Section 30 of this bill amends the definition of "committee for political action" to include a natural person. (NRS 294A.0055)

Sections 29.5, 29.7, 32.2-32.5, 33.1, 33.2, 34.2, 34.3, 35, 38.2, 40.5 and 41.5 of this bill provide that, except under certain circumstances, campaign contribution and expenditure reports related to candidates for state, county and district offices must be filed electronically with the Secretary of State. (NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280, 294A.362, 294A.373, 294A.390)

Sections 32, 36 and 36.5 of this bill prohibit: (1) a person from committing to make certain campaign contributions; and (2) a candidate from

accepting a commitment to make certain campaign contributions. (NRS 294A.100, 294A.287, 294A.300)

Sections 33 and 35 of this bill provide the acceptable methods for disposing of unspent campaign contributions or unspent money in a legal defense fund. (NRS 294A.200, 294A.286)

Section 34 of this bill requires committees for political action to file with the Secretary of State an updated form of registration on or before January 15 of each year. (NRS 294A.230)

Existing law requires the Secretary of State to design a universal form for campaign contribution and expenditure reports. **Section 40.5** of this bill requires the Secretary of State to design a form for each campaign contribution and expenditure report. (NRS 294A.373)

Sections ~~[44.1, 44.2, 44.3]~~ 44.1-44.3 and 44.5-45.5 of this bill provide that, except under certain circumstances, appointed and elected public officers must file electronically statements of financial disclosure with the Secretary of State rather than the Nevada Commission on Ethics. (NRS 281A.290, 281A.600-281A.650) ~~[Section 44.4 of this bill requires that all ethical acknowledgment forms be filed with the Commission on Ethics not later than 30 days after a public officer takes office and annually thereafter on or before January 15. (NRS 281A.500)]~~

Section 46 repeals provisions governing the registration of and reporting of contributions and expenses by certain persons and groups relating to ballot questions. (NRS 294A.150, 294A.220, 294A.281-294A.284)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1, 1.3 and 1.5 of this act.

Sec. 1.1. ***"Organizer of voter registration" means any person who organizes a voter registration drive pursuant to section 1.5 of this act.***

Sec. 1.3. ***"Voter registration drive" means distributing and collecting 10 or more applications to register to vote pursuant to section 1.5 of this act.***

Sec. 1.5. ***1. Before commencing a voter registration drive, the organizer of voter registration shall:***

(a) File a statement of intent to conduct voter registration with the Secretary of State in the form prescribed by the Secretary of State; and

(b) Complete a training course offered by the Secretary of State for organizers of voter registration.

2. An organizer of voter registration:

(a) Shall maintain in the State a registered agent who resides or is located in this State upon whom all legal process and any demand or notice authorized by law to be served upon it may be served. The organizer of voter registration shall include the contact information for the registered agent with the statement of intent filed pursuant to subsection 1.

(b) May register voters in this State.

(c) May employ persons to assist the organizer of voter registration in registering voters in the State. The organizer of voter registration shall not provide compensation to any person hired pursuant to this paragraph that is based on the number of completed applications to register to vote that the person submits.

(d) Shall not knowingly employ a person to register voters in this State if the person has been convicted of a felony involving theft, fraud or dishonesty.

3. Except as otherwise provided in this subsection, a completed application to register to vote that is collected pursuant to a voter registration drive must be:

(a) Delivered personally to the county clerk not later than 10 calendar days after the elector signs the application; or

(b) Mailed to the county clerk and postmarked not later than 10 calendar days after the elector signs the application.

➥ Any completed application to register to vote that is signed by an elector 14 calendar days or less before the date for the close of registration set forth in NRS 293.560 and 293C.527 must be delivered or postmarked on the day on which the elector signs the application.

4. A person who registers voters in this State pursuant to a voter registration drive shall not:

(a) Seek to influence an applicant's political preference or party registration; or

(b) Make any statement or take any action to discourage an applicant from registering to vote.

➥ A person who violates any of the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. The Secretary of State shall impose the following fines for each violation:

(a) If an organizer of voter registration does not complete the training course offered by the Secretary of State pursuant to subsection 1, a fine of not more than $1,000.

(b) If an organizer of voter registration does not file with the Secretary of State the contact information for its registered agent required pursuant to paragraph (a) of subsection 2, a fine of not more than $1,000.

(c) If an organizer of voter registration employs a person in violation of paragraph (d) of subsection 2, a fine of not more than $5,000 per person who is employed by the organizer of voter registration in violation of that paragraph.

(d) If an organizer of voter registration does not submit a completed application to register to vote within the applicable period set forth in subsection 3, a fine of not more than $50 for each business day that the application is late.

6. If the Secretary of State has imposed a fine against an organizer of voter registration pursuant to paragraph (d) of subsection 5 three times or more, the Secretary of State may impose an additional fine of not more than $1,000.

7. The Secretary of State may adopt regulations necessary to administer the provisions of this section.

Sec. 1.7. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, ***and sections 1.1 and 1.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 1.9. NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county.

2. If more than 500 names have been signed on the documents submitted to him, a county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, he shall ensure that every application in the file is examined, including any application in his possession which may not yet be entered into his records. **[**The**]** ***Except as otherwise provided in this subsection, the*** county clerk shall rely only on the appearance of the signature and the address and date included with each signature ***in the file of applications to register to vote*** in making his determination. ***If the Secretary of State establishes pursuant to NRS 293.506 a system to allow persons to register electronically to vote in this State, the county clerk may rely on such other indicia as prescribed by the Secretary of State in making his determination.***

4. Except as otherwise provided in subsection 6, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of his examination and transmit the documents with the certificate to the Secretary of State. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the

Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

5. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

6. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

7. The Secretary of State may by regulation establish further procedures for carrying out the provisions of this section.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 293.182 is hereby amended to read as follows:

293.182 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than ~~[5]~~ ***10 calendar*** days after the last day the person may withdraw his candidacy pursuant to NRS 293.202, an elector may file with the filing officer for the office a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, including, without limitation, a requirement concerning age or residency. Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and court costs of the challenged person.

2. A challenge filed pursuant to subsection 1 must:

(a) Indicate each qualification the person fails to meet;

(b) Have attached all documentation and evidence supporting the challenge; and

(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

(b) A filing officer other than the Secretary of State shall immediately transmit the challenge to the district attorney.

4. If the Attorney General or district attorney determines that probable cause exists to support the challenge, the Attorney General or district attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order

directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, or if the person fails to appear at the hearing:

(a) The name of the person must not appear on any ballot for the election for the office for which he filed the declaration of candidacy or acceptance of candidacy; and

(b) The person is disqualified from entering upon the duties of the office for which he filed the declaration of candidacy or acceptance of candidacy.

6. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and court costs of the challenged person.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 293.207 is hereby amended to read as follows:

293.207 1. Election precincts must be established on the basis of the number of registered voters therein, with a maximum of ~~[1,500]~~ ***3,000*** registered voters who are not designated inactive pursuant to NRS 293.530 per precinct in those precincts in which a mechanical voting system is used.

2. Except as otherwise provided in subsections 3 and 4, the county clerk may consolidate two or more contiguous election precincts into a single voting district to conduct a particular election as public convenience, necessity and economy may require.

3. If a county clerk proposes to consolidate two or more contiguous election precincts, in whole or in part, pursuant to subsection 2, the county clerk shall, at least 14 days before consolidating the precincts, cause notice of the proposed consolidation to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the consolidation.

4. A person may file a written objection to the proposed consolidation with the county clerk. The county clerk shall consider each written objection filed pursuant to this subsection before consolidating the precincts.

Sec. 8. NRS 293.213 is hereby amended to read as follows:

293.213 1. Whenever there were not more than 20 voters registered in a precinct for the last preceding general election, the county clerk may ~~[, with the approval of the Secretary of State,]~~ establish that precinct as a mailing precinct.

2. Except as otherwise provided in NRS 293.208, the county clerk in any county ~~[where]~~ ***in which*** an absent ballot central counting board is appointed may abolish two or more existing mailing precincts and combine those mailing precincts into absent ballot precincts. Those mailing precincts must be designated absent ballot mailing precincts.

3. In any county ~~[where]~~ ***in which*** an absent ballot central counting board is appointed, any established precinct which had less than 200 ballots cast at the last preceding general election, or any newly established precinct with less than 200 registered voters, may be designated an absent ballot mailing precinct.

4. ***If a county clerk wishes to establish a mailing precinct or an absent ballot mailing precinct that does not meet the requirements of subsection 1, 2 or 3, the county clerk must obtain approval from the Secretary of State before establishing the mailing precinct or absent ballot mailing precinct.***

5. The county clerk shall, at least 14 days before establishing or designating a precinct as a mailing precinct or absent ballot mailing precinct or before abolishing a mailing precinct pursuant to this section, cause notice of such action to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the action.

Sec. 9. NRS 293.250 is hereby amended to read as follows:

293.250 1. The Secretary of State shall, in a manner consistent with the election laws of this State, prescribe:

(a) The form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, applications to register to vote, lists, applications, registers, rosters, statements and abstracts required by the election laws of this State.

(b) The procedure to be followed ~~[when]~~ ***:***

(1) If the Secretary of State establishes pursuant to NRS 293.506 a system to allow persons to register electronically to vote in this State.

(2) When a computer is used to ~~[register voters and to]~~ keep records of registration.

2. The Secretary of State shall prescribe with respect to the matter to be printed on every kind of ballot:

(a) The placement and listing of all offices, candidates and measures upon which voting is statewide, which must be uniform throughout the State.

(b) The listing of all other candidates required to file with him, and the order of listing all offices, candidates and measures upon which voting is not statewide, from which each county or city clerk shall prepare appropriate ballot forms for use in any election in his county.

3. The Secretary of State shall place the condensation of each proposed constitutional amendment or statewide measure near the spaces or devices for indicating the voter's choice.

4. The fiscal note for, explanation of, arguments for and against ~~[,]~~ and rebuttals to such arguments of each proposed constitutional amendment or statewide measure must be included on all sample ballots.

5. The condensations and explanations for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Attorney General. The arguments and rebuttals for or against constitutional amendments and statewide measures proposed by initiative or referendum must be prepared in the manner set forth in NRS 293.252. The fiscal notes for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Fiscal Analysis Division of the Legislative Counsel Bureau. The condensations, explanations, arguments, rebuttals and fiscal notes must be in easily understood language and of reasonable length, and whenever feasible must be completed by August 1 of the year in which the general election is to be held.

6. The names of candidates for township and legislative or special district offices must be printed only on the ballots furnished to voters of that township or district.

7. A county clerk:

(a) May divide paper ballots into two sheets in a manner which provides a clear understanding and grouping of all measures and candidates.

(b) Shall prescribe the color or colors of the ballots and voting receipts used in any election which the clerk is required to conduct.

Sec. 10. NRS 293.2565 is hereby amended to read as follows:

293.2565 1. Except as otherwise provided in subsection 2, in any election regulated by this chapter, the name of a candidate printed on a ballot may be the given name and surname of the candidate or a contraction or familiar form of his given name followed by his surname. A nickname of not more than 10 letters may be incorporated into the name of a candidate. The nickname must be in quotation marks and appear immediately before the surname of the candidate. A nickname must not indicate any political, economic, social or religious view or affiliation and must not be the name of any person, living or dead, whose reputation is known on a statewide, nationwide or worldwide basis ~~[,]~~ or in any other manner deceive a voter regarding the person or principles for which he is voting.

2. ~~[Except as otherwise provided in subsection 3, in]~~ ***In*** any election regulated by this chapter, if two or more candidates have the same ***given name and*** surname ~~[or surnames so similar as to be likely to cause confusion]~~ and:

(a) None of the candidates is an incumbent, the middle names or middle initials, if any, of the candidates must be included in the names of the candidates ***;*** **[**~~as printed on the ballot;~~**]** or

(b) One of the candidates is an incumbent, the name of the incumbent must be listed first and **[**~~must be printed in bold type.~~

~~3. Where a system of voting other than by paper ballot is used and the provisions of paragraph (b) of subsection 2 are applicable, the Secretary of State may distinguish a candidate who is an incumbent in a manner other than printing the name of the incumbent in bold type provided that the manner used clearly emphasizes the name of the incumbent in a manner similar to printing his name in bold type.~~**]** ***the word "Incumbent" must be written next to the name of the candidate who is the incumbent.***

Sec. 11. NRS 293.272 is hereby amended to read as follows:

293.272 1. Except as otherwise provided in subsection 2 and in NRS 293.2725 and 293.3083, a person who registered ***electronically or by mail*** to vote **[**~~pursuant to the provisions of NRS 293.5235~~**]** shall, for the first election in which he votes at which that registration is valid, vote in person unless he has previously voted in the county in which he is registered to vote.

2. The provisions of subsection 1 do not apply to a person who:

(a) Is entitled to vote in the manner prescribed in NRS 293.343 to 293.355, inclusive;

(b) Is entitled to vote an absent ballot pursuant to federal law or NRS 293.316 or 293.3165;

(c) Is disabled;

(d) Submits or has previously submitted a written request for an absent ballot that is signed by the registered voter before a notary public or other person authorized to administer an oath; or

(e) Requests an absent ballot in person at the office of the county clerk.

Sec. 12. NRS 293.2725 is hereby amended to read as follows:

293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers ***electronically or*** by mail to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place only if the person presents to the election board officer at the polling place:

(1) A current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck **[**~~,~~**]** or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517; and

(b) May vote by mail only if the person provides to the county or city clerk:

(1) A copy of a current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck **[**~~,~~**]** or document issued by a governmental entity, including a check which indicates

the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517.

2. The provisions of this section do not apply to a person who:

(a) Registers to vote by mail and submits with his application to register to vote:

(1) A copy of a current and valid photo identification; or

(2) A copy of a current utility bill, bank statement, paycheck ~~[,]~~ or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;

(b) Registers to vote by mail and submits with his application to register to vote a driver's license number or at least the last four digits of his social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in his application;

(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;

(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or

(e) Is entitled to vote otherwise than in person under any other federal law.

Sec. 13. NRS 293.3025 is hereby amended to read as follows:

293.3025 The Secretary of State and each county and city clerk shall ensure that a copy of each of the following is posted in a conspicuous place at each polling place on election day:

1. A sample ballot;

2. Information concerning the date and hours of operation of the polling place;

3. Instructions for voting and casting a ballot, including a provisional ballot;

4. Instructions concerning the identification required for persons who registered by mail and are first-time voters for federal office in this State;

5. Information concerning the accessibility of polling places to persons with disabilities; ~~[and]~~

6. General information concerning federal and state laws which prohibit acts of fraud and misrepresentation ~~[.]~~ ***; and***

7. Information concerning the eligibility of a candidate, a ballot question or any other matter appearing on the ballot as a result of judicial determination or by operation of law, if any.

Sec. 14. NRS 293.3083 is hereby amended to read as follows:

293.3083 A person may cast a ballot by mail to vote for a candidate for federal office, which must be treated as a provisional ballot by the county or city clerk if the person:

1. Applies ***electronically or*** by mail to register to vote and has not previously voted in an election for federal office in this State;

2. Fails to provide the identification required pursuant to paragraph (b) of subsection 1 of NRS 293.2725 to the county or city clerk at the time that he mails his ballot; and

3. Completes the written affirmation set forth in subsection 1 of NRS 293.3082.

Sec. 15. NRS 293.343 is hereby amended to read as follows:

293.343 1. A registered voter who resides in an election precinct in which there were not more than 200 voters registered for the last preceding general election, or in a precinct in which it appears to the satisfaction of the county clerk ***and Secretary of State*** that there are not more than 200 registered voters, may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

2. Whenever the county clerk has designated a precinct as a mailing precinct, registered voters residing in that precinct may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

3. In a county whose population is 100,000 or more, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) Shall designate at least one polling place in the county as the polling place where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

4. In a county whose population is less than 100,000, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) May designate one or more polling places in the county as the polling place where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

5. Polling places designated pursuant to subsection 3 or 4 may include, without limitation, polling places located as closely as practicable to the mailing precincts.

Sec. 16. NRS 293.443 is hereby amended to read as follows:

293.443 1. Except as otherwise provided in subsection 3, the expense of providing all ballots, forms and other supplies to be used at any election regulated by this chapter or chapter 293C of NRS and all expenses necessarily incurred in the preparation for, or the conduct of, any such election is a charge upon the municipality, county, district or State, as the case may be.

2. The county or city clerk may submit the printing of ballots for competitive bidding.

3. If a political party or other entity requests more than 50 applications to register to vote by mail in any 12-month period, the clerk ***or the Secretary of State*** may assess a charge, not to exceed the cost of printing the applications.

Sec. 17. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280, ~~[294A.283,]~~ 294A.360 and 294A.362 and all reports on contributions received by and expenditures made from a legal defense fund submitted to the Secretary of State pursuant to NRS 294A.286.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 17.2. NRS 293.4695 is hereby amended to read as follows:

293.4695 1. Each county clerk shall collect the following information regarding each primary and general election, on a form provided by the Secretary of State and made available at each polling place in the county, each polling place for early voting in the county, the office of the county clerk and any other location deemed appropriate by the Secretary of State:

(a) The number of ballots that have been discarded or for any reason not included in the final canvass of votes, along with an explanation for the exclusion of each such ballot from the final canvass of votes.

(b) A report on each malfunction of any mechanical voting system, including, without limitation:

(1) Any known reason for the malfunction;

(2) The length of time during which the mechanical voting system could not be used;

(3) Any remedy for the malfunction which was used at the time of the malfunction; and

(4) Any effect the malfunction had on the election process.

(c) A list of each polling place not open during the time prescribed pursuant to NRS 293.273 and an account explaining why each such polling place was not open during the time prescribed pursuant to NRS 293.273.

(d) A description of each challenge made to the eligibility of a voter pursuant to NRS 293.303 and the result of each such challenge.

(e) A description of each complaint regarding a ballot cast by mail or facsimile filed with the county clerk and the resolution, if any, of the complaint.

(f) The results of any audit of election procedures and practices conducted pursuant to regulations adopted by the Secretary of State pursuant to this chapter.

(g) The number of provisional ballots cast and the reason for the casting of each provisional ballot.

2. Each county clerk shall submit to the Secretary of State, on a form provided by the Secretary of State, the information collected pursuant to subsection 1 not more than 60 days after each primary and general election.

3. The Secretary of State may contact any political party and request information to assist in the investigation of any allegation of voter intimidation.

4. The Secretary of State shall establish and maintain an Internet website pursuant to which he shall solicit and collect voter comments regarding election processes.

5. The Secretary of State shall compile the information and comments collected pursuant to this section into a report that he shall submit to the Director of the Legislative Counsel Bureau for transmission to the Legislature ~~[not later than 30]~~ ***within 10*** days before ***or after*** the ~~[start]~~ ***first day*** of each regular session of the Legislature.

6. The Secretary of State may make the report required pursuant to subsection 5 available on an Internet website established and maintained by the Secretary of State.

Sec. 17.4. NRS 293.504 is hereby amended to read as follows:

293.504 1. The following offices shall serve as voter registration agencies:

(a) Such offices that provide public assistance as are designated by the Secretary of State;

(b) Each office that receives money from the State of Nevada to provide services to persons in this State who are disabled;

(c) The offices of the Department of Motor Vehicles;

(d) The offices of the city and county clerks;

(e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable; ~~[and]~~

(f) ***Recruitment offices of the United States Armed Forces; and***

(g) Such other offices as the Secretary of State deems appropriate.

2. Each voter registration agency shall:

(a) Post in a conspicuous place, in at least 12-point type, instructions for registering to vote;

(b) ~~[Make]~~ ***Except as otherwise provided in subsection 3, distribute*** applications to register to vote which may be returned by mail ~~[available to each person who applies for or receives]~~ ***with each application for*** services or assistance from the agency ~~[;]~~ ***and with each application for recertification, renewal or a change of address related to such services or assistance.***

(c) Provide the same amount of assistance to an applicant in completing an application to register to vote as the agency provides to a person completing any other forms for the agency; and

(d) Accept completed applications to register to vote.

3. ***A voter registration agency is not required to provide an application to register to vote pursuant to paragraph (b) of subsection 2 to a person who applies for or receives services or assistance from the agency if the person declines to register to vote and submits to the agency a written form that meets the requirements of 42 U.S.C. § 1973gg-5(6). No information related to the declination to register to vote may be used for any purpose other than voter registration.***

4. Except as otherwise provided in this subsection and NRS 293.524, any application to register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election. The county clerk shall accept any application to register to vote which is obtained from a voter registration agency pursuant to this section and completed by the fifth Sunday preceding an election if he receives the application not later than 5 days after that date.

~~[4.]~~ ***5.*** The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to register to vote at recruitment offices of the United States Armed Forces.

Sec. 18. NRS 293.5045 is hereby amended to read as follows:

293.5045 1. A person who works in a voter registration agency shall not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display a political preference or party allegiance in a place where it can be seen by an applicant;

(c) Make any statement or take any action to discourage an applicant from registering to vote; or

(d) Make any statement or take any action which would lead the applicant to believe that a decision to register to vote has any effect on the availability of any services or benefits provided by the State or Federal Government.

2. A person who violates any of the provisions of ~~[this section]~~ ***subsection 1*** is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. A voter registration agency shall not knowingly employ a person whose duties will include the registration of voters if the person has been convicted of a felony involving theft, fraud or dishonesty. The Secretary of State may impose against a voter registration agency a fine of not more than $5,000 per person who is employed by the voter registration agency in violation of this subsection.

Sec. 19. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which he is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform his duties as the county clerk may direct. ***The county clerk shall not knowingly appoint any person to be a field registrar who has been convicted of a felony involving theft, fraud or dishonesty.***

3. A field registrar shall demand of any person who applies for registration all information required by the application to register to vote and shall administer all oaths required by this chapter.

4. When a field registrar has in his possession five or more completed applications to register to vote, he shall forward them to the county clerk, but in no case may he hold any number of them for more than 10 days.

5. Each field registrar shall forward to the county clerk all completed applications in his possession immediately after the fifth Sunday preceding an election. Within 5 days after the fifth Sunday preceding any general election or general city election, a field registrar shall return all unused applications in his possession to the county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.

6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.

7. Each field registrar shall post notices sent to him by the county clerk for posting in accordance with the election laws of this State.

8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Delegate any of his duties to another person; or

(b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself out to be or attempt to exercise the duties of a field registrar unless he has been so appointed.

10. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Solicit a vote for or against a particular question or candidate;

(b) Speak to a voter on the subject of marking his ballot for or against a particular question or candidate; or

(c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election,

➥ while he is registering an elector.

11. When the county clerk receives applications to register to vote from a field registrar, he shall issue a receipt to the field registrar. The receipt must include:

(a) The number of persons registered; and

(b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or

(b) Register a person who fails to provide satisfactory proof of identification and the address at which he actually resides.

13. A county clerk, field registrar, employee of a voter registration agency, person assisting a voter pursuant to subsection 13 of NRS 293.5235 or any other person providing a form for the application to register to vote to an elector for the purpose of registering to vote:

(a) If the person who assists an elector with completing the form for the application to register to vote retains the form, shall enter his name on the duplicate copy or receipt retained by the voter upon completion of the form; and

(b) Shall not alter, deface or destroy an application to register to vote that has been signed by an elector except to correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required.

14. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

15. A person who violates any of the provisions of subsection 8, 9, 10, 12 or 13 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 20. NRS 293.506 is hereby amended to read as follows:

293.506 ***1.*** A county clerk may, with approval of the board of county commissioners, establish a system for using a computer to ~~[register voters and to]~~ keep records of registration. ~~[The county clerk may, for that purpose, issue to a voter a card, bearing the signature of the voter, attesting to his registration.]~~

2. The Secretary of State may establish a system to allow persons to submit applications electronically to register to vote and adopt any regulations necessary to carry out the provisions of this subsection.

Sec. 21. NRS 293.510 is hereby amended to read as follows:

293.510 1. In counties ~~[where]~~ ***in which*** computers are not used to register voters, ~~[the]~~ ***a*** county clerk shall:

(a) Segregate original applications to register to vote according to the precinct in which the registered voters reside and arrange the applications in each precinct or district in alphabetical order. The applications for each precinct or district must be kept in a separate binder which is marked with the number of the precinct or district. This binder constitutes the election board register.

(b) Arrange the duplicate applications of registration in alphabetical order for the entire county and keep them in binders or a suitable file which constitutes the registrar of voters' register.

2. In any county ~~[where]~~ ***in which*** a computer is used to register voters, ~~[the]~~ ***a*** county clerk shall:

(a) Arrange the original applications to register to vote for the entire county in a manner in which an original application may be quickly located. These original applications constitute the registrar of voters' register.

(b) Segregate the applications to register to vote in a computer file according to the precinct or district in which the registered voters reside ~~[,]~~ and for each precinct or district **,** have printed a computer listing which contains the applications to register to vote in alphabetical order. These listings of applications to register to vote must be placed in separate binders which are marked with the number of the precinct or district. These binders constitute the election board registers.

Sec. 22. NRS 293.517 is hereby amended to read as follows:

293.517 1. Any elector residing within the county may register ~~[:]~~ ***to vote:***

(a) Except as otherwise provided in NRS 293.560 and 293C.527, by appearing before the county clerk, a field registrar **,** ~~[or]~~ a voter registration agency ~~[,]~~ ***or a person who registers voters pursuant to a voter registration drive,*** completing the application to register to vote, giving true and satisfactory answers to all questions relevant to his identity and right to vote ~~[,]~~ and providing proof of his residence and identity;

(b) By completing and mailing or personally delivering to the county clerk an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) Pursuant to the provisions of NRS 293.501 or 293.524; ~~[or]~~

(d) At his residence with the assistance of a field registrar pursuant to NRS 293.5237 ~~[.]~~ ***; or***

(e) By submitting an application electronically to register to vote, if the Secretary of State has established a system pursuant to NRS 293.506 to allow persons to submit applications electronically to register to vote.

➥ The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering him. If the applicant registers to vote pursuant to this subsection and fails to provide proof of his residence and identity, the applicant must provide proof of his residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083. For the purposes of this subsection, a voter registration card issued pursuant to subsection 6 does not provide proof of the residence or identity of a person.

2. The application to register to vote must be signed and verified under penalty of perjury by the elector registering.

3. Each elector who is or has been married must be registered under his own given or first name ~~[.]~~ and not under the given or first name or initials of his spouse.

4. An elector who is registered and changes his name must complete a new application to register to vote. He may obtain a new application:

(a) At the office of the county clerk or field registrar;

(b) By submitting an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to register to vote; ~~[or]~~

(d) At any voter registration agency ~~[.]~~ ***; or***

(e) By submitting an application electronically to register to vote, if the Secretary of State has established a system pursuant to NRS 293.506 to allow persons to submit applications electronically to register to vote.

➥ If the elector fails to register under his new name, he may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may be required to furnish proof of identity and subsequent change of name.

5. Except as otherwise provided in subsection 7, an elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of his application to register to vote.

6. After the county clerk determines that the application to register to vote of a person is complete and that the person is eligible to vote pursuant to NRS 293.485, he shall issue a voter registration card to the voter which contains:

(a) The name, address, political affiliation and precinct number of the voter;

(b) The date of issuance; and

(c) The signature of the county clerk.

7. If an elector submits an application to register to vote or an affidavit described in paragraph (c) of subsection 1 of NRS 293.507 that contains any handwritten additions, erasures or interlineations, the county clerk may object to the application to register to vote if he believes that because of such handwritten additions, erasures or interlineations, the application to register to vote of the elector is incomplete or that the elector is not eligible to vote pursuant to NRS 293.485. If the county clerk objects pursuant to this subsection, he shall immediately notify the elector and the district attorney of the county. Not later than 5 business days after the district attorney receives such notification, the district attorney shall advise the county clerk as to whether:

(a) The application to register to vote of the elector is complete and the elector is eligible to vote pursuant to NRS 293.485; and

(b) The county clerk should proceed to process the application to register to vote.

➥ If the district attorney advises the county clerk to process the application to register to vote, the county clerk shall immediately issue a voter registration card to the applicant pursuant to subsection 6.

Sec. 22.2. NRS 293.5235 is hereby amended to read as follows:

293.5235 1. Except as otherwise provided in NRS 293.502, a person may register to vote by mailing an application to register to vote to the county clerk of the county in which he resides. The county clerk shall, upon request, mail an application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to register to vote may be used to correct information in the registrar of voters' register.

2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is personally delivered to the county clerk shall be deemed to have been returned by mail.

3. The applicant must complete the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 10 and signing the application.

4. The county clerk shall, upon receipt of an application, determine whether the application is complete.

5. If he determines that the application is complete, he shall, within 10 days after he receives the application, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

6. Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, he shall, as soon as possible, mail a notice to the applicant informing him that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after he receives the information, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

➥ If the applicant does not provide the additional information within the prescribed period, the application is void.

7. The applicant shall be deemed to be registered or to have corrected the information in the register ~~[:~~

~~(a) If the application is received by the county clerk or postmarked not more than 3 working days after the applicant completed the application, on the date the applicant completed the application; or~~

~~(b) If the application is received by the county clerk or postmarked more than 3 working days after the applicant completed the application,]~~ on the ***earlier of the*** date ***on which*** the application is ***postmarked or*** received by the county clerk.

8. If the applicant fails to check the box described in paragraph (b) of subsection 10, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at his assigned polling place.

9. The Secretary of State shall prescribe the form for an application to register to vote by mail which must be used to register to vote by mail in this State.

10. The application to register to vote by mail must include:

(a) A notice in at least 10-point type which states:

NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.

(b) The question, "Are you a citizen of the United States?" and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.

(c) The question, "Will you be at least 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.

(d) A statement instructing the applicant not to complete the application if the applicant checked "no" in response to the question set forth in paragraph (b) or (c).

(e) A statement informing the applicant that if the application is submitted by mail and the applicant is registering to vote for the first time, the applicant must submit the information set forth in paragraph (a) of subsection 2 of NRS 293.2725 to avoid the requirements of subsection 1 of NRS 293.2725 upon voting for the first time.

11. Except as otherwise provided in subsection 5 of NRS 293.518, the county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.

12. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person's current residence is other than that indicated on his application to register to vote in the manner set forth in NRS 293.530.

13. A person who, by mail, registers to vote pursuant to this section may be assisted in completing the application to register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to provide the information required by this subsection will not result in the application being deemed incomplete.

14. An application to register to vote must be made available to all persons, regardless of political party affiliation.

15. An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.

16. A person who willfully violates any of the provisions of subsection 13, 14 or 15 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

17. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 23. NRS 293.567 is hereby amended to read as follows:

293.567 After the close of registration for each primary election but not later than the ~~[second Friday next]~~ ***Friday*** preceding the primary election and after the close of registration for each general election but not later than the ~~[second Friday next]~~ ***Friday*** preceding the general election, the county clerk shall ascertain by precinct and district the number of registered voters in the county and their political affiliation, if any, and shall transmit that information to the Secretary of State.

Sec. 24. NRS 293.710 is hereby amended to read as follows:

293.710 1. It is unlawful for any person, in connection with any election or petition ~~[,]~~ ***or the registration of voters,*** whether acting himself or through another person in his behalf, to:

(a) Use or threaten to use any force, ***intimidation,*** coercion, violence, restraint or undue influence;

(b) Inflict or threaten to inflict any physical or mental injury, damage, harm or loss upon the person or property of another;

(c) Expose or publish or threaten to expose or publish any fact concerning another in order to induce or compel such other to vote or refrain from voting for any candidate or any question;

(d) Impede or prevent, by abduction, duress or fraudulent contrivance, the free exercise of the franchise by any voter, or thereby to compel, induce or prevail upon any elector to give or refrain from giving his vote; or

(e) Discharge or change the place of employment of any employee with the intent to impede or prevent the free exercise of the franchise by such employee.

2. ~~[Unless a greater penalty is provided by law, any violation]~~ ***A person who violates a provision*** of this section is ~~[a gross misdemeanor.]~~ ***guilty of a category E felony and shall be punished as provided in NRS 193.130.***

Sec. 25. NRS 293.730 is hereby amended to read as follows:

293.730 1. A person shall not:

(a) Remain in or outside of any polling place so as to interfere with the conduct of the election.

(b) Except an election board officer, receive from any voter a ballot prepared by the voter.

(c) Remove a ballot from any polling place before the closing of the polls.

(d) Apply for or receive a ballot at any election precinct or district other than the one at which he is entitled to vote.

(e) Show his ballot to any person, after voting, so as to reveal any of the names voted for.

(f) Inside a polling place, ask another person for whom he intends to vote.

(g) Except an election board officer, deliver a ballot to a voter.

(h) Except an election board officer in the course of his official duties, inside a polling place, ask another person his name, address or political affiliation.

2. A voter shall not:

(a) Receive a ballot from any person other than an election board officer.

(b) Deliver to an election board or to any member thereof any ballot other than the one received.

(c) Place any mark upon his ballot by which it may afterward be identified as the one voted by him.

3. Any person who violates any provision of this section is guilty of a ~~[gross misdemeanor.]~~ ***category C felony and shall be punished as provided in NRS 193.130.***

Sec. 25.2. NRS 293.740 is hereby amended to read as follows:

293.740 1. Except as otherwise provided in subsection 2, it is unlawful inside a polling place or within 100 feet from the entrance to the building or other structure in which a polling place is located:

(a) For any person to solicit a vote or speak to a voter on the subject of marking his ballot.

(b) For any person, including an election board officer, to do any electioneering on election day.

➥ The county clerk or registrar of voters shall ensure that, at the outer limits of the area within which electioneering is prohibited, notices are continuously posted on which are printed in large letters "Distance Marker: No electioneering between this point and the entrance to the polling place."

2. The provisions of subsection 1 do not apply to the conduct of a person in a private residence or on commercial or residential property that is within 100 feet from the entrance to a building or other structure in which a polling place is located. The provisions of subsection 1 are not intended to prohibit a person from voting solely because he is wearing a prohibited political insigne and is reasonably unable to remove the insigne or cover it. In such a case, the election board officer shall take such action as is necessary to allow the voter to vote as expediently as possible and then assist the voter in exiting the polling place as soon as is possible.

3. Any person who violates any provision of this section is guilty of a gross misdemeanor.

4. As used in this section, "electioneering" means campaigning for or against a candidate, ballot question or political party by:

(a) Posting signs relating to the support of or opposition to a candidate, ballot question or political party;

(b) Distributing literature relating to the support of or opposition to a candidate, ballot question or political party;

(c) Using loudspeakers to broadcast information relating to the support of or opposition to a candidate, ballot question or political party;

(d) Buying, selling, wearing or displaying any badge, button or other insigne which is designed or tends to aid or promote the success or defeat of any political party or a candidate or ballot question to be voted upon at that election; ***or***

(e) ~~[~~Polling or otherwise soliciting from a voter information as to whether the voter intends to vote or has voted for or against a particular political party, candidate or ballot question; or

~~(f)~~] Soliciting signatures to any kind of petition.

Sec. 26. NRS 293.750 is hereby amended to read as follows:

293.750 Any person who, during an election, removes or destroys any of the supplies or equipment placed in the booths or compartments ~~[,]~~ or removes or defaces the cards of instruction posted as prescribed by this chapter ~~[,]~~ is guilty of a ~~[~~gross misdemeanor.~~]~~ ***category*** ~~*[B]*~~ ***D felony and shall be punished*** ~~*[by imprisonment in the state prison for a minimum term*~~

~~*of not less than 2 years and a maximum term of not more than 10 years.]*~~ ***as provided in NRS 193.130.***

Sec. 27. NRS 293.755 is hereby amended to read as follows:

293.755 1. A person who tampers or interferes with, or attempts to tamper or interfere with **,** a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to prevent the proper operation of that device, system or program is guilty of a category ~~[D]~~ ~~*[B]*~~ ***C*** felony and shall be punished as provided in NRS 193.130. ~~*[by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.]*~~

2. ***A person who tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to influence the outcome of an election is guilty of a category*** ~~*[A]*~~ ***B felony and shall be punished by imprisonment in the state prison for a*** ~~*[definite]*~~ ***minimum term of*** ~~*[40]*~~ ***not less than 2 years*** ~~*[, with eligibility for parole beginning when a minimum of 15 years has been served.]*~~ ***and a maximum term of not more than 20 years.***

3. The county or city clerk shall report any alleged violation of this section to the district attorney who shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

Sec. 28. NRS 293.800 is hereby amended to read as follows:

293.800 1. A person who, for himself or another person, willfully gives a false answer or answers to questions propounded to him by the registrar or field registrar of voters relating to the information called for by the application to register to vote, or who willfully falsifies his application in any particular, or who violates any of the provisions of the election laws of this State ~~[,]~~ or knowingly encourages another person to violate those laws is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. A public officer or other person, upon whom any duty is imposed by this title, who willfully neglects his duty ~~[,]~~ or willfully performs it in such a way as to hinder the objects and purposes of the election laws of this State, except where another penalty is provided, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. If the person is a public officer, his office is forfeited upon conviction of any offense provided for in subsection 2.

4. A person who causes or endeavors to cause his name to be registered, knowing that he is not an elector or will not be an elector on or before the day of the next ensuing election in the precinct or district in which he causes or endeavors to cause the registration to be made, and any other person who induces, aids or abets the person in the commission of either of the acts is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. A field registrar or other person who ~~[:]~~ ***provides to an elector an application to register to vote and:***

(a) Knowingly falsifies an application ~~[to register to vote]~~ or knowingly causes an application to be falsified; ~~[or]~~

(b) Knowingly provides money or other compensation to another for a falsified application ~~[to register to vote,]~~ ***; or***

(c) Intentionally fails to submit to the county clerk a completed application on account of the elector's political party affiliation,

➥ is guilty of a category ~~[E]~~ ***C*** felony and shall be punished as provided in NRS 193.130.

Sec. 29. NRS 293C.715 is hereby amended to read as follows:

293C.715 1. If a city clerk maintains a website on the Internet for information relating to ***candidates and*** elections, the website must contain public information maintained, collected or compiled by the city clerk that relates to elections, which must include, without limitation:

(a) The locations of polling places for casting a ballot on election day in such a form that a registered voter may search the list to determine the location of the polling place at which the registered voter is required to cast a ballot; ~~[and]~~

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293C.387 ~~[.]~~ ***; and***

(c) The reports that the city clerk receives pursuant to chapter 294A of NRS from candidates for city office.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by a city clerk pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by the Secretary of State, a county clerk or another city clerk, the city clerk may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 29.2. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 29.3 ~~[, and]~~ 29.5 ***and 29.7*** of this act.

Sec. 29.3. ***1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates, or of any person involved in the campaign of that candidate or group and who intends to make an expenditure in excess of $100 on behalf of the candidate or group which is not solicited or approved by the candidate or group shall register with the Secretary of State before making any such expenditure.***

2. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.

Sec. 29.5. ***1. A candidate*** ***~~[, person, committee, political party, group or business entity]~~*** ***that is required to file a report described in subsection 1 of NRS 294A.373 is not required to file the report electronically if the candidate*** ***:*** ***~~[, person, committee, political party, group or business entity:]~~***

(a) Did not receive or expend money in excess of $10,000 ***~~[;]~~*** ***in the previous calendar year; and***

(b) ***~~[Submits to]~~*** ***Has on file with the Secretary of State an affidavit stating that:***

(1) The candidate ***~~[, person, committee, political party, group or business entity]~~*** ***does not own or have the ability to access the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373; and***

(2) The candidate ***~~[, person, committee, political party, group or business entity]~~*** ***does not have the financial ability to purchase or acquire access to the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373.***

2. ***~~[Each]~~*** ***To excuse the electronic filing of the report, the affidavit*** ***~~[submitted pursuant to]~~*** ***described in subsection 1 must be*** ***~~[in]~~*** ***:***

(a) In the form prescribed by the Secretary of State and signed under penalty of perjury.

(b) Filed within 10 days after the person becomes a candidate pursuant to NRS 294A.005.

3. A candidate that is excused from filing the report electronically may file the report by transmitting the forms by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted pursuant to this subsection shall be deemed to be filed on the date that it was received by the Secretary of State.

Sec. 29.7. 1. A person, committee, political party, group or business entity that is required to file a report described in subsection 1 of NRS 294A.373 is excused from filing the report electronically if the person, committee, political party, group or business entity:

(a) Did not receive or expend money in excess of $10,000 in the previous calendar year; and

(b) Has on file with the Secretary of State an affidavit stating that:

(1) The person, committee, political party, group or business entity does not own or have the ability to access the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373; and

(2) The person, committee, political party, group or business entity does not have the financial ability to purchase or acquire access to the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373.

2. To excuse the electronic filing of the report, the affidavit described in subsection 1 must be:

(a) In the form prescribed by the Secretary of State and signed under penalty of perjury.

(b) Filed:

(1) At least 10 days before any report described in subsection 1 of NRS 294A.373 is required to be filed by the person, committee, political party, group or business entity.

(2) Not earlier than January 1 and not later than January 15 of each year, regardless of whether or not the person, committee, political party, group or business entity was required to file any report described in subsection 1 of NRS 294A.373 in the previous year.

3. A person, committee, political party, group or business entity that has properly filed the affidavit pursuant to this section may file the relevant report with the Secretary of State by transmitting the forms by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted pursuant to this subsection shall be deemed to be filed on the date that it was received by the Secretary of State.

Sec. 30. NRS 294A.0055 is hereby amended to read as follows:

294A.0055 1. "Committee for political action" means any ***individual natural person or*** group of natural persons or entities that solicits or receives contributions from any other person, group or entity and:

(a) Makes or intends to make contributions to candidates or other persons; or

(b) Makes or intends to make expenditures,

➥ designed to affect the outcome of any primary, general or special election or question on the ballot.

2. "Committee for political action" does not include:

(a) An organization made up of legislative members of a political party whose primary purpose is to provide support for their political efforts.

(b) An entity solely because it provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public.

(c) ~~[~~An individual natural person.

~~(d)]~~ An individual corporation or other business organization who has filed articles of incorporation or other documentation of organization with the Secretary of State pursuant to title 7 of NRS.

~~[(e)]~~ ***(d)*** A labor union.

~~[(f)]~~ ***(e)*** A personal campaign committee or the personal representative of a candidate who receives contributions or makes expenditures that are reported as campaign contributions or expenditures by the candidate.

~~[(g)]~~ ***(f)*** A committee for the recall of a public officer.

Sec. 31. ~~[NRS 294A.007 is hereby amended to read as follows:~~

~~294A.007 1. "Contribution" means a gift, loan, conveyance, deposit, payment, transfer or distribution of money or of anything of value other than the services of a volunteer, and includes:~~

~~(a) The payment by any person, other than a candidate, of compensation for the personal services of another person which are rendered to a:~~

~~(1) Candidate;~~

~~(2) Person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group;~~ **or**

~~(3) Committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates~~ **, [**~~; or~~

~~(4) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot,~~**]**

" ~~without charge to the candidate, person, committee or political party.~~

~~(b) The value of services provided in kind for which money would have otherwise been paid, such as paid polling and resulting data, paid direct mail, paid solicitation by telephone, any paid paraphernalia that was printed or otherwise produced to promote a campaign and the use of paid personnel to assist in a campaign.~~

~~2. As used in this section, "volunteer" means a person who does not receive compensation of any kind, directly or indirectly, for the services he provides to a campaign.~~**] (Deleted by amendment.)**

Sec. 32. NRS 294A.100 is hereby amended to read as follows:

294A.100 1. A person shall not make ***or commit to make*** a contribution or contributions to a candidate for any office, except a federal office, in an amount which exceeds $5,000 for the primary election or primary city election, regardless of the number of candidates for the office, and $5,000 for the general election or general city election, regardless of the number of candidates for the office **. [**~~, during the period:~~

~~(a) Beginning from 30 days before the regular session of the Legislature immediately following the last election for the office and ending 30 days before the regular session of the Legislature immediately following the next election for the office, if that office is a state, district, county or township office; or~~

~~(b) Beginning from 30 days after the last election for the office and ending 30 days before the next general city election for the office, if that office is a city office.~~**]**

2. A candidate shall not accept a contribution ***or commitment to make a contribution*** made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 32.2. NRS 294A.120 is hereby amended to read as follows:

294A.120 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 he received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The provisions of this

subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each campaign contribution in excess of $100 he receives during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each campaign contribution in excess of $100 he received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $100 he received during the period and contributions received during the reporting period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS

294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall list each of the campaign contributions that he receives on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) A district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign contributions must be ~~[.]~~ ***:***

(a) If the candidate is a candidate for city office, filed with the ~~[officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A]~~ ***city clerk*** ~~*[. The* candidate may mail or transmit]~~ ***by transmitting*** the report to ~~[that officer]~~ ***the city clerk*** by regular mail, certified mail, facsimile machine ***,*** ~~[or]~~ electronic means ~~[.]~~ ***or personal delivery.***

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, district or county office, filed electronically with the Secretary of State.

7. A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~7. Every county clerk who receives from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after he receives the report.]~~ ***Secretary of State or city clerk, as the case may be.***

8. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 32.3. NRS 294A.125 is hereby amended to read as follows:

294A.125 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives contributions in any year before the year in which the general election or

general city election in which the candidate intends to seek election to public office is held shall, for:

(a) The year in which he receives contributions in excess of $10,000, list each of the contributions that he receives and the expenditures in excess of $100 made in that year.

(b) Each year after the year in which he received contributions in excess of $10,000, until the year of the general election or general city election in which the candidate intends to seek election to public office is held, list each of the contributions that he received and the expenditures in excess of $100 made in that year.

2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution in excess of $100 and contributions that a contributor has made cumulatively in excess of that amount.

4. The report must be ***:*** ~~[filed:]~~

(a) ~~[With the officer with whom the candidate will file the declaration of candidacy or acceptance of candidacy for the public office the candidate intends to seek. A]~~ ***If the candidate is a candidate for city office, filed with the city clerk*** ~~*[. The* candidate may mail or transmit]~~ ***by transmitting*** the report to ~~[that officer]~~ ***the city clerk*** by regular mail, certified mail, facsimile machine ~~, [or]~~ electronic means ~~[.]~~ ***or personal delivery.***

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, district or county office, filed electronically with the Secretary of State.

5. A report shall be deemed to be filed ~~[with the officer:~~

~~(1) On the date it was mailed if it was sent by certified mail.~~

~~(2) On]~~ ***on*** the date it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~(b) On or before January 15 of the year immediately after the year for which the report is made.~~

~~5. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report of contributions and expenditures pursuant to subsection 4 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.]~~ ***Secretary of State or city clerk, as the case may be.***

Sec. 32.4. NRS 294A.128 is hereby amended to read as follows:

294A.128 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives a loan which is guaranteed by a third party, forgiveness of a loan previously made to the candidate or a written commitment for a contribution shall, for the

period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report:

(a) If a loan received by the candidate was guaranteed by a third party, the amount of the loan and the name and address of each person who guaranteed the loan;

(b) If a loan received by the candidate was forgiven by the person who made the loan, the amount that was forgiven and the name and address of the person who forgave the loan; and

(c) If the candidate received a written commitment for a contribution, the amount committed to be contributed and the name and address of the person who made the written commitment.

2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. The reports required by subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

~~[4. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report pursuant to subsection 1 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.]~~

Sec. 32.5. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group ~~[,]~~ and every committee for political action, political party, committee sponsored by a political party and business entity which makes an expenditure on behalf of such a candidate or group of candidates ***and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or city general election*** shall, not later than January 15 of each year that the provisions of this subsection apply to the person, ***group of persons,*** committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 he or it received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The provisions of this subsection apply to the person, ***group of persons,*** committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office ~~[.]~~ ***or, as pertains to persons who advocate the passage or defeat of a question***

or group of questions on a ballot, each year in which a general election or general city election is held for each question for which the person or group of persons advocates passage or defeat.

2. Every person, ***group of persons,*** committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of the candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates ***and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election*** shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election ***or on which the ballot question or group of questions appears*** is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election or primary city election ***,*** ~~[for that office,]~~ for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election ***,*** ~~[for that office,]~~ for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election ***,*** ~~[for that office,]~~ for the period from 11 days before the general election or general city election through June 30 of that year,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the ***group of persons,*** committee, political party or business entity under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of $100 since the beginning of the current reporting period.

4. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates ***and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election*** shall, if the general election or general city election for the office for which the candidate or a candidate in

the group of candidates seeks election ***or on which the ballot question or group of questions appears*** is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election ~~, [for that office,]~~ for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election ~~, [for that office,]~~ for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the ***group of persons,*** committee, political party or business entity under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

6. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of candidates for offices at such special elections shall report each contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports of contributions required pursuant to this section must be ***:*** ~~[~~filed with:~~]~~

(a) ~~[~~If the candidate is elected from one county, the county clerk of that county;

~~(b)]~~ If the candidate is ~~[~~elected from one city,~~]~~ ***a candidate for city office*** ~~[,]~~ ***or if the question or group of questions is submitted to the voters of one city, filed with*** the city clerk ~~[.]~~ of that city ~~[~~; or

~~(c) If]~~ ~~[A person, committee, political party or business entity may file]~~ ***by transmitting the report*** ~~[with]~~ ***to the city clerk by regular mail, certified mail, facsimile machine*** , ~~[or]~~ ***electronic means*** ~~[.]~~ ***or personal delivery.***

(b) Except as otherwise provided in section ~~[29.5]~~ ***29.7 of this act, if*** the candidate is ~~[~~elected from more than one county or city,~~]~~ ***a candidate for state, district or county office*** ~~[,]~~ ***or if the question or group of questions is submitted to more than one city or to one or more counties, filed electronically with*** the Secretary of State.

8. ~~[~~A person or entity may file the report with the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.~~]~~ A report shall be deemed to be filed ~~[~~with the officer:

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On~~] ***on*** the date that it was received by the ~~[~~officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

~~9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.~~

~~10.~~] ***Secretary of State or city clerk, as the case may be.***

9. Every person, ***group of persons,*** committee, political party or business entity described in subsection 1 shall file a report required by this section even if he or it receives no contributions.

Sec. 33. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of $100 that he incurs and each amount in excess of $100 that he disposes of pursuant to NRS 294A.160 ***or subsection 4 of NRS 294A.286*** during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 ~~[.]~~ ***or 294A.286.***

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant ***to*** NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of $100 that he incurs on the form designed and provided by the Secretary of State pursuant ***to*** NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means ~~[,]~~ or delivered personally.

7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after ~~[he receives]~~ receipt of the report.

Sec. 33.1. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of $100 that he incurs and each amount in excess of $100 that he disposes of pursuant to NRS 294A.160 or subsection 4 of NRS 294A.286 during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 or 294A.286.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of $100 that he incurs on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be ***:***

(a) If the candidate is a candidate for city office, filed with the ~~[officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy.]~~ ***city clerk*** ~~*[. A candidate may mail or transmit]*~~ ***by transmitting*** the report to ~~[that officer]~~ ***the city clerk*** by regular mail, certified mail, facsimile machine ~~, [or]~~ electronic means ~~[.]~~ ***or personal delivery.***

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, county or district office, filed electronically with the Secretary of State.

7. A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means or delivered personally.~~

~~7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the]~~ Secretary of State ~~[within 10 working days after receipt of the report.]~~ ***or city clerk, as the case may be.***

Sec. 33.2. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group ~~[,]~~ and every committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of such a candidate or group of candidates ***and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election*** shall, not later than January 15 of each year that the provisions of this subsection apply to the person, ***group of persons,*** committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of the candidate, the group of candidates ~~, [or]~~ a candidate in the group of candidates ***or to advocate the passage or defeat of a question or group of questions*** in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the ***group of persons,*** committee, political party or business entity under penalty of perjury. The provisions of

this subsection apply to the person, ***group of persons,*** committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office ~~[.]~~ ***or, as pertains to persons who advocate the passage or defeat of a question or group of questions on a ballot, each year in which a general election or general city election is held for each question for which the person or group of persons advocates passage or defeat.***

2. Every person, ***group of persons,*** committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or a group of such candidates ***and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election*** shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election ***or on which the ballot question or group of questions appears*** is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election or primary city election ~~[for that office,]~~ for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election ~~[for that office,]~~ for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election ~~[for that office,]~~ for the period from 11 days before the general election or general city election through the June 30 of that year,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates ~~[or]~~ a candidate in the group of candidates ***or to advocate the passage or defeat of a question or group of questions*** in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the ***group of persons,*** committee, political party or business entity under penalty of perjury.

3. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates ***and every person or group of persons who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election*** shall, if the general election or general city election for the office for which the candidate or a candidate in

the group of candidates seeks election ***or on which the ballot question or group of questions appears*** is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election **,** ~~[for that office,]~~ for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election **,** ~~[for that office,]~~ for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates **,** ~~[or]~~ a candidate in the group of candidates ***or to advocate the passage or defeat of the question or group of questions*** in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the ***group,*** committee, political party or business entity under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates **,** ~~[or]~~ a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

5. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports must be ***:*** ~~[filed with:]~~

(a) ~~[If the candidate is elected from one county, the county clerk of that county;~~

~~(b)]~~ If the candidate is ~~elected from one city,]~~ ***a candidate for city office*** ~~[,]~~ ***or if the question or group of questions is submitted to the voters of one city, filed with*** the city clerk of that city ~~[; or]~~ ***by transmitting the report to the city clerk by regular mail, certified mail, facsimile machine, electronic means or personal delivery.***

~~[(c)]~~ ***(b)*** ~~[If]~~ ***Except as otherwise provided in section 29.7 of this act, if*** the candidate is ~~[elected from more than one county or city,]~~ ***a candidate for state, district or county office*** ~~[,]~~ ***or if the question or group of questions is submitted to more than one city or to one or more counties, filed electronically with*** the Secretary of State.

8. If an expenditure is made on behalf of a group of candidates, the reports must be itemized by the candidate. ~~[A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.]~~

9. A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.]~~ ***Secretary of State or city clerk, as the case may be.***

10. Every person, ***group of persons,*** committee, political party or business entity described in subsection 1 shall file a report required by this section even if he or it receives no contributions.

Sec. 34. NRS 294A.230 is hereby amended to read as follows:

294A.230 1. Each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by him.

2. The form must require:

(a) The name of the committee;

(b) The purpose for which it was organized;

(c) The names, addresses and telephone numbers of its officers;

(d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;

(e) The name, address and telephone number of its registered agent; and

(f) Any other information deemed necessary by the Secretary of State.

3. A committee for political action shall file with the Secretary of State ~~[an]~~ ***:***

(a) An amended form for registration within 30 days after any change in the information contained in the form for registration.

(b) A form for registration on or before January 15 of each year, regardless of whether there is a change in the information contained in the most recent form for registration filed by the committee for political action with the Secretary of State.

4. The Secretary of State shall include on his Internet website the information required pursuant to subsection 2.

Sec. 34.2. NRS 294A.270 is hereby amended to read as follows:

294A.270 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

➥ report each contribution received or made by the committee in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each contribution received by the committee, and each contribution made by the committee in excess of $100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each contribution received by the committee, and each contribution made by the committee in excess of $100.

4. ~~[Each]~~ ***Except as otherwise provided in section*** ~~*[29.5]*~~ ***29.7 of this act, each*** report of contributions must be filed ***electronically*** with the Secretary of State. ~~[The committee may mail or transmit the report by regular mail, certified mail, facsimile machine or electronic means.]~~ A report shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On~~] ***on*** the date that it was received by the Secretary of State **.** ~~[if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~

5. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution, whether from or to a natural person, association or corporation, in excess of $100 and contributions which a contributor or the committee has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 34.3. NRS 294A.280 is hereby amended to read as follows:

294A.280 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

➥ report each expenditure made by the committee in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each expenditure made by the committee in excess of $100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each expenditure made by the committee in excess of $100.

4. ~~[Each]~~ ***Except as otherwise provided in section*** ~~*[29.5]*~~ ***29.7 of this act, each*** report of expenditures must be filed ***electronically*** with the Secretary of State. ~~[The committee may mail or transmit the report to the Secretary of State by regular mail, certified mail, facsimile machine or electronic means.]~~ A report shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On~~] ***on*** the date that it was received by the Secretary of State **.** ~~[if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~

Sec. 35. NRS 294A.286 is hereby amended to read as follows:

294A.286 1. A person who administers a legal defense fund shall:

(a) Within 5 days after the creation of the legal defense fund, notify the Secretary of State of the creation of the fund on a form provided by the Secretary of State; and

(b) For the same period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report any contribution received by or expenditure made from the legal defense fund.

2. The reports required by paragraph (b) of subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the administrator of the legal defense fund under penalty of perjury.

3. The reports required by paragraph (b) of subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

4. Not later than the 15th day of the second month after the conclusion of all civil, criminal or administrative claims or proceedings for which a candidate or public officer established a legal defense fund, the candidate or public officer shall:

(a) Return the unspent money to contributors;

(b) Donate the money to any tax-exempt nonprofit entity; or

(c) Dispose of the money in any combination of the methods provided in paragraphs (a) and (b).

Sec. 36. NRS 294A.287 is hereby amended to read as follows:

294A.287 1. A person shall not make a contribution or contributions to the legal defense fund of a candidate or public officer in an amount which exceeds $10,000 **.** ~~[during the applicable period prescribed in NRS 294A.100 pertaining to the office the candidate is seeking or that the public officer holds.]~~

2. A candidate or public officer shall not accept a contribution to his legal defense fund that is made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 36.5. NRS 294A.300 is hereby amended to read as follows:

294A.300 1. It is unlawful for a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect to solicit or accept any monetary contribution, or solicit or accept a commitment to make such a contribution for any political purpose during the period beginning:

(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;

(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or

(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.

2. ***A person shall not make or commit to make a contribution or commitment prohibited by subsection 1.***

3. This section does not prohibit the payment of a salary or other compensation or income to a member of the Legislature, the Lieutenant Governor or the Governor during a session of the Legislature if it is made for services provided as a part of his regular employment or is additional income to which he is entitled.

~~[3.]~~ ***4.*** As used in this section, "political purpose" includes, without limitation, the establishment of, or the addition of money to, a legal defense fund.

Sec. 37. NRS 294A.347 is hereby amended to read as follows:

294A.347 1. A statement which:

(a) Is published within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election;

(b) Expressly advocates the election or defeat of a clearly identified candidate for a state or local office; and

(c) Is published by a person who receives compensation from the candidate, an opponent of the candidate ~~[,]~~ or a ~~[person, party, committee or business entity required to report expenditures pursuant to NRS 294A.210,]~~ ***committee for political action,***

➥ must contain a disclosure of the fact that the person receives compensation pursuant to paragraph (c) and the name of the person ~~[, party, committee or business entity]~~ ***or committee for political action*** providing that compensation.

2. A statement which:

(a) Is published by a candidate within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election; and

(b) Contains the name of the candidate,

➥ shall be deemed to comply with the provisions of this section.

3. As used in this section, "publish" means the act of:

(a) Printing, posting, broadcasting, mailing or otherwise disseminating; or

(b) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated.

Sec. 38. NRS 294A.360 is hereby amended to read as follows:

294A.360 1. Every candidate for city office at a primary city election or general city election shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than January 15 of each year, for the period from January 1 of the previous year through

December 31 of the previous year. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general city election for that office through the year immediately preceding the next general city election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 ~~[.]~~ ***or subsection 4 of NRS 294A.286.***

2. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election;

(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election; and

(c) July 15 of the year of the general city election for that office, for the period from 11 days before the general city election through the June 30 of that year.

3. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election; and

(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election.

4. Except as otherwise provided in subsection 5, every candidate for city office at a special election shall so file those reports:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election.

5. Every candidate for city office at a special election to determine whether a public officer will be recalled shall so file those reports 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

Sec. 38.2. NRS 294A.362 is hereby amended to read as follows:

294A.362 1. In addition to reporting information pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.360, each candidate who is required to file a report of campaign contributions and expenses pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 or 294A.360 shall report on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 goods and services provided in kind for which money would otherwise have been paid. The candidate shall list on the form each such campaign contribution in excess of $100 that he receives during the reporting period, each such campaign contribution from a contributor received during the reporting period which cumulatively exceeds $100, and each such expense in excess of $100 he incurs during the reporting period.

2. The Secretary of State and each city clerk shall not require a candidate to list the campaign contributions and expenses described in this section on any form other than the form designed and provided by the Secretary of State pursuant to NRS 294A.373.

3. The report of campaign contributions and expenses described in this section must be filed in the same manner and at the same time as the candidate files the reports required pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.360.

Sec. 39. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210 **[**~~, 294A.220,~~**]** ***and*** 294A.280 **[**~~and 294A.283~~**]** must consist of a list of each expenditure in excess of $100 or $1,000, as is appropriate, that was made during the periods for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each expense in excess of $100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

(a) Office expenses;
(b) Expenses related to volunteers;
(c) Expenses related to travel;
(d) Expenses related to advertising;
(e) Expenses related to paid staff;
(f) Expenses related to consultants;
(g) Expenses related to polling;
(h) Expenses related to special events;

(i) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid; and

(j) Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160 ~~[.]~~ ***or subsection 4 of NRS 294A.286.***

Sec. 40. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280, ~~[294A.283,]~~ 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to NRS 294A.286.

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party, group and business entity that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party, group or business entity that is required to use the form.

Sec. 40.5. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design ~~[a single form]~~ ***forms*** to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280, 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to NRS 294A.286.

2. The ~~[form]~~ ***forms*** designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. ~~[Upon request, the]~~ ***The*** Secretary of State shall provide ~~[a]~~ ***to each person, committee, political party, group and business entity that is required to file a report described in subsection 1:***

(a) If the person, committee, political party, group or business entity is required to submit the report to a city clerk, a copy of the form ***;*** ~~[designed pursuant to this section to each person, committee, political party, group and business entity that is required to file a report described in subsection 1.]~~

(b) If the person, committee, political party, group or business entity is required to submit the report electronically to the Secretary of State, access through a secure website to the form; or

(c) If the person, committee, political party, group or business entity is required to submit the report electronically to the Secretary of State and has submitted an affidavit to the Secretary of State pursuant to section 29.5 or 29.7 of this act, a copy of the form.

4. ***If a person, committee, political party, group or business entity is required to submit electronically a report described in subsection 1, the form must be signed electronically under penalty of perjury.***

5. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of ***, or access to,*** a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party, group or business entity ***.*** ~~[~~that is required to use the form.~~]~~

6. The Secretary of State may adopt any regulations necessary to carry out of the provisions of this section.

Sec. 41. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;

2. An acceptance of candidacy;

3. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.377;

4. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or

5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, ~~[~~294A.150,~~]~~ 294A.200, 294A.210, ~~[~~294A.220,~~]~~ 294A.270, 294A.280 ~~[~~, 294A.283~~]~~ or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,

➥ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, ~~[~~294A.150,~~]~~ 294A.200, 294A.210, ~~[~~294A.220,~~]~~ 294A.270, 294A.280 ~~[~~, 294A.283~~]~~ or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420,

must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 41.5. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;

2. An acceptance of candidacy; ***or***

3. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.377 **,** ~~[~~**[**~~,~~

~~4. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or~~

~~5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280 or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,~~**]**

➥ shall furnish the candidate ***or entity*** with ~~[~~**[**~~the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An~~**]** ***an*** explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280 or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 42. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, ~~[~~**[**~~294A.150,~~**]** 294A.200, 294A.210, ~~[~~**[**~~294A.220,~~**]** 294A.270, 294A.280 ~~[~~**[**~~, 294A.283~~**]** and 294A.286, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of $100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of $100.

4. The expenditures exceeding $100 made by a:

(a) Person on behalf of a candidate other than himself.

(b) Group of persons or business entity advocating the election or defeat of a candidate.

(c) ***Person or group of persons who advocates the passage or defeat of a question or group of questions on a ballot.***

(d) Committee for the recall of a public officer.

5. The contributions in excess of $100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates.

(c) A person or group of persons who advocates the passage or defeat of a question or group of questions on a ballot.

6. ~~[~~The contributions in excess of $1,000 made to and the expenditures exceeding $1,000 made by a:

~~(a) Person or group of persons organized formally or informally, including a business entity who advocates the passage or defeat of a question or group of questions on the ballot and who receives or expends money in an amount in excess of $10,000 for such advocacy, except as otherwise provided in paragraph (b).~~

~~(b) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of $10,000 for such advocacy.~~

~~7.~~] The total contributions received by and expenditures made from a legal defense fund.

Sec. 43. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.230, ***294A.250,*** 294A.270, 294A.280, ~~[294A.283,]~~ 294A.286, ***294A.350,*** 294A.360 or 294A.377 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128,

294A.130, 294A.140, ~~[294A.150,]~~ 294A.160, 294A.200, 294A.210, ~~[294A.220,]~~ 294A.230, ***294A.250,*** 294A.270, 294A.280, ~~[294A.283,]~~ 294A.286, 294A.300, 294A.310, ***294A.350,*** 294A.360 or 294A.377 is subject to a civil penalty of not more than $5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, $25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, $50 for each day the report is late.

(c) If the report is more than 15 days late, $100 for each day the report is late.

➥ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of $100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 44. NRS 306.040 is hereby amended to read as follows:

306.040 1. Upon determining that the number of signatures on a petition to recall is sufficient pursuant to NRS 293.1276 to 293.1279, inclusive, the Secretary of State shall notify the county clerk, the officer with whom the petition is to be filed pursuant to subsection 4 of NRS 306.015 and the public officer who is the subject of the petition.

2. After the verification of signatures is complete ~~[,]~~ but not later than the date a complaint is filed pursuant to subsection 5 or the date the call for a special election is issued, whichever is earlier, a person who signs a petition to recall may request the Secretary of State to strike his name from the petition. If the person demonstrates good cause therefor and the number of such requests received by the Secretary of State could affect the sufficiency

of the petition, the Secretary of State shall strike the name of the person from the petition.

3. Not sooner than 10 days ~~[nor]~~ ***or*** more than 20 days after the Secretary of State completes the notification required by subsection 1, if a complaint is not filed pursuant to subsection 5, the officer with whom the petition is filed shall issue a call for a special election in the jurisdiction in which the public officer who is the subject of the petition was elected to determine whether the people will recall him.

4. The call for a special election pursuant to subsection 3 or 6 must include, without limitation:

(a) The last day on which a person may register to vote to qualify to vote in the special election; ~~[and]~~

(b) The last day on which a petition to nominate other candidates for the office may be filed ~~[.]~~ ***; and***

(c) Whether any person is entitled to vote in the special election pursuant to 293.343 to 293.355, inclusive.

5. The legal sufficiency of the petition may be challenged by filing a complaint in district court not later than 5 days, Saturdays, Sundays and holidays excluded, after the Secretary of State completes the notification required by subsection 1. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 30 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

6. Upon the conclusion of the hearing, if the court determines that the petition is sufficient, it shall order the officer with whom the petition is filed to issue a call for a special election in the jurisdiction in which the public officer who is the subject of the petition was elected to determine whether the people will recall him. If the court determines that the petition is not sufficient, it shall order the officer with whom the petition is filed to cease any further proceedings regarding the petition.

Sec. 44.1. Chapter 281A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A candidate or public officer who is required to file ~~[electronically]~~ a statement of financial disclosure with the Secretary of State pursuant to NRS 281A.600 or 281A.610 is not required to file the statement electronically if the candidate or public officer ~~[submits to]~~ has on file with the Secretary of State an affidavit stating that:

(a) The candidate or public officer does not own or have the ability to access the technology necessary to file electronically the statement of financial disclosure; and

(b) The candidate or public officer does not have the financial ability to purchase or acquire access to the technology necessary to file electronically the statement of financial disclosure.

2. ~~[Each]~~ To excuse the electronic filing of the report, the affidavit ~~[submitted pursuant to]~~ described in subsection 1 must be ~~[in]~~ :

(a) In the form prescribed by the Secretary of State and signed under penalty of perjury.

(b) Except as otherwise provided in subsection 4, filed not less than 45 days before the statement is required to be filed.

3. A candidate or public officer that is excused from filing the statement electronically may file the statement by transmitting the statement by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted in one of these manners shall be deemed to be filed on the date that it was received by the Secretary of State.

4. To excuse the electronic filing of a report concerning a person who is appointed to fill the unexpired term of an elected or appointed public officer, the affidavit described in subsection 1 must be filed within 15 days after his appointment.

Sec. 44.15. **NRS 281A.240 is hereby amended to read as follows:**

281A.240 1. In addition to any other duties imposed upon him, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive requests for opinions pursuant to NRS 281A.440.

(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the panel appointed pursuant to NRS 281A.220 regarding whether there is just and sufficient cause to render an opinion in response to a particular request.

(d) Recommend to the Commission any regulations or legislation that he considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that he is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

(f) Perform such other duties, not inconsistent with law, as may be required by the Commission.

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of his duties relating to:

(a) The administration of the affairs of the Commission; ***and***

(b) ~~[~~~~[The review of statements of financial disclosure; and~~

~~(c)]~~ The investigation of matters under the jurisdiction of the Commission.

Sec. 44.2. NRS 281A.290 is hereby amended to read as follows:

281A.290 The Commission shall:

1. Adopt procedural regulations:

(a) To facilitate the receipt of inquiries by the Commission;

(b) For the filing of a request for an opinion with the Commission;

(c) For the withdrawal of a request for an opinion by the person who filed the request; and

(d) To facilitate the prompt rendition of opinions by the Commission.

2. Prescribe, by regulation, ~~[forms for the submission of statements of financial disclosure and procedures for the submission of statements of financial disclosure filed pursuant to NRS 281A.600 and]~~ forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500, maintain files of such statements and make the statements available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

4. ~~[Except as otherwise provided in NRS 281A.600, inform]~~ ***Inform*** the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

6. Publish a manual for the use of public officers and employees that contains:

(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281A.440, for the future guidance of all persons concerned with ethical standards in government;

(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; and

(c) An abstract of the requirements of this chapter.

➥ The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the abstracts and published opinions of the Commission.

Sec. 44.3. NRS 281A.470 is hereby amended to read as follows:

281A.470 1. Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of his own future official conduct or refer the request to the Commission. Any public officer or

employee subject to the jurisdiction of the committee shall direct his inquiry to that committee instead of the Commission.

(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the ~~[Commission]~~ ***Secretary of State*** for review; and

(2) Upon review, approved by the ~~[Commission.]~~ ***Secretary of State.***

2. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

Sec. 44.4. ~~[NRS 281A.500 is hereby amended to read as follows:~~

~~281A.500 1. Every public officer shall acknowledge that he has received, read and understands the statutory ethical standards. The acknowledgment must be on a form prescribed by the Commission and must [accompany the first statement of financial disclosure that the public officer is required to file] *be filed* with the Commission [pursuant to NRS 281A.600 or the Secretary of State pursuant to NRS 281A.610.] *not later than 30 days after he takes office and on or before January 15 of each year thereafter.*~~

~~2. The Commission [and the Secretary of State] shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.~~

~~3. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal pursuant to NRS 283.440.]~~ **(Deleted by amendment.)**

Sec. 44.5. NRS 281A.600 is hereby amended to read as follows:

281A.600 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 3 and section 44.1 of this act,*** if a public officer who was appointed to the office for which he is serving is entitled to receive annual compensation of $6,000 or more for serving in that office, he shall file ***electronically*** with the ~~[Commission]~~ ***Secretary of State*** a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after his appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

➥ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. If a person is serving in a public office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for that initial office to satisfy the requirements of subsection 1 for every other public office to which he is appointed and in which he is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

4. ~~[The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:~~

~~(a) The name of each public officer who failed to file his statement of financial disclosure within the period before the notice is sent;~~

~~(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;~~

~~(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and~~

~~(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.~~

~~5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.~~

~~6.]~~ A statement of financial disclosure shall be deemed to be filed ~~[with the Commission:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~ ***Secretary of State.***

5. Except as otherwise provided in section 44.1 of this act, the Secretary of State shall provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.

Sec. 45. NRS 281A.610 is hereby amended to read as follows:

281A.610 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 4 and section 44.1 of this act,*** each candidate for public office who will be entitled to receive annual compensation of $6,000 or more for serving in the office that he is seeking and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which he is serving shall file ***electronically*** with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if he is elected to the office.

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires. The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which he is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281A.600, he need not file the statement required by subsection 1 for the full calendar year for which he previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

5. A statement of financial disclosure shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the Secretary of State ***.*** ~~[if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281A.290.~~

~~7. The~~]

6. Except as otherwise provided in section 44.1 of this act, the Secretary of State shall [~~prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.~~] ***provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.***

Sec. 45.2. NRS 281A.620 is hereby amended to read as follows:

281A.620 1. Statements of financial disclosure, as approved pursuant to NRS 281A.470 or in such ***electronic*** form as the [~~Commission~~] ***Secretary of State*** otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) His length of residence in the State of Nevada and the district in which he is registered to vote.

(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which he or a member of his household has a legal or beneficial interest;

(2) Whose fair market value is $2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom he or a member of his household owes $5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of $200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial

interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.

2. The ~~[Commission shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The Commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281A.470.]~~ ***Secretary of State may adopt any regulations necessary to carry out the provisions of this section.***

3. As used in this section:

(a) "Business entity" means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.

(b) "Household" includes:

(1) The spouse of a candidate for public office or public officer;

(2) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and

(3) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.

Sec. 45.3. NRS 281A.630 is hereby amended to read as follows:

281A.630 1. Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS 281A.600, 281A.610 and 281A.620 must be retained by the ~~[Commission or]~~ Secretary of State for 6 years after the date of filing.

2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.

Sec. 45.4. NRS 281A.640 is hereby amended to read as follows:

281A.640 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the ~~[Commission and to the]~~ Secretary of State, in a form prescribed by the ~~[Commission,]~~ ***Secretary of State,*** on or before December 1 of each year by:

(a) Each county clerk for all public officers of the county and other local governments within the county other than cities;

(b) Each city clerk for all public officers of the city;

(c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and

(d) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.

2. ~~[The Secretary of State, each]~~ ***Each*** county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the ~~[Commission,]~~ ***Secretary of State,*** and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Secretary of State, in a form prescribed by the ~~[Commission,]~~ ***Secretary of State,*** a list of each candidate for public office who filed a declaration of candidacy or acceptance of candidacy with that officer within 10 days after the last day to qualify as a candidate for the applicable office.

Sec. 45.5. NRS 281A.650 is hereby amended to read as follows:

281A.650 The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk who receives from a candidate for public office a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate ***:***

1. If the candidate is a candidate for judicial office, the form prescribed by the ~~[Commission]~~ ***Administrative Office of the Courts*** for the making of a statement of financial disclosure ~~[.]~~ ***;***

2. If the candidate is not a candidate for judicial office and is required to file electronically the statement of financial disclosure, access to the electronic form prescribed by the Secretary of State; or

3. If the candidate is not a candidate for judicial office, is required to submit the statement of financial disclosure electronically and has submitted an affidavit to the Secretary of State pursuant to section 44.1 of this act, the form prescribed by the Secretary of State,

➥ accompanied by instructions on how to complete the form ~~[, where it must be filed]~~ and the time by which it must be filed.

Sec. 46. NRS 294A.150, 294A.220, 294A.281, 294A.282, 294A.283 and 294A.284 are hereby repealed.

Sec. 47. 1. This section and sections 1 to 29.3, inclusive, 30, 31, 32, 33, 34, 35 to 38, inclusive, 39, 40, 41, 42, 43, 44 and 46 of this act become effective on July 1, 2009.

2. Sections 29.5, **29.7,** 32.2 to 32.5, inclusive, 33.1, 33.2, 34.2, 34.3, 38.2, 40.5, 41.5 and 44.1 to 45.5, inclusive, of this act become effective on January 16, 2011.

LEADLINES OF REPEALED SECTIONS

294A.150 Person or group of persons, including business entities, advocating passage or defeat of question on ballot who receives or

expends money in excess of $10,000 to report contributions received; period covered; form; filing.

294A.220 Person or group of persons, including business entities, advocating passage or defeat of question on ballot who receives or expends money in excess of $10,000 to report expenditures; deadline; period covered; form; filing.

294A.281 Registration.

294A.282 Registered agent.

294A.283 Reporting of contributions and expenditures; period covered; deadline; form; filing.

294A.284 Reporting of certain information concerning compensation of persons to circulate petitions.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 82 and Senate Bill No. 114.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 82 and Senate Bill No. 114 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 245 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 245.

Bill read third time.

The following amendment was proposed by Assemblyman Atkinson:

Amendment No. 902.

AN ACT relating to regional transportation commissions; reorganizing provisions governing regional transportation commissions; providing that regional transportation commissions may authorize vending stands; authorizing certain governmental entities to collect fees for placing street banners within rights-of-way and public easements; authorizing certain regional transportation commissions to enter into certain hedge contracts for fuel; ~~[providing tort immunity to regional transportation commissions under certain circumstances;]~~ making various other changes to provisions relating to regional transportation commissions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Nevada has enacted the County Motor Vehicle Fuel Tax Law which, in part, authorizes certain counties to create regional transportation commissions and impose certain taxes on fuel. (Chapter 373 of NRS) **Sections 2-41 and 64** of this bill reorganize the provisions relating to regional transportation commissions into chapter 277 of NRS to be known as the Regional Transportation Commission Act.

Sections 17 and 31 of this bill authorize the regional transportation commission in a county with a population of 400,000 or more (currently Clark County) to construct, install and maintain vending stands in a building, terminal or parking facility owned, operated or leased by the commission. Such vending stands may provide any approved articles, food or beverages to passengers of public mass transportation within the county.

Sections 15 and 28 of this bill authorize regional transportation commissions, under certain circumstances, to place street banners along public highways and within rights-of-way and public easements. Fees collected for placing street banners must be given to the governmental entities that own or control the public easements or rights-of-way where the street banners are placed, less an administrative fee given to the commissions to fund road repair and maintenance.

Section 34 of this bill authorizes a regional transportation commission to construct, modify, operate and maintain certain electrical and communications systems.

Section 38 of this bill authorizes a regional transportation commission that budgets $1,000,000 or more in a fiscal year for the purchase of fuel to enter into a fuel hedge contract under certain circumstances.

Section 55 of this bill requires the governing body of each city that participates in a regional transportation commission to approve the dissolution of the commission, in addition to the governing body of the county. (NRS 373.120)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 277 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 41, inclusive, of this act.

Sec. 2. ***Sections 2 to 41, inclusive, of this act may be known and cited as the Regional Transportation Commission Act.***

Sec. 3. ***As used in sections 2 to 41, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 17, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Acquire" or "acquisition" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the United States of America, any agency, instrumentality or corporation thereof, the State of Nevada, any body corporate and politic therein, any corporation, or any person, the***

endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract, or other acquirement, or any combination thereof, of any project, or an interest therein, authorized by sections 2 to 41, inclusive, of this act.

Sec. 5. ***"Board" means the board of county commissioners.***

Sec. 6. ***"City" means an incorporated city.***

Sec. 7. ***"Commission" means a regional transportation commission created pursuant to section 18 of this act.***

Sec. 8. ***"Cost of the project," or any phrase of similar import, means all or any part designated by the board of the cost of any project, or interest therein, being acquired, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including, without limitation, preliminary expenses advanced by the county from money available for use therefor or any other source, or advanced by any city with the approval of the county from money available therefor or from any other source, or advanced by the State of Nevada or the Federal Government, or any corporation, agency or instrumentality thereof, with the approval of the county, or any combination thereof, in the making of surveys, preliminary plans, estimates of costs, other preliminaries, the costs of appraising, printing, estimates, advice, contracting for the services of engineers, architects, financial consultants, attorneys at law, clerical help, other agents or employees, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of bonds and other securities, contingencies, the capitalization with bond proceeds of any interest on the bonds for any period not exceeding 1 year and of any reserves for the payment of the principal of an interest on the bonds, the filing or recordation of instruments, the costs of medium-term obligations, construction loans and other temporary loans not exceeding 10 years appertaining to the project and of the incidental expenses incurred in connection with such financing or loans, and all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board.***

Sec. 9. ***"Department" means the Department of Motor Vehicles.***

Sec. 10. ***"Fixed guideway" means a mass transportation facility which uses and occupies a separate right-of-way or rails exclusively for public transportation, including, without limitation, fixed rail, automated guideway transit and exclusive facilities for buses.***

Sec. 11. ***"Improve" or "improvement" means the extension, widening, lengthening, betterment, alteration, reconstruction, surfacing, resurfacing or other major improvement, or any combination thereof, of any project, or an interest therein, authorized by sections 2 to 41, inclusive, of this act. The term includes renovation, reconditioning, patching, general maintenance and other minor repairs.***

Sec. 12. ***"Project" means:***

1. In a county whose population is 100,000 or more, street and highway construction, including, without limitation, the acquisition and improvement of any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, and also including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including, without limitation, the acquisition and improvement of all types of property therefor.

2. In a county whose population is less than 100,000, street and highway construction, maintenance or repair, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of any street, avenue, boulevard, alley, highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, and also including, without limitation, grades, regrades, gravel, oiling, surfacing, macadamizing, paving, crosswalks, sidewalks, pedestrian rights-of-way, driveway approaches, curb cuts, curbs, gutters, culverts, catch basins, drains, sewers, manholes, inlets, outlets, retaining walls, bridges, overpasses, tunnels, underpasses, approaches, sprinkling facilities, artificial lights and lighting equipment, parkways, grade separators, traffic separators and traffic control equipment, and all appurtenances and incidentals, or any combination thereof, including, without limitation, the acquisition, maintenance, repair and improvement of all types of property therefor.

Sec. 13. ***"Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.***

Sec. 14. ***"Public transit system" means a system employing motor buses, rails or any other means of conveyance, by whatever type of power, operated for public use in the conveyance of persons.***

Sec. 15. ***"Street banner" means a sign which a commission has authorized pursuant to section 28 of this act to be hung:***

(a) Along any street, avenue, boulevard, alley, public highway or other public right-of-way used for any vehicular traffic, and including a sidewalk designed primarily for use by pedestrians, within the jurisdiction of the commission.

(b) On any facility owned or leased by the commission, the county or any participating city.

Sec. 16. ***"Town" means an unincorporated town.***

Sec. 17. ***"Vending stand" means:***

1. Such buildings, counters, shelving, display and wall cases, refrigerating apparatus and other appropriate auxiliary equipment as are necessary or customarily used for the vending of such articles or the provision of such services as may be approved by the commission and the governing body having care, custody and control of the property on which the vending stand is located;

2. Manual or coin-operated vending machines or similar devices for vending such articles, operated at buildings, terminals and parking facilities owned or leased by the commission, even though no person is physically present on the premises except to service the machines;

3. A snack bar for the dispensing of foodstuffs and beverages; or

4. Portable shelters which can be disassembled and reassembled, and the equipment therein, used for the vending of approved articles, foodstuffs or beverages or the provision of approved services.

Sec. 18. ***In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance create a regional transportation commission.***

Sec. 19. ***1. In counties whose population is 100,000 or more, the commission must be composed of representatives selected by the following entities from among their members:***

(a) Two by the board.

(b) Two by the governing body of the largest city in the county.

(c) One by the governing body of each additional city in the county.

2. In counties whose population is less than 100,000, the commission must be composed of representatives selected as follows:

(a) If the county contains three or more cities:

(1) Two by the board.

(2) One by the governing body of the largest city.

(b) If the county contains only two cities:

(1) Three by the board, at least one of whom is a representative of the public who is a resident of the county.

(2) One by the governing body of each city in the county.

(c) If the county contains only one city:

(1) Two by the board.

(2) One by the governing body of the city.

(d) If the county contains no city, the board shall select:

(1) Two members of the board; and

(2) One representative of the public, who is a resident of the largest town, if any, in the county.

3. In Carson City, the commission must be composed of representatives selected by the Board of Supervisors as follows:

(a) Two members of the Board of Supervisors, one of whom must be designated by the commission to serve as chairman of the commission.

(b) Three representatives of the city at large.

4. The first representatives must be selected within 30 days after passage of the ordinance creating the commission, and, except as otherwise provided in subsections 5, 6 and 7, must serve until the next ensuing December 31 of an even-numbered year. The representative of any city incorporated after passage of the ordinance must be selected within 30 days after the first meeting of the governing body, and, except as otherwise provided in subsection 7, must serve until the next ensuing December 31 of an even-numbered year. Their successors must serve for terms of 2 years, and vacancies must be filled for the unexpired term.

5. In Carson City:

(a) One representative of the commission who is a member of the Board of Supervisors and one representative of the commission who is a representative of the city at large must serve until the next ensuing December 31 of an even-numbered year; and

(b) One representative of the commission who is a member of the Board of Supervisors and two representatives of the commission who are representatives of the city at large must serve until the next ensuing December 31 of an odd-numbered year.

6. In counties whose population is 100,000 or more, but less than 400,000:

(a) One representative selected by the board and one representative selected by the governing body of the largest city in the county must serve until the next ensuing December 31 of an even-numbered year; and

(b) One representative selected by the board and one representative selected by the governing body of the largest city in the county must serve until the next ensuing December 31 of an odd-numbered year.

7. In counties whose population is 400,000 or more, the first representatives and the representative of any city incorporated after passage of the ordinance must serve until the next ensuing June 30 of an odd-numbered year.

Sec. 20. ***The commission shall provide for its organization and meetings.***

Sec. 21. ***1. A commission may be designated as a metropolitan planning organization pursuant to 23 U.S.C. § 134 and 49 U.S.C. § 5303.***

2. If a commission is designated as a metropolitan planning organization, the commission shall carry out the duties prescribed by federal law for a metropolitan planning organization in addition to any other duties required by specific statute.

Sec. 22. ***1. In any county in which a commission has been created by ordinance, the commission may:***

(a) Receive and disburse federal funds;

(b) Submit project applications and programs of projects to federal agencies;

(c) Enter into formal agreements concerning projects with federal agencies; and

(d) Conduct public hearings and certify that such hearings were conducted.

2. If a commission receives federal funds for any project, the commission shall comply with any applicable federal law in relation to providing goods or services related to such project.

Sec. 23. ***The commission may establish a fund consisting of contributions from private sources, the State or the county and cities and towns within the jurisdiction of the commission for the purpose of matching federal money from any federal source.***

Sec. 24. ***A commission may:***

1. Acquire and own both real and personal property.

2. Exercise the power of eminent domain, if the city or county which has jurisdiction over the property approves, for the acquisition, construction, repair or maintenance of public roads, or for any other purpose related to public mass transportation.

3. Sell, lease or convey or otherwise dispose of rights, interests or properties.

4. Adopt regulations for:

(a) Financing eligible activities; and

(b) The operation of systems or services provided by the commission.

Sec. 25. ***A commission may:***

1. Sue and be sued.

2. Prepare and approve budgets for the regional street and highway fund, the public transit fund and money it receives from any source.

3. Adopt bylaws for the administration of its affairs and rules for the administration and operation of facilities under its control.

4. Conduct studies, develop plans and conduct public hearings to establish and approve short-range and regional plans for transportation.

5. Purchase insurance or establish a reserve or fund for self-insurance, or adopt any combination of these, to insure against loss by reason of:

(a) Damages resulting from fire, theft, accident or other casualty; or

(b) The commission's liability for other damages to persons or property which occur in the construction or operation of facilities or equipment under its control or in the conduct of its activities.

Sec. 26. ***A commission may:***

1. Provide for and maintain such security in operations as is necessary for the protection of persons and property under its jurisdiction and control.

2. Employ professional, technical, clerical and other personnel necessary to carry out the provisions of sections 2 to 41, inclusive, of this act.

3. Establish a fine for a passenger who refuses to pay or otherwise fails to pay the proper fare to ride on the public transit system established and operated by the commission. If the commission establishes such a fine, the

commission may establish procedures that provide for the issuance and collection of the fine.

Sec. 27. ***1. A commission may:***

(a) Operate a system of public transportation to the exclusion of any other publicly owned system of transportation within its area of jurisdiction.

(b) Use streets, roads, highways and other public rights-of-way for public transportation.

(c) Enter into agreements for the joint use of facilities, installations and properties and the joint exercise of statutory powers.

(d) Prohibit the use of any facility, installation or property owned, operated or leased by the commission, including, without limitation, a transit stop or bus turnout, by any person other than the commission or its agents.

(e) Enter into contracts, leases and agreements with and accept grants and loans from federal and state agencies, counties, cities, towns, other political subdivisions, public or private corporations and other persons, and may perform all acts necessary for the full exercise of the powers vested in the commission.

2. The powers and duties of a commission set forth in sections 2 to 41, inclusive, of this act, do not apply to any monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695.

3. As used in this section, "bus turnout" means a fixed area that is:

(a) Adjacent or appurtenant to, or within a reasonable proximity of, a public highway; and

(b) To be occupied exclusively by buses in receiving or discharging passengers.

Sec. 28. ***1. A commission may authorize street banners to be placed within the jurisdiction of the commission:***

(a) Along any public highway.

(b) Except as otherwise provided in subsections 2 and 3, on a facility owned or leased by the commission, the county or any participating city, or within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:

(1) The facility, public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(2) The street banners may be located safely on the facility or within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

2. If the commission and the governmental entity that owns or controls a facility, public easement or right-of-way execute an interlocal or

cooperative agreement that authorizes the placement of street banners, the commission may place street banners on the facility or within the public easement or right-of-way.

3. If the commission or any person authorized by the commission intends to place any street banner within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:

(a) Provide the governing body of the association with written notice of the intent to place the street banner within the public easement at least 30 days before such placement; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the street banner within the public easement.

4. A commission may charge a fee to place a street banner. Any such fee collected by the commission must be paid to the governmental entity that owns or controls the facility, public easement or right-of-way where the street banner is placed. The governmental entity shall pay to the commission an administrative fee in an amount set forth in the agreement required pursuant to subsection 2. Any administrative fee paid to the commission pursuant to this subsection must be used by the commission to fund road improvement and maintenance.

Sec. 29. ***1. A commission, a county whose population is less than 100,000 or a city within such a county may establish or operate a public transit system consisting of:***

(a) Regular routes and fixed schedules to serve the public;

(b) Nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170, if the transportation is available upon request and without regard to regular routes or fixed schedules;

(c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or

(d) In a county whose population is less than 100,000 or a city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

2. A commission may lease vehicles to or from or enter into other contracts with a private operator for the provision of such a system.

3. In a county whose population is less than 400,000, such a system may also provide service which includes:

(a) Minor deviations from the regular routes and fixed schedules required by paragraph (a) of subsection 1 on a recurring basis to serve the public transportation needs of passengers. The deviations must not exceed one-half mile from the regular routes.

(b) The transporting of persons other than those specified in paragraph (b), (c) or (d) of subsection 1 upon request without regard to regular routes or fixed schedules, if the service is provided by a common motor carrier

which has a certificate of public convenience and necessity issued by the Nevada Transportation Authority pursuant to NRS 706.386 to 706.411, inclusive, and the service is subject to the rules and regulations adopted by the Nevada Transportation Authority for a fully regulated carrier.

4. Notwithstanding the provisions of chapter 332 of NRS or NRS 625.530, a commission may utilize a turnkey procurement process to select a person to design, build, operate and maintain, or any combination thereof, a fixed guideway system, including, without limitation, any minimum operable segment thereof. The commission shall determine whether to utilize turnkey procurement for a fixed guideway project before the completion of the preliminary engineering phase of the project. In making that determination, the commission shall evaluate whether turnkey procurement is the most cost-effective method of constructing the project on schedule and in satisfaction of its transportation objectives.

5. Notwithstanding the provisions of chapter 332 of NRS, a commission may utilize a competitive negotiation procurement process to procure rolling stock for a fixed guideway project, rolling stock for a public transit system, facilities and any other equipment that is related to public transportation. The award of a contract under such a process must be made to the person whose proposal is determined to be the most advantageous to the commission, based on price and other factors specified in the procurement documents.

6. If a commission develops a fixed guideway project, the Department of Transportation is hereby designated to serve as the oversight agency to ensure compliance with the federal safety regulations for rail fixed guideway systems set forth in 49 C.F.R. Part 659.

7. As used in this section:

(a) "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the Nevada Transportation Authority a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the Nevada Transportation Authority.

(b) "Minimum operable segment" means the shortest portion of a fixed guideway system that is technically capable of providing viable public transportation between two end points.

(c) "Turnkey procurement" means a competitive procurement process by which a person is selected by a commission, based on evaluation criteria established by the commission, to design, build, operate and maintain, or any combination thereof, a fixed guideway system, or a portion thereof, in accordance with performance criteria and technical specifications established by the commission.

Sec. 30. ***1. A commission may construct, convert, improve, equip and maintain parking facilities or parking spaces for use by the general public and public employees. Such facilities or spaces must be owned and operated by the commission or its agents.***

2. The commission may fix and charge reasonable fees for the use of any such parking facilities or spaces.

3. The commission may enter into a contract, lease or other arrangement to provide exclusive parking in designated spaces at any parking facility owned, leased or operated by the commission.

Sec. 31. ***1. In a county whose population is 400,000 or more, the commission may provide for the construction, installation and maintenance of vending stands for passengers of public mass transportation in any building, terminal or parking facility owned, operated or leased by the commission.***

2. The provisions of NRS 426.630 to 426.720, inclusive, do not apply to a vending stand constructed, installed or maintained pursuant to this section.

Sec. 32. ***In a county whose population is 400,000 or more:***

1. The commission shall provide for the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation.

2. In carrying out its duties pursuant to subsection 1, the commission may displace or limit competition in the construction, installation and maintenance of such benches, shelters and transit stops. The commission may:

(a) Provide those services on an exclusive basis or adopt a regulatory scheme for controlling the provision of those services; or

(b) Grant an exclusive franchise to any person to provide those services.

3. Subject to the provisions of subsections 4 and 5, the commission or any person who is authorized by the commission to provide for the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation may locate such benches, shelters and transit stops within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:

(a) The public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(b) The benches, shelters and transit stops may be located safely within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

4. Before the commission or any person authorized by the commission may construct or install any benches, shelters and transit stops within any public easement or right-of-way, the commission and the governmental entity that owns or controls the public easement or right-of-way shall execute an interlocal or cooperative agreement that authorizes the construction, installation, maintenance and use of the benches, shelters and transit stops within the public easement or right-of-way.

5. If the commission or any person authorized by the commission intends to construct or install any benches, shelters or transit stops within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:

(a) Provide the governing body of the association with written notice of the intent to construct or install the benches, shelters or transit stops within the public easement at least 30 days before such construction or installation begins; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the benches, shelters or transit stops within the public easement.

6. The commission shall post on each bench, within each shelter and near each transit stop a notice that provides a telephone number that a person may use to report damage to the benches, shelters or transit stops.

7. No board, governing body or town board may:

(a) Provide for the construction, installation or maintenance of benches, shelters and transit stops for passengers of public mass transportation except with the approval of or at the request of the commission; or

(b) Adopt any ordinance, regulation or plan, enter into or approve any franchise, contract or agreement or take any other action that prohibits or unreasonably restricts the commission from providing for the construction, installation or maintenance of benches, shelters and transit stops for passengers of public mass transportation.

Sec. 33. ***1. In a county whose population is 400,000 or more, the commission shall establish an advisory committee to provide information and advice to the commission concerning the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in the county. The membership of the advisory committee must consist of:***

(a) Two members of the general public from each city within the county who are appointed by the governing body of that city; and

(b) Six members of the general public appointed by the commission.

2. Each member of the advisory committee serves a term of 1 year. A member may be reappointed for additional terms of 1 year in the same manner as the original appointment.

3. A vacancy occurring in the membership of the advisory committee must be filled in the same manner as the original appointment.

4. The advisory committee shall meet at least six times annually.

5. At its first meeting and annually thereafter, the advisory committee shall elect a chairman and vice chairman from among its members.

6. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

Sec. 34. ***1. Subject to the provisions of subsections 2, 4 and 5, the commission may construct, modify, operate and maintain electrical and communication systems, including, without limitation, traffic signalization or messaging systems, and related infrastructure that are necessary to carry out the commission's duties set forth in sections 2 to 41, inclusive, of this act within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:***

(a) The public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(b) The electrical and communication systems and related infrastructure may be located safely within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

2. If the commission and the governmental entity that owns or controls a public easement or right-of-way execute an interlocal or cooperative agreement that authorizes the construction, installation, maintenance and use of the electrical and communication systems and related infrastructure within the public easement or right-of-way, the commission or any person authorized by the commission may construct or install any electrical and communication systems and related infrastructure within the public easement or right-of-way.

3. If the commission or any person authorized by the commission intends to construct or install any electrical or communication systems or related infrastructure within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:

(a) Provide the governing body of the association with written notice of the intent to construct or install the electrical or communication systems or related infrastructure within the public easement at least 30 days before such construction or installation begins; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the electrical or communication systems or related infrastructure within the public easement.

4. The commission may require any person who causes damage to an electrical or communication system or related infrastructure to:

(a) Reimburse the commission for the cost of repairing the damage to the electrical or communication system or related infrastructure; or

(b) Repair the damage to the electrical or communication system or related infrastructure to the satisfaction of the commission.

5. A commission that modifies, operates and maintains electrical and communication systems pursuant to this section is not a public utility and nothing in this section authorizes a commission to construct or maintain

any telecommunications system, including, without limitation, a tower, pole or similar structure used to provide telecommunications services.

Sec. 35. ***1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to section 25 of this act may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of sections 2 to 41, inclusive, of this act, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.***

2. The board may, after the enactment of an ordinance as authorized by NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065, issue revenue bonds and other revenue securities, on the behalf and in the name of the county:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065;

(b) Which must not be general obligations of the county or a charge on any real estate therein; and

(c) Which may be secured as to principal and interest by a pledge authorized by chapter 373 of NRS of the receipts from the motor vehicle fuel taxes designated in chapter 373 of NRS, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county is authorized to issue bonds without the necessity of their being authorized at any election in such manner and with such terms as provided in sections 2 to 41, inclusive, of this act.

4. Subject to the provisions of sections 2 to 41, inclusive, of this act, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county securities, and in connection with the undertaking or project, the board may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the motor vehicle fuel taxes designated in chapter 373 of NRS except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act,

➥ all bonds and other securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act must be payable solely from the proceeds of motor vehicle fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by chapter 373 of NRS. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to paragraphs (a) and (b) of subsection 1 of NRS 373.065 may be used by the county for the payment of securities issued pursuant to the provisions of sections 2 to 41, inclusive, of this act and may be pledged therefor. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance authorizing the issuance of any bond or other revenue security hereunder must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified.

Sec. 36. ***In counties having a population of less than 100,000, the commission shall submit an annual report to the Department for the fiscal year showing the amount of receipts from the county motor vehicle fuel tax imposed pursuant to chapter 373 of NRS and the nature of the expenditures for each project.***

Sec. 37. ***1. In a county whose population is 400,000 or more, the commission shall cooperate with the local air pollution control board and the regional planning coalition in the county in which it is located to:***

(a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.

(b) Establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.

2. Before adopting or amending a plan, policy or program, the commission must:

(a) Consult with the local air pollution control board and the regional planning coalition; and

(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:

(1) The plans, policies and programs adopted or proposed to be adopted by the local air pollution control board and the regional planning coalition; and

(2) Plans for capital improvements that have been prepared pursuant to NRS 278.0226.

3. As used in this section:

(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to NRS 445B.500.

(b) "Regional planning coalition" has the meaning ascribed to it in NRS 278.0172.

Sec. 38. ***1. A commission that budgets $1,000,000 or more in any fiscal year for the purchase of fuel may enter into an agreement for an exchange of cash flow based on the price of fuel as provided in this section if it finds that such an agreement would be in the best interest of the commission.***

2. A commission may only enter into an agreement to exchange cash flows payments based on the price of fuel only if:

(a) The long-term unsecured debt obligations of the person with whom the commission enters the agreement are rated "A" or better by a nationally recognized rating agency; or

(b) The obligations pursuant to the agreement of the person with whom the Commission enters the agreement are guaranteed by a person whose long-term debt obligations are rated "A" or better by a nationally recognized rating agency.

3. A commission may agree, with respect to a fuel that the commission has budgeted to purchase in a fiscal year:

(a) To pay sums based on a fixed price or prices for that fuel, on an amount of the fuel that does not exceed the amount of the fuel that the commission expects to acquire over a period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a variable price for that fuel

determined pursuant to a formula or price reference set forth in the agreement on the same amount of the fuel as the amount used in determining the sums payable by the commission;

(b) To pay sums based on a variable price or prices for that fuel determined pursuant to a formula or price reference set forth in the agreement, on an amount of fuel that does not exceed the amount of the fuel the commission expects it will acquire over the period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a fixed price or prices for that fuel on the same amount of fuel as the amount used in determining the sums payable by the commission; or

(c) To pay sums based on a variable price or prices for the fuel determined pursuant to a formula or price reference set forth in the agreement, on an amount of the fuel that does not exceed the amount of the fuel that the commission expects it will acquire over the period that is not more than 63 months from the date of the agreement, in exchange for an agreement by the other party to pay sums equal to a different variable price for that fuel determined pursuant to a formula or price reference set forth in the agreement on the same amount of the fuel as the amount used in determining the amount payable by the commission.

4. The payments to be made for any fiscal year must be based on the amounts of the fuel that the commission expects to buy or sell during that fiscal year and must be scheduled to be paid within an 18-month period that begins 3 months before and ends 3 months after the fiscal year.

5. A certification by the commission or its chief financial officer as to any determination made under this section or as to the amount of fuel that a commission expects to buy or sell during the term of an agreement entered into pursuant to this section, or during all or any part of any fiscal year that is wholly or partially included in the term of an agreement entered into pursuant to this section, is conclusive, absent fraud, for the purpose of determining whether the commission is authorized to enter into an agreement under this section.

6. The term of an agreement entered into pursuant to this section may not exceed 63 months.

7. An agreement entered into pursuant to this section is not:

(a) A debt or indebtedness of the commission for the purposes of any limitation upon the indebtedness of the commission or any requirement for an election with regard to the issuance of securities that is applicable to the commission.

(b) Subject to the limitations of subsection 1 of NRS 354.626.

8. A commission which has entered into an agreement pursuant to this section may treat the price it pays or expects to pay for fuel after giving effect to the agreement for the purpose of calculating:

(a) Rates and charges of a revenue-producing enterprise whose revenues are pledged to or used to pay municipal securities;

(b) Statutory requirements concerning revenue coverage that are applicable to municipal securities; and

(c) Any other amounts which are based upon the amounts to be paid for fuel.

9. Subject to covenants applicable to municipal securities to which any revenues of the commission or county are pledged, any payments required to be made by the commission under an agreement may be made from money that could be used to pay for the fuel or from any other legally available source.

10. The powers granted by this section are in addition to all other powers of any commission, and nothing herein limits the exercise of a power a commission otherwise has.

Sec. 39. (Deleted by amendment.)

Sec. 40. ***In addition to the general and special powers conferred by sections 2 to 41, inclusive, of this act, a commission is authorized to exercise such powers as are necessary.***

Sec. 41. ***Sections 2 to 41, inclusive, of this act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this State and other states and of the government of the United States having to do with the subject of transportation.***

Sec. 42. NRS 244.187 is hereby amended to read as follows:

244.187 A board of county commissioners may, to provide adequate, economical and efficient services to the inhabitants of the county and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.
2. Taxicabs and other public transportation, unless regulated in that county by an agency of the State.
3. Collection and disposal of garbage and other waste.
4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.
5. Water and sewage treatment, unless regulated in that county by an agency of the State.
6. Concessions on, over or under property owned or leased by the county.
7. Operation of landfills.
8. Except as otherwise provided in ~~[~~NRS 373.1183,~~]~~ ***section 32 of this act,*** construction and maintenance of benches and shelters for passengers of public mass transportation.

Sec. 43. NRS 268.081 is hereby amended to read as follows:

268.081 The governing body of an incorporated city may, to provide adequate, economical and efficient services to the inhabitants of the city and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.

2. Taxicabs and other public transportation, unless regulated in that city by an agency of the State.

3. Collection and disposal of garbage and other waste.

4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.

5. Water and sewage treatment, unless regulated in that city by an agency of the State.

6. Concessions on, over or under property owned or leased by the city.

7. Operation of landfills.

8. Search and rescue.

9. Inspection required by any city ordinance otherwise authorized by law.

10. Except as otherwise provided in ~~[NRS 373.1183,]~~ ***section 32 of this act,*** construction and maintenance of benches and shelters for passengers of public mass transportation.

11. Any other service demanded by the inhabitants of the city which the city itself is otherwise authorized by law to provide.

Sec. 44. NRS 269.128 is hereby amended to read as follows:

269.128 A town board or board of county commissioners may, to provide adequate, economical and efficient services to the inhabitants of the town and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

1. Ambulance service.

2. Taxicabs and other public transportation, unless regulated in that town by an agency of the State.

3. Collection and disposal of garbage and other waste.

4. Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.

5. Water and sewage treatment, unless regulated in that town by an agency of the State.

6. Concessions on, over or under property owned or leased by the town.

7. Operation of landfills.

8. Except as otherwise provided in ~~[NRS 373.1183,]~~ ***section 32 of this act,*** construction and maintenance of benches and shelters for passengers of public mass transportation.

Sec. 45. NRS 278.02584 is hereby amended to read as follows:

278.02584 1. The regional planning coalition shall cooperate with the local air pollution control board and the regional transportation commission in the county in which it is located to:

(a) Ensure that the plans, policies and programs adopted by each of them are consistent to the greatest extent practicable.

(b) In addition to the comprehensive regional policy plan required by NRS 278.02528, establish and carry out a program of integrated, long-range planning that conserves the economic, financial and natural resources of the region and supports a common vision of desired future conditions.

2. Before adopting or amending a plan, policy or program, the regional planning coalition shall:

(a) Consult with the local air pollution control board and the regional transportation commission; and

(b) Conduct hearings to solicit public comment on the consistency of the plan, policy or program with:

(1) The plans, policies and programs adopted or proposed to be adopted by the local air pollution control board and the regional transportation commission; and

(2) Plans for capital improvements that have been prepared pursuant to NRS 278.0226.

3. If the program for control of air pollution established and administered by the local air pollution control board includes measures for the control of traffic or transportation, the regional planning coalition shall consider recommending the use of alternative land use designations, densities and design standards to meet local and regional needs with respect to transportation.

4. Not more than once every 2 years, the regional planning coalition shall:

(a) Prepare a report that summarizes the policies related to land use, transportation and air quality which it has adopted and which the local air pollution control board and the regional transportation commission have adopted; and

(b) Submit a copy of the report to the:

(1) County clerk of the appropriate county;

(2) Division of Environmental Protection of the State Department of Conservation and Natural Resources;

(3) Division of State Lands of the State Department of Conservation and Natural Resources; and

(4) Department of Transportation.

5. As used in this section:

(a) "Local air pollution control board" means a board that establishes a program for the control of air pollution pursuant to NRS 445B.500.

(b) "Regional transportation commission" means a regional transportation commission created and organized in accordance with ~~[chapter 373 of NRS.]~~ ***sections 2 to 41, inclusive, of this act.***

Sec. 46. NRS 354.626 is hereby amended to read as follows:

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts

appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, is guilty of a misdemeanor, and upon conviction thereof ceases to hold his office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Purchase of coverage and professional services directly related to a program of insurance which require an audit at the end of the term thereof.

(b) Long-term cooperative agreements as authorized by chapter 277 of NRS.

(c) Long-term contracts in connection with planning and zoning as authorized by NRS 278.010 to 278.630, inclusive.

(d) Long-term contracts for the purchase of utility service such as, but not limited to, heat, light, sewerage, power, water and telephone service.

(e) Contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract or contracts entered into between local government employers and employee organizations.

(f) Contracts between a local government and any person for the construction or completion of public works, money for which has been or will be provided by the proceeds of a sale of bonds, medium-term obligations or an installment-purchase agreement and that are entered into by the local government after:

(1) Any election required for the approval of the bonds or installment-purchase agreement has been held;

(2) Any approvals by any other governmental entity required to be obtained before the bonds, medium-term obligations or installment-purchase agreement can be issued have been obtained; and

(3) The ordinance or resolution that specifies each of the terms of the bonds, medium-term obligations or installment-purchase agreement, except those terms that are set forth in subsection 2 of NRS 350.165, has been adopted.

➥ Neither the fund balance of a governmental fund nor the equity balance in any proprietary fund may be used unless appropriated in a manner provided by law.

(g) Contracts which are entered into by a local government and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing fiscal year and which, under the method of accounting adopted by the local government, will be charged against an appropriation of a subsequent fiscal

year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

(h) Long-term contracts for the furnishing of television or FM radio broadcast translator signals as authorized by NRS 269.127.

(i) The receipt and proper expenditure of money received pursuant to a grant awarded by an agency of the Federal Government.

(j) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

(k) The receipt by a local government of increased revenue that:

(1) Was not anticipated in the preparation of the final budget of the local government; and

(2) Is required by statute to be remitted to another governmental entity.

(l) An agreement authorized pursuant to section 38 of this act.

Sec. 47. NRS 365.545 is hereby amended to read as follows:

365.545 1. The proceeds of all taxes on fuel for jet or turbine-powered aircraft imposed pursuant to the provisions of NRS 365.170 or 365.203 must be deposited in the Account for Taxes on Fuel for Jet or Turbine-Powered Aircraft in the State General Fund and must be allocated monthly by the Department to the:

(a) Governmental entity which operates the airport at which the tax was collected, if the airport is operated by a governmental entity;

(b) Governmental entity which owns the airport at which the tax was collected, if the airport is owned but not operated by a governmental entity; or

(c) County in which is located the airport at which the tax was collected, if the airport is neither owned nor operated by a governmental entity.

2. Except as otherwise provided in subsection 3, the money allocated pursuant to subsection 1:

(a) Must be used by the governmental entity receiving it to pay the cost of:

(1) Transportation projects related to airports, including access on the ground to airports;

(2) The payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1);

(3) Promoting the use of an airport located in a county whose population is less than 400,000, including, without limitation, increasing the number and availability of flights at the airport;

(4) Contributing money to the Trust Fund for Aviation created by NRS 494.048; or

(5) Any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued to fund projects described in paragraph (a). Any money pledged

pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

3. Any money allocated pursuant to subsection 1 to a county whose population is 400,000 or more and in which a regional transportation commission has been created pursuant to ~~[chapter 373 of NRS,]~~ ***sections 2 to 41, inclusive, of this act,*** from the proceeds of the tax imposed pursuant to paragraph (a) of subsection 2 of NRS 365.170 on fuel for jet or turbine-powered aircraft sold, distributed or used in that county, excluding the proceeds of any tax imposed pursuant to NRS 365.203, may, in addition to the uses authorized pursuant to subsection 2, be allocated by the county to that regional transportation commission. The money allocated pursuant to this subsection to a regional transportation commission:

(a) Must be used by the regional transportation commission:

(1) To pay the cost of transportation projects described in a regional plan for transportation established by that regional transportation commission pursuant to ~~[NRS 373.1161;]~~ ***section 25 of this act;***

(2) For the payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1); or

(3) For any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued by the county at the request of the regional transportation commission to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 48. NRS 365.550 is hereby amended to read as follows:

365.550 1. Except as otherwise provided in subsection 2, the receipts of the tax levied pursuant to NRS 365.180 must be allocated monthly by the Department to the counties using the following formula:

(a) Determine the average monthly amount each county received in the Fiscal Year ending on June 30, 2003, and allocate to each county that amount, or if the total amount to be allocated is less than that amount, allocate to each county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the Fiscal Year ending on June 30, 2003;

(b) If the total amount to be allocated is greater than the average monthly amount all counties received in the Fiscal Year ending on June 30, 2003, determine for each county an amount from the total amount to be allocated using the following formula:

(1) Multiply the county's percentage share of the total state population by 2;

(2) Add the percentage determined pursuant to subparagraph (1) to the county's percentage share of total mileage of improved roads or streets maintained by the county or an incorporated city located within the county;

(3) Divide the sum of the percentages determined pursuant to subparagraph (2) by 3; and

(4) Multiply the total amount to be allocated by the percentage determined pursuant to subparagraph (3);

(c) Identify each county for which the amount determined pursuant to paragraph (b) is greater than the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (a) from the amount determined pursuant to paragraph (b); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(d) Identify each county for which the amount determined pursuant to paragraph (b) is less than or equal to the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (b) from the amount determined pursuant to paragraph (a); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(e) Subtract the amount determined pursuant to subparagraph (2) of paragraph (d) from the amount determined pursuant to subparagraph (2) of paragraph (c);

(f) Divide the amount determined pursuant to subparagraph (1) of paragraph (c) for each county by the sum determined pursuant to subparagraph (2) of paragraph (c) for all counties to determine each county's percentage share of the sum determined pursuant to subparagraph (2) of paragraph (c); and

(g) In addition to the allocation made pursuant to paragraph (a), allocate to each county that is identified pursuant to paragraph (c) a percentage of the total amount determined pursuant to paragraph (e) that is equal to the percentage determined pursuant to paragraph (f).

2. At the end of each fiscal year, the Department shall:

(a) Determine the total amount to be allocated to all counties pursuant to subsection 1 for the current fiscal year; and

(b) Use the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to each county an amount determined pursuant to subsection 3.

3. If the total amount to be allocated to all the counties determined pursuant to paragraph (a) of subsection 2:

(a) Does not exceed the total amount that was received by all the counties for the Fiscal Year ending on June 30, 2003, the Department shall adjust the final monthly allocation to be made to each county so that each county is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the Fiscal Year ending on June 30, 2003.

(b) Exceeds the total amount that was received by all counties for the Fiscal Year ending on June 30, 2003, the Department shall:

(1) Identify the total amount allocated to each county for the Fiscal Year ending on June 30, 2003, and the total amount for the current fiscal year determined pursuant to paragraph (a) of subsection 2;

(2) Apply the formula set forth in paragraph (b) of subsection 1 using the amounts in subparagraph (1), instead of the monthly amounts, to determine the total allocations to be made to the counties for the current fiscal year; and

(3) Adjust the final monthly allocation to be made to each county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to subparagraph (2).

4. Of the money allocated to each county pursuant to the provisions of subsections 1, 2 and 3:

(a) An amount equal to that part of the allocation which represents 1.25 cents of the tax per gallon must be used exclusively for the service and redemption of revenue bonds issued pursuant to ~~[chapter 373 of NRS,]~~ ***section 35 of this act,*** for the construction, maintenance and repair of county roads, and for the purchase of equipment for that construction, maintenance and repair, under the direction of the boards of county commissioners of the several counties, and must not be used to defray expenses of administration.

(b) An amount equal to that part of the allocation which represents 2.35 cents of the tax per gallon must be allocated to the county, if there are no incorporated cities in the county, or, if there is at least one incorporated city in the county, allocated monthly by the Department to the county and each incorporated city in the county using, except as otherwise provided in paragraph (c), the following formula:

(1) Determine the average monthly amount the county and each incorporated city in the county received in the fiscal year ending on June 30, 2005, and allocate to the county and each incorporated city in the county that amount, or if the total amount to be allocated is less than that amount, allocate to the county and each incorporated city in the county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county or incorporated city, as applicable, in the fiscal year ending on June 30, 2005.

(2) If the total amount to be allocated is greater than the average monthly amount the county and all incorporated cities within the county received in the fiscal year ending on June 30, 2005, determine for the county and each incorporated city in the county an amount from the total amount to be allocated using the following formula:

(I) One-fourth in proportion to total area.

(II) One-fourth in proportion to population.

(III) One-fourth in proportion to the total mileage of improved roads and streets maintained by the county or incorporated city in the county, as applicable.

(IV) One-fourth in proportion to vehicle miles of travel on improved roads and streets maintained by the county or incorporated city in the county, as applicable.

➥ For the purpose of applying the formula, the area of the county excludes the area included in any incorporated city.

(3) Identify whether the county or any incorporated city in the county had an amount determined pursuant to subparagraph (2) that was greater than the amount allocated to the county or incorporated city, as applicable, pursuant to subparagraph (1) and, if so:

(I) Subtract the amount determined pursuant to subparagraph (1) from the amount determined pursuant to subparagraph (2); and

(II) Add the amounts determined pursuant to sub-subparagraph (I) for the county and all incorporated cities in the county.

(4) Identify whether the county or any incorporated city in the county had an amount determined pursuant to subparagraph (2) that was less than or equal to the amount determined for the county or incorporated city, as applicable, pursuant to subparagraph (1) and, if so:

(I) Subtract the amount determined pursuant to subparagraph (2) from the amount determined pursuant to subparagraph (1); and

(II) Add the amounts determined pursuant to sub-subparagraph (I) for the county and all incorporated cities in the county.

(5) Subtract the amount determined pursuant to sub-subparagraph (II) of subparagraph (4) from the amount determined pursuant to sub-subparagraph (II) of subparagraph (3).

(6) Divide the amount determined pursuant to sub-subparagraph (I) of subparagraph (3) for the county and each incorporated city in the county by the sum determined pursuant to sub-subparagraph (II) of subparagraph (3) for the county and all incorporated cities in the county to determine the county's and each incorporated city's percentage share of the sum determined pursuant to sub-subparagraph (II) of subparagraph (3).

(7) In addition to the allocation made pursuant to subparagraph (1), allocate to the county and each incorporated city in the county that is identified pursuant to subparagraph (3) a percentage of the total amount determined pursuant to subparagraph (5) that is equal to the percentage determined pursuant to subparagraph (6).

(c) At the end of each fiscal year, the Department shall:

(1) Determine the total amount to be allocated to a county and each incorporated city within the county pursuant to paragraph (b) for the current fiscal year; and

(2) Use the amount equal to that part of the allocation which represents 2.35 cents per gallon of the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to a county and each incorporated city in the county an amount determined pursuant to paragraph (d).

(d) If the total amount to be allocated to a county and all incorporated cities in the county determined pursuant to subparagraph (1) of paragraph (c):

(1) Does not exceed the total amount that was received by the county and all the incorporated cities in the county for the fiscal year ending on June 30, 2005, the Department shall adjust the final monthly amount allocated to the county and each incorporated city in the county so that the county and each incorporated city is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county or incorporated city, as applicable, in the fiscal year ending on June 30, 2005.

(2) Exceeds the total amount that was received by the county and all incorporated cities in the county for the fiscal year ending on June 30, 2005, the Department shall:

(I) Identify the total amount allocated to the county and each incorporated city in the county for the fiscal year ending on June 30, 2005, and the total amount for the current fiscal year determined pursuant to subparagraph (1) of paragraph (c);

(II) Apply the formula set forth in subparagraph (2) of paragraph (b) using the amounts in sub-subparagraph (I), instead of the monthly amounts, to determine the total allocations to be made to the county and the incorporated cities in the county for the current fiscal year; and

(III) Adjust the final monthly allocation to be made to the county and each incorporated city in the county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to sub-subparagraph (II).

5. The amount allocated to the counties and incorporated cities pursuant to subsections 1 to 4, inclusive, must be remitted monthly. The State Controller shall draw his warrants payable to the county treasurer of each of the several counties and the city treasurer of each of the several incorporated cities, as applicable, and the State Treasurer shall pay the warrants out of the proceeds of the tax levied pursuant to NRS 365.180.

6. The formula computations must be made as of July 1 of each year by the Department of Motor Vehicles, based on estimates which must be furnished by the Department of Transportation and, if applicable, any adjustments to the estimates determined to be appropriate by the Committee pursuant to subsection 10. Except as otherwise provided in subsection 10, the determination made by the Department of Motor Vehicles is conclusive.

7. The Department of Transportation shall complete:

(a) The estimates of the total mileage of improved roads or streets maintained by each county and incorporated city on or before August 31 of each year.

(b) A physical audit of the information submitted by each county and incorporated city pursuant to subsection 8 at least once every 10 years.

8. Each county and incorporated city shall, not later than March 1 of each year, submit a list to the Department of Transportation setting forth:

(a) Each improved road or street that is maintained by the county or city; and

(b) The beginning and ending points and the total mileage of each of those improved roads or streets.

➥ Each county and incorporated city shall, at least 10 days before the list is submitted to the Department of Transportation, hold a public hearing to identify and determine the improved roads and streets maintained by the county or city.

9. If a county or incorporated city does not agree with the estimates prepared by the Department of Transportation pursuant to subsection 7, the county or incorporated city may request that the Committee examine the estimates and recommend an adjustment to the estimates. Such a request must be submitted to the Committee not later than October 15.

10. The Committee shall hold a public hearing and review any request it receives pursuant to subsection 9 and determine whether an adjustment to the estimates is appropriate on or before December 31 of the year it receives a request pursuant to subsection 9. Any determination made by the Committee pursuant to this subsection is conclusive.

11. The Committee shall monitor the fiscal impact of the formula set forth in this section on counties and incorporated cities. Biennially, the Committee shall prepare a report concerning its findings and recommendations regarding that fiscal impact and submit the report on or before February 15 of each odd-numbered year to the Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Committees on Taxation of the Nevada Legislature for their review.

12. As used in this section:

(a) "Committee" means the Committee on Local Government Finance created pursuant to NRS 354.105.

(b) "Construction, maintenance and repair" includes the acquisition, operation or use of any material, equipment or facility that is used exclusively for the construction, maintenance or repair of a county or city road and is necessary for the safe and efficient use of that road, including, without limitation:

(1) Grades and regrades;

(2) Graveling, oiling, surfacing, macadamizing and paving;

(3) Sweeping, cleaning and sanding roads and removing snow from a road;

(4) Crosswalks and sidewalks;

(5) Culverts, catch basins, drains, sewers and manholes;

(6) Inlets and outlets;

(7) Retaining walls, bridges, overpasses, underpasses, tunnels and approaches;

(8) Artificial lights and lighting equipment, parkways, control of vegetation and sprinkling facilities;

(9) Rights-of-way;

(10) Grade and traffic separators;

(11) Fences, cattle guards and other devices to control access to a county or city road;

(12) Signs and devices for the control of traffic; and

(13) Facilities for personnel and the storage of equipment used to construct, maintain or repair a county or city road.

(c) "Improved road or street" means a road or street that is, at least:

(1) Aligned and graded to allow reasonably convenient use by a motor vehicle; and

(2) Drained sufficiently by a longitudinal and transverse drainage system to prevent serious impairment of the road or street by surface water.

(d) "Total mileage of an improved road or street" means the total mileage of the length of an improved road or street, without regard to the width of that road or street or the number of lanes it has for vehicular traffic.

Sec. 49. NRS 373.023 is hereby amended to read as follows:

373.023 "Commission" means ~~[the]~~ ***a*** regional transportation commission ~~[.]~~ ***created pursuant to section 18 of this act.***

Sec. 50. NRS 373.030 is hereby amended to read as follows:

373.030 1. In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance ~~[:~~

~~(a) Create a regional transportation commission; and~~

~~(b) Impose]~~ ***impose*** a tax on motor vehicle fuel, except aviation fuel and leaded racing fuel, sold in the county in an amount not to exceed 9 cents per gallon.

2. A tax imposed pursuant to this section is in addition to other motor vehicle fuel taxes imposed pursuant to the provisions of chapter 365 of NRS.

3. As used in this section:

(a) "Aviation fuel" has the meaning ascribed to it in NRS 365.015.

(b) "Leaded racing fuel" means motor vehicle fuel that contains lead and is produced for motor vehicles that are designed and built for racing and not for operation on a public highway.

Sec. 51. NRS 373.060 is hereby amended to read as follows:

373.060 Any ordinance enacted pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 must provide that the county motor vehicle fuel tax will be imposed on the first day of the second calendar month following the enactment of the ordinance.

Sec. 52. NRS 373.065 is hereby amended to read as follows:

373.065 1. Except as otherwise provided in this section, in a county whose population is less than 400,000:

(a) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.180 by the

lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.180 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(b) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.190 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.190 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(c) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.192 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.192 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(d) If the board imposes a tax pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030, the board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel and leaded racing fuel, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax

becomes effective, in an amount equal to the sum of the tax imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

2. A board may not adopt any ordinance authorized by this section unless:

(a) In a county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board first:

(1) Imposes a tax pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 at the maximum rate authorized pursuant to that paragraph; or

(2) Submits to the voters of the county at a general or special election the question of whether to impose a tax pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 at the maximum rate authorized pursuant to that paragraph; and

(b) A question concerning the imposition of the tax pursuant to this section is first approved by a majority of the registered voters of the county voting upon the question which the board may submit to the voters at any general election. The Committee on Local Government Finance shall annually provide to each city clerk, county clerk and district attorney in this State forms for submitting a question to the registered voters of a county pursuant to this paragraph. Any question submitted to the registered voters of a county pursuant to this paragraph must be in the form most recently provided by the Committee on Local Government Finance.

3. An ordinance adopted pursuant to this section in a county whose population is less than 100,000:

(a) Must be reapproved, in addition to the approval required by paragraph (b) of subsection 2, at least once every 8 years by a majority of the registered voters of the county voting on the question which the board may submit to the voters at any general election; and

(b) Expires by limitation no later than the last day of the 8th calendar year following the calendar year in which the ordinance was:

(1) Approved in accordance with paragraph (b) of subsection 2; or

(2) Most recently reapproved in accordance with this subsection,

➥ whichever occurs later.

4. Any ordinance authorized by this section may be adopted in combination with any other ordinance authorized by this section. Each tax imposed pursuant to this section is in addition to any other motor vehicle fuel taxes imposed pursuant to the provisions of this chapter and chapter 365 of NRS. Upon adoption of an ordinance authorized by this section, no further action by the board is necessary to effectuate the annual increases before the ordinance expires by limitation.

5. Any ordinance adopted pursuant to this section must:

(a) Become effective on the first day of the first calendar quarter beginning not less than 90 days after the adoption of the ordinance; and

(b) If the board has created a ~~[regional transportation]~~ commission in the county, require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

6. Any ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.180 which becomes effective after the adoption of that ordinance.

(b) Paragraph (b) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.190 which becomes effective after the adoption of that ordinance.

(c) Paragraph (c) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.192 which becomes effective after the adoption of that ordinance.

(d) Paragraph (d) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same

proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030; and

(2) Expire by limitation no later than the effective date of any subsequent ordinance increasing or decreasing the amount of the tax imposed in that county pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030.

Sec. 53. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of the county motor vehicle fuel tax:

1. Imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter ~~[.]~~ ***and sections 2 to 41, inclusive, of this act.*** After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to paragraph (a), (b) or (c) of subsection 1 of NRS 373.065 which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 54. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 55. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county motor vehicle fuel tax ordinance shall be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued hereunder or other obligations incurred hereunder, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues, pursuant to this chapter, have been discharged in full, but the board ***, with the approval of the governing body of each participating city,*** may at any time dissolve the commission and provide that no further obligations shall be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030 of the proceeds of the motor vehicle fuel taxes collected thereunder, shall not be repealed nor amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued hereunder or other obligations incurred hereunder, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds, pursuant to this chapter, have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations shall be incurred thereafter.

Sec. 56. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ~~[an ordinance]~~ ***ordinances*** as authorized in NRS 373.030 ~~[,]~~ ***and section 18 of this act,*** all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from a county motor vehicle fuel tax imposed pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065 must first be submitted to the ~~[regional transportation]~~ commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to ~~[NRS 373.1161,]~~ ***section 25 of this act,*** the commission shall evaluate it in terms of:

(a) The priorities established by the plan;

(b) The relation of the proposed work to other projects already constructed or authorized;

(c) The relative need for the project in comparison with others proposed; and

(d) The money available.

➥ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of the county motor vehicle fuel tax authorized pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 or paragraph (d) of subsection 1 of NRS 373.065, except to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred hereunder, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in ~~[NRS 373.130.]~~ ***section 35 of this act.*** Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to ~~[NRS 373.1161.]~~ ***section 25 of this act.***

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to ~~[~~NRS 373.1161~~]~~ ***section 25 of this act,*** if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

➥ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

Sec. 57. NRS 373.150 is hereby amended to read as follows:

373.150 1. Any city or town whose territory is not included wholly or in part in a regional plan for transportation established pursuant to ~~[~~NRS 373.1161~~]~~ ***section 25 of this act*** may receive a distribution in aid of an approved construction project from the regional street and highway fund, which must not exceed the amount allocated to such city or town pursuant to subsection 2.

2. The share of revenue from the county motor vehicle fuel tax allocated to a city or town pursuant to subsection 1 must be in the proportion which its total assessed valuation bears to the total assessed valuation of the entire county. Any amount so allocated which is not distributed currently in aid of an approved project must remain in the fund to the credit of that city or town.

Sec. 58. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances providing for the issuance of any bonds or other securities issued hereunder payable from the receipts from the motor vehicle fuel excise taxes herein designated may at the discretion of the board, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to ~~[~~paragraph (b) of subsection 1 of~~]~~ NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their

application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued hereunder.

2. If the board determines in any ordinance authorizing the issuance of any bonds or other securities hereunder that the proceeds of the taxes levied and collected pursuant to ~~[paragraph (b) of subsection 1 of]~~ NRS 373.030 and paragraph (d) of subsection 1 of NRS 373.065 are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance hereunder by a pledge of and the creation of a lien upon not only the proceeds of any motor vehicle fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of ~~[NRS 373.130,]~~ ***section 35 of this act,*** but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any motor vehicle fuel so long as any bonds or other securities issued hereunder remain outstanding and are not limited to any type or types of motor vehicle fuel in use when the bonds or other securities are issued.

Sec. 59. NRS 377A.130 is hereby amended to read as follows:

377A.130 A public transit system may, in addition to providing local transportation within a county, provide:

1. Services to assist commuters in communicating with others to share rides;

2. Transportation for elderly persons and persons with disabilities, including, without limitation, nonemergency medical transportation of persons to facilitate their use of a center as defined in NRS 435.170;

3. Parking for the convenience of passengers on the system;

4. Stations and other necessary facilities to ensure the comfort and safety of passengers; and

5. Transportation that is available pursuant to ~~[NRS 373.117.]~~ ***section 29 of this act.***

Sec. 60. NRS 405.030 is hereby amended to read as follows:

405.030 1. Except as otherwise provided in subsection 3 ***and section 28 of this act,*** and except within the limits of any city or town through which the highway may run, and on benches and shelters for passengers of public mass transportation built pursuant to a franchise granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or ~~[373.1183,]~~ ***section 32 of this act,*** or on monorail stations, it is unlawful for any person, firm or corporation to paste, paint, print or in any manner

whatever place or attach to any building, fence, gate, bridge, rock, tree, board, structure or anything whatever, any written, printed, painted or other outdoor advertisement, bill, notice, sign, picture, card or poster:

(a) Within any right-of-way of any state highway or road which is owned or controlled by the Department of Transportation.

(b) Within 20 feet of the main-traveled way of any unimproved highway.

(c) On the property of another within view of any such highway, without the owner's written consent.

2. Nothing in this section prevents the posting or maintaining of any notices required by law to be posted or maintained, or the placing or maintaining of highway signs giving directions and distances for the information of the traveling public if the signs are approved by the Department of Transportation.

3. A tenant of a mobile home park may exhibit a political sign within a right-of-way of a state highway or road which is owned or controlled by the Department of Transportation if the tenant exhibits the sign within the boundary of his lot and in accordance with the requirements and limitations set forth in NRS 118B.145. As used in this subsection, the term "political sign" has the meaning ascribed to it in NRS 118B.145.

4. If a franchisee receives revenues from an advertisement, bill, notice, sign, picture, card or poster authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertisement, bill, notice, sign, picture, card or poster authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

5. As used in this section, "monorail station" means:

(a) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(b) Any facilities or appurtenances within such a structure.

Sec. 61. NRS 405.110 is hereby amended to read as follows:

405.110 1. Except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or ~~[~~373.1183,~~]~~ ***sections 28 and 32 of this act,*** or on monorail stations, no advertising signs, signboards, boards or other materials containing advertising matter may:

(a) Except as otherwise provided in subsection 3, be placed upon or over any state highway.

(b) Except as otherwise provided in subsections 3 and 4, be placed within the highway right-of-way.

(c) Except as otherwise provided in subsection 3, be placed upon any bridge or other structure thereon.

(d) Be so situated with respect to any public highway as to obstruct clear vision of an intersecting highway or highways or otherwise so situated as to constitute a hazard upon or prevent the safe use of the state highway.

2. With the permission of the Department of Transportation, counties, towns or cities of this State may place at such points as are designated by the Director of the Department of Transportation suitable signboards advertising the counties, towns or municipalities.

3. A person may place an advertising sign, signboard, board or other material containing advertising matter in any airspace above a highway if:

(a) The Department of Transportation has leased the airspace to the person pursuant to subsection 2 of NRS 408.507, the airspace is over an interstate highway and:

(1) The purpose of the sign, signboard, board or other material is to identify a commercial establishment that is entirely located within the airspace, services rendered, or goods produced or sold upon the commercial establishment or that the facility or property that is located within the airspace is for sale or lease; and

(2) The size, location and design of the sign, signboard, board or other material and the quantity of signs, signboards, boards or other materials have been approved by the Department of Transportation; or

(b) The person owns real property adjacent to an interstate highway and:

(1) The person has dedicated to a public authority a fee or perpetual easement interest in at least 1 acre of the property for the construction or maintenance, or both, of the highway over which he is placing the sign, signboard, board or other material and the person retained the air rights in the airspace above the property for which the person has dedicated the interest;

(2) The sign, signboard, board or other material is located in the airspace for which the person retained the air rights;

(3) The structure that supports the sign, signboard, board or other material is not located on the property for which the person dedicated the fee or easement interest to the public authority, and the public authority determines that the location of the structure does not create a traffic hazard; and

(4) The purpose of the sign, signboard, board or other material is to identify an establishment or activity that is located on the real property adjacent to the interstate highway, or services rendered or goods provided or sold on that property.

4. A tenant of a mobile home park may exhibit a political sign within a right-of-way of a state highway or road which is owned or controlled by the Department of Transportation if the tenant exhibits the sign within the boundary of his lot and in accordance with the requirements and limitations

set forth in NRS 118B.145. As used in this subsection, the term "political sign" has the meaning ascribed to it in NRS 118B.145.

5. If any such sign is placed in violation of this section, it is thereby declared a public nuisance and may be removed forthwith by the Department of Transportation or the public authority.

6. Any person placing any such sign in violation of the provisions of this section shall be punished by a fine of not more than $250, and is also liable in damages for any injury or injuries incurred or for injury to or loss of property sustained by any person by reason of the violation.

7. If a franchisee receives revenues from an advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising sign, signboard, board or other material containing advertising matter authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

8. As used in this section, "monorail station" means:

(a) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(b) Any facilities or appurtenances within such a structure.

Sec. 62. NRS 484.287 is hereby amended to read as follows:

484.287 1. It is unlawful for any person to place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any such device, sign or signal, and except as otherwise provided in subsection 4, a person shall not place or maintain nor may any public authority permit upon any highway any sign, signal ***,*** ~~[or]~~ marking ***or street banner*** bearing thereon any commercial advertising except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, ~~[or 373.1183,]~~ ***or sections 28 and 32 of this act,*** or on monorail stations.

2. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the proper public authority may remove the same or cause it to be removed without notice.

3. This section does not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official traffic-control devices.

4. A person may place and maintain commercial advertising in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110, and a public authority may permit commercial advertising that has been placed in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110.

5. If a franchisee receives revenues from commercial advertising authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

6. As used in this section ~~[, "monorail]~~ ***:***

(a) "Monorail station" means:

~~[(a)]~~ ***(1)*** A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

~~[(b)]~~ ***(2)*** Any facilities or appurtenances within such a structure.

(b) "Street banner" has the meaning ascribed to it in section 15 of this act.

Sec. 63. NRS 706.386 is hereby amended to read as follows:

706.386 It is unlawful, except as otherwise provided in NRS ~~[373.117,]~~ 706.446, 706.453 and 706.745, ***and section 29 of this act,*** for any fully regulated common motor carrier to operate as a carrier of intrastate commerce and any operator of a tow car to perform towing services within this State without first obtaining a certificate of public convenience and necessity from the Authority.

Sec. 64. NRS 373.025, 373.026, 373.040, 373.050, 373.055, 373.113, 373.115, 373.116, 373.1161, 373.1163, 373.117, 373.118, 373.1183, 373.1185, 373.130, 373.143 and 373.146 are hereby repealed.

Sec. 65. This act becomes effective on July 1, 2009.

LEADLINES OF REPEALED SECTIONS

373.025 "Federal securities" defined.

373.026 "Fixed guideway" defined.

373.040 Regional transportation commission: Number, selection and terms of representatives.

373.050 Regional transportation commission: Organization; meetings.

373.055 Regional transportation commission: Designation as metropolitan planning organization; duties.

373.113 Powers of commission: Federal money and projects; conduct of hearings.

373.115 Powers of commission: Creation of fund to match federal money.

373.116 Powers of commission: Real and personal property; eminent domain; adoption of regulations.

373.1161 Powers of commission: Capacity to sue and be sued; preparation and approval of budgets; plans for transportation; insurance.

373.1163 Powers of commission: Security; employment of personnel.

373.117 Authority of commission and certain counties and cities to establish or operate public transit system; special procedures for procurement and requirements for development of fixed guideway system.

373.118 Powers of commission: Parking facilities or parking spaces for general public and public employees.

373.1183 Counties whose population is 400,000 or more: Construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation.

373.1185 Counties whose population is 400,000 or more: Advisory committee concerning construction, installation and maintenance of benches, shelters and transit stops.

373.130 Payment of cost of project by issuance of revenue bonds and other securities and direct distribution from regional street and highway fund.

373.143 Annual report to Department by commission in county which has population of less than 100,000.

373.146 Commission in county whose population is 400,000 or more to cooperate with local air pollution control board and regional planning coalition; prerequisites to adoption or amendment by commission of plan, policy or program.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bill No. 245.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 245 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 109, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 576 of the Assembly be receded from and a 2nd reprint be created in accordance with this action.

JERRY CLABORN	DAVID PARKS
	ALLISON COPENING
JOHN CARPENTER	DEAN RHOADS
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Claborn moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 109.

Remarks by Assemblyman Claborn.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 205.

The following Senate amendment was read:

Amendment No. 821.

AN ACT relating to the taxation of property; revising the provisions governing the calculation of certain partial abatements of taxes and the taxable value of improvements made on land, the designation of taxes on personal property as uncollectible and the taxation of open-space land; clarifying the provisions governing the notification, appeal and revision of the valuation of property on the unsecured tax roll; revising the requirements for certain segregation and statistical reports and projections of assessed value; delaying the required filing date for petitions for the review of certain determinations regarding the applicability of a partial abatement; postponing the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 8 of this bill require a county assessor to make certain projections of assessed valuation of property for an upcoming fiscal year that had been made under existing law by the Department of Taxation. (NRS 361.390) Additionally, **section 8** revises the dates when a county assessor must file with the Department certain statistical and segregation reports showing assessed values of property.

Existing law provides a partial abatement of the property taxes levied on property for which an assessed valuation has previously been established, a remainder parcel of real property, certain single-family residences and certain residential rental dwellings. (NRS 361.4722, 361.4723, 361.4724) **Sections 2 and 9-11** of this bill revise the formula for calculating the partial abatement in such a manner as to lower the cap on the tax liability of an owner of real property when the taxable value of the property is reduced as a result of the partial or complete destruction or removal of an improvement to the property or the correction of an overassessment of an improvement because of a factual error. **Section 13** of this bill changes the date by which a petition must be filed for the review of a county assessor's determination regarding the applicability of a partial abatement from January 15 to the last day of the fiscal year for which the determination is effective. (NRS 361.4734)

Section 3 of this bill allows a county assessor, when determining the cost to replace an improvement on land for the purpose of calculating taxable value, to use the final plans, drawings and other representations prepared by the architect or builder of the improvement to establish its size or quantity. (NRS 361.227)

Section 4 of this bill provides statutory clarification that a county assessor must provide notice of the assessed valuation of property on the secured tax roll on or before December 18 of the fiscal year in which the property is appraised or reappraised, but the individual tax bills provided to the owners of personal property billed on the unsecured tax roll serve as notification of the assessed valuation of that property. (NRS 361.300)

Under existing law, a taxpayer desiring to appeal the assessment of property placed on the unsecured tax roll must, if the property was assessed after December 15 and on or before April 30, file that appeal with the State Board of Equalization on or before May 15. (NRS 361.360) **Sections 5-7** of this bill provide statutory clarification that a taxpayer desiring to appeal the assessment of property on the unsecured tax roll which was assessed at any other time may file that appeal with the county board of equalization on or before January 15. (NRS 361.345, 361.356, 361.357)

Existing law authorizes a county assessor to seize the personal property of a person who neglects or refuses to pay property taxes, and requires the county assessor to post a notice of the seizure within the immediate vicinity of the seized property before selling the property at public auction. (NRS 361.535) **Section 14** of this bill makes it a gross misdemeanor for a person to remove, deface, cover or conceal that notice, or to move or sell, attempt to move or sell or assist another person to move or sell the seized property, before the delinquent taxes are paid.

Existing law allows a county tax receiver to petition the board of county commissioners to designate certain taxes on personal property as uncollectible, thereby relieving the tax receiver from liability for the failure to collect those taxes. (NRS 361.5607) **Section 15** of this bill revises the criteria under which such a petition is authorized to require in every case that

all appropriate collection procedures were followed without success, and that either the taxes have been delinquent for at least 3 years or the amount of the taxes is $25 or less.

Existing law requires the assessment of a golf course as open-space property and the payment of deferred property taxes when any open-space property is converted to a higher use. (NRS 361A.170, 361A.280) **[~~Section~~] Sections 18-20** of this bill **provide for the designation and classification of certain land regarding which the owner has granted and has outstanding a lease of surface water rights as open-space real property for the purposes of taxation. Section 22 of this bill** specifies criteria for determining when a golf course becomes disqualified for open-space use assessment. (NRS 361A.230) **Sections 16 and [~~20~~] 25** of this bill clarify the amount of deferred property taxes due upon the conversion of any **agricultural or** open-space property to a higher use. **Section 29 of this bill repeals a related section which provided the manner for determining the taxable value when agricultural land is converted to a higher use. (NRS 361A.155)**

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) **Sections [~~22, 23 and 24~~] 27, 28 and 29** of this bill provide for the continuation of this funding during the next biennium by postponing its prospective expiration until June 30, 2011.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 360.690 is hereby amended to read as follows:

360.690 1. Except as otherwise provided in NRS 360.730, the Executive Director shall estimate monthly the amount each local government, special district and enterprise district will receive from the Account pursuant to the provisions of this section.

2. The Executive Director shall establish a base monthly allocation for each local government, special district and enterprise district by dividing the amount determined pursuant to NRS 360.680 for each local government, special district and enterprise district by 12, and the State Treasurer shall, except as otherwise provided in subsections 3 to 8, inclusive, remit monthly that amount to each local government, special district and enterprise district.

3. If, after making the allocation to each enterprise district for the month, the Executive Director determines there is not sufficient money available in the county's subaccount in the Account to allocate to each local government and special district the base monthly allocation determined pursuant to subsection 2, he shall prorate the money in the county's subaccount and allocate to each local government and special district an amount equal to its proportionate percentage of the total amount of the base monthly allocations

determined pursuant to subsection 2 for all local governments and special districts within the county. The State Treasurer shall remit that amount to the local government or special district.

4. Except as otherwise provided in subsections 5 to 8, inclusive, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

5. Except as otherwise provided in subsection 6 or 7, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district and that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least $50,000,000 or that the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure or that the average amount over the 5 fiscal years immediately preceding the year in which the allocation is made of the assessed valuation of taxable property which is attributable to the net proceeds of minerals in the county is equal to at least $50,000,000 and the average percentage of change in population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9, is a negative figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable

property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

6. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in each of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a negative figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments

and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

7. Except as otherwise provided in subsection 8, if the Executive Director determines that there is money remaining in the county's subaccount in the Account after the base monthly allocation determined pursuant to subsection 2 has been allocated to each local government, special district and enterprise district, that the sum of the average percentage of change in population and the average percentage of change in the assessed valuation of taxable property, as calculated pursuant to subparagraph (1) of paragraph (a) of subsection 4 for each of those local governments, is a negative figure, and that the average change in the assessed valuation of the taxable property in any of those special districts, as calculated pursuant to subparagraph (1) of paragraph (b) of subsection 4, is a positive figure, he shall immediately determine and allocate each:

(a) Local government's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the local government over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average percentage of change in the assessed valuation of the taxable property in the local government, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each local government an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (b), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount; and

(b) Special district's share of the remaining money by:

(1) Multiplying one-twelfth of the amount allocated pursuant to NRS 360.680 by 1 plus the sum of the:

(I) Average percentage of change in the population of the county over the 5 fiscal years immediately preceding the year in which the allocation is made, as certified by the Governor pursuant to NRS 360.285, except as otherwise provided in subsection 9; and

(II) Average change in the assessed valuation of the taxable property in the special district, including assessed valuation attributable to a redevelopment agency but excluding the portion attributable to the net proceeds of minerals, over the year in which the allocation is made, as projected by the Department , ~~[pursuant to NRS 361.390,]~~ and the 4 fiscal years immediately preceding the year in which the allocation is made; and

(2) Using the figure calculated pursuant to subparagraph (1) to calculate and allocate to each special district an amount equal to the proportion that the figure calculated pursuant to subparagraph (1) bears to the total amount of the figures calculated pursuant to subparagraph (1) of this paragraph and subparagraph (1) of paragraph (a), respectively, for the local governments and special districts located in the same county multiplied by the total amount available in the subaccount.

➥ The State Treasurer shall remit the amount allocated to each local government or special district pursuant to this subsection.

8. The Executive Director shall not allocate any amount to a local government or special district pursuant to subsection 4, 5, 6 or 7 unless the amount distributed and allocated to each of the local governments and special districts in the county in each preceding month of the fiscal year in which the allocation is to be made was at least equal to the base monthly allocation determined pursuant to subsection 2. If the amounts distributed to the local governments and special districts in the county for the preceding months of the fiscal year in which the allocation is to be made were less than the base monthly allocation determined pursuant to subsection 2 and the Executive Director determines there is money remaining in the county's subaccount in the Account after the distribution for the month has been made, he shall:

(a) Determine the amount by which the base monthly allocations determined pursuant to subsection 2 for each local government and special district in the county for the preceding months of the fiscal year in which the allocation is to be made exceeds the amounts actually received by the local governments and special districts in the county for the same period; and

(b) Compare the amount determined pursuant to paragraph (a) to the amount of money remaining in the county's subaccount in the Account to determine which amount is greater.

➥ If the Executive Director determines that the amount determined pursuant to paragraph (a) is greater, he shall allocate the money remaining in the county's subaccount in the Account pursuant to the provisions of subsection 3. If the Executive Director determines that the amount of money remaining in the county's subaccount in the Account is greater, he shall first allocate the money necessary for each local government and special district to receive the base monthly allocation determined pursuant to subsection 2 and the State Treasurer shall remit that money so allocated. The Executive Director shall allocate any additional money in the county's subaccount in the Account pursuant to the provisions of subsection 4, 5, 6 or 7, as appropriate.

9. The percentage changes in population calculated pursuant to subsections 4 to 7, inclusive, must:

(a) Except as otherwise provided in paragraph (c), if the Bureau of the Census of the United States Department of Commerce issues population totals that conflict with the totals certified by the Governor pursuant to NRS 360.285, be an estimate of the change in population for the calendar year, based upon the population totals issued by the Bureau of the Census.

(b) If a new method of determining population is established pursuant to NRS 360.283, be adjusted in a manner that will result in the percentage change being based on population determined pursuant to the new method for both the fiscal year in which the allocation is made and the fiscal year immediately preceding the year in which the allocation is made.

(c) If a local government files a formal appeal with the Bureau of the Census concerning the population total of the local government issued by the Bureau of the Census, be calculated using the population total certified by the Governor pursuant to NRS 360.285 until the appeal is resolved. If additional money is allocated to the local government because the population total certified by the Governor is greater than the population total issued by the Bureau of the Census, the State Treasurer shall deposit that additional money in a separate interest-bearing account. Upon resolution of the appeal, if the population total finally determined pursuant to the appeal is:

(1) Equal to or less than the population total initially issued by the Bureau of the Census, the State Treasurer shall transfer the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, to the Local Government Tax Distribution Account for allocation among the local governments in the county pursuant to subsection 4, 5, 6 or 7, as appropriate.

(2) Greater than the population total initially issued by the Bureau of the Census, the Executive Director shall calculate the amount that would have been allocated to the local government pursuant to subsection 4, 5, 6 or 7, as appropriate, if the population total finally determined pursuant to the appeal had been used and the State Treasurer shall remit to the local government an

amount equal to the difference between the amount actually distributed and the amount calculated pursuant to this subparagraph or the total amount in the separate interest-bearing account, including interest but excluding any administrative fees, whichever is less.

10. On or before February 15 of each year, the Executive Director shall provide to each local government, special district and enterprise district a preliminary estimate of the revenue it will receive from the Account for that fiscal year.

11. On or before March 15 of each year, the Executive Director shall:

(a) Make an estimate of the receipts from each tax included in the Account on an accrual basis for the next fiscal year in accordance with generally accepted accounting principles, including an estimate for each county of the receipts from each tax included in the Account; and

(b) Provide to each local government, special district and enterprise district an estimate of the amount that local government, special district or enterprise district would receive based upon the estimate made pursuant to paragraph (a) and calculated pursuant to the provisions of this section.

12. A local government, special district or enterprise district may use the estimate provided by the Executive Director pursuant to subsection 11 in the preparation of its budget.

Sec. 2. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

If the taxable value of an improvement to real property is reduced as a result of:

1. The partial or complete destruction or removal of the improvement; or

2. The correction pursuant to NRS 361.768 of an overassessment of the improvement because of a factual error,

➥ then for the purpose of calculating the amount of any partial abatement to which the owner of the real property is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724 for the initial fiscal year for which that reduction in taxable value applies, the amount determined for the immediately preceding fiscal year pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724, as applicable, must be reduced by the same percentage as the taxable value of the real property is reduced for that initial fiscal year as a result of the partial or complete destruction or removal of the improvement to the property or the correction of the overassessment of the improvement to the property.

Sec. 3. NRS 361.227 is hereby amended to read as follows:

361.227 1. Any person determining the taxable value of real property shall appraise:

(a) The full cash value of:

(1) Vacant land by considering the uses to which it may lawfully be put, any legal or physical restrictions upon those uses, the character of the terrain, and the uses of other land in the vicinity.

(2) Improved land consistently with the use to which the improvements are being put.

(b) Any improvements made on the land by subtracting from the cost of replacement of the improvements all applicable depreciation and obsolescence. Depreciation of an improvement made on real property must be calculated at 1.5 percent of the cost of replacement for each year of adjusted actual age of the improvement, up to a maximum of 50 years.

2. The unit of appraisal must be a single parcel unless:

(a) The location of the improvements causes two or more parcels to function as a single parcel;

(b) The parcel is one of a group of contiguous parcels which qualifies for valuation as a subdivision pursuant to the regulations of the Nevada Tax Commission; or

(c) In the professional judgment of the person determining the taxable value, the parcel is one of a group of parcels which should be valued as a collective unit.

3. The taxable value of a leasehold interest, possessory interest, beneficial interest or beneficial use for the purpose of NRS 361.157 or 361.159 must be determined in the same manner as the taxable value of the property would otherwise be determined if the lessee or user of the property was the owner of the property and it was not exempt from taxation, except that the taxable value so determined must be reduced by a percentage of the taxable value that is equal to the:

(a) Percentage of the property that is not actually leased by the lessee or used by the user during the fiscal year; and

(b) Percentage of time that the property is not actually leased by the lessee or used by the user during the fiscal year, which must be determined in accordance with NRS 361.2275.

4. The taxable value of other taxable personal property, except a mobile or manufactured home, must be determined by subtracting from the cost of replacement of the property all applicable depreciation and obsolescence. Depreciation of a billboard must be calculated at 1.5 percent of the cost of replacement for each year after the year of acquisition of the billboard, up to a maximum of 50 years.

5. The computed taxable value of any property must not exceed its full cash value. Each person determining the taxable value of property shall reduce it if necessary to comply with this requirement. A person determining whether taxable value exceeds that full cash value or whether obsolescence is a factor in valuation may consider:

(a) Comparative sales, based on prices actually paid in market transactions.

(b) A summation of the estimated full cash value of the land and contributory value of the improvements.

(c) Capitalization of the fair economic income expectancy or fair economic rent, or an analysis of the discounted cash flow.

➥ A county assessor is required to make the reduction prescribed in this subsection if the owner calls to his attention the facts warranting it, if he discovers those facts during physical reappraisal of the property or if he is otherwise aware of those facts.

6. The Nevada Tax Commission shall, by regulation, establish:

(a) Standards for determining the cost of replacement of improvements of various kinds.

(b) Standards for determining the cost of replacement of personal property of various kinds. The standards must include a separate index of factors for application to the acquisition cost of a billboard to determine its replacement cost.

(c) Schedules of depreciation for personal property based on its estimated life.

(d) Criteria for the valuation of two or more parcels as a subdivision.

7. In determining ***, for the purpose of computing taxable value,*** the cost of replacement of ***:***

(a) Any personal property ***,*** ~~[for the purpose of computing taxable value,]~~ the cost of all improvements of the personal property, including any additions to or renovations of the personal property, but excluding routine maintenance and repairs, must be added to the cost of acquisition of the personal property.

(b) An improvement made on land, a county assessor may use any final representations of the improvement prepared by the architect or builder of the improvement, including, without limitation, any final building plans, drawings, sketches and surveys, and any specifications included in such representations, as a basis for establishing any relevant measurements of size or quantity.

8. The county assessor shall, upon the request of the owner, furnish within 15 days to the owner a copy of the most recent appraisal of the property, including, without limitation, copies of any sales data, materials presented on appeal to the county board of equalization or State Board of Equalization and other materials used to determine or defend the taxable value of the property.

9. The provisions of this section do not apply to property which is assessed pursuant to NRS 361.320.

Sec. 4. NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the secured tax roll is completed and open for inspection by interested persons of the county.

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow him a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. Except as otherwise provided in subsection 4, each board of county commissioners shall by resolution, before December 1 of any fiscal year in which assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor:

(a) To cause such list and valuations to be printed and delivered by the county assessor or mailed by him on or before January 1 of the fiscal year in which assessment is made to each taxpayer in the county; or

(b) To cause such list and valuations to be published once on or before January 1 of the fiscal year in which assessment is made in a newspaper of general circulation in the county.

➥ In addition to complying with paragraph (a) or (b), the list and valuations may also be posted in a public area of the public libraries and branch libraries located in the county, in a public area of the county courthouse and the county office building in which the county assessor's office is located, and on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.

4. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as provided in paragraph (a) of subsection 3, to taxpayers whose property is assessed at $1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.

5. The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this section on a claim to be allowed and paid as are other claims against the county.

6. Whenever ***:***

(a) Any property ***on the secured tax roll*** is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal.

(b) Any personal property billed on the unsecured tax roll is appraised or reappraised pursuant to NRS 361.260, the delivery or mailing to the owner of such property of an individual tax bill or individual tax notice for the property shall be deemed to constitute adequate notice to the owner of the assessed valuation of the property as determined from the appraisal or reappraisal.

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site, if any, that is operated or administered by or on behalf of the county or the county assessor.

Sec. 5. NRS 361.345 is hereby amended to read as follows:

361.345 1. Except as otherwise provided in subsection 2, the county board of equalization may ~~[~~determine~~]~~ ***:***

(a) Determine the valuation of any ***real or personal*** property ***placed on:***

(1) The secured tax roll which was assessed by the county assessor ~~[~~~~,~~ ~~and may change~~~~]~~ ***; or***

(2) The unsecured tax roll which was assessed by the county assessor on or after May 1 and on or before December 15; and

(b) Change and correct any valuation found to be incorrect either by adding thereto or by deducting therefrom such sum as is necessary to make it conform to the taxable value of the property assessed, whether that valuation was fixed by the owner or the county assessor. The county board of equalization may not reduce the assessment of the county assessor unless it is established by a preponderance of the evidence that the valuation established by the county assessor exceeds the full cash value of the property or is inequitable. A change so made is effective only for the fiscal year for which the assessment was made. The county assessor shall each year review all such changes made for the previous fiscal year and maintain or remove each change as circumstances warrant.

2. If a person complaining of the assessment of his property:

(a) Has refused or, without good cause, has neglected to give the county assessor his list under oath, as required by NRS 361.265; or

(b) Has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination required by NRS 361.260,

➥ the county assessor shall make a reasonable estimate of the property and assess it accordingly. No reduction may be made by the county board of equalization from the assessment of the county assessor made pursuant to this subsection.

3. If the county board of equalization finds it necessary to add to the assessed valuation of any property on the assessment roll, it shall direct the

clerk to give notice to the person so interested by registered or certified letter, or by personal service, naming the day when it will act on the matter and allowing a reasonable time for the interested person to appear.

Sec. 6. NRS 361.356 is hereby amended to read as follows:

361.356 1. An owner of ***any real or personal*** property ***placed on:***

(a) The secured tax roll who believes that his property was assessed at a higher value than another property whose use is identical and whose location is comparable may appeal the assessment, on or before January 15 of the fiscal year in which the assessment was made, to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

(b) The unsecured tax roll which was assessed on or after May 1 and on or before December 15 who believes that his property was assessed at a higher value than another property whose use is identical and whose location is comparable may appeal the assessment, on or before the following January 15, to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. Before a person may file an appeal pursuant to subsection 1, the person must complete a form provided by the county assessor to appeal the assessment to the county board of equalization. The county assessor may, before providing such a form, require the person requesting the form to provide the parcel number or other identification number of the property that is the subject of the planned appeal.

3. If the board finds that an inequity exists in the assessment of the value of the land or the value of the improvements, or both, the board may add to or deduct from the value of the land or the value of the improvements, or both, either of the appellant's property or of the property to which it is compared, to equalize the assessment.

4. In the case of residential property, the appellant shall cite other property within the same subdivision if possible.

Sec. 7. NRS 361.357 is hereby amended to read as follows:

361.357 1. The owner of any ***real or personal*** property ***placed on:***

(a) The secured tax roll who believes that the full cash value of his property is less than the taxable value computed for the property in the current assessment year ~~[,]~~ may, not later than January 15 of the fiscal year in which the assessment was made, appeal to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

(b) The unsecured tax roll which was assessed on or after May 1 and on or before December 15 who believes that the full cash value of his property is less than the taxable value computed for the property in the current assessment year may, not later than the following January 15, appeal to the county board of equalization. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. Before a person may file an appeal pursuant to subsection 1, the person must complete a form provided by the county assessor to appeal the assessment to the county board of equalization. The county assessor may, before providing such a form, require the person requesting the form to provide the parcel number or other identification number of the property that is the subject of the planned appeal.

3. If the county board of equalization finds that the full cash value of the property on January 1 immediately preceding the fiscal year for which the taxes are levied is less than the taxable value computed for the property, the board shall correct the land value or fix a percentage of obsolescence to be deducted from the otherwise computed taxable value of the improvements, or both, to make the taxable value of the property correspond as closely as possible to its full cash value.

4. No appeal under this section may result in an increase in the taxable value of the property.

Sec. 8. NRS 361.390 is hereby amended to read as follows:

361.390 Each county assessor shall:

1. File with or cause to be filed with the Secretary of the State Board of Equalization, on or before March 10 of each year, the tax roll, or a true copy thereof, of his county for the current year as corrected by the county board of equalization.

2. Prepare and file with the Department on or before January 31, ~~[and again on or before]~~ March 5 ***and October 31*** of each year, a segregation report showing the assessed values for each taxing entity within the county on a form prescribed by the Department. The assessor shall make ~~[any]~~ projections ~~[required]~~ ***of assessed value*** for the current fiscal year ~~[.]~~ ***and the upcoming fiscal year regarding real and personal property for which the taxable value is determined by the assessor.*** The Department shall make any projections required for the upcoming fiscal year ~~[.]~~ ***regarding the net proceeds of minerals and any property for which the taxable value is determined by the Nevada Tax Commission.***

3. Prepare and file with the Department on or before ~~[July 31 for the secured roll and on or before]~~ May 5 for the unsecured roll, ***on or before August 10 for the secured roll, and on or before October 31 for the unsecured roll and the secured roll,*** a statistical report showing values for all categories of property on a form prescribed by the Department.

Sec. 9. NRS 361.4722 is hereby amended to read as follows:

361.4722 1. Except as otherwise provided in or required to carry out the provisions of subsection 3 and NRS 361.4725 to 361.4728, inclusive, ***and section 2 of this act,*** the owner of any parcel or other taxable unit of property, including property entered on the central assessment roll, for which an assessed valuation was separately established for the immediately preceding fiscal year is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that

county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The greater of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years;

(II) Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year; or

(III) Zero; or

(2) Eight percent,

➥ whichever is less.

2. Except as otherwise provided in or required to carry out the provisions of NRS 361.4725 to 361.4728, inclusive, ***and section 2 of this act,*** the owner of any remainder parcel of real property for which no assessed valuation was separately established for the immediately preceding fiscal year, is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for a fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any amount of that assessed valuation attributable to any improvement to or change in the actual or authorized use of the property that would not have been included in the calculation of the assessed valuation of the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been

separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if an assessed valuation had been separately established for that property for that prior fiscal year based upon all the assumptions, costs, values, calculations and other factors and considerations that would have been used for the valuation of that property for that prior fiscal year, and if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) A percentage of the amount determined pursuant to paragraph (a) which is equal to:

(1) The greater of:

(I) The average percentage of change in the assessed valuation of all the taxable property in the county, as determined by the Department, over the fiscal year in which the levy is made and the 9 immediately preceding fiscal years;

(II) Twice the percentage of increase in the Consumer Price Index for all Urban Consumers, U.S. City Average (All Items) for the immediately preceding calendar year; or

(III) Zero; or

(2) Eight percent,

➥ whichever is less.

3. The provisions of subsection 1 do not apply to any property for which the provisions of subsection 1 of NRS 361.4723 or subsection 1 of NRS 361.4724 provide a greater abatement from taxation.

4. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsections 1 and 2 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

5. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to ensure that this section is carried out in a uniform and equal manner.

6. For the purposes of this section, "remainder parcel of real property" means a parcel of real property which remains after the creation of new parcels of real property for development from one or more existing parcels of

real property, if the use of that remaining parcel has not changed from the immediately preceding fiscal year.

Sec. 10. NRS 361.4723 is hereby amended to read as follows:

361.4723 The Legislature hereby finds and declares that an increase in the tax bill of the owner of a home by more than 3 percent over the tax bill of that homeowner for the previous year constitutes a severe economic hardship within the meaning of subsection 10 of Section 1 of Article 10 of the Nevada Constitution. The Legislature therefore directs a partial abatement of taxes for such homeowners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, ***and section 2 of this act,*** the owner of a single-family residence which is the primary residence of the owner is entitled to a partial abatement of the ad valorem taxes levied in a county on that property each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to any property for which:

(a) No assessed valuation was separately established for the immediately preceding fiscal year; or

(b) The provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section, including, without limitation, regulations providing a methodology for applying the partial abatement provided pursuant to subsection 1 to a parcel of real property of which only a portion qualifies as a single-family residence which is the primary residence of the owner and the remainder is used in another manner.

5. The owner of a single-family residence does not become ineligible for the partial abatement provided pursuant to subsection 1 as a result of:

(a) The operation of a home business out of a portion of that single-family residence; or

(b) The manner in which title is held by the owner if the owner occupies the residence, including, without limitation, if the owner has placed the title in a trust for purposes of estate planning.

6. For the purposes of this section:

(a) "Primary residence of the owner" means a residence which:

(1) Is designated by the owner as the primary residence of the owner in this State, exclusive of any other residence of the owner in this State; and

(2) Is not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence.

(b) "Single-family residence" means a parcel or other unit of real property or unit of personal property which is intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

(c) "Unit of personal property" includes, without limitation, any:

(1) Mobile or manufactured home, whether or not the owner thereof also owns the real property upon which it is located; or

(2) Taxable unit of a condominium, common-interest community, planned unit development or similar property,

➥ if classified as personal property for the purposes of this chapter.

(d) "Unit of real property" includes, without limitation, any taxable unit of a condominium, common-interest community, planned unit development or similar property, if classified as real property for the purposes of this chapter.

Sec. 11. NRS 361.4724 is hereby amended to read as follows:

361.4724 The Legislature hereby finds and declares that many Nevadans who cannot afford to own their own homes would be adversely affected by large unanticipated increases in property taxes, as those tax increases are passed down to renters in the form of rent increases and therefore the benefits of a charitable exemption pursuant to subsection 8 of Section 1 of Article 10 of the Nevada Constitution should be afforded to those Nevadans through an abatement granted to the owners of residential rental dwellings who charge rent that does not exceed affordable housing standards for low-income housing. The Legislature therefore directs a partial abatement of taxes for such owners as follows:

1. Except as otherwise provided in or required to carry out the provisions of subsection 2 and NRS 361.4725 to 361.4728, inclusive, ***and section 2 of***

this act, if the amount of rent collected from each of the tenants of a residential dwelling does not exceed the fair market rent for the county in which the dwelling is located, as most recently published by the United States Department of Housing and Urban Development, the owner of the dwelling is entitled to a partial abatement of the ad valorem taxes levied in a county on that property for each fiscal year equal to the amount by which the product of the combined rate of all ad valorem taxes levied in that county on the property for that fiscal year and the amount of the assessed valuation of the property which is taxable in that county for that fiscal year, excluding any increase in the assessed valuation of the property from the immediately preceding fiscal year as a result of any improvement to or change in the actual or authorized use of the property, exceeds the sum obtained by adding:

(a) The amount of all the ad valorem taxes:

(1) Levied in that county on the property for the immediately preceding fiscal year; or

(2) Which would have been levied in that county on the property for the immediately preceding fiscal year if not for any exemptions from taxation that applied to the property for that prior fiscal year but do not apply to the property for the current fiscal year,

➥ whichever is greater; and

(b) Three percent of the amount determined pursuant to paragraph (a).

2. The provisions of subsection 1 do not apply to:

(a) Any hotels, motels or other forms of transient lodging;

(b) Any property for which no assessed valuation was separately established for the immediately preceding fiscal year; and

(c) Any property for which the provisions of subsection 1 of NRS 361.4722 provide a greater abatement from taxation.

3. Except as otherwise required to carry out the provisions of NRS 361.4732 and any regulations adopted pursuant to NRS 361.4733, the amount of any reduction in the ad valorem taxes levied in a county for a fiscal year as a result of the application of the provisions of subsection 1 must be deducted from the amount of ad valorem taxes each taxing entity would otherwise be entitled to receive for that fiscal year in the same proportion as the rate of ad valorem taxes levied in the county on the property by or on behalf of that taxing entity for that fiscal year bears to the combined rate of all ad valorem taxes levied in the county on the property by or on behalf of all taxing entities for that fiscal year.

4. The Nevada Tax Commission shall adopt such regulations as it deems appropriate to carry out this section.

Sec. 12. NRS 361.4732 is hereby amended to read as follows:

361.4732 Except as otherwise required to carry out ***the provisions of section 2 of this act and*** any regulations adopted pursuant to NRS 361.4733**,** and notwithstanding any other provision of NRS 361.471 to 361.4735, inclusive, ***and section 2 of this act*** to the contrary, after a parcel or other taxable unit of real property is annexed to a taxing entity:

1. The amount otherwise required to be determined pursuant to paragraph (a) of subsection 1 of NRS 361.4722, paragraph (a) of subsection 2 of NRS 361.4722, paragraph (a) of subsection 1 of NRS 361.4723 or paragraph (a) of subsection 1 of NRS 361.4724 with respect to that property for the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the amount of ad valorem taxes which would have been levied on the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier, based upon the tax rates that would have applied to the property for the immediately preceding fiscal year if the annexation had occurred 1 year earlier and without regard to any exemptions from taxation that applied to the property for the immediately preceding fiscal year but do not apply to the property for the current fiscal year; and

2. For the purposes of any other calculations required pursuant to the provisions of NRS 361.471 to 361.4735, inclusive, ***and section 2 of this act,*** the combined overlapping tax rate applicable to that property for the fiscal year immediately preceding the first fiscal year in which that taxing entity is entitled to levy or require the levy on its behalf of any ad valorem taxes on the property as a result of that annexation of the property, shall be deemed to be the combined overlapping tax rate that would have applied to the property for that year if the annexation had occurred 1 year earlier.

Sec. 13. NRS 361.4734 is hereby amended to read as follows:

361.4734 1. A taxpayer who is aggrieved by a determination of the applicability of a partial abatement from taxation pursuant to NRS 361.4722, 361.4723 or 361.4724 may, if the property which is the subject of that determination:

(a) Is not valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the county assessor of the county in which the property is located. The petition must be submitted on or before ~~[January 15]~~ ***June 30*** of the fiscal year for which the determination is effective. The county assessor shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

(b) Is valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the Department. The Department shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

2. A taxpayer who is aggrieved by a decision rendered by a county assessor or the Department pursuant to subsection 1 may, within 30 days after receiving notice of that decision, appeal the decision to the Nevada Tax Commission.

3. A taxpayer who is aggrieved by a determination of the Nevada Tax Commission rendered on an appeal made pursuant to subsection 2 is entitled to a judicial review of that determination.

Sec. 14. NRS 361.535 is hereby amended to read as follows:

361.535 1. If the person, company or corporation so assessed neglects or refuses to pay the taxes within 30 days after demand, the taxes become delinquent. If the person, company or corporation so assessed neglects or refuses to pay the taxes within 10 days after the taxes become delinquent, a penalty of 10 percent must be added. If the tax and penalty are not paid on demand, the county assessor or his deputy may seize, seal or lock enough of the personal property of the person, company or corporation so neglecting or refusing to pay to satisfy the taxes and costs. The county assessor may use alternative methods of collection, including, without limitation, the assistance of the district attorney.

2. The county assessor shall:

(a) Post a notice of the seizure, with a description of the property, in a public area of the county courthouse or the county office building in which the assessor's office is located, and within the immediate vicinity of the property being seized; and

(b) At the expiration of 5 days, proceed to sell at public auction, at the time and place mentioned in the notice, to the highest bidder, for lawful money of the United States, a sufficient quantity of the property to pay the taxes and expenses incurred. For this service, the county assessor must be allowed from the delinquent person a fee of $3. The county assessor is not required to sell the property if the highest bid received is less than the lowest acceptable bid indicated in the notice.

➥ ***A person who, after the notice of the seizure of the property is posted pursuant to this subsection within the immediate vicinity of the property being seized and before the delinquent taxes on the property are paid, and without the consent of the county assessor, removes, defaces, covers or otherwise conceals that notice, moves or sells the property, attempts to move or sell the property, or assists another person to move or sell the property, is guilty of a gross misdemeanor.***

3. If the personal property seized by the county assessor or his deputy consists of a mobile or manufactured home, an aircraft, or the personal property of a business, the county assessor shall publish a notice of the seizure once during each of 2 successive weeks in a newspaper of general circulation in the county. If the legal owner of the property is someone other than the registered owner and the name and address of the legal owner can be ascertained from public records, the county assessor shall, before publication, send a notice of the seizure by registered or certified mail to the legal owner. The cost of the publication and notice must be charged to the delinquent taxpayer. The notice must state:

(a) The name of the owner, if known.

(b) The description of the property seized, including the location, the make, model and dimensions and the serial number, body number or other identifying number.

(c) The fact that the property has been seized and the reason for seizure.

(d) The lowest acceptable bid for the sale of the property, which is the total amount of the taxes due on the property and the penalties and costs as provided by law.

(e) The time and place at which the property is to be sold.

➥ After the expiration of 5 days from the date of the second publication of the notice, the property must be sold at public auction in the manner provided in subsection 2 for the sale of other personal property by the county assessor.

4. Upon payment of the purchase money, the county assessor shall deliver to the purchaser of the property sold, with a certificate of the sale, a statement of the amount of taxes or assessment and the expenses thereon for which the property was sold, whereupon the title of the property so sold vests absolutely in the purchaser.

5. After a mobile or manufactured home, an aircraft, or the personal property of a business is sold and the county assessor has paid all the taxes and costs on the property, the county assessor shall deposit into the general fund of the county the first $300 of the excess proceeds from the sale. The county assessor shall deposit any remaining amount of the excess proceeds from the sale into an interest-bearing account maintained for the purpose of holding excess proceeds separate from other money of the county. If no claim is made for the money within 6 months after the sale of the property for which the claim is made, the county assessor shall pay the money into the general fund of the county. All interest paid on money deposited in the account pursuant to this subsection is the property of the county.

6. If the former owner of a mobile or manufactured home, aircraft, or personal property of a business that was sold pursuant to this section makes a claim in writing for the balance of the proceeds of the sale within 6 months after the completion of the sale, the county assessor shall pay the balance of the proceeds of the sale or the proper portion of the balance over to the former owner if the county assessor is satisfied that the former owner is entitled to it.

Sec. 15. NRS 361.5607 is hereby amended to read as follows:

361.5607 1. The tax receiver may petition the board of county commissioners to designate as uncollectible those taxes on personal property **~~[:]~~** ***for whose collection all appropriate procedures have been followed and have proved unsuccessful and:***

(a) Which have been delinquent for 3 years or more; ***or***

(b) Whose amount, including penalties and costs, is $25 or less **.** **~~[; and~~**

~~(c) For whose collection all appropriate procedures have been followed and have proved unsuccessful.~~**]**

➥ The board may grant or deny the petition with respect to any or all of those taxes.

2. No future liability attaches to the county assessor or the county treasurer for any taxes designated as uncollectible by the board of county commissioners under this section.

Sec. 16. Chapter 361A of NRS is hereby amended by adding thereto a new section to read as follows:

When any portion of agricultural or open-space land is converted to a higher use, the county assessor shall determine its taxable and , as appropriate, agricultural or open-space use values against which to compute the deferred tax for each fiscal year the property was under agricultural or open-space assessment during the current fiscal year and the preceding 6 fiscal years, or such other period as is required pursuant to NRS 361A.283. The taxable values for each year must be comparable for the corresponding years to the taxable values for property similar, including, without limitation, in size, zoning and location, to the portion of property actually converted to a higher use. When agricultural land is converted to a higher use, the agricultural use values for each of the years may be based on the agricultural use for the latest year. When open-space land that is used as a golf course is converted to a higher use, the taxable values for the property must be determined, for the purpose of computing the deferred tax, in accordance with the provisions of NRS 361.227 based upon the assessment of the land as a golf course.

Sec. 17. NRS 361A.031 is hereby amended to read as follows:

361A.031 1. "Converted to a higher use" means:

(a) A physical alteration of the surface of the property enabling it to be used for a higher use;

(b) The recording of a final map or parcel map which creates one or more parcels not intended for agricultural ***or open-space*** use;

(c) The existence of a final map or parcel map which creates one or more parcels not intended for agricultural ***or open-space*** use; or

(d) A change in zoning to a higher use made at the request of the owner.

2. The term does not apply to ~~[the property remaining after a]~~ ***any*** portion of the parcel ~~[is converted to higher use pursuant to paragraph (b) or (c) of subsection 1 if the remaining portion]~~ ***that*** continues to qualify as agricultural ***or open-space*** real property.

3. The term does not include leasing the land to or otherwise permitting the land to be used by an agricultural association formed pursuant to chapter 547 of NRS.

4. As used in this section:

(a) "Final map" has the meaning ascribed to it in NRS 278.0145.

(b) "Parcel map" has the meaning ascribed to it in NRS 278.017.

Sec. 18. **NRS 361A.040 is hereby amended to read as follows:**

361A.040 "Open-space real property" means:

1. Land:

(a) Located within an area classified pursuant to NRS 278.250 and subject to regulations designed to promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment; and

(b) Devoted exclusively to open-space use.

2. The improvements on the land described in subsection 1 that is used primarily to support the open-space use and not primarily to increase the value of surrounding developed property or secure an immediate monetary return.

3. Land that is used as a golf course.

4. Land regarding which the owner has granted and has outstanding a lease of surface water rights appurtenant to the property to a political subdivision of this State for a municipal use, if the land was agricultural real property at the time the lease was granted.

Sec. 19. **NRS 361A.050 is hereby amended to read as follows:**

361A.050 "Open-space use" means the current employment of land, the preservation of which use would conserve and enhance natural or scenic resources, protect streams and water supplies, maintain natural features which enhance control of floods or preserve sites designated as historic by the Office of Historic Preservation of the Department of Cultural Affairs. The use of real property and the improvements on that real property as a golf course shall be deemed to be an open-space use of the land. ***The use of land to lease surface water rights appurtenant to the property to a political subdivision of this State for a municipal use shall be deemed to be an open-space use of the land, if the land was agricultural real property at the time the lease was granted.***

Sec. 20. **NRS 361A.170 is hereby amended to read as follows:**

361A.170 1. Property used as a golf course is hereby designated and classified as open-space real property and must be assessed as an open-space use.

2. ***Land regarding which the owner has granted and has outstanding a lease of surface water rights appurtenant to the property to a political subdivision of this State for a municipal use, if the land was agricultural real property at the time the lease was granted, is hereby designated and classified as open-space real property and must be assessed as an open-space use.***

3. In addition to the designation and classification of ~~[a golf course]~~ ***property*** as open-space real property pursuant to ~~[subsection 1,]~~ ***subsections 1 and 2,*** the governing body of each city or county shall, from time to time, specify by resolution additional designations or classifications under its master plan that are designed to promote the conservation of open space, the maintenance of natural features for control of floods and the protection of other natural and scenic resources from unreasonable impairment.

~~[3.]~~ ***4.*** The board of county commissioners shall, from time to time, adopt by ordinance procedures and criteria which must be used in considering an application for open-space use assessment based on a designation or classification adopted pursuant to subsection ~~[2.]~~ ***3.*** The criteria may include requirements respecting public access to and the minimum size of the property.

Sec. 21. **NRS 361A.180 is hereby amended to read as follows:**

361A.180 Any owner of real property may apply to the county assessor for open-space use assessment based on a designation or classification adopted pursuant to subsection ~~[2]~~ ***3*** of NRS 361A.170 and the payment of taxes on such property as provided in this chapter.

~~[Sec. 18.]~~ ***Sec. 22.*** NRS 361A.230 is hereby amended to read as follows:

361A.230 1. The county assessor shall enter on the assessment roll the valuation based on open-space use until the property becomes disqualified for open-space use assessment by:

(a) Sale or transfer to an owner making it exempt from ad valorem property taxation;

(b) Removal of the open-space use assessment by the assessor, with the concurrence of the board, upon discovery that the property is no longer in the open-space use; ~~[or]~~

(c) ***If the open-space use assessment is based on the designation and classification of the property pursuant to subsection 1 of NRS 361A.170, the cessation of the use of the property for golfing or golfing practice, except for:***

(1) A seasonal closure of the property to such use;

(2) A temporary closure of the property for maintenance or repairs; or

(3) A temporary closure of the property, upon notification of the county assessor, for not more than 12 months for any other purpose that is incidental to such use or necessary for the continuation of such use; or

(d) If the open-space use assessment is based on a designation or classification adopted pursuant to subsection ~~[2]~~ ***3*** of NRS 361A.170:

(1) Notification by the applicant to the assessor to remove the open-space use assessment; or

(2) Failure to file a new application as provided in NRS 361A.190.

2. Except as otherwise provided in paragraph (a) of subsection 1, the sale or transfer to a new owner or transfer by reason of death of a former owner does not operate to disqualify open-space real property from open-space use assessment so long as the property continues to be used exclusively for an open-space use. If the open-space use assessment is based on a designation or classification adopted pursuant to subsection ~~[2]~~ ***3*** of NRS 361A.170, the new owner must apply for open-space use assessment in the manner provided in NRS 361A.190.

3. Whenever open-space real property becomes disqualified under subsection 1, the county assessor shall send a written notice of disqualification by certified mail with return receipt requested to each owner of record. The notice must contain the assessed value for the ensuing fiscal year.

Sec. 23. **NRS 361A.240 is hereby amended to read as follows:**

361A.240 1. The determination of use and the open-space use assessment in each year are final unless appealed.

2. If the application for an open-space use assessment is based on a designation or classification adopted pursuant to subsection ~~[2]~~ ***3*** of NRS 361A.170, the applicant for the open-space assessment is entitled to:

(a) Appeal the determination made by the board of county commissioners to the district court in the county where the property is located, or if located in more than one county, in the county in which the major portion of the property is located, as provided in NRS 278.0235.

(b) Equalization of the open-space use assessment in the manner provided in chapter 361 of NRS for complaints of overvaluation, excessive valuation or undervaluation.

~~[Sec. 19.]~~ ***Sec. 24.*** NRS 361A.265 is hereby amended to read as follows:

361A.265 1. An owner of property which has received an agricultural or open-space use assessment:

(a) Must pay the full amount of deferred taxes calculated pursuant to NRS 361A.280 for any property for which a final map will be recorded pursuant to NRS 278.460 before the date on which the map is recorded ~~[.]~~ ***, if the existence or recording of the map will result in the conversion of any portion of the property to a higher use.***

(b) In all other cases may, before the conversion of any portion of the property to a higher use, pay the amount of deferred taxes which would be due upon the conversion of that property pursuant to NRS 361A.280.

2. An owner who desires to pay the deferred taxes must request, in writing, the county assessor to estimate the amount of the deferred taxes which would be due at the time of conversion. After receiving such a request, the county assessor shall estimate the amount of the deferred taxes due for the next property tax statement and report the amount to the owner.

3. An owner who voluntarily pays the deferred taxes may appeal the valuations and calculations upon which the deferred taxes were based in the manner provided in NRS 361A.273.

4. If a parcel that has been created after the secured tax roll has been closed is converted to a higher use, the assessor must change the roll to reflect the changes in the parcel or parcels and assess the new parcel or parcels at taxable value for the following fiscal year. The deferred tax must be assessed pursuant to NRS 361A.280.

~~[Sec. 20.]~~ ***Sec. 25.*** NRS 361A.280 is hereby amended to read as follows:

361A.280 If the county assessor is notified or otherwise becomes aware that a parcel or any portion of a parcel of real property which has received agricultural or open-space use assessment has been converted to a higher use ***,*** the county assessor shall add to the tax extended against that portion of the property on the next property tax statement the deferred tax, which is the difference between the taxes that would have been paid or payable on the basis of the agricultural or open-space use valuation and the taxes which would have been paid or payable on the basis of the taxable value calculated

pursuant to ~~[~~NRS 361A.155~~]~~ ~~[,]~~ ~~*[or]*~~ ***section 16 of this act*** ~~*[, as applicable,]*~~ for each year in which agricultural or open-space use assessment was in effect for the property during the fiscal year in which the property ceased to be used exclusively for agricultural use or approved open-space use and the preceding 6 fiscal years. The county assessor shall assess the property pursuant to NRS 361.227 for the next fiscal year following the date of conversion to a higher use.

~~[Sec. 21.]~~ ***Sec. 26.*** NRS 361A.283 is hereby amended to read as follows:

361A.283 1. If the county assessor determines that the deferred tax for any fiscal year or years was not assessed in the year it became due, he may assess it anytime within 5 fiscal years after the end of the fiscal year in which a parcel or portion of a parcel was converted to a higher use.

2. If the county assessor determines that a parcel was assessed for agricultural ***or open-space*** use rather than at full taxable value for any fiscal year in which it did not qualify for agricultural ***or open-space*** assessment, he may assess the deferred tax for that year anytime within 5 years after the end of that fiscal year.

3. A penalty equal to 20 percent of the total accumulated deferred tax described in subsections 1 and 2 must be added for each of the years in which the owner failed to provide the written notice required by NRS 361A.270. The county assessor may waive this penalty if he finds extenuating circumstances sufficient to justify the waiver.

~~[Sec. 22.]~~ ***Sec. 27.*** Section 57 of chapter 496, Statutes of Nevada 2005, as amended by section 27 of chapter 415, Statutes of Nevada 2007, at page 1899, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

4. Section 23 of this act becomes effective on July 1, ~~[2009.]~~ ***2011.***

5. Section 43 of this act expires by limitation on June 30, ~~[2009.]~~ ***2011.***

~~[Sec. 23.]~~ ***Sec. 28.*** Section 16 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 23, is hereby amended to read as follows:

Sec. 16. 1. This section and sections 2, 4, 14 and 15 of this act become effective upon passage and approval.

2. Sections 6 to 12, inclusive, of this act become effective on January 1, 2009 ~~[.~~

~~3. Sections 4 and 6 to 12, inclusive, of this act~~] ***, and*** expire by limitation on June 30, 2009.

~~[~~4.~~]~~ ***3.*** Sections 1, 3 ~~[~~, 5~~]~~ and 13 of this act become effective on July 1, 2009.

~~[~~5.~~]~~ ***4.*** Sections 1 ~~[~~, 2, 3 and 5~~]~~ ***to 4, inclusive,*** of this act expire by limitation on June 30, 2011.

~~[~~Sec. 24.~~]~~ ***Sec. 29.*** **1. NRS 361A.155 is hereby repealed.**

2. Section 5 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 17, is hereby repealed.

~~[~~Sec. 25.~~]~~ ***Sec. 30.*** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[~~Sec. 26.~~]~~ ***Sec. 31.*** 1. This section and sections 3, 4 **, 27, 28, subsection 2 of section 29** and ~~[~~22 to 25, inclusive,~~]~~ **section 30** of this act become effective upon passage and approval.

2. Sections 1, 2 and 5 to ~~[~~21,~~]~~ **26,** inclusive, **and subsection 1 of section 29** of this act become effective on July 1, 2009.

TEXT OF REPEALED ~~[~~SECTION~~]~~ SECTIONS

361A.155 Determination of taxable value when agricultural land converted to higher use. When any portion of agricultural land is converted to a higher use, the county assessor shall determine its taxable and agricultural use values against which to compute the deferred tax for each fiscal year the property was under agricultural assessment during the current fiscal year and the preceding 6 fiscal years, or such other period as is required pursuant to NRS 361A.283. The agricultural use values for each of the years may be based on the agricultural use for the latest year. The taxable values for each year must be comparable for the corresponding years to the taxable values for property similar, including, without limitation, in size, zoning and location, to the portion of property actually converted to a higher use.

Section 5 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 17:

Sec. 5. NRS 362.170 is hereby amended to read as follows:

362.170 1. There is hereby appropriated to each county the total of the amounts obtained by multiplying, for each extractive operation situated within the county, the net proceeds of that operation and any royalties paid by that operation, ***as estimated and paid pursuant to NRS 362.115, plus any amounts paid pursuant to NRS 362.130*** by the combined rate of tax ad valorem ~~[~~,~~]~~ ***for the fiscal year to which the payments apply,*** excluding any rate levied by the State of Nevada, for property at that site, plus a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to the county. The Department shall report to the State Controller on or before May 25 of each year the amount appropriated to each county, as calculated for each operation from the ~~[~~final statement made in February of that year~~]~~ ***estimate provided pursuant to NRS 362.115 for the current calendar year and any adjustments made***

pursuant to NRS 362.130 for the preceding calendar year. The State Controller shall distribute all money due to a county on or before May 30 of each year. ***The Department shall report to the State Controller any additional payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 within 15 days after receipt of the payment, and the State Controller shall distribute the money to the appropriate county within 5 days after receipt of the report from the Department. For the purposes of this subsection, payments made pursuant to paragraph (b) of subsection 1 of NRS 362.115 apply to the fiscal year in which the statement of the estimated net proceeds is filed pursuant to paragraph (a) of subsection 1 of NRS 362.115.***

2. The county treasurer shall apportion to each local government or other local entity an amount calculated by:

(a) Determining the total of the amounts obtained by multiplying, for each extractive operation situated within its jurisdiction, the net proceeds of that operation and any royalty payments paid by that operation, by the rate levied on behalf of that local government or other local entity;

(b) Adding to the amount determined pursuant to paragraph (a) a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to that local government or local entity; and

(c) Subtracting from the amount determined pursuant to paragraph (b) a commission of 3 percent of that amount which must be deposited in the county general fund.

3. The amounts apportioned pursuant to subsection 2, including, without limitation, the amount retained by the county and excluding the percentage commission, must be applied to the uses for which each levy was authorized in the same proportion as the rate of each levy bears to the total rate.

4. The Department shall report to the State Controller on or before May 25 of each year the amount received as tax upon the net proceeds of geothermal resources which equals the product of those net proceeds multiplied by the rate of tax levied ad valorem by the State of Nevada.

Assemblywoman McClain moved that the Assembly concur in the Senate amendment to Assembly Bill No. 205.

Remarks by Assemblywoman McClain.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bill No. 47 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 101.

The following Senate amendment was read:

Amendment No. 847.

AN ACT relating to the support of children; authorizing each county in this State to participate in the Program for the Enforcement of Child Support; requiring each county that participates in the Program to pay the cost of the Program in that county; revising certain provisions governing the administration and enforcement of the Program; deleting provisions relating to the placement and confidentiality of certain records concerning the support of a dependent child; requiring a district court to review, on the record, certain recommendations of a master; revising provisions governing the failure of an employer to deliver money that is withheld from the income of an employee for child support; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes each county in this State to participate in the Program for the Enforcement of Child Support created under federal law. If a county participates in the Program, the county must pay for the cost of the Program in that county. **Section 1** also authorizes a county that participates in the Program to withdraw from the Program after providing a notice of withdrawal to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

Section 2 of this bill provides that any payment of public assistance made by the Division for the support of a child creates a debt against the responsible parent, regardless of any court order for custody or support of the child to the contrary. (NRS 425.360)

Section 3 of this bill specifies that the Administrator of the Division or his designee is responsible for and is required to supervise the Program. (NRS 425.365)

Sections 5, 7, 10, 14 and 15 of this bill specify that the approval by a district court of a recommendation made by a master concerning the support of a dependent child must be made in accordance with certain procedural requirements. (NRS 425.382, 425.383, 425.3836, 425.540)

Sections 6, 11, 12, 19 and 21 of this bill delete provisions of existing law that require a master, after making a recommendation for the support of a dependent child, or a district court to ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is paid are placed in the records relating to the matter and remain confidential. (NRS 425.3828, 425.3844, 425.3855, 125.230, 125B.055)

Section 8 of this bill authorizes a master who conducts a hearing relating to the support of a dependent child to conduct the hearing by telephone or by

any audiovisual or other electronic means outside the judicial district in which the master is appointed. (NRS 425.3832)

Section 9 of this bill provides that if a district court reviews a recommendation of a master concerning the support of a dependent child, the review must be conducted on the record of the case before the master. (NRS 425.3834)

Under existing law, a master who makes a recommendation concerning the support of a dependent child must furnish the recommendation to each party in the case before the master. Each party may then file an objection to the recommendation within 10 days after receiving the recommendation. If a notice of objection is not filed, the district court must accept the recommendation and may enter judgment thereon. **Section 11** of this bill provides that if a notice of objection is not filed, the recommendation of the master shall be deemed approved by the district court and the clerk of the court may file the recommendation. (NRS 425.3844)

Section 13 of this bill provides that a financial institution which is doing business in Nevada and which receives notification of a lien against a responsible parent from an agency for the enforcement of child support located in another state is required to encumber all assets held by the financial institution on behalf of the responsible parent and surrender those assets upon the enforcement of the lien. **Section 13** also provides immunity from liability for the agency located in another state for disclosing information and providing assets to certain other persons. (NRS 425.460)

Sections 16 and 17 of this bill set forth penalties that may be imposed against an employer who **refuses or intentionally** fails to deliver to the appropriate enforcing authority any money that the employer is required to withhold from an employee's wages for child support owed by the employee. The penalties include, without limitation, the payment of punitive damages to the person to whom the child support is owed. (NRS 31A.095, 31A.120)

Section 18 of this bill deletes provisions of existing law that require a court that grants a decree of divorce to ensure that the social security numbers of both parties to the decree are provided to the Division. (NRS 125.130)

Section 22 of this bill revises provisions governing the amounts paid by a parent for medical support for a child pursuant to a court order requiring the payment of that support. (NRS 125B.085)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 425 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each county may participate in the Program. If a county participates in the Program, the county shall pay the cost of the Program in that county. Any services provided by the county under the Program must be provided in accordance with:

(a) Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq., and any regulations adopted pursuant thereto;

(b) Any regulations adopted pursuant to NRS 425.365; and

(c) A contract entered into with the Division for that purpose.

2. If a county participates in the Program pursuant to subsection 1, the county may, on or before September 1 of each even-numbered year, elect to withdraw from the Program by submitting a notice of withdrawal to the Division. If a county submits a notice of withdrawal pursuant to this subsection, the withdrawal becomes effective on July 1 of the next following year.

Sec. 2. NRS 425.360 is hereby amended to read as follows:

425.360 1. Any payment of public assistance pursuant to this chapter creates a debt for support to the Division by the responsible parent, ~~[whether or not]~~ ***regardless of:***

(a) Any court order for custody or support to the contrary, including, without limitation, an order for joint physical custody; or

(b) Whether the parent received prior notice that his child was receiving public assistance.

2. The Division is entitled to the amount to which a dependent child or a person having the care, custody and control of a dependent child would have been entitled for support, to the extent of the assignment of those rights to support pursuant to NRS 425.350, and may prosecute or maintain any action for support or execute any administrative remedy existing under the laws of this State to obtain reimbursement of money expended for public assistance from any liable third party, including ***, without limitation,*** an insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C.A. § 1167(1), service benefit plan, self-insured plan or health maintenance organization. If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent. This entitlement applies to, but is not limited to, a temporary order for spousal support, a family maintenance order or an alimony order, whether or not allocated to the benefit of the child on the basis of providing necessaries for the caretaker of the child, up to the amount paid by the Division in public assistance to or for the benefit of a dependent child. The Division may petition the appropriate court for modification of its order on the same grounds as a party to the action.

3. If there is no court order for support, or if the order provides that no support is due but the facts on which the order was based have changed, the amount due is the amount computed pursuant to NRS 125B.070 and 125B.080, using the Nevada average wage, determined by the Employment Security Division of the Department of Employment, Training and

Rehabilitation, if the gross income of the responsible parent cannot be otherwise ascertained.

4. Debts for support may not be incurred by a parent or any other person who is the recipient of public assistance for the benefit of a dependent child for the period when the parent or other person is a recipient.

5. If a state agency is assigned any rights of a dependent child or a person having the care, custody and control of a dependent child who is eligible for medical assistance under Medicaid, the person having the care, custody and control of the dependent child shall, upon request of the state agency, provide to the state agency information regarding the dependent child or a person having the care, custody and control of a dependent child to determine:

(a) Any period during which the dependent child or a person having the care, custody and control of a dependent child may be or may have been covered by an insurer; and

(b) The nature of any coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured dependent child or a person having the care, custody and control of a dependent child and the identifying number of the policy, evidence of coverage or contract.

6. As used in this section, "joint physical custody" means the physical custody of a dependent child for which the time spent by the dependent child with each responsible parent or with the responsible parent and a custodian of the child is equal.

Sec. 3. NRS 425.365 is hereby amended to read as follows:

425.365 ***1.*** The Administrator ***or his designee is responsible for and shall supervise the Program, subject to administrative supervision by the Director of the Department of Health and Human Services.***

2. The Administrator may adopt such regulations and take such actions as are necessary to carry out the provisions of this chapter.

Sec. 4. NRS 425.370 is hereby amended to read as follows:

425.370 ***Subject to administrative supervision by the Director of the Department of Health and Human Services pursuant to NRS 425.365:***

1. Whenever the Division provides public assistance on behalf of a child, the Division and the prosecuting attorney shall take appropriate action to carry out the Program with regard to that child.

2. As to any other child, the Division and the prosecuting attorney shall, when such action is required by the Social Security Act ***,*** ~~[(]~~ 42 U.S.C. §§ 301 et seq. ***,*** ~~[),]~~ take appropriate action to carry out the Program.

Sec. 5. NRS 425.382 is hereby amended to read as follows:

425.382 1. Except as otherwise provided in NRS 425.346, the Chief may proceed pursuant to NRS 425.3822 to 425.3852, inclusive, after:

(a) Payment of public assistance by the Division; or

(b) Receipt of a request for services to carry out the Program.

2. Subject to approval by the district court ~~[,]~~ ***pursuant to NRS 425.3844,*** a master may:

(a) Take any action authorized pursuant to chapter 130 of NRS, including any of the actions described in subsection 2 of NRS 130.305.

(b) Except as otherwise provided in chapter 130 of NRS and NRS 425.346:

(1) Issue and enforce an order for the support of a dependent child, and modify or adjust such an order in accordance with NRS 125B.145;

(2) Require coverage for health care of a dependent child;

(3) Establish paternity;

(4) Order a responsible parent to comply with an order for the support of a dependent child, specifying the amount and the manner of compliance;

(5) Order the withholding of income;

(6) Determine the amount of any arrearages and specify a method of payment;

(7) Enforce orders by civil or criminal contempt, or both;

(8) Set aside property for satisfaction of an order for the support of a dependent child;

(9) Place liens and order execution on the property of the responsible parent;

(10) Order a responsible parent to keep the master informed of his current residential address, telephone number, employer, address of employment and telephone number at the place of employment;

(11) Issue a bench warrant for a responsible parent who has failed after proper notice to appear at a hearing ordered by the master and enter the bench warrant in any local and state computer system for criminal warrants;

(12) Order the responsible parent to seek appropriate employment by specified methods;

(13) Order the responsible parent to participate in a program intended to resolve issues that prevent the responsible parent from obtaining employment, including, without limitation, a program for the treatment of substance abuse or a program to address mental health issues;

(14) Upon the request of the Division, require a responsible parent to:

(I) Pay any support owed in accordance with a plan approved by the Division; or

(II) Participate in such work activities, as that term is defined in 42 U.S.C. § 607(d), as the Division deems appropriate;

(15) Award reasonable attorney's fees and other fees and costs; and

(16) Grant any other available remedy.

Sec. 6. NRS 425.3828 is hereby amended to read as follows:

425.3828 1. If a written response setting forth objections and requesting a hearing is received by the office issuing the notice and finding of financial responsibility within the specified period, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the parent by regular mail.

2. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the

specified period, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall:

(a) Include in that recommendation:

(1) If the paternity of the dependent child is established by the recommendation, a declaration of that fact.

(2) The amount of monthly support to be paid, including directions concerning the manner of payment.

(3) The amount of arrearages owed.

(4) Whether coverage for health care must be provided for the dependent child.

(5) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[.]~~ regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(6) The names of the parents or legal guardians of the child.

(7) The name of the person to whom, and the name and date of birth of the dependent child for whom **,** support is to be paid.

(8) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(9) A statement that objections to the recommendation may be filed with the district court and served upon the other party within 10 days after receipt of the recommendation.

(b) Ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is to be paid are ~~[.~~

~~(1) Provided~~] ***provided*** to the enforcing authority.

~~[(2) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

3. The parent must be sent a copy of the recommendation for the support of a dependent child by regular mail addressed to the last known address of the parent, or if applicable, the last known address of the attorney for the parent.

4. The recommendation for the support of a dependent child is final upon approval by the district court pursuant to NRS 425.3844. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, and the master enters a recommendation for the support of a dependent child, the court may grant relief from the recommendation on the grounds set forth in paragraph (b) of Rule 60 of the Nevada Rules of Civil Procedure.

Sec. 7. NRS 425.383 is hereby amended to read as follows:

425.383 1. After the entry of a recommendation for the support of a dependent child by the master that has been approved by the district court ~~[,]~~ ***pursuant to NRS 425.3844,*** or after entry of an order for the support of a dependent child by a district court regarding which the Chief is authorized to proceed pursuant to NRS 425.382 to 425.3852, inclusive, the responsible parent, the person entitled to support or the enforcing authority may move for the amount of the child support being enforced to be modified or adjusted in accordance with NRS 125B.145.

2. The motion must:

(a) Be in writing.

(b) Set out the reasons for the modification or adjustment.

(c) State the address of the moving party.

(d) Be served by the moving party upon the responsible parent or the person entitled to support, as appropriate, by first-class mail to the last known address of that person.

3. The moving party shall mail or deliver a copy of the motion and the original return of service to the Chief.

4. The Chief shall set the matter for a hearing within 30 days after the date of receipt of the motion unless a stipulated agreement between the parties is reached. The Chief shall send to the parties and person with physical custody of the dependent child a notice of the hearing by first-class mail to the last known address of those persons.

5. A motion for modification or adjustment requested pursuant to this section does not prohibit the Chief from enforcing and collecting upon the existing order for support of a dependent child unless so ordered by the district court.

6. The only support payments that may be modified or adjusted pursuant to this section are monthly support payments that:

(a) A court of this State has jurisdiction to modify pursuant to chapter 130 of NRS; and

(b) Accrue after the moving party serves notice that a motion has been filed for modification or adjustment.

7. The party requesting the modification or adjustment has the burden of showing a change of circumstances and good cause for the modification or adjustment, unless the request is filed in accordance with subsection 1 of NRS 125B.145.

Sec. 8. NRS 425.3832 is hereby amended to read as follows:

425.3832 1. Except as otherwise provided in this chapter, a hearing conducted pursuant to NRS 425.382 to 425.3852, inclusive, must be conducted in accordance with the provisions of this section by a qualified master appointed pursuant to NRS 425.381.

2. Subpoenas may be issued by:

(a) The master.

(b) The attorney of record for the office.

➥ Obedience to the subpoena may be compelled in the same manner as provided in chapter 22 of NRS. A witness appearing pursuant to a subpoena, other than a party or an officer or employee of the Chief, is entitled to receive the fees and payment for mileage prescribed for a witness in a civil action.

3. Except as otherwise provided in this section, the master need not observe strict rules of evidence ~~[,]~~ but shall apply those rules of evidence prescribed in NRS 233B.123.

4. The affidavit of any party who resides outside of the judicial district is admissible as evidence regarding the duty of support, any arrearages and the establishment of paternity. The master may continue the hearing to allow procedures for discovery regarding any matter set forth in the affidavit.

5. The physical presence of a person seeking the establishment, enforcement, modification or adjustment of an order for the support of a dependent child or the establishment of paternity is not required.

6. A verified petition, an affidavit, a document substantially complying with federally mandated forms and a document incorporated by reference in any of them, not excluded under NRS 51.065 if given in person, is admissible in evidence if given under oath by a party or witness residing outside of the judicial district.

7. A copy of the record of payments for the support of a dependent child, certified as a true copy of the original by the custodian of the record, may be forwarded to the master. The copy is evidence of facts asserted therein and is admissible to show whether payments were made.

8. Copies of bills for testing for paternity, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 20 days before the hearing, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

9. Documentary evidence transmitted from outside of the judicial district by telephone, telecopier or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

10. The master may ~~[permit]~~ ***:***

(a) Conduct a hearing by telephone, audiovisual means or other electronic means outside of the judicial district in which he is appointed.

(b) Permit a party or witness residing outside of the judicial district to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location outside of the judicial district.

➥ The master shall cooperate with courts outside of the judicial district in designating an appropriate location for the ***hearing,*** deposition or testimony.

11. If a party called to testify at a hearing refuses to answer a question on the ground that the testimony may be self-incriminating, the master may draw an adverse inference from the refusal.

12. A privilege against the disclosure of communications between husband and wife does not apply.

13. The defense of immunity based on the relationship of husband and wife or parent and child does not apply.

Sec. 9. NRS 425.3834 is hereby amended to read as follows:

425.3834 1. Upon issuance by a district court of an order approving a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, the Chief shall enforce and collect upon the order, including arrearages.

2. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, is final upon approval by the district court pursuant to NRS 425.3844. Upon such approval, the recommendation is in full force and effect while any judicial review is pending unless the recommendation is stayed by the district court.

3. The district court may review ~~[, pursuant to the rules adopted therefor by the district judges of the judicial district in which the court is located,]~~ a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive. ***If a review is conducted, the district court shall review the recommendation on the record of the case before the master.***

Sec. 10. NRS 425.3836 is hereby amended to read as follows:

425.3836 1. After the issuance of an order for the support of a dependent child by a court, the Chief may issue a notice of intent to enforce the order. The notice must be served upon the responsible parent in the manner prescribed for service of summons in a civil action or mailed to the responsible parent by certified mail, restricted delivery, with return receipt requested.

2. The notice must include:

(a) The names of the person to whom support is to be paid and the dependent child for whom support is to be paid.

(b) The amount of monthly support the responsible parent is required to pay by the order for support.

(c) A statement of the arrearages owed pursuant to the order for support.

(d) A demand that the responsible parent make full payment to the enforcing authority within 14 days after the receipt or service of the notice.

(e) A statement that the responsible parent may be required to provide coverage for the health care of the dependent child when coverage is available to the parent at a reasonable cost.

(f) A statement of any requirements the Division will request pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[,]~~ regarding a plan for the payment of support by the responsible parent or the participation of the responsible parent in work activities.

(g) A statement that if the responsible parent objects to any part of the notice of intent to enforce the order, he must send to the office that issued the notice a written response within 14 days after the date of receipt of service that sets forth any objections and includes a request for a hearing.

(h) A statement that if full payment is not received within 14 days or a hearing has not been requested in the manner provided in paragraph (g), the Chief is entitled to enforce the order and that the property of the responsible parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(i) A reference to NRS 425.382 to 425.3852, inclusive.

(j) A statement that the responsible parent is responsible for notifying the office of any change of address or employment.

(k) A statement that if the responsible parent has any questions, he may contact the appropriate office or consult an attorney.

(l) Such other information as the Chief finds appropriate.

3. If a written response setting forth objections and requesting a hearing is received within the specified period by the office issuing the notice of intent to enforce the order, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the responsible parent by regular mail. If a written response and request for hearing is not received within the specified period by the office issuing the notice, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall include in that recommendation:

(a) The amount of monthly support to be enforced, including directions concerning the manner of payment.

(b) The amount of arrearages owed and the manner of payment.

(c) Whether coverage for health care must be provided for the dependent child.

(d) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[.]~~ regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(e) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, the withholding of wages, garnishment, liens and execution on liens.

4. After the district court approves the recommendation for the support of a dependent child, the recommendation is final. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. This section does not prevent the Chief from using other available remedies for the enforcement of an obligation for the support of a dependent child at any time.

6. The master may hold a hearing to enforce a recommendation for the support of a dependent child after the recommendation has been entered and approved by the district court ~~[.]~~ ***pursuant to NRS 425.3844.*** The master may enter a finding that the parent has not complied with the order of the court and may recommend to the district court that the parent be held in contempt

of court. The finding and recommendation is effective upon review and approval of the district court.

Sec. 11. NRS 425.3844 is hereby amended to read as follows:

425.3844 1. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, must be furnished to each party or his attorney at the conclusion of the proceedings or as soon thereafter as possible.

2. Within 10 days after receipt of the recommendation, any party may file with the district court and serve upon the other parties a notice of objection to the recommendation. The notice must include:

(a) A copy of the master's recommendation;

(b) The results of any blood tests or tests for genetic identification examined by the master;

(c) A concise statement setting forth the reasons that the party disagrees with the master's recommendation, including any affirmative defenses that must be pleaded pursuant to the Nevada Rules of Civil Procedure;

(d) A statement of the relief requested;

(e) The notice and finding of financial responsibility if the Chief issued such a notice and finding; and

(f) Any other relevant documents.

3. ~~[~~The district court shall:

~~(a)]~~ If ***, within 10 days after receipt of the recommendation,*** a notice of objection is ~~[not]~~ ***:***

(a) Not filed, ~~[accept]~~ the recommendation entered by the master ~~[,~~ ~~including a recommendation establishing paternity, unless clearly erroneous,]~~ ***shall be deemed approved by the district court,*** and ***the clerk of the district court may file the recommendation pursuant to subsection 7 and*** judgment may be entered thereon; or

(b) ~~[If a notice of objection is filed within the 10-day period,]~~ ***Filed, the district court shall*** review the matter pursuant to NRS 425.3834.

4. A party who receives a notice of objection pursuant to subsection 2 is not required to file an answer to that notice. The district court shall review each objection contained in the notice.

5. If a notice of objection includes an objection to a recommendation establishing paternity, the enforcement of any obligation for the support of the child recommended by the master must, upon the filing and service of the notice, be stayed until the district court rules upon the determination of paternity. The obligation for the support of the child continues to accrue during the consideration of the determination of paternity and must be collected as arrears after the completion of the trial if the court approves the recommendation of the master.

6. If a recommendation entered by a master ***,*** ~~[pursuant to NRS 425.382 to 425.3852, inclusive,]~~ including a recommendation establishing paternity, ***is deemed approved by the district court pursuant to paragraph (a) of subsection 3 and the recommendation*** modifies or adjusts a previous order

for support issued by any district court in this State, that district court ~~[shall review the recommendation and approve or reject the recommendation issued]~~ ***must be notified of the recommendation*** by the master.

7. Upon approval by the district court of a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, a copy of the recommendation, with the approval of the court endorsed thereon, must be filed:

(a) In the office of the clerk of the district court;

(b) If the order of the district court approving the recommendation of the master modifies or adjusts a previous order issued by any district court in this State, with the original order in the office of the clerk of that district court; and

(c) With any court that conducts a proceeding related thereto pursuant to the provisions of chapter 130 of NRS.

8. A district court that approves a recommendation pursuant to this section shall ensure that, before the recommendation is filed pursuant to subsection 7, the social security numbers of the parents or legal guardians of the child are ~~[:~~

~~(a) Provided]~~ ***provided*** to the enforcing authority.

~~[(b) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

9. Upon the approval and filing of the recommendation as provided in subsection 7, the recommendation has the force, effect and attributes of an order or decree of the district court, including, but not limited to, enforcement by supplementary proceedings, contempt of court proceedings, writs of execution, liens and writs of garnishment.

Sec. 12. NRS 425.3855 is hereby amended to read as follows:

425.3855 A district court that enters an order pursuant to NRS 425.382 to 425.3852, inclusive, or an order approving a recommendation for the support of a dependent child made by a master shall ensure that the social security numbers of the parents or legal guardians of the child are ~~[:~~

~~1. Provided]~~ ***provided*** to the enforcing authority.

~~[2. Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

Sec. 13. NRS 425.460 is hereby amended to read as follows:

425.460 1. The Administrator shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible.

2. A financial institution doing business in this State shall:

(a) Cooperate with the Administrator in carrying out subsection 1.

(b) Use the system to provide to the Division for each calendar quarter the name, address of record, social security number or other number assigned for

taxpayer identification, and other identifying information for each responsible parent who maintains an account at the financial institution, as identified by the Division by name and social security number or other number assigned for taxpayer identification.

(c) In response to the receipt from the Division ***or an agency for the enforcement of child support located in another state*** of:

(1) Notification of a lien against a responsible parent which:

(I) Arises pursuant to NRS 125B.142; or

(II) Is entitled to full faith and credit pursuant to NRS 125B.144,

➥ encumber ~~[such]~~ ***all*** assets held by the financial institution on behalf of the responsible parent ~~[as may be required by the Chief.]~~ ***and surrender those assets upon the enforcement of the lien pursuant to those sections.***

(2) A notice of attachment pursuant to subsection 2 of NRS 425.470, surrender to the Chief such assets held by the financial institution on behalf of the responsible parent as may be required by the Chief.

(d) Except as otherwise provided in paragraph (c), in response to the receipt of notice of a lien which is entitled to full faith and credit pursuant to NRS 125B.144 or notice of a levy on such a lien, encumber or surrender, as the case may be, such assets held by the financial institution on behalf of the responsible parent as may be required to enforce the lien.

➥ A financial institution doing business in this State which receives from the Division ***or an agency for the enforcement of child support located in another state*** a notice of lien, notice of attachment or notice of levy on a lien is not required to encumber or surrender any assets received by the financial institution on behalf of the responsible parent after the financial institution received the notice of lien, notice of attachment or notice of levy on a lien.

3. A financial institution may not be held liable in any civil or criminal action for:

(a) Any disclosure of information to the Division ***or an agency for the enforcement of child support located in another state*** pursuant to this section.

(b) Encumbering or surrendering any assets held by the financial institution pursuant to this section.

(c) Any other action taken in good faith to comply with the requirements of this section.

4. If a court issues an order to return to a responsible parent any assets surrendered by a financial institution pursuant to subsection 2, the Division ***or an agency for the enforcement of child support located in another state*** is not liable to the responsible parent for any of those assets that have been provided to another person or agency in accordance with the order for the payment of support.

Sec. 14. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person:

(a) Has failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Is in arrears in the payment for the support of one or more children,

➥ and the district court issues an order approving the recommendation of the master ~~[,]~~ ***pursuant to NRS 425.3844,*** the court shall provide a copy of the order to all agencies that issue professional, occupational or recreational licenses, certificates or permits.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional, occupational or recreational license, certificate or permit to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, the professional, occupational or recreational licenses issued to the person by that agency will be automatically suspended. Such an order must not apply to a license, certificate or permit issued by the Department of Wildlife or the State Land Registrar if that license, certificate or permit expires less than 6 months after it is issued.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

(1) A copy of the court order;

(2) A statement of the amount of the arrearage; and

(3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 15. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person who is issued a professional or occupational license, certificate or permit pursuant to title 54 of NRS:

(a) Has failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Is in arrears in the payment for the support of one or more children,

➥ and the district court issues an order approving the recommendation of the master ~~[,]~~ ***pursuant to NRS 425.3844,*** the court shall provide a copy of the order to all agencies that issue professional or occupational licenses, certificates or permits pursuant to title 54 of NRS.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional or

occupational license, certificate or permit pursuant to title 54 of NRS to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, any professional or occupational license, certificate or permit issued pursuant to title 54 of NRS to the person by that agency will be automatically suspended.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

(1) A copy of the court order;

(2) A statement of the amount of the arrearage; and

(3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 16. NRS 31A.095 is hereby amended to read as follows:

31A.095 1. If an employer ~~[wrongfully]~~ ***:***

(a) Wrongfully refuses to withhold income as required pursuant to NRS 31A.025 to 31A.190, inclusive, after receiving a notice to withhold income that was sent by certified mail pursuant to subsection 2 of NRS 31A.070 ~~[.]~~ ***;***

(b) ~~*[Fails]*~~ ***Refuses or intentionally fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080;*** or ~~[knowingly]~~

(c) Knowingly misrepresents the income of an employee,

➥ the enforcing authority may apply for and the court may issue an order directing the employer to appear and show cause why he should not be subject to the penalty prescribed in subsection 2 of NRS 31A.120.

2. At the hearing on the order to show cause, the court, upon a finding that the employer wrongfully refused to withhold income as required ***, refused or intentionally failed to deliver money to the enforcing authority as required*** or knowingly misrepresented an employee's income:

(a) May order the employer to comply with the requirements of NRS 31A.025 to 31A.190, inclusive;

(b) May order the employer to provide accurate information concerning the employee's income;

(c) May fine the employer pursuant to subsection 2 of NRS 31A.120; and

(d) Shall require the employer to pay the amount the employer failed or refused to withhold from the obligor's income ~~[.]~~ ***or refused or intentionally failed to deliver to the enforcing authority.***

Sec. 17. NRS 31A.120 is hereby amended to read as follows:

31A.120 1. It is unlawful for an employer to use the withholding of income to collect an obligation of support as a basis for refusing to hire a potential employee, discharging the employee or taking disciplinary action

against him. Any employer who violates this section shall hire or reinstate the employee with no loss of pay or benefits, is liable for any payments of support not withheld ~~[,]~~ and shall be fined $1,000. If an employee prevails in an action based on this section, the employer is liable, in an amount not less than $2,500, for payment of the employee's costs and attorney's fees incurred in that action.

2. If an employer ~~[wrongfully]~~ ***:***

(a) Wrongfully refuses to withhold from the income of an obligor as required pursuant to NRS 31A.025 to 31A.190, inclusive ~~[,]~~ ***;***

(b) ~~*[Fails]*~~ ***Refuses or intentionally fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080;*** or ~~[knowingly]~~

(c) Knowingly misrepresents the income of the employee,

➥ he shall pay the amount he refused to withhold ***or refused or intentionally failed to deliver*** to the enforcing authority and may be ordered to pay punitive damages to the person to whom support is owed in an amount not to exceed $1,000 for each pay period he failed to withhold income as required ***, refused or intentionally failed to deliver money to the enforcing authority as required*** or knowingly misrepresented the income of the employee.

Sec. 18. NRS 125.130 is hereby amended to read as follows:

125.130 1. A judgment or decree of divorce granted pursuant to the provisions of this chapter is a final decree.

2. Whenever a decree of divorce from the bonds of matrimony is granted in this State by a court of competent authority, the decree fully and completely dissolves the marriage contract as to both parties.

3. A court that grants a decree of divorce pursuant to the provisions of this section shall ensure that the social security numbers of both parties are ~~[:~~

~~(a) Provided to the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(b) Placed~~] ***placed*** in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

4. In all suits for divorce, if a divorce is granted, the court may, for just and reasonable cause and by an appropriate order embodied in its decree, change the name of the wife to any former name which she has legally borne.

Sec. 19. NRS 125.230 is hereby amended to read as follows:

125.230 1. The court in such actions may make such preliminary and final orders as it may deem proper for the custody, control and support of any minor child or children of the parties.

2. A court that enters an order pursuant to subsection 1 for the support of any minor child or children shall ensure that the social security numbers of the parties are ~~[:~~

~~(a) Provided~~] ***provided*** to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

~~[(b) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.]~~

Sec. 20. NRS 125.510 is hereby amended to read as follows:

125.510 1. In determining the custody of a minor child in an action brought pursuant to this chapter, the court may, except as otherwise provided in this section **,** ~~[and]~~ chapter 130 of NRS ~~[:]~~ ***and NRS 425.360:***

(a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest; and

(b) At any time **,** modify or vacate its order, even if the divorce was obtained by default without an appearance in the action by one of the parties.

➥ The party seeking such an order shall submit to the jurisdiction of the court for the purposes of this subsection. The court may make such an order upon the application of one of the parties or the legal guardian of the minor.

2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires the modification or termination. The court shall state in its decision the reasons for the order of modification or termination if either parent opposes it.

3. Any order for custody of a minor child or children of a marriage entered by a court of another state may, subject to the jurisdictional requirements in chapter 125A of NRS, be modified at any time to an order of joint custody.

4. A party may proceed pursuant to this section without counsel.

5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.

6. All orders authorized by this section must be made in accordance with the provisions of chapter 125A of NRS and must contain the following language:

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.

7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify that the terms of the Hague Convention ***on the Civil Aspects of International Child Abduction*** of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.

8. If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

9. Except where a contract providing otherwise has been executed pursuant to NRS 123.080, the obligation for care, education, maintenance and support of any minor child created by any order entered pursuant to this section ceases:

(a) Upon the death of the person to whom the order was directed; or

(b) When the child reaches 18 years of age if he is no longer enrolled in high school, ***or*** otherwise, when he reaches 19 years of age.

10. As used in this section, a parent has "significant commitments in a foreign country" if he:

(a) Is a citizen of a foreign country;

(b) Possesses a passport in his name from a foreign country;

(c) Became a citizen of the United States after marrying the other parent of the child; or

(d) Frequently travels to a foreign country.

Sec. 21. NRS 125B.055 is hereby amended to read as follows:

125B.055 1. A court that, on or after October 1, 1998, issues or modifies an order in this State for the support of a child shall ~~[~~:

~~(a) Obtain~~~]~~ ***obtain*** and provide to the Division of Welfare and Supportive Services of the Department of Health and Human Services such information regarding the order as the Division of Welfare and Supportive Services determines is necessary to carry out the provisions of 42 U.S.C. § 654a.

~~[(b) Ensure that the social security numbers of the child and the parents of the child are placed in the records relating to the matter and, except as~~

~~otherwise required to carry out a specific statute, maintained in a confidential manner.]~~

2. Within 10 days after a court of this State issues an order for the support of a child, each party to the cause of action shall file with the ~~[court that issued the order and the]~~ Division of Welfare and Supportive Services:

(a) His social security number;

(b) His residential and mailing addresses;

(c) His telephone number;

(d) His driver's license number; and

(e) The name, address and telephone number of his employer.

➥ Each party shall update the information filed with the ~~[court and the]~~ Division of Welfare and Supportive Services pursuant to this subsection within 10 days after that information becomes inaccurate.

3. The Division of Welfare and Supportive Services shall adopt regulations specifying the particular information required to be provided pursuant to subsection 1 to carry out the provisions of 42 U.S.C. § 654a.

Sec. 22. NRS 125B.085 is hereby amended to read as follows:

125B.085 1. Except as otherwise provided in NRS 125B.012, every court order for the support of a child issued or modified in this State on or after June 2, 2007, must include a provision specifying that one or both parents are required to provide medical support for the child and any details relating to that requirement.

2. As used in this section, "medical support" includes, without limitation, coverage for health care under a plan of insurance ~~[,]~~ ***that is reasonable in cost and accessible,*** including, without limitation, the payment of any premium, copayment or deductible and the payment of medical expenses. ***For the purpose of this subsection:***

(a) Payments of cash for medical support or the costs of coverage for health care under a plan of insurance are "reasonable in cost" if:

(1) In the case of payments of cash for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or

(2) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of the parent.

(b) Coverage for health care under a plan of insurance is "accessible" if the plan:

(1) Is not limited to coverage within a geographical area; or

(2) Is limited to coverage within a geographical area and the child resides within that geographical area.

Sec. 23. (Deleted by amendment.)

Sec. 24. 1. This section and sections 1 to 14, inclusive, and 16 to 23, inclusive, of this act become effective on October 1, 2009.

2. Section 14 of this act expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

3. Section 15 of this act becomes effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

Assemblywoman Smith moved that the Assembly concur in the Senate Amendment No. 847 to Assembly Bill No. 101.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

The following Senate amendment was read:

Amendment No. 701.

AN ACT relating to the support of children; authorizing each county in this State to participate in the Program for the Enforcement of Child Support; requiring each county that participates in the Program to pay the cost of the Program in that county; revising certain provisions governing the administration and enforcement of the Program; deleting provisions relating to the placement and confidentiality of certain records concerning the support of a dependent child; ~~[~~requiring~~]~~ **revising provisions governing a review by** a district court ~~[~~to review, on the record,~~]~~ **of** certain recommendations of a master; revising provisions governing the failure of an employer to deliver money that is withheld from the income of an employee for child support; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes each county in this State to participate in the Program for the Enforcement of Child Support created under federal law. If a county participates in the Program, the county must pay for the cost of the Program in that county. **Section 1** also authorizes a county that participates in the Program to withdraw from the Program after providing a notice of withdrawal to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

~~[~~ Section 2 of this bill provides that any payment of public assistance made by the Division for the support of a child creates a debt against the responsible parent, regardless of any court order for custody or support of the child to the contrary. (NRS 425.360)~~]~~

Section 3 of this bill specifies that the Administrator of the Division or his designee is responsible for and is required to supervise the Program. (NRS 425.365)

Sections 5, 7, 10, 14 and 15 of this bill specify that the approval by a district court of a recommendation made by a master concerning the support

of a dependent child must be made in accordance with certain procedural requirements. (NRS 425.382, 425.383, 425.3836, 425.540)

Sections 6, 11, 12, 19 and 21 of this bill delete provisions of existing law that require a master, after making a recommendation for the support of a dependent child, or a district court to ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is paid are placed in the records relating to the matter and remain confidential. (NRS 425.3828, 425.3844, 425.3855, 125.230, 125B.055)

Section 8 of this bill authorizes a master who conducts a hearing relating to the support of a dependent child to conduct the hearing by telephone or by any audiovisual or other electronic means outside the judicial district in which the master is appointed. (NRS 425.3832)

Section 9 of this bill provides that if a district court reviews a recommendation of a master concerning the support of a dependent child, the review must be conducted on the record of the case before the master. ~~[.]~~ **unless the district court, in extraordinary circumstances as determined by the district court, grants a trial de novo.** (NRS 425.3834)

Under existing law, a master who makes a recommendation concerning the support of a dependent child must furnish the recommendation to each party in the case before the master. Each party may then file an objection to the recommendation within 10 days after receiving the recommendation. If a notice of objection is not filed, the district court must accept the recommendation and may enter judgment thereon. **Section 11** of this bill provides that if a notice of objection is not filed, the recommendation of the master shall be deemed approved by the district court and the clerk of the court may file the recommendation. (NRS 425.3844)

Section 13 of this bill provides that a financial institution which is doing business in Nevada and which receives notification of a lien against a responsible parent from an agency for the enforcement of child support located in another state is required to encumber all assets held by the financial institution on behalf of the responsible parent and surrender those assets upon the enforcement of the lien. **Section 13** also provides immunity from liability for the agency located in another state for disclosing information and providing assets to certain other persons. (NRS 425.460)

Sections 16 and 17 of this bill set forth penalties that may be imposed against an employer who fails to deliver to the appropriate enforcing authority any money that the employer is required to withhold from an employee's wages for child support owed by the employee. The penalties include, without limitation, the payment of punitive damages to the person to whom the child support is owed. (NRS 31A.095, 31A.120)

Section 18 of this bill deletes provisions of existing law that require a court that grants a decree of divorce to ensure that the social security numbers of both parties to the decree are provided to the Division. (NRS 125.130)

Section 22 of this bill revises provisions governing the amounts paid by a parent for medical support for a child pursuant to a court order requiring the payment of that support. (NRS 125B.085)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 425 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each county may participate in the Program. If a county participates in the Program, the county shall pay the cost of the Program in that county. Any services provided by the county under the Program must be provided in accordance with:

(a) Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq., and any regulations adopted pursuant thereto;

(b) Any regulations adopted pursuant to NRS 425.365; and

(c) A contract entered into with the Division for that purpose.

2. If a county participates in the Program pursuant to subsection 1, the county may, on or before September 1 of each even-numbered year, elect to withdraw from the Program by submitting a notice of withdrawal to the Division. If a county submits a notice of withdrawal pursuant to this subsection, the withdrawal becomes effective on July 1 of the next following year.

Sec. 2. ~~[NRS 425.360 is hereby amended to read as follows:~~

~~425.360 1. Any payment of public assistance pursuant to this chapter creates a debt for support to the Division by the responsible parent, [whether or not]~~ ***~~regardless of:~~***

~~(a) Any court order for custody or support to the contrary, including, without limitation, an order for joint physical custody; or~~

~~(b) Whether~~ ~~the parent received prior notice that his child was receiving public assistance.~~

~~2. The Division is entitled to the amount to which a dependent child or a person having the care, custody and control of a dependent child would have been entitled for support, to the extent of the assignment of those rights to support pursuant to NRS 425.350, and may prosecute or maintain any action for support or execute any administrative remedy existing under the laws of this State to obtain reimbursement of money expended for public assistance from any liable third party, including~~ ***~~, without limitation,~~*** ~~an insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C.A. § 1167(1), service benefit plan, self-insured plan or health maintenance organization. If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent. This entitlement applies to, but is not limited to, a temporary order for~~

~~spousal support, a family maintenance order or an alimony order, whether or not allocated to the benefit of the child on the basis of providing necessaries for the caretaker of the child, up to the amount paid by the Division in public assistance to or for the benefit of a dependent child. The Division may petition the appropriate court for modification of its order on the same grounds as a party to the action.~~

~~3. If there is no court order for support, or if the order provides that no support is due but the facts on which the order was based have changed, the amount due is the amount computed pursuant to NRS 125B.070 and 125B.080, using the Nevada average wage, determined by the Employment Security Division of the Department of Employment, Training and Rehabilitation, if the gross income of the responsible parent cannot be otherwise ascertained.~~

~~4. Debts for support may not be incurred by a parent or any other person who is the recipient of public assistance for the benefit of a dependent child for the period when the parent or other person is a recipient.~~

~~5. If a state agency is assigned any rights of a dependent child or a person having the care, custody and control of a dependent child who is eligible for medical assistance under Medicaid, the person having the care, custody and control of the dependent child shall, upon request of the state agency, provide to the state agency information regarding the dependent child or a person having the care, custody and control of a dependent child to determine:~~

~~(a) Any period during which the dependent child or a person having the care, custody and control of a dependent child may be or may have been covered by an insurer; and~~

~~(b) The nature of any coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured dependent child or a person having the care, custody and control of a dependent child and the identifying number of the policy, evidence of coverage or contract.~~

~~***6. As used in this section, "joint physical custody" means the physical custody of a dependent child for which the time spent by the dependent child with each responsible parent or with the responsible parent and a custodian of the child is equal.]*** **(Deleted by amendment.)**

Sec. 3. NRS 425.365 is hereby amended to read as follows:

425.365 ***1.*** The Administrator ***or his designee is responsible for and shall supervise the Program, subject to administrative supervision by the Director of the Department of Health and Human Services.***

2. The Administrator may adopt such regulations and take such actions as are necessary to carry out the provisions of this chapter.

Sec. 4. NRS 425.370 is hereby amended to read as follows:

425.370 ***Subject to administrative supervision by the Director of the Department of Health and Human Services pursuant to NRS 425.365:***

1. Whenever the Division provides public assistance on behalf of a child, the Division and the prosecuting attorney shall take appropriate action to carry out the Program with regard to that child.

2. As to any other child, the Division and the prosecuting attorney shall, when such action is required by the Social Security Act **,** ~~[(]~~ 42 U.S.C. §§ 301 et seq. **,** ~~[),]~~ take appropriate action to carry out the Program.

Sec. 5. NRS 425.382 is hereby amended to read as follows:

425.382 1. Except as otherwise provided in NRS 425.346, the Chief may proceed pursuant to NRS 425.3822 to 425.3852, inclusive, after:

(a) Payment of public assistance by the Division; or

(b) Receipt of a request for services to carry out the Program.

2. Subject to approval by the district court ~~[,]~~ ***pursuant to NRS 425.3844,*** a master may:

(a) Take any action authorized pursuant to chapter 130 of NRS, including any of the actions described in subsection 2 of NRS 130.305.

(b) Except as otherwise provided in chapter 130 of NRS and NRS 425.346:

(1) Issue and enforce an order for the support of a dependent child, and modify or adjust such an order in accordance with NRS 125B.145;

(2) Require coverage for health care of a dependent child;

(3) Establish paternity;

(4) Order a responsible parent to comply with an order for the support of a dependent child, specifying the amount and the manner of compliance;

(5) Order the withholding of income;

(6) Determine the amount of any arrearages and specify a method of payment;

(7) Enforce orders by civil or criminal contempt, or both;

(8) Set aside property for satisfaction of an order for the support of a dependent child;

(9) Place liens and order execution on the property of the responsible parent;

(10) Order a responsible parent to keep the master informed of his current residential address, telephone number, employer, address of employment and telephone number at the place of employment;

(11) Issue a bench warrant for a responsible parent who has failed after proper notice to appear at a hearing ordered by the master and enter the bench warrant in any local and state computer system for criminal warrants;

(12) Order the responsible parent to seek appropriate employment by specified methods;

(13) Order the responsible parent to participate in a program intended to resolve issues that prevent the responsible parent from obtaining employment, including, without limitation, a program for the treatment of substance abuse or a program to address mental health issues;

(14) Upon the request of the Division, require a responsible parent to:

(I) Pay any support owed in accordance with a plan approved by the Division; or

(II) Participate in such work activities, as that term is defined in 42 U.S.C. § 607(d), as the Division deems appropriate;

(15) Award reasonable attorney's fees and other fees and costs; and

(16) Grant any other available remedy.

Sec. 6. NRS 425.3828 is hereby amended to read as follows:

425.3828 1. If a written response setting forth objections and requesting a hearing is received by the office issuing the notice and finding of financial responsibility within the specified period, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the parent by regular mail.

2. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall:

(a) Include in that recommendation:

(1) If the paternity of the dependent child is established by the recommendation, a declaration of that fact.

(2) The amount of monthly support to be paid, including directions concerning the manner of payment.

(3) The amount of arrearages owed.

(4) Whether coverage for health care must be provided for the dependent child.

(5) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[.]~~ regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(6) The names of the parents or legal guardians of the child.

(7) The name of the person to whom, and the name and date of birth of the dependent child for whom **,** support is to be paid.

(8) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(9) A statement that objections to the recommendation may be filed with the district court and served upon the other party within 10 days after receipt of the recommendation.

(b) Ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is to be paid are ~~[.~~

~~(1) Provided]~~ ***provided*** to the enforcing authority.

~~[(2) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

3. The parent must be sent a copy of the recommendation for the support of a dependent child by regular mail addressed to the last known address of

the parent, or if applicable, the last known address of the attorney for the parent.

4. The recommendation for the support of a dependent child is final upon approval by the district court pursuant to NRS 425.3844. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, and the master enters a recommendation for the support of a dependent child, the court may grant relief from the recommendation on the grounds set forth in paragraph (b) of Rule 60 of the Nevada Rules of Civil Procedure.

Sec. 7. NRS 425.383 is hereby amended to read as follows:

425.383 1. After the entry of a recommendation for the support of a dependent child by the master that has been approved by the district court ~~[,]~~ ***pursuant to NRS 425.3844,*** or after entry of an order for the support of a dependent child by a district court regarding which the Chief is authorized to proceed pursuant to NRS 425.382 to 425.3852, inclusive, the responsible parent, the person entitled to support or the enforcing authority may move for the amount of the child support being enforced to be modified or adjusted in accordance with NRS 125B.145.

2. The motion must:

(a) Be in writing.

(b) Set out the reasons for the modification or adjustment.

(c) State the address of the moving party.

(d) Be served by the moving party upon the responsible parent or the person entitled to support, as appropriate, by first-class mail to the last known address of that person.

3. The moving party shall mail or deliver a copy of the motion and the original return of service to the Chief.

4. The Chief shall set the matter for a hearing within 30 days after the date of receipt of the motion unless a stipulated agreement between the parties is reached. The Chief shall send to the parties and person with physical custody of the dependent child a notice of the hearing by first-class mail to the last known address of those persons.

5. A motion for modification or adjustment requested pursuant to this section does not prohibit the Chief from enforcing and collecting upon the existing order for support of a dependent child unless so ordered by the district court.

6. The only support payments that may be modified or adjusted pursuant to this section are monthly support payments that:

(a) A court of this State has jurisdiction to modify pursuant to chapter 130 of NRS; and

(b) Accrue after the moving party serves notice that a motion has been filed for modification or adjustment.

7. The party requesting the modification or adjustment has the burden of showing a change of circumstances and good cause for the modification or adjustment, unless the request is filed in accordance with subsection 1 of NRS 125B.145.

Sec. 8. NRS 425.3832 is hereby amended to read as follows:

425.3832 1. Except as otherwise provided in this chapter, a hearing conducted pursuant to NRS 425.382 to 425.3852, inclusive, must be conducted in accordance with the provisions of this section by a qualified master appointed pursuant to NRS 425.381.

2. Subpoenas may be issued by:

(a) The master.

(b) The attorney of record for the office.

➥ Obedience to the subpoena may be compelled in the same manner as provided in chapter 22 of NRS. A witness appearing pursuant to a subpoena, other than a party or an officer or employee of the Chief, is entitled to receive the fees and payment for mileage prescribed for a witness in a civil action.

3. Except as otherwise provided in this section, the master need not observe strict rules of evidence ~~[.]~~ but shall apply those rules of evidence prescribed in NRS 233B.123.

4. The affidavit of any party who resides outside of the judicial district is admissible as evidence regarding the duty of support, any arrearages and the establishment of paternity. The master may continue the hearing to allow procedures for discovery regarding any matter set forth in the affidavit.

5. The physical presence of a person seeking the establishment, enforcement, modification or adjustment of an order for the support of a dependent child or the establishment of paternity is not required.

6. A verified petition, an affidavit, a document substantially complying with federally mandated forms and a document incorporated by reference in any of them, not excluded under NRS 51.065 if given in person, is admissible in evidence if given under oath by a party or witness residing outside of the judicial district.

7. A copy of the record of payments for the support of a dependent child, certified as a true copy of the original by the custodian of the record, may be forwarded to the master. The copy is evidence of facts asserted therein and is admissible to show whether payments were made.

8. Copies of bills for testing for paternity, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 20 days before the hearing, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

9. Documentary evidence transmitted from outside of the judicial district by telephone, telecopier or other means that do not provide an original

writing may not be excluded from evidence on an objection based on the means of transmission.

10. The master may ~~[permit]~~ ***:***

(a) Conduct a hearing by telephone, audiovisual means or other electronic means outside of the judicial district in which he is appointed.

(b) Permit a party or witness residing outside of the judicial district to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location outside of the judicial district.

➥ The master shall cooperate with courts outside of the judicial district in designating an appropriate location for the ***hearing,*** deposition or testimony.

11. If a party called to testify at a hearing refuses to answer a question on the ground that the testimony may be self-incriminating, the master may draw an adverse inference from the refusal.

12. A privilege against the disclosure of communications between husband and wife does not apply.

13. The defense of immunity based on the relationship of husband and wife or parent and child does not apply.

Sec. 9. NRS 425.3834 is hereby amended to read as follows:

425.3834 1. Upon issuance by a district court of an order approving a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, the Chief shall enforce and collect upon the order, including arrearages.

2. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, is final upon approval by the district court pursuant to NRS 425.3844. Upon such approval, the recommendation is in full force and effect while any judicial review is pending unless the recommendation is stayed by the district court.

3. The district court may review ~~[, pursuant to the rules adopted therefor by the district judges of the judicial district in which the court is located,]~~ a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive. ***If a review is conducted, the district court*** ~~*[shall]*~~ ***:***

(a) Shall, except as otherwise provided in paragraph (b), review the recommendation on the record of the case before the master.

(b) May, in extraordinary circumstances as determined by the district court, grant a trial de novo.

Sec. 10. NRS 425.3836 is hereby amended to read as follows:

425.3836 1. After the issuance of an order for the support of a dependent child by a court, the Chief may issue a notice of intent to enforce the order. The notice must be served upon the responsible parent in the manner prescribed for service of summons in a civil action or mailed to the responsible parent by certified mail, restricted delivery, with return receipt requested.

2. The notice must include:

(a) The names of the person to whom support is to be paid and the dependent child for whom support is to be paid.

(b) The amount of monthly support the responsible parent is required to pay by the order for support.

(c) A statement of the arrearages owed pursuant to the order for support.

(d) A demand that the responsible parent make full payment to the enforcing authority within 14 days after the receipt or service of the notice.

(e) A statement that the responsible parent may be required to provide coverage for the health care of the dependent child when coverage is available to the parent at a reasonable cost.

(f) A statement of any requirements the Division will request pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[,]~~ regarding a plan for the payment of support by the responsible parent or the participation of the responsible parent in work activities.

(g) A statement that if the responsible parent objects to any part of the notice of intent to enforce the order, he must send to the office that issued the notice a written response within 14 days after the date of receipt of service that sets forth any objections and includes a request for a hearing.

(h) A statement that if full payment is not received within 14 days or a hearing has not been requested in the manner provided in paragraph (g), the Chief is entitled to enforce the order and that the property of the responsible parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(i) A reference to NRS 425.382 to 425.3852, inclusive.

(j) A statement that the responsible parent is responsible for notifying the office of any change of address or employment.

(k) A statement that if the responsible parent has any questions, he may contact the appropriate office or consult an attorney.

(l) Such other information as the Chief finds appropriate.

3. If a written response setting forth objections and requesting a hearing is received within the specified period by the office issuing the notice of intent to enforce the order, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the responsible parent by regular mail. If a written response and request for hearing is not received within the specified period by the office issuing the notice, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall include in that recommendation:

(a) The amount of monthly support to be enforced, including directions concerning the manner of payment.

(b) The amount of arrearages owed and the manner of payment.

(c) Whether coverage for health care must be provided for the dependent child.

(d) Any requirements to be imposed pursuant to subparagraph (14) of paragraph (b) of subsection 2 of NRS 425.382 ~~[,]~~ regarding a plan for the

payment of support by the parent or the participation of the parent in work activities.

(e) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, the withholding of wages, garnishment, liens and execution on liens.

4. After the district court approves the recommendation for the support of a dependent child, the recommendation is final. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. This section does not prevent the Chief from using other available remedies for the enforcement of an obligation for the support of a dependent child at any time.

6. The master may hold a hearing to enforce a recommendation for the support of a dependent child after the recommendation has been entered and approved by the district court ~~[.]~~ ***pursuant to NRS 425.3844.*** The master may enter a finding that the parent has not complied with the order of the court and may recommend to the district court that the parent be held in contempt of court. The finding and recommendation is effective upon review and approval of the district court.

Sec. 11. NRS 425.3844 is hereby amended to read as follows:

425.3844 1. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, must be furnished to each party or his attorney at the conclusion of the proceedings or as soon thereafter as possible.

2. Within 10 days after receipt of the recommendation, any party may file with the district court and serve upon the other parties a notice of objection to the recommendation. The notice must include:

(a) A copy of the master's recommendation;

(b) The results of any blood tests or tests for genetic identification examined by the master;

(c) A concise statement setting forth the reasons that the party disagrees with the master's recommendation, including any affirmative defenses that must be pleaded pursuant to the Nevada Rules of Civil Procedure;

(d) A statement of the relief requested;

(e) The notice and finding of financial responsibility if the Chief issued such a notice and finding; and

(f) Any other relevant documents.

3. ~~[The district court shall:~~

~~(a)]~~ If ***, within 10 days after receipt of the recommendation,*** a notice of objection is ~~[not]~~ ***:***

(a) Not filed, ~~[accept]~~ the recommendation entered by the master ~~[,~~ ~~including a recommendation establishing paternity, unless clearly erroneous,]~~ ***shall be deemed approved by the district court,*** and ***the clerk of the district***

court may file the recommendation pursuant to subsection 7 and judgment may be entered thereon; or

(b) ~~[If a notice of objection is filed within the 10-day period,]~~ ***Filed, the district court shall*** review the matter pursuant to NRS 425.3834.

4. A party who receives a notice of objection pursuant to subsection 2 is not required to file an answer to that notice. The district court shall review each objection contained in the notice.

5. If a notice of objection includes an objection to a recommendation establishing paternity, the enforcement of any obligation for the support of the child recommended by the master must, upon the filing and service of the notice, be stayed until the district court rules upon the determination of paternity. The obligation for the support of the child continues to accrue during the consideration of the determination of paternity and must be collected as arrears after the completion of the trial if the court approves the recommendation of the master.

6. If a recommendation entered by a master **, [**~~pursuant to NRS 425.382 to 425.3852, inclusive,]~~ including a recommendation establishing paternity, ***is deemed approved by the district court pursuant to paragraph (a) of subsection 3 and the recommendation*** modifies or adjusts a previous order for support issued by any district court in this State, that district court ~~[shall review the recommendation and approve or reject the recommendation issued]~~ ***must be notified of the recommendation*** by the master.

7. Upon approval by the district court of a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, a copy of the recommendation, with the approval of the court endorsed thereon, must be filed:

(a) In the office of the clerk of the district court;

(b) If the order of the district court approving the recommendation of the master modifies or adjusts a previous order issued by any district court in this State, with the original order in the office of the clerk of that district court; and

(c) With any court that conducts a proceeding related thereto pursuant to the provisions of chapter 130 of NRS.

8. A district court that approves a recommendation pursuant to this section shall ensure that, before the recommendation is filed pursuant to subsection 7, the social security numbers of the parents or legal guardians of the child are ~~[:~~

~~(a) Provided]~~ ***provided*** to the enforcing authority.

~~[(b) Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.]~~

9. Upon the approval and filing of the recommendation as provided in subsection 7, the recommendation has the force, effect and attributes of an order or decree of the district court, including, but not limited to,

enforcement by supplementary proceedings, contempt of court proceedings, writs of execution, liens and writs of garnishment.

Sec. 12. NRS 425.3855 is hereby amended to read as follows:

425.3855 A district court that enters an order pursuant to NRS 425.382 to 425.3852, inclusive, or an order approving a recommendation for the support of a dependent child made by a master shall ensure that the social security numbers of the parents or legal guardians of the child are **[**~~:~~

~~1. Provided~~**]** ***provided*** to the enforcing authority.

[~~2. Placed in the records relating to the matter and, except as otherwise required to carry out the provisions of NRS 239.0115 or any other specific statute, maintained in a confidential manner.~~**]**

Sec. 13. NRS 425.460 is hereby amended to read as follows:

425.460 1. The Administrator shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible.

2. A financial institution doing business in this State shall:

(a) Cooperate with the Administrator in carrying out subsection 1.

(b) Use the system to provide to the Division for each calendar quarter the name, address of record, social security number or other number assigned for taxpayer identification, and other identifying information for each responsible parent who maintains an account at the financial institution, as identified by the Division by name and social security number or other number assigned for taxpayer identification.

(c) In response to the receipt from the Division ***or an agency for the enforcement of child support located in another state*** of:

(1) Notification of a lien against a responsible parent which:

(I) Arises pursuant to NRS 125B.142; or

(II) Is entitled to full faith and credit pursuant to NRS 125B.144,

➥ encumber **[**~~such~~**]** ***all*** assets held by the financial institution on behalf of the responsible parent **[**~~as may be required by the Chief.~~**]** ***and surrender those assets upon the enforcement of the lien pursuant to those sections.***

(2) A notice of attachment pursuant to subsection 2 of NRS 425.470, surrender to the Chief such assets held by the financial institution on behalf of the responsible parent as may be required by the Chief.

(d) Except as otherwise provided in paragraph (c), in response to the receipt of notice of a lien which is entitled to full faith and credit pursuant to NRS 125B.144 or notice of a levy on such a lien, encumber or surrender, as the case may be, such assets held by the financial institution on behalf of the responsible parent as may be required to enforce the lien.

➥ A financial institution doing business in this State which receives from the Division ***or an agency for the enforcement of child support located in another state*** a notice of lien, notice of attachment or notice of levy on a lien is not required to encumber or surrender any assets received by the financial

institution on behalf of the responsible parent after the financial institution received the notice of lien, notice of attachment or notice of levy on a lien.

3. A financial institution may not be held liable in any civil or criminal action for:

(a) Any disclosure of information to the Division ***or an agency for the enforcement of child support located in another state*** pursuant to this section.

(b) Encumbering or surrendering any assets held by the financial institution pursuant to this section.

(c) Any other action taken in good faith to comply with the requirements of this section.

4. If a court issues an order to return to a responsible parent any assets surrendered by a financial institution pursuant to subsection 2, the Division ***or an agency for the enforcement of child support located in another state*** is not liable to the responsible parent for any of those assets that have been provided to another person or agency in accordance with the order for the payment of support.

Sec. 14. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person:

(a) Has failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Is in arrears in the payment for the support of one or more children,

➥ and the district court issues an order approving the recommendation of the master ~~[.]~~ ***pursuant to NRS 425.3844,*** the court shall provide a copy of the order to all agencies that issue professional, occupational or recreational licenses, certificates or permits.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional, occupational or recreational license, certificate or permit to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, the professional, occupational or recreational licenses issued to the person by that agency will be automatically suspended. Such an order must not apply to a license, certificate or permit issued by the Department of Wildlife or the State Land Registrar if that license, certificate or permit expires less than 6 months after it is issued.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

(1) A copy of the court order;

(2) A statement of the amount of the arrearage; and

(3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 15. NRS 425.540 is hereby amended to read as follows:

425.540 1. If a master enters a recommendation determining that a person who is issued a professional or occupational license, certificate or permit pursuant to title 54 of NRS:

(a) Has failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Is in arrears in the payment for the support of one or more children,

➥ and the district court issues an order approving the recommendation of the master ~~[.]~~ ***pursuant to NRS 425.3844,*** the court shall provide a copy of the order to all agencies that issue professional or occupational licenses, certificates or permits pursuant to title 54 of NRS.

2. A court order issued pursuant to subsection 1 must provide that if the person named in the order does not, within 30 days after the date on which the order is issued, submit to any agency that has issued a professional or occupational license, certificate or permit pursuant to title 54 of NRS to that person a letter from the district attorney or other public agency stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560, any professional or occupational license, certificate or permit issued pursuant to title 54 of NRS to the person by that agency will be automatically suspended.

3. If a court issues an order pursuant to subsection 1, the district attorney or other public agency shall send a notice by first-class mail to the person who is subject to the order. The notice must include:

(a) If the person has failed to comply with a subpoena or warrant, a copy of the court order and a copy of the subpoena or warrant; or

(b) If the person is in arrears in the payment for the support of one or more children:

(1) A copy of the court order;

(2) A statement of the amount of the arrearage; and

(3) A statement of the action that the person may take to satisfy the arrearage pursuant to NRS 425.560.

Sec. 16. NRS 31A.095 is hereby amended to read as follows:

31A.095 1. If an employer ~~[wrongfully]~~ ***:***

(a) Wrongfully refuses to withhold income as required pursuant to NRS 31A.025 to 31A.190, inclusive, after receiving a notice to withhold income that was sent by certified mail pursuant to subsection 2 of NRS 31A.070 ~~[,]~~ ***;***

(b) Fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080; or ~~[knowingly]~~

(c) Knowingly misrepresents the income of an employee,

➥ the enforcing authority may apply for and the court may issue an order directing the employer to appear and show cause why he should not be subject to the penalty prescribed in subsection 2 of NRS 31A.120.

2. At the hearing on the order to show cause, the court, upon a finding that the employer wrongfully refused to withhold income as required ***, failed to deliver money to the enforcing authority as required*** or knowingly misrepresented an employee's income:

(a) May order the employer to comply with the requirements of NRS 31A.025 to 31A.190, inclusive;

(b) May order the employer to provide accurate information concerning the employee's income;

(c) May fine the employer pursuant to subsection 2 of NRS 31A.120; and

(d) Shall require the employer to pay the amount the employer failed or refused to withhold from the obligor's income ~~[.]~~ ***or failed to deliver to the enforcing authority.***

Sec. 17. NRS 31A.120 is hereby amended to read as follows:

31A.120 1. It is unlawful for an employer to use the withholding of income to collect an obligation of support as a basis for refusing to hire a potential employee, discharging the employee or taking disciplinary action against him. Any employer who violates this section shall hire or reinstate the employee with no loss of pay or benefits, is liable for any payments of support not withheld ~~[,]~~ and shall be fined $1,000. If an employee prevails in an action based on this section, the employer is liable, in an amount not less than $2,500, for payment of the employee's costs and attorney's fees incurred in that action.

2. If an employer ~~[wrongfully]~~ ***:***

(a) Wrongfully refuses to withhold from the income of an obligor as required pursuant to NRS 31A.025 to 31A.190, inclusive ~~[.]~~ ***;***

(b) Fails to deliver to the enforcing authority any money required pursuant to NRS 31A.080; or ~~[knowingly]~~

(c) Knowingly misrepresents the income of the employee,

➥ he shall pay the amount he refused to withhold ***or failed to deliver*** to the enforcing authority and may be ordered to pay punitive damages to the person to whom support is owed in an amount not to exceed $1,000 for each pay period he failed to withhold income as required ***, failed to deliver money to the enforcing authority as required*** or knowingly misrepresented the income of the employee.

Sec. 18. NRS 125.130 is hereby amended to read as follows:

125.130 1. A judgment or decree of divorce granted pursuant to the provisions of this chapter is a final decree.

2. Whenever a decree of divorce from the bonds of matrimony is granted in this State by a court of competent authority, the decree fully and completely dissolves the marriage contract as to both parties.

3. A court that grants a decree of divorce pursuant to the provisions of this section shall ensure that the social security numbers of both parties are ~~[~~:

~~(a) Provided to the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(b) Placed~~] ***placed*** in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

4. In all suits for divorce, if a divorce is granted, the court may, for just and reasonable cause and by an appropriate order embodied in its decree, change the name of the wife to any former name which she has legally borne.

Sec. 19. NRS 125.230 is hereby amended to read as follows:

125.230 1. The court in such actions may make such preliminary and final orders as it may deem proper for the custody, control and support of any minor child or children of the parties.

2. A court that enters an order pursuant to subsection 1 for the support of any minor child or children shall ensure that the social security numbers of the parties are ~~[~~:

~~(a) Provided~~] ***provided*** to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

~~[(b) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.~~]

Sec. 20. ~~[NRS 125.510 is hereby amended to read as follows:~~

~~125.510 1. In determining the custody of a minor child in an action brought pursuant to this chapter, the court may, except as otherwise provided in this section~~ **,** [and] ~~chapter 130 of NRS~~ **[**:**]** ***and NRS 425.360:***

~~(a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest; and~~

~~(b) At any time~~ **,** ~~modify or vacate its order, even if the divorce was obtained by default without an appearance in the action by one of the parties.~~

~~2. The party seeking such an order shall submit to the jurisdiction of the court for the purposes of this subsection. The court may make such an order upon the application of one of the parties or the legal guardian of the minor.~~

~~2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires the modification or termination. The court shall state in its decision the reasons for the order of modification or termination if either parent opposes it.~~

~~3. Any order for custody of a minor child or children of a marriage entered by a court of another state may, subject to the jurisdictional~~

~~requirements in chapter 125A of NRS, be modified at any time to an order of joint custody.~~

~~4. A party may proceed pursuant to this section without counsel.~~

~~5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.~~

~~6. All orders authorized by this section must be made in accordance with the provisions of chapter 125A of NRS and must contain the following language:~~

~~PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.~~

~~7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify that the terms of the Hague Convention ***on the Civil Aspects of International Child Abduction*** of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.~~

~~8. If a parent of the child lives in a foreign country or has significant commitments in a foreign country:~~

~~(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.~~

~~(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption~~

~~that the parent poses an imminent risk of wrongfully removing or concealing the child.~~

~~9. Except where a contract providing otherwise has been executed pursuant to NRS 123.080, the obligation for care, education, maintenance and support of any minor child created by any order entered pursuant to this section ceases:~~

~~(a) Upon the death of the person to whom the order was directed; or~~

~~(b) When the child reaches 18 years of age if he is no longer enrolled in high school, or otherwise, when he reaches 19 years of age.~~

~~10. As used in this section, a parent has "significant commitments in a foreign country" if he:~~

~~(a) Is a citizen of a foreign country;~~

~~(b) Possesses a passport in his name from a foreign country;~~

~~(c) Became a citizen of the United States after marrying the other parent of the child; or~~

~~(d) Frequently travels to a foreign country.~~ **(Deleted by amendment.)**

Sec. 21. NRS 125B.055 is hereby amended to read as follows:

125B.055 1. A court that, on or after October 1, 1998, issues or modifies an order in this State for the support of a child shall ~~[~~:

~~(a) Obtain~~ ***obtain*** and provide to the Division of Welfare and Supportive Services of the Department of Health and Human Services such information regarding the order as the Division of Welfare and Supportive Services determines is necessary to carry out the provisions of 42 U.S.C. § 654a.

~~[(b) Ensure that the social security numbers of the child and the parents of the child are placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.]~~

2. Within 10 days after a court of this State issues an order for the support of a child, each party to the cause of action shall file with the ~~[court that issued the order and the]~~ Division of Welfare and Supportive Services:

(a) His social security number;

(b) His residential and mailing addresses;

(c) His telephone number;

(d) His driver's license number; and

(e) The name, address and telephone number of his employer.

➥ Each party shall update the information filed with the ~~[court and the]~~ Division of Welfare and Supportive Services pursuant to this subsection within 10 days after that information becomes inaccurate.

3. The Division of Welfare and Supportive Services shall adopt regulations specifying the particular information required to be provided pursuant to subsection 1 to carry out the provisions of 42 U.S.C. § 654a.

Sec. 22. NRS 125B.085 is hereby amended to read as follows:

125B.085 1. Except as otherwise provided in NRS 125B.012, every court order for the support of a child issued or modified in this State on or after June 2, 2007, must include a provision specifying that one or both

parents are required to provide medical support for the child and any details relating to that requirement.

2. As used in this section, "medical support" includes, without limitation, coverage for health care under a plan of insurance ~~[,]~~ ***that is reasonable in cost and accessible,*** including, without limitation, the payment of any premium, copayment or deductible and the payment of medical expenses. ***For the purpose of this subsection:***

(a) Payments of cash for medical support or the costs of coverage for health care under a plan of insurance are "reasonable in cost" if:

(1) In the case of payments of cash for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or

(2) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of the parent.

(b) Coverage for health care under a plan of insurance is "accessible" if the plan:

(1) Is not limited to coverage within a geographical area; or

(2) Is limited to coverage within a geographical area and the child resides within that geographical area.

Sec. 23. (Deleted by amendment.)

Sec. 24. 1. This section and sections 1 to 14, inclusive, and 16 to 23, inclusive, of this act become effective on October 1, 2009.

2. Section 14 of this act expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

3. Section 15 of this act becomes effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

Assemblywoman Smith moved that the Assembly concur in the Senate Amendment No. 701 to Assembly Bill No. 101.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Assembly Bill No. 82.

Bill read third time.

Roll call on Assembly Bill No. 82:

YEAS—23.

NAYS—Aizley, Anderson, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hardy, Manendo, McArthur, Munford, Ohrenschall, Settelmeyer, Stewart, Woodbury—18.

EXCUSED—Arberry.

Assembly Bill No. 82 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 114.

Bill read third time.

Roll call on Senate Bill No. 114:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 114 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess until 10 p.m.

Motion carried.

Assembly in recess at 8:27 p.m.

ASSEMBLY IN SESSION

At 11:18 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 21, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 146, Amendment No. 875, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 426.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 744 to Senate Bill No. 251; Assembly Amendment No. 731 to Senate Bill No. 253.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 146.

The following Senate amendment was read:

Amendment No. 875.

AN ACT relating to business; providing for the establishment of a state business portal by the Secretary of State; revising the provisions relating to the issuance of state business licenses and transferring certain responsibilities concerning state business licenses from the Department of Taxation to the Secretary of State; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides for the establishment of a state business portal by the Secretary of State to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal. The Secretary of State is required to: (1) establish, through cooperative efforts, the standards and requirements necessary to design, build and implement the state business portal; (2) establish the standards and requirements necessary for a state or local agency to participate in the state business portal; (3) authorize a state or local agency to participate in the state business portal if the Secretary of State determines that the agency meets the standards and requirements necessary for such participation; (4) determine the appropriate requirements to be used by businesses and governmental agencies conducting transactions through use of the state business portal; and (5) adopt regulations and take any appropriate action as necessary to provide for the establishment, operation and maintenance of the state business portal.

Section 3 of this bill authorizes the Secretary of State, within the limit of money authorized to him and subject to the approval of the State Board of Examiners, to enter into contracts and other lawful agreements with private or public entities to assist the Secretary of State in establishing, operating or maintaining the state business portal.

Section 4 of this bill provides that the Secretary of State may apply for and accept any gift, donation, bequest, grant or other source of money to provide for the establishment, operation and maintenance of the state business portal.

Sections 6-18 of this bill transfer certain duties and responsibilities concerning the issuance of state business licenses from the Department of Taxation to the Secretary of State. (NRS 360.760-360.798)

Section 45.5 of this bill makes an appropriation for the design and implementation of the state business portal.

WHEREAS, Historically, various state and local governmental agencies have often required businesses to submit various applications for necessary licenses, permits and approvals, through the use of numerous forms and formats and multiple web sites, as determined by those separate agencies; and

WHEREAS, Advances in information technology enable governmental agencies to make the exchange of information from business to government, from government to business, and across governmental agencies more efficient and effective for all parties; and

WHEREAS, States that make required transactions among businesses and governmental agencies faster, easier and cheaper than other states provide a competitive advantage for businesses under their jurisdiction and thereby encourage economic development within their jurisdiction; and

WHEREAS, The State of Nevada should strive to become the national leader for online interaction between business and government; and

WHEREAS, The establishment of a state business portal by the Secretary of State would provide a single, secure portal for the transaction of business and would improve efficiency, eliminate redundancy, streamline the establishment of businesses, improve accountability and enhance economic development in this State; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***1. The Secretary of State shall provide for the establishment of a state business portal to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal.***

2. The Secretary of State shall:

(a) Establish, through cooperative efforts, the standards and requirements necessary to design, build and implement the state business portal;

(b) Establish the standards and requirements necessary for a state or local agency to participate in the state business portal;

(c) Authorize a state or local agency to participate in the state business portal if the Secretary of State determines that the agency meets the standards and requirements necessary for such participation;

(d) Determine the appropriate requirements to be used by businesses and governmental agencies conducting transactions through use of the state business portal; and

(e) Adopt such regulations and take any appropriate action as necessary to carry out the provisions of this chapter.

Sec. 3. ***Within the limit of money authorized to him and subject to the approval of the State Board of Examiners, the Secretary of State may enter into contracts and other lawful agreements with private or public entities to assist the Secretary of State in establishing, operating or maintaining the state business portal and carrying out the provisions of this chapter.***

Sec. 4. ***The Secretary of State may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this chapter.***

Sec. 5. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 6 to 18, inclusive, of this act.

Sec. 6. ***As used in sections 6 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 10, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 7. ***1. Except as otherwise provided in subsection 2, "business" means:***

(a) Any person, except a natural person, that performs a service or engages in a trade for profit;

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity; or

(c) Any entity organized pursuant to this title, including, without limitation, those entities required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A business organized pursuant to chapter 82 or 84 of NRS.

Sec. 7.5. ~~***[***~~***"Place of business" means a facility maintained by a business at a fixed location where the owner or an agent of the business conducts any of the principal business activities of the business.***~~***]***~~ **(Deleted by amendment.)**

Sec. 8. (Deleted by amendment.)

Sec. 9. ***"State business license" means the business license required pursuant to this chapter.***

Sec. 10. ***"Wages" means any remuneration paid for personal services, including commissions, and bonuses and remuneration payable in any medium other than cash.***

Sec. 11. ***1. A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:***

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license before conducting a business in this State.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Secretary of State;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the entity number as assigned by the Secretary of State, if known, and the location in this State of his place or places of business;

(c) Be accompanied by a fee in the amount of $200 ~~***[plus an additional $200 for each additional location in this State of his places of business;]***~~ ***and***

(d) Include any other information that the Secretary of State deems necessary.

➥ If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed pursuant to NRS 239.330 by:

(a) The owner of a business that is owned by a natural person.

(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

6. For the purposes of this chapter, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to this title, other than a business organized pursuant to chapter 82 or 84 of NRS;

(b) Has an office or other base of operations in this State;

(c) Has a registered agent in this State; or

(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.

7. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 12. ***If a person fails to obtain a state business license and pay the fee required pursuant to section 11 of this act before conducting a business in this State and the person is:***

1. An entity required to file an annual list with the Secretary of State pursuant to this title, the person:

(a) Shall pay a penalty of $100 in addition to the annual state business license fee;

(b) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and

(c) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in paragraph (a).

2. Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty in the amount of $100 in addition to the annual state business license fee.

Sec. 13. ***1. A natural person is not required to obtain more than one state business license for any combination of activities conducted by that person which are reported to the Internal Revenue Service for any federal tax year on two or more of the forms described in paragraph (b) of subsection 1 of section 7 of this act.***

2. As used in this section, "federal tax year" means any period of 12 months for which a person is required to report income, tax deductions and tax credits pursuant to the provisions of the Internal Revenue Code and any regulations adopted pursuant thereto.

Sec. 14. ***1. A person who applies for renewal of a state business license shall submit a fee in the amount of $200*** ~~*[plus an additional $200 for each additional location in this State of his places of business]*~~ ***to the Secretary of State:***

(a) If the person is an entity required to file an annual list with the Secretary of State pursuant to this title, at the time the person submits the annual list to the Secretary of State, unless the person submits a certificate or other form evidencing the dissolution of the entity; or

(b) If the person is not an entity required to file an annual list with the Secretary of State pursuant to this title, on the last day of the month in which the anniversary date of issuance of the state business license occurs

in each year, unless the person submits a written statement to the Secretary of State, at least 10 days before that date, indicating that the person will not be conducting a business in this State after that date.

2. The Secretary of State shall, 90 days before the last day for filing an application for renewal of the state business license of a person who holds a state business license, provide to the person a notice of the state business license fee due pursuant to this section and a reminder to file the application for renewal required pursuant to this section. Failure of any person to receive a notice does not excuse the person from the penalty imposed by law.

3. If a person fails to submit the annual state business license fee required pursuant to this section in a timely manner and the person is:

(a) An entity required to file an annual list with the Secretary of State pursuant to this title, the person:

(1) Shall pay a penalty of $100 in addition to the annual state business license fee;

(2) Shall be deemed to have not complied with the requirement to file an annual list with the Secretary of State; and

(3) Is subject to all applicable provisions relating to the failure to file an annual list, including, without limitation, the provisions governing default and revocation of its charter or right to transact business in this State, except that the person is required to pay the penalty set forth in subparagraph (1).

(b) Not an entity required to file an annual list with the Secretary of State, the person shall pay a penalty in the amount of $100 in addition to the annual state business license fee. The Secretary of State shall provide to the person a written notice that:

(1) Must include a statement indicating the amount of the fees and penalties required pursuant to this section and the costs remaining unpaid.

(2) May be provided electronically, if the person has requested to receive communications by electronic transmission, by electronic mail or other electronic communication.

Sec. 15. (Deleted by amendment.)

Sec. 15.5. ***The Secretary of State may adopt such regulations as are necessary to carry out the provisions of this chapter.***

Sec. 16. ***The Secretary of State shall deposit all money received pursuant to this chapter with the State Treasurer for credit to the State General Fund.***

Sec. 17. ***1. Except as otherwise provided in this chapter and NRS 239.0115, the records and files of the Secretary of State concerning the administration of this chapter are confidential and privileged. The Secretary of State, and any employee of the Secretary of State engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Secretary of State nor any employee of the***

Secretary of State may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Secretary of State concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Secretary of State and production of records, files and information on behalf of the Secretary of State or a person in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his authorized representative of a copy of any document filed by the person pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to any person authorized to audit the accounts of the Secretary of State in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. The Secretary of State may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

4. The Secretary of State shall periodically, as he deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which he has a record. The list must include the mailing address of the business as reported to the Secretary of State.

Sec. 18. ***1. If a person who holds a state business license fails to comply with a provision of this chapter or a regulation of the Secretary of State adopted pursuant thereto, the Secretary of State may revoke or suspend the state business license of the person.***

2. If the license is suspended or revoked, the Secretary of State shall provide written notice of the action to the person who holds the state business license.

3. The Secretary of State shall not issue a new license to the former holder of a revoked state business license unless the Secretary of State is

satisfied that the person will comply with the provisions of this chapter and the regulations of the Secretary of State adopted pursuant thereto.

Sec. 19. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, on or before the last day of the first month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

(a) The name of the corporation;

(b) The file number of the corporation, if known;

(c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;

(d) The address, either residence or business, of each officer and director listed, following the name of the officer or director;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

(a) A declaration under penalty of perjury that the corporation:

(1) Has complied with the provisions of ~~[NRS 360.780;]~~ ***sections 6 to 18, inclusive, of this act;*** and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

(a) Subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	

For the first $1,000,000..... 375
For each additional $500,000 or fraction thereof..... 275
➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

5. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 2, cause to be mailed to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

Sec. 20. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of its certificate of corporate existence with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors;

(b) The information required pursuant to NRS 77.310; and

(c) The signature of an officer of the corporation.

2. Each list filed pursuant to subsection 1 must be accompanied by:

(a) A declaration under penalty of perjury that the foreign corporation has complied with the provisions of ~~[NRS 360.780]~~ ***sections 6 to 18, inclusive, of this act*** and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the foreign corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to

this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

3. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

4. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any corporation to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

6. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 21. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign nonprofit corporation;

(b) The file number of the foreign nonprofit corporation, if known;

(c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;

(d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the foreign nonprofit corporation certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign nonprofit corporation:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of $25.

4. The Secretary of State shall, 60 days before the last day for filing each annual list, cause to be mailed to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.5239, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign nonprofit corporation to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.5239, inclusive.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 22. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited-liability company;

(b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of $125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, cause to be mailed to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file a list required by subsection 2. Failure of any company to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 23. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited-liability company with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list on a form furnished by him that contains:

(a) The name of the foreign limited-liability company;

(b) The file number of the foreign limited-liability company, if known;

(c) The names and titles of all its managers or, if there is no manager, all its managing members;

(d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the foreign limited-liability company certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited-liability company:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

4. If a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, cause to be mailed to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited-liability company to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

Sec. 24. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, on or before the last day of the first month after the filing of its certificate of registration with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the registered limited-liability partnership;

(b) The file number of the registered limited-liability partnership, if known;

(c) The names of all of its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the registered limited-liability partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the registered limited-liability partnership has complied with the provisions of ~~[NRS 360.780, an acknowledgment]~~ ***sections 6 to 18, inclusive, of this act and acknowledges*** that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

3. If a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to the registered limited-liability partnership a notice of the fee due pursuant to subsection 2 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice or form does not excuse it from complying with the provisions of this section.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection 2 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 25. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign registered limited-liability partnership;

(b) The file number of the foreign registered limited-liability partnership, if known;

(c) The names of all its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the foreign registered limited-liability partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign registered limited-liability partnership:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

4. If a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.544, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign registered limited-liability partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.544, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 26. NRS 87A.290 is hereby amended to read as follows:

87A.290 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of ~~[~~NRS 360.780~~]~~ ***sections 6 to 18, inclusive, of this act*** and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the

annual list. Failure of any limited partnership to receive a notice or form does not excuse it from the penalty imposed by NRS 87A.300.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 87A.240 and may not be substituted for filings submitted pursuant to NRS 87A.240.

Sec. 27. NRS 87A.560 is hereby amended to read as follows:

87A.560 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign limited partnership, which is required to comply with the provisions of NRS 87A.560 to 87A.600, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 87A.560 to 87A.600, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 28. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of ~~[NRS 360.780]~~ ***sections 6 to 18, inclusive, of this act*** and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $175.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list. Failure of any limited partnership to receive a notice or form does not excuse it from the penalty imposed by NRS 88.400.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

Sec. 29. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of ~~[NRS 360.780;]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 30. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, on or before the last day of the first month after the filing of its certificate of trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list signed by at least one trustee that contains the name and street address of at least one trustee and the information required pursuant to NRS 77.310. Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the business trust:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

3. If a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the

resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.660, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of a business trust to receive the forms does not excuse it from the penalty imposed by law.

5. An annual list for a business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 31. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign business trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign business trust;

(b) The file number of the foreign business trust, if known;

(c) The name of at least one of its trustees;

(d) The address, either residence or business, of the trustee listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a trustee of the foreign business trust certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign business trust:

(a) Has complied with the provisions of ~~[~~NRS 360.780;~~]~~ ***sections 6 to 18, inclusive, of this act;*** and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

4. If a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign business trust to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 32. NRS 89.250 is hereby amended to read as follows:

89.250 1. Except as otherwise provided in subsection 2, a professional association shall, on or before the last day of the first month after the filing of its articles of association with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its organization occurs in each year, file with the Secretary of State a list showing the names and addresses, either residence or business, of all members and employees in the professional association and certifying that all members and employees are licensed to render professional service in this State.

2. A professional association organized and practicing pursuant to the provisions of this chapter and NRS 623.349 shall, on or before the last day of the first month after the filing of its articles of association with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its organization occurs in each year, file with the Secretary of State a list:

(a) Showing the names and addresses, either residence or business, of all members and employees of the professional association who are licensed or otherwise authorized by law to render professional service in this State;

(b) Certifying that all members and employees who render professional service are licensed or otherwise authorized by law to render professional service in this State; and

(c) Certifying that all members who are not licensed to render professional service in this State do not render professional service on behalf of the professional association except as authorized by law.

3. Each list filed pursuant to this section must be:

(a) Made on a form furnished by the Secretary of State and must not contain any fiscal or other information except that expressly called for by this section.

(b) Signed by the chief executive officer of the professional association.

(c) Accompanied by a declaration under penalty of perjury that the professional association:

(1) Has complied with the provisions of ~~[NRS 360.780;]~~ ***sections 6 to 18, inclusive, of this act;*** and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by this section, the professional association shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the professional association shall pay to the Secretary of State a fee of $125.

Sec. 33. NRS 244.335 is hereby amended to read as follows:

244.335 1. Except as otherwise provided in subsections 2, 3 and 4, a board of county commissioners may:

(a) Except as otherwise provided in NRS 244.331 to 244.3345, inclusive, 598D.150 and 640C.100, regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns.

(b) Except as otherwise provided in NRS 244.3359 and 576.128, fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.

2. The county license boards have the exclusive power in their respective counties to regulate entertainers employed by an entertainment by referral service and the business of conducting a dancing hall, escort service, entertainment by referral service or gambling game or device permitted by law, outside of an incorporated city. The county license boards may fix, impose and collect license taxes for revenue or for regulation, or for both revenue and regulation, on such employment and businesses.

3. A board of county commissioners shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

4. The board of county commissioners or county license board shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of ~~[NRS 360.780.]~~ ***sections 6 to 18, inclusive, of this act.*** The county license board shall provide upon request an application for a business license pursuant to ~~[NRS 360.780.]~~ ***sections 6 to 18, inclusive, of this act.*** As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied for the purposes of NRS 244.3358 or 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months after the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against the property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 244.3357, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an

agreement with the Department of Taxation ***or Secretary of State*** for the exchange of information concerning taxpayers.

Sec. 34. NRS 268.095 is hereby amended to read as follows:

268.095 1. Except as otherwise provided in subsection 4, the city council or other governing body of each incorporated city in this State, whether organized under general law or special charter, may:

(a) Except as otherwise provided in subsection 2 and NRS 268.0968 and 576.128, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

(b) Assign the proceeds of any one or more of such license taxes to the county within which the city is situated for the purpose or purposes of making the proceeds available to the county:

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655, inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities.

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general or special obligations issued by the city for a purpose authorized by the laws of this State.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the laws of this State;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. The city council or other governing body of an incorporated city shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or

subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

3. The proceeds of any tax imposed pursuant to this section that are pledged for the repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

4. The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of ~~[~~NRS 360.780.~~]~~ ***sections 6 to 18, inclusive, of this act.*** The city licensing agency shall provide upon request an application for a business license pursuant to ~~[~~NRS 360.780.~~]~~ ***sections 6 to 18, inclusive, of this act.*** As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months following the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body

shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation ***or the Secretary of State*** for the exchange of information concerning taxpayers.

8. The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, any other law. No part of this section repeals or affects any other law or any part thereof, it being intended that this section provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 35. NRS 360.760 is hereby amended to read as follows:

360.760 As used in NRS 360.760 to ~~[~~360.798,~~]~~ ***360.796,*** inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[~~360.765 to 360.775, inclusive,~~]~~ ***360.767, 360.773 and 360.774*** have the meanings ascribed to them in those sections.

Sec. 36. NRS 360.773 is hereby amended to read as follows:

360.773 "State business license" means the business license required pursuant to ~~[~~NRS 360.780.~~]~~ ***sections 6 to 18, inclusive, of this act.***

Sec. 37. NRS 360.780 is hereby amended to read as follows:

360.780 ~~[~~1. Except as otherwise provided in subsection 7, a person shall not conduct a business in this State unless he has a state business license issued by the Department.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Department;

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business;

(c) Be accompanied by a fee of $100; and

(d) Include any other information that the Department deems necessary.

3. The application must be signed by:

(a) The owner, if the business is owned by a natural person;

(b) A member or partner, if the business is owned by an association or partnership; or

~~(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.~~

~~4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.~~

~~5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.~~

~~6. For the purposes of NRS 360.760 to 360.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:~~

~~(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;~~

~~(b) Has an office or other base of operations in this State; or~~

~~(c) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.~~

~~7.~~**]** A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 360.787.

Sec. 38. NRS 360.790 is hereby amended to read as follows:

360.790 The Department shall deposit all money it receives pursuant to NRS 360.760 to **[**~~360.798,~~**]** ***360.796,*** inclusive, in the State Treasury for credit to the State General Fund.

Sec. 39. NRS 360.795 is hereby amended to read as follows:

360.795 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration of NRS 360.760 to **[**~~360.798,~~**]** ***360.796,*** inclusive, are confidential and privileged. The Department, and any employee of the Department engaged in the administration of NRS 360.760 to **[**~~360.798,~~**]** ***360.796,*** inclusive, or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of NRS 360.760 to **[**~~360.798,~~**]** ***360.796,*** inclusive, are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his authorized representative of a copy of any document filed by the person pursuant to NRS 360.760 to ~~[360.798,]~~ ***360.796,*** inclusive.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

4. The Executive Director shall periodically, as he deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which he has a record. The list must include the mailing address of the business as reported to the Department.

Sec. 40. NRS 372.220 is hereby amended to read as follows:

372.220 1. Every retailer who sells tangible personal property for storage, use or other consumption in this State shall register with the Department and give:

(a) The name and address of all agents operating in this State.

(b) The location of all distribution or sales houses or offices or other places of business in this State.

(c) Such other information as the Department may require.

2. Every business that purchases tangible personal property for storage, use or other consumption in this State shall, at the time the business obtains a business license pursuant to ~~[NRS 360.780,]~~ ***sections 6 to 18, inclusive, of this act,*** register with the Department on a form prescribed by the Department. As used in this section, "business" has the meaning ascribed to it in ~~[NRS 360.765.]~~ ***section 7 of this act.***

Sec. 41. NRS 459.3824 is hereby amended to read as follows:

459.3824 1. The owner or operator of a facility shall pay to the Division an annual fee based on the fiscal year. The annual fee for each facility is the sum of a base fee set by the State Environmental Commission

and any additional fee imposed by the Commission pursuant to subsection 2. The annual fee must be prorated and may not be refunded.

2. The State Environmental Commission may impose an additional fee upon the owner or operator of a facility in an amount determined by the Commission to be necessary to enable the Division to carry out its duties pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto. The additional fee must be based on a graduated schedule adopted by the Commission which takes into consideration the quantity of hazardous substances located at each facility.

3. After the payment of the initial annual fee, the Division shall send the owner or operator of a facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

4. The State Environmental Commission may modify the amount of the annual fee required pursuant to this section and the timing for payment of the annual fee:

(a) To include consideration of any fee paid to the Division for a permit to construct a new process or commence operation of a new process pursuant to NRS 459.3829; and

(b) If any regulations adopted pursuant to NRS 459.380 to 459.3874, inclusive, require such a modification.

5. The owner or operator of a facility shall submit, with any payment required by this section, the business license number assigned by the ~~[~~Department of Taxation~~]~~ ***Secretary of State*** upon compliance by the owner with ~~[~~NRS 360.780.~~]~~ ***the provisions of sections 6 to 18, inclusive, of this act.***

6. All fees fines, penalties and other money collected pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto, other than a fine collected pursuant to subsection 3 of NRS 459.3834, must be deposited with the State Treasurer for credit to the Fund for Precaution Against Chemical Accidents, which is hereby created as a special revenue fund. All interest earned on the money in the Fund must be credited to the Fund.

Sec. 42. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of ~~[~~NRS 360.780.~~]~~ ***sections 6 to 18, inclusive, of this act.***

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

Sec. 43. Chapter 719 of NRS is hereby amended by adding thereto a new section to read as follows:

The Secretary of State may require a governmental agency of this State or a governmental agency of a political subdivision of this State, as a condition of participation in the state business portal established pursuant to sections 2, 3 and 4 of this act, to send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

Sec. 44. NRS 719.350 is hereby amended to read as follows:

719.350 1. Except as otherwise provided in subsection 6 of NRS 719.290 ~~[.]~~ ***and section 43 of this act,*** each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

2. ~~[To]~~ ***Except as otherwise provided in section 43 of this act, to*** the extent that a governmental agency uses electronic records and electronic signatures under subsection 1, the governmental agency, giving due consideration to security, may specify:

(a) The manner and format in which the electronic records must be created, generated, sent, communicated, received and stored and the systems established for those purposes;

(b) If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(c) Processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality and auditability of electronic records; and

(d) Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

3. Except as otherwise provided in subsection 6 of NRS 719.290 ~~[.]~~ ***and section 43 of this act,*** the provisions of this chapter do not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

Sec. 45. NRS 360.765, 360.775, 360.782, 360.784 and 360.798 are hereby repealed.

Sec. 45.5. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of $6,520,349 for allocation to the Secretary of State to design and implement the state business portal established pursuant to sections 2, 3 and 4 of this act. Money appropriated pursuant to this section may only be allocated by the Interim Finance Committee upon submittal of a detailed plan and budget developed by the Secretary of State.

2. Any remaining balance of the appropriation made by subsection 1 to the Interim Finance Committee must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 46. 1. Except as otherwise provided in subsection 2, a person who holds a state business license which was issued pursuant to NRS 360.760 to 360.798, inclusive, before October 1, 2009, and which is not expired or revoked is not required to obtain a state business license pursuant to sections

6 to 18, inclusive, of this act until the expiration of his state business license issued pursuant to NRS 360.760 to 360.798. inclusive.

2. If a person who holds a state business license which was issued pursuant to NRS 360.760 to 360.798, inclusive, before October 1, 2009, and which is not expired or revoked is an entity that is required to file an annual list with the Secretary of State pursuant to title 7 of NRS, the person is not required to obtain a state business license pursuant to sections 6 to 18, inclusive, of this act until the expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive, unless the entity is required to file the annual list pursuant to title 7 of NRS before the expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive, in which case the person is required to obtain a state business license pursuant to sections 6 to 18, inclusive, of this act at the time of filing the annual list. The amount of the fee for obtaining the state business license pursuant to sections 6 to 18, inclusive, of this act must be prorated to reflect credit for the period remaining before expiration of the state business license issued pursuant to NRS 360.760 to 360.798, inclusive.

Sec. 46.5. Notwithstanding the provisions of this act, no penalty, late fee or interest charge may be imposed against any person for any failure to comply with the provisions of this act which occurs before January 1, 2010.

Sec. 47. 1. This section and section 45.5 of this act become effective upon passage and approval.

2. Sections 1 to 45, inclusive, 46 and 46.5 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory actions that are necessary to carry out the provisions of this act; and

(b) On October 1, 2009, for all other purposes.

LEADLINES OF REPEALED SECTIONS

360.765 "Business" defined.

360.775 "Wages" defined.

360.782 Limitation on number of licenses natural person is required to obtain.

360.784 Annual fee for license: Amount; submission; penalty for late payment.

360.798 Enforcement of provisions: Revocation or suspension of license; denial of new license.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 146.

Remarks by Assemblymen Leslie, Christensen, and Anderson.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 370.

The following Senate amendment was read:

Amendment No. 598.

AN ACT relating to pharmacies; providing for the establishment of remote sites, satellite consultation sites and telepharmacies; requiring the State Board of Pharmacy to adopt regulations for the operation of such establishments ~~[.]~~ **and the governance of dispensing practitioners and dispensing technicians;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the issuance of a license to an applicant to conduct a pharmacy upon compliance with all licensing requirements. (NRS 639.231) This bill authorizes the establishment of remote sites and satellite consultation sites for the dispensing of prescriptions, and telepharmacies, which are connected to such sites via computer link, video link and audio link to enable a registered pharmacist **or a dispensing practitioner** at the telepharmacy to oversee the dispensing of prescriptions to patients at a remote site or satellite consultation site.

Section 6 of this bill requires a remote site or satellite consultation site to be located at least 50 miles from the nearest pharmacy and in a service area with a total population of less than 2,000. **Section 6** also authorizes such sites to be operated by a pharmaceutical technician ~~[.]~~ **or a dispensing technician.** **Section 6** further requires the State Board of Pharmacy to adopt regulations which establish the manner of determining a "service area." **Sections 8 and 9** of this bill exempt those sites from the requirement that every pharmacy must be managed by a registered pharmacist. (NRS 639.220, 639.284)

Section 5 of this bill requires the State Board of Pharmacy to adopt regulations for the operation of remote sites, satellite consultation sites and telepharmacies ~~[.]~~ **and for the definition, registration, discipline, qualifications, powers and duties of dispensing practitioners and dispensing technicians.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2]~~ **1.5** to 6, inclusive, of this act.

Sec. 1.5. "Federally qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

Sec. 2. ***"Remote site" means ~~[a]~~ :***

1. A pharmacy staffed by a pharmaceutical technician and equipped to facilitate communicative access to a pharmacy and its registered pharmacists ; or

2. An office:

(a) Of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center; and

(b) That is:

(1) Staffed by a dispensing technician; and

(2) Equipped to facilitate communicative access to the dispensing practitioner,

➥ via computer link, video link and audio link during regular business hours.

Sec. 3. ***"Satellite consultation site" means a site that only dispenses filled prescriptions which are delivered to that site after the prescriptions are prepared [at] :***

1. At a pharmacy [and delivered to that site and] where a registered pharmacist [at the pharmacy that prepared the prescription] provides consultation to patients via computer link, video link and audio link during regular business hours [.] ; or

2. At an office:

(a) Of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center; and

(b) Where the dispensing practitioner provides consultation to patients via computer link, video link and audio link during regular business hours.

Sec. 4. ***"Telepharmacy" means [a] :***

1. A pharmacy ; or

2. An office of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center,

➥ that is accessible by a remote site or a satellite consultation site via computer link, video link and audio link.

Sec. 5. ***The Board shall adopt regulations [as] :***

1. As are necessary for the safe and efficient operation of remote sites, satellite consultation sites and telepharmacies [.] ; and

2. To define the terms "dispensing practitioner" and "dispensing technician," to provide for the registration and discipline of dispensing practitioners and dispensing technicians, and to set forth the qualifications, powers and duties of dispensing practitioners and dispensing technicians.

Sec. 6. ***1. In addition to the requirements set forth in this chapter and any other specific statute, a remote site or satellite consultation site must be located:***

(a) At least 50 miles or more from the nearest pharmacy; and

(b) In a service area with a total population of less than 2,000.

2. A remote site or satellite consultation site may be operated by [a] :

(a) A pharmaceutical technician without the physical presence of a managing pharmacist, except that the managing pharmacist of the telepharmacy shall also be deemed the managing pharmacist of the remote site or satellite consultation site [.] ; or

(b) A dispensing technician without the physical presence of a dispensing practitioner who is employed by a nonprofit entity that is designated as a federally qualified health center, except that the dispensing practitioner shall also be deemed the managing pharmacist of the remote site or satellite consultation site.

3. The Board shall adopt regulations for the purposes of this section, which establish the manner of determining a "service area." Such a "service area" must be a geographical area of between 5 and 10 miles in radius. In adopting the regulations, the Board may consider, without limitation, the ease or difficulty of access to the nearest pharmacy and the availability of roadways.

Sec. 7. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, ***and sections*** ~~*[2, 3 and]*~~ ***1.5 to 4 , inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 8. NRS 639.220 is hereby amended to read as follows:

639.220 1. Except as otherwise provided in NRS 639.2324, 639.2326 ~~[and]~~ **,** 639.2327 ~~[,]~~ ***and section 6 of this act,*** each pharmacy must be managed by a registered pharmacist, approved by the Board, who is responsible for compliance by the pharmacy and its personnel with all state and federal laws and regulations relating to the operation of the pharmacy and the practice of pharmacy.

2. Except as otherwise provided in NRS 639.2321, if the managing pharmacist is the only registered pharmacist employed in the pharmacy, the Board may authorize his absence each day for a total period of not to exceed 2 hours for the purpose of taking meals if:

(a) A registered pharmacist is on call during his absence;

(b) A sign, as prescribed by regulations of the Board, is posted for public view in the pharmacy indicating the absence of the pharmacist and the hours of his absence; and

(c) All drugs, poisons, chemical and restricted devices are kept safe in a manner prescribed by regulations of the Board.

➥ The authorization required from the Board must be in writing and be retained in the pharmacy and available for inspection.

3. Except as otherwise provided in this subsection ~~[.]~~ ***and section 6 of this act:***

(a) A person shall not act as a managing pharmacist for more than one licensed pharmacy.

(b) Each managing pharmacist shall be on duty in the pharmacy and active in the management of the pharmacy full-time, but he need not be present during the time the pharmacy is open for business if he designates another pharmacist employed in the pharmacy to assume his duties in his absence.

(c) The managing pharmacist is responsible for the activities of his designee.

➥ A waiver from the limitation set forth in paragraph (a) may be granted by the Board to the managing pharmacist of a pharmacy located in a hospital with fewer than 100 beds or in a correctional institution housing fewer than 1,500 inmates.

4. The Board must be notified before there is a change in the managing pharmacist.

Sec. 9. NRS 639.284 is hereby amended to read as follows:

639.284 ~~[~~Any~~]~~ ***Except as otherwise provided in section 6 of this act, any*** person who:

1. Being the licensed proprietor of a pharmacy, fails to place a registered pharmacist in charge of such pharmacy, or permits the compounding or dispensing of drugs or prescriptions, or the selling of drugs, poisons or devices, the sale of which is restricted by the provisions of this chapter, by any person other than a registered pharmacist or an intern pharmacist, is guilty of a misdemeanor.

2. Is not a registered pharmacist and who takes charge of or acts as manager of any pharmacy, compounds or dispenses any prescription, or sells any drug, poison or device, the sale of which is restricted by the provisions of this chapter, is guilty of a misdemeanor.

Sec. 10. The State Board of Pharmacy shall, on or before January 1, 2010, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 11. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 370.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Senate Bill No. 245.

Bill read third time.

Remarks by Assemblyman Christensen.

Roll call on Senate Bill No. 245:

YEAS—41.

NAYS—None.

EXCUSED—Arberry.

Senate Bill No. 245 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 411.

Bill read third time.

Remarks by Assemblyman Claborn.

Roll call on Senate Bill No. 411:

YEAS—24.

NAYS—Aizley, Bobzien, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hardy, Leslie, McArthur, Pierce, Settelmeyer, Stewart, Woodbury—17.

EXCUSED—Arberry.

Senate Bill No. 411 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 73 and 183 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:31 p.m.

ASSEMBLY IN SESSION

At 11:35 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved to rescind the action whereby the Assembly did not concur with Senate Amendment No. 728 to Assembly Bill No. 471.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 471.

The following Senate amendment was read:

Amendment No. 728.

AN ACT relating to real property; providing that a deficiency in payment on a mortgage, deed of trust or other encumbrance may be cured under certain circumstances before foreclosure; providing that a court shall not award a deficiency judgment on the foreclosure of a mortgage or a deed of trust under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides a right to cure a deficiency in payment on a mortgage or other encumbrance before a judicial foreclosure sale at any time not later than 5 days before the date of sale.

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee's sale if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary

of the deed of trust. (NRS 40.455) **Section 2** of this bill provides that **if the judgment creditor or the beneficiary of the deed of trust is a financial institution,** a court may not award a deficiency judgment to ~~[a]~~ **the** judgment creditor or ~~[a]~~ **the** beneficiary of ~~[a]~~ **the** deed of trust if: (1) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (2) the debtor or grantor used the loan to purchase the property; (3) the debtor or grantor occupied the property continuously after obtaining the loan; and (4) the debtor or grantor did not refinance the loan.

Section 3 of this bill provides that the amendatory provisions of this bill apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 40.430 is hereby amended to read as follows:

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. ***At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.***

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

~~[4.]~~ ***5.*** As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

Sec. 2. NRS 40.455 is hereby amended to read as follows:

40.455 1. ~~[Upon]~~ ***Except as otherwise provided in subsection 3, upon*** application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale or the trustee's sale held pursuant to NRS 107.080, respectively, and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the

recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale or trustee's sale of the last parcel or other interest in the real property securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale or trustee's sale.

3. ~~[The]~~ If the judgment creditor or the beneficiary of the deed of trust is a financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale or trustee's sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as his principal residence after securing the mortgage or deed of trust; and

(d) The debtor or grantor did not refinance the mortgage or deed of trust after securing it.

4. As used in this section, "financial institution" has the meaning ascribed to it in NRS 363A.050.

Sec. 3. The amendatory provisions of this act apply only to an obligation secured by a mortgage, deed of trust or other encumbrance upon real property on or after October 1, 2009.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 471.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 242.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:39 p.m.

ASSEMBLY IN SESSION

At 11:55 p.m.
Madam Speaker presiding.
Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 16, 26, 56, 89, 100, 109, 129, 154, 165, 179, 191, 192, 193, 199, 204, 208, 220, 233, 251, 263, 267, 274, 307, 326, 333, 348, 402, 414, 446, 487, 493, 530, 531; Senate Bills Nos. 8, 100, 121, 165, 172, 186, 266, 268, 339, 340, 361, 362, 365, 377, 414; Senate Joint Resolution No. 1.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Sandy Miller Elementary School: Lourdes Esquivel, Natalie Salgado, Brittany Mayo, Katherine Garrison, Sasha Palmer, Adrianna Amarillas, Elisa Alvarez, Vanelly Becera, Jordan Cosselman, Hannah Ariesen-Fry, Rhiannon Campbell, Cassandra Rodgers, India Rose Hill, Simone Reese, Gabriela Weiss, Liliana Marrero, Jasmine Rivera, Angelica Ayala, Jerrika Scott, Jessica Carter, Riley Kenerly, Ayla Gelsinger, Raven Thompson, Deja Davis, Virginia Virula, Paola Salazar, Cassandra Bueno, Marlene Bonilla, Ingrid Tobar, Natalie Mejia, Ralaysia White, Carmen Bushorn, Hope Young, Johanna Guerro, Genevieve Velez, Bailey Tower, Norma Tolentino, DulceMaria Solian, Emily Solis-Diaz, Chloe Hartman, Brenda Peralta, Britni Perkins, Alexis Nehls, Paris Godfrey, Brittany Jackson, Alexis Robinson, Katy McBrayer, Carlos Orozco, Enrique DeLaCruz, Salvador Molina, Sawyer Pearson, Nick Stephenson, Sergio Rubio, Jalen Pitts, Victor Casillas, Alfredo Esquivel, Jesus Cepeda, Jorge Espinoza, Nevic Perkins, Adriel Roncal, Jeffrey Gonzalez, Ulises Cabrera, Rafael Gaucin, Leonardo Lopez, Carlos Hernandez, Helaman Song, Jaegar McDowell, James Larson, Jimmie Anderson, Juan Romero, Miguel Mireles, Jesus Murillo, Rigoberto Salazar, Kinnon McPeak, Kalvin Major, Spencer Leon, Thomas Sanders, Rene' Morales-Marenco, Marcos Donis, Juan Moreno, Raul Rodriguuez, Serjio Sacasas, Kevin Cobian, Andrew Olivares, Eber Basilio, Emmanuel Lozano, Alfred Morales, Isela Esquivel, Evelyn Hernandez, Brenda Pearson, Maria Fausto, Raena McDowell, Helen McPeak, Monica Cosselman, Rosie Campbell, Gwendolyn Godfrey, Mona Robinson, Bridgett Scott, Kathy Kenerly, Philana Hooker, Maria Diaz-Ibarra, Melinda Sacasas, Isias Lozano Jr., Juan Moreno, Juan Roncal, Jorge Espinoza, Rene' Moralez-Perez, Michael Blackmon, Ventura Esquivel, Spencer Larson, Barbara Misday, Joe Barazza, Cydnie Jorgenson, Elizabeth

Giles, Sharon Pearson, Theodore Small, Linda Arnone, Anne Downing and Sandy Miller.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Eric Gardner.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Hummel Elementary School: Sarahi Aguiar, Justin Antipuesto, Hannah Bertinetti, Chronica Cabral, Kiana Campbell, Alyssa Corso, Sarah Galera, Jalen Holmes, Samuel McCumby, Angelina Reyes, Dalia Robinson, Brian Romo, Bernard Sanchez, Maria Tafoya, McKenna Thueson, Zjazel Villegas, Kelsea Claveria , Billy Rossi, Devin Pelletier, Dominique Moorman, Alex Echeverria, Keoki Casey, Hunter Andrews, Elsie Evans, Kaitlin Huddle, Brandon Fuka, Gabriel Medina, Sinjin Allan, Matheus DaSilva, Troi Hollimon, Jeremy Turangan, Preston Warren, Sayanna Roy, Art-Kristian Barit, Christina Eagar, Helen Antipuesto, Enid Corso, Teresa McCumby, Dian Campbell, Kimberly Welch, Anthony Davila, Diane Rossi, Everett Pelletier, Tonia Moorman, Wendy Rodriguez-Echeverria and Selin Babiain.

On request of Assemblyman Oceguera, the privilege of the floor of the Assembly Chamber for this day was extended to Valerie Hart and Andrea Lynch.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Calia Lindsay and Xiomara Rodriguez.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, May 22, 2009, at 9 a.m.

Motion carried.

Assembly adjourned at 11:55 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 22, 2009

Assembly called to order at 10:45 a.m.
Madam Speaker presiding.
Roll called.
All present.
Prayer by the Chaplain, Reverend Patrick Propster.

Isaiah 26:3-4:

Thou wilt keep him in perfect peace, whose mind is stayed on Thee, because he trusteth in Thee. Trust ye in the Lord forever, for in the Lord Jehovah is everlasting strength.

Let us pray:

Gracious Lord of Heaven and Earth, as this week comes to a close, we ask for Your perfect peace in overflowing abundance. Lord Jesus, as the long hours and short nights take their toll, may Your hand of strength and encouragement rest upon these who are here serving this great State of Nevada. Also, Lord, let us not forget why we celebrate and observe Memorial Day, as we pray for and remember all those who have served and are serving this blessed land of the United States of America. Keep them strong, in Your everlasting strength and of good courage, we pray. Our hope and our trust are steadfast in Thee. God, please bless America.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 422, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, VICE *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 433, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 21, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 22, Amendment No. 769; Assembly Bill No. 54, Amendment No. 660; Assembly Bill No. 80, Amendment No. 835; Assembly Bill No. 90, Amendment No. 651; Assembly Bill No. 135, Amendment No. 709; Assembly Bill No. 140, Amendment No. 771; Assembly Bill No. 141, Amendment No. 650; Assembly Bill No. 144,

Amendment No. 649; Assembly Bill No. 151, Amendment No. 775; Assembly Bill No. 202, Amendment No. 812; Assembly Bill No. 225, Amendment No. 849; Assembly Bill No. 249, Amendment No. 853; Assembly Bill No. 262, Amendments Nos. 601, 818; Assembly Bill No. 266, Amendment No. 697; Assembly Bill No. 387, Amendment No. 801; Assembly Bill No. 467, Amendment No. 838; Assembly Bill No. 483, Amendment No. 710; Assembly Bill No. 488, Amendment No. 859, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 2.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 428, 430, 431.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 238, 246, 294, 401, 497, 534, 549, 552, 556, 557.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 358.

I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 675 to Senate Bill No. 160; Assembly Amendment No. 780 to Senate Bill No. 197.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendments Nos. 742, 881, to Senate Bill No. 218.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 804 to Senate Bill No. 305; Assembly Amendment No. 760 to Senate Bill No. 389.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 358.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 426.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 422.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 686.

AN ACT relating to the financing of local improvements; making various changes regarding certain types of financing using revenue pledged from sales and use taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing body of a municipality in a county whose population is less than 400,000 (currently counties other than Clark County) and which has created a local improvement district to pledge revenue from several sales and use taxes imposed in that district to finance certain projects of the municipality within the district. (NRS 271.650) **Section 1** of this bill excludes local school support taxes from any further pledges of such revenue.

Existing law authorizes the governing body of any city or county to create a tourism improvement district (TID), and to pledge revenue from several sales and use taxes imposed in that district to finance certain projects within the district. The projects may be owned by the municipality, another governmental entity or any other person and may be financed through the issuance of bonds or the entry into agreements for the reimbursement of the costs of the projects. (Chapter 271A of NRS) **Section 3** of this bill requires the independent auditing of claims made under agreements to provide such financing and prohibits the use of such financing to pay various fees and costs. **Section 3** also prohibits the use of such financing for the relocation within a TID of a retailer from another location within ~~[the municipality.]~~ **3 miles outside of the boundary of the TID** and excludes the use for such financing of the tax revenue from such a retailer. **Section 4** of this bill requires **certain** contractors ~~[who bid]~~ on funded projects to ~~[list]~~ **select** their subcontractors ~~[in those bids and prohibits the substitution of subcontractors without the approval of the municipality.]~~ **by competitive bidding. Section 5** of this bill requires annual reports ~~[by each municipality that creates]~~ **regarding projects within** a TID. **Sections 6 and ~~[8]~~ 9** of this bill exclude local school support taxes from any further pledges of revenue for the financing of projects within a TID. **Section 7 of this bill revises the prerequisites for the creation of a TID. Section ~~[9]~~ 10** of this bill applies the prevailing wage provisions applicable to public works to construction contracts for projects within a TID to the same extent as if the contracts were awarded by the municipality and the projects constituted public works.

~~[Existing law prohibits the creation of a tourism improvement district unless the governing body of the municipality determines that there will be a substantial increase in sales and use tax proceeds as a result of the project, and the Commission on Tourism determines that a preponderance of that increase will be attributable to out-of-state tourists. Section 7 of this bill requires the Commission to consider the results of an independent study before making its determination.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 271.650 is hereby amended to read as follows:

271.650 1. Except as otherwise provided in this section, the governing body of a municipality in a county whose population is less than 400,000

may include in an assessment ordinance for a project the pledge of a single percentage specified in the ordinance, which must not exceed 75 percent, of:

(a) An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of a sum equal to 0.75 percent of the amount of those proceeds; ~~[and]~~

(b) ~~[The]~~ ***If the ordinance is adopted before the effective date of this section, the*** amount of the proceeds of the taxes imposed pursuant to NRS 374.110 ~~[,]~~ ***and*** 374.190 ~~[and 377.030]~~ with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds ~~[.]~~ ***; and***

(c) The amount of the proceeds of the tax imposed pursuant to NRS 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds.

2. If any property within the boundaries of an improvement district for which any money is pledged pursuant to this section is also included within the boundaries of any other improvement district for which any money is pledged pursuant to this section or any tourism improvement district for which any money is pledged pursuant to NRS 271A.070, the total amount of money pledged pursuant to this section and NRS 271A.070 with respect to such property by all such districts must not exceed the amount authorized pursuant to this section.

3. The governing body of a municipality shall not include a pledge authorized by subsection 1 in an assessment ordinance for a project unless:

(a) The governing body determines that no retailers have maintained a fixed place of business in the improvement district at any time from the first day of the fiscal year in which the assessment ordinance is adopted until the date of the adoption of the ordinance.

(b) The governing body determines, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(1) As a result of the project:

(I) Retailers will locate their businesses as such in the improvement district; and

(II) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district; and

(2) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

(c) The Commission on Tourism determines, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to paragraph (b) will be attributable to transactions with tourists who are not residents of this State.

(d) The Governor determines that the project and the pledge of money authorized by subsection 1 will contribute significantly to economic development and tourism in this State. Before making that determination, the Governor:

(1) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to NRS 271.670 by the school district in which the improvement district is located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide him with an appropriate fiscal report; and

(2) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the improvement district is located during the term of the pledge of money. The payments may be provided pursuant to agreements authorized by NRS 271.670 or from sources other than the owners of property within the improvement district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the pledge of money authorized by subsection 1.

(e) If any property within the boundaries of the improvement district is also included within the boundaries of any other improvement district for which any money has been pledged pursuant to this section or any tourism improvement district for which any money has been pledged pursuant to NRS 271A.070, all the governing bodies which created those districts have entered into an interlocal agreement providing for:

(1) The apportionment of any money pledged pursuant to this section and NRS 271A.070 with respect to such property; and

(2) The priority of the application of that money between:

(I) Bonds issued pursuant to this chapter; and

(II) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

➥ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to this chapter to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

4. Any determination or approval made pursuant to subsection 3 is conclusive in the absence of fraud or gross abuse of discretion.

5. As used in this section, "retailer" has the meaning ascribed to it in NRS 374.060.

Sec. 2. Chapter 271A of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. ***The governing body of a municipality:***

1. Shall require the review of each claim submitted pursuant to any contract or other agreement made with the governing body to provide any financing or reimbursement pursuant to NRS 271A.120, by an independent auditor . [, to obtain a determination of whether the claim is reasonable and appropriate.]

2. Shall not provide any financing or reimbursement pursuant to NRS 271A.120 for:

(a) Any legal fees, accounting fees, costs of insurance, fees for legal notices or costs to amend any ordinances.

(b) Any project that includes the relocation on or after July 1, 2009, to a district [within the municipality] of any retail facilities of a retailer from another location outside of and within 3 miles of the boundary of the [municipality.] district. Each pledge of money pursuant to NRS 271A.070 shall be deemed to exclude any amounts attributable to any tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year by a retailer who, on or after July 1, 2009, relocates any of its retail facilities to a district [within the municipality] from another location outside of and within 3 miles of the boundary of the [municipality.] district.

Sec. 4. ***1. Except as otherwise provided in subsection 2,*** ***[:***

(a) Each contractor who submits a bid on a contract shall:

(1) Include in the bid:

(I) A description of each portion of the contract that will be performed by the contractor;

(II) A list setting forth each subcontractor who will perform any portion of the contract; and

(III) A description of each portion of the contract that will be performed by each subcontractor included in the list required by sub-subparagraph (II); and

(2) Within 2 hours after submitting that bid, submit a copy thereof to the governing body of the municipality.

(b) A contractor whose bid is accepted shall not substitute a subcontractor for any subcontractor who is named in the bid, unless the substitution is approved by the governing body of the municipality or its designated representative. The substitution must be approved if the governing body or its designated representative determines that:

(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;

~~(2) The named subcontractor files for bankruptcy or becomes insolvent;~~

~~(3) The named subcontractor fails or refuses to perform his subcontract within a reasonable time; or~~

~~(4) The named subcontractor is not qualified or properly licensed to perform that portion of the contract.~~

~~(c) If a contractor indicates pursuant to paragraph (a) that he will perform a portion of the work on the contract and thereafter requests to substitute a subcontractor to perform such work, the contractor shall provide to the governing body of the municipality a written explanation in the form required by the governing body which contains the reasons that:~~

~~(1) A subcontractor was not originally contemplated to be used on that portion of the contract; and~~

~~(2) The substitution is in the best interest of the municipality.]~~ **, a contractor who enters into a contract with an owner or lessee of any property included in the project shall:**

(a) Select each subcontractor who will perform any portion of the contract based on a process of competitive bidding approved by the governing body of the municipality;

(b) Ensure that each subcontractor who will perform any portion of the contract is appropriately licensed pursuant to chapter 624 of NRS; and

(c) Submit to the governing body of the municipality a list containing the names of each subcontractor who will perform any portion of the contract.

2. The provisions of subsection 1 do not apply to:

(a) Any contract which is awarded by the municipality; or

(b) Any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. As used in this section ~~:~~

~~(a) "Contract"]~~ **, "contract" means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:**

~~[(1)]~~ **(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or**

~~[(2)]~~ **(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.**

~~[~~ ~~(b) "General terms" means the terms and conditions of a contract that set the basic requirements for the contract and apply without regard to the particular trade or specialty of a subcontractor. The term does not include any provision that controls or relates to the specific portion of the contract that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.]~~

Sec. 5. **1. On or before March 1 of each year, the governing body of a municipality that creates a district before, on or after July 1, 2009, shall prepare and submit to the Director of the Legislative Counsel Bureau for**

submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, an annual report containing:

(a) A statement of the status of each project located or expected to be located in the district, and of any changes in that status since the last annual report.

(b) ~~[A statement of the tax revenue generated by each project located in the district and of the percentage of that tax revenue collected from out-of-state customers.~~

~~(c)]~~ A projection of the tax revenue anticipated to be generated by each project located ~~[or expected to be located]~~ in the district.

~~[(d) An estimate of any displacement in tax revenue experienced as a result of the projects in the district by any retailers located within 3 miles outside of the boundaries of the district.~~

~~(e) An estimate of the]~~

(c) The number of jobs created, directly or indirectly, as a result of each project located ~~[or expected to be located]~~ in the district.

~~[(f)]~~ (d) An assessment of the financial impact of the district on the provision of local governmental services, including, without limitation, services for education, police protection and fire protection.

2. The governing body of a municipality that creates a district before, on or after July 1, 2009, shall require one or more of the projects located in the district to report to the Department of Taxation, on or before February 1 of each year, such information as the governing body deems to be necessary to determine the percentage of the tax revenue collected by the project from out-of-state customers during the immediately preceding calendar year. The projects required to make such a report must be selected by the governing body in such a manner as to ensure that the projects selected collectively generate not less than 50 percent of the tax revenue from the district. On or before March 1 of each year, the Department shall provide to the Fiscal Analysis Division of the Legislative Counsel Bureau:

(a) A statement of the tax revenue generated by each project located in each district for the immediately preceding calendar year; and

(b) The information reported to the Department pursuant to this subsection for the immediately preceding calendar year.

3. Except as otherwise provided in:

(a) Subsection 2 or another specific statute, the Department of Taxation shall not disclose any information reported to the Department pursuant to subsection 2.

(b) Subsection 2, this paragraph or another specific statute, any information obtained by the Fiscal Analysis Division pursuant to subsection 2 shall be deemed a work product that is confidential pursuant to NRS 218.625. The Fiscal Analysis Division may analyze the information and issue written reports based on that information, but shall not disclose any proprietary or confidential information obtained from the Department pursuant to subsection 2.

4. As used in this section, "tax revenue" means revenue from sales and use taxes.

Sec. 6. NRS 271A.070 is hereby amended to read as follows:

271A.070 1. Except as otherwise provided in this section and NRS 271A.080, the governing body of a municipality may:

(a) Create a tourism improvement district for the purposes of carrying out this chapter and revise the boundaries of the district by adopting an ordinance describing the boundaries of the district and generally describing the types of projects which may be financed within the district pursuant to this chapter.

(b) Without any election, acquire, improve, equip, operate and maintain a project within a district created pursuant to paragraph (a). The project may be owned by the municipality, another governmental entity, any other person, or any combination thereof.

(c) For the purposes of carrying out paragraph (b), include in an ordinance adopted pursuant to paragraph (a) the pledge of a single percentage specified in the ordinance, which must not exceed 75 percent, of:

(1) An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of a sum equal to 0.75 percent of the amount of those proceeds; ~~[and]~~

(2) ~~[The]~~ ***If the ordinance is adopted before the effective date of this section, the*** amount of the proceeds of the taxes imposed pursuant to NRS 374.110 ~~[,]~~ ***and*** 374.190 ~~[and 377.030]~~ with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds ~~[.]~~ ***; and***

(3) The amount of the proceeds of the tax imposed pursuant to NRS 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds.

2. A district created pursuant to this section by:

(a) A city must be located entirely within the boundaries of that city.

(b) A county must be located entirely within the boundaries of that county and, when the district is created, entirely outside of the boundaries of any city.

3. If any property within the boundaries of a district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, the total amount of money pledged pursuant to this section and NRS 271.650 with respect to such property by all such districts must not exceed the amount authorized pursuant to this section.

4. The governing body of a municipality shall not, after October 1, 2009, create a tourism improvement district that includes within its boundaries any

property included within the boundaries of a redevelopment area established pursuant to chapter 279 of NRS.

Sec. 7. NRS 271A.080 is hereby amended to read as follows:

271A.080 The governing body of a municipality shall not adopt an ordinance pursuant to NRS 271A.070 unless:

1. If the ordinance:

(a) Creates a district, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within the district on or within the 120 days immediately preceding the date of the adoption of the ordinance; or

(b) Amends the boundaries of the district to add any additional area, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within that area on or within 120 days immediately preceding the date of the adoption of the ordinance.

2. The governing body has made a written finding at a public hearing that the project will benefit the district.

3. The governing body has made a written finding at a public hearing, based upon reports from independent consultants which were addressed to the governing body, to the board of county commissioners, if the governing body is not the board of county commissioners for the county in which the tourism ***improvement*** district is or will be located, and to the board of trustees of the school district in which the tourism improvement district is or will be located, as to whether the project and the financing thereof pursuant to this chapter will have a positive fiscal effect on the provision of local governmental services, after considering:

(a) The amount of the proceeds of all taxes and other governmental revenue projected to be received as a result of the properties and businesses expected to be located in the district;

(b) The use of any money proposed to be pledged pursuant to NRS 271A.070;

(c) Any increase in costs for the provision of local governmental services, including, without limitation, services for education, including operational and capital costs, and services for police protection and fire protection, as a result of the project and the development of land within the district; and

(d) Estimates of any increases in the proceeds from sales and use taxes collected by retailers located outside of the district and of any displacement of the proceeds from sales and use taxes collected by those retailers, as a result of the properties and businesses expected to be located in the district.

➥ The reports required from independent consultants pursuant to this subsection must be obtained from independent consultants selected by the governing body from a list of independent consultants provided by the Commission on Tourism. For the purposes of this subsection, the Commission shall, upon the request of a governing body, provide the governing body with a list of at least 3 qualified independent consultants, each of whom must be located outside of this State.

4. ~~[The governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of trustees of the school district in which the tourism improvement district is or will be located:~~

~~(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and~~

~~(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services, including education.~~

~~➥ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of trustees shall conduct a hearing regarding the fiscal effect on the school district, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body shall consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.~~

~~5.]~~ If the governing body is not the board of county commissioners for the county in which the tourism ***improvement*** district is or will be located, the governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of county commissioners in the county in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services.

➥ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of county commissioners may conduct a hearing regarding the fiscal effect on local governmental services, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body may consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

~~[6.]~~ ***5.*** The governing body has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(a) As a result of the project:

(1) Retailers will locate their businesses as such in the district; and

(2) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district; and

(b) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

~~[7.]~~ ***6.*** The Commission on Tourism has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to subsection ~~[6]~~ ***5*** will be attributable to transactions with tourists who are not residents of this State. ~~*[Before making that determination, the Commission must consider the results of a study conducted by an independent consultant selected by the Commission. The costs of this study must be paid by the municipality or a private entity.*~~

~~8.]~~ ***7.*** The Governor has determined that the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 will contribute significantly to economic development and tourism in this State. ~~[Before making that determination, the Governor:~~

~~(a) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to subsection 4 by the school district in which the tourism improvement district is or will be located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide him with an appropriate fiscal report; and~~

~~(b) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the tourism improvement district is or will be located during the term of the use of any money pledged pursuant to NRS 271A.070. The payments may be provided pursuant to agreements with owners of property within the district authorized by NRS 271A.110 or from sources other than the owners of property within the district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the use of any money pledged pursuant to NRS 271A.070.~~

~~9.]~~ ***8.*** If any property within the boundaries of the district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, all of the governing bodies which created those districts have entered into an interlocal agreement providing for:

(a) The apportionment of any money pledged pursuant to NRS 271.650 and 271A.070 with respect to such property; and

(b) The priority of the application of that money between:

(1) Bonds issued pursuant to chapter 271 of NRS; and

(2) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

➥ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to chapter 271 of NRS to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

Sec. 8. **NRS 271A.110 is hereby amended to read as follows:**

271A.110 1. The governing body of a municipality may, except as otherwise provided in subsection 2, enter into an agreement with one or more of the owners of any interest in property within a district, pursuant to which that owner would agree to make payments to the municipality or to another local government that provides services in the district, or to both, to defray, in whole or in part, the cost of local governmental services during the term of the use of any money pledged pursuant to NRS 271A.070. Such an agreement must specify the amount to be paid by the owner of the property interest, which may be stated as a specified amount per year or as an amount based upon any formula upon which the municipality and owner agree.

2. The governing body of a municipality shall not enter into an agreement pursuant to subsection 1 unless **[**~~:~~

~~(a) The~~**]** ***the*** governing body has made a written finding pursuant to subsection 3 of NRS 271A.080 that the project and the use of any money pledged pursuant to NRS 271A.070 will not have a positive fiscal effect on the provision of local governmental services**.** **[**~~; or~~

~~(b) The Governor requires a commitment from the municipality for the provision of specified payments to the school district in which the district is located during the term of the use of any money pledged pursuant to NRS 271A.070.~~**]**

[~~Sec. 8.~~**]** ***Sec. 9.*** NRS 271A.120 is hereby amended to read as follows:

271A.120 1. Except as otherwise provided in this section, if the governing body of a municipality adopts an ordinance pursuant to NRS 271A.070, the municipality may:

(a) Issue, at one time or from time to time, bonds or notes as special obligations under the Local Government Securities Law to finance or refinance projects for the benefit of the district. Any such bonds or notes **[**~~may~~**]** ***issued:***

(1) Before the effective date of this section, or issued to refund any such bonds or notes issued before the effective date of this section, may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(2) On or after the effective date of this section, except as otherwise provided in subparagraph (1), may be secured by a pledge of, and be payable from, any money pledged pursuant to subparagraphs (1) and (3) of paragraph (c) of subsection 1 of NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(b) Enter into an agreement with one or more governmental entities or other persons to reimburse that entity or person for the cost of acquiring, improving or equipping, or any combination thereof, any project, which may contain such terms as are determined to be desirable by the governing body of the municipality, including the payment of reasonable interest and other financing costs incurred by such entity or other person. ~~[Any]~~ ***If the agreement is made:***

(1) Before the effective date of this section, any such reimbursements may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(2) On or after the effective date of this section, any such reimbursements may be secured by a pledge of, and be payable from, any money pledged pursuant to subparagraphs (1) and (3) of paragraph (c) of subsection 1 of NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

➥ Such an agreement is not subject to the limitations of subsection 1 of NRS 354.626 and may, at the option of the governing body, be binding on the municipality beyond the fiscal year in which it was made, only if the agreement pertains solely to one or more projects that are owned by the municipality or another governmental entity.

2. Before the issuance of any bonds or notes pursuant to this section, the municipality must obtain the results of a feasibility study, commissioned by the municipality, which shows that a sufficient amount will be generated from money pledged pursuant to NRS 271A.070 to make timely payment on the bonds or notes, taking into account the revenue from any other revenue-producing projects also pledged for the payment of the bonds or notes, if any. A failure to make payments of any amounts due:

(a) With respect to any bonds or notes issued pursuant to subsection 1; or

(b) Under any agreements entered into pursuant to subsection 1,

➥ because of any insufficiency in the amount of money pledged pursuant to NRS 271A.070 to make those payments shall be deemed not to constitute a default on those bonds, notes or agreements.

3. No bond, note or other agreement issued or entered into pursuant to this section may be secured by or payable from the general fund of the municipality, the power of the municipality to levy ad valorem property

taxes, or any source other than any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. No bond, note or other agreement issued or entered into pursuant to this section may ever become a general obligation of the municipality or a charge against its general credit or taxing powers, nor may any such bond, note or other agreement become a debt of the municipality for purposes of any limitation on indebtedness.

4. Any bond or note issued pursuant to this section, including any bond or note issued to refund any such bond or note, must mature on or before, and any agreement entered pursuant to this section must automatically terminate on or before, the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs.

~~[Sec. 9.]~~ ***Sec. 10.*** NRS 271A.130 is hereby amended to read as follows:

271A.130 1. Except as otherwise provided in this section ~~[,]~~ ***and section 4 of this act and*** notwithstanding any other law to the contrary, any contract or other agreement relating to or providing for the construction, improvement, repair, demolition, reconstruction, other acquisition, equipment, operation or maintenance of any project financed in whole or in part pursuant to this chapter is exempt from any law requiring competitive bidding or otherwise specifying procedures for the award of contracts for construction or other contracts, or specifying procedures for the procurement of goods or services. The governing body of the municipality shall require a quarterly report on the demography of the workers employed by any contractor or subcontractor for each such project.

2. The provisions of subsection 1 do not apply to any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. ~~[The provisions of NRS 338.010 to 338.090, inclusive, apply to]~~ ***A person who enters into*** any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:

(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120,

➥ ~~*[to the same extent as if the contract or other agreement was awarded by the governing body of the municipality and the project constituted a public work,* regardless of whether the project is publicly or privately owned.]~~ ***shall include in the contract or other agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive. The governing body of the municipality, the contractor who is awarded the contract or enters into the agreement to perform the construction,***

improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body of the municipality had undertaken the project or had awarded the contract.

4. The governing body of the municipality shall ensure that each contractor ~~*[who submits a bid on such a contract or other agreement complies with]*~~ ***to whom the provisions of section 4 of this act*** ~~*[.]*~~ ***apply complies with those provisions.***

~~**[Sec. 10.]**~~ ***Sec. 11.*** NRS 360.850 is hereby amended to read as follows:

360.850 1. The State Controller, acting upon the collection data furnished by the Department, shall remit to the governing body of a municipality that adopts an assessment ordinance in accordance with NRS 271.650 in the manner provided pursuant to an agreement made pursuant to NRS 271.660:

(a) From the State General Fund, the amount of money pledged pursuant to the ordinance in accordance with paragraph (a) of subsection 1 of NRS 271.650 which amount is hereby appropriated for that purpose; and

(b) From the Sales and Use Tax Account in the State General Fund, the amount of the proceeds pledged pursuant to the ordinance in accordance with ~~[~~paragraph~~]~~ ***paragraphs*** (b) ***and (c)*** of subsection 1 of NRS 271.650.

2. The governing body of a municipality that adopts an assessment ordinance in accordance with NRS 271.650 shall promptly remit to the State Controller any amount received pursuant to this section in excess of the amount required to carry out the provisions of NRS 271.4315 with regard to the project for which the assessment ordinance was adopted. The State Controller shall deposit any money received from a governing body of a municipality pursuant to this subsection in the appropriate account in the State General Fund for distribution and use as if the money had not been pledged pursuant to an assessment ordinance adopted in accordance with NRS 271.650 in the following order of priority:

(a) First, to the credit of the county school district fund for the county in which the improvement district is located to the extent that the money would have been transferred to that fund, if not for the pledge of the money pursuant to the assessment ordinance, pursuant to paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in which the State Controller receives the money;

(b) Second, to the State General Fund to the extent that the money would not have been appropriated, if not for the pledge of the money pursuant to the assessment ordinance, pursuant to paragraph (a) of subsection 1 for the fiscal year in which the State Controller receives the money; and

(c) Third, to the credit of any other funds and accounts to which the money would have been distributed, if not for the pledge of the money

pursuant to the assessment ordinance, for the fiscal year in which the State Controller receives the money.

3. The Nevada Tax Commission may adopt such regulations as it deems appropriate to ensure the proper collection and distribution of any money pledged pursuant to an assessment ordinance adopted in accordance with NRS 271.650.

~~[Sec. 11.]~~ ***Sec. 12.*** NRS 360.855 is hereby amended to read as follows:

360.855 1. The State Controller, acting upon the collection data furnished by the Department, shall remit to the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070, in the manner provided pursuant to an agreement made pursuant to NRS 271A.100:

(a) From the State General Fund the amount of money pledged pursuant to the ordinance in accordance with subparagraph (1) of paragraph (c) of subsection 1 of NRS 271A.070, which amount is hereby appropriated for that purpose; and

(b) From the Sales and Use Tax Account in the State General Fund the amount of the proceeds pledged pursuant to the ordinance in accordance with ~~[~~subparagraph~~]~~ ***subparagraphs*** (2) ***and (3)*** of paragraph (c) of subsection 1 of NRS 271A.070.

2. Except as otherwise provided in subsection 3, the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070 shall at the end of each fiscal year remit to the State Controller any amount received pursuant to this section in excess of the amount required to make payments due during that fiscal year of the principal of, interest on, and other payments or security-related costs with respect to, any bonds or notes issued pursuant to NRS 271A.120 and payments due during that fiscal year under any agreements made pursuant to NRS 271A.120. The State Controller shall deposit any money received from a governing body of a municipality pursuant to this subsection in the appropriate account in the State General Fund for distribution and use as if the money had not been pledged by an ordinance adopted pursuant to NRS 271A.070, in the following order of priority:

(a) First, to the credit of the county school district fund for the county in which the improvement district is located to the extent that the money would have been transferred to that fund, if not for the pledge of the money pursuant to that ordinance, pursuant to paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in which the State Controller receives the money;

(b) Second, to the State General Fund to the extent that the money would not have been appropriated, if not for the pledge of the money pursuant to that ordinance, pursuant to paragraph (a) of subsection 1 for the fiscal year in which the State Controller receives the money; and

(c) Third, to the credit of any other funds and accounts to which the money would have been distributed, if not for the pledge of the money

pursuant to that ordinance, for the fiscal year in which the State Controller receives the money.

3. The provisions of subsection 2 do not require a governing body to remit to the State Controller any money received pursuant to this section and expended for the purpose of prepaying, defeasing or otherwise retiring all or a portion of any bonds or notes issued pursuant to NRS 271A.120 or of prepaying amounts due under any agreements entered into pursuant to NRS 271A.120, or any combination thereof, with respect to a tourism improvement district if that use of the money has been:

(a) Authorized by the governing body in the ordinance creating the district pursuant to NRS 271A.070, or in an amendment thereto; and

(b) Approved by the governing body, Commission on Tourism and Governor in the manner required to satisfy the requirements of subsections ~~[6, 7 and 8]~~ ***5, 6 and 7*** of NRS 271A.080,

➥ and ***, if applicable,*** after the provision of notice to and an opportunity to make comments by ~~[the board of trustees of the school district in which the tourism improvement district is located in accordance with subsection 4 of NRS 271A.080 and, if applicable, by]~~ the board of county commissioners of the county in which the tourism improvement district is located in accordance with subsection ~~[5]~~ ***4*** of NRS 271A.080.

4. The Nevada Tax Commission may adopt such regulations as it deems appropriate to ensure the proper collection and distribution of any money pledged by an ordinance adopted pursuant to NRS 271A.070.

Sec. 13. **NRS 372.750 is hereby amended to read as follows:**

372.750 1. Except as otherwise provided in this section ***, section 5 of this act*** or NRS 360.247, it is a misdemeanor for any member of the Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular of them, set forth or disclosed in any return, or to permit any return or copy of a return, or any book containing any abstract or particulars of it to be seen or examined by any person not connected with the Department.

2. The Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the

name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against him.

Sec. 14. **NRS 374.755 is hereby amended to read as follows:**

374.755 1. Except as otherwise provided in this section ***, section 5 of this act*** or NRS 360.247, it is a misdemeanor for any member of the Nevada Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Department.

2. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, however, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The

information so obtained pursuant to the order of the Governor may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Nevada Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against him.

~~[Sec. 12.]~~ ***Sec. 15.*** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 13.]~~ ***Sec. 16.*** 1. This section and sections 1, 6 ~~[, 7, 8, 10, 11 and 12]~~ **to 9, inclusive, 11, 12 and 15** of this act become effective upon passage and approval.

2. Sections 2 to 5, inclusive, ~~[and 9]~~ **10, 13 and 14** of this act become effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 433.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 422.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bill 422 and Senate Bill No. 433 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 422.

Bill read third time.

Remarks by Assemblywomen Smith and Gansert.

Roll call on Assembly Bill No. 422:

YEAS—39.

NAYS—Cobb, Gustavson, Settelmeyer—3.

Assembly Bill No. 422 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 119 and 354 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 433 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 433.

Bill read third time.

Remarks by Assemblymen Arberry, Parnell, Gansert, Carpenter, Stewart, and Madam Speaker.

Potential conflict of interest declared by Assemblyman Denis.

Roll call on Senate Bill No. 433:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, Hambrick, McArthur—5.

Senate Bill No. 433 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

May 22, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bills Nos. 428, 430 and 431.

MARK STEVENS
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 428.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 430.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 431.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that Senate Bill No. 433 be immediately transmitted to the Senate.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 80.

The following Senate amendment was read:

Amendment No. 835.

AN ACT relating to excavations; setting forth the duties of an operator of a sewer main with respect to a sewer service lateral connected to that sewer main; revising provisions relating to the operators of subsurface installations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill sets forth the duties and rights of an operator of a sewer main with respect to a sewer service lateral connected to that sewer main when he is notified of a proposed excavation or demolition by an association for operators. **Section 4** also authorizes an operator of a sewer main, which may be a local government, to require the person responsible for the excavation or demolition to reimburse any costs incurred by the operator to locate and identify the connection. **Section 15.5 of this bill provides that**

on and after January 1, 2011, certain operators are prohibited from obtaining reimbursement of such costs.

Section 6 of this bill requires the operator of a sewer main to maintain certain information relating to the locations of connections of sewer service laterals to the sewer main.

Section 7 of this bill establishes limitations on the duties and responsibilities of an operator of a sewer main with respect to a connection of a sewer service lateral to the sewer main.

Section 12 of this bill sets forth the duties of a person who connects a sewer service lateral to a sewer main. (NRS 455.131)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 455 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***"Sewer main" means a sewer line with a diameter that exceeds 6 inches.***

Sec. 3. ***"Sewer service lateral" means a pipe or conduit that connects a building or other property to a sewer main.***

Sec. 4. ***If an operator of a sewer main receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110:***

1. For a proposed excavation or demolition, the operator of the sewer main shall provide the person responsible for the excavation or demolition with the operator's best available information regarding the location of the connection of the sewer service lateral to the sewer main. The operator shall convey the information to the person responsible for the excavation or demolition in such manner as is determined by the operator which may include any one or more of the following methods, without limitation:

(a) Identification of the location of the connection of the sewer service lateral to the sewer main;

(b) Providing copies of documents relating to the location of the sewer service lateral within 2 working days; or

(c) Placement of a triangular green marking along the sewer main or the edge of the public right-of-way, pointing toward the real property serviced by the sewer service lateral to indicate that the location of the sewer service lateral is unknown.

2. The operator of a sewer main shall make its best efforts to comply with paragraph (a) or (c) of subsection 1 within 2 working days. If an operator of a sewer main cannot complete the requirements of paragraph (a) or (c) of subsection 1 within 2 working days, then the operator and the person responsible for the excavation or demolition must mutually agree upon a reasonable amount of time within which the operator must comply.

3. A government, governmental agency or political subdivision of a government that operates a sewer main may charge a person responsible

for excavation or demolition in a public right-of-way for complying with this section in an amount that does not exceed the actual costs for the operator for compliance with this section. Costs assessed pursuant to this subsection are not subject to the provisions of NRS 354.59881 to 354.59889, inclusive.

4. If the operator of a sewer main has received the information required pursuant to NRS 455.131 or has otherwise identified the location of the sewer service lateral in the public right-of-way, then the operator of the sewer main shall be responsible thereafter to identify the location of the sewer service lateral from that information.

Sec. 5. (Deleted by amendment.)

Sec. 6. ***An operator of a sewer main shall maintain all information relating to the locations of connections of sewer service laterals to the sewer main:***

1. Developed by the operator pursuant to section 4 of this act; or

2. Provided to the operator pursuant to subsection 2 of NRS 455.131.

Sec. 7. ***An operator of a sewer main who is not otherwise required by law to be responsible for the maintenance, operation, ownership or repair of a sewer service lateral that connects to the sewer main does not assume any further duty with respect to a sewer service lateral pursuant to this chapter nor become responsible for the maintenance, operation, ownership or repair of the sewer service lateral that connects to the sewer main solely because the operator complied with the provisions of NRS 455.080 to 455.180, inclusive, and sections 2 to 7, inclusive, of this act.***

Sec. 8. NRS 455.080 is hereby amended to read as follows:

455.080 As used in NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 455.082 to 455.105, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 455.092 is hereby amended to read as follows:

455.092 "Excavation" means the movement or removal of earth, rock or other material in or on the ground by use of mechanical equipment or by the placement and discharge of explosives. The term includes augering, backfilling, ***boring,*** digging, ditching, drilling, grading, plowing-in, ripping, scraping, trenching and tunneling.

Sec. 10. NRS 455.107 is hereby amended to read as follows:

455.107 1. Except as otherwise provided in subsection 2, possession of a permit to conduct an excavation or demolition does not exempt a person from complying with the provisions of NRS 455.080 to 455.180, inclusive ~~[.]~~ ***, and sections 2 to 7, inclusive, of this act.***

2. A person is exempt from complying with the provisions of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act,*** if he obtains the written consent of all operators involved in the proposed excavation or demolition before he receives a permit to conduct the excavation or demolition.

Sec. 11. NRS 455.130 is hereby amended to read as follows:

455.130 1. Except in an emergency or as otherwise provided in subsection 2 ~~[.]~~ ***or section 4 of this act,*** if an operator receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110, the operator shall:

(a) Locate and identify the subsurface installations and, if known, the number of subsurface installations that are affected by the proposed excavation or demolition to the extent and to the degree of accuracy that the information is available in the records of the operator or can be determined by using techniques of location that are commonly used in the industry, except excavating, within 2 working days or within a time mutually agreed upon by the operator and the person who is responsible for the excavation or demolition;

(b) Remove or protect a subsurface installation as soon as practicable if the operator decides it should be removed or protected; and

(c) Advise the person who contacted the association for operators of the location of the subsurface installations of the operator that are affected by the proposed excavation or demolition.

2. The operator shall notify the person who contacted the association for operators if the operator has no subsurface installations that are affected by the proposed excavation or demolition.

Sec. 12. NRS 455.131 is hereby amended to read as follows:

455.131 1. ~~[An]~~ ***Except as otherwise provided in subsection 2, an*** operator shall, for each subsurface installation that is installed on or after October 1, 2005, which cannot be detected from or above the surface of the ground by means of either the material used in constructing the subsurface installation or a conductor within the subsurface installation, install a permanent device which designates or provides a means of detecting a subsurface installation through the use of a noninvasive method from or above the surface of the ground. Such a device includes, without limitation, a tracer wire or a marker.

2. ***A person who connects a sewer service lateral to a sewer main shall, at the option of the operator of the sewer main:***

(a) Install a permanent device as described in subsection 1 of a type designated by the operator of the sewer main at the connection of the sewer service lateral to the sewer main and where the sewer service lateral exits the public right-of-way and promptly provide the operator of the sewer main with the location of such permanent devices;

(b) Promptly provide the operator of the sewer main with the location of the connection of the sewer service lateral to the sewer main and where the sewer service lateral exits the public right-of-way as described by global positioning system coordinates which:

(1) Are either identified by latitude and longitude using decimal degrees or are identified using coordinates of the Universal Transverse Mercator system; and

(2) Specify for each coordinate whether the North American Datum of 1927, North American Datum of 1983 or the World Geodetic System 1984 was used; or

(c) Provide to the operator of the sewer main notification of when the sewer service lateral is exposed so that the operator of the sewer main can identify the location of the sewer service lateral.

3. As used in this section:

(a) "Above ground marker" is a marker which is installed flush with the surface of the ground or which protrudes above the surface of the ground above a subsurface installation and includes information concerning the subsurface installation.

(b) "Electronic marker" is a marker which is buried at various depths below or near the surface of the ground above a subsurface installation and which contains a passive antenna that:

(1) Can be identified with detection equipment; and

(2) Does not require an internal power source.

(c) "Marker" is a device that physically designates the location of a subsurface installation at intermittent locations along or above the subsurface installation and includes, without limitation, an above ground marker or electronic marker.

(d) "Tracer wire" is a locating wire which is installed in conjunction with a subsurface installation and is connected to a transmitter that carries a signal which is read by a receiver above the surface of the ground for the detection of the location of the subsurface installation.

Sec. 13. NRS 455.150 is hereby amended to read as follows:

455.150 Any person who substantially complies with the provisions of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act*** is not liable for the cost of repairing any damage to a subsurface installation which results from his excavation or demolition.

Sec. 14. NRS 455.170 is hereby amended to read as follows:

455.170 1. An action for the enforcement of a civil penalty pursuant to this section may be brought before the Public Utilities Commission of Nevada by the Attorney General, a district attorney, a city attorney, the Regulatory Operations Staff of the Public Utilities Commission of Nevada, the governmental agency that issued the permit to conduct an excavation or demolition, an operator or a person conducting an excavation or demolition.

2. Any person who willfully or repeatedly violates a provision of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act*** is liable for a civil penalty:

(a) Not to exceed $1,000 per day for each violation; and

(b) Not to exceed $100,000 for any related series of violations within a calendar year.

3. Any person who negligently violates any such provision is liable for a civil penalty:

(a) Not to exceed $200 per day for each violation; and

(b) Not to exceed $1,000 for any related series of violations within a calendar year.

4. The amount of any civil penalty imposed pursuant to this section and the propriety of any settlement or compromise concerning a penalty must be determined by the Public Utilities Commission of Nevada upon receipt of a complaint by the Attorney General, the Regulatory Operations Staff of the Public Utilities Commission of Nevada, a district attorney, a city attorney, the agency that issued the permit to excavate or the operator or the person responsible for the excavation or demolition.

5. In determining the amount of the penalty or the amount agreed upon in a settlement or compromise, the Public Utilities Commission of Nevada shall consider:

(a) The gravity of the violation;

(b) The good faith of the person charged with the violation in attempting to comply with the provisions of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act*** before and after notification of a violation; and

(c) Any history of previous violations of those provisions by the person charged with the violation.

6. A civil penalty recovered pursuant to this section must first be paid to reimburse the person who initiated the action for any cost incurred in prosecuting the matter.

7. Any person aggrieved by a determination of the Public Utilities Commission of Nevada pursuant to this section may seek judicial review of the determination in the manner provided by NRS 703.373.

Sec. 15. NRS 455.180 is hereby amended to read as follows:

455.180 The provisions of NRS 455.080 to 455.170, inclusive, ***and sections 2 to 7, inclusive, of this act*** do not affect any civil remedies provided by law for personal injury or property damage and do not create a new civil remedy for any personal injury or property damage.

Sec. 15.5. **Section 4 of this act is hereby amended to read as follows:**

If an operator of a sewer main receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110:

1. For a proposed excavation or demolition, the operator of the sewer main shall provide the person responsible for the excavation or demolition with the operator's best available information regarding the location of the connection of the sewer service lateral to the sewer main. The operator shall convey the information to the person responsible for the excavation or demolition in such manner as is determined by the operator which may include any one or more of the following methods, without limitation:

(a) Identification of the location of the connection of the sewer service lateral to the sewer main;

(b) Providing copies of documents relating to the location of the sewer service lateral within 2 working days; or

(c) Placement of a triangular green marking along the sewer main or the edge of the public right-of-way, pointing toward the real property serviced by the sewer service lateral to indicate that the location of the sewer service lateral is unknown.

2. The operator of a sewer main shall make its best efforts to comply with paragraph (a) or (c) of subsection 1 within 2 working days. If an operator of a sewer main cannot complete the requirements of paragraph (a) or (c) of subsection 1 within 2 working days, then the operator and the person responsible for the excavation or demolition must mutually agree upon a reasonable amount of time within which the operator must comply.

3. A government, governmental agency or political subdivision of a government that operates a sewer main ***:***

(a) Except as otherwise provided in subsection 4, in a county with a population of 40,000 or more may not charge a person responsible for excavation or demolition in a public right-of-way for complying with this section.

(b) In a county with a population of less than 40,000 may charge a person responsible for excavation or demolition in a public right-of-way for complying with this section in an amount that does not exceed the actual costs for the operator for compliance with this section. Costs assessed pursuant to this ~~[subsection]~~ ***paragraph*** are not subject to the provisions of NRS 354.59881 to 354.59889, inclusive.

4. ***A government, governmental agency or political subdivision that operates a sewer main in a county with a population of 40,000 or more may charge a person responsible for excavation or demolition in a public right-of-way for complying with this section in an amount that does not exceed the actual costs for the operator for compliance with this section if:***

(a) The sewer system of the operator services not more than 260 accounts; and

(b) There is no natural gas pipeline located within the service area of the operator of the sewer main,

➥ costs assessed pursuant to this subsection are not subject to the provisions of NRS 354.59881 to 354.59889, inclusive.

5. If the operator of a sewer main has received the information required pursuant to NRS 455.131 or has otherwise identified the location of the sewer service lateral in the public right-of-way, then the operator of the sewer main shall be responsible thereafter to identify the location of the sewer service lateral from that information.

Sec. 16. 1. On or before December 31, 2010, each operator of a sewer main shall submit a report to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature which provides:

(a) The number of sewer service lateral connections that the operator of the sewer main has identified between October 1, 2009, and September 30, 2010;

(b) The method that the operator of the sewer main used to locate such sewer service lateral connections; and

(c) The costs accrued by the operator of the sewer main to locate such sewer service lateral connections.

2. As used in this section:

(a) "Operator" has the meaning ascribed to it in NRS 455.096.

(b) "Sewer main" has the meaning ascribed to it in section 2 of this act.

(c) "Sewer service lateral" has the meaning ascribed to it in section 3 of this act.

Sec. 17. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 18. **1. This section and sections 1 to 15, inclusive, 16 and 17 of this act become effective on October 1, 2009.**

2. Section 15.5 of this act becomes effective on January 1, 2011.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 80.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 225.

The following Senate amendment was read:

Amendment No. 849.

AN ACT relating to county fire departments; requiring a board of county commissioners that creates a district for a fire department to adopt an ordinance requiring the imposition and collection of fees for the transportation of sick or injured persons by the department to a medical facility; mandating that such an ordinance in a county whose population is 400,000 or more limit the number of such transports by the department ~~[and require an annual]~~ **; requiring a board of county commissioners in a county whose population is 400,000 or more to submit a quarterly** report to the Legislature **and the Legislative Committee on Health Care** of ~~[the fees charged for, and the number of, such transports;]~~ **various information relating to the transport of sick and injured persons to medical facilities;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of county commissioners, in a county where a district for a fire department has been created and where the fire department transports sick or injured persons to a medical facility, to adopt an ordinance that either: (1) requires the fire department to impose and collect fees to defray the expenses of furnishing such transportation; or (2) prohibits the imposition and collection of such fees. (NRS 244.2961) **Section 1** of this bill repeals the option of adopting an ordinance prohibiting the imposition and collection of such fees, except in counties for which a nonprofit corporation has been granted an exclusive franchise to provide

ambulance service. **Section 1** also requires that, in a county whose population is 400,000 or more (currently Clark County), such an ordinance limit the number of transports the fire department may make annually to not more than 1,000 transports, with an exception for emergency situations in which a private ambulance is not available. **Section 2** of this bill, with respect to a county that has already adopted an ordinance prohibiting the imposition and collection of such fees, allows the county until January 1, 2010, to amend or repeal that ordinance. **Section 3** of this bill requires the board of county commissioners of a county whose population is 400,000 or more to submit ~~[an annual]~~ **a quarterly** report to the Legislature **and the Legislative Committee on Health Care** regarding the number of yearly transports made by the fire department and **all ambulance companies. The report must include, without limitation,** the fees charged for those transports ~~[.]~~ **, whether or not the persons transported had health insurance and what medical facilities the persons were transported to and from.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 244.2961 is hereby amended to read as follows:

244.2961 1. The board of county commissioners may by ordinance create a district for a fire department. The board of county commissioners is ex officio the governing body of any district created pursuant to this section and may:

(a) Organize, regulate and maintain the fire department.

(b) Appoint and prescribe the duties of the fire chief.

(c) Designate arson investigators as peace officers.

(d) Regulate or prohibit the storage of any explosive, combustible or inflammable material in or transported through the county, and prescribe the distance from any residential or commercial area where it may be kept. Any ordinance adopted pursuant to this paragraph that regulates places of employment where explosives are stored must be at least as stringent as the standards and procedures adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(e) Establish, by ordinance, a fire code and other regulations necessary to carry out the purposes of this section.

(f) Include the budget of the district in the budget of the county.

(g) Hold meetings of the governing body of the district in conjunction with the meetings of the board of county commissioners without posting additional notices of the meetings within the district.

2. ~~[If]~~ ***Except as otherwise provided in subsection 6, if*** the fire department transports sick or injured persons to a medical facility, the board of county commissioners shall adopt ~~[:]~~ ***an ordinance:***

(a) ~~[An ordinance:~~

~~(1)~~] Requiring the fire department to defray the expenses of furnishing such transportation by imposing and collecting fees; and

~~[(2)~~] *(b)* Establishing a schedule of such fees **.** ~~[; or~~

~~(b) An ordinance prohibiting the imposition and collection of any fees for such transportation.~~]

3. ***The board of county commissioners of a county whose population is 400,000 or more shall, when adopting an ordinance pursuant to subsection 2:***

(a) Limit the number of transports of sick or injured persons to a medical facility that may be made by the fire department to not more than 1,000 such transports per year, except that the fire department may, exclusive of the limit, make any such emergency transport that is necessary for the health or life of a sick or injured person when other ambulance services are not available; and

(b) Require the fire department and all other ambulance services operating in the county to report to the board ~~[the]~~ :

(1) The total number of transports of sick or injured persons to a medical facility that are made ~~[by the fire department]~~ each month ~~[.]~~ ; and

(2) For each transport reported pursuant to subparagraph (1):

(I) The fees charged to transport the person to a medical facility;

(II) Whether the person had health insurance at the time of the transport; and

(III) The name of the medical facility where the fire department or ambulance service transported the person to or from.

4. The other officers and employees of the county shall perform duties for the district that correspond to the duties they perform for the county.

~~[4.~~] ***5.*** All persons employed to perform the functions of the fire department are employees of the county for all purposes.

6. The provisions of subsection 2 do not apply to any county for which a nonprofit corporation has been granted an exclusive franchise for ambulance service in that county.

Sec. 2. A board of county commissioners shall amend any ordinance previously adopted by that body which does not conform with the provisions of NRS 244.2961, as amended by section 1 of this act, by January 1, 2010. Any ordinance that does not comply with NRS 244.2961, as amended by section 1 of this act, by January 1, 2010, shall be deemed to conform with NRS 244.2961, as amended by section 1 of this act, by operation of law.

Sec. 3. The board of county commissioners of a county whose population is 400,000 or more shall **, each calendar quarter,** submit ~~[an annual]~~ **a** report to the **Legislative Committee on Health Care and the** Director of the Legislative Counsel Bureau ~~[not later than January 15 of each year]~~ for transmittal to the Legislature, if the Legislature is in session **,** ~~[that year,]~~ or to the Legislative Commission, if the Legislature is not in session **.** ~~[that year.]~~ The report must include, without limitation ~~[:~~

~~1. The fees charged by the fire department for transport of sick or injured persons to a medical facility; and~~

~~2.~~ **, the following information related to each fire department and ambulance service operating in the county:**

1. The **total** number of ~~[such]~~ transports **of sick or injured persons to a medical facility** that ~~[are]~~ **were** made by the fire department ~~[each]~~ **or ambulance service during that** calendar ~~[year.]~~ **quarter.**

2. For each person transported by the fire department or ambulance service during the calendar quarter:

(a) The fees charged to transport the person to a medical facility;

(b) Whether the person had health insurance at the time of transport; and

(c) The name of the medical facility where the fire department or ambulance service transported the person to or from.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 225.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:20 a.m.

ASSEMBLY IN SESSION

At 12:49 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which were referred Senate Bills Nos. 421, 426, 428, 431, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bills Nos. 421, 426, 428, and 431 considered engrossed, declared emergency measures under the *Constitution*, and placed at the top of General File for third reading and final passage.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 90.

The following Senate amendment was read:

Amendment No. 651.

AN ACT relating to deceptive trade practices; requiring that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances; authorizing the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows the Attorney General to investigate suspected deceptive trade practices and to institute proceedings to seek certain remedies for such violations. (Chapter 598 of NRS)

Section 1 of this bill requires that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances. **Section 1** also authorizes the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Attorney General, in the course of the investigation of any alleged violations of this chapter, may obtain and use any intelligence, investigative information or other information obtained ~~*[as the result of a subpoena or civil investigative demand]*~~ ***by or made available to the Attorney General .*** ~~*[on a confidential or similarly restricted basis. Any]*~~ ***Except as otherwise provided in subsections 2 and 3, any such intelligence or information received must retain its confidential status under the laws of this State until the Attorney General institutes civil or criminal proceedings and is exempt from the provisions of NRS 239.010.***

2. ~~*[The Attorney General may withhold from public inspection or refuse to disclose to a person, for such time as the Attorney General considers necessary, any intelligence or information obtained pursuant to subsection 1 or NRS 598.0963 that, in the Attorney General's judgment, would impede or otherwise interfere with an investigation that is currently pending.*~~

~~*3. The]*~~ ***Except as otherwise provided in subsection 4, the Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with State and local agencies, officials of the Federal Government and the several states, including, but not limited to,***

the sharing of information and evidence obtained in accordance with subsection 1 or NRS 598.0963.

3. The provisions of subsections 1 and 2 do not prohibit the Attorney General from disclosing any intelligence or information received pursuant to subsection 1, including, without limitation, the address or telephone number of a business or organization, before the Attorney General institutes civil or criminal proceedings if, in the discretion of the Attorney General, that disclosure is necessary to protect consumers and businesses.

4. If any information sought pursuant to an investigation of an alleged violation of this chapter includes a trade secret, the Attorney General shall enter into, and be bound by, an agreement regarding limitations on the disclosure of that information to protect that trade secret. Notwithstanding the provisions of this section, the Attorney General shall not disclose that information in violation of the terms of the agreement. For the purposes of this subsection, "trade secret" has the meaning ascribed to it in NRS 600A.030.

Sec. 2. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 4. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.

2. The Attorney General may institute criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.*** The Attorney General is not required to obtain leave of the court before instituting criminal proceedings pursuant to this subsection.

3. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 5. NRS 598.0967 is hereby amended to read as follows:

598.0967 1. The Commissioner and the Director, in addition to other powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** may issue subpoenas to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry and prescribe such forms and adopt such regulations as may be necessary to administer the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.*** Such regulations may include, without limitation, provisions concerning the applicability of the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** to particular persons or circumstances.

2. Service of any notice or subpoena must be made as provided in N.R.C.P. 45(c).

Sec. 6. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may

make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~[,]~~ ***, and section 1 of this act;*** and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➥ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➥ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than $5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 7. NRS 598.0973 is hereby amended to read as follows:

598.0973 1. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to NRS 598.0979 to 598.099, inclusive, ***and section 1 of this act,*** if the court finds that a person has engaged in a deceptive trade practice directed toward an elderly person or a person with a disability, the court may, in addition to any other civil or criminal penalty, impose a civil penalty of not more than $12,500 for each violation.

2. In determining whether to impose a civil penalty pursuant to subsection 1, the court shall consider whether:

(a) The conduct of the person was in disregard of the rights of the elderly person or person with a disability;

(b) The person knew or should have known that his conduct was directed toward an elderly person or a person with a disability;

(c) The elderly person or person with a disability was more vulnerable to the conduct of the person because of the age, health, infirmity, impaired understanding, restricted mobility or disability of the elderly person or person with a disability;

(d) The conduct of the person caused the elderly person or person with a disability to suffer actual and substantial physical, emotional or economic damage;

(e) The conduct of the person caused the elderly person or person with a disability to suffer:

(1) Mental or emotional anguish;

(2) The loss of the primary residence of the elderly person or person with a disability;

(3) The loss of the principal employment or source of income of the elderly person or person with a disability;

(4) The loss of money received from a pension, retirement plan or governmental program;

(5) The loss of property that had been set aside for retirement or for personal or family care and maintenance;

(6) The loss of assets which are essential to the health and welfare of the elderly person or person with a disability; or

(7) Any other interference with the economic well-being of the elderly person or person with a disability, including the encumbrance of his primary residence or principal source of income; or

(f) Any other factors that the court deems to be appropriate.

Sec. 8. NRS 598.0974 is hereby amended to read as follows:

598.0974 A civil penalty must not be imposed against any person who engages in a deceptive trade practice pursuant to NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** in a civil proceeding brought by the Commissioner, Director or Attorney General if a fine has previously been imposed against that person by the Department of Motor Vehicles pursuant to NRS 482.554, for the same act.

Sec. 9. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act, NRS*** 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to

598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 90.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Smith, Mastroluca, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 463.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 387.

The following Senate amendment was read:

Amendment No. 801.

AN ACT relating to public utilities; requiring public utilities to submit certain information regarding renewable energy to the Public Utilities Commission of Nevada; authorizing the Commission to approve construction or expansion of transmission facilities based on an expectation of future renewable energy development; revising provisions requiring certain

providers of electric service to comply with a portfolio standard for renewable energy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill requires a utility to submit with its plan to increase its supply of electricity or decrease the demands made by its customers a description of specific geographic zones where renewable energy could be used to generate electricity but transmission facilities are inadequate to deliver such electricity to customers.

Section 7 of this bill requires the Public Utilities Commission of Nevada to consider the level of financial commitment from developers of renewable energy projects when evaluating a plan submitted pursuant to NRS 704.741.

Section 8 of this bill allows the Commission to accept a transmission plan if it would help the utility to meet the portfolio standard defined in NRS 704.7805.

Section 4.3 of this bill requires the Commission to report to the Director of the Legislative Counsel Bureau by February 15 of each odd-numbered year concerning any transmission plan proposed **, ~~[or]~~** accepted **or made known to the Commission** since the last report.

Section 9 of this bill revises the amount of electricity that a provider must generate, acquire or save to satisfy the portfolio standard from 2025 onward. **Section 9** also revises the amount of electricity that must be generated or acquired from solar energy renewable systems to satisfy the portfolio standard from 2015 onward. Additionally, **section 9** exempts providers of new electric resources from the portfolio standard that is applicable to other providers of electric service.

Section 4.7 of this bill **~~[~~**~~creates a~~**~~]~~** **provides that the** portfolio standard **~~[~~**~~specifically~~**~~]~~** for electricity sold by providers of new electric resources **~~[.~~** ~~Sections 10.3 and 10.7 of this bill revise provisions governing providers of new electric resources to comport with the provisions of section 4.7 of this bill.~~**~~]~~** **is the portfolio standard set forth in NRS 704.7821 which is effective on the date on which the Commission issues an order approving an application or request submitted by the provider of new electric resources.**

Section 11 of this bill requires the plan described in **section 6** to be filed not later than January 1, 2011. **Section 12** of this bill requires the Commission to adopt regulations designating renewable energy zones not later than January 1, 2010.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 701B.290 is hereby amended to read as follows:

701B.290 1. After a participant installs a solar energy system included in the Solar Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 **~~[.]~~** ***and section 4.7 of this act.***

2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.

3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned to and become the property of the utility administering the Program.

Sec. 2. NRS 701B.640 is hereby amended to read as follows:

701B.640 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 ***and section 4.7 of this act*** equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 3. NRS 701B.870 is hereby amended to read as follows:

701B.870 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 ***and section 4.7 of this act*** equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.

Sec. 4. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 4.3 and 4.7 of this act.

Sec. 4.3. ***On or before February 15 of each odd-numbered year, the Commission shall review, approve and submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all information about any transmission plan proposed*** ~~*[or]*~~ ***by, adopted by or made known to the Commission since the last report.***

Sec. 4.7. ***1. If the Commission issues an order approving an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.325 regarding a provider of new electric resources and an eligible customer, the Commission must establish in the order a portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the order.*** ~~*[Except as otherwise provided in subsection 2, the]*~~ ***The portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in*** ~~*[an amount that is :*~~

~~*(a) If the order was issued during or before calendar year 2008, not less than 9 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*(b) If the order was issued in calendar year 2009 or 2010, not less than 12 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*(c) If the order was issued in calendar year 2011 or 2012, not less than 15 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*(d) If the order was issued in calendar year 2013 or 2014, not less than 18 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*(e) If the order was issued in calendar year 2015 through 2024, inclusive, not less than 20 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*(f) If the order was issued in calendar year 2025 or any calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*2. If the Commission, pursuant to section 10.3 of this act, approves an increase in the amount of electricity that an eligible customer may purchase from a provider of new electric resources, the Commission shall establish in the order approving the increase a new portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the orders described in this subsection and subsection 1. The new portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is not less than the applicable percentage in subsection 1 which corresponds to the calendar year in which the Commission issues the order approving the increase.*~~

~~*3.]*~~ ***the amounts described in the portfolio standard set forth in NRS 704.7821 which is effective on the date on which the order approving the application or request is approved.***

2. Of the total amount of electricity that a provider of new electric resources is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures.

~~*[4.]*~~ ***3. If, for the benefit of one or more eligible customers, the eligible customer of a provider of new electric resources has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation***

of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider of new electric resources generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

~~*[5.]*~~ ***4. As used in this section:***

(a) "Eligible customer" has the meaning ascribed to it in NRS 704B.080.

(b) "Provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.

Sec. 5. NRS 704.736 is hereby amended to read as follows:

704.736 The application of NRS 704.736 to 704.751, inclusive, ***and section 4.3 of this act*** is limited to any public utility in the business of supplying electricity which has an annual operating revenue in this state of $2,500,000 or more.

Sec. 6. NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation ~~[, prescribe]~~ ***:***

(a) Prescribe the contents of such a plan including, but not limited to, the methods or formulas which are used by the utility to:

~~[(a)]~~ ***(1)*** Forecast the future demands; and

~~[(b)]~~ ***(2)*** Determine the best combination of sources of supply to meet the demands or the best method to reduce them ~~[.]~~ ***; and***

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility to include in its plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

4. The Commission shall require the utility to include in its plan a plan for construction or expansion of transmission facilities to serve renewable energy zones ~~*[.]*~~ ***and to facilitate the utility in meeting the portfolio standard established by NRS 704.7821.***

5. As used in this section, "renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

Sec. 7. NRS 704.746 is hereby amended to read as follows:

704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. At the hearing any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

3. After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers of the utility, associated with the following possible measures and sources of supply:

(1) Improvements in energy efficiency;

(2) Pooling of power;

(3) Purchases of power from neighboring states or countries;

(4) Facilities that operate on solar or geothermal energy or wind;

(5) Facilities that operate on the principle of cogeneration or hydrogeneration; ~~[and]~~

(6) Other generation facilities ~~[.]~~ ***; and***

(7) Other transmission facilities.

4. The Commission may give preference to the measures and sources of supply set forth in paragraph (c) of subsection 3 that:

(a) Provide the greatest economic and environmental benefits to the State;

(b) Are consistent with the provisions of this section; and

(c) Provide levels of service that are adequate and reliable.

5. The Commission shall:

(a) Adopt regulations which determine the level of preference to be given to those measures and sources of supply; and

(b) Consider the value to the public of using water efficiently when it is determining those preferences.

6. The Commission shall:

(a) Consider the level of financial commitment from developers of renewable energy projects in each renewable energy zone, as designated pursuant to subsection 2 of NRS 704.741; and

(b) Adopt regulations establishing a process for considering such commitments including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

Sec. 8. NRS 704.751 is hereby amended to read as follows:

704.751 1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting the plan as filed or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and

(b) Within 180 days for all portions of the plan not described in paragraph (a).

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting the amendment as filed or specifying any portions of the amendment it deems to be inadequate within 135 days of the filing of the amendment.

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

4. The Commission may accept a transmission plan submitted pursuant to subsection 4 of NRS 704.741 for a renewable energy zone if the Commission determines that the construction or expansion of transmission facilities would facilitate the utility meeting the portfolio standard, as defined in NRS 704.7805.

5. The Commission shall adopt regulations establishing the criteria for determining the adequacy of a transmission plan submitted pursuant to subsection 4 of NRS 704.741.

Sec. 8.2. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. The net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for the electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The value of the excess electricity must not be used to reduce any other fee or charge imposed by the utility.

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive ~~[.]~~ ***, and section 4.7 of this act.***

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 ***and section 4.7 of this act*** equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 8.4. NRS 704.7801 is hereby amended to read as follows:

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, ***and section 4.7 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 704.7802 to 704.7819, inclusive, have the meanings ascribed to them in those sections.

Sec. 8.6. NRS 704.7805 is hereby amended to read as follows:

704.7805 "Portfolio standard" means the amount of electricity that a provider must generate, acquire or save from portfolio energy systems or efficiency measures, as established by the Commission pursuant to NRS 704.7821 ~~[.]~~ ***and section 4.7 of this act.***

Sec. 8.8. NRS 704.7815 is hereby amended to read as follows:

704.7815 "Renewable energy system" means:

1. A facility or energy system that ~~[:~~

~~(a) Uses]~~ ***uses*** renewable energy or energy from a qualified energy recovery process to generate electricity ~~[.]~~ and ***:***

(a) Uses the electricity that it generates from renewable energy or energy from a qualified recovery process in this State; or

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process ~~[via:~~

~~(1) A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy or energy from a qualified energy recovery process and which is connected to a facility or system owned, operated or controlled by a provider of electric service;]~~ ~~[or]~~

~~[(2) A power line which is shared with not more than one facility or energy system generating electricity from nonrenewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service]~~ **[**.**]** ~~*[; or*~~

~~*(3) A power line which:*~~

~~*(I) Is connected to a facility or system owned, operated or controlled by a provider of electric service; and*~~

~~*(II) Is not owned, operated or controlled by the provider of electric service.]*~~ ***to a provider of electric service for delivery into and use in this State.***

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive.

Sec. 9. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar ~~[year]~~ ***years*** 2015 ~~[and for each calendar year thereafter,]~~ ***through*** ~~*[2024,]*~~ ***2019, inclusive,*** not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(g) For calendar years 2020 through 2024, inclusive, not less than 22 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(h) For calendar year 2025 and for each calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. ~~[Except as otherwise provided in subsection 3, in]~~ ***In*** addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than ***:***

(1) For calendar years 2009 through ~~*[2014,]*~~ ***2015, inclusive,*** 5 percent of that amount must be generated or acquired from solar renewable energy systems.

(2) For calendar year ~~*[2015]*~~ ***2016 and for each calendar year thereafter, 6 percent of that amount must be generated or acquired from solar renewable energy systems.***

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. ~~[The provisions of paragraphs (b) and (c) of subsection 2 do not apply to a provider of new electric resources pursuant to chapter 704B of NRS with respect to its use of an energy efficiency measure that is financed by a customer, or which is a geothermal energy system for the provision of heated water to one or more customers and which reduces the consumption of electricity or any fossil fuel, except that, of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures.~~

~~4.~~] If, for the benefit of one or more retail customers in this State, the provider ~~[~~, or the customer of a provider of new electric resources pursuant to chapter 704B of NRS,~~]~~ has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

~~[5.]~~ ***4.*** The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.

~~[6.]~~ ***5.*** Except as otherwise provided in subsection ~~[7,]~~ ***6,*** each provider shall comply with its portfolio standard during each calendar year.

~~[7.]~~ ***6.*** If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

~~[8.]~~ ***7.*** The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

8. ~~*[The]*~~ ***Except as otherwise provided in section 4.7 of this act, the provisions of this section do not apply to a provider of new electric resources as defined in NRS 704B.130.***

9. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 9.3. NRS 704.7822 is hereby amended to read as follows:

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act,*** a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer; and

2. On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

Sec. 9.5. NRS 704.7823 is hereby amended to read as follows:

704.7823 1. Except as otherwise provided in subsection 2, any electricity generated by a provider using any system that involves drawing or creating electricity from tires must be deemed to have not come from a renewable energy system for the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[.]~~ ***or section 4.7 of this act.***

2. For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act,*** a provider shall be deemed to have generated or acquired 0.7 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a system that utilizes a reverse polymerization process, if:

(a) The system is installed on the premises of a retail customer; and

(b) On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

3. As used in this section:

(a) "Reverse polymerization process" means a process that generates electricity from a tire that:

(1) Uses microwave reduction; and

(2) Does not involve combustion of the tire.

(b) "Tire" includes any tire for any vehicle or device in, upon or by which any person or property is or may be transported or drawn upon land.

Sec. 9.7. NRS 704.7828 is hereby amended to read as follows:

704.7828 1. The Commission shall adopt regulations to carry out and enforce the provisions of NRS 704.7801 to 704.7828, inclusive ~~[.]~~ ***, and section 4.7 of this act.*** The regulations adopted by the Commission may include any enforcement mechanisms which are necessary and reasonable to

ensure that each provider of electric service complies with its portfolio standard. Such enforcement mechanisms may include, without limitation, the imposition of administrative fines.

2. ***If a provider exceeds the portfolio standard for any calendar year, the Commission shall authorize the provider to carry forward to subsequent calendar years for the purpose of complying with the portfolio standard for those subsequent calendar years any excess kilowatt-hours of electricity that the provider generates, acquires or saves from portfolio energy systems or efficiency measures.***

3. If a provider does not comply with its portfolio standard for any calendar year and the Commission has not exempted the provider from the requirements of its portfolio standard pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act,*** the Commission ~~[may]~~ ***:***

(a) Shall require the provider to carry forward to subsequent calendar years the amount of the deficiency in kilowatt-hours of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; and

(b) May impose an administrative fine against the provider or take other administrative action against the provider, or do both.

~~[3.]~~ ***4.*** The Commission may impose an administrative fine against a provider based upon:

(a) Each kilowatt-hour of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; or

(b) Any other reasonable formula adopted by the Commission.

~~[4.]~~ ***5.*** In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the provider complies with its portfolio standard, as determined by the Commission.

~~[5.]~~ ***6.*** If the Commission imposes an administrative fine against a utility provider:

(a) The administrative fine is not a cost of service of the utility provider;

(b) The utility provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and

(c) The Commission shall not allow the utility provider to recover any portion of the administrative fine from its retail customers.

~~[6.]~~ ***7.*** All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.

Sec. 10. NRS 704.873 is hereby amended to read as follows:

704.873 If a public utility that is subject to the provisions of NRS 704.736 to 704.751, inclusive, ***and section 4.3 of this act*** applies to the Commission for a permit for the construction of a utility facility:

1. The Commission has exclusive jurisdiction with regard to the determination of whether a need exists for the utility facility; and

2. No other permitting entity may consider, in its review of any application for a permit, license or other approval for the construction of the utility facility, whether a need exists for the utility facility.

Sec. 10.3. ~~[Chapter 704B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*Before an eligible customer may increase the amount of electricity the eligible customer purchases from a provider of new electric resources in accordance with an order of the Commission which approved an application filed pursuant to NRS 704B.310 or a request filed pursuant to NRS 704B.325, the eligible customer must apply to and receive approval from the Commission for the increase. If the Commission approves the increase, the Commission must issue a written order approving the increase.]*~~ **(Deleted by amendment.)**

Sec. 10.5. NRS 704B.320 is hereby amended to read as follows:

704B.320 1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this State that is available to the electric utility and the existing demand for energy in this State that is consumed by the customers of the electric utility, as determined by the Commission.

2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which is purchased at the same price, terms and conditions as the energy purchased by the eligible customer for its own use; and

(2) The capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as the capacity and ancillary services purchased by the eligible customer for its own use; and

(b) Offers to assign the rights to the contract to the electric utility for use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2, the eligible customer shall include with its application filed pursuant to NRS 704B.310 all information concerning the contract offered to the electric utility that is necessary for the Commission to determine whether it is in the

best interest of the remaining customers of the electric utility for the electric utility to accept the rights to the contract. Such information must include, without limitation, the amount of the energy and capacity to be purchased under the contract, the price of the energy, capacity and ancillary services and the duration of the contract.

4. Notwithstanding any specific statute to the contrary, information concerning the price of the energy, capacity and ancillary services and any other terms or conditions of the contract that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

5. If the Commission determines that the contract:

(a) Is not in the best interest of the remaining customers of the electric utility, the electric utility shall not accept the rights to the contract, and the eligible customer is entitled to all rights to the contract.

(b) Is in the best interest of the remaining customers of the electric utility, the electric utility shall accept the rights to the contract and the eligible customer shall assign all rights to the contract to the electric utility. A contract that is assigned to the electric utility pursuant to this paragraph shall be deemed to be an approved part of the resource plan of the electric utility and a prudent investment, and the electric utility may recover all costs for the energy, capacity and ancillary services acquired pursuant to the contract. To the extent practicable, the Commission shall take actions to ensure that the electric utility uses the energy, capacity and ancillary services acquired pursuant to each such contract only for the benefit of the remaining customers of the electric utility that are not eligible customers, with a preference for the remaining customers of the electric utility that are residential customers with small loads.

6. The provisions of this section do not exempt the electric utility, in whole or in part, from the requirements imposed on the electric utility pursuant to NRS 704.7801 to 704.7828, inclusive, ***and section 4.7 of this act,*** to comply with its portfolio standard. The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

Sec. 10.7. ~~[~~NRS 704B.325 is hereby amended to read as follows:~~]~~

~~704B.325 1. An eligible customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources may purchase energy, capacity or ancillary services from an alternative provider without obtaining the approval of the Commission if the terms and conditions of the transaction with the alternative provider, other than the price of the energy,~~

~~capacity or ancillary services, conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer.~~

~~2. If any terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, do not conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer, the eligible customer must obtain approval from the Commission before those nonconforming terms and conditions are enforceable.~~

~~3. If the eligible customer files a request with the Commission for approval of any nonconforming terms and conditions, the Commission shall review and make a determination concerning the request on an expedited basis.~~ ***If the Commission approves the request, the Commission must issue a written order approving the request.***

~~4. Notwithstanding any specific statute to the contrary, information concerning any terms and conditions of the transaction with the alternative provider that the Commission determines are commercially sensitive:~~

~~(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the affected electric utility for the purposes of carrying out the provisions of this section; and~~

~~(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.~~**] (Deleted by amendment.)**

Sec. 11. Any public utility required to file a plan pursuant to NRS 704.741 that would not otherwise be required to file a new plan before January 1, 2011, shall submit an amendment to its existing plan by January 1, 2011, that complies with the provisions relating to a transmission plan in NRS 704.741, as amended by section 6 of this act.

Sec. 11.5. ~~[If the Public Utilities Commission of Nevada issued an order before July 1, 2009, to which paragraph (a) or (b) of subsection 1 of section 4.7 of this act applies, the Commission must revise the order, as needed, to meet the requirements of paragraph (a) or (b) of subsection 1 of section 4.7 of this act, as applicable. For the purposes of section 4.7 of this act, a revised order issued in accordance with this section shall be deemed to have been issued on the date that the original order was issued.~~] **(Deleted by amendment.)**

Sec. 12. The Public Utilities Commission of Nevada shall, not later than January 1, 2010, adopt regulations that designate renewable energy zones as defined in NRS 704.741, as amended by section 6 of this act.

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on June 30, 2011.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 387.

Remarks by Assemblyman Conklin.
Motion carried by a constitutional majority.
Bill ordered to enrollment.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 358, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARCUS CONKLIN, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 358 considered engrossed, declared an emergency measure under the *Constitution*, and placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 358.
Bill read third time.
Roll call on Senate Bill No. 358:
YEAS—40.
NAYS—Gustavson.
EXCUSED—Hardy.
Senate Bill No. 358 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 421.
Bill read third time.
Remarks by Assemblyman Arberry.
Potential conflict of interest declared by Assemblyman Denis.
Roll call on Senate Bill No. 421:
YEAS—41.
NAYS—None.
EXCUSED—Hardy.
Senate Bill No. 421 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 426.
Bill read third time.
Remarks by Assemblymen Conklin and Gansert.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 426:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, Hambrick, McArthur—5.

Senate Bill No. 426 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 428.

Bill read third time.

Remarks by Assemblyman Arberry.

Roll call on Senate Bill No. 428:

YEAS—42.

NAYS—None.

Senate Bill No. 428 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 431.

Bill read third time.

Remarks by Assemblyman Arberry.

Roll call on Senate Bill No. 431:

YEAS—42.

NAYS—None.

Senate Bill No. 431 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that Senate Bills Nos. 358, 421, 426, 428, and 431 be immediately transmitted to the Senate.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 102, Amendment No. 867; Assembly Bill No. 147, Amendment No. 789; Assembly Bill No. 281, Amendment No. 766; Assembly Bill No. 309, Amendments Nos. 693, 876; Assembly Bill No. 320, Amendments Nos. 694, 871; Assembly Bill No. 454, Amendment No. 763; Assembly Bill No. 513, Amendment No. 762, and respectfully requests your honorable body to concur in said amendments.

I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 463, Senate Amendment No. 758, and requests a conference, and appointed Senators Wiener, Woodhouse, and Hardy as a Conference Committee to meet with a like committee of the Assembly.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Assemblywoman Smith moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 1:14 p.m.

ASSEMBLY IN SESSION

At 2:35 p.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 543.

The following Senate amendment was read:

Amendment No. 880.

SUMMARY—Temporarily redirects a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund and ~~[~~authorizes~~]~~ **revises the provisions governing** the imposition **and use** of a supplemental governmental services tax in certain counties. (BDR 31-1187)

AN ACT relating to taxation; temporarily redirecting a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund; ~~[~~authorizing~~]~~ **revising the provisions governing** the imposition **and use** of a supplemental governmental services tax in certain counties; **temporarily redirecting a portion of certain taxes imposed in Clark County to the county general fund;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a county to impose an ad valorem tax for capital projects in the amount of 5 cents per $100 of the assessed valuation of the county. (NRS 354.59815) **Section 1** of this bill requires the deposit into the State General Fund of a portion of the proceeds of any such tax imposed during the next 2 fiscal years in a county whose population is 100,000 or more (currently Clark and Washoe Counties).

Existing law authorizes a board of county commissioners, after receiving the approval of the voters, to impose a supplemental governmental services tax of 1 cent on each $1 valuation of a vehicle. (NRS 371.045) **Section 4** of this bill authorizes the board of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to impose such a tax without voter approval ~~[.]~~ **and expands the purposes for which such a county may expend the proceeds thereof. Section 5 of this bill expands the purposes for which a county whose population is 400,000 or more (currently Clark County) may expend the proceeds of such a tax.**

Section 8 of this bill requires the deposit into the State General Fund of the portion of the property taxes levied for the next 2 fiscal years for operating

purposes by Clark and Washoe Counties at the rate of 4 cents per $100 of assessed valuation.

Section 9 of this bill requires the transfer to the general fund for Clark County of certain proceeds for the next 2 fiscal years of taxes imposed in the County on revenues from the rental of transient lodging, on the privilege of new residential, commercial, industrial and other development, and on the privilege of operating a vehicle on the public streets, roads and highways.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 354.59815 is hereby amended to read as follows:

354.59815 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, the board of county commissioners may levy a tax ad valorem on all taxable property in the county at a rate not to exceed 5 cents per $100 of the assessed valuation of the county.

2. If a tax is levied pursuant to subsection 1 in:

(a) A county whose population is less than 100,000, the board of county commissioners shall direct the county treasurer to distribute quarterly the proceeds of the tax among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year.

(b) A county whose population is 100,000 or more, the board of county commissioners shall direct the county treasurer to distribute quarterly, from the proceeds of the tax for:

(1) The fiscal year beginning on July 1, 2008:

(I) Eighty-eight percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Twelve percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(2) The fiscal year beginning on July 1, 2009:

(I) Seventy-six percent of those proceeds ~~[among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the~~

~~county for the 1990-1991 Fiscal Year;~~] ***to the State Treasurer for deposit in the State General Fund;*** and

(II) Twenty-four percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(3) The fiscal year beginning on July 1, 2010:

(I) Sixty-four percent of those proceeds [~~among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year;~~] ***to the State Treasurer for deposit in the State General Fund;*** and

(II) Thirty-six percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(4) The fiscal year beginning on July 1, 2011:

(I) Fifty-two percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Forty-eight percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(5) Each fiscal year beginning on or after July 1, 2012:

(I) Forty percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Sixty percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

3. The board of county commissioners shall not reduce the rate of any tax levied pursuant to the provisions of subsection 1 without the approval of the State Board of Finance and each of the local governments that receives a portion of the tax, except that, if a local government declines to receive its portion of the tax in a particular year the levy may be reduced by the amount that local government would have received.

Sec. 2. NRS 244.33516 is hereby amended to read as follows:

244.33516 A board of county commissioners which, after [~~March 25, 1991,~~] ***July 1, 2009,*** imposes a tax pursuant to NRS 244.3351, 278.710,

365.203, 371.045, 373.030 or 377A.020 ~~[,]~~ ***or section 4 of this act,*** shall, by January 1, ~~[2001,]~~ ***2011,*** and every 10 years thereafter:

1. Prepare a comprehensive report which includes:

(a) A statement of the proposed uses during the following 10 years of the revenues to be collected from each tax imposed; and

(b) A projection of the principal amount of any general or special obligation bonds or other securities proposed to be issued during the following 10 years to fund projects described in paragraph (a) of subsection 2 of NRS 244.33512;

2. Hold a public hearing to consider and solicit comments on the report; and

3. Provide a copy of the report to the next regular session of the Legislature.

Sec. 3. NRS 244A.256 is hereby amended to read as follows:

244A.256 1. A county may pledge any money received from the proceeds of taxes imposed pursuant to paragraph (a) of subsection 1 of NRS 244.3351 or paragraph (a) of subsection 1 of NRS 278.710 or pursuant to NRS 371.045 ***or section 4 of this act*** or, with the consent of the regional transportation commission, received from the proceeds of the tax imposed pursuant to NRS 377A.020, or any combination of money from those sources with revenue derived from the project financed with the proceeds of the obligations for whose payment those taxes are pledged, including any existing or future extensions or enlargements thereof, for the payment of general or special obligations issued for projects described in paragraph (a) of subsection 2 of NRS 244.33512, if the project for which the securities are issued could be directly funded with the taxes whose proceeds are pledged for the payment of the securities.

2. A county may pledge any money received from the proceeds of taxes imposed pursuant to paragraph (b) of subsection 1 of NRS 244.3351 or paragraph (b) of subsection 1 of NRS 278.710, or any combination of money from those taxes with revenue derived from the project financed with the proceeds of the obligations for whose payment those taxes are pledged, including any existing or future extensions or enlargements thereof, for the payment of general or special obligations issued for projects described in subsection 1 of NRS 244.33514, if the project for which the securities are issued could be directly funded with the taxes whose proceeds are pledged for the payment of the securities.

3. Any money pledged by the county pursuant to subsection 1 or 2 may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 4. Chapter 371 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may by ordinance, but not as in a case of emergency, impose a supplemental governmental services tax of not

more than 1 cent on each $1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county on each vehicle based in the county except:

(a) A vehicle exempt from the governmental services tax pursuant to this chapter; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

2. Collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after adoption of the ordinance imposing the tax.

3. Except as otherwise provided in subsection 4 and NRS 371.047, the county shall use the proceeds of the tax to pay the cost of:

(a) Projects related to the construction and maintenance of sidewalks, streets, avenues, boulevards, highways and other public rights-of-way used primarily for vehicular traffic, including, without limitation, overpass projects, street projects or underpass projects, as defined in NRS 244A.037, 244A.053 and 244A.055, respectively:

(1) Within the boundaries of the county;

(2) Within 1 mile outside the boundaries of the county if the board of county commissioners finds that such projects outside the boundaries of the county will facilitate transportation within the county; or

(3) Within 30 miles outside the boundaries of the county and the boundaries of this State, where those boundaries are coterminous, if:

(I) The projects consist of improvements to a highway which is located wholly or partially outside the boundaries of this State and which connects this State to an interstate highway; and

(II) The board of county commissioners finds that such projects will provide a significant economic benefit to the county;

(b) Payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in paragraph (a); or

(c) Any combination of those uses.

4. The county may expend ~~[the]~~ :

(a) Any proceeds of the supplemental governmental services tax authorized by this section, or any borrowing in anticipation of that tax, pursuant to an interlocal agreement between the county and the regional transportation commission of the county with respect to ~~[the]~~ any projects to be financed with the proceeds of the tax.

(b) Any proceeds of the supplemental governmental services tax authorized by this section to pay the operating costs of the county and any other costs to carry out the governmental functions of the county.

5. As used in this section, "based" has the meaning ascribed to it in NRS 482.011.

Sec. 5. NRS 371.045 is hereby amended to read as follows:

371.045 1. A board of county commissioners ***of a county whose population is less than 100,000 or is 400,000 or more*** may by ordinance, but

not as in a case of emergency, after receiving the approval of a majority of the registered voters voting on the question at a primary, general or special election, impose a supplemental governmental services tax of not more than 1 cent on each $1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county on each vehicle based in the county except:

(a) A vehicle exempt from the governmental services tax pursuant to this chapter; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

2. A county may combine this question with questions submitted pursuant to NRS 244.3351, 278.710 or 377A.020, or any combination thereof.

3. A special election may be held only if the board of county commissioners determines, by a unanimous vote, that an emergency exists. The determination made by the board is conclusive unless it is shown that the board acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the board must be commenced within 15 days after the board's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the board of county commissioners to prevent or mitigate a substantial financial loss to the county or to enable the board to provide an essential service to the residents of the county.

4. Collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after adoption of the ordinance imposing the tax.

5. Except as otherwise provided in subsection 6 and NRS 371.047, the county shall use the proceeds of the tax to pay the cost of:

(a) Projects related to the construction and maintenance of sidewalks, streets, avenues, boulevards, highways and other public rights-of-way used primarily for vehicular traffic, including, without limitation, overpass projects, street projects or underpass projects, as defined in NRS 244A.037, 244A.053 and 244A.055, respectively:

(1) Within the boundaries of the county;

(2) Within 1 mile outside the boundaries of the county if the board of county commissioners finds that such projects outside the boundaries of the county will facilitate transportation within the county; or

(3) Within 30 miles outside the boundaries of the county and the boundaries of this State, where those boundaries are coterminous, if:

(I) The projects consist of improvements to a highway which is located wholly or partially outside the boundaries of this State and which connects this State to an interstate highway; and

(II) The board of county commissioners finds that such projects will provide a significant economic benefit to the county;

(b) Payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in paragraph (a); or

(c) Any combination of those uses.

6. The county may ~~[expend the]~~ **:**

(a) Expend any proceeds of the supplemental governmental services tax authorized by this section **,** ~~[and NRS 371.047,]~~ or any borrowing in anticipation of that tax, pursuant to an interlocal agreement between the county and the regional transportation commission of the county with respect to ~~[the]~~ ***any*** projects to be financed with the proceeds of the tax.

(b) If the population of the county is 400,000 or more, expend any proceeds of the supplemental governmental services tax authorized by this section to pay the operating costs of the county and any other costs to carry out the governmental functions of the county.

7. As used in this section, "based" has the meaning ascribed to it in NRS 482.011.

Sec. 6. NRS 371.047 is hereby amended to read as follows:

371.047 1. A county may use the proceeds of the tax imposed pursuant to NRS 371.045 ~~[,]~~ ***or section 4 of this act,*** or of bonds, notes or other obligations incurred to which the proceeds of those taxes are pledged to finance a project related to the construction of a highway with limited access, to:

(a) Purchase residential real property which shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access, and which is adversely affected by the highway. Not more than 1 percent of the proceeds of the tax or of any bonds to which the proceeds of the tax are pledged may be used for this purpose.

(b) Pay for the cost of moving persons whose primary residences are condemned for a right-of-way for a highway with limited access and who qualify for such payments. The board of county commissioners shall, by ordinance, establish the qualifications for receiving payments for the cost of moving pursuant to this paragraph.

2. A county may, in accordance with NRS 244.265 to 244.296, inclusive, dispose of any residential real property purchased pursuant to this section, and may reserve and except easements, rights or interests related thereto, including, but not limited to:

(a) Abutter's rights of light, view or air.

(b) Easements of access to and from abutting land.

(c) Covenants prohibiting the use of signs, structures or devices advertising activities not conducted, services not rendered or goods not produced or available on the real property.

3. Proceeds from the sale or lease of residential real property acquired pursuant to this section must be used for the purposes set forth in this section and in NRS 371.045 ~~[,]~~ ***or section 4 of this act, as applicable.***

4. For the purposes of this section, residential real property is adversely affected by a highway with limited access if the construction or proposed use of the highway:

(a) Constitutes a taking of all or any part of the property, or interest therein;

(b) Lowers the value of the property; or

(c) Constitutes a nuisance.

5. As used in this section:

(a) "Highway with limited access" means a divided highway for through traffic with full control of access and with grade separations at intersections.

(b) "Primary residence" means a dwelling, whether owned or rented by the occupant, which is the sole principal place of residence of that occupant.

(c) "Residential real property" means a lot or parcel of not more than 1.5 acres upon which a single-family or multifamily dwelling is located.

Sec. 7. NRS 482.181 is hereby amended to read as follows:

482.181 1. Except as otherwise provided in subsection 5, after deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180, the Department shall certify monthly to the State Board of Examiners the amount of the basic and supplemental governmental services taxes collected for each county by the Department and its agents during the preceding month, and that money must be distributed monthly as provided in this section.

2. Any supplemental governmental services tax collected for a county must be distributed only to the county, to be used as provided in NRS 371.045 and 371.047 ~~[.]~~ ***and section 4 of this act.***

3. The distribution of the basic governmental services tax received or collected for each county must be made to the county school district within each county before any distribution is made to a local government, special district or enterprise district. For the purpose of calculating the amount of the basic governmental services tax to be distributed to the county school district, the taxes levied by each local government, special district and enterprise district are the product of its certified valuation, determined pursuant to subsection 2 of NRS 361.405, and its tax rate, established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1980, except that the tax rate for school districts, including the rate attributable to a district's debt service, is the rate established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1978, but if the rate attributable to a district's debt service in any fiscal year is greater than its rate for the fiscal year beginning on July 1, 1978, the higher rate must be used to determine the amount attributable to debt service.

4. After making the distributions set forth in subsection 3, the remaining money received or collected for each county must be deposited in the Local Government Tax Distribution Account created by NRS 360.660 for distribution to local governments, special districts and enterprise districts within each county pursuant to the provisions of NRS 360.680 and 360.690.

5. An amount equal to any basic governmental services tax distributed to a redevelopment agency in the Fiscal Year 1987-1988 must continue to be distributed to that agency as long as it exists but must not be increased.

6. The Department shall make distributions of the basic governmental services tax directly to county school districts.

7. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in NRS 360.620.

(b) "Local government" has the meaning ascribed to it in NRS 360.640.

(c) "Received or collected for each county" means:

(1) For the basic governmental services tax collected on vehicles subject to the provisions of chapter 706 of NRS, the amount determined for each county based on the following percentages:

Carson City	1.07 percent	Lincoln	3.12 percent
Churchill	5.21 percent	Lyon	2.90 percent
Clark	22.54 percent	Mineral	2.40 percent
Douglas	2.52 percent	Nye	4.09 percent
Elko	13.31 percent	Pershing	7.00 percent
Esmeralda	2.52 percent	Storey	.19 percent
Eureka	3.10 percent	Washoe	12.24 percent
Humboldt	8.25 percent	White Pine	5.66 percent
Lander	3.88 percent		

(2) For all other basic and supplemental governmental services tax received or collected by the Department, the amount attributable to each county based on the county of registration of the vehicle for which the tax was paid.

(d) "Special district" has the meaning ascribed to it in NRS 360.650.

Sec. 8. 1. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Clark County shall distribute quarterly to the State Treasurer for deposit in the State General Fund, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2009, and July 1, 2010, the amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per $100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds distributed to the State Treasurer pursuant to this subsection shall be deemed to constitute revenue received by Clark County from taxes ad valorem.

2. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Washoe County shall distribute quarterly to the State Treasurer for deposit in the State General Fund, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2009, and July 1, 2010, the amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per $100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds

distributed to the State Treasurer pursuant to this subsection shall be deemed to constitute revenue received by Washoe County from taxes ad valorem.

Sec. 9. **Notwithstanding any other statutory provision to the contrary:**

1. The Chief Financial Officer of Clark County shall:

(a) Determine the amount of:

(1) Any revenue for the fiscal years beginning on July 1 2009, and July 1, 2010, which is retained by the County pursuant to paragraph (b) of subsection 1 of NRS 244.33512;

(2) Any revenue for the fiscal years beginning on July 1 2009, and July 1, 2010, from any tax imposed in the County pursuant to NRS 278.710; and

(3) Any revenue for the fiscal years beginning on July 1 2009, and July 1, 2010, from any tax imposed in the County pursuant to NRS 371.045,

↪ which is not needed for debt service on any bonds or other securities which are payable from or secured by any of that revenue, or for any reserves therefor or any other expenses related to those bonds or other securities, or for any other existing contractual obligations, and which may be available, under the terms of any bonds or other securities to which all or any combination of such revenue has been pledged, for distribution pursuant to paragraph (b); and

(b) Transfer to the county general fund such a portion of the amount determined pursuant to paragraph (a) as the Board of County Commissioners of Clark County determines to be appropriate based upon any financial needs for existing contractual obligations, for bonds anticipated to be issued in the future, for anticipated future debt service on outstanding bonds and bonds anticipated to be issued in the future, and for any reserves therefor.

2. Any money transferred to the county general fund pursuant to subsection 1 may be expended to pay the operating costs of the county and any other costs to carry out the governmental functions of the county.

~~[Sec. 9.]~~ ***Sec. 10.*** The amendatory provisions of section 1 of this act must not be applied to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of any county, city or town, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.

~~[Sec. 10.]~~ ***Sec. 11.*** This act becomes effective on July 1, 2009.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 543.

Remarks by Assemblyman Arberry.
Motion carried by a constitutional majority.
Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the Assembly resolve itself into a Committee of the Whole.
Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblywoman Buckley presiding.
Quorum present.

Additional revenue for the provision of governmental services considered.

CHAIR BUCKLEY:

As you all know, we are waiting for a bill from the Senate, Senate Bill 429. It is not here yet. I thought I would go ahead and have our staff talk about the revenue components of it now, so that if there are any questions, folks can ask them now.

Staff has prepared a couple of sheets. One is called "Revenue Enhancements" and the other is an "Effective Tax Rate Summary." I will ask our staff to talk about the revenue components contained in Senate Bill 429.

We thank you, Russell and Mark, for coming to this rather informal setting and being with us today.

RUSSELL J. GUINDON, SENIOR DEPUTY FISCAL ANALYST, FISCAL ANALYSIS DIVISION, LEGISLATIVE COUNSEL BUREAU:

I thought, perhaps, the easiest way to do this is to go through the revenue enhancement items which are in S.B. 429, in the order that they are on the sheet that the Chair referred to as revenue enhancements.

One of the components that is included in S.B. 429 is an increase of .35 percent in the Local School Support Tax, most generally referred to as the LSST. This is the current 2.25 percent Sales and Use Tax rate that provides funding to K-12 education through the Distributive School Account funding mechanism. Thus, with the .35 percent increase, the rate would go from 2.25 percent to 2.6 percent. The way S.B. 429 is crafted is that the .35 rate will be specified as a separate rate, rather than adding it to the 2.25 to create a 2.26 percent rate. The reason for doing so is to be consistent with other legislation that has been considered and I think, being adopted, it would prevent this additional levee from being subject to the 75 percent pledge for STAR (Sales Tax Anticipated Revenue) bonds. This was a way, in a sense, of protecting the revenue that comes from this additional yield and not providing additional money to the allocation that is made for the STAR bonds.

The next revenue item is the Modified Business Tax on nonfinancial institutions. This is a tax that was first created during the 2003 Session. Under current statutory structure, the tax is .63 percent of the taxable wages that an employer pays to their employees on a quarterly basis. Taxable wages is defined to be the gross wages that an employer pays the employees, less allowable health care deductions. The tax is closely structured to Chapter 612 which is the unemployment insurance tax chapter. So, wages that are required to be reported under that chapter get picked up under the Modified Business Tax. The proposal here is actually to take the tax, which is a current flat rate of .63 percent, and create a two-tiered mechanism so that the taxable wages, up to $62,500 a quarter, will be taxed at .5 percent. So, it is a reduction from the .63 percent. Any quarterly taxable wages above the $62,500 will be taxes at 1.17 percent.

The other table that the Chair referred to that says "MBT Effective Tax Rate Summary" provides some examples for ten different businesses, at various levels of business payroll, or in

this scenario, taxable wages, and what they would pay at the .63 percent rate. You can see the estimated gross tax liability at .63 percent. Under alternative scenarios, you can see what would be paid by the various businesses under the two-tiered proposal. You can see that the first three businesses are at or below the $250,000, because $62,500 per quarter is $250,000 in annual taxable wages. You can see, at the bottom, the impact on the MBT change, and that they are actually paying less tax. Again, this is because you are giving them the tax benefit of lowering the rate from .63 percent to .5 percent on the first $62,500 in taxable wages each quarter. Then you can see, for businesses four through ten, as the amount of taxable wages increases, then, obviously, the levee can increase. Eventually, it can approach the top bracket which is 1.17 percent.

The next revenue item on the sheet is the business license fees. Again, the business license fee was first put into place during the 2003 Session. At that point in time, it was a $100 business license fee. It has been kept at that level since the 2003 Session. You pay the business license fee when you initially file your business with the Department of Taxation, for the right to do business in Nevada. There is an annual renewal of the $100 each year. The proposal here would be to increase the business license fee from $100 to $200. When you do the initial filing of the business license fee, you would pay $200, and then you would pay $200 annually thereafter as long as you continue to do business in the State of Nevada.

What S.B. 429 does is make this effective July 1, 2009, for the people who are covered on the current statutory construct for the business license fee. There is a complimentary business license fee proposal and that is A.B. 146. This has been commonly referred to this session as the business portal bill. In that bill, there are provisions which will be effective October 1, 2009. The Secretary of State will become responsible for the business license fee as part of the test revenue for the business license portal development. It will also, then, be charging the $200 annual and the $200 renewal fee but there also provisions in A.B. 146 such that we will pick up what are called the Title VII entities. These are the people that are filing with the Secretary of State for their corporations, their limited liability companies, their limited partnerships and are filing, but they are not necessarily physically doing business here in the state. And so, again, that would be July 1, 2009, that we would pick up the current people and October 1, 2009, it converts over to the Secretary of State as part of the business portal proposal. While I am thinking of it, I should clarify. Under the Local School Support Tax, this tax increase is proposed to be effective July 1, 2009, and the Modified Business Tax also has a July 1, 2009, effective date, also.

The final revenue item that is included in S.B. 429 is what is referred to as the Governmental Services Tax or the GST. This is the four cents per dollar or four percent that you pay when you register your car with the Department of Motor Vehicles. The proposal is to change the depreciation schedule. I should back up a little and give you a little background on the tax to get the reference point. Under the current law, you start with the manufacturer's suggested retail price of the vehicle and you take that, times 35 percent, to get what is called taxable value. Then you take that times the appropriate depreciation rate for one through nine years as specified in statute. That rate starts at 100 percent, obviously, with a new car, and then goes down by 15 percent in year one and then goes down to 85 percent and then goes down by 10 percent each year thereafter until, at nine years, it is at five percent.

The four cent basic GST, currently under statute, is allocated to the school districts and then to the counties for distribution through the consolidated tax distribution account. The proposal in S.B. 429 would end up changing the depreciation schedule such that for the first year it would stay at 100 percent, then each year thereafter 10 percent would be added to the depreciation rate. What it ends up looking like is taking the current depreciation schedule and sliding it to the right and down one so it is like freezing things for a year in terms of what is paid now under this proposal, would be paid again next year. You would start to pay less as the depreciation schedule kicked in.

Under this proposal, it is the change in the depreciation schedule that generates the additional money, which will be allocated to the State General Fund. Thus, under this proposal there is no harm to the school districts or the counties because there are allocation percentages that say how much at each depreciation range has to be allocated to the General Fund such that the school districts and the counties are held harmless. That is scheduled to become effective September 1,

2009, so thus we only get ten months of revenue in Fiscal Year 2010, as you can see on the handout, and then the full 12 months in Fiscal Year 2011. With that Madam Chair, I think I have covered, at the high level, the revenue enhancement proposals that are included in S.B. 429, and I can attempt to answer any questions the members of the Assembly may have.

CHAIR BUCKLEY:
Thank you, Russell. Assemblyman Hardy.

ASSEMBLYMAN HARDY:
Thank you, Madam Chair. I heard the word quarterly when we were using the MBT effective tax rate summary sheet that we have. Are those projections at the very bottom of the impacted MBT changes annually or quarterly?

RUSSELL GUINDON:
That is a very good question. The MBT effective tax rate summary is just to show you on an annual basis. So, you are absolutely correct. If you look at the revenue enhancement sheet, under comments, it gives you the description there that $250,000 on an annual basis is $62,500 a quarter. It was just easier to show you those annual amounts for purposes of example.

CHAIR BUCKLEY:
Thank you, Dr. Hardy. I know the Taxation Committee had an opportunity to ask questions and to vet this but other members didn't. So, I thought we would at least get the overview before we see what they finally pass over there. It seems to be changing every ten minutes. Further questions? Assemblywoman McClain?

ASSEMBLYWOMAN MCCLAIN:
Thank you, Madam Speaker. Russell, maybe you would like to explain to the body about the difference in the .50 rate and the proposed new rate and how it affects some of our businesses, especially the small businesses and the amount of them.

RUSSELL GUINDON:
The analysis for this tax involved us being able to get the information on the taxpayers for Fiscal Year 2008 from the Department of Taxation, by taxpayer. This was per quarter for each of the four quarters of Fiscal Year 2008. We were able to stratify and analyze that information. With the information that was used, we took the Economic Forum's May 1, 2009, estimates and produced the estimates of the additional revenue that you see here in the handout. Based on the analysis of the taxpayers who paid the modified business tax on nonfinancial institutions in Fiscal Year 2008, had this proposal been in place, approximately 74 percent of the taxpayers are below $250,000 a year in annual taxable wages. I think that is what you are referring to.

CHAIR BUCKLEY:
I really had no idea that the percentage would be that high, that 74 percent of Nevada's businesses have wages that are $250,000 or lower. We always say small businesses are the foundation of the business community but that number is just staggering. Further questions? I don't see any. Russell, thank you very much.
Is there anyone in the public who would like to provide any testimony on any of the tax component elements?

ASSEMBLYMAN SETTELMEYER:
Madam Chair, I had a question. It has business license fees in here. Didn't we do that as part of another bill? How does that relate? What happened with that?

CHAIR BUCKLEY:
Russell, would you come back down? I do not know if you heard the question. The question was about the business license fee and did we do that in another bill with Assembly Bill No. 146, and how does that relate to what is in S.B. 429.

RUSSELL GUINDON:

Yes. Thank you. The provisions that are included in S.B. 429, with regards to the business license fee become effective July 1, 2009, include the $100 increase, or $200 for the people covered under the current statutory structure. Additional revenue comes from the business license fee, as you see on the handout, from the provisions in A.B. 146. Effective October 1, 2009, in A.B. 146, the Secretary of State will take over the business license fee. Again, this was related to them being able to pick up the people that file with them, which again, we refer to the Title VII entities. What we mean by that is Title VII is the chapter of NRS where all the chapters for the different entities, suggest as corporations, LLPs, LLCs, are included. So we just refer to them as Title VII because that is easier than saying LLP and LLC. So, in A.B. 146, effective October 1, 2009, the business license fee, the current statutory construct, rolls over and goes under Title VII, so you are going to pick up the $200 as you would under normal situations but there are also provisions in A.B. 146 that require that if you file with the Secretary of State as a Title VII entity, you have a statutory liability to pay the $200 business license fee, because under the current law, if you file with the Secretary of State as a Title VII entity, you have to be physically doing business in the State of Nevada to pay the fee.

The Secretary of State, when they brought the business portal concept forward, and Assemblyman Oceguera can correct me if I am wrong as I go through this, but the thought process by the Secretary of State and others was that if you are filing here with the Secretary of State as a Title VII entity and taking protection of the state's laws for incorporating here, it does not matter whether you are physically here doing business. You are taking advantage of the state's business laws. Why shouldn't you be required to pay the business license fee, just like a Title VII entity that is actually doing business in here? That is what the provisions in A.B. 126 do. They require any entity that files with the Secretary of State to pay the business license fee. I apologize. I know that is a long answer but it is the easiest way to try and get it clearly explained.

ASSEMBLYMAN SETTELMEYER:

If you look at a business that theoretically has a $33 savings, once you calculate in MBT and the $100 additional, you will be paying $67 more for the small business. I am looking at the different effects. If they have to have a car, we are going to be putting a strain on some of these smaller businesses. I was just wondering if you had any breakdown on a business that makes $125,000. Do you have any breakdown on what all these taxes would be to a small business? Would it be an increase or decrease, considering that we changed their MBT?

RUSSELL GUINDON:

No, I don't have that analysis. The only thing that I can comment on is that if it were not for the two-tiered structure, then they would be paying the $200 plus the amount at the .63 percent rate versus paying the amount the .5 rate. But I do not have the stratification or analysis of the different business sizes and what they may be paying in taxes at each of those different stratifications. I apologize.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Madam Chair. I think people need to realize that if you are paying MBT you are a business in Nevada or you wouldn't have a payroll tax. So, the additional business license fee is for the corporations that file and don't have a payroll presence in this state, but they are going to be required to pay that license fee now.

CHAIR BUCKLEY:

You know, what I really didn't fully realize until we got into this discussion was when I looked at some of the business license fees that the local governments charge. It is really interesting. In the City of Henderson, they charge on a gross receipts value. Not having served on the Taxation Committee, I was surprised at that. There are a couple of jurisdictions that do it throughout the state, so there are different ways of assessing a business license fee.

ASSEMBLYMAN CHRISTENSEN:
Thank you, Madam Chair. A question to what you were saying. Do you know if the state gives the authority to those municipalities to charge that tax you were referring to or do most of the municipalities, the large ones, have the latitude already in their code?

CHAIR BUCKLEY:
I think they have the latitude already but they are obviously doing it, so they have that statutory authority but I will ask the chair of the Taxation Committee or Russell to respond to that.

RUSSELL GUINDON:
It is my understanding that that was statutory authority that was provided for them to create the structure for a gross receipts tax and impose it by ordinance, I believe.

CHAIR BUCKLEY:
What year was that? Do you know?

RUSSELL GUINDON:
No, I do not. I apologize.

CHAIR BUCKLEY:
It has been in effect for quite a while.

ASSEMBLYMAN CHRISTENSEN:
That is the first time I have heard that, as well. It is good to know. Madam Chair, if I may, I have quick questions on a couple of different points if I can ask Mr. Guindon.

In regards to the business licensing fees, I think my colleague, Mr. Settelmeyer, asked the first question I had. As far as the GST, I wanted to make sure I understood so these numbers made sense. If someone purchases a new car in the first year, they are going to pay on the assessed value at 100 percent. In the second year, they pay 100 percent of that value. In the third year is when it drops off to 90 percent and then goes down each consecutive year by 10 percent.

RUSSELL GUINDON:
Actually, I may have misspoken if that is the information that you have written down. Under the current statute, it goes 100 percent, 85 percent, 75 percent, and then 10 percent less every year until you get down to 5 percent. So, at the end of nine years, you are down to 5 percent. That is the current statutory depreciation schedule for vehicles, not buses, trucks, or others. This proposal would just add 10 percent to every one of those, so, 100 percent, 95 percent, 85 percent, 75 percent, etcetera. When you write that out and look at it, it is basically, except for the first year which is obviously left at 100 percent, in the second year under current statute it would be 85 percent versus 95 percent, and in the third year at 75 percent now versus 85 percent. So, in the second year through ninth year, it is sliding the depreciation schedule over to the right and sliding it down one row.

ASSEMBLYMAN CHRISTENSEN:
And I am sure, Mr. Guindon, that you didn't misspeak. I just wrote it down wrong. The other question, from the last time that I saw you and Mr. Stevens sitting there, we were talking about Initiative Petition 1. I heard recently that the revenues, since IP 1 came up for a vote, were expected to change. I was curious if you would know off the top of your head what that change was.

RUSSELL GUINDON:
I do not remember off the top of my head. Maybe Mr. Stevens does. As to what the amount was that the Governor was including in the Executive Budget, for the provision of I.P. 1, because that is really sort of the reference point because that was the amount of money that was used to develop the Executive Budget. The Economic Forum is required under law to produce forecasts, under current law, so thus since I.P. 1 had been approved by the Nevada Legislature, the Economic Forum at their May 1, 2009, meeting actually produced a fiscal forecast which is part

of the May 1, 2009, revenue forecast that this body is using to produce the budget. That forecast is now for $104.7 million in Fiscal Year 2010 and $115.2 approximately in Fiscal Year 2011.

CHAIR BUCKLEY:
Russell, I think it was the change in the room tax projections since the Economic Forum, based on what we thought, about $30 over the biennium, lower?

MARK STEVENS, ASSEMBLY FISCAL ANALYST, FISCAL ANALYSIS DIVISION, LEGISLATIVE COUNSEL BUREAU:
If my memory is right, I think in the second year it was $152 million for I.P. 1.

CHAIR BUCKLEY:
Do you remember how much lower the projection was, based on the Economic Forum numbers?

MARK STEVENS:
I have that information across the street. I did not bring it with me, Madam Chair.

CHAIR BUCKLEY:
Okay, we will get that to you, Assemblyman Christensen.

ASSEMBLYMAN CHRISTENSEN:
That will be great. Finally, Madam Chair, I was just going to put on the record that the resident agent industry here in the state is a group that I have worked with through the years in the financial sector with trusts, etcetera. I do have a concern where we talk about raising these fees because when someone is looking for a good place to put their entity, where they do not operate in the state . . . we compete with South Dakota and Florida, who I believe a couple of years ago, when I last pulled numbers, had the highest number of registrations per year. There is Delaware, of course. We compete with these states. To my colleagues, I just wanted to say that it is certainly an area where we want to be hypersensitive, so that we don't easily scare people away.

CHAIR BUCKLEY:
Mr. Christensen, I am glad you brought that up because I was just thinking these entities aren't doing business in our state and all they do, basically, is try to use our business friendly laws. They choose to incorporate here but don't actively do business here. Why not charge them $200 for that privilege? If they aren't otherwise contributing to the economy, and we work hard to create corporate shields and all the things we have worked on over the years to become the Delaware of the west, why not at least charge them for all of the work that we have been doing to create a good regulatory environment.

ASSEMBLYMAN CHRISTENSEN:
Madam Chair, that is a great question. I have thought the same and the answer is simple. We are not quite the Delaware of the West. These are the exact types of entities that we want to attract. They do not use our roads. They are not here . . .

CHAIR BUCKLEY:
Yes, but it is $200.

ASSEMBLYMAN CHRISTENSEN:
If I can finish, they do not have their kids in our schools. This is basically because, just as you said, Madam Chair, we have created this business friendly environment through decades, and, you know, for this state being around for a long time. We have the ability to attract them like a magnet to where they'll incorporate here, hopefully. I know, in my line of work, I deal with a number of private equity funds and businesses who operate out of this state, but they are located or their incorporation or a number of their assets are registered here. They are actually looking at coming here. I think if we can get them here to begin with, then hopefully that continues, and we are able to attract them to where they do, actually, locate here. That is just my experience. Others may have a different opinion.

CHAIR BUCKLEY:
It just seems that with our business friendly laws at least they can help support our state. Especially, you know, because all the emails we got from folks complaining about the fee increase.

ASSEMBLYMAN CHRISTENSEN:
You got those, too?

CHAIR BUCKLEY:
I did get a couple. I was amazed at how many of them weren't from here. So, when I was emailing back about the crisis we are in and our schools, I found many of them had no idea because they just had no connection to Nevada whatsoever. I was a bit surprised at that.

ASSEMBLYMAN CHRISTENSEN:
That is a good question. I am done with my questioning, Madam Chair. Thank you.

CHAIR BUCKLEY:
Questions for staff? Assemblyman Gustavson.

ASSEMBLYMAN GUSTAVSON:
Thank you, Madam Chair. To just follow up on the last speaker from Clark County. As to raising the fees, I think that if maybe we lowered those fees we would get a lot more that would register in Nevada, and that would increase the revenues that are decreasing, getting more people to register their corporation . . .

CHAIR BUCKLEY:
My point was for folks who don't have a business here. If you lower the fee, what are you gaining?

ASSEMBLYMAN GUSTAVSON:
You are gaining more persons or companies incorporating in Nevada . . . for their business.

CHAIR BUCKLEY:
And what are they giving us?

ASSEMBLYMAN GUSTAVSON:
Their money. They give us more money. Anyway, I'll get to my question. My question was to staff, probably Russell. I was surprised, too, to hear that about 75 percent of our businesses are $250,000 or less gross payroll per year. That figure kind of amazed me, too. What I would like to know and what brings up another question in my mind is how many businesses are there? Do we have a number on that 75 percent? How many businesses are in Nevada that have a $250,000 payroll and how many businesses are there over that $250,000 payroll. I am just curious. I don't know the total number of businesses here.

CHAIR BUCKLEY:
Russell, do you have the calculations on that?

RUSSELL GUINDON:
Yes. I do have some information on that. I think one of the points I want to make clear here is that the information that I had, to analyze from the Department of Taxation, is actually taxpayers. So, a lot of those are businesses but some of them can be a very small business or a single person that is required under the law to file and pay unemployment insurance taxes, unless they are required to pay the MBT. So, with that, I am trying to see if I have the cumulative. In Fiscal Year 2008, based on the information from Taxation, there were approximately 58,421 taxpayers that were paying the Modified Business Tax on nonfinancial institutions. The number that was below $250,000 in annual taxable wages, as reported to the Department of Taxation was 43,132, which gets you approximately the 74 percent that was referenced.

ASSEMBLYMAN GUSTAVSON:
Thank you, I appreciate that. I know I had a couple of business licenses myself—manufacturer licenses and a life insurance license I let go because I wasn't really using it and did not want to hang onto it and pay the $100 a year fee. Thank you.

CHAIR BUCKLEY:
Other questions for our staff? Assemblyman Hambrick.

ASSEMBLYMAN HAMBRICK:
Thank you, Madam Chair. Some of this may have been asked and answered already, so I apologize. But you raised the question, as my colleague from Assembly District 13 did, about the room tax. We will go back and take a look at that, and when that review is taken, I am curious whether the method and manner in which the projections on that will be the same that is being used today for S.B. 429. Will the portal tax also be the same method and manner across the board, so it will be apples to apples. Accountants have strange ways of doing things occasionally.

RUSSELL GUINDON:
I'm not quite sure how to address that question, but let me take a shot at it. The Economic Forum is a statutory body that has the statutory requirement to produce a forecast on December 1 that the Governor uses to produce the Executive Budget, and then, on May 1, that the Legislature uses. That body listens to forecasts prepared by the Fiscal Analysis Division, staff from the Budget Office, staff from the Department of Taxation, and the Gaming Control Board, depending on the specific revenue source, as well as from an outside forecaster. Then they produce a consensus forecast based on the information received from these private sector business people and the forecasts presented to them. So, thus for the information for IP 1, the room tax, there were various forecasts prepared and presented to them. There was actually one representative from the MGM Mirage on the panel, with an idea about what is going on with the room tax, so the numbers that I gave you were the forecast prepared by that body. Now, with regard to the estimates that are in S.B. 429 for the business license fee, it's based on information that we get from the Department of Taxation. But then we calibrate any of the proposed rate or fee changes to the Economic Forum's May 1, 2009, forecast to be consistent with that forecast since that is the official forecast that this body has to use to prepare a legislatively approved budget. We try and tie any of the proposed tax increases to that. Similarly, then, for the Modified Business Tax and the Local School Support Tax, the tax changes and the numbers you see in the table are consistent with regard to being tied back to and calibrated off the Economic Forum's May 1, 2009, forecast. So, I hope that answers your question.

ASSEMBLYMAN HAMBRICK:
May I follow up on that, Madam Chair? So, the simple answer is no. Each tax is figured with a different method and manner, so we could have three different thought processes involved with each tax that we may be talking about, because if the people looking at it have different . . .

CHAIR BUCKLEY:
You know, let me take a stab at it. The Legislature enacted legislation to have an independent body project what the revenue is going to be for each tax. They do that right before session. The Governor constructs his budget based on that projection. Then they update it in May and then that is the projection that we are bound to use for the next two years. And they project each type of tax—room tax, modified business tax, sales tax—every one that there is. We make our adjustments and that is what we are required to use. And in calculating what the projections are going to be, they listen to different opinions—economist's views, our own staff—but then they independently make their own decisions and that's what we abide by. And based on, for example, the room tax—and I think we saw it across the board on all of the taxes—they projected the revenue downward. And that is why we ended up with an additional shortfall.

ASSEMBLYMAN HAMBRICK:
Thank you, Madam Chair. Now if we can just explain it to all those who are listening to this program, too. Do you use Yellow Book (Government Auditing Standards) in the basic process?

RUSSELL GUINDON:
Do I use what?

ASSEMBLYMAN HAMBRICK:
The accountants . . . the CPA's have, at least on the federal side, the Yellow Book on how to do certain programs and come up with answers. In may be an improper form at this point, but they have their bible that they go by. It's called the Yellow Book.

RUSSELL GUINDON:
What you are referencing is more of an accounting construct. My degree is in economics and I have a field in econometrics, and so we have our own book that we use to produce forecasts, where we build econometric models and take into account the latest economic and socioeconomic information that we have, as well as the latest information that we can get from other analysts that do what I do for a living. And that information was taken into account by each of the forecasters for the forecasts that were prepared for the Economic Forum for their consideration. I am honest enough to admit that forecasting is sometimes more of an art than a science but there is some science behind the methodologies that are used to try and do the projections. Although I don't know that there is a bible that we use, because when you are predicting the future, you might want to use a bible, but I don't know how well it would come off, too.

CHAIR BUCKLEY:
I think we could all use the Bible, right now. Assemblyman Goedhart.

ASSEMBLYMAN GOEDHART:
Thank you, Madam Chair. I didn't know if this would be an appropriate time to make one or two comments for the record or if this is just for questions directed to the gentlemen up front?

CHAIR BUCKLEY:
You know, I think we can accept a comment or two because by the time bill comes over I really don't want to limit debate so if you want to make a couple of comments, now, I would be open to that. Let me just first ask if anyone has any questions. Does anyone have any questions for staff? Assemblyman Hardy.

ASSEMBLYMAN HARDY:
Thank you, Madam Chair. When I am looking at the business license fee, are we capturing more businesses in Title VII that we are using, such as independent contractors? Or is the only thing that we are doing in this proposal is using the same businesses, but increasing them from $100 to the $200?

RUSSELL GUINDON:
It is actually both, Assemblyman. If you look at the table titled Revenue Enhancements, you will see two separate rows listed for business license fees. The first one, as you can see out in the comments, although I apologize, they are pretty brief and succinct, I hope it provides enough description that you can see that first row is the estimate for the business license fee based on the current statutory structure. In the second row is the estimate of what would come from the additional $100 that would be imposed on the Title VII entities. I am hoping that addresses your question appropriately, Assemblyman.

CHAIR BUCKLEY:
And the original independent contractor language that was included in the bill draft considered by the Taxation Committee, that ended up having a number of technical problems? There were lots of questions about that and, ultimately, that was pulled from the final bill pending in the Senate, just because there wasn't enough time to consider all those questions. Is that right, Assemblywoman McClain? Yes. Okay.

RUSSELL GUINDON:

Madam Chair, if you would permit me, I think that there is one other issue because of the hearing that was held by Assemblywoman McClain and Senator Coffin as the Joint Taxation Committee on the Thursday prior and on last Saturday, so that some of these items had a chance to get vetted.

The original proposal toward the business license fee had the "by location" in it, and that has also been removed from the business license fee proposal. I thought I would take this opportunity to get that clarified on the record, Madam Chair.

CHAIR BUCKLEY:

Further questions of our staff? I don't see any more. Thank you very much. Is there anyone from the public who would like to provide testimony? Okay. Seeing none, I think what we will do is rise out of the Committee of the Whole. I will see if there is any more Order of Business 13. If there are not, maybe I will just open it up to Order of Business 15 and take Remarks from the Floor on the tax measure now.

On motion of Assemblyman Oceguera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 3:17 p.m.

Madam Speaker presiding.

Quorum present.

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 547, Amendment No. 925, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day sustained the Governor's veto of Assembly Bills Nos. 122, 257.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 547.

The following Senate amendment was read:

Amendment No. 925.

SUMMARY—Revises provisions governing the ~~[distribution of proceeds collected from fees that must be paid to reinstate]~~ **renewal of** the registration of a motor vehicle **.** ~~[in certain circumstances.]~~ (BDR 43-1289)

AN ACT relating to state financial administration; ~~[revising provisions governing the distribution of proceeds collected from fees that must be paid to reinstate the registration of a motor vehicle that has been suspended for failure to have proper insurance;]~~ revising provisions governing the renewal of the registration of a motor vehicle; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a fee of $250 to reinstate the registration of a motor vehicle that was suspended because the registered owner failed to have insurance on the date specified in the form for verification that was mailed to the owner, and for a fee of $50 for a registered owner of a dormant vehicle who cancelled or allowed the insurance coverage to expire before cancelling the registration of the vehicle. (NRS 482.480) The proceeds collected from the fees are deposited in the Account for Verification of Insurance and used to carry out the provisions of law relating to proof of insurance for motor vehicles. ~~[Section 1.5 of this bill revises the manner in which the money in the Account may be used so that it may be used, within the limits of legislative appropriation, only to pay for expenses related to the operation of the Department of Motor Vehicles. Section 2 of this bill repeals a provision which requires the State Controller to transfer annually any amount in the Account which exceeds $500,000 to the State Highway Fund. Section 1 of this bill reenacts the repealed provision effective July 1, 2011.]~~

Sections 1.3 and 1.7 of this bill revise provisions governing the renewal of **the** registration of motor vehicles ~~[.]~~ **to require, in relevant part, that a notification for the renewal of registration which is mailed to the holder of a certificate of registration must set forth certain information concerning: (1) the requirement to maintain motor vehicle liability insurance pursuant to NRS 485.185; and (2) any other applicable requirements set forth in chapter 485 of NRS and any regulations adopted pursuant thereto.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*On June 30 of each year, the State Controller shall transfer from the Account for Verification of Insurance created pursuant to NRS 482.480 to the State Highway Fund any amount in the account which exceeds $500,000.]*~~ **(Deleted by amendment.)**

Sec. 1.3. NRS 482.280 is hereby amended to read as follows:

482.280 1. The registration of every vehicle expires at midnight on the day specified on the receipt of registration, unless the day specified falls on a Saturday, Sunday or legal holiday. If the day specified on the receipt of registration is a Saturday, Sunday or legal holiday, the registration of the vehicle expires at midnight on the next judicial day. The Department shall mail to each holder of a certificate of registration ~~[an application]~~ ***a notification*** for renewal of registration for the following period of registration. The ~~[applications]~~ ***notifications*** must be mailed by the Department in sufficient time to allow all applicants to mail the ~~[applications]~~ ***notifications*** to the Department ***or to renew the certificate of registration at a kiosk or authorized inspection station or via the Internet or an interactive response system*** and to receive new certificates of

registration and license plates, stickers, tabs or other suitable devices by mail before the expiration of their registrations. An applicant may present or submit the ~~[application]~~ ***notification*** to any agent or office of the Department.

2. ~~[An application:]~~ ***A notification:***

(a) Mailed or presented to the Department or to a county assessor pursuant to the provisions of this section;

(b) Submitted to the Department pursuant to NRS 482.294; or

(c) Presented to an authorized inspection station or authorized station pursuant to the provisions of NRS 482.281,

➥ must include, if required, evidence of compliance with standards for control of emissions.

3. The Department shall ~~[insert in each application]~~ ***include with each notification*** mailed pursuant to subsection 1:

(a) The amount of the governmental services tax to be collected for the county pursuant to the provisions of NRS 482.260.

(b) The amount set forth in a notice of nonpayment filed with the Department by a local authority pursuant to NRS 484.444.

(c) A statement which informs the applicant ~~[that,]~~ **:**

(1) That, pursuant to NRS 485.185, he is legally required to maintain insurance during the period in which the motor vehicle is registered ~~[.]~~ ***which must be provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State*** ~~[.]~~ ***and***

(2) Of any other applicable requirements set forth in chapter 485 of NRS and any regulations adopted pursuant thereto.

4. An owner who has made proper application for renewal of registration before the expiration of the current registration but who has not received the license plate or plates or card of registration for the ensuing period of registration is entitled to operate or permit the operation of that vehicle upon the highways upon displaying thereon the license plate or plates issued for the preceding period of registration for such a time as may be prescribed by the Department as it may find necessary for the issuance of the new plate or plates or card of registration.

Sec. 1.5. ~~[NRS 482.480 is hereby amended to read as follows:~~

~~482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:~~

~~1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of $33.~~

~~2. Except as otherwise provided in subsection 3:~~

~~(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of $16.50.~~

~~(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of $12.~~

~~(c) For each of the ninth or more such cars registered to a person, a fee for registration of $8.~~

~~3. The fees specified in subsection 2 do not apply:~~

~~(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all of the cars registered to him.~~

~~(b) To cars that are part of a fleet.~~

~~4. For every motorcycle, a fee for registration of $33 and for each motorcycle other than a trimobile, an additional fee of $6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.~~

~~5. For each transfer of registration, a fee of $6 in addition to any other fees.~~

~~6. Except as otherwise provided in subsection 9 of NRS 485.317, to reinstate the registration of a motor vehicle suspended pursuant to that section:~~

~~(a) A fee of $250 for a registered owner who failed to have insurance on the date specified in the form for verification that was mailed by the Department pursuant to subsection 3 of NRS 485.317; or~~

~~(b) A fee of $50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,~~

~~→ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account [must] may only be used [to carry out the provisions of NRS 485.313 to 485.318, inclusive.] by the Department of Motor Vehicles, within the limits of legislative appropriation, to pay for expenses related to the operation of the Department.~~

~~7. For every travel trailer, a fee for registration of $27.~~

~~8. For every permit for the operation of a golf cart, an annual fee of $10.~~

~~9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of $33.~~

~~10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of $33.]~~ **(Deleted by amendment.)**

Sec. 1.7. NRS 485.137 is hereby amended to read as follows:

485.137 1. The department shall publish a leaflet which summarizes and explains the requirements and provisions of this chapter.

2. The department shall:

(a) Make copies of the leaflet available without charge to all licensed drivers in this State, to all public school pupils who are of driving age, and to the public.

(b) Cause a copy of the leaflet to be delivered to each applicant for a new registration of a vehicle.

~~[(c) Enclose a copy of the leaflet with each]~~ **[**~~application for a~~**]** ~~*[notification for*~~ ~~renewal of registration of a vehicle which is mailed to the applicant pursuant to law.~~**]**

Sec. 2. ~~[NRS 482.4805 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 3. 1. This section and sections 1.3 to 2, inclusive, of this act become effective on July 1, 2009.

2. Section 1 of this act becomes effective on July 1, 2011.

~~[~~

~~TEXT OF REPEALED SECTION~~

~~482.4805 Transfer of money from Account for Verification of Insurance to State Highway Fund. On June 30 of each year, the State Controller shall transfer from the Account for Verification of Insurance created pursuant to NRS 482.480 to the State Highway Fund any amount in the account which exceeds $500,000.]~~

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 547.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 266.

The following Senate amendment was read:

Amendment No. 697.

AN ACT relating to lighters; prohibiting the sale of novelty lighters; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill prohibits the sale or distribution as a promotion of novelty lighters. This bill also provides a comprehensive definition of a "novelty lighter." This bill becomes effective on January 1, 2010.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a person may not sell at retail, offer for retail sale or distribute for retail sale or promotion in this State a novelty lighter.

2. This section does not apply to the transportation of novelty lighters through this State or the storage of novelty lighters in a warehouse or distribution center in this State that is closed to the public for purposes of retail sales.

3. The Attorney General or any district attorney, on the request of the State Fire Marshal or on his own motion, may bring an action in any court of competent jurisdiction in the name of the State of Nevada to enjoin a violation of this section.

4. A person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than $500. No sentence of incarceration may be imposed.

5. As used in this section, "novelty lighter":

(a) Means a mechanical or electrical device which is typically used for lighting cigarettes, cigars or pipes that may operate on any fuel, including, without limitation, butane, isobutene or liquid fuel, and which:

(1) Is designed to resemble and reasonably does resemble a cartoon character, toy, gun, watch, musical instrument, vehicle, animal, food, beverage or other similar article [;] that does not resemble a standard disposable lighter; or

(2) Plays musical notes, has flashing lights or has [other similar entertaining features;] more than one button or function; and

(b) Does not include:

(1) A lighter manufactured before January 1, 1980;

(2) A lighter incapable of being fueled or lacking a device necessary to produce combustion or a flame;

(3) Any mechanical or electrical device primarily used to ignite fuel for fireplaces or for charcoal or gas grills; or

(4) Standard disposable lighters that are printed or decorated, including, without limitation, through the use of a heat shrinkable sleeve, with logos, labels, decals or artwork.

Sec. 2. This act becomes effective on January 1, 2010.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 266.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 281.

The following Senate amendment was read:

Amendment No. 766.

AN ACT relating to industrial insurance; **revising provisions relating to the duty of an insurer to accept or deny a claim for compensation; revising provisions relating to the selection of a physician or chiropractor by an injured employee; revising provisions relating to the denial of compensation due to discharge from employment for misconduct; revising provisions relating to the closure of a claim;** creating an expedited appeals process for certain claims by police officers, firefighters and emergency medical attendants; **repealing provisions requiring the reduction of compensation by the amount of federal**

disability insurance benefits received by an injured employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an insurer is required to accept or deny a claim for compensation within 30 days after the insurer has been notified of an industrial accident. (NRS 616C.065) Section 2 of this bill provides that if an insurer is ordered by the Administrator of the Division of Industrial Relations of the Department of Business and Industry, a hearing or appeals officer, a district court or the Supreme Court of Nevada to make a new determination relating to a claim for compensation, such a determination must be made within 30 days after the order.

Existing law provides that an injured employee may choose an alternative treating physician or chiropractor after making his initial choice if the alternative choice is made within 90 days after the injury. (NRS 616C.090) Section 3 of this bill clarifies existing law by providing that an injured employee may make the alternative choice without the insurer's approval if the alternative choice is made within 90 days after the injury. Section 3 also provides that an injured employee may make a change in the treating physician or chiropractor at any time, subject to the insurer's approval. Section 3 further requires an insurer to provide to an injured employee whose request for a change in the treating physician or chiropractor has been denied the specific reason for the denial.

Section 4 of this bill provides that the affidavit or declaration of a qualified laboratory director, chemist or any other person meeting certain qualifications may be used to prove the existence of alcohol or controlled substances in an employee's system in denying, reducing or suspending the payment of compensation for an injury. (NRS 616C.230)

Section 5 of this bill revises existing provisions governing the denial of compensation to injured employees who have been discharged for misconduct by providing that only compensation for temporary total disability may be denied. (NRS 616C.232)

Section 6 of this bill revises existing law by requiring an insurer to notify an injured employee whose claim will be closed whether an evaluation for a permanent partial disability has been scheduled or, if such an evaluation has not been scheduled, that the reason is because the insurer determined there is no possibility of a permanent impairment of any kind. (NRS 616C.235)

Sections ~~[1]~~ 7 and ~~[2]~~ 8 of this bill authorize certain contested claims relating to certain occupational diseases of police officers, firefighters and emergency medical attendants to be submitted directly to an appeals officer, thereby bypassing the hearing officer to whom the contested claim would need to be submitted under existing law. (NRS 616C.315) **Section ~~[2]~~ 8** also requires that the appeals officer set a hearing date within 60 days after receiving a notice of any such contested claim. (NRS 616C.345) **Section ~~[3]~~**

9 of this bill requires that the appeals officer render a decision for any such contested claim within 15 days after certain specified events. (NRS 616C.360)

Section 11 of this bill repeals the provisions requiring a reduction in the compensation received by an employee for temporary disability, permanent partial disability or permanent total disability by the amount of federal disability insurance benefits received by the employee. (NRS 616C.430)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **NRS 616C.050 is hereby amended to read as follows:**

616C.050 1. An insurer shall provide to each claimant:

(a) Upon written request, one copy of any medical information concerning his injury or illness.

(b) A statement which contains information concerning the claimant's right to:

(1) Receive the information and forms necessary to file a claim;

(2) Select a treating physician or chiropractor and an alternative treating physician or chiropractor in accordance with the provisions of NRS 616C.090;

(3) Request the appointment of the Nevada Attorney for Injured Workers to represent him before the appeals officer;

(4) File a complaint with the Administrator;

(5) When applicable, receive compensation for:

(I) Permanent total disability;

(II) Temporary total disability;

(III) Permanent partial disability;

(IV) Temporary partial disability;

(V) All medical costs related to his injury or disease; or

(VI) The hours he is absent from the place of employment to receive medical treatment pursuant to NRS 616C.477;

(6) Receive services for rehabilitation if his injury prevents him from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection ~~[7]~~ ***8*** of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

Sec. 2. **NRS 616C.065 is hereby amended to read as follows:**

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.

2. ***If an insurer is ordered by the Administrator, a hearing officer, an appeals officer, a district court or the Supreme Court of Nevada to make a new determination, including, without limitation, a new determination regarding the acceptance or denial of a claim for compensation, the insurer shall make the new determination within 30 days after the date on which the insurer has been ordered to do so.***

3. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

~~[3.]~~ ***4.*** Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

~~[4.]~~ ***5.*** The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 ***or 2*** by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

~~[5.]~~ ***6.*** The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection ~~[4]~~ ***5*** shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

~~[6.]~~ ***7.*** Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.

~~[7.]~~ ***8.*** For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

~~[8.]~~ **9.** As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 3. **NRS 616C.090 is hereby amended to read as follows:**

616C.090 1. The Administrator shall establish a panel of physicians and chiropractors who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractors on the panel who are reasonably accessible to his employees.

2. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 may choose his treating physician or chiropractor from the panel of physicians and chiropractors. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor from the panel if the choice is made within 90 days after his injury. The insurer shall notify the first physician or chiropractor in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractor must be reimbursed only for the services he rendered to the injured employee up to and including the date of notification. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is on the panel. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list.

3. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 must choose his treating physician or chiropractor pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor pursuant to the terms

of the contract ***without the approval of the insurer*** if the choice is made within 90 days after his injury. If the injured employee, after choosing his treating physician or chiropractor, moves to a county which is not served by the organization for managed care or providers of health care services named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractor, the injured employee must choose a treating physician or chiropractor who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractor. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care services pursuant to NRS 616B.527, as appropriate. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list. If the employee fails to select a physician or chiropractor, the insurer may select a physician or chiropractor with that specialization. If a physician or chiropractor with that specialization is not available pursuant to the terms of the contract, the organization for managed care or the provider of health care services may select a physician or chiropractor with that specialization.

4. ***If the injured employee is not satisfied with the physician or chiropractor selected by himself or by the insurer, the organization for managed care or the provider of health care services pursuant to subsection 3, the injured employee may make an alternative choice of physician or chiropractor pursuant to the terms of the contract. A change in the treating physician or chiropractor may be made at any time but is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the insurer denies a request for a change in the treating physician or chiropractor under this subsection, the insurer must include in a written notice of denial to the injured employee the specific reason for the denial of the request.***

5. Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any charges for medical treatment or other accident benefits furnished or ordered by any physician, chiropractor or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such physician, chiropractor or other person.

~~[5.]~~ ***6.*** The Administrator may order necessary changes in a panel of physicians and chiropractors and shall suspend or remove any physician or chiropractor from a panel for good cause shown.

~~[6.]~~ ***7.*** An injured employee may receive treatment by more than one physician or chiropractor if the insurer provides written authorization for such treatment.

~~[7.]~~ ***8.*** The Administrator shall design a form that notifies injured employees of their right pursuant to subsections 2 ***,*** ~~[and]~~ 3 ***and 4*** to select an alternative treating physician or chiropractor and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

Sec. 4. **NRS 616C.230 is hereby amended to read as follows:**

616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

(a) Caused by the employee's willful intention to injure himself.

(b) Caused by the employee's willful intention to injure another.

(c) Proximately caused by the employee's intoxication. If the employee was intoxicated at the time of his injury, intoxication must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

(d) Proximately caused by the employee's use of a controlled substance. If the employee had any amount of a controlled substance in his system at the time of his injury for which the employee did not have a current and lawful prescription issued in his name or that he was not using in accordance with the provisions of chapter 453A of NRS, the controlled substance must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS ***50.310,*** 50.315 ***or 50.320*** is admissible to prove the existence of any alcohol or the existence, quantity or identity of a controlled substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.

(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

3. No compensation is payable for the death, disability or treatment of an employee if his death is caused by, or insofar as his disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his recovery, his compensation may be reduced or suspended.

5. An injured employee's compensation, other than accident benefits, must be suspended if:

(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of his employment; and

(b) It is within the ability of the employee to correct the nonindustrial condition or injury.

➥ The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer may elect to pay for the treatment of the nonindustrial condition or injury.

Sec. 5. **NRS 616C.232 is hereby amended to read as follows:**

616C.232 1. If an injured employee is discharged from his employment as a result of misconduct, an insurer may deny compensation ***for temporary total disability*** to the injured employee because of that discharge for misconduct only if the insurer proves by a preponderance of the evidence that:

(a) The injured employee was discharged from his employment solely for his misconduct and not for any reason relating to his claim for compensation; and

(b) It is the injured employee's discharge from his employment for misconduct, and not his injury, that is the sole cause for the injured employee's inability to return to work with the preinjury employer.

2. An insurer waives its rights under subsection 1 if the insurer does not make a determination to deny or suspend compensation to the injured employee within 70 days after the date on which the insurer learns that the injured employee has been discharged for misconduct.

3. An insurer may not deny any compensation pursuant to this section except for compensation for temporary total disability pursuant to subsection 1.

Sec. 6. **NRS 616C.235 is hereby amended to read as follows:**

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must include, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement that if the claimant does not agree with the determination, he has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A suitable form for requesting a resolution of the dispute must be enclosed with

the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.

(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.

(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.

2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than $300, the insurer may close the claim at any time after he sends, by first-class mail addressed to the last known address of the claimant, written notice that includes a statement which prominently displays that:

(a) The claim is being closed pursuant to this subsection;

(b) The injured employee may appeal the closure of the claim pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive; and

(c) If the injured employee does not appeal the closure of the claim or appeals the closure of the claim but is not successful, the claim cannot be reopened.

3. In addition to the notice described in subsection 2, an insurer shall send to each claimant who receives less than $300 in medical benefits within 6 months after the claim is opened a written notice that explains the circumstances under which a claim may be closed pursuant to subsection 2. The written notice provided pursuant to this subsection does not create any right to appeal the contents of that notice. The written notice must be:

(a) Sent by first-class mail addressed to the last known address of the claimant; and

(b) A document that is separate from any other document or form that is used by the insurer.

4. The closure of a claim pursuant to subsection 2 is not effective unless notice is given as required by subsections 2 and 3.

5. In addition to the requirements of this section, an insurer shall include in the written notice described in subsection 2:

(a) If an evaluation for a permanent partial disability has been scheduled pursuant to NRS 616C.490, a statement to that effect; or

(b) If an evaluation for a permanent partial disability will not be scheduled pursuant to NRS 616C.490, a statement explaining that the reason is because the insurer has determined there is no possibility of a permanent impairment of any kind.

~~[Section 1.]~~ ***Sec. 7.*** NRS 616C.315 is hereby amended to read as follows:

616C.315 1. Any person who is subject to the jurisdiction of the hearing officers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may request a hearing before a hearing officer of any matter within the hearing officer's authority. The insurer shall provide, without cost, the forms necessary to request a hearing to any person who requests them.

2. A hearing must not be scheduled until the following information is provided to the hearing officer:

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

3. Except as otherwise provided in NRS 616B.772, 616B.775, 616B.787, 616C.305 and 616C.427, a person who is aggrieved by:

(a) A written determination of an insurer; or

(b) The failure of an insurer to respond within 30 days to a written request mailed to the insurer by the person who is aggrieved,

➥ may appeal from the determination or failure to respond by filing a request for a hearing before a hearing officer. Such a request must include the information required pursuant to subsection 2 and, except as otherwise provided in subsections 4 and 5, must be filed within 70 days after the date on which the notice of the insurer's determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond to a written request for a determination within 30 days after receipt of such a request shall be deemed by the hearing officer to be a denial of the request.

4. The period specified in subsection 3 within which a request for a hearing must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that he was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his spouse, parent or child.

5. Failure to file a request for a hearing within the period specified in subsection 3 may be excused if the person aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to request a hearing. The claimant or employer shall notify the insurer of a change of address.

6. The hearing before the hearing officer must be conducted as expeditiously and informally as is practicable.

7. The parties to a contested claim may, if the claimant is represented by legal counsel, agree to forego a hearing before a hearing officer and submit the contested claim directly to an appeals officer.

8. A claimant may, with regard to a contested claim arising from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or 617.487 as described in subsection 2 of NRS 616C.345, submit the contested claim directly to an appeals officer pursuant to subsection 2 of NRS 616C.345 without the agreement of any other party.

~~[Sec. 2.]~~ ***Sec. 8.*** NRS 616C.345 is hereby amended to read as follows:

616C.345 1. Any party aggrieved by a decision of the hearing officer relating to a claim for compensation may appeal from the decision by, except as otherwise provided in subsections ~~[8 and 9,]~~ ***9 and 10,*** filing a notice of appeal with an appeals officer within 30 days after the date of the decision.

2. ***A claimant aggrieved by a written determination of the denial of a claim, in whole or in part, by an insurer, or the failure of an insurer to respond in writing within 30 days to a written request of the claimant mailed to the insurer, concerning a claim arising from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or 617.487 may file a notice of a contested claim with an appeals officer. The notice must include the information required pursuant to subsection 3 and, except as otherwise provided in subsections 9 and 11, must be filed within 70 days after the date on which the notice of the insurer's determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond in writing to a written request for a determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request. The insurer shall provide, without cost, the forms necessary to file a notice of a contested claim to any person who requests them.***

3. A hearing must not be scheduled until the following information is provided to the appeals officer:

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

~~[3.]~~ ***4.*** If a dispute is required to be submitted to a procedure for resolving complaints pursuant to NRS 616C.305 and:

(a) A final determination was rendered pursuant to that procedure; or

(b) The dispute was not resolved pursuant to that procedure within 14 days after it was submitted,

➥ any party to the dispute may, except as otherwise provided in subsections ~~[8 and 9,]~~ ***9 and 10,*** file a notice of appeal within 70 days after the date on which the final determination was mailed to the employee, or his dependent, or the unanswered request for resolution was submitted. Failure to render a written determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request.

~~[4.]~~ ***5.*** Except as otherwise provided in NRS 616C.380, the filing of a notice of appeal does not automatically stay the enforcement of the decision of a hearing officer or a determination rendered pursuant to NRS 616C.305. The appeals officer may order a stay, when appropriate, upon the application of a party. If such an application is submitted, the decision is automatically

stayed until a determination is made concerning the application. A determination on the application must be made within 30 days after the filing of the application. If a stay is not granted by the officer after reviewing the application, the decision must be complied with within 10 days after the date of the refusal to grant a stay.

~~[5.]~~ ***6.*** Except as otherwise provided in subsections ~~[2 and 6,]~~ ***3 and 7,*** within 10 days after receiving a notice of appeal pursuant to this section or NRS 616C.220, 616D.140 or 617.401, or within 10 days after receiving a notice of a contested claim pursuant to subsection 7 of NRS 616C.315, the appeals officer shall:

(a) Schedule a hearing on the merits of the appeal or contested claim for a date and time within 90 days after his receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and

(b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents at least 30 days before the date and time scheduled.

~~[6. A]~~ ***7. Except as otherwise provided in subsection 12, a*** request to schedule the hearing for a date and time which is:

(a) Within 60 days after the receipt of the notice of appeal or contested claim; or

(b) More than 90 days after the receipt of the notice or claim,

➥ may be submitted to the appeals officer only if all parties to the appeal or contested claim agree to the request.

~~[7. An]~~ ***8. An*** appeal or contested claim may be continued upon written stipulation of all parties, or upon good cause shown.

~~[8.]~~ ***9.*** The period specified in subsection 1 ***, 2*** or ~~[3]~~ ***4*** within which a notice of appeal ***or a notice of a contested claim*** must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that he was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his spouse, parent or child.

~~[9.]~~ ***10.*** Failure to file a notice of appeal within the period specified in subsection 1 or ~~[3]~~ ***4*** may be excused if the party aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to appeal the determination. The claimant, employer or insurer shall notify the hearing officer of a change of address.

11. Failure to file a notice of a contested claim within the period specified in subsection 2 may be excused if the claimant shows by a preponderance of the evidence that he did not receive the notice of the

determination and the forms necessary to file the notice. The claimant or employer shall notify the insurer of a change of address.

12. Within 10 days after receiving a notice of a contested claim pursuant to subsection 2, the appeals officer shall:

(a) Schedule a hearing on the merits of the contested claim for a date and time within 60 days after his receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and

(b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents within 10 days after scheduling the hearing.

➥ The scheduled date must allow sufficient time for full disclosure, exchange and examination of medical and other relevant information. A party may not introduce information at the hearing which was not previously disclosed to the other parties unless all parties agree to the introduction.

~~[Sec. 3.]~~ ***Sec. 9.*** NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Order an independent medical examination and refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an external review organization, submit the matter to an external review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to

NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

6. Any party to the appeal ***or contested case*** or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

7. ~~[The]~~ ***Except as otherwise provided in subsection 8, the*** appeals officer shall render his decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

8. ***The appeals officer shall render his decision on a contested claim submitted pursuant to subsection 2 of NRS 616C.345 within 15 days after:***

(a) The date of the hearing; or

(b) If the appeals officer orders an independent medical examination, the date the appeals officer receives the report of the examination,

↪ unless both parties to the contested claim agree to a later date.

9. The appeals officer may affirm, modify or reverse any decision made by ~~[the]~~ ***a*** hearing officer and issue any necessary and proper order to give effect to his decision.

Sec. 10. **NRS 616C.475 is hereby amended to read as follows:**

616C.475 1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or his dependents, is entitled to receive for the period of temporary total disability, 66 2/3 percent of the average monthly wage.

2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his dependents are entitled to receive such benefits when the injured employee is released from incarceration if he is certified as temporarily totally disabled by a physician or chiropractor.

3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within

14 working days after receipt of the initial certification of disability and regularly thereafter.

4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.

5. Payments for a temporary total disability must cease when:

(a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;

(b) The employer offers the employee light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or

(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.

6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the Division for the injured employee to request continued compensation for the temporary total disability.

7. A certification of disability issued by a physician or chiropractor must:

(a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;

(b) Specify whether the limitations or restrictions are permanent or temporary; and

(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection 3 ***or 4*** of NRS 616C.090.

8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of his accident may offer temporary, light-duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light-duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light-duty employment made by the employer must specify a position that:

(a) Is substantially similar to the employee's position at the time of his injury in relation to the location of the employment and the hours he is required to work;

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his injury; and

(c) Has the same employment benefits as the position of the employee at the time of his injury.

Sec. 11. **NRS 616C.430 is hereby repealed.**

Sec. 12. **1. This section and sections 1 to 6, inclusive, 10 and 11 of this act become effective on July 1, 2009.**

2. Sections 7, 8 and 9 of this act become effective on October 1, 2009.

TEXT OF REPEALED SECTION

616C.430 Reduction of compensation by amount of federal disability insurance benefits received by employee.

1. If an employee who is entitled to compensation under chapters 616A to 616D, inclusive, of NRS for temporary total disability, permanent partial disability or permanent total disability becomes entitled to federal disability insurance benefits under section 202 or 223 of the Social Security Act, as amended, 42 U.S.C. §§ 402 and 423, respectively, the employee's compensation under chapters 616A to 616D, inclusive, of NRS must be reduced by the amount of the federal benefits being received by him.

2. This section must not be applied to reduce the employee's compensation under chapters 616A to 616D, inclusive, of NRS to any greater extent than his federal benefits would have otherwise been reduced by the Social Security Administration under section 224 of the Social Security Act, as amended, 42 U.S.C. § 424a. After any reduction pursuant to this section, the combination of his state compensation and federal benefits must be at least as much as the greater of:

(a) The benefits payable pursuant to chapters 616A to 616D, inclusive, of NRS, without the reduction; or

(b) The benefits payable under the Social Security Act, without any reduction.

3. After a reduced amount of compensation for an employee has been established pursuant to this section, no further reduction in his compensation may be made because he receives an increase in his benefits under the Social Security Act as the result of an adjustment based on an increase in the cost of living.

4. No compensation may be reduced pursuant to this section until the Social Security Administration has determined the amount of benefits payable to the employee under section 202 or 223 of the Social Security Act and he has begun to receive those benefits.

5. If an employee:

(a) Fails to report the amount of benefits which he is receiving under section 202 or 223 of the Social Security Act, within 30 days after he is requested in writing by the insurer to make that report; or

(b) Fails to provide the insurer with a written authorization for the Social Security Administration to release information on the employee's average current earnings and the amount of benefits to which he is entitled, within 30 days after he is requested to provide that authorization,

➥ the insurer may reduce by 50 percent the compensation which the employee would otherwise receive pursuant to chapters 616A to 616D, inclusive, of NRS. Any compensation which is withheld pursuant to this subsection must be paid to the employee when he has furnished the report or authorization as requested.

6. If the provisions of section 224 of the Social Security Act are amended:

(a) To allow an employee to receive more compensation under chapters 616A to 616D, inclusive, of NRS without any reduction in benefits payable under section 202 or 223 of the Social Security Act; or

(b) To lower the maximum sum of compensation payable under chapters 616A to 616D, inclusive, of NRS and benefits payable under section 202 or 223 of the Social Security Act,

➥ the reduction imposed by this section must be increased or decreased correspondingly.

7. No reduction in compensation may be made under this section for any period of entitlement which:

(a) Occurs before January 1, 1982;

(b) Occurs before the employee has been given a written notice by mail of the intended reduction; or

(c) Includes any week after the week in which the employee becomes 62 years of age.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 281.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Smith moved that the Assembly do not recede from its action on Senate Bill No. 305, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Parnell, Mastroluca, and Hardy as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 305.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 3:30 p.m.

ASSEMBLY IN SESSION

At 3:34 p.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Conklin moved that the Assembly resolve itself into a Committee of the Whole.
Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblywoman Buckley presiding.
Quorum present.

Additional revenue for the provision of governmental services considered.

CHAIR BUCKLEY:
Well, the Senate has resolved its differences. They are voting on the bill right now, and it's on its way here. We had one person who wanted to testify, and because I run a tight ship, I missed him. So, Monte, if you want to come down, we would be happy to take your testimony now. I apologize that I missed you earlier.

MONTE MILLER:
My name is Monte Miller, and I am a small businessman in Las Vegas. I employ 12 people. I am here to give my opinion to you all about this humongous tax bill that you're about to vote on. It is a billion dollars plus with the room tax, and the doubling of the Modified Business Tax. I just want to share ideas with you from a businessman's standpoint, which I know some of you also are. Many of you, obviously, know business people that put men and women to work. I'm an economist and, although I don't do business as an economist, I was educated as an economist in this university system.

A businessman needs resources and a product to create jobs. The businessmen in this country and in this state are having the worst time since the Great Depression. This news is nothing new. You've been reading this in the newspapers and I share it with you because I'm on the line, the firing line. They don't have the money to pay more taxes. This is what I'm told. I'm in business organizations. I'm a chamber member. They don't have the money to pay more taxes, and what we want them to do is to have the money to hire more people. If you hire more people, you create more jobs. If you put a man or women to work they can help their families and provide for their families.

Forgive me. I don't mean to be simple about this or to talk down about this. It is a simple reality that creating jobs is the most important thing that a man or woman can do to create tax revenue. You take your capital, you put it to work, you sell a product or service, you create jobs and those jobs give prosperity to families to take care of themselves.

There is room for government. Government provides essential services, important ones, with education being the most important. Public safety and other health and human services—those are all important, but we're out of whack here. We are in a recession. We are growing government in Nevada faster than population and inflation growth, which should be the measurement of taxation. I'm not against taxation as a businessman. I believe it should be measured in a sensible way, but as you've heard in this body and in committees, your government, this government, our government is growing faster than inflation and population

growth. That means that you are taking more from the private sectors. There is less to invest, and there are less jobs to create and less men and women to put to work and to take care of their families.

I know what the numbers are. I know what the probability of this tax bill lies this afternoon, but I think it is important for you to hear this perspective. I wish there were a hundred businessmen lined up here to talk to you all, to tell you that this is a sad, sad state of affairs. It is sad. Thank you.

CHAIR BUCKLEY:
Thank you, Monte. We appreciate you being with us today. Assemblyman Settelmeyer?

ASSEMBLYMAN SETTELMEYER:
Thank you, Madam Chair. I have a question for Mr. Miller. I, myself, am concerned. Some states have increased cigarette taxes only to find out that everyone starts to buy them online and do not pay the taxes. I'm just curious what your feelings are. I think we are going to have lower than anticipated revenues from the numbers that we are seeing, because of people who either start to pay their employees in cash and not give them health insurance so they can avoid paying the payroll tax, or they could be bartering for stuff so they don't have to pay the sales tax. I'm just curious about your thoughts. If this passes, are we going to start seeing lower than anticipated revenues?

MONTE MILLER:
There are a lot of ifs and there are a lot of crosscurrents here. If the economy stays flat or gets worse, this is going to hurt more. If everything stays the same as today, there is a good reason to believe that you will collect fewer taxes. Taxes are paid by people. Taxes are paid by individuals. The individual paying the tax today is the businessman or the employee, not the consumer. You can't reprice your service or your product today and pass taxes on to the consumer. So it's the stockholder or business owner or the employee—those three are the three people that pay taxes. So, yes, this could very well decrease the amount of revenue our government collects, because it could cut benefits. The repercussion of less benefits and plans, etcetera, is that it could cut employment. The other taxes you are talking about in the billion dollar tax increase, including cigarettes, including this tax on business licenses, and this business license tax of $100 to $200 . . . you know, my customers don't have a problem paying that $200 dollars, but they are large companies. In the business of economics this is called elasticity, and if you go from $100 to $200 you are going to find out the elasticity of this price, and you are going to collect less income on this. I feel very strongly about that. You are going to collect less than the $50 or $60 million that is estimated.

CHAIR BUCKLEY:
Assemblyman Hambrick.

ASSEMBLYMAN HAMBRICK:
Thank you, Madam Chair. With your background and experience in the business community, what effect would this potentially have on either hiring or reducing the number of employees that a business may have?

MONTE MILLER:
Well, Assemblyman, I think it is not going to increase employment, because you are taking more dollars. You are increasing the cost of doing business for existing employees. That's going to come out of the employees' pockets, in lower wages or less employment or less profit. And there is not a lot of profit going around today. Businessmen are not making a lot of money. I think it is particularly true with the big companies on the Strip. They know what this is going to cost and I know that they are on the other side of this issue, but it is still factored in. They know they will have to make more money or they will have to cut back. So I believe it will cut back employment in this state.

CHAIR BUCKLEY:

Thank you, Mr. Miller, we appreciate your testimony. You were the only witness that signed in, so thank you.

On motion of Assemblyman Oceguera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 3:44 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 429.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 429.

Bill read.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, bill considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 429.

Bill read third time.

Remarks by Assemblymen Goedhart, Cobb, Conklin, Gansert, Anderson, Carpenter, Gustavson, Pierce, Stewart, Hambrick, Settelmeyer, Mastroluca, Christensen, Spiegel, Goicoechea, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I was surprised to see how many emails I got. I, personally, thought, "It is $100 to $200. It is a doubling." But there must be more of a reason why I got 800 emails on that. What I am seeing, though, is a lot of people out there, as small private business people, have all of their own capital—a lot of times, all of their assets—on the line. They may not have a 401K. They may not have a pension plan. They only have the value of those assets—gone down in value—and are dipping into cash reserves. They are now giving and are actually working every day for a loss. I know this from personal experience. I have my own business and every day I go to work, I am worth a few thousand dollars less than I was the day before. A lot of these people are actually pulling money out of their pockets, out of their bank accounts, wherever they can get it, just to keep their employees working. To them, this just looks like kind of a slap in the face—that we really do not understand the depth of the impact

that this economic, almost depression, is having upon them. So I think that is one statement I would like to make.

Also, we came out with some economic indicators for the country. California led the nation in job losses for the month of April. They, by the way, have some of the highest taxes and the most taxes. If we look at a book called *Rich States Poor States,* the states with the highest tax burdens and the most taxes, such as California, New York, and New Jersey, and some of the rust belt states—they call them the blue states—but they are actually rapidly losing jobs because there is an outflow of migration. It seems like the states with some of the best governments, where we keep the cost and burden of government reasonable, are attracting more economic growth, which then translates into more economic opportunity for the residents and the working families who live there. So I would like to go on record saying that while the needs of this state are very important, I just do not think this is the right time for us to be exploring additional new and increased taxes. I appreciate the opportunity of being able to make that comment for the record. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

With the permission of the body, I would like to say a few words about the package. There is no doubt that we are in an economic recession. There is no doubt that our business community is hurting. Two years ago we never thought we would be in this position. We thought gaming was recession proof. We were riding high. Businesses were doing great with companies financing expansions mostly by accumulating debt to do so and going out perhaps even further than they should have because we were in the midst of a boom. It all came crashing down, fueled in large measure by greed in the housing industry. Folks deciding that they would lend to people regardless of ability to repay. They put people in adjustable-rate mortgages that they could not afford. When the whole bubble collapsed, all of us were the victims; our businesses and us as individuals, who have watched our property values plummet and our investment in our homes plummet. That is where we are.

What do we do as a state? Our tax structure is overly reliant on gaming and sales tax. When gaming does well and tourism is booming, we're fine; over 60 percent of our revenue comes from sales and gaming. But when something happens, we have nothing else to rely on. It's like putting all of your investments in one area instead of diversifying. So businesses are cutting back. People are upside down on their homes. Consumer confidence has sunk like a stone so people are not coming to vacation in Las Vegas as much. Our state is fueled by and we depend on the success of Las Vegas, statewide. So what do we see? A 44 percent drop in revenue. We can't cut our school funding, which is 55 percent of our budget, by 44 percent. The next largest category is health and human services. We are required by the federal government to fund the majority of the health and human services budget. It's Medicaid. It is a 50/50 required match. Our costs are through the roof because people don't have health insurance, because they have lost their jobs. We can't turn that switch off. We are required to fund it. The last major category is public safety, prisons, parole and probation. We can't let them out because we are in a recession. We can't cut down the health and human services caseload, and we can't cut education by 44 percent. We have two options. We can take the extreme approach and just say, "Sorry," and trot out the platitudes, "Government has to live within its means," and, "No new taxes," or we can say, "We have to face the reality of our budget." When 55 percent of your budget is education, you can't cut that by 44 percent. You can't let the prisoners out. This body and the money committee said, "Alright, we know we're in the worse recession ever. We know we can't go to the business community and ask them to pay one more dime unless we're willing to say we're cutting." So we started the Ways and Means Committee. Republicans worked next to Democrats, senators worked next to Assembly members, and we went through a Zero-Based Budgeting process. We cut. Some days it was hard. We cut medication clinic budgets and education. We cut 40 percent of the training centers for teachers. We cut the entire remediation account that helps kids in summer school classes. We cut salaries by 4 percent. We froze every merit-pay increase across the board. We cut longevity pay for state employees. We cut. And we agreed in this body, Republican and Democrat, unanimously, on that Ways and Means Committee, on this budget. Sure, there was one account or two where people said if I was king

or queen I wouldn't have that in there, but we worked together. The Governor cut out every rural mental health clinic. Republicans and Democrats sat side-by-side and said we can do better. We cut the funding significantly, almost by half, but we kept the clinics. We required them to operate more efficiently and to share staff in some cases, and to look at telemedicine. We created a reformed process and saved money, and yet we're still going to save lives. That is an amazing result. We looked at the juvenile justice budget. Instead of cutting all the prison beds for juveniles and the supervision for them in the community, we said, "We have to pick one or the other." You can't cut the beds and the supervision, and that's how we closed that budget. We went account by account and asked, "What must we cut, because we have to cut close to a billion dollars? What must we restore?" And after we did that and agreed to it, we then began reaching out to the business community. Our message was, "We know times have never been tougher for the business community. We know that. There are layoffs and losses. We know that." But we asked, "What do we do? We have lost 44 percent of our revenue." I was amazed at the result. Most of them said, "You have to show some balance. You can't do one or the other. You can't raise taxes by 44 percent. It would be irresponsible. And you can't cut by 44 percent." So that's what is contained in Senate Bill 429. It is a balance.

Now, there are the components. It is interesting working with people from all over the state—different parties and different perspectives. Some people wanted a 100 percent sales tax. Well, we ran into some problems with that. There were many folks who said, "Sales tax? It is the most regressive of all taxes." In Clark County, we are almost near 8 percent. Poor people pay more. Other people said, "That is what my constituents support the best, because they think everybody pays a little bit of it. And you don't notice it much." Some people asked, "How can you institute more of a sales tax when our budget already relies on 60 percent from sales and gaming?" Moody's has just commented today, in evaluating our investment rating, that we are overly reliant on sales taxes. So, what did we do? We acted as Nevadans. We put our state first and we said, "We are going to have to compromise."

I know opinions are running strong and some people hate the business component of this. Some people hate the sales tax component of this. Some people are furious because they think that some industries could afford more and they didn't get in the bill at all. We all know that if you are a legislator, you don't get your way all the time. The greatness of our democracy is that we come together and we bring our unique perspectives, even when they drive us nuts, and we have to have two-thirds agree. That is the proposal we will be considering assuming, the Senate ever gets their act together.

So I want to say to my colleagues who created this budget in good faith—thank you. We did a good job. And while I know I think the majority of you would create the revenue mechanisms differently if you were the sole person that was needed to enact this legislation, we have an opportunity now to put our state first, and to decide whether we want the vision of our state to be a closure of UNR or UNLV; a 36 percent cut to every community college; a $690 million cut to K-12; cutting children off Nevada Check-Up and pregnant women off of health insurance; cutting autistic children off their treatment; closing a prison while spending hundreds of millions of dollars to open another one; or whether we choose a different vision, to have our state not hurt ourselves in the long run by being only concerned about the short run.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I think that, right now, Nevada is facing probably one of the most unprecedented economic downturns in its modern history. People are unemployed, or very interestingly, are underemployed in many ways. They are facing potential foreclosure and are worried about putting basic necessities on the table for their families. On the same day that it was announced that our unemployment rate has climbed even higher into the double digits, I don't think it is the right response of the Nevada Legislature to increase the overall size of government with what is, in the overall scheme of things, the largest tax increase in Nevada State history.

It is an interesting perspective from the private sector to bring forward here, to show the direct effect between raising a tax—and it depends on what type of tax you are talking about—and then the effect that tax has on that business, and therefore, the effect that it has on the employees of that business. A payroll tax is going to have a direct effect on overall

employment, and not just in terms of getting people back to work, which our constituents desperately want—they want to go back to work—but also on those who are currently working and are going to lose jobs. I know this first hand. Our business is down tremendously. We have laid off roughly 50 percent of our workforce. It's a very personal situation in a closely held business like that. The best thing that we can do for people who are potentially unemployed, who are working less, who are working for less, who are paying more for their health care benefits, who are receiving less subsidy on those health care benefits, who no longer have any type of 401K subsidy or matching, is not to increase their taxes; is not to increase payroll taxes and then have them lose their jobs. That is going to be a killer for any type of recovery in our economy. I think that we really need to look at how the private sector works, how they see the economic downturn and react to it. They tighten their belts. They have to let people go. They have to stop subsidizing things. They have to cut back on pay. That's what you do to survive. We cannot add to the burden they are facing right now and expect to see a turnaround in our economy. Thank you.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. We have heard a lot today about how families are struggling in our community. People are out of work, their wages may be down—times are tough. Times are tough for all of us—that's true. It is also true that those of us in our body, in this body, take our responsibility to this state and its people very seriously because the State of Nevada is also a family—it's our family. Like all of us are brothers and sisters and all the people who live in this state are our children. We watch over them. We look after them. We have a responsibility to do so, like each and every member in this body has a family and a responsibility to look over them. This family has tightened its belt. It has tightened this belt painfully, but we have done it together, as many have already said. However, we have a moral obligation to our family. A moral obligation to provide them with essential services they expect from state government. In tough times like these, the tough times we are experiencing now, that responsibility does not go away. When tough times in a family hit, you don't kick your children out on the street, you take care of them. You do what is necessary. I implore you today—we can not kick our children out on the street alone, unfed, unclothed, uneducated, or without access to health care or justice. That is what this budget and revenue package is all about, fulfilling our responsibility to our state and our families. I urge your support.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. First, I want to thank this body. I want to thank this body for, in a bipartisan manner, examining the budget and the needs of the state, and working to determine how to fund them. I appreciate that our caucus has been part of this discussion, given the significant challenges that we faced. I would also like to acknowledge my caucus. Our caucus is diverse. We have members who represent every corner of the state and from all walks of life. That is what makes us strong. We internally debated Senate Bill 429 and have different opinions and I respect those opinions. Some of the members of our caucus have supported some new revenues. Some supported the room tax and some supported the implementation of the business portal. While a portion of our caucus has supported new taxes, some do not.

When we looked at the bill before us today, the problem that we found was the weight that was placed on business. We believe that it is detrimental to substantially increase business taxes at this point and time. If you look at all the business taxes that are in that bill, they are more than $400 million. The average wage in this state is about $40, 0000; given that, we potentially could lose 10,000 thousand jobs. I do not think any Nevadans can afford to lose jobs. So while some of our caucus members agreed that we would support some taxes, we are not able to support the package as presented before us today. Thank you.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I rise in support of Senate Bill 429. As a former government teacher and social studies teacher, who has been involved in that process for 33 years, and in this one for 20, I am very cognizant, I think, of the economic questions. I heard one of our speakers this afternoon tell us that he was a trained economist and a small business man. I appreciated his insight. As a political scientist and historian, I am also very, very cognizant of what goes on.

The Legislature has a critical and historic role in ensuring the economic stability and vitality of our state. I take that responsibility greatly in each legislative session.

We are in an economic crisis worse than we can ever imagine. Our responsibility, as legislators, has been to determine how to deal with the tragedy of the current situation without further hurting our economy or jeopardizing our hope for an economic recovery. This is not an easy task, nor has it ever been. The process has been a delicate balance of cuts and revenue increases. This is a lean, bare budget, as it always has been in this state. We have made significant cuts, but we could not cut anymore without destroying education, health care, and public safety. As we developed this revenue package, we were sensitive to the needs to protect families, and small businesses, and those already struggling to hang on.

It is important to understand the impact of these decisions on our economy. We could not simply rely on sales tax, not only because it is a regressive tax, but because heavy reliance on the sales tax could negatively impact our state's bond rating. I believe we are all very, very aware of that. People also lose sight of the impact of deep cuts on our economy and its ability to recover. John Maynard Keynes—and economist like him—tells us that while taxes, of course, have an impact on our economy—cutting state spending with layoffs, and salary cuts, and cancelled contracts with vendors has an equal impact. The people whose salaries and benefits we are cutting are taxpayers with mortgages, health care needs, and children they wish to send to college and to school—the issues they care about. When people have less money to spend it perpetuates our economic downturn. This package strikes a needed balance between cuts and revenue. I again urge your support.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. I guess I need to make my anticlimactic speech now. Senate Bill 429—this is a tough vote. It might be the toughest one I have to make in my career. If my career was not at an end, this might bring me to and end. Hopefully not. The reason why I will vote the way I will—I have been thinking about this for a long time—is when the Governor came out with his budget, I could not see how it would work. I have worked for a long time to improve our schools and I have worked especially extra hard to try to get class size reduction in Elko County. I was able to do that and I sure as the devil did not want that to get shot down when they had to go to 40 to 1 or some such a thing. I had a couple of kids go to UNR and graduated and I did not want to shut UNR down. I sure as the devil did not want to shut Great Basin College down because so many people have worked so long and so hard to get a community college that works.

Out in the rurals, honor camps are most important. This last summer, when I was on that committee, our director of prisons kept saying, "Well, we have to shut Pioche. And Tonopah is going to go." I would get all kinds of calls from Wells and Carlin—"They're going to shut us down." That did not happen, but we had to have some funds to keep that from happening.

In mental health, I know people in my community, and if you do not keep them on those medicines, they are going to go bonkers on you. We were able to save those health clinics. I want to thank my friend from Reno for that.

I got a lot of retirees in my area. One, especially, lives across the street. If we took his retirement away, he would probably have to move in with me and Roseanne. I don't know if that would be too good or not. We need to take care of those people. I have been thinking that a lot of things that we need were funded at bare bones in this budget. Maybe I would have done things different. I may have cut here and tried to cut there, but I want to thank my four friends on the Ways and Means Committee for doing a good job.

We have a breakfast here every morning—me and my cowboy friend—and what gave me strength today to make this vote was that this morning he cooked up some special cornmeal. Have you ever had fried cornmeal and bacon? You can just about do anything if you eat that in the morning. Well, anyway, every morning we have breakfast. My friend Pete and my other friend, John Marvel, who has already left me, would talk about the budget. I have really given Pete the going over, and kept him on his toes. Dr. Hardy, I don't know quite what to say about him. He always has these ideas—he really thinks way down deep—a lot deeper than I do. He always comes up with good ideas. He and my friend Heidi, they have really worked on this budget. Maybe it could have been cut more—I don't know. I think that the main thing is I got

what my area needs. My kids got a heck of an education—they went to all these high tone schools and they are doing quite well. My grandkids, I think, are getting a good education. If there is anything wrong with our educational system I think it is because the parents don't do their job. But I better get back on the subject here.

I couldn't ask my other colleagues to carry the entire load for me, and I needed to help them. I really thought a lot about this. I talked to my wife and my friends. I had already made up my mind, yesterday, that I was going to vote for this. I talked to my wife, but most of all, I talked to the Lord and the Lord said, "Man, this is the thing to do and tonight you are going to sleep and you are going to sleep well." So that is what I did. Thank you very much.

ASSEMBLYMAN GUSTAVSON:

Thank you, Madam Speaker. Thank you for letting me follow an act like that. I rise in opposition to Senate Bill 429. I would like to mention a few things that were not brought up during the discussion we had prior to the vote.

By passing this bill, in my opinion, we are not going to create more jobs by taking more money away from the businesses that provide those jobs. I am more concerned about my constituents who are out of work than I am about maintaining the size of government handouts. Everybody is having a difficult time paying their bills—we can not expect to take more money from them now. No country or state has ever taxed itself into prosperity. Even JFK knew better than to raise taxes during a recession. Lowering taxes put more money back into the economy many times over. Most of the time, when you buy a product, that money goes back into the economy at least seven times. So, I would much rather get that money by lowering taxes instead of raising the taxes—it puts more money in the economy and helps stimulate the economy. I had a few other remarks on the bill but it is a little late now; but for the record, I wanted to get some comments out there.

ASSEMBLYWOMAN PIERCE:

Thank you, Madam Speaker. One of the things that I wanted to talk about is the fact that we are not just here today because of the bad economy. We are also here because, for a very long time in this state, we have under-funded everything. We have done it for decades. Every time 100,000 people moved here, we provided enough services for 25,000. When another 100,000 people move here, we provided services for another 25,000. It did not appear that way because the budgets went up a little bit because the boom happened. We were a boomtown for 20 years and it hid the fact that some folks have misstated something a couple of times in the last couple of days.

We have a thing here that most of us call "baby TASC (Tax and Spending Control)." It is a law passed in 1978 that says a state budget cannot grow by more than the rate of growth and inflation. We have never hit the limit in 30 years. When I was here in 2003 and we were looking at the biggest tax increase in history, one of the things I knew was that in 2003 we were one of ten states whose state government had not kept up with growth and inflation for a decade. We have the smallest government in the country, not just now, but we have for decades. We have the fewest public servants of any place in the country. That makes no sense when you are talking about economies of scale. It just makes no sense. You talk about economies of scale and the fact is the place with the smallest number of employees should be a big state with lots of programs. So being here today was inevitable. Inevitably, this insane frugality, for me, was eventually going to meet and run head on with a really bad economy and we were going to be up that creek without a paddle. This day was inevitable.

We have talked a lot in the last six months about the structure of our tax system. As we know in taxation, we have been talking about that for 30 years—all those studies, studies, studies. When I came here this session I was really excited that we were going to make some progress on that structure. We were going to start to fix this mess we have made over a couple of decades. Today, we did not fix it, and that is a huge disappointment to me. I voted for it and I would do it again if we had to do it again; but I am disappointed. I am disappointed that we made a tax system that is already regressive. We have made it more regressive and we did not make progress on doing some of things that the last ten studies have told us that we needed to do. We did what we needed to do and I hope that we'll come back in two years and try again to see if we

can turn this ship of state in a direction that is not just failure and set us in a direction that is not the bottom of all the good lists and the top of all the bad ones. Thank you, Madam Speaker.

ASSEMBLYMAN HAMBRICK:

Thank you, Madam Speaker. I feel somewhat awkward standing up because of my colleague from Assembly District 33. I am privileged to be able to stand in his shadow some days. You made a very principled decision, although I would respectfully disagree with that decision, but it was very principled, and I understand that.

I had hoped to be able to ask some questions from a member of this body but I am not sure who that member would be, because I am thinking of, possibly, a make-believe city of 140,000—the number of people who are unemployed. I would have liked to have gotten their input—on how the unemployed feel, those that were in the casinos and the tourist industry last month or the month before and were told that their jobs were being eliminated. My colleague from District 22 is right. There was no easy choice today. I think we will find out in the months, hopefully not years, to come if today's decision was good. We had a witness in the well earlier that made some predictions. I sincerely hope that he was wrong, but I fear he was not. Thank you Madam Speaker.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. It was a very difficult decision to make. All of us had to come to our own terms, to figure out what we wanted to do. Myself, I looked at my constituents. Some of them, they receive benefits. I also looked at the ones that are paying for those benefits. But then I looked at what we need to do to recover as a state. And when I looked at . . . basically, we doubled the payroll tax. Or we were looking, at that time, in almost doubling the payroll tax. That type of a tax hike is really a tax on the number of employees that a business has. In looking at the fact that we have 10 percent unemployment across the state, the highest it has been since 1983—and Lyon County is at 15 percent—I am worried. I don't ever want to see 20 percent.

And so, for myself, I just could not vote for anything that was so, in my opinion, draconian on the payroll tax and that would so impact the businesses and may cause more individuals to become unemployed. On that aspect, it made me look at it and say, "I could not vote for that." But then I thought, "You know what? I probably could if that is what the people wanted." I started looking at my constituents, and interestingly enough, I have quite a few from California, even though I am one of only a handful of native Nevadans. My community, Douglas County, is made up of a lot of individuals who have moved here from California. That is where they come from, probably about 70 percent of them. So I actually looked at California, to their special election, where they said by 65 percent, "No. No more taxes. Live within your means." That's why I am going to urge everyone to vote no on the bill. Thank you.

ASSEMBLYWOMAN MASTROLUCA:

Thank you, Madam Speaker. As a freshman, this is the hardest decision that I ever thought I would have to make. Having to sit here and push that button will be the hardest thing I have done in the last 18 months of my life. It was easier to decide to run. It was easier to convince my family that this was a good idea. It was easier to move away from home for four months than to push that button. But I know that tomorrow morning I can get up and look in the mirror and know that I made the right choice, because I know that the children in this state will receive the health care that they need. I know that my children will have the opportunity to go to colleges that will still exist. I admire those who had to make those difficult choices. I admire those who made the ones that they feel comfortable that they can live with. Thank you for this opportunity.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Speaker. I don't think anyone would argue . . . anyone in this body, anyone who knows you . . . no one would argue that you are a very smart woman, a very smart Speaker.

This vote today, as I shared some comments yesterday, is one that has weighed very heavily on me. My guess is, based on how the vote will go down . . . I just want to let everyone know I

am not expecting a standing ovation when I'm done. But I will say that there will probably be some that will pick apart what I feel and what I want to share, and this is why. When I came here in February, after hearing all the news reports, sitting in the school district meetings, and listening to what parents had to say, I wholeheartedly came here thinking, "You know what? I'm probably going to have to vote for taxes, a tax—something." That was my expectation. During the session, I had been able to go back to Las Vegas, go out with friends, go to church, go to sports gatherings, and what I saw absolutely terrified me. It scared me. I saw more and more friends unemployed; more and more office space for lease that used to house someone's business. I saw families losing their homes to foreclosure. It is sad. It is very heartbreaking, especially when we are close to these people. All of us know people in this position.

So, as the body passes Senate Bill 429, and I would also include IP 1, we are looking at almost a billion dollar tax increase. I know with all the recent news about the federal government that doesn't sound like much, but coming out of this state's small economy, that's a chunk. I do believe that this tax was ill timed, and I believe, based on my own personal experience, that it is morally wrong. Winston Churchill said, "A nation that tries to tax its way to prosperity is like a man standing in a bucket trying to lift himself out by the handle." I have been feeling that and seeing that in my mind all day long and all session long.

I shared with my colleagues this morning that if unemployment were a city in Nevada, it would be the fifth largest city in our state. So, here we are, and as we have experienced tough decisions, I want to say that I realize that this is tough. I know how tough it was for our colleague from Elko, who I can say we all love. Who doesn't love the Assemblyman from Elko? I know that this was tough. All of us had to vote our conscience and represent the people who put us in office.

Recently, one of my colleagues said that the hardest part is coming up with the money and raising taxes. I know that is what this person felt in their heart. I disagree. From my experience, I will tell you that it is really, really hard to say no. There are so many worthy causes, especially when money is scarce. I know this from experience. This session I voted no a number of times, and it has really been a challenge, especially after I hear my colleagues floor speeches. I will say that people do treat me differently sometimes, but I realize that is just part of what we experience here.

Madam Speaker, in your comments, I just wanted to say that, with all due respect, I don't see the comment that I made yesterday—that it's a good idea to live within our means—as a platitude. For me, that's like arguing with gravity. I will admit that while I am not the businessman I am in my dreams, I do know a little bit about business, small and large—companies that I have run and companies that I have been close to. Some have seen a lot of success and another company that I was a part of, I ran into the ground. I learned a lot as I went. But in closing, I want to share that . . . really what I want to do is, in thinking of all of those unemployed, all of those Nevada families that are having a hard, hard time; that in my opinion, we just made life a little more difficult for those masses and for those businesses that have to write that check—the small business owners that have to write that check every single month before they get to take money home to their families. For those people and to those people I want to apologize for the action.

Madam Speaker requested the privilege of the floor for the purpose of making the following remarks:

Okay. You are out of line. You are done. You don't get to apologize on behalf of another member. You are out of order.

ASSEMBLYMAN CHRISTENSEN:
That is why I said, "With all due respect . . ."

Madam Speaker requested the privilege of the floor for the purpose of making the following remarks:

You are out of order.

ASSEMBLYMAN CHRISTENSEN:

Fair enough. I believe that I have made my point and appreciate the opportunity to do so. In closing, Madam Speaker, I will say that I hope that, as we see these budgets grow every two years, I hope we just put on our best thinking caps and consider the challenges and opportunities, and that we weigh those out. It has been my effort every since I have been here to try to bring as much balance as I can to this equation. I hope that as we go, that is something that we will have in mind. Thank you.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Speaker. Today's decision is a difficult one to make. I, too, have many reservations. As I headed into my first session, which was the last special session, Speaker Buckley commented that it is easy to call yourself a leader when times are good, but that real leadership comes when we have to make difficult decisions. I thought about her comment many times during the last several months. While I did not agree with everything in the revenue package, I realized that passing this bill is vital to protecting our children, our senior citizens, and for keeping our community safe. As my colleague from District 27 said yesterday, "It is irresponsible to pass a budget that you are unwilling to fund."

I spend a lot of time keeping in touch with my constituents. They keep imploring me to support education, to protect our retirees, and to do the right things for our state's future. They even send me emails saying that they are willing to pay more if it would mean keeping our institutions of higher education open, doing what we can to improve K-12 education, preventing layoffs of police and firefighters, and maintaining essential government services. I supported the budget because the alternative wouldn't have done any of these things and would have destroyed the lives and futures of so many Nevadans.

I know firsthand that businesses are hurting in my district and around the state. I am a small business owner and my own business is hurting, too. I personally feel the pain that so many of my fellow Nevadans are feeling. I know our state is feeling pain that many of us thought we would never feel and I truly have agonized over this vote. I do think the sales tax regressively and disproportionately burdens those who can least afford it. I do think our tax structure needs to be thoroughly reviewed to ensure fairness for all Nevadans and all of Nevada's businesses. There are no clear choices, yet I have to make a choice for my vote. I have decided to vote yes because the alternative is certain and merciless cuts to our schools, our health care, and our state's most basic needs—not our wants, our needs. I will vote yes, because on this day, at this painful time in our state's history, I know that the alternative is unacceptable and I know that I need to fulfill my constitutional obligations to my constituents and to all Nevadans. Thank you.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Speaker. First of all, I want thank all the members of this body, especially those that served on Ways and Means, for your support. Again, I was the new kid or one of the new kids in Ways and Means and I really appreciate the support you gave me.

I represent a very conservative district and I am here as a representative. I don't think there is anyone in this body that did not recognize when we came into session that we were going to need more revenue. The economic situation was worsening every day. And clearly, then, as we got into session, with the Governor's State of the State, I think it became very apparent we were going to need revenue. When I say "we," I met with my constituents and I talked to them. Again, I represent those conservative counties through central Nevada that have a very low sales tax rate. You know, most of them are at 6.5 percent. They sent me here saying they would go as high as a 1 percent increase on sales tax to meet the needs, to keep our schools open, our community colleges, and our conservation camps. Those are the things we need in rural Nevada. I neglected to mention our rural health clinics, which was a big issue and I want to thank my colleague from Reno for the support she gave all of rural Nevada on that.

There were portions of the revenue plan that I could support. In fact, I totally support the revenue plan in Senate Bill 429. It was the mechanism that got us there which will cause my no vote. The bottom line is the people I represent felt they needed a sales tax. They do feel that a tax on business . . . we have a lot of small businesses out there. They feared the MBT and, again, I am here to represent them. But I want you to know that I recognize and my constituents

recognize that we needed revenue and they were not afraid of a tax increase. It was only the kind. Thank you.

Roll call on Senate Bill No. 429:

YEAS—29.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

Senate Bill No. 429 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that Senate Bill No. 429 be immediately transmitted to the Senate.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 4:12 p.m.

ASSEMBLY IN SESSION

At 4:27 p.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 140.

The following Senate amendment was read:

Amendment No. 771.

AN ACT relating to real property; revising provisions relating to a notice of sale of real property under execution; establishing the crime of defacing a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale; establishing rights and duties of a purchaser of real property pursuant to a foreclosure sale and establishing rights and duties of a tenant in possession of such property; revising provisions relating to a sale of real property pursuant to a trustee's power of sale; requiring a landlord to make certain disclosures to a prospective tenant; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2 and 7 of this bill revise existing law by requiring that a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale be served upon the State Board of Health if the real property is operated as a licensed health facility. **Sections 2 and 6.7** of this bill require, if the sale of property is a residential foreclosure, a separate notice to be served upon any tenant or subtenant, other than the

judgment debtor, in actual occupation of the real property subject to a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale to inform the tenant or subtenant that the property is subject to a notice of sale. (NRS 21.130) **Sections 3 and 8** of this bill make it unlawful for a person to willfully remove or deface a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale which is posted on real property. (NRS 21.140, 107.084) **Sections 4 and 6** of this bill require the purchaser of a vacant residential property at a foreclosure sale or a trustee's sale to maintain the exterior of the property. **Sections 4 and 6** also authorize the appropriate governmental entity to assess a civil penalty of up to $1,000 per day, under certain circumstances, for failure to maintain the property.

Existing law provides that a person who holds over and continues in possession of real property that has been foreclosed after a 3-day notice to quit has been served upon him may be removed. (NRS 40.255) **Section 5** of this bill provides that a tenant or subtenant, other than the person whose name appears on the mortgage or deed of trust, may be removed only after the expiration of a specified period not to exceed 60 days if the property has been sold as a residential foreclosure. **Section 5** also requires the tenant or subtenant who remains in occupation of the real property to remit rent to the new owner of the property pending expiration of the specified period. **Section 5** further prohibits any person from entering a record of eviction for a tenant or subtenant who vacates the property within the specified period if the property has been sold as a residential foreclosure. Finally, **section 5** allows the new owner of the real property, if the property has been sold as a residential foreclosure, to negotiate a new purchase, lease or rental agreement with the tenant or subtenant in occupation of the property or to offer a payment in exchange for the tenant or subtenant vacating the property on a date earlier than the end of the specified period.

Section 5.5 of this bill requires a landlord to file proof of service with the court of any notice required to be served before the removal of a person who holds over and continues in possession of real property after receiving a 3-day notice to quit. (NRS 40.280)

Section 9 of this bill requires a landlord to disclose in writing to a prospective tenant if the property to be leased or rented is the subject of foreclosure proceedings. **Section 9** also makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 ~~[nor]~~ ***or*** more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:

(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor ~~[.]~~ ***and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;***

(2) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; ~~[and]~~

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than $500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse ~~[.]~~ ***;*** ~~*[and]*~~

(4) Recording a copy of the notice in the office of the county recorder; and

(5) If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

2. ***If the sale of property is a residential foreclosure, the notice must include, without limitation:***

(a) The physical address of the property; and

(b) The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.

3. If the sale of property is a residential foreclosure, a separate notice must be ~~*[served by personal delivery or by certified mail, return receipt requested,]*~~ ***posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than***

the judgment debtor, in actual occupation of the premises ~~[at the same time]~~ not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must ~~[include, without limitation:~~

~~(a) A statement informing the tenant or subtenant that:~~

~~(1) A notice of the sale of the property has been issued;~~

~~(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to eviction proceedings; and~~

~~(3) The provisions of chapter 40 of NRS govern the applicable eviction proceedings; and~~

~~(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.]~~ be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under Nevada Revised Statutes 40.255, eviction proceedings may begin against you after you have been given a 3-day notice to quit.

If you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness;

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person

residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor ***or any other person entitled to notice*** has not been properly notified as required in this section and NRS 21.075 and 21.076.

5. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 3. NRS 21.140 is hereby amended to read as follows:

21.140 1. An officer selling without the notice prescribed by NRS 21.075, 21.076 and 21.130 forfeits $500 to the aggrieved party, in addition to his actual damages.

2. ~~[~~A~~]~~ ***It is unlawful for a*** person ***to*** willfully ~~[~~taking~~]~~ ***take*** down or ~~[~~defacing~~]~~ ***deface*** the notice posted pursuant to NRS 21.130, if done before the sale or, if the judgment is satisfied before sale, before the satisfaction of the judgment ***.*** ~~[~~, forfeits~~]~~ ***In addition to any other penalty, any person who violates this subsection shall forfeit*** $500 to the aggrieved party.

Sec. 4. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any vacant residential property purchased or acquired by a person at a foreclosure sale pursuant to NRS 40.430 must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.

10. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.

Sec. 5. NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as ***otherwise*** provided in ~~[subsection]~~ ***subsections*** 2 ~~[.]~~ ***and 7,*** in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to quit has been served upon him ~~[, and also upon any subtenant in actual occupation of the premises, pursuant to NRS 40.280,]~~ may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

(a) Where the property or mobile home has been sold under an execution against him or a person under whom he claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by him or a person under whom he claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by such person or a person under whom he claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by him or a person under whom he claims, and the title under the sale has been perfected.

2. ***If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, after receiving a notice of the change of ownership of the real property or mobile home and after the expiration of a notice period beginning on the date the notice was received by the tenant or subtenant and expiring:***

(a) For all periodic tenancies with a period of less than 1 month, after not less than the number of days in the period; and

(b) For all other periodic tenancies or tenancies at will, after not less than 60 days.

3. During the notice period described in subsection 2:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and

(b) The tenant or subtenant continues to have the rights, obligations and liabilities he had pursuant to chapter 118A of NRS under the lease or rental agreement which he entered into with the previous owner or landlord regarding the property.

4. The notice described in subsection 2 must contain a statement:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement he entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection 2; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings.

5. If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection 2.

6. If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit:

(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection 2 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or

(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

(1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or

(2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection 2.

7. This section does not apply to the tenant of a mobile home lot in a mobile home park.

8. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 5.5. NRS 40.280 is hereby amended to read as follows:

40.280 1. Except as otherwise provided in NRS 40.253, the notices required by NRS 40.251 to 40.260, inclusive, may be served:

(a) By delivering a copy to the tenant personally, in the presence of a witness;

(b) If he is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the tenant at his place of residence or place of business; or

(c) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property, delivering a copy to a person there residing, if the person can be found, and mailing a copy to the tenant at the place where the leased property is situated.

2. Service upon a subtenant may be made in the same manner as provided in subsection 1.

3. Before an order to remove a tenant is issued pursuant to subsection 5 of NRS 40.253, a landlord shall file with the court a proof of service of any notice required by that section. ***Before a person may be removed as prescribed in NRS 40.290 to 40.420, inclusive, a landlord shall file with the court proof of service of any notice required pursuant to NRS 40.255.*** Except as otherwise provided in subsection 4, this proof must consist of:

(a) A statement, signed by the tenant and a witness, acknowledging that the tenant received the notice on a specified date;

(b) A certificate of mailing issued by the United States Postal Service; or

(c) The endorsement of a sheriff, constable or other process server stating the time and manner of service.

4. If service of the notice was not delivered in person to a tenant whose rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, proof of service must include:

(a) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or his agent; or

(b) The endorsement of a sheriff or constable stating the:

(1) Time and date the request for service was made by the landlord or his agent;

(2) Time, date and manner of the service; and

(3) Fees paid for the service.

Sec. 6. Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 6.3 and 6.7 of this act.

Sec. 6.3. ***1. Any vacant residential property purchased or acquired by a person at a trustee's sale pursuant to NRS 107.080 must be maintained by that person in accordance with subsection 2.***

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.

10. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.

Sec. 6.7. ***1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default [,] and election to sell and the notice of sale must:***

(a) Be posted in a conspicuous place on the property [on the same day] not later than 3 business days after the notice of default [,] and election to sell [and] or the notice of sale is recorded pursuant to NRS 107.080; and

(b) Include, without limitation:

(1) The physical address of the property; and

(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

3. A separate notice must be ~~[served upon]~~ posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or his successor in interest, in actual occupation of the premises ~~[at the same time]~~ not later than 3 business days after the notice of the sale is given pursuant to subsection 4 of NRS 107.080. The separate notice must ~~[be served in the manner prescribed in NRS 40.280 and must include, without limitation:~~

~~(a) A statement informing the tenant or subtenant that:~~

~~(1) A notice of the sale of the property has been issued;~~

~~(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to the eviction process; and~~

~~(3) The provisions of chapter 40 of NRS govern the applicable eviction process; and~~

~~(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.]~~ be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under Nevada Revised Statutes 40.255, eviction proceedings may begin against you after you have been given a 3-day notice to quit.

If you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness;

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.080.

Sec. 7. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, ~~[and]~~ to the person who holds the title of record on the date the notice of default and election to sell is recorded ~~[.]~~ ***and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health,*** at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must ~~[describe]~~ ***:***

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2 ~~[.]~~ ***; and***

(b) If the property is a residential foreclosure, comply with the provisions of section 6.7 of this act.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor ***,*** ~~[and]~~ any other person entitled to notice pursuant to this section ***and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health,*** by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; ~~[and]~~

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated ~~[.]~~ ***; and***

(d) If the property is a residential foreclosure, complying with the provisions of section 6.7 of this act.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section ~~[,]~~ ***or any applicable provision of section 6.7 of this act;***

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence" ~~*[means]*~~ ***:***

(a) Means a structure that is comprised of not more than four units.

(b) Does not include any time share or other property regulated under chapter 119A of NRS.

Sec. 8. NRS 107.084 is hereby amended to read as follows:

107.084 ~~[A]~~ ***It is unlawful for a*** person ~~[who]~~ ***to*** willfully ~~[removes]~~ ***remove*** or ~~[defaces]~~ ***deface*** a notice posted pursuant to subsection 4 of NRS 107.080, if done before the sale or, if the default is satisfied before the sale, before the satisfaction of the default ***.*** ~~[,]~~ ***In addition to any other penalty, any person who violates this section*** is liable in the amount of $500 to any person aggrieved by the removal or defacing of the notice.

Sec. 9. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A landlord shall disclose in writing to a prospective tenant if the property to be leased or rented is the subject of any foreclosure proceedings.

2. A willful violation of subsection 1 constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 140.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered to transmitted to the Senate.

Assembly Bill No. 513.

The following Senate amendment was read:

Amendment No. 762.

AN ACT relating to mortgage lending; ~~[requiring the licensing of a construction control as an escrow agent or agency;]~~ establishing education requirements for an escrow agent or agency; revising provisions relating to the jurisdiction of the Commissioner of Mortgage Lending; revising subpoena powers of the Commissioner; revising provisions relating to holders of a beneficial interest in a loan; eliminating the exemption of consumer finance companies from provisions relating to mortgage brokers, mortgage agents and mortgage bankers; revising provisions for the issuance of a certificate of exemption to a mortgage broker, mortgage agent or mortgage banker; requiring a mortgage broker to make additional disclosures under certain circumstances; revising provisions for the revocation of the license of a mortgage broker or mortgage agent; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill requires a construction control to be licensed as an escrow agent or agency.]~~ **Sections 3 and 4** of this bill establish educational prerequisites and continuing education requirements for an escrow agent or agency. **Sections 5, 9 and 15** of this bill provide that the jurisdiction and authority of the Commissioner of Mortgage Lending is unaffected by the expiration or voluntary surrender of a license as an escrow agent or agency, mortgage broker, mortgage agent or mortgage banker.

Sections 6, 12 and 18 of this bill provide that the Commissioner may subpoena documents without also subpoenaing the custodian of such documents. (NRS 645A.060, 645B.070, 645E.310)

Section 8 of this bill provides that if the beneficial interest in a loan for real property belongs to more than one natural person, the holders of 51 percent or more of the outstanding principal balance may act on behalf of all the holders of the beneficial interests of record.

Sections 10 and 16 of this bill eliminate the exemption of consumer finance companies from licensing and other requirements governing mortgage brokers, mortgage agents and mortgage bankers. (NRS 645B.015, 645E.150) **Sections 11 and 17** of this bill revise existing law by requiring proof of the right to transact mortgage loans, if applicable, in another jurisdiction as a condition to obtaining an exemption to licensing and other provisions governing mortgage brokers, agents and bankers. (NRS 645B.016, 645E.160)

Existing law requires a mortgage broker to include a servicing fee in any loan for which he engages in activity as a mortgage broker. (NRS 645B.305) **Section 13** of this bill limits the requirement to only such loans in which a private investor has acquired a beneficial interest. **Section 13** also requires a mortgage broker to make additional disclosures pertaining to fees earned by the mortgage broker and any impact such fees may have on the terms of the loan.

Section 14 of this bill revises existing law to provide that the Commissioner has the discretionary authority, rather than a mandatory obligation, to revoke the license of a mortgage broker or mortgage agent under certain circumstances. (NRS 645B.690)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Chapter 627 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. A construction control must be licensed pursuant to chapter 645A of NRS as an escrow agent or agency.*~~

~~*2. The Division of Mortgage Lending of the Department of Business and Industry may adopt regulations as are necessary to carry out the provisions of this section.]~~ **(Deleted by amendment.)**

Sec. 2. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. ***1. In addition to any other requirement, an applicant for an original license as an escrow agent or agency must furnish proof satisfactory to the Commissioner of the successful completion of a course of instruction in the principles, practices, procedures, law and ethics of escrows, which course may be an extension or correspondence course offered by the Nevada System of Higher Education, by any other accredited college or university or by any other college or school approved by the Commissioner.***

2. An applicant for a license as an escrow agent or agency pursuant to NRS 645A.020 must meet the educational prerequisites required pursuant to this section not later than the date on which his application is received by the Office of the Commissioner.

3. The Commissioner shall adopt regulations setting forth standards for the educational prerequisites required pursuant to this section. The regulations must address standards for instructors, the scope and content of the instruction, required hours of instruction and such other criteria as the Commissioner considers necessary.

Sec. 4. ***1. The Commissioner shall adopt regulations that prescribe standards for the continuing education of persons licensed pursuant to this chapter.***

2. The standards adopted pursuant to subsection 1 must:

(a) Permit alternative subject material appropriate for specialized areas of practice and alternative sources of programs to ensure availability throughout the State and throughout the year;

(b) Set forth procedures pursuant to which the Commissioner may qualify providers to offer courses of continuing education, including, without limitation, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations and other organized educational programs on technical subjects;

(c) Set forth procedures pursuant to which the Commissioner may qualify those continuing education courses that he determines address the appropriate subject matter; and

(d) Set forth required hours of instruction and such other criteria as the Commissioner considers necessary.

3. Subject to the provisions of this section, the Commissioner has exclusive authority to determine which providers and courses may qualify for the purposes of continuing education under this chapter.

Sec. 5. ***The expiration or revocation of a license of an escrow agent or agency by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:***

1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the escrow agent or agency as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the escrow agent or agency.

Sec. 6. NRS 645A.060 is hereby amended to read as follows:

645A.060 1. In the conduct of any examination, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) ***Compel the production of any document by subpoena.***

(c) Administer oaths.

~~[(c)]~~ ***(d)*** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter, and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Every person subpoenaed pursuant to the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

Sec. 7. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. ***1. Except as otherwise provided by law or by agreement between the parties and regardless of the date the interests were created, if the beneficial interest in a loan belongs to more than one natural person, the holders of 51 percent or more of the outstanding principal balance may act on behalf of all the holders of the beneficial interests of record on matters which require the action of the holders of the beneficial interests in the loan, including, without limitation:***

(a) The designation of a mortgage broker or mortgage agent, servicing agent or any other person to act on behalf of all the holders of the beneficial interests of record;

(b) The foreclosure of the property for which the loan was made;

(c) The sale, encumbrance or lease of real property owned by the holders resulting from a foreclosure or the receipt of a deed in lieu of a foreclosure in full satisfaction of a loan;

(d) The release of any obligation under a loan in return for an interest in equity in the real property or, if the loan was made to a person other than a natural person, an interest in equity of that entity; and

(e) The modification or restructuring of any term of the loan, deed of trust or other document relating to the loan, including, without limitation, changes to the maturity date, interest rate and the acceptance of payment of less than the full amount of the loan and any accrued interest in full satisfaction of the loan.

2. Any action which is taken pursuant to subsection 1 must be in writing.

3. The provisions of this section do not apply to a transaction involving two investors with equal interests.

Sec. 9. ***The expiration or revocation of a license of a mortgage broker or mortgage agent by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:***

1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the mortgage broker or mortgage agent as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the mortgage broker or mortgage agent.

Sec. 10. NRS 645B.015 is hereby amended to read as follows:

645B.015 Except as otherwise provided in NRS 645B.016, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, ~~[consumer finance companies,]~~ industrial loan companies, credit unions, thrift companies or insurance companies,

including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 11. NRS 645B.016 is hereby amended to read as follows:

645B.016 Except as otherwise provided in subsection 2 and NRS 645B.690:

1. A person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645B.015 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645B.015; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business ***, including, if applicable, the right to transact mortgage loans,*** and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645B.015 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645B.015.

5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage broker or mortgage agent or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent unless the person applies for and is issued:

(a) A license as a mortgage broker or mortgage agent, as applicable, pursuant to this chapter; or

(b) Another certificate of exemption.

6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 12. NRS 645B.070 is hereby amended to read as follows:

645B.070 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) ***Compel the production of any document by subpoena.***

(c) Administer oaths.

~~[(c)]~~ ***(d)*** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor and shall be punished as provided in NRS 645B.950.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special

audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.

Sec. 13. NRS 645B.305 is hereby amended to read as follows:

645B.305 A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker ***:***

1. Includes a disclosure:

(a) Describing, in a specific dollar amount, all fees earned by the mortgage broker;

(b) Explaining which party is responsible for the payment of the fees described in paragraph (a); and

(c) Explaining the probable impact the fees described in paragraph (a) may have on the terms of the loan, including, without limitation, the interest rates.

2. If a private investor has acquired a beneficial interest in the loan, includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.

Sec. 14. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner ~~[shall]~~ ***may*** revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take

possession of the property of the mortgage broker pursuant to NRS 645B.630.

Sec. 15. Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:

The expiration or revocation of a license of a mortgage banker by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:

1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the mortgage banker as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the mortgage banker.

Sec. 16. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, ~~[consumer finance companies,]~~ industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 17. NRS 645E.160 is hereby amended to read as follows:

645E.160 1. Except as otherwise provided in subsection 2, a person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business ***, including, if applicable, the right to transact mortgage loans,*** and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645E.150 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645E.150.

5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage banker or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage banker unless the person applies for and is issued:

(a) A license as a mortgage banker pursuant to this chapter; or

(b) Another certificate of exemption.

6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 18. NRS 645E.310 is hereby amended to read as follows:

645E.310 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) ***Compel the production of any document by subpoena.***

(c) Administer oaths.

~~[(c)]~~ ***(d)*** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and, in connection therewith, require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.

Sec. 19. (Deleted by amendment.)

Sec. 20. Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows:

The Commissioner shall adopt regulations establishing guidelines and limitations for the servicing or arranging of loans of which an investor has ownership or in which an investor has a beneficial interest.

Sec. 21. 1. This section and sections 1, 2 and 4 to 20, inclusive, of this act become effective upon passage and approval.

2. Section 3 of this act becomes effective:

(a) On January 1, 2011, for the purposes of educational qualifications of escrow agents or agencies; and

(b) Upon passage and approval for all other purposes.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 513.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 151.

The following Senate amendment was read:

Amendment No. 775.

AN ACT relating to mortgage lending; requiring a mortgage broker to include his license number on any loan secured by a lien on real property for which he engages in activity as a mortgage broker; requiring certain financial

institutions that offer nontraditional mortgage loan products to make certain disclosures to borrowers with respect to nontraditional mortgage loans; requiring such financial institutions to certify such disclosures to the Commissioner of Financial Institutions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a mortgage broker to include his license number on each loan secured by a lien on real property for which he engages in activity as a mortgage broker. If a mortgage broker fails to comply with **section 1**, the Commissioner of Mortgage Lending may impose an administrative fine of not more than $10,000 and may place conditions on the license of the mortgage broker or suspend or revoke the license. (NRS 645B.670) In addition, a mortgage broker who fails to comply with **section 1** is guilty of a misdemeanor. (NRS 645B.950)

Section 2 of this bill requires a financial institution that offers nontraditional mortgage loan products to make certain written disclosures to a borrower with respect to a nontraditional loan secured by a lien on real property. The disclosures must be written in language that is easy to understand and printed in **at least** 10-point type or font. In addition, **section 2** requires the financial institution to certify to the Commissioner of Financial Institutions that the disclosures have been made. **Section 2** also authorizes the financial institution to contract with a nonprofit **or government-operated** consumer credit counseling ~~[,]~~ **or** housing counseling **agency** or **a nonprofit or government-operated** legal services agency to make the required certifications. A financial institution that fails to comply with **section 2** is guilty of a misdemeanor. (NRS 668.115)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 645B of NRS is hereby amended by adding thereto a new section to read as follows:

A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker includes the license number of the mortgage broker.

Sec. 2. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A financial institution which is required to be licensed pursuant to the provisions of this title or title 56 of NRS and which offers nontraditional mortgage loan products that are secured by liens on real property shall, with respect to each nontraditional mortgage loan made by the financial institution, disclose to the borrower adequate information concerning the actual costs and risks of the nontraditional mortgage loan product offered.

2. The disclosure required by subsection 1 must be written in language that is easy to understand, must be printed in at least 10-point bold type or font and must include, without limitation:

(a) Information concerning potential increases in monthly payments, including information describing the circumstances under which interest rates or negative amortization could reach the contractual limits;

(b) Information concerning the maximum monthly payment that the borrower may be required to pay if amortizing payments are required and the interest rate and negative amortization caps are reached;

(c) Information concerning the circumstances under which structural payment changes will occur, the amount of the new payments and the method of calculating the amount of the new payments;

(d) Information concerning negative amortization, including information describing the potential for increases in the principal balance and decreases in home equity and any other potential adverse consequences to the borrower resulting from negative amortization;

(e) If a nontraditional mortgage loan product includes prepayment penalties, information explaining the prepayment penalties and the amount of the penalties;

(f) If the financial institution offers full-document home loans in addition to low-document home loans, no-document home loans or stated-document home loans, information concerning any pricing premium that attaches to the low-document home loans, no-document home loans or stated-document home loans; and

(g) For payment option adjustable-rate mortgages, information explaining each payment option available and the effect on the loan balance of each payment option.

3. A financial institution required to make a disclosure pursuant to subsection 1 shall, with respect to each nontraditional mortgage loan made by the financial institution, certify to the Commissioner that the financial institution has made the disclosure required by subsection 1. The financial institution may contract with a nonprofit or government-operated consumer credit counseling , [,] or housing counseling agency or a nonprofit or government-operated legal services agency which has been operating as such for the immediately preceding 7 years to provide the certification required by this subsection.

4. As used in this section:

(a) "Low-document home loan" has the meaning ascribed to it in NRS 598D.100.

(b) "No-document home loan" has the meaning ascribed to it in NRS 598D.100.

(c) "Nonprofit or government-operated consumer credit counseling , [,] or housing counseling [or legal services] agency" means:

(1) A person or organization which is recognized as [exempt under] a charitable organization pursuant to section 501(c)(3) of the Internal

Revenue Code of 1986, 26 U.S.C. § 501(c)(3), and which is certified by the United States Department of Housing and Urban Development ~~[;]~~ ***as a Housing Counseling Agency;***

(2) A government agency or government-operated organization which is certified by the United States Department of Housing and Urban Development as a Housing Counseling Agency; or

~~[(2)]~~ ***(3) A person or organization which is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3), and which:***

(I) As its primary business, provides specialized personal and group counseling services to a person who is seeking to purchase a home or obtain legal advice regarding a real estate transaction and who is suffering or who may suffer economic hardship because of the extension of credit;

(II) Acts as an agent for a person who is suffering or who may suffer economic hardship because of the extension of credit in his efforts to resolve his economic hardships;

(III) May receive money or any other thing of value for disbursement to one or more of the creditors of a person who is suffering or who may suffer economic hardship because of the extension of credit; and

(IV) If it has a board of directors, has a board of directors with a majority of members who are not employed by the agency or otherwise receive any direct or indirect financial benefit from the provision of any services by the agency.

(d) "Nonprofit or government-operated legal services agency" means an organization that provides legal services to low-income persons without charge, and:

(1) Is a government agency or government-operated organization; or

(2) Is recognized as a charitable organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3).

(e) "Nontraditional mortgage loan product" has the meaning ascribed to it in NRS 658.190 and also includes an adjustable-rate mortgage, a low-document home loan, a no-document home loan and a stated-document home loan.

~~[(e)]~~ ***(f) "Stated-document home loan" has the meaning ascribed to it in NRS 598D.100.***

Sec. 3. 1. The provisions of this act apply only to loans secured by liens on real property and nontraditional mortgage loan products offered on or after the effective date of this act.

2. For a loan secured by a lien on real property that is made on or after the effective date of this act but before October 1, 2009, a mortgage broker who does not include his license number on the loan as required by section 1 of this act may, without penalty, cure his failure to comply with section 1 of this act not later than 30 days after the date the loan is made.

3. For a nontraditional mortgage loan product offered on or after the effective date of this act but before October 1, 2009, a financial institution that:

(a) Is subject to the requirements of section 2 of this act; and

(b) Fails to comply with the provisions of section 2 of this act,

➥ may, without penalty, cure the failure to comply with section 2 of this act not later than 30 days after the date the nontraditional mortgage loan is made.

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 151.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bills Nos. 41, 103, 173, 175, 190, 213, 376, and 396 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 135.

The following Senate amendment was read:

Amendment No. 709.

AN ACT relating to state obligations; requiring the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State to borrow money or otherwise become obligated and to issue state securities or other evidence of the obligations, subject to various requirements. (NRS 349.150-349.364) This bill requires the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations may be issued or incurred. The review is required of certain obligations which require future state payments in an amount of $5,000,000 or more after the then-current budget biennium and which are not otherwise subject to review or exempt from review pursuant to statute. If the issuance or incurrence of an obligation is approved by the State Board of Finance, the State Treasurer is responsible for administering the issuance or incurrence of the obligation. This bill also allows the State Treasurer to exempt such obligations from review.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

(1) The structure of the obligation;

(2) The methods by which the obligation is to be sold or marketed, if applicable;

(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and

(4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and

(c) The State Board of Finance approves issuing or incurring the obligation.

2. The State Treasurer shall provide the report required by subsection 1 not later than 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation, except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3.

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in

connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:

(1) With money appropriated on or before the date the obligation is issued or incurred;

(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is ~~*[required]*~~ ***:***

(1) Required to be repaid from a source other than state appropriations ~~*[.]*~~ ***; or***

(2) Incurred as a result of a lease, lease-purchase contract or installment-purchase contract that includes a provision which authorizes the termination of the lease, lease-purchase contract or installment-purchase contract before the expiration of the lease, lease-purchase contract or installment-purchase contract if the Legislature fails to appropriate money for payments due pursuant to the lease, lease-purchase contract or installment-purchase contract.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.

(i) A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.

7. As used in this section:

(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

(1) Unconditionally required to be made;

(2) Required to be made only if an appropriation therefor is made; or

(3) Required to be made only on the occurrence or nonoccurrence of other conditions.

(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing issued or incurred by or on behalf of the State or any department or agency of the State which requires future state payments in an amount of $5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.

Sec. 2. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

(1) The structure of the obligation;

(2) The methods by which the obligation is to be sold or marketed, if applicable;

(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and

(4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and

(c) The State Board of Finance approves issuing or incurring the obligation.

2. The State Treasurer shall provide the report required by subsection 1 not later than 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation, except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency

at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3.

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:

(1) With money appropriated on or before the date the obligation is issued or incurred;

(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is:

(1) Required to be repaid from a source other than state appropriations; or

(2) Incurred as a result of a lease, lease-purchase contract or installment-purchase contract that includes a provision which authorizes the termination of the lease, lease-purchase contract or installment-purchase contract before the expiration of the lease, lease-purchase contract or

installment-purchase contract if the Legislature fails to appropriate money for payments due pursuant to the lease, lease-purchase contract or installment-purchase contract.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) ~~[A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.~~

~~(i)]~~ A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.

7. As used in this section:

(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

(1) Unconditionally required to be made;

(2) Required to be made only if an appropriation therefor is made; or

(3) Required to be made only on the occurrence or nonoccurrence of other conditions.

(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing issued or incurred by or on behalf of the State or any department or agency of the State which requires future state payments in an amount of $5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.

Sec. 3. 1. This section and section 1 of this act become effective on July 1, 2009.

2. Section 2 of this act becomes effective on May 1, 2013.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 135.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Atkinson moved that the Assembly do not recede from its actions on Senate Bill No. 218, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Kihuen, Atkinson, and Woodbury as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 218.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Parnell moved that the Assembly do not recede from its action on Senate Bill No. 389, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Denis, Dondero Loop, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 389.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 144.

The following Senate amendment was read:

Amendment No. 649.

AN ACT relating to real property; prohibiting public disclosure of the results of an annual examination of a mortgage broker under certain circumstances; revising provisions relating to appraisals of real property securing a loan in which an investor invests money; revising requirements which relate to the release of certain information on various mortgage brokers regarding ownership and management structure, annual or biennial examinations and other examinations or audits, investigations or hearings; suspending or revoking the license of certain mortgage brokers who receive the lowest possible rating on two consecutive annual or biennial examinations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires annual or biennial examinations for various mortgage brokers. (NRS 645B.060) **Section 1** of this bill prohibits the results of an annual examination from being released to the public until after a period of time set by the Commissioner of Mortgage Lending to determine any objections made by the mortgage broker to the results.

Existing law provides requirements regarding certain information on mortgage brokers that is to be made available for public inspection. (NRS 645B.090) **Section 2** of this bill revises those requirements in regard to mortgage brokers who make or offer for sale in this State any investments in promissory notes secured by liens on real property. The revised requirements relate to information regarding ownership and management structure, annual or biennial examinations, other examinations or audits, investigations or hearings, and standards for withholding other information.

Existing law prohibits a mortgage broker or mortgage agent from accepting money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property unless the mortgage broker has first obtained a written appraisal of the real property securing the loan. (NRS 645B.300) **Section 2.5** of this bill requires the appraisal to be made not more than 6 months before the mortgage broker's first solicitation for the loan and the appraisal to meet certain standards. **Section 2.5** further requires a mortgage broker to make additional disclosures to an investor if the investor waives the requirement that an appraisal be obtained.

Existing law provides requirements regarding disciplinary action for certain violations of law relating to the business of a mortgage broker. (NRS 645B.690) **Section 3** of this bill revises those requirements in regard to mortgage brokers who make or offer for sale in this State any investments in promissory notes secured by liens on real property. If such a mortgage broker receives the lowest possible rating on two consecutive annual or biennial examinations, the license of that mortgage broker will be suspended or revoked.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt regulations:

(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.

(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until ~~[any objections made by the mortgage broker have been decided by the Commissioner.]~~ ***after a period of time set by the Commissioner to determine any objections made by the mortgage broker.***

(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct ~~[biennial]~~ examinations of a mortgage broker ***,*** ~~[instead of annual examinations,]~~ as described in paragraph (d) of subsection 2, ***on a biennial instead of an annual basis*** if the mortgage broker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and

(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.

Sec. 2. NRS 645B.090 is hereby amended to read as follows:

645B.090 1. Except as otherwise provided in this section or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to this chapter are open to public inspection.

2. Except as otherwise provided in subsection 3, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in his judgment, would:

(a) Impede or otherwise interfere with an investigation ***or examination*** that is currently pending against a mortgage broker;

(b) Have an undesirable effect on the welfare of the public ~~[or the welfare of any mortgage broker or mortgage agent; or~~

~~(c) Give any mortgage broker a competitive advantage over any other mortgage broker.]~~ ***; or***

(c) Reveal personal information in violation of NRS 239B.030.

3. Except as otherwise provided in NRS 645B.092, the Commissioner shall disclose the following information concerning a mortgage broker to any person who requests it : ~~*[, including, without limitation, a member of the news media:]*~~

(a) The findings and results of any investigation which has been completed during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter and which has resulted in a finding by the Commissioner that the mortgage broker committed a violation of a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner; ~~[and]~~

(b) The nature of any disciplinary action that has been taken during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter ~~[.]~~ ***; and***

(c) If the mortgage broker makes or offers for sale in this State any investments in promissory notes secured by liens on real property:

(1) Any information in the possession of the Commissioner regarding the present and past ownership and management structure of the mortgage broker; and

(2) The findings and results of:

(I) All examinations or investigations of the mortgage broker conducted pursuant to NRS 645B.060 during the immediately preceding 5 years, including, without limitation, annual or biennial examinations of the mortgage broker conducted pursuant to NRS 645B.060, including, without limitation, the rating for each annual or biennial examination and an explanation of the standards for determining that rating; and

(II) Any other examination or audit, investigation or hearing which has been completed during the immediately preceding 3 years against the mortgage broker pursuant to the provisions of this chapter.

Sec. 2.5. NRS 645B.300 is hereby amended to read as follows:

645B.300 1. Except as otherwise provided in subsection 4, a mortgage broker or mortgage agent shall not accept money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker has obtained a written appraisal of the real property securing the loan.

2. The written appraisal of the real property:

(a) ***Must be completed not more than 6 months before the mortgage broker's first solicitation for the loan;***

(b) Must meet the standards set forth in the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of The Appraisal Foundation;

(c) Must be performed by an appraiser who is authorized to perform appraisals in this State ~~[,]~~ ***or in the state where the real property securing the loan is located;*** and

~~[(b)]~~ ***(d)*** Must not be performed by the mortgage broker or a mortgage agent, unless the mortgage broker or mortgage agent is certified or licensed to perform such an appraisal pursuant to chapter 645C of NRS.

3. A copy of the written appraisal of the real property must be:

(a) Maintained at each office of the mortgage broker where money is accepted from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on the real property; and

(b) Made available during normal business hours for inspection by each such investor and the Commissioner.

4. A mortgage broker is not required to obtain a written appraisal of the real property pursuant to this section if the mortgage broker obtains a written waiver of the appraisal from each investor who acquires ownership of or a beneficial interest in a loan secured by a lien on the real property. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection.

5. ***If the mortgage broker obtains a written waiver of the appraisal as provided in subsection 4, the mortgage broker shall provide to each investor before he accepts any money from the investor a separate written disclosure which contains the information analyzed, the valuation methods and techniques employed and the reasoning for any opinion regarding value provided by or on behalf of the mortgage broker.***

6. As used in this section, "appraisal" has the meaning ascribed to it in NRS 645C.030.

Sec. 3. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or

holds himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner shall ***suspend or*** revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker pursuant to NRS 645B.630.

3. If a mortgage broker:

(a) Makes or offers for sale in this State any investments in promissory notes secured by liens on real property; and

(b) Receives the lowest possible rating on two consecutive annual or biennial examinations pursuant to NRS 645B.060,

➥ the Commissioner shall suspend or revoke the license of the mortgage broker.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 144.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 149, Amendment No. 901, and respectfully requests your honorable body to concur in said amendment.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 149.

The following Senate amendment was read:

Amendment No. 901.

AN ACT relating to real property; revising provisions governing foreclosures on property; providing for mediation under certain circumstances; providing for the imposition of a fee for mediation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth procedures governing foreclosures on real property upon default. A trustee under a deed of trust has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085) **Section 1** of this bill establishes additional restrictions on the trustee's power of sale with respect to owner-occupied housing by providing a grantor of a deed of trust or the person who holds the title of record with the right to request mediation under which he may receive a loan modification. Once mediation is requested, no further action may be taken to exercise the power of sale until the completion of the mediation. Each mediation must be conducted by a senior justice, judge, hearing master or other designee pursuant to rules adopted by the Nevada Supreme ~~[Court or an entity designated by the Nevada Supreme]~~ Court, and a fee of not more than $85 per hour may be charged and collected for the mediation. **Section 2** of this bill also restricts the trustee's power of sale with respect to owner-occupied housing by revising the period in which a deficiency in performance or payment under the trust agreement may be made good before the trustee may exercise that power. Similarly, **section 3** of this bill restricts the trustee's power of sale with respect to owner-occupied housing by revising the manner in which service of notice that a person is in danger of losing his home must be made. In addition, **section 4** of this bill authorizes the Nevada Supreme Court to adopt rules providing for voluntary mediation with respect to a homeowner who is not in default but is at risk of default.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes [in] with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection [2] 3 of NRS [107.085,] 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development; and

(3) A form upon which the grantor or the person who holds the title of record may indicate his election to enter into mediation or to waive mediation and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) Serves a copy of the notice upon the Mediation Administrator; and

(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 which provides that mediation has been completed in the matter.

3. The grantor [and] or the person who holds the title of record shall, not later than 30 days after service of the notice upon him in the manner required by NRS [107.085,] 107.080, complete the form required by subparagraph (3) of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on [his respective] the form his election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record [, or both,] to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be

taken to exercise the power of sale until the completion of the mediation. If ~~[both]~~ the grantor ~~[and]~~ or the person who holds the title of record ~~[indicate]~~ indicates on ~~[their respective forms their]~~ the form his election to waive mediation or ~~[if both fail]~~ fails to return ~~[their respective forms]~~ the form to the trustee as required by this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor ~~[and]~~ or the person who holds the title of record, or proof of service on the grantor ~~[and]~~ or the person who holds the title of record of the notice required by subsection 2 of this section and subsection ~~[2]~~ 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator shall provide to the trustee a certificate which provides that no mediation is required in the matter.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. The beneficiary of the deed of trust or his representative shall attend the mediation. The grantor or his representative shall attend the mediation if the grantor elected to enter into mediation, ~~[and]~~ or the person who holds the title of record or his representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

5. If the beneficiary of the deed of trust or his representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or his representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or his representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If ~~[both]~~ the grantor ~~[and]~~ or the person who holds the title of record elected to enter into mediation and ~~[both fail]~~ fails to attend the mediation, ~~[or if only one of those persons elected to enter into mediation and that person fails to attend the mediation,]~~ the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

8. The Supreme Court ~~[or an entity designated by the Supreme Court]~~ shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the District Court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than ~~[$85 per hour]~~ $400 that may be charged and collected by the Mediation Administrator for ~~[a]~~ mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence is immune from civil liability for those acts.

12. As used in this section:

(a) "Mediation Administrator" means the entity so designated pursuant to subsection 8.

(b) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a

bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(c) "Owner-occupied housing" means housing that is occupied by an owner as his primary residence. The term does not include any time share or other property regulated under chapter 119A of NRS.

Sec. 2. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, ***and section 1 of this act,*** if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) ~~[In]~~ ***Except as otherwise provided in paragraph (b), in*** the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, ~~[or his successor in interest,]~~ ***the person who holds the title of record,*** a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property ~~[,]~~ has ***,*** for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, ~~[or his successor in interest,]~~ ***the person who holds the title of record,*** a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property ~~[,]~~ has ***,*** for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) ***In the case of any trust agreement which concerns owner-occupied housing as defined in section 1 of this act, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5*** ~~*[business]*~~ ***days before the date of sale, failed to make good the deficiency in performance or payment;***

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

~~[(c)]~~ ***(d)*** Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 ***, or the period provided in paragraph (b) of subsection 2,*** commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the

property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor ~~[, and]~~ ***or*** to the person who holds the title of record on the date the notice of default and election to sell is recorded, at ~~[their respective addresses,]~~ ***his address,*** if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section ~~[;]~~ ***or any applicable provision of section 1 of this act;***

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each

trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

Sec. 3. NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003 ~~[;~~ ~~and~~

~~(b) On~~] ***, and, on*** the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32 ~~[.]~~ ***; or***

(b) The trust agreement concerns owner-occupied housing as defined in section 1 of this act.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor ~~*[and]*~~ ***or the person who holds the title of record*** a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor ~~*[and]*~~ ***or the person who holds the title of record:***

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor ~~[;]~~ ~~*[and]*~~ ***or the person who holds the title of record; or***

(2) If the trust agreement concerns owner-occupied housing as defined in section 1 of this act:

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

Your home loan is being foreclosed. In ***not less than*** 60 days your home will be sold and you will be forced to move. For help, call:

Consumer Credit Counseling _____

The Attorney General _____

The Division of Financial Institutions _____

Legal Services _____

Your Lender _____

Nevada Fair Housing Center _____

4. This section does not prohibit a judicial foreclosure.

5. As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Sec. 3.5. NRS 107.095 is hereby amended to read as follows:

107.095 1. The notice of default required by NRS 107.080 must also be sent by registered or certified mail, return receipt requested and with postage prepaid, to each guarantor or surety of the debt. If the address of the guarantor or surety is unknown, the notice must be sent to the address of the trust property. Failure to give the notice, except as otherwise provided in subsection 3, releases the guarantor or surety from his obligation to the beneficiary, but does not affect the validity of a sale conducted pursuant to NRS 107.080 **[**~~nor~~**]** ***or*** the obligation of any guarantor or surety to whom the notice was properly given.

2. Failure to give the notice of default required by NRS 107.090, except as otherwise provided in subsection 3, releases the obligation to the beneficiary of any person who has complied with NRS 107.090 and who is or may otherwise be held liable for the debt or other obligation secured by the deed of trust, but such a failure does not affect the validity of a sale conducted pursuant to NRS 107.080 **[**~~nor~~**]** ***or*** the obligation of any person to whom the notice was properly given pursuant to this section or to NRS 107.080 or 107.090.

3. A guarantor, surety or other obligor is not released pursuant to this section if:

(a) The required notice is given at least 15 days before the later of:

(1) The expiration of the 15- or 35-day period described in ***paragraph (a) of subsection 2 of*** NRS 107.080; **[**~~or~~**]**

(2) ***In the case of any trust agreement which concerns owner-occupied housing as defined in section 1 of this act, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or***

(3) Any extension of ~~[that]~~ ***the applicable*** period by the beneficiary; or

(b) The notice is rescinded before the sale is advertised.

Sec. 4. Chapter 2 of NRS is hereby amended by adding thereto a new section to read as follows:

The Supreme Court may adopt rules providing for voluntary mediation with respect to a homeowner who is not in default but is at risk of default.

Sec. 5. NRS 459.646 is hereby amended to read as follows:

459.646 1. A person who, without participating in the management of a parcel of real property, holds or is the beneficiary of evidence of title to the property primarily to protect a security interest in the property is not a responsible party with respect to a release of a hazardous substance on the property if:

(a) The owner of the property is relieved from liability under NRS 459.610 to 459.658, inclusive, with respect to the release;

(b) The owner or holder of evidence of title did not cause the release; and

(c) The owner or holder of evidence of title does not participate actively in decisions concerning hazardous substances on the property.

2. A lender to a prospective purchaser who has filed an application to participate in the program pursuant to NRS 459.634 or a lender who forecloses his security interest in property pursuant to NRS 40.430 to 40.450, inclusive, or 107.080 to 107.100, inclusive, ***and section 1 of this act,*** and within a reasonable period after the foreclosure, not to exceed 2 years, sells, transfers or conveys the property to a prospective purchaser who has filed an application to participate in the program pursuant to NRS 459.634 is not a responsible party solely as a result of:

(a) Foreclosing a security interest in the property; or

(b) Making a loan to the prospective purchaser if the loan:

(1) Is to be used for acquiring property or removing or remediating hazardous substances on property; and

(2) Is secured by the property that is to be acquired or on which is located the hazardous substances that are to be removed or remediated.

Sec. 5.5. **The amendatory provisions of this act governing trust agreements which concern owner-occupied housing, as defined in section 1 of this act, apply only with respect to such agreements for which a notice of default is recorded on or after July 1, 2009.**

Sec. 5.7. **Notwithstanding any provision of NRS 2.120 to the contrary and in recognition of the emergency situation confronting this State concerning mortgage foreclosures and the need to implement the provisions of this act quickly, any rules adopted by the Supreme Court pursuant to subsection 8 of section 1 of this act take effect on the date specified by the Supreme Court in the order adopting the rules, which in no event may be less than 30 days after entry of the order.**

Sec. 6. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 149.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 102.

The following Senate amendment was read:

Amendment No. 867.

AN ACT relating to public health; authorizing a court to establish a program of treatment for problem gambling and to assign a person to the program; authorizing a problem gambler to elect to be assigned to such a program under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court to assign a person who commits certain crimes to an appropriate program of treatment for the abuse of alcohol or drugs established by the court or to an appropriate facility for the treatment of abuse of alcohol or drugs which is certified by the Health Division of the Department of Health and Human Services. (NRS 453.580) **Section 6** of this bill authorizes a court to establish a program for the treatment of problem gambling. Existing law creates the Advisory Committee on Problem Gambling and provides a grant of money or a contract for services to certain programs for the prevention and treatment of problem gambling. (Chapter 458A of NRS) **Sections 7-12** of this bill provide that a problem gambler who has been convicted of certain crimes **and who committed the crime in furtherance or as a result of problem gambling** is eligible to be assigned by a court to a program of treatment and provide eligibility requirements and conditions that must be completed for such treatment. **The conditions upon the election of treatment must include an agreement to pay restitution to the victim of the crime.**

Existing law allows a court to seal the records related to a dismissal or acquittal of criminal charges. (NRS 179.255) **Section 14** of this bill allows a court to seal records relating to the setting aside of a conviction if the person satisfactorily completed a program for treatment of problem gambling and satisfied the conditions upon the election of that treatment. The sealing of these records is subject to the same procedures, and has the same effect, as the sealing of records related to a dismissal or acquittal of criminal charges. (NRS 179.255, 179.265-179.301)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 458A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. ***"Problem gambler" means a person who suffers from problem gambling.***

Sec. 5. ***"Problem gambling" has the meaning ascribed to it in NRS 641C.110.***

Sec. 5.5. 1. "Qualified mental health professional" means any of the following persons:

(a) A person who is certified as a problem gambling counselor pursuant to the provisions of chapter 641C of NRS.

(b) A person who is certified as a problem gambling counselor intern pursuant to the provisions of chapter 641C of NRS.

(c) A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS.

(d) A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling problem gamblers.

(e) A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS ~~[.]~~ ***or a psychological assistant who is registered with the Board of Psychological Examiners pursuant to the provisions of chapter 641 of NRS and the regulations adopted pursuant thereto.***

(f) A clinical professional counselor or clinical professional counselor intern who is licensed pursuant to chapter 641A of NRS.

(g) A marriage and family therapist or marriage and family therapist intern who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors to engage in the practice of counseling problem gamblers.

(h) A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling problem gamblers.

2. As used in this section, "practice of counseling problem gamblers" has the meaning ascribed to it in NRS 641C.105.

Sec. 5.7. "Restitution" means the total amount of money owed to a victim of a crime to compensate the victim for all losses suffered as a result of the crime and any statutory fees and costs associated with the collection of that amount of money.

Sec. 6. ***1. A court may establish a program for the treatment of problem gambling to which it may assign a person pursuant to section 7 of this act. The assignment must*** ~~*[include]*~~ ***:***

(a) Include *the terms and conditions for successful completion of the program* ~~*[and provide]*~~ ***;***

(b) Require that the person assigned to the program agree to pay restitution as a condition upon the election of treatment; and

(c) Provide *for progress reports at intervals set by the court to ensure that the person is making satisfactory progress toward completion of the program.*

2. A program established pursuant to this section must be administered by a qualified mental health professional and must include, without limitation:

(a) Information and encouragement for the participant to cease problem gambling through educational, counseling and support sessions;

(b) The opportunity for the participant to understand the medical, psychological, social and financial implications of problem gambling; and

(c) Appropriate referral to community, health, substance abuse, religious and social service agencies for additional resources and related services, as needed.

3. Before the court assigns a person to a program for the treatment of problem gambling, the person must agree to pay the cost of the program to which he is assigned, to the extent of his financial resources. If the person does not have the financial resources to pay all the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

Sec. 7. ***Subject to the provisions of sections 2 to 12, inclusive, of this act, a problem gambler who has been convicted of a crime*** ***and who committed the crime in furtherance or as a result of problem gambling*** ***is eligible to elect to be assigned by the court to a program for the treatment of problem gambling before he is sentenced unless:***

1. The crime is:

(a) A crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS;

(b) A crime against a child as defined in NRS 179D.0357;

(c) A sexual offense as defined in NRS 179D.097; or

(d) An act which constitutes domestic violence as set forth in NRS 33.018;

2. The problem gambler has a record of two or more convictions of a crime described in subsection 1 or a similar crime in violation of the laws of another state, or of three or more convictions of any felony;

3. Other criminal proceedings alleging commission of a felony are pending against the problem gambler; ~~*[or]*~~

4. The problem gambler is on probation or parole, except that the problem gambler is eligible to make the election if the appropriate probation or parole authority consents to the election or the court finds that the problem gambler is eligible to make the election after considering any objections made by the appropriate probation or parole authority ~~[.]~~ ***;*** ***or***

5. The problem gambler has previously been assigned by a court to a program for the treatment of problem gambling, except that the problem gambler is eligible to make the election if the court, in its discretion, finds that the problem gambler is eligible to make such an election.

Sec. 8. ***1. If the court*** ~~[has]~~ ***:***

(a) Has reason to believe that ~~[a]~~ ***:***

(1) A person who has been convicted of a crime is a problem gambler ; and ~~[the court finds]~~

(2) The person committed the crime in furtherance or as a result of problem gambling; and

(b) Finds that he is eligible to make the election as provided in section 7 of this act, ~~[the]~~

➥ the court shall hold a hearing before it sentences the person to determine whether or not the person committed the crime in furtherance or as a result of problem gambling and whether or not he should receive treatment under the supervision of a qualified mental health professional. The district attorney may present the court with any evidence concerning whether the person committed the crime in furtherance or as a result of problem gambling and the advisability of permitting the person to make the election.

2. At the hearing, the court shall advise the person that sentencing will be postponed if he elects to submit to treatment and is accepted into a program for the treatment of problem gambling. In offering the election, the court shall advise him that:

(a) The court may impose any conditions upon the election of treatment that could be imposed as conditions of probation;

(b) If he elects to submit to treatment and is accepted, he ~~[may]~~ ***:***

(1) May be placed under the supervision of the qualified mental health professional for a period of not less than 1 year and not more than 3 years; and

(2) Must agree to pay restitution as a condition upon the election of treatment;

(c) During treatment, he may be confined in an institution or, at the discretion of the qualified mental health professional, released for treatment or supervised care in the community;

(d) If he satisfactorily completes treatment and satisfies the conditions upon the election of treatment, as determined by the court, the conviction will be set aside, but if he does not satisfactorily complete treatment and satisfy the conditions, he may be sentenced and the sentence executed; and

(e) If his conviction is set aside pursuant to section 10 of this act, he may, at any time after the conviction is set aside, file a petition pursuant to NRS 179.255 for the sealing of all records relating to the setting aside of the conviction.

Sec. 9. ***1. If the court, after a hearing, determines that a person is entitled to accept the treatment offered pursuant to section 7 of this act, the court shall order a qualified mental health professional to conduct an examination of the person to determine whether he is a problem gambler , whether he committed the crime in furtherance or as a result of problem gambling and whether he is likely to be rehabilitated through treatment. The qualified mental health professional shall report to the court the results of the examination and recommend whether the person should be placed under supervision for treatment.***

2. If the court, acting on the report or other relevant information, determines that the person is not a problem gambler, did not commit the crime in furtherance or as a result of problem gambling, is not likely to be rehabilitated through treatment or is otherwise not a good candidate for treatment, he may be sentenced and the sentence executed.

3. If the court determines that the person is a problem gambler, committed the crime in furtherance or as a result of problem gambling, is likely to be rehabilitated through treatment and is a good candidate for treatment, the court may:

(a) Impose any conditions upon the election of treatment that may be imposed as conditions of probation;

(b) Defer sentencing until such time, if any, as sentencing is authorized pursuant to section 10 of this act; and

(c) Place the person under the supervision of a qualified mental health professional for not less than 1 year and not more than 3 years.

➥ The court may require such progress reports on the treatment of the person as it deems necessary.

4. If the court places a person under the supervision of a qualified mental health professional for the purpose of receiving treatment pursuant to sections 2 to 12, inclusive, of this act, the person must agree to pay restitution as a condition upon the election of treatment.

5. A person who is placed under the supervision of a qualified mental health professional shall pay the cost of the program of treatment to which he is assigned and the cost of any additional supervision that may be required, to the extent of his financial resources. The court may issue a judgment in favor of the court or the qualified mental health professional for the costs of the treatment and supervision which remain unpaid at the conclusion of the treatment. The judgment constitutes a lien in like manner as a judgment for money rendered in a civil action, but in no event may the amount of the judgment include any amount of the debt which was extinguished by the successful completion of community service pursuant to subsection ~~[5.]~~ 6.

~~[5.]~~ ***6.*** ***If the person who is placed under the supervision of a qualified mental health professional does not have the financial resources to pay all of the related costs:***

(a) The court shall, to the extent practicable, arrange for the person to be assigned to a program that receives a sufficient amount of federal or state funding to offset the remainder of the costs; and

(b) The court may order the person to perform supervised community service in lieu of paying the remainder of the costs relating to his treatment and supervision. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of this State or a charitable organization that renders service to the community or its residents. The court may require the person to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which the person performs the community service, unless, if the insurance is industrial insurance, it is provided by the authority for which he performs the community service.

~~[6.]~~ ***7.*** ***No person may be placed under the supervision of a qualified mental health professional pursuant to this section unless the qualified mental health professional accepts him for treatment.***

Sec. 10. ***1. Whenever a person is placed under the supervision of a qualified mental health professional, his sentencing must be deferred and, except as otherwise provided in subsection 4, his conviction must be set aside if the qualified mental health professional certifies to the court that he has satisfactorily completed the program of treatment and the court approves the certification and determines that the conditions upon the election of treatment have been satisfied.***

2. If, upon the expiration of the treatment period, the qualified mental health professional has not certified that the person has completed his program of treatment, the court shall sentence him. If he has satisfied the conditions upon the election of treatment and the court believes that he will complete his treatment voluntarily, the court may set the conviction aside.

3. If, before the treatment period expires, the qualified mental health professional determines that the person is not likely to benefit from further treatment, the qualified mental health professional shall so advise the court. The court shall then:

(a) Arrange for the transfer of the person to a more suitable program, if any; or

(b) Terminate the supervision and conduct a hearing to determine whether the person should be sentenced.

➥ If a person is sentenced pursuant to this section, any time spent in institutional care must be deducted from any sentence imposed.

4. Regardless of whether the person successfully completes treatment, the court shall not set aside the conviction of a person who has a record of two or more convictions of any felony for two or more separate incidents.

Sec. 11. ***1. The determination of problem gambling and civil commitment pursuant to sections 2 to 12, inclusive, of this act shall not be deemed a criminal conviction.***

2. The records relating to the setting aside of a conviction pursuant to section 10 of this act may be sealed pursuant to NRS 179.255.

Sec. 12. ***The provisions of sections 2 to 12, inclusive, of this act do not require this State or any of its political subdivisions to establish or finance any program for the treatment of problem gambling.***

Sec. 13. NRS 458A.010 is hereby amended to read as follows:

458A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 458A.020 to 458A.050, inclusive, ***and sections 2 to*** ~~*[5.5,]*~~ ***5.7, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 14. NRS 179.255 is hereby amended to read as follows:

179.255 1. If a person has been arrested for alleged criminal conduct and the charges are dismissed or such person is acquitted of the charges, the person may petition:

(a) The court in which the charges were dismissed, at any time after the date the charges were dismissed; or

(b) The court in which the acquittal was entered, at any time after the date of the acquittal,

➥ for the sealing of all records relating to the arrest and the proceedings leading to the dismissal or acquittal.

2. ***If the conviction of a person is set aside pursuant to section 10 of this act, the person may petition the court that set aside the conviction, at any time after the conviction has been set aside, for the sealing of all records relating to the setting aside of the conviction.***

3. A petition filed pursuant to ~~[this section]~~ ***subsection 1 or 2*** must:

(a) Be accompanied by a current, verified record of the criminal history of the petitioner received from the local law enforcement agency of the city or county in which the petitioner appeared in court;

(b) Include a list of any other public or private agency, company, official and other custodian of records that is reasonably known to the petitioner to have possession of records of the arrest and of the proceedings leading to the dismissal or acquittal and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

~~[3.]~~ ***4.*** Upon receiving a petition pursuant to ~~[this section,]~~ ***subsection 1,*** the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the charges were dismissed or the acquittal was entered in a district court or ~~[~~Justice Court,~~]~~ ***justice court,*** the prosecuting attorney for the county; or

(b) If the charges were dismissed or the acquittal was entered in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

~~[~~4.~~]~~ ***5. Upon receiving a petition pursuant to subsection 2, the court shall notify:***

(a) If the conviction was set aside in a district court or justice court, the prosecuting attorney for the county; or

(b) If the conviction was set aside in a municipal court, the prosecuting attorney for the city.

➥ ***The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.***

6. If, after the hearing ***on a petition submitted pursuant to subsection 1***, the court finds that there has been an acquittal or that the charges were dismissed and there is no evidence that further action will be brought against the person, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal or dismissal which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

7. If, after the hearing on a petition submitted pursuant to subsection 2, the court finds that the conviction of the petitioner was set aside pursuant to section 10 of this act, the court may order sealed all records relating to the setting aside of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 102.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 147.

The following Senate amendment was read:

Amendment No. 789.

SUMMARY—Requires local governments, under certain circumstances, to grant preference to local bidders bidding on certain contracts for goods or services ~~[.]~~ **for a temporary period.** (BDR 27-753)

AN ACT relating to purchasing by local governments; requiring local governments, under certain circumstances, to grant a preference to local bidders bidding on certain contracts for goods or services ~~[.]~~ **for a temporary period;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a 5-percent preference in bidding on public works and certain highway construction projects for contractors who provide evidence of the payment of certain taxes. (NRS 338.1389, 338.147, 338.1693, 338.1727, 408.3883, 408.3886) ~~[Sections]~~ **During the period between August 1, 2009, and July 31, 2013, sections 1 and 2** of this bill provide for a 5-percent preference in bidding on local governmental purchasing contracts **for which the estimated annual amount required to perform exceeds $50,000** for contractors who qualify as a "local bidder," and set forth the criteria by which a bidder may qualify as a local bidder ~~[.]~~ **, including specific additional criteria if the contract is for the purchase of biodiesel blend fuel.**

Under existing law, certain local governmental contracts for certain goods and services are stated to be, by their nature, not adapted to award by competitive bidding. (NRS 332.115) ~~[Sections]~~ **During the period between August 1, 2009, and July 31, 2013, sections 1 and 3** of this bill provide that, irrespective of this exclusion from competitive bidding, local governmental contracts for the following types of goods and services must reflect consideration for local contractors if the governing body of the local government or its authorized representative has a choice of more than one person or vendor to fulfill the contract: (1) professional services; (2) perishable goods; (3) insurance; (4) hardware and associated peripheral equipment and devices for computers; (5) software for computers; (6) books, library materials and subscriptions; (7) items for resale through a retail outlet operated in this State by a local government or the State of Nevada; and (8) the design of, and equipment and services associated with, systems of communication.

Section 5 of this bill requires the submission of certain annual reports by local governments concerning any contracts awarded for which the estimated annual amount required to perform the contract exceeds $25,000 and contracts for goods and services not adapted to award by competitive bidding during the period between August 1, 2009, and July 31, 2013.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 332 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections ~~[5 and 6,]~~ 6 and 7, with respect to the awarding of a contract pursuant to NRS 332.065 for which the estimated annual amount required to perform the contract is more than ~~[$25,000,]~~ $50,000, a responsive and responsible bidder who is a local bidder shall be deemed to have submitted a lower bid than a competing bidder who is not a local bidder if the amount of the bid of the local bidder is not more than 5 percent higher than the amount bid by the competing bidder.

2. With respect to the awarding of a contract of the type described in paragraph (b), (e), (f), (g), (h), (i), (n) or (q) of subsection 1 of NRS 332.115, if a governing body or its authorized representative has a choice of more than one person or vendor to fulfill the contract, at least one of whom is a local bidder, the contract must be awarded in such a manner as to reflect the preference described in subsection 6 of that section.

3. ~~[To]~~ Except as otherwise provided in subsection 4, to qualify as a local bidder for the purposes of this section:

(a) If the bidder is a business of which at least 51 percent of the ownership interest is held by a member of a minority group, a woman or a service-disabled veteran, the business must have continuously employed at least one full-time employee in this State during the immediately preceding 1-year period.

(b) If the bidder is a business that does not meet the requirements of paragraph (a), the business must have:

(1) Continuously conducted business operations in this State during the immediately preceding 2-year period; and

(2) Continuously employed at least one full-time employee in this State during the immediately preceding 2-year period.

4. If a governing body or its authorized representative is awarding a contract described in subsection 1 for the purchase of biodiesel blend fuel, in addition to the requirements set forth in subsection 3, to qualify as a local bidder, the bidder must provide to the governing body or its authorized representative a biodiesel blend fuel that is made from biodiesel fuel produced in this State.

5. Governing bodies and their authorized representatives ~~[shall]~~ may consult with the Purchasing Division of the Department of Administration to develop uniform standards for businesses to submit proof of their status for the purposes of subsection 3. Such uniform standards may include, without limitation, certification by reputable and reliable public or private entities to determine whether at least 51 percent of the ownership interest of a business is or is not held by a member of a minority group, a woman or a service-disabled veteran.

~~[5.]~~ 6. The provisions of this section do not require a local government or its authorized representative to award a contract to a bidder whose quality of services, supplies, materials, equipment or labor does not conform to the requirements of the local government or if the public interest would be served by rejection of the bid.

~~[6.]~~ 7. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular contract because of the provisions of this section, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that contract.

~~[7.]~~ 8. As used in this section:

(a) "Biodiesel fuel" means a fuel that:

(1) Is composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats and designated "B100"; and

(2) Meets the requirements of the ASTM International specification D6751.

(b) "Biodiesel blend fuel" means a blend of biodiesel fuel that:

(1) Meets the requirements of the D6751 with petroleum-based diesel fuel; and

(2) Is designated "BXX," where "XX" represents the volume percentage of biodiesel fuel in the blend.

(c) "Minority group" has the meaning ascribed to it in NRS 232.472.

~~*[(b)]*~~ ***(d) "Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of 0 percent or greater as determined by the United States Department of Veterans Affairs.***

Sec. 2. NRS 332.065 is hereby amended to read as follows:

332.065 1. If a governing body or its authorized representative has advertised for or requested bids in letting a contract, the governing body or its authorized representative must, except as otherwise provided in subsection 2, award the contract to the lowest responsive and responsible bidder. The lowest responsive and responsible bidder ~~[may]~~ ~~*[must]*~~ **:**

(a) Must, if the estimated annual amount required to perform the contract is more than $50,000, be judged on the basis of the status of the bidder as a local bidder, as determined pursuant to section 1 of this act; and

(b) May be judged on the basis of:

~~[(a)]~~ ***(1)*** Price;

~~[(b)]~~ ***(2)*** Conformance to specifications;

~~[(c)]~~ ***(3)*** Qualifications;

~~[(d)]~~ ***(4)*** Past performance;

~~[(e)]~~ ***(5)*** Performance or delivery date;

~~[(f)]~~ ***(6)*** Quality and utility of services, supplies, materials or equipment offered and the adaptability of those services, supplies, materials or equipment to the required purpose of the contract;

~~[(g) *The status of the bidder as a local bidder, as determined pursuant to section 1 of this act;*~~

~~*(h)]*~~ ***(7)*** The best interests of the public; and

~~[(h)]~~ ~~*[(i)]*~~ ***(8)*** Such other criteria as may be set forth by the governing body or its authorized representative in the advertisement or request for bids, as applicable, that pertains to the contract.

2. The governing body or its authorized representative:

(a) Shall give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than a comparable nonrecycled product.

(b) May give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than 5 percent more than a comparable nonrecycled product.

(c) May purchase recycled paper products if the specific recycled paper product is:

(1) Available at a price which is not more than 10 percent higher than that of paper products made from virgin material;

(2) Of adequate quality; and

(3) Available to the purchaser within a reasonable period.

3. If **,** after the lowest responsive and responsible bidder has been awarded the contract, during the term of the contract he does not supply goods or services in accordance with the bid specifications, or if he repudiates the contract, the governing body or its authorized representative may reaward the contract to the next lowest responsive and responsible bidder without requiring that new bids be submitted. Reawarding the contract to the next lowest responsive and responsible bidder is not a waiver of any liability of the initial bidder awarded the contract.

4. As used in this section:

(a) "Postconsumer waste" means a finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item.

(b) "Recycled paper product" means all paper and wood-pulp products containing in some combination at least 50 percent of its total weight:

(1) Postconsumer waste; and

(2) Secondary waste,

➥ but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

(c) "Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value.

Sec. 3. NRS 332.115 is hereby amended to read as follows:

332.115 1. Contracts which by their nature are not adapted to award by competitive bidding, including contracts for:

(a) Items which may only be contracted from a sole source;

(b) Professional services;

(c) Additions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person;

(d) Equipment which, by reason of the training of the personnel or of an inventory of replacement parts maintained by the local government is compatible with existing equipment;

(e) Perishable goods;

(f) Insurance;

(g) Hardware and associated peripheral equipment and devices for computers;

(h) Software for computers;

(i) Books, library materials and subscriptions;

(j) Motor vehicle fuel purchased by a local law enforcement agency for use in an undercover investigation;

(k) Motor vehicle fuel for use in a vehicle operated by a local law enforcement agency or local fire department if such fuel is not available within the vehicle's assigned service area from a fueling station owned by the State of Nevada or a local government;

(l) Purchases made with money in a store fund for prisoners in a jail or local detention facility for the provision and maintenance of a canteen for the prisoners;

(m) Supplies, materials or equipment that are available pursuant to an agreement with a vendor that has entered into an agreement with the General Services Administration or another governmental agency located within or outside this State;

(n) Items for resale through a retail outlet operated in this State by a local government or the State of Nevada;

(o) Commercial advertising within a recreational facility operated by a county fair and recreation board;

(p) Goods or services purchased from organizations or agencies whose primary purpose is the training and employment of persons with disabilities; and

(q) The design of, and equipment and services associated with, systems of communication,

➥ are not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative.

2. The purchase of equipment for use by a local law enforcement agency in the course of an undercover investigation is not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative, if:

(a) The equipment is an electronic or mechanical device which by design is intended to monitor and document in a clandestine manner suspected criminal activity; or

(b) Purchasing the equipment pursuant to such requirements would limit or compromise the use of such equipment by an agency authorized to conduct such investigations.

3. The purchase of personal safety equipment for use by a response agency or any other local governmental agency is not subject to the

requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative, if:

(a) The personal safety equipment will be used by personnel of the response agency or other local governmental agency in preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters in which the health, safety or welfare of those personnel may be compromised, impaired or otherwise threatened; and

(b) The cost of the personal safety equipment is comparable to the cost of similar personal safety equipment that is available for purchase by the public.

4. The governing body of a hospital required to comply with the provisions of this chapter, or its authorized representative, may purchase goods commonly used by the hospital, under a contract awarded pursuant to NRS 332.065, without additional competitive bidding even if at the time the contract was awarded:

(a) The vendor supplying such goods to the person awarded the contract was not identified as a supplier to be used by the person awarded the contract; or

(b) The vendor was identified as a supplier but was not identified as the supplier of such goods.

➥ The governing body of the hospital shall make available for public inspection each such contract and records related to those purchases.

5. This section does not prohibit a governing body or its authorized representative from advertising for or requesting bids.

6. ***Notwithstanding the provisions of subsections 1 to 5, inclusive, and except as otherwise provided in subsections 7 and 8, if a governing body or its authorized representative is choosing between two or more businesses, contractors or vendors to fulfill a contract described in paragraph (b), (e), (f), (g), (h), (i), (n) or (q) of subsection 1, the governing body or authorized representative, as applicable, shall:***

(a) Include within its selection criteria consideration of the following factors:

(1) The number of residents of this State that the business, contractor or vendor employs;

~~*(2) [The amount of taxes and fees paid by the business, contractor or vendor to state and local governmental entities in Nevada;*~~

~~*(3)]*~~ ***The length of time in which the business, contractor or vendor has maintained business operations in this State or the applicable local jurisdiction; and***

~~*[(4)]*~~ ***(3) If the contract to be fulfilled is a contract described in paragraph (b) of subsection 1, the number of owners and principals of the business, contractor or vendor who are residents of this State.***

(b) If the governing body or authorized representative uses a point system or similar scoring rubric, and if one or more of the businesses, contractors or vendors being considered qualifies as a local bidder

pursuant to section 1 of this act, the status of being a local bidder must account for not less than 5 percent of the points or score awarded.

7. The provisions of subsection 6 do not require a local government or its authorized representative to award a contract to a business, contractor or vendor whose quality of services, supplies, materials, equipment or labor does not conform to the requirements of the local government or if the public interest would be served by rejection of the offer to fulfill the contract.

8. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular contract because of the provisions of subsection 6, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that contract.

9. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 239C.030.

(b) "Personal safety equipment" means safety equipment that personnel of a response agency or other local governmental agency:

(1) Use in the course of preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters; or

(2) Wear or otherwise carry on a regular basis.

➥ The term includes, without limitation, firearms, boots, bulletproof vests or other types of body armor, protective garments, protective eyewear, gloves, helmets, and any specialized apparatus, equipment or materials approved or recommended by the United States Department of Homeland Security.

(c) "Response agency" means an agency of a local government that provides services related to law enforcement, firefighting, emergency medical care or public safety.

Sec. 4. NRS 625.530 is hereby amended to read as follows:

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed $35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of chapter 623 of NRS or this chapter.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees ~~[.]~~ ***, but this sentence does not prohibit consideration of the factors set forth in subsection 6 of NRS 332.115.*** If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him, the public agency may terminate negotiations and select another engineer, land surveyor or architect.

Sec. 5. ~~[Each]~~ **1. Except as otherwise provided in subsection 3, each** local government that awards a contract **for which the estimated annual amount required to perform the contract is more than $25,000** in accordance with the provisions of ~~[section 1 of this act]~~ **NRS 332.065, as amended by section 2 of this act,** or **a contract pursuant to** NRS 332.115, as amended by section 3 of this act, ~~[or both,]~~ shall, on or before October 1 of each year in which it awards such a contract, submit to the Director of the Legislative Counsel Bureau a report ~~[setting forth:~~

~~1.]~~ **detailing those contracts on the form prescribed by the Committee on Local Government Finance.**

2. Before August 1, 2009, the Committee on Local Government Finance shall prescribe a form for the report described in subsection 1, which must include, without limitation:

(a) The **total** number of ~~[transactions conducted]~~ **contracts described in subsection 1 awarded** by the local government ~~[that are subject to the provisions of this act.~~

~~2. The number of businesses, contractors and vendors that qualified as local bidders pursuant to section 1 of this act.~~

~~3.]~~ **during the year to which the report pertains; and**

(b) A description of each ~~[type of transaction conducted by the local government which was subject to the provisions of this act,]~~ **such contract,** including, without limitation:

~~[~~(a) ~~Whether the transaction was for goods or services.~~

~~(b)]~~ **(1) The name of the person or entity to whom the contract was awarded.**

(2) The particular type of goods or services involved in the ~~[transaction.~~

~~(c)]~~ **contract.**

(3) The total dollar amount of the ~~[transaction.~~

~~4. The number of businesses, contractors and vendors that:~~

~~(a) Were awarded a contract without being qualified as a local bidder or without receiving any consideration as a local bidder.~~

~~(b) Were awarded a contract, in whole or in part, because they were qualified as a local bidder or received consideration as a local bidder. The information required pursuant to this paragraph must include, for each such contract, the dollar amount of the contract.~~

~~5. Any other information determined to be relevant by the Director of the Legislative Counsel Bureau.]~~ **contract.**

(4) Whether the person or entity to whom the contract was awarded was awarded the contract as a result of subsection 1 or 2 of section 1 of this act.

(5) If the person or entity to whom the contract was awarded was not qualified as a local bidder pursuant to section 1 of this act, the number of qualified local bidders that bid on the contract.

3. The report required to be submitted in 2013 pursuant to subsection 1 must be submitted by July 31, 2013, and must include the required information that is current through June 30, 2013.

Sec. 6. This act becomes effective on ~~[July]~~ **August** 1, 2009 ~~[.]~~ **, and expires by limitation on July 31, 2013.**

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 147.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 492.

The following Senate amendment was read:

Amendment No. 822.

AN ACT relating to taxation; imposing certain requirements on the enactment of exemptions from property taxes and sales and use taxes; imposing certain requirements on legislation revising the authority of the Commission on Economic Development to approve abatements of taxes; requiring the Commission to notify affected political subdivisions before taking action on such abatements; requiring certain reports from the Department of Taxation; **creating a permanent Legislative Committee on Taxation and Tax Policy;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill carries out the provisions of Section 6 of Article 10 of the Nevada Constitution, which became effective on November 25, 2008, through the statutory imposition of those constitutional requirements regarding the enactment by the Legislature of any exemptions from property taxes or sales and use taxes.

Existing law authorizes the Commission on Economic Development to grant to certain businesses partial abatements of property taxes, business taxes and local sales and use taxes. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 363B.120, 374.357, 701A.210) **Sections 2 and 3** of this

bill impose various requirements upon future state legislation expanding the authority of the Commission to approve any abatements of taxes and require the Department of Taxation to prepare biennial reports for the Legislature on whether the costs of such future abatements exceed the benefits thereof.

Section 4 of this bill requires the Commission on Economic Development to provide notice to affected political subdivisions at least 30 days before taking action on an application for any abatement of taxes imposed on a business. **Section 5** of this bill repeals various provisions which partially duplicate the provisions of **section 4**.

Sections 7 to 12, inclusive, of this bill create a permanent Legislative Committee on Taxation and Tax Policy to review and evaluate issues related to taxation in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***In accordance with Section 6 of Article 10 of the Constitution of the State of Nevada:***

1. The Legislature shall not enact an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail unless the Legislature finds that the exemption:

(a) Will achieve a bona fide social or economic purpose and the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

(b) Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

2. In enacting an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail, the Legislature shall ensure that the requirements for claiming the exemption are as similar as practicable for similar classes of taxpayers.

Sec. 3. ***1. Any state legislation enacted on or after July 1, 2009, which authorizes or requires the Commission on Economic Development to approve any abatement of taxes or increases the amount of any abatement of taxes which the Commission is authorized or required to approve:***

(a) Expires by limitation 10 years after the effective date of that legislation.

(b) Does not apply to:

(1) Any taxes imposed pursuant to NRS 374.110 or 374.190; or

(2) Any entity that receives:

(I) Any funding from a governmental entity, other than any private activity bonds as defined in 26 U.S.C. § 141; or

(II) Any real or personal property from a governmental entity at no cost or at a reduced cost.

(c) Requires each recipient of the abatement to submit to the Department, on or before the last day of each even-numbered year, a report on whether the recipient is in compliance with the terms of the abatement. The Department shall establish a form for the report and may adopt such regulations as it determines to be appropriate to carry out this paragraph. The report must include, without limitation:

(1) The date the recipient commenced operation in this State;

(2) The number of employees actually employed by the recipient and the average hourly wage of those employees;

(3) An accounting of any fees paid by the recipient to the State and to local governmental entities;

(4) An accounting of the property taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(5) An accounting of the sales and use taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(6) An accounting of the total capital investment made in connection with the project to which the abatement applies; and

(7) An accounting of the total investment in personal property made in connection with the project to which the abatement applies.

2. On or before January 15 of each odd-numbered year, the Department shall:

(a) Based upon the information submitted to the Department pursuant to paragraph (c) of subsection 1, prepare a written report of its findings regarding whether the costs of the abatement exceed the benefits of the abatement; and

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 4. ***1. If the Commission on Economic Development receives an application for any abatement of taxes imposed on a business, the Commission shall, at least 30 days before the meeting at which the Commission takes any action on the application, provide notice of the application to:***

(a) The governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the business is or will be located; and

(b) The governing body of any other political subdivision that could be affected by the abatement.

2. The notice required by this section must set forth the date, time and location of the meeting at which the Commission on Economic Development will consider the application.

3. The Commission on Economic Development shall adopt regulations relating to the notice required by this section.

Sec. 5. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[5,]~~ ***4,*** continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. ~~[If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to~~

~~this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.~~

~~5.~~] If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

~~[6.]~~ ***5.*** An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

~~[7.]~~ ***6.*** If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~[8.]~~ ***7.*** A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection ~~[7]~~ ***6*** in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

~~[9.]~~ ***8.*** The Commission on Economic Development:

(a) Shall adopt regulations relating to ~~[~~:

~~(1) The~~] ***the*** minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and

~~[(2) The notice that must be provided pursuant to subsection 4.]~~

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[10.]~~ ***9.*** The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[11.]~~ ***10.*** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 6. **Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 12, inclusive, of this act.**

Sec. 7. ***As used in sections 7 to 12, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Taxation and Tax Policy created by section 8 of this act.***

Sec. 8. ***1. There is hereby created a Legislative Committee on Taxation and Tax Policy consisting of eight legislative members. The membership of the Committee consists of:***

(a) The immediate past Chairman of the Senate Committee on Taxation;

(b) The immediate past Chairman of the Assembly Committee on Taxation;

(c) Three members appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party; and

(d) Three members appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.

2. The immediate past Chairman of the Senate Committee on Taxation is the Chairman of the Committee for the period ending with the convening of each odd-numbered session of the Legislature. The immediate past Chairman of the Assembly Committee on Taxation is the Chairman of the Committee during the next legislative interim, and the chairmanship alternates between the Houses of the Legislature according to this pattern.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the next session of the Legislature convenes.

4. Vacancies on the Committee must be filled in the same manner as original appointments.

5. The Committee shall report annually to the Legislative Commission concerning its activities and recommendations.

Sec. 9. 1. The members of the Legislative Committee on Taxation and Tax Policy shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

2. The Director of the Legislative Counsel Bureau or a person he designates shall act as the nonvoting recording Secretary.

3. The Committee shall adopt rules for its own management and government.

4. Except as otherwise provided in this subsection, five members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly serving on the Committee.

5. Except during a regular or special session of the Legislature, each member of the Committee is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a meeting of the Committee or is otherwise engaged in the business of the Committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided for state officers and employees generally. The salaries and expenses of the Committee must be paid from the Legislative Fund.

Sec. 10. 1. The Legislative Committee on Taxation and Tax Policy shall review and evaluate:

(a) Taxes imposed in this State, the rates of such taxes, tax exemptions, tax abatements and any specified use of revenues from taxes; and

(b) The efficiency and effectiveness of the collection and administration of taxes in this State.

2. The Committee may:

(a) Conduct investigations and hold hearings in connection with its review and study;

(b) Apply for any available grants and accept any gifts, grants or donations and use any such gifts, grants or donations to aid the Committee in carrying out its duties pursuant to sections 7 to 12, inclusive, of this act;

(c) Direct the Legislative Counsel Bureau to assist in its research, investigations, review and study; and

(d) Recommend to the Legislature, as a result of its review and study, any appropriate legislation.

3. The Committee may appoint a technical advisory group to assist the Committee. Members of any technical advisory group serve without compensation.

Sec. 11. 1. In conducting the investigations and hearings of the Legislative Committee on Taxation and Tax Policy:

(a) Any member of the Committee may administer oaths.

(b) The Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books, papers and documents.

2. If any witness refuses to attend or testify or produce any books, papers and documents as required by the subpoena, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books, papers and documents;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books, papers and documents required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books, papers and documents before the Committee.

3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books, papers or documents before the Committee. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books, papers or documents. Failure to obey the order constitutes contempt of court.

Sec. 12. Each witness who appears before the Legislative Committee on Taxation and Tax Policy by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Chairman of the Committee.

~~[Sec. 6.]~~ ***Sec. 13.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 492.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 54.

The following Senate amendment was read:

Amendment No. 660.

AN ACT relating to counties; authorizing a board of county commissioners in certain counties to establish programs to provide financial assistance to persons to connect to a public water or sewer system or to make property resistant to flood damage; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill authorizes the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to establish: (1) a program to provide financial assistance to persons to connect to a public water or sewer system under certain circumstances; and (2) a program to provide financial assistance to owners of public or private property to make such property resistant to flood damage.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Except as otherwise provided in this section, if a board of county commissioners of a county whose population is 100,000 or more but less than 400,000 operates a public water or sewer system, the board may:***

(a) Establish by ordinance a program to provide financial assistance to persons ~~*[within a particular water basin]*~~ ***to connect to the public water or sewer system.***

(b) Accept gifts, grants and other sources of money to pay the costs ~~*[associated with a program established pursuant to paragraph (a).]*~~ ***to assist persons to connect to the public water or sewer system.***

2. An ordinance adopted by a board of county commissioners pursuant to paragraph (a) of subsection 1 must include, without limitation, a finding of the board that the creation of a program to provide financial assistance to persons to connect to a public water or sewer system furthers a legitimate public purpose.

3. If a board of county commissioners establishes a program to provide financial assistance pursuant to subsection 1, the board:

(a) Must establish a plan for the management and protection of the groundwater in the water basin to which the program to provide financial assistance applies. Such a plan must include, without limitation, provisions for the sustainable management of ~~*[the use of the groundwater]*~~ ***municipal wells that are owned by the county in the water basin .*** ~~*[by residents of the county and other users of water in the county.]*~~

(b) Except as otherwise provided in subsection 4, may set forth conditions or limitations on any financial assistance provided pursuant to the program.

4. Financial assistance provided pursuant to a program established pursuant to subsection 1:

(a) May be in the form of grants , gifts or loans, or any combination thereof.

(b) May only be used to pay the necessary and actual expenses to:

(1) Disconnect from a private water or sewer system;

(2) Eliminate a private water or sewer system; and

(3) Connect to the public water or sewer system.

5. A board may not establish a program to provide financial assistance pursuant to subsection 1 unless the board finds that establishing such a program is necessary to provide the public with a safe and reliable water and sewer system.

6. The requirements of NRS 244.3655 do not apply to actions taken by a board of county commissioners pursuant to this section.

7. Nothing in this section shall be so construed as to require:

(a) A board of county commissioners to provide financial assistance to any property owner pursuant to this section; or

(b) A property owner to apply for or accept financial assistance pursuant to a program of financial assistance established pursuant to this program.

8. As used in this section [, "] :

(a) "Private water or sewer system" means an on-site:

(1) Domestic well, and any facility or facilities related thereto, that provides potable water; or

(2) Sewage or septic system, and any facility or facilities related thereto, that serves a residential dwelling unit for the disposal, collection, storage or treatment of sewage.

(b) "Public water or sewer system" means a facility or facilities for the collection, pumping, treatment, storage or conveyance of potable water or sewage and includes, without limitation, mains, conduits, aqueducts, pipes, pipelines, ditches, canals, pumping stations, and all appurtenances, equipment and machinery necessary or useful and convenient for obtaining, storing, transporting or transferring water or sewage.

Sec. 3. ***1. Except as otherwise provided in this section, a board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may:***

(a) Establish by ordinance a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded in order to make such property resistant to flood damage.

(b) Accept gifts, grants and other sources of money to pay the costs associated with a program established pursuant to paragraph (a).

(c) Pay costs associated with a program established pursuant to paragraph (a) through the use of:

(1) Revenue and bond proceeds derived from a flood management project, except that no bond proceeds may be used to provide any loans pursuant to the program.

(2) Funds from the infrastructure fund of the county.

(3) Gifts, grants and other sources of money available to the board of county commissioners.

2. An ordinance adopted by a board of county commissioners pursuant to paragraph (a) of subsection 1:

(a) Must include, without limitation, a finding of the board that the creation of a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded is necessary to promote and protect the public health, safety and welfare.

(b) May include a provision that the award of financial assistance is subject to any limitation or condition that the board determines is necessary.

3. Financial assistance provided pursuant to a program established pursuant to subsection 1:

(a) May be in the form of grants or loans, or any combination thereof.

(b) May only be used to pay the actual and necessary costs to make private or public property resistant to flood damage, including, without limitation, flood-proofing the property, erecting barriers, elevating foundations of buildings, structures or improvements, and relocating buildings, structures or improvements to areas that are not likely to be flooded.

(c) May not be awarded:

(1) To protect any building, structure or improvement unless the building, structure or improvement exists or construction has begun on the building, structure or improvement on or before July 1, 2009.

(2) To relocate any building, structure or improvement to property that is also in an area likely to be flooded.

(3) Unless the property owner:

(I) Submits an application for financial assistance on or before June 30, 2019.

(II) Has not received and agrees not to apply for any further financial assistance to make his property resistant to flood damage from a tourism improvement district established pursuant to NRS 271A.070, a tax increment area created pursuant to NRS 278C.155, a redevelopment area established pursuant to NRS 279.426, a program for the rehabilitation of residential neighborhoods established pursuant to NRS 279A.030 or a program for the rehabilitation of abandoned residential properties established pursuant to NRS 279B.030.

(III) Satisfies any conditions adopted by the board of county commissioners.

4. The board of county commissioners may delegate its authority to administer a program of financial assistance established pursuant to this section to a flood management authority.

5. The board of county commissioners or, if the board has delegated its authority to administer a program of financial assistance pursuant to

subsection 4, a flood management authority may bring an action against the property owner for the collection of any delinquent payments, charges, fees, interest or penalties related to any loan provided pursuant to a program established pursuant to this section.

6. Nothing in this section shall be so construed as to require:

(a) A board of county commissioners to provide financial assistance to any property owner pursuant to this section; or

(b) A property owner to apply for or accept financial assistance pursuant to a program of financial assistance established pursuant to this program.

7. As used in this section:

(a) "Drainage and flood control project" has the meaning ascribed to it in NRS 244A.027.

(b) "Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of which include the acquisition, construction, improvement, operation and maintenance of a flood management project.

(c) "Flood management project," or any phrase of similar import, means a project or improvement that is located within or without a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the county or any flood or storm waters of a stream of which the source is located outside of the county. The term includes, without limitation:

(1) A drainage and flood control project;

(2) A project to construct, repair or restore an ecosystem;

(3) A project to mitigate any adverse effect of flooding or flood management activity or improvement;

(4) A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;

(5) A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;

(6) A park project that is related to a flood management project;

(7) Any landscaping or similar amenity that is constructed:

(I) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or

(II) To mitigate any adverse effect on the environment relating to a flood management project;

(8) A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;

(9) A project to protect and manage a floodplain;

(10) A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including,

without limitation, any monitoring, measurement or assessment of that system; and

(11) Any real property or interest in real property that is acquired to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management, or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.

Sec. 4. NRS 244.36605 is hereby amended to read as follows:

244.36605 ***1. In a county whose population is 100,000 or more but less than 400,000, if the county provides financial assistance through a program established pursuant to section 2 or 3 of this act, the board of county commissioners may elect by ordinance to have delinquent repayments of loans, including, without limitation, charges, fees, interest and penalties, collected on the tax roll, or collected with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. If the board makes such an election, the board shall cause:***

(a) A description of each lot or parcel of real property or each mobile or manufactured home with respect to which the charges are delinquent on May 1; and

(b) The amount of the delinquent charges,

➥ to be prepared and submitted to the tax receiver of the county, in a form approved by the tax receiver, not later than June 1.

2. In a county whose population is less than 400,000:

~~[1.]~~ ***(a)*** The board of county commissioners of a county which provides sewerage, storm drainage or water service, or any combination of those services, may elect by ordinance to have delinquent charges for any or all of those services collected on the tax roll, or collected with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. If the board makes such an election, the board shall cause:

~~[(a)]~~ ***(1)*** A description of each lot or parcel of real property or each mobile or manufactured home with respect to which the charges are delinquent on May 1; and

~~[(b)]~~ ***(2)*** The amount of the delinquent charges,

➥ to be prepared and submitted to the tax receiver of the county, in a form approved by the tax receiver, no later than June 1.

~~[2.]~~ ***(b)*** The powers authorized by this section are alternative to all other powers of the county for the collection of such delinquent charges ~~[~~.

~~3.]~~ ***or repayments.***

(c) The real property may be described by reference to maps prepared by and on file in the office of the county assessor or by descriptions used by him.

~~[4.]~~ ***(d)*** The amount of any such delinquent charge ***or repayment*** constitutes a lien against the lot or parcel of land or mobile or manufactured home against which the charge has been imposed as of the time when the lien of taxes on the roll or on mobile or manufactured homes attach.

~~[5.]~~ ***(e)*** Except as otherwise provided in ~~[subsection 7,]~~ ***paragraph (g),*** the tax receiver of the county shall include the amount of the delinquent charges ***or repayments*** on bills for taxes levied against the respective lots and parcels of land or mobile or manufactured homes, as applicable. Thereafter the amount of the delinquent charges ***or repayments*** must be collected at the same time and in the same manner and by the same persons as, together with and not separately from, the general taxes for the county.

~~[6.]~~ ***(f)*** All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to delinquent charges ~~[for services]~~ ***or repayments*** that are collected in the manner authorized by this section.

~~[7.]~~ ***(g)*** The tax receiver of the county may issue separate bills for delinquent charges ***or repayments*** that are collected in the manner authorized by this section and separate receipts for collection on account of those charges.

Sec. 5. NRS 377B.160 is hereby amended to read as follows:

377B.160 The money in the infrastructure fund, including interest and any other income from the fund:

1. In a county whose population is 400,000 or more, must only be expended by the water authority, distributed by the water authority to its members, distributed by the water authority pursuant to NRS 377B.170 to a city or town located in the county whose territory is not within the boundaries of the area served by the water authority or to a public entity in the county which provides water or wastewater services and which is not a member of the water authority or, if no water authority exists in the county, expended by the board of county commissioners for:

(a) The acquisition, establishment, construction, improvement or equipping of water and wastewater facilities;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a); or

(c) Any combination of those purposes.

➥ The board of county commissioners may only expend money from the infrastructure fund pursuant to this subsection in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100.

2. In a county whose population is 100,000 or more but less than 400,000, must only be expended by the board of county commissioners in the

manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities relating to public safety;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a);

(c) The ongoing expenses of operation and maintenance of projects described in subparagraph (1) of paragraph (a), if such projects were included in a plan adopted by the board of county commissioners pursuant to subsection 6 of NRS 377B.100 before January 1, 2003; ~~[or]~~

(d) ***Any program to provide financial assistance to owners of public and private property in areas likely to be flooded in order to make such property resistant to flood damage that is established pursuant to section 3 of this act; or***

(e) Any combination of those purposes.

3. In a county whose population is less than 100,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction, improvement or equipping of:

(1) Water facilities; or

(2) Wastewater facilities;

(b) The acquisition, establishment, construction, operation, maintenance or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities for the disposal of solid waste;

(c) The construction or renovation of facilities for schools;

(d) The construction or renovation of facilities having cultural or historical value;

(e) Projects described in subsection 2 of NRS 373.028;

(f) The acquisition, establishment, construction, expansion, improvement or equipping of facilities relating to public safety or to cultural and recreational or judicial functions;

(g) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects, facilities and activities described in paragraphs (a) to (f), inclusive; or

(h) Any combination of those purposes.

Sec. 6. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 54.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Senate Bill No. 31.

Bill read third time.

Remarks by Assemblywoman Smith.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 31:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 31 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 73.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Senate Bill No. 73:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 73 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 183.

Bill read third time.

Roll call on Senate Bill No. 183:

YEAS—33.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart—8.

EXCUSED—Grady.

Senate Bill No. 183 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 41.

Bill read third time.

Assemblyman Conklin moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 5:25 p.m.

ASSEMBLY IN SESSION

At 5:30 p.m.
Madam Speaker presiding.
Quorum present.

Remarks by Assemblyman Aizley.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved to waive a portion of Assembly Standing Rule No. 23, which requires individual disclosure, for purposes of a group disclosure.

Motion carried.

ASSEMBLYMAN CONKLIN:

For the purposes of Rule No. 23, we would like to disclose that we are public employees that participate in the Public Employee Retirement System. Under Rule No. 23, we determine that our interest as a result of the participation does not impede our independence of judgment, because our interest is no greater than the interest of any other participant in PERS. Therefore, the following people will be voting on the bill: Ms. Dondero Loop, Ms. McClain, Ms. Leslie, Mr. Anderson, Mr. Segerblom, Mr. Denis, Ms. Parnell, Mr. Stewart, Mr. Oceguera, Mr. Atkinson, Mr. Grady, Mr. Carpenter, Mr. Settelmeyer, Mr. Goicoechea, Ms. Koivisto, Ms. Woodbury, Ms. Kirkpatrick, Mr. Gustavson, Mr. Munford, Ms. Spiegel, Ms. Mastroluca, Mr. Arberry, Mr. Aizley, and Ms. Buckley.

GENERAL FILE AND THIRD READING

Roll call on Senate Bill No. 41:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 41 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 488.

The following Senate amendment was read:

Amendment No. 859.

AN ACT relating to public employees' retirement; revising provisions governing the allowances that may be paid to a retired public employee who accepts employment or an independent contract with a public employer in a position for which there is a critical labor shortage; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a retired public employee who accepts employment or an independent contract with a public employer under the Public Employees' Retirement System is disqualified from receiving allowances under the System for the duration of that employment or contract

under certain circumstances. (NRS 286.520) Existing law also provides an exception to this disqualification from receipt of allowances if the retired public employee fills a position for which there is a critical labor shortage. (NRS 286.523) This exception under existing law is scheduled to expire on June 30, 2009. (Chapter 316, Statutes of Nevada 2005, p. 1077) This bill extends the prospective expiration of this exception to June 30, 2015. **Section 4** of this bill revises the criteria which must be considered by a designating authority in determining whether to designate a position for which there is a critical labor shortage. **Section 4** also requires the designating authority to submit written findings of the determination to the Public Employees' Retirement Board on a form prescribed by the Board. The Board must compile the forms and submit a biennial report of the compilation to the Interim Retirement and Benefits Committee of the Legislature.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 286.523 is hereby amended to read as follows:

286.523 1. ***It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.***

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

~~[2.]~~ ***3.*** A retired employee who is reemployed under the circumstances set forth in subsection ~~[1]~~ ***2*** may reenroll in the System as provided in NRS 286.525.

~~[3.]~~ ***4.*** Positions for which there are critical labor shortages must be determined ***in an open public meeting held by the designating authority*** as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The ~~[Department of Education]~~ ***board of trustees of each school district*** shall designate positions ~~[with the various school districts]~~ ***within the school district*** for which there are critical labor shortages.

(e) ~~*[Each entity which is authorized to sponsor charter schools pursuant to NRS 386.515]*~~ ***The governing body of a charter school shall designate positions within the charter school for which there are critical labor shortages.*** ~~*[for the charter schools that it sponsors.]*~~

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

~~[(f)]~~ ***(g)*** The Board shall designate positions within the System for which there are critical labor shortages.

~~[4.]~~ ***5.*** In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall ~~[give consideration to:]~~ ***make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:***

(a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings ~~[;]~~ ***after all other efforts of recruitment have been exhausted;***

(c) The length of time the position has been vacant; ~~[and~~

~~(d) The success of recruiting persons in other states to fill the position.~~

~~5.]~~ ***(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and***

(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

7. A designating authority shall not designate a position pursuant to subsection ~~[3]~~ ***4*** as a position for which there is a critical labor shortage for a

period longer than 2 years. To be redesignated as such a position, the designating authority must consider ***and make new findings in an open public meeting as to*** whether the position continues to meet the criteria set forth in subsection ~~[4.]~~ ***5.***

Sec. 5. Section 9 of chapter 490, Statutes of Nevada 2001, as amended by section 2 of chapter 316, Statutes of Nevada 2005, at page 1077, is hereby amended to read as follows:

Sec. 9. ~~[1.]~~ This act becomes effective on July 1, 2001.

~~[2. Section 1 of this act expires by limitation on June 30, 2005.]~~

Sec. 6. The Public Employees' Retirement Board shall conduct an experience study on the Public Employees' Retirement System of the employment of retired public employees by public employers that participate in the Public Employees' Retirement System pursuant to NRS 286.523, as amended by section 4 of this act, for the period beginning on July 1, 2009, and ending on June 30, 2014. The Public Employees' Retirement Board shall submit a report of the study to the Interim Retirement and Benefits Committee of the Legislature on or before December 31, 2014.

Sec. 7. NRS 286.523 is hereby repealed.

Sec. 8. 1. This section and sections 1 to 6, inclusive, of this act become effective upon passage and approval.

2. Section 7 of this act becomes effective on June 30, 2015.

TEXT OF REPEALED SECTION

286.523 Employment of retired employee: Exception for reemployment of certain retired employees to fill positions for which critical labor shortage exists; determination and designation of such positions; limitation on length of designation of position.

1. It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

3. A retired employee who is reemployed under the circumstances set forth in subsection 2 may reenroll in the System as provided in NRS 286.525.

4. Positions for which there are critical labor shortages must be determined in an open public meeting held by the designating authority as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The board of trustees of each school district shall designate positions within the school district for which there are critical labor shortages.

(e) The governing body of a charter school shall designate positions within the charter school for which there are critical labor shortages.

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

(g) The Board shall designate positions within the System for which there are critical labor shortages.

5. In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:

(a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings after all other efforts of recruitment have been exhausted;

(c) The length of time the position has been vacant;

(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and

(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

7. A designating authority shall not designate a position pursuant to subsection 4 as a position for which there is a critical labor shortage for a

period longer than 2 years. To be redesignated as such a position, the designating authority must consider and make new findings in an open public meeting as to whether the position continues to meet the criteria set forth in subsection 5.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 488.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 141.

The following Senate amendment was read:

Amendment No. 650.

AN ACT relating to mortgage lending; establishing a recovery fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill establishes the Mortgage Education, Research and Recovery Fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers. The provisions of this bill are patterned closely after the provisions in chapter 645 of NRS which establish a recovery fund for persons defrauded by real estate brokers. (NRS 645.841-645.8494)

Section 3 of this bill creates the Fund. **Section 4** of this bill provides for money for the Fund. **Sections 5-7 and 9-11** of this bill provide for administration of the Fund and payment of claims against the Fund. **Section 8** of this bill requires the license of a licensee to be automatically suspended until he repays to the Fund any amount paid from the Fund to settle a claim against that licensee. **Section 12** of this bill clarifies that this bill does not limit the authority of the Division of Mortgage Lending of the Department of Business and Industry to take disciplinary action against a licensee. **Section 13** of this bill authorizes the Commissioner of Mortgage Lending to adopt regulations as needed for chapter 645F of NRS.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, "Fund" means the Mortgage Education, Research and Recovery Fund created by section 3 of this act.***

Sec. 3. ***1. The Mortgage Education, Research and Recovery Fund is hereby created as a special revenue fund.***

2. A balance of not less than $300,000 must be maintained in the Fund, to be used for satisfying claims against persons licensed under chapters 645B and 645E of NRS as provided in sections 2 to 12, inclusive,

of this act. Any balance over $300,000 remaining in the Fund at the end of any fiscal year must be set aside and used by the Commissioner for education and research relating to mortgages.

3. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

Sec. 4. ***The Commissioner shall adopt regulations prescribing a ~~[percentage of]~~ fee, in addition to the fees collected for the issuance or renewal of a license pursuant to chapters 645B and 645E of NRS , to be assessed at the time of issuance or renewal of a license and to be used for mortgage education, research and recovery. The ~~[amount]~~ additional fee must be deposited in the State Treasury for credit to the Fund, and must be used solely for the purposes provided in sections 2 to 12, inclusive, of this act.***

Sec. 5. ***1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any licensee or licensees pursuant to chapter 645B or 645E of NRS, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to chapter 645B or 645E of NRS, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the judgment, but not more than $25,000 per judgment. The liability of the Fund does not exceed $100,000 for any person licensed pursuant to chapter 645B or 645E of NRS, whether he is licensed as a limited-liability company, partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.***

2. A person who is licensed pursuant to chapter 645B or 645E of NRS may not recover from the Fund for damages which are related to a transaction in which he acted in his capacity as a licensee.

3. A copy of the:

(a) Petition;

(b) Judgment;

(c) Complaint upon which the judgment was entered; and

(d) Writ of execution which was returned unsatisfied,

➥ must be served upon the Commissioner and the judgment debtor and affidavits of service must be filed with the court.

4. Upon the hearing on the petition, the petitioner must show that:

(a) He is not the spouse of the debtor, or the personal representative of that spouse.

(b) He has complied with all the requirements of sections 2 to 12, inclusive, of this act.

(c) He has obtained a judgment of the kind described in subsection 1, stating the amount thereof, the amount owing thereon at the date of the

petition, and that the action in which the judgment was obtained was based on fraud, misrepresentation or deceit of the licensee in a transaction for which a license is required pursuant to chapter 645B or 645E of NRS.

(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of assets was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.

(e) He has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, and after reasonable efforts that no property or assets could be found or levied upon in satisfaction of the judgment.

(f) He has made reasonable efforts to recover damages from each and every judgment debtor.

(g) The petition has been filed not more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.

Sec. 6. ***1. Whenever the court proceeds upon a petition as provided in section 5 of this act, the Commissioner may answer and defend any such action against the Fund on behalf of the Fund and may use any appropriate method of review on behalf of the Fund. The judgment debtor may answer and defend any such action on his own behalf.***

2. Unless the judgment was entered by default, consent or stipulation or the case was uncontested, the judgment set forth in the petition is prima facie evidence but the findings of fact therein are not conclusive for the purposes of sections 2 to 12, inclusive, of this act.

3. The Commissioner may, subject to court approval, compromise a claim based upon the application of a petitioner. He shall not be bound by any prior compromise of the judgment debtor.

Sec. 7. ***1. If the court finds after the hearing that the claim should be levied against the portion of the Fund allocated for the purpose of carrying out the provisions of sections 2 to 12, inclusive, of this act, the court shall enter an order directed to the Commissioner requiring payment from the Fund of whatever sum it finds to be payable upon the claim pursuant to the provisions***

of and in accordance with the limitations contained in sections 2 to 12, inclusive, of this act.

2. If a petitioner has recovered a portion of his claim from sources other than the Fund, the Commissioner shall deduct the amount recovered from the other sources from the amount payable upon the claim.

Sec. 8. ***If the Commissioner pays from the Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, his license issued pursuant to chapter 645B or 645E of NRS must be automatically suspended upon the effective date of an order by the court***

authorizing payment from the Fund. The license may not be reinstated and no other license may be granted to him pursuant to chapter 645B or 645E of NRS until he has repaid in full, plus interest at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent, the amount paid from the Fund on his account. Interest is computed from the date payment from the Fund was made by the Commissioner, and the rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

Sec. 9. ***1. Whenever claims are filed against the Fund which total more than the maximum liability for the acts of one licensee, the maximum liability of the Fund for each licensee must be distributed among the claimants in a ratio that their respective claims bear to the total of all claims, or in any other manner that the court may find equitable.***

2. The distribution must be made without regard to the order of priority in which claims were filed or judgments entered.

3. Upon petition of the Commissioner, the court may require all claimants and prospective claimants to be joined in one action so that the respective rights of all claimants may be equitably determined.

4. If, at any time, the money deposited in the Fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the Commissioner shall, when sufficient money has been deposited in the Fund, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed, plus accumulated interest at the rate of 6 percent per annum. Any sums received by the Division pursuant to sections 8 and 10 of this act must be deposited in the State Treasury for credit to the account for education and research in the Fund.

Sec. 10. ***When the Commissioner has paid from the Fund any money to the judgment creditor, the Commissioner is subrogated to all other rights of the judgment creditor to the extent of the amount paid and any amount and interest so recovered by the Commissioner on the judgment must be deposited in the State Treasury for credit to the Fund.***

Sec. 11. ***The failure of a person to comply with any of the provisions of sections 2 to 12, inclusive, of this act shall constitute a waiver of any rights hereunder.***

Sec. 12. ***Nothing contained in sections 2 to 12, inclusive, of this act limits the authority of the Division to take disciplinary action against a licensee for a violation of any of the provisions of chapter 645B or 645E of NRS, or of the rules and regulations of the Division, nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of chapter 645B or 645E or the rules and regulations promulgated thereunder.***

Sec. 13. NRS 645F.250 is hereby amended to read as follows:

645F.250 ***1.*** The Commissioner and the Division shall administer the provisions of this chapter and chapters 645A, 645B and 645E of NRS, subject to administrative supervision by the Director of the Department of Business and Industry.

2. The Commissioner shall adopt any regulations that are necessary to carry out the provisions of this chapter.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 141.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 22.

The following Senate amendment was read:

Amendment No. 769.

AN ACT relating to trade practices; providing that certain persons may bring a civil action for various deceptive trade practices or other violations; providing that various actions related to certain persons with an inability to reasonably protect their rights or interests constitute a deceptive trade practice; allowing equitable relief for certain actions related to consumer fraud; **revising provisions governing the State's system for the registration and protection of trademarks, trade names and service marks; making various changes regarding administration of the system by the Secretary of State; authorizing the Secretary of State to prescribe certain fees; prohibiting certain misleading and deceptive practices; providing remedies and penalties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines activities that constitute deceptive trade practices and provides for the imposition of civil and criminal penalties against persons who engage in deceptive trade practices. (Chapter 598 of NRS)

Section 1 of this bill provides that certain persons may bring a civil action for damages for deceptive trade practices and violations of chapter 598 of NRS or any regulation adopted pursuant to that chapter. **Section 5.5** of this bill defines as a deceptive trade practice knowingly taking advantage of certain persons with an inability to reasonably protect their rights or interests. **Section ~~[14]~~ 59** of this bill allows equitable relief for various actions involving consumer fraud.

Nevada's existing trademark laws, which are administered by the Secretary of State, establish a system for the registration and protection of marks, including trademarks, trade names and service marks. (NRS 600.240-600.450) Nevada's existing trademark laws are based on the Model State Trademark Bill, which was drafted by the International Trademark Association to promote uniformity among state trademark

laws and to harmonize those state laws with the federal Trademark Act of 1946, which is commonly known as the Lanham Act. (15 U.S.C. §§ 1051 et seq.)

Sections 13-57 of this bill amend Nevada's existing trademark laws to account for several changes made to the Model State Trademark Bill and the federal Trademark Act in recent years. This bill provides that the amendments to Nevada's existing trademark laws become effective on October 1, 2010, except that this bill gives the Secretary of State authority upon passage and approval to adopt any regulations necessary for the administration of the trademark laws.

Sections 14, 20, 21 and 30-37 of this bill specify the persons who may register marks in this State and define the types of trademarks, trade names and service marks that may be registered. (NRS 600.250-600.330) Sections 22 and 36 of this bill define when a mark is deemed to be in use in this State and when a mark is deemed to be abandoned. (NRS 600.320)

Sections 15-18 and 55 of this bill protect against misuse or dilution of a famous mark and prohibit certain misleading and deceptive practices which impair the distinctiveness or harm the reputation of a famous mark. (NRS 600.435)

Sections 19 and 23 of this bill provide that to the extent Nevada's trademark laws, as implemented and administered by the Secretary of State, are substantially consistent with the federal Trademark Act, the interpretation and application given to the federal Trademark Act must be considered to be persuasive authority in interpreting and applying Nevada's trademark laws.

Existing law establishes the amounts of the fees the Secretary of State is required to collect in administering Nevada's trademark laws. (NRS 600.340, 600.355, 600.360, 600.370, 600.395) Section 24 of this bill requires the Secretary of State to prescribe the amounts of such fees by regulation and also makes such fees nonrefundable. Section 65 of this bill requires the existing amounts of such fees to remain in effect until the Secretary of State prescribes the amounts by regulation.

Sections 25 and 38-50 of this bill revise the requirements and procedures for: (1) filing, amending and reviewing applications for registration of a mark; (2) issuing, correcting, renewing and cancelling registrations; and (3) filing and recording assignments, name changes and other documents related to a registered mark, including licenses, security interests and mortgages. (NRS 600.340-600.395)

Sections 26 and 27 of this bill establish requirements for bringing actions to compel registration of a mark and actions for cancellation of the registration of a mark. Section 28 of this bill provides a method for service of process in actions brought against certain nonresident owners of marks.

Section 51 of this bill requires the Secretary of State to adopt regulations defining general classes of goods and services for which a mark may be registered. Section 51 also provides that to the extent practicable, the classes of goods and services adopted by the Secretary of State must conform to the classes of goods and services adopted by the United States Patent and Trademark Office in the administration of the federal Trademark Act. (NRS 600.400)

The other sections of this bill make conforming changes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, in addition to any other remedy or penalty, if a person suffers damage as a result of a deceptive trade practice or a violation of this chapter or any regulation adopted pursuant to this chapter, that person may commence a civil action against any other person who engaged in the act or violation to recover statutory damages of up to $5,000 per act or violation.

2. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the act or violation:

(a) Was not intentional; and

(b) ~~*[Was technical in nature; and*~~

~~*(c)]*~~ ***Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.***

3. For the purposes of this section, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to a person's obligations under this chapter is not a bona fide error.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, have the meanings ascribed to them in those sections.

Sec. 5.5. NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a "deceptive trade practice" when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments, or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property, or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all

parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

➥ specifying that no refunds or exchanges are allowed.

11. Knowingly takes advantage of another person's inability to reasonably protect his own rights or interests in a consumer transaction when such an inability is due to illiteracy or to a mental or physical infirmity which manifests itself as an incapability to understand the language or terms of any agreement or as another similar condition.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 8. NRS 598.096 is hereby amended to read as follows:

598.096 When the Commissioner, Director or Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice, he may:

1. Request the person to file a statement or report in writing under oath or otherwise, on such forms as may be prescribed by the Commissioner, Director or Attorney General, as to all facts and circumstances concerning the sale or advertisement of property by the person, and such other data and information as the Commissioner, Director or Attorney General may deem necessary.

2. Examine under oath any person in connection with the sale or advertisement of any property.

3. Examine any property or sample thereof, record, book, document, account or paper as he may deem necessary.

4. Make true copies, at the expense of the Consumer Affairs Division of the Department of Business and Industry, of any record, book, document, account or paper examined pursuant to subsection 3, which copies may be offered into evidence in lieu of the originals thereof in actions brought pursuant to NRS 598.097 and 598.0979.

5. Pursuant to an order of any district court, impound any sample of property which is material to the deceptive trade practice and retain the property in his possession until completion of all proceedings as provided in NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.*** An order may not be issued pursuant to this subsection unless:

(a) The Commissioner, Director or Attorney General ~~[,]~~ and the court give the accused full opportunity to be heard; and

(b) The Commissioner, Director or Attorney General proves by clear and convincing evidence that the business activities of the accused will not be impaired thereby.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act;*** and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➥ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➥ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than $5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 11. NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 3 and in subsection 1 of NRS 598.0999, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act:***

(a) In an action brought by the Attorney General, Commissioner or Director, must be deposited in the State General Fund and may only be used

to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly persons or persons with disabilities; and

(b) Programs for the education of consumers which are directed toward elderly persons or persons with disabilities, law enforcement officers, members of the judicial system, persons who provide social services and the general public.

3. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive ~~[,]~~ ***, and section 1 of this act;*** or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the Consumer Affairs Division of the Department of Business and Industry or the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 12. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 13. **Chapter 600 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 28, inclusive, of this act.**

Sec. 14. ***1. "Business or legal entity" means any form of business or social organization and any other nongovernmental legal entity, including,***

but not limited to, a corporation, limited-liability company, partnership, association, trust, union, joint venture or unincorporated organization.

2. The term does not include a government, governmental agency or political subdivision of a government.

Sec. 15. "Dilution by blurring" means the association arising from the similarity between a mark and a famous mark that impairs the distinctiveness of the famous mark.

Sec. 16. "Dilution by tarnishment" means the association arising from the similarity between a mark and a famous mark that harms the reputation of the famous mark.

Sec. 17. "Dilution of a famous mark" means dilution by blurring or dilution by tarnishment, regardless of the presence or absence of:

1. Competition between the owner of the famous mark and other parties;

2. Actual or likely confusion, mistake or deception; or

3. Actual economic injury.

Sec. 18. "Famous mark" means a mark that is famous in this State pursuant to the criteria set forth in NRS 600.435.

Sec. 19. "Federal Trademark Act" means the federal Trademark Act of 1946, as amended, 15 U.S.C. §§ 1051 et seq., which is commonly known as the Lanham Act.

Sec. 20. "Owner of a mark" or "owner" means a person who is the owner of a mark and the legal representatives, successors or assigns of such a person.

Sec. 21. 1. "Person" means a natural person or a business or legal entity.

2. The term does not include a government, governmental agency or political subdivision of a government.

Sec. 22. For the purposes of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, a mark is deemed to be "abandoned" when either of the following occurs:

1. When use of the mark has been discontinued with the intent not to resume such use. Intent not to resume use may be inferred from the circumstances. Nonuse of the mark for 2 consecutive years constitutes prima facie evidence of abandonment.

2. When any course of conduct of the owner of the mark, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

Sec. 23. 1. The provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act must be interpreted and applied to provide in this State a system of registration and protection of marks that is substantially consistent with the federal system of registration and protection of marks pursuant to the federal Trademark Act.

2. To the extent that the provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, as implemented and

administered by the Secretary of State, are substantially consistent with the federal Trademark Act, the interpretation and application given to the federal Trademark Act must be considered to be persuasive authority in interpreting and applying the provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

Sec. 24. 1. The Secretary of State shall, by regulation, prescribe the amount of the fees that are necessary for the administration of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

2. Unless otherwise specified by the Secretary of State, the fees payable pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act are nonrefundable.

3. The Secretary of State may adopt any other regulations that are necessary for the administration of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

Sec. 25. 1. After an applicant files an application for registration of a mark and pays the required fees, the Secretary of State may review the application for conformity with the provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

2. The applicant:

(a) Shall provide any additional pertinent information regarding the application that is requested by the Secretary of State, including, but not limited to, a description or depiction of a design mark; and

(b) Except as otherwise provided in this paragraph, may submit amendments to the application as may be reasonably requested by the Secretary of State or deemed by the applicant to be advisable in response to any objection made by the Secretary of State. In lieu of allowing or making any amendments to the application, the Secretary of State may require the applicant to submit a new or corrected application.

3. The Secretary of State may require the applicant to disclaim an unregisterable component of a mark that is otherwise registerable, and an applicant may voluntarily disclaim a component of a mark that is otherwise registerable. If the applicant disclaims a component of a mark, the disclaimer does not prejudice or affect the rights of the applicant then existing or thereafter arising, either as an applicant or registrant, in the disclaimed matter or the right to seek registration in another application if the disclaimed matter is or becomes distinctive of the goods or services of the applicant.

4. Except as otherwise provided in subsection 5, if the Secretary of State finds that a mark is not entitled to registration:

(a) The Secretary of State shall notify the applicant and specify the reasons for the finding;

(b) The applicant shall have a reasonable period, as specified by the Secretary of State, in which to respond to the finding or to amend the application; and

(c) If the applicant responds to the finding or amends the application, the Secretary of State shall reexamine the application. The Secretary of State and the applicant shall repeat this procedure until:

(1) The Secretary of State determines that any further response or amendment by the applicant will not change the result and issues a final decision denying registration of the mark; or

(2) The applicant fails to respond or amend the application within the specified period, at which time the application shall be deemed to be abandoned.

5. If the Secretary of State is concurrently processing two or more applications seeking registration of the same or confusingly similar mark for the same or related goods or services, the Secretary of State shall grant priority to the applications in the order in which they were filed. If the Secretary of State issues a certificate of registration for a mark in an earlier-filed application, the Secretary of State shall deny registration of the marks in the later-filed applications. If an applicant is aggrieved by a final decision of the Secretary of State denying registration of a mark in a later-filed application pursuant to this subsection, the applicant may bring an action for cancellation of the registration of the mark in the earlier-filed application upon grounds of prior or superior rights to the mark in accordance with section 27 of this act.

Sec. 26. 1. If an applicant is aggrieved by a final decision of the Secretary of State denying registration of a mark, the applicant may bring an action for a writ of mandamus to compel registration of the mark.

2. The applicant must file the action for a writ of mandamus within 30 days after service of the final decision of the Secretary of State.

3. The court's review of the final decision of the Secretary of State denying registration of the mark must be based solely upon the record before the Secretary of State.

4. If the applicant proves that all the statements in the application are true and that the mark is otherwise entitled to registration, the court shall grant appropriate relief compelling registration of the mark, but without costs to the Secretary of State.

Sec. 27. 1. If a person is aggrieved by the registration of a mark in this State, the person may bring an action for cancellation of the registration of the mark.

2. To bring an action for cancellation of the registration of the mark, the person must:

(a) Name the owner of the mark as the respondent; and

(b) Institute the action by filing a petition in the district court in and for Carson City, in and for the county in which the owner resides or in and for a county where the mark is in use in this State.

3. When the person bringing the action serves the respondent with the petition, the person also must serve the Secretary of State with a copy of the petition in the manner prescribed by Rule 5 of the Nevada Rules of Civil

Procedure. The Secretary of State is not a necessary and indispensable party to the action under Rule 19 of the Nevada Rules of Civil Procedure, and the person bringing the action may not name the Secretary of State as a party to the action.

Sec. 28. In any action brought pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act against a nonresident owner of a mark, if the nonresident owner has not appointed an agent for service of process:

1. The Secretary of State shall be deemed to be an agent of the nonresident owner for the purposes of service of process in the action; and

2. Service of process may be made upon the Secretary of State as the agent of the nonresident owner in accordance with the procedures established by law for service upon a nonresident business or legal entity.

Sec. 29. **NRS 600.240 is hereby amended to read as follows:**

600.240 As used in NRS 600.240 to 600.450, inclusive, ***and sections 14 to 28, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 600.250 to ~~[600.320,]~~ ***600.310,*** inclusive, ***and sections 14 to 21, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 30. **NRS 600.250 is hereby amended to read as follows:**

600.250 "Applicant" means ~~[the person filing]~~ ***a person who files*** an application for registration of a ~~[trademark, his]~~ ***mark pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, and the*** legal representatives, successors or assigns ~~[.]~~ ***of such a person.***

Sec. 31. **NRS 600.260 is hereby amended to read as follows:**

600.260 "Mark" ~~[includes]~~ ***means*** any trademark ~~[, trade name]~~ or service mark ***, including any trademark or service mark that also functions as a trade name,*** entitled to registration ***pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act,*** whether registered or not.

Sec. 32. **NRS 600.280 is hereby amended to read as follows:**

600.280 "Registrant" ~~[includes]~~ ***means*** the person to whom ***the Secretary of State issues*** the ***certificate of*** registration of a mark ~~[is issued, his]~~ ***pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, and the*** legal representatives, successors or assigns ~~[.]~~ ***of such a person.***

Sec. 33. **NRS 600.290 is hereby amended to read as follows:**

600.290 "Service mark" means ~~[a mark used in the sale or advertising of services]~~ ***any word, name, symbol or device, or any combination thereof, used by a person*** to identify ***and distinguish*** the services of ~~[one person and distinguish them]~~ ***that person, including a unique service,*** from the services of others ~~[.]~~ ***, and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person and other distinctive features of radio or television programs may be registered as service marks***

notwithstanding that the titles, character names or programs may advertise the goods of the sponsor.

Sec. 34. **NRS 600.300 is hereby amended to read as follows:**

600.300 "Trademark" means any word, name, symbol or device, or any combination ~~[of them, adopted and]~~ ***thereof,*** used by a person to identify ***and distinguish the*** goods ~~[made]~~ ***manufactured*** or sold by ~~[him and to distinguish them]~~ ***that person, including a unique product,*** from ***the*** goods ~~[made]~~ ***manufactured*** or sold by others ~~[.]~~ ***, and to indicate the source of the goods, even if that source is unknown.***

Sec. 35. **NRS 600.310 is hereby amended to read as follows:**

600.310 "Trade name" means ~~[a word, symbol, device, or any combination of them,]~~ ***any word or name*** used by a person to identify ~~[his]~~ ***the*** business, vocation or occupation ~~[and distinguish it from the business, vocation or occupation of others.]~~ ***of that person.***

Sec. 36. **NRS 600.320 is hereby amended to read as follows:**

600.320 ***For the purposes of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act:***

1. "Use" means the bona fide use of a mark in the ordinary course of trade. The term does not include use made merely to reserve a right in a mark.

2. A mark is deemed to be ~~["used"]~~ ***in "use"*** in this State:

~~[1.]~~ ***(a)*** On goods when ~~[it]~~ ***the mark*** is placed in any manner on the goods, their containers, the displays associated with them or on the tags or labels affixed to them ***or, if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale,*** and the goods are sold or ~~[otherwise distributed in the]~~ ***transported in commerce in this*** State; and

~~[2.]~~ ***(b)*** On services when ~~[it]~~ ***the mark*** is used or displayed in the sale or advertising of services and the services are rendered in this State.

Sec. 37. **NRS 600.330 is hereby amended to read as follows:**

600.330 A mark must not be registered if it:

1. Contains immoral, deceptive or scandalous matter.

2. Contains matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs ~~[,]~~ ***or*** national symbols or which may bring them into contempt or disrepute.

3. Resembles or simulates the flag ***, the coat of arms*** or other insignia of the United States, or of any state or municipality, or of any foreign nation.

4. Contains the name, signature or portrait of any living person, except when ~~[his]~~ ***the*** written consent ***of the person*** has been obtained.

5. Consists of a mark which:

(a) When applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them;

(b) When applied to the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them; or

(c) Is primarily merely a surname,

➥ but this subsection does not prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. Proof of continuous use of the mark by the applicant in this State or elsewhere for 5 years next preceding the date of the filing of the application for registration may be accepted by the Secretary of State as evidence that the mark has become distinctive.

6. So resembles a mark registered in this State which has not been abandoned ~~[.]~~ that it is likely that confusion, mistake or deception may result.

Sec. 38. **NRS 600.340 is hereby amended to read as follows:**

600.340 1. A person who has adopted and is using a mark in this State may file in the Office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

(a) Whether the mark to be registered is a trademark, trade name or service mark;

(b) A description of the mark by name, words displayed in it or other information;

(c) The name and business address of the person applying for the registration and, if it is a corporation, limited-liability company, limited partnership or registered limited-liability partnership, the state of incorporation or organization;

(d) The specific goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with those goods or services and the class as designated by the Secretary of State which includes those goods or services;

(e) The date when the mark was first used anywhere and the date when it was first used in this State by the applicant or his predecessor in business which must precede the filing of the application; and

(f) A statement that the applicant is the owner of the mark and that no other person has the right to use the mark in this State either in the form set forth in the application or in such near resemblance to it as might deceive or cause mistake.

2. The application must:

(a) Be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

(b) Be accompanied by a specimen or facsimile of the mark on white paper that is 8 1/2 inches by 11 inches in size and by a filing fee ~~[of $100 payable to the Secretary of State.]~~ ***in the amount prescribed pursuant to section 24 of this act.***

3. If the application fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

Sec. 39. **NRS 600.340 is hereby amended to read as follows:**

600.340 1. ~~[A]~~ ***Subject to the limitations set forth in NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, a*** person who has adopted and is using a mark in this State may file in the Office of

the Secretary of State, on a form ~~[to be furnished]~~ ***prescribed*** by the Secretary of State, an application for registration of that mark ***.*** ~~[setting forth,]~~ ***The application must include,*** but ***is*** not limited to, the following information:

(a) ~~[Whether the mark to be registered is a trademark, trade name or service mark;~~

~~(b) A description]~~ ***An identification*** of the mark by name, words displayed in it or other information ~~[,]~~ ***necessary to specify the elements for which trademark or service mark protection is sought.***

(b) A drawing or other representation of the mark which complies with such requirements as the Secretary of State may specify. The drawing must depict the mark sought to be registered in:

(1) Standard typed characters if the mark is a word mark; or

(2) A special form drawing if the mark features design elements, special fonts, color or other noncharacter elements.

➥ After registration, the registrant may not change the drawing of the mark if the change constitutes a material alteration of the mark such that the altered mark creates a different commercial impression and those persons on notice of the original registration would need a new notice to be adequately informed of the registrant's claim of rights.

(c) The name and business address of the person applying for the registration and, if ~~[it]~~ ***the person*** is a ~~[corporation, limited liability company, limited partnership or registered limited liability partnership,]~~ ***business or legal entity,*** the state of incorporation or organization ~~[,]~~ ***and the names of the officers, general partners or managing members of the business or legal entity, as specified by the Secretary of State.***

(d) The specific goods or services ***on or*** in connection with which the mark is used and the mode or manner in which the mark is used ***on or*** in connection with those goods or services and the class as designated by the Secretary of State ***pursuant to NRS 600.400*** which includes those goods or services ***.*** ~~[;]~~

(e) The date when the mark was first used anywhere and the date when ~~[it]~~ ***the mark*** was first used in this State by the applicant or ~~[his]~~ ***the applicant's*** predecessor in ~~[business which]~~ ***interest, provided that the date when the mark was first used in this State*** must precede the filing of the application ***.*** ~~[; and]~~

(f) A statement that ~~[the]~~ ***:***

(1) The applicant is the owner of the mark ***;***

(2) The mark is in use in this State; and ~~[that]~~

(3) To the knowledge of the person signing the application, no other person ~~[has]~~ ***:***

(I) Holds a federal or Nevada state registration for the mark for similar goods or services with a filing date that predates the applicant's first use of the mark in this State; or

(II) Has the right to use the mark in this State either in the form set forth in the application or in such near resemblance to it as ~~[might deceive or cause mistake.]~~ ***to be likely, when applied to the goods or services of the other person, to cause confusion, mistake or deception.***

2. ***The Secretary of State may require the applicant to submit with the application a statement as to whether an application to register the mark, or portions or a composite of the mark, has been filed by the applicant or the applicant's predecessor in interest with the United States Patent and Trademark Office. If such a statement is required, the statement must set forth full particulars with respect to each application, including, but not limited to:***

(a) The filing date, serial number and current status of each application; and

(b) If any application resulted in the mark being denied registration or otherwise resulted in the mark not being registered, the reasons for the denial or the mark not being registered.

3. The application must ~~[:~~

~~(a) Be signed]~~ ***be:***

(a) Signed and verified ***under penalty of perjury*** by the applicant or ***, if the applicant is a business or legal entity,*** by ~~[a]~~ ***a natural person with legal authority to bind the business or legal entity, including, but not limited to:***

(1) An officer, general partner or managing member of the ~~[firm or an officer of the corporation or association applying.~~

~~(b) Be accompanied]~~ ***business or legal entity;***

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia;

(b) Accompanied by a specimen ~~[or facsimile of]~~ ***which shows*** the mark ~~[on white paper that is 8 1/2 inches by 11 inches in size and]~~ ***as actually used on or in connection with the goods or services and which meets the criteria set forth in NRS 600.343; and***

(c) Accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.

~~[3.]~~ ***4.*** If the application fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

Sec. 40. **NRS 600.343 is hereby amended to read as follows:**

600.343 1. A specimen accompanying an application for ~~[the]~~ registration of a mark ***or an application for renewal of the registration*** must meet the following criteria:

(a) The specimen must ~~[agree]~~ ***:***

(1) Agree with the mark as described in the application ~~[, must agree]~~ ***for registration of the mark or as depicted in the drawing or other representation of the mark included with that application;***

(2) Agree with the mark as used ~~[, and evidence]~~ ***; and***

(3) Evidence use of the mark.

(b) ~~[If the specimen is a drawing, it must be a substantially exact representation of the mark as actually used.~~

~~(c)]~~ The specimen must fit on a page of paper ~~[not larger than]~~ ***that measures*** 8 1/2 inches by 11 inches.

~~[(d) A specimen may be a facsimile or photograph of the mark.~~

~~(e)]~~

(c) The specimen must be suitable for reproduction, retention and retrieval.

2. ~~[After registration, an applicant may not change the specimen if the change constitutes a material alteration of the mark.]~~ ***A specimen may be a facsimile or photograph of the mark if the specimen otherwise meets the criteria set forth in subsection 1. Acceptable specimens for goods include, but are not limited to, facsimiles or photographs of labels, tags, packaging or displays associated with the goods. Acceptable specimens for services include, but are not limited to, facsimiles or photographs of brochures, web pages, advertisements or signage associated with the services.***

Sec. 41. **NRS 600.350 is hereby amended to read as follows:**

600.350 1. Upon compliance by the applicant with the requirements ~~[of NRS 600.330 and 600.340,]~~ ***for the registration of a mark pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act,*** the Secretary of State shall issue and deliver a certificate of registration to the applicant. The certificate of registration must be issued under the signature of the Secretary of State and the seal of the State, and it must designate:

(a) The name and business address ***of the owner of the mark*** and, if ***the owner is*** a ~~[corporation, limited liability company, limited partnership or registered limited liability partnership,]~~ ***business or legal entity,*** the state of incorporation or organization ***;*** ~~[of the person claiming ownership of the mark;]~~

(b) The date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this State;

(c) The class of goods or services to which the mark applies;

(d) A description of the goods or services on ***or in connection with*** which the mark is used;

(e) A reproduction of the mark;

(f) The registration date; and

(g) The term of the registration.

~~[~~***2.*** If a date of first use contained in the application is indefinite, the certificate of registration must designate the latest definite date that can be inferred from the words used. If a month and year are given without specifying the day, the date is presumed to be the last day of the month. If only a year is given, the date is presumed to be the last day of the year.

~~[2.]~~ ***3.*** The certificate of registration or a copy of the certificate certified by the Secretary of State is admissible in evidence as competent and sufficient proof of the registration of the mark in any action or judicial proceedings in any court of this State, and raises a disputable presumption that the person to whom the certificate was issued is the owner of the mark in this State as applied to the goods or services described in the certificate.

Sec. 42. **NRS 600.355 is hereby amended to read as follows:**

600.355 1. If any statement in an application for registration of a mark was incorrect when made or any arrangements or other facts described in the application have changed, making the application inaccurate in any respect without materially altering the mark, the registrant shall promptly file in the Office of the Secretary of State a certificate, signed by the registrant or his successor or by a member of the firm or an officer of the corporation or association to which the mark is registered, correcting the statement.

2. Upon the filing of a certificate of amendment or judicial decree of amendment and the payment of a filing fee ~~[of $60,]~~ ***in the amount prescribed pursuant to section 24 of this act,*** the Secretary of State shall issue, in accordance with NRS 600.350, an amended certificate of registration for the remainder of the period of the registration.

Sec. 43. **NRS 600.355 is hereby amended to read as follows:**

600.355 1. If ***, after registration of a mark, the registrant discovers that*** any statement in ~~[an]~~ ***the*** application for registration of ~~[a]~~ ***the*** mark was incorrect when made or any arrangements or other facts described in the application have changed, making the application inaccurate in any respect without materially altering the mark, the registrant shall promptly file in the Office of the Secretary of State a certificate ~~[, signed]~~ ***of amendment correcting the application. The certificate of amendment must be:***

(a) Signed and verified under penalty of perjury by the registrant or ~~[his successor or by a member of the firm or an]~~ ***, if the registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:***

(1) An officer ***, general partner or managing member*** of the ~~[corporation or association to which the mark is registered, correcting the statement.]~~ ***business or legal entity;***

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and

(b) Accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.

2. ***If, after registration of a mark, a court of competent jurisdiction enters a judicial decree amending the registration, the registrant or the party obtaining the judicial decree of amendment shall promptly file the***

judicial decree of amendment in the Office of the Secretary of State. The judicial decree of amendment must be accompanied by:

(a) A form prescribed by the Secretary of State which must be signed and verified under penalty of perjury by the registrant or the party obtaining the judicial decree or, if the registrant or party is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the business or legal entity;

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and

(b) A filing fee in the amount prescribed pursuant to section 24 of this act.

3. Upon the filing of a certificate of amendment or judicial decree of amendment ~~[and the payment of a filing fee in the amount prescribed pursuant to section 24 of this act,]~~ ***in accordance with this section,*** the Secretary of State shall issue ~~[,]~~ ***to the registrant,*** in accordance with NRS 600.350, an amended certificate of registration for the remainder of the period of the registration.

Sec. 44. **NRS 600.360 is hereby amended to read as follows:**

600.360 1. The registration of a mark is effective for 5 years from the date of registration and, upon application filed within 6 months before the expiration of that period, on a form to be furnished by the Secretary of State, the registration may be renewed for a successive period of 5 years. A renewal fee ~~[of $50, payable to the Secretary of State,]~~ ***in the amount prescribed pursuant to section 24 of this act*** must accompany the application for renewal of the registration.

2. The registration of a mark may be renewed for additional successive 5-year periods if the requirements of subsection 1 are satisfied.

3. The Secretary of State shall give notice to each registrant when his registration is about to expire. The notice must be given within the year next preceding the expiration date, by writing to the registrant's last known address.

4. All applications for renewals must include a statement that the mark is still in use in this State.

Sec. 45. **NRS 600.360 is hereby amended to read as follows:**

600.360 1. The registration of a mark is effective for 5 years from the date of registration ~~.~~ ~~[and, upon application filed]~~

2. Except as otherwise provided in this subsection, upon the filing of an application for renewal of the registration in the Office of the Secretary of State within 6 months before the expiration of ~~[that period,]~~ ***the period of the registration,*** on a form ~~[to be furnished]~~ ***prescribed*** by the Secretary of State,

the registration may be renewed for a successive period of 5 years. ~~[A]~~ ***The Secretary of State may adopt regulations to provide for alternative renewal periods which must not exceed 10 years.***

3. The application for renewal of the registration must:

(a) Include a verified statement that the mark is still in use in this State;

(b) Be signed and verified under penalty of perjury by the registrant or, if the registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the business or legal entity;

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia;

(c) Be accompanied by a specimen which shows the mark as actually used on or in connection with the goods or services and which meets the criteria set forth in NRS 600.343; and

(d) Be accompanied by a renewal fee in the amount prescribed pursuant to section 24 of this act***.*** ~~[must accompany the application for renewal of the registration.~~

~~2.]~~ ***4.*** The registration of a mark may be renewed for additional successive ~~[5-year]~~ periods if the requirements of ~~[subsection 1]~~ ***this section*** are satisfied.

~~[3.]~~ ***5.*** The Secretary of State ~~[shall give]~~ ***may provide*** notice to each registrant ~~[when his registration is about to expire. The]~~ ***of the date on which the registrant's registration will expire. If such notice is provided, the*** notice must be given within the ~~[year next]~~ ***12 months immediately*** preceding the expiration date ~~[, by writing]~~ ***and delivered to the registrant by:***

(a) Mail sent to the registrant's last known address ~~[.~~

~~4. All applications for renewals must include a statement that the mark is still in use in this State.]~~ ***; or***

(b) If requested by the registrant, electronic mail or other electronic means.

6. If the application for renewal of the registration fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

Sec. 46. **NRS 600.370 is hereby amended to read as follows:**

600.370 1. A mark and its registration are assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. An assignment must:

(a) Be in writing;

(b) Be signed and acknowledged by the registrant or his successor or a member of the firm or an officer of the corporation or association under whose name the mark is registered; and

(c) Be recorded with the Secretary of State upon the payment of a fee ~~[of $100 to the Secretary of State who, upon]~~ ***in the amount prescribed pursuant to section 24 of this act. Upon*** recording the assignment, ***the Secretary of State*** shall issue in the name of the assignee a certificate of assignment for the remainder of the period of the registration.

2. An assignment of any registration is void as against any subsequent purchaser for valuable consideration without notice, unless:

(a) The assignment is recorded with the Secretary of State within 3 months after the date of the assignment; or

(b) The assignment is recorded before the subsequent purchase.

Sec. 47. **NRS 600.370 is hereby amended to read as follows:**

600.370 1. A mark and its registration are assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. An assignment must:

(a) Be in writing; ***and***

(b) Be signed and acknowledged by the registrant or ~~[his successor or a member of the firm or]~~ ***, if the registrant is a business or legal entity, by*** an officer ***, general partner or managing member*** of the ~~[corporation or association under whose name the mark is registered; and~~

~~(c) Be recorded with]~~ ***business or legal entity.***

2. An assignment may be recorded in the Office of the Secretary of State upon the payment of a ***recording*** fee in the amount prescribed pursuant to section 24 of this act. Upon recording the assignment, the Secretary of State shall issue in the name of the assignee a certificate of assignment for the remainder of the period of the registration.

~~[2.]~~ ***3.*** An assignment of any registration is void as against any subsequent purchaser for valuable consideration without notice ~~[,]~~ unless:

(a) The assignment is recorded ~~[with]~~ ***in the Office of*** the Secretary of State within 3 months after the date of the assignment; or

(b) The assignment is recorded ***in the Office of the Secretary of State*** before the subsequent purchase.

4. An applicant or registrant whose name has changed may record in the Office of the Secretary of State a certificate of change of name. The certificate of change of name must be:

(a) On a form prescribed by the Secretary of State;

(b) Signed and verified under penalty of perjury by the applicant or registrant or, if the applicant or registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the business or legal entity;

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and

(c) Accompanied by a recording fee in the amount prescribed pursuant to section 24 of this act.

5. Upon recording a certificate of change of name, the Secretary of State shall issue:

(a) In the applicant's new name, a certificate verifying that the name on the application has changed.

(b) In the registrant's new name, an amended certificate of registration for the remainder of the period of the registration.

6. In the discretion of the Secretary of State, other instruments which relate to a registered mark or an application for registration of a mark, including, but not limited to, licenses, security interests or mortgages, may be recorded in the Office of the Secretary of State if the instrument is:

(a) In writing; and

(b) Signed and acknowledged by the parties to the instrument or, if any party is a business or legal entity, by an officer, general partner or managing member of the business or legal entity.

7. If an assignment or other instrument is acknowledged, the acknowledgment is prima facie evidence of the execution of the assignment or other instrument and, if the assignment or other instrument is recorded in the Office of the Secretary of State, the record is prima facie evidence of the execution of the assignment or other instrument.

8. If an assignment or other instrument otherwise meets the requirements for recording, a photocopy of the assignment or other instrument must be accepted for recording if the photocopy is certified as a true and correct copy of the original by a party to the assignment or other instrument or by a party's successor.

Sec. 48. **NRS 600.380 is hereby amended to read as follows:**

600.380 The Secretary of State shall keep for public examination a record of ~~[~~all registered marks.~~]~~ ***:***

1. All marks registered or renewed by the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act; and

2. All other documents filed or recorded in the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

Sec. 49. **NRS 600.390 is hereby amended to read as follows:**

600.390 The Secretary of State shall cancel from the register:

1. ~~[~~After July 1, 1980, any filing or registration of a mark~~]~~ ***Any registration which the registrant or the assignee of record voluntarily requests to be cancelled.***

2. Any registration which has expired and is not renewed in accordance with the provisions of NRS 600.360.

~~[2. Any registration which the registrant or the assignee of record voluntarily requests be cancelled.]~~

3. Any registration concerning which a court of competent jurisdiction finds that:

(a) The registered mark has been abandoned.

(b) The registrant is not the owner of the mark.

(c) The registration was granted improperly.

(d) The registration was obtained fraudulently.

(e) ***The registered mark is or has become the generic name for the goods or services, or a portion thereof, for which it has been registered.***

(f) The registered mark is likely to cause confusion or mistake or to deceive because of its similarity to a mark ***which was*** registered by another person in the United States Patent and Trademark Office ~~[,]~~ before the date of the filing of the application for registration by the registrant under NRS 600.240 to 600.450, inclusive, ***and sections 14 to 28, inclusive, of this act*** and ***which has*** not ***been*** abandoned. But if the registrant proves that he is the owner of a concurrent registration of his mark in the United States Patent and Trademark Office covering an area including this State, the registration with the Secretary of State must not be cancelled.

4. Any registration when a court of competent jurisdiction orders cancellation of the registration on any ground.

Sec. 50. **NRS 600.395 is hereby amended to read as follows:**

600.395 ~~[The fee for filing a]~~ ***If a person requests*** cancellation of ***a*** registration pursuant to NRS 600.390 ~~[is $50.]~~ ***, the request must be accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.***

Sec. 51. **NRS 600.400 is hereby amended to read as follows:**

600.400 1. The Secretary of State ~~[may]~~ ***shall*** adopt regulations defining general classes of goods and services for which a mark may be registered. ~~[Classes defined pursuant to this subsection]~~ ***The classes of goods and services adopted by the Secretary of State*** are deemed to be for administrative convenience and must not be deemed to be exclusive or limit or extend the rights of the applicant or registrant. ***To the extent practicable, the classes of goods and services adopted by the Secretary of State must conform to the classes of goods and services adopted by the United States Patent and Trademark Office in the administration of the federal Trademark Act.***

2. A single application for registration of a mark may include any goods within their class on which the mark is used, or any services within their class rendered in connection with the mark. If a mark is used for more than one class of goods or more than one class of services the applicant must file a separate application for each class.

Sec. 52. **NRS 600.410 is hereby amended to read as follows:**

600.410 Any person who **,** for himself **[,]** or on behalf of any other person, attempts to procure or procures the registration of any mark in this State ***or the filing or recording of any document in the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act*** by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, is liable for all damages sustained in consequence of the registration ***or the filing or recording*** to any party injured thereby.

Sec. 53. **NRS 600.420 is hereby amended to read as follows:**

600.420 Any person:

1. Who uses, without the consent of the **[**registrant,**]** ***owner,*** any reproduction, counterfeit, copy or colorable imitation of a mark registered in this State in connection with the sale, ***distribution,*** offering for sale or advertising of any goods or services **[,]** ***on or in connection with*** which ***such*** use is likely to cause confusion or mistake or result in deception as to the source of origin of such goods or services; or

2. Who reproduces, counterfeits, copies or colorably imitates any mark registered in this State and applies or causes to apply that reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used ***on or*** in **[**conjunction**]** ***connection*** with the sale or other distribution in this State of goods or services,

➥ is liable in a civil action by the owner of the registered mark for any or all of the remedies provided in NRS 600.430, except that the owner of the mark is not entitled to recover profits or damages **[**under**]** ***for any act in violation of*** subsection 2 unless the act or acts were committed with **[**knowledge that the reproduction, counterfeit, copy or imitation of the mark was intended to be used**]** ***the intent*** to cause confusion, mistake or deception.

Sec. 54. **NRS 600.430 is hereby amended to read as follows:**

600.430 1. Any owner of a mark registered in this State may proceed by suit to enjoin the manufacture, use, display or sale of counterfeits or imitations of **[**it.**]** ***the mark.***

2. A court of competent jurisdiction may:

(a) Grant injunctions to restrain such manufacture, use, display or sale as it deems just and reasonable under the circumstances;

(b) Require the defendant to pay to the owner ***of the mark*** all profits derived from the wrongful acts of the defendant and all damages suffered by reason of these acts;

(c) Require the defendant to pay to the owner ***of the mark*** treble damages on all profits derived from the willful and wrongful acts of the defendant and treble damages on all damages suffered by reason of these acts; and

(d) Order that any counterfeits or imitations in the possession or control of any defendant be delivered **[**for destruction**]** to an officer of the court or **[**to the complainant.**]** ***the owner of the mark for destruction.***

3. In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees to the prevailing party.

4. The enumeration of any right or remedy in this section does not affect ~~[a registrant's]~~ ***the*** right ***of the owner of the mark*** to prosecute under any penal law of this State.

Sec. 55. **NRS 600.435 is hereby amended to read as follows:**

600.435 1. Except as otherwise provided in subsection 4 ~~[,]~~ ***and subject to the principles of equity,*** the owner of a mark that is famous in this State may bring an action to enjoin commercial use of the mark by a person if such use:

(a) Begins after the mark has become famous; and

(b) ~~[Causes]~~ ***Is likely to cause*** dilution of the ***famous*** mark.

2. ***A mark is famous in this State if it is distinctive, inherently or through acquired distinctiveness, and is widely recognized by the general consuming public of this State or a geographic area in this State as a designation of source of the goods or services of the owner of the mark.*** In determining whether a mark is famous in this State, the court shall consider, ~~[without limitation,]~~ ***but is not limited to,*** the following factors:

(a) The ~~[degree of inherent or acquired distinctiveness of]~~ ***amount, volume and geographic extent of sales of the goods or services offered under*** the mark in this State.

(b) The duration ~~[and extent of use of the mark in connection with the goods and services with which the mark is used.~~

~~(c) The duration and extent of advertisement and promotion of the mark in this State.~~

~~(d) The geographical extent of the trading area in which the mark is used.~~

~~(e) The channels of trade for the goods or services with which the mark is used.~~

~~(f) The degree of recognition of the mark in the trading areas and channels of trade in this State used by the owner of the mark and the person against whom the injunction is sought.~~

~~(g)~~ ***, extent and geographic reach of advertising and publicity of the mark in this State, whether the mark is advertised or publicized by the owner or other persons.***

(c) The extent of actual recognition of the mark in this State.

(d) The nature and extent of use of the same or similar mark by other persons.

~~[(h)]~~ ***(e)*** Whether the mark is registered in this State or registered in the United States Patent and Trademark Office pursuant to federal law.

3. ~~[Except as otherwise provided in this subsection,]~~ ***In an action brought pursuant to this section,*** the owner of a ***famous*** mark ~~[that is famous may obtain only]~~ **:**

(a) Is entitled to injunctive relief ~~[in an action brought pursuant to this section. The owner of a mark that is famous is entitled to the remedies~~

~~provided in NRS 600.430 if~~] ***throughout the geographic area in which the mark is found to be famous, but not outside the borders of this State; and***

(b) If the person ~~[using the mark]~~ ***against whom the injunctive relief is sought*** willfully intended to cause dilution of the ***famous*** mark or willfully intended to trade on the reputation of the owner of the ***famous*** mark ~~[.]~~ ***, is entitled to the remedies provided in NRS 600.430, subject to the discretion of the court and the principles of equity.***

4. The owner of a ***famous*** mark ~~[that is famous]~~ may not bring an action pursuant to this section ~~[for the]~~ ***based on:***

(a) The fair use of the mark by another person ~~[in comparative commercial advertising]~~ ***, unless the other person wrongfully uses the mark as a designation of source for the person's own goods or services. For the purposes of this paragraph, fair use of the mark includes any nominative or descriptive fair use, or facilitation of such fair use, by the other person, including, but not limited to, use in connection with:***

(1) Advertising or promotion ~~[to identify the]~~ ***that permits consumers to compare*** competing goods or services of the owner of the mark ~~[.~~

~~5. As used in this section:~~

~~(a) "Commercial use" means use of a mark primarily for profit. The term does not include]~~ ***; or***

(2) Identifying and parodying, criticizing or commenting upon the owner of the mark or the goods or services of the owner of the mark.

(b) The noncommercial use of the mark by another person, including, but not limited to, use of ~~[a]~~ ***the*** mark for research, criticism, news commentary, news reporting, teaching or any similar use that is not primarily for profit.

~~[(b) "Dilution" means a lessening in the capacity of a mark that is famous to identify and distinguish goods or services, regardless of the presence or absence of:~~

~~(1) Competition between the owner of the mark and other persons; or~~

~~(2) Likelihood of confusion, mistake or deception as to the source of origin of goods or services.]~~

Sec. 56. **NRS 600.440 is hereby amended to read as follows:**

600.440 The rights and remedies enumerated in NRS 600.240 to 600.450, inclusive, ***and sections 14 to 28, inclusive, of this act*** are in addition to those to which an owner of a mark is entitled under the common law.

Sec. 57. **NRS 600.450 is hereby amended to read as follows:**

600.450 1. It is unlawful for any person ***:*** ~~[or corporation:]~~

(a) To imitate any mark registered as provided in NRS 600.240 to 600.450, inclusive ~~[,]~~ ***, and sections 14 to 28, inclusive, of this act;***

(b) To use knowingly any counterfeit or imitation thereof;

(c) To use or display such genuine mark unless authorized to do so; or

(d) To use or display such genuine mark in a manner not authorized by the registrant.

2. Any person ~~[violating]~~ ***who violates*** any provision of subsection 1 is guilty of a misdemeanor.

~~[Sec. 13.]~~ ***Sec. 58.*** NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without his fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall

be deemed to accrue upon the discovery by the financial institution or other lender of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

~~[Sec. 14.]~~ ***Sec. 59.*** NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive.

3. If the claimant is the prevailing party, the court shall award him:

(a) Any damages that he has sustained; ~~[and]~~

(b) ***Any equitable relief that the court deems appropriate; and***

(c) His costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

~~[Sec. 15.]~~ ***Sec. 60.*** NRS 482.554 is hereby amended to read as follows:

482.554 1. The Department may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, ***without limitation,*** returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms, or for the sale of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** for the same act. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

~~[Sec. 16.]~~ ***Sec. 61.*** NRS 489.401 is hereby amended to read as follows:

489.401 The following grounds, among others, constitute grounds for disciplinary action pursuant to NRS 489.381:

1. The intentional publication, circulation or display of any advertising which constitutes a deceptive trade practice as that term is defined in NRS 598.0915 to 598.0925, inclusive.

2. Failure to include in any advertising the name of the licensed dealer, general serviceman or specialty serviceman, or the name under which he is doing business.

3. Making any substantial misrepresentation or false promise which is likely to influence, persuade or induce, or continually failing to fulfill promises to sell, breaching agreements or contracts or making false promises by any means.

4. Failure to disclose all terms and conditions of a sale, purchase or lease or offer to sell, purchase or lease a manufactured home, mobile home or commercial coach.

5. Failure to disclose to a person with whom the licensed dealer is dealing with regard to the sale, purchase or lease of a manufactured home any material facts, structural defects or other material information which the licensed dealer knew, or which by the exercise of reasonable care and diligence should have known, concerning the manufactured home or concerning the sale, purchase or lease of the manufactured home.

6. Failure to comply with the provisions of NRS 489.595.

7. Representing to any lender, guaranteeing agency or other interested party, orally or through the preparation of false documents:

(a) An amount in excess of the actual sales price;

(b) A false amount as the down payment, earnest money deposit or other valuable consideration;

(c) Terms differing from those actually agreed upon; or

(d) False information on a credit application.

8. Inducing an applicant to falsify his credit application.

9. Failure to obtain from the holder of any lien or security interest in a manufactured home, mobile home or commercial coach, within 10 days before the closure of a sale of the manufactured home, mobile home or commercial coach, a written acknowledgment that the holder of the lien or security interest has received written notification of the sale.

~~[Sec. 17.]~~ ***Sec. 62.*** NRS 645B.189 is hereby amended to read as follows:

645B.189 1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form:

Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker who has received his initial license within the past 12 months shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

5. If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 63. **NRS 684B.040 is hereby amended to read as follows:**

684B.040 1. An applicant for a license as a motor vehicle physical damage appraiser must file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. The applicant must furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a natural person, the application must include the social security number of the applicant.

3. If the applicant is a business organization, the application must include the names of all members, officers and directors, and must designate each natural person who is to exercise the licensee's powers. A natural person who is authorized to act for a business organization and who also wishes to be licensed in an individual capacity must obtain a separate license in his own name.

4. The application must be accompanied by the applicable license fee. The Commissioner shall charge a separate fee for each person authorized to act for a business organization.

5. An applicant for a license who desires to use a name other than his true name must comply with the provisions of NRS 683A.301. The Commissioner shall not issue a license in a trade name unless the name has been registered pursuant to NRS 600.240 to 600.450, inclusive ~~.~~ , ***and sections 14 to 28, inclusive, of this act.***

6. An applicant for a license shall not willfully misrepresent or withhold any fact or information called for in the application form or in connection with his application. A violation of this subsection is a gross misdemeanor.

Sec. 64. **NRS 684B.040 is hereby amended to read as follows:**

684B.040 1. An applicant for a license as a motor vehicle physical damage appraiser shall file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. The applicant shall furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a business organization, the application must show the names of all members, officers and directors, and must designate each natural person who is to exercise the licensee's powers. A natural person who is authorized to act for a business organization and who also wishes to be licensed in an individual capacity must obtain a separate license in his own name.

3. The application must be accompanied by the applicable license fee. The Commissioner shall charge a separate fee for each person authorized to act for a business organization.

4. An applicant for a license who desires to use a name other than his true name must comply with the provisions of NRS 683A.301. The Commissioner shall not issue a license in a trade name unless the name has been registered pursuant to NRS 600.240 to 600.450, inclusive ~~.~~ , ***and sections 14 to 28, inclusive, of this act.***

5. An applicant for a license shall not willfully misrepresent or withhold any fact or information called for in the application form or in connection with his application. A violation of this subsection is a gross misdemeanor.

Sec. 65. **Notwithstanding the provisions of this act to the contrary, the amount of each fee that was authorized before the effective date of this act pursuant to NRS 600.340, 600.355, 600.360, 600.370 and 600.395 must remain in effect and must be collected by the Secretary of State until such time as the Secretary of State adopts regulations pursuant to section 24 of this act prescribing the amount of those fees.**

Sec. 66. **The provisions of sections 13 to 23, inclusive, 25 to 37, inclusive, 39, 40, 41, 43, 45, 47, 48, 49 and 51 to 57, inclusive, of this act do not affect an action or proceeding commenced or right accrued before October 1, 2010.**

~~[Sec. 18.]~~ *Sec. 67.* **1.** This ~~[act becomes]~~ **section and sections 24, 38, 42, 44, 46, 50, 63 and 65 of this act become effective upon passage and approval.**

2. Sections 1 to 12, inclusive, and 58 to 62, inclusive, of this act become effective on July 1, 2009.

3. Sections 13 to 23, inclusive, 25 to 37, inclusive, 39, 40, 41, 43, 45, 47, 48, 49, 51 to 57, inclusive, and 66 of this act become effective on October 1, 2010.

4. Section 63 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section 64 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 22.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 249.

The following Senate amendment was read:

Amendment No. 853.

AN ACT relating to public health; authorizing a district health officer or his designee who orders the extermination or abatement of mosquitoes, flies, other insects, rats or their breeding places to take certain actions to abate the nuisance; authorizing a district health officer to order an owner of real property to abate and prevent the recurrence of such a nuisance; providing that all money expended by the health district in abating and preventing the recurrence of such a nuisance constitutes a lien upon the property;

authorizing the health district to bring an action to foreclose the lien; providing a district board of health with certain authority relating to the protection of the public health and safety with respect to **residential property,** rental dwelling units **[,] and commercial property;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.5 of this bill provides that the provisions of **sections 1.5-4.5** of this bill apply to any health district created pursuant to NRS 439.362 or 439.370 (currently the Southern Nevada Health District in Clark County and the Washoe County Health District). Existing law authorizes health officers in this State to order the abatement or removal of any nuisance detrimental to the public health. (NRS 439.490) **Section 2** of this bill provides that a district health officer or his designee who orders the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof may authorize and take certain actions to abate the nuisance. **Section 3** of this bill authorizes the district health officer to order the owner of any real property to abate and prevent the recurrence of such a nuisance. The health officer is required to provide notice of the order to the owner by mail addressed to the last known address of the owner. **Section 3** provides that if the owner does not abate the nuisance within the period specified in the order, the health district is required to abate the nuisance and take any action necessary to prevent its recurrence. **Section 4** of this bill provides that all money expended by the health district in abating the nuisance and preventing its recurrence constitutes a lien upon the real property which may be recovered in an action against the property.

Existing law provides that a district board of health may, by affirmative vote of a majority of its members, adopt certain regulations which take effect immediately upon approval of the regulations by the State Board of Health. (NRS 439.366) **Section 4.5** of this bill specifically authorizes a district board of health to adopt regulations relating to any health hazard on residential property **, [or]** any health hazard in a rental dwelling unit **[,] or any health hazard on commercial property. Section 4.5** also authorizes a district board of health to adopt regulations to ensure the enforcement of laws that protect the public health and safety associated with the condition of **residential property,** rental dwelling units **[,] and commercial property.** In addition, **section 4.5** authorizes a district board of health, in carrying out its duties relating to the protection of the public health and safety associated with the condition of **residential property,** rental dwelling units **[,] and commercial property,** to take any enforcement action it determines necessary and to establish an administrative hearing process.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 4.5, inclusive, of this act.

Sec. 1.5. ***The provisions of sections 1.5 to 4.5, inclusive, of this act apply to any health district created pursuant to NRS 439.362 or 439.370.***

Sec. 2. ***A district health officer or his designee who issues an order for the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof may authorize and take any action necessary to abate the nuisance or prevent its recurrence, including, without limitation:***

1. Abate any stagnant pool of water or other breeding place for mosquitoes, flies, other insects or rats;

2. Treat with oil, other larvicidal material, other chemicals or other material any breeding place of mosquitoes, flies, other insects or rats;

3. Build, construct, repair and maintain necessary dikes, levees, cuts, canals or ditches upon any land, and acquire by purchase, condemnation or other lawful means, in the name of the health district, any land, right-of-way, easement, property or material necessary for the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof;

4. Enter into contracts to indemnify or compensate any owner of real or other property for any injury or damage caused by the use or taking of property for dikes, levees, cuts, canals or ditches;

5. Enter upon without hindrance any land, within or without the health district, to determine whether breeding places of mosquitoes, flies, other insects or rats exist upon that land; and

6. Determine whether any person subject to an order issued pursuant to section 3 of this act has complied with the order.

Sec. 3. ***1. A district health officer may issue an order requiring an owner of real property to abate and prevent the recurrence of any mosquitoes, flies, other insects, rats or any breeding place thereof by providing notice of the order to the owner by mail addressed to the last known address of the owner. The order must:***

(a) Provide that the owner shall abate the nuisance and prevent its recurrence; and

(b) Specify the period within which the abatement must be completed.

2. If the owner of the real property does not comply with the order within the time specified, the health district shall abate the nuisance and take all necessary steps to prevent its recurrence.

Sec. 4. ***1. All money expended by a health district in abating a nuisance and preventing its recurrence on real property pursuant to section 3 of this act constitutes a lien upon the property and may be recovered by an action against the property.***

2. Notice of the lien must be filed and recorded by the health district in the office of the county recorder of the county in which the property is situated not later than 6 months after the date on which the health district completes the abatement.

3. Any action to foreclose the lien must be commenced not later than 6 months after the filing and recording of the notice of the lien.

4. An action commenced pursuant to subsection 3 must be brought by the health district in the name of the health district.

5. When the property is sold, enough of the proceeds to satisfy the lien and the costs of foreclosure must be paid to the health district and the surplus, if any, must be paid to the owner of the property if known, and if not known, must be paid into the court in which the lien was foreclosed for the use of the owner if ascertained.

Sec. 4.5. ***1. In addition to any other powers, duties and authority conferred on a district board of health, the district board of health may by affirmative vote of a majority of all the members of the board adopt regulations consistent with law, which must take effect immediately on their approval by the State Board of Health, to:***

(a) Regulate any health hazard on residential property; ~~[and]~~

(b) Regulate any health hazard in a rental dwelling unit ~~[.]~~ ; and

(c) Regulate any health hazard on commercial property.

2. The district board of health may adopt regulations to ensure the enforcement of laws that protect the public health and safety associated with the condition of rental dwelling units and to recover all costs incurred by the district board of health relating thereto. Any regulation adopted pursuant to this subsection must be provided by the landlord of a rental dwelling unit to a tenant upon request to ensure that the landlord and the tenant understand their respective rights and responsibilities clearly.

3. In carrying out its duties relating to the protection of the public health and safety associated with the condition of rental dwelling units, the district board of health may:

(a) Take any enforcement action it determines necessary; and

(b) Establish an administrative hearing process, including, without limitation, the hiring of qualified hearing officers.

4. If a tenant of a rental dwelling unit provides written notice to the landlord pursuant to NRS 118A.355 specifying a failure by the landlord to maintain the dwelling unit in a habitable condition and requesting that the landlord remedy the failure and the landlord fails to remedy ~~[a material]~~ the failure or to make a reasonable effort to do so within the time prescribed in NRS 118A.355, the tenant may, in addition to any remedy provided in NRS 118A.355, provide to the district board of health a copy of the written notice that the tenant provided to the landlord. If, upon inspection of the dwelling unit, the district board of health determines that either the landlord or the tenant has failed to maintain the dwelling unit in a habitable condition, the district board of health may refer the matter to the administrative hearing process if established pursuant to subsection 3 or take any action with respect to the dwelling unit which is authorized by this section or the regulations adopted pursuant thereto.

5. Before the adoption, amendment or repeal of a regulation, the district board of health must give at least 30 days' notice of its intended action. The notice must:

(a) Include a statement of either the terms or substance of the proposal or a description of the subjects and issues involved and of the time when, the place where and the manner in which interested persons may present their views thereon;

(b) State each address at which the text of the proposal may be inspected and copied; and

(c) Be mailed to all persons who have requested in writing that they be placed on a mailing list, which must be kept by the board for such purpose.

6. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing, on the intended action to adopt, amend or repeal the regulation. With respect to substantive regulations, the district board of health shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposal and requests an oral hearing, the district board of health may proceed immediately to act upon any written submissions. The district board of health shall consider fully all written and oral submissions respecting the proposal.

7. The district board of health shall file a copy of all of its adopted regulations with the county clerk.

8. As used in this section:

(a) "Commercial property" means any real property which is not used as a dwelling unit and is not occupied as, or designed or intended for occupancy as, a residence or sleeping place.

(b) "Dwelling unit" has the meaning ascribed to it in NRS 118A.080.

~~[(b)]~~ (c) "Health hazard" means any biological, physical or chemical exposure , ~~[or]~~ condition or public nuisance that may adversely affect the health of a person.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 439.490 is hereby amended to read as follows:

439.490 Every health officer ~~[shall have authority to]~~ ***or his designee may*** order the abatement or removal of any nuisance detrimental to the public health in accordance with the laws relating to such matters.

Sec. 8. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 249.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 15.

The following Senate amendment was read:

Amendment No. 774.

AN ACT relating to animals; requiring notice of any sterilization requirements for dogs and cats required by local ordinance to be posted in a

public park and the office of each licensed veterinarian; requiring a retailer or dealer who sells a dog or cat to disclose to the purchaser any sterilization requirements for the animal required by local ordinance; ~~[providing that any local ordinance that requires the sterilization of dogs may not be enforced with respect to certain dogs;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the sterilization of pets that are released by various releasing agencies, including societies to prevent cruelty to animals, animal shelters, nonprofit entities that provide temporary shelter for pets and organizations that take into custody pets which have been abandoned, abused or neglected. (NRS 574.600-574.660) **Section 1** of this bill requires each licensed veterinarian to post in his office written notice of any sterilization requirements for dogs or cats required by local ordinance. **Section 1** further requires a governmental entity with jurisdiction over a public park to post written notice in the park of any sterilization requirements for the animals required by local ordinance. **Sections 2 and 3** of this bill require a retailer or dealer who sells a dog or cat to disclose to the purchaser **the name and address of the breeder of the dog or cat and** any sterilization requirements for the animal required by local ordinance. (NRS 574.460, 574.470) A retailer or dealer who fails to comply with the disclosure requirements is subject to an administrative fine imposed by the Director of the State Department of Agriculture in an amount not to exceed $250 for the first violation, $500 for the second violation and $1,000 for each subsequent violation. (NRS 574.485) ~~[Section 3 also provides that any local ordinance which requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily for hunting, purposes relating to farming or agriculture, breeding or drawing heavy loads, or as a service animal or service animal in training.]~~

Section 4 of this bill provides that a retailer, dealer or operator must not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensed veterinarian shall post written notice in a conspicuous place in his office of any sterilization requirements for dogs or cats required by local ordinance.

2. A governmental entity with jurisdiction over a public park in which dogs or cats are allowed shall post written notice in a conspicuous place in the park of any sterilization requirements for dogs or cats required by local ordinance.

3. As used in this section, "licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

Sec. 2. NRS 574.460 is hereby amended to read as follows:

574.460 1. A retailer or dealer shall, before selling a cat, provide the purchaser of the cat with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the cat was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the cat and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the cat ~~[, if any,]~~ and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the cat's sire and dam with the appropriate breed registry or any health certifications from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the cat before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the cat required by local ordinance.***

(h) The medical history of the cat, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and determined that the cat did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the cat is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) ***The date on which the veterinarian sterilized the cat, if applicable.***

(4) The name and address of the veterinarian who performed the examinations ***,*** ~~[or]~~ reexaminations ***or sterilization*** or administered any treatments or medications.

~~[(h)]~~ ***(i)*** That a copy of the veterinarian's evaluation of the health of the cat made pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as

an attestation that he has read and understands the disclosures contained in the statement.

Sec. 3. NRS 574.470 is hereby amended to read as follows:

574.470 1. A retailer or dealer shall, before selling a dog, provide the purchaser of the dog with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the dog was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the dog and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the dog ~~[, if any,]~~ and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the dog's sire and dam with the appropriate breed registry or any health certificates from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the dog before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the dog required by local ordinance.***

(h) The medical history of the dog, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and determined that the dog did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the dog is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and, if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) ***The date on which the veterinarian sterilized the dog, if applicable.***

(4) The name and address of the veterinarian who performed the examinations ***,*** ~~[or]~~ reexaminations ***or sterilization*** or administered any treatments or medications.

~~[(h)]~~ ***(i)*** That a copy of the veterinarian's evaluation of the health of the dog performed pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as

an attestation that he has read and understands the disclosures contained in the statement.

~~*[3. Any local ordinance that requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily:*~~

~~*(a) For hunting;*~~

~~*(b) For purposes relating to farming or agriculture;*~~

~~*(c) For breeding;*~~

~~*(d) For drawing heavy loads; or*~~

~~*(e) As a service animal or a service animal in training, as those terms are defined in NRS 426.097 and 426.099, respectively.]*~~

Sec. 4. NRS 574.500 is hereby amended to read as follows:

574.500 A retailer, dealer or operator shall not separate a dog or cat from its mother until it is ***8 weeks of age or*** accustomed to taking food or nourishment other than by nursing ~~[.]~~ ***, whichever is later.***

Assemblyman Claborn moved that the Assembly concur in the Senate amendment to Assembly Bill No. 15.

Remarks by Assemblyman Claborn.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 248.

The following Senate amendment was read:

Amendment No. 574.

AN ACT relating to holding companies; revising provisions relating to the approval of certain mergers or acquisitions of control; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill removes the requirement that the Commissioner of Insurance must approve certain mergers or acquisitions of control under certain circumstances and instead authorizes the Commissioner of Insurance to approve those mergers and acquisitions under those circumstances. Section 2 also revises]~~ **Sections 1 and 2 of this bill revise** the circumstances under which the Commissioner ~~[may]~~ **of Insurance shall** approve certain mergers or acquisitions and changes the process used by the Commissioner to approve those mergers or acquisitions. (NRS 692C.210 **, 692C.256**)

Section 2 of this bill revises existing law so that certain circumstances related to competition which would have prevented the Commissioner from stopping an acquisition will only need to be considered by the Commissioner before stopping an acquisition. **Section 2** also moves the burden from the Commissioner to the acquiring person to prove that no violation of competitive standards will exist after the acquisition. (NRS 692C.256)

Section 3 of this bill allows the Commissioner to consider the effect of an acquisition on the ~~[public]~~ interest **of the insurance-buying public** before issuing an order related to that acquisition. (NRS 692C.258)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 692C.210 is hereby amended to read as follows:

692C.210 1. Except as otherwise provided in subsection 5, the Commissioner shall ~~*[may]*~~ approve any merger or other acquisition of control referred to in NRS 692C.180 unless, after a public hearing thereon, he finds that:

(a) After the change of control, the domestic insurer specified in NRS 692C.180 would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this State or tend to create a monopoly;

(c) The financial condition of any acquiring party may jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining security holders who are unaffiliated with the acquiring party;

(d) The terms of the offer, request, invitation, agreement or acquisition referred to in NRS 692C.180 are unfair and unreasonable to the security holders of the insurer;

(e) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer ~~[and]~~ ***or*** not in the public interest;

(f) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer ~~[and]~~ ***or*** of the public to permit the merger or other acquisition of control; ~~[or]~~

(g) If approved, the merger or acquisition of control would likely be harmful or prejudicial to the members of the public who purchase insurance ~~[.]~~ ***; or***

(h) The practices of the applicant ~~*[does not possess the ability to manage]*~~ ***in managing claims*** ~~*[according to applicable standards of market conduct.]*~~ ***have evidenced a pattern in which the applicant has knowingly committed, or performed with such frequency as to indicate a general business practice of:***

(1) Misrepresentation of pertinent facts or provisions of policies of insurance as they relate to coverages at issue;

(2) Failure to affirm or deny coverage of claims within a reasonable time after written proofs of loss have been furnished; or

(3) Failure to pay claims in a timely manner.

2. The public hearing specified in subsection 1 must be held within ~~[30]~~ ***60*** days after the statement required by NRS 692C.180 has been filed, and at least 20 days' notice thereof must be given by the Commissioner to the person filing the statement. Not less than 7 days' notice of the public hearing must be given by the person filing the statement to the insurer and to any other person designated by the Commissioner. The insurer shall give such notice to its security holders. The Commissioner shall make a determination within ~~[30]~~ ***60*** days after the conclusion of the hearing. If he determines that an infusion of capital to restore capital in connection with the change in control is required, the requirement must be met within 60 days after notification is given of the determination. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent and any other person whose interests may be affected thereby may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and, in connection therewith, may conduct discovery proceedings in the same manner as is presently allowed in the district court of this State. All discovery proceedings must be concluded not later than 3 days before the commencement of the public hearing.

3. The Commissioner may retain at the acquiring party's expense attorneys, actuaries, accountants and other experts not otherwise a part of his staff as may be reasonably necessary to assist him in reviewing the proposed acquisition of control.

4. The period for review by the Commissioner must not exceed the 60 days allowed between the filing of the notice of intent to acquire required pursuant to subsection 2 of NRS 692C.180 and the date of the proposed acquisition if the proposed affiliation or change of control involves a financial institution, or an affiliate of a financial institution, and an insured.

5. When making a determination pursuant to paragraph (b) of subsection 1, the Commissioner:

(a) Shall require the submission of the information specified in subsection 2 of NRS 692C.254; ***and***

(b) ~~[Shall not disapprove the merger or acquisition of control if he finds that any of the circumstances specified in subsection 3 of NRS 692C.256 exist; and~~

~~(c)]~~ May condition his approval of the merger or acquisition of control in the manner provided in subsection 4 of NRS 692C.258.

6. If, in connection with a change of control of a domestic insurer, the Commissioner determines that the person who is acquiring control of the domestic insurer must maintain or restore the capital of the domestic insurer in an amount that is required by the laws and regulations of this State, the Commissioner shall make the determination not later than 60 days after the notice of intent to acquire required pursuant to subsection 2 of NRS 692C.180 is filed with the Commissioner.

Sec. 2. NRS 692C.256 is hereby amended to read as follows:

692C.256 1. The Commissioner may issue an order pursuant to NRS 692C.258 relating to an acquisition if:

(a) The effect of the acquisition may substantially lessen competition in any line of insurance in this State or tend to create a monopoly; or

(b) The acquiring person fails to file sufficient materials or information pursuant to NRS 692C.254.

2. In determining whether to issue an order pursuant to subsection 1, the Commissioner shall consider the standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the notice required pursuant to NRS 692C.254.

3. The Commissioner shall ~~[not issue]~~ ***, before issuing*** an order specified in subsection 1 ~~[.]~~ ***, consider:***

(a) If:

(1) The acquisition creates substantial economies of scale or economies in the use of resources that may not be created in any other manner; and

(2) The public benefit received from those economies exceeds the public benefit received from not lessening competition; or

(b) If:

(1) The acquisition substantially increases the availability of insurance; and

(2) The public benefit received by that increase exceeds the public benefit received from not lessening competition.

4. The public benefits set forth in subparagraph 2 of paragraphs (a) and (b) of subsection 3 may be considered together, as applicable, in assessing whether the public benefits received from the acquisition exceed any benefit to competition that would arise from disapproving the acquisition.

5. The ~~[Commissioner]~~ ***acquiring person*** has the burden of establishing ***that the acquisition will not result in*** a violation of the competitive standard set forth in subsection 1.

Sec. 3. NRS 692C.258 is hereby amended to read as follows:

692C.258 1. Except as otherwise provided in this section, if the Commissioner determines that an acquisition may substantially lessen competition in any line of insurance in this State ***,*** ~~[or]~~ tends to create a monopoly ~~[,]~~ ***or is not in the*** ~~*[public]*~~ ***interest*** ~~*[,]*~~ ***of members of the public who purchase insurance,*** he may issue an order:

(a) Requiring an involved insurer to cease and desist from doing business in this State relating to that line of insurance; or

(b) Denying the application of an acquired or acquiring insurer for a license or authority to do business in this State.

2. The Commissioner shall not issue an order pursuant to subsection 1 unless:

(a) He conducts a hearing concerning the acquisition in accordance with NRS 679B.310 to 679B.370, inclusive;

(b) A notice of the hearing is issued before the expiration of the waiting period for the acquisition specified in NRS 692C.254, but not less than 15 days before the hearing; and

(c) The hearing is conducted and the order is issued not later than 60 days after the expiration of the waiting period.

3. Each order issued pursuant to subsection 1 must include a written decision of the Commissioner setting forth his findings of fact and conclusions of law relating to the acquisition.

4. An order issued pursuant to this section does not become final until 30 days after it is issued, during which time the involved insurer may submit to the Commissioner a plan to remedy, within a reasonable period, the anticompetitive effect of the acquisition ~~[.]~~ ***or the failure to protect the*** ~~*[public]*~~ ***interest*** ~~*[.]*~~ ***of members of the public who purchase insurance.*** As soon as practicable after receiving the plan, the Commissioner shall, based upon the plan and any information included in the plan, issue a written determination setting forth:

(a) The conditions or actions, if any, required to:

(1) Eliminate the anticompetitive effect of the acquisition ~~[;]~~ ***or protect the*** ~~*[public]*~~ ***interest*** ~~*[;]*~~ ***of members of the public who purchase insurance;*** and

(2) Vacate or modify the order; and

(b) The period in which the conditions or actions specified in paragraph (a) must be performed.

5. An order issued pursuant to subsection 1 does not apply to an acquisition that is not consummated.

6. A person who violates a cease and desist order issued pursuant to this section during any period in which the order is in effect is subject, at the discretion of the Commissioner, to:

(a) The imposition of a civil penalty of not more than $10,000 per day for each day the violation continues;

(b) The suspension or revocation of the person's license or certificate of authority; or

(c) Both the imposition of a civil penalty pursuant to paragraph (a) and the suspension or revocation of the person's license or certificate of authority pursuant to paragraph (b).

7. In addition to any fine imposed pursuant to NRS 692C.480, any insurer or other person who fails to make any filing required by NRS 692C.252 to 692C.258, inclusive, and who fails to make a good faith effort to comply with any such requirement is subject to a fine of not more than $50,000.

8. The provisions of NRS 692C.430, 692C.440 and 692C.460 do not apply to an acquisition to which the provisions of NRS 692C.252 apply.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 248.

Remarks by Assemblyman Conklin.
Motion carried by a constitutional majority.
Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 354 be taken from the Chief Clerk's desk and placed on the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 103.
Bill read third time.
Remarks by Assemblyman Aizley.
Conflict of interest declared by Assemblyman Bobzien.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that under Rule No. 23, the Assembly waive the requirement for individual disclosure for purposes of a group disclosure.
Motion carried.

Assemblyman Conklin:
For the purposes of Rule No. 23, we would like to disclose that we are public employees who are participating in the Public Employees Benefits Program. Under Rule No. 23, we determine that our interests as a result of that participation does not impede our independence of judgment because our interests are no greater than the interest of any other participant in PEBP. Therefore, the following people will be voting on this bill: Mr. Kihuen, Ms. Dondero Loop, Mr. Bobzien, Mr. Anderson, Mr. Segerblom, Mr. Denis, Mr. Ohrenschall, Ms. Parnell, Mr. Stewart, Mr. Oceguera, Mr. Atkinson, Mr. Carpenter, Mr. Goicoechea, Mr. Settelmeyer, Ms. Koivisto, Mr. Gustavson, Ms. McClain, Mr. Aizley, Mr. Munford, and Mr. Arberry. This is the last time I will have to do either one of these. The disclosure from now on will be very simple.

GENERAL FILE AND THIRD READING

Roll call on Senate Bill No. 103:
YEAS—40.
NAYS—None.
NOT VOTING—Bobzien.
EXCUSED—Grady.
Senate Bill No. 103 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 173.
Bill read third time.
Remarks by Assemblywoman Mastroluca.
Roll call on Senate Bill No. 173:
YEAS—41.
NAYS—None.
EXCUSED—Grady.

Senate Bill No. 173 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 5:49 p.m.

ASSEMBLY IN SESSION

At 7:04 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 295, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 239, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 522, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 25.

Also, I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 560, 562.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 543, Amendment No. 880, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Assembly Bill No. 480.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 311.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 311.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that the Assembly immediately transmit all bills and resolutions passed for this legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 239.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 920.

AN ACT relating to state departments; providing for greater coordination of Nevada's economic development and workforce development goals; ~~[requiring the Department of Employment, Training and Rehabilitation to adopt regulations regarding small business investment companies and a small business investment credit;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1.3 of this]~~ **This** bill requires the Governor's Workforce Investment Board to establish industry sector councils to identify job training and education programs to best meet regional economic development goals. ~~[Section 1.3]~~ **This bill** also requires the Board to identify and seek federal funding to provide grants to fund those job training and education programs. ~~[Section 1.7 of this bill requires the Department of Employment, Training and Rehabilitation to adopt regulations for a program for a small business investment credit and a small business investment company.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 232 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 1.3 and 1.7 of this act.~~

~~Sec. 1.3.]~~ **a new section to read as follows:**

1. In appointing members of the Governor's Workforce Investment Board, the Governor shall ensure that the membership as a whole represents:

(a) Industry sectors which are essential to this State and which are driven primarily by demand;

(b) Communities and areas of economic development which are essential to this State; and

(c) The diversity of the workforce of this State, including, without limitation, geographic diversity and the diversity within regions of this State.

2. The Governor's Workforce Investment Board shall:

(a) Identify:

(1) Industry sectors which are essential to this State; and

(2) The region or regions of this State where the majority of the operations of each of those industry sectors is conducted; and

(b) Establish:

(1) Regional goals for economic development for each of the industry sectors identified pursuant to paragraph (a); and

(2) A council for each industry sector.

(c) Consider and develop programs to promote:

(1) Strategies to improve labor markets for industries and regions of this State, including, without limitation, improving the availability of relevant information;

(2) Coordination of the efforts of relevant public and private agencies and organizations;

(3) Strategies for providing funding as needed by various industry sectors;

(4) Increased production capacities for various industry sectors;

(5) The development of useful measurements of performance and outcomes in various industry sectors;

(6) Participation by and assistance from state and local government agencies;

(7) Expanded market penetration, including, without limitation, by providing assistance to employers with small numbers of employees;

(8) Partnerships between labor and management;

(9) Business associations;

(10) The development of improved instructional and educational resources for employers and employees; and

(11) The development of improved economies of scale, as applicable, in industry sectors.

3. Each industry sector council established pursuant to subparagraph (2) of paragraph (b) of subsection 2:

(a) Must be composed of representatives from:

(1) Employers within that industry;

(2) Organized labor within that industry;

(3) Universities and community colleges; and

(4) Any other relevant group of persons deemed to be appropriate by the Board.

(b) Shall, within the parameters set forth in the American Recovery and Reinvestment Act of 2009 or the parameters of any other program for

which the federal funding is available, identify job training and education programs which the industry sector council determines to have the greatest likelihood of meeting the regional goals for economic development established for that industry sector pursuant to subparagraph (1) of paragraph (b) of subsection 2.

4. The Board shall:

(a) Identify and apply for federal funding available for the job training and education programs identified pursuant to paragraph (b) of subsection 3;

(b) Consider and approve or disapprove applications for money;

(c) Provide and administer grants of money to industry sector councils for the purpose of establishing job training and education programs in industry sectors for which regional goals for economic development have been established pursuant to subparagraph (1) of paragraph (b) of subsection 2; and

(d) Adopt regulations establishing:

(1) Guidelines for the submission and review of applications to receive grants of money from the Department; and

(2) Criteria and standards for the eligibility for and use of any grants made pursuant to paragraph (c).

5. As used in this section, "industry sector" means a group of employers closely linked by common products or services, workforce needs, similar technologies, supply chains or other economic links.

Sec. 1.7. ~~[*1. The Department shall adopt regulations creating a program for a small business investment credit and providing the powers and duties of a small business investment company.*~~

~~*2. A person may apply to the Department for a small business investment credit. Such an application must be made on a form prescribed by the Department.*~~

~~*3. A person may apply to the Department for certification as a small business investment company. Such an application must include, without limitation:*~~

~~*(a) A completed application for certification as a small business investment company on a form prescribed by the Department;*~~

~~*(b) A nonrefundable fee of $7,500;*~~

~~*(c) An audited financial statement accompanied by a report of audit containing the unqualified opinion of an independent certified public accountant issued not more than 35 days before the date of the application which states that the applicant has an equity capitalization of $500,000 or more in the form of unencumbered cash, marketable securities or other liquid assets;*~~

~~*(d) Proof acceptable to the Department that the company has at least two persons employed or otherwise engaged to manage the money of the company who each have a minimum of 5 years of experience in money*~~

~~*management in the venture capital or small business investment industry; and*~~

~~*(c) Proof acceptable to the Department that the primary business purpose of the company is to make investments in industry sectors that the Department deems important, including, without limitation, global energy, rural economic development, enterprise zones and minority owned businesses.*~~

~~*4. As used in this section, "industry sector" has the meaning ascribed to it in section 1.3 of this act.]*~~ **(Deleted by amendment.)**

Sec. 2. NRS 232.900 is hereby amended to read as follows:

232.900 As used in NRS 232.900 to 232.960, inclusive, ***and*** ~~*[sections 1.3 and 1.7]*~~ ***section 1 of this act,*** unless the context otherwise requires:

1. "Department" means the Department of Employment, Training and Rehabilitation.

2. "Director" means the Director of the Department.

Sec. 3. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 295.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 932.

AN ACT relating to dentistry; providing certain exceptions from the list of persons deemed to be practicing dentistry; providing that certain acts are not precluded pursuant to the statutes governing dentistry; **providing for the revocation of the state business license, under certain circumstances, of a person who manages the business of a dental practice, office or clinic;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the acts which constitute the practice of dentistry and a list of related acts which may be performed by persons not licensed by the Board of Dental Examiners of Nevada. (NRS 631.215) **Section 5** of this bill revises that list to provide that a person may provide **certain** goods or services to a dental practice, office or clinic owned or operated by a licensed dentist or certain entities, with certain limitations.

Section 2 of this bill ~~**[**sets forth a list of certain acts which are**]**~~ **provides that a person or entity is** not precluded by the provisions of chapter 631 of NRS ~~**[**, including certain management services and the ownership of certain assets used in**]**~~ **from providing certain goods or services to** a dental practice, office or clinic.

Section 3 of this bill provides that the contracting for, provision of and payment for **certain** goods or services to a dental practice, office or clinic

under certain circumstances do not constitute violations of law or cause for disciplinary action under chapter 631 of NRS.

~~[Section 4 of this bill requires a person who provides management services to a dental practice, office or clinic to register certain information with the Board.]~~

Sections 4.5 and 6 of this bill provide for the revocation of the state business license of a person who manages the business of a dental practice, office or clinic if the person commits certain prohibited acts.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 631 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[, 3 and 4]~~ **to 4.5, inclusive,** of this act.

Sec. 2. ***Nothing in this chapter precludes a person or entity not licensed by the Board from*** ~~*[:*~~

~~*1. Owning or leasing any tangible or intangible assets used in a dental practice, office or clinic. These assets include, without limitation, real property, furnishings, equipment and inventory. These assets do not include patients' dental records as they relate to clinical care.*~~

~~*2. Employing or contracting for the services of personnel other than licensed dentists and hygienists.*~~

~~*3. Managing]*~~ ***providing goods or services for the support of the business of a dental practice, office or clinic*** ~~*[but]*~~ ***if the person or entity does not manage or control the clinical practice of dentistry.***

Sec. 3. ***1. It is not a violation of NRS 631.395, or an act of dishonorable or unprofessional conduct under NRS 631.346 to 631.349, inclusive, for a person described in paragraph (f) of subsection 2 of NRS 631.215 to provide, or receive payment for providing, goods or services in accordance with the conditions set forth in paragraph (f) of subsection 2 of NRS 631.215.***

2. It is not a violation of NRS 631.346 for a dentist or a professional entity organized by a dentist pursuant to the provisions of chapter 89 of NRS to contract with a person described in and operating in accordance with the conditions set forth in paragraph (f) of subsection 2 of NRS 631.215.

Sec. 4. ~~*[A person who manages the business of a dental practice, office or clinic shall register with the Board:*~~

~~*1. The name and business address of the person;*~~

~~*2. The address of the dental practice, office or clinic of the business which the person manages; and*~~

~~*3. The names of the licensed dentist or other entity not prohibited from owning or operating a dental practice, office or clinic whose business the person manages.]*~~ **(Deleted by amendment.)**

Sec. 4.5. 1. If the Board determines that a person who provides goods or services for the support of the business of a dental practice, office

or clinic has committed any act described in subparagraph (1), (2) or (3) of paragraph (f) of subsection 2 of NRS 631.215, the Board may seek revocation of any state business license held by that person by submitting a request for such revocation to the Department of Taxation.

2. Upon receipt of a request for a revocation of a state business license pursuant to subsection 1, the Department of Taxation shall commence proceedings to revoke that license in accordance with the provisions of this section and in the manner provided in subsections 2, 3 and 4 of NRS 360.798 as if the holder of the license had failed to comply with a provision of NRS 360.760 to 360.798, inclusive. In addition to providing notice of a hearing to the holder of the license pursuant to NRS 360.798, the Department of Taxation shall provide notice of the hearing to the Board and allow the Board to show cause why the license should be revoked.

3. The Department of Taxation shall not issue a new license to the former holder of a state business license revoked pursuant to this section unless the Department receives notification from the Board that the Board is satisfied that the person:

(a) Will comply with any regulations of the Board adopted pursuant to the provisions of this chapter; and

(b) Will not commit any act described in subparagraph (1), (2) or (3) of paragraph (f) of subsection 2 of NRS 631.215 or any act prohibited by regulations of the Board adopted pursuant to the provisions of this chapter.

4. As used in this section, "state business license" has the meaning ascribed to it in NRS 360.773.

Sec. 5. NRS 631.215 is hereby amended to read as follows:

631.215 1. Any person shall be deemed to be practicing dentistry who:

(a) Uses words or any letters or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;

(b) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;

(c) Diagnoses, professes to diagnose or treats or professes to treat any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof;

(d) Extracts teeth;

(e) Corrects malpositions of the teeth or jaws;

(f) Takes impressions of the teeth, mouth or gums, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(g) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;

(h) Places in the mouth and adjusts or alters artificial teeth;

(i) Does any practice included in the clinical dental curricula of accredited dental colleges or a residency program for those colleges;

(j) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases;

(k) Uses X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(l) Determines:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable; or

(m) Dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(1) Dispensing or using a product that may be purchased over the counter for a person's own use; or

(2) Authorized by the regulations of the Board to engage in such activities without being a licensed dentist.

2. Nothing in this section:

(a) Prevents a dental assistant, dental hygienist or qualified technician from making radiograms or X-ray exposures or using X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes upon the direction of a licensed dentist.

(b) Prohibits the performance of mechanical work, on inanimate objects only, by any person employed in or operating a dental laboratory upon the written work authorization of a licensed dentist.

(c) Prevents students from performing dental procedures that are part of the curricula of an accredited dental school or college or an accredited school of dental hygiene or an accredited school of dental assisting.

(d) Prevents a licensed dentist or dental hygienist from another state or country from appearing as a clinician for demonstrating certain methods of technical procedures before a dental society or organization, convention or dental college or an accredited school of dental hygiene or an accredited school of dental assisting.

(e) Prohibits the manufacturing of artificial teeth upon receipt of a written authorization from a licensed dentist if the manufacturing does not require direct contact with the patient.

(f) Prohibits a person from providing goods or services ~~[to]~~ <u>for the support of the business of</u> a dental practice, office or clinic owned or operated by a licensed dentist or any entity not prohibited from owning or operating a dental practice, office or clinic if the person does not:

(1) Provide such goods or services in exchange for payments based on a percentage or share of revenues of the dental practice, office or clinic; ~~[or]~~

(2) <u>Share in the profits or revenue of the dental practice, office or clinic; or</u>

(3) Exercise any authority or control over ~~[:~~

~~(I) The~~ <u>the clinical practice of dentistry.</u>

3. The Board shall adopt regulations identifying activities that constitute the exercise of authority or control over the clinical practice of dentistry, including, without limitation, activities which:

(a) Exert authority or control over the clinical judgment of a licensed dentist ; or ~~*[relieve]*~~

(b) Relieve a licensed dentist of responsibility for ~~*[oversight of all]*~~ ***the clinical aspects of the dental practice.***

~~*[*~~ ~~*(II) The formation or approval of any contract for the provision of dental services to a patient by a licensed dentist.*~~

~~*(III) The hiring or firing of licensed dentists or hygienists or the material clinical terms of the relationship between a licensed dentist and other licensed dentists or hygienists.*~~

~~*(IV) The referrals by a licensed dentist to another licensed dentist or place any restriction or limitation on referral of patients to a specialist or any other practitioner a licensed dentist determines is necessary.*~~

~~*(V) A licensed dentist's use of any type of procedure on a patient or establishment of a treatment plan for a patient.*~~

~~*(VI) Patient records to the exclusion of the applicable licensed dentist or the applicable patient.*~~

~~*(VII) A licensed dentist's schedule, including time spent with any patient, or place conditions on the number of patients a licensed dentist may see in a period of time.]*~~

Sec. 6. **NRS 360.798 is hereby amended to read as follows:**

360.798 1. If a person who holds a state business license fails to comply with a provision of NRS 360.760 to 360.798, inclusive, or a regulation of the Department adopted pursuant thereto, the Department may revoke or suspend the state business license of the person.

2. Before ~~[so doing,]~~ ***revoking or suspending the state business license of a person,*** the Department must hold a hearing after 10 days' written notice to the licensee. The notice must specify the time and place of the hearing and require the licensee to show cause why his license should not be revoked.

~~[2.]~~ ***3.*** If the license is suspended or revoked, the Department shall give written notice of the action to the person who holds the state business license.

~~[3.]~~ ***4.*** The notices required by this section may be served personally or by mail in the manner provided in NRS 360.350 for the service of a notice of the determination of a deficiency.

~~[4.]~~ ***5.*** The Department shall not issue a new license to the former holder of a revoked state business license unless the Department is satisfied that the person will comply with the provisions of this chapter and the regulations of the Department adopted pursuant thereto.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bills Nos. 175, 190, 213, 239, and 295.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 269 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 263 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 239 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bills Nos. 239 and 295 considered engrossed, declared an emergency measure under the *Constitution*, and placed on third reading and final passage.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 239 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 269.

Bill read third time.

The following amendment was proposed by Assemblymen Anderson and Conklin:

Amendment No. 905.

AN ACT relating to professions; requiring a provider of health care to disclose the results of certain tests to a designated investigator or member of the State Board of Osteopathic Medicine; providing for the licensure of perfusionists; prohibiting a person from engaging in the practice of perfusion without a license issued by the Board of Medical Examiners; providing for the immediate suspension of a license to practice medicine upon the conviction of the holder of the license of certain violations; expanding the definition of "practice of medicine" to include the performance of an autopsy; revising other provisions governing the issuance of a license to practice medicine by the Board of Medical Examiners; authorizing any person to file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care under certain

circumstances; revising provisions governing osteopathic medicine ~~[;]~~ **and psychologists;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes extensive changes to existing law governing the practice of medicine and osteopathic medicine. This bill also provides for the licensing and regulation of perfusionists by the Board of Medical Examiners. A perfusionist is a medical professional who, under the order and supervision of a physician, performs various medical functions to ensure the safe management of a patient's cardiovascular, circulatory or respiratory system or other organs during surgical and other medical procedures. **Sections 1, 3-13, 15, 16, 19-21, 24, 29, 33, 34, 39, 45, 46, 50-52, 55, 59-65, 70 and 79-85** of this bill amend various provisions of NRS to ensure that perfusionists are licensed and regulated by the Board of Medical Examiners in approximately the same manner as physicians, physician assistants and practitioners of respiratory care. (NRS 629.031, 630.003, 630.005, 630.045, 630.047, 630.120, 630.137, 630.167, 630.197, 630.268, 630.307, 630.309, 630.326, 630.329, 630.336, 630.346, 630.358, 630.366, 630.388, 630.390, 630.400, 630A.090, 632.472, 633.171, 652.210, 200.471, 200.5093, 200.50935, 372.7285, 374.731, 432B.220)

This bill also makes various changes relating to the Board of Medical Examiners and the practice of medicine. **Section 14** of this bill adds a new section to chapter 630 of NRS that provides for the immediate suspension of a license issued by the Board upon the conviction of the licensee of a felony for a violation of a federal or state law or regulation relating to his practice. **Section 17** of this bill expands the definition of "practice of medicine" to include the performance of an autopsy. (NRS 630.020) **Section 18** of this bill deletes existing provisions of law that authorize the Board to revoke a license only in accordance with certain provisions. (NRS 630.045) **Section 22** of this bill changes the fiscal year for the Board to commence on January 1 and end on December 31. (NRS 630.123) **Section 25** of this bill authorizes the Executive Director of the Board to ~~[issue]~~ **sign** subpoenas ~~[when conducting]~~ **issued in connection with hearings and** investigations ~~[for]~~ **conducted by** the Board. (NRS 630.140) **Sections 26-28, 30-32 and 35** of this bill make various changes concerning the requirements for the issuance of licenses by the Board, including the information required to be submitted for a license, the submission of the fingerprints of the applicant and the appeal of a denial of an application. (NRS 630.160, 630.1605, 630.167, 630.170, 630.173, 630.195, 630.200) **Sections 36-38** of this bill revise certain categories of licenses issued by the Board, including the issuance of a special volunteer medical license to a physician who participates in disaster relief operations and the issuance of an authorized facility license. (NRS 630.258, 630.261, 630.262) **Section 40** of this bill requires a person who wishes to practice respiratory care to complete an educational program for respiratory care approved by the Commission on Accreditation of Allied Health Education

Programs or the Committee on Accreditation for Respiratory Care. (NRS 630.277) **Sections 41-45, 47-49, 53, 54, 57 and 58** of this bill make numerous changes concerning the investigation of complaints against licensees, the grounds for the imposition of disciplinary action and the procedures to be followed in disciplinary proceedings. (NRS 630.299, 630.306, 630.3062, 630.307, 630.311, 630.318, 630.326, 630.339, 630.342, 630.352, 630.356)

Sections 66-78 of this bill make similar changes relating to the State Board of Osteopathic Medicine and the practice of osteopathy. **Section 67** adds a new section to chapter 633 of NRS which authorizes the Board or an investigative committee of the Board to issue to a person who violates or is violating the provisions of that chapter a letter of warning, a letter of concern or a nonpunitive admonishment. **Section 68** also adds a new section to that chapter which establishes the standard of proof in disciplinary proceedings that are conducted pursuant to that chapter. **Sections 69-78** make various changes concerning unprofessional conduct, the requirements for licensure to practice osteopathic medicine, examinations, the grounds for disciplinary action and the imposition of penalties after a disciplinary proceeding. (NRS 633.131, 633.171, 633.322, 633.331, 633.411, 633.511, 633.561, 633.625, 633.651, 633.691)

Section 78.1 of this bill defines "national examination" to mean the Examination for Professional Practice in Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board of Psychological Examiners.

Section 78.3 of this bill revises the requirements for an application for a license to practice psychology in this State to add the submission of a complete set of fingerprints and written permission authorizing the Board of Psychological Examiners to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or verification that the set of fingerprints was directly forwarded to the Central Repository by the entity taking the prints.

Existing law provides that the Board of Psychological Examiners may require an applicant for a license to pass an oral examination in whatever applied or theoretical fields it deems appropriate, in addition to a written examination. Section 78.4 of this bill eliminates: (1) the requirement that the additional examination be conducted orally; (2) the provisions relating to the frequency, time, location and supervision of the examination; (3) the requirement that the Board supply each applicant with a copy of the results of his written examination provided to the Board by the Association; and (4) the right of the applicant to request that the Board review his examination if he fails the examination.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by ***a*** specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, ***perfusionist,*** doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. NRS 629.069 is hereby amended to read as follows:

629.069 1. A provider of health care shall disclose the results of all tests performed pursuant to NRS 441A.195 to:

(a) The person who was tested and, upon request, a member of the family of a decedent who was tested;

(b) The law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee, other person who is employed by an agency of criminal justice or other public employee whose duties may require him to come into contact with human blood or bodily fluids who filed the petition or on whose behalf the petition was filed pursuant to NRS 441A.195;

(c) The designated health care officer for the employer of the person described in paragraph (b) or, if there is no designated health care officer, the person designated by the employer to document and verify possible exposure to contagious diseases; **[**and**]**

(d) If the person who was tested is incarcerated or detained, the person in charge of the facility in which the person is incarcerated or detained and the chief medical officer of the facility in which the person is incarcerated or detained, if any **[**.**]** ***; and***

(e) A designated investigator or member of the State Board of Osteopathic Medicine during any period in which the Board is investigating the holder of a license pursuant to chapter 633 of NRS.

2. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

Sec. 3. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 14, inclusive, of this act.

Sec. 4. ***1. "Perfusion" means the performance of functions which are necessary to provide for the support, treatment, measurement or supplementation of a patient's cardiovascular, circulatory or respiratory system or other organs, or any combination of those activities, and to***

ensure the safe management of the patient's physiological functions by monitoring and analyzing the parameters of the patient's systems or organs under the order and supervision of a physician.

2. The term includes, without limitation:

(a) The use of extracorporeal circulation and any associated therapeutic and diagnostic technologies; and

(b) The use of long-term cardiopulmonary support techniques.

3. As used in this section, "extracorporeal circulation" means the diversion of a patient's blood through a heart-lung bypass machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

Sec. 5. ***"Perfusionist" means a person who is licensed to practice perfusion by the Board.***

Sec. 6. ***"Temporarily licensed perfusionist" means a person temporarily licensed to practice perfusion by the Board pursuant to section 13 of this act.***

Sec. 7. ***The Board shall adopt regulations regarding the licensure of perfusionists, including, without limitation:***

1. The criteria for licensure as a perfusionist and the standards of professional conduct for holders of such a license;

2. The qualifications and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;

3. The requirements for any practical, oral or written examination for a license that the Board may require pursuant to section 9 of this act, including, without limitation, the passing grade for such an examination;

4. The fees for examination and for reinstatement of expired licenses;

5. The requirements for continuing education for the renewal of a license;

6. A code of ethics for perfusionists; and

7. The procedures for the revocation, suspension or denial of a license for a violation of this chapter or the regulations of the Board.

Sec. 8. ***To be eligible for licensing by the Board as a perfusionist, an applicant must:***

1. Be a natural person of good moral character;

2. Submit a completed application as required by the Board by the date established by the Board;

3. Submit any required fees by the date established by the Board;

4. Have successfully completed a perfusion education program approved by the Board, which must:

(a) Have been approved by the Committee on Allied Health Education and Accreditation of the American Medical Association before June 1, 1994; or

(b) Be a program that has educational standards that are at least as stringent as those established by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied

Health Education Programs of the American Medical Association, or its successor;

5. Pass an examination required pursuant to section 9 of this act; and

6. Comply with any other requirements set by the Board.

Sec. 9. ***1. The Board shall use the certification examinations given by the American Board of Cardiovascular Perfusion or its successor in determining the qualifications for granting a license to practice perfusion.***

2. The Board shall notify each applicant of the results of the examination.

3. If a person who fails the examination makes a written request, the Board shall furnish the person with an analysis of his performance on the examination.

Sec. 10. ***The Board shall waive the examination required pursuant to section 9 of this act for an applicant who at the time of application:***

1. Is licensed as a perfusionist in another state, territory or possession of the United States, if the requirements for licensure are substantially similar to those required by the Board; or

2. Holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion or its successor before October 1, 2009.

Sec. 11. ***1. The Board shall issue a license as a perfusionist to each applicant who proves to the satisfaction of the Board that the applicant is qualified for licensure. The license authorizes the applicant to represent himself as a licensed perfusionist and to practice perfusion in this State subject to the conditions and limitations of this chapter.***

2. Each licensed perfusionist shall:

(a) Display his current license in a location which is accessible to the public;

(b) Keep a copy of his current license on file at any health care facility where he provides services; and

(c) Notify the Board of any change of address in accordance with NRS 630.254.

3. As used in this section, "health care facility" means a medical facility or facility for the dependent licensed pursuant to chapter 449 of NRS.

Sec. 12. ***1. Each license issued pursuant to section 11 of this act expires on July 1 of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:***

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of his completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to section 8 of this act.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made is automatically suspended and may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to section 9 of this act.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 13. ***1. The Board may issue a temporary license to practice perfusion in this State to a person who has not yet completed the examination required pursuant to section 9 of this act but who:***

(a) Has completed an approved perfusion education program;

(b) Files an application; and

(c) Pays the required fee.

2. A perfusionist shall supervise and direct a temporarily licensed perfusionist at all times during which the temporarily licensed perfusionist performs perfusion.

3. A temporary license is valid for 1 year after the date it is issued and may be extended subject to regulation by the Board. The application for renewal must be signed by a supervising licensed perfusionist.

4. If a temporarily licensed perfusionist fails any portion of the examination required pursuant to section 9 of this act, he shall immediately surrender the temporary license to the Board.

Sec. 14. ***If the holder of a license that is issued or renewed pursuant to this chapter is convicted of a felony for a violation of any federal or state law or regulation relating to the holder's practice, the conviction operates as an immediate suspension of the license.***

Sec. 15. NRS 630.003 is hereby amended to read as follows:

630.003 1. The Legislature finds and declares that:

(a) It is among the responsibilities of State Government to ensure, as far as possible, that only competent persons practice medicine ***, perfusion*** and respiratory care within this State;

(b) For the protection and benefit of the public, the Legislature delegates to the Board of Medical Examiners the power and duty to determine the initial and continuing competence of physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care who are subject to the provisions of this chapter;

(c) The Board must exercise its regulatory power to ensure that the interests of the medical profession do not outweigh the interests of the public;

(d) The Board must ensure that unfit physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care are removed from the medical profession so that they will not cause harm to the public; and

(e) The Board must encourage and allow for public input into its regulatory activities to further improve the quality of medical practice within this State.

2. The powers conferred upon the Board by this chapter must be liberally construed to carry out these purposes for the protection and benefit of the public.

Sec. 16. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.025, inclusive, ***and sections 4, 5 and 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 17. NRS 630.020 is hereby amended to read as follows:

630.020 "Practice of medicine" means:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality ~~[.]~~ ***, including, but not limited to, the performance of an autopsy.***

2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

Sec. 18. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege ***.*** ~~[, but the Board may revoke such a license only in accordance with the provisions of NRS 630.348.]~~

Sec. 19. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege.

Sec. 20. NRS 630.047 is hereby amended to read as follows:

630.047 1. This chapter does not apply to:

(a) A medical officer or ***perfusionist or*** practitioner of respiratory care of the Armed Services or a medical officer or ***perfusionist or*** practitioner of

respiratory care of any division or department of the United States in the discharge of his official duties;

(b) Physicians who are called into this State, other than on a regular basis, for consultation with or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside;

(c) Physicians who are legally qualified to practice in the state where they reside and come into this State on an irregular basis to:

(1) Obtain medical training approved by the Board from a physician who is licensed in this State; or

(2) Provide medical instruction or training approved by the Board to physicians licensed in this State;

(d) Any person permitted to practice any other healing art under this title who does so within the scope of that authority, or healing by faith or Christian Science;

(e) The practice of respiratory care by a student as part of a program of study in respiratory care that is approved by the Board, or is recognized by a national organization which is approved by the Board to review such programs, if the student is enrolled in the program and provides respiratory care only under the supervision of a practitioner of respiratory care;

(f) The practice of respiratory care by a student who:

(1) Is enrolled in a clinical program of study in respiratory care which has been approved by the Board;

(2) Is employed by a medical facility, as defined in NRS 449.0151; and

(3) Provides respiratory care to patients who are not in a critical medical condition or, in an emergency, to patients who are in a critical medical condition and a practitioner of respiratory care is not immediately available to provide that care and the student is directed by a physician to provide respiratory care under his supervision until a practitioner of respiratory care is available;

(g) The practice of respiratory care by a person on himself or gratuitous respiratory care provided to a friend or a member of a person's family if the provider of the care does not represent himself as a practitioner of respiratory care;

(h) A ~~[~~cardiopulmonary perfusionist who is under the supervision of a surgeon or an anesthesiologist;

~~(i) A~~~~]~~ person who is employed by a physician and provides respiratory care ***or services as a perfusionist*** under the supervision of that physician;

~~[(j)]~~ ***(i)*** The maintenance of medical equipment for ***perfusion or*** respiratory care that is not attached to a patient; and

~~[(k)]~~ ***(j)*** A person who installs medical equipment for respiratory care that is used in the home and gives instructions regarding the use of that equipment if the person is trained to provide such services and is supervised by a provider of health care who is acting within the authorized scope of his practice.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services outside of a medical school or medical facility by a person who is not a physician, physician assistant or practitioner of respiratory care in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 21. NRS 630.120 is hereby amended to read as follows:

630.120 1. The Board shall procure a seal.

2. All licenses issued to physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care must bear the seal of the Board and the signatures of its President and Secretary-Treasurer.

Sec. 22. NRS 630.123 is hereby amended to read as follows:

630.123 The Board shall operate on the basis of a fiscal year commencing on ~~[July]~~ ***January*** 1 and terminating on ~~[June 30.]~~ ***December 31.***

Sec. 23. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections ~~[2]~~ ***3*** and ~~[3]~~ ***4*** of NRS 630.307 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 24. NRS 630.137 is hereby amended to read as follows:

630.137 1. Notwithstanding any other provision of law and except as otherwise provided in this section, the Board shall not adopt any regulations that prohibit or have the effect of prohibiting a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care from collaborating or consulting with another provider of health care.

2. The provisions of this section do not prevent the Board from adopting regulations that prohibit a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care from aiding or abetting another person in the unlicensed practice of medicine or the unlicensed practice of ***perfusion or*** respiratory care.

3. As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 25. NRS 630.140 is hereby amended to read as follows:

630.140 1. The Board may hold hearings and conduct investigations pertaining to its duties imposed under this chapter and take evidence on any such matter under inquiry before the Board. For the purposes of this chapter:

(a) Any member of the Board or other person authorized by law may administer oaths; and

(b) The Secretary-Treasurer ~~*[, Executive Director]*~~ or President of the Board or a hearing officer or the presiding member of a committee investigating a complaint may issue subpoenas to compel the attendance of witnesses and the production of books, X rays **,** ~~**[**and**]**~~ medical records and other papers ~~**[**.**]**~~ ***and tangible items.*** The Secretary-Treasurer, President or other officer of the Board acting on its behalf ***or the Executive Director*** must sign the subpoena.

2. If any person fails to comply with the subpoena **,** ~~**[**within 10 days after its issuance,**]**~~ the Secretary-Treasurer **,** ***Executive Director*** or President of the Board may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 26. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if after issuing a license to practice medicine the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

(a) Temporarily suspend the license;

(b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;

(c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;

(d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or

(e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:

(1) Placing the licensee on probation for a specified period with specified conditions;

(2) Administering a public reprimand;

(3) Limiting the practice of the licensee;

(4) Suspending the license for a specified period or until further order of the Board;

(5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;

(6) Requiring supervision of the practice of the licensee;

(7) Imposing an administrative fine not to exceed $5,000;

(8) Requiring the licensee to perform community service without compensation;

(9) Requiring the licensee to take a physical or mental examination or an examination testing his competence to practice medicine;

(10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If

the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 27. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect;

~~[2.]~~ ***(b)*** The applicant:

~~[(a)]~~ ***(1)*** Submits to the Board proof of passage of an examination approved by the Board;

~~[(b)]~~ ***(2)*** Submits to the Board any documentation and other proof of qualifications required by the Board;

~~[(c)]~~ ***(3)*** Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and

~~[(d)]~~ ***(4)*** Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and

~~[3.]~~ ***(c)*** Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 28. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine ***, to practice as a physician assistant or to practice respiratory care*** shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. ***Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.***

Sec. 29. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice respiratory care shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.

Sec. 30. NRS 630.170 is hereby amended to read as follows:

630.170 In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a medical school located in the United States or Canada shall submit to the Board proof that he has received the degree of doctor of medicine from a medical school which, at the time of graduation, was accredited by the Liaison Committee on Medical Education or the Committee for the Accreditation of Canadian Medical Schools. ***The proof of the degree of doctor of medicine must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school, the Board may accept proof from any other source specified by the Board.***

Sec. 31. NRS 630.173 is hereby amended to read as follows:

630.173 1. In addition to the other requirements for licensure, an applicant for a license to practice medicine shall submit to the Board information describing:

(a) Any claims made against the applicant for malpractice, whether or not a civil action was filed concerning the claim;

(b) Any complaints filed against the applicant with a licensing board of another state and any disciplinary action taken against the applicant by a licensing board of another state; and

(c) Any complaints filed against the applicant with a hospital, clinic or medical facility or any disciplinary action taken against the applicant by a hospital, clinic or medical facility.

2. The Board ***may consider any information specified in subsection 1 that is more than 10 years old if the Board receives the information from the applicant or any other source from which the Board is verifying the information provided by the applicant.***

3. The Board may refuse to consider any information specified in subsection 1 that is more than 10 years old if the Board determines that the claim or complaint is remote or isolated and that obtaining or attempting to obtain a record relating to the information will unreasonably delay the consideration of the application.

4. The Board shall not issue a license to the applicant until it has received all the information required by this section.

Sec. 32. NRS 630.195 is hereby amended to read as follows:

630.195 ***1.*** In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a foreign medical school shall submit to the Board proof that he has received:

~~[1.]~~ ***(a)*** The degree of doctor of medicine or its equivalent, as determined by the Board; and

~~[2.]~~ ***(b)*** The standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by ~~[it.]~~ ***the Commission.***

2. The proof of the degree of doctor of medicine or its equivalent must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school that

granted the degree, the Board may accept proof from any other source specified by the Board.

Sec. 33. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 34. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 35. NRS 630.200 is hereby amended to read as follows:

630.200 1. The Board may deny an application for a license to practice medicine for any violation of the provisions of this chapter or regulations of the Board.

2. The Board shall notify an applicant of any deficiency which prevents any further action on the application or results in the denial of the application. The applicant may respond in writing to the Board concerning any deficiency and, if he does so, the Board shall respond in writing to the contentions of the applicant.

3. Any unsuccessful applicant may appeal to the ~~[district court to review the action of the]~~ Board ~~[,]~~ if he files his appeal within 90 days ~~[from]~~ ***after*** the date of the rejection of his application by the Board. Upon appeal ***,*** the applicant has the burden to show that the action of the Board is erroneous ***.*** ~~[or unlawful.]~~

Sec. 36. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who ~~[wishes]~~ ***:***

(a) Wishes to donate his expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care ***; or***

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,

➥ may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care ~~[to]~~ ***:***

(1) To persons in this State who are indigent, uninsured or unable to afford health care; ***or***

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or

(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 37. NRS 630.261 is hereby amended to read as follows:

630.261 1. Except as otherwise provided in NRS 630.161, the Board may issue:

(a) A locum tenens license, to be effective not more than 3 months after issuance, to any physician who is licensed and in good standing in another state, who meets the requirements for licensure in this State and who is of good moral character and reputation. The purpose of this license is to enable an eligible physician to serve as a substitute for another physician who is licensed to practice medicine in this State and who is absent from his practice for reasons deemed sufficient by the Board. A license issued pursuant to the provisions of this paragraph is not renewable.

(b) A special license to a licensed physician of another state to come into this State to care for or assist in the treatment of his own patient in association with a physician licensed in this State. A special license issued pursuant to the provisions of this paragraph is limited to the care of a specific patient. The physician licensed in this State has the primary responsibility for the care of that patient.

(c) A restricted license for a specified period if the Board determines the applicant needs supervision or restriction.

(d) A temporary license for a specified period if the physician is licensed and in good standing in another state and meets the requirements for licensure in this State, and if the Board determines that it is necessary in order to provide medical services for a community without adequate medical care. A temporary license issued pursuant to the provisions of this paragraph is not renewable.

(e) A special purpose license to a physician who is licensed in another state to permit the use of equipment that transfers information concerning the medical condition of a patient in this State across state lines electronically, telephonically or by fiber optics **.** ~~[if the physician:~~

~~(1) Holds a full and unrestricted license to practice medicine in that state;~~

~~(2) Has not had any disciplinary or other action taken against him by any state or other jurisdiction; and~~

~~(3) Meets the requirements set forth in paragraph (d) of subsection 2 of NRS 630.160.]~~

2. ***For the purpose of paragraph (e) of subsection 1, the physician must:***

(a) Hold a full and unrestricted license to practice medicine in another state;

(b) Not have had any disciplinary or other action taken against him by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties or its successor.

3. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 38. NRS 630.262 is hereby amended to read as follows:

630.262 1. Except as otherwise provided in NRS 630.161, the Board may issue ~~[a restricted]~~ ***an authorized facility*** license to a person who intends to practice medicine in this State as a psychiatrist in a mental health center of the Division under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

2. A person who applies for ~~[a restricted]~~ ***an authorized facility*** license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice medicine pursuant to paragraph (e) of subsection 2 of NRS 630.160, but the person must meet all other conditions and requirements for an unrestricted license to practice medicine pursuant to this chapter.

3. If the Board issues ~~[a restricted]~~ ***an authorized facility*** license pursuant to this section, the person who holds the ~~[restricted]~~ license may practice medicine in this State only as a psychiatrist in a mental health center of the Division and only under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

4. If a person who holds ~~[a restricted]~~ ***an authorized facility*** license issued pursuant to this section ceases to practice medicine in this State as a psychiatrist in a mental health center of the Division:

(a) The Division shall notify the Board; and

(b) Upon receipt of ~~[such]~~ ***the*** notification, the ~~[restricted]~~ ***authorized facility*** license expires automatically.

5. The Board may renew or modify ~~[a restricted]~~ ***an authorized facility*** license issued pursuant to this section, unless the ~~[restricted]~~ license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a ~~[restricted]~~ license to an applicant in accordance with any other provision of this chapter.

7. As used in this section:

(a) "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.

Sec. 39. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement $600
For application for and issuance of a temporary, locum tenens, limited, ~~[restricted,]~~ special or special purpose license $400
For renewal of a limited ~~[, restricted]~~ or special license 400
For application for and issuance of a license as a physician assistant 400
For biennial registration of a physician assistant 800
For biennial registration of a physician 800
For application for and issuance of a license as a ***perfusionist or*** practitioner of respiratory care 400

For biennial renewal of a license as a perfusionist ***600***
For biennial registration of a practitioner of respiratory care 600
For biennial registration for a physician who is on inactive status 400
For written verification of licensure 50
For a duplicate identification card 25
For a duplicate license 50
For computer printouts or labels 500
For verification of a listing of physicians, per hour 20
For furnishing a list of new physicians 100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 40. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the ~~[~~National Board~~]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~[~~National Board~~]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization;

(d) Be certified by the ~~[~~National Board~~]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself out as qualified to practice respiratory care,

➥ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 41. NRS 630.299 is hereby amended to read as follows:

630.299 1. If the Board has reason to believe that a person has violated ~~[,]~~ ***or*** is violating ~~[or is about to violate]~~ any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement, if approved by an investigative committee of the Board, must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate,

including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 42. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform ~~[.]~~ ***or which are beyond the scope of his training.***

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

13. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

14. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

15. Violating a provision of a remediation agreement approved by the Board pursuant to NRS 630.299.

Sec. 43. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board ~~[.]~~ ***within 30 days after the date the licensee knows or has reason to know of the violation.***

Sec. 44. NRS 630.307 is hereby amended to read as follows:

630.307 1. ***Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.***

2. Any ~~[person,]~~ ***licensee,*** medical school or medical facility that becomes aware that a person practicing medicine or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

~~[2.]~~ ***3.*** Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~[a physician's]~~ ***the*** privileges ***of a physician, physician assistant or practitioner of respiratory care*** to practice ~~[medicine]~~ while the physician ***, physician assistant or practitioner of respiratory care*** is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician ***,***

physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician ***, physician assistant or practitioner of respiratory care*** within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[3.]~~ ***4.*** The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[4.]~~ ***5.*** On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~[3.]~~ ***4.***

Sec. 45. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine ***, perfusion*** or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care

to practice while the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

4. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

5. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection 4.

Sec. 46. NRS 630.309 is hereby amended to read as follows:

630.309 To institute a disciplinary action against a ***perfusionist,*** physician assistant or practitioner of respiratory care, a written complaint, specifying the charges, must be filed with the Board by:

1. The Board or a committee designated by the Board to investigate a complaint;

2. Any member of the Board; or

3. Any other person who is aware of any act or circumstance constituting a ground for disciplinary action set forth in the regulations adopted by the Board.

Sec. 47. NRS 630.311 is hereby amended to read as follows:

630.311 1. A committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an

investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is ~~[qualified pursuant to subsection 2 of NRS 630.060.]~~ ***not a physician.*** The committee may issue orders to aid its investigation including, but not limited to, compelling a physician to appear before the committee.

2. If, after conducting an investigation, the committee determines that there is a reasonable basis for the complaint and that a violation of any provision of this chapter has occurred, the committee may file a formal complaint with the Board.

3. The proceedings of the committee are confidential and are not subject to the requirements of NRS 241.020. Within 20 days after the conclusion of each meeting of the committee, the Board shall publish a summary setting forth the proceedings and determinations of the committee. The summary must not identify any person involved in the complaint that is the subject of the proceedings.

Sec. 48. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, it may order that the physician undergo a mental or physical examination or an examination testing his competence to practice medicine by physicians or other examinations designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given his consent to submit to a mental or physical examination or an examination testing his competence to practice medicine when ordered to do so in writing by the Board ~~[.]~~ ***or an investigative committee of the Board.***

(b) The testimony or reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against him.

Sec. 49. NRS 630.326 is hereby amended to read as follows:

630.326 ***1. If an investigation by the Board regarding a physician, physician assistant or practitioner of respiratory care reasonably***

determines that the health, safety or welfare of the public or any patient served by the physician, physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of a physician, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician ***, physician assistant or practitioner of respiratory care*** pending proceedings for disciplinary action and requires the physician ***, physician assistant or practitioner of respiratory care*** to submit to a mental or physical examination or an examination testing his competence to practice ***,*** ~~[medicine,]~~ the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 50. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pending proceedings for disciplinary action and requires the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to submit to a mental or physical examination or an examination testing his competence to practice, the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 51. NRS 630.329 is hereby amended to read as follows:

630.329 If the Board issues an order suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care

pending proceedings for disciplinary action, the court shall not stay that order.

Sec. 52. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine ***, perfusion*** or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine ***, perfusion*** or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 53. NRS 630.339 is hereby amended to read as follows:

630.339 1. If a committee designated by the Board to conduct an investigation of a complaint decides to proceed with disciplinary action, it shall bring charges against the licensee ~~[. If charges are brought, the Board shall fix a time and place for a formal hearing.]~~ ***by filing a formal complaint.***

The formal complaint must include a written statement setting forth the charges alleged and setting forth in concise and plain language each act or omission of the respondent upon which the charges are based. The formal complaint must be prepared with sufficient clarity to ensure that the respondent is able to prepare his defense. The formal complaint must specify any applicable law or regulation that the respondent is alleged to have violated. The formal complaint may be signed by the chairman of the investigative committee or the Executive Director of the Board acting in his official capacity.

2. The respondent shall file an answer to the formal complaint within 20 days after service of the complaint upon the respondent. The answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. If a party fails to file an answer within the time prescribed, he shall be deemed to have denied generally the allegations of the formal complaint.

3. Within 20 days after the filing of the answer, the parties shall hold an early case conference at which the parties and the hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

(b) Set dates:

(1) By which all documents must be exchanged;

(2) By which all prehearing motions and responses thereto must be filed;

(3) On which to hold the prehearing conference; and

(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held within 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

~~[2.]~~ ***5. A formal hearing must be held at the time and date set at the early case conference by:***

(a) The Board ~~[, a]~~ ***;***

(b) A hearing officer ~~[or a]~~ ***;***

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of ~~[its]~~ members ***of the Board*** designated by ~~[the Board shall hold the formal hearing on the charges at the time and place designated in the notification.]~~ ***an investigative committee of the Board or the Board;***

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the ~~[Board who is]~~ ***panel must*** not ***be*** a physician ***.*** ~~[must participate in this hearing.]~~

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

(a) Conduct the hearing;

(b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;

(c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and

(d) Within 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of law in accordance with the determinations made by each member of the Board.

Sec. 54. NRS 630.342 is hereby amended to read as follows:

630.342 1. Any ~~[physician]~~ ***licensee*** against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[physician's]~~ ***licensee's*** receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of a ~~[physician]~~ ***licensee*** to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[physician.]~~ ***licensee.***

3. The Board has additional grounds for initiating disciplinary action against a ~~[physician]~~ ***licensee*** if the report from the Federal Bureau of Investigation indicates that the ~~[physician]~~ ***licensee*** has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 630.301 to 630.3066, inclusive; or

(b) A violation of NRS 630.400.

Sec. 54.5. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. ***Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.***

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine or respiratory care is conclusive evidence of its occurrence.

Sec. 55. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine ***, perfusion*** or respiratory care is conclusive evidence of its occurrence.

Sec. 56. (Deleted by amendment.)

Sec. 57. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, ~~[except for an advisory]~~ ***other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any*** member serving on a panel of the Board ***at the*** hearing ~~[charges,]~~ ***of the matter,*** may participate in ***an adjudication to obtain*** the final order of the Board. ~~[If the Board, after a formal hearing, determines from a preponderance of the evidence that a violation of the provisions of this chapter or of the regulations of the Board has occurred, it shall issue and serve on the physician charged an order, in writing, containing its findings and any sanctions.~~

~~2.]~~ ***At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:***

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation;

(b) The respondent or his counsel to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

➥ ***The Board may limit the time within which the parties and the complainant may make their arguments and statements.***

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If ***, in the findings of fact and conclusions of law, the Board, hearing officer or panel of*** the Board determines that no violation has occurred, ~~[it]~~ ***the Board*** shall dismiss the charges, in writing, and notify the ~~[physician]~~ ***respondent*** that the charges have been dismissed. ~~[If the disciplinary proceedings were instituted against the physician as a result of a complaint filed against him, the Board may provide the physician with a copy of the complaint.~~

~~3.]~~ ***4.*** Except as otherwise provided in subsection ~~[4,]~~ ***5,*** if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer to him a ***written*** public reprimand;

(c) Limit his practice or exclude one or more specified branches of medicine from his practice;

(d) Suspend his license for a specified period or until further order of the Board;

(e) Revoke his license ***;*** ~~[to practice medicine, but only in accordance with the provisions of NRS 630.348;]~~

(f) Require him to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of his practice;

(h) Impose a fine not to exceed $5,000 ~~[;]~~ ***for each violation;***

(i) Require him to perform community service without compensation;

(j) Require him to take a physical or mental examination or an examination testing his competence; and

(k) Require him to fulfill certain training or educational requirements.

~~[4.]~~ ***5.*** If the Board finds that the ~~[physician]~~ ***respondent*** has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

~~[5.]~~ ***6.*** The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

~~[6.]~~ ***7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing.*** An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 58. NRS 630.356 is hereby amended to read as follows:

630.356 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order.

2. Every order that imposes a sanction against a licensee pursuant to subsection ~~[3]~~ ***4*** or ~~[4]~~ ***5*** of NRS 630.352 or any regulation of the Board is effective from the date the Secretary-Treasurer certifies the order until the date the order is modified or reversed by a final judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 59. NRS 630.358 is hereby amended to read as follows:

630.358 1. Any person:

(a) Whose practice of medicine ***, perfusion*** or respiratory care has been limited; or

(b) Whose license to practice medicine ***, perfusion*** or respiratory care has been:

(1) Suspended until further order; or

(2) Revoked,

➥ by an order of the Board, may apply to the Board for removal of the limitation or restoration of his license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination or an examination testing his competence to practice medicine ***, perfusion*** or respiratory care by physicians ***, perfusionists*** or practitioners of respiratory care, as appropriate, or other examinations it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

3. The licensee has the burden of proving by clear and convincing evidence that the requirements for restoration of the license or removal of the limitation have been met.

4. The Board shall not restore a license unless it is satisfied that the person has complied with all of the terms and conditions set forth in the final order of the Board and that the person is capable of practicing medicine or respiratory care in a safe manner.

5. To restore a license that has been revoked by the Board, the applicant must apply for a license and take an examination as though he had never been licensed under this chapter.

Sec. 60. NRS 630.366 is hereby amended to read as follows:

630.366 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a

person who is the holder of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 61. NRS 630.388 is hereby amended to read as follows:

630.388 1. In addition to any other remedy provided by law, the Board, through its President or Secretary-Treasurer or the Attorney General, may apply to any court of competent jurisdiction:

(a) To enjoin any prohibited act or other conduct of a licensee which is harmful to the public;

(b) To enjoin any person who is not licensed under this chapter from practicing medicine ***, perfusion*** or respiratory care;

(c) To limit the practice of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care, or suspend his license to practice; ~~[or]~~

(d) To enjoin the use of the title "P.A.," "P.A.-C," "R.C.P." or any other word, combination of letters or other designation intended to imply or designate a person as a physician assistant or practitioner of respiratory care, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute ~~[.]~~ ***; or***

(e) To enjoin the use of the title "L.P.," "T.L.P.," "licensed perfusionist," "temporarily licensed perfusionist" or any other word, combination of letters or other designation intended to imply or designate a person as a perfusionist, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for the purposes set forth in subsection 1:

(a) Without proof of actual damage sustained by any person;

(b) Without relieving any person from criminal prosecution for engaging in the practice of medicine ***, perfusion or respiratory care*** without a license; and

(c) Pending proceedings for disciplinary action by the Board.

Sec. 62. NRS 630.390 is hereby amended to read as follows:

630.390 In seeking injunctive relief against any person for an alleged violation of this chapter by practicing medicine ***, perfusion*** or respiratory care without a license, it is sufficient to allege that he did, upon a certain day, and in a certain county of this State, engage in the practice of medicine ***, perfusion*** or respiratory care without having a license to do so, without alleging any further or more particular facts concerning the same.

Sec. 63. NRS 630.400 is hereby amended to read as follows:

630.400 A person who:

1. Presents to the Board as his own the diploma, license or credentials of another;

2. Gives either false or forged evidence of any kind to the Board;

3. Practices medicine ***, perfusion*** or respiratory care under a false or assumed name or falsely personates another licensee;

4. Except as otherwise provided by ***a*** specific statute, practices medicine ***, perfusion*** or respiratory care without being licensed under this chapter;

5. Holds himself out as a physician assistant or uses any other term indicating or implying that he is a physician assistant without being licensed by the Board; or

6. Holds himself out as a practitioner of respiratory care or uses any other term indicating or implying that he is a practitioner of respiratory care without being licensed by the Board,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 64. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. This chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, ***perfusion,*** respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 65. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, ***perfusionist,*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 66. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 67 and 68 of this act.

Sec. 67. ***1. If the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board initiates any disciplinary proceedings against the person.***

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement that is negotiated by an investigative committee of the Board must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation

agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 68. ***In any disciplinary proceedings conducted pursuant to this chapter, the standard of proof is a preponderance of the evidence.***

Sec. 69. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or in applying for renewal of a license to practice osteopathic medicine.

(b) Failure of a licensee of the practice of osteopathic medicine to designate his school of practice in the professional use of his name by the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine, or the aiding or abetting of any unlicensed person to practice osteopathic medicine.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body ~~[.]~~ ***, other than the use of silicone oil to repair a retinal detachment.***

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 70. NRS 633.171 is hereby amended to read as follows:

633.171 1. This chapter does not apply to:

(a) The practice of medicine ***or perfusion*** pursuant to chapter 630 of NRS, dentistry, chiropractic, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Osteopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside.

2. This chapter does not repeal or affect any law of this State regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 71. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure to practice osteopathic medicine, an applicant shall cause to be submitted to the Board ~~[a]~~ ***:***

1. A certificate of completion of progressive postgraduate training from the residency program where the applicant received training ~~[.]~~ ***; and***

2. If applicable, proof of satisfactory completion of a postgraduate training program specified in paragraph (c) of subsection 4 of NRS 633.311 within 120 days after the scheduled completion of the program.

Sec. 72. NRS 633.331 is hereby amended to read as follows:

633.331 1. Examinations ~~[must]~~ ***may*** be held ~~[at least]~~ once a year at the time and place fixed by the Board. The Board shall notify each applicant in writing of the examinations.

2. The examination must be fair and impartial, practical in character, and the questions must be designed to discover the applicant's fitness.

3. The Board may employ specialists and other professional consultants or examining services in conducting the examination.

4. Each member who is not licensed in any state to practice any healing art shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 73. NRS 633.411 is hereby amended to read as follows:

633.411 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine to a person qualified under this section to authorize him to serve:

(a) As a resident medical officer in any hospital in Nevada. A person issued such a license shall practice osteopathic medicine only within the confines of the hospital specified in the license and under the supervision of the regular medical staff of that hospital.

(b) As a professional employee of the State of Nevada or of the United States. A person issued such a license shall practice osteopathic medicine only within the scope of his employment and under the supervision of the appropriate state or federal medical agency.

2. An applicant for a special license under this section must:

(a) Be a graduate of a school of osteopathic medicine ***.*** ~~[and have completed a hospital internship.]~~

(b) Pay the special license fee specified in this chapter.

3. The Board shall not issue a license under subsection 1 unless it has received a letter from a hospital in Nevada or from the appropriate state or federal medical agency requesting issuance of the special license to the applicant.

4. A special license issued under this section:

(a) Must be issued at a meeting of the Board or between its meetings by its President and Secretary subject to approval at the next meeting of the Board.

(b) Is valid for a period not exceeding 1 year, as determined by the Board.

(c) May be renewed by the Board upon application and payment by the licensee of the special license renewal fee specified in this chapter.

(d) Does not entitle the licensee to engage in the private practice of osteopathic medicine.

5. The issuance of a special license under this section does not obligate the Board to grant any regular license to practice osteopathic medicine.

Sec. 74. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. ~~[Gross or repeated]~~ ***Malpractice or gross*** malpractice, which may be evidenced by ~~[claims]~~ ***a claim*** of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of subsection 2 of NRS 633.322.

9. Signing a blank prescription form.

10. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

11. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

12. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

Sec. 75. NRS 633.561 is hereby amended to read as follows:

633.561 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or a member of the Board designated to review a complaint pursuant to NRS 633.541 has reason to believe that the conduct of an osteopathic physician has raised a reasonable question as to his competence to practice osteopathic medicine with reasonable skill and safety to patients, the Board or the member designated by the Board may require the osteopathic physician to submit to a mental or physical examination by physicians designated by the Board. ***If the osteopathic physician participates in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the osteopathic physician in the diversion program. As used in this subsection, "diversion program" means a program approved by the Board to correct an osteopathic physician's alcohol or drug dependence or any other impairment.***

2. For the purposes of this section:

(a) Every physician who is licensed under this chapter who accepts the privilege of practicing osteopathic medicine in this State shall be deemed to have given his consent to submit to a mental or physical examination if directed to do so in writing by the Board.

(b) The testimony or examination reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician who is licensed under this chapter to submit to an examination if directed as provided in this section constitutes an admission of the charges against him.

Sec. 76. NRS 633.625 is hereby amended to read as follows:

633.625 1. Any ~~[osteopathic physician]~~ ***licensee*** against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[osteopathic physician's]~~ ***licensee's*** receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of ~~[an osteopathic physician]~~ ***a licensee*** to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[osteopathic physician.]~~ ***licensee.***

3. The Board has additional grounds for initiating disciplinary action against ~~[an osteopathic physician]~~ ***a licensee*** if the report from the Federal

Bureau of Investigation indicates that the ~~[osteopathic physician]~~ ***licensee*** has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 633.511; or

(b) A felony set forth in NRS 633.741.

Sec. 77. NRS 633.651 is hereby amended to read as follows:

633.651 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of osteopathic medicine.

(d) Suspend the license of the person to practice osteopathic medicine for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice osteopathic medicine.

(f) Impose a fine not to exceed $5,000 for each violation.

(g) Require supervision of the practice of the person.

(h) Require the person to perform community service without compensation.

(i) Require the person to complete any training or educational requirements specified by the Board.

(j) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment.

➥ The order of the Board may contain ~~[such]~~ ***any*** other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 78. NRS 633.691 is hereby amended to read as follows:

633.691 In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, ***an employee or volunteer of a diversion program specified in NRS 633.561,*** or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, ~~[repeated]~~ malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 78.1. **Chapter 641 of NRS is hereby amended by adding thereto a new section to read as follows:**

"National examination" means the Examination for Professional Practice in Psychology in the form administered by the Association of State

and Provincial Psychology Boards and approved for use in this State by the Board.

Sec. 78.2. **NRS 641.020 is hereby amended to read as follows:**

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641.021 to 641.027, inclusive, ***and section 78.1 of this act*** have the meanings ascribed to them in those sections.

Sec. 78.3. **NRS 641.160 is hereby amended to read as follows:**

641.160 ***1.*** Each person desiring a license must ~~[make]~~ ***:***

(a) Make application to the Board upon a form, and in a manner, prescribed by the Board. The application must be accompanied by the application fee prescribed by the Board and include all information required to complete the application.

(b) As part of his application and at his own expense:

(1) Arrange to have a complete set of his fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Board; and

(2) Submit to the Board:

(I) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background; or

(II) Written verification, on a form prescribed by the Board, stating that the set of fingerprints of the applicant was taken and directly forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History and that the applicant provided written permission authorizing the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background.

2. The Board may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Board deems necessary; and

(b) Request from each agency to which the Board submits the fingerprints any information regarding the applicant's background as the Board deems necessary.

3. An application is not considered complete and received for purposes of evaluation pursuant to subsection 2 of NRS 641.170 until the Board

receives a complete set of fingerprints or verification that the fingerprints have been forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History, and written authorization from the applicant pursuant to this section.

Sec. 78.4. **NRS 641.180 is hereby amended to read as follows:**

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license must pass the ~~[Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board.]~~ ***national examination.*** In addition to ~~[this written]~~ ***the national*** examination, the Board may require an ~~[oral]~~ examination in whatever applied or theoretical fields it deems appropriate.

2. ~~[The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.~~

~~3.]~~ The Board shall notify each applicant of the results of his ~~[written]~~ ***national*** examination and ~~[supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.~~

~~4. If an applicant fails the examination, he may request in writing that the Board review his examination.~~

~~5.]~~ ***any other examination required pursuant to subsection 1.***

3. The Board may waive the requirement of ~~[a written]~~ ***the national*** examination for a person who:

(a) Is licensed in another state;

(b) Has ***at least*** 10 ~~[years]~~ ***years'*** experience; and

(c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 78.5. **NRS 641.370 is hereby amended to read as follows:**

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the ~~[written]~~ ***national*** examination, in addition to the actual cost to the Board of the examination $100

For ~~[the special oral]~~ ***any other*** examination ~~[,]~~ ***required pursuant to the provisions of subsection 1 of NRS 641.180,*** in addition to the actual costs to the Board of the examination 100

For the issuance of an initial license 25

For the biennial renewal of a license 500

For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license 100

For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology 300

For the registration of a nonresident to practice as a consultant 100

2. An applicant who passes the ***national*** examination and ***any other examination required pursuant to the provisions of subsection 1 of NRS 641.180 and who*** is eligible for a license shall pay the biennial fee for the renewal of a license **,** which must be prorated for the period from the date the license is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 79. NRS 652.210 is hereby amended to read as follows:

652.210 1. Except as otherwise provided in subsection 2 and NRS 126.121, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a ***perfusionist, a*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens.

2. The technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Sec. 80. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a ***perfusionist or a*** physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental

medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state

prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 81. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, ***perfusionist,*** psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon

notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the Unit for the Investigation and Prosecution of Crimes within 90 days after completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for

protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 82. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, ***perfusionist,*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 83. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***perfusionist,*** dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 84. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***perfusionist,*** dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 85. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, ***perfusionist,*** psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 86. Section 121 of chapter 413, Statutes of Nevada 2007, at page 1869, is hereby amended to read as follows:

Sec. 121. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2008, for all other purposes.

2. ~~[The amendatory provisions of section 7 of this act expire by limitation on January 1, 2012.~~

~~3.~~] Sections 11 and 25 of this act expire by limitation on January 1, 2012.

Sec. 87. NRS 630.175 and 630.348 are hereby repealed.

Sec. 88. Section 7 of chapter 413, Statutes of Nevada 2007, at page 1825, is hereby repealed.

Sec. 89. Notwithstanding the amendatory provisions of this act:

1. A person may be licensed as a perfusionist without complying with the provisions of section 8 of this act if the person:

(a) Is employed or otherwise working as a perfusionist on July 1, 2009;

(b) Has been operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as his primary function for at least 6 of the 8 years immediately preceding the date of application; and

(c) Before July 1, 2010, submits to the Board of Medical Examiners:

(1) An application for a license to practice perfusion on a form provided by the Board;

(2) The required fee established by the Board for the license; and

(3) The information required pursuant to NRS 630.197, unless that section has expired by limitation and is no longer in effect.

2. If a person is employed or otherwise working as a perfusionist on July 1, 2009, but the person does not meet the qualifications to be licensed as a perfusionist pursuant to subsection 1 or, if so qualified, fails to obtain a license as a perfusionist pursuant to subsection 1, the person:

(a) May continue to practice perfusion in this State until June 30, 2010, without holding a license to practice perfusion issued by the Board of Medical Examiners; and

(b) Must, if the person wishes to continue to practice perfusion in this State on or after July 1, 2010, hold a license to practice perfusion issued by the Board.

Sec. 90. A person who, on October 1, 2009:

1. Is the holder of a valid restricted license issued pursuant to NRS 630.262 and who is otherwise qualified to hold such a license on that date shall be deemed to hold an authorized facility license issued pursuant to that section, as amended by section 38 of this act.

2. Is the holder of a valid license as a practitioner of respiratory care pursuant to NRS 630.277 and who is otherwise qualified to practice respiratory care on that date shall be deemed to hold such a license issued pursuant to that section, as amended by section 40 of this act.

Sec. 91. 1. This section and sections 27, **78.1 to 78.5, inclusive,** 86, 88 and 89 of this act become effective upon passage and approval.

2. Sections 1, 3 to 13, inclusive, 15, 16, 19, 20, 21, 24, 29, 33, 39, 45, 46, 50, 51, 52, 55, 59 to 65, inclusive, 70 and 79 to 85, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2010, for all other purposes.

3. Sections 2, 14, 17, 18, 22, 23, 25, 26, 28, 30, 31, 32, 35 to 38, inclusive, 40 to 44, inclusive, 47, 48, 49, 53, 54, 54.5, 57, 58, 66 to 69, inclusive, 71 to 78, inclusive, 87 and 90 of this act become effective on October 1, 2009.

4. Section 33 of this act expires by limitation on the date which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section 34 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

6. Sections 34 and 60 of this act expire by limitation on the date 2 years after the date on which the provision of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

630.175 Reporting of certain additional information concerning application.

630.348 Standards for revocation of license.

Section 7 of chapter 413, Statutes of Nevada 2007:

Sec. 7. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board ~~[may]~~ ***shall, except for good cause,*** issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect ~~[:~~

~~2. The applicant:~~

~~(a) Submits to the Board proof of passage of an examination approved by the Board;~~

~~(b) Submits to the Board any documentation and other proof of qualifications required by the Board;~~

~~(c) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and~~

~~(d) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and~~

~~3. Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.]~~ ***and unrestricted; and***

(b) The applicant:

(1) Is currently certified by a specialty board of the American Board of Medical Specialties and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years;

(3) Has been continuously and actively engaged in the practice of medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 630.160.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such an action shall be deemed to be an action of the Board.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 175.

Bill read third time.

The following amendment was proposed by Assemblywoman Leslie:

Amendment No. 921.

SUMMARY—Enacts provisions governing flood management projects ~~[.]~~ **and other related activities.** (BDR 20-239)

AN ACT relating to ~~[floods;]~~ **water;** authorizing a board of county commissioners to acquire, improve, equip, operate and maintain a flood management project in certain counties; authorizing any revenues derived from such a flood management project to be pledged for the payment of certain bonds; authorizing the governing body of a municipality in certain counties to acquire, improve, equip, operate and maintain a flood management project under certain circumstances; **requiring the comprehensive regional plan in certain counties to include provisions concerning the sustainability of certain water resources;** revising provisions governing the acquisition of bonds issued by a flood management authority; **expanding the duties of the Legislative Committee to Oversee the Western Regional Water Commission;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a board of county commissioners to acquire and maintain within the county various projects, including building projects, drainage and flood control projects, lending projects, off-street parking projects, overpass projects, park projects, sewerage projects, street projects and water projects. In connection with those projects, a board of county commissioners may issue general obligation bonds to support and defray the cost of the project and take certain other related actions concerning the project. (NRS 244A.011-244A.065) Existing law confers similar authority upon the governing body of a municipality. (NRS 268.672-268.740) **Sections 3-15** of this bill expand the authority of a board of county commissioners in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) by authorizing the board to acquire and maintain a flood management project in the same manner as any other project authorized under existing law. **Sections 16-22** of this bill provide similar provisions for a governing body of a municipality within such a county. **Sections 24-27** of this bill revise the provisions of existing law governing the making of loans and the issuance of state securities by this State to assist municipalities in the construction of public improvements by including within those provisions a flood management authority.

Existing law requires the regional planning commission of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to develop a comprehensive regional plan for the physical development and orderly growth of the region. (NRS 278.0272) The comprehensive regional plan must include goals, policies, maps and other documents relating to population, conservation, limitation of premature expansion, land use, transportation, public facilities and services, annexation, intergovernmental coordination and certain utility projects. (NRS 278.0274) Existing law also provides for the development by the Northern Nevada Water Planning Commission of a comprehensive plan concerning supplies of water within the planning area for the comprehensive plan and for the adoption of such a plan by

the Western Regional Water Commission. (NRS 540A.010; Chapter 531, Statutes of Nevada 2007, pp. 3285-3304) Section 23.5 of this bill requires the comprehensive regional plan to include several provisions concerning the availability of water resources for growth and development, including a statement setting forth the total population of the region that may be supported by the sustainable water resources identified in the comprehensive plan adopted by the Western Regional Water Commission.

Existing law creates the Legislative Committee to Oversee the Western Regional Water Commission and requires the Committee to review the programs and activities of the Western Regional Water Commission. (Chapter 531, Statutes of Nevada 2007, p. 3302) Section 27.5 of this bill requires the Committee to include in its review of the programs and activities of the Commission an analysis of the potential acquisition, control and management by the Commission of a flood management project that is located within the planning area of the Commission.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The Legislature hereby declares that flood management projects provide a benefit to residents and owners of property by:

1. Preventing the loss of life and property;
2. Preventing the disruption of essential services for the safety of the public and the disruption of commerce, transportation, communication and essential services which have adverse economic impacts;
3. Preventing the waste of water resulting from floods;
4. Providing for the conservation, development, use and disposal of water and improved quality of water;
5. Providing for ecosystem restoration and enhanced recreational facilities; and
6. Providing for the safeguarding of the public health.

Sec. 2. Chapter 244A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. ***"Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of which include the acquisition, construction, improvement, operation and maintenance of a flood management project.***

Sec. 4. ***"Flood management project" or any phrase of similar import, means a project or improvement that is located within or without a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the county or any flood or storm waters of a stream of which the source is located outside of the county. The term includes, without limitation:***

1. A drainage and flood control project;

2. A project to construct, repair or restore an ecosystem;

3. A project to mitigate any adverse effect of flooding or flood management activity or improvement;

4. A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;

5. A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;

6. A park project that is related to a flood management project;

7. Any landscaping or similar amenity that is constructed:

(a) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or

(b) To mitigate any adverse effect on the environment relating to a flood management project;

8. A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;

9. A project to protect and manage a floodplain;

10. A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including, without limitation, any monitoring, measurement or assessment of that system; and

11. Any real property or interest in real property that is acquired to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management,

➥ or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.

Sec. 5. NRS 244A.011 is hereby amended to read as follows:

244A.011 NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ ***and sections 3 and 4 of this act may*** be ~~[known]~~ ***cited*** as the County Bond Law.

Sec. 6. NRS 244A.013 is hereby amended to read as follows:

244A.013 Except where the context otherwise requires, the definitions in NRS 244A.015 to 244A.056, inclusive, ***and sections 3 and 4 of this act*** govern the construction hereof.

Sec. 7. NRS 244A.025 is hereby amended to read as follows:

244A.025 "County" means any county in ~~[the]~~ ***this*** State. For the purposes of NRS 244A.011 to 244A.065, inclusive, ***and sections 3 and 4 of this act,*** Carson City is considered as a county.

Sec. 8. NRS 244A.027 is hereby amended to read as follows:

244A.027 "Drainage and flood control project" means any natural and artificial water facilities for the collection, transportation, impoundment and disposal of rainfall, storm, flood or surface drainage waters, including, without limitation, ditches, lakes, reservoirs, revetments, levees, dikes, walls,

embankments, bridges, sewers, culverts, inlets, connections, laterals, collection lines, outfalls, outfall sewers, trunk sewers, intercepting sewers, transmission lines, conduits, syphons, sluices, flumes, canals, ditches, natural and artificial watercourses, ponds, dams, retarding basins, and other water diversion and storage facilities, pumping stations, stream gauges, rain gauges, meters, flood warning service and appurtenant telephone, telegraph, radio and television service, engines, valves, pumps, apparatus, fixtures, structures and buildings, or any combination thereof, and all appurtenances and incidentals necessary, useful or desirable for any such facilities, including, without limitation, all types of property therefor. ***The term includes a flood management project.***

Sec. 9. NRS 244A.034 is hereby amended to read as follows:

244A.034 "Infrastructure project" means:

1. A capital improvement for fire protection, a library, a building, a park or police protection that a municipality is authorized to improve, acquire or equip pursuant to a law other than the County Bond Law; or

2. For a water authority, wastewater authority ***, flood management authority*** or any municipality whose governing body is composed of only the members of the board, a capital improvement for ~~[a]~~ ***:***

(a) A water system ~~[,]~~ ***;***

(b) A water reclamation system ***;***

(c) A flood management project; or

(d) A sanitary sewer ***,***

➥ that the municipality is authorized to improve, acquire or equip pursuant to a law other than the County Bond Law.

Sec. 10. NRS 244A.0345 is hereby amended to read as follows:

244A.0345 "Municipal securities" means notes, warrants, interim debentures, bonds and temporary bonds issued by a municipality pursuant to a law other than the County Bond Law which are:

1. General obligations payable from ad valorem taxes that are approved by the voters of the municipality issued for a capital improvement of a library or park;

2. General obligations payable from ad valorem taxes that are approved by the voters of the municipality or are approved pursuant to subsection 3 of NRS 350.020 issued for a capital improvement of an infrastructure project other than a library or park;

3. Revenue obligations of a water authority that are payable from revenues of:

(a) The water system of the water authority;

(b) One or more of the municipalities that are members of the water authority; or

(c) Any combination of the entities described in paragraphs (a) and (b); ~~[or]~~

4. Revenue obligations of a wastewater authority that are payable from revenues of:

(a) The water reclamation system of the wastewater authority;

(b) One or more of the municipalities that are members of the wastewater authority; or

(c) Any combination of the entities described in paragraphs (a) and (b) ~~[.]~~ ***; or***

5. Revenue obligations of a flood management authority that are payable from the revenues of:

(a) A flood management project of the flood management authority;

(b) One or more of the municipalities that are members of the flood management authority; or

(c) Any combination of the entities described in paragraphs (a) and (b).

Sec. 11. NRS 244A.0347 is hereby amended to read as follows:

244A.0347 "Municipality" means any city, town, school district, library district, consolidated library district, fire protection district, district for a fire department, park district, general improvement district organized pursuant to chapter 318 of NRS, wastewater authority, ***flood management authority,*** water district organized pursuant to a special act or water authority organized as a political subdivision created by cooperative agreement.

Sec. 12. NRS 244A.057 is hereby amended to read as follows:

244A.057 Any board, upon behalf of the county and in its name, may acquire, improve, equip, operate and maintain, within the county:

1. A building project;
2. A drainage and flood control project;
3. A ***flood management project;***

4. A lending project if the county has adopted an ordinance pursuant to subsection 3 of NRS 244A.064;

~~[4.]~~ ***5.*** An off-street parking project;

~~[5.]~~ ***6.*** An overpass project;

~~[6.]~~ ***7.*** A park project;

~~[7.]~~ ***8.*** A sewerage project;

~~[8.]~~ ***9.*** A street project;

~~[9.]~~ ***10.*** An underpass project; and

~~[10.]~~ ***11.*** A water project.

Sec. 13. NRS 244A.061 is hereby amended to read as follows:

244A.061 The payment of any bonds issued hereunder may be additionally secured by a pledge of all or part of any revenues derived from ~~[the]~~ ***:***

1. The operation of any project herein authorized and from any other income-producing project of the county ~~[and derived from any]~~ ***;***

2. A flood management project; or

3. Any license or other excise taxes levied for revenue and available for such a pledge ***,*** ~~[(]~~

➥ or any combination thereof ***.*** ~~[).]~~

Sec. 14. NRS 244A.063 is hereby amended to read as follows:

244A.063 In order to ~~[insure]~~ ***acquire, improve, equip, operate and maintain a project specified in NRS 244A.057 and to ensure*** the payment, wholly or in part, of the general obligation bonds or revenue bonds of the county the payment of which bonds is additionally secured by a pledge of the revenues derived from any such income-producing project ~~[and from any such]~~ ***, flood management project or*** excise taxes, ***or any combination thereof,*** the board may establish and maintain, and the board may from time to time revise, a schedule or schedules of fees, rates and charges for services or facilities, or both services and facilities, rendered by or through the ***income-producing project or flood management*** project, within the corporate limits of the county, and a schedule or schedules of license or other excise taxes, in an amount sufficient for that purpose and also sufficient to discharge any covenant in the proceedings of the board authorizing the issuance of any of such bonds, including any covenant for the establishment of reasonable reserve funds.

Sec. 15. NRS 244A.065 is hereby amended to read as follows:

244A.065 1. No other act or law with regard to the authorization or issuance of bonds that requires an approval, or in any way impedes or restricts the carrying out of the acts herein authorized to be done, shall be construed as applying to any proceedings taken hereunder or acts done pursuant hereto, except as herein otherwise provided.

2. The powers conferred by NRS 244A.011 to 244A.065, inclusive, ~~[shall be]~~ ***and sections 3 and 4 of this act are*** in addition and supplemental to, and not in substitution for, and the limitations imposed by NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ ***and sections 3 and 4 of this act do*** not affect the powers conferred by, any other law.

3. No part of NRS 244A.011 to 244A.065, inclusive, ~~[shall repeal or affect]~~ ***and sections 3 and 4 of this act repeals or affects*** any other law or part thereof, it being intended that NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ ***and sections 3 and 4 of this act must*** provide a separate method of accomplishing its objectives, and not an exclusive one ***,*** ~~[;]~~ and NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ ***and sections 3 and 4 of this act must*** not be construed as repealing, amending or changing any such other law.

Sec. 16. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

"Flood management project" or any phrase of similar import, means a project or improvement that is located within or without a city in a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the city or any flood or storm waters of a stream of which the source is located outside of the city. The term includes, without limitation:

1. A drainage project or flood control project;

2. A project to construct, repair or restore an ecosystem;

3. A project to mitigate any adverse effect of flooding or flood management activity or improvement;

4. A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;

5. A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;

6. A recreational project that is related to a flood management project;

7. Any landscaping or similar amenity that is constructed:

(a) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or

(b) To mitigate any adverse effect on the environment relating to a flood management project;

8. A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;

9. A project to protect and manage a floodplain;

10. A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including, without limitation, any monitoring, measurement or assessment of that system; and

11. The acquisition of any real property or interest in real property to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management,

➥ or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.

Sec. 17. NRS 268.672 is hereby amended to read as follows:

268.672 NRS 268.672 to 268.740, inclusive, ***and section 16 of this act*** may be cited as the City Bond Law.

Sec. 18. NRS 268.674 is hereby amended to read as follows:

268.674 Except as otherwise provided in NRS 268.672 to 268.740, inclusive, ***and section 16 of this act, the*** terms used or referred to herein are as defined in the Local Government Securities Law ***,*** ~~[:]~~ but the definitions in NRS 268.676 to 268.728, inclusive, ***and section 16 of this act,*** except where the context otherwise requires, govern the construction hereof.

Sec. 19. NRS 268.682 is hereby amended to read as follows:

268.682 ”Drainage project” or “flood control project,” or any phrase of similar import, means any natural and artificial water facilities for the collection, channeling, impoundment and disposal of rainfall, other surface and subsurface drainage waters, and storm and floodwaters, including ***,*** without limitation ditches, ponds, dams, spillways, retarding basins, detention basins, lakes, reservoirs, canals, channels, levees, revetments,

dikes, walls, embankments, bridges, inlets, outlets, connections, laterals, other collection lines, intercepting sewers, outfalls, outfall sewers, trunk sewers, force mains, submains, water lines, sluices, flumes, syphons, sewer lines, pipes, conduits, culverts, other transmission lines, pumping stations, gauging stations, ventilating facilities, stream gauges, rain gauges, engines, valves, pumps, meters, junction boxes, manholes, other inlet and outlet structures, bucket machines, inlet and outlet cleaners, backhoes, draglines, graders, other equipment, apparatus, fixtures, structures and buildings, flood warning service and appurtenant telephone, telegraph, radio and television apparatus and other water diversion, drainage and flood control facilities ***,*** ~~[(]~~ or any combination thereof ***.*** ~~[).]~~ ***The term includes a flood management project.***

Sec. 20. NRS 268.730 is hereby amended to read as follows:

268.730 Except as otherwise provided in NRS 268.086 and 268.088, any governing body of a municipality, upon its behalf and in its name, may at any time or from time to time acquire, improve, equip, operate and maintain, within or without or both within and without the municipality:

1. A building project;
2. A cemetery project;
3. A communications project;
4. A drainage project or flood control project;
5. An electric project;
6. A fire protection project;
7. ***A flood management project;***
8. An off-street parking project;
~~[8.]~~ ***9.*** An overpass project;
~~[9.]~~ ***10.*** A park project;
~~[10.]~~ ***11.*** A recreational project;
~~[11.]~~ ***12.*** A refuse project;
~~[12.]~~ ***13.*** A sewerage project;
~~[13.]~~ ***14.*** A sidewalk project;
~~[14.]~~ ***15.*** A street project;
~~[15.]~~ ***16.*** A transportation project;
~~[16.]~~ ***17.*** An underpass project; and
~~[17.]~~ ***18.*** A water project.

Sec. 21. NRS 268.738 is hereby amended to read as follows:

268.738 In order to ~~[insure]~~ ***acquire, improve, equip, operate and maintain a project specified in NRS 268.730 and to ensure*** the payment, wholly or in part, of the general obligation securities ***or revenue securities*** of the municipality the payment of which bonds is additionally secured by a pledge of the revenues derived from any such income-producing project ~~[and from any such]~~ ***, flood management project or*** excise taxes, ***or any combination thereof,*** the governing body of the municipality may establish and maintain, and the governing body may from time to time revise, a schedule or schedules of fees, rates and charges for services or facilities, or

both services and facilities, rendered by or through the ***income-producing project or flood management*** project and a schedule or schedules of license or other excise taxes, in an amount sufficient for that purpose and also sufficient to discharge any covenant in the proceedings of the governing body authorizing the issuance of any of such bonds, including any covenant for the establishment of reasonable reserve funds.

Sec. 22. NRS 268.740 is hereby amended to read as follows:

268.740 1. No other act or law with regard to the authorization or issuance of bonds that requires an approval, or in any way impedes or restricts the carrying out of the acts herein authorized to be done, shall be construed as applying to any proceedings taken hereunder or acts done pursuant hereto, except as herein otherwise provided.

2. The powers conferred by NRS 268.672 to 268.740, inclusive, ~~[shall be]~~ ***and section 16 of this act are*** in addition and supplemental to, and not in substitution for, and the limitations imposed by NRS 268.672 to 268.740, inclusive, ~~[shall]~~ ***and section 16 of this act do*** not affect the powers conferred by, any other law.

3. No part of NRS 268.672 to 268.740, inclusive, ~~[shall repeal or affect]~~ ***and section 16 of this act repeals or affects*** any other law or part thereof, it being intended that NRS 268.672 to 268.740, inclusive, ~~[shall]~~ ***and section 16 of this act must*** provide a separate method of accomplishing its objectives, and not an exclusive one ***,*** ~~[;]~~ and NRS 268.672 to 268.740, inclusive, ~~[shall]~~ ***and section 16 of this act must*** not be construed as repealing, amending or changing any such other law.

Sec. 23. NRS 271A.050 is hereby amended to read as follows:

271A.050 "Project" means:

1. With respect to a county whose population is 400,000 or more:

(a) An art project, as defined in NRS 271.037;

(b) A tourism and entertainment project, as defined in NRS 271.234; or

(c) A sports stadium which can be used for the home games of a Major League Baseball or National Football League team and for other purposes, including structures, buildings and other improvements and equipment therefor, parking facilities, and all other appurtenances necessary, useful or desirable for a Major League Baseball or National Football League stadium, including, without limitation, all types of property therefor and immediately adjacent facilities for retail sales, dining and entertainment.

2. With respect to a city in a county whose population is 400,000 or more:

(a) A project described in paragraph (a), (b) or (c) of subsection 1; or

(b) A recreational project, as defined in NRS 268.710.

3. With respect to a municipality other than a municipality described in subsection 1 or 2, any project that the municipality is authorized to acquire, improve, equip, operate and maintain pursuant to subsections 1, 2 ***, 3*** and ~~[4]~~ ***5*** to 10, inclusive, of NRS 244A.057 or NRS 268.730 or 271.265, as applicable.

4. Any real or personal property suitable for retail, tourism or entertainment purposes.

5. Any real or personal property necessary, useful or desirable in connection with any of the projects set forth in this section.

6. Any combination of the projects set forth in this section.

Sec. 23.5. **NRS 278.0274 is hereby amended to read as follows:**

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population. ***This portion of the plan must set forth the total population of the region that may be supported by the sustainable water resources identified in the comprehensive plan adopted by the Western Regional Water Commission pursuant to section 34 of chapter 531, Statutes of Nevada 2007, at page 3293, if applicable to the region. The provisions of this subsection do not limit or otherwise affect any authority or duty of the State Engineer.***

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) ***Set forth a pattern of development consistent with the total population of the region that may be supported by the sustainable water resources described in subsection 1;***

(d) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; ~~*[land*~~

~~*(d)]*~~ ***(e)*** Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to

the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area ~~[.]~~ ***; and***

(f) Set forth policies that require each applicable master plan of a local government to be consistent with the pattern of development and total population specified in paragraph (c).

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

Sec. 24. Chapter 350A of NRS is hereby amended by adding thereto a new section to read as follows:

"Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of which include the acquisition, construction, improvement, operation and maintenance of a flood management project.

Sec. 25. NRS 350A.020 is hereby amended to read as follows:

350A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 350A.025 to 350A.125, inclusive, ***and section 24 of this act*** have the meanings ascribed to them in those sections.

Sec. 26. NRS 350A.070 is hereby amended to read as follows:

350A.070 "Municipal securities" means notes, warrants, interim debentures, bonds and temporary bonds validly issued as obligations for a purpose related to natural resources which are payable:

1. From taxes whether or not additionally secured by any municipal revenues available therefor;

2. For bonds issued by an irrigation district, from assessments against real property;

3. For bonds issued by a water authority organized as a political subdivision created by cooperative agreement, from revenues of the water system of the water authority or one or more of the water purveyors who are members of the water authority or any combination thereof; ~~[or]~~

4. For bonds issued by a wastewater authority, from revenues of the water reclamation system of the wastewater authority or one or more of the municipalities that are members of the wastewater authority, or any combination thereof ~~[.]~~ ***; or***

5. For bonds issued by a flood management authority, from revenues of the flood management authority or one or more of the municipalities that are members of the flood management authority, or any combination thereof.

Sec. 27. NRS 350A.080 is hereby amended to read as follows:

350A.080 "Municipality" means any county, city, town, wastewater authority, ***flood management authority,*** water authority organized as a political subdivision created by cooperative agreement, school district, general improvement district or other district, including an irrigation district.

Sec. 27.5. **Section 56 of the Western Regional Water Commission Act, being chapter 531, Statutes of Nevada 2007, at page 3302, is hereby amended to read as follows:**

Sec. 56. 1. There is hereby created the Legislative Committee to Oversee the Western Regional Water Commission created pursuant to section 23 of this act. The Committee must:

(a) Consist of six Legislators as follows:

(1) One member of the Senate appointed by the Chairman of the Senate Committee on Natural Resources;

(2) One member of the Assembly appointed by the Chairman of the Assembly Committee on Natural Resources, Agriculture, and Mining;

(3) One member of the Senate appointed by the Majority Leader of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) One member of the Assembly appointed by the Speaker of the Assembly; and

(6) One member of the Assembly appointed by the Minority Leader of the Assembly.

(b) Insofar as practicable, represent the various areas within the planning area.

(c) Elect a Chairman and a Vice Chairman from among its members. The Chairman must be elected from one House of the Legislature and the Vice Chairman from the other House. After the initial selection of a Chairman and a Vice Chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

2. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the next session of the Legislature convenes.

3. Vacancies on the Committee must be filled in the same manner as original appointments.

4. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

5. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary.

6. The Committee shall prescribe regulations for its own management and government.

7. Except as otherwise provided in subsection 8, four members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee.

8. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

9. Except during a regular or special session of the Legislature, the members of the Committee are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the Committee and while engaged in the business of the Committee. The salaries and expenses paid pursuant to this subsection and the expenses of the Committee must be paid from the Legislative Fund.

10. The Committee shall review the programs and activities of the Western Regional Water Commission. The review must include an analysis of ~~[~~potential~~]~~ ***:***

(a) Potential consolidation of the retail distribution systems and facilities of all public purveyors in the planning area, which is described in section 22 of this act ~~[.]~~ ***; and***

(b) Potential acquisition, control and management by the Commission of a flood management project that is located entirely or partially within the planning area. As used in this paragraph, "flood management project" has the meaning ascribed to it in section 4 of this act.

11. The Committee may:

(a) Conduct investigations and hold hearings in connection with its powers pursuant to this section.

(b) Direct the Legislative Counsel Bureau to assist in the study of issues related to oversight of the Western Regional Water Commission.

12. In conducting the investigations and hearings of the Committee:

(a) The Secretary of the Committee or, in his absence, any member of the Committee may administer oaths.

(b) The Secretary or Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

13. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena issued pursuant to this section, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

14. Upon a petition pursuant to subsection 13, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

15. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

16. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of

this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.

17. On or before January 15 of each odd-numbered year, the Committee shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the review conducted pursuant to subsection 10 and any recommendations for legislation.

Sec. 28. **1.** This **section and sections 1 to 23, inclusive, and 24 to 27.5, inclusive, of this** act ~~[becomes]~~ **become** effective upon passage and approval.

2. Section 23.5 of this act becomes effective upon passage and approval only if section 2 of Assembly Bill No. 119 of this session has not become effective on or before that date.

3. Section 27.5 of this act expires by limitation on July 1, 2013.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 190.

Bill read third time.

The following amendment was proposed by Assemblywoman Gansert:

Amendment No. 916.

AN ACT relating to counties; removing the requirement that a county fair and recreation board in certain larger counties obtain the approval of the board of county commissioners before engaging in certain transactions relating to real property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a county fair and recreation board in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) from engaging in any transaction relating to real property without the prior approval of the board of county commissioners. (NRS 244A.627) This bill removes the requirement of obtaining prior approval of the board of county commissioners before the county fair and recreation board engages in certain transactions relating to real property. The county fair and recreation board still must obtain prior approval of the board of county commissioners before **: (1) conducting any transaction that may result in or affect any debt or bonds for which the county is responsible; or (2)** selling or leasing to a person or governmental entity any real property in the county which is located in a city whose population is less than 150,000.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.5. NRS 244A.627 is hereby amended to read as follows:

244A.627 Notwithstanding any other provision of law, no county fair and recreation board in a county whose population is 100,000 or more and less than 400,000 may ~~[~~acquire,~~]~~ **:**

1. Acquire, purchase, lease, sell ~~[,]~~ or dispose of ~~*[sell or lease to a person or governmental entity]*~~ any real property or engage in any other transaction relating to real property ***if the transaction may result in any debt or bonds for which the county may be responsible, in whole or in part, or affects any existing debt or bonds for which the county is responsible, in whole or in part; or***

2. Sell or lease to a person or governmental entity any real property within the county which is located in a city whose population is less than 150,000 **,**

➥ without prior approval of the board of county commissioners.

Sec. 2. (Deleted by amendment.)

Assemblywoman Gansert moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 213.

Bill read third time.

The following amendment was proposed by Assemblymen Kirkpatrick, Atkinson, and Leslie:

Amendment No. 890.

AN ACT relating to the City of Sparks; amending the Charter of the City of Sparks to revise the process for appointing various positions in city government; revising the selection process for Mayor pro tempore; **requiring that the candidates for Councilman in the City be voted for in a general election only by the registered voters of the ward that a candidate seeks to represent;** revising the list of classes of persons protected from employment discrimination by the City; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill revises the Charter of the City of Sparks to permit the City Manager to appoint the heads of departments and various executive, administrative and professional employees without confirmation by the City Council. **Sections 4 and 7** of this bill revise the Charter to make consistent the classes of persons protected from employment discrimination.

Under the existing Charter, the City Council elects the Mayor pro tempore from its members. (Sparks City Charter § 3.010) **Section 5** of this bill amends the Charter to authorize the Mayor to nominate a member of the City Council to be Mayor pro tempore, subject to the approval of the majority of the City Council. **Sections 1 and 5** also clarify that if the office of Mayor is vacant, the Mayor pro tempore shall act as Mayor until the next general election.

The existing Charter also provides that the candidates for Councilman to represent a particular ward must be voted on in a primary election only by the registered voters of that ward but, in a general election, must be voted on by the registered voters of the City at large. (Sparks City Charter, §§ 5.010, 5.020) Sections 6.3 and 6.7 of this bill amend the Charter to provide that all candidates for Councilman must be voted on in a general election by only the registered voters of the ward that a candidate seeks to represent.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1.070 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 395, is hereby amended to read as follows:

Sec. 1.070 Elective offices; vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the City Council ~~[,]~~ or in the office of City Attorney or Municipal Judge must be filled by appointment of the Mayor, subject to confirmation by the City Council, within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the City Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. If the majority of the Council is unable or refuses for any reason to confirm any appointment made by the Mayor within 30 days after the vacancy occurs, the City Council shall present to the Mayor the names of two qualified persons to fill the vacancy. The Mayor shall, within 15 days after the presentation, select one of the two qualified persons to fill the vacancy. The appointee must have the same qualifications required of the elected official.

2. A vacancy in the office of the Mayor must be filled by the Mayor pro tempore. The resulting vacancy in the City Council must be filled as provided in subsection 1.

3. The appointee or Mayor pro tempore, in ***the*** case of a vacancy in the office of Mayor, shall serve until his successor is elected and qualified at the next ***general*** election to serve the remainder of the unexpired term.

Sec. 2. Section 1.080 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 129, Statutes of Nevada 1993, at page 229, is hereby amended to read as follows:

Sec. 1.080 Appointive positions.

1. The Mayor of the City shall appoint a City Manager, subject to confirmation by the City Council.

2. ~~[Subject to confirmation by the City Council,]~~ ***Except as otherwise provided in this Charter,*** the City Manager shall appoint ~~[:~~

~~(a) The~~] ***the*** heads of ~~[the Fire and Police departments and one technical assistant in each of those departments. A technical assistant may not supervise any other employees.~~

~~(b) Any~~] ***each department.***

3. Except as otherwise provided in this Charter, the City Manager or his designee may appoint any employee employed in a bona fide executive, administrative or professional capacity. As used in this ~~[paragraph:~~

~~(1)~~] ***subsection:***

(a) "Employee employed in a bona fide executive capacity" has the meaning ascribed to it in 29 C.F.R. § ~~[541.1, as that section existed on October 1, 1993.~~

~~(2)~~] ***541.100.***

(b) "Employee employed in a bona fide administrative capacity" has the meaning ascribed to it in 29 C.F.R. § ~~[541.2, as that section existed on October 1, 1993.~~

~~(3)~~] ***541.200.***

(c) "Employee employed in a bona fide professional capacity" has the meaning ascribed to it in 29 C.F.R. § ~~[541.3, as that section existed on October 1, 1993.~~

~~3.~~] ***541.300.***

4. The City ~~[Council]~~ ***Manager*** shall create and revise as necessary a document which:

(a) Describes the organization of all departments, divisions and offices of the City; and

(b) Sets forth all appointive positions of the City.

Sec. 3. Section 1.100 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as amended by chapter 450, Statutes of Nevada 1985, at page 1310, is hereby amended to read as follows:

Sec. 1.100 Mayor and Councilmen not to hold other office.

1. The Mayor and a member of the Council may not:

(a) Hold any other elective office with the State of Nevada, Washoe County, the City of Sparks or any other city, except as provided by law.

(b) ~~[Be]~~ ***Except as otherwise provided in subsection 3 of section 3.010, be*** appointed to any position created by **,** or the compensation for which was increased or fixed by **,** the City Council until 1 year after the expiration of the term for which such person was elected.

2. Any person holding any office proscribed by subsection 1 automatically forfeits his office as Mayor or member of the Council.

Sec. 4. Section 1.130 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 457, Statutes of Nevada 1979, at page 852, is hereby amended to read as follows:

Sec. 1.130 Certain activities prohibited.

1. A person shall not be appointed to or removed from, or in any way favored or discriminated against with respect to **,** any City position or appointive City administrative office because of race, sex, ~~[religious creed,]~~

sexual orientation, religion, color, ***age, disability, marital status or*** national origin, ~~[ancestry or political affiliations.]~~ ***or because of political or personal reasons or affiliations, except when based upon a bona fide occupational qualification.***

2. A person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall not directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

3. A person shall not orally, in writing or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any elected officer of the City or candidate for any City office from any person holding any compensated appointive City position.

4. A person who holds any compensated appointive City position shall not make, solicit or receive any contribution of campaign funds for any elected officer of the City or candidate for any City office or take any part in the management, affairs or political campaign of the candidate.

5. Any person who by himself or with others willfully violates any of the provisions of subsections 1 ~~[to 3, inclusive,]~~ ***, 2 or 3*** is subject to the jurisdiction of the Justice Court of the Township of Sparks and is guilty of a misdemeanor, punishable by a fine of not more than $500 or by imprisonment for not more than 6 months, or both.

6. Any person who violates any of the provisions of this section shall be ineligible to hold any City office or position for a period of 5 years and **,** if he is an officer or employee of the City, shall immediately forfeit his office or position.

Sec. 5. Section 3.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 107, Statutes of Nevada 2003, at page 603, is hereby amended to read as follows:

Sec. 3.010 Mayor: Duties; Mayor pro tempore.

1. The Mayor shall:

(a) Preside over the meetings of the City Council, but is not entitled to vote on any procedural, substantive or other matter.

(b) Act as the head of the government of the City for all purposes.

(c) Perform such emergency duties as may be necessary for the general health, welfare and safety of the City.

(d) Perform such other duties as may be prescribed by ordinance or by the provisions of Nevada Revised Statutes which apply to a mayor.

2. The Mayor may veto all matters passed by the City Council if he gives notice in writing to the City Clerk within 10 days of the action taken by the City Council. A veto may be overturned only by a vote of at least four-fifths of the City Council. An action requiring the expenditure of money is not effective without the approval of the Mayor, unless he does not disapprove the action within 10 days after it is taken by the City Council, or the City

Council by a four-fifths majority approves such expenditure at a regular meeting.

3. The ~~[City Council shall elect one of its members]~~ ***Mayor shall nominate a member of the City Council*** to be Mayor pro tempore. ***The nominee must be approved by a majority of the total number of members of the City Council. If so approved, the nominee shall be Mayor pro tempore.*** He shall:

(a) Hold the office and title until the next ***general*** election without additional compensation, except as otherwise provided in paragraph (c).

(b) Perform the duties of Mayor during the temporary absence or disability of the Mayor without loss of his rights and powers as a member of the Council.

(c) Act as Mayor until the next ***general*** election if the office of Mayor becomes vacant and draw the salary of Mayor. His salary and position as a member of the Council cease.

Sec. 6. Section 3.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 450, Statutes of Nevada 1985, at page 1315, is hereby amended to read as follows:

Sec. 3.020 City Manager: Duties; residence.

1. The City Manager is responsible to the Council for the efficient administration of all the affairs of the City. He shall:

(a) Exercise a careful supervision of the City's general affairs.

(b) Enforce all laws and all acts of the Council which are subject to enforcement by him or by persons under his supervision.

(c) Exercise control over all departments of the City government and its officers and employees **.** ~~[, except any department whose chief executive officer is not appointed by the City Manager.]~~

(d) Attend all meetings of the Council and its committees, except when the Council is considering his removal, with the right to take part in discussions, but without power to vote.

(e) Recommend to the Council the adoption of such measures and bills as he considers necessary or expedient.

(f) Make investigations into:

(1) The affairs of the City;

(2) Any department or division of the City;

(3) Any contract; or

(4) The proper performance of any obligation owed to the City.

(g) Prepare and submit to the Council the annual budget.

(h) Keep the Council fully informed as to the financial condition and needs of the City.

(i) Submit to the Council, at least once each month, a summary of all claims and bills approved for payment by him.

(j) Not engage in any other business or occupation without the approval of the City Council.

(k) Perform such other duties as prescribed by this Charter or be required by ordinance or resolution of the Council.

2. The City Manager must establish his residence within the City within 90 days after his appointment, unless the period is extended by the Council. He must reside in the City during his term of office.

Sec. 6.3. **Section 5.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 52, Statutes of Nevada 2005, at page 104, is hereby amended to read as follows:**

Sec. 5.010 General elections.

1. ~~[On the Tuesday after the first Monday in June 2001, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the first, third and fifth wards, a Municipal Judge for Department 1 and a City Attorney, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 3 or 4.~~

~~2. On the Tuesday after the first Monday in June 2003, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the second and fourth wards, a Mayor and a Municipal Judge for Department 2, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 5 or 6.~~

~~3.]~~ On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, Council members to represent the first, third and fifth wards and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[4. On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 4 years and until his successor has been elected and qualified, pursuant to subsection 7.~~

~~5.]~~ ***2.*** On the Tuesday after the first Monday in November 2006, and at each successive interval of 4 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, Council members to represent the second and fourth wards and a Mayor, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[6.]~~ ***3.*** On the Tuesday after the first Monday in November 2006, and at each successive interval of 6 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, a Municipal Judge for Department 2, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[7.]~~ ***4.*** On the Tuesday after the first Monday in November 2008, and at each successive interval of 6 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, a Municipal Judge for Department

1, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[8. All candidates at]~~

5. In an election that is held pursuant to this section ***:***

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large.

(b) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

Sec. 6.7. **Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:**

Sec. 5.020 Primary elections.

1. ***At an election that is held pursuant to this section:***

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large. ~~[Candidates to represent a ward as a member of the City Council]~~

(b) A candidate for the office of City Councilman must be voted upon ***only*** by the registered voters of the ward ~~[to be represented by them.]~~ ***that he seeks to represent.***

2. The names of the two candidates for Mayor, City Attorney and Municipal Judge and the names of the two candidates to represent the ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.

Sec. 7. Section 9.080 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 350, Statutes of Nevada 1987, at page 793, is hereby amended to read as follows:

Sec. 9.080 Prohibited acts. An employee of the City who has authority to recommend, effectuate or approve the hiring, removal, promotion or discipline of another employee of the City shall not:

1. Discriminate for or against an employee or applicant for employment on the basis of race, color, national origin, religion, age, sex, marital status, ~~[political affiliation or physical, aural or visual handicap,]~~ ***sexual orientation or disability, or because of political or personal reasons or affiliations,*** except when based upon a bona fide occupational qualification;

2. Solicit or consider a written or oral recommendation or statement concerning a person under consideration for hiring, removal, promotion or discipline, except for:

(a) A record of employment of the person maintained by an employer in the regular course of business; or

(b) An evaluation of the person's character, loyalty, ability, aptitude, suitability, qualifications or history of performance, if within the personal knowledge of the person furnishing the evaluation and if relevant to the position for which the person is under consideration;

3. Coerce an employee to engage in a political activity or to provide, or retaliate against an employee for refusing to provide, a political contribution or service;

4. Deceive or willfully obstruct a person regarding his right to seek a position of employment;

5. Influence a person to withdraw from seeking a position of employment to assist or obstruct another person who seeks such a position;

6. Except as specifically authorized by an ordinance, administrative rule or regulation, or state or federal law, grant a preference or advantage to an employee or applicant for employment, including defining the scope or manner of competition or the requirements for a position of employment, to assist or obstruct any person who seeks such a position;

7. Retaliate against an employee or applicant for employment for disclosing information he reasonably believes to evidence:

(a) A violation of an ordinance, administrative rule or regulation, or state or federal law; or

(b) A mismanagement or gross waste of money, an abuse of authority, or a situation that presents a substantial and specific danger to the public health or safety, unless the disclosure is:

(1) Specifically prohibited by a contract to which the City is a party and not required by an ordinance, administrative rule or regulation, or state or federal law; or

(2) Prohibited by an ordinance, administrative rule or regulation, or state or federal law; or

8. Retaliate against an employee or applicant for employment for exercising a right of appeal provided by an ordinance, administrative rule or regulation, or state or federal law.

Sec. 8. This act becomes effective ~~[on]~~ **:**

1. Upon passage and approval for the purpose of passing any ordinances and performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2009 ~~[.]~~ **, for all other purposes.**

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 376.

Bill read third time.

Remarks by Assemblymen Claborn and Settelmeyer.

Roll call on Senate Bill No. 376:

YEAS—27.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 376 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 396.

Bill read third time.

Potential conflict of interest declared by Assemblymen Gustavson, Aizley, and Kirkpatrick.

Roll call on Senate Bill No. 396:

YEAS—34.

NAYS—Carpenter, Christensen, Gansert, Goedhart, Gustavson, Stewart—6.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 396 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 354.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Senate Bill No. 354:

YEAS—40.

NAYS—None.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 354 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 522.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 930.

AN ACT relating to energy; ~~[creating the Nevada Energy Commission; transferring the duties of the Office of Energy and the Task Force for Renewable Energy and Energy Conservation to the Nevada Energy Commission; revising certain standards for the conservation of energy in buildings;]~~ **creating the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs; authorizing the Director of the Department of Energy to administer the Fund;** authorizing the granting of partial abatements of certain property taxes and local sales and use taxes to ~~[new]~~ **certain** facilities ~~[that generate]~~ **for the generation of process heat from solar renewable energy, wholesale facilities for the generation of** electricity from renewable energy ~~[; requiring the Public Utilities Commission of Nevada to adopt regulations concerning the removal of financial disincentives for an electric utility to support energy conservation; providing for the issuance of industrial development revenue bonds for renewable energy transmission projects;~~

~~imposing an excise tax on the generation of electricity from renewable energy; providing a penalty;]~~ **and facilities for the transmission of electricity produced from renewable energy;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 1-27, 29-56 and 63-66 of this bill create the Nevada Energy Commission effective July 1, 2010, and provide for the transfer of the powers and duties of the Office of Energy and the Task Force for Renewable Energy and Energy Conservation to the Commission. Section 16 additionally requires the new Commission to: (1) develop a program to provide for energy conservation that provides rebates or incentives; and (2) create renewable energy zones and solicit and review proposals for renewable energy transmission projects.~~

~~Section 21 of this bill requires the adoption of a new standard for the conservation of energy in buildings and revises the requirements of a local government regarding standards for energy and energy efficiency in buildings.]~~

Sections 1.1-1.8 of this bill establish the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs. The Director of the Office of Energy administers the Fund. The Fund and the Account for Set-Aside Programs may be used only for the purposes set forth in the American Recovery and Reinvestment Act and to make loans at a rate of not more than 3 percent to renewable energy systems for the construction of renewable energy projects. The Director is prohibited from committing any money in the Fund for expenditure or establishing the priorities for determining which renewable energy systems will receive money or other assistance from the Fund without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Section 28 of this bill authorizes the ~~[Commission on Economic Development]~~ **Nevada Energy Commissioner appointed pursuant to section 1.85 of this bill** to grant partial abatements of property taxes and local sales and use taxes ~~[, other than any taxes imposed for public education,]~~ to ~~[new]~~ **certain** facilities ~~[that generate]~~ **for the generation of process heat from solar renewable energy, wholesale facilities for the generation of** electricity from renewable energy, ~~[.]~~ **and facilities for the transmission of electricity produced from renewable energy.** These abatements will cease to be effective in ~~[10]~~ **40** years.

~~[Sections 57-61 of this bill transfer from the Housing Division of the Department of Business and Industry to the Nevada Energy Commission certain duties relating to the distribution of money for weatherization programs to eligible households.~~

~~Section 62 of this bill requires the Public Utilities Commission of Nevada to adopt regulations to establish methods and programs that remove financial disincentives for an electric utility to support energy conservation.~~

~~Sections 67-71 of this bill authorize the issuance of industrial development revenue bonds for renewable energy transmission projects.~~

~~Section 85 of this bill imposes an excise tax on the generation of electricity from renewable energy at the rate of 0.39 mills for each kilowatt hour of electricity generated. Sections 73-98 of this bill provide for the administration, collection and enforcement of the tax by the Department of Taxation in a manner similar to other state taxes.~~**]**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections **[**~~2 to 12,~~**]** **1.1 to 1.95,** inclusive, of this act.

Sec. 1.1. ***As used in sections 1.1 to 1.8, inclusive, of this act, the words and terms defined in sections 1.15 to 1.45, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 1.15. ***"American Recovery and Reinvestment Act" means the American Recovery and Reinvestment Act of 2009, Public Law 111-5.***

Sec. 1.2. ***"Construction" means the erection, building, acquisition, alteration, remodeling, improvement or extension of a project and the inspection and supervision of such activities and includes, without limitation:***

1. Any preliminary planning to determine the feasibility of a project;

2. Engineering, architectural, legal, environmental, fiscal or economic investigations or studies, surveys, designs, plans, working drawings, specifications or procedures that comply with the provisions of the American Recovery and Reinvestment Act and any regulations adopted pursuant thereto; and

3. Any other activities reasonably necessary to the completion of a project.

Sec. 1.3. ***"Federal grant" means money authorized by the American Recovery and Reinvestment Act to:***

1. Create a revolving loan fund to assist in the financing of the construction of renewable energy projects; or

2. Fund set-aside programs authorized by the American Recovery and Reinvestment Act.

Sec. 1.4. ***"Fund" means the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans created by section 1.5 of this act.***

Sec. 1.45. ***"Renewable energy system" has the meaning ascribed to it in NRS 704.7815.***

Sec. 1.5. ***1. The Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans is hereby created. The Director shall administer the Fund.***

2. The account to fund activities, other than projects, authorized by the American Recovery and Reinvestment Act, to be known as the Account for

Set-Aside Programs, is hereby created in the Fund for the Municipal Bond Bank.

3. The money in the Fund and the Account for Set-Aside Programs may be used only for the purposes set forth in the American Recovery and Reinvestment Act.

4. All claims against the Fund and the Account for Set-Aside Programs must be paid as other claims against the State are paid.

5. The faith of the State is hereby pledged that the money in the Account for the Revolving Fund and the Account for Set-Aside Programs will not be used for purposes other than those authorized by the American Recovery and Reinvestment Act.

Sec. 1.6. 1. The interest and income earned on money in the Fund and the Account for Set-Aside Programs must be credited to the Fund and the Account for Set-Aside Programs, respectively.

2. All payments of principal and interest on all loans made to a renewable energy system and all proceeds from the sale, refunding or prepayment of obligations of a renewable energy system acquired or loans made in carrying out the purposes of the Fund must be deposited in the State Treasury for credit to the Fund.

3. The Director may accept gifts, contributions, grants and bequests of money from any public or private source. The money so accepted must be deposited in the State Treasury for credit to the Fund, or the Account for Set-Aside Programs, and can be used to provide money from the State to match the federal grant, as required by the American Recovery and Reinvestment Act.

4. Only federal money deposited in a separate subaccount of the Fund, including repayments of principal and interest on loans made solely from federal money, and interest and income earned on federal money in the Fund, may be used to benefit renewable energy systems not governmentally owned.

Sec. 1.7. 1. The Director shall:

(a) Use the money in the Fund and the Account for Set-Aside Programs for the purposes set forth in the American Recovery and Reinvestment Act.

(b) Determine whether renewable energy systems which receive money or other assistance from the Fund or the Account for Set-Aside Programs comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

2. The Director may:

(a) Prepare and enter into required agreements with the Federal Government for the acceptance of grants of money for the Fund and the Account for Set-Aside Programs.

(b) Bind the Office of Energy to terms of the required agreements.

(c) Accept grants made pursuant to the American Recovery and Reinvestment Act.

(d) Manage the Fund and the Account for Set-Aside Programs in accordance with the requirements and objectives of the American Recovery and Reinvestment Act.

(e) Provide services relating to management and administration of the Fund and the Account for Set-Aside Programs, including the preparation of any agreement, plan or report.

(f) Perform, or cause to be performed by agencies or organizations through interagency agreement, contract or memorandum of understanding, set-aside programs pursuant to the American Recovery and Reinvestment Act.

3. The Director shall not:

(a) Commit any money in the Fund for expenditure for the purposes set forth in section 1.75 of this act; or

(b) Establish the priorities for determining which renewable energy systems will receive money or other assistance from the Fund,

➥ without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Sec. 1.75. 1. Except as otherwise provided in section 1.6 of this act, money in the Fund, including repayments of principal and interest on loans, and interest and income earned on money in the Fund, may be used only to make loans at a rate of not more than 3 percent to renewable energy systems for the construction of renewable energy projects.

2. Money in the Account for Set-Aside Programs may be used only to fund set-aside programs authorized by the American Recovery and Reinvestment Act. Money in the Account for Set-Aside Programs may be transferred to the Fund pursuant to the American Recovery and Reinvestment Act.

3. A renewable energy system which requests a loan or other financial assistance must demonstrate that it has:

(a) Complied with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto; or

(b) Agreed to take actions that are needed to ensure that it has the capability to comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

4. Money from the Fund may not be given to an existing renewable energy system unless it has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto. A new renewable energy system, to receive such funding, must demonstrate that it has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

Sec. 1.8. The Director may adopt such regulations as are necessary to carry out the provisions of sections 1.1 to 1.8, inclusive, of this act.

Sec. 1.85. 1. The Governor shall appoint the Nevada Energy Commissioner, subject to confirmation by the Legislature, or the Legislative Commission if the Legislature is not in session.

2. The Commissioner:

(a) Is in the unclassified service of the State;

(b) Serves at the pleasure of the Governor; and

(c) Must have experience and demonstrated expertise in one or more of the following fields:

(1) Financing of energy projects;

(2) Energy generation projects;

(3) Energy transmission projects;

(4) Professional engineering related to energy efficiency; or

(5) Renewable energy.

3. The Commissioner may, within the limits of legislative appropriations or authorizations:

(a) Employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of his duties may require;

(b) Employ, or retain on a contract basis, legal counsel who shall:

(1) Act as counsel and attorney for the Commissioner in all actions, proceedings and hearings; and

(2) Generally aid the Commissioner in the performance of his duties; and

(c) Employ such additional personnel as may be required to carry out his duties, who must be in the classified service of the State.

4. A person employed by the Commissioner pursuant to this section must be qualified by training and experience to perform the duties of his employment.

5. The Commissioner and the persons employed by the Commissioner shall not have any conflict of interest relating to the performance of their duties.

Sec. 1.9. The Nevada Energy Commissioner shall:

1. Utilize all available public and private means to:

(a) Provide information to the public about issues relating to energy and to explain how conservation of energy and its sources may be accomplished; and

(b) Work with educational and research institutes, trade associations and any other public and private entities in this State to create a database for information on technological development, financing opportunities and federal and state policy developments regarding renewable energy and energy efficiency.

2. Encourage the development of any sources of renewable energy and any other energy projects which will benefit the State and any measures which conserve or reduce the demand for energy or which result in more efficient use of energy by, without limitation:

(a) Identifying appropriate areas in this State for the development of sources of renewable energy, based on:

(1) Assessments of solar, wind and geothermal potential;

(2) Evaluations of natural resource constraints;

(3) Current electric transmission infrastructure and capacity; and

(4) The feasibility of the construction of new electric transmission lines;

(b) Working with renewable energy developers to locate their projects within appropriate areas of this State, including, without limitation, assisting the developers to interface with the Bureau of Land Management, the Department of Defense and other federal agencies in:

(1) Expediting land leases;

(2) Resolving site issues; and

(3) Receiving permits for projects on public lands within the appropriate areas of this State;

(c) Coordinating the planning of renewable energy projects in appropriate areas of this State to establish a mix of solar, wind and geothermal renewable energy systems that create a reliable source of energy and maximize use of current or future transmission lines and infrastructure; and

(d) Developing proposals for the financing of future electric transmission projects for renewable energy if no such financing proposals exist.

3. Review jointly with the Nevada System of Higher Education the policies of this State relating to the research and development of the geothermal energy resources in this State and make recommendations to the appropriate state and federal agencies concerning methods for the development of the geothermal energy resources in this State.

4. If the Commissioner determines that it is feasible and cost-effective, enter into contracts with researchers from the Nevada System of Higher Education:

(a) To conduct environmental studies in connection with the identification of appropriate areas in this State for the development of renewable energy resources, including, without limitation, hydrologic studies, solar resource mapping studies and wind power modeling studies; and

(b) For the development of technologies that will facilitate the energy efficiency of the electricity grid for this State, including, without limitation, meters that facilitate energy efficiency for consumers of electricity.

5. Cooperate with the Director:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

6. Coordinate activities and programs with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada in general and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

7. Carry out all other directives concerning energy that are prescribed by the Legislature.

Sec. 1.95. The Commissioner may:

1. Administer any gifts or grants which he is authorized to accept.

2. Expend money received from those gifts or grants or from any money received through legislative appropriations or authorizations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.

3. Enter into any cooperative agreement with any federal or state agency or political subdivision.

4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to such a program.

5. Assist developers of renewable energy systems in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.

6. Adopt any regulations that the Commissioner determines are necessary to carry out his duties.

7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Commissioner.

Sec. 2. ~~***["Commission" means the Nevada Energy Commission.]***~~ **(Deleted by amendment.)**

Sec. 3. ~~***["Renewable energy transmission project":***~~

~~***1. Means a project involving the transmission of electricity generated by renewable energy.***~~

~~***2. Does not include a project involving an electric generating facility or system that uses nuclear energy, in whole or in part, to generate electricity.]***~~ **(Deleted by amendment.)**

Sec. 4. ~~[1. There is hereby created the Nevada Energy Commission.~~

~~2. The Commission consists of three Commissioners who are appointed by the Governor for terms of 4 years and serve in the unclassified service of the State.~~

~~3. The Governor shall appoint as members of the Commission persons who have experience and demonstrated expertise in one or more of the following fields:~~

~~(a) Financing of energy projects;~~

~~(b) Energy generation or transmission projects;~~

~~(c) Professional engineering; and~~

~~(d) Renewable energy.~~

~~4. Not more than two of the Commissioners may:~~

~~(a) Be members of the same political party; or~~

~~(b) Have expertise in the same field.~~

~~5. A vacancy on the Commission must be appointed in the same manner as the original appointment.~~

~~6. Members of the Commission may be reappointed in the same manner as an original appointment.]~~ **(Deleted by amendment.)**

Sec. 5. ~~[1. All Commissioners must:~~

~~(a) Be independent of the industries regulated by the Commission;~~

~~(b) Possess demonstrated competence; and~~

~~(c) Not have a pecuniary interest in any energy company in this State or elsewhere.~~

~~2. Except as otherwise provided in NRS 284.143, the Commissioners shall give their entire time to the business of the Commission and shall not pursue any other business or vocation or hold any other office of profit.~~

~~3. No Commissioner may be a member of any political convention or a member of any committee of any political party.~~

~~4. Before entering upon the duties of his office, each Commissioner shall:~~

~~(a) Swear that all requirements to serve on the Commission have been met; and~~

~~(b) Subscribe to the constitutional oath of office.~~

~~5. The oath of office must be filed in the Office of the Secretary of State.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[The Chairman of the Commission:~~

~~1. Shall serve for a term of 2 years;~~

~~2. Is a position which rotates among the members of the Commission; and~~

~~3. Serves as the Executive Officer of the Commission.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[1. A majority of the Commissioners has full power to act in all matters within the jurisdiction of the Commission.~~

~~2. Before the Commission may enter a final order on a matter, there must be at least two Commissioners who are able to act on the matter.~~

~~*3. Except as otherwise provided in this chapter, all hearings and meetings conducted by the Commission must be open to the public.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[The Commission may sue and be sued in the name of the Nevada Energy Commission.]*~~ **(Deleted by amendment.)**

Sec. 9. ~~*[1. The Commission shall keep its principal office at Carson City, Nevada, in rooms provided by the Buildings and Grounds Division of the Department of Administration and may maintain another office in Las Vegas, Nevada.*~~

~~*2. If an office is so maintained in Las Vegas, any document which is required to be filed with the Commission may be filed at its office in Las Vegas with the same effect as if it were filed at the office in Carson City.]*~~ **(Deleted by amendment.)**

Sec. 10. ~~*[1. The Commission shall appoint a Deputy Commissioner who shall serve in the unclassified service of the State.*~~

~~*2. The Commission shall appoint a Secretary who shall perform such administrative and other duties as are prescribed by the Commission. The Commission shall also appoint an Assistant Secretary.*~~

~~*3. The Commission may employ or contract with such persons as may be necessary to conduct the business of the Commission within limits of legislative appropriations and authorizations.]*~~ **(Deleted by amendment.)**

Sec. 11. ~~*[1. The expenditures of each Commissioner and employee of the Commission while traveling on its business must be sworn to by the person who incurred the expense and must be approved by the Chairman of the Commission.*~~

~~*2. The per diem allowance and travel expenses of the members of the Commission and its staff must be paid at the rate established for state officers and employees generally.]*~~ **(Deleted by amendment.)**

Sec. 12. ~~*[The Commission may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.]*~~ **(Deleted by amendment.)**

Sec. 13. ~~[NRS 701.020 is hereby amended to read as follows:~~

~~701.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 701.030 to~~ **[**701.090,**]** ~~*701.080,* inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.~~**]** **(Deleted by amendment.)**

Sec. 14. ~~[NRS 701.160 is hereby amended to read as follows:~~

~~701.160 The~~ **[**~~Director~~**]** ~~*Commission* shall prepare a report concerning the status of energy in the State of Nevada and submit it to:~~

~~1. The Governor on or before January 30 of each year; and~~

~~2. The~~ **[**~~Legislature~~**]** ~~*Director of the Legislative Counsel Bureau* on or before January 30 of each~~ **[**~~odd-numbered~~**]** ~~year.~~**]** **(Deleted by amendment.)**

Sec. 15. ~~[NRS 701.170 is hereby amended to read as follows:~~

~~701.170 The~~ **[**~~Director~~**]** ~~*Commission* may:~~

~~1. Administer any gifts or grants which the [Office of Energy] *Commission* is authorized to accept for the purposes of this chapter.~~

~~2. Expend money received from those gifts or grants or from legislative appropriations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.~~

~~3. Enter into any cooperative agreement with any federal or state agency or political subdivision.~~

~~4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to that program.~~

~~5. Assist developers of renewable energy generation projects *or renewable energy transmission projects* in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.~~

~~6. Adopt any regulations that the [Director] *Commission* determines are necessary to carry out [the] *its* duties [of the Office of Energy] pursuant to this chapter.~~

~~7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which [he] *the Commission* determines is necessary or convenient for the exercise of the powers and duties of the [Office of Energy.] *Commission.* The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the [Office of Energy.] *Commission.*~~

~~8. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the [Director or the Office of Energy.] *Commission.]*~~ **(Deleted by amendment.)**

Sec. 16. ~~[NRS 701.180 is hereby amended to read as follows:~~

~~701.180 The [Director] *Commission* shall:~~

~~1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources.~~

~~2. Utilize all available public and private means to provide information to the public about problems relating to energy and to explain how conservation of energy and its sources may be accomplished.~~

~~3. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:~~

~~(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;~~

~~(b) The amount of energy available to meet each level of demand;~~

~~(c) The probable implications of the forecast on the demand and supply of energy; and~~

~~(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.~~

~~4. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.~~

~~5. Encourage the development of:~~

~~(a) Any sources of renewable energy and any other energy projects which will benefit the State; and~~

~~(b) Any measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~6. In conjunction with the Desert Research Institute, review policies relating to the research and development of the State's geothermal resources and make recommendations to the appropriate state and federal agencies for establishing methods of developing the geothermal resources within the State.~~

~~7. Solicit and serve as the point of contact for grants and other money from the Federal Government and other sources to promote:~~

~~(a) Energy projects that enhance the economic development of the State;~~

~~(b) The use of renewable energy; and~~

~~(c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~8. Coordinate the activities and programs of the~~ **[**Office of Energy**]** ***Commission*** ~~with the activities and programs of~~ **[**the Task Force,**]** ~~the Consumer's Advocate~~ **,** **[**and**]** ~~the Public Utilities Commission of Nevada and other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~9.~~ **[**~~Carry out all other directives concerning energy that are prescribed by the Governor.~~**]** ~~***Create renewable energy zones and solicit and review proposals for renewable energy transmission projects in those zones. If the Commission finds that no submitted proposals are suitable for financing, the Commission may plan, build and divest itself of a renewable energy transmission project.***~~

~~***10. Coordinate with entities within and outside of this State to effectively transmit electricity generated from renewable energy.***~~

~~***11. Develop a program to provide for energy conservation in this State that provides rebates or incentives for such conservation.***~~

~~***12. Develop a program to provide for energy efficiency in this State for residential buildings that provides rebates or incentives for such efficiency.***~~

~~***13. Carry out programs of energy conservation, weatherization and energy efficiency for eligible households pursuant to NRS 702.270.***~~**]** **(Deleted by amendment.)**

Sec. 17. ~~**[**NRS 701.190 is hereby amended to read as follows:~~

~~701.190 1. The [~~Director~~] *Commission* shall prepare a comprehensive state energy plan which provides for the promotion of:~~

~~(a) Energy projects that enhance the economic development of the State;~~

~~(b) The use of renewable energy; and~~

~~(c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~2. The comprehensive state energy plan must include provisions for:~~

~~(a) The assessment of the potential benefits of proposed energy projects on the economic development of the State.~~

~~(b) The education of persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~(c) The creation of incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~(d) Grants and other money to establish programs and conduct activities which promote:~~

~~(1) Energy projects that enhance the economic development of the State;~~

~~(2) The use of renewable energy; and~~

~~(3) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~(e) The development or incorporation by reference of model and uniform building and energy codes and standards which are written in language that is easy to understand and which include performance standards for conservation of energy and efficient use of energy.~~

~~(f) Oversight and accountability with respect to all programs and activities described in this subsection.~~

~~(g) Any other matter that the [~~Task Force~~] *Commission* determines to be relevant to the issues of energy resources, energy use, energy conservation and energy efficiency.~~**] (Deleted by amendment.)**

Sec. 18. ~~[~~NRS 701.200 is hereby amended to read as follows:~~

~~701.200 1. The [~~Director~~] *Commission* may recommend to state agencies, local governments and appropriate private persons and entities, standards for conservation of energy and its sources and for carrying out the comprehensive state energy plan.~~

~~2. In recommending such standards, the [~~Director~~] *Commission* shall consider the usage of energy and its sources in the State and the methods available for conservation of those sources.~~**] (Deleted by amendment.)**

Sec. 19. ~~[~~NRS 701.210 is hereby amended to read as follows:~~

~~701.210 The [~~Director~~] *Commission* shall:~~

~~1. Prepare, subject to the approval of the Governor, petroleum allocation and rationing plans for possible energy contingencies. The plans shall be carried out only by executive order of the Governor.~~

~~2. Carry out and administer any federal programs which authorize state participation in fuel allocation programs.~~**] (Deleted by amendment.)**

Sec. 20. ~~[~~NRS 701.215 is hereby amended to read as follows:

~~701.215 The~~ ~~[~~Director~~]~~ ***Commission*** shall prepare a state energy reduction plan which requires state agencies, departments and other entities in the Executive Branch to reduce grid-based energy purchases for state-owned buildings by 20 percent by 2015.~~]~~ **(Deleted by amendment.)**

Sec. 21. ~~[~~NRS 701.220 is hereby amended to read as follows:

~~701.220 1. The~~ ~~[~~Director~~]~~ ***Commission*** shall adopt regulations for the conservation of energy in buildings, including manufactured homes. Such regulations must include the adoption of the most recent version of the International Energy Conservation Code, issued by the International Code Council, ***and ASHRAE Standard 90.1-2007, Energy Standard for Buildings Except Low-Rise Residential Buildings, issued by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.,*** and any amendments to the Code ***or Standard*** that will not materially lessen the effective energy savings requirements of the Code ***or Standard*** and are deemed necessary to support effective compliance and enforcement of the Code ~~[~~,~~]~~ ***or Standard,*** and must establish the minimum standards for:

~~(a) The construction of floors, walls, ceilings and roofs;~~

~~(b) The equipment and systems for heating, ventilation and air-conditioning;~~

~~(c) Electrical equipment and systems;~~

~~(d) Insulation; and~~

~~(e) Other factors which affect the use of energy in a building.~~

~~The regulations must provide for the adoption of the most recent version of the International Energy Conservation Code~~ ~~[~~,~~]~~ ***and the Standard,*** and any amendments thereto, every third year.

~~2. The~~ ~~[~~Director~~]~~ ***Commission*** may exempt a building from a standard if ~~[~~he~~]~~ ***the Commission*** determines that application of the standard to the building would not accomplish the purpose of the regulations.

~~3. The regulations must authorize allowances in design and construction for sources of renewable energy used to supply all or a part of the energy required in a building.~~

~~4. The standards adopted by the~~ ~~[~~Director~~]~~ ***Commission*** are the minimum standards for the conservation of energy and energy efficiency ~~[~~which apply only to areas in which the governing body of the local government has not adopted standards for the conservation of energy and energy efficiency in buildings. Such governing bodies shall assist the Director in the enforcement of the regulations adopted pursuant to this section.~~]~~ ***in buildings in this State. The governing body of a local government that is authorized by law to adopt and enforce a building code:***

(a) Except as otherwise provided in paragraph (b), shall incorporate the standards adopted by the Commission in its building code;

~~***(b) May adopt higher or more stringent standards if approved by the Commission; and***~~

~~***(c) Shall enforce the standards adopted.***~~

~~5. The [~~Director~~] ***Commission*** shall solicit comments regarding the adoption of regulations pursuant to this section from:~~

~~(a) Persons in the business of constructing and selling homes;~~

~~(b) Contractors;~~

~~(c) Public utilities;~~

~~(d) Local building officials; and~~

~~(e) The general public,~~

~~" before adopting any regulations. The [~~Director~~] ***Commission*** must conduct at least three hearings in different locations in the State, after giving 30 days' notice of each hearing, before [~~he~~] ***the Commission*** may adopt any regulations pursuant to this section.]~~ **(Deleted by amendment.)**

Sec. 22. ~~[NRS 701.230 is hereby amended to read as follows:~~

~~701.230 1. In a county whose population is 100,000 or more, a building whose construction began on or after October 1, 1983, must not contain a system using electric resistance for heating spaces unless:~~

~~(a) The system is merely supplementary to another means of heating;~~

~~(b) Under the particular circumstances no other primary means of heating the spaces is a feasible or economical alternative to heating by electric resistance; or~~

~~(c) The [~~Office of Energy~~] ***Commission*** determines that the present or future availability of other sources of energy is so limited as to justify the use of such a system.~~

~~2. This section does not prohibit the use of incandescent or fluorescent lighting.]~~ **(Deleted by amendment.)**

Sec. 23. ~~[NRS 701.240 is hereby amended to read as follows:~~

~~701.240 1. The [~~Director~~] ***Commission*** shall develop a program to distribute money, within the limits of legislative appropriation, in the form of grants, incentives or rebates to persons to pay or defray, in whole or in part, the costs for those persons to acquire, install or improve net metering systems, if the [~~Director~~] ***Commission*** determines that the distribution of money to a person for that purpose will encourage, promote or stimulate:~~

~~(a) The development or use of sources of renewable energy in the State or the development of industries or technologies that use sources of renewable energy in the State;~~

~~(b) The conservation of energy in the State, the diversification of the types of energy used in the State or any reduction in the dependence of the State on foreign sources of energy;~~

~~(c) The protection of the natural resources of the State or the improvement of the environment;~~

~~(d) The enhancement of existing utility facilities or any other infrastructure in the State or the development of new utility facilities or any other infrastructure in the State; or~~

~~(c) The investment of capital or the expansion of business opportunities in the State or any growth in the economy of the State.~~

~~2. The [Director] *Commission* may adopt any regulations that are necessary to carry out the provisions of this section.~~

~~3. The [Director] *Commission* shall not distribute money to any person pursuant to this section unless:~~

~~(a) The person complies with any requirements that the [Director] *Commission* adopts by regulation; and~~

~~(b) The distribution of the money is consistent with one or more of the public purposes set forth in paragraphs (a) to (e), inclusive, of subsection 1.~~

~~4. As used in this section, "person" includes, without limitation, any state or local governmental agency or entity.]~~ **(Deleted by amendment.)**

Sec. 24. ~~[NRS 701.250 is hereby amended to read as follows:~~

~~701.250 1. The [Director] *Commission* shall adopt regulations establishing a program for evaluating the energy consumption of residential property in this State.~~

~~2. The regulations must include, without limitation:~~

~~(a) Standards for evaluating the energy consumption of residential property; and~~

~~(b) Provisions prescribing a form to be used pursuant to NRS 113.115, including, without limitation, provisions that require a portion of the form to provide information on programs created pursuant to NRS 702.275 and other programs of improving energy conservation and energy efficiency in residential property.~~

~~3. As used in this section:~~

~~(a) "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.~~

~~(b) "Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.]~~ **(Deleted by amendment.)**

Sec. 25. ~~[NRS 701.260 is hereby amended to read as follows:~~

~~701.260 1. Between January 1, 2012, and December 31, 2015, inclusive, no general purpose light may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.~~

~~2. On and after January 1, 2016, no general purpose light may be sold in this State unless it meets or exceeds the minimum standard of energy efficiency established by the [Director] *Commission* pursuant to subsection 3 for lumens per watt of electricity consumed.~~

~~3. The [Director] *Commission* shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation:~~

~~(a) Establish a minimum standard of energy efficiency for lumens per watt of electricity consumed that must be produced by general purpose lights sold in this State on and after January 1, 2016. The minimum standard of energy~~

~~efficiency established by the [~~Director~~] *Commission* must exceed 25 lumens per watt of electricity consumed.~~

~~(b) Attempt to minimize the overall cost to consumers for general purpose lighting, considering the needs of consumers relating to lighting, technological feasibility and anticipated product availability and performance.~~

~~4. As used in this section, "general purpose light" means lamps, bulbs, tubes or other devices that provide functional illumination for indoor or outdoor use. The term does not include "specialty lighting" or "lighting necessary to provide illumination for persons with special needs," as defined by the [~~Director~~] *Commission* by regulation.]~~ **(Deleted by amendment.)**

Sec. 26. ~~[NRS 701.370 is hereby amended to read as follows:~~

~~701.370 1. The Trust Fund for Renewable Energy and Energy Conservation is hereby created in the State Treasury.~~

~~2. The [~~Task Force~~] *Commission* shall administer the Fund. As administrator of the Fund, the [~~Task Force:~~] *Commission:*~~

~~(a) Shall maintain the financial records of the Fund;~~

~~(b) Shall invest the money in the Fund as the money in other state funds is invested;~~

~~(c) Shall manage any account associated with the Fund;~~

~~(d) Shall maintain any instruments that evidence investments made with the money in the Fund;~~

~~(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and~~

~~(f) May perform any other duties that are necessary to administer the Fund.~~

~~3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.~~

~~4. Not more than 2 percent of the money in the Fund may be used to pay the costs of administering the Fund.~~

~~5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.~~

~~6. All money that is deposited or paid into the Fund may only be expended pursuant to an allocation made by the [~~Task Force.~~] *Commission.* Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.]~~ **(Deleted by amendment.)**

Sec. 27. ~~[NRS 701.380 is hereby amended to read as follows:~~

~~701.380 [1.] The [~~Task Force~~] *Commission* shall:~~

~~[(a) Advise the Office of Energy in:~~

~~(1) The development and periodic review of the comprehensive state energy plan with regard to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~(2) The distribution of money to persons pursuant to NRS 701.240 to pay or defray, in whole or in part, the costs for those persons to acquire, install or improve net metering systems.~~

~~(b) Coordinate its activities and programs with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada and other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~(c)~~**]** ~~*1.* Spend the money in the Trust Fund for Renewable Energy and Energy Conservation to:~~

[~~(1)~~**]** ~~*(a)* Educate persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

[~~(2)~~**]** ~~*(b)* Create incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

[~~(3)~~**]** ~~*(c) Establish a program to offset consumer utility costs.*~~

~~*(d)* Distribute grants and other money to establish programs and projects which incorporate the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

[~~(4)~~**]** ~~*(e)* Conduct feasibility studies, including, without limitation, any feasibility studies concerning the establishment or expansion of any grants, incentives, rebates or other programs to enable or assist persons to reduce the cost of purchasing on-site generation systems, net metering systems and distributed generation systems that use renewable energy.~~

[~~(d) Take any other actions that the Task Force deems necessary to carry out its duties, including, without limitation, contracting with consultants, if necessary, for the purposes of program design or to assist the Task Force in carrying out its duties.~~**]**

~~2.~~ **[**~~The Task Force shall prepare an~~**]** ~~*Include in the* annual report~~ **[**~~concerning its activities and programs and submit the report to the Legislative Commission and the Governor on or before January 30 of each year. The annual report must include,~~**]** ~~*submitted pursuant to NRS 701.160, the status of the activities and programs that received money from the Trust Fund for Renewable Energy and Energy Conservation, including,* without limitation:~~

~~(a) A description of the objectives of each activity and program;~~

~~(b) An analysis of the effectiveness and efficiency of each activity and program in meeting the objectives of the activity or program;~~

~~(c) The amount of money distributed for each activity and program from the Trust Fund for Renewable Energy and Energy Conservation and a detailed description of the use of that money for each activity and program;~~

~~(d) An analysis of the coordination between the~~ **[**~~Task Force~~**]** ~~**Commission** and other officers and agencies; and~~

~~(e) Any changes planned for each activity and program.~~

~~3. As used in this section, "distributed generation system" means a facility or system for the generation of electricity that is in close proximity to the place where the electricity is consumed.~~**]** **(Deleted by amendment.)**

Sec. 27.5. **Chapter 701A of NRS is hereby amended by adding thereto the provisions set forth as sections 28 and 28.5 of this act.**

Sec. 28. ~~**[**Chapter 701A of NRS is hereby amended by adding thereto a new section to read as follows:~~**]**

1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy or a facility for the transmission of electricity produced from renewable energy in this State may apply to the ~~*[Commission on Economic Development]*~~ ***Director for a partial abatement of*** ~~*[one or more of]*~~ ***the local sales and use taxes*** ~~*[or]*~~ ***, the taxes imposed pursuant to chapter 361 of NRS*** ~~*[, other than any taxes imposed for public education.*~~

~~*2. Except as otherwise provided in subsection 3, the Commission on Economic Development]*~~ ***, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS. A person who intends to locate a facility for the generation of electricity from geothermal resources in this State may apply to the Director for a partial abatement of local sales and use taxes. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to this section.***

2. As soon as practicable after the Director receives such an application, the Director shall submit the application to the Commissioner and forward a copy of the application to:

(a) The Chief of the Budget Division of the Department of Administration;

(b) The Department of Taxation;

(c) The board of county commissioners;

(d) The county assessor;

(e) The county treasurer; and

(f) The Commission on Economic Development.

➥ With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application. The Commissioner shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in this subsection have received a copy of the application.

3. The Commissioner shall approve an application for a partial abatement pursuant to this section if the ~~[Commission]~~ Commissioner makes the following determinations:

(a) ~~[The facility is consistent with:~~

~~(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and~~

~~(2) Any guidelines adopted pursuant to the State Plan.~~

~~(b)]~~ The applicant has executed an agreement with the ~~[Commission]~~ Commissioner which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[5,]~~ 6, continue in operation in this State for a period specified by the ~~[Commission,]~~ Commissioner, which must be at least ~~[5]~~ 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

~~[(c)]~~ (b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

~~[(d)]~~ (c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

~~[(e)]~~ (d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

~~*[3. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission:*~~

~~*(a) Shall not consider the application unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, city or town.*~~

~~*(b) Shall provide notice to the governing body of the county and the governing body of the city or town, if any, in which the person intends to locate a facility. The notice required pursuant to this paragraph must set forth the date, time and location of the hearing at which the Commission will consider the application.]*~~

4. Notwithstanding the provisions of subsection 2, the Commissioner may, if the Commissioner determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 3;

(b) Make the requirements set forth in paragraph (d) or (e) of subsection 3 more stringent; or

(c) Add additional requirements that a facility must meet to qualify for a partial abatement.

5. If the ~~*[Commission on Economic Development]*~~ ***Commissioner approves an application for a partial abatement pursuant to this section of:***

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

(1) Be for a duration of ~~*[2 years or, if the agreement required by paragraph (b) of subsection 2 requires that at least 30 percent of the materials used in the construction of the facility must be purchased in this State, for a duration of 5 years;]*~~ ***the 20 fiscal years immediately following the date of approval of the application;***

(2) Be equal to ~~*[50]*~~ ***55 percent of the taxes on real and personal property payable by the facility each year*** ***;*** ~~*[, other than any taxes imposed for public education;]*~~ ***and***

(3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes ~~*[, the]*~~ ***:***

(1) The partial abatement must:

~~*[(1)]*~~ ***(I) Be for*** ~~*[a duration of]*~~ ***the 2 years*** ~~*[or, if the agreement required by paragraph (b) of subsection 2 requires that at least 30 percent of the materials used in the construction of the facility must be purchased in this State, for a duration of 5 years;*~~

~~*(2)]*~~ ***beginning on the date of approval of the application;***

(II) Be equal to ~~*[50 percent of the local sales and use taxes payable by the facility each year, other than any taxes imposed for public education; and*~~

~~*(3)]*~~ ***that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds 0.5 percent; and***

(III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

~~[5.]~~ ***(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of 2.5 percent.***

6. Upon approving an application for a partial abatement pursuant to this section, the ~~[Commission on Economic Development]~~ ***Commissioner shall immediately notify the Director of the terms of the abatement and the Director shall immediately forward a certificate of eligibility for the abatement to:***

(a) The Department of Taxation;

(b) The ~~[Nevada Tax Commission;~~

~~(c) The Nevada Energy Commission; and~~

~~(d) If the partial abatement is from property taxes imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the facility will be located.~~

~~6. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.~~

~~7. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.~~

~~8.]~~ ***board of county commissioners;***

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

7. As soon as practicable after receiving a copy of:

(a) An application pursuant to subsection 2:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and forward a copy of the fiscal note to the Director for submission to the Commissioner; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government and to the Director for submission to the Commissioner.

(b) A certificate of eligibility pursuant to subsection 6, the Department of Taxation shall forward a copy of the certificate to each affected local government.

8. A partial abatement approved by the Commissioner pursuant to this section terminates upon any determination by the Commissioner that the facility has ceased to meet any eligibility requirements for the abatement. The Commissioner shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the

facility has ceased to meet those requirements. The Commissioner shall immediately provide notice of each determination of termination to the Director, and the Director shall immediately provide a copy of the notice to:

(a) The Commissioner, who shall immediately notify each affected local government of the determination;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

9. The Commissioner:

(a) Shall adopt regulations:

(1) Prescribing the minimum level of benefits that a facility must provide to its employees if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to this section;

(2) Prescribing such requirements for an application for a partial abatement pursuant to this section as will ensure that all information and other documentation necessary for the Commissioner to make an appropriate determination is filed with the Director;

(3) Requiring each recipient of a partial abatement pursuant to this section to file annually with the Director, for submission to the Commissioner, such information and documentation as may be necessary for the Commissioner to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(4) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 3; and

(b) May adopt such other regulations as the Commissioner determines to be necessary to carry out the provisions of this section.

10. Notwithstanding any statutory provision to the contrary, if the Commissioner approves an application for a partial abatement pursuant to this section of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:

(1) For the period beginning on July 1, 2009, and ending on June 30, 2011:

(I) Forty-five percent of that amount is deposited in the unrestricted balance of the State General Fund; and

(II) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive; and

(2) For the period beginning on July 1, 2011, and ending on June 30, 2049:

(I) Forty-five percent of that amount is deposited in the Renewable Energy Fund created by section 28.5 of this act; and

(II) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.

(b) Local sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

11. As used in this section:

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) Municipal wastes; and

(5) Aquatic plants.

(b) "Commissioner" means the Nevada Energy Commissioner appointed pursuant to section 1.85 of this act.

(c) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(d) "Facility for the generation of electricity from renewable energy" [and "facility" mean] means a facility for the generation of electricity that:

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least 10 [kilowatts.] megawatts.

➥ The term [includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term] does not include a facility that is located on residential property.

[(e)] (e) "Facility for the generation of process heat from solar renewable energy" means a facility that:

(1) Uses solar renewable energy to generate process heat; and

(2) Has an output capacity of at least 12,920,000 British thermal units per hour.

(f) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.

[(d)] (g) "Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by the Sales and Use Tax Act.

[(e)] (h) "Renewable energy" means:

(1) Biomass;

(2) Fuel cells;

(3) Solar energy;

(4) Waterpower; or

(5) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, geothermal energy or nuclear energy.

~~*[(f) "Taxes imposed for public education" means:*~~

~~*(1) Any ad valorem tax authorized or required by chapter 387 of NRS;*~~

~~*(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020;*~~

~~*(3) The taxes imposed by NRS 374.110, 374.190 and 374A.010; and*~~

~~*(4) Any other ad valorem tax or local sales and use taxes for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.]*~~

(i) "Wholesale facility for the generation of electricity from renewable energy" means a facility for the generation of electricity from renewable energy that, except as otherwise provided in subparagraph (2), does not sell the electricity to the end user of the electricity. The term includes:

(1) All the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.

(2) A facility that is owned, leased or otherwise controlled by an entity that has authority to sell electricity and provide transmission services or distribution services, or both.

Sec. 28.5. The Renewable Energy Fund is hereby created. The Nevada Energy Commissioner appointed pursuant to section 1.85 of this act shall administer the Fund. The interest and income earned on the money in the fund must be credited to the fund. The money in the fund must be used primarily to defer the rate of the utility to the consumer or otherwise offset the cost of electricity and natural gas to retail customers. The Commissioner may establish other uses of the money in the Fund by regulation.

Sec. 29. ~~**[**NRS 701A.100 is hereby amended to read as follows:~~

~~701A.100 1. The **[**Director of the Office of Energy**]** ***Nevada Energy Commission*** shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to NRS 701A.110.~~

~~2. The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System, except that the standards adopted by the **[**Director:**]** ***Nevada Energy Commission:***~~

~~(a) Except as otherwise provided in paragraphs (b) and (c), must not include:~~

~~(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System for at least 2 years; or~~

~~(2) Standards for homes;~~

~~(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and~~

~~(c) Must require a building or other structure to obtain:~~

~~(1) At least 3 points of credit for energy conservation to meet the equivalent of the silver level;~~

~~(2) At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and~~

~~(3) At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.~~

~~3. As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.~~**]** **(Deleted by amendment.)**

Sec. 30. ~~**[**NRS 701A.110 is hereby amended to read as follows:~~

~~701A.110 1. Except as otherwise provided in this section, the~~ **[**~~Director~~**]** ~~***Nevada Energy Commission*** shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the~~ **[**~~Director~~**]** ~~***Nevada Energy Commission*** pursuant to NRS 701A.100, if:~~

~~(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:~~

~~(1) Private activity bonds must not be considered funding provided by a governmental entity.~~

~~(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.~~

~~(b) The owner of the property:~~

~~(1) Submits an application for the partial abatement to the~~ **[**~~Director.~~**]** ~~***Nevada Energy Commission.*** If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.~~

~~(2) Except as otherwise provided in this subparagraph, provides to the~~ **[**~~Director,~~**]** ~~***Nevada Energy Commission,*** within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the~~

~~Green Building Rating System adopted by the~~ **[**Director**]** ***Nevada Energy Commission*** ~~pursuant to NRS 701A.100. The~~ **[**Director**]** ***Nevada Energy Commission*** ~~may, for good cause shown, extend the period for providing such proof.~~

~~2. As soon as practicable after the~~ **[**Director**]** ***Nevada Energy Commission*** ~~receives:~~

~~(a) The application required by subsection 1, the~~ **[**Director**]** ***Nevada Energy Commission*** ~~shall forward a copy of that application to the:~~

~~(1) Chief of the Budget Division of the Department of Administration;~~

~~(2) Department of Taxation;~~

~~(3) County assessor;~~

~~(4) County treasurer; and~~

~~(5) Commission on Economic Development.~~

~~(b) The application and proof required by subsection 1, the~~ **[**Director**]** ***Nevada Energy Commission*** ~~shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:~~

~~(1) Department of Taxation;~~

~~(2) County assessor;~~

~~(3) County treasurer; and~~

~~(4) Commission on Economic Development.~~

~~3. As soon as practicable after receiving a copy of:~~

~~(a) An application pursuant to paragraph (a) of subsection 2:~~

~~(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State; and~~

~~(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.~~

~~(b) A certificate of eligibility pursuant to paragraph (b) of subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.~~

~~4. The partial abatement:~~

~~(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:~~

~~(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;~~

~~(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or~~

~~(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.~~

~~(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.~~

~~(c) Terminates upon any determination by the~~ **[**Director**]** ~~**Nevada Energy Commission** that the building or other structure has ceased to meet the equivalent of the silver level or higher. The~~ **[**Director**]** ~~**Nevada Energy Commission** shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The~~ **[**Director**]** ~~**Nevada Energy Commission** shall immediately provide notice of each determination of termination to the:~~

~~(1) Department of Taxation, who shall immediately notify each affected local government of the determination;~~

~~(2) County assessor;~~

~~(3) County treasurer; and~~

~~(4) Commission on Economic Development.~~

~~5. The~~ **[**Director**]** ~~**Nevada Energy Commission** shall adopt regulations:~~

~~(a) Establishing the qualifications and methods to determine eligibility for the abatement;~~

~~(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the~~ **[**Director;**]** ~~**Nevada Energy Commission;** and~~

~~(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,~~

~~,~~ ~~and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.~~

~~6. As used in this section:~~

~~(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.~~

~~(b)~~ **[**~~"Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.~~

~~(c)~~**]** ~~"Taxes imposed for public education" means:~~

~~(1) Any ad valorem tax authorized or required by chapter 387 of NRS;~~

~~(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and~~

~~(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.~~**] (Deleted by amendment.)**

Sec. 31. ~~[NRS 701B.080 is hereby amended to read as follows:~~

~~701B.080 "Participant" means a person who has been selected by the~~ **[**~~Task Force~~**]** ~~***Nevada Energy Commission*** to participate in the Solar Program.~~**] (Deleted by amendment.)**

Sec. 32. ~~[NRS 701B.200 is hereby amended to read as follows:~~

~~701B.200 The ***Public Utilities*** Commission ***of Nevada*** shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that establish:~~

~~1. The type of incentives available to participants in the Solar Program and the level or amount of those incentives;~~

~~2. The requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:~~

~~(a) A detailed plan for advertising the Solar Program;~~

~~(b) A detailed budget and schedule for carrying out and administering the Solar Program;~~

~~(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;~~

~~(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;~~

~~(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and~~

~~(f) Any other information required by the ***Public Utilities*** Commission~~ **[**~~.~~**]** ~~***of Nevada,***~~ **(Deleted by amendment.)**

Sec. 33. ~~[NRS 701B.210 is hereby amended to read as follows:~~

~~701B.210 The ***Public Utilities*** Commission ***of Nevada*** shall adopt regulations that establish:~~

~~1. The qualifications and requirements an applicant must meet to be eligible to participate in each applicable category of:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property; and~~

~~2. The form and content of the master application which a utility must submit to the~~ **[**~~Task Force~~**]** ~~***Nevada Energy Commission*** pursuant to NRS 701B.250.~~**] (Deleted by amendment.)**

Sec. 34. ~~[NRS 701B.220 is hereby amended to read as follows:~~

~~701B.220 In adopting regulations for the Solar Program, the *Public Utilities* Commission *of Nevada* shall adopt regulations establishing an incentive for participation in the Solar Program.]~~ **(Deleted by amendment.)**

Sec. 35. ~~[NRS 701B.230 is hereby amended to read as follows:~~

~~701B.230 1. Each year on or before the date established by the *Public Utilities* Commission [,] *of Nevada,* a utility shall file with the *Public Utilities* Commission its annual plan for carrying out and administering the Solar Program within its service area for a program year.~~

~~2. The *Public Utilities* Commission *of Nevada* shall:~~

~~(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the *Public Utilities* Commission; and~~

~~(b) Approve each annual plan with such modifications and upon such terms and conditions as the *Public Utilities* Commission finds necessary or appropriate to facilitate the Solar Program.~~

~~3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the *Public Utilities* Commission [.] *of Nevada.*~~

~~4. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the *Public Utilities* Commission *of Nevada* pursuant to NRS 704.110.]~~ **(Deleted by amendment.)**

Sec. 36. ~~[NRS 701B.240 is hereby amended to read as follows:~~

~~701B.240 1. The Solar Energy Systems Incentive Program is hereby created.~~

~~2. The Solar Program must have three categories as follows:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property.~~

~~3. To be eligible to participate in the Solar Program, a person must:~~

~~(a) Meet the qualifications established by the *Public Utilities* Commission *of Nevada* pursuant to NRS 701B.210;~~

~~(b) Submit an application to a utility and be selected by the [Task Force] *Nevada Energy Commission* for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.260;~~

~~(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and~~

~~(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on~~

~~experience of the solar energy system by the public.~~**] (Deleted by amendment.)**

Sec. 37. ~~[NRS 701B.250 is hereby amended to read as follows:~~

~~701B.250 1. If an applicant desires to participate in the Solar Program for a program year, the applicant must submit an application to a utility. If an applicant desires to participate in the category of school property or public and other property, the applicant may submit an application for multiple program years, not to exceed 5 years.~~

~~2. Each year on or before the date established by the *Public Utilities* Commission~~ **[**~~,~~**]** ~~*of Nevada,* a utility shall review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program and submit to the~~ **[**~~Task Force:~~**]** ~~*Nevada Energy Commission:*~~

~~(a) The utility's recommendations as to which applications should be approved for participation in the Solar Program; and~~

~~(b) A master application containing all the applications recommended by the utility.~~

~~3. At any time after submitting an application to a utility, an applicant may install or energize his solar energy system if the solar energy system meets all applicable building codes and all applicable requirements of the utility as approved by the *Public Utilities* Commission~~ **[**~~.~~**]** ~~*of Nevada.* An applicant who installs or energizes his solar energy system under such circumstances remains eligible to participate in the Solar Program, and the installation or energizing of the solar energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to NRS 701B.260.~~**] (Deleted by amendment.)**

Sec. 38. ~~[NRS 701B.260 is hereby amended to read as follows:~~

~~701B.260 1. Except as otherwise provided in this section, the *Public Utilities* Commission *of Nevada* may approve, for a program year, solar energy systems:~~

~~(a) Totaling 2,000 kilowatts of capacity for school property;~~

~~(b) Totaling 760 kilowatts of capacity for public and other property; and~~

~~(c) Totaling 1,000 kilowatts of capacity for private residential property and small business property.~~

~~2. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the *Public Utilities* Commission *of Nevada* may, in any combination it deems appropriate:~~

~~(a) Allow a utility to submit additional applications to the~~ **[**~~Task Force~~**]** ~~*Nevada Energy Commission* from applicants who want to participate in that category; or~~

~~(b) Reallocate any of the unused capacity in that category to any of the other categories,~~

~~* but in no case may the sum of the allocated total capacities of all the categories be greater than 3,760 kilowatts, which is the sum of the approvable total capacities of all the categories as described in subsection 1.~~

~~3. To promote the installation of solar energy systems on as many school properties as possible, the *Public Utilities* Commission *of Nevada* may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property on or after July 1, 2007, unless the *Public Utilities* Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school property.~~

~~4. After reviewing the master application submitted by a utility pursuant to NRS 701B.250 and ensuring that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the [~~Task Force~~] *Nevada Energy Commission* shall:~~

~~(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Solar Program and place those applicants on a list of participants; and~~

~~(b) Select applicants to be placed on a prioritized waiting list to become participants in the Solar Program if any capacity within a category becomes available.~~

~~5. Not later than 30 days after the date on which the [~~Task Force~~] *Nevada Energy Commission* selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the [~~Task Force~~] *Nevada Energy Commission* on behalf of the applicant shall provide written notice of the selection to the applicant.~~

~~6. After the [~~Task Force~~] *Nevada Energy Commission* selects an applicant to be on the list of participants, the utility which submitted the application to the [~~Task Force~~] *Nevada Energy Commission* on behalf of the applicant may approve the solar energy system proposed by the applicant. Except as otherwise provided in subsection 3 of NRS 701B.250, immediately upon the utility's approval of the solar energy system, the applicant may install and energize the solar energy system.]~~ **(Deleted by amendment.)**

Sec. 39. ~~[~~NRS 701B.270 is hereby amended to read as follows:~~

~~701B.270 1. Except as otherwise provided in this section, if the *Public Utilities* Commission *of Nevada* determines that a participant has not complied with the requirements for participation in the Solar Program, the *Public Utilities* Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Solar Program.~~

~~2. The *Public Utilities* Commission *of Nevada* may, without notice or an opportunity for a hearing, withdraw from the Solar Program:~~

~~(a) A participant in the category of private residential property and small business property, if the participant does not complete the installation of a solar energy system within 12 months after the date the participant receives written notice of his selection to participate in the Solar Program.~~

~~(b) A participant in the category of school property or public and other property, if the participant does not complete the installation of a solar~~

~~energy system within 30 months after the date the participant receives written notice of his selection to participate in the Solar Program.~~

~~3. A participant who is withdrawn from the Solar Program pursuant to subsection 2 forfeits any incentives.~~**]** **(Deleted by amendment.)**

Sec. 40. ~~[~~NRS 701B.290 is hereby amended to read as follows:

~~701B.290 1. After a participant installs a solar energy system included in the Solar Program, the *Public Utilities* Commission *of Nevada* shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the *Public Utilities* Commission pursuant to NRS 704.7821.~~

~~2. The *Public Utilities* Commission *of Nevada* shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.~~

~~3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned to and become the property of the utility administering the Program.~~**]** **(Deleted by amendment.)**

Sec. 41. ~~[~~NRS 701B.470 is hereby amended to read as follows:

~~701B.470 "Participant" means a person who has been selected by the~~ **[**~~Task Force~~**]** ~~*Nevada Energy Commission* pursuant to NRS 701B.620 to participate in the Wind Demonstration Program.~~**]** **(Deleted by amendment.)**

Sec. 42. ~~[~~NRS 701B.580 is hereby amended to read as follows:

~~701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.~~

~~2. The Program must have four categories as follows:~~

~~(a) School property;~~

~~(b) Other public property;~~

~~(c) Private residential property and small business property; and~~

~~(d) Agricultural property.~~

~~3. To be eligible to participate in the Program, a person must:~~

~~(a) Meet the qualifications established by the *Public Utilities* Commission *of Nevada* pursuant to NRS 701B.590;~~

~~(b) Submit an application to a utility and be selected by the~~ **[**~~Task Force~~**]** ~~*Nevada Energy Commission* for inclusion in the Program pursuant to NRS 701B.610 and 701B.620;~~

~~(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and~~

~~(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.~~**]** **(Deleted by amendment.)**

Sec. 43. ~~[~~NRS 701B.590 is hereby amended to read as follows:

~~701B.590 The *Public Utilities* Commission *of Nevada* shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:~~

~~1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:~~

~~(a) School property;~~

~~(b) Other public property;~~

~~(c) Private residential property and small business property; and~~

~~(d) Agricultural property.~~

~~2. The type of incentives available to participants in the Program and the level or amount of those incentives.~~

~~3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:~~

~~(a) A detailed plan for advertising the Program;~~

~~(b) A detailed budget and schedule for carrying out and administering the Program;~~

~~(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;~~

~~(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;~~

~~(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and~~

~~(f) Any other information required by the *Public Utilities* Commission [.] *of Nevada.]*~~ **(Deleted by amendment.)**

Sec. 44. ~~[~~NRS 701B.600 is hereby amended to read as follows:

~~701B.600 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the *Public Utilities* Commission *of Nevada* pursuant to NRS 701B.610.~~

~~2. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the *Public Utilities* Commission *of Nevada* pursuant to NRS 704.110.]~~ **(Deleted by amendment.)**

Sec. 45. ~~[~~NRS 701B.610 is hereby amended to read as follows:

~~701B.610 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the *Public Utilities* Commission *of Nevada* its annual plan for carrying out and administering the~~

~~Wind Demonstration Program within its service area for the following program year.~~

~~2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the *Public Utilities* Commission *of Nevada* shall:~~

~~(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and~~

~~(b) Approve the annual plan with such modifications and upon such terms and conditions as the *Public Utilities* Commission finds necessary or appropriate to facilitate the Program.~~

~~3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the [Task Force] *Nevada Energy Commission* the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The [Task Force] *Nevada Energy Commission* shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.~~

~~4. Except as otherwise provided in NRS 701B.620, the [Task Force] *Nevada Energy Commission* may approve, from among the applications recommended by each utility, wind energy systems totaling:~~

~~(a) For the program year beginning July 1, 2008:~~

~~(1) 500 kilowatts of capacity for school property;~~

~~(2) 500 kilowatts of capacity for other public property;~~

~~(3) 700 kilowatts of capacity for private residential property and small business property; and~~

~~(4) 700 kilowatts of capacity for agricultural property.~~

~~(b) For the program year beginning July 1, 2009:~~

~~(1) An additional 250 kilowatts of capacity for school property;~~

~~(2) An additional 250 kilowatts of capacity for other public property;~~

~~(3) An additional 350 kilowatts of capacity for private residential property and small business property; and~~

~~(4) An additional 350 kilowatts of capacity for agricultural property.~~

~~(c) For the program year beginning July 1, 2010:~~

~~(1) An additional 250 kilowatts of capacity for school property;~~

~~(2) An additional 250 kilowatts of capacity for other public property;~~

~~(3) An additional 350 kilowatts of capacity for private residential property and small business property; and~~

~~(4) An additional 350 kilowatts of capacity for agricultural property.~~**]**

(Deleted by amendment.)

Sec. 46. ~~[NRS 701B.620 is hereby amended to read as follows:~~

~~701B.620 1. Based on the applications submitted by each utility for a program year, the [Task Force] *Nevada Energy Commission* shall:~~

~~(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and~~

~~(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.~~

~~2. Not later than 30 days after the date on which the~~ [Task Force] ***Nevada Energy Commission*** ~~selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the~~ [Task Force] ***Nevada Energy Commission*** ~~on behalf of the applicant shall provide written notice of the selection to the applicant.~~

~~3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the~~ [Task Force] ***Nevada Energy Commission*** ~~may, in any combination it deems appropriate:~~

~~(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or~~

~~(b) Reallocate any of the unused capacity in that category to any of the other categories.~~

~~4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the~~ ***Public Utilities*** ~~Commission~~ [.] ***of Nevada.*** ~~An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.~~] **(Deleted by amendment.)**

Sec. 47. ~~[NRS 701B.630 is hereby amended to read as follows:~~

~~701B.630 1. Except as otherwise provided in this section, if the~~ [Task Force] ***Nevada Energy Commission*** ~~determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the~~ [Task Force] ***Nevada Energy Commission*** ~~shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.~~

~~2. The~~ [Task Force] ***Nevada Energy Commission*** ~~may, without notice or an opportunity for a hearing, withdraw from the Program:~~

~~(a) A participant in the category of private residential property and small business property or a participant in the category of agricultural property if the participant does not complete the installation of a wind energy system within 12 months after the date the participant receives written notice of his selection to participate in the Program.~~

~~(b) A participant in the category of school property or a participant in the category of other public property if the participant does not complete the installation of a wind energy system within 30 months after the date the participant receives written notice of his selection to participate in the Program.~~

~~3. A participant who is withdrawn from the Program pursuant to subsection 2 forfeits any incentives.~~] **(Deleted by amendment.)**

Sec. 48. ~~[NRS 701B.640 is hereby amended to read as follows:~~

~~701B.640 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the *Public Utilities* Commission *of Nevada* shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the *Public Utilities* Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.~~

~~2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.]~~ **(Deleted by amendment.)**

Sec. 49. ~~[NRS 701B.740 is hereby amended to read as follows:~~

~~701B.740 "Participant" means a person who has been selected by the *Public Utilities* Commission *of Nevada* to participate in the Waterpower Demonstration Program.]~~ **(Deleted by amendment.)**

Sec. 50. ~~[NRS 701B.820 is hereby amended to read as follows:~~

~~701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.~~

~~2. The Waterpower Demonstration Program is created for agricultural uses.~~

~~3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4 and apply to and be selected by the~~ **[**Task Force~~]** *Nevada Energy Commission* for inclusion in the Waterpower Demonstration Program.~~

~~4. The *Public Utilities* Commission *of Nevada* shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.]~~ **(Deleted by amendment.)**

Sec. 51. ~~[NRS 701B.830 is hereby amended to read as follows:~~

~~701B.830 The~~ **[**Task Force~~]** *Nevada Energy Commission* is responsible for the administration and delivery of the Waterpower Demonstration Program as approved by the *Public Utilities* Commission ~~[.]~~ *of Nevada.]* **(Deleted by amendment.)**

Sec. 52. ~~[NRS 701B.840 is hereby amended to read as follows:~~

~~701B.840 The *Public Utilities* Commission *of Nevada* shall adopt regulations that establish:~~

~~1. The level, amount and type of incentives available for participants in the Waterpower Demonstration Program.~~

~~2. The requirements for an annual plan for the administration and delivery of the Waterpower Demonstration Program. The requirements for an annual plan must include, without limitation:~~

~~(a) An advertising plan;~~

~~(b) A detailed budget;~~

~~(c) A schedule;~~

~~(d) Administrative processes, including, without limitation, a copy of the application and process for accepting applications;~~

~~(e) An inspection and verification process;~~

~~(f) Proposed training and educational activities; and~~

~~(g) Any other information required by the *Public Utilities* Commission~~ **[**~~.~~**]** ~~*of Nevada.]*~~ **(Deleted by amendment.)**

Sec. 53. ~~**[**NRS 701B.850 is hereby amended to read as follows:~~

~~701B.850 1. On or before February 21, 2008, and on or before February 1 of each subsequent year, each utility shall file with the *Public Utilities* Commission *of Nevada* for approval an annual plan for the administration and delivery of the Waterpower Demonstration Program for the program year beginning July 1, 2008, and each subsequent year thereafter.~~

~~2. On or before July 1, 2008, and on or before each July 1 of each subsequent year, the *Public Utilities* Commission *of Nevada* shall review the annual plan for compliance with the requirements set forth by regulation of the *Public Utilities* Commission.~~

~~3. On or before November 1, 2008, and on or before November 1 of each subsequent year, each utility shall submit to the~~ **[**Task Force**]** ~~*Nevada Energy Commission* a recommendation of which applications received should be accepted into the program. The~~ **[**Task Force**]** ~~*Nevada Energy Commission* shall review the applications to ensure that the applicant meets the requirements adopted pursuant to subsection 4 of NRS 701B.820.~~

~~4. The~~ **[**Task Force**]** ~~*Nevada Energy Commission* may approve, from among the applications recommended by each utility, waterpower energy systems totaling:~~

~~(a) For the program year beginning July 1, 2008, 200 kilowatts of capacity;~~

~~(b) For the program year beginning July 1, 2009, an additional 100 kilowatts of capacity; and~~

~~(c) For the program year beginning July 1, 2010, an additional 100 kilowatts of capacity.~~**]** **(Deleted by amendment.)**

Sec. 54. ~~**[**NRS 701B.860 is hereby amended to read as follows:~~

~~701B.860 Each utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Waterpower Demonstration Program within its service area by seeking recovery of those costs in an appropriate proceeding before the *Public Utilities* Commission *of Nevada* pursuant to NRS 704.110.~~**]** **(Deleted by amendment.)**

Sec. 55. ~~**[**NRS 701B.870 is hereby amended to read as follows:~~

~~701B.870 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the *Public Utilities* Commission *of Nevada* shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the *Public Utilities*~~

~~Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.~~

~~2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.~~**] (Deleted by amendment.)**

Sec. 56. ~~[NRS 701B.890 is hereby amended to read as follows:~~

~~701B.890 If the ***Public Utilities*** Commission ***of Nevada*** determines that a participant did not comply with the requirements for participation in the Waterpower Demonstration Program, the ***Public Utilities*** Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Waterpower Demonstration Program. Notice or a hearing is not required for dropping an applicant from the Program who fails to meet any completion time frames specified for the Program.~~**] (Deleted by amendment.)**

Sec. 57. ~~[NRS 702.150 is hereby amended to read as follows:~~

~~702.150 1. The provisions of NRS 702.160 do not apply to any therm of natural gas or any kilowatt-hour of electricity that a retail customer purchases from:~~

~~(a) A rural electric cooperative established pursuant to chapter 81 of NRS.~~

~~(b) A general improvement district established pursuant to chapter 318 of NRS.~~

~~(c) A cooperative association, nonprofit corporation, nonprofit association or provider of service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.~~

~~2. If a retail customer is exempted from paying the universal energy charge pursuant to subsection 1, the retail customer may not receive money or other assistance from:~~

~~(a) The Division of Welfare and Supportive Services pursuant to NRS 702.260 for any utility service for which the retail customer is exempted from paying the universal energy charge;~~ **[**~~or~~**]**

~~(b) The~~ **[**~~Housing Division~~**]** ~~***Nevada Energy Commission*** pursuant to NRS 702.270~~ **[**~~.~~**]** ~~***; or***~~

~~***(c) The Housing Division pursuant to NRS 702.275.)***~~ **(Deleted by amendment.)**

Sec. 58. ~~[NRS 702.260 is hereby amended to read as follows:~~

~~702.260 1. Seventy-five percent of the money in the Fund must be distributed to the Division of Welfare and Supportive Services for programs to assist eligible households in paying for natural gas and electricity. The Division may use not more than 5 percent of the money distributed to it pursuant to this section for its administrative expenses.~~

~~2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Division may use the money distributed to it pursuant to this section only to:~~

~~(a) Assist eligible households in paying for natural gas and electricity.~~

~~(b) Carry out activities related to consumer outreach.~~

~~(c) Pay for program design.~~

~~(d) Pay for the annual evaluations conducted pursuant to NRS 702.280.~~

~~3. Except as otherwise provided in subsection 4, to be eligible to receive assistance from the Division pursuant to this section, a household must have a household income that is not more than 150 percent of the federally designated level signifying poverty, as determined by the Division.~~

~~4. The Division is authorized to render emergency assistance to a household if an emergency related to the cost or availability of natural gas or electricity threatens the health or safety of one or more of the members of the household. Such emergency assistance may be rendered upon the good faith belief that the household is otherwise eligible to receive assistance pursuant to this section.~~

~~5. Before July 1, 2002, if a household is eligible to receive assistance pursuant to this section, the Division shall determine the amount of assistance that the household will receive by using the existing formulas set forth in the state plan for low-income home energy assistance.~~

~~6. On or after July 1, 2002, if a household is eligible to receive assistance pursuant to this section, the Division:~~

~~(a) Shall, to the extent practicable, determine the amount of assistance that the household will receive by determining the amount of assistance that is sufficient to reduce the percentage of the household's income that is spent on natural gas and electricity to the median percentage of household income spent on natural gas and electricity statewide.~~

~~(b) May adjust the amount of assistance that the household will receive based upon such factors as:~~

~~(1) The income of the household;~~

~~(2) The size of the household;~~

~~(3) The type of energy that the household uses; and~~

~~(4) Any other factor which, in the determination of the Division, may make the household particularly vulnerable to increases in the cost of natural gas or electricity.~~

~~7. The Division shall adopt regulations to carry out and enforce the provisions of this section and NRS 702.250.~~

~~8. In carrying out the provisions of this section, the Division shall:~~

~~(a) Solicit advice from the Housing Division *and the Nevada Energy Commission* and from other knowledgeable persons;~~

~~(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;~~

~~(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;~~

~~(d) Establish a process for evaluating the programs conducted pursuant to this section;~~

~~(e) Develop a process for making changes to such programs; and~~

~~(f) Engage in annual planning and evaluation processes with the Housing Division *and the Nevada Energy Commission* as required by NRS 702.280.~~**] (Deleted by amendment.)**

Sec. 59. **[**~~NRS 702.270 is hereby amended to read as follows:~~

~~702.270 1. Twenty-five percent of the money in the Fund must be distributed to the~~ **[**Housing Division**]** ~~*Nevada Energy Commission* for programs of energy conservation, weatherization and energy efficiency for eligible households. The~~ **[**Housing Division**]** ~~*Nevada Energy Commission* may use not more than 6 percent of the money distributed to it pursuant to this section for its administrative expenses.~~

~~2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the~~ **[**Housing Division**]** ~~*Nevada Energy Commission* may use the money distributed to it pursuant to this section only to:~~

~~(a) Provide an eligible household with services of basic home energy conservation and home energy efficiency or to assist an eligible household to acquire such services, including, without limitation, services of load management.~~

~~(b) Pay for appropriate improvements associated with energy conservation, weatherization and energy efficiency.~~

~~(c) Carry out activities related to consumer outreach.~~

~~(d) Pay for program design.~~

~~(e) Pay for the annual evaluations conducted pursuant to NRS 702.280.~~

~~3. Except as otherwise provided in subsection 4, to be eligible to receive assistance from the~~ **[**Housing Division**]** ~~*Nevada Energy Commission* pursuant to this section, a household must have a household income that is not more than 150 percent of the federally designated level signifying poverty, as determined by the~~ **[**Housing Division.**]** ~~*Nevada Energy Commission.*~~

~~4. The~~ **[**Housing Division**]** ~~*Nevada Energy Commission* is authorized to render emergency assistance to a household if the health or safety of one or more of the members of the household is threatened because of the structural, mechanical or other failure of:~~

~~(a) The unit of housing in which the household dwells; or~~

~~(b) A component or system of the unit of housing in which the household dwells.~~

~~Such emergency assistance may be rendered upon the good faith belief that the household is otherwise eligible to receive assistance pursuant to this section.~~

~~5. The~~ **[**Housing Division**]** ~~*Nevada Energy Commission* shall adopt regulations to carry out and enforce the provisions of this section.~~

~~6. In carrying out the provisions of this section, the~~ **[**Housing Division**]** ~~*Nevada Energy Commission* shall:~~

~~(a) Solicit advice from the Division of Welfare and Supportive Services *and the Housing Division* and from other knowledgeable persons;~~

~~(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;~~

~~(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;~~

~~(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;~~

~~(e) Establish a process for evaluating the programs conducted pursuant to this section;~~

~~(f) Develop a process for making changes to such programs; and~~

~~(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services *and the Housing Division* as required by NRS 702.280.]~~ **(Deleted by amendment.)**

Sec. 60. ~~[~~NRS 702.275 is hereby amended to read as follows:

~~702.275 1. At the beginning of a fiscal year, 30 percent of the money in the Fund which was allocated to the Division of Welfare and Supportive Services during the preceding fiscal year pursuant to NRS 702.260 and which remains unspent and unencumbered must be distributed to the Housing Division for a program of improving energy conservation and energy efficiency in residential property. The Housing Division may use not more than 6 percent of the money distributed pursuant to this section for its administrative expenses.~~

~~2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Housing Division may use the money distributed pursuant to this section only to provide a qualified purchaser of residential property which has received a deficient evaluation on the energy consumption of the residential property pursuant to the program established in NRS 701.250 with a grant to pay for improvements designed to increase the energy conservation and energy efficiency of the residential property or to assist an eligible household in acquiring such improvements.~~

~~3. To be eligible to receive assistance from the Housing Division pursuant to this section:~~

~~(a) The purchaser of the residential property must have a household income that is not more than 80 percent of the median gross family income for the county in which the property is located, based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for that county; and~~

~~(b) The residential property must not meet the standards for energy consumption established pursuant to NRS 701.250.~~

~~4. The Housing Division shall adopt regulations to carry out and enforce the provisions of this section.~~

~~5. In carrying out the provisions of this section, the Housing Division shall:~~

~~(a) Solicit advice from the Division of Welfare and Supportive Services *and the Nevada Energy Commission* and from other knowledgeable persons;~~

~~(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;~~

~~(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;~~

~~(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;~~

~~(e) Establish a process for evaluating the program conducted pursuant to this section;~~

~~(f) Develop a process for making changes to the program; and~~

~~(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services *and the Nevada Energy Commission* as required by NRS 702.280.~~**] (Deleted by amendment.)**

Sec. 61. **[**~~NRS 702.280 is hereby amended to read as follows:~~

~~702.280 1. The Division of Welfare and Supportive Services~~ ***, the Nevada Energy Commission*** and the Housing Division jointly shall establish an annual plan to coordinate their activities and programs pursuant to this chapter. In preparing the annual plan, the **[**~~Divisions~~**]** ***Division of Welfare and Supportive Services, the Nevada Energy Commission and the Housing Division*** shall solicit advice from knowledgeable persons. The annual plan must include, without limitation, a description of:

~~(a) The resources and services being used by each program and the efforts that will be undertaken to increase or improve those resources and services;~~

~~(b) The efforts that will be undertaken to improve administrative efficiency;~~

~~(c) The efforts that will be undertaken to coordinate with other federal, state and local agencies, nonprofit organizations and any private business or trade organizations that provide energy assistance or conservation services to low-income persons;~~

~~(d) The measures concerning program design that will be undertaken to improve program effectiveness; and~~

~~(e) The efforts that will be taken to address issues identified during the most recently completed annual evaluation conducted pursuant to subsection 2.~~

~~2. The Division of Welfare and Supportive Services~~ ***, the Nevada Energy Commission*** and the Housing Division jointly shall:

~~(a) Conduct an annual evaluation of the programs that~~ **[**~~each~~**]** ***the*** Division ***of Welfare and Supportive Services, the Nevada Energy Commission and the Housing Division*** carries out pursuant to NRS 702.260, 702.270 and 702.275;

~~(b) Solicit advice from the Commission as part of the annual evaluation; and~~

~~(c) Prepare a report concerning the annual evaluation and submit the report to the Governor, the Legislative Commission and the Interim Finance Committee.~~

~~3. The report prepared pursuant to subsection 2 must include, without limitation:~~

~~(a) A description of the objectives of each program;~~

~~(b) An analysis of the effectiveness and efficiency of each program in meeting the objectives of the program;~~

~~(c) The amount of money distributed from the Fund for each program and a detailed description of the use of that money for each program;~~

~~(d) An analysis of the coordination between the~~ **[**Divisions**]** ~~**Division of Welfare and Supportive Services, the Nevada Energy Commission and the Housing Division** concerning each program; and~~

~~(e) Any changes planned for each program.~~**]** **(Deleted by amendment.)**

Sec. 62. **[**~~Chapter 704 is hereby amended by adding thereto a new section to read as follows:~~

~~***1. The Commission shall adopt regulations to establish methods and programs for an electric utility which remove financial disincentives that discourage the electric utility from supporting energy conservation, including, without limitation, procedures for an electric utility to have a mechanism established during a general rate application filed pursuant to NRS 704.110 to ensure that the costs of the electric utility for providing service are recovered without regard to the difference in the quantity of electrical energy actually sold by the public utility by taking into account the adjusted and annualized quantity of electrical energy sold during a test year and the growth in the number of customers of the electric utility.***~~

~~***2. The regulations adopted pursuant to subsection 1 must ensure that the methods and programs consider the recovery of costs, stabilization of revenue and any reduction of risk for the electric utility.***~~**]** **(Deleted by amendment.)**

Sec. 63. **[**~~NRS 113.115 is hereby amended to read as follows:~~

~~113.115 1. Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in NRS 701.250.~~

~~2. Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the~~ **[**~~Director of the Office of Energy,~~**]** ~~***Nevada Energy Commission,*** as prescribed in regulations adopted pursuant to NRS 701.250.~~

~~3. Subsection 1 does not apply to a sale or intended sale of residential property:~~

~~(a) By foreclosure pursuant to chapter 107 of NRS.~~

~~(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.~~

~~(c) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.~~

~~(d) If the seller and purchaser agree to waive the requirements of subsection 1.~~

~~4. If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.~~**] (Deleted by amendment.)**

Sec. 64. ~~[NRS 332.430 is hereby amended to read as follows:~~

~~332.430 A qualified service company shall provide to the~~ **[**~~Office of Energy within the Office of the Governor~~**]** ***Nevada Energy Commission*** ~~information concerning each performance contract which the qualified service company enters into pursuant to NRS 332.300 to 332.440, inclusive, including, without limitation, the name of the project, the local government for which the project is being carried out and the expected operating cost savings. The~~ **[**~~Office of Energy~~**]** ***Nevada Energy Commission*** ~~may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.~~**] (Deleted by amendment.)**

Sec. 65. ~~[NRS 333A.080 is hereby amended to read as follows:~~

~~333A.080 1. The State Public Works Board shall determine those companies that satisfy the requirements of qualified service companies for the purposes of this chapter. In making such a determination, the State Public Works Board shall enlist the assistance of the staffs of the~~ **[**~~Office of Energy within the Office of the Governor,~~**]** ***Nevada Energy Commission,*** ~~the Buildings and Grounds Division of the Department of Administration and the Purchasing Division of the Department of Administration. The State Public Works Board shall prepare and issue a request for qualifications to not less than three potential qualified service companies.~~

~~2. In sending out a request for qualifications, the State Public Works Board:~~

~~(a) Shall attempt to identify at least one potential qualified service company located within this State; and~~

~~(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.~~

~~3. The State Public Works Board shall adopt, by regulation, criteria to determine those companies that satisfy the requirements of qualified service companies. The criteria for evaluation must include, without limitation, the following areas as substantive factors to assess the capability of such companies:~~

~~(a) Design;~~

~~(b) Engineering;~~

~~(c) Installation;~~

~~(d) Maintenance and repairs associated with performance contracts;~~

~~(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost savings retrofit;~~

~~(f) Monitoring projects after the projects are installed;~~

~~(g) Data collection and reporting of savings;~~

~~(h) Overall project experience and qualifications;~~

~~(i) Management capability;~~

~~(j) Ability to access long-term financing;~~

~~(k) Experience with projects of similar size and scope; and~~

~~(l) Such other factors determined by the State Public Works Board to be relevant and appropriate to the ability of a company to perform the projects.~~

~~➡~~ ~~In determining whether a company satisfies the requirements of a qualified service company, the State Public Works Board shall also consider whether the company holds the appropriate licenses required for the design, engineering and construction which would be completed pursuant to a performance contract.~~

~~4. The State Public Works Board shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.~~**] (Deleted by amendment.)**

Sec. 66. **[**~~NRS 333A.140 is hereby amended to read as follows:~~

~~333A.140 A qualified service company shall provide to the~~ **[**~~Office of Energy within the Office of the Governor~~**]** ~~***Nevada Energy Commission*** information concerning each performance contract which the qualified service company enters into pursuant to this chapter, including, without limitation, the name of the project, the using agency for which the project is being carried out and the expected operating cost savings. The~~ **[**~~Office of Energy~~**]** ~~***Nevada Energy Commission*** may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.~~**] (Deleted by amendment.)**

Sec. 67. **[**~~Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***"Renewable energy transmission project":***~~

~~***1. Means a project involving the transmission of electricity generated by renewable energy.***~~

~~***2. Does not include a project involving an electric generating facility or system that uses nuclear energy, in whole or in part, to generate electricity.]*** **(Deleted by amendment.)**

Sec. 68. **[**~~NRS 349.400 is hereby amended to read as follows:~~

~~349.400 As used in NRS 349.400 to 349.670, inclusive,~~ ~~***and section 67 of this act,*** unless the context otherwise requires, the words and terms

~~defined in NRS 349.405 to 349.540, inclusive, *and section 67 of this act* have the meanings ascribed to them in those sections.~~] **(Deleted by amendment.)**

Sec. 69. ~~[NRS 349.510 is hereby amended to read as follows:~~

~~349.510 "Project" means:~~

~~1. Any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether or not in existence, suitable for new construction, improvement, rehabilitation or redevelopment for:~~

~~(a) Industrial uses, including assembling, fabricating, manufacturing, processing or warehousing;~~

~~(b) Research and development relating to commerce or industry, including professional, administrative and scientific offices and laboratories;~~

~~(c) Commercial enterprises;~~

~~(d) Civic and cultural enterprises open to the general public, including theaters, museums and exhibitions, together with buildings and other structures, machinery, equipment, facilities and appurtenances thereto which the Director deems useful or desirable in connection with the conduct of any such enterprise;~~

~~(e) An educational institution operated by a nonprofit organization not otherwise directly funded by the State which is accredited by a nationally recognized educational accrediting association;~~

~~(f) Health and care facilities and supplemental facilities for health and care;~~

~~(g) The purposes of a corporation for public benefit; or~~

~~(h) A renewable energy generation project .] *or renewable energy transmission project.*~~

~~2. Any real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire.~~

~~3. The preservation of a historic structure or its restoration for its original or another use, if the plan has been approved by the Office of Historic Preservation of the Department of Cultural Affairs.~~] **(Deleted by amendment.)**

Sec. 70. ~~[NRS 349.565 is hereby amended to read as follows:~~

~~349.565 1. The Director may not, under NRS 349.400 to 349.670, inclusive:~~

~~(a) Operate any manufacturing, industrial, warehousing or commercial enterprise or an organization for research and development or any health and care facility to which he provided assistance; or~~

~~(b) Except as otherwise provided in subsection 2, assist any manufacturing, industrial, warehousing or commercial enterprise or an organization for research and development to locate in a county or city which would result in the abandonment or closure of an existing facility of a like nature located within that county or city, unless the existing facility is~~

~~operated by the contemplated lessee, purchaser or other obligor or an affiliate of such a person and the facility is to be abandoned or closed because of obsolescence, lack of available labor or limitations at the site of the facility.~~

~~2. The provisions of paragraph (b) of subsection 1 do not apply to:~~

~~(a) Health and care facilities and supplemental facilities for a health and care facility;~~

~~(b) Civic and cultural enterprises open to the general public;~~

~~(c) Enterprises located in a redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive;~~

~~(d) Enterprises located in an area designated as an empowerment zone pursuant to sections 1391 to 1397, inclusive, of the Internal Revenue Code of 1986, 26 U.S.C. §§ 1391-97, future amendments to those sections and the corresponding provisions of future internal revenue laws;~~

~~(e) Facilities established by a corporation for public benefit;~~

~~(f) Enterprises whose products are substantially sold, used or distributed outside this state; and~~

~~(g) Renewable energy generation projects~~ **[.]** ~~*or renewable energy transmission projects.]*~~ **(Deleted by amendment.)**

Sec. 71. ~~[~~NRS 349.580 is hereby amended to read as follows:

~~349.580 Except as otherwise provided in NRS 349.595 and 349.640, the Director shall not finance a project unless, before financing:~~

~~1. The Director finds that:~~

~~(a) The project to be financed has been approved for financing pursuant to the requirements of NRS 244A.669 to 244A.763, inclusive, or 268.512 to 268.568, inclusive; and~~

~~(b) There has been a request by a city or county to have the Director issue bonds to finance the project; or~~

~~2. The Director finds and both the Board and the governing body of the city or county where the project is to be located approve the findings of the Director that:~~

~~(a) The project consists of any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether or not in existence, which is suitable for new construction, improvement, preservation, restoration, rehabilitation or redevelopment:~~

~~(1) For manufacturing, industrial, warehousing, civic, cultural or other commercial enterprises, educational institutions, corporations for public benefit or organizations for research and development;~~

~~(2) For a health and care facility or a supplemental facility for a health and care facility;~~

~~(3) Of real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire;~~

~~(4) Of a historic structure; or~~

~~(5) For a renewable energy generation project~~ **[**;**]** ***~~or a renewable energy transmission project;~~***

~~(b) The project will provide a public benefit;~~

~~(c) The contemplated lessee, purchaser or other obligor has sufficient financial resources to place the project in operation and to continue its operation, meeting the obligations of the lease, purchase contract or financing agreement;~~

~~(d) There are sufficient safeguards to assure that all money provided by the Department will be expended solely for the purposes of the project;~~

~~(e) The project would be compatible with existing facilities in the area adjacent to the location of the project;~~

~~(f) The project:~~

~~(1) Is compatible with the plan of the State for economic diversification and development or for the marketing and development of tourism in this state; or~~

~~(2) Promotes the generation of electricity in this state;~~

~~(g) Through the advice of counsel or other reliable source, the project has received all approvals by the local, state and federal governments which may be necessary to proceed with construction, improvement, rehabilitation or redevelopment of the project; and~~

~~(h) There has been a request by a city, county, lessee, purchaser, other obligor or other enterprise to have the Director issue revenue bonds for industrial development to finance the project.~~**]** **(Deleted by amendment.)**

Sec. 72. ~~**[**Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 73 to 98, inclusive, of this act.~~**]** **(Deleted by amendment.)**

Sec. 73. ***~~[As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 74 to 79, inclusive, of this act have the meanings ascribed to them in those sections.]~~*** **(Deleted by amendment.)**

Sec. 74. ***~~[“Biomass” means any organic matter that is available on a renewable basis, including, without limitation:~~***

~~1. Agricultural crops and agricultural wastes and residues;~~

~~2. Wood and wood wastes and residues;~~

~~3. Animal wastes;~~

~~4. Municipal wastes; and~~

~~5. Aquatic plants.]~~ **(Deleted by amendment.)**

Sec. 75. ***~~[“Commission” means the Nevada Tax Commission.]~~*** **(Deleted by amendment.)**

Sec. 76. ***~~[“Facility for the generation of electricity from renewable energy” means a facility for the generation of electricity that:~~***

~~1. Uses renewable energy as its primary source of energy; and~~

~~2. Has a generating capacity of at least 10 kilowatts,~~

~~*—, except that the term does not include a facility which is located on residential property or a facility which is owned or operated by this State or a political subdivision of this State.]*~~ **(Deleted by amendment.)**

Sec. 77. ~~*[“Fuel cell” means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.]*~~ **(Deleted by amendment.)**

Sec. 78. ~~*[“Renewable energy” means:*~~

~~*1. Biomass;*~~

~~*2. Fuel cells;*~~

~~*3. Solar energy;*~~

~~*4. Waterpower; or*~~

~~*5. Wind.*~~

~~*—. The term does not include coal, natural gas, oil, propane or any other fossil fuel, geothermal energy or nuclear energy.]*~~ **(Deleted by amendment.)**

Sec. 79. ~~*[“Taxpayer” means any person liable for the tax imposed by this chapter.]*~~ **(Deleted by amendment.)**

Sec. 80. ~~*[The Department shall:*~~

~~*1. Administer and enforce the provisions of this chapter, and may adopt such regulations as it deems appropriate for those purposes.*~~

~~*2. Deposit all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the Trust Fund for Renewable Energy and Energy Conservation created by NRS 701.370.]*~~ **(Deleted by amendment.)**

Sec. 81. ~~*[1. Each person responsible for maintaining the records of a taxpayer shall:*~~

~~*(a) Keep such records as may be necessary to determine the amount of the liability of the taxpayer pursuant to the provisions of this chapter;*~~

~~*(b) Preserve those records for 4 years or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and*~~

~~*(c) Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.*~~

~~*2. The Department may by regulation specify the types of records which must be kept to determine the amount of the liability of a taxpayer pursuant to the provisions of this chapter.*~~

~~*3. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.]*~~ **(Deleted by amendment.)**

Sec. 82. ~~*[1. To verify the accuracy of any return filed or, if no return is filed by a taxpayer, to determine the amount required to be paid, the Department, or any person authorized in writing by the Department, may examine the books, papers and records of any person who may be liable for the tax imposed by this chapter.*~~

~~*2. Any person who may be liable for the tax imposed by this chapter and who keeps outside of this State any books, papers and records relating*~~

~~*thereto shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he is absent from his regular place of employment to examine those documents.]*~~ **(Deleted by amendment.)**

Sec. 83. ~~*[The Executive Director may request from any other governmental agency or officer such information as he deems necessary to carry out the provisions of this chapter. If the Executive Director obtains any confidential information pursuant to such a request, he shall maintain the confidentiality of that information in the same manner and to the same extent as provided by law for the agency or officer from whom the information was obtained.]*~~ **(Deleted by amendment.)**

Sec. 84. ~~*[1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration of this chapter are confidential and privileged. The Department, and any employee engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from the Department's records or files or from any examination, investigation or hearing authorized by the provisions of this chapter. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.*~~

~~*2. The records and files of the Department concerning the administration of this chapter are not confidential and privileged in the following cases:*~~

~~*(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.*~~

~~*(b) Delivery to a taxpayer or his authorized representative of a copy of any return or other document filed by the taxpayer pursuant to this chapter.*~~

~~*(c) Publication of statistics so classified as to prevent the identification of a particular person or document.*~~

~~*(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.*~~

~~*(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of*~~

~~*this or any other state charged with the administration or enforcement of laws relating to taxation.*~~

~~*(f) Exchanges of information pursuant to subsection 3.*~~

~~*3. The Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.]*~~ **(Deleted by amendment.)**

Sec. 85. ~~*[1. An excise tax is hereby imposed on the generation of electricity by each facility that generates electricity from renewable energy in the amount of 0.39 mills for each kilowatt hour of electricity generated by the facility during a calendar quarter.*~~

~~*2. The operator of each facility that generates electricity from renewable energy shall, on or before the last day of the month immediately following each calendar quarter:*~~

~~*(a) File with the Department a return on a form prescribed by the Department; and*~~

~~*(b) Remit to the Department any tax due pursuant to this section for that calendar quarter.]*~~ **(Deleted by amendment.)**

Sec. 86. ~~*[Upon written application made before the date on which payment must be made, the Department may for good cause extend by 30 days the time within which a taxpayer is required to pay the tax imposed by this chapter. If the tax is paid during the period of extension, no penalty or late charge may be imposed for failure to pay at the time required, but the taxpayer shall pay interest at the rate of 1 percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.]*~~ **(Deleted by amendment.)**

Sec. 87. ~~*[If the Department determines that any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and certify to the State Board of Examiners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Examiners, the excess amount collected or paid must be credited on any amounts then due from the person under this chapter, and the balance refunded to the person or his successors in interest.]*~~ **(Deleted by amendment.)**

Sec. 88. ~~*[1. Except as otherwise provided in NRS 360.235 and 360.395:*~~

~~*(a) No refund may be allowed unless a claim for it is filed with the Department within 3 years after the last day of the month following the calendar quarter for which the overpayment was made.*~~

~~*(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Department within that period.*~~

~~*2. Each claim must be in writing and must state the specific grounds upon which the claim is founded.*~~

~~*3. Failure to file a claim within the time prescribed in this chapter constitutes a waiver of any demand against the State on account of overpayment.*~~

~~*4. Within 30 days after rejecting any claim in whole or in part, the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.]*~~ **(Deleted by amendment.)**

Sec. 89. ~~*[1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of any amount of the taxes imposed by this chapter at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.*~~

~~*2. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Department shall not allow any interest on the overpayment.]*~~ **(Deleted by amendment.)**

Sec. 90. ~~*[1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or against any officer of this State to prevent or enjoin the collection under this chapter of the tax imposed by this chapter or any amount of tax, penalty or interest required to be collected.*~~

~~*2. No suit or proceeding may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed.]*~~ **(Deleted by amendment.)**

Sec. 91. ~~*[1. Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by the Commission, the claimant may bring an action against the Department on the grounds set forth in the claim in a court of competent jurisdiction in Carson City, the county of this State where the claimant resides or maintains his principal place of business or a county in which any relevant proceedings were conducted by the Department, for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.*~~

~~*2. Failure to bring an action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayments.]*~~ **(Deleted by amendment.)**

Sec. 92. ~~*[1. If the Department fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Commission within 30 days after the last day of the 6-month period. If the claimant is aggrieved by the decision of the Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.*~~

~~*2. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited towards any tax due from the plaintiff.*~~

~~*3. The balance of the judgment must be refunded to the plaintiff.]*~~ **(Deleted by amendment.)**

Sec. 93. ~~*[In any judgment, interest must be allowed at the rate of 6 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.]*~~ **(Deleted by amendment.)**

Sec. 94. ~~*[A judgment may not be rendered in favor of the plaintiff in any action brought against the Department to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.]*~~ **(Deleted by amendment.)**

Sec. 95. ~~*[1. The Department may recover a refund or any part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in Carson City or Clark County in the name of the State of Nevada.*~~

~~*2. The action must be tried in Carson City or Clark County unless the court, with the consent of the Attorney General, orders a change of place of trial.*~~

~~*3. The Attorney General shall prosecute the action, and the provisions of NRS, the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings.]*~~ **(Deleted by amendment.)**

Sec. 96. ~~*[1. If any amount in excess of $25 has been illegally determined, either by the Department or by the person filing the return, the Department shall certify this fact to the State Board of Examiners, and the latter shall authorize the cancellation of the amount upon the records of the Department.*~~

~~*2. If an amount not exceeding $25 has been illegally determined, either by the Department or by the person filing the return, the Department, without certifying this fact to the State Board of Examiners, shall authorize the cancellation of the amount upon the records of the Department.]*~~ **(Deleted by amendment.)**

Sec. 97. ~~*[1. A person shall not:*~~

~~*(a) Make, cause to be made or permit to be made any false or fraudulent return or declaration or false statement in any return or declaration with intent to defraud the State or to evade payment of the tax or any part of the tax imposed by this chapter.*~~

~~*(b) Make, cause to be made or permit to be made any false entry in books, records or accounts with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter.*~~

~~*(c) Keep, cause to be kept or permit to be kept more than one set of books, records or accounts with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter.*~~

~~*2. Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.]*~~ **(Deleted by amendment.)**

Sec. 98. ~~*[The remedies of the State provided for in this chapter are cumulative, and no action taken by the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.]*~~ **(Deleted by amendment.)**

Sec. 99. ~~[NRS 360.2937 is hereby amended to read as follows:~~

~~360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377 or 377A~~ **[,]** ~~*of NRS or sections 73 to 98, inclusive, of this act,* any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of 0.5 percent per month from the last day of the calendar month following the period for which the overpayment was made.~~

~~2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.~~

~~3. The interest must be paid:~~

~~(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.~~

~~(b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.]~~ **(Deleted by amendment.)**

Sec. 100. ~~[NRS 360.297 is hereby amended to read as follows:~~

~~360.297 1. A responsible person who fails to collect or pay to the Department any tax or fee imposed by this chapter, chapter 363A, 363B, 368A, 369, 370, 372 or 374 of NRS, *or sections 73 to 98, inclusive, of this act,* NRS 444A.090 or 482.313, or chapter 680B of NRS, or who attempts to evade the payment of any such tax or fee, is jointly and severally liable with any other person who is required to pay such a tax or fee for the tax or fee owed plus interest and all applicable penalties. The responsible person shall pay the tax or fee upon notice from the Department that it is due.~~

~~2. As used in this section, "responsible person" includes:~~

~~(a) An officer or employee of a corporation; and~~

~~(b) A member or employee of a partnership or limited liability company, who whose job or duty it is to collect, account for or pay to the Department any tax or fee imposed by this chapter, chapter 363A, 363B, 368A, 369, 370, 372 or 374 of NRS, *or sections 73 to 98, inclusive, of this act,* NRS 444A.090 or 482.313, or chapter 680B of NRS.~~ **(Deleted by amendment.)**

Sec. 101. ~~NRS 360.300 is hereby amended to read as follows:~~

~~360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, *or sections 73 to 98, inclusive, of this act,* NRS 482.313, or chapter 585 or 680B of NRS as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:~~

~~(a) The facts contained in the return;~~

~~(b) Any information within its possession or that may come into its possession; or~~

~~(c) Reasonable estimates of the amount.~~

~~2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.~~

~~3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.~~

~~4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.~~

~~5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.~~ **(Deleted by amendment.)**

Sec. 102. ~~NRS 360.417 is hereby amended to read as follows:~~

~~360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, *or sections 73 to 98, inclusive, of this act,* or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date~~

~~of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.~~**] (Deleted by amendment.)**

Sec. 103. ~~[NRS 360.419 is hereby amended to read as follows:~~

~~360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of a tax imposed pursuant to NRS 361.320~~ **,** ~~[or] chapter 361A, 362, 363A, 363B, 369, 370, 372, 372A, 374, 375A, 375B, 376A, 377 or 377A of NRS,~~ ***or sections 73 to 98, inclusive, of this act*** ~~is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the Department may relieve him of all or part of any interest or penalty, or both.~~

~~2. A person seeking this relief must file with the Department a statement under oath setting forth the facts upon which he bases his claim.~~

~~3. The Department shall disclose, upon the request of any person:~~

~~(a) The name of the person to whom relief was granted; and~~

~~(b) The amount of the relief.~~

~~4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.~~**] (Deleted by amendment.)**

Sec. 104. ~~[NRS 360.510 is hereby amended to read as follows:~~

~~360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against him which remains unpaid, the Department may:~~

~~(a) Not later than 3 years after the payment became delinquent or the determination became final; or~~

~~(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed,~~

~~, give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his possession or under his control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.~~

~~2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.~~

~~3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal~~

~~property, or debts in his possession or under his control at the time he received the notice until the Department consents to a transfer or other disposition.~~

~~4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his possession, under his control or owing by him within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.~~

~~5. If the property of the delinquent taxpayer consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him to continue to transmit payments to the Department or that his duty to transmit the payments to the Department has ceased.~~

~~6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.~~

~~7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he is liable to the State for any indebtedness due pursuant to this chapter, or chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, *or sections 73 to 98, inclusive, of this act,* NRS 482.313, or chapter 585 or 680B of NRS from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.]~~ **(Deleted by amendment.)**

Sec. 105. ~~[NRS 701.050, 701.090, 701.150, 701.350, 701.360, 701B.050, 701B.170, 701B.450, 701B.530, 701B.730 and 701B.770 are hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 106. ~~[1. Any regulations adopted by the Office of Energy within the Office of the Governor to carry out its duties become the regulations of the Nevada Energy Commission on July 1, 2010, and remain in effect until amended or repealed by the Nevada Energy Commission.~~

~~2. The Office of Energy and the Task Force for Renewable Energy and Energy Conservation shall:~~

~~(a) Continue to fulfill their duties until June 30, 2010; and~~

~~(b) Report monthly to the Interim Finance Committee on the status of their operations from the effective date of this act until June 30, 2010.~~

~~3. The Office of Energy within the Office of the Governor and the Task Force for Renewable Energy and Energy Conservation shall cooperate with the Nevada Energy Commission to ensure that the provisions of this act are carried out in an orderly manner, including, without limitation, the transfer or exchange of books and records to the Nevada Energy Commission.~~

~~4. The Governor shall appoint the members of the Nevada Energy Commission on or before July 1, 2010, with:~~

~~(a) One Commissioner having an initial term of 2 years, and serving the initial term of Chairman of the Commission; and~~

~~(b) Two Commissioners having initial terms of 4 years.~~

~~5. The Legislative Counsel shall, in preparing the:~~

~~(a) Reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.~~

~~(b) Supplements to the Nevada Administrative Code, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.~~

~~6. Any references in a bill or resolution passed by the 75th Session of the Nevada Legislature to an officer, agency or other entity whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity shall be deemed to refer to the officer, agency or other entity to which the responsibility is transferred.~~

~~7. As used in this section, "Nevada Energy Commission" means the Nevada Energy Commission created by section 4 of this act.~~**] (Deleted by amendment.)**

Sec. 107. The Legislature hereby finds that each exemption provided by this act from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

2. Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any

other obligations for which revenue from the tax from which the exemption would be granted was pledged.

Sec. 108. Notwithstanding the provisions of section 28 of this act, a person is not entitled to any partial abatement of taxes pursuant to that section after June 30, ~~[2019.]~~ **2049.**

Sec. 109. ~~[1. The tax imposed by section 85 of this act does not apply to any electricity generated before January 1, 2010.~~

~~2. Notwithstanding any provision of sections 73 to 98, inclusive, of this act to the contrary:~~

~~(a) The return and remittance required by subsection 2 of section 85 of this act for the calendar quarter beginning on January 1, 2010, are due on or after July 1, 2010, and on or before July 31, 2010.~~

~~(b) The Department of Taxation shall not enforce the provisions of subsection 2 of section 85 of this act before July 1, 2010.]~~ **(Deleted by amendment.)**

Sec. 110. 1. This section and sections **1 to 1.8, inclusive, 27.5, 28, 28.5,** 107, 108 and 109 of this act become effective ~~[upon passage and approval.~~

~~2. Section]~~ **on July 1, 2009**.

2. Sections 1.85, 1.9 and 1.95 of this act become effective on July 1, 2009, if and only if no other bill passed during the 2009 Legislative Session becomes effective that provides for the appointment, powers and duties of the Nevada Energy Commissioner.

3. Sections 28 **and 28.5** of this act ~~[becomes effective on July 1, 2009, and expires]~~ **expire** by limitation on June 30, ~~[2019.~~

~~3. Sections 72 to 104, inclusive, of this act become effective:~~

~~(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~(b) On January 1, 2010, for all other purposes.~~

~~4. Sections 1 to 27, inclusive, 29 to 62, inclusive, 64 to 71, inclusive, 105 and 106 of this act become effective:~~

~~(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~(b) On July 1, 2010, for all other purposes.~~

~~5. Section 63 of this act becomes effective on January 1, 2011.~~

~~6. Sections 41 to 56, inclusive, of this act expire by limitation on June 30, 2011.]~~ **2049.**

~~[LEADLINES OF REPEALED SECTIONS]~~

~~[701.050 "Director" defined.~~

~~701.090 "Task Force" defined.~~

~~701.150—Creation; appointment of Director; employment of personnel by Director; classification of Director and personnel; conflict of interest prohibited.~~

~~701.350—Creation; appointment of members; qualifications for members; terms of members; vacancies; requirements and restrictions concerning members who are public officers or employees.~~

~~701.360—Selection and terms of Chairman and Vice Chairman; vacancies; quorum; meetings; members serve without compensation; per diem and travel expenses; Consumer's Advocate to provide support and assistance.~~

~~701B.050—"Commission" defined.~~

~~701B.170—"Task Force" defined.~~

~~701B.450—"Commission" defined. Effective through June 30, 2011.~~

~~701B.530—"Task Force" defined. Effective through June 30, 2011.~~

~~701B.730—"Commission" defined. Effective through June 30, 2011.~~

~~701B.770—"Task Force" defined. Effective through June 30, 2011.~~**]**

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 263.

Bill read third time.

The following amendment was proposed by Assemblywoman Koivisto:

Amendment No. 870.

AN ACT relating to city elections; amending the Charters of the Cities of Carlin and Wells to specify the dates for filing a declaration of candidacy to become a candidate in the general city election; amending the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The existing Charters of the Cities of Carlin and Wells provide that a Mayor and the Councilmen of the respective cities are elected at a general city election which occurs on the same day as the statewide general election. **Sections 1 and 3** of this bill amend the Charters of the Cities of Carlin and Wells to specify that a person seeking to appear on the ballot at the general city election in one of those cities must file a declaration of candidacy with the City Clerk not less than **[**~~90 days or~~**]** **5 days or** more than **[**~~100~~**]** **15** days before the day of the **[**~~general city~~**]** **statewide primary** election.

Sections 2 and 4 of this bill also amend the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot, including details on how the names of candidates with similar surnames are to appear.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than ~~[90 days or]~~ 5 days or more than ~~[100]~~ 15 days before the day of the ~~[general election.]~~ primary election held pursuant to the provisions of NRS 293.175. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 2. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.040, immediately following section 5.030, to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible before the close of filing and any applicable period for withdrawal of candidacy, must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 3. The Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 457, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than ~~[90 days or]~~ 5 days or more than ~~[100]~~ 15 days before the day of the ~~[general election.]~~ primary election held pursuant to the provisions of NRS 293.175. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 4. Section 5.040 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible ~~[,]~~ ***before the close of filing and any applicable period for withdrawal of candidacy,*** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 5. This act becomes effective upon passage and approval.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblymen Kirkpatrick, Atkinson, and Leslie:

Amendment No. 891.

SUMMARY—Amends the Charters of the Cities of Carlin**, Reno** and Wells to revise provisions governing municipal elections. (BDR S-1003)

AN ACT relating to city elections; amending the Charters of the Cities of Carlin and Wells to specify the dates for filing a declaration of candidacy to become a candidate in the general city election; amending the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot; **creating a sixth ward for the City of Reno; requiring that the candidates for Councilman in the City of Reno be voted for in a general election only by the registered voters of the ward that a candidate seeks to represent;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The existing Charters of the Cities of Carlin and Wells provide that a Mayor and the Councilmen of the respective cities are elected at a general city election which occurs on the same day as the statewide general election. **Sections 1 and ~~[3]~~ 7** of this bill amend the Charters of the Cities of Carlin and Wells to specify that a person seeking to appear on the ballot at the general city election in one of those cities must file a declaration of candidacy with the City Clerk not less than 90 days or more than 100 days before the day of the general city election. **(Carlin City Charter § 5.015; Wells City Charter § 5.015)**

Sections 2 and ~~[4]~~ 8 of this bill also amend the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot, including details on how the names of candidates with similar surnames are to appear. **(Carlin City Charger § 5.040; Wells City Charter § 5.040)**

The existing Charter of the City of Reno divides the City into five wards, each of which is represented on the City Council by a Councilman. A sixth Councilman represents the City at large. (Reno City Charter §§ 1.050, 2.010) Section 3 of this bill increases the number of wards in Reno to six, and sections 4-6 of this bill replace the office of Councilman at large with the office of Councilman to represent the newly created sixth ward. (Reno City Charter §§ 1.050, 2.010, 5.010, 5.020)

The existing Charter of the City of Reno provides that the candidates for Councilman to represent a particular ward must be voted on in a primary election only by the registered voters of that ward but, in a general election, must be voted on by the registered voters of the City at large. (Reno City Charter, §§ 5.010, 5.020) Sections 5 and 6 of this bill amend the Charter of the City of Reno to provide that all candidates for Councilman must be voted on in a general election by only the registered voters of the ward that a candidate seeks to represent.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than 90 days or more than 100 days before the day of the general election. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 2. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.040, immediately following section 5.030, to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible before the close of filing and any applicable period for withdrawal of candidacy, must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 3. **Section 1.050 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1365, is hereby amended to read as follows:**

Sec. 1.050 Wards: Creation; boundaries.

1. The City must be divided into ~~[five]~~ ***six*** wards, which must be as nearly equal in population as can be conveniently provided. The territory comprising each ward must be contiguous, except that if any territory of the City which is not contiguous to the remainder of the City does not contain sufficient population to constitute a separate ward, it may be placed in any ward of the City.

2. The boundaries of the wards must be established and changed by ordinance, passed by a vote of at least five-sevenths of the City Council. The boundaries of the wards:

(a) Must be changed whenever the population, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, in any ward exceeds the population in any other ward by more than 5 percent.

(b) May be changed to include territory that has been annexed, or whenever the population in any ward exceeds the population in another ward by more than 5 percent by any measure that is found to be reliable by the City Council.

Sec. 4. **Section 2.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1366, is hereby amended to read as follows:**

Sec. 2.010 Mayor and City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of six Councilmen and a Mayor.

2. The Mayor and Councilmen must be qualified electors within the City. Each Councilman ***must be a resident of the ward from which he is*** elected ~~[from a ward]~~ ***and*** must continue to live in that ward for as long as he represents the ward.

3. The Mayor ~~[and one Councilman represent]~~ ***represents*** the City at large and one Councilman represents each ward. The Mayor and Councilmen serve for terms of 4 years.

4. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

Sec. 5. **Section 5.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 87, Statutes of Nevada 2001, at page 557, is hereby amended to read as follows:**

Sec. 5.010 General elections.

1. ~~[On the Tuesday after the first Monday in November 1998, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, a Mayor, Councilmen from the second and fourth wards, a Municipal Judge and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 3 or 4.~~

~~2. On the Tuesday after the first Monday in November 2000, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, Councilmen from the first, third and fifth wards, one Councilman at large and two Municipal Judges, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 5 or 6.~~

~~3.]~~ On the Tuesday after the first Monday in November 2002, and at each successive interval of 6 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, a Municipal Judge, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[4.]~~ ***2.*** On the Tuesday after the first Monday in November 2002, and at each successive interval of 4 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, a Mayor, Councilmen from the second and fourth wards, and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[5.]~~ ***3.*** On the Tuesday after the first Monday in November 2004, and at each successive interval of 6 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, three Municipal Judges, all of whom hold office for a term of 6 years and until their successors have been elected and qualified.

~~[6.]~~ ***4.*** On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, Councilmen from the first, third and fifth wards and one Councilman at large, all of whom hold office for a term of 4 years and until their successors have been elected and qualified ~~[.]~~ ***pursuant to subsection 5.***

5. On the Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected, at the general election, Councilmen from the first, third, fifth and sixth wards, all of

whom hold office for a term of 4 years and until their successors have been elected and qualified.

6. In an election held pursuant to this section:

(a) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

(b) Candidates for Mayor, Municipal Judge and City Attorney must be elected by the registered voters of the City at large.

Sec. 6. **Section 5.020 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 376, Statutes of Nevada 2005, at page 1438, is hereby amended to read as follows:**

Sec. 5.020 Primary elections; declaration of candidacy.

1. A candidate for any office to be voted for at an election must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be deposited to the credit of the General Fund of the City.

2. If for any general election, there are three or more candidates for any office to be filled at that election, a primary election for any such office must be held on the date fixed by the election laws of this State for statewide elections, at which time there must be nominated candidates for the office to be voted for at the next general election. If for any general election there are two or fewer candidates for any office to be filled at that election, their names must not be placed on the ballot for the primary election but must be placed on the ballot for the general election.

3. In the primary election:

(a) The names of the two candidates for Municipal Judge, City Attorney or a particular City Council seat, as the case may be, who receive the highest number of votes must be placed on the ballot for the general election.

(b) ~~[Candidates]~~ ***A candidate*** for ***the office of City*** Councilman ~~[who represent a specific ward]~~ must be voted upon only by the registered voters of ~~[that ward.]~~ ***the ward that he seeks to represent.***

(c) Candidates for Mayor ~~[and Councilman at large]~~ ***, Municipal Judge and City Attorney*** must be voted upon by ~~[all]~~ ***the*** registered voters of the City~~.~~

~~4. The Mayor and all Councilmen must be voted upon by all registered voters of the City at the general election.]~~ ***at large.***

~~[Sec. 3.]~~ ***Sec. 7.*** The Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 457, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than 90 days or more than 100 days before the day of the general election. The City Clerk shall charge and collect from the candidate and the candidate must pay to the

City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

~~[Sec. 4.]~~ ***Sec. 8.*** Section 5.040 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible ~~[,]~~ ***before the close of filing and any applicable period for withdrawal of candidacy,*** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 9. **The City Council of the City of Reno shall, not later than July 1, 2009, establish the boundaries of the ward created by the amendatory provisions of section 3 of this act, which must be designated the sixth ward, and change the boundaries of the first through fifth wards to comply with the provisions of section 1.050 of the Charter of the City of Reno, as amended by section 3 of this act.**

Sec. 10. **Notwithstanding the amendatory provisions of section 4 of this act, a Councilman of the City of Reno who holds office on July 1, 2009, shall:**

1. If elected or appointed to represent a ward, continue to represent that ward for the remainder of his term of office.

2. If elected or appointed to represent the City at large, be deemed to represent only the ward created by the amendatory provisions of section 3 of this act for the remainder of his term of office.

~~[Sec. 5.]~~ ***Sec. 11.*** **1.** This **section and sections 1, 2, 7 and 8 of this** act ~~[becomes]~~ **become** effective upon passage and approval.

2. Sections 3 to 6, inclusive, and 9 and 10 of this act become effective:

(a) Upon passage and approval for the purpose of passing any ordinances and performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2009, for all other purposes.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 295.
Bill read third time.
Roll call on Senate Bill No. 295:
YEAS—37.
NAYS—Christensen, Kihuen, Munford—3.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 295 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 239.
Bill read third time.
Conflict of interest declared by Assemblyman Ohrenschall.
Roll call on Senate Bill No. 239:
YEAS—38.
NAYS—None.
NOT VOTING—Christensen, Ohrenschall—2.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 239 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 269.
Bill read third time.
Potential conflict of interest declared by Assemblymen Hardy and Gansert.
Roll call on Senate Bill No. 269:
YEAS—40.
NAYS—None.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 269 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 175.
Bill read third time.
Remarks by Assemblyman Settelmeyer.
Roll call on Senate Bill No. 175:
YEAS—27.
NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 175 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 190.
Bill read third time.

Roll call on Senate Bill No. 190:
YEAS—40.
NAYS—None.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 190 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 213.
Bill read third time.
Roll call on Senate Bill No. 213:
YEAS—28.
NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—12.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 213 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 522 and Senate Bill No. 263.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 522.
Bill read third time.
Roll call on Assembly Bill No. 522:
YEAS—39.
NAYS—Hambrick.
EXCUSED—Grady, Mortenson—2.
Assembly Bill No. 522 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 263.
Bill read third time.
Roll call on Senate Bill No. 263:
YEAS—31.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Woodbury—9.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 263 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 463, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 758 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 1, which is attached to and hereby made a part of this report.

DEBBIE SMITH	VALERIE WIENER
APRIL MASTROLUCA	JOYCE WOODHOUSE
LYNN STEWART	WARREN HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA1.

SUMMARY—Restricts a department, division or other agency of this State from employing a person as a consultant. (BDR 23-1057)

AN ACT relating to governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; providing certain exceptions; requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill restricts a department, division or other agency of this State from employing a person as a consultant for the agency. **Section 1** requires the Interim Finance Committee to approve the employment of a consultant under certain circumstances and limits the approval of the employment of the person as a consultant if the person is a former employee of a department, division or other agency of this State and at least 1 year has not expired before the person is employed as a consultant. **Section 1** also requires each board, commission, school district and institution of the Nevada System of Higher Education to submit to the Interim Finance Committee, at least once every 6 months, a report concerning each consultant employed by the entity. **Section 1** also requires that contracts with temporary employment services be awarded by open competitive bidding. **Section 1** further provides that certain exceptions apply for the employment of persons for a period of less than 4 months under certain conditions and for the employment of certain persons by the Department of Transportation for transportation projects that are **[**~~solely~~**]** federally funded. **Section 2.5** of this bill requires that information concerning the use of consultants and temporary employment services be included and explained in the budget

process by a state agency. **Section 2.7** of this bill requires the Legislative Auditor to conduct an audit of the use by agencies of the Executive Branch of State Government of contracts with consultants.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a department, division or other agency of this State shall not employ, by contract or otherwise, a person to provide services as a consultant for the agency if:

(a) The person is a current employee of an agency of this State;

(b) The person is a former employee of an agency of this State and less than 1 year has expired since the termination of his employment with the State;

(c) Except as otherwise provided in paragraph (d), the term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years; or

(d) The person is employed by the Department of Transportation for a transportation project that is ~~*[solely]*~~ ***federally funded and the term of the contract is for more than 4 years, or is amended or otherwise extended beyond 4 years,***

➥ unless, before the person is employed by the agency, the Interim Finance Committee approves the employment of the person.

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The Interim Finance Committee shall not approve the employment of a consultant pursuant to paragraph (b) of subsection 1 unless the Interim Finance Committee determines that one or more of the following circumstances exist:

(a) The person provides services that are not provided by any other employee of the agency or for which a critical labor shortage exists; or

(b) A short-term need or unusual economic circumstance exists for the agency to employ the person as a consultant.

3. A department, division or other agency of this State may employ a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the Interim Finance Committee if the term of employment is for less than 4 months and the executive head of the department, division or agency determines that an emergency exists which necessitates the employment. If a department, division or agency employs a person pursuant to this subsection, the department, division or agency shall include in the report to the Interim Finance Committee pursuant to subsection 4 a description of the emergency.

4. Except as otherwise provided in subsection 7, a department, division or other agency of this State shall report to the Interim Finance Committee whenever it employs, by contract or otherwise, a person to provide services as a consultant for the agency who is a former employee of a department, division or other agency of this State.

5. Except as otherwise provided in subsection 7, a department, division or other agency of this State shall not contract with a temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

6. Each board or commission of this State, each school district in this State and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

(a) The number of consultants employed by the board, commission, school district or institution;

(b) The purpose for which the board, commission, school district or institution employs each consultant;

(c) The amount of money or other remuneration received by each consultant from the board, commission, school district or institution; and

(d) The length of time each consultant has been employed by the board, commission, school district or institution.

7. The provisions of subsections 1 to 5, inclusive, do not apply to the:

(a) Nevada System of Higher Education or a board or commission of this State.

(b) Employment of professional engineers by the Department of Transportation if those engineers are employed for a transportation project that is ~~*[solely]*~~ ***federally funded.***

8. For the purposes of this section, "consultant" includes any person employed by a business or other entity that is providing consulting services if the person will be performing or producing the work for which the business or entity is employed.

Sec. 2. NRS 218.6827 is hereby amended to read as follows:

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650 ~~[.]~~ ***and section 1 of this act.*** In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes

to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 2.5. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy; ~~[and]~~

(b) ***Any existing contracts the department, institution or agency has with consultants or temporary employment services, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such consultants or services; and***

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in his office or which he may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 2.7. 1. The Legislative Auditor shall conduct an audit concerning the use by agencies of the Executive Branch of State Government of contracts with consultants. The State Controller shall provide such information as is requested by the Legislative Auditor to assist with the completion of the audit.

2. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011.

3. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

Sec. 3. The amendatory provisions of section 1 of this act do not apply to a contract of employment specified in that section that is entered into or renewed before the effective date of this act.

Sec. 4. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 463.

Motion carried by a constitutional majority.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:48 p.m.

ASSEMBLY IN SESSION

At 8:16 p.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Denis, Dondero Loop, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 389.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 273, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 304, Amendment No. 907, and respectfully requests your honorable body to concur in said amendment.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SECOND READING AND AMENDMENT

Senate Bill No. 273.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 796.

AN ACT relating to health; providing for the scope of regulation of certain activities related to nonembryonic cells; providing that nothing in this act shall be construed to indicate the status under federal law of the activities authorized under this act; providing for cell or tissue banks; providing for the administration of nonembryonic cells to a person; providing for the compounding of drugs, medicines or health products using nonembryonic cells; providing for the importation and administration of nonembryonic cells under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill provides that no state or local entity may regulate the activities related to nonembryonic cells authorized in this bill except as otherwise provided in certain portions of this bill.

Section 7 of this bill provides that nothing in this bill shall be construed to indicate the status under federal law of the activities authorized under this bill.

Section 8 of this bill authorizes cell or tissue banks to operate in this State.

Section 9 of this bill authorizes the administration, whether assisted or not, of nonembryonic cells to a person.

Section 10 of this bill authorizes the compounding of a drug, medicine or health product using nonembryonic cells.

Section 11 of this bill authorizes the importation and administration, whether assisted or not, of nonembryonic cells under certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 629 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Allogeneic" means originating from the body of another person.***

Sec. 4. ***"Autologous" means originating from within a person's own body.***

Sec. 5. ***"Nonembryonic cells" means autologous or allogeneic cellular material, including, without limitation, stem cells and immune cells, that:***

1. Has not been isolated or obtained directly from human embryos; and

2. May have been or may be combined with one or more:

(a) Naturally occurring biomaterials; or

(b) Materials approved or cleared for any purpose by the United States Food and Drug Administration or other applicable agency or authority.

Sec. 6. ***1. Notwithstanding any other provision of law, any department, commission, board or agency of a state or local government, including, without limitation, a state professional board, shall not:***

~~[1.]~~ ***(a) Except as otherwise provided in subsection 2 of section 9 of this act and subsection 2 of section 11 of this act, regulate the activities authorized by sections 2 to 11, inclusive, of this act; or***

~~[2.]~~ ***(b) Take disciplinary action or impose civil or criminal liabilities or penalties against a person for engaging in an activity authorized by sections 2 to 11, inclusive, of this act.***

2. This section does not:

(a) Absolve a professional licensing board of the duty to regulate licensees or otherwise prohibit or limit the powers and duties of a licensing board to regulate the procedures used to administer the nonembryonic stem cells.

(b) Absolve any person of civil or criminal liability or penalty for failure to use the reasonable care, skill or knowledge ordinarily used in rendering medical services under similar circumstances.

Sec. 7. ***Nothing in sections 2 to 11, inclusive, of this act shall be construed to indicate the status of any of the activities authorized pursuant to sections 2 to 11, inclusive, of this act as regards federal law.***

Sec. 8. ***1. Notwithstanding any other provision of law, a cell or tissue bank may operate in this State.***

2. As used in this section, "cell or tissue bank" means a facility that stores nonembryonic cells or tissues, or both.

Sec. 9. ***Notwithstanding any other provision of law, nonembryonic cells may be administered to a person by:***

1. That person himself; or

2. A person licensed or authorized in this State to administer or assist in the administration of medicine or health care to others if the mode of delivery used by the person to deliver the nonembryonic cells is a mode of delivery permitted under the person's license or authorization.

Sec. 10. ***Notwithstanding any other provision of law:***

1. A drug, medicine or health product may be compounded using as an ingredient, by itself or with other ingredients, nonembryonic cells; and

2. A pharmacy that compounds a drug, medicine or health product described in subsection 1 may be owned or operated, or both, in this State.

Sec. 11. ***Notwithstanding any other provision of law:***

1. A person may import into this State any compound, drug or other treatment containing nonembryonic cells if:

(a) The compound, drug or other treatment was obtained without violating the laws of the jurisdiction in which it was obtained; and

(b) The compound, drug or other treatment is for personal use.

2. A person who is licensed or authorized in this State to administer or assist in the administration of medicine or health care to others may administer or assist in the administration of, to a person described in subsection 1, the imported compound, drug or other treatment if the mode of delivery used to deliver the nonembryonic cells by the person who is licensed or authorized in this State is a mode of delivery permitted under the person's license or authorization.

Sec. 12. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bill No. 273.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Senate Bill No. 273 be declared emergency measure under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 119 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that the action whereby Senate Bill No. 354 was passed be rescinded.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 119.

Bill read third time.

The following amendment was proposed by Assemblyman Settelmeyer:

Amendment No. 936.

AN ACT relating to professions; revising provisions governing the regulation of massage therapists by the Board of Massage Therapists; prohibiting certain misleading and deceptive practices relating to massage therapy; revising provisions governing the discipline of massage therapists; authorizing the Board to issue administrative citations and to impose administrative fines for certain violations; revising provisions governing the temporary suspension of licenses of massage therapists; requiring ~~[law enforcement]~~ **governmental** agencies **and courts of competent jurisdiction** to provide certain records to the Board or its Executive Director upon request; authorizing ~~[law enforcement]~~ **governmental** agencies **and courts of competent jurisdiction** to redact certain confidential information from records provided to the Board or its Executive Director; providing remedies and penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, massage therapists must be licensed by the Board of Massage Therapists. (Chapter 640C of NRS) **Sections 2, 3 and 11** of this bill require a massage therapist to display his original license, not a copy or replica, at each location where he practices massage therapy. (NRS 640C.450) **Section 3** prohibits a person from: (1) forging or counterfeiting a license; (2) altering, copying or replicating a license for the purpose of aiding or abetting an unlawful act; or (3) using or displaying a license that has been forged or counterfeited or has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act.

Sections 4 and 16 of this bill prohibit an unlicensed person from advertising as a massage therapist and prohibit a licensed person from using any false or misleading statements in advertising. (NRS 640C.910) **Sections 4 and 16** also prohibit an unlicensed person from having his name listed in a telephone directory under a heading such as "massage" which indicates or implies that he is licensed or qualified to practice massage therapy. **Sections 4 and 16** also authorize the Board to issue an order to cease and desist from engaging in unlawful advertising. **Sections 4, 18 and 19** of this bill contain provisions whereby the Board can have telephone numbers for any type of telephone, messaging or paging service disconnected because they are included in unlawful advertising. (NRS 703.175, 707.355)

Existing law authorizes the Board to take disciplinary action by imposing administrative fines. (NRS 640C.710) **Section 14** of this bill provides that the

Board may impose an administrative fine of not more than $5,000 for each violation, unless a greater fine is required pursuant to **section 5** of this bill. **Section 5** requires the Board to impose, based on the number of violations, increasing administrative fines of not more than $10,000 against a licensee who ~~[has engaged in or solicited sexual activity during a massage therapy session or]~~ has been convicted of a crime involving violence, prostitution or any other sexual offense that occurred during a massage therapy session.

~~[Section 7 of this bill authorizes the Board to issue administrative citations for any statutory or regulatory violations relating to massage therapy and provides that an unlicensed person who fails to comply with a citation is guilty of a misdemeanor. A citation may include an order to: (1) pay an administrative fine; (2) correct a condition resulting from a violation; and (3) reimburse the Board for expenses incurred to investigate the violation. Section 8 of this bill allows a person to request a hearing before the Board to contest an administrative citation.]~~

Existing law provides for the temporary suspension of a massage therapy license without a prior hearing for a period of 15 or 30 days under certain exigent circumstances. (NRS 640C.720) Generally, procedural due process entitles a licensee to a hearing before his license is suspended. (*Barry v. Barchi*, 443 U.S. 55, 99 S. Ct. 2642 (1979); U.S. Const. Amend. XIV, § 1; Nev. Const. Art. 1, § 8) However, when exigent circumstances justify immediate action, a statute may provide for the temporary suspension of a license without a prior hearing if the statute requires a post-suspension administrative review where a hearing is held and a final decision is rendered as promptly as is practicable. (*Federal Deposit Insurance Corporation v. Mallen*, 486 U.S. 230, 108 S. Ct. 1780 (1988); *Sierra Life Insurance Company v. Rottman*, 95 Nev. 654 (1979)) **Section 15** of this bill: (1) provides for the temporary suspension of a massage therapy license without a prior hearing for a period not to exceed ~~[30]~~ **15 business** days under certain exigent circumstances; (2) authorizes the licensee to request a post-suspension administrative review; and (3) requires the Board to hold a hearing and render a final decision as promptly as is practicable but not later than ~~[30]~~ **10 business** days after the date of the initial suspension. (NRS 640C.720)

Section 15 of this bill also authorizes the Board and its Executive Director to request from ~~[state and local law enforcement agencies]~~ **the appropriate governmental agency or court of competent jurisdiction** records relating to any ~~[charge or citation against]~~ **conviction of** a massage therapist for a crime involving violence, prostitution or any other sexual offense and authorizes those ~~[law enforcement]~~ **governmental** agencies **and courts of competent jurisdiction** to redact from those records certain information which the agencies **or courts** deem confidential. (NRS 640C.720) **Sections 15 and 17** of this bill require ~~[a law enforcement]~~ **the governmental** agency **or court of competent jurisdiction** to provide the requested records as soon as reasonably practicable. (NRS 179A.100) **Section 15** also provides that the

Board and its Executive Director: (1) must maintain the confidentiality of the records; and (2) may use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 640C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. ***1. "Original license" means the actual license which is issued to the licensee by the Board and which is current and valid.***

2. The term does not include any photocopy print, photostat or other replica of such a license.

Sec. 3. ***1. A person shall not:***

(a) Counterfeit or forge or attempt to counterfeit or forge a license to practice massage therapy; or

(b) For the purpose of aiding or abetting an unlawful act:

(1) Alter or attempt to alter a license to practice massage therapy; or

(2) Make or attempt to make any photocopy print, photostat or other replica of a license to practice massage therapy.

2. A person shall not use or display a license to practice massage therapy that:

(a) Is not the original license issued to the person;

(b) Has been counterfeited or forged;

(c) Has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act; or

(d) Has been issued to another person.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 4. ***1. A person shall not advertise as a massage therapist in this State unless the person is licensed to practice massage therapy pursuant to this chapter.***

2. A person licensed to practice massage therapy pursuant to this chapter shall not disseminate, as part of any advertising by the massage therapist, any false or misleading statement or representation of material fact that is intended, directly or indirectly, to induce another person to use the services of the massage therapist.

3. All advertising by a licensed massage therapist must include his name and the name of his company, if applicable. All advertising in a telephone directory or a newspaper must also include the number of his license.

4. A person who violates any provision of subsection 1 or 2 is guilty of a misdemeanor.

5. If, after notice and a hearing as required by law, the Board determines that a person has willfully engaged in advertising in a manner that violates the provisions of this section or NRS 640C.910, the Board

may, in addition to any penalty, punishment or disciplinary action authorized by the provisions of this chapter, order the person to cease and desist the unlawful advertising. The provisions of this subsection do not apply to any person whose license has been expired for less than 90 days or is temporarily suspended.

6. The Board may order any person convicted of a crime involving violence, prostitution or any other sexual offense to cause any telephone number included in the advertising to be disconnected from service. If the Board orders the person to cause any telephone number to be disconnected from service and the person fails to comply within 5 days after the date on which he is served with the order, the Board may:

(a) If the provider is regulated by the Public Utilities Commission of Nevada, request the Commission to order the provider to disconnect the telephone number from service pursuant to NRS 703.175 and 707.355; or

(b) If the provider is not regulated by the Public Utilities Commission of Nevada, request the provider to disconnect the telephone number from service and inform the provider that the request is made pursuant to this section. Upon receiving such a request, the provider shall take such action as is necessary to disconnect the telephone number from service.

7. A provider shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to this section; or

(b) Provide or offer to provide a message that includes a new telephone number for the person whose telephone number was disconnected from service pursuant to this section.

8. If a provider complies in good faith with a request to disconnect a telephone number from service pursuant to this section, such good-faith compliance shall constitute a complete defense to any civil or criminal action brought against the provider arising from the disconnection or termination of service.

9. As used in this section:

(a) "Advertising" means the intentional placement or issuance of any sign, card or device, or the permitting or allowing of any sign or marking on a motor vehicle, in any building, structure, newspaper, magazine or airway transmission, on the Internet or in any directory under the listing of "massage therapist" or "massage."

(b) "Provider" means a provider of any type of telephone, messaging or paging service.

(c) "Provider of messaging or paging service" means an entity that provides any type of messaging or paging service to any type of communication device.

(d) "Provider of telephone service" has the meaning ascribed to it in NRS 707.355.

(e) "Telephone number" means any sequence of numbers or characters, or both, used by a provider to provide any type of telephone, messaging or paging service.

Sec. 5. ***1. In addition to any other actions authorized by NRS 640C.710, if, after notice and a hearing as required by law, the Board determines that a licensee*** ~~*[has engaged in or solicited sexual activity during the course of practicing massage on a person or]*~~ ***has been convicted of a crime involving violence, prostitution or any other sexual offense that occurred during the course of practicing massage on a person, the Board shall:***

(a) For a first violation, impose an administrative fine of not less than $100 and not more than $1,000;

(b) For a second violation, impose an administrative fine of not less than $250 and not more than $5,000; and

(c) For a third violation and for each additional violation, impose an administrative fine of not less than $500 and not more than $10,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

Sec. 6. ***The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license by a licensee, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.***

Sec. 7. ~~*[1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has committed an act which constitutes a violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person. A citation issued pursuant to this section may include, without limitation:*~~

~~*(a) An order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, at the person's cost;*~~

~~*(b) An order to pay an administrative fine for each violation; and*~~

~~*(c) An order to reimburse the Board for the amount of the expenses incurred to investigate each violation.*~~

~~*2. If the citation includes an order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, the citation must:*~~

~~*(a) State the time permitted for compliance, which must not be less than 15 business days after the date on which the citation is received by the person; and*~~

~~*(b) Describe, in specific detail, the action required to be taken.*~~

~~*3. If the citation is issued to a licensee and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine must not exceed the maximum amount authorized by NRS 640C.710 or section 5 of this act, as appropriate for each violation.*~~

~~*4. If the citation is issued to an unlicensed person and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine:*~~

~~*(a) For a first violation, must not be less than $100 and must not be more than $1,000;*~~

~~*(b) For a second violation, must not be less than $250 and must not be more than $5,000; and*~~

~~*(c) For a third violation and for each additional violation, must not be less than $500 and must not be more than $10,000.*~~

~~*5. The sanctions authorized by this section are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.*~~

~~*6. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section or make satisfactory payment arrangements, as approved by the Board, within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.]~~ **(Deleted by amendment.)**

Sec. 8. ~~[*1. If a person is issued a written administrative citation pursuant to section 7 of this act, the person may request a hearing before the Board to contest the citation by filing a written request with the Board:*~~

~~*(a) Not later than 15 business days after the date on which the citation is received by the person; or*~~

~~*(b) If the Board, for good cause shown, extends the time allowed to file a written request for a hearing to contest the citation, on or before the later date specified by the Board.*~~

~~*2. If the person files a written request for a hearing to contest the citation within the time allowed pursuant to this section:*~~

~~*(a) The Board shall provide notice of and conduct the hearing in the same manner as other disciplinary proceedings; and*~~

~~*(b) At the hearing, the person may contest, without limitation:*~~

~~*(1) The facts forming the basis for the determination that the person has committed an act which constitutes a violation of this chapter or the regulations of the Board;*~~

~~*(2) The time allowed to take any corrective action ordered;*~~

~~*(3) The amount of any administrative fine ordered;*~~

~~*(4) The amount of any order to reimburse the Board for the expenses incurred to investigate the violation; and*~~

~~*(5) Whether any corrective action described in the citation is reasonable.*~~

~~*3. If the person does not file a written request for a hearing to contest the citation within the time allowed pursuant to this section, the citation shall be deemed a final order of the Board.*~~

~~*4. For the purposes of this section, a citation shall be deemed to have been received by a person:*~~

~~*(a) On the date on which the citation is personally delivered to the person; or*~~

~~*(b) If the citation is mailed, 3 days after the date on which the citation is mailed by certified mail to the last known business or residential address of the person.]*~~ **(Deleted by amendment.)**

Sec. 9. NRS 640C.020 is hereby amended to read as follows:

640C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 640C.030 to 640C.060, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. ~~[~~NRS 640C.320 is hereby amended to read as follows:

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;

2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;

3. Establish the requirements for the approval of an instructor of a course of continuing education;

4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;

5. Except as otherwise provided in NRS 622.090, prescribe the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; ~~[~~and~~]~~

6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant ~~[~~.~~]~~ ***; and***

~~*7. Prescribe the form of a written administrative citation pursuant to section 7 of this act.]*~~ **(Deleted by amendment.)**

Sec. 11. NRS 640C.450 is hereby amended to read as follows:

640C.450 ***1.*** Each licensee shall display his ***original*** license in a conspicuous manner at each location where he practices massage therapy. ***If a licensee practices massage therapy in more than one place, he must carry his original license with him and display it wherever he is actually working.***

2. A licensee shall obtain a replacement of his original license from the Board if his:

(a) Original license is destroyed, misplaced or mutilated; or

(b) Name or address as printed on the original license has changed.

3. To obtain a replacement license, the licensee must:

(a) File an affidavit with the Board, on the form prescribed by the Board, which states that his original license was destroyed, misplaced or mutilated or that his name or address as printed on the original license has changed; and

(b) Pay the fee prescribed by the Board pursuant to NRS 640C.520.

Sec. 12. NRS 640C.520 is hereby amended to read as follows:

640C.520 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:

An examination established by the Board pursuant to this chapter	$600
An application for a license	300
An application for a license without an examination	300
A background check of an applicant	600
The issuance of a license	400
The renewal of a license	200
The restoration of an expired license	500
The reinstatement of a suspended or revoked license	500
The issuance of a ~~[~~duplicate~~]~~ ***replacement*** license	75
The restoration of an inactive license	300

2. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

Sec. 13. NRS 640C.700 is hereby amended to read as follows:

640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a crime involving moral turpitude within the immediately preceding 10 years ***;*** ~~[.]~~

4. Has engaged in or solicited sexual activity during the course of practicing massage on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license:

(a) Made sexual advances toward the person;

(b) Requested sexual favors from the person; or

(c) Massaged, touched or applied any instrument to the breasts of the person, unless the person has signed a written consent form provided by the Board;

5. Has habitually abused alcohol or is addicted to a controlled substance;

6. Is, in the judgment of the Board, guilty of gross negligence in his practice of massage therapy;

7. Is determined by the Board to be professionally incompetent to engage in the practice of massage therapy;

8. Has failed to provide information requested by the Board within 60 days after he received the request;

9. Has, in the judgment of the Board, engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy;

10. Has been disciplined in another state, a territory or possession of the United States or the District of Columbia for conduct that would be a violation of the provisions of this chapter or any regulations adopted pursuant thereto if the conduct were committed in this State;

11. Has solicited or received compensation for services relating to the practice of massage therapy that he did not provide;

12. If the holder of the license is on probation, has violated the terms of his probation; ~~[or]~~

13. Has engaged in false, deceptive or misleading advertising, including, without limitation, falsely, deceptively or misleadingly advertising that he has received training in a specialty technique of massage for which he has not received training, practicing massage therapy under an assumed name and impersonating a licensed massage therapist ~~[.]~~ ***; or***

14. Has ~~*[failed to comply with a written administrative citation issued pursuant to section 7 of this act within the time permitted for compliance set forth in the citation or, if a hearing is held pursuant to section 8 of this act, within 15 business days after the hearing; or*~~

~~*15. Except as otherwise provided in subsection 14, has]*~~ ***failed to pay or make arrangements to pay, as approved by the Board, an administrative fine imposed pursuant to this chapter within 60 days after:***

(a) Receiving notice of the imposition of the fine; or

(b) The final administrative or judicial decision affirming the imposition of the fine,

➥ whichever occurs later.

Sec. 14. NRS 640C.710 is hereby amended to read as follows:

640C.710 1. If, after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:

(a) Place the applicant or holder of the license on probation for a specified period or until further order of the Board;

(b) Administer to the applicant or holder of the license a public reprimand;

(c) Refuse to issue, renew, reinstate or restore the license;

(d) Suspend or revoke the license;

(e) ~~[Impose]~~ ***Except as otherwise provided in section 5 of this act, impose*** an administrative fine of not more than ~~[$1,000 per day for each day for which the Board determines that a violation occurred;]~~ ***$5,000 for each violation;***

(f) Require the applicant or holder of the license to pay the costs incurred by the Board to conduct the investigation and hearing; or

(g) Impose any combination of actions set forth in paragraphs (a) to (f), inclusive.

2. The order of the Board may contain such other terms, provisions or conditions as the Board deems appropriate.

3. The order of the Board and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not issue a private reprimand.

Sec. 15. NRS 640C.720 is hereby amended to read as follows:

640C.720 Notwithstanding any other statute to the contrary:

1. If the Board finds ***, based upon evidence in its possession,*** that immediate action is necessary to protect the health, safety or welfare of the public, the Board may, upon providing notice to the massage therapist, temporarily suspend his license ***without a prior hearing*** for a period not to exceed ~~[30 days. For good cause,]~~ ***[30] 15 business days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than [20] 10 business days after the date on which the massage therapist receives notice of the temporary suspension. If the massage therapist:***

(a) Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than [30] 15 business days after the date on which the Board [provides notice of the temporary suspension.] receives the written request. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ ***finds, for good cause shown, that*** such action ~~[to be]~~ ***is*** necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension ***as promptly as is practicable but*** not later than 30 days after the date on which the Board ~~[notifies the massage therapist]~~ ***provides notice*** of the ***initial*** temporary suspension. ***After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to***

protect the health, safety or welfare of the public pending proceedings for disciplinary action.

2. If a massage therapist is charged with or cited for a crime involving violence, prostitution or any other sexual offense, the appropriate law enforcement agency shall report the charge or citation to the Executive Director ~~[.]~~ ***of the Board.*** Upon receiving such a report, the Executive Director shall immediately issue ***by certified mail to the massage therapist*** a cease and desist order temporarily suspending the license of the massage therapist ~~[.]~~ ***without a prior hearing.*** The temporary suspension of the license is effective immediately ~~[upon issuance]~~ ***after the massage therapist receives notice*** of the cease and desist order and must not exceed ~~[15 days. For good cause,]~~ ~~*[60]*~~ ***15 business days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than*** ~~*[20]*~~ ***10 business days after the date on which the Executive Director mails the cease and desist order. If the massage therapist:***

(a) Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than ~~*[60]*~~ ***15 business days after the date on which the*** ~~*[Executive Director mails the cease and desist order.]*~~ ***Board receives the written request. After holding such a hearing,*** the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ ***finds, for good cause shown, that*** such action ~~[to be]~~ ***is*** necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension ***as promptly as is practicable but*** not later than 15 ~~*[60]*~~ ***business*** days after the date on which the Executive Director ~~[issues]~~ ***mails*** the cease and desist order. ***After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.***

3. If the Board or the Executive Director issues an order temporarily suspending the license of a massage therapist pending proceedings for disciplinary action, a court shall not stay that order.

4. When conducting an investigation of a massage therapist pursuant to this chapter, the Board or the Executive Director may request from ~~*[state and local law enforcement agencies]*~~ ***the appropriate governmental agency or court of competent jurisdiction records relating to any*** ~~*[charge or citation against]*~~ ***conviction of the massage therapist for a crime involving***

violence, prostitution or any other sexual offense. Such records include, without limitation, a record of criminal history as defined in NRS 179A.070.

5. Upon receiving a request from the Board or the Executive Director pursuant to subsection 4, the ~~[law enforcement]~~ governmental agency or court of competent jurisdiction shall provide the requested records to the Board or the Executive Director as soon as reasonably practicable. The ~~[law enforcement]~~ governmental agency or court of competent jurisdiction may redact from the records produced pursuant to this subsection any ~~[descriptions of techniques and strategies and other]~~ information relating to ~~[law enforcement that are]~~ the agency or court that is deemed confidential by the agency ~~[.]~~ or court. Upon receiving the records from the ~~[law enforcement agency,]~~ governmental agency or court, the Board and the Executive Director:

(a) Shall maintain the confidentiality of the records if such confidentiality is required by federal or state law; and

(b) May use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist pursuant to this chapter.

6. For purposes of this section, a person is deemed to have notice of a temporary suspension of his license:

(a) On the date on which the notice is personally delivered to the person; or

(b) If the notice is mailed, 3 days after the date on which the notice is mailed by certified mail to the last known business or residential address of the person.

Sec. 16. NRS 640C.910 is hereby amended to read as follows:

640C.910 1. If a person is not licensed to practice massage therapy pursuant to this chapter, the person shall not:

(a) Engage in the practice of massage therapy; ~~[or]~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~[.]~~ ***; or***

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

2. If a person's license to practice massage therapy pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not:

(a) Engage in the practice of massage therapy; ~~[or]~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~[.]~~ ***; or***

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 17. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives his written

consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the notice on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who requests information and to whom information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative.

(q) The Aging Services Division of the Department of Health and Human Services or its designated representative.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage Therapists and its Executive Director.

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 18. NRS 703.175 is hereby amended to read as follows:

703.175 1. Upon receiving a request ***to disconnect a telephone number*** from the State Contractors' Board ~~[to disconnect a telephone number]~~ pursuant to NRS 624.720, ***the Board of Massage Therapists pursuant to***

section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758, the Commission shall issue an order to the appropriate provider of telephone service to disconnect the telephone number.

2. Compliance in good faith by a provider of telephone service with an order of the Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the provider of telephone service arising from the termination of service.

3. As used in this section, "provider of telephone service" has the meaning ascribed to it in NRS 707.355.

Sec. 19. NRS 707.355 is hereby amended to read as follows:

707.355 1. Each provider of telephone service in this State shall, when notified that:

(a) A court has ordered the disconnection of a telephone number pursuant to NRS 706.2855; or

(b) The Public Utilities Commission of Nevada has ordered the disconnection of a telephone number pursuant to NRS ~~[624.720 and]~~ 703.175, ***after receiving a request to disconnect the telephone number from the State Contractors' Board pursuant to NRS 624.720, the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758,***

➥ take such action as is necessary to carry out the order of the court or the Public Utilities Commission of Nevada.

2. A provider of telephone service shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to the provisions of this section; or

(b) Provide or offer to provide a recorded message that includes the new telephone number for a business whose telephone number was disconnected from service pursuant to the provisions of this section.

3. As used in this section, "provider of telephone service" includes, but is not limited to:

(a) A public utility furnishing telephone service.

(b) A provider of cellular or other service to a telephone that is installed in a vehicle or is otherwise portable.

Assemblyman Settelmeyer moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 273.

Bill read third time.

Roll call on Senate Bill No. 273:

YEAS—40.

NAYS—None.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 273 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 355 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 355.

Bill read third time.

Roll call on Senate Bill No. 355:

YEAS—30.

NAYS—Aizley, Carpenter, Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart—10.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 355 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

GENERAL FILE AND THIRD READING

Senate Bill No. 354.

Bill read third time.

The following amendment was proposed by Assemblymen Kirkpatrick and Oceguera:

Amendment No. 938.

SUMMARY—Revises provisions governing land use ~~[decisions.]~~ **planning.** (BDR 22-235)

AN ACT relating to land use planning; revising provisions relating to the appeal of land use decisions; **revising provisions relating to the designation of gaming enterprise districts;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the governing body of each city and county is required to adopt an ordinance providing that an aggrieved person may appeal the decision of a planning commission, board of adjustment, hearing examiner or other similar official to the governing body. (NRS 278.3195) A person who is aggrieved by a decision of the governing body concerning that appeal may then appeal the decision of the governing body to the district court by filing a petition for judicial review. ~~[This]~~ **Section 1 of this** bill authorizes an aggrieved person to appeal the decision of a governing body that considered a recommendation of a planning commission, board of adjustment, hearing examiner or other similar official or a decision of a governing body which was made without the necessity of a decision or recommendation by a planning commission, board of adjustment, hearing examiner or other similar

official. Solely within the confines of a county whose population is 400,000 or more (currently Clark County), ~~[this bill]~~ **section 1** also provides that, for the purpose of determining whether a person who is seeking judicial review of a decision of a governing body is an "aggrieved person" who may seek such judicial review of the decision: (1) the person shall be deemed not to be aggrieved unless the person appeared before the governing body, planning commission, board of adjustment, hearing examiner or other similar official on the matter which is the subject of the decision and fully set forth his position and the grounds in support of his position; and (2) the person shall not be deemed to be aggrieved on the basis that the decision he is appealing may increase or create competition which he claims may be detrimental to his property rights or other legal interests.

Existing law provides that the Nevada Gaming Commission is prohibited from approving a nonrestricted license for an establishment in a county whose population is 400,000 or more (currently Clark County) unless the establishment is located in a gaming enterprise district, which is defined as "an area that has been approved by a county, city or town as suitable for operating an establishment that has been issued a nonrestricted license." (NRS 463.0158, 463.308) If the location of a proposed establishment is within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone, but not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3084. (NRS 463.3082) However, if the location of a proposed establishment is not within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone and not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3086, which contains certain additional requirements that are not contained in NRS 463.3084, such as the requirements that: (1) the property line of the proposed establishment must be not less than 500 feet from the property line of a developed residential district and not less than 1,500 feet from the property line of a public school, private school or structure used primarily for religious services or worship; and (2) a three-fourths vote of the governing body of the county, city or town is required for designation of the location as a gaming enterprise district. (NRS 463.3086)

Section 1.5 of this bill revises the boundaries of the Las Vegas Boulevard gaming corridor to include certain new areas. Consequently, if a proposed establishment which is located in a new area of the Las Vegas Boulevard gaming corridor and which is not already in a gaming

enterprise district were to seek to have the location designated as a gaming enterprise district, the determination of whether the location may be designated as a gaming enterprise district would be based upon the criteria set forth in NRS 463.3084, rather than the criteria set forth in NRS 463.3086.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 278.3195 is hereby amended to read as follows:

278.3195 1. Except as otherwise provided in NRS 278.310, each governing body shall adopt an ordinance providing that any person who is aggrieved by a decision of:

(a) The planning commission, if the governing body has created a planning commission pursuant to NRS 278.030;

(b) The board of adjustment, if the governing body has created a board of adjustment pursuant to NRS 278.270;

(c) A hearing examiner, if the governing body has appointed a hearing examiner pursuant to NRS 278.262; or

(d) Any other person appointed or employed by the governing body who is authorized to make administrative decisions regarding the use of land,

➥ may appeal the decision to the governing body. In a county whose population is 400,000 or more, a person shall be deemed to be aggrieved under an ordinance adopted pursuant to this subsection if the person appeared, either in person, through an authorized representative or in writing, before a person or entity described in paragraphs (a) to (d), inclusive, on the matter which is the subject of the decision.

2. Except as otherwise provided in NRS 278.310, an ordinance adopted pursuant to subsection 1 must set forth, without limitation:

(a) The period within which an appeal must be filed with the governing body.

(b) The procedures pursuant to which the governing body will hear the appeal.

(c) That the governing body may affirm, modify or reverse a decision.

(d) The period within which the governing body must render its decision except that:

(1) In a county whose population is 400,000 or more, that period must not exceed 45 days.

(2) In a county whose population is less than 400,000, that period must not exceed 60 days.

(e) That the decision of the governing body is a final decision for the purpose of judicial review.

(f) That, in reviewing a decision, the governing body will be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020.

(g) That the governing body may charge the appellant a fee for the filing of an appeal.

3. In addition to the requirements set forth in subsection 2, in a county whose population is 400,000 or more, an ordinance adopted pursuant to subsection 1 must:

(a) Set forth procedures for the consolidation of appeals; and

(b) Prohibit the governing body from granting to an aggrieved person more than two continuances on the same matter, unless the governing body determines, upon good cause shown, that the granting of additional continuances is warranted.

4. Any person who:

(a) Has appealed a decision to the governing body in accordance with an ordinance adopted pursuant to subsection 1 ~~[,]~~ and ***is aggrieved by the decision of the governing body;***

(b) Is aggrieved by ~~[the]~~ ***a*** decision of ~~[the]~~ ***a*** governing body ~~[,]~~ ***regarding the use of land in which the governing body considered a recommendation of a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1; or***

(c) Is aggrieved by a decision of the governing body which, pursuant to the procedures contained in the applicable local ordinance, was made without the necessity of a decision or recommendation by a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1,

➥ may appeal that decision to the district court of the proper county by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk or secretary of the governing body, as set forth in NRS 278.0235.

5. ***In a county whose population is 400,000 or more, for the purpose of determining whether a person who is appealing a decision by filing a petition for judicial review is aggrieved by the decision:***

(a) The person shall be deemed not to be aggrieved by the decision unless the person appeared in person, through an authorized representative or in writing and fully set forth his position and the grounds in support of his position:

(1) Before a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1 that considered the matter, if applicable; and

(2) Before the applicable governing body.

(b) The person shall not be deemed to be aggrieved on the basis that the decision he is appealing may increase or create competition that he claims may be detrimental to his property rights or other legal interests.

6. The provisions of this section do not apply to a petition to designate the location of a proposed establishment as a gaming enterprise district pursuant to NRS 463.3084 or 463.3086.

7. As used in this section, "person" includes ~~[the]~~ ***:***

(a) The Armed Forces of the United States or an official component or representative thereof ~~[.]~~ ***; and***

(b) Any governmental entity.

Sec. 1.5. **NRS 463.3076 is hereby amended to read as follows:**

463.3076 The location of a proposed establishment shall be deemed to be within the Las Vegas Boulevard gaming corridor if the property line of the proposed establishment ~~[:]~~ ***is located within any of the following areas:***

1. ~~[Is within 1,500 feet of the centerline of Las Vegas Boulevard;~~

~~2. Is south of the intersection of Las Vegas Boulevard and that portion of St. Louis Avenue which is designated State Highway No. 605; and~~

~~3. Is adjacent to or north of the northern edge line of State Highway No. 146.]~~ ***The area beginning at the point of the northern edge line of State Highway No. 146 that is 1,500 feet west of the centerline of Las Vegas Boulevard, then proceeding north to the northern edge line of Tropicana Avenue, then proceeding west to the eastern edge line of Interstate 15, then proceeding north to the eastern edge line of Industrial Road, then proceeding north to the southern edge line of New York Avenue, then proceeding east to the intersection of the extension of the southern edge line of New York Avenue and the western edge line of Main Street, then proceeding south to the southern edge line of St. Louis Avenue, then proceeding east to the western edge line of Santa Rita Drive, then proceeding south along a line that is 1,500 feet east of the centerline of Las Vegas Boulevard to the western edge line of Paradise Road, then proceeding south to the southern edge line of Sands Avenue, then proceeding west to a point that is 1,500 feet east of the centerline of Las Vegas Boulevard, then proceeding south along a line that is 1,500 feet from the centerline of Las Vegas Boulevard to the northern edge line of State Highway No. 146, then proceeding west to the point of beginning.***

2. The area beginning at the intersection of the western edge line of Las Vegas Boulevard and the extension of the northern edge line of Lewis Avenue, then proceeding north to the southern edge line of Stewart Avenue, then proceeding west to the eastern edge line of Casino Center Boulevard, then proceeding north to the southern edge line of United States Highway No. 95, then proceeding west to the western edge line of the Union Pacific Railroad Right-of-Way, then proceeding south to a point that is perpendicular to the extension of the northern edge line of Lewis Avenue, then proceeding east to the point of beginning.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 354.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 354.

Bill read third time.

Remarks by Assemblymen Hardy, Oceguera, and Hambrick.

Roll call on Senate Bill No. 354:

YEAS—38.

NAYS—Hardy.

NOT VOTING—Hogan.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 354 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 304.

The following Senate amendment was read:

Amendment No. 907.

SPONSORS: SENATORS Coffin**; AND HORSFORD**

SUMMARY—Makes various changes relating to the preservation **and improvement** of existing neighborhoods. (BDR 22-641)

AN ACT relating to ~~[land use regulation;]~~ **development;** making various changes pertaining to the preservation of historic neighborhoods; **revising certain provisions concerning the Southern Nevada Enterprise Community; requiring the City of Las Vegas and the Nevada Department of Transportation to cooperate to reopen a certain street;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain plans and zoning regulations must incorporate the consideration of certain policies, including the protection of existing neighborhoods and communities. (NRS 268.190, 278.02528, 278.0274, 278.150, 278.160, 278.170, 278.250) ~~[This]~~ **Sections 1.4 and 2-16 of this** bill ~~[requires]~~ **require** certain local governmental entities to address the preservation of historic neighborhoods in those plans and regulations.

Existing law designates certain areas in the urban core of the Las Vegas Valley as the Southern Nevada Enterprise Community. Existing law also establishes the Southern Nevada Enterprise Community Advisory Board and requires the Board to prepare, develop and carry out a project of infrastructure improvement in the Community. (Chapter 407, Statutes of Nevada 2007, pp. 1781-86) Section 25 of this bill changes the name of the Board, and section 26 of this bill revises the membership. Section 27 of this bill expands the duties of the Board to include identifying, seeking funding for and carrying out additional projects in the Community. Section 1.7 of this bill creates the Southern

Nevada Enterprise Community Projects Fund and authorizes the Board to administer the Fund.

Section 32 of this bill requires the City of Las Vegas and the Nevada Department of Transportation to cooperate in funding and bringing about the approval, design and construction of the project to reopen F Street in Las Vegas.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 278 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.4 and 1.7 of this act.**

Sec. 1.4. ***"Historic neighborhood" means a subdivided or developed area:***

1. Which consists of 10 or more residential dwelling units;

2. Where at least two-thirds of the residential dwelling units are 40 or more years of age; and

3. Which has been identified by the governing body of the city or county within which the area is located as having a distinctive character or traditional quality that can be distinguished from surrounding areas or new developments in the vicinity. Distinguishing characteristics of a historic neighborhood may include, without limitation:

(a) Significance to the cultural, social, political or economic history of the area in which it is located;

(b) Association with a significant person, group or event in local, state or national history;

(c) Representation of an established and familiar visual feature of an area because of its location, design, architecture or singular physical appearance; or

(d) Meeting the criteria for eligibility for listing on the State or National Register of Historic Places.

Sec. 1.7. ***1. The Southern Nevada Enterprise Community Projects Fund is hereby created in the State Treasury. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.***

2. The Southern Nevada Enterprise Community Board shall administer the Fund and may accept gifts, grants and other money for deposit in the Fund.

3. The money in the Fund may only be used to fund projects in the Southern Nevada Enterprise Community and is hereby authorized for expenditure as a continuing appropriation for this purpose.

Sec. 2. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, ***and section ~~[1]~~ 1.4 of this act,*** unless the context otherwise requires, the words and terms

defined in NRS 278.0105 to 278.0195, inclusive, ***and section ~~[1]~~ 1.4 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 278.02528 is hereby amended to read as follows:

278.02528 1. The regional planning coalition shall develop a comprehensive regional policy plan for the balanced economic, social, physical, environmental and fiscal development and orderly management of the growth of the region for a period of at least 20 years. The comprehensive regional policy plan must contain recommendations of policy to carry out each part of the plan.

2. In developing the plan, the coalition:

(a) May consult with other entities that are interested or involved in regional planning within the county.

(b) Shall ensure that the comprehensive regional policy plan includes goals, policies, maps and other documents relating to:

(1) Conservation, including, without limitation, policies relating to the use and protection of natural resources.

(2) Population, including, without limitation, standardized projections for population growth in the region.

(3) Land use and development, including, without limitation, a map of land use plans that have been adopted by local governmental entities within the region, and that the plan addresses, if applicable:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation.

(4) Transportation.

(5) The efficient provision of public facilities and services, including, without limitation, roads, water and sewer service, police and fire protection, mass transit, libraries and parks.

(6) Air quality.

(7) Strategies to promote and encourage:

(I) The interspersion of new housing and businesses in established neighborhoods; ~~[and]~~

(II) ***The preservation of historic neighborhoods; and***

(III) Development in areas in which public services are available.

3. The regional planning coalition shall not adopt or amend the comprehensive regional policy plan unless the adoption or amendment is by resolution of the regional planning coalition:

(a) Carried by the affirmative votes of not less than two-thirds of its total membership; and

(b) Ratified by the board of county commissioners of the county and the city council of each city that jointly established the regional planning coalition pursuant to NRS 278.02514.

Sec. 4. NRS 278.02556 is hereby amended to read as follows:

278.02556 Except as otherwise provided in this section, a governing body, regional agency, state agency or public utility that is located in whole or in part within the region shall not adopt a master plan, facilities plan or other similar plan, or an amendment thereto, after March 1, 2001, unless the regional planning coalition has been afforded an opportunity to make recommendations regarding the plan or amendment. A governing body, regional agency, state agency or public utility may adopt an amendment to a land use plan described in paragraph ~~[(f)]~~ ***(g)*** of subsection 1 of NRS 278.160 without affording the regional planning coalition the opportunity to make recommendations regarding the amendment.

Sec. 5. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods ***, including, without limitation, historic neighborhoods,*** and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; and

(d) Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic

force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) ***Historic neighborhood preservation plan. The plan:***

(1) Must include, without limitation:

(I) ~~*[An]*~~ ***A plan to inventory*** ~~*[of]*~~ ***historic neighborhoods.***

(II) A statement of goals and methods to encourage the preservation of historic neighborhoods.

(2) May include, without limitation, the creation of a commission to monitor and promote the preservation of historic neighborhoods.

(e) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

~~[(e)]~~ ***(f)*** Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing to individuals and families in the community, regardless of income level.

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.

(3) An analysis of projected growth and the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

~~[(f)]~~ ***(g)*** Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

~~[(g)]~~ ***(h)*** Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

~~[(h)]~~ ***(i)*** Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

~~[(i)]~~ ***(j)*** Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

~~[(j)]~~ ***(k)*** Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

~~[(k)]~~ ***(l)*** Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

~~[(l)]~~ ***(m)*** Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

~~[(m)]~~ ***(n)*** School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

~~[(n)]~~ ***(o)*** Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

~~[(o)]~~ ***(p)*** Solid waste disposal plan. Showing general plans for the disposal of solid waste.

~~[(p)]~~ ***(q)*** Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

~~[(q)]~~ ***(r)*** Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

~~[(r)]~~ ***(s)*** Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 278.210 is hereby amended to read as follows:

278.210 1. Before adopting the master plan or any part of it in accordance with NRS 278.170, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time and place of which must be given at least by one publication in a newspaper of general circulation in the city or county, or in the case of a regional planning commission, by one publication in a newspaper in each county within the regional district, at least 10 days before the day of the hearing.

2. Before a public hearing may be held pursuant to subsection 1 in a county whose population is 100,000 or more on an amendment to a master plan, including, without limitation, a gaming enterprise district, if applicable, the person who requested the proposed amendment must hold a neighborhood meeting to provide an explanation of the proposed amendment. Notice of such a meeting must be given by the person requesting the proposed amendment to:

(a) Each owner, as listed on the county assessor's records, of real property located within a radius of 750 feet of the area to which the proposed amendment pertains;

(b) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest to the area to which the proposed amendment pertains, to the extent this notice does not duplicate the notice given pursuant to paragraph (a);

(c) Each tenant of a mobile home park if that park is located within a radius of 750 feet of the area to which the proposed amendment pertains; and

(d) If a military installation is located within 3,000 feet of the area to which the proposed amendment pertains, the commander of the military installation.

➥ The notice must be sent by mail at least 10 days before the neighborhood meeting and include the date, time, place and purpose of the neighborhood meeting.

3. Except as otherwise provided in NRS 278.225, the adoption of the master plan, or of any amendment, extension or addition thereof, must be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the total membership of the commission. The resolution must refer expressly to the maps, descriptive matter and other matter intended by the commission to constitute the plan or any amendment, addition or extension thereof, and the action taken must be recorded on the map and plan and descriptive matter by the identifying signatures of the secretary and chairman of the commission.

4. Except as otherwise provided in NRS 278.225, no plan or map, hereafter, may have indicated thereon that it is a part of the master plan until it has been adopted as part of the master plan by the commission as herein provided for the adoption thereof, whenever changed conditions or further studies by the commission require such amendments, extension or addition.

5. Except as otherwise provided in this subsection, the commission shall not amend the land use plan of the master plan set forth in paragraph ~~[(f)]~~ ***(g)*** of subsection 1 of NRS 278.160, or any portion of such a land use plan, more than four times in a calendar year. The provisions of this subsection do not apply to:

(a) A change in the land use designated for a particular area if the change does not affect more than 25 percent of the area; or

(b) A minor amendment adopted pursuant to NRS 278.225.

6. An attested copy of any part, amendment, extension of or addition to the master plan adopted by the planning commission of any city, county or region in accordance with NRS 278.170 must be certified to the governing body of the city, county or region. The governing body of the city, county or region may authorize such certification by electronic means.

7. An attested copy of any part, amendment, extension of or addition to the master plan adopted by any regional planning commission must be certified to the county planning commission and to the board of county commissioners of each county within the regional district. The county planning commission and board of county commissioners may authorize such certification by electronic means.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 278.235 is hereby amended to read as follows:

278.235 1. If the governing body of a city or county is required to include a housing plan in its master plan pursuant to NRS 278.150, the governing body, in carrying out the plan for maintaining and developing affordable housing to meet the housing needs of the community, which is required to be included in the housing plan pursuant to subparagraph (8) of paragraph ~~[(e)]~~ ***(f)*** of subsection 1 of NRS 278.160, shall adopt at least six of the following measures:

(a) At the expense of the city or county, as applicable, subsidizing in whole or in part impact fees and fees for the issuance of building permits collected pursuant to NRS 278.580.

(b) Selling land owned by the city or county, as applicable, to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value of the land, and requiring that any such savings, subsidy or reduction in price be passed on to the purchaser of housing in such a development. Nothing in this paragraph authorizes a city or county to obtain land pursuant to the power of eminent domain for the purposes set forth in this paragraph.

(c) Donating land owned by the city or county to a nonprofit organization to be used for affordable housing.

(d) Leasing land by the city or county to be used for affordable housing.

(e) Requesting to purchase land owned by the Federal Government at a discounted price for the creation of affordable housing pursuant to the provisions of section 7(b) of the Southern Nevada Public Land Management Act of 1998, Public Law 105-263.

(f) Establishing a trust fund for affordable housing that must be used for the acquisition, construction or rehabilitation of affordable housing.

(g) Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing.

(h) Providing money, support or density bonuses for affordable housing developments that are financed, wholly or in part, with low-income housing tax credits, private activity bonds or money from a governmental entity for affordable housing, including, without limitation, money received pursuant to 12 U.S.C. § 1701q and 42 U.S.C. § 8013.

(i) Providing financial incentives or density bonuses to promote appropriate transit-oriented housing developments that would include an affordable housing component.

(j) Offering density bonuses or other incentives to encourage the development of affordable housing.

(k) Providing direct financial assistance to qualified applicants for the purchase or rental of affordable housing.

(l) Providing money for supportive services necessary to enable persons with supportive housing needs to reside in affordable housing in accordance

with a need for supportive housing identified in the 5-year consolidated plan adopted by the United States Department of Housing and Urban Development for the city or county pursuant to 42 U.S.C. § 12705 and described in 24 C.F.R. Part 91.

2. On or before January 15 of each year, the governing body shall submit to the Housing Division of the Department of Business and Industry a report, in the form prescribed by the Division, of how the measures adopted pursuant to subsection 1 assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year. The report must include an analysis of the need for affordable housing within the city or county that exists at the end of the reporting period.

3. On or before February 15 of each year, the Housing Division shall compile the reports submitted pursuant to subsection 2 and transmit the compilation to the Legislature, or the Legislative Commission if the Legislature is not in regular session.

Sec. 13. NRS 278.250 is hereby amended to read as follows:

278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive. Within the zoning district, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.

2. The zoning regulations must be adopted in accordance with the master plan for land use and be designed:

(a) To preserve the quality of air and water resources.

(b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.

(c) To consider existing views and access to solar resources by studying the height of new buildings which will cast shadows on surrounding residential and commercial developments.

(d) To reduce the consumption of energy by encouraging the use of products and materials which maximize energy efficiency in the construction of buildings.

(e) To provide for recreational needs.

(f) To protect life and property in areas subject to floods, landslides and other natural disasters.

(g) To conform to the adopted population plan, if required by NRS 278.170.

(h) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including public access and sidewalks for pedestrians, and facilities and services for bicycles.

(i) To ensure that the development on land is commensurate with the character and the physical limitations of the land.

(j) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development.

(k) To promote health and the general welfare.

(l) To ensure the development of an adequate supply of housing for the community, including the development of affordable housing.

(m) To ensure the protection of existing neighborhoods and communities, including the protection of rural preservation neighborhoods ~~[.]~~ ***and, in counties whose population is 400,000 or more, the protection of historic neighborhoods.***

(n) To promote systems which use solar or wind energy.

(o) To foster the coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

3. The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.

4. In exercising the powers granted in this section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.

5. As used in this section:

(a) "Density bonus" means an incentive granted by a governing body to a developer of real property that authorizes the developer to build at a greater density than would otherwise be allowed under the master plan, in exchange for an agreement by the developer to perform certain functions that the governing body determines to be socially desirable, including, without limitation, developing an area to include a certain proportion of affordable housing.

(b) "Inclusionary zoning" means a type of zoning pursuant to which a governing body requires or provides incentives to a developer who builds residential dwellings to build a certain percentage of those dwellings as affordable housing.

(c) "Minimum density zoning" means a type of zoning pursuant to which development must be carried out at or above a certain density to maintain conformance with the master plan.

Sec. 14. NRS 278.4787 is hereby amended to read as follows:

278.4787 1. Except as otherwise provided in subsection 5, a person who proposes to divide land for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or chapter 278A of NRS, may, in lieu of providing for the creation of an association for a common-interest community, request the governing body of the jurisdiction in which

the land is located to assume the maintenance of one or more of the following improvements located on the land:

(a) Landscaping;

(b) Public lighting;

(c) Security walls; and

(d) Trails, parks and open space which provide a substantial public benefit or which are required by the governing body for the primary use of the public.

2. A governing body shall establish by ordinance a procedure pursuant to which a request may be submitted pursuant to subsection 1 in the form of a petition, which must be signed by a majority of the owners whose property will be assessed and which must set forth descriptions of all tracts of land or residential units that would be subject to such an assessment.

3. The governing body may by ordinance designate a person to approve or disapprove a petition submitted pursuant to this section. If the governing body adopts such an ordinance, the ordinance must provide, without limitation:

(a) Procedures pursuant to which the petition must be reviewed to determine whether it would be desirable for the governing body to assume the maintenance of the proposed improvements.

(b) Procedures for the establishment of a maintenance district or unit of assessment.

(c) A method for:

(1) Determining the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(I) Benefit the development or subdivision in which the improvements are located; and

(II) Benefit the public;

(2) Assessing the tracts of land or residential units in the development or subdivision to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the development or subdivision in which the improvements are located; and

(3) Allocating an amount of public money to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the public.

(d) Procedures for a petitioner or other aggrieved person to appeal to the governing body a decision of the person designated by the governing body by ordinance adopted pursuant to this subsection to approve or disapprove a petition.

4. If the governing body does not designate by an ordinance adopted pursuant to subsection 3 a person to approve or disapprove a petition, the governing body shall, after receipt of a complete petition submitted at least 120 days before the approval of the final map for the land, hold a public

hearing at least 90 days before the approval of the final map for the land, unless otherwise waived by the governing body, to determine the desirability of assuming the maintenance of the proposed improvements. If the governing body determines that it would be undesirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall specify for the record its reasons for that determination. If the governing body determines that it would be desirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall by ordinance:

(a) Determine the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(1) Benefit the development or subdivision in which the improvements are located; and

(2) Benefit the public.

(b) Create a maintenance district or unit of assessment consisting of the tracts of land or residential units set forth in the petition or include the tracts of land or residential units set forth in the petition in an existing maintenance district or unit of assessment.

(c) Establish the method or, if the tracts or units are included within an existing maintenance district or unit of assessment, apply an existing method for determining:

(1) The amount of an assessment to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements. The amount of the assessment must be determined in accordance with the proportion to which such maintenance will benefit the development or subdivision in which the improvements are located.

(2) The time and manner of payment of the assessment.

(d) Provide that the assessment constitutes a lien upon the tracts of land or residential units within the maintenance district or unit of assessment. The lien must be executed, and has the same priority, as a lien for property taxes.

(e) Prescribe the levels of maintenance to be provided.

(f) Allocate to the cost of providing the maintenance the appropriate amount of public money to pay for that part of the maintenance which creates the public benefit.

(g) Address any other matters that the governing body determines to be relevant to the maintenance of the improvements, including, without limitation, matters relating to the ownership of the improvements and the land on which the improvements are located and any exposure to liability associated with the maintenance of the improvements.

5. If the governing body requires an owner of land to dedicate a tract of land as a trail identified in the recreation plan of the governing body adopted pursuant to paragraph ~~[(j)]~~ ***(k)*** of subsection 1 of NRS 278.160, the governing body shall:

(a) Accept ownership of the tract; and

(b) Assume the maintenance of the tract and any other improvement located on the land that is authorized in subsection 1.

6. The governing body shall record, in the office of the county recorder for the county in which the tracts of land or residential units included in a petition approved pursuant to this section are located, a notice of the creation of the maintenance district or unit of assessment that is sufficient to advise the owners of the tracts of land or residential units that the tracts of land or residential units are subject to the assessment. The costs of recording the notice must be paid by the petitioner.

7. The provisions of this section apply retroactively to a development or subdivision with respect to which:

(a) An agreement or agreements between the owners of tracts of land within the development or subdivision and the developer allow for the provision of services in the manner set forth in this section; or

(b) The owners of affected tracts of land or residential units agree to dissolve the association for their common-interest community in accordance with the governing documents of the common-interest community upon approval by the governing body of a petition filed by the owners pursuant to this section.

Sec. 15. NRS 279.608 is hereby amended to read as follows:

279.608 1. If, at any time after the adoption of a redevelopment plan by the legislative body, the agency desires to take an action that will constitute a material deviation from the plan or otherwise determines that it would be necessary or desirable to amend the plan, the agency must recommend the amendment of the plan to the legislative body. An amendment may include the addition of one or more areas to any redevelopment area.

2. Before recommending amendment of the plan, the agency shall hold a public hearing on the proposed amendment. Notice of that hearing must be published at least 10 days before the date of hearing in a newspaper of general circulation, printed and published in the community, or, if there is none, in a newspaper selected by the agency. The notice of hearing must include a legal description of the boundaries of the area designated in the plan to be amended and a general statement of the purpose of the amendment.

3. In addition to the notice published pursuant to subsection 2, the agency shall cause a notice of hearing on a proposed amendment to the plan to be sent by mail at least 10 days before the date of the hearing to each owner of real property, as listed in the records of the county assessor, whom the agency determines is likely to be directly affected by the proposed amendment. The notice must:

(a) Set forth the date, time, place and purpose of the hearing and a physical description of, or a map detailing, the proposed amendment; and

(b) Contain a brief summary of the intent of the proposed amendment.

4. If after the public hearing, the agency recommends substantial changes in the plan which affect the master or community plan adopted by the

planning commission or the legislative body, those changes must be submitted by the agency to the planning commission for its report and recommendation. The planning commission shall give its report and recommendations to the legislative body within 30 days after the agency submitted the changes to the planning commission.

5. After receiving the recommendation of the agency concerning the changes in the plan, the legislative body shall hold a public hearing on the proposed amendment, notice of which must be published in a newspaper in the manner designated for notice of hearing by the agency. If after that hearing the legislative body determines that the amendments in the plan, proposed by the agency, are necessary or desirable, the legislative body shall adopt an ordinance amending the ordinance adopting the plan.

6. As used in this section, "material deviation" means an action that, if taken, would alter significantly one or more of the aspects of a redevelopment plan that are required to be shown in the redevelopment plan pursuant to NRS 279.572. The term includes, without limitation, the vacation of a street that is depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]~~ ***(q)*** of subsection 1 of NRS 278.160 which has been adopted for the community and the relocation of a public park. The term does not include the vacation of a street that is not depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]~~ ***(q)*** of subsection 1 of NRS 278.160 which has been adopted for the community.

Sec. 16. NRS 268.190 is hereby amended to read as follows:

268.190 Except as otherwise provided by law, the city planning commission may:

1. Recommend and advise the city council and all other public authorities concerning:

(a) The laying out, widening, extending, paving, parking and locating of streets, sidewalks and boulevards.

(b) The betterment of housing and sanitary conditions, and the establishment of zones or districts within which lots or buildings may be restricted to residential use, or from which the establishment, conduct or operation of certain business, manufacturing or other enterprises may be excluded, and limiting the height, area and bulk of buildings and structures therein.

2. Recommend to the city council and all other public authorities plans and regulations for the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, which must include for each city a population plan if required by NRS 278.170 ***,*** ~~[and]~~ a plan for the development of affordable housing ~~[.]~~ ***and, for each city located in a county whose population is 400,000 or more, a plan to inventory and preserve historic neighborhoods.***

3. Perform any other acts and things necessary or proper to carry out the provisions of NRS 268.110 to 268.220, inclusive, and in general to study and

propose such measures as may be for the municipal welfare and in the interest of protecting the municipal area's natural resources from impairment.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. **Section 3 of chapter 407, Statutes of Nevada 2007, at page 1782, is hereby amended to read as follows:**

Sec. 3. ~~[~~"Advisory~~]~~ **"**Board" means the Southern Nevada Enterprise Community ~~[~~Advisory~~]~~ Board created pursuant to section 8 of this act.

Sec. 26. **Section 8 of chapter 407, Statutes of Nevada 2007, at page 1782, is hereby amended to read as follows:**

Sec. 8. 1. The Southern Nevada Enterprise Community ~~[~~Advisory~~]~~ Board is hereby created.

2. The ~~[~~Advisory~~]~~ Board consists of nine members, appointed in consultation with residents of the Community, as follows:

(a) One member of the Nevada Congressional Delegation selected from among its membership or his designee;

(b) One member of the ~~[~~Nevada Legislature who represents~~]~~ ***Assembly and one member of the Senate who represent*** the Community ~~[~~,~~]~~ ***selected by the Legislative Commission;***

(c) One member of the Clark County Board of County Commissioners selected from among its membership **;** ~~[~~or his designee;~~]~~

(d) One member of the Las Vegas City Council from among its membership **;** ~~[~~or his designee;~~]~~

(e) One member of the North Las Vegas City Council from among its membership **;** ~~[~~or his designee;~~]~~

(f) Two residents of the Community, recommended and selected ~~[~~jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council;~~]~~ ***by the Stop the F Street Closure, LLC; and***

(g) A representative of the private sector appointed by the Chamber of Commerce established in the Community**.** ~~[~~; and

~~(h) A representative of the nonprofit charitable, educational and religious organizations in the Community, recommended and selected jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council.~~]~~

3. Each member of the ~~[~~Advisory~~]~~ Board serves for a term of 3 years. A vacancy on the ~~[~~Advisory~~]~~ Board must be filled in the same manner as the original appointment. A member may be reappointed to the ~~[~~Advisory~~]~~ Board.

4. The members of the ~~[~~Advisory~~]~~ Board shall elect a Chairman and Vice Chairman by majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on August 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the ~~[~~Advisory~~]~~ Board shall elect a Chairman or Vice Chairman, as appropriate, from among its members for the remainder of the unexpired term.

5. The City of ~~[~~North~~]~~ Las Vegas shall provide administrative support for the ~~[~~Advisory~~]~~ Board.

Sec. 27. **Section 9 of chapter 407, Statutes of Nevada 2007, at page 1783, is hereby amended to read as follows:**

Sec. 9. The primary purposes of the ~~[~~Advisory~~]~~ Board are to:

1. Advise the governmental entities that have members on the ~~[~~Advisory~~]~~ Board with respect to the Project; ~~[~~and~~]~~

2. ***Identify projects that may be eligible for federal funding or funding through city and county redevelopment authorities, and request appropriations for those projects from the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council or the governing boards of their respective redevelopment authorities;***

3. Carry out such additional projects as may be directed by the Legislature; and

4. Ensure that the needs and opinions of the residents of the Community are reflected adequately by the Project ~~[.]~~ ***and any additional projects assigned to the Board.***

Sec. 28. **Section 11 of chapter 407, Statutes of Nevada 2007, at page 1783, is hereby amended to read as follows:**

Sec. 11. 1. On or before January 31, 2008, the ~~[~~Advisory~~]~~ Board shall prepare a written plan to carry out the Project to address the needs and issues of the Community.

2. The ~~[~~Advisory~~]~~ Board shall, within 120 days after preparing the written plan:

(a) Hold at least two public hearings on the written plan, each of which must be preceded by at least 30 days' notice within the Community; and

(b) Approve or reject the written plan based on input from the Community received at the public hearings.

3. A written plan adopted by the ~~[~~Advisory~~]~~ Board must:

(a) Set forth an adequate framework for carrying out the Project;

(b) Set forth a reasonable period in which to accomplish the goals of the Project; and

(c) Incorporate each of the required elements of the Project, as set forth in section 12 of this act.

4. If the ~~[~~Advisory~~]~~ Board rejects the written plan, the ~~[~~Advisory~~]~~ Board shall:

(a) Provide to the appropriate officers of the governmental entities that have members on the ~~[Advisory]~~ Board a written explanation of its reasons for the rejection; and

(b) Prepare a revised written plan and repeat the notice and hearings required by subsection 2 before approving or rejecting the revised written plan.

5. The Board shall revise the parameters of the Project and the written plan as necessary to ensure that it continues to address the needs of the Community.

Sec. 29. **Section 13 of chapter 407, Statutes of Nevada 2007, at page 1784, is hereby amended to read as follows:**

Sec. 13. The ~~[Advisory]~~ Board may accept any gifts, grants or donations for the purpose of preparing, developing and carrying out the Project.

Sec. 30. **Section 14 of chapter 407, Statutes of Nevada 2007, at page 1784, is hereby amended to read as follows:**

Sec. 14. On or before February 1, 2009, ***and every 2 years thereafter,*** the ~~[Advisory]~~ Board shall submit to the Director of the Legislative Counsel Bureau for transmission to ~~[the 75th Session of]~~ the Nevada Legislature a report that summarizes the activities of the ~~[Advisory]~~ Board **.** ~~[during the period between the effective date of this act and December 31, 2008.]~~

Sec. 31. **The Legislature hereby finds and declares that a general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in section 32 of this act because of the number of atypical factors and special conditions relating thereto, including the economic and geographic diversity of the local governments of this State, the unique growth patterns occurring in Clark County, the special conditions experienced in the City of Las Vegas related to the need to revitalize specific areas of the City of Las Vegas to ensure that the residents of more densely populated urban areas are provided with a safe environment in which to live and work and the necessity to ameliorate hardships imposed on specific areas of the City of Las Vegas as a consequence of projects undertaken for the general benefit of the people of this State.**

Sec. 32. **The City of Las Vegas shall administer a funding framework for the purposes of reopening traffic on F Street under Interstate 15 in Las Vegas as follows:**

1. The Nevada Department of Transportation shall pay the cost of clearing the project to reopen F Street through the National Environmental Policy Act process using existing funds available for this purpose. Expenditure of those funds is hereby authorized.

2. The City of Las Vegas shall contract to design the construction of the project to reopen F Street up to a maximum of $2.5 million, using funds from the City of Las Vegas Redevelopment Agency for this purpose. The Nevada Department of Transportation shall assist in

funding any portion of the design cost exceeding $2.5 million, and the use of funds available for this purpose is hereby authorized.

3. The City of Las Vegas and the Nevada Department of Transportation shall work collaboratively to fund the construction of the project to reopen F Street as follows:

(a) The City of Las Vegas shall provide $20 million of the funding for the project to reopen F Street by leveraging its share of the county special 5-cent ad valorem capital project tax to issue medium-term obligations after July 1, 2011.

(b) To reopen F Street, the Nevada Department of Transportation shall work with the City of Las Vegas to seek other sources for the remaining portion of the construction costs based on the bridge design documents, including federal funding or additional revenue enhancements provided by the Nevada Department of Transportation. The Nevada Department of Transportation shall designate the project to reopen F Street as a high priority project for funding by any additional revenue enhancements.

Sec. 33. **1. This section and sections 1, 1.7 and 25 to 32, inclusive, of this act become effective upon passage and approval.**

2. Sections 1.4 and 2 to 24, inclusive, of this act become effective on October 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 304.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Leslie moved that Senate Bill No. 152 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 119.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day appointed Senators Woodhouse, Wiener, and Townsend as a Conference Committee concerning Senate Bill No. 17.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

GENERAL FILE AND THIRD READING

Senate Bill No. 119.

Bill read third time.

Roll call on Senate Bill No. 119:

YEAS—40.

NAYS—None.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 119 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 13, 87, 101, 124, 146, 186, 205, 243, 296, 325, 335, 360, 361, 370, 458, 471, 491, 496, 500, 563; Assembly Resolutions Nos. 2, 10, 11; Senate Bills Nos. 26, 53, 63, 128, 160, 162, 195, 197, 228, 231, 234, 251, 253, 276, 278, 317, 378, 408, 409, 415; Senate Joint Resolutions Nos. 2, 3, 4, and 9; Senate Joint Resolution No. 2 of the 74th Session; Senate Concurrent Resolution No. 35.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Ginger Pierce and Robert Moran.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Barbara Kubichka and Craig Spurgeon.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Gage Fiorentino.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Lemon Valley Elementary School: Dustin Ammons, Kimberly Anukam, Austin Costales, Wyatt Dozier, Makayla Halverson, Daniel Hanks, Brooke Heater, Ryan Hinkson, Austin Jones, Nicholas Karpchuk, Morelia Martinez, Rubi Mata, Kristopher Mock, Albert Morris, Eduardo Ontiveros, Kayla Pickett, Valerie Quam, Moaiz Shiekh, Brandy Spencer, Nicholas Spencer, Henry Stewart, Anthony Vasquez, Michael Erlendson, Anthony Esposito, Yessenia Estrada, Brandon Frank, Alan Graham, Selestiana Arias, Cody Bailey, Mackenzie Barrett, Mackenzie Beck, Heriberto Benitez-Camacho, Martin Coria, Manuel Corona Moreno, Anna Destefano, Justin Dozier, Kyla Duggins, Mireya Duron-Rodriquez, Johnathan Keates, Austin Mason, Anthony Pena, Jesus Perez, Alfredo

Rangel, Ixcel Sanchez Chavez, Crista Seiss Lilly, Tyler Simon, Tamaje Edwards, Rochelle Faulkner, Heidee Gifford, Richard Goormastic and Kayla Jensen.

Assemblyman Oceguera moved that the Assembly adjourn until Saturday, May 23, 2009, at 10:30 a.m.

Motion carried.

Assembly adjourned at 9:02 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND ELEVENTH DAY

CARSON CITY (Saturday), May 23, 2009

Assembly called to order at 11:32 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Carpenter, Christensen, and Mortenson, who were excused.

Prayer by the Chaplain, April Mastroluca.

Romans 8:18: For I consider the sufferings of this present time are not worthy to be compared with the glory which shall be revealed in us.

Will you please pray with me?

Heavenly Father, today we come to You as Your servants. We have made some tough decisions, decisions that we hope will help to relieve the suffering of the people we were elected to represent. Please guide our hearts and minds to make the best possible choices every time we come together in these chambers to do the work of the people of Nevada.

Lord, no one here does the work alone. We are surrounded with a wonderful staff and we ask for Your blessing on every person in this building and allow Your Spirit to shine in their hearts to encourage them as we finish these important tasks. Please bless our families and keep watch over them while we are away from home, and for those of us traveling this weekend to be with our loved ones, please bless our journey with safety.

We are surrounded by many blessings, and we must remember to be thankful always. Blessings are not just the beauty that surrounds us, the health we enjoy, and the people in our lives. Sometimes blessings do not appear until we take the time to look for them. Help us to see the blessings You have provided, let us see one another through Your eyes, and remember that every person is a child of Yours. It is in Your Son's Name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 10, 111, 227, 254, 283, 337, 349, 359, 426, 548.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 3, Amendment No. 892; Assembly Bill No. 60, Amendment No. 787; Assembly Bill No. 152, Amendment No. 770; Assembly Bill No. 162, Amendments Nos. 699, 908; Assembly Bill No. 181, Amendment No. 740; Assembly Bill No. 215, Amendments Nos. 767, 817; Assembly Bill No. 287, Amendments Nos. 696, 911; Assembly Bill No. 314, Amendment No. 765; Assembly Bill No. 319, Amendment No. 739; Assembly Bill No. 378, Amendments Nos. 679, 888; Assembly Bill No. 381, Amendments Nos. 915, 764; Assembly Bill No. 474, Amendments Nos. 726, 903; Assembly Bill No. 478, Amendments Nos. 798, 882; Assembly Bill No. 535, Amendment No. 707; Assembly Joint

Resolution No. 5, Amendment No. 757, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 130, Amendments Nos. 792, 923; Assembly Bill No. 218, Amendments Nos. 918, 933, 931, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 463.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 704 to Senate Bill No. 60; Assembly Amendment No. 862 to Senate Bill No. 108; Assembly Amendments Nos. 706, 846 to Senate Bill No. 137; Assembly Amendment No. 902 to Senate Bill No. 245.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 319.

The following Senate amendment was read:

Amendment No. 739.

AN ACT relating to education; prescribing certain rights for school employees; revising provisions relating to certain licensed employees who are reinstated after dismissal from employment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 7 and 8 of this bill provide specified rights for a school employee in a meeting with an administrator or representative of a school district which may result in disciplinary action against the school employee, or which involves a complaint made by the school employee concerning his working conditions or the manner in which he is treated. **Section 8.5 of this bill provides that an unlicensed employee may be suspended with loss of pay at any time after a due process hearing has been held and requires an unlicensed employee who is dismissed from employment to be reinstated with full compensation, plus interest, for all missed days of work if sufficient grounds for dismissal do not exist.** **Section 11** of this bill requires the board of trustees of each school district to adopt a written policy prohibiting acts or statements that are intended to convince school employees to waive the rights provided by **sections 2-11** of this bill.

~~[Section 12 of this bill imposes restrictions on the involuntary transfer of a licensed employee.]~~

Under existing law, a licensed employee of a school district who is dismissed from employment must be reinstated with full compensation, plus interest, if sufficient grounds for dismissal do not exist. (NRS 391.314) **Section 15** of this bill requires full compensation for all missed days of work and provides that the employee is not required to mitigate damages.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Administrator" has the meaning ascribed to it in NRS 391.311.***

Sec. 4. ***"Representative of a school district" means any person employed, appointed or retained by the board of trustees of a school district to investigate or otherwise act on behalf of the school district in any matter that may result in disciplinary action against a school employee, or any complaint made by a school employee concerning his working conditions or the manner in which he is treated at work.***

Sec. 5. ***"School employee" means any licensed or unlicensed person employed by the board of trustees of a school district. The term does not include a person who is employed on a temporary basis or a person who is employed as an independent contractor.***

Sec. 6. ***1. The provisions of sections 2 to 11, inclusive, of this act do not apply to any school employee who is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the extent of any conflict between the provisions of the agreement and the provisions of sections 2 to 11, inclusive, of this act.***

2. The provisions of sections 2 to 11, inclusive, of this act apply to an administrator if the matter may result in disciplinary action against the administrator or if the administrator makes a complaint concerning his working conditions or the manner in which he is treated at work.

Sec. 6.5. The provisions of sections 2 to 11, inclusive, of this act do not apply to action taken by an administrator or representative of a school district which is verbal or written and which is not investigatory in nature and is not intended to result in the admonition, suspension, demotion, transfer or dismissal of a school employee.

Sec. 7. ***1. Except as otherwise provided in subsection 1 of section 6 of this act , section 6.5 of this act or other specific statute, any meeting between a school employee and an administrator or representative of a school district that may result in disciplinary action against the school employee is subject to the provisions of this section.***

2. If a meeting is governed by this section, the administrator or representative of the school district shall, not less than 48 hours before the meeting, provide written notice of the meeting to the school employee and, if the employee is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.

3. The notice required by subsection 2 must include, without limitation:

(a) The date, time and place of the meeting;

(b) The purpose of the meeting; and

(c) The name and title of each representative of the school district that will be present at the meeting on behalf of the school district.

4. If a meeting governed by this section is convened to consider an allegation of improper conduct or performance by an employee, the notice required by subsection 2 must provide the employee with notice of the specific concern to be discussed.

5. If a meeting that is not otherwise subject to the provisions of this section is held between a school employee and an administrator or representative of a school district and, during the meeting, the administrator or representative raises an issue which subjects the meeting to the provisions of this section, the school employee must, upon request, be granted an immediate continuance of the meeting for not less than 48 hours. If a continuance is requested, the administrator or representative shall comply with the requirements of this section before reconvening the meeting.

Sec. 8. ***1. A school employee who wishes to request a meeting concerning his working conditions or the manner in which he is treated at work may, in writing, notify the administrator or representative of the school district of the complaint and request such a meeting.***

2. If a meeting is requested pursuant to subsection 1, the administrator or representative of the school district shall, not less than 48 hours before the meeting, provide written notice of the meeting to the school employee and, if the employee is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.

3. The notice required pursuant to subsection 2 must include, without limitation:

(a) The date, time and place of the meeting;

(b) The purpose of the meeting; and

(c) The name and title of each representative of the school district that will be present at the meeting on behalf of the school district.

Sec. 8.5. 1. Except as otherwise provided in subsection 2, if sufficient grounds for dismissal of an unlicensed employee do not exist, the unlicensed employee must be reinstated with, and is entitled to, full compensation, plus interest at the rate established pursuant to NRS 99.040, for all missed days of work. The unlicensed employee is not required to mitigate his damages.

2. An unlicensed employee may be suspended with loss of pay at any time after a hearing has been held which affords due process. An employee may be suspended more than once in a year, but the total number of days of suspension must not exceed 20 in 1 year. Unless circumstances otherwise require, the suspensions must be progressively longer.

3. Any decision of a hearing officer that is inconsistent with this section is invalid to the extent of the inconsistency.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. ***1. The board of trustees of each school district shall adopt and enforce a written policy prohibiting administrators or agents of the school district from committing an act or making a statement which is intended to convince school employees to waive their rights pursuant to sections 2 to 11, inclusive, of this act.***

2. The policy must include penalties for violation of the policy.

3. The school district shall ensure that a copy of the policy is provided to each employee who is employed by the school district. The principal of each school within the school district shall ensure that the policy is reviewed during a staff meeting at the school at least annually.

Sec. 12. ~~***[1. An involuntary transfer of a licensed employee must be based upon licensure and seniority and may not be made as a form of discipline.***~~

~~***2. If a licensed employee believes an involuntary transfer was made as a form of discipline, he is entitled to a hearing on that issue pursuant to the provisions of this section and NRS 391.311 to 391.3197, inclusive.]***~~ **(Deleted by amendment.)**

Sec. 13. ~~[~~NRS 391.311 is hereby amended to read as follows:

~~391.311 As used in~~ NRS 391.311 to 391.3197, inclusive, ~~***and section 12 of this act,***~~ unless the context otherwise requires:

~~1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.~~

~~2. "Board" means the board of trustees of the school district in which a licensed employee affected by~~ NRS 391.311 to 391.3197, inclusive, ~~***and section 12 of this act***~~ is employed.

~~3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.~~

~~4. "Immorality" means:~~

~~(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or~~

~~(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.~~

~~5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.~~

~~6. "Probationary employee" means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.~~

~~7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.~~

~~8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.~~**] (Deleted by amendment.)**

Sec. 14. **[**~~NRS 391.3115 is hereby amended to read as follows:~~

~~391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, *and section 12 of this act* do not apply to:~~

~~(a) Substitute teachers; or~~

~~(b) Adult education teachers.~~

~~2. The provisions of NRS 391.311 to 391.3194, inclusive, *and section 12 of this act* do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.~~

~~3. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, *and section 12 of this act* for demotion, suspension or dismissal apply to them.~~**] (Deleted by amendment.)**

Sec. 15. NRS 391.314 is hereby amended to read as follows:

391.314 1. If a superintendent has reason to believe that cause exists for the dismissal of a licensed employee and he is of the opinion that the immediate suspension of the employee is necessary in the best interests of the pupils in the district, the superintendent may suspend the employee without notice and without a hearing. Notwithstanding the provisions of NRS 391.312, a superintendent may suspend a licensed employee who has been officially charged but not yet convicted of a felony or a crime involving moral turpitude or immorality. If the charge is dismissed or if the employee is found not guilty, he must be reinstated with back pay, plus interest, and normal seniority. The superintendent shall notify the employee in writing of the suspension.

2. Within 5 days after a suspension becomes effective, the superintendent shall begin proceedings pursuant to the provisions of NRS 391.312 to 391.3196, inclusive, to effect the employee's dismissal. The employee is

entitled to continue to receive his salary and other benefits after the suspension becomes effective until the date on which the dismissal proceedings are commenced. The superintendent may recommend that an employee who has been charged with a felony or a crime involving immorality be dismissed for another ground set forth in NRS 391.312.

3. If sufficient grounds for dismissal do not exist, the employee must be reinstated with ***, and is entitled to,*** full compensation, plus interest ~~[.]~~ ***at the rate established pursuant to NRS 99.040, for all missed days of work.***

4. A licensed employee who furnishes to the school district a bond or other security which is acceptable to the board as a guarantee that he will repay any amounts paid to him pursuant to this subsection as salary during a period of suspension is entitled to continue to receive his salary from the date on which the dismissal proceedings are commenced until the decision of the board or the report of the hearing officer, if the report is final and binding. The board shall not unreasonably refuse to accept security other than a bond. An employee who receives salary pursuant to this subsection shall repay it if he is dismissed or not reemployed as a result of a decision of the board or a report of a hearing officer.

5. A licensed employee who is convicted of a crime which requires registration pursuant to NRS 179D.010 to 179D.550, inclusive, or is convicted of an act forbidden by NRS 200.508, 201.190, 201.265, 201.540, 201.560 or 207.260 forfeits all rights of employment from the date of his arrest.

6. A licensed employee who is convicted of any crime and who is sentenced to and serves any sentence of imprisonment forfeits all rights of employment from the date of his arrest or the date on which his employment terminated, whichever is later.

7. A licensed employee who is charged with a felony or a crime involving immorality or moral turpitude and who waives his right to a speedy trial while suspended may receive ~~[no]~~ ***not*** more than 12 months of back pay and seniority upon reinstatement if he is found not guilty or the charges are dismissed, unless proceedings have been begun to dismiss the employee upon one of the other grounds set forth in NRS 391.312.

8. A superintendent may discipline a licensed employee by suspending the employee with loss of pay at any time after a hearing has been held which affords the due process provided for in this chapter. The grounds for suspension are the same as the grounds contained in NRS 391.312. An employee may be suspended more than once during the employee's contract year, but the total number of days of suspension may not exceed 20 in 1 contract year. Unless circumstances require otherwise, the suspensions must be progressively longer.

Sec. 16. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 319.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 181.

The following Senate amendment was read:

Amendment No. 740.

AN ACT relating to education; **revising provisions relating to sponsorship of charter schools; creating the Nevada Charter School Institute; prescribing the membership, duties and powers of the Institute;** revising provisions governing the membership of a committee to form a charter school and the governing body of a charter school; revising provisions for the process of review of an application to form a charter school; authorizing the governing body of a charter school to set a salary for the attendance of its members at meetings of the governing body; revising the requirements for a charter school to be eligible for an exemption from annual performance audits and to receive certain money for facilities; revising various other provisions governing charter schools; repealing the Subcommittee on Charter Schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the formation of charter schools and authorizes school districts, the State Board of Education and colleges and universities within the Nevada System of Higher Education to sponsor charter schools. (NRS 386.500-386.610) Sections 22-32 of this bill create the Nevada Charter School Institute and prescribe the membership of the Charter School Institute. Section 35 of this bill removes the authority of the State Board of Education to sponsor charter schools and authorizes the Nevada Charter School Institute to sponsor charter schools. Sections 41 and 50 of this bill authorize the Nevada Charter School Institute to adopt regulations relating to charter schools and eliminate the authority of the Department of Education and the State Board of Education to adopt certain regulations relating to charter schools. Section 2 of this bill transfers the duty to prepare an annual report of accountability information of all the charter schools in this State from the board of trustees of a school district to the Nevada Charter School Institute. Sections 64 and 65 of this bill require the Director of the Nevada Charter School Institute and other persons employed by the Charter School Institute to be appointed or hired, as appropriate. Section 66 of this bill requires the members of the Nevada Charter School Institute to be appointed. Section 69 of this bill transfers the sponsorship of all State Board-sponsored charter schools to the Nevada Charter School Institute.

Existing law prescribes the membership of a committee to form a charter school and prescribes the process for the initial review of an application to

form a charter school by the Department of Education. (NRS 386.520) **Section ~~[1]~~ 36** of this bill revises the membership of the committee and the process for review of the application by the Department.

Upon approval of an application by the Department, existing law provides that a committee to form a charter school may submit an application to the proposed sponsor. (NRS 386.525) **Section ~~[2]~~ 37** of this bill revises provisions governing the review of such an application if the ~~[State Board of Education]~~ **Nevada Charter School Institute** is the proposed sponsor.

Existing law authorizes the governing body of a charter school to submit a request for an amendment to the written charter. (NRS 386.527) **Section ~~[3]~~ 38** of this bill provides that if the sponsor of the charter school denies the request for an amendment, the sponsor must provide written notice of the reasons for the denial.

Existing law requires the Department to provide certain information regarding the charter schools operating in this State. (NRS 386.545) **Section ~~[5]~~ 42** of this bill provides that if the Department requests certain information from a charter school that is not required by specific statute **~~[.]~~ or regulation,** the Department shall include in the request a mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will cost the charter school money.

Existing law prescribes the membership, qualifications and powers of the governing body of a charter school and requires the governing body to hold at least quarterly meetings. (NRS 386.549) **Section ~~[6]~~ 44** of this bill revises provisions governing the membership of the governing body and authorizes the governing body, upon a majority vote of the members, to set a salary for the attendance of its members at meetings of the governing body, not to exceed $80 per meeting per month.

Existing law prescribes the requirements for a charter school to be exempt from an annual performance audit and undergo a performance audit every 3 years and to be eligible for available money from legislative appropriations or otherwise for facilities. A charter school is eligible if at least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination. (NRS 386.5515) **Section ~~[7]~~ 45** of this bill revises this eligibility provision to require that at least 75 percent of the pupils enrolled in the charter school in grade 12 in the immediately preceding school year who have satisfied the coursework requirements for graduation have passed the high school proficiency examination.

Existing law provides that the pupils enrolled in charter schools must be included in the count for the purposes of apportionments and allowances from the State Distributive School Account and provides for the reimbursement of administrative costs to the sponsor of a charter school. (NRS 386.570) **Section ~~[9]~~ 47** of this bill requires the ~~[State Board]~~ **Nevada Charter School Institute** to prescribe a process which ensures that all

charter schools, regardless of sponsor, have information of all sources of funding for the public schools provided through the Department. **Section ~~[9]~~ 47** also changes the percentage of administrative costs that the ~~[State Board or a college or university]~~ **sponsor of a charter school** may receive for sponsorship**.** ~~[after the first year of operation of a charter school from 1.5 percent to 1 percent.]~~

Existing law prescribes the process for a parent or legal guardian of a child to file a notice of intent to homeschool the child with the superintendent of schools of the school district. (NRS 392.700) **Section ~~[10]~~ 60** of this bill provides that if such a child seeks admittance or entrance to a public school after being homeschooled, the parent or legal guardian shall notify the superintendent to withdraw the notice of intent to homeschool. **Section ~~[10]~~ 60** further provides that if such a child enrolls in a charter school, the charter school shall notify the board of trustees of the school district in which the child resides.

Existing law creates the Subcommittee on Charter Schools. (NRS 386.507) **Section ~~[11]~~ 61** of this bill repeals the Subcommittee.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **NRS 385.005 is hereby amended to read as follows:**

385.005 1. The Legislature reaffirms its intent that public education in the State of Nevada is essentially a matter for local control by local school districts. The provisions of this title are intended to reserve to the boards of trustees of local school districts within this state such rights and powers as are necessary to maintain control of the education of the children within their respective districts. These rights and powers may only be limited by other specific provisions of law.

2. The responsibility of establishing a statewide policy of integration or desegregation of public schools is reserved to the Legislature. The responsibility for establishing a local policy of integration or desegregation of public schools consistent with the statewide policy established by the Legislature is delegated to the respective boards of trustees of local school districts and to the governing body of each charter school.

3. The State Board shall, and ***the Nevada Charter School Institute,*** each board of trustees of a local school district, the governing body of each charter school and any other school officer may, advise the Legislature at each regular session of any recommended legislative action to ensure high standards of equality of educational opportunity for all children in the State of Nevada.

Sec. 2. **NRS 385.347 is hereby amended to read as follows:**

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the

district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district. ~~[, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]~~

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole. ~~[, including, without limitation, each charter school in the district.]~~ The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district ~~[, including, without limitation, each charter school in the district,]~~ and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and

389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district ~~[, including, without limitation, pupils enrolled in charter schools in the district,]~~ with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, ~~[including, without limitation, each charter school in the district,]~~ information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➥ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole ~~[, including, without limitation, each charter school in the district,]~~ and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole ~~[, including, without limitation, each charter school in the district.]~~.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole ~~[, including, without limitation, each charter school in the district.]~~. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) ~~[On and after July 1, 2005, the]~~ ***The*** number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) ~~[On and after July 1, 2006, the]~~ ***The*** number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) ~~[On and after July 1, 2005, the]~~ ***The*** number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) ~~[On and after July 1, 2006, the]~~ ***The*** number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole**.** ~~[, including, without limitation, each charter school in the district.]~~ If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including~~[:~~

~~(1) Any]~~ ***any*** special programs for pupils at an individual school**.** ~~[; and~~

~~(2) The curriculum used by each charter school in the district.]~~

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole**.** ~~[, including, without limitation, each charter school in the district.]~~

(2) For each elementary school, middle school and junior high school in the district, ~~[including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school,]~~ information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in

grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole **. [**~~, including, without limitation, each charter school in the district.~~**]**

(j) Efforts made by the school district and by each school in the district **[**~~, including, without limitation, each charter school in the district,~~**]** to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district **. [**~~, including, without limitation, each charter school in the district.~~**]**

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district **. [**~~, including, without limitation, each charter school in the district.~~**]**

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole **. [**~~, including, without limitation, each charter school in the district.~~**]**

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole **. [**~~, including, without limitation, each charter school in the district.~~**]**

(p) The transiency rate of pupils for each school in the district and the district as a whole **. [**~~, including, without limitation, each charter school in the district.~~**]** For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole **. [**~~, including, without limitation, each charter school sponsored by the district.~~**]** The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole. ~~[, including, without limitation, each charter school in the district.]~~

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, ~~[including, without limitation, each charter school in the district,]~~ the percentage of pupils who graduated from that high school ~~[or charter school]~~ in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school ~~[, including, without limitation, each charter school,]~~ and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district,]~~ the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district,]~~ the number and percentage of pupils who failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole. ~~[, including, without limitation, each charter school in the district.]~~

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district ~~[, including, without limitation, each charter school in the district,]~~ has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district**.** ~~[, including, without limitation, each charter school the district.]~~ The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, ~~[including, without limitation, each charter school that operates as a high school,]~~ information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district,]~~ information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ee) Such other information as is directed by the Superintendent of Public Instruction.

3. ***The Nevada Charter School Institute shall, on or before August 15 of each year, prepare an annual report of accountability of charter schools in this State concerning the accountability information prescribed by the Department pursuant to this section. The Department shall prescribe by regulation the information that must be prepared by the Nevada Charter School Institute, which must include, without limitation, the information contained in paragraphs (a) to (ee), inclusive, of subsection 2, as applicable for charter schools.***

4. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 ***or maintained by a charter school for purposes of the reporting required pursuant to subsection 3*** must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

~~[4.]~~ ***5.*** The annual report of accountability prepared pursuant to subsection 2 ***or 3, as applicable,*** must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

~~[5.]~~ ***6.*** The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to ~~[subsection]~~ ***subsections*** 2 ***and 3*** and provide the forms to the respective school districts ~~[.]~~ ***and the Nevada Charter School Institute.***

(b) Provide statistical information and technical assistance to the school districts ***and the Nevada Charter School Institute*** to ensure that the reports provide comparable information with respect to each school in each district ***, each charter school*** and among the districts ***and charter schools*** throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

➥ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

~~[6.]~~ ***7.*** The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher

Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

~~[7.]~~ ***8.*** On or before August 15 of each year ~~[, the]~~ ***:***

(a) The board of trustees of each school district ***and the Nevada Charter School Institute*** shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

(b) The Nevada Charter School Institute shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of attendance and truancy of pupils enrolled in each charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3.

~~[8.]~~ ***9.*** On or before August 15 of each year, the board of trustees of each school district ***and the Nevada Charter School Institute*** shall:

(a) Provide written notice that the report required pursuant to subsection 2 ***or 3, as applicable,*** is available on the Internet website maintained by the school district ~~[,]~~ ***or the Nevada Charter School Institute,*** if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

(1) Governor;
(2) State Board;
(3) Department;
(4) Committee; and
(5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 ***or 3, as applicable,*** in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district ~~[,]~~ ***or the Nevada Charter School Institute,*** if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, ~~[including, without limitation, each charter school in the district,]~~ the residents of the district ~~[,]~~ and the parents and guardians of pupils enrolled in schools in the district ~~. [, including, without limitation, each charter school in the district.]~~ ***If the Nevada Charter School Institute does not maintain a website, the Nevada Charter School Institute shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school in this State and the parents and guardians of pupils enrolled in each charter school in this State.***

~~[9.]~~ ***10.*** Upon the request of the Governor, an entity described in paragraph (a) of subsection ~~[8]~~ ***9*** or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2 ~~[.]~~ ***or 3, as applicable.***

~~[10.]~~ ***11.*** As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 3. **NRS 385.349 is hereby amended to read as follows:**

385.349 1. The board of trustees of each school district ***and the Nevada Charter School Institute*** shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.347 on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) ~~[The]~~ ***If prepared by a school district, the*** information set forth in subsection 1 of NRS 385.34692, reported for the school district as a whole and for each school within the school district;

(b) ***If prepared by the Nevada Charter School Institute, the information set forth in subsection 1 of NRS 385.34692, reported for the charter schools in this State as a whole and for each charter school in this State;***

(c) Information on the involvement of parents and legal guardians in the education of their children; and

~~[(c)]~~ ***(d)*** Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. The Department shall, in consultation with the Bureau ~~[, and]~~ the school districts ~~[,]~~ ***and the Nevada Charter School Institute,*** prescribe a form that contains the basic information required by subsection 1. The board of trustees of a school district ***or the Nevada Charter School Institute*** may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year, the board of trustees of each school district ***and the Nevada Charter School Institute*** shall:

(a) Submit the summary in an electronic format to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) Committee;

(5) Bureau; and

(6) Schools within the school district ~~[.]~~ ***or charter schools, as applicable.***

(b) Provide for the public dissemination of the summary ***of the school district or the Nevada Charter School Institute, as applicable,*** by posting a copy of the summary on the Internet website maintained by the school

district ~~[.]~~ ***or the Nevada Charter School Institute,*** if any. If a school district ***or the Nevada Charter School Institute*** does not maintain a website, the district ***or the Nevada Charter School Institute*** shall otherwise provide for public dissemination of the summary. The board of trustees of each school district ***and the Nevada Charter School Institute*** shall ensure that the parents and guardians of pupils enrolled in the school district ***or each charter school, as applicable,*** have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website maintained by the school district ~~[.]~~ ***or the Nevada Charter School Institute,*** if any. Upon the request of a parent or legal guardian, the school district ***or the Nevada Charter School Institute, as applicable,*** shall provide the parent or legal guardian with a written copy of the summary.

~~[5. The board of trustees of each school district shall report the information required by this section for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]~~

Sec. 4. **NRS 385.357 is hereby amended to read as follows:**

385.357 1. The principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school, prepare a plan to improve the achievement of the pupils enrolled in the school.

2. The plan developed pursuant to subsection 1 must include:

(a) A review and analysis of the data pertaining to the school upon which the report required pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as applicable,*** is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at the school that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as defined in NRS 389.018.

(d) Policies and practices concerning the core academic subjects which have the greatest likelihood of ensuring that each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school will make adequate yearly progress and meet the minimum level of proficiency prescribed by the State Board.

(e) Annual measurable objectives, consistent with the annual measurable objectives established by the State Board pursuant to NRS 385.361, for the continuous and substantial progress by each group of pupils identified in paragraph (b) of subsection 1 of that section who are enrolled in the school to

ensure that each group will make adequate yearly progress and meet the level of proficiency prescribed by the State Board.

(f) Strategies, consistent with the policy adopted pursuant to NRS 392.457 by the board of trustees of the school district in which the school is located, to promote effective involvement by parents and families of pupils enrolled in the school in the education of their children.

(g) As appropriate, programs of remedial education or tutoring to be offered before and after school, during the summer, or between sessions if the school operates on a year-round calendar for pupils enrolled in the school who need additional instructional time to pass or to reach a level considered proficient.

(h) Strategies to improve the academic achievement of pupils enrolled in the school, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at the school to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of pupils enrolled in the school, as deemed appropriate by the principal.

(i) An identification, by category, of the employees of the school who are responsible for ensuring that the plan is carried out effectively.

(j) In consultation with the school district or governing body, as applicable, an identification, by category, of the employees of the school district or governing body, if any, who are responsible for ensuring that the plan is carried out effectively or for overseeing and monitoring whether the plan is carried out effectively.

(k) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(l) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(m) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by the school district in which the school is located in complying with this paragraph.

(o) A summary of the effectiveness of appropriations made by the Legislature that are available to the school to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(p) A budget of the overall cost for carrying out the plan.

3. In addition to the requirements of subsection 2, if a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623, the plan must comply with 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto.

4. Except as otherwise provided in subsection 5, the principal of each school shall, in consultation with the employees of the school:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school.

5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 and a support team has been established for the school, the support team shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS 385.3741. If the school is a Title I school that has been designated as demonstrating need for improvement, the support team established for the school shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the support team, outside experts.

6. On or before November 1 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the plan or the revised plan, as applicable, to:

(a) If the school is a public school of the school district, the superintendent of schools of the school district.

(b) If the school is a charter school, the governing body of the charter school.

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

8. If a school is designated as demonstrating exemplary achievement, high achievement or adequate achievement, or if a school that is not a Title I school is designated as demonstrating need for improvement, not later than 45 days after receipt of the plan or the revised plan, as applicable, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan if it meets the requirements of this section.

9. On or before December 15 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the final plan or the final revised plan, as applicable, to the:

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee;

(f) Bureau; and

(g) Board of trustees of the school district in which the school is located ~~[.]~~ ***or, if the school is a charter school, the sponsor of the charter school.***

10. A plan for the improvement of a school must be carried out expeditiously, but not later than January 1 after approval of the plan pursuant to subsection 7 or 8, as applicable.

Sec. 5. **NRS 385.358 is hereby amended to read as follows:**

385.358 1. The principal of each public school, including, without limitation, each charter school, shall prepare a summary of accountability information on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) The information set forth in subsection 1 of NRS 385.34692, reported only for the school;

(b) Information on the involvement of parents and legal guardians in the education of their children; and

(c) Such other information as is directed by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. The Department shall, in consultation with the Bureau**_ ,** ~~[and]~~ the school districts**_** ~~[,]~~ ***and the Nevada Charter School Institute,*** prescribe a form that contains the basic information required by subsection 1. The principal of a school may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year:

(a) The principal of each public school shall submit the summary in electronic format to the:

(1) Department;

(2) Bureau; and

(3) Board of trustees of the school district in which the school is located ~~[.]~~ ***or, if the school is a charter school, to the sponsor of the charter school.***

(b) The school district in which the school is located shall ensure that the summary is posted on the Internet website maintained by the school, if any, or the Internet website maintained by the school district, if any. ***The sponsor of a charter school shall ensure that each summary of the charter school is posted on the Internet website maintained by the charter school, if any, or the Internet website maintained by the sponsor, if any.*** If the summary is not posted on the website of the school**_ ,** ~~[or]~~ the school district**_** ~~[,]~~ ***or the sponsor of the charter school, as applicable,*** the school district ***or the sponsor of the charter school, as applicable,*** shall otherwise provide for public dissemination of the summary.

(c) The principal of each public school shall ensure that the parents and legal guardians of the pupils enrolled in the school have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website, if any, and how a parent or guardian may otherwise access the summary.

(d) The principal of each public school shall provide a written copy of the summary to each parent and legal guardian of a pupil enrolled in the school.

Sec. 6. **NRS 385.359 is hereby amended to read as follows:**

385.359 1. The Bureau shall contract with a person or entity to:

(a) Review and analyze, in accordance with the standards prescribed by the Committee pursuant to subsection 2 of NRS 218.5354, the:

(1) Annual report of accountability prepared by:

(I) The State Board pursuant to NRS 385.3469; ~~[and]~~

(II) The board of trustees of each school district pursuant to ***subsection 2 of*** NRS 385.347 ~~[.]~~ ***; and***

(III) The Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.

(2) Plan to improve the achievement of pupils prepared by:

(I) The State Board pursuant to NRS 385.34691;

(II) The board of trustees of each school district pursuant to NRS 385.348; and

(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any.

(b) Submit a written report to and consult with the State Board and the Department regarding any methods by which the State Board may improve the accuracy of the report of accountability required pursuant to NRS 385.3469 and the plan to improve the achievement of pupils required pursuant to NRS 385.34691, and the purposes for which the report and plan to improve are used.

(c) Submit a written report to and consult with each school district ***and the Nevada Charter School Institute*** regarding any methods by which the district ***or the Nevada Charter School Institute*** may improve the accuracy of the report required pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as applicable,*** and the plan to improve the achievement of pupils required pursuant to NRS 385.348, and the purposes for which the report and plan to improve are used.

(d) If requested by the Bureau, submit a written report to and consult with individual schools identified by the Bureau regarding any methods by which the school may improve the accuracy of the information required to be reported for the school pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as applicable,*** and the plan to improve the achievement of pupils required pursuant to NRS 385.357.

(e) Submit written reports and any recommendations to the Committee and the Bureau concerning:

(1) The effectiveness of the provisions of NRS 385.3455 to 385.391, inclusive, in improving the accountability of the schools of this State;

(2) The status of each school district that is designated as demonstrating need for improvement pursuant to NRS 385.377 and each school that is designated as demonstrating need for improvement pursuant to NRS 385.3623; and

(3) Any other matter related to the accountability of the public schools of this State, as deemed necessary by the Bureau.

2. The consultant with whom the Bureau contracts to perform the duties required pursuant to subsection 1 must possess the experience and knowledge necessary to perform those duties, as determined by the Committee.

Sec. 7. **NRS 385.3613 is hereby amended to read as follows:**

385.3613 1. Except as otherwise provided in subsection 2, on or before June 15 of each year, the Department shall determine whether each public

school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

2. On or before June 30 of each year, the Department shall determine whether each public school that operates on a schedule other than a traditional 9-month schedule is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, the Department shall make a determination for the charter school in consultation with the ~~[State Board]~~ ***Nevada Charter School Institute*** or the institution ***within the Nevada System of Higher Education*** that sponsors the charter school, as applicable. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before June 15 or June 30 of each year, as applicable, the Department shall transmit:

(a) Except as otherwise provided in paragraph (b) or (c), the determination made for each public school to the board of trustees of the school district in which the public school is located.

(b) To the ~~[State Board]~~ ***Nevada Charter School Institute*** the determination made for each charter school that is sponsored by the ~~[State Board.]~~ ***Institute.***

(c) The determination made for the charter school to the institution that sponsors the charter school if a charter school is sponsored by a college or university within the Nevada System of Higher Education.

4. Except as otherwise provided in this subsection, the Department shall determine that a public school has failed to make adequate yearly progress if any group identified in paragraph (b) of subsection 1 of NRS 385.361 does not satisfy the annual measurable objectives established by the State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school shall be deemed to have made adequate yearly progress even though a group identified in paragraph (b) of subsection 1 of NRS 385.361 did not satisfy the annual measurable objectives of the State Board.

5. In addition to the provisions of subsection 4, the Department shall determine that a public school has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils enrolled in the school who were required to take the examinations; or

(b) Except as otherwise provided in subsection 6, for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils in the group enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils in that group enrolled in the school who were required to take the examinations.

6. If the number of pupils in a particular group who are enrolled in a public school is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 5 based solely upon that particular group.

(b) The pupils in such a group must be included in the overall count of pupils enrolled in the school who took the examinations.

➥ The State Board shall prescribe the mechanism for determining the number of pupils that must be in a group for that group to yield statistically reliable information.

7. If an irregularity in testing administration or an irregularity in testing security occurs at a school and the irregularity invalidates the test scores of pupils, those test scores must be included in the scores of pupils reported for the school, the attendance of those pupils must be counted towards the total number of pupils who took the examinations and the pupils must be included in the total number of pupils who were required to take the examinations.

8. As used in this section:

(a) "Irregularity in testing administration" has the meaning ascribed to it in NRS 389.604.

(b) "Irregularity in testing security" has the meaning ascribed to it in NRS 389.608.

Sec. 8. **NRS 385.362 is hereby amended to read as follows:**

385.362 1. If a public school fails to make adequate yearly progress for 1 year:

(a) Except as otherwise provided in ~~[paragraph (b),]~~ ***paragraphs (b) and (c),*** the board of trustees of the school district in which the school is located shall ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. For a charter school sponsored by the school district, the board of trustees shall provide the technical assistance to the charter school in conjunction with the governing body of the charter school.

(b) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall ensure, in conjunction with the governing body of the charter school, that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall ensure, in conjunction with the governing body of the charter school,

that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a public school fails to make adequate yearly progress for 1 year, the principal of the school shall ensure that the plan to improve the achievement of pupils enrolled in the school is reviewed, revised and approved in accordance with NRS 385.357.

Sec. 9. **NRS 385.366 is hereby amended to read as follows:**

385.366 1. Based upon the information received from the Department pursuant to NRS 385.3613, the board of trustees of each school district shall, on or before July 1 of each year, issue a preliminary designation for each public school in the school district in accordance with the criteria set forth in NRS 385.3623, excluding charter schools sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education. The board of trustees shall make preliminary designations for all charter schools that are sponsored by the board of trustees. The Department shall make preliminary designations for all charter schools that are sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** and all charter schools sponsored by a college or university within the Nevada System of Higher Education. The initial designation of a school as demonstrating need for improvement must be based upon 2 consecutive years of data and information for that school.

2. Before making a final designation for a school, the board of trustees of the school district or the Department, as applicable, shall provide the school an opportunity to review the data upon which the preliminary designation is based and to present evidence in the manner set forth in 20 U.S.C. § 6316(b)(2) and the regulations adopted pursuant thereto. If the school is a public school of the school district or a charter school sponsored by the board of trustees, the board of trustees of the school district shall, in consultation with the Department, make a final determination concerning the designation for the school on August 1. If the school is a charter school sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, the Department shall make a final determination concerning the designation for the school on August 1.

3. On or before August 1 of each year, the Department shall provide written notice of the determinations made pursuant to NRS 385.3613 and the final designations made pursuant to this section as follows:

(a) The determinations and final designations made for all schools in this State to the:

(1) Governor;

(2) State Board;

(3) Committee; and

(4) Bureau.

(b) The determinations and final designations made for all schools within a school district to the:

(1) Superintendent of schools of the school district; and

(2) Board of trustees of the school district.

(c) The determination and final designation made for each school to the principal of the school.

(d) The determination and final designation made for each charter school sponsored by the Nevada Charter School Institute to the Institute.

Sec. 10. **NRS 385.3661 is hereby amended to read as follows:**

385.3661 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

3. In addition to the requirements of subsection 1 or 2, as applicable, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) Except as otherwise provided in ~~[paragraph (b),]~~ ***paragraphs (b) and (c),*** the board of trustees of the school district shall provide school choice to the parents and guardians of pupils enrolled in the school, including, without limitation, a charter school sponsored by the school district, in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(b) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.***

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

Sec. 11. **NRS 385.3693 is hereby amended to read as follows:**

385.3693 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

Sec. 12. **NRS 385.372 is hereby amended to read as follows:**

385.372 1. In addition to the requirements of NRS 385.3693, if a Title I school is designated as demonstrating need for improvement pursuant to

NRS 385.3623 for 2 consecutive years for failing to make adequate yearly progress:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Except as otherwise provided in subsection 2, provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the Nevada Charter School Institute, the Institute shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.***

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Except as otherwise provided in subsection 3, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of supplemental educational services for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of supplemental educational services for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the charter school as if the delay never occurred.

Sec. 13. **NRS 385.3721 is hereby amended to read as follows:**

385.3721 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years, the support team established for the school pursuant to this section shall carry out the requirements of NRS 385.3741 and 385.3742.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[(d)]~~ ***(e)*** The Department shall establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.

Sec. 14. **NRS 385.3741 is hereby amended to read as follows:**

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 ***or 3*** of NRS 385.347***, as applicable,*** is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to NRS 392.456.

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(f) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(g) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the ~~[State Board,]~~ ***Nevada Charter School Institute,*** the support team shall make the recommendations to the ~~[State Board]~~ ***Institute*** and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor, the State Board and the Department.

(h) In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Comply with NRS 385.357;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the name and duties of each person who is responsible for carrying out the revisions.

(i) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the ~~[~~State Board,~~]~~ ***Nevada Charter School Institute,*** the ~~[~~Department~~]~~ ***Institute*** shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, ~~[~~that~~]~~ ***the*** institution ***that sponsors the charter school*** shall assist the school with carrying out and monitoring the plan for improvement of the school.

(j) Prepare a quarterly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

(k) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise quarterly progress report for use by each support team in accordance with paragraph (j) of subsection 1.

Sec. 15. **NRS 385.3742 is hereby amended to read as follows:**

385.3742 1. In addition to the duties prescribed in NRS 385.3741, a support team established for a school shall prepare an annual written report that includes:

(a) Information concerning the most recent plan to improve the achievement of the school's pupils, including, without limitation, an evaluation of:

(1) The appropriateness of the plan for the school; and

(2) Whether the school has achieved the goals and objectives set forth in the plan;

(b) The written revisions to the plan to improve the achievement of the school's pupils submitted by the support team pursuant to NRS 385.3741;

(c) A summary of each program for remediation, if any, purchased for the school with money that is available from the Federal Government, this state and the school district in which the school is located, including, without limitation:

(1) The name of the program;

(2) The date on which the program was purchased and the date on which the program was carried out by the school;

(3) The percentage of personnel at the school who were trained regarding the use of the program;

(4) The satisfaction of the personnel at the school with the program; and

(5) An evaluation of whether the program has improved the academic achievement of the pupils enrolled in the school who participated in the program;

(d) An analysis of the problems and factors at the school which contributed to the designation of the school as demonstrating need for improvement, including, without limitation, issues relating to:

(1) The financial resources of the school;

(2) The administrative and educational personnel of the school;

(3) The curriculum of the school;

(4) The facilities available at the school, including the availability and accessibility of educational technology; and

(5) Any other factors that the support team believes contributed to the designation of the school as demonstrating need for improvement; and

(e) Other information concerning the school, including, without limitation:

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(2) Records of the attendance and truancy of pupils who are enrolled in the school;

(3) The transiency rate of pupils who are enrolled in the school;

(4) A description of the number of years that each teacher has provided instruction at the school and the rate of turnover of teachers and other educational personnel employed at the school;

(5) A description of the participation of parents and legal guardians in the educational process and other activities relating to the school;

(6) A description of each source of money for the remediation of pupils who are enrolled in the school; ~~[and]~~

(7) ~~[A]~~ ***Except as otherwise provided in subparagraph (8), a*** description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs (k) to (n), inclusive, of subsection 2 of NRS 385.347 ~~[.]~~ ***; and***

(8) For a charter school, a description of the disciplinary problems of the pupils enrolled in the charter school as reported in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.

2. On or before November 1, the support team ***of a school other than a charter school*** shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Board of trustees of the school district in which the school is located;

(c) Superintendent of schools of the school district in which the school is located;

(d) Department; and

(e) Bureau.

➥ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the school.

3. On or before November 1, the support team of a charter school shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Sponsor of the charter school;

(c) Department; and

(d) Bureau.

➥ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the charter school.

Sec. 16. **NRS 385.3743 is hereby amended to read as follows:**

385.3743 1. In addition to the requirements of NRS 385.3721, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the Nevada Charter School Institute, the Institute shall:***

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of corrective action for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

Sec. 17. **NRS 385.3744 is hereby amended to read as follows:**

385.3744 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years for failing to make adequate yearly progress, the support team established for the school shall consider whether corrective action is appropriate for the school. If the support team determines that corrective action is appropriate, the support team shall make a recommendation for corrective action for the school, including, without limitation, the type of corrective action that is recommended from the list of corrective actions authorized pursuant to subsection 2. The recommendation must be submitted to:

(a) For a school of the school district or a charter school sponsored by the board of trustees of the school district, the board of trustees.

(b) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute.***

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department.

2. Regardless of whether a support team recommends corrective action for a school, ***the Nevada Charter School Institute may, for a charter school sponsored by the Institute,*** the Department may, for a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take one or more of the following corrective actions for the school:

(a) Develop and carry out a new curriculum at the school, including the provision of appropriate professional development relating to the new curriculum.

(b) Significantly decrease the managerial authority of the employees at the school.

(c) Extend the school year or the school day.

3. The ***Nevada Charter School Institute, the*** Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the ***Nevada Charter School Institute, the*** Department or the board of trustees, as applicable, may proceed with corrective action as if the delay never occurred.

Sec. 18. **NRS 385.3745 is hereby amended to read as follows:**

385.3745 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years, the support team established for the school pursuant to NRS 385.3721 shall carry out the requirements of NRS 385.3741, 385.3742 and 385.3744, as applicable.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall continue a support team for the school.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[(d)]~~ ***(e)*** The Department shall continue a support team for the charter school.

Sec. 19. **NRS 385.3746 is hereby amended to read as follows:**

385.3746 1. In addition to the requirements of NRS 385.3745, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the Nevada Charter School Institute, the Institute shall:***

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to

the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of a plan for restructuring for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the board of trustees shall proceed with a plan for restructuring the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of a plan for restructuring for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

4. Before the board of trustees of a school district ***, the Nevada Charter School Institute*** or the Department proceeds with a plan for restructuring, the board of trustees ***, the Institute*** or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees ***, the Institute*** or the Department, as applicable, will develop a plan for restructuring the school;

(b) An opportunity to comment before the plan to restructure is developed; and

(c) An opportunity to participate in the development of the plan to restructure.

Sec. 20. **NRS 385.376 is hereby amended to read as follows:**

385.376 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years for failure to make adequate yearly progress, the support team for the school shall:

(a) If corrective action was not taken against the school pursuant to NRS 385.3744, consider whether corrective action is appropriate for the school.

(b) If corrective action was taken against the school pursuant to NRS 385.3744, consider whether further corrective action is appropriate or whether consequences or sanctions, or both, are appropriate for the school.

2. Regardless of whether a support team recommends corrective action or consequences or sanctions for a school, ***the Nevada Charter School Institute may, for a charter school sponsored by the Institute,*** the Department may, for a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

3. The ***Nevada Charter School Institute, the*** Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action or restructuring pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, ***the Nevada Charter School Institute,*** the Department or the board of trustees, as applicable, may proceed with corrective action or with consequences or sanctions, or both, for the school, as appropriate, as if the delay never occurred.

4. Before the board of trustees ***, the Nevada Charter School Institute*** or the Department proceeds with consequences or sanctions, the board of trustees ***, the Nevada Charter School Institute*** or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees ***, the Nevada Charter School Institute*** or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 21. **NRS 385.620 is hereby amended to read as follows:**

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347 ~~[.]~~ ***and similar information in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347;***

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

Sec. 22. **Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 to 32, inclusive, of this act.**

Sec. 23. ***As used in NRS 386.500 to 386.610, inclusive, and sections 23 to 32, inclusive, of this act, the words and terms defined in NRS 386.500 and sections 24 and 25 of this act have the meanings ascribed to them in those sections.***

Sec. 24. ***"Charter School Institute" means the Nevada Charter School Institute created by section 26 of this act.***

Sec. 25. ***"Director" means the Director of the Charter School Institute.***

Sec. 26. 1. The Nevada Charter School Institute, consisting of seven members, is hereby created. The membership of the Charter School Institute consists of:

(a) Two members appointed by the Governor in accordance with subsection 2;

(b) Two members, who must not be Legislators, appointed by the Majority Leader of the Senate in accordance with subsection 2;

(c) Two members, who must not be Legislators, appointed by the Speaker of the Assembly in accordance with subsection 2; and

(d) One member appointed by an association of charter schools pursuant to subsection 3.

2. The Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall ensure that the membership of the Charter School Institute:

(a) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology; and

(6) The laws and regulations applicable to charter schools; and

(b) Insofar as practicable, reflects the ethnic and geographical diversity of this State.

3. The Charter School Institute shall establish a list of associations of charter schools that operate within this State and designate the order in which such associations may appoint a member to the Charter School Institute. Except as otherwise provided in subsection 5, an association may not appoint more than one member to the Charter School Institute unless each association designated pursuant to this subsection has had an opportunity to make an appointment.

4. Each member of the Charter School Institute must be a resident of this State.

5. After the initial terms, the term of each member of the Charter School Institute is 3 years, commencing on July 1 of the year he is appointed. A vacancy in the membership of the Charter School Institute must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member shall continue to serve on the Charter School Institute until his successor is appointed.

6. The members of the Charter School Institute shall select a Chairman and Vice Chairman from among its members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

7. Each member of the Charter School Institute is entitled to receive:

(a) For each day or portion of a day during which he attends a meeting of the Institute, a salary of not more than $80, as fixed by the Institute; and

(b) For each day or portion of a day during which he attends a meeting of the Institute or is otherwise engaged in the business of the Institute, the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 27. 1. The members of the Charter School Institute shall meet throughout the year at the times and places specified by a call of the Chairman or a majority of the members.

2. Four members of the Charter School Institute constitute a quorum, and a quorum may exercise all the power and authority conferred on the Charter School Institute.

Sec. 28. 1. The Charter School Institute shall appoint a Director of the Institute for a term of 3 years. The Charter School Institute may remove the Director from office for inefficiency, neglect of duty, malfeasance in office or for other just cause.

2. A vacancy must be filled by the Charter School Institute for the remainder of the unexpired term.

3. The Director is in the unclassified service of the State.

Sec. 29. The Director shall not pursue any other business or occupation or hold any other office of profit without the approval of the Charter School Institute.

Sec. 30. The Director shall:

1. Execute, direct and supervise all administrative, technical and procedural activities of the Charter School Institute in accordance with the policies prescribed by the Charter School Institute;

2. Organize the Charter School Institute in a manner which will ensure efficient operation and service of the Charter School Institute;

3. Serve as the Executive Secretary of the Charter School Institute; and

4. Perform such other duties as are prescribed by law or the Charter School Institute.

Sec. 31. The Charter School Institute may employ such persons as it deems necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 23 to 32, inclusive, of this act.

Sec. 32. 1. The Account for the Nevada Charter School Institute is hereby created in the State General Fund, to be administered by the Director.

2. The interest and income earned on the money in the Account must be credited to the Account.

3. The money in the Account may be used only for the establishment and maintenance of the Charter School Institute.

4. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

5. The Director may accept gifts, grants and bequests. Any money from gifts, grants and bequests must be deposited in the Account and may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with this section.

Sec. 33. **NRS 386.500 is hereby amended to read as follows:**

386.500 ~~[For the purposes of NRS 386.500 to 386.610, inclusive, a]~~ ***A*** pupil is "at risk" if he has an economic or academic disadvantage such that he requires special services and assistance to enable him to succeed in educational programs. The term includes, without limitation, pupils who are members of economically disadvantaged families, pupils who are limited English proficient, pupils who are at risk of dropping out of high school and pupils who do not meet minimum standards of academic proficiency. The term does not include a pupil with a disability.

Sec. 34. **NRS 386.508 is hereby amended to read as follows:**

386.508 There is hereby created a school district to be designated as the Charter School District for ~~[State Board-Sponsored]~~ ***Charter School Institute-Sponsored*** Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the ~~[State Board]~~ ***Charter School Institute*** or sponsored by a college or university within the Nevada System of Higher Education. The ~~[State Board]~~ ***Charter School Institute*** is hereby deemed the Board of Trustees of the School District. The School District is created for the sole purpose of providing local educational agency status to the School District for purposes of federal law governing charter schools.

Sec. 35. **NRS 386.515 is hereby amended to read as follows:**

386.515 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district. An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

2. The ~~[State Board]~~ ***Charter School Institute*** shall sponsor charter schools whose applications have been approved by the ~~[State Board]~~ ***Charter School Institute*** pursuant to NRS 386.525. Except as otherwise provided by specific statute, if the ~~[State Board]~~ ***Charter School Institute*** sponsors a charter school, the ~~[State Board or the Department]~~ ***Charter School Institute*** is responsible for the evaluation, monitoring and oversight of the charter school.

3. A college or university within the Nevada System of Higher Education may sponsor charter schools.

~~[Section 1.]~~ ***Sec. 36.*** NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of **[**at least three teachers, as defined in subsection 4.**]** ***:***

(a) Two members who are educational personnel licensed pursuant to chapter 391 of NRS;

(b) One parent or legal guardian who is not a teacher or employee of the proposed charter school; and

(c) Two members who possess knowledge and expertise in one or more of the following areas:

(1) Accounting;

(2) Financial services;

(3) Law; or

(4) Human resources.

2. In addition to the ~~[~~teachers~~]~~ ***members*** who serve ~~[.]~~ ***pursuant to subsection 1,*** the committee may ~~[~~consist of:~~]~~ ***include, without limitation, not more than four additional members as follows:***

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

➥ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

~~[~~2.~~]~~ ***3.*** Before a committee to form a charter school may submit an application to the board of trustees of a school district, the ~~[~~Subcommittee on Charter Schools,~~]~~ ~~[~~the State Board~~]~~ ***Charter School Institute*** or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The application must include all information prescribed by the ~~[~~Department~~]~~ ***Charter School Institute*** by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive ~~[.]~~ ***, and section 23 to 32, inclusive, of this act.***

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the opportunities for pupils to learn;

(2) Encouraging the use of effective methods of teaching;

(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates of enrollment for the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method of selecting the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

~~[~~3.~~]~~ ***4.*** The Department shall review an application to form a charter school to determine whether it is ***substantially*** complete ~~[.]~~ ***and compliant.*** If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall ~~[~~deny the application.~~]~~ ***provide written notice to the applicant that the application is ineligible for consideration by the proposed sponsor.***

5. The Department shall provide written notice to the applicant of its approval or denial of the application. If the Department ~~[~~denies~~]~~ ***determines that*** an application ~~[~~,~~]~~ ***is not substantially complete and compliant,*** the

Department shall include in the written notice the ~~[reason for the denial]~~ ***basis for that determination*** and the deficiencies in the application. ***The staff designated by the Department shall provide an opportunity to the applicant to meet with the*** ~~*[applicant]*~~ ***staff designated by the Department to confer on the method to correct the identified deficiencies.*** The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[4. As used in subsection 1, "teacher" means a person who:~~

~~(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and~~

~~(b) Has at least 2 years of experience as an employed teacher.~~

~~→ The term does not include a person who is employed as a substitute teacher.]~~

~~[Sec. 2.]~~ ***Sec. 37.*** NRS 386.525 is hereby amended to read as follows:

386.525 1. Upon ~~[approval of an application]~~ ***determination*** by the Department ~~[,]~~ ***that an application is substantially complete and compliant,*** a committee to form a charter school may submit the application to the board of trustees of the school district in which the proposed charter school will be located, a college or university within the Nevada System of Higher Education or ~~[directly to the Subcommittee on Charter Schools.]~~ ***the*** ~~*[State Board,]*~~ ***Charter School Institute.*** If the board of trustees of a school district, a college or a university, as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. The board of trustees, the college, the university or the ~~[Subcommittee on Charter Schools,]~~ ~~*[State Board,]*~~ ***Charter School Institute,*** as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, and ***sections 23 to 32, inclusive, of this act and*** the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the ~~[Department.]~~ ***Charter School Institute.***

2. The Department shall assist the board of trustees of a school district, ***the Charter School Institute,*** the college or the university, as applicable, in the review of an application. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

3. If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the

denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection 3, the applicant may submit a written request ~~*[to the State Board]*~~ for sponsorship by the ~~[State Board]~~ ~~[to the Subcommittee on Charter Schools created pursuant to NRS 386.507]~~ ***Charter School Institute*** not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

5. If the ~~[Subcommittee on Charter Schools]~~ ~~*[State Board]*~~ ***Charter School Institute*** receives an application pursuant to subsection 1 or 4, it shall ~~[hold]~~ ***consider the application at*** a meeting ***,*** ~~[to consider the application. The meeting]~~ ***which*** must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~[Subcommittee]~~ ~~*[State Board]*~~ ***Charter School Institute*** shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The ~~[Subcommittee]~~ ~~*[State Board may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.]*~~

~~[6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The State Board]~~ ***Charter School Institute*** may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. Not more than 30 days after the meeting, the ~~[State Board]~~ ***Charter School Institute*** shall provide written notice of its determination to the applicant.

~~[7.]~~ ***6.*** If the ~~[State Board]~~ ***Charter School Institute*** denies ***or fails to act upon*** an application, ~~[it]~~ ***the denial or failure to act must be based upon a finding that the applicant failed to adequately address objective criteria established by regulation of the*** ~~*[Department or the State Board.]*~~ ***Charter School Institute. The*** ~~*[State Board]*~~ ***Charter School Institute*** shall include in the written notice the reasons for the denial ***or the failure to act*** and the deficiencies in the application. ***The staff designated by the*** ~~*[Department]*~~ ***Charter School Institute shall provide an opportunity to the applicant to meet with the*** ~~*[applicant]*~~ ***staff designated by the Charter School Institute to confer on the method to correct the identified deficiencies.*** The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[~~8.~~]~~ ***7.*** If the ~~[State Board]~~ ***Charter School Institute*** denies an application after it has been resubmitted pursuant to subsection ~~[~~7.~~]~~ ***6,*** the applicant may, not more than 30 days after the receipt of the written notice from the ~~[State Board,]~~ ***Charter School Institute,*** appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~[~~9.~~]~~ ***8.*** On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the ~~[State Board,]~~ ***Charter School Institute,*** a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

~~[~~Sec. 3.~~]~~ ***Sec. 38.*** NRS 386.527 is hereby amended to read as follows:

386.527 1. If the ~~[State Board,]~~ ***Charter School Institute,*** the board of trustees of a school district or a college or university within the Nevada System of Higher Education approves an application to form a charter school, it shall grant a written charter to the applicant. The ~~[State Board,]~~ ***Charter School Institute,*** the board of trustees, the college or the university, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the ~~[State Board]~~ ***Charter School Institute*** approves the application:

(a) The ~~[State Board]~~ ***Charter School Institute*** shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board ***, the Charter School Institute*** nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board ***, the Charter School Institute*** nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The ~~[State Board]~~ ***Charter School Institute*** shall adopt ~~[~~:

~~(a) An application~~ ***a*** process for a charter school that requests a change in the sponsorship of the charter school, which must not require the ~~[applicant]~~ ***charter school*** to undergo the requirements of an initial application to form a charter school ***.*** ~~[; and~~

~~(b) Objective criteria for the conditions under which such a request may be granted.]~~ ***If the request is for sponsorship by the Charter School Institute, the governing body must not be required to submit an application and the Charter School Institute shall accept the transfer of the charter school to the Institute.***

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection ~~[2]~~ ***3*** of NRS 386.530. A written charter must include all conditions of operation set forth in paragraphs (a) to (o), inclusive, of subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the ~~[State Board]~~ ***Charter School Institute*** or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school ***.*** ~~[if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate.]~~ If the proposed amendment complies with the provisions of ~~[this section,]~~ NRS 386.500 to 386.610, inclusive, and ***sections 23 to 32, inclusive, of this act,*** any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. ~~[If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and~~

~~an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.~~] ***If the sponsor denies the request for an amendment, the sponsor shall provide written notice to the governing body of the charter school setting forth the reasons for the denial.***

7. The ~~[State Board]~~ ***Charter School Institute*** shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

(a) Period for which such a written charter is valid; and

(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.

➥ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

8. The holder of a written charter that is issued pursuant to subsection 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the ~~[State Board]~~ ***Charter School Institute*** pursuant to subsection 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

➥ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 39. **NRS 386.530 is hereby amended to read as follows:**

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than 90 days before the expiration of the charter. The application must include the information prescribed by the regulations of the ~~[Department.]~~ ***Charter School Institute.*** The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the ~~[Department.]~~ ***Charter School Institute.*** The sponsor shall renew the charter unless it finds the existence of

any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the ~~[Department.]~~ ***Charter School Institute.*** The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the ~~[Department.]~~ ***Charter School Institute.*** The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

Sec. 40. **NRS 386.535 is hereby amended to read as follows:**

386.535 1. The sponsor of a charter school may revoke the written charter of the charter school before the expiration of the charter if the sponsor determines that:

(a) The charter school, its officers or its employees have failed to comply with:

(1) The ***material*** terms and conditions of the written charter;

(2) Generally accepted standards of accounting and fiscal management; or

(3) The provisions of NRS 386.500 to 386.610, inclusive, ***and sections 23 to 32, inclusive, of this act,*** or any other statute or regulation applicable to charter schools;

(b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate; or

(c) There is reasonable cause to believe that revocation is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or

to prevent damage to or loss of the property of the school district or the community in which the charter school is located.

2. Before the sponsor revokes a written charter, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;

(b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;

(c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and

(d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to revoke the charter.

3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a public hearing to make a determination regarding whether to revoke the written charter. If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not revoke the written charter of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected.

4. The sponsor of a charter school and the governing body of the charter school may enter into a written agreement that prescribes different time periods than those set forth in subsections 2 and 3.

~~[Sec. 4.]~~ ***Sec. 41.*** NRS 386.540 is hereby amended to read as follows:

386.540 1. ~~[The Department]~~ ***Subject to the provisions of subsections 3 and 4, the Charter School Institute*** shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the Department, the board of trustees of a school district, the ~~[Subcommittee on Charter Schools]~~ ~~*[State Board]*~~ ***Charter School Institute*** and a college or university within the Nevada System of Higher Education, and the contents of the application;

(c) The process for submission of an application to renew a written charter; ~~[and]~~

(d) The criteria and type of investigation that must be applied by the board of trustees, ~~[the Subcommittee on Charter Schools,]~~ the ~~[State Board]~~

Charter School Institute and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school **,** ~~[or]~~ an application to renew a written charter ~~[.]~~ ***or a request for amendment of a written charter; and***

(e) The process for submission of an amendment of a written charter pursuant to NRS 386.527 and the contents of the application.

2. ***Subject to the provisions of subsections 3 and 4, the Charter School Institute may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 23 to 32, inclusive, of this act, including, without limitation, regulations that prescribe the:***

(a) Requirements for performance audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(b) Requirements for performance audits every 3 years for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

3. The Department may adopt regulations ***relating to the finances and budgets of charter schools*** as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, ***and sections 23 to 32, inclusive, of this act,*** including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting; ***and***

(b) Requirements for ~~[performance audits and]~~ financial audits of charter schools on an annual basis**.** ~~[for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and~~

~~(c) Requirements for performance audits every 3 years and financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.]~~

4. The State Board may disapprove any regulation adopted by the Charter School Institute if the regulation:

(a) Threatens the efficient operation of the public schools in this State; or

(b) Creates an undue financial hardship for any charter school in this State.

➥ A regulation shall be deemed approved if the State Board does not disapprove the regulation within 45 days after it is adopted by the Charter School Institute.

~~[Sec. 5.]~~ ***Sec. 42.*** NRS 386.545 is hereby amended to read as follows:

386.545 1. The Department and the board of trustees of a school district shall:

(a) Upon request, provide information to the general public concerning the formation and operation of charter schools; and

(b) Maintain a list available for public inspection that describes the location of each charter school.

2. The sponsor of a charter school shall:

(a) Provide reasonable assistance to an applicant for a charter school and to a charter school in carrying out the provisions of NRS 386.500 to 386.610, inclusive ~~[.]~~ ***, and sections 23 to 32, inclusive, of this act;***

(b) Provide technical and other reasonable assistance to a charter school for the operation of the charter school;

(c) Provide information to the governing body of a charter school concerning the availability of money for the charter school, including, without limitation, money available from the Federal Government; and

(d) Provide timely access to the electronic data concerning the pupils enrolled in the charter school that is maintained pursuant to NRS 386.650.

3. If the board of trustees of a school district is the sponsor of a charter school, the sponsor shall:

(a) Provide the charter school with an updated list of available substitute teachers within the school district.

(b) Provide access to school buses for use by the charter school for field trips. The school district may charge a reasonable fee for the use of the school buses.

(c) If the school district offers summer school or Internet-based credit recovery classes, allow the pupils enrolled in the charter school to participate if space is available. The school district shall apply the same fees, if any, for participation of the pupils enrolled in the charter school as it applies to pupils enrolled in the school district.

4. The Department shall provide appropriate information, education and training for charter schools and the governing bodies of charter schools concerning the applicable provisions of title 34 of NRS and other laws and regulations that affect charter schools and the governing bodies of charter schools.

5. If the Department prescribes a process for charter schools to report certain information, the Department may request the identified information regardless if that information is required to be submitted by charter schools pursuant to a specific statute ~~[.]~~ ***or regulation. Upon such a request, a charter school shall provide the information if the Department includes a detailed description of the requested information and the mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will cost money for the charter school.***

Sec. 43. **NRS 386.547 is hereby amended to read as follows:**

386.547 The ~~[State Board]~~ ***Charter School Institute*** shall:

1. Review all statutes and regulations from which charter schools are exempt and determine whether such exemption assisted or impeded the charter schools in achieving their educational goals and objectives.

2. Make available information concerning the formation and operation of charter schools in this State to pupils, parents and legal guardians of pupils, teachers and other educational personnel and members of the general public.

~~[Sec. 6.]~~ ***Sec. 44.*** NRS 386.549 is hereby amended to read as follows:

386.549 1. The governing body of a charter school:

(a) Must consist of:

(1) At least ~~[three]~~ ***two*** teachers, as defined in subsection 5; or

(2) ~~[Two teachers,]~~ ***One teacher*** as defined in subsection 5, and one person who previously held a license to teach issued pursuant to chapter 391 of NRS as long as his license was held in good standing, including, without limitation, a retired teacher.

(b) Must consist of at least one parent or legal guardian of a pupil enrolled in the charter school who is not a teacher or administrator at the charter school.

(c) Must consist of at least two members who possess knowledge and expertise in one or more of the following areas:

(I) Accounting;

(II) Financial services;

(III) Law; or

(IV) Human resources.

~~[(b)]~~ ~~*[(c)]*~~ ***(d)*** May ~~[consist of,]~~ ***include,*** without limitation, parents and representatives of nonprofit organizations and businesses. Not more than two persons who serve on the governing body may represent the same organization or business or otherwise represent the interests of the same organization or business. A majority of the members of the governing body must reside in this State. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

2. A person may serve on the governing body only if he submits an affidavit to the Department indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to the person by the Department.

3. The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

4. The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which the charter school is located. ***Upon an affirmative vote of a majority of the membership of the governing body, each member is entitled to receive a salary of not more than $80 for attendance at each meeting, as fixed by the governing body, not to exceed payment for more than one meeting per month.***

5. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➥ The term does not include a person who is employed as a substitute teacher.

~~[Sec. 7.]~~ ***Sec. 45.*** NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required ~~[by the Department]~~ ***pursuant to NRS 386.540*** contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the ~~[State Board,]~~ ***Charter School Institute,*** for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled ***in grade 12*** in the charter school ~~[who are required to take]~~ ***in the immediately preceding school year who have completed the required coursework for graduation have passed*** the high school proficiency examination ~~[have passed that examination,]~~ if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the ~~[Department]~~ ***Charter School Institute*** one time every 3 years. The sponsor of the charter school and the ~~[Department]~~ ***Charter School Institute*** shall not request a performance audit of the charter school more frequently than every 3 years without showing good cause for such a request.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

~~[Sec. 8.]~~ ***Sec. 46.*** NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located ***or in which a pupil enrolled in the charter school resides*** or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of

health services for the pupils who are enrolled in the charter school and the provision of school police officers.

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** shall authorize the pupil to participate in sports at the public school that he would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➥ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes,

or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

~~[Sec. 9.]~~ ***Sec. 47.*** NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose. ***The*** ~~*[State Board]*~~ ***Charter School Institute shall prescribe a process which ensures that all charter schools, regardless of sponsor, have information about all sources of funding for the public schools provided through the Department, including local funds pursuant to NRS 387.1235.***

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of a school year, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school year if the sponsor provided administrative services during that school year. The request must include an itemized list of those costs. Upon receipt of such a request, the governing body shall pay the reimbursement to the ~~[board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors]~~ ***sponsor of*** the charter school. If a governing body fails to pay the reimbursement, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. ~~[If the board of trustees of a school district is the sponsor of a charter school, the]~~ ***The*** amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed ~~[:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school,~~ **[**~~1.5~~**]** ***[****~~1~~****]*** ***2*** percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.

[~~5.~~**]** ***4.*** To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

[~~6.~~**]** ***5.*** If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

[~~7.~~**]** ***6.*** The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The **[**~~State Board~~**]** ***Charter School Institute*** may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~[8.]~~ ***7.*** If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 48. **NRS 386.576 is hereby amended to read as follows:**

386.576 1. The Fund for Charter Schools is hereby created in the State Treasury as a revolving loan fund, to be administered by the ~~[Department.]~~ ***Charter School Institute.***

2. The money in the revolving fund must be invested as other state funds are invested. All interest and income earned on the money in the revolving fund must be credited to the revolving fund. Any money remaining in the revolving fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.

3. All payments of principal and interest on all the loans made to a charter school from the revolving fund must be deposited in the State Treasury for credit to the revolving fund.

4. Claims against the revolving fund must be paid as other claims against the State are paid.

5. The ~~[Department]~~ ***Charter School Institute*** may accept gifts, grants, bequests and donations from any source for deposit in the revolving fund.

Sec. 49. **NRS 386.577 is hereby amended to read as follows:**

386.577 1. After deducting the costs directly related to administering the Fund for Charter Schools, the ~~[Department]~~ ***Charter School Institute*** may use the money in the Fund for Charter Schools, including repayments of principal and interest on loans made from the Fund, and interest and income earned on money in the Fund, only to make loans at or below market rate to charter schools for the costs incurred:

(a) In preparing a charter school to commence its first year of operation; and

(b) To improve a charter school that has been in operation.

2. The total amount of a loan that may be made to a charter school in 1 year must not exceed $25,000.

Sec. 50. **NRS 386.578 is hereby amended to read as follows:**

386.578 1. If the governing body of a charter school has a written charter issued pursuant to NRS 386.527, the governing body may submit an application to the ~~[Department]~~ ***Charter School Institute*** for a loan from the Fund for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The ~~[Department]~~ ***Charter School Institute*** shall, within the limits of money available for use in the Fund, make loans to charter schools whose applications have been approved. If the ~~[Department]~~ ***Charter School Institute*** makes a loan from the Fund, the ~~[Department]~~ ***Charter School***

Institute shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. ~~[The State Board:]~~ ***Subject to the provisions of subsections 3 and 4 of NRS 386.540, the Charter School Institute:***

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the ~~[Department]~~ ***Charter School Institute*** by a charter school that desires to receive a loan from the Fund; and

(2) Period for repayment and the rate of interest for loans made from the Fund.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

Sec. 51. **NRS 386.605 is hereby amended to read as follows:**

386.605 1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is required pursuant to subsection ~~[2]~~ ***3*** of NRS 385.347 to ~~[the board of trustees of the school district in which the charter school is located]~~ ***:***

(a) If the charter school is sponsored by the board of trustees of a school district or a college or university within the Nevada System of Higher Education, the sponsor of the charter school, which shall forward the information to the Charter School Institute in a timely manner; or

(b) If the charter school is sponsored by the Charter School Institute, the Charter School Institute,

➥ for inclusion in the report of the ~~[school district]~~ ***Institute*** pursuant to that section. The information must be submitted by the ***sponsor of the charter school or the*** charter school ***, as applicable,*** in a format prescribed by the ~~[board of trustees.]~~ ***Charter School Institute.***

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218.5356 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted by ***sponsors of charter schools pursuant to this section and*** charter schools pursuant to this section and NRS 385.357, consult with the ***Charter School Institute and the*** governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 52. **NRS 386.610 is hereby amended to read as follows:**

386.610 1. On or before August 15 of each year, if the board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the board of trustees or the institution, as applicable, shall submit a written report to the ~~[State Board.]~~ ***Charter School Institute.*** The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the board of trustees or institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the school district or institution, as applicable, to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the ~~[Department,]~~ ***Charter School Institute,*** the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 53. **NRS 386.650 is hereby amended to read as follows:**

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, ***the Nevada Charter School Institute, the*** school districts and the public schools in this

State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➥ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction but must not be used for the purpose of evaluating an individual teacher or paraprofessional.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated

system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 54. **NRS 386.745 is hereby amended to read as follows:**

386.745 1. Except as otherwise provided in subsection 10, the empowerment team of a public school, other than a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, that develops an empowerment plan pursuant to NRS 386.740 shall submit the proposed empowerment plan to the designee of the board of trustees appointed pursuant to this subsection for review and approval pursuant to this section. The board of trustees shall designate a person to review each proposed empowerment plan and recommend the approval or denial of the plan to the board of trustees.

2. The board of trustees shall approve or deny the empowerment plan. The approval or denial of an empowerment plan must be based solely upon the contents of the plan and may not consider the amount of money required to carry out the empowerment plan if the plan is within the limits of the total apportionment to the school pursuant to subsection 4 of NRS 386.740.

3. Except as otherwise provided in subsection 10, if the board of trustees approves an empowerment plan, the president of the board of trustees, the principal of the public school and the chairman of the empowerment team, if the principal is not the chairman, shall each sign the plan. The empowerment plan is effective for 3 years unless the empowerment team determines that the school will no longer operate under the plan or the board of trustees of the school district revokes the plan.

4. Except as otherwise provided in subsection 10, if the board of trustees denies an empowerment plan, the board of trustees shall:

(a) Return the plan to the empowerment team with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.

5. Except as otherwise provided in subsection 10, an empowerment plan for a public school is not effective and a public school shall not operate as an empowerment school unless the plan is signed by the president of the board of trustees of the school district, the principal of the public school and the chairman of the empowerment team, if the principal is not the chairman. If an empowerment plan includes a request for a waiver from a statute contained in this title or a regulation of the State Board ***, the Nevada Charter School Institute*** or the Department, a public school may operate under the approved plan but the requested waivers from state law are not effective unless approved by the State Board pursuant to subsection 7.

6. Except as otherwise provided in subsection 10, the empowerment team may submit a written request to the board of trustees for an amendment to the empowerment plan approved pursuant to this section, including an explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

7. If the empowerment plan includes a request for a waiver from a statute or regulation, the board of trustees shall forward the approved empowerment plan to the State Board for review of the request for a waiver. The State Board shall review the empowerment plan and may approve or deny the request for a waiver from a statute or regulation unless the statute or regulation is required by federal law or is required to carry out federal law. ***If the statute or regulation for which the request is submitted is within the jurisdiction of the Nevada Charter School Institute, the State Board shall work in consultation with the Institute in reviewing the request and in making a determination on the request.***

8. If the State Board approves the request for a waiver for a school, the Department shall provide written notice of the approval to the board of trustees of the school district that submitted the empowerment plan on behalf of the school.

9. If the State Board denies a request for a waiver, the State Board shall:

(a) Return the request to the school district with a written statement indicating the reason for the denial; and

(b) Except as otherwise provided in subsection 10, provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. A request for a waiver may be resubmitted by the school district, after the empowerment team corrects any deficiencies, not more than once in a school year.

10. If an empowerment team has not been established pursuant to the exception provided in subsection 2 of NRS 386.730, the principal of the

school shall carry out the responsibilities and duties assigned to the empowerment team pursuant to this section.

Sec. 55. **NRS 386.750 is hereby amended to read as follows:**

386.750 1. Except as otherwise provided in subsection 7, the empowerment team of a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education which develops an empowerment plan pursuant to NRS 386.740 shall submit the proposed plan to the Department for transmission to the State Board for review and approval pursuant to this section.

2. The State Board shall review each proposed empowerment plan and approve or deny the plan, including a request for a waiver from a statute contained in this title or a regulation of the State Board ***, the Nevada Charter School Institute*** or the Department, if applicable. The approval or denial of an empowerment plan must be based solely upon the contents of the plan and may not consider the amount of money required to carry out the empowerment plan if the plan is within the limits of the total apportionment to the charter school pursuant to subsection 4 of NRS 386.740. ***If the charter school is sponsored by the Nevada Charter School Institute, the State Board shall work in consultation with the Institute in reviewing the plan and in making a determination on the plan.***

3. Except as otherwise provided in subsection 7, if the State Board approves an empowerment plan, the President of the State Board, the principal of the charter school and the chairman of the empowerment team, if the principal is not the chairman, shall each sign the plan. The empowerment plan is effective for 3 years unless the empowerment team determines that the school will no longer operate under the plan or the State Board revokes the plan.

4. Except as otherwise provided in subsection 7, if the State Board denies an empowerment plan, the State Board shall:

(a) Return the plan to the empowerment team with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.

5. Except as otherwise provided in subsection 7, an empowerment plan for a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education is not effective and a charter school shall not operate as an empowerment school unless the plan is signed by the President of the State Board, the principal of the charter school and the chairman of the empowerment team, if the principal is not the chairman.

6. Except as otherwise provided in subsection 7, the empowerment team may submit a written request to the Department for an amendment to the

empowerment plan approved pursuant to this section, including an explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

7. If an empowerment team has not been established pursuant to the exception provided in subsection 2 of NRS 386.730, the principal of the school shall carry out the responsibilities and duties assigned to the empowerment team pursuant to this section.

Sec. 56. **NRS 386.760 is hereby amended to read as follows:**

386.760 1. Each empowerment school, other than a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, shall, on a quarterly basis, submit to the board of trustees of the school district in which the school is located a report that includes:

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

2. Each charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education which is approved to operate as an empowerment school shall, on a quarterly basis, submit to the Department a report that includes:

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

3. The board of trustees of a school district shall conduct a financial audit of each empowerment school within the school district, other than a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education. Each financial audit must be conducted on an annual basis and more frequently if determined necessary by the board of trustees.

4. The Department shall conduct a financial audit of each charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education which operates as an empowerment school on an annual basis and more frequently if determined necessary by the Department.

5. On or before July 1 of each year, the board of trustees of each school district shall compile the reports and audits required pursuant to subsections 1 and 3, if any, and forward the compilation to the:

(a) Governor;

(b) Department; and

(c) Legislative Committee on Education.

6. On or before July 1 of each year, the Department shall compile the reports and audits required pursuant to subsections 2 and 4, if any, and forward the compilation to the:

(a) Governor; and

(b) Legislative Committee on Education.

Sec. 57. **NRS 387.124 is hereby amended to read as follows:**

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part-time in the program. The amount of the apportionment must be equal to the

percentage of the total time services are provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. The apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

8. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, he may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 58. **NRS 388.795 is hereby amended to read as follows:**

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347 ~~[,]~~ ***and similar information included in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347;***

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➥ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide

recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 59. **NRS 392.128 is hereby amended to read as follows:**

392.128 1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

(a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of the school district ***or the Nevada Charter School Institute*** pursuant to subsection ~~[7]~~ ***8*** of NRS 385.347;

(b) Identify factors that contribute to the truancy of pupils in the school district;

(c) Establish programs to reduce the truancy of pupils in the school district, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;

(d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chairman of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the chairman of an advisory board divides the advisory board into subcommittees, the chairman shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas within the school district in which community services are not available to assist pupils who are truant. As used in this subsection, "family resource center" has the meaning ascribed to it in NRS 430A.040.

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

~~[Sec. 10.]~~ ***Sec. 60.*** NRS 392.700 is hereby amended to read as follows:

392.700 1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written notice of intent to homeschool the child. The Department shall develop a standard form for the notice of intent to homeschool. The form must not require any information or assurances that are not otherwise required by this section or other specific statute. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents who wish to homeschool their child.

2. The notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

3. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance.

4. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

5. A notice of intent to homeschool must include only the following:

(a) The full name, age and gender of the child;

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) An educational plan for the child that is prepared pursuant to subsection 12;

(e) If applicable, the name of the public school in this State which the child most recently attended; and

(f) An optional statement that the parent may sign which provides:

I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

6. Each superintendent of schools of a school district shall accept notice of intent to homeschool that is filed with him pursuant to this section and meets the requirements of subsection 5, and shall not require or request any additional information or assurances from the parent who filed the notice.

7. The school district shall provide to a parent who files a notice a written acknowledgment which clearly indicates that the parent has provided notification required by law and that the child is being homeschooled. The written acknowledgment shall be deemed proof of compliance with Nevada's compulsory school attendance law. The school district shall retain a copy of the written acknowledgment for not less than 15 years. The written acknowledgment may be retained in electronic format.

8. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if he is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

9. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child. ***The parent or legal guardian of the child shall notify the superintendent of schools of the school district that the parent or legal guardian requests that the notice of intent to homeschool filed pursuant to this section be withdrawn. If such a child enrolls in a charter school, the charter school shall notify the board of trustees of the school district in which the child resides of the child's enrollment in the charter school.*** A homeschooled child seeking admittance to public high school must comply with NRS 392.033.

10. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

11. Each school district shall allow homeschooled children to participate in the high school proficiency examination administered pursuant to NRS 389.015 and all college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test. Each school district shall ensure that the homeschooled children who reside in the school district have adequate notice of the availability of information concerning such examinations on the Internet website of the school district maintained pursuant to NRS 389.004.

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the notice of intent to homeschool filed pursuant to this section. If the educational plan contains the requirements of this section, the educational plan must not be used in any manner as a basis for denial of a notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

13. No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his child based on religious preference unless it is:

(a) Essential to further a compelling governmental interest; and

(b) The least restrictive means of furthering that compelling governmental interest.

14. As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.

~~[Sec. 11.]~~ ***Sec. 61.*** NRS 386.507 is hereby repealed.

Sec. 62. **The Department of Education shall, on or before October 1, 2009, transfer to the Account for the Nevada Charter School Institute created by section 32 of this act any unexpended money collected by the Department pursuant to NRS 386.570 for reimbursement of the administrative costs associated with sponsorship of charter schools sponsored by the State Board of Education.**

Sec. 63. **Notwithstanding the amendatory provisions of this act to the contrary, the Department of Education shall carry out the duties and responsibilities of the Nevada Charter School Institute from July 1, 2009, to September 30, 2009.**

Sec. 64. **Notwithstanding the provisions of section 28 of this act to the contrary, on October 1, 2009, the Governor shall appoint a Director of the Nevada Charter School Institute to a term of 3 years. Upon the expiration of the term of the Director or if a vacancy occurs before the expiration of the term, the Nevada Charter School Institute shall appoint the Director in accordance with section 28 of this act.**

Sec. 65. **1. To assist the Nevada Charter School Institute created by section 26 of this act in carrying out its duties and responsibilities, the Director of the Nevada Charter School Institute shall, on October 1, 2009:**

(a) Hire an administrative assistant and an accounting assistant; and

(b) Hire an educational consultant.

2. On October 1, 2009, one management analyst position in the Department of Education with job duties and responsibilities that relate to charter schools must be transferred to the Nevada Charter School Institute.

Sec. 66. **On or before October 1, 2009, the members of the Nevada Charter School Institute created by section 26 of this act must be appointed to terms commencing on October 1, 2009, as follows:**

1. One member appointed by the Governor to a term that expires on June 30, 2011.

2. One member appointed by the Governor to a term that expires on June 30, 2013.

3. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2011.

4. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2013.

5. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2011.

6. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2013.

7. One member must be appointed by an association of charter schools to a term that expires on June 30, 2013. For the initial selection pursuant to this subsection, the Superintendent of Public Instruction shall designate the association of charter schools that is authorized to appoint a member of the Nevada Charter School Institute.

Sec. 67. **The Legislative Counsel shall, in preparing the reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.**

Sec. 68. **Any regulations adopted by the Department of Education or the State Board of Education pursuant to NRS 386.500 to 386.610, inclusive, before October 1, 2009, remain in effect and may be enforced by the Nevada Charter School Institute created by section 26 of this act until the Institute adopts regulations to repeal or replace those regulations.**

Sec. 69. **A charter school that is approved to operate as a State Board of Education-sponsored charter school shall be deemed to be sponsored by the Nevada Charter School Institute created pursuant to section 26 of this act commencing on July 1, 2009, and the written charter of the charter school remains in effect until the expiration of the written charter, unless the written charter is revoked by the Nevada**

Charter School Institute pursuant to NRS 386.535. Before expiration of the written charter, such a charter school may apply to the Nevada Charter School Institute for renewal of its written charter pursuant to NRS 386.530. Notwithstanding the provisions of this section to the contrary, the Department of Education shall carry out the duties and responsibilities of the Nevada Charter School Institute from July 1, 2009, to September 30, 2009.

Sec. 70. **1. The Department of Personnel shall, upon the request of an employee of the Department of Education or the State Board of Education whose employment is terminated as a result of this act, place the employee on an appropriate reemployment list maintained by the Department of Personnel and allow a preference for each of those employees on that list. The Department of Personnel shall maintain each such employee on the reemployment list for not less than 2 years, or until the employee is reemployed by the Executive Branch of State Government, whichever occurs earlier.**

2. The provisions of this section apply regardless of whether the employee was in the classified, unclassified or nonclassified service of the State of Nevada.

~~[Sec. 12.]~~ ***Sec. 71.*** **1.** This **section and sections 2, 22 and 32 of this act become effective upon passage and approval.**

2. Sections 1, 3 to 21, inclusive, 23 to 31, inclusive, and 33 to 70, inclusive, of this act ~~[becomes]~~ **become** effective on July 1, 2009.

3. Sections 54, 55 and 56 of this act expire by limitation on June 30, 2011.

TEXT OF REPEALED SECTION

386.507 Subcommittee on Charter Schools: Appointment of members; terms. The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his service on the Subcommittee, his term on the Subcommittee expires when his membership on the State Board expires. Members of the Subcommittee may be reappointed.

Assemblywoman Parnell moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 181.

Remarks by Assemblywoman Parnell.

Motion carried.

Bill ordered to transmitted to the Senate.

Assembly Bill No. 262.

The following Senate amendment was read:

Amendment No. 601.

AN ACT relating to marriage; authorizing certain persons to issue marriage licenses in certain counties; allowing certain married persons to remarry each other; revising provisions governing the documentation a person is required to present to obtain a marriage license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that before persons may be joined in marriage, a marriage license must be obtained for that purpose from the county clerk. (NRS 122.040) **Sections 1-1.7** of this bill provide that in counties whose population is less than 400,000 (currently all counties other than Clark County), a person who meets certain qualifications may be certified by the county clerk as a marriage licensing agent and may issue marriage licenses **during the course, and within the scope, of his employment** at a commercial wedding chapel. **Sections 1.4, 3, 5.2, 5.4, 5.43 and 5.6 of this bill provide that a marriage license issued by a marriage licensing agent is valid only in the county in which the commercial wedding chapel employing the marriage licensing agent is located.**

Existing law provides that a person cannot marry another person if he or she has a wife or husband living. (NRS 122.020) **Section 1.9** of this bill provides that if a male and female are the husband and wife of each other ~~[,]~~ **and the record of their marriage has been lost or destroyed or is otherwise unobtainable,** they may be rejoined in marriage. **Section 5.47 of this bill provides that, if a husband and wife are rejoined in marriage, the marriage certificate issued to the couple must state that the marriage certificate is replacing a record of marriage that has been lost or destroyed or is otherwise unavailable.**

Section 3 of this bill provides that in the application for a marriage license: (1) proof of an applicant's name and age may be evidenced by a birth certificate and either any secondary document that contains the applicant's name and a photograph of the applicant, or any document for which identification must be verified as a condition for receipt of the document; (2) if the applicant appears over 25 years of age, documented proof of age is not required; (3) an applicant cannot be denied a marriage license for stating that he does not have a social security number or stating that an answer to a question on the application is unknown; and (4) a parent giving consent to a minor to marry can prove his relationship with the minor using the minor's birth certificate. (NRS 122.040)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 1.7, inclusive, of this act.

Sec. 1.1. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and sections 1.2 and 1.3 of this act have the meanings ascribed to them in those sections.***

Sec. 1.2. ***"Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.***

Sec. 1.3. ***"Marriage licensing agent" means a person certified pursuant to section 1.4 of this act to issue marriage licenses during the course, and within the scope, of his employment at a commercial wedding chapel.***

Sec. 1.4. ***1. In a county whose population is less than 400,000, the county clerk may establish a program for the certification of persons as marriage licensing agents. If the county clerk establishes such a program, the county clerk may certify a person as a marriage licensing agent.***

2. A marriage licensing agent may issue marriage licenses only during the course, and within the scope, of his employment at a commercial wedding chapel [pursuant to] and in accordance with the provisions of this chapter and regulations adopted by the county clerk.

[2.] 3. A marriage licensing agent who issues a marriage license must state on the marriage license the name of the commercial wedding chapel that employs him and the county in which that commercial wedding chapel is located.

4. The persons to whom a marriage licensing agent has issued a marriage license may not be joined in marriage in any county other than the county stated on the marriage license pursuant to subsection 3.

5. A person shall not act as a marriage licensing agent unless the person is issued a certificate as a marriage licensing agent by the county clerk pursuant to this section.

[3. The]

6. If the county clerk establishes a program for the certification of persons as marriage licensing agents pursuant to subsection 1, the county clerk:

(a) Shall establish a course of training for applicants for certification as marriage licensing agents.

(b) Shall adopt regulations establishing standards of practice for marriage licensing agents.

(c) May investigate any marriage licensing agent to ensure that the marriage licensing agent is complying with the provisions of this chapter and the standards of practice adopted by the county clerk.

[4.] 7. In addition to any other remedy or penalty, if the county clerk or a hearing panel appointed by the county clerk, after notice and hearing, finds that a marriage licensing agent has violated any provision of this chapter or the standards of practice adopted by the county clerk, the county clerk or the hearing panel may take appropriate disciplinary action against the marriage licensing agent.

[5.] 8. In addition to any other remedy or penalty, the county clerk may:

(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the county clerk; or

(b) Suspend or revoke the certificate of a person who has failed to pay money which the person owes to the county clerk.

Sec. 1.5. ***1. An applicant for certification as a marriage licensing agent must:***

(a) Be at least 21 years of age.

(b) Have at least 3 years of verifiable employment experience working for a commercial wedding chapel.

(c) Not have been convicted of a felony.

(d) Submit to the county clerk completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission

of a complete set of his fingerprints to the Central Repository for Nevada Records of Criminal History for its report and for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the applicant by the county clerk. The applicant's fingerprints must be taken by an agency of law enforcement.

(e) Possess computer and printer equipment compatible with software for the issuance of a marriage license.

(f) Submit to the county clerk the fee for the training course established by the county clerk pursuant to section 1.4 of this act and complete the training course. The county clerk shall establish the fee for the training program, which must not exceed $100.

(g) Pay to the county clerk an additional initial fee to be established by the county clerk for software installation and technical support at the business location of the marriage licensing agent.

2. A marriage licensing agent shall:

(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;

(b) Collect from an applicant for a marriage license all fees required by law to be collected;

(c) Remit all fees collected to the county clerk, in the manner required by the standards of practice adopted by the county clerk; and

(d) Comply with all provisions of this chapter and the standards of practice adopted by the county clerk.

Sec. 1.6. ***1. An applicant for certification as a marriage licensing agent shall submit to the county clerk the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.***

2. The county clerk shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance of the certificate; or

(b) A separate form prescribed by the county clerk.

3. A certificate may not be issued by the county clerk if the applicant:

(a) Fails to complete or submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the county clerk shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 1.7. ***1. If the county clerk receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been issued a certificate as a marriage licensing agent, the county clerk shall deem the certificate to be suspended at the end of the 30th day after the date on which the court order was issued unless the county clerk receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.***

2. The county clerk shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the county clerk receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 1.8. NRS 122.002 is hereby amended to read as follows:

122.002 ~~[As used in this chapter, "commissioner]~~ ***"Commissioner*** township" means a township whose population is 15,500 or more, as most recently certified by the Governor pursuant to NRS 360.285, and which is located in a county whose population is 100,000 or more.

Sec. 1.9. NRS 122.020 is hereby amended to read as follows:

122.020 1. ~~[A]~~ ***Except as otherwise provided in this section, a*** male and a female person, at least 18 years of age, not nearer of kin than second

cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.

2. ***A male and a female person who are the husband and wife of each other may be rejoined in marriage*** ~~[.]~~ ***if the record of their marriage has been lost or destroyed or is otherwise unobtainable.***

3. A person at least 16 years of age but less than 18 years of age may marry only if he has the consent of:

(a) Either parent; or

(b) His legal guardian.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State ~~[.]~~ ***or from a marriage licensing agent*** ~~[.]~~ ***who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.*** Except as otherwise provided in this subsection ~~[,]~~ ***and section 1.4 of this act,*** the license must be issued at the county seat of ~~[that]~~ ***a*** county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. ~~[Before]~~ ***Except as otherwise provided in this section, before*** issuing a marriage license, the county clerk ***or marriage licensing agent*** shall require each applicant to provide proof of the applicant's name and age. The county clerk ***or marriage licensing agent*** may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and ~~[a]~~ ***:***

(1) Any secondary ~~[form of identification]~~ ***document*** that contains the name ***and a photograph*** of the applicant ~~[.]~~ ***; or***

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that ~~[the county clerk determines]~~ provides ~~[proof of]~~ the applicant's name and age. ***If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.***

3. Except as otherwise provided in subsection 4, the county clerk ***or marriage licensing agent*** issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk ***or marriage licensing agent*** shall ***, except as otherwise provided in this subsection,*** require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ***or marriage licensing agent*** shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. ***The county clerk or marriage licensing agent shall not deny a license to an applicant who states that he does not have a social security number or who states that any*** ~~*[other answer]*~~ ***requested information concerning the applicant's parents is unknown.***

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk ~~[,]~~ ***or marriage licensing agent,*** the county clerk ***or marriage licensing agent*** may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~[,]~~ ***or marriage licensing agent,*** or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~[.]~~ ***or marriage licensing agent.*** If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ***or marriage licensing agent*** in writing. If the county clerk ***, the marriage licensing agent*** or the district court waives the requirements of subsection 3, the county clerk ***or marriage licensing agent*** shall require the applicant who is able to appear before the county clerk ***or marriage licensing agent*** to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ***or marriage licensing agent*** shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. ***The county clerk or marriage licensing agent shall not deny a license to an applicant who states that he does not have a social security number or who states that any*** ~~*[other answer]*~~ ***requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.***

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ***or marriage licensing agent*** shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ***or marriage licensing agent*** and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. ***If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk or marriage licensing agent shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.***

7. If the authorization of a district court is required, the county clerk ***or marriage licensing agent*** shall issue the license if that authorization is given to him in writing.

~~[7.]~~ ***8.*** All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~[8.]~~ ***9.*** A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3.5. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State ~~[or from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.]~~ Except as otherwise provided

in this subsection **,** ~~[and section 1.4 of this act,]~~ the license must be issued at the county seat of a county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk ~~[or marriage licensing agent]~~ shall require each applicant to provide proof of the applicant's name and age. The county clerk ~~[or marriage licensing agent]~~ may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and:

(1) Any secondary document that contains the name and a photograph of the applicant; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.

3. Except as otherwise provided in subsection 4, the county clerk ~~[or marriage licensing agent]~~ issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The

county clerk ~~[or marriage licensing agent]~~ shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ~~[or marriage licensing agent]~~ shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk ~~[or marriage licensing agent]~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk **,** ~~[or marriage licensing agent,]~~ the county clerk ~~[or marriage licensing agent]~~ may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~[or marriage licensing agent,]~~ or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk **.** ~~[or marriage licensing agent.]~~ If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ~~[or marriage licensing agent]~~ in writing. If the county clerk ~~[, the marriage licensing agent]~~ or the district court waives the requirements of subsection 3, the county clerk ~~[or marriage licensing agent]~~ shall require the applicant who is able to appear before the county clerk ~~[or marriage licensing agent]~~ to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ~~[or marriage licensing agent]~~ shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk ~~[or marriage licensing agent]~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ~~[or marriage licensing agent]~~ shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ~~[or marriage licensing agent]~~ and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk ~~[or marriage licensing agent]~~ shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.

7. If the authorization of a district court is required, the county clerk ~~[or marriage licensing agent]~~ shall issue the license if that authorization is given to him in writing.

8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.1. NRS 122.045 is hereby amended to read as follows:

122.045 1. Except as otherwise provided in subsection 2, if any information in a marriage license is incorrect, the county clerk may charge and collect from a person a fee of not more than $25 for the preparation of an affidavit of correction.

2. The county clerk may not charge and collect from a person any fee for the preparation of an affidavit of correction pursuant to subsection 1 if the only errors to be corrected in the marriage license are clerical errors that were made by the county clerk ~~[.]~~ ***or marriage licensing agent.***

3. All fees collected by the county clerk pursuant to this section must be deposited in the county general fund.

Sec. 5.2. NRS 122.050 is hereby amended to read as follows:

122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:

MARRIAGE LICENSE
(EXPIRES 1 YEAR AFTER ISSUANCE)
State of Nevada }
}ss.
County of }

These presents are to authorize any minister who has obtained a certificate of permission, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection ~~[3]~~ ***4*** of NRS 122.080, or a municipal judge if authorized pursuant to subsection ~~[4]~~ ***5*** of NRS 122.080 or any commissioner of civil marriages or his deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage ***in . . . . (If the license is issued by a county clerk, any county of this State; if the license is issued by a marriage licensing agent, the name of the county in which the commercial wedding chapel that employs the marriage licensing agent is located), (Name of applicant)*** .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Wife deceased .... Divorced .... Annulled .... When .... Where .... And ***(Name of applicant)*** .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Husband deceased .... Divorced .... Annulled .... When .... Where ....; and to certify the marriage according to law.

Witness my hand and the seal of the county ***or signature of the marriage licensing agent***, this ... day of the month of ……. of the year .....

(Seal)Clerk ***or (Signature) Marriage Licensing Agent*** _____

Deputy clerk _____

Name of Commercial Wedding Chapel, if applicable

Sec. 5.3. NRS 122.055 is hereby amended to read as follows:

122.055 1. The county clerk ***or marriage licensing agent*** may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.

2. The county clerk ***or marriage licensing agent*** shall have printed or stamped on the reverse of the form instructions for obtaining a certified copy or certified abstract of the certificate of marriage.

Sec. 5.35. **NRS 122.061 is hereby amended to read as follows:**

122.061 1. In any county whose population is 100,000 or more, the main office of the county clerk where marriage licenses may be issued must be open to the public for the purpose of issuing such licenses from 8 a.m. to 12 ~~[p.m.]~~ ***a.m.*** every day including holidays, and may remain open at other times. The board of county commissioners shall determine the hours during

which a branch office of the county clerk where marriage licenses may be issued must remain open to the public.

2. In all other counties, the board of county commissioners shall determine the hours during which the offices where marriage licenses may be issued must remain open to the public.

Sec. 5.4. NRS 122.062 is hereby amended to read as follows:

122.062 1. ~~[Any]~~ ***Except as otherwise provided in this subsection, any*** licensed or ordained minister in good standing within his denomination, whose denomination, governing body and church, or any of them, are incorporated or organized or established in this ~~[state,]~~ ***State,*** may join together as husband and wife persons who present a marriage license obtained from any county clerk ***in this State or marriage licensing agent*** , ~~[of the State,]~~ if the minister first obtains a certificate of permission to perform marriages as provided in this section and NRS 122.064 to 122.073, inclusive. ***If the persons who present the marriage license have obtained the marriage license from a marriage licensing agent, the minister may join together as husband and wife those persons only in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.*** The fact that a minister is retired does not disqualify him from obtaining a certificate of permission to perform marriages if, before his retirement, he had active charge of a congregation within this state for a period of at least 3 years.

2. A temporary replacement for a licensed or ordained minister certified pursuant to this section and NRS 122.064 to 122.073, inclusive, may solemnize marriages pursuant to subsection 1 during such time as he may be authorized to do so by the county clerk in the county in which he is a temporary replacement, for a period not to exceed 90 days. The minister whom he temporarily replaces shall provide him with a written authorization which states the period during which it is effective.

3. Any chaplain who is assigned to duty in this state by the Armed Forces of the United States may solemnize marriages if he obtains a certificate of permission to perform marriages from the county clerk of the county in which his duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof by him of his military status as a chaplain and of his assignment.

4. A county clerk may authorize a licensed or ordained minister whose congregation is in another state to perform marriages in the county if the county clerk satisfies himself that the minister is in good standing with his denomination or church. The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. Such a minister may perform not more than five marriages in this state in any calendar year.

Sec. 5.43. **NRS 122.080 is hereby amended to read as follows:**

122.080 1. ~~[After]~~ ***Except as otherwise provided in subsection 2, after*** receipt of the marriage license previously issued to persons wishing to be

married as provided in NRS 122.040 and 122.050, it is lawful for any justice of the Supreme Court, any judge of the district court, any justice of the peace in his township if it is not a commissioner township, any justice of the peace in a commissioner township if authorized pursuant to subsection ~~[3,]~~ ***4,*** any municipal judge if authorized pursuant to subsection ~~[4,]~~ ***5,*** any commissioner of civil marriages within his county and within a commissioner township therein, or any deputy commissioner of civil marriages within the county of his appointment and within a commissioner township therein, to join together as husband and wife all persons not prohibited by this chapter.

2. ***If a marriage license is issued by a marriage licensing agent to persons wishing to be married, it is lawful for a Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife the persons to whom the marriage license was issued only if those persons are joined together as husband and wife in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.***

3. This section does not prohibit:

(a) A justice of the peace of one township, while acting in the place and stead of the justice of the peace of any other township, from performing marriage ceremonies within the other township, if such other township is not a commissioner township.

(b) A justice of the peace of one township performing marriages in another township of the same county where there is no duly qualified and acting justice of the peace, if such other township is not a commissioner township or if he is authorized to perform the marriage pursuant to subsection ~~[3.]~~ ***4.***

~~[3.]~~ ***4.*** In any calendar year, a justice of the peace may perform not more than 20 marriage ceremonies in commissioner townships if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.

~~[4.]~~ ***5.*** In any calendar year, a municipal judge may perform not more than 20 marriage ceremonies in this State if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.

~~[5.]~~ ***6.*** Any justice of the peace who performs a marriage ceremony in a commissioner township or any municipal judge who performs a marriage ceremony in this State and who, in violation of this section, accepts any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage is guilty of a misdemeanor.

Sec. 5.47. **NRS 122.120 is hereby amended to read as follows:**

122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married a certificate of marriage.

2. The certificate of marriage must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. ***If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, the certificate of marriage must state that the male and female person were rejoined in marriage and that the certificate is replacing a record of marriage which was lost or destroyed or is otherwise unobtainable.*** The certificate of marriage must be in substantially the following form:

STATE OF NEVADA
MARRIAGE CERTIFICATE
State of Nevada }
}ss.
County of }

This is to certify that the undersigned, ... (a minister of the gospel, judge, justice of the peace of ..... County, commissioner of civil marriages or deputy commissioner of civil marriages, as the case may be), did on the ..... day of the month of ……. of the year ....., at ..... (address or church), ... (city), Nevada, join ***or rejoin, as the case may be,*** in lawful wedlock ..... (name), of ..... (city), State of ....., date of birth ....., and ..... (name), of .....(city), State of ....., date of birth ....., with their mutual consent, in the presence of ..... and ..... (witnesses). ***(If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, this certificate replaces the record of the marriage of the male and female person who are being rejoined in marriage.)***

Signature of person performing
(Seal of County Clerk)the marriage_____

Name under signature typewritten
or printed in black ink _____

County Clerk _____

Official title of person performing
the marriage_____

Couple's mailing address_____

3. All information contained in the certificate of marriage must be typewritten or legibly printed in black ink, except the signatures. The

signature of the person performing the marriage must be an original signature.

Sec. 5.5. NRS 122.210 is hereby amended to read as follows:

122.210 If any county clerk ***or marriage licensing agent*** shall issue or sign any marriage license in any manner other than is authorized by this chapter, he shall forfeit and pay a sum not exceeding $1,000 to and for the use of the person aggrieved.

Sec. 5.6. NRS 122.220 is hereby amended to read as follows:

122.220 1. It is unlawful for any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him a license from ~~[the]~~ ***any*** county clerk ***in this State or from a marriage licensing agent who was employed, at the time of issuing the license, by a commercial wedding chapel located in the county in which the persons proposing the marriage will be joined together as husband and wife,*** as provided by law.

2. Any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 6. 1. This section and sections 1 to 3, inclusive, and 4 to 5.6, inclusive, of this act become effective on July 1, 2009.

2. Section 3.5 of this act becomes effective on July 1, 2011.

3. Sections 1 to ~~[1.9,]~~ **1.8,** inclusive, 3 ~~[and 5.1 to 5.6, inclusive,]~~ **, 5.1, 5.2, 5.3, 5.4, 5.43, 5.5 and 5.6** of this act expire by limitation on June 30, 2011.

Assemblyman Anderson moved that the Assembly concur in Senate Amendment No. 601 to Assembly Bill No. 262.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 818.

SUMMARY—Makes various changes concerning ~~[the issuance of]~~ marriage**.** ~~[licenses.]~~ (BDR 11-961)

AN ACT relating to marriage; ~~[authorizing certain persons to issue marriage licenses in certain counties;]~~ allowing certain married persons to remarry each other; revising provisions governing the documentation a person is required to present to obtain a marriage license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law provides that before persons may be joined in marriage, a marriage license must be obtained for that purpose from the county clerk. (NRS 122.040) Sections 1-1.7 of this bill provide that in counties whose~~

~~population is less than 400,000 (currently all counties other than Clark County), a person who meets certain qualifications may be certified by the county clerk as a marriage licensing agent and may issue marriage licenses during the course, and within the scope, of his employment at a commercial wedding chapel. Sections 1.4, 3, 5.2, 5.4, 5.43 and 5.6 of this bill provide that a marriage license issued by a marriage licensing agent is valid only in the county in which the commercial wedding chapel employing the marriage licensing agent is located.~~**]**

Existing law provides that a person cannot marry another person if he or she has a wife or husband living. (NRS 122.020) **Section 1.9** of this bill provides that if a male and female are the husband and wife of each other and the record of their marriage has been lost or destroyed or is otherwise unobtainable, they may be rejoined in marriage. **Section 5.47** of this bill provides that, if a husband and wife are rejoined in marriage, the marriage certificate issued to the couple must state that the marriage certificate is replacing a record of marriage that has been lost or destroyed or is otherwise unavailable.

Section 3 of this bill provides that in the application for a marriage license: (1) proof of an applicant's name and age may be evidenced by a birth certificate and either any secondary document that contains the applicant's name and a photograph of the applicant, or any document for which identification must be verified as a condition for receipt of the document; (2) if the applicant appears over 25 years of age, documented proof of age is not required; (3) an applicant cannot be denied a marriage license for stating that he does not have a social security number or stating that an answer to a question on the application is unknown; and (4) a parent giving consent to a minor to marry can prove his relationship with the minor using the minor's birth certificate. (NRS 122.040)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 1.7, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 1.1. ~~*[As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and sections 1.2 and 1.3 of this act have the meanings ascribed to them in those sections.]*~~ **(Deleted by amendment.)**

Sec. 1.2. ~~*[“Commercial wedding chapel” means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.]*~~ **(Deleted by amendment.)**

Sec. 1.3. ~~*[“Marriage licensing agent” means a person certified pursuant to section 1.4 of this act to issue marriage licenses during the*~~

~~*course, and within the scope, of his employment at a commercial wedding chapel.]*~~ **(Deleted by amendment.)**

Sec. 1.4. ~~*[1. In a county whose population is less than 400,000, the county clerk may establish a program for the certification of persons as marriage licensing agents. If the county clerk establishes such a program, the county clerk may certify a person as a marriage licensing agent.*~~

~~*2. A marriage licensing agent may issue marriage licenses only during the course, and within the scope, of his employment at a commercial wedding chapel and in accordance with the provisions of this chapter and regulations adopted by the county clerk.*~~

~~*3. A marriage licensing agent who issues a marriage license must state on the marriage license the name of the commercial wedding chapel that employs him and the county in which that commercial wedding chapel is located.*~~

~~*4. The persons to whom a marriage licensing agent has issued a marriage license may not be joined in marriage in any county other than the county stated on the marriage license pursuant to subsection 3.*~~

~~*5. A person shall not act as a marriage licensing agent unless the person is issued a certificate as a marriage licensing agent by the county clerk pursuant to this section.*~~

~~*6. If the county clerk establishes a program for the certification of persons as marriage licensing agents pursuant to subsection 1, the county clerk:*~~

~~*(a) Shall establish a course of training for applicants for certification as marriage licensing agents.*~~

~~*(b) Shall adopt regulations establishing standards of practice for marriage licensing agents.*~~

~~*(c) May investigate any marriage licensing agent to ensure that the marriage licensing agent is complying with the provisions of this chapter and the standards of practice adopted by the county clerk.*~~

~~*7. In addition to any other remedy or penalty, if the county clerk or a hearing panel appointed by the county clerk, after notice and hearing, finds that a marriage licensing agent has violated any provision of this chapter or the standards of practice adopted by the county clerk, the county clerk or the hearing panel may take appropriate disciplinary action against the marriage licensing agent.*~~

~~*8. In addition to any other remedy or penalty, the county clerk may:*~~

~~*(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the county clerk; or*~~

~~*(b) Suspend or revoke the certificate of a person who has failed to pay money which the person owes to the county clerk.]*~~ **(Deleted by amendment.)**

Sec. 1.5. ~~*[1. An applicant for certification as a marriage licensing agent must:*~~

~~*(a) Be at least 21 years of age.*~~

~~*(b) Have at least 3 years of verifiable employment experience working for a commercial wedding chapel.*~~

~~*(c) Not have been convicted of a felony.*~~

~~*(d) Submit to the county clerk completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of a complete set of his fingerprints to the Central Repository for Nevada Records of Criminal History for its report and for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the applicant by the county clerk. The applicant's fingerprints must be taken by an agency of law enforcement.*~~

~~*(e) Possess computer and printer equipment compatible with software for the issuance of a marriage license.*~~

~~*(f) Submit to the county clerk the fee for the training course established by the county clerk pursuant to section 1.4 of this act and complete the training course. The county clerk shall establish the fee for the training program, which must not exceed $100.*~~

~~*(g) Pay to the county clerk an additional initial fee to be established by the county clerk for software installation and technical support at the business location of the marriage licensing agent.*~~

~~*2. A marriage licensing agent shall:*~~

~~*(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;*~~

~~*(b) Collect from an applicant for a marriage license all fees required by law to be collected;*~~

~~*(c) Remit all fees collected to the county clerk, in the manner required by the standards of practice adopted by the county clerk; and*~~

~~*(d) Comply with all provisions of this chapter and the standards of practice adopted by the county clerk.]*~~ **(Deleted by amendment.)**

Sec. 1.6. ~~*[1. An applicant for certification as a marriage licensing agent shall submit to the county clerk the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*~~

~~*2. The county clerk shall include the statement required pursuant to subsection 1 in:*~~

~~*(a) The application or any other forms that must be submitted for the issuance of the certificate; or*~~

~~*(b) A separate form prescribed by the county clerk.*~~

~~*3. A certificate may not be issued by the county clerk if the applicant:*~~

~~*(a) Fails to complete or submit the statement required pursuant to subsection 1; or*~~

~~*(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or*~~

~~*other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*~~

~~*4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the county clerk shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.]*~~ **(Deleted by amendment.)**

Sec. 1.7. ~~*[1. If the county clerk receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been issued a certificate as a marriage licensing agent, the county clerk shall deem the certificate to be suspended at the end of the 30th day after the date on which the court order was issued unless the county clerk receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*~~

~~*2. The county clerk shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the county clerk receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.]*~~ **(Deleted by amendment.)**

Sec. 1.8. ~~[~~NRS 122.002 is hereby amended to read as follows:

~~122.002 — [~~As used in this chapter, "commissioner~~]~~ ~~*"Commissioner*~~ township" means a township whose population is 15,500 or more, as most recently certified by the Governor pursuant to NRS 360.285, and which is located in a county whose population is 100,000 or more.~~]~~ **(Deleted by amendment.)**

Sec. 1.9. NRS 122.020 is hereby amended to read as follows:

122.020 1. ~~[A]~~ ***Except as otherwise provided in this section, a*** male and a female person, at least 18 years of age, not nearer of kin than second cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.

2. ***A male and a female person who are the husband and wife of each other may be rejoined in marriage if the record of their marriage has been lost or destroyed or is otherwise unobtainable.***

3. A person at least 16 years of age but less than 18 years of age may marry only if he has the consent of:

(a) Either parent; or

(b) His legal guardian.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. ~~*[for from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.]*~~ Except as otherwise provided in this subsection , ~~*[and section 1.4 of this act,]*~~ the license must be issued at the county seat of that ~~*[a]*~~ county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. ~~[~~Before~~]~~ ***Except as otherwise provided in this section, before*** issuing a marriage license, the county clerk ~~*[or marriage licensing agent]*~~ shall require each applicant to provide proof of the applicant's name and age. The county clerk ~~*[or marriage licensing agent]*~~ may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and ~~[~~a~~]~~ ***:***

(1) Any secondary ~~[~~form of identification~~]~~ ***document*** that contains the name ***and a photograph*** of the applicant ~~[~~.~~]~~ ***; or***

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that ~~[~~the county clerk determines~~]~~ provides ~~[~~proof of~~]~~ the applicant's name and age. ***If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.***

3. Except as otherwise provided in subsection 4, the county clerk ~~*[or marriage licensing agent]*~~ issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk ~~*[or marriage licensing agent]*~~ shall ***, except as otherwise provided in this subsection,*** require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ~~*[or marriage licensing agent]*~~ shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. ***The county clerk*** ~~*[or marriage licensing agent]*~~ ***shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.***

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, ~~*[or marriage licensing agent,]*~~ the county clerk ~~*[or marriage licensing agent]*~~ may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, ~~*[or marriage licensing agent,]*~~ or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. ~~*[or marriage licensing agent.]*~~ If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ~~*[or marriage licensing agent]*~~ in writing. If the county clerk ~~*[, the marriage licensing agent]*~~ or the district court waives the requirements of subsection 3, the county clerk ~~*[or marriage licensing agent]*~~ shall require the applicant who is able to appear before the county clerk ~~*[or marriage licensing agent]*~~ to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ~~*[or marriage licensing agent]*~~ shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. ***The county clerk*** ~~*[or marriage licensing agent]*~~ ***shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.***

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ~~*[or marriage licensing agent]*~~ shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ~~*[or marriage licensing agent]*~~ and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. ***If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk*** ~~*[or marriage licensing agent]*~~ ***shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.***

7. If the authorization of a district court is required, the county clerk ~~*[or marriage licensing agent]*~~ shall issue the license if that authorization is given to him in writing.

~~[~~7.~~]~~ ***8.*** All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~[~~8.~~]~~ ***9.*** A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3.5. ~~[~~NRS 122.040 is hereby amended to read as follows:

~~122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State , [or from a marriage licensing agent who was employed, at the time the license was issued, by a commercial wedding chapel located in the county in which the persons will be joined in marriage.] Except as otherwise provided in this subsection , [and section 1.4 of this act,] the license must be issued at the county seat of a county. The board of county commissioners:~~

~~(a) In a county whose population is 400,000 or more:~~

~~(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the~~

~~designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and~~

~~(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.~~

~~(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.~~

~~2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk [~~or marriage licensing agent~~] shall require each applicant to provide proof of the applicant's name and age. The county clerk [~~or marriage licensing agent~~] may accept as proof of the applicant's name and age an original or certified copy of any of the following:~~

~~(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.~~

~~(b) A passport.~~

~~(c) A birth certificate and:~~

~~(1) Any secondary document that contains the name and a photograph of the applicant; or~~

~~(2) Any document for which identification must be verified as a condition to receipt of the document.~~

~~➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.~~

~~(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.~~

~~(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.~~

~~(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.~~

~~3. Except as otherwise provided in subsection 4, the county clerk [~~or marriage licensing agent~~] issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk [~~or marriage licensing agent~~] shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk [~~or marriage licensing agent~~] shall not require any evidence~~

~~to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk [or marriage licensing agent] shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.~~

~~4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, [or marriage licensing agent,] the county clerk [or marriage licensing agent] may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk [or marriage licensing agent,] or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. [or marriage licensing agent.] If the district court waives the requirements of subsection 3, the district court shall notify the county clerk [or marriage licensing agent] in writing. If the county clerk [, the marriage licensing agent] or the district court waives the requirements of subsection 3, the county clerk [or marriage licensing agent] shall require the applicant who is able to appear before the county clerk [or marriage licensing agent] to:~~

~~(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.~~

~~(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk [or marriage licensing agent] shall not require any evidence to verify a social security number.~~

~~➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk [or marriage licensing agent] shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.~~

~~5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk [or marriage licensing agent] shall issue the license if the consent of the parent or guardian is:~~

~~(a) Personally given before the clerk;~~

~~(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk [or marriage licensing agent] and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or~~

~~(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.~~

~~6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk~~ **[**~~or marriage licensing agent~~**]** ~~shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.~~

~~7. If the authorization of a district court is required, the county clerk~~ **[**~~or marriage licensing agent~~**]** ~~shall issue the license if that authorization is given to him in writing.~~

~~8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.~~

~~9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.~~**]** **(Deleted by amendment.)**

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.1. ~~**[**NRS 122.045 is hereby amended to read as follows:~~

~~122.045 1. Except as otherwise provided in subsection 2, if any information in a marriage license is incorrect, the county clerk may charge and collect from a person a fee of not more than $25 for the preparation of an affidavit of correction.~~

~~2. The county clerk may not charge and collect from a person any fee for the preparation of an affidavit of correction pursuant to subsection 1 if the only errors to be corrected in the marriage license are clerical errors that were made by the county clerk~~**[** ~~.~~**]** ~~***or marriage licensing agent.***~~

~~3. All fees collected by the county clerk pursuant to this section must be deposited in the county general fund.~~**]** **(Deleted by amendment.)**

Sec. 5.2. ~~**[**NRS 122.050 is hereby amended to read as follows:~~

~~122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:~~

~~MARRIAGE LICENSE~~

~~(EXPIRES 1 YEAR AFTER ISSUANCE)~~

~~State of Nevada }~~

~~}ss.~~

~~County of }~~

~~These presents are to authorize any minister who has obtained a certificate of permission, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection~~**[** ~~3~~**]** ~~***4*** of NRS 122.080, or a municipal judge if authorized pursuant to subsection~~**[** ~~4~~**]** ~~***5*** of NRS 122.080 or any commissioner of civil marriages or his deputy within~~

~~a commissioner township wherein they are permitted to solemnize marriages, to join in marriage *in . . . . . (If the license is issued by a county clerk, any county of this State; if the license is issued by a marriage licensing agent, the name of the county in which the commercial wedding chapel that employs the marriage licensing agent is located), (Name of applicant)* .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Wife deceased .... Divorced .... Annulled .... When .... Where .... And *(Name of applicant)* .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Husband deceased .... Divorced .... Annulled .... When .... Where ....; and to certify the marriage according to law.~~

~~Witness my hand and the seal of the county *or signature of the marriage licensing agent,* this ... day of the month of ..... of the year .....~~

~~(Seal) Clerk *or (Signature) Marriage Licensing Agent*~~

~~Deputy clerk~~

~~*Name of Commercial Wedding Chapel, if applicable)*~~ **(Deleted by amendment.)**

Sec. 5.3. ~~[NRS 122.055 is hereby amended to read as follows:~~

~~122.055 1. The county clerk *or marriage licensing agent* may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.~~

~~2. The county clerk *or marriage licensing agent* shall have printed or stamped on the reverse of the form instructions for obtaining a certified copy or certified abstract of the certificate of marriage.]~~ **(Deleted by amendment.)**

Sec. 5.35. NRS 122.061 is hereby amended to read as follows:

122.061 1. In any county whose population is 100,000 or more, the main office of the county clerk where marriage licenses may be issued must be open to the public for the purpose of issuing such licenses from 8 a.m. to 12 ~~[p.m.]~~ ***a.m.*** every day including holidays, and may remain open at other times. The board of county commissioners shall determine the hours during which a branch office of the county clerk where marriage licenses may be issued must remain open to the public.

2. In all other counties, the board of county commissioners shall determine the hours during which the offices where marriage licenses may be issued must remain open to the public.

Sec. 5.4. ~~[NRS 122.062 is hereby amended to read as follows:~~

~~122.062 1. [~~Any~~] *Except as otherwise provided in this subsection, any* licensed or ordained minister in good standing within his denomination, whose denomination, governing body and church, or any of them, are incorporated or organized or established in this [~~state,~~] *State,* may join together as husband and wife persons who present a marriage license obtained from any county clerk *in this State or marriage licensing agent,* [~~of the State,~~] if the minister first obtains a certificate of permission to perform marriages as provided in this section and NRS 122.064 to 122.073, inclusive. *If the persons who present the marriage license have obtained the marriage license from a marriage licensing agent, the minister may join together as husband and wife those persons only in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.* The fact that a minister is retired does not disqualify him from obtaining a certificate of permission to perform marriages if, before his retirement, he had active charge of a congregation within this state for a period of at least 3 years.

2. A temporary replacement for a licensed or ordained minister certified pursuant to this section and NRS 122.064 to 122.073, inclusive, may solemnize marriages pursuant to subsection 1 during such time as he may be authorized to do so by the county clerk in the county in which he is a temporary replacement, for a period not to exceed 90 days. The minister whom he temporarily replaces shall provide him with a written authorization which states the period during which it is effective.

3. Any chaplain who is assigned to duty in this state by the Armed Forces of the United States may solemnize marriages if he obtains a certificate of permission to perform marriages from the county clerk of the county in which his duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof by him of his military status as a chaplain and of his assignment.

4. A county clerk may authorize a licensed or ordained minister whose congregation is in another state to perform marriages in the county if the county clerk satisfies himself that the minister is in good standing with his denomination or church. The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. Such a minister may perform not more than five marriages in this state in any calendar year.~~]~~ **(Deleted by amendment.)**

Sec. 5.43. ~~[NRS 122.080 is hereby amended to read as follows:~~

~~122.080 1. [~~After~~] *Except as otherwise provided in subsection 2, after* receipt of the marriage license previously issued to persons wishing to be married as provided in NRS 122.040 and 122.050, it is lawful for any justice of the Supreme Court, any judge of the district court, any justice of the peace in his township if it is not a commissioner township, any justice of the peace in a commissioner township if authorized pursuant to subsection [~~3,~~] *4,* any municipal judge if authorized pursuant to subsection [~~4,~~] *5,* any commissioner of civil marriages within his county and within a

~~commissioner township therein, or any deputy commissioner of civil marriages within the county of his appointment and within a commissioner township therein, to join together as husband and wife all persons not prohibited by this chapter.~~

~~2. *If a marriage license is issued by a marriage licensing agent to persons wishing to be married, it is lawful for a Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife the persons to whom the marriage license was issued only if those persons are joined together as husband and wife in the county stated on the marriage license pursuant to subsection 3 of section 1.4 of this act and NRS 122.050.*~~

~~*3.* This section does not prohibit:~~

~~(a) A justice of the peace of one township, while acting in the place and stead of the justice of the peace of any other township, from performing marriage ceremonies within the other township, if such other township is not a commissioner township.~~

~~(b) A justice of the peace of one township performing marriages in another township of the same county where there is no duly qualified and acting justice of the peace, if such other township is not a commissioner township or if he is authorized to perform the marriage pursuant to subsection [3.] *4.*~~

~~[3.] *4.* In any calendar year, a justice of the peace may perform not more than 20 marriage ceremonies in commissioner townships if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.~~

~~[4.] *5.* In any calendar year, a municipal judge may perform not more than 20 marriage ceremonies in this State if he does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.~~

~~[5.] *6.* Any justice of the peace who performs a marriage ceremony in a commissioner township or any municipal judge who performs a marriage ceremony in this State and who, in violation of this section, accepts any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage is guilty of a misdemeanor.]~~ **(Deleted by amendment.)**

Sec. 5.47. NRS 122.120 is hereby amended to read as follows:

122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married a certificate of marriage.

2. The certificate of marriage must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. ***If a male and female person who are the husband and wife***

of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, the certificate of marriage must state that the male and female person were rejoined in marriage and that the certificate is replacing a record of marriage which was lost or destroyed or is otherwise unobtainable. The certificate of marriage must be in substantially the following form:

STATE OF NEVADA
MARRIAGE CERTIFICATE
State of Nevada }
}ss.
County of }

This is to certify that the undersigned, ... (a minister of the gospel, judge, justice of the peace of ..... County, commissioner of civil marriages or deputy commissioner of civil marriages, as the case may be), did on the ..... day of the month of ……. of the year ....., at ..... (address or church), ... (city), Nevada, join ***or rejoin, as the case may be,*** in lawful wedlock ..... (name), of ..... (city), State of ....., date of birth ....., and ..... (name), of .....(city), State of ....., date of birth ....., with their mutual consent, in the presence of ..... and ..... (witnesses). ***(If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, this certificate replaces the record of the marriage of the male and female person who are being rejoined in marriage.)***

Signature of person performing
(Seal of County Clerk) the marriage _____

Name under signature typewritten
or printed in black ink_____

County Clerk _____

Official title of person performing
the marriage _____

Couple's mailing address _____

3. All information contained in the certificate of marriage must be typewritten or legibly printed in black ink, except the signatures. The signature of the person performing the marriage must be an original signature.

Sec. 5.5. ~~[NRS 122.210 is hereby amended to read as follows:~~

~~122.210 If any county clerk *or marriage licensing agent* shall issue or sign any marriage license in any manner other than is authorized by this~~

~~chapter, he shall forfeit and pay a sum not exceeding $1,000 to and for the use of the person aggrieved.]~~ **(Deleted by amendment.)**

Sec. 5.6. ~~[NRS 122.220 is hereby amended to read as follows:~~

~~122.220 1. It is unlawful for any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him a license from [the] *any* county clerk *in this State or from a marriage licensing agent who was employed, at the time of issuing the license, by a commercial wedding chapel located in the county in which the persons proposing the marriage will be joined together as husband and wife,* as provided by law.~~

~~2. Any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[1.]~~ This ~~[section and sections 1 to 3, inclusive, and 4 to 5.6, inclusive, of this act become]~~ **act becomes** effective on July 1, 2009.

~~[2. Section 3.5 of this act becomes effective on July 1, 2011.~~

~~3. Sections 1 to 1.8, inclusive, 3, 5.1, 5.2, 5.3, 5.4, 5.43, 5.5 and 5.6 of this act expire by limitation on June 30, 2011.]~~

Assemblyman Anderson moved that the Assembly concur in Senate Amendment No. 818 to Assembly Bill No. 262.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 309.

The following Senate amendment was read:

Amendment No. 693.

AN ACT relating to crimes; revising provisions relating to the crime of stalking; increasing the penalties for the crime of stalking; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) **Section 1** of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the safety of a ~~[third person]~~ **member of the person's family or household** and which actually causes a victim to feel such fear. **Section 1** also increases the penalty for a first offense for the crime of stalking from a misdemeanor to a gross misdemeanor and makes a subsequent offense a category D felony. Additionally, **section 1** adds text messaging to the existing crime of stalking

with the use of a communication device, which is punishable as a category C felony.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated **,** ~~[or]~~ harassed ~~[,]~~ ***or fearful for the safety of a*** ~~*[third person,]*~~ ***member of the person's family or household,*** and that actually causes the victim to feel terrorized, frightened, intimidated **,** ~~[or]~~ harassed ~~[,]~~ ***or fearful for the safety of a*** ~~*[third person,]*~~ ***member of the victim's family or household,*** commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a ***gross*** misdemeanor.

(b) For any subsequent offense, is guilty of a ~~[gross misdemeanor.]~~ ***category D felony and shall be punished as provided in NRS 193.130.***

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site **,** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

(c) "Network" has the meaning ascribed to it in NRS 205.4745.

(d) "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

(e) ***"Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.***

(f) "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site **,** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site **,** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Assemblyman Anderson moved that the Assembly concur in Senate Amendment No. 693 to Assembly Bill No. 309.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 876.

AN ACT relating to crimes; revising provisions relating to the crime of stalking; ~~[increasing the penalties for the crime of stalking;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) ~~[Section 1 of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the safety of a member of the person's family or household and which actually causes a victim to feel such fear. Section 1 also increases the penalty for a first offense for the crime of stalking from a misdemeanor to a gross misdemeanor and makes a subsequent offense a category D felony. Additionally, section 1]~~ **This bill** adds text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated ~~[,]~~ or harassed ~~[for fearful for the safety of a member of the person's family or household,]~~ and that actually causes the victim to feel terrorized, frightened, intimidated ~~[,]~~ or harassed ~~[for fearful for the safety of a member of the victim's family or household,]~~ commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a ~~[gross]~~ misdemeanor.

(b) For any subsequent offense, is guilty of a gross misdemeanor. ~~[category D felony and shall be punished as provided in NRS 193.130.]~~

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site **,** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

(c) "Network" has the meaning ascribed to it in NRS 205.4745.

(d) "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

(e) ***"Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.***

(f) "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site **,**

~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site ***,*** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Assemblyman Anderson moved that the Assembly do not concur in Senate Amendment No. 876 to Assembly Bill No. 309.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 320.

The following Senate amendment was read:

Amendment No. 694.

AN ACT relating to guardianships; requiring additional information in a petition for appointment of a guardian **under certain circumstances**; requiring that a proposed **adult** ward be advised of his right to counsel; revising provisions relating to the attendance of a proposed **adult** ward at a guardianship hearing; requiring a guardian to petition a court before moving a ward into certain residential facilities under certain circumstances; making various other changes relating to guardianships; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section ~~[1]~~ 3 of this bill requires that a petitioner for the appointment of a guardian **for a proposed adult ward** provide the court with an assessment completed by a licensed physician of the proposed **adult** ward's needs and limitations in capacity before the court makes a final order in the case. (NRS 159.044)

Section ~~[2]~~ 4 of this bill provides that a proposed **adult** ward must be advised of his right to counsel in the guardianship proceeding and requires that certain information or responses provided by the **adult** ward relating to

his right to counsel and to the proceeding be transmitted to the court. (NRS 159.0485)

Existing law provides that a proposed ward found in this State must attend a hearing for the appointment of a guardian unless a certificate is signed indicating the reasons the proposed ward cannot appear. (NRS 159.0535) **Section ~~[3]~~ 5** of this bill provides that a proposed ward who is unable to attend a hearing for the appointment of a general or special guardian may attend by videoconference. **Section ~~[3]~~ 5** further provides that if a proposed ward **is an adult and** cannot attend the hearing or appear by videoconference, the court must have the person who signs the certificate to excuse the proposed **adult** ward from attending the hearing meet with the proposed **adult** ward and report back to the court regarding the proposed **adult** ward's desire for representation at the hearing, preferences if a guardianship is imposed and any information the person believes may have limited any of the proposed **adult** ward's responses.

Existing law provides that a guardian must file with the court annually, or at such other times the court deems appropriate, a written report on the condition of the ward and the exercise of authority and the performance of duties by the guardian. (NRS 159.081) **Section ~~[4]~~ 6** of this bill: (1) provides that a guardian must also file with the court a report within 10 days of moving a ward to a **secured** residential **long-term care** facility **; ~~[which provides long-term care and which restricts the ward from leaving the facility without supervision;]~~** and (2) **~~[establishes procedures for the handling of such a report following its filing.]~~ authorizes the court to determine the form and contents of such a report.**

Section ~~[5]~~ 7 of this bill requires a guardian to petition the court and receive the court's consent before moving a ward into a **secured** residential **long-term care** facility **. ~~[which provides long-term care and restricts the ward from leaving the facility without supervision.]~~** However, a guardian does not need to petition the court if the court has already granted the guardian the authority to move the ward to such a facility or if a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of the county's office of protective services recommends the transfer in writing. (NRS 159.113)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. "Secured residential long-term care facility" means a residential facility providing long-term care that is designed to restrict a resident of the facility from leaving the facility, a part of the facility or the grounds of the facility through the use of locks or other mechanical means unless the resident is accompanied by a staff member of the facility or another person authorized by the facility or the guardian.

2. The term does not include a residential facility providing long-term care which uses procedures or mechanisms only to track the location or actions of a resident or to assist a resident to perform the normal activities of daily living.

Sec. 2. **NRS 159.013 is hereby amended to read as follows:**

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, ***and section 1 of this act,*** have the meanings ascribed to them in those sections.

~~[Section 1.]~~ ***Sec. 3.*** NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving

compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;

(2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

3. Before the court makes a finding pursuant to NRS 159.054, [the] a petitioner seeking a guardian for a proposed adult ward must provide the court with an assessment of the needs of the proposed adult ward completed by a licensed physician which identifies the limitations of capacity of the proposed adult ward and how such limitations affect the ability of the proposed adult ward to maintain his safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed adult ward must be filed.

[Sec. 2.**]** ***Sec. 4.*** NRS 159.0485 is hereby amended to read as follows:

159.0485 1. ***At the first hearing for the appointment of a guardian [,] for a proposed adult ward, the court shall advise [a] the proposed adult ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding. If the proposed adult ward is not in attendance at the hearing because the proposed adult ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the person who signs the certificate pursuant to NRS 159.0535 to excuse the proposed adult ward from attending the hearing shall advise the proposed adult ward of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding.***

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel, at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney must represent the adult ward or proposed adult ward until relieved of the duty by court order.

[2.**]** ***3.*** Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation which must be paid from the estate of the adult ward or proposed adult ward. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

[Sec. 3.**]** ***Sec. 5.*** NRS 159.0535 is hereby amended to read as follows:

159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician who is licensed to practice in this State specifically states the condition of the proposed ward ***,*** ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[.]~~ ***and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward;*** or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward ***,*** ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[.]~~ ***and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward.***

2. ***A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward is an adult and cannot attend by videoconference, the person who signs the certificate*** ~~*[pursuant to]*~~ ***described in subsection 1 shall:***

(a) Inform the proposed adult ward that the petitioner ~~*[wishes to become the]*~~ ***is requesting that the court appoint a guardian*** ~~*[of]*~~ ***for the proposed adult ward;***

(b) Ask the proposed adult ward for a response to the guardianship petition;

(c) Inform the proposed adult ward of his right to counsel and ask whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding; and

(d) Ask the preferences of the proposed adult ward for the appointment of a particular person as his guardian.

3. ~~*[The]*~~ ***If the proposed ward is an adult, the person who signs the certificate*** ~~*[pursuant to]*~~ ***described in subsection 1 shall state in the certificate:***

(a) That the proposed adult ward has been advised of his right to counsel and asked whether he wishes to be represented by counsel in the guardianship proceeding;

(b) The responses of the proposed adult ward to the questions asked pursuant to subsection 2; and

(c) Any conditions that the person believes may have limited the responses by the proposed adult ward.

4. The court may prescribe the form in which the certificate must be filed. If the certificate consists of separate parts, each part must be signed by ~~*[the]*~~ ***a person*** ~~*[executing the certificate pursuant to]*~~ ***identified in subsection 1.***

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

~~[Sec. 4.]~~ ***Sec. 6.*** NRS 159.081 is hereby amended to read as follows:

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian; ~~[and]~~

(b) ***Within 10 days of moving a ward to a secured residential long-term care facility ;*** ~~*[which provides long-term care and restricts the ward from leaving the facility without supervision;]*~~ ***and***

(c) At such other times as the court may order.

2. ***A report filed pursuant to paragraph (b) of subsection 1 must:***

(a) Include a copy of the written recommendation upon which the transfer was made; and

(b) Be served, without limitation, on the attorney for the ward, if any . ~~*[, and on the nearest advocate for residents of facilities for long-term care within the Aging Services Division of the Department of Health and Human Services; and*~~

~~*(c) Be accompanied by the form prescribed by the court which allows the guardian to indicate whether or not the guardian consents to have the Aging Services Division interview the ward and prepare and transmit a report to the court concerning the transfer of the ward.*~~

~~*3. If the guardian consents to the preparation and transmittal of the report to the court, the Aging Services Division shall prepare the report and transmit the report to the court, the guardian and the attorney for the ward, if any. In preparing the report, the Division is not required to review generally whether the ward's transfer exceeded the services provided to residents pursuant to NRS 427A.135.]*~~

3. The court may prescribe the form and contents for filing a report described in subsection 1.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

~~[3.]~~ ***5.*** The court is not required to hold a hearing or enter an order regarding the report.

~~[Sec. 5.]~~ ***Sec. 7.*** NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Change the state of residence or domicile of the ward.

(k) Exercise the right of the ward to take under or against a will.

(l) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(m) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(n) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(o) Except as otherwise provided in subsection 6, move the ward into a secured residential long-term care facility . ~~*[which provides long-term care and which restricts the ward from leaving the facility without supervision.]*~~

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional

orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

6. Without filing a petition pursuant to paragraph (o) of subsection 1, a guardian may move a ward into a secured residential long-term care facility [which provides long-term care and which restricts the ward from leaving the facility without supervision] if:

(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or

(b) The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.

7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.

Assemblyman Anderson moved that the Assembly do not concur in Senate Amendment No. 694 to Assembly Bill No. 320.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 871.

SUMMARY—Revises provisions relating to **[**guardianships.**]** **protection of persons.** (BDR 13-906)

AN ACT relating to **[**guardianships;**]** **protection of persons;** requiring additional information in a petition for appointment of a guardian under certain circumstances; requiring that a proposed adult ward be advised of his right to counsel; revising provisions relating to the attendance of a proposed adult ward at a guardianship hearing; requiring a guardian to petition a court before moving a ward into certain residential facilities under certain circumstances; making various other changes relating to guardianships; **authorizing patients of certain facilities to install electronic surveillance devices in the room of the patient under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill requires that a petitioner for the appointment of a guardian for a proposed adult ward provide the court with an assessment completed by a licensed physician of the proposed adult ward's needs and limitations in capacity before the court makes a final order in the case. (NRS 159.044)

Section 4 of this bill provides that a proposed adult ward must be advised of his right to counsel in the guardianship proceeding and requires that certain information or responses provided by the adult ward relating to his right to counsel and to the proceeding be transmitted to the court. (NRS 159.0485)

Existing law provides that a proposed ward found in this State must attend a hearing for the appointment of a guardian unless a certificate is signed indicating the reasons the proposed ward cannot appear. (NRS 159.0535) **Section 5** of this bill provides that a proposed ward who is unable to attend a hearing for the appointment of a general or special guardian may attend by videoconference. **Section 5** further provides that if a proposed ward is an adult and cannot attend the hearing or appear by videoconference, the court must have the person who signs the certificate to excuse the proposed adult ward from attending the hearing meet with the proposed adult ward and report back to the court regarding the proposed adult ward's desire for representation at the hearing, preferences if a guardianship is imposed and any information the person believes may have limited any of the proposed adult ward's responses.

Existing law provides that a guardian must file with the court annually, or at such other times the court deems appropriate, a written report on the condition of the ward and the exercise of authority and the performance of duties by the guardian. (NRS 159.081) **Section 6** of this bill: (1) provides that a guardian must also file with the court a report within 10 days of moving a ward to a secured residential long-term care facility; and (2) authorizes the court to determine the form and contents of such a report.

Section 7 of this bill requires a guardian to petition the court and receive the court's consent before moving a ward into a secured residential long-term care facility. However, a guardian does not need to petition the court if the court has already granted the guardian the authority to move the ward to such a facility or if a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of the county's office of protective services recommends the transfer in writing. (NRS 159.113)

Section 10 of this bill establishes the right of a patient or a person authorized to act on behalf of a patient who resides in a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups to install and operate a monitoring device in the room of the patient. Section 10 also prescribes the required waivers that must be obtained from the patient or the person authorized to act on his behalf who is installing the device and from each patient who also resides in the room or a person authorized to act on the patient's behalf.

Section 12 of this bill requires that the monitoring device be installed in a manner that is safe for the residents, employees and visitors to the room, that the monitoring device be installed in compliance with all applicable regulations and codes, and that all monitoring be conducted in plain view. Section 13 of this bill sets forth the conditions under which a video recording from such a monitoring device may be admitted into evidence in a civil or criminal court action or in an administrative proceeding.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. "Secured residential long-term care facility" means a residential facility providing long-term care that is designed to restrict a resident of the facility from leaving the facility, a part of the facility or the grounds of the facility through the use of locks or other mechanical means unless the resident is accompanied by a staff member of the facility or another person authorized by the facility or the guardian.

2. The term does not include a residential facility providing long-term care which uses procedures or mechanisms only to track the location or actions of a resident or to assist a resident to perform the normal activities of daily living.

Sec. 2. NRS 159.013 is hereby amended to read as follows:

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, ***and section 1 of this act,*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;

(2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

3. Before the court makes a finding pursuant to NRS 159.054, a petitioner seeking a guardian for a proposed adult ward must provide the court with an assessment of the needs of the proposed adult ward completed by a licensed physician which identifies the limitations of capacity of the proposed adult ward and how such limitations affect the ability of the proposed adult ward to maintain his safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed adult ward must be filed.

Sec. 4. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. ***At the first hearing for the appointment of a guardian for a proposed adult ward, the court shall advise the proposed adult ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding. If the proposed adult ward is not in attendance at the hearing because the proposed adult ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the person who signs the certificate pursuant to NRS 159.0535 to excuse the proposed adult ward from attending the hearing shall advise the proposed adult ward of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding.***

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel, at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if

available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney must represent the adult ward or proposed adult ward until relieved of the duty by court order.

~~[2.]~~ ***3.*** Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation which must be paid from the estate of the adult ward or proposed adult ward. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

Sec. 5. NRS 159.0535 is hereby amended to read as follows:

159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician who is licensed to practice in this State specifically states the condition of the proposed ward ***,*** ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[.]~~ ***and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward;*** or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward ***,*** ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[.]~~ ***and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward.***

2. ***A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward is an adult and cannot attend by videoconference, the person who signs the certificate described in subsection 1 shall:***

(a) Inform the proposed adult ward that the petitioner is requesting that the court appoint a guardian for the proposed adult ward;

(b) Ask the proposed adult ward for a response to the guardianship petition;

(c) Inform the proposed adult ward of his right to counsel and ask whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding; and

(d) Ask the preferences of the proposed adult ward for the appointment of a particular person as his guardian.

3. If the proposed ward is an adult, the person who signs the certificate described in subsection 1 shall state in the certificate:

(a) That the proposed adult ward has been advised of his right to counsel and asked whether he wishes to be represented by counsel in the guardianship proceeding;

(b) The responses of the proposed adult ward to the questions asked pursuant to subsection 2; and

(c) Any conditions that the person believes may have limited the responses by the proposed adult ward.

4. The court may prescribe the form in which the certificate must be filed. If the certificate consists of separate parts, each part must be signed by a person identified in subsection 1.

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

Sec. 6. NRS 159.081 is hereby amended to read as follows:

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian; ~~[and]~~

(b) ***Within 10 days of moving a ward to a secured residential long-term care facility; and***

(c) At such other times as the court may order.

2. ***A report filed pursuant to paragraph (b) of subsection 1 must:***

(a) Include a copy of the written recommendation upon which the transfer was made; and

(b) Be served, without limitation, on the attorney for the ward, if any.

3. The court may prescribe the form and contents for filing a report described in subsection 1.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

~~[3.]~~ ***5.*** The court is not required to hold a hearing or enter an order regarding the report.

Sec. 7. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Change the state of residence or domicile of the ward.

(k) Exercise the right of the ward to take under or against a will.

(l) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(m) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(n) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(o) Except as otherwise provided in subsection 6, move the ward into a secured residential long-term care facility.

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

6. Without filing a petition pursuant to paragraph (o) of subsection 1, a guardian may move a ward into a secured residential long-term care facility if:

(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or

(b) The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.

7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.

Sec. 8. **Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 to 13, inclusive, of this act.**

Sec. 9. ***As used in sections 9 to 13, inclusive, of this act, "monitoring device" means a video surveillance instrument that broadcasts or records activity. The term does not include a camera used to take still photographs.***

Sec. 10. ***1. A patient of a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups, or the person authorized pursuant to subsection 6 to act on his behalf may install and operate a monitoring device in the room of the patient if:***

(a) The patient or the person acting on his behalf pays the expense of installing, operating and maintaining the monitoring device; and

(b) The waivers required pursuant to subsection 2 have been signed.

2. Before a monitoring device may be installed in the room of a patient pursuant to this section, a written waiver must be obtained from each patient who resides in the room in which the monitoring device will be installed and operated, or the person authorized pursuant to subsection 6 to act on the patient's behalf, including the patient or the person acting on his behalf who is installing the monitoring device. Each written waiver must include:

(a) Consent to the installation and operation of the monitoring device;

(b) A description of the type of monitoring device that will be installed;

(c) A description of whether the monitoring device will be in continuous operation in the room or if not, the prescribed circumstances under which the monitoring device will not be in operation to protect the dignity of a patient;

(d) Any conditions on the use of the device that another resident of the room requires as a condition to his consent;

(e) An acknowledgment that the patient or the person authorized pursuant to subsection 6 to act on his behalf releases the facility from any liability for violations of the right to privacy of the person who resides in the room in which the monitoring device is operated; and

(f) An acknowledgment that the patient or the person authorized pursuant to subsection 6 to act on his behalf releases the person who operates the monitoring device from violations of the right to privacy relating to reasonable disclosures of the activities broadcast or recorded by the monitoring device.

3. A patient or a person authorized pursuant to subsection 6 to act on his behalf who is not installing and operating the monitoring device but

who provides his consent for operation of the monitoring device in the room may, as a condition to his consent, require that the monitoring device be pointed away from the patient who is not installing and operating the monitoring device at all times.

4. If a monitoring device is in operation in a room and another patient is moved into the room who has not yet consented to the operation of the monitoring device, the monitoring must cease until the new resident of the room or the person authorized pursuant to subsection 6 to act on his behalf provides consent pursuant to this section.

5. A patient or a person authorized pursuant to subsection 6 to act on his behalf who signs a waiver pursuant to subsection 2:

(a) Releases the facility from liability for any violation of the right to privacy of the patient with regard to operation of a monitoring device.

(b) Releases the person who operates a monitoring device from any violation of the right to privacy relating to reasonable disclosures of the activities broadcast or recorded by the monitoring device.

(c) May revoke his signature and reinstate the right to privacy of the patient at any time. Such revocation must be in writing and signed by the patient or a person authorized pursuant to subsection 6 to act on his behalf.

6. If a patient lacks the mental capacity to consent to the installation and operation of a monitoring device pursuant to the provisions of this section:

(a) The guardian, attorney-in-fact designated pursuant to NRS 449.800 to 449.860, inclusive, or other legal representative of the patient may sign the waiver required pursuant to subsection 2 on behalf of the patient; or

(b) If a guardian, attorney-in-fact or other legal representative has not been designated for the patient, a member of the family of the patient may sign the waiver required pursuant to subsection 2 on behalf of the patient.

Sec. 11. 1. At the time of admission, a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall notify a patient or the person authorized to act on his behalf pursuant to subsection 6 of section 10 of this act of the right to install and operate a monitoring device pursuant to sections 9 to 13, inclusive, of this act. A facility shall not:

(a) Deny the admission of;

(b) Discharge from the facility; or

(c) Otherwise discriminate or retaliate against,

➥ a patient who wishes to have or has a monitoring device installed and operated in his room.

2. A facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall:

(a) Cooperate with a patient or the person authorized to act on his behalf pursuant to subsection 6 of section 10 of this act to accommodate the installation of a monitoring device in the room of the patient;

(b) Post a notice at each public entrance to the facility stating that the rooms of some of the residents may be under electronic surveillance by or on behalf of the residents; and

(c) Post a notice in a conspicuous place at the entrance to each room in which a monitoring device is in use stating that the room is under electronic surveillance.

Sec. 12. 1. A monitoring device that is used pursuant to sections 9 to 13, inclusive, of this act must be installed in a manner that:

(a) Is safe for the residents, employees and visitors of the facility who may be in the room in which the monitoring device is installed.

(b) Complies with all applicable regulations and codes, including, without limitation, all building codes, health codes, and safety codes for the jurisdiction in which the facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility is located.

2. All monitoring authorized pursuant to sections 9 to 13, inclusive, of this act must be conducted in plain view.

Sec. 13. 1. Subject to the applicable rules of evidence and procedure and the provisions of this section, a video recording created through the use of a monitoring device that is installed and operated in accordance with sections 9 to 13, inclusive, of this act may be admitted into evidence in a civil or criminal court action or in an administrative proceeding if the contents of the video recording have not been edited, artificially enhanced or otherwise tampered with.

2. The video recording must not be admitted pursuant to subsection 1 unless the recording clearly shows the date and time of the events that are the subject of the action or proceeding.

3. If the contents of the video recording have been transferred from the original format to another technological format, the video recording in the transferred format must not be admitted pursuant to subsection 1 unless the transfer was done by qualified personnel and the contents of the video recording were not altered or otherwise tampered with.

Sec. 14. **Each facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall, on or before October 1, 2009, notify each patient who resides in the facility on that date or the person authorized to act on behalf of the patient pursuant to subsection 6 of section 10 of this act of the right of the patient or the person authorized to act on his behalf to install and operate a monitoring device pursuant to the provisions of sections 9 to 13, inclusive, of this act.**

Assemblyman Anderson moved that the Assembly do not concur in Senate Amendment No. 871 to Assembly Bill No. 320.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered transmitted to the Senate.

Assembly Bill No. 152.

The following Senate amendment was read:

Amendment No. 770.

AN ACT relating to mortgage lending; defining the term "loan modification consultant"; requiring certain mortgage lending professionals to be licensed ~~[as a mortgage agent or mortgage broker;]~~ **; establishing certain requirements for the provision of services by certain mortgage lending professionals; establishing provisions governing compensation of certain mortgage lending professionals; establishing certain powers of the Commissioner of Mortgage Lending; revising provisions relating to the imposition of certain fees and assessments on certain mortgage lending professionals;** revising the definition of "homeowner" as it applies to services performed by certain mortgage lending professionals; revising provisions governing the applicability of requirements regarding foreclosure consultants and loan modification consultants; ~~[revising provisions governing compensation of foreclosure consultants;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill defines the term "loan modification consultant."

Existing law does not currently require a foreclosure consultant to be licensed. (NRS 645F.300-645F.450) **Section 3** of this bill requires **the Commissioner of Mortgage Lending to adopt separate regulations for the licensing of** a person who performs any of a variety of specified services for compensation, a foreclosure consultant and a loan modification consultant **.** ~~[to be licensed under the provisions of chapter 645B of NRS, which governs mortgage brokers and mortgage agents. This licensing requirement makes such persons subject to the regulatory and penalty provisions set forth in chapter 645B of NRS.]~~

Section 3.1 of this bill requires such persons to execute a written contract with a homeowner before providing certain services for compensation. Section 3.1 also requires the Commissioner to adopt regulations describing the information that must be contained in such a written contract.

Sections 3.3 and 6.5 of this bill require a person who performs certain services for compensation, a foreclosure consultant and a loan modification consultant to deposit any money received as compensation for the performance of certain services in a trust account. Section 3.3 also requires such persons to maintain certain records regarding such trust accounts and prohibits withdrawals from such trust accounts until the completion of certain services as agreed upon in a written contract for the performance of such services. Section 3.3 further authorizes the Commissioner or his authorized agents to inspect and audit the records associated with the trust accounts.

Section 3.5 of this bill grants certain additional powers to the Commissioner with regard to the conduct of any examination, periodic or special audit, investigation or hearing.

Section 3.7 of this bill requires the Commissioner to adopt regulations to establish rates to be paid by a person who performs certain services for compensation, a foreclosure consultant and a loan modification consultant for supervision and examinations by the Commissioner or the Division of Mortgage Lending of the Department of Business and Industry. (NRS 645F.280) Section 3.9 of this bill requires the Commissioner to collect an assessment from such persons for deposit in the Fund for Mortgage Lending. (NRS 645F.290)

Section 5 of this bill revises the definition of "homeowner" as it applies to services performed by foreclosure consultants by expanding the definition to include any record owner of residence, rather than only the record owner of a residence in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded or the notice of default and election to sell is recorded. (NRS 645F.360)

Section 6 of this bill provides that an attorney at law is exempt from the provisions governing a person who performs any covered service for compensation, a loan modification consultant, a foreclosure consultant or a foreclosure purchaser unless the services rendered by the attorney are performed in the course and scope of his employment by or other affiliation with a mortgage broker or mortgage agent. (NRS 645F.380)

Section 6.5 of this bill ~~[clarifies that a foreclosure consultant is prohibited from claiming, demanding, charging, collecting or receiving any compensation until after the foreclosure consultant has fully performed every covered service he contracted to perform or represented he would perform, rather than after the performance of any individual service.]~~ **provides that the violation of certain provisions by such persons shall be deemed to constitute mortgage lending fraud, as that term is described in NRS 205.372.** (NRS 645F.400)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[and 3]~~ **to 3.5, inclusive,** of this act.

Sec. 2. ***"Loan modification consultant" means a person who, directly or indirectly, makes any solicitation, representation or offer to a homeowner to perform for compensation, or who, for compensation, performs any act that the person represents will adjust the terms of a mortgage loan in a manner not provided for in the original or previously modified mortgage loan. Such an adjustment includes, without limitation:***

1. A change in the payment amount;

2. A change in the loan amount;

3. A loan forbearance;

4. A change in the loan maturity; and

5. A change in the interest rate.

Sec. 3. ~~*[A]*~~

1. The Commissioner shall adopt separate regulations for the licensing of:

(a) A person who performs any covered service for compensation ~~*[, a]*~~ *;*

(b) A foreclosure consultant ~~*[and a]*~~ *; and*

(c) A loan modification consultant . ~~[must be licensed pursuant to chapter 645B of NRS in the following manner:~~

~~*1. As a mortgage broker; or*~~

~~*2. If the person:*~~

~~*(a) Is an employee or independent contractor of a foreclosure consultant or loan modification consultant; and*~~

~~*(b) Is authorized by the foreclosure consultant or loan modification consultant to engage in, on behalf of the foreclosure consultant or loan modification consultant, any activity that would require the person, if he were not an employee or independent contractor of the foreclosure consultant or loan modification consultant, to be licensed pursuant to subsection 1,*~~

~~*as a mortgage agent.]*~~

2. The regulations must prescribe, without limitation:

(a) The method and form of application for a license;

(b) The method and form of the issuance, denial or renewal of a license;

(c) The grounds and procedures for the revocation, suspension or nonrenewal of a license; and

(d) The imposition of reasonable fees for application and licensure.

Sec. 3.1. 1. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall execute a written contract with a homeowner before providing any covered service.

2. The Commissioner shall adopt regulations describing the information that must be contained in a written contract for covered services.

Sec. 3.3. 1. All money paid to a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant by a person in full or partial payment of covered services to be performed:

(a) Must be deposited in a separate checking account located in a federally insured depository financial institution or credit union in this State which must be designated a trust account;

(b) Must be kept separate from money belonging to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant; and

(c) Must not be withdrawn by the person who performs any covered service for compensation, foreclosure consultant or loan modification

consultant until the completion of every covered service as agreed upon in the contract for covered services.

2. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall keep records of all money deposited in a trust account pursuant to subsection 1. The records must clearly indicate the date and from whom he received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall balance each separate trust account at least monthly and provide to the Commissioner, on a form provided by the Commissioner, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Commissioner and his authorized representatives.

3. Each person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant shall notify the Commissioner of the names of the banks and credit unions in which he maintains trust accounts and specify the names of the accounts on forms provided by the Commissioner.

4. As used in this section, "completion of every covered service" means:

(a) Successful results with respect to what the performance of each covered service was intended to yield for the homeowner, as described in the contract for covered services; or

(b) If the performance of one or more covered service has an unsuccessful result with respect to what the performance of that covered service was intended to yield for the homeowner, a showing that every reasonable effort was made, under the particular circumstances, to obtain successful results,

➥ as verified in a written statement provided to the homeowner.

Sec. 3.5. 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) Administer oaths.

(c) Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.

Sec. 3.7. **NRS 645F.280 is hereby amended to read as follows:**

645F.280 1. The Commissioner shall establish by regulation rates to be paid by escrow agencies, mortgage agents, mortgage brokers**,** ~~[and]~~ mortgage bankers ***, persons who perform any covered service for compensation, foreclosure consultants and loan modification consultants*** for supervision and examinations by the Commissioner or the Division.

2. In establishing a rate pursuant to subsection 1, the Commissioner shall consider:

(a) The complexity of the various examinations to which the rate applies;

(b) The skill required to conduct the examinations;

(c) The expenses associated with conducting the examination and preparing a report; and

(d) Any other factors the Commissioner deems relevant.

Sec. 3.9. **NRS 645F.290 is hereby amended to read as follows:**

645F.290 1. The Commissioner shall collect an assessment pursuant to this section from each:

(a) Escrow agency that is supervised pursuant to chapter 645A of NRS;

(b) Mortgage broker that is supervised pursuant to chapter 645B of NRS; ~~[and]~~

(c) Mortgage banker that is supervised pursuant to chapter 645E of NRS ~~[.]~~ ***; and***

(d) Person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant that is supervised pursuant to this chapter.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) An equal basis; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 4. NRS 645F.300 is hereby amended to read as follows:

645F.300 As used in NRS 645F.300 to 645F.450, inclusive, ***and sections 2 ~~[and 3]~~ to 3.5, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 645F.310 to 645F.370, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. NRS 645F.360 is hereby amended to read as follows:

645F.360 "Homeowner" means the record owner of a residence ***, including, without limitation, the record owner of a residence*** in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded pursuant to NRS 14.010 or the notice of default and election to sell is recorded pursuant to NRS 107.080.

Sec. 6. NRS 645F.380 is hereby amended to read as follows:

645F.380 The provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 ~~[and 3]~~ to 3.5, inclusive, of this act*** do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. An attorney at law rendering services in the performance of his duties as an attorney at law ~~[;]~~ ***, unless the attorney at law is rendering those services in the course and scope of his employment by or other affiliation with a mortgage broker or mortgage agent;***

2. A person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;

3. ~~[A person licensed as a real estate broker, broker-salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;~~

~~4.]~~ A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;

~~[5.]~~ ***4.*** A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

~~[6.]~~ ***5.*** Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

~~[~~7.~~]~~ ***6.*** A person ***, other than a ~~[mortgage agent or mortgage broker,]~~ person who is licensed pursuant to section 3 of this act, who is*** licensed ~~[~~as an escrow agent, title agent, mortgage agent, mortgage broker or mortgage banker~~]~~ pursuant to ***chapter 692A or any*** chapter ~~[~~645A, 692A, 645B or 645E~~]~~ ***of title 54*** of NRS ~~[~~, respectively,~~]~~ while acting under the authority of his license;

~~[~~8.~~]~~ ***7.*** A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

~~[~~9.~~]~~ ***8.*** A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

Sec. 6.5. NRS 645F.400 is hereby amended to read as follows:

645F.400 ***1.*** A ***person who performs any covered service, a*** foreclosure consultant ***and a loan modification consultant*** shall not:

~~[~~ ~~1. Claim,~~]

(a) Claim, demand, charge, collect or receive any compensation ~~[~~until after the foreclosure consultant has fully performed~~]~~ ~~[~~each~~]~~ ~~*[every*~~ covered service that he contracted to perform or represented he would perform.

~~2.~~]~~ ***except in accordance with section 3.3 of this act.***

(b) Claim, demand, charge, collect or receive any fee, interest or other compensation for any reason which is not fully disclosed to the homeowner.

~~[~~3.~~]~~ ***(c)*** Take any wage assignment, lien on real or personal property, assignment of a homeowner's equity or other interest in a residence in foreclosure or other security for the payment of compensation. Any such security is void and unenforceable.

~~[~~4.~~]~~ ***(d)*** Receive any consideration from any third party in connection with a covered service provided to a homeowner unless the consideration is first fully disclosed to the homeowner.

~~[~~5.~~]~~ ***(e)*** Acquire, directly or indirectly, any interest in the residence in foreclosure of a homeowner with whom the foreclosure consultant has contracted to perform a covered service.

~~[~~6.~~]~~ ***(f)*** Accept a power of attorney from a homeowner for any purpose, other than to inspect documents as provided by law.

2. In addition to any other penalty, a violation of any provision of this section shall be deemed to constitute mortgage lending fraud for the purposes of NRS 205.372.

Sec. 7. NRS 645F.430 is hereby amended to read as follows:

645F.430 A foreclosure purchaser who engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 ~~[and 3]~~ to 3.5, inclusive, of this act,*** including, without limitation, a foreclosure reconveyance, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for

not more than 1 year, or by a fine of not more than $50,000, or by both fine and imprisonment.

Sec. 8. NRS 645F.440 is hereby amended to read as follows:

645F.440 1. In addition to the penalty provided in NRS 645F.430 and except as otherwise provided in subsection 5, if a foreclosure purchaser engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 ~~[and 3]~~ to 3.5, inclusive, of this act,*** including, without limitation, a foreclosure reconveyance, the transaction in which the foreclosure purchaser acquired title to the residence in foreclosure may be rescinded by the homeowner within 2 years after the date of the recording of the conveyance.

2. To rescind a transaction pursuant to subsection 1, the homeowner must give written notice to the foreclosure purchaser and a successor in interest to the foreclosure purchaser, if the successor in interest is not a bona fide purchaser, and record that notice with the recorder of the county in which the property is located. The notice of rescission must contain:

(a) The name of the homeowner, the foreclosure purchaser and any successor in interest who holds title to the property; and

(b) A description of the property.

3. Within 20 days after receiving notice pursuant to subsection 2:

(a) The foreclosure purchaser and the successor in interest, if the successor in interest is not a bona fide purchaser, shall reconvey to the homeowner title to the property free and clear of encumbrances which were created subsequent to the rescinded transaction and which are due to the actions of the foreclosure purchaser; and

(b) The homeowner shall return to the foreclosure purchaser any consideration received from the foreclosure purchaser in exchange for the property.

4. If the foreclosure purchaser has not reconveyed to the homeowner title to the property within the period described in subsection 3, the homeowner may bring an action to enforce the rescission in the district court of the county in which the property is located.

5. A transaction may not be rescinded pursuant to this section if the foreclosure purchaser has transferred the property to a bona fide purchaser.

6. As used in this section, "bona fide purchaser" means any person who purchases an interest in a residence in foreclosure from a foreclosure purchaser in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the foreclosure purchaser engaged in conduct which violates subsection 1.

Sec. 9. NRS 645F.450 is hereby amended to read as follows:

645F.450 The rights, remedies and penalties provided pursuant to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 ~~[and 3]~~ to 3.5, inclusive, of this act*** are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in

equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 645F.430.

Sec. 10. NRS 205.372 is hereby amended to read as follows:

205.372 1. A person who, with the intent to defraud a participant in a mortgage lending transaction:

(a) Knowingly makes a false statement or misrepresentation concerning a material fact or deliberately conceals or fails to disclose a material fact;

(b) Knowingly uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or deliberately uses or facilitates the use of another person's concealment or failure to disclose a material fact;

(c) Receives any proceeds or any other money in connection with a mortgage lending transaction that the person knows resulted from a violation of paragraph (a) or (b);

(d) Conspires with another person to violate any of the provisions of paragraph (a), (b) or (c); or

(e) Files or causes to be filed with a county recorder any document that the person knows to include a misstatement, misrepresentation or omission concerning a material fact,

➥ commits the offense of mortgage lending fraud which is a category C felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, or by a fine of not more than $10,000, or by both fine and imprisonment.

2. A person who engages in a pattern of mortgage lending fraud or conspires or attempts to engage in a pattern of mortgage lending fraud is guilty of a category B felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, or by a fine of not more than $50,000, or by both fine and imprisonment.

3. Each mortgage lending transaction in which a person violates any provision of subsection 1 constitutes a separate violation.

4. Except as otherwise provided in this subsection, if a lender or any agent of the lender is convicted of the offense of mortgage lending fraud in violation of this section, the mortgage lending transaction with regard to which the fraud was committed may be rescinded by the borrower within 6 months after the date of the conviction if the borrower gives written notice to the lender and records that notice with the recorder of the county in which the mortgage was recorded. A mortgage lending transaction may not be rescinded pursuant to this subsection if the lender has transferred the mortgage to a bona fide purchaser.

5. The Attorney General may investigate and prosecute a violation of this section.

6. As used in this section:

(a) "Bona fide purchaser" means any person who purchases a mortgage in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the lender or any agent of the lender engaged in mortgage lending fraud in violation of this section.

(b) "Mortgage lending transaction" means any transaction between two or more persons for the purpose of making or obtaining, attempting to make or obtain, or assisting another person to make or obtain a loan that is secured by a mortgage or other lien on residential real property. The term includes, without limitation:

(1) The solicitation of a person to make or obtain the loan;

(2) The representation or offer to represent another person to make or obtain the loan;

(3) The negotiation of the terms of the loan;

(4) The provision of services in connection with the loan; and

(5) The execution of any document in connection with making or obtaining the loan.

(c) "Participant in a mortgage lending transaction" includes, without limitation:

(1) A borrower as defined in NRS 598D.020;

(2) An escrow agent as defined in NRS 645A.010;

(3) A foreclosure consultant as defined in NRS 645F.320;

(4) A foreclosure purchaser as defined in NRS 645F.330;

(5) An investor as defined in NRS 645B.0121;

(6) A lender as defined in NRS 598D.050;

(7) ***A loan modification consultant as defined in section 2 of this act;***

(8) A mortgage agent as defined in NRS 645B.0125;

~~[(8)]~~ ***(9)*** A mortgage banker as defined in NRS 645E.100; and

~~[(9)]~~ ***(10)*** A mortgage broker as defined in NRS 645B.0127.

(d) "Pattern of mortgage lending fraud" means one or more violations of a provision of subsection 1 committed in two or more mortgage lending transactions which have the same or similar intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

Sec. 10.5. **The Commissioner of Mortgage Lending shall adopt regulations required by sections 3 and 3.1 of this act and submit the regulations to the Legislative Commission for review within 90 days after the passage and approval of this act.**

Sec. 11. This act becomes effective ~~[on]~~ **:**

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory actions that are necessary to carry out the provisions of this act; and

2. On July 1, 2009 ~~[.]~~ **for all other purposes.**

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 152.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 162.

The following Senate amendment was read:

Amendment No. 699.

AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide an option of coverage for screening for and treatment of autism; authorizing the Board of Psychological Examiners to license behavior analysts and **assistant behavior analysts and to certify** autism behavior ~~[therapists;]~~ **interventionists; increasing the size of the Board of Psychological Examiners from five members to seven members;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures, including colorectal cancer screenings, cytological screening tests and mammograms, in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its employees. (NRS 608.1555) **Sections 1-8.5** of this bill require certain health care plans and policies of insurance to also provide an option **or a requirement, as applicable,** of coverage for the screening for, including the diagnosis of, and the treatment of autism spectrum disorders in certain circumstances.

Sections 12 ~~[and 13]~~ **-12.4 and 12.7-14.5** of this bill provide for the licensure of behavior analysts and **assistant behavior analysts and the certification of** autism behavior ~~[therapists]~~ **interventionists** by the Board of Psychological Examiners.

Sections 12.5 and 12.6 of this bill increase the size of the Board of Psychological Examiners from five members to seven members, adding one member who is a licensed behavior analyst and one member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.

The provisions of this bill apply prospectively to any policy of insurance or health care plan issued or renewed on or after January 1, 2011.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must provide an option of coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders for persons covered by the policy under the age of 18 or, if enrolled in high school, ~~[under]~~ until the person reaches the age of ~~[21.]~~ 22.

2. Optional coverage provided pursuant to this section must be subject to:

(a) A maximum benefit of not less than $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusions or limitations of a policy of health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. ~~[An insurer]~~ A health benefit plan that offers or issues a policy of health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for optional coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, an insurer who offers optional coverage pursuant to subsection 1 shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

7. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst [~~or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.~~] , licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

[~~(e)~~] (f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

[~~(f)~~] (g) "Licensed [~~autism~~] assistant behavior [~~therapist"~~] analyst" means a person who [~~is~~] holds current certification or meets the standards to be certified as [~~an autism~~] a board certified assistant behavior [~~therapist~~] analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst [~~.~~] or psychologist.

[~~(g)~~] (h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor

in interest to that organization , and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(h)]~~ (i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

~~[(i)]~~ (j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

~~[(j)]~~ (k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

~~[(k)]~~ (l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

~~[(l)]~~ (m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

~~[(m)]~~ (n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~[is]~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 2. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 3. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the policy of group health insurance under the age of 18 or, if enrolled in high school, ~~[under]~~ until the person reaches the age of ~~[21.]~~ 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a policy of group health insurance ~~[policy]~~ to the same extent as other medical services or prescription drugs covered by the policy.

3. ~~[An insurer]~~ A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~[or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.]~~ , licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(e)]~~ (f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(f)]~~ (g) "Licensed ~~[autism]~~ assistant behavior ~~[therapist"]~~ analyst" means a person who ~~[is]~~ holds current certification or meets the standards to be certified as ~~[an autism]~~ a board certified assistant behavior ~~[therapist]~~ analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst ~~[.]~~ or psychologist.

~~[(g)]~~ (h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(h)]~~ (i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

~~[(i)]~~ (j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

~~[(j)]~~ **(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.**

~~[(k)]~~ **(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.**

~~[(l)]~~ **(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.**

~~[(m)]~~ **(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~[is]~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.**

Sec. 3.5. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the ~~[policy of group]~~ health ~~[insurance]~~ benefit plan under the age of 18 or, if enrolled in high school, ~~[under]~~ until the person reaches the age of ~~[21.]~~ 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health ~~[insurance policy]~~ benefit plan to the same extent as other medical services or prescription drugs covered by the ~~[policy.]~~ plan.

3. ~~[An insurer]~~ A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the ~~[policy;]~~ plan; or

(b) Refuse to issue a ~~[policy of group]~~ health ~~[insurance]~~ benefit plan or cancel a ~~[policy of group]~~ health ~~[insurance]~~ benefit plan solely because the person applying for or covered by the ~~[policy]~~ plan uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, ~~[an insurer]~~ a carrier shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ *~~[An insurer]~~ A carrier may request a copy of and review a treatment plan created pursuant to this subsection.*

6. A ~~[policy]~~ health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the ~~[policy]~~ plan or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring ~~[an insurer]~~ a carrier to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~[or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.]~~ , licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(e)]~~ ***(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.***

~~[(f)]~~ ***(g) "Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.***

(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(g) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.~~

~~(h)~~ ***(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.***

~~[(i)]~~ ***(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.***

~~[(j)]~~ ***(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.***

~~[(k)]~~ ***(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.***

~~[(l)]~~ ***(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.***

~~[(m)]~~ ***(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~[is]~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.***

Sec. 4. (Deleted by amendment.)

Sec. 5. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a health maintenance organization must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, ~~[under]~~ until the person reaches the age of ~~[21.]~~ 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health ~~[insurance policy]~~ care plan to the same extent as other medical services or prescription drugs covered by the ~~[policy.]~~ plan.

3. A health care plan issued by a health maintenance organization that provides coverage for outpatient care shall not:

(a) Require an ~~[insured]~~ enrollee to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, a health maintenance organization shall not limit the number of visits an ~~[insured]~~ enrollee may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ ~~[An insurer]~~ A health maintenance organization may request a copy of and review a treatment plan created pursuant to this subsection.

6. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring ~~[an insurer]~~ a health maintenance organization to provide reimbursement to an early

intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst [or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.] , licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

[(e)] (f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

[(f)] (g) "Licensed [autism] assistant behavior [therapist"] analyst" means a person who [is] holds current certification or meets the standards to be certified as [an autism] a board certified assistant behavior [therapist] analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst [.] or psychologist.

[(g)] (h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board

certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

[(h)] (i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

[(i)] (j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

[(j)] (k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

[(k)] (l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

[(l)] (m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

[(m)] (n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and [is] may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 6. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.200, inclusive, ***and section 5 of this act,*** 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This

subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 7. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if he finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, ***and section 5 of this act,*** or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080; or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of final adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 8. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a managed care organization for group coverage must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, ~~[under]~~ until the person reaches the age of ~~[21.]~~ 22.

2. A health care plan issued by a managed care organization for individual coverage must provide an option for coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.

3. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health ~~[insurance policy]~~ care plan to the same extent as other medical services or prescription drugs covered by the ~~[policy.]~~ plan.

~~[3.]~~ 4. A managed care organization that offers or issues a health care plan which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

~~[4.]~~ 5. Except as provided in subsections 1 ~~[and 2,]~~ , 2 and 3, a managed care organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

~~[5.]~~ 6. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ ~~[An insurer]~~ A managed care organization may request a copy of and review a treatment plan created pursuant to this subsection.

~~[6.]~~ 7. An evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsections 1 or ~~[2]~~ 3 is void.

~~[7.]~~ 8. Nothing in this section shall be construed as requiring ~~[an insurer]~~ a managed care organization to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

~~[8.]~~ 9. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention

programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst ~~[or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.]~~ , licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(e)]~~ (f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(f)]~~ (g) "Licensed ~~[autism]~~ assistant behavior ~~[therapist"]~~ analyst" means a person who ~~[is]~~ holds current certification or meets the standards to be certified as ~~[an autism]~~ a board certified assistant behavior ~~[therapist]~~ analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst ~~[.]~~ or psychologist.

~~[(g)]~~ (h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(h)]~~ (i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

~~[(i)]~~ (j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

~~[(j)]~~ (k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

~~[(k)]~~ ***(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.***

~~[(l)]~~ ***(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.***

~~[(m)]~~ ***(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and ~~[is]~~ may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.***

Sec. 8.5. NRS 695G.090 is hereby amended to read as follows:

695G.090 1. Except as otherwise provided in subsection 3, the provisions of this chapter apply to each organization and insurer that operates as a managed care organization and may include, without limitation, an insurer that issues a policy of health insurance, an insurer that issues a policy of individual or group health insurance, a carrier serving small employers, a fraternal benefit society, a hospital or medical service corporation and a health maintenance organization.

2. In addition to the provisions of this chapter, each managed care organization shall comply with:

(a) The provisions of chapter 686A of NRS, including all obligations and remedies set forth therein; and

(b) Any other applicable provision of this title.

3. The provisions of NRS 695G.164, 695G.200 to 695G.230, inclusive, ~~[and]~~ 695G.430 ***and section 8 of this act*** do not apply to a managed care organization that provides health care services to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a managed care organization from any provision of this chapter for services provided pursuant to any other contract.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. Chapter 641 of NRS is hereby amended by adding thereto ~~[a new section to read]~~ **the provisions set forth** as ~~[follows:]~~ **sections 12.1, 12.2 and 12.3 of this act.**

Sec. 12.1. 1. Each application for certification as an autism behavior interventionist must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 18 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

2. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for certification as an autism behavior interventionist; and

(b) Issue a written statement to the applicant of its determination.

3. If the Board determines that the qualifications of the applicant are insufficient for certification, the written statement issued to the applicant pursuant to subsection 2 must include a detailed explanation of the reasons for that determination.

Sec. 12.2. The Board shall adopt regulations that establish the grounds for disciplinary action for a licensed behavior analyst , licensed assistant behavior analyst or certified autism behavior ~~[therapist.]~~ interventionist.

Sec. 12.3. 1. A licensed assistant behavior analyst shall not provide or supervise behavior therapy except under the supervision of:

(a) A licensed psychologist; or

(b) A licensed behavior analyst.

2. A certified autism behavior interventionist shall not provide behavior therapy except under the supervision of:

(a) A licensed psychologist;

(b) A licensed behavior analyst; or

(c) A licensed assistant behavior analyst.

Sec. 12.4. **NRS 641.020 is hereby amended to read as follows:**

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in ***section 1 of this act and*** NRS 641.021 to 641.027, inclusive, have the meanings ascribed to them in those sections.

Sec. 12.5. **NRS 641.030 is hereby amended to read as follows:**

641.030 The Board of Psychological Examiners, consisting of ~~[five]~~ ***seven*** members appointed by the Governor, is hereby created.

Sec. 12.6. **NRS 641.040 is hereby amended to read as follows:**

641.040 1. The Governor shall appoint to the Board:

(a) Four members who are licensed psychologists in the State of Nevada with at least 5 years of experience in the practice of psychology after being licensed.

(b) ***One member who is a licensed behavior analyst in the State of Nevada.***

(c) One member who has resided in this State for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.

(d) One member who is a representative of the general public.

2. A person is not eligible for appointment unless he is:

(a) A citizen of the United States; and

(b) A resident of the State of Nevada.

3. The member who is a representative of the general public:

(a) Shall not participate in preparing, conducting or grading any examination required by the Board.

(b) Must not be a psychologist, an applicant or former applicant for licensure as a psychologist, a member of a health profession, the spouse or the parent or child, by blood, marriage or adoption, of a psychologist, or a member of a household that includes a psychologist.

4. Board members must not have any conflicts of interest or the appearance of such conflicts in the performance of their duties as members of the Board.

Sec. 12.7. **NRS 641.100 is hereby amended to read as follows:**

641.100 The Board may make and promulgate rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination **, [and]** licensure ***and certification*** of applicants, the granting, refusal, revocation or suspension of licenses **[.]** ***and certificates*** and the practice of psychology.

Sec. 12.8. **NRS 641.110 is hereby amended to read as follows:**

641.110 The Board may, under the provisions of this chapter:

1. Examine and pass upon the qualifications of the applicants for licensure **[.]** ***and certification.***

2. License ***and certify*** qualified applicants.

3. Revoke or suspend licenses **[.]** ***and certificates.***

4. Collect all fees and make disbursements pursuant to this chapter.

Sec. 13. NRS 641.170 is hereby amended to read as follows:

641.170 1. Each application ***for licensure as a psychologist*** must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. ***Each application for licensure as a behavior analyst*** ~~*[or autism behavior therapist]*~~ ***must be accompanied by evidence satisfactory to the Board that the applicant:***

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a master's degree from an accredited college or university in a field of social science or special education approved by the Board.

(e) Has completed other education , [or] training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

3. Each application for licensure as an assistant behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a bachelor's degree from an accredited college or university in a field of social science or special education approved by the Board.

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

4. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure ***;*** ~~[~~as a psychologist;~~]~~ and

(b) Issue a written statement to the applicant of its determination.

~~[3.]~~ ***5.*** The written statement issued to the applicant pursuant to subsection ~~[2]~~ ~~[3]~~ ***4*** must include:

(a) If the Board determines that the qualifications of the applicant are insufficient for licensure, a detailed explanation of the reasons for that determination.

(b) If the applicant ***for licensure as a psychologist*** has not earned a doctorate in psychology from an accredited educational institution approved by the Board and the Board determines that his doctorate-level training from an accredited educational institution is not equivalent in subject matter and extent of training, a detailed explanation of the reasons for that determination.

Sec. 14. NRS 641.180 is hereby amended to read as follows:

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license ***as a psychologist*** must pass the Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board. In addition to this written

examination, the Board may require an oral examination in whatever applied or theoretical fields it deems appropriate.

2. The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.

3. The Board shall notify each applicant of the results of his written examination and supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.

4. If an applicant fails the examination, he may request in writing that the Board review his examination.

5. The Board may waive the requirement of a written examination for a person who:

(a) Is licensed in another state;

(b) Has 10 years experience; and

(c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 14.5. **NRS 641.370 is hereby amended to read as follows:**

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the written examination, in addition to the actual cost to the Board of the examination $100

For the special ~~[oral]~~ examination, in addition to the actual costs to the Board of the examination 100

For the issuance of an initial license ***or certificate*** 25

For the biennial renewal of a license ***of a psychologist*** 500

For the biennial renewal of a license of a licensed behavior analyst ***400***

For the biennial renewal of a license of a licensed assistant behavior analyst ***275***

For the biennial renewal of a certificate of a certified autism behavior interventionist ***175***

For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license 100

For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology 300

For the registration of a nonresident to practice as a consultant 100

2. An applicant who passes the examination and is eligible for a license ***or certificate*** shall pay the biennial fee for the renewal of a license ***or certificate*** which must be prorated for the period from the date the license ***or certificate*** is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other

incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 15. The Board of Psychological Examiners shall begin licensing behavior analysts and ~~[autism]~~ **assistant** behavior ~~[therapists]~~ **analysts** pursuant to section 13 of this act **and certifying autism behavior interventionists pursuant to section 12.1 of this act** no later than January 1, 2010.

Sec. 16. ~~[1.]~~ This act becomes effective ~~[upon]~~ **:**

1. Upon passage and approval for the purpose of adopting regulations **,** ~~[and]~~ licensing behavior analysts **and assistant behavior analysts** and **certifying** autism behavior ~~[therapists.]~~ **interventionists; and**

2. ~~[This section and sections 3 to 15, inclusive, of this act become effective on October 1, 2009.~~

~~3. Sections 1 and 2 of this act become effective on]~~ **On** January 1, 2011 ~~[.]~~ **, for all other purposes.**

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 699 to Assembly Bill No. 162.

Remarks by Assemblyman Conklin.

Motion carried.

The following Senate amendment was read:

Amendment No. 908.

AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide an option of coverage for screening for and treatment of autism; authorizing the Board of Psychological Examiners to license behavior analysts and assistant behavior analysts and to certify autism behavior interventionists; increasing the size of the Board of Psychological Examiners from five members to seven members; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures, including colorectal cancer screenings, cytological screening tests and mammograms, in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its employees. (NRS 608.1555) **Sections 1- ~~[8.5]~~ 10.5** of this bill require certain health care plans and policies of insurance to also provide an option or a requirement, as applicable, of coverage for the screening for, including the diagnosis of, and the treatment of autism spectrum disorders in certain circumstances.

Sections 12-12.4 and 12.7-14.5 of this bill provide for the licensure of behavior analysts and assistant behavior analysts and the certification of autism behavior interventionists by the Board of Psychological Examiners.

Sections 12.5 and 12.6 of this bill increase the size of the Board of Psychological Examiners from five members to seven members, adding one member who is a licensed behavior analyst and one member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.

The provisions of this bill apply prospectively to any policy of insurance or health care plan issued or renewed on or after January 1, 2011, **~~[.]~~ , or July 1, 2011, as applicable.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must provide an option of coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders for persons covered by the policy under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.

2. Optional coverage provided pursuant to this section must be subject to:

(a) A maximum benefit of not less than $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusions or limitations of a policy of health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A health benefit plan that offers or issues a policy of health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for optional coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, an insurer who offers optional coverage pursuant to subsection 1 shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

7. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) "Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst

Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 2. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 3. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the policy of group health insurance under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a policy of group health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) "Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 3.5. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health benefit plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health benefit plan to the same extent as other medical services or prescription drugs covered by the plan.

3. A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health benefit plan or cancel a health benefit plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, a carrier shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ A carrier may request a copy of and review a treatment plan created pursuant to this subsection.

6. A health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the plan or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a carrier to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) "Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization,

who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 4. (Deleted by amendment.)

Sec. 5. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a health maintenance organization must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health care plan to the same extent as other medical services or prescription drugs covered by the plan.

3. A health care plan issued by a health maintenance organization that provides coverage for outpatient care shall not:

(a) Require an enrollee to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, a health maintenance organization shall not limit the number of visits an enrollee may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ A health maintenance organization may request a copy of and review a treatment plan created pursuant to this subsection.

6. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a health maintenance organization to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of

Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) "Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 6. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any

health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.200, inclusive, ***and section 5 of this act,*** 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 7. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if he finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, ***and section 5 of this act,*** or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080; or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of final adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 8. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a managed care organization for group coverage must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to

persons covered by the health care plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.

2. A health care plan issued by a managed care organization for individual coverage must provide an option for coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.

3. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health care plan to the same extent as other medical services or prescription drugs covered by the plan.

4. A managed care organization that offers or issues a health care plan which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

5. Except as provided in subsections 1, 2 and 3, a managed care organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

6. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ A managed care organization may request a copy of and review a treatment plan created pursuant to this subsection.

7. An evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsections 1 or 3 is void.

8. Nothing in this section shall be construed as requiring a managed care organization to provide reimbursement to an early intervention agency

or school for services delivered through early intervention or school services.

9. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) "Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest

to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 8.5. NRS 695G.090 is hereby amended to read as follows:

695G.090 1. Except as otherwise provided in subsection 3, the provisions of this chapter apply to each organization and insurer that operates as a managed care organization and may include, without limitation, an insurer that issues a policy of health insurance, an insurer that issues a policy of individual or group health insurance, a carrier serving small employers, a fraternal benefit society, a hospital or medical service corporation and a health maintenance organization.

2. In addition to the provisions of this chapter, each managed care organization shall comply with:

(a) The provisions of chapter 686A of NRS, including all obligations and remedies set forth therein; and

(b) Any other applicable provision of this title.

3. The provisions of NRS 695G.164, 695G.200 to 695G.230, inclusive, ~~[and]~~ 695G.430 ***and section 8 of this act*** do not apply to a managed care organization that provides health care services to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a managed care organization from any provision of this chapter for services provided pursuant to any other contract.

Sec. 9. (Deleted by amendment.)

Sec. 9.5. **Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance

through a plan of self-insurance must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the plan of self-insurance under the age of 18 or, if enrolled in high school, until the person reaches the age of 22.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a plan of self-insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan of self-insurance; or

(b) Refuse to issue a plan of self-insurance or cancel a plan of self-insurance solely because the person applying for or covered by the plan of self-insurance uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, a governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ A governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance may request a copy of and review a treatment plan created pursuant to this subsection.

6. A plan of self-insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the plan of self-insurance or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Development Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.

(d) "Certified autism behavior interventionist" means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(e) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) "Licensed assistant behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst

Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavior therapy under the supervision of a licensed behavior analyst or psychologist.

(h) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) "Screening for autism spectrum disorders" means all medically appropriate assessments, evaluations or tests to diagnose whether a person has an autism spectrum disorder.

(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 10. (Deleted by amendment.)

Sec. 10.5. **NRS 287.04335 is hereby amended to read as follows:**

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, ~~[and]~~ 695G.405 ~~[,]~~ ***and section 8 of this act*** in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 11. (Deleted by amendment.)

Sec. 12. Chapter 641 of NRS is hereby amended by adding thereto the provisions set forth as sections 12.1, 12.2 and 12.3 of this act.

Sec. 12.1. ***1. Each application for certification as an autism behavior interventionist must be accompanied by evidence satisfactory to the Board that the applicant:***

(a) Is at least 18 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

2. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for certification as an autism behavior interventionist; and

(b) Issue a written statement to the applicant of its determination.

3. If the Board determines that the qualifications of the applicant are insufficient for certification, the written statement issued to the applicant pursuant to subsection 2 must include a detailed explanation of the reasons for that determination.

Sec. 12.2. ***The Board shall adopt regulations that establish the grounds for disciplinary action for a licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist.***

Sec. 12.3. ***1. A licensed assistant behavior analyst shall not provide or supervise behavior therapy except under the supervision of:***

(a) A licensed psychologist; or

(b) A licensed behavior analyst.

2. A certified autism behavior interventionist shall not provide behavior therapy except under the supervision of:

(a) A licensed psychologist;

(b) A licensed behavior analyst; or

(c) A licensed assistant behavior analyst.

Sec. 12.4. NRS 641.020 is hereby amended to read as follows:

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in ***section 1 of this act and*** NRS 641.021 to 641.027, inclusive, have the meanings ascribed to them in those sections.

Sec. 12.5. NRS 641.030 is hereby amended to read as follows:

641.030 The Board of Psychological Examiners, consisting of ~~[five]~~ ***seven*** members appointed by the Governor, is hereby created.

Sec. 12.6. NRS 641.040 is hereby amended to read as follows:

641.040 1. The Governor shall appoint to the Board:

(a) Four members who are licensed psychologists in the State of Nevada with at least 5 years of experience in the practice of psychology after being licensed.

(b) ***One member who is a licensed behavior analyst in the State of Nevada.***

(c) One member who has resided in this State for at least 5 years and who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care.

(d) One member who is a representative of the general public.

2. A person is not eligible for appointment unless he is:

(a) A citizen of the United States; and

(b) A resident of the State of Nevada.

3. The member who is a representative of the general public:

(a) Shall not participate in preparing, conducting or grading any examination required by the Board.

(b) Must not be a psychologist, an applicant or former applicant for licensure as a psychologist, a member of a health profession, the spouse or the parent or child, by blood, marriage or adoption, of a psychologist, or a member of a household that includes a psychologist.

4. Board members must not have any conflicts of interest or the appearance of such conflicts in the performance of their duties as members of the Board.

Sec. 12.7. NRS 641.100 is hereby amended to read as follows:

641.100 The Board may make and promulgate rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination ***,*** ~~[and]~~ licensure ***and certification*** of applicants, the granting, refusal, revocation or suspension of licenses ~~[.]~~ ***and certificates*** and the practice of psychology.

Sec. 12.8. NRS 641.110 is hereby amended to read as follows:

641.110 The Board may, under the provisions of this chapter:

1. Examine and pass upon the qualifications of the applicants for licensure ~~[.]~~ ***and certification.***

2. License ***and certify*** qualified applicants.

3. Revoke or suspend licenses ~~[.]~~ ***and certificates.***

4. Collect all fees and make disbursements pursuant to this chapter.

Sec. 13. NRS 641.170 is hereby amended to read as follows:

641.170 1. Each application ***for licensure as a psychologist*** must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. ***Each application for licensure as a behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:***

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a master's degree from an accredited college or university in a field of social science or special education approved by the Board.

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

3. Each application for licensure as an assistant behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a bachelor's degree from an accredited college or university in a field of social science or special education approved by the Board.

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

4. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure ***;*** ~~[as a psychologist;]~~ and

(b) Issue a written statement to the applicant of its determination.

~~[3.]~~ ***5.*** The written statement issued to the applicant pursuant to subsection ~~[2]~~ ***4*** must include:

(a) If the Board determines that the qualifications of the applicant are insufficient for licensure, a detailed explanation of the reasons for that determination.

(b) If the applicant ***for licensure as a psychologist*** has not earned a doctorate in psychology from an accredited educational institution approved by the Board and the Board determines that his doctorate-level training from an accredited educational institution is not equivalent in subject matter and extent of training, a detailed explanation of the reasons for that determination.

Sec. 14. NRS 641.180 is hereby amended to read as follows:

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license ***as a psychologist*** must pass the Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board. In addition to this written examination, the Board may require an oral examination in whatever applied or theoretical fields it deems appropriate.

2. The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.

3. The Board shall notify each applicant of the results of his written examination and supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.

4. If an applicant fails the examination, he may request in writing that the Board review his examination.

5. The Board may waive the requirement of a written examination for a person who:

(a) Is licensed in another state;

(b) Has 10 years experience; and

(c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 14.5. NRS 641.370 is hereby amended to read as follows:

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the written examination, in addition to the actual cost to the Board of the examination $100

For the special ~~[oral]~~ examination, in addition to the actual costs to the Board of the examination 100

For the issuance of an initial license ***or certificate*** 25

For the biennial renewal of a license ***of a psychologist*** 500

For the biennial renewal of a license of a licensed behavior analyst 400

For the biennial renewal of a license of a licensed assistant behavior analyst 275

For the biennial renewal of a certificate of a certified autism behavior interventionist 175

For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license 100

For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology 300

For the registration of a nonresident to practice as a consultant 100

2. An applicant who passes the examination and is eligible for a license ***or certificate*** shall pay the biennial fee for the renewal of a license ***or certificate*** which must be prorated for the period from the date the license ***or certificate*** is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 15. The Board of Psychological Examiners shall begin licensing behavior analysts and assistant behavior analysts pursuant to section 13 of this act and certifying autism behavior interventionists pursuant to section 12.1 of this act no later than January 1, 2010.

Sec. 15.3. **Notwithstanding the provisions of subsection 7 of section 8 of this act, a plan of self-insurance governed by NRS 287.04335, as amended by section 10.5 of this act, shall not have the legal effect of including the coverage required pursuant to subsection 1 of section 8 of this act unless it is delivered, issued for delivery or renewed on or after July 1, 2011.**

Sec. 15.5. **The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.**

Sec. 16. **1.** This ~~[act becomes]~~ **section and sections 1 to 9, inclusive, 10 and 11 to 15, inclusive, of this act become** effective:

~~[1.]~~ **(a)** Upon passage and approval for the purpose of adopting regulations, licensing behavior analysts and assistant behavior analysts and certifying autism behavior interventionists; and

~~[2.]~~ **(b)** On January 1, 2011, for all other purposes.

2. Sections 9.5, 10.5, 15.3 and 15.5 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations; and

(b) On July 1, 2011, for all other purposes.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 908 to Assembly Bill No. 162.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 202.

The following Senate amendment was read:

Amendment No. 812.

AN ACT relating to cosmetology; revising various definitions; revising provisions relating to the qualifications for examination as an instructor of aestheticians, an instructor in nail technology, a nail technologist or an aesthetician; revising provisions relating to cosmetologists' apprentices; increasing the required instruction hours for an aesthetician; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 3 of this bill revise the definitions of "aesthetician" and "cosmetologist" to reference sugaring**.** ~~[and threading.]~~ (NRS 644.0205, 644.023) **Section 5** of this bill changes the term "manicurist" to "nail technologist," and this bill carries out this change for variations of the term "manicurist" that appear in chapter 644 of NRS. (NRS 644.029)

Section 11 of this bill revises the requirements for admission to examination as an instructor of aestheticians, effective July 1, 2010. (NRS 644.1955) **Section 13** of this bill revises the requirements for admission to examination as an instructor in nail technology, effective July 1, 2010. (NRS 644.197) **Section 15** of this bill revises the requirements for admission to examination for a license as a nail technologist, effective July 1, 2010. (NRS 644.205) **Section 16** of this bill revises the requirements for admission to examination for a license as an aesthetician, effective July 1, 2010. (NRS 644.207)

Existing law sets forth various requirements that must be met before the State Board of Cosmetology may issue to a person a certificate of registration as a cosmetologist's apprentice. (NRS 644.217) **Section 17** of this bill: (1) eliminates the requirement that such a person be a resident of a county whose population is less than 50,000; (2) requires the training of the person as a cosmetologist's apprentice to be conducted at a licensed cosmetological establishment that is located 60 miles or more from a licensed school of cosmetology; and (3) authorizes the Board to waive, for good cause shown, various requirements for an applicant for a certificate of registration as a cosmetologist's apprentice.

Existing law sets forth the requirements which must be met before the Board renews a license issued pursuant to chapter 644 of NRS. (NRS 644.325) Section 24.5 of this bill requires that before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control.

Section 29 of this bill increases from 120 to 150 the number of hours of instruction a student enrolled as an aesthetician must receive before commencing work on members of the public. (NRS 644.408)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 644.0205 is hereby amended to read as follows:

644.0205 ***1.*** "Aesthetician" means any person who engages in the practices of:

[~~1.~~**]** ***(a)*** Beautifying, massaging, cleansing or stimulating the skin of the human body **[**~~, except the scalp,~~**]** by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

[~~2.~~**]** ***(b)*** Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body ***;*** **[**~~except the scalp;~~**]** and

[~~3.~~**]** ***(c)*** Removing superfluous hair from the body of any person by the use of depilatories, waxing ***,*** **[**~~or~~**]** tweezers **[**~~,~~**]** ***or sugaring*** ***,*** ~~*[or threading,]*~~ ➥ but does not include the branches of cosmetology of a cosmetologist, hair designer, electrologist or **[**~~manicurist.~~**]** ***nail technologist.***

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 2. NRS 644.0225 is hereby amended to read as follows:

644.0225 "Cosmetological establishment" means any premises, mobile unit, building or part of a building where cosmetology is practiced, other than a licensed barbershop in which one or more licensed ~~[~~manicurists~~]~~ ***nail technologists*** practice.

Sec. 3. NRS 644.023 is hereby amended to read as follows:

644.023 ***1.*** "Cosmetologist" means a person who engages in the practices of:

~~[1.]~~ ***(a)*** Cleansing, stimulating or massaging the scalp or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

~~[2.]~~ ***(b)*** Cutting, trimming or shaping the hair.

~~[3.]~~ ***(c)*** Arranging, dressing, curling, waving, cleansing, singeing, bleaching, tinting, coloring or straightening the hair of any person with the hands, mechanical or electrical apparatus or appliances, or by other means, or similar work incident to or necessary for the proper carrying on of the practice or occupation provided by the terms of this chapter.

~~[4.]~~ ***(d)*** Removing superfluous hair from the surface of the body of any person by the use of electrolysis where the growth is a blemish, or by the use of depilatories, waxing ***,*** ~~[or]~~ tweezers ~~[,]~~ ***or sugaring ,*** ~~*[or threading,]*~~ except for the permanent removal of hair with needles.

~~[5.]~~ ***(e)*** Manicuring the nails of any person.

~~[6.]~~ ***(f)*** Beautifying, massaging, stimulating or cleansing the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or any device, electrical or otherwise, for the care of the skin.

~~[7.]~~ ***(g)*** Giving facials or skin care or applying cosmetics or eyelashes to any person.

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 4. NRS 644.024 is hereby amended to read as follows:

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, demonstrator of cosmetics and ~~[~~manicurist.~~]~~ ***nail technologist.***

Sec. 5. NRS 644.029 is hereby amended to read as follows:

644.029 ~~[~~"Manicurist"~~]~~ ***"Nail technologist"*** means any person who, for compensation or by demonstration, engages in the practices of:

1. Care of another's fingernails or toenails.
2. Beautification of another's nails.
3. Extension of another's nails.
4. Massaging of another's hands, forearms, feet or lower legs.

Sec. 6. NRS 644.030 is hereby amended to read as follows:

644.030 1. The State Board of Cosmetology consisting of seven members appointed by the Governor is hereby created.

2. The Board must consist of four cosmetologists, one ~~[manicurist,]~~ ***nail technologist,*** one aesthetician and one member representing customers of cosmetology.

Sec. 7. NRS 644.040 is hereby amended to read as follows:

644.040 1. No person is eligible for appointment as a member of the Board:

(a) Who is not licensed as a ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician or cosmetologist under the provisions of this chapter.

(b) Who is not, at the time of appointment, actually engaged in the practice of his respective branch of cosmetology.

(c) Who is not at least 25 years of age.

(d) Who has not been a resident of this State for at least 3 years immediately before his appointment.

2. The requirements of paragraphs (a) and (b) of subsection 1 do not apply to a person appointed to represent customers of cosmetology.

3. Not more than one member of the Board may be connected, directly or indirectly, with any school of cosmetology, or have been so connected while previously serving as a member of the Board.

Sec. 8. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, demonstrator of cosmetics and cosmetologist, together with the names and addresses of all cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 9. NRS 644.193 is hereby amended to read as follows:

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, aesthetician or ~~[manicurist]~~ ***nail technologist*** for 1 year and submits written verification of his experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than $40 and not more than $75 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year ~~[from]~~ ***after*** the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

Sec. 10. NRS 644.195 is hereby amended to read as follows:

644.195 1. Each instructor must:

(a) Be licensed as a cosmetologist pursuant to this chapter.

(b) Have successfully completed the 12th grade in school or its equivalent.

(c) Have 1 year of experience as a cosmetologist or as a licensed student instructor.

(d) Have completed 1,000 hours of training as an instructor or 500 hours of training as a ***licensed*** provisional instructor in a school of cosmetology.

(e) Except as otherwise provided in subsection 2, take one or more courses in advanced techniques for teaching or training, approved by the Board, whose combined duration is at least 30 hours during each 2-year period.

2. The provisions of paragraph (e) of subsection 1 do not apply to an instructor who is initially licensed not more than 6 months before the renewal date of the license. An instructor who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in paragraph (e) whose combined duration is at least 15 hours during each 2-year period.

3. Each instructor shall pay an initial fee for a license of not less than $60 and not more than $90.

Sec. 11. NRS 644.1955 is hereby amended to read as follows:

644.1955 1. The Board shall admit to examination for a license as an instructor of aestheticians any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of ~~[800]~~ ***700*** hours of training as an instructor or ~~[400]~~ ***500*** hours of training as a ***licensed*** provisional instructor in a licensed school of cosmetology;

(e) Is licensed as an aesthetician pursuant to this chapter; and

(f) Has practiced as a full-time licensed aesthetician or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor of aestheticians shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor of aestheticians who is initially licensed not more than 6 months before the renewal date of the license. An instructor of aestheticians who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 12. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in ~~[manicuring]~~ ***nail technology*** any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of 500 hours of training as an instructor or 250 hours of training as a provisional instructor in a licensed school of cosmetology;

(e) Is licensed as a ~~[manicurist]~~ ***nail technologist*** pursuant to this chapter; and

(f) Has practiced as a full-time licensed ~~[manicurist]~~ ***nail technologist*** or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in ~~[manicuring]~~ ***nail technology*** shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in ~~[manicuring]~~ ***nail technology*** who is initially licensed not more than 6 months before the renewal date of the license. An instructor in ~~[manicuring]~~ ***nail technology*** who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 13. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in nail technology any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of 500 hours of training as an instructor or ~~[250 hours of training]~~ as a ***licensed*** provisional instructor in a licensed school of cosmetology;

(e) Is licensed as a nail technologist pursuant to this chapter; and

(f) Has practiced as a full-time licensed nail technologist or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in nail technology shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in nail technology who is initially licensed not more than 6 months before the renewal date of the license. An instructor in nail technology who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 14. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a ~~[~~manicurist~~]~~ ***nail technologist*** any person who has made application to the Board in proper form, paid the fee ~~[,]~~ and who **,** before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. Has successfully completed the 10th grade in school or its equivalent.
4. Has had any one of the following:

(a) Practical training of at least 500 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed ~~[~~manicurist~~]~~ ***nail technologist*** for 1 year outside the State of Nevada.

Sec. 15. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee ~~[,]~~ and who **,** before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. Has successfully completed the 10th grade in school or its equivalent.
4. Has had any one of the following:

(a) Practical training of at least ~~[~~500~~]~~ ***600*** hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

Sec. 16. NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;
2. Is of good moral character;
3. Has successfully completed the 10th grade in school or its equivalent; and

4. Has received a minimum of ~~[600]~~ ***900*** hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

Sec. 17. NRS 644.217 is hereby amended to read as follows:

644.217 1. The Board may issue a certificate of registration as a cosmetologist's apprentice to a person if:

(a) The person is ~~[a resident of a county whose population is less than 50,000;~~

~~(b) The person is~~] required to travel more than 60 miles from his place of residence to attend a licensed school of cosmetology; and

~~[(c)]~~ ***(b)*** The training of the person as a cosmetologist's apprentice will be conducted at a licensed cosmetological establishment that is located ~~[in such a county.]~~ ***60 miles or more from a licensed school of cosmetology.***

2. ***The Board may, for good cause shown, waive the requirements of subsection 1 for a particular applicant.***

3. An applicant for a certificate of registration as a cosmetologist's apprentice must submit an application to the Board on a form prescribed by the Board. The application must be accompanied by a fee of $100 and must include:

(a) A statement signed by the licensed cosmetologist who will be supervising and training the cosmetologist's apprentice which states that the licensed cosmetologist has been licensed by the Board to practice cosmetology in this State for not less than 3 years immediately preceding the date of the application and that his license has been in good standing during that period;

(b) A statement signed by the owner of the licensed cosmetological establishment where the applicant will be trained which states that the owner will permit the applicant to be trained as a cosmetologist's apprentice at the cosmetological establishment; and

(c) Such other information as the Board may require by regulation.

~~[3.]~~ ***4.*** A certificate of registration as a cosmetologist's apprentice is valid for 2 years after the date on which it is issued and may be renewed by the Board upon good cause shown.

Sec. 18. NRS 644.220 is hereby amended to read as follows:

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than $75 and not more than $200.

(b) For examination as an electrologist, not less than $75 and not more than $200.

(c) For examination as a hair designer, not less than $75 and not more than $200.

(d) For examination as a ~~[manicurist,]~~ ***nail technologist,*** not less than $75 and not more than $200.

(e) For examination as an aesthetician, not less than $75 and not more than $200.

(f) For examination as an instructor of aestheticians, hair designers, cosmetology or ~~[~~manicuring,~~]~~ ***nail technology,*** not less than $75 and not more than $200.

➥ The fee for each reexamination is not less than $75 and not more than $200.

2. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is $75.

3. Each applicant referred to in subsections 1 and 2 shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 19. NRS 644.240 is hereby amended to read as follows:

644.240 Examinations for licensure as a cosmetologist may include:

1. Practical demonstrations in shampooing the hair, hairdressing, styling of hair, finger waving, coloring of hair, ~~[~~manicuring,~~]~~ ***nail technology,*** cosmetics, thermal curling, marcelling, facial massage, massage of the scalp with the hands, and cutting, trimming or shaping hair;

2. Written or oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity as applicable to the practice of a cosmetologist; and

(c) The laws of Nevada and the regulations of the Board relating to the practice of cosmetology; and

3. Such other demonstrations and tests as the Board may require.

Sec. 20. NRS 644.245 is hereby amended to read as follows:

644.245 The examination for a license as a ~~[~~manicurist~~]~~ ***nail technologist*** may include:

1. Practical demonstrations in manicuring, pedicuring or the wrapping or extension of nails;

2. Written and oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity in caring for the nails; and

(c) The laws of Nevada and regulations of the Board relating to cosmetology; and

3. Such other demonstrations and tests as the Board requires.

Sec. 21. NRS 644.260 is hereby amended to read as follows:

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ~~[~~manicurist,~~]~~ ***nail technologist,*** demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his fitness to practice that occupation of cosmetology; and

2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

Sec. 22. NRS 644.300 is hereby amended to read as follows:

644.300 Every licensed ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his place of business, as designated in the records of the Board, notify the Secretary of the Board of his new place of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

Sec. 23. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, ~~[manicurist,]~~ ***nail technologist,*** demonstrator of cosmetics and instructor expires:

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses issued for less than 1 1/2 years.

Sec. 24. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For ~~[manicurists,]~~ ***nail technologists,*** electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) For instructors, not less than $60 and not more than $100.

(c) For cosmetological establishments, not less than $100 and not more than $200.

(d) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, ~~[manicurist,]~~ ***nail technologist,*** demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

Sec. 24.5. **NRS 644.325 is hereby amended to read as follows:**

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) For instructors, not less than $60 and not more than $100.

(c) For cosmetological establishments, not less than $100 and not more than $200.

(d) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

5. Before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control in a professional course or seminar approved by the Board.

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 644.330 is hereby amended to read as follows:

644.330 1. A ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who has

retired from practice for more than 4 years may have his license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

Sec. 27. NRS 644.360 is hereby amended to read as follows:

644.360 1. Every holder of a license issued by the Board to operate a cosmetological establishment shall display the license in plain view of members of the general public in the principal office or place of business of the holder.

2. Except as otherwise provided in this section, the operator of a cosmetological establishment may lease space to or employ only licensed ~~[manicurists,]~~ ***nail technologists,*** electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists at his establishment to provide cosmetological services. This subsection does not prohibit an operator of a cosmetological establishment from:

(a) Leasing space to or employing a barber. Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board and remains subject to the laws and regulations of this State applicable to his business or profession.

(b) Leasing space to any other professional, including, without limitation, a provider of health care pursuant to subsection 3. Each such professional remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

3. The operator of a cosmetological establishment may lease space at his cosmetological establishment to a provider of health care for the purpose of providing health care within the scope of his practice. The provider of health care shall not use the leased space to provide such health care at the same time a cosmetologist uses that space to engage in the practice of cosmetology. A provider of health care who leases space at a cosmetological establishment pursuant to this subsection remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

4. As used in this section:

(a) "Provider of health care" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

(b) "Space" includes, without limitation, a separate room in the cosmetological establishment.

Sec. 28. NRS 644.370 is hereby amended to read as follows:

644.370 A cosmetological establishment must, at all times, be under the immediate supervision of a licensed ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer or cosmetologist.

Sec. 29. NRS 644.408 is hereby amended to read as follows:

644.408 A student must receive the following minimum amount of instruction in the classroom before commencing work on members of the public:

1. A student enrolled as a cosmetologist must receive at least 300 hours.

2. A student enrolled as a hair designer must receive at least 300 hours.

3. A student enrolled as a ~~[manicurist]~~ ***nail technologist*** must receive at least 100 hours.

4. A student enrolled as an electrologist's apprentice must receive at least 150 hours.

5. A student enrolled as an aesthetician must receive at least ~~[120]~~ ***150*** hours.

Sec. 30. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, electrologist, instructor, ~~[manicurist,]~~ ***nail technologist,*** demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410.

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed $2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 31. 1. This section and sections 1 to 9, inclusive, 12, 14, 17 to 24, inclusive, and 26 to 30, inclusive, of this act become effective upon passage and approval.

2. Sections 10, 11, 13, 15 and 16 of this act become effective on July 1, 2010.

3. Section 24.5 of this act becomes effective on January 1, 2011.

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 202.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 287.

The following Senate amendment was read:

Amendment No. 696.

AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; providing for the registration and regulation of appraisal management companies; revising the requirements for continuing education for appraisers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances. **Sections 1, 2, 24 and 27** of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

Section 25 of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.

Sections 5-22 and 26 of this bill provide for the registration and regulation of appraisal management companies.

Section 23 of this bill revises the requirements for continuing education for appraisers.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 645.635 is hereby amended to read as follows:

645.635 The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of NRS 645.254.

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesman's or salesman's responsibility and must be deemed to be in compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of NRS 645.254.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of NRS 645.254.

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

11. Any violation of section 4 of this act.

Sec. 2. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[,]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) ***Has violated section 4 of this act;***

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

~~[(u)]~~ ***(v)*** Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than

$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) ***Has violated section 4 of this act;***

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

~~[(j)]~~ ***(k)*** Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 3. Chapter 645C of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 4 to 21, inclusive, of this act.

Sec. 4. ***1. A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal.***

2. Subsection 1 does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser:

(a) Consider additional appropriate property information;

(b) Provide further detail, substantiation or explanation for the appraiser's conclusion as to value; or

(c) Correct errors in his appraisal.

Sec. 5. ***"Appraisal firm" means a person, limited-liability company, partnership, association or corporation*** ~~[which,]~~ ***:***

1. Which, for compensation, prepares and communicates appraisals [.] ;

2. Whose principal is an appraiser licensed pursuant to chapter 645C of NRS; and

3. Whose principal supervises, trains and reviews work product produced by the persons who produce appraisals for the person, limited-liability company, partnership, association or corporation, including, without limitation, employees and independent contractors.

Sec. 6. ***1. "Appraisal management company" means a person, limited-liability company, partnership, association or corporation which for compensation:***

[1.] (a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;

[2.] (b) Administers a network of appraisers performing real estate appraisal services as independent contractors;

[3.] (c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or

[4.] (d) Otherwise serves as a third-party broker of appraisal services.
[".]

2. The term does not include [an] :

(a) An appraisal firm [.] ;

(b) Any person licensed to practice law in this State who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an independent appraiser;

(c) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of appraisal assignments that the person or entity cannot complete for any reason, including, without limitation, competency, workload, scheduling or geographic location; and

(d) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of a real estate appraisal assignment and, upon the completion of such an assignment, cosigns the appraisal report with the independent appraiser acting as an independent contractor.

Sec. 7. ***[1. There is hereby created the Account for Appraisal Management Companies in the State General Fund. The Account must be administered by the Administrator.***

2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, all money received by the Commission or the Division pursuant to sections 7 to 21, inclusive, of this act must be:

(a) Deposited in the Account;

(b) Accounted for separately; and

(c) Used only to administer the provisions of sections 7 to 21, inclusive, of this act.

~~3.~~ ***If the Commission imposes a fine or a penalty*** ~~[.]~~ ***or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.***

Sec. 8. ***Except as otherwise provided in section 9 of this act, it is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an appraisal management company without first obtaining a registration from the Division pursuant to sections 7 to 21, inclusive, of this act.***

Sec. 9. ***The provisions of sections 7 to 21, inclusive, of this act do not apply to:***

1. A person, limited-liability company, partnership, association or corporation other than an appraisal management company which, in the normal course of its business, employs persons for the performance of real estate appraisal services; or

2. An appraisal management company that enters into not more than nine contracts annually with independent contractors in this State.

Sec. 10. ***1. A person who wishes to be registered as an appraisal management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee required pursuant to section 15 of this act. An application must:***

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the appraisal management company will conduct business within this State;

(b) State the name under which the applicant will conduct business as an appraisal management company;

(c) List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the appraisal management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person;

(d) Include a general business plan and a description of the policies and procedures that the appraisal management company and its employees and independent contractors will follow in providing real estate appraisal services pursuant to this chapter;

(e) Include a financial statement of the applicant; and

(f) Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the appraisal management company as a principal, partner, officer, director or trustee, and written permission

authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, the Division shall issue a registration to an applicant as an appraisal management company if:

(a) The application is verified by the Division and complies with the requirements of sections 7 to 21, inclusive, of this act.

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Submits satisfactory proof to the Division that he has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an appraisal management company in a manner which safeguards the interests of the general public.

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude.

(3) Has not made a false statement of material fact on his application.

(4) Has not had a license that was issued pursuant to the provisions of this chapter suspended, revoked or voluntarily surrendered in lieu of suspension or revocation within the 10 years immediately preceding the date of his application.

(5) Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

(6) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission or the Administrator.

(c) The applicant certifies that he:

(1) Has a process in place to verify that each independent contractor that provides services to the appraisal management company is the holder of a license in good standing to practice appraisal in this State.

(2) Has a process in place to review the work of each independent contractor that provides services to the appraisal management company to ensure that those services are conducted in accordance with the Uniform Standards of Professional Appraisal Practice.

(3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.

(d) The applicant discloses whether or not the company uses an appraiser fee schedule. For the purposes of this paragraph, "appraiser fee schedule" means a list of the various real estate appraisal services requested by the appraisal management company from independent contractors and the amount the company will pay for the performance of each service listed.

Sec. 11. ***1. In addition to any other requirements set forth in this chapter:***

(a) An applicant for the issuance of a registration as an appraisal management company shall include the social security number of the applicant in the application submitted to the Division.

(b) An applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the registration; or

(b) A separate form prescribed by the Division.

3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 12. ***1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.***

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the registration; or

(b) A separate form prescribed by the Division.

3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 13. ***1. An applicant for registration under sections 7 to 21, inclusive, of this act shall file with the Division, in a form prescribed by regulation, an irrevocable consent appointing the Administrator his agent for service of process in a noncriminal proceeding against him, a successor or personal representative which arises under sections 7 to 21, inclusive, of this act or a regulation or order of the Commission after the consent is filed, with the same force and validity as if served personally on the person filing the consent.***

2. A person who has filed a consent complying with subsection 1 in connection with a previous application for registration need not file an additional consent.

3. If a person, including a nonresident of this State, engages in conduct prohibited or made actionable by sections 7 to 21, inclusive, of this act or a regulation or order of the Commission and the person has not filed a consent to service of process under subsection 1, engaging in the conduct constitutes the appointment of the Administrator as the person's agent for service of process in a noncriminal proceeding against him, a successor or personal representative which grows out of the conduct.

4. Service under subsection 1 or 3 may be made by leaving a copy of the process in the Office of the Administrator, but it is not effective unless:

(a) The plaintiff, who may be the Administrator, sends notice of the service and a copy of the process by registered or certified mail, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if no consent to service of process has been filed, at the last known address, or takes other steps which are reasonably calculated to give actual notice; and

(b) The plaintiff files an affidavit of compliance with this subsection in the proceeding on or before the return day of the process, if any, or within such further time as the court, or the Administrator in a proceeding before him, allows.

5. Service as provided in subsection 4 may be used in a proceeding before the Administrator or by the Administrator in a proceeding in which he is the moving party.

6. If the process is served under subsection 4, the court, or the Administrator in a proceeding before him, may order continuances as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

Sec. 14. ***A registration issued pursuant to sections 7 to 21, inclusive, of this act expires each year on the date of its issuance, unless it is renewed. To renew such a registration, the registrant must submit to the Division on or before the expiration date:***

1. An application for renewal;

2. The fee required to renew the registration pursuant to section 15 of this act; and

3. All information required to complete the renewal.

Sec. 15. ***A person must pay the following fee to be issued or to renew a registration as an appraisal management company pursuant to sections 7 to 21, inclusive, of this act:***

1. To be issued a registration, the applicant must pay a fee set by the Division by regulation of not more than $2,500 for the principal office and not more than $100 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Division deems necessary.

2. To renew a registration, the applicant must pay a fee set by the Division by regulation of not more than $500 for the principal office and not more than $100 for each branch office.

Sec. 16. ***1. If an appraisal management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the appraisal management company.***

2. The Commission shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

(a) A definition for the term "qualified employee";

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 17. ***1. It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation:***

(a) Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal;

(b) Withholding or threatening to withhold future business for an independent appraiser;

(c) Terminating an agreement with an independent contractor without prior written notice;

(d) Directly or indirectly promising future business for or increased compensation to an independent contractor;

(e) Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor;

(f) Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor;

(g) Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be loaned to a borrower, other than a copy of the sales contract for purchase transactions;

(h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits;

(i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless:

(1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or

(2) The second or subsequent appraisal or automated valuation model is performed pursuant to a bona fide appraisal review or quality control process;

(j) Compensating an appraiser in a manner which the appraisal management company knew or reasonably should have known would result in the conduct of appraisal services inconsistent with applicable appraisal standards;

(k) Accepting a fee for performing appraisal management services if the fee is contingent on:

(1) An appraisal report having a predetermined analysis, opinion or conclusion;

(2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or

(3) The consequences resulting from an appraisal assignment; or

(l) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.

2. Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report.

Sec. 18. ***It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent***

contractor, including, without limitation, removing the signature of the appraiser.

Sec. 19. ***1. If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.***

2. An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated the provisions of sections 7 to 21, inclusive, of this act and may revoke, suspend or deny renewal of a registration in the manner set forth in NRS 645C.500 to 645C.550, inclusive.

Sec. 20. ***1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a registration, the Division shall deem the registration to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.***

2. The Division shall reinstate a registration that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the registration stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 21. ***1. For each violation committed by an applicant for a registration issued pursuant to sections 7 to 21, inclusive, of this act, whether or not he is issued a registration, the Commission may impose upon the applicant an administrative fine of not more than $10,000 if the applicant:***

(a) Has knowingly made or caused to be made to the Commission any false representation of material fact;

(b) Has suppressed or withheld from the Commission any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act; or

(c) Has violated any provision of sections 7 to 21, inclusive, of this act, a regulation adopted pursuant to sections 7 to 21, inclusive, of this act or an order of the Commission in completing and filing his application for a

registration or during the course of the investigation of the application for a registration.

2. For each violation committed by an appraisal management company, the Commission may impose upon the appraisal management company an administrative fine of not more than $10,000, may suspend, revoke or place conditions on the registration or may do both, if the appraisal management company, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which the appraisal management company is required to be registered pursuant to sections 7 to 21, inclusive, of this act;

(b) Does not conduct its business in accordance with the law or has violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission;

(c) Has made a material representation in connection with any transaction governed by this chapter;

(d) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the appraisal management company knew or, by the exercise of reasonable diligence, should have known;

(e) Has knowingly made or caused to be made to the Commission any false representation of material fact or has suppressed or withheld from the Commission any information which the appraisal management company possesses and which, if submitted by the appraisal management company, would have rendered the appraisal management company ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act;

(f) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude; or

(g) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

Sec. 22. NRS 645C.010 is hereby amended to read as follows:

645C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645C.020 to 645C.130, inclusive, ***and sections 5 and 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 23. NRS 645C.430 is hereby amended to read as follows:

645C.430 1. An appraiser must complete the requirements for continuing education prescribed by regulations adopted by the Commission as a condition to the renewal of an active certificate or license or the reinstatement of an inactive certificate or license. Until the Commission adopts those regulations, the standards for continuing education are as follows:

(a) For the renewal of an active certificate or license, not less than 30 hours of instruction within the 2 years immediately preceding the application for renewal.

(b) For the reinstatement of a certificate or license which has been on inactive status **,** ~~[~~**:**

~~(1) For not more than 2 years, or for more than 2 years including the initial period of certification or licensure, not less than 30 hours of instruction.~~

~~(2) For more than 2 years, no part of which includes the initial period of certification or licensure,~~**]** not less than 15 hours of instruction per year for each year that the certificate or license was on inactive status **.** ~~[, not to exceed 60 hours of instruction.]~~

➥ ***The required hours of instruction must include the most recent edition of the 7-hour National Uniform Standards of Professional Appraisal Practice Update Course.***

2. As used in this section, an "hour of instruction" means at least 50 minutes of actual time spent receiving instruction.

Sec. 24. NRS 645C.460 is hereby amended to read as follows:

645C.460 1. Grounds for disciplinary action against a certified or licensed appraiser or registered intern include:

(a) Unprofessional conduct;

(b) Professional incompetence;

(c) ***Any violation of section 4 of this act;***

(d) A criminal conviction for a felony relating to the practice of appraisers or any offense involving moral turpitude; and

~~[(d)]~~ ***(e)*** The suspension ~~[or]~~ **,** revocation ***or voluntary surrender in lieu of other discipline*** of a registration card, certificate, license or permit to act as an appraiser in any other jurisdiction.

2. If grounds for disciplinary action against an appraiser or intern exist, the Commission may do one or more of the following:

(a) Revoke or suspend his certificate, license or registration card.

(b) Place conditions upon his certificate, license or registration card, or upon the reissuance of a certificate, license or registration card revoked pursuant to this section.

(c) Deny the renewal of his certificate, license or registration card.

(d) Impose a fine of not more than $10,000 for each violation.

3. If a certificate, license or registration card is revoked by the Commission, another certificate, license or registration card must not be issued to the same appraiser or intern for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the appraiser or intern satisfies all the requirements for an original certificate, license or registration card.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 25. NRS 645C.470 is hereby amended to read as follows:

645C.470 A certified or licensed appraiser or registered intern is guilty of unprofessional conduct if he:

1. Willfully uses a trade name, service mark or insigne indicating membership in an organization for appraisers of which he is not a member;

2. Violates any order of the Commission, agreement with the Division, provision of this chapter or provision of any regulation adopted pursuant to this chapter;

3. Fails to disclose to any person with whom he is dealing any material fact or other information he knows, or in the exercise of reasonable care and diligence should know, concerning or relating to any real estate he appraises, including any interest he has in the real estate;

4. Knowingly communicates a false or fraudulent appraisal to any interested person or otherwise engages in any deceitful, fraudulent or dishonest conduct;

5. ~~[Enters]~~ ***Prepares or provides or enters*** into a contract to prepare ***or provide*** an appraisal ~~[by which]~~ ***if*** his compensation is based partially or entirely on ***, or is otherwise affected by,*** the amount of the appraised value of the real estate;

6. Before obtaining his license or registration card, engaged in any conduct of which the Division is not aware that would be a ground for the denial of a certificate, license or registration card; or

7. Makes a false statement of material fact on his application.

Sec. 26. NRS 645C.555 is hereby amended to read as follows:

645C.555 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate, license ***, registration*** or registration card or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate, license ***, registration*** or registration card or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 27. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[.]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) ***Has violated section 4 of this act;***

(p) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; or

~~[(p)]~~ ***(q)*** Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 28. 1. This section, sections 5 to 11, inclusive, 13 to 22, inclusive, and 26 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2010, for all other purposes.

2. Sections 1 to 4, inclusive, 23, 24, 25 and 27 of this act become effective on July 1, 2009.

3. The provisions of sections 11 and 20 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Section 12 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 696 to Assembly Bill No. 287.

Remarks by Assemblyman Conklin.

Motion carried.

The following Senate amendment was read:

Amendment No. 911.

AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; providing for the registration and regulation of appraisal management companies; revising the requirements for continuing education for appraisers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 4 of this bill prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances. **Sections 1, 2, 24 and 27** of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

Section 25 of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.

Sections 5-22 and 26 of this bill provide for the registration and regulation of appraisal management companies.

Section 23 of this bill revises the requirements for continuing education for appraisers.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 645.635 is hereby amended to read as follows:

645.635 The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

2. Negotiating a sale, exchange or lease of real estate, or communicating after such negotiations but before closing, directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency, including, without limitation, an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller, except as otherwise provided in subsection 4 of NRS 645.254.

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesman's or salesman's responsibility and must be deemed to be in compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing, except as otherwise provided in subsection 4 of NRS 645.254.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance, except as otherwise provided in subsection 4 of NRS 645.254.

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

11. Any violation of section 4 of this act.

Sec. 2. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the

Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[,]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) ***Has violated section 4 of this act;***

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

~~[(u)]~~ ***(v)*** Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) ***Has violated section 4 of this act;***

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

~~[(j)]~~ ***(k)*** Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 3. Chapter 645C of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 4 to 21, inclusive, of this act.

Sec. 4. ***1. A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal.***

2. Subsection 1 does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser:

(a) Consider additional appropriate property information;

(b) Provide further detail, substantiation or explanation for the appraiser's conclusion as to value; or

(c) Correct errors in his appraisal.

Sec. 5. ***"Appraisal firm" means a person, limited-liability company, partnership, association or corporation:***

1. Which, for compensation, prepares and communicates appraisals;

2. Whose principal is an appraiser licensed pursuant to chapter 645C of NRS; and

3. Whose principal supervises, trains and reviews work product produced by the persons who produce appraisals for the person, limited-liability company, partnership, association or corporation, including, without limitation, employees and independent contractors.

Sec. 6. ***1. "Appraisal management company" means a person, limited-liability company, partnership, association or corporation which for compensation:***

(a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;

(b) Administers a network of appraisers performing real estate appraisal services as independent contractors;

(c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or

(d) Otherwise serves as a third-party broker of appraisal services.

2. The term does not include:

(a) An appraisal firm;

(b) Any person licensed to practice law in this State who orders an appraisal in connection with a bona fide client relationship when that person directly contracts with an independent appraiser;

(c) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of appraisal assignments that the person or entity cannot complete for any reason, including, without limitation, competency, workload, scheduling or geographic location; and

(d) Any person or entity that contracts with an independent appraiser acting as an independent contractor for the completion of a real estate appraisal assignment and, upon the completion of such an assignment, cosigns the appraisal report with the independent appraiser acting as an independent contractor.

Sec. 7. ***If the Commission imposes a fine or a penalty or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.***

Sec. 8. ***Except as otherwise provided in section 9 of this act, it is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an appraisal management company without first obtaining a registration from the Division pursuant to sections 7 to 21, inclusive, of this act.***

Sec. 9. ***The provisions of sections 7 to 21, inclusive, of this act do not apply to:***

1. A person, limited-liability company, partnership, association or corporation other than an appraisal management company which, in the normal course of its business, employs persons for the performance of real estate appraisal services; or

2. An appraisal management company that enters into not more than nine contracts annually with independent contractors in this State.

Sec. 10. ***1. A person who wishes to be registered as an appraisal management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee required pursuant to section 15 of this act. An application must:***

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the appraisal management company will conduct business within this State;

(b) State the name under which the applicant will conduct business as an appraisal management company;

(c) List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the appraisal management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person; and

(d) ~~*[Include a general business plan and a description of the policies and procedures that the appraisal management company and its employees and independent contractors will follow in providing real estate appraisal services pursuant to this chapter;*~~

~~*(e) Include a financial statement of the applicant; and*~~

~~*(f)]*~~ ***Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the appraisal management company as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.***

2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, the Division shall issue a registration to an applicant as an appraisal management company if:

(a) The application is verified by the Division and complies with the requirements of sections 7 to 21, inclusive, of this act.

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Submits satisfactory proof to the Division that he has a good reputation for honesty, trustworthiness and integrity and displays

competence to transact the business of an appraisal management company in a manner which safeguards the interests of the general public.

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude.

(3) Has not made a false statement of material fact on his application.

(4) Has not had a license that was issued pursuant to the provisions of this chapter suspended, revoked or voluntarily surrendered in lieu of suspension or revocation within the 10 years immediately preceding the date of his application.

(5) Has not had a professional license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

(6) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission or the Administrator.

(c) The applicant certifies that he:

(1) Has a process in place to verify that each independent contractor that provides services to the appraisal management company is the holder of a license in good standing to practice appraisal in this State.

(2) Has a process in place to review the work of each independent contractor that provides services to the appraisal management company to ensure that those services are conducted in accordance with the Uniform Standards of Professional Appraisal Practice.

(3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.

(d) The applicant discloses whether or not the company uses an appraiser fee schedule. For the purposes of this paragraph, "appraiser fee schedule" means a list of the various real estate appraisal services requested by the appraisal management company from independent contractors and the amount the company will pay for the performance of each service listed.

Sec. 11. ***1. In addition to any other requirements set forth in this chapter:***

(a) An applicant for the issuance of a registration as an appraisal management company shall include the social security number of the applicant in the application submitted to the Division.

(b) An applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the registration; or

(b) A separate form prescribed by the Division.

3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 12. ***1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a registration as an appraisal management company shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.***

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the registration; or

(b) A separate form prescribed by the Division.

3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing

the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 13. ***1. An applicant for registration under sections 7 to 21, inclusive, of this act shall file with the Division, in a form prescribed by regulation, an irrevocable consent appointing the Administrator his agent for service of process in a noncriminal proceeding against him, a successor or personal representative which arises under sections 7 to 21, inclusive, of this act or a regulation or order of the Commission after the consent is filed, with the same force and validity as if served personally on the person filing the consent.***

2. A person who has filed a consent complying with subsection 1 in connection with a previous application for registration need not file an additional consent.

3. If a person, including a nonresident of this State, engages in conduct prohibited or made actionable by sections 7 to 21, inclusive, of this act or a regulation or order of the Commission and the person has not filed a consent to service of process under subsection 1, engaging in the conduct constitutes the appointment of the Administrator as the person's agent for service of process in a noncriminal proceeding against him, a successor or personal representative which grows out of the conduct.

4. Service under subsection 1 or 3 may be made by leaving a copy of the process in the Office of the Administrator, but it is not effective unless:

(a) The plaintiff, who may be the Administrator, sends notice of the service and a copy of the process by registered or certified mail, return receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if no consent to service of process has been filed, at the last known address, or takes other steps which are reasonably calculated to give actual notice; and

(b) The plaintiff files an affidavit of compliance with this subsection in the proceeding on or before the return day of the process, if any, or within such further time as the court, or the Administrator in a proceeding before him, allows.

5. Service as provided in subsection 4 may be used in a proceeding before the Administrator or by the Administrator in a proceeding in which he is the moving party.

6. If the process is served under subsection 4, the court, or the Administrator in a proceeding before him, may order continuances as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

Sec. 14. ***A registration issued pursuant to sections 7 to 21, inclusive, of this act expires each year on the date of its issuance, unless it is renewed. To renew such a registration, the registrant must submit to the Division on or before the expiration date:***

1. An application for renewal;

2. The fee required to renew the registration pursuant to section 15 of this act; and

3. All information required to complete the renewal.

Sec. 15. ***A person must pay the following fee to be issued or to renew a registration as an appraisal management company pursuant to sections 7 to 21, inclusive, of this act:***

1. To be issued a registration, the applicant must pay a fee set by the Division by regulation of not more than $2,500 for the principal office and not more than $100 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Division deems necessary.

2. To renew a registration, the applicant must pay a fee set by the Division by regulation of not more than $500 for the principal office and not more than $100 for each branch office.

Sec. 16. ***1. If an appraisal management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the appraisal management company.***

2. The Commission shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

(a) A definition for the term "qualified employee";

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 17. ***1. It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation:***

(a) Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal;

(b) Withholding or threatening to withhold future business for an independent appraiser;

(c) Terminating an agreement with an independent contractor without prior written notice;

(d) Directly or indirectly promising future business for or increased compensation to an independent contractor;

(e) Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor;

(f) Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor;

(g) Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be

loaned to a borrower, other than a copy of the sales contract for purchase transactions;

(h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits;

(i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless:

(1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or

(2) The second or subsequent appraisal or automated valuation model is performed pursuant to a bona fide appraisal review or quality control process;

(j) ~~*[Compensating an appraiser in a manner which the appraisal management company knew or reasonably should have known would result in the conduct of appraisal services inconsistent with applicable appraisal standards;*~~

~~*(k)]*~~ ***Accepting a fee for performing appraisal management services if the fee is contingent on:***

(1) An appraisal report having a predetermined analysis, opinion or conclusion;

(2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or

(3) The consequences resulting from an appraisal assignment; or

~~*[(l)]*~~ ***(k) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.***

2. Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report.

Sec. 18. ***It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent contractor, including, without limitation, removing the signature of the appraiser.***

Sec. 19. ***1. If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.***

2. An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated the provisions of sections 7 to 21, inclusive, of this act and may revoke, suspend or deny

renewal of a registration in the manner set forth in NRS 645C.500 to 645C.550, inclusive.

Sec. 20. ***1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a holder of a registration, the Division shall deem the registration to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.***

2. The Division shall reinstate a registration that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the registration stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 21. ***1. For each violation committed by an applicant for a registration issued pursuant to sections 7 to 21, inclusive, of this act, whether or not he is issued a registration, the Commission may impose upon the applicant an administrative fine of not more than $10,000 if the applicant:***

(a) Has knowingly made or caused to be made to the Commission any false representation of material fact;

(b) Has suppressed or withheld from the Commission any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act; or

(c) Has violated any provision of sections 7 to 21, inclusive, of this act, a regulation adopted pursuant to sections 7 to 21, inclusive, of this act or an order of the Commission in completing and filing his application for a registration or during the course of the investigation of the application for a registration.

2. For each violation committed by an appraisal management company, the Commission may impose upon the appraisal management company an administrative fine of not more than $10,000, may suspend, revoke or place conditions on the registration or may do both, if the appraisal management company, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which the appraisal management company is required to be registered pursuant to sections 7 to 21, inclusive, of this act;

(b) Does not conduct its business in accordance with the law or has violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission;

(c) Has made a material representation in connection with any transaction governed by this chapter;

(d) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the appraisal management company knew or, by the exercise of reasonable diligence, should have known;

(e) Has knowingly made or caused to be made to the Commission any false representation of material fact or has suppressed or withheld from the Commission any information which the appraisal management company possesses and which, if submitted by the appraisal management company, would have rendered the appraisal management company ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act;

(f) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude; or

(g) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

Sec. 22. NRS 645C.010 is hereby amended to read as follows:

645C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645C.020 to 645C.130, inclusive, ***and sections 5 and 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 23. NRS 645C.430 is hereby amended to read as follows:

645C.430 1. An appraiser must complete the requirements for continuing education prescribed by regulations adopted by the Commission as a condition to the renewal of an active certificate or license or the reinstatement of an inactive certificate or license. Until the Commission adopts those regulations, the standards for continuing education are as follows:

(a) For the renewal of an active certificate or license, not less than 30 hours of instruction within the 2 years immediately preceding the application for renewal.

(b) For the reinstatement of a certificate or license which has been on inactive status ***,*** ~~[~~**:**

~~(1) For not more than 2 years, or for more than 2 years including the initial period of certification or licensure, not less than 30 hours of instruction.~~

~~(2) For more than 2 years, no part of which includes the initial period of certification or licensure,~~**]** not less than 15 hours of instruction per year for each year that the certificate or license was on inactive status **.** ~~[, not to exceed 60 hours of instruction.]~~

➥ ***The required hours of instruction must include the most recent edition of the 7-hour National Uniform Standards of Professional Appraisal Practice Update Course.***

2. As used in this section, an "hour of instruction" means at least 50 minutes of actual time spent receiving instruction.

Sec. 24. NRS 645C.460 is hereby amended to read as follows:

645C.460 1. Grounds for disciplinary action against a certified or licensed appraiser or registered intern include:

(a) Unprofessional conduct;

(b) Professional incompetence;

(c) ***Any violation of section 4 of this act;***

(d) A criminal conviction for a felony relating to the practice of appraisers or any offense involving moral turpitude; and

~~[(d)]~~ ***(e)*** The suspension ~~[or]~~ **,** revocation ***or voluntary surrender in lieu of other discipline*** of a registration card, certificate, license or permit to act as an appraiser in any other jurisdiction.

2. If grounds for disciplinary action against an appraiser or intern exist, the Commission may do one or more of the following:

(a) Revoke or suspend his certificate, license or registration card.

(b) Place conditions upon his certificate, license or registration card, or upon the reissuance of a certificate, license or registration card revoked pursuant to this section.

(c) Deny the renewal of his certificate, license or registration card.

(d) Impose a fine of not more than $10,000 for each violation.

3. If a certificate, license or registration card is revoked by the Commission, another certificate, license or registration card must not be issued to the same appraiser or intern for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the appraiser or intern satisfies all the requirements for an original certificate, license or registration card.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 25. NRS 645C.470 is hereby amended to read as follows:

645C.470 A certified or licensed appraiser or registered intern is guilty of unprofessional conduct if he:

1. Willfully uses a trade name, service mark or insigne indicating membership in an organization for appraisers of which he is not a member;

2. Violates any order of the Commission, agreement with the Division, provision of this chapter or provision of any regulation adopted pursuant to this chapter;

3. Fails to disclose to any person with whom he is dealing any material fact or other information he knows, or in the exercise of reasonable care and diligence should know, concerning or relating to any real estate he appraises, including any interest he has in the real estate;

4. Knowingly communicates a false or fraudulent appraisal to any interested person or otherwise engages in any deceitful, fraudulent or dishonest conduct;

5. ~~[Enters]~~ ***Prepares or provides or enters*** into a contract to prepare ***or provide*** an appraisal ~~[by which]~~ ***if*** his compensation is based partially or entirely on ***, or is otherwise affected by,*** the amount of the appraised value of the real estate;

6. Before obtaining his license or registration card, engaged in any conduct of which the Division is not aware that would be a ground for the denial of a certificate, license or registration card; or

7. Makes a false statement of material fact on his application.

Sec. 26. NRS 645C.555 is hereby amended to read as follows:

645C.555 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate, license ***, registration*** or registration card or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate, license ***, registration*** or registration card or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 27. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[.]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) ***Has violated section 4 of this act;***

(p) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; or

~~[(p)]~~ ***(q)*** Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 28. 1. This section, sections 5 to 11, inclusive, 13 to 22, inclusive, and 26 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2010, for all other purposes.

2. Sections 1 to 4, inclusive, 23, 24, 25 and 27 of this act become effective on July 1, 2009.

3. The provisions of sections 11 and 20 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Section 12 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 911 to Assembly Bill No. 287.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 314.

The following Senate amendment was read:

Amendment No. 765.

AN ACT relating to dentistry; authorizing the Board of Dental Examiners of Nevada to issue a limited license to supervise certain courses of continuing education involving live patients; authorizing students to participate in such courses of continuing education under certain circumstances; **authorizing the Board to issue a specialist's license to a person who has completed the educational requirements for certification in a specialty under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill allows a person who has received a degree in dentistry from an accredited program to receive a limited license to supervise certain courses of continuing education involving live patients. A limited license issued under **section 1** expires 1 year after being issued and may be renewed annually. **Section 1** also: (1) authorizes the Board of Dental Examiners of Nevada to charge a fee for the issuance or renewal of the limited license; (2) authorizes the Board to suspend or revoke the limited license under certain circumstances; and (3) imposes a duty upon the holder of the limited license to report certain events to the Board.

Section 2 of this bill provides that NRS 631.215 does not prevent a dentist who is licensed in another state or country from participating in a course of postgraduate continuing education in dentistry supervised by the holder of a limited license issued pursuant to **section 1** under certain circumstances.

Existing law authorizes the Board to issue a specialist's license to a person without requiring the person to take the clinical examination required pursuant to NRS 631.240 if the person presents a current certification as a diplomate from a certifying board approved by the Commission on Dental Accreditation of the American Dental Association and meets certain other qualifications. (NRS 631.255) Section 3 of this bill expands the authorization to include issuing a specialist's license to a person who has completed the educational requirements specified for qualification in a specialty area by a certifying board and who is eligible to be certified, so long as the person submits to the Board his certificate as a diplomate within 6 years after he is issued the specialist's license and maintains the certification while licensed as a specialist in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall, without a clinical examination required by NRS 631.240 or 631.300, issue a limited license to a person to supervise courses of continuing education involving live patients at an institute or organization with a permanent facility registered with the Board for the sole purpose of providing postgraduate continuing education in dentistry if the person has received a degree from a dental school or college accredited by the Commission on Dental Accreditation of the American Dental Association or its successor.

2. A limited license issued pursuant to this section expires 1 year after the date of its issuance and may be renewed annually upon submission of proof acceptable to the Board of compliance with subsection 1 and payment of any fee required pursuant to subsection 3.

3. The Board may impose a fee of not more than $100 for the issuance and each renewal of a limited license issued pursuant to this section.

4. A limited license issued pursuant to this section may be suspended or revoked by the Board if the holder of the limited license:

(a) Has had his license to practice dentistry suspended, revoked or placed on probation in another state, territory or possession of the United States, the District of Columbia or a foreign country;

(b) Has been convicted of a felony or misdemeanor involving moral turpitude; or

(c) Has a documented history of substance abuse.

5. A holder of a limited license issued pursuant to this section shall notify the Board in writing by certified mail not later than 30 days after:

(a) The death of a patient being treated by a dentist under the supervision of the holder of a limited license;

(b) Any incident which:

(1) Results in the hospitalization of or a permanent physical or mental injury to a patient being treated by a dentist under the supervision of the holder of a limited license; and

(2) Occurs while the dentist is treating the patient under the supervision of the holder of a limited license; or

(c) Any event or circumstance described in subsection 4.

Sec. 2. NRS 631.215 is hereby amended to read as follows:

631.215 1. Any person shall be deemed to be practicing dentistry who:

(a) Uses words or any letters or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;

(b) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;

(c) Diagnoses, professes to diagnose or treats or professes to treat any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof;

(d) Extracts teeth;

(e) Corrects malpositions of the teeth or jaws;

(f) Takes impressions of the teeth, mouth or gums, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(g) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;

(h) Places in the mouth and adjusts or alters artificial teeth;

(i) Does any practice included in the clinical dental curricula of accredited dental colleges or a residency program for those colleges;

(j) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases;

(k) Uses X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(l) Determines:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable; or

(m) Dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(1) Dispensing or using a product that may be purchased over the counter for a person's own use; or

(2) Authorized by the regulations of the Board to engage in such activities without being a licensed dentist.

2. Nothing in this section:

(a) Prevents a dental assistant, dental hygienist or qualified technician from making radiograms or X-ray exposures or using X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes upon the direction of a licensed dentist.

(b) Prohibits the performance of mechanical work, on inanimate objects only, by any person employed in or operating a dental laboratory upon the written work authorization of a licensed dentist.

(c) Prevents students from performing dental procedures that are part of the curricula of an accredited dental school or college or an accredited school of dental hygiene or an accredited school of dental assisting.

(d) Prevents a licensed dentist or dental hygienist from another state or country from appearing as a clinician for demonstrating certain methods of technical procedures before a dental society or organization, convention or dental college or an accredited school of dental hygiene or an accredited school of dental assisting.

(e) Prohibits the manufacturing of artificial teeth upon receipt of a written authorization from a licensed dentist if the manufacturing does not require direct contact with the patient.

(f) Prevents a person who is actively licensed as a dentist in another jurisdiction from treating a patient if:

(1) The patient has previously been treated by the dentist in the jurisdiction in which the dentist is licensed;

(2) The dentist treats the patient only during a course of continuing education involving live patients which:

(I) Is conducted at an institute or organization with a permanent facility registered with the Board for the sole purpose of providing postgraduate continuing education in dentistry; and

(II) Meets all applicable requirements for approval as a course of continuing education; and

(3) The dentist treats the patient only under the supervision of a person licensed pursuant to section 1 of this act.

Sec. 3. **NRS 631.255 is hereby amended to read as follows:**

631.255 1. The Board may, without a clinical examination required by NRS 631.240, issue a specialist's license to a person who:

(a) Presents a current certification as a diplomate from a certifying board approved by the Commission on Dental Accreditation of the American Dental Association; ***or***

(b) Has ***completed the educational requirements specified for certification in a specialty area by a certifying board approved by the Commission on Dental Accreditation of the American Dental Association and is recognized by the certifying board as being eligible for that certification. A person who is licensed as a specialist pursuant to the provisions of this paragraph:***

(1) Shall submit to the Board his certificate as a diplomate from the certifying board within 6 years after licensure as a specialist; and

(2) Must maintain certification as a diplomate of the certifying board during the period in which the person is licensed as a specialist pursuant to this paragraph.

2. In addition to the requirements set forth in subsection 1, a person applying for a specialist's license:

(a) Must hold an active license to practice dentistry pursuant to the laws of another state or territory of the United States, or the District of Columbia ~~[.~~

~~(c) Is]~~ ***, or pursuant to the laws of this State, another state or territory of the United States, or the District of Columbia, if the person is applying pursuant to paragraph (b) of subsection 1;***

(b) Must be a specialist as identified by the Board;

~~[(d) Pays]~~

(c) Shall pay the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.240;

~~[(e) Submits]~~

(d) Must submit all information required to complete an application for a license; and

~~[(f) Satisfies]~~

(e) Must satisfy the requirements of NRS 631.230.

~~[2.]~~ ***3.*** The Board shall not issue a specialist's license to a person:

(a) Whose license to practice dentistry has been revoked or suspended;

(b) Who has been refused a license to practice dentistry; or

(c) Who is involved in or has pending a disciplinary action concerning his license to practice dentistry,

➥ in this State, another state or territory of the United States, or the District of Columbia.

~~[3.]~~ ***4.*** The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

~~[4.]~~ ***5.*** A person to whom a specialist's license is issued pursuant to this section shall limit his practice to the specialty.

~~[5.]~~ ***6.*** The Board may revoke a specialist's license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.

~~[Sec. 3.]~~ ***Sec. 4.*** NRS 631.330 is hereby amended to read as follows:

631.330 1. Licenses issued pursuant to NRS 631.271 and 631.275 ***and section 1 of this act*** must be renewed annually. All other licenses must be renewed biennially.

2. Except as otherwise provided in NRS 631.271 and 631.275 ~~[.]~~ ***and section 1 of this act:***

(a) Each holder of a license to practice dentistry or dental hygiene must, upon:

(1) Payment of the required fee;

(2) Submission of proof of completion of the required continuing education; and

(3) Submission of all information required to complete the renewal,

➥ be granted a renewal certificate which will authorize continuation of the practice for 2 years.

(b) A licensee must comply with the provisions of this subsection and subsection 1 on or before June 30. Failure to comply with those provisions by June 30 every 2 years automatically suspends the license, and it may be reinstated only upon payment of the fee for reinstatement and compliance with the requirements of this subsection.

3. If a license suspended pursuant to this section is not reinstated within 12 months after suspension, it is automatically revoked.

~~[Sec. 4.]~~ ***Sec. 5.*** NRS 631.345 is hereby amended to read as follows:

631.345 1. ~~[The]~~ ***Except as otherwise provided in section 1 of this act, the*** Board shall by regulation establish fees for the performance of the duties imposed upon it by this chapter which must not exceed the following amounts:

Application fee for an initial license to practice dentistry $1,500
Application fee for an initial license to practice dental hygiene 750
Application fee for a specialist's license to practice dentistry 300
Application fee for a limited license or restricted license to practice dentistry or dental hygiene..... 300
Application and examination fee for a permit to administer general anesthesia, conscious sedation or deep sedation. 750
Fee for any reinspection required by the Board to maintain a permit to administer general anesthesia, conscious sedation or deep sedation 500
Biennial renewal fee for a permit to administer general anesthesia, conscious sedation or deep sedation..... 600
Fee for the inspection of a facility required by the Board to renew a permit to administer general anesthesia, conscious sedation or deep sedation 350
Biennial license renewal fee for a general license, specialist's license, temporary license or restricted geographical license to practice dentistry 1,000
Annual license renewal fee for a limited license or restricted license to practice dentistry..... 300
Biennial license renewal fee for a general license, temporary license or restricted geographical license to practice dental hygiene 600
Annual license renewal fee for a limited license to practice dental hygiene 300
Biennial license renewal fee for an inactive dentist..... 400
Biennial license renewal fee for a dentist who is retired or has a disability 100
Biennial license renewal fee for an inactive dental hygienist $200
Biennial license renewal fee for a dental hygienist who is retired or has a disability 100
Reinstatement fee for a suspended license to practice dentistry or dental hygiene..... 500
Reinstatement fee for a revoked license to practice dentistry or dental hygiene..... 500
Reinstatement fee to return a dentist or dental hygienist who is inactive, retired or has a disability to active status 500
Fee for the certification of a license..... 50

2. Except as otherwise provided in this subsection, the Board shall charge a fee to review a course of continuing education for accreditation. The fee must not exceed $150 per credit hour of the proposed course. The Board shall not charge a nonprofit organization or an agency of the State or of a political subdivision of the State a fee to review a course of continuing education.

3. All fees prescribed in this section are payable in advance and must not be refunded.

~~[Sec. 5.]~~ ***Sec. 6.*** NRS 631.350 is hereby amended to read as follows:

631.350 1. Except as otherwise provided in NRS 631.271 and 631.347, ***and section 1 of this act,*** the Board may:

(a) Refuse to issue a license to any person;

(b) Revoke or suspend the license or renewal certificate issued by it to any person;

(c) Fine a person it has licensed;

(d) Place a person on probation for a specified period on any conditions the Board may order;

(e) Issue a public reprimand to a person;

(f) Limit a person's practice to certain branches of dentistry;

(g) Require a person to participate in a program to correct alcohol or drug abuse or any other impairment;

(h) Require that a person's practice be supervised;

(i) Require a person to perform community service without compensation;

(j) Require a person to take a physical or mental examination or an examination of his competence;

(k) Require a person to fulfill certain training or educational requirements;

(l) Require a person to reimburse a patient; or

(m) Any combination thereof,

➥ upon submission of substantial evidence to the Board that the person has engaged in any of the activities listed in subsection 2.

2. The following activities may be punished as provided in subsection 1:

(a) Engaging in the illegal practice of dentistry or dental hygiene;

(b) Engaging in unprofessional conduct; or

(c) Violating any regulations adopted by the Board or the provisions of this chapter.

3. The Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

5. The Board shall not administer a private reprimand.

6. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 314.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 378.

The following Senate amendment was read:

Amendment No. 679.

AN ACT relating to liquor; authorizing a wholesale dealer to receive original packages of a brand of liquor from an affiliate of the wholesale dealer located outside this State under certain circumstances; prohibiting a supplier from unreasonably withholding or delaying its approval of certain decisions relating to a franchise with a wholesaler under certain circumstances; imposing other prohibitions on a supplier; providing a remedy for violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the circumstances under which intoxicating liquor may be imported and sold in this State. (Chapter 369 of NRS) **Section 1** of this bill provides that a wholesale dealer of liquor who is a designated importer for a supplier may receive original packages of liquor from an affiliate of the wholesale dealer located outside this State if certain conditions are met. **Section 1** also provides that such an affiliate is not a supplier when the affiliate ships liquor to the wholesale dealer.

Existing law sets forth various requirements concerning a franchise between a supplier and a wholesaler of malt beverages, distilled spirits and wines. (NRS 597.120-597.180) **Section 3** of this bill prohibits a supplier from unreasonably withholding or delaying its approval of certain sales, assignments or transfers of an interest in a wholesaler's assets or of the substitution of a person under a franchise. **Section 3** provides for the liability of the supplier to a wholesaler if the supplier unreasonably withholds its consent in violation of **section 3**. **Section 4** prohibits a supplier from taking various other actions against a wholesaler.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a supplier designates a wholesale dealer as the designated importer of a brand of liquor pursuant to NRS 369.386, the wholesale dealer may, without any additional designation or further consent from the supplier, receive original packages of that brand of liquor from an affiliate of the wholesale dealer located outside of this State if:

(a) The affiliate operates a warehouse outside this State from which the affiliate ships the liquor;

(b) The affiliate is licensed as a wholesaler for the liquor in the state from which the affiliate ships the liquor;

(c) The wholesale dealer registers the name and address of the affiliate's warehouse with the Department on a form prescribed by the Department; and

(d) As soon as practicable after receiving the liquor, the wholesale dealer reports the receipt of the liquor to the Department and pays all applicable excise taxes thereon pursuant to NRS 369.330.

2. A wholesale dealer may not receive more than 15 percent of the total amount of any brand of liquor imported into this State during a calendar year pursuant to this section. Any liquor received by the wholesale dealer from an affiliate pursuant to this section must be purchased in accordance with the terms and conditions of the wholesaler's franchise with the supplier.

3. A transfer of liquor pursuant to this section is not a purchase or sale of that liquor.

~~[3.]~~ ***4. An affiliate of a wholesale dealer located outside this State who ships liquor pursuant to this section is not engaged in business as a supplier for purposes of this chapter and chapter 597 of NRS. The provisions of this subsection do not authorize a wholesale dealer to receive liquor from an affiliate who is a supplier, as defined in NRS 597.140, or the holder of a certificate of compliance issued pursuant to NRS 369.430.***

~~[4.]~~ ***5. As used in this section ~~[, "affiliate"]~~ :***

(a) "Affiliate" means a wholesale dealer or a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a wholesale dealer. As used in this ~~[subsection,]~~ paragraph, "control" means not less than 50 percent control, directly or indirectly, through one or more intermediaries.

(b) "Franchise" has the meaning ascribed to it in NRS 597.130.

Sec. 2. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. ***1. A supplier shall not unreasonably withhold or delay his approval of any assignment, sale or transfer of the stock of a wholesaler or of all or any portion of a wholesaler's assets, a wholesaler's voting stock, the voting stock of any parent corporation or the beneficial ownership or control of any other entity owning or controlling the wholesaler, including the wholesaler's rights and obligations under the terms of a franchise, whenever a person to be substituted under the terms of the franchise meets reasonable standards imposed upon the wholesaler and any other wholesaler of the supplier of the same general class, after consideration of the size and location of the marketing area of the wholesaler.***

2. Upon the death of a partner of a partnership that operates the business of a wholesaler, a supplier shall not unreasonably withhold or delay his approval of maintaining the franchise between the supplier and each surviving partner.

3. Upon the death of any owner, controlling shareholder or operator of a wholesaler, a supplier shall not deny approval of any transfer of ownership to a surviving spouse, child or grandchild of the owner who has reached the age of majority at the time of death, controlling shareholder or operator. Any subsequent transfer of ownership by the spouse, child,

grandchild, controlling shareholder or operator is subject to the provisions of subsection 1.

4. In addition to the provisions of NRS 597.170, a supplier who unreasonably delays or withholds his consent or unreasonably denies approval of a sale, transfer or assignment of any ownership interest in a wholesaler is liable to the wholesaler for the laid-in costs of inventory of each affected brand of liquor and any diminution in the fair market value of the business of the wholesaler in relation to each affected brand. The damages recoverable pursuant to this section include, without limitation, all reasonable costs of bringing the action and attorney's fees. For the purpose of this subsection, the fair market value of a business of a wholesaler includes, without limitation, the good will of the business and its value as a going concern, if any.

5. The provisions of this section may not be modified by agreement. Any provision in an agreement is void if the provision includes such a modification.

Sec. 4. ***A supplier shall not:***

1. Prohibit a wholesaler from selling an alcoholic beverage of any other supplier;

2. Fix or maintain the price at which a wholesaler may resell an alcoholic beverage purchased from the supplier;

3. Require a wholesaler to pay to the supplier all or any portion of the difference in the suggested retail price of an alcoholic beverage and the actual price at which the wholesaler sells the alcoholic beverage;

4. Require a wholesaler to accept delivery of any alcoholic beverage or any other item that is not voluntarily ordered by the wholesaler or otherwise not required under the franchise between the supplier and wholesaler or is in violation of any levels of inventory that are mutually agreed upon in writing by the supplier and wholesaler;

5. Prohibit or restrain, directly or indirectly, a wholesaler from participating in an organization that represents the interests of wholesalers for any lawful purpose; or

6. Require a wholesaler to participate in or contribute to any advertising fund or promotional activity that:

(a) Is not used for advertising or a promotional activity in the marketing area of the wholesaler; or

(b) Requires a contribution by the wholesaler that exceeds any amount specified for that purpose in the franchise.

Sec. 5. NRS 597.120 is hereby amended to read as follows:

597.120 As used in NRS 597.120 to 597.180, inclusive, ***and sections 3 and 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 597.125 to 597.150, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 597.170 is hereby amended to read as follows:

597.170 1. Any wholesaler may bring an action in a court of competent jurisdiction against a supplier for violation of NRS 597.120 to 597.180, inclusive, and ***sections 3 and 4 of this act and*** may recover the damages sustained by him, together with such costs of the action and reasonable attorney's fees as are authorized under NRS 18.110.

2. The remedies provided in NRS 597.120 to 597.180, inclusive, ***and sections 3 and 4 of this act*** are independent of and supplemental to any other remedy or remedies available to the wholesaler in law or equity.

Sec. 7. NRS 597.180 is hereby amended to read as follows:

597.180 In any action brought by a wholesaler against a supplier for termination or noncontinuance of, or causing to resign from a franchise in violation of NRS 597.120 to 597.180, inclusive, ***and sections 3 and 4 of this act,*** the supplier has the burden of establishing that he acted for good cause and that the wholesaler did not act in good faith. It is a complete defense for the supplier to prove that the termination, noncontinuance or causing to resign was done in good faith and for good cause.

Sec. 8. NRS 597.262 is hereby amended to read as follows:

597.262 1. Except as otherwise provided in this section and NRS 228.380, the Attorney General has primary jurisdiction to enforce the provisions of NRS 597.120 to 597.260, inclusive, and ***sections 3 and 4 of this act and*** shall cause appropriate legal action to be taken to enforce those provisions.

2. The Attorney General has concurrent jurisdiction with the district attorneys of this State to enforce the provisions of NRS 597.225 and 597.245.

3. This section does not prohibit:

(a) A wholesaler from bringing an action against a supplier pursuant to NRS 597.170 ~~[.]~~ ***or section 3 of this act.***

(b) A customer, supplier or wholesaler from bringing an action against a retailer pursuant to NRS 597.260.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 679 to Assembly Bill No. 378.

Remarks by Assemblyman Conklin.

Motion carried.

The following Senate amendment was read:

Amendment No. 888.

AN ACT relating to liquor; authorizing a wholesale dealer to receive original packages of a brand of liquor from an affiliate of the wholesale dealer located outside this State under certain circumstances; prohibiting a supplier from unreasonably withholding or delaying its approval of certain decisions relating to a franchise with a wholesaler under certain circumstances; imposing other prohibitions on a supplier; providing a remedy for violations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the circumstances under which intoxicating liquor may be imported and sold in this State. (Chapter 369 of NRS) **Section 1** of

this bill provides that a wholesale dealer of liquor who is a designated importer for a supplier may receive original packages of liquor from an affiliate of the wholesale dealer located outside this State if certain conditions are met. **Section 1** also provides that such an affiliate is not a supplier when the affiliate ships liquor to the wholesale dealer.

Existing law sets forth various requirements concerning a franchise between a supplier and a wholesaler of malt beverages, distilled spirits and wines. (NRS 597.120-597.180) **Section 3** of this bill prohibits a supplier from unreasonably withholding or delaying its approval of certain sales, assignments or transfers of an interest in a wholesaler's assets or of the substitution of a person under a franchise. **Section 3** provides for the liability of the supplier to a wholesaler if the supplier unreasonably withholds its consent in violation of **section 3**. **Section 4** prohibits a supplier from taking various other actions against a wholesaler.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a supplier designates a wholesale dealer as the designated importer of a brand of liquor pursuant to NRS 369.386, the wholesale dealer may, without any additional designation or further consent from the supplier, receive original packages of that brand of liquor from an affiliate of the wholesale dealer located outside of this State if:

(a) The affiliate operates a warehouse outside this State from which the affiliate ships the liquor;

(b) The affiliate is licensed as a wholesaler for the liquor in the state from which the affiliate ships the liquor;

(c) The wholesale dealer registers the name and address of the affiliate's warehouse with the Department on a form prescribed by the Department; ~~*[and]*~~

(d) Within 10 days after the affiliate ships the liquor to the wholesale dealer, the affiliate submits to the Department, with documentation, a report stating:

(1) The name and address of the wholesale dealer to whom the liquor was shipped;

(2) The name and address of the person from whom the affiliate purchased the liquor;

(3) The brand of liquor shipped;

(4) The quantity of liquor shipped in gallons, rounded to the nearest one-hundredth; and

(5) The percentage of alcohol by volume; and

(e) As soon as practicable after receiving the liquor, the wholesale dealer reports the receipt of the liquor to the Department . ~~*[and pays]*~~ ***The wholesale dealer shall pay all applicable excise taxes*** ~~*[thereon pursuant to*~~

~~*NRS 369.330.]*~~ ***imposed by this chapter on that liquor on or before the 20th day of the month following the month in which the liquor was received by the wholesale dealer.***

2. A wholesale dealer may not receive more than 15 percent of the total amount of any brand of liquor imported into this State during a calendar year pursuant to this section. Any liquor received by the wholesale dealer from an affiliate pursuant to this section must be purchased in accordance with the terms and conditions of the wholesaler's franchise with the supplier.

3. A transfer of liquor pursuant to this section is not a purchase or sale of that liquor.

4. An affiliate of a wholesale dealer located outside this State who ships liquor pursuant to this section is not engaged in business as a supplier for the purposes of this chapter and chapter 597 of NRS. The provisions of this subsection do not authorize a wholesale dealer to receive liquor from an affiliate who is a supplier, as defined in NRS 597.140, or the holder of a certificate of compliance issued pursuant to NRS 369.430.

5. As used in this section:

(a) "Affiliate" means a wholesale dealer or a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a wholesale dealer. As used in this paragraph, "control" means not less than 50 percent control, directly or indirectly, through one or more intermediaries.

(b) "Franchise" has the meaning ascribed to it in NRS 597.130.

Sec. 2. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. ***1. A supplier shall not unreasonably withhold or delay his approval of any assignment, sale or transfer of the stock of a wholesaler or of all or any portion of a wholesaler's assets, a wholesaler's voting stock, the voting stock of any parent corporation or the beneficial ownership or control of any other entity owning or controlling the wholesaler, including the wholesaler's rights and obligations under the terms of a franchise, whenever a person to be substituted under the terms of the franchise meets reasonable standards imposed upon the wholesaler and any other wholesaler of the supplier of the same general class, after consideration of the size and location of the marketing area of the wholesaler.***

2. Upon the death of a partner of a partnership that operates the business of a wholesaler, a supplier shall not unreasonably withhold or delay his approval of maintaining the franchise between the supplier and each surviving partner.

3. Upon the death of any owner, controlling shareholder or operator of a wholesaler, a supplier shall not deny approval of any transfer of ownership to a surviving spouse, child or grandchild of the owner who has reached the age of majority at the time of death, controlling shareholder or operator. Any subsequent transfer of ownership by the spouse, child,

grandchild, controlling shareholder or operator is subject to the provisions of subsection 1.

4. In addition to the provisions of NRS 597.170, a supplier who unreasonably delays or withholds his consent or unreasonably denies approval of a sale, transfer or assignment of any ownership interest in a wholesaler is liable to the wholesaler for the laid-in costs of inventory of each affected brand of liquor and any diminution in the fair market value of the business of the wholesaler in relation to each affected brand. The damages recoverable pursuant to this section include, without limitation, all reasonable costs of bringing the action and attorney's fees. For the purpose of this subsection, the fair market value of a business of a wholesaler includes, without limitation, the good will of the business and its value as a going concern, if any.

5. The provisions of this section may not be modified by agreement. Any provision in an agreement is void if the provision includes such a modification.

Sec. 4. ***A supplier shall not:***

1. Prohibit a wholesaler from selling an alcoholic beverage of any other supplier;

2. Fix or maintain the price at which a wholesaler may resell an alcoholic beverage purchased from the supplier;

3. Require a wholesaler to pay to the supplier all or any portion of the difference in the suggested retail price of an alcoholic beverage and the actual price at which the wholesaler sells the alcoholic beverage;

4. Require a wholesaler to accept delivery of any alcoholic beverage or any other item that is not voluntarily ordered by the wholesaler or otherwise not required under the franchise between the supplier and wholesaler or is in violation of any levels of inventory that are mutually agreed upon in writing by the supplier and wholesaler;

5. Prohibit or restrain, directly or indirectly, a wholesaler from participating in an organization that represents the interests of wholesalers for any lawful purpose; or

6. Require a wholesaler to participate in or contribute to any advertising fund or promotional activity that:

(a) Is not used for advertising or a promotional activity in the marketing area of the wholesaler; or

(b) Requires a contribution by the wholesaler that exceeds any amount specified for that purpose in the franchise.

Sec. 5. NRS 597.120 is hereby amended to read as follows:

597.120 As used in NRS 597.120 to 597.180, inclusive, ***and sections 3 and 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 597.125 to 597.150, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 597.170 is hereby amended to read as follows:

597.170 1. Any wholesaler may bring an action in a court of competent jurisdiction against a supplier for violation of NRS 597.120 to 597.180, inclusive, and ***sections 3 and 4 of this act and*** may recover the damages sustained by him, together with such costs of the action and reasonable attorney's fees as are authorized under NRS 18.110.

2. The remedies provided in NRS 597.120 to 597.180, inclusive, ***and sections 3 and 4 of this act*** are independent of and supplemental to any other remedy or remedies available to the wholesaler in law or equity.

Sec. 7. NRS 597.180 is hereby amended to read as follows:

597.180 In any action brought by a wholesaler against a supplier for termination or noncontinuance of, or causing to resign from a franchise in violation of NRS 597.120 to 597.180, inclusive, ***and sections 3 and 4 of this act,*** the supplier has the burden of establishing that he acted for good cause and that the wholesaler did not act in good faith. It is a complete defense for the supplier to prove that the termination, noncontinuance or causing to resign was done in good faith and for good cause.

Sec. 8. NRS 597.262 is hereby amended to read as follows:

597.262 1. Except as otherwise provided in this section and NRS 228.380, the Attorney General has primary jurisdiction to enforce the provisions of NRS 597.120 to 597.260, inclusive, and ***sections 3 and 4 of this act and*** shall cause appropriate legal action to be taken to enforce those provisions.

2. The Attorney General has concurrent jurisdiction with the district attorneys of this State to enforce the provisions of NRS 597.225 and 597.245.

3. This section does not prohibit:

(a) A wholesaler from bringing an action against a supplier pursuant to NRS 597.170 ~~[.]~~ ***or section 3 of this act.***

(b) A customer, supplier or wholesaler from bringing an action against a retailer pursuant to NRS 597.260.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 888 to Assembly Bill No. 378.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 454.

The following Senate amendment was read:

Amendment No. 763.

AN ACT relating to housing; revising certain provisions relating to the grounds of termination for certain rental or lease agreements affecting certain tenants in a manufactured home park; ~~[revising certain provisions relating to an appeal from a judgment in an unlawful detainer action;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill provides that a rental agreement between a landlord and a tenant for the rental or lease of certain lots in a manufactured home park in this State may only be terminated on one or more of the grounds listed in existing law regardless of the fact that a notice of termination may have been served upon the tenant. (NRS 118B.190, 118B.200)

~~[Existing law provides that an eviction may be initiated by filing an unlawful detainer action or by using the procedures for summary eviction. (NRS 40.215-40.425) Existing law also generally provides that a person may obtain a stay of execution upon an appeal from an order entered in an action: (1) for summary eviction by filing with the trial court a bond in the amount of $250; and (2) for unlawful detainer if the person is a defendant and, within 10 days after the judgment is rendered, he files with the court or justice a bond with two or more sureties in the amount determined by the court or justice but that is not less than twice the amount of the judgment and costs. (NRS 40.380, 40.385) Existing law further provides that the summary eviction process may not be used against certain tenants in mobile home parks. (NRS 40.253) Section 6 of this bill changes the amount of the bond that certain defendants who are tenants in a mobile home park are required to file to obtain a stay of execution upon an appeal from an order entered in an action for unlawful detainer from twice the amount of the judgment and costs to $250. Section 6 also: (1) requires certain tenants in a mobile home park who retain possession of the premises that are the subject of the appeal to pay the landlord the rent in the amount provided in the underlying contract as it becomes due; and (2) authorizes, under certain circumstances, the court or justice to vacate the stay of execution if such a tenant fails to pay the rent. (NRS 40.380)]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 118B.200 is hereby amended to read as follows:

118B.200 1. Notwithstanding the expiration of a period of a tenancy ~~[,]~~ ***or service of a notice pursuant to subsection 1 of NRS 118B.190,*** the rental agreement described in NRS 118B.190 may not be terminated except ~~[for:]~~ ***on one or more of the following grounds:***

(a) Failure of the tenant to pay rent, utility charges or reasonable service fees within 10 days after written notice of delinquency served upon the tenant in the manner provided in NRS 40.280;

(b) Failure of the tenant to correct any noncompliance with a law, ordinance or governmental regulation pertaining to manufactured homes or recreational vehicles or a valid rule or regulation established pursuant to NRS 118B.100 or to cure any violation of the rental agreement within a

reasonable time after receiving written notification of noncompliance or violation;

(c) Conduct of the tenant in the manufactured home park which constitutes an annoyance to other tenants;

(d) Violation of valid rules of conduct, occupancy or use of park facilities after written notice of the violation is served upon the tenant in the manner provided in NRS 40.280;

(e) A change in the use of the land by the landlord pursuant to NRS 118B.180;

(f) Conduct of the tenant which constitutes a nuisance as defined in NRS 40.140 or which violates a state law or local ordinance, specifically including, without limitation:

(1) Discharge of a weapon;

(2) Prostitution;

(3) Illegal drug manufacture or use;

(4) Child molestation or abuse;

(5) Elder molestation or abuse;

(6) Property damage as a result of vandalism; and

(7) Operating a motor vehicle while under the influence of alcohol or any other controlled substance; or

(g) In a manufactured home park that is owned by a nonprofit organization or housing authority, failure of the tenant to meet qualifications relating to age or income which:

(1) Are set forth in the lease signed by the tenant; and

(2) Comply with federal, state and local law.

2. A tenant who is not a natural person and who has received three or more 10-day notices to quit for failure to pay rent in the preceding 12-month period may have his tenancy terminated by the landlord for habitual failure to pay timely rent.

Sec. 6. ~~[NRS 40.380 is hereby amended to read as follows:~~

~~40.380 ***1.*** Either party may, within 10 days, appeal from the judgment rendered.~~ **[**But**]** ~~***Except as otherwise provided in subsection 2,*** an appeal by the defendant shall not stay the execution of the judgment, unless, within the 10 days, he~~ **[**shall execute and file**]** ~~***executes and files*** with the court or justice his undertaking to the plaintiff, with two or more sureties, in an amount to be fixed by the court or justice, but which~~ **[**shall**]** ~~***must*** not be less than twice the amount of the judgment and costs, to the effect that, if the judgment appealed from be affirmed or the appeal be dismissed, the appellant will pay the judgment and the cost of appeal, the value of the use and occupation of the property, and damages justly accruing to the plaintiff during the pendency of the appeal. Upon taking the appeal and filing the undertaking, all further proceedings in the case~~ **[**shall**]** ~~***must*** be stayed.~~

~~***2. If the appeal is by a defendant who is a tenant of a mobile home lot in a mobile home park or a tenant of a recreational vehicle lot in an area***~~

~~*of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215, the total amount of the sureties required to be executed and filed with the court or justice pursuant to subsection 1 is $250 except as otherwise provided in this subsection. In an action concerning a lease of a such a lot in a mobile home park for which the monthly rent exceeds $1,000, the court or justice may, upon its or his own motion or that of a party, and upon a showing of good cause, order an additional bond to be posted to cover the expected costs on appeal.*~~

~~*3. A tenant of a mobile home lot in a mobile home park or a tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215 who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If such a tenant fails to pay rent within 10 days after the date on which the rent is due, the court or justice shall vacate the stay of execution upon proper motion by the landlord if the court or justice determines that the tenant has failed to pay the required rent for the applicable period. Any payment made by a tenant pursuant to this subsection must first be credited against the rent required for the current month.]*~~ **(Deleted by amendment.)**

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 454.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 535.

The following Senate amendment was read:

Amendment No. 707.

AN ACT relating to the Legislature; making various changes relating to the Legislature and the Legislative Counsel Bureau; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that reports made to the Legislature or the Legislative Counsel Bureau may be submitted electronically. **Sections 2 and 3** of this bill allow a Legislator to purchase and use letterhead and business cards after leaving office if the letterhead or business card clearly identifies the person as a former Legislator or retired Legislator. **Sections 4, 5, 7, 8, 12, 13 and 14** of this bill revise certain statutes concerning a Legislator who does not seek reelection or who is defeated for reelection. Such a Legislator continues to serve on legislative committees after the general election until the next regular or special session of the Legislature convenes. **Sections 9.5 and 10** of this bill revise the statutes concerning the membership of the

Legislative Commission and the Interim Finance Committee to provide that the membership of a Legislator who does not seek reelection or who is defeated for reelection terminates on the day after the general election. **Sections 5 and 6** of this bill expand the membership of the Legislative Committee on Public Lands and authorize the Legislative Commission to appoint alternate members. **Section 11** of this bill revises the description of the Administrative Division of the Legislative Counsel Bureau to reflect its duties more accurately. **Sections 11.2, 11.4 and 11.6 of this bill expand the authority of the Legislative Counsel to represent the Legislature's official interests in various actions and proceedings. Section 13.5 of this bill repeals the prospective expiration of provisions that require the prefiling of measures proposed by certain nonlegislative requesters and that make various other changes relating to bill draft requests.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

If a law or resolution requires or directs that a report be made to the Legislature, the Legislative Counsel Bureau, or any person or entity within the Legislature or the Legislative Counsel Bureau, submitting the report in electronic format satisfies the law or resolution.

Sec. 2. NRS 218.048 is hereby amended to read as follows:

218.048 1. After he leaves office and a successor has been elected or appointed, it is unlawful for any Legislator to:

(a) Use any official stationery or business card acquired pursuant to NRS 218.225 ~~[.]~~ ***unless the stationery or business card clearly identifies the person as a former Legislator or retired Legislator;***

(b) Maintain deliberately a listing in any directory, published after that date, which in any manner indicates that he is presently a Legislator; or

(c) Except as otherwise provided in a special act, use on his vehicle a special legislative license plate furnished pursuant to NRS 482.374.

2. Any person who violates any of the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 3. NRS 218.225 is hereby amended to read as follows:

218.225 1. At each regular session of the Legislature, each Legislator is entitled to receive at the expense of the Legislative Fund:

(a) Not to exceed 2,000 letterheads, 8 1/2 inches x 11 inches, and 2,000 half size, or 4,000 of either variety;

(b) Not to exceed 2,000 No. 10 envelopes and 2,000 No. 6 3/4 envelopes, or 4,000 of either variety; and

(c) Not to exceed 2,000 business cards and 1,000 memorandum sheets, 500 each of the small and large type or 1,000 of either type.

2. Each female member of the Assembly is entitled to have the word "Assemblywoman" precede the inscription of her name on her official stationery and business cards.

3. All orders for the printing specified in subsection 1 must be placed by Legislators with the Director of the Legislative Counsel Bureau, who shall approve those claims which comply with the provisions of this section and shall pay the claims from the Legislative Fund.

4. A Legislator may purchase official stationery, cards and other material appropriate to his official duties in excess of that specified in subsection 1 at his own expense ~~[.]~~ ***and may purchase stationery, cards or other material for use after he leaves office if the stationery, cards or other material clearly identifies the person as a former Legislator or retired Legislator.***

Sec. 4. NRS 218.5352 is hereby amended to read as follows:

218.5352 1. The Legislative Committee on Education, consisting of eight legislative members, is hereby created. The membership of the Committee consists of:

(a) Four members appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party.

(b) Four members appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.

2. After the initial selection, the Legislative Commission shall select the Chairman and Vice Chairman of the Committee from among the members of the Committee. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. The Chairmanship of the Committee must alternate each biennium between the houses of the Legislature. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

3. A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the ~~[convening of the]~~ next regular ***or special*** session of the Legislature ~~[.]~~ ***convenes.***

4. A vacancy on the Committee must be filled in the same manner as the original appointment.

Sec. 5. NRS 218.5363 is hereby amended to read as follows:

218.5363 1. There is hereby established a Legislative Committee on Public Lands consisting of ~~[three]~~ ***four*** members of the Senate, ~~[three]~~ ***four*** members of the Assembly and one elected officer representing the governing body of a local political subdivision, appointed by the Legislative Commission with appropriate regard for their experience with and knowledge of matters relating to public lands. The members who are State Legislators must be appointed to provide representation from the various geographical regions of the State.

2. The members of the Committee shall select a Chairman from one House of the Legislature and a Vice Chairman from the other. After the initial selection of a Chairman and a Vice Chairman, each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the ~~[convening of the]~~ next ***regular or special*** session of the Legislature ~~[.]~~ ***convenes.***

4. ***The Legislative Commission may appoint alternates for members of the Committee.*** Vacancies on the Committee must be filled in the same manner as original appointments. ***The Chairman of the Committee may designate an alternate appointed by the Legislative Commission to serve in place of a regular member who is unable to attend a meeting. The Chairman shall appoint an alternate who is a member of the same House and political party as the regular member to serve in place of the regular member if one is available.***

Sec. 6. NRS 218.5365 is hereby amended to read as follows:

218.5365 1. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee. The Research Director of the Legislative Counsel Bureau or a person he has designated shall act as the nonvoting recording Secretary. The Committee shall prescribe regulations for its own management and government. ~~[Four]~~ ***Five*** members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

2. Except during a regular or special session of the Legislature, the members of the Committee who are State Legislators are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day of attendance at a meeting of the Committee and while engaged in the business of the Committee. Per diem allowances, compensation and travel expenses of the legislative members of the Committee must be paid from the Legislative Fund.

3. The member of the Committee who represents a local political subdivision is entitled to receive the subsistence allowances and travel expenses provided by law for his position for each day of attendance at a meeting of the Committee and while engaged in the business of the Committee, to be paid by his local political subdivision.

Sec. 7. NRS 218.5382 is hereby amended to read as follows:

218.5382 1. If:

(a) The Legislature, by concurrent resolution, during a regular legislative session; or

(b) The Interim Finance Committee, by resolution, while the Legislature is not in regular session,

➥ determines that the performance of a fundamental review of the base budget of a particular agency is necessary, the Interim Finance Committee shall create a legislative committee for the fundamental review of the base budgets of state agencies. The Interim Finance Committee may create more than one such committee if the number of agencies designated for review warrants additional committees. If more than one such committee is created, the Interim Finance Committee shall determine which agencies are to be reviewed by the respective committees.

2. Each such committee must consist of an equal number of members of the Senate and the Assembly. The Interim Finance Committee shall appoint the members of a committee. At least a majority of the members of a committee must be members of the Interim Finance Committee. The Interim Finance Committee shall designate the chairman of a committee.

3. Any member of a committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the next ***regular or special*** session of the Legislature ~~[is convened.]~~ ***convenes.***

4. Vacancies on a committee must be filled in the same manner as original appointments.

5. A majority of the members appointed to a committee constitutes a quorum.

6. The Director of the Legislative Counsel Bureau shall assign employees of the Legislative Counsel Bureau to provide such technical, clerical and operational assistance to a committee as the functions and operations of the committee may require.

Sec. 8. NRS 218.53871 is hereby amended to read as follows:

218.53871 1. There is hereby created the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System consisting of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission with appropriate regard for their experience with and knowledge of matters relating to the management of natural resources. The members must be appointed to provide representation from the various geographical regions of the State.

2. The members of the Committee shall elect a Chairman from one house of the Legislature and a Vice Chairman from the other house. Each Chairman and Vice Chairman holds office for a term of 2 years commencing on July 1 of each odd-numbered year.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the next ***regular or special*** session of the Legislature convenes.

4. Vacancies on the Committee must be filled in the same manner as original appointments.

5. The Committee shall report annually to the Legislative Commission concerning its activities and any recommendations.

Sec. 9. NRS 218.610 is hereby amended to read as follows:

218.610 As used in NRS 218.610 to 218.735, inclusive, ***and section 1 of this act,*** "agency of the State" includes all offices, departments, boards, commissions and institutions of the State.

Sec. 9.5. NRS 218.660 is hereby amended to read as follows:

218.660 1. There is hereby created in the Legislative Counsel Bureau a Legislative Commission consisting of 12 members.

2. At each regular session of the Legislature held in odd-numbered years, the Senate shall, by resolution, designate six Senators as regular members of the Legislative Commission and six Senators as alternates, and the Assembly shall, by resolution, designate six Assemblymen as regular members of the Legislative Commission and six Assemblymen as alternates.

3. The Legislature shall determine by joint rule at each regular session of the Legislature in odd-numbered years:

(a) The method of determining the majority party and the minority party regular and alternate membership on the Legislative Commission.

(b) The method of filling vacancies on the Legislative Commission.

(c) ~~[~~The terms of office of members.

~~(d)]~~ The method of selecting the Chairman.

~~[(e)]~~ ***(d)*** The term of office of the Chairman.

4. The members of the Legislative Commission serve until their successors are appointed by resolution as provided in this section, except that the membership of any member who does not become a candidate for reelection or who is defeated for reelection terminates on the day next after the election and the vacancy must be filled as provided by the joint rule adopted pursuant to subsection 3.

Sec. 10. NRS 218.6825 is hereby amended to read as follows:

218.6825 1. There is hereby created in the Legislative Counsel Bureau an Interim Finance Committee ***. Except as otherwise provided in this section, the Interim Finance Committee is*** composed of the members of the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance during the current or immediately preceding session of the Legislature. ~~[~~The~~]~~

2. Except as otherwise provided in this subsection, the immediate past Chairman of the Senate Standing Committee on Finance is the Chairman of the Interim Finance Committee for the period ending with the convening of each even-numbered regular session of the Legislature. The immediate past Chairman of the Assembly Standing Committee on Ways and Means is the Chairman of the Interim Finance Committee during the next legislative interim, and the chairmanship alternates between the houses of the Legislature according to this pattern.

~~[2.]~~ ***The term of the Chairman of the Interim Finance Committee terminates if a new Chairman of the Assembly Standing Committee on Ways and Means or the Senate Standing Committee on Finance, as the case may be, is designated for the next regular session of the Legislature, in which case that person so designated serves as the Chairman of the Committee until the convening of that regular session.***

3. If any regular member of the ***Interim Finance*** Committee informs the Secretary that he will be unable to attend a particular meeting, the Secretary shall notify the Speaker of the Assembly or the Majority Leader of the Senate, as the case may be, to appoint an alternate for that meeting from the same house and political party as the absent member.

~~[3.]~~ ***4. Except as otherwise provided in subsection 5, the term of a member of the Interim Finance Committee expires upon the convening of the next regular session of the Legislature unless the member is replaced by the appointing authority. If the Speaker designate of the Assembly or the Majority Leader designate of the Senate designates members of the Assembly Standing Committee on Ways and Means or the Senate Standing Committee on Finance, as applicable, for the next ensuing regular session of the Legislature, the designated members become members of the Interim Finance Committee. A member may be reappointed.***

5. The membership of any member who does not become a candidate for reelection or who is defeated for reelection ~~[continues until the next session of the Legislature is convened.~~

~~4.]~~ ***terminates on the day next after the general election. The Speaker designate of the Assembly or the Majority Leader designate of the Senate, as the case may be, shall appoint an alternate to fill the vacancy on the Interim Finance Committee. Except as otherwise provided in this subsection, each alternate serves on the Committee:***

(a) If he is a member of the Assembly, until the Speaker designate of the Assembly designates the members of the Assembly Standing Committee on Ways and Means for the next ensuing regular session of the Legislature or appoints a different alternate.

(b) If he is a member of the Senate, until the Majority Leader designate of the Senate designates the members of the Senate Standing Committee on Finance for the next ensuing regular session of the Legislature or appoints a different alternate.

6. The Director of the Legislative Counsel Bureau shall act as the Secretary of the Interim Finance Committee.

~~[5.]~~ ***7.*** A majority of the members of the Assembly Standing Committee on Ways and Means and a majority of the members of the Senate Standing Committee on Finance, jointly, may call a meeting of the Interim Finance Committee if the Chairman does not do so.

~~[6.]~~ ***8.*** In all matters requiring action by the Interim Finance Committee, the vote of the Assembly and Senate members must be taken separately. No

action may be taken unless it receives the affirmative vote of a majority of the Assembly members and a majority of the Senate members.

~~[7.]~~ ***9.*** Except during a regular or special session of the Legislature, each member of the Interim Finance Committee and appointed alternate is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a Committee meeting or is otherwise engaged in Committee work plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207. All such compensation must be paid from the Contingency Fund in the State Treasury.

Sec. 11. NRS 218.6851 is hereby amended to read as follows:

218.6851 1. The Administrative Division consists of the Chief of the Division and such staff as he may require.

2. The Administrative Division is responsible for:

(a) Accounting ~~[;]~~ ***and human resources;***

(b) ***Audio and video services;***

(c) Communication equipment;

~~[(c)]~~ ***(d)*** Control of inventory;

~~[(d)]~~ ***(e) Information technology services;***

(f) Janitorial services;

~~[(e)]~~ ***(g)*** Maintenance of buildings, grounds and vehicles;

~~[(f)]~~ ***(h)*** Purchasing;

~~[(g)]~~ ***(i)*** Security;

~~[(h)]~~ ***(j)*** Shipping and receiving;

~~[(i)]~~ ***(k)*** Utilities;

~~[(j)]~~ ***and***

(l) Warehousing operations**.** ~~[;~~

~~(k) Data processing; and~~

~~(l) Reproduction of documents.]~~

3. The Legislative Commission may assign any other appropriate function to the Administrative Division.

Sec. 11.2. **NRS 218.697 is hereby amended to read as follows:**

218.697 1. When deemed necessary or advisable to protect the official interests of the Legislature ***, one or more houses of the Legislature*** or one or more ~~[legislative committees,]~~ ***agencies, members, officers or employees of the Legislature, the Legislative Counsel Bureau or the Legislative Department of State Government,*** the Legislative Commission, or the Chairman of the Legislative Commission in cases where action is required before a meeting of the Legislative Commission is scheduled to be held, may direct the Legislative Counsel and his staff to appear in, commence, prosecute, defend or intervene in any action ~~[, suit, matter, cause]~~ or proceeding ~~[in]~~ ***before*** any court ~~[or]~~ **,** agency ***or officer*** of ~~[this State or of]~~ the United States ~~[.]~~ ***, this State or any other jurisdiction, or any political subdivision thereof. In any such action or proceeding, the Legislature, the***

houses of the Legislature and the agencies, members, officers and employees of the Legislature, the Legislative Counsel Bureau and the Legislative Department of State Government may not be assessed or held liable for:

(a) Any filing or other court fees; or

(b) The attorney's fees or other fees, costs or expenses of any other parties.

2. If a party to any action or proceeding before any court, agency or officer:

(a) Alleges that the Legislature, by its actions or failure to act, has violated the Constitution, treaties or laws of the United States or the Constitution or laws of this State; or

(b) Challenges, contests or raises as an issue, either in law or in equity, in whole or in part, or facially or as applied, the meaning, intent, purpose, scope, applicability, validity, enforceability or constitutionality of any law, resolution, initiative, referendum or other legislative or constitutional measure, including, without limitation, on grounds that the law, resolution, initiative, referendum or other legislative or constitutional measure is ambiguous, unclear, uncertain, imprecise, indefinite or vague, is preempted by federal law or is otherwise inapplicable, invalid, unenforceable or unconstitutional,

➥ the Legislature may elect to intervene in the action or proceeding by filing a motion or request to intervene in the form required by the rules, laws or regulations applicable to the action or proceeding. The motion or request to intervene must be accompanied by an appropriate pleading, brief or dispositive motion setting forth the Legislature's arguments, claims, objections or defenses, in law or fact, or by a motion or request to file such a pleading, brief or dispositive motion at a later time.

3. Notwithstanding any other law to the contrary, upon the filing of a motion or request to intervene pursuant to subsection 2, the Legislature has an unconditional right and standing to intervene in the action or proceeding and to present its arguments, claims, objections or defenses, in law or fact, whether or not the Legislature's interests are adequately represented by existing parties and whether or not the State or any agency, officer or employee of the State is an existing party. If the Legislature intervenes in the action or proceeding, the Legislature has all the rights of a party.

4. The provisions of this section do not make the Legislature a necessary or indispensable party to any action or proceeding unless the Legislature intervenes in the action or proceeding, and no party to any action or proceeding may name the Legislature as a party or move to join the Legislature as a party based on the provisions of this section.

~~[2.]~~ ***5.*** The Legislative Commission may authorize payment of the expenses and costs incurred pursuant to this section from the Legislative Fund.

6. As used in this section:

(a) "Action or proceeding" means any action, suit, matter, cause, hearing, appeal or proceeding.

(b) "Agency" means any agency, office, department, division, board, commission, authority, committee, subcommittee or other similar body or entity, including, without limitation, any body or entity created by an interstate, cooperative, joint or interlocal agreement or compact.

Sec. 11.4. **NRS 12.130 is hereby amended to read as follows:**

12.130 1. ***Except as otherwise provided in subsection 2:***

(a) Before the trial, any person may intervene in an action or proceeding, who has an interest in the matter in litigation, in the success of either of the parties, or an interest against both.

~~[2.]~~ ***(b)*** An intervention takes place when a third person is permitted to become a party to an action or proceeding between other persons, either by joining the plaintiff in claiming what is sought by the complaint, or by uniting with the defendant in resisting the claims of the plaintiff, or by demanding anything adversely to both the plaintiff and the defendant.

~~[3.]~~ ***(c)*** Intervention is made as provided by the Nevada Rules of Civil Procedure.

~~[4.]~~ ***(d)*** The court shall determine upon the intervention at the same time that the action is decided. If the claim of the party intervening is not sustained, he shall pay all costs incurred by the intervention.

2. The provisions of this section do not apply to intervention in an action or proceeding by the Legislature pursuant to NRS 218.697.

Sec. 11.6. **NRS 65.030 is hereby amended to read as follows:**

65.030 1. ***Except as otherwise provided in subsection 2:***

(a) Before the trial, any person may intervene in an action or proceeding, who has an interest in the matter in litigation, in the success of either of the parties, or an interest against both.

~~[2.]~~ ***(b)*** An intervention takes place when a third person is permitted to become a party to an action or proceeding between other persons, either by joining the plaintiff in claiming what is sought by the complaint, or by uniting with the defendant in resisting the claims of the plaintiff, or by demanding anything adversely to both the plaintiff and the defendant; and is made by complaint, setting forth the grounds upon which the intervention rests, filed by leave of the court and served upon the parties to the action or proceeding who have not appeared, and upon the attorneys of the parties who have appeared, who may answer or demur to it as if it were an original complaint.

~~[3.]~~ ***(c)*** The court shall determine upon the intervention at the same time that the action is decided. If the claim of the party intervening is not sustained he shall pay all costs incurred by the intervention.

2. The provisions of this section do not apply to intervention in an action or proceeding by the Legislature pursuant to NRS 218.697.

Sec. 12. NRS 417.230 is hereby amended to read as follows:

417.230 1. There are hereby created the Advisory Committee for a Veterans' Cemetery in Northern Nevada and the Advisory Committee for a Veterans' Cemetery in Southern Nevada, each consisting of seven members as follows:

(a) One member of the Senate, appointed by the Majority Leader of the Senate.

(b) One member of the Assembly, appointed by the Speaker of the Assembly.

(c) Five members of veterans' organizations in this State, appointed by the Governor.

2. The members of the Committees shall serve terms of 2 years.

3. Each Committee shall annually elect a Chairman and a Vice Chairman from among its members.

4. Each Committee shall meet at least 4 times a year.

5. Any legislative member of a Committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the ~~[convening of the]~~ next ***regular or special*** session of the Legislature ~~[.]~~ ***convenes.***

6. While engaged in the work of the Committee, each member of each Committee is entitled to receive the per diem allowances and travel expenses provided for state officers and employees generally.

7. The Executive Director shall consult with each Committee regarding the establishment, maintenance and operation of the veterans' cemetery for which the Committee was created.

Sec. 13. NRS 439B.200 is hereby amended to read as follows:

439B.200 1. There is hereby established a Legislative Committee on Health Care consisting of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission. The members must be appointed with appropriate regard for their experience with and knowledge of matters relating to health care.

2. No member of the Committee may:

(a) Have a financial interest in a health facility in this State;

(b) Be a member of a board of directors or trustees of a health facility in this State;

(c) Hold a position with a health facility in this State in which the Legislator exercises control over any policies established for the health facility; or

(d) Receive a salary or other compensation from a health facility in this State.

3. The provisions of subsection 2 do not:

(a) Prohibit a member of the Committee from selling goods which are not unique to the provision of health care to a health facility if the member primarily sells such goods to persons who are not involved in the provision of health care.

(b) Prohibit a member of the Legislature from serving as a member of the Committee if:

(1) The financial interest, membership on the board of directors or trustees, position held with the health facility or salary or other compensation received would not materially affect the independence of judgment of a reasonable person; and

(2) Serving on the Committee would not materially affect any financial interest he has in a health facility in a manner greater than that accruing to any other person who has a similar interest.

4. The Legislative Commission shall select the Chairman and Vice Chairman of the Committee from among the members of the Committee. Each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. The chairmanship of the Committee must alternate each biennium between the houses of the Legislature.

5. Any member of the Committee who does not ~~[return to the Legislature]~~ ***become a candidate for reelection or who is defeated for reelection*** continues to serve ***after the general election*** until the next ***regular or special*** session of the Legislature convenes.

6. Vacancies on the Committee must be filled in the same manner as original appointments.

7. The Committee shall report annually to the Legislative Commission concerning its activities and any recommendations.

Sec. 13.5. **Section 16 of chapter 524, Statutes of Nevada 2007, at page 3170, is hereby amended to read as follows:**

Sec. 16. ~~[1.]~~ This act becomes effective upon passage and approval.

~~[2. Sections 3 to 10, inclusive, and 15 of this act expire by limitation on June 30, 2011.]~~

Sec. 14. Section 56 of chapter 531, Statutes of Nevada 2007, at page 3302, is hereby amended to read as follows:

Sec. 56. 1. There is hereby created the Legislative Committee to Oversee the Western Regional Water Commission created pursuant to section 23 of this act. The Committee must:

(a) Consist of six Legislators as follows:

(1) One member of the Senate appointed by the Chairman of the Senate Committee on Natural Resources;

(2) One member of the Assembly appointed by the Chairman of the Assembly Committee on Natural Resources, Agriculture, and Mining;

(3) One member of the Senate appointed by the Majority Leader of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) One member of the Assembly appointed by the Speaker of the Assembly; and

(6) One member of the Assembly appointed by the Minority Leader of the Assembly.

(b) Insofar as practicable, represent the various areas within the planning area.

(c) Elect a Chairman and a Vice Chairman from among its members. The Chairman must be elected from one House of the Legislature and the Vice Chairman from the other House. After the initial selection of a Chairman and a Vice Chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

2. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve ***after the general election*** until the next ***regular or special*** session of the Legislature convenes.

3. Vacancies on the Committee must be filled in the same manner as original appointments.

4. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

5. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary.

6. The Committee shall prescribe regulations for its own management and government.

7. Except as otherwise provided in subsection 8, four members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee.

8. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

9. Except during a regular or special session of the Legislature, the members of the Committee are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the Committee and while engaged in the business of the Committee. The salaries and expenses paid pursuant to this subsection and the expenses of the Committee must be paid from the Legislative Fund.

10. The Committee shall review the programs and activities of the Western Regional Water Commission. The review must include an analysis of potential consolidation of the retail distribution systems and facilities of all public purveyors in the planning area, which is described in section 22 of this act.

11. The Committee may:

(a) Conduct investigations and hold hearings in connection with its powers pursuant to this section.

(b) Direct the Legislative Counsel Bureau to assist in the study of issues related to oversight of the Western Regional Water Commission.

12. In conducting the investigations and hearings of the Committee:

(a) The Secretary of the Committee or, in his absence, any member of the Committee may administer oaths.

(b) The Secretary or Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

13. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena issued pursuant to this section, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

14. Upon a petition pursuant to subsection 13, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

15. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

16. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.

17. On or before January 15 of each odd-numbered year, the Committee shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the review conducted pursuant to subsection 10 and any recommendations for legislation.

Sec. 15. 1. This ~~[act becomes]~~ **section and sections 11.2, 11.4, 11.6 and 13.5 of this act become effective upon passage and approval.**

2. Sections 1 to 11, inclusive, and 12, 13 and 14 of this act become effective on July 1, 2009.

~~[2.]~~ **3.** Section 14 of this act expires by limitation on July 1, 2013.

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Bill No. 535.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 381.

The following Senate amendment was read:

Amendment No. 764.

AN ACT relating to trade practices; making provisions in certain contracts that require arbitration void and unenforceable under certain circumstances; requiring certain disclosures by arbitral organizations; requiring certain disclosures in agreements to arbitrate; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 5 and 17 of this bill make unenforceable, to the extent allowed by federal law, a consumer contract that mandates arbitration of disputes involving subjects of the contract arising after formation of the contract.

Section 6 of this bill mandates the inclusion of certain disclosures relating to the costs of arbitration in consumer contracts.

Section 10 of this bill mandates certain disclosures by certain arbitral organizations.

Sections 11 and 13 of this bill prohibit the conduct of consumer arbitration proceedings by arbitral organizations under certain circumstances.

Section 12 of this bill provides for waiver of arbitration fees that would otherwise be charged or assessed against a consumer under certain circumstances.

Section 14 of this bill provides for injunctive relief and other remedies for certain violations by arbitral organizations.

Sections 18 and 19 of this bill revise provisions establishing the circumstances under which remedies may be awarded by a court or arbitrator. (NRS 38.222, 38.238)

~~[Section 20 of this bill makes unenforceable, to the extent allowed by federal law, a consumer contract of insurance that mandates arbitration of disputes involving insurance arising after formation of the contract.~~

~~Sections 21-24 of this bill eliminate provisions in contracts of insurance for health care that mandate arbitration of disputes involving the results of independent evaluations, providing for second independent evaluations. (NRS 689A.0403, 689B.270, 695B.182, 695C.265)~~

~~Section 25 of this bill repeals NRS 690B.155, which requires a provision of mandatory arbitration in a contract of insurance for home protection.~~]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Consumer" means a person who either:***

1. Uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services or credit for personal, family or household purposes; or

2. Is an employee of or seeks employment with the other party to the agreement.

Sec. 4. ***"Consumer arbitration agreement" means a standardized contract where one party drafts a provision that requires disputes arising after the signing of the contract to be submitted to binding arbitration and the other party is a consumer. Such an agreement does not include a public or private sector collective bargaining agreement.***

Sec. 5. ***A consumer arbitration agreement is void and unenforceable except to the extent federal law provides for its enforceability.***

Sec. 6. ***1. A person drafting a consumer arbitration agreement shall clearly and conspicuously disclose in regard to any arbitration:***

(a) The filing fee;

(b) The average daily cost for an arbitrator and hearing room if the consumer elects to appear in person;

(c) Other charges that the arbitrator or arbitration service provider will assess in conjunction with an arbitration where the consumer appears in person; and

(d) The proportion of these costs which each party bears in the event that the consumer prevails and in the event that the consumer does not prevail.

2. The costs specified in subsection 1 need not include attorney's fees and, to the extent that, with regard to the disclosures required by subsection 1, precise amounts of the fees, costs and charges are not known, the disclosures may be based on reasonable, good faith estimates. A person providing a reasonable, good faith estimate is not liable in any manner for the fact that the actual fees, costs and charges of a particular arbitration vary from the estimate provided.

3. Failure to comply with this section is not grounds to refuse to enforce a consumer arbitration agreement. However, the information provided in the disclosure can be considered in a determination of whether

a consumer arbitration agreement is unconscionable or otherwise not enforceable under other law.

4. Whenever this section is violated, any affected person or entity, including the Attorney General, may request a court to enjoin the drafting party from violating this section as to agreements the drafting party enters in the future. The drafting party is liable to the person or entity requesting the injunction for the reasonable attorney's fees and costs of the person requesting the injunction where the court issues an injunction or where, after the action is commenced, the drafting party voluntarily complies with this section.

Sec. 7. Chapter 38 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 14, inclusive, of this act.

Sec. 8. ***"Consumer" means a person who has a dispute relating to that person's status as:***

1. A user of, purchaser of or person who attempts to use or purchase any real or personal property, tangible or intangible goods, services or credit for personal, family or household purposes;

2. An enrollee, subscriber or insured under a health care plan or health care insurance, or a person with a medical malpractice claim; or

3. An employee or applicant for employment, except where an arbitration is pursuant to the terms of a public or private sector collective bargaining agreement.

Sec. 9. ***"Consumer arbitration" means a binding arbitration where one party is a consumer.***

Sec. 10. ***1. Any arbitral organization that administers or is otherwise involved in 50 or more consumer arbitrations a year shall collect, publish at least quarterly, and make available to the public in a computer-searchable format, which must be accessible on the Internet website of the arbitral organization, if any, and on paper upon request, all of the following information regarding each consumer arbitration within the preceding 5 years:***

(a) The name of any corporation or other business entity that is a party to the arbitration;

(b) The type of dispute involved, including, without limitation, goods, banking, insurance, health care, debt collection, employment and, if the dispute involves employment, the amount of the employee's annual wage divided into the following ranges:

(1) Less than one hundred thousand dollars;

(2) One hundred thousand dollars or more but not more than two hundred fifty thousand dollars; and

(3) More than two hundred fifty thousand dollars;

(c) Whether the consumer was the prevailing party;

(d) On how many occasions, if any, a business entity that is a party to an arbitration has previously been a party in an arbitration or mediation administered by the arbitral organization;

(e) Whether the consumer was represented by an attorney;

(f) The date the arbitral organization received the demand for arbitration, the date the arbitrator was appointed and the date of disposition by the arbitrator or arbitral organization;

(g) The type of disposition of the dispute, if known, including, without limitation, withdrawal, abandonment, settlement, award after hearing, award without hearing, default or dismissal without hearing;

(h) The amount of the claim, the amount of the award and any other relief granted; and

(i) The name of the arbitrator, his total fee for the case and the percentage of the arbitrator's fee allocated to each party.

2. If the information that is required pursuant to subsection 1 is provided by the arbitral organization in a computer-searchable format on the company's Internet website and may be downloaded without any fee, the arbitral organization may charge the actual cost of copying to any person who requests the information on paper. If the information required is not accessible on the Internet, the arbitral organization shall provide that information without charge to any person who requests the information on paper.

3. An arbitral organization that administers or conducts fewer than 50 consumer arbitrations per year may collect and publish the information required by subsection 1 semiannually, provide the information only on paper and charge the actual cost of copying.

4. No arbitral organization has any liability for collecting, publishing or distributing the information in compliance with this section.

Sec. 11. ***No arbitral organization may administer a consumer arbitration to be conducted in this State or provide any other services related to that consumer arbitration, if:***

1. The arbitral organization has, or within the preceding year has had, a financial interest in any party or attorney for a party to the arbitration; or

2. Any party or attorney for a party to the arbitration has, or within the preceding year has had, any type of financial interest in the arbitral organization.

Sec. 12. ***1. All fees and costs charged to or assessed in this State upon a consumer by an arbitral organization in a consumer arbitration must be waived for any person having a gross monthly income that is less than 300 percent of the federal poverty guidelines.***

2. Nothing in this section affects the ability of an arbitral organization to shift fees that would otherwise be charged or assessed upon a consumer to another party.

3. Prior to requesting or obtaining any fee, an arbitral organization shall provide written notice of the right to obtain a waiver of fees in a manner calculated to bring the matter to the attention of a reasonable consumer, including, without limitation, prominently placing a notice in its

first written communication to a consumer and in any invoice, bill, submission form, fee schedule, rules or code of procedure.

4. Any consumer requesting a waiver of fees or costs may establish eligibility by making a declaration under oath on a form provided by the arbitral organization indicating the monthly income of the consumer and the number of persons living in the household of the consumer. No arbitral organization may require a consumer to provide any further statement or evidence of indigency.

5. Any information obtained by an arbitral organization about a consumer's identity, financial condition, income, wealth or fee waiver request must be kept confidential and may not be disclosed to any adverse party or any nonparty to the arbitration, except that an arbitral organization may not keep confidential the number of waiver requests received or granted, or the total amount of fees waived.

Sec. 13. ***A neutral arbitrator or an arbitral organization shall not administer a consumer arbitration under any agreement or rule requiring that a consumer who is a party to the arbitration pay the fees and costs incurred by an opposing party if the consumer does not prevail in the arbitration, including, without limitation, the fees and costs of the arbitrator, arbitral organization, attorney or witnesses.***

Sec. 14. ***Whenever a provision of sections 10 to 14, inclusive, of this act is violated, any affected person or entity, including the Attorney General, may request a court to enjoin the arbitral organization from violating the applicable provision of sections 10 to 14, inclusive, of this act and order such restitution as appropriate. The arbitral organization is liable for the reasonable attorney's fees and costs of that person or entity where that person or entity prevails or where, after the action is commenced, the arbitral organization voluntarily complies with the provisions of sections 10 to 14, inclusive, of this act.***

Sec. 15. NRS 38.207 is hereby amended to read as follows:

38.207 As used in NRS 38.206 to 38.248, inclusive, ***and sections 8 to 14, inclusive, of this act,*** the words and terms defined in NRS 38.208 to 38.213, inclusive, ***and sections 8 and 9 of this act*** have the meanings ascribed to them in those sections.

Sec. 16. NRS 38.216 is hereby amended to read as follows:

38.216 1. NRS 38.206 to 38.248, inclusive, ***and sections 8 to 14, inclusive, of this act*** govern an agreement to arbitrate made on or after October 1, 2001.

2. NRS 38.206 to 38.248, inclusive, ***and sections 8 to 14, inclusive, of this act*** govern an agreement to arbitrate made before October 1, 2001, if all the parties to the agreement or to the arbitral proceeding so agree in a record.

3. On or after October 1, 2003, NRS 38.206 to 38.248, inclusive, ***and sections 8 to 14, inclusive, of this act*** govern an agreement to arbitrate whenever made.

Sec. 17. NRS 38.219 is hereby amended to read as follows:

38.219 1. An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable except ***:*** ~~[upon]~~

(a) As provided in ~~*[sections]*~~ ***section*** *5* ~~*[and 20]*~~ ***of this act; or***

(b) Upon a ground that exists at law or in equity for the revocation of a contract.

2. The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

3. An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

4. If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitral proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

Sec. 18. NRS 38.222 is hereby amended to read as follows:

38.222 1. ***Except as otherwise provided in section 13 of this act:***

(a) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitral proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitral proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

~~[2.]~~ ***(b)*** After an arbitrator is appointed and is authorized and able to act:

~~[(a)]~~ ***(1)*** The arbitrator may issue such orders for provisional remedies, including interim awards, as he finds necessary to protect the effectiveness of the arbitral proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

~~[(b)]~~ ***(2)*** A party to an arbitral proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

~~[3.]~~ ***2.*** A party does not waive a right of arbitration by making a motion under subsection 1 **.** ~~[or 2.]~~

Sec. 19. NRS 38.238 is hereby amended to read as follows:

38.238 ***Except as otherwise provided in section 13 of this act:***

1. An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitral proceeding.

2. As to all remedies other than those authorized by subsection 1, an arbitrator may order such remedies as he considers just and appropriate under the circumstances of the arbitral proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under NRS 38.239 or for vacating an award under NRS 38.241.

3. An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

Sec. 20. ~~[Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Any provisions in any contract of insurance that require a consumer to submit a controversy relating to insurance thereafter arising to arbitration are contrary to the established public policy of this State.*~~

~~*2. A contract of insurance with a consumer that requires the submission to arbitration of any controversy related to the insurance transaction thereafter arising between the parties is hereby prohibited and any such arbitration provision is hereby declared invalid, unenforceable and void. Any such arbitration provision shall be considered severable and other provisions of the contract for insurance will remain in effect and given full force.*~~

~~*3. If a written agreement that involves both insurance and any other services, goods, property or credit includes a mandatory arbitration provision, there must be a clear and conspicuous disclosure that the mandatory arbitration provision does not apply to any dispute related to insurance.*~~

~~*4. A person violating this section is liable to the consumer in an amount equal to the sum of any actual damage sustained by the consumer as a result of the violation plus $100, even if no actual damage is proved, plus costs of the action, together with a reasonable attorney's fee. Any provision in a contract of insurance that requires an action to enforce this section to be submitted to arbitration is void and unenforceable unless the consumer agrees to arbitration after filing suit or after otherwise notifying the other party of the violation.*~~

~~*5. For the purposes of this section, "consumer" means a person who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished insurance for personal, family or household purposes.]*~~ **(Deleted by amendment.)**

Sec. 21. ~~[NRS 689A.0403 is hereby amended to read as follows:~~

~~689A.0403 1. [Each policy of health insurance must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.~~

~~2.]~~ ~~If an insurer, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under the terms of the contract of insurance, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.~~

~~[3.]~~ ~~*2.* The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X-rays and reports prepared by the primary treating physician or chiropractor. A certified

~~copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.~~

~~***3.*** If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer ~~[~~pursuant to the procedure for binding arbitration set forth in the policy of insurance~~]~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor ~~[~~.~~]~~ ***and obtain a second independent evaluation in compliance with the provisions of subsections 1 and 2.***~~

~~4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is ~~[~~in arbitration,~~]~~ ***being appealed,*** except that, if the insurer prevails in the ~~[~~arbitration,~~]~~ ***appeal,*** the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection ~~[~~3~~]~~ ***2*** concerning the appeal of the insured person.~~]~~ **(Deleted by amendment.)**

Sec. 22. ~~[~~NRS 689B.270 is hereby amended to read as follows:

~~689B.270 1. [~~Each policy of group or blanket health insurance must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.

~~2.~~]~~ If an insurer, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under the terms of a policy of group or blanket health insurance, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.

~~[~~3.~~]~~ ***2.*** The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X-rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.

3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer ~~[~~pursuant to the procedure for binding arbitration set forth in the policy of insurance~~]~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor ~~[~~.~~]~~ ***and obtain a second independent evaluation in compliance with the provisions of subsections 1 and 2.***

4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is ~~[~~in arbitration,~~]~~ ***being appealed,*** except

~~that, if the insurer prevails in the [~~arbitration,~~] *appeal,* the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection [~~3~~] *2* concerning the appeal of the insured person.]~~ **(Deleted by amendment.)**

Sec. 23. ~~[NRS 695B.182 is hereby amended to read as follows:~~

~~695B.182 1. [~~Each contract for hospital or medical services must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.~~

~~2.]~~ ~~If a corporation subject to the provisions of this chapter, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under a contract for hospital or medical services, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.~~

~~[~~3.~~]~~ ~~*2.*~~ ~~The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.~~

~~*3.*~~ ~~If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer [~~pursuant to the procedure for binding arbitration set forth in the contract for services~~]~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor [~~.~~] *and obtain a second independent medical evaluation in compliance with the provisions of subsections 1 and 2.*~~

~~4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is in arbitration, except that, if the insurer prevails in the arbitration, the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection [~~3~~] *2* concerning the appeal of the insured person.]~~ **(Deleted by amendment.)**

Sec. 24. ~~[NRS 695C.265 is hereby amended to read as follows:~~

~~695C.265 1. If a health maintenance organization, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is provided under the evidence of coverage [~~:

~~(a) The evidence of coverage must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association; and~~

~~(b) Only~~**~~], only~~** ~~a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.~~

~~2. The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X-rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.~~

~~*3.* If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer~~ **[**~~pursuant to the procedure for binding arbitration set forth in the evidence of coverage~~**]** ~~within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor~~ **[**~~.~~**]** ~~*and obtain a second independent medical evaluation in compliance with the provisions of subsections 1 and 2.*~~

[~~3.~~**]** ~~*4.* The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is~~ **[**~~in arbitration,~~**]** ~~*being appealed,* except that, if the insurer prevails in the~~ **[**~~arbitration,~~**]** ~~*appeal,* the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection~~ **[**~~2~~**]** ~~*3* concerning the appeal of the insured person.~~**]** **(Deleted by amendment.)**

Sec. 25. **[**~~NRS 690B.155 is hereby repealed.~~**]** **(Deleted by amendment.)**

[

~~TEXT OF REPEALED SECTION~~

~~690B.155 Provision requiring binding arbitration authorized; procedures for arbitration.~~

~~1. Subject to the approval of the Commissioner, a contract of insurance for home protection may include a provision which requires the parties to the contract to submit for binding arbitration any dispute between the parties concerning any matter directly or indirectly related to, or associated with, the contract.~~

~~2. Except as otherwise provided in subsection 3, the arbitration must be conducted pursuant to the rules for commercial arbitration established by the American Arbitration Association. The insurer is responsible for any administrative fees and expenses relating to the arbitration, except that the insurer is not responsible for attorney's fees and fees for expert witnesses unless those fees are awarded by the arbitrator.~~

~~3. If a provision described in subsection 1 is included in a contract of insurance for home protection, the provision shall not be deemed unenforceable as an unreasonable contract of adhesion if the provision is included in compliance with the provisions of subsection 1.~~**]**

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 764 to Assembly Bill No. 381.

Remarks by Assemblyman Conklin.

Motion carried.

The following Senate amendment was read:

Amendment No. 915.

AN ACT relating to trade practices; ~~[making provisions in certain contracts that require arbitration void and unenforceable under certain circumstances;]~~ requiring certain disclosures by arbitral organizations; requiring certain disclosures in agreements to arbitrate; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Sections 5 and 17 of this bill make unenforceable, to the extent allowed by federal law, a consumer contract that mandates arbitration of disputes involving subjects of the contract arising after formation of the contract.]~~

Section 6 of this bill mandates the inclusion of certain disclosures relating to the costs of arbitration in consumer contracts.

Section 10 of this bill mandates certain disclosures by certain arbitral organizations.

Sections 11 and 13 of this bill prohibit the conduct of consumer arbitration proceedings by arbitral organizations under certain circumstances.

Section 12 of this bill provides for waiver of arbitration fees that would otherwise be charged or assessed against a consumer under certain circumstances.

Section 14 of this bill provides for injunctive relief and other remedies for certain violations by arbitral organizations.

Sections 18 and 19 of this bill revise provisions establishing the circumstances under which remedies may be awarded by a court or arbitrator. (NRS 38.222, 38.238)

~~[Section 20 of this bill makes unenforceable, to the extent allowed by federal law, a consumer contract of insurance that mandates arbitration of disputes involving insurance arising after formation of the contract.]~~

Sections 21-24 of this bill eliminate provisions in contracts of insurance for health care that mandate arbitration of disputes involving the results of independent evaluations, providing for second independent evaluations. (NRS 689A.0403, 689B.270, 695B.182, 695C.265)

Section 25 of this bill repeals NRS 690B.155, which requires a provision of mandatory arbitration in a contract of insurance for home protection.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Consumer" means a person who*** ~~*[either:*~~

~~*1. Uses,]*~~ ***uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any*** ~~*[real or]*~~ ***personal property, tangible or intangible goods, services or credit for personal, family or household purposes.*** ~~*[; or*~~

~~*2. Is an employee of or seeks employment with the other party to the agreement.]*~~

Sec. 4. ***"Consumer arbitration agreement" means a standardized contract where one party drafts a provision that requires disputes arising after the signing of the contract to be submitted to binding arbitration and the other party is a consumer. Such an agreement does not include a public or private sector collective bargaining agreement.***

Sec. 5. ~~*[A consumer arbitration agreement is void and unenforceable except to the extent federal law provides for its enforceability.]*~~ **(Deleted by amendment.)**

Sec. 6. ***1. A person drafting a consumer arbitration agreement shall clearly and conspicuously disclose in regard to any arbitration:***

(a) The filing fee;

(b) The average daily cost for an arbitrator and hearing room if the consumer elects to appear in person;

(c) Other charges that the arbitrator or arbitration service provider will assess in conjunction with an arbitration where the consumer appears in person; and

(d) The proportion of these costs which each party bears in the event that the consumer prevails and in the event that the consumer does not prevail.

2. The costs specified in subsection 1 need not include attorney's fees and, to the extent that, with regard to the disclosures required by subsection 1, precise amounts of the fees, costs and charges are not known, the disclosures may be based on reasonable, good faith estimates. A person providing a reasonable, good faith estimate is not liable in any manner for the fact that the actual fees, costs and charges of a particular arbitration vary from the estimate provided.

3. Failure to comply with this section is not grounds to refuse to enforce a consumer arbitration agreement. However, the information provided in the disclosure can be considered in a determination of whether a consumer arbitration agreement is unconscionable or otherwise not enforceable under other law.

4. Whenever this section is violated, any affected person or entity, including the Attorney General, may request a court to enjoin the drafting

party from violating this section as to agreements the drafting party enters in the future. The drafting party is liable to the person or entity requesting the injunction for the reasonable attorney's fees and costs of the person requesting the injunction where the court issues an injunction or where, after the action is commenced, the drafting party voluntarily complies with this section.

Sec. 7. Chapter 38 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 14, inclusive, of this act.

Sec. 8. ***"Consumer" means a person who has a dispute relating to that person's status as:***

1. A user of, purchaser of or person who attempts to use or purchase any ~~*[real or]*~~ ***personal property, tangible or intangible goods, services or credit for personal, family or household purposes;***

2. An enrollee, subscriber or insured under a health care plan or health care insurance, or a person with a medical malpractice claim; or

3. An employee or applicant for employment, except where an arbitration is pursuant to the terms of a public or private sector collective bargaining agreement.

Sec. 9. ***"Consumer arbitration" means a binding arbitration where one party is a consumer.***

Sec. 10. ***1. Any arbitral organization that administers or is otherwise involved in 50 or more consumer arbitrations a year shall collect, publish at least quarterly, and make available to the public in a computer-searchable format, which must be accessible on the Internet website of the arbitral organization, if any, and on paper upon request, all of the following information regarding each consumer arbitration within the preceding 5 years:***

(a) The name of any corporation or other business entity that is a party to the arbitration;

(b) The type of dispute involved, including, without limitation, goods, banking, insurance, health care, debt collection, employment and, if the dispute involves employment, the amount of the employee's annual wage divided into the following ranges:

(1) Less than one hundred thousand dollars;

(2) One hundred thousand dollars or more but not more than two hundred fifty thousand dollars; and

(3) More than two hundred fifty thousand dollars;

(c) Whether the consumer was the prevailing party;

(d) On how many occasions, if any, a business entity that is a party to an arbitration has previously been a party in an arbitration or mediation administered by the arbitral organization;

(e) Whether the consumer was represented by an attorney;

(f) The date the arbitral organization received the demand for arbitration, the date the arbitrator was appointed and the date of disposition by the arbitrator or arbitral organization;

(g) The type of disposition of the dispute, if known, including, without limitation, withdrawal, abandonment, settlement, award after hearing, award without hearing, default or dismissal without hearing;

(h) The amount of the claim, the amount of the award and any other relief granted; and

(i) The name of the arbitrator, his total fee for the case and the percentage of the arbitrator's fee allocated to each party.

2. If the information that is required pursuant to subsection 1 is provided by the arbitral organization in a computer-searchable format on the company's Internet website and may be downloaded without any fee, the arbitral organization may charge the actual cost of copying to any person who requests the information on paper. If the information required is not accessible on the Internet, the arbitral organization shall provide that information without charge to any person who requests the information on paper.

3. An arbitral organization that administers or conducts fewer than 50 consumer arbitrations per year may collect and publish the information required by subsection 1 semiannually, provide the information only on paper and charge the actual cost of copying.

4. No arbitral organization has any liability for collecting, publishing or distributing the information in compliance with this section.

Sec. 11. ***No arbitral organization may administer a consumer arbitration to be conducted in this State or provide any other services related to that consumer arbitration, if:***

1. The arbitral organization has, or within the preceding year has had, a financial interest in any party or attorney for a party to the arbitration; or

2. Any party or attorney for a party to the arbitration has, or within the preceding year has had, any type of financial interest in the arbitral organization.

Sec. 12. ***1. All fees and costs charged to or assessed in this State upon a consumer by an arbitral organization in a consumer arbitration must be waived for any person having a gross monthly income that is less than 300 percent of the federal poverty guidelines.***

2. Nothing in this section affects the ability of an arbitral organization to shift fees that would otherwise be charged or assessed upon a consumer to another party.

3. Prior to requesting or obtaining any fee, an arbitral organization shall provide written notice of the right to obtain a waiver of fees in a manner calculated to bring the matter to the attention of a reasonable consumer, including, without limitation, prominently placing a notice in its first written communication to a consumer and in any invoice, bill, submission form, fee schedule, rules or code of procedure.

4. Any consumer requesting a waiver of fees or costs may establish eligibility by making a declaration under oath on a form provided by the arbitral organization indicating the monthly income of the consumer and

the number of persons living in the household of the consumer. No arbitral organization may require a consumer to provide any further statement or evidence of indigency.

5. Any information obtained by an arbitral organization about a consumer's identity, financial condition, income, wealth or fee waiver request must be kept confidential and may not be disclosed to any adverse party or any nonparty to the arbitration, except that an arbitral organization may not keep confidential the number of waiver requests received or granted, or the total amount of fees waived.

Sec. 13. ***A neutral arbitrator or an arbitral organization shall not administer a consumer arbitration under any agreement or rule requiring that a consumer who is a party to the arbitration pay the fees and costs incurred by an opposing party if the consumer does not prevail in the arbitration, including, without limitation, the fees and costs of the arbitrator, arbitral organization, attorney or witnesses.***

Sec. 14. ***Whenever a provision of sections 10 to 14, inclusive, of this act is violated, any affected person or entity, including the Attorney General, may request a court to enjoin the arbitral organization from violating the applicable provision of sections 10 to 14, inclusive, of this act and order such restitution as appropriate. The arbitral organization is liable for the reasonable attorney's fees and costs of that person or entity where that person or entity prevails or where, after the action is commenced, the arbitral organization voluntarily complies with the provisions of sections 10 to 14, inclusive, of this act.***

Sec. 15. NRS 38.207 is hereby amended to read as follows:

38.207 As used in NRS 38.206 to 38.248, inclusive, ***and sections 8 to 14, inclusive, of this act,*** the words and terms defined in NRS 38.208 to 38.213, inclusive, ***and sections 8 and 9 of this act*** have the meanings ascribed to them in those sections.

Sec. 16. NRS 38.216 is hereby amended to read as follows:

38.216 1. NRS 38.206 to 38.248, inclusive, ***and sections 8 to 14, inclusive, of this act*** govern an agreement to arbitrate made on or after October 1, 2001.

2. NRS 38.206 to 38.248, inclusive, ***and sections 8 to 14, inclusive, of this act*** govern an agreement to arbitrate made before October 1, 2001, if all the parties to the agreement or to the arbitral proceeding so agree in a record.

3. On or after October 1, 2003, NRS 38.206 to 38.248, inclusive, ***and sections 8 to 14, inclusive, of this act*** govern an agreement to arbitrate whenever made.

Sec. 17. ~~[NRS 38.219 is hereby amended to read as follows:~~

~~38.219 1. An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable except :~~ [upon]

~~*(a) As provided in sections 5 and 20 of this act; or*~~

~~***(b) Upon*** a ground that exists at law or in equity for the revocation of a contract.~~

~~2. The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.~~

~~3. An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.~~

~~4. If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitral proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.~~**]** **(Deleted by amendment.)**

Sec. 18. NRS 38.222 is hereby amended to read as follows:

38.222 1. ***Except as otherwise provided in section 13 of this act:***

(a) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitral proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitral proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

~~[2.~~ ***(b)*** After an arbitrator is appointed and is authorized and able to act:

~~[(a)~~ ***(1)*** The arbitrator may issue such orders for provisional remedies, including interim awards, as he finds necessary to protect the effectiveness of the arbitral proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

~~[(b)~~ ***(2)*** A party to an arbitral proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

~~[3.~~ ***2.*** A party does not waive a right of arbitration by making a motion under subsection 1 **.** ~~[or 2.]~~

Sec. 19. NRS 38.238 is hereby amended to read as follows:

38.238 ***Except as otherwise provided in section 13 of this act:***

1. An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitral proceeding.

2. As to all remedies other than those authorized by subsection 1, an arbitrator may order such remedies as he considers just and appropriate under the circumstances of the arbitral proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under NRS 38.239 or for vacating an award under NRS 38.241.

3. An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

Sec. 20. ~~[Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Any provisions in any contract of insurance that require a consumer to submit a controversy relating to insurance thereafter arising to arbitration are contrary to the established public policy of this State.*~~

~~*2. A contract of insurance with a consumer that requires the submission to arbitration of any controversy related to the insurance transaction thereafter arising between the parties is hereby prohibited and any such arbitration provision is hereby declared invalid, unenforceable and void. Any such arbitration provision shall be considered severable and other provisions of the contract for insurance will remain in effect and given full force.*~~

~~*3. If a written agreement that involves both insurance and any other services, goods, property or credit includes a mandatory arbitration provision, there must be a clear and conspicuous disclosure that the mandatory arbitration provision does not apply to any dispute related to insurance.*~~

~~*4. A person violating this section is liable to the consumer in an amount equal to the sum of any actual damage sustained by the consumer as a result of the violation plus $100, even if no actual damage is proved, plus costs of the action, together with a reasonable attorney's fee. Any provision in a contract of insurance that requires an action to enforce this section to be submitted to arbitration is void and unenforceable unless the consumer agrees to arbitration after filing suit or after otherwise notifying the other party of the violation.*~~

~~*5. For the purposes of this section, "consumer" means a person who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished insurance for personal, family or household purposes.]*~~ **(Deleted by amendment.)**

Sec. 21. NRS 689A.0403 is hereby amended to read as follows:

689A.0403 1. ~~[Each policy of health insurance must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.~~

~~2.]~~ If an insurer, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under the terms of the contract of insurance, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.

~~[3.]~~ ***2.*** The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.

3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer ~~[~~pursuant to the procedure for binding arbitration set forth in the policy of insurance~~]~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor ~~[.]~~ ***and obtain a second independent evaluation in compliance with the provisions of subsections 1 and 2.***

4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is ~~[~~in arbitration,~~]~~ ***being appealed,*** except that, if the insurer prevails in the ~~[~~arbitration,~~]~~ ***appeal,*** the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection ~~[3]~~ ***2*** concerning the appeal of the insured person.

Sec. 22. NRS 689B.270 is hereby amended to read as follows:

689B.270 1. ~~[~~Each policy of group or blanket health insurance must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.

~~2.]~~ If an insurer, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under the terms of a policy of group or blanket health insurance, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.

~~[3.]~~ ***2.*** The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.

3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer ~~[~~pursuant to the procedure for binding arbitration set forth in the policy of insurance~~]~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor ~~[.]~~ ***and obtain a second independent evaluation in compliance with the provisions of subsections 1 and 2.***

4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is ~~[~~in arbitration,~~]~~ ***being appealed,*** except that, if the insurer prevails in the ~~[~~arbitration,~~]~~ ***appeal,*** the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the

patient after receiving written notice from the insurer pursuant to subsection ~~[3]~~ ***2*** concerning the appeal of the insured person.

Sec. 23. NRS 695B.182 is hereby amended to read as follows:

695B.182 1. ~~[Each contract for hospital or medical services must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association.~~

~~2.]~~ If a corporation subject to the provisions of this chapter, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is covered under a contract for hospital or medical services, only a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or who is formally educated in that field may conduct the independent evaluation.

~~[3.]~~ ***2.*** The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.

3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer ~~[pursuant to the procedure for binding arbitration set forth in the contract for services]~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor ~~[.]~~ ***and obtain a second independent medical evaluation in compliance with the provisions of subsections 1 and 2.***

4. The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is in arbitration, except that, if the insurer prevails in the arbitration, the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection ~~[3]~~ ***2*** concerning the appeal of the insured person.

Sec. 24. NRS 695C.265 is hereby amended to read as follows:

695C.265 1. If a health maintenance organization, for any final determination of benefits or care, requires an independent evaluation of the medical or chiropractic care of any person for whom such care is provided under the evidence of coverage ~~[:~~

~~(a) The evidence of coverage must include a procedure for binding arbitration to resolve disputes concerning independent medical evaluations pursuant to the rules of the American Arbitration Association; and~~

~~(b) Only]~~ ***, only*** a physician or chiropractor who is certified to practice in the same field of practice as the primary treating physician or chiropractor or

who is formally educated in that field may conduct the independent evaluation.

2. The independent evaluation must include a physical examination of the patient, unless he is deceased, and a personal review of all X rays and reports prepared by the primary treating physician or chiropractor. A certified copy of all reports of findings must be sent to the primary treating physician or chiropractor and the insured person within 10 working days after the evaluation.

3. If the insured person disagrees with the finding of the evaluation, he must submit an appeal to the insurer ~~[~~pursuant to the procedure for binding arbitration set forth in the evidence of coverage~~]~~ within 30 days after he receives the finding of the evaluation. Upon its receipt of an appeal, the insurer shall so notify in writing the primary treating physician or chiropractor ~~[.]~~ ***and obtain a second independent medical evaluation in compliance with the provisions of subsections 1 and 2.***

~~[~~3.~~]~~ ***4.*** The insurer shall not limit or deny coverage for care related to a disputed claim while the dispute is ~~[~~in arbitration,~~]~~ ***being appealed,*** except that, if the insurer prevails in the ~~[~~arbitration,~~]~~ ***appeal,*** the primary treating physician or chiropractor may not recover any payment from either the insurer, insured person or the patient for services that he provided to the patient after receiving written notice from the insurer pursuant to subsection ~~[~~2~~]~~ ***3*** concerning the appeal of the insured person.

Sec. 25. NRS 690B.155 is hereby repealed.

TEXT OF REPEALED SECTION

690B.155 Provision requiring binding arbitration authorized; procedures for arbitration.

1. Subject to the approval of the Commissioner, a contract of insurance for home protection may include a provision which requires the parties to the contract to submit for binding arbitration any dispute between the parties concerning any matter directly or indirectly related to, or associated with, the contract.

2. Except as otherwise provided in subsection 3, the arbitration must be conducted pursuant to the rules for commercial arbitration established by the American Arbitration Association. The insurer is responsible for any administrative fees and expenses relating to the arbitration, except that the insurer is not responsible for attorney's fees and fees for expert witnesses unless those fees are awarded by the arbitrator.

3. If a provision described in subsection 1 is included in a contract of insurance for home protection, the provision shall not be deemed unenforceable as an unreasonable contract of adhesion if the provision is included in compliance with the provisions of subsection 1.

Assemblyman Conklin moved that the Assembly concur in Senate Amendment No. 915 to Assembly Bill No. 381.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 474.

The following Senate amendment was read:

Amendment No. 726.

AN ACT relating to parole; requiring mandatory ~~[release on]~~ parole for certain prisoners who were under the age of 16 years when the offense was committed and who meet certain requirements; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the mandatory release on parole of certain prisoners 12 months before the expiration of their maximum term if they have not previously been released on parole and are not otherwise ineligible for parole. (NRS 213.1215) This bill requires mandatory parole of prisoners who were sentenced to life imprisonment with the possibility of parole and who were less than 16 years of age at the time of the offense if they have: (1) served the minimum term of their sentence; (2) completed a program of general education or an industrial or vocational training program; (3) not been identified by the Department of Corrections as a member of a group posing a security threat; and (4) not committed a major violation of the regulations of the Department of Corrections and not been housed in disciplinary segregation within the immediately preceding 24 months.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in ~~[subsections 3, 4 and 5]~~ ***this section*** and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

➥ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that he committed the offense for which he was imprisoned must , if the prisoner still has a consecutive sentence to be served, be granted parole from his current term of imprisonment to his subsequent term of imprisonment or must, if the

prisoner does not still have a consecutive sentence to be served, be released on parole , if:

(a) The prisoner has served the minimum term of imprisonment imposed by the court;

(b) The prisoner has completed a program of general education or an industrial or vocational training program;

(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and

(d) The prisoner has not, within the immediately preceding 24 months:

(1) Committed a major violation of the regulations of the Department of Corrections; or

(2) Been housed in disciplinary segregation.

3. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

~~[2.]~~ ***4.*** Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

~~[3.]~~ ***5.*** If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 ~~[,]~~ ***or 2*** that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1 ~~[.]~~ ***or 2.*** If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1 ~~[.]~~ ***or 2,*** the Board shall provide to the prisoner a written statement of its reasons for denying parole.

~~[4.]~~ ***6.*** If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

~~[5.]~~ ***7.*** If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

~~[6.]~~ ***8.*** For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

Assemblyman Horne moved that the Assembly concur in Senate Amendment No. 726 to Assembly Bill No. 474.

Remarks by Assemblyman Horne.

Motion carried.

The following Senate amendment was read:

Amendment No. 903.

AN ACT relating to parole; **providing for the aggregation of consecutive sentences for the purposes of determining parole eligibility for certain**

prisoners under certain circumstances; requiring mandatory parole for certain prisoners who were under the age of 16 years when the offense was committed and who meet certain requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a prisoner may be sentenced to consecutive sentences of imprisonment and may be paroled from a current term of imprisonment to a subsequent term of imprisonment. (NRS 176.035) Section 2.5 of this bill provides that eligibility for parole of a prisoner sentenced to two or more consecutive sentences of life imprisonment with the possibility of parole: (1) for offenses committed on or after July 1, 2009, must be based upon the aggregation of the minimum sentences for those offenses; and (2) for offenses committed before July 1, 2009, may, at the option of the prisoner, be based upon the aggregation of the minimum sentences for such offenses, provided that the prisoner has not previously been considered for parole.

Existing law provides for the mandatory release on parole of certain prisoners 12 months before the expiration of their maximum term if they have not previously been released on parole and are not otherwise ineligible for parole. (NRS 213.1215) ~~[This]~~ **Section 3 of this** bill requires mandatory parole of prisoners who were sentenced to life imprisonment with the possibility of parole and who were less than 16 years of age at the time of the offense if they have: (1) served the minimum term of their sentence; (2) completed a program of general education or an industrial or vocational training program; (3) not been identified by the Department of Corrections as a member of a group posing a security threat; and (4) not committed a major violation of the regulations of the Department of Corrections and not been housed in disciplinary segregation within the immediately preceding 24 months.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.5. **NRS 213.1213 is hereby amended to read as follows:**

213.1213 ***1.*** If a prisoner is sentenced pursuant to NRS 176.035 to serve two or more concurrent sentences, whether or not the sentences are identical in length or other characteristics, eligibility for parole from any of the concurrent sentences must be based on the sentence which requires the longest period before the prisoner is eligible for parole.

2. Notwithstanding any other provision of law, if a prisoner is sentenced pursuant to NRS 176.035 to serve two or more consecutive sentences of life imprisonment with the possibility of parole:

(a) For offenses committed on or after July 1, 2009:

(1) All minimum sentences for such offenses must be aggregated;

(2) The prisoner shall be deemed to be eligible for parole from all such sentences after serving the minimum aggregate sentence; and

(3) The Board is not required to consider the prisoner for parole until the prisoner has served the minimum aggregate sentence.

(b) For offenses committed before July 1, 2009, in cases in which the prisoner has not previously been considered for parole for any such offenses:

(1) The prisoner may, by submitting a written request to the Director of the Department of Corrections, make an irrevocable election to have the minimum sentences for such offenses aggregated; and

(2) If the prisoner makes such an irrevocable election to have the minimum sentences for such offenses aggregated, the Board is not required to consider the prisoner for parole until the prisoner has served the minimum aggregate sentence.

Sec. 3. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in ~~[subsections 3, 4 and 5]~~ ***this section*** and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

➥ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that he committed the offense for which he was imprisoned must, if the prisoner still has a consecutive sentence to be served, be granted parole from his current term of imprisonment to his subsequent term of imprisonment or must, if the prisoner does not still have a consecutive sentence to be served, be released on parole, if:

(a) The prisoner has served the minimum term of imprisonment imposed by the court;

(b) The prisoner has completed a program of general education or an industrial or vocational training program;

(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and

(d) The prisoner has not, within the immediately preceding 24 months:

(1) Committed a major violation of the regulations of the Department of Corrections; or

(2) Been housed in disciplinary segregation.

3. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

~~[~~2.~~]~~ ***4.*** Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

~~[~~3.~~]~~ ***5.*** If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 ~~[~~,~~]~~ ***or 2*** that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1 ~~[~~.~~]~~ ***or 2.*** If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1 ~~[~~,~~]~~ ***or 2,*** the Board shall provide to the prisoner a written statement of its reasons for denying parole.

~~[~~4.~~]~~ ***6.*** If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

~~[~~5.~~]~~ ***7.*** If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

~~[~~6.~~]~~ ***8.*** For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

Sec. 4. **1. This section and section 2.5 of this act become effective on July 1, 2009.**

2. Section 3 of this act becomes effective on October 1, 2009.

Assemblyman Horne moved that the Assembly concur in the Senate amendment to Assembly Bill No. 474.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:12 p.m.

ASSEMBLY IN SESSION

At 1:06 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 467.

The following Senate amendment was read:

Amendment No. 838.

AN ACT relating to governmental financial administration; revising provisions relating to the prevailing wage requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill requires that statutes which specifically state that certain statutory provisions relating to the payment of prevailing wages apply to a construction project be construed, if the public body is not a party to the contract or agreement for the construction of the project, to: (1) require the person or entity executing the contract or agreement for the construction of the project to include in the contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work; (2) require the public body to comply with those statutory provisions in the same manner as if the public body had undertaken the project or awarded the contract; and (3) require the contractor who is awarded the contract or entered into the agreement to perform construction on the project, or a subcontractor on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work. Section 1 of this bill makes a conforming change. (NRS 338.013)]~~

Section 21 of this bill provides that the prevailing wage requirements apply to certain **lease-purchase and** installment-purchase agreements by local governments. **Sections 1.7, 1.9, 22 ~~[and]~~ , 22.5, 24 and 24.5** of this bill clarify ~~[that]~~ the **application of the** prevailing wage requirements ~~[apply]~~ to certain lease-purchase and installment-purchase contracts entered into by the State or its political subdivisions.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~Statutes which state that the provisions of NRS 338.010 to 338.090, inclusive, 338.013 to 338.090, inclusive, or 338.020 to 338.090, inclusive, apply to a construction project of any kind must be construed, if the public body is not a party to the contract for the actual construction of the project, to:~~

~~1. Require the person or entity that executes one or more contracts or agreements for the actual construction of the project to include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to those statutory provisions.~~

~~2. Require the public body to comply with those statutory provisions in the same manner as if the public body had undertaken the project or had awarded the contract.~~

~~3. Require the contractor who is awarded the contract or entered into the agreement to perform construction on the project, or a subcontractor

~~*on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work.]*~~ **(Deleted by amendment.)**

Sec. 1.3. (Deleted by amendment.)

Sec. 1.7. NRS 338.013 is hereby amended to read as follows:

338.013 1. A public body that ~~[advertises for bids for]~~ ***undertakes*** a public work shall request from the Labor Commissioner, and include in ~~[the]~~ ***any*** advertisement ~~[,]~~ ***or other type of solicitation,*** an identifying number with his designation of the work. That number must be included in any bid ***or other document*** submitted in response to the advertisement ~~[.]~~ ***or other type of solicitation.***

2. Each public body which awards a contract for any public work shall report its award to the Labor Commissioner within 10 days after the award, giving the name and address of the contractor to whom the public body awarded the contract and the identifying number for the public work.

3. Each contractor engaged on a public work shall report to the Labor Commissioner and the public body that awarded the contract the name and address of each subcontractor whom he engages for work on the project within 10 days after the subcontractor commences work on the contract and the identifying number for the public work.

4. The public body which awarded the contract shall report the completion of all work performed under the contract to the Labor Commissioner before the final payment of money due the contractor by the public body.

Sec. 1.9. **NRS 244.286 is hereby amended to read as follows:**

244.286 1. The board of county commissioners of any county may enter into an agreement with a person whereby the person agrees to construct or remodel a building or facility according to specifications adopted by the board of county commissioners and thereupon enter into a lease or a lease-purchase agreement with the board of county commissioners for that building or facility.

2. The board of county commissioners may convey property to a person where the purpose of the conveyance is the entering into of an agreement contemplated by subsection 1.

3. The ~~[provisions of NRS 338.010 to 338.090, inclusive, apply to any]~~ ***person who enters into an*** agreement for the ***actual*** construction or remodeling of a building or facility ~~[entered into]~~ pursuant to subsection 1 ~~[.]~~ ***shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.***

4. The board of county commissioners, the contractor who is awarded the contract or entered into the agreement to perform the construction or remodeling and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if

the board of county commissioners had undertaken the project or had awarded the contract.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 350.091 is hereby amended to read as follows:

350.091 1. Whenever the governing body of any local government is authorized to enter into a medium-term obligation or installment-purchase agreement as provided in NRS 280.266 or 350.089 that is intended to finance a capital project, the governing body shall update its plan for capital improvement in the same manner as is required for general obligation debt pursuant to NRS 350.013.

2. Whenever the governing body of any local government is authorized to enter into a medium-term obligation as provided in NRS 350.089, the governing body may issue, as evidence thereof, negotiable notes or medium-term negotiable bonds that, except as otherwise provided in subsection 5 of NRS 496.155:

(a) Must mature not later than 10 years after the date of issuance;

(b) Must bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(c) May, at the option of the local government, contain a provision which allows redemption of the notes or bonds before maturity, upon such terms as the governing body determines.

3. Whenever the governing body of any local government is authorized to enter into an installment-purchase agreement as provided in NRS 280.266 or 350.089, the governing body may issue, as evidence thereof, an installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800. An installment-purchase agreement, lease or

other evidence of a transaction described in NRS 350.800 issued pursuant to this subsection:

(a) Must have a term that is 30 years or less;

(b) Must bear interest at a rate or rates that do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the local government enters into the installment-purchase agreement; and

(c) May, at the option of the local government, contain a provision that allows prepayment of the purchase price upon such terms as are provided in the agreement.

4. If the term of the medium-term obligation or installment-purchase agreement is more than 5 years, the weighted average term of the medium-term obligation or installment-purchase agreement may not exceed the estimated weighted average useful life of the assets being financed with the medium-term obligation or installment-purchase agreement.

~~[5.]~~ For the purposes of ***this*** subsection **,** ~~[4,]~~ the Committee on Local Government Finance may adopt regulations that provide guidelines for the useful life of various types of assets and for calculation of the weighted average useful life of assets.

5. If ~~*[an]*~~ ***a lease-purchase or installment-purchase agreement pursuant to*** ~~*[this section]*~~ ***NRS 280.266 or 350.089 involves the construction, alteration, repair or remodeling of an improvement*** ~~*[,]*~~ ***:***

(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive . ~~*[, apply to the construction, alteration, repair or remodeling of the improvement.]*~~

(b) The governing body, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body had undertaken the project or had awarded the contract.

Sec. 22. NRS 353.545 is hereby amended to read as follows:

353.545 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this State and the political subdivisions of this State to use lease-purchase and installment-purchase agreements provides an important and valuable option for these governmental entities and, when this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process

of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to:

(a) Engage in or allow bid-shopping; or

(b) Avoid or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

5. If a lease-purchase or installment-purchase agreement ~~[pursuant to this section]~~ involves the construction, alteration, repair or remodeling of an improvement ~~[,]~~ :

(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive . ~~[, apply to the construction, alteration, repair or remodeling of the improvement.]~~

(b) The government of this State or a political subdivision of this State, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the government of this State or a political subdivision of this State had undertaken the project or had awarded the contract.

Sec. 22.5. **NRS 353.590 is hereby amended to read as follows:**

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, involves the construction, alteration, repair or remodeling of an improvement:

1. Except as otherwise provided in this section, the construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

(a) Any law requiring competitive bidding; or

(b) Chapter 341 of NRS.

2. The ~~[provisions of NRS 338.013 to 338.090, inclusive, apply to]~~ ***person or entity that enters into the agreement for*** the ***actual*** construction, alteration, repair or remodeling of the improvement ~~[.]~~ ***shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.***

3. ***The State or a state agency, the contractor who is awarded the contract or entered into the agreement to perform the construction,***

alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the State or a state agency had undertaken the project or had awarded the contract.

4. The provisions of:

(a) Subsection 9 of NRS 341.100; and

(b) NRS 341.105,

➥ apply to the construction, alteration, repair or remodeling of the improvement.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 354.740 is hereby amended to read as follows:

354.740 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this State and the political subdivisions of this State to use lease-purchase and installment-purchase agreements provides an important and valuable option for these governmental entities and, when this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to:

(a) Engage in or allow bid-shopping; or

(b) Avoid or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

5. If a lease-purchase or installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement ~~[,]~~ **:**

(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive . ~~[, apply to the construction, alteration, repair or remodeling of the improvement.]~~

(b) The government of this State or a political subdivision of this State, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if

the government of this State or a political subdivision of this State had undertaken the project or had awarded the contract.

Sec. 24.5. **Section 2.145 of the Charter of the City of Las Vegas, being chapter 244, Statutes of Nevada 2007, at page 836, is hereby amended to read as follows:**

Sec. 2.145 Powers of City Council: Lease or lease-purchase agreement for construction or remodeling of building or facility; conveyance of property; applicability of certain provisions to agreement for construction or remodeling of building or facility.

1. The City Council may enter into an agreement with a person whereby the person agrees to construct or remodel a building or facility according to specifications adopted by the City Council and thereupon enter into a lease or a lease-purchase agreement with the City Council for that building or facility.

2. The City Council may convey property to a person where the purpose of the conveyance is the entering into of an agreement contemplated by subsection 1.

3. The ~~[provisions of NRS 338.010 to 338.090, inclusive, apply to any]~~ ***person who enters into an*** agreement for the ***actual*** construction or remodeling of a building or facility ~~[entered into]~~ pursuant to subsection 1 ~~[.]~~ ***shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.***

4. The City Council, the contractor who is awarded the contract or entered into the agreement to perform the construction or remodeling and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the City Council had undertaken the project or had awarded the contract.

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. This act becomes effective on July 1, 2009.

Assemblywoman Pierce moved that the Assembly concur in the Senate amendment to Assembly Bill No. 467.

Remarks by Assemblywoman Pierce.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 20, 2009

To the Honorable the Assembly:

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Copening and Wiener as a Conference Committee concerning Senate Bill No. 45.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 130, Amendments Nos. 792, 923; Assembly Bill No. 218, Amendments Nos. 918, 933, 931, and respectfully requests your honorable body to concur in said amendments.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, May 23, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 779 to Senate Bill No. 176; Assembly Amendment No. 716 to Senate Bill No. 227; Assembly Amendment No. 748 to Senate Bill No. 261; Assembly Amendment No. 730 to Senate Bill No. 277; Assembly Amendment No. 729 to Senate Bill No. 313; Assembly Amendment No. 644 to Senate Bill No. 333; Assembly Amendment No. 749 to Senate Bill No. 350; Assembly Amendment No. 750 to Senate Bill No. 351.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendments Nos. 799, 889 to Senate Bill No. 243; Assembly Amendment No. 663 to Senate Bill No. 360.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Wiener, Woodhouse and Nolan as a Conference Committee concerning Senate Bill No. 54.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Parks, Care and Townsend as a Conference Committee concerning Senate Bill No. 218.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Parks, Nolan and Woodhouse as a Conference Committee concerning Senate Bill No. 305.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Wiener, Breeden and Nolan as a Conference Committee concerning Senate Bill No. 389.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, May 26, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 1:11 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND FOURTEENTH DAY

CARSON CITY (Tuesday), May 26, 2009

Assembly called to order at 12:02 p.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

I read this morning from the Bible, Hebrews, Chapter 12:

"Therefore, since we have so great a cloud of witnesses surrounding us, let us also lay aside every encumbrance, and the sin which so easily entangles us, and let us run with endurance the race that is set before us . . ."

Lord, there is a race set before us, and we've been running for the last several months. There is also a great cloud of witnesses watching our every step. We still have some hurdles to go before the finish line. Help us to lay aside every encumbrance and overcome the difficulties. Please keep us focused, compassionate, and able to work together for the sake of the people. I pray in Your Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Joint Resolution No. 5.

The following Senate amendment was read:

Amendment No. 757.

SUMMARY—Proposes to amend the Nevada Constitution to ~~[authorize the Legislature to convene]~~ **revise provisions governing the convening and conduct of** special sessions ~~[of the Legislature under certain circumstances.]~~ **and the duration and adjournment of regular and special sessions.** (BDR C-139)

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to limit the duration of special sessions of the Legislature to 20 **consecutive calendar** days ~~[, limit matters]~~ **with the exception of impeachment, removal and expulsion proceedings, to limit the types of bills** which may be **introduced,** considered **or passed** during a special session ~~[and]~~ **, to** provide that a special session may be convened by a petition signed by two-thirds of the Legislators of each ~~[house.]~~ **House and to provide that regular and special sessions must be adjourned on the**

final calendar day not later than midnight Pacific time based on the actual measure of time used and observed by the general population of Nevada.

Legislative Counsel's Digest:

Under the Nevada Constitution, only the Governor ~~[may]~~ **is granted express power to** convene a special session of the ~~[Nevada Legislature.]~~ **Legislature on extraordinary occasions.** (Nev. Const. Art. 5, § 9) **The Nevada Constitution does not grant the Legislature express power to convene a special session on extraordinary occasions, such as when it is necessary to: (1) hold impeachment or removal proceedings against the Governor, Supreme Court Justices or other state and judicial officers who have committed misconduct in office; (2) hold expulsion proceedings against Legislators who have committed misconduct in office; (3) enact bills or appropriations to address unexpected conditions or emergency situations; or (4) reconsider bills vetoed by the Governor after the adjournment of a regular session. (Nev. Const. Art. 4, §§ 1, 6, 16-23, 35; Nev. Const. Art. 7, §§ 1-3)**

This resolution proposes to amend the Nevada Constitution to authorize the Legislature **, on extraordinary occasions,** to convene a special session ~~[by signed petition of]~~ **upon a petition signed by** two-thirds of the members of each House of the Legislature. ~~[The]~~ **This** resolution also provides that the **only** bills ~~[introduced during the]~~ **the Legislature may introduce, consider or pass at any** special session ~~[must relate to the purpose of]~~ **are bills related to the business for which** the **special** session **~~[, except that]~~ is convened and** bills necessary to provide for the expenses of the session **.** ~~[may also be introduced. Finally, the]~~

In addition, this resolution limits the duration of any special session ~~[of the Legislature]~~ to 20 **consecutive** calendar days **~~[.]~~ , unless the special session is convened to conduct proceedings for: (1) impeachment or removal from office of the Governor, Supreme Court Justices or other state and judicial officers pursuant to Article 7 of the Nevada Constitution; or (2) expulsion from office of a Legislator pursuant to Section 6 of Article 4 of the Nevada Constitution. The exceptions for impeachment, removal and expulsion proceedings are necessary to ensure that such proceedings comport with the concepts of due process, substantial justice and fundamental fairness. (U.S. Const. Amend. XIV, § 1; Nev. Const. Art. 1, § 8)**

Finally, the Nevada Constitution provides that regular sessions must be adjourned on the final calendar day not later than "midnight Pacific standard time." (Nev. Const. Art. 4, § 2) The Nevada Supreme Court has held that when the State is observing daylight saving time on the final calendar day of a session, the Legislature is not required to adjourn the session when the clock strikes midnight for the general population of Nevada but may continue the session until 1:00 a.m. Pacific daylight

saving time because such time is equivalent to "midnight Pacific standard time." (*Nevada Mining Ass'n v. Erdoes*, 117 Nev. 531 (2001))

This resolution proposes to amend the Nevada Constitution to provide that regular and special sessions must be adjourned on the final calendar day not later than "midnight Pacific time," which must be determined based on the actual measure of time that is being used and observed by the general population of Nevada within the Pacific time zone or, in other words, the time on the clock. The resolution also provides that the Legislature and its members, officers and employees shall not employ any device, pretense or fiction that adjusts, evades or ignores the time on the clock for the purpose of extending the duration of the session.

If this ~~[proposed]~~ resolution is passed by the 2009 Legislature, it must also be passed by the next Legislature and then approved and ratified by the people in an election, before the proposed amendments to the Nevada Constitution become effective.

WHEREAS, The Nevada Constitution does not grant the Nevada Legislature express power to convene a special session on extraordinary occasions; and

WHEREAS, There are extraordinary occasions when it is imperative for the Legislature to have express power to convene a special session, such as when it is necessary to hold impeachment or removal proceedings pursuant to Article 7 of the Nevada Constitution against the Governor, Supreme Court Justices or other state and judicial officers who have committed misconduct in office, or when it is necessary to hold expulsion proceedings pursuant to Section 6 of Article 4 of the Nevada Constitution against Legislators who have committed misconduct in office; and

WHEREAS, There are other extraordinary occasions when it is imperative for the Legislature to have express power to convene a special session, such as when it is necessary to enact bills or appropriations to address unexpected conditions or emergency situations, or when it is necessary to reconsider bills vetoed by the Governor after the adjournment of a regular session; and

WHEREAS, There are currently 32 state legislatures **in the nation** that have ~~[the ability]~~ **express power** to call a special ~~[legislative]~~ session when ~~[deemed necessary;]~~ **there are extraordinary occasions;** and

WHEREAS, The Nevada Legislature is ~~[1]~~ **part of a group** of only 18 state ~~[legislative bodies in the nation that may]~~ **legislatures that do** not **have express power to** call a special session, and ~~[11]~~ **part of a group** of only 11 ~~[Legislatures]~~ **state legislatures** that may not determine any of the subject matter to be considered at a special session; and

WHEREAS, The Nevada Constitution is grounded on the principle of three ~~[equal]~~ **coequal** branches of State Government, with the ultimate authority and responsibility to enact necessary legislation being vested in the Legislative Branch, subject to final approval by the Governor; and

WHEREAS, Nevada's current constitutional language, which ~~[allows only]~~ **grants** the Governor **express power** to call the Legislature into special session ~~[, impedes and is contrary to]~~ **but which does not grant such express power to the Legislature, diminishes** the constitutional ~~[provision that vests the legislative authority of the State of Nevada in its]~~ **separation of powers by impeding the authority of this State's** elected Legislature ~~[,]~~ **to perform its constitutional functions of enacting necessary legislation and conducting impeachment, removal and expulsion proceedings on extraordinary occasions;** and

WHEREAS, The Nevada Legislature should be authorized to operate with a reasonable degree of independence from the Executive and Judicial Branches as is consistent with the separation of powers principle, and should be empowered to identify those ~~[topics]~~ **extraordinary occasions** that may require the Legislature to call a limited special session deemed in the best interest of the people of the State of Nevada; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That a new section, designated Section 2A, be added to Article 4 of the Nevada Constitution to read as follows:

Sec. 2A. 1. The Legislature may be convened, on extraordinary occasions, upon a petition signed by two-thirds of the members ~~[of]~~ elected to each House of the Legislature. A petition must specify the business to be transacted during the special session, indicate a date on or before which the Legislature is to convene and be transmitted to the Secretary of State. Upon receipt of one or more substantially similar petitions signed, in the aggregate, by the required number of members, calling for a special session, the Secretary of State shall notify all members of the Legislature and the Governor that a special session will be convened pursuant to this section.

2. ~~[No bills,]~~ At a special session convened pursuant to this section, the Legislature shall not introduce, consider or pass any bills except those related to the business specified in the petition and those necessary to provide for the expenses of the session . ~~[, may be introduced at a special session convened pursuant to this section.]~~

3. A special session convened pursuant to this section takes precedence over a special session ~~[called]~~ convened by the Governor pursuant to Section 9 of Article 5 of this Constitution, unless otherwise provided in the petition ~~[calling for]~~ convening the special session ~~[.]~~ pursuant to this section.

4. The Legislature may provide by law for the procedure for convening a special session pursuant to this section.

5. ~~[The]~~ Except as otherwise provided in this subsection, the Legislature shall adjourn sine die a special session convened pursuant to this section not later than midnight Pacific ~~[standard time of]~~ time at the end of the 20th consecutive calendar day of that session ~~[.]~~ , inclusive of the day on which that session commences. Any legislative action taken

after midnight Pacific ~~[standard time on]~~ time at the end of the 20th consecutive calendar day of that session is void. This subsection does not apply to a special session that is convened to conduct proceedings for:

(a) Impeachment or removal from office of the Governor and other state and judicial officers pursuant to Article 7 of this Constitution; or

(b) Expulsion from office of a member of the Legislature pursuant to Section 6 of Article 4 of this Constitution.

6. For the purposes of this section, "midnight Pacific time" must be determined based on the actual measure of time that, on the final calendar day of the session, is being used and observed by the general population as the uniform time for the portion of Nevada which lies within the Pacific time zone, or any legal successor to the Pacific time zone, and which includes the seat of government of this State as designated by Section 1 of Article 15 of this Constitution. The Legislature and its members, officers and employees shall not employ any device, pretense or fiction that adjusts, evades or ignores this measure of time for the purpose of extending the duration of the session.

And be it further

RESOLVED, That Section 2 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. The sessions of the Legislature shall be biennial, and shall commence on the 1st Monday of February following the election of members of the Assembly, unless the Governor of the State ***or the members of the Legislature*** shall, in the interim, convene the Legislature by proclamation ~~[.]~~ ***or petition.***

2. The Legislature shall adjourn sine die each regular session not later than midnight Pacific ~~[standard time 120 calendar days following its commencement.]~~ ***time at the end of the 120th consecutive calendar day of that session, inclusive of the day on which that session commences.*** Any legislative action taken after midnight Pacific ~~[standard time on]~~ ***time at the end of*** the 120th ***consecutive*** calendar day ***of that session*** is void, unless the legislative action is conducted during a special session **.** ~~[convened by the Governor.]~~

3. The Governor shall submit the proposed executive budget to the Legislature not later than 14 calendar days before the commencement of each regular session.

4. For the purposes of this section, "midnight Pacific time" must be determined based on the actual measure of time that, on the final calendar day of the session, is being used and observed by the general population as the uniform time for the portion of Nevada which lies within the Pacific time zone, or any legal successor to the Pacific time zone, and which includes the seat of government of this State as designated by Section 1 of Article 15 of this Constitution. The Legislature and its members, officers and employees shall not employ any device, pretense or fiction that adjusts,

evades or ignores this measure of time for the purpose of extending the duration of the session.

And be it further

RESOLVED, That Section 33 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec **.** ~~[:]~~ 33. The members of the Legislature shall receive for their services ~~[,]~~ a compensation to be fixed by law and paid out of the public treasury, for not to exceed 60 days during any regular session of the ~~[legislature]~~ ***Legislature*** and not to exceed 20 days during any special session ***;*** ~~[convened by the governor;]~~ but no increase of such compensation shall take effect during the term for which the members of either house shall have been elected **;** Provided, that an appropriation may be made for the payment of such actual expenses as members of the Legislature may incur for postage, express charges, newspapers and stationery not exceeding the sum of Sixty dollars for any general or special session to each member; and Furthermore Provided, that the Speaker of the Assembly, and Lieutenant Governor, as President of the Senate, shall each, during the time of their actual attendance as such presiding officers receive an additional allowance of two dollars per diem.

And be it further

RESOLVED, That Section 9 of Article 5 of the Nevada Constitution be amended to read as follows:

~~[Sec. 9. The]~~ ***Sec. 9. 1. Except as otherwise provided in Section 2A of Article 4 of this Constitution, the*** Governor may **,** on extraordinary occasions, convene the Legislature by Proclamation and shall state to both houses **,** when organized, the ~~[purpose]~~ ***business*** for which they have been ***specially*** convened **.** ~~[, and the Legislature shall transact no legislative business, except that for which they were specially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in Session.]~~

2. [No bills,] At a special session convened pursuant to this section, the Legislature shall not introduce, consider or pass any bills except those related to the [purpose] business for which the Legislature has been specially convened and those necessary to provide for the expenses of the session . [, may be introduced at a special session convened pursuant to this section.]

3. [The] Except as otherwise provided in this subsection, the Legislature shall adjourn sine die a special session convened pursuant to this section not later than midnight Pacific [standard time of] time at the end of the 20th consecutive calendar day of that session [.] , inclusive of the day on which that session commences. Any legislative action taken after midnight Pacific [standard time on] time at the end of the 20th consecutive calendar day of that session is void. This subsection does not apply to a special session that is convened to conduct proceedings for:

(a) Impeachment or removal from office of the Governor and other state and judicial officers pursuant to Article 7 of this Constitution; or

(b) Expulsion from office of a member of the Legislature pursuant to Section 6 of Article 4 of this Constitution.

4. For the purposes of this section, "midnight Pacific time" must be determined based on the actual measure of time that, on the final calendar day of the session, is being used and observed by the general population as the uniform time for the portion of Nevada which lies within the Pacific time zone, or any legal successor to the Pacific time zone, and which includes the seat of government of this State as designated by Section 1 of Article 15 of this Constitution. The Legislature and its members, officers and employees shall not employ any device, pretense or fiction that adjusts, evades or ignores this measure of time for the purpose of extending the duration of the session.

Assemblyman Mortenson moved that the Assembly concur in the Senate amendment to Assembly Joint Resolution No. 5.

Remarks by Assemblyman Mortenson.

Motion carried by a constitutional majority.

Resolution ordered to enrollment.

Assembly Bill No. 218.

The following Senate amendment was read:

Amendment No. 918.

SUMMARY— ~~[Authorizes the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in]~~ **Makes various changes relating to** gaming. (BDR 41-603)

AN ACT relating to gaming; authorizing the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in gaming; **revising the definition of "sports pools"; revising the provisions relating to off-track pari-mutuel wagering;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain persons who are involved in gaming are required to be licensed, registered, found suitable or approved by the Nevada Gaming Commission, including, for example, persons who: (1) deal, operate, carry on, conduct, maintain or expose for play in this State any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool; (2) provide or maintain any information service; (3) operate a gaming salon; (4) receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool; (5) furnish any equipment of any gambling game for any interest, percentage or share of the money or property played; or (6) are employees, agents, guardians, personal representatives, lenders or holders of indebtedness of a

gaming licensee and who, in the opinion of the Nevada Gaming Commission, have the power to exercise a significant influence over a licensee's operation of a gaming establishment. (NRS 463.160-463.167)

~~[This]~~ **Section 1 of this** bill provides that if an applicant for a license, registration, finding of suitability or any required approval is a governmental entity or is owned or controlled by a governmental entity, the applicant must file such applications for licenses, registrations, findings of suitability or any other approvals as the Nevada Gaming Commission may prescribe.

Existing law defines a "sports pool" as the business of accepting wagers on sporting events by any system or method of wagering. (NRS 463.0193) The regulations of the Nevada Gaming Commission provide that a "sports pool" means a business that accepts wagers on sporting events or other events. (Regulation 22.010 of the Nevada Gaming Commission) Section 3 of this bill amends the statutory definition to include "other events" within the definition of "sports pool" in a manner consistent with the regulations.

Sections 4 and 6 of this bill clarify that, in addition to authorizing off-track pari-mutuel wagering on horse races, existing law also authorizes off-track pari-mutuel wagering on dog races. (NRS 464.005, 466.095)

Existing law authorizes the Commission to appoint an Off-Track Pari-Mutuel Wagering Committee, which, if appointed, has the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering. (NRS 464.020) Section 5 of this bill provides that any agreement negotiated by the Off-Track Pari-Mutuel Wagering Committee with a track relating to off-track pari-mutuel wagering must not set a different rate for intrastate wagers placed on the licensed premises of a race book and wagers placed through the use of communications technology.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An applicant which is a governmental entity or which is owned or controlled by a governmental entity must file such applications for licenses, registrations, findings of suitability or any other approvals as the Commission may prescribe.

2. As used in this section, "governmental entity" means a government or any political subdivision of a government.

Sec. 2. **NRS 463.016425 is hereby amended to read as follows:**

463.016425 1. "Interactive gaming" means the conduct of gambling games through the use of communications technology that allows a person, utilizing money, checks, electronic checks, electronic transfers of money, credit cards, debit cards or any other instrumentality, to transmit to a computer information to assist in the placing of a bet or wager and

corresponding information related to the display of the game, game outcomes or other similar information. The term does not include the operation of a race book or sports pool that uses communications technology approved by the Board pursuant to regulations adopted by the Commission to accept wagers originating within this state for races**,** or sporting events **[.]** ***or other events.***

2. As used in this section, "communications technology" means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wire, cable, radio, microwave, light, optics or computer data networks, including, without limitation, the Internet and intranets.

Sec. 3. **NRS 463.0193 is hereby amended to read as follows:**

463.0193 "Sports pool" means the business of accepting wagers on sporting events ***or other events*** by any system or method of wagering.

Sec. 4. **NRS 464.005 is hereby amended to read as follows:**

464.005 As used in this chapter, unless the context otherwise requires:

1. "Gross revenue" means the amount of the commission received by a licensee that is deducted from off-track pari-mutuel wagering, plus breakage and the face amount of unpaid winning tickets that remain unpaid for a period specified by the Nevada Gaming Commission.

2. "Off-track pari-mutuel system" means a computerized system, or component of such a system, that is used with regard to a pari-mutuel pool to transmit information such as amounts wagered, odds and payoffs on races.

3. "Off-track pari-mutuel wagering" means any pari-mutuel system of wagering approved by the Nevada Gaming Commission for the acceptance of wagers on:

(a) **[**Races**]** ***Horse or dog races*** which take place outside of this state; or

(b) Sporting events.

4. "Operator of a system" means a person engaged in providing an off-track pari-mutuel system.

5. "Pari-mutuel system of wagering" means any system whereby wagers with respect to the outcome of a race or sporting event are placed in a wagering pool conducted by a person licensed or otherwise permitted to do so under state law, and in which the participants are wagering with each other and not against that person. The term includes off-track pari-mutuel wagering.

Sec. 5. **NRS 464.020 is hereby amended to read as follows:**

464.020 1. The Nevada Gaming Commission is charged with the administration of this chapter for the protection of the public and in the public interest.

2. The Nevada Gaming Commission may issue licenses permitting the conduct of the pari-mutuel system of wagering, including off-track pari-mutuel wagering, and may adopt, amend and repeal regulations relating to the conduct of such wagering.

3. The wagering must be conducted only by the licensee at the times determined by the Nevada Gaming Commission and only:

(a) Within the enclosure wherein the race or other sporting event which is the subject of the wagering occurs; or

(b) Within a licensed gaming establishment which has been approved to conduct off-track pari-mutuel wagering.

➥ This subsection does not prohibit a person licensed to accept, pursuant to regulations adopted by the Nevada Gaming Commission, off-track pari-mutuel wagers from accepting wagers made by wire communication from patrons within the State of Nevada, from other states in which such wagering is legal or from places outside the United States in which such wagering is legal.

4. The regulations of the Nevada Gaming Commission may include, without limitation:

(a) Requiring fingerprinting of an applicant or licensee, or other method of identification.

(b) Requiring information concerning an applicant's antecedents, habits and character.

(c) Prescribing the method and form of application which any applicant for a license issued pursuant to this chapter must follow and complete before consideration of his application by the Nevada Gaming Commission.

(d) Prescribing the permissible communications technology and requiring the implementation of border control technology that will ensure that a person cannot place a wager with a race book in this State from another state or another location where placing such a wager is illegal.

5. The Nevada Gaming Commission may appoint an Off-Track Pari-Mutuel Wagering Committee consisting of 11 persons who are licensed to engage in off-track pari-mutuel wagering. If the Commission appoints such a Committee, it shall appoint to the Committee:

(a) Five members from a list of nominees provided by the State Association of Gaming Establishments whose members collectively paid the most gross revenue fees to the State pursuant to NRS 463.370 in the preceding year;

(b) Three members who, in the preceding year, paid gross revenue fees pursuant to NRS 463.370 in an amount that was less than the average amount of gross revenue fees paid by licensees engaged in off-track pari-mutuel wagering in the preceding year; and

(c) Three other members.

➥ If a vacancy occurs in a position on the Committee for any reason, including, but not limited to, termination of a member, the Commission shall appoint a successor member who satisfies the same criteria in paragraph (a), (b) or (c) that applied to the member whose position has been vacated.

6. If the Nevada Gaming Commission appoints an Off-Track Pari-Mutuel Wagering Committee pursuant to subsection 5, the Commission shall:

(a) Grant to the Off-Track Pari-Mutuel Wagering Committee the exclusive right to negotiate an agreement relating to off-track pari-mutuel wagering with:

(1) A person who is licensed or otherwise permitted to operate a wagering pool in another state; and

(2) A person who is licensed pursuant to chapter 464 of NRS as an operator of a system.

(b) ***Require that any agreement negotiated by the Off-Track Pari-Mutuel Wagering Committee with a track relating to off-track pari-mutuel wagering must not set a different rate for intrastate wagers placed on the licensed premises of a race book and wagers placed through the use of communications technology.***

(c) Require the Off-Track Pari-Mutuel Wagering Committee to grant to each person licensed pursuant to this chapter to operate an off-track pari-mutuel race pool the right to receive, on a fair and equitable basis, all services concerning wagering in such a race pool that the Committee has negotiated to bring into or provide within this State.

7. The Nevada Gaming Commission shall, and it is granted the power to, demand access to and inspect all books and records of any person licensed pursuant to this chapter pertaining to and affecting the subject of the license.

Sec. 6. **NRS 466.095 is hereby amended to read as follows:**

466.095 The Nevada Gaming Commission shall not issue any license ~~[under this chapter]~~ to conduct dog racing or pari-mutuel wagering in connection with ~~[any dog race.]~~ ***dog racing pursuant to this chapter. This section does not prohibit off-track pari-mutuel wagering on dog racing pursuant to chapter 464 of NRS.***

~~[Sec. 2.]~~ ***Sec. 7.*** This act becomes effective upon passage and approval.

Assemblyman Anderson moved that the Assembly concur in the Senate Amendment No. 918 to Assembly Bill No. 218.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 933.

SUMMARY— ~~[Authorizes the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in]~~ **Makes various changes relating to** gaming. (BDR 41-603)

AN ACT relating to gaming; authorizing the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in gaming; **revising the boundaries of the Las Vegas Boulevard gaming corridor;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain persons who are involved in gaming are required to be licensed, registered, found suitable or approved by the Nevada Gaming Commission, including, for example, persons who: (1) deal, operate,

carry on, conduct, maintain or expose for play in this State any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool; (2) provide or maintain any information service; (3) operate a gaming salon; (4) receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool; (5) furnish any equipment of any gambling game for any interest, percentage or share of the money or property played; or (6) are employees, agents, guardians, personal representatives, lenders or holders of indebtedness of a gaming licensee and who, in the opinion of the Nevada Gaming Commission, have the power to exercise a significant influence over a licensee's operation of a gaming establishment. (NRS 463.160-463.167)

~~[This]~~ **Section 1 of this** bill provides that if an applicant for a license, registration, finding of suitability or any required approval is a governmental entity or is owned or controlled by a governmental entity, the applicant must file such applications for licenses, registrations, findings of suitability or any other approvals as the Nevada Gaming Commission may prescribe.

Existing law provides that the Nevada Gaming Commission is prohibited from approving a nonrestricted license for an establishment in a county whose population is 400,000 or more (currently Clark County) unless the establishment is located in a gaming enterprise district, which is defined as "an area that has been approved by a county, city or town as suitable for operating an establishment that has been issued a nonrestricted license." (NRS 463.0158, 463.308) If the location of a proposed establishment is within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone, but not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3084. (NRS 463.3082) However, if the location of a proposed establishment is not within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone and not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3086, which contains certain additional requirements that are not contained in NRS 463.3084, such as the requirements that: (1) the property line of the proposed establishment must be not less than 500 feet from the property line of a developed residential district and not less than 1,500 feet from the property line of a public school, private school or structure used primarily for religious services or worship; and (2) a three-fourths vote of the governing body

of the county, city or town is required for designation of the location as a gaming enterprise district. (NRS 463.3086)

Section 1.5 of this bill revises the boundaries of the Las Vegas Boulevard gaming corridor to include certain new areas. Consequently, if a proposed establishment which is located in a new area of the Las Vegas Boulevard gaming corridor and which is not already in a gaming enterprise district were to seek to have the location designated as a gaming enterprise district, the determination of whether the location may be designated as a gaming enterprise district would be based upon the criteria set forth in NRS 463.3084, rather than the criteria set forth in NRS 463.3086.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An applicant which is a governmental entity or which is owned or controlled by a governmental entity must file such applications for licenses, registrations, findings of suitability or any other approvals as the Commission may prescribe.

2. As used in this section, "governmental entity" means a government or any political subdivision of a government.

Sec. 1.5. **NRS 463.3076 is hereby amended to read as follows:**

463.3076 The location of a proposed establishment shall be deemed to be within the Las Vegas Boulevard gaming corridor if the property line of the proposed establishment ~~[:]~~ ***is located within any of the following areas:***

~~1. Is within 1,500 feet of the centerline of Las Vegas Boulevard;~~

~~2. Is south of the intersection of Las Vegas Boulevard and that portion of St. Louis Avenue which is designated State Highway No. 605; and~~

~~3. Is adjacent to or north of the northern edge line of State Highway No. 146.~~] ***The area beginning at the point of the northern edge line of State Highway No. 146 that is 1,500 feet west of the centerline of Las Vegas Boulevard, then proceeding north to the northern edge line of Tropicana Avenue, then proceeding west to the eastern edge line of Interstate 15, then proceeding north to the eastern edge line of Industrial Road, then proceeding north to the southern edge line of New York Avenue, then proceeding east to the intersection of the extension of the southern edge line of New York Avenue and the western edge line of Main Street, then proceeding south to the southern edge line of St. Louis Avenue, then proceeding east to the western edge line of Santa Rita Drive, then proceeding south along a line that is 1,500 feet east of the centerline of Las Vegas Boulevard to the western edge line of Paradise Road, then proceeding south to the southern edge line of Sands Avenue, then proceeding west to a point that is 1,500 feet east of the centerline of Las Vegas Boulevard, then proceeding south along a line that is 1,500 feet***

from the centerline of Las Vegas Boulevard to the northern edge line of State Highway No. 146, then proceeding west to the point of beginning.

2. The area beginning at the intersection of the western edge line of Las Vegas Boulevard and the extension of the northern edge line of Lewis Avenue, then proceeding north to the southern edge line of Stewart Avenue, then proceeding west to the eastern edge line of Casino Center Boulevard, then proceeding north to the southern edge line of United States Highway No. 95, then proceeding west to the western edge line of the Union Pacific Railroad Right-of-Way, then proceeding south to a point that is perpendicular to the extension of the northern edge line of Lewis Avenue, then proceeding east to the point of beginning.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 933 to Assembly Bill No. 218.

Remarks by Assemblyman Anderson.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:13 p.m.

ASSEMBLY IN SESSION

At 12:18 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 218.

The following Senate amendment was read:

Amendment No. 931.

SUMMARY— ~~[Authorizes the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in]~~ **Makes various changes relating to** gaming. (BDR 41-603)

AN ACT relating to gaming; authorizing the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in gaming; **revising the boundaries of the Las Vegas Boulevard gaming corridor;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain persons who are involved in gaming are required to be licensed, registered, found suitable or approved by the Nevada Gaming Commission, including, for example, persons who: (1) deal, operate, carry on, conduct, maintain or expose for play in this State any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool; (2) provide or maintain any information service; (3) operate a gaming salon; (4) receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property

played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool; (5) furnish any equipment of any gambling game for any interest, percentage or share of the money or property played; or (6) are employees, agents, guardians, personal representatives, lenders or holders of indebtedness of a gaming licensee and who, in the opinion of the Nevada Gaming Commission, have the power to exercise a significant influence over a licensee's operation of a gaming establishment. (NRS 463.160-463.167)

~~[This]~~ **Section 1 of this** bill provides that if an applicant for a license, registration, finding of suitability or any required approval is a governmental entity or is owned or controlled by a governmental entity, the applicant must file such applications for licenses, registrations, findings of suitability or any other approvals as the Nevada Gaming Commission may prescribe.

Existing law provides that the Nevada Gaming Commission is prohibited from approving a nonrestricted license for an establishment in a county whose population is 400,000 or more (currently Clark County) unless the establishment is located in a gaming enterprise district, which is defined as "an area that has been approved by a county, city or town as suitable for operating an establishment that has been issued a nonrestricted license." (NRS 463.0158, 463.308) If the location of a proposed establishment is within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone, but not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3084. (NRS 463.3082) However, if the location of a proposed establishment is not within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone and not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3086, which contains certain additional requirements that are not contained in NRS 463.3084, such as the requirements that: (1) the property line of the proposed establishment must be not less than 500 feet from the property line of a developed residential district and not less than 1,500 feet from the property line of a public school, private school or structure used primarily for religious services or worship; and (2) a three-fourths vote of the governing body of the county, city or town is required for designation of the location as a gaming enterprise district. (NRS 463.3086)

Section 1.5 of this bill revises the boundaries of the Las Vegas Boulevard gaming corridor to include certain new areas. Consequently, if a proposed establishment which is located in a new area of the Las

Vegas Boulevard gaming corridor and which is not already in a gaming enterprise district were to seek to have the location designated as a gaming enterprise district, the determination of whether the location may be designated as a gaming enterprise district would be based upon the criteria set forth in NRS 463.3084, rather than the criteria set forth in NRS 463.3086.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An applicant which is a governmental entity or which is owned or controlled by a governmental entity must file such applications for licenses, registrations, findings of suitability or any other approvals as the Commission may prescribe.

2. As used in this section, "governmental entity" means a government or any political subdivision of a government.

Sec. 1.5. **NRS 463.3076 is hereby amended to read as follows:**

463.3076 The location of a proposed establishment shall be deemed to be within the Las Vegas Boulevard gaming corridor if the property line of the proposed establishment ~~[:]~~ ***is located within any of the following areas:***

1. ~~[Is within]~~ ***The area:***

(a) Within 1,500 feet of the centerline of Las Vegas Boulevard;

~~[2. Is south]~~

(b) South of the intersection of Las Vegas Boulevard and that portion of St. Louis Avenue which is designated State Highway No. 605; and

~~[3. Is adjacent]~~

(c) Adjacent to or north of the northern edge line of State Highway No. 146.

2. The area beginning at the intersection of the western edge line of Main Street and Wyoming Avenue, then proceeding west to the eastern edge line of the Union Pacific Railroad Right-of-Way, then proceeding north to the southern edge line of Charleston Boulevard, then proceeding east to the western edge line of Main Street, then proceeding south to the point of origin.

3. The area beginning at the intersection of the eastern edge line of Las Vegas Boulevard and the northern edge line of Oakey Boulevard, then proceeding north to the southern edge line of Charleston Boulevard, then proceeding east to a point that is 550 feet east of the eastern edge line of Las Vegas Boulevard, then proceeding south along a line that is 550 feet east of the eastern edge line of Las Vegas Boulevard to the northern edge line of Oakey Boulevard, then proceeding west to the point of origin.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment No. 931 to Assembly Bill No. 218.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 60.

The following Senate amendment was read:

Amendment No. 787.

AN ACT relating to public financial administration; ~~[eliminating certain requirements pertaining to the sale and liquidation of certain securities;]~~ authorizing the State Treasurer to deposit state money in out-of-state financial institutions under certain circumstances; authorizing the state and local governments to issue tax credit bonds under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law designates the types of bonds, loans, financial instruments and other securities in which public money may lawfully be invested. Public money may be invested in some securities only if the securities are of a certain investment quality which is established by the investment rating given to the security by a nationally recognized securities rating service. (NRS 355.140, 355.170, 355.171) Sections 1-3 of this bill eliminate the requirement that certain investment-rated securities which have been purchased with public money must be sold "as soon as possible" if their investment rating is subsequently reduced below the rating that was required for their purchase. Sections 1 and 2 also provide that if a particular security purchased with public money complies with all applicable terms, conditions, limitations and restrictions at the time of its purchase, it is not required that the security be sold if it subsequently fails to comply with any such term, condition, limitation or restriction. (NRS 355.140, 355.170)]~~

Sections 4 and 5 of this bill eliminate a restriction on the authority of the State Treasurer to deposit state money in out-of-state financial institutions and allow him to use such institutions whenever the State Board of Finance gives its approval.

Sections 7-14 of this bill make various changes relating to the issuance of bonds so that the state and local governments may take advantage of certain provisions of the federal American Recovery and Reinvestment Act, Public Law 111-5, that authorize the issuance of tax credit bonds.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 355.140 is hereby amended to read as follows:~~

~~355.140 1. In addition to other investments provided for by a specific statute, the following bonds and other securities are proper and lawful investments of any of the money of this State, of its various departments, institutions and agencies, and of the State Insurance Fund:~~

~~(a) Bonds and certificates of the United States;~~

~~(b) Bonds, notes, debentures and loans if they are underwritten by or their payment is guaranteed by the United States;~~

~~(c) Obligations or certificates of the United States Postal Service, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Agricultural Mortgage Corporation, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation or the Student Loan Marketing Association, whether or not guaranteed by the United States;~~

~~(d) Bonds of this State or other states of the Union;~~

~~(e) Bonds of any county of this State or of other states;~~

~~(f) Bonds of incorporated cities in this State or in other states of the Union, including special assessment district bonds if those bonds provide that any deficiencies in the proceeds to pay the bonds are to be paid from the general fund of the incorporated city;~~

~~(g) General obligation bonds of irrigation districts and drainage districts in this State which are liens upon the property within those districts, if the value of the property is found by the board or commission making the investments to render the bonds financially sound over all other obligations of the districts;~~

~~(h) Bonds of school districts within this State;~~

~~(i) Bonds of any general improvement district whose population is 200,000 or more and which is situated in two or more counties of this State or of any other state, if:~~

~~(1) The bonds are general obligation bonds and constitute a lien upon the property within the district which is subject to taxation; and~~

~~(2) That property is of an assessed valuation of not less than five times the amount of the bonded indebtedness of the district;~~

~~(j) Medium term obligations for counties, cities and school districts authorized pursuant to chapter 350 of NRS;~~

~~(k) Loans bearing interest at a rate determined by the State Board of Finance when secured by first mortgages on agricultural lands in this State of not less than three times the value of the amount loaned, exclusive of perishable improvements, and of unexceptional title and free from all encumbrances;~~

~~(l) Farm loan bonds, consolidated farm loan bonds, debentures, consolidated debentures and other obligations issued by federal land banks and federal intermediate credit banks under the authority of the Federal Farm Loan Act, formerly 12 U.S.C. §§ 636 to 1012, inclusive, and §§ 1021 to 1129, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive, and bonds, debentures, consolidated debentures and other obligations issued by banks for cooperatives under the authority of the Farm Credit Act of 1933, formerly 12 U.S.C. §§ 1131 to 1138e, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive, excluding such money thereof as has been received or which may be received hereafter~~

~~from the Federal Government or received pursuant to some federal law which governs the investment thereof;~~

~~(m) Negotiable certificates of deposit issued by commercial banks, insured credit unions or savings and loan associations;~~

~~(n) Bankers' acceptances of the kind and maturities made eligible by law for rediscount with Federal Reserve banks or trust companies which are members of the Federal Reserve System, except that acceptances may not exceed 180 days' maturity, and may not, in aggregate value, exceed 20 percent of the total par value of the portfolio as determined on the date of purchase;~~

~~(o) Commercial paper issued by a corporation organized and operating in the United States or by a depository institution licensed by the United States or any state and operating in the United States that:~~

~~(1) At the time of purchase has a remaining term to maturity of not more than 270 days; and~~

~~(2) Is rated by a nationally recognized rating service as "A-1," "P-1" or its equivalent, or better,~~

~~", except that investments pursuant to this paragraph may not, in aggregate value, exceed 20 percent of the total par value of the portfolio as determined on the date of purchase ; [, and if the rating of an obligation is reduced to a level that does not meet the requirements of this paragraph, it must be sold as soon as possible;]~~

~~(p) Notes, bonds and other unconditional obligations for the payment of money, except certificates of deposit that do not qualify pursuant to paragraph (m), issued by corporations organized and operating in the United States or by depository institutions licensed by the United States or any state and operating in the United States that:~~

~~(1) Are purchased from a registered broker-dealer;~~

~~(2) At the time of purchase have a remaining term to maturity of not more than 5 years; and~~

~~(3) Are rated by a nationally recognized rating service as "A" or its equivalent, or better,~~

~~", except that investments pursuant to this paragraph may not, in aggregate value, exceed 20 percent of the total par value of the portfolio ; [, and if the rating of an obligation is reduced to a level that does not meet the requirements of this paragraph, it must be sold as soon as possible;]~~

~~(q) Money market mutual funds which:~~

~~(1) Are registered with the Securities and Exchange Commission;~~

~~(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and~~

~~(3) Invest only in securities issued by the Federal Government or agencies of the Federal Government or in repurchase agreements fully collateralized by such securities;~~

~~(r) Collateralized mortgage obligations that are rated by a nationally recognized rating service as "AAA" or its equivalent; and~~

(c) Asset-backed securities that are rated by a nationally recognized rating service as "AAA" or its equivalent.

2. Repurchase agreements are proper and lawful investments of money of the State and the State Insurance Fund for the purchase or sale of securities which are negotiable and of the types listed in subsection 1 if made in accordance with the following conditions:

(a) The State Treasurer shall designate in advance and thereafter maintain a list of qualified counterparties which:

(1) Regularly provide audited and, if available, unaudited financial statements to the State Treasurer;

(2) The State Treasurer has determined to have adequate capitalization and earnings and appropriate assets to be highly credit worthy; and

(3) Have executed a written master repurchase agreement in a form satisfactory to the State Treasurer and the State Board of Finance pursuant to which all repurchase agreements are entered into. The master repurchase agreement must require the prompt delivery to the State Treasurer and the appointed custodian of written confirmations of all transactions conducted thereunder, and must be developed giving consideration to the federal Bankruptcy Act, 11 U.S.C. §§ 101 et seq.

(b) In all repurchase agreements:

(1) At or before the time money to pay the purchase price is transferred, title to the purchased securities must be recorded in the name of the appointed custodian, or the purchased securities must be delivered with all appropriate, executed transfer instruments by physical delivery to the custodian;

(2) The State must enter into a written contract with the custodian appointed pursuant to subparagraph (1) which requires the custodian to:

(I) Disburse cash for repurchase agreements only upon receipt of the underlying securities;

(II) Notify the State when the securities are marked to the market if the required margin on the agreement is not maintained;

(III) Hold the securities separate from the assets of the custodian; and

(IV) Report periodically to the State concerning the market value of the securities;

(3) The market value of the purchased securities must exceed 102 percent of the repurchase price to be paid by the counterparty and the value of the purchased securities must be marked to the market weekly;

(4) The date on which the securities are to be repurchased must not be more than 90 days after the date of purchase; and

(5) The purchased securities must not have a term to maturity at the time of purchase in excess of 10 years.

3. As used in subsection 2:

(a) "Counterparty" means a bank organized and operating or licensed to operate in the United States pursuant to federal or state law or a securities dealer which is:

~~(1) A registered broker-dealer;~~

~~(2) Designated by the Federal Reserve Bank of New York as a "primary" dealer in United States government securities; and~~

~~(3) In full compliance with all applicable capital requirements.~~

~~(b) "Repurchase agreement" means a purchase of securities by the State or State Insurance Fund from a counterparty which commits to repurchase those securities or securities of the same issuer, description, issue date and maturity on or before a specified date for a specified price.~~

~~4. No money of this State may be invested pursuant to a reverse-repurchase agreement, except money invested pursuant to chapter 286 of NRS.~~

~~*5. The terms, conditions, limitations and restrictions regarding investments listed in this section apply only at the time an investment is originally acquired and must not be construed to require the liquidation of an investment at any time.]*~~ **(Deleted by amendment.)**

Sec. 2. ~~[~~NRS 355.170 is hereby amended to read as follows:

~~355.170 1. Except as otherwise provided in this section and NRS 354.750 and 355.171, the governing body of a local government may purchase for investment the following securities and no others:~~

~~(a) Bonds and debentures of the United States, the maturity dates of which do not extend more than 10 years after the date of purchase.~~

~~(b) Farm loan bonds, consolidated farm loan bonds, debentures, consolidated debentures and other obligations issued by federal land banks and federal intermediate credit banks under the authority of the Federal Farm Loan Act, formerly 12 U.S.C. §§ 636 to 1012, inclusive, and §§ 1021 to 1129, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive, and bonds, debentures, consolidated debentures and other obligations issued by banks for cooperatives under the authority of the Farm Credit Act of 1933, formerly 12 U.S.C. §§ 1131 to 1138e, inclusive, and the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive.~~

~~(c) Bills and notes of the United States Treasury, the maturity date of which is not more than 10 years after the date of purchase.~~

~~(d) Obligations of an agency or instrumentality of the United States of America or a corporation sponsored by the government, the maturity date of which is not more than 10 years after the date of purchase.~~

~~(e) Negotiable certificates of deposit issued by commercial banks, insured credit unions or savings and loan associations.~~

~~(f) Securities which have been expressly authorized as investments for local governments by any provision of Nevada Revised Statutes or by any special law.~~

~~(g) Nonnegotiable certificates of deposit issued by insured commercial banks, insured credit unions or insured savings and loan associations, except certificates that are not within the limits of insurance provided by an instrumentality of the United States, unless those certificates are collateralized in the same manner as is required for uninsured deposits by a~~

~~county treasurer pursuant to NRS 356.133. For the purposes of this paragraph, any reference in NRS 356.133 to a "county treasurer" or "board of county commissioners" shall be deemed to refer to the appropriate financial officer or governing body of the local government purchasing the certificates.~~

~~(h) Subject to the limitations contained in NRS 355.177, negotiable notes medium-term obligations issued by local governments of the State of Nevada pursuant to NRS 350.087 to 350.095, inclusive.~~

~~(i) Bankers' acceptances of the kind and maturities made eligible by law for rediscount with Federal Reserve banks, and generally accepted by banks or trust companies which are members of the Federal Reserve System. Eligible bankers' acceptances may not exceed 180 days' maturity. Purchases of bankers' acceptances may not exceed 20 percent of the money available to a local government for investment as determined on the date of purchase.~~

~~(j) Obligations of state and local governments if:~~

~~(1) The interest on the obligation is exempt from gross income for federal income tax purposes; and~~

~~(2) The obligation has been rated "A" or higher by one or more nationally recognized bond credit rating agencies.~~

~~(k) Commercial paper issued by a corporation organized and operating in the United States or by a depository institution licensed by the United States or any state and operating in the United States that:~~

~~(1) Is purchased from a registered broker-dealer;~~

~~(2) At the time of purchase has a remaining term to maturity of no more than 270 days; and~~

~~(3) Is rated by a nationally recognized rating service as "A-1," "P-1" or its equivalent, or better,~~

~~",~~ except that investments pursuant to this paragraph may not, in aggregate value, exceed 20 percent of the total portfolio as determined on the date of purchase.~~ **[**, and if the rating of an obligation is reduced to a level that does not meet the requirements of this paragraph, it must be sold as soon as possible.**]**

~~(l) Money market mutual funds which:~~

~~(1) Are registered with the Securities and Exchange Commission;~~

~~(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and~~

~~(3) Invest only in:~~

~~(I) Securities issued by the Federal Government or agencies of the Federal Government;~~

~~(II) Master notes, bank notes or other short-term commercial paper rated by a nationally recognized rating service as "A-1," "P-1" or its equivalent, or better, issued by a corporation organized and operating in the United States or by a depository institution licensed by the United States or any state and operating in the United States; or~~

~~(III) Repurchase agreements that are fully collateralized by the obligations described in sub-subparagraphs (I) and (II).~~

~~(m) Obligations of the Federal Agricultural Mortgage Corporation.~~

~~2. Repurchase agreements are proper and lawful investments of money of a governing body of a local government for the purchase or sale of securities which are negotiable and of the types listed in subsection 1 if made in accordance with the following conditions:~~

~~(a) The governing body of the local government shall designate in advance and thereafter maintain a list of qualified counterparties which:~~

~~(1) Regularly provide audited and, if available, unaudited financial statements;~~

~~(2) The governing body of the local government has determined to have adequate capitalization and earnings and appropriate assets to be highly creditworthy; and~~

~~(3) Have executed a written master repurchase agreement in a form satisfactory to the governing body of the local government pursuant to which all repurchase agreements are entered into. The master repurchase agreement must require the prompt delivery to the governing body of the local government and the appointed custodian of written confirmations of all transactions conducted thereunder, and must be developed giving consideration to the federal Bankruptcy Act.~~

~~(b) In all repurchase agreements:~~

~~(1) At or before the time money to pay the purchase price is transferred, title to the purchased securities must be recorded in the name of the appointed custodian, or the purchased securities must be delivered with all appropriate, executed transfer instruments by physical delivery to the custodian;~~

~~(2) The governing body of the local government must enter a written contract with the custodian appointed pursuant to subparagraph (1) which requires the custodian to:~~

~~(I) Disburse cash for repurchase agreements only upon receipt of the underlying securities;~~

~~(II) Notify the governing body of the local government when the securities are marked to the market if the required margin on the agreement is not maintained;~~

~~(III) Hold the securities separate from the assets of the custodian; and~~

~~(IV) Report periodically to the governing body of the local government concerning the market value of the securities;~~

~~(3) The market value of the purchased securities must exceed 102 percent of the repurchase price to be paid by the counterparty and the value of the purchased securities must be marked to the market weekly;~~

~~(4) The date on which the securities are to be repurchased must not be more than 90 days after the date of purchase; and~~

~~(5) The purchased securities must not have a term to maturity at the time of purchase in excess of 10 years.~~

~~3. The securities described in paragraphs (a), (b) and (c) of subsection 1 and the repurchase agreements described in subsection 2 may be purchased~~

~~when, in the opinion of the governing body of the local government, there is sufficient money in any fund of the local government to purchase those securities and the purchase will not result in the impairment of the fund for the purposes for which it was created.~~

~~4. When the governing body of the local government has determined that there is available money in any fund or funds for the purchase of bonds as set out in subsection 1 or 2, those purchases may be made and the bonds paid for out of any one or more of the funds, but the bonds must be credited to the funds in the amounts purchased, and the money received from the redemption of the bonds, as and when redeemed, must go back into the fund or funds from which the purchase money was taken originally.~~

~~5. Any interest earned on money invested pursuant to subsection 3, may, at the discretion of the governing body of the local government, be credited to the fund from which the principal was taken or to the general fund of the local government.~~

~~6. The governing body of a local government may invest any money apportioned into funds and not invested pursuant to subsection 3 and any money not apportioned into funds in bills and notes of the United States Treasury, the maturity date of which is not more than 1 year after the date of investment. These investments must be considered as cash for accounting purposes, and all the interest earned on them must be credited to the general fund of the local government.~~

~~7. This section does not authorize the investment of money administered pursuant to a contract, debenture agreement or grant in a manner not authorized by the terms of the contract, agreement or grant.~~

~~8. *The terms, conditions, limitations and restrictions regarding investments listed in this section apply only at the time an investment is originally acquired and must not be construed to require the liquidation of an investment at any time.*~~

~~*9.* As used in this section:~~

~~(a) "Counterparty" means a bank organized and operating or licensed to operate in the United States pursuant to federal or state law or a securities dealer which is:~~

~~(1) A registered broker dealer;~~

~~(2) Designated by the Federal Reserve Bank of New York as a "primary" dealer in United States government securities; and~~

~~(3) In full compliance with all applicable capital requirements.~~

~~(b) "Local government" has the meaning ascribed to it in NRS 354.474.~~

~~(c) "Repurchase agreement" means a purchase of securities by the governing body of a local government from a counterparty which commits to repurchase those securities or securities of the same issuer, description, issue date and maturity on or before a specified date for a specified price.~~**]**

(Deleted by amendment.)

Sec. 3. ~~**[**NRS 355.171 is hereby amended to read as follows:~~

~~355.171 1. Except as otherwise provided in this section, a board of county commissioners, a board of trustees of a county school district or the governing body of an incorporated city may purchase for investment:~~

~~(a) Notes, bonds and other unconditional obligations for the payment of money issued by corporations organized and operating in the United States that:~~

~~(1) Are purchased from a registered broker-dealer;~~

~~(2) At the time of purchase have a remaining term to maturity of no more than 5 years; and~~

~~(3) Are rated by a nationally recognized rating service as "A" or its equivalent, or better.~~

~~(b) Collateralized mortgage obligations that are rated by a nationally recognized rating service as "AAA" or its equivalent.~~

~~(c) Asset-backed securities that are rated by a nationally recognized rating service as "AAA" or its equivalent.~~

~~2. With respect to investments purchased pursuant to paragraph (a) of subsection 1:~~

~~(a) Such investments must not, in aggregate value, exceed 20 percent of the total portfolio as determined on the date of purchase;~~ ***and***

~~(b) Not more than 25 percent of such investments may be in notes, bonds and other unconditional obligations issued by any one corporation .~~ **[**~~;~~ and

~~(c) If the rating of an obligation is reduced to a level that does not meet the requirements of that paragraph, the obligation must be sold as soon as possible.~~**]**

~~3. Subsections 1 and 2 do not:~~

~~(a) Apply to a:~~

~~(1) Board of county commissioners of a county whose population is less than 100,000;~~

~~(2) Board of trustees of a county school district in a county whose population is less than 100,000; or~~

~~(3) Governing body of an incorporated city whose population is less than 100,000,~~

~~,~~ unless the purchase is effected by the State Treasurer pursuant to his investment of a pool of money from local governments or by an investment adviser who is registered with the Securities and Exchange Commission and approved by the State Board of Finance.

~~(b) Authorize the investment of money administered pursuant to a contract, debenture agreement or grant in a manner not authorized by the terms of the contract, agreement or grant.~~**] (Deleted by amendment.)**

Sec. 4. NRS 356.010 is hereby amended to read as follows:

356.010 All money under the control of the State Treasurer belonging to the State must be deposited in any state or national banks, any insured credit unions or in any insured savings and loan associations in this State **[**~~,~~**]** or ***, if approved by the State Board of Finance,*** in any banks, insured credit unions or insured savings and loan associations outside of this State **. [**~~as provided in~~

~~NRS 356.100.]~~ The depository banks, credit unions or savings and loan associations may, if authorized by a contract negotiated with the State Treasurer, receive compensation for handling, collecting and paying all checks, drafts and other exchange. The compensation may be provided through the use of a compensating balance or a fixed-rate fee, or any combination thereof.

Sec. 5. NRS 356.105 is hereby amended to read as follows:

356.105 The provisions of NRS 356.010 to ~~[356.100,]~~ ***356.090,*** inclusive, do not require any depository to accept state deposits.

Sec. 6. NRS 356.110 is hereby amended to read as follows:

356.110 A state officer or employee who willfully violates:

1. NRS 356.011 is guilty of a misdemeanor.

2. Any of the other provisions of NRS 356.010 to ~~[356.100,]~~ ***356.090,*** inclusive, is guilty of malfeasance in office which is a category D felony and shall be punished as provided in NRS 193.130.

Sec. 7. Chapter 99 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any provision of law to the contrary, in calculating the rate of interest on any bonds or other securities that are issued by this State or any political subdivision or municipal or public corporation of this State on or before June 30, 2011, for the purposes of any limitations on the rate of interest provided by specific statute, and for the purposes of all other statutory requirements or calculations based on the rate or amount of interest on such bonds or securities, any credit expected to be paid to or for the benefit of the issuer of the bonds or other securities under 26 U.S.C. § 6431, as amended, must be treated as a reduction in the amount of interest paid, as of the date or dates on which the credit is expected to be received. Such amount must be used to pay the interest on the bonds or other securities for which it is received or to reimburse the issuer of the bonds or other securities for that payment. If a credit that is expected to be paid under 26 U.S.C. § 6431, as amended, is not paid, the issuer of the bonds or other securities may pay the interest that is expected to be paid from the sources pledged or otherwise available to pay the principal of and interest on the bonds or other securities.

Sec. 8. NRS 271.355 is hereby amended to read as follows:

271.355 1. For the purpose of paying any contractor or otherwise defraying any costs of the project as the costs become due from time to time until money is available therefor from the levy and collection of assessments and any issuance of bonds, the governing body may issue interim warrants.

2. Any interim warrants issued for any construction work may be issued only upon estimates of the engineer.

3. Any interim warrants must:

(a) Bear such date or dates;

(b) Mature in such denomination or denominations at such time or times, or at any time upon call;

(c) ~~[~~Bear~~]~~ ***Except as otherwise provided in section 7 of this act, bear*** interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(d) Be payable in such medium of payment at such place or places within and without the State, including but not limited to the county treasurer,

➥ as the governing body may determine.

4. Any interim warrants may be issued with privileges for registration for payment as to principal only, or as to both principal and interest, may be negotiable or nonnegotiable, may be general obligations for the payment of which the governing body pledges the full faith and credit of the municipality, or may be special obligations payable from designated special assessments, any bond proceeds, and any other money designated to be available for the redemption of such interim warrants, and generally must be issued in such manner, in such form, with such recitals, terms, covenants and conditions, and with such other details, as may be provided by the governing body by ordinance.

5. An ordinance for the issuance of interim warrants may be adopted or amended as if an emergency existed.

Sec. 9. NRS 271.485 is hereby amended to read as follows:

271.485 1. Any bonds issued pursuant to this chapter may be sold in such a manner as may be approved by the governing body to defray the cost of the project, including all proper incidental expenses. The governing body may issue a single issue of bonds to defray the costs of projects in two or more improvement districts if the principal amount of those bonds does not exceed the total uncollected assessments levied in each improvement district.

2. Bonds must be sold in the manner prescribed in NRS 350.105 to 350.195, inclusive:

(a) For not less than the principal amount thereof and accrued interest thereon; or

(b) At the option of the governing body, below par at a discount not exceeding 9 percent of the principal amount and except as otherwise provided in NRS 271.487 and 271.730, ***and section 7 of this act,*** at a price which will not result in an effective interest rate which exceeds by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted if the maximum or any lesser amount of discount permitted by the governing body has been capitalized as a cost of the project.

3. Except as otherwise provided in subsection 4 and NRS 271.487 and 271.730, the rate of interest of the bonds must not at any time exceed the rate of interest, or lower or lowest rate if more than one, borne by the special assessments, but any rate of interest of the bonds may be the same as or less than any rate of interest of the assessment, subject to the limitation provided in subsection 2, as the governing body may determine.

4. Except as otherwise provided in NRS 271.730, if a governing body creates a district pursuant to the provisions of NRS 271.710, the governing body or chief financial officer of the municipality shall, in consultation with a financial advisor or the underwriter of the bonds, fix the rate of interest of the bonds at a rate of interest such that the principal and interest due on the bonds in each year, net of any interest capitalized from the proceeds of the bonds, will not exceed the amount of principal and interest to be collected on the special assessments during that year.

5. The governing body may employ legal, fiscal, engineering and other expert services in connection with any project authorized by this chapter and the authorization, issuance and sale of bonds.

6. Any accrued interest must be applied to the payment of the interest on or the principal of the bonds, or both interest and principal.

7. Any unexpended balance of the proceeds of the bond remaining after the completion of the project for which the bonds were issued must be paid immediately into the fund created for the payment of the principal of the bonds and must be used therefor, subject to the provisions as to the times and methods for their payment as stated in the bonds and the proceedings authorizing their issuance.

8. The validity of the bonds must not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement of the project for which the bonds are issued.

9. A purchaser of the bonds is not responsible for the application of the proceeds of the bonds by the municipality or any of its officers, agents and employees.

10. The governing body may enter into a contract to sell special assessment bonds at any time but, if the governing body so contracts before it awards a construction contract or otherwise contracts for acquiring or improving the project, the governing body may terminate the contract to sell the bonds, if:

(a) Before awarding the construction contract or otherwise contracting for the acquisition or improvement of the project, it determines not to acquire or improve the project; and

(b) It has not elected to proceed pursuant to subsection 2 or 3 of NRS 271.330, but has elected to proceed pursuant to subsection 1 of that section.

11. If the governing body ceases to have jurisdiction to proceed, because the requisite proportion of owners of the frontage to be assessed, or of the area, zone or other basis of assessment, file written complaints, protests and objections to the project, as provided in NRS 271.306, or for any other reason, any contract to sell special assessment bonds is terminated and becomes inoperative.

Sec. 10. NRS 349.076 is hereby amended to read as follows:

349.076 Except as otherwise provided by a specific statute, ***including, without limitation, section 7 of this act,*** the rate or rates of interest on securities issued by the State must not exceed by more than 3 percent:

1. For general obligations, the Index of Twenty Bonds; and
2. For special obligations, the Index of Revenue Bonds,

➥ which was most recently published before the bids are received or a negotiated offer is accepted.

Sec. 11. NRS 350.2011 is hereby amended to read as follows:

350.2011 Except ***as otherwise provided in section 7 of this act, and except*** where the provisions, whenever enacted, of a general or special law or of a special charter otherwise require, the rate or rates of interest on securities issued by a political subdivision of this state must not exceed by more than 3 percent:

1. For general obligations, the Index of Twenty Bonds; and
2. For special obligations, the Index of Revenue Bonds,

➥ which was most recently published before the bids are received or a negotiated offer is accepted.

Sec. 12. NRS 350A.140 is hereby amended to read as follows:

350A.140 1. The State Treasurer is the Administrator of the Municipal Bond Bank.

2. In his capacity as Administrator, the State Treasurer may:

(a) Sue and be sued to establish or enforce any right arising out of a lending project or of any state securities issued pursuant to this chapter;

(b) Acquire and hold municipal securities and revenue securities, and exercise all of the rights of holders of those securities;

(c) Sell or otherwise dispose of municipal securities and revenue securities and assets acquired in connection with those securities, unless limited by any agreement which relates to those securities;

(d) Make contracts and execute all necessary or convenient instruments;

(e) Accept grants of money from the Federal Government, the State, any agency or political subdivision, or any other person;

(f) Adopt regulations relating to lending projects and the administration of lending projects;

(g) Employ for himself or for any municipality, any necessary legal, fiscal, engineering and other expert services in connection with lending projects and with the authorization, sale and issuance of state securities, municipal securities and revenue securities;

(h) Enter into agreements and arrangements consistent with the provisions of this chapter with respect to the issuance of state securities and the purchase of municipal and revenue securities;

(i) Make findings concerning the sufficiency of revenues and taxes pledged for the payment of revenue securities to repay state securities which were issued to acquire those revenue securities; ~~[and]~~

(j) ***At the request of a municipality, on or before June 30, 2011, apply for and accept a volume cap allocation for tax credit bonds that authorizes the issuance of bonds which can be sold with a federal income tax credit;***

(k) On or before June 30, 2011, enter into any agreement with the Federal Government that the State Treasurer determines is necessary or advisable:

(1) To issue bonds which can be sold with a federal income tax credit pursuant to the provisions of the Internal Revenue Code, as amended; and

(2) To receive a volume cap allocation for tax credit bonds described in paragraph (j); and

(l) Undertake other matters which he determines to be necessary or desirable in accomplishing the purposes of this chapter.

Sec. 13. NRS 350A.153 is hereby amended to read as follows:

350A.153 1. This chapter does not confer upon a municipality authority to pledge revenues for the payment of revenue securities. Any such authority must be derived from other law.

2. No state securities may be issued pursuant to this chapter for the purpose of acquiring revenue securities unless the governing body of the municipality issuing the revenue securities includes within the ordinance, resolution or other instrument authorizing the issuance of the revenue securities a statement authorizing the State Treasurer and any other appropriate state officer to withhold from any allocable local revenues to which the municipality is otherwise entitled an amount necessary and legally available to pay the principal and interest due on the revenue securities if the municipality fails to pay timely such principal and interest. The governing body of the municipality shall provide to the State Treasurer:

(a) A copy of the ordinance, resolution or other instrument authorizing the issuance of the revenue securities;

(b) A schedule of payments for the revenue securities; and

(c) The name and address of the person from whom payments of principal and interest on the revenue securities will be received by the State Treasurer.

3. Payments of principal and interest on revenue securities must be due not later than 1 working day before the payments of principal and interest are due on the state securities issued to acquire the revenue securities. If a payment of the principal or interest on revenue securities is not received by the State Treasurer by the date on which the payment is due, the State Treasurer shall immediately notify the municipality to determine if the payment will be immediately forthcoming. If the payment will not be immediately forthcoming, the State Treasurer shall:

(a) Forward the amount necessary to make the payment from any legally available money in the reserve fund created for that purpose in the bond bank fund; and

(b) Withhold that amount from the next payment to the municipality of allocable local revenues legally available therefor. If the amount so withheld is insufficient to pay the amount due, the State Treasurer may continue to withhold any amounts necessary from subsequent payments to the municipality until the amount due is paid.

4. If, after being notified pursuant to this section, a municipality fails to make a payment of principal or interest on any revenue securities issued by it, the State Treasurer shall notify the Department of Taxation and request that action be taken pursuant to the provisions of NRS 354.685.

5. The State Controller and the Director of the Department of Administration shall approve requisitions or transfers required pursuant to this section and take such other action as is necessary to carry out the provisions of this section.

6. The provisions of subsections 2 to 5, inclusive, do not:

(a) Apply to municipal bonds issued on or before June 30, 2011, where the bondholder or issuer may claim or receive a tax credit pursuant to the provisions of the Internal Revenue Code.

(b) Authorize state taxes to be pledged to pay special obligations of the State.

Sec. 14. NRS 396.852 is hereby amended to read as follows:

396.852 1. ~~[As]~~ ***Except as otherwise provided in this section and section 7 of this act, as*** the Board may determine, any bonds and other securities issued hereunder ~~[(except as herein otherwise provided)]~~ must:

(a) Be of a convenient denomination or denominations;

(b) Be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code—Investment Securities;

(c) Mature at such time or serially at such times in regular numerical order at annual or other designated intervals in amounts designated and fixed by the Board, but not exceeding 50 years from their date;

(d) Bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the bids are received or a negotiated offer is accepted, the interest on each bond to be payable annually, semiannually, or at other designated intervals, but the first interest payment date may be for interest accruing for any other period;

(e) Be made payable in lawful money of the United States, at the office of the Treasurer of the University or any commercial bank or commercial banks within or without or both within and without the State as may be provided by the Board; and

(f) Be printed at such place within or without this state, as the Board may determine.

2. Any bonds issued hereunder must have one or two sets of interest coupons, bearing the number of the bond to which they are respectively attached, numbered consecutively in regular numerical order, and attached in such a manner that they can be removed upon the payment of the installments of interest without injury to the bonds, except as herein otherwise provided.

Sec. 15. NRS 356.100 is hereby repealed.

Sec. 16. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

356.100 Deposit of state money in bank, credit union or savings and loan association outside State. If deposits in depositories within this State are at or near the limit of deposits allowable under the value of bonds or securities pledged by such banks, insured credit unions or insured savings and loan associations, or as otherwise limited by NRS 356.010 to 356.110, inclusive, and an excess of money has accumulated in the State Treasury, the State Treasurer may:

1. Subject to the provisions of NRS 356.010 to 356.110, inclusive, with the written consent and approval of the State Board of Finance, deposit such amounts of money as may be advisable in banks, insured credit unions or insured savings and loan associations situated outside of this State; and

2. By check or order signed by the State Treasurer and countersigned by at least two members of the State Board of Finance, withdraw the deposits as needed.

Assemblywoman Kirkpatrick moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 60.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 3.

The following Senate amendment was read:

Amendment No. 892.

SUMMARY—Requires ~~[each plot]~~ **the area immediately above and surrounding the interred remains** in each veterans' cemetery in this State to be landscaped with natural ~~[turf]~~ grass. (BDR 37-197)

AN ACT relating to veterans' cemeteries; requiring the area immediately **above and** surrounding ~~[each plot]~~ **the interred remains** in each veterans' cemetery in this State to be landscaped with natural ~~[turf]~~ grass; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Executive Director for Veterans' Services to establish, operate and maintain a veterans' cemetery in northern Nevada and a veterans' cemetery in southern Nevada and requires a cemetery superintendent to operate and maintain each cemetery. (NRS 417.200) This bill requires the cemetery superintendent to ensure that the area immediately **above and** surrounding ~~[each plot]~~ **the interred remains** in each veterans' cemetery is landscaped with natural ~~[turf]~~ grass.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 417.200 is hereby amended to read as follows:

417.200 1. The Executive Director shall establish, operate and maintain a veterans' cemetery in northern Nevada and a veterans' cemetery in southern Nevada, and may, within the limits of legislative authorization, employ personnel and purchase equipment and supplies necessary for the operation and maintenance of the cemeteries. The Executive Director shall employ a cemetery superintendent to operate and maintain each cemetery.

2. ***The cemetery superintendent shall ensure that the area immediately above and surrounding ~~[each plot]~~ the interred remains in each veterans' cemetery is landscaped with natural ~~[turf]~~ grass.***

3. A person desiring to provide voluntary services to further the establishment, maintenance or operation of either of the cemeteries shall submit a written offer to the cemetery superintendent which describes the nature of the services. The cemetery superintendent shall consider all such offers and approve those he deems appropriate. The cemetery superintendent shall coordinate the provision of all services so approved.

Sec. 2. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 3.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 10, 15, 22, 25, 54, 80, 90, 102, 111, 135, 141, 144, 147, 149, 151, 152, 162, 225, 227, 238, 246, 248, 249, 254, 262, 266, 281, 283, 287, 294, 304, 314, 319, 337, 349, 359, 378, 381, 387, 401, 426, 463, 467, 474, 488, 497, 513, 534, 535, 543, 547, 548, 549, 552, 556, 557, 560, 562; Senate Bills Nos. 41, 60, 73, 103, 108, 109, 114, 137, 176, 227, 243, 245, 261, 277, 313, 333, 350, 351, 358, 360, 363, 370, 371, 394, 421, 426, 428, 429, 431 and 433.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Steve Anse and Denise Anse.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Elise Musitelle.

Assemblyman Oceguera moved that the Assembly adjourn until Wednesday, May 27, 2009, at 11 a.m. and that it do so in memory of Commander Luther Hook III.

Motion carried.

Assembly adjourned at 12:27 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND FIFTEENTH DAY

CARSON CITY (Wednesday), May 27, 2009

Assembly called to order at 12:45 p.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Christensen and Mortenson, who were excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

Eternal God, You are the source of light and peace, and we praise You for giving us blessings far beyond what we deserve. Thank You, for the blessings of freedom and a government that seeks to empower people with liberty. Thank You for blessing us with lawmakers who strive to know what is right and to do it. Thank You, also, for the gift of forgiveness, for You daily meet our need for moral and spiritual renewal. Lord, use these lawmakers today. Show them Your path and teach them Your ways. Keep them so completely under Your rulership that they will do justly, love mercy, and walk humbly with You. Thank You for listening to us and answering our prayer.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bills Nos. 188, 395, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 26, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 81, 279, 554; Senate Bill No. 435.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 482, Amendment No. 942, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 46, Senate Amendment No. 621, and requests a conference, and appointed Senators Wiener, McGinness and Copening as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 259, Senate Amendment No. 578, and requests a conference, and appointed Senators Parks, Wiener and Washington as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 350, Senate Amendment No. 737, and requests a conference, and appointed Senators Parks, Copening and Washington as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 719 to Senate Bill No. 89; Assembly Amendment No. 718 to Senate Bill No. 184; Assembly Amendment No. 715 to Senate Bill No. 230; Assembly Amendment No. 782 to Senate Bill No. 265; Assembly Amendment No. 784 to Senate Bill No. 310; Assembly Amendment No. 800 to Senate Bill No. 312; Assembly Amendment No. 785 to Senate Bill No. 338; Assembly Amendment No. 786 to Senate Bill No. 355.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendments Nos. 777, 936 to Senate Bill No. 119; Assembly Amendments Nos. 743, 802, 843 to Senate Bill No. 246; Assembly Amendment No. 932 to Senate Bill No. 295.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Copening, and Raggio as a Conference Committee concerning Senate Bill No. 263.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that LAS VEGAS REVIEW JOURNAL: Jason Bean; THE NEVADA SAGEBRUSH: James L. Balagna be accepted as accredited press representatives, and that they be assigned space at the press table in the Assembly Chamber and that they be allowed the use of appropriate broadcasting facilities.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 435.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 188.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 910.

AN ACT relating to energy; providing for the establishment of the Solar Thermal Systems Demonstration Program; requiring the Public Utilities Commission of Nevada to adopt certain regulations governing the Demonstration Program; ~~[requiring a public utility that supplies natural gas to file with the Commission an annual plan for carrying out the Demonstration Program;]~~ providing for rebates to certain participants in the Demonstration Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 17 of this bill requires the Public Utilities Commission of Nevada to establish the Solar Thermal Systems Demonstration Program and to adopt regulations establishing the qualifications that a person must meet to participate in the Demonstration Program.

Section 18 of this bill provides that ~~[each year on or before the date established by the Commission,]~~ a public utility that supplies natural gas ~~[must file with the Commission its annual plan for]~~ **may recover its reasonable and prudent costs that are associated with** carrying out and administering the Demonstration Program within its service area.

Section 23 of this bill requires the Commission to adopt regulations that establish program milestones and a rebate program for a participant who installs a solar thermal system and sets forth guidelines for such rebates.

Section 25 of this bill authorizes ~~[the Commission]~~ **a public utility that supplies natural gas** to withdraw certain participants from the Demonstration Program for noncompliance.

Section 26 of this bill requires the Commission to adopt the regulations required by this bill on or before March 1, 2010. **Section 27** of this bill requires the Commission, on or before July 1, 2012, to submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the Demonstration Program.

WHEREAS, Nevada is heavily dependent on natural gas; and

WHEREAS, Solar thermal systems constitute a large, untapped source for reducing the demand for natural gas in Nevada; and

WHEREAS, Growing demand for solar thermal systems will create jobs in Nevada, promote greater energy independence and protect consumers from rising energy costs; and

WHEREAS, It is in the interest of the State to promote solar thermal systems and other technologies that directly reduce the demand for natural gas in homes, businesses, schools and other governmental buildings; and

WHEREAS, It is the intent of the Legislature to build a mainstream market for solar thermal systems that directly reduces the demand for natural gas in homes, businesses, schools and other governmental buildings through the installation of at least 3,000 solar thermal systems in this State by 2019; and

WHEREAS, It is the intent of the Legislature that incentives for the installation of solar thermal systems should be a cost-effective investment by natural gas customers and that such customers will recoup the cost of their investments through lower prices for natural gas, additional system stability and reduced pollution; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. (Deleted by amendment.)

Sec. 4. ***"Category" means one of the categories of participants in the Demonstration Program as set forth in section 17 of this act.***

Sec. 5. ***"Commission" means the Public Utilities Commission of Nevada.***

Sec. 6. ***"Demonstration Program" means the Solar Thermal Systems Demonstration Program established by the Commission pursuant to section 17 of this act.***

Sec. 7. ***"Institution of higher education" means:***

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 8. "Participant" means a person who has been approved by ~~[the Commission]~~ a utility pursuant to section 17 of this act to participate in the Demonstration Program.

Sec. 9. ***"Person" includes a government, governmental agency or political subdivision of a government.***

Sec. 10. (Deleted by amendment.)

Sec. 11. ***1. "Public and other property" means any real property, building or facility which is owned, leased or occupied by:***

(a) A public entity;

(b) A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended; or

(c) A corporation for public benefit as defined in NRS 82.021.

2. The term includes, without limitation, any real property, building or facility which is owned, leased or occupied by:

(a) A church; or

(b) A benevolent, fraternal or charitable lodge, society or organization.

3. The term does not include school property.

Sec. 12. ***"School property" means any real property, building or facility which is owned, leased or occupied by:***

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 13. ***"Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.***

Sec. 14. ***"Solar thermal system" means a system of related components that uses solar energy to heat water or air and is designed to work as an integral package such that the system is not complete without one of its related components.***

Sec. 15. (Deleted by amendment.)

Sec. 16. ***"Utility" means a public utility that supplies natural gas in this State.***

Sec. 17. ***1. The Commission shall establish the Solar Thermal Systems Demonstration Program to carry out the intent of the Legislature to promote the installation of at least 3,000 solar thermal systems in homes, businesses, schools and other governmental buildings throughout this State by 2019.***

2. The Demonstration Program must have four categories of participants as follows:

(a) School property;

(b) Public and other property;

(c) Private residential property; and

(d) Small business property.

3. To be eligible to participate in the Demonstration Program, a person must:

(a) Apply to ~~[the Commission]~~ a utility on a form prescribed by the Commission;

(b) Meet the qualifications established pursuant to subsection 5 and be approved by the ~~[Commission;]~~ utility;

(c) When installing a solar thermal system, use an installer who has been issued a classification C-1 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person participates in the category of school property or public and other property, provide for the public display of the solar thermal system, including, without limitation, providing for public demonstrations of the solar thermal system and for hands-on experience of the solar thermal system by the public.

4. The ~~[Commission]~~ utility shall notify each applicant who is approved to participate in the Demonstration Program not later than 10 days after the approval.

5. The Commission shall adopt regulations which must include, without limitation, provisions which:

(a) Establish the qualifications an applicant must meet to qualify to participate in the Demonstration Program.

(b) Establish specifications for the design, installation, energy output and displacement standards of the solar thermal systems that qualify for the Demonstration Program.

(c) Require that the components of any solar thermal system be new and unused.

(d) Require that any solar thermal collector have a warranty against defects and undue degradation of not less than 10 years.

(e) Require that a solar thermal system be installed in a building which is connected to the existing distribution system of a utility in this State.

(f) Require that a solar thermal system have a meter or other measuring device installed to monitor and measure the performance of the system and the quantity of energy generated or displaced by the system.

(g) Require that a solar thermal system be installed in conformity with the manufacturer's specifications and all applicable codes and standards.

(h) Establish siting and installation requirements for solar thermal systems to ensure efficient and appropriate installation and to promote maximized performance of such systems.

6. As used in this section, "applicant" means a person who applies to the ~~[Commission]~~ utility to participate in the Demonstration Program.

Sec. 18. ~~*[1. Each year on or before a date established by the Commission, each utility in this State shall file with the Commission the annual plan of the utility for carrying out and administering the Demonstration Program within its service area.*~~

~~*2. The Commission shall:*~~

~~*(a) Adopt regulations governing the annual plans of utilities;*~~

~~*(b) Review the annual plan filed by a utility to determine whether the utility has complied with the regulations; and*~~

~~*(c) Approve the annual plan with such modifications and upon such terms and conditions as the Commission determines necessary or appropriate to facilitate the Demonstration Program.*~~

~~*3. A utility shall carry out and administer the Demonstration Program within its service area in accordance with the annual plan approved by the Commission.*~~

~~*4.]*~~ ***A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Demonstration Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.***

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. ***1. The Commission shall adopt regulations establishing program milestones and a rebate program for a participant who installs a solar thermal system. The rebates provided by the Commission must:***

(a) Decline over time as the program milestones are reached;

(b) Be structured to reduce the cost of solar thermal systems; and

(c) Be based on the actual energy savings or predicted energy savings of the solar thermal system as determined by the Commission.

2. The regulations must require that to be eligible for a rebate pursuant to the Demonstration Program, a solar thermal system must have received an OG-300 performance certification from the Solar Rating and Certification Corporation.

3. In determining the amount of the rebates provided through the Demonstration Program, the Commission shall consider any federal tax credits and other incentives available to participants.

Sec. 24. (Deleted by amendment.)

Sec. 25. ***1. Except as otherwise provided in this section, if*** ~~*[the Commission]*~~ ***a utility determines that a participant has not complied with the requirements for participation in the Demonstration Program, the*** ~~*[Commission]*~~ ***utility shall, after notice*** ~~*, [and an opportunity for a hearing,]*~~ ***withdraw the participant from the Demonstration Program.***

2. The ~~*[Commission]*~~ ***utility may, without notice*** ~~*, [or an opportunity for a hearing,]*~~ ***withdraw from the Demonstration Program:***

(a) A participant in the category of private residential property and small business property if the participant does not complete the installation of a solar thermal system within 12 months after the date the participant receives notice of his approval to participate in the Demonstration Program.

(b) A participant in the category of school property or public and other property if the participant does not complete the installation of a solar thermal system within 30 months after the date the participant receives notice of his approval to participate in the Demonstration Program.

3. A participant who is withdrawn from the Demonstration Program pursuant to subsection 2 forfeits any rebates provided by sections 2 to 25, inclusive, of this act.

Sec. 26. On or before March 1, 2010, the Public Utilities Commission of Nevada shall adopt the regulations required by sections 17 and 23 of this act.

Sec. 27. On or before July 1, 2012, the Public Utilities Commission of Nevada shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the Solar Thermal Systems Demonstration Program which must include, without limitation:

1. An explanation of the criteria used by the Commission to determine the amount of the rebates provided pursuant to the Demonstration Program;

2. A statement of the anticipated benefits of the Demonstration Program; and

3. Any recommendations concerning the Demonstration Program.

Sec. 28. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 395.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 909.

AN ACT relating to governmental administration; revising provisions governing the issuance of certain permits by the Public Utilities Commission of Nevada pursuant to the Utility Environmental Protection Act; altering the composition of the Commission on Economic Development; requiring the Chief of the Purchasing Division of the Department of Administration to adopt regulations establishing standards for the procurement of certain appliances, equipment, lighting and other devices; requiring the State Public Works Board to adopt certain standards concerning the efficient use of water and energy; requiring licensed vehicle dealers to provide certain information concerning vehicle emissions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill alters the definition of "utility facility," as that term is used in the Utility Environmental Protection Act which provides for the issuance of permits for the construction of utility facilities, to require a nameplate capacity of not more than 70 megawatts rather than a generating capacity of not more than 35 megawatts.

Section 5 of this bill exempts certain ~~[renewable energy]~~ **utility** facilities from certain findings that are a condition precedent to permitting under the Utility Environmental Protection Act.

Sections 6 and 24 of this bill alter the composition of the Commission on Economic Development to require that at least two of the appointed members be from counties whose population is less than 100,000. (NRS 231.040)

Section 8 of this bill requires the Chief of the Purchasing Division of the Department of Administration to adopt regulations establishing standards favoring the procurement of appliances, equipment, lighting and other devices that bear the "Energy Star" label or meet other requirements prescribed by federal law unless to do so would not be cost-effective.

Section 10 of this bill requires the State Public Works Board to adopt standards and performance guidelines concerning the efficient use of water and energy.

Section 18 of this bill requires vehicle dealers in Nevada, beginning on January 1, 2010, to provide upon request a disclosure of the estimated carbon dioxide emissions of each new vehicle offered for sale, if such information is available.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a ~~[~~generating~~]~~ ***nameplate*** capacity of not more than ~~[~~35~~]~~ ***70*** megawatts, including, without limitation, a net metering system, as defined in NRS 704.771.

➥ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:

(a) Any incorporated city; and

(b) Any county whose population is 100,000 or more.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 5. NRS 704.890 is hereby amended to read as follows:

704.890 1. Except as otherwise provided in subsection 3, the Commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the Commission, to a person unless it finds and determines:

(a) The nature of the probable effect on the environment;

(b) ~~[~~The~~]~~ ~~*[Except with respect to a renewable energy]*~~ ***If the utility facility*** ~~*[that is built in Nevada pursuant to NRS 704.820 to 704.900, inclusive, and]*~~ ***emits greenhouse gases*** ~~*[,]*~~ ***and does not use renewable energy as its primary source of energy to generate electricity, the*** extent to which the facility is needed to ensure reliable utility service to customers in this State;

(c) That the need for the facility balances any adverse effect on the environment;

(d) That the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives;

(e) That the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder and the applicant has obtained, or is in the process of obtaining, all other permits, licenses and

approvals required by federal, state and local statutes, regulations and ordinances; and

(f) That the facility will serve the public interest.

2. If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its permit upon such a modification. If the applicant has not obtained all the other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances as of the date on which the Commission decides to issue a permit, the Commission shall condition its permit upon the applicant obtaining those permits and approvals.

3. The requirements set forth in paragraph (f) of subsection 1 do not apply to any application for a permit which is filed by a state government or political subdivision thereof.

4. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

Sec. 6. NRS 231.040 is hereby amended to read as follows:

231.040 1. The Commission on Economic Development is composed of the Lieutenant Governor, who is its Chairman, and six members who are appointed by the Governor.

2. The Governor shall appoint as members of the Commission persons who ***are residents of Nevada and who*** have proven experience in economic development which was acquired by them while engaged in finance, manufacturing, mining, agriculture, the field of transportation, or in general business other than tourism or gaming.

3. The Governor shall appoint ~~[at]~~ ***to the Commission:***

(a) At least one member who is a resident of ~~[:~~

~~(a)]~~ Clark County.

(b) ***At least one member who is a resident of*** Washoe County.

(c) ~~[A county]~~ ***At least two members who are residents of counties*** whose population is ~~[50,000 or less.]~~ ***less than 100,000.***

Sec. 7. (Deleted by amendment.)

Sec. 8. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Chief shall adopt regulations which set forth standards to be used by using agencies when purchasing new appliances, equipment, lighting and other devices that use electricity, natural gas, propane or oil. Except as otherwise provided in subsection 2, the standards must require that such new appliances, equipment, lighting and other devices have received the Energy Star label pursuant to the program established pursuant to 42 U.S.C. § 6294a, or its successor, or meet the requirements established pursuant to 48 C.F.R. § 23.203.

2. The standards described in subsection 1 do not apply insofar as:

(a) No items in a given class of appliances, equipment, lighting or other devices have been evaluated to determine whether they are eligible to receive the Energy Star label or have been designated by the Federal

Government to meet the requirements established pursuant to 48 C.F.R. § 23.203; or

(b) The purchase of new appliances, equipment, lighting or other devices that have received the Energy Star label would not be cost-effective in an individual instance, comparing the cost of the item to the cost of the amount of energy that will be saved over the useful life of the item.

Sec. 9. NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Chief:

(a) Shall consider, if applicable ~~[, the]~~ ***:***

(1) The imposition of the inverse preference described in NRS 333.336.

(2) The required standards adopted pursuant to section 8 of this act.

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Chief shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 10. Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of the design and construction of buildings or other projects of this State, the Board shall adopt by regulation:

(a) Standards for the efficient use of water.

(b) Standards for the efficient use of energy, including, without limitation, the use of sources of renewable energy.

(c) Performance guidelines for new, remodeled and renovated buildings.

(d) Performance guidelines for retrofit projects, including, without limitation, guidelines for:

(1) Energy consumption.

(2) The use of potable water.

(3) The use of water for purposes relating to landscaping.

(4) The disposal of solid waste.

2. The standards and performance guidelines adopted in accordance with subsection 1 must include a mechanism for their evaluation and revision to ensure that such standards and guidelines:

(a) Are cost-effective over the life of the applicable project.

(b) Produce certain threshold levels of cost savings.

3. In adopting the standards and performance guidelines pursuant to subsection 1, the Board may consider, without limitation:

(a) The Leadership in Energy and Environmental Design Green Building Rating System established by the U.S. Green Building Council or its successor;

(b) The Green Globes assessment and rating system developed by the Green Building Initiative or its successor;

(c) The standards established by the United States Environmental Protection Agency pursuant to the Energy Star Program;

(d) The standards established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers or its successor;

(e) The criteria established pursuant to the Federal Energy Management Program established by the United States Department of Energy; and

(f) The criteria established by the International Energy Conservation Code.

4. The regulations adopted pursuant to this section must include provisions for their enforcement.

5. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 701A.220.

Sec. 11. NRS 341.119 is hereby amended to read as follows:

341.119 1. Upon the request of the head of a state agency, the Board may delegate to that agency any of the authority granted the Board pursuant to NRS 341.141 to 341.148, inclusive ~~[.]~~ ***, and section 10 of this act.***

2. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the Board concerning a construction project or to approve the advance planning of a project.

Sec. 12. NRS 341.153 is hereby amended to read as follows:

341.153 1. The Legislature hereby finds as facts:

(a) That the construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

(b) That this construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

(c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by, and final authority for its completion and acceptance vested in, the Board as provided in NRS 341.141 to 341.148, inclusive ~~[.]~~ ***, and section 10 of this act.***

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

Every vehicle dealer licensed in this State shall, upon request, provide to any person a written statement setting forth the estimated amount of carbon dioxide that is emitted by each new vehicle that the vehicle dealer offers for sale, unless the information concerning the emissions for that vehicle is unavailable.

Sec. 19. NRS 482.36414 is hereby amended to read as follows:

482.36414 A person who assumes operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, must be licensed as a dealer pursuant to the provisions of NRS 482.318 to 482.363, inclusive ~~[.]~~ ***, and section 18 of this act.***

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 22.5. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. As soon as practicable after July 1, 2009, the Governor shall appoint to the Commission on Economic Development any new members required to be appointed to the Commission pursuant to NRS 231.040, as amended by section 6 of this act.

Sec. 25. 1. This section and sections 1 to 17, inclusive, and 20 to 24, inclusive, of this act become effective on July 1, 2009.

2. Sections 18 and 19 of this act become effective on January 1, 2010.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.
Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Ohrenschall, Parnell, and Hambrick as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 46.

Madam Speaker appointed Assemblymen Horne, Dondero Loop, and Carpenter as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 259.

Madam Speaker appointed Assemblymen Segerblom, Kihuen, and Hambrick as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 350.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the action whereby Senate Bill No. 435 was referred to the Committee on Ways and Means be rescinded.
Motion carried.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill 435 considered engrossed, declared an emergency measure under the *Constitution* and placed on third reading and final passage.

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bills Nos. 188 and 395.
Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Senate Bills Nos. 188 and 395 be declared emergency measures under the *Constitution* and that they be placed on General File for third reading and final passage.
Motion carried.

Assemblyman Conklin moved that Senate Bill No. 395 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 435
Bill read third time.
Remarks by Assemblyman Anderson.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Senate Bill No. 435 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 188.

Bill read third time.

Potential conflict of interest declared by Assemblyman Denis.

Roll call on Senate Bill No. 188:

YEAS—40.

NAYS—None.

EXCUSED—Christensen, Mortenson—2.

Senate Bill No. 188 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 478.

The following Senate amendment was read:

Amendment No. 798.

AN ACT relating to governmental administration; revising provisions relating to certain housing authorities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the Housing Authorities Law of 1947. (NRS 315.140-315.780) In relevant part, under the provisions of this Law, each county, city and town of the State has a housing authority which is a municipal corporation and which is presided over by five commissioners. (NRS 315.320, 315.370) The housing authorities governed by this Law exist primarily to ensure that veterans and persons of low income are able to find safe and sanitary housing at affordable prices. (NRS 315.330, 315.340, 315.440, 315.460, 315.510)

This bill, in a county whose population is 400,000 or more (currently Clark County), allows two or more (housing) authorities to form a regional (housing) authority. Such a regional authority is created by a resolution agreed to between or among, as applicable, the governing bodies of the local governments that desire to participate in the regional authority. A regional authority has the same powers and duties as a regular authority, except on an expanded geographic scale. ~~[A regional authority also has the authority to repeal local laws, ordinances and regulations that are in conflict with each other.]~~ Upon the formation of a regional authority, the individual authorities of the county and the cities participating in the regional authority ~~[are dissolved.]~~ **must begin the process of dissolution.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 315 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***"Regional authority" means an authority formed pursuant to section 3 of this act.***

Sec. 3. ***1. In a county whose population is 400,000 or more, any two or more authorities may form a regional authority.***

2. To form a regional authority as described in subsection 1, the governing body of the county and the governing body of each city and town located within the county that desires to participate in the regional authority shall adopt a resolution setting forth:

(a) The intent to regionalize some or all of their powers;

(b) A reference to the development of a plan for transitioning to a regional authority;

(c) The geographic scope of the regional authority; and

(d) ~~[That, upon the formation of the regional authority, any individual authorities of the local governments who form the regional authority are dissolved; and~~

~~(e)]~~ Such other matters as the governing bodies determine to be necessary or advisable.

3. If the formation of a regional authority pursuant to this section involves fiscal matters, the ownership of real property or the consolidation of functions, the governing bodies who form the regional authority shall, in consultation with the United States Department of Housing and Urban Development, resolve such matters ~~[must be resolved]~~ by written contract, agreement or other arrangement entered into by ~~[the]~~ those governing bodies . ~~[who form the regional authority.]~~

Sec. 3.5. Upon the adoption of a resolution pursuant to section 3 of this act forming a regional authority, the dissolution of any individual authorities of the local governments who form the regional authority must be begun.

Sec. 4. ***1. Upon the adoption of a resolution pursuant to section 3 of this act forming a regional authority, nine persons must be appointed to serve as commissioners of the authority as follows:***

(a) The governing body of the county shall appoint two persons to serve as commissioners of the authority;

(b) The governing body of the largest city in the county shall appoint two persons to serve as commissioners of the authority;

(c) The governing body of the second largest city in the county shall appoint two persons to serve as commissioners of the authority;

(d) The governing body of the third largest city in the county shall appoint two persons to serve as commissioners of the authority; and

(e) One commissioner who serves on behalf of tenants must be selected as described in subsection 3.

~~*[(e) None of the persons appointed to serve as commissioners of the authority may be elected officials of any governmental entity.]*~~

2. Six of the commissioners who are first appointed pursuant to subsection 1 must be designated to serve for terms of 1, 2 and 3 years, respectively, from the date of their appointment, and three must be designated to serve for terms of 4 years from the date of their appointment, but thereafter commissioners must be appointed for a term of office of 4 years. The persons appointed initially to serve as commissioners pursuant to subsection 1 shall determine by lot whether they are designated pursuant to this subsection to serve for a term of 1 year, 2 years, 3 years or 4 years.

3. The commissioner who serves on behalf of tenants must be a current recipient of assistance from the authority who was selected from a list of at least five eligible nominees submitted for this purpose by an organization which represents tenants of housing projects. If no such organization exists, the commissioner must be selected from a list of nominees submitted for this purpose from persons who currently receive assistance from the authority. Thereafter, at least one commissioner must be such a recipient who was nominated and appointed in the same manner. If, during his term, the commissioner ceases to be a recipient of assistance, he must be replaced in the manner set forth in this subsection by a person who is a recipient of assistance.

4. In making the appointments described in subsection 1, the relevant local governments shall seek recommendations for appointment from a diverse background of interests with a view toward:

(a) Balancing gender and ethnicity; and

(b) Soliciting appointees who have experience in fields such as, without limitation:

(1) Real estate;

(2) Financial planning;

(3) Legal aid;

(4) Education;

(5) Public safety;

(6) The provision of public services; and

(7) The assistance of persons of low income.

5. All vacancies must be filled for the unexpired term.

Sec. 5. ***A regional authority may, in addition to exercising the powers set forth in NRS 315.440 and 315.460 and any other relevant provisions of this chapter:***

1. ~~*[Repeal conflicting local laws, ordinances and regulations;*~~

~~*2.]*~~ ***Jointly, or with another authority, exercise any powers, privileges and rights that are exercised or capable of being exercised by a local housing agency of this State; and***

~~[3.]~~ ***2.*** ***Exercise such other powers as the governing bodies of the local governments that formed the regional authority may agree upon.***

Sec. 6. ***A regional authority may not request a reservation or nomination of land from the Bureau of Land Management unless the governing body of the jurisdiction within which the applicable land of the Bureau is located adopts a resolution of approval.***

Sec. 7. NRS 315.021 is hereby amended to read as follows:

315.021 As used in NRS 315.021 to 315.071, inclusive, unless the context otherwise requires:

1. "Housing authority" means a housing authority created pursuant to this chapter. ***The term includes a regional authority formed pursuant to section 3 of this act.***

2. "Landlord" means a person who owns or manages any premises that he rents or leases to a tenant pursuant to a contract with a housing authority.

3. "Premises" means a particular apartment or other residential unit of public housing occupied by a tenant, or a residential unit that is occupied by a tenant pursuant to a federally assisted housing program administered by a housing authority.

4. "Public housing" means the residential accommodations operated by a housing authority or a landlord.

Sec. 8. NRS 315.140 is hereby amended to read as follows:

315.140 NRS 315.140 to 315.780, inclusive, ***and sections 2 to 6, inclusive, of this act*** may be referred to as the Housing Authorities Law of 1947.

Sec. 9. NRS 315.150 is hereby amended to read as follows:

315.150 Unless the context otherwise requires, the definitions contained in NRS 315.160 to 315.300, inclusive, ***and section 2 of this act*** govern the construction of NRS 315.140 to 315.780, inclusive ~~[.]~~ ***, and sections 2 to 6, inclusive, of this act.***

Sec. 10. NRS 315.160 is hereby amended to read as follows:

315.160 1. In the case of an authority of a city or town, "area of operation" shall include such city or town and the area within 5 miles of the territorial boundaries thereof; but the area of operation of an authority of any city or town shall not include any area which lies within the territorial boundaries of some other city or town as herein defined, unless a resolution shall have been adopted by the governing body of such other city or town (and by any authority which shall have been theretofore established and authorized to exercise its powers in such city or town) declaring that there is a need for such authority to exercise its powers within that city or town.

2. In the case of an authority of a county, "area of operation" shall include all of the county for which it is created; but a county authority shall not undertake any housing project or projects within the boundaries of any city or town, as herein defined, unless a resolution shall have been adopted by the governing body of such city or town (and by any authority which shall have been theretofore established and authorized to exercise its powers in

such city or town) declaring that there is a need for the county authority to exercise its powers within such city or town.

3. In the case of a regional authority, "area of operation" shall include:

(a) All of the territory within the geographic scope of the regional authority, as referred to in paragraph (c) of subsection 2 of section 3 of this act; and

(b) Any other territory regarding which the regional authority and another authority agree to exercise joint power or control.

Sec. 11. NRS 315.170 is hereby amended to read as follows:

315.170 "Authority" means any of the public corporations created or authorized to be created by NRS 315.140 to 315.780, inclusive, ***and sections 2 to 6, inclusive, of this act*** and any housing authority established and operating prior to July 1, 1975, under the provisions of the Housing Authorities Law of 1943 or the Housing Law of 1951. ***The term includes a regional authority.***

Sec. 12. NRS 315.380 is hereby amended to read as follows:

315.380 ***1.*** An authority shall select a chairman and a vice chairman from its commissioners.

2. For the purpose of managing a regional authority, the commissioners of the regional authority shall initially select an executive director by way of a competitive, open and public process. Thereafter, the selection of an executive director must be made as determined by the commissioners of the regional authority to be in the best interests of the authority.

Sec. 13. NRS 315.435 is hereby amended to read as follows:

315.435 Except as otherwise provided in NRS 315.9835, a housing authority shall not operate in any area in which an authority already established is operating without the consent by resolution of the authority already operating therein. ***For the purposes of this section, the formation of a regional authority pursuant to section 3 of this act shall be deemed to constitute consent by resolution of the authority of any participating local governmental entity.***

Sec. 14. NRS 315.440 is hereby amended to read as follows:

315.440 Within its area of operation, an authority may:

1. Prepare, carry out and operate housing projects and provide for the construction, reconstruction, improvement, extension, alteration, or repair of any such project or any part thereof.

2. Determine where there is unsafe, insanitary or overcrowded housing.

3. Make studies and recommendations relating to the problem of eliminating unsafe, insanitary or overcrowded housing.

4. Cooperate with the city, the county, the State, or any political subdivision thereof in action taken in connection with such problems.

5. If it is a regional authority, work cooperatively with the relevant local jurisdictions concerning new developments or housing projects, or

both. The relevant local jurisdictions with which a regional authority works cooperatively concerning new developments or housing projects, or both, shall provide to the regional authority such support and assistance as the regional authority may require.

Sec. 15. As soon as practicable after July 1, 2009, and after the adoption of a resolution pursuant to section 3 of this act, the governing bodies of Clark County, the City of Las Vegas, the City of Henderson and the City of North Las Vegas shall appoint the commissioners described in section 4 of this act.

Sec. 15.5. **If the governing bodies of Clark County, the City of Las Vegas, the City of Henderson and the City of North Las Vegas adopt a resolution pursuant to section 3 of this act, the dissolution required to be begun pursuant to section 3.5 of this act must be completed not later than January 1, 2010.**

Sec. 16. 1. This section and sections 1 to ~~[5,]~~ **11,** inclusive, and ~~[7 to 15,]~~ **13 to 15.5,** inclusive, of this act become effective ~~[on July 1, 2009.]~~ **upon passage and approval.**

2. Section ~~[6]~~ **12** of this act becomes effective on January 1, 2010.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 798 to Assembly Bill No. 478.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

The following Senate amendment was read:

Amendment No. 882.

AN ACT relating to governmental administration; revising provisions relating to certain housing authorities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the Housing Authorities Law of 1947. (NRS 315.140-315.780) In relevant part, under the provisions of this Law, each county, city and town of the State has a housing authority which is a municipal corporation and which is presided over by five commissioners. (NRS 315.320, 315.370) The housing authorities governed by this Law exist primarily to ensure that veterans and persons of low income are able to find safe and sanitary housing at affordable prices. (NRS 315.330, 315.340, 315.440, 315.460, 315.510)

This bill, in a county whose population is 400,000 or more (currently Clark County), allows two or more (housing) authorities to form a regional (housing) authority. Such a regional authority is created by a resolution agreed to between or among, as applicable, the governing bodies of the local governments that desire to participate in the regional authority. A regional authority has the same powers and duties as a regular authority, except on an expanded geographic scale. Upon the formation of a regional authority, the individual authorities of the county and the cities participating in the regional authority must begin the process of dissolution.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 315 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***"Regional authority" means an authority formed pursuant to section 3 of this act.***

Sec. 3. ***1. In a county whose population is 400,000 or more, any two or more authorities may form a regional authority.***

2. To form a regional authority as described in subsection 1, the governing body of the county and the governing body of each city and town located within the county that desires to participate in the regional authority shall adopt a resolution setting forth:

(a) The intent to regionalize some or all of their powers;

(b) A reference to the development of a plan for transitioning to a regional authority;

(c) The geographic scope of the regional authority; and

(d) Such other matters as the governing bodies determine to be necessary or advisable.

3. If the formation of a regional authority pursuant to this section involves fiscal matters, the ownership of real property or the consolidation of functions, the governing bodies who form the regional authority shall, in consultation with the United States Department of Housing and Urban Development, resolve such matters by written contract, agreement or other arrangement entered into by those governing bodies.

Sec. 3.5. ***Upon the adoption of a resolution pursuant to section 3 of this act forming a regional authority, the dissolution of any individual authorities of the local governments who form the regional authority must be begun.***

Sec. 4. ***1. Upon the adoption of a resolution pursuant to section 3 of this act forming a regional authority, nine persons must be appointed to serve as commissioners of the authority as follows:***

(a) The governing body of the county shall appoint two persons to serve as commissioners of the authority;

(b) The governing body of the largest city in the county shall appoint two persons to serve as commissioners of the authority;

(c) The governing body of the second largest city in the county shall appoint two persons to serve as commissioners of the authority;

(d) The governing body of the third largest city in the county shall appoint two persons to serve as commissioners of the authority; and

(e) One commissioner who serves on behalf of tenants must be selected as described in subsection 3.

➥ None of the persons appointed to serve as commissioners of the authority may be elected officials of any governmental entity.

2. Six of the commissioners who are first appointed pursuant to subsection 1 must be designated to serve for terms of 1, 2 and 3 years, respectively, from the date of their appointment, and three must be designated to serve for terms of 4 years from the date of their appointment, but thereafter commissioners must be appointed for a term of office of 4 years. The persons appointed initially to serve as commissioners pursuant to subsection 1 shall determine by lot whether they are designated pursuant to this subsection to serve for a term of 1 year, 2 years, 3 years or 4 years.

3. The commissioner who serves on behalf of tenants must be a current recipient of assistance from the authority who was selected from a list of at least five eligible nominees submitted for this purpose by an organization which represents tenants of housing projects. If no such organization exists, the commissioner must be selected from a list of nominees submitted for this purpose from persons who currently receive assistance from the authority. Thereafter, at least one commissioner must be such a recipient who was nominated and appointed in the same manner. If, during his term, the commissioner ceases to be a recipient of assistance, he must be replaced in the manner set forth in this subsection by a person who is a recipient of assistance.

4. In making the appointments described in subsection 1, the relevant local governments shall seek recommendations for appointment from a diverse background of interests with a view toward:

(a) Balancing gender and ethnicity; and

(b) Soliciting appointees who have experience in fields such as, without limitation:

(1) Real estate;

(2) Financial planning;

(3) Legal aid;

(4) Education;

(5) Public safety;

(6) The provision of public services; and

(7) The assistance of persons of low income.

5. All vacancies must be filled for the unexpired term.

Sec. 5. ***A regional authority may, in addition to exercising the powers set forth in NRS 315.440 and 315.460 and any other relevant provisions of this chapter:***

1. Jointly, or with another authority, exercise any powers, privileges and rights that are exercised or capable of being exercised by a local housing agency of this State; and

2. Exercise such other powers as the governing bodies of the local governments that formed the regional authority may agree upon.

Sec. 6. ***A regional authority may not request a reservation or nomination of land from the Bureau of Land Management unless the governing body of the jurisdiction within which the applicable land of the Bureau is located adopts a resolution of approval.***

Sec. 7. NRS 315.021 is hereby amended to read as follows:

315.021 As used in NRS 315.021 to 315.071, inclusive, unless the context otherwise requires:

1. "Housing authority" means a housing authority created pursuant to this chapter. ***The term includes a regional authority formed pursuant to section 3 of this act.***

2. "Landlord" means a person who owns or manages any premises that he rents or leases to a tenant pursuant to a contract with a housing authority.

3. "Premises" means a particular apartment or other residential unit of public housing occupied by a tenant, or a residential unit that is occupied by a tenant pursuant to a federally assisted housing program administered by a housing authority.

4. "Public housing" means the residential accommodations operated by a housing authority or a landlord.

Sec. 8. NRS 315.140 is hereby amended to read as follows:

315.140 NRS 315.140 to 315.780, inclusive, ***and sections 2 to 6, inclusive, of this act*** may be referred to as the Housing Authorities Law of 1947.

Sec. 9. NRS 315.150 is hereby amended to read as follows:

315.150 Unless the context otherwise requires, the definitions contained in NRS 315.160 to 315.300, inclusive, ***and section 2 of this act*** govern the construction of NRS 315.140 to 315.780, inclusive ~~[.]~~ ***, and sections 2 to 6, inclusive, of this act.***

Sec. 10. NRS 315.160 is hereby amended to read as follows:

315.160 1. In the case of an authority of a city or town, "area of operation" shall include such city or town and the area within 5 miles of the territorial boundaries thereof; but the area of operation of an authority of any city or town shall not include any area which lies within the territorial boundaries of some other city or town as herein defined, unless a resolution shall have been adopted by the governing body of such other city or town (and by any authority which shall have been theretofore established and authorized to exercise its powers in such city or town) declaring that there is a need for such authority to exercise its powers within that city or town.

2. In the case of an authority of a county, "area of operation" shall include all of the county for which it is created; but a county authority shall not undertake any housing project or projects within the boundaries of any city or town, as herein defined, unless a resolution shall have been adopted by the governing body of such city or town (and by any authority which shall have been theretofore established and authorized to exercise its powers in such city or town) declaring that there is a need for the county authority to exercise its powers within such city or town.

3. In the case of a regional authority, "area of operation" shall include:

(a) All of the territory within the geographic scope of the regional authority, as referred to in paragraph (c) of subsection 2 of section 3 of this act; and

(b) Any other territory regarding which the regional authority and another authority agree to exercise joint power or control.

Sec. 11. NRS 315.170 is hereby amended to read as follows:

315.170 "Authority" means any of the public corporations created or authorized to be created by NRS 315.140 to 315.780, inclusive, ***and sections 2 to 6, inclusive, of this act*** and any housing authority established and operating prior to July 1, 1975, under the provisions of the Housing Authorities Law of 1943 or the Housing Law of 1951. ***The term includes a regional authority.***

Sec. 12. NRS 315.380 is hereby amended to read as follows:

315.380 ***1.*** An authority shall select a chairman and a vice chairman from its commissioners.

2. For the purpose of managing a regional authority, the commissioners of the regional authority shall initially select an executive director by way of a competitive, open and public process. Thereafter, the selection of an executive director must be made as determined by the commissioners of the regional authority to be in the best interests of the authority.

Sec. 13. NRS 315.435 is hereby amended to read as follows:

315.435 Except as otherwise provided in NRS 315.9835, a housing authority shall not operate in any area in which an authority already established is operating without the consent by resolution of the authority already operating therein. ***For the purposes of this section, the formation of a regional authority pursuant to section 3 of this act shall be deemed to constitute consent by resolution of the authority of any participating local governmental entity.***

Sec. 14. NRS 315.440 is hereby amended to read as follows:

315.440 Within its area of operation, an authority may:

1. Prepare, carry out and operate housing projects and provide for the construction, reconstruction, improvement, extension, alteration, or repair of any such project or any part thereof.

2. Determine where there is unsafe, insanitary or overcrowded housing.

3. Make studies and recommendations relating to the problem of eliminating unsafe, insanitary or overcrowded housing.

4. Cooperate with the city, the county, the State, or any political subdivision thereof in action taken in connection with such problems.

5. If it is a regional authority, work cooperatively with the relevant local jurisdictions concerning new developments or housing projects, or both. The relevant local jurisdictions with which a regional authority works cooperatively concerning new developments or housing projects, or both, shall provide to the regional authority such support and assistance as the regional authority may require.

Sec. 15. As soon as practicable after July 1, 2009, and after the adoption of a resolution pursuant to section 3 of this act, the governing bodies of Clark County, the City of Las Vegas, the City of Henderson and the City of North Las Vegas shall appoint the commissioners described in section 4 of this act.

Sec. 15.5. If the governing bodies of Clark County, the City of Las Vegas, the City of Henderson and the City of North Las Vegas adopt a resolution pursuant to section 3 of this act, the dissolution required to be begun pursuant to section 3.5 of this act must be completed not later than January 1, 2010.

Sec. 16. 1. This section and sections 1 to 11, inclusive, and 13 to 15.5, inclusive, of this act become effective upon passage and approval.

2. Section 12 of this act becomes effective on January 1, 2010.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 882 to Assembly Bill No. 478.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 483.

The following Senate amendment was read:

Amendment No. 710.

AN ACT relating to public works; revising the provisions governing the terms of certain contracts between public bodies and certain design professionals; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes mandatory, optional and prohibited provisions in a contract for the provision of services in connection with a public work entered into between a public body and a design professional who is not a member of a design-build team. (NRS 338.155) This bill clarifies the extent of the obligation of a design professional to defend, indemnify and hold harmless a public body against liabilities, damages, losses, claims, actions or proceedings that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or his employees or agents in the performance of the contract. **This bill also provides that any provision in such a contract that conflicts with certain requirements and prohibitions concerning such contracts is void.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 338.155 is hereby amended to read as follows:

338.155 ***1.*** If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

~~[1.]~~ ***(a)*** Must set forth:

~~[(a)]~~ ***(1)*** The specific period within which the public body must pay the design professional.

~~[(b)]~~ ***(2)*** The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

~~[(c)]~~ ***(3)*** The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to ~~[paragraph (a).~~

~~(d)]~~ ***subparagraph (1).***

(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

~~[2.]~~ ***(b)*** May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to ***subparagraph (1) of*** paragraph (a) ~~[of subsection 1.~~

~~3.]~~ ***(c)*** May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

~~[4.]~~ ***(d)*** ~~[Except as otherwise provided in subsection 5, must]~~ ***Must*** not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

~~[5.]~~ ***(e)*** Except as otherwise provided in this ~~[subsection,]~~ ***paragraph,*** may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees ~~[,]~~ ***and costs, to the extent*** that ***such liabilities, damages, losses, claims, actions or proceedings*** are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees ***and costs*** to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

~~*[6.]*~~ ***2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.***

3. As used in this ~~[subsection,]~~ ***section,*** "agents" means those persons who are directly involved in and acting on behalf of the public body ***or the***

design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 483.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 130.

The following Senate amendment was read:

Amendment No. 792.

SUMMARY—Revises provisions governing ~~[the membership of a]~~ metropolitan police ~~[committee on fiscal affairs.]~~ **departments.** (BDR 22-632)

AN ACT relating to police departments; revising provisions governing the membership of a metropolitan police committee on fiscal affairs; **revising provisions governing negotiations between metropolitan police departments and their employees;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that each representative of a political subdivision that participates on a metropolitan police committee on fiscal affairs must be a member of the governing body of the political subdivision and serves at the pleasure of the governing body making the appointment. (NRS 280.130) ~~[This]~~ **Section 2 of this** bill provides instead that each member of the committee serves for a term of 2 years and may be removed **at any time** for cause by ~~[a majority vote of the other members of the committee.]~~ **the governing body which appointed the member. Section 2 also increases the compensation of the general public member of the committee from $40 for each day of service to $80 for each day of service.**

Existing law requires that in negotiations arising under chapter 288 of NRS between a metropolitan police department and its employees, the department must be represented by a metropolitan police committee on fiscal affairs or two persons designated by the committee and by the sheriff or a person designated by him. (NRS 280.320) Section 3 of this bill provides instead that the department must be represented solely by the sheriff or a person designated by him, and requires the sheriff to submit any agreement reached in the negotiations to the committee for its approval.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 280.130 is hereby amended to read as follows:

280.130 1. The committee consists of two representatives from each participating political subdivision.

2. Representatives of the participating political subdivisions are not entitled to receive any additional compensation or be reimbursed by the department for any expenses incurred while serving on the committee.

3. Each representative of a participating political subdivision must be a member of its governing body **.** ~~[and serves at the pleasure of the governing body making the appointment.]~~ ***Except as otherwise provided in subsection 4, the term of each member of the committee is 2 years.*** ~~*[The committee, by a majority vote of the other members, may remove a member of the committee at any time for cause.]*~~ ***The governing body that appointed a member may remove the member at any time for cause.***

4. The members of the committee shall, by ***a*** majority vote, select an additional member of the committee from the general public from a list consisting of three persons nominated by each participating political subdivision and three persons nominated by the sheriff. That person:

(a) Must reside in the area served by the department.

(b) Shall serve until August 1 next succeeding and until his successor is selected.

(c) May succeed himself.

(d) Is entitled to receive as compensation ~~[$40]~~ ***$80*** for each day of service.

(e) Is entitled to reimbursement for his necessary travel and per diem expenses in the manner provided by the committee for the reimbursement of officers and employees of the department.

5. If the members of the committee fail to agree on the additional member to be selected pursuant to subsection 4 within 30 days after their initial meeting following the merger or by August 1 of any year thereafter, the additional member of the committee must be appointed by the Governor without regard to the lists submitted. The person so appointed must reside in the area served by the department.

6. At its first meeting and in August of each year thereafter, the committee shall select one of its members to act as chairman.

Sec. 3. **NRS 280.320 is hereby amended to read as follows:**

280.320 1. A department is a local government employer for the purpose of the Local Government Employee-Management Relations Act and a public employer for the purpose of the Public Employees' Retirement Act.

2. In negotiations arising under the provisions of chapter 288 of NRS:

(a) ~~[The committee or two or more persons designated by it; and~~

~~(b)]~~ The sheriff or a person designated by him ~~[,~~

~~"~~] shall represent the department ~~[.]~~ ***; and***

(b) The sheriff shall submit any agreement reached in the negotiations to the committee for its approval.

3. In negotiations arising under the provisions of chapter 288 of NRS, a school police unit must be considered a separate bargaining unit.

~~[Sec. 3.]~~ ***Sec. 4.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly do not concur in the Senate Amendment No. 792 to Assembly Bill No. 130.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

The following Senate amendment was read:

Amendment No. 923.

AN ACT relating to police departments; revising provisions governing the membership of a metropolitan police committee on fiscal affairs; revising provisions governing negotiations between metropolitan police departments and their employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that each representative of a political subdivision that participates on a metropolitan police committee on fiscal affairs must be a member of the governing body of the political subdivision and serves at the pleasure of the governing body making the appointment. (NRS 280.130) **Section 2** of this bill provides instead that each member of the committee serves for a term of 2 years and may be removed at any time for cause by the governing body which appointed the member. **Section 2** also increases the compensation of the general public member of the committee from $40 for each day of service to $80 for each day of service.

Existing law requires that in negotiations arising under chapter 288 of NRS between a metropolitan police department and its employees, the department must be represented by a metropolitan police committee on fiscal affairs or two persons designated by the committee and by the sheriff or a person designated by him. (NRS 280.320) **Section 3** of this bill provides instead that the department must be represented solely by the sheriff or ~~[a person]~~ **one or more persons** designated by him, ~~[and]~~ **but requires the committee to designate one representative from each participating political subdivision to monitor the negotiations. Section 3 also** requires the sheriff to submit any **tentative** agreement reached in the negotiations to the committee for its approval.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 280.130 is hereby amended to read as follows:

280.130 1. The committee consists of two representatives from each participating political subdivision.

2. Representatives of the participating political subdivisions are not entitled to receive any additional compensation or be reimbursed by the department for any expenses incurred while serving on the committee.

3. Each representative of a participating political subdivision must be a member of its governing body **.** ~~[and serves at the pleasure of the governing body making the appointment.]~~ ***Except as otherwise provided in subsection***

4, the term of each member of the committee is 2 years. The governing body that appointed a member may remove the member at any time for cause.

4. The members of the committee shall, by ***a*** majority vote, select an additional member of the committee from the general public from a list consisting of three persons nominated by each participating political subdivision and three persons nominated by the sheriff. That person:

(a) Must reside in the area served by the department.

(b) Shall serve until August 1 next succeeding and until his successor is selected.

(c) May succeed himself.

(d) Is entitled to receive as compensation ~~[$40]~~ ***$80*** for each day of service.

(e) Is entitled to reimbursement for his necessary travel and per diem expenses in the manner provided by the committee for the reimbursement of officers and employees of the department.

5. If the members of the committee fail to agree on the additional member to be selected pursuant to subsection 4 within 30 days after their initial meeting following the merger or by August 1 of any year thereafter, the additional member of the committee must be appointed by the Governor without regard to the lists submitted. The person so appointed must reside in the area served by the department.

6. At its first meeting and in August of each year thereafter, the committee shall select one of its members to act as chairman.

Sec. 3. NRS 280.320 is hereby amended to read as follows:

280.320 1. A department is a local government employer for the purpose of the Local Government Employee-Management Relations Act and a public employer for the purpose of the Public Employees' Retirement Act.

2. In negotiations arising under the provisions of chapter 288 of NRS:

(a) The committee ~~[or two or more persons designated by it; and]~~ ***shall designate one representative from each participating political subdivision to monitor the negotiations;***

(b) The sheriff or ~~[a person]~~ ***one or more persons*** designated by him ~~[,~~ ~~→]~~ shall represent the department ~~[.]~~ ***; and***

~~*[(b)]*~~ ***(c) The sheriff shall submit any tentative agreement reached in the negotiations to the committee for its approval.***

3. In negotiations arising under the provisions of chapter 288 of NRS, a school police unit must be considered a separate bargaining unit.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 923 to Assembly Bill No. 130.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 52.

The following Senate amendment was read:

Amendment No. 615.

AN ACT relating to health care; requiring certain hospitals in certain larger counties to report information to the Legislative Committee on Health Care concerning the transfer of patients to another hospital; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Hospitals in this State are required to provide emergency services and care, and it is unlawful for a hospital or a physician working in a hospital emergency room to refuse to accept or treat a patient in need of emergency services and care. (NRS 439B.410) This bill requires certain hospitals located in larger counties to provide a report of certain information to the Legislative Committee on Health Care concerning the transfer of patients from the hospital to another hospital and the availability of specialty medical services in the hospital. Such a report must be made quarterly beginning on ~~[September]~~ **October** 15, 2009, and cover information from ~~[June]~~ **July** 1, 2009, through ~~[August 31,]~~ **September 30,** 2010.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 1. Each hospital located in a county whose population is 400,000 or more which is licensed to have more than 70 beds shall provide to the Legislative Committee on Health Care reports with information concerning the transfer of patients from one hospital to another hospital. Such information must include:

(a) The number of patients who are transferred from the hospital to another hospital;

(b) The number of patients who were received by the hospital that were transferred from another hospital;

(c) The reason for each transfer of a patient to another hospital;

(d) The availability of specialty services and care in the hospital; and

(e) Whether each patient who was transferred from the hospital had insurance or some other guaranteed form of payment for services.

2. Each hospital subject to the provisions of subsection 1 shall provide a report to the Legislative Committee on Health Care with the information required at least once every 3 months, and the reports must include information from ~~[June]~~ **July** 1, 2009, through ~~[August 31,]~~ **September 30,** 2010. The first report must be made by ~~[September]~~ **October** 15, 2009, and must include information from ~~[June]~~ **July** 1, 2009, through ~~[August 31,]~~ **September 30,** 2009. Subsequent reports must include information for the period since the last report.

3. The information reported pursuant to this section must be made available to each person or entity that provides information pursuant to this section to the extent that it is not required to be kept confidential.

4. The information reported pursuant to this section must be maintained and reported in a manner consistent with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

5. As used in this section, "specialty services" includes, without limitation:

(a) Cardiology services;
(b) Gastroenterological services;
(c) General surgical services;
(d) Neurosurgical services;
(e) Ophthalmology services;
(f) Oral and maxillofacial surgical services;
(g) Orthopedic services;
(h) Otolaryngology services; and
(i) Urological services.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 52.

Remarks by Assemblywoman Smith.

Motion carried.

Bill ordered transmitted to the Senate.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Conklin moved that the Assembly do not recede from its action on Senate Bill No. 295, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

Assemblyman Conklin moved that the Assembly do not recede from its actions on Senate Bill No. 119, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Conklin.

Motion carried.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 84.

The following Senate amendment was read:

Amendment No. 773.

SUMMARY—Revises provisions governing ~~[unemployment]~~ compensation. (BDR 53-546)

AN ACT relating to ~~[unemployment]~~ compensation; **revising provisions related to compensation for overtime;** revising provisions for the collection of benefits required to be repaid to the Employment Security Division of the Department of Employment, Training and Rehabilitation; establishing a

penalty for fraudulently obtaining unemployment benefits under certain circumstances; revising provisions relating to the authorized use of money in the Employment Security Fund by the Administrator of the Division; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 8.3 of this bill revises provisions related to an exception to certain requirements for compensation for overtime.

Section 8.5 of this bill authorizes the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to assess against a person who is overpaid benefits certain administrative fees prescribed by an agency of the United States. **Section 9** of this bill revises existing law by providing that certain fraudulent activity conducted by a person in order to obtain or increase any unemployment benefit or payment, including the filing of a claim while incarcerated without expressly disclosing that the person is incarcerated, constitutes unemployment insurance fraud. **Section 9** also requires a person who commits unemployment insurance fraud to repay to the Administrator all of the benefits received by that person, in addition to any interest, penalties and costs. **Section 9** further provides that a person is disqualified from receiving unemployment compensation benefits for a specified period, but authorizes the Administrator to waive the period of disqualification for good cause shown or if the person adheres to a repayment schedule. Additionally, **section 9** provides that a person who obtains benefits of $250 or more while committing unemployment insurance fraud shall be punished in the same manner as if he committed theft. **Section 9** also provides that the repayment of such benefits may not be done by the withholding of benefits otherwise due and payable to the person unless the period of disqualification is waived by the Administrator. Finally, **section 9** authorizes the Administrator to impose a penalty equal to not more than 25 or 50 percent of the total amount of benefits improperly obtained by a person, depending on the amount improperly obtained by the person. (NRS 612.445)

Section 10 of this bill revises existing law by authorizing the Administrator to use money from the Employment Security Fund for the payment of costs of any program or the implementation of procedures for the proper payment of benefits and the collection of contributions and reimbursements. (NRS 612.615)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.3. **NRS 608.018 is hereby amended to read as follows:**

608.018 1. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works:

(a) More than 40 hours in any scheduled week of work; or

(b) More than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

2. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate not less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works more than 40 hours in any scheduled week of work.

3. The provisions of subsections 1 and 2 do not apply to:

(a) Employees who are not covered by the minimum wage provisions of NRS 608.250;

(b) Outside buyers;

(c) ~~[Salesmen earning commissions]~~ ***Employees*** in a retail ***or service*** business if their regular rate is more than 1 1/2 times the minimum wage, and more than ~~[one half]~~ ***half*** their compensation ***for a representative period*** comes from commissions ~~[,]~~ ***on goods or services, with the representative period being, to the extent allowed pursuant to federal law, not less than one month;***

(d) Employees who are employed in bona fide executive, administrative or professional capacities;

(e) Employees covered by collective bargaining agreements which provide otherwise for overtime;

(f) Drivers, drivers' helpers, loaders and mechanics for motor carriers subject to the Motor Carrier Act of 1935, as amended;

(g) Employees of a railroad;

(h) Employees of a carrier by air;

(i) Drivers or drivers' helpers making local deliveries and paid on a trip-rate basis or other delivery payment plan;

(j) Drivers of taxicabs or limousines;

(k) Agricultural employees;

(l) Employees of business enterprises having a gross sales volume of less than $250,000 per year;

(m) Any salesman or mechanic primarily engaged in selling or servicing automobiles, trucks or farm equipment; and

(n) A mechanic or workman for any hours to which the provisions of subsection 3 or 4 of NRS 338.020 apply.

Sec. 8.5. NRS 612.365 is hereby amended to read as follows:

612.365 1. Any person who is overpaid any amount as benefits under this chapter is liable for the amount overpaid unless:

(a) The overpayment was not due to fraud, misrepresentation or willful nondisclosure on the part of the recipient; and

(b) The overpayment was received without fault on the part of the recipient, and its recovery would be against equity and good conscience, as determined by the Administrator.

2. The amount of the overpayment must be assessed to the liable person, and he must be notified of the basis of the assessment. The notice must specify the amount for which the person is liable. In the absence of fraud, misrepresentation or willful nondisclosure, notice of the assessment must be mailed or personally served not later than 1 year after the close of the benefit year in which the overpayment was made.

3. At any time within 5 years after the notice of overpayment, the Administrator may recover the amount of the overpayment by using the same methods of collection provided in NRS 612.625 to 612.645, inclusive, 612.685 and 612.686 for the collection of past due contributions or by deducting the amount of the overpayment from any benefits payable to the liable person under this chapter.

4. The Administrator may waive recovery or adjustment of all or part of the amount of any such overpayment which he finds to be uncollectible or the recovery or adjustment of which he finds to be administratively impracticable.

5. ***To the extent allowed pursuant to federal law, the Administrator may assess any administrative fee prescribed by an applicable agency of the United States regarding the recovery of such overpayments.***

6. Any person against whom liability is determined under this section may appeal therefrom within 11 days after the date the notice provided for in this section was mailed to, or served upon, the person. An appeal must be made and conducted in the manner provided in this chapter for the appeals from determinations of benefit status. The 11-day period provided for in this subsection may be extended for good cause shown.

Sec. 9. NRS 612.445 is hereby amended to read as follows:

612.445 ~~[When the Administrator finds that any]~~

1. A person ~~[has made]~~ ***shall not make*** a false statement or representation, knowing it to be false, or knowingly ~~[failed]~~ ***fail*** to disclose a material fact in order to obtain or increase any benefit or other payment under this chapter, ***including, without limitation, by failing to properly report earnings or by filing a claim for benefits using the social security number, name or other personal identifying information of another person. A person who violates the provisions of this subsection commits unemployment insurance fraud.***

2. When the Administrator finds that a person has committed unemployment insurance fraud pursuant to subsection 1, the person shall repay to the Administrator for deposit in the Fund a sum equal to all of the

benefits received by or paid to the person for each week with respect to which the false statement or representation was made or to which he failed to disclose a material fact ~~[. The]~~ ***in addition to any interest, penalties and costs related to that sum.***

3. Except as otherwise provided in this subsection and subsection 8, the person is disqualified from receiving unemployment compensation benefits under this chapter ~~[for]~~ ***:***

(a) For a period ~~[of]~~ ***beginning with the first week claimed in violation of subsection 1 and ending*** not more than 52 consecutive weeks ~~[beginning with]~~ ***after*** the week in which it is determined that ~~[an improper]~~ ***a*** claim was filed ~~[involving the false statement or representation or failure to disclose a material fact.]~~ ***in violation of subsection 1; or***

(b) Until the sum described in subsection 2, in addition to any interest, penalties or costs related to that sum, is repaid to the Administrator,

➥ ***whichever is longer.*** The Administrator shall fix the period of disqualification according to the circumstances in each case.

4. It is a violation of subsection 1 for a person to file a claim, or to cause or allow a claim to be filed on his behalf, if:

(a) The person is incarcerated in the state prison or any county or city jail or detention facility or other correctional facility in this State; and

(b) The claim does not expressly disclose his incarceration.

5. A person who obtains benefits of $250 or more in violation of subsection 1 shall be punished in the same manner as theft pursuant to subsection 3 or 4 of NRS 205.0835.

6. In addition to the repayment of benefits required pursuant to subsection 2, if the amount of benefits which must be repaid is greater than $1,000, the Administrator may impose a penalty equal to not more than:

(a) If the amount of such benefits is greater than $1,000 but not greater than $2,500, 25 percent; or

(b) If the amount of such benefits is greater than $2,500, 50 percent,

➥ ***of the total amount of benefits received by the person in violation of subsection 1 or any other provision of this chapter.***

7. Except as otherwise provided in subsection 8, a person may not pay benefits as required pursuant to subsection 2 by using benefits which would otherwise be due and payable to the person if he was not disqualified.

8. The Administrator may waive the period of disqualification prescribed in subsection 3 for good cause shown or if the person adheres to a repayment schedule authorized by the Administrator that is designed to fully repay benefits received from an improper claim, in addition to any related interest, penalties and costs, within 18 months. If the Administrator waives the period of disqualification pursuant to this subsection, the person may repay benefits and any related interest, penalties and costs as required pursuant to subsection 2 by using any benefits which are due and payable to the person.

9. The Administrator may recover any money required to be paid pursuant to this section in accordance with the provisions of NRS 612.365 and may collect interest on any such money in accordance with the provisions of NRS 612.620.

Sec. 10. NRS 612.615 is hereby amended to read as follows:

612.615 1. There is hereby created the Employment Security Fund as a special revenue fund.

2. All interest and forfeits collected under NRS 612.618 to 612.675, inclusive, and 612.740 must be paid into the Fund.

3. All money which is deposited or paid into the Fund is hereby appropriated and made available to the Administrator. The money may not be expended or made available for expenditure in any manner which would permit its substitution for, or a corresponding reduction in, federal payments which would, in the absence of this money, be available to finance expenditures for the administration of the employment security laws of the State of Nevada.

4. This section does not prevent this money from being used as a revolving fund to cover expenditures, necessary and proper under the law, for which federal payments have been duly requested but not yet received, subject to the repayment to the Fund of such expenditures when received.

5. The money in this Fund must be used by the Administrator for the payment of costs of ~~[~~administration~~]~~ ***:***

(a) Administration which are found not to have been properly and validly chargeable against federal grants received for or in the Unemployment Compensation Administration Fund ~~[.]~~ ***; or***

(b) Any program or the implementation of procedures deemed necessary by the Administrator to ensure the proper payment of benefits and collection of contributions and reimbursements pursuant to this chapter.

6. Any balances in this Fund do not lapse at any time, but are continuously available to the Administrator for expenditure consistent with this chapter.

7. Money in this Fund must not be commingled with other state money, but must be maintained in a separate account on the books of the depositary.

Sec. 11. NRS 612.715 is hereby amended to read as follows:

612.715 ~~[~~Whoever~~]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, whoever*** makes a false statement or representation knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for himself or for any other person, is guilty of a misdemeanor.

Sec. 12. NRS 612.720 is hereby amended to read as follows:

612.720 ~~[~~Whenever~~]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, whenever*** two or more persons ~~[~~shall~~]~~ conspire to obtain or increase any benefit or other payment under this chapter by a false statement or representation knowing it to be false, or by knowingly failing to disclose a material fact, or whenever any person makes a series of false statements or

representations knowing them to be false, to obtain or increase benefit payments under this chapter over a period of more than 1 week, every such person is guilty of a gross misdemeanor.

Sec. 13. NRS 612.725 is hereby amended to read as follows:

612.725 ~~[~~Any~~]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, any*** person residing in this State who claims benefits under any agreement existing between the Division and some other state or the Federal Government, who willfully makes a false statement or representation or knowingly fails to disclose a material fact to obtain or increase benefits under the provisions of the unemployment law of any other state or the Federal Government is guilty of a misdemeanor.

Sec. 14. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 84.

Motion carried.

Bill ordered transmitted to the Senate.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Atkinson moved that the Assembly do not recede from its actions on Senate Bill No. 246, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Atkinson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Hogan, Spiegel, and Woodbury as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 246.

Madam Speaker appointed Assemblymen Horne, Anderson, and Settelmeyer as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 119.

Madam Speaker appointed Assemblymen Atkinson, McClain, and Gansert as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 295.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which were referred Assembly Bills Nos. 18, 540; Senate Bills Nos. 146, 318, 400, 401, 422, 423, 424, 425, 430, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 409, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 18.
Bill read second time and ordered to third reading.

Assembly Bill No. 540.
Bill read second time and ordered to third reading.

Senate Bill No. 146.
Bill read second time and ordered to third reading.

Senate Bill No. 318.
Bill read second time and ordered to third reading.

Senate Bill No. 400.
Bill read second time and ordered to third reading.

Senate Bill No. 401.
Bill read second time and ordered to third reading.

Senate Bill No. 422.
Bill read second time and ordered to third reading.

Senate Bill No. 423.
Bill read second time and ordered to third reading.

Senate Bill No. 424.
Bill read second time and ordered to third reading.

Senate Bill No. 425.
Bill read second time and ordered to third reading.

Senate Bill No. 430.
Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 409.
Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 922.

AN ACT relating to public employees; requiring the Local Government Employee-Management Relations Board to conduct certain hearings using certain hearing officers; revising provisions governing the appointment of members to the Board; revising the periods within which the Board must hear and decide certain complaints; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Local Government Employee-Management Relations Board has exclusive jurisdiction to hear and determine complaints

brought by local government employers, local government employees or employee organizations concerning various aspects of collective bargaining. (NRS 288.110) The Board also has jurisdiction to consider appeals filed by employee organizations that are aggrieved by the determinations of local government employers concerning which employee groups may constitute bargaining units for purposes of collective bargaining. (NRS 288.170) **Section 3** of this bill requires the Board to conduct the proceedings concerning such complaints or appeals using a hearing officer selected by the parties from a list of arbitrators obtained from the Federal Mediation and Conciliation Service or by appointing the Commissioner of the Board to serve as hearing officer. **Section 4** of this bill requires a hearing officer to prepare and submit to the Board a record of the proceedings concerning the complaint or appeal and to include in the record findings of fact, proposed conclusions of law and a proposed decision or order. **Section 5** of this bill requires the Board to issue its final decision or order upon the completion of its review of the record submitted by the hearing officer. **Section 11** of this bill requires the Board to issue its final decision not later than 1 year after the filing of a complaint if the matter is heard by a hearing officer and not later than 180 days after the filing of a complaint if the Board hears the complaint in the absence of an evidentiary hearing or decides a contested matter without a hearing. (NRS 288.110)

Under existing law, the Board may not consider any complaint or appeal that is filed more than 6 months after the occurrence which is the subject of the complaint or appeal. (NRS 288.110) **Section 11** of this bill reduces this period to 180 days.

Section 7 of this bill requires that each decision or order of the Board in any complaint or appeal must be consistent with the decisions or orders previously issued by the Board in similar cases unless the Board includes in the decision or order an analysis of each previous case that has been cited to the Board which establishes that the decision or order issued in that case is erroneous or is inapposite to or distinguishable from the decision or order in the complaint or appeal at issue.

~~[**Section 7.5** of this bill requires the Board to charge and collect a fee, not to exceed $200, for the filing of a complaint or appeal with the Board or for the filing of any other pleading that constitutes the initial appearance of a party in such a proceeding.]~~

Under existing law, the Local Government Employee-Management Relations Board consists of three members who are appointed by the Governor. (NRS 288.080) **Section 9** of this bill provides that the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall each appoint one member of the Board.

~~[**Section 10.5** of this bill increases the salary that a member of the Board is entitled to receive from a maximum of $80 to a maximum of $150 for each day in which he is engaged in the business of the Board.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 288 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7.5, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. ***1. If the Board decides to hear and determine any complaint or appeal filed with the Board pursuant to this chapter that requires the taking of testimony or other evidence, the Board shall appoint a hearing officer to conduct the proceedings concerning the complaint or appeal on behalf of the Board.***

2. Except as otherwise provided in this section, the Board shall appoint as its hearing officer the person selected by the parties from a list of seven arbitrators obtained from the Federal Mediation and Conciliation Service. The parties shall alternately strike one name from the list until the name of only one person remains. The parties must determine by the toss of a coin which party will strike the first name. Each party shall pay one-half of the fee charged by the hearing officer appointed pursuant to this subsection.

3. The Board shall appoint the Commissioner to act as the hearing officer for a complaint or appeal if both parties request the appointment.

4. The Board may appoint the Commissioner to act as the hearing officer for a complaint or appeal at the request of one party if the party demonstrates to the satisfaction of the Board that the payment of the party's share of a fee charged by a hearing officer appointed by the Board pursuant to subsection 2 is likely to impose an undue financial burden or hardship on the party. In determining whether to appoint the Commissioner to act as a hearing officer, the Board shall consider the complexity of the matters in dispute that are likely to affect the amount of the fee charged by a hearing officer appointed pursuant to subsection 2 and any factor that is relevant to the party's ability to pay the fee, including, without limitation, the size or membership of the party, its financial resources, and any budgetary or other financial constraints.

Sec. 4. ***1. A hearing officer appointed by the Board shall:***

(a) Conduct the proceedings concerning the complaint or appeal on behalf of the Board in accordance with the procedures established by this chapter, chapter 233B of NRS and any other applicable statutes and regulations;

(b) Commence the hearing on the complaint or appeal within 60 days after his appointment;

(c) Prepare findings of fact and proposed conclusions of law on every material issue, based on the evidence and arguments presented to him and shall prepare a proposed order or decision consistent with his findings and conclusions, the provisions of this chapter and the regulations of the Board and any relevant prior order or decision of the Board; and

(d) Prepare, provide to each party and submit to the Board for its review the record of the proceedings not later than 60 days after the conclusion of the hearing. The record must comply with NRS 233B.121 and include, without limitation, findings of fact, proposed conclusions of law and a proposed decision or order that complies with NRS 233B.125. Each party shall pay one-half of the cost to prepare the record, including, without limitation, the cost to prepare a transcript of any oral proceedings.

2. A party to any complaint or appeal is entitled to be represented at any hearing conducted pursuant to this section by counsel, by an elected or appointed representative of the party, or both. A nonattorney representative of an employee organization must be a member of the organization.

Sec. 5. ***1. The Board shall review the record of the proceedings in any complaint or appeal submitted to it by a hearing officer, including, without limitation, the proposed decision or order of the hearing officer. In conducting its review of the proposed decision or order, the Board:***

(a) Shall confine its review to the record submitted by the hearing officer. If the Board determines, on its own motion or on the motion of any party, that additional evidence must be taken on any issue, the Board shall remand the matter to the hearing officer.

(b) May not substitute its judgment for that of the hearing officer as to any finding of fact that is supported by substantial evidence.

2. Upon completion of its review, the Board may:

(a) Approve the proposed decision or order of the hearing officer, with or without modification; or

(b) Reject the proposed decision or order and remand the complaint or appeal to the hearing officer for further proceedings.

3. If the Board modifies or rejects the proposed decision or order of the hearing officer, including, without limitation, any finding of fact or proposed conclusion of law separately stated therein, the Board must fully set forth in its final decision or order the factual and legal basis for its modification or rejection.

4. The Board shall issue its final decision or order in any complaint or appeal not later than 60 days after it receives the completed record from the hearing officer.

Sec. 6. ***Except as otherwise provided in subsection 4 of NRS 288.110 or specifically ordered by the Board, the parties to any proceeding may by stipulation waive any limitation of time set forth in NRS 288.110 and sections 4 and 5 of this act.***

Sec. 7. ***Each decision or order of the Board in any complaint or appeal must be consistent with the decisions or orders previously issued by the Board in similar cases unless the Board includes in the decision or order an analysis of each previous case that has been cited to the Board which establishes that the decision or order issued in that case is erroneous or is inapposite to or distinguishable from the decision or order in the case at issue.***

Sec. 7.5. ~~[~~***1. Except as otherwise provided in this section, the Board shall charge and collect a fee, not to exceed $200, for the filing of a complaint or appeal with the Board or for the filing of any other pleading that constitutes the initial appearance of a party in such a proceeding. The Board shall establish the amount of the fee by regulation.***

2. The Board may, at the request of a party, waive the filing fee if payment of the fee would cause a financial hardship to a party or would be otherwise inconsistent with the purposes of this chapter.

3. All fees and other money received by the Board pursuant to the provisions of this chapter must be deposited in banks, credit unions or savings and loan associations in the State of Nevada and expended solely for the purposes of this chapter. The money so deposited does not revert to the State General Fund.] **(Deleted by amendment.)**

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 288.080 is hereby amended to read as follows:

288.080 1. The Local Government Employee-Management Relations Board is hereby created, consisting of three members, broadly representative of the public and not closely allied with any employee organization or local government employer, not more than two of whom may be members of the same political party. ***Each member of the Board must, at the time of his appointment, have at least 5 years of experience in the field of labor-management relations.***

2. The term of office of each member is 4 years ~~[~~.

~~2.]~~ ***, but a member shall continue to serve after the expiration of his term until his successor is appointed.***

3. The Governor ***, the Majority Leader of the Senate and the Speaker of the Assembly*** shall ***each*** appoint ~~[~~the members~~]~~ ***one member*** of the Board.

Sec. 10. NRS 288.090 is hereby amended to read as follows:

288.090 1. The members of the Board shall annually elect one of their number as Chairman and one as Vice Chairman. Any two members of the Board constitute a quorum.

2. The Board may, within the limits of legislative appropriations:

(a) Appoint a Commissioner and a Secretary, who ~~[~~shall~~]~~ ***must*** be in the unclassified service of the State; and

(b) Employ such additional clerical personnel as may be necessary, who ~~[~~shall~~]~~ ***must*** be in the classified service of the State.

3. The Commissioner must, at the time of his appointment, have at least 3 years of experience in the field of labor-management relations.

Sec. 10.5. ~~[~~NRS 288.100 is hereby amended to read as follows:

288.100 ~~1. Each member of the Board is entitled to receive a salary of not more than~~ [$80,] ***$150,*** ~~as fixed by the Board, for each day in which he is engaged in the business of the Board.~~

~~2. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and~~

~~travel expenses provided for state officers and employees generally.~~] **(Deleted by amendment.)**

Sec. 11. NRS 288.110 is hereby amended to read as follows:

288.110 1. The Board may make rules governing:

(a) Proceedings before it;

(b) Procedures for fact-finding;

(c) The recognition of employee organizations; and

(d) The determination of bargaining units.

2. The Board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer, local government employee or employee organization. [~~The Board shall conduct a hearing within 90 days after it decides to hear a complaint.~~] The Board, after a hearing, if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by that action. The Board shall issue its decision within [~~120 days~~] ***180 days after the filing of the complaint unless the Board appoints a hearing officer pursuant to section 3 of this act to conduct an evidentiary hearing, in which case the Board shall issue its decision within 1 year*** after the [~~hearing on~~] ***filing of*** the complaint **.** [~~is completed.~~]

3. Any party aggrieved by the failure of any person to obey an order of the Board issued pursuant to subsection 2, or the Board at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.

4. The Board may not consider any complaint or appeal filed more than [~~6 months~~] ***180 days*** after the occurrence which is the subject of the complaint or appeal.

5. The Board may decide without a hearing a contested matter:

(a) In which all of the legal issues have been previously decided by the Board, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

➥ ***The Board shall issue its decision within 180 days after the filing of the complaint or appeal in the contested matter.***

6. The Board may award reasonable costs, which may include attorneys' fees, to the prevailing party.

Sec. 12. NRS 288.120 is hereby amended to read as follows:

288.120 1. For the purpose of hearing and deciding appeals or complaints, the Board ***, and a hearing officer on behalf of the Board,*** may issue subpoenas requiring the attendance of witnesses before [~~it,~~] ***the Board or hearing officer,*** together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.

2. The district court in and for the county in which any hearing is being conducted by the Board ***or hearing officer*** may compel the attendance of

witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Board ~~[.]~~ ***or hearing officer.***

3. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the Board ***or hearing officer*** may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Board ***or hearing officer*** in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

➥ and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the Board ~~[.]~~ ***or hearing officer.***

4. The court, upon petition of the Board ~~[.]~~ ***or hearing officer,*** shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the Board ~~[.]~~ ***or hearing officer.*** A certified copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the Board ~~[.]~~ ***or hearing officer,*** the court shall thereupon enter an order that the witness appear before the Board ***or hearing officer*** at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. Notwithstanding the provisions of NRS 288.080, as amended by section 9 of this act:

1. The term of office of a member of the Local Government Employee-Management Relations Board who is serving in that capacity on June 30, 2009, ends on that date.

2. As soon as practicable after the effective date of this act:

(a) The Governor shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2011.

(b) The Majority Leader of the Senate shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2012.

(c) The Speaker of the Assembly shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2013.

Sec. 20. The provisions of sections 2 to 7.5, inclusive, of this act and the amendatory provisions of section 11 of this act do not apply to any complaint or appeal that was filed with the Board before the effective date of this act except to the extent that the parties, with the consent of the Board, may agree to their application.

Sec. 21. This act becomes effective upon passage and approval.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 3, 81, 279, 554; Assembly Joint Resolution No. 5; Senate Bills Nos. 89, 184, 230, 265, 310, 312, 338, 355.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Kate Nielsen and Richard Lahne.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Hummel Elementary School: Julian Aponte, Caytrin Barrone, Valan Boccadoro, Ray Dancel, Rizza Dancel, Noah Espinoza, Johnathan Gallagher, Joel Galvin, Triana Gando, Amani Hanach, George Hanach, Amar Hanach, Jordan Manago, Serena Martinez, Riley Musgrave, Angela Nunes, Nathan Pacyna, Liberty Pangilinan, Kealia Perrine, Shay Steffanich, Tyler Speir, Jesse Tabaczynski, Christopher Tan, Jennifer Ednacot, Marissa Warren, Monica Langlands, Colleen Barrone, Charina Tan, Shelly Tabaczynski, Joseph Tague, Mary Steffanich, Helen Perrine, Haydee Pangilinan, Magdalena Pacyna, Julie Manago, Joseph Hanach and Evelyn Gando.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Teresa Benitez.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to Dave Evans.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, May 28, 2009 at 11 a.m.

Motion carried.

Assembly adjourned at 1:30 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND SIXTEENTH DAY

CARSON CITY (Thursday), May 28, 2009

Assembly called to order at 11:28 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Our Father in Heaven, we pray for the members of this body, with their many responsibilities. Help them in their offices, in committees, and, above all, as they meet here in legislative session. May they never forget that what is said and done here is not done in a corner, but always for the people they represent and under Your watchful eye. May these, Your representatives, feel the weight of a good example, that all who come to this place may have a stronger faith in government of the people, by the people, for the people. May they so speak and act, that all who wait upon them may be inspired rather than disillusioned by what they see and hear and are asked to do. Make Yourself real to these men and women, that each may feel You sitting beside them, and hear Your voice, and win Your approval in all things. We ask this in Your Name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 78, 382, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which was referred Senate Bill No. 24, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Ways and Means.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 561, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was referred Senate Bill No. 403 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 214, 385 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which were rereferred Senate Bills Nos. 7, 152, 293 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 879 to Senate Bill No. 394.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SECOND READING AND AMENDMENT

Assembly Bill No. 214.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 956.

AN ACT relating to public employees; including certain employees of the Department of Public Safety and certain park rangers and employees of the Division of State Parks of the State Department of Conservation and Natural Resources in the definition of "police officer" for various purposes relating to industrial injuries and occupational diseases; **making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for certain police officers suffering from certain occupational diseases to receive disability benefits. (NRS 617.135, 617.455, 617.457, 617.485, 617.487) Existing law defines "police officer" for the purpose of providing those disability benefits to include various law enforcement officers in this State. (NRS 617.135) Existing law also grants the powers of peace officers to certain park rangers and employees of the Division of State Parks of the State Department of Conservation and Natural Resources. (NRS 289.260) ~~[This]~~

Section 1 of this bill expands the definition of "police officer" to make certain employees of the Department of Public Safety and certain park rangers and division employees of the State Department of Conservation and Natural Resources eligible for the disability benefits provided to police officers.

Section 1.5 of this bill makes an appropriation to the Division of State Parks to provide for any physical examinations or blood tests required pursuant to this bill in the next biennium.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 617.135 is hereby amended to read as follows:

617.135 "Police officer" includes:

1. A sheriff, deputy sheriff, officer of a metropolitan police department or city policeman;

2. A chief, inspector, supervisor, commercial officer or trooper of the Nevada Highway Patrol Division of the Department of Public Safety;

3. A chief, investigator or agent of the Investigation Division of the Department of Public Safety;

4. ***A chief, supervisor, investigator or training officer of the Training Division of the Department of Public Safety;***

5. A chief or investigator of an office of the Department of Public Safety that conducts internal investigations of employees of the Department of Public Safety or investigates other issues relating to the professional responsibility of those employees;

6. A chief or investigator of the Department of Public Safety whose duties include, without limitation:

(a) The execution, administration or enforcement of the provisions of chapter 179A of NRS; and

(b) The provision of technology support services to the Director and the divisions of the Department of Public Safety;

7. An officer or investigator of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles;

~~[5.]~~ ***8.*** An investigator of the Division of Compliance Enforcement of the Department of Motor Vehicles;

~~[6.]~~ ***9.*** A member of the police department of the Nevada System of Higher Education;

~~[7.]~~ ***10.*** A:

(a) Uniformed employee of; or

(b) Forensic specialist employed by,

➥ the Department of Corrections whose position requires regular and frequent contact with the offenders imprisoned and subjects the employee to recall in emergencies;

~~[8.]~~ ***11.*** A parole and probation officer of the Division of Parole and Probation of the Department of Public Safety;

~~[9.]~~ ***12.*** A forensic specialist or correctional officer employed by the Division of Mental Health and Developmental Services of the Department of Health and Human Services at facilities for mentally disordered offenders;

~~[10.]~~ ***13.*** The State Fire Marshal, his assistant and his deputies; ~~[and~~

~~11.]~~ ***14.*** A game warden of the Department of Wildlife who has the powers of a peace officer pursuant to NRS 289.280 ~~[.]~~ ***; and***

15. A ranger or employee of the Division of State Parks of the State Department of Conservation and Natural Resources who has the powers of a peace officer pursuant to NRS 289.260.

Sec. 1.5. **1. There is hereby appropriated from the State General Fund to the Division of State Parks of the State Department of Conservation and Natural Resources to carry out any physical examinations or blood tests required pursuant to this act:**

For the Fiscal Year 2009-2010 .....$16,615

For the Fiscal Year 2010-2011 .....$16,615

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2010, and September 16, 2011, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2010, and September 16, 2011, respectively.

Sec. 2. 1. A person who, on July 1, 2009, is employed as a ranger or employee of the Division of State Parks of the State Department of Conservation and Natural Resources who has the powers of a peace officer pursuant to NRS 289.260 shall submit to a physical examination pursuant to NRS 617.454, 617.455 and 617.457 and a blood test to screen for hepatitis C pursuant to NRS 617.485 and 617.487 on or after July 1, 2009, but on or before September 30, 2009. Each physical examination and blood test must be paid for by the Department.

2. Notwithstanding the provisions of NRS 617.455, 617.457, 617.485 and 617.487, if a person fails to submit to a physical examination or blood test required pursuant to subsection 1, the conclusive presumption relating to diseases of the lungs created by NRS 617.455, diseases of the heart created by NRS 617.457 and infections of hepatitis and hepatitis C pursuant to NRS 617.485 and 617.487 shall be deemed, with regard to that person and for the purposes of those sections, to create a rebuttable presumption that the disease of the lungs or heart or infection of hepatitis or hepatitis C arose out of and in the course of the employment of the person as a ranger or employee specified in subsection 1.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 561.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 951.

SUMMARY—Eliminates the Consumer Affairs Division of the Department of Business and Industry **for the 2009-2011 biennium** and transfers certain duties and powers of the Division. (BDR 18-1201)

AN ACT relating to reorganization of State Government; **temporarily** eliminating the Consumer Affairs Division of the Department of Business and Industry; **temporarily** eliminating the position of Commissioner of

Consumer Affairs; transferring certain duties and powers of the Division and the Commissioner; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the chief of each division of the Department of Business and Industry to administer the provisions of law relating to his division, subject to the administrative supervision of the Director of the Department. (NRS 232.530) **Sections 3 and 4** of this bill **temporarily** eliminate the Consumer Affairs Division of the Department and the position of Commissioner of Consumer Affairs ~~[.]~~ **for the 2009-2011 biennium.**

Existing law provides for the regulation of garages, garagemen and body shops by the Commissioner of Consumer Affairs and for the registration or licensure of garages, garagemen and body shops with the Department of Motor Vehicles. (NRS 487.530-487.570, 487.600-487.690, 597.480-597.590) **Sections 8-26** of this bill transfer authority for the regulation of garages, garagemen and body shops to the Department of Motor Vehicles and provide for the enforcement of those provisions by the Director of the Department. **Section 6** of this bill allows the Department of Motor Vehicles to impose a fine on a person who engages in certain deceptive trade practices relating to the sale or lease of a vehicle under certain circumstances. **Section 1** of this bill creates a revolving account administered by the Consumer's Advocate, to be used to pay the costs of conducting certain undercover investigations.

Existing law requires the Consumer Affairs Division to administer certain provisions of law governing credit service organizations. (NRS 598.701-598.787) Sections 52-56 of this bill transfer the powers and duties of the Consumer Affairs Division relating to credit service organizations to the Division of Mortgage Lending of the Department of Business and Industry.

Sections 36-47 and 49 of this bill **temporarily** transfer the powers and duties of the Commissioner of Consumer Affairs relating to deceptive trade practices to the Attorney General.

Existing law requires the Consumer Affairs Division to administer certain provisions of law governing sellers of travel, sightseeing tours, ~~[credit service organizations,]~~ organizations for buying goods or services, and dance studios and health clubs. (NRS 598.305-598.966) **Section 51** of this bill provides that complaints concerning the charges for a sightseeing tour may be directed to the Attorney General. ~~[Sections 52-56 of this bill transfer the powers and duties of the Consumer Affairs Division relating to credit service organizations to the Division of Mortgage Lending of the Department of Business and Industry.]~~ **Sections 57-61** of this bill **temporarily** authorize the Attorney General **solely** to enforce certain provisions relating to organizations for buying goods or services at a discount, dance studios and health clubs.

~~[Section 62 of this bill transfers the duty to administer chapter 598C of NRS relating to consumer reporting from the Commissioner of Consumer Affairs to the Attorney General.]~~

Sections 63-75 of this bill authorize the Attorney General to enforce certain provisions relating to solicitation by telephone.

Section 80 of this bill restores the Consumer Affairs Division, the position of the Commissioner of Consumer Affairs and the powers and duties of the Division and the Commissioner relating to deceptive trade practices, sellers of travel, sightseeing tours, organizations for buying goods or services, and dance studios and health clubs effective July 1, 2011.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created a revolving account for the Bureau of Consumer Protection in the sum of $7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating any provision of sections 10 to 26, inclusive, of this act.

2. The Consumer's Advocate shall deposit the money in the revolving account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.

3. The Consumer's Advocate or his designee may:

(a) Sign all checks drawn upon the revolving account; and

(b) Make withdrawals of cash from the revolving account.

4. Payments made from the revolving account must be promptly reimbursed from the legislative appropriation, if any, to the Consumer's Advocate for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating any provision of sections 10 to 26, inclusive, of this act. The claim for reimbursement must be processed and paid as other claims against the State are paid.

5. The Consumer's Advocate shall:

(a) Approve any disbursement from the revolving account; and

(b) Maintain records of any such disbursement.

Sec. 2. NRS 228.300 is hereby amended to read as follows:

228.300 As used in NRS 228.300 to 228.390, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 228.302 to 228.308, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 232.510 is hereby amended to read as follows:

232.510 1. The Department of Business and Industry is hereby created.

2. The Department consists of a Director and the following:

(a) ~~[~~Consumer Affairs Division.

~~(b)]~~ Division of Financial Institutions.

~~[(c)]~~ ***(b)*** Housing Division.

~~[(d)]~~ ***(c)*** Manufactured Housing Division.

~~[(e)]~~ ***(d)*** Real Estate Division.

~~[(f)]~~ ***(e)*** Division of Insurance.

~~[(g)]~~ ***(f)*** Division of Industrial Relations.

~~[(h)]~~ ***(g)*** Office of Labor Commissioner.

~~[(i)]~~ ***(h)*** Taxicab Authority.

~~[(j)]~~ ***(i)*** Nevada Athletic Commission.

~~[(k)]~~ ***(j)*** Office of the Nevada Attorney for Injured Workers.

~~[(l)]~~ ***(k)*** Nevada Transportation Authority.

~~[(m)]~~ ***(l)*** Division of Mortgage Lending.

~~[(n)]~~ ***(m)*** Any other office, commission, board, agency or entity created or placed within the Department pursuant to a specific statute, the budget approved by the Legislature or an executive order, or an entity whose budget or activities have been placed within the control of the Department by a specific statute.

Sec. 4. NRS 232.520 is hereby amended to read as follows:

232.520 The Director:

1. Shall appoint a chief or executive director, or both of them, of each of the divisions, offices, commissions, boards, agencies or other entities of the Department, unless the authority to appoint such a chief or executive director, or both of them, is expressly vested in another person, board or commission by a specific statute. In making the appointments, the Director may obtain lists of qualified persons from professional organizations, associations or other groups recognized by the Department, if any. The ~~[chief of the Consumer Affairs Division is the Commissioner of Consumer Affairs, the]~~ chief of the Division of Financial Institutions is the Commissioner of Financial Institutions, the chief of the Housing Division is the Administrator of the Housing Division, the chief of the Manufactured Housing Division is the Administrator of the Manufactured Housing Division, the chief of the Real Estate Division is the Real Estate Administrator, the chief of the Division of Insurance is the Commissioner of Insurance, the chief of the Division of Industrial Relations is the Administrator of the Division of Industrial Relations, the chief of the Office of Labor Commissioner is the Labor Commissioner, the chief of the Taxicab Authority is the Taxicab Administrator, the chief of the Nevada Transportation Authority is the Chairman of the Authority, the chief of the Division of Mortgage Lending is the Commissioner of Mortgage Lending and the chief of any other entity of the Department has the title specified by the Director, unless a different title is specified by a specific statute.

2. Is responsible for the administration of all provisions of law relating to the jurisdiction, duties and functions of all divisions and other entities within

the Department. The Director may, if he deems it necessary to carry out his administrative responsibilities, be considered as a member of the staff of any division or other entity of the Department for the purpose of budget administration or for carrying out any duty or exercising any power necessary to fulfill the responsibilities of the Director pursuant to this subsection. This subsection does not allow the Director to preempt any authority or jurisdiction granted by statute to any division or other entity within the Department or to act or take on a function that would contravene a rule of court or a statute.

3. May:

(a) Establish uniform policies for the Department, consistent with the policies and statutory responsibilities and duties of the divisions and other entities within the Department, relating to matters concerning budgeting, accounting, planning, program development, personnel, information services, dispute resolution, travel, workplace safety, the acceptance of gifts or donations, the management of records and any other subject for which a uniform departmental policy is necessary to ensure the efficient operation of the Department.

(b) Provide coordination among the divisions and other entities within the Department, in a manner which does not encroach upon their statutory powers and duties, as they adopt and enforce regulations, execute agreements, purchase goods, services or equipment, prepare legislative requests and lease or use office space.

(c) Define the responsibilities of any person designated to carry out the duties of the Director relating to financing, industrial development or business support services.

4. May, within the limits of the financial resources made available to him, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the Department. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Department.

5. For any bonds which he is otherwise authorized to issue, may issue bonds the interest on which is not exempt from federal income tax or excluded from gross revenue for the purposes of federal income tax.

6. May, except as otherwise provided by specific statute, adopt by regulation a schedule of fees and deposits to be charged in connection with the programs administered by him pursuant to chapters 348A and 349 of NRS. Except as otherwise provided by specific statute, the amount of any such fee or deposit must not exceed 2 percent of the principal amount of the financing.

7. May designate any person within the Department to perform any of the duties or responsibilities, or exercise any of the authority, of the Director on his behalf.

8. May negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Department.

9. May establish a trust account in the State Treasury for depositing and accounting for money that is held in escrow or is on deposit with the Department for the payment of any direct expenses incurred by the Director in connection with any bond programs administered by the Director. The interest and income earned on money in the trust account, less any amount deducted to pay for applicable charges, must be credited to the trust account. Any balance remaining in the account at the end of a fiscal year may be:

(a) Carried forward to the next fiscal year for use in covering the expense for which it was originally received; or

(b) Returned to any person entitled thereto in accordance with agreements or regulations of the Director relating to those bond programs.

Sec. 5. NRS 482.5434 is hereby amended to read as follows:

482.5434 "Body shop" has the meaning ascribed to it in ~~[NRS 487.600.]~~ ***section 8 of this act.***

Sec. 6. NRS 482.554 is hereby amended to read as follows:

482.554 1. The Department may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new

agreement for the sale of the same vehicle on different terms, or for the sale of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. ~~[Except as otherwise provided in this subsection, the]~~ ***The*** administrative remedy provided in this section is not exclusive and is ~~[intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act.]~~ ***in addition to any other remedy provided by law.*** The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 7. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 26, inclusive, of this act.

Sec. 8. ***"Body shop" means any place where the body of a motor vehicle is painted, fixed, repaired or replaced for compensation.***

Sec. 9. ***"Person authorizing repairs" means a person who uses the services of a garage. The term includes an insurance company, its agents or its representatives authorizing repairs to motor vehicles under a policy of insurance.***

Sec. 10. ***1. Each garageman shall display conspicuously in those areas of his place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:***

STATE OF NEVADA

REGISTERED GARAGE

THIS GARAGE IS REGISTERED WITH THE DEPARTMENT OF MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is REGISTERED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed $50. (cite to section 12 of this act)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 17 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 17 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or $100, whichever is less. (cite to section 13 of this act)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (cite to section 23 of this act)

FOR MORE INFORMATION PLEASE CONTACT:

THE DEPARTMENT OF MOTOR VEHICLES

2. Each body shop shall display conspicuously in those areas of its place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:

STATE OF NEVADA

LICENSED BODY SHOP

THIS BODY SHOP IS LICENSED BY THE DEPARTMENT OF MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is LICENSED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed $50. (cite to section 12 of this act)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 17 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 17 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or $100, whichever is less. (cite to section 13 of this act)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (cite to section 23 of this act)

FOR MORE INFORMATION PLEASE CONTACT:

THE DEPARTMENT OF MOTOR VEHICLES

3. The sign required pursuant to the provisions of subsection 1 or 2 must include a replica of the Great Seal of the State of Nevada. The Seal must be 2 inches in diameter and be centered on the face of the sign directly above the words "STATE OF NEVADA."

4. Any person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 11. ***Whenever any body shop or garageman accepts or assumes control of a motor vehicle for the purpose of making or completing any repair, the body shop or garageman shall comply with the provisions of sections 12 to 24, inclusive, of this act.***

Sec. 12. ***1. Except as otherwise provided in section 14 of this act, a person requesting or authorizing the repair of a motor vehicle that is more than $50 must be furnished a written estimate or statement signed by the person making the estimate or statement on behalf of the body shop or garageman indicating the total charge for the performance of the work necessary to accomplish the repair, including the charge for labor and all parts and accessories necessary to perform the work.***

2. If the estimate is for the purpose of diagnosing a malfunction, the estimate must include the cost of:

(a) Diagnosis and disassembly; and

(b) Reassembly, if the person does not authorize the repair.

3. The provisions of this section do not require a body shop or garageman to reassemble a motor vehicle if the body shop or garageman determines that the reassembly of the motor vehicle would render the vehicle unsafe to operate.

Sec. 13. ***Except as otherwise provided in section 14 of this act, if it is determined that additional charges are required to perform the repair authorized, and those additional charges exceed, by 20 percent or $100, whichever is less, the amount set forth in the estimate or statement required to be furnished pursuant to the provisions of section 12 of this act, the body***

shop or garageman shall notify the owner and insurer of the motor vehicle of the amount of those additional charges.

Sec. 14. ***The person authorizing the repairs may waive the estimate or statement required pursuant to the provisions of section 12 of this act or the notification required by section 13 of this act by executing a written waiver of that requirement or notification. The waiver must be executed by the person authorizing the repairs at the time he authorizes those repairs.***

Sec. 15. ***If a body shop or garage performs repairs on a motor vehicle, the body shop or garage shall perform the repairs in accordance with any specifications of the manufacturer of the motor vehicle and the written estimate or statement of the cost of the repairs that is most recently agreed upon by the body shop or garage and the person authorizing the repairs.***

Sec. 16. ***1. An owner and the insurer of a motor vehicle who have been notified of additional charges pursuant to section 13 of this act shall:***

(a) Authorize the performance of the repair at the additional expense; or

(b) Without delay, and upon payment of the authorized charges, take possession of the motor vehicle.

2. Until the election provided for in subsection 1 has been made, the body shop or garageman shall not undertake any repair which would involve such additional charges.

3. If the owner or insurer of the motor vehicle elects to take possession of the motor vehicle but fails to take possession within 24 hours after the election, the body shop or garageman may charge for storage of the vehicle.

Sec. 17. ***1. Whenever the repair work performed on a motor vehicle requires the replacement of any parts or accessories, the body shop or garageman shall, at the request of the person authorizing the repairs or any person entitled to possession of the motor vehicle, deliver to the person all parts and accessories replaced as a result of the work done.***

2. The provisions of subsection 1 do not apply to parts or accessories which must be returned to a manufacturer or distributor under a warranty arrangement or which are subject to exchange, but the customer, on request, is entitled to be shown the warranty parts for which a charge is made.

Sec. 18. ***The body shop or garageman shall retain copies of any estimate, statement or waiver required by sections 12 to 24, inclusive, of this act as an ordinary business record of the body shop or garage, for a period of not less than 1 year after the date the estimate, statement or waiver is signed.***

Sec. 19. ***In every instance where charges are made for the repair of a motor vehicle by a garageman, the garageman making the repairs shall comply with the provisions of sections 12 to 24, inclusive, of this act. A garageman is not entitled to detain a motor vehicle by virtue of any common law or statutory lien, or otherwise enforce such a lien, or to sue***

on any contract for repairs made by him unless he has complied with the requirements of sections 12 to 24, inclusive, of this act.

Sec. 20. ***A person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:***

1. Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the repair of a motor vehicle; or

2. Engages in any other acts prescribed by the Director by regulation as a deceptive trade practice.

Sec. 21. ***1. The Director may request an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 10 to 26, inclusive, of this act.***

2. The Bureau of Consumer Protection in the Office of the Attorney General may conduct an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 10 to 26, inclusive, of this act on its own motion or upon a request received pursuant to subsection 1. Nothing in this subsection requires the Bureau to conduct an undercover investigation.

Sec. 22. ***1. In addition to any other remedy or penalty, the Director may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice as set forth in section 20 of this act. The Director shall provide to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.***

2. All administrative fines collected by the Director pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

3. The administrative remedy provided in this section is not exclusive and is in addition to any other remedy provided by law. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 23. ***1. If charges are made for the repair of a motor vehicle, the garageman or body shop making the charges shall present to the person authorizing repairs or the person entitled to possession of the motor vehicle a statement of the charges setting forth the following information:***

(a) The name and signature of the person authorizing repairs;

(b) A statement of the total charges;

(c) An itemization and description of all parts used to repair the motor vehicle indicating the charges made for labor; and

(d) A description of all other charges.

2. Any person violating this section is guilty of a misdemeanor.

3. In the case of a motor vehicle registered in this State, no lien for labor or materials provided under NRS 108.265 to 108.367, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered and the legal owner of the motor vehicle. In all other cases, the notice must be made to the last known

address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.

Sec. 24. ***1. On or before December 31 of each year, the Director shall prepare a report concerning garages, garagemen and body shops. The report must include:***

(a) The number of complaints relating to garages, garagemen and body shops made to and acted upon by the Department during the year for which the report is prepared;

(b) The number of investigations conducted during that year by the Department relating to garages, garagemen and body shops; and

(c) The outcome of each investigation specified in paragraph (b) and the extent to which any information relating to each investigation is subject to disclosure to the members of the public.

2. On or before December 31 of each odd-numbered year, the Director shall submit the report required pursuant to subsection 1 to the Legislative Commission. On or before December 31 of each even-numbered year, the Director of the Department shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(a) The Senate Standing Committee on Transportation; and

(b) The Assembly Standing Committee on Transportation.

Sec. 25. ***The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada on the complaint of the Director, or of any person allegedly aggrieved by a violation of the provisions of sections 12 to 24, inclusive, of this act, to enjoin any violation of the provisions of sections 12 to 24, inclusive, of this act.***

Sec. 26. ***Any person who knowingly violates any provision of sections 11 to 24, inclusive, of this act is liable, in addition to any other penalty or remedy which may be provided by law, to a civil penalty of not more than $500 for each offense, which may be recovered by civil action on complaint of the Director or the district attorney.***

Sec. 27. NRS 487.002 is hereby amended to read as follows:

487.002 1. The Advisory Board on Automotive Affairs, consisting of seven members appointed by the Governor, is hereby created within the Department.

2. The Governor shall appoint to the Board:

(a) One representative of the Department;

(b) One representative of licensed operators of body shops;

(c) One representative of licensed automobile wreckers;

(d) One representative of registered garagemen;

(e) One representative of licensed operators of salvage pools; and

(f) Two representatives of the general public.

3. After the initial terms, each member of the Board serves a term of 4 years. The members of the Board shall annually elect from among their

number a Chairman and a Vice Chairman. The Department shall provide secretarial services for the Board.

4. The Board shall meet regularly at least twice each year and may meet at other times upon the call of the Chairman. Each member of the Board is entitled to the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Board shall:

(a) Study the regulation of garagemen, automobile wreckers and operators of body shops and salvage pools, including, without limitation, the registration or licensure of such persons and the methods of disciplinary action against such persons;

(b) Analyze and advise the Department relating to any consumer complaints **[**~~provided to the Department by the Consumer Affairs Division of the Department of Business and Industry pursuant to NRS 598.985 or otherwise~~**]** received by the Department concerning garagemen, automobile wreckers or operators of body shops or salvage pools;

(c) Make recommendations to the Department for any necessary regulations or proposed legislation pertaining to paragraph (a) or (b);

(d) On or before January 15 of each odd-numbered year, prepare and submit a report concerning its activities and recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the Legislature; and

(e) Perform any other duty assigned by the Department.

Sec. 28. NRS 487.530 is hereby amended to read as follows:

487.530 As used in NRS 487.530 to **[**~~487.570,~~**]** ***487.690,*** inclusive, ***and sections 8 to 26, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS **[**~~487.535~~**]** ***487.540*** to 487.550, inclusive, ***and sections 8 and 9 of this act*** have the meanings ascribed to them in those sections.

Sec. 29. NRS 487.555 is hereby amended to read as follows:

487.555 The provisions of NRS 487.530 to **[**~~487.570,~~**]** ***487.690,*** inclusive, ***and sections 8 to 26, inclusive, of this act*** do not apply to a service station that is exclusively engaged in the business of selling motor vehicle fuel, lubricants or goods unrelated to the repair of motor vehicles.

Sec. 30. NRS 487.563 is hereby amended to read as follows:

487.563 1. Each person who submits an application for registration pursuant to the provisions of NRS 487.560 shall file with the Department a bond in the amount of $5,000, with a corporate surety for the bond that is licensed to do business in this State. The form of the bond must be approved by the Attorney General and be conditioned upon whether the applicant conducts his business as an owner or operator of a garage without fraud or fraudulent representation and in compliance with the provisions of ***sections 10 to 26, inclusive, of this act and*** NRS 487.530 to **[**~~487.570,~~**]** ***487.567,*** inclusive **.** **[**~~, and 597.480 to 597.590, inclusive.~~**]**

2. The bond must be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the garageman may:

(a) Apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make payment.

(b) Present to the Director an order of a court requiring the Director to pay to the person an amount of compensation from the bond. The Director shall inform the surety, and the surety shall then make payment.

4. In lieu of a bond required to be filed pursuant to the provisions of subsection 1, a person may deposit with the Department, pursuant to the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank or savings and loan association located in this State, which must indicate an account of an amount equal to the amount of the bond that would otherwise be required pursuant to this section and that the amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the garageman or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting that the Director release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. If a person fails to comply with an order of a court that relates to the repair of a motor vehicle, or fails to pay or otherwise discharge any final judgment rendered and entered against him or any court order issued and arising out of the repair of a motor vehicle in the operation of a garage, the Department shall revoke or refuse to renew the certificate of registration of the person who failed to comply with the order or satisfy the judgment.

7. The Department may reinstate or renew a certificate of registration that is revoked pursuant to the provisions of subsection 6 if the person whose certificate of registration is revoked complies with the order of the court.

8. A garageman whose registration has been revoked pursuant to the provisions of subsection 6 shall furnish to the Department a bond in the amount specified in subsection 1 before the reinstatement of his registration.

Sec. 31. NRS 487.564 is hereby amended to read as follows:

487.564 1. The Department may refuse to issue a registration or may suspend, revoke or refuse to renew a registration to operate a garage upon any of the following grounds:

(a) A false statement of a material fact in a certification for a salvage vehicle required pursuant to NRS 487.800.

(b) A false statement or certification for an inspection pursuant to NRS 487.800 which attests to the mechanical fitness or safety of a salvage vehicle.

(c) The Director determines that the garage or garageman has engaged in a deceptive trade practice or violated the provisions of ~~[~~NRS 597.480 to 597.590, inclusive.~~]~~ ***sections 10 to 26, inclusive, of this act.***

(d) Evidence of unfitness of the applicant or registrant pursuant to NRS 487.165.

(e) A violation of any regulation adopted by the Department governing the operation of a garage.

(f) A violation of any statute or regulation that constitutes fraud in conjunction with the repair of a motor vehicle or operation of a garage.

2. A person for whom a certificate of registration has been suspended or revoked pursuant to the provisions of this section, subsection 6 of NRS 487.563 or similar provisions of the laws of any other state or territory of the United States shall not be employed by, or in any manner affiliated with, the operation of a garage subject to registration in this State.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 32. NRS 487.600 is hereby amended to read as follows:

487.600 As used in NRS 487.600 to ~~[~~487.690,~~]~~ ***487.687,*** inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[~~487.602~~]~~ ***487.604*** to 487.608, inclusive, have the meanings ascribed to them in those sections.

Sec. 33. NRS 487.640 is hereby amended to read as follows:

487.640 1. No license may be issued to an operator of a body shop until he procures and files with the Department a good and sufficient bond in the amount of $10,000, with a corporate surety thereon licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct his business as an operator of a body shop without fraud or fraudulent representation, and in compliance with the provisions of ***sections 10 to 26, inclusive, of this act and*** NRS 487.600 to ~~[~~487.690,~~]~~ ***487.687,*** inclusive ***.*** ~~[~~, and 597.480 to 597.590, inclusive.~~]~~ The Department may, by agreement with any operator of a body shop who has been licensed by the Department for 5 years or more, allow a reduction in the amount of the bond of the operator, if the business of

the operator has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than $1,000.

2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the operator of the body shop in violation of any of the provisions of ***sections 10 to 26, inclusive, of this act and*** NRS 487.600 to ~~[487.690,]~~ ***487.687,*** inclusive, ~~[and 597.480 to 597.590, inclusive,]~~ may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. In lieu of a bond an operator of a body shop may deposit with the Department, under the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. When a deposit is made pursuant to subsection 4, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which he is liable under the deposit.

7. A deposit made pursuant to subsection 4 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

8. Any money received by the Department pursuant to subsection 4 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 34. NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and ***sections 10 to 26, inclusive, of this act or*** NRS 487.600 to ~~[~~487.690,~~]~~ ***487.687,*** inclusive ***.*** ~~[, or 597.480 to 597.590, inclusive.]~~

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of guilty or guilty but mentally ill by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(j) The display of evidence of unfitness for a license pursuant to NRS 487.165.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information

obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.600 to ~~[487.690,]~~ ***487.687,*** inclusive, or to determine the suitability of an applicant or a licensee for licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 35. NRS 487.690 is hereby amended to read as follows:

487.690 Any person who violates any of the provisions of ***sections 10 to 26, inclusive, of this act or*** NRS ~~[487.600]~~ ***487.530*** to 487.680, inclusive, is guilty of a misdemeanor.

Sec. 35.1. **Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 35.2 to 35.95, inclusive, of this act.**

Sec. 35.2. ***1. Each organization for buying goods or services at a discount regulated by the provisions of this section, NRS 598.840 to 598.930, inclusive, and sections 35.3, 35.4 and 35.5 of this act shall apply for registration on the form prescribed by the Division.***

2. At the time of application for registration, the applicant must pay to the Division an administrative fee of $25 and deposit the required security with the Division.

3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:

(a) Is not transferable or assignable; and

(b) Expires 1 year after it is issued.

4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.

Sec. 35.3. ***1. Each registrant shall deposit with the Division:***

(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;

(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or

(c) A certificate of deposit in a financial institution which is doing business in this State and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the registrant.

2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.

3. If the registrant deposits a bond, the registrant shall keep accurate records of the bond and the payments made on the premium. The records must be open to inspection by the Division during business hours. The

registrant shall notify the Division not later than 30 days before the date of expiration of the bond and provide written proof of the renewal of the bond to the Division.

4. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.

5. A registrant may change the form of security which he has deposited with the Division. If the registrant changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the registrant as security for claims arising during the time the previous security was in effect.

6. If the amount of the deposited security falls below the amount required by this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act for that security, the registrant shall be deemed not to be registered as required by section 35.2 of this act for the purposes of this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.

Sec. 35.4. 1. The security required to be deposited by a registrant pursuant to section 35.3 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.

2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.

3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.

4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.

5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.

Sec. 35.5. 1. If no claims have been filed against the security deposited with the Division pursuant to section 35.3 of this act within 6

months after the registrant ceases to operate or his registration expires, whichever occurs later, the Commissioner shall release the security to the registrant and shall not audit any claims filed against the security thereafter by consumers.

2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.

3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.

Sec. 35.6. "Registrant" means a dance studio or a health club which is required to register and post security with the Division pursuant to the provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.7 to 35.95, inclusive, of this act.

Sec. 35.7. 1. Each dance studio and health club regulated by the provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.8, 35.9 and 35.95 of this act shall apply for registration on the form prescribed by the Division.

2. At the time of application for registration, the applicant must pay to the Division an administrative fee of $25 and deposit the required security with the Division.

3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:

(a) Is not transferable or assignable; and

(b) Expires 1 year after it is issued.

4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.

Sec. 35.8. 1. Each registrant shall deposit with the Division:

(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;

(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or

(c) A certificate of deposit in a financial institution which is doing business in this State and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the registrant.

2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.

3. If the registrant deposits a bond, the registrant shall keep accurate records of the bond and the payments made on the premium. The records

must be open to inspection by the Division during business hours. The registrant shall notify the Division not later than 30 days before the date of expiration of the bond and provide written proof of the renewal of the bond to the Division.

4. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.

5. A registrant may change the form of security which he has deposited with the Division. If the registrant changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the registrant as security for claims arising during the time the previous security was in effect.

6. If the amount of the deposited security falls below the amount required by this chapter for that security, the registrant shall be deemed not to be registered as required by section 35.7 of this act for the purposes of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.

Sec. 35.9. 1. The security required to be deposited by a registrant pursuant to section 35.8 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.

2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.

3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.

4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.

5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.

Sec. 35.95. 1. If no claims have been filed against the security deposited with the Division pursuant to section 35.8 of this act within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the Commissioner shall release the security to the registrant and shall not audit any claims filed against the security thereafter by consumers.

2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.

3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.

Sec. 36. NRS 598.0925 is hereby amended to read as follows:

598.0925 1. Except as otherwise provided in this section, a person engages in a "deceptive trade practice" when, in the course of his business or occupation, he:

(a) Makes an assertion of scientific, clinical or quantifiable fact in an advertisement which would cause a reasonable person to believe that the assertion is true, unless, at the time the assertion is made, the person making it has possession of factually objective scientific, clinical or quantifiable evidence which substantiates the assertion; or

(b) Fails upon request of the ~~[Commissioner or]~~ Attorney General to produce within 6 working days the substantiating evidence in his possession at the time the assertion of scientific, clinical or quantifiable fact was made.

2. This section does not apply to general assertions of opinion as to quality, value or condition made without the intent to mislead another person.

Sec. 37. NRS 598.096 is hereby amended to read as follows:

598.096 When the ~~[Commissioner, Director or]~~ Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice, he may:

1. Request the person to file a statement or report in writing under oath or otherwise, on such forms as may be prescribed by the ~~[Commissioner, Director or]~~ Attorney General, as to all facts and circumstances concerning the sale or advertisement of property by the person, and such other data and information as the ~~[Commissioner, Director or]~~ Attorney General may deem necessary.

2. Examine under oath any person in connection with the sale or advertisement of any property.

3. Examine any property or sample thereof, record, book, document, account or paper as he may deem necessary.

4. Make true copies, at the expense of the ~~[Consumer Affairs Division of the Department of Business and Industry,]~~ ***Attorney General,*** of any record, book, document, account or paper examined pursuant to subsection 3, which

copies may be offered into evidence in lieu of the originals thereof in actions brought pursuant to NRS 598.097 **.** ~~[and 598.0979.]~~

5. Pursuant to an order of any district court, impound any sample of property which is material to the deceptive trade practice and retain the property in his possession until completion of all proceedings as provided in NRS 598.0903 to 598.0999, inclusive. An order may not be issued pursuant to this subsection unless:

(a) The ~~[Commissioner, Director or]~~ Attorney General ~~[,]~~ and the court give the accused full opportunity to be heard; and

(b) The ~~[Commissioner, Director or]~~ Attorney General proves by clear and convincing evidence that the business activities of the accused will not be impaired thereby.

Sec. 38. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. ~~[Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.~~

~~2.]~~ The Attorney General may institute criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive. The Attorney General is not required to obtain leave of the court before instituting criminal proceedings pursuant to this subsection.

~~[3.]~~ ***2.*** If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

~~[4.]~~ ***3.*** If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 39. NRS 598.097 is hereby amended to read as follows:

598.097 If any person fails to cooperate with any investigation, as provided in NRS 598.096, or if any person fails to obey a subpoena issued by the ~~[Commissioner, Director or]~~ Attorney General pursuant to NRS 598.0963 ~~[or 598.0967, the Commissioner, Director or]~~ ***, the*** Attorney General may apply to any district court for equitable relief. The application must state reasonable grounds showing that the relief is necessary to terminate or prevent a deceptive trade practice. If the court is satisfied of the reasonable grounds, the court may:

1. Grant injunctive relief restraining the sale or advertisement of any property by the person.

2. Require the attendance of or the production of documents by the person, or both.

3. Grant other relief necessary to compel compliance by the person.

Sec. 40. ~~[NRS 598.0971 is hereby amended to read as follows:~~

~~598.0971 1. If, after an investigation, the~~ [Commissioner] ~~*Attorney General* has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, the~~ [Commissioner] ~~*Attorney General* may issue an order directed to the person to show cause why the~~ [Commissioner] ~~*Attorney General* should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.~~

~~2. If, after conducting a hearing pursuant to the provisions of subsection 1, the~~ [Commissioner] ~~*Attorney General* determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the~~ [Commissioner] ~~*Attorney General* may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the~~ [Commissioner] ~~*Attorney General* determines in the report that such a violation has occurred, he may order the violator to:~~

~~(a) Cease and desist from engaging in the practice or other activity constituting the violation;~~

~~(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the~~ [Commissioner] ~~*Attorney General* free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive; and~~

~~(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.~~

~~→ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.~~

~~3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.~~

~~4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, [the Commissioner may, through] the Attorney General [,] *may,* at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.~~

~~5. If the court finds that:~~

~~(a) The violation complained of is a deceptive trade practice;~~

~~(b) The proceedings by the [Commissioner] *Attorney General* concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and~~

~~(c) The findings of the [Commissioner] *Attorney General* are supported by the weight of the evidence,~~

~~↵ the court shall issue an order enforcing the provisions of the order of the [Commissioner.] *Attorney General.*~~

~~6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:~~

~~(a) A provision requiring the payment to the [Commissioner] *Attorney General* of a penalty of not more than $5,000 for each act amounting to a failure to comply with the [Commissioner's] order [;] *of the Attorney General;* or~~

~~(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.~~

~~7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.~~

~~8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the [Commissioner,] *Attorney General,* after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.]~~ **(Deleted by amendment.)**

Sec. 41. NRS 598.0974 is hereby amended to read as follows:

598.0974 A civil penalty must not be imposed against any person who engages in a deceptive trade practice pursuant to NRS 598.0903 to 598.0999, inclusive, in a civil proceeding brought by the ~~[Commissioner, Director or]~~ Attorney General if a fine has previously been imposed against that person by the Department of Motor Vehicles pursuant to NRS 482.554 ~~[,]~~ for the same act.

Sec. 42. NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 3 and in subsection 1 of NRS 598.0999, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive:

(a) In an action brought by the Attorney General, ~~[Commissioner or Director,]~~ must be deposited in the State General Fund and may only be used to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive.

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly persons or persons with disabilities; and

(b) Programs for the education of consumers which are directed toward elderly persons or persons with disabilities, law enforcement officers, members of the judicial system, persons who provide social services and the general public.

3. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive; or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the **[**~~Consumer Affairs Division of the Department of Business and Industry or the~~**]** Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 43. **[**~~NRS 598.0979 is hereby amended to read as follows:~~

~~598.0979 1. Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, when the~~ **[**~~Commissioner or Director~~**]** ***Attorney General*** ~~has cause to believe that a person has engaged or is engaging in any deceptive trade practice, knowingly or otherwise, he may~~ **[**~~request in writing that the Attorney General represent him in instituting~~**]** ***institute*** ~~an appropriate legal proceeding, including, without limitation, an application for an injunction or temporary restraining order prohibiting the person from continuing the practices. The court may make orders or judgments necessary to prevent the use by the person of any such deceptive trade practice or to restore to any other person any money or property which may have been acquired by the deceptive trade practice.~~

~~2. Where the~~ **[**~~Commissioner or Director~~**]** ~~*Attorney General* has the authority to institute a civil action or other proceeding, in lieu thereof or as a part thereof, he may accept an assurance of discontinuance of any deceptive trade practice. This assurance may include a stipulation for the payment by the alleged violator of:~~

~~(a) The costs of investigation and the costs of instituting the action or proceeding;~~

~~(b) Any amount of money which he may be required to pay pursuant to the provisions of NRS 598.0971 in lieu of any administrative fine; and~~

~~(c) The restitution of any money or property acquired by any deceptive trade practice.~~

~~3. Except as otherwise provided in this subsection and NRS 239.0115, any assurance of discontinuance accepted by the~~ **[**~~Commissioner or Director~~**]**

~~***Attorney General*** and any stipulation filed with the court is confidential to the parties to the action or proceeding and to the court and its employees. Upon final judgment by the court that an injunction or a temporary restraining order, issued as provided in subsection 1, has been violated, an assurance of discontinuance has been violated or a person has engaged in the same deceptive trade practice as had previously been enjoined, the assurance of discontinuance or stipulation becomes a public record. Proof by a preponderance of the evidence of a violation of an assurance constitutes prima facie evidence of a deceptive trade practice for the purpose of any civil action or proceeding brought thereafter by the **[**Commissioner or Director,**]** ***Attorney General,*** whether a new action or a subsequent motion or petition in any pending action or proceeding.**]**~~ **(Deleted by amendment.)**

Sec. 44. ~~**[**NRS 598.098 is hereby amended to read as follows:~~

~~598.098 1. **[**NRS 598.0903 to 598.0999, inclusive, do not prohibit the Commissioner or Director from disclosing to the Attorney General, any district attorney or any law enforcement officer the fact that a crime has been committed by any person, if this fact has become known as a result of any investigation conducted pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive.~~

~~2.**]** Subject to the provisions of subsection 2 of NRS 598.0979 and except as otherwise provided in this section, the **[**Commissioner or Director**]** ***Attorney General*** may not make public the name of any person alleged to have committed a deceptive trade practice. This subsection does not:~~

~~(a) Prevent the **[**Commissioner or Director**]** ***Attorney General*** from issuing public statements describing or warning of any course of conduct which constitutes a deceptive trade practice.~~

~~(b) Apply to a person who is subject to an order issued pursuant to subsection 5 of NRS 598.0971.~~

~~**[**3.**]** ***2.*** Upon request, the **[**Commissioner**]** ***Attorney General*** may:~~

~~(a) Disclose the number of written complaints received by the **[**Commissioner**]** ***Attorney General*** during the current and immediately preceding 3 fiscal years. A disclosure made pursuant to this paragraph must include the disposition of the complaint disclosed.~~

~~(b) Make public any order to cease and desist issued pursuant to subsection 5 of NRS 598.0971.~~

~~➥ This subsection does not authorize the **[**Commissioner**]** ***Attorney General*** to disclose or make public the contents of any complaint described in paragraph (a) or the record of or any other information concerning a hearing conducted in relation to the issuance of an order to cease and desist described in paragraph (b).~~

~~**[**4. The Commissioner may adopt regulations authorizing the disclosure of information concerning any complaint or number of complaints received by the Commissioner or Director relating to a person who has been convicted of violating a provision of NRS 598.0903 to 598.0999, inclusive.**]**~~ **(Deleted by amendment.)**

Sec. 45. NRS 598.0983 is hereby amended to read as follows:

598.0983 1. Before instituting any action pursuant to NRS 598.0985 to 598.0997, inclusive, the district attorney shall ascertain whether or not the action in question is subject to the regulatory authority of any state agency, board, official or other authority established by virtue of the Nevada Revised Statutes except the regulatory or administrative authority provided to the ~~[Commissioner, Director or]~~ Attorney General by NRS 598.0903 to 598.0999, inclusive.

2. If the action is subject to such regulatory authority or any regulation adopted or any statutes administered by any state regulatory agency, board, official or other authority as provided in subsection 1, the district attorney shall not institute any proceeding under NRS 598.0985 to 598.0997, inclusive, until the state agency, board, official or other state regulatory authority has had reasonable time to investigate or take any appropriate action with respect to the alleged facts.

3. For the purposes of this section, a reasonable time has elapsed if no final action or other disposition is made of any matter otherwise falling within the provisions of NRS 598.0903 to 598.0999, inclusive, within 30 days after the matter is referred to or brought to the attention of any state agency, board, official or other regulatory authority except the ~~[Commissioner, Director or]~~ Attorney General.

4. This section does not prohibit the district attorney of any county from filing an action pursuant to the provisions of NRS 598.0985 to 598.099, inclusive, if the referral of any matters subject to the provisions of NRS 598.0903 to 598.0999, inclusive, to any state agency, board, official or other regulatory authority would cause immediate harm to the public of this state or endanger the public health, safety or welfare, and such facts are shown by affidavit or by verified complaint.

Sec. 46. NRS 598.0985 is hereby amended to read as follows:

598.0985 Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, and notwithstanding the enforcement powers granted to the ~~[Commissioner or Director]~~ ***Attorney General*** pursuant to NRS 598.0903 to 598.0999, inclusive, whenever the district attorney of any county has reason to believe that any person is using, has used or is about to use any deceptive trade practice, knowingly or otherwise, he may bring an action in the name of the State of Nevada against that person to obtain a temporary or permanent injunction against the deceptive trade practice.

Sec. 47. NRS 598.099 is hereby amended to read as follows:

598.099 Whenever the district attorney or the Attorney General has reason to believe that the delay caused by complying with the notice requirement of NRS 598.0987 or the requirements of subsection ~~[3]~~ ***2*** of NRS 598.0963 would cause immediate harm to the public of this state or endanger the public welfare, he may immediately institute an action for injunctive relief, including a request for a temporary restraining order, upon proof of specific facts shown by affidavit or by verified complaint or

otherwise that such immediate harm will be or is likely to be caused by the delay. ~~[The Attorney General shall give written notice of the filing by him of such an action to the Commissioner or Director.]~~ The Nevada Rules of Civil Procedure pertaining to the issuance of temporary restraining orders govern all actions instituted pursuant to this section.

Sec. 47.5. **NRS 598.0993 is hereby amended to read as follows:**

598.0993 The court in which an action is brought pursuant to NRS ~~[598.0979 and]~~ 598.0985 to 598.099, inclusive, may make such additional orders or judgments as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any deceptive trade practice which violates any of the provisions of NRS 598.0903 to 598.0999, inclusive, but such additional orders or judgments may be entered only after a final determination has been made that a deceptive trade practice has occurred.

Sec. 48. NRS 598.0995 is hereby amended to read as follows:

598.0995 1. In proceeding pursuant to subsection ~~[3]~~ ***2*** of NRS 598.0963 or NRS 598.0987 to 598.0995, inclusive, the district attorney or Attorney General may accept an assurance of discontinuance with respect to any method, act or practice deemed to be a deceptive trade practice from any person who is engaged or is about to engage in the method, act or practice**.** ~~[by following the procedures set forth in subsection 2 of NRS 598.0979.]~~

2. Any assurance made pursuant to subsection 1 must be in writing and must be filed with and subject to the approval of the district court in the county in which the alleged violator resides or has his principal place of business, or the district court in any county where any deceptive trade practice has occurred or is about to occur or the district court agreed to by the parties.

3. An assurance of discontinuance made pursuant to subsections 1 and 2 is not an admission of violation for any purpose**.** ~~[, but is subject to the terms, limitations and conditions of NRS 598.0979.]~~

Sec. 49. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, upon a complaint brought by ~~[the Commissioner, the Director,]~~ the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive.

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, if the court finds that a person has willfully engaged in a deceptive trade practice,

~~[the Commissioner, the Director,]~~ the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, 598.100 to 598.2801, inclusive, ~~[598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive,]~~ ***598.475,*** 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, ~~[the Commissioner or]~~ the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 50. NRS 598.135 is hereby amended to read as follows:

598.135 The provisions of NRS 598.136, 598.137 and 598.138 do not apply to:

1. A contest of skill that does not involve the sale or lease of any goods, property or service.

2. ~~[A person who is licensed as a seller or a salesman pursuant to chapter 599B of NRS, and is engaging in an activity within the scope of that license.~~

~~3.]~~ A sale or purchase, or solicitation or representation made in connection with the sale or purchase, of goods from a catalog or of books, recordings, videocassettes, periodicals or other similar goods offered by a seller or membership group which is regulated by the Federal Trade Commission if the seller or membership group sends goods, pursuant to an agreement, to a customer or member for his inspection and, if unsatisfied after inspecting the goods, the customer or member is entitled to receive a full refund of the purchase price of the goods if the goods are returned undamaged to the seller or membership group.

~~[4.]~~ ***3.*** A solicitation, advertisement or promotion, or offer to extend credit, made by a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or of the Federal Government.

~~[5.]~~ ***4.*** A person licensed pursuant to chapter 463 of NRS and his employees.

Sec. 51. NRS 598.475 is hereby amended to read as follows:

598.475 1. In each advertisement for a sightseeing tour, a tour broker and a tour operator shall disclose in a clear and conspicuous manner the total price a customer is required to pay to take the sightseeing tour. Unless the inclusion of a fee or tax in the total price would violate a specific statute of this state or a federal statute or regulation, the total price must include, without limitation, all fees, taxes and other charges that a customer for a sightseeing tour is required to pay to take the sightseeing tour. If a fee or tax cannot be included in the total price because its inclusion would violate a specific statute of this state or a federal statute or regulation, the tour broker or tour operator, as applicable, shall disclose in a clear and conspicuous manner that the fee or tax is not included in the total price and must be paid in addition to the total price.

2. A tour broker and a tour operator shall not charge a customer for a sightseeing tour an amount that exceeds the sum of:

(a) The total price for the sightseeing tour which is disclosed in an advertisement for the sightseeing tour; and

(b) Any fee or tax that is not included in the total price for the sightseeing tour because its inclusion would violate a specific statute of this state or a federal statute or regulation.

3. On a billing invoice or receipt given to a customer for a sightseeing tour, a tour broker and a tour operator shall provide a clear and conspicuous notice which ~~[:~~

~~(a) Sets~~ ~~]~~ ***sets*** forth the provisions of subsection 2 ***.*** ~~[;~~

~~(b) States that complaints concerning the charges for a sightseeing tour may be directed to the~~ ~~]~~ ~~[~~Division;~~]~~ ~~*[Attorney General;*~~ ~~and~~

~~(c) Provides a telephone number for the~~ ~~]~~ ~~[~~Division.~~]~~ ~~*[Attorney General.]*~~

4. If a tour operator issues or causes to be issued a coupon or other indicia of discount or special promotion, the tour operator shall honor the coupon or other indicia in good faith unless:

(a) The coupon or other indicia sets forth a date of expiration that is clearly legible; and

(b) The date of expiration has passed.

5. The failure of a tour broker or tour operator to comply with a provision of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

6. As used in this section:

(a) "Advertise" or "advertisement" means the attempt by publication, dissemination, solicitation or circulation to induce, directly or indirectly, any person to take a sightseeing tour.

(b) "Sightseeing tour" means an excursion that:

(1) Has a duration of 24 hours or less;

(2) Travels to one or more points of interest; and

(3) Is conducted using one or more means of motorized conveyance, including, without limitation, an airplane, bus, helicopter, tour boat or touring raft.

(c) "Tour broker" means a person who, in this State, advertises a sightseeing tour for a tour operator and collects money from customers for a sightseeing tour.

(d) "Tour operator" means a person who, in this State, engages in the business of providing a sightseeing tour to customers.

Sec. 52. NRS 598.706 is hereby amended to read as follows:

598.706 "Commissioner" means the Commissioner of ~~[~~the Consumer Affairs Division~~]~~ ***Mortgage Lending*** of the Department of Business and Industry.

Sec. 53. NRS 598.711 is hereby amended to read as follows:

598.711 "Division" means the ~~[~~Consumer Affairs~~]~~ Division of ***Mortgage Lending of*** the Department of Business and Industry.

Sec. 54. NRS 598.716 is hereby amended to read as follows:

598.716 "Registrant" means a credit service organization ~~[~~, an organization for buying goods or services at a discount, a dance studio or a

~~health club]~~ which is required to register and post security with the Division pursuant to the provisions of this chapter.

Sec. 55. NRS 598.721 is hereby amended to read as follows:

598.721 1. Each credit service organization ~~[, organization for buying goods or services at a discount, dance studio and health club]~~ regulated by the provisions of this chapter shall apply for registration on the form prescribed by the Division.

2. At the time of application for registration, the applicant must pay to the Division an administrative fee of $25 and deposit the required security with the Division.

3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:

(a) Is not transferable or assignable; and

(b) Expires 1 year after it is issued.

4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.

Sec. 56. NRS 598.741 is hereby amended to read as follows:

598.741 As used in NRS 598.741 to 598.787, inclusive, unless the context otherwise requires:

1. "Buyer" means a natural person who is solicited to purchase or who purchases the services of an organization which provides credit services.

2. "Commissioner" means the Commissioner of ~~[Consumer Affairs.]~~ ***Mortgage Lending.***

3. "Division" means the ~~[Consumer Affairs]~~ Division of ***Mortgage Lending of*** the Department of Business and Industry.

4. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family or household purposes.

5. "Organization":

(a) Means a person who, with respect to the extension of credit by others, sells, provides or performs, or represents that he can or will sell, provide or perform, any of the following services, in return for the payment of money or other valuable consideration:

(1) Improving a buyer's credit record, history or rating.

(2) Obtaining an extension of credit for a buyer.

(3) Providing counseling or assistance to a person in establishing or effecting a plan for the payment of his indebtedness, unless that counseling or assistance is provided by and is within the scope of the authorized practice of a debt adjuster licensed pursuant to chapter 676 of NRS.

(4) Providing advice or assistance to a buyer with regard to subparagraph (1) or (2).

(b) Does not include:

(1) A person organized, chartered or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an officer or agency of this state or the United States.

(2) A bank, credit union or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(3) A person licensed as a real estate broker by this state where the person is acting within the course and scope of that license, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(4) A person licensed to practice law in this state where the person renders services within the course and scope of his practice as an attorney at law, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(5) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of such regulation.

(6) A person licensed as a debt adjuster pursuant to chapter 676 of NRS.

(7) A reporting agency.

6. "Reporting agency" means a person who, for fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating information regarding the credit of or other information regarding consumers to furnish consumer reports to third parties, regardless of the means or facility of commerce used to prepare or furnish the consumer reports. The term does not include:

(a) A person solely for the reason that he conveys a decision regarding whether to guarantee a check in response to a request by a third party;

(b) A person who obtains or creates a consumer report and provides the report or information contained in it to a subsidiary or affiliate; or

(c) A person licensed pursuant to chapter 463 of NRS.

Sec. 57. NRS 598.840 is hereby amended to read as follows:

598.840 As used in NRS 598.840 to 598.930, inclusive, unless the context otherwise requires:

1. "Affiliate organization" means an organization for buying goods or services at a discount that:

(a) Is a subsidiary of a parent business entity; or

(b) Operates under a franchise granted by a parent business entity.

2. "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day and Christmas Day.

3. "Buyer" means a person who purchases by contract a membership in an organization for buying goods or services at a discount.

4. ~~[“Commissioner” means the Commissioner of the Consumer Affairs Division.~~

~~5. “Consumer Affairs Division” means the Consumer Affairs Division of the Department of Business and Industry.~~

~~6.]~~ ”Franchise” has the meaning ascribed to it in 16 C.F.R. § 436.2, as amended or substituted in revision by the Federal Trade Commission.

~~[7.]~~ ***5.*** ”Organization for buying goods or services at a discount” or “organization” means a person who, for a consideration, provides or claims to provide a buyer with the ability to purchase goods or services at a price which is represented to be lower than the price generally charged in the area. The term includes, without limitation, an affiliate organization.

~~[8.]~~ ***6.*** ”Parent business entity” or “parent” means any business entity that, directly or indirectly, has owned, operated, controlled or granted franchises to, in any combination thereof, at least 15 organizations or affiliate organizations for a consecutive period of 5 years or more.

~~[9.]~~ ***7.*** ”Subsidiary” means an organization for buying goods or services at a discount that is owned, operated or controlled, either directly or indirectly or in whole or in part, by a parent business entity.

Sec. 57.5. **NRS 598.840 is hereby amended to read as follows:**

598.840 As used in NRS 598.840 to 598.930, inclusive, ***and sections 35.2 to 35.5, inclusive, of this act,*** unless the context otherwise requires:

1. ”Affiliate organization” means an organization for buying goods or services at a discount that:

(a) Is a subsidiary of a parent business entity; or

(b) Operates under a franchise granted by a parent business entity.

2. ”Business day” means any calendar day except Sunday, or the following business holidays: New Year’s Day, Martin Luther King, Jr.’s Birthday, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans’ Day, Thanksgiving Day and Christmas Day.

3. ”Buyer” means a person who purchases by contract a membership in an organization for buying goods or services at a discount.

4. ***”Commissioner” means the Commissioner of the Consumer Affairs Division.***

5. ”Division” means the Consumer Affairs Division of the Department of Business and Industry.

6. ”Franchise” has the meaning ascribed to it in 16 C.F.R. § 436.2, as amended or substituted in revision by the Federal Trade Commission.

~~[5.]~~ ***7.*** ”Organization for buying goods or services at a discount” or “organization” means a person who, for a consideration, provides or claims to provide a buyer with the ability to purchase goods or services at a price which is represented to be lower than the price generally charged in the area. The term includes, without limitation, an affiliate organization.

~~[6.]~~ ***8.*** ”Parent business entity” or “parent” means any business entity that, directly or indirectly, has owned, operated, controlled or granted

franchises to, in any combination thereof, at least 15 organizations or affiliate organizations for a consecutive period of 5 years or more.

~~[7.]~~ ***9. "Registrant" means an organization for buying goods or services at a discount which is required to register and post security with the Division pursuant to the provisions of NRS 598.840 to 598.930, inclusive, and sections 35.2 to 35.5, inclusive, of this act.***

10. "Subsidiary" means an organization for buying goods or services at a discount that is owned, operated or controlled, either directly or indirectly or in whole or in part, by a parent business entity.

Sec. 58. NRS 598.875 is hereby amended to read as follows:

598.875 Each contract for membership in an organization must:

1. Be in writing, legible and have all spaces filled in before the buyer signs it;

2. Be in the language in which the sales presentation was given;

3. Contain the addresses of the buyer and the organization;

4. Be given to the buyer when he signs it;

5. ~~[Disclose that the security required by NRS 598.726, 598.851 and, if applicable, NRS 598.855 has been obtained and deposited with the Consumer Affairs Division;~~

~~6.]~~ Specify the term of the membership of the buyer, which may not be measured by the buyer's life;

~~[7.]~~ ***6.*** Clearly specify the buyer's right to cancel the contract pursuant to NRS 598.885;

~~[8.]~~ ***7.*** Clearly specify the buyer's right to rescind the contract and to be given a refund pro rata pursuant to NRS 598.910 and the conditions and limitations on that right;

~~[9.]~~ ***8.*** Clearly specify the buyer's right to a refund on the purchase of goods pursuant to NRS 598.895 and the conditions and limitations on that right; and

~~[10.]~~ ***9.*** Clearly specify whether or not the buyer is given any other rights to a refund on the purchase of goods or services and, if so, any conditions and limitations on those rights.

Sec. 59. NRS 598.930 is hereby amended to read as follows:

598.930 1. The remedies, duties and prohibitions of NRS 598.840 to 598.930, inclusive, are not exclusive and are in addition to any other remedies provided by law.

2. Any violation of NRS ~~[598.851]~~ ***598.870*** to 598.900, inclusive, constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 60. NRS 598.948 is hereby amended to read as follows:

598.948 Each contract between the buyer and the dance studio or health club must:

1. Be in writing, legible and have all spaces filled in before the buyer signs it;

2. Be in the language in which the sales presentation was given;

3. Contain the addresses of the buyer and the studio or club;

4. Be given to the buyer when he signs it;

5. ~~[Disclose whether security has been obtained and deposited with the Division pursuant to NRS 598.726;~~

~~6.]~~ Specify the term of membership of the buyer, which must not be measured by the life of the buyer;

~~[7.]~~ ***6.*** Clearly specify the right of the buyer to cancel the contract pursuant to NRS 598.950;

~~[8.]~~ ***7.*** Not contain a clause by which the contract is automatically renewed; and

~~[9.]~~ ***8.*** Specify the number of lessons and the cost of each lesson, if the contract is for dance lessons.

Sec. 61. NRS 598.966 is hereby amended to read as follows:

598.966 1. The remedies, duties and prohibitions of NRS 598.940 to 598.966, inclusive, are not exclusive and are in addition to any other remedies provided by law.

2. Any violation of NRS ~~[598.944]~~ ***598.948*** to 598.958, inclusive, constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 62. ~~[NRS 598C.180 is hereby amended to read as follows:~~

~~598C.180 [1.] The provisions of this chapter must be administered by the [Commissioner of Consumer Affairs.~~

~~2. The Attorney General shall provide opinions for the Commissioner on all questions of law relating to the construction, interpretation or administration of this chapter.~~

~~3. The Attorney General shall represent the Division in any action or proceeding brought by or against the Commissioner pursuant to any of the provisions of this chapter.]~~ ***[Attorney General.]*** **(Deleted by amendment.)**

Sec. 63. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. ~~[~~"Commissioner" means the Commissioner of Consumer Affairs.~~

~~3.]~~ "Consumer" means a person who is solicited by a seller or salesman.

~~[4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.~~

~~5.]~~ ***3.*** "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

~~[6.]~~ ***4.*** "Goods or services" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value.

~~[7.]~~ ***5.*** "Premium" includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

~~[8.]~~ ***6.*** "Recovery service" means a business or other practice whereby a person represents or implies that he will, for a fee, recover any amount of money that a consumer has provided to a seller or salesman pursuant to a solicitation governed by the provisions of this chapter.

~~[9.]~~ ***7.*** "Salesman" means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

➥ except that a person is not a salesman if his only function is to identify a consumer by name only and he immediately refers the consumer to a salesman.

~~[10.]~~ ***8.*** Except as otherwise provided in subsection ~~[11,]~~ ***9,*** "seller" means any person who, on his own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salesmen or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) That the product offered for sale is the services of a recovery service; or

(6) That the consumer will receive a premium or goods or services if he makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

~~[11.]~~ ***9.*** "Seller" does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or $50, whichever is less; or

(2) The consumer provides a donation of $50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, videocassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

(2) Includes the business address of the person;

(3) Includes at least 24 pages of written material and illustrations;

(4) Is distributed in more than one state; and

(5) Has an annual circulation by mailing of not less than 250,000.

(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.

(m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.

(n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.

(o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his license.

(p) A person soliciting the sale of services provided by a video service provider subject to regulation pursuant to chapter 711 of NRS.

(q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than $100 that is to be delivered to one address. As used in this paragraph, "agricultural products" has the meaning ascribed to it in NRS 587.290.

(r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:

(1) Goods are displayed and offered for sale or services are offered for sale and provided at the person's business establishment; and

(2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.

(s) A person soliciting only the sale of telephone answering services to be provided by the person or his employer.

(t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq.; and

(2) The registration or license has not expired or been suspended or revoked.

(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:

(1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market

System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 64. NRS 599B.025 is hereby amended to read as follows:

599B.025 ~~[1.]~~ The Attorney General may adopt regulations establishing standards of conduct for ~~[registrants]~~ ***sellers and salesmen*** and any other regulations necessary to exercise the powers and carry out the duties of the Attorney General as set forth in this chapter.

~~[2. The]~~ ~~[Commissioner and the]~~ ~~[Attorney General shall]~~ ~~[jointly]~~ ~~[adopt rules of practice establishing a procedure for processing complaints received concerning sellers and salesmen.]~~ ~~[, whether or not the sellers and salesmen are registered pursuant to this chapter. The rules of practice:~~

~~(a) Must provide for the sharing of information and for the initial review of complaints by the Attorney General before mediation by the Commissioner; and~~

~~(b) May provide procedures for mediation by the Commissioner after initial review by the Attorney General.~~

~~3. The Commissioner may adopt rules of practice necessary to administer and carry out the provisions of this chapter pertaining to the registration of sellers and salesmen. The rules of practice must not restrict the powers and duties of the Attorney General as set forth in this chapter.~~]

Sec. 65. NRS 599B.150 is hereby amended to read as follows:

599B.150 1. No salesman may be associated with or employed by more than one seller at the same time.

2. A seller shall cooperate fully with the ~~[Commissioner]~~ ***Attorney General*** in any investigation made by him concerning an alleged violation of the provisions of this chapter by a salesman.

Sec. 66. NRS 599B.160 is hereby amended to read as follows:

599B.160 If any change is made to any script, outline, presentation or sales or donation information or literature used by a ~~[registrant]~~ ***seller or salesman*** in connection with any solicitation, the new or revised material must be submitted by the ~~[registrant]~~ ***seller or salesman*** to the ~~[Division]~~ ***Attorney General*** before such material is used.

Sec. 67. NRS 599B.170 is hereby amended to read as follows:

599B.170 1. During any solicitation or sales presentation made by him, or in any correspondence written in connection with a sale, a salesman shall:

(a) Identify himself by stating his true name;

(b) Identify the seller by whom he is employed; and

(c) State the purpose of his call.

2. During any solicitation or sales presentation made by him, or in any correspondence written in connection with a ~~[registrant, a registrant]~~ ***seller or salesman, a seller or salesman*** shall disclose to a consumer:

(a) Any charge, including the amount associated with the use of any premium being offered;

(b) Any material restriction, requirement, condition, limitation or exception which is associated with the use of the premium; and

(c) Any charge connected with the sale of any goods or services.

3. A ~~[registrant]~~ ***seller or salesman*** shall not characterize a premium as a prize unless the consumer may receive the premium free of charge and without making any purchase.

4. A ~~[registrant]~~ ***seller or salesman*** shall inform each consumer of the time within which any premium will be delivered.

5. A ~~[registrant]~~ ***seller or salesman*** shall not make any representation of the number of premiums to be awarded in a sales promotion unless the representation accurately reflects the actual number of premiums that will be awarded.

Sec. 68. NRS 599B.180 is hereby amended to read as follows:

599B.180 If a seller expressly or impliedly represents to any consumer, directly or through a salesman, that the consumer is or may be eligible to receive any gift, premium, bonus or prize, however denominated, the seller shall:

1. Submit to the ~~[Division]~~ ***Attorney General*** a statement setting forth, for each item mentioned:

(a) A description of the item.

(b) The value or worth of the item and the basis for the valuation.

(c) All terms and conditions a consumer must satisfy in order to receive the item. The statement must be accompanied by a copy of the written statement of terms and conditions provided to consumers pursuant to subsection 3.

(d) If they are ascertainable, the odds, for a given consumer, of receiving the item.

(e) If a consumer is to receive fewer than all the items described by the seller:

(1) The manner in which the seller decides which item a given consumer is to receive.

(2) If they are ascertainable, the odds, for a given consumer, of receiving each item described.

(3) The name and address of each person who has, during the preceding 12 months or any portion thereof in which the seller has done business, received the item having the greatest value and the item with the smallest odds of being received.

2. Provide the following information to the consumer at the time of the solicitation:

(a) The complete address of the location and the telephone number from which the consumer is being called and, if different, the complete address of the principal location at which the seller does business.

(b) The information required by paragraphs (a) and (c) of subsection 1.

(c) If the seller elects to inform the consumer of the value or worth of the item, the information must be identical to that submitted pursuant to paragraph (b) of subsection 1, in exactly the form submitted.

(d) If the consumer is to receive fewer than all the items described by the seller, the information required by subparagraph (1) of paragraph (e) of subsection 1.

3. Advise the consumer, at the time of the solicitation, that he may obtain, without cost, a written statement of the terms and conditions he must satisfy in order to receive the item. If the consumer so requests, the seller shall send him such a statement, by mail, without cost to the consumer.

Sec. 69. NRS 599B.185 is hereby amended to read as follows:

599B.185 If a ~~[registrant]~~ ***seller or salesman*** solicits the sale of investments or opportunities for investment, he shall, during the oral sales presentation and in writing, inform the prospective consumer:

1. Of the manner in which the price of the offered item is determined;

2. Whether the ~~[registrant]~~ ***seller or salesman*** or his employer receives any financial advantage other than an agent's or brokerage fee; and

3. Of the amount of any agent's or brokerage fee.

Sec. 70. NRS 599B.187 is hereby amended to read as follows:

599B.187 1. A ~~[registrant]~~ ***seller or salesman*** shall not use a chance promotion unless each consumer is entitled to participate in the promotion without charge or payment of any kind.

2. A ~~[registrant]~~ ***seller or salesman*** shall, before describing any item offered in a chance promotion, inform each consumer that he may participate in the promotion without any obligation to purchase any goods or services.

3. If a consumer specifically requests the information and the odds are ascertainable, the ~~[registrant]~~ ***seller or salesman*** shall orally disclose the odds of receiving each item offered in the chance promotion. If such a request is made but the odds are not ascertainable, the ~~[registrant]~~ ***seller or salesman*** shall disclose the manner in which the items offered in the promotion are awarded.

4. A ~~[registrant]~~ ***seller or salesman*** shall not require or request the payment of any money as a condition of obtaining any premium offered in a chance promotion.

5. A ~~[registrant]~~ ***seller or salesman*** shall not require a person to perform any action or to supply any information to participate in a chance promotion, except that the ~~[registrant]~~ ***seller or salesman*** may require the person to submit a written request sent by first-class mail. A ~~[registrant]~~ ***seller or salesman*** may not require the person to supply any information other than his name, address and a list of the premiums available in the chance promotion.

6. If a premium is offered in a chance promotion, the ~~[registrant]~~ ***seller or salesman*** shall provide any such premium to each person who does not purchase goods or services from the ~~[registrant]~~ ***seller or salesman*** upon the

same terms, including time of delivery, as are provided to the persons who do purchase goods or services from the ~~[registrant.]~~ ***seller or salesman.***

7. If requested, a ~~[registrant]~~ ***seller or salesman*** shall inform each person who does not purchase goods or services from the ~~[registrant]~~ ***seller or salesman*** of the manner in which the person can participate in the chance promotion.

8. Any ~~[registrant]~~ ***seller or salesman*** who uses a chance promotion shall:

(a) Furnish to the ~~[Division]~~ ***Attorney General*** information establishing the financial ability of the ~~[registrant]~~ ***seller or salesman*** to award all premiums to be given in the promotion.

(b) Award all premiums included in the promotion to bona fide recipients within 12 months after the promotion begins.

(c) Deliver the premiums to bona fide recipients within a reasonable time.

Sec. 71. NRS 599B.190 is hereby amended to read as follows:

599B.190 1. Except as otherwise provided in subsection 3, a person who purchases goods or services or makes a donation pursuant to a solicitation governed by this chapter must be given a refund or replacement, at his option, if:

(a) The goods or services are defective, are not as represented or if any item described pursuant to NRS 599B.180 is not received as promised; and

(b) He returns the unused goods, if any, or makes a written request for the refund or replacement within 30 days after he receives:

(1) The goods or services; or

(2) Any item described pursuant to NRS 599B.180,

➥ whichever is received later. A return or request is timely if shipment is made or the request is postmarked, properly addressed and postage prepaid, within the time provided by this paragraph.

2. A ~~[registrant]~~ ***seller or salesman*** who receives a written request for a refund or replacement shall not require prior authorization for a return of goods and shall give a refund or replacement within 14 days after receipt of the request.

3. If a consumer of goods returns only a portion of the goods, the refund or replacement required by subsection 1 may be prorated accordingly.

4. The refund or replacement required by subsection 1 must be given by the seller, regardless of whether payment for the goods or services is made to the seller or some other person.

5. Except for any proration permitted by subsection 3, a ~~[registrant]~~ ***seller or salesman*** shall not impose any charge in connection with a return of goods or a request for a refund or replacement.

6. If a ~~[registrant]~~ ***seller or salesman*** receives payment by credit card, he may issue a refund in the form of a credit to the credit card account of the consumer in lieu of a cash refund.

7. Within 3 days after any purchase of goods or services or upon delivery of the goods or services, whichever is later, or within 3 days after receiving a

donation, the seller shall provide the consumer with a written summary of the provisions of this section. The summary must:

(a) ~~[Be made in a form prescribed by the Division.~~

~~(b)]~~ Include the address to which returned goods or a request for refund may be sent.

~~[(c)]~~ ***(b)*** Be accompanied by a statement containing the information required by paragraph (e) of subsection 1 of NRS 599B.180, if the provisions of that section apply.

~~[(d)]~~ ***(c)*** If the provisions of paragraph (c) of subsection 2 of NRS 599B.180 apply, be accompanied by a statement concerning the number of persons who have, during the 12 months preceding the solicitation or any portion thereof in which the seller has done business, received the item having the greatest value and the item with the smallest odds of being received.

➥ A summary is timely if it is postmarked, properly addressed and postage prepaid, within the time provided by this subsection.

Sec. 72. NRS 599B.200 is hereby amended to read as follows:

599B.200 A salesman or seller shall not disclose the name or address of any person who purchases goods or services pursuant to a solicitation governed by this chapter. Nothing in this section prohibits the disclosure of this information to:

1. Any person employed by or associated with the seller; ***or***

2. ~~[The Commissioner or any employee of the Division; or~~

~~3.]~~ Any law enforcement officer or agency that requires the information for investigative purposes.

Sec. 73. NRS 599B.210 is hereby amended to read as follows:

599B.210 1. Every ~~[registrant,]~~ ***seller or salesman,*** other than a ~~[registrant]~~ ***seller or salesman*** incorporated in this state, shall file with the Secretary of State an irrevocable consent appointing the Secretary of State as his agent to receive service of any lawful process in any action or proceeding against him arising pursuant to this chapter. Any lawful process against the ~~[registrant]~~ ***seller or salesman*** served upon the Secretary of State as provided in subsection 2 has the same force and validity as if served upon the ~~[registrant]~~ ***seller or salesman*** personally.

2. Service of process authorized by subsection 1 must be made by filing with the Secretary of State:

(a) Two copies of the process. The copies must include a specific citation to the provisions of this section. The Secretary of State may refuse to accept such service if the proper citation is not included in each copy.

(b) A fee of $10.

➥ The Secretary of State shall forthwith forward one copy of the process by registered or certified mail prepaid to the ~~[registrant,]~~ ***seller or salesman,*** or in the case of a ~~[registrant]~~ ***seller or salesman*** organized under the laws of a foreign government, to the United States manager or last appointed United

States general agent of the ~~[registrant,]~~ ***seller or salesman,*** giving the day and the hour of the service.

3. Service of process is not complete until the copy thereof has been mailed and received by the ~~[registrant,]~~ ***seller or salesman,*** and the receipt of the addressee is prima facie evidence of the completion of the service.

4. If service of summons is made upon the Secretary of State in accordance with the provisions of this section, the time within which the ~~[registrant]~~ ***seller or salesman*** is required to appear is extended 10 days.

Sec. 74. NRS 599B.255 is hereby amended to read as follows:

599B.255 1. Except as otherwise provided in NRS 599B.213, the Attorney General or the district attorney of any county in this state may prosecute a person who willfully violates, either directly or indirectly, the provisions of this chapter. ~~[Except as otherwise provided in subsection 3, such]~~ ***Such*** a person:

(a) For the first offense within 10 years, is guilty of a misdemeanor.

(b) For the second offense within 10 years, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses within 10 years, is guilty of a category D felony and shall be punished as provided in NRS 193.130, or by a fine of not more than $50,000, or by both fine and the punishment provided in NRS 193.130.

2. Any offense which occurs within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 1 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

3. ~~[A person who violates any provision of NRS 599B.080 is guilty of a category D felony and shall be punished as provided in NRS 193.130, or by a fine of not more than $50,000, or by both fine and the punishment provided in NRS 193.130.~~

~~4.]~~ Property or proceeds attributable to any violation pursuant to the provisions of this section are subject to forfeiture in the manner provided by NRS 179.1156 to 179.121, inclusive.

Sec. 75. NRS 599B.260 is hereby amended to read as follows:

599B.260 1. Except as otherwise provided in subsection 2, all fees, civil penalties and any other money collected pursuant to this chapter in an action brought by the Attorney General must be deposited in the State General Fund and may only be used to defray the costs of:

(a) Administering and enforcing the provisions of this chapter.

(b) Enforcing the provisions of chapter 598 of NRS as they relate to the conduct of sellers and salesmen ~~[, whether or not the sellers and salesmen are registered pursuant to this chapter.]~~.

2. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to the provisions of this chapter; or

(b) Restitution ordered in an action brought by the Attorney General pursuant to the provisions of this chapter. Money collected for restitution

ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of ~~[the Division or]~~ the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 76. NRS 686A.300 is hereby amended to read as follows:

686A.300 1. An insurer who issues insurance covering damage to a motor vehicle shall not delay making payment for any claim involving damage to a motor vehicle after receiving a statement of charges ~~[,]~~ pursuant to the provisions of ~~[NRS 597.5705,]~~ ***section 23 of this act*** from any garage or licensed body shop previously authorized by the insured to perform the repairs required by that claim.

2. A delay, within the meaning of this section, is failure to issue a check or draft, payable to the garage or licensed body shop or jointly to the insured and the garage or licensed body shop, within 30 days after the insurer's receipt of the statement of charges for repairs which have been satisfactorily completed.

3. If the damaged vehicle is subject to a security interest or the legal owner of the damaged vehicle is different from the registered owner, the vehicle must be repaired by a garage or licensed body shop unless:

(a) The insurer has declared the vehicle a total loss; or

(b) The total charge for the repair of the vehicle, as set forth in the statement of charges presented pursuant to ~~[NRS 597.5705,]~~ ***section 23 of this act,*** is $300 or less.

4. Except as otherwise provided in subsection 3, nothing in this section shall be deemed to prohibit an insurer and insured from settling a claim involving damage to a motor vehicle without providing for the repair of the vehicle.

5. As used in this section, "licensed body shop" means a body shop for which a license has been issued pursuant to chapter 487 of NRS.

Sec. 77. **1.** NRS 487.535, 487.568, 487.570, 487.602, 597.480, 597.490, 597.500, 597.510, 597.520, 597.530, 597.535, 597.540, 597.550, 597.560, 597.570, 597.5701, 597.5702, 597.5703, 597.5704, 597.5705, 597.5706, 597.580, 597.590, ~~[598.0913, 598.0927, 598.0957, 598.0959, 598.0965, 598.0966, 598.0967, 598.305, 598.307, 598.315, 598.317, 598.325, 598.335, 598.345, 598.356, 598.361, 598.365, 598.366, 598.367, 598.371, 598.372, 598.373, 598.374, 598.375, 598.385, 598.395, 598.405, 598.416, 598.425, 598.435, 598.445, 598.455, 598.465, 598.471, 598.485, 598.495, 598.506, 598.515, 598.525, 598.845, 598.851, 598.855, 598.860, 598.865, 598.915, 598.9407, 598.9413, 598.944, 598.946,]~~ 598.971, 598.975, 598.981, 598.985 ~~[,]~~ **and** 598.990 ~~[, 598C.030, 599B.015, 599B.080, 599B.090, 599B.100, 599B.105, 599B.110, 599B.115, 599B.120, 599B.125, 599B.130, 599B.140, 599B.143, 599B.145 and 599B.195]~~ are hereby repealed.

2. NRS 598.0913, 598.0927, 598.0957, 598.0959, 598.0965, 598.0966, 598.0967, 598.0971, 598.0979, 598.098, 598.305, 598.307, 598.315, 598.317, 598.325, 598.335, 598.345, 598.356, 598.361, 598.365, 598.366,

598.367, 598.371, 598.372, 598.373, 598.374, 598.375, 598.385, 598.395, 598.405, 598.416, 598.425, 598.435, 598.445, 598.455, 598.465, 598.471, 598.485, 598.495, 598.506, 598.515, 598.525, 598.845, 598.851, 598.855, 598.860, 598.865, 598.915, 598.9407, 598.9413, 598.944, 598.946, 598C.030, 598C.180, 599B.015, 599B.080, 599B.090, 599B.100, 599B.105, 599B.110, 599B.115, 599B.120, 599B.125, 599B.130, 599B.140, 599B.143, 599B.145 and 599B.195 are hereby repealed.

Sec. 78. 1. Any regulations adopted by the Commissioner of the Consumer Affairs Division of the Department of Business and Industry or by the Division before July 1, 2009, remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations is transferred. The regulations may be enforced by the officer or agency to which the responsibility for the enforcement of the regulations is transferred.

2. Any contract or other agreement entered into by the Commissioner of the Consumer Affairs Division of the Department of Business and Industry or by the Division before July 1, 2009, is binding upon the officer or agency to which the responsibility for administration of the contract or other agreement is transferred. Any such contract or other agreement may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement is transferred.

Sec. 79. 1. As soon as practicable after July 1, 2009, at the time the Revolving Account for the Consumer Affairs Division of the Department of Business and Industry established by NRS 598.0966 is abolished, the State Treasurer shall ensure that any money in the Revolving Account is transferred to the revolving account for the Bureau of Consumer Protection created by section 1 of this act.

2. As soon as practicable after July 1, 2009, at the time the Recovery Fund established pursuant to NRS 598.371 is abolished, the State Treasurer shall ensure that any money in the Recovery Fund is transferred to the State General Fund.

Sec. 80. **1.** This **section and sections 1 to 35, inclusive, 36 to 57, inclusive, and 58 to 79, inclusive, of this** act ~~[becomes]~~ **become** effective on July 1, 2009.

2. The amendatory provisions of sections 3, 4, 36 to 51, inclusive, 57, 58 to 75, inclusive, and subsection 2 of section 77 of this act expire by limitation on June 30, 2011.

3. Sections 35.1 to 35.95, inclusive, and 57.5 of this act become effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

487.535 "Division" defined.

487.568 Penalty.

487.570 Garageman to comply with certain provisions relating to trade practices.

487.602 "Body shop" defined.

597.480 Definitions.

597.490 Display of sign required; contents of sign; penalty.

597.500 Duties of body shop or garageman on acceptance of vehicle for repair.

597.510 Estimate of costs required for certain repairs.

597.520 Notice of additional charges over estimate required in certain cases.

597.530 Waiver of estimate of costs or notice of additional charges; execution of waiver.

597.535 Duty of body shop and garage to repair vehicle in accordance with manufacturer's specifications and estimate of costs required for repair.

597.540 Duties of owner and insurer upon receipt of notice of additional charges.

597.550 Replaced parts to be delivered to person authorizing repairs if requested; exception.

597.560 Records to be retained by body shop or garageman.

597.570 Compliance with NRS 597.510 to 597.5706, inclusive; enforcement of liens and contracts.

597.5701 Certain acts deemed to be deceptive trade practice.

597.5702 Revolving account for Bureau of Consumer Protection: Creation; use; deposits; claims.

597.5703 Commissioner or Director authorized to request undercover investigation of alleged deceptive trade practice; Bureau of Consumer Protection authorized to conduct such investigation.

597.5704 Administrative fine for engaging in deceptive trade practice; deposit and use of money collected as administrative fine.

597.5705 Statement of charges required for repair of vehicle; violation constitutes misdemeanor; statement required for enforcement of lien.

597.5706 Submission of annual report by Commissioner to Legislative Commission.

597.580 Violations: Injunctive relief.

597.590 Violations: Civil penalties.

598.0913 "Commissioner" defined.

598.0927 "Director" defined.

598.0957 Director may delegate powers and duties.

598.0959 Advisory committees: Creation and appointment; membership; compensation.

598.0965 Commissioner or Director to provide investigative assistance to Attorney General; legal advice and guidance by Attorney General.

598.0966 Revolving Account for Consumer Affairs Division: Creation; use; deposits; withdrawals; reimbursement; duties of Commissioner.

598.0967 Commissioner and Director: Subpoenas; hearings; regulations.

598.0971 Orders for enforcement: Authority of Commissioner; judicial review and enforcement; civil penalty and equitable relief.

598.0979 Restraining orders; injunctions; assurances of discontinuance.

598.098 Disclosure of information by Commissioner or Director; regulations.

598.305 Definitions.

598.307 "Account" defined.

598.315 "Commissioner" defined.

598.317 "Consumer" defined.

598.325 "Division" defined.

598.335 "Seller of travel" defined.

598.345 "Travel services" defined.

598.356 "Vacation certificate" defined.

598.361 Seller to maintain trust account; exception.

598.365 Seller to register, deposit security and pay fees before advertising services or conducting business in this State; certificate of registration; renewal of certificate.

598.366 Seller to include registration number in advertising; form.

598.367 Seller to display notice of Recovery Fund; penalty.

598.371 Administration of Fund: Separate accounting; limitations on use.

598.372 Administration of Fund: Report to Legislature; employment of persons; interest on money; limitations on balance; regulations.

598.373 Recovery from Fund: Deadline for complaint; hearing; judgment of court; action by Division.

598.374 Recovery from Fund: Eligibility; limitations on payment; subrogation of claim.

598.375 Security required for registration: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount; exception.

598.385 Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.

598.395 Release of security if seller ceases to operate or registration expires.

598.405 Definitions.

598.416 "Advertise" and "advertisement" defined.

598.425 "Commissioner" defined.

598.435 "Division" defined.

598.445 "Sightseeing tour" defined.

598.455 "Tour broker" defined.

598.465 "Tour operator" defined.

598.471 Tour broker and tour operator to register, pay fee and, if applicable, deposit security before advertising services or conducting business in this State; certificate of registration; renewal of certificate.

598.485 Applicability of provisions limited to tour brokers and tour operators operating in certain counties.

598.495 Security required to be deposited by tour broker and tour operator: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount.

598.506 Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.

598.515 Release of security if tour broker or tour operator ceases to operate.

598.525 Regulations.

598.845 Scope.

598.851 Organization to register and post security before advertising services or conducting business in this State.

598.855 Trust account required for payments on contracts.

598.860 Trust account required for payments on goods and services.

598.865 Administration of trust accounts; audits.

598.915 Waiver of statutory rights is void.

598.9407 "Commissioner" defined.

598.9413 "Division" defined.

598.944 Registration of dance studio or health club required.

598.946 Owner of dance studio or health club to register and deposit security before advertising services or conducting business in this State: Amount of security; adjustment of security; exception from requirement to deposit security.

598.971 Definitions.

598.975 "Department" defined.

598.981 "Division" defined.

598.985 Division and Department to cooperate to protect persons who authorize repair of motor vehicles.

598.990 Division to establish and maintain toll-free telephone number concerning alleged violations and develop program to provide certain information to public.

598C.030 "Commissioner" defined.

598C.180 Commissioner of Consumer Affairs to administer chapter; duties of Attorney General.

599B.015 Duties of Attorney General and Commissioner.

599B.080 Registration required.

599B.090 Registration of seller: Application; confidentiality of certain information; security; fee.

599B.100 Registration of seller: Form and amount of security; release of security.

599B.105 Rights and remedies of injured consumer; resolution by Division of claims against security; regulations.

599B.110 Registration of seller: Disclosure of certain convictions, judgments and orders concerning responsible persons.

599B.115 Registration of seller: Work card required for applicant and certain other persons; exceptions; issuance and renewal of work card; fingerprints.

599B.120 Registration of salesman: Application; statement of seller; fee.

599B.125 Statement regarding payment of child support by applicant for registration certificate; grounds for denial of registration certificate; duty of Division.

599B.130 Issuance and display of registration certificate.

599B.140 Renewal of registration.

599B.143 Suspension of registration certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration certificate.

599B.145 Payment and refund of fees for registration.

599B.195 Delivery of goods or services must be accompanied by form.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 78.

Bill read second time and ordered to third reading.

Senate Bill No. 382.

Bill read second time and ordered to third reading.

Senate Bill No. 403.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 955.

SUMMARY—Makes **various** appropriations ~~[to restore the balances in the Stale Claims Account, Emergency Account and Reserve for Statutory Contingency Account.]~~ **from the State General Fund.** (BDR S-1264)

AN ACT making appropriations to restore ~~[the]~~ **certain fund** balances ~~[in the Stale Claims Account, Emergency Account and Reserve for Statu+tory Contingency Account;]~~ **and for certain costs related to changes in various taxes;** and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. There is hereby appropriated from the State General Fund to the:

1. Stale Claims Account created by NRS 353.097 the sum of $5,500,000 to restore the balance in the Account.

2. Emergency Account created by NRS 353.263 the sum of $150,000 to restore the balance in the Account.

3. Reserve for Statutory Contingency Account created by NRS 353.264 the sum of $3,000,000 to restore the balance in the Account.

4. Contingency Fund created by NRS 353.266 the sum of $7,500,000 to restore the balance in the fund attributable to the State General Fund.

Sec. 2. **There is hereby appropriated from the State General Fund to the:**

1. Department of Motor Vehicles the sum of $24,000 for the costs of implementing changes to the provisions governing the governmental services tax.

2. Department of Taxation the sum of $95,000 for the costs of implementing changes to the provisions governing the local school support tax.

3. Interim Finance Committee the sum of $527,850 for allocation to the Department of Taxation for the costs of additional duties and modifications necessary to implement laws revised during this session.

Sec. 3. **Any remaining balance of the appropriations made by section 2 of this act must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.**

~~[Sec. 2.]~~ ***Sec. 4.*** **1.** This **section and sections 2 and 3 of this act become effective upon passage and approval.**

2. Section 1 of this act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all bills and resolutions reported out of committee with amendments be placed at the top of the appropriate reading file for this legislative day.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bill No. 385 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 7.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 950.

AN ACT relating to public health; making various changes relating to the Advisory Council on the State Program for Fitness and Wellness; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, within the limits of available money, the Health Division of the Department of Health and Human Services shall establish the Advisory Council on the State Program for Fitness and Wellness to increase public knowledge, to raise public awareness and to educate the residents of this State on matters relating to physical fitness and wellness. (NRS 439.517, 439.518) **Section 1** of this bill increases the number of voting members of the Advisory Council from 7 to 11 members and authorizes the appointment of additional nonvoting members.

Existing law requires the State Health Officer or his designee to serve as the Chairman of the Advisory Council. **Section 2** of this bill provides instead that a majority of the voting members of the Advisory Council must select a Chairman and a Vice Chairman of the Advisory Council. **Section 2** further authorizes a majority of the voting members of the Advisory Council to appoint committees and subcommittees to study issues relating to physical fitness and wellness and provides for the removal of nonlegislative members. (NRS 439.519)

Existing law authorizes the Health Division to contract with public or private entities to provide services necessary to carry out the State Program for Fitness and Wellness. **Section 3** of this bill authorizes the Health Division to award grants for the same purpose.

Existing law requires the Health Division, on or before January 1 of each year, to prepare and submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature summarizing the findings and recommendations of the Advisory Council and the status of the State Program for Fitness and Wellness. (NRS 439.524) **Section 4** of this bill requires the Health Division to prepare and submit the report on or before February 1 of each year.

Section 5 of this bill revises ~~[an appropriation made]~~ **the dates that limit the expenditure and require the reversion of money appropriated** by the

2007 Legislature to ~~[clarify that the money must be accounted for in the nonreverting account created by statute to]~~ pay the operational costs of the Advisory Council.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 439.518 is hereby amended to read as follows:

439.518 1. Within the limits of available money, the Health Division shall establish the Advisory Council on the State Program for Fitness and Wellness to advise and make recommendations to the Health Division concerning the Program.

2. The Administrator shall appoint to the Advisory Council the following ~~[seven]~~ ***nine voting*** members:

(a) The State Health Officer or his designee;

(b) The Superintendent of Public Instruction or his designee;

(c) One representative of the health insurance industry;

(d) One provider of health care;

(e) One representative of the Nevada Association for Health, Physical Education, Recreation and Dance or its successor organization;

(f) One representative of an organization committed to the prevention of chronic diseases; ~~[and]~~

(g) One registered dietician ~~[.]~~ ***;***

(h) One representative who is a member of a racial or ethnic minority group appointed from a list of persons submitted to the Administrator by the Advisory Committee of the Office of Minority Health of the Department; and

(i) One representative of private employers in this State who has experience in matters relating to employment and human resources.

3. The Legislative Commission shall appoint to the Advisory Council the following two voting members:

(a) One member of the Senate; and

(b) One member of the Assembly.

4. A majority of the voting members of the Advisory Council may appoint nonvoting members to the Advisory Council.

Sec. 2. NRS 439.519 is hereby amended to read as follows:

439.519 1. The members of the Advisory Council serve terms of 2 years. A member may be reappointed.

2. ~~[The State Health Officer or his designee shall serve as the]~~ ***A majority of the voting members of the Advisory Council shall select a*** Chairman ***and a Vice Chairman*** of the Advisory Council.

3. ***A majority of the voting members of the Advisory Council may:***

(a) Appoint committees or subcommittees to study issues relating to physical fitness and wellness.

(b) Remove a nonlegislative member of the Advisory Council for failing to carry out the business of, or serve the best interests of, the Advisory Council.

4. The Health Division shall, within the limits of available money, provide the necessary professional staff and a secretary for the Advisory Council.

~~[4.]~~ ***5.*** A majority of the ***voting*** members of the Advisory Council constitutes a quorum to transact all business, and a majority of those ***voting members*** present, physically or via telecommunications, must concur in any decision.

~~[5.]~~ ***6.*** The Advisory Council shall, within the limits of available money, meet at the call of the Administrator, the Chairman or a majority of the ***voting*** members of the Advisory Council quarterly or as is necessary.

~~[6.]~~ ***7.*** The members of the Advisory Council serve without compensation, except that each member is entitled, while engaged in the business of the Advisory Council and within the limits of available money, to the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 3. NRS 439.523 is hereby amended to read as follows:

439.523 The Health Division may, within the limits of available money, enter into contracts with ***or award grants to*** public or private entities that have the appropriate expertise to provide any services necessary to carry out or assist the Health Division in carrying out the provisions of NRS 439.514 to 439.525, inclusive.

Sec. 4. NRS 439.524 is hereby amended to read as follows:

439.524 The Health Division shall, on or before ~~[January]~~ ***February*** 1 of each year, prepare and submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature summarizing:

1. The findings and recommendations of the Advisory Council; and
2. The status of the Program.

Sec. 5. Section 35 of chapter 345, Statutes of Nevada 2007, at page 1617, is hereby amended to read as follows:

Sec. 35. 1. There is hereby appropriated from the State General Fund to the account for the Advisory Council on the State Program for Fitness and Wellness, created pursuant to Senate Bill No. 197 of the 73rd Session of the Nevada Legislature, the sum of $100,000 for the operational costs of the Council.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, ~~[2009,]~~ ***2011,*** by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September ~~[18, 2009,]~~ ***16, 2011,*** by either the entity to which the money was appropriated or the entity to which the money was

subsequently granted or transferred, and must be reverted to the State General Fund on or before September ~~[~~18, 2009.~~]~~ ~~*[NRS 439.525, the sum of $100,000 for the operational costs of the Council.]*~~ ***16, 2011.***

Sec. 6. Notwithstanding the provisions of subsection 1 of NRS 439.519, the members of the Advisory Council on the State Program for Fitness and Wellness appointed pursuant to:

1. The provisions of paragraphs (h) and (i) of subsection 2 of NRS 439.518, as amended by section 1 of this act, must be appointed to initial terms of 4 years.

2. The provisions of paragraphs (a) and (b) of subsection 3 of NRS 439.518, as amended by section 1 of this act, must be appointed to initial terms of 2 years.

Sec. 7. This act becomes effective upon passage and approval.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 152.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 953.

AN ACT relating to energy; providing for the training of persons to perform jobs which promote energy efficiency; requiring governmental entities to perform certain functions to promote energy efficiency; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the use of the incentives contained in the recently signed federal American Recovery and Reinvestment Act of 2009 to provide job training, the promotion of energy efficiency and the promotion of the use of renewable energy in Nevada. **Sections 9 and 10** of this bill seek to take advantage of those incentives by providing specific training to persons in this State, establishing projects that will require the skills for which those persons are trained and providing for the employment of those persons. **Section 9** requires the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry to establish contractual relationships with nonprofit collaboratives to provide training in the fields of energy efficiency and renewable energy, including training in the areas of weatherization, energy retrofit applications and performing energy audits. Within the limits of available money, the collaboratives will carry out programs for job training and provide apprenticeship programs in specific energy-related fields. Within the limits of money available, the Housing Division is required to contract with the nonprofit collaboratives, governmental entities, community action agencies and other nonprofit corporations to identify neighborhoods that will qualify for funding for

residential weatherization projects and award contracts for projects to promote energy efficiency through residential weatherization. Such contracts awarded must provide for employing the persons trained by the nonprofit collaborative for this purpose, paying those employees prevailing wages and offering the employees and their dependents health care insurance.

Section 10 of this bill requires the State Public Works Board, the board of trustees of each school district and the Board of Regents of the University of Nevada, within 90 days after the effective date of this bill, to each establish projects to weatherize and retrofit public buildings, facilities and structures in this State, including without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. **Section 10** further sets forth criteria for prioritizing those projects. Those entities are further required to enter into contracts for the projects as soon as practicable. Such contracts are required to provide that employees of the contractors and subcontractors on the project be paid prevailing wages, that the contractor or subcontractor employ a certain number of employees trained by a nonprofit cooperative and pay them prevailing wages and that the contractor offer employees on the project and their dependents health care insurance.

Section 11 of this bill provides that within the limits of money available, the State Public Works Board and the Division of State Parks of the State Department of Conservation and Natural Resources shall conduct studies to determine the feasibility of carrying out certain projects for providing alternative sources of energy in this State.

Section 12 of this bill requires the Labor Commissioner to adopt the job classifications and wage rates established by the Federal Government for certain jobs relating to residential weatherization and to enforce those job classifications and wage rates in the same manner that he enforces the labor laws and regulations of this State generally.

Section 13 of this bill requires the Office of Energy within the Office of the Governor, the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry to report to the Interim Finance Committee concerning the application for and acceptance and expenditure of any money available to the State to carry out the purposes of this bill pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

WHEREAS, The unemployment rate in the State of Nevada is currently 9.1 percent and is expected to reach 11.4 percent sometime during 2009; and

WHEREAS, Many of Nevada's 128,000 unemployed residents have lost jobs in the construction and service sectors as the construction industry has faltered as a result of the mortgage foreclosure crisis and as the service industry, including gaming and tourism, has faltered as a result of the curtailment of discretionary spending on a national level; and

WHEREAS, One of the most effective methods of returning unemployed Nevadans to work is to create "green jobs" by developing new industries in

this State in a manner that takes advantage of incentives offered by the Federal Government for job training, the promotion of energy efficiency and the promotion of the use of renewable energy; and

WHEREAS, An immediate step which may be taken to put Nevadans back to work is to coordinate job training with programs for weatherization and energy efficiency that are part of the recently enacted federal economic stimulus package; and

WHEREAS, In such a manner, unemployed Nevadans may learn new skills in fields such as energy auditing and the installation of energy efficient equipment and improvements, and then go to work performing such tasks as **performing energy audits,** weatherizing homes, retrofitting public buildings, helping lower-income Nevadans to save on their utility bills, and reducing energy costs for schools, government buildings and other public facilities; and

WHEREAS, The performance of energy audits is a critical component of ensuring that the weatherization of homes results in meaningful reductions in energy costs to Nevadans; and

WHEREAS, The average energy auditor can perform 500 energy audits of residences per year; and

WHEREAS, The money available through the recently enacted federal economic stimulus package can be used to ensure that many Nevadans are trained in the skills necessary to perform energy audits thereby resulting in the performance of many thousands of energy audits of residences in Nevada; and

WHEREAS, The Green Jobs Initiative can be accomplished through a public-private partnership that combines the resources of state agencies, local housing authorities, institutions of higher education, joint labor-management partnerships, apprenticeship programs and private contractors under the "umbrella" of a nonprofit collaborative; and

WHEREAS, The Green Jobs Initiative would function to establish programs to provide job training and outreach for the weatherization and retrofitting of buildings and facilities in northern Nevada, southern Nevada and rural Nevada; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. ***Sections 2 to 10, inclusive, of this act may be cited as the Green Jobs Initiative.***

Sec. 3. ***As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Department" means the Department of Employment, Training and Rehabilitation.***

Sec. 5. ***"Division" means the Housing Division of the Department of Business and Industry.***

Sec. 6. ***1. "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:***

(a) Biomass;

(b) Fuel cells;

(c) Geothermal energy;

(d) Solar energy;

(e) Waste heat;

(f) Waterpower; and

(g) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 7. ***"Retrofitting" means the alteration, improvement, modification, remodeling or renovation of a building, facility, residence or structure to make that building, facility, residence or structure more energy efficient.***

Sec. 8. ***"Weatherization" means materials or measures, and their installation, that are used to improve the thermal efficiency of a building, facility, residence or structure.***

Sec. 9. ***1. The Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry shall establish contractual relationships with one or more nonprofit collaboratives to carry out the State's mission of creating new jobs in the fields of energy efficiency and renewable energy by combining job training with weatherization, energy retrofit applications or the development of renewable energy plants.***

2. To qualify as a nonprofit collaborative for the purposes of this section, a nonprofit entity:

(a) Must enter into a written agreement relating to job training and career development activities with:

(1) A labor management agency or other affiliated agency which has established an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS; and

(2) A community college or another institution of higher education; and

(b) Must conduct or have the ability to conduct training programs in at least one of the three geographic regions of this State, including southern Nevada, northern Nevada and rural Nevada.

➥ Such a nonprofit entity may also enter into a written agreement relating to job training and career development activities with a trade association which has an accredited job skills training program.

3. Within the limits of money available to the Department for this purpose, the Department shall contract with one or more qualified nonprofit collaboratives to:

(a) Carry out programs for job training in fields relating to energy efficiency and the use of renewable energy.

(b) In concert with a labor management agency or other affiliated agency which has established an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS, develop apprenticeship programs to train laborers in skills related to:

(1) The implementation of energy efficiency measures.

(2) The use of renewable energy.

(3) Performing audits of the energy efficiency of buildings, facilities, residences and structures.

(4) The weatherization of buildings, facilities, residences and structures.

(5) The retrofitting of buildings, facilities, residences and structures.

(6) The construction and operation of centralized renewable energy plants.

(7) The manufacturing of components relating to work performed pursuant to subparagraphs (1) to (6), inclusive.

4. The job training described in subsection 3 must be sufficiently detailed to allow workers, as applicable, to perform:

(a) The services set forth in NRS 702.270.

(b) The services set forth in NRS 618.910 to 618.936, inclusive.

(c) Such other vocational or professional services, or both, as the Department deems appropriate.

5. Funding provided for the job training described in subsection 3:

(a) Must, to the extent money is available for the purpose, include the cost of tuition and supplies.

(b) May include a cost-of-living stipend which may or may not be in addition to any available unemployment compensation.

6. Within the limits of money available to the Division for the purpose, the Division shall contract with one or more governmental entities, community action agencies or nonprofit organizations, including, without limitation, qualified nonprofit collaboratives, to:

(a) Identify, in different regions of the State, neighborhoods that will qualify for funding for residential weatherization projects pursuant to federal programs focusing on residential weatherization; and

(b) Issue requests for proposals for contractors and award contracts for projects to promote energy efficiency through weatherization. Any such requests for proposals and contracts must include, without limitation:

(1) Provisions stipulating that all employees of the outside contractors who work on the project must be paid prevailing wages;

(2) Provisions requiring that each outside contractor:

(I) Employ on each such project a number of persons trained as described in paragraph (b) of subsection 3 that is equal to or greater than 50 percent of the total workforce the contractor employs on the project; or

(II) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor, that the contractor cannot reasonably comply with the provisions of sub-subparagraph (I) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor employs on the project;

(3) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(4) A component that requires each contractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

7. The Department and the Division:

(a) Shall apply for and accept any grant, appropriation, allocation or other money available pursuant to:

(1) The Green Jobs Act of 2007, 29 U.S.C. § 2916(e); and

(2) The American Recovery and Reinvestment Act of 2009, Public Law 111-5; and

(b) May apply for and accept any other available gift, grant, appropriation or donation from any public or private source,

➥ to assist the Department and the Division in carrying out the provisions of this section.

8. The Department and the Division shall each report to the Interim Finance Committee at each meeting held by the Interim Finance Committee with respect to the activities in which they have engaged pursuant to this section.

9. As used in this section, "community action agencies" means private corporations or public agencies established pursuant to the Economic Opportunity Act of 1964, Public Law 88-452, which are authorized to administer money received from federal, state, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

Sec. 10. ***1. The State Public Works Board shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:***

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;

(b) Provisions requiring that each contractor and subcontractor employed on each such project:

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of section 9 of this act that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of section 9 of this act or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of section 9 of this act must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 11. Within limits of money available for the purpose:

1. The State Public Works Board shall conduct a study to determine the feasibility of using geothermal resources to provide heating to all or a portion of the Lovelock Correctional Center.

2. The Division of State Parks of the State Department of Conservation and Natural Resources shall conduct a study to determine the feasibility of:

(a) Constructing a hydroelectric generation unit at the existing dam on the South Fork Reservoir near Elko, Nevada.

(b) Constructing wind turbines in the vicinity of the South Fork Reservoir near Elko, Nevada.

Sec. 11.5. **Upon the approval of any contract entered into by the Housing Division of the Department of Business and Industry pursuant to section 9 of this act, the State Board of Examiners shall immediately transmit a copy of the contract to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission.**

Sec. 12. For the purposes of the State in carrying out the provisions of section 9 of this act governing residential weatherization in compliance with section 1606 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and notwithstanding any other provision of state law:

1. The Labor Commissioner shall, on the effective date of this act, for each locality in this State for which the Labor Commissioner has not already

established job classifications and wage rates pursuant to state law, adopt the job classifications and wage rates relating to residential weatherization established for that locality pursuant to the most current provisions of federal law or, if such job classifications and wage rates have not been established for that locality, the job classifications and wage rates for the closest locality, whether or not in Nevada, for which such job classifications and wage rates have been established, which are necessary to carry out the provisions of section 9 of this act;

2. The Labor Commissioner shall enforce the job classifications and wage rates adopted pursuant to subsection 1 in the same manner as the Labor Commissioner is authorized to enforce the labor laws and regulations of this State generally; and

3. The provisions of NRS 233B.040 to 233B.120, inclusive, do not apply to the adoption by the Labor Commissioner of the job classifications and wage rates required pursuant to subsection 1.

Sec. 13. **1.** The Office of Energy within the Office of the Governor, the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry shall report to the Interim Finance Committee as required by the Committee concerning the application for and acceptance and expenditure of any money available to the State to carry out the purposes of this act pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

2. As part of each report required pursuant to subsection 1, the Housing Division of the Department of Business and Industry shall provide a written statement to the Interim Finance Committee concerning:

(a) The number of energy audits of residences performed pursuant to section 9 of this act for the period since the previous such report;

(b) The energy savings for residences resulting from the weatherization projects carried out pursuant to section 9 of this act; and

(c) Any other information required by the Interim Finance Committee.

Sec. 14. This act becomes effective upon passage and approval.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 293.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 949.

AN ACT relating to children; making various changes to provisions governing the court-ordered admission of a child to a locked facility; **revising provisions governing proceedings on a petition alleging that a**

child is in need of protection; requiring a court to provide a hearing to determine whether to include rights to visitation of siblings in a decree of adoption; requiring the development of policies concerning certain psychotropic medications given to children who are in the custody of agencies which provide child welfare services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the procedure for petitioning a court to order the admission of certain children with emotional disturbances to a locked facility for treatment. (NRS 432B.607-432B.6085) **Section 2.5** of this bill clarifies that as used in those provisions, "court-ordered admission of a child" includes a child for whom a petition is filed to continue placement after an emergency admission. **Section 2.7** of this bill requires each agency which provides child welfare services to establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. **Section 11** of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt consistent policies with respect to access to such medication by children in division facilities.

Existing law governs the requirements for a petition alleging that a child is in need of protection and provides that the district attorney shall countersign each such petition and represent the interests of the public in all subsequent proceedings. (NRS 432B.510) Section 2.9 of this bill requires an agency which provides child welfare services to represent the best interests of the child in all proceedings and revises the provisions governing the district attorney to require that the district attorney represent the interests of the agency which provides child welfare services in all subsequent proceedings.

Section 4 of this bill requires a petition for the court-ordered admission of a child with an emotional disturbance into a locked facility to be filed within 5 days after an emergency admission or the child must be released. (NRS 432B.6075) **Section 5** of this bill clarifies that the court proceeding for the court-ordered admission of a child who is alleged to be a child with an emotional disturbance must include an evidentiary hearing. (NRS 432B.6076) **Section 6** of this bill expands the manner in which a person is allowed to oppose a petition for the court-ordered admission of a child into a locked facility to include an opposition stated verbally in court. (NRS 432B.6077) **Section 7** of this bill provides that if a court authorizes a second evaluation team to examine a child who is subject to a court-ordered admission to a locked facility, the second examination must be conducted within 5 business days by a team that is not affiliated with, employed by or otherwise connected to the facility where the child has been admitted. (NRS 432B.6078) **Section 8** of this bill requires a court to apply the same standards in considering a petition to renew a court-ordered admission of a child as were applied to the original petition. (NRS 432B.608) **Section 9** of

this bill extends the time for developing a plan for the care, treatment and training of a child subject to a court-ordered admission to a locked facility from 5 to 10 days after the child is admitted to the facility, and removes the requirement that the plan include certain criteria which the child must satisfy before discharge. (NRS 432B.6081)

Section 10 of this bill requires a court to conduct a hearing to determine whether to grant visitation rights to a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. **Section 11** further requires the agency which provides child welfare services to provide the court that is conducting the adoption proceedings with a copy of any existing order for visitation with a sibling of the child and allows certain interested parties to petition to participate in the determination as to whether to include visitation rights in the adoption decree.

Section 12 of this bill requires the Legislative Committee on Health Care to study issues relating to the use of psychotropic medications by children in the custody of agencies which provide child welfare services.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.3. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5 and 2.7 of this act.

Sec. 2.5. ***"Court-ordered admission of a child" includes, without limitation:***

1. A child who is in the custody of an agency which provides child welfare services and who is not in a facility whom the court orders to be admitted to a facility; and

2. A child who has been placed in a facility under an emergency admission and whom the court orders to be admitted for the purpose of continuing the placement.

Sec. 2.7. ***Each agency which provides child welfare services shall establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. The policies must include, without limitation, policies concerning:***

1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

3. The concurrent use by a child of three or more classes of psychotropic medication; and

4. The concurrent use by a child of two psychotropic medications of the same class.

Sec. 2.9. **NRS 432B.510 is hereby amended to read as follows:**

432B.510 1. A petition alleging that a child is in need of protection may be signed only by:

(a) A representative of an agency which provides child welfare services;

(b) A law enforcement officer or probation officer; or

(c) The district attorney.

2. ***An agency which provides child welfare services shall represent the best interests of the child in all proceedings.*** The district attorney shall countersign every petition alleging need of protection, and shall represent the interests of the ~~[public]~~ ***child welfare agency*** in all proceedings. If the district attorney fails or refuses to countersign the petition, the petitioner may seek a review by the Attorney General. If the Attorney General determines that a petition should be filed, he shall countersign the petition and shall represent the interests of the ~~[public]~~ ***child welfare agency*** in all subsequent proceedings.

3. Every petition must be entitled "In the Matter of ....., a child," and must be verified by the person who signs it.

4. Every petition must set forth specifically:

(a) The facts which bring the child within the jurisdiction of the court as indicated in NRS 432B.410.

(b) The name, date of birth and address of the residence of the child.

(c) The names and addresses of the residences of his parents and any other person responsible for the child's welfare, and spouse if any. If his parents or other person responsible for his welfare do not reside in this State or cannot be found within the State, or if their addresses are unknown, the petition must state the name of any known adult relative residing within the State or, if there is none, the known adult relative residing nearest to the court.

(d) Whether the child is in protective custody and, if so:

(1) The agency responsible for placing the child in protective custody and the reasons therefor; and

(2) Whether the child has been placed in a home or facility in compliance with the provisions of NRS 432B.3905. If the placement does not comply with the provisions of NRS 432B.3905, the petition must include a plan for transferring the child to a placement which complies with the provisions of NRS 432B.3905.

5. When any of the facts required by subsection 4 are not known, the petition must so state.

Sec. 3. NRS 432B.607 is hereby amended to read as follows:

432B.607 As used in NRS 432B.607 to 432B.6085, inclusive, ***and section 2.5 of this act,*** unless the context otherwise requires, the words and

terms defined in NRS 432B.6071 to 432B.6074, inclusive, ***and section 2.5 of this act*** have the meanings ascribed to them in those sections.

Sec. 4. NRS 432B.6075 is hereby amended to read as follows:

432B.6075 ***1.*** A proceeding for a court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility may be commenced by the filing of a petition with the clerk of the court which has jurisdiction in proceedings concerning the child. The petition may be filed by the agency which provides child welfare services without the consent of a parent of the child. The petition must be accompanied:

~~[1.]~~ ***(a)*** By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the child alleged to be a child with an emotional disturbance and has concluded that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; or

~~[2.]~~ ***(b)*** By a sworn written statement by the petitioner that:

~~[(a)]~~ ***(1)*** The petitioner has, based upon his personal observation of the child alleged to be a child with an emotional disturbance, probable cause to believe that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; and

~~[(b)]~~ ***(2)*** The child alleged to be a child with an emotional disturbance has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. If a petition filed pursuant to this section is to continue the placement of the child after an emergency admission, the petition must be filed not later than 5 days after the emergency admission or the child must be released.

Sec. 5. NRS 432B.6076 is hereby amended to read as follows:

432B.6076 1. Except as otherwise provided in NRS 432B.6077, if the court finds, after proceedings for the court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility ~~[.]~~ ***, including, without limitation, an evidentiary hearing:***

(a) That there is not clear and convincing evidence that the child with respect to whom the hearing was held exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the child must not be admitted to a facility.

(b) That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the admission, the child is unconditionally released from the facility pursuant to NRS 432B.6084.

2. Before issuing an order for admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the child, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the child.

Sec. 6. NRS 432B.6077 is hereby amended to read as follows:

432B.6077 1. An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has petitioned the court for the court-ordered admission of the child to a facility pursuant to NRS 432B.6075.

2. If a petition for the court-ordered admission of a child filed pursuant to NRS 432B.6075 is accompanied by the information described in ***paragraph (b) of*** subsection ~~[2]~~ ***1*** of NRS 432B.6075, the court shall order a psychological evaluation of the child.

3. If a court which receives a petition filed pursuant to NRS 432B.6075 for the court-ordered admission to a facility of a child who is in the custody of an agency which provides child welfare services determines pursuant to subsection 2 of NRS 432B.6076 that the child could be treated effectively in a less restrictive appropriate environment than a facility, the court must order the placement of the child in a less restrictive appropriate environment. In making such a determination, the court may consider any information provided to the court, including, without limitation:

(a) Any information provided pursuant to subsection 4;

(b) Any suggestions of psychologists, psychiatrists or other physicians who have evaluated the child concerning the appropriate environment for the child; and

(c) Any suggestions of licensed clinical social workers or other professionals or any adult caretakers who have interacted with the child and have information concerning the appropriate environment for the child.

4. If a petition for the court-ordered admission of a child who is in the custody of an agency which provides child welfare services is filed pursuant to NRS 432B.6075:

(a) Any person, including, without limitation, the child, may oppose the petition for the court-ordered admission of the child by filing a written opposition with the court ~~[.]~~ ***or stating the opposition in court;*** and

(b) The agency which provides child welfare services must present information to the court concerning whether:

(1) A facility is the appropriate environment to provide treatment to the child; or

(2) A less restrictive appropriate environment would serve the needs of the child.

Sec. 7. NRS 432B.6078 is hereby amended to read as follows:

432B.6078 1. Not later than 5 days after a child who is in the custody of an agency which provides child welfare services has been admitted to a facility pursuant to NRS 432B.6076, the agency which provides child welfare services shall inform the child of his legal rights and the provisions of NRS 432B.607 to 432B.6085, inclusive, ***and section 2.5 of this act,*** 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and, if the child or the child's attorney desires, assist the child in requesting the court to authorize a second examination by an evaluation team that includes a physician, psychiatrist or licensed psychologist ***who are not employed by, connected to or otherwise affiliated with the facility*** other than a physician, psychiatrist or licensed psychologist who performed an original examination which authorized the court to order the admission of the child to the facility. ***A second examination must be conducted not later than 5 business days after the court authorizes the examination.***

2. If the court authorizes a second examination of the child, the examination must:

(a) Include, without limitation, an evaluation concerning whether the child should remain in the facility and a recommendation concerning the appropriate placement of the child which must be provided to the facility; and

(b) Be paid for by the governmental entity that is responsible for the agency which provides child welfare services, if such payment is not otherwise provided by the State Plan for Medicaid.

Sec. 8. NRS 432B.608 is hereby amended to read as follows:

432B.608 1. If the court issues an order for the admission to a facility of a child who is in the custody of an agency which provides child welfare services pursuant to NRS 432B.6076, the admission automatically expires at the end of 90 days if not terminated previously by the facility as provided for in subsection 2 of NRS 432B.6084.

2. At the end of the court-ordered period of treatment, the agency which provides child welfare services, the Division of Child and Family Services or any facility may petition to renew the admission of the child for additional periods not to exceed 60 days each.

3. For each renewal, the petition must set forth the specific reasons why further treatment in the facility would be in the best interests of the child ~~[.]~~ ***and the court shall apply the same standards when considering a petition to renew the admission of the child as were applied for the original petition for the court-ordered admission of the child.***

Sec. 9. NRS 432B.6081 is hereby amended to read as follows:

432B.6081 A facility which provides care, treatment or training to a child who is in the custody of an agency which provides child welfare services and who is admitted to the facility pursuant to NRS 432B.6076 shall develop a plan, in consultation with the child, for the continued care,

treatment and training of the child upon discharge from the facility. The plan must:

1. Be developed not later than ~~[5]~~ ***10*** days after the child is admitted to the facility;

2. Be submitted to the court after each period of admission ordered by the court pursuant to NRS 432B.6076 in the manner set forth in NRS 432B.608; and

3. Include, without limitation:

(a) The anticipated date of discharge of the child from the facility;

(b) ~~[The criteria which must be satisfied before the child is discharged from the facility, as determined by the medical professional responsible for the care, treatment and training of the child in the facility;~~

~~(c)]~~ The name of any psychiatrist or psychologist who will provide care, treatment or training to the child after the child is discharged from the facility, if appropriate;

~~[(d)]~~ ***(c)*** A plan for any appropriate care, treatment or training for the child for at least 30 days after the child is discharged from the facility; and

~~[(e)]~~ ***(d)*** The suggested placement of the child after the child is discharged from the facility.

Sec. 10. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.

2. Any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency may petition the court to participate in the determination of whether to include an order of visitation with a sibling in the decree of adoption.

3. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child.

Sec. 11. NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children. The Commission must approve the credentials, training and experience of deputy administrators and administrative officers appointed for this purpose.

(c) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

(d) Establish appropriate policies to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the policies established pursuant to section 2.7 of this act.

2. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Governor.

3. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

4. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

Sec. 12. During the 2009-2011 interim, the Legislative Committee on Health Care shall study the policies adopted pursuant to section 2.7 of this act and NRS 433B.130, as amended by section 11 of this act, and the use of psychotropic medication by children in the custody of agencies which provide child welfare services, including, without limitation, children in the custody of a facility operated by the Division of Child and Family Services of the Department of Health and Human Services. The study must include, without limitation, issues concerning:

1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

3. The concurrent use by a child of three or more classes of psychotropic medication;

4. Whether children in the custody of agencies which provide child welfare services have timely access to clinically appropriate psychotropic medication; and

5. The concurrent use by a child of two psychotropic medications of the same class.

Sec. 13. This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 18.
Bill read third time.
Roll call on Assembly Bill No. 18:
YEAS—41.
NAYS—None.
EXCUSED—Aizley.
Assembly Bill No. 18 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 409.
Bill read third time.
Remarks by Assemblymen Settelmeyer and Bobzien.
Roll call on Assembly Bill No. 409:
YEAS—34.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.
EXCUSED—Aizley.
Assembly Bill No. 409 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 540.
Bill read third time.
Roll call on Assembly Bill No. 540:
YEAS—34.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.
EXCUSED—Aizley.
Assembly Bill No. 540 having received a two-thirds majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 146.
Bill read third time.
Roll call on Senate Bill No. 146:
YEAS—41.
NAYS—None.
EXCUSED—Aizley.
Senate Bill No. 146 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 318.
Bill read third time.
Roll call on Senate Bill No. 318:
YEAS—41.
NAYS—None.
EXCUSED—Aizley.

Senate Bill No. 318 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 400.

Bill read third time.

Remarks by Assemblyman Grady.

Roll call on Senate Bill No. 400:

YEAS—41.

NAYS—None.

EXCUSED—Aizley.

Senate Bill No. 400 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 401.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Senate Bill No. 401:

YEAS—41.

NAYS—None.

EXCUSED—Aizley.

Senate Bill No. 401 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 422.

Bill read third time.

Remarks by Assemblyman Grady.

Roll call on Senate Bill No. 422:

YEAS—41.

NAYS—None.

EXCUSED—Aizley.

Senate Bill No. 422 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 423.

Bill read third time.

Roll call on Senate Bill No. 423:

YEAS—41.

NAYS—None.

EXCUSED—Aizley.

Senate Bill No. 423 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 424.

Bill read third time.

Roll call on Senate Bill No. 424:
YEAS—41.
NAYS—None.
EXCUSED—Aizley.
Senate Bill No. 424 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 425.
Bill read third time.
Roll call on Senate Bill No. 425:
YEAS—41.
NAYS—None.
EXCUSED—Aizley.
Senate Bill No. 425 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 430.
Bill read third time.
Roll call on Senate Bill No. 430:
YEAS—41.
NAYS—None.
EXCUSED—Aizley.
Senate Bill No. 430 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that the Assembly dispense with the reprinting of Assembly Bills Nos. 214 and 561; Senate Bills Nos. 7, 152, 293, and 403.
Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bills Nos. 214 and 561; Senate Bills Nos. 78, 382, and 403 be declared emergency measures under the *Constitution* and that they be placed at the top of General File for third reading and final passage.
Motion carried.

Assemblywoman Smith moved that Senate Bill No. 24 be rereferred to the Committee on Ways and Means.
Motion carried.

Assemblyman Horne moved that Assembly Bill No. 385 be taken from the Chief Clerk's desk and placed at the top of the General File.
Motion carried.

Assembly Bill No. 385.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 952.

SUMMARY—Makes various changes concerning ~~[the supervision of convicted persons by correctional officers and parole and probation officers.]~~ **private prisons.** (BDR 16-523)

AN ACT relating to ~~[supervision of convicted persons;]~~ **prisons;** requiring the Board of State Prison Commissioners to ~~[establish guidelines setting forth the maximum number of prisoners who may be supervised by a correctional officer; making various changes concerning the maximum caseload of each parole and probation officer who supervises convicted persons;]~~ **adopt regulations pertaining to a facility or institution operated by a private organization; providing that certain provisions relating to a prisoner confined in a facility or institution also apply to a prisoner confined in a private facility or institution operated by a private organization;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of State Prison Commissioners to ~~[regulate the number of officers and employees of the Department of Corrections. (NRS 209.111) Section 1 of this bill requires the Board to adopt a policy, in consultation with the Director of the Department and the State of Nevada Employees' Association, establishing guidelines for the maximum number of prisoners who may be supervised by a correctional officer at each facility and institution of the Department.~~

~~Under existing law, the Chief Parole and Probation Officer is appointed by the Director of the Department of Public Safety and is responsible, among other things, for supervising the fiscal affairs and responsibilities of the Division of Parole and Probation of the Department, for appointing personnel, assistants and employees for the Division, for formulating methods of investigation, supervision, recordkeeping and reporting, and for developing policies of parole and probation. (NRS 213.1092, 213.1095) Section 2 of this bill requires the Chief Parole and Probation Officer to adopt a policy establishing guidelines for the maximum caseload for each parole and probation officer. Section 2 further requires the Governor to establish the budget for the Division of Parole and Probation each biennium at an amount which anticipates staffing the Division to comply with those guidelines. The Chief Parole and Probation Officer is then required to report to the Interim Finance Committee at the end of each fiscal year setting forth the maximum caseloads that were established for parole and probation officers and, if the maximum caseload per officer was not achieved during the last fiscal year, setting forth the amount of money needed to comply with that requirement.]~~

adopt regulations for carrying out the business of the Board and of the Department of Corrections. (NRS 209.111) Section 1.3 of this bill requires the Board to adopt additional regulations: (1) establishing the maximum number of prisoners that may be incarcerated in a private facility or institution; and (2) requiring that a private facility or institution must meet or exceed the standards set forth in the inmate housing plan approved in the budget of the Department for the biennium, including, without limitation, any associated line-item costs.

Existing law makes it a crime for: (1) a prisoner to escape from prison or to manufacture or possess certain items used in an escape; (2) a person to aid a prisoner in escaping from prison; (3) a person who has custody of a prisoner to allow the prisoner to escape; and (4) a person to conceal an escaped prisoner. (NRS 212.080, 212.090, 212.093, 212.100-212.130) Existing law also provides certain procedures for issuing a warrant for the arrest of an escaped prisoner and the manner in which expenses for recapturing the prisoner must be paid. (NRS 212.030-212.080) Further, existing law makes it a crime to: (1) provide certain items to a prisoner, including certain weapons, an intoxicant or a controlled substance and certain communications devices; or (2) engage in certain behavior concerning a prisoner, such as engaging in sexual conduct or certain unlawful acts relating to human excrement or bodily fluid. (NRS 212.160-212.189) Section 1.7 of this bill provides that those provisions also apply to a prisoner incarcerated in a private prison operated by a private organization as well as to certain other persons. Section 1.7 also provides that the private organization which operates a private facility or institution must: (1) reimburse the State for expenses incurred by the State in recapturing a prisoner who escapes from the private facility or institution; and (2) provide training to its employees that is equivalent to the training provided to a correctional officer in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **[**~~NRS 209.111 is hereby amended to read as follows:~~

~~209.111~~ ***1.*** ~~The Board has full control of all grounds, buildings, labor, and property of the Department, and shall:~~

~~**[**1.**]** ***(a)*** ~~Purchase, or cause to be purchased, all commissary supplies, materials and tools necessary for any lawful purpose carried on at any institution or facility of the Department.~~

~~**[**2.**]** ***(b)*** ~~Regulate the number of officers and employees of the Department.~~

~~**[**3.**]** ***(c)*** ~~Prescribe regulations for carrying on the business of the Board and the Department.~~

~~***2. The Board shall adopt a policy which establishes guidelines for the maximum number of prisoners who may be supervised by a correctional***~~

~~*officer at each facility and institution of the Department. The Board shall establish the guidelines in consultation with the Director and the State of Nevada Employees' Association, or its successor organization. The Director, the State of Nevada Employees' Association or any other interested person may request the Board to review and revise the guidelines established pursuant to this subsection. The decision whether to revise the guidelines pursuant to such a request is in the sole discretion of the Board.]*~~ **(Deleted by amendment.)**

Sec. 1.3. **Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. To ensure the safety of the residents of the State of Nevada, the Board shall adopt regulations:

(a) Establishing the maximum number of prisoners who may be incarcerated in a private facility or institution; and

(b) Requiring that a private facility or institution must meet or exceed the standards set forth in the inmate housing plan approved in the budget of the Department for the biennium, including, without limitation, any associated line-item costs.

2. As used in this section:

(a) "Prisoner" has the meaning ascribed to it in section 1.7 of this act.

(b) "Private facility or institution" has the meaning ascribed to it in section 1.7 of this act.

Sec. 1.7. **Chapter 212 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The provisions of this section and NRS 212.030 to 212.130, inclusive, and 212.160 to 212.189, inclusive, apply to:

(a) A person who has custody of a prisoner assigned to a private facility or institution in this State; and

(b) A prisoner assigned to a private facility or institution in this State,

↪ to the same extent that those provisions would apply if the prisoner had been assigned to a facility or institution operated by the Department.

2. A private organization that operates a private facility or institution must provide training to any person employed by the private facility or institution to perform the duties of a correctional officer described in subsection 5 of NRS 209.131. The training must be equivalent to the training provided to a correctional officer in this State.

3. The private organization that operates a private facility or institution must reimburse the State for any expenses charged against the State or paid by the State pursuant to NRS 212.040, 212.050 or 212.070 concerning a prisoner who escapes from the private facility or institution.

4. As used in this section:

(a) "Prisoner" means any person who is:

(1) Convicted of a crime under the laws of this State and sentenced to imprisonment in the state prison; or

(2) Convicted of a crime under the laws of another jurisdiction and sentenced to imprisonment by that jurisdiction.

(b) "Private facility or institution" means a facility or institution operated by a private organization to house prisoners.

Sec. 2. ~~[Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The Chief shall adopt a policy which establishes guidelines for a maximum caseload for each parole and probation officer of:*~~

~~*(a) Not more than 30 offenders who are subject to intensive supervision or residential confinement or who are otherwise deemed high risk to reoffend;*~~

~~*(b) Not more than 45 offenders who are required to register as sex offenders if they are not subject to paragraph (a); or*~~

~~*(c) Not more than 70 offenders who are not subject to paragraph (a) or (b).*~~

~~*2. The budget submitted to the Legislature by the Governor for the Division for each biennium must be set at an amount reasonably anticipated to allow the Division to achieve the maximum caseloads for parole and probation officers set forth in subsection 1.*~~

~~*3. The Chief shall submit a report to the Interim Finance Committee at the end of each fiscal year setting forth the maximum caseloads that were established for parole and probation officers pursuant to subsection 1 and, if the maximum caseloads set forth in that subsection were not achieved for that fiscal year, setting forth the amount of money needed in order to comply with the provisions of subsection 1.]~~ **(Deleted by amendment.)**

Sec. 3. **[**~~NRS 213.107 is hereby amended to read as follows:~~

~~213.107 As used in NRS 213.107 to 213.157, inclusive, *and section 2 of this act,* unless the context otherwise requires:~~

~~1. "Board" means the State Board of Parole Commissioners.~~

~~2. "Chief" means the Chief Parole and Probation Officer.~~

~~3. "Division" means the Division of Parole and Probation of the Department of Public Safety.~~

~~4. "Residential confinement" means the confinement of a person convicted of a crime to his place of residence under the terms and conditions established by the Board.~~

~~5. "Sex offender" means any person who has been or is convicted of a sexual offense.~~

~~6. "Sexual offense" means:~~

~~(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450, or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;~~

~~(b) An attempt to commit any offense listed in paragraph (a); or~~

~~(c) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.~~

~~7. "Standards" means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.~~**] (Deleted by amendment.)**

Sec. 4. This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 385.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 561.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Assembly Bill No. 561:

YEAS—41.

NAYS—None.

EXCUSED—Aizley.

Assembly Bill No. 561 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 214.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Bill No. 214:

YEAS—38.

NAYS—Cobb, Goedhart, Gustavson—3.

EXCUSED—Aizley.

Assembly Bill No. 214 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 7.

Bill read third time.

Roll call on Senate Bill No. 7:

YEAS—41.

NAYS—None.

EXCUSED—Aizley.

Senate Bill No. 7 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 78.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Senate Bill No. 78:

YEAS—41.

NAYS—None.

EXCUSED—Aizley.

Senate Bill No. 78 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 152.

Bill read third time.

Remarks by Assemblywomen Smith and Gansert.

Roll call on Senate Bill No. 152:

YEAS—31.

NAYS—Christensen, Cobb, Gansert, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart, Woodbury—10.

EXCUSED—Aizley.

Senate Bill No. 152 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 293.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 293:

YEAS—41.

NAYS—None.

EXCUSED—Aizley.

Senate Bill No. 293 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 382.

Bill read third time.

Remarks by Assemblywoman Pierce.

Potential conflict of interest declared by Assemblyman Denis.

Roll call on Senate Bill No. 382:

YEAS—41.

NAYS—None.

EXCUSED—Aizley.

Senate Bill No. 382 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 403.

Bill read third time.

Roll call on Senate Bill No. 403:

YEAS—41.

NAYS—None.

EXCUSED—Aizley.

Senate Bill No. 403 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 385.

Bill read third time.

Remarks by Assemblymen Cobb and Horne.

Roll call on Assembly Bill No. 385:

YEAS—37.

NAYS—Goedhart, Gustavson, Settelmeyer, Woodbury—4.

EXCUSED—Aizley.

Assembly Bill No. 385 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Resolution No. 12—Designating certain members of the Assembly as regular and alternate members of the Legislative Commission for the 2009-2011 biennium.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblyman Oceguera.

Resolution adopted.

Assemblyman Oceguera moved that all bills so far passed this legislative day be immediately transmitted to the Senate.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess until 4 p.m.

Motion carried.

Assembly in recess at 12:24 p.m.

ASSEMBLY IN SESSION

At 4:28 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 28, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 522, Amendment No. 967, and respectfully requests your honorable body to concur in said amendment.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 522.

The following Senate amendment was read:

Amendment No. 967.

AN ACT relating to energy; creating the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs; authorizing the Director of the Department of Energy to administer the Fund; authorizing the granting of partial abatements of certain property taxes and local sales and use taxes to certain facilities for the generation of process heat from solar renewable energy, wholesale facilities for the generation of electricity from renewable energy **, facilities for the generation of electricity from geothermal resources** and facilities for the transmission of electricity produced from renewable energy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1.1-1.8 of this bill establish the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs. The Director of the Office of Energy administers the Fund. The Fund and the Account for Set-Aside Programs may be used only for the purposes set forth in the American Recovery and Reinvestment Act and to make loans at a rate of not more than 3 percent to renewable energy systems for the construction of renewable energy projects. The Director is prohibited from committing any money in the Fund for expenditure ~~[for establishing the priorities for determining which renewable energy systems will receive money or other assistance from the Fund]~~ without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Section 28 of this bill authorizes the Nevada Energy Commissioner appointed pursuant to **section ~~[1.85 of this bill]~~ 1.21 of Senate Bill No. 358 of this session** to grant partial abatements of property taxes and local sales and use taxes to certain facilities for the generation of process heat from solar renewable energy, wholesale facilities for the generation of electricity from renewable energy **, facilities for the generation of electricity from geothermal resources** and facilities for the transmission of electricity

produced from renewable energy. These abatements will cease to be effective in 40 years.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 1.95, inclusive, of this act.

Sec. 1.1. ***As used in sections 1.1 to 1.8, inclusive, of this act, the words and terms defined in sections 1.15 to 1.45, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 1.15. ***"American Recovery and Reinvestment Act" means the American Recovery and Reinvestment Act of 2009, Public Law 111-5.***

Sec. 1.2. ***"Construction" means the erection, building, acquisition, alteration, remodeling, improvement or extension of a project and the inspection and supervision of such activities and includes, without limitation:***

1. Any preliminary planning to determine the feasibility of a project;

2. Engineering, architectural, legal, environmental, fiscal or economic investigations or studies, surveys, designs, plans, working drawings, specifications or procedures that comply with the provisions of the American Recovery and Reinvestment Act and any regulations adopted pursuant thereto; and

3. Any other activities reasonably necessary to the completion of a project.

Sec. 1.3. ***"Federal grant" means money authorized by the American Recovery and Reinvestment Act to:***

1. Create a revolving loan fund to assist in the financing of the construction of renewable energy projects; or

2. Fund set-aside programs authorized by the American Recovery and Reinvestment Act.

Sec. 1.4. ***"Fund" means the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans created by section 1.5 of this act.***

Sec. 1.45. ***"Renewable energy system" has the meaning ascribed to it in NRS 704.7815.***

Sec. 1.5. ***1. The Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans is hereby created. The Director shall administer the Fund.***

2. The account to fund activities, other than projects, authorized by the American Recovery and Reinvestment Act, to be known as the Account for Set-Aside Programs, is hereby created in the Fund for the Municipal Bond Bank.

3. The money in the Fund and the Account for Set-Aside Programs may be used only for the purposes set forth in the American Recovery and Reinvestment Act.

4. All claims against the Fund and the Account for Set-Aside Programs must be paid as other claims against the State are paid.

5. The faith of the State is hereby pledged that the money in the Account for the Revolving Fund and the Account for Set-Aside Programs will not be used for purposes other than those authorized by the American Recovery and Reinvestment Act.

Sec. 1.6. ***1. The interest and income earned on money in the Fund and the Account for Set-Aside Programs must be credited to the Fund and the Account for Set-Aside Programs, respectively.***

2. All payments of principal and interest on all loans made to a renewable energy system and all proceeds from the sale, refunding or prepayment of obligations of a renewable energy system acquired or loans made in carrying out the purposes of the Fund must be deposited in the State Treasury for credit to the Fund.

3. The Director may accept gifts, contributions, grants and bequests of money from any public or private source. The money so accepted must be deposited in the State Treasury for credit to the Fund, or the Account for Set-Aside Programs, and can be used to provide money from the State to match the federal grant, as required by the American Recovery and Reinvestment Act.

4. Only federal money deposited in a separate subaccount of the Fund, including repayments of principal and interest on loans made solely from federal money, and interest and income earned on federal money in the Fund, may be used to benefit renewable energy systems not governmentally owned.

Sec. 1.7. ***1. The Director shall:***

(a) Use the money in the Fund and the Account for Set-Aside Programs for the purposes set forth in the American Recovery and Reinvestment Act.

(b) Determine whether renewable energy systems which receive money or other assistance from the Fund or the Account for Set-Aside Programs comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

2. The Director may:

(a) Prepare and enter into required agreements with the Federal Government for the acceptance of grants of money for the Fund and the Account for Set-Aside Programs.

(b) Bind the Office of Energy to terms of the required agreements.

(c) Accept grants made pursuant to the American Recovery and Reinvestment Act.

(d) Manage the Fund and the Account for Set-Aside Programs in accordance with the requirements and objectives of the American Recovery and Reinvestment Act.

(e) Provide services relating to management and administration of the Fund and the Account for Set-Aside Programs, including the preparation of any agreement, plan or report.

(f) Perform, or cause to be performed by agencies or organizations through interagency agreement, contract or memorandum of understanding, set-aside programs pursuant to the American Recovery and Reinvestment Act.

3. The Director shall not [:

~~(a) Commit]~~ commit any money in the Fund for expenditure for the purposes set forth in section 1.75 of this act [~~; or~~

~~(b) Establish the priorities for determining which renewable energy systems will receive money or other assistance from the Fund,~~

~~"~~] without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Sec. 1.75. ***1. Except as otherwise provided in section 1.6 of this act, money in the Fund, including repayments of principal and interest on loans, and interest and income earned on money in the Fund, may be used only to make loans at a rate of not more than 3 percent to renewable energy systems for the construction of renewable energy projects.***

2. Money in the Account for Set-Aside Programs may be used only to fund set-aside programs authorized by the American Recovery and Reinvestment Act. Money in the Account for Set-Aside Programs may be transferred to the Fund pursuant to the American Recovery and Reinvestment Act.

3. A renewable energy system which requests a loan or other financial assistance must demonstrate that it has:

(a) Complied with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto; or

(b) Agreed to take actions that are needed to ensure that it has the capability to comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

4. Money from the Fund may not be given to an existing renewable energy system unless it has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto. A new renewable energy system, to receive such funding, must demonstrate that it has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

Sec. 1.8. ***The Director may adopt such regulations as are necessary to carry out the provisions of sections 1.1 to 1.8, inclusive, of this act.***

Sec. 1.85. ***[~~1. The Governor shall appoint the Nevada Energy Commissioner, subject to confirmation by the Legislature, or the Legislative Commission if the Legislature is not in session.~~***

~~2. The Commissioner:~~

~~(a) Is in the unclassified service of the State;~~

~~(b) Serves at the pleasure of the Governor; and~~

~~*(c) Must have experience and demonstrated expertise in one or more of the following fields:*~~

~~*(1) Financing of energy projects;*~~

~~*(2) Energy generation projects;*~~

~~*(3) Energy transmission projects;*~~

~~*(4) Professional engineering related to energy efficiency; or*~~

~~*(5) Renewable energy.*~~

~~*3. The Commissioner may, within the limits of legislative appropriations or authorizations:*~~

~~*(a) Employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of his duties may require;*~~

~~*(b) Employ, or retain on a contract basis, legal counsel who shall:*~~

~~*(1) Act as counsel and attorney for the Commissioner in all actions, proceedings and hearings; and*~~

~~*(2) Generally aid the Commissioner in the performance of his duties; and*~~

~~*(c) Employ such additional personnel as may be required to carry out his duties, who must be in the classified service of the State.*~~

~~*4. A person employed by the Commissioner pursuant to this section must be qualified by training and experience to perform the duties of his employment.*~~

~~*5. The Commissioner and the persons employed by the Commissioner shall not have any conflict of interest relating to the performance of their duties.]*~~ **(Deleted by amendment.)**

Sec. 1.9. ~~*[The Nevada Energy Commissioner shall:*~~

~~*1. Utilize all available public and private means to:*~~

~~*(a) Provide information to the public about issues relating to energy and to explain how conservation of energy and its sources may be accomplished; and*~~

~~*(b) Work with educational and research institutes, trade associations and any other public and private entities in this State to create a database for information on technological development, financing opportunities and federal and state policy developments regarding renewable energy and energy efficiency.*~~

~~*2. Encourage the development of any sources of renewable energy and any other energy projects which will benefit the State and any measures which conserve or reduce the demand for energy or which result in more efficient use of energy by, without limitation:*~~

~~*(a) Identifying appropriate areas in this State for the development of sources of renewable energy, based on:*~~

~~*(1) Assessments of solar, wind and geothermal potential;*~~

~~*(2) Evaluations of natural resource constraints;*~~

~~*(3) Current electric transmission infrastructure and capacity; and*~~

~~*(4) The feasibility of the construction of new electric transmission lines;*~~

~~*(b) Working with renewable energy developers to locate their projects within appropriate areas of this State, including, without limitation, assisting the developers to interface with the Bureau of Land Management, the Department of Defense and other federal agencies in:*~~

~~*(1) Expediting land leases;*~~

~~*(2) Resolving site issues; and*~~

~~*(3) Receiving permits for projects on public lands within the appropriate areas of this State;*~~

~~*(c) Coordinating the planning of renewable energy projects in appropriate areas of this State to establish a mix of solar, wind and geothermal renewable energy systems that create a reliable source of energy and maximize use of current or future transmission lines and infrastructure; and*~~

~~*(d) Developing proposals for the financing of future electric transmission projects for renewable energy if no such financing proposals exist.*~~

~~*3. Review jointly with the Nevada System of Higher Education the policies of this State relating to the research and development of the geothermal energy resources in this State and make recommendations to the appropriate state and federal agencies concerning methods for the development of the geothermal energy resources in this State.*~~

~~*4. If the Commissioner determines that it is feasible and cost effective, enter into contracts with researchers from the Nevada System of Higher Education:*~~

~~*(a) To conduct environmental studies in connection with the identification of appropriate areas in this State for the development of renewable energy resources, including, without limitation, hydrologic studies, solar resource mapping studies and wind power modeling studies; and*~~

~~*(b) For the development of technologies that will facilitate the energy efficiency of the electricity grid for this State, including, without limitation, meters that facilitate energy efficiency for consumers of electricity.*~~

~~*5. Cooperate with the Director:*~~

~~*(a) To promote energy projects that enhance the economic development of the State;*~~

~~*(b) To promote the use of renewable energy in this State;*~~

~~*(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;*~~

~~*(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and*~~

~~*(e) If the Commissioner determines that it is feasible and cost effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry*~~

~~*out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).*~~

~~*6. Coordinate activities and programs with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada in general and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.*~~

~~*7. Carry out all other directives concerning energy that are prescribed by the Legislature.]*~~ **(Deleted by amendment.)**

Sec. 1.95. ~~*[The Commissioner may:*~~

~~*1. Administer any gifts or grants which he is authorized to accept.*~~

~~*2. Expend money received from those gifts or grants or from any money received through legislative appropriations or authorizations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.*~~

~~*3. Enter into any cooperative agreement with any federal or state agency or political subdivision.*~~

~~*4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to such a program.*~~

~~*5. Assist developers of renewable energy systems in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.*~~

~~*6. Adopt any regulations that the Commissioner determines are necessary to carry out his duties.*~~

~~*7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Commissioner.]*~~ **(Deleted by amendment.)**

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)
Sec. 15. (Deleted by amendment.)
Sec. 16. (Deleted by amendment.)
Sec. 17. (Deleted by amendment.)
Sec. 18. (Deleted by amendment.)
Sec. 19. (Deleted by amendment.)
Sec. 20. (Deleted by amendment.)
Sec. 21. (Deleted by amendment.)
Sec. 22. (Deleted by amendment.)
Sec. 23. (Deleted by amendment.)
Sec. 24. (Deleted by amendment.)
Sec. 25. (Deleted by amendment.)
Sec. 26. (Deleted by amendment.)
Sec. 27. (Deleted by amendment.)

Sec. 27.5. Chapter 701A of NRS is hereby amended by adding thereto the provisions set forth as sections 28 and 28.5 of this act.

Sec. 28. ***1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy , a facility for the generation of electricity from geothermal resources or a facility for the transmission of electricity produced from renewable energy in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS.*** ~~*[A person who intends to locate a facility for the generation of electricity from geothermal resources in this State may apply to the Director for a partial abatement of local sales and use taxes.]*~~ ***A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to this section.***

2. As soon as practicable after the Director receives such an application, the Director shall submit the application to the Commissioner and forward a copy of the application to:

(a) The Chief of the Budget Division of the Department of Administration;

(b) The Department of Taxation;

(c) The board of county commissioners;

(d) The county assessor;

(e) The county treasurer; and

(f) The Commission on Economic Development.

➥ With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application. The Commissioner shall hold a public hearing on the application. The hearing must not be

held earlier than 30 days after all persons listed in this subsection have received a copy of the application.

3. ~~[The]~~ Except as otherwise provided in subsection 4, the Commissioner shall approve an application for a partial abatement pursuant to this section if the Commissioner makes the following determinations:

(a) The applicant has executed an agreement with the Commissioner which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 6, continue in operation in this State for a period specified by the Commissioner, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

4. <u>The Commissioner shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to subsection 2 by a facility for the generation of electricity from geothermal resources unless the application is approved pursuant to this subsection. The board of county commissioners of a county must approve or deny the application not later than 30 days after the board receives a</u>

copy of the application. The board of county commissioners must not condition the approval of the application on a requirement that the facility for the generation of electricity from geothermal resources agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility. If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed denied.

5. Notwithstanding the provisions of subsection [2,] 3, the Commissioner may, if the Commissioner determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 3; or

(b) [Make the requirements set forth in paragraph (d) or (e) of subsection 3 more stringent; or

(c)] Add additional requirements that a facility must meet to qualify for a partial abatement.

[5.] 6. If the Commissioner approves an application for a partial abatement pursuant to this section of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

(1) Be for a duration of the 20 fiscal years immediately following the date of approval of the application;

(2) Be equal to 55 percent of the taxes on real and personal property payable by the facility each year; and

(3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes:

(1) The partial abatement must:

(I) Be for the [2] 3 years beginning on the date of approval of the application;

(II) Be equal to that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds [0.5] 0.6 percent; and

(III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to

pay sales and use taxes imposed in this State at the rate of ~~[2.5]~~ 2.6 percent.

~~[6.]~~ 7. Upon approving an application for a partial abatement pursuant to this section, the Commissioner shall immediately notify the Director of the terms of the abatement and the Director shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

~~[7.]~~ 8. As soon as practicable after receiving a copy of:

(a) An application pursuant to subsection 2:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and forward a copy of the fiscal note to the Director for submission to the Commissioner; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government and to the Director for submission to the Commissioner.

(b) A certificate of eligibility pursuant to subsection 6, the Department of Taxation shall forward a copy of the certificate to each affected local government.

~~[8.]~~ 9. A partial abatement approved by the Commissioner pursuant to this section terminates upon any determination by the Commissioner that the facility has ceased to meet any eligibility requirements for the abatement. The Commissioner shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the facility has ceased to meet those requirements. The Commissioner shall immediately provide notice of each determination of termination to the Director, and the Director shall immediately provide a copy of the notice to:

(a) The Commissioner, who shall immediately notify each affected local government of the determination;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

~~[9.]~~ 10. The Commissioner:

(a) Shall adopt regulations:

(1) Prescribing the minimum level of benefits that a facility must provide to its employees if the facility is going to use benefits paid to

employees as a basis to qualify for a partial abatement pursuant to this section;

(2) Prescribing such requirements for an application for a partial abatement pursuant to this section as will ensure that all information and other documentation necessary for the Commissioner to make an appropriate determination is filed with the Director;

(3) Requiring each recipient of a partial abatement pursuant to this section to file annually with the Director, for submission to the Commissioner, such information and documentation as may be necessary for the Commissioner to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(4) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 3; and

(b) May adopt such other regulations as the Commissioner determines to be necessary to carry out the provisions of this section.

~~[10.]~~ *11. Notwithstanding any statutory provision to the contrary, if the Commissioner approves an application for a partial abatement pursuant to this section of:*

(a) Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:

(1) ~~*[For the period beginning on July 1, 2009, and ending on June 30, 2011:*~~

~~*(I)]*~~ *Forty-five percent of that amount is deposited in the unrestricted balance of the State General Fund; and*

~~*[(II)]*~~ *(2) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive .* ~~*[; and*~~

~~*(2) For the period beginning on July 1, 2011, and ending on June 30, 2049:*~~

~~*(I) Forty-five percent of that amount is deposited in the Renewable Energy Fund created by section 28.5 of this act; and*~~

~~*(II) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.]*~~

(b) Local sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

~~*[11.]*~~ *12. As used in this section:*

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) Municipal wastes; and

(5) Aquatic plants.

(b) "Commissioner" means the Nevada Energy Commissioner appointed pursuant to section ~~[1.85]~~ 1.21 of Senate Bill No. 358 of this ~~[act.]~~ session.

(c) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(d) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least 10 megawatts.

➥ The term does not include a facility that is located on residential property.

(e) "Facility for the generation of process heat from solar renewable energy" means a facility that:

(1) Uses solar renewable energy to generate process heat; and

(2) Has an output capacity of at least ~~[12,920,000]~~ 25,840,000 British thermal units per hour.

(f) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.

(g) "Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by the Sales and Use Tax Act.

(h) "Renewable energy" means:

(1) Biomass;

(2) Fuel cells;

(3) Solar energy;

(4) Waterpower; or

(5) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, geothermal energy or nuclear energy.

(i) "Wholesale facility for the generation of electricity from renewable energy" means a facility for the generation of electricity from renewable energy that, except as otherwise provided in subparagraph (2), does not sell the electricity to the end user of the electricity. The term includes:

(1) All the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.

(2) A facility that is owned, leased or otherwise controlled by an entity that has authority to sell electricity and provide transmission services or distribution services, or both.

Sec. 28.5. ***The Renewable Energy Fund is hereby created. The Nevada Energy Commissioner appointed pursuant to section ~~[1.85]~~ 1.21 of Senate Bill No. 358 of this ~~[act]~~ session shall administer the Fund. The interest and income earned on the money in the fund must be credited to the fund. ~~[The]~~ Not less than 75 percent of the money in the fund must be used ~~[primarily to defer the rate of the utility to the consumer or otherwise]~~ to offset the cost of electricity ~~[and natural gas]~~ to retail customers ~~[.]~~ of a public utility that is subject to the portfolio standard established by the Public Utilities Commission of Nevada pursuant to NRS 704.7821. The Nevada Energy Commissioner may establish other uses of the money in the Fund by regulation.***

Sec. 29. (Deleted by amendment.)
Sec. 30. (Deleted by amendment.)
Sec. 31. (Deleted by amendment.)
Sec. 32. (Deleted by amendment.)
Sec. 33. (Deleted by amendment.)
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Sec. 98. (Deleted by amendment.)
Sec. 99. (Deleted by amendment.)
Sec. 100. (Deleted by amendment.)
Sec. 101. (Deleted by amendment.)
Sec. 102. (Deleted by amendment.)
Sec. 103. (Deleted by amendment.)
Sec. 104. (Deleted by amendment.)
Sec. 105. (Deleted by amendment.)
Sec. 106. (Deleted by amendment.)

Sec. 106.5. **Section 28 of this act is hereby amended to read as follows:**

Sec. 28. 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy , a facility for the generation of electricity from geothermal resources or a facility for the transmission of electricity produced from renewable energy in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to this section.

2. As soon as practicable after the Director receives such an application, the Director shall submit the application to the Commissioner and forward a copy of the application to:

(a) The Chief of the Budget Division of the Department of Administration;

(b) The Department of Taxation;

(c) The board of county commissioners;

(d) The county assessor;

(e) The county treasurer; and

(f) The Commission on Economic Development.

➥ With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application. The Commissioner shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in this subsection have received a copy of the application.

3. Except as otherwise provided in subsection 4, the Commissioner shall approve an application for a partial abatement pursuant to this section if the Commissioner makes the following determinations:

(a) The applicant has executed an agreement with the Commissioner which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 6, continue in operation in this State for a period specified by the Commissioner, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the

acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average

statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

4. The Commissioner shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to subsection 2 by a facility for the generation of electricity from geothermal resources unless the application is approved pursuant to this subsection. The board of county commissioners of a county must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners must not condition the approval of the application on a requirement that the facility for the generation of electricity from geothermal resources agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility. If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed denied.

5. Notwithstanding the provisions of subsection 3, the Commissioner may, if the Commissioner determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 3; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

6. If the Commissioner approves an application for a partial abatement pursuant to this section of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

(1) Be for a duration of the 20 fiscal years immediately following the date of approval of the application;

(2) Be equal to 55 percent of the taxes on real and personal property payable by the facility each year; and

(3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes:

(1) The partial abatement must:

(I) Be for the 3 years beginning on the date of approval of the application;

(II) Be equal to that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds ~~[0.6]~~ ***0.25*** percent; and

(III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of ~~[2.6]~~ ***2.25*** percent.

7. Upon approving an application for a partial abatement pursuant to this section, the Commissioner shall immediately notify the Director of the terms of the abatement and the Director shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

8. As soon as practicable after receiving a copy of:

(a) An application pursuant to subsection 2:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and forward a copy of the fiscal note to the Director for submission to the Commissioner; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government and to the Director for submission to the Commissioner.

(b) A certificate of eligibility pursuant to subsection 6, the Department of Taxation shall forward a copy of the certificate to each affected local government.

9. A partial abatement approved by the Commissioner pursuant to this section terminates upon any determination by the Commissioner that the facility has ceased to meet any eligibility requirements for the abatement. The Commissioner shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the facility has ceased to meet those requirements. The Commissioner shall immediately

provide notice of each determination of termination to the Director, and the Director shall immediately provide a copy of the notice to:

(a) The Commissioner, who shall immediately notify each affected local government of the determination;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

10. The Commissioner:

(a) Shall adopt regulations:

(1) Prescribing the minimum level of benefits that a facility must provide to its employees if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to this section;

(2) Prescribing such requirements for an application for a partial abatement pursuant to this section as will ensure that all information and other documentation necessary for the Commissioner to make an appropriate determination is filed with the Director;

(3) Requiring each recipient of a partial abatement pursuant to this section to file annually with the Director, for submission to the Commissioner, such information and documentation as may be necessary for the Commissioner to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(4) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 3; and

(b) May adopt such other regulations as the Commissioner determines to be necessary to carry out the provisions of this section.

11. Notwithstanding any statutory provision to the contrary, if the Commissioner approves an application for a partial abatement pursuant to this section of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:

(1) Forty-five percent of that amount is deposited in the ~~[unrestricted balance of the State General Fund;]~~ ***Renewable Energy Fund created by section 28.5 of this act;*** and

(2) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.

(b) Local sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

12. As used in this section:

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) Municipal wastes; and

(5) Aquatic plants.

(b) "Commissioner" means the Nevada Energy Commissioner appointed pursuant to section 1.21 of Senate Bill No. 358 of this session.

(c) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(d) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least 10 megawatts.

➥ The term does not include a facility that is located on residential property.

(e) "Facility for the generation of process heat from solar renewable energy" means a facility that:

(1) Uses solar renewable energy to generate process heat; and

(2) Has an output capacity of at least 25,840,000 British thermal units per hour.

(f) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.

(g) "Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by the Sales and Use Tax Act.

(h) "Renewable energy" means:

(1) Biomass;

(2) Fuel cells;

(3) Solar energy;

(4) Waterpower; or

(5) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, geothermal energy or nuclear energy.

(i) "Wholesale facility for the generation of electricity from renewable energy" means a facility for the generation of electricity from renewable energy that, except as otherwise provided in subparagraph (2), does not sell the electricity to the end user of the electricity. The term includes:

(1) All the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.

(2) A facility that is owned, leased or otherwise controlled by an entity that has authority to sell electricity and provide transmission services or distribution services, or both.

Sec. 106.7. **Section 1.21 of Senate Bill No. 358 of this session is hereby amended to read as follows:**

Sec. 1.21. ***1. The Governor shall appoint the Nevada Energy Commissioner as the head of the Authority*** **.** ~~*[, subject to confirmation by the Legislature, or the Legislative Commission if the Legislature is not in session.]*~~

2. The Commissioner:

(a) Is in the unclassified service of the State;

(b) Serves at the pleasure of the Governor; and

(c) Must have experience and demonstrated expertise in one or more of the following fields:

(1) Financing of energy projects;

(2) Energy generation projects;

(3) Energy transmission projects;

(4) Professional engineering related to energy efficiency; or

(5) Renewable energy.

3. The Commissioner may, within the limits of legislative appropriations or authorizations:

(a) Employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of his duties and the operation of the Authority may require;

(b) Employ, or retain on a contract basis, legal counsel who shall:

(1) Be counsel and attorney for the Commissioner and the Authority in all actions, proceedings and hearings; and

(2) Generally aid the Authority in the performance of its duties; and

(c) Employ such additional personnel as may be required to carry out the duties of the Authority, who must be in the classified service of the State.

4. A person employed by the Commissioner pursuant to this section must be qualified by training and experience to perform the duties of his employment.

5. The Commissioner and the persons employed by the Commissioner shall not have any conflict of interest relating to the performance of their duties.

Sec. 106.9. **Section 1.35 of Senate Bill No. 358 of this session is hereby amended to read as follows:**

Sec. 1.35. ***1. The New Energy Industry Task Force is hereby created.***

2. The Task Force consists of the Commissioner and the following eight members who must be appointed by the Commissioner **:** ~~*[subject to the review and approval of the appointments by the Legislature, or the Legislative Commission if the Legislature is not in session.]*~~

(a) A representative of the large-scale solar energy industry in this State;

(b) A representative of the geothermal energy industry in this State;

(c) A representative of the wind energy industry in this State;

(d) A representative of the distributed generation industry, energy efficiency equipment and installation industry or manufacturers of equipment for renewable energy power plants in this State;

(e) A representative of an electric utility in this State;

(f) A representative of an organization in this State that advocates on behalf of environmental or public lands issues who has expertise in or knowledge of environmental or public lands issues;

(g) A representative of a labor organization in this State; and

(h) A representative of an organization that represents contractors in this State.

Sec. 107. The Legislature hereby finds that each exemption provided by this act from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

2. Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

Sec. 107.5. **1. The Nevada Energy Commissioner appointed pursuant to section 1.21 of Senate Bill No. 358 of this session shall propose a budget for his office and the Renewable Energy and Energy Efficiency Authority created by section 1.19 of Senate Bill No. 358 of this session for the 2009-2011 biennium to the Interim Finance Committee. The Committee:**

(a) Shall make any changes it deems appropriate;

(b) Shall approve the budget; and

(c) May require the Public Utilities Commission of Nevada to transfer not more than $500,000 from its reserve account in the Public Utilities Commission Regulatory Fund created by NRS 703.147, to an account in the State General Fund for use by the Commissioner in a manner authorized in the budget approved pursuant to this subsection.

2. Not later than 10 days after the Interim Finance Committee approves the budget pursuant to subsection 1, the Public Utilities Commission of Nevada shall make any transfer required pursuant to paragraph (c) of subsection 1.

3. In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the Interim Finance Committee may determine an amount of money up to 3 percent of the money received to be used by the Nevada Energy

Commissioner and the Renewable Energy and Energy Efficiency Authority in the manner authorized in the budget approved pursuant to subsection 1.

4. The Interim Finance Committee may allocate money in the reserve account in the Public Utilities Commission Regulatory Fund created by NRS 703.147 in addition to the amount authorized by paragraph (c) of subsection 1 if the Interim Finance Committee determines that additional money is necessary to fund the budget of the Nevada Energy Commissioner or the Renewable Energy and Energy Efficiency Authority during the 2009-2011 biennium. Any money so allocated is hereby authorized for expenditure by the Nevada Energy Commissioner.

Sec. 108. Notwithstanding the provisions of ~~[section]~~ **sections** 28 **and 106.5** of this act, a person is not entitled to any partial abatement of taxes pursuant to ~~[that section]~~ **those sections** after June 30, 2049.

Sec. 109. (Deleted by amendment.)

Sec. 109.5. **Sections 11.7 and 20.8 of Senate Bill No. 358 of this session are hereby repealed.**

Sec. 110. 1. This section and sections **106.7, 106.9, 107.5 and 109.5 of this act become effective upon passage and approval.**

2. **Sections** 1 to 1.8, inclusive, 27.5, 28, 28.5, 107, 108 and 109 of this act become effective on July 1, 2009.

~~[2.]~~ **3.** Sections 1.85, 1.9 and 1.95 of this act become effective on July 1, 2009, if and only if no other bill passed during the 2009 Legislative Session becomes effective that provides for the appointment, powers and duties of the Nevada Energy Commissioner.

~~[3.]~~ **4. Section 106. of this act becomes effective on July 1, 2011.**

5. Sections 28 **,** ~~[and]~~ 28.5 **and 106.5** of this act expire by limitation on June 30, 2049.

TEXT OF REPEALED SECTIONS

Section 11.7 of Senate Bill No. 358 of this session:

Sec. 11.7. NRS 704.033 is hereby amended to read as follows:

704.033 1. Except as otherwise provided in subsection 6, the Commission shall levy and collect an annual assessment from all public utilities, providers of discretionary natural gas service and alternative sellers subject to the jurisdiction of the Commission.

2. Except as otherwise provided in subsections 3 and 4, the annual assessment must be:

(a) For the use of the Commission, not more than ~~[3.50]~~ ***2.50*** mills; ~~[and]~~

(b) For the use of the Consumer's Advocate, not more than 0.75 mills ~~[.]~~ ***;***

(c) For the use of the Renewable Energy and Energy Efficiency Authority, not more 0.925 mills; and

(d) For the use of the Office of Energy, not more than 0.075 mills,

➥ on each dollar of gross operating revenue derived from the intrastate operations of such utilities, providers of discretionary natural gas service and alternative sellers in the State of Nevada. The total annual assessment must be not more than 4.25 mills.

3. The levy ~~[for]~~ ***:***

(a) For the use of the Consumer's Advocate must not be assessed against railroads ~~[.]~~ ***;***

(b) For the use of the Renewable Energy and Energy Efficiency Authority must be assessed only against utilities that provide electricity or natural gas in this State; and

(c) For the use of the Office of Energy must be assessed only against utilities that provide electricity or natural gas in this State.

4. The minimum assessment in any 1 year must be $100.

5. The gross operating revenue of the utilities must be determined for the preceding calendar year. In the case of:

(a) Telecommunication providers, except as provided in paragraph (c), the revenue shall be deemed to be all intrastate revenues.

(b) Railroads, the revenue shall be deemed to be the revenue received only from freight and passenger intrastate movements.

(c) All public utilities, providers of discretionary natural gas service and alternative sellers, the revenue does not include the proceeds of any commodity, energy or service furnished to another public utility, provider of discretionary natural gas service or alternative seller for resale.

6. Providers of commercial mobile radio service are not subject to the annual assessment and, in lieu thereof, shall pay to the Commission an annual licensing fee of $200.

7. The amount of the annual assessment which the Commission must levy and collect for the use of the Renewable Energy and Energy Efficiency Authority pursuant to paragraph (c) of subsection 2 and the Office of Energy pursuant to paragraph (d) of subsection 2 must be determined by:

(a) The Legislature if the Legislature is in session; or

(b) The Interim Finance Committee if the Legislature is not in session.

Section 20.8 of Senate Bill No. 358 of this session:

Sec. 20.8. For the period beginning July 1, 2009, and ending June 30, 2010, the Public Utilities Commission of Nevada shall levy and collect from utilities that provide electricity or natural gas in this State the annual assessment described in NRS 704.033, as amended by section 11.7 of this act, that must be:

1. For the use of the Renewable Energy and Energy Efficiency Authority, 0.21 mills; and

2. For the use of the Office of Energy, 0.07 mills,

➥ unless the Legislature or the Interim Finance Committee establishes a different amount on or before June 15, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 522.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 182, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 28, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 92, 555; Senate Bill No. 434.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 65, Amendment No. 961, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 207, Amendment No. 609, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 24, Senate Amendment No. 599, and requests a conference, and appointed Senators Schneider, Carlton and Hardy as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 140, Senate Amendment No. 771, and requests a conference, and appointed Senators Carlton, Copening and Townsend as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 202, Senate Amendment No. 812, and requests a conference, and appointed Senators Carlton, Parks and Amodei as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 309, Senate Amendments Nos. 693, 876, and requests a conference, and appointed Senators Amodei, Care and Wiener as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 320, Senate Amendments Nos. 694, 871, and requests a conference, and appointed Senators McGinness, Copening and Care as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 454, Senate Amendment No. 763, and requests a conference, and appointed Senators Carlton, Copening and Hardy as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendments Nos. 725, 900 to Senate Bill No. 31; Assembly Amendments Nos. 828, 839 to Senate Bill No. 94; Assembly Amendment No. 654 to Senate Bill No. 124; Assembly Amendment No. 734 to Senate Bill No. 173; Assembly Amendments Nos. 668, 916 to Senate Bill No. 190; Assembly Amendment No. 736 to Senate Bill No. 248; Assembly

Amendment No. 689 to Senate Bill No. 376; Assembly Amendment No. 658 to Senate Bill No. 396; Assembly Amendment No. 878 to Senate Bill No. 416.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 827 to Senate Bill No. 43; Assembly Amendment No. 588 to Senate Bill No. 55; Assembly Amendment No. 723 to Senate Bill No. 84; Assembly Amendment No. 921 to Senate Bill No. 175; Assembly Amendment No. 890 to Senate Bill No. 213; Assembly Amendments Nos. 783, 905 to Senate Bill No. 269; Assembly Amendment No. 745 to Senate Bill No. 332; Assembly Amendment No. 840 to Senate Bill No. 411.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 45.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 54.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 434.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 434 considered engrossed, declared an emergency measure under the *Constitution*, and placed on third reading and final passage.

Motion carried.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Horne, McClain, and Gansert as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 140.

Madam Speaker appointed Assemblymen McClain, Conklin, and Hardy as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 202.

Madam Speaker appointed Assemblymen Segerblom, Pierce, and Carpenter as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 320.

Madam Speaker appointed Assemblymen Horne, McClain, and Goedhart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 454.

Madam Speaker appointed Assemblymen Parnell, Dondero Loop, and Hambrick as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 309.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Conklin moved that the Assembly do not recede from its action on Senate Bill No. 269, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Smith, Anderson, and Hardy as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 269.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 207.

The following Senate amendment was read:

Amendment No. 609.

AN ACT relating to common-interest communities; revising certain requirements for limited-purpose associations that are created for a rural agricultural residential common-interest communities; providing that such a limited-purpose association is a public body for purposes of the Open Meeting Law; providing that a study of the reserves of an association may be conducted by a person without a permit under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a limited-purpose association that is created for a rural agricultural residential common-interest community must comply with certain requirements set forth in chapter 116 of NRS. **Section 1** of this bill exempts such a limited-purpose association from the requirement to: (1) pay a fee to the Real Estate Administrator for each unit in the association as required pursuant to NRS 116.31155 ~~[;]~~ **, except that the association must pay the fees if it intends to use the services of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels;** (2) comply with certain rules for meetings of the executive board; and (3) conduct a study every 5 years of the reserves required to repair, replace and restore the major components of the common elements of the community, and take certain actions concerning the study. (NRS 116.1201, 116.31083, 116.31152, 116.31155)

Existing law requires each limited-purpose association that is created for a rural agricultural residential common-interest community to comply with chapter 241 of NRS, which is commonly referred to as the Open Meeting Law. (NRS 116.31075) **Section 2** of this bill amends the definition of "public body" for purposes of the Open Meeting Law to include a limited-purpose association that is created for a rural agricultural residential common-interest community. (NRS 241.015) Thus, such a limited-purpose association will be

subject to enforcement action by the Attorney General if the association violates the Open Meeting Law. (NRS 241.037)

Existing law provides that at least once every 5 years, the executive board of an association shall cause a study of the reserves of the association required to repair, replace and restore the major components of the association to be conducted by a person who holds a permit to conduct such a study. (NRS 116.31152) **Sections 1.3 and 1.7** of this bill provide that if the common-interest community contains 20 or fewer units and is located in a county with a population of 50,000 or less (currently counties other than Carson City, Clark and Washoe Counties), the study may be conducted by any person whom the executive board deems qualified to conduct the study.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155 ~~[;]~~ ~~*[, unless]*~~ ***, except that if the limited-purpose association is created for a rural agricultural residential common-interest community*** ~~*[,]*~~ ***, the limited-purpose association is not required to pay the fee unless the association intends to use the services of the Ombudsman;***

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038 ~~[,]~~ ***;***

(II) NRS 116.31083 and 116.31152 ~~[;]~~ ***, unless the limited-purpose association is created for a rural agricultural residential common-interest community;*** and

~~[(II)]~~ ***(III)*** NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if

the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 1.3. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements;

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. ~~[The]~~ ***Except as otherwise provided in this subsection, the*** study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to chapter 116A of NRS. ***If the common-interest community contains 20 or fewer units and is located in a county whose population is 50,000 or less, the study of the reserves required by subsection 1 may be conducted by any person whom the executive board deems qualified to conduct the study.***

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements that the association is obligated to repair, replace or restore;

(b) An identification of the major components of the common elements that the association is obligated to repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the common elements identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of repairing, replacement or restoration of the major components of the common elements identified pursuant to paragraph (b), after subtracting he reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 1.7. NRS 116A.420 is hereby amended to read as follows:

116A.420 1. Except as otherwise provided in this section ~~[,]~~ ***and subsection 2 of NRS 116.31152,*** a person shall not act as a reserve study specialist unless the person holds a permit.

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists who hold permits.

3. The Division may investigate any reserve study specialist who holds a permit to ensure that the reserve study specialist is complying with the provisions of this chapter and chapters 116 and 116B of NRS and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist who holds a permit has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to issue a permit to a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the permit of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

Sec. 2. NRS 241.015 is hereby amended to read as follows:

241.015 As used in this chapter, unless the context otherwise requires:

1. "Action" means:

(a) A decision made by a majority of the members present during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present during a meeting of a public body;

(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or

(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. "Meeting":

(a) Except as otherwise provided in paragraph (b), means:

(1) The gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over

which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

3. Except as otherwise provided in this subsection, "public body" means ~~[any]~~ ***:***

(a) Any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405 ~~[.]~~ ***; and***

(b) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201.

➥ "Public body" does not include the Legislature of the State of Nevada.

4. "Quorum" means a simple majority of the constituent membership of a public body or another proportion established by law.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 207.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 55, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Anderson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Anderson, Ohrenschall, and McArthur as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 55.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Atkinson moved that the Assembly do not recede from its action on Senate Bill No. 332, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Atkinson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Spiegel, Dondero Loop, and Goicoechea as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 332.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 395 be taken from the Chief Clerk's desk and placed at the top of General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 395.

Bill read third time.

The following amendment was proposed by Assemblyman Bobzien:

Amendment No. 965.

AN ACT relating to governmental administration; revising provisions governing the issuance of certain permits by the Public Utilities Commission of Nevada pursuant to the Utility Environmental Protection Act; altering the composition of the Commission on Economic Development; requiring the Chief of the Purchasing Division of the Department of Administration to adopt regulations establishing standards for the procurement of certain appliances, equipment, lighting and other devices; requiring the State Public Works Board to adopt certain standards concerning the efficient use of water and energy; requiring licensed vehicle dealers to provide certain information

concerning vehicle emissions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill alters the definition of "utility facility," as that term is used in the Utility Environmental Protection Act which provides for the issuance of permits **by the Public Utilities Commission of Nevada** for the construction of utility facilities, to **: (1)** require a nameplate capacity **for electric facilities** of not more than 70 megawatts rather than a generating capacity of not more than 35 megawatts **[.] ; and (2) apply to certain electric and gas facilities located in a county whose population is 100,000 or more (currently Clark and Washoe Counties) which were previously excluded.**

Section 5 of this bill exempts certain utility facilities from certain findings that are a condition precedent to permitting under the Utility Environmental Protection Act.

Sections 6 and 24 of this bill alter the composition of the Commission on Economic Development to require that at least two of the appointed members be from counties whose population is less than 100,000. (NRS 231.040)

Section 8 of this bill requires the Chief of the Purchasing Division of the Department of Administration to adopt regulations establishing standards favoring the procurement of appliances, equipment, lighting and other devices that bear the "Energy Star" label or meet other requirements prescribed by federal law unless to do so would not be cost-effective.

Section 10 of this bill requires the State Public Works Board to adopt standards and performance guidelines concerning the efficient use of water and energy.

Section 18 of this bill requires vehicle dealers in Nevada, beginning ~~[on January 1, 2010, to provide upon request]~~ **with the 2012 model year and thereafter, to ensure that each new vehicle offered for sale is accompanied by** a disclosure of the **vehicle's** estimated carbon dioxide emissions **, ~~[of each new vehicle offered for sale,]~~** if such information is available.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except **~~[:~~**

~~(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or~~

~~(b) Electric~~] ***electric*** generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a ~~[~~generating~~]~~ ***nameplate*** capacity of not more than ~~[~~35~~]~~ ***70*** megawatts, including, without limitation, a net metering system, as defined in NRS 704.771.

~~[~~For~~]~~ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside ~~[~~:

~~(a) Any~~] ***any*** incorporated city ***.*** ~~[~~; and

~~(b) Any county whose population is 100,000 or more.~~]

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 5. NRS 704.890 is hereby amended to read as follows:

704.890 1. Except as otherwise provided in subsection 3, the Commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the Commission, to a person unless it finds and determines:

(a) The nature of the probable effect on the environment;

(b) ~~[~~The~~]~~ ***If the utility facility emits greenhouse gases and does not use renewable energy as its primary source of energy to generate electricity, the*** extent to which the facility is needed to ensure reliable utility service to customers in this State;

(c) That the need for the facility balances any adverse effect on the environment;

(d) That the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives;

(e) That the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder and the applicant has obtained, or is in the process of obtaining, all other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances; and

(f) That the facility will serve the public interest.

2. If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its permit upon such a

modification. If the applicant has not obtained all the other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances as of the date on which the Commission decides to issue a permit, the Commission shall condition its permit upon the applicant obtaining those permits and approvals.

3. The requirements set forth in paragraph (f) of subsection 1 do not apply to any application for a permit which is filed by a state government or political subdivision thereof.

4. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

Sec. 6. NRS 231.040 is hereby amended to read as follows:

231.040 1. The Commission on Economic Development is composed of the Lieutenant Governor, who is its Chairman, and six members who are appointed by the Governor.

2. The Governor shall appoint as members of the Commission persons who ***are residents of Nevada and who*** have proven experience in economic development which was acquired by them while engaged in finance, manufacturing, mining, agriculture, the field of transportation, or in general business other than tourism or gaming.

3. The Governor shall appoint ~~[at]~~ ***to the Commission:***

(a) At least one member who is a resident of ~~[:~~

~~(a)]~~ Clark County.

(b) ***At least one member who is a resident of*** Washoe County.

(c) ~~[A county]~~ ***At least two members who are residents of counties*** whose population is ~~[50,000 or less.]~~ ***less than 100,000.***

Sec. 7. (Deleted by amendment.)

Sec. 8. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Chief shall adopt regulations which set forth standards to be used by using agencies when purchasing new appliances, equipment, lighting and other devices that use electricity, natural gas, propane or oil. Except as otherwise provided in subsection 2, the standards must require that such new appliances, equipment, lighting and other devices have received the Energy Star label pursuant to the program established pursuant to 42 U.S.C. § 6294a, or its successor, or meet the requirements established pursuant to 48 C.F.R. § 23.203.

2. The standards described in subsection 1 do not apply insofar as:

(a) No items in a given class of appliances, equipment, lighting or other devices have been evaluated to determine whether they are eligible to receive the Energy Star label or have been designated by the Federal Government to meet the requirements established pursuant to 48 C.F.R. § 23.203; or

(b) The purchase of new appliances, equipment, lighting or other devices that have received the Energy Star label would not be cost-effective

in an individual instance, comparing the cost of the item to the cost of the amount of energy that will be saved over the useful life of the item.

Sec. 9. NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Chief:

(a) Shall consider, if applicable ~~[, the]~~ ***:***

(1) The imposition of the inverse preference described in NRS 333.336.

(2) The required standards adopted pursuant to section 8 of this act.

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Chief shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 10. Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of the design and construction of buildings or other projects of this State, the Board shall adopt by regulation:

(a) Standards for the efficient use of water.

(b) Standards for the efficient use of energy, including, without limitation, the use of sources of renewable energy.

(c) Performance guidelines for new, remodeled and renovated buildings.

(d) Performance guidelines for retrofit projects, including, without limitation, guidelines for:

(1) Energy consumption.

(2) The use of potable water.

(3) The use of water for purposes relating to landscaping.

(4) The disposal of solid waste.

2. The standards and performance guidelines adopted in accordance with subsection 1 must include a mechanism for their evaluation and revision to ensure that such standards and guidelines:

(a) Are cost-effective over the life of the applicable project.

(b) Produce certain threshold levels of cost savings.

3. In adopting the standards and performance guidelines pursuant to subsection 1, the Board may consider, without limitation:

(a) The Leadership in Energy and Environmental Design Green Building Rating System established by the U.S. Green Building Council or its successor;

(b) The Green Globes assessment and rating system developed by the Green Building Initiative or its successor;

(c) The standards established by the United States Environmental Protection Agency pursuant to the Energy Star Program;

(d) The standards established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers or its successor;

(e) The criteria established pursuant to the Federal Energy Management Program established by the United States Department of Energy; and

(f) The criteria established by the International Energy Conservation Code.

4. The regulations adopted pursuant to this section must include provisions for their enforcement.

5. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 701A.220.

Sec. 11. NRS 341.119 is hereby amended to read as follows:

341.119 1. Upon the request of the head of a state agency, the Board may delegate to that agency any of the authority granted the Board pursuant to NRS 341.141 to 341.148, inclusive ~~[.]~~ ***, and section 10 of this act.***

2. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the Board concerning a construction project or to approve the advance planning of a project.

Sec. 12. NRS 341.153 is hereby amended to read as follows:

341.153 1. The Legislature hereby finds as facts:

(a) That the construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and

experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

(b) That this construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

(c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by, and final authority for its completion and acceptance vested in, the Board as provided in NRS 341.141 to 341.148, inclusive ~~[.]~~ ***, and section 10 of this act.***

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

Every vehicle dealer licensed in this State shall ~~*[, upon request, provide to any person a written statement]*~~ ***ensure that, beginning with the 2012 model year and continuing with subsequent model years, each new vehicle he offers for sale is accompanied by a prominent disclosure setting forth the estimated amount of carbon dioxide*** ~~*[that is emitted by each new vehicle]*~~ ***that the vehicle*** ~~*[dealer offers for sale,]*~~ ***emits, unless the information concerning the emissions for that vehicle is unavailable.***

Sec. 19. NRS 482.36414 is hereby amended to read as follows:

482.36414 A person who assumes operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, must be licensed as a dealer pursuant to the provisions of NRS 482.318 to 482.363, inclusive ~~[.]~~ ***, and section 18 of this act.***

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 22.5. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. As soon as practicable after July 1, 2009, the Governor shall appoint to the Commission on Economic Development any new members required to be appointed to the Commission pursuant to NRS 231.040, as amended by section 6 of this act.

Sec. 25. 1. This section and sections 1 to 17, inclusive, and 20 to 24, inclusive, of this act become effective on July 1, 2009.

2. Sections 18 and 19 of this act become effective on January 1, 2010.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

SECOND READING AND AMENDMENT

Senate Bill No. 182.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 947.

AN ACT relating to common-interest communities; clarifying various provisions of existing law relating to certain ~~[definitions of terms,]~~ provisions of governing documents that violate statutory provisions, elections and the authority of an association to levy certain assessments under certain circumstances; revising certain provisions governing the authority of an association to impose fines under certain circumstances; making various other changes to the provisions governing common-interest communities; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill provides that a person who knowingly, willfully and with the intent to fraudulently alter the outcome of the election of a member to the executive board of an association **or other votes of the units' owners** engages in certain acts pertaining to the ballot or the casting of votes in such election is guilty of a category ~~[C]~~ **D** felony. (NRS 116.31034) Existing law prohibits a community manager, an officer or a member of the executive board from accepting or soliciting compensation that would influence him or appear to be a conflict of interest. (NRS 116.31185) **Section 4** of this bill provides that a community manager or member of the executive board who asks for or receives compensation to influence his vote, opinion or action upon any official matter is guilty of a category ~~[C]~~ **D** felony. **Section 4** also provides that a person who offers or gives any gratuity, compensation or reward, or makes a promise thereof, to a community manager or member of the executive board in exchange for a vote, opinion or action on any official matter is guilty of a category ~~[C]~~ **D** felony.

Existing law requires each agency to provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of any statutory provision, agency regulation or decision of the agency, and the Department of Business and Industry, which includes the Real Estate Division, has accordingly adopted regulations for such petitions. (NRS 233B.120; NAC 232.020) However, the Real Estate Division has not adopted any regulations pertaining to such petitions. **Section 5** of this bill enacts a specific statutory provision requiring the Real Estate Division to adopt regulations pertaining to such petitions.

~~[~~ ~~Under existing law, a "common-interest community" is defined as "real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit." (NRS 116.021) Section 6~~

~~of this bill clarifies existing law with respect to this definition by providing explicitly that, as used in this definition, the term "real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common-interest community."]~~

Existing law contains provisions concerning units or common elements of an association that are acquired by eminent domain. (NRS 116.1107) **Section 7** of this bill clarifies that existing law does not authorize an association to exercise the power of eminent domain. **Section 8** of this bill clarifies that any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of chapter 116 of NRS is superseded by the provisions of chapter 116 of NRS, regardless of whether the provision became effective before the enactment of the statutory provision being violated. (NRS 116.1206)

Section 8.5 of this bill provides that an association may not charge a fee for entry into the common-interest community against a person providing services to a unit, a unit's owner or a tenant of a unit's owner or against a visitor, guest or invitee of a unit's owner or a tenant of a unit's owner. (NRS 116.2111)

Section 9 of this bill revises existing law to limit an association's power to include certain provisions in certain contracts involving the association. (NRS 116.3102)

Existing law authorizes an executive board to impose fines under certain circumstances. (NRS 116.31031) **Section 12** of this bill limits the imposition of fines against a unit's owner for violations of the governing documents by a tenant or **an** invitee of the unit's owner ~~[.]~~ **or the tenant.**

Sections 13, 14 and 16 of this bill revise provisions relating to certain elections and meetings of an association by: (1) requiring members of the executive board to be units' owners; (2) providing that officers of an association are not required to be units' owners, unless the governing documents provide otherwise; (3) providing certain rights for candidates for election to an executive board; (4) reducing the votes necessary for removal of a member of an executive board; (5) prohibiting an association from interfering with the collection of signatures for a special meeting or removal election; and (6) providing immunity from criminal or civil liability for an association, its officers, employees and agents for the disclosure or publication of certain information pursuant to certain duties required of the association or its officers, employees and agents. (NRS 116.31034, 116.31036, 116.3108)

Section 15 of this bill clarifies existing law concerning the respective duties of an association and the units' owners regarding the maintenance, repair and replacement of the common elements and the units. (NRS 116.3107)

Sections 17-19 of this bill revise provisions relating to board meetings and hearings by: (1) requiring that meetings of the executive board be audio recorded and available in a certain manner; (2) requiring that certain written complaints be placed on the agenda; and (3) providing due process protections to units' owners at certain hearings. (NRS 116.31083, 116.31085, 116.31087) **Section 17** also revises existing law to allow public comments to be made at both the beginning and the end of a meeting. (NRS 116.31083)

Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151, 116.31152) **Section 21** of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments to establish adequate reserves. **This section also provides that any such assessments imposed must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.**

Section 22 of this bill authorizes the filing of a civil action to recover certain fees, administrative penalties and interest that were imposed erroneously. (NRS 116.31155)

Sections 24, 26 and 28 of this bill provide certain additional rights to units' owners by: (1) increasing the scope and definition of prohibited retaliatory action; (2) authorizing the exhibition of certain political signs in certain areas; and (3) mandating notice before interruption of utility service to a unit's owner. (NRS 116.31183, 116.325, 116.345)

Section 25 of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187) **Section 27** of this bill: (1) provides that existing law concerning drought tolerant landscaping must be construed broadly; and (2) clarifies the definition of "drought tolerant landscaping." (NRS 116.330) **Section 29** of this bill provides that if a community manager fails or refuses to comply with the governing documents of the association or the provisions of chapter 116 of NRS, any person or class of persons may bring a civil action for damages or other relief. (NRS 116.4117)

Section 30 of this bill increases the membership of the Commission by adding two members who are units' owners but who are not required to have served as members of an executive board. (NRS 116.600) **Section 31** of this bill revises provisions relating to the Commission's duties by providing for the use of training officers to perform certain duties. (NRS 116.605)

~~[Section 35 of this bill: (1) eliminates the authority of the Commission or hearing panel to order a respondent to pay the costs of the attorney's fees of~~

~~the Division; and (2) provides that in any matter brought before the Commission or a hearing panel, attorney's fees must not be granted to the prevailing party, regardless of whether the governing documents provide for such fees to be granted to a prevailing party. (NRS 116.785)~~**]** **Section 36** of this bill clarifies that if the Commission or hearing officer orders an audit of an association, the audit is conducted at the expense of the association. (NRS 116.790)

Existing law provides that a written affidavit, supporting documentation and information compiled as the result of an investigation of an alleged violation are confidential unless and until a formal complaint is filed. (NRS 116.757, 116A.270) **Sections 33 and 37** of this bill clarify existing law to provide that such confidential information must not be disclosed to any person, including a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed.

Section 39 of this bill provides that the Commission must adopt regulations requiring an applicant for a certificate as a community manager **or the applicant's employer** to post a bond. (NRS 116A.410)

Section 40 of this bill revises existing law to provide that upon selection or appointment of an arbitrator, the arbitrator must provide certain information concerning the procedures of the arbitration and applicable law to each party to the arbitration, and each party must return to the arbitrator an acknowledgment of the information provided by the arbitrator. (NRS 38.330)

~~[Whereas, The Nevada Legislature previously deemed it important to set forth its intent regarding the creation and proper functioning of planned communities; and~~

~~Whereas, The Nevada Legislature previously noted that planned communities are a dominant method of residential development in the State of Nevada; and~~

~~Whereas, The Nevada Legislature previously noted that planned communities are developed for the purposes of preserving neighborhood continuity and creating desirable places to reside; and~~

~~Whereas, The Nevada Legislature previously noted that planned communities are governed by specific rules and regulations and by unit-owners' associations; and~~

~~Whereas, The Nevada Legislature previously noted that a unit-owners' association is the form of self-government closest to the people; and~~

~~Whereas, The Nevada Legislature previously declared that all forms of government should follow the basic principles of democracy found in the United States Constitution and the Nevada Constitution; and~~

~~Whereas, The Nevada Legislature previously noted that some unit-owners' associations in this State have a history of abuse of power; and~~

~~Whereas, The Nevada Legislature previously noted that unit-owners' associations have power over one of the most important aspects of a person's life, his residence; and~~

~~Whereas, The Nevada Legislature previously noted that homeowners invest financially and emotionally in their homes; and~~

~~Whereas, The Nevada Legislature previously declared that homeowners have the right to reside in a community without fear of illegal, unfair, unnecessary, unduly burdensome or costly interference with their property rights; and~~

~~Whereas, Many of the concerns previously noted by the Nevada Legislature persist to this day; and~~

~~Whereas, The Nevada Legislature deems it necessary and important to reiterate and endorse both the intent and the concerns previously expressed by the Nevada Legislature; and~~

~~Whereas, The establishment of planned communities is required by many local governments as a condition of granting necessary building permits for residential housing; and~~

~~Whereas, The form of self-government of a unit-owners' association includes legislative, executive and quasi-judicial powers and functions; now, therefore,~~]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. ***1. A person shall not knowingly, willfully and with the intent to fraudulently alter the true outcome of an election of a member of the executive board <u>or any other vote of the units' owners</u> engage in, attempt to engage in, or conspire with another person to engage in, any of the following acts:***

(a) Changing or falsifying a voter's ballot so that the ballot does not reflect the voter's true ballot.

(b) Forging or falsely signing a voter's ballot.

(c) Fraudulently casting a vote for himself or for another person that the person is not authorized to cast.

(d) Rejecting, failing to count, destroying, defacing or otherwise invalidating the valid ballot of another voter.

(e) Submitting a counterfeit ballot.

2. A person who violates this section is guilty of a category ~~[C]~~ <u>D</u> felony and shall be punished as provided in NRS 193.130.

Sec. 4. ***1. Except as otherwise provided in subsection 3, a community manager or member of the executive board who asks for or receives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his vote, opinion or action upon any matter then pending or which may be brought before him in his capacity as a community manager or member of the executive board,***

will be influenced thereby, is guilty of a category ~~[C]~~ D felony and shall be punished as provided in NRS 193.130.

2. Except as otherwise provided in subsection 3, a person who offers or gives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that the vote, opinion or action of a community manager or member of the executive board upon any matter then pending or which may be brought before the community manager or member of the executive board in his capacity as a community manager or member of the executive board will be influenced thereby, is guilty of a category ~~[C]~~ D felony and shall be punished as provided in NRS 193.130.

3. The provisions of this section do not prohibit:

(a) An employee of a declarant or an affiliate of a declarant who is a member of an executive board from asking for or receiving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, from the declarant or affiliate.

(b) A declarant or an affiliate of a declarant whose employee is a member of an executive board from offering or giving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, to the employee who is a member of the executive board.

(c) A community manager from asking for or receiving, directly or indirectly, or an employer of a community manager from offering or giving, directly or indirectly, any compensation for work performed by the community manager pursuant to the laws of this State.

Sec. 5. ***1. The Division shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability or interpretation of:***

(a) Any provision of this chapter or chapter 116A or 116B of NRS;

(b) Any regulation adopted by the Commission, the Administrator or the Division; or

(c) Any decision of the Commission, the Administrator or the Division or any of its sections.

2. Declaratory orders disposing of petitions filed pursuant to this section have the same status as agency decisions.

3. A petition filed pursuant to this section must:

(a) Set forth the name and address of the petitioner; and

(b) Contain a clear and concise statement of the issues to be decided by the Division in its declaratory order or advisory opinion.

4. A petition filed pursuant to this section is submitted for consideration by the Division when it is filed with the Administrator.

5. The Division shall:

(a) Respond to a petition filed pursuant to this section within 60 days after the date on which the petition is submitted for consideration; and

(b) Upon issuing its declaratory order or advisory opinion, mail a copy of the declaratory order or advisory opinion to the petitioner.

Sec. 6. ~~[NRS 116.021 is hereby amended to read as follows:~~

~~116.021 1. "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit.~~

~~*2. As used in this section:*~~

~~*(a)* "Ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.~~

~~*(b) "Real estate other than that unit" does not include any interest in any covenants, conditions or restrictions to which the unit is subject, and the fact that the unit is subject to covenants, conditions or restrictions is not relevant and not to be considered in determining whether real estate is a "common interest community" pursuant to this section.]~~ **(Deleted by amendment.)**

Sec. 7. NRS 116.1107 is hereby amended to read as follows:

116.1107 1. If a unit is acquired by eminent domain or part of a unit is acquired by eminent domain leaving the unit's owner with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award must include compensation to the unit's owner for that unit and its allocated interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

2. Except as otherwise provided in subsection 1, if part of a unit is acquired by eminent domain, the award must compensate the unit's owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides:

(a) That unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration; and

(b) The portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.

3. If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.

4. The judicial decree must be recorded in every county in which any portion of the common-interest community is located.

5. The provisions of this section do not authorize an association to exercise the power of eminent domain pursuant to chapter 37 of NRS, and an association may not exercise the power of eminent domain, as provided in NRS 37.0097.

Sec. 8. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter **[**~~shall~~**]** ***:***

(a) Shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

(b) Is superseded by the provisions of this chapter, regardless of whether the provision contained in the declaration, bylaw or other governing document became effective before the enactment of the provision of this chapter that is being violated.

2. In the case of amendments to the declaration, bylaws or plats and plans of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

Sec. 8.5. **NRS 116.2111 is hereby amended to read as follows:**

116.2111 1. Except as otherwise provided in this section and subject to the provisions of the declaration and other provisions of law, a unit's owner:

(a) May make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community;

(b) May not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the common-interest community, without permission of the association; and

(c) After acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those

acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

2. An association may not:

(a) Unreasonably restrict, prohibit or otherwise impede the lawful rights of a unit's owner to have reasonable access to his unit.

(b) ***Charge any fee for a person to enter the common-interest community to provide services to a unit, a unit's owner or a tenant of a unit's owner or for any visitor to the common-interest community or invitee of a unit's owner or a tenant of a unit's owner to enter the common-interest community.***

(c) Unreasonably restrict, prohibit or withhold approval for a unit's owner to add to a unit:

(1) Improvements such as ramps, railings or elevators that are necessary to improve access to the unit for any occupant of the unit who has a disability;

(2) Additional locks to improve the security of the unit;

(3) Shutters to improve the security of the unit or to reduce the costs of energy for the unit; or

(4) A system that uses wind energy to reduce the costs of energy for the unit if the boundaries of the unit encompass 2 acres or more within the common-interest community.

~~[(c)]~~ ***(d)*** With regard to approving or disapproving any improvement or alteration made to a unit, act in violation of any state or federal law.

3. Any improvement or alteration made pursuant to subsection 2 that is visible from any other portion of the common-interest community must be installed, constructed or added in accordance with the procedures set forth in the governing documents of the association and must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

4. A unit's owner may not add to the unit a system that uses wind energy as described in subparagraph 4 of paragraph ~~[(b)]~~ ***(c)*** of subsection 2 unless he first obtains the written consent of each owner of property within 300 feet of any boundary of the unit.

Sec. 9. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities. ***Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.***

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or ~~[guest]~~ ***an invitee*** of a unit's owner ***or a tenant*** violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or ~~[guest]~~ ***the invitee*** of the unit's owner ***or the tenant*** from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or ~~[guest]~~ ***the invitee*** of the unit's owner ***or the tenant*** from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or ~~[guest]~~ ***the invitee*** of the unit's owner ***or the tenant*** for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the

units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. ***The executive board may not impose a fine pursuant to subsection 1 against a unit's owner for a violation of any provision of the governing documents of an association committed by an invitee of the unit's owner or the tenant unless the unit's owner:***

(a) Participated in or authorized the violation;

(b) Had prior notice of the violation; or

(c) Had an opportunity to stop the violation and failed to do so.

3. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

~~[3.]~~ ***4.*** The executive board must schedule the date, time and location for the hearing on the violation so that the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

~~[4.]~~ ***5.*** The executive board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed:

(a) Pays the fine;

(b) Executes a written waiver of the right to the hearing; or

(c) Fails to appear at the hearing after being provided with proper notice of the hearing.

~~[5.]~~ ***6.*** If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

~~[6.]~~ ***7.*** If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings

on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

~~[7.]~~ ***8.*** The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~[8.]~~ ***9.*** Any past due fine:

(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.

(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the residents of the common-interest community, the rate established by the association for the costs of collecting the past due fine:

(1) May not exceed $20, if the outstanding balance is less than $200.

(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.

(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.

(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.

(5) May not exceed $500, if the outstanding balance is $5,000 or more.

(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~[9.]~~ ***10.*** As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.

(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.

Sec. 12.5. NRS 116.310315 is hereby amended to read as follows:

116.310315 If an association has imposed a fine against a unit's owner or a tenant or ~~[~~guest~~]~~ ***an invitee*** of a unit's owner***or a tenant*** pursuant to NRS 116.31031 for violations of the governing documents of the association, the association:

1. Shall, in the books and records of the association, account for the fine separately from any assessment, fee or other charge; and

2. Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the

outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.

Sec. 13. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, ~~[at least a majority]~~ ***all*** of whom must be units' owners. ~~[Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners.]~~ The executive board shall elect the officers of the association. ***Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners.*** The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. ***An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in his campaign for election as a member of the executive board, except that his campaign may be limited to 90 days before the date that ballots are required to be returned to the association. A candidate may request that the secretary or other officer specified in the bylaws of the association send, 30 days before the date of the election and at the association's expense, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner a candidate informational statement. The candidate informational statement:***

(a) Must be no longer than a single, typed page;

(b) Must not contain any defamatory, libelous or profane information; and

(c) May be sent with the secret ballot mailed pursuant to subsection 8 or in a separate mailing.

➥ The association and its directors, officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to this subsection.

10. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 14. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section ~~[~~the~~]~~ ***:***

(a) The number of votes cast ~~[~~in favor of removal~~]~~ constitutes ~~[~~:

~~(a) At~~ ***at*** least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election ~~.~~ ***are cast in favor of removal.***

2. The removal of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association ~~, but may be recovered from persons whose activity gave rise to the damages.~~

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 15. NRS 116.3107 is hereby amended to read as follows:

116.3107 1. Except to the extent provided by the declaration, subsection 2 and NRS 116.31135, the association ~~is responsible~~ ***has the duty to provide*** for ***the*** maintenance, repair and replacement of the common

elements, and each unit's owner ~~[is responsible]~~ ***has the duty to provide*** for ***the*** maintenance, repair and replacement of his unit. Each unit's owner shall afford to the association and the other units' owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on any unit through which access is taken, the unit's owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.

2. In addition to the liability that a declarant as a unit's owner has under this chapter, the declarant alone is liable for all expenses in connection with real estate subject to developmental rights. No other unit's owner and no other portion of the common-interest community is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to developmental rights inures to the declarant.

3. In a planned community, if all developmental rights have expired with respect to any real estate, the declarant remains liable for all expenses of that real estate unless, upon expiration, the declaration provides that the real estate becomes common elements or units.

Sec. 16. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

➥ ***The association shall not adopt any rule or regulation which prevents*** ~~*[,*~~ ~~*discourages]*~~ ***or*** ***unreasonably*** ***interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.***

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer

specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 17. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every 90 days.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the ***audio recording, the*** minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. ~~[The]~~ ***A*** period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for ***both*** the beginning ***and the end*** of each meeting. ***During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda.*** In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause ***each meeting of the executive board to be audio recorded and the*** minutes to be recorded or otherwise taken at each meeting of the executive board ~~[.]~~ ***, but if the executive board is meeting in executive session, the meeting must not be audio recorded.*** Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the ***audio recording of the meeting, the*** minutes ~~[or]~~ ***of the meeting and*** a summary of the minutes of the ~~[meetings]~~ ***meeting*** to be made available to the units' owners. A copy of the ***audio recording, the*** minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 18. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract **.** ~~[, unless it is a contract between the association and an attorney.]~~

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive **.** ~~[, or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.]~~

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; ~~[and]~~

(b) ***Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present***

information relating to any conflict of interest of any member of the hearing panel; and

(c) Is not entitled to attend the deliberations of the executive board.

5. ***The provisions of subsection 4 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of subsection 4 do not preempt any provisions of the governing documents that provide greater protections.***

6. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to his designated representative.

~~[6.]~~ ***7.*** Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 19. NRS 116.31087 is hereby amended to read as follows:

116.31087 1. If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association, the executive board shall ~~[, if action is required by the executive board,]~~ ***, upon the written request of the unit's owner,*** place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board.

2. Not later than 10 business days after the date that the association receives such a complaint, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that, if ~~[action is required by the executive board,]~~ ***the unit's owner submits a written request that the subject of the complaint be placed on the agenda of the next regularly scheduled meeting of the executive board,*** the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary. ***Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.***

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 22. NRS 116.31155 is hereby amended to read as follows:

116.31155 1. Except as otherwise provided in subsection 2, an association shall:

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193, 86.263, 87.541, 87A.560 or 88.591, pay to the Administrator a fee established by regulation of the Administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, or as any other authorized business entity, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

2. If an association is subject to the governing documents of a master association, the master association shall pay the fees required pursuant to this section for each unit in the association that is subject to the governing documents of the master association, unless the governing documents of the master association provide otherwise. The provisions of this subsection do not relieve any association that is subject to the governing documents of a master association from its ultimate responsibility to pay the fees required pursuant to this section to the Administrator if they are not paid by the master association.

3. The fees required to be paid pursuant to this section must be:

(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed $3 per unit.

4. The Division shall impose an administrative penalty against an association or master association that violates the provisions of this section by failing to pay the fees owed by the association or master association within the times established by the Division. The administrative penalty that is imposed for each violation must equal 10 percent of the amount of the fees owed by the association or master association or $500, whichever amount is less. The amount of the unpaid fees owed by the association or master association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.

5. A unit's owner may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to both an association and a master association.

6. An association that is subject to the governing documents of a master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by the master association.

7. A master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by an association that is subject to the governing documents of the master association.

8. Upon the payment of the fees and any administrative penalties and interest required by this section, the Administrator shall provide to the association or master association evidence that it paid the fees and the administrative penalties and interest in compliance with this section.

9. Any person, association or master association which has been requested or required to pay any fees, administrative penalties or interest pursuant to this section and which believes that such fees, administrative penalties or interest has been imposed in error may, without exhausting any available administrative remedies, bring an action in a court of competent jurisdiction to recover:

(a) Any amount paid in error for any fees, administrative penalties or interest during the immediately preceding 3 years;

(b) Interest on the amount paid in error at the rate set forth in NRS 99.040; and

(c) Reasonable costs and attorney's fees.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 116.31183 is hereby amended to read as follows:

116.31183 ~~*[1.]*~~ An executive board, a member of an executive board ***, a community manager*** or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

1. ~~*[(a)]*~~ Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;

~~*[(b)]*~~ ***2. Recommended the selection or replacement of an attorney, community manager or vendor;*** or

~~[~~2.~~]~~ ~~*[(c)]*~~ ***3.*** Requested in good faith to review the books, records or other papers of the association.

~~*[2. An executive board, a member of an executive board, a community manager or an officer, employee or agent of an association shall not intentionally interfere with the exercise of any right conferred on a person pursuant to the provisions of this chapter.]*~~

Sec. 25. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide ***financing,*** goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing ***financing,*** goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any ***financing,*** goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 26. NRS 116.325 is hereby amended to read as follows:

116.325 1. The executive board shall not and the governing documents must not prohibit a unit's owner or an occupant of a unit from exhibiting ~~[a political sign]~~ ***one or more political signs*** within such physical portion of the common-interest community as that owner or occupant has a right to occupy and use exclusively ~~[if the political sign is]~~ ***, subject to the following conditions:***

(a) All political signs exhibited must not ***be*** larger than 24 inches by 36 inches.

(b) If the unit is occupied by a tenant, the unit's owner may not exhibit any political sign unless the tenant consents, in writing, to the exhibition of the political sign.

(c) All political signs exhibited are subject to any applicable provisions of law governing the posting of political signs.

(d) A unit's owner or an occupant of a unit may exhibit as many political signs as desired, but may not exhibit more than one political sign for each candidate, political party or ballot question.

2. The provisions of this section establish the minimum rights of a unit's owner or an occupant of a unit to exhibit ~~[a]~~ political ~~[sign.]~~ ***signs.*** The provisions of this section do not preempt any provisions of the governing documents that provide greater rights and do not require the governing documents or the executive board to impose any restrictions on the exhibition of political signs other than those established by other provisions of law.

3. ~~*[Any provision in a rental agreement which violates the provisions of this section or which requires a tenant to waive any rights pursuant to this section or other provisions of law is void as against public policy.*~~

~~*4.]*~~ As used in this section, "political sign" means a sign that expresses support for or opposition to a candidate, political party or ballot question ~~[.]~~ ***in any federal, state or local election or any election of an association.***

Sec. 27. NRS 116.330 is hereby amended to read as follows:

116.330 1. The executive board shall not and the governing documents must not prohibit a unit's owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, ***including, without limitation, the front yard or back yard of the unit's owner,*** except that:

(a) Before installing drought tolerant landscaping, the unit's owner must submit a detailed description or plans for the drought tolerant landscaping for architectural review and approval in accordance with the procedures, if any, set forth in the governing documents of the association; and

(b) The drought tolerant landscaping must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

➥ ***The provisions of this subsection must be construed liberally in favor of effectuating the purpose of encouraging the use of drought tolerant landscaping, and the executive board shall not and the governing documents must not unreasonably deny or withhold approval for the installation of drought tolerant landscaping or unreasonably determine that the drought tolerant landscaping is not compatible with the style of the common-interest community.***

2. Installation of drought tolerant landscaping within any common element or conversion of traditional landscaping or cultivated vegetation, such as turf grass, to drought tolerant landscaping within any common element shall not be deemed to be a change of use of the common element unless:

(a) The common element has been designated as a park, open play space or golf course on a recorded plat map; or

(b) The traditional landscaping or cultivated vegetation is required by a governing body under the terms of any applicable zoning ordinance, permit or approval or as a condition of approval of any final subdivision map.

3. As used in this section, "drought tolerant landscaping" means landscaping which conserves water, protects the environment and is adaptable to local conditions. ***The term includes, without limitation, the use of mulches such as decorative rock and artificial turf.***

Sec. 28. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The

provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. ***An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association shall in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.***

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 29. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. ~~[If]~~ ***Subject to the requirements set forth in subsection 2, if*** a declarant ***, community manager*** or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply ~~[has a claim]~~ ***may bring a civil action*** for ***damages or other*** appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages ~~[caused by]~~ ***or other appropriate relief for*** a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

(1) A declarant; ~~[or]~~

(2) ***A community manager; or***

(3) A unit's owner.

(b) By a unit's owner against:

(1) The association;

(2) A declarant; or

(3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against a community manager.

3. ~~[Punitive]~~ ***Except as otherwise provided in NRS 116.31036, punitive*** damages may be awarded for a willful and material failure to comply with ***any provision of*** this chapter if the failure is established by clear and convincing evidence.

4. The court may award reasonable attorney's fees to the prevailing party.

5. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

Sec. 30. NRS 116.600 is hereby amended to read as follows:

116.600 1. The Commission for Common-Interest Communities and Condominium Hotels is hereby created.

2. The Commission consists of ~~[five]~~ ***seven*** members appointed by the Governor. The Governor shall appoint to the Commission:

(a) One member who is a unit's owner residing in this State and who has served as a member of an executive board in this State;

(b) ***Two members who are units' owners residing in this State but who are not required to have served as members of an executive board;***

(c) One member who is in the business of developing common-interest communities in this State;

~~[(c)]~~ ***(d)*** One member who holds a certificate;

~~[(d)]~~ ***(e)*** One member who is a certified public accountant licensed to practice in this State pursuant to the provisions of chapter 628 of NRS; and

~~[(e)]~~ ***(f)*** One member who is an attorney licensed to practice in this State.

3. Each member of the Commission must be a resident of this State. At least ~~[three]~~ ***four*** members of the Commission must be residents of a county whose population is 400,000 or more.

4. Each member of the Commission must have resided in a common-interest community or have been actively engaged in a business or profession related to common-interest communities for not less than 3 years immediately preceding the date of his appointment.

5. After the initial terms, each member of the Commission serves a term of 3 years. Each member may serve not more than two consecutive full terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace the member for the remainder of the unexpired term.

6. While engaged in the business of the Commission, each member is entitled to receive:

(a) A salary of not more than $80 per day, as established by the Commission; and

(b) The per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 31. NRS 116.605 is hereby amended to read as follows:

116.605 1. The Division shall ***employ one or more training officers who are qualified by training and experience to*** provide ~~[or arrange to have provided]~~ to each member of the Commission courses of instruction concerning rules of procedure and substantive law appropriate for members of the Commission. ***Such courses of instruction may be made available to the staff of the Division as well as to community managers.***

2. ***The training officer shall:***

(a) Prepare and make available a manual containing the policies and procedures to be followed by executive boards and community managers; and

(b) Perform any other duties as directed by the Division.

3. Each member of the Commission must attend the courses of instruction ***described in subsection 1*** not later than 6 months after the date that the member is first appointed to the Commission.

Sec. 32. NRS 116.675 is hereby amended to read as follows:

116.675 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. ***An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.***

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

Sec. 33. NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section and NRS 239.0115, a written affidavit filed with the Division pursuant to NRS 116.760, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an

investigation conducted to determine whether to file a formal complaint with the Commission are confidential. ***The Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 2 and the disclosure is required pursuant to subsection 2.***

2. A formal complaint filed ***by the Administrator*** with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, are public records.

Sec. 34. (Deleted by amendment.)

Sec. 35. ~~[~~NRS 116.785 is hereby amended to read as follows:

~~116.785 1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation, the Commission or the hearing panel may take any or all of the following actions:~~

~~(a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.~~

~~(b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation.~~

~~(c) Impose an administrative fine of not more than $1,000 for each violation.~~

~~2. If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his office or position if the Commission or the hearing panel, after notice and hearing, finds that:~~

~~(a) The respondent has knowingly and willfully committed a violation; and~~

~~(b) The removal is in the best interest of the association.~~

~~3. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than $1,000 for each violation.~~

~~4. If the Commission or the hearing panel takes any disciplinary action pursuant to this section, the Commission or the hearing panel may order the respondent to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation .~~ ~~[~~and reasonable attorney's fees.~~]~~

~~5. *In any matter brought before the Commission or a hearing panel pursuant to the provisions of this chapter, attorney's fees must not be granted to a prevailing party, regardless of whether the governing documents provide for such fees to be granted to a prevailing party.*~~

~~*6.* Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation, if the respondent is a member of an executive board or an officer of an association:~~

~~(a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and~~

~~(b) The respondent may not be held personally liable for those fines and costs.~~~~]~~ **(Deleted by amendment.)**

Sec. 36. NRS 116.790 is hereby amended to read as follows:

116.790 1. If the Commission or a hearing panel, after notice and hearing, finds that the executive board or any person acting on behalf of the association has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

(a) Order an audit of the association ~~[.]~~ ***, at the expense of the association.***

(b) Require the executive board to hire a community manager who holds a certificate.

2. The Commission, or the Division with the approval of the Commission, may apply to a court of competent jurisdiction for the appointment of a receiver for an association if, after notice and a hearing, the Commission or a hearing officer finds that any of the following violations occurred:

(a) The executive board, or any member thereof, has been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(b) The executive board, or any member thereof, has been guilty of misfeasance, malfeasance or nonfeasance; or

(c) The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.

3. In any application for the appointment of a receiver pursuant to this section, notice of a temporary appointment of a receiver may be given to the association alone, by process as in the case of an application for a temporary restraining order or injunction. The hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.

4. The court may, if good cause exists, appoint one or more receivers pursuant to this section to carry out the business of the association. The members of the executive board who have not been guilty of negligence or active breach of duty must be preferred in making the appointment.

5. The powers of any receiver appointed pursuant to this section may be continued as long as the court deems necessary and proper. At any time, for sufficient cause, the court may order the receivership terminated.

6. Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether or not the association is insolvent. Such powers include, without limitation, the powers to:

(a) Take charge of the estate and effects of the association;

(b) Appoint an agent or agents;

(c) Collect any debts and property due and belonging to the association and prosecute and defend, in the name of the association, or otherwise, any civil action as may be necessary or proper for the purposes of collecting debts and property;

(d) Perform any other act in accordance with the governing documents of the association and this chapter that may be necessary for the association to carry out its obligations; and

(e) By injunction, restrain the association from exercising any of its powers or doing business in any way except by and through a receiver appointed by the court.

Sec. 37. NRS 116A.270 is hereby amended to read as follows:

116A.270 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division alleging a violation of this chapter or chapter 116 or 116B of NRS, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential **.** ~~[and may be disclosed]~~

2. The Division shall not disclose any information that is confidential pursuant to subsection 1, in whole or in part ~~[only]~~ ***, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 3 and the disclosure is required pursuant to subsection 3, except that the Division may disclose the information described in subsection 1*** as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate or permit issued pursuant to this chapter.

~~[2.]~~ ***3.*** The ***formal*** complaint or other charging documents filed ***by the Administrator*** with the Commission to initiate disciplinary action and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline are public records.

Sec. 38. NRS 116A.300 is hereby amended to read as follows:

116A.300 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. ***An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.***

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

Sec. 39. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate.

(b) ***Must require an applicant or the employer of the applicant to post a bond in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control.***

(c) May require applicants to pass an examination in order to obtain a certificate. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

~~[(c)]~~ ***(d)*** May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~[(d)]~~ ***(e)*** Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~[(e)]~~ ***(f)*** Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

Sec. 40. NRS 38.330 is hereby amended to read as follows:

38.330 1. If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation

conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.

2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from the list of arbitrators maintained by the Division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator appointed must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party. ***An arbitrator shall, not later than 5 days after his selection or appointment pursuant to this subsection, provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The written informational statement:***

(a) Must be written in plain English;

(b) Must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to this section, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and

(c) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than 10 days after receipt of the informational statement.

3. The Division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission for Common-Interest Communities and Condominium Hotels approves the payment; and

(b) There is money available in the account for this purpose.

4. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association, the arbitrator may issue an order prohibiting the action upon which the claim is based. An

award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

5. If all the parties have agreed to nonbinding arbitration, any party to the ***nonbinding*** arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.

6. If all the parties agree in writing to binding arbitration, the arbitration must be conducted in accordance with the provisions of this chapter. An award procured pursuant to such ***binding*** arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.241.

7. If, after the conclusion of ***binding*** arbitration, a party:

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or

(b) Commences a civil action based upon any claim which was the subject of arbitration,

➥ the party shall, if he fails to obtain a more favorable award or judgment than that which was obtained in the initial ***binding*** arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

8. Upon request by a party, the Division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.

9. As used in this section, "geographic area" means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.

Sec. 41. The Governor shall appoint to the Commission for Common-Interest Communities and Condominium Hotels pursuant to NRS 116.600, as amended by section 30 of this act:

1. One member who is a unit's owner residing in this State whose term begins on October 1, 2009, and expires on October 1, 2010; and

2. One member who is a unit's owner residing in this State whose term begins on October 1, 2009, and expires on October 1, 2011.

Sec. 42. The manual described in subsection 2 of NRS 116.605, as amended by section 31 of this act, must be prepared and made available by October 1, 2010.

Assemblyman Anderson moved the adoption of the amendment.
Amendment adopted.
Bill ordered reprinted, reengrossed and to third reading.

Assemblyman Oceguera moved that the Assembly recess until 7 p.m.
Motion carried.

Assembly in recess at 4:54 p.m.

ASSEMBLY IN SESSION

At 9:05 p.m.
Madam Speaker presiding.
Quorum present.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 54, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 647 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 2, which is attached to and hereby made a part of this report.

SHEILA LESLIE	VALERIE WIENER
DEBBIE SMITH	JOYCE WOODHOUSE
JOE HARDY	DENNIS NOLAN
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA2.

SUMMARY—Revises the qualifications of the State Health Officer. (BDR 40-336)

AN ACT relating to public health; revising provisions governing the State Health Officer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Health Officer to be a citizen of the United States and to be licensed, or eligible for licensure, as a physician or administrative physician in Nevada. (NRS 439.090) **Section 1** of this bill revises those qualifications by requiring the State Health Officer to be a citizen of the United States, to have not less than 5 years' experience in population-based health care and to be **:** ~~[either:]~~ (1) licensed or eligible for a license as a physician or administrative physician in Nevada; ~~[or]~~ (2) ~~[a]~~ licensed **or eligible for a license as a** physician or ~~[licensed]~~ administrative physician in another state **; or (3) a physician or administrative physician** with a master's or doctoral degree in public health or a related field. **Section 2** of this bill provides that if the State Health Officer is not licensed to practice medicine in this State, he shall not, while carrying out his duties, engage in the practice of medicine. (NRS 439.130)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 439.090 is hereby amended to read as follows:

439.090 1. The State Health Officer must:

(a) Be a citizen of the United States ~~[.]~~ ***;***

(b) ***Have not less than 5 years' experience in population-based health care; and***

(c) Be ~~[licensed,]~~ ***:***

(1) Licensed in good standing or eligible for ~~[licensure,]~~ ***a license*** as a physician or administrative physician in Nevada ~~[.]~~ ***;*** ~~*[or]*~~

(2) Licensed in good standing or eligible for a license as a physician or administrative physician ~~*[by]*~~ ***in the District of Columbia or in any state or territory of the United States*** ~~*[and have]*~~ ***; or***

(3) A physician or administrative physician who has a master's degree or doctoral degree in public health or a related field.

2. The Administrator must have 2 years' experience, or the equivalent, in a responsible administrative position in:

(a) A full-time county or city health facility or department; or

(b) A major health program at a state or national level.

3. As used in this section, "population-based health care" means the use of various approaches to medical care for specific groups or populations based upon common demographic characteristics, risk factors or diseases.

Sec. 2. NRS 439.130 is hereby amended to read as follows:

439.130 1. The State Health Officer shall:

(a) Enforce all laws and regulations pertaining to the public health.

(b) Investigate causes of disease, epidemics, source of mortality, nuisances affecting the public health, and all other matters related to the health and life of the people, and to this end he may enter upon and inspect any public or private property in the State.

(c) Direct the work of subordinates and may authorize them to act in his place and stead.

(d) Perform such other duties as the Director may, from time to time, prescribe.

➥ If the State Health Officer is not licensed to practice medicine in this State, he shall not, in carrying out his duties as the State Health Officer, engage in the practice of medicine.

2. The Administrator shall direct the work of the Health Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

Sec. 3. Notwithstanding the amendatory provisions of section 1 of this act, any person who, on the effective date of this act, is serving as the State Health Officer and who is otherwise qualified to serve as the State Health Officer on that date may continue to serve in that capacity until his successor

is appointed by the Director of the Department of Health and Human Services pursuant to chapter 439 of NRS.

Sec. 4. This act becomes effective upon passage and approval.

Assemblywoman Smith moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 54.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 9:09 p.m.

ASSEMBLY IN SESSION

At 9:40 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 28, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 427.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 427.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered first reading, rules further suspended, Senate Bill No. 427 considered engrossed, declared an emergency measure under the *Constitution*, and placed on third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 427.

Bill read third time.

Remarks by Assemblymen Goicoechea, Oceguera, and Gansert.

Assemblywoman Gansert requested that the following remarks be entered in the Journal.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Speaker. As I look at the bill, especially the latter portion of Senate Bill 427, which is the collective bargaining portion, I think the one thing I really like about it is that it does require a real transparency between any agreement. As I look at section 13 on page 22, it states “Any new, extended or modified collective bargaining agreement” has to be fully disclosed in a public meeting, as I read that. I want to clarify and make sure that is the proper understanding. Once it has been reached, it has to be completely out in the public sector?

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. To my colleague, yes, that is exactly what it means. After the approval, then the fiscal impact and the impacts of that contract will be fully disclosed in a public hearing.

ASSEMBLYMAN GOICOECHEA:

That would be in a full fiscal hearing rather than just on a consent calendar or something like that? I think it is essential that we do get all the facts out before the public.

ASSEMBLYMAN OCEGUERA:

That is correct. We discussed at length that it should not be on a consent agenda and should be agendized so it can be discussed fully.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I have a continuation of that question to the Majority Leader. The contract itself will be available, just not the impacts, but the contract will be available in the hearings?

ASSEMBLYMAN OCEGUERA:

That is correct. Actually the contract is already public record. However, this would just make it more public. The contract would be available and then the fiscal impacts and a report on the fiscal impacts.

ASSEMBLYWOMAN GANSERT:

The fiscal impacts would be over the life of the contract, the duration of the contract?

ASSEMBLYMAN OCEGUERA:

That is correct—depending on the length of contract. You would have to look at the length of the contract, whether it be for one year or if the parties agreed there was a multiple-year contract, then it would be for multiple years.

ASSEMBLYWOMAN GANSERT:

Last question—in subsection 7(b) of section 15, it talks about compensation of other governmental employees, both in and out of state. The governmental employees would be state and local governmental employees? It is at the top of page 21.

ASSEMBLYMAN OCEGUERA:

"To the extent appropriate" would be the modifying words there. So if it was appropriate to look to state accountants, an accountant is an accountant is an accountant, and an engineer is an engineer is an engineer; however, with some other professions, it may not be appropriate, so "to the extent appropriate" would cover that language.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved to waive a portion of Assembly Standing Rule No. 23, which requires individual disclosure, for purposes of a group disclosure regarding Senate Bill No. 427.

Motion carried.

ASSEMBLYMAN CONKLIN:

I would like to disclose the same group disclosure for both PERS and PEBP, since this bill covers both, that we have previously made in detail in this body.

GENERAL FILE AND THIRD READING

Potential conflict of interest declared by Assemblywoman Gansert.

Roll call on Senate Bill No. 427:

YEAS—41.

NAYS—None.

EXCUSED—Gustavson.

Senate Bill No. 427 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 182.

Bill read third time.

Roll call on Senate Bill No. 182:

YEAS—40.

NAYS—Stewart.

EXCUSED—Gustavson.

Senate Bill No. 182 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 395 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 434.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Senate Bill No. 434:

YEAS—41.

NAYS—None.

EXCUSED—Gustavson.

Senate Bill No. 434 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 435 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 435.

Bill read third time.

Roll call on Senate Bill No. 435:
YEAS—39.
NAYS—McArthur, Settelmeyer—2.
EXCUSED—Gustavson.

Senate Bill No. 435 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 395 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 478, 483, and 522.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Pam Coppa, Tyler Silva and Dan Coppa.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Mark Fleming, Ed Ferencik, and Tyler Bartoo.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Kelli L. Lui and Katherine E. Lui.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Martha P. King Elementary School: Nicholas Bangle, Diane Bangle, McKenzie Cowan, Emma Downs, Sophia Grasso, Kayla Shambaugh, Emma Harrison, Vivian Harrison, Kevin Jenicke, Catherine Spillars, Braden Klouse, Paul Klouse, Taylor Krumm, Lorene Krumm, Katherine Liu, Kelli Liu, Skylar McKay, Tami McKay, Madison Myro, Paul Myro, Jesslyn Neilson, Melissa Neilson, Tyler Owens, Eve Prahm, Jessica Smith, Susan Smith, Jacob Tagliere, Taylor Thompson, Lisa Combs, Cierra Wachtel, Sandy Wachtel, Robin Lee, Lee Esplin and Mary Scialabba.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Cartwright Elementary School: Hunter Wood, Amari Greenlee, Jan Dacanay, Jasmine Del Rosario, Mekaila Pellegrino, Jenny Han, Sierra Lazaro, Alayzia Ramos, Taraja Booker, Caitlyn Foreman, Cynthia

Lee, Marissa Rodriguez, Tiara Wilson, Grace Gehlen, Mariah Morris, Stephanie Campbell, Emma Wenthe, Kaelin Sumulong, Kayla Woodard, Saysha Palau, Michael Schofield, Adam Eisen, Chance Lazoff, Jessica Morgan, Madison Mildenberger, Brianna Werstein, Nick Reed, Brianna Martinez, Zach Ragusa, Jonah Ceniza, Ben Rifkin, Madison Drozd , Anna Benites, Molly Ragusa, Mari Nishimura, Ashlee Tewksbury, Lauren Suetos, Jason Kallus, Danner Dunston, Nick Bosnos, Anthony Woodson, Lauren Vanderploeg, Brianna Anderson, Madison Peaco, Ian Parvin, Xavier Cardenas, Angelo Venzon, Micco Estrada, Nathan Aune, Michael Johnston, Tiahna Divina, Sadie Conger, Vivian Brennan, Katie Camburn, Mary Gregorich, Maria Feil, Nichole Ragusa, Jacob Vargas, Tyler Osburn, Luke Schober, Rianna Baliza, Bryanna Narvaez, Natalie Gonzalez, Trevor Lyman, Brayden Mauermann, Jayson Kirchand-Patel, Brandon Gibbons, Austin Nesbitt, Brian Mainor, Brittney Mainor, Brandon Mainor, Rachel Mainor, Brenna Mainor, Jake Thomas, Tyler Gannon, Ciara Fung, Gianna Neimeier, Kayla Culpepper, Abbie Cox, Trevor Cox, Ben Thomas, Nason Tripp, Caden Thomas, Regan Thomas, Logan Smidt and Landon Smidt.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Dan Mastroluca.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Caleb Holley.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, May 29, 2009, at 9 a.m.

Motion carried.

Assembly adjourned at 9:57 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND SEVENTEENTH DAY

CARSON CITY (Friday), May 29, 2009

Assembly called to order at 9:20 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

Lord, Gideon used clay jars and trumpets to rout an army. Joshua used marching, horns, and a shout to level Jericho. Samson used the jawbone of an ass to defeat his enemies. David used a smooth stone to conquer Goliath. You used a talking donkey to get Balaam's attention. Jesus used a little boy's sack lunch to feed thousands.

You have always used what was available to do Your work. In order to get our work done, we put ourselves into Your hands this day. Please help us.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 28, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 64.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 148, Amendment No. 959; Assembly Bill No. 229, Amendment No. 960; Assembly Bill No. 430, Amendment No. 958; Assembly Bill No. 461, Amendment No. 945; Assembly Bill No. 523, Amendment No. 957, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 52, Senate Amendment No. 615, and requests a conference, and appointed Senators Wiener, Breeden and Cegavske as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 60, Senate Amendment No. 787, and requests a conference, and appointed Senators Lee, Townsend and McGinness as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 84, Senate Amendment No. 773, and requests a conference, and appointed Senators Copening, Schneider and Amodei as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 130, Senate Amendments Nos. 792, 923, and requests a conference, and appointed Senators Lee, Horsford and McGinness as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day receded from its action on Assembly Bill No. 218, Senate Amendments Nos. 918, 933, 931.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 3, 143.

Also, I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Senate Bills Nos. 429, 431, 433.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 19.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendments Nos. 778, 953 to Senate Bill No. 152.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 733 to Senate Bill No. 82; Assembly Amendment No. 735 to Senate Bill No. 92; Assembly Amendments Nos. 590, 747 to Senate Bill No. 194; Assembly Amendment No. 920 to Senate Bill No. 239; Assembly Amendment No. 656 to Senate Bill No. 267.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendments Nos. 626, 877 to Senate Bill No. 68; Assembly Amendment No. 751 to Senate Bill No. 183; Assembly Amendments Nos. 684, 870, 891 to Senate Bill No. 263.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 955 to Senate Bill No. 403.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Amodei and Copening as a Conference Committee concerning Senate Bill No. 55.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Carlton, Copening and Hardy as a Conference Committee concerning Senate Bill No. 119.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Townsend, Schneider and Breeden as a Conference Committee concerning Senate Bill No. 246.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Copening, Carlton and Rhoads as a Conference Committee concerning Senate Bill No. 269.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Carlton, Horsford and Hardy as a Conference Committee concerning Senate Bill No. 295.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 17.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 101.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 218.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 389.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 19.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 3.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 143.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 229.

The following Senate amendment was read:

Amendment No. 960.

AN ACT relating to cigarettes; setting forth the testing requirements and performance standard for fire safety for cigarettes sold or offered for sale in this State; requiring a manufacturer of cigarettes to submit a written certification to the State Fire Marshal concerning the cigarettes that the manufacturer intends to sell in this State; imposing a fee for each cigarette listed in a certification; requiring packages of cigarettes to be marked to indicate compliance of the cigarettes with the testing requirements and performance standard; imposing civil penalties for various violations; creating the Cigarette Fire Safety Standard and Firefighter Protection Fund in the State Treasury; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill, which is modeled on requirements first adopted in New York in 2004, sets forth the testing requirements and performance standard for fire safety for cigarettes sold or offered for sale in Nevada. **Section 10** of this bill prohibits the sale of any cigarettes in Nevada which do not meet the testing requirements or performance standard for cigarettes set forth in that section and which have not been certified in accordance with **section 11** of this bill or properly marked in accordance with **section 12** of this bill. **Section 10** also sets forth the testing requirements for cigarettes and the performance standard they must meet, using the ASTM International Standard ASTM E2187-04, while allowing for alternate testing methods and performance standards approved by the State Fire Marshal, and sets forth other requirements manufacturers must meet, such as keeping reports of testing.

Section 11 of this bill requires a manufacturer of cigarettes to submit to the State Fire Marshal a written certification concerning each cigarette the manufacturer intends to sell in Nevada, certifying that the cigarette meets the testing requirements and performance standard set forth in **section 10** of this bill, and to pay a fee of $250 to the State Fire Marshal for each cigarette

listed in a certification. **Section 11.5** of this bill requires the Executive Director of the Department of Taxation to establish a procedure to ensure that agents, wholesale dealers and retail dealers receive notice of the cigarettes that have been certified by manufacturers. **Section 12** of this bill requires that cigarettes which have been certified be marked with the letters "FSC," signifying "Fire Standard Compliant."

Section 13 of this bill provides for the imposition of a civil penalty against a manufacturer, wholesale dealer, retail dealer, agent or other person who violates any provision of this bill. **Section 14** of this bill authorizes the State Fire Marshal to adopt regulations to carry out the provisions of this bill. **Section 15** of this bill authorizes the Department of Taxation to inspect any packages of cigarettes to determine if they have been properly marked as required by **section 12** of this bill. **Section 16** of this bill authorizes the Attorney General, the Executive Director of the Department and the State Fire Marshal, and their authorized representatives, and any law enforcement officer to examine the books, papers, invoices and other records of persons in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in Nevada. **Section 17** of this bill creates the Cigarette Fire Safety Standard and Firefighter Protection Fund as a special revenue fund in the State Treasury.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 477 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Agent" means a person authorized by the Department of Taxation to purchase and affix Nevada cigarette revenue stamps to packages of cigarettes.***

Sec. 4. ***"Cigarette" means any roll of tobacco:***

1. Wrapped in paper or any other substance not containing tobacco; or

2. Wrapped in any substance containing tobacco which, because of its appearance, its packaging and labeling or the type of tobacco used in the filler, is likely to be offered to or purchased by a person as a cigarette described in subsection 1.

Sec. 5. ***"Manufacturer" means:***

1. A person who manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced in any location and who intends the cigarettes to be sold in this State, including, without limitation, cigarettes intended to be sold in the United States through an importer; or

2. The successor in interest of any person described in subsection 1.

Sec. 6. ***"Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or other tobacco products.***

Sec. 7. ***"Sale" means any transfer of title or possession, conditional or otherwise, in any manner or by any means or agreement. The term includes, without limitation, cash and credit sales, the giving of cigarettes as samples, prizes or gifts and the exchanging of cigarettes for consideration other than money.***

Sec. 8. ***"Sell" means to make a sale or to offer or agree to make a sale.***

Sec. 9. ***"Wholesale dealer" means:***

1. Any person other than a manufacturer who sells cigarettes or other tobacco products to retail dealers or other persons for purposes of resale; and

2. Any person who owns, operates or maintains one or more vending machines which dispense cigarettes or other tobacco products and which are located on premises owned or occupied by another person.

Sec. 10. ***1. Except as otherwise provided in this section, a person shall not sell or offer to sell any cigarettes in this State unless:***

(a) The cigarettes have been tested in accordance with this section and meet the performance standard required by this section;

(b) The manufacturer has submitted to the State Fire Marshal, pursuant to section 11 of this act, a written certification in which the cigarettes are listed; and

(c) The packages that contain the cigarettes have been marked pursuant to section 12 of this act.

2. Except as otherwise provided in this section, all cigarettes that are sold or offered for sale in this State must comply with the following method of testing and performance standard:

(a) The cigarettes must be tested in accordance with the ASTM International Standard ASTM E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."

(b) The testing must be conducted on 10 layers of filter paper.

(c) The testing must be conducted by a laboratory which has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization or which meets any other comparable accreditation standard required by the State Fire Marshal.

(d) The laboratory conducting the testing must have a program for quality control that includes a procedure for determining the repeatability of the test results. The repeatability value must not exceed 0.19.

(e) Not more than 25 percent of the cigarettes tested in a test trial may exhibit full-length burns in the test trial. Compliance with the performance standard required by this paragraph must be determined based on a complete test trial consisting of 40 replicate tests for each cigarette tested.

3. This section does not require additional testing if the cigarettes have been tested for any other purpose in a manner that is consistent with this section.

4. Any testing performed or caused to be performed by the State Fire Marshal to determine the compliance of a cigarette with the performance standard required by this section must be conducted in accordance with this section.

5. Any cigarette listed in a certification submitted to the State Fire Marshal pursuant to section 11 of this act which uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard required by this section must have not less than two nominally identical bands on the paper surrounding the tobacco column, at least one of which must be located not less than 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two bands, one of which is located not less than ~~[13]~~ 15 millimeters from the lighting end of the cigarette and one of which is located not less than 10 millimeters from:

(a) The filter end of the tobacco column if the cigarette is filtered; or

(b) The labeled end of the tobacco column if the cigarette is nonfiltered.

6. If the State Fire Marshal:

(a) Determines that a cigarette cannot be tested in accordance with the requirements of subsection 2, the manufacturer of the cigarette shall propose an alternative method of testing and performance standard to the State Fire Marshal for approval and, if the State Fire Marshal approves the alternative method of testing and determines that the alternative performance standard proposed by the manufacturer is substantially equivalent to the performance standard set forth in paragraph (e) of subsection 2, the alternative method of testing and performance standard may be used to certify the cigarette pursuant to section 11 of this act; or

(b) Determines that:

(1) Another state has enacted requirements which are substantially similar to those set forth in this section for the fire safety of cigarettes and which include a method of testing and a performance standard that are substantially similar to those set forth in subsection 2; and

(2) The officials responsible for carrying out those requirements in the other state have approved the alternative method of testing and performance standard for a particular cigarette that the manufacturer has proposed as meeting the fire safety standards of the law of that state under a provision similar to this subsection,

➥ the State Fire Marshal shall authorize the manufacturer to use the alternative method of testing and performance standard to certify that cigarette for sale in this State, unless the State Fire Marshal has a reasonable basis for denying the authorization.

7. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes sold or offered for sale in this State for a period

of 3 years after the completion of the testing and shall make copies of the reports available to the State Fire Marshal and the Attorney General upon written request. Any manufacturer that fails to make such copies available to the State Fire Marshal or Attorney General within 60 days after receiving a written request therefor is subject to a civil penalty not to exceed $10,000 for each day after the 60th day that the manufacturer fails to make the copies available.

8. The State Fire Marshal may, by regulation, adopt by reference a subsequent ASTM International Standard Test Method for Measuring the Ignition Strength of Cigarettes if he determines that the subsequent method of testing does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with the ASTM International Standard ASTM E2187-04 and the performance standard set forth in paragraph (e) of subsection 2. If the State Fire Marshal adopts the subsequent method of testing, it may be used as an alternative method for the certification of cigarettes.

9. This section does not prohibit:

(a) A wholesale dealer or retail dealer from selling his existing inventory of cigarettes on or after the effective date of this section if the wholesale dealer or retail dealer can establish that Nevada cigarette revenue stamps were affixed to the packages of cigarettes before the effective date of this section and the cigarettes were purchased by the wholesale dealer or retail dealer before the effective date of this section in a quantity comparable to the inventory purchased by the wholesale dealer or retail dealer during the same period of the immediately preceding year.

(b) The sale of cigarettes solely for the purpose of consumer testing. As used in this paragraph, "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, to evaluate consumer acceptance of the cigarettes, using only the number of cigarettes that is reasonably necessary for that assessment.

10. As used in this section, unless the context otherwise requires:

(a) "Program for quality control" means a program pursuant to which laboratory procedures are established to ensure that:

(1) The test results are not affected by operator bias, systematic and nonsystematic methodological errors or equipment-related problems; and

(2) The repeatability of the test results remains within the required repeatability value set forth in paragraph (d) of subsection 2 for all test trials used to certify cigarettes.

(b) "Repeatability value" means the range of values within which the repeat results of cigarette test trials conducted by a single laboratory will fall 95 percent of the time.

Sec. 11. ***1. Each manufacturer shall submit to the State Fire Marshal a written certification of the cigarettes that the manufacturer***

intends to sell in this State attesting that each cigarette listed in the certification has been tested in accordance with and meets the applicable performance standard set forth in section 10 of this act.

2. The description of each cigarette listed in the certification must include, without limitation:

(a) The brand or trade name on the package;

(b) The style, such as light or ultra light;

(c) The length in millimeters;

(d) The circumference in millimeters;

(e) The flavor, such as menthol or chocolate, if applicable;

(f) Whether the cigarette is filtered or nonfiltered;

(g) The package description, such as soft pack or box;

(h) The marking pursuant to section 12 of this act;

(i) The name, address and telephone number of the laboratory that conducted the testing of the cigarette; and

(j) The date that the testing occurred.

3. The State Fire Marshal shall make the certifications that are submitted to him pursuant to this section available to the Attorney General for purposes consistent with sections 2 to 19, inclusive, of this act and to the Executive Director of the Department of Taxation for the purpose of ensuring compliance with this section and section 11.5 of this act.

4. Each cigarette certified under this section must be recertified every 3 years.

5. A manufacturer shall pay to the State Fire Marshal a fee of $1,000 for each brand family of cigarettes listed in the certification. The fee paid applies to all cigarettes within the brand family certified and must include any new cigarettes certified within the brand family during the 3-year certification period. All fees collected pursuant to this section must be deposited in the Cigarette Fire Safety Standard and Firefighter Protection Fund created by section 17 of this act. As used in this subsection, "brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, without limitation, "menthol," "lights," "kings" and "100s," and includes any brand name, whether or not occurring alone or in conjunction with any other word, any trademark, logo, symbol, motto, selling message or recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

6. If a manufacturer has certified a cigarette pursuant to this section and subsequently makes any change to the cigarette that is likely to alter its compliance with the performance standard required by section 10 of this act, the cigarette must not be sold or offered for sale in this State unless the manufacturer retests the cigarette pursuant to section 10 of this act and maintains the reports of the retesting in accordance with that section. Any altered cigarette that does not meet the applicable performance standard

set forth in section 10 of this act must not be sold or offered for sale in this State.

Sec. 11.5. ***The Executive Director of the Department of Taxation shall establish a procedure to ensure that agents, wholesale dealers and retail dealers receive notice of the cigarettes that have been certified by manufacturers pursuant to section 11 of this act. The procedure may include, without limitation, listing the brands and styles of cigarettes which have been certified on an Internet website maintained by the Department.***

Sec. 12. ***1. Packages that contain cigarettes which have been certified by a manufacturer in accordance with section 11 of this act must be marked to indicate compliance with section 10 of this act. The marking must be set forth in not less than 8-point type and consist of the letters "FSC," signifying "Fire Standard Compliant," and be permanently printed, stamped, engraved or embossed on the package at or near the UPC label.***

2. A manufacturer shall use only one marking and shall apply the marking uniformly for all packages, including, without limitation, packs, cartons, cases and brands marketed by that manufacturer.

3. A manufacturer that certifies a cigarette in accordance with section 11 of this act shall provide a copy of the certification to each wholesale dealer and agent to whom the manufacturer sells cigarettes. A wholesale dealer, retail dealer or agent shall allow the State Fire Marshal, the Executive Director of the Department of Taxation and the Attorney General, and their respective employees, to inspect the markings of cigarette packaging marked in accordance with this section.

Sec. 13. ***1. Any manufacturer, wholesale dealer, agent or other person that knowingly sells cigarettes in this State, other than through retail sale, in violation of section 10 of this act is subject to a civil penalty not to exceed $100 for each pack of such cigarettes sold, except that the penalty against the person must not exceed $100,000 during any 30-day period.***

2. A retail dealer that knowingly sells cigarettes in this State in violation of section 10 of this act is subject to a civil penalty not to exceed $100 for each pack of such cigarettes sold, except that the penalty against the retail dealer must not exceed $25,000 during any 30-day period.

3. In addition to any other penalty prescribed by law, any manufacturer of cigarettes that knowingly makes a false certification pursuant to section 11 of this act is subject to a civil penalty of not less than $75,000 or more than $250,000 for each false certification.

4. A person who violates any other provision of sections 2 to 19, inclusive, of this act is subject to a civil penalty of not more than $1,000 for the first offense and not more than $5,000 for each subsequent offense.

5. A law enforcement officer, authorized representative of the Department of Taxation or authorized representative of the State Fire Marshal who discovers any cigarettes for sale in this State for which no

certification has been submitted pursuant to section 11 of this act or which are not marked pursuant to section 12 of this act may seize the cigarettes. Cigarettes seized pursuant to this section must be destroyed after the true holder of the trademark rights in the cigarette brand is allowed to inspect the cigarettes.

6. Each violation of any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto constitutes a separate civil violation for which the State Fire Marshal or the Attorney General may obtain relief. In addition to any other remedy provided by law, the Attorney General may file an action in a court of competent jurisdiction concerning a violation of any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto, including, without limitation, petitioning for:

(a) Preliminary or permanent injunctive relief against any manufacturer, importer, wholesale dealer, retail dealer, agent or other person to enjoin the person from selling or affixing Nevada cigarette revenue stamps to any package of cigarettes that contains cigarettes which do not comply with the requirements of sections 2 to 19, inclusive, of this act. Upon obtaining judgment for injunctive relief, the State Fire Marshal or Attorney General shall provide a copy of the judgment to all wholesale dealers and agents to whom the cigarette has been sold.

(b) The recovery of any civil penalty authorized by the provisions of sections 2 to 19, inclusive, of this act.

(c) The recovery of any costs or damages incurred by this State because of a violation of sections 2 to 19, inclusive, of this act, including, without limitation, enforcement costs relating to a specific violation and attorney's fees.

7. All money collected pursuant to this section must be deposited in the Cigarette Fire Safety Standard and Firefighter Protection Fund created by section 17 of this act.

Sec. 14. ***The State Fire Marshal may adopt such regulations as he determines necessary to carry out the provisions of sections 2 to 19, inclusive, of this act.***

Sec. 15. ***The Department of Taxation, in the regular course of conducting inspections of wholesale dealers, retail dealers and agents pursuant to NRS 370.001 to 370.530, inclusive, may inspect any packages of cigarettes to determine if they have been marked in accordance with section 12 of this act. If the packages of cigarettes are not marked as required, the Executive Director of the Department of Taxation shall notify the State Fire Marshal and may seize the packages of cigarettes pursuant to subsection 5 of section 13 of this act.***

Sec. 16. ***The Attorney General, the Executive Director of the Department of Taxation and the State Fire Marshal, and their authorized representatives, and any law enforcement officer may examine the books, papers, invoices and other records of any person in possession, control or***

occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in this State, including, without limitation, any stock of cigarettes on the premises. Each person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale in this State shall cooperate in any such examination.

Sec. 17. ***1. The Cigarette Fire Safety Standard and Firefighter Protection Fund is hereby created in the State Treasury as a special revenue fund. All money received for the use of the Fund pursuant to sections 2 to 19, inclusive, of this act or from any other source must be deposited in the Fund.***

2. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

3. The State Fire Marshal shall administer the Fund and may expend any money in the Fund to support fire safety and fire prevention programs.

Sec. 18. ***On or before January 30 of each odd-numbered year, the State Fire Marshal shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of the provisions of sections 2 to 19, inclusive, of this act and any recommendations for legislation to improve the effectiveness of sections 2 to 19, inclusive, of this act.***

Sec. 19. ***1. The provisions of sections 2 to 19, inclusive, of this act must, to the extent practicable, be interpreted and construed to effectuate the general purpose of those provisions to make uniform the laws of those states that have enacted similar legislation.***

2. The provisions of sections 2 to 19, inclusive, of this act must not be construed to prohibit any person from manufacturing or selling cigarettes that do not meet the requirements of section 10 of this act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale in this State.

Sec. 20. 1. Any ordinance or regulation adopted by a local government which conflicts with any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto is void and must not be given effect to the extent of the conflict.

2. Notwithstanding any specific statute to the contrary, no local government may adopt any ordinance or regulation which conflicts with any provision of sections 2 to 19, inclusive, of this act or any regulation adopted pursuant thereto.

3. As used in this section, "local government" means any political subdivision of this State, including, without limitation, a county, city or town.

Sec. 21. 1. This section and sections 1, 14 and 20 of this act become effective upon passage and approval.

2. Sections 2 to 13, inclusive, and 15 to 19, inclusive, of this act become effective 1 year after passage and approval.

3. This section and sections 2 to 16, inclusive, 18, 19 and 20 of this act expire by limitation on the date upon which a federal law establishing standards for fire-safe cigarettes becomes effective.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 229.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 430.

The following Senate amendment was read:

Amendment No. 958.

AN ACT relating to children's products; prohibiting the advertisement, sale, lease, sublet or distribution of children's products under certain circumstances; prohibiting certain commercial activity regarding unsafe cribs; providing that a violation of provisions relating to unsafe cribs or to children's products is a deceptive trade practice; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill provides that a retailer of a new or used product intended for children under 12 years of age may not advertise, sell or offer for sale, lease, sublet or otherwise distribute the product if the product is subject to a recall notice, is subject to a warning indicating that the use of the product constitutes a health or safety hazard or has been banned or designated as a health or safety hazard by the United States Consumer Product Safety Commission or the manufacturer of the product. **Section 7** also requires a retailer to subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission and manufacturers from whom the retailer receives children's products. **Section 7** further requires a retailer to comply with all instructions issued for the disposal, return, repair, retrofitting, labeling or remediation of children's products which are the subject of a recall notice or other warning. **Section 18** of this bill makes it a deceptive trade practice for a person to knowingly and willfully violate any provision relating to unsafe cribs or to children's products that are subject to a recall notice or a warning, which therefore puts such violations within the purview of the provisions in chapter 598 of NRS that impose civil and criminal penalties. (NRS 598.092)

Sections 9-17 of this bill establish the Infant Crib Safety Act. **Section 14** prohibits persons from remanufacturing, retrofitting, selling, contracting to sell or resell, subletting or otherwise placing in the stream of commerce a crib that is unsafe for use by an infant. **Section 14** also describes the types of cribs that are presumed unsafe. **Section 15** establishes civil penalties for persons who violate any provision relating to unsafe cribs. **Section 16**

exempts antique or vintage cribs from the provisions relating to unsafe cribs if such a crib is accompanied with a written notice provided by a commercial user stating that it is not intended for use by an infant. **Section 16** further releases from liability any commercial user who complies with the notice requirement. **Section 17** authorizes any person to maintain an action against a commercial user who violates any provision relating to unsafe cribs.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Children's product" means a consumer product that is designed or intended:***

1. For the care of or use by a child under 12 years of age; or

2. To come into physical contact with a child under 12 years of age at the time the product is used.

➥ For the purposes of this subsection, "children's product" does not include soap or any medication, drug, food or other product that is intended to be ingested [.] or that is regulated by the Food and Drug Administration of the United States Department of Health and Human Services.

Sec. 4. (Deleted by amendment.)

Sec. 5. ***"Retailer" means a person who, in the ordinary course of his business, advertises, sells or offers for sale, leases, sublets or otherwise distributes a new or used children's product to consumers in this State, including, without limitation, thrift stores, second-hand stores and consignment stores.***

Sec. 6. ***"Warning" means a communication which is about a health or safety hazard that a children's product poses to consumers and which is:***

1. Directed to a retailer; and

2. Intended to inform the retailer about the health or safety hazard, instruct the retailer to remove the children's product from the retailer's inventory or provide the retailer with a method to eliminate the health or safety hazard from the children's product.

➥ For the purposes of this section, "warning" does not include a communication which is directed to consumers and affixed to the children's product or any packaging material for the children's product or provided by the retailer to the consumer as part of a transaction relating to the children's product.

Sec. 7. ***1. A retailer shall not advertise, sell or offer for sale, lease, sublet or otherwise distribute a children's product to consumers in this State if the children's product is:***

(a) Subject to a recall notice issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency; or

(b) The subject of a warning issued by the manufacturer of the children's product or the United States Consumer Product Safety Commission or its successor agency indicating that the intended use of the children's product constitutes a health or safety hazard, unless the retailer has eliminated the hazard in strict compliance with any standards and instructions that are provided in or related to the warning.

2. A retailer shall:

(a) Subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission or its successor agency and manufacturers from whom the retailer receives children's products;

(b) Dispose of any children's product identified in a recall notice or a warning issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency or the manufacturer of the children's product in strict compliance with disposal instructions included with or related to the recall notice or the warning; and

(c) Comply strictly with instructions issued with or related to a recall notice or a warning issued by the United States Consumer Product Safety Commission or its successor agency or the manufacturer of the children's product for the return, repair, retrofitting, labeling or remediation of any children's product.

Sec. 8. (Deleted by amendment.)

Sec. 9. ***Sections 9 to 17, inclusive, of this act may be referred to as the Infant Crib Safety Act.***

Sec. 10. ***As used in sections 9 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 11, 12 and 13 of this act have the meanings ascribed to them in those sections.***

Sec. 11. ***"Commercial user" means any person, firm, corporation, association or nonprofit corporation, or any agent or employee thereof, including, without limitation, a child care facility licensed and in good standing pursuant to chapter 432A of NRS, who:***

1. Deals in cribs of the kind governed by sections 9 to 17, inclusive, of this act;

2. By virtue of the person's occupation, purports to have knowledge or skill peculiar to cribs of the kind governed by sections 9 to 17, inclusive, of this act; or

3. Is in the business of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing cribs in the stream of commerce.

Sec. 12. ***"Crib" means:***

1. Any full-size baby crib as described in 16 C.F.R. § 1508.3; or

2. Any non-full-size baby crib as that term is defined in 16 C.F.R. § 1509.2(b).

Sec. 13. ***"Infant" means a child who is under 3 years of age.***

Sec. 14. ***1. A person, including, without limitation, a commercial user, shall not remanufacture, retrofit, sell, contract to sell or resell, lease, sublet or otherwise place in the stream of commerce a crib that is unsafe for use by an infant.***

2. A crib is presumed to be unsafe if it does not conform to the standards set forth in:

(a) 16 C.F.R. Part 1303;

(b) 16 C.F.R. Part 1508;

(c) 16 C.F.R. Part 1509; and

(d) The American Society for Testing and Materials voluntary standards F966-90, F1169.88 and F406.

3. Cribs that are presumed to be unsafe pursuant to subsection 2 also include, without limitation, cribs with one or more of the following features or characteristics:

(a) Corner posts that extend more than 1/16 of an inch;

(b) Spaces between side slats more than 2 3/8 inches;

(c) Mattress supports that can be easily dislodged from any point of the crib;

(d) Cutout designs on the end panels;

(e) Rail height dimensions that do not conform to the following:

(1) The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is at least 9 inches; or

(2) The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is at least 26 inches;

(f) Any screw, bolt or hardware that is loose or not secured;

(g) Sharp edges, points, rough surfaces or any wood surfaces that are not smooth and free from splinters, splits or cracks; or

(h) Tears in mesh or fabric sides.

4. For the purposes of paragraph (c) of subsection 3, a mattress support is deemed to be easily dislodged if it cannot withstand a 25-pound upward force from beneath the crib.

Sec. 15. ***1. A commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $1,000.***

2. A person other than a commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $200.

Sec. 16. ***1. The provisions of sections 9 to 15, inclusive, of this act do not apply to any antique or vintage crib if the antique or vintage crib is:***

(a) Not intended for use by an infant; and

(b) At the time of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing in the stream of commerce, is accompanied with a written notice provided by the commercial user stating that the crib is not intended for use by an infant and that the crib is dangerous for use by an infant.

2. A commercial user who complies with the notice requirement in subsection 1 shall not be held liable for any death or injury as a result of the use of an antique or vintage crib in a manner inconsistent with the warning provided in the written notice.

3. As used in this section, "antique or vintage crib" means a crib that is:

(a) Fifty years or older, as measured from the current year;

(b) Maintained as a collector's item; and

(c) Not intended for use by an infant.

Sec. 17. ***In addition to any other remedy provided by law, any person may maintain an action against a commercial user who violates the provisions of section 14 of this act, seek to enjoin the remanufacture, retrofitting, sale, contract to sell or resell, lease or subletting of a crib that is unsafe for an infant and seek reasonable attorney's fees and costs.***

Sec. 18. NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a "deceptive trade practice" when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments ~~[,]~~ or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property ~~[,]~~ or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

➥ specifying that no refunds or exchanges are allowed.

11. Knowingly and willfully violates section 7 or 14 of this act.

Sec. 19. (Deleted by amendment.)

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 430.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Assembly Bill No. 146 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 146 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 146, which is entitled:

> AN ACT relating to business; providing for the establishment of a state business portal by the Secretary of State; revising the provisions relating to the issuance of state business licenses and transferring certain responsibilities concerning state business licenses from the Department of Taxation to the Secretary of State; making an appropriation; and providing other matters properly relating thereto.

Assembly Bill 146 would authorize the Nevada Secretary of State to create a business portal to facilitate transactions between the government and private businesses. The bill also transfers certain responsibilities for issuing business licenses from the Department of Taxation to the Secretary of State's office.

If this were where the bill ended, in the authorization for the Secretary of State to create this portal, I would gladly sign the legislation and be pleased the state was improving the ease of conducting business in Nevada. Unfortunately, the bill contains other provisions I do not believe improve the business climate in Nevada and, in fact, outweigh any benefits from the creation of the business portal.

Assembly Bill 146 would double the annual licensing fee the State of Nevada charges businesses. The legislation would also create a new business license fee for each additional physical location of a business in our state. It is because of these fee increases, greatly expanding the amount of money being collected from Nevada businesses, that I cannot support this otherwise sound legislation.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 146.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 146:

YEAS—35.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 543 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 543 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 543, which is entitled:

> AN ACT relating to taxation; temporarily redirecting a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund; revising the provisions governing the imposition and use of a supplemental governmental services tax in certain counties; temporarily redirecting a portion of certain taxes imposed in Clark County to the county general fund; and providing other matters properly relating thereto.

Assembly Bill 543 pertains to reallocations of county revenues and also authorizes an increase in the governmental services tax. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, and also because this bill reallocates county revenues in an amount greater than I recommended in the Executive Budget, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 543.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 543:

YEAS—33.

NAYS—Carpenter, Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Woodbury—9.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 552 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 552 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 552, which is entitled:

> AN ACT relating to taxation; increasing the fee charged by the State for collecting certain local sales and use taxes; establishing the required time for payment to the State of certain proceeds from

taxes on revenue from the rental of transient lodging; making permanent a temporary reduction in various allowances for the collection of sales and use taxes and taxes on intoxicating liquor, cigarettes and other tobacco products; and providing other matters properly relating thereto.

Assembly Bill 552 pertains to state collection allowances for various taxes. I agreed to increases in these types of allowances in the 25th Legislative Special Session with the understanding that the increases would expire on June 30, 2009. A continuation of those increases was not included in the Executive Budget and I therefore cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 552.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 552:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Woodbury—8.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 562 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 562 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 562, which is entitled:

AN ACT relating to state financial administration; making appropriations from the State General Fund and the State Highway Fund for the support of the civil government of the State of Nevada for the fiscal years beginning July 1, 2009, and ending June 30, 2010, and beginning July 1, 2010, and ending June 30, 2011; providing for the use of the money so appropriated; revising the provisions governing the line of credit from the Local Government Pooled Investment Fund; making various other changes relating to the financial administration of the State; and providing other matters properly relating thereto.

Assembly Bill 562 is the general appropriations bill. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 562.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 562:

YEAS—35.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 563 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 563 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 563, which is entitled:

> AN ACT relating to education; ensuring sufficient funding for K-12 public education for the 2009-2011 biennium; apportioning the State Distributive School Account in the State General Fund for the 2009-2011 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other educational purposes; authorizing temporarily the board of trustees of a school district to use money raised through its general obligations for the purchase of equipment for the transportation of pupils; revising provisions governing local funds available for certain school districts for the 2009-2011 biennium; and providing other matters properly relating thereto.

I take no joy in rejecting this bill as it provides an appropriation for the distributive school account. However, this bill is part and parcel of the overall budget. Because that budget is funded by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 563.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 563:

YEAS—40.

NAYS—Goedhart, Hambrick—2.

Bill ordered transmitted to the Senate.

Vetoed Senate Bill No. 429 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 429 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 429, which is entitled:

> AN ACT relating to state financial administration; temporarily increasing the state business license fee; temporarily revising the rate of the payroll tax imposed on certain businesses other than financial institutions; revising the provisions governing the calculation of governmental services taxes due annually for used vehicles and allocating a portion of the proceeds of the basic governmental services tax for 4 years to the State General Fund and thereafter to the State Highway Fund; temporarily increasing the rate of the Local School Support Tax; and providing other matters properly relating thereto.

This bill would enact historic and unprecedented tax increases in the midst of one of the most severe economic recessions ever experienced in Nevada. Our state has been one of the most severely impacted states in the Union during this economic downturn. Our unemployment rate has increased from 4.3% in 2006 to 10.6% today. Nevada's construction and tourism industries have seen dramatic slowdowns. Business big and small have laid off employees, reduced employees hours, and curtailed employee benefits in an effort to keep their doors open. Home values have spiraled downward, leaving many Nevadans facing foreclosures at worst and realizing negative home equities at best. Our state revenues correspondingly have been negatively impacted by percentages never before seen. We face a multi-billon dollar budget deficit. Under these circumstances our government finds itself at a crossroads and must choose whether it will live within its means or raise taxes to support continued government spending. 1 am disappointed that our Legislature chose the latter course of action.

I have repeatedly stated that just as Nevadans must live within their means, so must their government. I proposed a balanced budget that limited tax increases on hardworking Nevadans and avoided mass layoff's of state employees. I promised to call a special session to restore responsible government spending when the economy recovers. I am convinced that the action taken by the Legislature in Senate Bill 429 will prolong the economic recession in Nevada and will dissuade employers from retaining current employees today and hiring new employees tomorrow. Senate Bill 429 is not in the best interests of Nevadans and sets an extremely dangerous precedent about how our state government responds to economic recessions.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 429.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen McArthur, Leslie, and Carpenter.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. I still feel at this time—with 10 percent unemployment in the state, with Lyon County having 15 percent unemployment—it is the wrong time to almost double the payroll tax. In my opinion, this will still cause more people to become unemployed. Thank you.

ASSEMBLYMAN MCARTHUR:

Thank you, Madam Speaker. I rise in opposition to Senate Bill 429. The problem I have with this bill has little to do with politics; it has almost everything to do with the economic reality that we face today and what is going to happen over the next couple of years. Right now, we have a downward spiraling economy, we have declining tax revenues, we have businesses that are closing, we have people being laid off, we have big projects in Las Vegas that have been halted, and we have dealerships that are closing their doors as we speak today. This is just the wrong time to raise taxes. Raising taxes right now is just going to exacerbate the problem and is going to lead to more layoffs and more businesses closing. I think we need to realize that without the business community, without the private sector, there would be no government sector—no one to pay for it. I think we need to remember that when you hurt business, you are going to hurt our ability to pay for government.

The big concern I really have right now is that if we raise taxes now and this economy does not recover soon, which I do not believe it will, we are going to be facing one of the biggest budget crises we have, coming up in the next session. I know that a lot of people would like to be able to tax our way out of it, but we won't. It is going to be a matter of what are we going to be able to fund properly and we won't. It will be a matter of what are we going to cut and what are we going to have to actually get rid of. I think that this will be partly because we are going to be raising taxes now and putting off what we should have done. This will probably be the easy way out to balance this budget. Thank you.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of the override. I am supporting the override because I do not believe we can or should turn our backs on our citizens today. Government does have a responsibility to help those who cannot help themselves. Government also has a responsibility to provide for the essential services our constitution requires—education, public safety, and at least a minimum health and human services safety net. The budget is lean and the revenue plan is also lean. We have worked hard and long for four months in a bipartisan, bicameral manner to get to this point. We know that this budget, partly funded by this bill, won't get us out of last place in nearly every indicator there is, but at least we will not fall further behind. This bill has something in it that every one of us would change if we had the opportunity. That is the mark of a good compromise. It is a difficult vote for some today and I respect that. I respect every Legislator's duty to represent their constituents as they feel best, but as we get ready to vote this morning, this historic vote, let us reflect just for a moment on our system of government, with its checks and balances that allows us to represent our constituents as we see fit today.

We don't live under a dictatorship. I have, as a foreign exchange student, lived under a dictatorship. I am very glad that is not the system of government we have here today. We also do not live under a monarchy—one person does not get to decide our state's destiny. He doesn't, we do. So the override vote for me also represents a textbook example of what representative democracy is all about. We know how hard it is to reach a two-thirds majority in this house, where there are 42 opinions on just about every subject imaginable. So whether you

agree with the Governor—that it is better to manage our fiscal crises by cutting children and pregnant women off their health insurance, by closing a university, by decimating our rural mental health system—or you don't agree with the Governor today, I hope you will be proud of what we are about to do and respect it. Our system allows us to say no to the highest elected official in our state and demonstrate our belief that we have a better plan to manage our state's fiscal crises. I urge your support.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. I rise in support of Senate Bill 429. I know this is a difficult vote, but I have been talking to the Lord and the Lord says it is still okay for me to vote for it. So that is what I am going to do.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 429:

YEAS—29.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

Bill ordered transmitted to the Senate.

Vetoed Senate Bill No. 431 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*,, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 431 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 431, which is entitled:

> AN ACT relating to state financial administration; authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State Government for the fiscal years commencing on July 1, 2009, and ending on June 30, 2010, and beginning on July 1, 2010, and ending on June 30, 2011; authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; and providing other matters properly relating thereto.

Senate Bill 431 is the spending authorization bill. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 431.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblyman Goicoechea.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Speaker. I really believe that most of us recognized early last fall that we were in for a very difficult economic time. As we came here in December for the special session, I think it became more and more apparent that we were really in trouble. As I met with my constituents throughout my district, they all recognized that we did not have the ability to make enough reductions or cuts to survive this. We shifted some money in the special session, again just to meet and fill those needs. Although I never totally reached accord as far as the type of revenue we needed, I did support and work with my colleagues, on both sides of the aisle, to develop a budget that would maintain the rural school districts and my community colleges in the district I represent. I can only say to the rest of the body that I thank you for the opportunity to work with you in a bipartisan effort to develop a budget that will at least sustain the essential services of this state. Thank you.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 431:

YEAS—37.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick—5.

Bill ordered transmitted to the Senate.

Vetoed Senate Bill No. 433 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 433 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 433, which is entitled:

> AN ACT relating to public employees; establishing the maximum allowed salaries for certain employees in the classified and unclassified service of the State; requiring employees of the State to take a certain number of days of unpaid furlough leave during the 2009-2011 biennium; providing exceptions to the furlough requirement; making appropriations from the State General Fund and State Highway Fund for the salaries of certain employees of the State; making certain appropriations contingent on specified projections of unappropriated balances in the State General Fund; and providing other matters properly relating thereto.

Senate Bill 433 is the state employee pay bill. Because this bill is funded in part by tax increases that I disagree with, as articulated in my veto message of Senate Bill 429, I cannot support this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 433.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Gansert, Hardy, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I rise in support of Senate Bill 433. I want to take this opportunity to thank the state workers. I know they are having to do more. We were looking for a solution because payroll is such a great portion of our expenses. I believe that this bill with the furlough represents a good solution for the upcoming biennium. Again, I want to thank them for their work because it has been very difficult, I know, during the budget cuts that we put into effect last year and then moving forward. So, again, I thank you for your work.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker. I rise in support. When I was talking with my constituents, I was talking about the reality of having a fiscal budgetary hole. I used the words of a $1.5 billion hole. I suggested that we would have to make cuts and we would have to make a revenue source and meet somewhere in the middle. I used the words "sales tax" on that, and universally people would say, yes, that makes sense. This is a critical part of that piece—recognizing that our employment costs can be cut in such a way as not to risk job loss as much as it would otherwise. So I will be supporting this and appreciate the work people have done to allay the concerns about those furloughs and the issues and the creative ways we have looked at that. I thank this body for having worked together on that.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

It is pretty easy just to cut something. Establishing a furlough is much more humane. People don't lose their retirement eligibility—at least you get a day off. We established flexibility and when it could be taken so it can be broken up between the pay periods. I would like to thank the chairman of Ways and Means, the vice chair of Ways and Means and the Assemblywoman representing Carson City for their work on this bill, as well as our staff. With a little bit of work, we found a way to make this concept a reality and had no trouble answering 19 questions, because that is what we do every day.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 433:

YEAS—38.

NAYS—Cobb, Goedhart, Gustavson, McArthur—4.

Bill ordered transmitted to the Senate.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I would like to thank you all for your extraordinary work on this budget over the last four months. I appreciate both parties working so hard on every budget item. I feel like we did the best we could under the circumstances. A 44 percent decline in revenue is a reality few states face and an experience I think none of us ever imagined just two years ago. Two years ago, we

thought gaming was recession-proof. We thought the housing bubble would continue. We didn't think we would be here today. Cutting our budget in accordance with the Governor's wishes meant a 36 percent cut to our community colleges; a 50 percent cut to UNLV and UNR, basically closing one of those institutions; $690 million to K-12; a suggested 6 percent salary cut; a $93 million cut in health insurance; an elimination of all merit increases; and an elimination of the one-fifth retirement credit. The list goes on. The Gaming Control Board had a loss of their staff needed to regulate our state's most important industry to the point where the chairman of the Gaming Control Board indicated that he would not be able to do his work, on the behalf of us, if we did not restore his budget. There were cuts to the Agriculture budget and the Organic Board, who said the state would lose jobs if the board was not able to certify crops as organic in the state. We heard from every part of the state. We worked together. We put party aside. It made me, yet again, proud to be a Nevadan. If you look at the Washington, D.C.-style of politics, you have Democrats on one side and Republicans on the other. They do not work on budgets together. But we did. I am proud of all of you, and I am proud that we worked together for the betterment of this state.

On revenue, most of us agreed that we needed new revenue. We couldn't cut our way out of the crisis, and we couldn't tax our way out of the crisis. We had to use what we, as Nevadans, value—our common sense. We had to decide to govern for the good of our constituents and not by platitude. I am proud of the work we have done this session, and I am proud to be a Nevadan. Thank you all very much for your hard work, that made today possible. Thank you.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:11 a.m.

ASSEMBLY IN SESSION

At 10:14 a.m.
Madam Speaker presiding.
Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 564—AN ACT relating to projects of capital improvement; authorizing certain expenditures by the State Public Works Board; levying a property tax to support the Consolidated Bond Interest and Redemption Fund; making appropriations; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:15 a.m.

ASSEMBLY IN SESSION

At 10:58 a.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 564, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Pierce, Mastroluca, and Hardy as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 52.

Madam Speaker appointed Assemblymen Conklin, Kirkpatrick, and Gansert as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 84.

Madam Speaker appointed Assemblymen Bobzien, Pierce, and Christensen as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 130.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 461.

The following Senate amendment was read:

Amendment No. 945.

AN ACT relating to older persons; revising the provisions pertaining to the reporting of abuse, neglect, exploitation or isolation of an older person; providing for the establishment of a multidisciplinary team; making various other changes relating to older persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain governmental entities to forward to the Aging Services Division of the Department of Health and Human Services and to the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General a copy of the final report of the investigation of a report of abuse, neglect, exploitation or isolation of an older person. (NRS 200.5093) **Section 1** of this bill: (1) adds the Repository for Information Concerning Crimes Against Older Persons to the list of entities that must be forwarded a copy of such a report; and (2) changes the period within which the report must be forwarded from 90 days after the completion of the report to 30 days after the completion of the report.

[~~Existing law allows a prospective witness who may be unable to attend or may be prevented from attending a trial or hearing to have his deposition taken, if his testimony is material, in order to prevent a failure of justice.~~

~~(NRS 174.175) At a trial or hearing, a part or all of a deposition may be used if it appears that: (1) the witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick; (4) the witness has become of unsound mind; or (5) the party offering the deposition could not procure the attendance of the witness by subpoena. (NRS 174.215) Section 4 of this bill expands the list of prospective witnesses who may have their deposition taken to include persons who are 70 years of age or older. (NRS 174.175)~~**]**

Section 5 of this bill allows the Repository for Information Concerning Crimes Against Older Persons to include records of every incident of elder abuse reported to any entity and certain additional information related to each incident. (NRS 179A.450)

Section 6 of this bill allows the Unit for the Investigation and Prosecution of Crimes Against Older Persons to establish a multidisciplinary team to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation and prescribes its membership. (NRS 228.270) The establishment of such a team does not grant the Unit supervisory authority over any state or local agency that investigates or prosecutes allegations of abuse, neglect, exploitation

or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation.

Section 7 of this bill requires the Peace Officers' Standards and Training Commission to adopt regulations that require all peace officers to receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons. (NRS 289.510)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded ***within 30 days after the completion of the report*** to the ***:***

(a) Aging Services Division ~~[within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the]~~ ***;***

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes ***.*** ~~[within 90 days after completion of the report.]~~

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. ~~[NRS 174.175 is hereby amended to read as follows:~~

~~174.175 1. If it appears that a prospective witness~~ ***is an older person or*** ~~may be unable to attend or prevented from attending a trial or hearing, that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information or complaint may upon motion of a defendant or of the State and notice to the parties order that his testimony be taken by~~

~~deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. If the deposition is taken upon motion of the State, the court shall order that it be taken under such conditions as will afford to each defendant the opportunity to confront the witnesses against him.~~

~~2. If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may direct that his deposition be taken. After the deposition has been subscribed the court may discharge the witness.~~

~~3. This section does not apply to the prosecutor, or to an accomplice in the commission of the offense charged.~~

~~*4. As used in this section, "older person" means a person who is 70 years of age or older.]*~~ **(Deleted by amendment.)**

Sec. 5. NRS 179A.450 is hereby amended to read as follows:

179A.450 1. The Repository for Information Concerning Crimes Against Older Persons is hereby created within the Central Repository.

2. The Repository for Information Concerning Crimes Against Older Persons must contain a complete and systematic record of all reports of crimes against older persons committed in this State **. [**~~that~~**]** ***The record*** must be prepared in a manner approved by the Director of the Department **[**.**]** ***and may include, without limitation, the following information:***

(a) All incidents that are reported to any entity.

(b) All cases that are currently under investigation and the type of such cases.

(c) All cases that are referred for prosecution and the type of such cases.

(d) All cases in which prosecution is declined or dismissed and any reason for such action.

(e) All cases that are prosecuted and the final disposition of such cases.

(f) All cases that are resolved by agencies which provide protective services and the type of such cases.

3. The Director of the Department shall compile and analyze the data collected pursuant to this section to assess the incidence of crimes against older persons.

4. On or before July 1 of each year, the Director of the Department shall prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature that sets forth statistical data on crimes against older persons.

5. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of an individual victim of a crime.

6. As used in this section, "older person" means a person who is 60 years of age or older.

Sec. 6. NRS 228.270 is hereby amended to read as follows:

228.270 ***1.*** The Unit may investigate and prosecute any alleged abuse, neglect, exploitation or isolation of an older person in violation of NRS 200.5099 or 200.50995 and any failure to report such a violation pursuant to NRS 200.5093:

~~[1.]~~ ***(a)*** At the request of the district attorney of the county in which the violation occurred;

~~[2.]~~ ***(b)*** If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or

~~[3.]~~ ***(c)*** Jointly with the district attorney of the county in which the violation occurred.

2. The Unit may organize or sponsor one or more multidisciplinary teams to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be from abuse, neglect or isolation. A multidisciplinary team may include, without limitation, the following members:

(a) A representative of the Unit;

(b) Any law enforcement agency that is involved with the case under review;

(c) The district attorney's office in the county where the case is under review;

(d) The Aging Services Division of the Department of Health and Human Services or the county's office of protective services, if one exists in the county where the case is under review;

(e) A representative of the coroner's office; and

(f) Any other medical professional or financial professional that the Attorney General deems appropriate for the review.

3. Each organization represented on a multidisciplinary team may share with other members of the team information in its possession concerning the older person who is the subject of the review or any person who was in contact with the older person and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential.

4. The organizing or sponsoring of a multidisciplinary team pursuant to subsection 2 does not grant the Unit supervisory authority over, or restrict or impair the statutory authority of, any state or local agency responsible for the investigation or prosecution of allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be the result of abuse, neglect or isolation.

Sec. 7. NRS 289.510 is hereby amended to read as follows:

289.510 1. The Commission:

(a) Shall meet at the call of the Chairman, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance;

(3) Qualifications for instructors of peace officers; and

(4) Requirements for the certification of a course of training.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.600, inclusive.

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children; ~~[and]~~

(c) ***Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons; and***

(d) May require that training be carried on at institutions which it approves in those regulations.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 461.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 68, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Dondero Loop, Kihuen, and McArthur as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 68.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 183, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Segerblom, Kihuen, and Hambrick as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 183.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Kirkpatrick moved that the Assembly recede from its action on Senate Bill No. 43.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bills Nos. 9 and 564 considered engrossed, declared an emergency measure under the *Constitution*, and placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 9.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 9:

YEAS—39.

NAYS—Christensen, Cobb, Gustavson—3.

Assembly Bill No. 9 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 564.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 564:

YEAS—36.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur—6.

Assembly Bill No. 564 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Conklin, Spiegel, and McClain as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 24.

Assemblyman Oceguera moved that the Assembly recess until 2 p.m.

Motion carried.

Assembly in recess at 11:24 a.m.

ASSEMBLY IN SESSION

At 4:31 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 29, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 18, 540.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 264, 286.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 36.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 950 to Senate Bill No. 7.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Breeden, Schneider and Nolan as a Conference Committee concerning Senate Bill No. 332.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 36.

Assemblyman Grady moved the adoption of the resolution.

Remarks by Assemblyman Grady.

Assemblyman Grady requested that his remarks be entered in the Journal.

Thank you, Madam Speaker. I believe that the resolution speaks very strongly of the commander. He was a husband, a father, a military man, and a community leader. As the Majority Leader said on Tuesday as we adjourned in honor of the commander, he was a good person from Fallon. It was a tragic accident. He and his three daughters were killed about a mile from the airport in Fallon in a private plane last Friday night. Tomorrow they are having a memorial for him at NAS, Fallon. I thank the Speaker for allowing this resolution to come forward. We felt this was something we really wanted to do, not only for NAS Fallon and the family, but also to show our support of the military here in the Legislature. Thank you, Madam Speaker.

Resolution adopted.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 264.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 286.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 88.

The following Senate amendment was read:

Amendment No. 690.

SUMMARY— ~~[Establishes a civil remedy for a person who was a victim of a sexual offense which was used to promote]~~ **Makes various changes relating to** child pornography. (BDR 15-267)

AN ACT relating to sexual offenses; **prohibiting a person from using the Internet to access child pornography;** establishing a civil remedy **under certain circumstances** for a person who ~~[was a victim of a sexual offense which was used to promote]~~ **appeared in** child pornography; **providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill **prohibits a person from using the Internet to access child pornography.**

Section 4 of this bill establishes a civil cause of action for a person who, ~~[as a minor, was a victim of a sexual offense where any depiction of sexual~~

~~conduct of the offense was used to promote~~] **while under the age of 16 years, appeared in** child pornography **[.]** **and suffered personal or psychological injury as the result.** A ~~[victim]~~ **person** who prevails in such an action may recover his actual damages, which are deemed to be at least $150,000, plus attorney's fees and costs. **Section 3** of this bill establishes the statute of limitations for such an action.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[*1. Any person who, while a minor, was a victim of a sexual offense of which any depiction of sexual conduct of such offense was used to promote child pornography and who suffered personal or psychological injury as a result may bring an action against any person who promoted or possessed the child pornography, regardless of whether the victim is now an adult.*~~

~~*2. A victim who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least $150,000, plus attorney's fees and costs.*~~

~~*3. A victim may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a victim has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.*~~

~~*4. It is not a defense to a cause of action under this section that a defendant did not know the victim or did not personally engage in the sexual conduct which involved the victim and which is depicted in the child pornography.*~~

~~*5. An action may be brought pursuant to this section regardless of whether any person has been prosecuted or convicted of a sexual offense involving the victim.*~~

~~*6. As used in this section:*~~

~~*(a) "Child pornography" means a violation of NRS 200.710 to 200.730, inclusive.*~~

~~*(b) "Sexual offense" means a violation of NRS 200.366 or 201.230.]*~~

1. Any person who, knowingly, willfully and with the specific intent to view any film, photograph or other visual presentation depicting a person under the age of 16 years engaging in or simulating sexual conduct, uses the Internet to access such a film, photograph or other visual presentation is guilty of:

(a) For the first offense, a category C felony and shall be punished as provided in NRS 193.130.

(b) For any subsequent offense, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not

less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

2. As used in this section, "sexual conduct" means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

Sec. 2. NRS 200.700 is hereby amended to read as follows:

200.700 As used in NRS 200.700 to 200.760, inclusive, ***and section 1 of this act,*** unless the context otherwise ~~[provides:]~~ ***requires:***

1. "Performance" means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. "Promote" means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. "Sexual conduct" means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person's body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

4. "Sexual portrayal" means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.

Sec. 3. NRS 11.215 is hereby amended to read as follows:

11.215 1. Except as otherwise provided in ***subsection 2 and*** NRS 217.007, an action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age must be commenced within 10 years after the plaintiff:

(a) Reaches 18 years of age; or

(b) Discovers or reasonably should have discovered that his injury was caused by the sexual abuse,

➥ whichever occurs later.

2. ***An action to recover damages pursuant to section ~~[1]~~ 4 of this act must be commenced within 3 years after the occurrence of the following, whichever is later:***

(a) The court enters a verdict in a related criminal case; or

(b) The victim reaches the age of 18 years.

3. As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.

Sec. 4. **Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Any person who, while under the age of 16 years, appeared in any film, photograph or other visual presentation engaging in sexual conduct and who suffered personal or psychological injury as a result may bring an

action against any person who, while over the age of 18 years, knowingly and willfully:

(a) Promoted the film, photograph or other visual presentation;

(b) Possessed the film, photograph or other visual presentation; or

(c) Used the Internet to access the film, photograph or other visual presentation, with the specific intent to view the film, photograph or other visual presentation.

2. A plaintiff who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least $150,000, plus attorney's fees and costs.

3. A plaintiff may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a plaintiff has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.

4. It is not a defense to a cause of action under this section that a defendant did not know the plaintiff or did not engage in the sexual conduct with the plaintiff.

5. As used in this section:

(a) "Promote" has the meaning ascribed to it in NRS 200.700.

(b) "Sexual conduct" means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 88.

Remarks by Assemblymen Anderson and Cobb.

Motion carried on a division of the House.

Bill ordered transmitted to the Senate.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Assembly Bill No. 35, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Anderson, Horne, and Carpenter as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 35.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Horne moved that the Assembly recede from its action on Senate Bill No. 84.

Remarks by Assemblyman Horne.

Motion carried.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 45, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 587 of the Assembly be concurred in.

RUBEN KIHUEN	TERRY CARE
TICK SEGERBLOM	ALLISON COPENING
DON GUSTAVSON	VALERIE WIENER
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Kihuen moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 45.

Remarks by Assemblyman Kihuen.

Motion carried by a constitutional majority.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Claborn moved that the Assembly do not recede from its action on Senate Bill No. 411, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Claborn, Segerblom, and Goicoechea as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 411.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 46, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Senate Amendment No. 621 be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 6, which is attached to and hereby made a part of this report.

JAMES OHRENSCHALL	VALERIE WIENER
JOHN HAMBRICK	MIKE MCGINNESS
BONNIE PARNELL	ALLISON COPENING
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA6.

AN ACT relating to firearms; requiring a court to transmit certain records of adjudication concerning a person's mental health to the Central Repository

for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; establishing procedures for those persons to petition a court to regain certain rights relating to the purchase or possession of a firearm; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law requires states to transmit to the National Instant Criminal Background Check System records of adjudication of mental illness or incompetence, involuntary admission to mental health facilities and other records which indicate a person is prohibited from purchasing a firearm. Federal law also requires states to implement a program by which a person who was previously adjudicated mentally ill or involuntarily committed can apply to have his right to possess a firearm restored and ties this requirement to certain federal funding for states under the NICS Improvement Amendments Act of 2007. (Public Law 110-180) Nevada law prohibits a person from owning or possessing a firearm if he has been adjudicated as mentally ill or has been committed to any mental health facility. (NRS 202.360)

Sections 1-4 and 13 of this bill require a court to transmit to the Central Repository for Nevada Records of Criminal History a record of any court order, judgment, plea or verdict concerning the involuntary admission of a person to a mental health facility, the appointment of a guardian for a person who has a mental defect, a finding that a person is incompetent to stand trial, a verdict acquitting a person by reason of insanity or a plea of guilty but mentally ill, along with a statement that the record is being transmitted for inclusion in all appropriate databases of the National Instant Criminal Background Check System. (NRS 159.055, 174.035, 175.533, 175.539, 178.425, 433A.310)

Section 7 of this bill requires the Central Repository to take reasonable steps to ensure that the records transmitted to it by the court are included in each appropriate database of the National Instant Criminal Background Check System. In accordance with federal law, this section also provides a procedure for a person who is the subject of such a record to petition a court to have the record removed from the National Instant Criminal Background Check System and to have his right to possess or purchase a firearm restored.

Section 8 of this bill provides that the records transmitted by the court to the Central Repository are confidential, may not be used for any purpose other than for inclusion in each appropriate database of the National Instant Criminal Background Check System, and no cause of action for damages may be brought for transmission, failure to transmit, delay in transmitting or inaccuracies within such records.

Section 8.5 of this bill authorizes a person who is or believes he is the subject of a record of mental health held by the Central Repository to inspect and correct such records. This section, which is modeled after NRS 179A.150, also requires the Central Repository and the Director of the

Department of Public Safety to adopt certain regulations relating to the inspection and correction of such records.

Section 11.5 of this bill requires a court, when appointing a general guardian, to determine whether a proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to federal law.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill.

2. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty or guilty but mentally ill is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty, guilty but mentally ill or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing his mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish by a preponderance of the evidence that:

(a) Due to a disease or defect of the mind, he was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, he either did not:

(1) Know or understand the nature and capacity of his act; or

(2) Appreciate that his conduct was wrong, meaning not authorized by law.

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty or guilty but mentally ill or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

7. A defendant may not enter a plea of guilty or guilty but mentally ill pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

➥ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. ***If the court accepts a plea of guilty but mentally ill pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that plea to be transmitted to the Central Repository for Nevada Records of Criminal History along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

9. As used in this section ~~[, a "disease]~~ ***:***

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 2. NRS 175.533 is hereby amended to read as follows:

175.533 1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, he was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. ***If the trier of fact finds a defendant guilty but mentally ill pursuant to subsection 1, the court shall cause, on a form prescribed by the Department of Public Safety, a record of the finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

4. As used in this section ~~[, a "disease]~~ ***:***

(a) "Disease or dfect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 3. NRS 175.539 is hereby amended to read as follows:

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and he is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if he were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport him to a forensic facility for detention pending a hearing to determine his mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a person with mental illness, the court must order his discharge; or

(b) That there is clear and convincing evidence that the person is a person with mental illness, the court must order that he be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until he is discharged or conditionally released therefrom in accordance with NRS 178.467 to 178.471, inclusive.

➥ The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the reports and the court shall proceed in the manner provided in NRS 178.467 to 178.471, inclusive.

4. ***If the court accepts a verdict acquitting a defendant by reason of insanity pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that verdict to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

5. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for offenders and defendants with mental disorders. The term includes, without limitation, Lakes Crossing Center.

(c) ***"National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.***

(d) "Person with mental illness" has the meaning ascribed to it in NRS 178.3986.

Sec. 4. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and that he is dangerous to himself or to society and that commitment is required for a determination of his ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or his designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or his designee as an outpatient for treatment, if it might be beneficial, and for a determination of his ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for his periodic appearances before the Administrator or his designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or his designee or, if the defendant is charged with a misdemeanor, the judge finds him capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

6. If a defendant is found incompetent pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating

that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

7. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 5. Chapter 179A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 8.5, inclusive, of this act.

Sec. 6. ***"National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.***

Sec. 7. ***1. Upon receiving a record transmitted pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act, the Central Repository shall take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Instant Criminal Background Check System.***

2. Except as otherwise provided in subsection 3, if the Central Repository receives a record described in subsection 1, the person who is the subject of the record may petition the court for an order declaring that:

(a) The basis for the adjudication reported in the record no longer exists;

(b) The adjudication reported in the record is deemed not to have occurred for purposes of 18 U.S.C. § 922(d)(4) and (g)(4) and NRS 202.360; and

(c) The information reported in the record must be removed from the National Instant Criminal Background Check System.

3. To the extent authorized by federal law, if the record concerning the petitioner was transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 [,] or section 11.5 of this act, the petitioner may not file a petition pursuant to subsection 2 until 3 years after the date of the order transmitting the record to the Central Repository.

4. A petition filed pursuant to subsection 2 must be:

(a) Filed in the court which made the adjudication or finding pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; and

(b) Served upon the district attorney for the county in which the court described in paragraph (a) is located.

5. The Nevada Rules of Civil Procedure govern all proceedings concerning a petition filed pursuant to subsection 2.

6. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the petitioner has established that:

(a) The basis for the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act concerning the petitioner no longer exists;

(b) The petitioner's record and reputation indicate that the petitioner is not likely to act in a manner dangerous to public safety; and

(c) Granting the relief requested by the petitioner pursuant to subsection 2 is not contrary to the public interest.

~~*[6.]*~~ ***7.*** ***Except as otherwise provided in this subsection, the petitioner must establish the provisions of subsection*** ~~*[5]*~~ ***6*** ***by a preponderance of the evidence. If the adjudication or finding concerning the petitioner was made pursuant to NRS 433A.310 or section 11.5 of this act, the petitioner must establish the provisions of subsection*** ~~*[5]*~~ ***6*** ***by clear and convincing evidence.***

~~*[7.]*~~ ***8.*** ***The court, upon entering an order pursuant to this section, shall cause, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository.***

~~*[8.]*~~ ***9.*** ***Within 5 business days after receiving a record of an order transmitted pursuant to subsection*** ~~*[7,]*~~ ***8,*** ***the Central Repository shall take reasonable steps to ensure that information concerning the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act is removed from the National Instant Criminal Background Check System.***

~~*[9.]*~~ ***10.*** ***If the Central Repository fails to remove a record as provided in subsection*** ~~*[8,]*~~ ***9,*** ***the petitioner may bring an action to compel the removal of the record. If the petitioner prevails in the action, the court may award the petitioner reasonable attorney's fees and costs incurred in bringing the action.***

~~*[10.]*~~ ***11.*** ***If a petition brought pursuant to subsection 2 is denied, the person who is the subject of the record may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.***

Sec. 8. ***1. Any record described in section 7 of this act is confidential and is not a public book or record within the meaning of NRS 239.010. A person may not use the record for any purpose other than for inclusion in the appropriate database of the National Instant Criminal Background Check System.***

2. If a person or governmental entity is required to transmit, report or take any other action concerning a record pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 7 or 11.5 of this act, no action for damages may be brought against the person or governmental entity for:

(a) Transmitting or reporting the record or taking any other required action concerning the record;

(b) Failing to transmit or report the record or failing to take any other required action concerning the record;

(c) Delaying the transmission or reporting of the record or delaying in taking any other required action concerning the record; or

(d) Transmitting or reporting an inaccurate or incomplete version of the record or taking any other required action concerning an inaccurate or incomplete version of the record.

Sec. 8.5. ***1. The Central Repository shall permit a person who is or believes he may be the subject of information relating to records of mental health held by the Central Repository to inspect and correct any information contained in such records.***

2. The Central Repository shall adopt regulations and make available necessary forms to permit inspection, review and correction of information relating to records of mental health by those persons who are the subjects thereof. The regulations must specify:

(a) The requirements for proper identification of the persons seeking access to the records; and

(b) The reasonable charges or fees, if any, for inspecting records.

3. The Director of the Department shall adopt regulations governing:

(a) All challenges to the accuracy or sufficiency of information or records of mental health by the person who is the subject of the allegedly inaccurate or insufficient record;

(b) The correction of any information relating to records of mental health found by the Director to be inaccurate, insufficient or incomplete in any material respect;

(c) The dissemination of corrected information to those persons or agencies which have previously received inaccurate or incomplete information; and

(d) A reasonable time limit within which inaccurate or insufficient information relating to records of mental health must be corrected and the corrected information disseminated.

4. As used in this section, "information relating to records of mental health" means information contained in a record:

(a) Transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; or

(b) Transmitted to the National Instant Criminal Background Check System pursuant to section 7 of this act.

Sec. 9. NRS 179A.010 is hereby amended to read as follows:

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, ***and section 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 11.5. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause a record of the order to be transmitted

to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

2. As used in this section:

(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

(b) "Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, incompetence, condition or disease, is:

(1) A danger to himself or others; or

(2) Lacks the capacity to contract or manage his own affairs.

Sec. 12. NRS 202.362 is hereby amended to read as follows:

202.362 1. Except as otherwise provided in subsection 3, a person within this State shall not sell or otherwise dispose of any firearm or ammunition to another person if he has actual knowledge that the other person:

(a) Is under indictment for, or has been convicted of, a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless he has received a pardon and the pardon does not restrict his right to bear arms;

(b) Is a fugitive from justice;

(c) Has been adjudicated as mentally ill or has been committed to any mental health facility; or

(d) Is illegally or unlawfully in the United States.

2. A person who violates the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

3. This section does not apply to a person who sells or disposes of any firearm or ammunition to:

(a) A licensed importer, licensed manufacturer, licensed dealer or licensed collector who, pursuant to 18 U.S.C. § 925(b), is not precluded from dealing in firearms or ammunition; or

(b) A person who has been granted relief from the disabilities imposed by federal laws pursuant to 18 U.S.C. § 925(c) ~~[.]~~ ***or section 7 of this act.***

Sec. 13. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person to a public or private mental health facility:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that he is likely to harm himself or others if

allowed his liberty, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or others if allowed his liberty, the court may order the involuntary admission of the person for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division or any mental health facility that is not operated by the Division may petition to renew the detention of the person for additional periods not to exceed 6 months each. For each renewal, the petition must set forth to the court specific reasons why further treatment would be in the person's own best interests.

3. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

4. If the court issues an order involuntarily admitting a person to a public or private mental health facility pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, on a form prescribed by the Department of Public Safety, a record of such order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

5. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 15. This act becomes effective on January 1, 2010.

Assemblyman Ohrenschall moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 46.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 17, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 746 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 3, which is attached to and hereby made a part of this report.

MO DENIS	JOYCE WOODHOUSE
ELLEN SPIEGEL	VALERIE WIENER
LYNN STEWART	RANDOLPH TOWNSEND
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA3.

AN ACT relating to health care; revising provisions governing the retention and destruction of health care records; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires that certain boards post a statement on their Internet websites that the health care records of patients who are less than 23 years of age may not be destroyed and that the health care records of other patients may be destroyed after 5 years.

Existing law requires certain providers of health care, including pharmacists, to retain the health care records of patients for 5 years after their receipt or production. (NRS 629.051) **Section 2** of this bill **[~~,~~] provides that this requirement relating to the retention of records does not apply to pharmacists. Section 2 also:** (1) requires that certain disclosures regarding destruction of records be provided to patients; (2) prohibits the destruction of health care records for a person who is less than 23 years of age until the person attains the age of 23 years; and (3) requires the State Board of Health to adopt regulations relating to the required disclosures.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Health and each board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 640, 640A, 640B, 640C, 641, 641A, 641B or 641C of NRS shall post on its website on the Internet, if any, a statement which discloses that:

(a) Pursuant to the provisions of subsection 7 of NRS 629.051:

(1) The health care records of a person who is less than 23 years of age may not be destroyed; and

(2) The health care records of a person who has attained the age of 23 years may be destroyed for those records which have been retained for at least 5 years or for any longer period provided by federal law; and

(b) Except as otherwise provided in subsection 7 of NRS 629.051 and unless a longer period is provided by federal law, the health care records of a patient who is 23 years of age or older may be destroyed after 5 years pursuant to subsection 1 of NRS 629.051.

2. The State Board of Health shall adopt regulations prescribing the contents of the statements required pursuant to this section.

Sec. 2. NRS 629.051 is hereby amended to read as follows:

629.051 ***1.*** Except as otherwise provided in ~~*[subsection 7]*~~ ***this section and in*** regulations adopted by the State Board of Health pursuant to NRS 652.135 with regard to the records of a medical laboratory ~~[.]~~ ***and unless a longer period is provided by federal law,*** each provider of health care shall retain the health care records of his patients as part of his regularly maintained records for 5 years after their receipt or production. Health care records may be retained in written form, or by microfilm or any other recognized form of size reduction, including, without limitation, microfiche, computer disc, magnetic tape and optical disc, which does not adversely affect their use for the purposes of NRS 629.061. Health care records may be created, authenticated and stored in a computer system which limits access to those records.

2. A provider of health care shall post, in a conspicuous place in each location at which the provider performs health care services, a sign which discloses to patients that their health care records may be destroyed after the period set forth in subsection 1.

3. When a provider of health care performs health care services for a patient for the first time, the provider of health care shall deliver to the patient a written statement which discloses to the patient that the health care records of the patient may be destroyed after the period set forth in subsection 1.

4. If a provider fails to deliver the written statement to the patient pursuant to subsection 3, the provider of health care shall deliver to the patient the written statement described in subsection 3 when the provider next performs health care services for the patient.

5. In addition to delivering a written statement pursuant to subsection 3 or 4, a provider of health care may deliver such a written statement to a patient at any other time.

6. A written statement delivered to a patient pursuant to this section may be included with other written information delivered to the patient by a provider of health care.

7. A provider of health care shall not destroy the health care records of a person who is less than 23 years of age on the date of the proposed destruction of the records. The health care records of a person who has attained the age of 23 years may be destroyed in accordance with this section for those records which have been retained for at least 5 years or for any longer period provided by federal law.

8. The provisions of this section do not apply to a pharmacist.

9. The State Board of Health shall adopt:

(a) Regulations prescribing the form, size, contents and placement of the signs and written statements required pursuant to this section; and

(b) Any other regulations necessary to carry out the provisions of this section.

Sec. 3. NRS 630.254 is hereby amended to read as follows:

630.254 1. Each licensee shall maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent. A licensee who changes his permanent mailing address shall notify the Board in writing of his new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board in writing of a change in his permanent mailing address within 30 days after the change, the Board:

(a) Shall impose upon the licensee a fine not to exceed $250; and

(b) May initiate disciplinary action against the licensee as provided pursuant to subsection 9 of NRS 630.306.

2. Any licensee who changes the location of his office in this State shall notify the Board in writing of the change before practicing at the new location.

3. Any licensee who closes his office in this State shall:

(a) Notify the Board in writing of this occurrence within 14 days after the closure; and

(b) For a period of 5 years thereafter ***, unless a longer period of retention is provided by federal law,*** keep the Board apprised in writing of the location of the medical records of his patients.

Assemblyman Denis moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 17.

Remarks by Assemblyman Denis.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 101, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 4, which is attached to and hereby made a part of this report.

WILLIAM HORNE	TERRY CARE
TICK SEGERBLOM	ALLISON COPENING
RICHARD MCARTHUR	WILLIAM RAGGIO
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA4.

AN ACT relating to securities; revising the provisions governing the examination of certain records by the Administrator of the Securities Division of the Office of the Secretary of State; increasing the amount of certain civil penalties for certain violations relating to securities; revising the provisions governing recovery of the costs of investigation and prosecution of certain violations; authorizing the Department of Motor Vehicles to issue a driver's license to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation; making various other changes relating to securities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) changes the name of the entity that administers examinations for a sales representative from the National Association of Securities Dealers to the Financial Industry Regulatory Authority; and (2) requires a sales representative to pass either the Uniform Investment Adviser Law Examination or the Uniform Combined State Law Examination and the General Securities Registered Representative Examination. (NRS 90.340)

Sections 3 and 4 of this bill make technical changes to include references to the Investment Adviser Registration Depository and the Financial Industry Regulatory Authority. (NRS 90.350)

Section 5 of this bill removes the requirement in existing law that the Administrator of the Securities Division of the Office of the Secretary of State must obtain authorization from the Attorney General or his designee to examine the records of a person issuing securities who is not licensed but is required to be licensed. (NRS 90.410)

Section 7 of this bill increases the civil penalty that the Administrator may impose for a willful violation of chapter 90 of NRS from $2,500 for a single violation and $100,000 for multiple violations to $25,000 for each violation. (NRS 90.630) **Section 7** also authorizes the Administrator to order reimbursement for the costs of a proceeding to impose sanctions, including investigative costs and attorney's fees, rather than applying to a court for an order for reimbursement of such costs.

Section 7.5 of this bill increases the civil penalty that a district court may impose for a violation of chapter 90 of NRS from $2,500 for a single violation and $100,000 for multiple violations to $25,000 for each violation. (NRS 90.640)

Section 8 of this bill provides that a court may order a person who is convicted of a willful violation of a statute, a regulation or an order of the Administrator to pay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. (NRS 90.650)

Section 9 of this bill provides that chapter 239A of NRS, which contains provisions regarding disclosure of financial records to governmental agencies, does not prohibit the Administrator from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts. (NRS 239A.070)

Section 9.5 of this bill increases: (1) the period that the court may delay the notification of a customer that a subpoena for the financial records of the customer has been issued from 60 days to ~~[120]~~ **90** days; and (2) the period for any additional extension of such a delayed notification from 30 days to ~~[60]~~ **45** days. (NRS 239A.100)

Sections 10 and 11 of this bill authorize the Department of Motor Vehicles to issue a driver's license for purposes of identification only to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation. (NRS 483.340)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 90.340 is hereby amended to read as follows:

90.340 1. The following persons are exempt from licensing under NRS 90.330:

(a) An investment adviser who is registered or is not required to be registered as an investment adviser under the Investment Advisers Act of 1940 if:

(1) Its only clients in this State are other investment advisers, broker-dealers or financial or institutional investors;

(2) The investment adviser has no place of business in this State and directs business communications in this State to a person who is an existing client of the investment adviser and whose principal place of residence is not in this State; or

(3) The investment adviser has no place of business in this State and during any 12 consecutive months it does not direct business communications in this State to more than five present or prospective clients other than those specified in subparagraph (1), whether or not the person or client to whom the communication is directed is present in this State;

(b) A representative of an investment adviser who is employed by an investment adviser who is exempt from licensing pursuant to paragraph (a);

(c) A sales representative licensed pursuant to NRS 90.310 who:

(1) Has passed ~~[one of]~~ the following examinations administered by the ~~[National Association of Securities Dealers, Inc.:]~~ ***Financial Industry Regulatory Authority:***

(I) The Uniform Investment Adviser Law Examination, designated as the Series 65 examination; or

(II) The ~~[examination]~~ ***Uniform Combined State Law Examination*** designated as the Series 66 examination ~~[;]~~ ***and the General Securities Registered Representative Examination, designated as the Series 7 examination;*** or

(2) On January 1, 1996, has been continuously licensed in this State as a sales representative for 5 years or more; and

(d) Other investment advisers and representatives of investment advisers the Administrator by regulation or order exempts.

2. The Administrator may, by order or rule, waive the ~~[examination]~~ ***examinations*** required by subparagraph (1) of paragraph (c) of subsection 1 for an applicant or a class of applicants if the Administrator determines that the examination is not necessary for the protection of investors because of the training and experience of the applicant or class of applicants.

Sec. 3. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser,

representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the social security number of the applicant and any other information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the ***Investment Adviser Registration Depository, the*** Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

4. As used in this section ~~[,]~~ ***:***

(a) "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.,]~~ ***Financial Industry Regulatory Authority,*** or its successor, and the North American Securities Administrators Association or its successor.

(b) "Investment Adviser Registration Depository" means the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.

Sec. 4. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the ***Investment Adviser Registration Depository, the*** Central Registration Depository or another depository for registrations that

has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

4. As used in this section ~~[,]~~ ***:***

(a) "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.,]~~ ***Financial Industry Regulatory Authority,*** or its successor, and the North American Securities Administrators Association or its successor.

(b) "Investment Adviser Registration Depository" means the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.

Sec. 5. NRS 90.410 is hereby amended to read as follows:

90.410 1. The Administrator, without previous notice, may examine in a manner reasonable under the circumstances the records, within or without this State, of a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser ~~[or any person issuing securities who would otherwise be required to be licensed pursuant to NRS 90.310 upon authorization by the Attorney General or his designee, in order]~~ to determine compliance with this chapter. ~~[Broker-dealers,]~~ ***Licensed broker-dealers,*** sales representatives, investment advisers and representatives of investment advisers shall make their records available to the Administrator in legible form.

2. ***The Administrator, without previous notice, may examine, in a manner reasonable under the circumstances and as the Administrator considers necessary or appropriate in the public interest and for the protection of investors, the records, within or without this State, of any person who would otherwise be required to be licensed pursuant to NRS 90.310 or 90.330. Such persons shall make their records available to the Administrator in legible form.***

3. Except as otherwise provided in subsection ~~[3,]~~ ***4,*** the Administrator may copy records or require a licensed person to copy records and provide the copies to the Administrator to the extent and in a manner reasonable under the circumstances.

~~[3.]~~ ***4.*** The Administrator may inspect and copy records or require a transfer agent to copy records and provide the copies to the Administrator to the extent such records relate to information concerning principals, corporate officers or stockholders of any publicly traded company based in this State.

~~[4.]~~ ***5.*** The Administrator by regulation may impose a reasonable fee for the expense of conducting an examination under this section.

Sec. 6. NRS 90.520 is hereby amended to read as follows:

90.520 1. As used in this section:

(a) "Guaranteed" means guaranteed as to payment of all or substantially all of principal and interest or dividends.

(b) "Insured" means insured as to payment of all or substantially all of principal and interest or dividends.

2. Except as otherwise provided in subsections 4 and 5, the following securities are exempt from NRS 90.460 and 90.560:

(a) A security, including a revenue obligation, issued, insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or a certificate of deposit ~~[.]~~ for any of the foregoing, but this exemption does not include a security payable solely from revenues to be received from an enterprise unless the:

(1) Payments are insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or by a person whose securities are exempt from registration pursuant to paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments are to be made are a direct obligation of such a person;

(2) Security is issued by this State or an agency, instrumentality or political subdivision of this State; or

(3) Payments are insured or guaranteed by a person who, within the 12 months next preceding the date on which the securities are issued, has received a rating within one of the top four rating categories of either Moody's Investors Service, Inc., or Standard and Poor's Ratings Services.

(b) A security issued, insured or guaranteed by Canada, a Canadian province or territory, a political subdivision of Canada or of a Canadian province or territory, an agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer or guarantor.

(c) A security issued by and representing an interest in or a direct obligation of a depository institution if the deposit or share accounts of the depository institution are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a successor to an applicable agency authorized by federal law.

(d) A security issued by and representing an interest in or a direct obligation of, or insured or guaranteed by, an insurance company organized under the laws of any state and authorized to do business in this State.

(e) A security issued or guaranteed by a railroad, other common carrier, public utility or holding company that is:

(1) Subject to the jurisdiction of the Surface Transportation Board;

(2) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of a registered holding company within the meaning of that act;

(3) Regulated in respect to its rates and charges by a governmental authority of the United States or a state; or

(4) Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province or territory.

(f) Equipment trust certificates in respect to equipment leased or conditionally sold to a person, if securities issued by the person would be exempt pursuant to this section.

(g) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Chicago Stock Exchange, the Pacific Stock Exchange or other exchange designated by the Administrator, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(h) A security designated or approved for designation upon issuance or notice of issuance for inclusion in the national market system by the ~~[National Association of Securities Dealers, Inc.,]~~ ***Financial Industry Regulatory Authority,*** any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so designated, or a warrant or a right to purchase or subscribe to any of the foregoing.

(i) An option issued by a clearing agency registered under the Securities Exchange Act of 1934, other than an off-exchange futures contract or substantially similar arrangement, if the security, currency, commodity or other interest underlying the option is:

(1) Registered under NRS 90.470, 90.480 or 90.490;

(2) Exempt pursuant to this section; or

(3) Not otherwise required to be registered under this chapter.

(j) A security issued by a person organized and operated not for private profit but exclusively for a religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purpose, or as a chamber of commerce, or trade or professional association if at least 10 days before the sale of the security the issuer has filed with the Administrator a notice setting forth the material terms of the proposed sale and copies of any sales and

advertising literature to be used and the Administrator by order does not disallow the exemption within the next 5 full business days.

(k) A promissory note, draft, bill of exchange or banker's acceptance that evidences an obligation to pay cash within 9 months after the date of issuance, exclusive of days of grace, is issued in denominations of at least $50,000 and receives a rating in one of the three highest rating categories from a nationally recognized statistical rating organization, or a renewal of such an obligation that is likewise limited, or a guarantee of such an obligation or of a renewal.

(l) A security issued in connection with an employees' stock purchase, savings, option, profit-sharing, pension or similar employees' benefit plan.

(m) A membership or equity interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a cooperative organized and operated as a nonprofit membership cooperative under the cooperative laws of any state if not traded to the general public.

(n) A security issued by an issuer registered as an open-end management investment company or unit investment trust under section 8 of the Investment Company Act of 1940 if:

(1) The issuer is advised by an investment adviser that is a depository institution exempt from registration under the Investment Advisers Act of 1940 or that is currently registered as an investment adviser, and has been registered, or is affiliated with an adviser that has been registered, as an investment adviser under the Investment Advisers Act of 1940 for at least 3 years next preceding an offer or sale of a security claimed to be exempt pursuant to this paragraph, and the issuer has acted, or is affiliated with an investment adviser that has acted, as investment adviser to one or more registered investment companies or unit investment trusts for at least 3 years next preceding an offer or sale of a security claimed to be exempt under this paragraph; or

(2) The issuer has a sponsor that has at all times throughout the 3 years before an offer or sale of a security claimed to be exempt pursuant to this paragraph sponsored one or more registered investment companies or unit investment trusts the aggregate total assets of which have exceeded $100,000,000.

3. For the purpose of paragraph (n) of subsection 2, an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.

4. The exemption provided by paragraph (n) of subsection 2 is available only if the person claiming the exemption files with the Administrator a notice of intention to sell which sets forth the name and address of the issuer and the securities to be offered in this State and pays a fee:

(a) Of $500 for the initial claim of exemption and the same amount at the beginning of each fiscal year thereafter in which securities are to be offered in this State, in the case of an open-end management company; or

(b) Of $300 for the initial claim of exemption in the case of a unit investment trust.

5. An exemption provided by paragraph (c), (e), (f), (i) or (k) of subsection 2 is available only if, within the 12 months immediately preceding the use of the exemption, a notice of claim of exemption has been filed with the Administrator and a nonrefundable fee of $300 has been paid.

Sec. 7. NRS 90.630 is hereby amended to read as follows:

90.630 1. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that:

(a) The sale of a security is subject to registration under this chapter and the security is being offered or has been offered or sold by the issuer or another person in violation of NRS 90.460; or

(b) A person is acting as a broker-dealer or investment adviser in violation of NRS 90.310 or 90.330,

➥ the Administrator, in addition to any specific power granted under this chapter and subject to compliance with the requirements of NRS 90.820, may issue, without a prior hearing, a summary order against the person engaged in the prohibited activities, directing him to desist and refrain from further activity until the security is registered or he is licensed under this chapter. The summary order to cease and desist must state the section of this chapter or regulation or order of the Administrator under this chapter which the Administrator reasonably believes has been or is being violated.

2. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that a person has violated this chapter or a regulation or order of the Administrator under this chapter, the Administrator, in addition to any specific power granted under this chapter, after giving notice by registered or certified mail and conducting a hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

(a) Issue an order against him to cease and desist;

(b) Censure him if he is a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser;

(c) Bar or suspend him from association with a licensed broker-dealer or investment adviser in this State;

(d) Issue an order against an applicant, licensed person or other person who willfully violates this chapter, imposing a civil penalty of not more than ~~[~~$2,500~~]~~ ***$25,000*** for ~~[~~a single~~]~~ ***each*** violation ***;*** or ~~[~~$100,000 for multiple violations in a single proceeding or a series of related proceedings; or~~]~~

(e) Initiate one or more of the actions specified in NRS 90.640.

3. If the person to whom the notice is addressed pursuant to subsection 2 does not request a hearing within 45 days after receipt of the notice, he waives his right to a hearing and the Administrator shall issue a permanent order. If a hearing is requested, the Administrator shall set the matter for hearing not less than 15 days nor more than 60 days after he receives the

request for a hearing. The Administrator shall promptly notify the parties by registered or certified mail of the time and place set for the hearing.

4. Imposition of the sanctions under this section is limited as follows:

(a) If the Administrator revokes the license of a broker-dealer, sales representative, investment adviser or representative of an investment adviser or bars a person from association with a licensed broker-dealer or investment adviser under this section or NRS 90.420, the imposition of that sanction precludes imposition of a civil penalty under subsection 2; and

(b) The imposition by the Administrator of one or more sanctions under subsection 2 with respect to a specific violation precludes him from later imposing any other sanctions under paragraphs (a) to (d), inclusive, of subsection 2 with respect to the violation.

5. For the purposes of determining any sanction to be imposed pursuant to paragraphs (a) to (d), inclusive, of subsection 2, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of this chapter, or a regulation or order of the Administrator under this chapter, the number of persons adversely affected by the conduct and the resources of the person committing the violation.

6. If a sanction is imposed pursuant to this section, ***reimbursement for*** the costs of the proceeding, including investigative costs and attorney's fees ~~[,]~~ ***incurred,*** may be ***ordered and*** recovered by the Administrator. ***Money recovered for reimbursement of the investigative costs and attorney's fees must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.***

Sec. 7.5. NRS 90.640 is hereby amended to read as follows:

90.640 1. Upon a showing by the Administrator that a person has violated or is about to violate this chapter, or a regulation or order of the Administrator under this chapter, the appropriate district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(a) Upon a showing that a person has violated this chapter, or a regulation or order of the Administrator under this chapter, the court may singly or in combination:

(1) Issue a temporary restraining order, permanent or temporary prohibitory or mandatory injunction or a writ of prohibition or mandamus;

(2) Impose a civil penalty of not more than ~~[$2,500]~~ ***$25,000*** for ~~[a single]~~ ***each*** violation ***;*** ~~[or $100,000 for multiple violations in a single proceeding or a series of related proceedings;]~~

(3) Issue a declaratory judgment;

(4) Order restitution to investors;

(5) Provide for the appointment of a receiver or conservator for the defendant or the defendant's assets;

(6) Order payment of the Division's investigative costs; or

(7) Order such other relief as the court deems just.

(b) Upon a showing that a person is about to violate this chapter, or a regulation or order of the Administrator under this chapter, a court may issue:

(1) A temporary restraining order;

(2) A temporary or permanent injunction; or

(3) A writ of prohibition or mandamus.

2. In determining the appropriate relief to grant, the court shall consider enforcement actions taken and sanctions imposed by the Administrator under NRS 90.630 in connection with the transactions constituting violations of this chapter or a regulation or order of the Administrator under this chapter. If a remedial action is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Administrator.

3. The court shall not require the Administrator to post a bond in an action under this section.

4. Upon a showing by the administrator or securities agency of another state that a person has violated the securities act of that state or a regulation or order of the administrator or securities agency of that state, the appropriate district court may grant, in addition to any other legal or equitable remedies, one or more of the following remedies:

(a) Appointment of a receiver, conservator or ancillary receiver or conservator for the defendant or the defendant's assets located in this State; or

(b) Other relief as the court deems just.

Sec. 8. NRS 90.650 is hereby amended to read as follows:

90.650 1. A person who willfully violates:

(a) A provision of this chapter, except NRS 90.600, or who violates NRS 90.600 knowing that the statement made is false or misleading in any material respect;

(b) A regulation adopted pursuant to this chapter; or

(c) An order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator pursuant to this chapter,

➥ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, or by a fine of not more than $500,000, or by both fine and imprisonment, for each violation. In addition to any other penalty, the court shall order the person to pay restitution ~~[.]~~ ***and may order the person to repay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. Money recovered for reimbursement of the costs of investigation and prosecution must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.***

2. A person convicted of violating a regulation or order under this chapter may be fined, but must not be imprisoned, if the person proves lack of knowledge of the regulation or order.

3. This chapter does not limit the power of the State to punish a person for conduct which constitutes a crime under other law.

Sec. 9. NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, district attorney, Department of Taxation, Director of the Department of Health and Human Services, ***Administrator of the Securities Division of the Office of the Secretary of State,*** public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain his financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460.

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

Sec. 9.5. NRS 239A.100 is hereby amended to read as follows:

239A.100 1. Except as provided in subsection 2, a subpoena authorizing a governmental agency to obtain financial records may be served upon a financial institution only if:

(a) A copy of the subpoena is served upon the customer in the manner provided by law for the service of subpoenas, except that the copy may be served by an employee of the governmental agency;

(b) The subpoena includes the name of the agency in whose name it is issued and the statutory purpose for which the information is to be obtained; and

(c) The customer has not moved to quash the subpoena within 10 days after service of the copy of the subpoena upon the customer.

2. A governmental agency issuing or seeking a subpoena to obtain financial records may petition a court of competent jurisdiction to order that service upon the customer or the 10-day period provided in subsection 1 be waived or shortened. The court may issue the order upon a showing that the agency can reasonably infer from facts relevant to its investigation of the customer that a law subject to the agency's jurisdiction has been or is about to be violated. In granting a petition to waive service upon the customer, the court shall also order the agency to notify the customer in writing within a period determined by the court, but not to exceed **[**~~60~~**]** ~~*[120]*~~ ***90*** days. The notice shall specify the name of the agency in whose name the subpoena was issued, the financial records which were examined under the subpoena and the statutory purpose for which the information was obtained. The time of notification may be extended for additional **[**~~30-day~~**]** ~~*[60-day]*~~ ***45-day*** periods upon petition and good cause shown.

3. A court may order a financial institution to withhold notification to a customer of the receipt of the subpoena when the court issues an order under subsection 2 and if it finds that the notification would impede the investigation.

4. If a customer files a motion to quash the subpoena, the proceedings on the motion shall be afforded priority on the court calendar and the matter shall be heard within 10 days after the filing of the motion.

Sec. 10. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in

undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations ***, criminal investigators employed by the Secretary of State while engaged in undercover investigations*** and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General ***, the Secretary of State or his designee*** or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

3. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.

4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

5. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those

persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 11. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive.

2. The Department shall adopt regulations prescribing the information that must be contained on a driver's license.

3. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations ***, criminal investigators employed by the Secretary of State while engaged in undercover investigations*** and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General ***, the Secretary of State or his designee*** or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 3 is confidential.

5. It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.

6. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this

paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

7. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

8. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 6 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 12. 1. This section and sections 1, 2, 3 and 5 to 10, inclusive, of this act become effective on July 1, 2009.

2. Section 4 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

3. Section 11 of this act becomes effective upon the later of:

(a) The effective date of the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005; or

(b) The expiration of any extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005.

Assemblyman Horne moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 101.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 395 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 29, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 564.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 223, Amendment No. 963, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 418.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 910 to Senate Bill No. 188.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 947 to Senate Bill No. 182.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 418.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 92, 207, 555; Senate Bills Nos. 31, 78, 82, 92, 94, 124, 146, 152, 173, 190, 194, 239, 248, 267, 318, 376, 382, 396, 400, 401, 416, 422, 423, 424, 425 and 430.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Ed Jucevic, Virginia Durgin, and Michele C Beard.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperons from Huffacker Elementary School: Sandy Armentrout, Sienna Addison, Cierra Atchley, Will Barnard, Ryan Bauserman, Erin Bennett, Emily Block, Tony Bolin, Lilith Born, Clayton Buck, Jordan Calderon, Brandon Deaven-Clarke, Nicholas Clayton, Marissa Comcowich, Michael Davis, Bryce Denning, Justin Dhindsa, Catherine Kish, Elizabeth Kish, Isabelle Marting, Walter Marting, Lillian McIntyre, Jose Medina, Jessica Mueller, Jackson Pappas, Meaghan Pferschy, Elizabeth Phelan, Drew Rippingham, Angel Torres, Tyler Vetter, Krista Williams, Sara Coney, Benjamin Newberg, Beverly Blackson, Blake Gaston, Caroline Cartlidge, Elaina Meeker, Evan Moyle, Henry Ernaut, Jackson Hummel, Jasmine Carter, Johnathan Pilch, Johnathon Curatolo, Joseph Scolari, Joshua Acree,

Joshua Fleiner, Joshua Stoddard, Kalista Ganser, Madison Najima, Mallory Johnson, Marlee Parkin, McKain Murdock, Mia Sprau, Olivia Luchetti, Rachel Shumsky, Ranon Salinas, Razmig Malakian, Tanner Chappel, Tiffany Rubins, Will Hart, Zachery Seidel, Nicole Galinato and Steven George.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Hummel Elementary School: Merri Clark, Alexander Young, Dimitri Grigorov, Czarina Banzon, Grissel Oliveros, Sadie Backer, Alexander Beal, Adrianna Castellanos, Sami Cooksey, Samantha Cripe, Daniel Franco, Ethan Guse, Dennis Legaspi, Daniel Reyes, Mariah Ruiz, Michael Struemke, Alyssa Tiangco, Randyn Villanueva, Corey Wanamaker, Karley Darrington, Betty Parker, Dawn Young, Kimberly Lang, Elaina Dinesen, Dina Khaito, Ernelyn Samaniego, Mike Struemke and Rick Darrington.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Teresa Benitez.

Assemblyman Oceguera moved that the Assembly adjourn until Saturday, May 30, 2009, at 11 a.m. and that it do so in the memory of Page Porter.

Motion carried.

Assembly adjourned at 5:01 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

The

Journal of the Assembly

OF THE

SEVENTY-FIFTH SESSION

OF THE

LEGISLATURE OF THE STATE OF NEVADA

2009

BEGUN ON MONDAY, THE SECOND DAY OF FEBRUARY, AND ENDED ON MONDAY, THE FIRST DAY OF JUNE

VOLUME 5

**THE ONE HUNDRED AND EIGHTEENTH DAY—
THE ONE HUNDRED AND TWENTIETH DAY**

SEE VOLUME 1 FOR TABLE OF CONTENTS

ARRANGEMENT AND CONTENTS OF VOLUME 5

ASSEMBLY PROCEEDINGS 5809

THE ONE HUNDRED AND EIGHTEENTH DAY

CARSON CITY (Saturday), May 30, 2009

Assembly called to order at 11:35 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. Well, Lord, since "Cowboy Hall of Fame" day is here, it would be only proper to ask You for a blessing for all the cowboys in the world and all their horses and their cow dogs and certainly their family and friends. And, I believe, Lord, that You know that in our hearts we're all cowboys here. And You also know that in this case the word cowboy is gender neutral. And I want to especially ask for You, Lord, to forgive those makers of the Third House, for as they say, "They know not what they do."

Please make these final few days as short and pleasant as possible and for sure, give us the ability to continue to think clearly as we have in the past. We ask for these blessings and other matters in Whose Name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 317, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 317.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 972.

AN ACT relating to taxation; providing for the disbursement of a portion of the proceeds of the state tax imposed on certain businesses to regional organizations for economic development; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Department of Taxation to disburse to a regional organization for economic development which directly assists in the location

~~[or expansion]~~ of a business in this State, other than a gaming business, 50 percent of the state business tax paid by that business for 10 fiscal years as a result of the location ~~[or expansion]~~ of the business in this State. The total amount of these disbursements, together with any other amounts allocated by the Legislature, to such a regional organization during any fiscal year is limited to $1 million. The money disbursed to such a regional organization must be used to promote economic development in this State and not for administrative expenses.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, the Department shall, on a quarterly basis, disburse to an eligible organization 50 percent of the amount of tax paid by an employer pursuant to NRS 363B.110, after the deduction of any abatements and exemptions to which that employer is entitled, which is attributable to any employment that results from the location , ~~[or expansion,]~~ with the direct assistance of that eligible organization, of the business of that employer in this State. The provisions of this subsection apply only to the applicable amount of tax paid by the employer for each calendar quarter that:

(a) Commences not less than 30 days after the eligible organization files with the Department an affidavit, executed by an officer of the employer, stating that the eligible organization directly ~~[:~~

~~(1) Recruited]~~ recruited the employer to locate its business in this State or otherwise directly assisted the employer to locate its business in this State; ~~[or

~~(2) Assisted the employer with the expansion of its existing business in this State;]~~ and

(b) Ends not later than the last day of the 10th fiscal year after the commencement of the pertinent location ~~[or expansion]~~ by the employer of its business in this State.

2. The total amount disbursed to each eligible organization during each fiscal year pursuant to this section, together with any other amounts allocated or appropriated by the Legislature to the eligible organization for that fiscal year, must not exceed $1,000,000.

3. Any money disbursed to an eligible organization pursuant to this section:

(a) Must be expended by the eligible organization to promote the advantages of locating or expanding businesses in this State, to recruit and attract businesses from outside this State, to retain and expand businesses in this State, and to engage in research and analysis in support of economic development in this State; and

(b) Must not be expended for any administrative expenses of the eligible organization.

4. The Department may:

(a) Require an eligible organization to submit such documentation as the Department determines to be necessary for the administration of this section.

(b) Refuse to make any further disbursements of money pursuant to this section to an eligible organization that:

(1) Fails or refuses to submit any documentation as required by the Department pursuant to paragraph (a); or

(2) Expends any money received pursuant to this section in a manner that does not comply with the requirements of subsection 3.

5. Any disbursement of money to an eligible organization pursuant to this section shall be deemed to constitute an appropriation of public money for the purposes of NRS 218.855.

6. For the purposes of this section:

(a) "Eligible organization" means a regional organization for economic development which is recognized by the Commission on Economic Development and which:

(1) Operates on a nonprofit basis;

(2) Receives funding from dues paid by the members of the organization; and

(3) Does not constitute a government, governmental agency or political subdivision of a government.

(b) "Employer" does not include any employer who is required to hold a license issued by the Nevada Gaming Commission pursuant to title 41 of NRS.

Sec. 2. NRS 363B.060 is hereby amended to read as follows:

363B.060 The Department shall:

1. Administer and enforce the provisions of this chapter, and may adopt such regulations as it deems appropriate for those purposes.

2. ~~[Deposit]~~ ***Except as otherwise provided in section 1 of this act, deposit*** all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Oceguera moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 317.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 317.

Bill read third time.

Roll call on Assembly Bill No. 317:

YEAS—40.

NAYS—None.

EXCUSED—Christensen, Koivisto—2.

Assembly Bill No. 317 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Munford, Spiegel, and Mastroluca as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 60.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 523.

The following Senate amendment was read:

Amendment No. 957.

AN ACT relating to mortgage lending; establishing provisions for the implementation of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; increasing certain administrative fines; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. **Sections 1.5-18, 21, 23, 24, 50.1-50.7 and 55-85** of this bill establish provisions for the licensing and registration with the nationwide mortgage licensing system and registry of residential mortgage loan originators, in compliance with federal law.

Section 55 of this bill also increases the administrative fine the Commissioner of Mortgage Lending may impose upon an applicant for or a holder of a license as a mortgage broker ~~[,]~~ **or** mortgage agent ~~[or residential mortgage loan originator]~~ for certain violations from $10,000 to $25,000 for each violation. (NRS 645B.670)

Section 85.5 of this bill repeals provisions for the licensing of certain persons on behalf of a corporation or limited-liability company as mortgage agents.(NRS 645B.455)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2]~~ **1.5** to 8, inclusive, of this act.

Sec. 1.5. ***"Clerical or ministerial tasks" means communication with a person to obtain, and the receipt, collection and distribution of, information necessary for the processing or underwriting of a mortgage loan.***

Sec. 2. ***"Nationwide Mortgage Licensing System and Registry" or "Registry" means the mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for licensing and registration of residential mortgage loan originators.***

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. ***"Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this section, "dwelling" has the meaning ascribed to it section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).***

Sec. 6. ***"Residential mortgage loan originator" means a natural person who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or other pecuniary gain. The term does not include:***

1. A person who performs clerical or ministerial tasks as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under this chapter, unless the person who performs such clerical or ministerial tasks is an independent contractor; or

2. A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53D).

Sec. 7. (Deleted by amendment.)

Sec. 8. ***A mortgage broker or qualified employee who wishes to engage in activities as a residential mortgage loan originator or to supervise a mortgage agent who engages in activities as a residential mortgage loan originator must obtain and maintain a license as a mortgage agent pursuant to the provisions of NRS 645B.400 to 645B.460, inclusive.***

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0105 to 645B.0135, inclusive, ***and sections 1.5 to 6, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 645B.0125 is hereby amended to read as follows:

645B.0125 1. "Mortgage agent" means ~~[a]~~ ***:***

(a) A natural person who:

~~[(a)]~~ ***(1)*** Is an employee ~~[or independent contractor]~~ of a mortgage broker ***or mortgage banker*** who is required to be licensed pursuant to this chapter ~~[,]~~ ***or chapter 645E of NRS;*** and

~~[(b)]~~ ***(2)*** Is authorized by the mortgage broker ***or mortgage banker*** to engage in, on behalf of the mortgage broker ~~[,]~~ ***or mortgage banker,*** any activity that would require the person, if he were not an employee ~~[or independent contractor]~~ of the mortgage broker ~~[,]~~ ***or mortgage banker,*** to be licensed as a mortgage broker ***or mortgage banker*** pursuant to this chapter ~~[,]~~ ***or chapter 645E of NRS; or***

(b) A mortgage ~~*[banker,]*~~ ***broker, qualified employee or mortgage banker who is required by section 8 or*** ~~*[59]*~~ ***59.1 of this act to be licensed as a mortgage agent.***

2. The term ***includes a residential mortgage loan originator.***

3. The term does not include a person who:

(a) ~~[Is]~~ ***Except as otherwise provided in paragraph (b) of subsection 1, is*** licensed as a mortgage broker ~~[,]~~ ***or mortgage banker;***

(b) ~~[Is a]~~ ***Is an owner,*** general partner, officer or director of a mortgage broker ~~[,]~~ or ***mortgage banker;***

(c) Performs only clerical or ministerial tasks for a mortgage broker ~~[,]~~ ***; or***

(d) Collects payments and performs related services , including, without limitation, the modification of an existing loan, in connection with a loan secured by a lien on real property and who does not undertake any other activity that would otherwise require a license pursuant to this chapter or chapter 645E of NRS.

Sec. 22. (Deleted by amendment.)

Sec. 23. NRS 645B.0137 is hereby amended to read as follows:

645B.0137 1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker or mortgage agent must:

(a) Complete education on mortgage lending as required by this chapter ~~[, or]~~ ***and any regulations adopted thereto; and***

(b) Successfully pass a written examination as ~~[determined]~~ ***provided for*** by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the

qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division ~~[~~**.**

~~(a) May]~~ ***may*** hire a testing organization to create, administer and score a written examination **.** ~~[, and~~

~~(b) May create waivers for a written examination.]~~

4. The Commissioner ~~[may]~~ ***shall*** adopt regulations to carry out the provisions of this section, including, without limitation ~~[, regulations]~~ ***:***

(a) Regulations relating to the content of a written examination ~~[,]~~ ***and*** the scoring of a written examination ~~[or any possible waivers of a written examination .]~~ ***; and***

(b) Regulations for compliance with the requirements for registration with the Registry and any other applicable federal law.

Sec. 24. NRS 645B.0138 is hereby amended to read as follows:

645B.0138 1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

(c) Ensuring compliance with the requirements for registration with the Registry and any other applicable federal law.

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. (Deleted by amendment.)

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)

Sec. 48. (Deleted by amendment.)

Sec. 49. (Deleted by amendment.)

Sec. 50. (Deleted by amendment.)

Sec. 50.1. NRS 645B.018 is hereby amended to read as follows:

645B.018 1. A person may apply to the Commissioner for an exemption from the provisions of this chapter governing the making of a loan of money ~~[.]~~ ***, except that an exemption may not be issued for the making of a residential mortgage loan.***

2. The Commissioner may grant the exemption if he finds that:

(a) The making of the loan would not be detrimental to the financial condition of the lender, the debtor or the person who is providing the money for the loan;

(b) The lender, the debtor or the person who is providing the money for the loan has established a record of sound performance, efficient management, financial responsibility and integrity;

(c) The making of the loan is likely to increase the availability of capital for a sector of the state economy; and

(d) The making of the loan is not detrimental to the public interest.

3. The Commissioner:

(a) May revoke an exemption unless the loan for which the exemption was granted has been made; and

(b) Shall issue a written statement setting forth the reasons for his decision to grant, deny or revoke an exemption.

Sec. 50.2. NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. An application for a license as a mortgage broker must:

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State.

(b) State the name under which the applicant will conduct business as a mortgage broker.

(c) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage broker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage broker as a mortgage agent.

(d) Include a general business plan and a description of the policies and procedures that the mortgage broker and his mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

(e) State the length of time the applicant has been engaged in the business of a broker.

(f) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(g) Include all information required to complete the application.

(h) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage broker will conduct business at one or more branch offices within this State, the mortgage broker must apply for a license for each such branch office.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license to an applicant as a mortgage broker if:

(a) The application is verified by the Commissioner and complies with the requirements of this chapter; and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage broker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ ***demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.***

(2) Has not been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude.]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(3) Has not made a false statement of material fact on his application.

(4) Has ~~[not had a license that was issued pursuant to the provisions of this chapter or chapter 645E of NRS suspended or revoked within the 10 years immediately preceding the date of his application.]~~ ***never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license suspended or revoked within the immediately preceding 10 years.***

(5) ~~[Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.~~

~~(6)]~~ Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

Sec. 50.3. NRS 645B.0243 is hereby amended to read as follows:

645B.0243 The Commissioner may refuse to issue a license to an applicant if the Commissioner has reasonable cause to believe that the applicant or any general partner, officer or director of the applicant has, after October 1, 1999, employed or proposed to employ a person as a mortgage agent or authorized or proposed to authorize a person to be associated with a mortgage broker as a mortgage agent at a time when the applicant or the general partner, officer or director knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person ~~[:~~

~~1. Had been convicted of, or entered a plea of nolo contendere to:~~

~~(a) A felony relating to the practice of mortgage agents; or~~

~~(b) Any crime involving fraud, misrepresentation or moral turpitude; or~~

~~2. Had a financial services license or registration suspended or revoked within the immediately preceding 20 years.~~] ***has committed any act or omission that would be cause for refusing to issue a license to a mortgage agent.***

Sec. 50.4. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051; and

(d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051;

(d) Except as otherwise provided in this section, a reinstatement fee of not more than $200; and

(e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of not more than $100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, not more than $1,500 for the principal office and not more than $40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than $1,000 for the principal office and not more than $60 for each branch office.

(c) To renew a license, not more than $500 for the principal office and not more than $100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than $200.

(b) To renew a certificate of exemption, not more than $100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than $10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter ***are in addition to any fee required to be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee ***or date*** set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 50.5. NRS 645B.410 is hereby amended to read as follows:

645B.410 1. To obtain a license as a mortgage agent, a person must:

(a) Be a natural person;

(b) File a written application for a license as a mortgage agent with the Office of the Commissioner;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Commissioner of not more than $185.

2. An application for a license as a mortgage agent must:

(a) State the name and residence address of the applicant;

(b) Include a provision by which the applicant gives his written consent to an investigation of his credit history, criminal history and background;

(c) Include a complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(d) ~~[Include]~~ ***If he is not licensed as a mortgage broker or mortgage banker pursuant to chapter 645B or 645E of NRS, include*** a verified statement from the mortgage broker ***or mortgage banker*** with whom the applicant will be associated that expresses the intent of that mortgage broker ***or mortgage*** ~~*[agent]*~~ ***banker*** to associate the applicant with the mortgage broker ***or mortgage*** ~~*[agent]*~~ ***banker*** and to be responsible for the activities of the applicant as a mortgage agent; and

(e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Has not been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;***

(2) Has ~~[not]~~ ***never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction, or*** had a financial services license suspended or revoked within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his application;

(4) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ ***demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.***

4. Money received by the Commissioner pursuant to this section ***is in addition to any fee required to be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 50.6. NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than $170.

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of $75.

3. To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of $10.

4. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of $10.

5. Money received by the Commissioner pursuant to this section ***is in addition to any fee that must be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.

7. As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.

Sec. 50.7. NRS 645B.460 is hereby amended to read as follows:

645B.460 1. A mortgage broker shall exercise reasonable supervision over the activities of his mortgage agents ~~[.]~~ ***and must also be licensed as a mortgage agent if required pursuant to section 8 of this act.*** Such reasonable supervision must include, as appropriate:

(a) The establishment of written or oral policies and procedures for his mortgage agents; ~~[and]~~

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage broker or his mortgage agents or held in trust by the mortgage broker or his mortgage agents pursuant to this chapter ~~[.]~~ ***; and***

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

2. The Commissioner shall allow a mortgage broker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 51. (Deleted by amendment.)

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than ~~[$10,000,]~~ ***$25,000,*** if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have

rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than ~~[$10,000,]~~ ***$25,000,*** may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;*** or

(2) Had a ~~[financial services]~~ license or registration ***as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license or registration*** suspended or revoked within the immediately preceding 10 years;

(t) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

(u) Has not conducted verifiable business as a mortgage broker ~~*[or residential mortgage loan originator]*~~ for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker ~~*[or residential mortgage loan originator]*~~ is conducting business by examining the monthly reports of activity submitted by the mortgage broker ~~*[or residential mortgage loan originator]*~~ or by conducting an examination of the mortgage broker . ~~*[or residential mortgage loan originator.]*~~

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than

~~[~~$10,000,~~]~~ ***$25,000*** may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[~~relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;~~]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. Chapter 645E of NRS is hereby amended by adding thereto the provisions set forth as sections 59.1 to 59.7, inclusive, of this act.

Sec. 59.1. ***1. Any person licensed as a mortgage banker under this chapter and who engages in activities as a residential mortgage loan originator or who supervises a mortgage agent who engages in activities as a residential mortgage loan originator, and any employee or independent contractor of a mortgage banker who engages in activities as a residential mortgage loan originator, must be licensed as a mortgage agent pursuant to the provisions of NRS 645B.400 to 645B.460, inclusive.***

2. As used in this section, "residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 59.3. ***1. A mortgage banker shall exercise reasonable supervision over the activities of his mortgage agents and must also be licensed as a mortgage agent if required pursuant to section 8 of this act. Such reasonable supervision must include, as appropriate:***

(a) The establishment of written or oral policies and procedures for his mortgage agents;

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage banker or his mortgage agents or held in trust by the mortgage banker or his mortgage agents pursuant to this chapter; and

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

2. The Commissioner shall allow a mortgage banker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 59.5. ***If a mortgage agent terminates his association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:***

1. Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises him that his termination is being reported to the Division; and

2. Deliver or send by certified mail to the Division:

(a) The license or license number of the mortgage agent;

(b) A written statement of the circumstances surrounding the termination; and

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

Sec. 59.7. ***1. If a person offers or provides any of the services of a mortgage banker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage banker or mortgage agent and, at the time:***

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.

2. If a mortgage banker violates subsection 1 of NRS 645E.350 and the mortgage banker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage banker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage banker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage banker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage banker; and

(c) Conduct a hearing to determine whether the mortgage banker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage banker pursuant to NRS 645E.630.

Sec. 60. (Deleted by amendment.)

Sec. 61. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 62 to 77.5, inclusive, of this act.

Sec. 62. (Deleted by amendment.)

Sec. 63. (Deleted by amendment.)

Sec. 64. (Deleted by amendment.)

Sec. 65. (Deleted by amendment.)

Sec. 66. (Deleted by amendment.)

Sec. 67. (Deleted by amendment.)

Sec. 68. (Deleted by amendment.)

Sec. 69. (Deleted by amendment.)

Sec. 70. (Deleted by amendment.)

Sec. 71. (Deleted by amendment.)

Sec. 72. (Deleted by amendment.)

Sec. 73. ***"Nationwide Mortgage Licensing System and Registry" or "Registry" have the meanings ascribed to them in section 2 of this act.***

Sec. 74. (Deleted by amendment.)

Sec. 75. (Deleted by amendment.)

Sec. 75.3. ***The Commissioner shall adopt such regulations as necessary to comply with the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.***

Sec. 75.7. ***The Commissioner shall adopt regulations:***

1. Establishing minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, as defined in section 6 of this act; or

2. Requiring a percentage of the fees collected for the issuance or renewal of a license pursuant to chapter 645B or 645E of NRS to be deposited in a mortgage recovery fund, and setting forth the methods by which a person may make a claim against and be paid from the fund.

Sec. 76. ***1. The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.***

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

(b) A process whereby a person may challenge information reported to the Registry by the Commissioner.

Sec. 77. ***1. Except as otherwise provided in section 1512 of Public Law 110-289, the requirements under any federal law or NRS 645B.060 and 645B.092 regarding the confidentiality of any information or material provided to the Registry, and any privilege arising under federal laws of this State with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with mortgage industry oversight without the loss of privilege or the loss of confidentiality protections provided by federal law or the provisions of NRS 645B.060 and 645B.092.***

2. Information or material that is subject to a privilege or confidentiality under subsection 1 is not subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the Federal Government or the State of Nevada; and

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Registry with respect to such information or material, the person to whom such information or material waives, in whole or in part, that privilege.

3. This section does not apply to information or material relating to:

(a) The employment history of; and

(b) Publicly adjudicated disciplinary and enforcement actions against,

➥ ***residential mortgage loan originators included in the Registry for access by the public.***

Sec. 77.5. ***For the purpose of carrying out the provisions of section 77 of this act, the Commissioner may by regulation or order enter into agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies.***

Sec. 78. NRS 645F.010 is hereby amended to read as follows:

645F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645F.020 to 645F.060, inclusive, ***and section 73 of this act*** have the meanings ascribed to them in those sections.

Sec. 79. (Deleted by amendment.)

Sec. 80. (Deleted by amendment.)

Sec. 81. (Deleted by amendment.)

Sec. 82. NRS 645F.290 is hereby amended to read as follows:

645F.290 1. The Commissioner shall collect an assessment pursuant to this section from each:

(a) Escrow agency that is supervised pursuant to chapter 645A of NRS;

(b) Mortgage broker that is supervised pursuant to chapter 645B of NRS; ~~[and]~~

(c) ***Mortgage agent that is supervised pursuant to chapter 645B or 645E of NRS; and***

(d) Mortgage banker that is supervised pursuant to chapter 645E of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) An equal basis; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 83. (Deleted by amendment.)

Sec. 84. (Deleted by amendment.)

Sec. 84.5. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person authorized to engage in activities as a residential mortgage loan originator on behalf of a privately insured institution or organization licensed under title 55 or 56 of NRS shall obtain and maintain a license as a mortgage agent.

2. As used in subsection 1:

(a) "Mortgage agent" has the meaning ascribed to in NRS 645B.0125; and

(b) "Residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 85. Notwithstanding the amendatory provisions of this act:

1. A person who holds a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a mortgage agent, may continue his activities without obtaining a license as a mortgage agent until July 1, 2011 ~~.~~**, or such other date as the Commissioner of Mortgage Lending may prescribe by regulation if necessary to comply with federal law.**

2. A person who does not hold a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a mortgage agent, may continue his activities without obtaining a license as a mortgage agent until July 1, 2010.

Sec. 85.5. NRS 645B.455 of NRS is hereby repealed.

Sec. 86. This act becomes effective upon passage and approval for the purpose of adopting regulations and for licensure pursuant to section 85 of this act and on October 1, 2009, for all other purposes.

TEXT OF REPEALED SECTION

645B.455 License issued on behalf of professional corporation or limited-liability company; limitations on license; automatic expiration of license.

1. Any natural person who meets the qualifications of a mortgage agent and:

(a) Except as otherwise provided in subsection 2, is the sole shareholder of a corporation organized pursuant to the provisions of chapter 89 of NRS; or

(b) Is the manager of a limited-liability company organized pursuant to the provisions of chapter 86 of NRS,

➥ may be licensed on behalf of the corporation or limited-liability company for the purpose of associating with a licensed mortgage broker in the capacity of a mortgage agent.

2. The spouse of the owner of the corporation who has a community interest in any shares of the corporation shall not be deemed a second shareholder of the corporation for the purposes of paragraph (a) of subsection 1, if the spouse does not vote any of those shares.

3. A license issued pursuant to this section entitles only the sole shareholder of the corporation or the manager of the limited-liability company to act as a mortgage agent, and only as an officer or agent of the corporation or limited-liability company and not on his own behalf. The licensee shall not do or deal in any act, acts or transactions included within the definition of a mortgage broker in NRS 645B.0127, except as that activity is permitted pursuant to this chapter to licensed mortgage agents.

4. The corporation or limited-liability company shall, within 30 days after a license is issued on its behalf pursuant to this section and within 30 days after any change in its ownership, file an affidavit with the Division stating:

(a) For a corporation, the number of issued and outstanding shares of the corporation and the names of all persons to whom the shares have been issued.

(b) For a limited-liability company, the names of members who have an interest in the company.

5. A license issued pursuant to this section automatically expires upon:

(a) The death of the licensed shareholder in the corporation or the manager of the limited-liability company; or

(b) The issuance of shares in the corporation to more than one person other than the spouse.

6. This section does not alter any of the rights, duties or liabilities which otherwise arise in the legal relationship between a mortgage broker or mortgage agent and a person who deals with him.

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 523.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 389, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 760 of the Assembly be concurred in.

MO DENIS	VALERIE WIENER
MARILYN DONDERO LOOP	SHIRLEY BREEDEN
LYNN STEWART	DENNIS NOLAN
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Denis moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 389.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 218, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 742 and 881 of the Assembly be concurred in.

RUBEN KIHUEN	DAVID PARKS
KELVIN ATKINSON	TERRY CARE
MELISSA WOODBURY	RANDOLPH TOWNSEND
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Kihuen moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 218.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 130, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 792 of the Senate be concurred in.

DAVID BOBZIEN	JOHN LEE
PEGGY PIERCE	STEVEN HORSFORD
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Bobzien moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 130.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 148.

The following Senate amendment was read:

Amendment No. 959.

AN ACT relating to occupational safety; requiring employees on a construction site to receive certain health and safety training; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 10 of this bill requires: (1) supervisory employees working on a construction site to complete a specified 30-hour health and safety course not later than 15 days after being hired; and (2) all other construction workers working on the construction site to complete a specified 10-hour course not later than 15 days after being hired.

Section 8 of this bill requires the Division of Industrial Relations of the Department of Business and Industry to adopt regulations approving courses which may be used to fulfill the requirements of **section 10**. **Section 8.5** of this bill requires providers of approved courses to display the card evidencing their authorization by the Occupational Safety and Health Administration of the United States Department of Labor to provide such a course at the location at which the course is being provided.

Section 11 of this bill requires employers to **suspend or** terminate the employment of an employee on a construction site who fails to provide proof of obtaining the required training not later than 15 days after being hired.

Section 12 of this bill provides for administrative fines for employers who

~~[continue to employ]~~ **fail to suspend or terminate** certain employees on a construction site after the 15-day period if those employees have not obtained the required training.

Section 15 of this bill: (1) allows employees to satisfy the requirements of **section 10** of this bill by completing an alternative course offered by their employer; (2) requires an employee that satisfies the requirements of **section 10** by completing an alternative course to take an approved course before January 1, 2011; and (3) requires an employer to maintain and make available to the Division of Industrial Relations a record of all employees that have completed an alternative course until a date to be established by the Division by regulation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Construction site" means any location at which construction work is being commenced or is in progress.***

Sec. 3.5. ***1. "Construction worker" means a person who actually performs physical work at a construction site:***

(a) That results in the construction, alteration or destruction involved in the construction project, including, without limitation, painting and decorating; or

(b) Who supervises any person engaged in work described in paragraph (a).

2. The term does not include a person to the extent that the person performs or supervises another person who performs work which is conducted:

(a) For the upkeep of an existing property for which a certificate of occupancy has been issued by the appropriate building inspector or other authority; and

(b) To prevent the property from degrading, to maintain the property in its original condition or to maintain the operational soundness of the property, including, without limitation, by repairing components of the property or by replacing components of the property with the same or similar components.

Sec. 4. ***"OSHA-10 course" means a 10-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.***

Sec. 5. ***"OSHA-30 course" means a 30-hour course in construction industry safety and health hazard recognition and prevention developed by***

the Occupational Safety and Health Administration of the United States Department of Labor.

Sec. 6. ***"Supervisory employee" means any person having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday.***

Sec. 6.5. ***The provisions of sections 2 to 12, inclusive, of this act do not apply to:***

1. The Department of Transportation; or

2. An employee of the Department of Transportation while performing his duties as an employee of the Department.

Sec. 7. ***The Division may adopt such regulations as are necessary to carry out the provisions of sections 2 to 12, inclusive, of this act.***

Sec. 8. ***1. The Division shall, by regulation, approve OSHA-10 courses and OSHA-30 courses for the purposes of fulfilling the requirements of section 10 of this act.***

2. The Division shall establish a registry to track the providers of courses approved pursuant to subsection 1.

3. The Division shall adopt regulations that set forth guidelines for job-specific training to qualify as continuing education for the purposes of section 10 of this act.

Sec. 8.5. ***1. Each trainer shall display his trainer card in a conspicuous manner at each location where he provides an OSHA-10 course or OSHA-30 course.***

2. No person other than a trainer may provide an OSHA-10 course or OSHA-30 course.

3. As used in this section:

(a) "Trainer" means a person who is currently authorized by the Occupational Safety and Health Administration of the United States Department of Labor as a trainer, including, without limitation, a person who has completed OSHA 500, the Trainer Course for the Construction Industry.

(b) "Trainer card" means the card issued upon completion of OSHA 500, the Trainer Course for the Construction Industry, which reflects the authorization of the holder by the Occupational Safety and Health Administration of the United States Department of Labor to provide OSHA-10 courses and OSHA-30 courses.

Sec. 9. (Deleted by amendment.)

Sec. 10. ***1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must:***

(a) Obtain a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act; or

(b) Complete an OSHA-10 alternative course which is offered by his employer.

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must:

(a) Obtain a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act; or

(b) Complete an OSHA-30 alternative course which is offered by his employer.

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

4. As used in this section:

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and

health regulatory requirements specific to the industry in which the employer participates.

Sec. 11. ***1. If a construction worker other than a supervisory employee fails to:***

(a) Present his employer with a current and valid completion card for an OSHA-10 course; or

(b) Complete an OSHA-10 alternative course offered by his employer,

➥ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

2. If a supervisory employee on a construction site fails to:

(a) Present his employer with a current and valid completion card for an OSHA-30 course; or

(b) Complete an OSHA-30 alternative course offered by his employer,

➥ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

3. As used in this section:

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

Sec. 12. ***1. If the Division finds that an employer has failed to suspend or terminate an employee as required by section 11 of this act, it shall:***

(a) Upon the first violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than $500.

(b) Upon the second violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than $1,000.

(c) Upon the third and each subsequent violation, impose upon the employer the penalty provided in NRS 618.635 as if the employer had committed a willful violation.

2. For the purposes of this section, any number of violations discovered in a single day constitute a single violation.

3. Before a fine or any other penalty is imposed upon an employer pursuant to this section, the Division must follow the procedures set forth in this chapter for the issuance of a citation, including, without limitation, the procedures set forth in NRS 618.475 for notice to the employer and an opportunity for the employer to contest the violation.

Sec. 13. Section 10 of this act is hereby amended to read as follows:

Sec. 10. 1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must ~~[~~**:**

~~(a) Obtain]~~ ***obtain*** a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act**.** ~~[~~**;** ~~or~~

~~(b) Complete an OSHA-10 alternative course which is offered by his employer.]~~

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must ~~[~~**:**

~~(a) Obtain]~~ ***obtain*** a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act**.** ~~[~~**;** ~~or~~

~~(b) Complete an OSHA-30 alternative course which is offered by his employer.]~~

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

Sec. 14. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. If a construction worker other than a supervisory employee fails to ~~[~~**:**

~~(a) Present]~~ ***present*** his employer with a current and valid completion card for an OSHA-10 course ~~[~~**;** ~~or~~

~~(b) Complete an OSHA-10 alternative course offered by his employer,~~ ~~➥~~**]** not later than 15 days after being hired, his employer shall suspend or terminate his employment.

2. If a supervisory employee on a construction site fails to ~~[~~:

~~(a) Present]~~ ***present*** his employer with a current and valid completion card for an OSHA-30 course ~~[; or~~

~~(b) Complete an OSHA-30 alternative course offered by his employer, ➥]~~ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

~~[3. As used in this section:~~

~~(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA 10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~

~~(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA 30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.]~~

Sec. 15. 1. Not later than January 1, 2011, an employee that satisfies the requirements of subsection 1 or 2 of section 10 of this act by completing an OSHA-10 alternative course or OSHA-30 alternative course, as defined in section 10 of this act, must complete an OSHA-10 course or OSHA-30 course, as defined in sections 4 and 5 of this act, as applicable, in order to continue to satisfy the requirements of subsection 1 or 2 of section 10 of this act.

2. An employer shall maintain a record of all employees that have completed an OSHA-10 alternative course or OSHA-30 alternative course offered by the employer and the date upon which the employee completed the course. The employer shall make the record available at all times for inspection by the Division of Industrial Relations of the Department of Business and Industry and its authorized agents.

3. The Division of Industrial Relations shall, by regulation, establish the length of time that an employer must maintain the record described in subsection 2.

Sec. 16. 1. This section and sections 1 to 12, inclusive, and 15 of this act become effective on January 1, 2010.

2. Sections 13 and 14 of this act become effective on January 1, 2011.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 148.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 182, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Segerblom, Kihuen, and Hambrick as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 182.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 65.

The following Senate amendment was read:

Amendment No. 961.

AN ACT relating to courts; providing for the collection and disposition of additional court fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) authorizes a district court to charge and collect certain additional filing fees; (2) requires the fees to be deposited into a special county account maintained for the benefit of the court; and (3) provides that the fees may be used only for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment, technology, and in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs.

Section 3 of this bill authorizes a board of county commissioners to impose by ordinance a filing fee of not more than $20 to be paid on the commencement of any civil action or proceeding in the district court and provides that the fee may be used only for programs for court security or for reimbursement of capital costs for maintaining new judicial departments and must not supplant existing budgets for bailiffs or deputy marshals assigned to work in a courtroom. **Section 5** of this bill requires a county recorder to collect a fee of $50 upon the filing of any notice of default and election to sell and provides that such fees must be deposited in a special account to support a program of foreclosure mediation established by Supreme Court Rule. However, **section 5** also provides that 1.5 percent of the fees collected may be placed in a special account for use by the office of the county recorder. (NRS 107.080)

Section 6 of this bill provides that notwithstanding the uses provided for the fees in **section 2** of this bill, the fees collected pursuant to **section 2** must also be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011.

Section 7 of this bill requires the county treasurer of a county in which a district judge is added by Assembly Bill No. 64 of this session to remit, from the special account administered and maintained pursuant to **section 2** of this bill, an amount equal to $104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

Section 8 of this bill provides that **sections 6 and 7** of this bill become effective if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 19 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:***

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer $99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by him or them $99

(c) On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is $200,000 or more $352

(2) Where the stated value of the estate is more than $20,000 but less than $200,000 ..... $99

(3) Where the stated value of the estate is $20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto..... $200

(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto... ..... $1,359

(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as "complex" pursuant to the local rules of practice,

➥ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding $349

(g) On the filing of a third-party complaint, to be paid by the filing party $135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party $349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court $10

2. ~~[Except as otherwise provided in subsection 4, fees]~~ Fees collected pursuant to this section must be deposited into a special account administered by the county and maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff;

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraphs (a) and (b), to:

(1) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(5) Acquire advanced technology;

(6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court;

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district; or

(8) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer ~~[:~~

~~*(a) An amount equal to $20 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating a program for legal services as set forth in NRS 19.031 all the money received from the clerk of the court or county clerk pursuant to this subsection.*~~

~~*(b) All remaining]*~~ ***all fees collected pursuant to this section during the preceding month.***

Sec. 3. ***1. In any county, the board of county commissioners may, in addition to any other fee required by law, impose by ordinance a filing fee of not more than $20 to be paid on the commencement of any civil action or proceeding in the district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, except as otherwise required pursuant to NRS 19.034.***

2. On or before the fifth day of each month, in a county where a fee has been imposed pursuant to subsection 1, the clerk of the court shall account for and pay over to the county treasurer any such fees collected by him during the preceding month for credit to an account for programs for court security in the county general fund. The money in that account must be administered by the county and:

(a) May be used only for programs for court security or to reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;

(b) Must not be used to supplant existing budgets for bailiffs or deputy marshals who are assigned to work in a courtroom; and

(c) If any balance remains, may be carried forward to the next fiscal year.

3. As used in this section, "programs for court security" includes, without limitation:

(a) Funding for additional positions for bailiffs, marshals, security guards or similar personnel;

(b) Supplementing existing funding used to pay bailiffs, marshals, security guards and similar personnel;

(c) Acquiring necessary capital goods for court security;

(d) Providing security training and education to personnel;

(e) Conducting security audits; and

(f) Acquiring or using appropriate technology relating to court security.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect the sum of $50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The fees collected must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the Account. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder for the Account for Foreclosure Mediation to the State Controller for credit to the

Account. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

Sec. 6. Notwithstanding any provision of section 2 of this act to the contrary, the fees collected pursuant to section 2 of this act and deposited in the special account administered by the county and maintained for the benefit of the court must be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011, and this money is hereby authorized for expenditure.

Sec. 7. In a county in which a district judge is added by Assembly Bill No. 64 of this session, the county treasurer is hereby required to, on or before the first Monday in January 2011, remit, from the special account administered and maintained pursuant to section 2 of this act, an amount equal to $104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

Sec. 8. 1. This section and sections 1 to 5, inclusive, of this act become effective on July 1, 2009.

2. Sections 6 and 7 of this act become effective on July 1, 2009, if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 65.

Remarks by Assemblyman Anderson.

Assemblyman Anderson requested that his remarks be entered in the Journal.

Thank you, Madam Speaker. I move the Assembly concur in Senate Amendment No. 961 to Assembly Bill 65.

This bill continues to trouble me. The amendment deletes $20 of fees to be collected for legal services. This is a very important piece of legislation and an opportunity to keep the judiciary alive and fund several different court functions. The concern that I have remains with this bill—I want to keep it very clear for the record—it sets the Judicial Branch of government adrift on the river by itself with no need to come to either this body or to the local county commissions in order to fulfill the physical need for their buildings, plans, and marshals. That concerns me because I think the operation of government works best when there is an interrelationship between all three branches and each is treated with respect.

I think, however, the bill carries, during these economic times, the opportunity to at least help the courts over a short period of time and the needed expansion in several counties. White Pine should get some help from this and the Second and Eighth Judicial Districts—Washoe and Clark Counties—with the need for extra judges which may be supported with this piece of legislation.

The need for judges is truly there. I have a real difficultly, however, in having the county commissions be responsible and the local taxpayer carry the burden of the court system, and I think that this is a mistake. However, I think the other is an overriding feature and needs to be supported. I am going to ask my colleagues to concur in this amendment.

Conflict of interest declared by Assemblywomen Buckley and Dondero Loop.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 395 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess until 3 p.m.

Motion carried.

Assembly in recess at 12:41 p.m.

ASSEMBLY IN SESSION

At 4:08 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 242, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 30, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 521, Amendments Nos. 970, 971; Assembly Bill No. 561, Amendment No. 973, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 712 to Senate Bill No. 293 and respectfully refused to concur in Assembly Amendment No. 949 to Senate Bill No. 293.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Washington and Wiener as a Conference Committee concerning Senate Bill No. 68.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Parks and McGinness as a Conference Committee concerning Senate Bill No. 183.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SECOND READING AND AMENDMENT

Senate Bill No. 242.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 978.

SUMMARY—Enacts provisions relating to energy efficiency. ~~[, renewable energy and building construction.]~~ (BDR 58-378)

AN ACT relating to energy; requiring ~~[certain contractors to offer upgrades for renewable energy and energy efficiency; requiring certain contractors assisting buyers in obtaining financing to offer, or work with lenders that offer, energy efficient mortgages; requiring licensees of the Real Estate Division of the Department of Business and Industry to make certain information about energy efficiency in residential property available to each party to a real estate transaction; revising continuing education requirements relating to energy efficiency for real estate brokers, real estate broker-salesmen, real estate salesmen, mortgage brokers and certified or licensed real estate appraisers;]~~ **the Director of the Office of Energy within the Office of the Governor to adopt regulations setting forth standards of efficiency for certain appliances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 4 of this bill: (1) requires a contractor to offer certain upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single-family residence which will be built by the contractor as part of a development of 25 or more single-family residences; and (2) requires a contractor to offer information about retrofitting certain upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single-family residence which has already been built by the contractor as part of a development of 25 or more single-family residences. Section 5 of this bill requires a contractor who arranges financing for the purchase of a single-family residence which is built by the contractor as part of a development of 25 or more single-family residences to offer, or work with a lender that offers, the option for the buyer to apply for an energy efficient mortgage. If the contractor does not arrange financing for buyers, section 5 requires the contractor to provide information to buyers concerning energy efficient mortgages.~~

~~Section 8 of this bill requires licensees of the Real Estate Division of the Department of Business and Industry to distribute free of charge to each party to a real estate transaction written information which is available publicly and which is designed to assist in the identification, evaluation and selection of energy efficiency and conservation features in residential property. Sections 11, 12 and 13 of this bill amend the continuing education requirements for real estate brokers, real estate broker-salesmen, real estate salesmen, mortgage brokers and certified or licensed real estate appraisers to include a requirement for training in energy efficiency and conservation features in residential property. (NRS 645.575, 645B.051, 645C.440)~~

~~Sections 11.5 and 13.5 of this bill allow a new component of not more than 1 hour of instruction concerning energy efficiency in residential property to be added to an existing course of continuing education without the Division charging accreditation or approval fees for the addition of the new component to the course. (NRS 645.830, 645C.450)~~**]** **This bill requires the Director of the Office of Energy within the Office of the Governor to adopt, for the sole purpose of qualifying for any rebates, regulations setting forth minimum standards of efficiency for appliances that have not received an Energy Star label in accordance with federal law.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. ~~[Chapter 624 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.]~~ **(Deleted by amendment.)**

Sec. 4. ~~[*1. A contractor shall offer a choice of upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single family residence which will be built by the contractor as part of a development of 25 or more single family residences. The upgrades may be offered in a package, but the contractor shall allow the person to select individual upgrades and shall not require the selection of an entire package. Qualifying upgrades include, without limitation:*~~

~~*(a) Awnings and shutters;*~~

~~*(b) Cool roof coating;*~~

~~*(c) Energy efficient appliances;*~~

~~*(d) A ground source heat pump;*~~

~~*(e) Low emissivity windows;*~~

~~*(f) A programmable thermostat;*~~

~~*(g) Ridge vents;*~~

~~*(h) A system for solar energy that:*~~

~~*(1) Consists of a photovoltaic solar collector, or other device for photovoltaic solar energy, that has a primary purpose of providing for the collection, storage and distribution of solar energy for the generation of electricity; and*~~

~~*(2) Produces an average of at least 2 kilowatts of alternating current of electricity;*~~

~~*(i) A system for solar thermal energy that has a primary purpose of providing for the collection, storage and distribution of solar energy for the production of hot water or air for space heating or water heating; and*~~

~~*(j) A charging station for an electric vehicle.*~~

~~*2. A contractor shall provide information on retrofitting qualifying upgrades for renewable energy and energy efficiency set forth in subsection 1 to a person who negotiates to purchase a single family*~~

~~*residence which the contractor has already built as part of a development of 25 or more single family residences.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~*[1. A contractor who:*~~

~~*(a) Directly or through an affiliate, subsidiary or other related entity arranges financing for the purchase of a single family residence which is built by the contractor as part of a development of 25 or more single family residences shall offer, or work with a lender that offers, the option for the buyer to apply for an energy efficient mortgage.*~~

~~*(b) Does not arrange financing for the purchase of a single family residence specified in paragraph (a) shall provide to the purchaser, free of charge, written information concerning energy efficient mortgages which must include, without limitation, the information concerning energy efficient mortgages available publicly from the United States Department of Energy, the Environmental Protection Agency, the Federal Housing Administration and the Department of Housing and Urban Development.*~~

~~*2. As used in this section, "energy efficient mortgage" means a mortgage which credits the energy efficiency of a home in the mortgage by providing borrowers with the opportunity to finance cost effective and energy saving measures as part of a single mortgage and by increasing debt to income qualifying ratios on loans.]*~~ **(Deleted by amendment.)**

Sec. 6. ~~[Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.]~~ **(Deleted by amendment.)**

Sec. 7. ~~*["Residential property" has the meaning ascribed to it in NRS 113.100.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[A licensee shall provide, free of charge, to each party to a real estate transaction written information which is available publicly and which is designed to assist a person in the identification, evaluation and selection of energy efficiency and conservation features in residential property. The written information must include, without limitation, information relating to:*~~

~~*1. Appliances;*~~

~~*2. Building materials used in homes;*~~

~~*3. Cool roofs;*~~

~~*4. Energy efficient mortgages and financing;*~~

~~*5. "Green" home certification programs;*~~

~~*6. Heating and cooling systems, including water heating systems;*~~

~~*7. Home energy audits and ratings;*~~

~~*8. Insulation;*~~

~~*9. Landscaping;*~~

~~*10. Lighting and day lighting;*~~

~~*11. Passive solar heating;*~~

~~*12. Solar electricity;*~~

~~*13. Water conserving devices; and*~~

~~*14. Windows.]*~~ **(Deleted by amendment.)**

Sec. 9. ~~[NRS 645.0005 is hereby amended to read as follows:~~

~~645.0005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645.001 to 645.042, inclusive, *and section 7 of this act* have the meanings ascribed to them in those sections.~~] **(Deleted by amendment.)**

Sec. 10. ~~[NRS 645.194 is hereby amended to read as follows:~~

~~645.194 1. The Division shall prepare a booklet that provides relevant information concerning the disclosures that are required by federal, state and local laws and regulations by a buyer and a seller in a transaction involving the sale of residential property.~~

~~2. The Division shall make copies of the booklet prepared pursuant to subsection 1 available to licensees which the licensee must distribute to prospective buyers and sellers in the sale of residential property in accordance with the regulations adopted by the Commission.~~

~~3. The Commission shall approve the format and content of the information that must be included in the booklet.~~

~~[~~4. As used in this section, "residential property" has the meaning ascribed to it in NRS 113.100.~~] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 645.575 is hereby amended to read as follows:~~

~~645.575 1. The Commission shall adopt regulations that prescribe the standards for the continuing education of persons licensed pursuant to this chapter.~~

~~2. The standards adopted pursuant to subsection 1 must permit alternatives of subject material, taking cognizance of specialized areas of practice and alternatives in sources of programs considering availability in area and time. The standards must include, where qualified, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings. The Commission shall qualify only those educational courses that it determines address the appropriate subject matter and are given by an accredited university or community college. Subject to the provisions of this section, the Commission has exclusive authority to determine what is an appropriate subject matter for qualification as a continuing education course.~~

~~3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission may, without limitation, adopt by regulation standards for continuing education that:~~

~~(a) Establish a postlicensing curriculum of continuing education which must be completed by a person within the first year immediately after initial licensing of the person.~~

~~(b) Require a person whose license as a real estate broker or real estate broker salesman has been placed on inactive status for any reason for 1 year or more or has been suspended or revoked to complete a course of instruction in broker management that is designed to fulfill the educational requirements~~

~~for issuance of a license which are described in paragraph (d) of subsection 2 of NRS 645.343~~ **[**,**]** ~~before the person's license is reissued or reinstated.~~

~~4.~~ ~~***In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission shall adopt by regulation standards for continuing education that require a person who holds a license as a real estate broker, real estate broker-salesman or real estate salesman to complete instruction in energy efficiency in residential property which includes, without limitation, instruction concerning each energy efficiency and conservation feature set forth in section 8 of this act.***~~

~~5. Except as otherwise provided in this subsection, the license of a real estate broker, broker-salesman or salesman must not be renewed or reinstated unless the Administrator finds that the applicant for the renewal license or for reinstatement to active status has completed the continuing education required by this chapter. Any amendment or repeal of a regulation does not operate to prevent an applicant from complying with this section for the next licensing period following the amendment or repeal.~~**]** **(Deleted by amendment.)**

Sec. 11.5. **[**~~NRS 645.830 is hereby amended to read as follows:~~

~~645.830 1.~~ **[**~~The~~**]** ~~***Except as otherwise provided in subsection 3, the***~~ ~~following fees must be charged by and paid to the Division:~~

~~For each original real estate broker's, broker salesman's or corporate broker's license $105~~
~~For each original real estate salesman's license 85~~
~~For each original branch office license 120~~
~~For real estate education, research and recovery to be paid at the time an application for an original license is filed $40~~
~~For real estate education, research and recovery to be paid at the time an application for renewal of a license is filed40~~
~~For each renewal of a real estate broker's, broker-salesman's or corporate broker's license 180~~
~~For each renewal of a real estate salesman's license 140~~
~~For each renewal of a real estate branch office license 110~~
~~For each penalty for late filing of a renewal for a broker's, broker-salesman's or corporate broker's license 95~~
~~For each penalty for late filing of a renewal for a salesman's license 75~~
~~For each change of name or address 20~~
~~For each transfer of a real estate salesman's or broker-salesman's license and change of association or employment20~~
~~For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof 20~~
~~For each change of broker status from broker to broker-salesman 20~~
~~For each change of broker status from broker-salesman to broker 40~~
~~For each reinstatement to active status of an inactive real estate~~

~~broker's, broker-salesman's or salesman's license 20~~
~~For each reinstatement of a real estate broker's license when the licensee fails to give immediate written notice to the Division of a change of name or business location 30~~
~~For each reinstatement of a real estate salesman's or broker-salesman's license when he fails to notify the Division of a change of broker within 30 days of termination by previous broker 30~~
~~For each original registration of an owner-developer 125~~
~~For each annual renewal of a registration of an owner-developer 125~~
~~For each enlargement of the area of an owner-developer's registration 50~~
~~For each cooperative certificate issued to an out-of-state broker licensee for 1 year or fraction thereof150~~
~~For each original accreditation of a course of continuing education $100~~
~~For each renewal of accreditation of a course of continuing education 50~~
~~For each annual approval of a course of instruction offered in preparation for an original license or permit 100~~

~~2. The fees prescribed by this section for courses of instruction offered in preparation for an original license or permit or for courses of continuing education do not apply to:~~

~~(a) Any university, state college or community college of the Nevada System of Higher Education.~~

~~(b) Any agency of the State.~~

~~(c) Any regulatory agency of the Federal Government.~~

~~3. *The Division shall not charge and collect a fee for the original or renewal accreditation of an existing course of continuing education solely on the basis that a new component consisting of not more than 1 hour of instruction concerning energy efficiency in residential property is added to the curriculum of the existing course of continuing education.*~~

~~*4.* The Commission shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of any investigation of a person's background.~~] **(Deleted by amendment.)**

Sec. 12. ~~[~~NRS 645B.051 is hereby amended to read as follows:

~~645B.051 1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:~~

~~(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.~~

~~(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.~~

~~2. The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12-month period, the extra hours may be used to satisfy the requirement for the immediately following 12-month period and for that immediately following 12-month period only.~~

~~3. *In addition to any other standards for continuing education that the Commissioner adopts by regulation pursuant to NRS 645B.0138, the Commissioner shall adopt by regulation standards for continuing education that require a licensee to complete a course of instruction which includes, without limitation, instruction related to energy efficient mortgages and financing.*~~

~~*4.* As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.~~ **(Deleted by amendment.)**

Sec. 12.5. ~~NRS 645C.340 is hereby amended to read as follows:~~

~~645C.340 1. Each application for an examination for a certificate or license must be accompanied by the fees established by the Division pursuant to subsection~~ [2] *3* of NRS 645C.450.

~~2. The examination must test the applicant on his knowledge and understanding of:~~

~~(a) Subjects applicable to the type of certificate or license for which he is applying; and~~

~~(b) Laws regarding the practice of preparing and communicating appraisals, including the provisions of this chapter and any regulations adopted pursuant thereto.~~

~~3. The Division may hire a professional testing organization to create, administer or score the examination.~~ **(Deleted by amendment.)**

Sec. 13. ~~NRS 645C.440 is hereby amended to read as follows:~~

~~645C.440 1. The Commission shall adopt regulations governing the continuing education of certified or licensed appraisers. The regulations must include the criteria for approving each course and the requirements for submission of proof of attendance at a course.~~

~~2. In approving courses for continuing education, the Commission shall authorize a variety of subjects and give consideration to specialized areas of practice and the availability of programs. An appropriate educational course given by an accredited university or community college must be approved by the Commission.~~

~~*3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission shall adopt by regulation standards for continuing education that require a certified or licensed appraiser to complete instruction in energy efficiency in residential property which includes, without limitation, instruction concerning each energy efficiency and conservation feature set forth in section 8 of this act.]*~~ **(Deleted by amendment.)**

Sec. 13.5. ~~[~~NRS 645C.450 is hereby amended to read as follows:

~~645C.450 1. [~~The~~]~~ ***Except as otherwise provided in subsection 2, the*** ~~following fees may be charged and collected by the Division:~~

~~Application for a certificate, license or registration card $100~~
~~Issuance or renewal of a certificate or license as a residential appraiser 290~~
~~Issuance or renewal of a certificate as a general appraiser 390~~
~~Issuance of a permit 115~~
~~Issuance or renewal of a registration card 190~~
~~Issuance of a duplicate certificate or license for an additional office 50~~
~~Change in the name or location of a business 20~~
~~Reinstatement of an inactive certificate or license 30~~
~~Annual approval of a course of instruction offered in preparation for an initial certificate or license 100~~
~~Original approval of a course of instruction offered for continuing education 100~~
~~Renewal of approval of a course of instruction offered for continuing education 50~~

~~2.~~ ~~*The Division shall not charge and collect a fee for the original or renewal accreditation of an existing course of continuing education solely on the basis that a new component consisting of not more than 1 hour of instruction concerning energy efficiency in residential property is added to the curriculum of the existing course of instruction for continuing education.*~~

~~*3.* The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:~~

~~(a) Any examination for a certificate or license, including any costs which are necessary for the administration of such an examination.~~

~~(b) Any investigation of a person's background.]~~ **(Deleted by amendment.)**

Sec. 14. (Deleted by amendment.)

Sec. 14.3. **Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:**

In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, or any grants or gifts, the Director shall, for the sole purpose of qualifying for any rebates, adopt regulations setting forth minimum standards of

efficiency for appliances that have not received an Energy Star label in accordance with the program established pursuant to 42 U.S.C. §§ 6294a et seq.

Sec. 14.7. **Notwithstanding the provisions of NRS 701.250, until such time as the regulations described in NRS 701.250 are adopted by the Nevada Energy Commissioner, any program for evaluating the energy consumption of residential property in this State:**

1. Must utilize the standards established by the American Building Rating Performance System of the Residential Energy Services Network or its successor; and

2. Must not assign a rating or score to any residential property in this State based on the energy consumption of that particular property.

Sec. 15. ~~[1.]~~ This ~~[section and section 14 of this act become]~~ **act becomes** effective upon passage and approval.

~~[2. Section 8 of this act becomes effective:~~

~~(a) Upon passage and approval for the purpose of taking any actions required by a licensee to provide written information concerning energy efficiency and conservation specified in that section; and~~

~~(b) On October 1, 2009, for all other purposes.~~

~~3. Sections 1, 11, 11.5, 12, 13 and 13.5 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.~~

~~4. Sections 2 to 5, inclusive, 6, 7, 9, 10 and 12.5 of this act become effective on October 1, 2009.]~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bill No. 242.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Senate Bill No. 242 be declared an emergency measure under the *Constitution* and placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 242.

Bill read third time.

Roll call on Senate Bill No. 242:

YEAS—41.

NAYS—None.

EXCUSED—Ohrenschall.

Senate Bill No. 242 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 309, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 876 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 10, which is attached to and hereby made a part of this report.

BONNIE PARNELL	MARK AMODEI
MARILYN DONDERO LOOP	TERRY CARE
JOHN HAMBRICK	VALERIE WIENER
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. 10.

AN ACT relating to crimes; revising provisions relating to the crime of stalking; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) ~~[This bill adds]~~ **Section 1 of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the immediate safety of a member of the person's family or household and which actually causes a victim to feel such fear. Sections 1, 3 and 4 of this bill add** text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated **,** ~~[or]~~ harassed **,** ~~[,]~~ ***or fearful for the immediate safety of a family or household member,*** and that actually causes the victim to feel terrorized, frightened, intimidated **,** ~~[or]~~ harassed ~~[,]~~ ***or fearful for the immediate safety of a family or household member,*** commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a misdemeanor.

(b) For any subsequent offense, is guilty of a gross misdemeanor.

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site ***,*** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) ***"Family or household member" means a spouse, a former spouse, a parent or other person who is related by blood or marriage or is or was actually residing with the person.***

(c) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

~~[(c)]~~ ***(d)*** "Network" has the meaning ascribed to it in NRS 205.4745.

~~[(d)]~~ ***(e)*** "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

~~[(e)]~~ ***(f) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.***

~~[(f)]~~ ***(g)*** "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that

person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site**,** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet

or network site **,** ~~[or]~~ electronic mail **,** ***text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Assemblywoman Parnell moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 309.

Motion carried by a constitutional majority.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Arberry moved that the Assembly do not recede from its action on Senate Bill No. 403, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Leslie, Arberry, and Gansert as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 403.

COMMUNICATIONS

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 22 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 22, which is entitled:

> AN ACT relating to trade practices; providing that certain persons may bring a civil action for various deceptive trade practices or other violations; providing that various actions related to certain persons with an inability to reasonably protect their rights or interests constitute a deceptive trade practice; allowing equitable relief for certain actions related to consumer fraud; revising provisions governing the State's system for the registration and protection of trademarks, trade names and service marks; making various changes regarding administration of the system by the Secretary of State; authorizing the Secretary of State to prescribe certain fees; prohibiting certain misleading and deceptive practices; providing remedies and penalties; and providing other matters properly relating thereto.

Assembly Bill 22 relates to deceptive trade practices. Although protecting consumers is a noble goal, this bill fundamentally alters the existing laws pertaining to deceptive trade practices in Nevada. For example, Assembly Bill 22 creates a private right of action for deceptive trade practices but shifts the traditional burden of proof in civil litigation. This would require the entity accused of a deceptive trade practice to prove their innocence, rather than requiring the accusing party to prove their case. Such a shift sets a dangerous precedent by altering the time-honored tradition of requiring a plaintiff to establish wrongdoing.

Additionally, this shift will dramatically increase the cost and frequency of litigation, particularly to defendants subject to these types of cases. For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 22.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 25 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 25, which is entitled:

> AN ACT relating to motor vehicles; prohibiting the waiver of certain examinations of applicants for a Nevada driver's license who are licensed in another jurisdiction but have not attained 21 years of age; providing an exception; establishing fees for the administration of certain examinations for noncommercial drivers' licenses; and providing other matters properly relating thereto.

Assembly Bill 25 would lower the age threshold from 25 to 21 years old to receive an exemption from testing requirements when a new Nevada resident receives a driver's license and

already possesses a valid license from another state. This change is appropriate. Unfortunately, this bill also imposes a new $25 fee for administering examinations for driver's licenses in the State of Nevada. It also imposes a new $10 fee for subsequent examinations to the same person. This would nearly triple the cost of a driver's license for a senior citizen in Nevada, and more than double the cost to someone under the age of 65.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 25.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 25, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 119 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you for filing within the constitutional time limit and without my approval, Assembly Bill 119, which is entitled:

> AN ACT relating to planning; requiring the comprehensive regional plan in certain counties to include provisions concerning the sustainability of certain water resources; and providing other matters properly relating thereto.

This bill makes changes to regional planning in Washoe County with respect to water use. Regional planning in Washoe County is handled by the Regional Planning Commission and its Governing Board, both of which are composed of various local government officials. Existing law mandates that regional planning in Washoe County address various aspects of conservation, including the use and protection of water resources. NRS § 278.0274(2). Moreover, regional planning must address the availability of natural resources, including water, before approving any expanded development. NRS § 278.0274(4). Assembly Bill 119 is redundant and unnecessary as current law already limits development in areas that do not have adequate water resources. Furthermore, the Regional Planning Commission and its Governing Board, as bodies of local government, are the entities that are best equipped to represent the citizens of Washoe County and make determinations on responsible expansion of development and the resulting impact on limited water resources. Regional planning should be handled by local governments, who are the most knowledgeable with respect to local planning. Assembly Bill 119 represents an unnecessary intrusion into a well-established regional planning program.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 119.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 23, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 121 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 121, which is entitled:

> AN ACT relating to health care facilities; requiring certain hospitals in larger counties to establish a staffing committee; requiring certain

health care facilities to make available to the Health Division of the Department of Health and Human Services a documented staffing plan: and providing other matters properly relating thereto.

This bill mandates that each hospital in larger counties form a staffing committee to establish a staffing plan that addresses certain items such as nurse staffing ratios. A hospital's license to operate is conditioned on the submission of such a staffing plan.

Although Assembly Bill 121 purports to address hospital staffing needs to ensure adequate patient care, the bill instead unnecessarily legislates in an area that should be addressed by medical professionals and health care management. Assembly Bill 121 could dramatically increase the costs of health care without a corresponding increase in levels and quality of service.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 121.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 135 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 135, which is entitled:

AN ACT relating to state obligations; requiring the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred; and providing other matters properly relating thereto.

Assembly Bill 135 would require any state agency or department issuing financial obligations to review the proposal with the State Treasurer and require the State Treasurer to issue a written report on the proposed obligations. This legislation provides an additional, unnecessary layer of government bureaucracy. While the goal of requiring additional review of certain government financial transactions is well intentioned, Assembly Bill 135 will likely have unintended consequences. For example, this bill will impede certain state agencies' ability to negotiate public-private partnerships for various projects. Also, the legislation is unclear as to the role the State Treasurer would play when the state enters into a design-build infrastructure project. These are critical contracts ensuring the taxpayers receive quality infrastructure at the best price possible, and I worry this legislation would restrict the state's ability to enter into such contracts.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 135.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 141 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 141, which is entitled:

AN ACT relating to mortgage lending; establishing a recovery fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers; and providing other matters properly relating thereto.

Assembly Bill 141 would create the Mortgage Education, Research and Recovery Fund to assist people defrauded by mortgage brokers, mortgage agents or mortgage bankers.

The collapse of the housing market in Nevada and nationally was clearly the first of many breakdowns in our economy that have led to our current fiscal struggles. Much of this collapse, however, was not due to fraud, but rather to poor lending practices within the scope of legal authority.

As such, I have signed Assembly Bill 149 and Assembly Bill 152 that came out of the 75th Legislative Session. These bills provide ample regulation pertaining to loans, as well as mediation for distressed homeowners. Although Assembly Bill 141 has laudable goals for the protection of consumers against fraudulent business activities, remedies are still available to victims through the court system, and the additional fees included in this legislation did not have the support of the industry.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 141.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 147 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 147, which is entitled:

AN ACT relating to purchasing by local governments; requiring local governments, under certain circumstances, to grant a preference to local bidders bidding on certain contracts for goods or services for a temporary period; and providing other matters properly relating thereto.

Assembly Bill 147 would require local governments to spend more money on public works and other contracts by giving a 5 percent preference to local companies. While there is a justifiable interest in promoting local companies to support our economy and help local workers, Nevada's local governments will be hard pressed to meet this additional fiscal burden on contracting. During this difficult economic time for the state and local governments, it's not appropriate to place this burden on local governments in this way.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 147.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 246 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 246 which is entitled:

AN ACT relating to wildlife; providing for the issuance of an apprentice hunting license; prohibiting an apprentice hunter from hunting in this State unless he is accompanied and directly supervised by a mentor hunter; providing an exception from requirements concerning the completion of a course in the responsibilities of hunters; requiring the Board of Wildlife Commissioners to establish a program for the issuance of additional big game tags to be known as "Dream Tags" authorizing the Board to establish an additional kind of drawing for the existing allotment of big game tags and wild turkey tags; providing a penalty; and providing other matters properly relating thereto.

Assembly Bill 246 would do several things, including create an apprentice hunting license, create the Silver State Tag Drawing program and establish a Dream Tag program to help aid wildlife and habitat conservation and restoration. These are all sound programs as concepts, and I support their general intent.

Unfortunately, I cannot endorse the unnecessary, burdensome structure created to implement the Dream Tag program. I am particularly concerned with the fact that the Dream Tag program would be administered by a specific non-profit corporation. I believe the Nevada Board of Wildlife Commissioners should have the flexibility to determine the best entity to administer the program. Assembly Bill 246 also creates an Advisory Committee to administer the funds generated by the Dream Tag Program. Again, I believe the Nevada Board of Wildlife Commissioners should have the authority to determine the best use of the avenues from the program. I am also concerned that adequate audits and oversight will not be utilized for the Advisory Committee, whereas the Board of Wildlife Commissioners and the Department of Wildfire are subject to routine audits. If these defects had been addressed in Assembly Bill 246, I would have been proud to sign the bill into law. However, the lack of flexibility and oversight in this bill, combined with unnecessary bureaucracy, has precluded my support.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 246.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 267 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 267, which is entitled:

AN ACT relating to the taxation of property; requiring certain golf courses assessed as open-space real property to be designated as open-space real property under applicable zoning ordinances; and providing other matters properly relating thereto.

Assembly Bill 267 is a bill that relates to the property tax assessment of golf courses. Under existing law, golf courses are assessed for property tax purposes as open-space real property. This bill does not change the existing tax assessment for most golf courses. However, it appears to target one particular business. It is bad public policy to enact legislation that singles out individual businesses.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 267.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 304 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 304, which is entitled:

> AN ACT relating to development; making various changes pertaining to the preservation of historic neighborhoods; revising certain provisions concerning the Southern Nevada Enterprise Community; requiring the City of Las Vegas and the Nevada Department of Transportation to cooperate to reopen a certain street; and providing other matters properly relating thereto.

Assembly Bill 304 would force the Nevada Department of Transportation, the City of Las Vegas and the Southern Nevada Regional Transportation Commission to design and construct a grade separation to open F Street in Las Vegas.

It is estimated that the total cost of this design and construction project could approach $70 million. Of that, $20 million is required from the City of Las Vegas. The bill states that "the Nevada Department of Transportation shall work with the City of Las Vegas to seek other sources for the remaining portion of the construction costs based on the bridge design documents, including federal funding *or additional revenue enhancements* provided by the Nevada Department of Transportation."[emphasis added] This mandate upon the state to find the funding could easily result in an additional tax levy to fund this project.

Aside from the cost and mandate upon local government, this bill dictates the construction of a project without going through the project prioritization process as approved by the 2007 Legislature. NDOT is required to prioritize projects based on a cost benefit ratio and work with the local Regional Transportation Commissions and local agencies. This project should go through the normal process outlined in state law.

The Interstate 15 widening project has been ongoing for more than a decade. The project went through the normal process of public hearings and public notifications prior to the start of construction, as well as the City of Las Vegas public process to modify its master plan to close F Street. Additionally, the project was approved in a public meeting by the Nevada Board of Transportation with F Street being closed. It is counterintuitive to add up to $70 million to the cost of this project now after it had been fully vetted, approved and built.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 304.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 307 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 307, which is entitled:

> AN ACT relating to property taxes; revising provisions governing the publication of certain information relating to property taxes for counties; and providing other matters properly relating thereto.

Assembly Bill 307 would eliminate the long-standing requirement that the secured tax roll of each county be published annually in newspapers of general circulation and instead allow for the information to be made available through the Internet.

This change poses several potential problems and could very well restrict access to this vital information for some members of the public. While the Internet is obviously a very popular communications medium and is readily accessible in urban areas, there are large portions of Nevada's rural areas where Internet access is not available or available only in dial-up form. This would make it particularly difficult for citizens in these areas to access this information. Levels of Internet use also vary greatly based on race and income levels. Overall, I believe that putting this information exclusively online would restrict access for certain populations, rather than enhance it.

As can easily been seen in the ongoing dispute between residents of Incline Village and the Washoe County government, property assessment and taxation remains an issue that's important to the people of Nevada. As such, providing that information to them, rather than forcing them to seek it out, remains the preferable manner of public disclosure. The continued publishing of these rolls in newspapers of general circulation is the best way to accomplish this noble goal.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 307.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 319 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 319, which is entitled:

> AN ACT relating to education; prescribing certain rights for school employees; revising provisions relating to certain licensed employees who are reinstated after dismissal from employment; and providing other matters properly relating thereto.

Assembly Bill 319 would implement a new procedure a school administrator would be forced to follow if he or she wanted to have a meeting with a school employee when that meeting may result in disciplinary action against the employee.

In an environment where school administrators are required to deal with a myriad of issues on a daily basis, creating a burdensome process for launching even the most preliminary inquiry into an allegation against an employee is unnecessary and would make it even more difficult for administrators to take the control of their schools necessary to ensure student success.

Requiring a 48-hour waiting period before any meeting could be held is also troubling. If someone had willingly done something inappropriate, giving that person a 48-hour window to "get their story straight" would seriously hinder any investigation that's necessary. It also establishes a barrier for an employee who would want to stand up and vigorously defend themselves against erroneous allegations, which also occur in school environments.

A 48-hour noticing requirement also removes any flexibility an administrator possesses to handle problems as they arise in their school, and more significantly, nip in the bud any problems before they escalate into larger and more cumbersome situations that expose the school to greater potential risk and liability.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 319.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 381 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 381, which is entitled:

> AN ACT relating to trade practices; making provisions in certain contracts that require arbitration void and unenforceable under certain circumstances; requiring certain disclosures by arbitral organizations; requiring certain disclosures in agreements to arbitrate; and providing other matters properly relating thereto.

Assembly Bill 381 changes the well-established practice in Nevada favoring the use of alternate dispute resolution procedures that allows the parties to a contract agree on a private, nonjudicial forum for the resolution of disputes.

Not only will this bill potentially affect existing contracts, but it will also likely force many disputes into our already overburdened judicial system when they could have been resolved through arbitration under existing law. This will drive up costs for all litigants and extend the length of disputes.

Overall, I believe this legislation makes unnecessary changes to a system that currently works as designed.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 381.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 446 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 446, which is entitled:

> AN ACT relating to state financial administration; revising certain requirements for the proposed budget of the Executive Department of the State Government; and providing other matters properly relating thereto.

Assembly Bill 446 would change the depth and scope of the performance measures contained within the Executive Budget the Governor delivers to the Legislature prior to each biennial session.

The budgetary methods used in evaluating the performance of state government need improvement, and this legislation would work to that end if the Department of Administration was given the tools necessary to implement the bill as it was intended. Unfortunately, the Department's fiscal note was ignored when the Legislature approved this bill and no appropriation was made to implement the requirements of this legislation. As such, I do not believe the Department of Administration could reasonably fulfill the requirements of the law with the spirit in which the bill is intended.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 446.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 458 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 458, which is entitled:

> AN ACT relating to public financial administration; creating the K-12 Public Education Stabilization Account; reallocating money reverted from the State Distributive School Account; revising the provisions governing certain tax abatements and credits available for economic development; reallocating a portion of the property taxes levied on property in a redevelopment area; revising the provisions requiring certain redevelopment agencies to set aside revenue for low-income housing; and providing other matters properly relating thereto.

Assembly Bill 458 is based on the laudable goal of creating a specific rainy day fund for K-12 education in Nevada. I agree that such a fund should be created. However, I disapprove of this bill because it does not create similar funds for other areas of state government. I proposed Assembly Bill 520, which would have created stabilization funds for not only K-12 education, but also for Higher Education, Health and Human Services and for general government services. I am disappointed that Assembly Bill 520 received only token attention from the Legislature. Because I feel that Assembly Bill 458 is not broad enough to adequately protect other areas of state government, I cannot approve this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 458.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 463 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 463, which is entitled:

> AN ACT relating to governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; providing certain exceptions; requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct

an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto.

Assembly Bill 463 would restrict state government's ability to hire consultants, including former state employees who now work in the private sector. While it is important to ensure there are strong protections against double dipping by state employees, this bill has two major problems.

First, granting the Legislative Branch of government, through the Interim Finance Committee, the right to oversee, approve or reject employment in the Executive Branch of government is an unwarranted encroachment on the autonomy of the Executive Branch and flies in the face of the separation of powers doctrine within the Nevada Constitution.

In addition, this bill appears to only impose these employment restrictions only on the Executive Branch of government. If there is something improper about hiring consultants or former state employees serving as consultants, this policy should apply to all areas of government, including the Legislature and the Nevada System of Higher Education.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 463.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 467 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 467, which is entitled:

AN ACT relating to governmental financial administration; revising provisions relating to the prevailing wage requirements; and providing other matters properly relating thereto.

Assembly Bill 467 would expand prevailing wage requirements for lease-purchase and installment-purchase agreements entered into by local governments. This legislation will have a significant impact on local governments, driving up the overall cost of entering into lease-purchase or installment-purchase agreements. It also will significantly increase the amount of staff time and expense in implementing the prevailing wage requirements. Washoe County, for example, submitted that including prevailing wage requirements increases the overall cost of a project by 10 percent to 18 percent. Also, prevailing wage requirements consume between 25 percent and 50 percent of a project manager's time. And while this Legislature has reallocated revenues from the counties to the state help balance the budget, this bill asks for the counties, other local govemn1ents and, by extension, taxpayers, to pay above market rate for infrastructure acquired in lease-purchase or installment-purchase.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 467.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 25, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 473 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 473, which is entitled:

> AN ACT relating to prisons; requiring the Department of Corrections to adopt regulations relating to medical emergencies and the provision of medical and dental services to prisoners; and providing other matters properly relating thereto.

This bill purports to impose certain requirements on the Director of the Department of Corrections with respect to medical treatment for inmates. In reality, the additional requirements set forth in this bill are already encompassed within existing law.

For example, the bill requires the Director to establish regulations governing staff training in medical emergency response and reporting. However, existing law already requires the Director to take "proper measures to protect the health and safety of staff and offenders in the institutions and facilities of the Department." NRS § 209.131 (7). The bill also requires the Director to maintain an inventory of essential medical and dental equipment at each institution or facility. However, the Director is already required to establish standards for personal hygiene of offenders as well as standards for medical and dental services at each institution and facility. NRS § 209.381(2).

Furthermore, the head of the Department of Corrections is the Board of Prison Commissioners. NRS § 209.101(2). The Board of Prison Commissioners is authorized to promulgate any necessary regulations to carry on the business of the Department of Corrections. NRS § 209.111(3). Pursuant to this global authority, the Board of Prison Commissioners is already authorized to enact any of the requirements set forth in Assembly Bill 473, should it deem fit to do so. In sum, Assembly Bill 473 is redundant and unnecessary legislation.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 473.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 491 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 491, which is entitled:

> AN ACT relating to civil actions; providing that a certain amount of money held in a bank that is likely to be exempt from execution is not subject to a writ of execution or garnishment; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto.

Assembly Bill 491 would put up additional barriers to small businesses collecting debts legitimately owed to them. Nevada's laws already provide strong protections for debtors, and the average rate of debt collection in Nevada is about 20 percent. Making the "wildcard exemption" of $1,000 automatic instead of requiring the debtor for file for the exemption will make it even more burdensome for businesses to collect what is rightfully theirs.

Of additional concern is the effect this legislation could have on the already tight credit market. Debtors already have many protections from collectors, including 75 percent of their weekly wages, the existing "wildcard exemption" and many personal items, among other

protections. Putting up additional barriers to creditors collecting their debts could lead to further restrictions on lending and hinder economic activity in Nevada.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 491.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 493 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 493, which is entitled:

> AN ACT relating to public retirement systems; requiring the Public Employees' Retirement Board to identify and report concerning investments of money from the Public Employees' Retirement System in certain scrutinized companies with certain business activities or connections to Iran's petroleum sector; and providing other matters properly relating thereto.

Assembly Bill 493 is a bill that relates to the Public Employees' Retirement System (PERS). PERS is a constitutionally created trust fund. It is administered by a board of trustees for the benefit of its members and beneficiaries. In 1996, the voters of Nevada approved an amendment to the Nevada Constitution that effectively prohibits the PERS Retirement Board from basing its investment decisions on social policies, no matter how admirable.

This bill requires the PERS board to study and identify certain investments in companies that transact business with the country of Iran. Due to the constitutional issues, the finding of this study, or any study of this nature, cannot impact the investment strategy with respect to funds invested on behalf of the PERS Board. Simply put, this study is not necessary.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 493.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Parnell moved to rescind the action whereby the Assembly adopted the report of the first conference committee for Assembly Bill No. 309.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 561.

The following Senate amendment was read:

Amendment No. 973.

AN ACT relating to reorganization of State Government; temporarily eliminating the Consumer Affairs Division of the Department of Business

and Industry; temporarily eliminating the position of Commissioner of Consumer Affairs; transferring certain duties and powers of the Division and the Commissioner; **providing for administration of the Uniform Debt-Management Services Act by the Commissioner of Mortgage Lending;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the chief of each division of the Department of Business and Industry to administer the provisions of law relating to his division, subject to the administrative supervision of the Director of the Department. (NRS 232.530) **Sections 3 and 4** of this bill temporarily eliminate the Consumer Affairs Division of the Department and the position of Commissioner of Consumer Affairs for the 2009-2011 biennium.

Existing law provides for the regulation of garages, garagemen and body shops by the Commissioner of Consumer Affairs and for the registration or licensure of garages, garagemen and body shops with the Department of Motor Vehicles. (NRS 487.530-487.570, 487.600-487.690, 597.480-597.590) **Sections 8-26** of this bill transfer authority for the regulation of garages, garagemen and body shops to the Department of Motor Vehicles and provide for the enforcement of those provisions by the Director of the Department. **Section 6** of this bill allows the Department of Motor Vehicles to impose a fine on a person who engages in certain deceptive trade practices relating to the sale or lease of a vehicle under certain circumstances. **Section 1** of this bill creates a revolving account administered by the Consumer's Advocate, to be used to pay the costs of conducting certain undercover investigations.

Existing law requires the Consumer Affairs Division to administer certain provisions of law governing credit service organizations. (NRS 598.701-598.787) **Sections 52-56** of this bill transfer the powers and duties of the Consumer Affairs Division relating to credit service organizations to the Division of Mortgage Lending of the Department of Business and Industry.

Sections 36-47 and 49 of this bill temporarily transfer the powers and duties of the Commissioner of Consumer Affairs relating to deceptive trade practices to the Attorney General.

Existing law requires the Consumer Affairs Division to administer certain provisions of law governing sellers of travel, sightseeing tours, organizations for buying goods or services, and dance studios and health clubs. (NRS 598.305-598.966) **Section 51** of this bill provides that complaints concerning the charges for a sightseeing tour may be directed to the Attorney General. **Sections 57-61** of this bill temporarily authorize the Attorney General solely to enforce certain provisions relating to organizations for buying goods or services at a discount, dance studios and health clubs.

Sections 63-75 of this bill authorize the Attorney General to enforce certain provisions relating to solicitation by telephone.

Section 76.5 of this bill amends Senate Bill No. 355 of this session to provide for the administration of the Uniform Debt-Management Services Act by the Commissioner of Mortgage Lending.

Section 80 of this bill restores the Consumer Affairs Division, the position of the Commissioner of Consumer Affairs and the powers and duties of the Division and the Commissioner relating to deceptive trade practices, sellers of travel, sightseeing tours, organizations for buying goods or services, and dance studios and health clubs effective July 1, 2011.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created a revolving account for the Bureau of Consumer Protection in the sum of $7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating any provision of sections 10 to 26, inclusive, of this act.

2. The Consumer's Advocate shall deposit the money in the revolving account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.

3. The Consumer's Advocate or his designee may:

(a) Sign all checks drawn upon the revolving account; and

(b) Make withdrawals of cash from the revolving account.

4. Payments made from the revolving account must be promptly reimbursed from the legislative appropriation, if any, to the Consumer's Advocate for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating any provision of sections 10 to 26, inclusive, of this act. The claim for reimbursement must be processed and paid as other claims against the State are paid.

5. The Consumer's Advocate shall:

(a) Approve any disbursement from the revolving account; and

(b) Maintain records of any such disbursement.

Sec. 2. NRS 228.300 is hereby amended to read as follows:

228.300 As used in NRS 228.300 to 228.390, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 228.302 to 228.308, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 232.510 is hereby amended to read as follows:

232.510 1. The Department of Business and Industry is hereby created.

2. The Department consists of a Director and the following:

(a) ~~[~~Consumer Affairs Division.

~~(b)]~~ Division of Financial Institutions.

~~[(c)]~~ ***(b)*** Housing Division.
~~[(d)]~~ ***(c)*** Manufactured Housing Division.
~~[(e)]~~ ***(d)*** Real Estate Division.
~~[(f)]~~ ***(e)*** Division of Insurance.
~~[(g)]~~ ***(f)*** Division of Industrial Relations.
~~[(h)]~~ ***(g)*** Office of Labor Commissioner.
~~[(i)]~~ ***(h)*** Taxicab Authority.
~~[(j)]~~ ***(i)*** Nevada Athletic Commission.
~~[(k)]~~ ***(j)*** Office of the Nevada Attorney for Injured Workers.
~~[(l)]~~ ***(k)*** Nevada Transportation Authority.
~~[(m)]~~ ***(l)*** Division of Mortgage Lending.
~~[(n)]~~ ***(m)*** Any other office, commission, board, agency or entity created or placed within the Department pursuant to a specific statute, the budget approved by the Legislature or an executive order, or an entity whose budget or activities have been placed within the control of the Department by a specific statute.

Sec. 4. NRS 232.520 is hereby amended to read as follows:

232.520 The Director:

1. Shall appoint a chief or executive director, or both of them, of each of the divisions, offices, commissions, boards, agencies or other entities of the Department, unless the authority to appoint such a chief or executive director, or both of them, is expressly vested in another person, board or commission by a specific statute. In making the appointments, the Director may obtain lists of qualified persons from professional organizations, associations or other groups recognized by the Department, if any. The ~~[chief of the Consumer Affairs Division is the Commissioner of Consumer Affairs, the]~~ chief of the Division of Financial Institutions is the Commissioner of Financial Institutions, the chief of the Housing Division is the Administrator of the Housing Division, the chief of the Manufactured Housing Division is the Administrator of the Manufactured Housing Division, the chief of the Real Estate Division is the Real Estate Administrator, the chief of the Division of Insurance is the Commissioner of Insurance, the chief of the Division of Industrial Relations is the Administrator of the Division of Industrial Relations, the chief of the Office of Labor Commissioner is the Labor Commissioner, the chief of the Taxicab Authority is the Taxicab Administrator, the chief of the Nevada Transportation Authority is the Chairman of the Authority, the chief of the Division of Mortgage Lending is the Commissioner of Mortgage Lending and the chief of any other entity of the Department has the title specified by the Director, unless a different title is specified by a specific statute.

2. Is responsible for the administration of all provisions of law relating to the jurisdiction, duties and functions of all divisions and other entities within the Department. The Director may, if he deems it necessary to carry out his administrative responsibilities, be considered as a member of the staff of any division or other entity of the Department for the purpose of budget

administration or for carrying out any duty or exercising any power necessary to fulfill the responsibilities of the Director pursuant to this subsection. This subsection does not allow the Director to preempt any authority or jurisdiction granted by statute to any division or other entity within the Department or to act or take on a function that would contravene a rule of court or a statute.

3. May:

(a) Establish uniform policies for the Department, consistent with the policies and statutory responsibilities and duties of the divisions and other entities within the Department, relating to matters concerning budgeting, accounting, planning, program development, personnel, information services, dispute resolution, travel, workplace safety, the acceptance of gifts or donations, the management of records and any other subject for which a uniform departmental policy is necessary to ensure the efficient operation of the Department.

(b) Provide coordination among the divisions and other entities within the Department, in a manner which does not encroach upon their statutory powers and duties, as they adopt and enforce regulations, execute agreements, purchase goods, services or equipment, prepare legislative requests and lease or use office space.

(c) Define the responsibilities of any person designated to carry out the duties of the Director relating to financing, industrial development or business support services.

4. May, within the limits of the financial resources made available to him, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the Department. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Department.

5. For any bonds which he is otherwise authorized to issue, may issue bonds the interest on which is not exempt from federal income tax or excluded from gross revenue for the purposes of federal income tax.

6. May, except as otherwise provided by specific statute, adopt by regulation a schedule of fees and deposits to be charged in connection with the programs administered by him pursuant to chapters 348A and 349 of NRS. Except as otherwise provided by specific statute, the amount of any such fee or deposit must not exceed 2 percent of the principal amount of the financing.

7. May designate any person within the Department to perform any of the duties or responsibilities, or exercise any of the authority, of the Director on his behalf.

8. May negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Department.

9. May establish a trust account in the State Treasury for depositing and accounting for money that is held in escrow or is on deposit with the Department for the payment of any direct expenses incurred by the Director in connection with any bond programs administered by the Director. The interest and income earned on money in the trust account, less any amount deducted to pay for applicable charges, must be credited to the trust account. Any balance remaining in the account at the end of a fiscal year may be:

(a) Carried forward to the next fiscal year for use in covering the expense for which it was originally received; or

(b) Returned to any person entitled thereto in accordance with agreements or regulations of the Director relating to those bond programs.

Sec. 5. NRS 482.5434 is hereby amended to read as follows:

482.5434 "Body shop" has the meaning ascribed to it in ~~[NRS 487.600.]~~ ***section 8 of this act.***

Sec. 6. NRS 482.554 is hereby amended to read as follows:

482.554 1. The Department may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms, or for the sale of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. ~~[Except as otherwise provided in this subsection, the]~~ ***The*** administrative remedy provided in this section is not exclusive and is ~~[intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act.]~~ ***in addition to any other remedy provided by law.*** The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 7. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 26, inclusive, of this act.

Sec. 8. ***"Body shop" means any place where the body of a motor vehicle is painted, fixed, repaired or replaced for compensation.***

Sec. 9. ***"Person authorizing repairs" means a person who uses the services of a garage. The term includes an insurance company, its agents or its representatives authorizing repairs to motor vehicles under a policy of insurance.***

Sec. 10. ***1. Each garageman shall display conspicuously in those areas of his place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:***

STATE OF NEVADA
REGISTERED GARAGE

THIS GARAGE IS REGISTERED WITH THE DEPARTMENT OF MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is REGISTERED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed $50. (cite to section 12 of this act)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 17 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 17 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or $100, whichever is less. (cite to section 13 of this act)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (cite to section 23 of this act)

FOR MORE INFORMATION PLEASE CONTACT:
THE DEPARTMENT OF MOTOR VEHICLES

2. Each body shop shall display conspicuously in those areas of its place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:

STATE OF NEVADA
LICENSED BODY SHOP

THIS BODY SHOP IS LICENSED BY THE DEPARTMENT OF MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is LICENSED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed $50. (cite to section 12 of this act)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 17 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 17 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or $100, whichever is less. (cite to section 13 of this act)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (cite to section 23 of this act)

FOR MORE INFORMATION PLEASE CONTACT:
THE DEPARTMENT OF MOTOR VEHICLES

3. The sign required pursuant to the provisions of subsection 1 or 2 must include a replica of the Great Seal of the State of Nevada. The Seal must be 2 inches in diameter and be centered on the face of the sign directly above the words "STATE OF NEVADA."

4. Any person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 11. ***Whenever any body shop or garageman accepts or assumes control of a motor vehicle for the purpose of making or completing any repair, the body shop or garageman shall comply with the provisions of sections 12 to 24, inclusive, of this act.***

Sec. 12. ***1. Except as otherwise provided in section 14 of this act, a person requesting or authorizing the repair of a motor vehicle that is more than $50 must be furnished a written estimate or statement signed by the person making the estimate or statement on behalf of the body shop or garageman indicating the total charge for the performance of the work necessary to accomplish the repair, including the charge for labor and all parts and accessories necessary to perform the work.***

2. If the estimate is for the purpose of diagnosing a malfunction, the estimate must include the cost of:

(a) Diagnosis and disassembly; and

(b) Reassembly, if the person does not authorize the repair.

3. The provisions of this section do not require a body shop or garageman to reassemble a motor vehicle if the body shop or garageman determines that the reassembly of the motor vehicle would render the vehicle unsafe to operate.

Sec. 13. ***Except as otherwise provided in section 14 of this act, if it is determined that additional charges are required to perform the repair authorized, and those additional charges exceed, by 20 percent or $100, whichever is less, the amount set forth in the estimate or statement required to be furnished pursuant to the provisions of section 12 of this act, the body shop or garageman shall notify the owner and insurer of the motor vehicle of the amount of those additional charges.***

Sec. 14. ***The person authorizing the repairs may waive the estimate or statement required pursuant to the provisions of section 12 of this act or the notification required by section 13 of this act by executing a written waiver of that requirement or notification. The waiver must be executed by the person authorizing the repairs at the time he authorizes those repairs.***

Sec. 15. ***If a body shop or garage performs repairs on a motor vehicle, the body shop or garage shall perform the repairs in accordance with any specifications of the manufacturer of the motor vehicle and the written estimate or statement of the cost of the repairs that is most recently agreed upon by the body shop or garage and the person authorizing the repairs.***

Sec. 16. ***1. An owner and the insurer of a motor vehicle who have been notified of additional charges pursuant to section 13 of this act shall:***

(a) Authorize the performance of the repair at the additional expense; or

(b) Without delay, and upon payment of the authorized charges, take possession of the motor vehicle.

2. Until the election provided for in subsection 1 has been made, the body shop or garageman shall not undertake any repair which would involve such additional charges.

3. If the owner or insurer of the motor vehicle elects to take possession of the motor vehicle but fails to take possession within 24 hours after the election, the body shop or garageman may charge for storage of the vehicle.

Sec. 17. ***1. Whenever the repair work performed on a motor vehicle requires the replacement of any parts or accessories, the body shop or garageman shall, at the request of the person authorizing the repairs or any person entitled to possession of the motor vehicle, deliver to the person all parts and accessories replaced as a result of the work done.***

2. The provisions of subsection 1 do not apply to parts or accessories which must be returned to a manufacturer or distributor under a warranty arrangement or which are subject to exchange, but the customer, on request, is entitled to be shown the warranty parts for which a charge is made.

Sec. 18. ***The body shop or garageman shall retain copies of any estimate, statement or waiver required by sections 12 to 24, inclusive, of this act as an ordinary business record of the body shop or garage, for a period of not less than 1 year after the date the estimate, statement or waiver is signed.***

Sec. 19. ***In every instance where charges are made for the repair of a motor vehicle by a garageman, the garageman making the repairs shall comply with the provisions of sections 12 to 24, inclusive, of this act. A garageman is not entitled to detain a motor vehicle by virtue of any common law or statutory lien, or otherwise enforce such a lien, or to sue on any contract for repairs made by him unless he has complied with the requirements of sections 12 to 24, inclusive, of this act.***

Sec. 20. ***A person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:***

1. Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the repair of a motor vehicle; or

2. Engages in any other acts prescribed by the Director by regulation as a deceptive trade practice.

Sec. 21. ***1. The Director may request an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 10 to 26, inclusive, of this act.***

2. The Bureau of Consumer Protection in the Office of the Attorney General may conduct an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 10 to 26, inclusive, of this act on its own motion or upon a request received pursuant to subsection 1. Nothing in this subsection requires the Bureau to conduct an undercover investigation.

Sec. 22. ***1. In addition to any other remedy or penalty, the Director may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice as set forth in section 20 of this act. The Director shall provide to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.***

2. All administrative fines collected by the Director pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

3. The administrative remedy provided in this section is not exclusive and is in addition to any other remedy provided by law. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 23. ***1. If charges are made for the repair of a motor vehicle, the garageman or body shop making the charges shall present to the person authorizing repairs or the person entitled to possession of the motor vehicle a statement of the charges setting forth the following information:***

(a) The name and signature of the person authorizing repairs;

(b) A statement of the total charges;

(c) An itemization and description of all parts used to repair the motor vehicle indicating the charges made for labor; and

(d) A description of all other charges.

2. Any person violating this section is guilty of a misdemeanor.

3. In the case of a motor vehicle registered in this State, no lien for labor or materials provided under NRS 108.265 to 108.367, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered and the legal owner of the motor vehicle. In all other cases, the notice must be made to the last known address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.

Sec. 24. ***1. On or before December 31 of each year, the Director shall prepare a report concerning garages, garagemen and body shops. The report must include:***

(a) The number of complaints relating to garages, garagemen and body shops made to and acted upon by the Department during the year for which the report is prepared;

(b) The number of investigations conducted during that year by the Department relating to garages, garagemen and body shops; and

(c) The outcome of each investigation specified in paragraph (b) and the extent to which any information relating to each investigation is subject to disclosure to the members of the public.

2. On or before December 31 of each odd-numbered year, the Director shall submit the report required pursuant to subsection 1 to the Legislative Commission. On or before December 31 of each even-numbered year, the Director of the Department shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(a) The Senate Standing Committee on Transportation; and

(b) The Assembly Standing Committee on Transportation.

Sec. 25. ***The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada on the complaint of the Director, or of any person allegedly aggrieved by a violation of the provisions of sections 12 to 24, inclusive, of this act, to enjoin any violation of the provisions of sections 12 to 24, inclusive, of this act.***

Sec. 26. ***Any person who knowingly violates any provision of sections 11 to 24, inclusive, of this act is liable, in addition to any other penalty or remedy which may be provided by law, to a civil penalty of not more than $500 for each offense, which may be recovered by civil action on complaint of the Director or the district attorney.***

Sec. 27. NRS 487.002 is hereby amended to read as follows:

487.002 1. The Advisory Board on Automotive Affairs, consisting of seven members appointed by the Governor, is hereby created within the Department.

2. The Governor shall appoint to the Board:

(a) One representative of the Department;

(b) One representative of licensed operators of body shops;

(c) One representative of licensed automobile wreckers;

(d) One representative of registered garagemen;

(e) One representative of licensed operators of salvage pools; and

(f) Two representatives of the general public.

3. After the initial terms, each member of the Board serves a term of 4 years. The members of the Board shall annually elect from among their number a Chairman and a Vice Chairman. The Department shall provide secretarial services for the Board.

4. The Board shall meet regularly at least twice each year and may meet at other times upon the call of the Chairman. Each member of the Board is entitled to the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Board shall:

(a) Study the regulation of garagemen, automobile wreckers and operators of body shops and salvage pools, including, without limitation, the registration or licensure of such persons and the methods of disciplinary action against such persons;

(b) Analyze and advise the Department relating to any consumer complaints ~~[provided to the Department by the Consumer Affairs Division of the Department of Business and Industry pursuant to NRS 598.985 or otherwise]~~ received by the Department concerning garagemen, automobile wreckers or operators of body shops or salvage pools;

(c) Make recommendations to the Department for any necessary regulations or proposed legislation pertaining to paragraph (a) or (b);

(d) On or before January 15 of each odd-numbered year, prepare and submit a report concerning its activities and recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the Legislature; and

(e) Perform any other duty assigned by the Department.

Sec. 28. NRS 487.530 is hereby amended to read as follows:

487.530 As used in NRS 487.530 to ~~[487.570,]~~ ***487.690,*** inclusive, ***and sections 8 to 26, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS ~~[487.535]~~ ***487.540*** to 487.550, inclusive, ***and sections 8 and 9 of this act*** have the meanings ascribed to them in those sections.

Sec. 29. NRS 487.555 is hereby amended to read as follows:

487.555 The provisions of NRS 487.530 to ~~[487.570,]~~ ***487.690,*** inclusive, ***and sections 8 to 26, inclusive, of this act*** do not apply to a service station that is exclusively engaged in the business of selling motor vehicle fuel, lubricants or goods unrelated to the repair of motor vehicles.

Sec. 30. NRS 487.563 is hereby amended to read as follows:

487.563 1. Each person who submits an application for registration pursuant to the provisions of NRS 487.560 shall file with the Department a bond in the amount of $5,000, with a corporate surety for the bond that is licensed to do business in this State. The form of the bond must be approved by the Attorney General and be conditioned upon whether the applicant conducts his business as an owner or operator of a garage without fraud or fraudulent representation and in compliance with the provisions of ***sections 10 to 26, inclusive, of this act and*** NRS 487.530 to ~~[487.570,]~~ ***487.567,*** inclusive ***.*** ~~[, and 597.480 to 597.590, inclusive.]~~

2. The bond must be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the garageman may:

(a) Apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make payment.

(b) Present to the Director an order of a court requiring the Director to pay to the person an amount of compensation from the bond. The Director shall inform the surety, and the surety shall then make payment.

4. In lieu of a bond required to be filed pursuant to the provisions of subsection 1, a person may deposit with the Department, pursuant to the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank or savings and loan association located in this State, which must indicate an account of an amount equal to the amount of the bond that would otherwise be required pursuant to this section and that the amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the garageman or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting that the Director release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. If a person fails to comply with an order of a court that relates to the repair of a motor vehicle, or fails to pay or otherwise discharge any final judgment rendered and entered against him or any court order issued and arising out of the repair of a motor vehicle in the operation of a garage, the Department shall revoke or refuse to renew the certificate of registration of the person who failed to comply with the order or satisfy the judgment.

7. The Department may reinstate or renew a certificate of registration that is revoked pursuant to the provisions of subsection 6 if the person whose certificate of registration is revoked complies with the order of the court.

8. A garageman whose registration has been revoked pursuant to the provisions of subsection 6 shall furnish to the Department a bond in the amount specified in subsection 1 before the reinstatement of his registration.

Sec. 31. NRS 487.564 is hereby amended to read as follows:

487.564 1. The Department may refuse to issue a registration or may suspend, revoke or refuse to renew a registration to operate a garage upon any of the following grounds:

(a) A false statement of a material fact in a certification for a salvage vehicle required pursuant to NRS 487.800.

(b) A false statement or certification for an inspection pursuant to NRS 487.800 which attests to the mechanical fitness or safety of a salvage vehicle.

(c) The Director determines that the garage or garageman has engaged in a deceptive trade practice or violated the provisions of ~~[NRS 597.480 to 597.590, inclusive.]~~ ***sections 10 to 26, inclusive, of this act.***

(d) Evidence of unfitness of the applicant or registrant pursuant to NRS 487.165.

(e) A violation of any regulation adopted by the Department governing the operation of a garage.

(f) A violation of any statute or regulation that constitutes fraud in conjunction with the repair of a motor vehicle or operation of a garage.

2. A person for whom a certificate of registration has been suspended or revoked pursuant to the provisions of this section, subsection 6 of NRS 487.563 or similar provisions of the laws of any other state or territory of the United States shall not be employed by, or in any manner affiliated with, the operation of a garage subject to registration in this State.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 32. NRS 487.600 is hereby amended to read as follows:

487.600 As used in NRS 487.600 to ~~[487.690,]~~ ***487.687,*** inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[487.602]~~ ***487.604*** to 487.608, inclusive, have the meanings ascribed to them in those sections.

Sec. 33. NRS 487.640 is hereby amended to read as follows:

487.640 1. No license may be issued to an operator of a body shop until he procures and files with the Department a good and sufficient bond in the amount of $10,000, with a corporate surety thereon licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct his business as an operator of a body shop without fraud or fraudulent representation, and in compliance with the provisions of ***sections 10 to 26, inclusive, of this act and*** NRS 487.600 to ~~[487.690,]~~ ***487.687,*** inclusive ***.*** ~~[, and 597.480 to 597.590, inclusive.]~~ The Department may, by agreement with any operator of a body shop who has been licensed by the Department for 5 years or more, allow a reduction in the amount of the bond of the operator, if the business of the operator has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than $1,000.

2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the operator of the body shop in violation of any of the provisions of ***sections 10 to 26, inclusive, of this act and*** NRS 487.600 to ~~[487.690,]~~ ***487.687,*** inclusive, ~~[and 597.480 to 597.590, inclusive,]~~ may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. In lieu of a bond an operator of a body shop may deposit with the Department, under the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. When a deposit is made pursuant to subsection 4, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which he is liable under the deposit.

7. A deposit made pursuant to subsection 4 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

8. Any money received by the Department pursuant to subsection 4 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 34. NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and ***sections 10 to 26, inclusive, of this act or*** NRS 487.600 to **[**~~487.690,~~**]** ***487.687,*** inclusive **. [**~~, or 597.480 to 597.590, inclusive.~~**]**

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of guilty or guilty but mentally ill by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(j) The display of evidence of unfitness for a license pursuant to NRS 487.165.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those

employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.600 to ~~[487.690,]~~ ***487.687,*** inclusive, or to determine the suitability of an applicant or a licensee for licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 35. NRS 487.690 is hereby amended to read as follows:

487.690 Any person who violates any of the provisions of ***sections 10 to 26, inclusive, of this act or*** NRS ~~[487.600]~~ ***487.530*** to 487.680, inclusive, is guilty of a misdemeanor.

Sec. 35.1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 35.2 to 35.95, inclusive, of this act.

Sec. 35.2. ***1. Each organization for buying goods or services at a discount regulated by the provisions of this section, NRS 598.840 to 598.930, inclusive, and sections 35.3, 35.4 and 35.5 of this act shall apply for registration on the form prescribed by the Division.***

2. At the time of application for registration, the applicant must pay to the Division an administrative fee of $25 and deposit the required security with the Division.

3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:

(a) Is not transferable or assignable; and

(b) Expires 1 year after it is issued.

4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.

Sec. 35.3. ***1. Each registrant shall deposit with the Division:***

(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;

(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or

(c) A certificate of deposit in a financial institution which is doing business in this State and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the registrant.

2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.

3. If the registrant deposits a bond, the registrant shall keep accurate records of the bond and the payments made on the premium. The records must be open to inspection by the Division during business hours. The registrant shall notify the Division not later than 30 days before the date of expiration of the bond and provide written proof of the renewal of the bond to the Division.

4. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.

5. A registrant may change the form of security which he has deposited with the Division. If the registrant changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the registrant as security for claims arising during the time the previous security was in effect.

6. If the amount of the deposited security falls below the amount required by this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act for that security, the registrant shall be deemed not to be registered as required by section 35.2 of this act for the purposes of this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.

Sec. 35.4. ***1. The security required to be deposited by a registrant pursuant to section 35.3 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.***

2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.

3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.

4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.

5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.

Sec. 35.5. ***1. If no claims have been filed against the security deposited with the Division pursuant to section 35.3 of this act within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the Commissioner shall release the security to the***

registrant and shall not audit any claims filed against the security thereafter by consumers.

2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.

3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.

Sec. 35.6. ***"Registrant" means a dance studio or a health club which is required to register and post security with the Division pursuant to the provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.7 to 35.95, inclusive, of this act.***

Sec. 35.7. ***1. Each dance studio and health club regulated by the provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.8, 35.9 and 35.95 of this act shall apply for registration on the form prescribed by the Division.***

2. At the time of application for registration, the applicant must pay to the Division an administrative fee of $25 and deposit the required security with the Division.

3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:

(a) Is not transferable or assignable; and

(b) Expires 1 year after it is issued.

4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.

Sec. 35.8. ***1. Each registrant shall deposit with the Division:***

(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;

(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or

(c) A certificate of deposit in a financial institution which is doing business in this State and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the registrant.

2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.

3. If the registrant deposits a bond, the registrant shall keep accurate records of the bond and the payments made on the premium. The records must be open to inspection by the Division during business hours. The registrant shall notify the Division not later than 30 days before the date of

expiration of the bond and provide written proof of the renewal of the bond to the Division.

4. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.

5. A registrant may change the form of security which he has deposited with the Division. If the registrant changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the registrant as security for claims arising during the time the previous security was in effect.

6. If the amount of the deposited security falls below the amount required by this chapter for that security, the registrant shall be deemed not to be registered as required by section 35.7 of this act for the purposes of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.

Sec. 35.9. ***1. The security required to be deposited by a registrant pursuant to section 35.8 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.***

2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.

3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.

4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.

5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.

Sec. 35.95. ***1. If no claims have been filed against the security deposited with the Division pursuant to section 35.8 of this act within 6 months after the registrant ceases to operate or his registration expires,***

whichever occurs later, the Commissioner shall release the security to the registrant and shall not audit any claims filed against the security thereafter by consumers.

2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.

3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.

Sec. 36. NRS 598.0925 is hereby amended to read as follows:

598.0925 1. Except as otherwise provided in this section, a person engages in a "deceptive trade practice" when, in the course of his business or occupation, he:

(a) Makes an assertion of scientific, clinical or quantifiable fact in an advertisement which would cause a reasonable person to believe that the assertion is true, unless, at the time the assertion is made, the person making it has possession of factually objective scientific, clinical or quantifiable evidence which substantiates the assertion; or

(b) Fails upon request of the **[**~~Commissioner or~~**]** Attorney General to produce within 6 working days the substantiating evidence in his possession at the time the assertion of scientific, clinical or quantifiable fact was made.

2. This section does not apply to general assertions of opinion as to quality, value or condition made without the intent to mislead another person.

Sec. 37. NRS 598.096 is hereby amended to read as follows:

598.096 When the **[**~~Commissioner, Director or~~**]** Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice, he may:

1. Request the person to file a statement or report in writing under oath or otherwise, on such forms as may be prescribed by the **[**~~Commissioner, Director or~~**]** Attorney General, as to all facts and circumstances concerning the sale or advertisement of property by the person, and such other data and information as the **[**~~Commissioner, Director or~~**]** Attorney General may deem necessary.

2. Examine under oath any person in connection with the sale or advertisement of any property.

3. Examine any property or sample thereof, record, book, document, account or paper as he may deem necessary.

4. Make true copies, at the expense of the **[**~~Consumer Affairs Division of the Department of Business and Industry,~~**]** ***Attorney General,*** of any record, book, document, account or paper examined pursuant to subsection 3, which copies may be offered into evidence in lieu of the originals thereof in actions brought pursuant to NRS 598.097 **.** **[**~~and 598.0979.~~**]**

5. Pursuant to an order of any district court, impound any sample of property which is material to the deceptive trade practice and retain the

property in his possession until completion of all proceedings as provided in NRS 598.0903 to 598.0999, inclusive. An order may not be issued pursuant to this subsection unless:

(a) The ~~[Commissioner, Director or]~~ Attorney General ~~[,]~~ and the court give the accused full opportunity to be heard; and

(b) The ~~[Commissioner, Director or]~~ Attorney General proves by clear and convincing evidence that the business activities of the accused will not be impaired thereby.

Sec. 38. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. ~~[Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.~~

~~2.]~~ The Attorney General may institute criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive. The Attorney General is not required to obtain leave of the court before instituting criminal proceedings pursuant to this subsection.

~~[3.]~~ ***2.*** If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

~~[4.]~~ ***3.*** If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 39. NRS 598.097 is hereby amended to read as follows:

598.097 If any person fails to cooperate with any investigation, as provided in NRS 598.096, or if any person fails to obey a subpoena issued by the ~~[Commissioner, Director or]~~ Attorney General pursuant to NRS 598.0963 ~~[or 598.0967, the Commissioner, Director or]~~ ***, the*** Attorney General may apply to any district court for equitable relief. The application must state reasonable grounds showing that the relief is necessary to terminate or prevent a deceptive trade practice. If the court is satisfied of the reasonable grounds, the court may:

1. Grant injunctive relief restraining the sale or advertisement of any property by the person.

2. Require the attendance of or the production of documents by the person, or both.

3. Grant other relief necessary to compel compliance by the person.

Sec. 40. (Deleted by amendment.)

Sec. 41. NRS 598.0974 is hereby amended to read as follows:

598.0974 A civil penalty must not be imposed against any person who engages in a deceptive trade practice pursuant to NRS 598.0903 to 598.0999, inclusive, in a civil proceeding brought by the ~~[Commissioner, Director or]~~ Attorney General if a fine has previously been imposed against that person by the Department of Motor Vehicles pursuant to NRS 482.554 ~~[,]~~ for the same act.

Sec. 42. NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 3 and in subsection 1 of NRS 598.0999, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive:

(a) In an action brought by the Attorney General, ~~[Commissioner or Director,]~~ must be deposited in the State General Fund and may only be used to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive.

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly persons or persons with disabilities; and

(b) Programs for the education of consumers which are directed toward elderly persons or persons with disabilities, law enforcement officers, members of the judicial system, persons who provide social services and the general public.

3. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive; or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the ~~[Consumer Affairs Division of the Department of Business and Industry or the]~~ Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 45. NRS 598.0983 is hereby amended to read as follows:

598.0983 1. Before instituting any action pursuant to NRS 598.0985 to 598.0997, inclusive, the district attorney shall ascertain whether or not the action in question is subject to the regulatory authority of any state agency, board, official or other authority established by virtue of the Nevada Revised Statutes except the regulatory or administrative authority provided to the

~~[Commissioner, Director or]~~ Attorney General by NRS 598.0903 to 598.0999, inclusive.

2. If the action is subject to such regulatory authority or any regulation adopted or any statutes administered by any state regulatory agency, board, official or other authority as provided in subsection 1, the district attorney shall not institute any proceeding under NRS 598.0985 to 598.0997, inclusive, until the state agency, board, official or other state regulatory authority has had reasonable time to investigate or take any appropriate action with respect to the alleged facts.

3. For the purposes of this section, a reasonable time has elapsed if no final action or other disposition is made of any matter otherwise falling within the provisions of NRS 598.0903 to 598.0999, inclusive, within 30 days after the matter is referred to or brought to the attention of any state agency, board, official or other regulatory authority except the ~~[Commissioner, Director or]~~ Attorney General.

4. This section does not prohibit the district attorney of any county from filing an action pursuant to the provisions of NRS 598.0985 to 598.099, inclusive, if the referral of any matters subject to the provisions of NRS 598.0903 to 598.0999, inclusive, to any state agency, board, official or other regulatory authority would cause immediate harm to the public of this state or endanger the public health, safety or welfare, and such facts are shown by affidavit or by verified complaint.

Sec. 46. NRS 598.0985 is hereby amended to read as follows:

598.0985 Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, and notwithstanding the enforcement powers granted to the ~~[Commissioner or Director]~~ ***Attorney General*** pursuant to NRS 598.0903 to 598.0999, inclusive, whenever the district attorney of any county has reason to believe that any person is using, has used or is about to use any deceptive trade practice, knowingly or otherwise, he may bring an action in the name of the State of Nevada against that person to obtain a temporary or permanent injunction against the deceptive trade practice.

Sec. 47. NRS 598.099 is hereby amended to read as follows:

598.099 Whenever the district attorney or the Attorney General has reason to believe that the delay caused by complying with the notice requirement of NRS 598.0987 or the requirements of subsection ~~[3]~~ ***2*** of NRS 598.0963 would cause immediate harm to the public of this state or endanger the public welfare, he may immediately institute an action for injunctive relief, including a request for a temporary restraining order, upon proof of specific facts shown by affidavit or by verified complaint or otherwise that such immediate harm will be or is likely to be caused by the delay. ~~[The Attorney General shall give written notice of the filing by him of such an action to the Commissioner or Director.]~~ The Nevada Rules of Civil Procedure pertaining to the issuance of temporary restraining orders govern all actions instituted pursuant to this section.

Sec. 47.5. NRS 598.0993 is hereby amended to read as follows:

598.0993 The court in which an action is brought pursuant to NRS **[**~~598.0979 and~~**]** 598.0985 to 598.099, inclusive, may make such additional orders or judgments as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any deceptive trade practice which violates any of the provisions of NRS 598.0903 to 598.0999, inclusive, but such additional orders or judgments may be entered only after a final determination has been made that a deceptive trade practice has occurred.

Sec. 48. NRS 598.0995 is hereby amended to read as follows:

598.0995 1. In proceeding pursuant to subsection ~~[3]~~ ***2*** of NRS 598.0963 or NRS 598.0987 to 598.0995, inclusive, the district attorney or Attorney General may accept an assurance of discontinuance with respect to any method, act or practice deemed to be a deceptive trade practice from any person who is engaged or is about to engage in the method, act or practice **. [**~~by following the procedures set forth in subsection 2 of NRS 598.0979.~~**]**

2. Any assurance made pursuant to subsection 1 must be in writing and must be filed with and subject to the approval of the district court in the county in which the alleged violator resides or has his principal place of business, or the district court in any county where any deceptive trade practice has occurred or is about to occur or the district court agreed to by the parties.

3. An assurance of discontinuance made pursuant to subsections 1 and 2 is not an admission of violation for any purpose **. [**~~, but is subject to the terms, limitations and conditions of NRS 598.0979.~~**]**

Sec. 49. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, upon a complaint brought by **[**~~the Commissioner, the Director,~~**]** the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive.

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, if the court finds that a person has willfully engaged in a deceptive trade practice, **[**~~the Commissioner, the Director,~~**]** the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, 598.100 to 598.2801, inclusive, ~~[598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive,]~~ ***598.475,*** 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, ~~[the Commissioner or]~~ the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 50. NRS 598.135 is hereby amended to read as follows:

598.135 The provisions of NRS 598.136, 598.137 and 598.138 do not apply to:

1. A contest of skill that does not involve the sale or lease of any goods, property or service.

2. ~~[A person who is licensed as a seller or a salesman pursuant to chapter 599B of NRS, and is engaging in an activity within the scope of that license.~~

~~3.]~~ A sale or purchase, or solicitation or representation made in connection with the sale or purchase, of goods from a catalog or of books, recordings, videocassettes, periodicals or other similar goods offered by a seller or membership group which is regulated by the Federal Trade Commission if the seller or membership group sends goods, pursuant to an agreement, to a customer or member for his inspection and, if unsatisfied after inspecting the goods, the customer or member is entitled to receive a full refund of the purchase price of the goods if the goods are returned undamaged to the seller or membership group.

~~[4.]~~ ***3.*** A solicitation, advertisement or promotion, or offer to extend credit, made by a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or of the Federal Government.

~~[5.]~~ ***4.*** A person licensed pursuant to chapter 463 of NRS and his employees.

Sec. 51. NRS 598.475 is hereby amended to read as follows:

598.475 1. In each advertisement for a sightseeing tour, a tour broker and a tour operator shall disclose in a clear and conspicuous manner the total price a customer is required to pay to take the sightseeing tour. Unless the inclusion of a fee or tax in the total price would violate a specific statute of this state or a federal statute or regulation, the total price must include, without limitation, all fees, taxes and other charges that a customer for a sightseeing tour is required to pay to take the sightseeing tour. If a fee or tax cannot be included in the total price because its inclusion would violate a specific statute of this state or a federal statute or regulation, the tour broker or tour operator, as applicable, shall disclose in a clear and conspicuous manner that the fee or tax is not included in the total price and must be paid in addition to the total price.

2. A tour broker and a tour operator shall not charge a customer for a sightseeing tour an amount that exceeds the sum of:

(a) The total price for the sightseeing tour which is disclosed in an advertisement for the sightseeing tour; and

(b) Any fee or tax that is not included in the total price for the sightseeing tour because its inclusion would violate a specific statute of this state or a federal statute or regulation.

3. On a billing invoice or receipt given to a customer for a sightseeing tour, a tour broker and a tour operator shall provide a clear and conspicuous notice which ~~[~~:

~~(a) Sets~~] ***sets*** forth the provisions of subsection 2 **.** [~~;~~

~~(b) States that complaints concerning the charges for a sightseeing tour may be directed to the Division; and~~

~~(c) Provides a telephone number for the Division.~~]

4. If a tour operator issues or causes to be issued a coupon or other indicia of discount or special promotion, the tour operator shall honor the coupon or other indicia in good faith unless:

(a) The coupon or other indicia sets forth a date of expiration that is clearly legible; and

(b) The date of expiration has passed.

5. The failure of a tour broker or tour operator to comply with a provision of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

6. As used in this section:

(a) "Advertise" or "advertisement" means the attempt by publication, dissemination, solicitation or circulation to induce, directly or indirectly, any person to take a sightseeing tour.

(b) "Sightseeing tour" means an excursion that:

(1) Has a duration of 24 hours or less;

(2) Travels to one or more points of interest; and

(3) Is conducted using one or more means of motorized conveyance, including, without limitation, an airplane, bus, helicopter, tour boat or touring raft.

(c) "Tour broker" means a person who, in this State, advertises a sightseeing tour for a tour operator and collects money from customers for a sightseeing tour.

(d) "Tour operator" means a person who, in this State, engages in the business of providing a sightseeing tour to customers.

Sec. 52. NRS 598.706 is hereby amended to read as follows:

598.706 "Commissioner" means the Commissioner of [~~the Consumer Affairs Division~~] ***Mortgage Lending*** of the Department of Business and Industry.

Sec. 53. NRS 598.711 is hereby amended to read as follows:

598.711 "Division" means the [~~Consumer Affairs~~] Division of ***Mortgage Lending of*** the Department of Business and Industry.

Sec. 54. NRS 598.716 is hereby amended to read as follows:

598.716 "Registrant" means a credit service organization [~~, an organization for buying goods or services at a discount, a dance studio or a health club~~] which is required to register and post security with the Division pursuant to the provisions of this chapter.

Sec. 55. NRS 598.721 is hereby amended to read as follows:

598.721 1. Each credit service organization [~~, organization for buying goods or services at a discount, dance studio and health club~~] regulated by the provisions of this chapter shall apply for registration on the form prescribed by the Division.

2. At the time of application for registration, the applicant must pay to the Division an administrative fee of $25 and deposit the required security with the Division.

3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:

(a) Is not transferable or assignable; and

(b) Expires 1 year after it is issued.

4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.

Sec. 56. NRS 598.741 is hereby amended to read as follows:

598.741 As used in NRS 598.741 to 598.787, inclusive, unless the context otherwise requires:

1. "Buyer" means a natural person who is solicited to purchase or who purchases the services of an organization which provides credit services.

2. "Commissioner" means the Commissioner of ~~[Consumer Affairs.]~~ ***Mortgage Lending.***

3. "Division" means the ~~[Consumer Affairs]~~ Division of ***Mortgage Lending of*** the Department of Business and Industry.

4. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family or household purposes.

5. "Organization":

(a) Means a person who, with respect to the extension of credit by others, sells, provides or performs, or represents that he can or will sell, provide or perform, any of the following services, in return for the payment of money or other valuable consideration:

(1) Improving a buyer's credit record, history or rating.

(2) Obtaining an extension of credit for a buyer.

(3) Providing counseling or assistance to a person in establishing or effecting a plan for the payment of his indebtedness, unless that counseling or assistance is provided by and is within the scope of the authorized practice of a debt adjuster licensed pursuant to chapter 676 of NRS.

(4) Providing advice or assistance to a buyer with regard to subparagraph (1) or (2).

(b) Does not include:

(1) A person organized, chartered or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an officer or agency of this state or the United States.

(2) A bank, credit union or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance

Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(3) A person licensed as a real estate broker by this state where the person is acting within the course and scope of that license, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(4) A person licensed to practice law in this state where the person renders services within the course and scope of his practice as an attorney at law, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(5) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of such regulation.

(6) A person licensed as a debt adjuster pursuant to chapter 676 of NRS.

(7) A reporting agency.

6. "Reporting agency" means a person who, for fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating information regarding the credit of or other information regarding consumers to furnish consumer reports to third parties, regardless of the means or facility of commerce used to prepare or furnish the consumer reports. The term does not include:

(a) A person solely for the reason that he conveys a decision regarding whether to guarantee a check in response to a request by a third party;

(b) A person who obtains or creates a consumer report and provides the report or information contained in it to a subsidiary or affiliate; or

(c) A person licensed pursuant to chapter 463 of NRS.

Sec. 57. NRS 598.840 is hereby amended to read as follows:

598.840 As used in NRS 598.840 to 598.930, inclusive, unless the context otherwise requires:

1. "Affiliate organization" means an organization for buying goods or services at a discount that:

(a) Is a subsidiary of a parent business entity; or

(b) Operates under a franchise granted by a parent business entity.

2. "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day and Christmas Day.

3. "Buyer" means a person who purchases by contract a membership in an organization for buying goods or services at a discount.

4. ~~[~~"Commissioner" means the Commissioner of the Consumer Affairs Division.~~

5. "Consumer Affairs Division" means the Consumer Affairs Division of the Department of Business and Industry.~~

~~6.]~~ "Franchise" has the meaning ascribed to it in 16 C.F.R. § 436.2, as amended or substituted in revision by the Federal Trade Commission.

~~[7.]~~ ***5.*** "Organization for buying goods or services at a discount" or "organization" means a person who, for a consideration, provides or claims to provide a buyer with the ability to purchase goods or services at a price which is represented to be lower than the price generally charged in the area. The term includes, without limitation, an affiliate organization.

~~[8.]~~ ***6.*** "Parent business entity" or "parent" means any business entity that, directly or indirectly, has owned, operated, controlled or granted franchises to, in any combination thereof, at least 15 organizations or affiliate organizations for a consecutive period of 5 years or more.

~~[9.]~~ ***7.*** "Subsidiary" means an organization for buying goods or services at a discount that is owned, operated or controlled, either directly or indirectly or in whole or in part, by a parent business entity.

Sec. 57.5. NRS 598.840 is hereby amended to read as follows:

598.840 As used in NRS 598.840 to 598.930, inclusive, ***and sections 35.2 to 35.5, inclusive, of this act,*** unless the context otherwise requires:

1. "Affiliate organization" means an organization for buying goods or services at a discount that:

(a) Is a subsidiary of a parent business entity; or

(b) Operates under a franchise granted by a parent business entity.

2. "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day and Christmas Day.

3. "Buyer" means a person who purchases by contract a membership in an organization for buying goods or services at a discount.

4. ***"Commissioner" means the Commissioner of the Consumer Affairs Division.***

5. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

6. "Franchise" has the meaning ascribed to it in 16 C.F.R. § 436.2, as amended or substituted in revision by the Federal Trade Commission.

~~[5.]~~ ***7.*** "Organization for buying goods or services at a discount" or "organization" means a person who, for a consideration, provides or claims to provide a buyer with the ability to purchase goods or services at a price which is represented to be lower than the price generally charged in the area. The term includes, without limitation, an affiliate organization.

~~[6.]~~ ***8.*** "Parent business entity" or "parent" means any business entity that, directly or indirectly, has owned, operated, controlled or granted franchises to, in any combination thereof, at least 15 organizations or affiliate organizations for a consecutive period of 5 years or more.

~~[7.]~~ ***9. "Registrant" means an organization for buying goods or services at a discount which is required to register and post security with the Division pursuant to the provisions of NRS 598.840 to 598.930, inclusive, and sections 35.2 to 35.5, inclusive, of this act.***

10. "Subsidiary" means an organization for buying goods or services at a discount that is owned, operated or controlled, either directly or indirectly or in whole or in part, by a parent business entity.

Sec. 58. NRS 598.875 is hereby amended to read as follows:

598.875 Each contract for membership in an organization must:

1. Be in writing, legible and have all spaces filled in before the buyer signs it;

2. Be in the language in which the sales presentation was given;

3. Contain the addresses of the buyer and the organization;

4. Be given to the buyer when he signs it;

5. ~~[~~Disclose that the security required by NRS 598.726, 598.851 and, if applicable, NRS 598.855 has been obtained and deposited with the Consumer Affairs Division;

~~6.]~~ Specify the term of the membership of the buyer, which may not be measured by the buyer's life;

~~[7.]~~ ***6.*** Clearly specify the buyer's right to cancel the contract pursuant to NRS 598.885;

~~[8.]~~ ***7.*** Clearly specify the buyer's right to rescind the contract and to be given a refund pro rata pursuant to NRS 598.910 and the conditions and limitations on that right;

~~[9.]~~ ***8.*** Clearly specify the buyer's right to a refund on the purchase of goods pursuant to NRS 598.895 and the conditions and limitations on that right; and

~~[10.]~~ ***9.*** Clearly specify whether or not the buyer is given any other rights to a refund on the purchase of goods or services and, if so, any conditions and limitations on those rights.

Sec. 59. NRS 598.930 is hereby amended to read as follows:

598.930 1. The remedies, duties and prohibitions of NRS 598.840 to 598.930, inclusive, are not exclusive and are in addition to any other remedies provided by law.

2. Any violation of NRS ~~[~~598.851~~]~~ ***598.870*** to 598.900, inclusive, constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 60. NRS 598.948 is hereby amended to read as follows:

598.948 Each contract between the buyer and the dance studio or health club must:

1. Be in writing, legible and have all spaces filled in before the buyer signs it;

2. Be in the language in which the sales presentation was given;

3. Contain the addresses of the buyer and the studio or club;

4. Be given to the buyer when he signs it;

5. ~~[~~Disclose whether security has been obtained and deposited with the Division pursuant to NRS 598.726;

~~6.]~~ Specify the term of membership of the buyer, which must not be measured by the life of the buyer;

~~[~~7.~~]~~ ***6.*** Clearly specify the right of the buyer to cancel the contract pursuant to NRS 598.950;

~~[~~8.~~]~~ ***7.*** Not contain a clause by which the contract is automatically renewed; and

~~[~~9.~~]~~ ***8.*** Specify the number of lessons and the cost of each lesson, if the contract is for dance lessons.

Sec. 61. NRS 598.966 is hereby amended to read as follows:

598.966 1. The remedies, duties and prohibitions of NRS 598.940 to 598.966, inclusive, are not exclusive and are in addition to any other remedies provided by law.

2. Any violation of NRS ~~[~~598.944~~]~~ ***598.948*** to 598.958, inclusive, constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 62. (Deleted by amendment.)

Sec. 63. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. ~~[~~"Commissioner" means the Commissioner of Consumer Affairs.

3.~~]~~ "Consumer" means a person who is solicited by a seller or salesman.

~~[~~4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

5.~~]~~ ***3.*** "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

~~[~~6.~~]~~ ***4.*** "Goods or services" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value.

~~[~~7.~~]~~ ***5.*** "Premium" includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

~~[~~8.~~]~~ ***6.*** "Recovery service" means a business or other practice whereby a person represents or implies that he will, for a fee, recover any amount of money that a consumer has provided to a seller or salesman pursuant to a solicitation governed by the provisions of this chapter.

~~[~~9.~~]~~ ***7.*** "Salesman" means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

➥ except that a person is not a salesman if his only function is to identify a consumer by name only and he immediately refers the consumer to a salesman.

~~[10.]~~ ***8.*** Except as otherwise provided in subsection ~~[11,]~~ ***9,*** "seller" means any person who, on his own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salesmen or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) That the product offered for sale is the services of a recovery service; or

(6) That the consumer will receive a premium or goods or services if he makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost

that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

~~[11.]~~ ***9.*** "Seller" does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or $50, whichever is less; or

(2) The consumer provides a donation of $50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, videocassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

(2) Includes the business address of the person;

(3) Includes at least 24 pages of written material and illustrations;

(4) Is distributed in more than one state; and

(5) Has an annual circulation by mailing of not less than 250,000.

(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.

(m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.

(n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.

(o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his license.

(p) A person soliciting the sale of services provided by a video service provider subject to regulation pursuant to chapter 711 of NRS.

(q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than $100 that is to be delivered to one address. As used in this paragraph, “agricultural products” has the meaning ascribed to it in NRS 587.290.

(r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:

(1) Goods are displayed and offered for sale or services are offered for sale and provided at the person’s business establishment; and

(2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.

(s) A person soliciting only the sale of telephone answering services to be provided by the person or his employer.

(t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq.; and

(2) The registration or license has not expired or been suspended or revoked.

(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:

(1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 64. NRS 599B.025 is hereby amended to read as follows:

599B.025 ~~[1.]~~ The Attorney General may adopt regulations establishing standards of conduct for ~~[registrants]~~ ***sellers and salesmen*** and any other regulations necessary to exercise the powers and carry out the duties of the Attorney General as set forth in this chapter.

~~[2. The Commissioner and the Attorney General shall jointly adopt rules of practice establishing a procedure for processing complaints received concerning sellers and salesmen, whether or not the sellers and salesmen are registered pursuant to this chapter. The rules of practice:~~

~~(a) Must provide for the sharing of information and for the initial review of complaints by the Attorney General before mediation by the Commissioner; and~~

~~(b) May provide procedures for mediation by the Commissioner after initial review by the Attorney General.~~

~~3. The Commissioner may adopt rules of practice necessary to administer and carry out the provisions of this chapter pertaining to the registration of sellers and salesmen. The rules of practice must not restrict the powers and duties of the Attorney General as set forth in this chapter.~~**]**

Sec. 65. NRS 599B.150 is hereby amended to read as follows:

599B.150 1. No salesman may be associated with or employed by more than one seller at the same time.

2. A seller shall cooperate fully with the **[**~~Commissioner~~**]** ***Attorney General*** in any investigation made by him concerning an alleged violation of the provisions of this chapter by a salesman.

Sec. 66. NRS 599B.160 is hereby amended to read as follows:

599B.160 If any change is made to any script, outline, presentation or sales or donation information or literature used by a **[**~~registrant~~**]** ***seller or salesman*** in connection with any solicitation, the new or revised material must be submitted by the **[**~~registrant~~**]** ***seller or salesman*** to the **[**~~Division~~**]** ***Attorney General*** before such material is used.

Sec. 67. NRS 599B.170 is hereby amended to read as follows:

599B.170 1. During any solicitation or sales presentation made by him, or in any correspondence written in connection with a sale, a salesman shall:

(a) Identify himself by stating his true name;

(b) Identify the seller by whom he is employed; and

(c) State the purpose of his call.

2. During any solicitation or sales presentation made by him, or in any correspondence written in connection with a **[**~~registrant, a registrant~~**]** ***seller or salesman, a seller or salesman*** shall disclose to a consumer:

(a) Any charge, including the amount associated with the use of any premium being offered;

(b) Any material restriction, requirement, condition, limitation or exception which is associated with the use of the premium; and

(c) Any charge connected with the sale of any goods or services.

3. A **[**~~registrant~~**]** ***seller or salesman*** shall not characterize a premium as a prize unless the consumer may receive the premium free of charge and without making any purchase.

4. A **[**~~registrant~~**]** ***seller or salesman*** shall inform each consumer of the time within which any premium will be delivered.

5. A **[**~~registrant~~**]** ***seller or salesman*** shall not make any representation of the number of premiums to be awarded in a sales promotion unless the representation accurately reflects the actual number of premiums that will be awarded.

Sec. 68. NRS 599B.180 is hereby amended to read as follows:

599B.180 If a seller expressly or impliedly represents to any consumer, directly or through a salesman, that the consumer is or may be eligible to receive any gift, premium, bonus or prize, however denominated, the seller shall:

1. Submit to the ~~[Division]~~ ***Attorney General*** a statement setting forth, for each item mentioned:

(a) A description of the item.

(b) The value or worth of the item and the basis for the valuation.

(c) All terms and conditions a consumer must satisfy in order to receive the item. The statement must be accompanied by a copy of the written statement of terms and conditions provided to consumers pursuant to subsection 3.

(d) If they are ascertainable, the odds, for a given consumer, of receiving the item.

(e) If a consumer is to receive fewer than all the items described by the seller:

(1) The manner in which the seller decides which item a given consumer is to receive.

(2) If they are ascertainable, the odds, for a given consumer, of receiving each item described.

(3) The name and address of each person who has, during the preceding 12 months or any portion thereof in which the seller has done business, received the item having the greatest value and the item with the smallest odds of being received.

2. Provide the following information to the consumer at the time of the solicitation:

(a) The complete address of the location and the telephone number from which the consumer is being called and, if different, the complete address of the principal location at which the seller does business.

(b) The information required by paragraphs (a) and (c) of subsection 1.

(c) If the seller elects to inform the consumer of the value or worth of the item, the information must be identical to that submitted pursuant to paragraph (b) of subsection 1, in exactly the form submitted.

(d) If the consumer is to receive fewer than all the items described by the seller, the information required by subparagraph (1) of paragraph (e) of subsection 1.

3. Advise the consumer, at the time of the solicitation, that he may obtain, without cost, a written statement of the terms and conditions he must satisfy in order to receive the item. If the consumer so requests, the seller shall send him such a statement, by mail, without cost to the consumer.

Sec. 69. NRS 599B.185 is hereby amended to read as follows:

599B.185 If a ~~[registrant]~~ ***seller or salesman*** solicits the sale of investments or opportunities for investment, he shall, during the oral sales presentation and in writing, inform the prospective consumer:

1. Of the manner in which the price of the offered item is determined;

2. Whether the ~~[registrant]~~ ***seller or salesman*** or his employer receives any financial advantage other than an agent's or brokerage fee; and

3. Of the amount of any agent's or brokerage fee.

Sec. 70. NRS 599B.187 is hereby amended to read as follows:

599B.187 1. A ~~[registrant]~~ ***seller or salesman*** shall not use a chance promotion unless each consumer is entitled to participate in the promotion without charge or payment of any kind.

2. A ~~[registrant]~~ ***seller or salesman*** shall, before describing any item offered in a chance promotion, inform each consumer that he may participate in the promotion without any obligation to purchase any goods or services.

3. If a consumer specifically requests the information and the odds are ascertainable, the ~~[registrant]~~ ***seller or salesman*** shall orally disclose the odds of receiving each item offered in the chance promotion. If such a request is made but the odds are not ascertainable, the ~~[registrant]~~ ***seller or salesman*** shall disclose the manner in which the items offered in the promotion are awarded.

4. A ~~[registrant]~~ ***seller or salesman*** shall not require or request the payment of any money as a condition of obtaining any premium offered in a chance promotion.

5. A ~~[registrant]~~ ***seller or salesman*** shall not require a person to perform any action or to supply any information to participate in a chance promotion, except that the ~~[registrant]~~ ***seller or salesman*** may require the person to submit a written request sent by first-class mail. A ~~[registrant]~~ ***seller or salesman*** may not require the person to supply any information other than his name, address and a list of the premiums available in the chance promotion.

6. If a premium is offered in a chance promotion, the ~~[registrant]~~ ***seller or salesman*** shall provide any such premium to each person who does not purchase goods or services from the ~~[registrant]~~ ***seller or salesman*** upon the same terms, including time of delivery, as are provided to the persons who do purchase goods or services from the ~~[registrant.]~~ ***seller or salesman.***

7. If requested, a ~~[registrant]~~ ***seller or salesman*** shall inform each person who does not purchase goods or services from the ~~[registrant]~~ ***seller or salesman*** of the manner in which the person can participate in the chance promotion.

8. Any ~~[registrant]~~ ***seller or salesman*** who uses a chance promotion shall:

(a) Furnish to the ~~[Division]~~ ***Attorney General*** information establishing the financial ability of the ~~[registrant]~~ ***seller or salesman*** to award all premiums to be given in the promotion.

(b) Award all premiums included in the promotion to bona fide recipients within 12 months after the promotion begins.

(c) Deliver the premiums to bona fide recipients within a reasonable time.

Sec. 71. NRS 599B.190 is hereby amended to read as follows:

599B.190 1. Except as otherwise provided in subsection 3, a person who purchases goods or services or makes a donation pursuant to a solicitation governed by this chapter must be given a refund or replacement, at his option, if:

(a) The goods or services are defective, are not as represented or if any item described pursuant to NRS 599B.180 is not received as promised; and

(b) He returns the unused goods, if any, or makes a written request for the refund or replacement within 30 days after he receives:

(1) The goods or services; or

(2) Any item described pursuant to NRS 599B.180,

➥ whichever is received later. A return or request is timely if shipment is made or the request is postmarked, properly addressed and postage prepaid, within the time provided by this paragraph.

2. A ~~[registrant]~~ ***seller or salesman*** who receives a written request for a refund or replacement shall not require prior authorization for a return of goods and shall give a refund or replacement within 14 days after receipt of the request.

3. If a consumer of goods returns only a portion of the goods, the refund or replacement required by subsection 1 may be prorated accordingly.

4. The refund or replacement required by subsection 1 must be given by the seller, regardless of whether payment for the goods or services is made to the seller or some other person.

5. Except for any proration permitted by subsection 3, a ~~[registrant]~~ ***seller or salesman*** shall not impose any charge in connection with a return of goods or a request for a refund or replacement.

6. If a ~~[registrant]~~ ***seller or salesman*** receives payment by credit card, he may issue a refund in the form of a credit to the credit card account of the consumer in lieu of a cash refund.

7. Within 3 days after any purchase of goods or services or upon delivery of the goods or services, whichever is later, or within 3 days after receiving a donation, the seller shall provide the consumer with a written summary of the provisions of this section. The summary must:

(a) ~~[Be made in a form prescribed by the Division.~~

~~(b)]~~ Include the address to which returned goods or a request for refund may be sent.

~~[(c)]~~ ***(b)*** Be accompanied by a statement containing the information required by paragraph (e) of subsection 1 of NRS 599B.180, if the provisions of that section apply.

~~[(d)]~~ ***(c)*** If the provisions of paragraph (c) of subsection 2 of NRS 599B.180 apply, be accompanied by a statement concerning the number of persons who have, during the 12 months preceding the solicitation or any portion thereof in which the seller has done business, received the item having the greatest value and the item with the smallest odds of being received.

➥ A summary is timely if it is postmarked, properly addressed and postage prepaid, within the time provided by this subsection.

Sec. 72. NRS 599B.200 is hereby amended to read as follows:

599B.200 A salesman or seller shall not disclose the name or address of any person who purchases goods or services pursuant to a solicitation governed by this chapter. Nothing in this section prohibits the disclosure of this information to:

1. Any person employed by or associated with the seller; ***or***

2. ~~[The Commissioner or any employee of the Division; or~~

~~3.]~~ Any law enforcement officer or agency that requires the information for investigative purposes.

Sec. 73. NRS 599B.210 is hereby amended to read as follows:

599B.210 1. Every ~~[registrant,]~~ ***seller or salesman,*** other than a ~~[registrant]~~ ***seller or salesman*** incorporated in this state, shall file with the Secretary of State an irrevocable consent appointing the Secretary of State as his agent to receive service of any lawful process in any action or proceeding against him arising pursuant to this chapter. Any lawful process against the ~~[registrant]~~ ***seller or salesman*** served upon the Secretary of State as provided in subsection 2 has the same force and validity as if served upon the ~~[registrant]~~ ***seller or salesman*** personally.

2. Service of process authorized by subsection 1 must be made by filing with the Secretary of State:

(a) Two copies of the process. The copies must include a specific citation to the provisions of this section. The Secretary of State may refuse to accept such service if the proper citation is not included in each copy.

(b) A fee of $10.

➥ The Secretary of State shall forthwith forward one copy of the process by registered or certified mail prepaid to the ~~[registrant,]~~ ***seller or salesman,*** or in the case of a ~~[registrant]~~ ***seller or salesman*** organized under the laws of a foreign government, to the United States manager or last appointed United States general agent of the ~~[registrant,]~~ ***seller or salesman,*** giving the day and the hour of the service.

3. Service of process is not complete until the copy thereof has been mailed and received by the ~~[registrant,]~~ ***seller or salesman,*** and the receipt of the addressee is prima facie evidence of the completion of the service.

4. If service of summons is made upon the Secretary of State in accordance with the provisions of this section, the time within which the ~~[registrant]~~ ***seller or salesman*** is required to appear is extended 10 days.

Sec. 74. NRS 599B.255 is hereby amended to read as follows:

599B.255 1. Except as otherwise provided in NRS 599B.213, the Attorney General or the district attorney of any county in this state may prosecute a person who willfully violates, either directly or indirectly, the provisions of this chapter. ~~[Except as otherwise provided in subsection 3, such]~~ ***Such*** a person:

(a) For the first offense within 10 years, is guilty of a misdemeanor.

(b) For the second offense within 10 years, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses within 10 years, is guilty of a category D felony and shall be punished as provided in NRS 193.130, or by a fine of not more than $50,000, or by both fine and the punishment provided in NRS 193.130.

2. Any offense which occurs within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 1 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

3. ~~[A person who violates any provision of NRS 599B.080 is guilty of a category D felony and shall be punished as provided in NRS 193.130, or by a fine of not more than $50,000, or by both fine and the punishment provided in NRS 193.130.~~

~~4.]~~ Property or proceeds attributable to any violation pursuant to the provisions of this section are subject to forfeiture in the manner provided by NRS 179.1156 to 179.121, inclusive.

Sec. 75. NRS 599B.260 is hereby amended to read as follows:

599B.260 1. Except as otherwise provided in subsection 2, all fees, civil penalties and any other money collected pursuant to this chapter in an action brought by the Attorney General must be deposited in the State General Fund and may only be used to defray the costs of:

(a) Administering and enforcing the provisions of this chapter.

(b) Enforcing the provisions of chapter 598 of NRS as they relate to the conduct of sellers and salesmen **.** ~~[, whether or not the sellers and salesmen are registered pursuant to this chapter.]~~

2. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to the provisions of this chapter; or

(b) Restitution ordered in an action brought by the Attorney General pursuant to the provisions of this chapter. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of ~~[the Division or]~~ the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 76. NRS 686A.300 is hereby amended to read as follows:

686A.300 1. An insurer who issues insurance covering damage to a motor vehicle shall not delay making payment for any claim involving damage to a motor vehicle after receiving a statement of charges ~~[,]~~ pursuant to the provisions of ~~[NRS 597.5705,]~~ ***section 23 of this act*** from any garage or licensed body shop previously authorized by the insured to perform the repairs required by that claim.

2. A delay, within the meaning of this section, is failure to issue a check or draft, payable to the garage or licensed body shop or jointly to the insured and the garage or licensed body shop, within 30 days after the insurer's receipt of the statement of charges for repairs which have been satisfactorily completed.

3. If the damaged vehicle is subject to a security interest or the legal owner of the damaged vehicle is different from the registered owner, the vehicle must be repaired by a garage or licensed body shop unless:

(a) The insurer has declared the vehicle a total loss; or

(b) The total charge for the repair of the vehicle, as set forth in the statement of charges presented pursuant to ~~[~~NRS 597.5705,~~]~~ ***section 23 of this act,*** is $300 or less.

4. Except as otherwise provided in subsection 3, nothing in this section shall be deemed to prohibit an insurer and insured from settling a claim involving damage to a motor vehicle without providing for the repair of the vehicle.

5. As used in this section, "licensed body shop" means a body shop for which a license has been issued pursuant to chapter 487 of NRS.

Sec. 76.5. **Section 10 of Senate Bill No. 355 of this session is hereby amended to read as follows:**

Sec. 10. "Commissioner" means the Commissioner of ~~[~~Financial Institutions.~~]~~ ***Mortgage Lending.***

Sec. 77. 1. NRS 487.535, 487.568, 487.570, 487.602, 597.480, 597.490, 597.500, 597.510, 597.520, 597.530, 597.535, 597.540, 597.550, 597.560, 597.570, 597.5701, 597.5702, 597.5703, 597.5704, 597.5705, 597.5706, 597.580, 597.590, 598.971, 598.975, 598.981, 598.985 and 598.990 are hereby repealed.

2. NRS 598.0913, 598.0927, 598.0957, 598.0959, 598.0965, 598.0966, 598.0967, 598.0971, 598.0979, 598.098, 598.305, 598.307, 598.315, 598.317, 598.325, 598.335, 598.345, 598.356, 598.361, 598.365, 598.366, 598.367, 598.371, 598.372, 598.373, 598.374, 598.375, 598.385, 598.395, 598.405, 598.416, 598.425, 598.435, 598.445, 598.455, 598.465, 598.471, 598.485, 598.495, 598.506, 598.515, 598.525, 598.845, 598.851, 598.855, 598.860, 598.865, 598.915, 598.9407, 598.9413, 598.944, 598.946, 598C.030, 598C.180, 599B.015, 599B.080, 599B.090, 599B.100, 599B.105, 599B.110, 599B.115, 599B.120, 599B.125, 599B.130, 599B.140, 599B.143, 599B.145 and 599B.195 are hereby repealed.

Sec. 78. 1. Any regulations adopted by the Commissioner of the Consumer Affairs Division of the Department of Business and Industry or by the Division before July 1, 2009, remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations is transferred. The regulations may be enforced by the officer or agency to which the responsibility for the enforcement of the regulations is transferred.

2. Any contract or other agreement entered into by the Commissioner of the Consumer Affairs Division of the Department of Business and Industry or by the Division before July 1, 2009, is binding upon the officer or agency to which the responsibility for administration of the contract or other agreement is transferred. Any such contract or other agreement may be enforced by the officer or agency to which the responsibility for the

enforcement of the provisions of the contract or other agreement is transferred.

Sec. 79. 1. As soon as practicable after July 1, 2009, at the time the Revolving Account for the Consumer Affairs Division of the Department of Business and Industry established by NRS 598.0966 is abolished, the State Treasurer shall ensure that any money in the Revolving Account is transferred to the revolving account for the Bureau of Consumer Protection created by section 1 of this act.

2. As soon as practicable after July 1, 2009, at the time the Recovery Fund established pursuant to NRS 598.371 is abolished, the State Treasurer shall ensure that any money in the Recovery Fund is transferred to the State General Fund.

Sec. 80. 1. This section and ~~[sections]~~ **section 76.5 of this act become effective upon passage and approval.**

2. Sections 1 to 35, inclusive, 36 to 57, inclusive, ~~[and]~~ 58 to **76, inclusive, and 77 to** 79, inclusive, of this act become effective on July 1, 2009.

~~[2.]~~ **3.** The amendatory provisions of sections 3, 4, 36 to 51, inclusive, 57, 58 to 75, inclusive, and subsection 2 of section 77 of this act expire by limitation on June 30, 2011.

~~[3.]~~ **4.** Sections 35.1 to 35.95, inclusive, and 57.5 of this act become effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

487.535 "Division" defined.

487.568 Penalty.

487.570 Garageman to comply with certain provisions relating to trade practices.

487.602 "Body shop" defined.

597.480 Definitions.

597.490 Display of sign required; contents of sign; penalty.

597.500 Duties of body shop or garageman on acceptance of vehicle for repair.

597.510 Estimate of costs required for certain repairs.

597.520 Notice of additional charges over estimate required in certain cases.

597.530 Waiver of estimate of costs or notice of additional charges; execution of waiver.

597.535 Duty of body shop and garage to repair vehicle in accordance with manufacturer's specifications and estimate of costs required for repair.

597.540 Duties of owner and insurer upon receipt of notice of additional charges.

597.550 Replaced parts to be delivered to person authorizing repairs if requested; exception.

597.560 Records to be retained by body shop or garageman.

597.570 Compliance with NRS 597.510 to 597.5706, inclusive; enforcement of liens and contracts.

597.5701 Certain acts deemed to be deceptive trade practice.

597.5702 Revolving account for Bureau of Consumer Protection: Creation; use; deposits; claims.

597.5703 Commissioner or Director authorized to request undercover investigation of alleged deceptive trade practice; Bureau of Consumer Protection authorized to conduct such investigation.

597.5704 Administrative fine for engaging in deceptive trade practice; deposit and use of money collected as administrative fine.

597.5705 Statement of charges required for repair of vehicle; violation constitutes misdemeanor; statement required for enforcement of lien.

597.5706 Submission of annual report by Commissioner to Legislative Commission.

597.580 Violations: Injunctive relief.

597.590 Violations: Civil penalties.

598.0913 "Commissioner" defined.

598.0927 "Director" defined.

598.0957 Director may delegate powers and duties.

598.0959 Advisory committees: Creation and appointment; membership; compensation.

598.0965 Commissioner or Director to provide investigative assistance to Attorney General; legal advice and guidance by Attorney General.

598.0966 Revolving Account for Consumer Affairs Division: Creation; use; deposits; withdrawals; reimbursement; duties of Commissioner.

598.0967 Commissioner and Director: Subpoenas; hearings; regulations.

598.0971 Orders for enforcement: Authority of Commissioner; judicial review and enforcement; civil penalty and equitable relief.

598.0979 Restraining orders; injunctions; assurances of discontinuance.

598.098 Disclosure of information by Commissioner or Director; regulations.

598.305 Definitions.

598.307 "Account" defined.

598.315 "Commissioner" defined.

598.317 "Consumer" defined.

598.325 "Division" defined.

598.335 "Seller of travel" defined.

598.345 "Travel services" defined.

598.356 "Vacation certificate" defined.

598.361 Seller to maintain trust account; exception.

598.365 Seller to register, deposit security and pay fees before advertising services or conducting business in this State; certificate of registration; renewal of certificate.

598.366 Seller to include registration number in advertising; form.

598.367 Seller to display notice of Recovery Fund; penalty.

598.371 Administration of Fund: Separate accounting; limitations on use.

598.372 Administration of Fund: Report to Legislature; employment of persons; interest on money; limitations on balance; regulations.

598.373 Recovery from Fund: Deadline for complaint; hearing; judgment of court; action by Division.

598.374 Recovery from Fund: Eligibility; limitations on payment; subrogation of claim.

598.375 Security required for registration: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount; exception.

598.385 Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.

598.395 Release of security if seller ceases to operate or registration expires.

598.405 Definitions.

598.416 "Advertise" and "advertisement" defined.

598.425 "Commissioner" defined.

598.435 "Division" defined.

598.445 "Sightseeing tour" defined.

598.455 "Tour broker" defined.

598.465 "Tour operator" defined.

598.471 Tour broker and tour operator to register, pay fee and, if applicable, deposit security before advertising services or conducting business in this State; certificate of registration; renewal of certificate.

598.485 Applicability of provisions limited to tour brokers and tour operators operating in certain counties.

598.495 Security required to be deposited by tour broker and tour operator: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount.

598.506 Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.

598.515 Release of security if tour broker or tour operator ceases to operate.

598.525 Regulations.

598.845 Scope.

598.851 Organization to register and post security before advertising services or conducting business in this State.

598.855 Trust account required for payments on contracts.

598.860 Trust account required for payments on goods and services.

598.865 Administration of trust accounts; audits.

598.915 Waiver of statutory rights is void.

598.9407 "Commissioner" defined.

598.9413 "Division" defined.

598.944 Registration of dance studio or health club required.

598.946 Owner of dance studio or health club to register and deposit security before advertising services or conducting business in this State: Amount of security; adjustment of security; exception from requirement to deposit security.

598.971 Definitions.

598.975 "Department" defined.

598.981 "Division" defined.

598.985 Division and Department to cooperate to protect persons who authorize repair of motor vehicles.

598.990 Division to establish and maintain toll-free telephone number concerning alleged violations and develop program to provide certain information to public.

598C.030 "Commissioner" defined.

598C.180 Commissioner of Consumer Affairs to administer chapter; duties of Attorney General.

599B.015 Duties of Attorney General and Commissioner.

599B.080 Registration required.

599B.090 Registration of seller: Application; confidentiality of certain information; security; fee.

599B.100 Registration of seller: Form and amount of security; release of security.

599B.105 Rights and remedies of injured consumer; resolution by Division of claims against security; regulations.

599B.110 Registration of seller: Disclosure of certain convictions, judgments and orders concerning responsible persons.

599B.115 Registration of seller: Work card required for applicant and certain other persons; exceptions; issuance and renewal of work card; fingerprints.

599B.120 Registration of salesman: Application; statement of seller; fee.

599B.125 Statement regarding payment of child support by applicant for registration certificate; grounds for denial of registration certificate; duty of Division.

599B.130 Issuance and display of registration certificate.

599B.140 Renewal of registration.

599B.143 Suspension of registration certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration certificate.

599B.145 Payment and refund of fees for registration.

599B.195 Delivery of goods or services must be accompanied by form.

Assemblyman Arberry moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 561.

Remarks by Assemblyman Arberry.

Motion carried.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Assembly Bill No. 25 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Atkinson and Stewart.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ATKINSON:

I see this as commonsense legislation. Our citizens are failing the written exam at a rate of 54 percent in some areas. One of our offices in southern Nevada, which is the most populated office in the state, where 250,000 people took the exam for their first try, and 130,000 of them failed it. I think one of the issues is there is no accountability. We have recently seen that a lot of states—and in the West—have implemented a fee for taking the written and behind-the-wheel tests. They were in the same predicament as our state; they saw increased lines, they saw wait times to take these exams and retake these exams weeks out. Currently our DMV tells us those times are a couple of weeks. If someone is attempting to get a driver's license or take the exam, they have to wait weeks to get on that schedule because of the people that are taking the exam and retaking the exam instead of studying for it. Those states have seen those numbers dramatically change because with a fee, there is accountability.

We heard testimony in the Transportation Committee when this bill was first heard, and I think the numbers are staggering. There is no doubt in my mind why it passed this house 40 to 2 the first time; it is because most people saw that. We are hopeful that the fees will change peoples' behavior when taking this exam in our state. The Chief Clerk read that one of the reasons for not signing this bill into law was it would nearly triple the cost of drivers' licenses for seniors in Nevada. Let me tell you that seniors already have a driver's license so this doesn't affect them, and I do not see very many seniors going in at the age of 65 and getting a driver's license for the first time. The bill does not affect them, but it will affect our kids who need to take the exam for the first time, and it will make them a little more accountable.

The bill does three things in my opinion. It decreases the wait time to take an exam at the DMV. It also increases our Highway Fund. I do not think there is any secret to this Chamber or to this state that our Highway Fund can use all the help it can get. A lot of these dollars will go to the Highway Fund. As we know, the DMV has a 22 percent cap, so some of it will remain with the DMV to improve services, and the other will go to the Highway Fund. We will be able to bond with those funds and create some much needed capital to repair our roads. So with the indulgence of the body, I urge an aye vote to override the veto so we can get our DMV in order. Thank you.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I rise in support of this bill. As a senior who has a driver's license and who likes to ride on smooth roads I support this bill. Thank you.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 25:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, Settelmeyer—4.

EXCUSED—Ohrenschall.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 141 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblyman Conklin.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. I rise in support of the override. I have reviewed the Governor's comments in his report, which everyone has in front of them. This is the Mortgage Education, Research and Recovery Fund that assists people who are defrauded by mortgage brokers, agents, and bankers. According to the Governor, our current collapse is a result of poor lending practices, not fraud, and we have other bills to deal with that. And he is right. However, for the last four years, I have been working on mortgage lending issues. Many of you who sat in Commerce and Labor last session heard testimony after testimony about how Nevada ranked in the top ten states nationally, top five by the FBI for mortgage lending fraud, and that pattern exists today. In fact, we see over a 400 percent increase in mortgage fraud, according to the FBI which reported those statistics on the 28th of this month. This is not about the collapse and what has happened behind us; this is about taking a step forward and making sure that it doesn't happen again, and if it does happen, there is something for people who are left with nothing. I urge your support.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 141:

YEAS—37.

NAYS—Goedhart, Gustavson, McArthur—3.

NOT VOTING—Arberry.

EXCUSED—Ohrenschall.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 246 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 246:

YEAS—41.

NAYS—None.

EXCUSED—Ohrenschall.

Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 5:21 p.m.

ASSEMBLY IN SESSION

At 5:21 p.m.

Mr. Speaker pro Tempore.

Quorum present.

Vetoed Assembly Bill No. 458 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Buckley and Denis.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Assembly Bill 458 establishes an education rainy day fund. The last two years have been brutal on our schools. Last session we debated ways to improve student achievement and decided on ways to achieve that. We enacted measures such as pay for performance, empowerment, full-day kindergarten for at-risk schools, funding for GATE, funding for career and technical education, funding for remediation to help our students. When the economy dipped, those programs were slashed. When the economy worsened, further cuts to our existing K-12 system happened; $173 million was taken from our schools, including $50 million in reduced textbook funding money. When the session began, the Governor proposed further cuts to K-12 education—$690 million; a proposed 6 percent salary cut; reductions in merit increases; reductions in the step increase for teachers who went back to school to get their graduate degree so they could become highly qualified; elimination of the one-fifth retirement credit; and the list goes on. The Legislature managed to restore some of these reductions, but there has got to be a better way. We have to have a rainy day fund so we are not slashing education when the economy is in trouble. Schools need stable funding. Students come to school when times are good and when times are bad. We have to stop taking money that is supposed to go to education and allowing it to be diverted for other causes. That is what Assembly Bill 458 does.

It is incomprehensible to me that the Governor would veto this bill. In his veto statement the Governor said he disapproves of the bill because it does not create similar funds for other areas of state government. That is because we did it in another bill. Assembly Bill 165 was enacted, which creates a stabilization fund for all government accounts. We created a separate rainy day fund for K-12 because of the unique way K-12 is financed. When sales tax is underestimated, the excess collections result in a surplus in the K-12 budget; right now that money reverts to the General Fund. When amounts are overestimated, the state makes up the difference. This education rainy fund would even out those cycles. The boom-and-bust cycle we experience in this state hurts us. It hurts our parents, it hurts our kids, it hurts our community, it hurts our state because it hurts our schools. We can do better. Our state deserves better. I urge your support to create an education rainy day fund in our state.

ASSEMBLYMAN DENIS:

Thank you, Mr. Speaker pro Tempore. I don't know that I need to add anything to that. Many of you know that I am the president of the Nevada Parent-Teacher Association and have been involved in trying to make education better here in Nevada for many, many years. As a parent with five kids, it is frustrating that every time we have a problem—we talk about education first. But what we tend to say in our advocacy circles—and when we talk to parents—is that usually means we are going to cut education first instead of really doing the right thing. I stand in support of this bill. It will do the right thing. It will help us get some stability so that when we put in place all these great programs that we advocate for—and that we have to cut

every time we have a problem—we'll be able to continue to do those great programs and help our kids. This is really about our future and our children. Thank you.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 458:

YEAS—36.

NAYS—Christensen, Goedhart, Gustavson, Hambrick, Settelmeyer—5.

EXCUSED—Ohrenschall.

Bill ordered transmitted to the Senate.

Mr. Speaker pro Tempore announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 5:27 p.m.

ASSEMBLY IN SESSION

At 5:27 p.m.

Madam Speaker presiding.

Quorum present.

Vetoed Assembly Bill No. 463 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblywoman Smith.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 463:

YEAS—41.

NAYS—None.

EXCUSED—Ohrenschall.

Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 5:31 p.m.

ASSEMBLY IN SESSION

At 7:39 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 418, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

Assembly Bill No. 223.

The following Senate amendment was read:

Amendment No. 963.

AN ACT relating to state governmental procurement; establishing ~~[bidders' preferences]~~ **a bidder's preference** for local businesses ~~[and local businesses owned by service-disabled veterans]~~ with respect to state purchasing contracts; establishing ~~[bidders' preferences]~~ **a bidder's preference** for local businesses owned by service-disabled veterans with respect to state public works contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, with respect only to contracts for public works for which the estimated cost exceeds $250,000, provides a mechanism by which a contractor who has paid certain taxes may earn a 5-percent preference in bidding on public works. (NRS 338.1389, 338.147, 338.1693, 338.1727) **Sections 18-25** of this bill establish a limited preference in bidding on public works for local businesses owned by service-disabled veterans. This new preference in bidding on public works does not overlap with the existing preference in bidding on public works because the new preference is limited to public works for which the estimated cost is $100,000 or less.

Under existing law, the State of Nevada imposes an inverse preference against a person who submits a bid or proposal on a state purchasing contract if that person is a resident of a state that denies a preference to bidders or contractors who are residents of this State. (NRS 333.336) **Section 31** of this bill repeals that inverse preference.

In place of the former inverse preference, **sections 5-13** of this bill establish ~~[two separate new preferences]~~ **a 5-percent preference** in bidding on state purchasing contracts ~~[: (1) section 10 adds a 5-percent preference]~~ for local businesses **.** ~~[; and (2) section 10 also adds a 7-percent preference for local businesses owned by service-disabled veterans.]~~ **Section 14** of this bill requires advertisements for bids or proposals to include notices of ~~[these]~~ **this** new ~~[preferences.]~~ **preference.**

Section 30 of this bill directs the Office of Veterans' Services to perform certain duties with respect to gathering information and making recommendations to the Legislative Commission concerning the ~~[preferences]~~ **preference in bidding on public works** for local businesses owned by service-disabled veterans.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 13, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. ***As used in sections 5 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 6. ~~***[“Business owned by a service-disabled veteran” means a business:***~~

~~***1. Of which at least 51 percent of the ownership interest is held by one or more service-disabled veterans;***~~

~~***2. That is organized to engage in commercial transactions; and***~~

~~***3. That is managed and operated on a day-to-day basis by one or more service-disabled veterans.***~~

~~***The term includes a business which meets the above requirements that is transferred to the spouse of a service-disabled veteran upon the death of the service-disabled veteran, as determined by the United States Department of Veterans Affairs.]***~~ **(Deleted by amendment.)**

Sec. 7. ***”Local business” means a business that:***

1. Employs at least one person in this State; and

2. Has employed at least one person in this State for not fewer than 2 years.

Sec. 8. ~~***[“Service-disabled veteran” means a veteran of the Armed Forces of the United States who has a service-connected disability of at least zero percent as determined by the United States Department of Veterans Affairs.]***~~ **(Deleted by amendment.)**

Sec. 9. ***”State purchasing contract” means a contract awarded pursuant to the provisions of this chapter.***

Sec. 10. ***For the purpose of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300*** ~~***[:***~~

~~***1. If]***~~ ***, if a local business submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.***

~~***[2. If a local business owned by a service-disabled veteran submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 7 percent lower than the bid or proposal actually submitted.]***~~

Sec. 11. ***1. If the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 10 of this act; and

(b) Bidding on a state purchasing contract.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise

committed a fraudulent act in applying for a preference described in section 10 of this act, the business may apply to the Chief to review the decision pursuant to chapter 233B of NRS.

Sec. 12. ***The Purchasing Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

2. The total dollar amount of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

3. [The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a state purchasing contract.

4.] The number of local businesses [not described in subsection 3] that submitted a bid or proposal on a state purchasing contract.

[5. The number of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

6.] 4. The number of state purchasing contracts that were awarded to local businesses . [not described in subsection 5.

7. The total number of dollars worth of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

8.] 5. The total number of dollars worth of state purchasing contracts that were awarded to local businesses . [not described in subsection 7.

9.] 6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 13. ***The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 5 to 13, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive a preference described in section 10 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in section 10 of this act; and

3. Such other matters as the Purchasing Division deems relevant.

➥ In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Board so that any regulations adopted pursuant to this section and section 25 of this act are reasonably consistent.

Sec. 14. NRS 333.310 is hereby amended to read as follows:

333.310 1. An advertisement must contain a general description of the classes of commodities or services for which a bid or proposal is wanted and must state:

(a) The name and location of the department, agency, local government, district or institution for which the purchase is to be made.

(b) Where and how specifications and quotation forms may be obtained.

(c) If the advertisement is for bids, whether the Chief is authorized by the using agency to be supplied to consider a bid for an article that is an alternative to the article listed in the original request for bids if:

(1) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(2) The purchase of the alternative article results in a lower price; and

(3) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(d) ~~[A summary]~~ ***Notice*** of the ~~[provisions of NRS 333.336.]~~ ~~*[preferences]*~~ ***preference set forth in section 10 of this act.***

(e) The date and time not later than which responses must be received by the Purchasing Division.

(f) The date and time when responses will be opened.

➥ The Chief or his designated agent shall approve the copy for the advertisement.

2. Each advertisement must be published in at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation.

Sec. 15. NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

(a) The chief of the using agency, or a committee appointed by the chief of the using agency in accordance with the regulations adopted pursuant to NRS 333.135, if the proposal is for a using agency; or

(b) The Chief of the Purchasing Division, or a committee appointed by the Chief in accordance with the regulations adopted pursuant to NRS 333.135, if he is responsible for administering the proposal.

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Chief of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal.

3. In making an award, the chief of the using agency, the Chief of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada:

(a) The experience and financial stability of the person submitting the proposal;

(b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311;

(c) The price of the proposal ***;*** ~~**[**, including the imposition of an inverse preference described in NRS 333.336, if applicable;**]**~~ and

(d) Any other factor disclosed in the request for proposals.

4. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall determine the relative weight of each factor set forth in subsection 3 before a request for proposals is advertised. The weight of each factor must not be disclosed before the date proposals are required to be submitted.

5. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal.

6. Except as otherwise provided in NRS 239.0115, each proposal evaluated pursuant to the provisions of this section is confidential and may not be disclosed until the contract is awarded.

Sec. 16. NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Chief:

(a) Shall consider, if applicable, the ~~**[**imposition**]**~~ ***granting*** of ~~*[any of]*~~ the ~~**[**inverse preference**]**~~ ~~*[preferences]*~~ ***preference*** described in ~~**[**NRS 333.336.**]**~~ ***section 10 of this act.***

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Chief shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 17. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 25, inclusive, of this act.

Sec. 18. ***As used in sections 18 to 25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 19, 20 and 21 of this act have the meanings ascribed to them in those sections.***

Sec. 19. "Business owned by a service-disabled veteran" ~~[has the meaning ascribed to it in section 6 of this act.]~~ means a business:

1. Of which at least 51 percent of the ownership interest is held by one or more service-disabled veterans;

2. That is organized to engage in commercial transactions; and

3. That is managed and operated on a day-to-day basis by one or more service-disabled veterans.

➥ The term includes a business which meets the above requirements that is transferred to the spouse of a service-disabled veteran upon the death of the service-disabled veteran, as determined by the United States Department of Veterans Affairs.

Sec. 20. ***"Local business" has the meaning ascribed to it in section 7 of this act.***

Sec. 21. ***"Service-disabled veteran" ~~[has the meaning ascribed to it in section 8 of this act.]~~ means a veteran of the Armed Forces of the United States who has a service-connected disability of at least zero percent as determined by the United States Department of Veterans Affairs.***

Sec. 22. ***1. For the purpose of awarding a contract for a public work of this State for which the estimated cost is $100,000 or less, as governed by NRS 338.13862, if a local business owned by a service-disabled veteran submits a bid, the bid shall be deemed to be ~~[7]~~ 5 percent lower than the bid actually submitted.***

2. The preference described in subsection 1 may not be combined with any other preference.

Sec. 23. ***1. If the State Public Works Board determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 22 of this act; and

(b) Bidding on a contract for a public work of this State.

2. If the State Public Works Board determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business may apply to the Manager to review the decision pursuant to chapter 233B of NRS.

3. As used in this section, "Manager" has the meaning ascribed to it in NRS 341.015.

Sec. 24. ***The State Public Works Board shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

2. The total dollar amount of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a contract for a public work of this State.

4. The number of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

5. The total number of dollars worth of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 25. ***The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 18 to 25, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive the preference described in section 22 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in section 22 of this act; and

3. Such other matters as the State Public Works Board deems relevant.

➥ In carrying out the provisions of this section, the State Public Works Board shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and section 13 of this act are reasonably consistent.

Sec. 26. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895 ~~[.]~~ ***or section 23 of this act;***

(5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(6) The truthfulness and completeness of the application.

Sec. 27. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~[.]~~ ***and , with respect to the State, sections 18 to 25, inclusive, of this act.***

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 28. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~[.]~~ ***and , with respect to the State, sections 18 to 25, inclusive, of this act.***

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized

representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 29. NRS 338.13862 is hereby amended to read as follows:

338.13862 1. Before this State or a local government awards a contract for the completion of a public work in accordance with subsection 1 of NRS 338.1386, the State or the local government must:

(a) If the estimated cost of the public work is more than $25,000 but not more than $100,000, solicit bids from at least three properly licensed contractors; and

(b) If the estimated cost of the public work is $25,000 or less, solicit a bid from at least one properly licensed contractor.

2. Any bids received in response to a solicitation for bids made pursuant to this section may be rejected if the State or the local government determines that:

(a) The quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications;

(b) The bidder is not responsive or responsible; or

(c) The public interest would be served by such a rejection.

3. At least once each quarter, the State and each local government shall prepare a report detailing, for each public work over $25,000 for which a contract for its completion is awarded pursuant to paragraph (a) of subsection 1, if any:

(a) The name of the contractor to whom the contract was awarded;

(b) The amount of the contract awarded;

(c) A brief description of the public work; and

(d) The names of all contractors from whom bids were solicited.

4. A report prepared pursuant to subsection 3 is a public record and must be maintained on file at the administrative offices of the applicable public body.

5. The provisions of this section do not relieve this State from the duty to award the contract for the public work to a bidder who is:

(a) Qualified pursuant to the applicable provisions of NRS 338.1375 to 338.1382, inclusive; and

(b) The lowest responsive and responsible bidder, if bids are required to be solicited from more than one properly licensed contractor pursuant to subsection 1. ***For the purposes of this paragraph, the lowest responsive and responsible bidder must be determined in consideration of any applicable bidder's preference granted pursuant to section 22 of this act.***

Sec. 30. Chapter 417 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each year on or before October 1, the Office of Veterans' Services shall review the reports submitted pursuant to ~~[sections 12 and]~~ section 24 of this act.

2. In carrying out the provisions of subsection 1, the Office of Veterans' Services shall seek input from:

(a) ~~[The Purchasing Division of the Department of Administration.~~

~~(b)]~~ The State Public Works Board.

~~[(c)]~~ (b) The Commission on Economic Development.

~~[(d)]~~ (c) Groups representing the interests of veterans of the Armed Forces of the United States.

~~[(e)]~~ (d) The business community.

~~[(f)]~~ (e) Local businesses owned by service-disabled veterans.

3. After performing the duties described in subsections 1 and 2, the Office of Veterans' Services shall make recommendations to the Legislative Commission regarding the continuation, modification, promotion or expansion of the ~~[preferences]~~ preference for local businesses owned by service-disabled veterans which ~~[are]~~ is described in ~~[sections 10 and]~~ section 22 of this act.

4. As used in this section:

(a) "Business owned by a service-disabled veteran" has the meaning ascribed to it in section ~~[6]~~ 19 of this act.

(b) "Local business" has the meaning ascribed to it in section 7 of this act.

(c) "Service-disabled veteran" has the meaning ascribed to it in section ~~[8]~~ 21 of this act.

Sec. 31. NRS 333.336 is hereby repealed.

Sec. 32. 1. This section and sections 1 to 26, inclusive, 29, 30 and 31 of this act become effective on October 1, 2009.

2. Section 27 of this act expires by limitation on April 30, 2013.

3. Section 28 of this act becomes effective on May 1, 2013.

TEXT OF REPEALED SECTION

333.336 Inverse preference imposed on certain bidders resident outside State of Nevada.

For the purpose of awarding a contract pursuant to this chapter, if a person who submits a bid or proposal:

1. Is a resident of a state other than the State of Nevada; and

2. That other state, with respect to contracts awarded by that other state or agencies of that other state, applies to bidders or contractors who are residents of that state a preference which is not afforded to bidders or contractors who are residents of the State of Nevada,

➥ the person or entity responsible for awarding the contract pursuant to this chapter shall, insofar as is practicable, increase the person's bid or proposal by an amount that is substantially equivalent to the preference that the other state of which the person is a resident denies to bidders or contractors who are residents of the State of Nevada.

Assemblyman Arberry moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 223.

Remarks by Assemblyman Arberry.

Motion carried.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 30, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 88, Senate Amendment No. 690, and requests a conference, and appointed Senators Care, Amodei and Parks as a Conference Committee to meet with a like committee of the Assembly.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Horne, Anderson, and Carpenter as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 88.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 30, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 9, 214, 546.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 385, Amendment No. 975; Assembly Bill No. 494, Amendment No. 982, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 503, Amendment No. 639, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 46.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 130.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 316, 330.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 37.

Also, I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Senate Bills Nos. 201, 234, 283, 415.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 796 to Senate Bill No. 273.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Wiener, Parks and McGinness as a Conference Committee concerning Senate Bill No. 35.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 119.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Rhoads, Parks and Copening as a Conference Committee concerning Senate Bill No. 411.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Schneider, Care and McGinness as a Conference Committee concerning Senate Bill No. 182.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 316.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 330.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 259, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 578 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 5, which is attached to and hereby made a part of this report.

WILLIAM HORNE
MARILYN DONDERO LOOP
JOHN CARPENTER
Assembly Conference Committee

DAVID PARKS
VALERIE WIENER
MAURICE WASHINGTON
Senate Conference Committee

Conference Amendment No. CA5.

AN ACT relating to criminal offenders; revising provisions relating to the residential confinement of certain offenders; authorizing a court to provide for the forfeiture of credits for good behavior of a probationer under certain circumstances; revising provisions concerning certain credits to be applied to a period of probation or parole; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that an offender who has been convicted of a category B felony is not eligible for residential confinement. **Section 1** of this bill requires the standards adopted by the Director of the Department of Corrections concerning eligibility for residential confinement to provide that an offender who has been convicted of a category B felony is eligible for residential confinement if: (1) the offender is not otherwise ineligible for residential confinement; and (2) the Director makes a written finding that assigning the offender to residential confinement is not likely to pose a threat to the safety of the public. (NRS 209.392)

Existing law authorizes the State Board of Parole Commissioners to provide for the forfeiture of credits for good behavior of a parolee who violates a condition of his parole and, as appropriate, for the restoration of such credits. **Section 4** of this bill authorizes a court to provide for the forfeiture of credits for good behavior of a probationer who violates a condition of his probation and, as appropriate, for the restoration of such credits.

Existing law provides that an offender who is sentenced to serve a period of probation for a felony and who demonstrates certain good behavior must be allowed certain deductions from his period of probation. **Section 5** of this bill amends existing law to provide generally that a person who is sentenced to a period of probation for a felony or a gross misdemeanor **and who is in compliance with the terms and conditions of his probation** must be allowed a deduction from his period of probation of: (1) ten days for each month he serves and is current on any fee to defray the cost of his supervision and on any fines, fees and restitution ordered by the court; and (2) an additional 10 days for each month he serves and is actively involved in employment or enrolled in certain programs. (NRS 176A.500)

Existing law authorizes a court to order a probationer who violates a condition of his probation to a term of residential confinement and to direct the person to be confined, for not more than 6 months, to a community correctional center, conservation camp, facility of minimum security or other place of confinement operated by the Department of Corrections for the custody, care or training of offenders, other than a prison designed to house 125 or more offenders within a secure perimeter. **Section 6** of this bill authorizes a court to direct such a person who was placed on probation for a felony conviction to be confined to any of those facilities and institutions, including a prison designed to house 125 or more offenders within a secure

perimeter. Further, **section 6** of this bill authorizes the Department of Corrections to select the facility or institution in which to place the person. (NRS 176A.660)

Section 3 of this bill amends chapter 213 of NRS, which governs parolees in a manner similar to **section 6** of this bill. **Section 3** provides that a parolee who is returned to confinement in a facility or institution of the Department of Corrections is authorized to earn credits to reduce his sentence pursuant to chapter 209 of NRS, with the exception of certain credits which are earned by an offender who is released on parole. (NRS 213.152)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) Demonstrated a willingness and ability to establish a position of employment in the community;

(b) Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➥ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has been convicted of:

(1) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim within the immediately preceding 3 years;

(2) A sexual offense that is punishable as a felony; or

(3) ~~[A]~~ ***Except as otherwise provided in subsection 4, a*** category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778; or

(e) Has escaped or attempted to escape from any jail or correctional institution for adults,

➥ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. ***The standards adopted by the Director pursuant to subsection 3 must provide that an offender who has been convicted of a category B felony is eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section if:***

(a) The offender is not otherwise ineligible pursuant to subsection 3 for an assignment to serve a term of residential confinement; and

(b) The Director makes a written finding that such an assignment of the offender is not likely to pose a threat to the safety of the public.

5. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

~~[5.]~~ ***6.*** The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➥ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

~~[6.]~~ ***7.*** An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection ~~[6,]~~ ***7,*** if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require:

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement; or

(b) Require the parolee to be confined to a facility ***or institution*** of the Department of Corrections ~~[approved by the Board]~~ for a period not to exceed 6 months. ***The Department may select the facility or institution in which to place the parolee.***

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,

➥ must not be used.

4. ***A parolee who is confined to a facility or institution of the Department of Corrections pursuant to paragraph (b) of subsection 2:***

(a) May earn credits to reduce his sentence pursuant to chapter 209 of NRS; and

(b) Shall not be deemed to be released on parole for purposes of NRS 209.447 or 209.4475 during the period of that confinement.

5. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

~~[5.]~~ ***6.*** A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

~~[6.]~~ ***7.*** The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

~~[7.]~~ ***8.*** As used in this section ~~[, "facility"]~~ ***:***

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

Sec. 4. Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a court before which a probationer is brought pursuant to NRS 176A.630 determines that the probationer has violated a condition of his probation, the probationer forfeits all or part of the credits for good behavior earned by him pursuant to NRS 176A.500 during his probation, in the discretion of the court.

2. A forfeiture may be made only by the court after proof of the violation and notice to the probationer.

3. The court may restore credits forfeited for such reasons as it considers proper.

4. If the court provides for the forfeiture or restoration of credits for good behavior of a probationer pursuant to this section, the clerk of the court shall notify the Chief Parole and Probation Officer of the forfeiture or restoration of credits.

Sec. 5. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of

probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. ~~[An offender]~~ ***A person*** who is sentenced to serve a period of probation for a felony ~~[who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him,]~~ ***or a gross misdemeanor*** must be allowed for the period of his probation a deduction ~~[of 20]~~ ***as set forth in subsection 6 if the offender is*** ~~[:]~~ ***in compliance with the terms and conditions of his probation as determined by the Division and is:***

(a) Current with any fee to defray the cost of his supervision charged pursuant to NRS 213.1076 and with any fines, fees and restitution ordered by the court, including, without limitation, any payment of restitution required pursuant to NRS 176A.430; and

(b) Actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.

6. ~~*[Except as otherwise provided in subsection 7, a]*~~ ***A person described in subsection 5 must be allowed for the period of his probation a deduction of:***

(a) Ten days from that period for each month he serves ~~[.]~~ ***and is current on any fees to defray the cost of his supervision owed and on any fines, fees and restitution ordered by the court; and***

(b) ~~*[An]*~~ ***Except as otherwise provided in subsection 7, an additional 10 days from that period for each month he serves and is actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.***

7. A person who is sentenced to serve a period of probation for a felony or a gross misdemeanor and who ~~*[:*~~

~~(a) Is]~~ ***is a participant in a specialty court program must be allowed a deduction from the period of probation for being actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division only if the person successfully completes the specialty court program*** . ~~[; or~~

~~(b) Owes any restitution ordered by the court, including, without limitation, any payment of restitution required pursuant to NRS 176A.430, must be allowed a deduction from the period of probation for making payments of restitution only if the person pays the full amount of restitution imposed.~~

~~"]~~ ***Such a deduction must not exceed the length of time remaining on the person's period of probation.***

8. As used in this section, "specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from mental illnesses or abuse alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 6. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division and require:

(1) The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

(2) Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement; or

(b) ~~[Direct]~~ ***If the person was placed on probation for a felony conviction, direct*** that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility ***or institution*** of the Department ~~[approved by the Division and the court]~~ for a period not to exceed 6 months. ***The Department may select the facility or institution in which to place the person.***

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence,

including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities while inside his residence,

➥ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. As used in this section ~~[, "facility"]~~ ***:***

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

Sec. 7. 1. The amendatory provisions of this act apply to offenses committed before, on or after July 1, 2009.

2. For the purpose of calculating credits earned by a person pursuant to NRS 213.152, the amendatory provisions of section 3 of this act must be applied to credits earned by the person before, on or after July 1, 2009.

3. For the purpose of calculating credits earned by a person pursuant to NRS 176A.500, the amendatory provisions of section 5 of this act must be applied only to credits earned by the person on or after July 1, 2009.

Sec. 8. This act becomes effective on July 1, 2009.

Assemblyman Horne moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 259.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 385.

The following Senate amendment was read:

Amendment No. 975.

SUMMARY—Makes various changes concerning ~~[private]~~ prisons. (BDR 16-523)

AN ACT relating to prisons; requiring the Board of State Prison Commissioners to adopt regulations pertaining to a facility or institution operated by a private organization; **requiring the monitoring of certain private facilities and institutions; providing for the development of minimum staffing levels for institutions and facilities of the Department of Corrections;** providing that certain provisions relating to a prisoner confined in a facility or institution also apply to a prisoner confined in a private facility or institution operated by a private organization; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of State Prison Commissioners to adopt regulations for carrying out the business of the Board and of the Department of Corrections. (NRS 209.111) **Section ~~[1.3]~~ 1.4** of this bill requires the Board to adopt additional regulations **~~[: (1)]~~** establishing the maximum number of prisoners that may be incarcerated in a private facility or institution **. ~~[; and (2) requiring that a private facility or institution must meet or exceed the standards set forth in the inmate housing plan approved in the budget of the Department for the biennium, including, without limitation, any associated line item costs.]~~ Those regulations must be based upon the standards adopted by the American Correctional Association.**

Section 1.5 of this bill requires the Department to monitor private facilities or institutions which house prisoners incarcerated pursuant to the authority of another state to ensure that the care and custody of the prisoners comply with the Nevada Constitution and the United States Constitution. Section 1.6 of this bill provides that the provisions of this bill which relate to private facilities or institutions do not apply with respect to prisoners incarcerated in a private facility or institution pursuant to a contract with the Federal Government.

Section 1.67 of this bill revises the duties of the Director of the Department by requiring the Director to consult with representatives of the employees of the Department to develop a minimum staffing level which is necessary to ensure the safety of the public, the employees of the Department and the prisoners and which is within the limits of legislative appropriation.

Existing law makes it a crime for: (1) a prisoner to escape from prison or to manufacture or possess certain items used in an escape; (2) a person to aid a prisoner in escaping from prison; (3) a person who has custody of a prisoner to allow the prisoner to escape; and (4) a person to conceal an escaped prisoner. (NRS 212.080, 212.090, 212.093, 212.100-212.130) Existing law also provides certain procedures for issuing a warrant for the arrest of an escaped prisoner and the manner in which expenses for recapturing the prisoner must be paid. (NRS 212.030-212.080) Further, existing law makes it a crime to: (1) provide certain items to a prisoner, including certain weapons, an intoxicant or a controlled substance and certain communications devices; or (2) engage in certain behavior concerning a prisoner, such as engaging in sexual conduct or certain unlawful acts relating to human excrement or bodily fluid. (NRS 212.160-212.189) **Section 1.7** of this bill provides that those provisions also apply to a prisoner incarcerated in a private prison operated by a private organization as well as to certain other persons. **Section 1.7** also provides that the private organization which operates a private facility or institution must: (1) reimburse the State for expenses incurred by the State in recapturing a prisoner who escapes from the private facility or institution; and (2) provide training to its employees that is equivalent to the training provided to a correctional officer in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.3. Chapter 209 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.35 to 1.6, inclusive, of this act.**

Sec. 1.35. "Private facility or institution" means a facility or institution operated by a private organization to house prisoners.

Sec. 1.4. 1. To ensure the safety of the residents of the State of Nevada, the Board shall adopt regulations [:

~~(a) Establishing~~ establishing the maximum number of prisoners who may be incarcerated in a private facility or institution . ~~[; and~~

~~(b) Requiring that a private facility or institution must meet or exceed the standards set forth in the inmate housing plan approved in the budget of the Department for the biennium, including, without limitation, any associated line item costs.]~~ The regulations must be based upon the standards adopted by the American Correctional Association or its successor organization.

2. As used in this section [:

~~(a) "Prisoner"]~~ , "prisoner" has the meaning ascribed to it in section 1.7 of this act.

[~~(b) "Private facility or institution" has the meaning ascribed to it in section 1.7 of this act.]

Sec. 1.5. 1. The Department shall monitor each private facility or institution which houses prisoners who are incarcerated pursuant to the authority of another state to ensure that the custody and care of the prisoners comply with the requirements of the Nevada Constitution and the Constitution of the United States.

2. A private facility or institution which is monitored by the Department pursuant to subsection 1 shall reimburse the Department for the costs of such monitoring. The Department shall determine the cost of the monitoring required by subsection 1 on a per-prisoner basis.

Sec. 1.6. The provisions of sections 1.4, 1.5 and 1.7 of this act do not apply with respect to prisoners incarcerated in a private facility or institution pursuant to a contract with the Federal Government or an agency of the Federal Government.

***Sec. 1.63.* NRS 209.011 is hereby amended to read as follows:**

209.011 As used in this chapter, unless the context otherwise requires, the terms defined in NRS 209.021 to 209.085, inclusive, ***and section 1.35 of this act*** have the meanings ascribed to them in those sections.

***Sec. 1.67.* NRS 209.131 is hereby amended to read as follows:**

209.131 The Director shall:

1. Administer the Department under the direction of the Board.

2. Supervise the administration of all institutions and facilities of the Department.

3. Receive, retain and release, in accordance with law, offenders sentenced to imprisonment in the state prison.

4. Be responsible for the supervision, custody, treatment, care, security and discipline of all offenders under his jurisdiction.

5. Ensure that any person employed by the Department whose primary responsibilities are:

(a) The supervision, custody, security, discipline, safety and transportation of an offender;

(b) The security and safety of the staff; and

(c) The security and safety of an institution or facility of the Department,

➥ is a correctional officer who has the powers of a peace officer pursuant to subsection 1 of NRS 289.220

6. Establish regulations with the approval of the Board and enforce all laws governing the administration of the Department and the custody, care and training of offenders.

7. Take proper measures to protect the health and safety of the staff and offenders in the institutions and facilities of the Department.

8. Cause to be placed from time to time in conspicuous places about each institution and facility copies of laws and regulations relating to visits and correspondence between offenders and others.

9. Provide for the holding of religious services in the institutions and facilities and make available to the offenders copies of appropriate religious materials.

10. Consult with the representatives of the employees of the Department to develop the minimum level of staffing in the institutions and facilities of the Department which is necessary to ensure the safety of the public, the employees of the Department and offenders and which is within the limits of legislative appropriation. If the Director, or his designee, or a representative of the employees of the Department requests a meeting to review the minimum level of staffing developed pursuant to this subsection, the Director, or his designee, and the representatives of the employees shall meet to review the minimum level of staffing. At such a meeting, the minimum level of staffing may be revised if the revision is agreed to by the Director, or his designee, and the representative of the employees and is within the limits of legislative appropriation.

Sec. 1.7. Chapter 212 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this section and NRS 212.030 to 212.130, inclusive, and 212.160 to 212.189, inclusive, apply to:

(a) A person who has custody of a prisoner assigned to a private facility or institution in this State; and

(b) A prisoner assigned to a private facility or institution in this State,

➥ to the same extent that those provisions would apply if the prisoner had been assigned to a facility or institution operated by the Department.

2. A private organization that operates a private facility or institution must provide training to any person employed by the private facility or institution to perform the duties of a correctional officer described in subsection 5 of NRS 209.131. The content of the training must be equivalent to the training provided to a correctional officer in this State. ~~*[.]*~~ ***, but a person employed by a private facility or institution to perform the duties of a correctional officer is not required to be certified as a peace officer.***

3. The private organization that operates a private facility or institution must reimburse the State for any expenses charged against the State or paid by the State pursuant to NRS 212.040, 212.050 or 212.070 concerning a prisoner who escapes from the private facility or institution.

4. As used in this section:

(a) "Prisoner" means any person who is:

(1) Convicted of a crime under the laws of this State and sentenced to imprisonment in the state prison; or

(2) Convicted of a crime under the laws of another jurisdiction and sentenced to imprisonment by that jurisdiction.

(b) "Private facility or institution" ~~*[means a facility or institution operated by a private organization to house prisoners.]*~~ ***has the meaning ascribed to it in section 1.35 of this act.***

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. This act becomes effective on July 1, 2009.

Assemblyman Horne moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 385.

Remarks by Assemblyman Horne.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 494.

The following Senate amendment was read:

Amendment No. 982.

SUMMARY—Requires ~~[the Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau of the major expenditures of local governments in this State.]~~ **certain local governmental entities to submit a report to the 76th Session of the Legislature concerning the consolidation or reorganization of certain functions.** (BDR S-1162)

AN ACT relating to ~~[the Legislature; requiring the Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the Legislature to consider consolidating services provided by local governments; requiring local governments to report their three largest categories of expenditure to the Legislative Commission in the~~

~~manner prescribed by the Commission for the purposes of the study;]~~ **governmental administration; requiring certain local governmental entities to submit a report to the 76th Session of the Legislature concerning the consolidation or reorganization of certain functions;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the ~~[Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the Legislature to consider consolidating services provided by local governments. Each local government is required to report its three largest categories of expenditure for the Fiscal Year 2008-2009 to the Legislative Commission in the manner prescribed by the Commission for the purposes of the study. The staff of the Legislative Counsel Bureau is required to compile and present the information submitted by the local governments in a manner that will allow]~~ **Board of County Commissioners of Clark County, the Board of County Commissioners of Washoe County and the governing body of each city in those counties to submit a report to** the 76th Session of the Nevada Legislature ~~[to review the information and consider the]~~ **concerning the** consolidation **or reorganization** of ~~[services provided]~~ **certain functions performed** by **those** local governments.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[1. The Legislative Commission shall provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the 76th Session of the Nevada Legislature to consider the consolidation of services provided by local governments.~~

~~2. Each local government shall report to the Legislative Commission on or before January 1, 2010, its three largest categories of expenditure for the Fiscal Year 2008-2009. The Legislative Commission shall, on or before October 1, 2009, prescribe the manner in which the reports must be submitted and the detail required to ensure that the information is sufficient for the purposes of the study directed pursuant to this section.~~

~~3. The staff of the Legislative Counsel Bureau shall conduct a study of the information submitted pursuant to subsection 2 and report the results of the study to the Legislative Commission on or before June 30, 2010. The report must include:~~

~~(a) The compilation and presentation of the information submitted pursuant to subsection 2 in a manner that will allow the Legislature to review the information and consider the consolidation of services provided by local governments; and~~

~~(b) Such analysis of the information as the staff deems appropriate.~~

~~4. The Legislative Commission shall submit the report of the results of the study conducted pursuant to this section and any recommendations for legislation.]~~ **On or before September 1, 2010, the Board of County Commissioners of Clark County, the Board of County Commissioners of Washoe County and the governing body of each city in those counties shall each submit a report to the Director of the Legislative Counsel Bureau for transmission** to the 76th Session of the Nevada Legislature ~~[.~~

~~5. As used in this section, "local government" has the meaning ascribed to it in NRS 354.474.]~~

that, with respect to the functions of public safety, public works and general government performed by those entities:

1. Identifies the aspects of those functions that are currently consolidated in whole or in part.

2. Identifies the aspects of those functions that have been or are being considered for consolidation or reorganization.

3. Identifies the aspects of those functions that are not consolidated and whether those aspects may be appropriate for consolidation or reorganization in the future.

4. Analyzes and makes recommendations regarding the consolidation or reorganization of one or more aspects of those functions.

5. Provides estimates of the costs of consolidation or reorganization of one or more aspects of those functions and a projection of any long-term cost savings, to the extent feasible.

6. Analyzes the benefits of the creation of a permanent committee of affected entities that would meet periodically to discuss and coordinate future efforts at consolidation or reorganization of those functions.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Bill No. 494.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 60, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 787 of the Senate be concurred in.

HARVEY MUNFORD	JOHN LEE
ELLEN SPIEGEL	RANDOLPH TOWNSEND
APRIL MASTROLUCA	MIKE MCGINNESS
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Munford moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 60.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 30, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day receded from its action on Assembly Bill No. 492, Senate Amendment No. 822.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 236.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 418 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assemblyman Oceguera moved that Senate Concurrent Resolution No. 37 be taken from the Resolution File and placed on the Resolution File for the next legislative day.

REMARKS FROM THE FLOOR

Assemblyman Hardy requested that the following proclamation be entered in the Journal.

Nevada Legislature
75th Session

COWBOY HALL OF FAME

THE COWBOY WAY: Write it in your heart. Stand by the code and it will stand by you. Ask no more and give no less than honesty, courage, loyalty, generosity, and fairness and never forget your constituent's name.

WHEREAS, David "Cleans up old Dumps" Bobzien was born in Washington D.C., is an Eagle Scout, was the Golden Pine Cone award recipient and participated in 2 regular and 3 special sessions of the Nevada Legislature by following the cowboy rule of "Never kick a cow patty on a hot day"; and

WHEREAS, Ty "Wanna' be a Politician" Cobb was born in Fort Belvoir, Virginia, published both "Bragging Rights Over the Dow," "Politics Should be Played Hard, But Fair," and has served in the Nevada Assembly for 2 regular and 3 special sessions by following the cowboy rule of "More whiskey and fresh horses for my men"; and

WHEREAS, Mo "Kids are Number 1" Denis graduated from Las Vegas' Rancho High School, is an Eagle Scout and a Boulder Area District Award of Merit recipient and has served his constituents since 2004 in 5 special sessions and 3 regular sessions by following the cowboy rule of "The quickest way to double your money is to fold it over"; and

WHEREAS, Heidi "A Fearless Leader and Real Lady" Gansert is a Reno native graduating from Bishop Manogue High School, receiving an MBA from the University of Nevada, is a 4 time qualifier for the Boston Marathon has served her constituents for 3 regular sessions and 5 special sessions by following the cowboy rule of "Don't wake a sleeping rattler"; and

WHEREAS, Ed "My Cows are Green" Goedhart shared being the valedictorian with his twin brother, Eric, in high school, represents the largest dairy in Nevada and has served his

constituents during 3 special sessions and 2 regular sessions by following the cowboy rule of "Once given his goal, he'll be all over that like a chicken on a June bug"; and

WHEREAS, Don "Mr. No Green Button" Gustavson was born in Culver City, California, educated at Western Nevada College, enjoys ballroom dancing, and being elected in 1996 through 2004 and then returning in 2008 served a total of 5 special and 5 regular sessions by following the cowboy way of "if you're gonna' drive cattle through town, do it on Sunday. There's little traffic, people are less disposed to cuss at ya', and you don't have to wear a helmet"; and

WHEREAS, Joe "Give Me the Gavel; I'm here" Hogan served his country in the United States Navy, was educated through the Ft. Dodge, Iowa, public school system and has served his constituents for 5 special sessions and 3 regular sessions by following the cowboy rule of "Never joke with mules, cooks, or lobbyists as they have no sense of humor"; and

WHEREAS, Ruben "Country Gentleman" Kihuen was born in Jalisco, Mexico, educated in Las Vegas at Rancho High School and the University of Nevada, Las Vegas, enjoys movies and has served his district for 3 special sessions and 2 regular sessions by following the cowboy rule of "Learn to speak kind words; nobody resents them"; and

WHEREAS, Harvey "Tall Horse for the Urban Cowboy" Munford holds the record in basketball shooting percentage and block shoots, drafted by the Los Angeles Lakers and the Los Angeles Rams and has served his constituents for 5 special sessions and 3 regular sessions by following the cowboy rule of "Size does matter; the bigger your belt buckle the better"; and

WHEREAS, James "You Gave my Puppy Trichomonosis" Ohrenschall is a native Nevadan, a graduate of the University of Nevada, Las Vegas, son of Cowboy Hall of Famer Jeanie "Legal Beagle" Ohrenschall and has served his constituents for 3 special sessions and 2 regular sessions by following the cowboy rule of "Letting the cat outta' the bag is a whole lot easier than getting' her back in"; and

WHEREAS, Tick "Stand Up Comedian with No Coat" Segerblom is a third generation Nevadan, son of cowboy Hall of Famer, Gene Segerblom, the Ruby Valley Gal, a graduate of Boulder City High School, coordinator of Dukakis for President, holder of the single season rushing record and has served his constituents for 3 special sessions and 2 regular sessions by following the cowboy rule of "An onion can make people cry, but there's never been a vegetable than can make people laugh"; and

WHEREAS, James "Run of the Mill Cowboy" Settelmeyer was born in Carson City, Nevada, was educated in the Douglas County public school system, can ride a horse and talk at the same time and has served his constituents for 3 special sessions and 2 regular sessions by following the cowboy law of "There's nothing better for a man's soul than bein' outside on a horse"; and

WHEREAS, Lynn "Politics is Like a Cattle Drive" Stewart was educated at Las Vegas High School and the University of Nevada, Las Vegas, served his country in the United States Army during Viet Nam and has served his constituents for 3 special and 2 regular sessions by following the cowboy rule of, "Before you criticize someone, walk a mile in their boots.That way you're a mile away from 'em and you have their boots, too."

Cowboy Hall of Fame
May, 2009

.....
John "Boss" Carpenter

.....
Terry "Biscuit Roller" Sullivan

Assemblyman Hardy requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker, for allowing us to do the Cowboy Hall of Fame today. This is Cowboy Hall of Fame day. For a number of years, we have had this event. Wendell Williams and I started this, I don't know how many years ago, and when Wendell was no longer here, I recruited my cowboy friend, the "biscuit roller" Terry Sullivan, to help me carry on the tradition.

Today, we are going to have a few surprises, I hope and a few cute sayings, so with that, we are going to get going here. I do want to read the preamble to the Hall of Fame Proclamation that the lucky recipients will be receiving today.

> THE COWBOY WAY: Write it in your heart. Stand by the code and it will stand by you. Ask no more and give no less than honesty, courage, loyalty, generosity, and fairness . . .

This is the most important part—

> . . . and never forget your constituent's name;

With that, my cowboy friend, we'll present the first proclamation to some lucky recipient.

TERRY SULLIVAN:

Our first inductee into the regular Cowboy Hall of Fame moved to Nevada, where he is doing his part to increase Washoe County's tax and voter base by having children two at a time.

> WHEREAS, David "Cleans up old Dumps" Bobzien was born in Washington D.C., is an Eagle Scout, was the Golden Pine Cone award recipient, and participated in 2 regular and 3 special sessions of the Nevada Legislature by following the cowboy rule of "Never kick a cow patty on a hot day"; . . .

ASSEMBLYMAN CARPENTER:

We've got some cowboy music to go with this. That's pretty nice. The next recipient is Ty Cobb.

> WHEREAS, Ty "Wanna' be a Politician" Cobb was born in Fort Belvoir, Virginia, published both *Bragging Rights Over the Dow, Politics Should Be Played Hard, But Fair*, and has served in the Nevada Assembly for 2 regular and 3 special sessions by following the cowboy rule of "More whiskey and fresh horses for my men"; . . .

I would just like to say that if only half the people that Mr. Cobb has had come to visit him here vote for him, he will be all right in the next election.

TERRY SULLIVAN:

Our third inductee is a part-time chaplain for this body and is a cowboy who can walk by you and in less than five words leave you laughing.

> WHEREAS, Mo "Kids are Number 1" Denis graduated from Las Vegas Rancho High School, is an Eagle Scout and a Boulder Area District Award of Merit recipient, and has served his constituents since 2004 in 5 special sessions and 3 regular sessions by following the cowboy rule of "The quickest way to double your money is to fold it over"; . . .

ASSEMBLYMAN CARPENTER:

It is indeed my pleasure to announce the next recipient.

> WHEREAS, Heidi "A Fearless Leader and Real Lady" Gansert is a Reno native, graduating from Bishop Manogue High School, receiving an MBA from the University of Nevada, 4-time qualifier for the Boston Marathon, and serving her constituents for 3 regular sessions and 5 special sessions by following the cowboy rule of "Don't wake a sleeping rattler"; . . .

TERRY SULLIVAN:

Our fifth inductee came to Nevada to address the calcium deficiency in our great state by providing some 30 percent of our milk and shipping huge amounts of cow manure to surrounding states, thus eliminating a lot of BS in Nevada.

> WHEREAS, Ed "My Cows Are Green" Goedhart shared being the valedictorian with his twin brother, Eric, in high school, represents the largest dairy in Nevada, and has served his constituents during 3 special sessions and 2 regular sessions by following the cowboy rule of "Once given his goal, he'll be all over that like a chicken on a June bug"; . . .

ASSEMBLYMAN CARPENTER:

The next recipient is Don Gustavson.

> WHEREAS, "Mr. No Green Button" Gustavson was born in Culver City, California, educated at Western Nevada College, enjoys ballroom dancing, and being elected in 1996 through 2004 and then returning in 2008 served a total of 5 special and 5 regular sessions by following the cowboy way of "If you're gonna' drive cattle through town, do it on Sunday. There's little traffic, people are less disposed to cuss at ya', and you don't have to wear a helmet"; . . .

TERRY SULLIVAN:

Our seventh inductee came to Nevada because it was the driest state he could find after spending his Navy life on the water.

> WHEREAS, Joe "Give Me the Gavel; I'm Here" Hogan served his country in the United States Navy, was educated through the Ft. Dodge, Iowa, public school system, and has served his constituents for 5 special sessions and 3 regular sessions by following the cowboy rule of "Never joke with mules, cooks, or lobbyists as they have no sense of humor"; . . .

ASSEMBLYMAN CARPENTER:

Our next recipient is Ruben "Country Gentleman" Kihuen.

> WHEREAS, Ruben "Country Gentleman" Kihuen, was born in Jalisco, Mexico, educated in Las Vegas at Rancho High School and the University of Nevada, Las Vegas, enjoys movies and has served his district for 3 special sessions and 2 regular sessions by following the cowboy rule of "Learn to speak kind words; nobody resents them"; . . .

Mr. Kihuen used to sit by me last session, and we used to have great conversations. Someday maybe he'll send me an invitation to his wedding.

TERRY SULLIVAN:

The ninth inductee into our Hall of Fame has been teaching the cowboy way to generations of Nevada youth.

> WHEREAS, Harvey "Tall Horse for the Urban Cowboy" Munford holds the record in basketball shooting percentage and blocked shots, drafted by the Los Angeles Lakers and the Los Angeles Rams, and has served his constituents for 5 special sessions and 3 regular sessions by following the cowboy rule of "Size does matter; the bigger your belt buckle the better"; . . .

ASSEMBLYMAN CARPENTER:

Mr. Munford asked me about three times a day if he was going to make the Cowboy Hall of Fame. He's a real cowboy. He showed me pictures of his horses, and I think he's the only guy who can get on them—they're so tall. Anyway, we do appreciate being able to put Harvey into the Hall of Fame; he does deserve it.

TERRY SULLIVAN:
Our eleventh inductee has earned his fame by being the son of someone really, really famous.

> WHEREAS, Tick "Stand Up Comedian with No Coat" Segerblom is a third generation Nevadan, son of Cowboy Hall of Famer Gene Segerblom, the Ruby Valley Gal, a graduate of Boulder City High School, coordinator of Dukakis for President, holder of the single season rushing record, and has served his constituents for 3 special sessions and 2 regular sessions by following the cowboy rule of "An onion can make people cry, but there's never been a vegetable than can make a person laugh"; . . .

ASSEMBLYMAN CARPENTER:
I believe that the next one will be James Settelmeyer.

> WHEREAS, James "Run of the Mill Cowboy" Settelmeyer was born in Carson City, Nevada, was educated in the Douglas County public school system, can ride a horse and talk at the same time, and has served his constituents for 3 special sessions and 2 regular sessions by following the cowboy law of "There's nothing better for a man's soul than bein' outside on a horse"; . . .

I don't know why he didn't wear his hat. He's always got his hat on. Maybe we ought to take that Cowboy Hall of Fame honor back because he didn't wear his hat.

TERRY SULLIVAN:
Next is the very proud Assistant Minority Leader and all-around gentleman who calls every woman he sees *Diane*.

> WHEREAS, Lynn "Politics is Like a Cattle Drive" Stewart was educated at Las Vegas High School and the University of Nevada, Las Vegas, served his country in the United States Army during Vietnam, and has served his constituents for 3 special and 2 regular sessions by following the cowboy rule of "Before you criticize someone, walk a mile in their boots. That way you're a mile away from 'em and you have their boots, too"; . . .

ASSEMBLYMAN STEWART:
This is the happiest day of my life.

ASSEMBLYMAN CARPENTER:
I'm glad we made someone happy, anyway.

ASSEMBLYWOMAN BUCKLEY:
That's what he said when the bug bill passed.

ASSEMBLYMAN CARPENTER:
Maybe if our friend James is not feeling too well, we'll give him a special honor sometime during the day if he gets here.

This year, because this may or may not be the last Cowboy Hall of Fame, we thought we'd do something a little different and make sure those people who did serve in the Assembly will be honored. This part of the Cowboy Hall of Fame is for the tenderfoots—the wannabe cowboys. We'll start that part of our show right away, and Terry is going to do the first recipient.

TERRY SULLIVAN:
Our first greenhorn is a man who came west to herd cows, or at least that was in the back of his mind when common sense took over.

> WHEREAS, Paul "Mr. Higher Education" Aizley was born in Boston, but prefers Nevada because he can't even enjoy the views in New England because of all those trees, and served his constituents in the 2009 Nevada

Legislature by following the cowboy rule of "The fastest way to move cattle is slowly"; . . .

ASSEMBLYMAN CARPENTER:
Our next recipient is Marilyn Dondero Loop.

WHEREAS, Marilyn "I Love the Rurals and Battle Mountain and I Understand Cowboy" Dondero Loop was born in Las Vegas, Nevada, graduated from Las Vegas High School and from the University of Nevada, Las Vegas, award winner of "Leap Frog School House," and has served her constituents for 1 special and 1 regular session by following the cowboy rule of "Cowboy coffee ain't safe drinkin' and tea ain't the cowboy way"; . . .

TERRY SULLIVAN:
Our third greenhorn is another foreigner who traveled west because he wanted to patrol borders, and no one ever wanted to get into Minnesota.

WHEREAS, John "Keep the Girls off the Street and in the Houses" Hambrick was born in the other twin city of St. Paul, Minnesota, a graduate of the Border Patrol Academy, and serving his constituents for 1 special and 1 regular session by following the cowboy rule of "Scars are cowboy tattoos with better stories"; . . .

ASSEMBLYMAN CARPENTER:
You know if Senator Coffin would have gotten Mr. Hambrick on his bill, he may have had a better chance.
The next inductee into the Tenderfoot Cowboy Hall of Fame is April Mastroluca.

WHEREAS, April "Girl Scout Wanna' Be a Preacher" Mastroluca was born in Hayward, California, educated at Eldorado High School, could crochet a cowboy blanket, and has served her constituents for 1 special and 1 regular session by following the cowboy rule of "The shortest distance between two points is riding with a good friend"; . . .

Getting all these hugs from them pretty ladies makes it double important to do the Cowboy Hall of Fame.

TERRY SULLIVAN:
Our number five lucky-to-be-named greenhorn had already cleaned up crime in Illinois and California, so he came to Nevada to help the local yokels.

WHEREAS, Richard "Freeze! I'm F.B.I." McArthur served his country as a pilot during Vietnam, retiring from the F.B.I., and serving his district for 1 special and 1 regular session by following the cowboy rule of "Excuse me, sir, you're bleeding on my boots"; . . .

ASSEMBLYMAN CARPENTER:
Our next inductee is Ellen.

WHEREAS, Ellen "Register that Damn Car" Spiegel was born in New York City, New York, author of numerous works, enjoys cooking, and has served her constituents for 1 special and 1 regular session by following the cowboy rule of "Forgive your enemies, just don't forget their names"; . . .

TERRY SULLIVAN:
Number seven being chosen for the Greenhorn Hall of Fame is already very special by being a native-born Nevadan and for always coming home from faraway places.

WHEREAS, Melissa "Give me $40, Daddy" Woodbury was educated at Boulder City High School, fluent in French, Spanish, and some English, has been to Africa, and has served her constituents for 1 special and 1 regular session by following the cowboy rule of "Never ask your Momma for money when your Daddy never says no."

ASSEMBLYMAN CARPENTER:

Now we are going to try and do something a little different if we are able to pull it off.

This is a special day for the Cowboy Hall of Fame. Every time I go over to the Senate to present a bill, they never give a damn about the bill—they just want to know why they haven't been inducted into the Cowboy Hall of Fame. All of these esteemed Senators have served in the Assembly, so I felt it was only right that we should induct them into the Cowboy Hall of Fame so they will never have any regrets for serving in the Assembly. We're going to start, and my friend the biscuit roller will start the program.

TERRY SULLIVAN:

Our first inductee to our Gone to the Senate Cowboy Hall of Fame brought fame to Carson City by being a member of the 1974 State Champion Basketball team from Carson High School and perfecting the art of the early departure.

WHEREAS, Mark "Show up and Leave the Speech Early King" Amodei was born in Carson City, graduated from Carson High and the University of Nevada, Reno, served his country as a Major in the United States Army, and has served his constituents for 9 special and 7 regular sessions by following the cowboy rule of "When in doubt, let your horse do the thinkin'"; . . .

ASSEMBLYMAN CARPENTER:

If I have a nice bill that I can't kill here, I send it over to the Senate and Senator Amodei makes sure it doesn't come back anymore.

The next inductee is Barbara Cegavske.

WHEREAS, Barbara "Teenage Driver's License Queen" Cegavske was born in Minnesota, attended Clark County Community College, has three pages on the legislative biography, and has served her constituents for 9 special and 7 regular sessions by following the cowboy rule of "Put the pedal to the metal"; . . .

TERRY SULLIVAN:

Our third Gone to the Senate Greenhorn earned his place in the Cowboy Hall of Fame by his unceasing devotion to every special interest group in the state and bringing them all into ethical compliance.

WHEREAS, Warren "Ethics" Hardy was born in Salt Lake City, Utah, graduated from Rancho High School in North Las Vegas and the University of Nevada, Las Vegas, is a member of the LA Dodgers' Blue Crew, and has served his constituents for 7 special and 5 regular sessions by following the cowboy rule of "Don't squat on your Spurs"; . . .

ASSEMBLYMAN CARPENTER:

Our next inductee is John Lee.

WHEREAS, John "Bus Stop" Lee was born in Middlesex, England, wished he was born in Nevada, attended Rancho High School in North Las Vegas, is an Eagle Scout, has a Silver Beaver Award, and has served his constituents for 7 special and 6 regular sessions by following the cowboy rule of "Don't worry, I've been in tighter spots than this"; . .

TERRY SULLIVAN:

The fifth member of this esteemed group is from a town that you have to be going to, to get there.

> Whereas, Mike "DJ for Country Music" McGinness is a native Nevadan from Fallon, educated in Churchill County schools and at the University of Nevada, Reno, has served his constituents for 10 special and 11 regular sessions by following the cowboy rule of "Never give your horse more attention than your wife unless you like sleeping in the barn"; . . .

ASSEMBLYMAN CARPENTER:

Mike has always been a great friend and a great rural guy.

The next recipient is Dennis Nolan.

> WHEREAS, Dennis "Buckle up Baby" Nolan is a native Nevadan from Las Vegas, educated at Clark High School, Southern Nevada Community College, University of Nevada, Las Vegas, and is a paramedic, and has served his constituents for 9 special and 8 regular sessions by following the cowboy rule of "Ride 'em cowboy"; . . .

Dennis says we should have had a Shetland pony here for him.

TERRY SULLIVAN:

Now here's a cowboy that is a cowboy that has cowboyed around these halls forever.

> WHEREAS, Dean "Tuscarora Bull Rider" Rhoads was born in Tonasket, Washington, served in the National Guard, was educated at Cal Poly, and has served his constituents for 16 regular and 11 special sessions by following the cowboy rule of "The challenge is not always saying what you mean but to say it with as few words as possible"; . . .

ASSEMBLYMAN CARPENTER:

Our last recipient is Mike.

> Whereas, Mike "Give Me a Home Where the Buffalo Roam in a Gated Community" Schneider was born in McCook, Nebraska, was educated at Bishop Gorman High School in Las Vegas, the University of Nevada, Las Vegas, and has served his constituents for 9 regular and 9 special sessions by following the cowboy rule of "Never drink wine unless you're alone or with somebody."

I think we should give our esteemed Senators a round of applause. Thank you all for being here. We'll let the police escort you back.

ASSEMBLYMAN GOICOECHEA:

Madam Speaker, I think there is one more proclamation here we have missed—if Mr. Grady will bring that forward.

I think all of us here understand and recognize that the big boss, John C, is about to give up this little rodeo we've got going here. With that, my sidekick and the third leg of the cowboy caucus here has a proclamation he'd like to read to him.

Assemblyman Grady requested that the following proclamation be entered in the Journal.

Nevada Legislature
75th Session

COWBOY HALL OF FAME

WHEREAS, in the early spring of "99", May 29th of 1999 to be exact, a cowboy by the name of "Boss" Carpenter entered Jack's Bar with his Segundo Wendell "Rowdy" Williams to hire a crew to drive cattle on the "Hall of Fame" Trail; and

WHEREAS, after a tall 7-Up with two cherries, the "Boss" hired his first crew. Each had a pledge to live "The Cowboy Way" – Write it in their hearts. Stand by the Code and it will stand by you. Ask no more and give no less than honesty, courage, loyalty, generosity, fairness, and never forget their constituents' names; and

WHEREAS, in 1999, this first crew consisted of: "The Speaker" Dini, "Guiseppe" Evans, "Good Guy" Price, "Boulder" Segerblom, "Flyboy" Neighbors, "Pine Cone" Freeman, "Author" de Braga and "Cowboy" Marvel; and

WHEREAS, on May 31, 2001, the "Boss" hired a new crew – the '99 bunch bought their own spread: "The Kid" Perkins, "Boom Boom" Chowning, "Hambone" Humke, "Cool Hand" Hettrick, "Bulldog" Giunchigliani, "Brush Popper" Arberry, "Bubba" Anderson, "Rhinestone" Collins, and "Biscuit Roller" Sullivan; and

WHEREAS, on May 30, 2003, the "Boss" hired his third crew in the Caucus Deli: "Buckaroo" Buckley, "Show me the Money" Goldwater, "Legal Beagle" Ohrenschall, "Range Rider" Manendo, "Giddyup" Gibbons, "Herd Tender" Sneedon, and "Fence Mender" Watson; and

WHEREAS, on the 2nd of June, 2005, after the last crew, including "Rowdy," left in a pay dispute (no union then), he hired his trail boss, "Biscuit Roller" Sullivan, mainly because of his broad experience as a wrangler, cook, doctor, preacher, philosopher, enforcer and organizer. The crew were rookies: "Tin Teepee" Koivisto, "Redneck Woman" McClain, "Fallon Goat Roper" Oceguera (on the recommendation of Miss Rodeo Nevada), "Mule Deer" Claborn, "Lone Rider" Angle, "Town Tamer" Leslie, "Git R Done" Parks, and "State Parks Rocket Man" Mortensen; and

WHEREAS, in 2007, May 24th to be exact, after another crew quit, the "Boss" had to head to Timbers to hire a new crew: "Horse Whisperer" Atkinson, "Greenhorn" Christensen, "Redneck Jedi" Conklin, "The Professor Fandango" Goicoechea, "Smooth Talker" Grady, "Dr. Sparky" Hardy, "Trust Me" Horne, "Daydreamer" Kirkpatrick, "Straw Boss" Mabey, "School Marm" Parnell, "On the Shoot" Pierce, "Apple Pie" Smith, "Boot Scooter" Weber, and "Team Roper" Bates; now, therefore, be it

RESOLVED that with his sixth crew selected, he realizes they won't work for mutton and beans, cattle prices are in the tank, his Bronco is out of gas, and he is going back to Elko.

Before he leaves, his past inductees want to wish the Boss the best, thank him for being our mentor, friend, and the best bill man ever.

Keep the wagon tongue headed east, take care of the missus, and send a smoke signal now and then.

Happy Trails, Big Boss.

Cowboy Hall of Fame
May, 2009

.....
Pete "Professor Fandango" Goicoechea

.....
Tom "Smooth Talker" Grady

ASSEMBLYMAN CARPENTER:

Thank you all. I didn't know this was going to happen. I really appreciate all my friends, and with this kind of a deal, it kind of makes you sad to have to leave. I want to thank you all. You've been a great crew, and it's been a real rodeo and a real ride. Thank you very much.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Kimberly Owens and Raina A. Arberry.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Alandra Porazzo, Nathan Tea, Mikayla Tea, and Jennifer Baker.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Camille Smith.

Assemblyman Oceguera moved that the Assembly adjourn until Sunday, May 31, 2009, at 10 a.m.

Motion carried.

Assembly adjourned at 7:53 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND NINETEENTH DAY

CARSON CITY (Sunday), May 31, 2009

Assembly called to order at 11:09 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Bernie Anderson.

Almighty God, our Father, by whose grace we live, move and have our very being; You who see into our hearts and into the minds of those who are believers and of those who are tolerant of our beliefs. We pray for protection for our families and all who are traveling or soon will be. We ask for peace in our world. Protect our soldiers from harm and bring a conclusion to their mission, and comfort and support for their families.

God, we would ask that you give an extra measure of strength to the staff that supports our work, and remind us of our obligation to use the gifts You have given us to do good, ever mindful of the truly great blessing of liberty we enjoy. Deliver us from the fear of what might happen, and help us strive after what ought to be.

Mindful of the gifts You have already given us with a bright new day in front of us, we ask anew for Your help in all that we do.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 236.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 521.

The following Senate amendment was read:

Amendment No. 970.

AN ACT relating to occupational diseases; revising provisions governing coverage for cancer as an occupational disease of certain firefighters; expanding the list of substances which are deemed to be known carcinogens that are reasonably associated with specific disabling cancers; ~~[providing that coverage for cancer as an occupational disease applies to a firefighter who has been employed for 2 years or more under certain circumstances;]~~

requiring ~~[certain]~~ annual physical examinations of **certain** firefighters who qualify for coverage for cancer as an occupational disease; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, cancer which results in temporary disability, permanent disability or death is an occupational disease and compensable as such under the provisions of chapter 617 of NRS if the cancer develops or manifests itself out of and in the course of employment of a person who, for 5 years or more, has been employed as a full-time firefighter or has been acting as a volunteer firefighter and who, during the course of the employment, was exposed to a known carcinogen that is reasonably associated with the disabling cancer. Existing law also sets forth a list of substances that shall be deemed to be known carcinogens that are reasonably associated with specific disabling cancers. (NRS 617.453) This bill ~~[provides that coverage for cancer as an occupational disease applies if a firefighter has been employed for 2 years or more. This bill also]~~ expands the list of substances which are deemed to be known carcinogens that are reasonably associated with specific disabling cancers. In addition, this bill requires each firefighter who **is employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public and who** qualifies for coverage for cancer as an occupational disease to submit to an annual physical examination **. ~~[and]~~ This bill also** requires the employer of the firefighter to pay for the physical examination.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 617.453 is hereby amended to read as follows:

617.453 1. Notwithstanding any other provision of this chapter, cancer, resulting in either temporary or permanent disability, or death, is an occupational disease and compensable as such under the provisions of this chapter if:

(a) The cancer develops or manifests itself out of and in the course of the employment of a person who, for 5 ~~[2]~~ years or more, has been:

(1) Employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public; or

(2) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; and

(b) It is demonstrated that:

(1) He was exposed, while in the course of the employment, to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program; and

(2) The carcinogen is reasonably associated with the disabling cancer.

2. With respect to a person who, for 5 ~~[2]~~ years or more, has been employed in this State in a full-time salaried occupation of fire fighting for

the benefit or safety of the public, the following substances shall be deemed, for the purposes of paragraph (b) of subsection 1, to be known carcinogens that are reasonably associated with the following disabling cancers:

(a) Diesel exhaust, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with bladder cancer.

(b) Acrylonitrile, formaldehyde and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with brain cancer.

(c) Diesel exhaust and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with colon cancer.

(d) Formaldehyde shall be deemed to be a known carcinogen that is reasonably associated with Hodgkin's lymphoma.

(e) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with kidney cancer.

(f) Chloroform, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with liver cancer.

(g) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic hydrocarbon, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with lymphatic or haemotopoietic cancer.

(h) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with basal cell carcinoma, squamous cell carcinoma and malignant melanoma.

(i) Acrylonitrile, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with prostate cancer.

(j) Diesel exhaust, soot and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with testicular cancer.

(k) Diesel exhaust, benzene and X-ray radiation shall be deemed to be known carcinogens that are reasonably associated with thyroid cancer.

3. The provisions of subsection 2 do not create an exclusive list and do not preclude any person from demonstrating, on a case-by-case basis for the purposes of paragraph (b) of subsection 1, that a substance is a known carcinogen that is reasonably associated with a disabling cancer.

4. ***Each employee who is employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public and is to be covered for cancer pursuant to the provisions of this section shall submit to a physical examination, including:***

(a) Upon employment, a chest X ray, a thyroid ultrasound scan, a blood panel, a urine occult blood test and:

(1) For men, a prostate-specific antigen test; and

(2) For women, a baseline mammogram; and

(b) On an annual basis while employed, a thyroid ultrasound scan and, for men, a prostate-specific antigen test.

5. All physical examinations required pursuant to subsection 4 must be paid for by the employer.

6. Compensation awarded to the employee or his dependents for disabling cancer pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization in accordance with the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

~~[5.]~~ ***7.*** Disabling cancer is presumed to have developed or manifested itself out of and in the course of the employment of any firefighter described in this section. This rebuttable presumption applies to disabling cancer diagnosed after the termination of the person's employment if the diagnosis occurs within a period, not to exceed 60 months, which begins with the last date the employee actually worked in the qualifying capacity and extends for a period calculated by multiplying 3 months by the number of full years of his employment. This rebuttable presumption must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented.

~~[6.]~~ ***8.*** The provisions of this section do not create a conclusive presumption.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate Amendment No. 970 to Assembly Bill No. 521.

Motion carried.

The following Senate amendment was read:

Amendment No. 971.

AN ACT relating to occupational diseases; revising provisions governing coverage for cancer as an occupational disease of certain firefighters; expanding the list of substances which are deemed to be known carcinogens that are reasonably associated with specific disabling cancers; providing that coverage for cancer as an occupational disease applies to a firefighter who has been employed for 2 years or more under certain circumstances; ~~[requiring certain annual physical examinations of firefighters who qualify for coverage for cancer as an occupational disease;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, cancer which results in temporary disability, permanent disability or death is an occupational disease and compensable as such under the provisions of chapter 617 of NRS if the cancer develops or manifests itself out of and in the course of employment of a person who, for 5 years or more, has been employed as a full-time firefighter or has been

acting as a volunteer firefighter and who, during the course of the employment, was exposed to a known carcinogen that is reasonably associated with the disabling cancer. Existing law also sets forth a list of substances that shall be deemed to be known carcinogens that are reasonably associated with specific disabling cancers. (NRS 617.453) This bill provides that coverage for cancer as an occupational disease applies if a firefighter has been employed for 2 years or more. This bill also expands the list of substances which are deemed to be known carcinogens that are reasonably associated with specific disabling cancers. ~~[In addition, this bill requires each firefighter who qualifies for coverage for cancer as an occupational disease to submit to an annual physical examination and requires the employer of the firefighter to pay for the physical examination.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 617.453 is hereby amended to read as follows:

617.453 1. Notwithstanding any other provision of this chapter, cancer, resulting in either temporary or permanent disability, or death, is an occupational disease and compensable as such under the provisions of this chapter if:

(a) The cancer develops or manifests itself out of and in the course of the employment of a person who, for ~~[5]~~ ***2*** years or more, has been:

(1) Employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public; or

(2) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; and

(b) It is demonstrated that:

(1) He was exposed, while in the course of the employment, to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program; and

(2) The carcinogen is reasonably associated with the disabling cancer.

2. With respect to a person who, for ~~[5]~~ ***2*** years or more, has been employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public, the following substances shall be deemed, for the purposes of paragraph (b) of subsection 1, to be known carcinogens that are reasonably associated with the following disabling cancers:

(a) Diesel exhaust, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with bladder cancer.

(b) Acrylonitrile, formaldehyde and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with brain cancer.

(c) Diesel exhaust and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with colon cancer.

(d) Formaldehyde shall be deemed to be a known carcinogen that is reasonably associated with Hodgkin's lymphoma.

(e) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with kidney cancer.

(f) Chloroform, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with liver cancer.

(g) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic hydrocarbon, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with lymphatic or haemotopoietic cancer.

(h) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with basal cell carcinoma, squamous cell carcinoma and malignant melanoma.

(i) Acrylonitrile, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with prostate cancer.

(j) Diesel exhaust, soot and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with testicular cancer.

(k) Diesel exhaust, benzene and X-ray radiation shall be deemed to be known carcinogens that are reasonably associated with thyroid cancer.

3. The provisions of subsection 2 do not create an exclusive list and do not preclude any person from demonstrating, on a case-by-case basis for the purposes of paragraph (b) of subsection 1, that a substance is a known carcinogen that is reasonably associated with a disabling cancer.

4. ~~*[Each employee who is to be covered for cancer pursuant to the provisions of this section shall submit to a physical examination, including:*~~

~~*(a) Upon employment, a chest X-ray, a thyroid ultrasound scan, a blood panel, a urine occult blood test and:*~~

~~*(1) For men, a prostate-specific antigen test; and*~~

~~*(2) For women, a baseline mammogram; and*~~

~~*(b) On an annual basis while employed, a thyroid ultrasound scan and, for men, a prostate-specific antigen test.*~~

~~*5. All physical examinations required pursuant to subsection 4 must be paid for by the employer.*~~

~~*6.]*~~ Compensation awarded to the employee or his dependents for disabling cancer pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization in accordance with the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

5. ~~[7.]~~ Disabling cancer is presumed to have developed or manifested itself out of and in the course of the employment of any firefighter described in this section. This rebuttable presumption applies to disabling cancer diagnosed after the termination of the person's employment if the diagnosis occurs within a period, not to exceed 60 months, which begins with the last date the employee actually worked in the qualifying capacity and extends for a period calculated by multiplying 3 months by the number of full years of his employment. This rebuttable presumption must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented.

6. ~~[8.]~~ The provisions of this section do not create a conclusive presumption.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate Amendment No. 971 to Assembly Bill No. 521.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Koivisto moved that the Assembly do not recede from its actions on Amendments No. 684, 870, Senate Bill No. 263, and that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

Assemblywoman Koivisto moved that the Assembly recede from its action on Amendment No. 891 to Senate Bill No. 263.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Kihuen, Segerblom, and Hambrick as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 263.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 503.

The following Senate amendment was read:

Amendment No. 639.

AN ACT relating to transportation; creating an advisory committee to develop recommendations relating to the funding of the construction and maintenance of highways in this State; providing for the membership, compensation and duties of the advisory committee; authorizing the advisory committee to place advisory questions regarding its recommendations on the ballot for the general election to be held in 2010; requiring the Secretary of State to appoint committees to prepare arguments for and against approval of

the recommendation proposed in any such advisory question placed on the ballot; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates an advisory committee to develop recommendations for increasing funding for highways in this State. The committee consists of ~~[six]~~ **eight** members, three appointed by the Majority Leader of the Senate **,** ~~[and]~~ three appointed by the Speaker of the Assembly ~~[.]~~ **, one appointed by the Minority Leader of the Senate and one appointed by the Minority Leader of the Assembly.** Not more than one member of the committee may be a member of the Senate, **who must be appointed by the Majority Leader of the Senate,** and not more than one member may be a member of the Assembly ~~[.]~~ **, who must be appointed by the Speaker of the Assembly. To the extent practicable, the members of the advisory committee must reflect the geographic diversity of this State.** The advisory committee: (1) is charged with developing recommendations relating to the funding of the construction and maintenance of highways in this State; and (2) is authorized to ask the voters of the State for their advice on those recommendations by placing advisory questions on the ballot for the general election to be held in 2010. If the advisory committee places an advisory question on the ballot, the Secretary of State must appoint committees to prepare arguments for and against approval of the recommendation proposed in the advisory question.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. As used in this act, "advisory committee" means the advisory committee created by subsection 1 of section 2 of this act.

Sec. 2. 1. There is hereby created an advisory committee to develop recommendations for increasing the funding of highways in this State.

2. The advisory committee consists of ~~[six]~~ **eight** members appointed as follows:

(a) Three members appointed by the Majority Leader of the Senate; ~~[and]~~

(b) Three members appointed by the Speaker of the Assembly ~~[.]~~ **;**

(c) One member appointed by the Minority Leader of the Senate; and

(d) One member appointed by the Minority Leader of the Assembly.

3. Not more than one member of the advisory committee may be a member of the Senate, **who must be appointed by the Majority Leader of the Senate,** and not more than one member of the advisory committee may be a member of the Assembly ~~[.]~~ **, who must be appointed by the Speaker of the Assembly.**

4. **The Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the Assembly shall, to the extent practicable, ensure that the members appointed to the advisory committee reflect the geographic diversity of this State.**

5. The term of each member of the advisory committee commences on July 1, 2009, and expires on June 30, 2011.

~~[5.]~~ **6.** Members of the advisory committee serve without compensation, except that while engaged in the business of the advisory committee, each member is entitled to the per diem allowance and travel expenses provided for state officers and employees generally, to be paid from the Legislative Fund.

~~[6.]~~ **7.** The advisory committee shall ~~[meet]~~ **:**

(a) Meet at least once every 3 months ~~[.]~~ **; and**

(b) To the extent practicable, conduct its meetings via video conference.

~~[7.]~~ **8.** At its first meeting, the advisory committee shall elect a Chairman and a Vice Chairman from among its members.

~~[8.]~~ **9.** A vacancy in the membership of the advisory committee must be filled in the same manner as the original appointment.

Sec. 3. 1. The advisory committee shall develop recommendations relating to increasing the funding of the construction and maintenance of highways in this State.

2. When developing recommendations pursuant to the provisions of subsection 1, the advisory committee shall consider, without limitation, the most recent, if any, transportation project lists developed by the Department of Transportation and the regional transportation commission of any county whose population is 100,000 or more.

Sec. 4. 1. The advisory committee may, at the general election held in 2010, ask the advice of the registered voters of the State on any question regarding the recommendations developed by the committee pursuant to section 3 of this act.

2. To place an advisory question on the ballot at the general election held in 2010, the advisory committee shall, not less than 120 days before the general election, submit to the Secretary of State a resolution that:

(a) Sets forth:

(1) Each question, in language indicating clearly that the question is advisory only;

(2) An explanation of the question; and

(3) A description of the anticipated financial effect on the State; and

(b) Provides that the result of the voting on the question does not impose any legal requirement on the Legislature, any member of the Legislature or any other officer of the State.

3. If the advisory committee places an advisory question on the ballot pursuant to this section, on the sample ballot for the election, the advisory question must appear:

(a) With a title in substantially the following form: “Advisory Ballot Question No..”; and

(b) With its explanation, arguments and description of the anticipated financial effect.

Sec. 5. 1. For each advisory question to be placed on the ballot pursuant to the provisions of section 4 of this act, the Secretary of State shall, pursuant to subsection 4, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the recommendation proposed in the advisory question and the other committee must be composed of three persons who oppose approval by the voters of the recommendation proposed in the advisory question.

2. If the Secretary of State is unable to appoint three persons who are willing to serve on a committee, he may appoint fewer than three persons to that committee, but he must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of the recommendation proposed in the advisory question and the committee that opposes approval by the voters of the recommendation proposed in the advisory question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the advisory question.

4. The Secretary of State shall consider appointing to a committee pursuant to this section:

(a) Any person who has expressed an interest in serving on the committee; and

(b) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

5. A committee appointed pursuant to this section:

(a) Shall elect a chairman for the committee;

(b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;

(c) May seek and consider comments from the general public;

(d) Shall, based on whether the members were appointed to advocate or oppose approval by the voters of the recommendation proposed in the advisory question, prepare an argument either advocating or opposing approval by the voters of the recommendation proposed in the advisory question;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The fiscal impact of the recommendation proposed in the advisory question;

(2) The environmental impact of the recommendation proposed in the advisory question; and

(3) The impact of the recommendation proposed in the advisory question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the Secretary of State not later than the date prescribed by the Secretary of State pursuant to subsection 6.

6. The Secretary of State shall provide, by rule or regulation:

(a) The maximum permissible length of an argument and rebuttal prepared pursuant to this section; and

(b) The date by which an argument and rebuttal prepared pursuant to this section must be submitted by a committee to the Secretary of State.

7. Upon receipt of an argument or rebuttal prepared pursuant to this section, the Secretary of State:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise regarding transportation and transportation-related issues; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

➥ The decision of the Secretary of State to reject a statement pursuant to this subsection is a final decision for the purposes of judicial review. Not later than 5 days after the Secretary of State rejects a statement pursuant to this subsection, the committee that prepared the statement may appeal that rejection by filing a complaint in the First Judicial District Court. The Court shall set the matter for hearing not later than 3 working days after the complaint is filed and shall give priority to such a complaint over all other matters pending before the court, except for criminal proceedings.

8. The Secretary of State may revise the language submitted by a committee pursuant to this section so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect of the language without the consent of the committee.

Sec. 6. This act becomes effective upon passage and approval.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 503.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Smith moved that the Assembly do not recede from its action on Amendment No. 949, Senate Bill No. 293, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Smith, Mastroluca, and Hardy as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 293.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:23 a.m.

ASSEMBLY IN SESSION

At 11:27 a.m.
Madam Speaker presiding.
Quorum present.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

This session will be ending shortly—I don't predict when—but we know it will end for sure by tomorrow. I would like to speak about a matter of great importance to this body. We are going to be losing some of our members to term limits, and I thought it only appropriate to celebrate the service of some of our members who won't be returning. I'm not going to roast these members. Instead of speaking from sadness, I am going to speak as a celebration of their service. The members are a depository of so much institutional knowledge. We have Bernie Anderson, Morse Arberry, Harry Mortenson, Jerry Claborn, Mark Manendo, John Carpenter, Ellen Koivisto, Sheila Leslie, and Kathy McClain. They take with them a wealth of knowledge, talent, energy, and experience that will serve them in good stead wherever they next may go.

I am going to start with a couple of the members, and then maybe in the next floor session, we will continue on until we have talked about each one of them and what they've meant to Nevada.

I am going to start with Assemblyman Morse Arberry. "The Moose," Assemblyman "No Dough" Arberry, Assemblyman Morse Arberry—he's not only given 25 years of legislative service, he gave us all his hair! Now in his twenty-fifth year of legislative service, Morse Arberry has been an inspiration to me and so many others, combining a friendly, easygoing nature with incredible knowledge, compassion, and determination.

When I first arrived in 1995, Moose was already a ten-year veteran of the Legislature. That was our notable session where we were tied 21-21, Republican-Democratic control. I was fortunate enough to watch Moose share power with Assemblyman John Marvel. They did it as friends; they did it as colleagues. They were an inspiration to everyone else because they made it look easy to share power.

Moose has always been kind of a protective big brother to me. I think of all the things that really kind of sum Moose up. First, he's just so gentle. It doesn't mean you can't be tough, but we'll have a contentious hearing and we'll have witnesses out of control, and Moose will say, "My brother, just calm down a little bit." And no one takes offense because of the way he handles people. At the same time, though, Moose never forgets who elected him and who brought him here. He is always fighting for the underdog, whether it's the community colleges, minority issues, or creating opportunity for everyone in his district. He never forgets that and never forgets why he is here.

When I first started practicing law at Legal Aid, the first year all I did was evictions. Person after person would come into our office with an eviction notice, and it only took me a few days to realize the problem was they couldn't afford the rent because there wasn't enough affordable housing. If you are making $800 a month in social security, how are you going to afford a place to live when the average rent is $1,000? That is why most people were being evicted. Assemblyman Morse Arberry sponsored legislation to create Nevada's Account for Low-Income Housing, and I'll never forget that. It is probably one of the best pieces of legislation ever introduced, and as a result of that, thousands and thousands of units have been built around Nevada so that senior citizens have a place where they can live on their social security checks. Not many people even remember that now. They just see these units go up around the state. We have pictures of some of them coming a little later, so when you look at all these units and wonder what they are doing in this slide, it is because of Assemblyman Morse Arberry creating them for our state.

So here's a little bit about Moose for those of you who don't know him. He was born in Berkley, California, but grew up and spent most of his life in southern Nevada. He graduated from Western High School and earned a bachelor of science in engineering from Northern Arizona University. He worked for the City of Las Vegas for years in public works, engineering, building plans, and neighborhood services. In recent years, he has gone back to UNLV for business administration. He is the president and chief executive officer of a mortgage company in Las Vegas.

Moose asks me for legal advice every now and then, and it is always for someone else. It is always, "Hey, Barb, I have an employee, and they are just in a little bit of trouble." Or "I am getting somebody a mortgage, and they just have this bad thing on their credit report, and it wasn't their problem. How can I make it right for them? What can we do to help them?" He's always looking out for other people.

When he first arrived in the Assembly in 1985, he was assigned to serve on three committees: Judiciary, Education, and Economic Development and Tourism. It wasn't until his second regular session that Moose was able to even get on Ways and Means. It seems unlikely to all of us, but that's the way it was. Moose has chaired the Assembly Ways and Means Committee since 1993—a long time. The 2009 Session marks the ninth regular session that Moose either chaired or cochaired the Ways and Means Committee, which is an all-time Assembly record that will never be repeated by anyone else because of term limits. The previous record was set by Assemblyman Don Mello. His service on this committee has spanned an amazing 23 years, and during that time, he has alternated as either chair or vice chair of the Interim Finance Committee since 1993.

As I talked about before, he has many interests. Even this session, he sponsored A.B. 451 to establish an innovative program to provide reduced-rate lending to qualified businesses, giving preferences to minority-owned racial and ethnic minorities, women, and veterans. In earlier sessions, Moose sponsored measures, including a study of community colleges, appropriations for sickle cell anemia, funding to help relocate homeowners in North Las Vegas whose homes were sinking, and provisions to prevent patients from being dumped from one hospital to another. In 1987, he was the primary sponsor of the legislation to create a Martin Luther King holiday and the day after Thanksgiving as a legal holiday in the State of Nevada. As I talked about, the Account for Low-Income Housing that he created has allocated now, since he sponsored it in 1989, $86 million to create affordable housing in our state. It has been used for down payment assistance, rehab, new construction, and weatherization. It can't be overstated how much this has created. In Clark County alone, we have 18 apartment complexes for low income seniors and families as a result of what Moose did.

We also have a photo of how this helped other folks. We have a senior citizen complex in Battle Mountain, which was created by Moose's bill, and it's appropriately named after his good buddy John Marvel, as they sat side by side for so many years. The next photo is a rendering of McKnight Village II Senior Apartments—another thing Moose did. The next photo is the Senator Richard Bryan Senior Apartments. The next is a project that I worked on, using the funding created by Moose. This is the Silver Sky Assisted Living Project. This is the first nonprofit assisted living project ever built in the State of Nevada. So many senior citizens don't

want to go to nursing homes—they cost $4,000 a month. They want to live independently, with dignity, and that is a result of this funding that was sponsored by Moose.

As you all know, besides his service here, Moose has a number of other outside interests, whether it is classic automobiles, boating, athletics, sports, or golf. I understand he already has his tee time scheduled for June 4, 2009, when we get out of here. There are one or two short stories about Moose.

A number of years ago, the Fiscal Analysis Division had its offices here in the building, and they had windows overlooking the grass outside. One day they noticed a man out on the grass all by himself, moving his body and his arms in strange ways. Was it tai chi? No. Was it a rain dance? No. Somebody then noticed Moose was playing basketball—without the ball. He was just loosening up, getting ready for the Legislature. The Fiscal staff was very impressed. They said his moves were as smooth as a gazelle. I think they were exaggerating.

Moose, when he first came here, had great friendships with Gene Porter and Wendell Williams. They have lots of stories to tell about that era. One of them was when they decided to rent a large A-frame house in Lakeview, in Carson City. When they got there, they backed their U-Haul up and took parts of the house with them. They managed to move their belongings into the house, they set up a workout room, they got it all fixed up. Then one day, Moose and Wendell went to the workout room in the house, and they found a dead mouse. They were too scared to pick it up, so they stopped working out because they couldn't go into the room to pick up the mouse. And then the snow came. These city boys from southern Nevada—they don't do snow. They were too afraid to drive to the Legislative Building, so they had to call their secretary to come pick them up in her four-wheel drive to take them to work that day. For the rest of the session, Reba Combs, Cindy Southerland, and Marilyn Jane took turns collecting them from their house on snowy or icy mornings to drive them to the Legislative Building.

At the end of that same session after packing up all their things and loading them into a U-Haul truck, they left the truck outside the Sedway Building. Someone noticed it there; they thought it was stolen, so they repossessed it. Moose came out the next day, and his U-Haul was gone. He has had some incredible experiences over his tenure.

I think if you want to talk about Moose the man, you have to talk about his daughter. He is always talking about Raina—how proud he is of her and what she is doing with her school and with her activities. It is when I see the biggest smile on his face.

You have been an incredible legislator, Moose. We love you.

If you want to share an embarrassing story about Assemblyman Morse Arberry, you have an opportunity now. Otherwise, we'll leave it on a high note. Moose is giving you the Moose shake.

ASSEMBLYMAN HORNE:

Those of you who have been around for a little bit have watched me and the chairman from District 17 always giving Moose a hard time about his age. When we first got here in 2003, he was old enough to be our daddy. Now that it is 2009, he is old enough to be our granddaddy. He is aging faster than the rest of us. He's losing his sight—he had to leave to go get surgery on his eye because he's going blind.

One story I want to tell you falls right in line with the fact that we're always teasing him about his age. We were sitting in the caucus room having a meal and he said, "Hey, Dude. Come here. Dude. Who's that right there?" And I was like, "Who?" And I can't remember who he had pointed to—maybe Chad Christensen, who had come into the room. I was like, "That's Chad Christensen. He's been here since '03." He said, "Really? Oh." I said, "How old are you, exactly, Moose?" So that has been a running joke, and every now and then he will throw it out there— "Who was that?" And I'll say, "That was the Speaker. That was the Speaker—Barbara. You've been serving with her for quite some time. You're all right. We got a little more time. June 1 and you get to go home where all the surroundings are familiar to you."

On a more serious note, I want to say to Moose, I love you, man. I'm going to try to get through this without crying—because he knows how much I care for him. He took me under his wing when I first said I wanted to run. Many of you know that when you first jump in there, sometimes it is difficult to even find that person who is willing to sit down and talk to you. As

you've all been here, you hear many people come and tell you they are interested in running for office and the like. But he genuinely took the time and helped me through that process. Once I got here, not only was it not uncommon for me to go to his office and sit down and talk to him, but he would come to my office and sit down. "How you doin', dog? You okay?" He did that. He's a friend, and he recognizes when you need that, and he comes to you. And he has done that on several tough occasions. He recognizes it, and he comes to you to see how you are doing. I will always love you for that. Thank you.

ASSEMBLYMAN MUNFORD:

This is sort of things in reverse because I have known Moose since he was 15 years old in high school at Western. I had just gotten hired in the district, and I was sort of his mentor, so to speak, because I was working at Doolittle Recreation Center. Moose used to come up there all the time with all the other young men in the neighborhood. I was still young—well, I'm not too old now. I was a lot older than he was. They all thought I had just left the Lakers and I was in town, and they thought I was a basketball guru, so to speak, and they all wanted to challenge me. I was the one they wanted to play against. Moose, himself, was on a state championship basketball team in 1971. He was one of the major players. He was a good player in high school. That's where he got the name Moose because they always wanted him to go under the boards and be tough. "Come on, Moose! Come on, Moose!" And sometimes he came through.

Here I am now in the Legislature. I was his mentor, and now I go to him for advice, so he is sort of like my mentor, so to speak. And I voted for him. He was my representative for many years, and I voted for him for many years. We all became quite proud of him. He has had a good career up here, and I guess when it is all over, he'll continue to have a real impact and be a factor in our community. We all look forward to working with him someday again. Moose, thanks for everything. You are a good man.

ASSEMBLYMAN HARDY:

I rise in support of Moose Arberry. Moose, you were the brother who called me brother. Thank you, brother.

ASSEMBLYMAN ATKINSON:

I hope to do a little better than my colleague from District 34 and not cry. Moose, what can I say? I remember when I first came here, I was really intimidated by him for some reason. I couldn't understand why he kept calling me "dog." "That's right, dog." "Of course, dog!" I got to know him throughout the sessions, and he has been a good friend.

I want to tell another story about the "old" thing and how my colleague and I always make fun of him and talk about him. You know, that is another thing. There is not anyone else I know you can make fun of who goes along with you. I remember we were out to dinner one night and I told him, "Moose, you are so old; you wake up in the middle of the night to check your pulse." He came in the next day and said, "Dog, you told me that yesterday, and I woke up last night, and I checked my pulse." He said, "Y'all so crazy."

I don't know if he remembers this, but I certainly do. I remember going through some troubles after my freshman session and being in D.C. with him and my colleague from District 34 and receiving a few phone calls telling me that I probably shouldn't run again. I remember being out to dinner with Moose and him saying, "That's not going to happen. You're going to run again. You're not going to listen to anybody. That is your district. Your district voted for you, and they're the ones that should tell you when you should leave." So I owe it to you, Moose. I have no doubt that he is the reason I stayed and why I am still here today. I want to thank you for your friendship throughout the years, and I know it doesn't end today. He has truly been an inspiration to me, and I will never forget him. I love you, Moose.

ASSEMBLYWOMAN GANSERT:

I also rise in support of Moose. I have had the honor of serving on Ways and Means with him for the last three sessions and the interims. You are a kind and gentle man. The Assemblyman from Boulder City mentioned that he is one of your brothers. Well, I know another one; his name is John Marvel. And when John Marvel was in the hospital, Moose went to the hospital and told them he was his brother and was able to visit with him. The resemblance is there. You

took the time when John was ill, and I know how much he appreciated that and I appreciated that. That shows your kindness and your gentleness. I thank you for your service and for your friendship to all of us. Thank you.

ASSEMBLYMAN ANDERSON:

I rise in support of my good friend, Morse Arberry. I had the pleasure of being a freshman here when both he and Wendell Williams and the Majority Leader shared a place together. I am not allowed to speak about any of those stories—and don't worry, I won't. Those will stay secrets between the two of us. I wouldn't want any of them to get out.

It was very, very interesting because of the group of three. The one individual out of that group that you never heard derogatory stories about was Mr. Arberry. I would ask, "Moose, can this possibly be true? Did I hear this story?" He would say, "You don't have the half of it." And he has kept a great secret.

My two colleagues who have already spoken have not had to go through this problem of Mr. Williams and Mr. Arberry being constantly confused by members of this body as to which one was who. It was like, "No, I am Williams." "No, I am Arberry." It was a constant discussion, even down to the kind of ties that could be worn at any particular moment in time and the hidden meanings that might be put into a tie. I have never seen anything like it.

The person who always stood above it, who always saw through the reality of what was important, was Morse Arberry. When I was a freshman, we had very, very small offices. It came close to Mr. Arberry's birthday. In my office, one of my daughters had given me one of her stuffed toys to put up on the wall. It was a moose—a big moose head. So when colleagues would ask how small my office was, I would say, "I don't have a small office. I have a big office. It has got a big moose head on the wall." They would come down there and see this little moose head sticking there. The staff determined that they needed it for his birthday. I had to go wrestle it back to give it back to my daughter so that she would not be upset with me about losing her moose head permanently.

Moose clearly understood the realities of the relationships that are here. He has been a good friend. I look across the aisle every day, and I give him candy to keep his sugar high going to make our days easier. Most of all, I have always known that he was the rock that made the financial part of this place work. When he said there was no money, he meant there was no money. When he said we'll see what we can do, it wasn't a halfway promise. He has always been a man of compassion, a man of great worth, and my friend. I am going to miss the relationship more than I can possibly say.

ASSEMBLYMAN OHRENSCHALL:

I think the Legislature will be much poorer when we do not have Moose Arberry serving. I want to relate a story from last session, my freshman session. When I came up here, I thought I knew it all. I quickly learned I didn't know it all. There was this bill that everyone liked, and everyone thought it was really, really great. I looked at the bill, and suddenly I said, "This bill could be misused. It could hurt poor people." I went around and talked to some people I thought I should talk to, and they said, "James, didn't we tell you that you don't know it all? You really don't know it all. You don't know it all." I was not happy and I was bitter. One day I was in the stairwell, and I was going down the stairs, and who is coming up the stairs but Moose. Luckily, I had that bill in my hand, and I cornered him. "Moose, you've got to look at this bill. This bill could be misused. It could hurt poor people." He looked at it a minute, he skimmed over the language, and he said, "James, you may be a freshman, but you're right." The next week I came back up, and that bill didn't become law. I remember at the end of session, I was sad about this bill not passing and this bill didn't pass, but I always consider that a really big victory—that Moose listened to me and he read over what I asked him to, and he agreed with me. We were right on that one, and he really did help a lot of people on that one.

One other thing—I've been trying to avoid this all session, trying to avoid talking about my mother—but for 12 years she always considered you a great friend and admired you. I know every session she came back, I think because she got to work with you. So I would like to mention that as well, Moose.

ASSEMBLYWOMAN SMITH:

As someone who hopefully will have the privilege of continuing to serve on the Ways and Means Committee in a future session, I want to thank you for the opportunities you've given me, Moose. From my first session on Ways and Means, you treated me as an equal, and you have always given me so much opportunity and have taught me so much. In my future service, if I am able to return to this body, it will mean a lot to me and hopefully the state, because of the example you have set for all of us and how we conduct our business and how we treat people and how we consider our legislation and the budgets before us. I sat through so many hearings this session when we had more speakers than usual come before us. They packed the rooms, and we sat there and teared up together in a few of those hearings, listening to the stories of people wanting to save something in the budget. You were so kind and respectful. You've set such a good example.

The unfortunate thing is that the other day you told your vice chair what a great job she has done over the past years, and you gave her a present and you did the little song for her and told her that you're her gingerbread man. You know the old "Run, run, as fast as you can; you can't get away from the gingerbread man." Well, that was how Moose ended his time with Sheila and thanked her for her service. So the bad thing is I've been saying that forevermore, I'm going to be thinking of you running down the road like this, Moose. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Thank you for your service. Let's move on to Bernie Anderson.

Bernie Anderson was first elected to the Nevada State Assembly in November of 1990, and at the end of his current term of office, he will have completed a full 20 years as a member of this honorable body, or as Bernie likes to call it, the People's House.

Anyone who knows Bernie will know he loves history, so I thought we would start with a little bit of the history of the other Andersons in the Nevada Legislature.

Bernie is actually the fourth Anderson to serve in the Nevada State Assembly, although they were not related to Bernie as far as we know. We had Harold Anderson of Elko, who served in 1949 and 1951 and was the Majority Floor Leader in his second session. We had Lawrence Anderson of Wells in Elko County, who served in the 1933 Session and chaired the Livestock Committee. Like Bernie, both of these gentlemen were Democrats. The first Anderson elected to the Assembly was J. M. Anderson from Gold Hill in Storey County. He served in the 1869 Session, belonged to the Union Party, and chaired the Assembly Committee on Trade and Manufactures. But the most illustrious Anderson ever to serve in the Nevada State Assembly is our own Bernard "Bernie" Anderson.

Bernie is a native Nevadan, having been born in Reno kind of a long time ago. He graduated from Bishop Manogue High School and later received his bachelor of science degree in education from the University of Nevada. We all know Bernie worked as an educator. A beloved teacher, he taught at Reed High School in Sparks, where he tortured—I mean taught—his students and shared his love of history, government, and the State of Nevada with his classes.

Bernie has lived in the City of Sparks most of his life and has been a long, proud resident and champion of Nevada's Rail City. He is particularly proud of his lovely family: his wife Clyda, daughters Cairn and Natha, and now his grandsons Connor and Teague.

During his 19 years in the Assembly, he served ten regular sessions and nine special sessions. He was Speaker pro Tempore in 2007 and 2009. There's a picture of his board on the overhead screens. You've got to love that board—that's where good bills went to live and bad bills went to die. It is Bernie's long and distinguished service on the Judiciary Committee that most identifies his legislative career. He has now chaired the Judiciary Committee a record seven regular legislative sessions and served as its cochair in 1995. The previous Nevada record for most sessions was four, held by a mentor to Bernie, the esteemed Assemblyman Bob Sader.

I remember when I first joined the Judiciary Committee. Like James, I was a freshman, so I knew everything. I sat between Mr. Anderson, to my left, and Mr. Carpenter, to my right, and I thought, "What the heck do these guys know about the law? I'm a lawyer." Well, I found out pretty quick. There really is no substitute when it comes to common sense and knowing what's right and what's wrong. That's all you need, and, boy, Bernie has it.

Any member of the Assembly who has served on the Judiciary Committee can attest to how many bills they get, but in every one of them, Bernie made sure the little guy was never forgotten. He combined compassion with firmness. Bernie is quick to let you know how he feels about things, which he attributes to his Irish roots. I remember how proud I was to get my hat that said, "I survived mornings with Bernie."

There are many important bills that Bernie sponsored over the years. Before highlighting just a few, I want to point out that Bernie was the primary sponsor of the bill to revise judicial discipline—he championed that issue. He sponsored the constitutional amendment that was approved by the Legislature in 1995 and 1997 and became law in 1998. That was so important. Before that, we had instances where no one was regulating the judiciary, and we had folks losing access to justice. Bernie took that on, despite the opposition.

This session he was able to gain passage and approval of A.B. 213, the cancer drug donation program. It is very similar—when it comes to showing his compassion—to his very first bill, A.B. 353, which provides special license plates to veterans of the U.S. Armed Forces who are awarded the Purple Heart. That was Bernie's first bill. Throughout his career, he sponsored legislation prohibiting the abuse, neglect, and exploitation of older people—A.B. 267. He and Assemblyman Carpenter and I spent four years on the child welfare system, studying it from beginning to end. It was great work, chaired by our chairman. There also was his shepherding of the drug courts. We can go on and on, whether it was public schools, education, state-owned land, the Sparks Heritage Museum, judicial discovery, automotive repairs, genetic testing, the death penalty. We don't have enough time to talk about all the measures that he is responsible for, although I do think we have to mention railroad safety—we can't forget those trains.

You either get Bernie Anderson or you don't. I get Bernie Anderson. No one has a bigger heart than Bernie Anderson. There is no one I would rather be in a foxhole with than Bernie Anderson.

For his incredible commitment to the State of Nevada—what a mark you have left on this state—thank you, Mr. Chairman.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Speaker. Chairman, this being my fourth session, we haven't had a whole lot of interaction. I've never had the opportunity to serve on Judiciary. I was just thinking—listening to some of the history—that I really have to stand and give, perhaps, a different perspective of you than maybe others would have.

It has been exciting for me to have my family here during the session, which means that a number of the Christensen five have been running around here in the building and have come to know you, I would say, very well. This has given me an opportunity to spend more time with you as you have sat with me and shared your stories. I just wanted to share with the body that this man has shared with me some of the best fathering tips through the stories and experiences that he has shared with me, talking about his own father, and how he fathered, and his mother and what it was like growing up in his family.

Madam Speaker, as you have said, he is a wise man with a tremendously large heart. I have come to know that this session—I am glad this session—and just want to say, Mr. Chairman, that I feel like my skills as a father have been enhanced over these last few months because of your interest in me and your interest in my boys and their experience here. From the bottom of my heart, I just want to say thank you and I love you for that. I really appreciate your taking that time and ownership in the Christensen gang. Thank you.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. Bernie and I have been friends for many, many years. Other than my wife, I don't think I have shared the mornings with anybody other than Bernie. Bernie, I think that on most things, we have agreed. The things we didn't agree on, we became even better buddies for that. I am going to miss you, Bernie, and I am going to miss those mornings. Good luck, and when you become the mayor of Sparks, I want an invitation to the inaugural. Thank you.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Speaker. I am going to swear from the outset that I didn't coordinate these remarks with my colleague from southern Nevada. When I first decided I was going to run—as we all do—we have to do all of our meetings and we have to go talk to this person, talk to that person, and everyone else. I remember being utterly terrified of having to go talk to Mr. Anderson. I knew that there were some specific questions that he had for me that I wasn't quite sure how I was going to answer and resolve. But we had a good coffee. I remember coming away from that not really knowing where I stood with him. I always sort of feel that way—that I'm always kind of on edge with him.

Over the years, I have learned so much from him. I have a story from last session. At one point in the session, I decided I wanted to mix it up on a bill that was coming over from the Senate, because I had an issue with it. I was going to get some support for an amendment, and everyone was telling me, "Oh yeah. Just talk to this person; talk to that person. Keep everyone in the loop." I said, "Yeah, yeah, yeah. I'm doing that. I'm doing that. Yeah, yeah." "Did you talk to Bernie? Because it came out of his committee." "Oh, yeah, yeah. I sent him an email. It's all good." Wrong. So as a few of you remember, when that finally blew up and didn't go my way, I suffered one of the most severe beat downs that I have ever gotten. I came away from that just stinging. But I know now, looking back, that it was a very important lesson to learn. The times that he has left me with stinging comments and with tough criticism—I know now that it has just made me a better legislator.

I guess because I share a lot of background with Mr. Anderson, having grown up in an Irish Catholic family, I know that he has the same affinity for my family. And I thank him for the support that he has shown me and that Clyda has shown me and my family. For instance, my proudest day was being able to send them a picture of my two boys in the shamrock onesies that he had gotten them for St. Patrick's Day.

I know that he is always looking out for me. I have learned so many lessons from him, from his respect for the institution to making sure all of us understand that this is not about any one particular legislator. This is about the decisions that are made for the State of Nevada from this body and demanding the utmost respect for that dynamic. It is something that we are going to greatly, greatly miss. I don't throw this term around lightly, but Bernie, you are a father figure, and you can be damn sure I will be calling you up for years to come looking for your advice. Thank you.

ASSEMBLYMAN GRADY:

Looking at the folks in the house here, I probably go back with Bernie further than anyone. Bernie and I went to high school together. Bernie still accuses me of putting him upside down in a garbage can when we were playing football together. I still deny it because when I was lobbying, I never wanted to go before his committee just because of that reason.

Bernie, I think all of us appreciate not only what you have done here, but what you have done for the City of Sparks, your community, and your church. You are very dedicated to the church and the priests that have come through Sparks and are still there today. On behalf of all of us from the Bishop Manogue Catholic High School family, congratulations and good luck in the future.

ASSEMBLYMAN ATKINSON:

My freshman session, I'm not sure I would have been standing here giving kind remarks about Bernie. Madam Speaker, you spoke earlier about "getting" Bernie Anderson. I didn't "get" Bernie Anderson my freshman year, and I think that was intentional on his part. The man that I have gotten to know has been a phenomenal person. What I've learned—and what I didn't understand then—is that Bernie is huge on respect and huge on paying your dues. I think as a freshman, I thought that because I was elected, I had paid my dues. Bernie consistently reminded me that I hadn't. I think that made me dislike him in a way, but he didn't care. He knew there was something that I just couldn't get to with him, and he knew it, and he pressed my buttons every single time and reminded me. Some of the other freshmen always wonder why I always call them freshmen. Bernie never let me forget that I was a freshman in 2003 and that I wouldn't be elevated until he felt—he felt—I had paid my dues.

Now coming full circle, we were in Commerce and Labor about two weeks ago, and our chairman, Mr. Conklin, was testifying in another committee, so I had to chair the committee. Someone testifying was a little bit out of order, and I had to get a little stern with them. Bernie laughed and came over to me afterwards, when no one else was listening, and he said, "I have been wondering who I was going to be able to pass my gavel to. You are getting my gavel when I leave here." Bernie, though, I have to tell you, nobody can do it like you. You are taking your gavel with you. If we could find a way to bronze it for you, we'd do that for you, but I can tell you that no one can take your place. I will say that, Bernie, you've become a very good friend of mine and a very good mentor, and I think if people are trying to figure out what respecting this institution means, I am sure Bernie can write a book on it. Thank you for your friendship and thank you for your guidance throughout the years.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. My very first session—I am a relative newcomer to this house—I had the honor of sitting on your committee. One of my favorite stories I always tell is that I had a colleague from District 26, and one morning it seemed kind of warm in that committee room. While you were speaking, the gentleman stood up, took off his jacket, and draped it on the back of his chair. All of a sudden, I heard you stop talking, and the whole room became very quiet. At that point in time, the colleague of mine kind of looked around and asked, "Why has everyone stopped talking? Why is everyone staring at me?" And that's when you said, "Hey, we have decorum in this committee, and no one takes off their jacket unless I tell them it is okay." So after he put his jacket on, a few minutes later Bernie says, "You know what? It's kind of warm in here. Everybody can take off their jackets." I will always remember that—it was so funny. You know how to run a committee. My hat's off to you. Thanks for embracing me my freshman term. I learned a lot that first session sitting in your committee. We will all miss you. Thank you, sir.

ASSEMBLYMAN MANENDO:

Thank you, Madam Speaker. My colleague from District 34 talked about beat downs. If you have not had a beat down from Mr. Anderson, then he doesn't love you. It's the old saying of tough love. I think everybody gets a beat down from the chairman at one point or another. I came here in 1995. It was a tied house. When you are a freshman—and he reminds everybody, again, that you are a freshman—you aren't on too many people's radar screens. We had these little, tiny offices about where the Republican leadership is now or close to Room 3100—those little cubby holes that we used to have. This man comes into the office. Of course, I knew it was Bernie, and sweat just started dripping down my face because I didn't know what was up. He just sat down and started talking. I never really had a chance to meet him other than when we came up here—I knew him a couple of sessions before but never really had a conversation with him. It was really nice because he actually took the time—he was the only one who took the time to come and talk to me, and I appreciated that. I know how busy you were, Bernie, because you were a freshman chairman, and you had a lot on your agenda. You had a lot on your plate to do, but you took the time to do that, and I never forgot that.

I think our colleague from District 6 might have played center, but the real center in my eyes is the man who, as in football, nothing happens without the ball being hiked to. Nothing happens in Judiciary unless the chairman is ready to move. You're a legend. I want you to know that in my 30 years living in the State of Nevada, I've never met somebody who has greater love and compassion for our state. I think that is something that we can always think about and live by—that you should really love your country, really love your state, but nobody loves the State of Nevada like Bernie Anderson. Thank you for your service, Mr. Anderson, Mr. Chairman.

ASSEMBLYWOMAN SMITH:

As the other legislator in the house who shares the City of Sparks with Chairman Anderson, I have to say thank you. I will join, probably, in many of the stories about being a bit intimidated as a freshman. I really appreciated my colleague from District 24 getting here, because it let me off the hook. It is like the family rivalry thing—that if the parent zeroed in on someone else, then it's not you. So when I got elevated to sophomore status, it was a huge relief.

You know, the one thing I want to say to you is that your public support of us has always been so meaningful. No matter whether I felt you were concerned with something I may have done or if we were in disagreement over a position, when we're together in public, you are always right there for us. Every time on the campaign trail, you would get up and sing my praises and be so supportive. I saw that with my colleagues all the time, and I see that here, as well. Thank you for that—for getting us to that point and for teaching us so much about this process and for what you've given to our city. You have given much to our city, and on behalf of the residents of that city, I want to thank you.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. I'm going to keep this very short, or I'll be the worst person in the house for tears on the floor—that would be the house that I live in outside of the building with my roommates.

Bernie, I have a list of things I want to thank you for; these are the most important ones. First and foremost, I want to thank you for A.B. 51 in the 2005 Session. I know how important that was to you, and it was ten times more important for me, because it gave me the greatest learning experience I have had in this building, from which everything else has stemmed. So I appreciate that. I appreciate you being, probably, the best friend I have in this building, in good times and in bad. I appreciate the fact that you understand that two fingers of Jameson means four, and I appreciate the fact—and I am very thankful for the fact—that you are the only man in this house that knows what the ears on a person's head can tell us. Thank you, my friend.

ASSEMBLYMAN HORNE:

I have served on the Judiciary Committee all four of my sessions here at the Legislature. You learn how to be a chairman from watching other chairs. I have learned more from Bernie than anywhere else, and that has been good and bad. And when I have displayed the bad habits, he is the first to tell me and let me know that I have done it. He is the consummate teacher. Even after his retirement, he has continued to teach. I have really appreciated that.

My colleague from Las Vegas is correct—that's love when he is giving you a beat down. That is because he cares enough, because he knows you can do better, and he's demanding that. Having served two of those sessions as his vice chair—and as the Majority Leader and the Speaker know having served as his vice chairs as well—Bernie demands a lot from you. You're a good vice chair because he gives you this authority to speak for the committee and himself; it is his way of teaching you how to do your job better. I will never forget that. I will never forget how he knows when he is going over the edge—and we have all seen him go over the edge from time to time. Having been the vice chair, people come to you when they have to talk to Bernie about something, because they don't want to talk to Bernie. My rule always is that I let them vent to me, but then eventually I tell them they have to go talk to Bernie. What people don't know is that Bernie beats himself up more than any one of us ever could when he does that.

For those of you who don't remember, he has this rule about cell phones ringing in committee. We all do. I've seen him dress down many a person when his phone has gone off. I have seen grown men who have worked in this building for 20 or 30 years turn sheet white when their phone rang. They got up and ran out because they were afraid of Bernie, and their phone just went off. One day Bernie's phone went off in committee—classic. There was this hush. At first Bernie is looking, "Somebody is ready to get in my sights." Then he realizes that it is his phone. The committee was at first quiet because they thought, "Oh no, what is going to happen now?" He knew that it was all on him, and he was so gracious. Everyone busted up in laughter, and he laughed right along with everybody. It showed the true Bernie—the one those of us who have gotten to know him better know, as a friend, as a mentor, and as a teacher. I love you, Bernie. Don't think that just because the session ends and you leave that you won't be hearing from me. Thank you very much.

ASSEMBLYMAN OHRENSCHALL:

Chairman Anderson, I think you've helped thousands of Nevadans through your work establishing the drug courts and helping people recover from their drug problems. I think that is something that needs to be noted. I have been very impressed in committee with all the different criminal law bills, how you try to balance being tough on crime with the constitutional rights of

the accused. I've also been very impressed at how much you care for the rights of the incarcerated and making sure they have the medicines they need and that the prison system isn't doing anything that it shouldn't be doing. I also want to thank you for the opportunities you've given to me to grow, as a member, on your committee and on the floor. I'll miss you very much, Bernie.

ASSEMBLYWOMAN PIERCE:

I'm not a member of Judiciary, and Chairman Anderson has always been very kind to me. We've heard a lot of stories about Bernie being tough and that kind of thing. I think the thing that strikes me most is that I am a person of high emotion. When I sit here on the floor and something strikes me and tears well up in my eyes and I don't want anyone to know, I always know that all I have to do is turn around and look at Bernie—and he started crying before me. I love you for that. Thank you.

ASSEMBLYMAN CLABORN:

Thank you, Madam Speaker. This is kind of hard for me to say. Bernie put me under his wing when I came up in 1999. Of course, I was like James Ohrenschall and thought I knew a lot of things and thought that I knew it all. Well right from the start, I was like my colleague from Sparks—he scared the daylights out of me, even though I was in my fifties or maybe even sixties. I would listen to him and think, "Is this guy the hangman's judge here or is he the chairman? I didn't know this guy had this much power."

Our friendship grew and grew. Bernie, I love you, and I am going to miss you so much. What I will really miss is that he has an uncanny power—especially every time I get down in the dumps or I get into trouble with the Speaker or I said something in my committee to get in trouble. I'm sitting here at my desk with my head in hands or I am up in my office with my hands and my face on my desk. I look up and I see this face looking at me, and it's Mr. Anderson. He looks at me and says, "Jerry, you screwed up, didn't you?" I said, "Boy, I did. Are you going to take me to the woodshed?" He said, "No, I'm not." And I said, "Well, I'm sure glad of that." So he says, "But did you learn anything?" I said, "I sure did. I don't think I will ever do that again." He said, "As long as you learned something, then okay, you won't have to go to the woodshed with me today."

I am going to miss you, Bernie. I am going to miss your phone calls, and most of all, I'm going to miss the conversations that we have every day. I love you. What I am going to miss the most of all, though, is when you come into a room. I feel so good when you come into a room because you have a bigger belly than I do. Thank you. I love you.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Speaker. I just wanted to thank Bernie for helping me this past year and really teaching me a lot of things that I really can't tell you about right now. Just watching him closely and observing him and all the things he knows and the historical stuff he knows is just really phenomenal. We need to make sure he does stick around and teach us over the next few years. But the one thing I wanted to say that most impresses me is his support for you, Madam Speaker. I don't think you could have anyone more loyal. He would jump out the window. He'll jump on a grenade. The Chief Justice and every major lobbyist will go in that room and stare him down, and he'll stare them down—for you. It is just phenomenal. I have so much respect for what you've done for the institution and your loyalty to the institution and to the Speaker. Thank you very much for letting me see that.

ASSEMBLYMAN ARBERRY:

I want to share a quick story with you. When Giunchigliani was the chair of Labor and Management, Bernie was the vice chair. Back then we had phone booths in the building. When you needed to make a call, you would go in the phone booth. As soon as Chris would call roll, Wendell and I would sneak out, and she would send Bernie looking for us. Wendell and I would be in one of those phone booths together. We would be standing inside the phone booth watching Bernie walk back and forth—and security because she has everyone looking for us. We didn't want to be in the Labor and Management—we just hated Labor and Management. To share with you, Bernie—I learned more about education. I know your heart is about educators

and your family. I will always miss you. You've been a fantastic partner. Thanks for the caramel candy. It kept me moving. Between you and John, it's been a whole lot of fun. I can write many, many good articles in this book, but we're putting a close to it. We do have a brand new chapter starting after this.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Let's move on to John Carpenter.

The Suzy Q is safely stowed in dry-dock in her home port of Elko, Nevada. Very soon the Assemblyman from Elko County will join her in his beloved northeastern Nevada with his wife of 56 years, Rosanne, and with regular visits from his children and their families that we saw a little bit more of this session. It's a very sad time, as we know; all of these great legislators will not be returning.

During our service, we have so many serious moments, tense moments. We can always count on our friend from Elko to give us a little levity. John served for 22 years through 12 regular and 10 special sessions. He is the dean of his caucus and second in overall seniority in the Nevada State Assembly. John is a native Nevadan born in Fallon in 1930 and a graduate of White Pine High School in Ely. Before coming to Carson, he was chairman of the Elko County Commission, served on the hospital board, the recreation board, and the convention and visitors authority. He is a long-time businessman and rancher in northeastern Nevada and is known as someone who keeps his word.

First serving as an Assemblyman in the 1987 Session, John has sponsored many bills involving various aspects of life in Nevada. He certainly enjoyed passing legislation through the Natural Resources Committee, including the '91 christening of the Suzy Q on her maiden voyage to improve watercraft safety. He has served on the Natural Resources Committee since 1991 and was the Republican chairman of that committee during the 1995 Session, when we had split leadership. He has served as an alternate on Public Lands but probably will be best remembered for his work on the Judiciary Committee.

You will recall in February we had a fabulous tribute where the Elko County Law Enforcement Center was renamed in his honor as the John C. Carpenter Law Enforcement Center. John sat on the Judiciary Committee his first session and for 11 sessions after that. As part of his work, he supported reforms in the corrections system, balancing the needs between the public and dangerous felons, including how folks could be rehabilitated. He fought for the establishment of minimum security camps in the rural communities, which provides needed wildfire protection as well as an economic boost for those small communities.

It never mattered to John while on the Judiciary Committee whether something would be considered politically dangerous—when we would consider issues such as what do you do about the issue of statutory rape when you have a 17-year-old boy or an 18-year old boy and a 16-year old girl. Should that young man be labeled a sex offender for life? It didn't matter what law enforcement said, whether they accused him of being soft on crime or wrong, John would just keep coming back, "Well, these two kids were just doing what kids do. Is this the right thing?" It didn't matter how much he got pummeled. He always cared if it was the right thing. I remember meeting John on the Judiciary Committee, and I thought, "What does this cowboy know about the law?" He taught me plenty. He called me his first session and said "Now, you're going to become my lady lawyer." He would come and say, "Hey, let's look at this line. What's this really mean?" He takes those bills home every night and reads every single word. He is never afraid of joining the Democrats—and never afraid of standing against the Democrats—because he is a Nevadan first and foremost.

He also brought us the Cowboy Hall of Fame, which we just celebrated—a welcome respite from our darker days. At his February tribute, many people talked about wanting to get into the Cowboy Hall of Fame. John, you did good for all the freshmen, letting them in so early. Bernie never would have done that. Probably the most amazing thing about Mr. Carpenter's career that most people probably don't know about is that in the September 2002 Republican primary in Humboldt County, there was an error on the ballot. There was no check next to John's name on the ballot. By the time the error was found, it was too late; the ballots had already been printed. Despite the lack of a voting circle next to John's name, John won over 72 percent of the ballot.

Can you imagine? Without having a check mark. So as the boss of the house saddles up for a final time for his ride home, we're just glad to know you, and the state is better for having you.

Thank you, Mr. Carpenter.

All right. Anybody have anything to say about this guy?

ASSEMBLYMAN ANDERSON:

John Carpenter is a friend of mine. That is enormous to me, personally. As a freshman when I arrived here, I was assigned to Bob Sader's Judiciary Committee, and I had assumed that Judiciary would have been the last place that they would have placed me. I kind of thought that they would send me to Government Affairs since I had served on some charter committees and bylaw committees and local government groups—that it would be a better fit. Bob Sader told me, "Judiciary is the perfect place for you." "Whatever you say, Mr. Sader," whom I was very much intimated by. There were 22 freshmen in my class, and they were all, I think, in Judiciary except for the Majority Leader and Bob Sader, Mr. Porter, Mr. Williams, and the current Governor, although his wife was there for the longest part of that, which made it much easier in the beginning. Mr. Carpenter was the steady part of that.

Mr. Sader had a piece of legislation that came in front of us—and I'm sure John will recall—dealing with living wills, and it was very, very contentious and a very, very difficult emotional issue for a lot of people to understand in terms of whether we were sanctioning or giving somebody the right to commit suicide. Mr. Sader felt it was probably going to fail. It was very, very clear that Mr. Carpenter and I were going to be the deciding votes in the committee to get it out. Both of us have very, very strong feelings about suicide from our backgrounds that we commonly share, and so we did an investigation. I went and talked with John, and we had many heart-to-heart talks about how that particular bill was going to come out. As a result of that, John and I agreed that we could support the bill the way it was, and I went to see Mr. Sader and explained to him I thought we had the votes.

From that point forward, I served with him on Labor and Management, where I was the vice chair. We were dealing with contentious issues involving SIIS that everybody was up in arms about. We were together in Transportation. So as a freshman, all three of my committee days were spent with John Carpenter, and we continued on that road. He is my friend, so much that when I became the chair in 1995, I recognized that I had the good fortune of having you, Madam Speaker, as my vice chair. We had some very, very contentious issues, one dealing with Tailhook, as I recall. We knew that we were going to have a very, very strong committee, and how it was going to come out. It suddenly dawned on me that I had the perfect solution: when Carpenter, Anderson, and Buckley agreed, the committee was ready to go; if you weren't in the cab, you weren't along for the ride. When Carpenter was ready to go, we had everything we needed. John, for your friendship, number one, and for your constant support, for your level head, for your cowboy way, for everything you mean to the people of the State of Nevada and to me personally, thank you for your friendship and thank you for your great service to our state.

ASSEMBLYMAN GOICOECHEA:

It's no secret John and I have been friends and neighbors—probably longer than a lot of you in this body have been alive—but that doesn't really mean anything. Just walk down the street with John in any community in this state, and you will find out he has friends and neighbors. The other side of it is if you've been in the livestock industry at any time in the last 20 years, you've met with John Carpenter in one of his ranches. He's been all over the state.

I'll go back to my first session as a freshman here. Of course, I'd known John when he was on the Elko County Commission and I was just going on the Eureka County Commission. When I came here my first session, John and I would be discussing a bill, and pretty quick his patience would wear thin and he'd say, "Pete, read the damn bill." Just last week he told me, "Pete, read the damn bill." You can have the computers and all the shortcuts you want, but you know John Carpenter has read the bill, and if you're going to discuss it with him, you better read the thing.

Thank you.

ASSEMBLYMAN ARBERRY:

Thank you, Speaker. John, it's been a long time. I remember when John came in, right after my first session. I was learning much about the cowboys and cowboy hats, and he was always a

steady person, no matter how it went, no matter how everyone else would get all flustered. John was always cool so we looked at it, from the city side, as though he was one of us. Back in the day when Wendell had a bill about drive-by shootings, John came to Wendell and me and said, "Look, I know you guys are having problems in the inner city, but if you take our guns from us and we can't shoot as we are driving down the street, we're going to have a problem." Wendell and I looked at each other and said, "Well, we've got to take the rural areas out because I guess that's what they like to do."

When I was trying to get the Martin Luther King holiday back then, I was running around trying to get the votes. And I was really close—you know, you need 22 to get it passed. I went to John and said, "John, I need your vote." He said "Sure." About three days later he came back and he said, "You know, Mr. Moose"—and it was really nice back then that we let each other know when we couldn't support a piece of legislation. He said, "I can't vote for that bill." I said, "I understand, John, with no more words said." I left it at that. The day of the vote, he looked at me and gave me that cowboy nod; the vote went down 42 to 0. He was letting me know that he was a good man and he didn't mind crossing the barrier, no matter how much pressure was probably being put on him and the other rural boys. They all came with John, and I was proud of that.

Another thing I wanted to share about John was that when Virgil gave me the cow, they would always try to invite me to ride on the train or the camel rides. I learned about cowboy poetry, and coming from Las Vegas, this is as far north as we normally go. Over the years, he always wanted me to come and venture to the other areas. Well, John, maybe sometime in the near future I will have to do that because we'll have some time on our hands. I will never lose sight of you, and I will always be there for you.

ASSEMBLYMAN OHRENSCHALL:

Thank you very much, Madam Speaker. I rise in support of Mr. Carpenter. John, I feel like you are kind of a bridge to the old Nevada, to a kinder, gentler period that I think a lot of us grew up in. I know we will lose that when you leave.

There are a couple of stories I wanted to tell. When I first got elected as a freshman, I had a talk with my mother and asked, "Well, you know, you have been around here 12 years. Who can I turn to for advice? Who can I trust?" You were at the top of that list. She said, "You can always trust John Carpenter. You can always turn to him. He is a man who keeps his word and he will tell it to you like it is." And I found that out to be true, here in my two sessions serving with you.

I have had some fun experiences serving with you on the Natural Resources Committee. I have learned a lot about diseases that affect cattle and I have learned a lot about other parts of cows and sheep. My colleague from District 32 had a bill this session that I particularly liked. Actually, I think I supported it initially because I had studied some of this in constitutional law and thought, "It will be a great test case. We are going to give our state courts jurisdiction over a federal agency. This is the stuff we dream about in our constitutional law classes." I talked to Mr. Carpenter and I said, "John, you know, I am with you. I am with the rurals. We are going to stick it to the feds. I am with you on this bill. We are going to have a great test case and we are going to prove that we are right. State's rights supreme." I think it was John who turned to me and said, "I am all for the test case but not if they come into Elko and take my cattle and make my cattle the test case."

I learned a lot from you John and I will miss you a lot and I hope that we will stay in touch.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I, too, rise in support of John Carpenter, although John Carpenter doesn't need any support. He stands alone with his character, with his knowledge, and with the great standards that he has. I love John Carpenter's laugh. You can always hear him coming before you see him. I love his good, rugged Nevada looks. Most of all, I love the cowboy sayings he has left behind. I remember last session that he once said, "Never ask your barber if you need a haircut." You know, that sounds kind of dumb at first but if you think about it, wow, that's really heavy. Or how about, "It don't take no rocket scientist to spot a goat in a herd of sheep."

I think we need to make a change in the dictionary and near the word Nevada or across from the word Nevada we just need to put a picture of John Carpenter.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Speaker. First of all, I do want to say that out of all ten of the legislators that are leaving us, you know you played a big role in all of our hearts with little things that you have done. I could say tons of things about each and every one of you, but I chose to save mine for Mr. Carpenter, because I can only do tears once a week, especially after Saturday.

I just wanted to say that Mr. Carpenter has been great to me. It started my freshman year. I was the good person coming back on Monday mornings and it was me and Mr. Carpenter and I would be saying, "Hurry up, because I want to get to the building. I've got time to smoke." And he would say, "How about them girl scouts?" He was trying to keep my mind occupied all the way, to get to the building, because it was a long ride for me as a freshman. He invited me to the cowboy breakfast every morning, so I made as many as I could. My sophomore session, I came back and the first thing I wanted to make sure that I got to be a part of was coming in, in the mornings, and having a real breakfast, sitting down, and talking about the day.

You know, some days I have bad days, and some days I have good days. He always stopped to say, "Take a deep breath. It is not the end. Just relax. It's all good." Really, where that all came from was Mr. Carpenter always just telling me to just relax. So, I think I have learned a lot about our entire state. I have learned how to have some patience and not be so passionate about things and I will tell you that you will be the one person who I will always think about. When I was a freshman and I came in here, everybody used to talk about Joe Dini and I was like, "Who is that?" Or they used to talk about Governor O'Callaghan and I would be like, "Where were we? I wasn't here." I will run this by the freshman—you will someday be in the same spot. And so, Mr. Carpenter, you are the one person that I will talk about in, hopefully, my next three sessions.

I just want to tell you that you have made a big difference in my life and you have saved me a lot of quarters for every time I said those words. I tried to save some money. I just want everyone to know that each and every one of you has made an impact on my life and my ability to be a legislator. But, Mr. Carpenter, I personally want to thank you for taking the time to help me learn the cowboy way and be part of Nevada.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. There is an old cowboy poem I kind of modified a little bit for Mr. Carpenter, if you can stay with me with it:

The stain of alkali, sand, and mud,
smeared grease, and crimson blood,
Battered and bent from constant use,
still you stood the dang abuse.
A true companion through all these years,
riding broncs and branding steers,
I dedicate this to John C. for the useful things that he did,
and the things he has yet to do.

Pushed up big and knocked down flat,
Has been the lot of John C.s' Stetson hat.

Carrying oats to a piebald bronc,
security for drinks and a honky tonk,
Mistreated, abused, on a round-up spree,
Walked on, tromped on, old J.C.

He's been everywhere a man can go,
from Alberta to Texas, to Mexico,
We've all grown old as we've trailed along,
but you, J.C, are still going strong.

ASSEMBLYMAN GRADY:

Thank you, Madam Speaker. I guess, first off, I have to go back, again, when I was lobbying for the League of Counties and we used to get together and say, "Okay, we have this problem. And we have this problem. Who is going to go talk to whom?" No one wanted to go talk to Mr. C because we knew he would never change his mind or at least he would never tell us he was going to change his mind. So, when you counted votes, and Mr. C had originally told you no, you might as well just say he was a no until he pressed the button, then we would know what he really felt about it.

John, it was always great when my friend from Eureka and I came in here, together, and I guess it was John that said, "I will take the two of you from the brush and turn you into legislators." We did it every morning and every afternoon when we could—we would be with Mr. C. But I will tell you, unless you have been in this corner, just to listen to some of the conversations between the boss and Ms. Woodbury—we could write a book. The one good thing about John . . . Pete and I like to, once in a while, have a cocktail. John always has his 7-Up. When we started out with John, it was a 7-Up with two cherries. And we knew, by the time he finished that big 7-Up we probably could probably have two drinks. The other night we got John to have a 7-Up with four cherries. Pete and I had a good time. Thank you, John.

ASSEMBLYMAN ATKINSON:

Thank you, Madam Speaker. I guess you got three for three today with me. Mr. Carpenter, I almost don't even know where to begin. I wrote down some quick notes so I hope you all will bear with me for a moment. I will try not to make it three for three, for crying today, though.

Mr. Carpenter has been a really good person to me. Since my freshman session he and I have served on multiple committees together and he has always been quick to remind me that I wasn't quite the cowboy he needed me to be. He called me the Rhinestone Cowboy the other day, which made me understand that I am still not quite there with him yet after what I thought I had become. One thing I do know is that every last one of us in this body has wanted to be in the Cowboy Hall of Fame. Not because we thought we were cowboys and not because we thought that one day we would live the rural life and ride away on horses, but I think we have all wanted to be in because of the respect for the man. I think all of us respect Mr. Carpenter a great deal and being in the Hall of Fame makes us feel like we are being respected by him. And so I know that was the main reason I wanted to be in.

One thing I have always enjoyed about Mr. Carpenter and have respected is that once he gave you his word—that is what it was. Mr. Grady just spoke about that. I remember in 2005, I didn't realize that he was in the minority, because he killed one of my bills! I know you remember the knifing bill. It was in Judiciary and even the chairman of Judiciary came to me and said, "Mr. Carpenter has a problem with one of your bills." "Mr. Carpenter? What do I care?" "If Mr. Carpenter has a problem, it's not getting out of here." "What do you mean? We have the majority here." "You need to talk to Mr. Carpenter." And I remember Mr. Carpenter and Mr. Goicoechea actually coming to my office to talk to me about it. "So, what if someone goes into a school and they just happen to have a knife, you know, a pocket knife in their pocket. And what if it's a parent?" There were all these other scenarios. And by the time they were done with me, I voted against my own bill. So I will never forget that, Mr. Carpenter.

Mr. Carpenter, throughout the years, has always called me Mr. Atkinson, Mr. A, or Mr. Chairman. He has never called me by my first name. Most recently, though, he has stopped calling me those and he's called me his friend. And I really appreciate that. I had Mr. Carpenter in my office just a couple of hours ago and we were discussing something and he told me he couldn't vote for what I was asking him about. He got up and got ready to walk out of my office and he turned around to me and said, "I don't know who sent you or who asked you to talk to me, but I am glad it was you, because you are my friend." We embraced and he walked out and I shed a tear or two. My secretary asked me if I was okay and I told her I would be fine. Thank you, Mr. Carpenter, and thank you for calling me your friend.

ASSEMBLYMAN CLABORN:

Thank you, Madam Speaker. I found a friend when I came up here and his name was John Carpenter. As you know, I was with the Operating Engineers for 40-plus years. When I figured I would come up here, I would handle the cop-boy bills and the labor bills and I was just going

to tear this place up with organizing everybody. I found out that didn't work as well as I thought it was going to work.

When I ran into Mr. Carpenter, he asked me, "Jerry, do you hunt?" I said, "Oh, sure. Yeah, my family . . . I've got a couple of sons and grandkids. We just tear the mountains up." Well, he said, "Are you interested in deer hunting?" I said, "Oh, gosh yeah. That's my best sport, really. I am a deer hunting fool." So, anyway, Mr. Carpenter says, "Well, you know what? Can you help me a little bit on some of these predators and predator control? They are devastating our cattle and our sheep industry." I said, "You mean the deer are eating the sheep and the cows?" He said, "No, no. The predators are eating them." I said, "Okay, I've got you. What do you want me to do?" So he says, "Well, we need to put some bills together. Maybe we can find a little bit of money and we can get the state to hire some trappers and take out some of these predators that are killing all these cows and stuff before we run out of beef or whatever, to eat." I said, "That's a good idea." We were on Natural Resources together, and in 1999 we put together a bill and luckily enough we passed it. We got a little bit of money for the bill, which was A.B. 291. So, we started stretching this thing out a little bit more to get more predator control and more money. Every year, it got worse. It got tough. That was the first bill, A.B. 291, which was pretty easy. So, anyway, we started running into enormous headwinds. My goodness! We thought everybody was on our side and we found out that everybody wasn't.

So, anyway, there are a few things. Mr. Carpenter has stuck by me and a couple of my other colleagues on my committee and I'll never forget it. I am so tickled that I did make the Hall of Fame a couple of sessions ago. But, when I go down in history here, when I leave tomorrow, I have a new name. It's not Jerry C. anymore. It's Jerry MuleDeer. So, I want to thank you for that, Mr. Carpenter, and I want to thank you for being my friend. They always say this thing is not over until the fat lady sings, but this is not over until John Carpenter sings. We will see you after this session and, by golly, we might go see some of those predators face to face. So, thank you, John, for all the help here. I love you. You're a great man. Thank you.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. Mr. Carpenter has a lot of friends in this building and I am very fortunate to believe I am one of those. He is one of those people that you cherish their friendship. He is also a statesman. He has stood in this body and in this house and made some tough calls. I can tell whenever I see that Mr. Carpenter is voting another way or we talk in caucus about a particular bill, I look at it again and I think it over again, and we talk some more about it because he has such great knowledge and such an institutional history and he's a man for Nevada. He is a person who will do what he thinks is right. It does not matter what the politics are. I greatly respect him for that. He is also someone who brings a good sense of humor here, with the Suzy Q and the cowboy caucus. I can tell you I looked forward to being a member of the cowboy caucus. It took me three sessions. We need to get to know each other a little bit better. And so, that was a huge honor.

Lately, he has been talking to the Lord, more and more, and he's been getting some good advice there. I have enjoyed working with you and I am proud to be your friend and honored to be your friend and appreciate that we have had statespeople and we will continue to have statespeople in this body. You are just a perfect example for all of us, so thank you.

ASSEMBLYMAN MANENDO:

Thank you, Madam Speaker. My friend John Carpenter, the gentleman cowboy, with a big heart and just a wealth of knowledge. Seven of my eight sessions have been in Judiciary. You know, your fingerprints are all over the place and I keep thinking, what is that committee, that specific committee, going to do without John Carpenter? Over the years, bringing bills to Mr. Carpenter to look at, to maybe cosponsor, he would ask, "Is this a mobile home bill, young man, or is this a puppy bill? What are we doing this time?"

Having an opportunity to sit next to my friend this session was just really special and I appreciated all your knowledge and historical knowledge of Nevada. You know, being in the third class of Cowboy Hall of Fame, in the days when we had time to go out and tour Nevada and educate the city slickers on what the other part of Nevada is all about, we actually got a chance to go to Elko. It was just absolutely amazing that just everybody knew who John Carpenter was. Actually, at one of the events, and this is my personal funny story, we were at

one of the basque restaurants and Mr. Carpenter and some folks presented me with a cowbell. Morky Manendo is what they put on there because when we were out taking a break on the side of the road, there were some cows and it had been a long time . . . I come from farming country in Pennsylvania and it has been a long time since I actually had an opportunity to go out and say hello to the cows and it was nice to just be out in nature. There's where they got the funny story from, because everyone was hanging out at the van and I was out in the field, petting the cows. He said, "What are you trying to do? Register them to vote?"

Mr. Carpenter, I am going to miss you more than anyone in this building and I think the State of Nevada is losing somebody that will never, ever be replaced. Thank you and I love you.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker. John, you have your priorities in the right place. You've shown how you can like people and disagree with them. You have shown us an example of the priority of marriage when you left this building, weren't here, may have missed votes, may have missed committee meetings, and then came back and shared the wisdom. This place was not important. What you do didn't make any difference. You were with your wonderful partner and companion. What a wonderful example you have set for all of us. Thank you, John.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:15 p.m.

ASSEMBLY IN SESSION

At 1:48 p.m.
Madam Speaker presiding.
Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 561, Senate Amendment No. 973, and requests a conference, and appointed Senators Woodhouse, Rhoads and Hardy as a Conference Committee to meet with a like committee of the Assembly.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Conklin, McClain, and Goicoechea as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 561.

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Assembly Bill No. 22 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Conklin and Hardy.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. I will try to keep this brief. The Governor has vetoed this bill. He has claimed in his veto that this bill creates a private right of action for deceptive trade practices and shifts the traditional burden of proof to the defendant.

My reading of the bill was that is not the case. I asked the Legislative Counsel Bureau to draft a legal opinion on what the bill does. I believe many of my colleagues from the other party did the same, and I will just tell you now very briefly what that opinion says. It says, "You have asked . . . whether Assembly Bill No. 22 . . . (1) creates a private right of action for deceptive trade practices; and (2) shifts the traditional burden of proof in civil litigation from the plaintiff to the defendant . . . ." And skipping six pages to the conclusion, just to make it brief: "In conclusion, based on the foregoing, it is the opinion of this office that: (1) Assembly Bill No. 22 does not create a private right of action for deceptive trade practices; and (2) Assembly Bill No. 22 does not shift the traditional burden of proof from the plaintiff to the defendant in civil litigation for private actions for deceptive trade practices." I urge support in an override of this veto.

ASSEMBLYMAN HARDY:

I think I agree with the Assistant Majority Leader on this and have the same legal opinion, it sounds like. In the letter that I received likewise from LCB that was prepared with some alacrity, but certainly is comprehensive enough, it also did an interesting thing. If I may quote from the letter, "also provides an additional statutory defense which defendants may use if they wish." And I think made this an even better bill than it ever was before. And I will be supporting the bill's passage, as it were, notwithstanding. Thank you.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 22:

YEAS—42.

NAYS—None.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 135 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Leslie, Gansert, and Atkinson.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of the override. The Ways and Means Committee sponsored this bill as a committee bill to provide more oversight on state financial obligations. The bill passed unanimously out of both houses of the Legislature. In his veto letter, the Governor said the legislation provides "an additional, unnecessary layer of government bureaucracy" and "will impede certain state agencies' ability to negotiate public-private partnerships . . . ." I disagree. Assembly Bill 135 would provide oversight and a form of checks and balances to better ensure the best possible funding mechanism for the state is being used to complete projects. Some examples of projects that would be reviewed include toll roads, transmission lines, bridges, and highway improvements, as well as tobacco securitization and state lottery conceptual ideas. This bill is necessary because the state can be left with a downgrade of its bond rating should projects adversely reflect on the state's ability to pay debt.

This would lead to higher financing rates on bonds, leaving the state with less money to finance projects or even possibly with an inability to sell bonds for projects.

This bill is about good government and would help ensure that we find out about bad financial deals. And I would just ask you to consider the Carlin Fire Center—not to rub salt in an old wound—but think about deals like that, that seem so good on the surface at the beginning and have caused our state great harm at the end. We would find out about these bad transactions before they happen. We need transparency and accountability on these public-private partnerships.

I would just remind the body that this is not about routine Department of Transportation projects. This is about public-private partnerships, minimum of $5 million. We have to remember that sometimes people try to sell us things—like toll roads, for example—and they have an interest in them. The only way to ensure that we don't have conflicts of interest on these huge, multimillion dollar projects would be to have an independent financial review, and I believe the Treasurer's Office is the appropriate spot in state government to accomplish that. I urge your support. Thank you.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I rise in opposition to A.B. 135. I do sit on Ways and Means, and I do believe in the transparency and the check on the system. I thought we had fixed this bill so that it was going to work, but I did have a conversation in the last couple of days with Susan Martinovich over at NDOT, and what she told me is it would preclude her from getting some of the projects done that she needs to do in a timely manner and also that the Transportation Board oversees her bonding, and so this would be another layer. With her bonding, she felt the Transportation Board was doing a good job and that we did have the transparency and the oversight. Thank you.

ASSEMBLYMAN ATKINSON:

Thank you, Madam Speaker. I rise in support of Assembly Bill 135. I actually have a few thoughts that may be contrary to what our Minority Leader just said. As we looked at this past interim, we saw some misuse of state money and taxpayers' dollars. The NDOT spent over $5 million on consulting fees for something that we do not even have the authority to do in this state, and that is toll roads. We do not have the authority in statute to do toll roads in this state, and our investigation, review of the documents that were presented to us, and even testimony from the department proved and showed us that there was misuse of state monies and taxpayer dollars. I am not sure if it is ever appropriate to use money that is going nowhere. It obviously wasn't going anywhere because we do not have the language to do toll roads, and so we spent $5 million—$5 million—of taxpayer dollars to do something that we don't have the authority to do. So when you look at that and you have a department telling us that they don't need oversight and that they should be able to spend the taxpayers' money on efforts like that, I don't think there is any question in this body—and don't think there will be any questions from our constituents—that we do need this bill and we do need the oversight that my colleague from Reno suggested. I urge an override. Thank you.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker, for a second time. When I looked at this bill, it had to do with bonding. They absolutely need oversight, and I think that is what the Board of Transportation is trying to do. So this really has to do with a check on the bonding, not just the expenditures of the Department of Transportation, and they do need oversight, and I think that is why we have the Transportation Board, just to let you know. So again, it was a bonding issue, not total oversight, in this bill.

ASSEMBLYMAN ATKINSON:

Thank you for recognizing me again. I think what we are trying to convey is the money—the $5 million could have been bonded for highway transportation projects, and so it is bonding, and I understand. But any money that we receive can be bonded. Thank you.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 135:

YEAS—31.

NAYS—Christensen, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart—11.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 410 of the 75th Session.

Governor's message stating his objections read.

OFFICE OF THE GOVERNOR

May 23, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 410 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you for filing within the constitutional time limit and without my approval, Assembly Bill 410, which is entitled:

> AN ACT relating to industrial insurance; allowing the provisions of certain collective bargaining agreements to supersede various statutory provisions relating to industrial insurance; and providing other matters properly relating thereto.

This bill would allow collective bargaining agreements to supersede state laws pertaining to industrial insurance. Nevada's industrial insurance laws have been developed and refined over the course of many decades and many legislative sessions.

To allow collective bargaining agreements to usurp existing laws would lead to a plethora of unintended consequences, as those agreements are often written by and agreed to by individuals who are not experts in the field of industrial insurance. This bill could result in the preclusion of worker's compensation benefits for workers who are currently entitled to those benefits pursuant to state law. Additionally, this bill could cause confusion and delay in the provision of benefits due to difficulties interpreting the language of varying collective bargaining agreements. Existing law allows workers entitled to benefits to choose physicians outside an approved provider list under certain circumstances. This bill could severely curtail if not eliminate the ability currently afforded to workers to choose a different physician. These are examples of only some of the unintended and harmful consequence to Nevadans that would result if this bill were to unwind years of legislative efforts and become law.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 410.

Sincerely,
JIM GIBBONS
Governor

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Claborn and Smith.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CLABORN:

Thank you, Madam Speaker. I've got a couple of questions from our Governor that I am going to answer here. His letter says A.B. 410 was vetoed because it was giving collective agreements the power to supersede industrial insurance law. That's not quite true. Assembly Bill 410 includes specific language ensuring that no benefits to injured workers shall be diminished under Nevada's state industrial insurance laws. This is the same language used in other states that protect all rights of injured workers in accordance with the industrial insurance laws.

Question number two: "To allow collective bargaining agreements to usurp existing laws would lead to a plethora of unattended consequences, as those agreements are often written by and agreed to by individuals who are not experts in the field of industrial insurance." Answer: The current Nevada workers' compensation system is plagued with the unintended consequences of injured workers that are not provided with the services contained in A.B. 410. Assembly Bill 410 is designed to improve the delivery of medical benefits to injured workers through the cooperation of affected insurance carriers, labor representatives, employers, employees, and injured workers. It has proven effective in other states to help injured workers return to work faster, receive better medical treatment, and obtain second opinions and assistance from independent case nurses and managers designated by labor and management representatives.

The Governor added that the bill would curtail, if not eliminate, the ability of injured workers to choose a different doctor. The language of Assembly Bill 410 allows labor and management representatives to establish a network of superior medical providers and allows workers to choose doctors from an extensive list of occupational specialists. Assembly Bill 410 allows injured workers the ability to request a different doctor or independent medical evaluation and other assistance that is not provided under the current Nevada industrial insurance laws. This is a very good bill, and I urge your support. Thank you very much.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of the override on Assembly Bill 410. I think it is unfortunate in a case like this where collective bargaining probably caused some concern over the bill and possibly a veto that is unjustified. Throughout the session, we've heard that this is a bill business and workers both like. This week after the override, we heard from a local Reno businessman how important this legislation is because he wants this advantage—which is strictly voluntary—that he believes will make him competitive in this market. He feels that, believe it or not, the California workers' comp system that has allowed this is giving them an advantage over him. We do not hear that very often—that we are not competitive with California workers' comp. Not too long ago, we heard about the California businessmen who came over here to hear about why businesses were relocating. Here is an opportunity for us to take some action that would keep us in that competitive market. So what I say to you is put aside those collective bargaining words, if they scare you, and look at the heart of this issue, consider that it is voluntary, consider that business and labor both want this to make them more competitive and to bring more jobs.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 410:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:11 p.m.

ASSEMBLY IN SESSION

At 2:11 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

Vetoed Assembly Bill No. 446 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblywoman Buckley.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Assembly Bill 446 requires state government to engage in long-term planning and to make meaningful disclosures of agency performance to the public. As any manager knows, long-term planning and performance reviews are the foundation for sound, efficient, and effective operation of any enterprise. Nevada statutes already require performance indicator reviews, but as my colleague from Assembly District 28 points out all the time, they are not done very well.

When running for Governor, Jim Gibbons told the AARP, "As Governor, I will make sure we properly prioritize state spending. I will work to identify programs that are not serving the needs of Nevada taxpayers, eliminate them, and redirect the funding to programs that serve their intended essential purpose." Yet he vetoes a bill that will essentially accomplish that.

On the Executive Branch's website, the Governor introduces his Nevada Open Government Initiative with the statement, ". . . I signed an Executive Order that requires transparency and accountability in government so all Nevadans will be able to see how their taxpayer dollars are being spent. This type of transparency and accountability is especially crucial during these tough economic times." Yet he vetoes a bill that codifies this Executive Order. In vetoing Assembly Bill 446, the Governor's message admits "The budgetary methods used in evaluating the performance of state government needs improvement, and this legislation would work to that end . . . ." Yet because this body did not agree to increase the size of a government agency, he vetoed Assembly Bill 446.

At the hearings on this bill, officials from higher education and the State Controller, Kim Wallin, all volunteered to help the state rewrite its performance indicators—for free. As the Governor recently noted, Nevada families are tightening their belts, Nevada businesses are tightening their belts, and Nevada's government is doing the same thing. Right now, every state agency is being asked to do more with less. Why would the Budget Office be exempt from that? This is a bill that was sponsored and supported by the Chamber of Commerce and the Nevada Taxpayer's Association and received unanimous, bipartisan approval in both houses—because it makes sense.

I heard someone comment in the hallway, "But this bill had a fiscal note, and that is why it is being rejected." I would like to talk about that for a second. Here's how our process works: when we sponsor a bill, an agency puts a fiscal note on it to explain why they think it costs money. Sometimes our Ways and Means Committee and our Senate Finance Committee review that fiscal note. Sometimes it's right; sometimes it's wrong. And for the freshmen—just in case you haven't figured this out yet—sometimes it's put on a bill to kill a bill. Right now, the Governor is already required to plan. State agencies are already required to do performance indicators, but because we don't have a uniform format, you can't use them to measure anything. How can we go to the public and say we are doing more with less but not compare apples to apples? Those who sat on this committee looked at the model of Texas, which is doing performance indicators, and they are great. The formats are the same; you can consider how the agency is performing. And as we go back to our constituents and say we cut $1 billion and we

raised $780 million in revenue, it is important for us to show them what we are doing with their money. It doesn't cost money to do a job right, and that is why the Ways and Means Committee considered the fiscal note. They didn't ignore it; they said it doesn't cost any more money to do the job right. That is what this bill is all about, and I would urge my colleagues to stand with me.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 446:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer—8.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 493 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblywoman Buckley.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Assembly Bill 493 concerns the Public Employees' Retirement System. It requires the board to identify and report on investments that are made in companies that invest and do business with Iran. American military and political officials have long claimed that Iran is supplying insurgents and foreign fighters in Iraq. By some estimates, they have killed as many as 200 American soldiers.

I do not need to repeat the testimony that I gave before the Government Affairs Committee or this body when this measure was approved. Basically, it requires PERS to identify this information. PERS did; they brought the information to the hearings. We learned what companies were conducting these investments. In his veto message, the Governor says that the bill requires PERS to study and identify investments. "Due to constitutional issues, the finding of this study . . . cannot impact the investment strategy" with regard to these funds. I strongly disagree. Looking at investment strategies changes how people view the performance of companies. Let's turn back to Nelson Mandela of South Africa. Isn't that how this started? Divestment? Trying to change behavior by pointing out when investments were made that were hurting our country?

Just last session, Governor Gibbons asked me to join with him on a letter concerning investment in Darfur, and I agreed and signed that letter, with Senator Raggio and the Governor, to the PERS Board, about those investments and how that was affecting our world. This bill follows in that tradition. It calls attention to investments between companies that are supporting Iran. That is all it does. But transparency brings discussion, discussion brings change, and that is all the bill does. So when the Governor basically says that any study cannot impact behavior, I disagree. And obviously the testimony wasn't examined because it really doesn't require a study. Basically, Dana Bilyeu just ran the list of the companies, and she presented it to you all. I ask you to join with me in saying that this is not too much to ask and that transparency matters and where investments are made matters.

Assemblyman Conklin moved to waive a portion of Assembly Standing Rule No. 23, which requires individual disclosure, for purposes of a group disclosure regarding vetoed Assembly Bill No. 493 of the 75th Session.

Motion carried.

ASSEMBLYMAN CONKLIN:

For the purposes of Rule No. 23, we would like to disclose that either we personally are public employees or members of our families are public employees who participate in the Public Employees' Retirement System. Under Rule No. 23, we determined that our interest as a result of that participation does not impede our independence of judgment, because our interest is no greater than the interest of any other participant in PERS. Therefore, the following people will be voting on the bill: Assemblymen Aizley, Anderson, Arberry, Atkinson, Buckley, Carpenter, Denis, Dondero Loop, Gansert, Goicoechea, Grady, Gustavson, Kirkpatrick, Koivisto, Leslie, Mastroluca, McClain, Munford, Oceguera, Parnell, Segerblom, Settelmeyer, Spiegel, Stewart, and Woodbury.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 493:

YEAS—42.

NAYS—None.

Bill ordered transmitted to the Senate.

Mr. Speaker pro Tempore announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:24 p.m.

ASSEMBLY IN SESSION

At 2:24 p.m.

Madam Speaker presiding.

Quorum present.

COMMUNICATIONS

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill 234 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 234, which is entitled:

> AN ACT relating to motor vehicles; revising certain provisions governing the fees charged by a short-term lessor of passenger cars; increasing the governmental services fee on short-term leases of passenger cars; revising the definition of "uninsured motor vehicle" to include a leased passenger car under certain circumstances; making various changes concerning the disclosure of certain information relating to the short-term lease of a passenger car; providing a penalty; and providing other matters properly relating thereto.

Senate Bill 234 is a bill that relates to the fees charged by car rental companies. These fees are in addition to the actual cost of the rental. The bill authorizes car rental companies to charge additional fees to their customers which will effectively make the rental of automobiles more expensive. This is a fee increase that I will not support because it will impact not only Nevadans but businessmen and women and tourists who visit our State.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill No. 234.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Senate Bill No. 234 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 234:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Woodbury—8.

Bill ordered transmitted to the Senate.

COMMUNICATIONS

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill 415 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 415, which is entitled:

> AN ACT relating to programs for public personnel; establishing for the next biennium the amount to be paid to the Public Employees' Benefits Program for group insurance for certain active and retired public officers and employees; and providing other matters properly relating thereto.

Senate Bill 415 establishes premiums and contributions tor state employees who participate in the Public Employees' Benefits Program. The Executive Budget, which was based on recommendations from the Spending and Government Efficiency Commission, proposed different premium costs for the biennium in order to save money. Because the recommendations set forth in the Executive Budget were replaced with the amounts set forth in Senate Bill 415, I cannot support the bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 415.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Senate Bill No. 415 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Assemblyman Conklin moved to waive a portion of Assembly Standing Rule No. 23, which requires individual disclosure, for purposes of a group disclosure regarding Vetoed Senate Bill No. 415 of the 75th Session.

Motion carried.

ASSEMBLYMAN CONKLIN:

For the purposes of Rule No. 23, we would like to disclose that either we personally are public employees or members of our families are public employees who participate in the Public Employees' Benefits Program. Under Rule No. 23, we determined that our interest as a result of that participation does not impede our independence of judgment, because our interest is no greater than the interest of any other participant in PEBP. Therefore, the following people will be voting on the bill: Assemblymen Aizley, Anderson, Arberry, Atkinson, Buckley, Carpenter, Denis, Dondero Loop, Gansert, Goicoechea, Grady, Gustavson, Kirkpatrick, Koivisto, Leslie, Mastroluca, McClain, Munford, Oceguera, Parnell, Segerblom, Settelmeyer, Spiegel, Stewart, and Woodbury.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 415:

YEAS—38.

NAYS—Cobb, Goedhart, Hambrick, McArthur—4.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 523, Senate Amendment No. 957, and requests a conference, and appointed Senators Parks, Hardy, and Amodei as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 561, Senate Amendment No. 973, and requests a conference, and appointed Senators Woodhouse, Rhoads, and Hardy as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 259.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 60.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 183.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 202, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 812 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 14, which is attached to and hereby made a part of this report.

KATHY MCCLAIN	MAGGIE CARLTON
MARCUS CONKLIN	DAVID PARKS
JOE HARDY	MARK AMODEI
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA14.

SUMMARY—Makes various changes concerning ~~[the State Board of Cosmetology.]~~ **cosmetology and certain related practices.** (BDR 54-681)

AN ACT relating to cosmetology; **requiring certain persons who engage in the practice of threading or who own or operate certain facilities in which threading is conducted to register with the State Board of Cosmetology under certain circumstances;** revising various definitions; revising provisions relating to the qualifications for examination as an instructor of aestheticians, an instructor in nail technology, a nail technologist or an aesthetician; revising provisions relating to cosmetologists' apprentices; increasing the required instruction hours for an aesthetician; **providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.4 of this bill requires certain persons who engage in the practice of threading or who own or operate certain facilities in which threading is conducted to register with State Board of Cosmetology each year. Section 1.4 also authorizes the Board to inspect, during regular business hours, any facility in this State in which threading is conducted.

Sections ~~[1]~~ 1.8 and 3 of this bill revise the definitions of "aesthetician" and "cosmetologist" to reference sugaring. (NRS 644.0205, 644.023) **Section 5** of this bill changes the term "manicurist" to "nail technologist," and this bill carries out this change for variations of the term "manicurist" that appear in chapter 644 of NRS. (NRS 644.029)

Section 11 of this bill revises the requirements for admission to examination as an instructor of aestheticians, effective July 1, 2010. (NRS 644.1955) **Section 13** of this bill revises the requirements for admission to examination as an instructor in nail technology, effective July 1, 2010. (NRS 644.197) **Section 15** of this bill revises the requirements for admission to examination for a license as a nail technologist, effective July 1, 2010. (NRS 644.205) **Section 16** of this bill revises the requirements for admission to examination for a license as an aesthetician, effective July 1, 2010. (NRS 644.207)

Existing law sets forth various requirements that must be met before the ~~[State]~~ Board ~~[of Cosmetology]~~ may issue to a person a certificate of registration as a cosmetologist's apprentice. (NRS 644.217) **Section 17** of this bill: (1) eliminates the requirement that such a person be a resident of a county whose population is less than 50,000; (2) requires the training of the person as a cosmetologist's apprentice to be conducted at a licensed cosmetological establishment that is located 60 miles or more from a licensed

school of cosmetology; and (3) authorizes the Board to waive, for good cause shown, various requirements for an applicant for a certificate of registration as a cosmetologist's apprentice.

Existing law sets forth the requirements which must be met before the Board renews a license issued pursuant to chapter 644 of NRS. (NRS 644.325) **Section 24.5** of this bill requires that before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control.

Section 29 of this bill increases from 120 to 150 the number of hours of instruction a student enrolled as an aesthetician must receive before commencing work on members of the public. (NRS 644.408)

Section 30.5 of this bill requires the Board, on or before February 1, 2011, to prepare and submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the practice of threading in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2 and 1.4 of this act.**

Sec. 1.2. ***"Threading" means to remove superfluous hair from the body of a person by twisting thread around the hair and pulling it from the skin.***

Sec. 1.4. ***1. Each natural person who engages in the practice of threading and each owner or operator of a kiosk or other stand-alone facility in which a natural person engages in the practice of threading shall, on or before January 1 of each year, register with the Board on a form prescribed by the Board. The registration must include:***

(a) The name, address and telephone number of the person, owner or operator; and

(b) Any other information relating to the practice of the person or the operation of the kiosk or other facility required by the Board. The Board shall not charge a fee for registering a person, owner or operator pursuant to this subsection.

2. The Board may, during regular business hours, inspect any facility in this State in which threading is conducted.

Sec. 1.6. **NRS 644.020 is hereby amended to read as follows:**

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.029, inclusive, ***and section 1.2 of this act*** have the meanings ascribed to them in those sections.

~~[Section 1.]~~ ***Sec. 1.8.*** NRS 644.0205 is hereby amended to read as follows:

644.0205 ***1.*** "Aesthetician" means any person who engages in the practices of:

~~[1.]~~ ***(a)*** Beautifying, massaging, cleansing or stimulating the skin of the human body ~~[, except the scalp,]~~ by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

~~[2.]~~ ***(b)*** Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body ***;*** ~~[except the scalp;]~~ and

~~[3.]~~ ***(c)*** Removing superfluous hair from the body of any person by the use of depilatories, waxing ***,*** ~~[or]~~ tweezers ~~[,]~~ ***or sugaring,***

➥ but does not include the branches of cosmetology of a cosmetologist, hair designer, electrologist or ~~[manicurist.]~~ ***nail technologist.***

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 2. NRS 644.0225 is hereby amended to read as follows:

644.0225 "Cosmetological establishment" means any premises, mobile unit, building or part of a building where cosmetology is practiced, other than a licensed barbershop in which one or more licensed ~~[manicurists]~~ ***nail technologists*** practice.

Sec. 3. NRS 644.023 is hereby amended to read as follows:

644.023 ***1.*** "Cosmetologist" means a person who engages in the practices of:

~~[1.]~~ ***(a)*** Cleansing, stimulating or massaging the scalp or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

~~[2.]~~ ***(b)*** Cutting, trimming or shaping the hair.

~~[3.]~~ ***(c)*** Arranging, dressing, curling, waving, cleansing, singeing, bleaching, tinting, coloring or straightening the hair of any person with the hands, mechanical or electrical apparatus or appliances, or by other means, or similar work incident to or necessary for the proper carrying on of the practice or occupation provided by the terms of this chapter.

~~[4.]~~ ***(d)*** Removing superfluous hair from the surface of the body of any person by the use of electrolysis where the growth is a blemish, or by the use of depilatories, waxing ***,*** ~~[or]~~ tweezers ~~[,]~~ ***or sugaring,*** except for the permanent removal of hair with needles.

~~[5.]~~ ***(e)*** Manicuring the nails of any person.

~~[6.]~~ ***(f)*** Beautifying, massaging, stimulating or cleansing the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or any device, electrical or otherwise, for the care of the skin.

~~[7.]~~ ***(g)*** Giving facials or skin care or applying cosmetics or eyelashes to any person.

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 4. NRS 644.024 is hereby amended to read as follows:

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, demonstrator of cosmetics and ~~[manicurist.]~~ ***nail technologist.***

Sec. 5. NRS 644.029 is hereby amended to read as follows:

644.029 ~~["Manicurist"]~~ ***"Nail technologist"*** means any person who, for compensation or by demonstration, engages in the practices of:

1. Care of another's fingernails or toenails.
2. Beautification of another's nails.
3. Extension of another's nails.
4. Massaging of another's hands, forearms, feet or lower legs.

Sec. 6. NRS 644.030 is hereby amended to read as follows:

644.030 1. The State Board of Cosmetology consisting of seven members appointed by the Governor is hereby created.

2. The Board must consist of four cosmetologists, one ~~[manicurist,]~~ ***nail technologist,*** one aesthetician and one member representing customers of cosmetology.

Sec. 7. NRS 644.040 is hereby amended to read as follows:

644.040 1. No person is eligible for appointment as a member of the Board:

(a) Who is not licensed as a ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician or cosmetologist under the provisions of this chapter.

(b) Who is not, at the time of appointment, actually engaged in the practice of his respective branch of cosmetology.

(c) Who is not at least 25 years of age.

(d) Who has not been a resident of this State for at least 3 years immediately before his appointment.

2. The requirements of paragraphs (a) and (b) of subsection 1 do not apply to a person appointed to represent customers of cosmetology.

3. Not more than one member of the Board may be connected, directly or indirectly, with any school of cosmetology, or have been so connected while previously serving as a member of the Board.

Sec. 8. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, demonstrator of cosmetics and cosmetologist, together with the names and addresses of all cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 9. NRS 644.193 is hereby amended to read as follows:

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, aesthetician or ~~[manicurist]~~ ***nail technologist*** for 1 year and submits written verification of his experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than $40 and not more than $75 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year ~~[from]~~ ***after*** the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

Sec. 10. NRS 644.195 is hereby amended to read as follows:

644.195 1. Each instructor must:

(a) Be licensed as a cosmetologist pursuant to this chapter.

(b) Have successfully completed the 12th grade in school or its equivalent.

(c) Have 1 year of experience as a cosmetologist or as a licensed student instructor.

(d) Have completed 1,000 hours of training as an instructor or 500 hours of training as a ***licensed*** provisional instructor in a school of cosmetology.

(e) Except as otherwise provided in subsection 2, take one or more courses in advanced techniques for teaching or training, approved by the Board, whose combined duration is at least 30 hours during each 2-year period.

2. The provisions of paragraph (e) of subsection 1 do not apply to an instructor who is initially licensed not more than 6 months before the renewal date of the license. An instructor who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in paragraph (e) whose combined duration is at least 15 hours during each 2-year period.

3. Each instructor shall pay an initial fee for a license of not less than $60 and not more than $90.

Sec. 11. NRS 644.1955 is hereby amended to read as follows:

644.1955 1. The Board shall admit to examination for a license as an instructor of aestheticians any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of ~~[800]~~ ***700*** hours of training as an instructor or ~~[400]~~ ***500*** hours of training as a ***licensed*** provisional instructor in a licensed school of cosmetology;

(e) Is licensed as an aesthetician pursuant to this chapter; and

(f) Has practiced as a full-time licensed aesthetician or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor of aestheticians shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor of aestheticians who is initially licensed not more than 6 months before the renewal date of the license. An instructor of aestheticians who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 12. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in ~~[manicuring]~~ ***nail technology*** any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of 500 hours of training as an instructor or 250 hours of training as a provisional instructor in a licensed school of cosmetology;

(e) Is licensed as a ~~[manicurist]~~ ***nail technologist*** pursuant to this chapter; and

(f) Has practiced as a full-time licensed ~~[manicurist]~~ ***nail technologist*** or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in ~~[manicuring]~~ ***nail technology*** shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in ~~[manicuring]~~ ***nail technology*** who is initially licensed not more than 6 months before the renewal date of the license. An instructor in ~~[manicuring]~~ ***nail technology*** who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 13. NRS 644.197 is hereby amended to read as follows:

644.197 1. The Board shall admit to examination for a license as an instructor in nail technology any person who has applied to the Board in proper form, paid the fee and:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Has successfully completed the 12th grade in school or its equivalent;

(d) Has received a minimum of 500 hours of training as an instructor or ~~[250 hours of training]~~ as a ***licensed*** provisional instructor in a licensed school of cosmetology;

(e) Is licensed as a nail technologist pursuant to this chapter; and

(f) Has practiced as a full-time licensed nail technologist or as a licensed student instructor for 1 year.

2. Except as otherwise provided in subsection 3, an instructor in nail technology shall complete at least 30 hours of advanced training in a course approved by the Board during each 2-year period of his license.

3. The provisions of subsection 2 do not apply to an instructor in nail technology who is initially licensed not more than 6 months before the renewal date of the license. An instructor in nail technology who is initially licensed more than 6 months but less than 1 year before the renewal date of the license must take one or more courses specified in subsection 2 whose combined duration is at least 15 hours during each 2-year period.

Sec. 14. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a ~~[manicurist]~~ ***nail technologist*** any person who has made application to the Board in proper form, paid the fee ~~[,]~~ and who **,** before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. Has successfully completed the 10th grade in school or its equivalent.

4. Has had any one of the following:

(a) Practical training of at least 500 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed ~~[manicurist]~~ ***nail technologist*** for 1 year outside the State of Nevada.

Sec. 15. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee ~~[,]~~ and who **,** before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. Has successfully completed the 10th grade in school or its equivalent.

4. Has had any one of the following:

(a) Practical training of at least ~~[500]~~ ***600*** hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

Sec. 16. NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;

2. Is of good moral character;

3. Has successfully completed the 10th grade in school or its equivalent; and

4. Has received a minimum of ~~[600]~~ ***900*** hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

Sec. 17. NRS 644.217 is hereby amended to read as follows:

644.217 1. The Board may issue a certificate of registration as a cosmetologist's apprentice to a person if:

(a) The person is ~~[a resident of a county whose population is less than 50,000;~~

~~(b) The person is~~] required to travel more than 60 miles from his place of residence to attend a licensed school of cosmetology; and

~~[(c)]~~ ***(b)*** The training of the person as a cosmetologist's apprentice will be conducted at a licensed cosmetological establishment that is located ~~[in such a county.]~~ ***60 miles or more from a licensed school of cosmetology.***

2. ***The Board may, for good cause shown, waive the requirements of subsection 1 for a particular applicant.***

3. An applicant for a certificate of registration as a cosmetologist's apprentice must submit an application to the Board on a form prescribed by the Board. The application must be accompanied by a fee of $100 and must include:

(a) A statement signed by the licensed cosmetologist who will be supervising and training the cosmetologist's apprentice which states that the licensed cosmetologist has been licensed by the Board to practice cosmetology in this State for not less than 3 years immediately preceding the date of the application and that his license has been in good standing during that period;

(b) A statement signed by the owner of the licensed cosmetological establishment where the applicant will be trained which states that the owner will permit the applicant to be trained as a cosmetologist's apprentice at the cosmetological establishment; and

(c) Such other information as the Board may require by regulation.

~~[3.]~~ ***4.*** A certificate of registration as a cosmetologist's apprentice is valid for 2 years after the date on which it is issued and may be renewed by the Board upon good cause shown.

Sec. 18. NRS 644.220 is hereby amended to read as follows:

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than $75 and not more than $200.

(b) For examination as an electrologist, not less than $75 and not more than $200.

(c) For examination as a hair designer, not less than $75 and not more than $200.

(d) For examination as a ~~[manicurist,]~~ ***nail technologist,*** not less than $75 and not more than $200.

(e) For examination as an aesthetician, not less than $75 and not more than $200.

(f) For examination as an instructor of aestheticians, hair designers, cosmetology or ~~[manicuring,]~~ ***nail technology,*** not less than $75 and not more than $200.

➥ The fee for each reexamination is not less than $75 and not more than $200.

2. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is $75.

3. Each applicant referred to in subsections 1 and 2 shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 19. NRS 644.240 is hereby amended to read as follows:

644.240 Examinations for licensure as a cosmetologist may include:

1. Practical demonstrations in shampooing the hair, hairdressing, styling of hair, finger waving, coloring of hair, ~~[manicuring,]~~ ***nail technology,*** cosmetics, thermal curling, marcelling, facial massage, massage of the scalp with the hands, and cutting, trimming or shaping hair;

2. Written or oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity as applicable to the practice of a cosmetologist; and

(c) The laws of Nevada and the regulations of the Board relating to the practice of cosmetology; and

3. Such other demonstrations and tests as the Board may require.

Sec. 20. NRS 644.245 is hereby amended to read as follows:

644.245 The examination for a license as a ~~[manicurist]~~ ***nail technologist*** may include:

1. Practical demonstrations in manicuring, pedicuring or the wrapping or extension of nails;

2. Written and oral tests on:

(a) Antisepsis, sterilization and sanitation;

(b) The use of mechanical apparatus and electricity in caring for the nails; and

(c) The laws of Nevada and regulations of the Board relating to cosmetology; and

3. Such other demonstrations and tests as the Board requires.

Sec. 21. NRS 644.260 is hereby amended to read as follows:

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ~~[manicurist,]~~ ***nail technologist,*** demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his fitness to practice that occupation of cosmetology; and

2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

Sec. 22. NRS 644.300 is hereby amended to read as follows:

644.300 Every licensed ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his place of business, as designated in the records of the Board, notify the Secretary of the Board of his new place of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

Sec. 23. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, ~~[manicurist,]~~ ***nail technologist,*** demonstrator of cosmetics and instructor expires:

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses issued for less than 1 1/2 years.

Sec. 24. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For ~~[manicurists,]~~ ***nail technologists,*** electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) For instructors, not less than $60 and not more than $100.

(c) For cosmetological establishments, not less than $100 and not more than $200.

(d) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, ~~[manicurist,]~~ ***nail technologist,*** demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

Sec. 24.5. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) For instructors, not less than $60 and not more than $100.

(c) For cosmetological establishments, not less than $100 and not more than $200.

(d) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

5. Before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control in a professional course or seminar approved by the Board.

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 644.330 is hereby amended to read as follows:

644.330 1. A ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer, cosmetologist, demonstrator of cosmetics or instructor who has retired from practice for more than 4 years may have his license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

Sec. 27. NRS 644.360 is hereby amended to read as follows:

644.360 1. Every holder of a license issued by the Board to operate a cosmetological establishment shall display the license in plain view of members of the general public in the principal office or place of business of the holder.

2. Except as otherwise provided in this section, the operator of a cosmetological establishment may lease space to or employ only licensed ~~[manicurists,]~~ ***nail technologists,*** electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists at his establishment to provide cosmetological services. This subsection does not prohibit an operator of a cosmetological establishment from:

(a) Leasing space to or employing a barber. Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board and remains subject to the laws and regulations of this State applicable to his business or profession.

(b) Leasing space to any other professional, including, without limitation, a provider of health care pursuant to subsection 3. Each such professional remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

3. The operator of a cosmetological establishment may lease space at his cosmetological establishment to a provider of health care for the purpose of providing health care within the scope of his practice. The provider of health care shall not use the leased space to provide such health care at the same time a cosmetologist uses that space to engage in the practice of cosmetology. A provider of health care who leases space at a cosmetological establishment pursuant to this subsection remains under the jurisdiction of the regulatory body which governs his business or profession and remains

subject to the laws and regulations of this State applicable to his business or profession.

4. As used in this section:

(a) "Provider of health care" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

(b) "Space" includes, without limitation, a separate room in the cosmetological establishment.

Sec. 28. NRS 644.370 is hereby amended to read as follows:

644.370 A cosmetological establishment must, at all times, be under the immediate supervision of a licensed ~~[manicurist,]~~ ***nail technologist,*** electrologist, aesthetician, hair designer or cosmetologist.

Sec. 29. NRS 644.408 is hereby amended to read as follows:

644.408 A student must receive the following minimum amount of instruction in the classroom before commencing work on members of the public:

1. A student enrolled as a cosmetologist must receive at least 300 hours.

2. A student enrolled as a hair designer must receive at least 300 hours.

3. A student enrolled as a ~~[manicurist]~~ ***nail technologist*** must receive at least 100 hours.

4. A student enrolled as an electrologist's apprentice must receive at least 150 hours.

5. A student enrolled as an aesthetician must receive at least ~~[120]~~ ***150*** hours.

Sec. 30. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, electrologist, instructor, ~~[manicurist,]~~ ***nail technologist,*** demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410.

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed $2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 30.5. **On or before February 1, 2011, the State Board of Cosmetology shall prepare and submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the practice of threading in this State. The report must include, without limitation:**

1. An overview of the practice of threading in this State;

2. An analysis of any health issues relating to the practice of threading;

3. The extent to which the practice of threading is or should be regulated in this State;

4. Any recommendations for legislation relating to the practice of threading; and

5. Any other information required by the Board.

Sec. 31. 1. This section and sections 1 to 9, inclusive, 12, 14, 17 to 24, inclusive, and 26 to ~~[30,]~~ **30.5,** inclusive, of this act become effective upon passage and approval.

2. Sections 10, 11, 13, 15 and 16 of this act become effective on July 1, 2010.

3. Section 24.5 of this act becomes effective on January 1, 2011.

Assemblywoman McClain moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 202.

Remarks by Assemblywoman McClain.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 183, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 751 of the Assembly be concurred in.

TICK SEGERBLOM	TERRY CARE
RUBEN KIHUEN	DAVID PARKS
JOHN HAMBRICK	MIKE MCGINNESS
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Segerblom moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 183.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 309, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 876 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 18, which is attached to and hereby made a part of this report.

MARILYN DONDERO LOOP	TERRY CARE
JOHN HAMBRICK	VALERIE WIENER
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA10.

SUMMARY—Revises provisions relating to the crime of stalking. (BDR 15-994)

AN ACT relating to crimes; revising provisions relating to the crime of stalking; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) ~~[This bill adds]~~ **Section 1 of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the immediate safety of a member of the person's family or household and which actually causes a victim to feel such fear. Sections 1, 3 and 4 of this bill add** text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated **,** ~~[or]~~ harassed ~~[,]~~ ***or fearful for the immediate safety of a family or household member,*** and that actually causes the victim to feel terrorized, frightened, intimidated **,** ~~[or]~~ harassed ~~[,]~~

or fearful for the immediate safety of a family or household member, commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a misdemeanor.

(b) For any subsequent offense, is guilty of a gross misdemeanor.

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site ***,*** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) ***"Family or household member" means a spouse, a former spouse, a parent or other person who is related by blood or marriage or is or was actually residing with the person.***

(c) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

~~[(c)]~~ ***(d)*** "Network" has the meaning ascribed to it in NRS 205.4745.

~~[(d)]~~ ***(e)*** "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

~~[(e)]~~ ***(f) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.***

~~[(f)]~~ ***(g)*** "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law,

regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site **,** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) ”Computer” has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site **,** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Assemblyman Anderson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 309.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 454, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 763 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 12, which is attached to and hereby made a part of this report.

WILLIAM HORNE	MAGGIE CARLTON
KATHY MCCLAIN	ALLISON COPENING
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA12.

AN ACT relating to housing; revising certain provisions relating to the grounds of termination for certain rental or lease agreements affecting certain tenants in a manufactured home park; **revising provisions for the summary eviction of a tenant under certain circumstances; revising provisions concerning the board of directors or trustees of a mobile home park owned or leased by a nonprofit organization;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 5 of this bill provides that a rental agreement between a landlord and a tenant for the rental or lease of certain lots in a manufactured home park in this State may only be terminated on one or more of the grounds listed in existing law regardless of the fact that a notice of termination may have been served upon the tenant. (NRS 118B.190, 118B.200)

Section 6.5 of this bill revises provisions for the summary eviction of a tenant for default in payment of rent. (NRS 40.253)

Section 7 of this bill increases from 2 to 4 years the term of office for a person serving on the board of directors or trustees of a mobile home park owned or leased by a nonprofit organization. (NRS 461A.215) Section 8 of this bill provides for the staggering of such terms.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 118B.200 is hereby amended to read as follows:

118B.200 1. Notwithstanding the expiration of a period of a tenancy ~~[,]~~ ***or service of a notice pursuant to subsection 1 of NRS 118B.190,*** the rental agreement described in NRS 118B.190 may not be terminated except ~~[for:]~~ ***on one or more of the following grounds:***

(a) Failure of the tenant to pay rent, utility charges or reasonable service fees within 10 days after written notice of delinquency served upon the tenant in the manner provided in NRS 40.280;

(b) Failure of the tenant to correct any noncompliance with a law, ordinance or governmental regulation pertaining to manufactured homes or recreational vehicles or a valid rule or regulation established pursuant to NRS 118B.100 or to cure any violation of the rental agreement within a reasonable time after receiving written notification of noncompliance or violation;

(c) Conduct of the tenant in the manufactured home park which constitutes an annoyance to other tenants;

(d) Violation of valid rules of conduct, occupancy or use of park facilities after written notice of the violation is served upon the tenant in the manner provided in NRS 40.280;

(e) A change in the use of the land by the landlord pursuant to NRS 118B.180;

(f) Conduct of the tenant which constitutes a nuisance as defined in NRS 40.140 or which violates a state law or local ordinance, specifically including, without limitation:

(1) Discharge of a weapon;

(2) Prostitution;

(3) Illegal drug manufacture or use;

(4) Child molestation or abuse;

(5) Elder molestation or abuse;

(6) Property damage as a result of vandalism; and

(7) Operating a motor vehicle while under the influence of alcohol or any other controlled substance; or

(g) In a manufactured home park that is owned by a nonprofit organization or housing authority, failure of the tenant to meet qualifications relating to age or income which:

(1) Are set forth in the lease signed by the tenant; and

(2) Comply with federal, state and local law.

2. A tenant who is not a natural person and who has received three or more 10-day notices to quit for failure to pay rent in the preceding 12-month period may have his tenancy terminated by the landlord for habitual failure to pay timely rent.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. **NRS 40.253 is hereby amended to read as follows:**

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the

tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ As used in this subsection, "day of service" means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the Justice Court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. ~~[The]~~ ***If the tenant is in possession of commercial premises, the*** court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. ***If the tenant is***

in possession of a dwelling, apartment or mobile home or if the rent is reserved by a period of 1 week or less, the court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant not sooner than 2 days after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the Justice Court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that ~~[there]~~ ***:***

(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. ~~[If the court determines that there]~~

(b) There is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 for the inventory,

moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

➥ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460, and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 7. **NRS 461A.215 is hereby amended to read as follows:**

461A.215 1. Notwithstanding any provision of law to the contrary, if a nonprofit organization owns or leases a mobile home park:

(a) The board of directors or trustees which controls the mobile home park must be selected as set forth in this section; and

(b) The provisions of this section govern the operation of the nonprofit organization and the mobile home park.

2. If a nonprofit organization owns or leases only one mobile home park, the board of directors or trustees which controls the mobile home park must be composed of:

(a) Three directors or trustees who are residents of the mobile home park and are elected by a majority of the residents who live in the mobile home park, with each unit in the mobile home park authorized to cast one vote;

(b) Except as otherwise provided in subsection 4, three directors or trustees appointed by the governing body of the local government with jurisdiction over the location of the mobile home park; and

(c) Three directors or trustees elected by a majority of the other directors or trustees selected pursuant to this subsection.

3. If a nonprofit organization owns or leases more than one mobile home park, the board of directors or trustees which controls the mobile home parks must be composed of:

(a) For each mobile home park, one director or trustee who is a resident of that mobile home park and is elected by a majority of the residents who live in that mobile home park, with each unit in the mobile home park authorized to cast one vote;

(b) Except as otherwise provided in subsection 4, one director or trustee appointed for each mobile home park by the governing body of the local government with jurisdiction over the location of that mobile home park; and

(c) For each mobile home park, one director or trustee elected by a majority of the other directors or trustees selected pursuant to this subsection.

4. The governing body of a local government with jurisdiction over the location of a mobile home park owned or leased by a nonprofit organization shall not appoint a director or trustee pursuant to paragraph (b) of subsection 2 or paragraph (b) of subsection 3 unless the land upon which the mobile home park is located or the improvements to that land are owned by any governmental entity, patented to any governmental entity or leased to the nonprofit organization by any governmental entity.

5. The term of office of a director or trustee selected pursuant to this section:

(a) Is ~~[2]~~ ***4*** years, except that upon the expiration of his term of office he shall continue to serve until his successor is selected; and

(b) Commences on July 1**.** ~~[of each odd-numbered year.]~~

6. Any vacancy occurring in the membership of the board of directors or trustees selected pursuant to this section must be filled in the same manner as the original election or appointment.

7. The Attorney General shall:

(a) Enforce the provisions of this section;

(b) Investigate suspected violations of the provisions of this section; and

(c) Institute proceedings on behalf of this State, an agency or political subdivision of this State, or as parens patriae of a person residing in a mobile home park:

(1) For injunctive relief to prevent and restrain a violation of any provision of this section; and

(2) To collect any costs or fees awarded pursuant to the provisions of this section.

8. The provisions of this section may be enforced with regard to a nonprofit organization or a mobile home park by:

(a) The nonprofit organization;

(b) The board of directors or trustees required to be selected pursuant to this section, or any member thereof;

(c) A person who claims membership on the board of directors or trustees required to be selected pursuant to this section;

(d) A resident of the mobile home park;

(e) The local government with jurisdiction over the location of the mobile home park; or

(f) Any combination of the persons described in paragraphs (a) to (e), inclusive.

9. In any action to enforce the provisions of this section, including, without limitation, an action to prevent or restrain a violation of the provisions of this section, if a person is found to have knowingly acted as a director or trustee on a board of directors or trustees required to be selected pursuant to this section while he was not authorized to act as such a director or trustee pursuant to this section:

(a) The court shall award the prevailing party costs and attorney's fees;

(b) If the nonprofit organization which owns or leases a mobile home park participates in the action, the court shall award the nonprofit organization costs and attorney's fees; and

(c) Costs and attorney's fees awarded pursuant to this section must be recovered from the person. If in the same action to enforce the provisions of this section, more than one person is found to have knowingly acted as a director or trustee on a board of directors or trustees required to be selected pursuant to this section while he was not authorized to act as such a director or trustee pursuant to this section, each such person is jointly and severally liable for the costs and attorney's fees awarded pursuant to this section.

10. The provisions of this section do not apply to a corporate cooperative park.

11. As used in this section:

(a) "Board of directors or trustees which controls the mobile home park" means:

(1) If the nonprofit organization which owns or leases a mobile home park does not own or operate any substantial asset that is unrelated to the mobile home park, the board of directors or trustees of the nonprofit organization; or

(2) If the nonprofit organization which owns or leases a mobile home park owns or operates a substantial asset that is unrelated to the mobile home park, a board of directors or trustees which:

(I) Has full and independent control over the affairs of the nonprofit organization that are related to the mobile home park, including, without limitation, full and independent control over all policies, operation, property, assets, accounts and records of the nonprofit organization which are related to or derived from the park;

(II) Notwithstanding any provision of law to the contrary, exercises the powers described in sub-subparagaph (I) without being subject to any control by the board of directors or trustees of the nonprofit organization or

any other person, group or entity within or related to the nonprofit organization; and

(III) If the nonprofit organization owns or leases more than one mobile home park, controls all of the mobile home parks owned or leased by the nonprofit organization.

(b) "Corporation for public benefit" has the meaning ascribed to it in NRS 82.021.

(c) "Governmental entity" includes, without limitation, the Federal Government, this State, an agency or political subdivision of this State, a municipal corporation and a housing authority.

(d) "Nonprofit organization" includes, without limitation, a corporation for public benefit.

(e) "Owns or leases a mobile home park" means being the owner or lessee of:

(1) The land upon which the mobile home park is located; or

(2) The improvements to the land upon which the mobile home park is located.

Sec. 8. **Notwithstanding the provisions of subsection 5 of NRS 461A.215, as amended by section 7 of this act, for the terms commencing on July 1, 2009:**

1. Of the three directors or trustees elected pursuant to paragraph (a) of subsection 2 of NRS 461A.215:

(a) One director or trustee must be elected to a term expiring on July 1, 2011; and

(b) Two directors or trustees must be elected to terms expiring on July 1, 2012.

2. Of the three directors or trustees appointed pursuant to paragraph (b) of subsection 2 of NRS 461A.215:

(a) One director or trustee must be appointed to a term expiring on July 1, 2011; and

(b) Two directors or trustees must be appointed to terms expiring on July 1, 2012.

Sec. 9. **This act becomes effective upon passage and approval.**

Assemblyman Horne moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 454.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 412 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 412.

Bill read third time.

Roll call on Senate Bill No. 412:

YEAS—35.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

Senate Bill No. 412 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess until 5 p.m.

Motion carried.

Assembly in recess at 2:44 p.m.

ASSEMBLY IN SESSION

At 6:11 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 212.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 212.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

COMMUNICATIONS

OFFICE OF THE GOVERNOR

May 25, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 283 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 283, which is entitled:

> AN ACT relating to domestic relations; providing for the registration and dissolution of domestic partnerships in the State of Nevada; setting forth the rights and responsibilities attendant to such partnerships; and providing other matters properly relating thereto.

Senate Bill 283 would extend to domestic partners nearly all of the rights, protections, benefits and privileges currently available only to married persons. Article I, Section 21 of the

Nevada Constitution, enacted by vote of the people less than a decade ago, provides that "[o]nly a marriage between a male and a female person shall be recognized and given effect in this state." Senate Bill 283 would effectively bypass that constitutional mandate by allowing the rights and privileges of marriage to be bestowed upon non-married persons.

Notwithstanding the suspect constitutionality of Senate Bill 283, I believe that because the voters have determined that the rights of marriage should apply only to married couples, only the voters should determine whether those rights should equally apply to domestic partners.

Furthermore, many of the rights granted in Senate Bill 283 are readily available today by way of private contracts. For example, estate planning allows a person to bequeath their assets to anyone of their choosing, including a domestic partner. Similarly, living wills allow individuals to designate responsibility for healthcare decisions to others, including a domestic partner. Finally, amendments to leases or deeds of trust allows individuals to ensure that others have a right to access property in the event of death or disability, and such amendments can be made regardless of whether the individuals are married. I also recently signed Senate Bill 314 which streamlines and eases the laws pertaining to powers of attorney, which will benefit all Nevadans.

My disapproval of this bill should not be taken to suggest that domestic partners are in any way undeserving of rights and protections. I recently signed Senate Bill 207, which prohibits discrimination in Nevada based on sexual orientation. However, I believe that Senate Bill 283 represents a fundamental departure from the will of the voters expressed in Article 1, Section 21 of the Nevada Constitution, and only the voters should have the right to undo or amend constitutional mandates.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 283.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Senate Bill No. 283 of the 75th Session.

Bill read.

The question was put: “Shall the bill pass, notwithstanding the objections of the Governor?”

Remarks by Assemblywoman Leslie.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. Like many of you, I feel so privileged today to have this opportunity to represent my constituents on this historic vote for equality and justice. This is the most important civil rights legislation we have had in all my years here, and I am so happy and honored to be a part of it.

Years from now, we may look back on this day and wonder what the controversy was all about. Why did we struggle so much and so hard to decide this basic issue of fairness for our citizens? I know it has been a struggle for many of you here in this body. I know you have searched your hearts for the answer, and each of us will vote our conscience today, and that vote should be respected. That vote will also be remembered in our state, in our history—perhaps more than any other in our career—for its impact on so many people in Nevada. We’ll remember this beautiful Sunday and this moment in time when our grandchildren or our great grandchildren ask us about it, and we will able to proudly say, “Yes, I was there that day, and this is what happened.” We’ll tell them how this bill affected so many lives and enabled so many people to make their own choices without interference from their state government.

There are many people who drove down here this morning from Reno, thinking we were going to vote. Some of them are still here, and I know there are thousands of Nevadans listening on the Internet and in every corner of our state and even throughout our nation. They are not

asking for us to approve of their lives or how they live, but they are asking us for respect. As citizens of this great state, they are asking that their government give them the ability to choose whom they will live with and whom they will love. They're asking that we give them the tools to live their lives with dignity and with the knowledge that we value their lives and their families in equal measure. So as we pause to reflect before we take this historic vote, I hope you will search your heart once more and ask why we should not provide that dignity and that respect to our citizens.

We start every day in this body with the Pledge of allegiance to the Flag. We state our allegiance to our country and its values of liberty and justice for all. Know that your vote today will translate into equality for thousands of Nevada's families who will always be grateful for your willingness to stand up for equality and for fairness and for justice for all—not justice for some—justice for all. I urge your support.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 283:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Denis, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 121 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblywoman Koivisto.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN KOIVISTO:

Thank you, Madam Speaker. The Governor's letter says that the bill unnecessarily legislates in an area that should be addressed by medical professionals and health care management. Those are the very folks that helped write the bill. I urge your support.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 121:

YEAS—37.

NAYS—Christensen, Cobb, Goedhart, Hambrick, Woodbury—5.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 147 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblywoman Spiegel.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Speaker. In the Governor's letter, he said "Assembly Bill 147 would require local governments to spend more money on public works and other contracts by giving a

5 percent preference to local companies. While there is a justifiable interest in promoting local companies to support our economy and help local workers, Nevada's local governments will be hard pressed to meet this additional fiscal burden on contracting. During this difficult economic time for the state and local governments, it's not appropriate to place this burden on local governments in this way."

We were cognizant of these concerns, and we were cognizant of the economic impact that this bill could have on local government, and that is why we included provisions in two places in this bill where the local governments have an out. If they find that by giving the 5 percent bidding preference it is not in the public's best interest, then they can simply choose not to award the contract to the local bidder.

This is really looking to help Nevada businesses, to get our Nevadans back to work, and to keep our local dollars working for us locally. I urge your support.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 147:

YEAS—32.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, McArthur, Settelmeyer, Woodbury—10.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 304 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Segerblom, Munford, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Speaker. This bill starts to preserve the history of southern Nevada. Many of you from northern Nevada may think that is an oxymoron, but in fact we do have history in southern Nevada, as the Assemblyman from southern Nevada's wife can attest to. It also deals with the very historic area, F Street. In the Governor's veto, he talked about how much money it would cost to reopen F Street and how terrible this would be. But if you drive from here to the airport in Reno and you look on the hill, you will see a beautiful highway going up there in northern Nevada, and the Governor has never objected to that ridiculous spending of money. This is an African-American neighborhood in southern Nevada, and we are trying to commit some money there to do what is right to preserve the history of that neighborhood. I urge you to support this bill and override the veto. Thank you.

ASSEMBLYMAN MUNFORD:

Thank you, Madam Speaker. The closure of F Street not only represents a wall, it is a symbol of past injustices in the community. It is best summarized by a long-time resident of the F Street area, R. B. Hambrick, an 82-year-old retired United States Naval petty officer who lives on F and Adams Streets, who said the following: "Harry S. Truman once said 'There is nothing new but the history you don't know.'" In 1968, the City of Las Vegas closed seven streets. The residents protested, claiming segregation, and unsuccessfully reopened two of those seven streets. The two streets were D and F.

Forty-one years later, history repeats itself. We reopened D Street, and hopefully F Street will follow. May the reopening of this street be a constant reminder that our representatives perceive those in the community as respected, taxpaying citizens whose safety and well-being really matters. This is very important and extremely valuable to this community. I urge your support of this measure. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Thank you, Assemblyman Munford. With the permission of the body, I would like to express my support for the measure, as well. West Las Vegas has a unique place in the history of our state. It is where many entertainers were forced to stay when our hotels were still segregated, and it is a community that has been neglected, and it deserves respect, so I proudly stand with my colleague who represents Assembly District 6.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 304:

YEAS—29.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 319 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblyman Segerblom.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Speaker. I know I said the last bill was the most important bill tonight, but this is the most important bill.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

How many bills did you get vetoed, Mr. Segerblom?

ASSEMBLYMAN SEGERBLOM:

I still have two more to go, but this is the most important one right now. Thank you.

This bill gives basic rights to teachers—not great rights, but basic rights. We have the same rights for police officers in the peace officers' bill of rights, which are in statute. This year, we have had to tell teachers that we can't give them what they want. They had to lose their raises and their step increases. They have had to suffer, along with other state employees. The least we can do is give them a few basic rights.

If you start at a school right now, the teacher makes less than the police officer in the same school. That police officer has these rights; the teacher does not have these rights. I think it is time we show our teachers respect, show them that we care about them, and give them some basic rights. I urge you to override the veto. Thank you.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 319:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 381 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblyman Segerblom.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Speaker. I know you won't believe this, but I am not kidding this time, and I am really serious. This is the most important bill—and I say that in all seriousness—because this gives basic rights for people who are forced into arbitration, and these rights do not exist today. I would encourage everyone to support me in overriding the veto. Thank you, Madam Speaker.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 381:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 467 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblywoman Pierce.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN PIERCE:

Thank you, Madam Speaker. This bill was amended in the Senate, and there was a great deal of consensus. Everyone came together in agreement on this. It has important provisions, and particularly an enforcement provision, so I urge your support.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 467:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Conklin, Kirkpatrick, and Christensen as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 523.

Assembly Bill No. 482.

The following Senate amendment was read:

Amendment No. 942.

AN ACT relating to motor vehicles; transferring the authority for the regulation of trade practices of garages, garagemen and body shops from the Commissioner of Consumer Affairs to the Department of Motor Vehicles; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for regulation of garages, garagemen and body shops by the Commissioner of Consumer Affairs and for their registration or licensure with the Department of Motor Vehicles. (NRS 487.530-487.570, 487.600-487.690, 597.480-597.590) **Sections 2-21** of this bill transfer authority for regulation to the Department and provide for enforcement of those provisions by the Director of the Department.

Section 1 of this bill allows the Department of Motor Vehicles to fine a person who engages in certain deceptive trade practices relating to the sale or lease of a vehicle regardless of whether the person has been fined for that act under the provisions of NRS 598.0903 to 598.0999, inclusive. (NRS 482.554)

Section 29.3 of this bill creates a revolving account for the Bureau of Consumer Protection, overseen by the Consumer's Advocate, to be used for the undercover investigation of alleged violations of **sections 4-21** of this bill or deceptive trade practices.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 482.554 is hereby amended to read as follows:

482.554 1. The Department may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms, or for the sale of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. ~~[Except as otherwise provided in this subsection, the]~~ ***The*** administrative remedy provided in this section is not exclusive and is intended to supplement existing law. ~~[The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act.]~~ The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 1.5. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this act.

Sec. 2. ***"Body shop" means any place where the body of a motor vehicle is painted, fixed, repaired or replaced for compensation.***

Sec. 3. ***"Person authorizing repairs" means a person who uses the services of a garage. The term includes an insurance company, its agents or its representatives authorizing repairs to motor vehicles under a policy of insurance.***

Sec. 4. ***1. Each garageman shall display conspicuously in those areas of his place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:***

STATE OF NEVADA
REGISTERED GARAGE

THIS GARAGE IS REGISTERED WITH THE
DEPARTMENT OF MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR
CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is REGISTERED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed $50. (cite to section 6 of this act)
YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 11 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 11 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or $100, whichever is less. (cite to section 7 of this act)
YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (cite to section 18 of this act)

FOR MORE INFORMATION PLEASE CONTACT:
THE DEPARTMENT OF MOTOR VEHICLES

2. Each body shop shall display conspicuously in those areas of its place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:

STATE OF NEVADA
LICENSED BODY SHOP

THIS BODY SHOP IS LICENSED BY THE
DEPARTMENT OF MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR
CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is LICENSED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed $50. (cite to section 6 of this act)
YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 11 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 11 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or $100, whichever is less. (cite to section 7 of this act)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (cite to section 18 of this act)
FOR MORE INFORMATION PLEASE CONTACT:

THE DEPARTMENT OF MOTOR VEHICLES

3. The sign required pursuant to the provisions of subsection 1 or 2 must include a replica of the Great Seal of the State of Nevada. The Seal must be 2 inches in diameter and be centered on the face of the sign directly above the words "STATE OF NEVADA."

4. Any person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 5. ***Whenever any body shop or garageman accepts or assumes control of a motor vehicle for the purpose of making or completing any repair, the body shop or garageman shall comply with the provisions of sections 6 to 19, inclusive, of this act.***

Sec. 6. ***1. Except as otherwise provided in section 8 of this act, a person requesting or authorizing the repair of a motor vehicle that is more than $50 must be furnished a written estimate or statement signed by the person making the estimate or statement on behalf of the body shop or garageman indicating the total charge for the performance of the work necessary to accomplish the repair, including the charge for labor and all parts and accessories necessary to perform the work.***

2. If the estimate is for the purpose of diagnosing a malfunction, the estimate must include the cost of:

(a) Diagnosis and disassembly; and

(b) Reassembly, if the person does not authorize the repair.

3. The provisions of this section do not require a body shop or garageman to reassemble a motor vehicle if the body shop or garageman determines that the reassembly of the motor vehicle would render the vehicle unsafe to operate.

Sec. 7. ***Except as otherwise provided in section 8 of this act, if it is determined that additional charges are required to perform the repair authorized, and those additional charges exceed, by 20 percent or $100, whichever is less, the amount set forth in the estimate or statement required to be furnished pursuant to the provisions of section 6 of this act, the body shop or garageman shall notify the owner and insurer of the motor vehicle of the amount of those additional charges.***

Sec. 8. ***The person authorizing the repairs may waive the estimate or statement required pursuant to the provisions of section 6 of this act or the notification required by section 7 of this act by executing a written waiver of that requirement or notification. The waiver must be executed by the person authorizing the repairs at the time he authorizes those repairs.***

Sec. 9. ***If a body shop or garage performs repairs on a motor vehicle, the body shop or garage shall perform the repairs in accordance with any specifications of the manufacturer of the motor vehicle and the written estimate or statement of the cost of the repairs that is most recently agreed upon by the body shop or garage and the person authorizing repairs.***

Sec. 10. ***1. An owner and the insurer of a motor vehicle who have been notified of additional charges pursuant to section 7 of this act shall:***

(a) Authorize the performance of the repair at the additional expense; or

(b) Without delay, and upon payment of the authorized charges, take possession of the motor vehicle.

2. Until the election provided for in subsection 1 has been made, the body shop or garageman shall not undertake any repair which would involve such additional charges.

3. If the owner or insurer of the motor vehicle elects to take possession of the motor vehicle but fails to take possession within a 24-hour period after the election, the body shop or garageman may charge for storage of the vehicle.

Sec. 11. ***1. Whenever the repair work performed on a motor vehicle requires the replacement of any parts or accessories, the body shop or garageman shall, at the request of the person authorizing the repairs or any person entitled to possession of the motor vehicle, deliver to the person all parts and accessories replaced as a result of the work done.***

2. The provisions of subsection 1 do not apply to parts or accessories which must be returned to a manufacturer or distributor under a warranty arrangement or which are subject to exchange, but the customer, on request, is entitled to be shown the warranty parts for which a charge is made.

Sec. 12. ***The body shop or garageman shall retain copies of any estimate, statement or waiver required by sections 6 to 19, inclusive, of this act as an ordinary business record of the body shop or garage, for a period of not less than 1 year after the date the estimate, statement or waiver is signed.***

Sec. 13. ***In every instance where charges are made for the repair of a motor vehicle by a garageman, the garageman making the repairs shall comply with the provisions of sections 6 to 19, inclusive, of this act. A garageman is not entitled to detain a motor vehicle by virtue of any common law or statutory lien, or otherwise enforce such a lien, or to sue on any contract for repairs made by him unless he has complied with the requirements of sections 6 to 19, inclusive, of this act.***

Sec. 14. ***A person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:***

1. Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the repair of a motor vehicle; or

2. Engages in any other acts prescribed by the Director by regulation as a deceptive trade practice.

Sec. 15. (Deleted by amendment.)

Sec. 16. ***1. The Director may request an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 4 to 21, inclusive, of this act.***

2. The Bureau of Consumer Protection in the Office of the Attorney General may conduct an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 4 to 21, inclusive, of this act on its own motion or upon a request received pursuant to subsection 1. Nothing in this subsection requires the Bureau to conduct an undercover investigation.

Sec. 17. ***1. In addition to any other penalty, the Director may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice as set forth in section 14 of this act. The Director shall provide to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.***

2. All administrative fines collected by the Director pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

3. The administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 18. ***1. If charges are made for the repair of a motor vehicle, the garageman or body shop making the charges shall present to the person authorizing repairs or the person entitled to possession of the motor vehicle a statement of the charges setting forth the following information:***

(a) The name and signature of the person authorizing repairs;

(b) A statement of the total charges;

(c) An itemization and description of all parts used to repair the motor vehicle indicating the charges made for labor; and

(d) A description of all other charges.

2. Any person violating this section is guilty of a misdemeanor.

3. In the case of a motor vehicle registered in this State, no lien for labor or materials provided under NRS 108.265 to 108.367, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered and the legal owner of the motor vehicle. In all other cases, the notice must be made to the last known address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.

Sec. 19. ***1. On or before January 1 of each year, the Director of the Department shall prepare a report concerning garages, garagemen and body shops. The report must include:***

(a) The number of complaints relating to garages, garagemen and body shops made to and acted upon by the Department during the year for which the report is prepared;

(b) The number of investigations conducted during that year by the Department relating to garages, garagemen and body shops; and

(c) The outcome of each investigation specified in paragraph (b) and the extent to which any information relating to each investigation is subject to disclosure to the members of the public.

2. On or before January 1 of each even-numbered year, the Director of the Department shall submit the report required pursuant to subsection 1 to the Legislative Commission. On or before January 1 of each odd-numbered year, the Director of the Department shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(a) The Senate Standing Committee on Energy, Infrastructure and Transportation; and

(b) The Assembly Standing Committee on Transportation.

Sec. 20. ***The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada on the complaint of the Director, or of any person allegedly aggrieved by a violation of the provisions of sections 6 to 19, inclusive, of this act, to enjoin any violation of the provisions of sections 6 to 19, inclusive, of this act.***

Sec. 21. ***Any person who knowingly violates any provision of sections 5 to 19, inclusive, of this act is liable, in addition to any other penalty or remedy which may be provided by law, to a civil penalty of not more than $500 for each offense, which may be recovered by civil action on complaint of the Director or the district attorney.***

Sec. 21.5. NRS 487.002 is hereby amended to read as follows:

487.002 1. The Advisory Board on Automotive Affairs, consisting of seven members appointed by the Governor, is hereby created within the Department.

2. The Governor shall appoint to the Board:

(a) One representative of the Department;

(b) One representative of licensed operators of body shops;

(c) One representative of licensed automobile wreckers;

(d) One representative of registered garagemen;

(e) One representative of licensed operators of salvage pools; and

(f) Two representatives of the general public.

3. After the initial terms, each member of the Board serves a term of 4 years. The members of the Board shall annually elect from among their number a Chairman and a Vice Chairman. The Department shall provide secretarial services for the Board.

4. The Board shall meet regularly at least twice each year and may meet at other times upon the call of the Chairman. Each member of the Board is entitled to the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Board shall:

(a) Study the regulation of garagemen, automobile wreckers and operators of body shops and salvage pools, including, without limitation, the registration or licensure of such persons and the methods of disciplinary action against such persons;

(b) Analyze and advise the Department relating to any consumer complaints ~~[provided to the Department by the Consumer Affairs Division of the Department of Business and Industry pursuant to NRS 598.985 or otherwise]~~ received by the Department concerning garagemen, automobile wreckers or operators of body shops or salvage pools;

(c) Make recommendations to the Department for any necessary regulations or proposed legislation pertaining to paragraph (a) or (b);

(d) On or before January 15 of each odd-numbered year, prepare and submit a report concerning its activities and recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the Legislature; and

(e) Perform any other duty assigned by the Department.

Sec. 22. NRS 487.530 is hereby amended to read as follows:

487.530 As used in NRS 487.530 to ~~[487.570,]~~ ***487.690,*** inclusive, ***and sections 2 to 21, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS ~~[487.535]~~ ***487.540*** to 487.550, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 23. NRS 487.555 is hereby amended to read as follows:

487.555 The provisions of NRS 487.530 to ~~[487.570,]~~ ***487.690,*** inclusive, ***and sections 2 to 21, inclusive, of this act*** do not apply to a service

station that is exclusively engaged in the business of selling motor vehicle fuel, lubricants or goods unrelated to the repair of motor vehicles.

Sec. 24. NRS 487.563 is hereby amended to read as follows:

487.563 1. Each person who submits an application for registration pursuant to the provisions of NRS 487.560 shall file with the Department a bond in the amount of $5,000, with a corporate surety for the bond that is licensed to do business in this State. The form of the bond must be approved by the Attorney General and be conditioned upon whether the applicant conducts his business as an owner or operator of a garage without fraud or fraudulent representation and in compliance with the provisions of ***sections 4 to 21, inclusive, of this act and*** NRS 487.530 to **[**~~487.570,~~**]** ***487.567,*** inclusive **. [**~~, and 597.480 to 597.590, inclusive.~~**]**

2. The bond must be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the garageman may:

(a) Apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make payment.

(b) Present to the Director an order of a court requiring the Director to pay to the person an amount of compensation from the bond. The Director shall inform the surety, and the surety shall then make payment.

4. In lieu of a bond required to be filed pursuant to the provisions of subsection 1, a person may deposit with the Department, pursuant to the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank or savings and loan association located in this State, which must indicate an account of an amount equal to the amount of the bond that would otherwise be required pursuant to this section and that the amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the garageman or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting that the Director release the

deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. If a person fails to comply with an order of a court that relates to the repair of a motor vehicle, or fails to pay or otherwise discharge any final judgment rendered and entered against him or any court order issued and arising out of the repair of a motor vehicle in the operation of a garage, the Department shall revoke or refuse to renew the certificate of registration of the person who failed to comply with the order or satisfy the judgment.

7. The Department may reinstate or renew a certificate of registration that is revoked pursuant to the provisions of subsection 6 if the person whose certificate of registration is revoked complies with the order of the court.

8. A garageman whose registration has been revoked pursuant to the provisions of subsection 6 shall furnish to the Department a bond in the amount specified in subsection 1 before the reinstatement of his registration.

Sec. 25. NRS 487.564 is hereby amended to read as follows:

487.564 1. The Department may refuse to issue a registration or may suspend, revoke or refuse to renew a registration to operate a garage upon any of the following grounds:

(a) A false statement of a material fact in a certification for a salvage vehicle required pursuant to NRS 487.800.

(b) A false statement or certification for an inspection pursuant to NRS 487.800 which attests to the mechanical fitness or safety of a salvage vehicle.

(c) The Director determines that the garage or garageman has engaged in a deceptive trade practice or violated the provisions of ~~[NRS 597.480 to 597.590, inclusive.]~~ ***sections 4 to 21, inclusive, of this act.***

(d) Evidence of unfitness of the applicant or registrant pursuant to NRS 487.165.

(e) A violation of any regulation adopted by the Department governing the operation of a garage.

(f) A violation of any statute or regulation that constitutes fraud in conjunction with the repair of a motor vehicle or operation of a garage.

2. A person for whom a certificate of registration has been suspended or revoked pursuant to the provisions of this section, subsection 6 of NRS 487.563 or similar provisions of the laws of any other state or territory of the United States shall not be employed by, or in any manner affiliated with, the operation of a garage subject to registration in this State.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 26. NRS 487.600 is hereby amended to read as follows:

487.600 As used in NRS 487.600 to ~~[487.690,]~~ ***487.687,*** inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[487.602]~~ ***487.604*** to 487.608, inclusive, have the meanings ascribed to them in those sections.

Sec. 27. NRS 487.640 is hereby amended to read as follows:

487.640 1. No license may be issued to an operator of a body shop until he procures and files with the Department a good and sufficient bond in the amount of $10,000, with a corporate surety thereon licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct his business as an operator of a body shop without fraud or fraudulent representation, and in compliance with the provisions of ***sections 4 to 21, inclusive, of this act and*** NRS 487.600 to ~~[487.690,]~~ ***487.687,*** inclusive ***.*** ~~[, and 597.480 to 597.590, inclusive.]~~ The Department may, by agreement with any operator of a body shop who has been licensed by the Department for 5 years or more, allow a reduction in the amount of the bond of the operator, if the business of the operator has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than $1,000.

2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the operator of the body shop in violation of any of the provisions of ***sections 4 to 21, inclusive, of this act and*** NRS 487.600 to ~~[487.690,]~~ ***487.687,*** inclusive, ~~[and 597.480 to 597.590, inclusive,]~~ may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. In lieu of a bond an operator of a body shop may deposit with the Department, under the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting the Director to release the deposit,

or a specified portion thereof, and stating the purpose for which the release is requested.

6. When a deposit is made pursuant to subsection 4, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which he is liable under the deposit.

7. A deposit made pursuant to subsection 4 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

8. Any money received by the Department pursuant to subsection 4 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 28. NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and ***sections 4 to 21, inclusive, of this act or*** NRS 487.600 to ~~[~~487.690,~~]~~ ***487.687,*** inclusive **.** ~~[~~, or 597.480 to 597.590, inclusive.~~]~~

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of guilty or guilty but mentally ill by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(j) The display of evidence of unfitness for a license pursuant to NRS 487.165.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.600 to ~~[~~487.690,~~]~~ ***487.687,*** inclusive, or to determine the suitability of an applicant or a licensee for licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 29. NRS 487.690 is hereby amended to read as follows:

487.690 Any person who violates any of the provisions of ***sections 4 to 21, inclusive, of this act or*** NRS ~~[~~487.600~~]~~ ***487.530*** to 487.680, inclusive, is guilty of a misdemeanor.

Sec. 29.3. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created a revolving account for the Bureau of Consumer Protection in the sum of $7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 4 to 21, inclusive, of this act.

2. The Consumer's Advocate shall deposit the money in the revolving account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.

3. The Consumer's Advocate or his designee may:

(a) Sign all checks drawn upon the revolving account; and

(b) Make withdrawals of cash from the revolving account.

4. Payments made from the revolving account must be promptly reimbursed from the legislative appropriation, if any, to the Consumer's Advocate for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 4 to 21, inclusive, of this act.

The claim for reimbursement must be processed and paid as other claims against the State are paid.

5. The Consumer's Advocate shall:

(a) Approve any disbursement from the revolving account; and

(b) Maintain records of any such disbursement.

Sec. 29.7. NRS 228.300 is hereby amended to read as follows:

228.300 As used in NRS 228.300 to 228.390, inclusive, ***and section 29.3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 228.302 to 228.308, inclusive, have the meanings ascribed to them in those sections.

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. NRS 686A.300 is hereby amended to read as follows:

686A.300 1. An insurer who issues insurance covering damage to a motor vehicle shall not delay making payment for any claim involving damage to a motor vehicle after receiving a statement of charges, pursuant to the provisions of ~~[~~NRS 597.5705,~~]~~ ***section 18 of this act,*** from any garage or licensed body shop previously authorized by the insured to perform the repairs required by that claim.

2. A delay, within the meaning of this section, is failure to issue a check or draft, payable to the garage or licensed body shop or jointly to the insured and the garage or licensed body shop, within 30 days after the insurer's receipt of the statement of charges for repairs which have been satisfactorily completed.

3. If the damaged vehicle is subject to a security interest or the legal owner of the damaged vehicle is different from the registered owner, the vehicle must be repaired by a garage or licensed body shop unless:

(a) The insurer has declared the vehicle a total loss; or

(b) The total charge for the repair of the vehicle, as set forth in the statement of charges presented pursuant to ~~[~~NRS 597.5705,~~]~~ ***section 18 of this act,*** is $300 or less.

4. Except as otherwise provided in subsection 3, nothing in this section shall be deemed to prohibit an insurer and insured from settling a claim involving damage to a motor vehicle without providing for the repair of the vehicle.

5. As used in this section, "licensed body shop" means a body shop for which a license has been issued pursuant to chapter 487 of NRS.

Sec. 33. NRS 487.535, 487.568, 487.570, 487.602, 597.480, 597.490, 597.500, 597.510, 597.520, 597.530, 597.535, 597.540, 597.550, 597.560, 597.570, 597.5701, 597.5702, 597.5703, 597.5704, 597.5705, 597.5706, 597.580, 597.590, 598.971, 598.975, 598.981, 598.985 and 598.990 are hereby repealed.

Sec. 34. **This act becomes effective on July 1, 2009.**

LEADLINES OF REPEALED SECTIONS

487.535 "Division" defined.

487.568 Penalty.

487.570 Garageman to comply with certain provisions relating to trade practices.

487.602 "Body shop" defined.

597.480 Definitions.

597.490 Display of sign required; contents of sign; penalty.

597.500 Duties of body shop or garageman on acceptance of vehicle for repair.

597.510 Estimate of costs required for certain repairs.

597.520 Notice of additional charges over estimate required in certain cases.

597.530 Waiver of estimate of costs or notice of additional charges; execution of waiver.

597.535 Duty of body shop and garage to repair vehicle in accordance with manufacturer's specifications and estimate of costs required for repair.

597.540 Duties of owner and insurer upon receipt of notice of additional charges.

597.550 Replaced parts to be delivered to person authorizing repairs if requested; exception.

597.560 Records to be retained by body shop or garageman.

597.570 Compliance with NRS 597.510 to 597.5706, inclusive; enforcement of liens and contracts.

597.5701 Certain acts deemed to be deceptive trade practice.

597.5702 Revolving account for Bureau of Consumer Protection: Creation; use; deposits; claims.

597.5703 Commissioner or Director authorized to request undercover investigation of alleged deceptive trade practice; Bureau of Consumer Protection authorized to conduct such investigation.

597.5704 Administrative fine for engaging in deceptive trade practice; deposit and use of money collected as administrative fine.

597.5705 Statement of charges required for repair of vehicle; violation constitutes misdemeanor; statement required for enforcement of lien.

597.5706 Submission of annual report by Commissioner to Legislative Commission.

597.580 Violations: Injunctive relief.

597.590 Violations: Civil penalties.

598.971 Definitions.

598.975 "Department" defined.

598.981 "Division" defined.

598.985 Division and Department to cooperate to protect persons who authorize repair of motor vehicles.

598.990 Division to establish and maintain toll-free telephone number concerning alleged violations and develop program to provide certain information to public.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 482.

Remarks by Assemblyman Atkinson.

Potential conflict of interest declared by Assemblyman Manendo.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 320, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 694 of the Senate be concurred in.

It has agreed to recommend that Amendment No. 871 of the Senate be receded from and a 4th reprint be created in accordance with this action.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 19, which is attached to and hereby made a part of this report.

TICK SEGERBLOM	MIKE MCGINNESS
PEGGY PIERCE	ALLISON COPENING
JOHN CARPENTER	TERRY CARE
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA19.

AN ACT relating to guardianships; requiring additional information in a petition for appointment of a guardian under certain circumstances; requiring that a proposed adult ward be advised of his right to counsel; revising provisions relating to the attendance of a proposed adult ward at a guardianship hearing; requiring a guardian to petition a court before moving a ward into certain residential facilities under certain circumstances; making various other changes relating to guardianships; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill requires that a petitioner for the appointment of a guardian for a proposed adult ward provide the court with an assessment completed by a licensed physician of the proposed adult ward's needs and limitations in capacity before the court makes a final order in the case. (NRS 159.044)

Section 4 of this bill provides that a proposed adult ward must be advised of his right to counsel in the guardianship proceeding and requires that certain information or responses provided by the adult ward relating to his right to counsel and to the proceeding be transmitted to the court. (NRS 159.0485)

Existing law provides that a proposed ward found in this State must attend a hearing for the appointment of a guardian unless a certificate is signed indicating the reasons the proposed ward cannot appear. (NRS 159.0535) **Section 5** of this bill provides that a proposed ward who is unable to attend a hearing for the appointment of a general or special guardian may attend by videoconference. **Section 5** further provides that if a proposed ward is an adult and cannot attend the hearing or appear by videoconference, the court must have the person who signs the certificate to excuse the proposed adult ward from attending the hearing meet with the proposed adult ward and report back to the court regarding the proposed adult ward's desire for representation at the hearing, preferences if a guardianship is imposed and any information the person believes may have limited any of the proposed adult ward's responses.

Existing law provides that a guardian must file with the court annually, or at such other times the court deems appropriate, a written report on the condition of the ward and the exercise of authority and the performance of duties by the guardian. (NRS 159.081) **Section 6** of this bill: (1) provides that a guardian must also file with the court a report within 10 days of moving a ward to a secured residential long-term care facility; and (2) authorizes the court to determine the form and contents of such a report.

Section 7 of this bill requires a guardian to petition the court and receive the court's consent before moving a ward into a secured residential long-term care facility. However, a guardian does not need to petition the court if the court has already granted the guardian the authority to move the ward to such a facility or if a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of the county's office of protective services recommends the transfer in writing. (NRS 159.113)

Section 8 of this bill makes a technical correction to section 27 of Senate Bill No. 277 of this session, which establishes the allowable compensation of an attorney of a personal representative. (NRS 150.060)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. "Secured residential long-term care facility" means a residential facility providing long-term care that is designed to restrict a resident of the facility from leaving the facility, a part of the facility or the grounds of the facility through the use of locks or other mechanical means unless the resident is accompanied by a staff member of the facility or another person authorized by the facility or the guardian.

2. The term does not include a residential facility providing long-term care which uses procedures or mechanisms only to track the location or

actions of a resident or to assist a resident to perform the normal activities of daily living.

Sec. 2. NRS 159.013 is hereby amended to read as follows:

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, ***and section 1 of this act,*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;

(2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

3. Before the court makes a finding pursuant to NRS 159.054, a petitioner seeking a guardian for a proposed adult ward must provide the court with an assessment of the needs of the proposed adult ward completed by a licensed physician which identifies the limitations of capacity of the proposed adult ward and how such limitations affect the ability of the proposed adult ward to maintain his safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed adult ward must be filed.

Sec. 4. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. ***At the first hearing for the appointment of a guardian for a proposed adult ward, the court shall advise the proposed adult ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding. If the proposed adult ward is not in attendance at the hearing because the proposed adult ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the person who signs the certificate pursuant to NRS 159.0535 to excuse the proposed adult ward from attending the hearing shall advise the proposed adult ward of his right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding.***

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel, at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney must represent the adult ward or proposed adult ward until relieved of the duty by court order.

~~[2.]~~ ***3.*** Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation which must be paid from the estate of the adult ward or proposed adult ward. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

Sec. 5. NRS 159.0535 is hereby amended to read as follows:

159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician who is licensed to practice in this State specifically states the condition of the proposed ward **,** ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[.]~~ ***and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward;*** or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward **,** ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[.]~~ ***and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward.***

2. ***A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward is an adult and cannot attend by videoconference, the person who signs the certificate described in subsection 1 shall:***

(a) Inform the proposed adult ward that the petitioner is requesting that the court appoint a guardian for the proposed adult ward;

(b) Ask the proposed adult ward for a response to the guardianship petition;

(c) Inform the proposed adult ward of his right to counsel and ask whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding; and

(d) Ask the preferences of the proposed adult ward for the appointment of a particular person as his guardian.

3. If the proposed ward is an adult, the person who signs the certificate described in subsection 1 shall state in the certificate:

(a) That the proposed adult ward has been advised of his right to counsel and asked whether he wishes to be represented by counsel in the guardianship proceeding;

(b) The responses of the proposed adult ward to the questions asked pursuant to subsection 2; and

(c) Any conditions that the person believes may have limited the responses by the proposed adult ward.

4. The court may prescribe the form in which the certificate must be filed. If the certificate consists of separate parts, each part must be signed by a person identified in subsection 1.

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

Sec. 6. NRS 159.081 is hereby amended to read as follows:

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian; ~~[and]~~

(b) ***Within 10 days of moving a ward to a secured residential long-term care facility; and***

(c) At such other times as the court may order.

2. ***A report filed pursuant to paragraph (b) of subsection 1 must:***

(a) Include a copy of the written recommendation upon which the transfer was made; and

(b) Be served, without limitation, on the attorney for the ward, if any.

3. The court may prescribe the form and contents for filing a report described in subsection 1.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

~~[3.]~~ ***5.*** The court is not required to hold a hearing or enter an order regarding the report.

Sec. 7. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Change the state of residence or domicile of the ward.

(k) Exercise the right of the ward to take under or against a will.

(l) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(m) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(n) Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(o) Except as otherwise provided in subsection 6, move the ward into a secured residential long-term care facility.

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

6. Without filing a petition pursuant to paragraph (o) of subsection 1, a guardian may move a ward into a secured residential long-term care facility if:

(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or

(b) The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.

7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.

Sec. 8. **Section 27 of Senate Bill No. 277 of this session is hereby amended to read as follows:**

Sec. 27. NRS 150.060 is hereby amended to read as follows:

150.060 1. Attorneys for personal representatives are entitled to reasonable compensation for their services, to be paid out of the decedent's estate.

2. An attorney for a personal representative may be compensated based on:

(a) The applicable hourly rate of the attorney;

(b) The value of the estate accounted for by the personal representative;

(c) An agreement as set forth in subsection 4 of section 21 of this act; or

(d) Any other method preapproved by the court pursuant to a request in the initial petition for the appointment of the personal representative.

3. If the attorney is requesting compensation based on the hourly rate of the attorney, he may include, as part of that compensation for ordinary services, a charge for legal services or paralegal services performed by a person under his direction and supervision.

4. If the attorney is requesting compensation based on the value of the estate accounted for by the personal representative, the allowable compensation of the attorney for ordinary services must be determined as follows:

(a) For the first $100,000, at the rate of 4 percent;

(b) For the next $100,000, at the rate of 3 percent;

(c) For the next $800,000, at the rate of 2 percent;

(d) For the next $9,000,000, at the rate of 1 percent;

(e) For the next $15,000,000, at the rate of ~~[.05]~~ 0.5 percent; and

(f) For all amounts above $25,000,000, a reasonable amount to be determined by the court.

5. Before an attorney may receive compensation based on the value of the estate accounted for by the personal representative, the personal representative must sign a written agreement as required by subsection 8. The agreement must be prepared by the attorney and must include detailed information, concerning, without limitation:

(a) The schedule of fees to be charged by the attorney;

(b) The manner in which compensation for extraordinary services may be charged by the attorney; and

(c) The fact that the court is required to approve the compensation of the attorney pursuant to subsection 8 before the personal representative pays any such compensation to the attorney.

6. For the purposes of determining the compensation of an attorney pursuant to subsection 4, the value of the estate accounted for by the personal representative:

(a) Is the total amount of the appraisal of property in the inventory, plus:

(1) The gains over the appraisal value on sales; and

(2) The receipts, less losses from the appraisal value on sales; and

(b) Does not include encumbrances or other obligations on the property of the estate.

7. In addition to the compensation for ordinary services of an attorney set forth in this section, an attorney may also be entitled to receive

compensation for extraordinary services as set forth in section 21 of this act.

8. The ~~[amount]~~ ***compensation of the attorney*** must be fixed by ***written*** agreement between the personal representative and the attorney, ***and is*** subject to approval by the court, after petition, notice and hearing as provided in ~~[subsection 2.]~~ ***this section.*** If the personal representative and the attorney fail to reach agreement, or if the attorney is also the personal representative, the amount must be determined and allowed by the court. The petition ***requesting approval of the compensation of the attorney*** must contain specific and detailed information supporting the entitlement to compensation, including:

(a) ***If the attorney is requesting compensation based upon the value of the estate accounted for by the personal representative, the attorney must provide the manner of calculating the compensation in the petition; and***

(b) If the attorney is requesting compensation based on an hourly basis, or is requesting compensation for extraordinary services, the attorney must provide the following information to the court:

(1) Reference to time and hours;

~~[(b)]~~ ***(2)*** The nature and extent of services rendered;

~~[(c)]~~ ***(3)*** Claimed ordinary and extraordinary services;

~~[(d)]~~ ***(4)*** The complexity of the work required; and

~~[(e)]~~ ***(5)*** Other information considered to be relevant to a determination of entitlement.

~~[2.]~~ ***9.*** The clerk shall set the petition for hearing, and the petitioner shall give notice of the petition to the personal representative if he is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the fee which the court will be requested to approve or allow.

~~[3.]~~ ***10.*** On similar petition, notice and hearing, the court may make an allowance to an attorney for services rendered up to a certain time during the proceedings.

~~[4.]~~ ***If the attorney is requesting compensation based upon the value of the estate as accounted for by the personal representative, the court may apportion the compensation as it deems appropriate given the amount of work remaining to close the estate.***

11. An heir or devisee may file objections to a petition filed pursuant to this section, and the objections must be considered at the hearing.

~~[5.]~~ ***12.*** Except as otherwise provided in this subsection, an attorney for minor, absent, unborn, incapacitated or nonresident heirs is entitled to compensation primarily out of the estate of the distributee so represented by him in those cases and to such extent as may be determined by the court. If the court finds that all or any part of the services performed by the attorney for the minor, absent, unborn, incapacitated or nonresident heirs was of value

to the decedent's entire estate as such and not of value only to those heirs, the court shall order that all or part of the attorney's fee be paid to the attorney out of the money of the decedent's entire estate as a general administrative expense of the estate. The amount of these fees must be determined in the same manner as the other attorney's fees provided for in this section.

Sec. 9. **1. This section and section 8 of this act become effective upon passage and approval.**

2. Sections 1 to 7, inclusive, of this act become effective on October 1, 2009.

Assemblyman Segerblom moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 320.

Remarks by Assemblyman Segerblom.

Motion carried by a constitutional majority.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 6:44 p.m.

ASSEMBLY IN SESSION

At 9:58 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Assembly Bills Nos. 246, 410; Senate Bills Nos. 195, 319, 363, 394.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

COMMUNICATIONS

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 195 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 195, which is entitled:

> AN ACT relating to industrial insurance; revising provisions relating to the denial or acceptance of a claim for compensation; revising provisions relating to examinations and permanent partial disabilities; increasing certain death benefits; revising provisions relating to the imposition of administrative fines and benefit penalties for certain violations; establishing continuous care coverage as a line of insurance for which a producer may be licensed; revising provisions for the issuance of a certificate of registration as an administrator; and providing other matters properly relating thereto.

Senate Bill 195 ,would make various changes to industrial insurance and workers compensation, including what factors may be considered when determining compensation levels and dictating the use of the 5th Edition of the American Medical Association's Guides to the *Evaluation of Permanent Impairment.*

In 2005 the Legislature adopted a bill requiring automatic adoption of the most recent edition of the AMA' s guidebook. I have not been convinced of the benefit in using anything other than the most scientifically advanced guide when evaluating permanent impairment for disability claims. For example, the 6lh Edition of the guide deals with soft tissue injuries while the 5th Edition does not consider such injuries. It only makes sense to use the best available information when evaluating these impairments.

Senate Bill 195 also allows for the consideration of stress as a factor when evaluating a person for a permanent partial disability. I do not believe it's appropriate to consider such a subjective and transitive factor as stress when making a determination of permanency.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 195.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Senate Bill No. 195 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 195:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Bill ordered transmitted to the Senate.

COMMUNICATIONS

OFFICE OF THE GOVERNOR

May 26, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader,* Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 319 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 319, which is entitled:

> AN ACT relating to health care; revising provisions relating to reports of sentinel events; requiring certain investigations relating to sentinel events; requiring the Health Division of the Department of Health and Human Services to prepare an annual summary of the reports; requiring the Health Division to study certain issues relating to the tracking and reporting of near-miss events; and providing other matters properly relating thereto.

Senate Bill 319 pertains primarily to the reporting of sentinel events by medical facilities. Existing law requires the reporting of sentinel events to the Department of Health and Human Services. This bill amends and expands upon many of these reporting requirements and many of those additions and amendments represent sound public policy. However, the bill also requires

publication of many reports related to sentinel events. The publication of such reports creates an opportunity for mischief from those who would seek to profit from the misfortunes of others by identifying events that could become the basis of litigation. Reports are already filed with and maintained by the Department of Health and Human Services, and that agency is equipped to respond to problems identified in the reports.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 319.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Senate Bill No. 319 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 319:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Goicoechea, Gustavson, Hambrick, McArthur, Settelmeyer—8.

Bill ordered transmitted to the Senate.

COMMUNICATIONS

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader,* Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 363 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval Senate Bill 363, which is entitled:

> AN ACT relating to industrial insurance; authorizing the surviving spouse of a deceased employee to continue to receive death benefits under industrial insurance after the surviving spouse remarries; and providing other matters properly relating thereto.

Senate Bill 363 would eliminate the section of state law that terminates workers compensation death benefit payments when surviving spouses get remarried, continuing those payments in perpetuity. While everyone can empathize with someone whose spouse dies while on the job, the death benefit payments outlined in workers compensation coverage are not intended to compensate that surviving spouse for their loss. Instead, the death benefit is meant to ensure the surviving spouse is able to sustain his or her livelihood and continue living in a lifestyle similar to the one they grew accustomed to during their marriage.

While there is no way to make up for the loss of a spouse the decision to remarry marks a significant change in lifestyle for that individual. Existing law was structured recognizing this change and ends death benefit payments appropriately including a one-time, lump sum payment worth two years' benefits to provide a cushion for the surviving spouse. Nothing has changed that alters the reasoning that went into existing law for death benefits compensation.

Additionally, providing death benefit payments in perpetuity to surviving spouses who remarry is an unfunded mandate upon other governmental entities that pay these benefits. While the total liability for these governments may be difficult to quantify, this liability most assuredly

exists and creates additional exposure for these groups without a clear reason for making this change in policy.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 363.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Senate Bill No. 363 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 363:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Bill ordered transmitted to the Senate.

COMMUNICATIONS

OFFICE OF THE GOVERNOR

May 26, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill No. 394 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 394, which is entitled:

> AN ACT relating to off-highway vehicles; requiring certain owners of off-highway vehicles to obtain certificates of title and registration for those vehicles; requiring the Department of Motor Vehicles to charge and collect certain fees; creating the Fund for Off-Highway Vehicles; creating the Commission on Off-Highway Vehicles; creating the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration as a special account in the Motor Vehicle Fund; eliminating the requirement that certain persons obtain certificates of operation before operating off highway vehicles; providing for the licensing of dealers, manufacturers and lessors of off-highway vehicles and for the consignment of off-highway vehicles; making various other changes relating to off-highway vehicles; providing penalties; and providing other matters properly relating thereto.

Senate Bill 394 requires the registration of off-highway vehicles and enacts a new fee for such registration. Although the fee increase has the support of some off-highway vehicle proponents and off-highway vehicle retailers, the fee would not be imposed on those groups but would instead be borne by the individual owners of off-highway vehicles. I do not support a new fee on an activity that Nevadans have previously enjoyed freely.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 394.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Senate Bill No. 394 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 394:

YEAS—36.

NAYS—Christensen, Cobb, Goedhart, Gustavson, McArthur, Settelmeyer—6.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 355.

Also, I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Assembly Bills Nos. 146, 543, 552, 562, 563.

Also, I have the honor to inform your honorable body that the Senate on this day adopted, as amended, Assembly Concurrent Resolution No. 30, Amendment No. 995, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 223, Senate Amendment No. 963, and requests a conference, and appointed Senators Lee, Raggio and Care as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 385, Senate Amendment No. 975, and requests a conference, and appointed Senators Care, Wiener and McGinness as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 202.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 208, 303.

Also, I have the honor to inform your honorable body that the Senate on this day adopted, as amended, Senate Concurrent Resolution No. 26.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 978 to Senate Bill No. 242.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Raggio, Rhoads and Lee as a Conference Committee concerning Senate Bill No. 263.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Wiener, Care, and Cegavske as a Conference Committee concerning Senate Bill No. 293.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 55.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 68.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 332.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 411.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 208.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 303.

Assemblyman Oceguera moved that the bill be referred to the Committee on Education.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 26.

Assemblywoman Koivisto moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Conklin moved that the Assembly do not recede from its action on Amendment No. 978, Senate Bill No. 242, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Kirkpatrick, Anderson, and Settelmeyer as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 242.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 84, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 773 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 23, which is attached to and hereby made a part of this report.

MARCUS CONKLIN
MARILYN KIRKPATRICK
HEIDI GANSERT
Assembly Conference Committee

ALLISON COPENING
MICHAEL SCHNEIDER
Senate Conference Committee

Conference Amendment No. CA23.

AN ACT relating to compensation; revising provisions related to compensation for overtime; revising provisions for the collection of benefits required to be repaid to the Employment Security Division of the Department of Employment, Training and Rehabilitation; establishing a penalty for fraudulently obtaining unemployment benefits under certain circumstances; revising provisions relating to the authorized use of money in the Employment Security Fund by the Administrator of the Division; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 8.3 of this bill revises provisions related to an exception to certain requirements for compensation for overtime.

Section 8.5 of this bill authorizes the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to assess against a person who is overpaid benefits certain administrative fees prescribed by an agency of the United States. **Section 9** of this bill revises existing law by providing that certain fraudulent activity conducted by a person in order to obtain or increase any unemployment benefit or payment, including the filing of a claim while incarcerated without expressly disclosing that the person is incarcerated, constitutes unemployment insurance fraud. **Section 9** also requires a person who commits unemployment insurance fraud to repay to the Administrator all of the benefits received by that person, in addition to any interest, penalties and costs. **Section 9** further provides that a person is disqualified from receiving unemployment compensation benefits for a specified period, but authorizes the Administrator to waive the period of disqualification for good cause shown or if the person adheres to a repayment schedule. Additionally, **section 9** provides that a person who obtains benefits of $250 or more while committing unemployment insurance fraud shall be punished in the same manner as if he committed theft. **Section 9** also provides that the repayment of such benefits may not be done by the withholding of benefits otherwise due and payable to the person unless the period of disqualification is waived by the Administrator. Finally, **section 9** authorizes the Administrator to impose a penalty equal to not more than 25 or 50 percent of the total amount of benefits improperly obtained by a person, depending on the amount improperly obtained by the person. (NRS 612.445)

Section 10 of this bill revises existing law by authorizing the Administrator to use money from the Employment Security Fund for the payment of costs of any program or the implementation of procedures for the proper payment of benefits and the collection of contributions and reimbursements. (NRS 612.615)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.3. NRS 608.018 is hereby amended to read as follows:

608.018 1. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works:

(a) More than 40 hours in any scheduled week of work; or

(b) More than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

2. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate not less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works more than 40 hours in any scheduled week of work.

3. The provisions of subsections 1 and 2 do not apply to:

(a) Employees who are not covered by the minimum wage provisions of NRS 608.250;

(b) Outside buyers;

(c) ~~[~~Salesmen earning commissions~~]~~ ***Employees*** in a retail ***or service*** business if their regular rate is more than 1 1/2 times the minimum wage, and more than ~~[~~one-half~~]~~ ***half*** their compensation ***for a representative period*** comes from commissions ~~[~~,~~]~~ ***on goods or services, with the representative period being, to the extent allowed pursuant to federal law, not less than one month;***

(d) Employees who are employed in bona fide executive, administrative or professional capacities;

(e) Employees covered by collective bargaining agreements which provide otherwise for overtime;

(f) Drivers, drivers' helpers, loaders and mechanics for motor carriers subject to the Motor Carrier Act of 1935, as amended;

(g) Employees of a railroad;

(h) Employees of a carrier by air;

(i) Drivers or drivers' helpers making local deliveries and paid on a trip-rate basis or other delivery payment plan;

(j) Drivers of taxicabs or limousines;

(k) Agricultural employees;

(l) Employees of business enterprises having a gross sales volume of less than $250,000 per year;

(m) Any salesman or mechanic primarily engaged in selling or servicing automobiles, trucks or farm equipment; and

(n) A mechanic or workman for any hours to which the provisions of subsection 3 or 4 of NRS 338.020 apply.

Sec. 8.5. NRS 612.365 is hereby amended to read as follows:

612.365 1. Any person who is overpaid any amount as benefits under this chapter is liable for the amount overpaid unless:

(a) The overpayment was not due to fraud, misrepresentation or willful nondisclosure on the part of the recipient; and

(b) The overpayment was received without fault on the part of the recipient, and its recovery would be against equity and good conscience, as determined by the Administrator.

2. The amount of the overpayment must be assessed to the liable person, and he must be notified of the basis of the assessment. The notice must specify the amount for which the person is liable. In the absence of fraud, misrepresentation or willful nondisclosure, notice of the assessment must be mailed or personally served not later than 1 year after the close of the benefit year in which the overpayment was made.

3. At any time within 5 years after the notice of overpayment, the Administrator may recover the amount of the overpayment by using the same methods of collection provided in NRS 612.625 to 612.645, inclusive, 612.685 and 612.686 for the collection of past due contributions or by deducting the amount of the overpayment from any benefits payable to the liable person under this chapter.

4. The Administrator may waive recovery or adjustment of all or part of the amount of any such overpayment which he finds to be uncollectible or the recovery or adjustment of which he finds to be administratively impracticable.

5. ***To the extent allowed pursuant to federal law, the Administrator may assess any administrative fee prescribed by an applicable agency of the United States regarding the recovery of such overpayments.***

6. Any person against whom liability is determined under this section may appeal therefrom within 11 days after the date the notice provided for in this section was mailed to, or served upon, the person. An appeal must be made and conducted in the manner provided in this chapter for the appeals from determinations of benefit status. The 11-day period provided for in this subsection may be extended for good cause shown.

Sec. 9. NRS 612.445 is hereby amended to read as follows:

612.445 ~~[~~When the Administrator finds that any~~]~~

1. A person ~~[~~has made~~]~~ ***shall not make*** a false statement or representation, knowing it to be false, or knowingly ~~[~~failed~~]~~ ***fail*** to disclose a material fact in order to obtain or increase any benefit or other payment under this chapter, ***including, without limitation, by failing to properly report earnings or by filing a claim for benefits using the social security number, name or other personal identifying information of another person.***

A person who violates the provisions of this subsection commits unemployment insurance fraud.

2. When the Administrator finds that a person has committed unemployment insurance fraud pursuant to subsection 1, the person shall repay to the Administrator for deposit in the Fund a sum equal to all of the benefits received by or paid to the person for each week with respect to which the false statement or representation was made or to which he failed to disclose a material fact ~~[. The]~~ ***in addition to any interest, penalties and costs related to that sum.***

3. Except as otherwise provided in this subsection and subsection 8, the person is disqualified from receiving unemployment compensation benefits under this chapter ~~[for]~~ ***:***

(a) For a period ~~[of]~~ ***beginning with the first week claimed in violation of subsection 1 and ending*** not more than 52 consecutive weeks ~~[beginning with]~~ ***after*** the week in which it is determined that ~~[an improper]~~ ***a*** claim was filed ~~[involving the false statement or representation or failure to disclose a material fact.]~~ ***in violation of subsection 1; or***

(b) Until the sum described in subsection 2, in addition to any interest, penalties or costs related to that sum, is repaid to the Administrator,

➥ ***whichever is longer.*** The Administrator shall fix the period of disqualification according to the circumstances in each case.

4. It is a violation of subsection 1 for a person to file a claim, or to cause or allow a claim to be filed on his behalf, if:

(a) The person is incarcerated in the state prison or any county or city jail or detention facility or other correctional facility in this State; and

(b) The claim does not expressly disclose his incarceration.

5. A person who obtains benefits of $250 or more in violation of subsection 1 shall be punished in the same manner as theft pursuant to subsection 3 or 4 of NRS 205.0835.

6. In addition to the repayment of benefits required pursuant to subsection 2, if the amount of benefits which must be repaid is greater than $1,000, the Administrator may impose a penalty equal to not more than:

(a) If the amount of such benefits is greater than $1,000 but not greater than $2,500, 25 percent; or

(b) If the amount of such benefits is greater than $2,500, 50 percent,

➥ ***of the total amount of benefits received by the person in violation of subsection 1 or any other provision of this chapter.***

7. Except as otherwise provided in subsection 8, a person may not pay benefits as required pursuant to subsection 2 by using benefits which would otherwise be due and payable to the person if he was not disqualified.

8. The Administrator may waive the period of disqualification prescribed in subsection 3 for good cause shown or if the person adheres to a repayment schedule authorized by the Administrator that is designed to fully repay benefits received from an improper claim, in addition to any

related interest, penalties and costs, within 18 months. If the Administrator waives the period of disqualification pursuant to this subsection, the person may repay benefits ~~*[and any related interest, penalties and costs]*~~ ***as required pursuant to subsection 2 by using any benefits which are due and payable to the person*** ~~*[.]*~~ ***, except that benefits which are due and payable to the person may not be used to repay any related interest, penalties and costs.***

9. The Administrator may recover any money required to be paid pursuant to this section in accordance with the provisions of NRS 612.365 and may collect interest on any such money in accordance with the provisions of NRS 612.620.

Sec. 10. NRS 612.615 is hereby amended to read as follows:

612.615 1. There is hereby created the Employment Security Fund as a special revenue fund.

2. All interest and forfeits collected under NRS 612.618 to 612.675, inclusive, and 612.740 must be paid into the Fund.

3. All money which is deposited or paid into the Fund is hereby appropriated and made available to the Administrator. The money may not be expended or made available for expenditure in any manner which would permit its substitution for, or a corresponding reduction in, federal payments which would, in the absence of this money, be available to finance expenditures for the administration of the employment security laws of the State of Nevada.

4. This section does not prevent this money from being used as a revolving fund to cover expenditures, necessary and proper under the law, for which federal payments have been duly requested but not yet received, subject to the repayment to the Fund of such expenditures when received.

5. The money in this Fund must be used by the Administrator for the payment of costs of ~~[~~administration~~]~~ ***:***

(a) Administration which are found not to have been properly and validly chargeable against federal grants received for or in the Unemployment Compensation Administration Fund ~~[.]~~ ***; or***

(b) Any program or the implementation of procedures deemed necessary by the Administrator to ensure the proper payment of benefits and collection of contributions and reimbursements pursuant to this chapter.

6. Any balances in this Fund do not lapse at any time, but are continuously available to the Administrator for expenditure consistent with this chapter.

7. Money in this Fund must not be commingled with other state money, but must be maintained in a separate account on the books of the depositary.

Sec. 11. NRS 612.715 is hereby amended to read as follows:

612.715 ~~[~~Whoever~~]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, whoever*** makes a false statement or representation knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase

any benefit or other payment under this chapter, either for himself or for any other person, is guilty of a misdemeanor.

Sec. 12. NRS 612.720 is hereby amended to read as follows:

612.720 ~~[~~Whenever~~]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, whenever*** two or more persons ~~[~~shall~~]~~ conspire to obtain or increase any benefit or other payment under this chapter by a false statement or representation knowing it to be false, or by knowingly failing to disclose a material fact, or whenever any person makes a series of false statements or representations knowing them to be false, to obtain or increase benefit payments under this chapter over a period of more than 1 week, every such person is guilty of a gross misdemeanor.

Sec. 13. NRS 612.725 is hereby amended to read as follows:

612.725 ~~[~~Any~~]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, any*** person residing in this State who claims benefits under any agreement existing between the Division and some other state or the Federal Government, who willfully makes a false statement or representation or knowingly fails to disclose a material fact to obtain or increase benefits under the provisions of the unemployment law of any other state or the Federal Government is guilty of a misdemeanor.

Sec. 14. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 84.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Smith, Kirkpatrick, and Hardy as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 223.

Madam Speaker appointed Assemblymen Horne, McClain, and Carpenter as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 385.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that the action whereby the Conference Report for Assembly Bill No. 309 was adopted be rescinded.

Motion carried.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 68, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 626 and 877 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 17, which is attached to and hereby made a part of this report.

MARILYN DONDERO LOOP RUBEN KIHUEN RICHARD MCARTHUR *Assembly Conference Committee*	TERRY CARE VALERIE WIENER *Senate Conference Committee*

Conference Amendment No. CA17.

AN ACT relating to real property; establishing the responsibility for the maintenance of certain security walls within certain common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the responsibilities of unit-owners' associations of certain common-interest communities to provide that each such association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community ~~.~~ **, unless the governing documents provide otherwise.** **Section 2** of this bill similarly revises the law with respect to such security walls located in such common-interest communities which are governed by certain limited-purpose associations. (NRS 116.1201) **Section 6** of this bill provides that if a common-interest community was created before October 1, 2009, the requirements of the bill do not apply to the common-interest community until January 1, 2013 ~~.~~ **, unless the governing documents provide that the association is responsible for the maintenance, repair, restoration and replacement of the security wall.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2 and NRS 116.31135, the association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community.

2. The provisions of this section do not apply if the governing documents provide that a unit's owner or an entity other than the association is responsible for the maintenance, repair, restoration and replacement of the security wall.

3. For the purpose of carrying out the maintenance, repair, restoration and replacement of a security wall pursuant to this section:

(a) The association, the members of its executive board and its officers, employees, agents and community manager may enter the grounds of a unit after providing written notice and, notwithstanding any other provision of law, are not liable for trespass.

(b) Any such maintenance, repair, restoration and replacement of a security wall must be performed:

(1) During normal business hours;

(2) Within a reasonable length of time; and

(3) In a manner that does not adversely affect access to a unit or the legal rights of a unit's owner to enjoy the use of his unit.

(c) Notwithstanding any other provision of law, the executive board is prohibited from imposing an assessment without obtaining prior approval of the units' owners unless the total amount of the assessment is less than 5 percent of the annual budget of the association.

4. As used in this section, "security wall" means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.

Sec. 2. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; ~~[and]~~

(II) ***Section 1 of this act, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and***

(III) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes

would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 3. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any

developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, ***and section 1 of this act,*** and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. Notwithstanding the amendatory provisions of this act, if a common-interest community was created before October 1, 2009, the amendatory provisions of this act do not apply to the common-interest community until January 1, 2013 ~~[.]~~ ***, unless the governing documents provide that the association is responsible for the maintenance, repair, restoration and replacement of the security wall.***

Assemblywoman Dondero Loop moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 68.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 411, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 840 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 24, which is attached to and hereby made a part of this report.

JERRY CLABORN	DEAN RHOADS
	DAVID PARKS
PETE GOICOECHEA	
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA24.

AN ACT relating to wildlife; providing for the permanent revocation of a license, permit or privilege to hunt, fish or trap in certain circumstances; requiring a person to maintain a principal and permanent residence in this State to be eligible for a resident license, tag or permit to hunt, fish or trap; providing for the forfeiture of a bonus point or other increased opportunity to be awarded a tag for making a false statement or furnishing false information in certain circumstances; requiring a person seeking to obtain a license, tag or permit on behalf of another for a fee or other compensation to have a power of attorney to do so; ~~[making it unlawful intentionally to remove, disturb or interfere with the trap of a holder of a trapping license under certain circumstances; providing a penalty;]~~ **revising provisions governing certain additional big game tags;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a license, permit or privilege of a person to hunt, fish or trap may be suspended or revoked for wildlife convictions, but not for more than 3 years except in certain circumstances. The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of: (1) a gross misdemeanor may not be suspended or revoked for more than 5 years; and (2) a felony may not be suspended or revoked for more than 10 years. (NRS 501.1816) **Section 2** of this bill expands the suspension and revocation penalties to require that the license, permit or privilege of a person who has been convicted of two or more felonies pursuant to NRS 501.376 be permanently revoked.

Existing law requires that a person meet certain requirements before he can be issued a resident license, tag or permit pursuant to chapter 502 of NRS. (NRS 502.015) **Section 3** of this bill clarifies the language regarding domicile to mean maintaining a principal and permanent residence in this State beyond just owning a home in Nevada.

Existing law prohibits giving a false statement or furnishing false information to obtain any license, tag or permit, making such an action a misdemeanor, or to obtain a big game tag, making such an action a gross misdemeanor. (NRS 502.060) **Section 4** of this bill adds a provision that any person who is convicted of giving a false statement or furnishing false information to obtain a license, tag, permit or big game tag forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing.

Existing law requires a person attempting to obtain a license, tag or permit on behalf of another person to have a power of attorney giving him the authority to do so. (NRS 502.061) **Section 5** of this bill restricts the requirement to have a power of attorney to only those persons attempting to acquire a license, tag or permit on behalf of another for a fee or other compensation.

~~[Existing law makes it unlawful for a person to remove or disturb the trap of a holder of a trapping license while the trap is being used by the trapper on public land or on land where he has permission to trap. (NRS 503.454) If a person commits such a violation, he is guilty of a misdemeanor punishable by a fine of not less than $50 or more than $500, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment. (NRS 501.385) Section 6 of this bill revises existing law by making it unlawful for a person intentionally to remove, disturb or interfere with the trap of the holder of the trapping license. Section 6 defines the phrase "interfere with" to mean any act that physically impedes, hinders or obstructs the trap.]~~ **Sections 6.2-6.8, inclusive, of this bill revise various provisions governing certain additional big game tags to be known as "Dream Tags."**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 501.1814 is hereby amended to read as follows:

501.1814 1. The Commission shall establish and the Department shall administer and enforce a system of assessing demerit points for wildlife convictions. The system must be uniform in its operation.

2. Pursuant to the schedule of demerit points established by regulation of the Commission for each wildlife conviction occurring within this State affecting any holder of a license, permit or privilege issued pursuant to this title, the Department shall assess demerit points for the 60-month period preceding a person's most recent wildlife conviction. Sixty months after the date of the conviction, the demerit points for that conviction must be deleted from the total demerit points accumulated by that person. The date of the ~~[violation]~~ ***conviction*** shall be deemed the date on which accumulated demerit points must be assessed. If a conviction of two or more wildlife violations committed at a single event is obtained, demerit points must be assessed for the offense having the greater number of demerit points.

Sec. 2. NRS 501.1816 is hereby amended to read as follows:

501.1816 1. If a person accumulates 9 or more demerit points, but less than 12, the Department shall notify him of that fact by certified mail. If, after the Department mails the notice, the person presents proof to the Department that he has, after his most recent wildlife conviction, successfully completed a course of instruction in the responsibilities of hunters approved by the Department, the Department shall deduct 4 demerit points from his record. A person may attend a course of instruction in the responsibilities of hunters only once in 60 months for the purpose of reducing his demerit points.

2. If a person accumulates 12 or more demerit points before completing a course of instruction pursuant to subsection 1, the Department shall suspend or revoke any license, permit or privilege issued to him pursuant to this title.

3. Not later than 60 days after the Department determines that a person has accumulated 12 demerit points, the Department shall notify the person by certified mail that his privileges will be suspended or revoked. Except as otherwise provided in subsection 4, the Department shall suspend or revoke those privileges 30 days after it mails the notice.

4. Any person who receives the notice required by subsection 3 may submit to the Department a written request for a hearing before the Commission not later than 30 days after the receipt of the notice. If a written request for a hearing is received by the Department:

(a) The suspension or revocation of the license, permit or privilege is stayed until a determination is made by the Commission after the hearing.

(b) The hearing must be held within 60 days after the request is received.

5. The periods of suspension or revocation imposed pursuant to this section must run concurrently. Except as otherwise provided in this subsection, no license, permit or privilege may be suspended or revoked pursuant to this section for more than 3 years. The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of:

(a) A gross misdemeanor may not be suspended or revoked for more than 5 years; ~~[or]~~

(b) ~~[A]~~ ***Except as otherwise provided in paragraph (c), a*** felony may not be suspended or revoked for more than 10 years ~~[.]~~ ***; or***

(c) Two or more felonies, arising from separate events, must be permanently revoked.

6. If the Department suspends or revokes a license, permit or privilege pursuant to this section, the period of suspension or revocation begins 30 days after notification pursuant to subsection 3 or a determination is made by the Commission pursuant to subsection 4. After a person's license, permit or privilege is suspended or revoked pursuant to this section, all demerit points accumulated by that person must be cancelled.

Sec. 3. NRS 502.015 is hereby amended to read as follows:

502.015 1. For the purpose of issuing and using resident licenses, tags or permits pursuant to this chapter, a person is considered to be a resident of the State of Nevada if:

(a) He is a citizen of, or is lawfully entitled to remain in, the United States; and

(b) During the 6 months next preceding his application to the Department for a license, tag or permit, he:

(1) ~~[Was domiciled]~~ ***Maintained his principal and permanent residence*** in this State;

(2) Was physically present in this State, except for temporary absences; and

(3) Did not purchase or apply for any resident license, tag or permit to hunt, fish or trap in another state, country or province.

2. A person who ~~[is not domiciled]~~ ***does not maintain his principal and permanent residence*** in Nevada but who is attending an institution of higher learning in this State as a full-time student is eligible for a resident license, tag or permit if, during the 6 months next preceding his application to the Department for a license, tag or permit, he:

(a) Was physically present in Nevada, except for temporary trips outside of the State; and

(b) Did not purchase or apply for any resident license, tag or permit to hunt, fish or trap in another state, country or province.

3. A resident license, tag or permit issued by this State is void if the person to whom it was issued establishes ***or maintains*** his ~~[domicile]~~ ***principal and permanent residence*** in and obtains any ***hunting, fishing or trapping*** privilege or entitlement conditional on residency from another state, country or province.

4. As used in this section, "principal and permanent residence" means a place where a person is legally domiciled and maintains a permanent habitation in which he lives and to which he intends to return when he leaves the state in which the permanent habitation is located. The term does not include merely owning a residence in a state.

Sec. 4. NRS 502.060 is hereby amended to read as follows:

502.060 1. A person applying for and procuring a license, ***tag or permit,*** as provided in this chapter, shall give to the license agent his name and residence address, which must be entered by the license agent ~~[on the license and stub,]~~ ***, manually or electronically in a record specified by the Department,*** together with the date of issuance and a description of the person. If a child under the age of 18 years is applying for a license to hunt, the child's parent or legal guardian must sign the application and an attached statement acknowledging that the parent or legal guardian has been advised of the provisions of NRS 41.472.

2. Except as otherwise provided in subsection 3, any person who makes any false statement or furnishes false information to obtain any license, tag or permit issued pursuant to the provisions of this title is guilty of a misdemeanor.

3. Any person who makes any false statement or furnishes false information to obtain any big game tag issued pursuant to the provisions of this title is guilty of a gross misdemeanor.

4. It is unlawful for any person to hunt, fish or trap using any hunting, fishing or trapping license which is invalid by reason of expiration or a false statement made to obtain the license.

5. ***Any person convicted of violating the provisions of subsection 2 or 3 forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing conducted for that tag if the bonus point or other increased opportunity was acquired by the false statement or false information.***

6. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 5. NRS 502.061 is hereby amended to read as follows:

502.061 1. A person ***, for a fee or other form of compensation,*** may obtain or attempt to obtain on behalf of an applicant any license, tag or permit issued pursuant to this chapter ***only*** if the person acts pursuant to a power of attorney or other written instrument that:

(a) Provides that the power of attorney or other written instrument is executed for the sole purpose of authorizing the person to apply in the State of Nevada on behalf of the applicant for a license, tag or permit for a specific season;

(b) Provides that the power of attorney or other written instrument expires on February 28 of the year following the year in which the power of attorney or other written instrument is executed; and

(c) Is acknowledged and includes a jurat as defined in NRS 240.0035, or is otherwise certified.

2. Any license, tag or permit which is obtained by the use of a power of attorney or other written instrument that does not comply with the provisions of subsection 1 is void.

Sec. 6. ~~[NRS 503.454 is hereby amended to read as follows:~~

~~503.454 1. Every person who takes fur-bearing mammals by any legal method or unprotected mammals by trapping or sells raw furs for profit shall procure a trapping license.~~

~~2. It is unlawful *intentionally* to remove , [or] disturb *or interfere with* the trap of any holder of a trapping license while the trap is being legally used by him on public land or on land where he has permission to trap. *As used in this subsection, "interfere with" means any act that physically impedes, hinders or obstructs the trap.]~~ **(Deleted by amendment.)**

Sec. 6.2. **Section 3 of Assembly Bill No. 246 of this Session is hereby amended to read as follows:**

Sec. 3. 1. The Department shall issue an apprentice hunting license to a person who:

(a) Is 12 years of age or older;

(b) Has not previously been issued a hunting license by the Department, another state **,** ~~[or]~~ an agency of a Canadian province ~~[,]~~ ***or an agency of any other foreign country,*** including, without limitation, an apprentice hunting license; and

(c) Except as otherwise provided in subsection 5, is otherwise qualified to obtain a hunting license in this State.

2. Except as otherwise provided in this subsection, the Department shall not impose a fee for the issuance of an apprentice hunting license. For each apprentice hunting license issued, the applicant or the mentor hunter for the applicant shall pay:

(a) Any service fee required by a license agent pursuant to NRS 502.040;

(b) The habitat conservation fee required by NRS 502.242; and

(c) Any transaction fee that is set forth in a contract of this State with a third-party electronic services provider for each online transaction that is conducted with the Department.

3. An apprentice hunting license authorizes the apprentice hunter to hunt in this State as provided in this section.

4. It is unlawful for an apprentice hunter to hunt in this State unless a mentor hunter accompanies and directly supervises the apprentice hunter at all times during a hunt. During the hunt, the mentor hunter shall ensure that:

(a) The apprentice hunter safely handles and operates the firearm or weapon used by the apprentice hunter; and

(b) The apprentice hunter complies with all applicable laws and regulations concerning hunting and the use of firearms.

5. A person is not required to complete a course of instruction in the responsibilities of hunters as provided in NRS 502.340 to obtain an apprentice hunting license.

6. The issuance of an apprentice hunting license does not:

(a) Authorize the apprentice hunter to obtain any other hunting license;

(b) Authorize the apprentice hunter to hunt any animal for which a tag is required pursuant to NRS 502.130; or

(c) Exempt the apprentice hunter from any requirement of this title.

7. The Commission may adopt regulations to carry out the provisions of this section.

8. As used in this section:

(a) "Accompanies and directly supervises" means maintains close visual and verbal contact with, provides adequate direction to and maintains the ability readily to assume control of any firearm or weapon from an apprentice hunter.

(b) "Apprentice hunter" means a person who obtains an apprentice hunting license pursuant to this section.

(c) "Mentor hunter" means a person 18 years of age or older who holds a hunting license issued in this State and who accompanies and directly supervises an apprentice hunter. The term does not include a person who holds an apprentice hunting license pursuant to this section.

Sec. 6.4. **Section 4 of Assembly Bill No. 246 of this Session is hereby amended to read as follows:**

Sec. 4. 1. The Commission ~~[shall]~~ ***may*** establish a program for the issuance of additional big game tags each year to be known as "Dream Tags." ~~[The]~~ ***If the Commission establishes such a program, the*** program must provide:

(a) For the issuance of ~~[a]~~ Dream ~~[Tag]~~ ***Tags*** to either a resident or nonresident of this State;

(b) For the issuance of one Dream Tag for each species of big game for which 50 or more tags were available under the quota established for the species by the Commission during the previous year; ***and***

(c) For the sale of Dream Tags to a nonprofit organization pursuant to this section. ~~[; and~~

~~(d) Such]~~

2. The Commission may adopt regulations establishing such other provisions concerning ~~[a]~~ Dream ~~[Tag]~~ ***Tags*** as the Commission determines reasonable or necessary in carrying out the program.

~~[2.]~~ ***3.*** A nonprofit organization established through the Community Foundation of Western Nevada which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and which has as its principal purpose the preservation, protection, management or restoration of wildlife and its habitat may purchase such Dream Tags from the Department as are authorized by the Commission, at prices established by the Commission, subject to the following conditions:

(a) The nonprofit organization must agree to award the Dream Tags by raffle, with unlimited chances to be sold for $5 each to persons who purchase a resource enhancement stamp pursuant to section 5 of this act.

(b) The nonprofit organization must agree to enter into a contract with a private entity that is approved by the Department which requires that the private entity agree to act as the agent of the nonprofit organization to sell chances to win ~~[a]~~ Dream ~~[Tag,]~~ ***Tags,*** conduct any required drawing for ~~[a]~~

Dream ~~[Tag]~~ ***Tags*** and issue ~~[a]~~ Dream ~~[Tag.]~~ ***Tags.*** For the purposes of this paragraph, a private entity that has entered into a contract with the Department pursuant to NRS 502.175 to conduct a drawing and to award and issue tags or permits as established by the Commission shall be deemed to be approved by the Department.

(c) All money received by the nonprofit organization from the proceeds of the Dream Tag raffle, less the cost of the Dream Tags purchased by the nonprofit organization and any administrative costs charged by the Community Foundation of Western Nevada, must be used for the preservation, protection, management or restoration of ~~[wildlife]~~ ***game*** and its habitat, as determined by the Advisory Board on Dream Tags created by section 6 of this act.

~~[3.]~~ ***4.*** All money received by the Department for Dream Tags pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

~~[4.]~~ **5.** The ~~[Department]~~ ***nonprofit organization*** shall, on or before February 1 of each year, report to the ***Commission and the*** Interim Finance Committee concerning the Dream Tag program, including, without limitation:

(a) The number of Dream Tags issued during the immediately preceding calendar year;

(b) The total amount of money paid to the Department for Dream Tags during the immediately preceding calendar year;

(c) The total amount of money received by the nonprofit organization from the proceeds of the Dream Tag raffle, the amount of such money expended by the nonprofit organization and a description of each project for which the money was spent; and

(d) Any recommendations ~~[of the Department]~~ concerning the continuation of the program or necessary legislation.

~~[5.]~~ **6.** As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 6.6. **Section 5 of Assembly Bill No. 246 of this Session is hereby amended to read as follows:**

Sec. 5. 1. To be eligible to participate in the Dream Tag raffle, a person must purchase a resource enhancement stamp.

2. Resource enhancement stamps must be sold for a fee of $10 each by the Department and by persons authorized by the Department to sell the stamps. ***All money received by the Department for resource enhancement stamps pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.***

3. The Department shall determine the form of the stamps.

Sec. 6.8. **Section 6 of Assembly Bill No. 246 of this Session is hereby amended to read as follows:**

Sec. 6. 1. There is hereby created the Advisory Board on Dream Tags, consisting of the following five members:

(a) One member appointed by the Governor;

(b) One member appointed by the Majority Leader of the Senate;

(c) One member appointed by the Speaker of the Assembly;

(d) One member appointed by the Advisory Board on Natural Resources; and

(e) The Vice Chairman of the Commission, who serves as an ex officio member of the Board.

2. Each appointed member of the Board must be a resident of this State and, following the initial terms, serves a term of 2 years.

3. At its first meeting each year, the members of the Board shall elect a Chairman, who shall serve until the next Chairman is elected. The Board shall meet as necessary at the call of the Chairman.

4. A majority of the members of the Board constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Board.

5. While engaged in the business of the Board, to the extent of legislative appropriation, each member of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. To the extent of legislative appropriation, the Department shall provide the Board with such staff as is necessary to carry out the duties of the Board.

7. The Board shall, in accordance with the requirements of paragraph (c) of subsection ~~[2]~~ ***3*** of section 4 of this act, determine the appropriate use of money received by a nonprofit organization from the proceeds of a Dream Tag raffle.

Sec. 7. **1.** This **section and sections 6.2 to 6.8, inclusive, of this act become effective upon passage and approval.**

2. Sections 1 to 6, inclusive, of this act ~~[becomes]~~ **become** effective on January 1, 2010.

Assemblyman Claborn moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 411.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 332, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 745 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 16, which is attached to and hereby made a part of this report.

ELLEN SPIEGEL
MARILYN DONDERO LOOP
PETE GOICOECHEA
Assembly Conference Committee

SHIRLEY BREEDEN
MICHAEL SCHNEIDER
DENNIS NOLAN
Senate Conference Committee

Conference Amendment No. CA16.

SUMMARY—Revises provisions governing the use **and taxation** of ~~[~~alternative~~]~~ **certain** fuels **.** ~~[and clean vehicles.]~~ (BDR 43-1147)

AN ACT relating to vehicles; revising provisions governing the use of alternative fuels and clean vehicles by fleets owned, operated or leased by certain state agencies and local governing bodies; authorizing a program to provide incentives to acquire clean vehicles and motor vehicles that use alternative fuels; **providing for the taxation of ethanol and methanol as motor vehicle fuels and biodiesel and blends of biodiesel and petroleum-based diesel as special fuels; making various changes concerning the licensure and regulation of persons who manufacture special fuel; providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-11 of this bill revise provisions governing the use of alternative fuels by certain fleet vehicles. (NRS 486A.010-486A.180) **Section 4** revises the definition of "alternative fuel" to authorize the State Environmental Commission to define the term by regulation. (NRS 486A.030) **Section 5** revises the definition of "fleet" to limit the applicability of **sections 1-11** to a fleet of 50 or more motor vehicles which are registered in the same county and which are under the common control of and owned, leased or operated by a state agency or a local governing body. (NRS 486A.080) **Section 6** excludes certain vehicles that have a manufacturer's gross vehicle weight rating of more than 26,000 pounds from the requirements of **sections 1-11**. (NRS 486A.110)

Section 12 of this bill revises provisions encouraging the voluntary use of clean vehicles and motor vehicles that use alternative fuels by persons who are not subject to the requirements of **sections 1-11** of this bill. (NRS 486A.200)

Existing law provides for the taxation of certain motor vehicle fuels, including gasoline. (NRS 365.060, 365.175-365.192) Section 20 of this bill includes ethanol and methanol within the definition of "motor vehicle fuel" and thereby requires ethanol and methanol to be taxed in the same manner and at the same rate as gasoline. In addition, the inclusion of ethanol and methanol as motor vehicle fuels will subject dealers, suppliers, exporters and transporters of ethanol and methanol to the same requirements and penalties currently applicable to dealers, suppliers, exporters and transporters of gasoline, including, without limitation, requirements concerning licensing, bonding, recordkeeping and the collection and payment of taxes. (NRS 365.270, 365.290, 365.322, 365.324, 365.330, 365.500-365.530, 365.570-365.605) Sections 17 and 18 of this bill authorize the Department of Motor Vehicles to take certain administrative action against a person licensed pursuant to chapter 365 of NRS or a person who acts as a motor vehicle fuel supplier without a license, including the imposition of administrative fines and the

suspension or revocation of the license of a licensee under certain circumstances.

Existing law provides for the taxation of certain special fuels for motor vehicles, including any combustible gas or liquid other than the fuels which are taxed as motor vehicle fuels pursuant to chapter 365 of NRS, and any emulsion of water-phased hydrocarbon fuel used in a motor vehicle. (NRS 366.060, 366.190, 366.195) Sections 23, 24 and 29 of this bill provide for the taxation of biodiesel and blends of biodiesel and a petroleum-based product as special fuels.

Section 25 of this bill defines a "special fuel manufacturer" as a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his personal use in this State or for sale or delivery in or outside of this State. Section 30 of this bill exempts a special fuel manufacturer from regulation as a special fuel supplier. Section 33 of this bill prohibits a person from acting as a special fuel manufacturer without first obtaining a license from the Department of Motor Vehicles. The Department is authorized to adopt regulations relating to the issuance of a license to a special fuel manufacturer and to collect fees for the issuance of such a license.

Sections 40 and 41 of this bill require a special fuel manufacturer to file tax returns with the Department in the same manner as a special fuel dealer. Section 42 of this bill requires a special fuel manufacturer to pay the taxes on special fuels imposed by chapter 366 of NRS. Section 26 of this bill requires a special fuel manufacturer to submit certain monthly reports to the Department. Section 36 of this bill provides that the Department must require a special fuel manufacturer who is habitually delinquent in the payment of special fuel taxes to execute a bond payable to the State in an amount of not less than $2,500. Section 43 of this bill requires a special fuel manufacturer to keep certain records as required by the Department.

Sections 27 and 46 of this bill authorize the Department to take certain administrative action against a person licensed pursuant to chapter 366 of NRS or a person who acts as special fuel supplier without a license, including the imposition of administrative fines and the suspension or revocation of the license of a licensee under certain circumstances. A special fuel manufacturer or any other person who makes a false or fraudulent report with the intent to evade the taxes imposed pursuant to chapter 366 of NRS is guilty of a gross misdemeanor. (NRS 366.710) A special fuel manufacturer who violates any other provision of chapter 366 of NRS as amended by this bill is guilty of a misdemeanor. (NRS 366.720, 366.730)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 486A of NRS is hereby amended by adding thereto a new section to read as follows:

"Clean vehicle" means any motor vehicle which complies with the specifications for clean vehicles established by the Commission.

Sec. 2. NRS 486A.010 is hereby amended to read as follows:

486A.010 The Legislature finds that:

1. ~~[Protection of the]~~ ***The*** State's environment, particularly the quality of its air, ~~[requires a reduction,]~~ ~~*[can]*~~ ***may be improved,*** especially in metropolitan areas, ~~[of the contaminants resulting from the combustion of conventional fuels in motor]~~ ***through the use of alternative fuels and clean*** vehicles.

2. A very large proportion of ~~[these]~~ ***air*** contaminants ~~[results]~~ ***result*** from the burning of liquid and gaseous fuels to operate trucks and buses, many of which are operated in fleets. Each fuel can be evaluated as to the air pollution it causes when burned in motor vehicles ~~[.~~

~~3. Conversion of these fleets to use cleaner-burning alternative fuels can reduce contaminants sufficiently to permit the continued use of conventional fuels in individually owned motor]~~ ***, and particular models of motor vehicles can be evaluated to assess the amount of contaminants those motor vehicles emit.***

3. Fleets operated by state agencies and local governing bodies can reduce air contaminants through the use of cleaner-burning alternative fuels and the acquisition of clean vehicles.

Sec. 3. NRS 486A.020 is hereby amended to read as follows:

486A.020 As used in NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 486A.030 to 486A.130, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 4. NRS 486A.030 is hereby amended to read as follows:

486A.030 "Alternative fuel" means any fuel which complies with the standards and requirements ***for alternative fuel*** established by the Commission. ~~[The term includes:~~

~~1. Reformulated gasoline; and~~

~~2. Finished diesel fuel that:~~

~~(a) Meets ASTM International specification D975; and~~

~~(b) Includes at least 5 percent biodiesel fuel blend stock for distillate fuels meeting ASTM International specification D6751,~~

~~➥ which comply with any applicable regulations adopted by the United States Environmental Protection Agency pursuant to the standards for the control of emissions from motor vehicles established in the Clean Air Act Amendments of 1990, Public Law 101-549, November 15, 1990.]~~ ***The term does not include a fuel that is required for use in this State pursuant to a state implementation plan adopted by this State pursuant to 42 U.S.C. § 7410.***

Sec. 5. NRS 486A.080 is hereby amended to read as follows:

486A.080 "Fleet" means ~~[10]~~ ***50*** or more motor vehicles ~~[that]~~ ***which are registered in the same county and which*** are ***under the common control of and*** owned, leased or operated by ~~[the State or a local governing body. The term includes fleets that are used by the State,]~~ a state agency or a local governing body. The term does not include long haul trucks for use in interstate transportation or motor vehicles held for lease or rental to the general public.

Sec. 6. NRS 486A.110 is hereby amended to read as follows:

486A.110 "Motor vehicle" means every vehicle which is self-propelled, but not operated on rails, used upon a highway for the purpose of transporting persons or property. The term does not include a:

1. Farm tractor as defined in NRS 482.035;
2. Moped as defined in NRS 482.069; ~~[and]~~
3. Motorcycle as defined in NRS 482.070 ~~[.]~~ ***; and***
4. ***Vehicle having a manufacturer's gross vehicle weight rating of more than 26,000 pounds, unless the vehicle is designed for carrying more than 15 passengers.***

Sec. 7. NRS 486A.140 is hereby amended to read as follows:

486A.140 The provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** do not apply to:

1. The owner of a fleet of motor vehicles that operates only in a county whose population is less than 100,000.
2. Any governmental agency exempted by federal statute or regulation.
3. Any person exempted by the Commission.

Sec. 8. NRS 486A.150 is hereby amended to read as follows:

486A.150 The Commission shall adopt regulations necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act,*** including, ~~[but not limited to,]~~ ***without limitation,*** regulations concerning:

1. Standards and requirements for alternative fuel. ~~[The Commission shall]~~ ***In establishing standards and requirements for alternative fuel, the Commission:***

(a) Must consider fuels that are recognized by the Environmental Protection Agency ~~[,]~~ ***and the Department of Energy*** ~~[and the California Air Resources Board]~~ ***to improve air quality or reduce harmful air emissions.***

(b) Shall not discriminate against any product that is petroleum based.

2. ***Specifications for clean vehicles and motor vehicles that use alternative fuels. To the extent practicable and appropriate, the specifications established by the Commission must be consistent with the specifications established by the Environmental Protection Agency*** ~~[,]~~ ***and the Department of Energy*** ~~[and the California Air Resources Board]~~ ***for the vehicle category and year of manufacture.***

3. The ~~[conversion of fleets to use alternative fuels if the]~~ ***acquisition of clean vehicles and motor vehicles that use alternative fuels by a*** fleet ***that*** is operated in a county whose population is 100,000 or more ~~[.~~

~~3. Standards for alternative fuel injection systems for diesel motor vehicles.]~~ ***, including, without limitation, recordkeeping and reporting requirements concerning such vehicles.***

4. Standards for levels of emissions from motor vehicles that are converted to use alternative fuels.

5. The establishment of a procedure for approving ***variances or*** exemptions to the requirements of NRS 486A.010 to 486A.180, inclusive ~~[.~~

~~6. Standards related to the use of dedicated alternative fuel motor vehicles.]~~ ***, and section 1 of this act. The Commission may approve a variance or exemption based upon:***

(a) A determination by the Commission that compliance with the requirements of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act:

(1) Would void or reduce the coverage under a manufacturer's warranty for any vehicle or vehicle component;

(2) Would result in financial hardship to the owner or operator of a fleet; or

(3) Is impractical because of the lack of availability of clean vehicles, alternative fuel or motor vehicles that use alternative fuel; or

(b) Any other reason which the Commission determines is appropriate.

Sec. 9. NRS 486A.160 is hereby amended to read as follows:

486A.160 1. The Department shall:

(a) Make such determinations and issue such orders as may be necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~[;]~~ ***, and section 1 of this act;***

(b) Enforce the regulations adopted by the Commission pursuant to the provisions of NRS 486A.010 to 486A.180, inclusive ~~[;]~~ ***, and section 1 of this act;*** and

(c) Conduct any investigation, research or study necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~[.]~~ ***, and section 1 of this act.***

2. Upon request, the Department of Motor Vehicles shall provide to the Department information contained in records of registration of motor vehicles.

Sec. 10. NRS 486A.170 is hereby amended to read as follows:

486A.170 1. An authorized representative of the Department may enter and inspect any fleet of ~~[10 or more]~~ motor vehicles that is subject to the requirements of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** to ascertain compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** and ***any*** regulations adopted pursuant thereto.

2. A person who owns or leases a fleet of ~~[10 or more]~~ ***motor*** vehicles shall not:

(a) Refuse entry or access to the motor vehicles to any authorized representative of the Department who requests entry for the purpose of inspection as provided in subsection 1.

(b) Obstruct, hamper or interfere with any such inspection.

3. If requested by the owner or lessor of a fleet of motor vehicles, the Department shall prepare a report of an inspection made pursuant to subsection 1 setting forth all facts determined which relate to the owner's or lessor's compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** and any regulations adopted pursuant thereto.

Sec. 11. NRS 486A.180 is hereby amended to read as follows:

486A.180 1. Except as otherwise provided in subsection 4, any person who violates any provision of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** or any regulation adopted pursuant thereto, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than $5,000. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines of not more than $1,000 for lesser violations of any provision of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** or any regulation ~~[in force]~~ ***adopted*** pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** and ***any*** regulations ~~[in force]~~ ***adopted*** pursuant thereto, by injunction or other appropriate remedy. The Commission or the Director of the Department may institute and maintain in the name of the State of Nevada any such enforcement proceeding.

4. A person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to a person found by the court to be indigent.

5. The Commission and the Department shall deposit all money collected pursuant to this section in the State General Fund. Money deposited in the State General Fund pursuant to this subsection must be accounted for separately and may only be expended upon legislative appropriation.

Sec. 12. NRS 486A.200 is hereby amended to read as follows:

486A.200 1. After consulting with the Department of Business and Industry, the Department may, within limits of legislative appropriations or authorizations or grants available for this purpose, develop and carry out a program to provide incentives to encourage those persons who are not otherwise required to do so pursuant to NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** to ~~[use clean-burning fuel in motor vehicles.]~~ ***acquire clean vehicles and motor vehicles that use alternative***

fuels. The program may include, without limitation, a method of educating the members of the general public concerning:

(a) The program administered by the Department; and

(b) The benefits of using ~~[clean-burning fuel in]~~ ***clean vehicles and*** motor vehicles ~~[.]~~ ***that use alternative fuels.***

2. The Department may adopt regulations to carry out the provisions of this section.

3. As used in this section:

(a) ~~["Clean-burning fuel" has the meaning ascribed to alternative fuel in 10 C.F.R. § 490.2.]~~ ***"Clean vehicle" has the meaning ascribed to it in section 1 of this act.***

(b) "Department" means the State Department of Conservation and Natural Resources.

(c) "Motor vehicle" has the meaning ascribed to it in NRS 365.050.

Sec. 13. (Deleted by amendment.)

Sec. 14. **Chapter 365 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 18, inclusive, of this act.**

Sec. 15. ***"Ethanol" means denatured ethyl alcohol produced for use as a fuel.***

Sec. 16. ***"Methanol" means anhydrous methyl alcohol produced for use as a fuel.***

Sec. 17. ***1. The Department may take disciplinary action in accordance with subsection 2 against any person who, below the terminal rack:***

(a) Sells or stores for personal consumption any motor vehicle fuel for a use which the person selling or storing the fuel knows, or has reason to know, is a taxable use of the fuel and does not report and pay the applicable tax to the Department;

(b) Willfully alters the volume or composition of any motor vehicle fuel which is intended for a taxable use and does not report and pay the applicable tax to the Department; or

(c) Sells motor vehicle fuel which the person selling the fuel knows, or has reason to know, is formulated in a manner that violates any provision of state or federal law governing standards for the formulation of motor vehicle fuel.

2. For any violation described in subsection 1, the Department may:

(a) For a first violation within 4 years, impose an administrative fine of not more than $2,500 and suspend any license issued to the person pursuant to the provisions of this chapter for not more than 30 days;

(b) For a second violation within 4 years, impose an administrative fine of not more than $5,000 and suspend any license issued to the person pursuant to the provisions of this chapter for not more than 60 days; and

(c) For a third or subsequent violation within 4 years, impose an administrative fine of not more than $10,000 and revoke any license issued to the person pursuant to the provisions of this chapter.

Sec. 18. ***1. If the Department determines through an audit that a retailer has sold motor vehicle fuel which substantially exceeds the ethanol tolerance for motor vehicle fuel prescribed by federal law, the Department may:***

(a) For a first violation and each subsequent violation committed during the first violation year, impose an administrative fine of not more than $1,000 on the retailer and the supplier of the motor vehicle fuel. The total fines imposed on a person pursuant to this paragraph must not exceed $100,000.

(b) For each violation committed during the second violation year, impose an administrative fine of not more than $2,500 on the retailer and the supplier of the motor vehicle fuel and suspend any license issued to the retailer or the supplier pursuant to the provisions of this chapter for not more than 60 days. The total fines imposed on a person pursuant to this paragraph must not exceed $250,000.

(c) For each violation committed during the third or subsequent violation year, impose an administrative fine of not more than $5,000 on the retailer and the supplier of the motor vehicle fuel and permanently revoke any license issued to the retailer or the supplier pursuant to the provisions of this chapter. The total fines imposed on a person pursuant to this paragraph must not exceed $500,000.

2. As used in this section:

(a) "Substantially exceeds" means that a motor vehicle fuel contains a concentration of alcohol or is formulated in a manner which exceeds the standards for the formulation of motor vehicle fuel established by federal law in an amount established by the Department.

(b) "Supplier" includes a person who acts as a supplier of motor vehicle fuel but who is not licensed to engage in business as a supplier pursuant to the provisions of this chapter.

(c) "Violation year" means any calendar year in which the retailer or supplier commits a violation.

Sec. 19. **NRS 365.010 is hereby amended to read as follows:**

365.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 365.015 to 365.092, inclusive, ***and sections 15 and 16 of this act*** have the meanings ascribed to them in those sections.

Sec. 20. **NRS 365.060 is hereby amended to read as follows:**

365.060 "Motor vehicle fuel" means gasoline, natural gasoline, casinghead gasoline ***, methanol, ethanol*** or any other inflammable or combustible liquid, regardless of the name by which the liquid is known or sold, the chief use of which in this State is for the propulsion of motor vehicles, motorboats or aircraft other than jet or turbine-powered aircraft. The term does not include kerosene, gas oil, fuel oil, fuel for jet or turbine-powered aircraft, diesel fuel, ***biodiesel, biodiesel blend,*** liquefied petroleum gas and an

emulsion of water-phased hydrocarbon fuel, as that term is defined in NRS 366.026.

Sec. 21. **NRS 365.600 is hereby amended to read as follows:**

365.600 1. ~~[The]~~ ***Except as otherwise provided in sections 17 and 18 of this act, the*** Department may impose an administrative fine, not to exceed $2,500, for a violation of any provision of this chapter, or any regulation or order adopted or issued pursuant thereto.

2. The Department shall afford to any person ~~[so]~~ fined ***pursuant to this section or section 17 or 18 of this act*** an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

~~[2.]~~ ***3.*** All administrative fines collected by the Department pursuant to subsection 1 ***or section 17 or 18 of this act*** must be deposited with the State Treasurer to the credit of the State Highway Fund.

~~[3.]~~ ***4.*** In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 22. **Chapter 366 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 to 27, inclusive, of this act.**

Sec. 23. ***"Biodiesel" means a fuel composed of mono-alkyl esters of long-chain fatty acids or any other fuel sold or labeled as biodiesel which is suitable for use as a fuel in a motor vehicle.***

Sec. 24. ***"Biodiesel blend" means a blend of biodiesel and a petroleum-based product suitable for use as a fuel in a motor vehicle.***

Sec. 25. ***"Special fuel manufacturer" means a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his personal use in this State or for sale or delivery in or outside of this State.***

Sec. 26. ***Each special fuel manufacturer shall, not later than the last day of each month, submit to the Department a written report which sets forth:***

1. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer manufactured, blended, produced, refined, prepared, distilled or compounded in this State;

2. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer manufactured, blended, produced, refined, prepared, distilled or compounded for personal use in this State;

3. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer sold or delivered in this State;

4. The name and mailing address of each person to whom the special fuel manufacturer sold or delivered special fuel containing biodiesel or biodiesel blend in this State; and

5. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer sold or distributed to each person described in subsection 4.

Sec. 27. 1. If the Department determines through an audit that a retailer has sold special fuel containing biodiesel or biodiesel blend which substantially exceeds the biodiesel tolerance for the biodiesel blend posted by the retailer, the Department may:

(a) For a first violation and each subsequent violation committed during the first violation year, impose an administrative fine of not more than $1,000 on the retailer and the supplier of the special fuel. The total fines imposed on a person pursuant to this paragraph must not exceed $100,000.

(b) For each violation committed during the second violation year, impose an administrative fine of not more than $2,500 on the retailer and the supplier of the special fuel and suspend any license issued to the retailer or the supplier pursuant to the provisions of this chapter for not more than 60 days. The total fines imposed on a person pursuant to this paragraph must not exceed $250,000.

(c) For each violation committed during the third or subsequent violation year, impose an administrative fine of not more than $5,000 on the retailer and the supplier of the special fuel and permanently revoke any license issued to the retailer or the supplier pursuant to the provisions of this chapter. The total fines imposed on a person pursuant to this paragraph must not exceed $500,000.

2. As used in this section:

(a) "Substantially exceeds" means that a special fuel contains a biodiesel blend which exceeds the total volume displayed on the special fuel pump in an amount established by the Department.

(b) "Supplier" includes a person who acts as a supplier of special fuel but who is not licensed to engage in business as a supplier pursuant to the provisions of this chapter.

(c) "Violation year" means any calendar year in which the retailer or supplier commits a violation.

Sec. 28. **NRS 366.020 is hereby amended to read as follows:**

366.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 366.025 to 366.100, inclusive, ***and sections 23, 24 and 25 of this act*** have the meanings ascribed to them in those sections.

Sec. 29. **NRS 366.060 is hereby amended to read as follows:**

366.060 "Special fuel" means any combustible gas or liquid used for the generation of power for the propulsion of motor vehicles, including ***, without limitation, biodiesel, biodiesel blend and*** an emulsion of water-phased hydrocarbon fuel. The term does not include motor vehicle fuel as defined in chapter 365 of NRS.

Sec. 30. **NRS 366.070 is hereby amended to read as follows:**

366.070 ***1.*** "Special fuel supplier" means a person who:

~~[1.]~~ ***(a)*** Imports or acquires immediately upon importation into this State special fuel from within or without a state, territory or possession of the United States or the District of Columbia into a terminal located in this State;

~~[2.]~~ ***(b)*** Produces, manufactures or refines special fuel in this State; or

~~[3.]~~ ***(c)*** Otherwise acquires for distribution in this State special fuel with respect to which there has been no previous taxable sale or use.

2. The term does not include a special fuel manufacturer.

Sec. 31. **NRS 366.150 is hereby amended to read as follows:**

366.150 1. The Department or its authorized agents may:

(a) Examine the books, papers, records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user ***, special fuel manufacturer*** or any other person transporting or storing special fuel;

(b) Investigate the character of the disposition which any person makes of special fuel; and

(c) Stop and inspect a motor vehicle that is using or transporting special fuel,

➥ to determine whether all excise taxes due pursuant to this chapter are being properly reported and paid.

2. The fact that the books, papers, records and equipment described in paragraph (a) of subsection 1 are not maintained in this State at the time of demand does not cause the Department to lose any right of examination pursuant to this chapter at the time and place those books, papers, records and equipment become available.

3. If a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ***,*** ~~[or]~~ special fuel user ***or special fuel manufacturer*** wishes to keep proper books and records pertaining to business done in Nevada elsewhere than within the State of Nevada for inspection as provided in this section, he must pay a fee for the examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the examiner is actually engaged in examining those books and records, plus the actual expenses of the examiner during the time that the examiner is absent from this State for the purpose of making the examination, but the time must not exceed 1 day going to and 1 day coming from the place where the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing those books and records. Not more than two such examinations may be charged against any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ***,*** ~~[or]~~ special fuel user ***or special fuel manufacturer*** in any year.

4. Any money received must be deposited by the Department to the credit of the fund or operating account from which the expenditures for the examination were paid.

5. Upon the demand of the Department, each special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ***,*** ~~[or]~~ special

fuel user ***or special fuel manufacturer*** shall furnish a statement showing the contents of the records to such extent and in such detail and form as the Department may require.

Sec. 32. **NRS 366.160 is hereby amended to read as follows:**

366.160 1. All records of mileage operated, origin and destination points within this State, equipment operated in this State, gallons or cubic feet consumed ~~[,]~~ and tax paid must at all reasonable times be open to the public.

2. All supporting schedules, invoices and other pertinent papers relative to the business affairs and operations of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ~~[or]~~ special fuel user ~~[,]~~ ***or special fuel manufacturer,*** and any information obtained by an investigation of the records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter ~~[or]~~ special fuel user ~~[,]~~ ***or special fuel manufacturer,*** shall be deemed confidential and must not be revealed to any person except as necessary to administer this chapter or as otherwise provided by NRS 239.0115 or by any other law.

Sec. 33. **NRS 366.220 is hereby amended to read as follows:**

366.220 1. Except as otherwise provided in this chapter:

(a) Before becoming a special fuel dealer, special fuel supplier, special fuel exporter, special fuel transporter ~~[or]~~ special fuel user ~~[,]~~ ***or special fuel manufacturer,*** a person must apply to the Department, on forms to be prescribed by the Department, for a license authorizing the applicant to engage in business as a special fuel dealer, special fuel supplier, special fuel exporter ~~[or]~~ special fuel transporter ~~[,]~~ ***or special fuel manufacturer*** or to operate as a special fuel user.

(b) It is unlawful for any person to be:

(1) A special fuel dealer without holding a license as a special fuel dealer pursuant to this chapter.

(2) A special fuel supplier without holding a license as a special fuel supplier pursuant to this chapter.

(3) A special fuel exporter without holding a license as a special fuel exporter pursuant to this chapter.

(4) A special fuel transporter without holding a license as a special fuel transporter pursuant to this chapter.

(5) A special fuel user without holding a license as a special fuel user pursuant to this chapter.

(6) A special fuel manufacturer without holding a license as a special fuel manufacturer pursuant to this chapter.

2. The Department may adopt regulations relating to the issuance of any license pursuant to this chapter and the collection of fees therefor.

Sec. 34. **NRS 366.221 is hereby amended to read as follows:**

366.221 1. Except as otherwise provided in subsection 2, a special fuel user's license is not required of the following classes of special fuel users:

(a) Operators of motor vehicles who make occasional trips into this State for service or repair.

(b) Operators of house coaches as defined in NRS 484.067.

(c) Operators of motor vehicles having a declared gross weight of 26,000 pounds or less.

(d) Operators of unladen motor vehicles purchased in this State for the trip from the point of delivery to the state boundary.

(e) Operators of motor vehicles who make occasional trips into or across this State for nonprofit or eleemosynary purposes.

(f) Operators of motor vehicles which are operated exclusively within this State.

2. A person otherwise exempt pursuant to subsection 1 who does not purchase special fuel in this State in an amount commensurate with his consumption of special fuel in the propulsion of motor vehicles on the highways of this State shall secure a special fuel user's license.

Sec. 35. **NRS 366.223 is hereby amended to read as follows:**

366.223 1. A special fuel user may, in lieu of causing a motor vehicle that has a declared gross weight in excess of 26,000 pounds to be licensed pursuant to the provisions of NRS 366.220, obtain a temporary permit for special fuel from a vendor authorized to issue permits pursuant to NRS 481.051 before entering ~~[the State or immediately upon entering]~~ the State. The fee for a temporary permit for special fuel is $30 and is not refundable.

2. Except as otherwise provided in subsection 3, a temporary permit for special fuel authorizes the operation of such a motor vehicle over the highways of this State from point of entry to point of exit for not more than 24 consecutive hours.

3. The Department may issue to the owner or operator of a common motor carrier of passengers a temporary permit for special fuel that authorizes the operation of the motor carrier for not more than 120 consecutive hours.

4. The Department may adopt regulations relating to the issuance of a temporary permit for special fuel pursuant to this section.

Sec. 36. **NRS 366.235 is hereby amended to read as follows:**

366.235 1. An applicant for or holder of a license as a special fuel supplier or special fuel dealer shall provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond or bonds of any holder of such a license must be fixed by the Department at not less than three times the estimated maximum monthly tax, determined in such a manner as the Department deems proper, but the amount must not be less than $1,000 for a special fuel supplier and must not be less than $100 for a special fuel dealer. If a special fuel supplier or special fuel dealer is habitually delinquent in the payment of

amounts due pursuant to this chapter, the Department may increase the amount of his security to not more than five times the estimated maximum monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of $100.

2. If a special fuel user ***or special fuel manufacturer*** is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department shall require the special fuel user ***or special fuel manufacturer*** to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond must not be less than $2,500.

3. No recovery on any bond, execution of any new bond or suspension or revocation of any license as a special fuel supplier, special fuel dealer**,** ~~[or]~~ special fuel user ***or special fuel manufacturer*** affects the validity of any bond.

4. In lieu of a bond or bonds, an applicant for or holder of a license as a special fuel supplier or special fuel dealer, or a person required to provide a bond pursuant to subsection 2, may deposit with the State Treasurer, under such terms as the Department may prescribe, an equivalent amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department.

5. If the holder of a license as a special fuel supplier or special fuel dealer is required to provide a bond of more than $5,000, the Department may reduce the requirements for the bond to not less than $5,000 upon the faithful performance of the special fuel supplier or special fuel dealer of all the requirements of this chapter and the punctual payment of all taxes due the State of Nevada for the 3 preceding calendar years.

6. The Department shall immediately reinstate the original requirements for a bond for a holder of a license as a special fuel supplier or special fuel dealer upon his:

(a) Lack of faithful performance of the requirements of this chapter; or

(b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.

7. For the purposes of this section, a person is "habitually delinquent" if, within any 12-month period, the person commits each of the following acts or commits either of the following acts more than once:

(a) Fails timely to file a monthly or quarterly special fuel tax return, unless the Department determines that:

(1) The failure to file was caused by circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care; and

(2) The person has paid any penalty and interest imposed by the Department because of the failure to file.

(b) Fails timely to submit to the Department any tax collected by the person pursuant to this chapter.

Sec. 37. **NRS 366.240 is hereby amended to read as follows:**

366.240 1. Except as otherwise provided in subsection 2, the Department shall:

(a) Upon receipt of the application and bond in proper form, issue to the applicant a special fuel supplier's or special fuel dealer's license.

(b) Upon receipt of the application in proper form, issue to the applicant a special fuel exporter's, special fuel transporter's**,** ~~[or]~~ special fuel user's ***or special fuel manufacturer's*** license.

2. The Department may refuse to issue a license pursuant to this section to any person:

(a) Who formerly held a license issued pursuant to this chapter or a similar license of any other state, the District of Columbia, the United States, a territory or possession of the United States or any foreign country which, before the time of filing the application, has been revoked for cause;

(b) Who applies as a subterfuge for the real party in interest whose license, before the time of filing the application, has been revoked for cause;

(c) Who, if he is a special fuel supplier or special fuel dealer, neglects or refuses to furnish a bond as required by this chapter;

(d) Who is in default in the payment of a tax on special fuel in this State, any other state, the District of Columbia, the United States, a territory or possession of the United States or any foreign country;

(e) Who has failed to comply with any provision of this chapter; or

(f) Upon other sufficient cause being shown.

Sec. 38. **NRS 366.250 is hereby amended to read as follows:**

366.250 Any applicant whose application for a special fuel supplier's license, special fuel dealer's license, special fuel exporter's license, special fuel transporter's license**,** ~~[or]~~ special fuel user's license ***or special fuel manufacturer's license*** has been denied may petition the Department for a hearing. The Department shall:

1. Grant the applicant a hearing.

2. Provide to the applicant, not less than 10 days before the hearing, written notice of the time and place of the hearing.

Sec. 39. **NRS 366.270 is hereby amended to read as follows:**

366.270 If any person ceases to be a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter**,** ~~[or]~~ special fuel user ***or special fuel manufacturer*** within this State by reason of the discontinuance, sale or transfer of his business, he shall:

1. Notify the Department in writing at the time the discontinuance, sale or transfer takes effect. The notice must give the date of the discontinuance, sale or transfer, and the name and address of any purchaser or transferee.

2. Surrender to the Department the license issued to him by the Department.

3. If he is:

(a) A special fuel user registered under the Interstate Highway User Fee Apportionment Act, file the tax return required pursuant to NRS 366.380 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(b) A special fuel supplier, file the tax return required pursuant to NRS 366.383 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(c) A special fuel dealer ~~[.]~~ ***or special fuel manufacturer,*** file the tax return required pursuant to NRS 366.386 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A special fuel exporter, file the report required pursuant to NRS 366.387 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(e) A special fuel transporter, file the report required pursuant to NRS 366.695 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

Sec. 40. **NRS 366.370 is hereby amended to read as follows:**

366.370 1. Except as otherwise provided in this chapter, the excise tax imposed by this chapter with respect to the use or sale of special fuel during any calendar quarter is due on or before the last day of the first month following the quarterly period to which it relates.

2. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

3. Payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing payment properly addressed to the Department.

4. A special fuel supplier shall pay the tax imposed by this chapter at the time he files his tax return pursuant to NRS 366.383.

5. A special fuel dealer ***or special fuel manufacturer*** shall pay the tax imposed by this chapter at the time he files his tax return pursuant to NRS 366.386.

Sec. 41. **NRS 366.386 is hereby amended to read as follows:**

366.386 1. On or before the last day of the month following each reporting period, a special fuel dealer ***or special fuel manufacturer*** shall file with the Department a tax return for the preceding reporting period,

regardless of the amount of tax collected, on a form prescribed by the Department.

2. The tax return must:

(a) Include information required by the Department for the administration and enforcement of this chapter; and

(b) Be accompanied by a remittance, payable to the Department, for the amount of the tax due.

3. Except as otherwise provided in this subsection, the reporting period for a special fuel dealer ***or special fuel manufacturer*** is a calendar month. Upon application by a special fuel dealer ~~[,]~~ ***or special fuel manufacturer,*** the Department may assign to the special fuel dealer ***or special fuel manufacturer*** for a specific calendar year:

(a) A reporting period consisting of that entire calendar year if the Department estimates, based upon the tax returns filed by the special fuel dealer ***or special fuel manufacturer*** for the preceding calendar year, that the special fuel dealer ***or special fuel manufacturer*** will sell not more than 200 gallons of special fuel in this State each calendar month of that reporting period.

(b) Two reporting periods consisting of 6 consecutive calendar months, commencing on the first day of January and July, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer ***or special fuel manufacturer*** for the preceding calendar year, that the special fuel dealer ***or special fuel manufacturer*** will sell more than 200 gallons but not more than 500 gallons of special fuel in this State each calendar month during those reporting periods.

(c) Four reporting periods consisting of 3 consecutive months, commencing on the first day of January, April, July and October, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer ***or special fuel manufacturer*** for the preceding calendar year, that the special fuel dealer ***or special fuel manufacturer*** will sell more than 500 gallons but less than 5,000 gallons of special fuel in this State each calendar month during those reporting periods.

Sec. 42. **NRS 366.540 is hereby amended to read as follows:**

366.540 1. The tax provided for by this chapter must be paid by special fuel suppliers, special fuel dealers ***,*** ~~[and]~~ special fuel users ~~[.]~~ ***and special fuel manufacturers.*** A special fuel supplier or special fuel dealer shall pay to the Department the excise tax he collects from purchasers of special fuel with the return filed pursuant to NRS 366.383 or 366.386, respectively. The tax paid by a special fuel user must be computed by multiplying the tax rate per gallon provided in this chapter by the amount that the number of gallons of special fuel consumed by the special fuel user in the propulsion of motor vehicles on the highways of this State exceeds the number of gallons of special fuel purchases by him. ***The tax paid by a special fuel manufacturer must be computed by multiplying the tax rate per gallon provided in this chapter by the number of gallons of special fuel that the special fuel***

manufacturer places into or sells for placement into the supply tank of a motor vehicle in this State.

2. If the Department determines that a special fuel supplier or special fuel dealer, or any unlicensed person who collects an excise tax, has failed to submit a tax return when due pursuant to this chapter or failed to pay the tax when due pursuant to this chapter, the Department may order the special fuel supplier, special fuel dealer or unlicensed person to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State. The special fuel supplier, special fuel dealer or unlicensed person shall comply with the order immediately upon receiving notification of the order from the Department.

3. A retailer who receives or sells special fuel for which the taxes imposed pursuant to this chapter have not been paid is liable for the taxes and any applicable penalty or interest if the retailer knew or should have known that the applicable taxes on the special fuel had not been paid.

Sec. 43. **NRS 366.685 is hereby amended to read as follows:**

366.685 1. Every special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user ***, special fuel manufacturer*** and retailer, and every other person transporting or storing special fuel in this State shall keep such records, receipts, invoices and other pertinent papers with respect thereto as the Department requires.

2. The records, receipts, invoices and other pertinent papers described in subsection 1 must be preserved for 4 years after the date on which the record, receipt, invoice or other pertinent paper was created or generated.

3. The records, receipts, invoices and other pertinent papers must be available at all times during business hours to the Department or its authorized agents.

4. In addition to any other penalty that may be imposed, any violation of the provisions of this section constitutes grounds for the Department to deny any future application for a license pursuant to this chapter that is submitted by a person who is determined to be responsible for the violation.

Sec. 44. **NRS 366.692 is hereby amended to read as follows:**

366.692 1. Each special fuel supplier ***or special fuel manufacturer*** shall prepare and provide a record of shipment to each person who purchases more than 25 gallons of special fuel and transports the special fuel from the place of purchase. The record of shipment must include the:

(a) Place where the special fuel was purchased;

(b) Place to which the purchaser declares the special fuel will be transported;

(c) Number of gallons of special fuel transported;

(d) Color and concentration of the dye added to the special fuel, if any; and

(e) Name and address of the purchaser of the special fuel.

2. Each person who transports special fuel in this State shall:

(a) Keep the record of shipment required by subsection 1 in the vehicle in which the special fuel is transported until the special fuel is delivered to the purchaser; and

(b) Upon request from a peace officer, allow the peace officer to inspect the record of shipment.

Sec. 45. **NRS 366.720 is hereby amended to read as follows:**

366.720 1. Any person who:

(a) Fails or refuses to pay the tax imposed by this chapter;

(b) Engages in business in this State as a ***special fuel manufacturer,*** special fuel user, special fuel exporter, special fuel dealer or special fuel supplier, or acts in this State as a special fuel transporter, without being the holder of a license to engage in that business or to act in that capacity;

(c) Fails to make any of the reports required by this chapter;

(d) Makes any false statement in any application, report or statement required by this chapter;

(e) Refuses to permit the Department or any authorized agent to examine records as provided by this chapter;

(f) Fails to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this State as required by this chapter;

(g) Makes any false statement in connection with an application for the refund of any money or taxes provided in this chapter;

(h) Violates the provisions of NRS 366.265;

(i) Fails or refuses to stop his motor vehicle for an inspection to determine if all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid; or

(j) Refuses to allow the Department or an authorized agent to inspect a motor vehicle to determine whether all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid,

➥ is guilty of a misdemeanor.

2. Each day or part thereof during which any person engages in business as a ***special fuel manufacturer,*** special fuel dealer, special fuel supplier or special fuel exporter or acts as a special fuel transporter without being the holder of a license authorizing him to engage in that business or to act in that capacity constitutes a separate offense within the meaning of this section.

Sec. 46. **NRS 366.735 is hereby amended to read as follows:**

366.735 1. The Department may take disciplinary action in accordance with subsection 2 against any person who ~~[:]~~ ***, below the terminal rack:***

(a) Sells or stores ***for personal consumption*** any dyed special fuel for a use which the person selling or storing such fuel knows, or has reason to know, is a taxable use of the fuel ~~[:]~~ ***and does not report and pay the applicable tax to the Department;***

(b) Willfully ~~[alters or attempts to alter the strength of composition]~~ ***decreases or attempts to decrease the concentration*** of any dye in any

special fuel intended to be used for a taxable purpose ~~[; or]~~ ***and does not report and pay the applicable tax to the Department;***

(c) Uses dyed special fuel for a taxable purpose ~~[.]~~ ***and does not report and pay the applicable tax to the Department;***

(d) Willfully increases or attempts to increase the volume of any special fuel intended to be used for a taxable purpose by adding to the fuel any quantity of special fuel for which the tax imposed pursuant to this chapter has not been paid or any quantity of other product for which any tax imposed pursuant to the laws of this State has not been paid; or

(e) Willfully manufactures, sells, distributes for sale or attempts to manufacture, sell or distribute for sale any special fuel intended to be used for a taxable purpose and for which the tax imposed pursuant to this chapter has not been paid.

2. For any violation described in subsection 1, the Department may:

(a) If the violation is a first offense, impose an administrative fine of not more than $2,500 and suspend any license issued to that person pursuant to this chapter for not more than 30 days;

(b) If the violation is a second offense within a period of 4 years, impose an administrative fine of not more than $5,000 and suspend any license issued to that person pursuant to this chapter for not more than 60 days; and

(c) If the violation is a third or subsequent offense within a period of 4 years, impose an administrative fine of not more than $10,000 and revoke any license issued to that person pursuant to this chapter.

Sec. 47. **NRS 366.740 is hereby amended to read as follows:**

366.740 1. Except as otherwise provided in NRS 366.733 and 366.735 ~~[,]~~ ***and section 27 of this act,*** the Department may impose an administrative fine, not to exceed $2,500, for a violation of any provision of this chapter, or any regulation or order adopted or issued pursuant thereto.

2. The Department shall afford to any person fined pursuant to this section or NRS 366.733 or 366.735 ***or section 27 of this act*** an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. All administrative fines collected by the Department pursuant to subsection 1 or NRS 366.733 or 366.735 ***or section 27 of this act*** must be deposited with the State Treasurer to the credit of the State Highway Fund.

4. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

~~[Sec. 14.]~~ ***Sec. 48.*** **1. NRS 365.072 is hereby repealed.**

2. NRS 486A.040, 486A.060 and 486A.090 are hereby repealed.

~~[Sec. 15.]~~ ***Sec. 49.*** **1.** This **section and sections 14 to 47, inclusive, and subsection 1 of section 48 of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry**

out the provisions of this act and on January 1, 2010, for all other purposes.

2. Sections 1 to 12, inclusive, and subsection 2 of section 48 of this act **[**becomes**]** **become** effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

365.072 "Petroleum-ethanol mixture" defined. "Petroleum-ethanol mixture" means a fuel containing a minimum of 10 percent by volume of ethyl alcohol derived from agricultural products.

486A.040 "Bi-fueled motor vehicle" defined. "Bi-fueled motor vehicle" means a motor vehicle that is capable of operating on either a clean-burning alternative fuel or a traditional fuel, including, but not limited to, gasoline or diesel fuel.

486A.060 "Dedicated alternative fuel motor vehicle" defined. "Dedicated alternative fuel motor vehicle" means a motor vehicle that:

1. Operates only on an alternative fuel; or
2. Regardless of the type of fuel on which it operates, has been certified by the United States Environmental Protection Agency as being in compliance with the standards for the control of emissions from an ultra low-emission vehicle, or more stringent standards, as set forth in 40 C.F.R. § 88.104-94 or 88.105-94.

486A.090 "Flexible fueled vehicle" defined. "Flexible fueled vehicle" means a motor vehicle that is capable of operating on any mixture of an alternative fuel and a traditional fuel, including, but not limited to, gasoline or diesel fuel.

Assemblywoman Spiegel moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 332.

Remarks by Assemblywoman Spiegel.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Concurrent Resolution No. 30.

The following Senate amendment was read:

Amendment No. 995.

SUMMARY—Directs the Legislative Commission to conduct an interim study on the development and promotion of logistics and distribution centers **and issues concerning infrastructure and transportation** in this State. (BDR R-1305)

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study on the development and promotion of logistics and distribution centers **and issues concerning infrastructure and transportation** in this State.

WHEREAS, The creation of new jobs and promoting diversification of the Nevada economy is a critical need and an overriding goal of the Legislature; and

WHEREAS, Nevada is uniquely positioned by virtue of its location and favorable business climate to serve as a logistics and distribution center for the receipt, shipment and assembly of goods on the West Coast to points north and east; and

WHEREAS, The Nevada System of Higher Education, including the state universities in Reno and Las Vegas, has expertise in supply chain management and can provide consulting support, managerial development through degree programs and job training opportunities; and

WHEREAS, Foreign trade zones exist in both southern and northern Nevada for the purpose, among other things, of facilitating the growth of logistics and distribution centers; and

WHEREAS, The ~~[proposed Ivanpah Valley Airport in]~~ Clark County **[,] Regional Airport System,** the Tahoe-Reno Industrial Center in Storey County and the Reno-Tahoe International Airport are poised for future development as logistics and distribution centers and for the creation of a wide range of jobs in supply chain management; and

WHEREAS, The Elko County Rail Port provides additional opportunities for east-west distribution of goods and development of a logistics cluster; and

WHEREAS, The continuing growth of the population in Nevada has caused growing traffic congestion, environmental issues as a result of such congestion and difficulty in maintaining and expanding the transportation infrastructure in this State because of financial, environmental and physical constraints; and

WHEREAS, Mass transportation systems **and the infrastructure for transportation systems** play an integral role in supporting the diversification and expansion of the workforce and economy; and

WHEREAS, Efficient mass transportation systems **and the infrastructure for transportation systems** reduce environmental degradation and decrease congestion on major roadways; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint a subcommittee to study the development and promotion of Nevada as a logistics and distribution center **[,] and issues concerning infrastructure and transportation;** and be it further

RESOLVED, **That to facilitate the investment of private capital in logistics and distribution centers, the subcommittee may solicit input from representatives of state and local economic development organizations, interstate transportation facilities in Nevada, transport and logistics companies, manufacturing and other business interests, foreign trade zones, institutions within the Nevada System of Higher Education, and such other governmental or private stakeholders as the subcommittee deems appropriate; and be it further**

RESOLVED, That the subcommittee shall formulate a strategy and develop an implementation plan detailing the steps that need to be taken to

create and promote the further development of Nevada as a logistics and distribution center which must include, without limitation:

1. Identification of barriers to the development of logistics and distribution centers;

2. The costs and benefits associated with expanding mass transportation systems **[,] and developing the necessary infrastructure for transportation systems;**

3. Delineation of future foreign trade zones;

4. Prioritization of infrastructure needs, including energy and water **, infrastructure** and **[mass]** transportation systems **[,] , including mass transportation systems and light rail corridors;**

5. Formation of public-private partnerships for financing and incubation of new businesses;

6. Funding options for the expansion of mass **[transit systems;] transportation systems and light rail corridors;**

7. Attraction of businesses associated with supply chain management activities, including assembly, manufacturing, warehousing and transportation; and

8. Identification of strategic public policy actions to expedite the investment of private development companies in major logistics centers in Nevada; and be it further

RESOLVED, That the Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 76th Session of the Nevada Legislature.

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Concurrent Resolution No. 30.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Resolution ordered to enrollment.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 55, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 588 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 15, which is attached to and hereby made a part of this report.

BERNIE ANDERSON	TERRY CARE
RICHARD MCARTHUR	ALLISON COPENING
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA15.

AN ACT relating to business entities; providing that business entities may cancel filings made with the Secretary of State under certain circumstances; revising the provisions relating to the resignation of a registered agent; revising the provisions relating to the filing of certain lists by business

entities; ~~[clarifying the provisions relating to the applicability of certain provisions concerning taxation of a business;]~~ revising provisions relating to the payment of dividends or distributions of stock to a judgment creditor; revising provisions relating to domestication of an undomesticated organization; making various other changes pertaining to business entities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1, 3, 7, 8, 11, 14, 16, 22, 29, 31, 39, 50 and 53 of this bill authorize certain business entities that have made a filing with the Secretary of State to cancel the filing if: (1) the Secretary of State has not processed the filing and placed the filing into the public record; and (2) the business entity pays the required fee. (NRS 78.0295, 80.007, 81.006, 82.534, 84.009, 86.568, 87.547, 87A.275, 88.339, 88A.930)

Section 2.5 of this bill amends existing law, which requires a registered agent who wishes to resign with respect to a represented entity to file with the Secretary of State a statement of resignation which includes the name and address of the person to which the agent will send the notice of resignation, to require such registered agent to file with the Secretary of State an affidavit stating that written notice was provided to each represented entity and to keep a copy of such notice on file for 1 year from the date of filing the statement of resignation and to make any such copy available to the Secretary of State upon request. (NRS 77.370)

Sections 4, 9, 13, 18, 20, 24, 26, 32, 34, 40, 42, 47 and 48 of this bill amend existing law, which requires the Secretary of State to mail certain notices and blank forms to certain business entities, to authorize the Secretary of State to provide instead, by any means, notice to those business entities of the applicable statutory obligations to file certain lists. (NRS 78.150, 80.110, 82.523, 86.263, 86.5461, 87.510, 87.541, 87A.290, 87A.560, 88.395, 88.591, 88A.600, 88A.732)

Sections 5, 10, 12, 17, 21, 25, 27, 30, 35, 37, 38, 43, 45, 46, 49, 51 and 52 of this bill provide that a business entity is required to provide the Secretary of State certain information concerning its owners of record only upon the request of the Secretary of State. (NRS 78.152, 80.113, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251)

Under existing law, a corporation sole may be formed for acquiring, holding or disposing of church or religious society property, for the benefit of religion, for works of charity and for public worship. Existing law provides the procedures for forming a corporation sole, the powers of a corporation sole and the process of default, reinstatement or revocation of a charter of a corporation sole. (Chapter 84 of NRS)

Sections 15.5 and 16.2-16.8 of this bill provide that: (1) existing corporations sole may continue in existence; and (2) no new corporations sole may be formed in the future, except that certain subordinate corporations sole may be formed until July 1, 2011.

Sections 23 and 28 of this bill make technical corrections: (1) to an incorrect reference concerning a registered limited-liability partnership; and (2) to include a reference to the requirement to provide information concerning a registered agent when a foreign registered limited-liability partnership is seeking reinstatement. (NRS 87.480, 87.5435)

Section 6.5 of this bill amends existing law to: (1) define the rights of a judgment creditor who, by court order, receives the distribution or dividend of shares of stock from a stockholder who is the judgment debtor; (2) expand the applicability of the court order to corporations with more than 1 but fewer than 100 shareholders; and (3) provide that the court order does not ~~[supercede]~~ **supersede** a private agreement between the stockholder and the creditor if the agreement does not conflict with the corporation's articles of incorporation, bylaws or a shareholder agreement to which the stockholder is a party. (NRS 78.746)

Sections 36 and 44 of this bill authorize a partnership to register as a limited-liability limited partnership by filing a combined certificate with the Secretary of State and paying the appropriate fee. (NRS 87A.630, 88.606)

Section 53.5 of this bill amends existing law to provide that an undomesticated organization seeking domestication in this State must provide a certified copy of the charter document and a certificate of good standing, or the equivalent, from the jurisdiction where the organization was chartered immediately preceding the application for domestication. Additionally, **section 53.5** addresses the liability of a shareholder or other type of owner of the organization before and after domestication of the organization in this State. Finally, **section 53.5** expands the availability of domestication in this State from only organizations governed by the laws of a foreign country or jurisdiction outside the United States to include organizations governed by the laws of any state other than this State, including those of other states within the United States. (NRS 92A.270)

~~[Section 54 of this bill amends the existing definition of "business" to include any entity organized pursuant to title 7 of NRS, including an entity required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit, other than a nonprofit corporation or a corporation sole, which clarifies that such a business is required to: (1) obtain a state business license; and (2) register with the Department of Taxation if the business purchases tangible personal property for storage, use or other consumption in this State. (NRS 360.765, 372.220)~~

~~Section 55 of this bill provides that if an applicant for a state business license is a business organized pursuant to title 7 of NRS and on file with the Secretary of State, the applicant must include in its application the exact name on file with the Secretary of State. (NRS 360.780) Section 55 also clarifies that for the purposes of the statutory provisions requiring a person to obtain a state business license, a person is deemed to be conducting a business in this State if a business for which the person is responsible has a registered agent in this State.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 77 of NRS is hereby amended by adding thereto a new section to read as follows:

If an entity has made a filing with the Secretary of State pursuant to this chapter and the Secretary of State has not processed the filing and placed the filing into the public record, the entity may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying a fee of $50.

Sec. 1.5. NRS 77.300 is hereby amended to read as follows:

77.300 Whenever a provision of this chapter ~~[other than paragraph (d) of subsection 1 of NRS 77.370]~~ requires that a filing state an address, the filing must state:

1. An actual street address or rural route box number in this State; and

2. A mailing address in this State, if different from the address under subsection 1.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 77.370 is hereby amended to read as follows:

77.370 1. A registered agent may resign at any time with respect to a represented entity by filing with the Secretary of State a statement of resignation signed by or on behalf of the agent which states:

(a) The name of the entity;

(b) The name of the agent; ***and***

(c) That the agent resigns from serving as agent for service of process for the entity ***.*** ~~[; and~~

~~(d) The name and address of the person to which the agent will send the notice required by subsection 3.]~~

2. A statement of resignation takes effect on the earlier of the 31st day after the day on which it is filed or the appointment of a new registered agent for the represented entity.

3. The registered agent shall promptly furnish the represented entity with notice in a record of the date on which a statement of resignation was filed ~~[.]~~ ***and shall file with the Secretary of State an affidavit stating that written notice of the resignation has been provided to each represented entity. The affidavit must include the name of each represented entity that was provided notice, but is not required to include the contact information of the represented entity or the names of the interest holders of the represented entity. The registered agent shall keep a copy of each notice provided to a represented entity on file for 1 year after the date of filing the statement of resignation and shall make any such copy available to the Secretary of State upon request.***

4. When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any

contractual rights the entity may have against the agent or that the agent may have against the entity.

5. A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

Sec. 3. NRS 78.0295 is hereby amended to read as follows:

78.0295 1. A corporation may correct a record filed in the Office of the Secretary of State with respect to the corporation if the record contains an inaccurate description of a corporate action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if no stock has been issued by the corporation, by the incorporator or a director of the corporation.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 4. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, on or before the last day of the first month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

(a) The name of the corporation;

(b) The file number of the corporation, if known;

(c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;

(d) The address, either residence or business, of each officer and director listed, following the name of the officer or director;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year,

file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

(a) A declaration under penalty of perjury that the corporation:

(1) Has complied with the provisions of NRS 360.780; and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

(a) Subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

5. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 2, ~~[cause to be mailed]~~ ***provide*** to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

Sec. 5. NRS 78.152 is hereby amended to read as follows:

78.152 1. In addition to any records required to be kept at the registered office pursuant to NRS 78.105, a corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. NRS 78.746 is hereby amended to read as follows:

78.746 1. On application to a court of competent jurisdiction by a judgment creditor of a stockholder, the court may charge the stockholder's stock with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the stockholder's stock.

2. This section:

(a) Applies only to a corporation that:

(1) Has more than 1 but fewer than ~~[75]~~ ***100*** stockholders of record at any time.

(2) Is not a subsidiary of a publicly traded corporation, either in whole or in part.

(3) Is not a professional corporation as defined in NRS 89.020.

(b) Does not apply to any liability of a stockholder that exists as the result of an action filed before July 1, 2007.

(c) Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stockholder's stock of the corporation.

(d) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.

(e) Does not supersede any private agreement between a stockholder and a creditor ~~[.]~~ ***if the private agreement does not conflict with the corporation's articles of incorporation, bylaws or any shareholder agreement to which the stockholder is a party.***

3. As used in this section, "rights of an assignee" means the rights to receive the share of the distributions or dividends paid by the corporation to which the judgment debtor would otherwise be entitled. The term does not include the rights to participate in the management of the business or affairs of the corporation or to become a director of the corporation.

Sec. 7. Chapter 78A of NRS is hereby amended by adding thereto a new section to read as follows:

If a close corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the close corporation may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 8. NRS 80.007 is hereby amended to read as follows:

80.007 1. A foreign corporation may correct a record filed in the Office of the Secretary of State if the record contains an incorrect statement or was defectively signed, attested, sealed or verified.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if no stock has been issued by the corporation, by the incorporator or a director of the corporation.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a foreign corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the foreign corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 9. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of its certificate of corporate existence with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors;

(b) The information required pursuant to NRS 77.310; and

(c) The signature of an officer of the corporation.

2. Each list filed pursuant to subsection 1 must be accompanied by:

(a) A declaration under penalty of perjury that the foreign corporation has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the foreign corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

3. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

4. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list pursuant to subsection 1.*** Failure of any corporation to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

6. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 10. NRS 80.113 is hereby amended to read as follows:

80.113 1. A foreign corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign corporation to transact business that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 11. NRS 81.006 is hereby amended to read as follows:

81.006 1. A nonprofit cooperative corporation, a cooperative association, a charitable organization or any other entity formed under the provisions of this chapter may correct a record filed with the Secretary of State with respect to the entity if the record contains an inaccurate description of an action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the entity must:

(a) Prepare a certificate of correction which:

(1) States the name of the entity;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the entity or, if the certificate is filed before the first meeting of the board of directors, by an incorporator or director.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a nonprofit cooperative corporation, a cooperative association, a charitable organization or any other entity formed under the provisions of this chapter has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the nonprofit cooperative corporation, cooperative association, charitable organization or other entity may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 12. NRS 82.183 is hereby amended to read as follows:

82.183 1. A corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 13. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign nonprofit corporation;

(b) The file number of the foreign nonprofit corporation, if known;

(c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;

(d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the foreign nonprofit corporation certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign nonprofit corporation:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of $25.

4. The Secretary of State shall, 60 days before the last day for filing each annual list, ~~[cause to be mailed]~~ ***provide*** to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.5239, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign nonprofit corporation to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.5239, inclusive.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 14. NRS 82.534 is hereby amended to read as follows:

82.534 1. A corporation may correct a record filed in the Office of the Secretary of State with respect to the corporation if the record contains an inaccurate description of a corporate action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if the certificate is filed before the first meeting of the board of directors, by an incorporator or director.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 15. (Deleted by amendment.)

Sec. 15.5. **Chapter 84 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Except as otherwise provided in subsection 2, no new corporation sole may be formed in this State on or after the effective date of section 56 of this act. A corporation sole formed pursuant to this chapter before the effective date of section 56 of this act may continue in existence until the corporation is dissolved or its charter is revoked. A corporation sole that has its charter revoked pursuant to NRS 84.140 may be reinstated as provided in NRS 84.150.

2. Until July 1, 2011, an archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent, other presiding officer or clergyman of a church or religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination, and in whom is vested the legal title to property held for the purposes, use or benefit of the church or religious society or denomination, may form a new corporation sole if such person:

(a) Is affiliated with and subordinate to the authority of a superior corporation sole which is in good standing under the laws of this State; and

(b) Provides a statement, executed under penalty of perjury, by the presiding officer of the superior corporation sole attesting to the affiliation and stating the name of the superior corporation sole, the name and title of the presiding officer of the superior corporation sole and the nature of the affiliation between the superior corporation sole and the subordinate corporation sole.

Sec. 16. NRS 84.009 is hereby amended to read as follows:

84.009 1. A corporation sole may correct a record filed with the Office of the Secretary of State with respect to the corporation sole if the record contains an inaccurate description of an action of the corporation sole or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation sole must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation sole;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent or other presiding officer or clergyman of a church, religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church, religious society or denomination, and in whom is vested the legal title to the property held for the purpose, use or benefit of the church or religious society or denomination.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation sole has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation sole may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 16.2. **NRS 84.010 is hereby amended to read as follows:**

84.010 ~~[Corporations]~~ ***Subject to the provisions of section 15.5 of this act, corporations*** may be formed for acquiring, holding or disposing of church or religious society property, for the benefit of religion, for works of charity, and for public worship, in the manner provided in this chapter.

Sec. 16.4. **NRS 84.010 is hereby amended to read as follows:**

84.010 ~~[Subject to the provisions of section 15.5 of this act, corporations may be formed for acquiring, holding or disposing]~~ ***The purpose of a corporation sole is to acquire, hold or dispose*** of church or religious society property, for the benefit of religion, for works of charity, and for public worship, in the manner provided in this chapter.

Sec. 16.6. **NRS 84.020 is hereby amended to read as follows:**

84.020 ~~[An]~~ ***Subject to the provisions of section 15.5 of this act, an*** archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent, other presiding officer or clergyman of a church or religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination, and in whom is vested the legal title to property held for the purposes, use or benefit of the church or religious society or denomination, may make and sign written articles of incorporation ~~[,]~~ ***or amended articles of incorporation,*** in duplicate, and file one copy of

the articles ***or amended articles*** in the Office of the Secretary of State and retain possession of the other.

Sec. 16.8. **NRS 84.020 is hereby amended to read as follows:**

84.020 ~~[Subject to the provisions of section 15.5 of this act, an]~~ ***An*** archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent, other presiding officer or clergyman of a church or religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination, and in whom is vested the legal title to property held for the purposes, use or benefit of the church or religious society or denomination, may ~~[make and sign written articles of incorporation or amended]~~ ***amend*** articles of incorporation, in ~~[duplicate,]~~ ***writing,*** and file one copy of the ~~[articles or]~~ amended articles in the Office of the Secretary of State and retain possession of the other.

Sec. 17. NRS 86.246 is hereby amended to read as follows:

86.246 1. In addition to any records required to be kept pursuant to NRS 86.241, a limited-liability company shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. ~~[A]~~ ***Upon the request of the Secretary of State, the*** limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 18. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited-liability company;

(b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of $125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, ~~[cause to be mailed]~~ ***provide*** to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file ~~[a]~~ ***the*** list required by subsection 2.

Failure of any company to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited-liability company with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list on a form furnished by him that contains:

(a) The name of the foreign limited-liability company;

(b) The file number of the foreign limited-liability company, if known;

(c) The names and titles of all its managers or, if there is no manager, all its managing members;

(d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the foreign limited-liability company certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited-liability company:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

4. If a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, ~~[cause to be mailed]~~ ***provide*** to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign limited-liability company to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

Sec. 21. NRS 86.54615 is hereby amended to read as follows:

86.54615 1. A foreign limited-liability company shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the registration of the foreign limited-liability company.

5. The Secretary of State shall not reinstate or revive a registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 22. NRS 86.568 is hereby amended to read as follows:

86.568 1. A limited-liability company may correct a record filed in the Office of the Secretary of State with respect to the limited-liability company if the record contains an inaccurate description of a company action or was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited-liability company must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited-liability company;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a manager of the company or, if management is not vested in a manager, by a member of the company.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a limited-liability company has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited-liability company may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 23. NRS 87.480 is hereby amended to read as follows:

87.480 A registered limited-liability partnership must have a registered agent who resides or is located in this State. A registered agent must have a street address for the service of process that is the principal office of the registered limited-liability ~~[company]~~ ***partnership*** in this State, and may have a separate mailing address that is different from his street address.

Sec. 24. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, on or before the last day of the first month after the filing of its certificate of registration with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the registered limited-liability partnership;

(b) The file number of the registered limited-liability partnership, if known;

(c) The names of all of its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the registered limited-liability partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the registered limited-liability partnership has complied with the provisions of NRS 360.780, an acknowledgment that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

3. If a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to the registered limited-liability partnership a notice of the fee due pursuant to subsection 2 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice ~~[or form]~~ does not excuse it from complying with the provisions of this section.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection 2 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 25. NRS 87.515 is hereby amended to read as follows:

87.515 1. A registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 26. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign registered limited-liability partnership;

(b) The file number of the foreign registered limited-liability partnership, if known;

(c) The names of all its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the foreign registered limited-liability partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign registered limited-liability partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

4. If a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.544, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign registered limited-liability partnership to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.544, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 27. NRS 87.5413 is hereby amended to read as follows:

87.5413 1. A foreign registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign registered limited-liability partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign registered limited-liability partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign registered limited-liability partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. NRS 87.5435 is hereby amended to read as follows:

87.5435 1. Except as otherwise provided in subsections 3 and 4 and NRS 87.5413, the Secretary of State shall reinstate a foreign registered limited-liability partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign registered limited-liability partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State ~~[the]~~ ***:***

(1) The list required by NRS 87.541; and

(2) The information required pursuant to NRS 77.310; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87.541 and 87.5425 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign registered limited-liability partnership, he shall issue to the foreign registered limited-liability partnership a certificate of reinstatement if the foreign registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right

to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign registered limited-liability partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

5. Except as otherwise provided in NRS 87.544, a reinstatement pursuant to this section relates back to the date on which the foreign registered limited-liability partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign registered limited-liability partnership's right to transact business as if such right had at all times remained in full force and effect.

Sec. 29. NRS 87.547 is hereby amended to read as follows:

87.547 1. A registered limited-liability partnership may correct a record filed in the Office of the Secretary of State with respect to the registered limited-liability partnership if the record contains an inaccurate description of a partnership action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the registered limited-liability partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the registered limited-liability partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a managing partner of the registered limited-liability partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a registered limited-liability partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the registered limited-liability partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 30. NRS 87A.200 is hereby amended to read as follows:

87A.200 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 31. NRS 87A.275 is hereby amended to read as follows:

87A.275 1. A limited partnership or foreign limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership or foreign limited partnership if the record contains false or erroneous information or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited partnership or foreign limited partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited partnership or foreign limited partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the false or erroneous information or the defect;

(4) Sets forth the false or erroneous information or the defective portion of the record in an accurate or corrected form; and

(5) Is signed by a general partner of the limited partnership or foreign limited partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction must not state a delayed effective date and is effective on the effective date of the record it corrects, except that the certificate is effective when filed:

(a) For the purposes of subsections 3 and 4 of NRS 87A.150; and

(b) As to persons relying on the uncorrected record and adversely affected by the correction.

4. If a limited partnership or foreign limited partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited partnership or foreign limited partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 32. NRS 87A.290 is hereby amended to read as follows:

87A.290 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list ~~[.]~~ ***required pursuant to subsection 1.*** Failure of any limited partnership to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by NRS 87A.300.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 87A.240 and may not be substituted for filings submitted pursuant to NRS 87A.240.

Sec. 33. (Deleted by amendment.)

Sec. 34. NRS 87A.560 is hereby amended to read as follows:

87A.560 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign limited partnership, which is required to comply with the provisions of NRS 87A.560 to 87A.600, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign limited partnership to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 87A.560 to 87A.600, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 35. NRS 87A.580 is hereby amended to read as follows:

87A.580 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36. NRS 87A.630 is hereby amended to read as follows:

87A.630 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The information required pursuant to NRS 77.310.

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. ***A partnership may register as a registered limited-liability limited partnership at the time it files a certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees prescribed in subsections 1 and 2 of NRS 87A.315.***

5. The registration of a registered limited-liability limited partnership is effective on the later of the filing of the certificate of registration or a date specified in the certificate of registration.

Sec. 37. NRS 87A.640 is hereby amended to read as follows:

87A.640 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 38. NRS 88.3355 is hereby amended to read as follows:

88.3355 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information

required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39. NRS 88.339 is hereby amended to read as follows:

88.339 1. A limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership if the record contains an inaccurate description of a partnership action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a general partner of the limited partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a limited partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 40. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $175.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[~~~cause to be mailed~~]~~ ***provide*** to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list ~~[.]~~ ***required pursuant to subsection 1.*** Failure

of any limited partnership to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by NRS 88.400.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

Sec. 41. (Deleted by amendment.)

Sec. 42. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign limited partnership to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 43. NRS 88.5927 is hereby amended to read as follows:

88.5927 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 44. NRS 88.606 is hereby amended to read as follows:

88.606 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The information required pursuant to NRS 77.310.

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. ***A partnership may register as a registered limited-liability limited partnership at the time of filing its certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees required pursuant to subsections 1 and 2 of NRS 88.415.***

5. The registration of a registered limited-liability limited partnership is effective at the time of the filing of the certificate of registration.

Sec. 45. NRS 88.6067 is hereby amended to read as follows:

88.6067 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 46. NRS 88A.345 is hereby amended to read as follows:

88A.345 1. ~~[A]~~ ***Upon the request of the Secretary of State, a*** business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340.

2. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the ledger, duplicate ledger or statement required to be maintained pursuant to subsection 1 of NRS 88A.340; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

3. If a business trust fails to comply with any requirement pursuant to subsection 2, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of trust.

4. The Secretary of State shall not reinstate or revive a certificate of trust that was revoked or suspended pursuant to subsection 3 unless:

(a) The business trust complies with the requirements of subsection 2; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the business trust.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 47. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, on or before the last day of the first month after the filing of its certificate of trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list signed by at least one trustee that contains the name and street address of at least one trustee and the information required pursuant to NRS 77.310. Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the business trust:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

3. If a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.660, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 2 and a reminder to file the list required pursuant to subsection 1.*** Failure of a business trust to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by law.

5. An annual list for a business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 48. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign business trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in

each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign business trust;

(b) The file number of the foreign business trust, if known;

(c) The name of at least one of its trustees;

(d) The address, either residence or business, of the trustee listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a trustee of the foreign business trust certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign business trust:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

4. If a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign business trust to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 49. NRS 88A.7345 is hereby amended to read as follows:

88A.7345 1. A foreign business trust shall maintain at its registered office:

(a) A current list of its beneficial owners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign business trust fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign business trust to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign business trust to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign business trust complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign business trust to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 50. NRS 88A.930 is hereby amended to read as follows:

88A.930 1. A business trust may correct a record filed in the Office of the Secretary of State with respect to the business trust if the record contains an inaccurate description of a trust action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the business trust must:

(a) Prepare a certificate of correction that:

(1) States the name of the business trust;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a trustee of the business trust.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a business trust has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the business trust may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 51. NRS 89.045 is hereby amended to read as follows:

89.045 1. A professional entity shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** professional entity shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional entity to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional entity fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The professional entity complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 52. NRS 89.251 is hereby amended to read as follows:

89.251 1. A professional association shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** professional association shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional association to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional association fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the articles of association.

5. The Secretary of State shall not reinstate or revive articles of association that were revoked or suspended pursuant to subsection 4 unless:

(a) The professional association complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the articles of association.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 53. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

If an entity has made a filing with the Secretary of State pursuant to this chapter and the Secretary of State has not processed the filing and placed the filing into the public record, the entity may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying a fee of $50.

Sec. 53.5. NRS 92A.270 is hereby amended to read as follows:

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and

(b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;

(2) The appropriate charter document for the type of domestic entity; ~~[and]~~

(3) The information required pursuant to NRS 77.310 ~~[.]~~ ***;***

(4) A certified copy of the charter document of the undomesticated organization; and

(5) A certificate of good standing, or the equivalent, from the jurisdiction where the undomesticated organization was chartered immediately before filing the articles of domestication pursuant to subparagraph (1).

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created ~~[;]~~ ***and, if applicable, any date when and jurisdiction where the undomesticated organization was chartered after its formation;***

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law ~~[,~~

~~➥]~~ immediately before filing the articles of domestication.

3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.

9. ***The owner liability of an undomesticated organization that is domesticated in this State:***

(a) Is not discharged, pursuant to the laws of the previous jurisdiction of the organization, to the extent the owner liability arose before the effective date of the articles of domestication;

(b) Does not attach, pursuant to the laws of the previous jurisdiction of the organization, to any debt, obligation or liability of the organization that arises after the effective date of the articles of domestication;

(c) Is governed by the law of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a);

(d) Is subject to the right of contribution from any other shareholder, member, trustee, partner, limited partner or other owner of the

undomesticated organization pursuant to the laws of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a); and

(e) Applies only to the debts, obligations or liabilities of the organization that arise after the effective date of the articles of domestication if the owner becomes subject to owner liability or some or all of the debts, obligations or liabilities of the undomesticated entity as a result of its domestication in this State.

10. As used in this section ~~[, "undomesticated]~~ ***:***

(a) "Owner liability" means the liability of a shareholder, member, trustee, partner, limited partner or other owner of an organization for debts of the organization, including the responsibility to make additional capital contributions to cover such debts.

(b) "Undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than ~~[the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States.]~~ ***this State.***

Sec. 54. ~~[NRS 360.765 is hereby amended to read as follows:~~

~~360.765 1. Except as otherwise provided in subsection 2, "business" means:~~

~~(a) Any person, except a natural person, that performs a service or engages in a trade for profit; [or]~~

~~(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity [.]~~ ***; or***

(c) Any entity organized pursuant to title 7 of NRS, including, without limitation, those entities required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit.

~~2. The term does not include:~~

~~(a) A governmental entity.~~

~~(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).~~

~~(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.~~

~~(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.~~

~~(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.~~

~~*(f) A business organized pursuant to chapters 82 or 84 of NRS.]*~~ **(Deleted by amendment.)**

Sec. 55. ~~[~~NRS 360.780 is hereby amended to read as follows:

~~360.780 1. Except as otherwise provided in subsection 7, a person shall not conduct a business in this State unless he has a state business license issued by the Department.~~

~~2. An application for a state business license must:~~

~~(a) Be made upon a form prescribed by the Department;~~

~~(b) Set forth the name under which the applicant transacts or intends to transact business~~ ***, or if the applicant is a business organized pursuant to title 7 of NRS and on file with the Secretary of State, the exact name on file with the Secretary of State,*** and the location ***in this State*** of his place or places of business~~;~~

~~(c) Be accompanied by a fee of $100; and~~

~~(d) Include any other information that the Department deems necessary.~~

~~*If the applicant is a business organized pursuant to title 7 of NRS and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.*~~

~~3. The application must be signed by:~~

~~(a) The owner, if the business is owned by a natural person;~~

~~(b) A member or partner, if the business is owned by an association or partnership; or~~

~~(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.~~

~~4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.~~

~~5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.~~

~~6. For the purposes of NRS 360.760 to 360.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:~~

~~(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;~~

~~(b) Has an office or other base of operations in this State;~~ ~~[~~or~~]~~

~~(c) *Has a registered agent in this State; or*~~

~~*(d)* Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.~~

~~7. A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 360.787.~~

~~*8. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.]*~~ **(Deleted by amendment.)**

Sec. 55.5. **NRS 84.006 is hereby repealed.**

Sec. 56. **1.** This ~~[act becomes]~~ **section and sections 15.5, 16.2, 16.6 and 55.5 of this act become effective upon passage and approval.**

2. Sections 1 to 14, inclusive, 16 and 17 to 53.5, inclusive, of this act become effective on July 1, 2009.

3. Sections 16.4 and 16.8 of this act become effective on July 1, 2011.

4. Sections 16.2 and 16.6 of this act expire by limitation on June 30, 2011.

TEXT OF REPEALED SECTION

84.006 "Street address" defined. "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process.

Assemblyman Anderson moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 55.

Remarks by Assemblymen Anderson, Cobb, and Hardy.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 119, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 777 and 936 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 9, which is attached to and hereby made a part of this report.

WILLIAM HORNE	MAGGIE CARLTON
BERNIE ANDERSON	ALLISON COPENING
JAMES SETTELMEYER	WARREN HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA9.

AN ACT relating to professions; revising provisions governing the regulation of massage therapists by the Board of Massage Therapists; prohibiting certain misleading and deceptive practices relating to massage therapy; revising provisions governing the discipline of massage therapists;

authorizing the Board to issue administrative citations and to impose administrative fines for certain violations; revising provisions governing the temporary suspension of licenses of massage therapists; requiring governmental agencies and courts of competent jurisdiction to provide certain records to the Board or its Executive Director upon request; authorizing governmental agencies and courts of competent jurisdiction to redact certain confidential information from records provided to the Board or its Executive Director; providing remedies and penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, massage therapists must be licensed by the Board of Massage Therapists. (Chapter 640C of NRS) **Sections 2, 3 and 11** of this bill require a massage therapist to display his original license, not a copy or replica, at each location where he practices massage therapy. (NRS 640C.450) **Section 3** prohibits a person from: (1) forging or counterfeiting a license; (2) altering, copying or replicating a license for the purpose of aiding or abetting an unlawful act; or (3) using or displaying a license that has been forged or counterfeited or has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act.

Sections 4 and 16 of this bill prohibit an unlicensed person from advertising as a massage therapist and prohibit a licensed person from using any false or misleading statements in advertising. (NRS 640C.910) **Sections 4 and 16** also prohibit an unlicensed person from having his name listed in a telephone directory under a heading such as "massage" which indicates or implies that he is licensed or qualified to practice massage therapy. **Sections 4 and 16** also authorize the Board to issue an order to cease and desist from engaging in unlawful advertising. **Sections 4, 18 and 19** of this bill contain provisions whereby the Board can have telephone numbers for any type of telephone, messaging or paging service disconnected because they are included in unlawful advertising. (NRS 703.175, 707.355)

Existing law authorizes the Board to take disciplinary action by imposing administrative fines. (NRS 640C.710) **Section 14** of this bill provides that the Board may impose an administrative fine of not more than $5,000 for each violation, unless a greater fine is required pursuant to **section 5** of this bill. **Section 5** requires the Board to impose, based on the number of violations, increasing administrative fines of not more than $10,000 against a licensee who **has engaged in or solicited sexual activity during a massage therapy session or** has been convicted of ~~[a crime involving violence,]~~ prostitution or any other sexual offense that occurred during a massage therapy session.

Section 6.3 of this bill authorizes the Board to issue administrative citations for any statutory or regulatory violations relating to massage therapy and provides that an unlicensed person who fails to comply with a citation is guilty of a misdemeanor. A citation may include an order to: (1) pay an administrative fine; (2) correct a condition resulting from a violation; and (3) reimburse the Board for expenses incurred to

investigate the violation, not to exceed $150. Section 6.5 of this bill allows a person to request a hearing before the Board to contest an administrative citation.

Under existing law, an applicant for a license to practice massage therapy is required to pass a written examination. (NRS 640C.400) Section 10.5 of this bill authorizes an applicant, at his discretion, to pass an oral examination in lieu of the written examination.

Existing law provides for the temporary suspension of a massage therapy license without a prior hearing for a period of 15 or 30 days under certain exigent circumstances. (NRS 640C.720) Generally, procedural due process entitles a licensee to a hearing before his license is suspended. (*Barry v. Barchi*, 443 U.S. 55, 99 S. Ct. 2642 (1979); U.S. Const. Amend. XIV, § 1; Nev. Const. Art. 1, § 8) However, when exigent circumstances justify immediate action, a statute may provide for the temporary suspension of a license without a prior hearing if the statute requires a post-suspension administrative review where a hearing is held and a final decision is rendered as promptly as is practicable. (*Federal Deposit Insurance Corporation v. Mallen*, 486 U.S. 230, 108 S. Ct. 1780 (1988); *Sierra Life Insurance Company v. Rottman*, 95 Nev. 654 (1979)) **Section 15** of this bill: (1) provides for the temporary suspension of a massage therapy license without a prior hearing for a period not to exceed 15 business days under certain exigent circumstances; (2) authorizes the licensee to request a post-suspension administrative review; and (3) requires the Board to hold a hearing and render a final decision as promptly as is practicable but not later than 10 business days after the date of the initial suspension. (NRS 640C.720)

Section 15 of this bill also authorizes the Board and its Executive Director to request from the appropriate governmental agency or court of competent jurisdiction records relating to any conviction of a massage therapist for a crime involving violence, prostitution or any other sexual offense and authorizes those governmental agencies and courts of competent jurisdiction to redact from those records certain information which the agencies or courts deem confidential. (NRS 640C.720) **Sections 15 and 17** of this bill require the governmental agency or court of competent jurisdiction to provide the requested records as soon as reasonably practicable. (NRS 179A.100) **Section 15** also provides that the Board and its Executive Director: (1) must maintain the confidentiality of the records; and (2) may use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 640C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. ***1. "Original license" means the actual license which is issued to the licensee by the Board and which is current and valid.***

2. The term does not include any photocopy print, photostat or other replica of such a license.

Sec. 3. ***1. A person shall not:***

(a) Counterfeit or forge or attempt to counterfeit or forge a license to practice massage therapy; or

(b) For the purpose of aiding or abetting an unlawful act:

(1) Alter or attempt to alter a license to practice massage therapy; or

(2) Make or attempt to make any photocopy print, photostat or other replica of a license to practice massage therapy.

2. A person shall not use or display a license to practice massage therapy that:

(a) Is not the original license issued to the person;

(b) Has been counterfeited or forged;

(c) Has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act; or

(d) Has been issued to another person.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 4. ***1. A person shall not advertise as a massage therapist in this State unless the person is licensed to practice massage therapy pursuant to this chapter.***

2. A person licensed to practice massage therapy pursuant to this chapter shall not disseminate, as part of any advertising by the massage therapist, any false or misleading statement or representation of material fact that is intended, directly or indirectly, to induce another person to use the services of the massage therapist.

3. All advertising by a licensed massage therapist must include his name and the name of his company, if applicable. All advertising in a telephone directory or a newspaper must also include the number of his license.

4. A person who violates any provision of subsection 1 or 2 is guilty of a misdemeanor.

5. If, after notice and a hearing as required by law, the Board determines that a person has willfully engaged in advertising in a manner that violates the provisions of this section or NRS 640C.910, the Board may, in addition to any penalty, punishment or disciplinary action authorized by the provisions of this chapter, order the person to cease and desist the unlawful advertising. The provisions of this subsection do not apply to any person whose license has been expired for less than 90 days or is temporarily suspended.

6. The Board may order any person convicted of a crime involving violence, prostitution or any other sexual offense to cause any telephone number included in the advertising to be disconnected from service. If the

Board orders the person to cause any telephone number to be disconnected from service and the person fails to comply within 5 days after the date on which he is served with the order, the Board may:

(a) If the provider is regulated by the Public Utilities Commission of Nevada, request the Commission to order the provider to disconnect the telephone number from service pursuant to NRS 703.175 and 707.355; or

(b) If the provider is not regulated by the Public Utilities Commission of Nevada, request the provider to disconnect the telephone number from service and inform the provider that the request is made pursuant to this section. Upon receiving such a request, the provider shall take such action as is necessary to disconnect the telephone number from service.

7. A provider shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to this section; or

(b) Provide or offer to provide a message that includes a new telephone number for the person whose telephone number was disconnected from service pursuant to this section.

8. If a provider complies in good faith with a request to disconnect a telephone number from service pursuant to this section, such good-faith compliance shall constitute a complete defense to any civil or criminal action brought against the provider arising from the disconnection or termination of service.

9. As used in this section:

(a) "Advertising" means the intentional placement or issuance of any sign, card or device, or the permitting or allowing of any sign or marking on a motor vehicle, in any building, structure, newspaper, magazine or airway transmission, on the Internet or in any directory under the listing of "massage therapist" or "massage."

(b) "Provider" means a provider of any type of telephone, messaging or paging service.

(c) "Provider of messaging or paging service" means an entity that provides any type of messaging or paging service to any type of communication device.

(d) "Provider of telephone service" has the meaning ascribed to it in NRS 707.355.

(e) "Telephone number" means any sequence of numbers or characters, or both, used by a provider to provide any type of telephone, messaging or paging service.

Sec. 5. ***1. In addition to any other actions authorized by NRS 640C.710, if, after notice and a hearing as required by law, the Board determines that a licensee*** ***has engaged in or solicited sexual activity during the course of practicing massage on a person, as set forth in subsection 4 of NRS 640C.700, or*** ***has been convicted of*** ~~*[a crime involving violence,]*~~ ***prostitution or any other sexual offense that occurred during the course of practicing massage on a person, the Board shall:***

(a) For a first violation, impose an administrative fine of not less than $100 and not more than $1,000;

(b) For a second violation, impose an administrative fine of not less than $250 and not more than $5,000; and

(c) For a third violation and for each additional violation, impose an administrative fine of not less than $500 and not more than $10,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

Sec. 6. ***The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license by a licensee, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.***

Sec. 6.3. 1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has committed an act which constitutes a violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person. A citation issued pursuant to this section may include, without limitation:

(a) An order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, at the person's cost;

(b) An order to pay an administrative fine for each violation; and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate each violation, not to exceed $150.

2. If the citation includes an order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, the citation must:

(a) State the time permitted for compliance, which must not be less than 15 business days after the date on which the citation is received by the person; and

(b) Describe, in specific detail, the action required to be taken.

3. If the citation is issued to a licensee and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine must not exceed the maximum amount authorized by NRS 640C.710 or section 5 of this act, as appropriate for each violation.

4. If the citation is issued to an unlicensed person and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine:

(a) For a first violation, must not be less than $100 and must not be more than $1,000;

(b) For a second violation, must not be less than $250 and must not be more than $5,000; and

(c) For a third violation and for each additional violation, must not be less than $500 and must not be more than $10,000.

5. The sanctions authorized by this section are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

6. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section or make satisfactory payment arrangements, as approved by the Board, within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 6.5. 1. If a person is issued a written administrative citation pursuant to section 6.3 of this act, the person may request a hearing before the Board to contest the citation by filing a written request with the Board:

(a) Not later than 15 business days after the date on which the citation is received by the person; or

(b) If the Board, for good cause shown, extends the time allowed to file a written request for a hearing to contest the citation, on or before the later date specified by the Board.

2. If the person files a written request for a hearing to contest the citation within the time allowed pursuant to this section:

(a) The Board shall provide notice of and conduct the hearing in the same manner as other disciplinary proceedings; and

(b) At the hearing, the person may contest, without limitation:

(1) The facts forming the basis for the determination that the person has committed an act which constitutes a violation of this chapter or the regulations of the Board;

(2) The time allowed to take any corrective action ordered;

(3) The amount of any administrative fine ordered;

(4) The amount of any order to reimburse the Board for the expenses incurred to investigate the violation; and

(5) Whether any corrective action described in the citation is reasonable.

3. If the person does not file a written request for a hearing to contest the citation within the time allowed pursuant to this section, the citation shall be deemed a final order of the Board.

4. For the purposes of this section, a citation shall be deemed to have been received by a person:

(a) On the date on which the citation is personally delivered to the person; or

(b) If the citation is mailed, 3 days after the date on which the citation is mailed by certified mail to the last known business or residential address of the person.

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 640C.020 is hereby amended to read as follows:

640C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 640C.030 to 640C.060, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. (Deleted by amendment.)

Sec. 10.3. **NRS 640C.320 is hereby amended to read as follows:**

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;

2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;

3. Establish the requirements for the approval of an instructor of a course of continuing education;

4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;

5. Except as otherwise provided in NRS 622.090, prescribe the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; ~~[and]~~

6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant ~~[.]~~ ***; and***

7. Prescribe the form of a written administrative citation issued pursuant to section 6.3 of this act.

Sec. 10.5. **NRS 640C.400 is hereby amended to read as follows:**

640C.400 1. The Board may issue a license to practice massage therapy.

2. An applicant for a license must:

(a) Be at least 18 years of age;

(b) Submit to the Board:

(1) A completed application on a form prescribed by the Board;

(2) The fees prescribed by the Board pursuant to NRS 640C.520;

(3) Proof that he has successfully completed a program of massage therapy recognized by the Board;

(4) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his license to practice massage therapy; and

(II) Disciplinary proceedings relating to his license to practice massage therapy are not pending;

(5) Except as otherwise provided in NRS 640C.440, a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(6) The names and addresses of five natural persons not related to the applicant and not business associates of the applicant who are willing to serve as character references;

(7) A statement authorizing the Board or its designee to conduct an investigation to determine the accuracy of any statements set forth in the application; and

(8) If required by the Board, a financial questionnaire; and

(c) In addition to any examination required pursuant to NRS 640C.320 ~~[and except]~~ ***:***

(1) Except as otherwise provided in subsection 3, pass a written examination administered by any board that is accredited by the National Commission for Certifying Agencies, or its successor organization, to examine massage therapists ~~[.]~~ ***; or***

(2) At the applicant's discretion and in lieu of a written examination, pass an oral examination prescribed by the Board.

3. If the Board determines that the examinations being administered pursuant to ***subparagraph (1) of*** paragraph (c) of subsection 2 are inadequately testing the knowledge and competency of applicants, the Board shall prepare or cause to be prepared its own written examination to test the knowledge and competency of applicants. Such an examination must be offered not less than four times each year. The location of the examination must alternate between Clark County and Washoe County. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination.

4. The Board shall recognize a program of massage therapy that is:

(a) Approved by the Commission on Postsecondary Education; or

(b) Offered by a public college in this State or any other state.

➥ The Board may recognize other programs of massage therapy.

5. The Board or its designee shall:

(a) Conduct an investigation to determine:

(1) The reputation and character of the applicant;

(2) The existence and contents of any record of arrests or convictions of the applicant;

(3) The existence and nature of any pending litigation involving the applicant that would affect his suitability for licensure; and

(4) The accuracy and completeness of any information submitted to the Board by the applicant;

(b) If the Board determines that it is unable to conduct a complete investigation, require the applicant to submit a financial questionnaire and investigate the financial background and each source of funding of the applicant;

(c) Report the results of the investigation of the applicant within the period the Board establishes by regulation pursuant to NRS 640C.320; and

(d) Except as otherwise provided in NRS 239.0115, maintain the results of the investigation in a confidential manner for use by the Board and its members and employees in carrying out their duties pursuant to this chapter. The provisions of this paragraph do not prohibit the Board or its members or employees from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 11. NRS 640C.450 is hereby amended to read as follows:

640C.450 ***1.*** Each licensee shall display his ***original*** license in a conspicuous manner at each location where he practices massage therapy. ***If a licensee practices massage therapy in more than one place, he must carry his original license with him and display it wherever he is actually working.***

2. A licensee shall obtain a replacement of his original license from the Board if his:

(a) Original license is destroyed, misplaced or mutilated; or

(b) Name or address as printed on the original license has changed.

3. To obtain a replacement license, the licensee must:

(a) File an affidavit with the Board, on the form prescribed by the Board, which states that his original license was destroyed, misplaced or mutilated or that his name or address as printed on the original license has changed; and

(b) Pay the fee prescribed by the Board pursuant to NRS 640C.520.

Sec. 12. NRS 640C.520 is hereby amended to read as follows:

640C.520 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:

An examination established by the Board pursuant to this chapter	$600
An application for a license	300
An application for a license without an examination	300
A background check of an applicant	600
The issuance of a license	400
The renewal of a license	200
The restoration of an expired license	500
The reinstatement of a suspended or revoked license	500
The issuance of a ~~[~~duplicate~~]~~ ***replacement*** license	75
The restoration of an inactive license	300

2. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

Sec. 13. NRS 640C.700 is hereby amended to read as follows:

640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a crime involving moral turpitude within the immediately preceding 10 years ***;*** ~~[.]~~

4. Has engaged in or solicited sexual activity during the course of practicing massage on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license:

(a) Made sexual advances toward the person;

(b) Requested sexual favors from the person; or

(c) Massaged, touched or applied any instrument to the breasts of the person, unless the person has signed a written consent form provided by the Board;

5. Has habitually abused alcohol or is addicted to a controlled substance;

6. Is, in the judgment of the Board, guilty of gross negligence in his practice of massage therapy;

7. Is determined by the Board to be professionally incompetent to engage in the practice of massage therapy;

8. Has failed to provide information requested by the Board within 60 days after he received the request;

9. Has, in the judgment of the Board, engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy;

10. Has been disciplined in another state, a territory or possession of the United States or the District of Columbia for conduct that would be a violation of the provisions of this chapter or any regulations adopted pursuant thereto if the conduct were committed in this State;

11. Has solicited or received compensation for services relating to the practice of massage therapy that he did not provide;

12. If the holder of the license is on probation, has violated the terms of his probation; ~~[or]~~

13. Has engaged in false, deceptive or misleading advertising, including, without limitation, falsely, deceptively or misleadingly advertising that he

has received training in a specialty technique of massage for which he has not received training, practicing massage therapy under an assumed name and impersonating a licensed massage therapist ~~[.]~~ ***;*** ~~*[or]*~~

14. Has failed to comply with a written administrative citation issued pursuant to section 6.3 of this act within the time permitted for compliance set forth in the citation or, if a hearing is held pursuant to section 6.5 of this act, within 15 business days after the hearing; or

15. Except as otherwise provided in subsection 14, has failed to pay or make arrangements to pay, as approved by the Board, an administrative fine imposed pursuant to this chapter within 60 days after:

(a) Receiving notice of the imposition of the fine; or

(b) The final administrative or judicial decision affirming the imposition of the fine,

➥ whichever occurs later.

Sec. 14. NRS 640C.710 is hereby amended to read as follows:

640C.710 1. If, after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:

(a) Place the applicant or holder of the license on probation for a specified period or until further order of the Board;

(b) Administer to the applicant or holder of the license a public reprimand;

(c) Refuse to issue, renew, reinstate or restore the license;

(d) Suspend or revoke the license;

(e) ~~[Impose]~~ ***Except as otherwise provided in section 5 of this act, impose*** an administrative fine of not more than ~~[$1,000 per day for each day for which the Board determines that a violation occurred;]~~ ***$5,000 for each violation;***

(f) Require the applicant or holder of the license to pay the costs incurred by the Board to conduct the investigation and hearing; or

(g) Impose any combination of actions set forth in paragraphs (a) to (f), inclusive.

2. The order of the Board may contain such other terms, provisions or conditions as the Board deems appropriate.

3. The order of the Board and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not issue a private reprimand.

Sec. 15. NRS 640C.720 is hereby amended to read as follows:

640C.720 Notwithstanding any other statute to the contrary:

1. If the Board finds ***, based upon evidence in its possession,*** that immediate action is necessary to protect the health, safety or welfare of the public, the Board may, upon providing notice to the massage therapist, temporarily suspend his license ***without a prior hearing*** for a period not to exceed ~~[30 days. For good cause,]~~ ***15 business days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than***

10 business days after the date on which the massage therapist receives notice of the temporary suspension. If the massage therapist:

(a) Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Board receives the written request. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ ***finds, for good cause shown, that*** such action ~~[to be]~~ ***is*** necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension ***as promptly as is practicable but*** not later than 30 days after the date on which the Board ~~[notifies the massage therapist]~~ ***provides notice*** of the ***initial*** temporary suspension. ***After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.***

2. If a massage therapist is charged with or cited for ~~[a crime involving violence,]~~ prostitution or any other sexual offense, the appropriate law enforcement agency shall report the charge or citation to the Executive Director ~~[.]~~ ***of the Board.*** Upon receiving such a report, the Executive Director shall immediately issue ***by certified mail to the massage therapist*** a cease and desist order temporarily suspending the license of the massage therapist ~~[.]~~ ***without a prior hearing.*** The temporary suspension of the license is effective immediately ~~[upon issuance]~~ ***after the massage therapist receives notice*** of the cease and desist order and must not exceed ~~[15 days. For good cause,]~~ ***15 business days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 10 business days after the date on which the Executive Director mails the cease and desist order. If the massage therapist:***

(a) Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Board receives the written request. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ ***finds, for good cause shown,***

that such action ~~[to be]~~ ***is*** necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension ***as promptly as is practicable but*** not later than 15 ***business*** days after the date on which the Executive Director ~~[issues]~~ ***mails*** the cease and desist order. ***After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.***

3. If the Board or the Executive Director issues an order temporarily suspending the license of a massage therapist pending proceedings for disciplinary action, a court shall not stay that order.

4. When conducting an investigation of a massage therapist pursuant to this chapter, the Board or the Executive Director may request from the appropriate governmental agency or court of competent jurisdiction records relating to any conviction of the massage therapist for a crime involving violence, prostitution or any other sexual offense. Such records include, without limitation, a record of criminal history as defined in NRS 179A.070.

5. Upon receiving a request from the Board or the Executive Director pursuant to subsection 4, the governmental agency or court of competent jurisdiction shall provide the requested records to the Board or the Executive Director as soon as reasonably practicable. The governmental agency or court of competent jurisdiction may redact from the records produced pursuant to this subsection any information relating to the agency or court that is deemed confidential by the agency or court. Upon receiving the records from the governmental agency or court, the Board and the Executive Director:

(a) Shall maintain the confidentiality of the records if such confidentiality is required by federal or state law; and

(b) May use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist pursuant to this chapter.

6. For purposes of this section, a person is deemed to have notice of a temporary suspension of his license:

(a) On the date on which the notice is personally delivered to the person; or

(b) If the notice is mailed, 3 days after the date on which the notice is mailed by certified mail to the last known business or residential address of the person.

Sec. 16. NRS 640C.910 is hereby amended to read as follows:

640C.910 1. If a person is not licensed to practice massage therapy pursuant to this chapter, the person shall not:

(a) Engage in the practice of massage therapy; ~~[or]~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~[.]~~ ***; or***

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

2. If a person's license to practice massage therapy pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not:

(a) Engage in the practice of massage therapy; ~~[or]~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~[.]~~ ***; or***

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 17. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives his written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the notice on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who

requests information and to whom information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative.

(q) The Aging Services Division of the Department of Health and Human Services or its designated representative.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage Therapists and its Executive Director.

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 18. NRS 703.175 is hereby amended to read as follows:

703.175 1. Upon receiving a request ***to disconnect a telephone number*** from the State Contractors' Board ~~[to disconnect a telephone number]~~ pursuant to NRS 624.720, ***the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758,*** the Commission shall issue an order to the appropriate provider of telephone service to disconnect the telephone number.

2. Compliance in good faith by a provider of telephone service with an order of the Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the provider of telephone service arising from the termination of service.

3. As used in this section, "provider of telephone service" has the meaning ascribed to it in NRS 707.355.

Sec. 19. NRS 707.355 is hereby amended to read as follows:

707.355 1. Each provider of telephone service in this State shall, when notified that:

(a) A court has ordered the disconnection of a telephone number pursuant to NRS 706.2855; or

(b) The Public Utilities Commission of Nevada has ordered the disconnection of a telephone number pursuant to NRS ~~[624.720 and]~~ 703.175, ***after receiving a request to disconnect the telephone number from the State Contractors' Board pursuant to NRS 624.720, the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758,***

➥ take such action as is necessary to carry out the order of the court or the Public Utilities Commission of Nevada.

2. A provider of telephone service shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to the provisions of this section; or

(b) Provide or offer to provide a recorded message that includes the new telephone number for a business whose telephone number was disconnected from service pursuant to the provisions of this section.

3. As used in this section, "provider of telephone service" includes, but is not limited to:

(a) A public utility furnishing telephone service.

(b) A provider of cellular or other service to a telephone that is installed in a vehicle or is otherwise portable.

Assemblyman Horne moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 119.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Assembly Bills Nos. 25, 121, 463, 467.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Coffin, Hardy and Woodhouse as a Conference Committee concerning Senate Bill No. 403.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:43 p.m.

ASSEMBLY IN SESSION

At 10:48 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 418 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assemblyman Oceguera moved that Senate Concurrent Resolution No. 37 be taken from the Resolution File and placed on the Resolution File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 9, 18, 64, 65, 148, 214, 218, 229, 430, 461, 540, 546, 564; Assembly Resolution No. 12; Senate Bills Nos. 7, 43, 54, 84, 188, 218, 273, 389, 427, 429, 431, 433, 434, 435; Senate Concurrent Resolution No. 36.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Xiomara Rodriguez and Alfred Walking Bull.

Assemblyman Oceguera moved that the Assembly adjourn until Monday, June 1, 2009, at 9 a.m.

Motion carried.

Assembly adjourned at 10:49 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

THE ONE HUNDRED AND TWENTIETH DAY

CARSON CITY (Monday), June 1, 2009

Assembly called to order at 9:20 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. This, folks, is as good as it gets. I know we're all tired and overworked and certainly in the case of you elected folks, underpaid. And still it's as good as it gets. So Lord, we're all about thanking You today because we're all Americans and, more importantly, we're Nevadans. So when I say this is as good as it gets, I think that's pretty durn good. Lord, we sure do thank You for that. It's the last day here, Lord, and we're all headed somewhere, so we ask that You get us there as safely as possible. Finally, Lord, I think I speak for all of us when I say we're all grateful for having had this opportunity to serve the good folks of our great state and being part of this incredible process. We sure thank You for that, too.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 316, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 316 considered engrossed, declared an emergency measure under the *Constitution*, and placed on third reading and final passage.

Motion carried.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 140, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 771 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 8, which is attached to and hereby made a part of this report.

WILLIAM HORNE	MAGGIE CARLTON
KATHY MCCLAIN	ALLISON COPENING
HEIDI GANSERT	
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA8.

AN ACT relating to real property; revising provisions relating to a notice of sale of real property under execution; establishing the crime of defacing a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale; establishing rights and duties of a purchaser of real property pursuant to a foreclosure sale and establishing rights and duties of a tenant in possession of such property; revising provisions relating to a sale of real property pursuant to a trustee's power of sale; requiring a landlord to make certain disclosures to a prospective tenant; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2 and 7 of this bill revise existing law by requiring that a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale be served upon the State Board of Health if the real property is operated as a licensed health facility. **Sections 2 and 6.7** of this bill require, if the sale of property is a residential foreclosure, a separate notice to be served upon any tenant or subtenant, other than the judgment debtor, in actual occupation of the real property subject to a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale to inform the tenant or subtenant that the property is subject to a notice of sale. (NRS 21.130) **Sections 3 and 8** of this bill make it unlawful for a person to willfully remove or deface a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale which is posted on real property. (NRS 21.140, 107.084) **Sections 4 and 6** of this bill require the purchaser of a vacant residential property at a foreclosure sale or a trustee's sale to maintain the exterior of the property. **Sections 4 and 6** also authorize the appropriate governmental entity to assess a civil penalty of up to $1,000 per day, under certain circumstances, for failure to maintain the property.

Existing law provides that a person who holds over and continues in possession of real property that has been foreclosed after a 3-day notice to quit has been served upon him may be removed. (NRS 40.255) **Section 5** of this bill provides that a tenant or subtenant, other than the person whose name appears on the mortgage or deed of trust, may be removed only after the expiration of a specified period not to exceed 60 days if the property has been sold as a residential foreclosure. **Section 5** also requires the tenant or subtenant who remains in occupation of the real property to remit rent to the new owner of the property pending expiration of the specified period. **Section 5** further prohibits any person from entering a record of eviction for a tenant or subtenant who vacates the property within the specified period if

the property has been sold as a residential foreclosure. Finally, **section 5** allows the new owner of the real property, if the property has been sold as a residential foreclosure, to negotiate a new purchase, lease or rental agreement with the tenant or subtenant in occupation of the property or to offer a payment in exchange for the tenant or subtenant vacating the property on a date earlier than the end of the specified period.

Section 5.5 of this bill requires a landlord to file proof of service with the court of any notice required to be served before the removal of a person who holds over and continues in possession of real property after receiving a 3-day notice to quit. (NRS 40.280)

Section 9 of this bill requires a landlord to disclose in writing to a prospective tenant if the property to be leased or rented is the subject of foreclosure proceedings. **Section 9** also makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

Section 10 of this bill amends section 3 of Assembly Bill No. 149 of this session to ensure that social security numbers are redacted from the copy of a promissory note before it is attached to a notice given before a trustee's power of sale is carried out. (NRS 107.085)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 ~~[nor]~~ ***or*** more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:

(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor ~~[,]~~ ***and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;***

(2) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; ~~[and]~~

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than $500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse ~~[.]~~ ***;***

(4) Recording a copy of the notice in the office of the county recorder; and

(5) If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

2. ***If the sale of property is a residential foreclosure, the notice must include, without limitation:***

(a) The physical address of the property; and

(b) The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.

3. If the sale of property is a residential foreclosure, a separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes ~~[40.255,]~~ , eviction proceedings may begin against you after you have been given a ~~[3-day]~~ notice to quit.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness;

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor ***or any other person entitled to notice*** has not been properly notified as required in this section and NRS 21.075 and 21.076.

5. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 3. NRS 21.140 is hereby amended to read as follows:

21.140 1. An officer selling without the notice prescribed by NRS 21.075, 21.076 and 21.130 forfeits $500 to the aggrieved party, in addition to his actual damages.

2. ~~[A]~~ ***It is unlawful for a*** person ***to*** willfully ~~[taking]~~ ***take*** down or ~~[defacing]~~ ***deface*** the notice posted pursuant to NRS 21.130, if done before the sale or, if the judgment is satisfied before sale, before the satisfaction of the judgment ***.*** ~~[, forfeits]~~ ***In addition to any other penalty, any person who violates this subsection shall forfeit*** $500 to the aggrieved party.

Sec. 4. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any vacant residential property purchased or acquired by a person at a foreclosure sale pursuant to NRS 40.430 must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.

10. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.

Sec. 5. NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as ***otherwise*** provided in ~~[~~subsection~~]~~ ***subsections*** 2 ~~[.]~~ ***and 7,*** in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to quit has been served upon him ~~[~~, and also upon any subtenant in actual occupation of the premises, pursuant to NRS 40.280,~~]~~ may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

(a) Where the property or mobile home has been sold under an execution against him or a person under whom he claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by him or a person under whom he claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by such person or a person under whom he claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by him or a person under whom he claims, and the title under the sale has been perfected.

2. ***If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, after receiving a notice of the change of ownership of the real property or mobile home and after the expiration of a***

notice period beginning on the date the notice was received by the tenant or subtenant and expiring:

(a) For all periodic tenancies with a period of less than 1 month, after not less than the number of days in the period; and

(b) For all other periodic tenancies or tenancies at will, after not less than 60 days.

3. During the notice period described in subsection 2:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and

(b) The tenant or subtenant continues to have the rights, obligations and liabilities he had pursuant to chapter 118A of NRS under the lease or rental agreement which he entered into with the previous owner or landlord regarding the property.

4. The notice described in subsection 2 must contain a statement:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement he entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection 2; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings.

5. If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection 2.

6. If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit:

(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection 2 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or

(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

(1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or

(2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection 2.

7. This section does not apply to the tenant of a mobile home lot in a mobile home park.

8. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 5.5. NRS 40.280 is hereby amended to read as follows:

40.280 1. Except as otherwise provided in NRS 40.253, the notices required by NRS 40.251 to 40.260, inclusive, may be served:

(a) By delivering a copy to the tenant personally, in the presence of a witness;

(b) If he is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the tenant at his place of residence or place of business; or

(c) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property, delivering a copy to a person there residing, if the person can be found, and mailing a copy to the tenant at the place where the leased property is situated.

2. Service upon a subtenant may be made in the same manner as provided in subsection 1.

3. Before an order to remove a tenant is issued pursuant to subsection 5 of NRS 40.253, a landlord shall file with the court a proof of service of any notice required by that section. ***Before a person may be removed as prescribed in NRS 40.290 to 40.420, inclusive, a landlord shall file with the court proof of service of any notice required pursuant to NRS 40.255.*** Except as otherwise provided in subsection 4, this proof must consist of:

(a) A statement, signed by the tenant and a witness, acknowledging that the tenant received the notice on a specified date;

(b) A certificate of mailing issued by the United States Postal Service; or

(c) The endorsement of a sheriff, constable or other process server stating the time and manner of service.

4. If service of the notice was not delivered in person to a tenant whose rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, proof of service must include:

(a) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or his agent; or

(b) The endorsement of a sheriff or constable stating the:

(1) Time and date the request for service was made by the landlord or his agent;

(2) Time, date and manner of the service; and

(3) Fees paid for the service.

Sec. 6. Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 6.3 and 6.7 of this act.

Sec. 6.3. 1. Any vacant residential property purchased or acquired by a person at a trustee's sale pursuant to NRS 107.080 must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.

10. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.

Sec. 6.7. 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default and election to sell and the notice of sale must:

(a) Be posted in a conspicuous place on the property not later than 3 business days after the notice of default and election to sell or the notice of sale is recorded pursuant to NRS 107.080; and

(b) Include, without limitation:

(1) The physical address of the property; and

(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

3. A separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or his successor in interest, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 4 of NRS 107.080. The separate notice must be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes [40.255,] eviction proceedings may begin against you after you have been given a [3-day] notice to quit.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness;

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.080.

Sec. 7. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, ~~[and]~~ to the person who holds the title of record on the date the notice of default and election to sell is recorded ~~[,]~~ ***and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health,*** at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must ~~[describe]~~ ***:***

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2 ~~[.]~~ ***; and***

(b) If the property is a residential foreclosure, comply with the provisions of section 6.7 of this act.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor ***,*** ~~[and]~~ any other person entitled to notice pursuant to this section ***and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health,*** by personal service or by mailing the notice by registered or certified mail to the last

known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; ~~[and]~~

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated ~~[.]~~ ***; and***

(d) If the property is a residential foreclosure, complying with the provisions of section 6.7 of this act.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section ~~[;]~~ ***or any applicable provision of section 6.7 of this act;***

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":

(a) Means a structure that is comprised of not more than four units.

(b) Does not include any time share or other property regulated under chapter 119A of NRS.

Sec. 8. NRS 107.084 is hereby amended to read as follows:

107.084 ~~[A]~~ ***It is unlawful for a*** person ~~[who]~~ ***to*** willfully ~~[removes]~~ ***remove*** or ~~[defaces]~~ ***deface*** a notice posted pursuant to subsection 4 of NRS 107.080, if done before the sale or, if the default is satisfied before the sale, before the satisfaction of the default ***.*** ~~[,]~~ ***In addition to any other penalty,***

any person who violates this section is liable in the amount of $500 to any person aggrieved by the removal or defacing of the notice.

Sec. 9. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A landlord shall disclose in writing to a prospective tenant if the property to be leased or rented is the subject of any foreclosure proceedings.

2. A willful violation of subsection 1 constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 10. **Section 3 of Assembly Bill No. 149 of this session is hereby amended to read as follows:**

Sec. 3. NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003 ~~[;~~ ~~and~~

~~(b) On~~] ***, and, on*** the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32 ~~[.]~~ ***; or***

(b) The trust agreement concerns owner-occupied housing as defined in section 1 of this act.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor ***or the person who holds the title of record*** a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor ***or the person who holds the title of record:***

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor ~~[.]~~ ***or the person who holds the title of record; or***

(2) If the trust agreement concerns owner-occupied housing as defined in section 1 of this act:

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place

and mailing a copy to the grantor or the person who holds the title of record at his place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and ***, except as otherwise provided in subsection 4,*** a copy of the promissory note attached to the notice:

NOTICE
YOU ARE IN DANGER OF LOSING YOUR HOME!

Your home loan is being foreclosed. In ***not less than*** 60 days your home will be sold and you will be forced to move. For help, call:
Consumer Credit Counseling _____
The Attorney General _____
The Division of Financial Institutions _____
Legal Services _____
Your Lender _____
Nevada Fair Housing Center _____

4. ***The trustee shall cause all social security numbers to be redacted from the copy of the promissory note before it is attached to the notice pursuant to paragraph (b) of subsection 3.***

5. This section does not prohibit a judicial foreclosure.

~~[5.]~~ ***6.*** As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Sec. 11. **1. This section and section 10 of this act become effective on July 1, 2009.**

2. Sections 1 to 9, inclusive, of this act become effective on October 1, 2009.

Assemblyman Conklin moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 140.

Motion carried by a constitutional majority.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 9:27 a.m.

ASSEMBLY IN SESSION

At 9:39 a.m.
Madam Speaker presiding.
Quorum present.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Let's turn our attention to some of our legislators who won't be returning to the Assembly. May we consider Mark Manendo?

Assemblyman Manendo has been a member of this body since 1994. We were in the same freshman class together, along with, on the Democratic side, David Goldwater and Genie Ohrenschall. The rest of the freshman class were Republicans. It was the year of our 21-21 tie.

Mark has served in a variety of positions—as Assistant Majority Whip, chairman of Government Affairs, vice chairman of both Transportation and Health and Human Services, and chair of the Legislative Commission's Subcommittee to Study Categories of Misdemeanors. But he is really known to all of us for his ready smile, his idealism, and his energy. There is probably no person that I have met that cares more about the people of his district or works harder to serve them than Mark Manendo.

Mark is a native of Pennsylvania. He first became interested in politics as a child when his mother, whom we all know and love, ran for the local school board. Although she lost, Mark was bitten by the political bug and has been involved in politics ever since. His family moved to Las Vegas when he was a teenager, and he graduated from Chaparral High School in 1985. In 1990, he became involved in the legislative campaign of his predecessor, Assemblyman William Petrak. In 1994 when Mr. Petrak expressed an interest in retiring, Mr. Manendo ran for the Assembly himself.

During his service, Mark has concentrated on legislation that helps to directly improve the lives of citizens. He sponsored a bill that authorized police departments to train citizens to write tickets to drivers who park illegally in handicapped spaces. That had been an area where the police didn't really have time to enforce it, and folks that were truly disabled had trouble. As a result of his efforts, compliance has greatly improved.

Mark's father was a veteran. and he has always been a champion of the interests of veterans. In 2003, he sponsored legislation to allow the acceptance of gifts to support the veterans' cemeteries. He has been just as active with mobile home parks, and he's been instrumental in the passing of several pieces of legislation ensuring the safety of mobile parks and protecting the rights of those who rent space in parks. He has been the chairman of our mobile home caucus for the last several sessions. He has also championed laws regarding drinking and driving. To many of the freshmen—sometimes it takes a while for ideas to gain acceptance. Mark was at the forefront before anyone else with regard to DUI. He fought for sessions to get the law passed to lower the threshold from .10 to .08. It wasn't too long ago that we just really didn't take seriously the issue of DUI and the people killed on our roads by others. He was also instrumental in passing laws prohibiting the use of minors in distributing materials promoting alcohol and requiring DUI offenders with blood alcohol content exceeding .18 to get treatment. As a result of these efforts, he was three times given the Legislative Leadership Award by the National Commission Against Drunk Driving.

Mark Manendo's passion is encouraging citizens to get involved in the political process. He works to reach out to the people in his district and find out what issues most concern them. He walks his district and knocks on every door. He is one of the rare legislators that actually walks and knocks on doors during the session on the weekends. He constantly attends and participates in community events. He is a tireless volunteer for all kinds of causes that benefit the

community. He frequently returns to his alma mater, Chaparral High School, to speak to students in social science and government classes. He is especially passionate about reaching new voters and often carries with him a stack of voter registration forms. He is involved in anything that happens to his community. We have a saying that no one can outwork Mark Manendo. The people return him here because they know him, they like him, and they trust him.

You've been a good friend to me, Mark, since our freshman days. We've gone through a lot together and seen a lot of changes together. This body will miss you. Thank you for your years of service.

ASSEMBLYWOMAN SPIEGEL:

I stand to thank Mark Manendo for reaching out to the whole community. It is said very often that all politics is local. Mark is the epitome of somebody who gets out there and reaches out to meet people, encourage them, and help them.

I first met Mark a number of years ago before I ever thought of running for office. Mark was always there with a smile and encouragement and looking to see what the problems were and if there was something he could do to help. His tireless energy—we see every day. Anybody who has ever been in a committee meeting with Mark will hear him say very often, "I just got an email from a constituent." "I was just in the supermarket, and I saw a constituent who said that we need to be doing this." "I just got a phone call from a constituent." I don't know if there is anybody in this building who is in better contact with their constituents than Mark Manendo. I know the people of Nevada have been really fortunate to have you, and I hope I have learned a lot from you on how to work with and to reach out to constituents. I hope that the lessons of Mark Manendo continue, because Nevada will be a better place for them. Thank you.

ASSEMBLYMAN MORTENSON:

I would like everyone to look at the pinwheel on Mark's desk. There is something significant about that—spiritual, I think. There is no other pinwheel in this whole Assembly that is turning except for Mark's. The funny thing is that it turns even when he is not there.

I have to bring up an incident that happened a few years ago. Somehow or other, all the legislators' laptops got a virus, and then it was blamed on Dennis Nolan. Dennis used to sit right over here somewhere. So the next day he came in with a paper bag over his head and two slits cut in for his eyes, and he held up a sign, "I didn't do it." Everybody laughed very hard, and then he held up a second sign that said "Mark Manendo did it."

I think Mark has one of the greatest senses of humor in this Assembly, and his culprit who is sitting next to him used to be second-in-command in that area. or maybe first. They are two peas in a pod. We are going to miss him terribly. Of course, again, I'm not going to be here to miss him, but I will miss him wherever I am. Thank you very much, Mark. We love you and we'll miss you.

ASSEMBLYWOMAN PIERCE:

I can't add to what the Speaker said. You work tirelessly for your constituents, and you always have the little guy in your thoughts as you move through this process. I just wanted to thank you for your service.

ASSEMBLYMAN CLABORN:

I have to say some good things about my good friend Mark. He is a great guy, and everybody is right: He is the hardest worker that you can imagine. I can remember when I first came here, he was so concerned about the noise barriers. People were saying, "Those would cost millions of dollars." He said he didn't care—you put them on the other side of town, you can put them on our side of town. He fought fearlessly, like a gladiator fighting a big lion. And guess what? Today you have wall barriers all over 215, all over the freeways where he was wanting them in his district.

Mark, you are a great guy. I love you. You've got a great family. Take care of Robin. I'm not going to miss you because I'm going to be with you and see you all the time. We will always be pals until they close that lid down on this fat boy. Thank you, Mark.

ASSEMBLYMAN CARPENTER:

Thank you, Mark. We've always been friends; we've always had a great time. I'm going to miss you, too. If you ever need a real home in a mobile home park, come to Elko.

ASSEMBLYMAN DENIS:

I rise in support of my neighbor, Mark Manendo. I have known him much longer than I've been in the Legislature. I remember coming up to the Legislature with the PTA and advocating. One of the things I do remember was the DUI stuff that he was doing. Year after year, we tried to get it, but we just couldn't get it quite there. Mark was always there fighting for that. My other colleague just mentioned the sound barriers. Every time I travel anywhere now and I see a sound barrier on a freeway, I always think of Mark and the testament that if you work something long enough, eventually you'll get it. I appreciate all that you do. I appreciate your commitment and your passion. Nevada is a better place because of your service. Thank you.

ASSEMBLYMAN HARDY:

I think Assemblyman Manendo gave new definition to the word "fight" for sound barriers, and I'll just leave it at that.

One of the things I appreciate about you, Mark, is your ability to understand people and know who needs to be recognized in committee, to involve everybody's opinion and be able to focus without them even saying anything, and to know how to involve everybody on the committee. It was very admirable. As I, as a freshman, came to Government Affairs and watched your ability to include people and their comments and work that committee, I appreciated that. Thank you, Mark.

ASSEMBLYMAN GRADY:

Yesterday Mark mentioned a little bit about a trip that we made around the state. As Paul Harvey would say, "I'd like to tell you the rest of the story." What really happened is we started out in Las Vegas with a number of legislators in a van; it was sponsored by NACO and the Nevada League of Cities when I was with them. We made the tour up through the rural area. Many of the legislators had never been on that route. We stopped at a ranch, and there happened to be a number of cattle that were watering there. As we were talking to the people that owned the ranch, Mark kind of wandered off. We thought, "Well, I wonder where he's gone?" So we snuck around to see what Mark would do. He was over there—and I'll exaggerate it a little bit—but he was saying, "Moo, moo." So we had to tell Mark to be careful—that those cows were trying to mother up with their calves, and they may mistake Mark for one of the calves. That night when we went to Elko—we couldn't resist it—we did buy him that bell, but not only the bell but a big collar to go with it. The next morning when we left Elko, Mark had the bell on, and it rang, and it rang, and it rang until—I think it was Ms. Koivisto—told him "Mark, take off that damn bell or we're throwing both of you out the window." Mark, it was a good trip, and we appreciate it.

ASSEMBLYMAN ANDERSON:

I have had the pleasure of having Mr. Manendo on the Judiciary Committee. His predecessor, who was also on the Judiciary Committee, first brought Mark up, and he would sit in the back of the committee room in the old Judiciary, which is now a hallway. I got to know him early on as somebody who cared deeply about the political process first, and then as a member. When I look at my almanac for the day, June 1, there is a statement from Captain Lawrence about his pending loss of his ship: "Don't give up the ship." While Perry gets the credit for the use of that term on the name of his ship in Lake Erie, it was Lawrence who is often forgotten about. "Don't give up the ship" is Mark Manendo. When my colleague wondered about the pinwheel on Mark's desk that was constantly turning, I thought it was appropriate because he is a Don Quixote, that is, someone who tilts at windmills that seem impossible to others, but he will make sure that he lifts them as soon as he gets the opportunity. Mr. Manendo, for your tenacity, for your "don't give up the ship" attitude, for all those drunk drivers who are going to stay off the road because you gave them a second chance to show them the error of their ways and they changed their behavior as a result, the people of this state are thankful for your presence here.

ASSEMBLYMAN STEWART:

I'll remember my friend Mark Manendo for his strong advocacy of the cultural arts, and I appreciate that. Also, he is always cheerful and caring. The only time I've seen him when he wasn't cheerful was when he was concerned about a certain bill about a week and a half ago—he got a little angry then. We'll miss you, Mark, and thank you for your service.

ASSEMBLYMAN OHRENSCHALL:

I first met Mark at Paradise Democratic Club meetings and Young Democrats meetings, before he was elected to the Assembly. I am proud of everything that you have done for your constituents and how you delivered for the Whitney area of Las Vegas, everything you've done for the veterans' home in southern Nevada, everything you've done for victims' rights groups and for mobile home parks. You're really someone who has brought home the bacon to the people you represent. We'll miss you, Mark.

ASSEMBLYMAN ATKINSON:

I got to know Mark before I came to this body. I work for the county, but I used to be a neighborhood liaison, and I staffed the Whitney town hall. I believe Mark was there more than I was. I later learned that he was the Assemblyman for the area, and I admired his work ethic and what he meant to his constituents. I believe staff and I were supposed to lead those meetings, but I remember somehow he led most of them. You can tell that his constituents really admire his work and how hard he works for them. It was no wonder to me when I read and understood later how much he walked his district and how much he walked during the interim. Over the years, Mark and I have become pretty good friends, I believe. We talk from time to time when we're not in session about a lot of issues.

I have been privileged to have him as vice chair of the Transportation Committee the last two sessions. We don't always agree, but I understand where he stands. He is very, very strong when it comes to safety in our state. He really, really wants to do what is right when it comes to safety, whether it is texting, seat belts, or cell phone usage. You guys don't sit by him and have to disagree with him in committee. He doesn't give up, and he's almost had me a couple times the last few sessions. He was close; if we had gone 123 days, he would have had me. He is just a fighter.

I've always admired that about you, Mark. I know you are a good man, and I know you're not done. I know you have a lot more to contribute to our state. I will end by wishing you all the best of luck, and I am sure that the following of your district doesn't end today. Good luck, and we appreciate you.

ASSEMBLYWOMAN MCCLAIN:

Mark, we have been friends for a long time. We have had a lot of fun together. You are a great advocate for your constituents, and I know you work really hard. It has been great working with you.

ASSEMBLYMAN HOGAN:

I rise to defend our friend, M&M, against any slings or arrows that might be cast his way. He has become one of my closest friends here, and I have enjoyed his humor and his friendship and his clever ideas on where to go at night. I keep getting surprised in and around my own district when people that I'm trying to convince that I'm a heck of a legislator say, "Yeah, but do you know a fellow up there named Manendo?" He is one of the most widely known folks in my district, which is not particularly close to his, but everybody seems to know Mark. He makes a lasting impression in one way or another.

Everyone has mentioned the sound walls. The thing I think about every time I look at Mark is how someone who looks so young could be termed out. We must have a very short term limit period that it could happen so quickly to someone who looks like he is still reaching for age 27 or 28. It leaves us all to wonder who could possibly take up the cause as effectively as Mark has carried the cause of bringing blessed silence to our very, very noisy city by extending sound walls up and down every street and avenue until finally we are totally enclosed, totally soundproof, and able to enjoy the peace and quiet of our own families. Thank you so much, Mark, for all of the fun, for all of the excellent legislative contributions, and for giving us a good

example of how to fully cultivate the crop of constituents who live on our respective farms. Thanks again, and we will be seeing you regularly.

SENATOR DENNIS NOLAN:

Thank you, Madam Speaker, for extending me the privilege of the floor. It really wasn't planned. It was fortuitous that I was here during this celebration of my good friend Mark Manendo's time here in this house. I would be remiss if I didn't stand up and say a couple of things, having spent eight years here and coming here in 1995 with Mark. We hadn't met each other before coming here in 1995. I guess we're the original members of the vertically-challenged caucus, and we've had this ongoing debate about who is taller. But I guess when you're under 5 foot 6 inches, it really doesn't matter who is taller.

We have had a great time together, and that's what happens in these chambers. You get to enjoy each other's company and develop friendships that you never thought you would have. I do have to share a couple of stories about Mark that maybe aren't too well known. The first rural tour we took, we went down to Minden to see a dairy farm. We were in the middle of this large round building where the cows step onto a conveyor belt, and they throw the mechanism on the udder to get the milk. We were kind of amazed by that, not having seen it before, and I saw a photo opportunity for Mark. I wanted to get a picture of Mark with one of the cows with this whole contraption on her in the background. I got the camera ready, and I asked Mark to back up so we could just see the tail end of the cow, because the cows were face in and they were going around this big conveyor belt. I noticed the next cow coming across had its tail up. I wasn't too sure about a lot of things with cows, but I kind of figured what that was. So I asked Mark to take another step back. Just about that time, he took a guacamole shower. It was a terrible thing to do, but he and I were always goofing and getting into trouble.

One of our favorite times was putting a whoopee cushion behind Sandi Krenzer as she sat between the two of us. We just looked at it, and she would lean back and lean forth and lean back and lean forth, and then she started to lean back and David Goldwater stepped behind her. It went off, and they both stared at each for two seconds thinking, "Oh, my gosh."

Some of the best times we had were challenging the chairman of Judiciary's patience and mettle, and he finally had to separate us in that committee.

Mark is a wonderful friend. Mark says he is coming over to the Senate. All I can say is get ready to leave your youthful appearance behind, because when you step through that magic looking glass, you start looking like them—you get old.

Madam Speaker, thank you very much for the opportunity. Mark, happy trails, and maybe we'll see you on the other side.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Mark, thank you for your service. Thank you for everything you've done for our state. Thanks for the cow stories, too.

Now, may we consider Assemblywoman Kathy McClain?

Kathy was also first elected in 1998. For the past two sessions, she has served as chair for the Committee on Taxation, a position which was especially critical this session. During the most recent interim, she chaired the study on the issues relating to senior citizens and veterans. She has also chaired the Task Force for a Healthy Nevada, the Nevada Commission on Aging, and the Nevada Commission on Veterans' Services.

I got to know Kathy during her first term in 1999 when we served together on Judiciary and Health and Human Services. I soon realized that she was smart, hardworking, and plain-spoken. She always said exactly what she meant and let the chips fall where they might. She has been a great sounding board to me. I think probably this session, I have gotten to know Kathy better than in all the other sessions because we worked so closely together on the budget.

Kathy was born in Greeley, Colorado, during World War II. What—it must have been the very end. Her father was in England in the Army Air Corps, and her mother was living with her grandparents and working in a munitions factory in Denver. After the war, her family moved back to the farm in Iowa, where she grew up with four siblings and acquired her strong work ethic. Later she returned to Colorado, where she lived until she moved to Nevada. Kathy earned

a bachelor's degree in public administration from Regis University in Denver and a master's in public administration from UNLV. She also earned an academic certificate in gerontology, reflecting her strong interest in the study of the elderly. She has a strong passion in policies affecting senior citizens.

During the most recent interim, she chaired the study relating to senior citizens. If you were asked any questions recently by Kathy about interim committees and study committees this interim, it was because I promised her she could have her committee on seniors and veterans, but only if she removed some of the 35 committees that we had unwittingly authorized this session. She took on the task—not a pleasant assignment—because of her passion for senior citizens' and veterans' issues. Another of her passions has been health care. She strengthened many of our public health programs when she chaired the Task Force for a Healthy Nevada. It also ended up improving her health habits. As you know, one of the jobs of the Task Force is to determine how to improve public health and how to fund antismoking activities. Kathy, herself, at the time was a heavy smoker and in fact used to sneak cigarettes in her office, thinking I would not find out about it. But I find out about everything in this building and had to do some enforcement of our no smoking rules. One of the witnesses before the Task Force was Dr. Elizabeth Fildes, the director of the Nevada Tobacco Users' Helpline, and she prevailed upon Kathy to set an example by breaking her own smoking habit, which she did.

Throughout her legislative career, Kathy has represented an older area of Las Vegas. She fought to ensure her district and areas like it get the schools, public facilities, and services they need. In recent years, much of our attention has focused on the growing suburbs, and Kathy has always been an important voice for our older neighborhoods.

Kathy has also been a mentor and an inspiration for the young women who are just entering politics. She is an active participant and member of the faculty for the new leadership program at UNLV, a program to educate and empower the next generation of women leaders. At the conclusion of this week-long seminar at UNLV for college-age women, she always invites the participants to her home to meet the other women in the Legislature. She has fought for funding for that program and has made it possible. They were just recognized nationally, won an award, and I think it is in large measure due to Kathy's support of the program and her fight for the funding. I also have to thank her because I got one of our interns from the new leadership program when I went to speak most recently. Edith Gonzalez Duarte, who is a Regents Scholar and whom I think you have all met, approached me and said "You inspired me. Can I volunteer for you at the special session?" She volunteered for two of them, and then came back. When I see young, bright women like that who ultimately will take one of these seats, she was inspired through Kathy's vision and that program.

So whether it is her work with veterans, the commission, or every piece of legislation—they are tremendous tributes. I have never seen a better tribute given by this body than the ones arranged by Kathy McClain for our veterans. Whether it is veterans, seniors, public health, or inspiring the next generation of women, you have left your mark on this body, and for that we applaud you. Thank you for your service.

ASSEMBLYMAN MANENDO:

Ms. McClain and I have been friends for a long time. We have worked on a lot of projects together. We have had opportunities to have a little fun, and we certainly know that she and her husband Dave throw some nice get-togethers at their house, and we are grateful for that because it brings all of us together. Some of our caucus meetings we've had at your house, and we've had an opportunity to break bread together as an extended family.

We are absolutely grateful for her work in the community for seniors and veterans. The state is going to miss her.

Kathy, you are a good spirit, a hard worker, and we're going to miss you. We appreciate your dedication and your hard work for the State of Nevada, and we love you. Thank you.

ASSEMBLYMAN CLABORN:

Kathy is a real good friend of mine along with my family. She is a real great legislator, but better than that, she is a great cook. I have been to her home many times, and she is a fabulous cook. Kathy, I wish you luck in all your endeavors, and I know you will go places. I am not

going to miss you, either, because I going to be around here helping you do whatever you want to do. It is good to see you today, and I will see you tomorrow, too. Goodbye, now. Thank you.

ASSEMBLYMAN MORTENSON:

Everybody has talked about Kathy as a legislator; I want to talk about her as a lobbyist. My first session here, she represented local government as a lobbyist, and she was a fearsome lobbyist.

It was my first session, and I was trying to right all the wrongs of local government. I had a bill that said something to the effect that when there was testimony before the commissions or the councils, the negative side would have equal time with the positive side in these discussions and in the debates and so on. Local government did not like that at all, and Kathy, I think, was the fearsome one who led the charge, and it was dreadful. I finally backed off and pulled the bill. She was the one who made me do it. She is really good at that, but she is also a great legislator. She puts the same fearsomeness in the tax committee that she did earlier. Thank you.

ASSEMBLYMAN CARPENTER:

Kathy, you and I have been on a number of committees together, and you've always worked hard. Last session, we were on the corrections committee, and we did a lot of good things there to hopefully stabilize the prison population. Because if this time we'd have had to put as much money in the budget as we did last session, we'd have had to get maybe $2 billion in tax increases. Thank you for all your hard work and for being my friend.

ASSEMBLYMAN ANDERSON:

First of all, Kathy clearly knows the way to a man's heart is through his stomach. Her food is no doubt a telling point. My lips, this time, have missed the opportunity to burn with the hot peppers. Kathy's tales of the sea adventures of her and her husband have always fascinated me.

I can't think of Kathy without thinking of her sidekick, because I see the two of them together and think of them as a single force in the Judiciary Committee. After some time in committee, the two of them would take time to get a smoke, and you could see that all they wanted to do was get out of there to go have a smoke.

Kathy's passion for veterans is what endears her to us all. She cares for veterans as few people could understand. It is just not another thing to do because of the flag. It is not just the right thing to do because they are veterans. It is a group of people that she will advocate for under any circumstance. Her passion of advocacy is for the right way all the time, not just some of the time. Even if she is standing by herself, Kathy is always the kind of person we all hope to be, and it has been a pleasure to serve with her.

ASSEMBLYMAN GOICOECHEA:

My colleague from Reno was talking about something that would make his lips burn. I want to thank Kathy for giving me a new vice, and to my colleague from Reno, I guarantee you it will help.

In the 2003 Session, my freshman session, I sat next to Kathy, and we had a very contentious session. I will say that Kathy never abandoned me all through that session, even though we were on different sides of the fence. I really have to thank her for that. She showed me that as well as being a good legislator, she can be your friend. I want to thank you, Kathy.

ASSEMBLYWOMAN KOIVISTO:

Kathy and I have been friends since she was up here as a lobbyist my first session, and then when she came back as a legislator, it was even more fun. Kathy is a gourmet cook, as you have heard, and my husband and I spend time with her and her husband eating a lot. We have enjoyed conventions together, and we are not going to miss each other because we are going to see each other. As you have heard, if there is a veterans' event, if there is a seniors' event, you know Kathy's fingerprints are on it. She is passionate about what she does. Kathy, keep directing that passion. Thank you.

ASSEMBLYMAN ATKINSON:

I keep saying I am not going to speak about the next person and then someone I am very well connected to comes up. Kathy is a strong, strong fighter. I have known Kathy for a lot of years

now. We actually have two different sets of employers. We have gone through some times together. We have laughed together, we've cried, we've even cursed together. I have gotten some of my cursing skills from Kathy and Ellen. Once Kathy considers you a friend, you are a friend, and she will do anything for you. I have gotten a lot of my will to fight from her. I remember calling her during our most difficult time and wanting to give up. After listening to her, I got off the phone, cursing and swearing, and thought "I've got to fight. I've got to fight." Because she wasn't going to let me give up either, and I want to thank her for that. She has been a true friend, and I want to thank her for that.

Again, as I said earlier about other people, I know this isn't the last stand for her. She has a lot more to contribute. I remember her fight for seniors before I even knew anything about her legislative aspirations. She has been doing that for a long time in the county. I had a community center and I remember having to set up plenty of times for her for her senior events, so I know she has always been a fighter for seniors even before people thought she was a senior. She is still not a senior, but she has been doing that for a long time, so that just tells you she really cares about them, and it has been in her heart. I know she is not done, and I just want to let her know that if there is anything you ever need from me, I am your friend and I am there for you. Thank you, Kathy.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Thank you for your service. You have made a difference.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:27 a.m.

ASSEMBLY IN SESSION

At 10:34 a.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

If the body will permit, we will consider Assemblyman Harry Mortenson.

Harry Mortenson was first elected to the Nevada State Assembly in November 1996, and at the end of his current term of office, he will have completed 14 years of service to this honorable body. He is now completing his seventh regular session in the Assembly and previously served in nine special sessions.

Harry was born in our nation's capital and was educated at a number of excellent colleges and universities. For his undergraduate degree, Harry attended classes at the University of Maryland and received his bachelor of science degree in physics and math at Roanoke College in Virginia. His initial graduate studies were at American University and Catholic University, which were followed by studies at Duke University, where he was awarded his master's in math and physics. Harry also attended the University of Virginia in Charlottesville for post-graduate studies. All of this education enabled Harry to work in his chosen career as a nuclear physicist.

Harry embarked on his second career as a Nevada Assemblyman at the age of 66, an age when many have lost the energy and intellectual curiosity to pursue something totally new and challenging. Harry's first session in 1997 must have convinced him that he indeed had found a perfect way to learn and to serve his fellow Nevadans at the same time. Harry has a large, supportive, and loving family. He and his wife Helen have been married for 52 years. We all

love Helen as much as we love Harry. Their children Eric, Lisa, and Kirk have blessed Harry and Helen with many grandchildren to love. Their fourteenth grandchild just arrived on the thirteenth of this month, so congratulations are, yet again, in order.

As you might expect, Harry has a wide range of hobbies and interests. His legislative biography lists a number that are technical in nature including astronomy, photography, optics, archaeology, paleontology, nuclear energy, and natural sciences. His interests and skills in computer technology qualify him as a computer guru. Among some of his other interests include sailing, scuba diving, high-fidelity sound, and the Nevada Ballet Theater.

As a member of the Assembly, Harry has served on a number of different standing committees. During the current session, he served on Judiciary, a committee that he served on in three previous sessions. He also served on the Assembly Committee on Corrections, Parole, and Probation this year. Harry has always enjoyed the rather technical procedures involved in amending the *Nevada Constitution* through two sessions of the Legislature and one vote of the people. He served on the Assembly Committee on Constitutional Amendments during the 1999 and 2001 Sessions and was chair in 2003. Since 2005, this committee has been combined with our elections committee, and Harry takes the gavel for all proposed constitutional amendments. Harry has long been an advocate for amending the constitution to allow the Legislature to convene a limited special legislative session on extraordinary occasions. His A.J.R. 13 from the 2003 and 2005 Sessions found legislative approval and narrowly lost in 2006. An improved version of this proposal was introduced and approved again this session, with Harry and Assemblyman Ohrenschall being the primary cosponsors. Assembly Joint Resolution No. 5 must be returned to the 2011 Session for a second legislative approval before going to the voters in 2012.

Just like fine wine, Harry's legislative achievements have improved over the years. During his first three regular sessions, Harry gained passage and approval of two bills for which he was the primary sponsor on election matters, ballot question language, and petitions. He was probably ahead of his time on a number of his early proposals, such as A.B. 434 that he sponsored in 2001. It did not pass, but it would have provided exemptions from taxes for researching and developing renewable energy, an idea that finally found its time. From the 2003 Session to the present, he has successfully guided a number of important bills through the legislative process. Of particular note are those concerning Nevada's precious natural resources. Earlier this session, three of Harry's bills on paleontology became law. One protects paleontology sites, another provides for an ex-officio state paleontologist, while the third designates April as Paleontology Awareness Month in Nevada. His bill to protect the Spring Mountains National Recreation Area in southern Nevada also became law. Perhaps most significant is A.B. 369, which provides tax exemptions for property held by the Archaeological Conservancy, the Nature Conservancy, the American Land Conservancy, and the Nevada Land Conservancy. Such land must be held for eventual transfer to local government or state government and held indefinitely for education, environmental protection, or conservation purposes.

Over the years, Harry has served on a number of interim committees of the Legislature including allocation of the limousines, long-range mass transit, care of the mentally ill, and protection of natural treasures. He certainly found a perfect match as a member of the Legislature's Committee on High-Level Radioactive Waste. Harry has served on that committee continually from 1997 to the present. He was selected to chair that committee in 2001-2002 and again in 2007-2008. Whether it is elections, constitutional amendments, high-level radioactive waste, or protecting our state and our treasures, I've learned so much from Harry Mortenson and his enthusiasm and love of this state and all the diversity it offers. You have left a mark on this institution, and we are so incredibly thankful for your years of service. Thank you, Harry.

ASSEMBLYMAN SEGERBLOM:

I call Harry our conscience. I think he, more than any other person, really tries to do the right thing. He is so conflicted when pressures come to bend or change. He knows that he may have to do it, but inside he cannot accept that and so he will just keep pushing for the good and for the best. He is so honest and admirable, and I cannot say enough about him.

I do want to mention one funny story. For those who are not on Elections, Procedures, Ethics, and Constitutional Amendments, we are kind of a bunch of renegades, but Marcus and Heidi watch over us so that we don't get crazy. One day Marcus happened to walk out of the room, and Harry got a glint in his eye and smiled and said, "We're going to vote on A.J.R. 1." We didn't know any better, and so we called the question, and lo and behold, we voted on A.J.R. 1 and it passed. Marcus came back and said, "Oh, my gosh. What's happened here? How did this happen?" So anyway, we are kind of a renegade bunch, and Harry and Ellen both lead the troops, but we are kept it check by Marcus and Heidi. Thank you, Marcus and Heidi, and thank you, Mr. Mortenson, for being so great.

ASSEMBLYMAN CONKLIN:

Thank you for letting me go after my colleague, Mr. Segerblom. At the end of the 2005 Session when Mr. Mortenson was passing out committee gifts, he called me up and referred to me as his nemesis. That is exactly how he called me up: "my nemesis." We haven't always agreed, Harry. We know that, but we've always talked and we've always shared our ideas. We've always listened to each other, tried to understand, and agreed where we could. But we've both stood by our guns when we couldn't agree, too. For that, I will never forget you, and I will always be reminded that I need to be patient and listen and be open. I certainly appreciate all of the conversations that we've had, particularly on the constitutional amendments, ballot initiatives, and the election portions, because there are always more sides. I don't know that anybody is right or anybody is wrong; I think we're just trying to get it right. God bless you for that. I appreciate you.

ASSEMBLYMAN OHRENSCHALL:

Last session—my freshman session when I thought I knew it all—I wanted very desperately to be liked and to be part of the team. Every now and then, that didn't always work with how I felt on a bill. Last session I learned a lot from Harry. He really helped me find the courage to stand by my convictions, and I really appreciate that, Harry. I'll miss you very much.

ASSEMBLYMAN STEWART:

As one who is old, Harry, I appreciate your ability to protect things that are old. I'll always appreciate that very much. I also appreciate your skills with photography. Each session that I have been here, you've presented me with a picture of myself which made me look halfway good, and I really appreciate that. We'll miss you, Harry. Thank you very much.

ASSEMBLYMAN CARPENTER:

To me, Harry has always been the most interesting legislator. He is certainly, I think, the smartest. On many committees, when there are bills up, sometimes Harry and I are the only ones who vote for them or against them. That's kind of refreshing. Harry, I've always enjoyed you, and you're a great friend. One of these days, I hope you get to be the administrator or director of the next fusion atomic power plant.

ASSEMBLYMAN ANDERSON:

Harry is not big on mornings, and Judiciary meets in the morning. Harry occasionally would have preferred to stay in bed, because things that happen later in the day are much more to his time clock. But having Harry in Judiciary has always been one of the more important parts of my day, knowing that Harry was there with his great stories about his youth and the misgivings about the things that he may have done, and all of us cringing, knowing that it was going to be on the public record.

When Harry first came, he served, I think, on Government Affairs in the morning. After a few sessions, he asked if I thought it would be okay if he came to Judiciary, to which I explained I have no control over that issue—who is on what committee—but I thought that he would do very, very well there. I know that Harry is going to tell me the truth whether I want to hear it or not. He told me just recently very, very clearly—not the first time that I've heard it, of course—but very, very clearly that I was probably the only person who could pull off pompous and get away with it. I love Harry for his honesty and his straightforward attitude about who you are and what we all are. With Harry's youthful exuberance and his constant ability to learn a new task and to keep an open mind, he follows that Aristotle concept that it is possible to entertain a

thought without embracing it. You can discuss it without making it your own. I've always admired that quality in him and his ability to help us all. Thank you, Harry, for your service.

ASSEMBLYMAN MANENDO:

When Mr. Mortenson came in as a freshman, I had been here just one term prior to that. When I read his bio—he's a nuclear physicist—I felt really intimidated, and I kind of stayed away from him and didn't realize what a gentle and caring man he is. In one of the pictures up on the board, he looks like Santa Claus. Back in the old days, I would take the legislative guides around door-to-door, and sometimes in the classrooms, I would give them to teachers and kids. The kids would look through and say, "That's Santa Claus." I would say, "I think it is," because he is such a caring, gentle man that has a passion and love for people.

One thing that has not been mentioned is his passion for photography. Mr. Mortenson over the years has blessed us with having a wonderful photo album—photos of anything and everything. It's really a great opportunity to reminisce about the old days and all the way up until this session. He appreciates the art of photography, and if you go into his office—sometimes I don't know if it's going to blow up or not, he's got so many electronic devices—but he has a lot of pictures, including one of his wife Helen. She is just a gem.

We appreciate your service and your passion to the State of Nevada. It is a better place because of you. I've learned so much from you, and I am so honored that we've become such close friends. I wouldn't trade that for the world. Harry, thank you very, very much for everything that you have done in bringing me into your life. I'm grateful, thank you.

ASSEMBLYWOMAN DONDERO LOOP:

My recollections of Harry and Helen are on a personal note. I would be remiss if I didn't thank you both for being friends to me and mostly—at the risk of talking about my momma—to my mother. Thank you for taking care of her while I've been up here.

Thank you mostly for just being a voice of reason and for coming to Judiciary in the morning and having the expertise that you have. Thank you.

ASSEMBLYWOMAN GANSERT:

I want to thank you for your work here in the Legislature. You're a gentleman and a scholar. I've so enjoyed being on your committee in constitutional amendments. We do have great debates in there, and we do have some renegades. It's always a lot of fun, and I appreciate that you're open to the debate. You want everyone to discuss things, to ask the questions, and to get the testimony. Thank you for your dedication and your service.

ASSEMBLYMAN CLABORN:

I've got a lot of stories to tell about Harry. Harry and I have been friends for many years. I used to move his trailers around when he was campaigning, a couple of sessions before I ever ran. Anyway, I'm not going to tell any stories about that. I'm going to tell a few stories about Harry.

Since I've become a chairman, I would look at the agenda and say, "Oh, my gosh. Here comes Harry again with paleontology." Every time I see that I want to hide underneath the desk for the simple fact that back in the old days, I used to run all kinds of heavy equipment. The first thing Harry did, along with Helen on videoconference from Las Vegas, was talk about all of these skeletons and all of the artifacts that these big caterpillars and tractors tore up from all the ground around the Twin Lakes area, how they took all of our treasures and hid them, and then Germany came over and grabbed some of them. That's about the time that I wanted to hide. After about three sessions, I finally had to admit it. I had to tell him. After I got Helen and everybody calmed down about stealing all of the artifacts, I had to admit it. I said, "I've got to apologize, Harry. I was one of the guys that dug all of those up and hauled them off and hid them back in the old days so we could build Twin Lakes Reservoir and put a settlement out there." He understood, but I still feel bad about that. To me, dirt was dirt and bones were bones. Whatever it was, rock was rock and we had to move it. I feel bad about it, but one thing that he taught me is how to say "paleontology."

Thank you, Harry. It's been a wonderful ride, and it's not over yet. It's not over until they close that big lid down on you and me. We've still got a few good years left. It's been a

pleasure working with you, Harry, and you've done a lot for the state. I hope those Germans and whoever stole our artifacts will give them back one of these days. Thank you very much.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Harry, for your years of service and the mark that you left, I thank you.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 264, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Senate Concurrent Resolutions Nos. 19, 26, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

ELLEN M. KOIVISTO, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 395, Amendment No. 794, and respectfully requests your honorable body to concur in said amendment.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 19.

Assemblywoman Koivisto moved the adoption of the resolution.

Remarks by Assemblywoman Koivisto.

Resolution adopted and ordered transmitted to the Senate.

Senate Concurrent Resolution No. 26.

Assemblywoman Koivisto moved the adoption of the resolution.

Remarks by Assemblywoman Koivisto.

Resolution adopted.

By the Committee on Ways and Means:

Assembly Concurrent Resolution No. 34—Providing for the Interim Finance Committee to create the Subcommittee for Federal Stimulus Oversight.

Assemblyman Oceguera moved that the resolution be adopted.

Remarks by Assemblyman Oceguera.

Resolution adopted and ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess until 2 p.m.

Motion carried.

Assembly in recess at 11:06 a.m.

ASSEMBLY IN SESSION

At 2:51 p.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Oceguera moved that for the balance of session, all rules be suspended, and all bills and joint resolutions reported out of committee be declared emergency measures under the *Constitution* and placed on third reading and final passage.

Assemblyman Oceguera moved that all rules be suspended and the reprinting of all bills and resolutions be dispensed with for the balance of session.

Motion carried.

Senate Concurrent Resolution No. 37

Resolution read.

Assemblyman Oceguera moved that Senate Concurrent Resolution No. 37 be taken from the Resolution File and referred to the Committee on Ways and Means.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:52 p.m.

ASSEMBLY IN SESSION

At 3:02 p.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 212, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 84; Assembly Bill No. 140; Assembly Bill No. 320; Senate Bill No. 182.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Senate Bill No. 3.

Bill read third time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 1001.

AN ACT relating to legislative affairs; creating the Legislative Committee on Child Welfare and Juvenile Justice; prescribing the powers and duties of the Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the Legislative Committee on Child Welfare and Juvenile Justice and provides for the appointment of its membership by the Legislative Commission. **Section 4** of this bill prescribes the manner in which meetings must be conducted by the Committee and provides for the compensation of its members. **Section 5** of this bill prescribes the duties of the Committee, including the evaluation and review of issues relating to child welfare services and juvenile justice in this State. **Sections 6 and 7** of this bill authorize the Committee to conduct investigations and hold hearings and provide for the administration of oaths, the deposition of witnesses and the issuance of subpoenas in connection with those investigations and hearings. ~~[Section 9 of this bill provides that the members of the Committee will be appointed following the 2011 Legislative Session, unless before then a sufficient amount of money is collected through gifts, grants and donations to establish and provide administrative support for the Committee.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Child Welfare and Juvenile Justice.***

Sec. 3. ***1. The Legislative Committee on Child Welfare and Juvenile Justice is hereby created. The membership of the Committee consists of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission.***

2. The Legislative Commission shall select the Chairman and Vice Chairman of the Committee from among the members of the Committee. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. The Chairmanship of the Committee must alternate each biennium between the houses of the Legislature. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the vacancy must be filled in the

same manner as the original selection for the remainder of the unexpired term.

3. A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the convening of the next regular session of the Legislature.

4. A vacancy on the Committee must be filled in the same manner as the original appointment.

Sec. 4. ***1. The members of the Committee shall meet throughout the year at the times and places specified by a call of the Chairman or a majority of the Committee.***

2. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary of the Committee.

3. Four members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

4. Except during a regular or special session of the Legislature, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the work of the Committee, the member is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218.2207.

➥ The compensation, per diem allowances and travel expenses of the members of the Committee must be paid from the Legislative Fund.

Sec. 5. ***The Committee shall evaluate and review issues relating to:***

1. The provision of child welfare services in this State, including, without limitation:

(a) Programs for the provision of child welfare services;

(b) Licensing and reimbursement of providers of foster care;

(c) Mental health services; and

(d) Compliance with federal requirements regarding child welfare; and

2. Juvenile justice in this State, including, without limitation:

(a) The coordinated continuum of care in which community-based programs and services are combined to ensure that health services, substance abuse treatment, education, training and care are compatible with the needs of each juvenile in the juvenile justice system;

(b) Individualized supervision, care and treatment to accommodate the individual needs and potential of the juvenile and his family, and treatment programs which integrate the juvenile into situations of living and interacting that are compatible with a healthy, stable and familial environment;

(c) Programs for aftercare and reintegration in which juveniles will continue to receive treatment after their active rehabilitation in a facility to

prevent the relapse or regression of progress achieved during the recovery process;

(d) Overrepresentation and disparate treatment of minorities in the juvenile justice system, including, without limitation, a review of the various places where bias may influence decisions concerning minorities;

(e) Gender-specific services, including, without limitation, programs for female juvenile offenders which consider female development in their design and implementation and which address the needs of females, including issues relating to:

(1) Victimization and abuse;

(2) Substance abuse;

(3) Mental health;

(4) Education; and

(5) Vocational and skills training;

(f) The quality of care provided for juvenile offenders in state institutions and facilities, including, without limitation:

(1) The qualifications and training of staff;

(2) The documentation of the performance of state institutions and facilities;

(3) The coordination and collaboration of agencies; and

(4) The availability of services relating to mental health, substance abuse, education, vocational training and treatment of sex offenders and violent offenders;

(g) The feasibility and necessity for the independent monitoring of state institutions and facilities for the quality of care provided to juvenile offenders; and

(h) Programs developed in other states which provide a system of community-based programs that place juvenile offenders in more specialized programs according to the needs of the juveniles.

Sec. 6. ***1. The Committee may:***

(a) Conduct investigations and hold hearings in connection with its duties pursuant to section 5 of this act;

(b) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee; and

(c) Propose recommended legislation concerning child welfare and juvenile justice to the Legislature.

2. The Committee shall, on or before January 15 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the evaluation and review conducted pursuant to section 5 of this act.

Sec. 7. ***1. If the Committee conducts investigations or holds hearings pursuant to section 6 of this act:***

(a) The Chairman of the Committee or, in his absence, a member designated by the Committee may administer oaths;

(b) The Chairman of the Committee may cause the deposition of witnesses, residing within or outside of this State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts; and

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order, the witness shall be dealt with as for contempt of court.

Sec. 8. ***Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.***

Sec. 9. ~~[1. Except as otherwise provided in this section, the Legislative Commission shall appoint the members of the Legislative Committee on Child Welfare and Juvenile Justice created pursuant to section 3 of this act following the 2011 Legislative Session.~~

~~2. The Director of the Legislative Counsel Bureau shall accept gifts, grants and donations to establish and provide administrative support for the Legislative Committee on Child Welfare and Juvenile Justice. The money must be accounted for separately in the Legislative Fund.~~

~~3. If the Director of the Legislative Counsel Bureau determines that sufficient money has been collected to establish and provide administrative~~

~~support for the Legislative Committee on Child Welfare and Juvenile Justice before the adjournment sine die of the 2011 Legislative Session, the Director must notify the Legislative Commission.~~

~~4. If the Legislative Commission agrees with the Director that a sufficient amount of money has been collected, the Legislative Commission shall appoint the members of the Legislative Committee on Child Welfare and Juvenile Justice to serve until appointments are made following the 2011 Legislative Session.~~**]** **(Deleted by amendment.)**

Sec. 10. This act becomes effective **[**~~upon passage and approval.~~**]** **on July 1, 2009.**

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 212.

Bill read third time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 1002.

AN ACT relating to initiative petitions; providing a procedure for a petition proposing a statute, an amendment to a statute or an amendment to the Constitution to be placed on a ballot; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that an initiative petition proposing a statute, an amendment to a statute or an amendment to the Constitution be signed by a number of registered voters that is equal to at least 10 percent of the voters who voted at the last preceding general election. (Nev. Const. Art. 19, § 2) Existing law also requires an initiative petition be signed by a number of registered voters from each county in the State that is at least equal to 10 percent of the voters who voted in the entire State at the last preceding general election multiplied by the population percentage for that county. (NRS 295.012) The United States District Court for the District of Nevada declared that the current existing law violates the Equal Protection Clause of the United States Constitution because it results in the signatures of voters from counties with lower population carrying more weight than the signatures of voters from counties with higher population. (*Marijuana Policy Project v. Miller*, 578 F.Supp. 2d 1290 (D. Nev. 2008)) This bill repeals and replaces the current existing law.

Section 3.2 of this bill requires the Legislature to create petition districts from which signatures for a petition for initiative must be gathered. **Section 14** of this bill defines "petition district" to mean congressional district until July 1, 2011, at which time the Legislature must have established petition districts for the period after that date. **Section 3.4** of this bill requires the Director of the Legislative Counsel Bureau to retain a copy of maps of the

petitions district and make them available to any interested person for a reasonable fee not to exceed the actual cost of producing the copy. **Section 12** of this bill requires a petition for initiative to be signed by a number of registered voters in each petition district in the State that equals at least 10 percent of the voters who voted in that petition district in the last preceding general election.

Section 5 of this bill requires the Secretary of State to determine, as soon as practicable after each general election, the number of signatures required to be gathered from each petition district. **Sections 6-9** of this bill provide procedures for the verification of signatures on a petition proposing a statute, an amendment to a statute or an amendment to the Constitution. **Sections 7 and 9** require the Secretary of State to adopt regulations concerning these procedures. **Section 10** of this bill requires the Secretary of State to provide on his website a current list of the registered voters in this State that indicates the petition district in which each registered voter resides. **Section 13** of this bill authorizes the person signing a petition to indicate his petition district on the petition and, if not so indicated, ~~[allows]~~ **requires** the circulator of the petition to indicate the petition district of the person if known. **Section 13** further allows a voter to consult the website of the Secretary of State to determine within which petition district he resides and to rely on that information.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as ~~[sections 2 and 3]~~ ***section 2*** of this act.

Sec. 2. ***"Petition district" means a district established by the Legislature pursuant to section 3.2 of this act.***

Sec. 3. (Deleted by amendment.)

Sec. 3.2. ***1. The Legislature shall establish petition districts from which signatures for a petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution of this State must be gathered. The petition districts must be established in a manner that is fair to all residents of the State, represent approximately equal populations and ensure that each signature is afforded the same weight.***

2. Petition districts must be:

(a) Based on the population databases compiled by the Bureau of the Census of the United States Department of Commerce as validated and incorporated into the geographic information system by the Legislative Counsel Bureau for use by the Nevada Legislature.

(b) Designated in the maps filed with the Office of the Secretary of State pursuant to section 3.4 of this act.

Sec. 3.4. ***The Director of the Legislative Counsel Bureau shall:***

1. Retain in an office of the Legislative Counsel Bureau, copies of maps of the petition districts established pursuant to section 3.2 of this act.

2. Make available copies of the maps to any interested person for a reasonable fee, not to exceed the actual costs of producing copies of the maps.

3. File a copy of the maps with the Secretary of State.

Sec. 4. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, ***and section 2 of this act,*** have the meanings ascribed to them in those sections.

Sec. 5. NRS 293.127563 is hereby amended to read as follows:

293.127563 1. As soon as practicable after each general election, the Secretary of State shall determine the number of signatures required to be gathered from each ~~[county]~~ ***petition district*** within the State for a petition for initiative that proposes a statute, an amendment to ***a*** statute or an amendment to the Constitution of this State.

2. To determine the number of signatures required to be gathered from ~~[a county,]~~ ***a petition district,*** the Secretary of State shall ~~[multiply]~~ ***calculate*** the amount that equals 10 percent of the voters who voted in ~~[the entire State]~~ ***that petition district*** at the last preceding general election ***.*** ~~[by the population percentage for that county.~~

~~3. As used in this section:~~

~~(a) "Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c).~~

~~(b) "Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c), by the total population of the State.~~]

Sec. 6. NRS 293.1276 is hereby amended to read as follows:

293.1276 1. Within 4 days, excluding Saturdays, Sundays and holidays, after the submission of a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110, the county clerk shall determine the total number of signatures affixed to the documents ***and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, shall tally the number of signatures for each petition district contained fully or partially within his county*** and forward that information to the Secretary of State.

2. If the Secretary of State finds that the total number of signatures filed with all the county clerks is less than 100 percent of the required number of

registered voters, he shall so notify the person who submitted the petition and the county clerks and no further action may be taken in regard to the petition. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

3. After the petition is submitted to the county clerk, it must not be handled by any other person except by an employee of the county clerk's office until it is filed with the Secretary of State.

Sec. 7. NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county ~~[.]~~ ***and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, shall tally the number of signatures for each petition district contained or fully contained within his county.***

2. If more than 500 names have been signed on the documents submitted to him, a county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, he shall ensure that every application in the file is examined, including any application in his possession which may not yet be entered into his records. The county clerk shall rely only on the appearance of the signature and the address and date included with each signature in making his determination.

4. ***In the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, when the county clerk is determining the number of registered voters who signed the documents from each petition district contained fully or partially within his county, he must use the statewide voter registration list available pursuant to NRS 293.675.***

5. Except as otherwise provided in subsection ~~[6,]~~ ***7,*** upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of his examination ***, including the tally of signatures by petition district, if required,*** and transmit the documents with the certificate to the Secretary of State. ***If a petition district***

comprises more than one county and the petition proposes a statute, an amendment to a statute or an amendment to the Constitution, the appropriate county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the certificate. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

~~[5.]~~ ***6.*** A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

~~[6.]~~ ***7.*** For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

~~[7.]~~ ***8.*** The Secretary of State ~~[may]~~ ***shall*** by regulation establish further procedures for carrying out the provisions of this section.

Sec. 8. NRS 293.1278 is hereby amended to read as follows:

293.1278 1. If the certificates received by the Secretary of State from all the county clerks establish that the number of valid signatures is less than 90 percent of the required number of registered voters, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

2. If those certificates establish that the number of valid signatures is equal to or more than the sum of 100 percent of the number of registered voters needed to make the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015 ~~[.]~~ ***and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each petition district,*** the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of those certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

3. If the certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient but the petition fails to qualify pursuant to subsection 2, each county clerk who received a request to remove a name pursuant to NRS 295.055 or 306.015 shall remove each name as requested, amend the certificate and transmit the amended certificate to the Secretary of State. If the amended certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition

sufficient ~~[,]~~ ***and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each petition district,*** the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of the amended certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

Sec. 9. NRS 293.1279 is hereby amended to read as follows:

293.1279 1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the Secretary of State shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. Except as otherwise provided in this subsection, if the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100 percent or more of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until he has removed each name as requested pursuant to NRS 295.055 or 306.015. In the case of a petition for initiative that proposes a statute, an amendment to ***a*** statute or an amendment to the Constitution of this State, if the statistical sampling shows that the number of valid signatures in any ~~[county]~~ ***petition district*** is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters required for that ~~[county]~~ ***petition district*** pursuant to NRS 295.012 plus the total number of requests to remove a name received by the county clerk ~~[in that]~~ ***or county clerks, if the petition district comprises more than one*** county **,** pursuant to NRS 295.055, the Secretary of State may order the county clerk to examine every signature for verification.

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk ***or county clerks*** shall determine from the records of registration what number of registered voters have signed the petition ~~[.]~~ ***and, if appropriate, tally those signatures by petition district.*** If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition ~~[,]~~ ***and in determining in which petition district the voters reside,*** the county clerk must use the statewide voter registration list. The county clerk may rely on the appearance of the signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk ***or county clerks*** shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office. ***In the case of a petition to propose a statute, an amendment to a statute or an amendment to the Constitution, if a petition district comprises more than one county, the county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the amended certificate.***

5. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not forward to the Secretary of State the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the Secretary of State as of the date on which he receives certificates from the county clerks showing the petition to be signed by the requisite number of voters of the State.

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, he shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

8. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 10. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; ~~[and]~~

(c) ***A current list of the registered voters in this State that also indicates the petition district in which each registered voter resides;***

(d) A map or maps indicating the boundaries of each petition district; and

(e) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283, 294A.360 and 294A.362 and all reports on contributions received by and expenditures made from a legal defense fund submitted to the Secretary of State pursuant to NRS 294A.286.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 11. Chapter 295 of NRS is hereby amended by adding thereto a new section to read as follows:

"Petition district" has the meaning ascribed to it in section 2 of this act.

Sec. 12. NRS 295.012 is hereby amended to read as follows:

295.012 ~~[1.]~~ A petition for initiative that proposes a statute, an amendment to ***a*** statute or an amendment to the Constitution must be proposed by a number of registered voters from each ~~[county]~~ ***petition district*** in the State that is at least equal to 10 percent of the voters who voted in ~~[the entire State]~~ ***that petition district*** at the last preceding general election ***.*** ~~[multiplied by the population percentage for that county.~~

~~2. As used in this section:~~

~~(a) "Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c).~~

~~(b) "Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce~~

~~to the Governor pursuant to 13 U.S.C. § 141(c), by the total population of the State.]~~

Sec. 13. NRS 295.055 is hereby amended to read as follows:

295.055 1. The Secretary of State shall by regulation specify:

(a) The format for the signatures on a petition for an initiative or referendum and make free specimens of the format available upon request. The regulations must ensure that the format includes, without limitation, that:

(1) In addition to signing the petition, a person who signs a petition ~~[shall print]~~ ***:***

(I) Shall print his given name followed by his surname on the petition before his signature ~~[.]~~ ***; and***

(II) May indicate the petition district in which he resides. If the person does not indicate the petition district on the petition, the circulator ~~*[may]*~~ ***shall indicate the petition district of the person if known.***

(2) Each signature must be dated.

(b) The manner of fastening together several sheets circulated by one person to constitute a single document.

2. ***The registered voter may consult the list of the registered voters in this State posted on the website maintained by the Secretary of State pursuant to subsection 1 of NRS 293.4687 to determine the petition district in which he resides. The registered voter may rely on the information contained in the list when he indicates the appropriate petition district, unless he believes that the information is inaccurate.***

3. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document.

~~[3.]~~ ***4.*** A person who signs a petition may request that the county clerk remove his name from it by transmitting his request in writing to the county clerk at any time before the petition is filed with the county clerk.

Sec. 14. Notwithstanding the definition of "petition district" set forth in sections 2 and 11 of this act, until July 1, 2011, "petition district" as used in chapters 293 and 295 of NRS means congressional districts established for the State of Nevada.

Sec. 15. This act becomes effective upon passage and approval.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 264.

Bill read third time.

Roll call on Senate Bill No. 264:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Senate Bill No. 264 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 316.
Bill read third time.
Remarks by Assemblywoman Spiegel.
Roll call on Senate Bill No. 316:
YEAS—35.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Stewart—7.
Senate Bill No. 316 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 418.
Bill read third time.
Roll call on Senate Bill No. 418:
YEAS—39.
NAYS—Christensen, Goedhart, Settelmeyer—3.
Senate Bill No. 418 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 3.
Bill read third time.
Roll call on Senate Bill No. 3:
YEAS—38.
NAYS—Cobb, Goedhart, Gustavson, McArthur—4.
Senate Bill No. 3 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 212.
Bill read third time.
Remarks by Assemblymen Carpenter, Conklin, and Gustavson.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 212 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Conklin moved that Senate Bill No. 395 be taken from the Chief Clerk's desk and placed at the top of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 395.
Bill read third time.
Roll call on Senate Bill No. 395:
YEAS—29.
NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Woodbury—13.

Senate Bill No. 395 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Assembly Bill No. 267 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblyman Segerblom.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Speaker. It is a very simple bill and it deals with a very inequitable situation. Currently, if you have a golf course—and because the Legislature has said they want to encourage the golf course use of open space—a golf course is taxed as open space which means they basically pay no tax. However, there are some golf courses that are taking advantage of this tax exemption and are marketing themselves to be sold as property for developing houses, so, they pay no property tax but they are out there and available to be used as a subdivision. If they were taxed as a subdivision they would pay a lot more tax.

This bill says that if you are going to be a golf course and take advantage of that open space tax exemption then you have to agree to be a golf course. I urge your support to override the Governor's veto. Thank you.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 267:

YEAS—29.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 491 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Anderson and Kirkpatrick.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. Assembly Bill 491 will remedy common problems faced by judgment debtors: first, to assist judgment debtors to claim their exempt properties; second, to declare the number of court hearings needed to determine the exempt status of the properties; and third, to decrease the volume of exempt properties that are seized and then returned to the constable's office. Under current law, when a bank receives a writ of execution on a debtor's bank account, the entire balance is frozen. Debtors can file an affidavit of exemption and request that exemption amounts be returned. However, this process has been taking as long as 45 days. Section 2 of the bill leaves at least $1,000 in the bank account available to debtors until the court can determine if other amounts are exempt. This is to allow a judgment debtor to access funds needed for the day-to-day necessary transactions, such as rent, food, and

medications. Particularly in this day of electronic transfer of funds, this is an essential factor. The interplay of federal law governing exempt benefits and state garnishment laws raise potential liabilities that banks face when choosing to follow federal regulations or state laws. This bill resolves that conflict and balances the needs of the bank to follow all applicable state and federal procedures and the need of the debtors to support themselves while trying to figure out their financial problems.

In the Governor's veto message, he states specifically, "Making the 'wildcard exemption' of $1,000 automatic instead of requiring the debtor to file for the exemption will make it even more burdensome for businesses to collect what is rightfully theirs." This is simply not true. Currently, a debtor's assets are not distributed to creditors until all exempt properties are returned to the debtor. Assembly Bill 491will help streamline the process and allow the debtor to continue to pay for the necessities of life. Madam Speaker, I urge this body to support the bill and pass it out of this house unanimously.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Speaker. I rise in support of the override on Assembly Bill 491.

I started with this bill in the summertime, and it has changed somewhat. But I will tell you that one of my constituents, who I think most of you met—she was here on a credit bill that we were trying to help her with. She received the notice for her garnishment the day after they took it. Consequently, she had no groceries, she could not pay her bills, she had automatic withdrawals, she was not even notified of the court document. How fair is that when you are trying to resolve it? In her instance, she had $20,000 in medical debt that she was paying. However, a creditor did not want to wait any longer—they wanted all their money up-front—so they took her to court. She had over $2 million in medical debt when her husband died, and she has been faithfully trying to pay these off.

I will tell you that ten other states are doing this very same thing, so I ask you to please support this override.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 491:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Bill ordered transmitted to the Senate.

COMMUNICATIONS

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE STEVEN HORSFORD, *Senate Majority Leader*, Legislative Building, 401 South Carson Street, Carson City, NV 89701

RE: Senate Bill 201 of the 75th Legislative Session

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 201, which is entitled:

> AN ACT relating to taxation; authorizing certain counties to impose additional taxes on fuels for motor vehicles; providing for the administration, allocation, disbursement and use of the additional taxes; exempting the sale of revenue bonds secured by county fuel taxes from certain requirements; and providing other matters properly relating thereto.

This bill would increase fuel taxes in Washoe County. The bill resulted from an advisory ballot question in November of 2008 whereby the voters of Washoe County were asked whether the Washoe County Board of Commissioners should "seek state legislation for the Regional

Transportation Commission (RTC) to obtain necessary additional funding for transportation projects that will reduce traffic congestion, improve air quality, and repair and maintain roads in the Truckee Meadows?"

Notably absent from the language of that advisory question was a clear and concise statement that the state legislation being sought would come in the form of a fuel tax increase. Also notably absent from the language of that advisory question is a clear and concise statement of the amount of the fuel tax increase being sought. Although I have asked the question many times, nobody has adequately explained why the advisory question did not simply state that the voters were being asked to support a fuel tax increase along with the specific amount of that increase.

By contrast, Initiative Petition 1 from the 75th Legislative Session enacted a room tax as the result of a ballot question. With respect to that ballot question, voters were asked whether they "support the imposition of an additional hotel and motel room tax of not more than 3 percent to be used in the first 2 years after imposition to avoid large cuts in the funding of education and other state programs and to be used thereafter to increase the funding of K-12 education, specifically to improve student achievement and for salaries of non-administrative educational personnel?" The call of the ballot question on the room tax increase clearly and concisely informed voters of the impact of their vote.

If the voters of Washoe County are being asked to support a tax increase, they are entitled to a clear and concise ballot question stating the fact that a tax increase is being sought along with the amount of that tax increase. There is no reason a concept as simple as a tax increase cannot be clearly stated in the call of the question. I support the will of the people but I cannot support bills premised on advisory questions worded in a manner that deliberately obscures the impact of the question from the voters.

For these reasons, 1 hereby exercise my constitutional grant of authority and veto Senate Bill 201.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Senate Bill No. 201 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Senate Bill No. 201:

YEAS—35.

NAYS—Christensen, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—6.

NOT VOTING—Cobb.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Vetoed Assembly Bill No. 119 of the 75th Session be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Vetoed Assembly Bill No. 307 of the 75th Session be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Vetoed Assembly Bill No. 473 of the 75th Session be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 395.

The following Senate amendment was read:

Amendment No. 794.

AN ACT relating to state employees; authorizing discussions of workplace relations for certain state employees; expanding the duties of the Personnel Commission to include discussions of workplace relations for certain state employees; providing for workplace relations units of state employees and for their representatives; establishing procedures for discussing workplace relations and for making and amending workplace relations agreements; prohibiting certain unfair labor practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Title 23 of NRS governs public employment. This bill authorizes discussions of workplace relations between the State and certain state employees. **Sections 18-20** of this bill expand the duties of the Personnel Commission to include hearing and deciding disputes between the State and certain state employees. **Section 21** of this bill authorizes certain state employees to organize and join employee organizations, or refrain from engaging in that activity, and, as applicable, to discuss workplace relations through exclusive representatives. **Section 22** of this bill establishes requirements concerning workplace relations agreements. **Sections 24 and 25** of this bill prescribe certain unfair labor practices in the context of discussions of workplace relations. **Section 27** of this bill provides for the creation and organization of workplace relations units of state employees. **Sections 28-31** of this bill provide for the election or designation of exclusive representatives of workplace relations units. **Section 32** of this bill requires the exclusive representative of a workplace relations unit to engage in discussions of workplace relations with the Executive Department of the State Government on behalf of the employees within the unit.

Section 34 of this bill requires the Executive Department and an exclusive representative to begin negotiations regarding a workplace relations agreement within 60 days after one party notifies the other of a desire to negotiate. **Sections 35-38** of this bill provide for mediation, arbitration and

judicial review of disputes between the Executive Department and a workplace relations unit. **Section 40** of this bill authorizes certain supplemental discussions between the Executive Department and the exclusive representative of a workplace relations unit of any terms and conditions of employment that do not affect all the employees of the workplace relations unit. **Section 42.3 of this bill authorizes the State to suspend the applicability of a workplace relations agreement in situations of emergency. Section 42.5 requires that any workplace relations agreement be posted on the Internet website of the State, if any.**

Section 44.3 of this bill revises the authority of the Governor to appoint the members of the Personnel Commission by requiring the Majority Leader of the Senate and the Speaker of the Assembly to each appoint one of the members to the Commission. (NRS 284.030)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 23 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~[42,]~~ **42.6** inclusive, of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Arbitration" means a process of dispute resolution where the parties involved in an impasse or grievance dispute submit their dispute to a third party for a final and binding decision.***

Sec. 4. (Deleted by amendment.)

Sec. 4.5. ***"Commission" means the Personnel Commission created by NRS 284.030.***

Sec. 5. ***"Confidential employee" means an employee who provides administrative support to an employee who assists in the formulation, determination and effectuation of personnel policies or managerial policies concerning discussions of workplace relations or supplemental discussions of workplace relations.***

Sec. 6. ***"Discussions of workplace relations" means a method to determine the terms and conditions of employment for all employees within a workplace relations unit through negotiation, mediation or arbitration between the Executive Department and the exclusive representative of the workplace relations unit pursuant to this chapter.***

Sec. 7. ***1. "Employee" means a person who:***

(a) Is employed in the classified service of the State pursuant to chapter 284 of NRS, including, without limitation, persons employed in the classified service by the Nevada System of Higher Education; or

(b) Is employed by the Public Employees' Retirement System and who is required to be paid in accordance with the pay plan for the classified service of the State.

2. The term does not include:

(a) A managerial employee whose primary function, as determined by the Commission, is to administer and control the business of any agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department and who is vested with discretion and independent judgment with regard to the general conduct and control of that agency, board, bureau, commission, department, division, elected officer or unit;

(b) An elected official and any person appointed to fill a vacancy in an elected office;

(c) A confidential employee;

(d) A temporary employee who is employed for a fixed period of 4 months or less;

(e) A commissioned officer and an enlisted member of the Nevada National Guard;

(f) A justice of the Supreme Court and a judge of a district court;

(g) Inmates of state institutions even though they may be receiving compensation for services performed for the institution; or

(h) Any person employed by the Legislature.

Sec. 8. ***"Exclusive representative" means an employee organization that, as a result of designation by the Commission, has the exclusive right to represent all employees within a workplace relations unit and to negotiate with the Executive Department pursuant to this chapter concerning the terms and conditions of employment for those employees.***

Sec. 9. ***"Executive Department" means an agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department of State Government.***

Sec. 10. ***"Fair share agreement" means an agreement between an employer and an exclusive representative under which any of the employees in a workplace relations unit are required to pay a proportionate share of the costs of discussions of workplace relations, the administration of a workplace relations agreement and the negotiation of other matters affecting the terms and conditions of employment.***

Sec. 11. ***"Grievance" means an act, omission or occurrence which an employee or an exclusive representative constitutes in his belief an injustice relating to any condition arising out of the relationship between an employer and an employee, including, without limitation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or agreement.***

Sec. 12. ***"Mediation" means assistance by an impartial third party to reconcile differences between the Executive Department and an exclusive representative through interpretation, suggestion and advice.***

Sec. 13. ***"Professional employee" means an employee engaged in work that:***

1. Is predominately intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

2. Involves the consistent exercise of discretion and judgment in its performance;

3. Is of such a character that the result accomplished or produced cannot be standardized in relation to a given period; and

4. Requires advanced knowledge in a field of science or learning customarily acquired through a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from general academic education, an apprenticeship or training in the performance of routine mental or physical processes.

Sec. 14. ***"Supervisory employee" means an employee who has authority to:***

1. Hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or who has the responsibility to direct such employees; or

2. Adjust the grievances of other employees or effectively recommend such an action, if the exercise of that authority requires the use of independent judgment and is not of a routine or clerical nature.

➥ The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday. Nothing in this section may be construed to mean that an employee who has been given incidental administrative duties is classified as a supervisory employee.

Sec. 15. ***"Terms and conditions of employment" includes, without limitation:***

1. Hours and working conditions;

2. Grievances;

3. Discipline and discharge; and

4. Any other term or condition of employment that does not require an appropriation from the Legislature to be given effect.

Sec. 16. ***"Workplace relations unit" means a collection of employees that the Commission has established as a workplace relations unit pursuant to section 27 of this act.***

Sec. 17. ***1. The Legislature hereby finds and declares that there is a great need to:***

(a) Promote orderly and constructive relations between the State and its employees; and

(b) Increase the efficiency of State Government.

2. It is therefore within the public interest that the Legislature enact provisions:

(a) Granting certain state employees the right to associate with others in organizing and choosing representatives for the purpose of discussing workplace relations;

(b) Requiring the State to recognize, negotiate and discuss workplace relations with employee organizations that represent state employees and to enter into written agreements evidencing the result of discussions of workplace relations; and

(c) Establishing standards and procedures that protect the rights of state employees, the Executive Department and the people of the State.

Sec. 18. ***1. The Commission may adopt rules governing:***

(a) Proceedings before the Commission pursuant to this chapter;

(b) Procedures for fact-finding;

(c) The recognition of exclusive representatives;

(d) The establishment of workplace relations units; and

(e) Such other matters as are necessary for the Commission to carry out its duties pursuant to this chapter.

2. The Commission may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by the Executive Department, an employee or an exclusive representative. The Commission shall conduct a hearing within 90 days after it decides to hear a complaint. If the Commission finds, after a hearing, that the complaint has merit, the Commission may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by that action. The Commission shall issue its decision within 120 days after the hearing on the complaint is completed.

3. Any party aggrieved by the failure of any person to obey an order of the Commission issued pursuant to subsection 2, or the Commission at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.

4. The Commission may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

5. The Commission may decide without a hearing a contested matter:

(a) In which all of the legal issues have been previously decided by the Commission, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

6. The Commission may award reasonable costs, which may include attorney's fees, to the prevailing party.

Sec. 19. ***1. For the purpose of hearing and deciding appeals or complaints, the Commission may issue subpoenas requiring the attendance of witnesses before it, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.***

2. The district court in and for the county in which any hearing is being conducted by the Commission may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Commission.

3. If a witness refuses to attend or testify or produce any papers required by such a subpoena, the Commission may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by the subpoena before the Commission in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books or papers before the Commission.

4. The court, upon petition of the Commission, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall thereupon enter an order that the witness appear before the Commission at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order, the witness must be dealt with as for contempt of court.

Sec. 20. ***Every hearing and determination of an appeal or complaint by the Commission is a contested case subject to the provisions of law which govern the administrative decision and judicial review of such cases.***

Sec. 21. ***1. For the purposes of discussions of workplace relations, supplemental discussions of workplace relations and other mutual aid or protection, employees have the right to:***

(a) Organize, form, join and assist employee organizations, engage in discussions of workplace relations and supplemental discussions of workplace relations through exclusive representatives and engage in other concerted activities; and

(b) Refrain from engaging in such activity.

2. Discussions of workplace relations and supplemental discussions of workplace relations entail a mutual obligation of the Executive Department and an exclusive representative to meet at reasonable times and to discuss workplace relations in good faith with respect to:

(a) The terms and conditions of employment;

(b) The negotiation of an agreement;

(c) The resolution of any question arising under an agreement; and

(d) The execution of a written contract incorporating the provisions of an agreement, if requested by either party.

Sec. 22. ***1. Each workplace relations agreement must be in writing and must include, without limitation:***

(a) A procedure to resolve grievances which culminates in final and binding arbitration;

(b) A provision which provides that an officer of the Executive Department may, upon written authorization by an employee within the workplace relations unit, withhold a sufficient amount of money from the salary or wages of the employee pursuant to NRS 281.129 to pay dues or similar fees to the exclusive representative of the workplace relations unit; and

(c) At the election of the exclusive representative, and notwithstanding any other provision of law, a fair share agreement.

2. Except as otherwise provided in subsection 3, the procedure to resolve grievances required in an agreement pursuant to paragraph (a) of subsection 1 is the exclusive means available for resolving grievances related to the administration of the agreement.

3. An employee in a workplace relations unit may pursue a grievance related to any disciplinary action taken against him by his employer through:

(a) The procedure provided in the agreement pursuant to paragraph (a) of subsection 1; or

(b) Any procedure available to him pursuant to the provisions of chapter 284 of NRS,

➥ but once the employee has properly filed his grievance pursuant to paragraph (a) or (b), he may not proceed to file his grievance in the alternative manner.

4. If there is a conflict between a provision of an agreement between the Executive Department and an exclusive representative and:

(a) Any regulation adopted by the Executive Department, the provision of the agreement prevails unless the provision of the agreement is outside of the lawful scope of discussions of workplace relations.

(b) An existing statute, the provision of the agreement may not be given effect unless the Legislature amends the existing statute in such a way as to eliminate the conflict.

Sec. 23. ***1. A fair share agreement included in a workplace relations agreement pursuant to section 22 of this act must not be for an amount exceeding the amount of dues uniformly required of members.***

2. An amount agreed to be paid pursuant to a fair share agreement must not include any fees for contributions relating to the election or support of any candidate for political office.

3. This section does not prohibit an employee from making voluntary political contributions in conjunction with his payment pursuant to a fair share agreement.

Sec. 24. ***1. It is a prohibited practice for the Executive Department or its designated representative willfully to:***

(a) Refuse to engage in discussions of workplace relations or otherwise fail to discuss workplace relations in good faith with an exclusive representative, including, without limitation, refusing to engage in mediation or arbitration.

(b) Interfere with, restrain or coerce an employee in the exercise of any right guaranteed pursuant to this chapter.

(c) Dominate, interfere with or assist in the formation or administration of an employee organization.

(d) Discriminate in regard to hiring, tenure or any terms and conditions of employment to encourage or discourage membership in an employee organization.

(e) Discharge or otherwise discriminate against an employee because the employee has:

(1) Signed or filed an affidavit, petition or complaint or has provided any information or given any testimony pursuant to this chapter; or

(2) Formed, joined or chosen to be represented by an employee organization.

(f) Discriminate because of race, color, religion, sex, sexual orientation, age, disability, national origin, or political or personal reasons or affiliations.

(g) Deny rights accompanying a designation as an exclusive representative.

2. It is a prohibited practice for an employee organization or its designated agent willfully to:

(a) When acting as an exclusive representative, refuse to engage in discussions of workplace relations or otherwise fail to discuss workplace relations in good faith with the Executive Department, including, without limitation, refusing to engage in mediation or arbitration.

(b) Interfere with, restrain or coerce an employee in the exercise of any right guaranteed pursuant to this chapter.

(c) Discriminate because of race, color, religion, sex, sexual orientation, age, disability, national origin, or political or personal reasons or affiliations.

Sec. 25. ***1. To establish that a party committed a prohibited practice in violation of section 24 of this act, the party aggrieved by the practice must:***

(a) File a complaint with the Commission not later than 6 months after the alleged prohibited practice occurred; and

(b) Send a copy of the complaint to the other party by certified mail, return receipt requested, or by any other method authorized by the Commission.

2. Not later than 10 days after receiving a complaint pursuant to paragraph (b) of subsection 1, a party shall file a response to the complaint with the Commission.

3. The Commission shall conduct a preliminary investigation of the complaint. Based on its investigation:

(a) If the Commission determines that the complaint has no basis in law or fact, the Commission shall dismiss the complaint.

(b) If the Commission determines that the complaint may have a basis in law or fact, the Commission shall order a hearing to be conducted in accordance with:

(1) The provisions of chapter 233B of NRS that apply to a contested case; and

(2) The rules adopted by the Commission pursuant to section 18 of this act.

4. If the Commission finds at the hearing that the party accused in the complaint has committed a prohibited practice, the Commission:

(a) Shall order the party to cease and desist from engaging in the prohibited practice; and

(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.

5. The Commission may petition the district court for enforcement of its orders.

6. Any order or decision issued by the Commission pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the Commission must file a petition for judicial review not later than 10 days after being served with the order or decision of the Commission.

Sec. 26. ***1. The Commission may appoint a hearing officer to conduct a hearing that the Commission is otherwise required to conduct pursuant to section 25 of this act.***

2. A decision of the hearing officer may be appealed to the Commission.

3. On appeal to the Commission, the Commission may consider the record of the hearing or may conduct a hearing de novo. A hearing de novo conducted by the Commission must be conducted in accordance with:

(a) The provisions of chapter 233B of NRS that apply to a contested case; and

(b) The rules adopted by the Commission pursuant to section 18 of this act.

4. If the Commission finds at the hearing that the party accused in the complaint has committed a prohibited practice, the Commission:

(a) Shall order the party to cease and desist from engaging in the prohibited practice; and

(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.

5. The Commission may petition the district court for enforcement of its orders.

6. Any order or decision issued by the Commission pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the Commission must file a petition for judicial review not later than 10 days after being served with the order or decision of the Commission.

Sec. 27. ***1. The Commission shall, in accordance with the rules adopted pursuant to section 18 of this act, establish workplace relations units on a statewide basis, including, without limitation, the workplace relations units described in subsection 2.***

2. The Commission shall establish one workplace relations unit for each of the following occupational groups, and each such workplace relations unit must include all supervisory employees at the working level of the occupational group:

(a) Labor, maintenance, custodial and institutional employees, including, without limitation, employees of penal and correctional institutions who are not responsible for security at those institutions.

(b) Administrative and clerical employees, including, without limitation, legal support staff and employees whose work involves general office work, or keeping or examining records and accounts.

(c) Technical aides to professional employees, including, without limitation, computer programmers, tax examiners, conservation employees and crew supervisors.

(d) Professional employees, including, without limitation, physical therapists and other employees in medical and other professions related to health.

(e) Employees, other than professional employees, who provide health care and personal care, including, without limitation, employees who provide care for children.

(f) Category I peace officers and category II peace officers.

(g) Category III peace officers.

(h) Supervisory employees not otherwise included in other workplace relations units.

(i) Employees of the Nevada System of Higher Education, except such employees who are category I peace officers.

(j) Employees of the State Department of Conservation and Natural Resources who:

(1) Perform emergency fire suppression; or

(2) Provide direct support to the employees described in subparagraph (1).

3. The Commission shall, in accordance with the rules adopted pursuant to section 18 of this act, establish the exact classifications of

employees within each workplace relations unit. The Commission may assign a new classification to a workplace relations unit based upon the similarity of the new classification to other classifications within the workplace relations unit.

4. The Commission shall not change an established workplace relations unit arbitrarily.

5. The Commission shall determine whether the employment functions of any group of employees performing managerial functions preclude the inclusion of those employees in a workplace relations unit.

6. As used in this section:

(a) "Category I peace officer" has the meaning ascribed to it in NRS 289.460.

(b) "Category II peace officer" has the meaning ascribed to it in NRS 289.470.

(c) "Category III peace officer" has the meaning ascribed to it in NRS 289.480.

Sec. 28. ***If no employee organization is designated as the exclusive representative of a workplace relations unit and an employee organization files with the Commission a list of its membership showing that the employee organization represents more than 50 percent of the employees within the workplace relations unit, the Commission shall designate the employee organization as the exclusive representative of the workplace relations unit without ordering an election.***

Sec. 29. ***1. If no employee organization is designated as the exclusive representative of a workplace relations unit, the Commission shall order an election to be conducted within the workplace relations unit if:***

(a) An employee organization files with the Commission a written request for an election which includes a list of its membership showing that it represents at least 30 percent but not more than 50 percent of the employees within the workplace relations unit; and

(b) No other election to choose, change or discontinue representation has been conducted within the workplace relations unit during the preceding 12 months.

2. If the Commission designates an employee organization as the exclusive representative of a workplace relations unit following an election pursuant to subsection 1 or pursuant to section 28 of this act, the Commission shall order an election:

(a) If either:

(1) Another employee organization files with the Commission a written request for an election which includes a list of its membership showing that the employee organization represents at least 50 percent of the employees within the workplace relations unit; or

(2) A group of employees within the workplace relations unit files with the Commission a written request for an election which includes a list showing that more than 50 percent of the employees within the workplace

relations unit have requested that an election be conducted to change or discontinue representation;

(b) If applicable, the request filed pursuant to paragraph (a) is filed not more than 270 days and not less than 225 days before the date on which the current workplace relations agreement in effect for the workplace relations unit expires; and

(c) If no other election to choose, change or discontinue representation has been conducted within the workplace relations unit during the preceding 12 months.

Sec. 30. ***1. If the Commission orders an election within a workplace relations unit pursuant to section 29 of this act, the Commission shall order that each of the following be placed as a choice on the ballot for the election:***

(a) If applicable, the employee organization that requested the election pursuant to section 29 of this act and the employee organization that is presently designated as the exclusive representative of the workplace relations unit;

(b) Any other employee organization that, on or before the date that is prescribed by the rules adopted by the Commission, files with the Commission a written request to be placed on the ballot for the election and includes with the written request a list of its membership showing that the employee organization represents at least 30 percent of the employees within the workplace relations unit; and

(c) A choice for "no representation."

2. If a ballot for an election contains more than two choices and none of the choices on the ballot receives a majority of the votes cast at the initial election, the Commission shall order a runoff election between the two choices on the ballot that received the highest number of votes at the initial election.

3. If the choice for "no representation" receives a majority of the votes cast at the initial election or at any runoff election, the Commission shall designate the workplace relations unit as being without representation.

4. If an employee organization receives a majority of the votes cast at the initial election or at any runoff election, the Commission shall designate the employee organization as the exclusive representative of the workplace relations unit.

Sec. 31. ***1. The Commission shall preside over all elections that are conducted pursuant to this chapter and shall determine the eligibility requirements for employees to vote in any such election.***

2. An employee organization that is placed as a choice on the ballot for an election or any employee who is eligible to vote at an election may file with the Commission a written objection to the results of the election. The objection must be filed not later than 10 days after the date on which the notice of the results of the election is given by the Commission.

3. In response to a written objection filed pursuant to subsection 2 or upon its own motion, the Commission may invalidate the results of an election and order a new election if the Commission finds that any conduct or circumstances raise substantial doubt that the results of the election are reliable.

Sec. 32. ***1. Except as otherwise provided in subsection 2, an exclusive representative shall:***

(a) Act as the agent and exclusive representative of all employees within each workplace relations unit that it represents; and

(b) In good faith and on behalf of each workplace relations unit that it represents, individually or collectively, engage in discussions of workplace relations with the Executive Department concerning the terms and conditions of employment for the employees within each workplace relations unit that it represents, including, without limitation, any terms and conditions of employment that are within the scope of supplemental discussions of workplace relations pursuant to section 40 of this act.

2. If an employee is within a workplace relations unit that has an exclusive representative, the employee has the right to present grievances to the Executive Department at any time and to have those grievances adjusted without the intervention of the exclusive representative if:

(a) The exclusive representative is given an opportunity to be present at any meetings or hearings related to the adjustment of the grievance; and

(b) The adjustment of the grievance is not inconsistent with the provisions of the workplace relations agreement or any supplemental workplace relations agreement then in effect.

Sec. 33. ***If the Commission designates an employee organization as the exclusive representative of a workplace relations unit pursuant to this chapter, an officer of the Executive Department shall not, pursuant to NRS 281.129, withhold any amount of money from the salary or wages of an employee within the workplace relations unit to pay dues or similar fees to an employee organization other than the employee organization that is the exclusive representative of the workplace relations unit.***

Sec. 34. ***The Executive Department and an exclusive representative shall begin negotiations concerning a workplace relations agreement within 60 days after one party notifies the other party of the desire to negotiate.***

Sec. 35. ***1. If the parties do not reach a workplace relations agreement within 120 days after the date on which the parties began negotiations or any later date which is set by agreement of the parties, either party may request a mediator from the Federal Mediation and Conciliation Service.***

2. The mediator shall bring the parties together as soon as possible after his appointment and shall attempt to settle each issue in dispute within 30 days after his appointment or any later date which is set by agreement of the parties.

Sec. 36. ***1. If the mediator determines that his services are no longer helpful or if the parties do not reach a workplace relations agreement through mediation within 30 days after the appointment of the mediator or any later date which is set by agreement of the parties, the mediator shall discontinue mediation and the parties shall attempt to agree upon an impartial arbitrator.***

2. If the parties do not agree upon an impartial arbitrator within 5 days after the date on which mediation is discontinued pursuant to subsection 1 or on or before any later date which is set by agreement of the parties, the parties shall request from the Federal Mediation and Conciliation Service a list of seven potential arbitrators. The parties shall select an arbitrator from this list by alternately striking one name until the name of only one arbitrator remains, and that arbitrator must hear the dispute in question. The party who will strike the first name must be determined by a coin toss.

3. The arbitrator shall begin arbitration proceedings within 60 days after his selection or any later date which is set by agreement of the parties.

4. The arbitrator and the parties shall apply and follow the procedures for arbitration that are prescribed by the rules adopted by the Commission. During arbitration, the parties retain their respective duties to negotiate in good faith.

5. The arbitrator may administer oaths or affirmations, take testimony and issue and seek enforcement of subpoenas in the same manner as the Commission pursuant to section 19 of this act, and, except as otherwise provided in subsection 6, the provisions of section 19 of this act apply to subpoenas issued by the arbitrator.

6. The Executive Department and the exclusive representative shall each pay one-half of the cost of arbitration.

Sec. 37. ***1. For each separate issue that is in dispute after arbitration proceedings are held pursuant to section 36 of this act, the arbitrator shall incorporate either the final offer of the Executive Department or the final offer of the exclusive representative into his decision. The arbitrator shall not revise or amend the final offer of either party on any issue.***

2. To determine which final offers to incorporate into his decision, the arbitrator shall assess the reasonableness of:

(a) The position of each party as to each issue in dispute; and

(b) The contractual terms and provisions contained in each final offer.

3. In assessing reasonableness pursuant to subsection 2, the arbitrator shall:

(a) Compare the terms and conditions of employment for the employees within the workplace relations unit with the terms and conditions of employment for other employees performing similar services and for other employees generally:

(1) In public employment in comparable communities; and

(2) In private employment in comparable communities; and

(b) Consider, without limitation, such other factors as are normally or traditionally used as part of discussions of workplace relations, mediation, arbitration or other methods of dispute resolution to determine the terms and conditions of employment for employees in public or private employment.

4. The arbitrator shall render a written decision within 45 days after the conclusion of the arbitration proceedings or before any later date which is set by agreement of the parties.

5. Except as otherwise provided in section 38 of this act, each provision that is included in a decision of the arbitrator is final and binding upon the parties.

Sec. 38. ***1. Except as otherwise provided in this section, a party may seek judicial review in the district court of the decision of an arbitrator made pursuant to section 37 of this act based upon jurisdictional grounds or upon the grounds that the decision:***

(a) Was procured by fraud, collusion or other similar unlawful means; or

(b) Was not supported by competent, material and substantial evidence on the whole record and based upon the factors set forth in section 37 of this act.

2. If a party seeks judicial review pursuant to this section, the district court may stay the contested portion of the decision of the arbitrator until the court rules on the matter.

3. The district court may affirm or reverse the contested portion of the decision of the arbitrator, in whole or in part, but the court may not remand the matter to the arbitrator or require any additional fact-finding or decision making by the arbitrator.

4. If the district court reverses any part of the contested portion of the decision of the arbitrator, the court shall enter an order invalidating that part of the decision of the arbitrator, and that part of the decision of the arbitrator is void and must not be given effect.

Sec. 39. ***1. If a provision of a workplace relations agreement does not require an amendment to existing statute by the Legislature to be given effect, the provision becomes effective pursuant to the provisions of the workplace relations agreement.***

2. If a provision of the workplace relations agreement requires an amendment to existing statute by the Legislature to be given effect, the provision becomes effective, if at all, on the date on which the necessary amendment to existing statute becomes effective.

Sec. 40. ***1. Except as otherwise provided in this section, the Executive Department and the exclusive representative of the workplace relations unit may engage in supplemental discussions of workplace relations concerning any terms and conditions of employment which are peculiar to or which uniquely affect fewer than all the employees within the workplace relations unit if such supplemental terms and conditions of***

employment are not included in any provision of the workplace relations agreement then in effect between the Executive Department and the workplace relations unit.

2. The Executive Department and an exclusive representative may engage in supplemental discussions of workplace relations pursuant to subsection 1 for fewer than all the employees within two or more workplace relations units that the exclusive representative represents if the requirements of subsection 1 are met for each such workplace relations unit.

3. If the parties reach a supplemental workplace relations agreement pursuant to this section, the provisions of the supplemental workplace relations agreement:

(a) Must be in writing; and

(b) Shall be deemed to be incorporated into the provisions of each workplace relations agreement then in effect between the Executive Department and the employees who are subject to the supplemental workplace relations agreement if the provisions of the supplemental workplace relations agreement do not conflict with the provisions of the workplace relations agreement.

4. If any provision of the supplemental workplace relations agreement conflicts with any provision of the workplace relations agreement, the provision of the supplemental workplace relations agreement is void and the provision of the workplace relations agreement must be given effect.

5. The provisions of the supplemental workplace relations agreement expire at the same time as the other provisions of the workplace relations agreement into which they are incorporated.

6. The Executive Department and an exclusive representative may, during discussions of workplace relations conducted pursuant to this chapter, negotiate and include in a workplace relations agreement any terms and conditions of employment that would otherwise be within the scope of supplemental workplace relations conducted pursuant to this section.

Sec. 41. ***1. Except as otherwise provided by specific statute, an employee organization and the Executive Department may sue or be sued as an entity pursuant to this chapter.***

2. If any action or proceeding is brought by or against an employee organization pursuant to this chapter, the district court in and for the county in which the employee organization maintains its principal office or the county in which the claim arose has jurisdiction over the claim.

3. A natural person and his assets are not subject to liability for any judgment awarded pursuant to this chapter against the Executive Department or an employee organization.

Sec. 42. ***The terms of any workplace relations agreement remain in effect until a new workplace relations agreement takes effect.***

Sec. 42.3. ***Notwithstanding the provisions of any workplace relations agreement negotiated pursuant to this chapter, the State is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any workplace relations agreement for the duration of the emergency. Any action taken under the provisions of this section must not be construed as a failure to negotiate in good faith.***

Sec. 42.5. ***Any workplace relations agreement entered into pursuant to this chapter must be posted on the Internet website, if any, of the State of Nevada.***

Sec. 42.7. ***Nothing in this chapter shall be construed to authorize the violation of NRS 288.230 to 288.260, inclusive.***

Sec. 43. NRS 281.129 is hereby amended to read as follows:

281.129 1. Any officer of the State, except the Legislative Fiscal Officer, who disburses money in payment of salaries and wages of officers and employees of the State:

(a) May, upon written requests of the officer or employee specifying amounts, withhold those amounts and pay them to:

(1) Charitable organizations;

(2) Employee credit unions;

(3) Except as otherwise provided in paragraph (b), insurers;

(4) The United States for the purchase of savings bonds and similar obligations of the United States; and

(5) ~~[~~Employee~~]~~ ***Except as otherwise provided in section 33 of this act, employee*** organizations and labor organizations.

(b) Shall, upon receipt of information from the Public Employees' Benefits Program specifying amounts of premiums or contributions for coverage by the Program, withhold those amounts from the salaries or wages of officers and employees who participate in the Program and pay those amounts to the Program.

2. The State Controller may adopt regulations necessary to withhold money from the salaries or wages of officers and employees of the Executive Department.

Sec. 44. NRS 284.013 is hereby amended to read as follows:

284.013 1. Except as otherwise provided in subsection 4, this chapter does not apply to:

(a) Agencies, bureaus, commissions, officers or personnel in the Legislative Department or the Judicial Department of State Government, including the Commission on Judicial Discipline;

(b) Any person who is employed by a board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS; or

(c) Officers or employees of any agency of the Executive Department of the State Government who are exempted by specific statute.

2. Except as otherwise provided in subsection 3, the terms and conditions of employment of all persons referred to in subsection 1, including salaries not prescribed by law and leaves of absence, including, without limitation, annual leave and sick and disability leave, must be fixed by the appointing or employing authority within the limits of legislative appropriations or authorizations.

3. Except as otherwise provided in this subsection, leaves of absence prescribed pursuant to subsection 2 must not be of lesser duration than those provided for other state officers and employees pursuant to the provisions of this chapter. The provisions of this subsection do not govern the Legislative Commission with respect to the personnel of the Legislative Counsel Bureau.

4. Any board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS which contracts for the services of a person, shall require the contract for those services to be in writing. The contract must be approved by the State Board of Examiners before those services may be provided.

5. To the extent that they are inconsistent or otherwise in conflict, the provisions of this chapter do not apply to any terms and conditions of employment that are properly within the scope of and subject to the provisions of a workplace relations agreement or a supplemental workplace relations agreement that is enforceable pursuant to the provisions of sections 2 to 42, inclusive, of this act. As used in this subsection, "terms and conditions of employment" has the meaning ascribed to it in section 15 of this act.

Sec. 44.3. NRS 284.030 is hereby amended to read as follows:

284.030 ~~[1.]~~ There is hereby created in the Department a personnel commission composed of five members appointed ~~[by the Governor.~~

~~2.]~~ ***as follows:***

1. The Governor shall appoint:

(a) ~~[Three members]~~ ***One member*** who ~~[are representatives]~~ ***is a representative*** of the general public and ~~[have]~~ ***has*** a demonstrated interest in or knowledge of the principles of public personnel administration.

(b) One member who is a representative of labor and has a background in personnel administration.

(c) One member who is a representative of employers or managers and has a background in personnel administration.

2. The Majority Leader of the Senate shall appoint one member who is a representative of the general public and has a demonstrated interest in or knowledge of the principles of public personnel administration.

3. The Speaker of the Assembly shall appoint one member who is a representative of the general public and has a demonstrated interest in or knowledge of the principles of public personnel administration.

Sec. 44.5. NRS 284.040 is hereby amended to read as follows:

284.040 1. The members of the Commission ~~[shall]~~ serve at the pleasure of the ~~[Governor,]~~ ***appointing authority,*** but no appointment ~~[shall]~~

may extend beyond a period of 4 years ~~[from]~~ ***after*** the date of expiration of the preceding appointment.

2. Continued absence from meetings ~~[shall constitute]~~ ***constitutes*** good and sufficient cause for removal of a member by the ~~[Governor.]~~ ***appointing authority.***

Sec. 44.7. NRS 284.065 is hereby amended to read as follows:

284.065 1. The Commission has only such powers and duties as are authorized by law.

2. In addition to the powers and duties set forth elsewhere in this chapter ~~[,]~~ ***and sections 2 to 42, inclusive, of this act,*** the Commission shall:

(a) Advise the Director concerning the organization and administration of the Department.

(b) Report to the Governor biennially on all matters which the Commission may deem pertinent to the Department and concerning any specific matters previously requested by the Governor.

(c) Advise and make recommendations to the Governor ~~[or]~~ ***and*** the Legislature relative to the personnel policy of the State.

(d) Adopt regulations to carry out the provisions of this chapter.

(e) Foster the interest of institutions of learning and of civic, professional and employee organizations in the improvement of personnel standards in the state service.

(f) Review decisions of the Director in contested cases involving the classification or allocation of particular positions.

(g) Exercise any other advisory powers necessary or reasonably implied within the provisions and purposes of this chapter.

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 46.5. The terms of the members of the Personnel Commission appointed by the Governor pursuant to paragraphs (a), (b) and (c) of subsection 2 of NRS 284.030 expire on June 30, 2009.

Sec. 46.7. As soon as practicable on or after July 1, 2009:

1. The Governor shall appoint members to the Personnel Commission pursuant to paragraphs (a), (b) and (c) of subsection 1 of NRS 284.030, as amended by section 44.3 of this act.

2. The Majority Leader of the Senate shall appoint a member to the Personnel Commission pursuant to subsection 2 of NRS 284.030, as amended by section 44.3 of this act.

3. The Speaker of the Assembly shall appoint a member to the Personnel Commission pursuant to subsection 3 of NRS 284.030, as amended by section 44.3 of this act.

Sec. 47. 1. This section and section 46.5 of this act become effective upon passage and approval.

2. Sections 1 to 46, inclusive, ~~[and 46.7]~~ of this act become effective ~~[on July 1, 2009.]~~ **:**

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2010, for all other purposes.

3. Section 46.7 of this act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 395.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Kirkpatrick moved that the Assembly recede from its action on Senate Bill No. 175.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 52, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 615 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 27, which is attached to and hereby made a part of this report.

PEGGY PIERCE	VALERIE WIENER
APRIL MASTROLUCA	SHIRLEY BREEDEN
JOE HARDY	
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA27.

SUMMARY— ~~[Requires]~~ **Revises provisions relating to public hospitals and requires** hospitals in certain larger counties to provide a report of certain information concerning patients to the Legislative Committee on Health Care. (BDR ~~[S]~~ **40**-448)

AN ACT relating to health care; **authorizing a board of county commissioners to adopt procedures to lease the naming rights relating to public hospitals located within the county;** requiring certain hospitals in certain larger counties to report information to the Legislative Committee on Health Care concerning the transfer of patients to another hospital; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners in certain larger counties to adopt, by ordinance, procedures for the sale of naming rights relating to a shooting range that is owned by the county. (NRS 244.30701) Under existing law, counties and groups of counties are authorized to establish public hospitals. (Chapter 450 of NRS) Section 1 of this bill authorizes a board of county commissioners to lease the

naming rights relating to such a hospital and specifies the purposes for which proceeds from the lease must be used.

Hospitals in this State are required to provide emergency services and care, and it is unlawful for a hospital or a physician working in a hospital emergency room to refuse to accept or treat a patient in need of emergency services and care. (NRS 439B.410) ~~[This]~~ **Section 2 of this** bill requires certain hospitals located in larger counties to provide a report of certain information to the Legislative Committee on Health Care concerning the transfer of patients from the hospital to another hospital and the availability of specialty medical services in the hospital. Such a report must be made quarterly beginning on October 15, 2009, and cover information from July 1, 2009, through September 30, 2010.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **Chapter 450 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The board of county commissioners of a county in which a public hospital is located may adopt, by ordinance, procedures for the lease of naming rights relating to the public hospital, including, without limitation, the lease of naming rights to:

(a) Buildings, improvements, facilities, rooms, features, fixtures and sites located within the boundaries of the public hospital; and

(b) Activities, events, programs, chairs, fellowships and memorials held or established at the public hospital.

2. If a board of county commissioners leases naming rights in accordance with the procedures adopted pursuant to this section, the board shall create an enterprise fund exclusively for the proceeds of the lease of all such naming rights, for fees or charges for use of the hospital and for any gifts, grants, donations, bequests, devises or money from any other source received for the public hospital. Any interest or other income earned on the money in the fund, after deducting any applicable charges, must be credited to the fund. Money that remains in the fund at the end of a fiscal year does not revert to the county general fund and the balance in the fund must be carried forward to the next fiscal year. The money in the fund may only be used to pay for expenses directly related to the costs of the public hospital for construction, improvement, operation, maintenance or programs.

3. The procedures adopted pursuant to subsection 1 must, without limitation:

(a) Prohibit the lease of naming rights for a public hospital to that public hospital;

(b) Provide that the board of county commissioners may reject any name proposed pursuant to a lease of naming rights;

(c) Provide for the development of selection criteria for awarding a lease of naming rights, including procedures for circumstances in which more than one request for the lease of naming rights is submitted to the board of county commissioners;

(d) Provide that the name must be consistent with the mission of the public hospital;

(e) Prohibit the use of a name that:

(1) Is false, misleading or deceptive;

(2) Promotes unlawful or illegal goods, service or activities;

(3) Promotes or encourages hate, violence or antisocial behavior;

(4) Implies an endorsement by the county or a public official of any good, service or activity;

(5) Is libelous or defamatory;

(6) Contains text or an image that is likely to be confused with safety, traffic or emergency signage; or

(7) Is associated with a person who has been convicted of a felony;

(f) Provide that the term of a lease does not exceed 20 years; and

(g) Provide that the board of county commissioners:

(1) Shall require the change of a name authorized pursuant to a lease or revoke a lease before the expiration of its term if a change of circumstances results in a violation of the provisions of paragraph (d) or (e); and

(2) May require the change of a name authorized pursuant to a lease or revoke a lease before the expiration of its term for any other purpose in accordance with the procedures adopted pursuant to subsection 1.

4. The terms of a lease granted pursuant to this section may be renegotiated and renewed. Each such renewal must provide that the term of the lease does not exceed 20 years.

5. A lease of naming rights pursuant to this section and the procedures adopted pursuant thereto are not subject to the requirements for competitive bidding set forth in chapter 332 of NRS.

~~[Section 1.]~~ ***Sec. 2.*** 1. Each hospital located in a county whose population is 400,000 or more which is licensed to have more than 70 beds shall provide to the Legislative Committee on Health Care reports with information concerning the transfer of patients from one hospital to another hospital. Such information must include:

(a) The number of patients who are transferred from the hospital to another hospital;

(b) The number of patients who were received by the hospital that were transferred from another hospital;

(c) The reason for each transfer of a patient to another hospital;

(d) The availability of specialty services and care in the hospital; and

(e) Whether each patient who was transferred from the hospital had insurance or some other guaranteed form of payment for services.

2. Each hospital subject to the provisions of subsection 1 shall provide a report to the Legislative Committee on Health Care with the information required at least once every 3 months, and the reports must include information from July 1, 2009, through September 30, 2010. The first report must be made by October 15, 2009, and must include information from July 1, 2009, through September 30, 2009. Subsequent reports must include information for the period since the last report.

3. The information reported pursuant to this section must be made available to each person or entity that provides information pursuant to this section to the extent that it is not required to be kept confidential.

4. The information reported pursuant to this section must be maintained and reported in a manner consistent with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

5. As used in this section, "specialty services" includes, without limitation:

(a) Cardiology services;
(b) Gastroenterological services;
(c) General surgical services;
(d) Neurosurgical services;
(e) Ophthalmology services;
(f) Oral and maxillofacial surgical services;
(g) Orthopedic services;
(h) Otolaryngology services; and
(i) Urological services.

~~[Sec. 2.]~~ ***Sec. 3.*** This act becomes effective on July 1, 2009.

Assemblywoman Pierce moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 52.

Remarks by Assemblywoman Pierce.

Motion carried by a constitutional majority.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 3:40 p.m.

ASSEMBLY IN SESSION

At 3:50 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 143, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Senate Concurrent Resolution No. 37, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day sustained the Governor's veto of Assembly Bills Nos. 147, 446.

Also, I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Assembly Bill No. 493.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 39.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Schneider, Townsend and Breeden as a Conference Committee concerning Senate Bill No. 242.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 295.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

GENERAL FILE AND THIRD READING

Senate Bill No. 143.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 999.

SUMMARY— ~~[Creates the Legislative Committee for Federal Stimulus Oversight to oversee the use of money allocated to the State from the Federal Government to stimulate the economy.]~~ **Makes an appropriation to the Interim Finance Committee for allocation to pay costs relating to the implementation of certain legislation.** (BDR S-1034)

AN ACT ~~[relating to state financial administration; creating the Legislative Committee for Federal Stimulus Oversight to oversee the use of money allocated to the State from the Federal Government to stimulate the economy;]~~ **making an appropriation to the Interim Finance Committee for allocation to pay costs relating to the implementation of certain legislation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[The United States Congress passed the "American Recovery and Reinvestment Act of 2009" which includes allocations of money to states. Section 1 of this bill creates the Legislative Committee for Federal Stimulus Oversight to oversee the use of the money allocated to this State. Section 2 of this bill sets out the duties of the Committee which include considering proposals and plans for the use of allocated funds to ensure that the use maximizes the goals of the State, examining the possibility of participating in certain programs offered by the Federal Government, monitoring spending for transportation and public works projects, and ensuring that more and~~

~~higher paying jobs are created. Section 3 of this bill requires the Committee to hold entities that receive federal funds accountable for the appropriate and effective use of the money allocated to them and authorizes the Committee to require the redirection of the use of money within a program if it determines that the allocation is not being used in the most effective manner.]~~

This bill makes an appropriation of $500,000 from the State General Fund to the Interim Finance Committee for allocation to pay costs relating to the implementation of legislation concerning state revenue enacted during the 75th Session of the Nevada Legislature.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 1. There is hereby ~~[created the Legislative Committee for Federal Stimulus Oversight to oversee the use of funds allocated from money that is received by the State of Nevada from the Federal Government pursuant to the "American Recovery and Reinvestment Act of 2009" to stimulate the economy consisting of:~~

~~(a) Five members who are Senators, three of whom are appointed by the Majority Leader of the Senate and two of whom are appointed by the Minority Leader of the Senate; and~~

~~(b) Five members who are Assemblymen, three of whom are appointed by the Speaker of the Assembly and two of whom are appointed by the Minority Leader of the Assembly.~~

~~2. The members of the Committee shall select a Chairman from one House of the Legislature and a Vice Chairman from the other.~~

~~3. Vacancies on the Committee must be filled in the same manner as original appointments.]~~ **appropriated from the State General Fund to the Interim Finance Committee the sum of $500,000 for allocation to pay costs relating to the implementation of legislation concerning state revenue enacted during the 75th Session of the Nevada Legislature.**

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 2. ~~[1. The Legislative Committee on Federal Stimulus Oversight shall consider proposals and plans for the use of allocated funds described in section 1 of this act to ensure that the use maximizes the goals of the State to improve the state system of public education and the Nevada System of Higher Education, to provide greater access to health insurance and health~~

~~care, to deliver social services in a more efficient manner, to provide for more efficient use of energy and to create more jobs.~~

~~2. The Committee shall examine programs offered by the Federal Government as part of the incentives made available to states to stimulate the economy to determine whether it is beneficial and feasible for the State of Nevada to participate in such programs. Such programs may include, without limitation, a program to allow recently unemployed persons to participate in Medicaid and programs that provide for enhancements of other existing programs.~~

~~3. The Committee shall monitor the spending of allocated funds for transportation projects and public works projects to ensure that such projects provide for the maximum increase in job opportunities made available in this State.~~

~~4. The Committee shall review the plans of state agencies for spending allocated funds, including, without limitation, plans for spending money designated for:~~

~~(a) The state system of public education and higher education;~~

~~(b) Medicaid;~~

~~(c) Mental health and developmental services;~~

~~(d) Child and family services;~~

~~(e) Temporary Assistance to Needy Families; and~~

~~(f) Other services provided by State Government.~~

~~5. The Committee shall review grants that are proposed under various federal programs, establish priorities for the use of any money from such grants that is made available to the State and ensure that any such money is distributed in an equitable manner based on need.~~

~~6. The Committee shall review the proposed utilization of the money received through grants from the Federal Government for job training that is focused on energy efficiency and weatherization of homes, schools and other public buildings to ensure that it creates more and higher paying jobs in this State.~~**] (Deleted by amendment.)**

Sec. 3. **[**~~1. The Legislative Committee for Federal Stimulus Oversight shall provide a manner of holding each entity that receives an allocation of funds described in section 1 of this act accountable for the appropriate and effective use of the money. Each such entity shall report to the Committee at such times and intervals as requested by the Committee concerning the manner in which the money is used, the number of jobs that are created as a result of the money, if applicable, other improvements that result from the use of the money and such other information as requested by the Committee.~~

~~2. If the Committee determines that money that has been allocated is not being used in the most effective manner, the Committee may require that the remaining money from the allocation be redirected to a more effective use within the program for which the money was allocated.~~**] (Deleted by amendment.)**

Sec. 4. This act becomes effective upon passage and approval. ~~[and expires by limitation on June 30, 2011.]~~

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Senate Bill No. 143 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 212.

Bill read third time.

Remarks by Assemblymen Carpenter and Settelmeyer.

Roll call on Senate Bill No. 212:

YEAS—41.

NAYS—Ohrenschall.

Senate Bill No. 212 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 37.

Resolution read.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1006.

SENATE CONCURRENT RESOLUTION—Providing for the Interim Finance Committee to conduct a review of Nevada's revenue structure and to provide long-term stabilization of revenue.

WHEREAS, A prolonged recession has left Nevada with a large general fund deficit; and

WHEREAS, Nevada's existing state revenue sources are insufficient to fund essential state services such as education, health and human services and public safety programs; and

WHEREAS, Nevada's 2009-2011 budget includes nonrecurring federal stimulus funds and tax revenues that will sunset on June 30, 2011; and

WHEREAS, It is essential that the State in the future have a stable, equitable, transparent and competitive revenue system; and

WHEREAS, It is vital that policymakers not be unduly constrained by the current distribution of public revenues or the current mixture of public revenue sources in making decisions regarding the State's fiscal system; and

WHEREAS, It is in the best interest of Nevada that the State's revenue system reflect the long-term needs of the State, the diversity of Nevada's economy and nationally recognized best practices; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Interim Finance Committee shall appoint a Subcommittee to conduct a review of Nevada's revenue structure and to provide long-term stabilization of revenue. The Subcommittee shall carry out the following functions:

1. Review proposals for broad-based taxes which are fair and equitable;

2. Examine strategies for mitigating tax burdens on both businesses and consumers, including reductions, if possible, in existing taxes, both state and local;

3. Consider the public's willingness to having existing taxes be decreased as other tax revenues become available;

4. Using current statistical information, propose strategies and recommendations to advance the State of Nevada in nationwide rankings in key quality-of-life areas, including education, health and human services, public safety, economic diversification, job creation, transit and energy use; and

5. Develop a quality-of-life vision for the State of Nevada for a 5-year period, a 10-year period and a 20-year period; and be it further

RESOLVED, That the Subcommittee shall appoint a Nevada Vision Stakeholder Group, with members selected from a list of names submitted by community and statewide groups involved in business, education, health care, human services, economic development, transit and energy, or any other groups deemed appropriate by the Subcommittee, to assist in developing 5-year, 10-year and 20-year strategic plans for improving the State's quality of life; and be it further

RESOLVED, That **, with money available for this purpose,** the Interim Finance Committee shall, through competitive bidding, retain the services of a qualified, independent consultant to review Nevada's public revenue structure and make recommendations to the Interim Finance Committee relating to:

1. The allocation of revenue from taxation and other sources between the State and local governments;

2. The adequacy of the revenue sources of the State and local governments and each level of government in supplying sufficient revenue for the services provided by the respective governments and governmental agencies;

3. The relative stability of the revenue sources of the State and local governments and each level of government and each governmental agency;

4. The degree to which the revenue sources of the State and local governments reflect the current economic activity of the State;

5. The degree to which the revenue sources of the State and local governments are representative of the way business is conducted today relative to administration and compliance;

6. The extent to which the earmarking of various revenue sources has removed flexibility in efficiently allocating those revenue sources;

7. The extent to which the revenue sources of state and local governmental agencies increase in proportion to increased population and the corresponding increased demand for the services provided by the respective governments and governmental agencies;

8. Any recommendations to improve the equity of the allocation of revenue and the stability of the sources of revenue for State Government and the various local governmental entities and changes which will improve the flexibility, collection and administration of existing revenue sources; and

9. Any other matters that the Interim Finance Committee deems necessary to improve the equity, stability, transparency and competitiveness of the State's tax system; and be it further

RESOLVED, That in conjunction with the revenue stabilization study process, the consultant shall:

1. Collect independent data on Nevada's national rankings in quality-of-life areas; and

2. Coordinate with the Nevada Vision Stakeholder Group to develop strategies to advance Nevada's national standing in critical quality-of-life areas; and be it further

RESOLVED, That the consultant shall deliver a report of his findings concerning revenue stabilization to the Interim Finance Committee on or before July 1, 2010, which must include specific recommendations as well as the impact of implementing those recommendations on the State, local governments and various types of businesses, including, without limitation, large and small businesses, capital-intensive and labor-intensive businesses and high-margin and low-margin businesses and as well the impact on the general population; and be it further

RESOLVED, That the consultant shall deliver a report of his findings concerning quality-of-life areas to the Interim Finance Committee on or before July 1, 2010, including, without limitation, proposed strategies and recommendations from the Nevada Vision Stakeholder Group in key areas such as education, health and human services, public safety, economic diversification, job creation, transit and energy use; and be it further

~~[Resolved, That the Interim Finance Committee shall allocate money from the Contingency Fund to pay for the services of the consultant; and be it further]~~

RESOLVED, That the Interim Finance Committee shall hold at least two public hearings to evaluate the findings of the consultant; and be it further

RESOLVED, That the Subcommittee shall create a Technical Working Group consisting of the Senate Fiscal Analyst, the Assembly Fiscal Analyst, the Chief of the Budget Division of the Department of Administration, the

Executive Director of the Department of Taxation, the Vice Chancellor of Finance of the Nevada System of Higher Education, the Deputy Superintendent of Administrative and Fiscal Services of the Department of Education and the Chairman of the Committee on Local Government Finance; and be it further

RESOLVED, That the Subcommittee shall direct the Technical Working Group to ensure that the State is prepared to implement, on or before July 1, 2011, revenue stabilization recommendations accepted and forwarded by the Subcommittee; and be it further

RESOLVED, That the Technical Working Group shall undertake any work necessary to ensure the State's readiness to implement required modifications to the State's existing revenue system, including, without limitation, any upgrade or replacement of equipment or software required for such a modification; and be it further

RESOLVED, That, upon recommendation of the Subcommittee, the Executive Director of the Department of Taxation may request an allocation from the Contingency Fund pursuant to NRS 353.266, 353.268 and 353.269 to acquire a technologically sound computer system necessary for the collection or allocation of taxes in the State; and be it further

RESOLVED, That the Interim Finance Committee shall, on or before October 1, 2010, submit a report of the results of its review and any recommendations for legislation to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the Resolution File.

Senate Concurrent Resolution No. 39.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Health and Human Services.

Motion carried.

Assemblyman Arberry moved that Senate Concurrent Resolution No. 37 be taken from the Resolution File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Mortenson moved that Assembly Joint Resolution No. 1 be taken from the Chief Clerk's desk and rereferred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Assemblyman Mortenson moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 4 p.m.

ASSEMBLY IN SESSION

At 5:30 p.m.

Madam Speaker presiding.

Quorum present.

Madam. Speaker announced that pursuant to Assembly Standing Rule No. 1, section 2, subsection (d), Assemblyman Oceguera would act as presiding officer.

Assemblyman Oceguera presiding.

REMARKS FROM THE FLOOR

Assemblyman Conklin requested that the following remarks be entered in the Journal.

Assemblyman Oceguera requested the privilege of the Chair for the purpose of making the following remarks:

Life for our Speaker began in Philadelphia, Pennsylvania, birthplace of our nation. In addition to being the nation's first capital, the city was the site of the first American university, hospital, and public school. Barbara Buckley's life is filled with firsts, so it's not surprising she got her start in such an enterprising city. Most of us have come to know Barbara as a community advocate, then a legislator, and most recently as Speaker of the Nevada Assembly. But before we talk about her many accomplishments in those roles, let me briefly describe a few things you might not know about her, starting with her early years.

Barbara Buckley is the youngest of four children. She attended Catholic school for 12 years and was a cheerleader and a cheerleading coach. I have to wonder if that early training is sometimes still put to work, especially here when we're on our third floor session of the day in the final week of a particularly grueling legislative session.

In 1980 at the age of 19, Barbara made her first trip to Las Vegas. It was intended to be just a short vacation, but she stayed for three months and worked as a hotel maid to finance that stay. Barbara eventually returned to Philadelphia, but only briefly to save enough money so that she could relocate to Las Vegas in 1981. We didn't know it then, but she had already adopted us.

Never one to take things easy, Barbara enrolled in night courses at UNLV, all the while working as a legal secretary. She was the first in her family to graduate from college, but she didn't stop there. She went on to pursue a law degree. She was awarded the Outstanding Female Law Graduate for 1989 at the University of Arizona and received the Danny Lee Chandler Award for promoting the First Amendment in law school. Given her affinity for firsts, I'm not surprised. In 1996, Barbara became the executive director of Legal Aid of Southern Nevada, where she created the Domestic Violence and the Children's Attorney Projects, the first legal programs to assist victims of domestic violence and abuse in Clark County. She was also instrumental in organizing the Affordable Housing Institute and founding the Southern Nevada Homeless Coalition—another theme in Barbara's life, helping those most in need.

Barbara Buckley was elected to the Nevada Assembly in 1994, and in her first term, she was recognized as outstanding freshman in the Assembly. In Barbara's second term, she was named Assistant Majority Floor Leader by Speaker Joe Dini. In 2001, she was asked by Speaker Richard Perkins to serve as the Majority Leader—the first woman to hold that position. And as we all know, in 2006 she became the first woman in Nevada history to be chosen Speaker of the Nevada Assembly.

Barbara's commitment to hard work was never more evident than during her years in the Assembly. In her second term, she became concerned about issues in health care, a topic that dominated letters from her constituents and complaints from her legal clients. That session, Barbara took on health maintenance organizations and helped rewrite the law governing HMOs. Known as the Patient Protection Act, the bill passed both houses unanimously, a remarkable feat given the topic and the times. A few years after that landmark session, Barbara's concern turned

to affordable assisted living for low income seniors. She organized the first public-private partnership between the Housing Division, Harrah's, and BLM, which became the first program in Nevada to serve the needs of that population. During Barbara's service in the Assembly, she has been involved in lowering the cost of prescription drugs, strengthening laws governing the payday loan industry, protecting mobile home park residents, and establishing the Office for Consumer Health Assistance.

Even as she worked to protect consumers, the disadvantaged, and the disabled, Barbara has been a force to be reckoned with for those in the legislative process. When Barbara was just a freshman legislator, one longtime lobbyist said, "Man, is she smart, and are we going to be in trouble." When she sees a need or a problem, Barbara isn't one to sit back and wait for others to take the lead. For example, her parents taught her that this country should be a place where people leave a better life for children, and anyone who knows Barbara knows that making a better life for Nevada's children has been yet another mission of hers, whether it's reforming the child welfare system, furthering all-day kindergarten, or preserving education funding.

Over the years, many personal and professional awards have been bestowed on Barbara Buckley, including Legislator of the Decade; Best Public Servant; Assemblywoman of the Year; the 1994 Women's Political Caucus Good Gal Award; Best Local Politician; Consumer Advocate of the Year; Best Assembly Member for five straight legislative sessions; and my personal favorite, "Best Reason Not to Lose Faith in the Legislature." I've had the pleasure of serving with Speaker Buckley for nine years. Her knowledge and guidance have been invaluable to me. I'll always be grateful for that experience. This session more than any other, she has once again proven to be the best reason not to lose faith in the Legislature.

ASSEMBLYMAN ANDERSON:

First of all, this is going to be difficult, not just because I'm Irish and have the right the cry and laugh at the same time, but because Barbara is very, very, very dear to me. In 1995 when Ms. Buckley first came here as a member of the body, she was assigned to Judiciary, and it was my first turn at being the cochair of the committee with Mr. Humke; Mr. Sandoval was his vice chair, and Ms. Buckley was mine. I quickly figured out I had nothing to worry about. Mr. Humke had everything to worry about because I had Buckley, and I knew it. We were safe. I quickly realized that the strength of the committee rested with Ms. Buckley and Mr. Carpenter and that all I had to do was sit there and schedule bills. Since Mr. Humke let me do that, it was going to be an easy life. She did all the work, and I got all the credit. She does all the work; I get all the credit. I think that has been the keystone of the relationship, because I know that she's always there.

Probably the funniest story is from a time Ms. Buckley went away. I'm famous for having a somewhat short temper at times, on a regular basis. Ms. Buckley went to San Francisco for a short holiday on her first wedding anniversary during the session, and she came back and brought me a set of Chinese patience balls. They are gigantic, huge things that I could carry in my hand to try and calm me down. I would roll them around in my hand. I still have them and even use them from time to time, and they do work, for those of you who are wondering. Ms. Buckley and Chan, of course, who is the most important part of her life, and of course their sons Ford and Aiden—I don't even want to talk about Aiden and watching him grow up here.

The most important bill that I want to recount is a very infamous piece of legislation called Tailhook. Some of you may recall there was something of a dramatic incident in one of the hotels in Clark County which led to nationally publicized lawsuits and an increase in the responsibility of the gaming industry to protect guests in their hotels. The bill came into the Senate and then came over to the Assembly with the clear understanding that it was good for the gaming industry and that we would fix it. Little did they realize that Ms. Buckley was not going to put up with that. The naval officer who came here was concerned, rightly so, having seen how she was treated in the Senate. She talked to Ms. Buckley and dropped by my office and clearly understood that that was not going to be the character in this house. That bill was scheduled, I believe, for July 9 or 11. We sine died on the seventh, so I know it was scheduled two weeks in advance, because I wanted to make sure that it was adequately heard and everybody thought that it couldn't happen.

Barbara, we care about you because you care about us. You care about all of us, and that's what it's all about. You love every one of us—the short, fat kid; the cowboy from Elko. Those of us and what we do and our issues—you make them your own. You leave nobody out of the hut, and for that I will personally be ever grateful, and I can hardly wait to see where that star will rise next and hope that I can be close enough just to stand in the shower of it. Thank you for all that you have done for us.

ASSEMBLYMAN HORNE:

When I first came to this body in 2003, like many other people who first meet Barbara, I was in awe. Rather quickly, you learn that she is probably the smartest person in the building, so you need to pay attention. If any of you have not read *The Art of War*, you should because, Madam Speaker, that's what I think about when I see you working. The book *The Art of War* is all about succeeding and finding a way to accomplish your goal. I've watched Barbara do that time and time again, from the very easy things that seem to be out of everyone's view but are such an easy fix, to the things that are so complex. Not only can she figure it out, but she knows the members of her body and who has the talents to make it happen. She knows how to motivate them to do that, and I've watched her do that now for four sessions. Each and every time, she gets the right people to do the right job, and she motivates them to do that. I've seen her motivate people to work bills that they didn't particularly care about, and they do an excellent job. Much like these new glasses that I have, she gently focuses you on what you need to do and what you need to see. She did that with me, even this session. I was so hot about something, I couldn't see straight. You know how Barbara is—she is very calm. You're sitting there explaining your frustration, and she says, "Yep. Uh huh. Yep." Finally after you're done venting, she sits there and explains to you, "You know, there are things that go on in this building that make us all mad, but we need to focus, William. There are bigger things out there than this. Come on, get it together." And it calmed me down, and it worked out just like she always says. I know when she moves on from here that her enormous talent will continue and will benefit this state. Thank you very much, Madam Speaker, for the time that I've served with you.

ASSEMBLYMAN MORTENSON:

Last session I was sitting up in my office, and somebody came in and said, "The Speaker wants to talk to you." I said, "Oh, hell, what have I done now?" So I journeyed down to your office; I sat down and you looked at me and said, "You know, I have been fighting for two of your measures for weeks now. The Senate has insisted that only one of them will get through, and I've been arguing with Raggio and Beers about it. But we've come to an impasse, and it looks like we're not going to get both of them through." "We"—and I'm sitting there, and my mind is blowing. Here's a lady who has 500 bills to worry about and 41 other colleagues to worry about, and she is working this hard on 2 of my measures. She said, "You've got to make a choice." So I made my choice—I choose the harder one, the more difficult one. Raggio even forced a chairman who said he had closed down his committee to open it up to pass my bill, and I got my bill through. From that day on, I was a good soldier. I had decided that this is a fabulous lady who, as the chairman of Judiciary says, looks out for everyone's interests. She does it really seriously, and it just blows my mind. Thank you.

ASSEMBLYWOMAN SMITH:

Madam Speaker, you are such an amazing role model for us and have given us all so much opportunity. I think that is the remarkable thing about what you've taught us and what you leave us with. I was thinking back to the first time that I met you when I had been asked to run for office by Jan Evans. I was picking you up from the airport or someplace and taking you to a meeting at some business location where you were going to introduce me. I had not met you. I didn't know how formidable you were, and I became intimidated fairly quickly, but it also didn't take me very long to figure out that there was no reason for that.

You always find time for everyone, which I think is remarkable, and you always give us a chance to prove ourselves. More importantly, you always back us up. On every occasion that I've had here, including today, you have stood by my decisions and given me the backup so that I could do what I needed to do.

My little seatmate here doesn't have the privilege to speak, but I think we both can attest to all of the qualities that you have. We both appreciate what you have given to us and to our family.

The last thing I would like to say, and I think that my caucus members can appreciate this, is we often hear remarks about this caucus. We've been referred to as sheep that just follow, but that is absolutely not the case. The case is that we have such a good leader who gives us our opportunities, who helps us stretch and have our opinions, but we all come together because of your leadership. It's very much that we go down the path together because you have helped us get there. From my heart and from Erin's heart, we thank you for what you've given to us, and I thank you for what you've given to this state and to this body.

ASSEMBLYMAN HARDY:

When I came here in 2003, I had a wonderful, simple little bill that one person in this body—who shall remain nameless, but I still love Mr. Anderson—had an objection to. I had this gentle visit to a room that I had never heretofore been in. When I came out, my protector at the time, Assemblywoman Chowning—I didn't understand why I needed someone to protect me until I came out—as I came out I referenced the fact that it really did smell like wood. Assemblywoman Chowning said, "Wood?" And I said, "Yeah, that's what a woodshed smells like." I was very gently told by my friend Barbara Buckley, "Your bill is dead until you convince Bernie." And I haven't convinced him yet. It was a good thing for me to realize that I had to convince every single person in this body. I had to do everything to convince everybody and resolve everybody's concern. It was a good lesson in lawmaking, and I appreciated that, and it has stood me well over the years.

Likewise, I appreciate the opportunity to have watched the forgiveness, the tolerance, the "put-up-with-ness" that you've had with me, including "order of business something." It's been a pleasure to watch how you've grown in the calling, I'll call it, the avocation that you have. I appreciate your leadership as you've helped all of us as we've been interested in the process of helping people while we make laws. Thank you, Barbara, I appreciate it.

ASSEMBLYWOMAN DONDERO LOOP:

Well, Madam Speaker, I don't happen to think there is anything wrong with being a cheerleader, and the reason is because if you hadn't cheered me on, I wouldn't be here. I just want to tell you that I appreciate your serious talks. I appreciate the laughter. I appreciate the guidance and you being there for all of us. You're a role model to all women, young and old, and that I appreciate, being the mother of three daughters. I also appreciate that you value being a mother enough to bring your son to where you are. I want to thank you for believing in each and every one of us, because you do, and it's evident in this body that respects you. Thank you for believing in education and putting it at the top and giving it the attention it deserves. Thank you for being what is right in this state because your guidance and your leadership go hand in hand.

ASSEMBLYMAN CARPENTER:

Thank you, Barbara. I really don't know what to say, because I think it's been mostly said. For many sessions you and I sat next to each other in Judiciary, and you taught this cowboy a lot, and I'll certainly remember it all. You've been a great friend, you're a great lady, and thank you so much.

ASSEMBLYMAN ATKINSON:

I was trying to figure out where I should start, because there's a lot. I'll start with something funny. What people don't know is that Speaker Buckley is a very funny person and has a great sense of humor. I was in her office last session one time—and for most of you, this will be the first time you're hearing this but you'll probably get it. She was explaining myself to me, and she used one word. She said, "You know, Kelvin, some people think you're haughty." And because I like myself, I assumed she was talking about a "hottie," so I hunched up and grabbed my jacket and said, "Well, thank you very much." I kind of felt a little uncomfortable, because I thought the Speaker was coming on to me. She quickly yelled out, "That's not what I'm talking about! I'm talking about H-A-U-G-H-T-Y." She called one of her staff in, and she said,

"Clearly Mr. Atkinson does not know what I am talking about. Can you pull the definition and give it to him for me?" Someone brought it in, and I looked at it, and I sat down in the chair and said, "Oh, my gosh." She looked at me and said, "I didn't say it. I said people said it." So it was clear that the Speaker wasn't coming on to me because the definition clearly, clearly meant something else.

There was an incident at the end of last session, and she said, "You know, Kelvin, you've had a good session. We agreed on 99 percent of the issues." Well, I weighted the issues, and it was probably about 95 percent, so I think I lost a few more points as far as she was concerned. But I want to thank you for everything, Speaker Buckley. You have been a true friend of mine. I remember going through a difficult campaign, and she took time out of her morning—every morning—for about a month and a half at 7:30 in the morning because she knew that was the time that I was headed to work. She called me every single morning to make sure that I was okay, and I don't know if people know that side of her and know how caring she is. She knew I was having a very difficult time, and you don't know how much that meant to me.

I agree with my colleague from Reno who said that people seem to think our caucus is full of followers and we're not able to be ourselves in this caucus. It's a blatant lie. I think that Speaker Buckley gives us the tools that she believes we need, she puts us in positions that she believes we will excel in, and she helps us through the process. I can't tell you how many times we disagree because typically we seem to agree on most issues, but we do have issues that we disagree on. I won't lie and say that she doesn't win most of those, but we do have them. I can't remember if I can count on one hand how many times she has dictated to me that I needed to, or needed not to do something as far as my committee has been concerned. I know she has given me the latitude to be me and do the things that I felt were appropriate for my committee. Again, that's a true leader, because she is not a dictator nor have I ever felt that I didn't have the latitude to do the things that I needed to do.

I will say this and then I'll wrap up. Most people don't know this about me and how I came to be here. I was very close to my father, and when I was 21 years old and away at school in D.C., my father was murdered. He was someone I truly, truly looked up to and admired. I was very close to my father. It was very, very difficult for me and my family. My godmother told me at the time that in life, people come through your life, and you always have to understand that it's for a reason. She said that my dad wasn't here to help shape and mold me, but that people would enter in my life, and I needed to be cognizant of that and accept them as they come. I truly believe that you were a godsend and entered my life for a reason. Thank you very much, Speaker.

ASSEMBLYWOMAN KIRKPATRICK:

I know when the Speaker is chewing gum, she's nervous and trying to hold back, so I'm going to be quick. I just want to tell you thank you. I remember the first time you and I met, when Tom Collins said, "Well, I'm not running, but she is." I went and met with the Speaker, and I had this long, luscious red hair and was a little rough around the edges. I'd never worn a suit jacket in my whole life. She was like, "Hm." But it was appropriate for my district, and I thought, "That didn't go over so well. Let me try again in a few days." So I went back, and she said, "You know, if you could just tone the hair down a little and we could see your face, after the first election, you can do whatever you want." I did exactly that, and I will tell that as a mentor this session, I had to have that same talk with someone, and it was really tough. After that, I was probably a thorn in her side for the first couple of months, because I was always asking "Why is this?" "How come this?" She said, "Just learn as much as you can."

I am grateful that you let me have the opportunity to be a chairperson. There were times when she would ask, "Now, why isn't that bill moving again?" I would say, "Because it's stupid and doesn't work." She would say, "Okay, we can live with that, but is there a better reason?" As long as I could justify why I was not moving something, she let me do whatever I wanted, even having never been a chairman. I don't know if the green building issue was a curse or a great thing, but it was a task that she gave me that helped make me a better legislator.

I think you've left a lot of memories and a lot of work ethic, which I think is one of the most important things that pays off in this building. If you work hard and you understand the issues and you take the time to learn more, you can be successful at whatever you do. I appreciate that.

I wish you the best in everything that you do going forward, and I know that with your work ethic, you'll do whatever you want to do. Thank you for everything that you gave to me.

ASSEMBLYWOMAN GANSERT:

Speaker, you have a great list of remarkable awards and accomplishments—but cheerleader, I like that one; I may use that later.

I just want to tell you that I appreciate your dedication, your work ethic, your organization—we move things through this body. This could have been a very difficult session because we faced a financial crisis and a lot of different things were going on, but we worked very well together. I appreciate the relationship that we've developed and the mutual respect and leadership that you've shown here. Thank you so much for your dedication, your passion, and all the work.

ASSEMBLYWOMAN KOIVISTO:

Barbara, your accomplishments create lofty goals for everyone coming after you to strive for, and that can only improve this body. Thank you.

ASSEMBLYWOMAN LESLIE:

I hate to speak at these things, but I can't resist because I have some funny stories, too. When I first was running for office, I think it was Mr. Anderson who first said to me, "You've got to call Barbara Buckley." Back in those days, the Reno people weren't as connected to the Las Vegas people—at least that was my impression—I wasn't. I think she called me first, and she sent me some money—and that always gets your attention—but I really didn't see much of her during the campaign. Meanwhile, when people realized I was going to win, the lobbyists started saying, "Oh, you and Ms. Buckley are going to clash. You two are interested in the same things. You both have strong personalities. I don't know how this is going to work." Our first session, we had some fun times in Judiciary, but we didn't really work together that much. At the end of the session when they evaluate the freshmen, they called me the Buckley of the north. So the story all during the interim was the Buckley of the north versus the Buckley of the south, there's going to be this huge competition. And that never happened. I can't think of one bill that we ever clashed on. I can't think of one issue where we had a serious disagreement—not one. In fact, we give each other bill ideas. "Barbara, this one is better for you." "Sheila, why don't you do this one?" I appreciate that we've shown that two strong-willed, sometimes obnoxious women with the same interests can work together collaboratively. We often finish each other's thoughts. We'll be sitting in Ways and Means thinking about a problem—not really listening to the testimony but thinking about something else—and she'll lean over and say, "You know what I was thinking?" And I'll finish the sentence, and she'll say, "That's exactly what I was thinking we should do about that." After having worked together for so many years, you develop that kind of relationship.

My funny story happened during my sophomore session. There was a certain senator, and back in those days—for you freshmen, it is a lot worse when the other party has the Senate and you have to go to the Senate. I remember the first time I had to go the Senate, it was very scary. My sophomore session there was a certain senator who was used to getting all the media attention. He was pretty mad at me because I started siphoning off some of that attention. He took a real disliking to me. That was a session when all my bills ended up in his committee. For whatever reason, all my bills went to him, and I had some big bills that session, too, so I was in the Senate almost every day. He would treat me so badly—you have no idea. I would go in, and he would pretend I wasn't even there, take up the opponents of my bill first, ignore me. When somebody would point me out, he would say "Who? Who is that?" He would pretend he didn't know who I was. It was so bad that the lobbyists would complain to Barbara. I said, "Would you please go talk to him?" So she did—I don't know what you said to him—so for one day, he was really nice to me. The next day I went in on yet another bill, and he was horrible to me again. Having had the experience of having her intervene for me with him just really changed things, and I've always appreciated it.

I don't think tonight we talked enough about Barbara's body of work, though, and I think it's because it's so overwhelming that no one can even begin to talk about it. I'm just going to talk about one thing that she's done that has completely, completely changed our state, and that is the

child welfare integration. If we had not had Barbara Buckley here in the Assembly, we would still have a horrible child welfare system that was not integrated because no one else would have done that work. No one else would have stuck with it. That is a legacy that you leave the state, and thousands and thousands of kids and families are better off for that work. And let's not forget the Canadian prescription drug fight. We could be here all night if we started talking about some of those battles we've had and battles that we've won.

Barbara, you are the smartest person I have ever worked with—I always tell people that; it's true. You're also one of the most ethical people I've ever worked with, and you're here for the right reasons. That's what I've always appreciated about you: You have the right values. You play your legislative tricks—you've taught me some—but you're doing it for the right reasons. You're not doing it to get rich, you're not doing it to help a friend, you're not doing it for evil reasons. You're doing it because it's the right thing to do, and that example is one that I hope you all remember next time. I'm glad I'm leaving when you're leaving because I couldn't imagine being here without you. Thank you.

ASSEMBLYMAN CHRISTENSEN:

It was interesting hearing the previous speaker talk about all of the experiences that the two of you have had, and in the end the two of you really didn't disagree. While you and I have disagreed—we've voted different, we've had disagreements—I know that when we bump into each other around the food table or in the hallway, we are always able to pick up where we left off, just acknowledge that we vote differently. We may see things in a different way, but at the end of the day, we're both committed to the process. My wife Ashley pointed out to me the other day—I can't remember if it was after the basketball game where we took a slight pummeling or if it was after you were with us and you had said something to me—she said, "You know, the Speaker is really funny." I said "Yes. You didn't know that?" and she said, "No. I guess I just haven't been around her enough." I said, "She really has her moments. When she pours it on, she has some of the best jabs on me in committee or in the hallway or wherever." Being the youngest of seven, I am accustomed to that.

I just want to say, "Touché to you, Madam Speaker." You are a very, very smart woman on the process and moving legislation. I have been able to watch you and learn from how you do things. I appreciate how hard you work. We are all here engaged in this process, and we have a life, too. You are a mother, you have your son, you have a career outside of this. I really admire you for the hard work that you put in here and for the leadership that you offer to your caucus and to this process. It has been an honor serving with you, and I just wanted to share that with you. Thank you.

ASSEMBLYMAN SEGERBLOM:

Speaker Buckley, my grandmother was one of the first women in this body, my mother served here several years, and one of the proudest moments in my life was to vote for the first woman Speaker. That is such an accomplishment in what is really a male-dominated institution, both here and around the country. I want to thank you for the privilege of being able to vote for you.

ASSEMBLYMAN ARBERRY:

Well Barb, I don't have anything funny to say today. As someone who is looking at closing a chapter in his life and thinking of all the successes and failures, I want to say that it is a great honor to be able to say that I closed it out with a lady of your caliber. You have to remember that when I came here, there were only two or three ladies in the Legislature. Every session I would say, "Boy, I sure hope we get some more ladies up here because then I'd have more support."

Barb, I have been close to you since you came on the scene. I've been very protective of you, because I could see where your heart was from the day we began working on all the bills and issues, and I respected you. I gave you a nickname—most of them don't even know that I call you "my sister from the hood" because you represent the little people. I can say that even if you weren't term-limited out and I was, I would want to have a person carrying the torch who has the feelings that you do, because once I walk out that back door, I would know that the little people would be represented.

I want to say thank you for all your hard work and for giving me the opportunity and trusting in me to be the chair of Ways and Means, for giving me a committee that has worked hard for this body, and for having the confidence that we would deliver a budget to you and to this state that we all can live with. We weren't happy with it, but every day you would say, "Moose, are we going to make it?" We made it, Barb, and I just want to say thank you. You are one hell of a woman. Take care of yourself.

ASSEMBLYMAN CONKLIN:

I would like to echo all of my colleagues' remarks. I could say a lot about being in the Legislature, but it would really sound the same. So what I would like to say is that when we go home from this Legislature every year, I go back and do community work for homeless kids—most people know that. Those homeless kids would have no services without you—none. Every year, we call your office and get help for homeless kids that would otherwise have no help. Last cycle we called and we needed help to raise money, and you were there. I can't tell you how much that means to me. I can't tell you how much that means to those kids. I appreciate all the opportunities you have given me to be here to participate, excel, succeed, and work with great people. I admire you, I love you, and I will always be your soldier. Thank you.

Assemblyman Oceguera requested the privilege of the Chair for the purpose of making the following remarks:

Madam Speaker, on behalf of all of us—not only all of us in this room but I think all the citizens of the State of Nevada— thank you for your service.

Assemblyman Oceguera announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 5:10 p.m.

ASSEMBLY IN SESSION

At 5:30 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was rereferred Assembly Joint Resolution No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

HARRY MORTENSON, *Chair*

GENERAL FILE AND THIRD READING

Assembly Joint Resolution No. 1.

Resolution read third time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 1000.

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to revise the provisions governing a petition for a state initiative or a referendum.

Legislative Counsel's Digest:

Pursuant to Section 2 of Article 19 of the Nevada Constitution, the people of the State of Nevada have reserved to themselves the power to propose statutes, amendments to statutes and amendments to the Nevada Constitution by initiative petition. If the petition meets certain criteria, it is placed on the general election ballot where the people of the State of Nevada are then given the right to vote to enact or reject such proposals. In 2006, however, a portion of this provision of the Nevada Constitution was held unconstitutional by the U.S. Court of Appeals for the Ninth Circuit. *ACLU of Nev. v. Lomax*, 471 F.3d 1010 (9th Cir. 2006). The Ninth Circuit Court found that the requirement that an initiative petition contain a certain number of signatures gathered from 75 percent of the counties in this State in order to qualify for the ballot (the "13 Counties Rule") violated the equal protection principle of "one man, one vote" by diluting the votes of residents of densely populated counties and was not narrowly tailored. *Id.* at 1013. Thus, the Ninth Circuit Court held that Section 2 of Article 19 of the Nevada Constitution violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. *Id.* The Court further indicated that if a certain number of voters were required from state legislative districts rather than counties, it would alleviate the equal protection concerns.

This resolution proposes to amend Article 19 of the Nevada Constitution to remove the unconstitutional provisions and instead require that an initiative petition be signed by a number of the registered voters from each ~~[congressional]~~ **petition** district in this State which equals 10 percent of the number of voters who voted at the last preceding general election in the ~~[congressional]~~ **petition** district. This resolution further provides that the number of registered voters required to file an initiative or referendum petition must be determined at the time the copy of the petition is filed with the Secretary of State.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 1 of Article 19 of the Nevada Constitution be amended to read as follows:

Section 1. 1. A person who intends to circulate a petition that a statute or resolution or part thereof enacted by the legislature be submitted to a vote of the people, before circulating the petition for signatures, shall file a copy thereof with the secretary of state. He shall file the copy not earlier than August 1 of the year before the year in which the election will be held.

2. Whenever a number of registered voters of this state equal to 10 percent ~~[or more]~~ of the number of voters who voted at the last preceding general election shall express their wish by filing with the secretary of state, not less than 120 days before the next general election, a petition in the form provided for in Section 3 of this Article that any statute or resolution or any part thereof enacted by the legislature be submitted to a vote of the people, the officers charged with the duties of announcing and proclaiming elections and of certifying nominations or questions to be voted upon shall submit the question of approval or disapproval of such statute or resolution or any part

thereof to a vote of the voters at the next succeeding election at which such question may be voted upon by the registered voters of the entire State. ***The number of registered voters required to file the petition must be determined at the time the copy of the petition is filed with the secretary of state pursuant to this Section.*** The circulation of the petition shall cease on the day the petition is filed with the secretary of state or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest.

3. If a majority of the voters voting upon the proposal submitted at such election votes approval of such statute or resolution or any part thereof, such statute or resolution or any part thereof shall stand as the law of the state and shall not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. If a majority of such voters votes disapproval of such statute or resolution or any part thereof, such statute or resolution or any part thereof shall be void and of no effect.

And be it further

RESOLVED, That Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of Section 6 of this Article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a number of registered voters ***from each*** ~~*[congressional]*~~ ***petition district in this State*** equal to 10 percent ~~[or more]~~ of the number of voters who voted at the last preceding general election in ~~[not less than 75 percent of the counties in the State, but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.]~~ ***the*** ~~*[congressional]*~~ ***petition district. Petition districts must be established by the Legislature. The number of registered voters required to file the initiative petition must be determined at the time the copy of the initiative petition is filed with the Secretary of State pursuant to this Section.***

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the Legislature is held. After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as

the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general

circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the Secretary of State shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

5. If two or more measures which affect the same section of a statute or of the Constitution are finally approved pursuant to this Section, or an amendment to the Constitution is finally so approved and an amendment proposed by the Legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

Assemblyman Mortenson moved the adoption of the amendment.

Remarks by Assemblyman Mortenson.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the General File.

Assembly Joint Resolution No. 1.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 1:

YEAS—41.

NAYS—Ohrenschall.

Assembly Joint Resolution No. 1 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Resolution ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Concurrent Resolution No. 39, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

DEBBIE SMITH, *Chair*

Assemblyman Oceguera moved that the Assembly recess until 7 p.m.

Motion carried.

Assembly in recess at 5:34 p.m.

ASSEMBLY IN SESSION

At 8:31 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day sustained the Governor's veto of Assembly Bills Nos. 22, 135, 141, 319, 381.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 52, 113, 306.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 269; Senate Bill No. 403.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 561, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 973 of the Senate be receded from and a 3rd reprint be created in accordance with this action.

MARCUS CONKLIN	JOYCE WOODHOUSE
KATHY MCCLAIN	
PETE GOICOECHEA	WARREN HARDY
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Conklin moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 561.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 223, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 963 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 34, which is attached to and hereby made a part of this report.

DEBBIE SMITH	JOHN LEE
MARILYN KIRKPATRICK	WILLIAM RAGGIO
JOE HARDY	
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA34.

AN ACT relating to state governmental procurement; establishing a bidder's preference for local businesses **owned by service-disabled veterans** with respect to state purchasing contracts ~~[, establishing a bidder's preference for local businesses owned by service-disabled veterans with respect to]~~ **and** state public works contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, with respect only to contracts for public works for which the estimated cost exceeds $250,000, provides a mechanism by which a contractor who has paid certain taxes may earn a 5-percent preference in bidding on public works. (NRS 338.1389, 338.147, 338.1693, 338.1727) **Sections 18-25** of this bill establish a limited preference in bidding on public works for local businesses owned by service-disabled veterans. This new preference in bidding on public works does not overlap with the existing preference in bidding on public works because the new preference is limited to public works for which the estimated cost is $100,000 or less.

Under existing law, the State of Nevada imposes an inverse preference against a person who submits a bid or proposal on a state purchasing contract if that person is a resident of a state that denies a preference to bidders or contractors who are residents of this State. (NRS 333.336) **Section 31** of this bill repeals that inverse preference.

In place of the former inverse preference, **sections 5-13** of this bill establish a 5-percent preference in bidding on state purchasing contracts for local businesses ~~[.]~~ **owned by service-disabled veterans. Section 14** of this bill requires advertisements for bids or proposals to include notices of this new preference.

Section 30 of this bill directs the Office of Veterans' Services to perform certain duties with respect to gathering information and making recommendations to the Legislative Commission concerning the ~~[preference]~~ **preferences** in bidding on **state purchasing contracts and** public works for local businesses owned by service-disabled veterans.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 13, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. ***As used in sections 5 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections*** ~~*[6]*~~ ***5.5 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 5.5. "Business owned by a service-disabled veteran" has the meaning ascribed to it in section 19 of this act.

Sec. 6. (Deleted by amendment.)

Sec. 7. ***"Local business" means a business that:***

1. Employs at least one person in this State; and

2. Has employed at least one person in this State for not fewer than 2 years.

Sec. 7.5. "Service-disabled veteran" has the meaning ascribed to it in section 21 of this act.

Sec. 8. (Deleted by amendment.)

Sec. 9. ***"State purchasing contract" means a contract awarded pursuant to the provisions of this chapter.***

Sec. 10. ***For the purpose of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300, if a local business owned by a service-disabled veteran submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.***

Sec. 11. ***1. If the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 10 of this act; and

(b) Bidding on a state purchasing contract.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business may apply to the Chief to review the decision pursuant to chapter 233B of NRS.

Sec. 12. ***The Purchasing Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

2. The total dollar amount of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a state purchasing contract.

4. The number of state purchasing contracts that were awarded to local businesses [.] owned by service-disabled veterans.

5. The total number of dollars worth of state purchasing contracts that were awarded to local businesses [.] owned by service-disabled veterans.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 13. ***The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 5 to 13, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive a preference described in section 10 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in section 10 of this act; and

3. Such other matters as the Purchasing Division deems relevant.

➥ In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Board so that any regulations adopted pursuant to this section and section 25 of this act are reasonably consistent.

Sec. 14. NRS 333.310 is hereby amended to read as follows:

333.310 1. An advertisement must contain a general description of the classes of commodities or services for which a bid or proposal is wanted and must state:

(a) The name and location of the department, agency, local government, district or institution for which the purchase is to be made.

(b) Where and how specifications and quotation forms may be obtained.

(c) If the advertisement is for bids, whether the Chief is authorized by the using agency to be supplied to consider a bid for an article that is an alternative to the article listed in the original request for bids if:

(1) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(2) The purchase of the alternative article results in a lower price; and

(3) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(d) ~~[A summary]~~ ***Notice*** of the ~~[provisions of NRS 333.336.]~~ ***preference set forth in section 10 of this act.***

(e) The date and time not later than which responses must be received by the Purchasing Division.

(f) The date and time when responses will be opened.

➥ The Chief or his designated agent shall approve the copy for the advertisement.

2. Each advertisement must be published in at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation.

Sec. 15. NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

(a) The chief of the using agency, or a committee appointed by the chief of the using agency in accordance with the regulations adopted pursuant to NRS 333.135, if the proposal is for a using agency; or

(b) The Chief of the Purchasing Division, or a committee appointed by the Chief in accordance with the regulations adopted pursuant to NRS 333.135, if he is responsible for administering the proposal.

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Chief of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal.

3. In making an award, the chief of the using agency, the Chief of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada:

(a) The experience and financial stability of the person submitting the proposal;

(b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311;

(c) The price of the proposal ***;*** ~~[, including the imposition of an inverse preference described in NRS 333.336, if applicable;]~~ and

(d) Any other factor disclosed in the request for proposals.

4. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall determine the relative weight of each factor set forth in subsection 3 before a request for proposals is advertised. The weight of each factor must not be disclosed before the date proposals are required to be submitted.

5. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal.

6. Except as otherwise provided in NRS 239.0115, each proposal evaluated pursuant to the provisions of this section is confidential and may not be disclosed until the contract is awarded.

Sec. 16. NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Chief:

(a) Shall consider, if applicable, the ~~[imposition]~~ ***granting*** of the ~~[inverse preference]~~ ***preference*** described in ~~[NRS 333.336.]~~ ***section 10 of this act.***

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Chief shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 17. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 25, inclusive, of this act.

Sec. 18. ***As used in sections 18 to 25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 19, 20 and 21 of this act have the meanings ascribed to them in those sections.***

Sec. 19. ***"Business owned by a service-disabled veteran" means a business:***

1. Of which at least 51 percent of the ownership interest is held by one or more service-disabled veterans;

2. That is organized to engage in commercial transactions; and

3. That is managed and operated on a day-to-day basis by one or more service-disabled veterans.

➥ The term includes a business which meets the above requirements that is transferred to the spouse of a service-disabled veteran upon the death of the service-disabled veteran, as determined by the United States Department of Veterans Affairs.

Sec. 20. ***"Local business" has the meaning ascribed to it in section 7 of this act.***

Sec. 21. ***"Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of at least zero percent as determined by the United States Department of Veterans Affairs.***

Sec. 22. ***1. For the purpose of awarding a contract for a public work of this State for which the estimated cost is $100,000 or less, as governed by NRS 338.13862, if a local business owned by a service-disabled veteran submits a bid, the bid shall be deemed to be 5 percent lower than the bid actually submitted.***

2. The preference described in subsection 1 may not be combined with any other preference.

Sec. 23. ***1. If the State Public Works Board determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 22 of this act; and

(b) Bidding on a contract for a public work of this State.

2. If the State Public Works Board determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business may apply to the Manager to review the decision pursuant to chapter 233B of NRS.

3. As used in this section, "Manager" has the meaning ascribed to it in NRS 341.015.

Sec. 24. ***The State Public Works Board shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

2. The total dollar amount of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a contract for a public work of this State.

4. The number of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

5. The total number of dollars worth of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 25. ***The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 18 to 25, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive the preference described in section 22 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in section 22 of this act; and

3. Such other matters as the State Public Works Board deems relevant.

➥ In carrying out the provisions of this section, the State Public Works Board shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and section 13 of this act are reasonably consistent.

Sec. 26. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895 ~~[.]~~ ***or section 23 of this act;***

(5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(6) The truthfulness and completeness of the application.

Sec. 27. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~[.]~~ ***and, with respect to the State, sections 18 to 25, inclusive, of this act.***

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 28. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~[.]~~ ***and, with respect to the State, sections 18 to 25, inclusive, of this act.***

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 29. NRS 338.13862 is hereby amended to read as follows:

338.13862 1. Before this State or a local government awards a contract for the completion of a public work in accordance with subsection 1 of NRS 338.1386, the State or the local government must:

(a) If the estimated cost of the public work is more than $25,000 but not more than $100,000, solicit bids from at least three properly licensed contractors; and

(b) If the estimated cost of the public work is $25,000 or less, solicit a bid from at least one properly licensed contractor.

2. Any bids received in response to a solicitation for bids made pursuant to this section may be rejected if the State or the local government determines that:

(a) The quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications;

(b) The bidder is not responsive or responsible; or

(c) The public interest would be served by such a rejection.

3. At least once each quarter, the State and each local government shall prepare a report detailing, for each public work over $25,000 for which a contract for its completion is awarded pursuant to paragraph (a) of subsection 1, if any:

(a) The name of the contractor to whom the contract was awarded;

(b) The amount of the contract awarded;

(c) A brief description of the public work; and

(d) The names of all contractors from whom bids were solicited.

4. A report prepared pursuant to subsection 3 is a public record and must be maintained on file at the administrative offices of the applicable public body.

5. The provisions of this section do not relieve this State from the duty to award the contract for the public work to a bidder who is:

(a) Qualified pursuant to the applicable provisions of NRS 338.1375 to 338.1382, inclusive; and

(b) The lowest responsive and responsible bidder, if bids are required to be solicited from more than one properly licensed contractor pursuant to subsection 1. ***For the purposes of this paragraph, the lowest responsive and responsible bidder must be determined in consideration of any applicable bidder's preference granted pursuant to section 22 of this act.***

Sec. 30. Chapter 417 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each year on or before October 1, the Office of Veterans' Services shall review the reports submitted pursuant to ~~[section]~~ sections 12 and 24 of this act.

2. In carrying out the provisions of subsection 1, the Office of Veterans' Services shall seek input from:

(a) The Purchasing Division of the Department of Administration.

(b) The State Public Works Board.

~~[(b)]~~ (c) The Commission on Economic Development.

~~[(c)]~~ (d) Groups representing the interests of veterans of the Armed Forces of the United States.

~~[(d)]~~ (e) The business community.

~~[(e)]~~ (f) Local businesses owned by service-disabled veterans.

3. After performing the duties described in subsections 1 and 2, the Office of Veterans' Services shall make recommendations to the Legislative Commission regarding the continuation, modification, promotion or expansion of the ~~[preference]~~ preferences for local businesses owned by service-disabled veterans which ~~[is]~~ are described in ~~[section]~~ sections 10 and 22 of this act.

4. As used in this section:

(a) "Business owned by a service-disabled veteran" has the meaning ascribed to it in section 19 of this act.

(b) "Local business" has the meaning ascribed to it in section 7 of this act.

(c) "Service-disabled veteran" has the meaning ascribed to it in section 21 of this act.

Sec. 31. NRS 333.336 is hereby repealed.

Sec. 32. 1. This section and sections 1 to ~~[26,]~~ 27, inclusive, 29, 30 and 31 of this act become effective on October 1, 2009.

2. Section 27 of this act expires by limitation on April 30, 2013.

3. Section 28 of this act becomes effective on May 1, 2013.

TEXT OF REPEALED SECTION

333.336 Inverse preference imposed on certain bidders resident outside State of Nevada.

For the purpose of awarding a contract pursuant to this chapter, if a person who submits a bid or proposal:

1. Is a resident of a state other than the State of Nevada; and

2. That other state, with respect to contracts awarded by that other state or agencies of that other state, applies to bidders or contractors who are residents of that state a preference which is not afforded to bidders or contractors who are residents of the State of Nevada,

➥ the person or entity responsible for awarding the contract pursuant to this chapter shall, insofar as is practicable, increase the person's bid or proposal by an amount that is substantially equivalent to the preference that the other

state of which the person is a resident denies to bidders or contractors who are residents of the State of Nevada.

Assemblywoman Smith moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 223.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 403, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 955 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 33, which is attached to and hereby made a part of this report.

SHEILA LESLIE	BOB COFFIN
MORSE ARBERRY	WARREN HARDY
HEIDI GANSERT	JOYCE WOODHOUSE
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA33.

SUMMARY—~~[Makes various appropriations from the State General Fund.]~~ **Revises provisions relating to state financial administration.** (BDR S-1264)

AN ACT **relating to state financial administration; clarifying the provisions governing the temporary suspension of longevity pay for state employees;** making appropriations to restore certain fund balances and for certain costs related to changes in various taxes; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Sec. 0.5. **Section 1 of Senate Bill No. 421 of this session is hereby amended to read as follows:**

Section ~~1~~. 1. The four semiannual payments to which a state employee would otherwise be entitled pursuant to NRS 284.177 ~~[must not be made]~~ **for service** during the period beginning on July 1, 2009, and ending on June 30, 2011 ~~[.]~~ **, must not be made.** For the purposes of payments made pursuant to NRS 284.177 on or after July 1, 2011, any service during that 2-year period must be considered in determining the length of continuous service of an employee, but an employee is not entitled to semiannual payments that would otherwise have been made during the period during which the semiannual payments are suspended. **The payment for the period beginning on January 1, 2009, and ending on June 30, 2009, must be made regardless of the date of the actual payment.**

2. No merit pay increases to which a state employee would otherwise be entitled pursuant to chapter 284 of NRS and the regulations adopted pursuant thereto may be granted during the period beginning on July 1, 2009, and ending on June 30, 2011. For the purposes of merit pay increases granted on

or after July 1, 2011, an employee is not entitled to any increases that would otherwise have been granted during that period.

Section 1. There is hereby appropriated from the State General Fund to the:

1. Stale Claims Account created by NRS 353.097 the sum of $5,500,000 to restore the balance in the Account.

2. Emergency Account created by NRS 353.263 the sum of $150,000 to restore the balance in the Account.

3. Reserve for Statutory Contingency Account created by NRS 353.264 the sum of $3,000,000 to restore the balance in the Account.

4. Contingency Fund created by NRS 353.266 the sum of $7,500,000 to restore the balance in the fund attributable to the State General Fund.

Sec. 2. There is hereby appropriated from the State General Fund to the:

1. Department of Motor Vehicles the sum of $24,000 for the costs of implementing changes to the provisions governing the governmental services tax.

2. Department of Taxation the sum of $95,000 for the costs of implementing changes to the provisions governing the local school support tax.

3. Interim Finance Committee the sum of $527,850 for allocation to the Department of Taxation for the costs of additional duties and modifications necessary to implement laws revised during this session.

Sec. 3. Any remaining balance of the appropriations made by section 2 of this act must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 4. 1. This section and sections **0.5,** 2 and 3 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on July 1, 2009.

Assemblywoman Leslie moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 403.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 350, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 737 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 26, which is attached to and hereby made a part of this report.

TICK SEGERBLOM	DAVID PARKS
RUBEN KIHUEN	ALLISON COPENING
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA26.

SUMMARY—Makes various changes relating to ~~[common-interest communities.]~~ **real property.** (BDR 10-620)

AN ACT relating to ~~[common-interest communities;]~~ **real property;** revising provisions relating to **costs of collection,** interest on certain past due assessments ~~[;]~~ **and copies of certain documents;** providing that punitive damages may not be awarded against the members of the executive board or the officers of an association under certain circumstances; **establishing certain standards for management agreements; establishing the duties, responsibilities and standards of practice for community managers; making various other changes relating to common-interest communities; revising provisions relating to swimming pools;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.7 of this bill authorizes an association to charge reasonable fees for costs associated with collecting any past due obligation. Section 3.5 of this bill provides that in addition to complying with the business-judgment rule, officers and members of the executive board of an association are required to act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. (NRS 116.3103)

Existing law authorizes an executive board to impose fines for certain violations of the governing documents and to assess interest on any unpaid fines at a rate established by the association, not to exceed the legal rate per annum. (NRS 116.31031) Section 4.5 of this bill eliminates the authority to charge interest on any past due fines.

Existing law provides that: (1) punitive damages may not be recovered against an association, but may be recovered against persons whose activity gave rise to the damages; and (2) punitive damages may be awarded for a willful and material failure to comply with any provision of chapter 116 of NRS. (NRS 116.31036, 116.4117) **Sections 5.5 and 16.5** of this bill provide that punitive damages may not be recovered against the members of the executive board or the officers of an association for acts or omissions that occur in their capacity as members or officers.

Existing law provides that any past due assessment for common expenses or installment thereof bears interest at the rate established by the association, which must not exceed 18 percent per year. **Section 9** of this bill provides that the association may charge the prime rate plus 2 percent on such a past due assessment, beginning when the assessment is 60 days past due.

Sections 6.5 and 7.5 of this bill provide that: (1) a unit's owner may receive a copy or summary of the minutes of a meeting of the units' owners or executive board in electronic format at no cost to the unit's owner or, if the association is unable to provide a copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and at 10 cents per page thereafter; and (2) a meeting of the executive board must be held at a time other than during normal business hours at least twice per year. (NRS 116.3108, 116.31083)

Section 10.5 of this bill requires the budget of an association to be available for review at a location not to exceed 60 miles from the common-interest community. (NRS 116.31151) Section 12.2 of this bill also requires the books, records and other papers of an association to be available for review at the business office of the association or a location not to exceed 60 miles from the common-interest community. (NRS 116.31175)

Section 12.5 of this bill provides that if a unit's owner is the subject of retaliatory action based on certain complaints or requests, he may bring an action to recover compensatory damages and attorney's fees and costs. (NRS 116.31183)

Sections 13.7 and 15.5 of this bill require a public offering or a resale package to include a statement listing all current and expected fees for each unit. (NRS 116.4103, 116.4109)

Section 19.3 of this bill establishes the requirements concerning the disclosures that a community manager must make before entering into a management agreement and incorporates into statute the existing requirements contained in the Nevada Administrative Code. (NAC 116.310)

Section 19.4 of this bill sets forth the requirements of a management agreement and incorporates into statute the existing requirements contained in the Nevada Administrative Code. (NAC 116.305)

Section 19.5 of this bill sets forth the responsibilities and duties of a community manager, incorporates into statute many of the existing provisions of the Nevada Administrative Code and adds certain new responsibilities and duties. (NAC 116.300) Section 19.5 also provides that a community manager acts as a fiduciary at all times and must exercise ordinary and reasonable care in performing his duties.

Section 19.6 of this bill incorporates into statute many of the existing provisions of the Nevada Administrative Code pertaining to standards of practice for community managers and conduct warranting disciplinary action and establishes certain new requirements, such as provisions governing the acceptance of any compensation, gift or any other item of material value by the community manager. (NAC 116.341)

Section 21.3 of this bill exempts privately owned swimming pools used only by members of a private club from the definition of "public swimming pool" for purposes of supervision by the Health Authority.

THE PEOPLE OF] THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.5. (Deleted by amendment.)

Sec. 1.7. **Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. An association may charge a unit's owner reasonable fees to cover the costs of collecting any past due obligation. The Commission shall adopt regulations establishing the amount of the fees that an association may charge pursuant to this section.

2. The provisions of this section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, an officer or employee of the association, a community manager or a collection agency.

3. As used in this section:

(a) "Costs of collecting" includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit's owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if a lawsuit is filed to enforce any past due obligation or any costs awarded by a court.

(b) "Obligation" means any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit's owner pursuant to any provision of this chapter or the governing documents.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. **NRS 116.3102 is hereby amended to read as follows:**

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments ~~[.]~~ ***pursuant to NRS 116.3115.***

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked

as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 3. (Deleted by amendment.)

Sec. 3.5. **NRS 116.3103 is hereby amended to read as follows:**

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries ~~[.]~~ ***and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association.*** The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.

2. The executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

Sec. 4. (Deleted by amendment.)

Sec. 4.5. **NRS 116.31031 is hereby amended to read as follows:**

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or guest of a unit's owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or guest of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or guest of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a

violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any ~~[interest,]~~ charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

3. The executive board must schedule the date, time and location for the hearing on the violation so that the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed:

(a) Pays the fine;

(b) Executes a written waiver of the right to the hearing; or

(c) Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings

on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

8. Any past due fine ~~[:~~

~~(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.~~

~~(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the residents of the common-interest community, the rate established by the association for the costs of collecting the past due fine:~~

~~(1) May not exceed $20, if the outstanding balance is less than $200.~~

~~(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.~~

~~(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.~~

~~(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.~~

~~(5) May not exceed $500, if the outstanding balance is $5,000 or more.~~

~~(c) May~~~~]~~ ***must not bear interest, but may*** include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~[9. As used in this section:~~

~~(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.~~

~~(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.~~~~]~~

Sec. 5. (Deleted by amendment.)

Sec. 5.5. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. The removal of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against ~~[~~the~~]~~ ***:***

(a) The association ~~[~~, but may be recovered from persons whose activity gave rise to the damages.~~]~~ ***;***

(b) The members of the executive board for acts or omissions that occur in their capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. **NRS 116.3108 is hereby amended to read as follows:**

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.***

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. ~~[A]~~ ***Except as otherwise provided in this subsection, a*** copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.***

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 7. (Deleted by amendment.)

Sec. 7.5. **NRS 116.31083 is hereby amended to read as follows:**

116.31083 1. A meeting of the executive board must be held at least once every 90 days **[.]** ***and must be held at a time other than during standard business hours at least twice annually.***

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.***

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. ~~[A]~~ ***Except as otherwise provided in this subsection, a*** copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.***

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary.

3. Any ~~[past due]~~ assessment for common expenses or installment thereof ***that is 60 days or more past due*** bears interest at ~~[the rate established by the association not exceeding 18 percent per year.]~~ ***a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.***

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 10. (Deleted by amendment.)

Sec. 10.5. **NRS 116.31151 is hereby amended to read as follows:**

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties ~~[,]~~ ***but not to exceed 60 miles from the physical location of the common-interest community;*** and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 12.2. **NRS 116.31175 is hereby amended to read as follows:**

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review ***at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and*** during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

Sec. 12.3. (Deleted by amendment.)

Sec. 12.5. **NRS 116.31183 is hereby amended to read as follows:**

116.31183 ***1.*** An executive board, a member of an executive board or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

~~[1.]~~ ***(a)*** Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association; or

~~[2.]~~ ***(b)*** Requested in good faith to review the books, records or other papers of the association.

2. In addition to any other remedy provided by law, upon a violation of this section, a unit's owner may bring a separate action to recover:

(a) Compensatory damages; and

(b) Attorney's fees and costs of bringing the separate action.

Sec. 12.7. (Deleted by amendment.)

Sec. 12.8. **NRS 116.31185 is hereby amended to read as follows:**

116.31185 1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:

(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or

(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.

2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association, a community manager or any person working for a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:

(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or

(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable community or association which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.

3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

4. A declarant, an affiliate of a declarant or any person responsible for the construction of a community or association, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:

(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to NRS 116.31031 for violations of the governing documents of the association; or

(b) Any percentage or proportion of those fines.

6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:

(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers ***set forth as sections 19.5 and 19.6 of this act and any additional standards of practice*** adopted by the Commission ***by regulation*** pursuant to NRS 116A.400;

(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the common-interest community; and

(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.

Sec. 13. (Deleted by amendment.)

Sec. 13.5. (Deleted by amendment.)

Sec. 13.7. **NRS 116.4103 is hereby amended to read as follows:**

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat or plan is not required.

(e) A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.

(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) ***In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.***

(m) The information statement set forth in NRS 116.41095.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 15.5. **NRS 116.4109 is hereby amended to read as follows:**

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information

described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152;

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge; ~~[and]~~

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit ~~[.]~~ ***; and***

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d) and (e) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission

shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 16. (Deleted by amendment.)

Sec. 16.5. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. If a declarant or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply has a claim for appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages caused by a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

(1) A declarant; or

(2) A unit's owner.

(b) By a unit's owner against:

(1) The association;

(2) A declarant; or

(3) Another unit's owner of the association.

3. ~~[~~Punitive~~]~~ ***Except as otherwise provided in NRS 116.31036, punitive*** damages may be awarded for a willful and material failure to comply with this chapter if the failure is established by clear and convincing evidence.

4. The court may award reasonable attorney's fees to the prevailing party.

5. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 18.05. (Deleted by amendment.)

Sec. 18.1. (Deleted by amendment.)

Sec. 18.2. (Deleted by amendment.)

Sec. 18.3. (Deleted by amendment.)

Sec. 18.4. (Deleted by amendment.)

Sec. 18.5. (Deleted by amendment.)

Sec. 18.6. (Deleted by amendment.)

Sec. 18.7. (Deleted by amendment.)

Sec. 18.8. (Deleted by amendment.)

Sec. 18.9. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 19.05. **Chapter 116A of NRS is hereby amended by adding thereto the provisions set forth as sections 19.1 to 19.6, inclusive, of this act.**

Sec. 19.1. "Client" means an association that has entered into a management agreement with a community manager.

Sec. 19.2. "Management agreement" means an agreement for the management of a common-interest community.

Sec. 19.3. Before entering into a management agreement, a community manager shall disclose in writing to the prospective client any material and relevant information which he knows, or by the exercise of reasonable care and diligence should know, relate to the performance of the management agreement, including any matters which may affect his ability to comply with the provisions of this chapter or chapter 116 or 116B of NRS. Such written disclosure must include, without limitation:

1. Whether he, or any member of his organization, expects to receive any direct or indirect compensation, gifts or profits from any person who will perform services for the client and, if so, the identity of the person and the nature of the services rendered.

2. Any affiliation with or financial interest in any person or business who furnishes any goods or services to the client.

3. Any pecuniary relationships with any unit's owner, member of the executive board or officer of the client.

Sec. 19.4. 1. Any management agreement must:

(a) Be in writing and signed by all parties;

(b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited-liability partnership, limited-liability company or other entity;

(c) State the term of the management agreement;

(d) State the basic consideration for the services to be provided and the payment schedule;

(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:

(1) The costs for any new client or start-up costs;

(2) The fees for special or nonroutine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;

(3) Reimbursable expenses;

(4) The fees for the sale or resale of a unit or for setting up the account of a new member; and

(5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;

(f) State the identity and the legal status of the contracting parties;

(g) State any limitations on the liability of each contracting party;

(h) Include a statement of the scope of work of the community manager;

(i) State the spending limits of the community manager;

(j) Include provisions relating to the grounds and procedures for termination of the community manager;

(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:

(1) A requirement that the community manager or his employer shall maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of $1,000,000 or more;

(2) An indication of which contracting party will maintain fidelity bond coverage; and

(3) A statement as to whether the client will maintain directors and officers liability coverage for the executive board;

(l) Include provisions for dispute resolution;

(m) Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;

(n) State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;

(o) State the frequency and extent of regular inspections of the common-interest community; and

(p) State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.

2. In addition to any other requirements under this section, a management agreement may:

(a) Provide for mandatory binding arbitration; or

(b) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but

the management agreement may not contain an automatic renewal provision.

3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:

(a) The names and addresses of all insurance companies;

(b) The total amount of coverage; and

(c) The amount of any deductible.

4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.

5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.

6. Except as otherwise provided in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company.

7. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS.

Sec. 19.5. In addition to any additional standards of practice for community managers adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall:

1. Except as otherwise provided by specific statute, at all times:

(a) Act as a fiduciary in any client relationship; and

(b) Exercise ordinary and reasonable care in the performance of his duties.

2. Comply with all applicable:

(a) Federal, state and local laws, regulations and ordinances; and

(b) Lawful provisions of the governing documents of each client.

3. Keep informed of new developments in the management of a common-interest community through continuing education, including, without limitation, new developments in law, insurance coverage and accounting principles.

4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager.

5. Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.

6. At all times ensure that:

(a) The financial transactions of a client are current, accurate and properly documented; and

(b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:

(1) Proper maintenance of accounting records;

(2) Documentation of the authorization for any purchase orders, expenditures or disbursements;

(3) Verification of the integrity of the data used in business decisions;

(4) Facilitation of fraud detection and prevention; and

(5) Compliance with all applicable laws and regulations governing financial records.

7. Prepare or cause to be prepared interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of an association is fairly presented in accordance with all applicable laws and regulations.

8. Cause to be prepared, if required by the Division, a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common-interest community, which must be made available to the Division.

9. Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.

10. Cooperate with the Division in resolving complaints filed with the Division.

11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.

12. Maintain and invest association funds in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, Securities Investor Protection Corporation, or a private insurer approved pursuant to NRS 678.755, or in government securities that are backed by the full faith and credit of the United States Government.

13. Except as required under collection agreements, maintain the various funds of the client in separate financial accounts in the name of the client and ensure that the association is authorized to have direct access to those accounts.

14. Provide notice to each unit's owner that the executive board is aware of all legal requirements pursuant to the applicable laws and regulations.

15. Maintain internal accounting controls, including, without limitation, segregation of incompatible accounting functions.

16. Ensure that the executive board develops and approves written investment policies and procedures.

17. Recommend in writing to each client that the client register with the Division, maintain its registration and file all papers with the Division and the Secretary of State as required by law.

18. Comply with the directions of a client, unless the directions conflict with the governing documents of the client or the applicable laws or regulations of this State.

19. Recommend in writing to each client that the client be in compliance with all applicable federal, state and local laws, regulations and ordinances and the governing documents of the client.

20. Obtain, when practicable, at least three qualified bids for any capital improvement project for the client.

21. Develop written collection policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:

(a) That the executive board approve all write-offs of debt; and

(b) That the community manager provide timely updates and reports as necessary.

Sec. 19.6. In addition to the standards of practice for community managers set forth in section 19.5 of this act and any additional standards of practice adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall not:

1. Except as otherwise required by law or court order, disclose confidential information relating to a client, which includes, without limitation, the business affairs and financial records of the client, unless the client agrees to the disclosure in writing.

2. Impede or otherwise interfere with an investigation of the Division by:

(a) Failing to comply with a request of the Division to provide documents;

(b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or

(c) Concealing any facts or documents relating to the business of a client.

3. Commingle money or other property of a client with the money or other property of another client, another association, the community manager or the employer of the community manager.

4. Use money or other property of a client for his own personal use.

5. Be a signer on a withdrawal from a reserve account of a client.

6. Except as otherwise permitted by the provisions of the court rules governing the legal profession, establish an attorney-client relationship with an attorney or law firm which represents a client that employs the community manager or with whom the community manager has a management agreement.

7. Provide or attempt to provide to a client a service concerning a type of property or service:

(a) That is outside his field of experience or competence without the assistance of a qualified authority unless the fact of his inexperience or incompetence is disclosed fully to the client and is not otherwise prohibited by law; or

(b) For which he is not properly licensed.

8. Intentionally apply a payment of an assessment from a unit's owner towards any fine, fee or other charge that is due.

9. Refuse to accept from a unit's owner payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.

10. Collect any fees or other charges from a client not specified in the management agreement.

11. Accept any compensation, gift or any other item of material value as payment or consideration for a referral or in the furtherance or performance of his normal duties unless:

(a) Acceptance of the compensation, gift or other item of material value complies with the provisions of NRS 116.31185 or 116B.695 and all other applicable federal, state and local laws, regulations and ordinances; and

(b) Before acceptance of the compensation, gift or other item of material value, the community manager provides full disclosure to the client and the client consents, in writing, to the acceptance of the compensation, gift or other item of material value by the community manager.

Sec. 19.7. **NRS 116A.010 is hereby amended to read as follows:**

116A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 116A.020 to 116A.130, inclusive, ***and sections 19.1 and 19.2 of this act*** have the meanings ascribed to them in those sections.

Sec. 19.8. **NRS 116A.400 is hereby amended to read as follows:**

116A.400 1. Except as otherwise provided in this section, a person shall not act as a community manager unless the person holds a certificate.

2. ~~*[The]*~~ ***In addition to the standards of practice for community managers set forth in sections 19.5 and 19.6 of this act, the*** Commission shall by regulation ~~*[provide for the]*~~ ***adopt any additional*** standards of

practice for community managers who hold certificates ~~[.]~~ ***that the Commission deems appropriate and necessary.***

3. The Division may investigate any community manager who holds a certificate to ensure that the community manager is complying with the provisions of this chapter and chapters 116 and 116B of NRS and ~~[the]~~ ***any additional*** standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a community manager who holds a certificate has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the ***additional*** standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the community manager.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the certificate of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to:

(a) A financial institution that is engaging in an activity permitted by law.

(b) An attorney who is licensed to practice in this State and who is acting in that capacity.

(c) A trustee with respect to the property of the trust.

(d) A receiver with respect to property subject to the receivership.

(e) A member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

Sec. 19.9. **NRS 116B.695 is hereby amended to read as follows:**

116B.695 1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:

(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or

(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.

2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association or a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:

(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or

(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable condominium hotel or association which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.

3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

4. A declarant, an affiliate of a declarant or any person responsible for the construction of a condominium hotel or association ~~[.]~~ shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:

(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to this chapter for violations of the governing documents of the association; or

(b) Any percentage or proportion of those fines.

6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:

(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers ***set forth in sections 19.5 and 19.6 of this act and any additional standards of practice*** adopted by the Commission ***by regulation*** pursuant to NRS 116A.400;

(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the association of the condominium hotel; and

(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 21.3. **NRS 444.065 is hereby amended to read as follows:**

444.065 1. Except as otherwise provided in subsection 2, as used in NRS 444.065 to 444.120, inclusive, "public swimming pool" means any

structure containing an artificial body of water that is intended to be used collectively by persons for swimming or bathing, regardless of whether a fee is charged for its use.

2. The term does not include any such structure at:

(a) A private residence if the structure is controlled by the owner or other authorized occupant of the residence and the use of the structure is limited to members of the family of the owner or authorized occupant of the residence or invited guests of the owner or authorized occupant of the residence.

(b) A family foster home as defined in NRS 424.013.

(c) A child care facility, as defined in NRS 432A.024, furnishing care to 12 children or less.

(d) Any other residence or facility as determined by the State Board of Health.

(e) Any location if the structure is a privately-owned pool used by members of a private club or invited guests of the members.

Sec. 21.7. **Senate Bill No. 253 of this session is hereby amended by adding thereto a new section to read as follows:**

Sec. 10. 1. This section and section 8 of this act become effective upon passage and approval.

2. Sections 1 to 7, inclusive, and 9 of this act become effective on October 1, 2009.

Sec. 22. **1.** This ~~[act becomes]~~ **section and sections 21.3 and 21.7 of this act become effective upon passage and approval.**

2. Section 1.7 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2010, for all other purposes.

3. Sections 2.5 to 21, inclusive, of this act become effective on July 1, 2009.

Assemblyman Segerblom moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 350.

Remarks by Assemblyman Segerblom.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 309, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 876 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 35, which is attached to and hereby made a part of this report.

	MARK AMODEI
MARILYN DONDERO LOOP	TERRY CARE
JOHN HAMBRICK	
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA35.

SUMMARY—Revises provisions relating to ~~[the crime of stalking.]~~ **crimes.** (BDR 15-994)

AN ACT relating to crimes; revising provisions relating to the crime of stalking; **revising provisions relating to the Nevada Clean Indoor Air Act;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) ~~[This bill adds]~~ **Section 1 of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the immediate safety of a member of the person's family or household and which actually causes a victim to feel such fear. Sections 1, 3 and 4 of this bill add** text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony.

The Nevada Clean Indoor Air Act, which is currently codified as NRS 202.2483, was proposed by an initiative petition and approved by the voters at the 2006 General Election and therefore is not subject to legislative amendment or repeal until after December 8, 2009. The Act generally prohibits the smoking of tobacco in certain locations, such as within indoor places of employment, within school buildings and on school property.

Section 1.5 of this bill revises the provisions of the Act by authorizing the smoking of tobacco in certain convention facilities during certain meetings and trade shows.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated **,** ~~[or]~~ harassed ~~[,]~~ ***or fearful for the immediate safety of a family or household member,*** and that actually causes the victim to feel terrorized, frightened, intimidated **,** ~~[or]~~ harassed ~~[,]~~ ***or fearful for the immediate safety of a family or household member,*** commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a misdemeanor.

(b) For any subsequent offense, is guilty of a gross misdemeanor.

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not

more than 15 years, and may be further punished by a fine of not more than $5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site ***,*** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) ***"Family or household member" means a spouse, a former spouse, a parent or other person who is related by blood or marriage or is or was actually residing with the person.***

(c) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

~~[(c)]~~ ***(d)*** "Network" has the meaning ascribed to it in NRS 205.4745.

~~[(d)]~~ ***(e)*** "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

~~[(e)]~~ ***(f) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.***

~~*[(f)*~~ ***(g)*** "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 1.5. **NRS 202.2483 is hereby amended to read as follows:**

202.2483 1. Except as otherwise provided in subsection 3, smoking tobacco in any form is prohibited within indoor places of employment including, but not limited to, the following:

(a) Child care facilities;

(b) Movie theatres;

(c) Video arcades;

(d) Government buildings and public places;

(e) Malls and retail establishments;

(f) All areas of grocery stores; and

(g) All indoor areas within restaurants.

2. Without exception, smoking tobacco in any form is prohibited within school buildings and on school property.

3. Smoking tobacco is not prohibited in:

(a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to NRS 463.350;

(b) Stand-alone bars, taverns and saloons;

(c) Strip clubs or brothels;

(d) Retail tobacco stores; and

(e) Private residences, including private residences which may serve as an office workplace, except if used as a child care, an adult day care or a health care facility ~~[.]~~ ***; and***

(f) The area of a convention facility in which a meeting or trade show is being held, during the time the meeting or trade show is occurring, if the meeting or trade show:

(1) Is not open to the public;

(2) Is being produced or organized by a business relating to tobacco or a professional association for convenience stores; and

(3) Involves the display of tobacco products.

4. In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.

5. Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city or town from adopting and enforcing local tobacco control measures that meet or exceed the minimum applicable standards set forth in this section.

6. "No Smoking" signs or the international "No Smoking" symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited. All

ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited.

7. Health authorities, police officers of cities or towns, sheriffs and their deputies shall, within their respective jurisdictions, enforce the provisions of this section and shall issue citations for violations of this section pursuant to NRS 202.2492 and NRS 202.24925.

8. No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this section.

9. For the purposes of this section, the following terms have the following definitions:

(a) "Casino" means an entity that contains a building or large room devoted to gambling games or wagering on a variety of events. A casino must possess a nonrestricted gaming license as described in NRS 463.0177 and typically uses the word 'casino' as part of its proper name.

(b) "Child care facility" has the meaning ascribed to it in NRS 432A.024.

(c) "Completely enclosed area" means an area that is enclosed on all sides by any combination of solid walls, windows or doors that extend from the floor to the ceiling.

(d) "Government building" means any building or office space owned or occupied by:

(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System;

(2) The State of Nevada and used for any public purpose; or

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

(e) "Health authority" has the meaning ascribed to it in NRS 202.2485.

(f) "Incidental food service or sales" means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of NRS 446.870.

(g) "Place of employment" means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies and reception areas.

(h) "Public places" means any enclosed areas to which the public is invited or in which the public is permitted.

(i) "Restaurant" means a business which gives or offers for sale food, with or without alcoholic beverages, to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

(j) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(k) "School building" means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(l) "School property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(m) "Stand-alone bar, tavern or saloon" means an establishment devoted primarily to the sale of alcoholic beverages to be consumed on the premises, in which food service is incidental to its operation, and provided that smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section. In addition, a stand-alone bar, tavern or saloon must be housed in either:

(1) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this section; or

(2) A completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use.

(n) "Video arcade" has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345.

10. Any statute or regulation inconsistent with this section is null and void.

11. The provisions of this section are severable. If any provision of this section or the application thereof is declared by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of the section as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site**,** ~~[or]~~ electronic mail ***, text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site **,** ~~[or]~~ electronic mail **,** ***text messaging*** or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 5. **1. This section and sections 1, 3 and 4 of this act become effective on October 1, 2009.**

2. Section 1.5 of this act becomes effective on December 9, 2009.

Assemblyman Anderson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 309.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 295, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 932 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 29, which is attached to and hereby made a part of this report.

KELVIN ATKINSON	MAGGIE CARLTON
KATHY MCCLAIN	STEVEN HORSFORD
	WARREN HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA29.

AN ACT relating to dentistry; providing certain exceptions from the list of persons deemed to be practicing dentistry; providing that certain acts are not precluded pursuant to the statutes governing dentistry; providing for the revocation of the state business license, under certain circumstances, of a person who manages the business of a dental practice, office or clinic; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the acts which constitute the practice of dentistry and a list of related acts which may be performed by persons not licensed by the Board of Dental Examiners of Nevada. (NRS 631.215) **Section 5** of this bill revises that list to provide that a person may provide certain goods or services to a dental practice, office or clinic owned or operated by a licensed dentist or certain entities, with certain limitations.

Section 2 of this bill provides that a person or entity is not precluded by the provisions of chapter 631 of NRS from providing certain goods or services to a dental practice, office or clinic.

Section 3 of this bill provides that the contracting for, provision of and payment for certain goods or services to a dental practice, office or clinic under certain circumstances do not constitute violations of law or cause for disciplinary action under chapter 631 of NRS.

Section 3.5 of this bill requires a person who provides management services to a dental practice, office or clinic to register certain information with the Board.

Sections 4.5 and 6 of this bill provide for the revocation of the state business license of a person who manages the business of a dental practice, office or clinic if the person commits certain prohibited acts.

Section 4.7 of this bill revises the powers of the Board as they relate to the appointment of attorneys to authorize, but not require, the Attorney General, in his sole discretion, to serve as legal counsel for the Board at any time and in any and all matters.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 631 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4.5, inclusive, of this act.

Sec. 2. ***Nothing in this chapter precludes a person or entity not licensed by the Board from providing goods or services for the support of the business of a dental practice, office or clinic if the person or entity does not manage or control the clinical practice of dentistry. Such goods and services may include, without limitation, transactions involving:***

1. Real and personal property, other than the ownership of the clinical records of patients; and

2. Personnel, other than licensed dentists and dental hygienists.

Sec. 3. ***1. It is not a violation of NRS 631.395, or an act of dishonorable or unprofessional conduct under NRS 631.346 to 631.349, inclusive, for a person described in paragraph (f) of subsection 2 of NRS 631.215 to provide, or receive payment for providing, goods or services in accordance with the conditions set forth in paragraph (f) of subsection 2 of NRS 631.215.***

2. It is not a violation of NRS 631.346 for a dentist or a professional entity organized by a dentist pursuant to the provisions of chapter 89 of NRS to contract with a person described in and operating in accordance with the conditions set forth in paragraph (f) of subsection 2 of NRS 631.215.

Sec. 3.5. A person who manages the business of a dental practice, office or clinic shall register with the Board:

1. The name and business address of the person;

2. The address of the dental practice, office or clinic of the business which the person manages; and

3. The names of the licensed dentist or other entity not prohibited from owning or operating a dental practice, office or clinic whose business the person manages.

Sec. 4. **(Deleted by amendment.)**

Sec. 4.5. ***1. If the Board determines that a person who provides goods or services for the support of the business of a dental practice, office or clinic has committed any act described in subparagraph (1) [,] or (2) [or (3)] of paragraph (f) of subsection 2 of NRS 631.215, the Board may seek revocation of any state business license held by that person by submitting a***

request for such revocation to the ~~[Department]~~ Secretary of ~~[Taxation.]~~ State.

2. Upon receipt of a request for a revocation of a state business license pursuant to subsection 1, the ~~[Department]~~ Secretary of ~~[Taxation]~~ State shall ~~[commence proceedings to]~~ revoke that license in accordance with the provisions of this section and in the manner provided in ~~[subsections 2, 3 and 4 of NRS 360.798]~~ section 18 of Assembly Bill No. 146 of this session as if the holder of the license had failed to comply with a provision of ~~[NRS 360.760]~~ sections 6 to ~~[360.798,]~~ 18, inclusive ~~[. In addition to providing notice of a hearing to the holder of the license pursuant to NRS 360.798, the Department of Taxation shall provide notice of the hearing to the Board and allow the Board to show cause why the license should be revoked.]~~ , of Assembly Bill No. 146 of this session.

3. The ~~[Department]~~ Secretary of ~~[Taxation]~~ State shall not issue a new license to the former holder of a state business license revoked pursuant to this section unless the ~~[Department]~~ Secretary of State receives notification from the Board that the Board is satisfied that the person:

(a) Will comply with any regulations of the Board adopted pursuant to the provisions of this chapter; and

(b) Will not commit any act described in subparagraph (1) ~~[,]~~ or (2) ~~[or (3)]~~ of paragraph (f) of subsection 2 of NRS 631.215 or any act prohibited by regulations of the Board adopted pursuant to the provisions of this chapter.

4. As used in this section, "state business license" has the meaning ascribed to it in ~~[NRS 360.773.]~~ section 9 of Assembly Bill No. 146 of this session.

Sec. 4.7. **NRS 631.190 is hereby amended to read as follows:**

631.190 In addition to the powers and duties provided in this chapter, the Board shall:

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.

2. Appoint such committees, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter. ***Notwithstanding the provisions of this subsection, the Attorney General in his sole discretion may, but is not required to, serve as legal counsel for the Board at any time and in any and all matters.***

3. Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry and dental hygiene.

4. Examine applicants for licenses to practice dentistry and dental hygiene.

5. Collect and apply fees as provided in this chapter.

6. Keep a register of all dentists and dental hygienists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.

7. Have and use a common seal.

8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in NRS 631.368, the records must be open to public inspection.

9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

10. Have discretion to examine work authorizations in dental offices or dental laboratories.

Sec. 5. NRS 631.215 is hereby amended to read as follows:

631.215 1. Any person shall be deemed to be practicing dentistry who:

(a) Uses words or any letters or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;

(b) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;

(c) Diagnoses, professes to diagnose or treats or professes to treat any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof;

(d) Extracts teeth;

(e) Corrects malpositions of the teeth or jaws;

(f) Takes impressions of the teeth, mouth or gums, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(g) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;

(h) Places in the mouth and adjusts or alters artificial teeth;

(i) Does any practice included in the clinical dental curricula of accredited dental colleges or a residency program for those colleges;

(j) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases;

(k) Uses X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(l) Determines:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable; or

(m) Dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(1) Dispensing or using a product that may be purchased over the counter for a person's own use; or

(2) Authorized by the regulations of the Board to engage in such activities without being a licensed dentist.

2. Nothing in this section:

(a) Prevents a dental assistant, dental hygienist or qualified technician from making radiograms or X-ray exposures or using X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes upon the direction of a licensed dentist.

(b) Prohibits the performance of mechanical work, on inanimate objects only, by any person employed in or operating a dental laboratory upon the written work authorization of a licensed dentist.

(c) Prevents students from performing dental procedures that are part of the curricula of an accredited dental school or college or an accredited school of dental hygiene or an accredited school of dental assisting.

(d) Prevents a licensed dentist or dental hygienist from another state or country from appearing as a clinician for demonstrating certain methods of technical procedures before a dental society or organization, convention or dental college or an accredited school of dental hygiene or an accredited school of dental assisting.

(e) Prohibits the manufacturing of artificial teeth upon receipt of a written authorization from a licensed dentist if the manufacturing does not require direct contact with the patient.

(f) Prohibits a person from providing goods or services for the support of the business of a dental practice, office or clinic owned or operated by a licensed dentist or any entity not prohibited from owning or operating a dental practice, office or clinic if the person does not:

(1) Provide such goods or services in exchange for payments based on a percentage or share of revenues or profits of the dental practice, office or clinic; or

(2) ~~*[Share in the profits or revenue of the dental practice, office or clinic; or*~~

~~*(3)]*~~ ***Exercise any authority or control over the clinical practice of dentistry.***

3. The Board shall adopt regulations identifying activities that constitute the exercise of authority or control over the clinical practice of dentistry, including, without limitation, activities which:

(a) Exert authority or control over the clinical judgment of a licensed dentist; or

(b) Relieve a licensed dentist of responsibility for the clinical aspects of the dental practice.

➥ Such regulations must not prohibit or regulate aspects of the business relationship, other than the clinical practice of dentistry, between a licensed dentist or professional entity organized pursuant to the provisions of chapter 89 of NRS and the person or entity providing goods or services for the support of the business of a dental practice, office or clinic owned or operated by the licensed dentist or professional entity.

Sec. 6. ~~[NRS 360.798 is hereby amended to read as follows:~~

~~360.798 1. If a person who holds a state business license fails to comply with a provision of NRS 360.760 to 360.798, inclusive, or a~~

~~regulation of the Department adopted pursuant thereto, the Department may revoke or suspend the state business license of the person.~~

~~***2.*** Before [so doing,] ***revoking or suspending the state business license of a person,*** the Department must hold a hearing after 10 days' written notice to the licensee. The notice must specify the time and place of the hearing and require the licensee to show cause why his license should not be revoked.~~

~~[2.] ***3.*** If the license is suspended or revoked, the Department shall give written notice of the action to the person who holds the state business license.~~

~~[3.] ***4.*** The notices required by this section may be served personally or by mail in the manner provided in NRS 360.350 for the service of a notice of the determination of a deficiency.~~

~~[4.] ***5.*** The Department shall not issue a new license to the former holder of a revoked state business license unless the Department is satisfied that the person will comply with the provisions of this chapter and the regulations of the Department adopted pursuant thereto.~~ **(Deleted by amendment.)**

Assemblyman Atkinson moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 295.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 269, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 783 and 905 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 21, which is attached to and hereby made a part of this report.

DEBBIE SMITH	ALLISON COPENING
BERNIE ANDERSON	
JOE HARDY	DEAN RHOADS
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA21.

AN ACT relating to professions; requiring a provider of health care to disclose the results of certain tests to a designated investigator or member of the State Board of Osteopathic Medicine; providing for the licensure of perfusionists; prohibiting a person from engaging in the practice of perfusion without a license issued by the Board of Medical Examiners; providing for the immediate suspension of a license to practice medicine upon the conviction of the holder of the license of certain violations; expanding the ~~[definition]~~ **definitions** of "practice of medicine" **and "practice of osteopathic medicine"** to include the performance of an autopsy; revising other provisions governing the issuance of a license to practice medicine by the Board of Medical Examiners; authorizing any person to file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care under certain circumstances; revising

provisions governing osteopathic medicine and psychologists; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes extensive changes to existing law governing the practice of medicine and osteopathic medicine. This bill also provides for the licensing and regulation of perfusionists by the Board of Medical Examiners. A perfusionist is a medical professional who, under the order and supervision of a physician, performs various medical functions to ensure the safe management of a patient's cardiovascular, circulatory or respiratory system or other organs during surgical and other medical procedures. **Sections 1, 3-13, 15, 16, 19-21, 24, 29, 33, 34, 39, 45, 46, 50-52, 55, 59-65, 70 and 79-85** of this bill amend various provisions of NRS to ensure that perfusionists are licensed and regulated by the Board of Medical Examiners in approximately the same manner as physicians, physician assistants and practitioners of respiratory care. (NRS 629.031, 630.003, 630.005, 630.045, 630.047, 630.120, 630.137, 630.167, 630.197, 630.268, 630.307, 630.309, 630.326, 630.329, 630.336, 630.346, 630.358, 630.366, 630.388, 630.390, 630.400, 630A.090, 632.472, 633.171, 652.210, 200.471, 200.5093, 200.50935, 372.7285, 374.731, 432B.220)

This bill also makes various changes relating to the Board of Medical Examiners and the practice of medicine. **Section 14** of this bill adds a new section to chapter 630 of NRS that provides for the immediate suspension of a license issued by the Board upon the conviction of the licensee of a felony for a violation of a federal or state law or regulation relating to his practice. **Section 17** of this bill expands the definition of "practice of medicine" to include the performance of an autopsy. (NRS 630.020) **Section 18** of this bill deletes existing provisions of law that authorize the Board to revoke a license only in accordance with certain provisions. (NRS 630.045) **Section 22** of this bill changes the fiscal year for the Board to commence on January 1 and end on December 31. (NRS 630.123) **Section 25** of this bill authorizes the Executive Director of the Board to sign subpoenas issued in connection with hearings and investigations conducted by the Board. (NRS 630.140) **Sections 26-28, 30-32 and 35** of this bill make various changes concerning the requirements for the issuance of licenses by the Board, including the information required to be submitted for a license, the submission of the fingerprints of the applicant and the appeal of a denial of an application. (NRS 630.160, 630.1605, 630.167, 630.170, 630.173, 630.195, 630.200) **Sections 13.5 and 36-38** of this bill revise certain categories of licenses issued by the Board, including the issuance of a special volunteer medical license to a physician who participates in disaster relief operations and the issuance of an authorized facility license. (NRS 630.258, 630.261, 630.262) **Section 40** of this bill requires a person who wishes to practice respiratory care to complete an educational program for respiratory care approved by the Commission on Accreditation of Allied Health Education Programs or the Committee on Accreditation for Respiratory Care. (NRS 630.277) **Sections**

41-45, 47-49, 53, 54, 57 and 58 of this bill make numerous changes concerning the investigation of complaints against licensees, the grounds for the imposition of disciplinary action and the procedures to be followed in disciplinary proceedings. (NRS 630.299, 630.306, 630.3062, 630.307, 630.311, 630.318, 630.326, 630.339, 630.342, 630.352, 630.356)

Sections 66-78 of this bill make similar changes relating to the State Board of Osteopathic Medicine and the practice of osteopathy. **Section 66.1 includes the performance of an autopsy within the definition of the "practice of osteopathic medicine." Sections 66.3, 66.5 and 66.7 authorize the issuance of certain categories of licenses by the Board, including a special volunteer license to practice osteopathic medicine to an osteopathic physician who participates in disaster relief operations and an authorized facility license. Section 67** adds a new section to chapter 633 of NRS which authorizes the Board or an investigative committee of the Board to issue to a person who violates or is violating the provisions of that chapter a letter of warning, a letter of concern or a nonpunitive admonishment. **Section 68** also adds a new section to that chapter which establishes the standard of proof in disciplinary proceedings that are conducted pursuant to that chapter. **Sections 69-78** make various changes concerning unprofessional conduct, the requirements for licensure to practice osteopathic medicine, examinations, the grounds for disciplinary action and the imposition of penalties after a disciplinary proceeding. (NRS 633.131, 633.171, 633.322, 633.331, 633.411, 633.511, 633.561, 633.625, 633.651, 633.691)

Section 78.1 of this bill defines "national examination" to mean the Examination for Professional Practice in Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board of Psychological Examiners.

Section 78.3 of this bill revises the requirements for an application for a license to practice psychology in this State to add the submission of a complete set of fingerprints and written permission authorizing the Board of Psychological Examiners to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or verification that the set of fingerprints was directly forwarded to the Central Repository by the entity taking the prints.

Existing law provides that the Board of Psychological Examiners may require an applicant for a license to pass an oral examination in whatever applied or theoretical fields it deems appropriate, in addition to a written examination. **Section 78.4** of this bill eliminates: (1) the requirement that the additional examination be conducted orally; (2) the provisions relating to the frequency, time, location and supervision of the examination; (3) the requirement that the Board supply each applicant with a copy of the results of his written examination provided to the Board by the Association; and (4) the

right of the applicant to request that the Board review his examination if he fails the examination.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. **NRS 622.100 is hereby amended to read as follows:**

622.100 1. Each regulatory body shall, on or before the 20th day of January, April, July and October, submit to the Director of the Legislative Counsel Bureau in an electronic format prescribed by the Director:

(a) A summary of each disciplinary action taken by the regulatory body during the immediately preceding calendar quarter against any licensee of the regulatory body; and

(b) A report that includes:

(1) The number of licenses issued by the regulatory body during the immediately preceding calendar quarter; and

(2) Any other information that is requested by the Director or which the regulatory body determines would be helpful to the Legislature in evaluating whether the continued existence of the regulatory body is necessary.

2. ***In addition to the information required pursuant to subsection 1, the Board of Medical Examiners and the State Board of Osteopathic Medicine shall further submit the number and types of remediation agreements each has approved pursuant to NRS 630.299 and section 67 of this act, respectively, at the same time and in the format prescribed by the Director pursuant to subsection 1.***

3. The Director shall:

(a) Provide any information he receives pursuant to subsection 1 ***or 2*** to a member of the public upon request;

(b) Cause a notice of the availability of such information to be posted on the public website of the Nevada Legislature on the Internet; and

(c) Transmit a compilation of the information he receives pursuant to ~~[subsection]~~ ***subsections*** 1 ***and 2*** to the Legislative Commission quarterly, unless otherwise directed by the Commission.

~~[3.]~~ ***4.*** The Director, on or before the first day of each regular session of the Legislature and at such other times as directed, shall compile the reports he has received pursuant to paragraph (b) of subsection 1 ***and the information he has received pursuant to subsection 2*** and distribute copies of the compilation to the Senate Standing Committee on Commerce and Labor and the Assembly Standing Committee on Commerce and Labor, each of which shall review the compilation to determine whether the continued existence of each regulatory body is necessary.

Sec. 1.3. **NRS 622.100 is hereby amended to read as follows:**

622.100 1. Each regulatory body shall, on or before the 20th day of January, April, July and October, submit to the Director of the Legislative Counsel Bureau in an electronic format prescribed by the Director:

(a) A summary of each disciplinary action taken by the regulatory body during the immediately preceding calendar quarter against any licensee of the regulatory body; and

(b) A report that includes:

(1) The number of licenses issued by the regulatory body during the immediately preceding calendar quarter; and

(2) Any other information that is requested by the Director or which the regulatory body determines would be helpful to the Legislature in evaluating whether the continued existence of the regulatory body is necessary.

~~2. [In addition to the information required pursuant to subsection 1, the Board of Medical Examiners and the State Board of Osteopathic Medicine shall further submit the number and types of remediation agreements each has approved pursuant to NRS 630.299 and section 67 of this act, respectively, at the same time and in the format prescribed by the Director pursuant to subsection 1.~~

~~3.]~~ The Director shall:

(a) Provide any information he receives pursuant to subsection 1 or 2 to a member of the public upon request;

(b) Cause a notice of the availability of such information to be posted on the public website of the Nevada Legislature on the Internet; and

(c) Transmit a compilation of the information he receives pursuant to ~~[subsections]~~ ***subsection*** 1 ~~[and 2]~~ to the Legislative Commission quarterly, unless otherwise directed by the Commission.

3. The Director, on or before the first day of each regular session of the Legislature and at such other times as directed, shall compile the reports he has received pursuant to paragraph (b) of subsection 1 ~~[and the information he has received pursuant to subsection 2]~~ and distribute copies of the compilation to the Senate Standing Committee on Commerce and Labor and the Assembly Standing Committee on Commerce and Labor, each of which shall review the compilation to determine whether the continued existence of each regulatory body is necessary.

~~[Section 1.]~~ ***Sec. 1.7.*** NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by ***a*** specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, ***perfusionist,*** doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. NRS 629.069 is hereby amended to read as follows:

629.069 1. A provider of health care shall disclose the results of all tests performed pursuant to NRS 441A.195 to:

(a) The person who was tested and, upon request, a member of the family of a decedent who was tested;

(b) The law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee, other person who is employed by an agency of criminal justice or other public employee whose duties may require him to come into contact with human blood or bodily fluids who filed the petition or on whose behalf the petition was filed pursuant to NRS 441A.195;

(c) The designated health care officer for the employer of the person described in paragraph (b) or, if there is no designated health care officer, the person designated by the employer to document and verify possible exposure to contagious diseases; **[**and**]**

(d) If the person who was tested is incarcerated or detained, the person in charge of the facility in which the person is incarcerated or detained and the chief medical officer of the facility in which the person is incarcerated or detained, if any ~~[.]~~ ***; and***

(e) A designated investigator or member of the State Board of Osteopathic Medicine during any period in which the Board is investigating the holder of a license pursuant to chapter 633 of NRS.

2. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

Sec. 3. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 14, inclusive, of this act.

Sec. 4. ***1. "Perfusion" means the performance of functions which are necessary to provide for the support, treatment, measurement or supplementation of a patient's cardiovascular, circulatory or respiratory system or other organs, or any combination of those activities, and to ensure the safe management of the patient's physiological functions by monitoring and analyzing the parameters of the patient's systems or organs under the order and supervision of a physician.***

2. The term includes, without limitation:

(a) The use of extracorporeal circulation and any associated therapeutic and diagnostic technologies; and

(b) The use of long-term cardiopulmonary support techniques.

3. As used in this section, "extracorporeal circulation" means the diversion of a patient's blood through a heart-lung bypass machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

Sec. 5. ***"Perfusionist" means a person who is licensed to practice perfusion by the Board.***

Sec. 6. ***"Temporarily licensed perfusionist" means a person temporarily licensed to practice perfusion by the Board pursuant to section 13 of this act.***

Sec. 7. ***The Board shall adopt regulations regarding the licensure of perfusionists, including, without limitation:***

1. The criteria for licensure as a perfusionist and the standards of professional conduct for holders of such a license;

2. The qualifications and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;

3. The requirements for any practical, oral or written examination for a license that the Board may require pursuant to section 9 of this act, including, without limitation, the passing grade for such an examination;

4. The fees for examination and for reinstatement of expired licenses;

5. The requirements for continuing education for the renewal of a license;

6. A code of ethics for perfusionists; and

7. The procedures for the revocation, suspension or denial of a license for a violation of this chapter or the regulations of the Board.

Sec. 8. ***To be eligible for licensing by the Board as a perfusionist, an applicant must:***

1. Be a natural person of good moral character;

2. Submit a completed application as required by the Board by the date established by the Board;

3. Submit any required fees by the date established by the Board;

4. Have successfully completed a perfusion education program approved by the Board, which must:

(a) Have been approved by the Committee on Allied Health Education and Accreditation of the American Medical Association before June 1, 1994; or

(b) Be a program that has educational standards that are at least as stringent as those established by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association, or its successor;

5. Pass an examination required pursuant to section 9 of this act; and

6. Comply with any other requirements set by the Board.

Sec. 9. ***1. The Board shall use the certification examinations given by the American Board of Cardiovascular Perfusion or its successor in determining the qualifications for granting a license to practice perfusion.***

2. The Board shall notify each applicant of the results of the examination.

3. If a person who fails the examination makes a written request, the Board shall furnish the person with an analysis of his performance on the examination.

Sec. 10. ***The Board shall waive the examination required pursuant to section 9 of this act for an applicant who at the time of application:***

1. Is licensed as a perfusionist in another state, territory or possession of the United States, if the requirements for licensure are substantially similar to those required by the Board; or

2. Holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion or its successor before October 1, 2009.

Sec. 11. ***1. The Board shall issue a license as a perfusionist to each applicant who proves to the satisfaction of the Board that the applicant is qualified for licensure. The license authorizes the applicant to represent himself as a licensed perfusionist and to practice perfusion in this State subject to the conditions and limitations of this chapter.***

2. Each licensed perfusionist shall:

(a) Display his current license in a location which is accessible to the public;

(b) Keep a copy of his current license on file at any health care facility where he provides services; and

(c) Notify the Board of any change of address in accordance with NRS 630.254.

3. As used in this section, "health care facility" means a medical facility or facility for the dependent licensed pursuant to chapter 449 of NRS.

Sec. 12. ***1. Each license issued pursuant to section 11 of this act expires on July 1 of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:***

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of his completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to section 8 of this act.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made is automatically suspended and may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to section 9 of this act.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 13. ***1. The Board may issue a temporary license to practice perfusion in this State to a person who has not yet completed the examination required pursuant to section 9 of this act but who:***

(a) Has completed an approved perfusion education program;

(b) Files an application; and

(c) Pays the required fee.

2. A perfusionist shall supervise and direct a temporarily licensed perfusionist at all times during which the temporarily licensed perfusionist performs perfusion.

3. A temporary license is valid for 1 year after the date it is issued and may be extended subject to regulation by the Board. The application for renewal must be signed by a supervising licensed perfusionist.

4. If a temporarily licensed perfusionist fails any portion of the examination required pursuant to section 9 of this act, he shall immediately surrender the temporary license to the Board.

Sec. 13.5. 1. Except as otherwise provided in NRS 630.161, the Board may issue an authorized facility license to a person who intends to practice medicine in this State as a physician in an institution of the Department of Corrections under the direct supervision of a physician who holds an unrestricted license to practice medicine pursuant to this chapter or to practice osteopathic medicine pursuant to chapter 633 of NRS.

2. A person who applies for an authorized facility license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice medicine pursuant to paragraph (e) of subsection 2 of NRS 630.160, but the person must meet all other conditions and requirements for an unrestricted license to practice medicine pursuant to this chapter.

3. If the Board issues an authorized facility license pursuant to this section, the person who holds the license may practice medicine in this State only as a physician in an institution of the Department of Corrections and only under the direct supervision of a physician who holds an unrestricted license to practice medicine pursuant to this chapter or to practice osteopathic medicine pursuant to chapter 633 of NRS.

4. If a person who holds an authorized facility license issued pursuant to this section ceases to practice medicine in this State as a physician in an institution of the Department of Corrections:

(a) The Department shall notify the Board; and

(b) Upon receipt of the notification, the authorized facility license expires automatically.

5. The Board may renew or modify an authorized facility license issued pursuant to this section, unless the license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a license to an applicant in accordance with any other provision of this chapter.

Sec. 14. ***If the holder of a license that is issued or renewed pursuant to this chapter is convicted of a felony for a violation of any federal or state law or regulation relating to the holder's practice, the conviction operates as an immediate suspension of the license.***

Sec. 15. NRS 630.003 is hereby amended to read as follows:

630.003 1. The Legislature finds and declares that:

(a) It is among the responsibilities of State Government to ensure, as far as possible, that only competent persons practice medicine ***, perfusion*** and respiratory care within this State;

(b) For the protection and benefit of the public, the Legislature delegates to the Board of Medical Examiners the power and duty to determine the initial and continuing competence of physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care who are subject to the provisions of this chapter;

(c) The Board must exercise its regulatory power to ensure that the interests of the medical profession do not outweigh the interests of the public;

(d) The Board must ensure that unfit physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care are removed from the medical profession so that they will not cause harm to the public; and

(e) The Board must encourage and allow for public input into its regulatory activities to further improve the quality of medical practice within this State.

2. The powers conferred upon the Board by this chapter must be liberally construed to carry out these purposes for the protection and benefit of the public.

Sec. 16. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.025, inclusive, ***and sections 4, 5 and 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 17. NRS 630.020 is hereby amended to read as follows:

630.020 "Practice of medicine" means:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality ~~[.]~~ ***, including, but not limited to, the performance of an autopsy.***

2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

Sec. 18. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege **. [**~~, but the Board may revoke such a license only in accordance with the provisions of NRS 630.348.~~**]**

Sec. 19. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege.

Sec. 20. NRS 630.047 is hereby amended to read as follows:

630.047 1. This chapter does not apply to:

(a) A medical officer or ***perfusionist or*** practitioner of respiratory care of the Armed Services or a medical officer or ***perfusionist or*** practitioner of respiratory care of any division or department of the United States in the discharge of his official duties;

(b) Physicians who are called into this State, other than on a regular basis, for consultation with or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside;

(c) Physicians who are legally qualified to practice in the state where they reside and come into this State on an irregular basis to:

(1) Obtain medical training approved by the Board from a physician who is licensed in this State; or

(2) Provide medical instruction or training approved by the Board to physicians licensed in this State;

(d) Any person permitted to practice any other healing art under this title who does so within the scope of that authority, or healing by faith or Christian Science;

(e) The practice of respiratory care by a student as part of a program of study in respiratory care that is approved by the Board, or is recognized by a national organization which is approved by the Board to review such programs, if the student is enrolled in the program and provides respiratory care only under the supervision of a practitioner of respiratory care;

(f) The practice of respiratory care by a student who:

(1) Is enrolled in a clinical program of study in respiratory care which has been approved by the Board;

(2) Is employed by a medical facility, as defined in NRS 449.0151; and

(3) Provides respiratory care to patients who are not in a critical medical condition or, in an emergency, to patients who are in a critical medical condition and a practitioner of respiratory care is not immediately available to provide that care and the student is directed by a physician to provide

respiratory care under his supervision until a practitioner of respiratory care is available;

(g) The practice of respiratory care by a person on himself or gratuitous respiratory care provided to a friend or a member of a person's family if the provider of the care does not represent himself as a practitioner of respiratory care;

(h) A ~~[cardiopulmonary perfusionist who is under the supervision of a surgeon or an anesthesiologist;~~

~~(i) A]~~ person who is employed by a physician and provides respiratory care ***or services as a perfusionist*** under the supervision of that physician;

~~[(j)]~~ ***(i)*** The maintenance of medical equipment for ***perfusion or*** respiratory care that is not attached to a patient; and

~~[(k)]~~ ***(j)*** A person who installs medical equipment for respiratory care that is used in the home and gives instructions regarding the use of that equipment if the person is trained to provide such services and is supervised by a provider of health care who is acting within the authorized scope of his practice.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services outside of a medical school or medical facility by a person who is not a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 21. NRS 630.120 is hereby amended to read as follows:

630.120 1. The Board shall procure a seal.

2. All licenses issued to physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care must bear the seal of the Board and the signatures of its President and Secretary-Treasurer.

Sec. 22. NRS 630.123 is hereby amended to read as follows:

630.123 The Board shall operate on the basis of a fiscal year commencing on ~~[July]~~ ***January*** 1 and terminating on ~~[June 30.]~~ ***December 31.***

Sec. 23. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) ***The number and types of remediation agreements approved by the Board pursuant to NRS 630.299;***

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections ~~[2]~~ ***3*** and ~~[3]~~ ***4*** of NRS 630.307 and NRS 690B.250 and 690B.260; and

~~[(c)]~~ ***(d)*** Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. ***On or before February 15 of each odd-numbered year, the Board shall submit to the Legislative Commission a written report compiling the information described in paragraphs (a) and (b) of subsection 2.***

4. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 23.5. **NRS 630.130 is hereby amended to read as follows:**

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) ~~[The number and types of remediation agreements approved by the Board pursuant to NRS 630.299;~~

~~(c)]~~ Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and 4 of NRS 630.307 and NRS 690B.250 and 690B.260; and

~~[(d)]~~ ***(c)*** Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. ~~[On or before February 15 of each odd-numbered year, the Board shall submit to the Legislative Commission a written report compiling the information described in paragraphs (a) and (b) of subsection 2.~~

~~4.]~~ The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 24. NRS 630.137 is hereby amended to read as follows:

630.137 1. Notwithstanding any other provision of law and except as otherwise provided in this section, the Board shall not adopt any regulations that prohibit or have the effect of prohibiting a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care from collaborating or consulting with another provider of health care.

2. The provisions of this section do not prevent the Board from adopting regulations that prohibit a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care from aiding or abetting another person in the unlicensed practice of medicine or the unlicensed practice of ***perfusion or*** respiratory care.

3. As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 25. NRS 630.140 is hereby amended to read as follows:

630.140 1. The Board may hold hearings and conduct investigations pertaining to its duties imposed under this chapter and take evidence on any such matter under inquiry before the Board. For the purposes of this chapter:

(a) Any member of the Board or other person authorized by law may administer oaths; and

(b) The Secretary-Treasurer or President of the Board or a hearing officer or the presiding member of a committee investigating a complaint ***, but not the Executive Director acting on his own behalf,*** may issue subpoenas to compel the attendance of witnesses and the production of books, X rays **,** ~~[and]~~ medical records and ~~[other papers]~~ ~~[.]~~ ~~*[and tangible items.]*~~ ***any other item within the scope of Rule 45 of the Nevada Rules of Civil Procedure.*** The Secretary-Treasurer, President or other officer of the Board acting on its behalf ***or the Executive Director*** must sign the subpoena.

2. If any person fails to comply with the subpoena **,** ~~[within 10 days after its issuance,]~~ the Secretary-Treasurer **,** ***Executive Director*** or President of the Board may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of

the order, and then and there show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 26. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if after issuing a license to practice medicine the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

(a) Temporarily suspend the license;

(b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;

(c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;

(d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or

(e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:

(1) Placing the licensee on probation for a specified period with specified conditions;

(2) Administering a public reprimand;

(3) Limiting the practice of the licensee;

(4) Suspending the license for a specified period or until further order of the Board;

(5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;

(6) Requiring supervision of the practice of the licensee;

(7) Imposing an administrative fine not to exceed $5,000;

(8) Requiring the licensee to perform community service without compensation;

(9) Requiring the licensee to take a physical or mental examination or an examination testing his competence to practice medicine;

(10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 27. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect;

~~[2.]~~ ***(b)*** The applicant:

~~[(a)]~~ ***(1)*** Submits to the Board proof of passage of an examination approved by the Board;

~~[(b)]~~ ***(2)*** Submits to the Board any documentation and other proof of qualifications required by the Board;

~~[(c)]~~ ***(3)*** Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and

~~[(d)]~~ ***(4)*** Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and

~~[3.]~~ ***(c)*** Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 28. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine ***, to practice as a physician assistant or to practice respiratory care*** shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. ***Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.***

Sec. 29. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice respiratory care shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.

Sec. 30. NRS 630.170 is hereby amended to read as follows:

630.170 In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a medical school located in the United States or Canada shall submit to the Board proof that he has received the degree of doctor of medicine from a medical school which, at the time of graduation, was accredited by the Liaison Committee on Medical Education or the Committee for the Accreditation of Canadian Medical Schools. ***The proof of the degree of doctor of medicine must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school, the Board may accept proof from any other source specified by the Board.***

Sec. 31. NRS 630.173 is hereby amended to read as follows:

630.173 1. In addition to the other requirements for licensure, an applicant for a license to practice medicine shall submit to the Board information describing:

(a) Any claims made against the applicant for malpractice, whether or not a civil action was filed concerning the claim;

(b) Any complaints filed against the applicant with a licensing board of another state and any disciplinary action taken against the applicant by a licensing board of another state; and

(c) Any complaints filed against the applicant with a hospital, clinic or medical facility or any disciplinary action taken against the applicant by a hospital, clinic or medical facility.

2. The Board ***may consider any information specified in subsection 1 that is more than 10 years old if the Board receives the information from the applicant or any other source from which the Board is verifying the information provided by the applicant.***

3. The Board may refuse to consider any information specified in subsection 1 that is more than 10 years old if the Board determines that the claim or complaint is remote or isolated and that obtaining or attempting to obtain a record relating to the information will unreasonably delay the consideration of the application.

4. The Board shall not issue a license to the applicant until it has received all the information required by this section.

Sec. 32. NRS 630.195 is hereby amended to read as follows:

630.195 ***1.*** In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a foreign medical school shall submit to the Board proof that he has received:

~~[1.]~~ ***(a)*** The degree of doctor of medicine or its equivalent, as determined by the Board; and

~~[2.]~~ ***(b)*** The standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by ~~[it.]~~ ***the Commission.***

2. The proof of the degree of doctor of medicine or its equivalent must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school that granted the degree, the Board may accept proof from any other source specified by the Board.

Sec. 33. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the

district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 34. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 35. NRS 630.200 is hereby amended to read as follows:

630.200 1. The Board may deny an application for a license to practice medicine for any violation of the provisions of this chapter or regulations of the Board.

2. The Board shall notify an applicant of any deficiency which prevents any further action on the application or results in the denial of the application. The applicant may respond in writing to the Board concerning any deficiency and, if he does so, the Board shall respond in writing to the contentions of the applicant.

3. Any unsuccessful applicant may appeal to the ~~[~~district court to review the action of the~~]~~ Board ~~[,]~~ if he files his appeal within 90 days ~~[~~from~~]~~ ***after*** the date of the rejection of his application by the Board. Upon appeal **,** the applicant has the burden to show that the action of the Board is erroneous **.** ~~[~~or unlawful.~~]~~

Sec. 36. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who ~~[wishes]~~ ***:***

(a) Wishes to donate his expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care ***; or***

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,

➥ may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care ~~[to]~~ ***:***

(1) To persons in this State who are indigent, uninsured or unable to afford health care; ***or***

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or

(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 37. NRS 630.261 is hereby amended to read as follows:

630.261 1. Except as otherwise provided in NRS 630.161, the Board may issue:

(a) A locum tenens license, to be effective not more than 3 months after issuance, to any physician who is licensed and in good standing in another state, who meets the requirements for licensure in this State and who is of good moral character and reputation. The purpose of this license is to enable an eligible physician to serve as a substitute for another physician who is licensed to practice medicine in this State and who is absent from his practice for reasons deemed sufficient by the Board. A license issued pursuant to the provisions of this paragraph is not renewable.

(b) A special license to a licensed physician of another state to come into this State to care for or assist in the treatment of his own patient in association with a physician licensed in this State. A special license issued pursuant to the provisions of this paragraph is limited to the care of a specific patient. The physician licensed in this State has the primary responsibility for the care of that patient.

(c) A restricted license for a specified period if the Board determines the applicant needs supervision or restriction.

(d) A temporary license for a specified period if the physician is licensed and in good standing in another state and meets the requirements for licensure in this State, and if the Board determines that it is necessary in order to provide medical services for a community without adequate medical care. A temporary license issued pursuant to the provisions of this paragraph is not renewable.

(e) A special purpose license to a physician who is licensed in another state to permit the use of equipment that transfers information concerning the medical condition of a patient in this State across state lines electronically, telephonically or by fiber optics **.** ~~[if the physician:~~

~~(1) Holds a full and unrestricted license to practice medicine in that state;~~

~~(2) Has not had any disciplinary or other action taken against him by any state or other jurisdiction; and~~

~~(3) Meets the requirements set forth in paragraph (d) of subsection 2 of NRS 630.160.]~~

2. ***For the purpose of paragraph (e) of subsection 1, the physician must:***

(a) Hold a full and unrestricted license to practice medicine in another state;

(b) Not have had any disciplinary or other action taken against him by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties or its successor.

3. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 38. NRS 630.262 is hereby amended to read as follows:

630.262 1. Except as otherwise provided in NRS 630.161, the Board may issue ~~[~~a restricted~~]~~ ***an authorized facility*** license to a person who intends to practice medicine in this State as a psychiatrist in a mental health center of the Division under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter ~~[.]~~ ***or to practice osteopathic medicine pursuant to chapter 633 of NRS.***

2. A person who applies for ~~[~~a restricted~~]~~ ***an authorized facility*** license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice medicine pursuant to paragraph (e) of subsection 2 of NRS 630.160, but the person must meet all other conditions and requirements for an unrestricted license to practice medicine pursuant to this chapter.

3. If the Board issues ~~[~~a restricted~~]~~ ***an authorized facility*** license pursuant to this section, the person who holds the ~~[~~restricted~~]~~ license may practice medicine in this State only as a psychiatrist in a mental health center of the Division and only under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter ~~[.]~~ ***or to practice osteopathic medicine pursuant to chapter 633 of NRS.***

4. If a person who holds ~~[~~a restricted~~]~~ ***an authorized facility*** license issued pursuant to this section ceases to practice medicine in this State as a psychiatrist in a mental health center of the Division:

(a) The Division shall notify the Board; and

(b) Upon receipt of ~~[~~such~~]~~ ***the*** notification, the ~~[~~restricted~~]~~ ***authorized facility*** license expires automatically.

5. The Board may renew or modify ~~[~~a restricted~~]~~ ***an authorized facility*** license issued pursuant to this section, unless the ~~[~~restricted~~]~~ license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a ~~[~~restricted~~]~~ license to an applicant in accordance with any other provision of this chapter.

7. As used in this section:

(a) "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.

Sec. 38.5. **NRS 630.268 is hereby amended to read as follows:**

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement $600
For application for and issuance of a temporary, locum tenens, limited, restricted, ***authorized facility,*** special or special purpose license..... 400
For renewal of a limited, restricted ***, authorized facility*** or special license 400
For application for and issuance of a license as a physician assistant 400
For biennial registration of a physician assistant 800
For biennial registration of a physician 800
For application for and issuance of a license as a practitioner of respiratory care 400
For biennial registration of a practitioner of respiratory care 600
For biennial registration for a physician who is on inactive status 400
For written verification of licensure 50
For a duplicate identification card 25
For a duplicate license 50
For computer printouts or labels 500
For verification of a listing of physicians, per hour 20
For furnishing a list of new physicians 100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 39. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement $600
For application for and issuance of a temporary, locum tenens, limited, restricted, authorized facility, special or special purpose license..... 400
For renewal of a limited, restricted, authorized facility or special license.. 400
For application for and issuance of a license as a physician assistant 400
For biennial registration of a physician assistant 800
For biennial registration of a physician 800
For application for and issuance of a license as a ***perfusionist or*** practitioner of respiratory care 400

For biennial renewal of a license as a perfusionist ***600***
For biennial registration of a practitioner of respiratory care 600
For biennial registration for a physician who is on inactive status 400
For written verification of licensure 50
For a duplicate identification card 25
For a duplicate license 50
For computer printouts or labels 500
For verification of a listing of physicians, per hour 20
For furnishing a list of new physicians 100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 40. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the ~~[~~National Board~~]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~[~~National Board~~]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization;

(d) Be certified by the ~~[~~National Board~~]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself out as qualified to practice respiratory care,

➥ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 41. NRS 630.299 is hereby amended to read as follows:

630.299 1. If the Board has reason to believe that a person has violated ~~[.]~~ ***or*** is violating ~~[or is about to violate]~~ any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement, if approved by an investigative committee of the Board, must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate,

including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 41.5. **NRS 630.299 is hereby amended to read as follows:**

630.299 1. If the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

~~[3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:~~

~~(a) Address each violation of this chapter that is at issue; and~~

~~(b) Remediate or improve the practice of the person relating to those violations.~~

~~4. A remediation agreement, if approved by an investigative committee of the Board, must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.~~

~~5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the~~

~~investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.~~

~~6. The Board shall adopt regulations to carry out the provisions of this section.]~~

Sec. 42. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform ~~[.]~~ ***or which are beyond the scope of his training.***

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

13. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him , other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

14. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

15. Violating a provision of a remediation agreement approved by the Board pursuant to NRS 630.299.

Sec. 42.5. **NRS 630.306 is hereby amended to read as follows:**

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform or which are beyond the scope of his training.

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation, the

revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

13. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

14. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

~~[15. Violating a provision of a remediation agreement approved by the Board pursuant to NRS 630.299.]~~

Sec. 43. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board ~~[.]~~ ***within 30 days after the date the licensee knows or has reason to know of the violation.***

Sec. 44. NRS 630.307 is hereby amended to read as follows:

630.307 1. ***Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.***

2. Any ~~[person,]~~ ***licensee,*** medical school or medical facility that becomes aware that a person practicing medicine or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

~~[2.]~~ ***3.*** Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~[a physician's]~~ ***the***

privileges ***of a physician, physician assistant or practitioner of respiratory care*** to practice ~~[medicine]~~ while the physician ***, physician assistant or practitioner of respiratory care*** is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician ***, physician assistant or practitioner of respiratory care*** concerning the care of a patient or the competency of the physician ***, physician assistant or practitioner of respiratory care*** within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[3.]~~ ***4.*** The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[4.]~~ ***5.*** On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~[3.]~~ ***4.***

Sec. 45. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine ***, perfusion*** or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds

for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to practice while the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

4. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

5. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection 4.

Sec. 46. NRS 630.309 is hereby amended to read as follows:

630.309 To institute a disciplinary action against a ***perfusionist,*** physician assistant or practitioner of respiratory care, a written complaint, specifying the charges, must be filed with the Board by:

1. The Board or a committee designated by the Board to investigate a complaint;

2. Any member of the Board; or

3. Any other person who is aware of any act or circumstance constituting a ground for disciplinary action set forth in the regulations adopted by the Board.

Sec. 47. NRS 630.311 is hereby amended to read as follows:

630.311 1. A committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is ~~[qualified pursuant to subsection 2 of NRS 630.060.]~~ ***not a physician.*** The committee may issue orders to aid its investigation including, but not limited to, compelling a physician to appear before the committee.

2. If, after conducting an investigation, the committee determines that there is a reasonable basis for the complaint and that a violation of any provision of this chapter has occurred, the committee may file a formal complaint with the Board.

3. The proceedings of the committee are confidential and are not subject to the requirements of NRS 241.020. Within 20 days after the conclusion of each meeting of the committee, the Board shall publish a summary setting forth the proceedings and determinations of the committee. The summary must not identify any person involved in the complaint that is the subject of the proceedings.

Sec. 48. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, it may order that the physician undergo a mental or physical examination or an examination testing his competence to practice medicine by physicians or other examinations designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given his consent to submit to a mental or physical examination or an examination testing his competence to practice medicine when ordered to do so in writing by the Board ~~[.]~~ ***or an investigative committee of the Board.***

(b) The testimony or reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against him.

Sec. 49. NRS 630.326 is hereby amended to read as follows:

630.326 ***1. If an investigation by the Board regarding a physician, physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.***

2. If the Board issues an order summarily suspending the license of a physician, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the ~~*[completion of the investigation by the Board.]*~~ ***date on which the Board issues the order summarily suspending the license unless the Board and the licensee mutually agree to a longer period.***

3. If the Board issues an order suspending the license of a physician ***, physician assistant or practitioner of respiratory care*** pending proceedings for disciplinary action and requires the physician ***, physician assistant or practitioner of respiratory care*** to submit to a mental or physical examination or an examination testing his competence to practice ***,*** ~~**[**medicine,**]**~~ the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 50. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the date on which the Board issues the order summarily suspending the license unless the Board and the licensee mutually agree to a longer period.

3. If the Board issues an order suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pending proceedings for disciplinary action and requires the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to submit to a mental or physical examination or an examination testing his competence to practice, the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 51. NRS 630.329 is hereby amended to read as follows:

630.329 If the Board issues an order suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pending proceedings for disciplinary action, the court shall not stay that order.

Sec. 52. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine ***, perfusion*** or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine ***, perfusion*** or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 53. NRS 630.339 is hereby amended to read as follows:

630.339 1. If a committee designated by the Board to conduct an investigation of a complaint decides to proceed with disciplinary action, it shall bring charges against the licensee ~~[. If charges are brought, the Board shall fix a time and place for a formal hearing.]~~ ***by filing a formal complaint. The formal complaint must include a written statement setting forth the charges alleged and setting forth in concise and plain language each act or omission of the respondent upon which the charges are based. The formal complaint must be prepared with sufficient clarity to ensure that the respondent is able to prepare his defense. The formal complaint must specify any applicable law or regulation that the respondent is alleged to have violated. The formal complaint may be signed by the chairman of the investigative committee or the Executive Director of the Board acting in his official capacity.***

2. The respondent shall file an answer to the formal complaint within 20 days after service of the complaint upon the respondent. The answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. If a party fails to file an answer within the time prescribed, he shall be deemed to have denied generally the allegations of the formal complaint.

3. Within 20 days after the filing of the answer, the parties shall hold an early case conference at which the parties and the hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

(b) Set dates:

(1) By which all documents must be exchanged;

(2) By which all prehearing motions and responses thereto must be filed;

(3) On which to hold the prehearing conference; and

(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held within 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

~~[2.]~~ ***5. A formal hearing must be held at the time and date set at the early case conference by:***

(a) The Board ~~[, a]~~ ***;***

(b) A hearing officer ~~[or a]~~ ***;***

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of ~~[its]~~ members ***of the Board*** designated by ~~[the Board shall hold the formal hearing on the charges at the time and place designated in the notification.]~~ ***an investigative committee of the Board or the Board;***

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the ~~[Board who is]~~ ***panel must*** not ***be*** a physician ***.*** ~~[must participate in this hearing.]~~

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

(a) Conduct the hearing;

(b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;

(c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and

(d) Within 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of law in accordance with the determinations made by each member of the Board.

Sec. 54. NRS 630.342 is hereby amended to read as follows:

630.342 1. Any ~~[physician]~~ ***licensee*** against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[physician's]~~ ***licensee's*** receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of a ~~[~~physician~~]~~ ***licensee*** to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[~~physician.~~]~~ ***licensee.***

3. The Board has additional grounds for initiating disciplinary action against a ~~[~~physician~~]~~ ***licensee*** if the report from the Federal Bureau of Investigation indicates that the ~~[~~physician~~]~~ ***licensee*** has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 630.301 to 630.3066, inclusive; or

(b) A violation of NRS 630.400.

Sec. 54.5. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. ***Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.***

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine or respiratory care is conclusive evidence of its occurrence.

Sec. 55. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine ***, perfusion*** or respiratory care is conclusive evidence of its occurrence.

Sec. 56. (Deleted by amendment.)

Sec. 57. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, ~~[~~except for an advisory~~]~~ ***other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any*** member serving on a panel of the Board ***at the*** hearing ~~[~~charges,~~]~~ ***of the matter,*** may participate in ***an adjudication to obtain*** the final order of the Board. ~~[~~If the Board, after a formal hearing, determines from a preponderance of the evidence that a violation of the provisions of this chapter or of the regulations of the Board has occurred, it shall issue and serve on the physician charged an order, in writing, containing its findings and any sanctions.

~~2.~~ ***At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:***

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation;

(b) The respondent or his counsel to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

➥ The Board may limit the time within which the parties and the complainant may make their arguments and statements.

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If ***, in the findings of fact and conclusions of law, the Board, hearing officer or panel of*** the Board determines that no violation has occurred, ~~[~~it~~]~~ ***the Board*** shall dismiss the charges, in writing, and notify the ~~[~~physician~~]~~ ***respondent*** that the charges have been dismissed. ~~[If the disciplinary proceedings were instituted against the physician as a result of a complaint filed against him, the Board may provide the physician with a copy of the complaint.~~

~~3.~~ ***4.*** Except as otherwise provided in subsection ~~[4,]~~ ***5,*** if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer to him a ***written*** public reprimand;

(c) Limit his practice or exclude one or more specified branches of medicine from his practice;

(d) Suspend his license for a specified period or until further order of the Board;

(e) Revoke his license ***;*** ~~[to practice medicine, but only in accordance with the provisions of NRS 630.348;]~~

(f) Require him to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of his practice;

(h) Impose a fine not to exceed $5,000 ~~[;]~~ ***for each violation;***

(i) Require him to perform community service without compensation;

(j) Require him to take a physical or mental examination or an examination testing his competence; and

(k) Require him to fulfill certain training or educational requirements.

~~[4.]~~ ***5.*** If the Board finds that the ~~[physician]~~ ***respondent*** has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

~~[5.]~~ ***6.*** The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

~~[6.]~~ ***7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing.*** An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 58. NRS 630.356 is hereby amended to read as follows:

630.356 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order.

2. Every order that imposes a sanction against a licensee pursuant to subsection ~~[3]~~ ***4*** or ~~[4]~~ ***5*** of NRS 630.352 or any regulation of the Board is effective from the date the Secretary-Treasurer certifies the order until the date the order is modified or reversed by a final judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 59. NRS 630.358 is hereby amended to read as follows:

630.358 1. Any person:

(a) Whose practice of medicine ***, perfusion*** or respiratory care has been limited; or

(b) Whose license to practice medicine ***, perfusion*** or respiratory care has been:

(1) Suspended until further order; or

(2) Revoked,

➥ by an order of the Board, may apply to the Board for removal of the limitation or restoration of his license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination or an examination testing his competence to practice medicine ***, perfusion*** or respiratory care by physicians ***, perfusionists*** or practitioners of respiratory care, as appropriate, or other examinations it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

3. The licensee has the burden of proving by clear and convincing evidence that the requirements for restoration of the license or removal of the limitation have been met.

4. The Board shall not restore a license unless it is satisfied that the person has complied with all of the terms and conditions set forth in the final order of the Board and that the person is capable of practicing medicine ***, perfusion*** or respiratory care in a safe manner.

5. To restore a license that has been revoked by the Board, the applicant must apply for a license and take an examination as though he had never been licensed under this chapter.

Sec. 60. NRS 630.366 is hereby amended to read as follows:

630.366 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 61. NRS 630.388 is hereby amended to read as follows:

630.388 1. In addition to any other remedy provided by law, the Board, through its President or Secretary-Treasurer or the Attorney General, may apply to any court of competent jurisdiction:

(a) To enjoin any prohibited act or other conduct of a licensee which is harmful to the public;

(b) To enjoin any person who is not licensed under this chapter from practicing medicine ***, perfusion*** or respiratory care;

(c) To limit the practice of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care, or suspend his license to practice; ~~[or]~~

(d) To enjoin the use of the title "P.A.," "P.A.-C," "R.C.P." or any other word, combination of letters or other designation intended to imply or designate a person as a physician assistant or practitioner of respiratory care, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute ~~[.]~~ ***; or***

(e) To enjoin the use of the title "L.P.," "T.L.P.," "licensed perfusionist," "temporarily licensed perfusionist" or any other word, combination of letters or other designation intended to imply or designate a person as a perfusionist, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for the purposes set forth in subsection 1:

(a) Without proof of actual damage sustained by any person;

(b) Without relieving any person from criminal prosecution for engaging in the practice of medicine ***, perfusion or respiratory care*** without a license; and

(c) Pending proceedings for disciplinary action by the Board.

Sec. 62. NRS 630.390 is hereby amended to read as follows:

630.390 In seeking injunctive relief against any person for an alleged violation of this chapter by practicing medicine ***, perfusion*** or respiratory care without a license, it is sufficient to allege that he did, upon a certain day, and in a certain county of this State, engage in the practice of medicine ***, perfusion*** or respiratory care without having a license to do so, without alleging any further or more particular facts concerning the same.

Sec. 63. NRS 630.400 is hereby amended to read as follows:

630.400 A person who:

1. Presents to the Board as his own the diploma, license or credentials of another;

2. Gives either false or forged evidence of any kind to the Board;

3. Practices medicine ***, perfusion*** or respiratory care under a false or assumed name or falsely personates another licensee;

4. Except as otherwise provided by ***a*** specific statute, practices medicine ***, perfusion*** or respiratory care without being licensed under this chapter;

5. ***Holds himself out as a perfusionist or uses any other term indicating or implying that he is a perfusionist without being licensed by the Board;***

6. Holds himself out as a physician assistant or uses any other term indicating or implying that he is a physician assistant without being licensed by the Board; or

~~[6.]~~ ***7.*** Holds himself out as a practitioner of respiratory care or uses any other term indicating or implying that he is a practitioner of respiratory care without being licensed by the Board,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 64. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. This chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, ***perfusion,*** respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 65. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, ***perfusionist,*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 66. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[67 and]~~ **66.1 to** 68 **, inclusive,** of this act.

Sec. 66.1. "Practice of osteopathic medicine" includes, without limitation, the performance of an autopsy.

Sec. 66.3. 1. An osteopathic physician who is retired from active practice and who:

(a) Wishes to donate his expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care; or

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,

➥ may obtain a special volunteer license to practice osteopathic medicine by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer license to practice osteopathic medicine must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the osteopathic physician;

(b) Proof that the osteopathic physician previously has been issued an unrestricted license to practice osteopathic medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the osteopathic physician satisfies the requirements for licensure set forth in NRS 633.311 or the requirements for licensure by endorsement set forth in NRS 633.400;

(d) Acknowledgment that the practice of the osteopathic physician under the special volunteer license to practice osteopathic medicine will be exclusively devoted to providing medical care:

(1) To persons in this State who are indigent, uninsured or unable to afford health care; or

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the osteopathic physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer license to practice osteopathic medicine, except for payment by a medical facility at which the osteopathic physician provides volunteer medical services of the expenses of the osteopathic physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of an osteopathic physician satisfies the requirements of subsection 2 and that the retired osteopathic physician is competent to practice osteopathic medicine, the Board shall issue a special volunteer license to practice osteopathic medicine to the osteopathic physician.

4. The initial special volunteer license to practice osteopathic medicine issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer license to practice osteopathic medicine; or

(b) The issuance or renewal of a special volunteer license to practice osteopathic medicine pursuant to this section.

6. An osteopathic physician who is issued a special volunteer license to practice osteopathic medicine pursuant to this section and who accepts the privilege of practicing osteopathic medicine in this State pursuant to the provisions of the special volunteer license to practice osteopathic medicine is subject to all the provisions governing disciplinary action set forth in this chapter.

7. An osteopathic physician who is issued a special volunteer license to practice osteopathic medicine pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 66.5. 1. Except as otherwise provided in NRS 633.315, the Board may issue an authorized facility license to a person who intends to practice osteopathic medicine in this State as a psychiatrist in a mental health center of the Division under the direct supervision of a psychiatrist who holds an unrestricted license to practice osteopathic medicine pursuant to this chapter or to practice medicine pursuant to chapter 630 of NRS.

2. A person who applies for an authorized facility license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice osteopathic medicine, but the person must meet all conditions and requirements for an unrestricted license to practice osteopathic medicine pursuant to this chapter.

3. If the Board issues an authorized facility license pursuant to this section, the person who holds the license may practice osteopathic medicine in this State only as a psychiatrist in a mental health center of the Division and only under the direct supervision of a psychiatrist who holds an unrestricted license to practice osteopathic medicine pursuant to this chapter or to practice medicine pursuant to chapter 630 of NRS.

4. If a person who holds an authorized facility license issued pursuant to this section ceases to practice osteopathic medicine in this State as a psychiatrist in a mental health center of the Division:

(a) The Division shall notify the Board; and

(b) Upon receipt of the notification, the authorized facility license expires automatically.

5. The Board may renew or modify an authorized facility license issued pursuant to this section, unless the license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a license to an applicant in accordance with any other provision of this chapter.

7. As used in this section:

(a) "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.

Sec. 66.7. 1. Except as otherwise provided in NRS 633.315, the Board may issue an authorized facility license to a person who intends to practice osteopathic medicine in this State as an osteopathic physician in an institution of the Department of Corrections under the direct supervision of an osteopathic physician who holds an unrestricted license to practice osteopathic medicine pursuant to this chapter or to practice medicine pursuant to chapter 630 of NRS.

2. A person who applies for an authorized facility license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice osteopathic medicine, but the person must meet all conditions and requirements for an unrestricted license to practice osteopathic medicine pursuant to this chapter.

3. If the Board issues an authorized facility license pursuant to this section, the person who holds the license may practice osteopathic medicine in this State only as an osteopathic physician in an institution of the Department of Corrections and only under the direct supervision of an osteopathic physician who holds an unrestricted license to practice

osteopathic medicine pursuant to this chapter or to practice medicine pursuant to chapter 630 of NRS.

4. If a person who holds an authorized facility license issued pursuant to this section ceases to practice osteopathic medicine in this State as an osteopathic physician in an institution of the Department of Corrections:

(a) The Department shall notify the Board; and

(b) Upon receipt of the notification, the authorized facility license expires automatically.

5. The Board may renew or modify an authorized facility license issued pursuant to this section, unless the license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a license to an applicant in accordance with any other provision of this chapter.

Sec. 67. ***1. If the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board initiates any disciplinary proceedings against the person.***

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement that is negotiated by an investigative committee of the Board must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon

approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 68. ***In any disciplinary proceedings conducted pursuant to this chapter, the standard of proof is a preponderance of the evidence.***

Sec. 68.9. **NRS 633.011 is hereby amended to read as follows:**

633.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 633.021 to 633.131, inclusive, ***and section 66.1 of this act*** have the meanings ascribed to them in those sections.

Sec. 69. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or in applying for renewal of a license to practice osteopathic medicine.

(b) Failure of a licensee of the practice of osteopathic medicine to designate his school of practice in the professional use of his name by the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine, or the aiding or abetting of any unlicensed person to practice osteopathic medicine.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body ~~[.]~~ ***, other than the use of silicone oil to repair a retinal detachment.***

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 70. NRS 633.171 is hereby amended to read as follows:

633.171 1. This chapter does not apply to:

(a) The practice of medicine ***or perfusion*** pursuant to chapter 630 of NRS, dentistry, chiropractic, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Osteopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside.

2. This chapter does not repeal or affect any law of this State regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 70.5. **NRS 633.286 is hereby amended to read as follows:**

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians for malpractice or negligence;

(b) ***The number and types of remediation agreements approved by the Board pursuant to section 67 of this act;***

(c) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections ~~[2 and]~~ 3 ***and 4*** of NRS 633.533 and NRS 690B.250 and 690B.260; and

~~[(c)]~~ ***(d)*** Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. On or before February 15 of each odd-numbered year, the Board shall submit to the Legislative Commission a written report compiling the information described in paragraphs (a) and (b) of subsection 1.

Sec. 70.7. **NRS 633.286 is hereby amended to read as follows:**

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians for malpractice or negligence;

(b) ~~[The number and types of remediation agreements approved by the Board pursuant to section 67 of this act;~~

~~(c)]~~ Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 3 and 4 of NRS 633.533 and NRS 690B.250 and 690B.260; and

~~[(d)]~~ ***(c)*** Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

~~[3. On or before February 15 of each odd-numbered year, the Board shall submit to the Legislative Commission a written report compiling the information described in paragraphs (a) and (b) of subsection 1.]~~

Sec. 71. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure to practice osteopathic medicine, an applicant shall cause to be submitted to the Board ~~[a]~~ ***:***

1. A certificate of completion of progressive postgraduate training from the residency program where the applicant received training ~~[.]~~ ***; and***

2. If applicable, proof of satisfactory completion of a postgraduate training program specified in paragraph (c) of subsection 4 of NRS 633.311 within 120 days after the scheduled completion of the program.

Sec. 72. NRS 633.331 is hereby amended to read as follows:

633.331 1. Examinations ~~[must]~~ ***may*** be held ~~[at least]~~ once a year at the time and place fixed by the Board. The Board shall notify each applicant in writing of the examinations.

2. The examination must be fair and impartial, practical in character, and the questions must be designed to discover the applicant's fitness.

3. The Board may employ specialists and other professional consultants or examining services in conducting the examination.

4. Each member who is not licensed in any state to practice any healing art shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 72.5. **NRS 633.401 is hereby amended to read as follows:**

633.401 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine:

(a) To authorize a person who is licensed to practice osteopathic medicine in an adjoining state to come into Nevada to care for or assist in the treatment

of his patients in association with an osteopathic physician in this State who has primary care of the patients.

(b) To a resident while he is enrolled in a postgraduate training program required pursuant to the provisions of paragraph (c) of subsection 4 of NRS 633.311.

(c) For a specified period and for specified purposes to a person who is licensed to practice osteopathic medicine in another jurisdiction.

2. ***For the purpose of paragraph (c) of subsection 1, the osteopathic physician must:***

(a) Hold a full and unrestricted license to practice osteopathic medicine in another state;

(b) Not have had any disciplinary or other action taken against him by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties, the American Osteopathic Association or their successors.

3. A special license issued under this section may be renewed by the Board upon application of the licensee.

~~[3.]~~ ***4.*** Every person who applies for or renews a special license under this section shall pay respectively the special license fee or special license renewal fee specified in this chapter.

Sec. 73. NRS 633.411 is hereby amended to read as follows:

633.411 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine to a person qualified under this section to authorize him to serve:

(a) As a resident medical officer in any hospital in Nevada. A person issued such a license shall practice osteopathic medicine only within the confines of the hospital specified in the license and under the supervision of the regular medical staff of that hospital.

(b) As a professional employee of the State of Nevada or of the United States. A person issued such a license shall practice osteopathic medicine only within the scope of his employment and under the supervision of the appropriate state or federal medical agency.

2. An applicant for a special license under this section must:

(a) Be a graduate of a school of osteopathic medicine . ~~[and have completed a hospital internship.]~~

(b) Pay the special license fee specified in this chapter.

3. The Board shall not issue a license under subsection 1 unless it has received a letter from a hospital in Nevada or from the appropriate state or federal medical agency requesting issuance of the special license to the applicant.

4. A special license issued under this section:

(a) Must be issued at a meeting of the Board or between its meetings by its President and Secretary subject to approval at the next meeting of the Board.

(b) Is valid for a period not exceeding 1 year, as determined by the Board.

(c) May be renewed by the Board upon application and payment by the licensee of the special license renewal fee specified in this chapter.

(d) Does not entitle the licensee to engage in the private practice of osteopathic medicine.

5. The issuance of a special license under this section does not obligate the Board to grant any regular license to practice osteopathic medicine.

Sec. 73.5. **NRS 633.501 is hereby amended to read as follows:**

633.501 The Board shall charge and collect fees not to exceed the following amounts:

1.	Application and initial license fee for an osteopathic physician	$800
2.	Annual license renewal fee for an osteopathic physician	500
3.	Temporary license fee	500
4.	Special ***or authorized facility*** license fee	200
5.	Special ***or authorized facility*** license renewal fee	200
6.	Reexamination fee	200
7.	Late payment fee	300
8.	Application and initial license fee for a physician assistant	400
9.	Annual license renewal fee for a physician assistant	400
10.	Inactive license fee	200

Sec. 74. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. ~~[~~Gross or repeated~~]~~ ***Malpractice or gross*** malpractice, which may be evidenced by ~~[~~claims~~]~~ ***a claim*** of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of subsection 2 of NRS 633.322.

9. Signing a blank prescription form.

10. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

11. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

12. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

13. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

14. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

15. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

16. Violating a provision of a remediation agreement approved by the Board pursuant to section 67 of this act.

Sec. 74.5. **NRS 633.511 is hereby amended to read as follows:**

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of subsection 2 of NRS 633.322.

9. Signing a blank prescription form.

10. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

11. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

12. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

13. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

14. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

15. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

~~[16. Violating a provision of a remediation agreement approved by the Board pursuant to section 67 of this act.]~~

Sec. 74.7. **NRS 633.533 is hereby amended to read as follows:**

633.533 1. ***Except as otherwise provided in subsection 2, any person may file with the Board a complaint against an osteopathic physician on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.***

2. Any ~~[person,]~~ ***licensee,*** medical school or medical facility that becomes aware that a person practicing osteopathic medicine in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

~~[2.]~~ ***3.*** Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in an osteopathic physician's privileges to practice osteopathic medicine while the osteopathic physician is under investigation and the outcome of any disciplinary action taken by that facility or society against the osteopathic physician concerning the care of a patient or the competency of the osteopathic physician within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[3.]~~ ***4.*** The clerk of every court shall report to the Board any finding, judgment or other determination of the court that an osteopathic physician or physician assistant:

(a) Is a person with mental illness;

(b) Is a person with mental incompetence;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[4.]~~ ***5.*** On or before January 15 of each year, the clerk of every court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding osteopathic physicians pursuant to paragraph (e) of subsection ~~[3.]~~ ***4.***

Sec. 75. NRS 633.561 is hereby amended to read as follows:

633.561 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or a member of the Board designated to review a complaint pursuant to NRS 633.541 has reason to believe that the conduct of an osteopathic physician has raised a reasonable question as to his competence to practice osteopathic medicine with reasonable skill and safety to patients, the Board or the member designated by the Board may require the osteopathic physician to submit to a mental or physical examination by physicians designated by the Board. ***If the osteopathic physician participates in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the osteopathic physician in the diversion program. As used in this subsection, "diversion program" means a***

program approved by the Board to correct an osteopathic physician's alcohol or drug dependence or any other impairment.

2. For the purposes of this section:

(a) Every physician who is licensed under this chapter who accepts the privilege of practicing osteopathic medicine in this State shall be deemed to have given his consent to submit to a mental or physical examination if directed to do so in writing by the Board.

(b) The testimony or examination reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician who is licensed under this chapter to submit to an examination if directed as provided in this section constitutes an admission of the charges against him.

Sec. 75.5. **NRS 633.581 is hereby amended to read as follows:**

633.581 ***1. If an investigation by the Board regarding an osteopathic physician reasonably determines that the health, safety or welfare of the public or any patient served by the osteopathic physician is at risk of imminent or continued harm, the Board may summarily suspend the license of the osteopathic physician. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.***

2. If the Board issues an order summarily suspending the license of an osteopathic physician pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the date on which the Board issues the order summarily suspending the license unless the Board and the licensee mutually agree to a longer period.

3. Notwithstanding the provisions of chapter 622A of NRS, if the Board issues an order summarily suspending the license of an osteopathic physician pending proceedings for disciplinary action and requires the physician to submit to a mental or physical examination or a medical competency examination, the examination shall be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 76. NRS 633.625 is hereby amended to read as follows:

633.625 1. Any ~~[osteopathic physician]~~ ***licensee*** against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[osteopathic physician's]~~ ***licensee's*** receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of ~~[an osteopathic physician]~~ ***a licensee*** to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[osteopathic physician.]~~ ***licensee.***

3. The Board has additional grounds for initiating disciplinary action against ~~[an osteopathic physician]~~ ***a licensee*** if the report from the Federal Bureau of Investigation indicates that the ~~[osteopathic physician]~~ ***licensee*** has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 633.511; or

(b) A felony set forth in NRS 633.741.

Sec. 77. NRS 633.651 is hereby amended to read as follows:

633.651 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of osteopathic medicine.

(d) Suspend the license of the person to practice osteopathic medicine for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice osteopathic medicine.

(f) Impose a fine not to exceed $5,000 for each violation.

(g) Require supervision of the practice of the person.

(h) Require the person to perform community service without compensation.

(i) Require the person to complete any training or educational requirements specified by the Board.

(j) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment.

➥ The order of the Board may contain ~~[such]~~ ***any*** other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 78. NRS 633.691 is hereby amended to read as follows:

633.691 In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, ***an employee or volunteer of a diversion program specified in NRS 633.561,*** or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, ~~[repeated]~~ malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 78.1. Chapter 641 of NRS is hereby amended by adding thereto a new section to read as follows:

"National examination" means the Examination for Professional Practice in Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board.

Sec. 78.2. NRS 641.020 is hereby amended to read as follows:

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641.021 to 641.027, inclusive, ***and section 78.1 of this act*** have the meanings ascribed to them in those sections.

Sec. 78.3. NRS 641.160 is hereby amended to read as follows:

641.160 ***1.*** Each person desiring a license must ~~[make]~~ ***:***

(a) Make application to the Board upon a form, and in a manner, prescribed by the Board. The application must be accompanied by the application fee prescribed by the Board and include all information required to complete the application.

(b) As part of his application and at his own expense:

(1) Arrange to have a complete set of his fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Board; and

(2) Submit to the Board:

(I) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background; or

(II) Written verification, on a form prescribed by the Board, stating that the set of fingerprints of the applicant was taken and directly forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History and that the applicant provided written permission authorizing the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background.

2. The Board may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Board deems necessary; and

(b) Request from each agency to which the Board submits the fingerprints any information regarding the applicant's background as the Board deems necessary.

3. An application is not considered complete and received for purposes of evaluation pursuant to subsection 2 of NRS 641.170 until the Board receives a complete set of fingerprints or verification that the fingerprints have been forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History, and written authorization from the applicant pursuant to this section.

Sec. 78.4. NRS 641.180 is hereby amended to read as follows:

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license must pass the ~~[~~Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board.~~]~~ ***national examination.*** In addition to ~~[~~this written~~]~~ ***the national*** examination, the Board may require an ~~[~~oral~~]~~ examination in whatever applied or theoretical fields it deems appropriate.

2. ~~[~~The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.

3.~~]~~ The Board shall notify each applicant of the results of his ~~[~~written~~]~~ ***national*** examination and ~~[~~supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.

4. If an applicant fails the examination, he may request in writing that the Board review his examination.

5.~~]~~ ***any other examination required pursuant to subsection 1.***

3. The Board may waive the requirement of ~~[~~a written~~]~~ ***the national*** examination for a person who:

(a) Is licensed in another state;

(b) Has ***at least*** 10 ~~[~~years~~]~~ ***years'*** experience; and

(c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 78.5. NRS 641.370 is hereby amended to read as follows:

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the ~~[~~written~~]~~ ***national*** examination, in addition to the actual cost to the Board of the examination..... $100

For ~~[~~the special oral~~]~~ ***any other*** examination ~~[~~,~~]~~ ***required pursuant to the provisions of subsection 1 of NRS 641.180,*** in addition to the actual costs to the Board of the examination..... 100

For the issuance of an initial license..... 25

For the biennial renewal of a license..... 500

For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license..... 100

For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology 300
For the registration of a nonresident to practice as a consultant 100

2. An applicant who passes the ***national*** examination and ***any other examination required pursuant to the provisions of subsection 1 of NRS 641.180 and who*** is eligible for a license shall pay the biennial fee for the renewal of a license ***,*** which must be prorated for the period from the date the license is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 79. NRS 652.210 is hereby amended to read as follows:

652.210 1. Except as otherwise provided in subsection 2 and NRS 126.121, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a ***perfusionist, a*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens.

2. The technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Sec. 80. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a ***perfusionist or a*** physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician

assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports

official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 81. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, ***perfusionist,*** psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the Unit for the Investigation and Prosecution of Crimes within 90 days after completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 82. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, ***perfusionist,*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 83. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***perfusionist,*** dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 84. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***perfusionist,*** dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 85. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, ***perfusionist,*** psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 85.5. **Section 67 of this act is hereby amended to read as follows:**

Sec. 67. 1. If the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of

concern or a nonpunitive admonishment at any time before the Board initiates any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

~~[3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:~~

~~(a) Address each violation of this chapter that is at issue; and~~

~~(b) Remediate or improve the practice of the person relating to those violations.~~

~~4. A remediation agreement that is negotiated by an investigative committee of the Board must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.~~

~~5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.~~

~~6. The Board shall adopt regulations to carry out the provisions of this section.]~~

Sec. 86. Section 121 of chapter 413, Statutes of Nevada 2007, at page 1869, is hereby amended to read as follows:

Sec. 121. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2008, for all other purposes.

2. ~~[The amendatory provisions of section 7 of this act expire by limitation on January 1, 2012.~~

~~3.]~~ Sections 11 and 25 of this act expire by limitation on January 1, 2012.

Sec. 87. NRS 630.175 and 630.348 are hereby repealed.

Sec. 88. Section 7 of chapter 413, Statutes of Nevada 2007, at page 1825, is hereby repealed.

Sec. 89. Notwithstanding the amendatory provisions of this act:

1. A person may be licensed as a perfusionist without complying with the provisions of section 8 of this act if the person:

(a) Is employed or otherwise working as a perfusionist on July 1, 2009;

(b) Has been operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as his primary function for at least 6 of the 8 years immediately preceding the date of application; and

(c) Before July 1, 2010, submits to the Board of Medical Examiners:

(1) An application for a license to practice perfusion on a form provided by the Board;

(2) The required fee established by the Board for the license; and

(3) The information required pursuant to NRS 630.197, unless that section has expired by limitation and is no longer in effect.

2. If a person is employed or otherwise working as a perfusionist on July 1, 2009, but the person does not meet the qualifications to be licensed as a perfusionist pursuant to subsection 1 or, if so qualified, fails to obtain a license as a perfusionist pursuant to subsection 1, the person:

(a) May continue to practice perfusion in this State until June 30, 2010, without holding a license to practice perfusion issued by the Board of Medical Examiners; and

(b) Must, if the person wishes to continue to practice perfusion in this State on or after July 1, 2010, hold a license to practice perfusion issued by the Board.

Sec. 90. A person who, on October 1, 2009:

1. Is the holder of a valid restricted license issued pursuant to NRS 630.262 and who is otherwise qualified to hold such a license on that date shall be deemed to hold an authorized facility license issued pursuant to that section, as amended by section 38 of this act.

2. Is the holder of a valid license as a practitioner of respiratory care pursuant to NRS 630.277 and who is otherwise qualified to practice respiratory care on that date shall be deemed to hold such a license issued pursuant to that section, as amended by section 40 of this act.

Sec. 91. 1. This section and sections 27, 78.1 to 78.5, inclusive, 86, 88 and 89 of this act become effective upon passage and approval.

2. **Sections 1, 2, 13.5, 14, 17, 18, 22, 23, 25, 26, 28, 30, 31, 32, 35 to 38.5, inclusive, 40, 41, 42, 43, 44, 47, 48, 49, 53, 54, 54.5, 57, 58, 66 to 69, inclusive, 70.5, 71 to 74, inclusive, 74.7 to 78, inclusive, 87 and 90 of this act become effective:**

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2009, for all other purposes.

3. Sections ~~[1,]~~ **1.7,** 3 to 13, inclusive, 15, 16, 19, 20, 21, 24, 29, 33, 39, 45, 46, 50, 51, 52, 55, 59 to 65, inclusive, 70 and 79 to 85, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2010, for all other purposes.

~~[3. Sections 2, 14, 17, 18, 22, 23, 25, 26, 28, 30, 31, 32, 35 to 38, inclusive, 40 to 44, inclusive, 47, 48, 49, 53, 54, 54.5, 57, 58, 66 to 69, inclusive, 71 to 78, inclusive, 87 and 90 of this act become effective on October 1, 2009.]~~

4. **Sections 1.3, 23.5, 41.5, 42.5, 70.7, 74.5 and 85.5 of this act become effective on July 1, 2011.**

5. Section 33 of this act expires by limitation on the date which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

~~[5.]~~ **6.** Section 34 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

~~[6.]~~ **7.** Sections 34 and 60 of this act expire by limitation on the date 2 years after the date on which the provision of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

630.175 Reporting of certain additional information concerning application.

630.348 Standards for revocation of license.

Section 7 of chapter 413, Statutes of Nevada 2007:

Sec. 7. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board ~~[~~may~~]~~ ***shall, except for good cause,*** issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[~~1.~~]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect ~~[~~;~~]~~

~~2. The applicant:~~

~~(a) Submits to the Board proof of passage of an examination approved by the Board;~~

~~(b) Submits to the Board any documentation and other proof of qualifications required by the Board;~~

~~(c) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and~~

~~(d) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and~~

~~3. Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.~~~~]~~ ***and unrestricted; and***

(b) The applicant:

(1) Is currently certified by a specialty board of the American Board of Medical Specialties and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years;

(3) Has been continuously and actively engaged in the practice of medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 630.160.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such an action shall be deemed to be an action of the Board.

Assemblywoman Smith moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 269.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 24, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 599 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 31, which is attached to and hereby made a part of this report.

MARCUS CONKLIN	MICHAEL SCHNEIDER
ELLEN SPIEGEL	MAGGIE CARLTON
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA31.

SUMMARY— ~~[Revises]~~ **Enacts** provisions governing **certain** claims for compensation under industrial insurance. (BDR 53-423)

AN ACT relating to industrial insurance; ~~[revising provisions relating to the duty of an insurer to accept or deny a claim for compensation; revising provisions relating to the selection of a physician or chiropractor by an injured employee; revising provisions relating to the denial of compensation due to discharge from employment for misconduct; revising provisions relating to the closure of a claim; repealing provisions requiring the reduction of compensation by the amount of federal disability insurance benefits received by an injured employee;]~~ **establishing provisions concerning a claim for a catastrophic injury; establishing provisions for the administering of such claims;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[~~ ~~Under existing law, an insurer is required to accept or deny a claim for compensation within 30 days after the insurer has been notified of an industrial accident. (NRS 616C.065) Section 2 of this bill provides that if an insurer is ordered by the Administrator of the Division of Industrial Relations of the Department of Business and Industry, a hearing or appeals officer, a district court or the Supreme Court of Nevada to make a new determination~~

~~relating to a claim for compensation, such a determination must be made within 30 days after the order.~~

~~Existing law provides that an injured employee may choose an alternative treating physician or chiropractor after making his initial choice if the alternative choice is made within 90 days after the injury. (NRS 616C.090) Section 3 of this bill clarifies existing law by providing that an injured employee may make the alternative choice without the insurer's approval if the alternative choice is made within 90 days after the injury. Section 3 also provides that an injured employee may make a change in the treating physician or chiropractor at any time, subject to the insurer's approval. Section 3 further requires an insurer to provide to an injured employee whose request for a change in the treating physician or chiropractor has been denied the specific reason for the denial.~~

~~Section 4 of this bill provides that the affidavit or declaration of a qualified laboratory director, chemist or any other person meeting certain qualifications may be used to prove the existence of alcohol or controlled substances in an employee's system in denying, reducing or suspending the payment of compensation for an injury. (NRS 616C.230)~~

~~Section 5 of this bill revises existing provisions governing the denial of compensation to injured employees who have been discharged for misconduct by providing that only compensation for temporary total disability may be denied. (NRS 616C.232)~~

~~Section 5.5 of this bill revises existing law by requiring an insurer to notify an injured employee whose claim will be closed whether an evaluation for a permanent partial disability has been scheduled or, if such an evaluation has not been scheduled, that the reason is because the insurer determined there is no possibility of a permanent impairment of any kind. (NRS 616C.235)~~

~~Section 9 of this bill repeals the provisions requiring a reduction in the compensation received by an employee for temporary disability, permanent partial disability or permanent total disability by the amount of federal disability insurance benefits received by the employee. (NRS 616C.430)~~**]**

Section 12 of this bill requires the Administrator of the Division of Industrial Relations of the Department of Business and Industry to adopt regulations for the determination of injuries as catastrophic injuries. Section 15 of this bill requires an adjuster who administers a claim for a catastrophic injury to be competent and qualified. Section 15 also requires the Administrator to adopt regulations prescribing the qualifications for such an adjuster. Section 16 of this bill requires an insurer that accepts a claim for a catastrophic injury to develop a life care plan for the injured employee within 90 days after the date of the acceptance of the claim. Section 16 also requires the Administrator to adopt certain regulations concerning life care plans. Section 17 of this bill allows an insurer that has accepted a claim for a catastrophic injury to rescind or revise its determination that the injury is a catastrophic injury under certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 616C.050 is hereby amended to read as follows:~~

~~616C.050 1. An insurer shall provide to each claimant:~~

~~(a) Upon written request, one copy of any medical information concerning his injury or illness.~~

~~(b) A statement which contains information concerning the claimant's right to:~~

~~(1) Receive the information and forms necessary to file a claim;~~

~~(2) Select a treating physician or chiropractor and an alternative treating physician or chiropractor in accordance with the provisions of NRS 616C.090;~~

~~(3) Request the appointment of the Nevada Attorney for Injured Workers to represent him before the appeals officer;~~

~~(4) File a complaint with the Administrator;~~

~~(5) When applicable, receive compensation for:~~

~~(I) Permanent total disability;~~

~~(II) Temporary total disability;~~

~~(III) Permanent partial disability;~~

~~(IV) Temporary partial disability;~~

~~(V) All medical costs related to his injury or disease; or~~

~~(VI) The hours he is absent from the place of employment to receive medical treatment pursuant to NRS 616C.477;~~

~~(6) Receive services for rehabilitation if his injury prevents him from returning to gainful employment;~~

~~(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and~~

~~(8) Judicial review of any final decision within the time specified by statute.~~

~~2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection~~ **[**~~7~~**]** ***8*** ~~of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.~~**]** **(Deleted by amendment.)**

Sec. 2. ~~[NRS 616C.065 is hereby amended to read as follows:~~

~~616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:~~

~~(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or~~

~~(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.~~

~~2.~~ ***If an insurer is ordered by the Administrator, a hearing officer, an appeals officer, a district court or the Supreme Court of Nevada to make a new determination, including, without limitation, a new determination regarding the acceptance or denial of a claim for compensation, the insurer shall make the new determination within 30 days after the date on which the insurer has been ordered to do so.***

3. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

[3.] ***4.*** Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

[4.] ***5.*** The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 ***or 2*** by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

[5.] ***6.*** The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection [4] ***5*** shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

[6.] ***7.*** Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.

[7.] ***8.*** For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

[8.] ***9.*** As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.] **(Deleted by amendment.)**

Sec. 3. [NRS 616C.090 is hereby amended to read as follows:

616C.090 1. The Administrator shall establish a panel of physicians and chiropractors who have demonstrated special competence and interest in

~~industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractors on the panel who are reasonably accessible to his employees.~~

~~2. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 may choose his treating physician or chiropractor from the panel of physicians and chiropractors. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor from the panel if the choice is made within 90 days after his injury. The insurer shall notify the first physician or chiropractor in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractor must be reimbursed only for the services he rendered to the injured employee up to and including the date of notification. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is on the panel. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list.~~

~~3. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 must choose his treating physician or chiropractor pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor pursuant to the terms of the contract~~ ***without the approval of the insurer*** ~~if the choice is made within 90 days after his injury. If the injured employee, after choosing his treating physician or chiropractor, moves to a county which is not served by the organization for managed care or providers of health care services named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractor, the injured employee must choose a treating physician or chiropractor who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractor. If the treating~~

~~physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care services pursuant to NRS 616B.527, as appropriate. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list. If the employee fails to select a physician or chiropractor, the insurer may select a physician or chiropractor with that specialization. If a physician or chiropractor with that specialization is not available pursuant to the terms of the contract, the organization for managed care or the provider of health care services may select a physician or chiropractor with that specialization.~~

~~4. *If the injured employee is not satisfied with the physician or chiropractor selected by himself or by the insurer, the organization for managed care or the provider of health care services pursuant to subsection 3, the injured employee may make an alternative choice of physician or chiropractor pursuant to the terms of the contract. A change in the treating physician or chiropractor may be made at any time but is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the insurer denies a request for a change in the treating physician or chiropractor under this subsection, the insurer must include in a written notice of denial to the injured employee the specific reason for the denial of the request.*~~

~~*5.* Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any charges for medical treatment or other accident benefits furnished or ordered by any physician, chiropractor or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such physician, chiropractor or other person.~~

~~[5.]~~ ~~*6.* The Administrator may order necessary changes in a panel of physicians and chiropractors and shall suspend or remove any physician or chiropractor from a panel for good cause shown.~~

~~[6.]~~ ~~*7.* An injured employee may receive treatment by more than one physician or chiropractor if the insurer provides written authorization for such treatment.~~

~~[7.]~~ ~~*8.* The Administrator shall design a form that notifies injured employees of their right pursuant to subsections 2~~ **,** ~~[and]~~ ~~3~~ ***and 4*** ~~to select an alternative treating physician or chiropractor and make the form available to~~

~~insurers for distribution pursuant to subsection 2 of NRS 616C.050.~~] **(Deleted by amendment.)**

Sec. 4. [~~NRS 616C.230 is hereby amended to read as follows:~~

~~616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:~~

~~(a) Caused by the employee's willful intention to injure himself.~~

~~(b) Caused by the employee's willful intention to injure another.~~

~~(c) Proximately caused by the employee's intoxication. If the employee was intoxicated at the time of his injury, intoxication must be presumed to be a proximate cause unless rebutted by evidence to the contrary.~~

~~(d) Proximately caused by the employee's use of a controlled substance. If the employee had any amount of a controlled substance in his system at the time of his injury for which the employee did not have a current and lawful prescription issued in his name or that he was not using in accordance with the provisions of chapter 453A of NRS, the controlled substance must be presumed to be a proximate cause unless rebutted by evidence to the contrary.~~

~~2. For the purposes of paragraphs (c) and (d) of subsection 1:~~

~~(a) The affidavit or declaration of an expert or other person described in NRS~~ ***50.310,*** ~~50.315~~ ***or 50.320*** ~~is admissible to prove the existence of any alcohol or the existence, quantity or identity of a controlled substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.~~

~~(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.~~

~~3. No compensation is payable for the death, disability or treatment of an employee if his death is caused by, or insofar as his disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.~~

~~4. If any employee persists in an unsanitary or injurious practice that imperils or retards his recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his recovery, his compensation may be reduced or suspended.~~

~~5. An injured employee's compensation, other than accident benefits, must be suspended if:~~

~~(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of his employment; and~~

~~(b) It is within the ability of the employee to correct the nonindustrial condition or injury.~~

~~➡ The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer~~

~~may elect to pay for the treatment of the nonindustrial condition or injury.~~**]** **(Deleted by amendment.)**

Sec. 5. **[**~~NRS 616C.232 is hereby amended to read as follows:~~

~~616C.232 1. If an injured employee is discharged from his employment as a result of misconduct, an insurer may deny compensation~~ ***for temporary total disability*** ~~to the injured employee because of that discharge for misconduct only if the insurer proves by a preponderance of the evidence that:~~

~~(a) The injured employee was discharged from his employment solely for his misconduct and not for any reason relating to his claim for compensation; and~~

~~(b) It is the injured employee's discharge from his employment for misconduct, and not his injury, that is the sole cause for the injured employee's inability to return to work with the preinjury employer.~~

~~2. An insurer waives its rights under subsection 1 if the insurer does not make a determination to deny or suspend compensation to the injured employee within 70 days after the date on which the insurer learns that the injured employee has been discharged for misconduct.~~

~~*3. An insurer may not deny any compensation pursuant to this section except for compensation for temporary total disability pursuant to subsection 1.]*~~ **(Deleted by amendment.)**

Sec. 5.5. **[**~~NRS 616C.235 is hereby amended to read as follows:~~

~~616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:~~

~~(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must include, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement that if the claimant does not agree with the determination, he has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A suitable form for requesting a resolution of the dispute must be enclosed with the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.~~

~~(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.~~

~~(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.~~

~~2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than $300, the insurer may close the claim at any time after he sends, by first-class mail addressed to the last known address of the claimant, written notice that includes a statement which prominently displays that:~~

~~(a) The claim is being closed pursuant to this subsection;~~

~~(b) The injured employee may appeal the closure of the claim pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive; and~~

~~(c) If the injured employee does not appeal the closure of the claim or appeals the closure of the claim but is not successful, the claim cannot be reopened.~~

~~3. In addition to the notice described in subsection 2, an insurer shall send to each claimant who receives less than $300 in medical benefits within 6 months after the claim is opened a written notice that explains the circumstances under which a claim may be closed pursuant to subsection 2. The written notice provided pursuant to this subsection does not create any right to appeal the contents of that notice. The written notice must be:~~

~~(a) Sent by first-class mail addressed to the last known address of the claimant; and~~

~~(b) A document that is separate from any other document or form that is used by the insurer.~~

~~4. The closure of a claim pursuant to subsection 2 is not effective unless notice is given as required by subsections 2 and 3.~~

~~***5. In addition to the requirements of this section, an insurer shall include in the written notice described in subsection 2:***~~

~~***(a) If an evaluation for a permanent partial disability has been scheduled pursuant to NRS 616C.490, a statement to that effect; or***~~

~~***(b) If an evaluation for a permanent partial disability will not be scheduled pursuant to NRS 616C.490, a statement explaining that the reason is because the insurer has determined there is no possibility of a permanent impairment of any kind.]*** **(Deleted by amendment.)**

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. ~~[~~NRS 616C.475 is hereby amended to read as follows:

~~616C.475 1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or his dependents, is entitled to receive for the period of temporary total disability, 66 2/3 percent of the average monthly wage.~~

~~2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his dependents are entitled to receive such benefits when the injured employee is released from~~

~~incarceration if he is certified as temporarily totally disabled by a physician or chiropractor.~~

~~3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within 14 working days after receipt of the initial certification of disability and regularly thereafter.~~

~~4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.~~

~~5. Payments for a temporary total disability must cease when:~~

~~(a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;~~

~~(b) The employer offers the employee light duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or~~

~~(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.~~

~~6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the Division for the injured employee to request continued compensation for the temporary total disability.~~

~~7. A certification of disability issued by a physician or chiropractor must:~~

~~(a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;~~

~~(b) Specify whether the limitations or restrictions are permanent or temporary; and~~

~~(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection 3 *or 4* of NRS 616C.090.~~

~~8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of his accident may offer temporary, light-duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light-duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light-duty employment made by the employer must specify a position that:~~

~~(a) Is substantially similar to the employee's position at the time of his injury in relation to the location of the employment and the hours he is required to work;~~

~~(b) Provides a gross wage that is:~~

~~(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his injury; or~~

~~(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his injury; and~~

~~(c) Has the same employment benefits as the position of the employee at the time of his injury.~~**]** **(Deleted by amendment.)**

Sec. 9. ~~[NRS 616C.430 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 10. **Chapter 616A of NRS is hereby amended by adding thereto the provisions set forth as sections 11 and 12 of this act.**

Sec. 11. "Catastrophic injury" means an injury sustained from an accident and resulting in:

1. The total loss of sight in one or both eyes;

2. The total loss of hearing in one or both ears;

3. The loss by separation of any arm or leg;

4. An injury to the head or spine which results in paralysis of the legs, the arms or both the legs and arms;

5. An injury to the head which results in severe cognitive impairment, as determined by a nationally recognized method of objective psychological testing;

6. An injury consisting of second or third degree burns on 50 percent or more of:

(a) The body;

(b) Both hands; or

(c) The face;

7. The total loss of or significant and permanent impairment of speech; or

8. Any other category of injury deemed to be catastrophic as determined by the Administrator.

Sec. 12. The Administrator shall adopt regulations for the determination of categories of injury, other than those described in section 11 of this act, to be deemed catastrophic injuries.

Sec. 13. **NRS 616A.025 is hereby amended to read as follows:**

616A.025 As used in chapters 616A to 616D, inclusive, of NRS, unless the context otherwise requires, the words and terms defined in NRS 616A.030 to 616A.360, inclusive, ***and section 11 of this act*** have the meanings ascribed to them in those sections.

Sec. 14. **Chapter 616C of NRS is hereby amended by adding thereto the provisions set forth as sections 15, 16 and 17 of this act.**

Sec. 15. 1. An adjuster who administers a claim for a catastrophic injury must be competent and qualified to administer such a claim.

2. The Administrator shall adopt regulations establishing qualifications for an adjuster to administer a claim for a catastrophic injury.

Sec. 16. ***1. Notwithstanding any other provision of this chapter, if an insurer accepts a claim for a catastrophic injury, the insurer shall:***

(a) As soon as reasonably practicable after the date of acceptance of the claim, assign the claim to a qualified adjuster, nurse and vocational rehabilitation counselor; and

(b) Within 90 days after the date of acceptance of the claim, develop a life care plan in consultation with the adjuster, nurse and vocational rehabilitation counselor assigned to the claim pursuant to paragraph (a).

2. A life care plan which is developed pursuant to subsection 1 must ensure the prompt, efficient and proper provision of medical services to the injured employee.

3. The Administrator shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations prescribing:

(a) The form and content of a life care plan; and

(b) The frequency and method of communication by which the insurer shall contact the injured employee, his family members or representative.

Sec. 17. ***An insurer that has accepted a claim for a catastrophic injury may thereafter rescind or revise its original determination that the injury is a catastrophic injury if:***

1. Medical evidence supports the rescission or revision;

2. The injured employee is stable and ratable; or

3. Other circumstances warrant such a rescission or revision.

~~[Sec. 18.]~~ ***Sec. 18.*** This act becomes effective ~~[on July 1, 2009.]~~ **:**

1. Upon passage and approval for the purpose of adopting regulations; and

2. On October 1, 2009, for all other purposes.

~~[~~

~~**TEXT OF REPEALED SECTION**~~

~~**616C.430 Reduction of compensation by amount of federal disability insurance benefits received by employee.**~~

~~1. If an employee who is entitled to compensation under chapters 616A to 616D, inclusive, of NRS for temporary total disability, permanent partial disability or permanent total disability becomes entitled to federal disability insurance benefits under section 202 or 223 of the Social Security Act, as amended, 42 U.S.C. §§ 402 and 423, respectively, the employee's compensation under chapters 616A to 616D, inclusive, of NRS must be reduced by the amount of the federal benefits being received by him.~~

~~2. This section must not be applied to reduce the employee's compensation under chapters 616A to 616D, inclusive, of NRS to any greater extent than his federal benefits would have otherwise been reduced by the Social Security Administration under section 224 of the Social Security Act, as amended, 42 U.S.C. § 424a. After any reduction pursuant to this section, the combination of his state compensation and federal benefits must be at least as much as the greater of:~~

~~(a) The benefits payable pursuant to chapters 616A to 616D, inclusive, of NRS, without the reduction; or~~

~~(b) The benefits payable under the Social Security Act, without any reduction.~~

~~3. After a reduced amount of compensation for an employee has been established pursuant to this section, no further reduction in his compensation may be made because he receives an increase in his benefits under the Social Security Act as the result of an adjustment based on an increase in the cost of living.~~

~~4. No compensation may be reduced pursuant to this section until the Social Security Administration has determined the amount of benefits payable to the employee under section 202 or 223 of the Social Security Act and he has begun to receive those benefits.~~

~~5. If an employee:~~

~~(a) Fails to report the amount of benefits which he is receiving under section 202 or 223 of the Social Security Act, within 30 days after he is requested in writing by the insurer to make that report; or~~

~~(b) Fails to provide the insurer with a written authorization for the Social Security Administration to release information on the employee's average current earnings and the amount of benefits to which he is entitled, within 30 days after he is requested to provide that authorization,~~

~~the insurer may reduce by 50 percent the compensation which the employee would otherwise receive pursuant to chapters 616A to 616D, inclusive, of NRS. Any compensation which is withheld pursuant to this subsection must be paid to the employee when he has furnished the report or authorization as requested.~~

~~6. If the provisions of section 224 of the Social Security Act are amended:~~

~~(a) To allow an employee to receive more compensation under chapters 616A to 616D, inclusive, of NRS without any reduction in benefits payable under section 202 or 223 of the Social Security Act; or~~

~~(b) To lower the maximum sum of compensation payable under chapters 616A to 616D, inclusive, of NRS and benefits payable under section 202 or 223 of the Social Security Act,~~

~~the reduction imposed by this section must be increased or decreased correspondingly.~~

~~7. No reduction in compensation may be made under this section for any period of entitlement which:~~

~~(a) Occurs before January 1, 1982;~~

~~(b) Occurs before the employee has been given a written notice by mail of the intended reduction; or~~

~~(c) Includes any week after the week in which the employee becomes 62 years of age.~~**]**

Assemblyman Conklin moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 24.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Education, to which was referred Senate Bill No. 303, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BONNIE PARNELL, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 433, Amendments Nos. 753, 1009, and respectfully requests your honorable body to concur in said amendments.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 39.

Assemblywoman Leslie moved the adoption of the resolution.

Remarks by Assemblymen Leslie and Hardy.

Assemblyman Hardy requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. We have had several bills this session that have touched on the cost of health care and the scarcity of health care resources. As the resources available to pay for health care decrease, the costs and the charges for that care continue to increase, and the growing discrepancy between the two has become unsustainable. Twenty years ago in Nevada, we had cost containment legislation passed, which required regulation of billed charges. That legislation reached its sunset several years ago, partly because of testimony that the escalation of billed charges does not matter because no one pays billed charges, but the reality is that many do. Between 2000 and 2007, the Consumer Price Index increased 22.2 percent while billed charges for hospital patients in Nevada escalated 120 percent, over five times the rate of inflation.

Billed charges are also a severe problem for those with insurance but who, by no fault of their own, end up in a noncontracted hospital or—something becoming increasingly common—patients go to a contracted hospital but are seen by a noncontracted doctor there. These charges are causing severe consequences for insured patients and for health care plans in Nevada and have distorted the health care market beyond what can be absorbed.

This resolution will allow us to study the problem, and we would look forward to hearing the recommendations of the interim Legislative Committee on Health Care next session. Thank you.

ASSEMBLYMAN HARDY:

I likewise rise in support of S.C.R. 39. When I look at the uninsured, or the insured even, that do not get contracted services provided to them—the emergency patient who has an issue with going to a contracted hospital or physician, the insured patient who ends up with an out-of-network situation—and the adequacy of the contracted provider network, barriers that could exist between the provider and the payer, how to get the contractual agreement to match up, the differences between the commercial insurers and the self-funded plans as it relates to in-network or out-of-network emergency care, and the method which ensures all payers with

self-funded plans would have some kind of requirement to participate in any proposed resolution, I think this is a good time to have that kind of study. Thank you, Madam Speaker.

Resolution adopted.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 9 p.m.

ASSEMBLY IN SESSION

At 9:07 p.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 558, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 113.
Bill read third time.
Roll call on Senate Bill No. 113:
YEAS—36.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur—6.
Senate Bill No. 113 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 303.
Bill read third time.
Remarks by Assemblywoman Parnell.
Roll call on Senate Bill No. 303:
YEAS—42.
NAYS—None.
Senate Bill No. 303 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Assembly Bill No. 558.
Bill read third time.
The following amendment was proposed by the Committee on Ways and Means:
Amendment No. 1016.
AN ACT making an appropriation to the Department of Administration for allocation to Nevada Volunteers for continuation of its programs dedicated to

promoting citizen volunteerism; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 1. There is hereby appropriated from the State General Fund to the Department of Administration the sum of ~~[$365,000]~~ **$200,000** for allocation to Nevada Volunteers to match federal funding for continuation of its programs dedicated to promoting citizen volunteerism.

2. Upon acceptance of the money appropriated by subsection 1 and allocated by the Department, Nevada Volunteers shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2010, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by Nevada Volunteers through December 1, 2010;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 16, 2011, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by Nevada Volunteers through June 30, 2011; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of Nevada Volunteers, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated pursuant to subsection 1.

Sec. 2. Any remaining balance of the appropriation made by subsection 1 of section 1 of this act must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which the money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 3. The appropriation made by the provisions of this act is intended to finance ongoing expenditures of the Department of Administration, and the expenditures financed with the appropriation must be included as a base budget expenditure in the proposed budget for the Executive Branch of State Government for the 2011-2013 biennium.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 558.

Bill read third time.

Roll call on Assembly Bill No. 558:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, McArthur, Stewart—5.

Assembly Bill No. 558 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 9:13 p.m.

ASSEMBLY IN SESSION

At 9:23 p.m.

Madam Speaker presiding.

Quorum present.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN OCEGUERA:

Madam Speaker, Minority Leader Gansert, esteemed colleagues; 120 days ago we assembled in these chambers to begin, potentially, the most challenging legislative session ever seen in this state. We are in the middle of the worst economic crisis since the Great Depression. In fact, we have already met in a special session twice since the close of the last regular session—both times to make painful decisions in response to this financial crisis. We can only hope that things wouldn't get worse and yet we feared the worse. But, now it is over.

We have reached that point of session where we talk about what we achieved in our time together. This is the time that we focus on the accomplishments of the session, rather than, sometimes, the convoluted methods by which we got here. Over the last few days I have thought about how to best describe this session, and to do that I had to draw upon my experience outside this building as a firefighter. In my line of work, we put out fires and we do that to save lives. For the last 120 days we have been dealing with an economic inferno. We had to put out that fire. It was not pretty and it was not easy, but we did so to save lives. Maybe that sounds a little dramatic to those of you who have watched us these last four months, with our Order of Business 15s and one-minute recesses that seemed to stretch a little bit longer than a minute—maybe it looked like we weren't moving really fast to put out that fire—but we moved faster than the Senate. Legislative protocol, though sometimes frustrating to those who watch, gets the job done. And the people who get that job done might seem like unlikely firefighters. We are a citizen's legislature, after all. So when we are not convened in Carson City, we are teachers, business owners, and employees, public servants, ranchers, attorneys, doctors, and retirees. The age difference between our youngest and our oldest member is 50 years, a half century. Our life experiences reflect the diversity of our membership. That diversity, I believe, is our strength. But no matter what our differences have been these 120 days—and yes, we have had some—we have represented the people of this state to the best of our ability. We worked together to put out the fire.

Often in the past we have known at *sine die* that one of our colleagues would not be returning to these chambers because of other career plans, perhaps, or a bid for a different political office. But this session, for the first time, we know definitely that ten members of this body will not be returning to the Assembly. Not because they have other political aspirations, although some

may, and not because they have other professional or personal plans, although some may. Rather, we know they won't be back because of voter approved term limits. These ten have been a huge part of my life for many years, both inside and outside these chambers. I would like to spend just a few moments remembering their contributions to this state.

Madam Speaker, with your permission, I would like to break from protocol for a bit to use the members' proper names.

Assemblyman Mark Manendo. Mark was first elected in 1994. At that time, he was one of the youngest legislators serving the Assembly. I am sorry to tell you, Mark, but after 15 years, you are one of the old guys now. Even as a newly elected assemblyman, Mark was a staunch advocate for senior rights. He also worked to strengthen our DUI laws and protect the rights of manufactured home owners. Wherever his future plans take him, I know Mark will continue to be involved in the district he served well, for so many years.

Jerry Claborn. Look up Jerry, I'm talking about you. Bobo was first elected in 1998. Since 2005, Mr. Claborn capably chaired our Assembly Committee on Natural Resources, Agriculture, and Mining. He's also been a strong voice for worker's rights. And even when these days get long and tempers get short, Jerry Claborn can be counted on to be good humored and a tireless colleague and to be there when you need him. It is no wonder that Jerry's campaign motto was, "Bringing Common Sense to Carson City."

As a citizen's legislature, we count among our number teachers, attorneys, business people and the like. And yes, we even have our own nuclear physicist. Harry Mortenson was first elected in 1996. During his dozen years of service, Mr. Mortenson has worked hard to improve the quality of life, not only in his own district but for the entire state. He kept a close eye on Yucca Mountain and on quality of life issues related to growth. He also chaired the committee on Constitutional Amendments which takes up some of the most important issues that affect Nevadans. Thank you, Harry.

Kathy McClain. Assemblywoman Kathy McClain was first elected in 1998 but she was no stranger to the legislative process. She was a lobbyist before she switched to our side of the table. Although Kathy was a strong advocate in either role, we are glad she came over to the People's House. During her tenure here, Kathy improved conditions for seniors, veterans, women, and the disadvantaged and the disabled. She also chaired some difficult committees, including this session with Taxation. Thank you, Kathy.

Sitting next to her is her partner, Ellen Koivisto. Assemblywoman Koivisto was first elected in 1996. From the beginning, Ellen was one of the hardest working members of this caucus. She was always willing to do what was needed to be done. She did it without fanfare and without complaint. Most recently, Ellen served as the chair of the Elections, Procedures, and Ethics Committee. She has been a quiet but effective voice on women's issues, the protection of seniors, and the improvement of health care in Nevada. Ellen's hard work and pleasant demeanor will be greatly missed and we hope we will continue to see her involvement in the community.

Sheila Leslie. Sheila was first elected in 1998, but her record of advocacy for children, youth, and families goes back much further, no doubt to her own childhood. Sheila speaks and speaks strongly for the disadvantaged and disabled. She doesn't shy away from her causes, no matter how difficult those causes may be. This Assembly, this Legislature, and indeed, this state, is losing a vital member of the People's House. But we know wherever Sheila lands after this, whether it is elected or an appointed office or some other role in community service, she will continue to fight for the most vulnerable in our state. I appreciate our relationship, Sheila.

Moose was first elected in 1984. Assemblyman Arberry, known to us as "Moose," is the longest currently serving member of this house. In 1993, Moose went through trial by fire when he was selected to chair the Assembly Committee on Ways and Means during the same session in which Nevada implemented a sweeping reorganization of state government. Ever since then, Moose Arberry has held the money reins in the Assembly. He has done so with a good temper and a casual but firm hand. I do not know if any of us could ever think of Assemblyman Denis as anyone other than "Mr. Mo" or Assemblyman Hardy as "Mr. Doc" because of the way Moose talks to you. Moose's institutional memory will be sorely missed but we are grateful he had his experienced gavel with one last difficult budget. Thank you, Moose.

Bernie Anderson. My first session was in 2001. That year my morning committee was the Assembly Committee on Judiciary, chaired then and now by Bernie Anderson. Some of you may remember that when Bernie was a freshman on Assembly Judiciary, he was known as "Bubba." By the time I met the venerable chair of Judiciary, his Bubba days were long past. I am pretty sure if I had said "Bubba" I would have been sent to the Woodshed. Our colleague has been a valued and trusted member of the leadership team for many years, capably handling the thorny issues of crime and punishment. Early on it became his mission not just to be tough on crime, but to address its root causes. Bernie has long championed drug courts and similar measures to reduce recidivism. Nevada is better for his work. Assembly Judiciary in this house will not be the same without him. Thank you, Bernie.

Of the ten Assembly members term-limited out this session, nine are Democrats. I am not saying it's a plot or anything but you have to wonder. The lone Republican we are losing, though, is enough. He is one of the most respected, most beloved members of this body. John Carpenter was first elected in 1986. John is a cowboy and gentleman. Whenever the debate gets a little heated, Mr. Carpenter stands there and reminds us of our manners. That was never more evident than last week when he cast a courageous vote on one of the most difficult days of this entire session. So, when the Suzy-Q sails away this session, we intend to keep her able captain in the reserves because his experience, his chivalry, and his good sense have always steered us well. Thank you, Mr. Carpenter.

Two and a half years ago, Barbara Buckley became the first woman Speaker in the Nevada Assembly. I said then and I still believe that Barbara will be remembered less for that historic distinction than what she has accomplished as Speaker and throughout her career in the Assembly. Simply put, Barbara is a remarkable woman. She is an extraordinary leader. And is always, always an outstanding advocate for those who most need a voice. In her 15 years in the Assembly, Barbara has tackled such issues as affordable housing, medical malpractice, prescription drugs for seniors, deceptive loans and predatory financial practices and all day kindergarten. There are many more issues I could highlight because each session Barbara Buckley has distinguished herself as one of the most effective lawmakers this chamber has ever seen. This session presented her with her greatest challenge but there is no one who could have led us better in these terrible economic times. There is no one who could have done a better job at helping put out the fire, to save lives and to start rebuilding. Barbara, you have been a friend and a colleague and a mentor. And I know you are not yet done protecting Nevadans and creating history when you do so. I look forward to seeing what your future brings.

Madam Speaker, my fellow colleagues, I have spent a great deal of time, today, remembering the records of those who are serving their last term in this house. But I would like to acknowledge the stellar efforts of those others who fought the fire alongside us, talented and dedicated legislators like Debbie Smith, Marcus Conklin, Marilyn Kirkpatrick, William Horne, Kelvin Atkinson, and Bonnie Parnell. Under the leadership of these hardworking legislators, we successfully tackled difficult issues involving education, energy, heath care, public safety, and transportation.

Minority Leader Gansert and your leadership team, even though we have had differences, those differences have never been personal. It has always been about doing what we believe is best for Nevada. Together, I think we have done that.

There is no question that we have a tremendous task still ahead of us, rebuilding our house after the fire we have been through. I know we have the right people in place to do that, the right team to carry on the legacy of the colleagues we say goodbye to today. In the great tradition of Nevada's first days, we are still a citizen's Legislature. Many of you have made tremendous personal and professional sacrifices to be here and I am proud to serve with all of you. Thank you for that privilege.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker, and thank you to the Majority Leader for all his words and reminders of the great work of this body. This is the end of session. This is a time to thank people. I know we have thanked many people before but it is time to do it again. I want to thank Susan and her Front Desk staff. I want to thank our legal counsel, Brenda Erdoes. Eileen O'Grady and Risa Lang, we could not do it without you. It is amazing the number of

amendments they turned out. I think we were over a thousand the last time I looked up there. I would like to thank our fiscal staff, Mark Stevens, Gary Ghiggeri, Steve Abba, Tracy Raxter, and Russell Guindon. I would like to thank the Legislative Police for being here because every time we are here, they are here. All of you are here and then you work beyond those hours. I so appreciate all of your work. I also appreciate the audio and video staff and Information Technology Services. We are glad they fixed the Assistant Majority Leader's microphone. Or maybe they didn't fix his microphone. So, thank you so much.

This is the People's House. As was mentioned earlier, we are a diverse group, with different ways of life and different ages. It is astounding that there is a 50-year difference between the youngest and the oldest. I think, together, we are able to debate topics and work together for solutions. I know when I first ran for office I did a lot of walking, as all of us did, and that is something that is special in Nevada. You actually know your constituents. The Assemblymen from Clark County and I talked about that. How we go out and walk on the weekends, even during session. I know every now and then that I used to hit a door that would be someone who wasn't from Nevada, mainly California. They could not believe that I was there. They could not believe they could meet their legislator or maybe meet some of the Constitutional officers. I know each of you know your constituents and I know that is what makes this house, the People's House, special. You all work so hard. You know your constituents and you are here to represent them.

I also appreciate all the work that we do in committee. Something else about Nevada, when people ask, "How do you work with these people? These people who are so different than you are?" It is because we get to know each other. Day in and day out, we end up having strong debates but, also, a lot of laughs. I think that is probably unique to this state, because we are a small state. So I appreciate that we have worked together, that we listen to each other. We strive for solutions and sometimes we don't always find them. But you know what? As the Majority Leader said, that is okay. Sometimes we just disagree and we make sure it is not personal. We try to keep our discussions civil and we accomplished that to a very strong end here in Nevada.

I want to thank everyone here. I appreciate leadership and everyone else. We have been talking about ten people. What about the other 31? I am just kidding. Thank you all for your service and thank you to our staff who work day in and day out, on weekends, and beyond the hours that we work. It is hard to imagine that, but they do. So, have a good break. That is why we have these sessions every other year so we can recover. Thank you.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. While I appreciate the great service of the ten people who are leaving us and the committee chairmen who have been mentioned, but as the oldest sophomore, I would like to call your attention to the sophomore class. We started off with ten members: five Republicans and five Democrats. As freshmen, as I mentioned last year, we won some, and we lost some, and we lost some, and we lost some, and we lost some. This year we have done much better. However, we have lost two of our members: Assemblyman Beers and Assemblywoman Womack. So, now we are down to four Democrats and four Republicans.

We have achieved some great things this session. We have had three members who have vied for the title of "Mr. No." But, I am sad to report, they were unsuccessful. Our returning Assemblyman from District 32, according to my calculations, has outdone all three of them. We had some members who have achieved greater things outside the Assembly than inside the Assembly, like having twins. We have had another one who achieved a great deal in taking care of those with autism. We have had an Assemblyman who could not quite figure out which was the most important bill. I want to point out, though, that his really most important bill was the fish, toe-nibbling bill. So, please let us not forget that.

Have I left anyone out? I do not think so. I am sad to say we are going to lose two of our members, who are running for other offices. I would like to announce at this time that I am not one of those. Finally, we had one member of sophomore class who had a most distinguished accomplishment this time, which was to be called, "the Bug Man." We will not mention who that is. So, on behalf of the sophomore class, I would hope you would all join me in giving us a sitting ovation for the sophomore class. Thank you very much.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 88, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 690 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 37, which is attached to and hereby made a part of this report.

WILLIAM HORNE	TERRY CARE
BERNIE ANDERSON	MARK AMODEI
	DAVID PARKS
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA37.

AN ACT relating to sexual offenses; prohibiting a person from using the Internet to ~~[access]~~ **control** child pornography; establishing a civil remedy under certain circumstances for a person who appeared in child pornography; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits a person from using the Internet to ~~[access]~~ **control** child pornography.

Section 4 of this bill establishes a civil cause of action for a person who, while under the age of 16 years, appeared in child pornography and suffered personal or psychological injury as the result. A person who prevails in such an action may recover his actual damages, which are deemed to be at least $150,000, plus attorney's fees and costs. **Section 3** of this bill establishes the statute of limitations for such an action.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who, knowingly, willfully and with the specific intent to view any film, photograph or other visual presentation depicting a person under the age of 16 years engaging in or simulating sexual conduct, uses the Internet to ~~[access]~~ control such a film, photograph or other visual presentation is guilty of:

(a) For the first offense, a category C felony and shall be punished as provided in NRS 193.130.

(b) For any subsequent offense, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

2. As used in this section, "sexual conduct" means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object

manipulated or inserted by a person into the genital or anal opening of the body of another.

Sec. 2. NRS 200.700 is hereby amended to read as follows:

200.700 As used in NRS 200.700 to 200.760, inclusive, ***and section 1 of this act,*** unless the context otherwise ~~[provides:]~~ ***requires:***

1. "Performance" means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. "Promote" means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. "Sexual conduct" means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person's body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

4. "Sexual portrayal" means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.

Sec. 3. NRS 11.215 is hereby amended to read as follows:

11.215 1. Except as otherwise provided in ***subsection 2 and*** NRS 217.007, an action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age must be commenced within 10 years after the plaintiff:

(a) Reaches 18 years of age; or

(b) Discovers or reasonably should have discovered that his injury was caused by the sexual abuse,

➥ whichever occurs later.

2. ***An action to recover damages pursuant to section 4 of this act must be commenced within 3 years after the occurrence of the following, whichever is later:***

(a) The court enters a verdict in a related criminal case; or

(b) The victim reaches the age of 18 years.

3. As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.

Sec. 4. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who, while under the age of 16 years, appeared in any film, photograph or other visual presentation engaging in sexual conduct and who suffered personal or psychological injury as a result may bring an action against any person who, while over the age of 18 years, knowingly and willfully:

(a) Promoted the film, photograph or other visual presentation;

(b) Possessed the film, photograph or other visual presentation; or

(c) Used the Internet to ~~[access]~~ control the film, photograph or other visual presentation, with the specific intent to view the film, photograph or other visual presentation.

2. A plaintiff who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least $150,000, plus attorney's fees and costs.

3. A plaintiff may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a plaintiff has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.

4. It is not a defense to a cause of action under this section that a defendant did not know the plaintiff or did not engage in the sexual conduct with the plaintiff.

5. As used in this section:

(a) "Promote" has the meaning ascribed to it in NRS 200.700.

(b) "Sexual conduct" means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

Assemblyman Horne moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 88.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 385, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 975 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 39, which is attached to and hereby made a part of this report.

WILLIAM HORNE	TERRY CARE
KATHY MCCLAIN	VALERIE WIENER
JOHN CARPENTER	MIKE MCGINNESS
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA39.

AN ACT relating to prisons; requiring the Board of State Prison Commissioners to adopt regulations pertaining to a facility or institution operated by a private organization; requiring the monitoring of certain private facilities and institutions; ~~[providing for the development of minimum staffing levels for institutions and facilities of the Department of Corrections;]~~ providing that certain provisions relating to a prisoner confined in a facility or institution also apply to a prisoner confined in a private facility or institution operated by a private organization; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of State Prison Commissioners to adopt regulations for carrying out the business of the Board and of the Department of Corrections. (NRS 209.111) **Section 1.4** of this bill requires the Board to adopt additional regulations establishing the maximum number of prisoners that may be incarcerated in a private facility or institution. Those regulations must be based upon the standards adopted by the American Correctional Association.

Section 1.5 of this bill requires the Department to monitor private facilities or institutions which house prisoners incarcerated pursuant to the authority of another state to ensure that the care and custody of the prisoners comply with the Nevada Constitution and the United States Constitution. ~~[Section 1.6 of this bill provides that the provisions of this bill which relate to private facilities or institutions do not apply with respect to prisoners incarcerated in a private facility or institution pursuant to a contract with the Federal Government.~~

~~Section 1.67 of this bill revises the duties of the Director of the Department by requiring the Director to consult with representatives of the employees of the Department to develop a minimum staffing level which is necessary to ensure the safety of the public, the employees of the Department and the prisoners and which is within the limits of legislative appropriation.]~~

Existing law makes it a crime for: (1) a prisoner to escape from prison or to manufacture or possess certain items used in an escape; (2) a person to aid a prisoner in escaping from prison; (3) a person who has custody of a prisoner to allow the prisoner to escape; and (4) a person to conceal an escaped prisoner. (NRS 212.080, 212.090, 212.093, 212.100-212.130) Existing law also provides certain procedures for issuing a warrant for the arrest of an escaped prisoner and the manner in which expenses for recapturing the prisoner must be paid. (NRS 212.030-212.080) Further, existing law makes it a crime to: (1) provide certain items to a prisoner, including certain weapons, an intoxicant or a controlled substance and certain communications devices; or (2) engage in certain behavior concerning a prisoner, such as engaging in sexual conduct or certain unlawful acts relating to human excrement or bodily fluid. (NRS 212.160-212.189) **Section 1.7** of this bill provides that those provisions also apply to a prisoner incarcerated in a private prison operated by a private organization as well as to certain other persons. **Section 1.7** also provides that the private organization which operates a private facility or institution must: (1) reimburse the State for expenses incurred by the State in recapturing a prisoner who escapes from the private facility or institution; and (2) provide training to its employees that is equivalent to the training provided to a correctional officer in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 1.3. Chapter 209 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.35 to 1.6, inclusive, of this act.

Sec. 1.35. ***"Private facility or institution" means a facility or institution operated by a private organization to house prisoners.***

Sec. 1.4. ***1. To ensure the safety of the residents of the State of Nevada, the Board shall adopt regulations establishing the maximum number of prisoners who may be incarcerated in a private facility or institution. The regulations must be based upon the standards adopted by the American Correctional Association or its successor organization.***

2. As used in this section, "prisoner" has the meaning ascribed to it in section 1.7 of this act.

Sec. 1.5. ***1. The Department shall monitor each private facility or institution which houses prisoners who are incarcerated pursuant to the authority of another state to ensure that the custody and care of the prisoners comply with the requirements of the Nevada Constitution and the Constitution of the United States.***

2. A private facility or institution which is monitored by the Department pursuant to subsection 1 shall reimburse the Department for the costs of such monitoring. The Department shall determine the cost of the monitoring required by subsection 1 on a per-prisoner basis.

Sec. 1.6. ~~***[The provisions of sections 1.4, 1.5 and 1.7 of this act do not apply with respect to prisoners incarcerated in a private facility or institution pursuant to a contract with the Federal Government or an agency of the Federal Government.]***~~ **(Deleted by amendment.)**

Sec. 1.63. NRS 209.011 is hereby amended to read as follows:

209.011 As used in this chapter, unless the context otherwise requires, the terms defined in NRS 209.021 to 209.085, inclusive, ***and section 1.35 of this act*** have the meanings ascribed to them in those sections.

Sec. 1.67. ~~[NRS 209.131 is hereby amended to read as follows:~~

~~209.131 The Director shall:~~

~~1. Administer the Department under the direction of the Board.~~

~~2. Supervise the administration of all institutions and facilities of the Department.~~

~~3. Receive, retain and release, in accordance with law, offenders sentenced to imprisonment in the state prison.~~

~~4. Be responsible for the supervision, custody, treatment, care, security and discipline of all offenders under his jurisdiction.~~

~~5. Ensure that any person employed by the Department whose primary responsibilities are:~~

~~(a) The supervision, custody, security, discipline, safety and transportation of an offender;~~

~~(b) The security and safety of the staff; and~~

~~(c) The security and safety of an institution or facility of the Department,~~

~~→ is a correctional officer who has the powers of a peace officer pursuant to subsection 1 of NRS 289.220~~

~~6. Establish regulations with the approval of the Board and enforce all laws governing the administration of the Department and the custody, care and training of offenders.~~

~~7. Take proper measures to protect the health and safety of the staff and offenders in the institutions and facilities of the Department.~~

~~8. Cause to be placed from time to time in conspicuous places about each institution and facility copies of laws and regulations relating to visits and correspondence between offenders and others.~~

~~9. Provide for the holding of religious services in the institutions and facilities and make available to the offenders copies of appropriate religious materials.~~

~~***10. Consult with the representatives of the employees of the Department to develop the minimum level of staffing in the institutions and facilities of the Department which is necessary to ensure the safety of the public, the employees of the Department and offenders and which is within the limits of legislative appropriation. If the Director, or his designee, or a representative of the employees of the Department requests a meeting to review the minimum level of staffing developed pursuant to this subsection, the Director, or his designee, and the representatives of the employees shall meet to review the minimum level of staffing. At such a meeting, the minimum level of staffing may be revised if the revision is agreed to by the Director, or his designee, and the representative of the employees and is within the limits of legislative appropriation.***~~ **(Deleted by amendment.)**

Sec. 1.7. Chapter 212 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this section and NRS 212.030 to 212.130, inclusive, and 212.160 to 212.189, inclusive, apply to:

(a) A person who has custody of a prisoner assigned to a private facility or institution in this State; and

(b) A prisoner assigned to a private facility or institution in this State,

↳ to the same extent that those provisions would apply if the prisoner had been assigned to a facility or institution operated by the Department.

2. A private organization that operates a private facility or institution must provide training to any person employed by the private facility or institution to perform the duties of a correctional officer described in subsection 5 of NRS 209.131. The ~~[content of the]~~ training must be equivalent to the training provided to a correctional officer in this State . ~~[, but a person employed by a private facility or institution to perform the duties of a correctional officer is not required to be certified as a peace officer.]~~

3. The private organization that operates a private facility or institution must reimburse the State for any expenses charged against the State or paid by the State pursuant to NRS 212.040, 212.050 or 212.070 concerning a prisoner who escapes from the private facility or institution.

4. As used in this section:

(a) "Prisoner" means any person who is:

(1) Convicted of a crime under the laws of this State and sentenced to imprisonment in the state prison; or

(2) Convicted of a crime under the laws of another jurisdiction and sentenced to imprisonment by that jurisdiction.

(b) "Private facility or institution" has the meaning ascribed to it in section 1.35 of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. This act becomes effective on July 1, 2009.

Assemblyman Horne moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 385.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 523, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 957 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 36, which is attached to and hereby made a part of this report.

MARCUS CONKLIN	DAVID PARKS
MARILYN KIRKPATRICK	WARREN HARDY
CHAD CHRISTENSEN	
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA36.

SUMMARY— ~~[Implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.]~~ **Makes various changes to provisions relating to housing.** (BDR 54-773)

AN ACT relating to ~~[mortgage lending;]~~ **housing;** establishing provisions for the implementation of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; increasing certain administrative fines; **revising certain provisions relating to the grounds of termination for certain rental or lease agreements affecting certain tenants in a manufactured home park; revising provisions concerning the board of directors or trustees of a mobile home park owned or leased by a nonprofit organization;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This bill implements]~~ **Sections 1-84 and 84.5 of this bill implement** the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. **Sections 1.5-18, 21, 23, 24, 50.1-50.7 and 55-85** of this bill establish provisions for the licensing and registration with the nationwide mortgage licensing system and registry of residential mortgage loan originators, in compliance with federal law.

Section 55 of this bill also increases the administrative fine the Commissioner of Mortgage Lending may impose upon an applicant for or a holder of a license as a mortgage broker or mortgage agent for certain violations from $10,000 to $25,000 for each violation. (NRS 645B.670)

Section 85.5 of this bill repeals provisions for the licensing of certain persons on behalf of a corporation or limited-liability company as mortgage agents.(NRS 645B.455)

Section 84.1 of this bill provides that a rental agreement between a landlord and a tenant for the rental or lease of certain lots in a manufactured home park in this State may only be terminated on one or more of the grounds listed in existing law, regardless of the fact that a notice of termination may have been served upon the tenant.

Section 84.3 of this bill increases from 2 to 4 years the term of office for a person serving on the board of directors or trustees of a mobile home park owned or leased by a nonprofit organization. Section 85.3 of this bill provides for the staggering of such terms.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 8, inclusive, of this act.

Sec. 1.5. ***"Clerical or ministerial tasks" means communication with a person to obtain, and the receipt, collection and distribution of, information necessary for the processing or underwriting of a mortgage loan.***

Sec. 2. ***"Nationwide Mortgage Licensing System and Registry" or "Registry" means the mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for licensing and registration of residential mortgage loan originators.***

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. ***"Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this section, "dwelling" has the meaning ascribed to it section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).***

Sec. 6. ***"Residential mortgage loan originator" means a natural person who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or other pecuniary gain. The term does not include:***

1. A person who performs clerical or ministerial tasks as an employee at the direction of and subject to the supervision and instruction of a

person licensed or exempt from licensing under this chapter, unless the person who performs such clerical or ministerial tasks is an independent contractor; or

2. A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53D).

Sec. 7. (Deleted by amendment.)

Sec. 8. ***A mortgage broker or qualified employee who wishes to engage in activities as a residential mortgage loan originator or to supervise a mortgage agent who engages in activities as a residential mortgage loan originator must obtain and maintain a license as a mortgage agent pursuant to the provisions of NRS 645B.400 to 645B.460, inclusive.***

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0105 to 645B.0135, inclusive, ***and sections 1.5 to 6, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 645B.0125 is hereby amended to read as follows:

645B.0125 1. "Mortgage agent" means ~~[(a)]~~ ***:***

(a) A natural person who:

~~[(a)]~~ ***(1)*** Is an employee ~~[or independent contractor]~~ of a mortgage broker ***or mortgage banker*** who is required to be licensed pursuant to this chapter ~~[,]~~ ***or chapter 645E of NRS;*** and

~~[(b)]~~ ***(2)*** Is authorized by the mortgage broker ***or mortgage banker*** to engage in, on behalf of the mortgage broker ~~[,]~~ ***or mortgage banker,*** any activity that would require the person, if he were not an employee ~~[or independent contractor]~~ of the mortgage broker ~~[,]~~ ***or mortgage banker,*** to be licensed as a mortgage broker ***or mortgage banker*** pursuant to this chapter ~~[,]~~ ***or chapter 645E of NRS; or***

(b) A mortgage broker, qualified employee or mortgage banker who is required by section 8 or 59.1 of this act to be licensed as a mortgage agent.

2. The term ***includes a residential mortgage loan originator.***

3. The term does not include a person who:

(a) ~~[Is]~~ ***Except as otherwise provided in paragraph (b) of subsection 1, is*** licensed as a mortgage broker ~~[,]~~ ***or mortgage banker;***

(b) ~~[Is a]~~ ***Is an owner,*** general partner, officer or director of a mortgage broker ~~[;]~~ or ***mortgage banker;***

(c) Performs only clerical or ministerial tasks for a mortgage broker ~~[.]~~ ***; or***

(d) Collects payments and performs related services, including, without limitation, the modification of an existing loan, in connection with a loan secured by a lien on real property and who does not undertake any other activity that would otherwise require a license pursuant to this chapter or chapter 645E of NRS.

Sec. 22. (Deleted by amendment.)

Sec. 23. NRS 645B.0137 is hereby amended to read as follows:

645B.0137 1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker or mortgage agent must:

(a) Complete education on mortgage lending as required by this chapter ~~[, or]~~ ***and any regulations adopted thereto; and***

(b) Successfully pass a written examination as ~~[determined]~~ ***provided for*** by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division ~~[:~~

~~(a) May]~~ ***may*** hire a testing organization to create, administer and score a written examination ***.*** ~~[; and~~

~~(b) May create waivers for a written examination.]~~

4. The Commissioner ~~[may]~~ ***shall*** adopt regulations to carry out the provisions of this section, including, without limitation ~~[, regulations]~~ ***:***

(a) Regulations relating to the content of a written examination ~~[,]~~ ***and*** the scoring of a written examination ~~[or any possible waivers of a written examination .]~~ ***; and***

(b) Regulations for compliance with the requirements for registration with the Registry and any other applicable federal law.

Sec. 24. NRS 645B.0138 is hereby amended to read as follows:

645B.0138 1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

(c) Ensuring compliance with the requirements for registration with the Registry and any other applicable federal law.

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. (Deleted by amendment.)

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)

Sec. 48. (Deleted by amendment.)

Sec. 49. (Deleted by amendment.)

Sec. 50. (Deleted by amendment.)

Sec. 50.1. NRS 645B.018 is hereby amended to read as follows:

645B.018 1. A person may apply to the Commissioner for an exemption from the provisions of this chapter governing the making of a loan of money ~~[.]~~ ***, except that an exemption may not be issued for the making of a residential mortgage loan.***

2. The Commissioner may grant the exemption if he finds that:

(a) The making of the loan would not be detrimental to the financial condition of the lender, the debtor or the person who is providing the money for the loan;

(b) The lender, the debtor or the person who is providing the money for the loan has established a record of sound performance, efficient management, financial responsibility and integrity;

(c) The making of the loan is likely to increase the availability of capital for a sector of the state economy; and

(d) The making of the loan is not detrimental to the public interest.

3. The Commissioner:

(a) May revoke an exemption unless the loan for which the exemption was granted has been made; and

(b) Shall issue a written statement setting forth the reasons for his decision to grant, deny or revoke an exemption.

Sec. 50.2. NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. An application for a license as a mortgage broker must:

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State.

(b) State the name under which the applicant will conduct business as a mortgage broker.

(c) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage broker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage broker as a mortgage agent.

(d) Include a general business plan and a description of the policies and procedures that the mortgage broker and his mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

(e) State the length of time the applicant has been engaged in the business of a broker.

(f) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(g) Include all information required to complete the application.

(h) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage broker will conduct business at one or more branch offices within this State, the mortgage broker must apply for a license for each such branch office.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license to an applicant as a mortgage broker if:

(a) The application is verified by the Commissioner and complies with the requirements of this chapter; and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage broker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ ***demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.***

(2) Has not been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude.]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(3) Has not made a false statement of material fact on his application.

(4) Has ~~[not had a license that was issued pursuant to the provisions of this chapter or chapter 645E of NRS suspended or revoked within the 10 years immediately preceding the date of his application.]~~ ***never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license suspended or revoked within the immediately preceding 10 years.***

(5) ~~[Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.~~

~~(6)]~~ Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

Sec. 50.3. NRS 645B.0243 is hereby amended to read as follows:

645B.0243 The Commissioner may refuse to issue a license to an applicant if the Commissioner has reasonable cause to believe that the applicant or any general partner, officer or director of the applicant has, after October 1, 1999, employed or proposed to employ a person as a mortgage agent or authorized or proposed to authorize a person to be associated with a mortgage broker as a mortgage agent at a time when the applicant or the general partner, officer or director knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person ~~[:~~

~~1. Had been convicted of, or entered a plea of nolo contendere to:~~

~~(a) A felony relating to the practice of mortgage agents; or~~

~~(b) Any crime involving fraud, misrepresentation or moral turpitude; or~~

~~2. Had a financial services license or registration suspended or revoked within the immediately preceding 20 years.]~~ ***has committed any act or omission that would be cause for refusing to issue a license to a mortgage agent.***

Sec. 50.4. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051; and

(d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051;

(d) Except as otherwise provided in this section, a reinstatement fee of not more than $200; and

(e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of not more than $100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, not more than $1,500 for the principal office and not more than $40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than $1,000 for the principal office and not more than $60 for each branch office.

(c) To renew a license, not more than $500 for the principal office and not more than $100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than $200.

(b) To renew a certificate of exemption, not more than $100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than $10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter ***are in addition to any fee required to be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee ***or date*** set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 50.5. NRS 645B.410 is hereby amended to read as follows:

645B.410 1. To obtain a license as a mortgage agent, a person must:

(a) Be a natural person;

(b) File a written application for a license as a mortgage agent with the Office of the Commissioner;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Commissioner of not more than $185.

2. An application for a license as a mortgage agent must:

(a) State the name and residence address of the applicant;

(b) Include a provision by which the applicant gives his written consent to an investigation of his credit history, criminal history and background;

(c) Include a complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(d) ~~[Include]~~ ***If he is not licensed as a mortgage broker or mortgage banker pursuant to chapter 645B or 645E of NRS, include*** a verified statement from the mortgage broker ***or mortgage banker*** with whom the applicant will be associated that expresses the intent of that mortgage broker ***or mortgage banker*** to associate the applicant with the mortgage broker ***or mortgage banker*** and to be responsible for the activities of the applicant as a mortgage agent; and

(e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Has not been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;***

(2) Has ~~[not]~~ ***never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction, or*** had a financial services license suspended or revoked within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his application;

(4) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ ***demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.***

4. Money received by the Commissioner pursuant to this section ***is in addition to any fee required to be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 50.6. NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than $170.

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of $75.

3. To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of $10.

4. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of $10.

5. Money received by the Commissioner pursuant to this section ***is in addition to any fee that must be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.

7. As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.

Sec. 50.7. NRS 645B.460 is hereby amended to read as follows:

645B.460 1. A mortgage broker shall exercise reasonable supervision over the activities of his mortgage agents ~~[.]~~ ***and must also be licensed as a mortgage agent if required pursuant to section 8 of this act.*** Such reasonable supervision must include, as appropriate:

(a) The establishment of written or oral policies and procedures for his mortgage agents; ~~[and]~~

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage broker or his mortgage agents or held in trust by the mortgage broker or his mortgage agents pursuant to this chapter ~~[.]~~ ***; and***

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

2. The Commissioner shall allow a mortgage broker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 51. (Deleted by amendment.)

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than ~~[~~$10,000,~~]~~ ***$25,000,*** if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than ~~[~~$10,000,~~]~~ ***$25,000,*** may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;*** or

(2) Had a ~~[financial services]~~ license or registration ***as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license or registration*** suspended or revoked within the immediately preceding 10 years;

(t) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

(u) Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than ~~[$10,000,]~~ ***$25,000*** may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. Chapter 645E of NRS is hereby amended by adding thereto the provisions set forth as sections 59.1 to 59.7, inclusive, of this act.

Sec. 59.1. ***1. Any person licensed as a mortgage banker under this chapter and who engages in activities as a residential mortgage loan originator or who supervises a mortgage agent who engages in activities as a residential mortgage loan originator, and any employee or independent contractor of a mortgage banker who engages in activities as a residential mortgage loan originator, must be licensed as a mortgage agent pursuant to the provisions of NRS 645B.400 to 645B.460, inclusive.***

2. As used in this section, "residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 59.3. ***1. A mortgage banker shall exercise reasonable supervision over the activities of his mortgage agents and must also be licensed as a mortgage agent if required pursuant to section 8 of this act. Such reasonable supervision must include, as appropriate:***

(a) The establishment of written or oral policies and procedures for his mortgage agents;

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage banker or his mortgage agents or held in trust by the mortgage banker or his mortgage agents pursuant to this chapter; and

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

2. The Commissioner shall allow a mortgage banker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage

agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 59.5. ***If a mortgage agent terminates his association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:***

1. Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises him that his termination is being reported to the Division; and

2. Deliver or send by certified mail to the Division:

(a) The license or license number of the mortgage agent;

(b) A written statement of the circumstances surrounding the termination; and

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

Sec. 59.7. ***1. If a person offers or provides any of the services of a mortgage banker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage banker or mortgage agent and, at the time:***

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than ~~[$10,000]~~ $50,000 for each violation and, if the person has a license, the Commissioner shall revoke it.

2. If a mortgage banker violates subsection 1 of NRS 645E.350 and the mortgage banker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage banker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage banker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage banker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage banker; and

(c) Conduct a hearing to determine whether the mortgage banker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to

take possession of the property of the mortgage banker pursuant to NRS 645E.630.

Sec. 60. (Deleted by amendment.)

Sec. 61. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 62 to 77.5, inclusive, of this act.

Sec. 62. (Deleted by amendment.)

Sec. 63. (Deleted by amendment.)

Sec. 64. (Deleted by amendment.)

Sec. 65. (Deleted by amendment.)

Sec. 66. (Deleted by amendment.)

Sec. 67. (Deleted by amendment.)

Sec. 68. (Deleted by amendment.)

Sec. 69. (Deleted by amendment.)

Sec. 70. (Deleted by amendment.)

Sec. 71. (Deleted by amendment.)

Sec. 72. (Deleted by amendment.)

Sec. 73. ***"Nationwide Mortgage Licensing System and Registry" or "Registry" have the meanings ascribed to them in section 2 of this act.***

Sec. 74. (Deleted by amendment.)

Sec. 75. (Deleted by amendment.)

Sec. 75.3. ***The Commissioner shall adopt such regulations as necessary to comply with the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.***

Sec. 75.7. ***The Commissioner shall adopt regulations:***

1. Establishing minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, as defined in section 6 of this act; or

2. Requiring a percentage of the fees collected for the issuance or renewal of a license pursuant to chapter 645B or 645E of NRS to be deposited in a mortgage recovery fund, and setting forth the methods by which a person may make a claim against and be paid from the fund.

Sec. 76. ***1. The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.***

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

(b) A process whereby a person may challenge information reported to the Registry by the Commissioner.

Sec. 77. ***1. Except as otherwise provided in section 1512 of Public Law 110-289, the requirements under any federal law or NRS 645B.060 and 645B.092 regarding the confidentiality of any information or material provided to the Registry, and any privilege arising under federal laws of this State with respect to such information or material, continue to apply to***

such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with mortgage industry oversight without the loss of privilege or the loss of confidentiality protections provided by federal law or the provisions of NRS 645B.060 and 645B.092.

2. Information or material that is subject to a privilege or confidentiality under subsection 1 is not subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the Federal Government or the State of Nevada; and

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Registry with respect to such information or material, the person to whom such information or material waives, in whole or in part, that privilege.

3. This section does not apply to information or material relating to:

(a) The employment history of; and

(b) Publicly adjudicated disciplinary and enforcement actions against, residential mortgage loan originators included in the Registry for access by the public.

Sec. 77.5. ***For the purpose of carrying out the provisions of section 77 of this act, the Commissioner may by regulation or order enter into agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies.***

Sec. 78. NRS 645F.010 is hereby amended to read as follows:

645F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645F.020 to 645F.060, inclusive, ***and section 73 of this act*** have the meanings ascribed to them in those sections.

Sec. 79. (Deleted by amendment.)

Sec. 80. (Deleted by amendment.)

Sec. 81. (Deleted by amendment.)

Sec. 82. NRS 645F.290 is hereby amended to read as follows:

645F.290 1. The Commissioner shall collect an assessment pursuant to this section from each:

(a) Escrow agency that is supervised pursuant to chapter 645A of NRS;

(b) Mortgage broker that is supervised pursuant to chapter 645B of NRS; ~~[and]~~

(c) ***Mortgage agent that is supervised pursuant to chapter 645B or 645E of NRS; and***

(d) Mortgage banker that is supervised pursuant to chapter 645E of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division.

The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) An equal basis; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 83. (Deleted by amendment.)

Sec. 84. (Deleted by amendment.)

Sec. 84.1. **NRS 118B.200 is hereby amended to read as follows:**

118B.200 1. Notwithstanding the expiration of a period of a tenancy **~~[,]~~** ***or service of a notice pursuant to subsection 1 of NRS 118B.190,*** the rental agreement described in NRS 118B.190 may not be terminated except **~~[for:]~~** ***on one or more of the following grounds:***

(a) Failure of the tenant to pay rent, utility charges or reasonable service fees within 10 days after written notice of delinquency served upon the tenant in the manner provided in NRS 40.280;

(b) Failure of the tenant to correct any noncompliance with a law, ordinance or governmental regulation pertaining to manufactured homes or recreational vehicles or a valid rule or regulation established pursuant to NRS 118B.100 or to cure any violation of the rental agreement within a reasonable time after receiving written notification of noncompliance or violation;

(c) Conduct of the tenant in the manufactured home park which constitutes an annoyance to other tenants;

(d) Violation of valid rules of conduct, occupancy or use of park facilities after written notice of the violation is served upon the tenant in the manner provided in NRS 40.280;

(e) A change in the use of the land by the landlord pursuant to NRS 118B.180;

(f) Conduct of the tenant which constitutes a nuisance as defined in NRS 40.140 or which violates a state law or local ordinance, specifically including, without limitation:

(1) Discharge of a weapon;

(2) Prostitution;

(3) Illegal drug manufacture or use;

(4) Child molestation or abuse;

(5) Elder molestation or abuse;

(6) Property damage as a result of vandalism; and

(7) Operating a motor vehicle while under the influence of alcohol or any other controlled substance; or

(g) In a manufactured home park that is owned by a nonprofit organization or housing authority, failure of the tenant to meet qualifications relating to age or income which:

(1) Are set forth in the lease signed by the tenant; and

(2) Comply with federal, state and local law.

2. A tenant who is not a natural person and who has received three or more 10-day notices to quit for failure to pay rent in the preceding 12-month period may have his tenancy terminated by the landlord for habitual failure to pay timely rent.

Sec. 84.3. **NRS 461A.215 is hereby amended to read as follows:**

461A.215 1. Notwithstanding any provision of law to the contrary, if a nonprofit organization owns or leases a mobile home park:

(a) The board of directors or trustees which controls the mobile home park must be selected as set forth in this section; and

(b) The provisions of this section govern the operation of the nonprofit organization and the mobile home park.

2. If a nonprofit organization owns or leases only one mobile home park, the board of directors or trustees which controls the mobile home park must be composed of:

(a) Three directors or trustees who are residents of the mobile home park and are elected by a majority of the residents who live in the mobile home park, with each unit in the mobile home park authorized to cast one vote;

(b) Except as otherwise provided in subsection 4, three directors or trustees appointed by the governing body of the local government with jurisdiction over the location of the mobile home park; and

(c) Three directors or trustees elected by a majority of the other directors or trustees selected pursuant to this subsection.

3. If a nonprofit organization owns or leases more than one mobile home park, the board of directors or trustees which controls the mobile home parks must be composed of:

(a) For each mobile home park, one director or trustee who is a resident of that mobile home park and is elected by a majority of the residents who live in that mobile home park, with each unit in the mobile home park authorized to cast one vote;

(b) Except as otherwise provided in subsection 4, one director or trustee appointed for each mobile home park by the governing body of the local government with jurisdiction over the location of that mobile home park; and

(c) For each mobile home park, one director or trustee elected by a majority of the other directors or trustees selected pursuant to this subsection.

4. The governing body of a local government with jurisdiction over the location of a mobile home park owned or leased by a nonprofit organization shall not appoint a director or trustee pursuant to paragraph (b) of subsection 2 or paragraph (b) of subsection 3 unless the land upon which the mobile

home park is located or the improvements to that land are owned by any governmental entity, patented to any governmental entity or leased to the nonprofit organization by any governmental entity.

5. The term of office of a director or trustee selected pursuant to this section:

(a) Is ~~[2]~~ ***4*** years, except that upon the expiration of his term of office he shall continue to serve until his successor is selected; and

(b) Commences on July 1**.** ~~[of each odd-numbered year.]~~

6. Any vacancy occurring in the membership of the board of directors or trustees selected pursuant to this section must be filled in the same manner as the original election or appointment.

7. The Attorney General shall:

(a) Enforce the provisions of this section;

(b) Investigate suspected violations of the provisions of this section; and

(c) Institute proceedings on behalf of this State, an agency or political subdivision of this State, or as parens patriae of a person residing in a mobile home park:

(1) For injunctive relief to prevent and restrain a violation of any provision of this section; and

(2) To collect any costs or fees awarded pursuant to the provisions of this section.

8. The provisions of this section may be enforced with regard to a nonprofit organization or a mobile home park by:

(a) The nonprofit organization;

(b) The board of directors or trustees required to be selected pursuant to this section, or any member thereof;

(c) A person who claims membership on the board of directors or trustees required to be selected pursuant to this section;

(d) A resident of the mobile home park;

(e) The local government with jurisdiction over the location of the mobile home park; or

(f) Any combination of the persons described in paragraphs (a) to (e), inclusive.

9. In any action to enforce the provisions of this section, including, without limitation, an action to prevent or restrain a violation of the provisions of this section, if a person is found to have knowingly acted as a director or trustee on a board of directors or trustees required to be selected pursuant to this section while he was not authorized to act as such a director or trustee pursuant to this section:

(a) The court shall award the prevailing party costs and attorney's fees;

(b) If the nonprofit organization which owns or leases a mobile home park participates in the action, the court shall award the nonprofit organization costs and attorney's fees; and

(c) Costs and attorney's fees awarded pursuant to this section must be recovered from the person. If in the same action to enforce the provisions of

this section, more than one person is found to have knowingly acted as a director or trustee on a board of directors or trustees required to be selected pursuant to this section while he was not authorized to act as such a director or trustee pursuant to this section, each such person is jointly and severally liable for the costs and attorney's fees awarded pursuant to this section.

10. The provisions of this section do not apply to a corporate cooperative park.

11. As used in this section:

(a) "Board of directors or trustees which controls the mobile home park" means:

(1) If the nonprofit organization which owns or leases a mobile home park does not own or operate any substantial asset that is unrelated to the mobile home park, the board of directors or trustees of the nonprofit organization; or

(2) If the nonprofit organization which owns or leases a mobile home park owns or operates a substantial asset that is unrelated to the mobile home park, a board of directors or trustees which:

(I) Has full and independent control over the affairs of the nonprofit organization that are related to the mobile home park, including, without limitation, full and independent control over all policies, operation, property, assets, accounts and records of the nonprofit organization which are related to or derived from the park;

(II) Notwithstanding any provision of law to the contrary, exercises the powers described in sub-subparagraph (I) without being subject to any control by the board of directors or trustees of the nonprofit organization or any other person, group or entity within or related to the nonprofit organization; and

(III) If the nonprofit organization owns or leases more than one mobile home park, controls all of the mobile home parks owned or leased by the nonprofit organization.

(b) "Corporation for public benefit" has the meaning ascribed to it in NRS 82.021.

(c) "Governmental entity" includes, without limitation, the Federal Government, this State, an agency or political subdivision of this State, a municipal corporation and a housing authority.

(d) "Nonprofit organization" includes, without limitation, a corporation for public benefit.

(e) "Owns or leases a mobile home park" means being the owner or lessee of:

(1) The land upon which the mobile home park is located; or

(2) The improvements to the land upon which the mobile home park is located.

Sec. 84.5. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person authorized to engage in activities as a residential mortgage loan originator on behalf of a privately insured institution or organization licensed under title 55 or 56 of NRS shall obtain and maintain a license as a mortgage agent.

2. As used in subsection 1:

(a) "Mortgage agent" has the meaning ascribed to in NRS 645B.0125; and

(b) "Residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 84.7. **Section 20 of Assembly Bill No. 486 of this session is hereby amended to read as follows:**

Sec. 20. ***If a person, or any general partner, director, officer, agent or employee of a person violates the provisions of NRS 645E.900 or 645E.910*** ~~*[:*~~

~~*1. Any]*~~ **, *any*** ***contracts entered into by that person for the mortgage transaction are voidable by the other party to the contract*** **. *[; and***

~~*2. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $50,000.]*~~

Sec. 85. Notwithstanding the amendatory provisions of this act:

1. A person who holds a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a mortgage agent, may continue his activities without obtaining a license as a mortgage agent until July 1, 2011, or such other date as the Commissioner of Mortgage Lending may prescribe by regulation if necessary to comply with federal law.

2. A person who does not hold a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a mortgage agent, may continue his activities without obtaining a license as a mortgage agent until July 1, 2010.

Sec. 85.3. **Notwithstanding the provisions of subsection 5 of NRS 461A.215, as amended by section 84.3 of this act, for the terms commencing on July 1, 2009:**

1. Of the three directors or trustees elected pursuant to paragraph (a) of subsection 2 of NRS 461A.215:

(a) One director or trustee must be elected to a term expiring on July 1, 2011; and

(b) Two directors or trustees must be elected to terms expiring on July 1, 2012.

2. Of the three directors or trustees appointed pursuant to paragraph (b) of subsection 2 of NRS 461A.215:

(a) One director or trustee must be appointed to a term expiring on July 1, 2011; and

(b) Two directors or trustees must be appointed to terms expiring on July 1, 2012.

Sec. 85.5. NRS 645B.455 of NRS is hereby repealed.

Sec. 86. **1.** This ~~[act becomes]~~ **section and sections 84.1, 84.3 and 85.3 of this act become effective upon passage and approval.**

2. Sections 1 to 84, inclusive, 84.5, 84.7, 85 and 85.5 of this act become effective upon passage and approval for the purpose of adopting regulations and for licensure pursuant to section 85 of this act and on October 1, 2009, for all other purposes.

TEXT OF REPEALED SECTION

645B.455 License issued on behalf of professional corporation or limited-liability company; limitations on license; automatic expiration of license.

1. Any natural person who meets the qualifications of a mortgage agent and:

(a) Except as otherwise provided in subsection 2, is the sole shareholder of a corporation organized pursuant to the provisions of chapter 89 of NRS; or

(b) Is the manager of a limited-liability company organized pursuant to the provisions of chapter 86 of NRS,

➥ may be licensed on behalf of the corporation or limited-liability company for the purpose of associating with a licensed mortgage broker in the capacity of a mortgage agent.

2. The spouse of the owner of the corporation who has a community interest in any shares of the corporation shall not be deemed a second shareholder of the corporation for the purposes of paragraph (a) of subsection 1, if the spouse does not vote any of those shares.

3. A license issued pursuant to this section entitles only the sole shareholder of the corporation or the manager of the limited-liability company to act as a mortgage agent, and only as an officer or agent of the corporation or limited-liability company and not on his own behalf. The licensee shall not do or deal in any act, acts or transactions included within the definition of a mortgage broker in NRS 645B.0127, except as that activity is permitted pursuant to this chapter to licensed mortgage agents.

4. The corporation or limited-liability company shall, within 30 days after a license is issued on its behalf pursuant to this section and within 30 days after any change in its ownership, file an affidavit with the Division stating:

(a) For a corporation, the number of issued and outstanding shares of the corporation and the names of all persons to whom the shares have been issued.

(b) For a limited-liability company, the names of members who have an interest in the company.

5. A license issued pursuant to this section automatically expires upon:

(a) The death of the licensed shareholder in the corporation or the manager of the limited-liability company; or

(b) The issuance of shares in the corporation to more than one person other than the spouse.

6. This section does not alter any of the rights, duties or liabilities which otherwise arise in the legal relationship between a mortgage broker or mortgage agent and a person who deals with him.

Assemblyman Conklin moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 523.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 236, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 236.

Bill read third time.

Roll call on Senate Bill No. 236:

YEAS—42.

NAYS—None.

Senate Bill No. 236 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

I have been waiting for some time to say something to the body, and if I might have the opportunity to make it so, me being part of the angry ten that are leaving, reluctantly; some of them, possibly, not too reluctantly. For those of you who do not know, thinking I am the knowledgeable one about history, please let me assure you that it is not true. I read from the *American Patriot's Almanac* every morning, and thus remind myself of particular historic facts. Several weeks ago, over a month ago, in my readings I ran across a statement by Douglas MacArthur to a group of cadets at the United States Military Academy at West Point, New York. I thought that youth often need to be encouraged to do things and are inspired by words. I have always been inspired by words. In my heart, I have taken them and tried to make them my own, and I have been fortunate enough to use them every once in a while. But when I read this, I thought that even adults, particularly this courageous group of people I serve with, need to hear these words again.

Standing in the mess hall of the United States Military Academy at West Point, New York, Douglas McArthur, who was being honored, told this to the cadets. And I want you to listen, if you would. It is a little bit long and I hope it doesn't take too much of our time:

"Duty. Honor. Country. Those three hallowed words reverently dictate what you ought to be, what you can be, what you will be. They are your rallying points to build courage when courage seems to fail, to regain faith when there seems to be little cause for faith, to create hope when hope becomes forlorn. . . .

The unbelievers will say they are but words. . . . But these are some of the things they do. They build your basic character. They mold you for your future roles as the custodians of the nation's defense. They make you strong enough to know when you are weak, and brave enough to face yourself when you are afraid.

They teach you to be proud and unbending in honest failure, but humble and gentle in success; not to substitute words for action; not to seek the path of comfort, but to face the stress and spur of difficulty and challenge; to learn to stand up in the storm, but to have compassion on those who fall; to master yourself before you seek to master others; to have a heart that is clean, a goal that is high; to learn to laugh, yet never forget how to weep; to reach into the future, yet never neglect the past; to be serious, yet never take yourself too seriously; to be modest so that you will remember the simplicity of true greatness, the open mind of true wisdom, the meekness of true strength."

When I read those words several weeks ago, I thought that I would have this opportunity at the end, to say this to people who do not need to be reminded, because I see that kind of courage in all of you. Some would think that I am leaving and that it is going to be difficult. I have no doubt it will be great, though, because the people that I leave behind are people with that kind of courage, that kind of faith, that kind of duty, and a sense of state—the people that I have served with for these 20 years, and the people who are left to serve after me. Thank you for allowing me to be one of your members and for being the colleagues that I have had. Thank you, Madam Speaker.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 34.

Also, I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Assembly Bill No. 304.

Also, I have the honor to inform your honorable body that the Senate on this day sustained the Governor's veto of Assembly Bill No. 458.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 317, Amendment No. 1005, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 309.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CARPENTER:

All good things have to come to an end, and you've noticed, the Suzy Q has been floating on the waters of the Assembly. I have given an end of the session speech that I wasn't going to run 12 times, but tonight I think it is going to be the end. I will not be returning here. I want to give an idea of the memories that I am going to have of the nine people that I have served with.

When I came into the Assembly over 20-some years ago, I was the only Republican to be elected and come to the Assembly that year. So this year, I am the only Republican that is going to be put out to pasture. What I'm going to do here is that the Suzy Q is floating around in this tub of water, and we have all of our members that are still on the boat. I guess we're going to have to abandon the boat tonight. If you can swim and make it to shore, you'll still be able to do things. If, like me, you cannot swim, that may be the end of you. So I am going to share a few memories of the people I have served with here for many years. Then I'm going to cut the wire they are attached to, and they're going into the drink.

The first person I want to share some memories with is my friend Jerry Claborn. Jerry is certainly a great guy, and I'm going to remember him because he is the one who enabled us to get predator control. Us cowboys tried to do it, but we were too close and people said we had too much conflict, but Jerry came along, and we were able to do that. So Jerry, thank you for saving our deer herd and our ranching industry. I think very highly of you. Thank you very much. Jerry, I hate to see you be the first one that goes into the drink, but you are a tough guy and here it goes [snip]. Jerry—he is floating like he always does.

The next person I want to talk a little bit about is the great nuclear physicist. He is a protector of state parks and old bones. He brought that bill to Natural Resources this session, so from now on, whenever you see an old bone, just go easy around it and remember that Harry may be watching you if you try to do any harm to that old bone. Harry, thank you very much. And I hate to put you into the drink, but today is the day to abandon the ship [snip]. Harry, you're still floating—doing better than this fish here. It's clear at the bottom of the water.

The next person is someone that I have come to admire and is really my friend. What I think about Bernie Anderson is that he is the guy that enabled every court in Nevada to have drug court. Bernie and I went down to Las Vegas and saw the drug court in action and decided that was the thing to do. So Bernie, I'll always remember you for your short speeches and how we saved a lot of people from going to prison—and some of them actually got off of drugs. Bernie, you are the next guy to go into the drink [snip]. Boy, Bernie, you sunk. I think he is kind of coming up about halfway.

The next person I have fond memories of is my friend Moose. Moose always called me Big John—I don't know why. Sometimes I'd have a couple of bills in his committee and need a little money, and Moose would always go by and say, "No money, Big John. No money, Big John." But Moose kind of reminded me the other day, you know, about the first session I was here when Moose had the Martin Luther King, Jr. holiday bill. I took a heck of a lot of pressure not to support that bill, like Moose said. You know, it was a tough deal because some of those people out there in the brushes maybe sometimes look at things different than they should. It wasn't easy for me to make up my mind. I think I told Moose I would vote for it, and then I had to go back and tell him, "Well, I guess I won't vote for it, Moose." In the end, I got to thinking that I didn't want to be someone that they'll say, "This guy was prejudiced." I went to school in Ely, and there were all kinds of people there. I went to school with Greeks and Italians and blacks and whites, so I'd learned to love all those people that I went to school with. And I thought, "By golly, Moose is right. We need that holiday." When it came down to the nitty gritty vote, I went with Moose, and I've always been proud of that. Thank you, Moose.

Moose, I don't know whether you're going to float or whether you're going to sink. I've got to find you on this boat here. You are kind of a wily guy, Moose [snip]. You're a good floater, Moose.

The next person I want to remember is Sheila Leslie. No matter what you may think of Sheila and the things she stands for, she stands tall for them. I've always appreciated her because I could go to her for things that really mattered in the State of Nevada in regard to children and health care and mental health court and things like that. I've always appreciated Sheila because I think she has always been my friend. I'll have fond memories of you, Sheila. So we'll see whether you're going to sink or swim here [snip]. Huh—the darn Suzy Q ran clear over you! Anyway, I think you're going to be able to rise to the top and swim away.

Kathy McClain is next. What I remember about Kathy McClain is veterans and old people. She brings those bills in. Are you the one who had a bill this year where you said that guys over 70 were old? Well, maybe you are right, but I hope not because I think you are only as old as you feel and as old as you act. Kathy, hopefully you and I will never grow old. It has been great

to serve with you and we are going to see how you survive this great splash in the water [snip]. You are a real floater.

Ellen Koivisto, I remember, after your first or second session, you came up to me and said what you thought you really enjoyed here and that's to be able to say you had made a lot of friends. Ellen, you have been my friend for a long, long time. Ellen is a champion of all those nurses out there. They love you. I have always enjoyed our time in the Legislature. So, it is time to see whether you seek or swim. The Suzy Q is just going all over the water here. Maybe she thinks Ellen doesn't want to abandon ship but you have to [snip]. You are a great swimmer.

Then there is my friend Mark Manendo. You are the captain, man. Mark, you know, we have always had a great time. Mark and I have gotten along great. Mark, he is the guru of the .08 and .10 and point whatever you might want to call it when it comes to DUI. But, Mark and I have always had kind of a running battle about mobile home parks. I wouldn't want to wish this on anyone except Mark and that is that he inherits a mobile home park and has to manage it according to NRS 118B. It has been great, me with Mark and all of my other friends here. We will see what is going to happen to you, Mark [snip]. You floated. So, you don't have to get that mobile home park.

And now, hopefully, I didn't miss anyone. Maybe Donna put more people on here. I don't know. Who did I miss? Golly. Sheesh. I missed the most important person. I guess I am used to doing that. After 20 years, sometimes I have a hard time thinking.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I guess I don't get snipped, then.

ASSEMBLYMAN CARPENTER:

About all I can say is that I am so proud to have been able to serve with the first lady Speaker in the history of the Nevada Legislature. Everyone has talked about how great you are and I just wanted to say that it has been a great joy to serve with you and I am probably the first guy that ever put the Speaker in the drink. So, here it goes [snip]. Whoah. Wow. She stayed on. See? That shows how great our Speaker is. Try to throw her overboard and she won't even go.

And then, for the guy who cannot swim and doesn't want to be in the drink, this is it [snip]. I landed upside down.

Thank you, Madam Speaker. I hope that all of my friends will hold me in kind regard as they go on their journey out of here. It has been a great time and this year has been especially memorable, when all my family was here, all of the Girl Scouts, and the last few days of all the great things that have been said about me and the other people who have served with me. I just appreciate it and thank you all so very much.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 263, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 684 and 870 of the Assembly be concurred in.

It has agreed to recommend that Amendment No. 891 of the Assembly be receded from and a 4th reprint be created in accordance with this action.

RUBEN KIHUEN	WILLIAM RAGGIO
TICK SEGERBLOM	DEAN RHOADS
JOHN HAMBRICK	JOHN LEE
Assembly Conference Committee	*Senate Conference Committee*

Assemblyman Kihuen moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 263.

Remarks by Assemblyman Kihuen.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Concurrent Resolution No. 37 be taken from the Chief Clerk's desk and placed on the Resolution File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 143 be taken from the Chief Clerk's desk and placed on General File.

Motion carried.

Senate Concurrent Resolution No. 37.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblymen Oceguera and Gansert.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Resolution adopted, as amended.

GENERAL FILE AND THIRD READING

Senate Bill No. 143.

Bill read third time.

Roll call on Senate Bill No. 143:

YEAS—28.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Parnell, Settelmeyer, Stewart, Woodbury—14.

Senate Bill No. 143 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 317.

The following Senate amendment was read:

Amendment No. 1005.

AN ACT relating to taxation; providing for the disbursement of a portion of the proceeds of the state tax imposed on certain businesses to regional organizations for economic development; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill **temporarily** requires the Department of Taxation to disburse to a regional organization for economic development which directly assists in the location of a business in this State, other than a gaming business, 50 percent of the state business tax paid by that business for **not more than** 10 fiscal years as a result of the location of the business in this State. ~~[The total amount of these disbursements, together with any other amounts allocated by~~

~~the Legislature, to such a regional organization during any fiscal year is limited to $1 million.]~~ The money disbursed to such a regional organization must be used to promote economic development in this State and not for administrative expenses.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, the Department shall, on a quarterly basis, disburse to an eligible organization 50 percent of the amount of tax paid by an employer pursuant to NRS 363B.110, after the deduction of any abatements and exemptions to which that employer is entitled, which is attributable to any employment that results from the location, with the direct assistance of that eligible organization, of the business of that employer in this State. The provisions of this subsection apply only to the applicable amount of tax paid by the employer for each calendar quarter that:

(a) Commences not less than 30 days after the eligible organization files with the Department an affidavit, executed by an officer of the employer ~~[,]~~ ***and an officer of the eligible organization, stating that the eligible organization directly recruited the employer to locate its business in this State or otherwise directly assisted the employer to locate its business in this State; and***

(b) Ends not later than the last day of the 10th fiscal year after the commencement of the pertinent location by the employer of its business in this State.

2. The total amount disbursed ~~[to each eligible organization]~~ ***during each fiscal year pursuant to this section*** ~~[,]~~ ***to:***

(a) Each eligible organization located in a county whose population is 100,000 or more, together with any other amounts allocated or appropriated by the Legislature to the eligible organization for that fiscal year, must not exceed the sum of $1,000,000 ~~[.]~~ ***; and***

(b) All other eligible organizations must not exceed the cumulative sum of $1,000,000, without regard to any other amounts allocated or appropriated by the Legislature to those eligible organizations for that fiscal year.

3. Any money disbursed to an eligible organization pursuant to this section:

(a) Must be expended by the eligible organization to promote the advantages of locating or expanding businesses in this State, to recruit and attract businesses from outside this State, to retain and expand businesses in this State, and to engage in research and analysis in support of economic development in this State; and

(b) Must not be expended for any administrative expenses of the eligible organization.

4. The Department ***:*** ~~*[may:]*~~

(a) May:

(1) Require an eligible organization to submit such documentation as the Department determines to be necessary for the administration of this section.

~~*[(b)]*~~ ***(2) Refuse to make any further disbursements of money pursuant to this section to an eligible organization that:***

~~*[(1)]*~~ ***(I) Fails or refuses to submit any documentation as required by the Department pursuant to*** ~~*[paragraph (a);]*~~ ***subparagraph (1); or***

~~*[(2)]*~~ ***(II) Expends any money received pursuant to this section in a manner that does not comply with the requirements of subsection 3.***

(b) Shall, on or before the last day of the month immediately following each calendar quarter, submit to the Interim Finance Committee a report which:

(1) States the total amount of money disbursed pursuant to this section for each of the immediately preceding 4 calendar quarters; and

(2) Identifies each eligible organization to which any money was disbursed pursuant to this section for any of the immediately preceding 4 calendar quarters and states the total amount of money disbursed to each of those eligible organizations for each of the those calendar quarters.

5. Each eligible organization that receives any disbursement of money pursuant to this section for a calendar quarter shall, within 30 days after receiving that disbursement, submit to the Interim Finance Committee a report which:

(a) Identifies each of the employers regarding whom the disbursement was received, identifies the type of business or industry conducted by the employer, and states the number of persons employed by the employer in this State during that calendar quarter and the average weekly wages paid to those persons during that calendar quarter; and

(b) Summarizes the manner in which the eligible organization has expended or intends to expend the amount of that disbursement.

6. Any disbursement of money to an eligible organization pursuant to this section shall be deemed to constitute an appropriation of public money for the purposes of NRS 218.855.

~~*[6.]*~~ ***7. For the purposes of this section:***

(a) "Eligible organization" means a regional organization for economic development which is recognized by the Commission on Economic Development and which:

(1) Operates on a nonprofit basis;

(2) Receives funding from dues paid by the members of the organization; and

(3) Does not constitute a government, governmental agency or political subdivision of a government.

(b) "Employer" does not include any employer who is required to hold a license issued by the Nevada Gaming Commission pursuant to title 41 of NRS.

Sec. 2. NRS 363B.060 is hereby amended to read as follows:

363B.060 The Department shall:

1. Administer and enforce the provisions of this chapter, and may adopt such regulations as it deems appropriate for those purposes.

2. ~~[~~Deposit~~]~~ ***Except as otherwise provided in section 1 of this act, deposit*** all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.

Sec. 3. This act becomes effective on July 1, 2009 **~~[.]~~ , and expires by limitation on June 30, 2011.**

Assemblywoman McClain moved that the Assembly concur in the Senate amendment to Assembly Bill No. 317.

Remarks by Assemblymen McClain and Oceguera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REMARKS FROM THE FLOOR

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I would like to give some closing remarks. I am hoping we will be beginning our *sine die* ceremony shortly.

Let me begin by expressing my appreciation for the opportunity you have given me to serve as Speaker for these last two sessions. This has clearly been one of the most rewarding experiences of my life. Over the past few days we have had retrospection and tributes which have been a great opportunity to share our memories of the people who have meant so much to us. There has also been much discussion about how difficult this session has been, how difficult times are right now, and how many challenges we still face. And while I think it is important to reflect on the past, I want to take a few moments tonight to look at the future.

I look at Nevada's future with great hope and optimism. Why? Just look at this session. We were faced with a challenge never before faced by our state. We had a 44 percent decline in revenue. We had a proposed budget from the Governor with dramatic cuts to K-12 and higher education; closure of conservation camps; cuts to corrections and parole staffing levels; the closing of almost every mental health clinic; and the terminating of children and pregnant women from health insurance.

There were also items in the budget that really had little rhyme or reason to them, such as the closing of a prison to save $22 million in operating costs only to spend $220 million to build a replacement; elimination of rural mental health clinics and substitute bussing the mentally ill into urban centers; and the eliminating of auditors at the Gaming Control Board, which are the positions we need to collect the money that we use to operate our state.

But look at how we came together.

In our body, we see two women leading the Assembly—from entirely different backgrounds, philosophical approaches, and life experiences. On the Senate side, we see our venerable icon, Bill Raggio, who has to be considered one of the most significant historical figures in the legislative process. And you see a majority leader, Steven Horsford, who is the first African American leader of the Senate, and who, in his two sessions, has gained a reputation for being focused, aggressive, and determined. And there is the rest of the Legislature, from all walks of

life, everything from an inner city mortgage broker to a rancher from Eureka. And so, while our legislators are very different people, we all came together to attack unprecedented challenges facing our state. Our diversity and backgrounds, opinions, political party, and geography are exactly the reason why there are great years ahead for our state.

Despite our differences, what has united us has been our love of the state, commitment to our children, empathy for the elderly, and confidence in our state's future. Legislators of both parties, both houses, came together to not only solve the immediate challenges of a budget crisis, home foreclosures, service reduction, and lost Nevada jobs, but also to find ways to move our state forward. We paved the way for a better future by helping to create a whole new industry in renewable energy. We paved the way for new investment, a new business model, a cleaner environment, and a more self-reliant and independent Nevada. And equally importantly, we created opportunity for Nevadans to be retrained and reemployed in this dynamic industry. We looked into the future and set the course for securing and stabilizing our public employee retirement funds instead of passing the problem forward. We enacted real reform to our budget process by the creation of a forced savings account, a rainy day fund, so that we don't find ourselves in this dire situation again. We put into place real protections for those in jeopardy of losing their homes; by stemming that problem we saved home values for all.

What is next? Much has been said about the need to broaden our tax base. But we should not lose sight, also, of the need to broaden our economy by working to attract a broader base of industries to our state. I sponsored a measure that will look to try and transform our state into a transportation, warehousing, manufacturing, and assembly hub for the mountain west, which will, in turn, create good, stable jobs for our state's needs.

The keys to our future, I believe, are new ideas, balanced with traditional Nevada values and a shared optimism about the opportunities we have, even in bad times. And while I am committed to the future, I must take one opportunity to look back before I end tonight.

These last, hectic days have been bittersweet. While I am proud of everything we have accomplished, I am saddened that so many longstanding friends and colleagues will not be returning to this chamber. We will lose invaluable experience and wisdom, whether it is the cowboy sage and my friend, John Carpenter; whether it's my friend who I would pick most to be in a foxhole with me, Bernie Anderson; or the gentle giant among men, Moose Arberry; or my friend Sheila Leslie; or Give 'Em Hell Harry Mortenson; or the always poised and personable Ellen Koivisto; or the irrepressible Kathy McClain; or the remarkable Jerry Claborn; or the irascible Mark Manendo.

This will be my last session serving in the Assembly. I have been honored to represent the people in my district for these last 14 years. I have grown to understand and respect the traditions of the Assembly under the great, amazing tutelage of Assembly Speaker Joe Dini and Assembly Speaker Richard Perkins. They gave me all the opportunities I needed. One of my proudest moments of my life was taking the gavel and opening the 74th Session of the Nevada Legislature, as Speaker. This has been a difficult session and yet with the help of every member here, we have done the job we were sent here to do. We have represented the people of our districts with conviction and distinction, working in a bipartisan manner to address the fiscal crisis in this state and the myriad of other problems, large and small, that was our duty to resolve. It has been my privilege to work with you and by your side.

I thank you for your friendship and the confidence you have shown in me. I will always treasure the friendships I have made here and I have every confidence in my colleagues who I leave behind. Colleagues like my Majority Leader, John Oceguera, who I have grown so close to over the years and who I have every confidence in to lead this state; or my Assistant Majority Leader, Marcus Conklin, who I have just become fast friends with. I respect his work ethic. He is one of the hardest workers in the building. There also is my Assistant Majority Whip, Debbie Smith. She has grown so much. She is an incredible legislator. There is my other Assistant Majority Whip, William Horne, who has grown so much and excelled as a committee chair this session. There are my other committee chairs like Marilyn Kirkpatrick. What a superstar. There is Kelvin Atkinson, my good friend—watching him grow over the years has been one of my biggest joys. Bonnie Parnell has a steady hand, is smart, and is loved by all. My Ways and Means subcommittee chairs like Mo Denis—I have loved watching you step up into leadership;

you are so understated, so smart, and so right. And there are all my other colleagues, rather they are ones I recruited, mentored, learned from, or argued with.

I have learned something from every person in this body, whether I agreed with you or not. My friend John Carpenter, I learned so much from you. Put Nevada first, nothing else matters. Have the courage of your convictions and you will sleep a lot better at night. To my friends, to my colleagues, I know I leave the Assembly in good hands. I thank you for all your years of service, I thank you for all you do for the State of Nevada, and I thank you for the privilege of having you elect me to serve and to lead this body. Thank you very much.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:44 p.m.

ASSEMBLY IN SESSION

At 11:30 p.m.
Madam Speaker presiding.
Quorum present.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 35, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 624 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 20, which is attached to and hereby made a part of this report.

WILLIAM HORNE	VALERIE WIENER
BERNIE ANDERSON	DAVID PARKS
JOHN CARPENTER	MIKE MCGINNESS
Assembly Conference Committee	*Senate Conference Committee*

AN ACT relating to criminal procedure; providing that an acquittal of an offense in another jurisdiction ~~[is admissible]~~ **may be introduced** in evidence **by the defendant** in the trial in this State for the same offense; eliminating the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another country; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill amends existing law to provide that after a person is acquitted of a crime in another jurisdiction and a criminal prosecution is brought in the courts of this State for the same offense, the acquittal in the other jurisdiction ~~[is admissible]~~ **may be introduced** in evidence **by the defendant** in the prosecution in this State. (NRS 193.280)

Section 1.5 of this bill revises the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another state, territory or country by eliminating the prohibition on the prosecution of a person in this State for a crime after the

person is convicted or acquitted of the crime in another country. (NRS 171.070)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 193.280 is hereby amended to read as follows:

193.280 Whenever, upon the trial of any person for a crime, it appears that the offense was committed in another state or country, under such circumstances that the courts of this state had jurisdiction thereof, and that the defendant has already been acquitted ~~[or convicted]~~ upon the merits, upon a criminal prosecution under the laws of such state or country, founded upon the act or omission with respect to which he is upon trial, such former acquittal ~~[or conviction is a sufficient defense.]~~ ~~*[is admissible]*~~ ***may be introduced in evidence by the defendant in the trial.***

Sec. 1.5. NRS 171.070 is hereby amended to read as follows:

171.070 When an act charged as a public offense is within the jurisdiction of another state ~~[,]~~ ***or*** territory ~~*[,]*~~ ~~[or country,]~~ as well as of this state, a conviction or acquittal thereof in the former is a bar to the prosecution or indictment therefor in this state.

Sec. 2. (Deleted by amendment.)

Sec. 3. The amendatory provisions of this act do not apply to offenses committed before July 1, 2009.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 35.

Motion carried.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 182, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 947 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 25, which is attached to and hereby made a part of this report.

TICK SEGERBLOM	MICHAEL SCHNEIDER
RUBEN KIHUEN	TERRY CARE
JOHN HAMBRICK	MIKE MCGINNESS
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA25.

AN ACT relating to common-interest communities; clarifying various provisions of existing law relating to certain provisions of governing documents that violate statutory provisions, elections and the authority of an association to levy certain assessments under certain circumstances; revising certain provisions governing the authority of an association to impose fines under certain circumstances; making various other changes to the provisions governing common-interest communities; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill provides that a person who knowingly, willfully and with the intent to fraudulently alter the outcome of the election of a member to the executive board of an association or other votes of the units' owners engages in certain acts pertaining to the ballot or the casting of votes in such election is guilty of a category D felony. (NRS 116.31034) Existing law prohibits a community manager, an officer or a member of the executive board from accepting or soliciting compensation that would influence him or appear to be a conflict of interest. (NRS 116.31185) **Section 4** of this bill provides that a community manager or member of the executive board who asks for or receives compensation to influence his vote, opinion or action upon any official matter is guilty of a category D felony. **Section 4** also provides that a person who offers or gives any gratuity, compensation or reward, or makes a promise thereof, to a community manager or member of the executive board in exchange for a vote, opinion or action on any official matter is guilty of a category D felony.

Existing law requires each agency to provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of any statutory provision, agency regulation or decision of the agency, and the Department of Business and Industry, which includes the Real Estate Division, has accordingly adopted regulations for such petitions. (NRS 233B.120; NAC 232.020) However, the Real Estate Division has not adopted any regulations pertaining to such petitions. **Section 5** of this bill enacts a specific statutory provision requiring the Real Estate Division to adopt regulations pertaining to such petitions.

Existing law contains provisions concerning units or common elements of an association that are acquired by eminent domain. (NRS 116.1107) **Section 7** of this bill clarifies that existing law does not authorize an association to exercise the power of eminent domain. **Section 8** of this bill clarifies that any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of chapter 116 of NRS is superseded by the provisions of chapter 116 of NRS, regardless of whether the provision became effective before the enactment of the statutory provision being violated. (NRS 116.1206)

Section 8.5 of this bill provides that an association may not charge a fee for entry into the common-interest community against a person providing services to a unit, a unit's owner or a tenant of a unit's owner or against a visitor, guest or invitee of a unit's owner or a tenant of a unit's owner. (NRS 116.2111)

Section 9 of this bill revises existing law to limit an association's power to include certain provisions in certain contracts involving the association. (NRS 116.3102)

Existing law authorizes an executive board to impose fines under certain circumstances. (NRS 116.31031) **Section 12** of this bill limits the imposition

of fines against a unit's owner for violations of the governing documents by a tenant or an invitee of the unit's owner or the tenant.

Sections 13, 14 and 16 of this bill revise provisions relating to certain elections and meetings of an association by: (1) requiring members of the executive board to be units' owners; (2) providing that officers of an association are not required to be units' owners, unless the governing documents provide otherwise; (3) providing certain rights for candidates for election to an executive board; (4) reducing the votes necessary for removal of a member of an executive board; (5) prohibiting an association from interfering with the collection of signatures for a special meeting or removal election; and (6) providing immunity from criminal or civil liability for an association, its officers, employees and agents for the disclosure or publication of certain information pursuant to certain duties required of the association or its officers, employees and agents. **Section 14 also provides that punitive damages may not be recovered against the members of the executive board or the officers of an association for acts or omissions that occur in their capacity as members or officers.** (NRS 116.31034, 116.31036, 116.3108)

Section 15 of this bill clarifies existing law concerning the respective duties of an association and the units' owners regarding the maintenance, repair and replacement of the common elements and the units. (NRS 116.3107)

Sections 17-19 of this bill revise provisions relating to board meetings and hearings by: (1) requiring that meetings of the executive board be audio recorded and available in a certain manner; (2) requiring that certain written complaints be placed on the agenda; and (3) providing due process protections to units' owners at certain hearings. (NRS 116.31083, 116.31085, 116.31087) **Section 17** also revises existing law to allow public comments to be made at both the beginning and the end of a meeting. (NRS 116.31083)

Existing law provides that an association has the statutory obligation to: (1) fund adequately its reserves; (2) include in its annual budget a statement concerning its reserves and whether it will be necessary to impose any special assessments; and (3) review its study of the reserves on an annual basis and make any appropriate adjustments necessary to ensure that the reserves are always funded adequately. (NRS 116.3115, 116.31151, 116.31152) **Section 21** of this bill clarifies existing law by explicitly stating that notwithstanding any provision of the governing documents to the contrary, the executive board may, without seeking or obtaining the approval of units' owners, impose any necessary and reasonable assessments to establish adequate reserves. This section also provides that any such assessments imposed must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.

Section 22 of this bill authorizes the filing of a civil action to recover certain fees, administrative penalties and interest that were imposed erroneously. (NRS 116.31155)

Existing law provides that an executive board of an association must, upon written request of a unit's owner, make available certain records and papers of the association, except for certain personnel records, records of other units' owners or contracts between the association and an attorney. (NRS 116.31175) Section 23.5 of this bill removes from the exemptions for the production of records those records which pertain to a contract between the association and an attorney.

Sections 24, 26 and 28 of this bill provide certain additional rights to units' owners by: (1) increasing the scope and definition of prohibited retaliatory action; (2) authorizing the exhibition of certain political signs in certain areas; and (3) mandating notice before interruption of utility service to a unit's owner. (NRS 116.31183, 116.325, 116.345)

Section 25 of this bill expands the prohibition against certain contracts between an association and a member of the executive board or officer to include contracts involving financing. (NRS 116.31187) **Section 27** of this bill: (1) provides that existing law concerning drought tolerant landscaping must be construed broadly; and (2) clarifies the definition of "drought tolerant landscaping." (NRS 116.330) **Section 29** of this bill provides that if a community manager fails or refuses to comply with the governing documents of the association or the provisions of chapter 116 of NRS, any person or class of persons may bring a civil action for damages or other relief. (NRS 116.4117)

Section 30 of this bill increases the membership of the Commission by adding two members who are units' owners but who are not required to have served as members of an executive board. (NRS 116.600) **Section 31** of this bill revises provisions relating to the Commission's duties by providing for the use of training officers to perform certain duties. (NRS 116.605)

Section 36 of this bill clarifies that if the Commission or hearing officer orders an audit of an association, the audit is conducted at the expense of the association. (NRS 116.790)

Existing law provides that a written affidavit, supporting documentation and information compiled as the result of an investigation of an alleged violation are confidential unless and until a formal complaint is filed. (NRS 116.757, 116A.270) **Sections 33 and 37** of this bill clarify existing law to provide that such confidential information must not be disclosed to any person, including a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed.

Section 39 of this bill provides that the Commission must adopt regulations requiring an applicant for a certificate as a community manager or the applicant's employer to post a bond. **Section 39 also provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances.** (NRS 116A.410)

Section 40 of this bill revises existing law to provide that upon selection or appointment of an arbitrator, the arbitrator must provide certain information concerning the procedures of the arbitration and applicable law to each party

to the arbitration, and each party must return to the arbitrator an acknowledgment of the information provided by the arbitrator. (NRS 38.330)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. ***1. A person shall not knowingly, willfully and with the intent to fraudulently alter the true outcome of an election of a member of the executive board or any other vote of the units' owners engage in, attempt to engage in, or conspire with another person to engage in, any of the following acts:***

(a) Changing or falsifying a voter's ballot so that the ballot does not reflect the voter's true ballot.

(b) Forging or falsely signing a voter's ballot.

(c) Fraudulently casting a vote for himself or for another person that the person is not authorized to cast.

(d) Rejecting, failing to count, destroying, defacing or otherwise invalidating the valid ballot of another voter.

(e) Submitting a counterfeit ballot.

2. A person who violates this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 4. ***1. Except as otherwise provided in subsection 3, a community manager or member of the executive board who asks for or receives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his vote, opinion or action upon any matter then pending or which may be brought before him in his capacity as a community manager or member of the executive board, will be influenced thereby, is guilty of a category D felony and shall be punished as provided in NRS 193.130.***

2. Except as otherwise provided in subsection 3, a person who offers or gives, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that the vote, opinion or action of a community manager or member of the executive board upon any matter then pending or which may be brought before the community manager or member of the executive board in his capacity as a community manager or member of the executive board will be influenced thereby, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. The provisions of this section do not prohibit:

(a) An employee of a declarant or an affiliate of a declarant who is a member of an executive board from asking for or receiving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, from the declarant or affiliate.

(b) A declarant or an affiliate of a declarant whose employee is a member of an executive board from offering or giving, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, to the employee who is a member of the executive board.

(c) A community manager from asking for or receiving, directly or indirectly, or an employer of a community manager from offering or giving, directly or indirectly, any compensation for work performed by the community manager pursuant to the laws of this State.

Sec. 5. ***1. The Division shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability or interpretation of:***

(a) Any provision of this chapter or chapter 116A or 116B of NRS;

(b) Any regulation adopted by the Commission, the Administrator or the Division; or

(c) Any decision of the Commission, the Administrator or the Division or any of its sections.

2. Declaratory orders disposing of petitions filed pursuant to this section have the same status as agency decisions.

3. A petition filed pursuant to this section must:

(a) Set forth the name and address of the petitioner; and

(b) Contain a clear and concise statement of the issues to be decided by the Division in its declaratory order or advisory opinion.

4. A petition filed pursuant to this section is submitted for consideration by the Division when it is filed with the Administrator.

5. The Division shall:

(a) Respond to a petition filed pursuant to this section within 60 days after the date on which the petition is submitted for consideration; and

(b) Upon issuing its declaratory order or advisory opinion, mail a copy of the declaratory order or advisory opinion to the petitioner.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 116.1107 is hereby amended to read as follows:

116.1107 1. If a unit is acquired by eminent domain or part of a unit is acquired by eminent domain leaving the unit's owner with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award must include compensation to the unit's owner for that unit and its allocated interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

2. Except as otherwise provided in subsection 1, if part of a unit is acquired by eminent domain, the award must compensate the unit's owner

for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides:

(a) That unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration; and

(b) The portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.

3. If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.

4. The judicial decree must be recorded in every county in which any portion of the common-interest community is located.

5. The provisions of this section do not authorize an association to exercise the power of eminent domain pursuant to chapter 37 of NRS, and an association may not exercise the power of eminent domain, as provided in NRS 37.0097.

Sec. 8. NRS 116.1206 is hereby amended to read as follows:

116.1206 1. Any provision contained in a declaration, bylaw or other governing document of a common-interest community that violates the provisions of this chapter ~~[shall]~~ ***:***

(a) Shall be deemed to conform with those provisions by operation of law, and any such declaration, bylaw or other governing document is not required to be amended to conform to those provisions.

(b) Is superseded by the provisions of this chapter, regardless of whether the provision contained in the declaration, bylaw or other governing document became effective before the enactment of the provision of this chapter that is being violated.

2. In the case of amendments to the declaration, bylaws or plats and plans of any common-interest community created before January 1, 1992:

(a) If the result accomplished by the amendment was permitted by law before January 1, 1992, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(b) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law before January 1, 1992, the amendment may be made under this chapter.

3. An amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity

with the applicable provisions of chapter 117 or 278A of NRS and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

Sec. 8.5. NRS 116.2111 is hereby amended to read as follows:

116.2111 1. Except as otherwise provided in this section and subject to the provisions of the declaration and other provisions of law, a unit's owner:

(a) May make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community;

(b) May not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the common-interest community, without permission of the association; and

(c) After acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common-interest community. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

2. An association may not:

(a) Unreasonably restrict, prohibit or otherwise impede the lawful rights of a unit's owner to have reasonable access to his unit.

(b) ***Charge any fee for a person to enter the common-interest community to provide services to a unit, a unit's owner or a tenant of a unit's owner or for any visitor to the common-interest community or invitee of a unit's owner or a tenant of a unit's owner to enter the common-interest community.***

(c) Unreasonably restrict, prohibit or withhold approval for a unit's owner to add to a unit:

(1) Improvements such as ramps, railings or elevators that are necessary to improve access to the unit for any occupant of the unit who has a disability;

(2) Additional locks to improve the security of the unit;

(3) Shutters to improve the security of the unit or to reduce the costs of energy for the unit; or

(4) A system that uses wind energy to reduce the costs of energy for the unit if the boundaries of the unit encompass 2 acres or more within the common-interest community.

~~[(c)]~~ ***(d)*** With regard to approving or disapproving any improvement or alteration made to a unit, act in violation of any state or federal law.

3. Any improvement or alteration made pursuant to subsection 2 that is visible from any other portion of the common-interest community must be installed, constructed or added in accordance with the procedures set forth in

the governing documents of the association and must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

4. A unit's owner may not add to the unit a system that uses wind energy as described in subparagraph 4 of paragraph ~~[(b)]~~ ***(c)*** of subsection 2 unless he first obtains the written consent of each owner of property within 300 feet of any boundary of the unit.

Sec. 9. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities. ***Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.***

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or ~~[guest]~~ ***an invitee*** of a unit's owner ***or a tenant*** violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or ~~[guest]~~ ***the invitee*** of the unit's owner ***or the tenant*** from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or ~~[guest]~~ ***the invitee*** of the unit's owner ***or the tenant*** from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or ~~[guest]~~ ***the invitee*** of the unit's owner ***or the tenant*** for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. ***The executive board may not impose a fine pursuant to subsection 1 against a unit's owner for a violation of any provision of the governing documents of an association committed by an invitee of the unit's owner or the tenant unless the unit's owner:***

(a) Participated in or authorized the violation;

(b) Had prior notice of the violation; or

(c) Had an opportunity to stop the violation and failed to do so.

3. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

~~[3.]~~ ***4.*** The executive board must schedule the date, time and location for the hearing on the violation so that the person against whom the fine will be

imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

~~[4.]~~ ***5.*** The executive board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed:

(a) Pays the fine;

(b) Executes a written waiver of the right to the hearing; or

(c) Fails to appear at the hearing after being provided with proper notice of the hearing.

~~[5.]~~ ***6.*** If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

~~[6.]~~ ***7.*** If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

~~[7.]~~ ***8.*** The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~[8.]~~ ***9.*** Any past due fine:

(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.

(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the residents of the common-interest community, the rate established by the association for the costs of collecting the past due fine:

(1) May not exceed $20, if the outstanding balance is less than $200.

(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.

(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.

(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.

(5) May not exceed $500, if the outstanding balance is $5,000 or more.

(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~[9.]~~ ***10.*** As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.

(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.

Sec. 12.5. NRS 116.310315 is hereby amended to read as follows:

116.310315 If an association has imposed a fine against a unit's owner or a tenant or ~~[guest]~~ ***an invitee*** of a unit's owner ***or a tenant*** pursuant to NRS 116.31031 for violations of the governing documents of the association, the association:

1. Shall, in the books and records of the association, account for the fine separately from any assessment, fee or other charge; and

2. Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.

Sec. 13. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, ~~[at least a majority]~~ ***all*** of whom must be units' owners. ~~[Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners.]~~ The executive board shall elect the officers of the association. ***Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners.*** The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in

the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. ***An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in his campaign for election as a member of the executive board, except that his campaign may be limited to 90 days before the date that ballots are required to be returned to the association. A candidate may request that the secretary or other officer specified in the bylaws of the association send, 30 days before the date of the election and at the association's expense, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner a candidate informational statement. The candidate informational statement:***

(a) Must be no longer than a single, typed page;

(b) Must not contain any defamatory, libelous or profane information; and

(c) May be sent with the secret ballot mailed pursuant to subsection 8 or in a separate mailing.

➥ The association and its directors, officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any

person and which occurs in the course of carrying out any duties required pursuant to this subsection.

10. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 14. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section ~~[the]~~ ***:***

(a) The number of votes cast ~~[in favor of removal]~~ constitutes ~~[:~~

~~(a) At]~~ ***at*** least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election ~~[.]~~ ***are cast in favor of removal.***

2. The removal of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against ~~[the]~~ **:**

(a) The association ~~*[.]*~~ ~~[, but may be recovered from persons whose activity gave rise to the damages.]~~ **;**

(b) The members of the executive board for acts or omissions that occur in their official capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 15. NRS 116.3107 is hereby amended to read as follows:

116.3107 1. Except to the extent provided by the declaration, subsection 2 and NRS 116.31135, the association ~~[is responsible]~~ ***has the duty to provide*** for ***the*** maintenance, repair and replacement of the common elements, and each unit's owner ~~[is responsible]~~ ***has the duty to provide*** for ***the*** maintenance, repair and replacement of his unit. Each unit's owner shall afford to the association and the other units' owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on any unit through which access is taken, the unit's owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.

2. In addition to the liability that a declarant as a unit's owner has under this chapter, the declarant alone is liable for all expenses in connection with real estate subject to developmental rights. No other unit's owner and no other portion of the common-interest community is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to developmental rights inures to the declarant.

3. In a planned community, if all developmental rights have expired with respect to any real estate, the declarant remains liable for all expenses of that real estate unless, upon expiration, the declaration provides that the real estate becomes common elements or units.

Sec. 16. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners

have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

➥ ***The association shall not adopt any rule or regulation which prevents or unreasonably interferes with the collection of the required percentage of signatures for a petition pursuant to this subsection.***

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the

executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 17. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every 90 days.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be

conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the ***audio recording, the*** minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. ~~[The]~~ ***A*** period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for ***both*** the beginning ***and the end*** of each meeting. ***During the period devoted to comments by the units' owners and discussion of those comments at the beginning of each meeting, comments by the units' owners and discussion of those comments must be limited to items listed on the agenda.*** In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause ***each meeting of the executive board to be audio recorded and the*** minutes to be recorded or otherwise taken at each meeting of the executive board ~~[.]~~ ***, but if the executive board is meeting in executive session, the meeting must not be audio recorded.*** Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the ***audio recording of the meeting, the*** minutes ~~[or]~~ ***of the meeting and*** a summary of the minutes of the ~~[meetings]~~ ***meeting*** to be made available to the units' owners. A copy of the ***audio recording, the*** minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 18. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract **.** ~~[,~~ ~~unless it is a contract between the association and an attorney.]~~

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115,

inclusive **.** ~~[, or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.]~~

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; ~~[and]~~

(b) ***Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and***

(c) Is not entitled to attend the deliberations of the executive board.

5. ***The provisions of subsection 4 establish the minimum protections that the executive board must provide before it may make a decision. The provisions of subsection 4 do not preempt any provisions of the governing documents that provide greater protections.***

6. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to his designated representative.

~~[6.]~~ ***7.*** Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 19. NRS 116.31087 is hereby amended to read as follows:

116.31087 1. If an executive board receives a written complaint from a unit's owner alleging that the executive board has violated any provision of this chapter or any provision of the governing documents of the association, the executive board shall ~~[, if action is required by the executive board,]~~ **,**

upon the written request of the unit's owner, place the subject of the complaint on the agenda of the next regularly scheduled meeting of the executive board.

2. Not later than 10 business days after the date that the association receives such a complaint, the executive board or an authorized representative of the association shall acknowledge the receipt of the complaint and notify the unit's owner that, if ~~[action is required by the executive board,]~~ ***the unit's owner submits a written request that the subject of the complaint be placed on the agenda of the next regularly scheduled meeting of the executive board,*** the subject of the complaint will be placed on the agenda of the next regularly scheduled meeting of the executive board.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary. ***Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.***

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 22. NRS 116.31155 is hereby amended to read as follows:

116.31155 1. Except as otherwise provided in subsection 2, an association shall:

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193, 86.263, 87.541, 87A.560 or 88.591, pay to the Administrator a fee established by regulation of the Administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, or as any other authorized business entity, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

2. If an association is subject to the governing documents of a master association, the master association shall pay the fees required pursuant to this section for each unit in the association that is subject to the governing documents of the master association, unless the governing documents of the master association provide otherwise. The provisions of this subsection do not relieve any association that is subject to the governing documents of a master association from its ultimate responsibility to pay the fees required

pursuant to this section to the Administrator if they are not paid by the master association.

3. The fees required to be paid pursuant to this section must be:

(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed $3 per unit.

4. The Division shall impose an administrative penalty against an association or master association that violates the provisions of this section by failing to pay the fees owed by the association or master association within the times established by the Division. The administrative penalty that is imposed for each violation must equal 10 percent of the amount of the fees owed by the association or master association or $500, whichever amount is less. The amount of the unpaid fees owed by the association or master association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.

5. A unit's owner may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to both an association and a master association.

6. An association that is subject to the governing documents of a master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by the master association.

7. A master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by an association that is subject to the governing documents of the master association.

8. Upon the payment of the fees and any administrative penalties and interest required by this section, the Administrator shall provide to the association or master association evidence that it paid the fees and the administrative penalties and interest in compliance with this section.

9. Any person, association or master association which has been requested or required to pay any fees, administrative penalties or interest pursuant to this section and which believes that such fees, administrative penalties or interest has been imposed in error may, without exhausting any available administrative remedies, bring an action in a court of competent jurisdiction to recover:

(a) Any amount paid in error for any fees, administrative penalties or interest during the immediately preceding 3 years;

(b) Interest on the amount paid in error at the rate set forth in NRS 99.040; and

(c) Reasonable costs and attorney's fees.

Sec. 23. (Deleted by amendment.)

Sec. 23.5. **NRS 116.31175 is hereby amended to read as follows:**

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees; ***and***

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2**. [**~~; and~~

~~(c) A contract between the association and an attorney.~~**]**

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

Sec. 24. NRS 116.31183 is hereby amended to read as follows:

116.31183 An executive board, a member of an executive board ***, a community manager*** or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

1. Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association;

2. Recommended the selection or replacement of an attorney, community manager or vendor; or

~~[2.]~~ ***3.*** Requested in good faith to review the books, records or other papers of the association.

Sec. 25. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide ***financing,*** goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing ***financing,*** goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any ***financing,*** goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 26. NRS 116.325 is hereby amended to read as follows:

116.325 1. The executive board shall not and the governing documents must not prohibit a unit's owner or an occupant of a unit from exhibiting ~~[a political sign]~~ ***one or more political signs*** within such physical portion of the common-interest community as that owner or occupant has a right to occupy and use exclusively ~~[if the political sign is]~~ ***, subject to the following conditions:***

(a) All political signs exhibited must not ***be*** larger than 24 inches by 36 inches.

(b) If the unit is occupied by a tenant, the unit's owner may not exhibit any political sign unless the tenant consents, in writing, to the exhibition of the political sign.

(c) All political signs exhibited are subject to any applicable provisions of law governing the posting of political signs.

(d) A unit's owner or an occupant of a unit may exhibit as many political signs as desired, but may not exhibit more than one political sign for each candidate, political party or ballot question.

2. The provisions of this section establish the minimum rights of a unit's owner or an occupant of a unit to exhibit ~~[a]~~ political ~~[sign.]~~ ***signs.*** The provisions of this section do not preempt any provisions of the governing documents that provide greater rights and do not require the governing documents or the executive board to impose any restrictions on the exhibition of political signs other than those established by other provisions of law.

3. As used in this section, "political sign" means a sign that expresses support for or opposition to a candidate, political party or ballot question ~~[.]~~ ***in any federal, state or local election or any election of an association.***

Sec. 27. NRS 116.330 is hereby amended to read as follows:

116.330 1. The executive board shall not and the governing documents must not prohibit a unit's owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, ***including, without limitation, the front yard or back yard of the unit's owner,*** except that:

(a) Before installing drought tolerant landscaping, the unit's owner must submit a detailed description or plans for the drought tolerant landscaping for architectural review and approval in accordance with the procedures, if any, set forth in the governing documents of the association; and

(b) The drought tolerant landscaping must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.

➥ ***The provisions of this subsection must be construed liberally in favor of effectuating the purpose of encouraging the use of drought tolerant landscaping, and the executive board shall not and the governing documents must not unreasonably deny or withhold approval for the installation of drought tolerant landscaping or unreasonably determine that the drought tolerant landscaping is not compatible with the style of the common-interest community.***

2. Installation of drought tolerant landscaping within any common element or conversion of traditional landscaping or cultivated vegetation, such as turf grass, to drought tolerant landscaping within any common element shall not be deemed to be a change of use of the common element unless:

(a) The common element has been designated as a park, open play space or golf course on a recorded plat map; or

(b) The traditional landscaping or cultivated vegetation is required by a governing body under the terms of any applicable zoning ordinance, permit or approval or as a condition of approval of any final subdivision map.

3. As used in this section, "drought tolerant landscaping" means landscaping which conserves water, protects the environment and is adaptable to local conditions. ***The term includes, without limitation, the use of mulches such as decorative rock and artificial turf.***

Sec. 28. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. ***An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association shall in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.***

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other

requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 29. NRS 116.4117 is hereby amended to read as follows:

116.4117 1. ~~[If]~~ ***Subject to the requirements set forth in subsection 2, if*** a declarant ***, community manager*** or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply ~~[has a claim]~~ ***may bring a civil action*** for ***damages or other*** appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages ~~[caused by]~~ ***or other appropriate relief for*** a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

(1) A declarant; ~~[or]~~

(2) ***A community manager; or***

(3) A unit's owner.

(b) By a unit's owner against:

(1) The association;

(2) A declarant; or

(3) Another unit's owner of the association.

(c) By a class of units' owners constituting at least 10 percent of the total number of voting members of the association against a community manager.

3. ~~[Punitive]~~ ***Except as otherwise provided in NRS 116.31036, punitive*** damages may be awarded for a willful and material failure to comply with ***any provision of*** this chapter if the failure is established by clear and convincing evidence.

4. The court may award reasonable attorney's fees to the prevailing party.

5. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

Sec. 30. NRS 116.600 is hereby amended to read as follows:

116.600 1. The Commission for Common-Interest Communities and Condominium Hotels is hereby created.

2. The Commission consists of ~~[five]~~ ***seven*** members appointed by the Governor. The Governor shall appoint to the Commission:

(a) One member who is a unit's owner residing in this State and who has served as a member of an executive board in this State;

(b) ***Two members who are units' owners residing in this State but who are not required to have served as members of an executive board;***

(c) One member who is in the business of developing common-interest communities in this State;

~~[(c)]~~ ***(d)*** One member who holds a certificate;

~~[(d)]~~ ***(e)*** One member who is a certified public accountant licensed to practice in this State pursuant to the provisions of chapter 628 of NRS; and

~~[(e)]~~ ***(f)*** One member who is an attorney licensed to practice in this State.

3. Each member of the Commission must be a resident of this State. At least ~~[three]~~ ***four*** members of the Commission must be residents of a county whose population is 400,000 or more.

4. Each member of the Commission must have resided in a common-interest community or have been actively engaged in a business or profession related to common-interest communities for not less than 3 years immediately preceding the date of his appointment.

5. After the initial terms, each member of the Commission serves a term of 3 years. Each member may serve not more than two consecutive full terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace the member for the remainder of the unexpired term.

6. While engaged in the business of the Commission, each member is entitled to receive:

(a) A salary of not more than $80 per day, as established by the Commission; and

(b) The per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 31. NRS 116.605 is hereby amended to read as follows:

116.605 1. The Division shall ***employ one or more training officers who are qualified by training and experience to*** provide ~~[or arrange to have provided]~~ to each member of the Commission courses of instruction concerning rules of procedure and substantive law appropriate for members of the Commission. ***Such courses of instruction may be made available to the staff of the Division as well as to community managers.***

2. ***The training officer shall:***

(a) Prepare and make available a manual containing the policies and procedures to be followed by executive boards and community managers; and

(b) Perform any other duties as directed by the Division.

3. Each member of the Commission must attend the courses of instruction ***described in subsection 1*** not later than 6 months after the date that the member is first appointed to the Commission.

Sec. 32. NRS 116.675 is hereby amended to read as follows:

116.675 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. ***An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.***

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

Sec. 33. NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section and NRS 239.0115, a written affidavit filed with the Division pursuant to NRS 116.760, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential. ***The Division shall not disclose any information that is confidential pursuant to this subsection, in whole or in part, to any person, including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 2 and the disclosure is required pursuant to subsection 2.***

2. A formal complaint filed ***by the Administrator*** with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, are public records.

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. NRS 116.790 is hereby amended to read as follows:

116.790 1. If the Commission or a hearing panel, after notice and hearing, finds that the executive board or any person acting on behalf of the association has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

(a) Order an audit of the association ~~[.]~~ ***, at the expense of the association.***

(b) Require the executive board to hire a community manager who holds a certificate.

2. The Commission, or the Division with the approval of the Commission, may apply to a court of competent jurisdiction for the appointment of a receiver for an association if, after notice and a hearing, the Commission or a hearing officer finds that any of the following violations occurred:

(a) The executive board, or any member thereof, has been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(b) The executive board, or any member thereof, has been guilty of misfeasance, malfeasance or nonfeasance; or

(c) The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.

3. In any application for the appointment of a receiver pursuant to this section, notice of a temporary appointment of a receiver may be given to the association alone, by process as in the case of an application for a temporary restraining order or injunction. The hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.

4. The court may, if good cause exists, appoint one or more receivers pursuant to this section to carry out the business of the association. The members of the executive board who have not been guilty of negligence or active breach of duty must be preferred in making the appointment.

5. The powers of any receiver appointed pursuant to this section may be continued as long as the court deems necessary and proper. At any time, for sufficient cause, the court may order the receivership terminated.

6. Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether or not the association is insolvent. Such powers include, without limitation, the powers to:

(a) Take charge of the estate and effects of the association;

(b) Appoint an agent or agents;

(c) Collect any debts and property due and belonging to the association and prosecute and defend, in the name of the association, or otherwise, any civil action as may be necessary or proper for the purposes of collecting debts and property;

(d) Perform any other act in accordance with the governing documents of the association and this chapter that may be necessary for the association to carry out its obligations; and

(e) By injunction, restrain the association from exercising any of its powers or doing business in any way except by and through a receiver appointed by the court.

Sec. 37. NRS 116A.270 is hereby amended to read as follows:

116A.270 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division alleging a violation of this chapter or chapter 116 or 116B of NRS, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential **.** ~~[and may be disclosed]~~

2. The Division shall not disclose any information that is confidential pursuant to subsection 1, in whole or in part ~~[only]~~ ***, to any person,***

including, without limitation, a person who is the subject of an investigation or complaint, unless and until a formal complaint is filed pursuant to subsection 3 and the disclosure is required pursuant to subsection 3, except that the Division may disclose the information described in subsection 1 as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate or permit issued pursuant to this chapter.

~~[2.]~~ ***3.*** The ***formal*** complaint or other charging documents filed ***by the Administrator*** with the Commission to initiate disciplinary action and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline are public records.

Sec. 38. NRS 116A.300 is hereby amended to read as follows:

116A.300 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers. ***An independent hearing officer may be, without limitation, a member of the Commission or an employee of the Commission.***

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

Sec. 39. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. ***The regulations must include, without limitation, provisions that:***

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association or its agent; and

(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-subparagraph (I). The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association, or its agent, which offered him employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter or chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

(b) ***Must require an applicant or the employer of the applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control. In adopting the regulations establishing the form and sliding scale for the amount of a bond required to be posted pursuant to this paragraph, the Commission shall consider the availability and cost of such bonds.***

(c) May require applicants to pass an examination in order to obtain a certificate ~~[.]~~ ***other than a temporary certificate described in paragraph (a).*** If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

~~[(c)]~~ ***(d)*** May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~[(d)]~~ ***(e)*** Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~[(e)]~~ ***(f)*** Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

Sec. 40. NRS 38.330 is hereby amended to read as follows:

38.330 1. If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the Division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the Division shall appoint a mediator from the list of mediators maintained by the Division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.

2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from the list of arbitrators maintained by the

Division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the Division shall appoint an arbitrator from the list maintained by the Division. Any arbitrator appointed must be available within the geographic area. Upon appointing an arbitrator, the Division shall provide the name of the arbitrator to each party. ***An arbitrator shall, not later than 5 days after his selection or appointment pursuant to this subsection, provide to the parties an informational statement relating to the arbitration of a claim pursuant to this section. The written informational statement:***

(a) Must be written in plain English;

(b) Must explain the procedures and applicable law relating to the arbitration of a claim conducted pursuant to this section, including, without limitation, the procedures, timelines and applicable law relating to confirmation of an award pursuant to NRS 38.239, vacation of an award pursuant to NRS 38.241, judgment on an award pursuant to NRS 38.243, and any applicable statute or court rule governing the award of attorney's fees or costs to any party; and

(c) Must be accompanied by a separate form acknowledging that the party has received and read the informational statement, which must be returned to the arbitrator by the party not later than 10 days after receipt of the informational statement.

3. The Division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the Account for Common-Interest Communities and Condominium Hotels created by NRS 116.630, to the extent that:

(a) The Commission for Common-Interest Communities and Condominium Hotels approves the payment; and

(b) There is money available in the account for this purpose.

4. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of NRS 38.231, 38.232, 38.233, 38.236 to 38.239, inclusive, 38.242 and 38.243. At any time during the arbitration of a claim relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association, the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

5. If all the parties have agreed to nonbinding arbitration, any party to the ***nonbinding*** arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the

provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within that period, any party to the arbitration may, within 1 year after the service of the award, apply to the proper court for a confirmation of the award pursuant to NRS 38.239.

6. If all the parties agree in writing to binding arbitration, the arbitration must be conducted in accordance with the provisions of this chapter. An award procured pursuant to such ***binding*** arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of NRS 38.241.

7. If, after the conclusion of ***binding*** arbitration, a party:

(a) Applies to have an award vacated and a rehearing granted pursuant to NRS 38.241; or

(b) Commences a civil action based upon any claim which was the subject of arbitration,

➥ the party shall, if he fails to obtain a more favorable award or judgment than that which was obtained in the initial ***binding*** arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

8. Upon request by a party, the Division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.

9. As used in this section, "geographic area" means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.

Sec. 41. The Governor shall appoint to the Commission for Common-Interest Communities and Condominium Hotels pursuant to NRS 116.600, as amended by section 30 of this act:

1. One member who is a unit's owner residing in this State whose term begins on October 1, 2009, and expires on October 1, 2010; and

2. One member who is a unit's owner residing in this State whose term begins on October 1, 2009, and expires on October 1, 2011.

Sec. 42. The manual described in subsection 2 of NRS 116.605, as amended by section 31 of this act, must be prepared and made available by October 1, 2010.

Sec. 43. **1. This section becomes effective upon passage and approval.**

2. Section 39 of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2010, for all other purposes.

3. Sections 1 to 38, inclusive, 40, 41 and 42 of this act become effective on October 1, 2009.

Assemblyman Segerblom moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 182.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 397, Amendment No. 791, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 451, Amendment No. 990, and respectfully requests your honorable body to concur in said amendment.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 397.

The following Senate amendment was read:

Amendment No. 791.

AN ACT relating to community redevelopment; authorizing redevelopment agencies to expend money, subject to certain limitations, to improve schools located within certain cities or counties; requiring redevelopment agencies to file certain reports with the Director of the Legislative Counsel Bureau and with their respective governing bodies; **making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the legislative body of a community, having recognized the need for a redevelopment agency to function in the community, to establish a redevelopment revolving fund. (NRS 279.386, 279.396, 279.410, 279.620) Existing law also specifies the manner in which, and the permissible purposes for which, money may be expended from the redevelopment revolving fund. (NRS 279.628) **[**~~This~~**]** **Section 4 of this** bill expands the permissible purposes for which money may be expended from a redevelopment revolving fund to include use by a redevelopment agency for the improvement, with certain limitations, of schools in a city or county with a redevelopment area within its boundaries. **Sections 1 and 5** of this bill require a redevelopment agency to submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature and to the legislative body of the community a report when the agency has established a new redevelopment area and annual reports thereafter containing certain information relating to the redevelopment area.

Section 6 of this bill makes an appropriation of $15,000 to the Audit Division of the Legislative Counsel Bureau to conduct an audit of the use of property tax revenues received by redevelopment agencies.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the report required pursuant to the provisions of subsection 2, and subject to the provisions of subsection 3, for each redevelopment area for which a redevelopment plan is adopted pursuant to the provisions of NRS 279.586 after the effective date of this act, on or before the January 1 next after the adoption of the plan, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:

(a) A legal description of the boundaries of the redevelopment area;

(b) The date on which the redevelopment plan for the redevelopment area was adopted;

(c) The scheduled termination date of the redevelopment plan;

(d) The total sum of the assessed value of the taxable property in the redevelopment area for:

(1) The fiscal year immediately preceding the adoption of the redevelopment plan; and

(2) The fiscal year during which the redevelopment plan was adopted, if such fiscal year ends before the reporting deadline;

(e) The combined overlapping tax rate of the redevelopment area;

(f) The property tax rate of the redevelopment area;

(g) The property tax revenue expected to be received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area during the first fiscal year that the agency will receive an allocation pursuant to the provisions of NRS 279.676;

(h) Copies of any memoranda of understanding that the agency enters into during the fiscal year in which the redevelopment plan was adopted; and

(i) The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

2. On or before January 1 of each year, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area for the previous fiscal year:

(a) The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area;

(b) The combined overlapping tax rate of the redevelopment area;

(c) The property tax rate of the redevelopment area;

(d) The total sum of the assessed value of the taxable property in the redevelopment area;

(e) If the amount reported pursuant to the provisions of paragraph (d) is less than the amount reported pursuant to the provisions of paragraph (d) for any other previous fiscal year, an explanation of the reason for the difference;

(f) Copies of any memoranda of understanding that the agency enters into;

(g) The amortization schedule for any debt incurred for the redevelopment area, and the reasons for incurring the debt; and

(h) Any change to the boundary of the redevelopment area and an explanation of the reason for the change.

3. Any report for a redevelopment area submitted pursuant to the provisions of subsection 1 must be submitted with the report for the redevelopment area submitted pursuant to the provisions of subsection 2.

Sec. 2. NRS 279.382 is hereby amended to read as follows:

279.382 The provisions contained in NRS 279.382 to 279.685, inclusive, ***and section 1 of this act,*** may be cited as the Community Redevelopment Law.

Sec. 3. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. NRS 279.628 is hereby amended to read as follows:

279.628 1. By resolution of the legislative body adopted by a majority vote any money in the redevelopment revolving fund may be expended from time to time for:

(a) The acquisition of real property in any redevelopment area.

(b) The clearance, aiding in relocation of occupants of the site and preparation of any redevelopment area for redevelopment.

2. By resolution of the legislative body adopted by a two-thirds vote, any money in the redevelopment revolving fund may be paid to the agency, upon such terms and conditions as the legislative body may prescribe for any of the following purposes:

(a) Deposit in a trust fund to be expended for the acquisition of real property in any redevelopment area.

(b) The clearance of any redevelopment area for redevelopment.

(c) Any expenses necessary or incidental to the carrying out of a redevelopment plan which has been adopted by the legislative body.

(d) Subject to the provisions of subsection 3, to be used by the agency for the improvement of schools in the community.

3. Money paid to the agency pursuant to paragraph (d) of subsection 2 may only be in the form of grants and may not be used for any regular expenses of a school.

Sec. 5. On or before January 1, 2010, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:

1. A legal description of the boundaries of the redevelopment area;

2. The date on which the redevelopment plan for the redevelopment area was adopted;

3. The scheduled termination date of the redevelopment plan;

4. The total sum of the assessed value of the taxable property in the redevelopment area for:

(a) The fiscal year immediately preceding the adoption of the redevelopment plan; and

(b) The fiscal year during which the redevelopment plan was adopted;

5. The combined overlapping tax rate of the redevelopment area;

6. The property tax rate of the redevelopment area;

7. The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area for the fiscal year ending June 30, 2009;

8. Copies of any memoranda of understanding that the agency enters into during the fiscal year ending June 30, 2009; and

9. The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

~~*Sec. 6.*~~ **1. There is hereby appropriated from the State General Fund to the Audit Division of the Legislative Counsel Bureau the sum of $15,000 for an audit of the use of property tax revenues received by redevelopment agencies.**

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

~~**[Sec. 6.]**~~ ~~*Sec. 7.*~~ This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 397.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 451.

The following Senate amendment was read:

Amendment No. 990.

SUMMARY—Establishes a program for the ~~[issuance of state obligations to provide venture capital]~~ **investment of state money in certificates of deposit at a reduced rate to provide lending institutions with money for reduced-rate loans** to certain ~~[minority-owned]~~ **small** businesses in this State. (BDR 31-613)

AN ACT relating to state obligations; establishing a program for the investment of state money in certificates of deposit at a reduced rate to provide lending institutions with money for reduced-rate loans to certain ~~[minority-owned and other]~~ small businesses in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows the State Treasurer to invest the money of this State in negotiable certificates of deposit issued by commercial banks, insured credit unions or insured savings and loan associations. (NRS 355.140) Section 15 of this bill requires the State Treasurer to establish a Linked Deposit Program whereby the State, in an aggregate amount not to exceed $20,000,000, invests in certificates of deposit with commercial banks, insured credit unions or insured savings and loan associations at a reduced rate of interest on the condition that the lending institution link the value of each certificate of deposit to a reduced-rate loan to certain types of small businesses. Section 15 also provides that the rate of interest paid to the State on the deposit is to be not more than 2 percentage points below the market rate for such a deposit, and the loan rate is to be reduced not more than 2 percentage points below the market rate for such a loan. Further, section 15 requires a lending institution to sign an agreement with the State Treasurer as to the terms of such a deposit and its linked loan.

Section 17 of this bill requires a lending institution that participates in the Linked Deposit Program to apply all the usual lending standards to determine the creditworthiness of a small business seeking a loan and further requires that a preference be given to certain small businesses that **: (1)** are owned by a member of a racial or ethnic minority, a woman or an honorably discharged veteran of the Armed Forces of the United States ~~[.]~~ **; or (2) engage in the production and sale of fuel or power from an energy source other than a fossil fuel.** Section 19 of this bill limits such loans to not more than $500,000 and to a term of not longer than 10 years. Section 18 of this bill limits the types of businesses that are eligible to participate in the Linked Deposit Program.

Section 21 of this bill prohibits the State Treasurer from making any new investments through the Linked Deposit Program after June 30, 2011.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. Chapter 355 of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 20, inclusive, of this act.

Sec. 13. ***The Legislature hereby declares that the public policy of this State is to benefit the general welfare of the people of this State by improving the state economy through the encouragement of reduced-rate lending to minority-owned and certain other small businesses.***

Sec. 14. ***As used in sections 13 to 20, inclusive, of this act, unless the context otherwise requires:***

1. "Eligible small business" means a business that meets the requirements of section 18 of this act.

2. "Linked deposit" means a certificate of deposit issued pursuant to sections 15 to 20, inclusive, of this act to the State Treasurer by a qualified lending institution at an interest rate not more than 2 percent below the current market rate on the condition that the institution agrees to lend the value of the deposit, according to a deposit agreement made pursuant to section 15 of this act, to an eligible small business at a rate that is at least 2 percent lower than the current market rate for such a loan.

3. "Qualified lending institution" means a commercial bank, a savings and loan association or an insured credit union in this State that meets the eligibility requirements of section 16 of this act.

Sec. 15. ***1. The State Treasurer shall establish a Linked Deposit Program to increase the availability of reduced-rate loans to certain small businesses owned and operated in this State.***

2. The State Treasurer may invest in reduced-rate certificates of deposit with qualified lending institutions upon acceptance of a loan package pursuant to this section and section 17 of this act. Each certificate of deposit issued pursuant to this section by a qualified lending institution to the State Treasurer must be linked to a reduced-rate loan made by the qualified lending institution to an eligible small business.

3. The total amount invested in linked deposits by the State Treasurer at any one time may not exceed, in the aggregate, $20,000,000.

4. The State Treasurer may accept or reject a linked deposit loan package presented by a qualified lending institution.

5. Upon acceptance of a linked deposit loan package from a qualified lending institution:

(a) The State Treasurer may place a linked deposit with the lending institution at a rate that is not more than 2 percentage points below the market rate for such a deposit at that lending institution. The State Treasurer shall determine and calculate all linked deposit rates.

(b) The qualified lending institution shall enter into a deposit agreement with the State Treasurer, which must include requirements necessary to carry out the purposes of sections 13 to 20, inclusive, of this act. The deposit agreement must specify, without limitation:

(1) The rate of interest to be paid on the deposit;

(2) The rate of interest to be charged for the loan linked to the deposit;

(3) That the qualified lending institution:

(I) Shall loan an amount equal to the amount of the deposit to an eligible small business at a rate that is reduced from the current market rate for such a loan in the same amount as the reduction in rate received from the State Treasurer for the linked deposit;

(II) Shall verify that the small business is eligible for such a loan;

(III) Shall collect and supply the State Treasurer with any information requested as to the loan and the eligible small business; and

(IV) Shall notify the State Treasurer immediately if the eligible small business becomes ineligible for the Linked Deposit Program during the term of the loan; and

(4) That the rate of interest to be paid on the deposit will revert to the current market rate at the time the eligible small business becomes ineligible for the Linked Deposit Program.

6. The State Treasurer shall compile and maintain on his Internet website a list of small businesses that have received loans from the Linked Deposit Program. The list must include, without limitation, for each business listed:

(a) The name of the business;

(b) The type of business;

(c) The location of the business;

(d) The amount and term of the linked deposit loan; and

(e) The name and location of the qualified lending institution that made the loan.

Sec. 16. ***1.*** ~~*[The State Board of Finance shall qualify a lending institution for participation in the Linked Deposit Program established by the State Treasurer pursuant to section 15 of this act.*~~

~~*2.]*~~ ***To qualify for participation in the Linked Deposit Program, a lending institution must:***

(a) Be a commercial bank organized under chapter 659 of NRS, an insured savings and loan association organized under chapter 673 of NRS or an insured credit union organized under chapter 678 of NRS;

(b) Agree to actively advertise to and inform small businesses of the availability of reduced-rate loans through the Linked Deposit Program;

(c) Make information about the Linked Deposit Program available on the public Internet website of the institution, if any; and

(d) Apply for qualification on a form provided by the State ~~*[Board of Finance.*~~

~~*3.]*~~ ***Treasurer.***

2. The State ~~*[Board of Finance]*~~ ***Treasurer shall adopt regulations necessary to carry out the provisions of this section.***

Sec. 17. ***1. A qualified lending institution that desires to receive a linked deposit shall accept and review applications for linked deposit loans from eligible small businesses on a form provided by the State Treasurer. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible small business, including, without limitation, the consideration of:***

(a) Character, reputation and credit history of the applicant;

(b) Experience and depth of management;

(c) Strength of the business;

(d) Past earnings, projected cash flow and future prospects;

(e) Ability to repay the loan with earnings from the business;

(f) Sufficient invested equity to operate on a sound financial basis; and

(g) Potential for long-term success.

2. In determining which small business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal:

(a) First, to a business that is at least 51-percent owned by a resident of this State who is:

(1) A member of a racial or ethnic minority;

(2) A woman; or

(3) An honorably discharged veteran of the Armed Forces of the United States.

(b) Second, to a business engaged in the production and sale of fuel or power from an energy source other than a fossil fuel, including, without limitation, geothermal, hydroelectric, solar or wind energy.

3. A qualified lending institution must submit a loan package to the State Treasurer for each Linked Deposit Program loan, on a form provided by the State Treasurer. The loan package must include, without limitation, verification by the qualified lending institution that the eligible small business meets the requirements of this section and section 18 of this act

and that the use of proceeds as specified in the loan meets the requirements of section 19 of this act.

Sec. 18. ***1. To be eligible for a loan from a qualified lending institution pursuant to the Linked Deposit Program established pursuant to section 15 of this act, a business must:***

(a) Employ not more than 50 employees;

(b) Be headquartered in this State;

(c) Maintain offices or operating facilities in this State;

(d) Transact business in this State;

(e) Be organized for profit;

(f) Have gross annual sales of less than $5,000,000 at the time of application pursuant to this section;

(g) Satisfy the lending criteria of the qualified lending institution;

(h) Submit verification of eligibility for a linked deposit loan with a qualified lending institution on a form provided by the State Treasurer; and

(i) Submit an application for a linked deposit loan with a qualified lending institution on a form provided by the qualified lending institution.

2. The following types of businesses are not eligible for a loan from a qualified lending institution under the Linked Deposit Program established pursuant to section 15 of this act:

(a) Nonprofit businesses;

(b) Financial businesses engaged primarily in the business of lending, including, without limitation, banks, finance companies and pawnbrokers;

(c) Speculative real estate development companies;

(d) Subsidiaries of businesses located in a foreign country;

(e) Businesses which have previously defaulted on a Linked Deposit Program loan or federally assisted financing; and

(f) Businesses which engage in any illegal activity . [; and

(g) Any business which is ineligible under regulations adopted by the State Treasurer pursuant to section 20 of this act.]

Sec. 19. ***1. A reduced-rate loan made pursuant to the Linked Deposit Program may not:***

(a) Exceed $500,000; and

(b) Have a term of more than 10 years.

2. An eligible small business may use loan proceeds from a linked deposit reduced-rate loan for the following purposes:

(a) Working capital;

(b) Real property acquisition;

(c) Establishing a line of credit;

(d) Financing of accounts receivable;

(e) Purchase of equipment, except that such equipment must not be purchased to replace the work or function of employees, resulting in layoffs or downsizing; and

(f) Any other purpose permissible under regulations adopted by the State Treasurer pursuant to section 20 of this act.

Sec. 20. ***The State Treasurer shall adopt regulations necessary to carry out the provisions of sections 13 to 20, inclusive, of this act.***

Sec. 21. Notwithstanding the provisions of section 15 of this act, the State Treasurer shall not accept a linked deposit loan package or invest in a reduced-rate certificate of deposit after June 30, 2011.

Sec. 22. This section and sections 12 to 21, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 451.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day sustained the Governor's veto of Assembly Bill No. 267.

Also, I have the honor to inform your honorable body that the Senate on this day passed Assembly Joint Resolution No. 1.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 24; Assembly Bill No. 52; Assembly Bill No. 223; Assembly Bill No. 309; Assembly Bill No. 350; Assembly Bill No. 561; Senate Bill No. 35.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 1001 to Senate Bill No. 3; Assembly Amendment No. 1002 to Senate Bill No. 212.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 263.

Also, I have the honor to inform your honorable body that the Senate on this day refused to adopt the report of the Conference Committee concerning Assembly Bill No. 454.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:47 p.m.

ASSEMBLY IN SESSION

At 11:53 p.m.

Madam Speaker presiding.

Quorum present.

SENATE CHAMBER, Carson City, June 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 88.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 38.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, June 2, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 385; Assembly Bill No. 523.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 999 to Senate Bill No. 143; Assembly Amendment No. 1006 to Senate Concurrent Resolution No. 37.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 25, 46, 60, 121, 130, 146, 246, 259, 355, 410, 463, 467, 482, 492, 494, 503, 521, 543, 552, 562, 563; Assembly Concurrent Resolution No. 30; Senate Bills Nos. 17, 45, 101, 183, 234, 283, 412, 415.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Denis Gomez.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Marie Manendo.

On request of Assemblyman Mortenson, the privilege of the floor of the Assembly Chamber for this day was extended to Sheila Sease.

Madam Speaker appointed Assemblymen Oceguera, Horne, and Gansert as a committee to wait upon His Excellency, Governor Jim Gibbons, Governor of the State of Nevada, and to inform him that the Assembly was ready to adjourn *sine die*.

Madam Speaker appointed Assemblymen Anderson, Leslie, and Stewart as a committee to wait upon the Senate and to inform that honorable body that the Assembly was ready to adjourn *sine die*.

Assemblyman Oceguera reported that his committee had informed the Governor that the Assembly was ready to adjourn *sine die*.

Assemblyman Oceguera moved that the Seventy-Fifth Session of the Assembly of the Legislature of the State of Nevada adjourn *sine die*.

Motion carried.

Adjourned at 11:56 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly

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GIBBONS, JIM.—*See Governor*.

GOEDHART, ED, Assemblyman from Esmeralda, Lincoln, Mineral, Nye, Churchill (Part) Counties, No. 36 District—
Committee Appointments—
Conference re A.B. 454, 5678.
Standing—
Commerce and Labor, 46.
Government Affairs, 46.
Taxation, 47.
Remarks from the floor re Assemblyman Anderson, 5982; A.B. 290, 2163, 2164, 4255; A.B. 353, 1402; A.J.R. 10, 1154; A.C.R. 12, 230; A.C.R. 24, 457; A.R. 10, 4246; S.B. 429, 4797, 4822.

GOICOECHEA, PETE, Assemblyman from Eureka, Pershing, White Pine, Churchill (Part), Humboldt (Part), Lander (Part), Lyon (Part), Washoe (Part) Counties, No. 35 District—
Absences, excused, 2527.
Committee Appointments—
Conference re A.B. 561, 5991; S.B. 332, 5685; S.B. 411, 5777.
Special—
Invite Senate to meet in Joint Session, 1595.
Standing—
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Potential Conflict of Interest re A.B. 202, 1607; S.B. 415, 4182.
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GRADY, TOM, Assemblyman from Storey, Carson City (Part), Churchill (Part), Lyon (Part) Counties, No. 38 District—
Committee Appointments—
Standing—
Natural Resources, Agriculture, and Mining, 47.
Taxation, 47.
Ways and Means, 47.
Conflict of Interest A.B. 542, 2550.
Moves—
Suspend rules—
Transmit immediately to the Senate A.C.R. 26, 485.
Potential Conflict of Interest re S.B. 415, 4182.
Remarks from the floor re A.B. 226, 1158; A.C.R. 12, 230; A.C.R. 26, 485; A.C.R. 32, 2717; A.R. 6, 373; I.P. 1, 186; S.C.R. 36, 5773; S.C.R. 8, 151; Assemblyman Anderson, 5981; Assemblyman Carpenter, 5989; Assemblyman Manendo, 6188; John C. Carpenter Law Enforcement Center, 166.

GUSTAVSON, DON, Assemblyman from Humboldt (Part), Lander (Part), Washoe (Part) Counties, No. 32 District—
Committee Appointments—
Conference re S.B. 45, 2992.
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Corrections, Parole, and Probation, 46.
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Potential Conflict of Interest re A.B. 208, 2162; A.B. 230, 1159; A.B. 253, 844; A.B. 384, 1404; S.B. 396, 5059; S.B. 415, 4182.
Remarks from the floor re John C. Carpenter Law Enforcement Center, 169; S.B. 201, 2956; S.B. 429, 4795, 4796, 4827;.

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HAMBRICK, JOHN, Assemblyman from Clark County, No. 2 District—
Absences, excused, 147.
Committee Appointments—
Conference re A.B. 46, 5529; A.B. 309, 5678; A.B. 350, 5529; S.B. 183, 5771; S.B. 263, 5969; S.B. 182, 5839.
Special—
Invite Senate to meet in Joint Session, 415.
Standing—
Corrections, Parole, and Probation, 46.
Elections, Procedures, Ethics, and Constitutional Amendments, 46.
Health and Human Services, 46.
Judiciary, 47.
Remarks from the floor re A.C.R. 27, 507; A.R. 6, 372; I.P. 1, 184; S.B. 429, 4796, 4797, 4821, 4828.

HARDY, JOE, Assemblyman from Clark County, No. 20 District—
Absences, excused, 116, 299, 308, 1163.
Committee Appointments—
Conference re A.B. 52, 5764; A.B. 202, 5678; A.B. 223, 6069; S.B. 54, 4355; S.B. 269, 5679; S.B. 293, 5974; S.B. 305, 4819.
Select—
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Invite Senate to meet in Joint Session, 1146.
Standing—
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Withdraws motion re A.B. 10, Amend. No. 104, 529.

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HELLER, DEAN, U.S. REPRESENTATIVE—
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HOGAN, JOSEPH M., Assemblyman from Clark County, No. 10 District—
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Conference re S.B. 246, 5553.
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Ensign, John, U.S. Senator, 1171.
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HOGAN, JOSEPH M.—*Continued*
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Do not recede from action on S.B. 109, 2725.
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HORNE, WILLIAM C., Assemblyman from Clark County, No. 34 District—
Absences, excused, 435, 2721.
Committee Appointments—
Conference re A.B. 88, 5937; A.B. 140, 5678; A.B. 259, 5529; A.B. 385, 6069; A.B. 454, 5678; S.B. 35, 5776; S.B. 101, 4473; S.B. 119, 5553.
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Corrections, Parole, and Probation (chair), 46.
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Judiciary, 47.
Moves—
Concur in Senate amendment(s) to A.B. 325, 4428; A.B. 474, Amend. No. 726, 5470; A.B. 474, Amend. No. 903, 5473.
Do not concur in Senate amendment(s) to A.B. 259, 2989; A.B. 385, 5950.
Recede from action on S.B. 84, 5777.
Rescind action on S.B. 47, 2515.
Suspend rules—
Declare an emergency measure S.J.R. 5, 281.
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KIHUEN, RUBEN, Assemblyman from Clark County, No. 11 District—
Committee Appointments—
Conference re A.B. 350, 5529; S.B. 45, 2992; S.B. 68, 5771; S.B. 182, 5839; S.B. 183, 5771; S.B. 218, 4864; S.B. 263, 5969.
Special—
Invite Senate to meet in Joint Session, 1595.
Standing—
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Education, 46.
Elections, Procedures, Ethics, and Constitutional Amendments, 46.
Judiciary, 47.
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Remarks from the floor re A.C.R. 24, 456; S.C.R. 14, 246.

KIRKPATRICK, MARILYN, Assemblywoman from Clark County, No. 1 District—
Absences, excused, 3497.
Committee Appointments—
Conference re A.B. 84, 5764; A.B. 223, 6069; A.B. 523, 6032; S.B. 242, 6063.
Special—
Invite Senate to meet in Joint Session, 1146.
Standing—
Commerce and Labor, 46.
Government Affairs (chair), 46.
Taxation (vice chair), 47.
Moves—
Concur in Senate amendment(s) to A.B. 3, 5514; A.B. 54, 4911; A.B. 87, 4348; A.B. 97, 2874; A.B. 147, 4895; A.B. 192, 4099; A.B. 220, 4102; A.B. 225, 4754; A.B. 304, 5178; A.B. 360, 4350; A.B. 395, 6235; A.B. 415, 3123; A.B. 451, 6497; A.B. 478, Amend. No. 798, 5535; A.B. 478, Amend. No. 882, 5540; A.B. 483, 5542.
Do not concur in Senate amendment(s) to A.B. 60, 5513; A.B. 130, Amend. No. 792, 5544; A.B. 130, Amend. No. 923, 5545; A.B. 397, 6491; A.B. 463, 4355; A.B. 492, 4904.
Recede from action on S.B. 43, 5771; S.B. 175, 6235.
Potential Conflict of Interest re S.B. 396, 5059.
Remarks from the floor re Assemblyman Carpenter, 5988; John C. Carpenter Law Enforcement Center, 167; Speaker Buckley, 6250; Vetoed Assembly Bill No. 491 of the 75th Session, 6214; A.B. 147, 2160; S.B. 201, 2956.
Withdraws motion re A.B. 225, Amend. No. 359, 1721.

KOIVISTO, ELLEN M., Assemblywoman from Clark County, No. 14 District—
Absences, excused, 299.
Committee Appointments—
Select—
Ethics, 47.
Standing—
Elections, Procedures, Ethics, and Constitutional Amendments (Co-chair, Co-vice chair), 46.
Taxation, 47.
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KOVISTO, ELLEN M.—*Continued*
Moves—
Concur in Senate amendment(s) to A.B. 41, 2891; A.B. 494, 5952; A.B. 535, 5449; A.C.R. 30, 6104.
Do not recede from actions on S.B. 263, 5969.
Recede from action on S.B. 263, Amend. No. 891, 5969.
Rescind action on A.B. 443, 425.
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Remarks from the floor re Assembywoman McClain, 6192; Speaker Buckley, 6251; Vetoed Assembly Bill No. 121 of the 75th Session, 6029; A.B. 121, 1729.

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LESLIE, SHEILA, Assemblywoman from Washoe County, No. 27 District—
Absences, excused, 200, 206.
Committee Appointments—
Conference re S.B. 54, 4355; S.B. 403, 5859.
Special—
Inform Senate Assembly organized, 3.
Inform Senate Assembly ready to adjourn *sine die*, 6498.
Standing—
Health and Human Services, 46.
Taxation, 47.
Ways and Means (vice chair), 47.
Conflict of Interest re A.B. 64, 3484.
Moves—
Concur in Senate amendment(s) to A.B. 13, 4466; A.B. 146, 4712; A.B. 458, 4462.
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Remarks from the floor re John C. Carpenter Law Enforcement Center, 167; Speaker Buckley, 6251; Stand Out for Equality, 2531; Vetoed Assembly Bill No. 135 of the 75th Session, 5992; Vetoed Senate Bill No. 283 of the 75th Session, 6028; A.B. 103, 120; A.B. 119, 2441, 2442; A.B. 162, 2440; A.B. 495, 1742; A.B. 562, 4256; A.R. 6, 374; A.R. 7, 377; I.P. 1, 185; S.B. 283, 2959; S.B. 429, 5759; S.C.R. 8, 151; S.C.R. 39, 6402.

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MAJORITY FLOOR LEADER —*See Oceguera, John.*

MAJORITY FLOOR LEADER, ASSISTANT—*See Conklin, Marcus.*

MAJORITY WHIP—See Leslie, Sheila.

MAJORITY WHIP, ASSISTANT—*See Smith, Debbie.*

MAJORITY WHIP, ASSISTANT—*See Horne, William C.*

MANENDO, MARK, Assemblyman from Clark County, No. 18 District—
Committee Appointments—
Standing—
Commerce and Labor, 46.
Corrections, Parole, and Probation, 46.
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MANENDO, MARK—*Continued*
Remarks from the floor re Assemblyman Anderson, 5982; Assemblyman Carpenter, 5990; Assemblyman Mortenson, 6196; Assemblywoman McClain, 6191; John C. Carpenter Law Enforcement Center, 168; A.C.R. 28, 2555.

MASTROLUCA, APRIL, Assemblywoman from Clark County, No. 29 District—
Absences, excused, 257, 274, 308.
Committee Appointments—
Conference re A.B. 52, 5764; A.B. 60, 5812; A.B. 463, 4761; S.B. 293, 5974; S.B. 305, 4819.
Standing—
Education, 46.
Government Affairs, 46.
Health and Human Services, 46.
Remarks from the floor re A.C.R. 12, 231; A.C.R. 27, 507; S.B. 429, 4828.

MCARTHUR, RICHARD, Assemblyman from Clark County, No. 4 District—
Absences, excused, 253.
Committee Appointments—
Conference re S.B. 55, 5685; S.B. 68, 5771; S.B. 101, 4473.
Standing—
Corrections, Parole, and Probation, 46.
Education, 46.
Judiciary, 47.
Taxation, 47.
Remarks from the floor re S.B. 429, 5759.

MCCLAIN, KATHY, Assemblywoman from Clark County, No. 15 District—
Absences, excused, 2527.
Committee Appointments—
Conference re A.B. 24, 5772; A.B. 140, 5678; A.B. 202, 5678; A.B. 385, 6069; A.B. 454, 5678; A.B. 561, 5991; S.B. 295, 5553.
Standing—
Commerce and Labor, 46.
Taxation (chair), 47.
Ways and Means, 47.
Moves—
Concur in Senate amendment(s) to A.B. 205, 4639; A.B. 307, 4109; A.B. 317, 6446; A.B. 432, 2878.
Suspend rules—
Transmit immediately to the Senate A.C.R. 12, 232; A.C.R. 29, 2557.
Remarks from the floor re Assemblyman Manendo, 6189; A.B. 562, 4254; A.J.R. 7, 1152; A.C.R. 12, 229; A.C.R. 15, 262; I.P. 1, 177; S.B. 429, 4791, 4792; S.C.R. 14, 247.

MILLER, ROSS—*See Secretary of State.*

MINORITY FLOOR LEADER—*See Gansert, Heidi S.*

MINORITY FLOOR LEADER, ASSISTANT—*See Stewart, Lynn.*

MINORITY WHIP—*See Christensen, Chad.*

MINORITY WHIP—*See Goicoechea, Pete.*

MORTENSON, HARRY, Assemblyman from Clark County, No. 42 District—
Absences, excused, 2705, 2721, 5181, 5516.
Committee Appointments—
Standing—
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Judiciary, 47.
Taxation, 47.
Moves—
Concur in Senate amendment(s) to A.J.R. 5, 5488.
Remarks from the floor re Assemblyman Manendo, 6187; Assemblywoman McClain, 6192; John C. Carpenter Law Enforcement Center, 166; Speaker Buckley, 6248; A.J.R. 7, 1153; A.C.R. 24, 458; I.P. 1, 185; S.C.R. 14, 247.

MUNFORD, HARVEY J., Assemblyman from Clark County, No. 6 District—
Absences, excused, 424, 2535.
Committee Appointments—
Conference re A.B. 60, 5812.
Escort—
Heller, Dean, U.S. Representative, 1600.
Standing—
Education, 46.
Elections, Procedures, Ethics, and Constitutional Amendments, 46.
Government Affairs, 46.
Natural Resources, Agriculture, and Mining, 47.
Potential Conflict of Interest re S.B. 415, 4182.
Remarks from the floor re Assemblyman Arberry, 5977; Vetoed Assembly Bill No. 304 of the 75th Session, 6030; A.C.R. 24, 458; S.C.R. 8, 150.

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OATH OF OFFICE—
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OCEGUERA, JOHN, Assemblyman from Clark County, No. 16 District—
Absences, excused, 206.
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Committee Appointments—
Escort—
Reid, Harry, U.S. Senator, 139.
Select—
Ethics, 47.
Special—
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Withdraws motion re A.B. 313, 1603.

OHRENSCHALL, JAMES, Assemblyman from Clark County, No. 12 District—
Absences, excused, 206, 2527.
Committee Appointments—
Conference re A.B. 46, 5529; S.B. 55, 5685.
Standing—
Corrections, Parole, and Probation, 46.
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Natural Resources, Agriculture, and Mining, 47.
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Transmit immediately to the Senate A.C.R. 10, 202; A.C.R. 31, 2707.
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PARNELL, BONNIE, Assemblywoman from Carson City (Part), Washoe (Part) Counties, No. 40 District—
Absences, excused, 2435, 2527, 2535, 2544.
Committee Appointments—
Conference re A.B. 46, 5529; A.B. 309, 5678; S.B. 305, 4819.
Standing—
Corrections, Parole, and Probation, 46.
Education (chair), 46.
Health and Human Services, 46.
Judiciary, 47.

PARNELL, BONNIE—*Continued*
Moves—
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Do not concur in Senate amendment(s) to A.B. 181, 5259.
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Rescind action on A.B. 309, 5871.
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ASSEMBLY STANDING RULES

AND THE

JOINT STANDING RULES OF THE SENATE AND ASSEMBLY

OF THE

SEVENTY-FIFTH SESSION

OF THE

LEGISLATURE OF THE STATE OF NEVADA

2009

ASSEMBLY STANDING RULES

I. OFFICERS AND EMPLOYEES

DUTIES OF OFFICERS

Rule No. 1. Speaker of the Assembly.

1. All officers of the Assembly are subordinate to the Speaker in all that relates to the prompt, efficient and correct discharge of their official duties under the Speaker's supervision.

2. Possessing the powers and performing the duties described in this Rule, the Speaker shall:

(a) Take the chair at the hour to which the Assembly stands adjourned, call the members to order, and upon the appearance of a quorum, proceed to business.

(b) Preserve order and decorum and have general direction of the Chamber of the Assembly and the approaches thereto. In the event of any disturbance or disorderly conduct therein, order the same to be cleared.

(c) Decide all questions of order, subject to a member's right to appeal to the Assembly. On appeal from such decisions, the Speaker has the right, in the Speaker's place, to assign the reason for the decision.

(d) Have the right to name any member to perform the duties of the Chair, but such substitution must not extend beyond one legislative day.

(e) Have the power to accredit the persons who act as representatives of the news media and assign them seats.

(f) Sign all bills and resolutions passed by the Legislature as provided by law.

(g) Sign all subpoenas issued by the Assembly.

(h) Receive all messages and communications from other departments of the government and announce them to the Assembly.

(i) Represent the Assembly, declare its will and in all things obey its commands.

(j) Vote on final passage of a bill or resolution, but the Speaker shall not be required to vote in ordinary legislative proceedings except where the Speaker's vote would be decisive. In all yea and nay votes, the Speaker's name must be called last.

3. If a vacancy occurs in the office of Speaker, through death, resignation or disability of the Speaker, the Speaker Pro Tempore shall temporarily and for the period of vacancy or disability conduct the necessary business of the Assembly.

4. If a permanent vacancy occurs in the office of Speaker, the Assembly shall select a new Speaker.

[Statutes of Nevada 1975, 1912; A 1995, 2845; 1997, 3538; 1999, 3834; 2001, 3295; 2009, 3141]

Rule No. 2. Reserved.

Rule No. 3. Chief Clerk.

1. The Chief Clerk is elected by the Assembly and is responsible to the Speaker.

2. The Chief Clerk shall recruit, select, train and supervise all attaches employed to assist with the work of the Assembly.

3. The Chief Clerk shall administer the daily business of the Assembly.

4. The Chief Clerk shall adopt such administrative policies as she deems necessary to carry out the business of the Assembly.

[Statutes of Nevada 2009, 3142]

Rule No. 4. Reserved.

Rule No. 5. Reserved.

Rule No. 6. Reserved.

The next rule is 10.

II. SESSIONS AND MEETINGS

Rule No. 10. Time of Meeting.

The Assembly shall meet each day at 11 a.m., unless the Assembly adjourns to some other hour.

[Statutes of Nevada 1975, 1857]

Rule No. 11. Open Meetings.

All meetings of the Assembly and its committees must be open to the public.

[Statutes of Nevada 1975, 1907; A 1999, 3835; 2001, 3296]

Rule No. 12. Reserved.

The next rule is 20.

III. DECORUM AND DEBATE

Rule No. 20. Points of Order.

If any member, in speaking or otherwise, transgresses the rules of the Assembly, the Speaker shall, or any member may, call to order, in which case the member so called to order shall immediately sit down, unless permitted to explain; and if called to order by a member, such member shall immediately state the point of order. If the point of order be sustained by the presiding officer, the member shall not be allowed to proceed; but if it be not sustained, then he shall be permitted to go on. Every such decision from the presiding officer shall be subject to an appeal to the House; but no discussion of the question of order shall be allowed unless an appeal be taken from the decision of the presiding officer.

[Statutes of Nevada 1973, 1886; A 1993, 2913; 1995, 2847; 1997, 3540]

Rule No. 21. Portable Electronic Communication Devices.

1. A person who is within the Assembly Chambers or within an Assembly committee room shall not engage in a telephone conversation via the use of a portable telephone.

2. Before entering the Assembly Chambers or an Assembly committee room, any person who possesses a portable electronic communication device, such as a pager or telephone, that emits an audible alert, such as a ringing or beeping sound, to signal an incoming message or call, shall turn the audible alert off. A device that contains a nonaudible alert, such as a silent vibration, may be operated in a nonaudible manner within the Assembly Chambers or within an Assembly committee room.

[Statutes of Nevada 2001, 3296; A 2003, 3602]

Rule No. 22. Reserved.

Rule No. 23. Select Committee on Ethics; Legislative Ethics.

1. The Select Committee on Ethics consists of:

(a) Two members of the Assembly appointed by the Speaker from the majority political party;

(b) One member of the Assembly appointed by the Minority Leader from the minority political party; and

(c) Three qualified electors of the State, two of whom are appointed by the Speaker and one who is appointed by the Minority Leader, and none of whom is a present member of the Legislature or employed by the State of Nevada.

2. The Speaker shall appoint the Chairman and Vice Chairman of the Committee. The Vice Chairman shall serve as the acting Chairman if the Chairman is unable to serve for any reason during the consideration of a specific question.

3. The Speaker shall appoint an alternate member with the qualifications set forth in paragraph (a) of subsection 1 and an alternate member with the qualifications set forth in paragraph (c) of subsection 1. The Minority Leader shall appoint an alternate member with the qualifications set forth in paragraph (b) of subsection 1 and an alternate member with the qualifications set forth in paragraph (c) of subsection 1. If a member of the Committee is unable to serve for any reason during the consideration of a specific question, the alternate appointed with the qualifications from the same paragraph in subsection 1 shall serve as a member of the Committee during the consideration of the specific question.

4. A member of the Committee is disqualified to serve during the consideration of a specific question if:

(a) The member is the requester of advice concerning the question of ethics or conflict of interest, or the member is the subject of the complaint concerning the specific question; or

(b) A reasonable person in the member's situation could not exercise independent judgment on the matter in question.

5. The Committee:

(a) May hear requests brought by members of the Assembly for advice on specific questions of potential breaches of ethics and conflicts of interest; and

(b) Shall hear complaints brought by members of the Assembly and others on specific questions of alleged breaches of ethics and conflicts of interest.

6. All proceedings held to consider the character, alleged misconduct, professional competence or physical or mental health of any person by the Committee on matters of ethics or conflicts of interest are confidential unless a Legislator:

(a) Against whom a complaint is brought requests a public hearing;

(b) Discloses the content of an opinion of the Committee at any time after his hearing; or

(c) Discloses the content of an advisory opinion issued to him by the Committee.

7. A complaint which alleges a breach of ethics or a conflict of interest must be:

(a) Made in writing on a form provided by the Chief Clerk of the Assembly;

(b) Signed and verified under penalty of perjury by the person making the allegation; and

(c) Filed with the Chairman of the Committee or, if the Chairman is the subject of the complaint, with the Vice Chairman. The Chairman or Vice Chairman, as appropriate, shall send a copy of the complaint, within 24 hours after receiving it, to the Legislator against whom the complaint is brought.

8. In determining whether a Legislator has a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his position upon the matter in question would be materially affected by:

(a) His acceptance of a gift or loan;

(b) His private economic interest; or

(c) His commitment to a member of his household or his immediate family.

9. Except as otherwise provided in subsection 10, if a Legislator knows he has a conflict of interest pursuant to subsection 8, the Legislator shall make a general disclosure of the conflict of interest on the record in a meeting of a committee or on the floor of the Assembly, as applicable. Such a disclosure must be entered:

(a) If the Legislator makes the disclosure in a meeting of a committee, in the minutes for that meeting.

(b) If the Legislator makes the disclosure on the floor of the Assembly, in the Journal.

10. If, on one or more prior occasions during the current session of the Legislature, a Legislator has made a general disclosure of a conflict of interest on the record in a meeting of a committee or on the floor of the Assembly, the Legislator is not required to make that general disclosure at length again regarding the same conflict of interest if, when the matter in question arises on subsequent occasions, the Legislator makes a reference on the record to the previous disclosure.

11. In determining whether to abstain from voting upon, advocating or opposing a matter concerning which a Legislator has a conflict of interest pursuant to subsection 8, the Legislator should consider whether:

(a) The conflict impedes his independence of judgment; and

(b) His interest is greater than the interests of an entire class of persons similarly situated.

12. The provisions of this Rule do not under any circumstances and regardless of any conflict of interest:

(a) Prohibit a Legislator from requesting or introducing a legislative measure; or

(b) Require a Legislator to take any particular action before or while requesting or introducing a legislative measure.

13. If a Legislator who is a member of a committee declares on the record when a vote is to be taken by the committee that he will abstain from voting because of the requirements of this Rule, the necessary quorum to act upon and the number of votes necessary to act upon the matter is reduced as though the Legislator abstaining were not a member of the committee.

14. Except as otherwise provided in the Joint Standing Rules, the standards and procedures set forth in this Rule which govern whether and to what extent a member of the Assembly has a conflict of interest, should disclose a conflict of interest or should abstain from voting upon, advocating or opposing a matter concerning which the member has a conflict of interest pursuant to subsection 8:

(a) Are exclusive and are the only standards and procedures that apply to members of the Assembly with regard to such matters; and

(b) Supersede and preempt all other standards and procedures with regard to such matters.

[Statutes of Nevada 1977, 1706; A 1987, 2325, 2336; 1995, 2847; 1997, 3540; 2009, 3143]

The next rule is 30.

IV. QUORUM, VOTING, ELECTIONS

Rule No. 30. Manner of Voting.

1. The presiding officer shall declare all votes, but the yeas and nays must be taken when called for by three members present, and the names of those calling for the yeas and nays must be entered in the Journal by the Chief Clerk.

2. The presiding officer shall call for yeas and nays by a division or by a roll call, either electronic or oral.

3. When taking the yeas and nays on any question, the electronic roll call system may be used, and when so used shall have the force and effect of any roll call under these rules.

4. When taking the yeas and nays by oral roll call, the Chief Clerk shall take the names of members alphabetically, except that the Speaker's name must be called last.

5. The electronic roll call system may be used to determine the presence of a quorum.

6. The yeas and nays must not be taken with the electronic roll call system until all members present are at their desks. The presiding officer may vote at the rostrum.

7. Only a member who:

(a) Has been certified by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments or a special committee of the Assembly; and

(b) Is physically present within the Assembly Chambers,

➥ may cast a vote in the Assembly.

8. A member shall not vote for another member on any roll call, either electronic or oral. Any member who votes for another member may be punished in any manner deemed appropriate by the Assembly.

[Statutes of Nevada 1975, 1879; A 1995, 2848; 1997, 3542; 1999, 3837; 2001, 3298; 2005, 2927]

Rule No. 31. Reserved.

Rule No. 32. Announcement of the Vote.

1. A member may change his vote at any time before the announcement of the vote if the voting is by voice, or at any time before the votes are electronically recorded if the voting is conducted electronically.

2. The announcement of the result of any vote shall not be postponed.

[Statutes of Nevada 1975, 1876]

Rule No. 33. Voting by Division.

Upon a division and count of the Assembly on any question, no person without the bar shall be counted.

[Statutes of Nevada 1973, 1887]

The next rule is 40.

V. LEGISLATIVE BODIES

Rule No. 40. Standing Committees.

The standing committees of the Assembly are as follows:

1. Ways and Means, fourteen members.
2. Judiciary, fourteen members.
3. Taxation, thirteen members.
4. Education, eleven members.
5. Elections, Procedures, Ethics, and Constitutional Amendments, thirteen members.
6. Natural Resources, Agriculture, and Mining, eleven members.
7. Transportation, eleven members.
8. Commerce and Labor, fourteen members.
9. Health and Human Services, eleven members.
10. Government Affairs, fourteen members.
11. Corrections, Parole, and Probation, fourteen members.

[Statutes of Nevada 1975, 1857; A 1977, 1728; 1981, 2059, 2064; 1983, 2103; 1985, 2315; 1987, 2326, 2399; 1989, 2204; 1991, 2479; 1993, 2915, 2967; 1995, 2849, 2878; 1997, 3543, 3682, 3712; 1999, 3838; 2001, 3298; 2003, 3604; 2005, 2928; 2007, 3457; 2009, 3146]

Rule No. 41. Appointment of Committees.

1. Except as otherwise provided in Assembly Standing Rule No. 23, all committees must be appointed by the Speaker, unless otherwise directed by the Assembly. The Speaker shall designate the chairman and vice chairman of each committee.

2. To facilitate the full participation of the members during an adjournment called pursuant to Joint Standing Rule No. 9 of the Senate and Assembly, the Speaker may temporarily appoint a member to a standing committee that is scheduled to meet during the adjournment if none of the committees to which the member is regularly assigned will be meeting during the adjournment.

[Statutes of Nevada 1973, 1903; A 1977, 1707; 1985, 2314; 1993, 2916; 1995, 2850; 1997, 3543; 2007, 3457]

Rule No. 42. Committee Action.

1. The committee shall have regular meetings scheduled by the Assembly leadership. A quorum of the committee is a majority of its members and may transact business except as limited by this Rule.

2. Except as limited by this Rule, a simple majority of those present may move, second and pass a motion by voice vote.

3. Definite action on a bill or resolution will require a majority of the entire committee.

4. A two-thirds majority of the entire committee is required to reconsider action on a bill or resolution.

5. Committee introduction of legislative measures which are not prefiled requires concurrence of a majority of the entire committee and does not imply commitment to support final passage.

6. The chairman must be present when the committee votes to take any final action regarding bills or resolutions, but the chairman is not required to vote.

7. No member of the committee may vote by proxy under any circumstances.

8. A committee shall not take a vote on the question of whether to exercise its statutory authority to issue a legislative subpoena unless the chairman has informed the Speaker of the intention of the committee to consider such a question.

[Statutes of Nevada 1973, 1903; A 1995, 2850; 1997, 3543; 2001, 3299; 2007, 3457; 2009, 3147]

Rule No. 43. Subcommittees.

Subcommittees made up of committee members may be appointed by the chairman to consider and report back on specific subjects or bills.

[Statutes of Nevada 1973, 1903; A 1995, 2850; 1997, 3544]

Rule No. 44. Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments has jurisdiction over matters relating to personnel. It shall recommend by resolution the appointment of all attaches and employees of the Assembly not otherwise provided for by law. It shall function as the Committee on Rules and as the Committee on Credentials of the Assembly.

[Statutes of Nevada 1973, 1885; A 1977, 1707; 1981, 2059, 2171; 1985, 2316; 1991, 2480; 1993, 2916; 1997, 3544; 2005, 2929; 2009, 3147]

Rule No. 44.5. Committee of the Whole.

If a Committee of the Whole is convened:

1. The Speaker shall preside as Chair of the Committee or name a Chair to preside.

2. A member of the Committee may speak not more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

3. The Chair may require any vote of the Committee to be recorded in the manner designated by the Chair.

4. All amendments proposed by the Committee:

(a) Must first be approved by the Committee.

(b) Must be reported by the Chair to the Assembly.

[Statutes of Nevada 2009, 3148]

Rule No. 45. Procedure for Election Contests.

1. Upon receipt of a statement of contest from the Secretary of State pursuant to NRS 293.427, the Speaker shall, as soon as practicable, appoint a special committee to hear the contest or refer the contest to the Standing Committee on Elections, Procedures, Ethics, and Constitutional Amendments. The committee shall conduct a hearing to consider the contest. The committee shall keep written minutes of the hearing. The contestant has the burden of proving that any irregularities shown were of such a nature as to establish that the result of the election was changed thereby.

2. The contest must be submitted so far as may be possible upon depositions or by written or oral arguments as the Assembly may order. Any party to a contest may take the deposition of any witness at any time after the

statement of contest is filed with the Secretary of State and before the contest is finally decided. At least 3 days' notice must be given to the prospective deponent and to the other party. If oral statements are made at any hearing before the Assembly or a committee thereof which purport to establish matters of fact, they must be made under oath. Strict rules of evidence do not apply.

3. The committee shall, not later than 5 calendar days after the contest was referred to the committee, report to the Assembly its findings on whether the contestant has met the burden of proving that any irregularities shown were of such a nature as to establish that the result of the election was changed thereby. The committee shall then report to the Assembly its recommendation on which person should be declared elected or report that it has no recommendation. The Assembly shall, as soon as practicable thereafter but not later than 7 calendar days after the Speaker received the statement of contest, vote whether to accept or reject the committee's recommendation without amendment, if a recommendation is made. If the recommendation is accepted, the Speaker shall declare the recommended person elected. If the recommendation is rejected or the committee did not make a recommendation, the Assembly shall consider immediately which person should be declared elected. The Speaker shall not adjourn the Assembly until it has declared a person to be elected.

4. If a person other than the person initially seated as a member of the Assembly pursuant to subsection 2 of NRS 293.427 is declared to be elected by the Assembly as a result of the contest, the Speaker shall inform the Governor of the identity of the person declared to be elected by the Assembly.

[Statutes of Nevada 1973, 1885; R 1987, 2326; Readopted 1989, 2204; A 1991, 2480; 1993, 2917; 1995, 2851; 1997, 3544; 2003, 3605; 2005, 2929]

Rule No. 46. Committee Action.

Every committee vote on a matter pertaining to a bill or resolution must be recorded. The vote may be taken by roll call at the discretion of the chairman.

[Statutes of Nevada 1973, 1903; A 1995, 2852; 1997, 3545; 1999, 3840; 2009, 3149]

Rule No. 47. Committee Records.

The chairman of each committee shall keep, or cause to be kept, a complete record of the committee proceedings in which there must be entered:

1. The time and place of each meeting;
2. The attendance and absence of members;

3. The names of all persons appearing before the committee, with the names of persons, firms, corporations or associations in whose behalf such appearance is made; and

4. The subjects or measures considered and action taken.

[Statutes of Nevada 1973, 1903; A 1995, 2852; 1997, 3545; 1999, 3840]

Rule No. 48. Disposition of Committee Records.

All minutes, records and documents in the possession of committees and their chairmen must be filed in the offices of the Legislative Counsel Bureau upon their completion.

[Statutes of Nevada 1973, 1904; A 1999, 3840; 2009, 3149]

Rule No. 49. Committee Hearings.

1. The presence of a quorum of the committee is desirable but not required to conduct a public hearing. At the discretion of the chairman, members of the committee may attend, participate in and, if applicable, vote during the hearing via simultaneous telephone or video conference.

2. Public hearings are opened by the chairman who announces the subject under consideration and provides for those wishing to address the committee to be heard. These persons shall rise in an order determined by the chairman, address the chair and furnish their names, addresses and firms or other organizations represented. Committee members may address the chairman for permission to question the witness.

[Statutes of Nevada 1975, 1914; A 1995, 2852; 1997, 3546; 1999, 3840; 2001, 3301]

Rule No. 50. Reserved.

Rule No. 51. Reserved.

Rule No. 52. Concurrent Referrals.

When a bill or resolution is referred to two committees, the bill or resolution must go to the first committee named. If the first committee votes to amend the bill or resolution, it must be reprinted with amendments and then returned to the first committee or sent immediately to the next committee. If there is no amendment proposed by the first committee, or if the first committee acts upon the bill or resolution after amendment, the bill or resolution must be sent with the committee recommendation to the Chief Clerk for transmittal to the second committee.

[Statutes of Nevada 1975, 1909; A 1987, 2326; 1989, 2205; 1999, 3840; 2009, 3149]

The next rule is 60.

VI. RULES GOVERNING MOTIONS

Rule No. 60. Entertaining.

No motion may be debated until it is distinctly announced by the presiding officer. The presiding officer, upon his own motion or at the request of a member, may direct that the motion be reduced to writing and be read by the Chief Clerk before the motion is debated. A motion may be withdrawn by the maker at any time before amendment or before the motion is put to vote.

[Statutes of Nevada 1973, 1889; A 1995, 2853; 1997, 3547; 1999, 3841; 2003, 3607]

Rule No. 61. Reserved.

Rule No. 62. Reserved.

PARTICULAR MOTIONS

Rule No. 63. Reserved.

Rule No. 64. Reserved.

Rule No. 65. Indefinite Postponement.

When a question is postponed indefinitely, the same question must not be considered again during the session and the question is not subject to a motion for reconsideration.

[Statutes of Nevada 1973, 1889; A 1999, 3841]

Rule No. 66. To Strike Enacting Clause.

A motion to strike out the enacting clause of a bill or resolution does not take precedence over any other subsidiary motion. If the motion is carried, it shall be considered equivalent to the rejection of such bill or resolution.

[Statutes of Nevada 1973, 1889; A 1999, 3841]

Rule No. 67. Division of Question.

Any member may call for a division of the question, which shall be divided, if it comprehends propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the Assembly. A motion to strike out being lost shall preclude neither amendment nor a motion to strike out and insert. A motion to strike out and insert shall be deemed indivisible.

[Statutes of Nevada 1973, 1889]

Rule No. 68. To Reconsider—Precedence of.

A motion to reconsider shall have precedence over every other motion, except a motion to adjourn, or to fix the time to which to adjourn; and when the Assembly adjourns, while a motion to reconsider is pending, or before passing the order of business of Motions, Resolutions and Notices, the right to move a reconsideration shall continue to the next day of sitting. No notice of reconsideration of any final vote shall be in order on the:

1. Last day on which final action is allowed; or
2. Day preceding the last day of the session.

[Statutes of Nevada 1973, 1890; A 1999, 3841; 2001, 3302]

The next rule is 80.

VII. DEBATE

Rule No. 80. Speaking on Question.

No member shall speak more than twice during the consideration of any one question, on the same day, and at the same stage of proceedings, without leave. Members who have once spoken shall not again be entitled to the floor (except for explanation) to the exclusion of others who have not spoken.

[Statutes of Nevada 1973, 1890]

Rule No. 81. Previous Question.

The previous question shall be put only when demanded by three members. The previous question shall not be moved by the member last speaking on the question.

[Statutes of Nevada 1973, 1890]

Rule No. 82. Privilege of Closing Debate.

The author of a bill, a resolution or a main question shall have the privilege of closing the debate, unless the previous question has been sustained.

[Statutes of Nevada 2001, 3302]

The next rule is 91.

VIII. CONDUCT OF BUSINESS

A. RULES AND PROCEDURE

Rule No. 91. Rescission, Change or Suspension of Rule.

No standing rule or order of the Assembly shall be rescinded or changed without a vote of two-thirds of the members elected, and one day's notice

being given of the motion therefor; but a rule or order may be suspended temporarily by a vote of two-thirds of the members present.

[Statutes of Nevada 1973, 1890; A 2001, 3303]

Rule No. 92. Notices of Bills, Topics and Public Hearings.

1. Except as otherwise provided in subsection 3, all committees shall provide adequate notice of public hearings on bills, resolutions or other topics which are to come before the committees. The notice must include the date, time, place and agenda to be covered. The notice must be posted conspicuously in the legislative building, appear in the Daily History and be made available to the news media. The Daily History must include the most current version of the notice that is available at the time the Daily History is created and an informational statement informing the public where more current information, if any, regarding such notices may be found.

2. The noticing requirements of this Rule may be suspended for emergency situations but only after approval by a majority vote of a committee.

3. Subsection 1 does not apply to:

(a) Committee meetings held on the floor of the Assembly during a recess; or

(b) Conference committee meetings.

[Statutes of Nevada 1975, 1915; A 1995, 2855; 1997, 3549; 1999, 3842; 2009, 3151]

Rule No. 93. Reserved.

Rule No. 94. Privilege of the Floor and Lobbying.

No person, except Senators, former Assemblymen and state officers, may be admitted at the bar of the Assembly, except by special invitation on the part of some member; but a majority may authorize the Speaker to have the Assembly cleared of all such persons. No person may do any lobbying upon the floor of the Assembly at any time, and it is the duty of the Sergeant at Arms to remove any person violating any of the provisions of this Rule.

[Statutes of Nevada 1973, 1891; A 1983, 2152; 1995, 2856; 1997, 3549]

Rule No. 95. Material Placed on Legislators' Desks.

All papers, letters, notes, pamphlets and other written material placed upon an Assemblyman's desk shall contain the signature of the Legislator requesting the placement of such material on the desk or shall contain a designation of the origin of such material. This Rule does not apply to books containing the legislative bills and resolutions, the legislative Daily Histories, the legislative Daily Journals or Legislative Counsel Bureau material.

[Statutes of Nevada 1973, 1891]

Rule No. 96. Peddling, Begging and Soliciting.

1. Peddling, begging and soliciting are strictly forbidden in the Assembly Chambers, and in the lobby, gallery and halls adjacent thereto.

2. No part of the Assembly Chambers may be used for, or occupied by signs or other devices for any kind of advertising.

3. No part of the hallways adjacent to the Assembly Chambers may be used for or occupied by signs or other devices for any kind of advertising for commercial or personal gain. Notices for nonprofit, nonpartisan, civic or special legislative events may be posted in a designated area of the hallways adjacent to the Assembly Chambers with the approval of the Chief Clerk.

[Statutes of Nevada 1973, 1891; A 1999, 3843; 2001, 3303]

Rule No. 97. Petitions and Memorials.

Petitions, memorials and other papers addressed to the Assembly, shall be presented by the Speaker, or by a member in the Speaker's place. A brief statement of the contents thereof shall be made by the introducer. They shall not be debated on the day of their being presented, but shall be on the table, or be referred, as the Assembly shall determine.

[Statutes of Nevada 1973, 1891; A 1995, 2856; 1997, 3550]

Rule No. 98. Request of Purpose.

A member may request the purpose of a bill or joint resolution upon its introduction.

[Statutes of Nevada 1973, 1891]

Rule No. 99. Remarks.

It shall be in order for members to make remarks and to have such remarks entered in the Journal.

[Statutes of Nevada 1973, 1891]

Rule No. 100. Precedence of Parliamentary Authority.

The precedence of parliamentary authority in the Assembly is:

1. The Constitution of the State of Nevada and judicial decisions thereon.

2. The Standing Rules of the Assembly and the Joint Standing Rules of the Senate and Assembly.

3. Custom, usage and precedence.

4. The Statutes of the State of Nevada.

5. Mason's Manual of Legislative Procedure.

[Statutes of Nevada 1973, 1891; A 1999, 3843; 2009, 3152]

Rule No. 101. Reserved.

Rule No. 102. Privileged Questions.

Privileged questions have precedence over all others in the following order:

1. Motions to fix the time to which the Assembly shall adjourn.
2. Motions to adjourn.
3. Questions relating to the rights and privileges of the Assembly or any of its members.
4. A call of the House.
5. Motions for special orders.

[Statutes of Nevada 2001, 3304; A 2005, 2934]

Rule No. 103. Reserved.

B. BILLS

Rule No. 104. Reserved.

Rule No. 105. Reserved.

Rule No. 106. Skeleton Bills.

The introduction of skeleton bills is authorized when, in the opinion of the sponsor and the Legislative Counsel, the full drafting of the bill would entail extensive research or be of considerable length. A skeleton bill will be provided for purposes of introduction and committee referral. Such a bill will be a presentation of ideas or statements of purpose, sufficient in style and expression to enable the Legislature and the committee to which the bill may be referred to consider the substantive merits of the legislation proposed.

[Statutes of Nevada 1973, 1893; A 1999, 3844]

Rule No. 107. Reserved.

Rule No. 108. Reserved.

Rule No. 109. Reading of Bills.

The presiding officer shall announce at each reading of a bill whether it be the first, second or third reading. The first reading of a bill shall be for information. If there is objection, the question shall be, "Shall the bill be rejected?" If the question to reject fails to receive a majority vote by the members present, or if there is no objection, the bill shall take the proper course. No bill shall be referred to a committee until after the first reading, nor amended until after the second reading.

[Statutes of Nevada 1973, 1894; A 1995, 2858]

Rule No. 110. Second Reading and Amendment of Bills.

1. All bills must be read the second time on the first legislative day after which they are reported by committee, unless a different day is designated by motion. Upon second reading, Assembly bills reported without amendments shall be placed on the General File and Senate bills reported without amendments shall be placed on the General File. Committee amendments reported with bills shall be considered upon their second reading or third reading, as appropriate, and such amendments may be adopted by a majority vote of the members present. Any amendment which is numbered, copied and made available to all members must be moved and voted upon by number. Assembly bills so amended must be reprinted, engrossed, and placed on the General File. Senate bills so amended must be reprinted, then engrossed or reengrossed, as applicable, and placed on the General File.

2. Any member may move to amend a bill during its second or third reading, and such a motion to amend may be adopted by a majority vote of the members present. Bills so amended on second reading must be treated the same as bills with committee amendments. Any bill so amended upon the General File must be reprinted and then engrossed or reengrossed, as applicable.

3. The reprinting of amended bills may be dispensed with only in accordance with the provisions of law.

[Statutes of Nevada 1975, 1915; A 1997, 3552; 1999, 3844; 2009, 3153]

Rule No. 111. Consent Calendar.

1. A standing committee may by unanimous vote of the members present report a bill with the recommendation that it be placed on the Consent Calendar. The question of recommending a bill for the Consent Calendar may be voted upon in committee only after the bill has been recommended for passage and only if no amendment is recommended.

2. The Chief Clerk shall maintain a list of bills recommended for the Consent Calendar. The list must be printed in the Daily History and must include the summary of each bill, and the date the bill is scheduled for consideration on final passage.

3. At any time before the presiding officer calls for a vote on the passage of the Consent Calendar, a member may give written notice to the Chief Clerk or state orally from the floor of the Assembly in session that he requests the removal of a particular bill from the Consent Calendar. If a member so requests, the Chief Clerk shall remove the bill from the Consent Calendar and transfer it to the Second Reading File. A bill removed from the Consent Calendar may not be restored to that Calendar.

4. During floor consideration of the Consent Calendar, members may ask questions and offer explanations relating to the respective bills.

5. When the Consent Calendar is brought to a vote, the bills remaining on the Consent Calendar must be read by number and summary and the vote must be taken on their final passage as a group.

[Statutes of Nevada 1977, 1660; A 1987, 2328; 1997, 3552; 1999, 3845; 2001, 3305]

Rule No. 112. Reserved.

Rule No. 113. General File.

All bills reported to the Assembly, by either standing or special committees, after receiving their second readings must be placed upon a General File, to be kept by the Chief Clerk. The Chief Clerk shall post a daily statement of the bills on the General File. The Chief Clerk shall likewise post notices of special orders as made.

[Statutes of Nevada 1973, 1895; A 1997, 3553; 1999, 3845; 2001, 3305; 2009, 3154]

Rule No. 114. Reserved.

Rule No. 115. Reconsideration of Vote on Bill.

On the first legislative day that the Assembly is in session succeeding that on which a final vote on any bill or resolution has been taken, a vote may be reconsidered on the motion of any member. Notice of intention to move such reconsideration must be given on the day on which the final vote was taken by a member voting with the prevailing party. It is not in order for any member to move a reconsideration on the day on which the final vote was taken, except by a majority of the members elected. There may be no reconsideration of a vote on a motion to indefinitely postpone. Motions to reconsider a vote upon amendments to any pending question may be made at once.

[Statutes of Nevada 1973, 1895; A 1999, 3845; 2009, 3155]

Rule No. 116. Vetoed Bills.

1. Bills that have passed both Houses of the Legislature and are transmitted to the Assembly accompanied by a message or statement of the Governor's disapproval or veto of the same must:

(a) Be taken up and considered immediately upon the coming in of the message transmitting the same; or

(b) Become the subject of a special order.

2. When the message is received, or if made a special order, when the special order is called, the said message or statement must be read together with the bill or bills so disapproved or vetoed. The message and bill must be read by the Chief Clerk without interruption, consecutively, one following

the other, and not upon separate occasions. No such bill or message may be referred to any committee, or otherwise acted upon save as provided by law and custom; that is to say, that immediately following such reading the only question, except as hereinafter stated, which may be put by the Speaker is, "Shall the bill pass, notwithstanding the objections of the Governor?" It shall not be in order, at any time, to vote upon such a vetoed bill unless the same shall first have been read, from the first word of its title to and including the last word of its final section. No motion may be entertained after the Speaker has stated the question, save a motion to adjourn or a motion for the previous question, but the merits of the bill itself may be debated. The message or statement containing the objections of the Governor to the bill must be entered in the Journal of the Assembly. The consideration of a vetoed bill, and the objections of the Governor thereto, shall be a privileged question, and shall take precedence over all others.

[Statutes of Nevada 2001, 3306; A 2009, 3155]

Rule No. 117. Reserved.

C. RESOLUTIONS

Rule No. 118. Treated as Bills—Joint Resolutions.

The procedure of enacting joint resolutions must be identical to that of enacting bills, except that:

1. Joint resolutions, upon enrollment, must be delivered to the Secretary of State; and
2. Joint resolutions proposing amendments to the Constitution must be entered in the Journal in their entirety.

[Statutes of Nevada 1973, 1895; A 1999, 3846; 2003, 3612]

Rule No. 119. Return from the Secretary of State.

An Assembly resolution may be used to request the return from the Secretary of State of an enrolled Assembly resolution for further consideration.

[Statutes of Nevada 2009, 3156]

D. ORDER OF BUSINESS

Rule No. 120. Order of Business.

The Order of Business must be as follows:

1. Call to Order.
2. Reading and Approval of Journal.
3. Presentation of Petitions.
4. Reports of Standing Committees.

5. Reports of Select Committees.
6. Communications.
7. Messages from the Senate.
8. Motions, Resolutions and Notices.
9. Introduction, First Reading and Reference.
10. Consent Calendar.
11. Second Reading and Amendment.
12. General File and Third Reading.
13. Unfinished Business of Preceding Day.
14. Special Orders of the Day.
15. Remarks from the Floor, limited to 10 minutes.

[Statutes of Nevada 1973, 1895; A 1977, 1660; 1985, 2316; 1987, 2328; 1989, 2206; 1999, 3846; 2001, 3307]

Rule No. 121. Reserved.

Rule No. 122. Reserved.

Rule No. 123. Reserved.

Rule No. 124. Reserved.

Rule No. 125. Reserved.

Rule No. 126. Reserved.

Rule No. 127. Reserved.

Rule No. 128. Reserved.

The next rule is 140.

IX. LEGISLATIVE INVESTIGATIONS AND MISCELLANEOUS

Rule No. 140. Compensation of Witnesses.

Witnesses summoned to appear before the Assembly or any of its committees must be compensated as provided by law for witnesses required to attend in the courts of the State of Nevada.

[Statutes of Nevada 1973, 1897; A 1999, 3847]

Rule No. 141. Use of the Assembly Chamber.

The Assembly Chamber shall not be used for any public or private business other than legislative, except by permission of the Assembly.

[Statutes of Nevada 1973, 1897]

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JOINT STANDING RULES

CONFERENCE COMMITTEES

Rule No. 1. Procedure Concerning.

1. In every case of an amendment of a bill, or joint or concurrent resolution, agreed to in one House, dissented from in the other, and not receded from by the one making the amendment, each House shall appoint a committee to confer with a like committee to be appointed by the other; and the committee so appointed shall meet publicly at a convenient hour to be agreed upon by their respective chairmen and announced publicly, and shall confer upon the differences between the two Houses as indicated by the amendments made in one and rejected in the other and report as early as convenient the result of their conference to their respective Houses.

2. The report shall be made available to all members of both Houses. The whole subject matter embraced in the bill or resolution shall be considered by the committee, and it may recommend recession by either House, new amendments, new bills or resolutions, or other changes as it sees fit. New bills or resolutions so reported shall be treated as amendments unless the bills or resolutions are composed entirely of original matter, in which case they shall receive the treatment required in the respective Houses for original bills, or resolutions, as the case may be.

3. The report of a conference committee may be adopted by acclamation. The report is not subject to amendment.

4. There shall be but one conference committee on any bill or resolution. A majority of the members of a conference committee from each House must be members who voted for the passage of the bill or resolution.

[Statutes of Nevada 1947, 872; A 1977, 1697; 1979, 1964; 1999, 3848; 2009, 3126]

MESSAGES

Rule No. 2. Biennial Message of the Governor.

Upon motion, the biennial message of the Governor must be received and read and entered in full in the Journal of proceedings.

[Statutes of Nevada 1931, 466; A 1999, 3848; 2001, 3310; 2007, 3438; 2009, 3127]

Rule No. 2.2. Other Messages From the Governor.

Whenever a message from the Governor is received, it shall be read and entered in full in the Journal of proceedings.

[Statutes of Nevada 2009, 3127]

Rule No. 2.4. Proclamation by the Governor Convening Special Session.

Proclamations by the Governor convening the Legislature in special session must, by direction of the presiding officer of each House, be read immediately after the convening of the special session, and must be filed and entered in the Journal of proceedings.

[Statutes of Nevada 2009, 3127]

Rule No. 2.6. Messages Between Houses.

Messages from the Senate to the Assembly shall be delivered by the Secretary or Assistant Secretary, and messages from the Assembly to the Senate shall be delivered by the Chief Clerk or Assistant Chief Clerk.

[Statutes of Nevada 1931, 466; A 1999, 3848; 2001, 3310; 2007, 3438; 2009, 3127]

NOTICE OF FINAL ACTION

Rule No. 3. Communications.

Each House shall communicate its final action on any bill or resolution, or matter in which the other may be interested, by written notice. Each such notice sent by the Senate must be signed by the Secretary of the Senate, or a person designated by the Secretary. Each such notice sent by the Assembly must be signed by the Chief Clerk of the Assembly, or a person designated by the Chief Clerk.

[Statutes of Nevada 1931, 410; A 1999, 3849]

BILLS AND JOINT RESOLUTIONS

Rule No. 4. Signature.

Each enrolled bill or joint resolution shall be presented to the presiding officers of both Houses for signature. They shall, after an announcement of their intention to do so is made in open session, sign the bill or joint resolution and their signatures shall be followed by those of the Secretary of the Senate and Chief Clerk of the Assembly.

[Statutes of Nevada 1931, 467; A 1977, 1656; 1999, 3849]

Rule No. 5. Joint Sponsorship.

1. A bill or resolution introduced by a standing committee of the Senate or Assembly may, at the direction of the chairman of the committee, set forth the name of a standing committee of the other House as a joint sponsor, if a majority of all members appointed to the committee of the other House votes in favor of becoming a joint sponsor of the bill or resolution. The name of the committee joint sponsor must be set forth on the face of the bill or

resolution immediately below the date on which the bill or resolution is introduced.

2. A bill or resolution introduced by one or more Legislators elected to one House may, at the direction of the Legislator who brings the bill or resolution forward for introduction, set forth the names of one or more Legislators who are members elected to the other House and who wish to be primary joint sponsors or non-primary joint sponsors of the bill or resolution. Not more than five Legislators from each House may be set forth on the face of a bill or resolution as primary joint sponsors. The names of each primary joint sponsor and non-primary joint sponsor must be set forth on the face of the bill or resolution in the following order immediately below the date on which the bill or resolution is introduced:

(a) The name of each primary joint sponsor, in the order indicated on the colored back of the introductory copy of the bill or resolution; and

(b) The name of each non-primary joint sponsor, in alphabetical order.

3. The Legislative Counsel shall not cause to be printed the name of a standing committee as a joint sponsor on the face of a bill or resolution unless the chairman of the committee has signed his name next to the name of the committee on the colored back of the introductory copy of the bill or resolution that was submitted to the front desk of the House of origin or the statement required by subsection 5. The Legislative Counsel shall not cause to be printed the name of a Legislator as a primary joint sponsor or non-primary joint sponsor on the face of a bill or resolution unless the Legislator has signed the colored back of the introductory copy of the bill or resolution that was submitted to the front desk of the House of origin or the statement required by subsection 5.

4. Upon introduction, any bill or resolution that sets forth the names of primary joint sponsors or non-primary joint sponsors, or both, must be numbered in the same numerical sequence as other bills and resolutions of the same House of origin are numbered.

5. Once a bill or resolution has been introduced, a primary joint sponsor or non-primary joint sponsor may only be added or removed by amendment of the bill or resolution. An amendment which proposes to add or remove a primary joint sponsor or non-primary joint sponsor must not be considered by the House of origin of the amendment unless a statement requesting the addition or removal is attached to the copy of the amendment submitted to the front desk of the House of origin of the amendment. If the amendment proposes to add or remove a Legislator as a primary joint sponsor or non-primary joint sponsor, the statement must be signed by that Legislator. If the amendment proposes to add or remove a standing committee as a joint sponsor, the statement must be signed by the chairman of the committee. A copy of the statement must be transmitted to the Legislative Counsel if the amendment is adopted.

6. An amendment that proposes to add or remove a primary joint sponsor or non-primary joint sponsor may include additional proposals to change the substantive provisions of the bill or resolution or may be limited only to the proposal to add or remove a primary joint sponsor or non-primary joint sponsor.

[Statutes of Nevada R 1979, 1964; A 1999, 3849; 2005, 2956]

PRINTING

Rule No. 6. Ordering and Distribution.

Each House may order the printing of bills introduced, reports of its own committees, and other matter pertaining to that House only; but no other printing may be ordered except by a concurrent resolution passed by both Houses. Each Senator is entitled to the free distribution of four copies of each bill introduced in each House, and each Assemblyman to such a distribution of two copies. Additional copies of such bills may be distributed at a charge to the person to whom they are addressed. The amount charged for distribution of the additional copies must be determined by the Director of the Legislative Counsel Bureau to approximate the cost of handling and postage for the entire session.

[Statutes of Nevada 1920-21, 410; A 1977, 1657; 1979, 1964; 1983, 2108; 1991, 2476]

RESOLUTIONS

Rule No. 7. Types, Usage and Approval.

1. A joint resolution must be used to:

(a) Propose an amendment to the Nevada Constitution.

(b) Ratify a proposed amendment to the United States Constitution.

(c) Address the President of the United States, Congress, either House or any committee or member of Congress, any department or agency of the Federal Government, or any other state of the Union.

2. A concurrent resolution must be used to:

(a) Amend these Joint Rules.

(b) Request the return from the Governor of an enrolled bill for further consideration.

(c) Request the return from the Secretary of State of an enrolled joint or concurrent resolution for further consideration.

(d) Resolve that the return of a bill from one House to the other House is necessary and appropriate.

(e) Express facts, principles, opinion and purposes of the Senate and Assembly.

(f) Establish a joint committee of the two Houses.

(g) Direct the Legislative Commission to conduct an interim study.

3. A concurrent resolution or a resolution of one House may be used to:

(a) Memorialize a former member of the Legislature or other notable or distinguished person upon his death.

(b) Congratulate or commend any person or organization for a significant and meritorious accomplishment, but any request for drafting the resolution must be approved by the Senate Committee on Legislative Operations and Elections or the Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments before submission to the Legislative Counsel.

4. A resolution of one House may be used to request the return from the Secretary of State of an enrolled resolution of the same House for further consideration.

[Statutes of Nevada 1963, 1452; A 1977, 1657; 1979, 2036; 1989, 2201; 1993, 2903; 1999, 3851; 2005, 2958; 2009, 3129]

VETOES

Rule No. 8. Special Order.

1. Bills which have passed the Legislature, and which are returned after the Governor's disapproval, or veto of the same, shall:

(a) Be taken up and considered immediately upon the coming in of the message transmitting the same; or

(b) Become the subject of a special order.

2. When the message is received or, if made a special order, when the special order for their consideration is reached and called, the said message or statement shall be read, together with the bill or bills so disposed or vetoed; and the Secretary of the Senate and the Chief Clerk of the Assembly shall, without interruption, read the message and the bill consecutively, the bill following the message; and the message and the bill must not be read upon separate occasions; and no such bill or message shall be referred to any committee, or otherwise acted upon, save as provided by law and custom; that is to say, that immediately following such reading the only question (except as hereinafter stated) which shall be put by the Chair is, "Shall the bill pass, notwithstanding the objections of the Governor?"

3. It shall not be in order, at any time, to vote upon such vetoed bill without the same shall have first been read; and no motion shall be entertained after the Chair has stated the question save a motion for "The previous question," but the merits of the bill itself may be debated.

[Statutes of Nevada 1920-21, 410; A 1999, 3851; 2005, 2958; 2007, 3440; 2009, 3130]

ADJOURNMENT

Rule No. 9. Limitations and Calculation of Duration.

1. In calculating the permissible duration of an adjournment for 3 days or less, the day of adjournment must not be counted but the day of the next meeting must be counted, and Sunday must not be counted.

2. The Legislature may adjourn for more than 3 days by motion based on mutual consent of the Houses or by concurrent resolution. One or more such adjournments, for a total of not more than 20 days during any regular session, may be taken to permit standing committees, select committees or the Legislative Counsel Bureau to prepare the matters respectively entrusted to them for the consideration of the Legislature as a whole.

[Statutes of Nevada 1920-21, 410; A 1977, 1698; 1991, 2477; 1993, 2904; 1995, 2897; 2001, 3313]

Rule No. 9.5. Adjournment Sine Die.

1. The Legislature shall not take any action on a bill or resolution after midnight Pacific Daylight Time on the 120th calendar day of session.

2. A Legislator shall not take any action to impede the progress of the Legislature in completing its business by the time specified in subsection 1.

3. Any action taken in violation of subsection 2 shall be deemed out of order.

[Statutes of Nevada 2003, 3747]

EXPENDITURES FROM THE LEGISLATIVE FUND

Rule No. 10. Manner of Authorization.

Except for routine salary, travel, equipment and operating expenses, no expenditures shall be made from the Legislative Fund without the authority of a concurrent resolution regularly adopted by the Senate and Assembly.

[Statutes of Nevada 1955, 956; A 2001, 3314]

LEGISLATIVE COMMISSION

Rule No. 11. Membership and Organization.

1. When members of the minority party in the Senate or in the Assembly comprise one-third or less of the total number elected to that House, minority party membership for that House on the Legislative Commission must be:

(a) One, if such membership is less than one-fifth of the total number elected to that House.

(b) Two, if such membership is at least one-fifth but not more than one-third of the total number elected to that House. If the members of the

minority party in the Senate or in the Assembly comprise more than one-third of the total number elected to that House, minority party membership for that House on the Commission must be three, being equal to the membership of the majority party.

2. Each House shall select one or more alternate members for each member from that House, designating them according to party or according to the individual member whom the alternate would replace.

3. A vacancy in the regular Senate or Assembly membership created by death or by resignation or by the Legislator's ceasing to be a member of the Legislature shall be filled by the proper alternate member as designated by that House. If there is no proper alternate member, the Legislative Commission shall fill the vacancy by appointing a Senator or Assemblyman of the same party.

4. If for any reason a member is or will be absent from a meeting and there are no alternates available, the Chairman of the Commission may appoint a member of the same House and political party to attend the meeting as an alternate.

5. The members shall serve until their successors are appointed by resolution as provided in NRS 218.660, except that the membership of any member who does not become a candidate for reelection or who is defeated for reelection shall terminate on the day next after the election and the vacancy shall be filled as provided in this Rule.

6. The Chairman shall be selected at the first meeting of the newly formed Legislative Commission and shall serve until his successor is appointed following the formation of the next Legislative Commission.

[Statutes of Nevada 1975, 1959; A 1977, 1719; 1981, 2147; 2009, 3131]

RECORDS OF COMMITTEE PROCEEDINGS

Rule No. 12. Duties of Secretary of Committee and Director.

1. Each standing committee of the Legislature shall cause a record to be made of the proceedings of its meetings.

2. The secretary of a standing committee shall:

(a) Label each record with the date, time and place of the meeting and also indicate on the label the numerical sequence in which the record was made;

(b) Keep the records in chronological order; and

(c) Deposit the records upon completion with the Director of the Legislative Counsel Bureau.

3. The Director of the Legislative Counsel Bureau shall:

(a) Make the records available for accessing by any person during office hours under such reasonable conditions as he may deem necessary; and

(b) Retain the records for two bienniums and at the end of that period keep some form or copy of the record in any manner he deems reasonable to ensure access to the record in the foreseeable future.

[Statutes of Nevada 1979, 2012; A 1999, 3853; 2009, 3132]

LIMITATIONS ON INTRODUCTION AND REQUESTS FOR DRAFTING OF LEGISLATIVE MEASURES

Rule No. 14. Limitations on Drafting and Requirements for Introduction; Duplicative Measures; Indication of Requester on Committee Introductions.

1. Except as otherwise provided in subsection 5 and Joint Standing Rules Nos. 14.4, 14.5 and 14.6, after a regular legislative session has convened, the Legislative Counsel shall honor, if submitted before 5 p.m. on the 8th calendar day of the legislative session, not more than:

(a) Two requests from each Assemblyman; and

(b) Four requests from each Senator,

➥ for the drafting of a bill or resolution.

2. Except as otherwise provided in subsections 4 and 5 and Joint Standing Rules Nos. 14.4, 14.5 and 14.6, after a regular legislative session has convened, the Legislative Counsel shall honor, if submitted before 5 p.m. on the 19th calendar day of the legislative session, not more than 50 requests, in total, from the standing committees of each House for the drafting of a bill or joint resolution. The Majority Leader of the Senate and the Speaker of the Assembly shall, not later than the 1st calendar day of the legislative session, determine and provide the Legislative Counsel with a written list of the number of requests for the drafting of a bill that may be submitted by each standing committee of their respective Houses, within the limit provided by this subsection. The lists may be revised any time before the 19th day of the legislative session to reallocate any unused requests or requests which were withdrawn before drafting began on the request.

3. A request for the drafting of a bill or resolution that is submitted by a standing committee pursuant to this section must be approved by a majority of all of the members appointed to the committee before the request is submitted to the Legislative Counsel.

4. A standing committee may only request the drafting of a bill or resolution or introduce a bill or resolution that is within the jurisdiction of the standing committee.

5. The Legislative Counsel shall not honor a request for the drafting of a bill or resolution submitted by a member or standing committee of the Senate or Assembly unless such information as is required to draft the measure is submitted to the Legislative Counsel with the request.

6. A measure introduced by a standing committee at the request of a Legislator or organization must indicate the Legislator or organization at whose request the measure was drafted.

7. The following measures must be introduced by a standing committee:

(a) Measures drafted at the request of agencies and officers of the Executive Branch of State Government, local governments, the courts and other authorized nonlegislative requesters.

(b) Measures requested by statutory committees and interim legislative studies.

(c) Bills requested by a standing committee, or by persons designated to request measures on behalf of a standing committee during the interim. Bills requested by or on behalf of a standing committee must be introduced by that committee.

8. Resolutions requested by or on behalf of a standing committee may be introduced by an individual member.

9. If two or more measures are being considered in the same House which are substantively duplicative, only the measure which has been assigned the lowest number for the purpose of establishing its priority in drafting may be considered, unless the measure with the lowest number is not introduced within 5 days after introduction of a measure with a higher number.

10. A Legislator may not change the subject matter of a request for a legislative measure after it has been submitted for drafting.

[Statutes of Nevada 1983, 2101; A 1989, 2202, 2361; 1991, 2577; 1993, 3124; 1995, 2868; 1997, 3563; 1999, 3854, 3911; 2001, 3317; 2005, 2961; 2007, 3442; 2009, 3132]

Rule No. 14.2. Limitations on Time for Introduction of Legislation.

1. Except as otherwise provided in Joint Standing Rules Nos. 14.4, 14.5 and 14.6:

(a) Unless the provisions of paragraph (b) or (c) are applicable, a bill or joint resolution may only be introduced on or before:

(1) The 10th calendar day following delivery of the introductory copy of the bill or joint resolution; or

(2) The last day for introduction of the bill or joint resolution as required by paragraph (d),

➥ whichever is earlier.

(b) If a bill or joint resolution requires revision after the introductory copy has been delivered, such information as is required to draft the revision must be submitted to the Legislative Counsel before the 10th calendar day following delivery of the introductory copy of the bill or joint resolution. The revised bill or joint resolution may only be introduced on or before:

(1) The 15th calendar day following delivery of the original introductory copy of the bill or joint resolution; or

(2) The last day for introduction of the bill or joint resolution as required by paragraph (d),

➥ whichever is earlier.

(c) If the bill or joint resolution requires a second or subsequent revision, such information as is required to draft the revision must be submitted to the Legislative Counsel before the 15th calendar day following delivery of the original introductory copy of the bill or joint resolution. A bill or joint resolution revised pursuant to this subsection may only be introduced on or before:

(1) The 20th calendar day following delivery of the original introductory copy of the bill or joint resolution; or

(2) The last day for introduction of the bill or joint resolution as required by paragraph (d),

➥ whichever is earlier.

(d) Except as otherwise provided in subsection 3, the last day for introduction of a bill or joint resolution that was requested by:

(1) A Legislator is the 43rd calendar day of the legislative session.

(2) A standing or interim committee or other requester is the 50th calendar day of the legislative session.

2. The Legislative Counsel shall indicate on the face of the introductory copy of each bill or joint resolution the final date on which the bill or joint resolution may be introduced.

3. If the final date on which the bill or joint resolution may be introduced falls upon a day on which the House in which the bill or joint resolution is to be introduced is not in session, the bill or joint resolution may be introduced on the next day that the House is in session.

[Statutes of Nevada 1999, 3856, 3912; A 2005, 2962; 2007, 3444]

SCHEDULE FOR ENACTMENT OF BILLS

Rule No. 14.3. Final Dates for Action by Standing Committees and Houses.

Except as otherwise provided in Joint Standing Rules Nos. 14.4, 14.5 and 14.6:

1. The final standing committee to which a bill or joint resolution is referred in its House of origin may only take action on the bill or joint resolution on or before the 68th calendar day of the legislative session. A bill may be re-referred after that date only to the Committee on Finance or the Committee on Ways and Means and only if the bill is exempt pursuant to subsection 1 of Joint Standing Rule No. 14.6.

2. Final action on a bill or joint resolution may only be taken by the House of origin on or before the 79th calendar day of the legislative session.

3. The final standing committee to which a bill or joint resolution is referred in the second House may only take action on the bill or joint resolution on or before the 103rd calendar day of the legislative session. A bill may be re-referred after that date only to the Committee on Finance or the Committee on Ways and Means and only if the bill is exempt pursuant to subsection 1 of Joint Standing Rule No. 14.6.

4. Final action on a bill or joint resolution may only be taken by the second House on or before the 110th calendar day of the legislative session.

➥ No notice of reconsideration of any final vote on a bill or joint resolution is in order on the last day on which final action is allowed.

[Statutes of Nevada 1999, 3857, 3913, 4007; A 2001, 3319; 2003, 3592; 2005, 2963]

Rule No. 14.4. Emergency Requests.

1. After a legislative session has convened:

(a) The Majority Leader of the Senate and the Speaker of the Assembly may each submit to the Legislative Counsel, on his own behalf or on the behalf of another Legislator or a standing committee of the Senate or Assembly, not more than five requests for the drafting of a bill or resolution.

(b) The Minority Leader of the Senate and the Minority Leader of the Assembly may each submit to the Legislative Counsel, on his own behalf or on the behalf of another Legislator or a standing committee of the Senate or Assembly, not more than two requests for the drafting of a bill or resolution.

2. A request submitted pursuant to subsection 1:

(a) May be submitted at any time during the legislative session and is not subject to any of the provisions of subsections 1 and 2 of Joint Standing Rule No. 14, subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3.

(b) Is in addition to, and not in lieu of, any other requests for the drafting of a bill or resolution that are authorized to be submitted to the Legislative Counsel by the Majority Leader of the Senate, Speaker of the Assembly, Minority Leader of the Senate or Minority Leader of the Assembly.

3. The list of requests for the preparation of legislative measures prepared pursuant to NRS 218.2475 must include the phrase "EMERGENCY REQUEST OF" and state the title of the person who requested each bill or resolution pursuant to this Rule. If the request was made on behalf of another Legislator or a standing committee, the list must also include the name of the Legislator or standing committee on whose behalf the bill or resolution was requested.

4. The Legislative Counsel shall cause to be printed on the face of the introductory copy of all reprints of each bill or resolution requested pursuant

to this Rule the phrase "EMERGENCY REQUEST OF" and state the title of the person who requested the bill or resolution.

[Statutes of Nevada 1999, 3857, 3914; A 2001, 3320]

Rule No. 14.5. Waivers.

1. At the request of a Legislator or a standing or select committee of the Senate or Assembly, subsection 1 or 2 of Joint Standing Rule No. 14, subsection 1 of Joint Standing Rule No. 14.2 or any of the provisions of Joint Standing Rule No. 14.3, or any combination thereof, may be waived by the Majority Leader of the Senate and the Speaker of the Assembly, acting jointly, at any time during a legislative session. A request for a waiver submitted by a committee must be approved by a majority of all members appointed to the committee before the request is submitted to the Majority Leader and the Speaker.

2. A waiver granted pursuant to subsection 1:

(a) Must be in writing, executed on a form provided by the Legislative Counsel, and signed by the Majority Leader and the Speaker.

(b) Must indicate the date on which the waiver is granted.

(c) Must indicate the Legislator or committee on whose behalf the waiver is being granted.

(d) Must include the bill number for which the waiver is granted or indicate that the Legislative Counsel is authorized to accept and honor a request for a new bill or resolution.

(e) Must indicate the provisions to which the waiver applies.

(f) May include the conditions under which the bill for which the waiver is being granted must be introduced and processed.

3. The Legislative Counsel shall not honor a request for the drafting of a new bill or resolution for which a waiver is granted pursuant to this Rule unless such information as is required to draft the bill or resolution is submitted to the Legislative Counsel within 2 calendar days after the date on which the waiver is granted.

4. Upon the receipt of a written waiver granted pursuant to this Rule, the Legislative Counsel shall transmit a copy of the waiver to the Secretary of the Senate and the Chief Clerk of the Assembly. The notice that a waiver has been granted for an existing bill must be read on the floor and entered in the Journal, and a notation that the waiver was granted must be included as a part of the history of the bill on the next practicable legislative day. A notation that a waiver was granted authorizing a new bill or resolution must be included as a part of the history of the bill or resolution after introduction.

5. The Legislative Counsel shall secure the original copy of the waiver to the official cover of the bill or resolution.

6. No notice of reconsideration of any final vote on a bill is in order on the last day on which final action is allowed by a waiver.

[Statutes of Nevada 1999, 3858, 3914, 4007; A 2001, 3320; 2003, 3593]

Rule No. 14.6. Exemptions.

1. Upon request of the draft by or referral to the Senate Finance Committee or the Assembly Committee on Ways and Means, a bill which:

(a) Contains an appropriation; or

(b) Has been determined by the Fiscal Analysis Division to:

(1) Authorize the expenditure by a state agency of sums not appropriated from the State General Fund or the State Highway Fund;

(2) Create or increase any significant fiscal liability of the State;

(3) Implement a budget decision; or

(4) Significantly decrease any revenue of the State,

➥ is exempt from the provisions of subsections 1 and 2 of Joint Standing Rule No. 14, subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3. The Fiscal Analysis Division shall give notice to the Legislative Counsel to cause to be printed on the face of the bill the term "exempt" for any bills requested by the Senate Finance Committee or Assembly Committee on Ways and Means that have been determined to be exempt and shall give written notice to the Legislative Counsel, Secretary of the Senate and Chief Clerk of the Assembly of any bill which is determined to be exempt or eligible for exemption after it is printed. When a bill is determined to be exempt or eligible for an exemption after the bill was printed a notation must be included as a part of the history of the bill on the next practicable legislative day. The term "exempt" must be printed on the face of all reprints of the bill after the bill becomes exempt.

2. Unless exempt pursuant to paragraph (a) of subsection 1, all of the provisions of Joint Standing Rules Nos. 14, 14.2 and 14.3 apply to a bill until the bill becomes exempt pursuant to subsection 1. A bill that has become exempt does not lose the exemption regardless of subsequent actions taken by the Legislature.

3. A cumulative list of all bills determined by the Fiscal Analysis Division pursuant to subsection 1 to be exempt or eligible for exemption after being printed must be maintained and printed in the back of the list of requests for the preparation of legislative measures prepared pursuant to NRS 218.2475.

4. The provisions of subsections 1 and 2 of Joint Standing Rule No. 14, subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3 do not apply to:

(a) A measure that primarily relates to carrying out the business of the Legislature.

(b) A bill returned from enrollment for a technical correction.

(c) A bill that was previously enrolled but, upon request of the Legislature, has been returned from the Governor for further consideration.

[Statutes of Nevada 1999, 3859, 3915, 4008; A 2001, 3321; 2003, 3594; 2005, 2964]

Rule No. 14.7. Amendments.

1. The Legislative Counsel shall not honor a request for the drafting of an amendment to a bill or resolution if the subject matter of the amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of the bill or resolution.

2. For the purposes of this Rule, an amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of a bill or resolution if the amendment relates only to the general, single subject that is expressed in that title and not to the specific whole subject matter embraced in the bill or resolution.

3. This Rule must be narrowly construed to carry out the purposes for which it was adopted which is to ensure the effectiveness of the limitations set forth in Joint Standing Rules Nos. 14, 14.2 and 14.3.

[Statutes of Nevada 1999, 3860]

CONTINUATION OF LEADERSHIP OF THE SENATE AND ASSEMBLY DURING THE INTERIM BETWEEN SESSIONS

Rule No. 15. Tenure and Performance of Statutory Duties.

1. Except as otherwise provided in subsections 2 and 3, the tenure of the President Pro Tem, Majority Leader and Minority Leader of the Senate and the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader of the Assembly extends during the interim between regular sessions of the Legislature.

2. The Senators designated to be the President Pro Tem, Majority Leader and Minority Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session of the Legislature if the Senator formerly holding the respective position is no longer a Legislator.

3. The Assemblymen designated to be the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session.

[Statutes of Nevada 1985, 2404; A 1987, 2335; 2001, 3322]

Rule No. 16. Reserved.

DATE OF FIRST JOINT BUDGET HEARING

Rule No. 17. Requirement.

The first joint meeting of the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means to consider the budgets of the agencies of the State must be held on or before the 92nd calendar day of the regular session.

[Statutes of Nevada 1991, 2478, 2597; A 2001, 3323; 2009, 3138]

CRITERIA FOR REVIEWING BILLS THAT REQUIRE POLICIES OF HEALTH INSURANCE TO PROVIDE COVERAGE FOR CERTAIN TREATMENT OR SERVICES

Rule No. 18. Topics of Consideration.

Any standing committee of the Senate or Assembly to which a bill is referred requiring a policy of health insurance delivered or issued for delivery in this State to provide coverage for any treatment or service shall review the bill giving consideration to:

1. The level of public demand for the treatment or service for which coverage is required and the extent to which such coverage is needed in this State;
2. The extent to which coverage for the treatment or service is currently available;
3. The extent to which the required coverage may increase or decrease the cost of the treatment or service;
4. The effect the required coverage will have on the cost of obtaining policies of health insurance in this State;
5. The effect the required coverage will have on the cost of health care provided in this State; and
6. Such other considerations as are necessary to determine the fiscal and social impact of requiring coverage for the treatment or service.

[Statutes of Nevada 1991, 2510; A 1993, 2909]

INTERIM FINDINGS AND RECOMMENDATIONS OF LEGISLATIVE COMMITTEES

Rule No. 19. Date for Reporting.

Each legislative committee that adopted any findings or recommendations during the interim since the last regular session of the Legislature shall, no later than the 14th calendar day of the regular session, inform interested members of the Senate and Assembly of those findings and recommendations.

[Statutes of Nevada 1991, 2628; A 1993, 2909]

POLICY AND PROCEDURES REGARDING SEXUAL HARASSMENT

Rule No. 20. Maintenance of Working Environment; Procedure for Filing, Investigating and Taking Remedial Action on Complaints.

1. The Legislature hereby declares its intention to maintain a working environment which is free from sexual harassment. This policy applies to all Legislators and lobbyists. Each member and lobbyist is responsible to conduct himself or herself in a manner which will ensure that others are able to work in such an environment.

2. In accordance with Title VII of the Civil Rights Act, for the purposes of this Rule, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment;

(b) Submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person; or

(c) Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

3. Each person subject to these Rules must exercise his own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment. The following noninclusive list provides illustrations of conduct that the Legislature deems to be inappropriate:

(a) Verbal conduct such as epithets, derogatory comments, slurs or unwanted sexual advances, invitations or comments;

(b) Visual conduct such as derogatory posters, photography, cartoons, drawings or gestures;

(c) Physical conduct such as unwanted touching, blocking normal movement or interfering with the work directed at a person because of his sex;

(d) Threats and demands to submit to sexual requests to keep a person's job or avoid some other loss, and offers of employment benefits in return for sexual favors; and

(e) Retaliation for opposing, reporting or threatening to report sexual harassment, or for participating in an investigation, proceeding or hearing conducted by the Legislature or the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission,

➥ when submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person or such conduct has the purpose or effect of

unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

4. A person may have a claim of sexual harassment even if he has not lost a job or some other economic benefit. Conduct that impairs a person's ability to work or his emotional well-being at work constitutes sexual harassment.

5. If a Legislator believes he is being sexually harassed on the job, he may file a written complaint with:

(a) The Speaker of the Assembly;

(b) The Majority Leader of the Senate; or

(c) The Director of the Legislative Counsel Bureau, if the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate.

➥ The complaint must include the details of the incident or incidents, the names of the persons involved and the names of any witnesses.

6. Except as otherwise provided in subsection 7, the Speaker of the Assembly or the Majority Leader of the Senate, as appropriate, shall refer a complaint received pursuant to subsection 5 to a committee consisting of Legislators of the same House. A complaint against a lobbyist may be referred to a committee in either House.

7. If the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate, the Director of the Legislative Counsel Bureau shall refer the complaint to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments of the Assembly or the Committee on Legislative Operations and Elections of the Senate, as appropriate. If the Speaker of the Assembly or the Majority Leader of the Senate is a member of one of these committees, the Speaker or the Majority Leader, as the case may be, shall not participate in the investigation and resolution of the complaint.

8. The committee to which the complaint is referred shall immediately conduct a confidential and discreet investigation of the complaint. As a part of the investigation, the committee shall notify the accused of the allegations. The committee shall facilitate a meeting between the complainant and the accused to allow a discussion of the matter, if both agree. If the parties do not agree to such a meeting, the committee shall request statements regarding the complaint from each of the parties. Either party may request a hearing before the committee. The committee shall make its determination and inform the complainant and the accused of its determination as soon as practicable after it has completed its investigation.

9. If the investigation reveals that sexual harassment has occurred, the Legislature will take appropriate disciplinary or remedial action, or both. The committee shall inform the complainant of any action taken. The Legislature will also take any action necessary to deter any future harassment.

10. The Legislature will not retaliate against a person who files a complaint and will not knowingly permit any retaliation by the person's supervisors or coworkers.

11. The Legislature encourages a person to report any incident of sexual harassment immediately so that the complaint can be quickly and fairly resolved.

12. Action taken by a complainant pursuant to this Rule does not prohibit the complainant from also filing a complaint of sexual harassment with the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission.

13. All Legislators and lobbyists are responsible for adhering to the provisions of this policy. The prohibitions against engaging in sexual harassment and the protections against becoming a victim of sexual harassment set forth in this policy apply to employees, Legislators, lobbyists, vendors, contractors, customers and visitors to the Legislature.

14. This policy does not create any enforceable legal rights in any person.

[Statutes of Nevada 1995, 3015; A 1999, 3862]

VOTE ON GENERAL APPROPRIATION BILL

Rule No. 21. Waiting Period Between Introduction and Final Passage.

A period of at least 24 hours must elapse between the introduction of the general appropriation bill and a vote on its final passage by its House of origin.

[Statutes of Nevada 1995, 3022]

USE OF LOCK BOXES BY STATE AGENCIES

Rule No. 22. Duties of Senate Standing Committee on Finance and Assembly Standing Committee on Ways and Means.

To expedite the deposit of state revenue, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means shall, when reviewing the proposed budget of a state agency which collects state revenue, require if practicable, the agency to deposit revenue that it has received within 24 hours after receipt. The Committees shall allow such agencies to deposit the revenue directly or contract with a service to deposit the revenue within the specified period.

[Statutes of Nevada 1995, 3030]

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CERTIFICATE

STATE OF NEVADA }
ASSEMBLY CHAMBER } ss.

This is to certify that the foregoing Journal of the Assembly, published in this volume, is a true, full, and correct copy of the original Journal of the Assembly of the Seventy-Fifth Session of the Legislature of the State of Nevada, held in 2009.

Barbara Buckley

Speaker of the Assembly

Chief Clerk of the Assembly